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SENATE—*Thursday, May 14, 1998*

(Legislative days of Wednesday, May 13, and Thursday, May 14, 1998)

The Senate met at 9:30 a.m., on the expiration of the recess and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The guest Chaplain, Rabbi Sidney Guthman, of V.A. Medical Center, Long Beach, CA, offered the following prayer:

Our God and God of our ancestors, we ask Your blessings for our country, for its government, for its leaders and advisors, and for all who exercise just and rightful authority.

Creator of all flesh, bless all the inhabitants of our land with Your Spirit. May citizens of all races and creeds forge a common bond in true harmony to banish all hatred and bigotry and to safeguard the ideals and free institutions which are the pride and glory of our Nation.

May this land under Your Providence be an influence for good throughout the world, uniting all people in peace and freedom and helping to fulfill the vision of Your prophet: "Nation shall not lift up sword against nation, neither shall they experience war anymore."—Isaiah 2:4.

Sovereign of the universe, may it be Your will that our land should be a blessing to all the inhabitants of the globe. Cause friendship and freedom to dwell among all peoples. Vouchsafe unto us, O Lord, wisdom equal to our strength and courage equal to our responsibilities, to the end that our Nation may lead the world in the advancement and fulfillment of human welfare.

May all nations become aware of their common unity and may all the peoples of the world be united in the bonds of brotherhood before You, Father of all. "All those who trust in the Lord will renew their strength."—Isaiah 40:31.

May this be our will, and let us say Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. ALLARD. Mr. President, for the information of all Senators, this morning the Senate will begin a period of morning business until 10:30 a.m. Following morning business, the Senate will resume consideration of the Department of Defense authorization bill. It is hoped that Senators will come to the floor to debate this important piece of legislation and offer amendments under short time agreements. Members should expect rollcall votes throughout the day's session in an attempt to make good progress on the defense bill.

Also, the Senate has reached time agreements with respect to the Abraham immigration bill and the WIPO copyright treaty legislation, and those bills could be considered during today's session.

I thank my colleagues for their attention.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. BROWNBACK). Under the previous order, there will now be a period for the transaction of morning business.

The able Senator from Mississippi is recognized.

CONGRATULATIONS THOMAS GERSTLE ABERNETHY

Mr. COCHRAN. Mr. President, often we rise on the floor of the Senate to pay tribute to a former Member of Congress or former Member of the U.S. Senate who has passed away, talking about their career and their contributions to our country.

Today I rise to pay tribute to a former Member of Congress from my State of Mississippi who will reach his 95th birthday on Saturday. Thomas Gerstle Abernethy is the last surviving member of our State's delegation of his generation that was very distinguished, indeed, and included in the House of Representatives: Jamie Whitten, Frank Smith, Arthur Winstead, John Bell Williams, and Bill Colmer. In the Senate at that time, Jim Eastland and John Stennis represented our State.

For 30 years, Thomas Abernethy was viewed as a prominent and influential Member of Congress from our State, and indeed he was. He was a member of the Agriculture Committee. He was not reticent or bashful in any way. He often spoke on the floor of the House on a wide and varied range of subjects, with intelligence, energy, and in a conscientious way to serve the interests of our State. He truly was an influence in national affairs in the Congress.

He was born in Eupora, MS, on May 16, 1903. He attended the University of Alabama and the University of Mississippi and graduated from the Law Department of Cumberland University in Lebanon, TN, in 1924. He was admitted to practice law in the State of Mississippi that same year and began practice in his hometown of Eupora in 1925. He was elected mayor of Eupora in 1927. Then in 1929 he moved to Okolona, MS. He continued to practice law there, was elected district attorney, the prosecuting attorney for several counties in that part of the State of Mississippi, in 1936. He served until he was elected to Congress in 1942. That was the 78th Congress that convened on January 3, 1943, a turbulent time in the history of our country. For three decades, until his retirement in 1973, Thomas Abernethy served with distinction as a member of our House delegation.

One of the highlights of his career politically came very soon after he was elected to Congress. Our State, during the census of 1950, was reapportioned and lost a Member of Congress. He was put in a congressional district by the State legislature's reapportionment

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● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

plan, with one of the most senior and best known members of the State's delegation at that time, John Rankin. Many expected that John Rankin would defeat Tom Abernethy in the Democratic primary in 1952. But as it turned out, Tom Abernethy won that race and he served for 20 more years as a member of our House delegation.

He retired the same year that I was elected to the House with two other new Members of our House delegation—David Bowen, who replaced Tom Abernethy; and TRENT LOTT, who replaced the retiring Bill Colmer.

Interestingly enough, Tom Abernethy became a close friend and advisor to me. I sought his advice on matters involving agriculture, the Natchez Trace Parkway, and other issues of importance to me and to our State. I always found his advice and counsel very valuable and helpful.

When I became a candidate in 1978 for the Senate, Tom Abernethy continued to be my friend and advisor, for which I was very grateful. I will always recall accompanying him to his hometown of Okolona during that campaign, meeting with friends of mine and his who had decided to become active in my campaign for the Senate. I could tell that he enjoyed that occasion. I enjoyed it very much too and benefited greatly from his support throughout that campaign.

Today, I'm pleased to advise the U.S. Senate that Tom Abernethy is going to be celebrating his 95th birthday on Saturday. I encourage those who remember him as I do and appreciate him as I do to wish him well on his birthday on Saturday. I congratulate him for his conscientious and effective service to our State and our Nation as a distinguished Member of Congress and as a wise and valued citizen in his role as a former Member of Congress.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. Mr. President, it is my understanding that I have been allocated 15 minutes this morning for comments under morning business.

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado, Mr. ALLARD, is recognized to speak for up to 15 minutes.

REDUCTION IN THE CAPITAL GAINS TAX

Mr. ALLARD. Mr. President, earlier this year, I introduced S. 1635, legislation to reduce the capital gains tax to 14 percent and to provide indexing of capital gains.

This legislation builds on last year's tax bill, which moved the capital gains rate down from 28 percent to 20 percent. Last year's tax change was a good first step, but I favor a more aggressive approach to tax reform.

The U.S. level of tax on capital has been among the highest in the world. I am dedicated to seeing that it becomes one of the lowest in the world. A low rate of tax will encourage capital investment, economic growth, and job creation.

This is no time for the United States to sit on its lead; We must continue to ensure that America is the premier location in the world to do business. A low capital gains tax will help our economy, but it will also help America's families by reducing their tax burden.

Mr. President, the profile of the average stock market investor is changing rapidly. To make this point, I would like to refer now to a chart that outlines the tremendous growth in stock ownership among middle class Americans. This reflects a recent study commissioned by the NASDAQ stock market, which determined that 43 percent of adult Americans now invest in the stock market. This is double the level of just 7 years ago.

Investing is no longer the exclusive province of the elderly, affluent, or male. A majority of the investors are under 50 years of age, 47 percent of the investors are women, and half of the investors are not even college graduates. Most working-age investors describe themselves as blue- or white-collar workers rather than managers or professionals. I think that this rather dramatically reflects the change in the makeup of the investor on the stock market.

In addition to investing in the stock market, millions of Americans own small businesses and farms, and they certainly feel the impact of any tax on capital assets.

Mr. President, while a cut in the capital gains tax rate would help investors and their families, it is also likely to increase tax revenues. At first, this may seem odd, but there are two principal reasons that a cut in capital gains taxes increases revenues. First, there is the short-term incentive to sell more capital assets. Second is the long-term pro-growth benefit from a capital-friendly tax policy.

Let me first discuss the short-term incentive to sell more assets. In order to understand this concept, one has to first recognize that the capital gains tax is largely a voluntary tax; the tax is only paid if the investor chooses to sell the asset. If taxes are high, the investor can hold on to the asset for years. But when taxes are dropped down, lowered, investors will often decide to sell the assets and realize the capital gain.

History confirms this pattern. In 1978, when the capital gains tax rate was reduced from 40 percent to 28 percent, capital realizations increased by 50 percent and tax receipts increased. In fact, it was done at that particular point in our country's history to stimulate the economy.

In 1981, Congress and President Reagan further reduced the capital gains tax rate to 20 percent. Once again, capital realizations increased dramatically. And by 1983, they were again up by 50 percent. In fact, during the period from 1978 to 1983, capital gains tax rates were cut in half. But by the end of the period, the Federal Government was receiving twice as much revenue from capital gains taxes.

I would like to emphasize that point by turning to a chart which compares the level of capital gains tax with tax revenue over a 20-year period, running from 1976 and projecting out to the end of 1997. As the chart clearly shows, the tax rate was cut in half between 1978 and 1983, right in this time period here, and the revenues more than doubled, from $9 billion in 1978 to nearly $19 billion by 1983. This was not a temporary blip. As the chart shows, revenues continued to rise through the 1980s.

The underlying point is proven dramatically, I think, in 1986. What happened in 1986 is this: Congress voted to increase the capital gains tax to 28 percent. This was a 40 percent increase in the tax rate then in place. But the new, higher rate was delayed until January 1 of 1987. What we saw then was a massive sale of assets through 1986, while the rate was still 20 percent. Investors rushed to sell their assets before the higher 28 percent went into effect.

If we look again at the chart, we find that capital gains revenues, after 1986, began a nearly 5-year decline. In fact, despite the much higher tax rate, by 1991, capital gains revenues were actually at their lowest level since 1984.

Mr. President, the pattern should be clear by now. But I would like us to take one more look at this issue by reviewing the revenue estimates associated with last year's cut in the capital gains tax rate. Any time Congress considers tax changes, it is required to estimate the revenue impact of those changes. This task falls principally on the Joint Committee on Taxation, which relies on data compiled by the Congressional Budget Office. Current law requires revenue estimates to stretch 10 years into the future.

Last year, when Congress proposed to cut the capital gains rate from 28 to 20 percent, the Joint Committee on Taxation submitted its revenue estimate.

Despite forecasting an initial pick up in revenue due to greater realizations, JCT forecast a 10 year revenue loss from the rate cut of $21 billion.

The JCT and CBO estimates now appear to have dramatically underestimated the strength of the economy and the positive response to the tax rate cut.

The JCT forecast last July that capital gains revenue for 1998 would be $57 billion after the rate cut.

Again, this is reflected here on the chart projecting a much lower impact, actually a loss that we will end up with. In the shaded area over here with the lines drawn we see a dramatic increase in revenue that happened to the Federal Government, just contrary to what our "budgeteers" were projecting when we initiated the capital gains reduction in rate.

Recently, I contacted the CBO and JCT to determine how the forecast was holding up.

The Congressional Budget Office is now anticipating that both the 1997 and 1998 capital gains realizations will be much higher than previously thought.

It is therefore reasonable to assume that even with a lower tax rate, capital gains tax revenues for 1997 and 1998 will be a good deal higher than previously forecast.

The irony here is that the entire 10 year revenue loss that was forecast may be made up for in the first several years of the rate cut.

Once again, we will have a situation where a tax rate cut leads to greater revenues.

Mr. President, what does all this tell us?

In my view, a review of the last twenty years of capital gains tax rates and the associated revenues suggests that the model used by JCT and CBO to estimate capital gains revenues is flawed.

At minimum, it would appear that when tax rates are lowered the model significantly exaggerates the revenues losses.

In fact, in no single year after a rate cut has there ever been a loss of revenue.

Conversely, when tax rates are increased, the model significantly exaggerates the level of revenue gains.

Not only do the Congressional models fail to accurately measure the response of taxpayers to changes in tax rates, they completely exclude any estimate of the impact of tax changes on economic performance.

Mr. President, up to this point we have only been discussing the short term behavioral changes that come from changes in the capital gains tax rate.

What about the longer term impact on economic growth? Congress is largely in the dark when it comes to any estimate of this benefit.

It is logical to assume that a lower tax rate on capital encourages capital formation. A higher rate of capital formation clearly benefits the economy. As a consequence the federal government will realize greater income, payroll, and excise taxes. In addition, state and local tax revenues will also rise.

Admittedly, all of this is difficult to measure. However, I would like to see some attempt made to include these factors in revenue models.

At a minimum they should be appended to the official revenue estimates. This would give Congress a more complete picture of the impact of tax changes on revenues.

As I review the issue of capital gains tax revenues I am struck by several things.

First, capital gains tax rate cuts do not appear to cost the government revenue, and may in fact increase revenue rather dramatically.

Second, the current revenue estimating model should be updated to reflect evidence that the model exaggerates losses from rate cuts, and also exaggerates the gains from tax rate hikes.

In addition, some attempt should be made to measure the impact of tax changes on the level of economic performance.

Third, less emphasis should be placed on the revenue models.

Instead, greater emphasis should be placed on the impact that changes in the tax treatment of capital gains will have on the private economy.

Economic growth, job creation, and international competitiveness should be our focus, not projections of government revenue.

This is particularly true when we know that the revenue projections are not likely to be terribly accurate.

This is not intended as a criticism of those whose job it is to make the estimates. This is difficult work. I certainly recognize this having served on the House Budget Committee for several years. And those who do the work are professionals who work hard at getting it right.

Unfortunately, this business is a bit like gazing into a crystal ball. There are just too many factors at work to think we can accurately project the revenue impact of changes in capital gains tax policy.

Mr. President, when it comes to capital gains taxes I suggest that Congress spend less time gazing into the crystal ball of revenue forecasting, and more time focusing on the real world impact of taxes on capital formation, job creation, and economic growth.

I think it will then be abundantly clear that we should continue to reduce the tax on capital to 14 percent. This will continue the good work that we began last year.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. SMITH of Oregon. I also ask unanimous consent that my assistant, Lourdes Agosto, be allowed floor privileges while I give this speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of Oregon. I thank the Chair.

(The remarks of Mr. SMITH of Oregon pertaining to the introduction of S. 2079 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SMITH of Oregon. Mr. President, I thank you for the time and yield back the floor.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Under the previous order, the Senator from Ohio is recognized to speak for up to 15 minutes.

10TH ANNIVERSARY OF DUI CRASH IN KENTUCKY

Mr. DEWINE. Mr. President, today marks the 10th anniversary of the most tragic drunk driving case in our Nation's history. Ten years ago today, on Saturday, May 14, 1988, a school bus filled with children heading home to Radcliff, KY, after having spent a day at King's Island Amusement Park in Ohio—that school bus was hit head-on by a drunk driver heading the wrong way on Interstate 71 near Carrollton, KY, 10 years ago today. The collision caused the front gas tank of the bus to explode in flames. The crash caused the death of 24 children and three adults, and left many of the 36 survivors burned and disfigured.

This crash did not just affect the 63 innocent victims who were on the bus that day. It had significant impact and changed forever many of the victims' families, friends and their community. This horrible tragedy helped fuel a nationwide movement which has helped to change our Nation's attitudes towards drinking and driving. This horrible tragedy helped spur State legislatures to enact more stronger drunk driving laws. It led to tougher enforcement and has caused people to think twice before drinking and driving. In short, it is no longer "cool" or "neat" in our society to drink and drive. And this horrible, horrible tragedy did impact people and has helped to galvanize public opinion in regard to drunken driving.

The effects of this attitude change are well documented. In 1986, 24,050 people lost their lives in alcohol-related traffic crashes. A decade later that number had dropped by 28 percent; 17,274 people lost their lives in 1995 in alcohol-related accidents, a drop of 28 percent. This reduction is not attributable to one single event. It is not attributable just to this horrible accident, this horrible tragedy we are commemorating and thinking about today. It was a whole series of actions taken by people across this country—Mothers Against Drunk Driving, SADD chapters, grassroots efforts of survivors, grassroots efforts of victims and members of victims' families.

We have begun, over that decade, to significantly change public attitudes. Unfortunately, after 10 years of improvement, after 10 years of fewer people dying every year due to drunken driving, these trends have now been reversed. I think our Nation has lost its focus. We no longer focus on this as a national issue. From 1994 to 1995, fatalities in alcohol-related crashes rose—did not decline—rose, and they rose by 4 percent. That was the first increase in over a decade. In 1995, 41 percent of the 41,798 motor vehicle crash deaths were attributable to alcohol use. Alcohol involvement is the single greatest factor in traffic-related deaths and injuries. In short, the trend is now moving in the wrong direction. We have not done enough. We must move to reverse this trend.

I think what we have to do is to refocus and to put the emphasis back, again, and public debate, on this horrible, horrible problem. This year, Congress has the opportunity to help renew our Nation's focus on the evils of drinking and driving. During the Senate's consideration of ISTEA, we took the lead in helping our Nation refocus on the consequences of drinking and driving.

Mr. President, there is no one single thing in the Senate's version of ISTEA reauthorization which will change attitudes by itself. Rather, the Senate did a number of things which, when taken together, will help renew our Nation's focus on this effort.

First, the Senate voted to adopt an amendment which would encourage States to enact a statute that would make it illegal, in and of itself, to operate a motor vehicle with a blood alcohol concentration of .08 or higher. This amendment was adopted by a 2-to-1 margin in this Senate Chamber. This was one of the few times I stated on the floor that day that Members of the Senate could come to the Senate floor and cast their vote and know that a "yes" vote would, in fact, clearly save lives. The individuals we will never know, but it is clear this legislation, if enacted into law, will save hundreds and ultimately thousands of lives over the next few years. Sixty-one of our colleagues chose to take advantage of that opportunity.

Further, in the same bill, the Senate voted to adopt an amendment which would make it illegal to drive with one hand on the steering wheel and the other wrapped around a bottle of whiskey or beer. That is still legal in many places in this country. Under this legislation, it no longer would be tolerated.

Finally, we included a provision which would establish mandatory minimum penalties for repeat drunk drivers—the worst of the worst of the worst.

I can think of no better way to honor the memories of the victims of the deadliest alcohol-related traffic crash in our Nation's history, as well as the memories of all victims of drunk drivers, than to include these reasonable provisions aimed at renewing our Nation's focus on the tragedy resulting from drinking and driving in the final bill to reauthorize the Intermodal Surface Transportation Efficiency Act.

This matter is in conference committee right now. The conferees are dealing with a number of very contentious and very difficult funding issues. We all have our own opinions about those issues. They are very contentious. But there is one issue where the overwhelming majority of the American people have spoken in public opinion poll after public opinion poll, and that has to do with the .08. There is one issue where the members of the conference committee can know that their vote to include the .08 provision will, in fact, save lives.

Let me repeat, this Senate has spoken. Sixty-one of the Members of this Senate voted "yes" for a nationwide .08 standard. The House of Representatives did not have the opportunity to vote; they were blocked from voting on this measure. But I think anyone who has looked at this clearly understands that the House of Representatives also, if they had been permitted to vote on this, would have approved the .08.

What we are asking the conference committee to do is very simple: Include this provision, which passed so overwhelmingly in the U.S. Senate, in the final version of ISTEA. If the members of the conference committee will do that, they will save lives. It has been estimated that between 500 to 1,000 lives in this country will be saved every year by going to a .08 standard.

Mr. President, the statistics and facts are clear. The evidence is overwhelming. No one who tests .08 has any business being behind the wheel of a car. Think about it. If you were at a party at a neighbor's house or your own house, and you saw someone, an adult male weighing 160 to 165 pounds, and you watched him drink over an hour period of time—you timed it—four beers or four shots of liquor or four big glasses of wine on an empty stomach, then that person looked at you and said, "I want to take your little girl Anna to get an ice cream cone," would you let your daughter get in the car with that person? We all know the answer. The answer is absolutely not—"Don't get near her; she can't go with you."

That is all we are saying. Mr. President, it takes that much alcohol consumption to reach .08. What we are saying is, we set a nationwide standard so that, no matter where we go in this country, we have some level of assurance that the laws of whatever State we are in—in my case, whether I drive out of Ohio into Kentucky or Indiana or Michigan or West Virginia, wherever I go, when I put my family in a car, I will have an assurance there is a national .08 standard, a bare minimum standard to protect our families.

That is what we are asking for in the conference committee. I again urge the members of the conference committee to do what is right: Follow what the Senate has said, follow the vote in the Senate, and include this very reasonable measure.

For my friends, my conservative friends, such as myself—we consider ourselves conservatives—I simply point out, this is the same type legislation that Ronald Reagan approved and supported and pushed through the U.S. Congress, when he was President of the United States, to go to a nationwide standard of 21 as being the age for drinking. It is the same mechanism, the same procedure, and the same basic principle.

What Ronald Reagan said then, and I will paraphrase, is very simple: That in some areas of national importance, national concern, we can make small intrusions into States rights, small changes that will have monumental effects to save lives across the country, and in some areas we do need a national minimum standard. I urge the conferees to include this in the legislation.

I see my friend, Senator LAUTENBERG, who has been a tremendous advocate over the years for highway safety, who sponsored the bill I just referenced that Ronald Reagan pushed through and Senator LAUTENBERG pushed through. Senator LAUTENBERG was the author of that bill in the 1980s. He and I were at the White House yesterday with the Vice President. We have been there with the President to support this. This is a bipartisan effort to save lives in this country.

I yield to my colleague.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey is recognized to speak for up to 15 minutes.

Mr. LAUTENBERG. I thank the Chair. I thank my colleague from Ohio, Senator DEWINE.

Senator DEWINE has experience as a prosecutor. He has seen what happens when alcohol and driving try to mix. The result is terrible tragedy so often. His work here, together with mine, has enabled us to assemble a bipartisan group to support our effort to reduce the blood alcohol content to .08 at which point someone can be declared driving while impaired.

Today marks the 10th anniversary of the Nation's most deadly drunk driving crash. On the night of May 14, 1988, a bus packed with sleeping children was driving south on Interstate 71 to the First Assembly of God Church in Radcliff, KY. Thirty-five girls, twenty-eight boys, and four adults were returning from a day at the King's Island amusement park near Cincinnati.

According to newspaper accounts, the group said a short prayer before they began their return trip. I quote him. He said, "Please grant us a safe trip. May God have his hand on this bus." That is what he prayed.

But prayers were not enough that day. At 10:55 p.m., as the bus neared the northern Kentucky town of Carrollton, the driver of the bus spotted a pickup truck barreling north in his southbound lane. Moments later a collision and the bus burst into flames.

Twenty-four children and 3 adults were killed in that devastating school-bus crash, and 30 more were injured. The lives of so many families and friends were destroyed.

The current president of Mothers Against Drunk Driving, Karolyn Nunnallee, lost her daughter Patty in that terrible crash. She was on television this morning trying to explain the impact of losing that child. This day across the Nation thousands of mothers, fathers, brothers, and sisters will join in a moment of silence to honor those thousands of victims who die on our highways each year at the hands of drunk drivers.

We will honor Patty and the others who died that night and those who were injured during this moment of silence.

Sadly, the death toll visited upon us by drunk driving mounts up each year with an appalling clock-like efficiency. Every 30 minutes a family loses a loved one to a drunk driver. That means in the decade since the Carrollton crash 175,000 people have died. That is almost twice the population of the capital of my home State of New Jersey, Trenton, NJ. These deaths need not have happened.

If we also take into consideration that each of these victims had family and friends, we are talking about more than—more than—a million people grief stricken, which is more people than who live in Washington, DC. And this grieving should never have occurred.

Drunk driving also takes an enormous economic toll, as well, on our Nation. Alcohol-related crashes cost society over $45 billion each year. One alcohol-related fatality is estimated to cost society about $950,000; and an injury averages about $20,000 in emergency and acute health care costs, long-term care and rehabilitation, police and court services, insurance, lost productivity, and social services.

Just look at this toll of needless death, needless grief, and needless spending. These facts should move us to rage. And our rage should move us to action.

Mr. President, we can act. Right now, the House-Senate conference committee is meeting to resolve the competing ISTEA reauthorization bills. I sit on that conference committee. As part of this process, the Congress is going to make one decision—will we get tougher on drunk driving and enact laws that will save lives or will we fall prey to the liquor and restaurant lobbyists?

Mr. President, this body has spoken about this issue. Two months ago, the Senate passed an amendment to prohibit open containers of alcohol in motor vehicles. It adopted a tough program to combat repeat offenders of drinking and driving. And by a 2 to 1 margin, the Senate voted to set a strict national drunk driving standard at .08 blood alcohol content. The Senate voted 62 to 32 for this life-saving measure. The House was not even able to vote on this issue. They were prevented from it.

We can ask the question, Why? But we must carry the will of the Senate—of the people—through to completion. We want ".08 in '98." We are now at the crossroads, and it is time to decide. The question comes up, Why? Why aren't the House Members permitted to vote on this issue? Well, it stops at a committee over there. The process is different than it is over here, and they do not even have to let a piece of legislation come up on the floor.

And why? Why would they say no to a vote on this issue when parents lose children and children lose parents across this country in numbers that compare to our worst year in Vietnam? In full combat we lost about 17,000 of our soldiers. In our country every year we lose more than 17,000 people to drunk driving, and it does not have the same impact on our society. So we have to say, Why is it that it does not?

If after coming so close we fail to enact .08 this year, the American people should charge this Congress with something I will call "VUI," voting under the influence of the liquor lobby. That is where it stops. They say, "You're going to kill our business," that "You're going to arrest social drinkers." No, no, no. We are not saying anybody can't drink. They can drink as much as they want. They can fall off the bar stools, as long as they don't fall on me or my kids.

The issue is whether, after having had a blood alcohol content level of .08, they ought to get behind a wheel. And we say no. I think the Senator from Ohio made it very clear. He said if he watched someone at a party or someone at a dinner, or something like that, have four drinks in an hour—a man my size would have five—on an empty stomach, to have your child get in the back seat of a car with that driver, I would say never, never. That is what we want to say across this country. Because every family is entitled to that kind of safety and security.

In 1984, President Reagan signed a bill that I wrote over here to make the national drinking age 21 and eliminate blood borders. Those are the borders between States with different drinking ages. Since then, more than 10,000 lives have been saved, enough to fill a small town. That is 10,000 families that did not have to mourn or grieve the loss of a child or a parent or a brother or a sister—10,000 people. That is a lot of people.

Now we have a different kind of blood border—the blood alcohol border. Right now a driver legally drunk in one of 16 .08 States merely has to drive over the border and—poof—he is legally sober again. We know that is wrong. And we know once you are over .08 you are too drunk to drive in any State.

Consider this: Someone, again, of my height having had four glasses of wine in an hour—five glasses of wine; again, I am a little heavier than the average; five glasses of wine in an hour—on an empty stomach. That is too much. We are not saying, again, that people cannot drink. We are saying they cannot drink and drive.

Think about the 6,000 families who will be spared the devastating loss of a loved one to a drunk driver over the course of a decade if we pass .08. Think of what it means. Thousands of parents now destined to lose a child will be able to read their little ones to sleep instead of looking at an empty bed; children now destined to lose a parent will wake up in a full and loving home.

One year ago, Randy Frazier called the Congress to action. Randy's daughter, Ashley—people from Maryland—was killed by a .08 drunk driver. Randy said, "It is time for the leadership and action here in Congress to draw a safer, saner, and more sensible line against impaired driving at .08. If we truly believe in family values, then .08 ought to become the law of the land. Four beers in an hour"—four glasses of wine in an hour, on an empty stomach—"and getting behind the wheel of a car, in our estimation, is one definition of family violence."

Mr. President, it is decision time. The question is whether we are going to vote with our conscience. Are we going to vote under "VUI," voting under the influence of the alcohol lobby? They poured people into this town. The Restaurant Association had 130 as reported by a newspaper, 130 lobbyists come in. They swarmed all over the House, and they got people to change their minds. Then they got people, as I said earlier, to be able to hold that bill from getting consideration.

That is not the way law ought to be decided when it comes to American families. And we hope we are going to stand up to our responsibility as we pause to honor the victims of drunk driving.

Let us be moved to action. We must enact tough drunk driving laws this year. It has to be ".08 in '98."

I yield the floor.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

EXTENSION OF MORNING BUSINESS

Mr. TORRICELLI. Mr. President, I ask unanimous consent to extend morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TORRICELLI. Mr. President, let me first thank Senator THURMOND and Senator LEVIN for their consideration. I will not use all the time I have yielded myself.

THE IMPORTANCE OF THE U.S. RELATIONSHIP WITH KUWAIT

Mr. TORRICELLI. Mr. President, I rise on an issue of great importance to me, personally, and I believe many other Members of the Senate.

Winston Churchill once noted that nations whose sons fight and die together forever change their relationship. Seven years ago, the United States and Kuwait tragically shared this experience. The liberation of Kuwait forever changed the relationships between our two peoples. Though our cultures and the faiths of many are different, we share a sense of national independence and, I believe, a growing awareness of a burgeoning potential for democracy in Kuwait.

It was, therefore, extremely disturbing on November 19, 1997, when several members of the Islamic faction in Parliament in Kuwait sought the ouster of the Minister of Information, Sheikh Saud Al-Nasir Al-Sabah. It did so because of an allegation that he permitted books to be displayed at a book fair which fundamentalists deemed to be offensive. Members of this Senate—indeed, many people in the administration—not only know Sheikh Saud Al-Nasir Al-Sabah well, they consider him a friend. During the darkest days of the invasion and occupation of Kuwait, he was the voice of that Nation in the United States. We trusted him. More, perhaps, than anyone we know in Kuwaiti society, he rallied support to the liberation of his country.

These allegations against him we now recognize were little more than an effort by Islamic fundamentalists to extend their control over the Ministry of Information, which would have changed the nature of the political system in Kuwait. Judgments about Kuwait's future are for the Kuwaiti people, obviously, and entirely. But I believe as friends of that Nation who have fought and died with them, we all have a stake in the growing movement of that society for free expression.

I know my colleagues join me with some relief and considerable pride in that in a reformed Government following this incident, Sheikh Saud Al-Nasir Al-Sabah was kept as Oil Minister. Indeed, not only did he remain in the Government, therefore, but he received a promotion.

I know the people of Kuwait have been traumatized by this effort, through this emergence of Islamic factions within their political system, to extend their control and threaten rising elements of democracy in their society. I trust that Kuwaiti democracy will be the stronger for this experience, that the people of Kuwait will not only understand but appreciate the interests of the U.S. Senate in the political system of that country, since the concept of the government and free expression in Kuwait is so much a part of our mutual understanding for the defense of that society.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2057, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personal strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that a list of staff that I send to the desk, be permitted the privilege of the floor during the pendency of the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list of staff follows:

ARMED SERVICES COMMITTEE STAFF MEMBERS

Les Brownlee, Staff Director
George Lauffer, Deputy Staff Director
Scott Stucky, General Counsel
David Lyles, Minority Staff Director
Peter Levine, Minority Counsel
Charlie Abell
John R. Barnes
Stuart H. Cain
Lucia Monica Chavez
Christine E. Cowart
Daniel J. Cox, Jr.
Madelyn R. Creedon
Richard D. DeBobes
John DeCrosta
Marie F. Dickinson
Keaveny Donovan
Shawn H. Edwards
Jonathan L. Etherton
Pamela L. Farrell
Richard W. Fieldhouse
Maria A. Finley
Cristina W. Fiori
Jan Gordon
Creighton Greene
Gary M. Hall
Patrick "PT" Henry
Larry J. Hoag
Andrew W. Johnson
Melinda M. Koutsoumpas
Lawrence J. Lanzillotta
Henry C. Leventis
Paul M. Longsworth
Stephen L. Madey, Jr.
Michael J. McCord
J. Reaves McLeod
John H. Miller
Ann M. Mittermeyer
Bert K. Mizusawa
Cindy Pearson
Sharen E. Reaves
Sarah J. Ritch
Moultrie D. Roberts
Cord A. Sterling
Eric H. Thoemmes
Roslyne D. Turner

Mr. THURMOND. Mr. President, today the Senate begins consideration of S-2057, the National Defense Authorization Act for Fiscal Year 1999. I want to thank all members of the Committee who have worked so hard this year to bring this bill to the floor. I particularly want to thank Senator LEVIN, the Ranking Member, for his cooperative support.

I also want to acknowledge the contributions of Senator COATS, Senator KEMPTHORNE, and Senator GLENN. This will be their last defense authorization bill. On behalf of the committee and the Senate, I want to thank them for their dedication to the national security of our country and their support for the young men and women who serve in our armed forces. We will miss these three outstanding Senators who have served our country and the committee so well.

Mr. President, I also want to express my appreciation to the members of the staff of the Senate Armed Services Committee. We on the Committee are very proud of our staff. I believe that we have the most competent and professional staff on Capitol Hill. They work well together in a very bi-partisan way and all of us on the Committee are indebted to them for their selfless dedication. I ask unanimous consent that a list of the members of the staff be included following my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. THURMOND. This is the 40th defense authorization bill on which I have worked since I joined the Armed

Services Committee in 1959. It is my fourth as Chairman of the committee and as I indicated earlier this year, while I intend to remain on the Committee, this will be my last year as Chairman. I look forward to the floor debate on this bill as well as the conference with the House. I am hopeful that we are able to complete the bill and send it to the President before the July 4th recess. It is essential that we complete floor action before the Memorial Day recess in order to meet this ambitious schedule.

We have accelerated significantly our process this year. I cannot recall ever bringing the defense authorization bill to the floor this early in the year. If we are successful in completing conference in late June, we may be setting a modern day record.

Mr. President, the Defense Authorization bill for Fiscal Year 1999 which I bring before the Senate today is only 3.1 percent of Gross Domestic Product—the lowest since 1940. Defense outlays peaked in 1986 at 6.5 percent. President Reagan's defense buildup was one of the great investments in our history. As a result of President Reagan's strong leadership and our strengthened military, we won the Cold War. Therefore, we have been able to reduce our defense force structure. These reductions enabled the Nation to reduce the deficit and achieve a balanced budget. The victory in the Cold War and the resulting peace dividend, which began, by the way, under President Reagan, is now saving us over $250 billion per year—the major factor in achieving a balanced budget.

Mr. President, we haven't debated the levels for defense spending on the floor of the Senate for some time. Maybe its because defense doesn't rank very high these days in the polls which reflect the concerns of the American people. Or maybe it's because everyone assumes that the defense budget is adequate and there is no reason to debate it. I am concerned first of all because I believe there is a clear shortfall between the ambitious foreign policy of this Administration and the resources we are willing to provide for national defense.

The operational tempo of our military forces is at an all time high. American forces are deployed literally around the globe. The foreign policy of this Administration has raised the number of separate deployments to the highest in our history. Our servicemen and women spend more and more time away from their homes and families on more frequent and extended deployments. As a result, recruiting grows more difficult and retention is becoming an extremely serious problem—especially for pilots.

We are also beginning to see increasing indicators of readiness problems. Spare parts shortages, increased cannibalization, declining operational readiness rates, cross-decking of critical weapons, equipment and personnel foretell a potential emergence of readiness difficulties that could seriously cripple our military forces in the very near future. The Chiefs of the military services indicate that they are on the margin in readiness and modernization. The Chief of one of our military services has recently stated orally as well as in writing that his budget for fiscal year 1999 is, for the third year in a row, inadequate.

While, at the present time, the American people may not be expressing concern about threats to our national security or the readiness of our armed forces, we in the Senate are not relieved of our responsibilities to ensure that we have capable, effective military forces ready to defend our nation's vital interests. It is our job in the Congress to examine the readiness and capability of our armed forces and ensure that we have provided adequate resources and guidance to the Secretary of Defense so that he can carry out his mission to protect our national security. I believe, as I have stated so many times on this floor, that nothing that we do here in the Congress is as important as providing for our national security. I intend to continue to make this point whenever I believe that we in the Senate may not be paying enough attention to this most critical issue.

Mr. President, the Congress has endeavored over the past several years to shore up our defense budgets with annual add-ons. However, reductions in the defense budgets over the last 3 years to pay for Bosnia have denigrated the effect of those Congressional plus-ups. Almost half of the $21 billion we added to the defense budgets over the last 3 years, which was intended to enhance readiness and modernization, was spent instead for operations in Bosnia. The maintenance of our forces in Bosnia and in the Persian Gulf, places great strain on our military forces and budgets.

As many of you are aware, we have been forced to cope with a $3.6 billion outlay shortfall in the defense budget resulting from scoring differences between the Office of Management and Budget and the Congressional Budget Office. The Chairman of the Budget Committee, Senator DOMENICI has been very helpful in working out a solution to help alleviate this problem. I am sure the Chairman of the Appropriations Committee joins me in thanking Senator DOMENICI and his staff for their assistance.

Under the budget agreement, we have not added funds to the defense budget this year. I do not believe that a majority of Senators would support adding funds to the defense budget in violation of the budget agreement. Therefore, we have conducted our markup consistent with the budget agreement. However, I have stated in the past and I say again, I believe that we are not providing adequate funds for defense. The Chairmen and Ranking Members of the House National Security Committee have also called for increases in the defense budget. It remains my firm belief that we should provide additional funds for our national security.

In this bill, the Committee has achieved a balance among near-term readiness; long-term readiness, through investments in modernization infrastructure and research and development; force levels; quality of life and ensuring an adequate, safe and reliable nuclear weapons capability. The Committee modified the budget request to improve operations and achieve greater efficiencies and savings and to eliminate spending that does not contribute directly to the national security of the United States.

The Committee recommended provisions to provide a 3.1 percent pay raise for the uniformed services; to enhance the ability of the services to recruit and retain quality personnel; and to restore appropriate funding levels for the construction and maintenance of both bachelor and family housing. The bill recommends increased investment in research and development activities to ensure that the Department of Defense can leverage advances in technology.

The Committee remains concerned about the level of resources available for the reserve components and the continued lack of a spirit of cooperation between the active and reserve forces. The Committee recommended a number of policy initiatives and spending increases intended to continue the improvement of the readiness of the reserve forces and to permit greater use of the expertise and capabilities of the reserve components. One such measure is the authority for the reserve components to prepare to respond to domestic emergencies involving the use or intended use of a weapon of mass destruction. I am proud to be able to recommend this important legislation which will enable the Nation to be prepared for the most unimaginable terrorist incident.

I do want to tell my colleagues that this defense bill does not include a long list of new major projects or new initiatives. Quite simply, there is no money to support new major projects or new initiatives. However, I should note that over the past three or four years, the Committee on Armed Services has produced defense bills with major new program starts, reforms of the acquisition process, initiatives related to missile defense and counter proliferation, and programs to achieve efficiencies and enhance readiness. The Secretary of Defense must now implement these major programs. As the Department of Defense executes the programs we enacted over the past several years, I anticipate that they will come back to the Congress to suggest modifications addressing areas in which they believe they need additional flexibility.

Mr. President, I would like to remind my colleagues that any amendments to the defense authorization bill that would increase spending should be accompanied by offsetting reductions.

Mr. President, this is a sound bill. It provides a road map to take our Nation's Armed Forces into the 21st century. I urge my colleagues to join the Members of the Armed Services Committee and pass this bill with a strong bipartisan vote.

I yield the floor.

EXHIBIT I

ARMED SERVICES COMMITTEE STAFF MEMBERS

Les Brownlee, Staff Director
George Lauffer, Deputy Staff Director
Scott Stucky, General Counsel
David Lyles, Minority Staff Director
Peter Levine, Minority Counsel
Charlie Abell
John R. Barnes
Stuart H. Cain
Lucia Monica Chavez
Christine E. Cowart
Daniel J. Cox, Jr.
Madelyn R. Creedon
Richard D. DeBobes
John DeCrosta
Marie F. Dickinson
Keaveny Donovan
Shawn H. Edwards
Jonathan L. Etherton
Pamela L. Farrell
Richard W. Fieldhouse
Maria A. Finley
Cristina W. Fiori
Jan Gordon
Creighton Greene
Gary M. Hall
Patrick "PT" Henry
Larry J. Hoag
Andrew W. Johnson
Melinda M. Koutsoumpas
Lawrence J. Lanzillotta
Henry C. Leventis
Paul M. Longsworth
Stephen L. Madey, Jr.
Michael J. McCord
J. Reaves McLeod
John H. Miller
Ann M. Mittermeyer
Bert K. Mizusawa
Cindy Pearson
Sharen E. Reaves
Sarah J. Ritch
Moultrie D. Roberts
Cord A. Sterling
Eric H. Thoemmes
Roslyne D. Turner

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I am pleased to join the chairman of our committee in bringing the defense authorization bill for fiscal year 1999 to the floor. As we all know, as Senator THURMOND has so eloquently reminded us, this is the last year that he will be chairman of the Senate Armed Services Committee, through his choice. Therefore, it is the last year that he will be bringing an authorization bill to the floor. I just want to thank him and commend him for the commitment that he has made to our Nation's defense. It has been longstanding, it has been a matter of keen devotion. It is really a significant moment for me to be here with him as this defense authorization bill comes to the floor. I know I am thanking him on behalf of all of the members of our committee and the Senate for the energy he has placed into this issue of defense, security, and this bill itself.

Mr. THURMOND. Thank you very much.

Mr. LEVIN. Mr. President, this is also the final defense authorization bill for three other members of our committee—Senators GLENN, COATS and KEMPTHORNE. They will be leaving us this year, also through their choice. We will miss them keenly. They have all made tremendous contributions to the work of the Armed Services Committee and to the national security of our country. Sometimes their ways were similar and sometimes they were different, but we are grateful for their contributions. I wanted to note that as we get to work on the defense authorization bill.

The bill that we bring to the floor this morning is the product of several months of hard work by the Armed Services Committee. It is a large and complicated bill that could not have been produced without the dedicated effort of our chairman, the other members of our committee and our staffs. I join Senator THURMOND in thanking our staffs for their work.

While I don't agree with everything in this bill—none of us do or ever can in a bill this big and complicated—I think it will improve the quality of life for the men and women in uniform and for their families. It will continue the process of modernization of our Armed Forces to meet the threats of the future.

Senator THURMOND has already summarized the provisions of the bill. I will just highlight a few provisions that will make a significant contribution to the national defense and to our men and women in uniform.

The bill contains a 3.1 percent pay raise for military personnel and authorizes a number of bonuses to enhance our ability to recruit and retain quality men and women for our armed services.

The bill would authorize three health care demonstration projects that would address concerns about gaps in the military health care system by requiring the Department of Defense to provide health care to retired military personnel and their families who are over 65 and Medicare-eligible.

The bill contains a bipartisan Defense Commercial Pricing Management Improvement Act, which would require the Department to address management problems in sole-source buying practices.

The bill would provide funding for the U.S.-Canada environmental cleanup agreement, and for a new $24 million initiative for the development of pollution prevention technology.

Finally, the bill includes a series of other provisions that are designed to assist the Secretary of Defense in his effort to streamline our defense infrastructure and improve the Department's so-called "tooth-to-tail" ratio. These provisions would require reductions in DOD headquarters staff; extend current personnel authorities available to the Department to assist in downsizing; encourage public-private competition in the provision of support services; require improvements in the Department's inventory management and financial management systems; enable the Department to undertake needed reforms in travel management and the movement of household goods; and require the Department to streamline its test and evaluation infrastructure.

Mr. President, the committee was presented with a dilemma on the Air Force's F–22 fighter program. Although there is broad support for achieving the revolutionary capability the F–22 program promises, a number of us remain concerned about the degree of overlap between development, testing, and production in the program. Four years ago, we expected that 27 percent of the flight testing hours would have been completed before the Air Force signed a contract for the first production aircraft. Last year, that number had fallen to 14 percent. This year, the committee was faced with the Air Force's plan of signing a production contract with only four percent of the flight testing completed.

The bill would address this problem by making the long-lead funding for the six F–22 aircraft in FY 2000 contingent upon certifications by the Secretary of the Air Force that: (1) adequate flight testing has been conducted to address technical risk in the program; and (2) the financial benefits of going forward with the program exceed the financial risks.

I am also pleased that the bill contains a provision to encourage and facilitate organ donation by service men and women. Organ donation represents, in my view, one of the most remarkable success stories in the history of medicine. Over the past several years, the Department of Defense has made some strides in increasing the awareness among service members of the importance of organ donation. With our encouragement, DOD has included organ donation decisions in their automated medical databases, and established policies that give service members regular opportunities to state a desire to become organ donors upon their deaths.

In an effort to enhance the value of these initiatives, the bill provides the framework in which DOD will provide each new recruit and officer candidate information about organ donation during their initial weeks of training, and will include organ donation procedures in the training of medical personnel and in the development of medical equipment and logistical systems. This initiative is likely to have a vital impact on the survival of countless individuals who will, one day, benefit from organs donated by service men and women.

From the beginning of the year, Secretary Cohen and the Joints Chiefs of Staff have stressed three things that they would like to achieve in this bill:

First, they have requested authority to close excess military bases in order to fund their modernization priorities in the next decade;

Second, they have urged us not to undermine military training and readiness by reducing operations and maintenance budgets; and

Third, they have urged us to provide the necessary funding to support U.S. military operations in Bosnia during FY 1999 in a manner that does not cut into current levels of DOD funding.

I would say that the committee has achieved roughly one and a half of these three goals.

First, the bill before us would authorize $1.9 billion for continued U.S. military operations in Bosnia, in the manner requested by the Department. I am sure that many Members will want to be heard on this subject as we debate this bill. At the appropriate time I intend to offer my own amendment, which would ensure that the President reports to the Congress on progress toward achieving benchmarks toward implementation of the Dayton Accord with an exit strategy and that the Congress has an opportunity to vote on the continued presence of U.S. ground combat forces in Bosnia beyond June 30, 1999.

Second, the Armed Services Committee did a reasonable job of funding training and readiness, given the budgetary constraints under which we were operating. Overall, the bill would reduce operations and maintenance funding by roughly $300 million, but these cuts would be achieved through reductions for fuel savings, foreign currency fluctuations, and civilian underexecution—which, if DOD's and CBO's predictions prove right, should not have a significant negative impact on military training and readiness.

On the other hand, the Secretary has asked us not to cut operations and maintenance accounts at all, because any cuts to these accounts pose some risk of a negative impact on training and readiness. We have been hearing complaints for several years now that the Administration has not provided adequate funding for military training and readiness. If we are not able to increase the level of O&M funding in conference, the cuts in this bill mean that Congress must share responsibility with the Department of Defense for any training and readiness problems resulting from O&M funding shortfalls that DOD may experience in the next year.

On the third point, I am deeply disappointed that the Armed Services Committee has again filed to authorize a new base closure round, as requested by the Secretary of Defense, the Joint Chiefs of Staff, the Quadrennial Defense Review, and the Joint Chiefs of Staff. The Secretary's Report on Base Closures from Secretary Cohen contains almost 1,800 pages of backup material. It is responsive to those who said last year that we need a thorough analysis before we can reach a decision on the need for more base closures.

The Report reaffirms that DOD still has more bases than it needs. From 1989 to 1997, DOD reduced total active duty military endstrength by 32 percent, a figure that will grow to 36 percent by 2003. Even after 4 base closure rounds, the reduction in DOD's base structure in the United States has been reduced only 21 percent.

DOD's analysis concluded that DOD has about 23 percent excess capacity in its current base structure. For example, by 2003:

The Army will have reduced the personnel at its classroom training commands by 43 percent, while classroom space will have been reduced by only 7 percent.

The Air Force will have reduced the number of fighters and other small aircraft by 53 percent since 1989, while the base structure for those aircraft will be only 35 percent smaller.

The Navy will have 33 percent more hangars for its aircraft than it requires.

Secretary Cohen's report also documents the substantial savings that have been achieved from past base closure rounds. Between 1990 and 2001, DOD estimates that BRAC actions will produce a total of $13.5 billion in net savings. After 2001, when all of the BRAC actions must be completed, steady state savings will be $5.6 billion per year.

Based on the savings from the first four BRAC rounds, every year we delay another base closure round, we deny the Defense Department, and the taxpayers, about $1.5 billion in annual savings that we can never recoup by studying to death the question of savings from previous rounds. In his report on base closures last month, Secretary Cohen stated: "More than any other initiative we can take today, BRAC will shape the quality and strength of the forces protecting America in the 21st century." General Shelton told our committee: "I strongly support additional base closures. Without them we will not leave our successors the warfighting dominance of today's force."

Admiral Jay Johnson, the Chief of Naval Operations, stated:

> This is more than about budgeting. It's about protecting American interests, American citizens, American soldiers, sailors, airmen, and Marines. We owe them the best force we can achieve. Reducing excess infrastructure will help take us there and is clearly a military necessity.

Mr. President, closing bases is a painful process. I know that as well as anyone. All three Air Force bases in my state have been closed, and we are still working to overcome the economic blow to those communities. We have heard a lot of complaints in the last year about inadequate funds for modernization or for readiness. I am sure that we will hear more such complaints in the next year. But we don't have much standing to be critical of DOD for underfunding important defense needs if we don't allow them to do what Secretary Cohen and the Chiefs have repeatedly said they need to do—close unneeded bases.

There are several other issues in the bill that concern me. I am disappointed by the committee's cuts in the Department of Energy's stockpile stewardship program, which Secretary Peña says will have a real and dramatic impact on our ability to maintain the safety and reliability of our nuclear weapons stockpile and undermine confidence in our nuclear deterrent. I am disappointed by the cuts we have made in the chemical demilitarization program, which may make it impossible for the United States to comply with our obligations under the Chemical Weapons Convention. And I am disappointed that we have funded several weapons systems for which the Department of Defense says that it has no current need. I look forward to amendments that will improve the bill in these and other areas in the course of our debate.

Mr. President, I know that there will be some vigorous debate on this bill, and I hope Senators will come to the floor and offer their amendments so that we can complete Senate action on the bill in a timely manner then go to conference with the House.

I must leave here for perhaps a half hour to an hour. I note that Senator CLELAND will be floor managing the bill for this side of the aisle. This is an important day for us. I know it is meaningful for him, but it is an important day for us and for this institution, and for this country to note that Senator CLELAND, who is truly a hero for all of us, is now managing this bill. I can't think of anyone I would rather have do that, anyone in whom I have greater confidence to protect this Nation's interest, as he always has, than Senator CLELAND.

I yield the floor.

AMENDMENT NO. 2399

(Purpose: To increase the amount for classified programs by $275,000,000, and to offset the increase by reducing the amount for Air Force procurement for the Advance Medium Air-to-Air Missile System program by $21,058,000, and by reducing the amount for Defense-wide research, development, test, and evaluation for engineering and manufacturing development under the Theater High Area Defense program by $253,942,000)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself and Mr. LEVIN, proposes an amendment numbered 2399.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 103(2), strike out "$2,375,803,000" and insert in lieu thereof "$2,354,745,000".

In section 201(3), strike out "$13,398,993,000" and insert in lieu thereof "$13,673,993,000".

In section 201(4), strike out "$9,837,764,000" and insert in lieu thereof "$9,583,822,000".

Mr. THURMOND. Mr. President, I rise to offer an amendment on behalf of the Armed Services Committee.

This amendment implements an agreement between the Armed Services Committee and the Intelligence Committee. Pursuant to this agreement, the Armed Services Committee has agreed to reduce by $275 million funds in the pending bill for nonintelligence programs and to increase by $275 million funds for the next Foreign Intelligence Program, which is also part of this bill.

The Armed Services Committee has considered the range and options for implementing this agreement, all of which involve making difficult choices to cut defense programs. After considerable deliberation, the committee has decided to reduce funding for the Theater High Altitude Area Defense Program by $250 million and the Advanced Medium Range Air-To-Air Missile System by $21 million. These funds are now assigned to these two programs.

Mr. LEVIN. Mr. President, the DoD authorization bill, as reported, includes a cut of some $550 million in classified intelligence programs. I serve on both the Armed Services and the Intelligence Committees. I am very aware of the tough choices that members of both committees have to make in discharging our respective responsibilities. However, I must say that the magnitude of this cut to intelligence programs disturbed me, as it did other members of the Committee.

Based on these concerns, the Committee agreed during the markup of the Defense Authorization Bill to try to come to some compromise with the Intelligence Committee that would reduce the magnitude of this reduction. This amendment restores $275 million of the original reduction made by the Committee. I am glad that we have worked together to achieve this outcome.

The bulk of the funds to increase the level of intelligence programs in this amendment comes from one particular program, the Theater High Altitude Area Defense, or THAAD program. The THAAD program is designed to meet a theater missile defense requirement. I have supported theater missile defense programs like THAAD because we have a clear requirement for theater missile defense systems.

The THAAD program has had a number of testing failures, and two days ago, there was another unfortunate test failure in the program. Mr. President, this failure led the Committee to the conclusion that it would be appropriate to adjust the fiscal year 1999 funding for the THAAD system. While we do not know the full implications of this test failure, it is clear that it would now be premature for the THAAD program to move from the demonstration/validation phase of the program to engineering and manufacturing development (EMD) next year as proposed in the fiscal year 1999 budget. The Committee amendment to the bill implementing the agreement with the Intelligence Committee eliminates EMD funding for THAAD in fiscal year 1999, since it is unrealistic to expect THAAD to enter EMD during that period.

I must point out that the Committee is proposing that the Senate make this adjustment without prejudice to the THAAD program. I believe that the Committee will need to follow this program as we proceed to conference with the House on this bill. If it turns out that we need to adjust this position to one that is better for the underlying THAAD program, I will work with Chairman THURMOND to do just that.

Mr. SMITH of New Hampshire. Mr. President, I rise to address the committee amendment offered by the Senator from South Carolina and the Senator from Michigan. This amendment implements agreements made between the Armed Services Committee and the Intelligence Committee. Pursuant to this agreement, the Armed Services Committee has agreed to reduce by $275 million funds in the pending bill for non-intelligence programs, and to increase by $275 million funds for the National Foreign Intelligence Program, which is also part of this bill.

The Armed Services Committee has considered a range of options for implementing this agreement, all of which involve making difficult choices to cut defense programs. After consideration deliberation, the committee has decided to reduce funding for the Theater High Altitude Area Defense (THAAD) program by $254 million and the Advanced Medium Range Air-to-Air Missile system by $21 million. The $21 million in AMRAAM is now excess to program requirements as a result of contract negotiations between the Air Force and the contractor. The funding issue related to THAAD is more complex.

We have all heard the news of Tuesday's THAAD test failure. This was the fifth time in a row that THAAD has failed to intercept a target. Although we don't have the details, we know that there was an electrical failure in the booster which caused the missile to self-destruct early in flight. Whatever impact this may have on the long-term prospects for THAAD, judging by what we now know it appears that the THAAD program will not be able to enter engineering and manufacturing development (EMD) during fiscal year 1999.

In its markup of the Defense Authorization Bill, the committee expressed concern that THAAD might not be able to spend all of its EMD budget during fiscal year 1999 even if the recent flight test was a success. Therefore, the markup included a reduction of $70 million in THAAD EMD. This left $254 million in the THAAD EMD budget, $498 million in the THAAD Demonstration and Validation (Dem/Val) budget, for a total of $752 in fiscal year 1999 for THAAD.

With the recent test failure, however, it will be virtually impossible for THAAD to enter EMD during fiscal year 1999, which means that the remaining $254 million of THAAD EMD money cannot be spent.

I am very disappointed by the results of the THAAD test, but I continue to believe that this program is important and must be permitted to proceed. Therefore I believe that the Senate should support the full budget request of $497 million for THAAD demonstration and validation. Nonetheless, due to the circumstances that the THAAD program is now in, I believe the best course of action to take now is to disapprove funding for THAAD to enter EMD during fiscal year 1999. I would remind the Senate that this would leave almost $500 million in the THAAD program overall.

I would like to emphasize that I fully support the THAAD program and I would not have supported this reduction if I felt it would in any way hinder current progress on the program. The THAAD program is a critical upper-tier theater missile defense program that has encountered a setback, but I have full confidence these programs can be corrected and the program can move forward to its next test.

Mr. THURMOND. Mr. President, this amendment has been agreed to on both sides of the aisle. I now ask for a vote on this amendment.

The PRESIDING OFFICER (Mr. ENZI). Is there further debate on the amendment?

Mr. CLELAND. Mr. President, our side supports the amendment. We think it is a good compromise. We think the staff and the committee did an excellent job of putting this together. It was a difficult choice. But we support the amendment.

I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 2399) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CLELAND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I now turn to Senator COATS for recognition.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I thank the chairman for his recognition.

I want to also thank Senator LEVIN for the kind remarks he made about my service on the committee. It has truly been an honor for me and a privilege to serve for 10 years on the Armed Services Committee. I say without reservation that my service on that committee is the most enjoyable aspect of anything I have done in the U.S. Senate. It is a truly bipartisan committee working for one purpose: To strengthen our Armed Forces, and to strengthen our national security, and to provide our men and women in uniform with the very best that we can under obviously difficult budget conditions.

It is the first responsibility of government to provide for the common defense. We are proud of the work that our men and women in uniform have done—their dedication, their commitment, their sacrifice, their loyalty, their duty, their honor—all virtues which are in short supply in this country today. There are few institutions left that honor those virtues. The military is one of them.

It has been a great pleasure for me over the past 10 years to be a part of that, to help shape those forces to address the needs and concerns, to look to the future to see what is needed, and to hopefully put in place those programs and policies that will address those needs in the future. It has not been easy.

The decade of the 1980s was clearly a great time to be serving on that committee. We had a challenging and important time. We had a demonstrated need. We had a demonstrated bipartisan commitment to address that need, and we had the resources to accomplish that. It all culminated in the most extraordinary and outstanding victory in the history of warfare. The United States' and the allies' performance in Desert Shield and Desert Storm was revolutionary in terms of the way warfare is dictated.

I will never forget the debate that we had both in committee and on the floor regarding what our participation should be in that situation, and the authorization for use of force, if necessary. Those were difficult times. We feared significant loss of life. And yet, the magnificent synergy of quality personnel, quality leadership, quality weapons, quality training, doctrine and command resulted in something that was truly extraordinary: A decisive victory in a very short period of time with minimal loss of life and injury—creating a dominant military the world has seldom witnessed in its history.

However, that was the culmination of the decade of the 1980s. Those were decisions that were made during the 1980s in terms of how we structure our forces, what kind of training and equipment we provide them, how we develop our leadership, and how we bring all of that together. The 1990s have been a different story. It has been a time of budget constraints. It has been a time of very significant cutbacks, a time of rejoicing over the fall of the Berlin Wall, over the fall of the Iron Curtain, the demise of a nuclear superpower that was challenging us for world superiority, not that we were looking for that, but that it was a triumph of an idea, a triumph of an idea of freedom, the concept of freedom, and an economic concept of free enterprise over totalitarianism and Marxism. That, obviously, led to major changes in the way we structured our defense.

The decade of the 1990s has been a transition period, a period in which budget limitations have driven very significant changes, a period in which the Department of Defense has contributed more to the elimination of deficit spending than perhaps all of the other aspects of Government combined. The little-told story about why we now have a surplus with our budget, why we have been able to control Government spending, is the contribution of the Department of Defense to that achievement. That contribution has overwhelmed all other contributions put together. The roughly 30-percent to 40-percent declines in spending in real dollars, the substantial downsizing of the military, the substantial downsizing in procurement, the substantial savings that have been achieved over what we would have had to spend had we maintained our military defense spending at the level of the 1980s, has made the most significant contribution to deficit reduction. And we shouldn't forget that fact. That has happened with a truly bipartisan effort.

So it has been a joy for me to work with my colleagues, Republican and Democrat, on these issues. Have we had differences of opinion? Yes. Have we had difficult debates? Closed-door debates? Yes. But in the end we have always forged a consensus, and we have done so because foremost in our minds was providing for the common defense in an effective way and looking out for the needs and the interests of our service personnel.

Mr. President, let me just briefly comment on the fiscal year 1999 defense authorization bill that has just come out of committee and that we are addressing here on the floor. First of all, I want to start with quality of life and briefly touch on that.

I served for 4 years as ranking member and 2 years as chairman of the Personnel Subcommittee.

While I still serve on that committee, I no longer am chairman. I will leave much of the details of what that committee has done to Senator KEMPTHORNE and the ranking member. However, I view this as the No. 1 priority of the committee in establishing our budget because no weapon, no doctrine, no training manual, nothing can take the place of quality personnel. And so our goal has been to attract the very best we can, to retain those personnel, and to provide them with the essentials of what they need, and to provide for them a standard of living that is commensurate with their sacrifice.

Let me say that no standard of living that we can provide is commensurate with the kind of hours and the kind of sacrifice and the kind of commitments that are made by our military personnel, but we try to do the best we can. Over the years they have been shortchanged in terms of housing. They have been shortchanged in terms of pay. And they have been shortchanged in terms of benefits. We have tried to make up for some of that. It is certainly better than it was but nowhere equal to the kind of commitment and the demands that we ask of our military personnel. Yet, day after day, year after year, they continue to provide the kind of effort and the kind of service that is unheard of in the private sector, and we owe them a great debt of gratitude as a Nation. It means that we need to keep their pay consistent with pay on the outside.

Today, we are attempting to attract people who are skilled in technical areas, who have the capacity and the capability and the training and the experience to employ today's modern military equipment using today's advanced operational concepts. It is not just simply foot soldiers carrying heavy loads, walking through the mud, although that will always be an essential part of our military as it needs to be. But it is that foot soldiers and everyone else involved in our military are today operating very sophisticated, modern equipment. They need to think on their feet. They need to have capabilities in terms of information processing, in terms of utilizing the latest in technologies, in weapons and computers and information sources that are commensurate with what is needed in the private sector.

And so we have to have the incentives in place, and pay in place to allow us to compete, and to attract and to retain these personnel.

In that regard, we have provided in this bill a 3.1-percent pay raise for military personnel. We also provide an increase of $500 million in military construction projects, $164 million of which will fund barracks, dining facilities, and military housing. If there is a shortfall in terms of what we have done for our troops over the years, it is military housing. Much of it, nearly two-thirds of military housing is substandard, substandard by military code, military, not commercial standards—and the military standards in many cases are not up to the same level as private standards—and yet year after year we ask our military families to live in this housing. It is inadequate housing, it is substandard housing, and they do so without complaint. We owe it to them, to the single soldiers and airmen and marines, men and women, and to their families. We owe it to them to give them affordable, decent housing.

We are underway with an initiative that was started by Secretary Perry to, in many cases, privatize or leverage the ability of the Department of Defense to utilize private contractors to provide military housing in arrangements which allow us to make maximum use of the funds we have, to leverage those funds in the way that the private sector leverages their money to address this housing shortfall, and so we are underway with that.

Health care is another major issue. I won't go into that. I will let Senator KEMPTHORNE address that. This is a major concern of our military personnel, something that needs to be addressed. We are in the transition period with that also, and there are many questions that need to be answered. We attempt to do some of that in this bill including the direction of three health care demonstrations for our military retirees who are Medicare eligible: one related to FEHBP; one related to TRICARE; and one related to mail order pharmacy benefits. I support these initiatives, but more needs to be done.

Let me now talk about readiness. The bill also adds over $400 million to the readiness account levels requested in the President s budget for our Active and Reserve Forces. We are all aware of the demand on readiness with our commitments overseas—Bosnia and the Persian Gulf, to name just two, and there are many, many more. These are stretching our capacity. These are costly. They affect our readiness and our ability to sustain the preparedness of the force. And we need to understand that this is a major concern which should be continually monitored and addressed by the Congress.

I want to focus most of my comments, though, Mr. President, on the modernization question. For years we have deferred modernization of our weapons systems and of our equipment—trucks, radios, and basic equipment. We have deferred that modernization because we have not had the resources available to fund quality of life, readiness, all other aspects of our national defense such as research and development, as well as the modernization of weapon platforms and systems.

Now, this underfunding of modernization was done with the understanding that by fiscal year 1998, which we are now in, and we are dealing with the 1999 fiscal year with this budget, we will have ended this pause where we have downsized our modernization spending by as much as 70 percent over previous levels. And the understanding, the promise, was that this administration would bring procurement back to at least a $60 billion a year procurement level in fiscal year 1998 in order to replace aging tanks, aging planes, and aging equipment. This is what was originally programmed and projected. Not all of us thought that was attainable. We thought that we were doing less than we should. We were able to secure some funds to plus-up some of that modernization in the past but at levels far below what was recommended to us by experts outside the military and by military personnel who were looking at this question.

Well, here we are with an increased modernization budget but still at a $50 billion level, not the $60 billion level we were supposed to have achieved last year. So, again, modernization accounts remain on the margin. We are unable to modernize in a way that we believe is most effective from a cost standpoint and from a requirements standpoint. We have increased procurement in some areas. And I think we appreciate the ability to gain some extra funds for that, but I just want our colleagues to know there is no basis on which to come to this floor and criticize the Armed Services Committee for spending too much on new systems. We are still spending too little on the modernization of our military forces. We are below what the Department of Defense has told us, well below what they have told us is required to replace the aging weapons systems that we currently use, and recapitalize our joint warfighting capabilities.

Several of these modernization issues come through my committee. I am privileged to chair the Airland Committee. Let me just talk about some of these major procurement items.

First, the land portion of this—land power. The committee has held hearings on land power, and we are pleased to note that the Marine Corps advances in urban warfare experiments and revolutionary expeditionary capabilities with the MV22 and the AAAV seem to be on schedule. They are important in the future.

We are also pleased that the Army is moving forward to consolidate gains it has learned from its Force XXI process. And that the Army says it is investigating the transformation to the faster, smaller, more lethal and more deployable force structure it will need in the 21st Century. But the Army's modernization strategy to pursue this modernization is short particularly in some of the less glamorous areas of aviation, armored vehicles, and trucks. The committee has added provisions which address these issues. Again, there is not as much procurement for landpower as we would like, but at least we are moving in the right direction.

I want to say, Mr. President, that we have also made some very significant progress in this whole question of addressing Reserve component modernization. Thanks to the fine work of Senator GLENN in particular, and committee and staff, we have for the very first time structured what I believe is a coherent process in determining Guard and Reserve procurement. For the first time, the budget request by the Department has included a substantial amount of funds for National Guard and Reserve procurement—a $1.4 billion level, which is a 50-percent increase over last year. Our mark adds to this another $700 million.

But the important point to note here is that all of the additions that we have added for the Army Guard were requested by the Army Chief of Staff, including Blackhawk helicopters to enhance tactical airlift, new and remanufactured trucks that improve our transportation capabilities and reduce operating costs, and radios that enable the Guard to integrate with the Active Army's tactical internet. Clearly, the Senate's bipartisan efforts in this regard have had a very positive effect on the whole concept of total force integration.

As we look at limited defense budgets on and over the horizon, and as we look at ways in which we assess the threats of the future, and at our ability to deploy, and at the cost of those overseas deployments, and at our ability to preposition equipment, and at, perhaps, the denial of access to facilities overseas—to landing strips, sea ports, and bases—we need total force integration across our Active Army, and our Army Reserves, and our Army National Guard. And in order to accomplish that, we need to dispense with the former practice of making the Guard and Reserve budget requests a secondary priority to that of the Active

Army, but to make them an integral part of the budget request sent over from the Department of Defense. The Department needs to assess what the Reserve components need, and they need to tell us that in the budget request, and then we need to look at that as an integrated requirement, rather than as two separate entities.

We have begun, under the prodding of the SASC, that process of total force integration and taken a significant step forward this year. I commend the Department for doing that and we need to do more for total force integration in the future.

Let me talk about TACAIR, tactical aircraft. We have held a number of hearings on TACAIR to assess the status of the F/A18–E/F, Super Hornet and the F–22 Raptor. The Navy and the Director for Operational Test and Evaluation provided their assessment that the Super Hornet's, the F/A18–E/F, the wing-drop and buffeting issues have been fixed, and that the program should proceed with production as planned. This authorization supports those funds requested for the F/A18–E/F.

These issues with the Super Hornet were not as serious as many had thought. They were, really, reported as being more serious than they were. However, they were issues that needed to be addressed. The Department of the Navy and the contractors have successfully addressed these issues, and I am pleased that the F/A18–E/F program will proceed as planned.

Now, let me speak about the F–22. Last year I spoke on the floor at length about my concerns with F–22 cost overruns and demonstrated performance. And I want to state for the record here, up front, I address these issues as a supporter of F–22 development, not as a critic of the F–22. And I spoke last year because was concerned that if we don't keep our arms around this issue and keep a good, clear oversight of the issue, the F–22 may run into very serious problems in terms of funding and in terms of support for that funding. And I don't want to jeopardize that. Based on the testimony of the Air Force and the assessment of the General Accounting Office and other entities, there are many who share a deep concern over whether or not we can maintain support for the F–22 if costs continue to escalate toward $200 million per aircraft. So we need, and we ask for, adequate demonstration of performance and cost control.

The bill that is before us authorizes the requested F–22 funding levels. I want to repeat that. The bill before us, for those who are supporters of F–22—and there are many here, because it is a marvelous new leap-ahead technology that is important for our national security and our national defense in the future—many support this marvelous new development in technology that is going to provide the basis for Air Force air dominance capabilities in TACAIR for many, many years in the future. We have authorized every penny that has been requested for next year's budget in order to continue developing the F–22. But we have put some key oversight provisions in place that will help the Congress and help the administration keep the program on track. And the reason we have done this is because there is a great deal in jeopardy if we don't do that.

Several things could happen if we cannot control F–22 costs, none of which are good. One, we could end up treating F–22 as we ended up treating B–2, another leap-ahead technology that provided us with one of the most amazing developments in long-range strategic aircraft that any nation has ever enjoyed. But we ended up producing far fewer than what we had planned because the cost per copy had escalated so high we just simply couldn't afford to produce more. While the threat today doesn't necessarily justify additional B–2s, the threat of tomorrow could and we won't have those planes. We don't want that to happen to the F–22.

Second, we could lose support for other key systems that are necessary to provide for our future defense needs, such as carriers, Comanche, V–22. We could jeopardize those systems if the cost overruns for F–22 escalate to the point where we are spending more money on that program, and we have to take it from somewhere else. And I am afraid we would have to take it from these key and necessary weapons platforms that we require in the future.

Or third, we could lose the ability to produce what we need of the Joint Strike Fighter. The Joint Strike Fighter is the complement to the F–22 that is coming on at a later date. It is currently in its early stages of its engineering and manufacturing development, and we could jeopardize this program if F–22 costs grow. The reason why we cannot allow that to happen is that the Navy and the Marines are absolutely depending on the Joint Strike Fighter to provide stealth and to address their other TACAIR needs for the future, just as the Air Force is depending on F–22 to address their needs.

In fact, the Marine Corps has staked their entire TACAIR future on Joint Strike Fighter. So we have to be careful that we preserve our ability to go forward with the conventional variant, the carrier variant, and the short takeoff / vertical land (STO/VL) variant of the JSF. And that is why we have placed some prudent oversight provisions on F–22.

Here is what we have done and here is why we did it. When we reviewed the F–22 program, the Air Force planned F–22 flight tests beginning in May of 1997 with a contract award for the Lot I production scheduled in June 1999. Lot 1 is the first two production planes, which are followed by a Lot 2 of six aircraft. And this gets a little esoteric here—they planned for that contract award for June of 1999 when there would be 601 hours of flight testing complete, which is 14 percent of the total flight-test program.

The 14 percent is an important threshold because the Defense Science Board Report of 1995 on the F–22 production noted that most of the "program killer"—how they describe it, "program killer" problems are usually discovered in the first 10 to 20 percent of developmental flight tests.

Our experience in the past has demonstrated that somewhere in that 10- to 20-percent range we find the kind of problems that can potentially terminate or cause major modifications to the technical specifications of the program that are so significant they don't justify the expense to go forward and fix the problem. You almost have to go back to page 1 of the program, and obviously that puts it in great jeopardy. So we were concerned that before we execute a contract for production, we reach a threshold level of testing, flight testing that would give us some assurance that executing that contract would be wise—a wise business decision, and a decision in the best interests of our taxpayers, but also in line with our defense needs before we executed that contract.

Unfortunately, this F–22 flight testing program has had to slip. The first flight was nearly 4 months late. Instead of May of 1997, it was in September 1997. Another test flight had to be canceled. To date, only 3 hours of flight time have been accumulated. In addition, the program is experiencing manufacturing delays of up to five months. And we have already had the previous assessment of a Joint Evaluation Team of Air Force and industry experts that concluded the F–22 program would significantly exceed its cost estimates and that it should be restructured to reduce risk. This caused us to reallocate a very significant amount of funds, $2.2 billion, to get the program back on sound footing.

Yet, despite all these problems, the Air Force wants to move the contract award not back, not to keep it at the same level, but to move it forward 6 months when the program hopes to have only 4 percent of its flight testing

We have had a lot of debate about this. We have had hearings. We have heard from the contractors. We have heard from the Air Force. We have heard from outside witnesses. We have heard from experts. We have debated among ourselves. And I believe we have reached an acceptable consensus as to how we ought to address this particular problem.

We need to address it because the obvious answer, the first answer that comes to mind, is, "Well, let's just delay; let's just delay until they get to 14 percent." I wish it were that easy. Delay means that the prime contractors have to cease a schedule of lining up subcontractors, of establishing production lines, of hiring workers—a myriad of tasks that have to be accomplished, people who have to be hired, procedures that have to be put in place—and that delay costs a great deal of money and can break the production base of the program.

We have had this very complicated schedule to put together. We are talking about one of the most complex and difficult development processes and production processes that anybody can imagine. This involves a great deal of effort, time, and cost. To delay that incurs considerable risk and considerable cost.

By the same token, going forward without adequate testing produces a great deal of risk—risk that the F-22 will not turn out as we hope it turns out, risk that the flight testing between the current level, the 4-percent level, or the 14-percent level will turn up something that is a showstopper, that is a "program killer." So we are trying to balance this risk against the cost of delay.

In addition to this, there has been a very complex set of negotiations that have taken place with the Air Force and the contractor, in particular, that imposes a fixed-price contract for these initial production aircraft. The Air Force states: "This is all the money you are going to get. No matter what problems come up, we're not going to give you more, so you have to operate under the fixed-price contract."

The contractor comes back and says: "Well, if we have to operate under the fixed-price contract, you can't delay the contract, because there is no way we can meet the goal of producing what you want us to produce at the time you want us to produce it under the cost cap that you have imposed on us if you delay the contract and production process."

So all of this has to be put into the mix and a decision must be made in terms of how we proceed.

This is what we decided to do: No. 1, we are going to approve the budget request for the full funding of continued development for the F-22. However, we are going to put what we call a fence—that is, we are going to put some of the what we call long lead money, money that is going to be spent in the future on items that allow us to prepare for production—we are going to put that money in a category which says it will not be released for expenditure until a couple of things happen.

First of all, I need to point out, we are going to go ahead and produce and buy the Lot I series of F-22 which consists of two aircraft. We are going to keep that on schedule. There are no restraints on that, no holds, no fences, no conditions. This is underway. We need to proceed. We are going to buy those first two planes.

Lot II consists of the next six planes. What we are going to do is say that advance procurement of lot II F-22s, the next six aircraft, cannot commence until we reach a threshold level of 10 percent of testing, which is the minimum that was specified by the Defense Science Board back in 1995—not the 14 percent, but the 10 percent. Remember, they gave us the range of 10 to 20 percent. We thought 14 percent was an adequate number. We are going to drop that down to 10 percent. That is the minimum. So there is still risk, and we are trying to minimize risk and balance risk against cost.

We are going to fence that money until 10 percent of testing is complete or until the Secretary of Defense certifies to us that a lesser amount of flight testing is sufficient and provides his rationale and analysis for that certification. And we are also requiring the Secretary to certify that it is financially advantageous to proceed to Lot II production, aircraft three through eight, rather than wait for completion of the 10 percent of the currently planned test schedule.

That last portion is something Senator LEVIN suggested. The first portion is what I suggested. The two together, I believe, form a good basis for us to impose upon the Secretary of Defense a certification and verification process that provides us the necessary assurance that they have kept their eyes on the program, have determined through testing that if that level is 8, 8½, 9 or 9½, that is sufficient. There is no magic to the 10-percent number. Again, it was selected because the Defense Science Board set it as its minimum. However, we have new production techniques, we have new manufacturing processes in place for this plane, which have never been done before. And if we can, through simulation, if we can, through other procedures, determine that we have adequate information relative to the performance and capabilities of this plane to go into production at a lower level of demonstrated performance, then the Secretary can certify that for us.

He can't do that if the flight testing is less than 4 percent. We have to get to at least that level. Of course, that is the level suggested to us by the Air Force as necessary, and that is the level they currently plan to achieve before contract award. Those are the necessary flight test hours that are required to move up the contract award 6 months.

Those are the committee's efforts to try to balance risk with excess cost for delay and put in place a process that will give us the opportunity to have the oversight and to force the Secretary of Defense to keep his focus on the F-22 program and on any kind of cost escalation that might jeopardize the program.

We have reached this accord with the significant help of members on both sides of the committee. The committee was unanimous, Republicans and Democrats—unanimous—that this is the procedure that we ought to put in place. So there is complete bipartisan support for this effort.

I am urging my colleagues, and I have already had discussions with some of our House colleagues about why this is important. This should not be an item for compromise. We have made some very, very tough decisions here.

Mr. President, in moving away from TACAIR, let me talk for a moment about defense transformation, something Senator LIEBERMAN and I have worked on diligently in the past several years. I am pleased he has joined me on the floor, and I know we will hear from him about this when I am finished.

Defense transformation is, I think, a necessary process to address the threats of the future and to have the capability to deal with those threats. What happens under defense transformation will bear fruit 10 or 15 or 20 or more years from now. Just as the astounding success of Desert Storm was the result of decisions made in the late seventies and throughout the eighties, the successes that we can achieve in addressing threats of the future in the year 2014 or the year 2020 or beyond will be determined by the decisions that are made today, and in 2001, and 2003, and 2007.

Those decisions—in terms of the kind of platforms and equipment that we purchase, in terms of the kind of doctrine that we develop to address those new threats, in terms of the kind of forces that we structure, in terms of the kind of assessments that we make of those threats and the response to those threats —those decisions will be made now and in the next several years. And we will understand the significance of that well beyond the time that most of us will still be in the U.S. Senate.

But we owe it to the future—just as those who made the decisions in the late 1970s and in the 1980s provided for the future success of our national defense strategy in the late 1980s and 1990s—we owe it to the future and future generations to make the right decisions now.

We know that the threats of the future will be different than the threats of the past. Few, if any, tyrants or dictators or world leaders will ever again amass forces in a desert situation and line them up in traditional warfare and take on the capabilities that the United States demonstrated during the Gulf War.

No dictator is going to pour tens and hundreds of billions of dollars into building the kind of defense structure that the United States annihilated in Desert Storm. They are going to be looking at different types of threats, threats that we call asymmetric, not what is typical, not what we expect, not the war of the past, but the war of the future.

Historians will tell you that those who fight wars based on the last war lose the next war—because their adversaries are always adjusting, always evaluating and transforming. We saw that with Blitzkrieg; we saw that in naval aviation and a number of ways throughout history. The last thing we want to do is maintain the status quo, because the status quo will not be adequate to address threats of the future. So defense transformation is necessary. It is necessary to prepare us for the future. But how do we transform our military capabilities?

The Armed Services Committee has focused on this issue. A couple of years ago we authorized what we call the Quadrennial Defense Review (QDR). It simply means once every 4 years there is a review of the threats, and the processes and capabilities we have put in place as the means by which we address those threats. This QDR was an internal process. It was a process that takes place within the Department of Defense.

We believe there needs to be an ongoing, continuing process, a continual update and assessment of the threat, and how we address that threat, and what changes need to be made, and what structures need to be imposed in order to successfully address those threats in the future.

With that, we combined the QDR with a process which we labeled the National Defense Panel (NDP). It was a selection of outside experts who took a look at the same situation, a second opinion, if you will. Faced with a serious disease, people should—and I think in most cases do—get a second opinion. We don't just go to the very first doctor and say, "Well, that sounds good. Let's go ahead." And we should treat our national security the same way. "This is so serious, potentially life threatening, I want a second opinion before I make a decision." The NDP was our second opinion, but it was an outside opinion.

We worked closely with Secretary Perry, Deputy Secretary White, and others to fashion how we select these individuals for the NDP, and how we put this process together. It was led by Phil Odeen, chairman of the National Defense Panel, and with distinguished and recognized outside thinkers, experts, and experienced people with military background and training.

That panel produced an extraordinary report which ought to be one of the blueprints for the future. We have combined this external NDP process with the internal QDR process to try to lay out an assessments of where we are, where we are going, and how we will get there. Our defense authorization bill this year includes a sense of the Congress on a key process at the foundation of fulfilling some of these requirements—the designation of a combatant commander who has the mission of developing, preparing, conducting, and assessing a process of joint warfare experimentation.

This joint warfighting experimentation is at the foundation of this whole defense transformation. Basically, what this process says is that before we rush into what Senator COATS or Senator LIEBERMAN or the Armed Services Committee, or even the Chairman of the Joint Chiefs or the Secretary of Defense, thinks is the direction we ought to go, let us test it, let us test some ideas, let us experiment, let us look at how we develop all of this, let us take the good ideas and throw out the bad, let us not just commit to something that turns out 4 or 5 years from now to be the wrong item or the wrong direction.

Secretary Cohen is reviewing currently, for his signature, a charter which would assign the mission of joint warfighting experimentation to a combatant commander, the Commander in Chief of US Atlantic Command (USACOM) in Norfolk. We have met with Secretary Cohen. And we met with General Shelton and Admiral Gehman, the CINC of USACOM. They have worked with us to craft this language. We have their full support.

We are not going forward here thinking that we know all the answers to these issues. We are not the experts. We have some ideas and we would like to move them forward. And we have bounced them off the Department. And we have worked together. And we have structured something which we agree on. I visited USACOM. I visited their joint training and simulation center, and their joint battle lab. And I can report, Mr. President, that progress is being made to develop the foundation for this joint experimentation process.

The Senate, I believe, has been keenly aware of the need to transform our military capabilities to address the potentially very different challenges we are going to face in the future. The National Defense Panel report argues that these challenges—which include things such as challenges in power projection, information operations, and weapons of mass destruction—can place our security at far greater risk than what we face today.

Correspondingly, the NDP recommended establishing this combatant command which will drive the transformation of our military capabilities through this process of joint experimentation. The NDP testified that the need for this joint experimentation process is "absolutely critical" and "urgent." I am pleased that the Department of Defense has been so cooperative in working with us in helping to establish this new mission for a command and this new process. The resounding consensus from several hearings on defense transformation that we have held in the committee support the combination of joint and service experimentation as the foundation for the transformation of military capabilities to address the operational challenges of the future.

So we are taking joint and service experimentation, and combining our efforts, those best efforts and forces of our services and of our unified commanders, along with individual service experimentation initiatives—Force XXI, Sea Dragon—and a whole number of other joint and individual service processes, and looking at ways in which we take the very best insights as the basis for developing our capabilities for the future.

This process of experimentation is designed to investigate the co-evolution of advances in technology, with changes in the organizational structure of our forces, and with the development of new operational concepts. The purpose of joint experimentation is to determine those technologies, those organizations, and those concepts which will provide a leap-ahead in joint warfighting capability. Just as we are looking to leap-ahead technologies in platforms, aircraft carriers, joint strike fighters, et cetera, we are looking for leap-ahead development in concepts, and in doctrine, and in force structure.

As I said earlier, it is just as important to select winners as it is to determine losers. Under joint experimentation, failure can be a virtue. We know everything will not be a success. We do not want to reward failure, but we want to recognize failure as important to determining what works and what does not. The worst thing we could do is make a commitment to a major change in doctrine, operational concepts, weapon systems, or force structure only to find out that it does not address the relevant threats of the future. It is through experimentation that we can distinguish the true leap-aheads in capability, from those that fall short.

Identifying these failures will be just as important to our achieving success in transformation, as identifying the leap-aheads themselves because it will allow us, in a time of limited budget, to deploy and to utilize our resources in the most effective way.

We cannot afford to do what we did in the 1980s. The threat was so great, the work that we had to do was so needed, the status of our defense forces and our national security was so at risk, that we had to risk failure to determine success. But we had the budget to accommodate this failure if we had to. We had the budget to experiment and still develop all the potential systems. We don't have that luxury anymore. We don't have the kind of funds that were available in the 1980s. Therefore, we must be selective. And therefore we must have a process which allows us to determine what is the wisest course of action to take.

Mr. President, previously in our history this country has found itself unprepared for the threats we have faced at the outset of war. With God's grace and with the magnificent commitment and response of the American people, we have always rallied to eventually overcome these threats to our freedom.

That was always done at a cost, not only the fiscal cost to the taxpayer, but the cost in terms of the lives of young people who made the ultimate sacrifice for our country. We are currently contemplating the construction of a World War II memorial down on The Mall. It will join the Vietnam memorial. It will join a tribute to the Korean war. It will join other monuments to wars that this country has fought which ought to sober all of us and remind us of the tremendous cost we had to pay in order to secure and maintain our freedom, and to provide freedom for millions of people around the world.

Previously in this nation's history, we have found ourselves unprepared for the threats we faced at the outset of war. Because we were unprepared, we were vulnerable. Because we were vulnerable, we were exploited. And we had no choice but to respond. We did so, but we did so often at a terrible cost. It was worth the cost because we have maintained our freedom and we enjoy that freedom today. But we desperately want to learn from our history how to avoid those circumstances. And the tragedy that we should have learned is that being unprepared for the threats we face at the outset of conflict results in the need to build significant memorials to those who sacrifice their lives, and to those whose lives were correspondingly changed forever—those families, those relatives, those friends. All this because we failed to prepare for the relevant threats that confront us.

We desperately want to avoid this situation. We know we will be facing different threats in the future. We know that the way we are currently constituted doesn't necessarily prepare us to address those threats successfully. Obviously, the most successful thing we can do is ensure we are never vulnerable to be exploited in the first place—to be so prepared and to be so strong that no adversary desires to take us on. For us to achieve this preparedness, it is going to take a transformation in thinking. And it is going to take a transformation in structuring our military forces and in our operational concepts for us to be prepared to address the threats of the future. The joint experimentation program is one piece of the puzzle in terms of how we transform our capabilities to do that, and this bill supports that effort. In short, joint experimentation is essential to ensuring that our Armed Forces are prepared to address the security challenges of the 21st century.

In conclusion—I have taken a long time—the bill makes great strides in improving quality of life, readiness, and modernization of the force. And this bill also lays the framework for the transformation of defense capabilities to address the operational challenges envisioned in the 21st century.

I want to acknowledge and thank the distinguished service of our chairman, Senator THURMOND, who has provided such diligence and tremendous effort as chairman of this committee. He has been a member of the Senate Armed Services Committee for nearly 40 years. This will mark his last defense authorization bill as chairman of the committee. He will always be chairman in our hearts, and chairman emeritus of that committee, and will continue to make significant contributions. What a privilege it has been for this Senator to serve under this distinguished leadership of this distinguished member who has given so much to this committee!

I also thank Senator GLENN for his support and stewardship of defense issues in this, our last defense authorization bill. People have said, "What has happened to our heroes in this country?" JOHN GLENN is a genuine American hero—first to orbit the Earth, and now, at the age of 77, at the termination of a distinguished Senate career, he will climb back in the shuttle and orbit the Earth once again. I think that is one of the most remarkable achievements of this century. And we recognize him for that.

Senator LEVIN, as ranking member, has made an outstanding contribution to our efforts. Many others, up and down the committee, have also played very significant roles in this. Again, I say this is a truly bipartisan effort.

Finally, without the support of our staff, this could not have been accomplished: Les Brownlee, staff director; and his counterpart David Lyles as minority staff director; our committee staff, Steve Madey and John Barnes who have been so helpful to me on the Airland Subcommittee; Charlie Abell, who I think is on the floor here, was so helpful to me during my time as Personnel Subcommittee chairman.

My personal staff—Frank Finelli, Pam Sellars, Bruce Landis, Sharon Soderstrom, and others—has been so helpful. I couldn't do it without their help.

And in closing, I wish to state that this defense bill has my full support, and I strongly encourage all members to support it.

PRIVILEGE OF THE FLOOR

Mr. COATS. Mr. President, in that regard, I ask unanimous consent that Bruce Landis, a fellow in my office, be granted floor privileges throughout the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to commend the able Senator from Indiana. First, he has delivered a magnificent address on the importance of the Armed Services Committee work and defense in general.

Next, I want to commend him for the long, faithful service he has rendered to this committee. I don't know of any member of the committee that has worked harder and has stood stronger for defense and has been more knowledgeable in accomplishing what we have been able to do than the able Senator from Indiana. He is truly an expert on armed services matters. I wish him well in all that he does in the future.

I regret that he has seen fit not to run again. We will miss him here. A vacuum will be created. It will be hard to fill. He is such a fine man, such a knowledgeable man, and such a dedicated man. I want him to know that our country appreciates what he has done.

I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent floor privileges be granted to John Jennings, a fellow in my office, during the pendency of this defense bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise today in support of the fiscal year 1999 defense authorization bill.

I do want to add my own voice to those who have offered thanks and praise to the leadership of our committee, the distinguished chairman, the Senator from South Carolina, the Senator from Michigan, who have worked together as chairman and ranking member to do exactly what Senator COATS said earlier, which is to build a strong, bipartisan—in many ways, nonpartisan—effort to meet the defense national security needs of our country.

We used to say, and sometimes we are still able to, that partisanship stops at the Nation's borders, at the water's edge, when we enter foreign policy, defense policy. It could also be said in good measure that partisanship stops when we enter the rooms of the Senate Armed Services Committee. I thank the leadership of this committee for making that possible.

I want to pay particular tribute to Senator THURMOND, who is an American institution, a figure that looms large in our history, who, as we all know from personal service with him, manages to do what they used to say only about wine, which is that he gets better as he adds years. He is not only informed and experienced and committed; the truth is, he is a great patriot. In so many ways that will never be visible, his leadership has strengthened the security of the United States of America in the world. It has been a great honor to get to know him at this stage of his career, to work with him, particularly on the Armed Services Committee, to thank him on this historic occasion as he manages the last of these armed services bills through the Senate. The nation is in his debt, deep debt. I think all of us who have served with him are very proud that we have.

This is a person who, in the hurly-burly and sometimes mean-spirited world of politics, never seems to have anything but a positive word to say—certainly, toward his colleagues. In addition to all of the substance that I have talked about, that notion of spirit is one that I deeply appreciate.

Mr. President, while we are talking about members of the committee, I do want to thank Senator COATS, the Senator from Indiana, for the remarkable statement he has just made—eloquent, thoughtful, informed. He has made a tremendous contribution on this committee. It has been a real pleasure to work with him on a host of issues. In our case, it almost seems that I don't have to say "across party lines," because we never thought about that; we were focused on common interests.

We got interested in this business of the military transformation when we were both invited, on the same day, to a day-long seminar that a think tank in town was holding on national security. We spoke at different times during the day. We had not talked to each other about the fact that we were on the same program, and we both essentially gave the same speech about the challenges facing our military—that in a world where we have faced a remarkable range of challenges, post-cold war revolution, technology, and fiscal resources constraint we had to begin to think about how to stay with it and produce the most cost-effective defense we could. From that coincidence, we began to work together on some of the elements of this authorization bill that Senator COATS has spoken of and which I will get back to in a moment. I wanted to thank him, while he was on the floor, for his tremendous contributions, and in a personal way, thank him for the partnership that we have had, which has also become a friendship. I hate to see him leave; I am going to miss him, and the Senate will miss him. I know that wherever he is, by his nature, he will be involved in public service. I wish him Godspeed in that work.

Mr. President, I rise to support the bill before us because I believe it is a very responsible bill. It is a bill that adequately provides for our Armed Forces, which is our constitutional responsibility, fully in accord with our duty of raising Armed Forces to protect our Nation. After all, it is one of the primary responsibilities that motivates people to form governments, and I think this bill continues to carry out that responsibility, uphold that duty in a way that is measured and as best we could do under the circumstances. It has never been easy to make the choices that are necessary to make when one deals with national security. I would say, having been honored to be part of this process on the committee, that it has been even harder than normal this time, because we have been working with very severe fiscal constraints.

Senator COATS made the important point—one that I think is little appreciated here in Congress and, more broadly, around the country—that as we have worked very hard to bring our Federal Government books into balance, the real contributor to that balance in reduced spending has been the defense side of the budget. That is the fact. Sometimes people look at the amount of money we are authorizing and appropriating for national security and say, "You folks don't understand that the cold war is over." Believe me, we understand, and the programs have been constricted, have been in some ways squeezed, and even strangled occasionally to live within the constraints, to give what we have been asked to give to help in this great effort that is now successfully achieved—to balance our budget.

Lets talk specifically. By my reckoning, this is the 14th straight year in which our defense authorization and the spending to follow has declined in real dollars. We are spending a smaller percentage of our gross domestic product on defense today than at any time since prior to the beginning of the Second World War. I know the cold war is over, but the reality is that the world not only remains an unsettled and dangerous place—as we have seen in the last few days with the nuclear explosions in India—but that our military, in many ways, is operating at a more intense and faster up-tempo than it did during the cold war. And the limitation on funding that we have imposed on ourselves has made it difficult to do all that we need to do, has made it difficult to provide for our personnel as we want to provide for them, and has put us in a position to push them at a very intense level, leading some to leave.

As is well known, Mr. President, the Air Force particularly is seeing a significant departure of pilots. They have invested a lot of money in training, pushing them at a very hard pace, and more and more of them are just reaching the conclusion that, well, I love my country, I love to serve, I have been trained to do this, I love being a pilot for the U.S. military, but my family can only take so much; it is time to leave and get a much higher-paying job in commercial airlines and have more time with my family.

So this steady constriction of our spending on the military has had an affect on us. This budget is 1.1 percent below the rate of inflation. The budget that we put before you, the authorization bill, S. 2057, is 1.1 percent below the rate of inflation. That means more pressure to get more out of what is being provided. It is having an affect.

Let me describe one area I am particularly interested in, because I have had the privilege of serving as the ranking Democrat on the Subcommittee of Armed Services on Acquisition and Technology. It is a pleasure to serve with the Senator from Pennsylvania, Mr. SANTORUM, who has done a superb job as chairman of the subcommittee. There are no partisan differences here. We both agree that there is a dangerous trend in our investment in science and technology. It has often been said, but it bears repeating, that we are some distance from the great victory we achieved in Desert Storm and the Gulf war. The remarkable technologically and sophisticated weapons system that so dominated the enemy in that war didn't just spring out of nowhere a year or two before the war; they are the result of investments in science and technology that occurred in the 1970s, which came to maturation in the 1980s, which produced the systems and the equipment that we used so successfully in the early 1990s in Operation Desert Storm.

The Department of Defense's science and technology budget has three basic elements: basic research, applied research, and advanced technology development. The total science and technology budget, comprised of these components just mentioned, has declined from $9.5 billion in fiscal year 1993 to $7.7 billion last year, and to somewhat over $7.1 billion this year. These are the investments we are making in the brilliant ideas that lead to the remarkable weapons systems that we are going to need in the future to defend ourselves.

No business would do this. Today, in fact, private business, understanding how important innovation and knowledge are, are investing more and more. The best businesses constantly reinvest in basic research technology and creative development. This is an alarming trend, and I point it out on the floor here this morning with the hope that we will see it, come to understand, and turn it around. I am encouraged to believe that my colleague from New Mexico, Senator BINGAMAN, will, at some point, be offering an amendment to this bill, if not a freestanding bill, which would set some higher standards and goals for increasing our support of the science and technology aspect of the defense budget.

Incidentally, Mr. President, there is a bright story to be told here. The investments we make in defense technologies have produced enormous benefits for civilian and commercial technology, and for our world, our economy. Most people, if you ask them what the most exciting technological development of recent years is, would say personal computers, the Internet—the unprecedented ability we have to communicate with each other and the people around the world to gain knowledge rapidly.

The Internet is the result of investments that the Defense Department—DARPA, the research agency—made years ago for its own original military uses. Then it spun off and become the Internet. You could mention one after another of the remarkable developments that make our lives more exciting and make it easier to be educated but in effect make us safer but healthier. They came from science and technology budgets of the DOD. We cut that. We are again down from $9.5 billion in 1993 to almost $7.2 billion in 1999, the next fiscal year. That is a problem. We are all going to pay for it.

Mr. President, overall when we look at the various factors that create the environment for security and international security, when we look at the effect that these technological changes are having in creating what the experts call a revolution in military affairs, we can do things we could never do before. Commanders are able to see the entire battlefield before them in real time, not only on the battlefield. We have the ability now to send a picture of real time back to somebody at a base, or even at the Pentagon thousands of miles away from the battlefield, to see what is happening and sight the enemy. We have the ability to strike an enemy from standoff positions, exposing our own personnel to no danger, with remarkable accuracy. And it is changing constantly.

So we have the revolution in military affairs. We have the global changes that are occurring: The end of the cold war; breakouts in some places of nationalistic and ethnic rivalries; and the spread of technology so that nations that are less wealthy than we are can focus their energy into, unfortunately, lower priced means of not only defense but offense—weapons of mass destruction, chemical, biological, and nuclear; the means to deliver those weapons with the unprecedented ability from standoff positions and with great accuracy.

Ballistic missiles: I voted yesterday for cloture on the measure introduced by the Senator from Mississippi, Senator COCHRAN, and the Senator from Hawaii, Senator INOUYE, on the policy of creating a national missile defense and stating that clearly here in the Senate. I didn't agree with every provision of the bill. To me, it is an urgent national problem that deserved our debate. When we got to it, I was going to prepare some amendments. I hope eventually we do get to it and we can have an agreement across not only the aisles here but between the Congress and the administration to state clearly that the development of a national missile defense is a national priority and here is the way we ought to go at it.

Incidentally, when we go at it, we ought to begin to negotiate it with our friends in Russia about how it affects the Anti-Ballistic Missile Treaty, not to do it by way of surprise or antagonism. But the Anti-Ballistic Missile Treaty was negotiated and signed more than a quarter of a century ago. The world is a very different place. In many ways, the strategic interests of Russia and the United States are comparable certainly on this ground: Common concerns about being affected by the spread of technology and ballistic missiles delivering weapons of mass destruction.

So put that together—revolution of military affairs, global changes—and add to that the fiscal restraints that I have described, and you have a tough situation, one that falls on us here in Congress and on those who serve our Nation in uniform and as civilian leaders in the Pentagon, to not accept the status quo, to stick with it. Everything is changing. You can't succeed and stay static, stay the way you have been doing. You have to keep moving. You have to keep looking for better ways for doing what you are doing. You have to keep looking for efficiencies and finding ways to save money so you can use that money to invest in other areas that help you with your future defense.

There is a great company headquartered in the State of Connecticut. Awhile back, I was reading in one of our newspapers that they were about to achieve record profits in a quarter, that they were going to go well over a couple of billion dollars on an annual basis, I believe, in profits. What is the story? The CEO of the company is calling in all of the division heads and pushing them for how they are going to find new efficiencies in the company—What are the market opportunities of the future? What are their competitors going to be doing?—knowing that, as great as things are now, unless they keep asking those questions, they are not going to stay on top 5 years from now or 10 years from now.

That is exactly the way I think we have to approach our national security. We are the strongest nation in the world; unrivaled. Yet the world is changing. We have to keep focusing on those changes.

General Shalikashvili a while ago, when he was Chairman of the Joint Chiefs of Staff, informed us and warned us about what we call—as Senator COATS mentioned today—"asymmetric warfare." Yes, we are the superpower, but a much lesser power, much less wealthy, less technically developed, smaller military can focus its investment of funds into an area where they see some vulnerability in us, asymmetric, and strike at that vulnerability—perhaps our capacity to forward deploy our troops, perhaps using weapons of mass destruction, chemical warfare; or, noting how dependent we are now on space-based assets for navigation, for surveillance, targeting, for communications, perhaps to try to develop systems that would focus on that dependence and try to incapacitate some of those systems, hurting us in a conflict.

So we have to look at that wide range of threats and protecting our assets in space, developing our ability to defend against weapons of mass destruction delivered by ballistic missiles.

That is why we have to continue to find within a budget that is going to be constrained—I don't see in the near future, certainly barring the kind of international crisis that none of us wants, hope and pray never occurs, a great public support, a support here in Congress, for the kinds of increases in our military spending that we truly need.

So we are going to have to squeeze more out of the rock. That means tough questions. It means, in my opinion, that we are going to have to go back and do another look at our infrastructure. It is controversial; I understand. But all of the statistics tell us that we have more infrastructure than we need, that we have reduced our personnel and other expenditures much more than we have reduced the spending we are doing on our bases. We have to come back to that and acknowledge that maybe we have to find a better way to do it, but somehow we have to do it because we need that money. As I say, we have to continue the work we have done on acquisition reform as a way to find more funds for these programs that we need to support.

It is in this context that I come to two amendments that are in this bill, in which I think we have, as a committee and hopefully now as a full Senate, stepped up to our responsibility to oversee the transformation of our military to the future course that will not only protect our security better in the 21st century but will do it in a more cost-effective fashion.

There are two provisions in this bill that I think are very important for our execution of this oversight responsibility. I want to speak about them. The first supports the Chairman of the Joint Chiefs of Staff, our current chairman, General Shelton—doing a superb job—in his decision to establish a joint experimentation process. The second requires on a regular basis a Quadrennial Defense Review and a National Defense Panel assessment be done every 4 years—the experience we have been through in the last couple of years not to be a one-time experience but it continue on.

Let me talk about the first. And, again, I see this not only as a move to jointness, not only as a way to better take advantage of the revolution of military affairs, but to be more efficient. We have developed a force service. They are remarkable centers of excellence and purpose, patriotism, but no one would want to diminish the unique contributions each one of them makes; and yet there are redundancies and we have to find ways while preserving the uniqueness of each service—and the special edge that some of that competition among them brings—to also bring them together more in joint requirements, joint experimentation because our premise is—and the experts tell us this, the National Defense Panel told us this—that more and more war fighting of the future will be joint war fighting.

During the 1980s it became clear that we needed to change the way our military was organized, with more joint planning, more joint conduct of military operations. The Congress of the United States in that period of time stepped up to the responsibility when, frankly, the Pentagon would not and responded with the Goldwater-Nichols act, which I would say that most everybody today in Congress and outside says was right and necessary.

The collapse of the Soviet Union and the unprecedented explosion of technological advances that could fundamentally redefine military threats and military capabilities in the future, once again, have generated the need this bill responds to to examine the suitability of our defense policies, our strategy, and our force structure to meet future American defense requirements. Several assessments have been done but the rapid pace of change, I think, outstripped the ability of these assessments to give us durable and continuing relevant answers.

General Shalikashvili, the former Chairman of the Joint Chiefs of Staff, reacted to this changing environment and published Joint Vision 2010 in May of 1996 as a basis for the transformation of our military capabilities. I think this was a brilliant and far-sighted document which embraced the improved intelligence and command and control available in the information age, and also developed the operational concepts of dominant maneuver, precision engagement, full-dimensional protection, and focused logistics to achieve the objective of the widest spectrum, full spectrum dominance in war fighting—a very important step forward.

We in Congress have also been concerned about the shortcomings in defense policies and programs derived from some of the earlier assessments. In 1996, we passed the Military Force Structure Review Act. That act required the Secretary of Defense to complete in 1997 a Quadrennial Defense Review of our programs to include a comprehensive examination of our defense strategy, force structure, force modernization plans, infrastructure, and other elements of the defense program and policies with a view toward determining and expressing the defense strategy of the United States and establishing a revised defense program through the year 2005.

That Military Force Structure Review Act of 1996 also established a National Defense Panel, a team B, a group of outside experts, many of them with active military experience, to assess the Quadrennial Defense Review and to conduct their own independent, nonpartisan review of the strategy force structure and funding required to meet anticipated threats to our security through the year 2010 and beyond—an attempt to force the process to do what our colleagues in the private sector do, try to look out beyond the horizon, make some reasoned and informed judgments as best we could about what threats we face, what competition we face, and then come back and decide where should we be investing, how should we be restructuring and reorganizing to be in the best possible position to meet those threats of the future.

I appreciate the bipartisan, unanimous support that was given to that Military Force Structure Review Act of 1996, and I believe it resulted in two reports that have had a very important effect on our military and how we view our future needs.

The QDR, as it is called, the Quadrenniel Defense Review, completed by the Secretary in May 1997, defined the defense strategy in terms of shape, respond and prepare now—three cardinal principles. The QDR placed greater emphasis on the need to prepare now for an uncertain future by exploiting the revolution in technology and transforming our forces toward Joint Vision 2010. It concluded that our future force will be different in character than our current force.

Then came the National Defense Panel. Its report, published in December of 1997, concluded that "the Department of Defense should accord the highest priority to executing a transformation strategy for the U.S. military starting now."

Let me just repeat those words. A transformation strategy, broad, bold transformation strategy to the next era of threat and opportunity, offense and defense, and the final words "starting now." It is timely. It is important. It recommended the establishment of a joint forces command with responsibility as the joint force integrator and provider, a center of activity to meld the services together in some joint experimentation, investments, requirements, training.

Also, the NDP recommended that this joint forces command have the responsibility and budget for driving the transformation process of U.S. forces, including the conduct of joint experimentation. If we are not experimenting together, how are we going to really be prepared for the joint war fighting that the experts tell us will dominate the future?

Admiral Owens, former Vice Chairman of the Joint Chiefs of Staff, said to us on many occasions to look around and note that we don't have joint bases, and that is something to think about. That may be one.

Both of these assessments, the QDR and the NDP, provide Congress with a compelling argument that the future security environment and the military challenges we will face will be fundamentally different from today's. They also reinforce the fundamental principle, the underpinning of the Department of Defense Reorganization Act of 1986, the so-called Goldwater-Nichols act, and that fundamental principle was that warfare in all its varieties will be joint warfare requiring the execution of joint operational concepts.

As a result of these two assessments, the Chairman of the Joint Chiefs of Staff, General Shelton, and the Senate Armed Services Committee certainly have concluded that a process of joint experimentation is required to integrate advances in technology with changes in the organizational structure of the Armed Forces and the development of joint operational concepts which will be effective against the wide range of anticipated threats, and will not just be effective, but will be cost effective because they will achieve efficiencies of scale; they will eliminate redundancies; they will pool resources for maximum results.

It is necessary to identify and assess independent areas of joint warfare which will be key to transforming the conduct of future U.S. military operations. To do this, U.S. Armed Forces must innovatively investigate and test technologies, forces and joint operational concepts in simulation, war game and virtual settings, as well as in field environments under realistic conditions against the full range of future challenges. The Department of Defense, I am pleased to note, is committed to conducting aggressive experimentation as a key component of its transformation strategy. Service experimentation and the resultant competition of ideas is vital in this pursuit. To complement the ongoing service experimentation, it is essential that an energetic and innovative organization be established within the military and empowered to design and conduct this process of joint experimentation to develop and validate new joint warfighting concepts aimed at transforming the Armed Forces of the United States to meet the anticipated threats of the 21st century.

Mr. President, in this regard I refer my colleagues to title XII of this defense authorization bill, S. 2057, which sets this out in the form of a sense of the Senate, in a quite detailed form and, in my opinion, quite progressively, as a result of very constructive discussion among the Senate Armed Services Committee, Secretary of Defense, and the Chairman of the Joint Chiefs of Staff. I think we have a blueprint here which expresses the transformation that our military is now undergoing, led by the Secretary and the Chairman of the Joint Chiefs of Staff, and sets down a mark that is an expression of the policy desires of the Congress in this regard, that we not only appreciate that the military move in this direction: dispatching our constitutional responsibility, we urge them to do just that. And we require, here, a series of reports to tell us how they are doing. The joint experimentation provision in the bill, title XII, is our statement of support to General Shelton, as he designs and executes his plans for joint experimentation, to select a command, the Atlantic Command, presumably, to carry out this important responsibility.

Title XII does not dictate either the method that the Chairman of the Joint Chiefs should choose nor the outcomes that he should arrive at. It is a sense of the Congress. It helps establish a framework for us to explore the options for our future security in the hard light of tests on the ground, the only place where these arguments can begin to be settled objectively and where these theories can be tested realistically. And this provision in title XII offers a mechanism for us to get a report about the process, about the results, that is detailed enough for us to provide the kind of oversight we should and must provide if we are going to make the right decisions about our national security in the coming years.

Finally, the provision that requires a quadrennial defense review and national defense plan to be conducted every 4 years is equally important. The assessments that were conducted and the debate they have engendered within the Congress, within the inner community of active defense thinkers, and hopefully increasingly within the country, has been very useful. But the valid criticism by some, of both of these studies, and the conflicting ideas that they have raised make it obvious that a one-time assessment is not going to provide us all the answers we need.

We also know that the world is not going to stop changing, and just as that CEO of that large private company headquartered in Connecticut that I described who, at the moment of greatest historic success, was pressing his managers to review where they were, look forward, decide what they had to do so they would stay on top, 5, 10, 15, 20 years from now—the repetition of these two reports, the QDR and the Inside the Pentagon Review, and the NDP, a nonpartisan, independent review, offer that same hope of constant reevaluation, sometimes provocation, and hopefully, some good, solid ideas. That kind of formal review of our national security posture every 4 years will permit the needed look at where we have been and what course corrections we need to make without the disruption of too frequent interference, with the certainty that we will not slide into destructive or unproductive or irrelevant paths because we simply haven't stopped to look at what we are doing and where it is taking us.

Mr. President, I thank the Chair, I thank my colleagues. Bottom line, this is a balanced bill, the best I think this committee could offer the Senate, Congress, and the Nation, to protect our national security in a time of restraint on resources that is greater than I think is really in our national interest. But we have done the best we could. Again, I thank the leadership of the committee for the purposive, cooperative and informed way they have led us through the exercise that has produced this bill.

I yield the floor.

If there is no one else on the floor seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The distinguished Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I thank the able Senator from Connecticut for the kind remarks he made about me. I also wish to thank him for the great service he renders as a member of the Armed Services Committee. He is one of the most valuable members of our committee.

I also thank him for the great service he renders this Nation. He has taken sound positions and he has followed a course of action that our Nation would be well to follow. I appreciate all he does for his country and want him to know his colleagues hold him in high esteem.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

AMENDMENT NO. 2387

(Purpose: Relating to commercial activities in the United States of the People's Liberation Army and other Communist Chinese military companies)

Mr. HUTCHINSON. Mr. President, I have an amendment No. 2387 which I call up at this time.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. HUTCHINSON), for himself and Mr. ABRAHAM, proposes an amendment numbered 2387.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end the following new title:

TITLE —COMMERCIAL ACTIVITIES OF PEOPLE'S LIBERATION ARMY

SEC. . FINDINGS.

Congress makes the following findings:

(1) The People's Liberation Army is the principal instrument of repression within the People's Republic of China, responsible for occupying Tibet since 1950, massacring hundreds of students and demonstrators for democracy in Tiananmen Square on June 4, 1989, and running the Laogai ("reform through labor") slave labor camps.

(2) The People's Liberation Army is engaged in a massive military buildup, which has involved a doubling since 1992 of announced official figures for military spending by the People's Republic of China.

(3) The People's Liberation Army is engaging in a major ballistic missile modernization program which could undermine peace and stability in East Asia, including 2 new intercontinental missile programs, 1 submarine-launched missile program, a new class of compact but long-range cruise missiles, and an upgrading of medium- and short-range ballistic missiles.

(4) The People's Liberation Army is working to coproduce the SU–27 fighter with Russia, and is in the process of purchasing several substantial weapons systems from Russia, including the 633 model of the Kilo-class submarine and the SS–N–22 Sunburn missile system specifically designed to incapacitate United States aircraft carriers and Aegis cruisers.

(5) The People's Liberation Army has carried out acts of aggression in the South China Sea, including the February 1995 seizure of the Mischief Reef in the Spratley Islands, which is claimed by the Philippines.

(6) In July 1995 and in March 1996, the People's Liberation Army conducted missile tests to intimidate Taiwan when Taiwan held historic free elections, and those tests effectively blockaded Taiwan's 2 principal ports of Keelung and Kaohsiung.

(7) The People's Liberation Army has contributed to the proliferation of technologies relevant to the refinement of weapons-grade nuclear material, including transferring ring magnets to Pakistan.

(8) The People's Liberation Army and associated defense companies have provided ballistic missile components, cruise missiles, and chemical weapons ingredients to Iran, a

country that the executive branch has repeatedly reported to Congress is the greatest sponsor of terrorism in the world.

(9) In May 1996, United States authorities caught the People's Liberation Army enterprise Poly Technologies and the civilian defense industrial company Norinco attempting to smuggle 2,000 AK-47s into Oakland, California, and offering to sell urban gangs shoulder-held missile launchers capable of "taking out a 747" (which the affidavit of the United States Customs Service of May 21, 1996, indicated that the representative of Poly Technologies and Norinco claimed), and Communist Chinese authorities punished only 4 low-level arms merchants by sentencing them on May 17, 1997, to brief prison terms.

(10) The People's Liberation Army contributes to the People's Republic of China's failure to meet the standards of the 1995 Memorandum of Understanding with the United States on intellectual property rights by running factories which pirate videos, compact discs, and computer software that are products of the United States.

(11) The People's Liberation Army contributes to the People's Republic of China's failing to meet the standards of the February 1997 Memorandum of Understanding with the United States on textiles by operating enterprises engaged in the transshipment of textile products to the United States through third countries.

(12) The estimated $2,000,0000,000 to $3,000,000,000 in annual earnings of People's Liberation Army enterprises subsidize the expansion and activities of the People's Liberation Army described in this subsection.

(13) The commercial activities of the People's Liberation Army are frequently conducted on noncommercial terms, or for noncommercial purposes such as military or foreign policy considerations.

SEC. . APPLICATION OF AUTHORITIES UNDER THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT TO CHINESE MILITARY COMPANIES.

(a) DETERMINATION OF COMMUNIST CHINESE MILITARY COMPANIES.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Attorney General, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation, shall compile a list of persons who are Communist Chinese military companies and who are operating directly or indirectly in the United States or any of its territories and possessions, and shall publish the list of such persons in the Federal Register. On an ongoing basis, the Secretary of Defense, in consultation with the Attorney General, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation, shall make additions or deletions to the list based on the latest information available.

(2) COMMUNIST CHINESE MILITARY COMPANY.—For purposes of making the determination required by paragraph (1), the term "Communist Chinese military company"—

(A) means a person that is—

(i) engaged in providing commercial services, manufacturing, producing, or exporting, and

(ii) owned or controlled by the People's Liberation Army, and

(B) includes, but is not limited to, any person identified in the United States Defense Intelligence Agency publication numbered VP-1920-271-90, dated September 1990, or PC-1921-57-95, dated October 1995, and any update of such reports for the purposes of this title.

(b) PRESIDENTIAL AUTHORITY.—

(1) AUTHORITY.—The President may exercise the authorities set forth in section 203(a) of the International Emergency Economic Powers Act (50 U.S.C. 1702(a)) with respect to any commercial activity in the United States by a Communist Chinese military company (except with respect to authorities relating to importation), without regard to section 202 of that Act.

(2) PENALTIES.—The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to violations of any license, order, or regulation issued under paragraph (1).

SEC. . DEFINITION.

For purposes of this title, the term "People's Liberation Army" means the land, naval, and air military services, the police, and the intelligence services of the Communist Government of the People's Republic of China, and any member of any such service or of such police.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that my good friend and colleague, Senator ABRAHAM of Michigan, be added as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, today's debate is about the security of the United States. The underlying question in the debate today on the Defense Department authorization bill concerns the safety and security of the citizens of the United States, and that is why I am offering an amendment that will give the President increased powers to confront America's greatest threat, or certainly America's greatest external threat, and that is the People's Liberation Army of the People's Republic of China.

My amendment mirrors exactly the language that passed overwhelmingly on the floor of the House of Representatives last November. This language, in bill form, in the House passed by a vote of 405 to 10.

The amendment would do two things: First, it would require the Secretary of Defense, in consultation with the Attorney General, the Director of the Central Intelligence and the Director of the FBI, to maintain a current list of Chinese military firms operating directly or indirectly in the United States. This list, consisting strictly of PLA-owned companies, would be updated regularly in the Federal Register.

Secondly, the amendment would give the President enhanced authority under the International Emergency Economic Powers Act to take action against Chinese military-owned firms if circumstances warrant, including the President would have the authority to freeze assets or otherwise regulate these firms' activities. Thus, if a PLA-owned firm is found to be shipping missile-guidance components to a rogue state like Iran, the President would have the authority to take immediate action against a United States subsidiary of that firm which might, for example, be selling sporting goods in the United States.

I should note that this amendment would not require the President to take any action whatsoever. It would simply enhance his ability to do so should he believe that the circumstances warrant that action.

Let me explain the reasoning behind this amendment and why it is so critical, I believe, that the Senate adopt this amendment.

Mr. President, last week I came to this floor to discuss the growing threat that the People's Republic of China poses to the citizens of the United States. I discussed the recent CIA report covered in the Washington Times on May 4, 1998, under the headline, "China Targets Nukes At U.S." This article and this CIA report noted that 13 of China's 18 long-range strategic missiles, with ranges exceeding 8,000 miles, have single nuclear warheads aimed at the United States of America.

These missiles, which are under the control of the PLA, with PLA officers manning their nuclear buttons, are in addition to China's 25 CSS-3 missiles, with ranges of more than 3,400 miles; its 18 CSS-4 missiles, with ranges exceeding 8,000 miles; and its planned DF-31, with a range exceeding 7,000 miles.

Until last year, China lacked the military intelligence necessary to manufacturer boosters that could reliably strike at such long distances.

Unfortunately, the Pentagon has reported that two U.S. companies—Loral Space and Communications and Hughes Electronics—illegally gave China space expertise during cooperation on a commercial satellite launch which could be used to develop an accurate launch and guidance system for ICBMs. This issue is still under investigation. But while it was still under investigation, in February, Loral launched another satellite on a Chinese rocket and provided the Chinese with the same expertise that is at issue in the criminal case.

The chairman of the House Science Subcommittee on Space and Technology has received word from an unnamed official at Motorola that they, too, have been involved in "upgrading" China's missile capability. Interestingly, this executive claims that the work is being done under a waiver from this administration, thus circumventing all bans and restrictions on such technology transfers.

The People's Liberation Army is engaged in a massive military buildup which has involved a doubling since 1992 of announced official figures for military spending by the PRC. We do not know how much may be spent, how much investment there may be in their military establishment that is not released for official consumption, but the official public figures indicate a doubling of that expenditure since 1992.

The PLA is working to coproduce the SU-27 fighter with Russia and is in the process of purchasing several substantial weapons systems from Russia, including the 633 model of the Kilo-class submarine and the SS-N-22 Sunburn missile system specifically designed to incapacitate U.S. aircraft carriers and Aegis cruisers.

So the question arises, Mr. President, how does the People's Liberation Army fund the ongoing arms race? By selling its technology to rogue states is one means by which they do it, selling arms, or at least attempting to sell arms, to U.S. gangs in our inner cities and selling CDs, socks, consumer electronics, and scores of other commercial items to U.S. consumers.

For example, the People's Liberation Army has contributed to the proliferation of technologies relevant to the refinement of weapons-grade nuclear material, including transferring ring magnets to Pakistan. Additionally, the PLA and its associated defense companies have provided ballistic missile components, cruise missiles, chemical weapons ingredients, to Iran, a country that the executive branch has repeatedly reported to this Congress is the greatest sponsor of terrorism in the world today.

I point to this chart. The source is the Office of Naval Intelligence, March of 1997. They reported:

> Discoveries after the Gulf War clearly indicate that Iraq maintained an aggressive (W)eapons of (M)ass (D)estruction procurement program.

And then they point out:

> A similar situation exists today in Iran with a steady flow of materials and technologies from China to Iran. This exchange is one of the most active weapons of mass destruction programs in the Third World, and is taking place in a region of great strategic interest to the United States.

So we have, I think, very clear, overwhelming evidence that China continues to export technology, nuclear technology as well, and in so doing places at risk the national security of the United States.

They also are funding the arms buildup in China, not only by selling weapons to rogue states like Iraq and Iran, but also there is evidence that they are trying to actually sell weapons produced in the People's Republic of China to gangs in the United States.

In May 1996, the U.S. authorities caught the People's Liberation Army enterprise entitled Poly Technologies—a PLA-owned and operated enterprise—they were caught by U.S. authorities, and the civilian defense industrial company, Norinco, that is also involved, the U.S. authorities caught these two companies attempting to smuggle 2,000 AK-47s into Oakland, CA, and offering to sell urban gangs shoulder-held missile launchers capable of taking out a 747.

Communist authorities, upon capture of these individuals, punished only four of them—four low-level arms merchants—and they did so, sentencing them May 17, 1997, to brief prison terms.

I would suggest and I suspect that the prison terms given to these merchants of arms to the young people of this country were far less than the prison terms that have been exacted upon those prisoners of conscience, those who dared to speak up against the oppressive regime that controls the largest nation in the world. Eight years was given to Wang Dan for his support of the demonstrations in Tiananmen Square almost 9 years ago in addition to the 12 years that he was recently serving for supporting democracy in China.

It is estimated that the PLA earns $2 billion to $4 billion a year in earnings through the many enterprises that it operates that deal in nonmilitary commodities and that these enterprises profit handsomely from their activities in the United States. A report released earlier this year indicated that vast quantities of goods, as varied as toys, skis, garlic, iron weight sets, men's pants, car radiators, glassware, swimming suits, and many more such commercial domestic items are being sold to U.S. consumers by PLA-owned firms.

This chart indicates—and I will quote from this chart regarding the PLA-affiliated companies and their operation in the United States. This comes from the Institutional Investor, July of 1996: "And we find that military-affiliated companies can be found in virtually every part of the Chinese economy with the most rapid expansion occurring in the lucrative service industries. Though the PLA enterprises are scattered throughout the economy, they have carved out niches in the eight areas to the right"—including transportation, vehicle production, pharmaceuticals, hotels, real estate development, garment production, mining and communications.

Some of these products are being exported—which becomes a rich source of revenue for the People's Liberation Army. Even those products and those services that are sold domestically to the Chinese people become an unaccounted for subsidy, if you will, for the arms race, in the development of the PLA military strength and might. So I believe this should be of great concern to us as we continue to see the PLA fund the arms race.

I point out that the Chinese defense industrial trade organizations have a broad, broad interrelationship with the industries in China. This chart shows the web of PLA-owned enterprises that operate in the United States and around the world.

All of the companies on the left, in the peach color, are companies that have been documented by our Defense Intelligence Agency as being directly owned by the People's Liberation Army. The ones to the other side, in the yellow, are their defense industrial base. Some of them have indirect connections also, but they are not directly owned by the People's Liberation Army.

This next chart I believe shows the chain of command for companies like China Poly Group, China Carrie Corp., and other well-known Chinese companies and their interrelationship with the government and the PLA and the Communist Party. In fact, the Communist Party Central Military Commission is right at the top of the chain of command—going down to these various companies, including the China Poly Group, and the 999 Enterprise Group, and so forth. I think the American people would be shocked to see the companies listed on this chart. This, I might add, is a very incomplete list, which is why I emphasize again the need for this amendment which would require a listing to be published of all PLA-owned enterprises that are buying and selling and doing business in the United States.

It is well documented that the PLA violates international intellectual property rights by running factories which pirate videos, compact discs, and computer software that are products of the United States. This is the main reason the People's Republic of China failed to meet the standards of the 1995 memorandum of understanding with the United States on the protection of intellectual property rights. During my trip to China in January, I saw firsthand the evidence of the pirating of videos and CDs and the selling of those pirated products on the market, on the streets of Shanghai and Beijing.

In violation of a February 1997 agreement with the United States, the People's Liberation Army continued to operate enterprises which engaged in the transshipment of textile products through third countries, thus thwarting tariffs and restrictions on illegally produced items from China.

With all but five of China's long-range nuclear missiles pointed at the citizens of the United States, it is obvious that the increasingly aggressive People's Liberation Army views the United States as its most serious adversary. My colleagues have said they would like China as an ally. We would all like to have China as an ally. But let us not fool ourselves. When our Central Intelligence Agency tells us their missiles—13 of 18 of their long-range nuclear missiles—are pointed at the citizens of the United States, it is clear they view us as an adversary. It is a sad paradox that U.S. consumers, American consumers, purchasers of products in retail stores across this country, are the unwitting supporters of and funders of the military that has their hand on the nuclear button that threatens cities in the United States.

Now, as we talk about the response of this amendment, of letting the American people know what companies are owned directly and indirectly by the military of the Chinese communist government, it seems to me to be a very basic freedom-of-information kind of issue, the right-to-know kind of issue.

We talk about the response of the President, having the enhanced authority to deal with those PLA-owned companies that might be subsidizing the military buildup in China. It is important for us to remember the ongoing human rights violations that are occurring in China. Not only are they increasing their threat internationally, but within their own borders they continue to oppress their own people. This is not some human rights watchdog group that I am going to cite. It is our own State Department which each year issues a report from various countries around the world on human rights conditions. The latest State Department report on human rights in China shows that China is still one of the major offenders of internationally recognized human rights standards. This report notes that China is continuing to engage in "torture, extrajudicial killings, arbitrary arrest and detention, forced abortion and sterilization, crackdowns on independent Catholic and Protestant bishops and believers, brutal oppression of ethnic minorities and religions in Tibet and Xinjiang, and absolute intolerance of free political speech or free press."

To visit Shanghai, to visit Beijing, some of the largest cities in the world, the most populous cities in the world, and to realize there is not one free newspaper in those cities—in northwest Arkansas, in a two-county area, population of 200,000, we have half a dozen competing newspapers. These are free voices—free to criticize me, free to criticize this U.S. Senate, free to criticize our President—and in the largest cities in the world in China, not one voice of freedom, not one voice to reflect the values of democracy.

So let us in this China debate, and as we look at amendments to the Department of Defense authorization bill, remember the ongoing human rights abuses that are taking place. Furthermore, that the current policy that we have pursued has so dismally failed.

According to a recent report in the Washington Post entitled "U.S.-China Talks Make Little Progress on Summit Agenda," the United States is getting very few concessions from China relating to the inspection of the technology we share with them, concessions on limiting proliferation of technology to third parties like Iran, or concessions on human rights conditions, particularly in Tibet.

So our President is preparing to go to China next month, negotiations going on. We would hope they would be positive in light of our so-called policy of constructive engagement, yet we find our policy is one of give and give and give. We are not seeing corresponding concessions on the part of the Chinese Government. In fact, we are continuing to see these horrible human rights abuses taking place.

We have provided key technology that puts our own country at risk. We have set up a hotline that reaches from the White House to China. We have begun assisting China on its efforts to gain membership in the World Trade Organization. We dropped, to the consternation of many Members of this body, we dropped our annual push for a resolution condemning China's human rights record at the United Nations, something this country has done year after year as part of our foreign policy. We dropped that resolution so as not to offend the Chinese Government. We continue to allow PLA-owned companies to operate unregulated in the United States, and we continue to provide China most-favored-nation status. In return, we have witnessed the release of four, in return for all of these concessions that we have granted, we have seen the Chinese Communist government release four prominent prisoners out of the thousands upon thousands of political and religious dissidents being held today in Chinese prisons.

So I say to my colleagues, the American people have a right to know they are funding the People's Liberation Army. I believe the American consumers ought to know whether the products they are buying—including things like toys, sweaters and porcelain that they might purchase for the upcoming holidays—are supporting the People's Liberation Army and the kind of activities that I have identified today. The American people have a right to know. It may not be possible for American consumers to go into a Wal-Mart or Kmart or Target store and to identify all of the Chinese-produced products and to decide voluntarily they are not going to support that. But at least they ought to know which of those companies are controlled, directly or indirectly, by a military establishment in China that has targeted American cities with its missiles.

This amendment will help to do just that. It is needed both to shed light on the PLA's activities in the United States and to ensure that the President has the latitude and has the authority he needs to take appropriate actions when the evidence of wrongdoing arises. I hope my colleagues will support this amendment.

Again, this amendment merely requires the Secretary of Defense to document and list PLA-owned companies operating in the United States and provides the President with the power, authority, and discretion to take action against these companies, should circumstances so warrant. It does not require the President to do anything. I believe it is a commonsense amendment that, once again, passed by an overwhelming margin in the U.S. House of Representatives. I ask for my colleagues' support.

I ask for the yeas and nays.

The PRESIDING OFFICER (Ms. SNOWE). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Madam President, the Senator brings to the attention of the Senate through this amendment a very important subject, one which is currently before the Senate in a number of committees—Foreign Relations Committee, Banking Committee, and in all probability the Commerce Committee has an interest in it. I say to my colleague that the Armed Services Committee, indeed, would have an interest, of course, because it goes to the fundamental proposition of national security.

But I have to say in total candor that this amendment would require consideration by at least the three enumerated committees as well as ours. What I am asking of my colleague, and I want to ask a few questions about it, is that I hope the Senator would be agreeable to laying this amendment aside so that the Senate would proceed with other amendments, and within that period of time it would be the pending amendment, within that period of time, we will get the expression and the views of colleagues serving on those other committees.

Mr. HUTCHINSON. I thank the chairman for his consideration, and I would not object to laying it aside so long as I will be assured there will be a rollcall vote if I so request it.

Mr. WARNER. Madam President, he has requested and gotten his rollcall vote.

Mr. HUTCHINSON. Madam President, I only point out that I think it would be very appropriate to consult with and visit with the appropriate chairman. I remind my distinguished colleague that this is the exact language that passed by a 405–10 vote in the House, and I would regard that as pretty bipartisan and noncontroversial. That language passed out of the House last November and has been referred to the appropriate committees, where it has—if I might use the word—"languished" for several months without any action. So it is for that reason I think it is imperative that the Senate have an opportunity to express its will on something the House expressed its opinion on months ago.

Mr. WARNER. I thank my colleague. At this time, Madam President, I ask unanimous consent that this amendment be laid aside but that it remain as the pending business on this bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WARNER. Madam President, I see other colleagues here who may wish to continue with opening statements on the bill.

Mr. LEVIN. I wonder if my friend from Virginia would yield to me so I could ask the Senator from Arkansas a question?

Mr. WARNER. Yes, I yield the floor.

Mr. LEVIN. Madam President, on the matter that was set aside, I wonder if the Senator could tell us whether or not there have been any discussions between you and those committees that we have now asked their reaction from relative to holding hearings on that amendment. Could he give us a little background on that?

Mr. HUTCHINSON. I think there were 10 bills that passed out of the House regarding China policy as a block, separate bills, but that was last November. Two of those have passed, in various forms, in the Senate. Six of those bills were referred to the Foreign Relations Committee. The other two—the two I am now offering—one was referred to Banking and the other to Finance. I have had ongoing discussions with Senator HELMS of the Foreign Relations Committee. It is my understanding that they will address these bills this coming week. Therefore, I defer taking any action upon those because of the committee's anticipation of looking at these next week.

The ones in Banking and Finance I thought were important to move ahead on. This was the most appropriate vehicle before us. I am not aware that there were any plans for hearings. Since so much time had elapsed since they were referred to the Senate, it would seem to be the appropriate time to move them.

Mr. LEVIN. If I could ask the Senator an additional question. I am not familiar with his amendment. Is this particular amendment—has this been introduced as a bill in the Senate separately, or was it a House bill that came over and was referred? And, if so, was it referred to Banking or Foreign Relations?

Mr. HUTCHINSON. This particular bill was referred to Banking.

Mr. LEVIN. Has the Banking Committee indicated that they are likely to hold a hearing and have a markup on this bill?

Mr. HUTCHINSON. They have not indicated to me their intent to hold hearings or move on this bill.

Mr. LEVIN. Have there been discussions between you and the chairman?

Mr. HUTCHINSON. I have not talked to Senator D'AMATO about the bill.

Mr. LEVIN. I thank my friend.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Madam President, I rise to talk not so much about this bill but the bills that have been talked about here that passed in the House last year. Many of them were referred to the Foreign Relations Committee, of which I happen to be chairman of the Subcommittee on Asia and the Pacific Rim. These were not heard because the committee did not choose to hear them. Now we find ourselves having a hearing this morning on China. We find the President preparing to go to China.

So this bill, of course, as the Senator pointed out, was referred to Banking. I am not familiar with that one. I am here to tell you that I don't think this is the appropriate procedural place to deal with these bills. There are committees that have jurisdiction over them. They have been referred to those committees. They can be referred to those committees, and, in my view, they should be referred to those committees. So if we are going to extend the length of this debate by having each of 10 bills discussed here and voted on, then I think we need to prepare ourselves for a rather long time.

Furthermore, I think we talked at great length this morning about China and about these kinds of issues. The point of the matter is that nobody disagrees with some of the issues that are to be done here; the disagreement is how they should be handled. To send the President off to China with language of this kind doesn't seem to be a proper thing to do. They were talking about it when Jiang Zemin came here last time.

So I am prepared to talk about these bills if that is what we are going to do. But, procedurally, it doesn't seem to me that this is the appropriate place to deal with the bills. We can go on for a very long time if that is what is going to take place on this authorization bill. I yield the floor.

Mr. ABRAHAM. Mr. President, I rise to support the amendment to the National Defense Authorization bill offered by the Senator from Arkansas to address what is clearly a national defense issue—the conduct of Chinese companies, owned and operated by the People's Liberation Army, in the United States. It is based on a provision in a comprehensive bill I introduced last year, the China Policy Act.

I believe that this bill is not only an appropriate place to consider this issue, it is the most appropriate, and is indeed an issue of supreme national security interest. Furthermore, Mr. President, if I thought the original bill that was passed by the House by a vote of 405-10 would actually be considered by the Banking Committee, it may be appropriate to wait. But it has been over six months, Mr. President, and no action has been taken. Given this is a national security issue, we need to discuss this here and now.

Therefore, Mr. President, I wish to outline some of my specific national security concerns regarding these People's Liberation Army companies. First, we are all familiar with the well publicized examples of Polytech and Norinco, two companies caught trying to smuggle fully automatic AK-47 assault rifles, along with 4,000 clips of ammunition, valued at over $4 million, to supply street gangs and drug runners in the United States. During the course of this undercover sting operation, U.S. agents were offered a slew of other heavy ordinance, including shoulder-fired surface-to-air missiles.

Now Mr. President, these two companies are effectively controlled by the People's Liberation Army. In fact, the head of the Polytech parent company, Poly Group, is Major General He Ping, the son-in-law of Deng Xiao-ping. He heads Poly Group, a company that reports directly to the Central Military Commission of the People's Liberation Army. At the same time, Norinco is the parent company of 150 businesses, including the largest motorcycle maker in China and one of the country's most successful automakers.

As state-owned enterprises, PLA companies frequently operate on noncommercial terms, conducting their affairs for such non-market reasons as military espionage and prestige considerations. Critics have also contended that the China Ocean Shipping Company, otherwise known as COSCO, have offered transoceanic shipping at well below market rates because of state subsidization and extremely low crew costs, in order to penetrate markets and further develop a strategic lift capability.

Last, Mr. President, the profits from these companies will end up financing the Chinese military. Karl Schoenberger, writing in Fortune Magazine, estimated that the profits from these PLA activities is conservatively estimated at $2 to $3 billion. Based in part on this purchasing power and the Chinese military establishment's considerable use of off-budget financing, the Arms Control and Disarmament Agency estimated that Chinese military spending is nine times what it announced.

The question therefore becomes, Mr. President, do we want to know which companies in the United States are financing Chinese military expansion? Do we want to know which companies are financing the arm of repression in the PRC that has been extensively detailed on this floor over the past year? Do we want to give the American consumer the opportunity to know whether the product they are buying will help finance the oppression in Tibet? I believe that is our responsibility, Mr. President, and that this amendment will provide that vital information for our national security, by mandating that the Director of Central Intelligence and the Director of the FBI compile a list of these PLA companies operating in the United States.

Finally, Mr. President, the President of the United States needs the additional authority to take decisive action against those companies that do threaten our national security. This amendment provides that economic authority to stop the operation of these front companies, and provides the only effective tools in this economic warfare—the prohibition of economic activity.

Therefore, Mr. President, I urge my colleagues to support this amendment as necessary, germane to the Defense Authorization bill, and vital to our national security.

Mr. SMITH of New Hampshire addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH of New Hampshire. Madam President, I rise as chairman of the Strategic Subcommittee of the Armed Services Committee to focus on some areas that are very critical to our Nation's defense. Certainly, "strategic" takes on a new meaning as we hear news in the last few days of what is happening in India.

We tried, in our subcommittee, to continue initiatives that have been started in previous years. At the same time, because of overall funding reductions, we were forced to make some substantial cuts, cuts that I did not want to make. But as part of the overall budget, we felt we had to do it. So we do have a budget cap, and that issue, in and of itself, is somewhat controversial.

I think it is time, as we look at the reduction in defense spending, to begin to look at that cap and, in my opinion, remove the cap. We must recognize that the defense budget has been cut deeply, and these cuts are beginning now to affect the effectiveness of our military force.

The budgets of both DOD and DOE, which are in my Strategic Subcommittee, had to be reduced. I tried to do that as fairly as I possibly could. Let me just outline some of the tough choices that we had to make. Missile defense, of course, is an area that I care deeply about. But there is some redundancy in some of the programs that we have. We have to begin to set some priorities.

The budget, as it was presented to us by the President, had some areas in it that were funded in this budget but not in future years. So the question is, If a program such as MEADS—Medium Extended Air Defense System—is not funded beyond 1999, what is the purpose of providing funding for it in fiscal 1999? So I tried to look at this. If I could not get a commitment from the administration to fund beyond fiscal year 1999, then I, for the most part, reduced or eliminated the funds for next year. In the case of MEADS, our intent is to encourage DOD to find alternative approaches to meeting the requirement. But we cannot support the program if DOD has no budget for it in the future.

Another very controversial reduction, which I was not happy about, was our cut of $97 million from the Airborne Laser Program. Because this was a tough decision, I want to explain what happened.

There were a lot of news reports that said we "slashed" the Airborne Laser Program, that we "ruined" the program, that we "killed" the program, that we have made it impossible for the program to recover, and so on. This is unfair and inaccurate. I simply felt that we had an obligation to review the technical and operational viability of the program.

Two years ago, our Committee included report language which basically called on the Air Force and Airborne Laser Program advocates to come forward and justify the program. I do not believe that they have done so.

So we withheld funds for placing this very complex technology on an actual aircraft, a 747, until the capability is more fully tested and the operational concepts are better defined by the Air Force. I do not want to go into great detail; to some degree I cannot because it is classified. But let me be clear—we only cut the dollars intended for integrating this technology on an aircraft. This does not destroy the Airborne Laser Program, nor does it make any comment, subtle or otherwise, by anyone on the committee that somehow this program is not worthy. It does require the Secretary of Defense, with the help of outside experts, to review the program's technology and concept of operations, and show us how this technology will work when it is placed upon an aircraft. I don't think it destroys the program to delay the purchase of an airplane for a year or two while we find out whether the technology and the operational concept is valid. This is what congressional oversight is all about.

We have increased funding for Navy Upper Tier, another missile defense program, and the space-based laser readiness demonstrator, which is the ultimate step, I think, in missile defense—the space-based laser.

We tried to reduce as much of the risk as possible in the NMD Program by encouraging the Department to modify the program. Currently the so-called 3+3 program is extremely high risk. To deploy a complex system in 3 years is very, very difficult. It is an artificially compressed date and an artificially compressed program. It requires us to do everything at once instead of running a low-risk program to ensure everything fits together first. There is no margin for failure or problems. If one thing goes wrong, the whole program could collapse. It needs to be run like any other defense acquisition program, with the objective of reducing the program risk.

With the Administration's 3+3 program, we must first decide that there is a missile threat to the United States. Then we assume that in 3 years we can deploy a system to intercept that missile. I think that assumption just does not make sense.

Can we depend on our intelligence to give us that information? I draw my colleagues' attention to what happened in the last few days with India's nuclear tests. We didn't, frankly, know what was happening until it happened. We either did not have that information, or we did not heed it.

I am not trying to fault the intelligence community, other than to say that intelligence is not always objective. It is not always thorough. It is not always timely. It is not always heeded. The question we have to ask is, Are we willing to take the risk once we know that somebody has the capability and the intent to use a missile against us, and are we then prepared to say that in 3 years we will have the technology deployed to intercept that missile? I am not prepared to take that kind of chance, which is why I was very disappointed in the vote in the Senate yesterday on Senator COCHRAN's legislation, which would have established a policy to deploy a national missile defense system when it becomes technically feasible. That wise legislation was rejected; it did not get enough votes to bring it to cloture. So the current administration plan for NMD 3+3 means an NMD system will be developed in 3 years, and when a threat is acknowledged this system will be deployed in 3 years.

This just does not make a lot of sense. It naively assumes that we will see all emerging threats, and that if and when we see one, we can confidently deploy a complex system in just 3 years.

So I hope my colleagues in the Senate sometime sooner rather than later will come to the realization of how dangerous this 3+3 approach really is. Perhaps a few more unforeseen nuclear tests will convince them. If not, this extremely naive and extremely dangerous complacency could cost us dearly in years to come. We are seeing proliferation of missiles, and of the technology to develop missiles, all over the world—China, North Korea, India, Pakistan, Iran. And, yet, we were denied the opportunity yesterday on the Cochran proposal to get going on a national missile defense system.

It is extremely disturbing. As one who deals with these issues every day on the Armed Services Committee, and specifically as the chairman of the Strategic Subcommittee, I know full well that this is a naive policy. It is well intended—there is no question there—but naive.

Colin Powell, former National Security Adviser to President Reagan and the Chairman of the Joint Chiefs of Staff under Presidents Bush and Clinton, used to say we have to be concerned first and foremost about the capability of an enemy because we never know what his intent will be. The intent tomorrow might be good. It might be bad. But what is the capability? We all know that the Chinese, and the Russians, have the capability to fire a missile at the United States of America. Do they have the intent? Maybe not today. But what about tomorrow?

So we have to deal with capability. If we deny that, if we look the other way, we are really putting our heads in the sand.

In space programs, the committee increased funding for a range of activities: space control technology development; the enhanced global positioning system; the microsatellite program and the space maneuver vehicle. The budget for those programs were increased. These efforts are critical for the future exploitation and use of space by the United States.

Another area of the strategic forces subcommittee budget concerns weapons and other activities of the Department of Energy. We tried there to stabilize the core mission funding for weapons activities and environmental cleanup. As you know, we have a lot of environmental cleanup to do as a result of DOD and DOE activities over the past several decades, especially during the cold war.

So we tried in our budget to maintain the capability to remanufacture and certify enduring U.S. nuclear warheads. We tried to maintain the pace of cleanup at DOE facilities with our funding, and though the overall DOE budget was reduced, a number of funding increases were authorized for programs critical to achieving these goals.

Increases include additional funding for the four weapons production plants, tritium production, and environmental management technology development. Some will criticize these DOD cuts. But it is a matter of balance. If you look at the budget in real terms, since 1996, DOD funding has decreased by 5.2 percent, and DOE has increased by 7.7 percent.

We did the best we could. I hope that my colleagues will be supportive of the recommendations that we have made, not only in the Strategic Subcommittee but in other subcommittees as well. It is a tough job. I don't think there is a member of the committee who doesn't feel that we have gone probably too far, that we need to, perhaps, remove that budget firewall and begin to put more dollars into defense. But given the constraints of the budget agreement, we had to do with what we had.

In conclusion, I thank Senators THURMOND, LEVIN, and BINGAMAN for the cooperation that we have had together, especially Senator BINGAMAN on the subcommittee who has always been courteous to me.

I want to thank Eric Thoemmes, Paul Longsworth, and Monica Chavez of the Armed Services Committee staff, and John Luddy, Brad Lovelace, and Steve Hellyar of my own staff as well.

I would be happy to yield the floor, Madam President. I see others who wish to speak.

PRIVILEGE OF THE FLOOR

Mr. DORGAN. Madam President, I ask unanimous consent that privileges of the floor be granted to Adam Pawluk, Chrissie Timpe, and Meg Dimeling for today's session of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks recognition?

Mr. SMITH of New Hampshire. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HAGEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

Mr. HAGEL. Mr. President, I rise this afternoon to reflect on the business at hand today; that is, our Department of Defense authorization bill.

Three hours ago, I had the privilege of joining a couple of my colleagues at the Tomb of the Unknown Soldier during a very somber, serious ceremony to exhume the remains of the unknown Vietnam veteran from the Tomb of the Unknown Soldier. If you have followed this, as all of our colleagues in this body and most of America have, you are aware that through sophisticated, primarily DNA testing—and you, Mr. President, of all people understand this very well—we now are going to be able to identify almost all remains from the Vietnam war.

I begin my remarks this afternoon with that reflection because what we are about here today is serious business. It is about the business of national defense—defending America's interests in the world. It is costly, it is serious, and at some times it is devastating. It is devastating for the families who lose loved ones in crisis, in war, in conflict.

But when I say it is costly, Mr. President, I mean costly. As one who has spent some time in the Armed Forces, who is somewhat familiar with the sacrifices that we ask of our men and women and their families, I am as concerned today about the defense capabilities of our armed services as I have been since the late 1970s. Not that our men and women, our warriors, are not up to the task, but I fear what we are doing to our men and women who have committed their lives to the defense of freedom and the defense of this Nation is that we are not providing them, we are not making to them, the kind of commitment in the resources they need to do their job.

We are asking—and this has been the case over the last 10 years—our Armed Forces to do more with less—more deployments, longer deployments. And as you look at our Defense Department budgets, this fiscal year 1999 budget represents the 14th consecutive year of decline in defense spending. In real dollars, I think the American public should know that this budget represents $3 billion less than current levels and about a 40-percent drop from the spending levels of the mid to late 1980s.

I compliment my colleagues on the Armed Services Committee for dealing with a difficult issue. I especially compliment Chairman THURMOND, who, I understand, will lead this authorization bill fight for the last time. His commitment to his country is not only exemplary but it is truly unmatched in this Chamber. There is no one who understands this business better than Chairman THURMOND and who understands what I am talking about today.

I will jump to the conclusion of my remarks by saying this. It is time the Congress of the United States be direct and honest with the American public and say what needs to be said, and that is, we need to increase spending for our Defense Department. We need to increase spending. Any measurement you take of where we are in inflation-adjusted dollars, this year's defense budget represents the smallest, in real dollars, the smallest Defense Department budget since the beginning of the Korean war. We have the smallest military in nearly 50 years.

I am astounded that the President of the United States comes before the Congress and the American public and says we have the smallest Government ever. First of all, we don't have the smallest Government ever; a $1.7 trillion Government is rather significant. But he is half right; we have a military that we have continued to hollow out over the last 10 years. We will pay a severe price for what we are doing to our Armed Forces capability.

About 3 percent of our gross domestic product today, less than half of what we had in the 1980's, goes to defense spending. By any measurement you take of this issue of research, acquisition, and deployment of new weapons systems, we are relying on aging and older equipment.

I had an interesting conversation over the weekend at the airport in Omaha, NE. It was with two DOD auditors who have been with the DOD, auditing systems equipment, for almost 30 years. Each of them told me independently that they have never seen such a situation since the late 1970s. When they are auditing military orders to cannibalize equipment in order to get spare parts off of our jets, off of our ships, off of our military vehicles, something is drastically wrong when that happens, drastically wrong.

I hear very interesting commentary from the Secretary of Defense, whom I admire greatly, about, if you would just close more bases, that would give us more money and free up the resources. Well, that may do some of that, but what is interesting is that it does not give you any more manpower, and in fact in the President's budget this year he calls for cutting 36,000 uniformed men and women from military service, 12,000 Reserve men and women. How can we, in fact, focus the resources and make the commitment we need to make to our men and women who defend this Nation?

Let's remember something. National defense is the guarantor of our foreign policy. Without a national defense, we have no foreign policy. Yet we continue to ask our men and women in uniform to do more. Since 1990, our Armed Forces have been used in 36 foreign missions compared to 22 from 1980 to 1989. The Army decreased its manpower by 36 percent while increasing the workload by over 300 percent. Since 1989, the Air Force personnel have been cut by one-third yet the number of missions has quadrupled. From October to January of last year, we lost over 600 Air Force jet pilots. The Army estimated in 1997 that its deployable units spent 180 to 190 days away from home each year. This was before—before—the recent escalation of our forces in the Persian Gulf.

The Army Chief of Staff, General Dennis Reimer recently said, "Our requirements exceed our people to man those requirements."

Let's look at the quality of life. Let's ask what we are doing for the men and women we are asking to commit, in some cases, their lives; what we are asking them to do and what we are giving in return—not only the increasing rate of deployment, longer deployment, cutting their time with families, impacting their quality of life, but what about housing? It is disgraceful. Last year, the outgoing Chairman of the Joint Chiefs of Staff, General John Shalikashvili, said that, "* * * we have family housing that we ought not be asking our folks to live in."

In the Air Force alone there are over 41,000 families on waiting lists for decent housing. In my State of Nebraska, at Offutt Air Force Base alone, there is a terrible need for decent housing. When I say decent housing, I don't mean villas, I mean running water, hot water, plaster not falling from the ceiling, windows not broken out. These people in our Armed Forces are not asking for palaces. How do we expect the men and women in our Armed Forces, as we send them, deploy them all over the world, to concentrate on the serious business before them if they are worried about their families at home because we in the Congress and the President are not paying attention to focusing on the resources that our men and women need?

Military pay lags 13 percent behind that of the private sector. By the Department of Defense's own estimates, more than 23,000 men and women in uniform, and their families, are eligible for food stamps. What does this do to retention, recruitment and readiness? That is the essence of a capable military. The Army has fallen short of its recruitment goal for the first time since 1979—the first time. And the percentage of recruits in the United States Army with high school diplomas is declining. Since Desert Storm, the percentage of Navy petty officers who say they intend to make the Navy a career has dropped by 10 percent.

Look at the world today. Is it getting safer? Need we really look beyond what happened earlier this week with the atomic testing done by India? We have major troop deployments around the world today: 37,000 troops in South Korea, major deployments of forces in the Middle East, Japan, Europe, Bosnia. And what about the flash points that are there today, the real possibilities of conflict south of Bosnia, Kosovo? What is yet to happen on the subcontinent of Asia with Pakistan and India? I will be in the Caspian Sea region in 2 weeks—a tinderbox. Are we prepared?

The end of the cold war has reduced some threat. But now is no time to not only withdraw American leadership but to withdraw the commitment to our Armed Forces. Our armed services are the capability that we are relying on to protect our national interests, our role in the world, to guarantee our foreign policy. That will not be done by hollowing out our military. Today we see a world that is shifting globally in its geopolitical, economic, and military power structures. We cannot allow America to become weaker, or withdraw from that world. Now is not the time. Now is the time for America to project its leadership and help form and help craft and help incentivize and lead the world to more freedom. You cannot accomplish that with an unprepared military.

I looked at the President's budget again this week, his fiscal year 1999 budget. The President proposes $123 billion in new domestic programs, but again proposes to cut our military budget. Surely now—surely America's national interests and our national security has some priority in this budget.

As we step back for a moment and survey the world as it is—not as we hope or wish it will be, but as it is—if we in fact are, and I believe we are, capable of taking advantage of the tremendous opportunities and hopes and the series of historical consequences and events that have come together in a rather magnificent way to make the world better, it is going to require American leadership. Not that we need to shoulder all the burden—of course not. But part of that American leadership is a national security worthy of who we are and a commitment to the people that we ask daily to defend our Nation—a commitment to give them the resources they need.

I would say finally, Mr. President, to me a part of that commitment is not to underfund our military but, in fact, it is to start rebuilding our military. I hope as this issue develops and debate develops, that the issue we are about today will extend far beyond the narrowness of the focus that we debate today, but interconnects with the future and our leadership, and much of that future resides at the core of our national defense capabilities.

I thank my colleagues who serve on the Armed Services Committee for their efforts, their leadership, and their lives that many have devoted to making this a more secure world and helping our military.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I thank my able colleague from Nebraska for his kind words about me. I also wish to thank him for the great service he has rendered this country here in the Senate. He is an expert on defense matters and his opinions are certainly worth the consideration of every Senator here.

Again, it is a pleasure to serve with him. I wish him continued success.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. LEVIN. Mr. President, I wonder if the Senator will yield just for one moment?

Mr. THOMAS. Certainly.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I simply want to add my thanks to the Senator from Nebraska. Every year when this bill comes up, he is here. It is a very important contribution which he is making to the national defense. We on the Armed Services Committee do the best we can, but we have colleagues such as the Senator from Nebraska who add their immense expertise and passion and feeling about these issues, and it is significantly important to us and I thank the Senator for doing that.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Hutchinson amendment.

AMENDMENT NO. 2401 TO AMENDMENT NO. 2387

Mr. THOMAS. Mr. President, I send an amendment to amendment No. 2387 to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. THOMAS] proposes an amendment numbered 2401 to amendment No. 2387.

Mr. THOMAS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendments, on page 1, strike lines 5 through page 5, line 4.

Mr. THOMAS. Mr. President, I simply send the amendment which will deal with the findings of this bill and eliminate them in a second-degree amendment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Ed Fienga, a Department of the Air Force fellow in the office of Senator KAY BAILEY HUTCHISON be granted the privilege of the floor during the consideration of S. 2057.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the pending business be set aside so that I can offer a second amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2388

(Purpose: Relating to the use of forced labor in the People's Republic of China)

Mr. HUTCHINSON. Mr. President, I call up amendment No. 2388 and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. HUTCHINSON), for himself and Mr. ABRAHAM, proposes an amendment numbered 2388.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end the following new sections:

SEC. . FINDINGS.

Congress makes the following findings:

(1) The United States Customs Service has identified goods, wares, articles, and merchandise mined, produced, or manufactured under conditions of convict labor, forced labor, and indentured labor in several countries.

(2) The United States Customs Service has actively pursued attempts to import products made with forced labor, resulting in seizures, detention orders, fines, and criminal prosecutions.

(3) The United States Customs Service has taken 21 formal administrative actions in the form of detention orders against different products destined for the United States market, found to have been made with forced labor, including products from the People's Republic of China.

(4) The United States Customs Service does not currently have the tools to obtain the timely and in-depth verification necessary to identify and interdict products made with forced labor that are destined for the United States market.

SEC. . AUTHORIZATION FOR ADDITIONAL CUSTOMS PERSONNEL TO MONITOR THE IMPORTATION OF PRODUCTS MADE WITH FORCED LABOR.

There are authorized to be appropriated for monitoring by the United States Customs Service of the importation into the United States of products made with forced labor, the importation of which violates section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code, $2,000,000 for fiscal year 1999.

SEC. . REPORTING REQUIREMENT ON FORCED LABOR PRODUCTS DESTINED FOR THE UNITED STATES MARKET.

(a) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Customs shall prepare and transmit to Congress a report on products made with forced labor that are destined for the United States market.

(b) CONTENTS OF REPORT.—The report under subsection (a) shall include information concerning the following:

(1) The extent of the use of forced labor in manufacturing products destined for the United States market.

(2) The volume of products made with forced labor, destined for the United States market, that is in violation of section 307 of the Tariff Act of 1930 or section 1761 of the title 18, United States Code, and is seized by the United States Customs Service.

(3) The progress of the United States Customs Service in identifying and interdicting products made with forced labor that are destined for the United States market.

SEC. . RENEGOTIATING MEMORANDA OF UNDERSTANDING ON FORCED LABOR.

It is the sense of Congress that the President should determine whether any country with which the United States has a memorandum of understanding with respect to reciprocal trade which involves goods made with forced labor is frustrating implementation of the memorandum. Should an affirmative determination be made, the President should immediately commence negotiations to replace the current memorandum of understanding with one providing for effective procedures for the monitoring of forced labor, including improved procedures to request investigations of suspected prison labor facilities by international monitors.

SEC. . DEFINITION OF FORCED LABOR.

As used in sections through of this Act, the term "forced labor" means convict labor, forced labor, or indentured labor, as such terms are used in section 307 of the Tariff Act of 1930.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent to add my good friend and colleague, Senator ABRAHAM of Michigan, as an original cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, this amendment is simple and, again, it was noncontroversial when it was voted on in the House of Representatives. In fact, the language in this amendment passed the House with almost unanimous support. Having served in the House 4 years, I know this happens rarely. It was a 419-to-2 vote. So, it had overwhelming bipartisan support.

This amendment will simply do two things: First, it will express the sense of the Congress that the President should replace any memorandums of understanding on prison labor that lack effective monitoring procedures like the one negotiated with the People's Republic of China and replace the agreement with a stricter monitoring system.

Second, the bill authorizes $2 million in additional funds for the U.S. Customs Service to monitor the importation of slave-labor-produced goods. As everyone in this body knows, the importation of goods made by convicts has been banned for more than a half a century. This law underscores Americans' firm conviction that such products produced by coerced and forced labor should not be sold in this country. I believe Americans are repulsed by the very thought of benefiting from cheap prices on products produced by the sweat and blood of foreign prisoners.

Despite this ban, products made in Communist China's vast archipelago of slave labor camps, known as the laogai, continue to flow into this country unabated. This system of laogai, a word meaning reform through labor, was designed for the dual purposes of political control and forced economic development. Interestingly, this system is modeled on Stalin's Soviet Gulag, which we all remember was exposed most graphically by Alexander Solzhenitsyn.

This system of forced labor, slave labor, has been an integral part of Chinese totalitarianism since the inception of the People's Republic of China in 1949. Harry Wu, a survivor of the laogai, and a friend of mine, has estimated that some 50 million Chinese men and women have passed through these camps, of whom 15 million have perished. Today, anywhere from 6 to 8 million people are captive in the 1,100 camps of laogai, held and forced to work under grossly inhumane conditions.

According to official statistics, the laogai operate 140 export enterprises selling products to over 70 nations abroad, including the United States. These enterprises are responsible for producing key commodities, including uranium, graphite, rubber, cotton, asbestos, and one-third of Chinese tea is produced in these slave labor camps, as well as a huge array of consumer goods, including toys, artificial flowers and, ironically, Christmas lights and rosaries.

When I went to China in January, I asked to visit a laogai prison. In fact, I asked every day. I asked repeatedly, and repeatedly, but my requests to visit a laogai prison were denied. Fortunately, one of my colleagues in the House on an earlier trip, Representative FRANK WOLF, was able to visit Beijing Prison No. 1. This is the exterior of that prison camp that Congressman WOLF visited, a prison camp that includes a slave labor industry.

This second photo shows us the picture of the Beijing hosiery factory. This is located inside of that prison camp.

The third photo actually shows the assembly line where these products are made.

In this prison, Mr. WOLF found slave laborers producing socks on this assembly line. I have some of the very socks produced on that assembly line which Mr. WOLF brought back. You can see the socks. This particular pair was determined to be for export. This is not just a matter of laogai slave labor prisons, which would be horrific enough, that would be bad enough, but these particular products were made for export to other countries.

When I was in China, I saw many things. One thing I did not see was any golf courses, but the logo on these socks is a person swinging a golf club, obviously not intended for sale within China but for sale on the foreign market.

Although the United States entered into binding agreements with China in 1992 and 1994 to bar trade in prison labor products and to allow inspection of its forced-labor camps, the Chinese Government has frustrated their implementation, both by using dual names to disguise camp products and by denying access to those slave labor camps.

In 1996, the Chinese Government granted access to just one prison labor camp. Out of the whole laogai system, access in 1996 was granted to only one that had been requested by the U.S. Customs Service.

Mr. President, the following two charts show examples of laogai prison camps that have never been inspected, though the request has been made to visit. These photos were taken, obviously, outside the camp. This is laogai slave labor camp No. 5 and Zhejiang laogai slave labor camp. Both of these labor camps—we have a second picture as well—show individuals going into the camp. These pictures were obtained by the Laogai Research Foundation.

Mr. President, the two most recent State Department human rights reports on China state that "Repeated delays in arranging prison labor site visits called into question the government's intention regarding the implementation of the two agreements."

So we have two agreements with China which were to provide for inspections of these camps in which these kinds of products are made to compete with American workers. According to our State Department, we have found, instead of cooperation, obstructionism and delays in arranging for visits to those labor camps.

Obviously, I think this indicates that the Chinese Government is not intent on cooperating with us on trying to ensure that the products produced are not being sold domestically or to the foreign market and that humane conditions prevail in these camps.

The U.S. Customs Service has already banned 27 different products of laogai camps. Unfortunately, in testimony before the Senate Foreign Relations Committee, on May 22, 1997, the Customs Commissioner George Weise noted that the Customs Service is too weak and understaffed to monitor China's slave labor enterprises.

Specifically, he said:

> We simply do not have the tools within our present arsenal at Customs to gain the timely and in depth verification that we need.

I want to say I do not know whether he is accurate in that contention or not. I would not presume to say whether or not the Customs Service actually has the resources to do the job or not. But I want them to have no excuse; I do not want them to be able to come to the House or to the Senate, to our committees, our oversight committees, and say, we simply cannot do the job that we are mandated to do in ensuring that these products are not being sold in the United States of America that are being produced in these slave labor camps.

These expansive forced-labor camps operate at very low costs even in relation to China's lower wage scale, thus providing them a competitive advantage over other firms and giving them sizable profit margins that help to fund the Chinese Government. The laogai are in a win-win situation. It is a win-win for China. They help maintain their political control and indoctrination of the citizenry, and they funnel money into their treasury through these slave labor enterprises. American businesses that use wage-earning employees are being placed at a competitive disadvantaged by less scrupulous competitors who use this illegal source of artificially cheap labor.

These socks are the kind of thing they are producing. And they are producing them with slave labor, prisoners who are being paid little, if anything. And those laborers are competing with American workers, placing our workers at an incredible disadvantage. As more businesses rely on Chinese slave labor and slave-labor-produced goods, U.S. employment in these industries fall. Thus, despite the productivity advantage of U.S. labor—and I do not believe there is a better worker in the world; I do not believe there are harder workers in the world than the American worker—but in spite of that high productivity, how can we ask them to compete? And, in fact, they cannot compete against low- or no-cost employment in the People's Republic of China.

Mr. President, I doubt American consumers would knowingly fund a Stalinist system of forced labor and repression. That is why they support laws banning this practice and expect the U.S. Government to do everything possible to ensure that such products are not sold in the United States. Yet because of the lax enforcement and the open Chinese disregard for United States law, Americans are being duped into buying products made by slave laborers. I think that is unfortunate. I think they are doing so unwittingly. But I think we have to do a better job to ensure, in monitoring those products that are coming into this country, that they are not made in inhumane, slave labor conditions that exist in hundreds of prisons in China today.

That is why this is a modest—what I would call a baby step, this is a minimalist approach. This is the least we can do, to simply give $2 million to the Customs Service and say we have to have better monitoring of these products. We have a moral obligation to do everything in our power to stop slave labor and to end the flow of slave-labor-produced goods in this country which will stop the flow of profits or at least slow the flow of profits into the PRC. I think it is a rational first step, a small step but a rational step.

I urge my fellow Senators to join 419 Members of the U.S. House of Representatives by passing this amendment to increase the Customs Service enforcement funding and to reach agreements that give the Customs Service the powers they need to end this bloody trail.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Is there a sufficient second?

There is not a sufficient second.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I would like to inquire of the Senator, here he provides

$2 million to be used to handle this situation. Will that come out of the defense bill?

Mr. HUTCHINSON. I say to the chairman, I would presume that the $2 million—this is an amendment to the Department of Defense bill, so I would assume the $2 million would come out of the defense bill. And $2 million, I might add—if I might inquire of the chairman, the total budget, the total amount authorized in the defense bill, is how much?

Mr. THURMOND. If that comes out of defense, then I will have to oppose the amendment.

Mr. HUTCHINSON. I simply say that the national security of the United States—part of that is ensuring that the People's Liberation Army and the Chinese Government not receive resources and revenues through products produced by slave labor.

Mr. HARKIN. Will the Senator yield?

Mr. HUTCHINSON. I am glad to.

Mr. HARKIN. To answer the chairman's point, it does not come out of defense. It just authorizes the Department of Treasury to allocate $2 million.

Mr. HUTCHINSON. Two million dollars.

Mr. HARKIN. For this purpose.

Mr. HUTCHINSON. I thank my colleague for that clarification.

Mr. HARKIN. It does not come out of this.

Mr. HUTCHINSON. I say to the chairman, may I clarify my previous response that in fact it would not come from the Department of Defense, not come from the defense budget, but authorizes $2 million from the Department of Treasury. So it would not in any way intrude upon that which your committee has sought to ensure adequate defenses for the country.

Mr. THURMOND. Thank you for the clarification.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 2402 TO AMENDMENT NO. 2388

(Purpose: To increase monitoring of imported products made with forced or indentured labor and forced or indentured child)

Mr. HARKIN. Mr. President, I have an amendment to the Hutchinson amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Mr. WELLSTONE, proposes an amendment numbered 2402 to amendment No. 2388.

Mr. HARKIN. Mr. President, I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The United States Customs Service has identified goods, wares, articles, and merchandise mined, produced, or manufactured under conditions of convict labor, forced labor, or indentured labor, in several countries.

(2) The United States Customs Service has made limited attempts to prohibit the import of products made with forced labor, resulting in only a few seizures, detention orders, fines, and criminal prosecutions.

(3) The United States Customs Service has taken 21 formal administrative actions in the form of detention orders against different products destined for the United States market, found to have been made with forced labor, including products from the People's Republic of China.

(4) However, the United States Customs Service has never formally investigated or pursued enforcement with respect to attempts to import products made with forced or indentured child labor.

(5) The United States Customs Service can use additional resources and tools to obtain the timely and in-depth verification necessary to identify and interdict products made with forced labor or indentured labor, including forced or indentured child labor, that are destined for the United States market.

(6) The International Labor Organization estimates that approximately 250,000,000 children between the ages of 5 and 14 are working in developing countries, including millions of children in bondage or otherwise forced to work for little or no pay.

(7) Congress has clearly indicated in Public Law 105-61, Treasury-Postal Service Appropriations, 1998, that forced or indentured child labor constitutes forced labor under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

SEC. 2. AUTHORIZATION FOR ADDITIONAL CUSTOMS PERSONNEL TO MONITOR THE IMPORTATION OF PRODUCTS MADE WITH FORCED OR INDENTURED LABOR.

There are authorized to be appropriated $2,000,000 for fiscal year 1999 to the United States Customs Service to monitor the importation of products made with forced labor or indentured labor, including forced or indentured child labor, the importation of which violates section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code.

SEC. 3. REPORTING REQUIREMENT ON FORCED LABOR OR INDENTURED LABOR PRODUCTS DESTINED FOR THE UNITED STATES MARKET.

(a) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Commissioner of Customs shall prepare and transmit to Congress a report on products made with forced labor or indentured labor, including forced or indentured child labor that are destined for the United States market.

(b) CONTENTS OF REPORT.—The report under subsection (a) shall include information concerning the following:

(1) The extent of the use of forced labor or indentured labor, including forced or indentured child labor in manufacturing or mining products destined for the United States market.

(2) The volume of products made or mined with forced labor or indentured labor, including forced or indentured child labor that is—

(A) destined for the United States market,

(B) in violation of section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code, and

(C) seized by the United States Customs Service.

(3) The progress of the United States Customs Service in identifying and interdicting products made with forced labor or indentured labor, including forced or indentured child labor that are destined for the United States market.

SEC. 4. RENEGOTIATING MEMORANDA OF UNDERSTANDING ON FORCED LABOR.

It is the sense of Congress that the President should determine whether any country with which the United States has a memorandum of understanding with respect to reciprocal trade that involves goods made with forced labor or indentured labor, including forced or indentured child labor is frustrating implementation of the memorandum. If an affirmative determination be made, the President should immediately commence negotiations to replace the current memorandum of understanding with one providing for effective procedures for the monitoring of forced labor or indentured labor, including forced or indentured child labor. The memorandum of understanding should include improved procedures for requesting investigations of suspected work sites by international monitors.

SEC. 5. DEFINITION OF FORCED LABOR.

In this Act, the term "forced labor" means convict labor, forced labor, or indentured labor, as such terms are used in section 307 of the Tariff Act of 1930. The term includes forced or indentured child labor—

(1) that is exacted from any person under 15 years of age, either in payment for the debts of a parent, relative, or guardian, or drawn under false pretexts; and

(2) with respect to which such person is confined against the person's will.

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended by adding at the end the following new paragraph:

"For purposes of this section, forced or indentured labor includes forced or indentured child labor.

Mr. HARKIN. Mr. President, this is a second degree to the Hutchinson amendment.

I ask unanimous consent to add my name to the Hutchinson amendment as a cosponsor; and Senator WELLSTONE also wanted to be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I have spoken with the author of the pending amendment, and I am very supportive of Senator HUTCHINSON's amendment. This is a friendly amendment, which he accepts. My amendment does not in any way change the intent of the Hutchinson amendment nor does it add any more money.

Basically, this amendment reflects the intent of Congress to include forced and indentured child labor in the interpretation of section 307 of the Tariff Act of 1930.

The Congress spoke with one voice when it instructed the U.S. Customs Service to block from entry into the United States any imports made by forced or indentured child labor, as they are inherently for imports made with forced and indentured labor.

This clarification of congressional intent was part of the fiscal year 1998 Treasury-Postal appropriations bill which the President has signed into law. So, again, this amendment does not change anything really of the Hutchinson amendment. It simply adds forced and indentured child labor as part of the amendment.

As I said, it preserves the congressional intent passed last year. The U.S. Customs Service will still be able to aggressively pursue items made with convict labor, forced labor, or indentured labor, and prevent them from reaching our shores. They should rightly do so. That is why I am supportive of the Hutchinson amendment.

Again, the reason this is necessary is a little over a year ago—actually about 2 years ago now—I contacted the Treasury Department to ask if section 307 of the Tariff Act of 1930 covered forced and indentured child labor.

I got a letter back saying, well, they did not know. They needed clarification. Last year, under the Treasury-Postal appropriations bill, we provided that clarification that it indeed covered forced and indentured child labor. And that is what my amendment does here; it just adds those words back in there.

And, again, it should be added because in many cases these children are like slaves. They are sold, maybe sometimes for an outstanding debt that is owed to a family. They are traded like cattle. Typically what happens is, a child is sold into a factory or plant as a payment for an outstanding debt. The middle man, a loan shark, transfers the child to a work setting far away from his home. And these kids literally work as virtual slaves doing anything from making rugs to soccer balls to serving as prostitutes, to breaking bricks or mining granite or making glassware. Many times these kids are never released from their bondage until they get too old to do the work. They are punished severely; a lot of times they work 12 to 15 hours a day.

Mr. President, last year I visited a place out of New Delhi called the Muki Ashram, or "liberation retreat" established in 1991 by Kailash Satiyarti, president of the South Asian Coalition on Child Servitude, located right outside of New Delhi, a place where bonded child laborers are freed from the shackles of slavery. They are brought there, they are rehabilitated, they are able to go to school, learn a trade and regain their sense of self-worth. I was deeply moved by this establishment.

I saw somewhere between 50 and 100 kids who were there, many as young as 8 years of age, many of whom had been beaten. I saw kids that had marks still on their face and their arms where they had been burned with red-hot pokers and things like that. These kids were now being taught in a school, provided nutrition. As I said, they get their sense of self-worth back.

I have two stories here of two of the kids who I saw when I was there. I ask unanimous consent that these two stories be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Story of Exploited Child

Mohan, a seven year old boy exploited by a carpet loom owner. He was taken away by a dalal from his native village of Bihar to a carpet loom in Allahabad, U.P. Labour recruiter (Dalal) came to his parents and lured them by giving false promises of a good life and bright future of Mohan Kumar.

After reaching Allahabad, his cruel employer treated him just like an animal, Mohan was forced to work for 16–18 hours a day. While working he was beaten very frequently by his master or his attendant. Some times he passed sleepless nights due to pain, but nobody was taking care of him. In the name of food, he was given only two chapaties, and forced to eat at the same place where he worked. He was guarded by the attendant of his master in the night and even not allowed to go for routine work alone.

One day Mohan was weeping to go to meet his parents at the very moment, his cruel employer hitt him with a pointed weapon. His left eye was injured. His parents came to know of his pathetic condition, they reported the matter to the activists of BBA–SACCS. A raid and rescue operation was organized by activists of BBA–SACCS for releasing of Mohan Kumar.

After releasing, Mohan Kumar joined Mukti Ashram, he was suffering from the traumatic effects. Still he has the mark of that brutal act of his master under his left eye. Slowly and gradually, he accustomed with the environment of Mukti Ashram and recovered from the traumatic effect. He began to taking interest in his studies. Now his ambition to become a Sub-divisional Magistrate (SDM) so that, he can give help to those miserable children, who are in bondage.

Smile Even When You Are in Trouble

One fine morning Nageshwar sang while walking in Mukti Ashram's garden—"Smile and sing even when you are in trouble." For every winter follows spring as the dawn follows dusk.

And the Mukti Ashram celebrated it, Everyone, children and teachers were singing and dancing, 'Thank God! Nageshwar's voice came back, which he lost for more than three weeks.

Nageshwar comes from a remote district of Bihar. When he was seven and playing with his two younger brothers, a Dalal (Labour recruiter) came along with four children of the same age of Nageshwar lured him by giving some sweets and false promise of a good life and bright future. Due to allurement, Nageshwar and his brothers were ready to go with Dalal. Dalal taken away them to a carpet loom situated in the remote area of Allahabad, Uttar Pradesh.

Carpet loom owner treated him just like a slave. Nageshwar was forced to work for 18 to 20 hours a day even some times for whole night also. While weaving the carpet his cruel employer often beat him brutally with a panja (a tool used in carpet weaving). In the name of food, Nageshwar's employer given him two chapaties with salt twice a day and forced to eat. Nageshwar has no separate place to sleep and forced to sleep only for two hours in the same place where he worked.

It was November 1st, 1995 the acts of barbarism against Nageshwar reached their peak. Around midnight after Nageshwar had helped his two younger brothers to escape from the continuous harassment, physical torture and tyranny they had been suffering for years, his employer punished him with red hot iron rod, causing irreparable damage to his body. Nageshwar cried and cried—'Oh God, Oh father' but nobody was their to help him.

When the villagers noticed the sign of this torture they reported to BBA–SACCS. November 4th 1995 was the independence day for Nageshwar. On that day Nageshwar and his younger brothers and other four children were released with the great efforts of the activists of BBA–SACCS.

When Nageshwar came to the Mukti Ashram, he was "shell shocked", and lost his speech. After a month of comprehensive medical treatment and special care and attention from other children and the Ashram staff, he became able to speak and express his feelings Slowly and gradually he had begun to enjoy the life of Mukti Ashram.

Mr. HARKIN. Again, I want to make it clear I am very supportive of the Hutchinson amendment. I believe it is a good amendment. This is a friendly amendment—just to add the word "child." In other words, under "forced and indentured labor" to include "forced and indentured child labor" to clarify section 307 of the Tariff Act of 1930.

I am proud to be a cosponsor of the Hutchinson amendment.

Mr. HUTCHINSON. Will the Senator yield?

Mr. HARKIN. Yes.

Mr. HUTCHINSON. I may have missed this. Would you clarify it, was this the language that was adopted last year?

Mr. HARKIN. Yes, this exact language was adopted by both the House and the Senate last year on the Treasury-Postal appropriations bill.

Mr. HUTCHINSON. But because it was appropriations, it was only good for 1 year?

Mr. HARKIN. That is the problem.

Mr. HUTCHINSON. I express my support for the friendly amendment and appreciate your support for the underlying amendment.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, if the Chair will advise as to the pending amendment so everybody listening has it clearly in mind.

The PRESIDING OFFICER. The pending amendment is amendment numbered 2402 offered by the Senator from Iowa as a second-degree amendment to the amendment of the Senator from Arkansas.

Mr. WARNER. For further clarification, the yeas and nays have not been ordered?

The PRESIDING OFFICER (Mr. INHOFE). That is correct.

Mr. WARNER. And therefore the debate and the colloquy on this amendment should continue. I am advised that we would not be successful in a unanimous consent requirement to lay it aside and am perfectly willing at this time to continue debate on the Senator's amendment.

Mr. HUTCHINSON. Mr. President, I would like to modify my amendment to accept the Harkin second degree.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 2388), as modified, is as follows:

At the end of the bill add the following:

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The United States Customs Service has identified goods, wares, articles, and merchandise mined, produced, or manufactured under conditions of convict labor, forced labor, or indentured labor, in several countries.

(2) The United States Customs Service has made limited attempts to prohibit the import of products made with forced labor, resulting in only a few seizures, detention orders, fines, and criminal prosecutions.

(3) The United States Customs Service has taken 21 formal administrative actions in the form of detention orders against different products destined for the United States market, found to have been made with forced labor, including products from the People's Republic of China.

(4) However, the United States Customs Service has never formally investigated or pursued enforcement with respect to attempts to import products made with forced or indentured child labor.

(5) The United States Customs Service can use additional resources and tools to obtain the timely and in-depth verification necessary to identify and interdict products made with forced labor or indentured labor, including forced or indentured child labor, that are destined for the United States market.

(6) The International Labor Organization estimates that approximately 250,000,000 children between the ages of 5 and 14 are working in developing countries, including millions of children in bondage or otherwise forced to work for little or no pay.

(7) Congress has clearly indicated in Public Law 105-61, Treasury-Postal Service Appropriations, 1998, that forced or indentured child labor constitutes forced labor under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

SEC. 2. AUTHORIZATION FOR ADDITIONAL CUSTOMS PERSONNEL TO MONITOR THE IMPORTATION OF PRODUCTS MADE WITH FORCED OR INDENTURED LABOR.

There are authorized to be appropriated $2,000,000 for fiscal year 1999 to the United States Customs Service to monitor the importation of products made with forced labor or indentured labor, including forced or indentured child labor, the importation of which violates section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code.

SEC. 3. REPORTING REQUIREMENT ON FORCED LABOR OR INDENTURED LABOR PRODUCTS DESTINED FOR THE UNITED STATES MARKET.

(a) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Commissioner of Customs shall prepare and transmit to Congress a report on products made with forced labor or indentured labor, including forced or indentured child labor that are destined for the United States market.

(b) CONTENTS OF REPORT.—The report under subsection (a) shall include information concerning the following:

(1) The extent of the use of forced labor or indentured labor, including forced or indentured child labor in manufacturing or mining products destined for the United States market.

(2) The volume of products made or mined with forced labor or indentured labor, including forced or indentured child labor that is—

(A) destined for the United States market,

(B) in violation of section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code, and

(C) seized by the United States Customs Service.

(3) The progress of the United States Customs Service in identifying and interdicting products made with forced labor or indentured labor, including forced or indentured child labor that are destined for the United States market.

SEC. 4. RENEGOTIATING MEMORANDA OF UNDERSTANDING ON FORCED LABOR.

It is the sense of Congress that the President should determine whether any country with which the United States has a memorandum of understanding with respect to reciprocal trade that involves goods made with forced labor or indentured labor, including forced or indentured child labor is frustrating implementation of the memorandum. If an affirmative determination be made, the President should immediately commence negotiations to replace the current memorandum of understanding with one providing for effective procedures for the monitoring of forced labor or indentured labor, including forced or indentured child labor. The memorandum of understanding should include improved procedures for requesting investigations of suspected work sites by international monitors.

SEC. 5. DEFINITION OF FORCED LABOR.

In this Act, the term "forced labor" means convict labor, forced labor, or indentured labor, as such terms are used in section 307 of the Tariff Act of 1930. The term includes forced or indentured child labor—

(1) that is exacted from any person under 15 years of age, either in payment for the debts of a parent, relative, or guardian, or drawn under false pretexts; and

(2) with respect to which such person is confined against the person's will.

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended by adding at the end the following new paragraph:

"For purposes of this section, forced or indentured labor includes forced or indentured child labor.

Mr. WARNER. Mr. President, on behalf of the chairman of the Armed Services Committee, Mr. THURMOND, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that Richard Voter, a military fellow in the office of Senator WARNER, be granted floor privileges for the duration of the Senate debate on S. 2057, the Defense Authorization Act.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, the chairman of our committee, the distinguished ranking member, and myself are trying the best we can to accommodate a number of Senators. The Senator from Minnesota is anxious to speak in relation to one of the pending amendments by the Senator from Arkansas.

I ask unanimous consent that following the Senator from Minnesota, the Senator from California be recognized for the purpose of another amendment, and then we will take it from there.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I may be permitted to proceed for up to 5 minutes as in morning business.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

THE FIGHT AGAINST BREAST CANCER

Mr. D'AMATO. Mr. President, I see the Senator from California on the floor and I would like to give her whatever part of my time that might be left because this is in regard to legislation that I think is so important. It is important for the psychology of the women of America who, unfortunately, will be diagnosed with breast cancer. It is important in their medical treatment. It is important to their families. It is important to the community. It is important to let people know we are serious in our battle to win the fight against breast cancer and to see that those who are diagnosed get the proper treatment and don't have some medical plan or medical director who says that—as a result of the ERISA laws passed more than 20 years ago—we don't have to provide you basic coverage; we don't have to say that reconstructive surgery is covered. And, indeed, we have had plans today in America where millions of women face being denied basic coverage as it relates to cancer and its treatment and the reconstructive surgery that is necessary.

On January 30, 1997, Senator FEINSTEIN and myself, along with a dozen or more colleagues—now 21—introduced the Women's Health and Cancer Rights Act. We have amended that and, indeed, put some provisions aside, and we have reduced it to two main parts. No. 1, no bean counter, no statistician can set an arbitrary limit on the length of time that a woman takes after a medical procedure for breast cancer. Some plans limit her stay to 24 hours. Imagine that. If there are complications, it is too bad. She and her family then have to pay for any longer stay. That is unconscionable. The decision in terms of the length of stay should be predicated upon the needs of that patient. That determination should be made according to the medical necessity and by her physician, not some bean counter who arbitrarily looks at a policy and says, "We won't pay for more than 24 hours." We say that decision should be made as the medical necessity requires.

The second major provision of that bill is that reconstructive surgery will not be treated as something optional or cosmetic. Let me refer to the case of a young woman. This past February, not that long ago, her doctor called me. Dr. Wider of Long Island said to me, "Janet Franquet, a 31-year-old woman, needs a radical mastectomy. When I contacted her medical plan, the medical director said that they would not authorize payment for reconstructive surgery." Here is a young woman, 31 years of age. I called the director of that plan, Dr. Hodos, and I said to him, "How could you be saying that this is not necessary?" He said, "Replacement of a breast is not medically necessary and not covered under the plan." Then he said, "This is not a bodily function and therefore cannot and should not be replaced."

That is not an isolated case, Mr. President. The women of America—our mothers, daughters, sisters, neighbors, friends—should know that they are covered.

Let me tell you something. The sorry history of this legislation is that, in spite of Senator FEINSTEIN, myself, Senator SNOWE, and I think every woman Senator who signed on to support this bill—I have colleagues who say we should not legislate by body part. Imagine that. We should not mandate that. You are right, we should not have to mandate it. But the situation requires that. Then we get others who say, oh, no, we are not going to let you have a vote on this bill until or unless you let us have a vote on some other legislation. What nonsense—to hold the women of America captive.

Senator FEINSTEIN and I, and a number of colleagues, have decided that we will bring this legislation up and offer it as an amendment on every piece of legislation that goes through here that is vital, where there is a bipartisan interest in seeing this pass. We are going to put it on. Indeed, at some point in time, we may hold this assembly hostage.

When the wheels slow down—understand, it is almost a year and a half now we have been trying to get this vote. I don't want people saying we are attempting to work our will against the majority. We backed down on the education bill; we took it off the IRS reform bill. We introduced this bill on January 30, 1997, 14 months ago. We brought it up during the consideration of IRS reform. We lost in committee. We got six votes. We brought it up again. In terms of the package that has just gone by, we brought it up and it was rejected 6 to 6 during the A+ education bill. We brought it up on the IRS bill during committee and we lost 8 to 10. We brought it up again today and we won 11 to 9. It is on the tobacco bill and it will be coming to this floor.

When people say "what relevance," we are talking about the health of American women. Indeed, I am prepared to offer it as an amendment to the defense bill, because we spend defense funds, as Senator FEINSTEIN says, for cancer research and the defense of the families, and the women of America should not be shelved by partisan considerations or some ideological philosophy that says we can't have mandates. We have mandates every day. And some of the same people who voted against this bill vote for mandates every day. That is nonsense. It is too bad we need this.

So this has been reported out 11 to 9 and will be on the tobacco bill. I thank the 11 members on the Finance Committee who voted for it. But understand, this Senator is serious. We are going to continue until this "win" turns into a real win and America's women do not have to be held hostage any longer.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Senate continued with the consideration of the bill.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. What is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is the Hutchinson amendment No. 2388, as modified.

AMENDMENT NO. 2387

Mr. GRAMS. Mr. President, I ask unanimous consent that the pending amendment be set aside and that we consider the Hutchinson amendment numbered 2387.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Mr. President, this amendment lies within the jurisdiction of the Banking Committee's International Financial Subcommittee, of which I am chairman, and the Senator from Virginia, Senator WARNER, also requested consultation with the committee of jurisdiction on this amendment.

I hereby am registering my opposition. This is a controversial amendment. I believe it deserves to be considered through the normal committee process.

So, with all due respect to my colleague from Arkansas, and many Senators formally registering concern about these bills, Mr. President, I move to table the underlying Hutchinson amendment but also ask unanimous consent that the vote not occur before 3 o'clock.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object, I apologize to the Senator, I was momentarily distracted. Could the Senator repeat his UC request?

Mr. GRAMS. I move to table the underlying Hutchinson amendment and ask unanimous consent that the vote not occur before 3 o'clock.

Mr. WARNER. Mr. President, does the Senator wish to put that motion in right now, or is he going to state it at 3 o'clock so the debate will continue between now and 3?

Mr. GRAMS. I could state it at 3. Could I move to have it tabled now with that unanimous consent agreement and have the vote at 3 o'clock?

Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAMS. Mr. President, I ask unanimous consent that the vote occur at 3 o'clock.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRAMS. Thank you, very much, Mr. President.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

THE FIGHT AGAINST BREAST CANCER

Mrs. FEINSTEIN. Mr. President, before I send an amendment to the desk, if I may, I would like to make one comment on the remarks posed to the body by the Senator from New York with respect to the legislation that we cosponsored.

I want to congratulate him for getting this legislation on the tobacco bill.

I also want to express my dismay that this route has been taken and that an amendment which is very direct cannot get by this body any other way.

Mr. President, every day women of this country are being subjected to a mastectomy being performed in the morning and being pushed out on the streets that afternoon. It is called a "same-day mastectomy," a "drive-through mastectomy." I never thought in my lifetime that I would see the medical profession in a position where the length of hospital stay could not be determined by the physician.

All we would do in this amendment is say that the length of a woman's hospital stay, having had a mastectomy, would be based on the advice and knowledge of her physician. Whether she has a radical mastectomy, what her reaction to anesthesia is, what her preconditions are, all should be party to that decision, and not some HMO that says henceforth all major surgical procedures called mastectomies will be conducted on a same-day basis. This, to me, is bad medicine.

We also, as the Senator said, simply provide that the insurance company must provide for reconstructive surgery or prosthetic surgery, and that the doctor cannot be penalized for recommending additional treatment for the woman.

It seems to me, Mr. President, that we owe this simple gesture to the women of America, because to say to any woman that she has to go into a hospital for major, major surgery and is going to get pushed out on the street—I would hazard a guess that there isn't a man in this room who wants to have major surgery, leave with two to four drains in their body, having had a general anesthetic, and losing a significant portion of their torso, and hear, "You cannot stay overnight in the hospital no matter how you feel."

So I hope that the leadership of this body, hearing the capacity, the energy, the stubbornness of the Senator from New York, would really realize that the better part of valor is to allow us to have an up-or-down vote on this amendment. It seems to me, humbly stating, that this is the way this body should, in fact, function.

Mr. D'AMATO. Mr. President, I simply would like to say that I have never encountered such graciousness, such tenacity, such great dedication to a cause than the Senator from California has given to this effort for the past almost year and a half; and what a great fighter she is for all of the families of this country.

I thank her. And it is a great privilege and pleasure for me to have the opportunity to work with her in this endeavor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2405

(Purpose: To express the sense of the Senate regarding the Indian Nuclear Tests)

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mrs. FEINSTEIN), for herself, Mr. BROWNBACK, Mr. GLENN, and Mr. BRYAN, proposes an amendment numbered 2405.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert: Findings:

The Government of India conducted an underground nuclear explosion on May 18, 1974;

Since the 1974 nuclear test by the Government of India, the United States and its allies have worked extensively to prevent the further proliferation of nuclear weapons in South Asia;

On May 11, 1998, the Government of India conducted underground tests of three separate nuclear explosive devices, including a fission device, a low-yield device, and a thermo-nuclear device;

On May 13, 1998 the Government of India conducted two additional underground tests of nuclear explosive devices;

This decision by the Government of India has needlessly raised tension in the South Asia region and threatens to exacerbate the nuclear arms race in that region;

The five declared nuclear weapons states and 144 other nations have signed the Comprehensive Test Ban Treaty in hopes of putting a permanent end to nuclear testing;

The Government of India has refused to sign the Comprehensive Test Ban Treaty;

The Government of India has refused to sign the Nuclear Non-Proliferation Treaty;

India has refused to enter into a safeguards agreement with the International Atomic Energy Agency covering any of its nuclear research facilities;

The Nuclear Proliferation Prevention Act of 1994 requires the President to impose a variety of aid and trade sanctions against any non-nuclear weapons state that detonates a nuclear explosive device;

It is the sense of Senate that the Senate

(1) Condemns in the strongest possible terms the decision of the Government of India to conduct three nuclear tests on May 11, 1998 and two nuclear tests on May 13, 1998;

(2) Supports the President's decision to carry out the provisions of the Nuclear Proliferation Prevention Act of 1994 with respect to India and invoke all sanctions therein;

(3) Calls upon the Government of India to take immediate steps to reduce tensions that this unilateral and unnecessary step has caused;

(4) Expresses its regret that this decision by the Government of India will, of necessity set back relations between the United States and India;

(5) Urges the Government of Pakistan, the Government of the People's Republic of China, and all governments to exercise restraint in response to the Indian nuclear tests, in order to avoid further exacerbating the nuclear arms race in South Asia;

(6) Calls upon all governments in the region to take steps to prevent further proliferation of nuclear weapons and ballistic missiles;

(7) Urges the Government of India to enter into a safeguards agreement with the International Atomic Energy Agency which would cover all Indian nuclear research facilities at the earliest possible time.

Mrs. FEINSTEIN. Mr. President, I rise today to offer an amendment to the Department of Defense authorization bill to express the concern of this body and condemnation of the recent Indian nuclear tests.

Mr. President, this is a sense of the Senate. Before I go into the provisions of it, let me state what I understand the facts to be.

In the last 2 days, there have been five underground nuclear tests in India about 70 miles from the border of Pakistan. According to Prime Minister Vajpayee of India, there was a fission device, a low-yield device, and a thermonuclear device.

According to the Carnegie Foundation, India is estimated to have approximately 400 kilograms of weapons-usable plutonium. Given that it takes about 6 kilograms of plutonium to construct a basic plutonium bomb, this amount would be sufficient for 65 bombs. With a more sophisticated design, it is possible that this estimate could go as high as 90 bombs.

India also possesses several different aircraft capable of nuclear delivery, including the Jaguar, the Mirage 2,000, the MiG–27, and the MiG–29. India has 2 missile systems potentially capable of delivering a nuclear weapon: The Prithvi, which can carry a 1,000-kilogram payload to approximately 150 kilometers or a 500-kilometer payload to 250 kilometers; and the Agni, a two-stage, medium-range missile which can conceivably carry a 1,000-kilogram payload as far as 1,500 to 2,000 kilometers.

India, according to a report, has possibly deployed, or at the very least is storing, conventionally armed Prithvi missiles in Punjab very near the Pakistani border.

Mr. President, it is no secret that there are intense feelings between these two nations. Pakistan and India, up to late, have been very difficult adversaries. More recently—this makes these detonations even more concerning—I think there has been a kind of rapprochement. And we hopefully were seeing some improvement in the relations between these two countries.

Mr. President, I can hardly think of a more important issue to the interests of the United States than preventing the proliferation of weapons of mass destruction. As the Secretary of State said the other day, this Nation has no other agenda than peace and stability throughout the world. And that, indeed, is an agenda to which I believe this body can wholeheartedly subscribe. So each State that acquires nuclear weapons creates additional complications in maintaining international security.

In south Asia today it appears to be too late to talk about preventing the acquisition of nuclear weapons. Both countries, India and Pakistan, now clearly have nuclear capability. And ultimately India must determine for itself whether its interests are best served by ridding South Asia of weapons of mass destruction or by turning the region into a potential nuclear battleground. That, I think, is no less the decision that has to be made.

We all hope that India will choose the course of deescalation, of standing down, of beginning to reduce its nuclear arsenal and at the very least showing a willingness, now that these underground tests have been carried out, to sign the Nuclear Non-Proliferation Treaty.

And, all of us saying to the Pakistani Government, please, we urge you not to respond in kind but to show that, indeed, Pakistan understands that greatness is not indigenous to nuclear production, I believe, in the long run, will bring inordinate credibility to the Government and the people of Pakistan, and the favorable response of this body as well.

Mr. President, the amendment I submit today on behalf of Senators BROWNBACK, GLENN, BRYAN and myself essentially reports what has happened in the last 2 days. It then goes on to say that it is the sense of the Senate that we condemn in the strongest possible terms the decision of the Government of India to conduct three nuclear tests on May 11 and two on May 13 and that we support the President's decision to carry out the provisions of the Nuclear Proliferation Prevention Act of 1994 with respect to India and to invoke all sanctions therein.

I might add that the author of that act is a distinguished Member of this body, none other than Senator JOHN GLENN of the great State of Ohio. And that is a rather comprehensive statement of sanctions that in fact can be placed on India. It will effectively terminate assistance to that country under the Foreign Assistance Act of 1961 except for humanitarian assistance or food or other agricultural commodities.

It will terminate sales to that country of any defense articles, defense services or design and construction services, and licenses for the export to that country of any item on the U.S. munitions list.

It will terminate all foreign military financing for that country, and it will deny to that country credit, credit guarantees or other financial assistance by any department, agency or instrumentality of the U.S. Government, except that it will not apply to any transaction subject to the reporting requirement of title V or to humanitarian assistance.

And it will oppose, in accordance with the International Financial Institutions Act, the extension of any loan or financial or technical assistance to that country by any international financial institution and prohibit any U.S. bank from making any loan or providing any credit to the Government of that country except for loans or credits for the purpose of purchasing food or other agricultural commodities.

Finally, it will prohibit exports to that country of specific goods and technology.

My point in reading this, Mr. President, is that these, indeed, are strong sanctions. I believe all Members of this body are in support of the President's decision and this amendment gives us an opportunity to say so.

The sense of the Senate also calls upon the Government of India to take immediate steps to reduce tensions that this unilateral and unnecessary step has caused. We express our regret that this decision by the Government of India will by necessity set back relations between the United States and India, and we urge the Government of Pakistan, the Government of the People's Republic of China and all governments to exercise restraint in response to Indian nuclear tests in order to avoid further exacerbating the nuclear arms race in south Asia.

We call upon all governments in the region to take steps to prevent further proliferation of nuclear weapons and ballistic missiles, and we urge the Government of India to enter into a safeguards agreement with the International Atomic Energy Agency which would cover all Indian nuclear research facilities at the earliest possible time.

Mr. President, this is the text and sum of this sense-of-the Senate amendment before this body. I might say, for someone who has taken an interest in India, who has spent time with prior Ambassadors, both of India and Pakistan, attempting to reconcile differences between the two countries, that these tests come to me personally as a very low blow.

I did not think we would see the day when the detonation of these nuclear devices would take place. However, that is now past. We have seen that day. We hope we learn from that, and we hope, most importantly, that the governments concerned—India, Pakistan, and China—also will recognize the fact that we in this body wish to do everything we possibly can to find consensus rather than animus, to put an end to the adversarial relationships, and to have sanity and soundness prevail when it comes to nuclear weapons.

I thank the Chair. Perhaps I might ask for the yeas and nays on this amendment.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BROWNBACK. Mr. President, I would like to be heard.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. FEINSTEIN. I now see my distinguished colleague. I did not see Senator BROWNBACK. Perhaps he would like to comment as well.

The PRESIDING OFFICER. The Senator from Kansas.

PRIVILEGE OF THE FLOOR

Mr. BROWNBACK. I wish to address this body on this very important issue. Before I get started, I ask unanimous consent that Terry Williams of my staff be allowed in the Chamber.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I am a cosponsor of the Feinstein amendment. Senator FEINSTEIN and I spoke yesterday about this issue and the need to speak and to act quickly by the United States in a statement of condemnation towards India, of support towards Pakistan, to encourage the Pakistanis to stand strong as a nation and not to ignite and set forth a nuclear weapon and escalate this chain reaction. We put forward this resolution of which I am a cosponsor. I believe it is the right and appropriate step for us. She has offered it, and she has been a peacemaker and a peacekeeper for these countries, had their representatives in her home to try to get the Ambassadors of these two nations to speak together and to not further proliferate but, rather, to seek peace. And all of that to no avail as far as the action that the Indian Government has taken this week.

We had, yesterday, a hearing in my subcommittee that Senator FEINSTEIN attended where we heard of the great problems we are facing on this entire subcontinent. Indeed, this is probably the most difficult area of the world today and the most problematic, and the most probable flash point that the world is facing today with the use of nuclear weapons.

With the Indians taking this action, five being set off, and then the response in India, not being one of "My goodness, what have we unleashed, these first devices being set off since 1974 by a nonnuclear-weapons state; my gosh, what have we released?" the reaction in the street has been jubilation, which is greater cause for concern, for concern of what is going to happen in Pakistan, which is most likely the next place for there to be a response, whether they would step forward and set off a nuclear weapon themselves, and where do we escalate from there? These two nations have gone to war three times in the last half century. This, to me, is a grave situation we are facing today.

The world was duly horrified this week when the Government of India detonated these three nuclear devices. I think India has behaved irresponsibly and has relegated itself to the category of an outcast. It is a terrible shame for a great nation. Rather than a celebration in the streets, the people of India should be demonstrating against their government for plunging their nation into this international crisis. That is why I support this resolution.

South Asia is facing a moment of truth. India has already acted. We know Pakistan is poised to retaliate. I believe we have to have a chance—and I want to note this, just a chance—to stop Pakistan, or encourage Pakistan from taking a foolish and dangerous step. We must, as President Clinton has recognized, do all we can to persuade the Government of Pakistan to show restraint, moderation, and intelligence. Deputy Secretary of State Talbott, Assistant Secretary Inderfurth and General Zinni are in Pakistan right now. I support their efforts and wish them every success in their discussions with Prime Minister Sharif.

But I think we, too, must act in the U.S. Senate. With this resolution, I think we must demonstrate, also, our support for Prime Minister Sharif in the face of incredible pressure that he is going to have from his country to respond to India's nuclear tests. That is why I believe the Senate should do this, and I also think the Senate should go further. I think we need to take further and even more aggressive and bold action to try to encourage the Pakistanis: Don't respond in kind.

With that, I think we need to act today to repeal the Pressler amendment as an action we can take, as an overt carrot to hold out to the Pakistanis, saying, "We believe in your cause. Please, show restraint. Don't go on forward. Don't ignite a nuclear weapon. Don't continue this chain reaction. And if you don't, we are prepared to move forward with removing something that has been a thorn in your side for some time, the Pressler amendment itself."

This is not about rewarding Pakistan or punishing India. This is a signal to Pakistan at a crucial moment. Repealing the Pressler amendment will have little impact on the ground. Pakistan is already subject to Glenn-Symington sanctions dating back more than a decade. Those sanctions already preclude providing Pakistan any assistance under the Foreign Assistance Act.

So, in this regard I would like to send an amendment to the desk regarding the Pressler amendment and ask for its immediate consideration. This will be in the form of an amendment to the amendment.

AMENDMENT NO. 2407 TO AMENDMENT NO. 2405

(Purpose: To repeal a restriction on the provision of certain assistance and other transfers to Pakistan)

Mr. BROWNBACK. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 2407 to amendment No. 2405.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

SEC. 1064. REPEAL OF RESTRICTION ON CERTAIN ASSISTANCE AND OTHER TRANSFERS TO PAKISTAN.

Section 620E(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2375(e)) is repealed.

Mr. BROWNBACK. Mr. President, as I pointed out, I am a cosponsor of Senator FEINSTEIN's efforts in this regard, the resolution being put forward. I think that is positive and it is a right step to do. I think we need to do that. But I think at this critical juncture we have to act even more decisively than what we are doing with this resolution, and that is why I am proposing this amendment to the resolution that I cosponsor. I think the amendment that Senator FEINSTEIN has put forward is the right thing to do.

I think, as well, at this very moment in Islamabad and throughout Pakistan they are considering: How do we respond? What do we do? Should we set off a nuclear weapon ourselves, in this escalating set of events?

If you are in Islambad and you are the Prime Minister of this country, or a parliamentarian, or somebody that's an official in this nation, you have to be sitting there saying, What do we do? Is this the time we should show strength in the form of retaliation, in the form of setting off another nuclear weapon, and we get the escalation going on? And there is pressure building in the streets, and the people in the streets say, "We need to respond, we need to show strength in the form of detonating a nuclear weapon."

We have to do everything we can today to try to encourage the Pakistanis not to respond in kind. We need to hold out some carrots to them, saying if you will show restraint, if you will show wisdom, if you will show moderation, we can help and we can work with you and here is a way. The Pressler amendment has been in place. It has been partially repealed over time. We can say to them, If you will show restraint, we are going to move towards lifting this; we are going to lift this Pressler amendment.

Then they have a different choice to make. They can say, You know, if we don't respond in kind we can get the onus of this off our back that we have tried to have removed for some time. If we do respond in kind, the Glenn amendment automatically hits the Pakistanis as well, and you are going to have a wider range of issues and of sanctions that will be hitting Pakistan. So now there is a carrot and a big stick sitting out there of, How do we respond? And the pressure is building in the streets in Islamabad and throughout Pakistan of, How do we respond? We have to do everything we can, near term, to stop that and provide them some option and some means and some reason not to set off a nuclear weapon.

What repealing this outdated, I think, unilateral sanction will do is bring Pakistan on the same playing field as the rest of the world and will offer them a carrot. If Pakistan detonates a nuclear weapon, as India has, it will be subject to the same sanctions as India. And believe me, I will be the first one to urge that the United States move swiftly and decisively to impose the sanctions.

It is important that we factor in several considerations as we consider this amendment. The first is that there are multiple laws in place to deal with nuclear proliferators: the Glenn-Symington amendment, the Glenn amendment, and various others. Pakistan will not, and should not, be allowed to get away with nuclear proliferation. There can be no excuse for transgressing international norms or U.S. laws.

However, we must also face an important reality. Pakistan, a long-term friend and ally of the United States, is next door to a nation of 960 million people who just tested five nuclear weapons this week. India could not have been more clear that it was sending a message to China and as well to Pakistan and the rest of the world. It is not unnatural, though it is clearly unwise, for Pakistan to consider its options.

Pakistan's conventional military abilities have been seriously eroded because of the Pressler sanctions. I believe that were Pakistan able to be more reliant on a conventional deterrent the nuclear option might seem less attractive. In addition, were Pakistan aware of the immense international support behind a policy of restraint, so, too, might they feel less threatened and feel like there is something in this for them if they show a bit of moderation and a bit of restraint.

We are at a crucial moment. Failure to take decisive action at this juncture could mean disaster in south Asia. I think time is absolutely of the essence or I would not have brought it out on this today. Decisions are being made now in Islamabad of what reaction they will take to the Indian's action, what they have done this week in detonating five nuclear weapons. Those decisions are being made now. I wish we could put this debate off for a month or 2 or 5 months, or a year, but it is now that it counts. It is now that decisions are being made. I hate to rush people towards these sorts of actions, but if we fail to act now, with all the potential we have to urge restraint in Pakistan, I am fearful we will have acted too late and the graphite rods will have been pulled out and the chain reaction continues and we have not done everything we possibly can.

This is something we can possibly do. I wish it were in another place on another vehicle. There is no other place or time to be able to do this. I think the base amendment is a good one to pass. I think this one sends the absolute positive signal to Pakistan, please, please show restraint. That is why I ask consideration of my amendment to the amendment.

At the appropriate time, if necessary, I will be asking for the yeas and nays.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, regretfully I rise to oppose this amendment which, in the current heated environment surrounding the Indian nuclear tests, seeks to repeal the Pressler amendment.

I believe that to put a repeal of the Pressler amendment on this bill and to allow the United States to resume military aid to Pakistan would be counterproductive and would contribute to a further destabilization of an already unstable South Asian security environment.

What would India do in response? I urge the Members of this body, when considering whether to vote for an imminent repeal of the Pressler amendment, to think that we are doing this before our people have even had a chance to ascertain what the particulars of this situation are. We are doing it before we have any assessment of what might be the response to this action. I think that is precipitous, and I think it is unfortunate.

Most immediately, what would be the effect? A repeal of Pressler would release 28 F-16s which Pakistan purchased in 1989, but due to the inability of the President to certify in 1990 that Pakistan does not possess a nuclear device——

The PRESIDING OFFICER. If the Senator will withhold.

Mr. LEVIN. Mr. President, I ask unanimous consent that after the completion of this vote, the floor be restored to the Senator from California.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 2387

The PRESIDING OFFICER. The hour of 3 p.m. having arrived, the question is on agreeing to the motion to lay on the table amendment No. 2387. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 24, nays 76, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—24

Akaka
Baucus
Biden
Bingaman
Breaux
Cleland
Daschle
Ford
Glenn
Graham
Grams
Hagel
Inouye
Johnson
Kennedy
Kerrey
Levin
Lugar
McConnell
Murkowski
Reed
Robb
Roberts
Rockefeller

NAYS—76

Abraham
Allard
Ashcroft
Bennett
Bond
Boxer
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Frist
Gorton
Gramm
Grassley
Gregg
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Lieberman
Lott
Mack
McCain
Mikulski
Moseley-Braun
Moynihan
Murray
Nickles
Reid
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

The motion to lay on the table the amendment (No. 2387) was rejected.

Mr. HUTCHINSON. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. The motion to lay on the table the motion reconsider is agreed to.

The Senator from Arkansas.

VOTE ON AMENDMENT NO. 2401

Mr. HUTCHINSON. Mr. President, I, as the sponsor of the amendment, accept the second-degree amendment by Senator THOMAS, ask unanimous consent to vitiate the yeas and nays, and urge the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the yeas and nays are vitiated. Without objection, the second-degree amendment is adopted.

The amendment (No. 2401) was agreed to.

Several Senators addressed the Chair.

Mr. LEVIN. Mr. President, the reason for my concern about this amendment is reflected in the statement that was sent to us by the administration. I very much support the purpose of this amendment. I think it is right on target, and I commend the Senator from Arkansas for focusing on this problem.

But the statement of the administration policy raises a concern that the requirement to disclose publicly the list of Chinese military companies operating directly or indirectly in the United States could implicate classified information that needs to be protected in the interests of national security, i.e., intelligence sources and methods. That is the basis for my concern, and therefore I will vote "no" on a voice vote, and I ask unanimous consent that this statement of administration policy be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, November 4, 1997.

STATEMENT OF ADMINISTRATION POLICY

H.R. 2647—MONITORING COMMERCIAL ACTIVITIES OF CHINESE MILITARY COMPANIES (FOWLER (R) FL AND 16 OTHERS)

The Administration opposes H.R. 2647 because it is unnecessary and counterproductive. In particular, the Administration opposes the requirement to disclose publicly the list of Chinese military companies operating directly or indirectly in the United States. The requirement for such disclosure could implicate classified information that needs to be protected in the interests of national security, i.e., intelligence sources and methods.

The Administration is also seriously concerned about the precedent of authorizing the exercise of authorities under the International Emergency Economic Powers Act (IEEPA) without regard to the Act's strict standards of an international threat. H.R. 2647 establishes no clear standards for invoking the IEEPA authorities against Chinese military companies and bears no relation to the effect on the United States of the commercial activities of the designated Chinese companies. If the People's Liberation Army companies, or any other foreign companies, undertake specific illegal activities, there are U.S. laws authorizing a broad range of sanctions. In cases when U.S. law is violated, the Administration can, and will, act to enforce the law.

VOTE ON AMENDMENT NO. 2387, AS AMENDED

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2387), as amended, was agreed to.

AMENDMENT NO. 2388, AS AMENDED, AS MODIFIED

Mr. WARNER. Mr. President, my understanding is the Senator from Arkansas has a second amendment.

Mr. HUTCHINSON. Mr. President, amendment No. 2388 is the second amendment. Has the amendment been modified by the Harkin amendment?

The PRESIDING OFFICER. The amendment has been modified.

Mr. HUTCHINSON. Once again, this is a good amendment. It was broadly supported in the House on a bipartisan basis. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN. I again commend my friend, the Senator from Arkansas, on this amendment. I think it is a good amendment. I ask unanimous consent I be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2388), as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, to advise Senators, we will not have further votes prior to the hour of 5 o'clock. My understanding is the Senator from Oklahoma has an amendment which he wishes to bring to the Senate. I am hopeful we could accommodate a few more minutes of debate, which the Senator from California had asked for, on her amendment.

Mr. LEVIN. Will the Senator from Virginia yield on that point?

Mr. WARNER. I yield.

Mr. LEVIN. I believe we did enter a unanimous consent agreement that the Senator from California be recognized after the disposition of the Hutchinson amendments, since she was in the middle of her remarks at the time that the regular order required us to begin the last votes.

I am wondering if we could just spend 30 seconds seeing if the Senator from California would like the floor.

Mr. WARNER. Mr. President, I join in that request, and then the Senate can proceed to the amendment of the Senator from Oklahoma. I ask unanimous consent that following the remarks of the Senator from California, the Senate proceed to the amendment that will be submitted by the Senator from Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I understand that the Senator from California is on her way and will be here in a few moments. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescind.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I had been asked previously by the Senator from Iowa that he be listed as a cosponsor of the amendment I put forward. I ask unanimous consent that while we are waiting that he be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. I suggest the absence of a quorum.

Mr. LEVIN. Will the Senator withhold? Mr. President, I ask unanimous consent that the Senator from Oklahoma be recognized for 5 minutes at this time and then the Senator from California regain recognition.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oklahoma is recognized.

Mr. INHOFE. Thank you, Mr. President.

As chairman of the Readiness Subcommittee, I want to make a couple of comments concerning the defense authorization bill of 1999 and how it affects readiness.

Over the past several years, a number of military officers have expressed deep concerns regarding the trends in the operational readiness of the Armed Forces. Last year, these trends led one military officer to state, "The storm clouds are on the horizon."

This was a year in which most of the Armed Forces were ready to meet their wartime mission, but in order to do so in a resource-constrained environment, they were forced to resort to cost-saving practices which could impact negatively on our wartime readiness.

For example, the Marine Corps began using retreaded tires. This had not been done before. We have no way of knowing how these will perform in the case of some type of a Persian Gulf or Middle East desert-type of operation.

While the overall readiness of forward deployed units remains adequate, this is increasingly accomplished at the expense of nondeployed units. According to Vice Admiral Browne, Commander of the Navy's Third Fleet: "More today than in the past, forward deployed readiness is being maintained with the slimmest of margins and at the expense of CONUS based training and increased individual PERSTEMPO."

He went on to say: "To get the U.S.S. *Denver* underway early as part of the Tarawa ARG amphibious readiness group, two other ships were cannibalized for parts."

Furthermore, Colonel Bozarth of the Air Force's 388th Operations Group stated: "The people that pay the price, though, are the folks that are back home. Because if you take a wing like ours, 5 years ago, in 1993, we were looking at full mission capable rates in the nineties. In the 1995–1997 timeframe, we are looking at mission capable rates in the eighties. Now we are down into the lower seventies."

Unfortunately, there are reports that even the readiness of the forward deployed units is beginning to suffer. According to naval officers in the Pacific, 20 percent of the deployed planes on the carriers are grounded awaiting spare parts and other maintenance, all the time cannibalization of the aircraft is taking place. It has gone up 15 percent over the past year. In fact, Admiral Browne recently acknowledged that, "Full mission capable rates from fiscal year 1996 to 1997 for our deployed aircraft have declined from 62 to 55 percent."

I am very much concerned about this. Mr. President, I think this is due to two problems that we have. One is the deprived budget, insofar as our modernization program, which is leading us to have to use older equipment, and the other is the high deployment rate.

It is interesting that since 1992, we have had twice the number of deployments that we had in the entire 10 years before that. This is not for missions that are affecting our Nation's security.

I have had occasion to go to many, many, many installations throughout America and around the world. I can tell you right now, we have very serious problems. In Camp Lejeune, in talking to these guys down there—they are tough marines, but their OPTEMPO and PERSTEMPO rate, to the extent the divorce rate is up, the retention rates are down. It is a very serious problem.

I think most people realize it costs $6 million to put a guy into the cockpit of an F-16, and yet our retention rate right now has gone down 28 percent. In the Mojave Desert, the National Training Center in Twentynine Palms tells us the troops they get in for advance training are far below the level of proficiency that they were 10 years ago. Nellis Air Force Base where they have a red-flag operation, which is a very good operation for training combat pilots, they now have dropped these operations from every 12 months to 18 months. This means they go down from six to four operations each year.

What this means is, these pilots who would otherwise be going through the red-flag exercises getting this simulated training that is actually for combat are off providing missions, supporting areas like Bosnia.

I draw attention to the 21st TACON, because in this area, we have both of these problems occurring. The 21st TACON is using old equipment. Some of the 915 trucks that they use have over a million miles on them. I personally saw that they are using for loading docks old flatbeds that are wired together.

As far as the deployment is concerned, we know there are serious problems around the world. We know that Iraq is about to boil. We know we may have to send in ground troops, and yet they would have to be logistically supported by the 21st TACON. Right now they are at 100 percent capacity just supporting the Bosnia operation.

What we are dealing with in the defense authorization bill for 1999 is a budget that is not adequate and it does not put us in the state of readiness we should be in, but it is the very best we can do under the constraints that we are operating.

While it is inadequate, I do ask that our colleagues support the defense authorization bill for 1999.

Mr. COCHRAN. Mr. President, it is critically important that the United States be able to protect its troops in the field from ballistic missile attack, and this includes modern ballistic missiles of increasing range and sophistication. To do that, we need both lower tier systems like the Patriot and more capable, upper tier systems like the Theater High Altitude Air Defense, or THAAD, and Navy Theater Wide.

It is disappointing that the THAAD system has not yet achieved a successful intercept in its test program. Given the program's history of lengthy delays between flight tests, it is unlikely that a sufficient number of tests can be conducted in fiscal year 1999 to enable the program to enter into the Engineering and Manufacturing Development, or EMD, phase. Accordingly, I understand the rationale for the amendment offered today which would remove an additional $250 million from the THAAD Program. While I am disappointed that the program's lack of progress has brought about this decision, I believe the action proposed by the chairman and ranking member of the Armed Services Committee to be reasonable. And, along with everyone else, I call on the Government and the contractors supporting the program to do everything they can to ensure future success.

Let's not forget, however, that we have test programs to find and solve problems. We would move our weapons systems right from the drawing board to the field if we never expected to uncover problems during testing. While we would prefer there to be as few problems as possible, test programs are conducted to wring these problems out of our weapons systems. We should not be too quick to overemphasize the results of any one test.

The level of scrutiny being applied to the Demonstration and Validation phase of the THAAD Program is higher than that applied to any other program in its Dem-Val phase that I am aware of. In fact, the scrutiny it is undergoing is more like that normally found in the EMD phase of a program. This intense scrutiny will ultimately be beneficial in helping us get this system fielded as soon as the technology is ready. Given the EMD-like scrutiny in the THAAD Dem-Val program, Congress should examine the Department of Defense plans for the structure and length of its EMD program. It is important for this program to be long enough to ensure the THAAD system ultimately produced is the right one, but not so long as to leave U.S. forces vulnerable for a minute longer than technologically necessary.

The need for missile defense doesn't disappear because of a single flight test. Given the results of the most recent intercept attempt, it is reasonable to delay provision of THAAD EMD funding beyond fiscal year 1999. Additional reductions, however, are not warranted.

Mrs. HUTCHISON. Mr. President, I commend the Senator from Mississippi. He has shown such leadership in bringing to our attention the importance of a missile defense system for this country. We have all been shocked this week to hear what is happening across the globe with India actually testing a nuclear weapon and starting an arms race, tension that we haven't seen in a long time.

I can't think of another country in the world that would be testing its own missile defense system out in the open as we are, the THAAD missile that my colleague just talked about, but we did. Yes, it didn't work. And, yes, we are all disappointed and we are hoping that we can learn from what didn't work on that test and perfect it. But that is why we have tests of defensive systems.

But I think what Senator COCHRAN has done is, he is putting in context how important it is that we put our full force behind the priority of defending our shores and our troops, wherever they may be, anywhere in the world, against any incoming ballistic missile, a Scud missile or an intercontinental missile. Senator COCHRAN is right. The Senate had a very important vote yesterday, and by only one vote—by only one vote in the Senate, we were not able to move and clearly say that this country's first priority is going to be a defensive system for the ballistic missiles that we know 30 countries are now in the process of perfecting.

So I commend him for the statement he just made, for the efforts he has been making over the last year, and for the future efforts that we are all going to make to continue to press this very important issue. As we are debating the defense authorization bill for our country, I can think of no higher priority than to make sure that the shores of our country are protected against an incoming ballistic missile, whether it be from a rogue nation or terrorist act. That our people would know that we would be protected is the very highest priority. We are debating right now how to fund and make sure that our troops have everything they need to do the job to protect us. They should have that same protection anywhere that they would be representing the United States of America. In any theater anywhere in the world, we should be able to have a defense against an incoming ballistic missile.

So I commend the Senator from Mississippi, and I want to say we will not rest until we have won this issue, that we would be able to deploy right now our first priority, a defensive system for incoming ballistic missiles.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I wish to thank the distinguished Senator from Texas for her kind and generous remarks. I agree with her that we need to do everything we can to study the test results, translate that into solving the problems we have in these systems for theater weapons that we have to protect our troops that are already being programmed—there are already deployment decisions that have been made, even though we haven't completed the development and the testing phase.

I hope we can see some successful tests soon and we urge the contractors and the Department to work as hard as they can to see that is done.

AMENDMENT NO. 2410

(Purpose: To provide eligibility for hardship duty pay on the basis of the nature of the duty performed instead of the location of the duty, and to repeal an exception)

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that it be in order for the Senate to consider amendment No. 2410; that the amendment be agreed to; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2410) was agreed to, as follows:

At the end of subtitle B of title VI, add the following:

SEC. 620. HARDSHIP DUTY PAY.

(a) DUTY FOR WHICH PAY AUTHORIZED.—Subsection (a) of section 305 of title 37, United States Code, is amended by striking out "on duty at a location" and all that follows and inserting in lieu thereof "performing duty in the United States or outside the United States that is designated by the Secretary of Defense as hardship duty.".

(b) REPEAL OF EXCEPTION FOR MEMBERS RECEIVING CAREER SEA PAY.—Subsection (c) of such section is repealed.

(c) CONFORMING AMENDMENTS.—(1) Subsections (b) and (d) of such section are amended by striking out "hardship duty location pay" and inserting in lieu thereof "hardship duty pay".

(2) Subsection (d) of such section is redesignated as subsection (c).

(3) The heading for such section is amended by striking out **"location"**.

(4) Section 907(d) of title 37, United States Code, is amended by striking out "duty at a hardship duty location" and inserting in lieu thereof "hardship duty".

(d) CLERICAL AMENDMENT.—The item relating to section 305 in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"305. Special pay: hardship duty pay.".

Mr. MCCAIN. Mr. President, this amendment will give the Secretary of Defense authority to compensate our men and women in uniform that are serving in remote areas, in very difficult situations. Specifically, this amendment amends hardship duty location pay and allows the Secretary of Defense to designate certain "duties" as a hardship rather than limiting the pay to hardship duty "locations" only. This will allow for designation of certain missions like Joint Task Force Full Accounting (JTF-FA), the POW/MIA search teams, and the Central Identification Lab (CILHI) to be designated for receipt of the hardship duty pay. These teams are exposed to the most arduous conditions while deployed to remote, isolated areas of

Laos, Cambodia, Vietnam, North Korea and China to conduct excavations of crash sites and identification of remains of U.S. servicemembers.

This amendment also allows the Secretary to recognize members serving in high operation tempo missions and eliminates the restriction on members receiving sea pay and hardship duty pay simultaneously. This would allow naval members who are serving in high operations tempo units to receive the added benefit. The hardship duty pay limit of $300 per month would not be changed.

I commend my friends of the Veterans of Foreign Wars (VFW) for bringing this to my attention. Their concern for the state of the military and those that serve is unsurpassed. During a recent trip to Southeast Asia, the VFW learned that personnel deployed under the command of JTF–FA are not authorized and do not receive imminent danger pay when deployed on Joint Field Activity operations in Laos and Vietnam. They reported their concerns to me because many of the crash sites were in extremely difficult terrain, littered by unexploded munitions.

At one Joint Field Activity excavation site that they visited in western Laos, the area in which the team was conducting excavations was littered with unexploded BLU–26 cluster bomb units. Another crash site excavation was located next to sidewinder missiles. In addition, the teams are exposed to resistant strains of malaria, dengue fever, and other diseases while they are deployed in these isolated and remote areas. Furthermore, most of these sites are far removed from any modern medical facility.

Mr. President, I feel it not only the right thing to do, but that it will help the services to adequately compensate our men and women in uniform so as to entice these young Americans to stay in the service and to consider a career in the military. For the difficult and dangerous duties that they do, they deserve no less.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I ask unanimous consent that I may speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. The Senator is informed there is an order to recognize the Senator from California. Is there objection to the request?

Mr. THURMOND. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIGIOUS PERSECUTION THROUGHOUT THE WORLD

Mr. SPECTER. Mr. President, I have sought recognition to compliment the House of Representatives on passage of legislation this afternoon to take a stand against religious persecution worldwide.

And, I compliment Congressman FRANK WOLF of Virginia for his leadership on this very important legislation.

Legislation is pending in the U.S. Senate identical with or very similar to the legislation passed in the House—I am not sure what amendments may have been crafted on the House floor this afternoon and what last-minute changes may have been made—but similar legislation has been introduced by this Senator in the U.S. Senate. And the purpose of this legislation is for the United States to take a stand against religious persecution worldwide.

We have a very unfortunate situation today where Catholic priests are being incarcerated in China, Buddhists are being persecuted in Tibet, and Evangelical Christians are being imprisoned in Saudi Arabia and in Egypt. The essence of freedom of religion is a very fundamental value in the United States and a very fundamental moral value. And, the legislation which passed the House today and which is pending in the Senate will enable the U.S. Government to take a stand against this religious persecution worldwide.

Freedom of religion is the first part of the first amendment. The United States was founded for religious freedom. The Pilgrims came here in 1607 for that purpose, as did my father Harry Specter, who literally walked across Europe with barely a ruble in his pocket in 1911 seeking a new life for himself and a family which he hoped to have, and religious freedom, because the Cossacks rode up and down the streets of Batchkurina, a small village in Ukraine, in Russia, where my father's brother, Mordechai Spectorski, had fought with the Cossacks, and they were looking for Mordechai Spectorski, who had fled the city. And, the Cossacks continued to look for members of the Specter family. My father immigrated to the United States, as did my mother Lillie Shanin, leaving a small town on the Russian-Polish border at the age of 5, coming to the United States in 1905.

The legislation which has passed the House of Representatives has some sanctions in it. It provides that there be no weapons of torture sold, and provides limitations as to what U.S. taxpayer money can be given for, other than humanitarian purposes. And, it seems to me that if the legislation is to have any effect, there have to be sanctions, there have to be weapons in the bill—teeth—in order to promote compliance.

I visited this past January in Saudi Arabia and talked to Saudi officials about concerns which I have and which others have had where Christians cannot display a Christmas tree in a window if it is visible from the outside, where Jewish soldiers are reluctant to wear their dog tags identifying themselves as being Jewish, a situation which is intolerable, where we have some 5,000 young men and women who are in Saudi Arabia to protect the Saudis.

The situation in Egypt is very serious where there are Evangelical Christians who are being persecuted, where they land in jail if there is a conversion from Islam to Christianity. I was unable to visit the Sudan because of difficulties there, but visiting in nearby Eritrea, I heard stories about the persecution of Christians in Sudan.

It is my hope that this legislation will be considered by the Senate in short order so that a firm stand will be taken to deal with the very serious issue of religious persecution worldwide.

Again, I compliment the House and chief sponsor, FRANK WOLF, and look forward to enactment of this legislation in the Senate. The bill passed by a vote of 375–41, which is well beyond the number necessary to be veto proof. The administration has been opposed to having sanctions in legislation, sanctions such as some of the ones proposed in the bill which I have offered and is pending in the U.S. Senate.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that James Bynum, a Capitol Hill fellow, and Kurt Volker, a State Department fellow serving on Senator McCAIN's staff, be granted privileges of the floor during the debate and any votes concerning S. 2057, the fiscal year 1999 National Defense Authorization bill, as well as any related amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, what is the current order?

The PRESIDING OFFICER. The current order is the Brownback amendment, No. 2407, to the Feinstein amendment, No. 2405.

Mr. INHOFE. Mr. President, I ask unanimous consent that be set aside and that I be allowed to send an amendment to the desk.

Mr. LEVIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEVIN. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 1415

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 370, which is S. 1415, the tobacco bill, just reported from the Finance Committee.

The PRESIDING OFFICER. Is there objection?

Mr. ASHCROFT. I object.

The PRESIDING OFFICER. Objection is heard.

ADJOURNMENT

Mr. LOTT. I now move that the Senate stand in adjournment for 1 minute.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to, and at 5:07 p.m., on Thursday, May 14, 1998, the Senate adjourned until 5:08 p.m. the same day.

AFTER ADJOURNMENT

The Senate met at 5:08 p.m., pursuant to adjournment, and was called to order by the Hon. DAN COATS, a Senator from the State of Indiana.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. LOTT. I now ask that the routine requests through the morning hour be granted.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNIVERSAL TOBACCO SETTLEMENT ACT—MOTION TO PROCEED

CLOTURE MOTION

Mr. LOTT. Mr. President, I now move to proceed to Calendar No. 370, S. 1415, and send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to calendar No. 370, S. 1415, regarding tobacco reform:

Trent Lott, John McCain, Ben Nighthorse Campbell, James Inhofe, Christopher Bond, Gordon Smith, Robert Bennett, Harry Reid, Ted Stevens, Richard Shelby, Mike DeWine, Susan Collins, Slade Gorton, Jay Rockefeller, John Kerry, Christopher Dodd.

Mr. LOTT. Mr. President, I want to announce, for the information of all Senators, that the vote will occur on this cloture motion Monday, May 18, at a time to be determined by the majority leader after consultation with the Democratic leader, and the mandatory quorum under rule XXII be waived.

It is anticipated this vote will occur at 5:30 Monday afternoon. We have, in the past, over the past month, tried to make Senators aware of Mondays and Fridays, that we would not be having votes. This Friday we will not be having any votes. We notified the Members of that, I think at least 3 weeks ago. But we have been saying all along on Monday, the 18th, they should expect a vote. But we will try to have it late in the afternoon, so we could conduct some business during the morning and afternoon, so Senators will have time to get back here from their respective States. We do expect that vote probably around 5:30, but we want to check with all the Senators to see if that is the best possible time. We may need to move it a little bit one way or the other.

Mr. LOTT. I now withdraw the motion I made.

The PRESIDING OFFICER. The motion is withdrawn.

DIGITAL MILLENNIUM COPYRIGHT ACT OF 1998

Mr. LOTT. Mr. President, I ask the Senate turn to Calendar No. 358, S. 2037, regarding the WIPO treaty, which is the treaty dealing with digital copyright.

The PRESIDING OFFICER. Under the previous order, the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2037) to amend title 17, United States Code, to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, to provide limitations on copyright liability relating to material online, and for other purposes.

The Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, the Senate is now considering the WIPO Copyright Treaty which has up to 1 hour under the consent agreement that was reached on May 12. Therefore, the next vote will occur shortly—hopefully in less than an hour—on passage of the WIPO copyright bill, and that will be the last vote of the day.

I know there are some Senators here who have worked on this issue who do want to be heard briefly—the Senator from Missouri, and, of course, the Senator from Utah has been working on this assiduously. We had a little problem we ran into yesterday, but we are going forward with this and we will try to work it out with the House, and I will certainly try to be helpful with that.

This is important legislation. A lot of effort has been put into it. Some of the problems have been resolved, thanks to the courtesy and leadership of Senator HATCH, working with Senator ASHCROFT. So I think we need to go ahead and do it today and we will have had, really, an incredible week on these high-tech bills.

Again, the next vote will occur on Monday—there will be no further votes after the WIPO vote tonight—and I will notify all Members as to the time of that vote.

With regard to the DOD authorization matter, I will be talking with the managers of this legislation to see what their wishes are, and we will have some further announcements of when that legislation will be brought up again.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time allocated for this debate is 60 minutes, equally divided and controlled between the Senator from Utah, Mr. HATCH, and the Senator from Vermont, Mr. LEAHY, with 15 minutes of the time of Mr. HATCH controlled by the Senator from Missouri, Mr. ASHCROFT.

The Senate will be in order.

Mr. ASHCROFT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I would like to yield to the distinguished Senator from Arizona for an amendment that he has to take care of.

Mr. MCCAIN. Mr. President, I ask unanimous consent to send to the desk an amendment that is on the DOD bill.

The PRESIDING OFFICER. The Presiding Officer will advise the Senator the DOD bill is not the pending business.

Mr. MCCAIN. Can I, by unanimous consent, send up that amendment?

Mr. LEVIN. I object. Reserving the right to object.

Mr. McCAIN. It is an amendment that has been accepted by both sides.

Mr. LEVIN. On the DOD bill? I have to object. There are too many pending amendments. I am sorry, if the Senator can clear that——

The PRESIDING OFFICER. Objection is heard. The Senator from Utah.

Mr. HATCH. Mr. President, I ask this time not be charged.

The PRESIDING OFFICER. The amendments are submitted and will be numbered. The Senator from Utah.

Mr. HATCH. I ask that time not be charged to the present act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I rise to speak in support of the Digital Millennium Copyright Act of 1998, S. 2037. The DMCA is the most comprehensive bill that has come before the Senate regarding the Internet and the digital world in general.

The DMCA in Title I implements the World Intellectual Property (WIPO) treaties on copyright and on performers and phonograms, and in Title II limits the copyright infringement liability of on-line and Internet service providers (OSPs and ISPs) under certain circumstances. The DMCA also provides in Title III a minor but important clarification of copyright law that the lawful owner or lessee of a computer may authorize someone to turn on their computer for the purposes of maintenance or repair. Title IV addresses the issues of ephemeral recordings, distance education, and digital preservation for libraries and archives.

Due to the ease with which digital works can be copied and distributed worldwide virtually instantaneously, copyright owners will hesitate to make their works readily available on the Internet without reasonable assurance that they will be protected against massive piracy. Legislation implementing the treaties provides this protection and creates the legal platform for launching the global digital on-line marketplace for copyrighted works. It will facilitate making available quickly and conveniently via the Internet the movies, music, software, and literary works that are the fruit of American creative genius. It will also encourage the continued growth of the existing off-line global marketplace for copyrighted works in digital format by setting strong international copyright standards.

The copyright industries are one of America's largest and fastest growing economic assets. According to International Intellectual Property Alliance statistics, in 1996 (when the last full set of figures was available), the U.S. creative industries accounted for 3.65% of the U.S. gross domestic product (GDP)—$278.4 billion. In the last 20 years in which comprehensive statistics are available—1977-1996—the U.S. copyright industries' share of GDP grew more than twice as fast as the remainder of the economy—5.5 percent versus 2.6 percent.

Between 1977 and 1996, employment in the U.S. copyright industries more than doubled to 3.5 million workers—2.8 percent of total U.S. employment. Between 1977 and 1996 U.S. copyright industry employment grew nearly three times as fast as the annual rate of the economy as a whole—4.6 percent versus 1.6 percent. In fact, the copyright industries contribute more to the U.S. economy and employ more workers than any single manufacturing sector, including chemicals, industrial equipment, electronics, food processing, textiles and apparel, and aircraft.

More significantly for the WIPO treaties, in 1996 U.S. copyright industries achieved foreign sales and exports of $60.18 billion, for the first time leading all major industry sectors, including agriculture, automobiles and auto parts, and the aircraft industry. There can be no doubt that copyright is of supreme importance to the American economy. Yet, American companies are losing $18 to $20 billion annually due to the international piracy of copyrighted works.

But the potential of the Internet, both as information highway and marketplace, depends on its speed and capacity. Without clarification of their liability, service providers may hesitate to make the necessary investment to fulfill that potential. In the ordinary course of their operations service providers must engage in all kinds of acts that expose them to potential copyright infringement liability.

For example, service providers must make innumerable electronic copies in order simply to transmit information over the Internet. Certain electronic copies are made to speed up the delivery of information to users. Other electronic copies are made in order to host World Wide Web sites. Many service providers engage in directing users to sites in response to inquiries by users or they volunteer sites that users may find attractive. Some of these sites might contain infringing material. In short, by limiting the liability of service providers, the DMCA ensures that the efficiency of the Internet will continue to improve and that the variety and quality of services on the Internet will continue to expand.

Besides the major copyright owners and the major OPSs and ISPs (e.g., the local telephone companies, the long distance carriers, America OnLine, etc.), the Committee heard from representatives of individual copyright owners and small ISPs, from representatives of libraries, archives and educational institutions, from representatives of broadcasters, computer hardware manufacturers, and consumers—and this is not an exhaustive list.

Title II, for example, reflects 3 months of negotiations between the major copyright owners and the major OSPs, and ISPs, which I encouraged and in which I participated, and which took place with the assistance of Senator ASHCROFT. Intense discussions took place on distance education too, with the participation of representatives of libraries, teachers, and educational institutions, and with the assistance of Senator LEAHY, Senator ASHCROFT, and the Copyright Office.

As a result, the Committee took substantial steps to refine the discussion draft that I laid down before the Committee through a series of amendments, each of which was adopted unanimously. For example, the current legislation contains:

(1) a provision to ensure that parents will be able to protect their children from pornography and other inappropriate material on the Internet;

(2) provisions to provide for the updating of the copyright laws so that educators, libraries, and achieves will be able to take full advantage of the promise of digital technology;

(3) important procedural protections for individual Internet users to ensure that they will not be mistakenly denied access to the World Wide Web;

(4) provisions to ensure that the current practice of legitimate reverse engineering for software interoperability may continue; and

(5) provisions to accommodate the needs of broadcasters for ephemeral recordings and regarding copyright management information.

These provisions are in addition to provisions I had already incorporated into my discussion draft, such as provisions on library browsing, provisions addressing the special needs of individual creators regarding copyright management information, and provisions exempting nonprofit archives, nonprofit educational institutions, and nonprofit libraries from criminal penalties and, in the case of civil penalties, remitting damages entirely when such an institution was not aware and had no reason to believe that its acts constituted a violation.

Consequently, the DMCA enjoys widespread support from the motion picture, recording, software, and publishing industries, as well as the telephone companies, long distance carriers, and other OSPs and ISPs. It is also supported by the Information Technology Industry Council, which includes the leading computer hardware manufacturers, and by representatives of individual creators, such as the Writers Guild, the Directors Guild, the Screen Actors Guild, and the American Federation of Television and Radio Artists. The breadth of support for S. 2037 is reflected in the unanimous roll call vote (18–0) by which the DMCA was reported out of Committee.

Mr. President, the United States started the Internet, and remains its most significant hub. No country comes close to the United States in creative output. In these areas, we are the undisputed leaders. This bill will help us maintain this edge in an increasingly competitive global market.

Mr. President, I urge my colleagues in the Senate to vote favorably for S. 2037. This bill has such important ramifications for the continued prosperity of the U.S. as we enter the next millennium and has such powerful support that it should be enacted immediately.

Finally, I would like to particularly pay tribute to the ranking member of the Senate Judiciary Committee, Senator LEAHY. I don't know of anyone who has more interest in the Internet, more interest in computers, more interest in copyright matters than Senator LEAHY, unless it is myself, and I don't think I have more. He has done a great job on this committee. It is a pleasure to work with him.

It has been a wonderful experience throughout the 22 years I have been on the committee to work with him on technical and difficult issues. I personally thank him before everybody today for his good work. Without his help, we wouldn't be this far, and we all know it. I thank him. I would also like to thank Manus Cooney, Edward Damich, Troy Dow, and Virginia Isaacson of my staff for their long hours of hard work on this issue. And I want to commend the hard work and cooperation I received from Bruce Cohen, Beryl Howell, and Marla Grossman of Senator LEAHY's staff, and Paul Clement, and Bartlett Cleland of Senator ASHCROFT's staff.

AMENDMENT NO. 2411

(Purpose: To make technical corrections)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2411.

The amendment is as follows:

On page 12, line 15 strike subsection (c) and redesignate the succeeding subsections and references thereto accordingly.

On page 17, line 4, insert "and with the intent to induce, enable, facilitate or conceal infringement" after "knowingly"

On page 17, beginning on line 8, strike ", with the intent to induce, enable, facilitate or conceal infringement"

On page 17, beginning on line 21, strike paragraph (3) and insert in lieu thereof the following:

"(3) distribute, import for distribution, or publicly perform works, copies of works, or phonorecords, knowing that copyright management information has been removed or altered without authority of the copyright owner or the law,

knowing, or, with respect to civil remedies under section 1203, having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of any right under this title.".

On page 19, line 4, insert the following new paragraph and redesignate the succeeding paragraphs accordingly:

"(6) terms and conditions for use of the work;".

On page 19, line 4, strike "of" and insert in lieu thereof "or".

Mr. HATCH. This is a technical amendment, and I urge its adoption.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 2411) was agreed to.

Mr. HATCH. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank my friend from Utah for his gracious comments, and I do appreciate working with him on this matter. He and I have discussed this so many times in walking back and forth to votes and in the committee room, and so on. I think the Senator from Utah and I long ago determined that if we were going to have this WIPO implementing bill passed, its best chance would be one where the Senator from Utah and the Senator from Vermont were basically holding hands on it.

The Senator from Utah may recall a time once when the then-Senator from Nevada, Senator Laxalt, and I were here and we had two pieces of legislation, a Laxalt-Leahy bill and a Leahy-Laxalt bill. One of our colleagues said, "This is either a very good bill or one of you didn't read."

In this case, the Hatch-Leahy-et al. piece of legislation is a very good bill, and one which the two of us have read every word. We have tried to make very clear to the Senate that the issues we are raising in this bill are not partisan issues. These are issues that create jobs in the United States. These are issues that allow the United States to go into the next century with our innovative genius in place. These are issues that allow the United States, in creating that innovative genius, to continue to lead the world. Senators, in voting for this legislation, will be voting to maintain the intellectual leadership of the United States.

The successful adoption by the World Intellectual Property Organization, what we call WIPO, in December 1996, of two new copyright treaties—one on written material and one on sound recordings—was praised in the United States. The bill that we have before us today, the DMCA, the Digital Millennium Copyright Act, will effectuate the purposes of those treaties in the United States and, I believe, will serve as a model for the rest of the world.

The WIPO treaties will fortify intellectual property rights around the world. They will help unleash the full potential of America's most creative industries, including the movie, recording, computer software, and other copyrighted industries that are subject to online and other forms of piracy, especially in the digital age where it is easier to pirate and steal exact copies of works.

If they don't have the protection, the owners of intellectual property are going to be unwilling to put their material online. If there is no content worth reading online, then the growth and usefulness of the Internet will be stifled and public accessibility will be retarded.

Secretary Daley of the Department of Commerce said, for the most part, "The treaties largely incorporate intellectual property norms that are already part of U.S. law." What the treaties will do is give American owners of copyrighted material an important tool to protect their intellectual property in those countries that become a party to the treaties.

With ever-expanding electronic commerce, trafficking the global superhighway, international copyright standards are critical to protecting American firms and American jobs. The future growth of the Internet and of digital media requires rigorous international intellectual property protections.

I have in my hand the 1998 Report on Copyright Industries in the United States Economy. This was released last week by the International Intellectual Property Alliance.

This report shows conclusively just how important the U.S. copyright industries are to American jobs and how important it is to protect that U.S. copyright industry from global piracy.

If you look at the chart over here, Mr. President, it shows that from the years 1977 to 1996, the U.S. copyright industries' share of the gross national product grew more than twice as fast as the rest of the economy.

These are the core copyright industries. Look how fast they grew as compared to the rest of the U.S. economy.

One of the things that has expanded and fueled our expanding economy is the copyright industry.

Now, during those same 20 years, job growth in the core copyright industries was nearly three times as fast as the rest of the economy. What this shows us, Mr. President, is that we are undergoing unprecedented expansion of our economy, but this is the area expanding the fastest.

These statistics underscore why, when the President transmitted the two WIPO treaties and draft legislation to implement the treaties to the U.S. Senate, I was proud to introduce the implementing legislation, S. 1121, with Senators HATCH, THOMPSON, and KOHL. We did it the same day. The legislation we have before us today is the result of years of work domestically and internationally to ensure that the appropriate copyright protections are in place around the world to foster the growth of the Internet and other digital media and networks.

The Clinton administration showed great foresight when it formed, in 1993, the Information Infrastructure Task Force, IITF, which established a Working Group on Intellectual Property Rights to examine and recommend changes to keep copyright law current with new technology. Then they released a report in 1995 explaining the importance of this effort, stating:

> The full potential of the NII will not be realized if the education, information and entertainment products protected by intellectual property laws are not protected. . .

The report said further:

> All the computers, telephones, fax machines, scanners, cameras, keyboards, televisions, monitors, printers, switches, routers, wires, cables, networks, and satellites in the world will not create a successful NII, if there is no content. What will drive the NII is the content moving through it.

The same year that report was issued, Senator HATCH and I joined together to introduce the NII Copyright Protection Act of 1995, S. 1284, which incorporated the recommendations of the Administration. That legislative proposal confronted fundamental questions about the role of copyright in the next century—many of which are echoed by the DMCA, which we consider today.

Title I of the DMCA is based on the Administration's recommendations for legislation to implement the two WIPO treaties. It makes certain technical changes to conform our copyright laws to the treaties and substantive amendments to comply with two new treaty obligations.

Specifically, the treaties oblige the signatories to provide legal protections against circumvention of technological measures used by copyright owners to protect their works, and against violations of the integrity of copyright management information (CMI). Such information is used to identify a work, its author, the copyright owner and any information about the terms and conditions of use of the work. The bill adds a new chapter to U.S. copyright law to implement the anticircumvention and CMI provisions, along with corresponding civil and criminal penalties.

Title II of the DMCA limits the liability for copyright infringement, under certain conditions, for Internet and online service providers. Title III gives a Copyright Act exemption to lawful computer owners or lessees so that independent technicians may service the machines without infringement liability.

Title IV begins a process of updating our Nation's copyright laws with respect to library archives, and educational uses of copyrighted works in the digital age.

Title I is based on the administration's recommendations, as I said.

Following intensive discussions with a number of interested parties, including libraries, universities, small businesses, ISPs and OSPs, telephone companies, computer users, broadcasters, content providers, and device manufacturers, we in the Senate Judiciary Committee were able to reach unanimous agreement.

For example, significant provisions were added to the bill in Title II to clarify the liability for copyright infringement of online and Internet service providers. The bill provides "safe harbors" from liability under clearly defined circumstances, which both encourage responsible behavior and protect important intellectual property rights. In addition, during the committee's consideration of this bill, an Ashcroft-Leahy-Hatch amendment was adopted to ensure that computer users are given reasonable notice when their Web sites are the subject of infringement complaints, and to provide procedures for computer users to have material that is mistakenly taken down put back online.

We have a number of provisions designed to help libraries and archives. First, libraries expressed concerns about the possibility of criminal sanctions or potentially ruinous monetary liability for actions taken in good faith. This bill makes sure that libraries acting in good faith can never be subject to fines or civil damages. Specifically, a library is exempt from monetary liability in a civil suit if it was not aware and had no reason to believe that its acts constituted a violation. In addition, libraries are completely exempt from the criminal provisions.

We have a "browsing" exception for libraries so they can look at encrypted work and decide whether or not they want to purchase it for their library.

Senator HATCH, Senator ASHCROFT, and I crafted an amendment to provide for the preservation of digital works by qualified libraries and archives. The ability of libraries to preserve legible copies of works in digital form is one I consider critical. Under present law, libraries are permitted to make a single facsimile copy for their collections for preservation purposes, or to replace copies in case of fire and so on. That worked back in the nondigital age. It does not work today. This gives us a chance to be up to date. We would allow libraries to transfer a work from one digital format to another if the equipment needed to read the earlier format becomes unavailable commercially.

The bill ensures that libraries' collections will continue to be available to future generations by permitting libraries to make up to three copies in any format—including in digital form. This was one of the proposals in The National Information Infrastructure (NII) Copyright Protection Act of 1995, which I sponsored with Senator HATCH in the last Congress. The Register of Copyrights, among others, has supported that proposal.

These provisions go a long way toward meeting the concerns that libraries have expressed about the original implementing legislation we introduced.

We addressed distance learning. When Congress enacted the present copyright law it recognized the potential of broadcast and cable technology to supplement classroom teaching, and to bring the classroom to those who, because of their disabilities or other special circumstances, are unable to attend classes. At the same time, Congress also recognized the potential for unauthorized transmissions of works to harm the markets for educational uses of copyrighted materials. The present Copyright Act strikes a careful balance and includes a narrowly crafted exemption.

As with so many areas of copyright law, the advent of digital technology requires us to take another look at the issue.

I recognize that the issue of distance learning has been under consideration for the past several years by the Conference on Fair Use (CONFU) that was established by the Administration to consider how to protect fair use in the digital environment. In spite of the hard work of the participants, CONFU has so far been unable to forge a comprehensive agreement on guidelines for the application of fair use to digital distance learning.

We made tremendous strides in the Committee to chart the appropriate course for updating the Copyright Act to permit the use of copyrighted works in valid distance learning activities.

Senator HATCH, Senator ASHCROFT, and I joined together to ask the Copyright Office to facilitate discussions among interested library and educational groups and content providers with a view toward making recommendations for us to consider with this legislation. We incorporated into the DMCA a new section 122 requiring the Copyright Office to make broader recommendations to Congress on digital distance education within six months. Upon receiving the Copyright Office's recommendations, it is my hope that the Senate Judiciary Committee will promptly commence hearings on the issue and move expeditiously to enact further legislation on the matter. I know that all members on this Committee are as anxious as I am to complete the process that we started in Committee of updating the Copyright Act to permit the appropriate use of copyrighted works in valid distance learning activities. This step should be viewed as a beginning—and we are committed to making more progress as quickly as possible.

We have also asked the Copyright Office to examine, in a comprehensive fashion, when the actions of a university's employees might jeopardize the university's eligibility for the safe harbors set out in the bill for online service providers. This is an important and complex issue with implications for other online service providers, including libraries and archives, and I look forward to reviewing the Copyright Office's analysis of this issue.

Amendments sponsored by Senator ASHCROFT, Senator HATCH, and I were crafted to address the question of reverse engineering, ephemeral recordings, and to clarify the use of copyright management.

Finally, to assuage the concerns of the consumer, electronics manufacturers, and others, that the bill might require them to design their products to respond to a particular technological protection measure, Senator HATCH, Senator ASHCROFT, and I crafted an amendment to clarify the bill on this issue.

I mention all of these things, Mr. President, because it shows why the administration has sent a Statement of Administration policy saying the Administration supports passage of this bill. This is a well-balanced package of proposals. As we go into the next century—the creators, the consumers, those in commerce in this country need the best laws possible. The United States is the leader today. The United States will not be the leader tomorrow without adequate laws.

These laws allow the United States to continue to be the electronic and intellectual property leader of the world. We should pass this bill. We can pass it with pride.

I would like to close by praising the dedicated staff members from the Judiciary Committee who have assisted us in crafting this legislation. They appreciate the significance of this legislation for our country and its economy. In particular, I want to thank Edward Damich and Troy Dow from the Chairman's staff, and Paul Clement and Bartlett Cleland from Senator ASHCROFT's staff, for demonstrating what can be done when we put political party allegiances aside and strive to work together in a bipartisan fashion to craft the best bill possible. My hope is that the bipartisan manner in which they worked on behalf of the Chairman and Senator ASHCROFT to bridge differences rather than exacerbate them can be replicated on a number of other important issues pending in our Committee.

I would also like to thank those people on my Judiciary Committee staff—Bruce Cohen, Beryl Howell, Marla Grossman, Bill Bright and Mike Carrasco—for their work on this bill. They each put in long hours to help me find solutions to the concerns of a number of stakeholders in this bill. I could always trust their counsel to be fair and conscientious.

Mr. President, I reserve the remainder of my time.

Mr. HATCH. Mr. President, let me just praise my colleague from Missouri. Senator ASHCROFT has been committed and has worked very, very hard to make this bill one that all of us can support. He has done a terrific job. He has worked on this OSP liability thing with us ad infinitum and added matters to this bill that made this a much better bill and strengthened the bill. I just could not feel better about somebody on my committee working on this bill than I do toward Senator ASHCROFT. I just wanted to say he played a significant role in this legislation. I personally thank him.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri is recognized to speak for 15 minutes.

Mr. ASHCROFT. Thank you, Mr. President.

I am grateful for the kind remarks of the Senator from Utah and am pleased to have the opportunity to work with him and the Senator from Vermont.

I rise today to speak in favor of one of the most important pieces of technology legislation in the 105th Congress. At its heart, this legislation is about updating the copyright laws for the digital age and preparing a sizable portion of our economy for the next century.

The affected parties include the online service providers, computer hardware and software manufacturers; every educator in America is affected by this legislation; every student; all the libraries; all the consumer electronics manufacturers and consumers of electronics; the motion picture companies, and everyone who uses the Internet. This measure will have as broad an impact on the American public as virtually any measure we will address.

The full Senate's consideration of this bill culminates an effort of updating our copyright law that I began last September when I introduced S. 1146, the Digital Copyright Clarification and Technology Education Act. S. 1146 was a comprehensive bill designed to jump-start a process that had ground to a halt and appeared to be going nowhere.

The bill addresses three basic problems. First, the liability of online service providers for copyright violations; second, the need to update the provisions of the copyright law that affect educators and libraries for the digital age; and third—and not least, of course—the need to implement the World Intellectual Property Organization, or WIPO, treaties.

The United States of America, as the generator of so much content and material—the innovator, the creator of so much of what is copywritten—stands to gain most by making sure that our copyrights are respected worldwide.

I am gratified that today the full Senate will vote on this bill that addresses all three of these concerns, especially the concerns regarding the need to implement the World Intellectual Property Organization treaties which will provide that the United States effort to protect copyrights—the intellectual property of those who are the creators in this country and develop things in this country—those treaties will protect those copyrights.

The original administration language that was introduced by Senators HATCH and LEAHY focused exclusively on the WIPO treaties. However, through hard work, numerous amendments and the assistance of Senators HATCH and LEAHY and their staffs—and this was really a cooperative effort—we were able to fashion a comprehensive approach to updating the copyright laws for the digital age.

Many important changes were made to the bill, including amendments reinforcing on-line privacy rights, ensuring that the bill would not be read to mandate design decisions and addressing the need to update the copyright laws to permit distance education using digital technology.

When I was a professor—I won't want to admit how long ago—I used to teach a television course. The very same procedures I used in analog technology for television transmission might well have been illegal if the TV signal had been transmitted digitally. It is important that we give the capacity for distance education in the digital age the same potential that we had for distance education in the analog age.

I will focus on three important changes, one reflecting each of the three basic problems addressed by the original bill.

First, there is the issue of the liability of on-line service providers. The notion that service providers should not bear the responsibility for copyright infringements when they are solely transmitting the material is one key to the future growth of the Internet. Now, what we are really talking about is if someone illegally transmits material on the Internet, the Internet companies that provide the opportunity for people to transmit the material shouldn't be held responsible any more than the phone company should be held responsible if you were to say something illegal over the phone, or that Xerox should be held responsible if you violate a copyright by illegally copying material on the Xerox machine.

This is very important because of the way the Internet operates in terms of assembling and reassembling digital messages that they not be considered to be an illegal publisher; they, therefore, needed the protections that are provided in this bill so that we can have and continue to use the infrastructure of the Internet and allow it to operate effectively.

Proper resolution of this issue is critical to unlock the potential for the Internet. For that reason, I included a title addressing on-line service provider liability in my legislation. Make no mistake about it, clarification of on-line service provider liability was one of my fundamental concerns in the debate, and after months of negotiations the affected parties were able to agree to legislative language that protects on-line service providers, or what we call the OSPs, from liability when they simply transmit—they are not involved, they don't have any interest in the message, but they are just transmitters. If there is a violation, it is not their fault that something was transmitted in contravention of the copyright law.

Although I applauded the efforts of the affected industries to resolve the OSP liability issue, there was one issue which the industry agreement did not address—the protections that need to be given to users of the Internet. The agreement that the OSPs entered into would have protected the interests of the copyright owners, but it provided little or no protection for an Internet user who was wrongfully accused of violating copyright laws.

I think of a little girl, perhaps, who puts on her Internet site the picture of a duck she draws. We shouldn't allow Disney to say, "We own Donald Duck. That looks too much like Donald," and be able to bully a little girl from having a duck on her web site. We needed protection for the small user, not just for the big content promoters.

Even though several Judiciary Committee members claimed no amendments were needed, I made sure that the industry compromise respected the rights of typical Internet users, ordinary people, by offering an amendment that provided a protection included in the original bill I had offered. It is an idea which is referred to as the "notice and put-back" provision. If material is wrongfully taken down from the Internet user's home page, my amendment ensures that the end user will be given notice of the action taken and gives them a right to initiate a process that allows them to put their material back on line without the need to hire a lawyer or go to court. This was a critical improvement over the industry's prior compromise agreement.

A second concern of mine throughout this process has been the need to update protections for educators and libraries already included in the copyright law to reflect the digital technology. I have already mentioned that. Having been an individual who had the privilege of teaching a college course on television I knew just how important it would be for libraries and educational institutions to be able to use digital transmissions of documents and signals in the same way that they were authorized to do so with analog signals under our copyright law as it has existed.

I did offer an amendment in committee, and it was unanimously incorporated into the bill, which will allow libraries to use digital technology for archiving and for interlibrary loans, for example. This will help libraries serve the American public.

A final issue of profound importance, ensuring that the bill did not inadvertently make it a violation of the Federal law to be a good parent. The original bill or draft of this bill took such a broad approach to outlawing any devices that could be used to gain access to a copyrighted work that it may have made it illegal to manufacture and use devices that were designed to protect children from obscenities and pornography. An amendment I offered in committee makes it clear that a parent may protect his children from pornography without running afoul of this law. I think moms and dads will want to be able to protect their children and shouldn't have to risk running afoul of the law to do so. My own belief is that when moms and dads do their jobs, governing America will be easy. If moms and dads don't do their jobs, governing this country could be impossible. We need to make it possible for parents in every instance to do their job.

The amendment recognizes that devices designed to allow such parental monitoring must be allowed. We should never allow any legislation to move forward that intentionally or unintentionally makes good parenting illegal. When the choice is between protecting our children from obscene material and perhaps allowing one machine to be diverted for unlawful use, Congress and the court should choose the protection of the children every time and then prosecute anyone who makes unlawful use of such machine.

There are a number of individuals who deserve our specific thanks here, and I want to take the time to make sure that deserving individuals and organizations are thanked. I want to take a moment to thank a few particular staff members who labored into the night over and over again and through weekends to put together this legislation. I commend my colleagues Senators HATCH and LEAHY. I want to say that a number of my concerns were accommodated because these members of the Leahy and Hatch staff were so hard-working. Ed Damich and Troy Dow with Senator HATCH were critical to moving forward on all issues, particularly by coordinating the OSP discussions.

Beryl Howell and Marla Grossman of Senator LEAHY's staff were similarly important to the process, particularly in regard to the education provisions and on drafting language for several key areas. I thank the staff. They worked very closely with two of the best staff members that I think work in any arena on Capitol Hill, and that is Bartlett Cleland of my staff and Paul Clement. They worked extremely hard with industry and with other Members of the Senate to craft a piece of legislation which I believe is going to be a tremendous asset in allowing the potential of the Internet to be realized.

Finally, I want to thank all of the individuals representing various industry and education interests who were critical not only in educating me on the myriad of technical issues addressed in this legislation, but were helping in every way to reach agreement when the time came. In the end, this is perhaps not a perfect bill. I would have favored a different approach to some issues. But this is a bill that has become a comprehensive effort to bring the copyright law into the digital age. It is an important piece of legislation which we can work together to make work for America.

Accordingly, I am happy to support this bill. I look forward to its final passage, with appreciation to the outstanding leadership of Senator HATCH and Senator LEAHY in the committee. Working with them has been one of the most gratifying experiences of a process of reaching a conclusion on legislation which I think will advance our opportunity significantly to access the advantages of electronic and digital communication for the entirety of America.

Mr. President, I want to go over some of these notions again and expand the ideas a bit further.

I rise today to speak in favor of one of the most important pieces of technology legislation in the 105th Congress. At its heart, this legislation is about updating the copyright laws for the digital age and preparing a sizable portion of our economy for the next century. The affected parties include the on-line service providers, computer hardware and software manufacturers, educators, students, libraries, consumer electronics manufacturers and consumers, motion picture companies, and everyone who uses the Internet. The full Senate's consideration of this bill culminates an effort at updating our copyright law that I began last September when I introduced S. 1146, the Digital Copyright Clarification and Technology Education Act. S. 1146 was a comprehensive bill designed to jump start a process that had ground to a halt and appeared to be going nowhere. The bill addressed three basic problems: (1) the liability of on-line service providers for copyright violations, (2) the need to update the provisions of the copyright law that affect educators and libraries for the digital age, and (3) the need to implement the World Intellectual Property Organization, or WIPO, treaties. I am gratified that today the full Senate will vote on a bill that addresses all three of these concerns.

The original Administration language that was introduced by Senators HATCH and LEAHY focused exclusively on the WIPO Treaties. However, through hard work, numerous amendments, and the assistance of Senators

HATCH and LEAHY and their staffs, we were able to fashion a comprehensive approach to updating the copyright laws for the digital age.

The bill before the Senate today now addresses all three of the basic problems identified in my bill. First, the notion that service providers should not bear the responsibility for copyright infringements when they are providing a means of communication is a key notion for the future growth and development of digital communications and most importantly the Internet. Resolution of this issue is critical for the future development of the Internet. For that reason, I included a title regarding on-line service provider liability in my legislation. After months of negotiations, the affected parties were able to agree to legislative language that protects on-line service providers, or OSPs, from liability when they simply transmit information along the Internet.

The principles expressed in this legislation will provide a clear path for OSPs to operate without concern for legal ramifications or copyright infringement that may occur in the regular course of the operation of the Internet, or that occur without the OSPs knowledge. Without these issues being clearly delineated we would have faced a future of uncertainty regarding the growth of Internet and potentially whether it could have operated at all. Make no mistake that the clarification of on-line service provider liability was one of my fundamental concerns in this debate. While this was not the only crucial change in the legislation it is a change that I found essential for this legislation to even be considered, which is why Title I of my original legislation was devoted to clearly defining liability.

Although I was supportive of the affected industries' efforts to resolve the OSP liability issues, there was one issue which the industry agreement did not address—what protections would be given the typical users of the Internet. The agreement protected the interests of OSPs, and it protected the interests of copyright owners, but it provided little or no protection for an Internet user wrongfully accused of violating the copyright laws.

The original draft would have left these wrongly injured, innocent users with limited recourse. They would have to hire an attorney and go to court to have the court require the OSP and copyright holder to allow the web page to go back up—in other words the end user would have to go to court to prove their innocence. I found this situation to be totally unacceptable. Even though several Judiciary Committee members claimed that no amendments were needed I made sure that the industry compromise protected the rights of the typical Internet user by offering an amendment that provided protection included my original bill—an idea referred to as notice and put back. If material is wrongly taken down from an Internet user's home page because the original notice mistakenly did not take into account that the Internet user was only making a fair use of the copyrighted work, my amendment ensures that the end-user will be given notice of the action taken, and gives them a right to initiate a process that allows them to put their material back on-line, without the need to hire a lawyer and go to court. This was a critical improvement over the industry's compromise agreement.

Another modification to the OSP liability material was to guarantee that companies, such as Yahoo!, could continue to operate as they have previous to the passage of this legislation. I admire companies that can succeed in the highly competitive technology sector, and Yahoo! has done just that. In no way should Congress discourage true entrepreneurship, particularly when the better "mouse trap" in this case has propelled a company to the top of its market. The safe harbor should not dissipate merely because a service provider viewed a particular online location during the course of categorization for a directory. If the rule were otherwise, true consumer oriented products would be eliminated or discouraged in the marketplace.

Finally, I also insisted on language in the Committee role that recognized that the OSP liability provisions must be applied to educators and libraries with sensitivity to the special nature of those institutions and the unique relationships that exist in those settings. The report also makes it clear that the notice and put-back provision I mentioned above provides all the process that is due, so that state institutions need not worry about having to choose between qualifying for the safe harbors provided in the bill and the requirements imposed by the Due Process Clause.

The second title of my original legislation was dedicated to similar concerns of universities, libraries, schools, educators and students, and ensured that these groups would not be left out when the content providers rushed to secure their position in the digital age. This legislation now includes some of the same provisions. I worked closely with Senator LEAHY, educators, libraries and publishers to guarantee that libraries will be able to update their archives and provide materials to the public in a way that keeps pace with technology.

Additionally, this legislation begins the process to allow distance education in the digital world. We should not tolerate laws that discriminate against technology, instead we should seek to guarantee that what people can do in the analog that they can continue those actions in the digital world. A study will be undertaken to help Congress to sort out the many technological and legal challenges of updating the copyright law regarding distance education. At the beginning of the next Congress I fully expect to introduce legislation specifically on distance education and I understand that both Senators HATCH and LEAHY have agreed to support legislation based on the study conducted by the Copyright Office. In addition, I look forward to working with both the education community and the content community to pass, not block, this important legislation. Distance education is of fundamental importance to Missouri, as it is to most rural states, and of great importance to the many parents who home school their children.

A third portion of the bill addresses the means by which the WIPO treaties will be implemented in the United States, also referred to as section 1201. This issue is of fundamental importance for a vital part of our nation's economy. Piracy is a large and growing problem for many content providers, but particularly to our software industry. Billions of dollars in pirated material is lost every year and in impact is felt directly to our national bottom line.

While the overall structure of the legislation in this part is not the way I would have approached the issue I believe that I have been given enough assurance both in legislative language and in legislative history that I can support the bill. I still find troubling any approach that makes technology the focus of illegality rather than the bad conduct of a bad actor, but with the accommodations that have been given I think that the bill is workable.

One issue of profound importance to me was ensuring that parents continue to have the legal ability to be good parents. The original draft of this bill took such a broad approach to outlawing devices, that it may have inadvertently made it illegal to manufacture and use devices designed to protect children from on-line pornography. The bill, as amended recognizes that certain devices—such as devices that allow parents to protect their children from on-line pornography—must be allowed. An amendment I offered in Committee makes clear that a parent may protect their children from pornography without running afoul of this law. We should never be in the position with any legislation that intentionally or unintentionally makes good parenting illegal. When the choice is between protecting our children from obscene material and perhaps allowing one machine to be diverted for unlawful use, Congress and the courts should choose the protection of children every time.

Additionally, the protection of privacy remains a concern. While the legislation makes some effort to make clear that a person acting to protect their individual privacy should not be liable for or guilty of circumvention some further clarification is needed. One of my primary concerns has been the use of "cookies" and their detrimental impact for on-line privacy. I am not convinced that cookies could not be copyrighted and protected in such a way that getting rid of them or turning them off would not violate the new law. Recently my concern has been proven further by a piece of software developed by Blizzard Entertainment called StarCraft. This software rifles through the player's hard drives and sends the information found back to the company. Again, I was told by some that I should not be concerned, but I will tell you that I am concerned and everyone in this body and in the country should have similar concerns about this or any legislation that without careful thought could create a situation where an individual's privacy is jeopardized. I believe the savings clause I added to the bill will address this problem. However, if that does not prove sufficient, I will introduce legislation to deal with this problem directly and will look forward to working with all the parties that support this bill to ensure passage of such legislation.

One industry that has concerns about this legislation is the encryption industry. I sought to have included in the legislative language a provision to guarantee that the highly successful means for encryption research that are used in this country may continue to be used in the future, despite some of the prohibitions included in this bill. Unfortunately, we were not able to work out any acceptable legislative language. We were able to craft language for the report that made clear that most forms of current encryption research were left undisturbed by the bill. While I believe that this is better than nothing, I understand that there are lingering concerns, and I would certainly support efforts to try to address this issue before the House completes work on this important piece of legislation.

In discussing the anti-circumvention portion of the legislation, I think it is worth emphasizing that I could agree to support the bill's approach of outlawing certain devices because I was repeatedly assured that the device prohibitions in 1201(a)(2) and 1201(b) are aimed at so-called "black boxes" and not at legitimate consumer electronics and computer products that have substantial non-infringing uses. I specifically worked for and achieved changes to the bill to make sure that no court would misinterpret this bill as outlawing legitimate consumer electronics devices or computer hardware. As a result, neither section 1201(a)(2) nor section 1201(b) should be read as outlawing any device with substantial non-infringing uses, as per the tests provided in those sections.

If history is a guide, however, someone may yet try to use this bill as a basis for initiating litigation to stop legitimate new products from coming to market. By proposing the addition of section 1201(d)(2) and (3), I have sought to make clear that any such effort to use the courts to block the introduction of new technology should be bound to fail.

As my colleagues may recall, this wouldn't be the first time someone has tried to stop the advance of new technology. In the mid 1970s, for example, a lawsuit was filed in an effort to block the introduction of the Betamax video recorder. I think it useful to recall what the Supreme Court had to say in ruling for consumers and against two movie studies in that case:

> One may search the Copyright Act in vain for any sign that the elected representatives of the millions of people who watch television every day have made it unlawful to copy a program for later viewing at home, or have enacted a flat prohibition against the sale of machines that make such copying possible.

As Missouri's Attorney General, I had the privilege to file a brief in the Supreme Court in support of the right of consumers to buy that first generation of VCRs. I want to make it clear that I did not come to Washington to vote for a bill that could be used to ban the next generation of recording equipment. I want to reassure consumers that nothing in the bill should be read to make it unlawful to produce and use the next generation of computers or VCRs or whatever future device will render one or the other of these familiar devices obsolete.

Another important amendment was added that makes clear that this law does not mandate any particular selection of components for the design of any technology. I was concerned that this legislation could be interpreted as a mandate on product manufacturers to design products so as to respond affirmatively to effective technical protection measures available in the marketplace. In response to this concern I was pleased to offer an amendment, with the support of both the Chairman and the Ranking Member of the Committee, to avoid the unintended effect of having design requirements imposed on product and component manufacturers, which would have a dampening effect on innovation, and on the research and development of new products. Accordingly, my amendment clarified that product designers need not design consumer electronics, telecommunications, or computing products, nor design and select parts or components for such products, in order to respond to particular technological protection measures.

This amendment reflects my belief that product manufacturers should remain free to design and produce consumer electronics, telecommunications and computing products without the threat of incurring liability for their design decisions under this legislation. Nothing could cause greater disaster and a swifter downfall of our vibrant technology sector than to have the federal government dictating the design of computer chips or mother boards. By way of example, during the course of our deliberations, we were made aware of certain video boards used in personal computers in order to allow consumers to receive television signals on their computer monitors which, in order to transform the television signal from a TV signal to one capable of display on a computer monitor, remove attributes of the original signal that may be associated with certain copy control technologies. I am acutely aware of this particular example because I have one of these video boards on my own computer back in my office. It is quite useful as it allows me to monitor the Senate floor, and occasionally ESPN on those rare occasions when the Senate is not in session. My amendment makes it clear that this legislation does not require that such transformations, which are part of the normal conversion process rather than affirmative attempts to remove or circumvent copy control technologies, fall within the proscriptions of chapter 12 of the copyright law as added by this bill.

Further, concerns were voiced during the Committee's deliberations that because 1201 applies not only to devices but to parts and components of devices, it could be interpreted broadly to sweep in legitimate products such as personal computers and accessories and video and audio recording devices. While the manufacturers of these products were understandably concerned, it was quite apparent to me that it was not the Committee's intention that such useful multipurpose articles of commerce be prohibited by 1201 on the basis that they may have particular parts or components that might, if evaluated separately from such products, fall within the proscriptions of 1201(a)(2) or (b). My amendment adding sections 1201(d)(2) and (3) was intended to address these concerns.

Another issue of concern is that unless product designers are adequately consulted on the design and implementation of technological protection measures and means of preserving copyright management information, such measures may have noticeable and recurring adverse effects on the authorized display or performance of works. Under such circumstances, certain adjustments to specific products may become necessary after sale to a consumer to maintain the normal, authorized functioning of such products. Such adjustments, when made solely to mitigate the adverse effects of the measure on the normal, authorized operation of a manufacturer's product, device, component, or part thereof, would not, in my view, constitute conduct that would fall within the proscriptions of this legislation.

The problems described may occur at a more fundamental level—with noticeable and recurring adverse effects on the normal operation of products that are being manufactured and sold to consumers. The best way to avoid this problem is for companies and industries to work together to seek to avoid such problems to the maximum extent possible. I am pleased to note that multi-industry efforts to develop copy control technologies that are both effective and avoid such noticeable and recurring adverse effects have been underway over the past two years in relation to certain copy protection measures. I join my colleagues in strongly encouraging the continuation of these efforts, since, in my view, they offer substantial benefits to copyright owners who add so much to the economy and who obviously want devices that do not interfere with the other normal operations of affected products.

The truth of the matter is that Congress ought to operate contemporaneously with industry to solve problems. Anytime the affected industries beat government to the solution they ought to be praised. In many respects I invite the private sector to be there first and get it done well. If they are there first, they will often solve the problem. Even when they cannot solve the problem, the private sector problem solving process will at least narrow the issues for the government to address. Getting a law passed is very difficult, getting it changed is sometimes even more difficult, and so relying on government really elevates the need to have no garbage in, to result in the right output.

I would encourage the content community and the device and hardware manufacturers to work together to avoid situations in which effective technological measures and copyright management information affect display quality. There is no reason why the interested parties cannot resolve these issues to ensure both optimal protection of content and optimal picture quality. To the extent that a particular technological protection measure or means of applying or embedding copyright management information to or in a work is designed and deployed into the marketplace without adequate consultation with potentially affected manufacturers, the proprietor of such a measure or means and those copyright owners using it must be aware that product adjustments by a manufacturer to avoid noticeable and recurring adverse effects on the normal, authorized operation of affected products are foreseeable, legitimate and commercially necessary. Such actions by manufacturers may not, therefore, be proscribed by this chapter.

Again, several individuals and organizations deserve thanks from everyone involved in this debate. I want to take a moment to thank those few particular staff who labored into the night and over weekends to put together this legislation and to accommodate some of my concerns. Ed Damich and Troy Dow with Senator HATCH's office were critical to moving forward on all issues particularly by coordinating the OSP discussions. Beryl Howell and Marla Grossman were similarly important to the process particularly in regards to the education provisions and on drafting language for several key areas. I would like to thank all of the individuals representing various industry and educational interests who were critical not only in educating me on the myriad issues but also on copyright law in general. Finally, I would again like to thank the members of my own staff, Bartlett Cleland and Paul Clement who worked so well to produce a piece of legislation that could guide this country to a digital future.

In the end, this is not a perfect bill. I would have favored a different approach to some issues. However, this bill is an important step forward in bringing the copyright law into the digital age. I am happy to support this bill and look forward to its final passage.

Mr. KOHL. Mr. President, I rise to express my support for the Digital Millennium Copyright Act of 1998. In my view, we need this measure to stop an epidemic of illegal copying of protected works—such as movies, books, musical recordings, and software. The copyright industry is one of our most thriving businesses. But we still lose more than $15 billion each year due to foreign copyright piracy, according to some estimates.

This foreign piracy is out of control. For example, one of my staffers investigating video piracy on a trip to China walked into a Hong Kong arcade and bought three bootlegged computer games—including "Toy Story" and "NBA '97"—for just $10. These games normally sell for about $100. Indeed, the manager was so brazen about it, he even agreed to give a receipt.

Illegal copying has been a longstanding concern to me. I introduced one of the precursors to this bill, the Motion Picture Anti-Piracy Act, which in principle has been incorporated into this measure. And I was one of the original cosponsors of the original proposed WIPO implementing legislation, the preliminary version of this measure.

In my opinion, this bill achieves a fair balance by taking steps to effectively deter piracy, while still allowing fair use of protected materials. It is the product of intensive negotiations between all of the interested parties—including the copyright industry, telephone companies, libraries, universities and device manufacturers. And every major concern raised during that process was addressed. For these reasons, it earned the unanimous support of the Judiciary Committee.

I am confident that this bill has the best approach for stopping piracy and strengthening one of our biggest export industries. It deserves our support. Thank you.

Mr. GRASSLEY. Mr. President, I wanted to make a few brief remarks on S. 2037, the Digital Millennium Copyright Act of 1998, which would implement the World Intellectual Property Organization treaties. The amendments adopted in Committee make some significant improvements to the original bill. For example, the bill now includes provisions clarifying educational institution and library liability and use exemptions, as well as provisions dealing with distance learning. The Committee also adopted provisions addressing concerns regarding pornography and privacy. Further, I worked with Senator KYL to make sure that our law enforcement and intelligence people are able to carry out their duties in the best, and most effective, manner possible.

It was important to me that the bill be clarified to ensure that parents are not prohibited from monitoring, or limiting access to, their children in regard to pornography and other indecent material on the Internet. I don't believe anyone wants to restrict parents' rights to take care of their children, or to take away tools that might be helpful for parents to ensure that their kids aren't accessing sites containing pornography. The interests of the copyright owners had to be balanced with the needs of consumers and families. I think that the Committee made a significant improvement to the bill in defense of this important protection for our families.

Also, the Committee worked on changes which protect individuals' right to privacy on the Internet. I've heard concerns about software programs, probes, contaminants and "cookies," and how they obtain personal and confidential information on Internet users and then convey it to companies for commercial purposes, sometimes without the users even knowing that this is happening. Even if users are aware a "cookie" or one of these other techniques has been sent to them, I think we'd all agree that Internet users should have a choice on whether to give up their personal information or not. While some argue that this is a non-issue because "cookies" and "cookie-cutting" do not violate the provisions of the bill, I've heard otherwise. In fact, I've heard about a case where a computer game company admitted that it surreptitiously collected personal information from users' computers when they were playing the game via the Internet. So I was not convinced that there did not need to be a clarification in the bill on this subject. The intent behind the bill is now clear that an Internet user can protect his or her privacy by disabling programs that transmit information on that user to other parties, or by utilizing software programs like "cookie-cutters" to do this.

I'd also like to make a few remarks on the clarification Senator KYL and I worked on dealing with the law enforcement exceptions in the bill. The changes Senator KYL and I made substantially improve the bill's language by making it clear that the exceptions will protect officers, agents, employees, or contractors of, or other persons acting at the direction of, a law enforcement or intelligence agency of the United States, a State, or a political subdivision of a State, who are performing lawfully authorized investigative, protective, or intelligence activities. Further, the bill's language was clarified to indicate that the exceptions also apply to officers, agents, employees, or contractors of, or other persons acting at the direction of, any element or division of an agency or department of the United States, a State, or a political subdivision of a State, which does not have law enforcement or intelligence as its primary function, when those individuals are performing lawfully authorized investigative, protective, or intelligence activities. I'd like to note that the Committee report makes clear that these exceptions only apply when the individuals are performing these activities within the scope of their duties and in furtherance of lawfully authorized activities. Our law enforcement and intelligence people must have the opportunity and the tools to carry out their duties effectively. This language was crafted with the input and support of representatives from the law enforcement community, the Administration, as well as the content providers and other parties. I'd like to especially thank Senator KYL and his fine staff for their hard work on this important clarification to the bill.

I want to thank Senator ASHCROFT and his staff for all the hard work and long hours they put into this difficult negotiations process to improve this bill. Their efforts in working for a balance of interests in the bill are to be commended. I'd also like to thank Chairman HATCH and Senator LEAHY, and their staffs, for their hard work on the bill.

Mrs. BOXER. Mr. President I am proud to support the Digital Millennium Copyright Act (DMCA) of 1998 which I believe is an important step in the evolution of international digital commerce. The DMCA accomplishes two important goals—it implements the World Intellectual Property Organization Copyright Treaty and the World Intellectual Property Organization Performances and Phonograms Treaty. Both treaties include provisions that respond to the challenges of digital technology.

Although the treaties contain little that is not already covered by U.S. law, the treaties will provide U.S. copyright holders the worldwide protections they need and deserve. In addition, the treaties will go along way towards standardizing international copyright practice.

Intellectual property, including copyright, is an integral part of the U.S. economy. The core copyright industries accounted for $238.6 billion in value added to the U.S. economy, accounting for approximately 3.74 percent of the Gross Domestic Product. In addition, between 1977 and 1993, employment in the core copyright industries doubled to 3 million workers, about 2.5 percent of total U.S. employment. The copyright industries contribute more to the U.S. economy and employ more workers than any single manufacturing sector including aircraft, textiles and apparels or chemicals.

Intellectual property is a particularly integral part of the economy of my home state of California. California is the leading producer of movies, computer software, recordings, video games, and other creative works. California's movie and television industries employed approximately 165,000 Californians in 1995 and the combined payroll of those industries was $7.4 billion. Similarly, the California pre-packaged computer software industry employs more than 25,000 Californians.

Finally Mr. President, I want to note the importance of this bill to Online Service Providers (OSPs) and to Internet Service Providers (ISPs). I believe it is important to update our copyright laws to comport with the digital electronic age in which we now operate. This bill appropriately balances the interests of copyright holders and OSPs/ISPs. It ensures that creative works receive the protection they deserve while also assuring that OSPs/ISPs are not held liable for unknowingly posting infringing material or for merely providing the physical facilities used to upload infringing material.

I think this is a good bill, a balanced and fair bill, and I am proud to support it.

Mr. THOMPSON. Mr. President, I am pleased to support S. 2037, the Digital Millennium Copyright Act. This legislation implementing the World Intellectual Property Organization Treaty, is of vital importance to the American economy.

No nation benefits more from the protection of intellectual property than the United States. We lead the world in the production and export of intellectual property, including the many forms of artistic intellectual property and computer software. These industries are among the fastest growing employers in our country. When the owners of intellectual property are not fairly compensated, that hurts Americans and it decreases incentives for creating additional intellectual property that educates, entertains, and does business for us.

New technology creates exciting opportunities for intellectual property, but the digital environment also poses threats to this form of property. Unscrupulous copyright violators can use the Internet to more widely distribute copyrighted material without permission. To maintain fair compensation to the owners of intellectual property, a regime for copyright protection in the digital age must be created. Technology to protect access to copyrighted work must be safeguarded. Copyright management information that identifies the copyright owner and the terms and conditions of use of the copyrighted material must be secured.

There are new issues with respect to copyright in the digital age that never were issues before. The bill addresses such issues as on-line service provider liability in a way that is fair to all parties. And it governs a number of other issues that have been accommodated in the new era.

Passage of this bill is important if American intellectual property is to be protected in other countries. I was pleased to be an original co-sponsor of the initial bill, and to have supported the bill in the Judiciary Committee and now on the floor. I strongly support its enactment.

Mrs. FEINSTEIN. Mr. President, it is with great pleasure that I rise today to speak on passage of S. 2037, the Digital Millennium Copyright Act. This Act implements two treaties adopted by the World Intellectual Property Organization, or WIPO, in December, 1996—the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

Passage of this important legislation will clear the way for ratification of these treaties, which are in the paramount interest of the United States—and of the State of California, in particular. These treaties are intended to ensure that foreign countries give intellectual property to the same high level of protection that we afford it here in the U.S.

The United States is the world's leader in intellectual property, the home of the most creative and dynamic individuals and enterprises in the world—the majority of whom are located in California. This industry constitutes a very important sector of the U.S. economy, and contributes greatly to our global economic position: American creative industries grew twice as fast as the rest of the U.S. economy from 1987–94; more than 3 million Americans worked in the core copyright industries as of 1994; exports of U.S. intellectual property were more than $53 billion in 1995;

and the Business Software Alliance reports that 50–60 percent of its revenues come from overseas.

It is vital that we do everything we can to protect and defend this important sector of the economy from foreign piracy, especially in this new digital age, when the potential exists for thousands of absolutely perfect, priated copies of American intellectual property to be made almost instantly, at the tough of a button: American copyright owners lose $15 billion in overseas sales to piracy every year; the digital gaming industry loses $3.2 billion per year to priacy—almost one-third of its $10.1 billion annual sales; and the recording industry's domestic business is flat and they need a strong export market for sales growth.

Indeed, some countries, such as Argentina, have said that computer programs aren't even protected by copyright; ratifying WIPO will ensure that they are. Foreign countries have been waiting for the U.S., as the world's largest producer of intellectual property, to take the lead in WIPO ratification before the ratify the WIPO treaty, so this is an important step we are taking today.

The bill which we crafted in the Judiciary Committee is a truly impressive achievement. We worked together with a plethora of diverse industries, academic interests, and law enforcement to forge a bill which advances everybody's interest.

Title I of the bill implements the WIPO treaties, and outlaws so-called "black boxes": devices designed to accomplish the perfect digital piracy which I have mentioned. By protecting against this piracy and paving the way for ratification of the WIPO treaties, this title provides immense help to America's creative industries, including authors, composers, publishers, performers, movie-makers, the recording industry, and the software industry.

Title II of the bill provides for protection from copyright infringement liability for on-line service providers who act responsibly. This title provides much-desired protection for on-line service providers, such as Yahoo! from my State of California, telecommunications companies, and educational institutions.

Title II includes a provision which I authored, section 204 of the bill, which requires the Copyright Office to take a comprehensive look at the issue of the liability of schools and universities for the acts of their students and faculty who may use their network to post infringing materials, and to make recommendations for legislation.

Among the factors which the Copyright Office is to consider are: What is the direct, vicarious, and contributory liability of universities for infringement by: faculty, administrative employees, students, graduate students, and students who are employed by the university.

What other users of university computers universities may be responsible for; the unique nature of the relationship between universities and faculty; what policies should universities adopt regarding copyright infringement by university computer users; what technological measures are available to monitor infringing uses; what monitoring of the computer system by universities is appropriate; what due process should the universities afford in disabling access by allegedly infringing computer users; should distinctions be drawn between open computer systems, closed computer systems, and open systems with password-protected parts; and taking into account the tradition of academic freedom.

I want to thank the Chairman, Senator HATCH, and the Ranking Member, Senator LEAHY, for working with me on this provision.

It is my hope and expectation that copyright content providers and the educational community will get together and work cooperatively to address these issues during the course of the Copyright Office study.

Title III of the bill ensures that computer maintenance and repair providers will not be found liable for copyright infringement for performing their ordinary services.

Title IV of the bill provides additional copyright exemptions for libraries, archives and broadcasters, and another study, of distance learning, which could benefit educational institutions.

So this bill helps an incredibly broad spectrum of American interests: authors, telecommunications, universities, computer makers, movies, software, broadcasters, and on and on. No small number of these industries are centered or have very substantial presence in, and immense importance to the economy of, my state of California.

Thus, it is with great pleasure that I applaud the passage of this legislation, and urge the House to protect America's economy and rapidly pass it as well.

Mr. KYL. Mr. President: I rise today to speak about a section in the Digital Millennium Copyright Act that I am particularly proud of, and that is the law enforcement exception in the bill. At the Judiciary Committee mark-up, Senator GRASSLEY and I, along with the assistance of Chairman HATCH and Senator ASHCROFT worked to strengthen the law enforcement exception in the bill. We received input on the language from the copyright community and the administration: the National Security Agency (NSA), the Central Intelligence Agency (CIA), the Departments of Commerce and Justice, and the Office of Management and Budget (OMB).

The law enforcement exception ensures that the government continues to have access to current and future technologies to assist in their investigative, protective, or intelligence activities. I am concerned that the tools and resources of our intelligence and law enforcement communities are preserved—and more importantly, not limited, by passage of S. 2037. Under this bill, a company who contracts with the government can continue to develop encryption/decryption devices under that contract, without having to worry about criminal penalties.

Because much of our leading technologies come from the private sector, the government needs to have access to this vital resource for intelligence and law enforcement purposes.

The law enforcement exception recognizes that oftentimes governmental agencies work with non-governmental entities—companies, in order to have access to and develop cutting edge technologies and devices. Such conduct should not be prohibited or impeded by this copyright legislation.

Mr. BIDEN. Mr. President, I commend my colleagues for their hard work on this legislation—which implements the two world intellectual property organization copyright treaties adopted by the 1996 Geneva diplomatic conference.

As is the practice on such intellectual property matters, we are first seeking to pass the implementing legislation. This, I believe, will pave the way for the Foreign Relations Committee—and the full Senate—to ratify the treaties, which the administration submitted last July.

The WIPO treaties and the implementing legislation will update intellectual property law to deal with the explosion of the Internet and other forms of electronic communications. Delegates from the United States and 160 other member nations agreed to give authors of "literary and artistic works," including books, computer programs, films, and sound recordings, the exclusive right to sell or otherwise make their work available to the public.

The treaties give tougher international protection to software makers and the recording industry—the U.S. Government's biggest goal. The U.S. wanted—and got—tough international protection for sound recordings in order to stop pirating of music compact discs overseas. The treaties protect literary and artistic works from digital copying, but do not make it illegal to use the Internet in the normal way.

To give a concrete example of what passage and implementation of the WIPO treaties will mean—before the treaty it was illegal to photocopy the contents of an entire book or copy a videotape without permission, but it was not clear whether it was illegal to e-mail copies of a digital book or movie to 500 friends all over the world. Passage of this bill and the WIPO treaties will ensure that both will be illegal—both domestically and overseas.

I am pleased that this bill contains provisions to clarify the actions Internet service providers—as well as libraries and educational institutions—will be legally required to take when confronted with evidence of copyright violations by users of their services.

I am also pleased that this bill contains language intended to preserve the ability of consumer electronics manufacturers—and computer manufacturers and software developers—to continue research and development of innovative devices and hardware products.

These provisions in my view strike an appropriate balance between the rights of copyright holders and the need to encourage continuing expansion of access to digital information to greater numbers of users throughout the world.

Therefore, I commend my Judiciary Committee colleagues for their hard work on this bill and I look forward to its passage by the Congress.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, we are prepared to yield back the remainder of our time. First, I understand that the Senator from Illinois would like up to 2 minutes. We will yield that time to him, and then we will yield the remainder of the time and go to a vote.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, many good reasons have been stated on the floor for the passage of this important legislation. I hold in my hand convincing evidence. It is an unsolicited e-mail sent to my Senate computer a few weeks ago. It boasts that they will offer for me to purchase 500 different bootleg video games from a person who says in this solicitation, "All the games I sell are pirated. I do not sell originals." This business is operating across the United States, Canada, England, Australia, and claims to trade copies made in Hong Kong.

When you think of the importance of intellectual property to America's exports and the importance of this business in terms of the United States and the world, it is clear that we need this legislation to stop this type of flagrant abuse, which I received and I am sure many others could receive if they surf the Internet.

I commend Senators HATCH, LEAHY, ASHCROFT, and so many others. I urge its unanimous passage and yield the remainder of my time.

Mr. HATCH. Mr. President, on behalf of Senator LEAHY and myself, I yield the remainder of our time. The yeas and nays have been ordered.

The PRESIDING OFFICER. All time having been yielded, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is on passage of the bill, as amended. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. GREGG) is necessarily absent.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Gregg

The bill (S. 2037), as amended, was passed, as follows:

S. 2037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Digital Millennium Copyright Act of 1998".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—WIPO TREATIES IMPLEMENTATION

Sec. 101. Short title.
Sec. 102. Technical amendments.
Sec. 103. Copyright protection systems and copyright management information.
Sec. 104. Conforming amendment.
Sec. 105. Effective date.

TITLE II—INTERNET COPYRIGHT INFRINGEMENT LIABILITY

Sec. 201. Short title.
Sec. 202. Limitations on liability for Internet copyright infringement.
Sec. 203. Conforming amendment.
Sec. 204. Liability of educational institutions for online infringement of copyright.
Sec. 205. Effective date.

TITLE III—COMPUTER MAINTENANCE OR REPAIR

Sec. 301. Limitation on exclusive rights; computer programs.

TITLE IV—EPHEMERAL RECORDINGS; DISTANCE EDUCATION; EXEMPTION FOR LIBRARIES AND ARCHIVES

Sec. 401. Ephemeral recordings.
Sec. 402. Limitations on exclusive rights; distance education.
Sec. 403. Exemption for libraries and archives.

TITLE I—WIPO TREATIES IMPLEMENTATION

SEC. 101. SHORT TITLE.

This title may be cited as the "WIPO Copyright and Performances and Phonograms Treaties Implementation Act of 1998".

SEC. 102. TECHNICAL AMENDMENTS.

(a) Section 101 of title 17, United States Code, is amended—

(1) by deleting the definition of "Berne Convention work";

(2) in the definition of "The 'country of origin' of a Berne Convention work", by deleting "The 'country of origin' of a Berne Convention work,", capitalizing the first letter of the word "for", deleting "is the United States" after "For purposes of section 411,", and inserting "a work is a 'United States work' only" after "For purposes of section 411,";

(3) in paragraph (1)(B) of the definition of "The 'country of origin' of a Berne Convention work", by inserting "treaty party or parties" and deleting "nation or nations adhering to the Berne Convention";

(4) in paragraph (1)(C) of the definition of "The 'country of origin' of a Berne Convention work", by inserting "is not a treaty party" and deleting "does not adhere to the Berne Convention";

(5) in paragraph (1)(D) of the definition of "The 'country of origin' of a Berne Convention work", by inserting "is not a treaty party" and deleting "does not adhere to the Berne Convention";

(6) in subsection (3) of the definition of "The 'country of origin' of a Berne Convention work", by deleting "For the purposes of section 411, the 'country of origin' of any other Berne Convention work is not the United States.";

(7) after the definition for "fixed", by inserting "The 'Geneva Phonograms Convention' is the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, concluded at Geneva, Switzerland on October 29, 1971.";

(8) after the definition for "including", by inserting "An 'international agreement' is—

"(1) the Universal Copyright Convention;

"(2) the Geneva Phonograms Convention;

"(3) the Berne Convention;

"(4) the WTO Agreement;

"(5) the WIPO Copyright Treaty;

"(6) the WIPO Performances and Phonograms Treaty; and

"(7) any other copyright treaty to which the United States is a party.";

(9) after the definition for "transmit", by inserting "A 'treaty party' is a country or intergovernmental organization other than the United States that is a party to an international agreement.";

(10) after the definition for "widow", by inserting "The 'WIPO Copyright Treaty' is the WIPO Copyright Treaty concluded at Geneva, Switzerland, on December 20, 1996.";

(11) after the definition for "The 'WIPO Copyright Treaty', by inserting "The 'WIPO Performances and Phonograms Treaty' is the

WIPO Performances and Phonograms Treaty concluded at Geneva, Switzerland on December 20, 1996."; and

(12) by inserting, after the definition for "work for hire", "The 'WTO Agreement' is the Agreement Establishing the World Trade Organization entered into on April 15, 1994. The terms 'WTO Agreement' and 'WTO member country' have the meanings given those terms in paragraphs (9) and (10) respectively of section 2 of the Uruguay Round Agreements Act.".

(b) Section 104 of title 17, United States Code, is amended—

(1) in subsection (b)(1), by deleting "foreign nation that is a party to a copyright treaty to which the United States is also a party" and inserting "treaty party";

(2) in subsection (b)(2) by deleting "party to the Universal Copyright Convention" and inserting "treaty party";

(3) by renumbering the present subsection (b)(3) as (b)(5) and moving it to its proper sequential location and inserting a new subsection (b)(3) to read:

"(3) the work is a sound recording that was first fixed in a treaty party; or";

(4) in subsection (b)(4) by deleting "Berne Convention work" and inserting "pictorial, graphic or sculptural work that is incorporated in a building or other structure, or an architectural work that is embodied in a building and the building or structure is located in the United States or a treaty party";

(5) by renumbering present subsection (b)(5) as (b)(6);

(6) by inserting a new subsection (b)(7) to read:

"(7) for purposes of paragraph (2), a work that is published in the United States or a treaty party within thirty days of publication in a foreign nation that is not a treaty party shall be considered first published in the United States or such treaty party as the case may be."; and

(7) by inserting a new subsection (d) to read:

"(d) Effect of Phonograms Treaties.—Notwithstanding the provisions of subsection (b), no works other than sound recordings shall be eligible for protection under this title solely by virtue of the adherence of the United States to the Geneva Phonograms Convention or the WIPO Performances and Phonograms Treaty.".

(c) Section 104A(h) of title 17, United States Code, is amended—

(1) in paragraph (1), by deleting "(A) a nation adhering to the Berne Convention or a WTO member country; or (B) subject to a Presidential proclamation under subsection (g)," and inserting—

"(A) a nation adhering to the Berne Convention;

"(B) a WTO member country;

"(C) a nation adhering to the WIPO Copyright Treaty;

"(D) a nation adhering to the WIPO Performances and Phonograms Treaty; or

"(E) subject to a Presidential proclamation under subsection (g)";

(2) paragraph (3) is amended to read as follows:

"(3) the term 'eligible country' means a nation, other than the United States that—

"(A) becomes a WTO member country after the date of enactment of the Uruguay Round Agreements Act;

"(B) on the date of enactment is, or after the date of enactment becomes, a nation adhering to the Berne Convention;

"(C) adheres to the WIPO Copyright Treaty;

"(D) adheres to the WIPO Performances and Phonograms Treaty; or

"(E) after such date of enactment becomes subject to a proclamation under subsection (g).";

(3) in paragraph (6)(C)(iii), by deleting "and" after "eligibility";

(4) at the end of paragraph (6)(D), by deleting the period and inserting "; and";

(5) by adding the following new paragraph (6)(E):

"(E) if the source country for the work is an eligible country solely by virtue of its adherence to the WIPO Performances and Phonograms Treaty, is a sound recording.";

(6) in paragraph (8)(B)(i), by inserting "of which" before "the majority" and striking "of eligible countries"; and

(7) by deleting paragraph (9).

(d) Section 411 of title 17, United States Code, is amended—

(1) in subsection (a), by deleting "actions for infringement of copyright in Berne Convention works whose country of origin is not the United States and"; and

(2) in subsection (a), by inserting "United States" after "no action for infringement of the copyright in any".

(e) Section 507(a) of title 17, United States Code, is amended by adding at the beginning, "Except as expressly provided elsewhere in this title,".

SEC. 103. COPYRIGHT PROTECTION SYSTEMS AND COPYRIGHT MANAGEMENT INFORMATION.

Title 17, United States Code, is amended by adding the following new chapter:

"CHAPTER 12—COPYRIGHT PROTECTION AND MANAGEMENT SYSTEMS

"Sec.
"1201. Circumvention of copyright protection systems.
"1202. Integrity of copyright management information.
"1203. Civil remedies.
"1204. Criminal offenses and penalties.
"1205. Savings Clause.

"§1201. Circumvention of copyright protection systems

"(a) Violations Regarding Circumvention of Technological Protection Measures.—(1) No person shall circumvent a technological protection measure that effectively controls access to a work protected under this title.

"(2) No person shall manufacture, import, offer to the public, provide or otherwise traffic in any technology, product, service, device, component, or part thereof that—

"(A) is primarily designed or produced for the purpose of circumventing a technological protection measure that effectively controls access to a work protected under this title;

"(B) has only limited commercially significant purpose or use other than to circumvent a technological protection measure that effectively controls access to a work protected under this title; or

"(C) is marketed by that person or another acting in concert with that person with that person's knowledge for use in circumventing a technological protection measure that effectively controls access to a work protected under this title.

"(3) As used in this subsection—

"(A) to 'circumvent a technological protection measure' means to descramble a scrambled work, to decrypt an encrypted work, or otherwise to avoid, bypass, remove, deactivate, or impair a technological protection measure, without the authority of the copyright owner; and

"(B) a technological protection measure 'effectively controls access to a work' if the measure, in the ordinary course of its operation, requires the application of information, or a process or a treatment, with the authority of the copyright owner, to gain access to the work.

"(b) Additional Violations.—(1) No person shall manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof that—

"(A) is primarily designed or produced for the purpose of circumventing protection afforded by a technological protection measure that effectively protects a right of a copyright owner under this title in a work or a portion thereof;

"(B) has only limited commercially significant purpose or use other than to circumvent protection afforded by a technological protection measure that effectively protects a right of a copyright owner under this title in a work or a portion thereof; or

"(C) is marketed by that person or another acting in concert with that person with that person's knowledge for use in circumventing protection afforded by a technological protection measure that effectively protects a right of a copyright owner under this title in a work or a portion thereof.

"(2) As used in this subsection—

"(A) to 'circumvent protection afforded by a technological protection measure' means avoiding, bypassing, removing, deactivating, or otherwise impairing a technological protection measure; and

"(B) a technological protection measure 'effectively protects a right of a copyright owner under this title' if the measure, in the ordinary course of its operation, prevents, restricts, or otherwise limits the exercise of a right of a copyright owner under this title.

"(c) Other Rights, Etc., Not Affected.—(1) Nothing in this section shall affect rights, remedies, limitations, or defenses to copyright infringement, including fair use, under this title.

"(2) Nothing in this section shall enlarge or diminish vicarious or contributory liability for copyright infringement in connection with any technology, product, service, device, component or part thereof.

"(3) Nothing in this section shall require that the design of, or design and selection of parts and components for, a consumer electronics, telecommunications, or computing product provide for a response to any particular technological protection measure, so long as such part or component or the product, in which such part or component is integrated, does not otherwise fall within the prohibitions of subsection (a)(2) or (b)(1).

"(d) Exemption for Nonprofit Libraries, Archives, and Educational Institutions.—(1) A nonprofit library, archives, or educational institution which gains access to a commercially exploited copyrighted work solely in order to make a good faith determination of whether to acquire a copy of that work for the sole purpose of engaging in conduct permitted under this title shall not be in violation of subsection (a)(1). A copy of a work to which access has been gained under this paragraph—

"(A) may not be retained longer than necessary to make such good faith determination; and

"(B) may not be used for any other purpose.

"(2) The exemption made available under paragraph (1) shall only apply with respect to a work when an identical copy of that work is not reasonably available in another form.

"(3) A nonprofit library, archives, or educational institution that willfully for the purpose of commercial advantage or financial gain violates paragraph (1)—

"(A) shall, for the first offense, be subject to the civil remedies under section 1203; and

"(B) shall, for repeated or subsequent offenses, in addition to the civil remedies under section 1203, forfeit the exemption provided under paragraph (1).

"(4) This subsection may not be used as a defense to a claim under subsection (a)(2) or (b), nor may this subsection permit a nonprofit library, archives, or educational institution to manufacture, import, offer to the public, provide, or otherwise traffic in any technology which circumvents a technological protection measure.

"(5) In order for a library or archives to qualify for the exemption under this subsection, the collections of that library or archives shall be—

"(A) open to the public; or

"(B) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field.

"(e) Law Enforcement and Intelligence Activities.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of an officer, agent or employee of the United States, a State, or a political subdivision of a State, or a person acting pursuant to a contract with such entities.

"(f) Notwithstanding the provisions of subsection (a)(1), a person who has lawfully obtained the right to use a copy of a computer program may circumvent a technological protection measure that effectively controls access to a particular portion of that program for the sole purpose of identifying and analyzing those elements of the program that are necessary to achieve interoperability of an independently created computer program with other programs, and that have not previously been readily available to the person engaging in the circumvention, to the extent any such acts of identification and analysis do not constitute infringement under this title.

"(g) Notwithstanding the provisions of subsections (a)(2) and (b), a person may develop and employ technological means to circumvent for the identification and analysis described in subsection (f), or for the limited purpose of achieving interoperability of an independently created computer program with other programs, where such means are necessary to achieve such interoperability, to the extent that doing so does not constitute infringement under this title.

"(h) The information acquired through the acts permitted under subsection (f), and the means permitted under subsection (g), may be made available to others if the person referred to in subsections (f) or (g) provides such information or means solely for the purpose of achieving interoperability of an independently created computer program with other programs, and to the extent that doing so does not constitute infringement under this title, or violate applicable law other than this title.

"(i) For purposes of subsections (f), (g), and (h), the term "interoperability" means the ability of computer programs to exchange information, and for such programs mutually to use the information which has been exchanged.

"(j) In applying subsection (a) to a component or part, the court may consider the necessity for its intended and actual incorporation in a technology, product, service or device, which (i) does not itself violate the provisions of this chapter and (ii) has the sole purpose to prevent the access of minors to material on the Internet.

"§ 1202. Integrity of copyright management information

"(a) False Copyright Management Information.—No person shall knowingly and with the intent to induce, enable, facilitate or conceal infringement—

"(1) provide copyright management information that is false, or

"(2) distribute or import for distribution copyright management information that is false.

"(b) Removal or Alteration of Copyright Management Information.—No person shall, without the authority of the copyright owner or the law—

"(1) intentionally remove or alter any copyright management information,

"(2) distribute or import for distribution copyright management information knowing that the copyright management information has been removed or altered without authority of the copyright owner or the law, or

"(3) distribute, import for distribution, or publicly perform works, copies of works, or phonorecords, knowing that copyright management information has been removed or altered without authority of the copyright owner or the law,

knowing, or, with respect to civil remedies under section 1203, having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of any right under this title.

"(c) Definition.—As used in this chapter, 'copyright management information' means the following information conveyed in connection with copies or phonorecords of a work or performances or displays of a work, including in digital form—

"(1) the title and other information identifying the work, including the information set forth on a notice of copyright;

"(2) the name of, and other identifying information about, the author of a work;

"(3) the name of, and other identifying information about, the copyright owner of the work, including the information set forth in a notice of copyright;

"(4) with the exception of public performances of works by radio and television broadcast stations the name of, and other identifying information about, a performer whose performance is fixed in a work other than an audiovisual work;

"(5) with the exception of public performances of works by radio and television broadcast stations, in the case of an audiovisual work, the name of, and other identifying information about, a writer, performer, or director who is credited in the audiovisual work;

"(6) terms and conditions for use of the work;

"(7) identifying numbers or symbols referring to such information or links to such information; or

"(8) such other information as the Register of Copyrights may prescribe by regulation, except that the Register of Copyrights may not require the provision of any information concerning the user of a copyrighted work.

"(d) Law Enforcement and Intelligence Activities.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting pursuant to a contract with such entities.

"(e) Limitations on Liability.—

"(1) Analog transmissions.—In the case of an analog transmission, a person who is making transmissions in its capacity as a radio or television broadcast station, or as a cable system, or someone who provides programming to such station or system, shall not be liable for a violation of subsection (b) if—

"(A) avoiding the activity that constitutes such violation is not technically feasible or would create an undue financial hardship on such person; and

"(B) such person did not intend, by engaging in such activity, to induce, enable, facilitate or conceal infringement.

"(2) Digital transmissions.—

"(A) If a digital transmission standard for the placement of copyright management information for a category of works is set in a voluntary, consensus standard-setting process involving a representative cross-section of radio or television broadcast stations or cable systems and copyright owners of a category of works that are intended for public performance by such stations or systems, a person identified in subsection (e)(1) shall not be liable for a violation of subsection (b) with respect to the particular copyright management information addressed by such standard if—

"(i) the placement of such information by someone other than such person is not in accordance with such standard; and

"(ii) the activity that constitutes such violation is not intended to induce, enable, facilitate or conceal infringement.

"(B) Until a digital transmission standard has been set pursuant to subparagraph (A) with respect to the placement of copyright management information for a category or works, a person identified in subsection (e)(1) shall not be liable for a violation of subsection (b) with respect to such copyright management information, where the activity that constitutes such violation is not intended to induce, enable, facilitate or conceal infringement, if—

"(i) the transmission of such information by such person would result in a perceptible visual or aural degradation of the digital signal; or

"(ii) the transmission of such information by such person would conflict with—

"(I) an applicable government regulation relating to transmission of information in a digital signal;

"(II) an applicable industry-wide standard relating to the transmission of information in a digital signal that was adopted by a voluntary consensus standards body prior to the effective date of this section; or

"(III) an applicable industry-wide standard relating to the transmission of information in a digital signal that was adopted in a voluntary, consensus standards-setting process open to participation by a representative cross-section of radio or television broadcast stations or cable systems and copyright owners of a category of works that are intended for public performance by such stations or systems.

"§ 1203. Civil remedies

"(a) Civil Actions.—Any person injured by a violation of section 1201 or 1202 may bring a civil action in an appropriate United States district court for such violation.

"(b) Powers of the Court.—In an action brought under subsection (a), the court—

"(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain a violation;

"(2) at any time while an action is pending, may order the impounding, on such terms as it deems reasonable, of any device or product that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation;

"(3) may award damages under subsection (c);

"(4) in its discretion may allow the recovery of costs by or against any party other than the United States or an officer thereof;

"(5) in its discretion may award reasonable attorney's fees to the prevailing party; and

"(6) may, as part of a final judgment or decree finding a violation, order the remedial modification or the destruction of any device or product involved in the violation that is in the custody or control of the violator or has been impounded under paragraph (2).

"(c) AWARD OF DAMAGES.—

"(1) IN GENERAL.—Except as otherwise provided in this chapter, a person committing a violation of section 1201 or 1202 is liable for either—

"(A) the actual damages and any additional profits of the violator, as provided in paragraph (2), or

"(B) statutory damages, as provided in paragraph (3).

"(2) ACTUAL DAMAGES.—The court shall award to the complaining party the actual damages suffered by the party as a result of the violation, and any profits of the violator that are attributable to the violation and are not taken into account in computing the actual damages, if the complaining party elects such damages at any time before final judgment is entered.

"(3) STATUTORY DAMAGES.—

"(A) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1201 in the sum of not less than $200 or more than $2,500 per act of circumvention, device, product, component, offer, or performance of service, as the court considers just.

"(B) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1202 in the sum of not less than $2,500 or more than $25,000.

"(4) REPEATED VIOLATIONS.—In any case in which the injured party sustains the burden of proving, and the court finds, that a person has violated section 1201 or 1202 within three years after a final judgment was entered against the person for another such violation, the court may increase the award of damages up to triple the amount that would otherwise be awarded, as the court considers just.

"(5) INNOCENT VIOLATIONS.—

"(A) IN GENERAL.—The court in its discretion may reduce or remit the total award of damages in any case in which the violator sustains the burden of proving, and the court finds, that the violator was not aware and had no reason to believe that its acts constituted a violation.

"(B) NONPROFIT LIBRARY, ARCHIVES, OR EDUCATIONAL INSTITUTIONS.—In the case of a nonprofit library, archives, or educational institution, the court shall remit damages in any case in which the library, archives, or educational institution sustains the burden of proving, and the court finds, that the library, archives, or educational institution was not aware and had no reason to believe that its acts constituted a violation.

"§ 1204. Criminal offenses and penalties

"(a) IN GENERAL.—Any person who violates section 1201 or 1202 willfully and for purposes of commercial advantage or private financial gain—

"(1) shall be fined not more than $500,000 or imprisoned for not more than 5 years, or both for the first offense; and

"(2) shall be fined not more than $1,000,000 or imprisoned for not more than 10 years, or both for any subsequent offense.

"(b) LIMITATION FOR NONPROFIT LIBRARY, ARCHIVES, OR EDUCATIONAL INSTITUTION.—Subsection (a) shall not apply to a nonprofit library, archives, or educational institution.

"(c) STATUTE OF LIMITATIONS.—Notwithstanding section 507(a) of this title, no criminal proceeding shall be brought under this section unless such proceeding is commenced within five years after the cause of action arose.

"§ 1205. Savings Clause

"Nothing in this chapter abrogates, diminishes or weakens the provisions of, nor provides any defense or element of mitigation in a criminal prosecution or civil action under, any Federal or State law that prevents the violation of the privacy of an individual in connection with the individual's use of the Internet.".

SEC. 104. CONFORMING AMENDMENT.

The table of chapters for title 17, United States Code, is amended by adding at the end the following:

"12. Copyright Protection and Management Systems .... 1201".

SEC. 105. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) AMENDMENTS RELATING TO CERTAIN INTERNATIONAL AGREEMENTS.—(1) The following shall take effect upon entry into force of the WIPO Copyright Treaty with respect to the United States:

(A) paragraph (5) of the definition of "international agreement" contained in section 101 of title 17, United States Code, as amended by section 102(a)(8) of this title.

(B) the amendment made by section 102(a)(10) of this title;

(C) subparagraph (C) of section 104A(h)(1) of title 17, United States Code, as amended by section 102(c)(1) of this title; and

(D) subparagraph (C) of section 104A(h)(3) of title 17, United States Code, as amended by section 102(c)(2) of this title.

(2) The following shall take effect upon the entry into force of the WIPO Performances and Phonograms Treaty with respect to the United States:

(A) paragraph (6) of the definition of "international agreement" contained in section 101 of title 17, United States Code, as amended by section 102(a)(8) of this title.

(B) the amendment made by section 102(a)(11) of this title;

(C) the amendment made by section 102(b)(7) of this title;

(D) Subparagraph (D) of section 104A(h)(1) of title 17, United States Code, as amended by section 102(c)(2) of this title; and

(E) the amendment made by section 102(c)(4) of this title; and

(F) the amendment made by section 102(c)(5) of this title.

TITLE II—INTERNET COPYRIGHT INFRINGEMENT LIABILITY

SEC. 201. SHORT TITLE.

This title may be cited as the "Internet Copyright Infringement Liability Clarification Act of 1998".

SEC. 202. LIMITATIONS ON LIABILITY FOR INTERNET COPYRIGHT INFRINGEMENT.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by adding after section 511 the following new section:

"§ 512. Liability of service providers for online infringement of copyright

"(a) DIGITAL NETWORK COMMUNICATIONS.—A service provider shall not be liable for monetary relief, or except as provided in subsection (i) for injunctive or other equitable relief, for infringement for the provider's transmitting, routing, or providing connections for, material through a system or network controlled or operated by or for the service provider, or the intermediate and transient storage of such material in the course of such transmitting, routing or providing connections, if—

"(1) it was initiated by or at the direction of a person other than the service provider;

"(2) it is carried out through an automatic technical process without selection of such material by the service provider;

"(3) the service provider does not select the recipients of such material except as an automatic response to the request of another;

"(4) no such copy of such material made by the service provider is maintained on the system or network in a manner ordinarily accessible to anyone other than anticipated recipients, and no such copy is maintained on the system or network in a manner ordinarily accessible to the anticipated recipients for a longer period than is reasonably necessary for the communication; and

"(5) the material is transmitted without modification to its content.

"(b) SYSTEM CACHING.—A service provider shall not be liable for monetary relief, or except as provided in subsection (i) for injunctive or other equitable relief, for infringement for the intermediate and temporary storage of material on the system or network controlled or operated by or for the service provider, where (i) such material is made available online by a person other than such service provider, (ii) such material is transmitted from the person described in clause (i) through such system or network to someone other than that person at the direction of such other person, and (iii) the storage is carried out through an automatic technical process for the purpose of making such material available to users of such system or network who subsequently request access to that material from the person described in clause (i), provided that:

"(1) such material is transmitted to such subsequent users without modification to its content from the manner in which the material otherwise was transmitted from the person described in clause (i);

"(2) such service provider complies with rules concerning the refreshing, reloading or other updating of such material when specified by the person making that material available online in accordance with an accepted industry standard data communications protocol for the system or network through which that person makes the material available; provided that the rules are not used by the person described in clause (i) to prevent or unreasonably impair such intermediate storage;

"(3) such service provider does not interfere with the ability of technology associated with such material that returns to the person described in clause (i) the information that would have been available to such person if such material had been obtained by such subsequent users directly from such person, provided that such technology—

"(A) does not significantly interfere with the performance of the provider's system or network or with the intermediate storage of the material;

"(B) is consistent with accepted industry standard communications protocols; and

"(C) does not extract information from the provider's system or network other than the information that would have been available to such person if such material had been accessed by such users directly from such person;

"(4) either—

"(A) the person described in clause (i) does not currently condition access to such material; or

"(B) if access to such material is so conditioned by such person, by a current individual pre-condition, such as a pre-condition based on payment of a fee, or provision of a password or other information, the service provider permits access to the stored material in significant part only to users of its system or network that have been so authorized and only in accordance with those conditions; and

"(5) if the person described in clause (i) makes that material available online without the authorization of the copyright owner, then the service provider responds expeditiously to remove, or disable access to, the material that is claimed to be infringing upon notification of claimed infringements described in subsection (c)(3); provided that the material has previously been removed from the originating site, and the party giving the notification includes in the notification a statement confirming that such material has been removed or access to it has been disabled or ordered to be removed or have access disabled.

"(c) Information Stored on Service Providers.—

"(1) In general.—A service provider shall not be liable for monetary relief, or except as provided in subsection (i) for injunctive or other equitable relief, for infringement for the storage at the direction of a user of material that resides on a system or network controlled or operated by or for the service provider, if the service provider—

"(A)(i) does not have actual knowledge that the material or activity is infringing,

"(ii) in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent, or

"(iii) if upon obtaining such knowledge or awareness, the service provider acts expeditiously to remove or disable access to, the material;

"(B) does not receive a financial benefit directly attributable to the infringing activity, where the service provider has the right and ability to control such activity; and

"(C) in the instance of a notification of claimed infringement as described in paragraph (3), responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity.

"(2) Designated agent.—The limitations on liability established in this subsection apply only if the service provider has designated an agent to receive notifications of claimed infringement described in paragraph (3), by substantially making the name, address, phone number, electronic mail address of such agent, and other contact information deemed appropriate by the Register of Copyrights, available through its service, including on its website, and by providing such information to the Copyright Office. The Register of Copyrights shall maintain a current directory of agents available to the public for inspection, including through the Internet, in both electronic and hard copy formats.

"(3) Elements of notification.—

"(A) To be effective under this subsection, a notification of claimed infringement means any written communication provided to the service provider's designated agent that includes substantially the following:

"(i) a physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;

"(ii) identification of the copyrighted work claimed to have been infringed, or, if multiple such works at a single online site are covered by a single notification, a representative list of such works at that site;

"(iii) identification of the material that is claimed to be infringing or to be the subject of infringing activity that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material;

"(iv) information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available an electronic mail address at which the complaining party may be contacted;

"(v) a statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, or its agent, or the law; and

"(vi) a statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party has the authority to enforce the owner's rights that are claimed to be infringed.

"(B) A notification from the copyright owner or from a person authorized to act on behalf of the copyright owner that fails substantially to conform to the provisions of paragraph (3)(A) shall not be considered under paragraph (1)(A) in determining whether a service provider has actual knowledge or is aware of facts or circumstances from which infringing activity is apparent, provided that the provider promptly attempts to contact the complaining party or takes other reasonable steps to assist in the receipt of notice under paragraph (3)(A) when the notice is provided to the service provider's designated agent and substantially satisfies the provisions of paragraphs (3)(A) (ii), (iii), and (iv).

"(d) Information Location Tools.—A service provider shall not be liable for monetary relief, or except as provided in subsection (i) for injunctive or other equitable relief, for infringement for the provider referring or linking users to an online location containing infringing material or activity by using information location tools, including a directory, index, reference, pointer or hypertext link, if the provider—

"(1) does not have actual knowledge that the material or activity is infringing or, in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent;

"(2) does not receive a financial benefit directly attributable to the infringing activity, where the service provider has the right and ability to control such activity; and

"(3) responds expeditiously to remove or disable the reference or link upon notification of claimed infringement as described in subsection (c)(3); provided that for the purposes of this paragraph, the element in subsection (c)(3)(A)(iii) shall be identification of the reference or link, to material or activity claimed to be infringing, that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate such reference or link.

"(e) Misrepresentations.—Any person who knowingly materially misrepresents under this section (1) that material or activity is infringing, or (2) that material or activity was removed or disabled by mistake or misidentification, shall be liable for any damages, including costs and attorneys' fees, incurred by the alleged infringer, by any copyright owner or copyright owner's authorized licensee, or by the service provider, who is injured by such misrepresentation, as the result of the service provider relying upon such misrepresentation in removing or disabling access to the material or activity claimed to be infringing, or in replacing the removed material or ceasing to disable access to it.

"(f) Replacement of Removed or Disabled Material and Limitation on Other Liability.—

"(1) Subject to paragraph (2) of this subsection, a service provider shall not be liable to any person for any claim based on the service provider's good faith disabling of access to, or removal of, material or activity claimed to be infringing or based on facts or circumstances from which infringing activity is apparent, regardless of whether the material or activity is ultimately determined to be infringing.

"(2) Paragraph (1) of this subsection shall not apply with respect to material residing at the direction of a subscriber of the service provider on a system or network controlled or operated by or for the service provider that is removed, or to which access is disabled by the service provider pursuant to a notice provided under subsection (c)(1)(C), unless the service provider—

"(A) takes reasonable steps promptly to notify the subscriber that it has removed or disabled access to the material;

"(B) upon receipt of a counter notice as described in paragraph (3), promptly provides the person who provided the notice under subsection (c)(1)(C) with a copy of the counter notice, and informs such person that it will replace the removed material or cease disabling access to it in ten business days; and

"(C) replaces the removed material and ceases disabling access to it not less than ten, nor more than fourteen, business days following receipt of the counter notice, unless its designated agent first receives notice from the person who submitted the notification under subsection (c)(1)(C) that such person has filed an action seeking a court order to restrain the subscriber from engaging in infringing activity relating to the material on the service provider's system or network.

"(3) To be effective under this subsection, a counter notification means any written communication provided to the service provider's designated agent that includes substantially the following:

"(A) a physical or electronic signature of the subscriber;

"(B) identification of the material that has been removed or to which access has been disabled and the location at which such material appeared before it was removed or access was disabled;

"(C) a statement under penalty of perjury that the subscriber has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled;

"(D) the subscriber's name, address and telephone number, and a statement that the subscriber consents to the jurisdiction of Federal Court for the judicial district in which the address is located, or if the subscriber's address is outside of the United States, for any judicial district in which the service provider may be found, and that the subscriber will accept service of process from the person who provided notice under subsection (c)(1)(C) or agent of such person.

"(4) A service provider's compliance with paragraph (2) shall not subject the service provider to liability for copyright infringement with respect to the material identified in the notice provided under subsection (c)(1)(C).

"(g) Identification of Direct Infringer.—The copyright owner or a person authorized to act on the owner's behalf may request an order for release of identification of an alleged infringer by filing (i) a copy of a notification described in subsection (c)(3)(A), including a proposed order, and (ii) a sworn declaration that the purpose of the order is to obtain the identity of an alleged infringer and that such information will only be used for the purpose of this title, with the clerk of any United States district court. The order shall authorize and order the service provider receiving the notification to disclose expeditiously to the copyright owner or person authorized by the copyright owner information sufficient to identify the alleged direct infringer of the material described in the notification to the extent such information is available to the service provider. The order shall be expeditiously issued if the accompanying notification satisfies the provisions of subsection (c)(3)(A) and the accompanying declaration is properly executed. Upon receipt of the order, either accompanying or subsequent to the receipt of a notification described in subsection (c)(3)(A), a service provider shall expeditiously give to the copyright owner or person authorized by the copyright owner the information required by the order, notwithstanding any other provision of law and regardless of whether the service provider responds to the notification.

"(h) Conditions for Eligibility.—

"(1) Accommodation of technology.—The limitations on liability established by this section shall apply only if the service provider—

"(A) has adopted and reasonably implemented, and informs subscribers of the service of, a policy for the termination of subscribers of the service who are repeat infringers; and

"(B) accommodates and does not interfere with standard technical measures as defined in this subsection.

"(2) Definition.—As used in this section, "standard technical measures" are technical measures, used by copyright owners to identify or protect copyrighted works, that—

"(A) have been developed pursuant to a broad consensus of copyright owners and service providers in an open, fair, voluntary, multi-industry standards process;

"(B) are available to any person on reasonable and nondiscriminatory terms; and

"(C) do not impose substantial costs on service providers or substantial burdens on their systems or networks.

"(i) Injunctions.—The following rules shall apply in the case of any application for an injunction under section 502 against a service provider that is not subject to monetary remedies by operation of this section:

"(1) Scope of relief.—

"(A) With respect to conduct other than that which qualifies for the limitation on remedies as set forth in subsection (a), the court may only grant injunctive relief with respect to a service provider in one or more of the following forms:

"(i) an order restraining it from providing access to infringing material or activity residing at a particular online site on the provider's system or network;

"(ii) an order restraining it from providing access to an identified subscriber of the service provider's system or network who is engaging in infringing activity by terminating the specified accounts of such subscriber; or

"(iii) such other injunctive remedies as the court may consider necessary to prevent or restrain infringement of specified copyrighted material at a particular online location, provided that such remedies are the least burdensome to the service provider that are comparably effective for that purpose.

"(B) If the service provider qualifies for the limitation on remedies described in subsection (a), the court may only grant injunctive relief in one or both of the following forms:

"(i) an order restraining it from providing access to an identified subscriber of the service provider's system or network who is using the provider's service to engage in infringing activity by terminating the specified accounts of such subscriber; or

"(ii) an order restraining it from providing access, by taking specified reasonable steps to block access, to a specific, identified, foreign online location.

"(2) Considerations.—The court, in considering the relevant criteria for injunctive relief under applicable law, shall consider:

"(A) whether such an injunction, either alone or in combination with other such injunctions issued against the same service provider under this subsection, would significantly burden either the provider or the operation of the provider's system or network;

"(B) the magnitude of the harm likely to be suffered by the copyright owner in the digital network environment if steps are not taken to prevent or restrain the infringement;

"(C) whether implementation of such an injunction would be technically feasible and effective, and would not interfere with access to noninfringing material at other online locations; and

"(D) whether other less burdensome and comparably effective means of preventing or restraining access to the infringing material are available.

"(3) Notice and ex parte orders.—Injunctive relief under this subsection shall not be available without notice to the service provider and an opportunity for such provider to appear, except for orders ensuring the preservation of evidence or other orders having no material adverse effect on the operation of the service provider's communications network.

"(j) Definitions.—

"(1)(A) As used in subsection (a), the term "service provider" means an entity offering the transmission, routing or providing of connections for digital online communications, between or among points specified by a user, of material of the user's choosing, without modification to the content of the material as sent or received.

"(B) As used in any other subsection of this section, the term "service provider" means a provider of online services or network access, or the operator of facilities therefor, and includes an entity described in the preceding paragraph of this subsection.

"(2) As used in this section, the term "monetary relief" means damages, costs, attorneys' fees, and any other form of monetary payment.

"(k) Other Defenses Not Affected.—The failure of a service provider's conduct to qualify for limitation of liability under this section shall not bear adversely upon the consideration of a defense by the service provider that the service provider's conduct is not infringing under this title or any other defense.

"(l) Protection of Privacy.—Nothing in this section shall be construed to condition the applicability of subsections (a) through (d) on—

"(1) a service provider monitoring its service or affirmatively seeking facts indicating infringing activity except to the extent consistent with a standard technical measure complying with the provisions of subsection (h); or

"(2) a service provider accessing, removing, or disabling access to material where such conduct is prohibited by law.

"(m) Rule of Construction.—Subsections (a), (b), (c), and (d) are intended to describe separate and distinct functions for purposes of analysis under this section. Whether a service provider qualifies for the limitation on liability in any one such subsection shall be based solely on the criteria in each such subsection and shall not affect a determination of whether such service provider qualifies for the limitations on liability under any other such subsection.".

SEC. 203. CONFORMING AMENDMENT.

The table of sections for chapter 5 of title 17, United States Code, is amended by adding at the end the following:

"512. Liability of service providers for online infringement of copyright.".

SEC. 204. LIABILITY OF EDUCATIONAL INSTITUTIONS FOR ONLINE INFRINGEMENT OF COPYRIGHT.

(a) Not later than six months after the date of enactment of this Act, the Register of Copyrights, after consultation with representatives of copyright owners and nonprofit educational institutions, shall submit to the Congress recommendations regarding the liability of nonprofit educational institutions for copyright infringement committed with the use of computer systems for which such an institution is a service provider, as that term is defined in section 512 of title 17, United States Code, (as amended by this Act), including recommendations for legislation the Register of Copyrights considers appropriate regarding such liability, if any.

(b) In formulating recommendations, the Register of Copyrights shall consider, where relevant—

(1) current law regarding the direct, vicarious, and contributory liability of nonprofit educational institutions for infringement by faculty, administrative employees, students, graduate students, and students who are employees of a nonprofit educational institution;

(2) other users of their computer systems for whom nonprofit educational institutions may be responsible;

(3) the unique nature of the relationship between nonprofit educational institutions and faculty;

(4) what policies nonprofit educational institutions should adopt regarding copyright infringement by users of their computer systems;

(5) what technological measures are available to monitor infringing uses;

(6) what monitoring of their computer systems by nonprofit educational institutions is appropriate;

(7) what due process nonprofit educational institutions should afford in disabling access by users of their computer systems who are alleged to have committed copyright infringement;

(8) what distinctions, if any, should be drawn between computer systems which may

be accessed from outside the nonprofit educational systems, those which may not, and combinations thereof;

(9) the tradition of academic freedom; and

(10) such other issues relating to the liability of nonprofit educational institutions for copyright infringement committed with the use of computer systems for which such an institution is a service provider that the Register considers appropriate.

SEC. 205. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE III—COMPUTER MAINTENANCE OR REPAIR

SEC. 301. LIMITATION ON EXCLUSIVE RIGHTS; COMPUTER PROGRAMS.

Section 117 of title 17, United States Code, is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(a) Making of Additional Copy or Adaptation by Owner of Copy.—Notwithstanding";

(2) by striking "Any exact" and inserting the following:

"(b) Lease, Sale, or Other Transfer of Additional Copy or Adaptation.—Any exact"; and

(3) by adding at the end the following new subsections:

"(c) Machine Maintenance or Repair.—Notwithstanding the provisions of section 106, it is not an infringement for an owner or lessee of a machine to make or authorize the making of a copy of a computer program if such copy is made solely by virtue of the activation of a machine that lawfully contains an authorized copy of the computer program, for purposes only of maintenance or repair of that machine, if—

"(1) such new copy is used in no other manner and is destroyed immediately after the maintenance or repair is completed; and

"(2) with respect to any computer program or part thereof that is not necessary for that machine to be activated, such program or part thereof is not accessed or used other than to make such new copy by virtue of the activation of the machine.

"(d) Definitions.—For purposes of this section—

"(1) the 'maintenance' of a machine is the servicing of the machine in order to make it work in accordance with its original specifications and any changes to those specifications authorized for that machine; and

"(2) the 'repair' of a machine is the restoring of the machine to the state of working in accordance with its original specifications and any changes to those specifications authorized for that machine.".

TITLE IV—EPHEMERAL RECORDINGS; DISTANCE EDUCATION; EXEMPTION FOR LIBRARIES AND ARCHIVES

SEC. 401. EPHEMERAL RECORDINGS.

Section 112 of title 17, United States Code is amended by—

(1) redesignating section 112(a) as 112(a)(1), and renumbering sections 112(a) (1), (2), and (3) as sections 112(a)(1) (A), (B), and (C), respectively;

(2) in section 112(a)(1), after the reference to section 114(a), add the words "or for a transmitting organization that is a broadcast radio or television station licensed as such by the Federal Communications Commission that broadcasts a performance of a sound recording in a digital format on a nonsubscription basis,";

(3) adding new section 112(a)(2) as follows:

"(2) Where a transmitting organization entitled to make a copy or phonorecord under section 112(a)(1) in connection with the transmission to the public of a performance or display of a work pursuant to that section is prevented from making such copy or phonorecord by reason of the application by the copyright owner of technical measures that prevent the reproduction of the work, such copyright owner shall make available to the transmitting organization the necessary means for permitting the making of such copy or phonorecord within the meaning of that section, provided that it is technologically feasible and economically reasonable for the copyright owner to do so, and provided further that, if such copyright owner fails to do so in a timely manner in light of the transmitting organization's reasonable business requirements, the transmitting organization shall not be liable for a violation of section 1201(a)(1) of this title for engaging in such activities as are necessary to make such copies or phonorecords as permitted under section 112(a)(1).".

SEC. 402. LIMITATIONS ON EXCLUSIVE RIGHTS; DISTANCE EDUCATION.

(a) Not later than six months after the date of enactment of this Act, the Register of Copyrights, after consultation with representatives of copyright owners, nonprofit educational institutions and nonprofit libraries and archives, shall submit to the Congress recommendations on how to promote distance education through digital technologies, including interactive digital networks, while maintaining an appropriate balance between the rights of copyright owners and the needs of users. Such recommendations shall include any legislation the Register of Copyrights considers appropriate to achieve the foregoing objective.

(b) In formulating recommendations, the Register of Copyrights shall consider—

(1) the need for an exemption from exclusive rights for distance education through digital networks;

(2) the categories of works to be included under any distance education exemption;

(3) the extent of appropriate quantitative limitations on the portions of works that may be used under any distance education exemption;

(4) the parties who should be entitled to the benefits of any distance education exemption;

(5) the parties who should be designated as eligible recipients of distance education materials under any distance education exemption;

(6) whether and what types of technological measures can and/or should be employed to safeguard against unauthorized access to, and use or retention of, copyrighted materials as a condition to eligibility for any distance education exemption, including, in light of developing technological capabilities, the exemption set out in section 110(2);

(7) the extent to which the availability of licenses for the use of copyrighted works in distance education through interactive digital networks should be considered in assessing eligibility for any distance education exemption; and

(8) such other issues relating to distance education through interactive digital networks that the Register considers appropriate.

SEC. 403. EXEMPTION FOR LIBRARIES AND ARCHIVES.

Section 108 of title 17, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "Notwithstanding" and inserting "Except as otherwise provided and notwithstanding";

(B) inserting after "no more than one copy of phonorecord of a work" the following: "except as provided in subsections (b) and (c),"; and

(C) by inserting after "copyright" in clause (3) the following: "if such notice appears on the copy or phonorecord that is reproduced under the provisions of this section, or a legend stating that the work may be protected by copyright if no such notice can be found on the copy or phonorecord that is reproduced under the provisions of this section";

(2) in subsection (b) by—

(A) striking "a copy or phonorecord" and inserting in lieu thereof "three copies or phonorecords";

(B) striking "in facsimile form"; and

(C) striking "if the copy or phonorecord reproduced is currently in the collections of the library or archives." and inserting in lieu thereof "if—

"(1) the copy or phonorecord reproduced is currently in the collections of the library or archives; and

"(2) any such copy or phonorecord that is reproduced in digital format is not otherwise distributed in that format and is not made available to the public outside the premises of the library or archives in that format."; and

(3) in subsection (c) by—

(A) striking "a copy or phonorecord" and inserting in lieu thereof "three copies or phonorecords";

(B) striking "in facsimile form";

(C) inserting "or if the existing format in which the work is stored has become obsolete," after "stolen,"; and

(D) striking "if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price." and inserting in lieu thereof "if—

"(1) the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price; and

"(2) any such copy or phonorecord that is reproduced in digital format is not made available to the public in that format except for use on the premises of the library or archives in lawful possession of such copy.";

(E) adding at the end the following: "For purposes of this subsection, a format shall be considered obsolete if the machine or device necessary to render perceptible a work stored in that format is no longer manufactured or is no longer reasonably available in the commercial marketplace.".

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. SMITH of Oregon. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Mississippi.

MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business until 7 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO REAR ADMIRAL KENDELL PEASE, USN

Mr. LOTT. Mr. President, I want to recognize and honor Rear Admiral Kendell Pease, United States Navy, as he prepares to retire upon completion of more than 34 years of faithful service to our great nation.

A Boston native, Rear Admiral Pease grew up in Natick, Massachusetts, enlisted in the United States Navy in 1963 and was selected to attend the United States Naval Academy. Upon graduation in 1968, he was commissioned an Ensign and began a distinguished career as a Public Affairs Officer. He initially served in the Republic of Vietnam and had follow-on public affairs assignments in Charleston, South Carolina; Naples, Italy; and Norfolk, Virginia. He served as the Public Affairs Officer for the Navy's Atlantic Fleet, the Naval Academy, and was assigned to multiple tours in Washington including the Department of Defense, the On-Site Inspection Agency and the Department of the Navy.

Since 1992, Rear Admiral Pease served as the Navy's Chief of Information. In this capacity, he has been instrumental in educating the American public about the Navy's role in protecting American interests around the world. During his watch, he led hundreds of successful efforts to communicate Navy operations in areas from A to Z, Albania to Zaire, including Bosnia, the Persian Gulf and Somalia. He also deserves tremendous credit for his efforts to communicate the need for very important Navy programs such as the SEAWOLF and NSSN submarine programs; CVN 77 and CVX; DDG 51 and DD 21; and Super Hornet. He accomplished all of this while navigating the Navy through a number of contentious issues, earning deep respect for his style of aggressively and honestly communicating all of the facts.

Most significantly, Rear Admiral Pease served as a passionate advocate for the Sailors in the Fleet—the men and women who serve far from home anywhere, anytime, 24 hours a day, seven days a week. Their welfare was always his number one priority, for he truly understood that Sailors are the backbone of our nation's strategy of forward presence, and providing them with better internal communication would make for a more successful Sailor. He focused on improving the Navy's internal communication tools and methods—including improvements to the fleet-wide internal magazine (All Hands), the television program "Navy and Marine Corps News" shown each week aboard ships at sea, and a new program to take satellite television direct to Sailors at sea. Rear Admiral Pease made it his mission to ensure that opinion leaders and decision makers understood the special needs of Sailors and their families.

An individual of exceptional character and uncommon vision, this great Nation and our military are indebted to Rear Admiral Pease for his many years of outstanding service. I am proud, Mr. President, to thank him for his honorable service in the United States Navy and to wish him "fair winds and following seas" as he closes his distinguished military career.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Thank you, Mr. President.

NATIONAL PEACE OFFICERS MEMORIAL DAY

Mr. KEMPTHORNE. Mr. President, I stand today as the sponsor of Senate Resolution 201 designating May 15, 1998, as National Peace Officers Memorial Day.

This is the fifth year in a row that I have sponsored this resolution and I am proud to be joined this year by 62 of my Senate colleagues in honoring the brave men and women who serve this country as peace officers.

Mr. President, tomorrow we will be adding the names of 159 officers to the National Law Enforcement Officers Memorial. Since the inception of this memorial, 14,662 peace officers names have been inscribed on the wall. I am also pleased to share with my Colleagues that tomorrow, at the State Police complex in Meridian, Idaho, the State will dedicate its own Law Enforcement Memorial to those Idahoans who have paid the ultimate sacrifice.

These memorials, and others around the nation, serve as proof that the individuals who serve this nation as our guardians of peace do so at great personal risk. There are few communities in America that have not been touched by the senseless death of a peace officer by violent means. Last year, two communities in Idaho experienced the tragic deaths of two very talented and brave officers. I would like to share with you the sacrifices these men gave to protect the sanctity of their communities. It is my hope that while I relay their stories each of us would realize the important role that peace officers play in our everyday lives.

While searching for the body of an 18 month old infant who had been lost in the Salmon River, William Inman, a Lemhi County deputy Sheriff, was killed when his hyper-light aircraft struck an unmarked power line and he tragically plunged into the river.

Deputy Inman devoted his entire life to being an excellent police officer. He was a Sergeant in the police force in Peoria, Illinois, where he retired in order to become the Chief of Police in Farmington. After retiring from the Farmington force he moved to Salmon, Idaho, where he went to work as Sheriff's Deputy for Lemhi County. After his death deputy Inman was inducted posthumously into the American Police Hall of Fame.

William Inman was a father of four children: Maria, Tracy, Jeff and Jennifer and was a loving husband to his wife Donna. Along with spending as much time with his family as he could, Bill was an avid outdoorsman.

Bill Inman will be greatly missed by many, many people.

The second tragedy struck Idaho's capital city of Boise in the early morning hours of September 20, 1997. Boise Police Officer Mark Stall pulled over a car bearing Pennsylvania plates that had committed a traffic violation. The driver and passenger of the vehicle refused to cooperate with Officer Stall's requests, when the driver suddenly removed a gun from under his coat and shot Officer Stall. Officer Stall, inflicted with a mortal gunshot wound, fell back to his patrol vehicle for cover and continued firing at the men in order to protect other Boise officers in the ensuing gunfight. Both Officer Mark Stall and the two assailants were killed. Mark Stall's sacrifice protected not only the officers at the scene but the entire community, when a search of the suspect's residence revealed an arsenal of guns and explosive materials. You know it was not for peaceful purposes.

Officer Stall was an exemplary police officer and set the standard for other officers both in Boise and around the nation. He was a loving father to his daughters Jonelle and Julia, and a devoted husband and best friend to his wife, Cheryl. Officer Stall was committed to his family, his community, his job and above all his God. I would like to share with you an excerpt from an Idaho Statesman article that outlines the lives of Idaho Peace Officers. In the article Officer Heath Compton characterized his hero, Mark Stall. "One night quite a while back, I was driving down State Street in my patrol car, when a Boise police officer shined his spotlight in my face. I stopped to talk with him. I had never met the officer before, but realized quickly that he was very likable. He introduced himself as Mark Stall. Over the next several months, I got to know Mark quite well. What I learned was that Mark loved God, his family, the people he worked for and with. He always had a smile on his face and a good word."

The bravery and commitment to community that these men possessed will be carried on by their families. I am pleased to say that I have had the opportunity to spend time with the families of both officers.

I met with the Inman family this morning, and yesterday I met with the Stall family, with his wife and his daughters and also with his mother and father, with his mother-in-law and father-in-law, brothers and sisters and all of their children. What a beautiful family. The only thing that was missing was Mark. But you can see the blessing that Mark had given to that family because of the wonderful memories of a great man. He will be missed greatly by his community and by his family, but every life that Mark touched will be blessed because of his being here.

The strength and perseverance that is exemplified by each of them is an inspiration to me. My thoughts and prayers go out to these families and others that have been devastated by this type of senseless loss.

This resolution is not the answer to the meaningless violence that occurs in our communities but it is a small attempt to celebrate and memorialize the lives of the officers who serve and protect us. I would like to thank my colleagues for their cosponsorship and would like to again thank the officers and the families that have come from all fifty states to our Nation's capital on this special day to eulogize these officers that have given the greatest sacrifice of all—their lives—in the performance of their duties.

Mr. President, I know I speak for all Senators and for Americans when I salute the peace officers of America in all the communities, large and small. When they perform their duties, they are not sure what the outcome will be. They are never sure if it is going to be a peaceful stop or one that ends in violence and the loss of life.

I know many of the police officers throughout my State of Idaho. I am proud to know each and every one of them, and I pray for their safety and that the officers will return safely to their families.

It is an honor to serve here, with all of the police officers on Capitol Hill who we come to know personally. Again, they are an outstanding group of peace officers, as they are throughout this Nation.

Today, Mr. President, I thank the Senate for properly acknowledging the role of peace officers and saying to the Inman family and to the Stall family, thank you for your sacrifice. God bless you and may you have peace in the days that follow.

Thank you, Mr. President.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, May 13, 1998, the federal debt stood at $5,492,157,484,525.10 (Five trillion, four hundred ninety-two billion, one hundred fifty-seven million, four hundred eighty-four thousand, five hundred twenty-five dollars and ten cents).

One year ago, May 13, 1997, the federal debt stood at $5,337,495,000,000 (Five trillion, three hundred thirty-seven billion, four hundred ninety-five million).

Five years ago, May 13, 1993, the federal debt stood at $4,247,269,000,000 (Four trillion, two hundred forty-seven billion, two hundred sixty-nine million).

Ten years ago, May 13, 1988, the federal debt stood at $2,510,149,000,000 (Two trillion, five hundred ten billion, one hundred forty-nine million).

Fifteen years ago, May 13, 1983, the federal debt stood at $1,258,087,000,000 (One trillion, two hundred fifty-eight billion, eighty-seven million) which reflects a debt increase of more than $4 trillion—$4,234,070,484,525.10 (Four trillion, two hundred thirty-four billion, seventy million, four hundred eighty-four thousand, five hundred twenty-five dollars and ten cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING MAY 8TH

Mr. HELMS. Mr. President, the American Petroleum Institute's report for the week ending May 8, disclosed that the U.S. imported 8,772,000 barrels of oil each day, an increase of 1,206,000 barrels over the 7,566,000 imported every day during the same week a year ago.

Americans relied on foreign oil for 57.9 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Politicians had better give consideration to the the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 8,772,000 barrels a day.

MESSAGES FROM THE HOUSE

At 5:34 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 10. An act to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes.

H.R. 2431. An act to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 10. An act to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-400. A resolution adopted by the Society of Guerrillas and Scouts International relative to benefits for Filipino-American World War II veterans; to the Committee on Veterans' Affairs.

POM-401. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Environment and Public Works.

SENATE JOINT RESOLUTION NO. 85

Whereas, the people of the Commonwealth of Virginia revere the deeds of men and women on both sides who struggled through four years of conflict, 1861–1865; and

Whereas, Virginia's Civil War battlefields are places of contemplation, reverence, and education, and are of incalculable value to the health and identity of the Commonwealth and the nation; and

Whereas, the preservation of these hallowed places is critical to a tourism industry that attracts millions of visitors and supports thousands of jobs across the Commonwealth; and

Whereas, many of Virginia's battlefields sit astride important historic transportation corridors that link or traverse rapidly-growing areas; and

Whereas, a critical need exists to modernize, expand, and modify many of the roadways and transportation systems on or near these historic battlefields; and

Whereas, the continued health and vitality of Virginia's Civil War tourism industry depends upon better long-range transportation planning and greater cooperation and dialogue among the various stakeholders in the nation's historic resources and Virginia's transportation system, including private property owners and local governments; now, therefore, be it

Resolved by the Senate, the House of Delegates concurring, That Congress, the Governor of the Commonwealth of Virginia, and local governing bodies of those jurisdictions where major Civil War battlefields are located be urged to identify, fund, and implement policies and programs to address transportation needs within the historic battlefields in Virginia. In developing legislation, administrative policies and regulations affecting the National Park Service, the U.S. Department of Transportation, the Commonwealth Transportation Board, and local transportation agencies, the Congress, the Governor, and affected local governing bodies are encouraged to undertake cooperative and integrated long-range transportation planning, particularly for the construction of new highways affecting historic battlefields in Virginia and to jointly seek new and innovative transportation strategies that will (i) meet the long-term transportation needs of Virginia's citizens, (ii) respect the interests of all levels of government and the rights of private property owners, and (iii) minimize the impact on Virginia's Civil War battlefields; and, be it

Resolved further, That the Clerk of the Senate transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United

States Senate, the members of the Congressional Delegation of Virginia, and the Governor in order that they may be apprised of the sense of the Virginia General Assembly in this matter.

POM–402. A joint resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Rules and Administration.

HOUSE JOINT RESOLUTION 21

Whereas, the voters and citizens of the state of New Hampshire demand and are entitled to the highest level of integrity in the electoral and legislative processes; and

Whereas, the general court has enacted laws to limit political contributions and political expenditures to improve the integrity of the electoral and legislative processes; and

Whereas, the general court has also enacted laws requiring disclosure of contributions to candidates and gifts to elected officials to improve the integrity of the electoral and legislative processes; and

Whereas, notwithstanding the desires of the voters and the citizens of the state of New Hampshire, the United States Congress, relying upon article I, section 4 of the United States Constitution, has preempted the power of the states to regulate campaign financing in connection with elections for the United Senate and House of Representatives; and

Whereas, article I, section 4 of the United States Constitution was never intended to deprive the states of the authority to regulate campaign financing; and

Whereas, recent hearings conducted by the United States Senate have established that political parties receive large contributions of "soft money" in order to "buy" direct access to Congress and to the President; and

Whereas, the revelations concerning these contributions foster voter cynicism; and

Whereas, the use of "soft money" by the major parties has undermined the utility of New Hampshire's voluntary limitations on political expenditures laws; and

Whereas, "soft money" contributions undermine the campaign disclosure laws because the source of the contributions is untraceable, thereby making it impossible for the voter to determine the likelihood of improper influence on policy decisions; now, therefore, be it

Resolved by the Senate and House of Representatives in General Court convened:

That the general court of the state of New Hampshire hereby urges the United States Congress to take such actions as are necessary to return to the states the power to regulate campaign financing in connection with elections for the United States Senate and House of Representatives and to take immediate action to adequately regulate "soft money" donations to political committees of political parties; and

That, if the United States Congress has not taken such action prior to the commencement of the filing period for the New Hampshire presidential primary election, the secretary of state is directed to deliver to each presidential candidate a copy of this resolution and a declaration to be executed by the candidate stating whether the candidate supports or opposes this resolution; and

That copies of this resolution be sent by the clerk of the house of representatives to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representative, and to each member of the New Hampshire Congressional delegation.

POM–403. A resolution adopted by the Council of the City of Cincinnati, Ohio relative to the proposed "Safety Advancement for Employees Act"; to the Committee on Labor and Human Resources.

POM–404. A resolution adopted by the Council of the City of Cincinnati, Ohio relative to the proposal entitled "Child Care That Strengthens American Families"; to the Committee on Labor and Human Resources.

POM–405. A resolution adopted by the Superintendent and Board of Education of Lauderdale County (Alabama) relative to public schools; to the Committee on Labor and Human Resources.

POM–406. A joint resolution adopted by the General Assembly of the State of Georgia; to the Committee on Labor and Human Resources.

SENATE RESOLUTION 766

Whereas, Congress is considering legislation to exempt insurance arrangements offered by associations and multiple employer welfare arrangements from state insurance reform standards; and

Whereas, this proposal would allow associations and multiple employer welfare arrangements to be regulated by the federal government under inadequate federal standards; and

Whereas, Congress explicitly gave states the authority to regulate multiple employer welfare arrangements in 1983 after numerous cases of fraud, abuse, and insolvency regarding multiple employer welfare arrangements; and

Whereas, the states, as the primary regulators of the local insurance market, are better able to ensure effective regulation of those entities than the federal government; and

Whereas, federal preemption would undermine efforts states have made to protect consumers through establishing minimum standards for health plans; and

Whereas, federal preemption would undermine state insurance reforms passed in recent years at the urging of business groups to improve access and affordability for small employers; and

Whereas, this exemption would seriously erode the funding mechanisms of access measures for the uninsured and for uncompensated care enacted by the states: now, therefore, be it

Resolved by the General Assembly of Georgia, That the members of this body urge the Georgia congressional delegation and the United States Congress to reject any legislation that would exempt health plans sponsored by associations and multiple employer welfare arrangements from state insurance standards and oversight; be it further

Resolved, That the Secretary of the Senate is authorized and directed to transmit appropriate copies of this resolution to each member of the Georgia congressional delegation, the Speaker of the United States House of Representatives, and the President of the United States Senate.

POM–407. A resolution adopted by the Senate of the Legislature of the State of Alaska; to the Committee on Foreign Relations.

Whereas, when the Nazis came to power in Germany more than half a century ago, many European Jews and other individuals frantically sent their valuables to secret bank accounts in neutral Switzerland, trusting their possessions would be safe; and

Whereas Swiss bank deposits made by Jews and other individuals later murdered in the Holocaust have not all been made available to heirs or to the world Jewish community; and

Whereas all Americans have a responsibility to ensure that justice is done; and

Whereas it is appropriate for Alaska to join other states in the effort to encourage Swiss banking institutions to release information that will bring closure to the painful chapter in history we know as the Holocaust and justice to those who lost everything, even their lives, to the actions of the Nazi Germans and the Swiss banks; and

Whereas the establishment of two commissions by the Swiss government to investigate Switzerland's wartime dealings reflects Swiss recognition of a moral obligation to uncover the truth, especially in light of the advanced age of the Holocaust survivor population; be it

Resolved, That the Senate expresses its gratitude to the members of the Swiss government and banking officials who have cooperated thus far in allowing investigations to be carried out because, without their assistance, these investigations would not be possible and none of the assets in question would be recoverable by their rightful owners or their heirs; and be it further

Resolved, That the Senate requests the government of Switzerland and the Swiss banking industry to compensate Holocaust survivors, their heirs, and Jewish communities in Switzerland and throughout the world for denying their property for more than 50 years.

Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Strom Thurmond, President Pro Tempore of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; and to the seven members of the Federal Council, or Bundesrat, of the Swiss government.

POM–408. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

SENATE JOINT RESOLUTION NO. 28

Whereas, the Republic of Poland, the Republic of Hungary, and the Czech Republic are free, democratic, and independent nations with long and proud histories and cultures; and

Whereas, their recently attained freedom was achieved following decades of struggle under the repressive yoke of brutal Communist regimes; and

Whereas, the North Atlantic Treaty Organization (NATO) is a defense alliance comprised of democratic states and is dedicated to the preservation and security of its member nations; and

Whereas, the Republic of Poland, the Republic of Hungary, and the Czech Republic desire to share in both the benefits and obligations of NATO in pursuing the development, growth, and promotion of democratic institutions and ensuring free market economic development; and

Whereas, article 10 of the North Atlantic Treaty provides the opportunity for NATO to accept as new members those nations that will promote the high standards of the Alliance and will contribute to the strengthening of the North Atlantic region; and

Whereas, Poland's, Hungary's, and the Czech Republic's democratic governments and free market economies place them in full compliance with the membership criteria in accordance with Article 10 of the North Atlantic Treaty as well as the "Study on the Expansion of NATO"; and

Whereas, Poland's, Hungary's and the Czech Republic's economies are the fastest growing and most robust of the eastern European nations, their economic ties to the United States overall, and in particular to California, have broadened significantly from year to year, and the 1990 United States Census indicates that well over 750,000 Californians claim Polish, Hungarian, or Czech ancestry; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California expresses its complete support for full inclusion of the Republic of Poland, the Republic of Hungary, and the Czech Republic into the North Atlantic Treaty Organization; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take all actions necessary to support inclusion of the Republic of Poland, the Republic of Hungary, and the Czech Republic as full members of the North Atlantic Treaty Organization; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the United States Senate to promptly ratify the proposed amendment to the North Atlantic Treaty to include the Republic of Poland, the Republic of Hungary, and the Czech Republic as full members of the North Atlantic Treaty Organization; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Majority Leader of the United States Senate, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM-409. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

ASSEMBLY JOINT RESOLUTION NO. 47

Whereas, the State of Israel was founded on the 19th century Zionist vision of Theodor Herzl and came into existence on May 14, 1948, as a homeland for Jewish people from all parts of the world; and

Whereas, for half a century, Israel has been one of America's closest allies and has served as a stable, democratic anchor in a turbulent region; and

Whereas, Israel has shared America's perspective in advancing democracy and free markets worldwide and in offering humane treatment to refugees fleeing religious persecution; and

Whereas, Israel has served as an invaluable ally against both unstable, anti-Western states and terrorists, and has worked well with America's military, sharing key technological advances; and

Whereas, the longstanding and close emotional ties between Israel and the United States have forged an unshakable cultural bond between the two nations; and

Whereas, with the launching of the Middle East peace process, the United States looks forward to continuing its uniquely intimate relationship with the State of Israel in a new context characterized by peace, stability, and prosperity; and

Whereas, many Californians hold close personal ties to Israel and many more share the dream of a peaceful and prosperous Israel; and

Whereas, the State of Israel has been and continues to be a vital economic partner with this state in areas ranging from high technology to agriculture; and

Whereas, a year-long celebration of Israel's 50th anniversary, involving art exhibits, conferences, festivals, films, lectures, concerts, parties, religious services, and organized trips to Israel, has begun throughout the state; and

Whereas, when looking back upon the accomplishments of the State of Israel during its first 50 years, Americans should expect this special relationship with Israel to continue long into the foreseeable future: now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby acknowledges the 50th anniversary of independence for the State of Israel and looks forward to the celebration of the centurion in the Jewish calendar year 5808; and be it further

Resolved, That the Legislature hereby extends its heartiest congratulations to the State of Israel and the entire Jewish and pro-Israel community throughout California upon the occasion of Israel's 50th anniversary of its founding and reaffirms the link of common culture and values between the Israeli and American peoples; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM-410. A resolution adopted by the House of the Legislature of the State of Arizona; to the Committee on Foreign Relations.

HOUSE MEMORIAL 2001

Whereas, in December, 1997, the United Nations framework convention on climate change met at Kyoto, Japan and adopted a treaty that commits the United States to reducing carbon dioxide emissions to seven percent below 1990 levels; and

Whereas, fears of global warming due to increased levels of carbon dioxide are not based on sound scientific evidence; and

Whereas, studies of past records of carbon dioxide levels in the atmosphere show no correlation to global temperatures; and

Whereas, the general circulation models that have been developed to predict future global temperatures based on atmospheric levels of carbon dioxide have failed to produce credible results when compared to past records of global temperatures; and

Whereas, the adoption of the Kyoto treaty may lead to government control of industry through the imposition of carbon production permits, rationing and a tax levy on consumer carbon emissions, resulting in sharply increased costs and the loss of thousands of jobs; and

Whereas, many major countries, including certain Latin American and Asian nations, are exempt from the restrictions of the Kyoto treaty, putting the United States at a severe competitive disadvantage in the global economy.

Wherefore your memorialist, the House of Representatives of the State of Arizona, prays:

1. That the members of the Senate of the United States not ratify the Kyoto treaty adopted by the United Nations framework convention on climate change under its present terms and enact legislation prohibiting the adoption of an executive order or regulation attempting to make effective any provision of the treaty.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the Senate of the United States and to each Member of Congress from the State of Arizona.

POM-411. A resolution adopted by the Legislature of the State of Alabama; to the Committee on Finance.

HOUSE JOINT RESOLUTION 227

Whereas, private activity tax-exempt bonds finance many worthy projects with a public benefit such as environmental infrastructure projects, including sewage facilities, solid waste disposal facilities, hazardous waste disposal facilities, industrial development projects, student loans, and low-income housing project; and

Whereas, in 1988, Congress lowered the volume cap on the issuance of such bonds to $50 per person, even though this cap is lower than the 1986 cap originally established, which fails to factor in the passage of time and inflation; and

Whereas, many of these worthy projects are not going forward due to the lack of available financing; and

Whereas, while taxable financing may be available, the cost of such financing can make a project economically unfeasible because most of these projects do not provide a positive rate of return; and

Whereas, the allocation of these bonds in Alabama has been oversubscribed for many years, and in 1997, applications exceeded allocations by a large percentage; and

Whereas, demand for private activity bond cap allocation will certainly continue to increase, given Alabama's growing economy, but the $50 per person allocation will decrease in real value over time, increasing demand relative to the available ceiling; and

Whereas, unless Congress increases the volume cap and provides an inflation adjustment for the future, there will be fewer and fewer of these projects that will receive financing; and

Whereas, as entities decide to delay or cancel planned investments, economic growth will necessarily slow, causing negative ripple effects throughout the economy; and

Whereas, legislation has been introduced in the Congress of the United States that would increase the volume caps and index them for inflation in the future; now therefore, be it

Resolved by the Legislature of Alabama, both Houses thereof concurring, That we hereby respectfully request the Congress of the United States to enact legislation that would increase the volume caps on private activity tax-exempt bonds.

Resolved further, That we request Congress to consider the impact of inflation in any future legislation concerning this issue.

Resolved further, That we request Congress to consider the funds for this program that are not used by other states should be allowed to be allocated to oversubscribed states such as Alabama.

Resolved further, That copies of this resolution be provided to the President of the United States, the Speaker of the House of Representatives and the President of the Senate of the United States Congress, and to all the members of the Alabama delegation to Congress with the request that this resolution be officially entered on the Congressional Record as a memorial to the Congress of the United States of America.

POM–412. A resolution adopted by the House of the Legislature of the State of Michigan; to the Committee on Finance.

HOUSE RESOLUTION NO. 211

Whereas, over the past quarter century, mortgage revenue bonds have helped many families in our state and across the country realize their goal of purchasing their first home. Mortgage revenue bonds help people of modest means gain a greater stake in their communities through home ownership. As many as 125,000 lower income families buy their first home each year through programs in the states financed with mortgage revenue bonds; and

Whereas, the cap on the amount of money the states can use for home ownership programs based on mortgage revenue bonds was last adjusted a decade ago. As a result, annual demand exceeds supply for mortgage revenue bond money by approximately $2 billion; and

Whereas, mortgage revenue bonds help finance mortgages for buyers with nearly 80 percent of the national median income, with the average price of the homes also approximately 80 percent of average conventionally financed, first-time homes. The programs' requirements for income levels and the safeguards against abuse make this one of the most successful initiatives for home ownership in our country; and

Whereas, there are two bills currently before Congress that seek to raise the cap for mortgage revenue bonds. These bills, H.R. 979 and S. 1251, would amend the Internal Revenue Code to raise the cap. An important feature of the proposal is that this amount would be indexed to inflation, beginning in 1999. This is an approach that is long overdue; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to enact legislation to raise the cap on mortgage revenue bonds; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–413. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Finance.

RESOLUTION NO. 7

Whereas, seventy-four percent of working-age adults with severe disabilities are unemployed; and

Whereas, many people with disabilities are highly dependent on local, state, and federal assistance for support and survival, particularly for necessary health care; and

Whereas, a 1995 Lou Harris poll reported that two-thirds of unemployed people with disabilities are eager to work; and

Whereas, advances in technology, the civil rights protections of the Americans with Disabilities Act, and the current labor shortage are opening up many new employment opportunities for people with disabilities; and

Whereas, current government policies, particularly those relating to Medicaid, discourage people with disabilities from working; and

Whereas, existing Medicaid work incentives are flawed and are completely unavailable to people with disabilities who do not qualify for the SSI 1619(b) program; and

Whereas, removing policy barriers to employment would enable more people with disabilities to reduce their dependence on Social Security, Medicaid, Medicare, subsidized housing, food stamps, and other state, local, and federal government programs; and

Whereas, becoming employed allows individuals with disabilities to contribute to society by becoming taxpayers themselves; and

Whereas, employer-based health care and government programs, such as Medicare, Minnesota Comprehensive Health Association, and MinnesotaCare, do not typically cover long-term supports needed by people with disabilities: Now, therefore, be it

Resolved by the Legislature of the State of Minnesota, That it urges the Congress of the United States to adopt Medicaid buy-in legislation that would allow people with permanent disabilities to retain Medicaid coverage to address unmet health needs when they become employed; be it further

Resolved, That such Medicaid buy-in legislation should require individuals to take advantage of employer-based health coverage, if available and affordable, and should further require individuals to purchase needed Medicaid coverage on a sliding fee scale, based on their ability to pay; and be it further

Resolved, That the Secretary of State of the State of Minnesota is directed to prepare copies of this memorial and transmit them to the President and the Secretary of the United States Senate, the Speaker and the Clerk of the United States House of Representatives, and Minnesota's Senators and Representatives in Congress.

POM–414. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Finance.

HOUSE JOINT MEMORIAL 4030

Whereas, Medicaid has emerged as the most important governmental program to provide health and long-term care services to low-income persons and such program has continued to grow substantially placing an ever-growing demand on budgets of the national and state governments, and if the spiraling costs of Medicaid is left unchecked it will continue to have a detrimental effect on the social and economic viability of our communities; and

Whereas, Although it is well accepted by the people and most policymakers that public programs can be more effective and efficiently administered in our states and communities without excessive regulations, Medicaid remains highly bureaucratic granting flexibility to states sparingly and only after an extensive and costly waiver process; and

Whereas, The recent success of welfare reform is closely associated with the degree of flexibility granted states in administering that program and that similar success can be realized in Medicaid if states are given the same authority;

Now, therefore, Your Memorialists respectfully pray that the President submit and Congress quickly pass legislation that grants states extensive flexibility in the use of Medicaid funding for acute and long-term care services:

Be It Resolved, That copies of this Memorial be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington, and the Secretary of the United States Department of Health and Human Services.

POM–415. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Finance.

HOUSE RESOLUTION NO. 358

Whereas, four domestic producers of stainless steel products have filed a complaint with the Department of Commerce alleging that the subsidies and other practices of several foreign companies have allowed foreign companies to sell stainless steel products in the American marketplace at prices well below what they are being sold for in their home markets; and

Whereas, preliminary findings released by the Department of Commerce indicate that the allegations of dumping relating to certain stainless steel products have merit; therefore be it

Resolved, That the House of Representatives memorialize the Congress of the United States to urge the Department of Commerce to continue in a timely fashion this ongoing investigation and to take the matter before the International Trade Commission for the imposition of appropriate sanctions; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–416. A resolution adopted by the Legislature of the State of Alabama; to the Committee on the Judiciary.

HOUSE JOINT RESOLUTION 261

Whereas, separation of powers is fundamental to the United States Constitution and the power of the federal government is strictly limited; and

Whereas, under the United States Constitution, the states are to determine public policy; and

Whereas, it is the duty of the judiciary to interpret the law, not to create law; and

Whereas, our present federal government has strayed from the intent of our founding fathers and the United States Constitution through inappropriate federal mandates; and

Whereas, these mandates by way of statute, rule, or judicial decision have forced state governments to serve as the mere administrative arm of the federal government; and

Whereas, federal district courts, with the acquiescence of the United States Supreme Court, continue to order states to levy or increase taxes to comply with federal mandates, in violation of the United States Constitution and the legislative process; and

Whereas, the time has come for the people of this great nation and their duly elected representatives in state government, to reaffirm, in no uncertain terms, that the authority to tax under the Constitution of the United States is retained by the people who, by their consent alone, do delegate such power to tax explicitly to those duly elected representatives in the legislative branch of government whom they choose, such representatives being directly responsible and accountable to those who have elected them; and

Whereas, several states have petitioned the United States Congress to propose an amendment to the Constitution of the United States of America which was previously introduced in Congress; and

Whereas, the amendment seeks to prevent federal courts from levying or increasing taxes without representation of the people and against the people's wishes; now therefore,

Be It Resolved by the Legislature of Alabama, both Houses thereof concurring, as follows:

1. That we hereby urge the Congress of the United States to prepare and submit to the several states an amendment to the Constitution of the United States to add a new article providing as follows:

"Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or a political subdivision thereof, or an official of such a state or political subdivision, to levy or increase taxes."

2. That this resolution constitutes a continuing application in accordance with Article V of the Constitution of the United States.

3. That we urge the legislatures of each of the several states comprising the United States that have not yet made a similar request to apply to the United States Congress requesting enactment of an appropriate amendment to the United States Constitution, and apply to the United States Congress to propose such an amendment in the United States Constitution.

4. That copies of this resolution be provided to the President and Vice President of the United States, the presiding officer in each house of the legislature in each of the states in the union, the Speaker of the United States House of Representatives, the President of the United States Senate, and to each member of the Alabama Congressional Delegation.

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POM–417. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION NO. 41

Whereas, the National Crime Victimization Survey from the Bureau of Justice Statistics, United States Department of Justice reports that in 1992 and 1993, nearly five million women age twelve or older were victims of violent crimes annually; and

Whereas, these acts of violence included homicide, rape, sexual assault, robbery, aggravated assault, and simple assault; and

Whereas, domestic violence is not just a household, home, or family problem but is a societal problem; and

Whereas, over the past twenty years there has been an increased acknowledgment of violence against women; and

Whereas, each year violence against women continues to be a major cause of injury to women:

(1) more than one thousand women, about four every day, die as a result of domestic violence;

(2) domestic violence continues to be a leading cause of homicide in our states,

(3) fifty percent of the men who abuse their female partners also abuse their children: and

Whereas, more than half of the female children who witness violence in the home become victims of domestic violence as adults; and

Whereas, in 1994, the Congress passed the Violence Against Women Act (Public Law No. 103-322, 42 U.S.C. §3796, et seq.) which gave states funding to create programs to help improve the responses of victim service providers and law enforcement authorities to violence against women and provided for vigorous apprehension and prosecution of persons committing crimes against women; and

Whereas, Congress will be considering reauthorization of this Act under the Violence Against Women Act of 1998 which seek funding to continue the important programs originally enacted in the first Violence Against Women Act of 1994; additional funding for new programs to address other issues including child custody, insurance discrimination, legal services eligibility, medical training, workplace safety, and campus crime; and funding for training programs for social service providers and law enforcement officials to target violence against older women, disabled women, and provisions to address the special needs of battered immigrant women; therefore, be it

Resolved That the Legislature of Louisiana memorializes the Congress of the United States to support reauthorization of and funding for the Violence Against Women Act of 1998; be it further

Resolved That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation.

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POM–418. A resolution adopted by the Board of Trustees, Northville Township, Michigan relative to land use zoning authority; to the Committee on the Judiciary.

POM–419. A resolution adopted by the Council of the City of Romulus, Michigan relative to land use zoning authority; to the Committee on the Judiciary.

POM–420. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on the Judiciary.

SENATE JOINT RESOLUTION NO. 63

Whereas, Article V of the United States Constitution provides two methods by which the Constitution may be amended: by presentation of an amendment by Congress to the states for ratification and by Constitutional Convention, convened at the request of the state legislatures; and

Whereas, to date, the Constitution has been amended only by means of the first method, with many experts suggesting that a Constitutional Convention contains the inherent danger of altering the Constitution more extensively than the proponents of the Convention might have intended; and

Whereas, by providing both methods of amending the Constitution, the Framers clearly intended to provide a mechanism by which the several states could initiate the Constitutional amendment process but did not anticipate the later reluctance to convene a Constitutional Convention; and

Whereas, House Joint Resolution No. 84, introduced in the 105th Congress by Virginia Congressman Tom Bliley and cosponsored by Virginia Congressman Virgil Goode, proposes a process by which the states could initiate the amending process without the perils of a Constitutional Convention; and

Whereas, under the proposal, "two thirds of the legislatures of the several states may propose an amendment to the Constitution by enacting identical legislation in each such legislature proposing the amendment"; and

Whereas, if two-thirds of the House and Senate did not vote to disapprove of the proposed amendment, it would be submitted to the states for ratification, and upon ratification by three-fourths of the state legislatures, the amendment would become part of the Constitution; and

Whereas, Congressman Bliley's Constitutional Amendment is a reasonable and prudent proposal to provide the states with a means of modifying the Constitution of the United States, thus providing the states an option that the Framers clearly intended; now, therefore, be it

Resolved By the Senate, the House of Delegates concurring, That the General Assembly hereby urge the Congress to approve House Joint Resolution No. 84, which proposes an amendment to the United States Constitution to provide a means by which the states can initiate the amendment process without the necessity of a Constitutional Convention; and, be it further

Resolved, That the Clerk of the Senate transmit copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Congressional delegation of Virginia so that they may be apprised of the sense of the General Assembly of Virginia.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance, with amendments:

S. 1415: A bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

By Mr. STEVENS, from the Committee on Appropriations: Special Report entitled "Allocation to Subcommittees on Budget Totals From the Concurrent Resolution for Fiscal Year 1999" (Rept. 105–191).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources:

Douglas S. Eakeley, of New Jersey, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1999. (Reappointment)

Jeanne Hurley Simon, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2002. (Reappointment)

Cyril Kent McGuire, of New Jersey, to be Assistant Secretary for Educational Research and Improvement, Department of Education.

William James Ivey, of Tennessee, to be Chairperson of the National Endowment for the Arts for a term of four years.

Raymond L. Bramucci, of New Jersey, to be an Assistant Secretary of Labor.

Seth D. Harris, of New York, to be Administrator of the Wage and Hour Division, Department of Labor.

Robert H. Beatty, Jr., of West Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term expiring August 30, 2004. (Reappointment)

Thomas Ehrlich, of California, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of five years. (Reappointment)

Dorothy A. Johnson, of Michigan, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of five years.

Rita R. Colwell, of Maryland, to be Director of the National Science Foundation for a term of six years.

(The above nominations were reported with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SMITH of Oregon (for himself, Mr. HATCH, Mr. GRAMS, Mr. ABRAHAM, Mr. WYDEN, and Mr. HUTCHINSON):

S. 2079. A bill to amend the Internal Revenue Code of 1986 to replace the dependent care credit for children age 5 and under with an increase in the amount of the child tax credit for such children; to the Committee on Finance.

By Mr. HELMS (for himself, Mr. LOTT, Mr. MACK, Mr. GRAHAM, Mr. TORRICELLI, Mr. COVERDELL, Mr. D'AMATO, Mr. REID, Mr. LIEBERMAN, Mr. HATCH, Mr. ROTH, Mr. THURMOND, Mr. NICKLES, Mr. GRASSLEY, Mrs. HUTCHISON, Mr. ASHCROFT, Mr. FAIRCLOTH, Mr. INHOFE, Mr. SMITH of New Hampshire, Mr. HOLLINGS, Mr. DEWINE, and Mr. THOMPSON):

S. 2080. A bill to provide for the President to increase support to the democratic opposition in Cuba, to authorize support under the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 for the provision and transport of increased humanitarian assistance directly to the oppressed people of Cuba to help them regain their freedom, and for other purposes; to the Committee on Foreign Relations.

By Mr. BINGAMAN (for himself, Mr. SANTORUM, and Mr. LIEBERMAN):

S. 2081. A bill to guarantee the long-term national security of the United States by investing in a robust Defense Science and Technology Program; to the Committee on Armed Services.

By Mr. COCHRAN:

S. 2082. A bill to amend chapter 36 of title 39, United States Code, to provide authority to fix rates and fees for domestic and international postal services, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRASSLEY (for himself and Mr. KOHL):

S. 2083. A bill to provide for Federal class action reform, and for other purposes; to the Committee on the Judiciary.

By Mrs. BOXER (for herself, Mr. SARBANES, Mr. ROBB, Mr. LAUTENBERG, Mrs. MURRAY, and Mr. GRAHAM):

S. 2084. A bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on submerged land of the Outer Continental Shelf that is adjacent to a coastal State that has declared a moratorium on mineral exploration, development, or production activity in adjacent State waters; to the Committee on Energy and Natural Resources.

By Mr. HUTCHINSON:

S. 2085. A bill to assist small businesses and labor organizations in defending themselves against Government bureaucracy; to protect the right of employers to have a hearing to present their case in certain representation cases; and to prevent the use of the National Labor Relations Act for the purpose of disrupting or inflicting economic harm on employers; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG (for himself and Mr. SPECTER):

S. Con. Res. 96. A concurrent resolution expressing the sense of Congress that a postage stamp should be issued honoring Oskar Schindler; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SMITH of Oregon (for himself, Mr. HATCH, Mr. GRAMS, Mr. ABRAHAM, Mr. WYDEN, and Mr. HUTCHINSON):

S. 2079. A bill to amend the Internal Revenue Code of 1986 to replace the dependent care credit for children age 5 and under with an increase in the amount of the child tax credit for such children; to the Committee on Finance.

CHILD TAX CREDIT LEGISLATION

Mr. SMITH of Oregon. Mr. President, colleagues, and ladies and gentlemen, I rise today to introduce legislation to change the Tax Code to put stay-at-home moms and dads on an equal footing with two-income families. My legislation is cosponsored by Senators HATCH, GRAMS, WYDEN, and ABRAHAM. This legislation that we introduce will increase the current $500-per-child credit to $1,500 per child for children up to 6 years of age. This credit would replace the current dependent care tax credit with real money that directly benefits families and restores equality and fairness in child care.

Mr. President, there are many proposals to reduce tax burdens, many of which I wholeheartedly support, such as the elimination of the marriage penalty. But I must confess some frustration that I felt on the night our President gave his State of the Union Address when he spoke at great length about child care. He made a proposal, about $20 billion worth, that contained many laudable provisions and parts of which I could support. But it contained a very glaring omission, in my view. The Clinton administration policy is both a direct and indirect subsidy to the marketplace day care industry. The administration seeks to help only a small portion of working parents, ruling out those who wish to stay at home to take care of their child and those who do not want to use marketplace day care. Government policy ought not to discriminate in this manner against the best form of child care where the child is taken care of by his or her own parents or family member.

A few months ago Renée Anderson of Medford, OR, sent me an e-mail commenting that government spending will not give tax relief to parents of preschoolers who take care of their own children.

Here is her letter, Mr. President. I ask unanimous consent it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MEDFORD, OR,
March 7, 1998.

Re the President's National Day Care Plan.

DEAR SENATOR GORDON SMITH: Please do all you can to squelch Bill and Hillary Clinton's $21.7 billion National Day Care Plan.

It is loaded with a number of government-controlled programs.

New spending will not give tax relief to parents of preschoolers who take care of their own children.

Not one penny of relief will help increase the amount of time parents will have available to spend with their children.

This is "day care," not "child care." Child care is something that every family does. Day care is the activity, undertaken out of preference or necessity, that some families choose.

There is a rampant prejudice against stay-at-home parents.

Here's what's at stake: the continued importance of parental care of children and through that care, passing on the values that families hold dear.

Commercial day care is often avoided if at all possible because there is a lack of personalized attention and affection. Plus there is a greater exposure to childhood diseases and many other sicknesses.

Surely this new public policy is very characteristic of today's government arrogance.

I strongly oppose this $21.7 billion national day care plan. It is an alarming example of government encroachment.

Sincerely,

RENÉE ANDERSON.

Mr. SMITH of Oregon. Renée, like many mothers and fathers, sees most government spending as "day care" and not "child care." Child care, she says, is something that every family does. Day care is the activity undertaken out of either preference or necessity that some families are able to choose or forced to choose.

A recent Wirthlin poll shows that care by a child's own parent or immediate family member is rated as the most desirable form of child care, with child care by a family's mother ranking the highest.

Census Bureau statistics show that many families—nearly half of those with children under 6 years of age—pass up a second income and care for their children themselves, and yet where is the tax relief to help ease the burden of child care expenses for families that choose to take care of their children in their homes? It simply is not there. This legislation will eliminate the current discriminatory tax policy and replace it with one that is fair to all families regardless of the child care choices they make.

I hope many of my colleagues can join in supporting this legislation. I know it competes with many other proposals, but I, frankly, can think of no greater priority that we ought to have than helping mothers and fathers take care of their children, for truly the hand that rocks the cradle is the hand that controls the future. There is no more important responsibility that any of us as mortals undertake than to rear a child. So the Federal Government ought to not get in the way of that but ought to reduce its take and leave more resources to mothers and fathers to leave them at home where they can serve real human and child needs.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2079

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPLACEMENT OF DEPENDENT CARE CREDIT FOR CHILDREN UNDER AGE 6 WITH INCREASE IN CHILD TAX CREDIT.

(a) INCREASE IN CHILD TAX CREDIT.—Subsection (a) of section 24 of the Internal Revenue Code of 1986 (relating to child tax credit) is amended by striking "an amount equal to $500" and all that follows through the period and inserting the following: "an amount equal to—

"(1) $1,500 in the case of a qualifying child who is 5 years of age or less, and

"(2) $500 in the case of all other qualifying children.".

(b) COORDINATION OF DEPENDENT CARE CREDIT.—Section 21 of the Internal Revenue Code of 1986 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by inserting "over the age of 5 and" before "under the age of 13" each place it appears in subsections (b)(1)(A) and (e)(5)(B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

By Mr. HELMS (for himself, Mr. LOTT, Mr. MACK, Mr. GRAHAM, Mr. TORRICELLI, Mr. COVERDELL, Mr. D'AMATO, Mr. REID, Mr. LIEBERMAN, Mr. HATCH, Mr. ROTH, Mr. THURMOND, Mr. NICKLES, Mr. GRASSLEY, Mrs. HUTCHISON, Mr. ASHCROFT, Mr. FAIRCLOTH, Mr. INHOFE, Mr. SMITH of New Hampshire, Mr. HOLLINGS, Mr. DEWINE, and Mr. THOMPSON):

S. 2080. A bill to provide for the President to increase support to the democratic opposition in Cuba, to authorize support under the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 for the provision and transport of increased humanitarian assistance directly to the oppressed people of Cuba to help them regain their freedom, and for other purposes; to the Committee on Foreign Relations.

THE CUBAN SOLIDARITY ACT OF 1998 (SOLIDARIDAD)

Mr. HELMS. Mr. President, immediately upon his return from Cuba, Pope John Paul II gave an audience at the Vatican where he discussed his historic Cuban pilgrimage. While Fidel Castro and others were working hard to distort the purpose of his visit, the Pope was unambiguous about the aims and purposes of his visit in Cuba.

His Holiness said: "I wish for our brothers and sisters on that beautiful island that the fruits of this pilgrimage will be similar to the fruits of that pilgrimage in Poland," referring to his June 1979 visit to his native Poland—a visit which is widely credited with inspiring the Polish people to throw off the shackles of their oppression, and embrace their God-given spiritual and political freedom.

That visit marked the beginning of the end for Poland's communist dictatorship—just as, I believe, the Pope's historic visit to Cuba has marked the beginning of the end of Fidel Castro's despotic rule.

With his Cuban pilgrimage, John Paul II has sown the seeds of spiritual and political liberation in the Cuban mind. The United States must now help the Cuban people to cultivate those seeds of liberation which His Holiness had planted in Cuba—just as the United States worked with him in helping the Polish people in their struggle against communist oppression nearly two decades ago.

That is why today—along with more than 20 of my Senate colleagues—I am introducing legislation that will bring new energy and focus to the U.S. Cuba policy—"The Cuban Solidarity Act of 1998" or "SOLIDARIDAD" Act.

The buttons we are all wearing may look familiar to many watching today. Our buttons bear the logo of the Polish Solidarity movement—but with a Cuban twist. You see, we are calling this legislation the "Cuban Solidarity Act" for a reason. Our goal is to do today for the people of Cuba, what the United States did for the Solidarity movement in Poland during the 1980s: Give the Cuban people the resources they need to build a free, functioning civil society within the empty shell of Castro's bankrupt communist "revolution."

The Cuban Solidarity Act proposes to authorize $100 million over four years in U.S. government humanitarian assistance to the Cuban people—donations of food and medicine, to be delivered through the Catholic Church and truly independent relief organizations in Cuba like Caritas.

The legislation we are introducing today will authorize direct humanitarian flights to deliver both private and U.S. government donations to Cuba. And it will mandate a proactive U.S. policy to support the internal opposition in Cuba, just as the U.S. supported the Solidarity movement in Poland during the 1980s.

This legislation is not about the Cuban embargo. It does not tighten the embargo; it does not loosen the embargo. What it does is add a new dimension to the U.S. policy regarding Cuba: With the enactment of this legislation, U.S. policy will no longer be simply to isolate the Castro regime, but to actively support those working to bring about change inside Cuba.

As Secretary of State Madeline Albright recently put it, there are two embargoes in Cuba today: The U.S. embargo on the Castro regime, and Castro's embargo on his own people. We must, Secretary Albright said, maintain the first, while breaking the second.

This legislation is designed to break Fidel Castro's brutal embargo on the Cuban people. The Cuban Solidarity Act has four central objectives:

First, this bill will provide free food and medicine to Cubans most in need—those who cannot possibly afford to buy the necessities of life because they have no access to U.S. dollars.

Second, it will strengthen those institutions delivering this aid by giving them the resources they need to expand their space in Cuba and nurture a nascent civil society on the island.

Third, this bill will undermine the Castro regime's ability to stifle dissent through the denial of work and basic necessities. In Cuba today, anyone who dares to speak out against Castro's despotic rule can lose his or her job (or be thrown in jail) and thus lose their ability to feed their families. This bill will help undermine Castro's ability to maintain social control through deprivation, by helping build alternative sources of food and medicine in Cuba.

And finally, this bill will take away Fidel Castro's excuses, by neutralizing Castro's propaganda which falsely blames the U.S. embargo for the hardships suffered by the Cuban people.

This legislation puts Castro in a no-win situation. There is no way for him to be on the right side of denying the Cuban people access to free food and medicine from the United States.

If Castro allows this food and medicine into Cuba, it will bring relief to millions of Cubans who cannot afford to buy basic necessities; it will remove his ability to use deprivation as a tool of oppression; and it will help independent institutions create space for themselves in Cuba society.

But if he does not allow the food and medicine in, then 11 million Cubans will know exactly who is responsible for their daily suffering. They will know that the American people wanted to send them $100 million in food and medicine, but that Castro said "No".

In addition to this humanitarian relief, the Cuban Solidarity Act also instructs the President to take a series of steps intended to hasten the liberation of the Cuban people. Among other provisions:

The bill instructs the President to increase all forms of U.S. government support for "democratic opposition groups in Cuba," who risk life and limb each day to challenge the regime.

The bill also urges the President to seek a U.N. Security Council resolution calling on Fidel Castro to "immediately respect all human rights, free all political prisoners, legalize independent political parties, allow independent trade unions, and conduct freely contested elections."

The Cuban Solidarity Act also calls for creative measures to overcome Castro's blockade on information coming into Cuba instructing the President to commence "freedom broadcasting" through Radio and TV Marti from the U.S. naval base at Guantanamo, and other suitable sites around Cuba.

The bill also requires the Administration to produce a series of reports on the plight of average Cubans, including conditions of human rights, workers' rights, and the apparent policy of coercing abortions among poor, less-educated Cuban women.

And the bill will authorize increased personnel in the Treasury and Commerce Departments to facilitate licenses for American medical sales to Cuba—which have been fully legal since 1992—taking away Castro's excuses for his failure to provide American medicine and medical equipment for his people.

The Cuban Solidarity Act is a bill that could and should be supported by all U.S. Senators, those for the Cuban embargo, and those opposed.

All of us should unite behind a policy of providing free food and medicine to those trapped in Castro's Orwellian economy. I cannot imagine that anyone would disagree with the notion that the United States should bring the same intense commitment to its Cuba policy that made the difference in Poland's struggle with communist tyranny.

Now some have suggested that we should not give the Cuban people free food and medicine—rather, we should sell it to them. My question is this: What exactly will they use to buy this American food and medicine? Soviet rubles?

The Cuban people can't afford to buy American food and medicine! Today, in Cuba, food and medicine is available everywhere. In Havana, there are bakeries overflowing with fresh bread, pharmacies stocked with Western medicines, grocery stores brimming with foods. But these products are completely out of reach to most Cubans.

Why? Castro allows them to be sold only for dollars, which the vast majority of Cubans don't have. Castro pays them in worthless Cuban pesos. The only Cubans who can afford to shop in these exclusive stores are cronies of the Castro regime, and those few lucky Cubans who get dollars from abroad—or those poor Cuban women and girls who are forced to prostitute themselves to foreign tourists from Canada and Europe in order to survive.

Instead of trading with the Castro regime (and thus subsidizing the brutal state security apparatus which keeps him in power), our call today is: Let us unite to circumvent this monstrous system Castro has built; Let's give food and medicine directly to the Cuban people.

The Cuban Solidarity Act will also encourage and facilitate increased private donations to Cuba. There are many in the private sector who have been enormously generous in their humanitarian efforts for the Cuban people, and we will be encouraging them to redouble their efforts.

But we will also be issuing a challenge to all of our big-hearted friends in the corporate community who have been lobbying to lift the Cuban embargo. Since they claim to have so much concern for the Cuban people, we will be asking them: What are you willing to donate to help suffering Cubans who cannot afford to buy food and medicine for themselves? We'll see if the floodgates of generosity open up, showing corporate America's concern for Cuba's suffering people.

Fidel Castro will never change his stripes. The Cuban Solidarity Act is based on the belief that we must do more than wait for Fidel Castro to die or "get religion." We must do what was done for Lech Walesa and his courageous Polish brothers; that is, we must undertake a proactive policy under which the United States will lend decisive support to the cause of freedom in Cuba.

The Pope's visit planted the seeds of liberation in Cuba. The Cuban Solidarity Act is the American people's way of cultivating those seeds for the benefit of Cubans and freedom-loving people everywhere.

Let's get about it.

Mr. GRAHAM. Mr. President, I am proud to join Senators HELMS, LOTT, MACK, and nearly twenty other Senators in introducing the Cuban Solidarity Act. This bill will capitalize on the historic opportunity provided by Pope John Paul II's visit to Cuba this past January. It provides for $100 million in humanitarian assistance directly to the Cuban people over four years, and does so in a way that will strengthen the Catholic Church and other independent organizations in Cuba. We must seize this opportunity to help our Cuban brothers and sisters who have suffered under Castro's brutal rule for far too long.

Communism has collapsed around the world, and the only countries that maintain this economic sytsem—Cuba and North Korea—are crumbling under their own weight. This failed system has created shortages of food and medicine, and Castro has denied the basic freedoms that we take for granted to millions of ordinary Cubans.

In addition to providing humanitarian assistance to Cuba, this bill also directs the administration to expedite the licensing of sales of medicine and medical supplies to Cuba. Since 1992, the embargo has been lifted on the sale of medicines, medical equipment, and medical supplies to Cuba. While Castro continues to claim that the United States is responsible for Cubans' lack of access to much needed medicines, the truth is that we are doing everything we can to ensure that the Cuban people can get the medical supplies denied them by the Castro government.

Pope John Paul II called the world's attention to the suffering of the Cuban people during his visit to Cuba in January. I feel the time is right to make assistance to oppressed Cubans more easily available through organizations such as the Catholic Church and other independent groups. Targeting additional aid in this matter will have three important effects. First, it will provide humanitarian assistance directly to the Cuban people who have suffered under communism. Second, it will strengthen the position of the Catholic Church as a more independent, viable institution in Cuba. Finally, it will help to undermine Castro's policy of denying food and medicine as a means of political control.

Pope John Paul II asked the world to open up to Cuba, and asked Cuba to open itself to the world. This bill will begin that process by providing humanitarian assistance to the Cuban people. We hope that Castro will respond by opening Cuba to the world.

Just yesterday, Cuban Cardinal Ortega expressed concern that the Castro regime was not making an effort to open Cuba to the world—specifically regarding the political prisoners that continue to fill Cuban jails. Four of these political prisoners are in particularly desperate condition—Marta Beatriz Roque, Vladimiro Roca, Felix Bonne, and Rene Gomez Manzano—and Castro has refused appeals by the Pope and Canadian Prime Minister Jean Chretien to release them on humanitarian grounds. In fact, Marta Beatriz Roque is very ill with breast cancer and is being denied medical attention in jail. I hope that these political prisoners, as well as thousands of others, live to see a time when expressing one's political ideas does not mean a death sentence.

This legislation will provide an upwelling of support for the advocates of freedom and human rights in Cuba. A number of periodic reports on exploitative labor conditions and the plight of political prisoners in Cuba will help bring the world's attention to the reality of Castro's oppression. Democracy efforts in Cuba will be bolstered through pro-active U.S. support for the Cuban opposition. Direct mail delivery from the U.S. to Cuba and additional Radio and TV Marti broadcasts will allow the Cuban people to receive uncensored news from the outside world, breaking Catro's monopoly on the dissemination of information.

Let us not forget that U.S. support for the democracy movements of Eastern Europe helped millions of people there win the freedom to express their ideas, live without fear, and create better lives for their children. We should not turn our backs on the Cuban people now, when they need our help more than ever. The Castro government does not need food and medicine: the Cuban people do. We must ensure that our aid does not go to those who torture and kill. The Cuban Solidarity Act works to give food and medicine to those who are forgotten by Castro's regime—the poor mothers who need prenatal care, the children who need bread and milk, the elderly who die of easily curable diseases.

Mr. President, the 11 million Cubans imprisoned by Castro's reign of terror are counting on us to enact this vital and historic piece of legislation. I hope that all of my colleagues will join Senators HELMS, LOTT, MACK, myself, and nearly twenty others in supporting this effort to provide a lifeline to the Cuban people.

Mr. THURMOND. Mr. President, I rise as an original cosponsor of the Cuban Assistance and Solidarity (SOLIDARIDAD) Act that my distinguished friend and Chairman of the foreign Relations Committee, Senator HELMS, is introducing today. I commend the Chairman for his leadership on this issue and strongly support him in this endeavor.

The intent of this legislation is very simple: to actively assist the repressed Cuban people and those dedicated to ending the regime of Fidel Castro.

This Act will authorize $100 million in humanitarian assistance over four years for food, medicine, and medical supplies, donated by the U.S. government. In addition, direct flights to deliver this humanitarian aid will be authorized and monitored to ensure that all aid is directly delivered to the Cubans who need it most, those who are unable to afford to make purchases in the Castro controlled dollar-only stores.

Mr. President, this is an important piece of legislation. This bill will eliminate Castro's claims that the U.S. embargo is the cause of the hardships suffered by the Cuban people. It effectively creates a Catch-22 for him. If he allows the aid, he loses his control by deprivation. If he prohibits the aid, he will no longer be able to prevent the people from receiving food and medicine without the knowledge that he is responsible for their pain and suffering, not the United States.

Further, this bill requires the President to take several timely and appropriate pro-democracy steps regarding Cuba, such as strengthening support for democratic opposition within Cuba; seeking a U.N. Security Council resolution on free elections; beginning "freedom broadcasting" through Radio and TV Marti; producing a series of reports on the plight of average Cubans; authorizing increased personnel to expedite American medical sales licenses; and obtaining the International Court of Justice indictment in the downing of two unarmed planes and the murder of four people in 1996.

Mr. President, I urge all of my colleagues to take a proactive stand for the people of Cuba and support the SOLIDARIDAD Act.

By Mr. BINGAMAN (for himself, Mr. SANTORUM, and Mr. LIEBERMAN):

S. 2081. A bill to guarantee the long-term national security of the United States by investing in a robust Defense Science and Technology Program; to the Committee on Armed Services.

THE NATIONAL DEFENSE SCIENCE AND TECHNOLOGY ACT OF 1998

Mr. BINGAMAN. Mr. President, I am pleased to introduce today the National Defense Science and Technology Investment Act of 1998. In line with the clear bipartisan support for Defense research I am very pleased to be joined by Senator SANTORUM and LIEBERMAN in introducing this important bill.

The National Defense Science and Technology Investment Act of 1998 will lay the fiscal framework for the Defense research needed to achieve, early in the next century, what the Department of Defense call "Full Spectrum Dominance"—the ability of our armed forces to dominate potential adversaries in any conceivable military operation, from humanitarian operations through the highest intensity conflict. The bill creates a plan that would achieve the equivalent of at least a $9 billion Defense Science and Technology Program budget in today's dollars within the next 10 years—an increase of 16% over today. The bill also sets similar increases for the non-proliferation research of the Department of Energy.

Much of the technology that gave the United States a quick victory with so few casualties in Desert Storm came from DoD's research of the 1960s and 1970s. More Defense research is needed today to prepare for the next century for a number of reasons.

First, as the DoD has noted, the two key enablers of "Full Spectrum Dominance" will be information superiority and technological innovation. The DoD has been the preeminent federal agency funding the disciplines undergirding these enablers, for example, supporting roughly 80% of the federally sponsored research in electrical engineering, and 50% of that in computer science and mathematics. No other organizations, public or private, can be expected to substitute for the unique role of the DoD in these research areas. Second, the global spread of advanced technology and a nascent revolution in military affairs are creating new threats to the United States which will challenge our ability to achieve Full Spectrum Dominance. These include: information warfare; cheap precise cruise missiles; and the spread of weapons of mass destruction. Finally, we are now in a relatively secure interlude in our international relations, a time when we can afford to work on transforming our military forces. While the world is still a dangerous place, it will be even more dangerous in the future. So now is the time to undertake the Defense research needed to secure our future.

Yet, the DoD's current Science and Technology budget plans do not reflect these realities. The outyear budgets are basically flat in real terms out to 2003, at a level $200 million lower than 1998's level. This money pays for the research and concept experimentation needed to invent and experiment with new military capabilities. Worse yet, the Department of Energy's budget for non-proliferation research will decline by around 20% in real terms by 2003. Simply put, Mr. President, these budget plans are just not consistent with the vision of Full Spectrum Dominance, the threats on the horizon, and the opportunity we have today.

National Defense Science and Technology Investment Act creates budget plans that are consistent with the vision, threats, and opportunity. Starting with fiscal year 2000, the Act calls on the Secretary of Defense to increase the Defense Science and Technology budget request by at least 2% a year over inflation until fiscal year 2008. The end result will be a Defense Science and Technology budget that reaches at least $9 billion in today's dollars by 2008, an increase of $1.2 billion or 16% over today's level. The Department of Energy's non-proliferation research would also increase the same 2% over inflation yearly.

These budget increases are significant for research, yet modest and achievable; they will be an excellent investment. While they may require some shifting of funds within DoD's budget, the total amount shifted will be around half a percent of that total budget over ten years. I am extremely confident that the Secretary of Defense will be able to make this gradual shift in the budget without damaging other priorities. I am also quite sure its something we need to do.

Imagine, if you will, a large company in the most ferociously competitive high tech business in the world—a company that has done very well over the years, but faces downstream a series of new, highly aggressive, innovative and unpredictable competitors. Would we, as shareholders, say that shifting half a percent of its revenue into research over ten years would be something it couldn't afford to do? No. It would be clear that is something it couldn't afford not to do. I suggest the DoD is in a similar position.

Technological supremacy has been a keystone of America's security strategy since World War II. Supporting that supremacy has been Defense research, one of the highest return investments this nation makes. This coming decade is the time to start increasing this investment in our national security. The National Defense Science and Technology Investment Act of 1998 is a modest approach to making this investment, but one, I am sure, which will yield immodest returns to our military.

Mr. President, I urge my colleagues to join Senators SANTORUM, LIEBERMAN, and myself in support of this important bill.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Science and Technology Investment Act of 1998."

SEC. 2. FINDINGS.

The Congress of the United States finds the following:

(1) To provide for the national security of the United States in the 21st century, the U.S. military must be able to dominate the full range of military operations, from humanitarian assistance to full-scale conflict. The keys to achieving this "Full Spectrum Dominance," as described in the Department of Defense's "Joint Vision 2010," are technological innovation and information superiority.

(2) The global spread of advanced technology is transforming the military threats faced by the United States and will challenge our ability to achieve Full Spectrum Dominance. Some of the major technological challenges our military face include information warfare; proliferating weapons of mass destruction; inexpensive, precise, cruise missiles; and increasingly difficult operations in urban environments.

(3) The United States is now in a relatively secure interlude in its international relations, but the future security environment is very uncertain. Thus, now is the time to focus our Defense investments on the research and experimentation needs to meet new and undefined threats and achieve Full Spectrum Dominance.

(4) The Department of Defense has been the preeminent federal agency supporting research in engineering, mathematics, and computer science, and a key supporter of research in the physical and environmental sciences. These disciplines remain critical to achieving information superiority and maintaining technological innovation in our military. The Department of Energy has played a critical role in supporting the research needed to limit the spread of weapons of mass destruction. No other organizations, public or private, can be expected to substitute for the role of the Department of Defense and Department of Energy in these research areas.

(5) However, the current budget plan for the Defense Science and Technology Program is essentially flat in real terms through fiscal year 2003. The planned budget for nonproliferation science and technology activities at the Department of Energy will decline.

(6) These budget plans are not consistent with the vision of Full Spectrum Dominance, the threats or uncertainties on the horizon, or the opportunity presented by the current state of international relations. The planned level of investment could pose a serious threat to our national security in the next 15 years, given the usual time it takes from the start of Defense research to achieving new military capabilities.

(7) Consequently, the Congress must act to establish a long-term vision for the Defense Science and Technology Program's funding if the United States is to encourage the research and experimentation needed to seize the current opportunity and begin transforming our military to meet the new threats and achieve Full Spectrum Dominance early in the next century.

(8) The Congress must also act to establish a robust long-term vision and funding plan in support of nonproliferation science and technology activities at the Department of Energy.

SEC. 3. PURPOSE AND FUNDING REQUIREMENTS.

(a) PURPOSE.—The purpose of this Act is to create a ten-year budget plan to support the disciplines, research, and concept of operations experimentation that will transform our military and reduce the threat from weapons of mass destruction early in the next century.

(b) FUNDING REQUIREMENTS.—

(1) DEFENSE SCIENCE AND TECHNOLOGY PROGRAM BUDGET.—For each year from fiscal year 2000 until fiscal year 2008, it shall be an objective of the Secretary of Defense to increase the Defense Science and Technology Program budget by no less than 2.0 percent over inflation greater than the previous fiscal year's budget requests.

(2) NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES BUDGET.—For each year from fiscal year 2000 until fiscal year 2008, it shall be an objective of the Secretary of Energy to increase the budget for nonproliferation science and technology activities by no less than 2.0 percent a year over inflation greater than the previous fiscal year's budget request.

SEC. 4. GUIDELINES FOR THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM.

(a) SYNERGISTIC MANAGEMENT OF RESEARCH AND DEVELOPMENT.—The Secretary of Defense may allocate a combination of funds from Department of Defense 6.1, 6.2, or 6.3 accounts in supporting any individual project or program of the Defense Science and Technology Program.

(b) RELATIONSHIP OF THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM TO COMMERCIAL RESEARCH AND TECHNOLOGY.—

(1) In supporting projects within the Defense Science and Technology Program, the Secretary of Defense shall attempt to leverage commercial research, technology, products, and processes for the benefit of the Department of Defense to the maximum extent practicable.

(2) Funds made available to the Defense Science and Technology Program must only be used to benefit the Department of Defense, which includes—

(A) the development of defense unique technology;

(B) the development of military useful, commercially viable technology; or

(C) the adaption of commercial technology, products, or processes for military purposes.

(c) RELATIONSHIP OF DEFENSE SCIENCE AND TECHNOLOGY PROGRAM TO UNIVERSITY RESEARCH.—The following shall be key objectives of the Defense Science and Technology Program—

(1) the sustainment of research capabilities in scientific and engineering disciplines critical to the Department of Defense;

(2) the education and training of the next generation of scientists and engineers in disciplines relevant to future Defense systems, particularly through the conduct of basic research; and

(3) the continued support of the Defense Experimental Program to Stimulate Competitive Research and research programs at Historically Black Colleges and Universities and Minority Institutions.

SEC. 5. DEFINITIONS.

As used in this Act—

(1) DEFENSE SCIENCE AND TECHNOLOGY PROGRAM.—The term "Defense Science and Technology Program" means work funded in Department of Defense accounts 6.1, 6.2, or 6.3; and

(2) NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES.—The term "nonproliferation science and technology activities" means work related to preventing and countering the proliferation of weapons of mass destruction that is funded by the Department of Energy under the following programs and projects of the Department's Office of Nonproliferation and National Security and Office of Defense Programs:

(A) the Verification and Control Technology program within the Office of Nonproliferation and National Security;

(B) projects under the "Technology and Systems Development" element of the Nuclear Safeguards and Security program within the Office of Nonproliferation and National Security;

(C) projects relating to a national capability to assess the credibility of radiological and extortion threats, or to combat nuclear materials trafficking or terrorism, under the Emergency Management program within the Office of Nonproliferation and National Security;

(D) projects relating to developing or integrating new technology to respond to emergencies and threats involving the presence, or possible presence, of weapons of mass destruction; radiological emergencies; and related terrorist threats, under the Office of Defense Programs; and

(E) program direction costs for the programs and projects funded under subparagraphs (A) through (D).

Mr. LIEBERMAN. Mr. President, I am pleased to introduce, along with Senators BINGAMAN and SANTORUM, the National Defense Science and Technology Investment Act of 1998. I have been concerned for some time now that our investments in defense R&D are not commensurate with the opportunity that new technology developments afford. I recognize, Mr. President, that relative to the procurement budget, defense R&D has fared well in recent years. While the ratio of R&D funding relative to procurement was an appropriate benchmark during the Cold War, I would argue that it is a misleading indicator in the current environment.

We find ourselves in a comparatively peaceful historical interlude in which we face no peer military competitors. How likely is it that this set of circumstances will last? We don't know the answer to that question. The future is uncertain and, if history is our guide, will be considerably more dangerous than today. At the same time, the ongoing technology revolution is creating revolutionary new capabilities that will change the nature of warfare itself. These new capabilities would enable our forces to engage an enemy in a coordinated fashion across an entire theater of operations and thereby rapidly and totally dominate the battlespace. By aggressively exploiting the new capabilities that technology has to offer, the U.S. can assure its decisive military superiority over any potential adversary, even with numerically smaller forces than are fielded today. Our ability to realize this vision of the future, however, depends on the research and development we conduct today.

All of the assessments, both internal and external, of our nation's defense posture concur that we must transform our force structure through greatly accelerated rates of technology insertion. The transformed military force envisioned in, for example, General Shalikashvili's Joint Vision 2010 requires a much higher level of research, development, prototyping, and testing than we are engaged in today. Our current defense R&D budgets simply don't support the accelerated rates of technology insertion and integration that these assessments imply.

Mr. President, I realize that our military has many needs today that compete for scarce defense dollars. But we cannot mortgage our future security to short-term demands. Increased funding for our nation's defense R&D enterprise is essential if we are to realize the vision of a transformed force structure that takes advantage of the new opportunities that the high-tech revolution has to offer. The National Defense Science and Technology Investment Act of 1998 would put us on the path of higher defense R&D budgets by outlining a plan for real increases of 16% over ten years. This is a modest proposal, Mr. President, and one that holds the promise of very significant future returns. I urge my colleagues to join Senator BINGAMAN, SANTORUM, and me and support this important piece of legislation.

By Mr. COCHRAN:

S. 2082. A bill to amend chapter 36 of title 39, United States Code, to provide authority to fix rates and fees for domestic and international postal services, and for other purposes; to the Committee on Governmental Affairs.

THE INTERNATIONAL POSTAL SERVICES ACT OF 1998

Mr. COCHRAN. Mr. President, today I am introducing the International Postal Services Act of 1998. This bill would amend section 3621 of title 39 of the U.S. Code, dealing with the authority of the Board of Governors of the U.S. Postal Service to establish rates and classes of postal services, by subjecting international postal services to review by the Postal Rate Commission.

At present, the Board of Governors' and Postal Rate Commission's authority to collect and review Postal Service data on costs, volumes, and revenues extends only to domestic mail. Therefore, the regulators and Congress, and the public, cannot require data to support statements by the Postal Service that international mail is covering its attributable costs.

Allegations have been made that the Postal Service uses its revenues from first class mail to subsidize its international postal services. The Postal Service denies this, and reminds its competitors that the Postal Reorganization Act prohibits the Postal Service from using the revenues from one service to reduce the price of another.

When Congress drafted, and later passed, the postal Reorganization Act of 1970, no specific language was included that would grant the Postal Rate Commission jurisdiction over international postal services—as it was granted for all domestic postal services. I believe this was an oversight by Congress, and I believe it would be best if, for the purposes of establishing classes and rates for mail, international postal services were to be treated the same as domestic postal services are treated.

I invite Senators to consider this proposal and support this effort to bring harmony to the treatment of international and domestic postal services.

By Mr. GRASSLEY (for himself and Mr. KOHL):

S. 2083. A bill to provide for Federal class action reform, and for other purposes; to the Committee on the Judiciary.

THE CLASS ACTION FAIRNESS ACT

Mr. GRASSLEY. Mr. President, I rise today to introduce a bill that will help fight class action lawsuit abuses. This bill, which Senator KOHL and I are introducing today, will go a long way toward ending class action lawsuit abuses where the plaintiffs receive very little and their lawyers receive a whole lot. It will also preserve class action lawsuits as an important toll that bring representation to the unrepresented and result in important discrimination and consumer decisions.

My Judiciary Subcommittee held a hearing last Fall that exposed and discussed the problem of certain class action lawsuit settlements. Let me give you an example of a class action lawsuit settlement that I find particularly disturbing. In an antitrust case settled in the Northern District of Illinois in 1993, the plaintiff class alleged that multiple domestic airlines participated in pricefixing beginning at least as early as January 1, 1988. This pricefixing resulted in plaintiffs paying more for airline tickets that they otherwise would have had to pay.

The settlement in this case gave a coupon book to all of the plaintiffs. These coupons varied in amount and number, according to how many plane tickets the plaintiffs had purchased. These coupons can be used toward the purchase of future airline tickets. The catch is that the plaintiff still has to pay for the majority of any new airline ticket out of his or her own pocket. This means that only $10 worth of coupons can be used towards the purchase of a $100 dollar ticket; up to $25 worth of coupons can be used towards the purchase of a $250 ticket; up to $50 worth of coupons can be used towards the purchase of a $500 ticket, and so on. In addition, these coupons cannot be used on certain blackout dates, which seem to include all holidays and peak travel times.

The attorneys, interestingly enough, did not get paid in coupons. The plaintiffs' attorneys got paid in cash. They got paid $16 million dollars in cash. If the coupons were good enough for their clients, I wonder why coupons were not good enough for the lawyers.

Another egregious class action lawsuit settlement was discussed by one of the witnesses in my subcommittee hearing. Ms. Martha Preston was a member of the class in Hoffman versus BancBoston, where some of the plaintiffs received under $10 dollars each in compensation for their injuries, yet were docked around $75 or $90 for attorneys' fees. This means that attorneys that they had never met, who were supposed to be representing their best interests, agreed to a settlement that cost some of the plaintiffs more money than they received in compensation for being wronged.

These lawsuit abuses happen for a number of reasons. One reason is that plaintiffs' lawyers negotiate their own fees as part of the settlement. This can result in distracting lawyers from focussing on their clients' needs, and settling or refusing to settle based on the amount of their own compensation.

During our hearing, evidence was presented that at least one group of plaintiffs' lawyers meets regularly to discuss initiating class action lawsuits. They scan the Federal Register and other publications to get ideas for lawsuits, and only after they have identified the wrong, do they find clients for their lawsuits. Rather than having clients complaining of harms, they find harms first, and then recruit clients with the promise of compensation.

The defendants are not always innocent, though. Plaintiffs' lawyers say that they are approached by lawyers from large corporations who urge them to find a class and sue the corporation.

The corporations may use this as a tool to limit their liability. Once this suit is initiated and settled, no member of the class may sue based on that claim. In other words, if a corporation settles a class action lawsuit by paying all class members $10 as compensation for a faulty car door latch, the plaintiffs can no longer sue for any harm caused by the faulty door latch. This is one way of buying immunity for liability.

The Preliminary Results of the Rand Study of Class Action Litigation states that, "It is generally agreed that fees drive plaintiffs' attorneys' filing behavior, that defendants' risk aversion in the face of large aggregate exposures drives their settlement behavior. . . . In other words, the problems with class actions flow from incentives that are embedded in the process itself."

The Grassley/Kohl Class Action Fairness Act does the following:

PLAIN ENGLISH

Notice of proposed settlements (as well as all class notices) in all class actions must be in clear, easily understood English and must include all material settlement terms, including the amount and source of attorney's fees. One thing that I knew before our hearing, but that witness testimony confirm, is that the notice most plaintiffs receive are written in small print and confusing legal jargon. Even one of the lawyers testifying before my subcommittee said that he couldn't understand the notice he received as a plaintiff in a class action lawsuit. Since plaintiffs are giving up their right to sue, it is imperative that they understand what they are doing and the ramifications of their actions.

NOTICE TO STATE ATTORNEYS GENERAL

The Class Action Fairness Act requires that State Attorneys General be notified of any proposed class settlement that would affect residents of their states. The notice give a state AG the opportunity to object if the settlement terms are unfair.

ATTORNEYS' FEES BASED ON ACTUAL DAMAGES

Our bill requires that attorney's fees in all class actions must be a reasonable percentage of actual damages and actual costs of complying with the terms of a settlement agreement.

REMOVAL OF MULTISTATE CLASS ACTIONS TO FEDERAL COURT

This bill provides that class acting lawsuits may be removed to a federal court by a defendant or unnamed class member if the total damages exceed $75,000 and parties include citizens from multiple states. Currently, only defendants can seek removal, and only if each name plaintiff has at minimum a $75,000 claim and complete diversity exists between all named plaintiffs and defendants, even if only one class members is from the same state as a defendant. The bill also eliminates the ability of a lone class action defendant to veto removal, and it forecloses class attorneys from avoiding removal by raising a class action claim for the first time only after the suit already has been pending for a year. Removal still must be sought within 30 days from when there is notice of the class claim.

MANDATORY SANCTIONS FOR FRIVOLOUS SUITS.

This section of our bill will reduce frivolous lawsuits by requiring that a violation of Rule 11 of the Federal Rules of Civil Procedure, which penalizes frivolous filings, will require the imposition of sanctions. The nature and extent of sanctions will remain discretionary.

We need this bill. We need this reform. Both plaintiffs and defendants are calling for reform in his area. This bill is not just procedural reform; this is substantive reform of our courts system. This bill will remove the conflict of interest that lawyers face in class action lawsuits, and ensue the fair settlement of these cases.

Mr. KOHL. Mr. President, Senator GRASSLEY and I today introduce the Class Action Fairness Act of 1998. This legislation addresses a growing problem in class action litigation—too many class lawyers put their self-interest above the best interests of their clients, often resulting in unfair and abusive settlements that shortchange class members while the class lawyers line their pockets with high fees.

Let me share with you just a few disturbing examples.

One of my constituents, Martha Preston of Baraboo, Wisconsin, was an unnamed member of a class action lawsuit against her mortgage company that ended in a settlement. While at first she got four dollars and change in compensation, a few months later her lawyers surreptitiously took $80—twenty times her compensation—from her escrow account to pay their fees. In total, her lawyers managed to pocket over $8 million in fees, but never explained that the class—not the defendant—would pay the attorneys' fees. Naturally outraged, she and others sued the class lawyers. Her lawyers turned around and sued her in Alabama—a state she had never visited—and demanded an unbelievable $25 million. So not only did she lose $75, she was forced to defend herself from a $25 million lawsuit.

Class lawyers and defendants often engineer settlements that leave plaintiffs with small discounts or coupons unlikely ever to be used. Meanwhile class lawyers reap big fees based on unduly optimistic valuations. For example, in a settlement of a class action against major airlines, most plaintiffs received less than $80 in coupons while class attorneys received $14 million in fees based on a projection that the discounts were worth hundreds of millions. In a suit over faulty computer monitors, class members got $13 coupons, while class lawyers pocketed $6 million. And in a class action against Nintendo, plaintiffs received $5 coupons, while attorneys took almost $2 million in fees.

Competing federal and state class actions engage in a race to settlement, where the best interests of the class lose out. For example, in one state class action the class lawyers negotiated a small settlement precluding all other suits, and even agreed to settle federal claims that were not at issue in state court. Meanwhile, a federal court found that the federal claims could be worth more than $1 billion, while accusing the state class lawyers of "hostile representation" that "surpassed inadequacy and sank to the level of subversion;" "vigorous disparagement" of the value of the federal claim in order to sell the settlement to the state court; and pursuit of self-interest in "getting a fee" that was "more in line with the interests of [defendants] than those of their clients."

Class actions are often filed in state courts that are more likely to certify them without adequately considering whether a class action would be fair to all class members. On several occasions, a state court has certified a class action although federal courts rejected certification of the same case. And in several Alabama state courts, 38 out of 43 classes certified in a three-year period were certified on an ex parte basis, without notice and hearing. One Alabama judge acting ex parte certified 11 class actions last year alone. Comparably, only an estimated 38 class actions were certified in federal court last year (excluding suits against the U.S. and suits brought under federal law). This lack of close scrutiny appears to create a big incentive to file in state court, especially given the recent findings of a Rand study that class actions are increasingly concentrated in state courts.

Class lawyers often manipulate the pleadings in order to avoid removal of state class actions to federal court, even by minimizing the potential claims of class members. For example, state class actions often seek just over $74,000 in damages per plaintiff and forsake punitive damage claims, in order to avoid the $75,000 floor that qualifies for federal diversity jurisdiction. Or they defeat the federal requirement of complete diversity by making sure at least one named class member is from the same state as a defendant, even if every other class member is from a different state.

Out-of-state defendants are often hauled into state court to address nationwide class claims, although federal courts are a more appropriate and more efficient forum. For example, an Alabama court is now considering a class action—and could establish a national policy—in a suit brought against the big three automakers on behalf of every American who bought a dual-equipped air bags in the past eight years. The defendants failed in their attempt to remove to federal court based on an application of current diversity law. And, unlike federal courts, states are unable of consolidate multiple class actions that involve the same underlying facts.

These examples show that abuse of the class action system is not only possible, but real. And part of the problem are the incentives and realities created by the current system.

A class action is a lawsuit in which an attorney not only represents an individual plaintiff, but, in addition, seeks relief for all those individuals who suffered a similar injury. For example, a suit brought against a pharmaceutical company by a person suffering from the side effects of a drug can be expanded to cover all individuals who used the drug. A class action claim may proceed only if a court certifies the class, and certification is permitted only if the class procedure will be fair to all class members. Prospective class members are usually sent notice about the class action, and are presumed to join it, unless they specifically ask to be left out.

Often, these suits are settled. The settlement agreements provide money and/or other forms of compensation. The attorneys who brought the class action also get paid for their work. All class members are notified of the terms of the settlement, and given the chance to object if they don't think the settlement is fair. A court must ultimately approve a settlement agreement.

The vast majority of these suits are brought and settled fairly and in good faith. Unfortunately, the class action system does not adequately protect class members from the few unscrupulous lawyers who are more interested in big attorneys' fees than compensation for their clients, the victims. The primary problem is that the client in a class action is a diffuse group of thousands of individuals scattered across the country, which is incapable of exercising meaningful control over the litigation. As a result, while in theory the class lawyers must be responsive to their clients, the lawyers control all aspects of the litigation.

Moreover, during a class action settlement, the amount of the attorney fee is negotiated between plaintiffs' lawyers and the defendants, just like other terms of the settlement. But in most cases the fees come at the expense of class members—the only party that does not have a seat at the bargaining table.

In addition, defendants may use class action settlements to advance their own interests. A settlement will generally preclude all future claims by class members. So defendants have ample motivation to give class lawyers the fees they want as the price for settling all future liabilities.

In light of the incentives that are driving the parties, it is easy to see how class members are left out in the cold. Class attorneys and corporate defendants sometimes reach agreements that satisfy their respective interests—and even the interests of the named class plaintiffs—but that sell short the interests of any class members who are not vigilantly monitoring the litigation. And although the judge is supposed to determine whether the settlement is fair before approving it, class lawyers and defendants "may even put one over on the court, a staged performance. The lawyers support the settlement to get fees; the defendants support it to evade liability; the court can't vindicate the class's rights because the friendly presentation means that it lacks essential information." *Kamilewicz* v. *Bank of Boston Corp.*, 100 F.3d 1348, 1352 (Easterbrook, J., dissenting) (7th Cir. 1996).

Although class members get settlement notices and have the opportunity to object, they rarely do so, especially if they have little at stake. Not only is it expensive to get representation, but also it can be extremely difficult to actually understand what the settlement really does. Settlements are often written in long, finely printed letters with incomprehensible legalese, which even well trained attorneys are hard pressed to understand. And settlements often omit basic information like how much money will go towards attorney's fees, and where that money will come from. In Martha Preston's case, one prominent federal judge found that "the notice not only didn't alert the absent class members to the pending loss but also pulled the wool over the state judge's eyes."

We all know that class actions can result in significant and important benefits for class members and society, and that most class lawyers and most state courts are acting responsibly. Class actions have been used to desegregate racially divided schools, to obtain redress for victims of employment discrimination, and to compensate individuals exposed to toxic chemicals or defective products. Class actions increase access to our civil justice system because they enable people to pursue claims that collectively would otherwise be too expensive to litigate.

The difficulty in any effort to improve a basically good system is weeding out the abuses without causing undue damage. The legislation we propose attempts to do this. It does not limit anyone's ability to file a class action or to settle a class action. It seeks to address the problem in several ways. First, it requires that State attorneys general be notified about proposed class action settlements that would affect residents of their states. With notice, the attorneys general can intervene in cases where they think the settlements are unfair.

Second, the legislation requires that class members be notified of a potential settlement in clear, easily understood English—not legal jargon.

Third, it limits class attorneys' fees to a reasonable percentage of the actual damages received by plaintiffs and the actual costs of complying with settlement agreements. This will deter class lawyers from using inflated values of coupon settlements to reap big fees, even if the settlement doesn't offer much practical value to victims. Some courts have already embraced this standard, which parallels the recent securities reform law.

Fourth, it permits removal to federal court of class actions involving citizens of multiple states, at the request of unnamed class members or defendants. This provision eliminates gaming by class lawyers to keep cases in state court. It reinforces the legitimate role for diversity jurisdiction—to establish the federal courts as the proper forum for lawsuits directly affecting residents from diverse states. Diversity jurisdiction makes little sense if a $76,000 claim by one out-of-state plaintiff qualifies for federal jurisdiction but a multimillion dollar class action bundling thousands of $74,000 claims by out-of-state citizens cannot be brought in federal court, and if remote state courts can make decisions affecting nationwide classes of citizens.

Finally, it amends Rule 11 of the Federal Rules of Civil Procedures to require the imposition of sanctions for filing frivolous lawsuits, although the nature and extent of sanctions remains discretionary. This provision will deter the filing of frivolous class actions.

Let me emphasize the limited scope of this legislation. We do not close the courthouse door to any class action. We do not require that State attorneys general do anything with the notice they receive. We do not deny reasonable fees for class lawyers. And we do not mandate that every class action be brought in federal court. Instead, we simply promote closer and fairer scrutiny of class actions and class settlements.

We are aware that some are critical of provisions in this bill. For example, there is concern that attorneys' fee provision does not adequately address settlements which offer primarily injunctive relief. For this reason, this bill should be viewed as a point of departure, not a final product.

But Mr. President, right now, people across the country can be dragged into lawsuits unaware of their rights and unarmed on the legal battlefield. What our bill does is give regular people back their rights and representation. This measure may not stop all abuses, but it moves us forward. It will help ensure that good people like Martha Preston don't get ripped off.

Mr. President, Senator GRASSLEY and I believe this is a moderate approach to correct the worst abuses, while preserving the benefits of class actions. It is both pro-consumer and pro-defendant. We believe it will make a difference.

By Mrs. BOXER (for herself, Mr. SARBANES, Mr. ROBB, Mr. LAUTENBERG, Mrs. MURRAY, and Mr. GRAHAM):

S. 2084. A bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on submerged land of the Outer Continental Shelf that is adjacent to a coastal State that has declared a moratorium on mineral exploration, development, or production activity in adjacent State waters; to the Committee on Energy and Natural Resources.

THE COASTAL STATES PROTECTION ACT

Mrs. BOXER. Mr. President, today, I am introducing the Coastal States Protection Act—legislation which I also introduced in the 104th Congress. This act will provide necessary protection for the nation's Outer Continental Shelf (OCS) from the adverse effects of offshore oil and gas development by making management of the federal OCS consistent with state-mandated protection of state waters. I am pleased that Representatives CAPPS and MILLER are introducing the House version of this legislation.

After many years of hard work to prevent further oil drilling in the Outer Continental Shelf (OCS), I am very pleased to see the broad bi-partisan support that now exists for this issue. I began fighting for ocean protection on the Marin County Board of Supervisors, continued during my 10 years in the House of Representatives, and as a United States Senator representing California.

Simply put, my bill says that when a state establishes a drilling moratorium on part or all of its coastal water, that protection would be extended to adjacent federal waters.

It does a state little good to protect its own waters which extend three miles from the coast only to have drilling from four miles to 200 miles in federal waters jeopardizing the entire state's coastline—including the state's protected waters.

An oil spill in federal waters will rapidly foul state beaches, contaminate the nutrient rich ocean floor upon which local fisheries depend, and endanger habitat on state tidelands.

My legislation simply directs the Secretary of Interior to cease leasing activities in federal waters where the state has declared a moratorium on such activities thus coordinating federal protection with state protection.

The bill has a very fundamental philosophy—do no harm to the magnificent coastlines of America and respect state and local laws.

I also want to express my strong support for the current protection of our precious marine resources.

The major portions of fragile California coastline is currently protected from the dangers of oil and gas drilling in offshore waters by several provisions of law. The State has a permanent moratorium on oil and gas leasing, which covers state waters up to three miles out. U.S. waters, up to 200 miles out, have been protected by a succession of one-year leasing and drilling moratoria enacted by Congress each year since 1982.

In addition, in 1990, President George Bush issued a statement directing his Secretary of the Interior to cancel several existing leases and withhold any further leases in California waters for 10 years. With this directive, President Bush showed his commitment to prohibiting offshore drilling in areas where environmental risks outweigh the potential energy benefits to the Nation.

The strongest protection would be a permanent ban on further offshore oil and gas leases in California waters, and I have asked the President to consider this.

California, and the rest of the nation, need a clear statement of coastal policy to provide industries, small businesses, homeowners and fishermen more certainty than can be provided by yearly moratoria. Annual battles over the moratoria make long-range business planning difficult, divert resources and attention from the real need for national energy security planning, and send confusing signals to both industry and those concerned about the impacts of offshore development.

I understand that some feel that we are losing revenue because of these moratoria. I have two things to say about that. First, the public strongly supports the moratorium. And second, if the oil companies paid the royalties that they currently owe the federal government we could make up for the so-called "lost revenue" caused by the moratorium. Oil companies currently owe the federal government millions upon millions of dollars. It does not make sense to give oil companies access to more federal oil when they are already cheating the American taxpayer out of millions of dollars.

As we celebrate the United Nations Year of the Ocean, we have a prime opportunity to strengthen our commitment to environmental protection by giving Americans a long lasting legacy of coastal protection.

We must recognize that the resources of the lands offshore California, and the rest of the country, are priceless. We must recognize that renewable uses of the ocean and OCS lands are irreplaceable elements of a healthy, growing economy. These moratoria recognize that the real costs of offshore fossil fuel development far outweigh any benefits that might accrue from those activities.

I am very pleased that Senators MURRAY, SARBANES, ROBB, LAUTENBERG, and GRAHAM are original co-sponsors of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2084

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal States Protection Act".

SEC. 2. STATE MORATORIA ON OFFSHORE MINERAL LEASING.

Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

"(p) STATE MORATORIA.—When there is in effect with respect to lands beneath navigable waters of a coastal State a moratorium on oil, gas, or other mineral exploration, development, or production activities established by statute or by order of the Governor, the Secretary shall not issue a lease for the exploration, development, or production of minerals on submerged lands of the outer Continental Shelf that are seaward of or adjacent to those lands.".

Mr. GRAHAM. Mr. President, I am very pleased to join my colleague Senator BOXER in introducing the "Outer Continental Shelf Lands Act." It is a key step forward in Florida's long battle to preserve our beautiful coastal and marine ecosystems.

Floridians oppose offshore oil drilling because it poses a tremendous threat to one of our state's greatest natural and economic resources—our coastal environment. Florida's beaches, fisheries, and wildlife draw millions of tourists each year from around the globe. Tourism directly or indirectly supports millions of jobs all across Florida, and the travel industry generates billions of dollars in economic activity every year.

The Florida coastline boasts some of the richest estuarine areas in the world. These brackish waters, with their mangrove forests and seagrass beds, are an irreplaceable link in the life cycle of many species, both marine and terrestrial. Florida's commercial fishing industry relies on these estuaries because they support the nurseries for the most commercially harvested fish. Perhaps the most environmentally delicate regions in the Gulf, estuaries could be damaged beyond repair by even a relatively small oil spill.

Over the years, we have met with some success in our effort to protect Florida's OCS. In 1995, the lawsuit surrounding the cancellation of the leases around the Florida Keys was settled, removing the immediate threat of oil and gas drilling from what is an extremely sensitive area.

In June of 1997, Senator MACK and I introduced the Florida Coast Protection Act to cancel six leases in an area

17 miles off the coast of Pensacola. This bill would have provided leaseholders with the absolute right to just compensation from the federal government in order to recover their investment in these leases, while simultaneously protecting the Florida coastline that is so critical to our economy.

Luckily, it was never necessary. Less than a week after we introduced our legislation, Mobil Oil announced that it was ending its drilling operation off the Northwest Florida coast and cancelling its exploratory leases. While Mobil's action did not completely eliminate the threats posed by oil and gas drilling, it did mean that the residents of Florida's Gulf Coast faced one fewer environmental catastrophe-in-the-making.

The Florida delegation has also been successful in blocking other attempts to search for energy resources off our state's precious coastline. We've worked—and will continue to work—in a united, bipartisan fashion to maintain the federal moratorium on drilling in sensitive coastal areas.

Mr. President, the bill that Senator BOXER has introduced today will provide further protection to all coastal states that have taken action to prevent offshore oil drilling by issuing a state moratorium on oil, gas, or mineral exploration, development, or production within state waters. Florida will benefit greatly from this bill, and I urge its speedy passage.

By Mr. HUTCHINSON:

S. 2085. A bill to assist small businesses and labor organizations in defending themselves against Government bureaucracy; to protect the right of employers to have a hearing to present their cases in certain representation cases; and to prevent the use of the National Labor Relations Act for the purpose of disrupting or inflicting economic harm on employers; to the Committee on Labor and Human Resources.

THE FAIRNESS FOR SMALL BUSINESS AND EMPLOYEES ACT OF 1998

Mr. HUTCHINSON. Mr. President, I am pleased to introduce today an important piece of legislation which would restore fairness to small businesses and their employees in the nation's labor laws, and ensure freedom of choice in the marketplace. "The Fairness for Small Business and Employees Act of 1998" will achieve these goals, and improve fairness in the National Labor Relations Board (NLRB) process.

Small businesses are facing a serious and devastating problem. They are the targets of unethical attempts to manipulate the law in order to injure or destroy the competition. We cannot allow any group with an ulterior and destructive motive to use coercive governmental power just to harass small businesses and their workers.

Frivolous charges cost companies significant time, money, and resources to defend themselves against complaints that have no merit. Small businesses, in particular, need these resources to secure more work opportunities, invest in better equipment, and create more jobs.

The bill I am introducing today consists of three separate small business bills, which I have previously introduced in the Senate: "The Truth in Employment Act," "The Fair Hearing Act," and "The Fair Access to Indemnity and Reimbursement Act (FAIR) Act."

The first provision, "The Truth in Employment Act," remedies the unscrupulous practice of "salting" by amending the National Labor Relations Act (NLRA) to make clear that an employer is not required to hire any person who seeks a job in order to promote interests unrelated to those of the employer. I would point out that the language in no way infringes upon any rights or protections otherwise accorded employees under the NLRA, including the right to organize. This provision would merely alleviate the legal pressures imposed upon employers to hire individuals whose overriding purpose for seeking the job is to disrupt the employer's workplace, or otherwise inflict economic harm designed to put the employer out of business.

The second section, "The Fair Hearing Act," would create a statutory right to a hearing for the employer when there is a dispute regarding the proper bargaining unit of a company with multiple locations. While the NLRB proposal has been "tabled" for now, there is still nothing in the law to assure fairness for employees.

The last provision, "The Fair Access to Indemnity and Reimbursement Act (FAIR) Act," would amend the NLRA to provide that a small business or labor organization which prevails in an action against the NLRB will automatically be allowed to recoup the attorneys' fees and expenses it spends defending itself. Small employers often cannot afford the qualified legal representation necessary to defend themselves against NLRB charges.

Mr. President, it is time to stop the devastating impact of unfair labor law enforcement on small businesses and their employees. Small businesses are truly the backbone of our nation's economy. We must curtail the anti-competitive attacks, and instead help these companies devote time, money, and resources toward productivity, growth, and providing new jobs.

I would urge my fellow Senators to join me in cosponsoring this legislation, and work to pass "The Fairness for Small Business and Employees Act of 1998." The survival of America's small businesses demand that we act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2085

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fairness for Small Business and Employees Act of 1998".

TITLE I—TRUTH IN EMPLOYMENT

SEC. 101. FINDINGS.

Congress makes the following findings:

(1) An atmosphere of trust and civility in labor-management relationships is essential to a productive workplace and a healthy economy.

(2) The tactic of using professional union organizers and agents to infiltrate a targeted employer's workplace, a practice commonly referred to as "salting" has evolved into an aggressive form of harassment not contemplated when the National Labor Relations Act was enacted and threatens the balance of rights which is fundamental to our system of collective bargaining.

(3) Increasingly, union organizers are seeking employment with nonunion employers not because of a desire to work for such employers but primarily to organize the employees of such employers or to inflict economic harm specifically designed to put nonunion competitors out of business, or to do both.

(4) While no employer may discriminate against employees based upon the views of employees concerning collective bargaining, an employer should have the right to expect job applicants to be primarily interested in utilizing the skills of the applicants to further the goals of the business of the employer.

SEC. 102. PURPOSES.

The purposes of this title are—

(1) to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining;

(2) to preserve the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act; and

(3) to alleviate pressure on employers to hire individuals who seek or gain employment in order to disrupt the workplace of the employer or otherwise inflict economic harm designed to put the employer out of business.

SEC. 103. PROTECTION OF EMPLOYER RIGHTS.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended by adding after paragraph (5) the following flush sentence:

"Nothing in this subsection shall be construed as requiring an employer to employ any person who is not a bona fide employee applicant, in that such person seeks or has sought employment with the employer with the primary purpose of furthering another employment or agency status: *Provided*, That this sentence shall not affect the rights and responsibilities under this Act of any employee who is or was a bona fide employee applicant, including the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.".

TITLE II—FAIR HEARING

SEC. 201. FINDINGS.

Congress makes the following findings:

(1) Bargaining unit determinations by their nature require the type of fact-specific analysis that only case-by-case adjudication allows.

(2) The National Labor Relations Board has for decades held hearings to determine the appropriateness of certifying a single location bargaining unit.

(3) The imprecision of a blanket rule limiting the factors considered material to determining the appropriateness of a single location bargaining unit detracts from the National Labor Relations Act's goal of promoting stability in labor relations.

SEC. 202. PURPOSE.

The purpose of this title is to ensure that the National Labor Relations Board conducts a hearing process and specific analysis of whether or not a single location bargaining unit is appropriate, given all of the relevant facts and circumstances of a particular case.

SEC. 203. REPRESENTATIVES AND ELECTIONS.

Section 9(c) of the National Labor Relations Act (29 U.S.C. 159(c)) is amended by adding at the end the following:

"(6) If a petition for an election requests the Board to certify a unit which includes the employees employed at one or more facilities of a multi-facility employer, and in the absence of an agreement by the parties (stipulation for certification upon consent election or agreement for consent election) regarding the appropriateness of the bargaining unit at issue for purposes of subsection (b), the Board shall provide for a hearing upon due notice to determine the appropriateness of the bargaining unit. In making its determination, the Board shall consider functional integration, centralized control, common skills, functions and working conditions, permanent and temporary employee interchange, geographical separation, local autonomy, the number of employees, bargaining history, and such other factors as the Board considers appropriate.".

TITLE III—ATTORNEYS FEES

SEC. 301. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Certain small businesses and labor organizations are at a great disadvantage in terms of expertise and resources when facing actions brought by the National Labor Relations Board.

(2) The attempt to "level the playing field" for small businesses and labor organizations by means of the Equal Access to Justice Act has proven ineffective and has been underutilized by these small entities in their actions before the National Labor Relations Board.

(3) The greater expertise and resources of the National Labor Relations Board as compared with those of small businesses and labor organizations necessitate a standard that awards fees and costs to certain small entities when they prevail against the National Labor Relations Board.

(b) PURPOSE.—It is the purpose of this title—

(1) to ensure that certain small businesses and labor organizations will not be deterred from seeking review of, or defending against, actions brought against them by the National Labor Relations Board because of the expense involved in securing vindication of their rights;

(2) to reduce the disparity in resources and expertise between certain small businesses and labor organizations and the National Labor Relations Board; and

(3) to make the National Labor Relations Board more accountable for its enforcement actions against certain small businesses and labor organizations by awarding fees and costs to these entities when they prevail against the National Labor Relations Board.

SEC. 302. AMENDMENT TO NATIONAL LABOR RELATIONS ACT.

The National Labor Relations Act (29 U.S.C. 151 et seq.) is amended by adding at the end the following new section:

"AWARDS OF ATTORNEYS' FEES AND COSTS

"SEC. 20. (a) ADMINISTRATIVE PROCEEDINGS.—An employer who, or a labor organization that—

"(1) is the prevailing party in an adversary adjudication conducted by the Board under this or any other Act, and

"(2) had not more than 100 employees and a net worth of not more than $1,400,000 at the time the adversary adjudication was initiated,

shall be awarded fees and other expenses as a prevailing party under section 504 of title 5, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the Board was substantially justified or special circumstances make an award unjust. For purposes of this subsection, the term 'adversary adjudication' has the meaning given that term in section 504(b)(1)(C) of title 5, United States Code.

"(b) COURT PROCEEDINGS.—An employer who, or a labor organization that—

"(1) is the prevailing party in a civil action, including proceedings for judicial review of agency action by the Board, brought by or against the Board, and

"(2) had not more than 100 employees and a net worth of not more than $1,400,000 at the time the civil action was filed,

shall be awarded fees and other expenses as a prevailing party under section 2412(d) of title 28, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust. Any appeal of a determination of fees pursuant to subsection (a) or this subsection shall be determined without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust.".

SEC. 303. APPLICABILITY.

(a) AGENCY PROCEEDINGS.—Subsection (a) of section 20 of the National Labor Relations Act (as added by section 302) applies to agency proceedings commenced on or after the date of the enactment of this Act.

(b) COURT PROCEEDINGS.—Subsection (b) of section 20 of the National Labor Relations Act (as added by section 302) applies to civil actions commenced on or after the date of the enactment of this Act.

ADDITIONAL COSPONSORS

S. 831

At the request of Mr. SHELBY, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Michigan [Mr. ABRAHAM] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 882

At the request of Mrs. BOXER, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 882, a bill to improve academic and social outcomes for students by providing productive activities during after school hours.

S. 1252

At the request of Mr. GRAHAM, the names of the Senator from Arkansas [Mr. BUMPERS), the Senator from Louisiana [Mr. BREAUX), the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1334

At the request of Mr. BOND, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1392

At the request of Mr. BROWNBACK, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 1392, a bill to provide for offsetting tax cuts whenever there is an elimination of a discretionary spending program.

S. 1677

At the request of Mr. CHAFEE, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1924

At the request of Mr. MACK, the names of the Senator from Washington [Mr. GORTON], the Senator from Maryland [Mr. SARBANES], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 2033

At the request of Mr. ABRAHAM, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 2033, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

S. 2067

At the request of Mr. ASHCROFT, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2067, a bill to protect the privacy and constitutional rights of Americans, to establish standards and procedures regarding law enforcement access to decryption assistance for encrypted communications and stored electronic information, to affirm the rights of Americans to use and sell encryption products, and for other purposes.

SENATE RESOLUTION 189

At the request of Mr. TORRICELLI, the names of the Senator from Nevada [Mr. REID] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Resolution 189, a resolution honoring the 150th anniversary of the United States Women's Rights Movement that was initiated by the 1848 Women's Rights Convention held in Seneca Falls, New York, and calling for a national celebration of women's rights in 1998.

AMENDMENT NO. 2387

At the request of Mr. HUTCHINSON the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of amendment No. 2387 proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2388

At the request of Mr. HUTCHINSON the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of amendment No. 2388 proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SENATE CONCURRENT RESOLUTION 96—EXPRESSING THE SENSE OF CONGRESS THAT A POSTAGE STAMP SHOULD BE ISSUED HONORING OSKAR SCHINDLER

Mr. LAUTENBERG (for himself and Mr. SPECTER) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 96

Whereas during the Nazi occupation of Poland, Oskar Schindler personally risked his life and that of his wife to provide food and medical care and saved the lives of over 1,000 Jews from death, many of whom later made their homes in the United States;

Whereas Oskar Schindler also rescued about 100 Jewish men and women from the Golezów concentration camp, who lay trapped and partly frozen in 2 sealed train cars stranded near Brünnlitz;

Whereas millions of Americans have been made aware of the story of Schindler's bravery;

Whereas on April 28, 1962, Oskar Schindler was named a "Righteous Gentile" by Yad Vashem; and

Whereas Oskar Schindler is a true hero and humanitarian deserving of honor by the United States Government: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Postal Service should issue a stamp honoring the life of Oskar Schindler.

Mr. LAUTENBERG. Mr. President, today we celebrate the 50th Anniversary of the establishment of the State of Israel. As we do so, we also remember the tragedy of the Holocaust and the events that culminated in the creation of a Jewish homeland.

I rise today to submit a measure to honor an individual who stands in the highest esteem of the citizens of Israel, and throughout the world. I am pleased to be joined by the senior senator from Pennsylvania, Senator SPECTER, in submitting this measure calling on the Postal Service to issue a stamp commemorating the life of Oskar Schindler.

Millions of people around the world know the story of Oskar Schindler, whose heroism was brought to light by the author Thomas Keneally and the film maker Steven Spielberg. During the Nazi occupation of Poland, Oskar Schindler demonstrated that one person truly could make a difference. He saved the lives of over 1,200 Jewish men, women, and children, while risking his own life and that of his wife. Mr. Schindler also rescued approximately 100 Jewish men and women from the Golezow concentration camp, who were trapped in a sealed and freezing railroad car.

Two of the individuals whose lives were saved by Oskar Schindler are residents of New Jersey. Before the war, Abraham Zuckerman lived in Krakow, Poland. In 1942, he was sent to the Plaszow concentration camp where he faced unspeakable horrors and certain death. While he waited out his days toiling in a coal yard, one day, to his great fortune, Mr. Zuckerman was told that he was one of the fortunate individuals whose name appeared on "Schindler's List." Mr. Zuckerman was relatively safe for a little more than a year, but when Schindler's factory in Krakow was liquidated, he was sent to a concentration camp at Mauthausen and later Gusen II, where he was finally liberated. Meanwhile, Mr. Zuckerman's close friend Murray Pantirer was sent to another concentration camp, Gross-Rosen, after Plaszow was shut down. On his third day there, he was chosen as one of 900 workers for Schindler's new factory in Brinnlitz, Czechoslovakia. Both men later emigrated to the United States. They have lived in New Jersey since shortly after the war where they started a home building business. To honor Mr. Schindler, these men are responsible for over 20 Schindler Courts, Terraces and Plazas all over the Garden State.

Mr. President, we recognize that Mr. Schindler was a human being, not infallible like many heroes. But his bravery has truly made him stand out and worthy of honor. There is nothing I can say that could describe him any better than in the words of Mr. Zuckerman.

"I am one of the Survivors and I owe my life to the courage and strength of this great man. He was not a diplomat or a politician, he was a very good manipulator. He had the courage and the knowledge to save over 1200 Jews from death. He managed somehow to fool the Germans into thinking he was on their side when all along he was going behind their backs to save the Jews. His life was always in danger but still he persisted to do what he knew to be the right thing, he saved the Jews anyway he could. He bartered, he lied, he used his own money, he did everything humanly possible to save us. He was very unselfish as his life could have ended at any time but still he did all he could to save the Jews."

Mr. President, Senator SPECTER and I are submitting this resolution today to call on the Postal Service to issue a stamp commemorating the life of Oskar Schindler. Such a stamp would bring the story to millions of people. It would help us all understand that one individual can make a difference in the lives of others.

We understand that we face somewhat of an uphill battle as Mr. Schindler is not a citizen of the United States. The Postal Service tells me that its policy is to issue stamps that depict American subjects. But we say in response that Mr. Schindler's life was largely devoted to the pursuit of freedom, to opposing tyranny, and to humanitarianism. These qualities certainly represent the American ideal and we believe that Mr. Schindler deserves the honor that the Postal Service has bestowed on other individuals who stood for these ideals. I am pleased to sponsor this important measure.

AMENDMENTS SUBMITTED

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

THURMOND (AND LEVIN) AMENDMENT NO. 2399

Mr. THURMOND (for himself and Mr. LEVIN) proposed an amendment to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

In section 103(2), strike out "$2,375,803,000" and insert in lieu thereof "$2,354,745,000".

In section 201(3), strike out "$13,398,993,000" and insert in lieu thereof "$13,673,993,000".

In section 201(4), strike out "$9,837,764,000" and insert in lieu thereof "$9,583,822,000".

MURKOWSKI (AND BINGAMAN) AMENDMENT NO. 2400

(Ordered to lie on the table.)

Mr. MURKOWSKI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

Insert in the appropriate place:

SEC. . ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

The Energy Policy and Conservation Act is amended—

(1) in section 104(b)(1) by striking "1994" and inserting in lieu thereof "1999";

(2) in section 166 (42 U.S.C. 6246) by striking "1997" and inserting in lieu thereof "1999";

(3) in section 181 (42 U.S.C. 6251) by striking "1997" both places it appears and inserting in lieu thereof "1999";

(4) by striking "section 252(l)(1)" in section 251(e)(1) (42 U.S.C. 6271(e)(1)) and inserting "section 252(k)(1)";

(5) in section 252 (42 U.S.C. 6272)—

(A) in subsection (a)(1) and (b), by striking, "allocation and information provisions of the international energy program" and inserting "international emergency response provisions";

(B) in subsection (d)(3), by striking "known" and inserting after "circumstances" "known at the time of approval";

(C) in subsection (e)(2) by striking "shall" and inserting "may";

(D) in subsection (f)(2) by inserting "voluntary agreement or" after "approved";

(E) by amending subsection (h) to read as follows—

(h) Section 708 of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out—

(1) the international energy program, or

(2) any allocation, price control, or similar program with respect to petroleum products under this Act.;

(F) in subsection (k) by amending paragraph (2) to read as follows—

(2) The term "international emergency response provisions" means—

(A) the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program, and

(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including the July 11, 1984, decision by the Governing Board on "Stocks and Supply Disruptions") for—

(i) the coordinated drawdown of stocks of petroleum products held or controlled by governments; and

(ii) complementary actions taken by governments during an existing or impending international oil supply disruption."; and

(G) by amending subsection (l) to read as follows—

(l) the antitrust defense under subsection (f) shall not extend to the international allocation of petroleum products unless allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.";

(6) in section 281 (42 U.S.C. 6285) by striking "1997" both places it appears and inserting in lieu thereof "1999"; and

(7) at the end of section 154 by adding the following new subsection:

(f)(1) The drawdown and distribution of petroleum products from the Strategic Petroleum Reserve is authorized only under section 161 of this Act, and drawdown and distribution of petroleum products for purposes other than those described in section 161 of this Act shall be prohibited.

(2) In the Secretary's annual budget submission, the Secretary shall request funds for acquisition, transportation, and injection of petroleum products for storage in the Reserve. If no request for funds is made, the Secretary shall provide a written explanation of the reason therefore.

Mr. MURKOWSKI. Mr. President, this legislation should have been the easiest thing we did this Congress. The Senate passed a bill on this issue by unanimous consent three times this Congress. This bill contains nothing less than our Nation's energy security insurance policy. This bill authorizes two vital energy security measures: the Strategic Petroleum Reserve and U.S. participation in the International Energy Agency.

Both of these authorities have expired. Again, this year we have sent our soldiers to the Gulf to protect our Nation's energy security interests. We owe it to our soldiers, and the Nation's civilian consumers, to do everything we can to ensure that our energy insurance policy is in effect.

However, to ensure our Nation's energy security fully, we need more than just a simple extension of these authorities. We must change the antitrust exemption in EPCA to comply with current IEA policy. The IEA changed its emergency response policy at our request, switching from command-and-control measures to more market-oriented coordinated stockdraw procedures. However, our laws haven't kept up.

Right now, our U.S. oil companies don't have any assurance that their attempts to cooperate with the IEA and our government in a crises won't be a violation of antitrust laws. The IEA's efforts to respond to a crisis are already being critically impaired, because they can't coordinate with U.S. oil companies or even conduct exercises to prepare for an emergency. Our oil companies want to cooperate with our government and the IEA and strongly support this amendment.

For every year in recent memory, we have authorized this Act on a year-to-year basis. Every year, we face a potential crises when these authorities go unrenewed until the very end of the Congress. The provisions of this bill are not controversial. However, there are those who see any important bill as leverage.

This year, we are on the edge of a real crisis. We have military activity in the Gulf, and no clear authority to respond to oil supply shortages. Playing political games with this bill has always been irresponsible; now it is downright dangerous. In the future, the only way to avoid the annual crisis is to renew EPCA for more than one year. I am disappointed that we can't do that now. But for now, we must avert the immediate crisis.

I have tried to address concerns about the future of the SPR. Like many of you, I am dismayed by the recent use of the SPR as a "piggy bank". In 1995, DOE proposed the sale of oil to pay for repairs and upkeep, opening the floodgates to continued sales of oil for budget-balancing purposes. So far, we've lost the American taxpayer over half a billion dollars. Buying high and selling low never makes sense. We're like the man in the old joke who was buying high and selling low who claimed that "he would make it up on volume." I am pleased that we were successful in canceling the oil sale ordered by the fiscal year 1998 Interior Appropriations bill. I thank the appropriators for keeping my oil-sale cancellation amendment in the conference on the Supplemental Appropriations bill. By my calculations, we have saved the American taxpayer over $500 million. I am also pleased that the President's budget does not propose oil sales. I hope we have broken the habit of selling SPR oil forever.

We have already invested a great deal of taxpayer dollars in the SPR. We proved during the Persian Gulf War that the stabilizing effect of an SPR drawdown far outstrips the volume of oil sold. The simple fact that the SPR is available can have a calming influence on oil markets. The oil is there, waiting to dampen the effects of an energy emergency on our economy. However, if we don't ensure that there is authority to use the oil when we need it, we will have thrown those tax dollars away. So, the first step is to ensure that our emergency oil reserves are fully authorized and available.

We are talking about people's lives and jobs. The least we can do is stop holding this measure hostage to political ambition. I urge my colleagues to support the adoption of this amendment.

THOMAS AMENDMENT NO. 2401

Mr. THOMAS proposed an amendment to the amendment No. 2387 proposed by Mr. HUTCHINSON to the bill, S. 2057, supra; as follows:

In the pending amendment, on page 1, strike lines 5 through page 5, line 4.

HARKIN (AND WELLSTONE) AMENDMENT NO. 2402

Mr. HARKIN (for himself and Mr. WELLSTONE) proposed an amendment to the amendment No. 2388 proposed by Mr. HUTCHINSON to the bill, S. 2057, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The United States Customs Service has identified goods, wares, articles, and merchandise mined, produced, or manufactured

under conditions of convict labor, forced labor, or indentured labor, in several countries.

(2) The United States Customs Service has made limited attempts to prohibit the import of products made with forced labor, resulting in only a few seizures, detention orders, fines, and criminal prosecutions.

(3) The United States Customs Service has taken 21 formal administrative actions in the form of detention orders against different products destined for the United States market, found to have been made with forced labor, including products from the People's Republic of China.

(4) However, the United States Customs Service has never formally investigated or pursued enforcement with respect to attempts to import products made with forced or indentured child labor.

(5) The United States Customs Service can use additional resources and tools to obtain the timely and in-depth verification necessary to identify and interdict products made with forced labor or indentured labor, including forced or indentured child labor, that are destined for the United States market.

(6) The International Labor Organization estimates that approximately 250,000,000 children between the ages of 5 and 14 are working in developing countries, including millions of children in bondage or otherwise forced to work for little or no pay.

(7) Congress has clearly indicated in Public Law 105-61, Treasury-Postal Service Appropriations, 1998, that forced or indentured child labor constitutes forced labor under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

SEC. 2. AUTHORIZATION FOR ADDITIONAL CUSTOMS PERSONNEL TO MONITOR THE IMPORTATION OF PRODUCTS MADE WITH FORCED OR INDENTURED LABOR.

There are authorized to be appropriated $2,000,000 for fiscal year 1999 to the United States Customs Service to monitor the importation of products made with forced labor or indentured labor, including forced or indentured child labor, the importation of which violates section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code.

SEC. 3. REPORTING REQUIREMENT ON FORCED LABOR OR INDENTURED LABOR PRODUCTS DESTINED FOR THE UNITED STATES MARKET.

(a) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Commissioner of Customs shall prepare and transmit to Congress a report on products made with forced labor or indentured labor, including forced or indentured child labor that are destined for the United States market.

(b) CONTENTS OF REPORT.—The report under subsection (a) shall include information concerning the following:

(1) The extent of the use of forced labor or indentured labor, including forced or indentured child labor in manufacturing or mining products destined for the United States market.

(2) The volume of products made or mined with forced labor or indentured labor, including forced or indentured child labor that is—

(A) destined for the United States market,

(B) in violation of section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code, and

(C) seized by the United States Customs Service.

(3) The progress of the United States Customs Service in identifying and interdicting products made with forced labor or indentured labor, including forced or indentured child labor that are destined for the United States market.

SEC. 4. RENEGOTIATING MEMORANDA OF UNDERSTANDING ON FORCED LABOR.

It is the sense of Congress that the President should determine whether any country with which the United States has a memorandum of understanding with respect to reciprocal trade that involves goods made with forced labor or indentured labor, including forced or indentured child labor is frustrating implementation of the memorandum. If an affirmative determination be made, the President should immediately commence negotiations to replace the current memorandum of understanding with one providing for effective procedures for the monitoring of forced labor or indentured labor, including forced or indentured child labor. The memorandum of understanding should include improved procedures for requesting investigations of suspected work sites by international monitors.

SEC. 5. DEFINITION OF FORCED LABOR.

In this Act, the term "forced labor" means convict labor, forced labor, or indentured labor, as such terms are used in section 307 of the Tariff Act of 1930. The term includes forced or indentured child labor—

(1) that is exacted from any person under 15 years of age, either in payment for the debts of a parent, relative, or guardian, or drawn under false pretexts; and

(2) with respect to which such person is confined against the person's will.

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended by adding at the end the following new paragraph:

"For purposes of this section, forced or indentured labor includes forced or indentured child labor."

INHOFE (AND OTHERS) AMENDMENT NO. 2403

(Ordered to lie on the table.)

Mr. INHOFE (for himself, Mr. DORGAN, Ms. SNOWE, Mr. BENNETT, Mr. SMITH of New Hampshire, Ms. COLLINS, Mr. SHELBY, Mr. SESSIONS, and Mr. HATCH) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the appropriate place in Title XXVIII of the bill, insert the following:

SEC. . MODIFICATION OF LIMITATIONS ON GENERAL AUTHORITY RELATING TO BASE CLOSURES AND REALIGNMENTS.

(a) ACTIONS COVERED BY NOTICE AND WAIT PROCEDURES.—Subsection (a) of section 2687 of title 10, United States Code, is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraphs (1) and (2):

"(1) the closure of any military installation at which at least 150 civilian personnel are authorized to be employed;

"(2) any realignment with respect to a military installation if such realignment will result in an aggregate reduction in the number of civilian personnel authorized to be employed at such military installation during the fiscal year in which notice of such realignment is submitted to Congress under subsection (b) equal to or greater than—

"(A) 150 such civilian personnel; or

"(B) the number equal to 50 percent of the total number of civilian personnel authorized to be employed at such military installation at the beginning of such fiscal year; or".

(b) AVAILABILITY OF FUNDS FOR CERTAIN PRE-CLOSURE ACTIVITIES.— Subsection (d) of the section is amended is amended by adding at the end the following:

"(3) No funds appropriated or otherwise available to the Department of Defense may be obligated or expended for the purpose of planning or carrying out a transfer of civilian or military personnel or equipment in connection with a closure of a military installation not covered by subsection (a) unless the use of funds for that purpose is specifically authorized by law.".

(c) DEFINITIONS.—Subsection (e) of that section is amended—

(1) in paragraph (3), by inserting "(including a consolidation)" after "any action"; and

(2) by adding at the end the following:

"(5) The term 'closure' includes any action to inactivate or abandon a military installation or to transfer a military installation to caretaker status.".

SEC. . SENSE OF THE SENATE ON FURTHER ROUNDS ON BASE CLOSURES.

(a) FINDINGS.—The Senate finds that—

(1) There may be a need for further rounds of base closures, but there is no need to authorize in 1998 a new base closure commission that would not begin its work until three years from now, in 2001;

(2) While the Department of Defense has submitted a report to the Congress in response to Section 2824 of the National Defense Authorization Act for Fiscal Year 1998, that report—

(A) based its estimates of the costs and savings of previous base closure rounds on data that the General Accounting Office has described as "inconsistent", "unreliable" and "incomplete";

(B) failed to demonstrate that the Defense Department is working effectively to improve its ability to track base closure costs and savings resulting from the 1993 and 1995 base closure rounds, which are ongoing;

(C) modeled the savings to be achieved as a result of further base closure rounds on the 1993 and 1995 rounds, which are as yet incomplete and on which the Department's information is faulty; and

(D) projected that base closure rounds in 2001 and 2005 would not produce substantial savings until 2008, a decade after the federal government will have achieved unified budget balance, and 5 years beyond the planning period for the current congressional budget and Future Years Defense Plan;

(3) Section 2824 required that the Congressional Budget Office and the General Accounting Office review the Defense Department's report, and—

(A) The General Accounting Office stated on May 1, that "we are now conducting our analysis to be able to report any limitations that may exist in the required level of detail. . . . [W]e are awaiting some supporting documentation from the military services to help us finish assessing the report's information.";

(B) The Congressional Budget Office stated on May 1 that its review is ongoing, and that "it is important that CBO take the time necessary to provide a thoughtful and accurate evaluation of DoD's report, rather than issue a preliminary and potentially inaccurate assessment.";

(4) The Congressional Budget Office recommended that "The Congress could consider authorizing an additional round of base closures if the Department of Defense believes that there is a surplus of military capacity after all rounds of BRAC have been carried out. That consideration, however, should follow an interval during which DoD

and independent analysts examine the actual impact of the measures that have been taken thus far."

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that:

(1) Congress should not authorize further rounds of base closures and realignments until all actions authorized by the Defense Base Closure and Realignment Act of 1990 are completed; and

(2) The Department of Defense should submit forthwith to the Congress the report required by Section 2815 of Public Law 103–337, analyzing the effects of base closures and realignments on the ability of the Armed Forces to remobilize, describing the military construction projects needed to facilitate such remobilization, and discussing the assets, such as air space, that would be difficult to reacquire in the event of such remobilization.

INHOFE (AND OTHERS) AMENDMENT NO. 2404

(Ordered to lie on the table.)

Mr. INHOFE (for himself, Mr. HUTCHINSON, Mr. ASHCROFT, Mr. BROWNBACK, and Mr. SMITH of New Hampshire) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

In title XXVIII, insert the following:

SEC. . PROHIBITION ON CONVEYANCE OF PROPERTY AT LONG BEACH NAVAL STATION, CALIFORNIA, TO CHINA OCEAN SHIPPING COMPANY.

(a) PROHIBITION AGAINST DIRECT CONVEYANCE.—In disposing of real property in connection with the closure of Long Beach Naval Station, California, under the provisions of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), the Secretary of Defense may not convey any portion of the property (whether by sale, lease, or other method) to China Ocean Shipping Company, or any successor entity to the company.

(b) PROHIBITION AGAINST INDIRECT CONVEYANCE.—The Secretary shall impose as a condition on each conveyance of real property located at Long Beach Naval Station the requirement that the property may not be subsequently conveyed (whether by sale, lease, or other method) to China Ocean Shipping Company, or any successor entity to the company.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that real property located at Long Beach Naval Station and conveyed under the provisions of the Defense Base Closure and Realignment Act of 1990 has been conveyed to China Ocean Shipping Company (or any successor entity to the company) in violation of subsection (b), or is otherwise being used by China Ocean Shipping Company (or any successor entity to the company) in violation of such subsection, all right, title, and interest in and to the property shall revert to the United States, and the United States shall have the right of immediate entry thereon.

FEINSTEIN (AND OTHERS) AMENDMENT NO. 2405

Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. GLENN, and Mr. BRYAN) proposed an amendment to the bill, S. 2057, supra; as follows:

At the appropriate place insert:

The Government of India conducted an underground nuclear explosion on May 18, 1974;

Since the 1974 nuclear test by the Government of India, the United States and its allies have worked extensively to prevent the further proliferation of nuclear weapons in South Asia;

On May 11, 1998, the Government of India conducted underground tests of three separate nuclear explosive devices, including a fission device, a low-yield device, and a thermo-nuclear device;

On May 13, 1998 the Government of India conducted two additional underground tests of nuclear explosive devices;

This decision by the Government of India has needlessly raised tension in the South Asia region and threatens to exacerbate the nuclear arms race in that region;

The five declared nuclear weapons states and 144 other nations have signed the Comprehensive Test Ban Treaty in hopes of putting a permanent end to nuclear testing;

The Government of India has refused to sign the Comprehensive Test Ban Treaty;

The Government of India has refused to sign the Nuclear Non-Proliferation Treaty;

India has refused to enter into a safeguards agreement with the International Atomic Energy Agency covering any of its nuclear research facilities;

The Nuclear Proliferation Act of 1994 requires the President to impose a variety of aid and trade sanctions against any non-nuclear weapons state that detonates a nuclear explosive device;

It is the sense of Senate that the Senate—

(1) Condemns in the strongest possible terms the decision of the Government of India to conduct three nuclear tests on May 11, 1998 and two nuclear tests on May 13, 1998;

(2) Supports the President's decision to carry out the provisions of the Nuclear Proliferation Prevention Act of 1994 with respect to India and invoke all sanctions therein;

(3) Calls upon the Government of India to take immediate steps to reduce tensions that this unilateral and unnecessary step has caused;

(4) Expresses its regret that this decision by the Government of India will, of necessity, set back relations between the United States and India;

(5) Urges the Government of Pakistan, the Government of the People's Republic of China, and all governments to exercise restraint in response to the Indian nuclear tests, in order to avoid further exacerbating the nuclear arms race in South Asia;

(6) Calls upon all governments in the region to take steps to prevent further proliferation of nuclear weapons and ballistic missiles;

(7) Urges the Government of India to enter into a safeguards agreement with the International Atomic Energy Agency which would cover all Indian nuclear research facilities at the earliest possible time.

FEINSTEIN AMENDMENT NO. 2406

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill, S. 2057, supra; as follows:

At the end of subtitle C of title V, add the following:

SEC. 531. PROHIBITION ON ENTRY INTO CORRECTIONAL FACILITIES FOR PRESENTATION OF DECORATIONS TO PERSONS WHO COMMIT CERTAIN CRIMES BEFORE PRESENTATION.

(a) PROHIBITION.—Chapter 57 of title 10, United States Code, is amended by adding at the end the following:

"§ 1132. Presentation of decorations: prohibition on entering into correctional facilities for certain presentations

"(a) PROHIBITION.—No member of the armed forces may enter into a Federal, State, or local correctional facility for purposes of presenting a decoration to a person who has been convicted of a serious violent felony.

"(b) DEFINITIONS.—In this section:

"(1) The term 'decoration' means any decoration or award that may be presented or awarded to a member of the armed forces.

"(2) The term 'serious violent felony' has the meaning given that term in section 3359(c)(2)(F) of title 18.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by adding at the end the following:

"1132. Presentation of decorations: prohibition on entering into correctional facilities for certain presentations.".

BROWNBACK (AND HARKIN) AMENDMENT NO. 2407

Mr. BROWNBACK (for himself and Mr. HARKIN) proposed an amendment to the amendment No. 2405 proposed by Mrs. FEINSTEIN to the bill, S. 2057, supra; as follows:

At the end of the amendment add the following:

SEC. 1064. REPEAL OF RESTRICTION ON CERTAIN ASSISTANCE AND OTHER TRANSFERS TO PAKISTAN.

Section 620E(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2375(e)) is repealed.

MURRAY (AND SARBANES) AMENDMENT NO. 2408

(Ordered to lie on the table.)

Mrs. MURRAY (for herself and Mr. SARBANES) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

On page 109, below line 20, add the following:

SEC. 531. HONOR GUARD DETAILS AT FUNERALS OF VETERANS.

(a) IN GENERAL.—(1) Chapter 75 of title 10, United States Code, is amended by adding at the end the following:

"§ 1491. Honor guard details

"(a) AVAILABILITY UPON REQUEST.—The Secretaries of the military departments shall provide honor guard details at funerals of veterans of the armed forces only upon request.

"(b) MINIMUM SIZE OF DETAILS.—The Secretaries of the military departments shall ensure that honor guard details at funerals of veterans of the armed forces consist of not less than four members of the armed forces.

"(c) AVAILABILITY OF APPROPRIATIONS.—Any amounts appropriated to the Department of Defense may be used in order to meet the requirement set forth in subsection (b).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1491. Honor guard details.".

(b) TREATMENT OF PERFORMANCE OF HONOR GUARD FUNCTIONS BY RESERVES.—Chapter 1215 of title 10, United States Code, is amended—

(1) by striking out the following:

"[No present sections]"; and

(2) by inserting in lieu thereof the following:

"Sec.

"12551. Honor guard functions: prohibition on treatment as drill or training.

"§ 12551. Honor guard functions: prohibition on treatment as drill or training

"Any performance by a Reserve of honor guard functions at the funeral of a veteran of the armed forces may not be considered to be a period of drill or training otherwise required.".

(c) REPEAL OF LIMITATION ON AVAILABILITY OF FUNDS FOR HONOR GUARD FUNCTIONS BY NATIONAL GUARD.—Section 114 of title 32, United States Code, is amended—

(1) by striking out "(a)"; and

(2) by striking out subsection (b).

(d) APPLICABILITY.—The amendments made by this section shall apply to burials of veterans that occur on or after the date that is 180 days after the date of enactment of this Act.

(e) REPORT ON IMPLEMENTATION.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall submit to Congress the directives prescribed by the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force in order to carry out the requirements under the amendments made by this section.

MURRAY (AND SNOWE) AMENDMENT NO. 2409

(Ordered to lie on the table.)

Mrs. MURRAY (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by them to the bill, S. 2057, supra; as follows:

At the end of title VII add the following:

SEC. 708. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) in subsection (a), by striking out "(a) RESTRICTION ON USE OF FUNDS.—".

McCAIN (AND OTHERS) AMENDMENT NO. 2410

Mr. McCAIN (for himself, Mr. LEVIN, and Mr. THURMOND) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle B of title VI, add the following:

SEC. 620. HARDSHIP DUTY PAY.

(a) DUTY FOR WHICH PAY AUTHORIZED.—Subsection (a) of section 305 of title 37, United States Code, is amended by striking out "on duty at a location" and all that follows and inserting in lieu thereof "performing duty in the United States or outside the United States that is designated by the Secretary of Defense as hardship duty.".

(b) REPEAL OF EXCEPTION FOR MEMBERS RECEIVING CAREER SEA PAY.—Subsection (c) of such section is repealed.

(c) CONFORMING AMENDMENTS.—(1) Subsections (b) and (d) of such section are amended by striking out "hardship duty location pay" and inserting in lieu thereof "hardship duty pay".

(2) Subsection (d) of such section is redesignated as subsection (c).

(3) The heading for such section is amended by striking out **"location"**.

(4) Section 907(d) of title 37, United States Code, is amended by striking out "duty at a hardship duty location" and inserting in lieu thereof "hardship duty".

(d) CLERICAL AMENDMENT.—The item relating to section 305 in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"305. Special pay: hardship duty pay.".

THE DIGITAL MILLENNIUM COPYRIGHT ACT OF 1998

HATCH AMENDMENT NO. 2411

Mr. HATCH proposed an amendment to the bill (S. 2037) to amend title 17, United States Code, to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, to provide limitations on copyright liability relating to material online, and for other purposes; as follows:

On page 12, line 15 strike subsection (c) and redesignate the succeeding subsections and references thereto accordingly.

On page 17, line 4, insert "and with the intent to induce, enable, facilitate or conceal infringement" after "knowingly".

On page 17, beginning on line 8, strike ", with the intent to induce, enable, facilitate or conceal infringement".

On page 17, beginning on line 21, strike paragraph (3) and insert in lieu thereof the following:

"(3) distribute, import for distribution, or publicly perform works, copies of works, or phonorecords, knowing that copyright management information has been removed or altered without authority of the copyright owner or the law,

knowing, or, with respect to civil remedies under section 1203, having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of any right under this title.".

On page 19, line 4, insert the following new paragraph and redesignate the succeeding paragraphs accordingly:

"(6) terms and conditions for use of the work;".

On page 19, line 4, strike "of" and insert in lieu thereof "or".

NOTICE OF JOINT HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES AND COMMITTEE ON FOREIGN RELATIONS

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a joint hearing has been scheduled before the Committee on Energy and Natural Resources and the Committee on Foreign Relations.

The hearing will take place on Thursday, May 21, 1998, beginning at 10 a.m. in Room SD-419 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on the subject of Iraq: Are Sanctions Collapsing?

Those who wish to submit written statements should write to the Committee on Foreign Relations, United States Senate, Washington, D.C. 20510. For further information, please contact Ms. Danielle Pletka of the Foreign Relations Committee staff at (202) 224-4651 or Mr. Howard Useem of the Energy & Natural Resources Committee staff at (202) 224-6567.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, May 14, 1998, at 9 a.m. in SR-328A. The purpose of this meeting will be to examine the year 2000 computer problem compliance of the U.S. Department of Agriculture, Commodity Futures Trading Commission and Farm Credit Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Thursday, May 14, 1998, beginning at 9:30 a.m. in room SH-215, to conduct a markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 14, 1998, at 10 a.m. and 1:30 p.m. to hold two hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. THURMOND. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, May 14, 1998, at 2 p.m. for a business meeting and markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, May 14, 1998, at 2 p.m., in room 226 of the Senate Dirksen Office Building to hold a hearing on "Judicial Nominations."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing nominating Fred P. Hochberg to be Deputy Administrator of the U.S. Small Business Administration. The hearing will begin at 9:30 a.m. on Thursday, May 14, 1998, in room 428A Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. THURMOND. Mr. President, I ask unanimous consent that the Select

Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 14, 1998, at 3:30 p.m. to hold closed hearing on Intelligence Matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. THURMOND. Mr. President, I ask unanimous consent on behalf of the Permanent Subcommittee on Investigations of the Governmental Affairs Committee to meet on Thursday, May 14, 1998, at 9:30 a.m. for a hearing on the topic of "The Safety of Food Imports."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. THURMOND. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, May 14, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to receive testimony on titles IX and X of S. 1693, the Vision 2020 National Parks Restoration Act; and S. 1614, a bill to require a permit for the making of motion picture, television program, or other form of commercial visual depiction in a unit of the National Park System or National Wildlife Refuge System.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NUCLEAR TESTS CONDUCTED BY INDIA ON MONDAY, MAY 11, AND WEDNESDAY, MAY 13, 1998

● Mr. JOHNSON. Mr. President, I am deeply concerned that India conducted three underground nuclear tests in the western desert state of Rajasthan on Monday, May 11, and two additional tests at the same site on Wednesday, May 13. These tests were conducted without any advance warning to the rest of the world and are a dangerous precedent for future testing by other nations. No nation should think that it can conduct secret nuclear tests and not be held accountable for its actions. Furthermore, these tests run counter to an international campaign to pass the Comprehensive Test Ban Treaty (CTBT), of which I fully support, and are both irresponsible and unacceptable. The United States and the international community must speak out against this action and act swiftly and justly.

India, which has not signed the 1970 nonproliferation treaty, gave no advance warning about the nuclear tests on Monday and Wednesday. Indian Prime Minister Atal Bihari Vajpayee said that the explosions in the desert, 330 miles southwest of New Delhi, did not result in the release of radiation into the atmosphere. However, this is simply untrue. Nuclear explosions, even when they are conducted underground, release deadly radioactive materials into the atmosphere and water table, posing health risks for generations to come. Treating the human race and the environment with such complete disrespect is unacceptable and will not go unnoticed.

While many of India's leaders have applauded these tests, the people of India are hurt the most. India is a country of extreme poverty and all Indians will be harmed by this act. On one hand, international sanctions are imminent which will pose further economic hardship on the poorest of the poor. On the other, the radiation from these nuclear blasts has severe health impacts on all Indians including those closest to New Delhi. It was irresponsible for the leaders of India to sacrifice the economic and physical wellbeing of its people for a display of military might.

Moreover, countries that break international law by detonating nuclear devices are subject to denial of U.S. credits and credit guarantees.

Federal law also requires U.S. opposition to loan requests to international lending institutions and bars loans from any U.S. bank to the Indian government except those that provide food or other agricultural commodities. I will bring the issue of international sanctions and international lending up with my colleagues on the Senate Banking Committee, which overseas World Bank issues, to ensure that appropriate actions are taken with regard to countries who disregard international law and conduct nuclear tests.

India, one of several nations widely suspected of nuclear capability which has not joined the 1970 CTBT treaty, now observed by 185 countries, should be pressured to sign the treaty immediately. India's leaders acted with disregard and India must be shown that its actions are unacceptable. The United States will be forced to impose sanctions on India, and I would urge swift action on this front. Nevertheless, this irresponsible act by India should not be an impetus to step up the arms race by Pakistan. Instead, Pakistan should exercise restraint and caution while the international community imposes sanctions. In the long-term, Pakistan will benefit most by responding to this action, not with military buildup, but with a higher level of dignity and morality.

Mohandas Gandhi said, We must support friends even in their mistakes, however, it must be the friend and not the mistake we are supporting." India's decision to conduct nuclear tests was a mistake that was both irresponsible and unacceptable. Although I wish no ill on the people of India, the leaders of the country must accept responsibility for this mistake and the consequences that, no doubt, will follow.●

ARTHRITIS FOUNDATION'S 50TH ANNIVERSARY

● Mr. COVERDELL. Mr. President, I rise today to congratulate the Arthritis Foundation on its 50th anniversary. Since its inception in 1948, the Arthritis Foundation is stronger than ever and is forging ahead with an increased commitment to providing help and hope for those who suffer from the more than one hundred forms of arthritis and related conditions, including osteoarthritis, rheumatoid arthritis, lupus, fibromyalgia and juvenile arthritis.

Arthritis, in its various forms, is a major national health problem, affecting more than 40 million people in the United States. The Centers for Disease Control and Prevention predict that by the year 2020, arthritis prevalence will increase to 59.4 million Americans—one out of every five people, including 285,000 children.

If that is not enough, the economic impact of arthritis is significant. I have been informed that arthritis results in 39 million physician visits a year and more than half a million hospitalizations annually. Medical costs and lost productivity due to arthritis are estimated at almost $65 billion per year—approximately 1.1 percent of the gross national product.

Through it all, the Arthritis Foundation has increased public awareness and has help provide guidance for combating arthritis. The Arthritis Foundation, an Atlanta based nonprofit organization, supports research to find the cure for the prevention of arthritis and seeks to improve the quality of life for those affected by this disease. Further, the Arthritis Foundation encourages people with arthritis to seek early diagnosis and treatment, and provides programs to facilitate self-management.

The Arthritis Foundation's sponsorship of research for 50 years has resulted in major treatment advances for most types of arthritis and related conditions. The Foundation currently provides $16 million annually in grants to more than 300 researchers to help find cures, promote prevention and provide better treatments. Since its inception, the Foundation has spent more than $200 million on research while supporting more than 1,700 scientists and physicians.

The organization has informed me that they are moving toward a new era of public health activity that includes collaboration with the Centers for Disease Control and Prevention to develop the National Arthritis Action Plan.

They are seeking support for the inclusion of arthritis in Healthy People 2010, the nation's strategic planning guide for health promotion and disease prevention.

The National Arthritis Action Plan will focus on such elements as defining the nature, extent and distribution of the arthritis burden; identifying modifiable risk factors; developing creative and effective public health programs and policies to reduce this burden; and implementing and coordinating these programs and policies through partnership with government, voluntary, professional, private and academic institutions and organizations.

The Arthritis Foundation also provides a large number of nationwide community-based services to make life easier and less painful. These services include self-help courses, water and land-based exercise classes, support groups, instructional videotapes, educational brochures and booklets, and continuing education courses and publications for health professionals.

In the past 50 years, the Arthritis Foundation has funded research, increased public awareness and provided needed education and services. These major contributions have placed the goal of curing and managing the impact of some forms of arthritis within a realistic reach. I congratulate the Foundation on this golden achievement and wish it continued success in the future.•

HONORING THE RETIREMENT OF DR. H. JAMES MAHAN

• Ms. MOSELEY-BRAUN. Mr. President, it is my pleasure today to take a few minutes to honor the career of a champion of public education, Dr. H. James Mahan, as he retires from the position of Superintendent of Homewood School District Number 153 in Homewood, Illinois.

For 15 years, Dr. Mahan has led Homewood School District #153 down a path of educational excellence and innovation. In 1984, the district had 1,450 students and 90 professional staff members. Today, there are 2,240 students and 180 professional staffers. During this period of expansion, Dr. Mahan worked to ensure that the quality of education in his school district improved as well.

Under his stewardship, district schools have twice been named Blue Ribbon Winners by the United States Department of Education. This success is in large part due to the sound educational principles that have been the basis of Dr. Mahan's leadership. He has developed meaningful physical improvement plans, initiated the use of the Internet and other technology as classroom tools, and he has encouraged local businesses and organizations to provide his district's students with hands-on learning experiences through internships and mentoring programs. Furthermore, Dr. Mahan has instilled in his schools the principles of fiscal prudence, good discipline and teacher development.

Dr. Mahan's commitment to public education and to the students of Homewood School District #153 are commendable and serve as a model for others to follow. I congratulate Dr. Mahan on this milestone of his career, and wish him good luck and Godspeed in all of his future endeavors.•

NATIONAL SPACE SYMPOSIUM

• Mr. ALLARD. Mr. President, I had the pleasure of participating in the 14th National Space Symposium hosted last month by the United States Space Foundation. The annual symposium was designed to display and discuss current trends in the space community, and the 1998 theme reflected what has become very significant to the development of the United States space industry: "The Global Relevance for Space: Civil, Commercial and Military". As the Foundation's President, Bill Knudsen, said in his remarks, "Space is increasingly global in all aspects. The strong interrelationship between government, private industry and military space activities has created a completely new environment."

The location of this symposium highlights the significant position of my state of Colorado in the global space business. All aspects of space thrive in Colorado; we have an extensive and growing industry and a significant military presence.

The symposium addressed several issues and opportunities with a broad international flavor, and with a focus on commercial and market concerns.

Demonstrating the interrelated nature of space activity, each of the symposium's eleven professional panels had at least one representative from the civil sector, one representing the commercial perspective and one from the national security perspective. This integrated approach produced a spirited dialog on critical space issues.

The list of participants was impressive, a few especially captured my attention. NASA Administrator Dan Goldin detailed accomplishments of the agency, announced cooperative efforts with the Air Force and substantiated the need for the International Space Station, rejecting suggestions that the Russians should be dropped from the program. Mr. Goldin also spoke to what I believe may be NASA's greatest accomplishment: increasing their productivity while reducing their budget. The NASA budget has decreased 30% since 1993, and in that same time 10 new programs and numerous partnerships have been created. In the coming era of public and private partnership in space exploration and development, NASA has established a high standard of efficiency and achievement.

The capstone panel, led by Mr. Golden, also featured General Howell Estes, Commander in Chief of NORAD and US Space Command. General Estes emphasized the marketplace as the driving force, while recognizing the necessity of a proper partnership between the private sector and government.

Robert Mallett, the Deputy Secretary of Commerce, stressed the need to recognize commercial space as the driver of a higher growth job machine in industry that will deliver prosperity and security for coming generations of Americans.

Our colleague in the House, Representative CURT WELDON, addressed national security, space and arms control concerns as he spoke passionately from his experience of working with the Russians.

I spoke about the important mission of our military to secure the use of space, and my perspective as a member of the Senate Intelligence Committee on space implications for national security. I believe that the private and public sector must work together to ensure that the United States is the first and best in space. I support legislation in Congress to encourage commercialization of space, and in particular have been supportive of the efforts of our Colorado companies that plan to operate remote-sensing satellites that will offer unique high-resolution satellite photos.

In addition to the panels, more than sixty exhibitors displayed the latest in space technology at this international conference. The Foundation honored exceptional achievement in space activities, recognizing NASA's Jet Propulsion Laboratory for their public outreach efforts associated with last summer's remarkable Pathfinder Mission, and the career of space leadership of General Thomas S. Moorman, Jr. USAF (ret.), the former vice chief of staff of the Air Force.

General Estes and others from the Space Command laid out the future of military space with the unveiling at the symposium of their Long Range Plan. Two technologies were inducted into the Space Technology Hall of Fame, the Global Positioning System and Temper Foam, a NASA Ames Research Center technology used in medical and recreational applications. The Hall of Fame marketed its 10th anniversary of honoring technologies originally developed for the space program and later adapted to benefit others here on Earth.

The symposium's sponsor, the United States Foundation, is a national nonprofit organization with headquarters in Colorado Springs. The Foundation's mission it to aggressively advance civil, commercial and national security space endeavors for a brighter future and to provide and support educational excellence through the excitement of space. The Foundation should be commended for this symposium and for their other important projects, such as the Mission HOME program, a public awareness campaign for the space community, and Space Discovery graduate courses and teacher education opportunities.

This annual event has grown considerably in the past few years, and I expect it to continue growing in scope and significance. I am already looking forward to next April and the 15th Annual National Space Symposium.●

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998—AMENDMENT NO. 2397

● Mr. DODD. Is it the intention of the sponsor of amendment No. 2397 to the Securities Litigation Uniform Standards Act that it should apply solely to States, their political subdivisions, and their pension plans?

Mr. SARBANES. Yes.

Mr. DODD. And is it the Senator's intention that the amendment not be used by plaintiff's lawyers to piggyback class action suits onto suits brought by the entities mentioned in the amendment?

Mr. SARBANES. That is correct.●

HELEN LUCILE WULFMEYER

● Mr. ROBERTS. Mr. President, I rise to recognize a life-long Kansas native, Lucile Wulfmeyer, who passed away on May 11, 1997. Her memorial service at First Presbyterian Church included the following remembrance of Lucile, written by her elder daughter, Roberta Doerges:

> My earliest memories of mother and my family roots seem to materialize in the home she purchased at 316 S. Bluff. Here, I remember a formal dining room converted to a family room; learning to ride my first bicycle; and meeting the man who would later became my father: Lawrence Wulfmeyer. What came before all of that dims in childhood lost, but along with Marian's "I wuv you, Wawrance," and my manipulative acts to prevent my mother's dating, I remember an abundance of motherly patience and forbearance. The nearly four years between my father, Francis Chambers' death, and my mother's union of 37 years to Lawrence, set the stage for revealing my mother's life of service.
>
> Today's stories might have described a woman with 18-month-old and not-quite-three-year-old daughters as capitulating to welfare, but not so for our mother. A woman wise beyond her decade, she returned to work at Wichita's McConnell AFB and managed to provide her daughters with a live-in housekeeper, as well as financial support. I have always marveled at her courage to do this: a "woman's libber" before her time, working in a predominately male field, and providing two young daughters with love and sustenance.
>
> Knowing that she needed companionship, and a helpmate to raise these little girls, Lucile married again in October of 1959. Lawrence's Brownie camera recorded two little girls, dressed identically, and participating in the celebration of their parents' union and a new father. A new home in East Wichita, and a new family life ensued.
>
> Always a large part of the family picture was First Presbyterian Church: group calling on prospective new members, UPY meetings and youth choir through junior and senior high school years. Even the conception and realization of the Wulfmeyer "Dream Home" in Clearwater did not dim that emphasis. Many a Lucckock Class picnic, or a Brown Sunday School Class open house was held at the home in Clearwater, dubbed "Spring Creek Acres," and the seat of so many collective family memories.
>
> Mother's life of service continued through all of those years. Whether creating musical programs for Marian, Roberta and Lucile to perform, or lovingly constructing costumes to enhance them; whether taxiing busy daughters to endless high school extracurricular activities, or typing term papers at 7:30 am (at 120 words per minute proficiency, this was one skill that was too tempting for at least her elder daughter to overlook taking advantage of!) Reading and correcting school papers, assisting with college choices, consoling unrequited crushes—no act was too demeaning for Mother. Her creative juices seemed endless; her power to be supportive was astonishing; her innovation was impressive. (To this day, I owe my own extensive and fine vocabulary to her love of literature, and the ingenious idea during our late high school years to put a "new" vocabulary word on the table daily, at breakfast. The challenge was not only to learn its meaning, but, by dinner time, to be able to use it correctly in conversation.)
>
> My mother's ability to teach and instill was amazing. I never remember learning the 23rd Psalm or the Lord's Prayer. These were repeated to us as babies, following our father's death, and were as much a part of our essence as eating or speaking. The faith which she instilled in us was invaluable: the unswerving foundation of a God who loves us, in spite of any adversity.
>
> Mother's ability to teach also shows through in her three grandchildren: Autumn's love of art; Lauren's organizational skills, service inclinations, and musical interests; Kyle's appreciation of theater . . . all of these are owed in great part to a grandmother who took the time of summer visits to send grandchildren to art classes, or escort them to Wichita Music Theater. That love and those lessons will last a lifetime.
>
> Small wonder that Lucile had already begun a life of service as a young woman. Her father died when she was seventeen. She assisted her mother through years of illnesses, operations at Mayo, bitterness over poor health, and tender care in her elder years. This attitude of service also included care for her elderly father-in-law, Sidney Chambers, and for Lawrence's mother, Clara. Her love and service seemingly knew no bounds.
>
> Those who loved Lucile will remember her devotion to protocol, her gracious way of living, and her love of family. They will remember her acute appreciation of the fine arts; her gifts of writing prose and poetry; her love of reading and of books, her fascination with history (especially through the D.A.R.), and her delight in the unique (how many American "witches" do you know)? She will be remembered for her life of service to her family and her church; and her appreciation of God's divine purpose.
>
> While recent months may have seemingly robbed her of many of the things which she appreciated most, her inability to enjoy those things completely made all of us who visited and loved her, acutely aware of all those finer appreciations which she enjoyed and instilled in others.
>
> She was greatly loved, and will be greatly missed. "Well done, thou good and faithful servant."●

GENERAL CLIFTON B. CATES, USMC

● Mr. FRIST. Mr. President, I come to the Senate floor today to ask that my colleagues join with me in paying tribute to the 19th Commandant of the Marine Corps, General Clifton B. Cates. I am confident the Senate will grant approval to express a Sense of the Congress that the next LPD–17 amphibious vessel be named in General Cates' honor.

General Cates was a native of Tennessee, born in Tiptonville, and later educated at the University of Tennessee earning a Bachelor of Laws degree. He was Commissioned a second lieutenant on June 13, 1917. General Cates had a remarkable career that took him to battles defending American interests around the globe. The then-Lieutenant Cates demonstrated his dedication to duty in such legendary battles as Belleau Wood and Verdun where he won the Navy Cross and two Silver Star medals.

During WW II, General Cates commanded the 1st Marine Regiment's landing in Guadalcanal and later was the Commander of the Fourth Marine Division in the Marianas operation. General Cates fought in Tinian and perhaps the most famous of Marine Corps clashes, the seizure of Iwo Jima. The valor demonstrated by the General in all of these hard fought battles continues to be an example for young Marines deployed around the world today.

General Cates died at age 76 in June of 1970 after an extremely distinguished and long career. It is only appropriate that the Congress express its desire to have the Secretary of the Navy bestow the honor of naming a vessel for General Cates.●

TRIBUTE TO KORTNEY SHERBINE

● Mr. HOLLINGS. Mr. President, I rise today in tribute to one of our nation's fine young students, Ms. Kortney Sherbine of Cheraw, South Carolina. She has been named the South Carolina state winner in The Citizens Flag Alliance Essay Contest. Her essay, "The American Flag Protection Amendment: A Right of the People . . . The Right Thing to Do", is a thoughtful paean to our Nation's banner. I ask that it be printed in the RECORD.

The essay follows:

THE AMERICAN FLAG PROTECTION AMENDMENT: A RIGHT OF THE PEOPLE . . . THE RIGHT THING TO DO

(By Kortney Beth Sherbine)

> It is my profound and adamant belief that an American Flag-Protection Amendment

must be enacted to unequivocally ensure America's survival as a thriving, democratic nation. The significance of our beloved flag is best immortalized through America's heroic and valorous history. From the moment of our country's inception, the flag has served as an inspiration and motivation during times of exaltation as well as tribulation. All Americans should be moved to tears as they see Old Glory through Francis Scott Key's eyes as he peered anxiously from a British prison ship during the War of 1812 (World Book, 238). As he drifted in the Baltimore Harbor, the sole affirmation of America's surviving liberty waved highly in air. As he witnessed the perseverance of our flag, he realized our nation was destined for greatness.

In addition, our flag's sacredness was poignantly displayed at Libby's Prison where soldiers cut our banner in twenty-two pieces saving it from desecration at the hands of the Confederates (Krythe, 17). Subsequently, the American people will never forget the powerful image of five marines and one corpsman planting the Stars and Bars at Iwo Jima. These aforementioned tributes to Old Glory should touch the very core of our identity as American citizens. The planting of the American flag throughout history has carved our role as the great defender of democracy.

For over two hundred years, the flag has been the most honorable, tangible shrine to freedom the people of the world have witnessed. It is a beacon of hope and light for the oppressed and downtrodden. The American flag is as necessary and integral a part of our patriotism as God and family. It is a symbol of the turmoil our nation conquered to become a superpower today.

No action can be more disheartening and devastating to a true American than seeing one of our own deface and desecrate our most precious symbol of liberty. Throughout the span of time, our fallen heroes have paid the ultimate debt for our freedoms and rights. These great patriots sacrificed their very lives for the values and unalienable privileges that Old Glory emulates. How dare our countrymen have the vile audacity to dishonor the memories of our veterans and our hallowed history? Captain William Driver reflected the true American spirit as he proclaimed, "Thank God! I lived to raise Old Glory . . . I am now ready to die and go to my forefathers" (Adams, 26).

The media shows day after day how American citizens cling to the philosophy of basic human rights in a democratic society. We should hold the Stars and Stripes, the cloak of our very freedom, dear to our hearts with an equal conviction. Charles W. Stewart laced this concept with eloquence as he reflected, "The Stars and Stripes is our sign of national sovereignty and unity. It is a symbol of the Constitution as the cross is a symbol of Christianity" (Krythe, 26). We should value our flag's worth as we value our very existence in this grand nation.

In 1989, our Supreme Court, through Texas v. Johnson, invalidated the flag-protection laws in 48 states and the District of Columbia (CFA, 3). Currently, five national surveys show that 80 percent of Americans support a flag-protection amendment (CFA, 1). A government should conform to the wishes of the majority of its citizens. Our forefathers were indeed wise as they anticipated the changing needs and demands of future generations. They set forth two possible routes for amendments. Firstly, two-thirds of the state legislatures may call a convention for the proposing of amendments. In addition, two-thirds of the Senate and House can propose an amendment (Ritchie, 59). This wisely crafted system of checks and balances has truly kept our country operated by its citizens.

Among many basic rights, the first amendment of our Constitution prohibits the government from restricting freedom of speech (Ritchie, 65). An American's right to speak out for one's beliefs was born in the colonial era and has remained a unique component of our nation thereafter. The Supreme Court has grossly contorted the intention of this freedom and has made a mockery of it for the world to scorn. Freedoms must have limitations for humans to live in harmony. If no boundaries are enforced, chaós will certainly ensue. The "clear and present" danger system of limiting freedoms should extend to desecrating the flag (Ritchie, 67). Consequently, when 80% of Americans are extremely offended by the defacing of our most treasured symbols, the possibility for clear and present danger is imminent and inevitable.

Vital steps do exist to allow the American people to have a voice concerning the preserving of Old Glory. Laws should reflect the feelings of the majority, not the whims of a minority. A democracy is a government of action. Inaction does not hold a place in our thriving nation. Many steps can be taken by citizens to make positive changes in our government. It is an American's right to contact members of congress, contact the news media, write an editorial, talk via radio, and circulate petitions and materials to show support for his cause (CFA 1). Every true believer in the United States of America should take these steps to save and preserve our beloved flag.

If we want our great, democratic nation to survive, then we must save the banner of our triumphs and freedoms. If our symbol of freedom is destroyed, then our nation will surely follow. By losing respect for our American flag, we ultimately sacrifice the right to refer to ourselves as "The land of the free and the home of the brave." In essence, we would merely reduce ourselves to "The land of the ungrateful and the home of the misguided." Why worry about foreign nations stealing our freedoms when we are perfectly willing to sacrifice them free of charge? We must protect our Stars and Bars as adamantly as we fight for our very rights to life, liberty and the pursuit of happiness.

A wise President, Calvin Coolidge, summarized the necessity of our respect for the flag as he urged, "It will be futile merely to show outward respect of our National Emblem if we do not cherish in our hearts, an unquenchable love for, and devotion to, the unseen which it represents" (Adams, 30) Seeing our flag flutter majestically in the air should move every American to tears. We should be inspired to be profoundly grateful for the great human sacrifices that have provided us with a rare nation; a nation where all citizens, regardless of race, sex, religion, or wealth have the right to pursue their dreams and reach for the "stars".

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APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore and upon the recommendation of the Majority Leader, pursuant to P.L. 103-227, appoints the following individuals to the National Skill Standards Board: Jon A. Reeves, of Mississippi, Representative of Business; Ronald K. Robinson, of Mississippi, Representative of Labor; and Earline N. Ashley, of Mississippi, Representative of Human Resources.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a-1928d, as amended, appoints the Senator from Arkansas (Mr. HUTCHINSON) as a member of the Senate Delegation to the North Atlantic Assembly during the Second Session of the 105th Congress, to be held in Barcelona, Spain, May 22-27, 1998.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Calendar Nos. 560, 561, 598 and 599. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Paul J. Hoeper, of California, to be an Assistant Secretary of the Army.

Sue Bailey, of Maryland, to be an Assistant Secretary of Defense.

THE JUDICIARY

William P. Dimitrouleas, of Florida, to be United States District Judge for the Southern District of Florida.

Stephen P. Mickle, of Florida, to be United States District Judge for the Northern District of Florida.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR FRIDAY, MAY 15, 1998

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that when the

Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, May 15th. I further ask unanimous consent that on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 12 noon, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEMPTHORNE. I further ask unanimous consent that at 12 noon on Monday, May 18, the Senate proceed to consideration of S. 1723, the Abraham immigration legislation under the consent agreement of May 13.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. KEMPTHORNE. Mr. President, for the information of all Senators, tomorrow morning at 9:30 a.m. the Senate will be in a period of morning business until 12 noon. As a reminder, there will be no votes during Friday's session. A cloture motion was filed today on the motion to proceed to the tobacco legislation. That vote will occur on Monday at a time to be determined by the two leaders, but not prior to 5 p.m.

Also, at noon on Monday, the Senate will begin consideration of S. 1723, the Abraham immigration legislation. Therefore, Members can expect a rollcall vote on cloture and additional votes with respect to the immigration legislation Monday evening.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. KEMPTHORNE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:41 p.m., adjourned until Friday, May 15, 1998, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 14, 1998:

DEPARTMENT OF DEFENSE

PAUL J. HOEPER, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

SUE BAILEY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

WILLIAM P. DIMITROULEAS, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.

STEPHAN P. MICKLE, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF FLORIDA.

HOUSE OF REPRESENTATIVES—*Thursday, May 14, 1998*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. NEY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 14, 1998.

I hereby designate the Honorable ROBERT W. NEY to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

Give us, we pray, the gifts of the spirit. O gracious God, from whom all blessings flow, remind us that our daily lives can be filled with benefits that come from Your good spirit. The gifts of love, joy, peace, patience, kindness, goodness, faithfulness, gentleness, and self-control. May these lively contributions to the human condition bless, strengthen and give encouragement to our daily lives and keep us all in Your grace now and evermore. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Alabama (Mr. ADERHOLT) come forward and lead the House in the Pledge of Allegiance.

Mr. ADERHOLT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 255. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

H. Con. Res. 262. Concurrent resolution authorizing the 1998 District of Columbia Special Olympics Law Enforcement Torch Run to be run through the Capitol Grounds.

H. Con. Res. 263. Concurrent resolution authorizing the use of the Capitol Grounds for the seventeenth annual National Peace Officers' Memorial Service.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2676. An act to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2676) "An Act to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ROTH, Mr. CHAFEE, Mr. GRASSLEY, Mr. HATCH, Mr. MURKOWSKI, Mr. NICKLES, Mr. GRAMM, Mr. MOYNIHAN, Mr. BAUCUS, Mr. GRAHAM, Mr. BREAUX, and Mr. KERREY; and from the Committee on Governmental Affairs: Mr. THOMPSON, Mr. BROWNBACK, Mr. COCHRAN, Mr. DURBIN, and Mr. CLELAND, to be the conferees on the part of the Senate.

The message also announced that the Senate passed bills of the following titles, in which concurrence of the House is requested:

S. 1244. An act to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

S. 1260. An act to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

MOTION TO ADJOURN

Mr. SERRANO. Mr. Speaker, I have a privileged motion to adjourn at the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. SERRANO moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentleman from New York (Mr. SERRANO).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SERRANO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 15, nays 379, answered "present" 1, not voting 37, as follows:

[Roll No. 152]

YEAS—15

Ackerman
Brown (CA)
Conyers
Eshoo
Filner
Frank (MA)
Hoyer
Johnson, E. B.
Lewis (GA)
Martinez
McDermott
McNulty
Sabo
Serrano
Slaughter

NAYS—379

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (FL)
Brown (OH)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Fazio
Foley
Forbes
Ford
Fossella
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Johnson (CT)
Johnson (WI)
Johnson, Sam
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Redmond
Regula
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stokes
Strickland
Stump
Stupak
Sununu
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

ANSWERED "PRESENT"—1

DeFazio

NOT VOTING—37

Barton
Bateman
Becerra
Bryant
Christensen
Davis (FL)
Dixon
Engel
Fattah
Fowler
Gonzalez
Goodling
Greenwood
Harman
Hefner
Jones
Kaptur
Kolbe
McDade
Meeks (NY)
Myrick
Norwood
Pombo
Quinn
Radanovich
Reyes
Riggs
Rothman
Skaggs
Stark
Stearns
Stenholm
Talent
Torres
Traficant
Weldon (PA)
Young (AK)

☐ 1026

Ms. FURSE, Ms. PELOSI, and Messrs. RILEY, EWING, DAVIS of Virginia, LATHAM, LEWIS of California, and KASICH changed their vote from "yea" to "nay."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PRIVILEGES OF THE HOUSE—EXPRESSING DISAPPROVAL OF CONDUCT OF COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT'S INVESTIGATION BY REPRESENTATIVE BURTON

Mr. GEPHARDT. Mr. Speaker, I rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. 431), pursuant to clause 2 of rule IX, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 431

Whereas the Supreme Court of the United States has noted that, although the power to conduct investigations is inherent in the legislative process, that power is not unlimited, may be exercised only in aid of the legislative function, and cannot be used to expose for the sake of exposure alone;

Whereas the Supreme Court of the United States has further noted that the investigative power of Congress contains "no general authority to expose the private affairs of individuals without justification in terms of the functions of Congress";

Whereas Representative Burton is the only member in the history of the House of Representatives who has had the power to unilaterally issue subpoenas and the power to disclose information obtained therefrom, and has abused these powers;

Whereas the Committee on Standards of Official Conduct has determined that it is improper to alter a House document if such alteration changes the meaning or extensively modifies the document;

Whereas the Speaker of the House of Representatives has correctly and steadfastly called for adherence to the Rule of Law and emphasized that no man is above the law;

Whereas those upon whom the House of Representatives has bestowed its Constitutional power to investigate must abide by the Rule of Law, and must exercise the investigative power fairly and judiciously and in a manner that will preserve the dignity of the House and reflect credit thereon.

Whereas the Rules of the House of Representatives provide that documents and other materials obtained pursuant to a Committee subpoena are records of the Committee that may not be publicly disclosed by a chairman without authorization by the Committee;

Whereas the Committee on Government Reform and Oversight has adopted procedures governing the public disclosure of documents and other materials obtained pursuant to a Committee subpoena;

Whereas pursuant to a Committee subpoena, Representative Burton obtained from the Department of Justice tape recordings of the telephone conversations engaged in by Webster Hubbell while in prison;

Whereas the Department of Justice advised Representative Burton of his responsibility to pay special regard to the sensitive nature of the tape recordings, which recordings the Department of Justice could not lawfully disclose to the public;

Whereas Representative Burton intentionally violated the Rules of the House of Representatives and the procedures of the Committee on Government Reform and Oversight and displayed an utter disregard for both the privacy rights of those involved and the ability of the Bureau of Prisons to perform its functions effectively by publicly disclosing the tape recordings and transcripts of telephone conversations between Webster Hubbell and his wife, other family members, friends, and attorneys;

Whereas the transcripts publicly disclosed by Representative Burton in violation of the Rules of the House of Representatives and the procedures of the Committee had been altered and selectively edited so as to mislead Members of the House of Representatives and the public, distort the public record; impair the ability of the House of Representatives to perform its legislative and oversight functions, and violate the integrity of Committee proceedings.

Whereas the materials publicly disclosed by Representative Burton in violation of the Rules of the House of Representative and the procedures of the Committee contained conversations between a husband and wife pertaining to family, personal, medical, and marital problems;

Whereas, through these actions, his failure to abide by the Rule of Law, and his consistent abuse of the investigative powers of the House of Representatives, Representative Burton has brought discredit upon the House of Representatives: Now, therefore, be it

Resolved, That the House of Representatives disapproves of the manner in which Representative Burton has conducted the Committee on Government Reform and Oversight's investigation of political fundraising improprieties and possible violations of law.

☐ 1030

The SPEAKER pro tempore (Mr. NEY). In the opinion of the Chair, the resolution constitutes a question of the privileges of the House under rule IX.

MOTION TO TABLE OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I move to lay the resolution on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ARMEY) to lay the resolution on the table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEPHARDT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 223, noes 196, not voting 13, as follows:

[Roll No. 153]

AYES—223

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth

Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Porter
Portman
Pryce (OH)
Ramstad
Redmond
Regula
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—196

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—13

Bateman
Fowler
Gonzalez
Harman
Hefner
John
Pombo
Quinn
Radanovich
Riggs
Skaggs
Torres
Traficant

□ 1057

Messrs. GREENWOOD, LIVINGSTON and ROGAN changed their vote from "no" to "aye."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NEY). The Chair will recognize five Members from each side for the purpose of 1-minute speeches.

WHITE HOUSE WOULD RESERVE PRIVACY RIGHTS FOR CRIMINALS AND NOT THE INNOCENT

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, we have just gone through an exercise talking about the rule of law. The White House has recently become remarkably solicitous of the privacy rights of convicted felons.

While the coddling of criminals is nothing new for liberals, what is new is the idea that the White House cares about privacy rights for the law-abiding.

I ask the White House, what about the privacy rights of the 900 Republicans whose FBI files ended up in the hands of political operatives in the White House?

What about the privacy rights of Billy Dale and the other Travel Office employees? Rights which were trampled upon by the IRS and the FBI in a despicable smear campaign.

In this strange new world, privacy rights are reserved for convicted criminals and denied to the innocent.

Mr. Speaker, this entire episode is a perfect example of the liberal mindset when it comes to crime: Misplaced priorities, double standards, and always, always, always, preference for the rights of criminals over the rights of the law-abiding.

□ 1100

TIME IS NOW TO END U.S. SUPPORT FOR SUHARTO DICTATORSHIP

(Mr. SANDERS asked and was given permission to address the House for 1 minute.)

Mr. SANDERS. Mr. Speaker, the time is now to end U.S. support for the Suharto dictatorship in Indonesia and to help that country move for democracy.

General Suharto is a dictator who has been in office for over 30 years and during that period has committed horrendous atrocities. Today his political opponents are in jail, they are being tortured, they are being kidnapped by the secret police.

Just the other day, six unarmed student protesters were shot down in cold blood. General Suharto is known not only for his brutality but for his corruption and greed. In a country where the average income is less than $20 a week, his family has amassed a fortune of over $30 billion.

Mr. Speaker, if the brave students of Indonesia are prepared to put their lives on the line to end the Suharto dictatorship, how can we ignore their cries for freedom? Let us end our support for Suharto now.

TRIBUTE TO DEPUTY RICH OWEN

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, last November, deputies and employees of the Benton County Sheriff's Office in Arkansas voted Rich Owen Deputy of the Year. They selected him for the award, they noted, because of his outstanding professionalism and devotion to helping others. Within days of that vote, Deputy Owen died in the line of duty. He died from injuries he received in an auto accident while responding to a burglary call.

This week is National Law Enforcement Officers' Memorial Week, a time dedicated to the memory of heroes like

Rich Owen, men and women who gave their lives serving and protecting others. I am at once proud and at the same time sad to pay tribute to these officers. I am proud that Arkansas has produced such courageous individuals as Deputy Owen, but I am sad that some have paid such an awful price for that dedication.

I would like to pay special tribute to Deputy Owen's son, Brandon, who is with me here today. And I offer my condolences to Brandon's mother, Frankie Owen, as well. These two stand as a constant reminder of the sacrifices not only our police officers pay every day, but their families as well. They stand here today as a reminder of the debt the rest of us owe to our law enforcement community. The courage we pay tribute to here today is not only that of the officers, but of their families as well. The sacrifices they make are great.

GENETIC INFORMATION NONDISCRIMINATION IN HEALTH INSURANCE ACT

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, scientists recently announced a breakthrough in the treatment of cancer, one of the deadliest and most common diseases plaguing humanity. A combination of two drugs has been shown to prevent tumors from spawning the growth of new blood vessels that allow the tumor to grow.

The advances in genetic testing now allows us to pinpoint people who are at high risk for common cancers like breast cancer and colorectal cancer. Tragically, however, people are afraid to take those genetic tests that would allow them to take advantage of new anti-cancer drugs at the earliest possible phases of cancer. They refuse to take these tests because they fear genetic discrimination, especially in health insurance.

Congress could solve the problem by passing H.R. 306, The Genetic Information Nondiscrimination Health Insurance Act, which has 200 bipartisan sponsors. To date, however, we have not been able to get a schedule to vote on this proposal; and, as a result, Americans are forced to make a Hobson's choice between learning vital health information and risking their health insurance.

I urge my colleagues to demand a vote on H.R. 306 to protect all of our constituents against genetic discrimination and allow them to make health decisions based on sound medical facts.

FREEDOM FROM RELIGIOUS PERSECUTION ACT

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, today the House will vote on the freedom from religious persecution bill, which covers only cases of torture, enslavement, abduction, and death.

Noted Russian Jewish dissident Natan Sharansky said, "When the West stood up for its most basic values," as this bill does, "and spoke up for persecuted Soviet Jewish communities, Soviet chains around churches and political dissidents began to shatter."

Noted Chinese dissident Wei Jingsheng sent a letter yesterday and said, "If I did not see it myself, even I would not imagine the shameful and despicable means the Communists use against believers."

This bill gives the President total and complete waiver authority. Cardinal O'Connor of New York, in a letter yesterday said, "The Freedom from Religious Persecution Act could begin the desperately needed process of ending the legitimizing of such persecution."

Failure to pass the bill would send a message to all of the dictators all over the world that it is open season for people of all religious beliefs. I hope and I pray that this bill will pass with an almost unanimous vote.

CAMPAIGN FINANCE REFORM

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, I rise today and perhaps I should ask for a moment of silence because the vote that was taken to table the privileged resolution from the gentleman from Missouri (Mr. GEPHARDT) is a sad moment in the House of Representatives.

I have the distinct honor and pleasure of serving on the Committee on Government Reform and Oversight. The fact that we have had a difficult time in the administration of our mission over the last 18 months is evident to everyone in this Chamber and everyone in this Nation.

The privileged resolution would have given this House the opportunity to air the problems in that committee and to attempt to find a solution so that we could move on in our mission of adequate investigation of financial and campaign finance violations of the 1996 election.

I think, as a result of our failure to use the debate process on that privileged resolution, we will find that May 14, 1998, by a vote of 223-196, this House has decided not to reform campaign finance but to start the political campaign of 1998.

FREEDOM OF RELIGION IN PAKISTAN

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise today to speak on behalf of a person imprisoned because of his religious beliefs in Pakistan.

Recently, a Pakistani Christian, Ayub Masih, was sentenced to death under Pakistan's blasphemy law. In Pakistan, no one has yet been officially executed under the blasphemy law. However, extremists have killed a number of accused believers.

On May 6, 1998, human rights activist Bishop John Joseph allegedly committed suicide to protest the blasphemy law and Masih's death sentence. Although the Pakistani Constitution protects freedom of religion, the blasphemy law contradicts the constitution and a number of international human rights standards.

Mr. Speaker, every person, every country in the world should have this fundamental human right, the freedom of religion. I urge the Pakistani Government to acquit Mr. Ayub Masih and release him from prison with full protection of his rights and to protect him and his family.

TIME FOR CHAIRMAN BURTON TO STEP DOWN AS HEAD OF INVESTIGATION

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Mr. Speaker, I rise today to decry the use of taxpayer funds for an investigation that has in fact turned into nothing more than a partisan political witch hunt.

According to yesterday's Washington Post, the investigation of the gentleman from Indiana (Mr. BURTON) "began more than a year ago and has cost several million dollars," yet has "produced little information beyond what was disclosed during a similar investigation by the Senate Governmental Affairs Committee."

Meanwhile, the gentleman from Indiana (Mr. BURTON) has blatantly abused his power by unilaterally issuing over 500 subpoenas, releasing tapes of personal, private conversations and altering the content of those tapes to suit his own political purposes.

It is time to restore some integrity to this investigation. It is time to end this waste of taxpayer money. It is time for the gentleman from Indiana (Mr. BURTON) to step down as head of this investigation.

CHILD CUSTODY PROTECTION ACT

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, although we live in the world's greatest democracy, we also live in a society that, unfortunately, in the name of women's rights permits parents to be stripped of our inherent and sacred right, our right to parent.

H.R. 3682, The Child Custody Protection Act, will protect every parent's right to be a parent. It will prevent every parent from being stripped, deprived, and divested of our profound right to protect our young daughters from abortions and life-altering and life-threatening procedures.

Pro-abortion groups wrongfully claim a right to procure secret abortions for minors. But it is not up to a stranger to determine whether our daughters should have an abortion. The Congress and the American people will take a strong stand against the twisted notion that the Constitution somehow confers upon strangers a right to parent our children.

Together with Senator SPENCER ABRAHAM, our bill will be heard in committees next week and we hope that we can get even more cosponsors for our pro-family protection bill.

CAMPAIGN FINANCE REFORM

(Mr. TIERNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIERNEY. Mr. Speaker, campaign finance reform still is a critical issue confronting this House and needs to be addressed.

The Committee on Government Reform and Oversight had a particular opportunity to address this issue, to hold hearings, and to come up with some solutions and some facts that were a basis as to how we should proceed in that area.

So far, however, due to lack of leadership in that committee, we have been unable to embark on that process. We have had instead a very partisan hearing process, a fiscally irresponsible process, one that is motivated by personal vindictiveness not only of persons on the majority but also of their staff.

In fact, we have had a tremendous amount of incompetence in those proceedings that have cost the American taxpayers some $6 million. New committee leadership is needed to restore credibility to that committee and dignity and credibility to this House.

It is a shame, Mr. Speaker, that the Members of the majority were unable to take the action that would allow us to move in that process. It now is incumbent upon the gentleman from Indiana (Mr. BURTON) as the head of that committee to realize that he can no longer function properly and to move that leadership to another member of that committee.

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 430, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 430

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on International Relations, the Judiciary, and Ways and Means now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of H.R. 3806, modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. No amendment to that amendment in the nature of a substitute shall be in order except those printed in part 2 of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to my good friend, the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this rule, House Resolution 430, is a structured rule providing for the consideration of H.R. 2431, The Freedom from Religious Persecution Act of 1998. The admirable purpose of this legislation is to reduce the widespread and ongoing religious persecution taking place, unfortunately, in many places in the world today.

☐ 1115

The rule provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, which had primary jurisdiction over the legislation.

Because the bill was referred to five committees for their consideration, and three of those committees reported varying versions of the bill, a new bill for the purpose of amendment, H.R. 3806, was introduced last week.

The gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules announced on the House floor on May 7 that the bill, H.R. 3806, would be used as the base text for purposes of amendment. The rule, therefore, makes in order as an original bill for purposes of amendment an amendment in the nature of a substitute consisting of the text of H.R. 3806 as modified by the amendments in Part 1 of the report of the Committee on Rules and provides that the amendment in the nature of a substitute shall be considered as read.

Mr. Speaker, this is a fair rule which allows for a broad range of amendments on a very narrowly focused bill. The goal of the bill is to combat religious persecution, and clearly all forms of persecution are to be condemned. But the crafters of this bill, as I stated, created a very focused religion-specific bill to make clear that we are focusing on one particular aspect of unacceptable persecution which must, must be combated.

Thus, the bill was not brought with an amendment, for example, from the distinguished gentleman from North Carolina (Mr. WATT) who offered an amendment which would have expanded the scope of the bill to cover all forms of persecution prohibited by the Geneva Convention. It was felt by the framers of the legislation, however, that this bill, to have an opportunity to be considered and to have an opportunity for passage, should be framed as specifically and narrowly as it has been.

I believe that the gentleman from North Carolina (Mr. WATT), when he moves forward, if he does, with his concept, will get tremendous support on a bipartisan basis. I certainly would be supportive of the effort by the gentleman from North Carolina (Mr. WATT), but I think that it is important to keep in mind what the purpose of this bill is.

It is a very focused, I would maintain, modest and reasonable and, hopefully, achievable piece of legislation to focus on upon that egregious and condemnable practice which occurs all too often in different parts of the world, religious persecution. I would urge my colleagues to support both this fair rule and the underlying bill.

The bill prohibits Federal agencies and U.S. persons from exporting goods to entities engaged in religious persecution. I think that is an important step to demonstrate that we are serious about condemning and opposing that unconscionable practice.

Mr. Speaker, though the bill has been limited in the process of amendment and of discussion, this is a very important piece of legislation that we are dealing with today. I would say it is somewhat of a definitional piece of legislation for this Congress at this particular moment in our history.

I often think about what we have witnessed in the last years and the fact that we are in a transitional moment. I often think about the fact that, while doubtless, we saw an "evil empire," as President Reagan often called it, collapse, I wonder what it is that has won. What is it that has won? And what kind of world is it that we are walking into at this stage in our history?

In a certain sense that is what we are discussing. That is what will be discussed and debated with this particular legislation. We have to decide, ultimately, if what we accept and what we wish to embrace as a society and as a world, as an international community, is ethics as some sort of guide, some sort of factor in human conduct; or whether we are officially going to embrace the law of the jungle, if we are going to simply embrace the concept, as Dostoyevsky said when he pointed out that in his belief, those who say that God does not exist in effect are saying that anything is possible. In other words, if the concept of ethics will have no relevance whatsoever, then we might as well officially proclaim that in this era in which we are living.

So what the framers have done, the gentleman from Virginia (Mr. WOLF), the gentleman from New Jersey (Mr. SMITH), the gentleman from New York (Mr. GILMAN), and so many others who have worked so tirelessly on this legislation, through this legislation, this very focused legislation, is to say that that particular egregious conduct, religious persecution, torture, being put into a dungeon, into a cage, being tortured or killed because of a human being's religious beliefs and practices is going to be officially, by the United States Congress, condemned today.

Even though there are all sorts of waivers, as the gentleman from Virginia (Mr. WOLF) stated earlier, and he will state subsequently, in his legislation for the President, the same President who will be, according to what I am told, standing, in just a few weeks, at Tiananmen Square, being received officially by the Chinese Government with all the symbolism that that means in the world of diplomacy, that there could be no other place to be received in Beijing except Tiananmen Square.

Even though this bill, as focused as it is, as limited as it is, grants multiple waiver authority to the President of the United States, it is, nonetheless, a very important piece of legislation. It is a piece of legislation that is going to be watched. What we do today is going to be watched throughout the world and, most especially, by those who languish in dungeons and in caves and who are tortured and oppressed because of their religious views and practices.

So I would urge my colleagues to not only support this fair rule, but the underlying legislation.

Mr. Speaker, I again want to commend the framers of the legislation. I have great admiration for all of them: the gentleman from New York (Mr. GILMAN), of course, the gentleman from Virginia (Mr. WOLF), the gentleman from New Jersey (Mr. SMITH), the gentleman from Ohio (Mr. HALL), who is here, my dear friend on the other side of the aisle and to whom I have yielded the customary 30 minutes on this rule, a tireless champion, as well, for human rights and human decency throughout this world.

I thank them all for their hard work on this legislation and other similar pieces of legislation that have dignified this Congress in the past.

So I would urge my colleagues to support the rule. I know that we have the distinguished presence here of the gentlewoman from Florida (Ms. ROS-LEHTINEN) who will be speaking on the rule, also, by the way, an extraordinary fighter for human rights.

Mr. Speaker, I reserve the balance of my time

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Florida (Mr. DIAZ-BALART) for yielding me the time and his very, very kind words.

Mr. Speaker, this is a structured rule. It will allow debate on H.R. 2431, which is called the Freedom From Religious Persecution Act. As my colleague has described, this rule will provide 1 hour of general debate that will be equally divided and controlled by the chairman and the ranking minority member of the Committee on International Relations.

The rule self-executes two amendments. In addition, it makes in order four amendments which may be offered on the House floor.

Mr. Speaker, religious freedom is one of the most fundamental rights of Americans. It is enshrined in the first amendment to the Constitution. It is a foundation of the American government. It is more than just an American right. The right to freedom of religion is recognized by international law, including the Universal Declaration of Human Rights.

Unfortunately, the brutal suppression of religious expression is all too common beyond the borders of the United States. In my travels and in the travels of many of the sponsors of the bill, especially the gentleman from Virginia (Mr. WOLF) and the gentleman from New Jersey (Mr. SMITH), we have witnessed firsthand the extraordinary intolerance against people who chose to practice their faith outside the officially approved religions.

In Romania, the gentleman from Virginia (Mr. WOLF) and the gentleman from New Jersey (Mr. SMITH) and I saw churches that were burned down, people that were thrown in prison, Bibles by the thousands that were shredded into toilet paper under the official government policy of repression.

In northern Uganda, I saw Catholic girls who were mutilated for no other reason than their faith. Their ears and their noses were cut off. I visited them in the hospitals. It goes on in so many countries in the world that practice this brutality.

But when I and my fellow House Members would return to the United States from these countries, there was little we could do about the horror we saw. We did not have the legal tools necessary to stop it.

The bill before us today is such a tool. The bill was introduced by my friend, the gentleman from Virginia (Mr. WOLF), who, as I have said before, I have accompanied on many international trips to investigate human rights abuses.

His bill establishes the Office of Religious Persecution Monitoring to identify and report on religious persecution. If the Secretary of State determines persecution exists, then a series of sanctions take effect, including a prohibition on exports and U.S. foreign aid.

Because of the importance of religious freedom to our Nation, it seems fair that our government express this in our foreign policy. While we cannot dictate the internal policies of other countries, we can direct the State Department and our foreign assistance programs to deny support for countries and individuals that repress religious freedom contrary to basic American values.

President Clinton has already taken an important step towards universal freedom of religious expression by establishing a Commission on Religious Liberty to advise the State Department. However, I believe we can do more.

I regret that we are taking up this bill under such a restrictive rule. I would prefer that we would have more of an open rule, but I strongly support this bill to express U.S. outrage over the religious persecution in other countries and to help stop the brutality.

Reluctantly, I do support this rule so that we can proceed with the consideration of a bill that I consider a most important piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield 5 minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN), my distinguished colleague and friend.

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman from Florida (Mr. DIAZ-BALART), my colleague from Miami, for his leadership on this issue.

Mr. Speaker, along with the gentleman from Florida (Mr. DIAZ-BALART) and the gentleman from Ohio (Mr. HALL), I also rise in strong support of H.R. 2431, the Freedom From Religious Persecution Act of 1998. I especially commend my colleagues, the gentleman from Virginia (Mr. WOLF), the gentleman from New Jersey (Mr. SMITH), and the gentleman from New York (Mr. GILMAN), chairman of the Committee on International Relations for their leadership and for their dedication in bringing forward such a critical piece of legislation.

Jose Marti, the man who liberated my homeland of Cuba from tyranny, said, "To witness a crime in silence is to be an accomplice of that crime."

Today, my colleagues and I are making a statement to the world that the United States will not stand by silently. We will bear witness to the thousands of our fellow human beings who are tortured and, indeed, even murdered for exercising their fundamental right to religious freedom.

Today, we will give a voice to those whose cries for freedom and justice have been equaled by violent and repressive regimes that seek to destroy that which is so precious to us as children of God.

□ 1130

This bill will help ensure that practicing one's faith will not become a death sentence, as it has been, unfortunately, for so many men, women and children throughout the world.

When we speak of religious persecution, we need to fully recognize that in many countries this does not mean simple harassment, but it refers to unthinkable, monstrous acts, ranging from imprisonment, forced slavery, torture, starvation and murder. These acts, endorsed, and in many cases imposed, by extremist, repressive regimes, have gone unpunished for too long.

As we reflect on this issue today, we ask that you think of people like the 18 year old girl from Laos who was arrested by government forces and is currently sitting in a squalid prison cell. And what is her crime? Teaching Bible classes to neighborhood children. Or think about the student from Tibet who did nothing but record traditional music from Tibet, and, for this offense, he was sentenced to 18 years.

I ask you to picture the father who was shot in the streets of Iran because he was not in the mosque at prayer time. There are many prisoners in my native homeland of Cuba who are in jail because they dared to hold religious meetings at their homes, and there are evangelical Christians and Jehovahs' Witnesses routinely harassed in Cuba.

These are just a few examples of the grim destiny that so many of our global brothers and sisters face at the hands of those who hold no respect for religious beliefs and no respect for human life.

Religious persecution following the Cold War has not diminished. Sadly, it has only persisted, and has now reached new heights. H.R. 2431 will provide a permanent mechanism for the United States to investigate religious persecution and ensure that these cases receive high priority at the State Department.

By creating an Office of Religious Persecution Monitoring within the State Department, we will help to develop a mechanism that will help to strengthen and improve our methods of addressing religious freedom and persecution throughout the world. If and when a country is identified in engaging in widespread and ongoing acts of persecution, the United States would terminate non-humanitarian U.S. foreign aid and require U.S. opposition to loans to such regimes from taxpayer supported international agencies. It bans the export of torture and other crime control related supplies to offending countries, and it bans visas to known persecutors.

This bill furthers U.S. interests by ensuring that U.S. funds do not go to pariah states which engage in practices that run contrary to our values and our beliefs and which violate basic human dignity. Through this bill, we will finally shine light into the eyes of those who seek to oppress and destroy lives, and we will hold them responsible for their cruel acts.

Pope John Paul II has said,

> Religious persecution is an intolerable and unjustifiable violation of the most fundamental human freedom, that of practicing one's faith openly, which for human beings is their reason for living.

Let us not stand idly by while thousands continue to suffer. Let us make these rogue regimes accountable for their crimes against humanity. Let us render strong support for H.R. 2431.

I once again congratulate the gentleman from Virginia (Mr. WOLF) for his tenacity, dedication, and never-wavering focus on the issue of religious persecution worldwide. I regret the bill has been changed as it has moved through the committee process, but it definitely is still a powerful weapon to foster international religious freedom. We are truly blessed in this house to have a man of vision like the gentleman from Virginia (Mr. WOLF) guiding our efforts.

Mr. Speaker, I thank the gentleman from Florida (Mr. DIAZ-BALART) for yielding me this time.

Mr. HALL of Ohio. Mr. Speaker, I yield 7 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I want to start by joining my friend, the gentleman from Florida (Mr. DIAZ-BALART) in praising the work of the gentleman from Ohio (Mr. HALL). There is not a person in this body more respected on issues related to hunger and protecting the rights of people who have been persecuted around the world for whatever reason than the gentleman from Ohio (Mr. HALL). I want to associate myself with comments that have been made in praise of the gentleman by the gentleman from Florida (Mr. DIAZ-BALART).

Mr. Speaker, I am rising in opposition to the rule on this bill. I rise in opposition to the rule because the Committee on Rules ruled that an amendment that I attempted to offer on the floor was not in order. I think the Committee on Rules should have made my amendment in order.

There is not a person in this House or in our country, I believe, who would not find offensive and abhorrent the abduction, enslavement, killing, imprisonment, rape, crucifixion or any forms of torture, which this bill condemns and sanctions. This bill condemns and sanctions those forms of torture, but it does it only when the victims are tortured because of religious beliefs.

The amendment that I sought to offer would have expanded this bill to offer the same kind of protections for those persecuted because of race, nationality, membership in a particular social group or political opinion.

This bill sets up two new categories in the law, a category 1 and a category 2, for people who have been enslaved or killed for religious persecution, and, by doing so, implies that somehow religious persecution is more abhorrent than persecution for other reasons, such as race or political belief or nationality or group membership.

The very example that the gentleman from Florida (Mr. DIAZ-BALART) referred to about the President going to China and standing in Tiananmen Square, imagine, if you would, that the tanks in Tiananmen Square had just rolled right over the protesters there. Nothing in this bill would address that issue, because those protesters were there for political reasons, not for religious reasons.

So I rise to say all forms of persecution, whether they are for religious reasons, whether they are for racial reasons, whether they are for nationality reasons, whether they are because people are standing up for their political beliefs, most often in defense of democracy, all forms of persecution should be covered under this bill. And the Committee on Rules has decided that it will not allow an amendment to be debated on this floor, to be considered and voted on on this floor, that would expand the coverage of this bill to those other forms of persecution. By doing so, it is implying to the world that somehow religious persecution should be given extra protection and heightened priority.

Mr. Speaker, we should provide special protections against all forms of persecution.

Some people would have you believe that we are paying less attention to religious persecution in the world than we are to the other kinds of persecution that I have made reference to, but let me suggest that that is simply not the case.

The United States has 78,000 refugee slots allocated for 1998. Twenty-five thousand of those funded slots are allocated to those Bosnians who are Muslim. Religious reasons. Twenty-one thousand of those slots are allocated to religious minorities from the former Soviet Union. So 59 percent of our refugee allocation is set aside for victims of religious persecution in one way or another. Does that mean that we are treating religious persecution in some lesser fashion? I think not.

The only thing I would say to this body is that this bill ought to be broader, and everybody keeps telling me, "Well, you ought to go and introduce a separate bill."

My response to that is, we have a bill on the floor. If everybody thinks this is a good idea to expand the protections in this bill to victims of persecution based on race, nationality, group membership or political opinion, as the gentleman from Florida (Mr. DIAZ-BALART) indicated everybody does, then put it in this bill, and let us vote it up or down. Because it is not in the bill and the amendment has not been made in order, I oppose this rule.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with what the gentleman from North Carolina (Mr. WATT) has said. I think we have to recognize that we have a coalition of interests opposing us that, in effect, want there to be absolutely no sanctions on any sort of conduct anywhere in the world, and that the law of the world should be if there is a buck to be made anywhere, no matter what the conditions, no matter under what the circumstances, no matter if it is dealing in or contributing to the most horrendous conduct conceivable, that that is acceptable. That is the coalition against us.

The message that we will send out today to that coalition, to the world and to those who are imprisoned, is that we will not be defeated, and that we are going to continue to make progress.

Mr. Speaker, I yield 6 minutes to my dear friend, the distinguished gentleman from Virginia (Mr. WOLF), a leader in human rights throughout the world.

Mr. WOLF. Mr. Speaker, I thank the gentleman for yielding me time. I appreciate the comments of the gentleman, and I appreciate the comments the gentleman made about my very good friend, the gentleman from Ohio (Mr. HALL). I second those, and completely agree.

Passing this bill will say to the world that the United States will no longer remain silent while people of faith are being tortured—because that is what this bill covers—enslaved, abducted and killed for their religious beliefs. Passing the bill will shatter the silence.

There are troubling things taking place all over the world. In the past decade in Sudan alone, 1.5 million Christians and Muslims and Animists have been killed for their faith. Starvation is that government's weapon of choice, liberally spiced with high altitude bombing in the villages, and mass murders. And there is slavery, the selling into slavery in Sudan of young Sudanese boys and girls.

In China, Catholic priests and bishops are imprisoned today, as we now speak, some for decades, simply for offering holy communion. Protestant pastors are thrown in jail for having house church services, and Muslims suffer persecution, as do Buddhist monks and nuns in Tibet.

In Tibet, where I have been, China's government has systematically destroyed up to 4,000 to 6,000 monasteries, and the government tightly controls all of the existing monasteries.

Many around the world are enduring hardships simply because they practice their faith. They endure mostly in silence and away from the public spotlight and with little hope of improvement. This bill would apply to all faiths, Jewish, Muslim, Hindu, Christian, Buddhist and all others.

This bill is moderate, it is balanced, and this bill gives the President total waiver authority, meaning that if the President does not want this bill to go into effect, it will not go into effect.

Finally, the bill, I think, will send a message to help so many people. It is a bipartisan effort, Republicans and Democratic Members alike, with 131 cosponsors.

I will tell Members, on three different occasions I personally have looked into the eyes of young boys in southern Sudanese refugee villages who have lost their moms and dads and had nobody to care for them.

□ 1145

I have seen the monasteries that are plundered in Tibet and the gentleman from New Jersey (Mr. SMITH) and I have been to Beijing Prison No. 1 in China.

Cardinal O'Connor of New York wrote a letter yesterday where he said, "The Freedom From Religious Persecution Act could begin the desperately needed process of ending the legitimizing of such persecution. In my judgment," Cardinal O'Connor said, "its passage would be an act of historic proportions."

Catholic Archbishop Theodore McCarrick, who just returned from China said, and I quote from a letter yesterday, "The bill represents a modest step that reflects the growing awareness that this vital human rights issue has too often been overlooked, and a growing conviction that the core American values, including religious liberty, must play a proper role in foreign policy."

Other supporters of the bill, and there are so many, are the International Campaign for Tibet, the Christian Coalition, the U.S. Catholic Bishops Conference, the Family Research Council, the National Jewish Coalition, the Anti-Defamation League, the Religious Action Center for Reformed Judaism. The Southern Baptist Ethics and Religious Liberty Commission, the American Family Association, Prison Fellowship Ministries, the Union of Orthodox Congregations of America, the Salvation Army, the Catholic Alliance, B'Nai B'rith, and many, many others. This bill is also supported by so many others that we will put their names in the RECORD.

Mr. Speaker, when this bill hopefully becomes law, America will reaffirm for the world that we still honor those words that Jefferson penned where he said: "We hold these truths to be self-evident, that all men women are created equal, endowed by their Creator, by God, with life and liberty and the pursuit of happiness."

These words by Jefferson were not just for Virginians, they were not only for Americans, but they were for people around the world. Passage of the bill will reaffirm the words of President Reagan where he said, "We must be staunch in our conviction that freedom is not the sole prerogative of a lucky few, but the inalienable and universal right of all human beings."

The last two points. If this bill were to fail, can we imagine what the prison wardens would say to those who are imprisoned in Sudan today, those who are in the ghost houses? What that would say would be that nobody cares. On the other hand, when this Congress passes this bill, and those in Yei and Torit and little villages in southern Sudan and those in little villages in China, as they tune into their crystal radio sets and listen, they will know that the people's House, the United States Government, the United States

Congress has stood on behalf of those who are persecuted. And it will send a message, as Natan Sharansky said when he was in the old Soviet Perm 35 and he heard that the Congress stood for him; it will send a message that we stand for the least of these and we stand with them boldly, whereby those words of Jefferson hold true for everybody around the world.

Mr. Speaker, I urge and plead that everyone support this bill.

Mr. Speaker, I rise in strong support of H.R. 2431, the Freedom from Religious Persecution Act. Passing this bill will say to the world that the United States will no longer remain silent while people of faith around the world are being tortured, enslaved, abducted and killed for their religious beliefs. For too long the U.S. has remained silent on this issue—passing H.R. 2431 helps shatter that silence.

There are troubling things taking place in the world. In just the past decade, the government of Sudan has killed or allowed to starve over a million of its own people. The fallen—mostly Christians, Animists and some Muslims in southern Sudan—are victims of a religious war. Starvation is that government's weapon of choice, liberally spiced with high-altitude bombing, mass murder and even selling Sudanese boys and girls as slaves.

In China, Catholic priests and bishops are in prison—some for decades, simply for practicing their faith. Protestant pastors are thrown in jail just for holding house church services. Muslims suffer persecution, as do Buddhist monks and nuns.

In Tibet, the Chinese government has systematically destroyed up to five thousand Buddhist monasteries. The monasteries still standing have a cadre of Chinese police to monitor what goes on. The government tightly controls the activities of the monks and nuns and even pictures of the Dalai Lama are forbidden.

In Pakistan, Ahmadi Muslims and Christians are victimized by the ominously named "blasphemy" law under which those who speak against the prophet Mohammed can be given the death sentence. Just last week, as we prepared to debate this bill, one of Pakistan's leading Catholic bishops, Bishop John Joseph committed suicide to protest a death sentence handed down to Christian Ayub Masih. Bishop Joseph reportedly said just before putting a shot through his head "It is no longer possible for my people to live in Pakistan."

Many around the world are enduring hardships simply because they practice their faith. They endure mostly in silence and away from the public spotlight and with little hope for a brighter tomorrow. The Freedom from Religious Persecution Act is for them. It would apply to people of all faiths—Jew, Muslim, Hindu, Christian, Buddhist and others.

The bill establishes the Office of Religious Persecution Monitoring at the State Department—a permanent mechanism to monitor religious persecution overseas. Countries found to be engaged in "widespread and ongoing" persecution which involves abduction, enslavement, killing, imprisonment, forced mass relocation, rape, torture or the imposition of particularly severe fines, would be named and subjected to four punitive actions. These actions are:

(1) A ban on non-humanitarian foreign aid;

(2) A ban on visas to individuals known to be responsible for persecution;

(3) A ban on U.S. support for loans by international financial institutions to offending countries, and

(4) Two narrowly-targeted export bans which ban the sale of items used for torture to offending countries and the direct export of goods to entities responsible for persecution.

The bill is moderate and balanced. It provides the President with the authority to waive the sanctions when national security interests would be served or if waiving the sanctions would "promote the objectives of the act."

Finally, the bill imposes sanctions on the government of Sudan until it ceases its massive campaign of religious persecution—the same sanctions that were imposed on the government of South Africa in the 1980's for its immoral apartheid policy.

When America speaks out, it makes a difference. Just ask noted Russian Jewish dissident Natan Sharansky, who languished for years in Soviet gulags as a prisoner of conscience. He sent a letter to a group of religious leaders gathered to talk about this bill, "When the West stood up for its most basic values and spoke up for persecuted Soviet Jewish communities, Soviet chains around churches and political dissidents began to shatter."

This bill has broad bipartisan support—over 131 cosponsors. It is supported by a broad coalition of religious and civic groups.

For example, Wei Jingsheng, one of China's most well known and well respected political dissidents, supports H.R. 2431. I quote from his recent letter:

> I have personally witnessed the oppression and exploitation of religious groups and individuals that occurs today in China. The true situation may be difficult for Americans to imagine, and it is difficult for the Chinese people to imagine. If I did not see it myself, even I would not imagine the shameful and despicable means the Communists use against religious believers . . . I feel that if a government such as China which for such a long time totally denied the rights of freedom of religion to its citizens cannot receive sanction, then it is completely unjust. I urge the friends of human rights to support this effort.

I submit Wei's entire letter for the Record. He knows that pressure works—he's out of jail today because the U.S. pressed for his release.

Cardinal O'Connor of New York says, and I quote,

> The Freedom from Religious Prosecution Act could begin the desperately needed process of ending the legitimizing of such persecution. In my judgment, its passage would be an act of historic proportions.

Archbishop Theodore McCarrick says,

> The bill represents a modest step that reflects growing awareness that this vital human rights issue has too often been overlooked, and a growing conviction that core American values—including respect for religious liberty—must play proper roles in shaping the U.S. foreign policy agenda.

Both letters are submitted for the Record.

Other supporters of the bill include: the International Campaign for Tibet, the Christian Coalition, the U.S. Catholic Bishops' Conference, the Family Research Council, the National Jewish Coalition, the Anti-Defamation League, the Religious Action Center for Reformed Judaism, the Southern Baptist Ethics and Religious Liberty Commission, the American Family Association, Prison Fellowship Ministries, the Union of Orthodox Congregations of America, the Salvation Army, the Catholic Alliance and B'Nai B'rith.

The bill is also supported by a number of groups representing ethnic groups suffering persecution like the American Coptic Association, the Cardinal Kung Foundation, the Free Vietnam Alliance, the Pakistani-American Association, the Ahmadiyya Movement in Islam and Southern Sudanese in America.

And there are many, many more. A total list of supporters is submitted for the Record. All have worked tirelessly to pass this bill and I thank them for their efforts.

When H.R. 2431 becomes law, America will reaffirm for all the world that we still honor those ringing words in the Declaration of Independence that, "We hold these Truths to be self-evident, that all Men [and women] are created equal * * * endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness."

These words by Thomas Jefferson are not for America alone, but for people everywhere. And passage of this bill will reaffirm the words of President Ronald Reagan, spoken on a different occasion, when he said, "We must be staunch in our conviction that freedom is not the sole prerogative of a lucky few, but the inalienable and universal right of all human beings."

I urge you to vote for H.R. 2431. It will help people of faith everywhere.

Organizations in Support of H.R. 2431

American Baptist Evangelicals
American Coptic Association
American Copts of California
American Family Association
Anti-Defamation League
Assyrian Academic Alliance
Assyrian National Congress
Assyrian National Foundation
B'Nai B'rith
Campus Crusade for Christ
Cardinal Kung Foundation
Catholic Alliance
Christian Coalition
Christian Legal Society
Christian Reformed Church
Christian Solidarity International
Concerned Women for America
Empower America
Ethics and Public Policy Center
Evangelical Free Church of America
Evangelicals for Social Action
Family Research Council
Focus on the Family
Freedom House's Puebla Program
Institute on Religion and Democracy
International Campaign for Tibet
International Christian Concern
International Fellowship of Christians and Jews
Iranian Christian International
National Association of Evangelicals
National Jewish Coalition
National Religious Broadcasters
Open Doors with Brother Andrew
Prison Fellowship Ministries
Religious Action Center for Reformed Judaism
The Rutherford Institute

The Salvation Army
Seventh Day Adventist Church
Southern Baptist Convention
U.S. Catholic Bishops Conference
Union of American Hebrew Congregations
Union of Orthodox Jewish Congregations of America
Voice of the Martyrs
World Evangelical Fellowship-Religious Liberty Commission

THE COALITION FOR THE DEFENSE OF HUMAN RIGHTS UNDER ISLAMIZATION

Advocates International
Agape International
American Coptic Association
American Coptic Union
Asian Christian Ministries
Assyrian International News Agency
Assyrian National Congress
Assyrian Political Review
Bangladesh Reformed Presbyterian Theological Seminary
Bet-Nahrain
Canadian Coptic Association
Christian Amnesty
Christian Copts of California
Christian Voice of Pakistan
Coptic American Friendship Association
Coalition Committee of Experts
Coming Home USA
CREED
Egyptian Relief Agency
Eritrean Academic Committee
Federation of Hindu Associations
Foundation for Faith in Search of Understanding
Freedom USA
Institute on Religion and Democracy
Indo-American Kashmir Forum
International AWAZ
International Christian Concern
Iranian Christians International
HIS
Jubilee Campaign
Law and Liberty Trust
Lebanese Organization of New York
MECHRIC
Middle East Research Center
National Interreligious Task Force
New Sudan Foundation
Operation Nehemiah for South Sudan
Open Doors-Netherlands
Pakistani-American Association
Pakistani Apostolate
Persecution Relief
Research and Education Foundation
South Lebanese Christian Association
Southern Sudanese in America
Southern Sudan Resource Center
Society of St. Stephen
The Trinitarians Religious Freedom Program
Toronto Coptic Association
Wake-up Coalition
World Evangelical Fellowship-Religious Liberty Commission
World Lebanese Organization
World Maronite Union
Zwemer Institute of Muslim Studies

CHRISTIAN LEGAL SOCIETY,
Annandale, VA, May 11, 1998.

Hon. NEWT GINGRICH, RICHARD GEPHARDT, DICK ARMEY, and DAVID BONIOR,
U.S. Congress,
Washington, DC.

DEAR MR. SPEAKER, CONGRESSMEN GEPHARDT, ARMEY, AND BONIOR: We take great heart from recent House actions in support of a growing, nationwide movement of conscience against religious persecution.

We are deeply grateful for the stunning 31–5 House International Relations Committee vote in favor of the Freedom From Religious Persecution Act. We are further grateful for the House Leadership's scheduling of a floor vote on this Act on May 14. We note as well Senate Leadership commitments to ensure 105th Congress consideration of anti-persecution legislation. These developments are critical steps towards achieving the imperative goal of ending today's widespread and ongoing persecutions of vulnerable communities of faith.

Because further Congressional action remains to be taken, we believe it useful to set out our view of the elements necessary for effective legislation.

In so doing we again endorse the Freedom From Religious Persecution Act, in the strongest terms, and reiterate our intent to work for its rapid passage. The Act's prospects in the House result from efforts of a broad coalition of religious groups and such House leaders as Representatives Wolf, Berman, Gilman, Gjedenson, Hall, Pelosi, Chris Smith and Majority Leader Armey. We believe that these efforts will produce historic legislation, and for the following reasons:

The Act's baseline sanction of withdrawing non-humanitarian foreign aid from persecuting regimes is both limited and meaningful—and will be a powerful tool to end the threats of murder, torture, rape, starvation and enslavement now faced by millions of believers.

The Act's limited but targeted focus on hard-core persecution ensures that its reach will not exceed its grasp.

The Act's waiver provisions fully allow the President to maintain non-humanitarian aid to persecution regimes while also creating real accountability on his part if he chooses to do so.

The Act's small, distinguished and independent office will have no policy-making authority—thus leading to fact-based, less politicized findings of whether and where religious persecution actually occurs.

The Act's application of the South Africa sanctions against Sudan will ensure that we treat genocide with no less resolve than was brought to bear against apartheid.

The Act's moderate reform of immigration practices, in a manner fully consistent with existing immigration law, will help secure traditional American protection for victims of religious persecution.

Because various provisions of the Act may be the subject of amendments on the House floor, we believe it useful to set forth our views on a number of important matters.

Sudan: This is a regime responsible for wholesale torture, rape, starvation, murder and enslavement of religious communities. Thus, the Act's Sudan provision reflects a central moral premise of our movement—the need for full parity in America's resistance to South African apartheid and Sudanese genocide. We urge the House to restore the most effective sanction against this regime: a ban on imports from the Sudan.

Immigration Reform: Given America's establishment as a haven for victims of religious persecution, today's often-hostile treatment of religious asylum claimants is deeply troublesome. Yet, despite statutory provisions barring the summary exclusion of some classes of asylum applicants, the Act maintains the Immigration Service's right to summarily exclude religious asylum applicants without full hearings. The Act's modest reforms represent minimal progress in a critical area of concern. We will fight hard to restore them.

Non-Humanitarian Foreign Aid: The Act's response to regimes engaged in "widespread and ongoing" acts of hard-core religious persecution—ending their non-humanitarian taxpayer subsidies—qualifies as a "sanction" only by stretching the meaning of that term. We believe it axiomatic that no taxpayer subsidies should go towards such regimes, and therefore strongly oppose the removal of Export Import Bank subsidies from the Act's reach. Further, because Presidential waivers can restore those subsidies, and because some hard-core persecutors will be largely unaffected by the Act without withdrawal of Export-Import Bank subsidies, we strongly believe that the Act will not have its necessary effectiveness without this vital feature.

The Freedom From Religious Persecution Act is moderate in its responses to persecution but serious about putting those responses into effect. It will make the President accountable if he exercises his broad authority to waive its sanctions. By its targeted focus on hard-core persecution it offers real protection to vulnerable believers. It will deal evenhandedly with all persecuting regimes, whether strong or weak. It is modeled on the Jackson-Vanik law, which helped bring freedom to people of all faiths in the Soviet Union and elsewhere. It puts America on the right side of history and ensures that the world will not see us as the Swiss are now seen to be—a country willing to abet evil in the pursuit of expedient goals and short-term financial gain.

Prayerfully and with full determination, we intend to work for the Act's overwhelming adoption by the House, and for Congressional enactment of effective legislation. We remain at your pleasure in our continuing effort to realize this long-needed and historic outcome.

Respectfully,

John Ackerly, President, International Campaign for Tibet; The Right Reverend Keith Ackerman, The Episcopal Church, Bishop of Quincy; William Armstrong, Former U.S. Senator (1979–1990); Gary L. Bauer, President, Family Research Council; William J. Bennett, Co-Director, Empower America; Dr. Bill Bright, President, Campus Crusade for Christ; Charles Colson, Chairman of the Board, Prison Fellowship Ministries; Michael Cromartie, Senior Fellow, Ethics and Public Policy Center; Nathan J. Diament, Director, Institute for Public Affairs, The Union of Orthodox Jewish Congregations of America; Bishop Alex D. Dickson, Director, Institute for Christian Leadership, and Vice President, American Anglican Council; Dr. James Dobson, President, Focus on the Family; Rev. John C. Eby, National Coordinator, American Baptist Evangelicals; Sam Elisha, Director, Special Ministries Division, HIS International, Inc.; David H. Engelhard, General Secretary, Christian Reformed Church of North America; Edward L. Foggs, General Secretary, Leadership Council, Church of God; Deacon Keith A. Fournier, Catholic Alliance; Abraham H. Foxman, National Director, Anti-Defamation League; Jim Geist, Executive Director, Interfaith Alliance for Christian Human Rights; Chris Gersten, President, Institute for Religious Values; Dr. Scott M. Gibson, President, American Baptist Evangelicals; Dr. Os Guinness, Senior Fellow, The Trinity Forum; E. Brandt Gustavson, President, National Religious Broadcasters; Michael Horowitz, Director, Project for

International Religious Freedom, Hudson Institute; Clyde M. Hughes, General Overseer, International Pentecostal Church of Christ; Charles ****, Research Director, American Anti-Slavery Group; James Jacobson, President, Christian Freedom International; The Right Reverend Stephen H. Jecko, The Episcopal Church, Bishop of Florida; D. James Kennedy, Ph. D., Coral Ridge Presbyterian Church; Ed Koch, Former Mayor of New York City, New York; Diane Knippers, Institute on Religion and Democracy; Bishop Richard W. Kohl, Evangelical Congregational Church; Shawley F. Koras, President, American Coptic Association; Dr. Beverly LaHaye, Chairman, Concerned Women for America; Dr. Richard Land, President and CEO, Ethics and Religious Liberty Commission, Southern Baptist Convention; Dr. Duane Litfin, President, Wheaton College; Michael McConnell, Presidential Professor, University of Utah College of Law; Steven T. McFarland, Director, Center for Law and Religious Freedom, Christian Legal Society; Michael Medved, Film Critic, Radio Host; Rev. Dr. Peter Moore, Dean and President, Trinity Episcopal School for Ministry; Father Richard Neuhaus, Editor-in-Chief, First Things Journal, Institute on Religion and Public Life; Michael Novak, George Frederick Jewett, Chair in Religion and Public Policy, American Enterprise Institute; Marvin Olasky, Editor, World Magazine; The Very Rev. Keith Roderick, Coalition for the Defense of Human Rights Under Islamization; Rabbi David Saperstein, Director, Religious Action Center of Reform Judaism; Nina Shea, Director, Center for Religious Freedom, Freedom House; Ronald J. Sider, President, Evangelicals for Social Action; Steven L. Snyder, President, International Christian Concern; Jack Stone, General Secretary, Headquarters Operations Officer, Church of the Nazarene; Randy Tate, Executive Director, Christian Coalition; Jim Wallis, Editor-in-Chief, Sojourners Magazine; The Right Reverend William C. Wantland, The Episcopal Church, Bishop of Eau Claire; Commissioner Robert A. Watson, National Commander, The Salvation Army; Tom White, The Voice of the Martyrs.

WEI JINGSHENG FOUNDATION,
Washington, DC, May 12, 1998.

To All Members of the House of Representatives:

I have recently heard that you will soon consider the Freedom from Religious Persecution Act that is sponsored by my friend Congressman Frank Wolf. I want to express the great interest I have for this effort to sanction the Chinese communist authorities for their denial of the basic right of freedom of religion.

I strongly believe that the freedom of religious beliefs is one important component of man's fundamental human rights. The Chinese communist leadership continues to trample on freedom of religion as it tramples on the basic rights of all Chinese people. I have personally witnessed the oppression and exploitation of religious groups and individuals that occurs today in China. The true situation may be difficult for Americans to imagine, and it is difficult for the Chinese people to imagine. If I did not see myself, even I would not imagine the shameful and despicable means the Communists use against religious relievers.

I feel that if a government such as China which has for such a long time totally denied the rights of freedom of religion to its citizens cannot receive sanction, then it is completely unjust. I urge the friends of human rights to support this effort.

Respectfully,

WEI JINGSHENG.

CARDINAL'S OFFICE,
New York, NY, May 12, 1998.

Hon. FRANK R. WOLF,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WOLF: Be assured of my strong support for the Freedom from Religious Persecution Act and my firm hope that the House of Representatives will vote in favor of it overwhelmingly.

I have been following the tragic course of religious persecution with close attention for many years. No religious body can assume itself to be exempt. The Freedom from Religious Persecution Act could begin the desperately needed process of ending the legitimizing of such persecution. In my judgment, its passage would be an act of courage of historic proportions.

I am deeply grateful for your personal role.

Faithfully,

Cardinal O'CONNOR,
Archbishop of New York.

INTERNATIONAL CAMPAIGN
FOR TIBET,
Washington, DC, May 13, 1998.

Hon. BENJAMIN A. GILMAN,
Chairman, Committee on International Relations, House of Representatives, Washington, DC.

DEAR CHAIRMAN GILMAN: It has come to my attention that some House Members are using a May 11 New York Times column by Anthony Lewis to advance the position that the Dalai Lama opposes "The Freedom from Religious Persecution Act," scheduled for a vote in the House tomorrow.

It is the custom of the Dalai Lama not to take a position on specific U.S. legislation. However, he has been aware for many months of Frank Wolf's particular efforts to advance the issue of religious freedom in the Congress. In February of this year the Dalai Lama sent a message, which I enclose, to a Washington meeting on religious persecution which focused on strategies to advance the Wolf bill. I also enclose remarks he made this morning at the Wisconsin state legislature, the column mentioned above, and a letter to the editor from Rabbi David Saperstein taking issue with Mr. Lewis' "misassessment."

It would be unfortunate if the efforts of the International Campaign for Tibet, Students for Free Tibet and other U.S. Tibet support groups to bring attention to the fact of religious persecution in Tibet and to gain Congressional support for Mr. Wolf's bill were eclipsed by a misrepresentation of the Dalai Lama's views in the final hours of debate.

I hope you will share this information with your colleagues should the need arise.

Sincerely,

MARY BETH MARKEY,
Director of Government Relations.

MESSAGE OF THE DALAI LAMA

All religions teach compassion and aim to alleviate suffering. It is therefore no surprise that Christian men and women in the United States have taken on a campaign to end the suffering of those persecuted around the world for their religious faith. As a Tibetan and a monk, I am deeply gratified by the efforts you are undertaking to draw attention to China's policies in my country which are increasingly focused on the eradication of the Tibetan Buddhist culture.

While many people remember Mao Tsetung's terrible admonition that "religion is poison," few people understand that this remains China's policy on religion to this day, nor do they understand the insidious nature of that government's involvement in religion practice in China and Tibet. For example, in my country, monasteries and temples are under the purview of the Religious Affairs Bureau (a local government body), the local Communist Party Committee, Party work teams, and branches of police stations set up under the Public Security Bureau. Since 1959, almost every monastery has been overseen by a Democratic Management Committee (DMC) which manages the monastery's affairs including religious affairs, study, security and finances. These DMCs have supplanted the traditional role of abbot in guiding the religious and administrative functioning of the monastery.

The Tibetan people are deeply religious and suffer great cruelties for their faith. From the Buddhist point of view, this suffering is in itself a kind of teaching and benefits the spiritual growth of the individual. I know that suffering is of special significance in the Christian faith as Jesus himself took on the suffering of mankind. Your campaign to end religious persecution bears witness to the suffering of others, challenging devout men and women to recommit to the teachings of their faith, which includes the development of compassion, not just to friends, but to everyone. Again, I commend you for your compassionate work for peace in Tibet and in the world.

DEPARTMENT OF SOCIAL
DEVELOPMENT AND WORLD PEACE,
Washington, DC, May 11, 1998.

U.S. House of Representatives,
Washington, DC.

DEAR MEMBER: I am writing to renew our support for the Freedom from Religious Persecution Act (H.R. 2431), which passed the House International Relations Committee by an overwhelmingly 35–1 vote.

The Freedom from Religious Persecution Act rightly links U.S. aid to a country's performance on religious liberty, a linkage that the U.S. Catholic bishops have long urged for the full range of fundamental human rights. This bill represents a modest step that reflects growing awareness that this vital human rights issue has too often been overlooked, and a growing conviction that core American values—including respect for religious liberty—must play proper roles in shaping the U.S. foreign policy agenda.

The Freedom from Religious Persecution Act, as revised, covers persecution against believers of all faiths in all countries. The bill provides appropriate responses to the most egregious forms of religious persecution involving widespread killing, torture, enslavement, forced relocation and the like. It ends military aid, sales and financing to some of the world's most brutal regimes that, in many cases, also violate the full range of fundamental human rights. The bill also ends most other forms of U.S. assistance, while exempting humanitarian and development aid to avoid indirect harm to those whom the bill seeks to help. It does not impose embargoes, but rather imposes modest, highly-targeted sanctions against specific governmental entities directly involved in egregious persecution.

In addition, the revised bill provides ample waivers for national security reasons and for cases where the president deems sanctions counter-productive. Finally, the revised bill contains other helpful features, such as improved training for asylum and foreign service officers.

As pastors of a universal Church we are all too familiar with the human face of religious persecution. That is why we respectfully urge you to support H.R. 2431 as a modest but valuable step toward relieving the plight of those who suffer solely for their faith.

Sincerely yours,

THEODORE E. MCCARRICK,
Archbishop of Newark,
Chairman, International Policy Committee.

RELIGIOUS ACTION CENTER
OF REFORM JUDAISM,
Washington, DC, May 12, 1998.

DEAR REPRESENTATIVE: On behalf of the Union of American Hebrew Congregations and the Central Conference of American Rabbis, which represent 1.5 million Reform Jews and 1,800 Reform rabbis in North America, I write to express support for the Freedom From Religious Persecution Act of 1997 (H.R. 2431) and to urge you to vote for its passage when the full House considers the bill on Thursday, May 12.

We have been horrified by stories of religious minorities suffering brutal persecution at the hands of governments and local authorities. Tibetans are ruthlessly punished by the Chinese for simply owning a picture of their spiritual leader, the Dalai Lama; the Islamic government in Sudan commits atrocities against its Christian population including torture, rape and murder; and in Egypt, the Coptic Christian minority has been the target of Islamic fundamentalist violence. We cannot turn our back against innocent people whose sole "crime" is the expression of their deepest religious beliefs. Having so often been the victim of persecution, it is our duty and obligation as part of the Jewish community to not only speak out against the persecution of other religious groups around the world, but to take affirmative steps to prevent such persecution in the future.

The Freedom from Religious Persecution Act (H.R. 2431) works to protect people of all religions from persecution on the basis of their faith. The coalition supporting it is broad and unified, spanning the political spectrum. The bill is not, nor does it purport to be, a solution to all violations of religious liberty around the world. It does, however, offer a serious important and modest tool for combating the most blatant forms of religious persecution and helping to improve the situation of millions who suffer simply because of their faith.

As committed as we are to combating religious persecution, the legislation as it was originally introduced was problematic for some of us. However, the bill coming to the House floor is substantially different from when it was introduced in September, 1997. The current version of the bill now addresses some of our most pressing concerns by: broadening the coverage of the bill to include all religious groups in all countries; moving the monitoring office from the White House to the State Department; providing a presidential waiver for sanctions when they would endanger the persecuted group; ending U.S. military aid, military sales and military financing to some of the world's most brutal regimes; broadening the exemption for humanitarian and development aid; and restoring some vital procedural safeguards for those seeking asylum from persecution on account of their religion, safeguards that we urge also be restored for those claiming persecution on grounds of race nationality, membership in a particular social group, or political opinion.

We urge you to support this bill and to oppose any major changes to the legislation when it comes to the floor on May 14th; in particular, to oppose efforts to change the definition of persecution, to eliminate the automatic sanctions requirement, or to weaken the refugee and asylum provisions.

I hope you will help pass legislation which represents a modest and long overdue effort to address vital human rights concerns.

Sincerely,

RABBI DAVID SAPERSTEIN.

ANTI-DEFAMATION LEAGUE,
New York, NY, March 19, 1998.

Hon. FRANK WOLF,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE WOLF: On behalf of the Anti-Defamation League, we commend your longstanding efforts on behalf of persecuted peoples and your leadership in introducing legislation that has already sparked action to raise the diplomatic profile of the issue internationally.

Enactment of the Freedom from Religious Persecution Act will strengthen our nation's hand in dealing with countries which torture and oppress individuals on the basis of their faith. It would codify the kind of increased reporting and training of U.S. personnel that will be critical to monitoring and addressing this horrific problem.

We welcome recent modifications in the legislation which take into consideration both the safety of victims on the ground and the disparate circumstances in which persecution may occur. While the mechanism created by the bill was always designed to protect all persecuted peoples, the language now makes clearer that it is inclusive of all faiths. Also, the bill seeks to safeguard protections already in place for victims of all human rights abuses.

ADL supports addressing all forms of oppression with equal vigor, but also recognizes the value of spotlighting problems such as religious persecution which is a bellwether for how countries behave on other fronts. We view this legislation as an important tool to make religious freedom a more prominent factor in U.S. diplomacy. As the bill moves forward, we are open to exploring further refinements that may ensure that U.S. policy will alleviate the suffering of victims in the most forceful and effective manner possible.

Sincerely,

HOWARD P. BERKOWITZ,
National Chairman.
ABRAHAM H. FOXMAN,
National Director.

THE SALVATION ARMY,
Alexandria, VA, March 10, 1998.

Re Freedom from Religious Persecution Act (H.R. 2431).

Hon. FRANK R. WOLF,
241 Cannon House Office Building,
Washington, DC.

DEAR FRANK: I urge you to support the captioned bill.

The Salvation Army serves in 103 countries around the world. We see enough evidence of documented religious persecution to know it is important for the United States to take a moral stand, which hopefully can bring some relief to those who are suffering because of their beliefs.

You have many matters that require thought, prayer, and action. I urge you to consider supporting this legislation.

May God bless you.

Sincerely,

ROBERT A. WATSON,
National Commander.

FOOD & ALLIED SERVICE TRADES,
Washington, DC, May 13, 1998.

Hon. FRANK R. WOLF,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE WOLF: I am writing to express my support for H.R. 2431, the Freedom From Religious Persecution Act of 1998. This bill would improve the monitoring of religious persecution and provide for the imposition of sanctions against countries engaged in a pattern of religious persecution.

Sadly, people of faith continue to be tormented in many countries. By simply exercising their beliefs they risk bodily harm, prison, and sometimes death. Your bill reaffirms the idea that this country stands in support of basic human rights and human dignity and that our national interest transcends narrow economic advantage. It places the United States on the side of the oppressed, not the oppressors.

You are to be commended for your leadership on this issue, and I hope this bill receives favorable consideration by the House.

Sincerely,

JEFFREY L. FIEDLER,
President.

The SPEAKER pro tempore (Mr. KINGSTON). The Chair would remind the gentleman from Florida (Mr. DIAZ-BALART) he has 9 minutes remaining, and the gentleman from Ohio (Mr. HALL) has 18 minutes remaining.

Mr. DIAZ-BALART. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, first of all, let me say that I am very proud to be a cosponsor of H.R. 2431, the Freedom From Religious Persecution Act. The Subcommittee on International Operations and Human Rights, of which I am privileged to serve as chairman, has held extensive hearings on the subject of religious persecution, including hearings on the rising tide of persecution of Christians, and the rising tide of worldwide anti-Semitism. We have heard riveting and revolting first-person account testimony of the torture of Tibetan Buddhist monks and nuns, of atrocities against Muslims in Bosnia and East Turkistan, and of Baha'i in Iran.

The time has come, Mr. Speaker, not just to talk about the problem of religious persecution—talk is often cheap—but to do something about it. The gentleman from Virginia (Mr. WOLF), a hero of the human rights movement, has clearly shown us the way.

During the course of the legislative process, the gentleman from Virginia worked closely with a broad coalition of evangelical Christians, Jewish organizations, the United States Catholic

Conference, and the International Campaign for Tibet, in order to improve the bill. It has truly been, I say to my colleagues, a work in progress. We worked very hard to incorporate meaningful reforms and language that were suggested by the administration. As a matter of fact, I offered the amendments during markup in full committee that makes it very clear that it is the Secretary of State and not the director who makes the final call. That was a recommendation that came from the White House, and I think the bottom line is that it probably improves the bill.

We also made it very clear—and I offer this as well, because there was some ambiguity, although never at all is the intent of the gentleman from Virginia (Mr. WOLF)—that this bill applies to everyone, Christians, Jews, Muslims, Hindus, religious believers of every and any faith, and I think it is important that that be underscored this morning.

Let me repeat, we not only focused on persecuted Christians, but also on persecuted Muslims. For example, the bill contains a specific finding suggested by the gentleman from California (Mr. ROHRABACHER) with respect to the Uighur, an overwhelmingly Muslim ethnic group in the formerly independent Republic of East Turkistan, who are now severely persecuted by the Communist Government of China.

The bill also makes crystal-clear that in affording heightened protection for members of religious communities whose situation is particularly compelling, the Freedom From Religious Persecution Act will not sacrifice any of the protections currently afforded to victims of other forms of persecution, whether it be on religious grounds or for any other reason. There is no hierarchy of human rights. That is an absolutely bogus contention. Every time we pass a human rights bill, we are saying we want to focus on that, we want to advance the bill to protect a persecuted or somehow disadvantaged group of individuals around the world.

I truly believe that we finely tuned and carefully calibrated the sanctions in this bill, and I would remind Members and ask them to read the bill. We are not talking about discrimination, as bad as that is; we are talking about persecution. We are talking about people who have severely suffered for their faith.

We also have a waiver. The waiver states, and there are two waivers, that if the national security interests of the United States justify a waiver, the President has that option, or if such a waiver will substantially promote the purposes of this act, so there are two good waivers contained in this bill.

Mr. Speaker, I do ask Members to support the rule, and I hope they will support the underlying bill when it comes up on the floor.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, last weekend in Marietta, Ohio I had a chance to talk with the newly appointed Chinese ambassador, and I raised with him the issue of Christians and others of religious faith who are imprisoned in China. He denied that that was the case. Following that exchange, a young student attending Ohio University came to me and thanked me for raising the issue, saying that he had been a part of the Tiananmen Square student uprising, and he could attest to the fact that China imprisons people of faith.

It is almost impossible for us to imagine a place where worship and fellowship is illegal, but The New York Times has reported and others have substantiated that for people who live in China and other oppressive countries, religious persecution is a constant reality.

The Chinese Government likes to claim that it allows religious pursuits and only arrests Christians who are troublemakers. But what they do not say is that the so-called churches they point to, the State-sanctioned churches, are actually under the control of the Communist Party. China prohibits Christians from worshipping in any churches except those they deem patriotic ones, that submit to the Communist Party's religious domination, registration, regulation, control of clerical appointments, and censorship reached to the pulpit and to the altar, like forbidding the Second Coming of Jesus Christ.

China is by no means the only country that denies religious liberty. The Government of Sudan, for instance, uses tactics such as slavery, forced conversion, starvation, torture and the kidnapping of children against Christians and even Muslims they do not agree with.

All of this is why I urge support for the Freedom From Religious Persecution Act. This act seeks to use America's leverage as the world's only superpower to pressure oppressive countries into allowing more religious freedom. If we do not act, who will? If not now, when?

Mr. DIAZ-BALART. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Utah (Mr. COOK).

Mr. COOK. Mr. Speaker, I rise in support of The Freedom From Religious Persecution Act. This bill clearly puts America on the side of religious liberty. Why should America give economic aid to countries that oppress and persecute people just because of their religion? The thought that a country can have widespread government-tolerated, and in some cases, government-sponsored religious oppression and still receive U.S. aid is an absolute travesty. While this bill will stop nonessential aid to offending governments, it does allow continued humanitarian and agricultural aid, so it will not hurt the people it aims to help, and it gives the President broad authority to grant a waiver if sanctions are deemed counterproductive. Clearly, this is a very balanced and a flexible bill.

Many of our forefathers came to America to escape the same kind of religious intolerance this bill will help to stop. So of all of the free Nations of the world, we should have the strongest policy of supporting religious freedom. I urge my colleagues to support this very important measure.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume to say in closing that this is a good bill, it is an important piece of legislation. The gentleman from Virginia (Mr. WOLF) has provided great vision and direction in this, and along with the gentleman from New Jersey (Mr. SMITH) and the gentleman from New York (Mr. GILMAN), they have given it great support and direction. I urge support of the rule and of the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I thank the gentleman from Ohio (Mr. HALL) and others, and especially the gentleman from Virginia (Mr. WOLF) who worked so hard on this legislation, so diligently.

In the last weeks we have witnessed a series of diplomatic gestures which served as blank checks of acceptance for the actions of tyrants and thugs. The U.N. Human Rights Commission failed to take up a resolution on China completely. The U.N. Human Rights Commission voted down a resolution condemning the tyranny in Cuba, despite an increase in repression there in recent months.

The President, as I mentioned before, is going to be received officially in the next weeks when he goes to Communist China at Tiananmen Square. There can be no clearer message to the Chinese people of what that means in terms of acquiescence to the conduct of that regime, of brutality, and of inhumanity.

□ 1200

This very week the First Lady is going to stay in the same hotel in Geneva as the Cuban tyrant. Is there no other hotel that could have been chosen by the Government of the United States in Switzerland? What kind of message does that send to the ongoing repression that is being suffered at this point by the Cuban people?

I remember Dr. Veguilla, a constituent of mine now, who was expelled from Cuba because he was an evangelical; and he still is an evangelical minister. Because of his religion and his activities in Cuba, he was placed by the Cuban dictatorship in a cell with a bear as a form of tyranny.

It is to the Dr. Veguillas of the world who, today we say, we remember you, the United States of America stands with you and the conduct of brutal regimes made up of thugs will not only not be acquiesced, but will be condemned by the people's House, in representation of the sovereign people of the United States of America.

I would urge passage of this rule and passage of the underlying legislation, Mr. Speaker.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. KINGSTON). Pursuant to House Resolution 430 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2431.

□ 1201

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from Indiana (Mr. HAMILTON) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I yield myself such time as I may consume.

As we begin today's historic debate, Mr. Chairman, on the Freedom From Religious Persecution Act, I want to commend the gentleman from Virginia (Mr. WOLF) for his outstanding work in drawing attention to the problems of religious persecution around the world, and for introducing this legislation to permanently enlist the United States in the fight against persecution.

The tireless efforts of the gentleman from Virginia (Mr. WOLF) on behalf of persecuted religious believers has been an inspiration to all of us and a blessing for followers of all faiths.

Mr. Chairman, I also want to commend the gentleman from New Jersey (Mr. SMITH), the distinguished chairman of our Subcommittee on International Operations and Human Rights, for his unwavering support of human rights around the world and for his diligent efforts on behalf of this important legislation.

Mr. Chairman, let there be no doubt that the results of the passage of H.R. 2431, the Freedom From Religious Persecution Act, is going to be felt around the world. That is what is intended. While reaffirming our Nation's commitment to the vital protection of religious rights, it also sends a long overdue signal to repressive governments that their repulsive behavior is no longer going to be overlooked. We are not just going to talk about it.

Persecuted Christians in Sudan, in China, North Korea, Cuba, Laos, Vietnam, Indonesia, Saudi Arabia, Pakistan, and other nations will be encouraged in their struggle to freely practice their religion when they learn that world opinion is awakening to their plight. They will take comfort from the knowledge that at least our Nation will stop providing economic assistance and taking other actions to prop up the very governments that have been oppressing them.

I am aware that H.R. 2431 has been criticized as a "sanctions bill" by those who are concerned about making a profit by trading with tyrants, and that it has become fashionable in some circles to disparage economic sanctions as retrograde and being ineffective and, indeed, even as being isolationist.

Those who espouse that view conveniently forget that economic sanctions contributed significantly to our Nation's triumph in the Cold War, and that the bipartisan policy we followed for nearly 50 years of resisting communism around the world was the most internationalist policy our Nation ever followed.

Sanctions helped bring about the end of apartheid, and the threat of U.S. sanctions is today one of the most important tools we have in the combatting of international drug trafficking, and to discourage the proliferation of weapons of mass destruction.

Mr. Chairman, I ask Members to please bear in mind that the purpose of this bill is not to impose sanctions on foreign nations that engage in or condone religious persecution. The main purpose is to encourage countries to stop persecution. The degree to which sanctions are actually imposed under this measure will be the degree to which the bill has failed. The degree to which sanctions are not imposed will be the degree to which it has succeeded.

Our sanctions are targeted to make certain that only oppressive governments will be denied foreign aid and other U.S. benefits, not the innocent people who live under such governments. Humanitarian assistance will never be cut off under this measure.

This bill, Mr. Chairman, is intended to make the world a better, more humane place in accordance with the finest moral values and traditions of our Nation. Accordingly, it deserves our full support, and I urge its adoption.

Mr. Chairman, I reserve the balance of my time.

Mr. HAMILTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 2431.

Mr. Chairman, we all agree that the United States should do more to promote religious freedom around the world. I think everyone in this Chamber wants to do that. I believe that the bill that is before us is brought forward with the very best of intentions. The question is, what is the best way to accomplish our objective? I do not believe this bill, as presently drafted, is the best way. I will oppose it.

I oppose it, really, for three reasons. First of all, I think the bill will do very serious harm to the United States' national interest. The United States' national interest in any country is multifaceted, but this bill forces the President to conduct American foreign policy toward countries on the basis of a single standard, tolerance of religious freedom, as defined in the bill.

The mandatory, automatic sanctions in this bill sharply restrict the President's ability to conduct foreign policy. A determination of religious persecution would automatically trigger all of the sanctions listed in this bill. Even if the President chose to waive the sanctions, such a determination would damage relations with countries of enormous importance to the United States.

The bill will deprive the President of the ability to determine what to condemn and how to condemn it and how to deal with it. We are saying in this bill that there is only one way to deal with this problem; that is to apply sanctions.

Foreign policy is not that simple. In making sanctions decisions, this bill gives the Secretary of State no authority to balance our concern about religious persecution against any other national interest, not our economic stake in a foreign country, not our security interests, not even our interest in promoting other basic human rights.

The Secretary of State has no authority under this bill to exercise judgment about how best to promote religious freedom in any particular country. The Secretary would be compelled to impose sanctions. The sanctions waiver does not mitigate the automatic public censure this bill requires, so the bill gives the President a single tool, sanctions, to promote religious freedom.

On a question of immense complexity in every country, this bill shackles the United States and says, automatic sanctions is the answer. I think it harms our ability to promote religious freedom.

Let me try to give Members some examples of what this bill will do. In Egypt there are, of course, reports of abuse against the Coptic Christians. How would automatic sanctions against Egypt help Coptic Christians whose leaders are opposed to this bill? How would automatic sanctions against Egypt, the first and most important Arab country to make peace with Israel, help the peace process at this moment in time?

Or let us take Saudi Arabia. Christians have been beaten there, services stopped, converts have been beheaded. How would sanctions against Saudi Arabia advance the vital U.S. national interest in the secure flow of oil? How would sanctions promote the goal of containing Saddam Hussein and enforcing U.S. Security Council resolutions against Iraq?

Or Pakistan? Right now we are making every effort, at this moment in time, to persuade Pakistan not to conduct nuclear tests. Automatic sanctions would make that difficult to ask, even much more difficult. If we impose automatic sanctions, what chance do we have that the Pakistanis would pay any attention to us?

Likewise, a similar situation in Indonesia. Catholics are persecuted in East Timor. The State Department says that every single country in Southeast Asia, except Australia and New Zealand, could be sanctioned under this bill.

Would sanctions help the United States address the financial crisis in Indonesia and in Asia today, with the threat that that poses to the entire world's financial system? How would a financial collapse promote religious tolerance?

On and on we can go, in Germany, in Greece, and even in Israel. In Israel, Jehovah's Witnesses have been threatened and attacked, and their meeting hall was firebombed. Is it really in the U.S.'s interest to apply automatic sanctions on our friend and staunch ally, Israel, because of such incidents?

This bill places the question of religious persecution ahead of every other question in American foreign policy, and I think it is going to cause harm to the American national interest.

My second objection is that the bill will harm and not promote efforts to protect religious freedom. This is not some kind of theoretical concern that I am spinning here. We have heard from churches and evangelical groups with tens of thousands of missionaries. We have heard from people like Ned Graham, Billy Graham's son, who heads a major Christian mission in China.

What do these religious leaders say? They do not like the bill. They worry that sanctions will produce a backlash against the persecuted religious community that they are trying to help. The bill will put greater pressure on minority religious communities, and these minority communities will be accused of complicity in American sanctions.

The third reason I oppose this bill is because it creates a damaging hierarchy of human rights violations. What this bill does is it makes religious persecution the top priority of human rights and human immigration policy. This bill says that religious persecution is more important than any other kind of persecution: more important than female infanticide, more important than racial discrimination, more important than press censorship, more important than ethnic cleansing. None of these equally serious rights abuses would be monitored by a special State Department office and punished with its own unique set of sanctions.

It is a mistake, in my view, to establish a hierarchy of human rights violations in U.S. law, and when we state that one form of persecution takes priority over another form of persecution, we invite governments to test our tolerance for other forms of persecution.

In conclusion, Mr. Chairman, may I say that I think it is appropriate and important for Congress to address this important issue. I want to say that the sponsors of this bill have been willing to make adjustments on it, and I appreciate that, and I hope they will be willing to make more.

I know it is very, very difficult for any Member to come into this Chamber and vote against this bill, but we need a bill that will not provoke a backlash against persecuted religious communities. We need a bill that will give the President and the Secretary of State the power to balance our interests in reducing religious persecution against the full range of important and even vital national interests, and we need a bill that gives the President the ability to craft an appropriate response to each distinct instance of religious persecution. This is not that bill.

Because it falls short in these key respects, the President's senior advisers will recommend that he veto it, and I urge Members to vote against it.

Congress has before it other legislative proposals designed to promote religious freedom overseas. I am hopeful that we will ultimately be able to agree on a bill that has strong bipartisan support and the backing of the President, a bill to promote our shared objective of religious freedom, without the damaging consequences of this bill.

□ 1215

I urge a no vote.

Mr. Chairman, I reserve the balance of my time.

Mr. GILMAN. Mr. Chairman, I yield 6 minutes to the gentleman from New Jersey (Mr. SMITH), distinguished chairman of our Subcommittee on International Operations and Human Rights.

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for yielding the time to me and commend him for his great work on this, and the gentleman from Virginia (Mr. WOLF) as well.

Let us focus on exactly what kind of religious persecution this bill seeks to address. We are not talking about discrimination or harassment, although these are very bad things. This bill punishes only the worst of the worst: governments that engage in widespread, ongoing persecution that includes murder, torture and other particularly shocking forms of persecution. Let us look at what we mean by this.

To my left in the photograph is Palden Gyatso, a Tibetan Buddhist monk. Palden Gyatso testified at one of our subcommittee hearings and told us that the Chinese Government routinely uses electric shock guns, serrated and hooked knives, handcuffs and thumbcuffs treatment and other forms of torture. He showed us some of the torture implements that have been used against himself and other prisoners of conscience in Tibet. Other witnesses at the hearing included Harry Wu and Katherine Ho who corroborated the monk's testimony. Their witness to torture brought tears to my eyes.

On October 10, the second picture, a mob destroyed several Christian churches in Situbondo, Indonesia. At the time, some official sources maintained that this might not be religious persecution, that the churches just might have been random targets. But the slogans that were painted on the church by the people who burned it (the translation is "Jesus Excrement"—and they used a word far worse than that—"Mother Mary Communist") leave no room for doubt.

The third picture, this was a church in which an elderly minister, his wife and two children and a young woman who worked at the church were burned to death. The next picture shows their charred bodies burned almost beyond recognition.

At the funeral of their five victims, the caskets had to be closed because the persecutors had done their work so well.

This next picture, Mr. Chairman, is the last view of Reverend Noor Alam, a Christian clergyman who was murdered in front of his family in Pakistan by a mob who first brought down the walls of his under-construction church building on December 6, 1997, and later killed him by lynching. Lynching has become increasingly common in Pakistan in recent years, as have convictions of Christians and other religious dissenters for blasphemy. The most recent tragedy to result from this spiral of violence was the death of Catholic Bishop John Joseph, who took his own life in public protest after a member of his diocese was sentenced to death for blasphemy. At Bishop Joseph's funeral, the mourners chanted, "End persecution of Christians." The police fired tear gas and bullets that wounded three people, including a young girl.

Picture No. 6 on my left, this picture is of a Sudanese Christian boy in a refugee camp in Kenya. A member of a congressional staff delegation, led by my staff director, Joseph Rees, asked him why he was afraid to return to Sudan. He said, "Because I want to see." If Members look closely, his eye has been plucked out. The staff member asked who tortured him. He said they did it because of his religious beliefs.

Mr. Chairman, let me speak briefly to two objections raised by the administration in their talking points against the bill. First, they say that by protecting victims of religious persecution in a bill that does not address other human rights violations, we are establishing a so-called hierarchy of human rights. This is a bogus argument and unworthy of those who employ it. The argument clearly ignores some very basic facts about the legislative process. Not every bill can address every subject. By addressing one urgent problem in this bill, we are not denying the existence of other urgent problems that should be addressed by other legislation or by other means.

Under the administration's argument, it would have been wrong to enact the Jackson-Vanik amendment which protected freedom of immigration and had the laudatory consequence of protecting Soviet Jews and others who had been denied right to emigrate. We risked superpower confrontation with the Soviet Union because we believed Soviet Jews mattered and we would never again turn our back on persecuted Jews?

Not even the anti-apartheid sanctions against South Africa in the 1980s, which I supported and voted for would pass the test proposed by the State Department's talking points, because those sanctions were designed to help victims of racial discrimination and racial persecution but did not address freedom of religion or other important human rights. Frankly, if we stuck to the administration's talking points, no important human rights legislation would ever pass because no bill, no matter how good, can do everything.

Next, the administration suggests that it is wrong for Congress to enact what they call "automatic sanctions"—sometimes they call them "one size fits all" sanctions—even against the most brutal governments. But we have to wonder whether whoever wrote those talking points had actually read the bill. The sanctions are not automatic. They will not go into effect if the President waives them, and he can waive them for either national security reasons or because he believes that the waiver will serve the objective of promoting religious freedom.

Let me just remind my colleagues, this is a very generous waiver. The only way we could go further would be to give the President the freedom to do absolutely nothing at all in the face of severe, widespread and ongoing human rights violations and persecution. In evaluating legislation that deals with persecution of any kind, we must always remember that tyrants understand strength. They also understand weakness. Of all the millions of people who are victimized by tyrants around the world, many are in trouble because they share our values. This bill is designed to help our brothers and sisters around the world who have faith and suffer because of it.

Wei Jingsheng, who also testified before our subcommittee, a great leader of human rights who spent his life in the gulag because of it, said: "If I did not see it myself, even I could not imagine the shameful and despicable means the Communists use against religious believers."

Religious persecution is on the rise. This bill puts us on a track of saying we will no longer look the other way. We will stand up for those brethren who are suffering.

Mr. HAMILTON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Chairman, first of all, I would like to associate myself with the remarks of the gentleman from Indiana (Mr. HAMILTON). He stated the case about as well as one can. The problem that this bill creates for me is that it pits individuals one side on the other, as though some Members are in favor of religious persecution and do not want to do anything about it and other Members really care and they want to do this.

The problem with that argument is that it is not clear what automatic kinds of sanctions really do. We are presently in the midst of automatic sanctions under the nuclear explosions in India. We are very likely to have automatic sanctions against Pakistan. And the question is, how many, what is the ramification of that when we give the President no flexibility to tailor or to craft a response to an event that all of us deplore? There is nobody on this floor that thinks India should have exploded nuclear devices, absolutely none. The question is whether or not the President has the ability to craft.

The bill before us says, on page 21, the President shall instruct the United States executive director of each multilateral development bank and the International Monetary Fund to vote against and use his or her best efforts to deny any loan or other utilization of funds of their respective institutions.

It also talks about the Eximbank.

Now, what we are talking about here? Let us just take Indonesia. We have the largest Muslim country in the world in tremendous chaos. Their currency is in real problems, and the International Monetary Fund has been working with them under our leadership to gradually give them money when they make changes. We have pushed on the issue of corruption. We have pushed on a number of issues. And what we are saying is, we are going to back out of Indonesia and leave it, leave the President no way to deal with that.

I think this is wrong to put the President of the United States in that position. Therefore, I will vote against it.

Mr. GILMAN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas (Mr. ARMEY), our majority leader, a staunch advocate of human rights and religious freedom throughout the world.

Mr. ARMEY. Mr. Chairman, I thank the gentleman from New York for yielding time to me.

I want to personally, if I may, personally thank the gentleman from Virginia (Mr. WOLF) for his work on this legislation and his uncompromising commitment to move it through the House. I would like to appreciate the work of the Committee on International Relations, the Committee on the Judiciary, and the Committee on Ways and Means.

This bill has been examined from every possible angle. It is prepared. It is ready. And while it is assertive on the question of religious liberties and freedom from religious persecution, it is also mindful of and respectful of the affairs of state with respect to matters of less importance in the lives of people, matters such as monetary systems and trade relationships.

It does allow flexibility.

Let me just focus for a moment on the essential purpose of this bill. The purpose of this bill is for this great Nation to stand before the world and say we cannot condone and we will not tolerate nations that persecute people on the basis of their practice of religious faith. That is not only fundamental but I think is absolutely prerequisite to and essential to our observation of all of our liberties.

As we study the religions of the world, in each and every case the religions of the world define, in the hearts and the minds of their practitioners, the fundamentals from which other understandings of rights, liberties, and responsibilities are gathered.

In my own faith, we know beyond a shadow of a doubt that freedom is a right granted to us by God Almighty, our Creator. And from our recognition of that and our desire to honor that, we develop an appreciation of, a respect, a practice of and a requirement for so many other liberties.

I do not want to stand before my colleagues as an economist and say that monetary systems are not important, that systems of trade are not important. Of course, these things are important. But let me ask my colleagues: Would you not allow others to say and would you not endorse all others across the Nation to say what you know and

I know we would say in our own heart and for our own life? If you take away from me the right to my faith, can these other things even matter?

Without the right of each and every person on this globe to know they are free, respected, supported and honored to practice their faith, most certainly they will be lost and in the end so will we. So let us stand together in support of this legislation, and with a clear declaration we require for all the peoples of the world the same respect, freedom, and dignity we require for ourselves.

Mr. HAMILTON. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. HOUGHTON).

Mr. HOUGHTON. Mr. Chairman, I thank the gentleman from Indiana (Mr. HAMILTON) for yielding the time.

First of all, I want to say that this is a very, very difficult subject because it digs right down into our emotions, our religious beliefs and what is right and what is wrong.

I have tremendous respect for the gentleman from Virginia (Mr. WOLF) and I am sure he is a far better Christian than I am. I am sure he really has thought through this thing very carefully. I just come out on a different side of this thing.

I talked a little bit about this last night, so therefore I will not go into all the sort of philosophic background here. I just would like to make a few points.

First of all, there is not anybody that I know of who likes persecution, particularly those people who are being persecuted. The worst kind of persecution, of course, is religious persecution.

□ 1230

And we would all like to have it stopped, period, end of it. The question is how do we get at it?

It seems to me that when we want to help somebody, we should make sure that the people we want to help want to be helped. That is a sort of a basic human axiom. And the research I have done and the contacts I have made, particularly through the National Council of Churches, or through other friends I have had in the world, I have traveled around to different parts of this world and talked not only to business and political, but also religious leaders, not a single religious group wants this.

So I am saying, why are we doing this? Why are we superimposing our feeling of guilt upon people who do not want us to get involved?

Now, there are a lot of horror stories, and I am sure I can give them on either side, but the question is, do we want to put ourselves in a position of sort of being post-colonial arbiters of what is right and what is wrong as far as religion is concerned?

People are scared. Dr. Billy Graham's son is scared for what will happen in China. I know some of the people in Russia are scared of what will happen there. I know people in Sudan are scared. I have talked to somebody who is the titular head of 29 million Muslims in Indonesia; they are scared of what the United States is doing.

There are always horrifying acts. We had one in Waco. Obviously, there was one in Israel when Prime Minister Rabin was shot. But these are fringe religious groups, and no government can control fanatical religions. It is wrong to, therefore, label a government because of those fanatics.

We must be sure that as we reach out to the rest of the world, we are attuned to what they need, what they want, what are those things which are so important to them, not just how we approach it. Because it is those people that we will affect.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself 15 seconds to very briefly respond.

A large number of national and international religious groups support this legislation, including the B'nai B'rith, National Association of Evangelicals, the U.S. Catholic Bishops' Conference, the Anti-Defamation League, the Southern Baptist Convention on Ethics and Religious Liberty, the National Jewish Coalition, the International Campaign for Tibet, the Religious Action Center for Reformed Judaism, the Union of Orthodox Congregations of America, Campus Crusade for Christ, the Seventh Day Adventist Church, the Salvation Army, National Religious Broadcasters, and I can go on and on. But large numbers of religious bodies wholeheartedly embrace this legislation.

Mr. HAMILTON. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. HOUGHTON).

Mr. HOUGHTON. Mr. Chairman, I am sure those people the gentleman just referred to feel very deeply about this, but I want to say in response to that that I have not had a single letter from anybody other than Washington or New York who has espoused this. None from overseas.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 30 seconds to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Chairman, I have a letter from Wei Jingsheng, who spent 17 years in prison, who was earlier with us today. He said, "I strongly believe that the freedom of religious belief is one important component of man's fundamental human rights." And he goes on to say, "The true situation may be difficult for Americans to imagine, and it is difficult for the Chinese to imagine. If I did not see it myself, a man in prison for 17 years, I would not imagine the shameful and despicable means."

Many of these groups around the world all support this bill, but they are afraid to come forward because if they do, they may very well be killed. We get communication daily from groups in all these countries that say they support what we are doing, but they are afraid to come forward publicly.

Mr. HAMILTON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Chairman, I commend my colleague, the gentleman from Virginia (Mr. WOLF), for his passionate advocacy for the persecuted and for bringing this to our attention.

I have had the opportunity to participate in the debate in the committee on this most important issue. I do think this bill is important for all of us in dealing with these tragedies.

I stand before my colleagues in support of this legislation, knowing that religious persecution is a problem in this world. And we always have to remind ourselves why the United States of America was created. How did it get its roots? Why did people come to the United States? And let us always be respectful to all religions and all faiths and all beliefs in the world.

Nearly 2 years ago I cosponsored House Resolution 515, condemning persecution of Christians worldwide. Since that time I have been closely involved in trying to craft better policies for us to address religious persecution worldwide. I wholeheartedly support the attention that this bill has brought to the issue and a number of its provisions, particularly in training our foreign service and immigration officers.

Still, we have more progress to make to reach our goal of the most effective, comprehensive legislation possible. We must address, report on and respond to religious persecution not only at its most violent stage of rape, murder and torture as defined in this bill, but before it escalates to such terrible levels.

We must also have more tools to address persecution rather than sanctions only in an all-or-nothing approach policy for all countries in the world. Sometimes the means will be diplomatic, sometimes economic, but let us look at all the foreign policy tools to bring about changes in the world and end religious Christian persecution in the world that does exist.

Support the Wolf legislation.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington (Mrs. LINDA SMITH).

Mrs. LINDA SMITH of Washington. Mr. Chairman, I first want to stand and show strong support for the chairman, and I believe that this particular sponsor, the gentleman from Virginia (Mr. FRANK WOLF), is doing something that all America wants him to do. He is saying that all policy in America has to have a heart and all policy has to have a conscience.

This bill says that all constructive engagement, as the President likes to say, will keep in mind the religious freedom of all people.

Now, earlier today several speakers have said this takes away all the latitude from the President. This bill is drafted in a way that the moment his administration makes a recommendation that there is gross, very strong religious persecution in a country and there should be sanctions, he can immediately say no to the sanctions.

It just simply says that he has to stop being silent. It simply says that we as a Nation will declare that religious persecution, that persecution of any kind, is wrong; that this is an America that stands for freedom, for liberty, and for religious liberty. These are the things America stands for.

Now, the President calls for constructive engagement, and yet he is silent on harvesting livers and corneas from religious and political prisoners in China. Is this constructive engagement? He was silent on the Tibetan monks being tortured and murdered because of their faith. He has been silent on the Government of Sudan intensifying attacks upon Christians and tribal faiths.

I guess if that is the policy, we need this bill, because although it does not do a whole lot toward making the President do anything, it does make him break his silence on all of the things that are going on in the world. Whether it be in China, whether it be in Pakistan, if America does not stand for freedom, if America does not stand for the worker and the family all over the world, then what is America?

I say today that this bill does one thing: It says America has a conscience and America has a heart, and I think we should pass it today.

Mr. HASTINGS of Florida. Mr. Chairman, I yield 1 minute and 10 seconds to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in opposition to this bill.

I appreciate the many changes that its sponsors have made to prevent it from having the devastating impact it would have had in its original form on our trade and security interests and on our ability to provide the leadership the world needs to prevent the very persecution the bill seeks to punish.

I oppose the bill because it is fundamentally flawed. It would force the United States to treat government-sponsored or -permitted persecution, that is, killing, imprisonment, enslavement, forced mass relocation, rape, torture and the confiscation of property differently if these crimes were committed against people for their religious beliefs than if these crimes were committed against people for their political beliefs or for ethnic cleansing. That is just not right.

American foreign policy has always opposed religious persecution, political oppression, ethnic cleansing policies. It is profoundly unwise to adopt a policy that implies that government-supported persecution is more acceptable if used for political oppression and ethnic cleansing than for religious persecution. This is what this bill would do.

This bill sets up a very bureaucratic mechanism that encourages an automatic sanctions process without any consideration as to whether or not the sanctions would hurt American interests or have any effect on the sanctioned country. Most seriously, it discourages the broader range of diplomatic and multilateral actions that would have a far greater impact.

Furthermore, government-sponsored persecution should provoke a far more comprehensive response than this bill envisions. Under current law we have the full range of diplomatic tools at our disposal, even recalling our ambassador and working to mobilize multilateral sanctions, always more effective a multilateral response than a single-nation response.

I appreciate how deeply troubled my colleague, the gentleman from Virginia (Mr. WOLF), is by religious persecution, but I oppose setting up a separate bureaucracy, a rigid process to identify and respond to religious persecution as opposed to a comprehensive response to such violations of human rights for political and ethnic origin as well.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI).

Mr. HASTINGS of Florida. Mr. Chairman, I yield the gentlewoman from California (Ms. PELOSI) 1 minute.

The CHAIRMAN. The gentlewoman from California (Ms. PELOSI) is recognized for 3 minutes.

Ms. PELOSI. Mr. Chairman, I rise today to commend the gentleman from Virginia (Mr. WOLF) for his leadership in bringing this legislation to the floor and to express my gratitude to him for giving us this opportunity today to speak out for American values.

It is interesting for me to hear some of our colleagues, who have always opposed any initiatives that we have on this floor on human rights in every aspect, political, freedom of the press, religious, to come to the floor now and say, oh, no, we cannot support this because it is only about religion and it creates a hierarchy. They were not there for us when we had the full array.

We have an opportunity today with this religious persecution act to begin to address the full array, and it is an opportunity that I believe we must take.

My colleagues have said no one likes religious persecution. Of course we do not, and I would stipulate that every person in this body is viscerally and intellectually opposed to religious persecution. But the business community is once again weighing in and saying, oh, this bill does not go far enough in terms of protecting human rights throughout the world. If this was not such a serious matter, that would almost be laughable. It is pathetic.

But, Mr. Chairman, I come to the floor today to say that what this bill does is give recognition to the persecution of people on the basis of their religious faith. What it does not do is tie the President's hands. Indeed, it gives the President more leverage. It gives him more leverage because he can then say to a country that this is what the Congress has said: I can exercise a waiver if I see that it would be beneficial to the cause and in our national interest. But the persecuting country must demonstrate that use of the waiver would be beneficial.

So I believe that this is appropriate. I think the Committee on International Relations did an excellent job in modifying the legislation so that it would have the support of many more people here who were concerned about the Presidential discretion.

Mr. Chairman, as we debate this bill today, I am sad to report that in China the Catholic bishop, elderly and frail Bishop Zeng Jingmu, 78 years old, who is the unofficial bishop of Yujiang, a diocese among the poorest in China, was at the top of the list of the jailed Catholics in China.

Perhaps my colleagues saw recently on May 10 the news in the paper that he had been released. Did my colleagues know that he was imprisoned for his Catholic beliefs? Maybe not, but, oh, there was great celebration when this was released. But released he was not; he was assigned to house arrest.

An elderly Catholic bishop whose health is failing, who had been assigned to 3 years in a reform-through-labor camp, was, in order to get some kudos from the Clinton administration, freed from the labor camp and put under house arrest.

The problems are severe. This legislation is modest and moderate. I thank the gentleman from Virginia for giving us the opportunity to vote our conscience today. I urge my colleagues to support the Wolf legislation.

□ 1245

Mr. HASTINGS of Florida. Mr. Chairman, how much time is remaining on each side?

The CHAIRMAN. The gentleman from Florida (Mr. HASTINGS) has 11½ minutes remaining. The gentleman from New Jersey (Mr. SMITH) has 11¾ minutes remaining.

Mr. HASTINGS of Florida. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. ENGLISH).

Mr. ENGLISH of Pennsylvania. Mr. Chairman, while I salute the intention of the authors of this legislation, I rise to strongly oppose this bill, freighted as it is with unintended consequences.

This legislation would put our foreign policy and our trade policy on auto pilot to be dictated by an unelected bureaucrat in the bowels of the State Department. It would insert America into a surprising range of domestic policy disputes in Muslim nations where Shihites suppress Shunites, or vice versa, in Germany, in France, in Greece, in Turkey, Mexico, even in Egypt and Israel.

But most importantly, Mr. Chairman, if we are to pursue the dubious course of using clumsy, unilateral trade sanctions indiscriminately to change the domestic policies of our trading partners, why is it that under this bill we would restrict our ability to export to offending nations but not their ability to export to the United States?

This bill would increase our trade deficit. And in the end, the only human rights that this legislation is certain to affect is the right of many American workers to earn a living. Vote it down.

Mr. Chairman, I rise in strong opposition to H.R. 3806, the Freedom from Religious Persecution Act.

Like every American, I am committed to continued U.S. leadership on religious freedom. But, I am deeply concerned that this bill—however well intentioned—could backfire badly.

In addition, I am deeply worried that a one size-fits-all strategy, based on using unilateral U.S. sanctions to promote Christianity and religious freedom, could put American interests and security at risk.

If implemented, this legislation could impose U.S. sanctions over such longstanding allies as Israel, Saudi Arabia, Egypt, Turkey, Great Britain, Mexico, Greece and Germany.

This bill could also oblige us to impose U.S. economic sanctions on the world's key emerging powers—China and Russia.

U.S. sanctions could be profoundly destabilizing from the standpoint of ensuring continued global peace.

Scenario 1: Should the United States impose economic sanctions of Saudi Arabia—a key ally—because it has put down a riot by Iranian Shiites who are on pilgrimage to the holy sites of Mecca?

Scenario 2: Should the United States sanction Israel, because it has imprisoned Hamas terrorists who engage in violence against the innocent in the name of Islamic fundamentalism?

As Members of Congress, we need to look long and hard before we push America into each and every religious conflict through unilateral economic sanctions, which history shows can backfire on American interests.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 2¼ minutes to the distinguished gentleman from Illinois (Mr. EWING).

Mr. EWING. Mr. Chairman, I wonder if I could join in a colloquy with the sponsor of the bill, the gentleman from Virginia (Mr. WOLF).

I am wondering if it is the understanding of the gentleman that under this bill there is no general prohibition of exports to a country which is deemed to contain responsible entities who are committing religious persecutions, as defined by the director of the Office of Religious Persecution Monitoring, but rather, the ban on export covers only those to the responsible entities themselves?

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. EWING. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, the gentleman from Illinois (Mr. EWING) is correct. Under this bill, exports of items other than persecution facilitating products are prohibited from being exported only to the responsible entities themselves, such as prisons or slave labor camps, as the case may be, and not to the country generally. Furthermore, under this act, "responsible entities" are to be defined as narrowly as possible.

Mr. EWING. So, then, if I understand the gentleman, if a farmer exports grain to a country that the director of the Office of Religious Persecution Monitoring deems to contain responsible entities engaged in religious persecution, and exports that grain to other parties either governmental or private that are not deemed by the Director to be responsible entities, the farmer has not violated this act?

Mr. WOLF. Mr. Chairman, if the gentleman would further yield, that is absolutely correct. Under this act, there is no blanket prohibition on exports but only exports to the responsible entities engaged in persecution.

Furthermore, I would point out to the gentleman from Illinois (Mr. EWING) that if a farmer or exporter exports grain to a country deemed to contain responsible entities engaged in religious persecution but sends the grain to a party other than a responsible entity, the gulag, that farmer or exporter has not violated this act even if the grain eventually reaches the responsible entity itself.

Mr. EWING. So there is no provision in this act that would punish the farmer or exporter if the product exported eventually reached a responsible entity?

Mr. WOLF. That is correct. There is no requirement that the exporter know or be responsible for the ultimate end user of his product, but only that the exporter does not export to those found by the director to be responsible entities engaged in religious persecution.

Mr. EWING. And is it the understanding of the gentleman that under this act there is no prohibition on P.L. 480, GSM, or other commodity-related aid from the United States Government to other nations under this act?

Mr. WOLF. Yes. Under the definition of "United States assistance" in this act, any assistance under the Foreign Assistance Act of 1961 is barred. However, this definition of "United States assistance" explicitly carves out an exemption for "assistance which involves the provision of food, including the monetization of food."

Mr. EWING. I thank the gentleman for answering my questions.

Mr. HASTINGS of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding. Mr. Chairman, I rise in opposition to H.R. 2431.

This bill, The Freedom From Religious Persecution Act, is a well-intentioned piece of legislation but it is sadly misguided. I think like every Member of this body, I share the belief that every individual, wherever they are in the world, ought to be able to practice their faith freely without fear of harassment or persecution. And if I believed for one minute that this bill would enhance that right, I would use every tool at my disposal to ensure its passage. But the sad fact is it will not. In fact, it may do the opposite.

The problem of this bill is the problem that is at the core of all sanctions legislation. It allows Members of Congress to feel like they are taking actions to solve the legitimate foreign policy problem, without taking any responsibility for the long-term consequences of their actions or the unintended impacts of this legislation.

My greatest fear is that this bill will actually lessen tolerance for religious freedom abroad. Let me explain why I say that. Today there are a large number of faith-based organizations performing missionary work abroad, organizations such as East Gates Ministries, working in China to distribute Bibles and provide religious training to the Chinese people. These people that work for these organizations, empowered by their faith, work daily under very harsh and dangerous conditions, subjecting themselves to the scrutiny and the whims of their host governments.

A bill such as The Freedom From Religious Persecution Act could seriously jeopardize their ability to continue performing missionary activities abroad. Imagine for a moment that they were a foreign government or a representative. All of a sudden they are singled out for condemnation and automatic economic sanctions by the United States because of their actions, even because of actions that are beyond their control, towards Christians, Jews, Muslims or any other religious sect.

In many nations the response is not going to be to openly embrace the criticism levied but to respond in more predictable ways, to rally around the flag, embrace their nationalistic roots, retaliate against those who antagonize them.

In fact, we are seeing this in India today. And by the way, if we had given away all of our sanctions on religious persecution in India, we would not have anything today to deal with the nuclear proliferation problem.

Mr. Chairman, I urge my colleagues to have the courage to vote no on this bill. Do not place the work of those who do missionary work abroad in jeopardy.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Pennsylvania (Mr. GOODLING) senior member of the Committee on International Relations.

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding.

It has been said that the opposite of love is not hate but indifference. And unfortunately, American indifference to religious persecution lends our tacit, if indirect, support and approval of some of the most awful abuses of human rights, particularly abuses of a right we sometimes take for granted, which of course is the freedom of religion.

As a senior member of the House Committee on International Relations, I have heard a great deal of testimony about the persecution of individuals abroad, persecution based solely on religious beliefs.

In committee we heard about the atrocities committed by the Chinese Government against Tibetan Buddhists. We heard eye-witness testimony of frightened, weak, and near starving Tibetans who traveled hundreds of miles, often barefoot with nothing but the shirt on their back, over the cold and often deadly Himalayan Mountains into India to seek relief.

Most Americans would be shocked to learn that Christians in the Sudan are actually sold into slavery on a daily basis. Those Buddhist monks and others that I mentioned, the Chinese Government rapes, tortures, and murders them. The execution of religious minorities in Iran is almost commonplace.

The business community is concerned how economic sanctions will hurt American businesses abroad. And as chairman of the House Committee on Education and the Workforce, I take a back seat to no one in supporting American business. But as Americans who live under the protection of the first amendment, we must make it clear that the almighty dollar does not and will not take precedence over American values and morals, the beliefs upon which this great Nation was founded.

Religion is a very personal matter to me, and I am proud to be part of this exercise today.

Mr. HASTINGS of Florida. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Chairman, we all rise today in opposition of religious persecution. There is not one Member of this House that does not abhor the religious persecution that we find all too often, far too frequently in many parts of the world.

But I guess where there is a fundamental difference is whether or not we are going to be most effective in turning back religious persecution by taking actions which further isolate some of the countries which are the worst perpetrators of that act.

Many of us contend that by engaging both economically, socially and culturally, we are going to be far more effective in ensuring that the citizens of the countries throughout the world will not be subject to the degree of religious persecution that now persists.

I rise in opposition to this bill today because I sincerely believe that we will be shutting the door on perhaps the greatest opportunity we have in order to improve the plight of people throughout the various countries of the world.

I think when I look at the issues of sanctions, that is what brings me to the greatest concern. Because I think all too often we have seen the implementation of sanctions that in fact have actually worked to the detriment of the very people that we are trying to help. And I am also very concerned that when we also take actions that are going to impose economic sanctions that are focused primarily on preventing the exportation of goods which are produced by working men and women of the United States, it is going to be our citizens who are going to be paying a good portion of the economic cost of this legislation.

We need to be diligent in our efforts to ensure that we are going to eliminate religious persecution, but let us not tie the hands of the administration, let us not tie the hands of our President. Let us not empower a director of this new department with the sole responsibility of making a determination on which people are being persecuted and which portion or entity of the government is responsible for that entity.

I very much believe that this is a measure that once again will not advance the interests of freedom and religious freedom throughout the world, and I rise in opposition.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Chairman, I thank the gentleman for yielding. I rise in strong support of this legislation.

I want to first of all commend my friends the gentleman from Virginia (Mr. WOLF) and the gentleman from New Jersey (Mr. SMITH) for their very hard work on this bill. This is a very moderate and reasoned and sensible approach to a problem that is, unfortunately, growing very rapidly around the world.

I am pleased to be an original cosponsor, and I am also pleased that such a wide array of religious organizations have endorsed this bill.

Many immigrants came to our country over 200 years ago to practice religion as they chose and be free from religious persecution. And if we just look above the Speaker's rostrum, we see the words "in God we trust." This serves as a reminder of how important religion has been and is to this Nation.

Religious freedom is one of the most basic of all human rights, one of the most basic human rights that any individual can have. This legislation does not apply to simply one religion or just one religion, it applies to them all. No matter what a person's faith or beliefs, people around the world should be able to worship as they wish, free from fear of abduction and enslavement, imprisonment, murder, rape, torture and so forth. And believe me, that is occurring around this world, those types of things, even as we speak.

I first became interested in this after reading a portion of Nina Shea's recent book called "The Lion's Den." In that book Nina Shea said this, quote:

> Millions of American Christians pray in their churches each week, oblivious to the fact that Christians in many parts of the world suffer brutal torture, arrest, imprisonment, and even death, their homes and communities laid waste, for no other reason than that they are Christians. The shocking untold story of our time is that more Christians have died in this century simply for being Christians than in the first 19 centuries after the birth of Christ.

Mr. Chairman, I think this is deplorable. In addition, I read a recent interview by Michael Horowitz, a leader in speaking out against this persecution.

□ 1300

Mr. Horowitz, who happens to be Jewish, says in a recent interview, "I am speaking out on behalf of persecuted Christians precisely because I am a Jew in the most deeply rooted sense. I see eerie parallels," Mr. Horowitz said, "between the way the elites of the world are dealing with Christians who have become the scapegoats of choice for thug regimes around the world and the way the elites dealt with the Jews when Hitler came to power.

"Another parallel is the tongue-tied silence of the Christian community in the face of persecution. A similar silence was evident in the years leading to the Holocaust. Silence, anybody's silence in the face of persecution, is deadly. So for me", Mr. Horowitz said, "sparking our campaign for awareness in action is the most important thing I expect to do. What thugs did to Jews, they are now doing to Christians. Christians are become the Jews of the 21st Century."

All faiths, Catholics, Protestants, Jews, people from all walks of life have joined in support of this very important bill. This is good legislation. I urge all my colleagues to support it.

The CHAIRMAN. The gentleman from Florida (Mr. HASTINGS) has 6½ minutes remaining, and the gentleman from New Jersey (Mr. SMITH) has 5 minutes remaining.

Mr. HASTINGS of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I realize that some Members are supporting this bill out of frustration with what they perceive as the apparent lack of progress on foreign religious persecution issues.

I would like to share with the body comments made in an editorial opinion by Samuel Berger, the President's National Security Advisor. Mr. Berger says what I believe is something critical that we need to pay attention to. He says that, "Moreover, the more the United States is perceived as making unilateral, peremptory judgments on the performance of other countries, the less we will be able to work with those countries, including on issues of religious freedom."

Mr. Chairman, I have had the good fortune, along with many Members in this body, to travel to a significant number of countries in the world. In each delegation that I participated in, be it in China or in Africa or elsewhere, we have raised the subject of religious persecution.

I traveled to China with the chairman of the Committee on International Relations, and the template of our remarks to all of the Chinese interlocutors had to do with religious persecution in China.

I traveled to China with the Speaker of the House. In each instance when we met, ranging all the way from the prime minister to the president to various persons that we were interlocutors with, each time, the subject of religious persecution was among our highest priorities, including those that we share with the concerns for the rule of law.

I traveled to China with the gentleman from Nebraska (Mr. BEREUTER), one of the most respected Members of this body. In each instance, the gentleman from Nebraska (Mr. BEREUTER) and myself and others traveling with us raised subjects of religious persecution.

So long as we are not making those peremptory judgments, so long as we are not acting unilaterally, we have been able to make some progress. With reference to this administration, it needs to be clear that there is more that can be done, but a lot has been done.

Last year, the President imposed sanctions on Sudan because of the persistent and severe persecution of Christians and others by the Government of Sudan. Religious persecution refugees, more than any other category of refugees, we are granting them asylum here in the United States.

The President sent 20,000 United States troops, and most of us in this body backed that effort, to Bosnia to keep the peace to help end religion-based conflict. Secretary of State Albright and other U.S. officials have raised religious persecution in numerous meetings with foreign officials, quiet and sometimes not so quiet.

Diplomacy has reaped dividends. Religious prisoners have been released in China. Christian Orthodox classes have been permitted in Turkey. I have seen evidence of substantial change in Kazakhstan and Uzbekistan, places where, we formerly knew them as of the Soviet Union.

The Secretary of State has also instructed all United States embassies to upgrade their reporting and advocacy on this issue. Later, I will introduce an amendment that will discuss what we might do to enhance the activities of our embassies with reference to advocacy on the issue of religious persecution.

In Austria and in Greece, United States embassies have succeeded in easing restrictions on religious practices. I, for one, have witnessed and talked with embassy officials in each of those countries and seen the evidence of their work.

The State Departments human rights reports now devote more attention to religious freedom. Procedures for reviewing asylum cases have been modified to increase sensitivity to religious persecution.

In January, the Secretary of State established a new assistant secretary-level coordinator position for issues relating to religious persecution. In essence, that is what this legislation is trying to do at, yet, another level.

I urge the administration to fill that position soon, and it would then allow that we are doing parallel activity with what the administration has done.

At the United Nations Commission on Human Rights, the United States has led the successful effort to create a special repertoire on religious intolerance. I can go on and on and on; I shall not at this time, Mr. Chairman.

We need a bill that will not promote a backlash against persecuted religious communities. We need a bill that will enable the President and the Secretary of State to balance our interests in reducing religious persecution against the full range of important and even vital national interests.

We need a bill that gives the President of the United States the ability to craft an appropriate response to each distinct instance of religious persecution. This is not that bill.

Some of us, in an amendment that I offer, will be trying to make it a little bit better. But this bill falls short in key respects. Specifically, the President's senior advisors intend to recommend that he veto it. I urge Members to vote against it.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Mississippi (Mr. PICKERING), a good friend and colleague.

Mr. PICKERING. Mr. Chairman, I rise in support today of the Freedom From Religious Persecution Act.

I would like to start my time by going back to the beginning of our Nation, correspondence between the Hebrew Newport congregation and a letter written to our first President, George Washington.

It says "Deprived as we hitherto have been of the invaluable rights of pre-citizens, we now, with a deep sense of gratitude to the Almighty Disposer of all events, behold a government erected by the majesty of the people, a government which to bigotry gives no sanction, to persecution no assistance, but generously affording to all liberty of conscience and immunities of citizenship, deeming everyone of whatever nation, tongue, or language equal parts of the great government."

George Washington's response to the Hebrew Congregation at Newport, Rhode Island, "The citizens of the United States of America have a right to applaud themselves for having given to mankind examples of an enlarged and liberal policy, a policy worthy of imitation; for, happily, the government of the United States gives to bigotry no sanction, to persecution no assistance."

This is what we are trying to do today, to say that our Nation, which was founded on the cornerstone of the freedom of conscience, of religious liberty, that we will give no assistance to those who persecute people of faith.

Today I would like to share a little of my own experience that I bring to this debate, for I lived in a Communist country in 1986 and 1987, in Budapest, Hungary.

I saw during that time, before the collapse of communism, what happens when religious freedoms are deprived. I met with ministers who had been in prison for practicing their faith. I saw the refugees who had fled their countries into the West with the hopes and the dream of having the freedom to practice their faith, to capture the dream that we cherish in this land of freedom.

Then I saw in my lifetime, and we have seen in our lifetime, the modern-day miracle of Jericho where we saw the walls of communism collapse. We have to ask ourselves why. If you go to Poland, it was the church, the Catholic church that led the descent.

In Czechoslovakia and Romania, it was the Protestant church which allowed the people of faith and courage and conviction to rise up and to stand for their God-given rights which brought about as much as anything that we ever did in the West with military containment. It was the force of the religious convictions and conscience that brought about the renewal and the reform and the collapse of a brutal and evil system.

Today we are trying to say we should have the same policy, that we stand with the persecuted, that we stand for the same cornerstone in our country of religious liberty. From that, we will have greater economic freedom, greater trade, greater democracy across the world. We will have greater stability with our allies. This is the cornerstone of our Nation, to stand with those to have the freedom of conscience and faith.

I ask all of my colleagues that we follow the words of our founder George Washington, that we give to bigotry no sanction, to persecution, no assistance.

The CHAIRMAN. The gentleman from Florida (Mr. HASTINGS) has 30 seconds remaining. The gentleman from New Jersey (Mr. SMITH) has 1½ minutes remaining.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Chairman, I applaud the gentleman from Virginia (Mr. WOLF), the gentleman from New Jersey (Mr. SMITH), and all the other Members of this House and this body who have worked to fight against the persecution of people of faith throughout the world.

I am proud to be a cosponsor of this bill, because I believe that we can no longer ignore the cruelty of some government authorities around the world that has been directed towards people whose only crime is faith in God.

We must not forget that there are those who are suffering in other countries; people are being tortured, enslaved, and killed for their beliefs. This bill will send a clear and resounding message that the United States does not support this violation of human rights and religious freedom.

Abraham Lincoln, the President who is probably best noted for his work to free those who were enslaved and mistreated, once said, "Those who deny freedom to others deserve it not for themselves; and under a just God, cannot long retain it."

If enacted into law, this bill will impose immediate sanctions on those countries that have mistreated and abused Christians and people of other faiths, time and time again.

I urge my colleagues to vote in support of the Freedom From Religious Persecution Act.

The CHAIRMAN. The gentleman from Florida (Mr. HASTINGS) has 30 seconds.

Mr. HASTINGS of Florida. Mr. Chairman, I yield myself the remaining portion of my time.

Mr. Chairman, last night, I listened to the gentleman from New York (Mr. HOUGHTON) who, on both sides of the aisle, is respected, not only in this arena, but for his evenhanded approach to trying to develop bipartisan efforts.

Last night, he spoke agonizingly, as I do now, about this particular legislation. We would want to dispel the notion that there are any among the 435 of us who would stand and say we favor religious persecution anywhere in the world. We do not. And that is all of the Republicans and all of the Democrats and all of those on the committee.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, in 1984, on one of several human rights trips to Romania, the gentleman from Virginia (Mr. WOLF), the gentleman from Ohio (Mr. HALL), and myself pushed for the release of persecuted Christians and, in particular, Father Calccu.

For over a decade, during both the Carter and the Reagan administrations, Father Calccu endured unspeakable tortured beatings, solitary confinement in coffins that were vertical. Yet, the world, the State Department, everybody said, Ceausescu, the dictator in Romania was somehow a good guy, we need to work with him.

The gentleman from Pennsylvania (Mr. GOODLING) said it well. Hate is not the opposite of love; indifference is. This bill ends our indifference, our bipartisan indifference towards religious persecution.

□ 1315

Religious persecution has been and it is today the orphan of human rights. We need to stand strong. This is against religious persecution, things like torture. I urge support for this bill, hopefully in a very bipartisan way.

Mr. QUINN. Mr. Chairman, I want to express my strong support for H.R. 2431, the Freedom From Religious Persecution Act. This bill would reassert the position that the United States is a defender of personal liberty, including the liberty to choose and practice one's religion.

The Freedom From Religious Persecution Act makes significant changes in U.S. policy that will help identify and terminate discrimination against religions around the world. The bill calls for the creation of the office of Religious Persecution Monitoring within the State Department. This office will make an annual report on the existence and extent of religious persecution around the world.

This report will be the basis for punitive sanctions against countries who take part in or allow religious persecution. Some may say that the United States should not interfere in others' business. Yet the United States has always stood for personal liberties and unalienable rights. For us to stand by and be mute while thousands of people are discriminated against or killed for their faith, would be unacceptable.

Did you know that in China, a 76 year-old Protestant leader was sentenced to 15 years in prison for merely passing out bibles? And in Iran, some religious groups are denied the right to organize and worship and have no legal rights. Worst of all, in Sudan, government soldiers have systematically enslaved and murdered thousands of people because they are Christians.

I know the Freedom From Religious Persecution Act will not end suffering throughout the world. But it will put the United States on record as a nation that is concerned with the fundamental right of people to follow their faith. I am pleased to be able to support legislation that will make a real difference in the lives of those who aren't free to practice their own religion.

Mr. DINGELL. Mr. Chairman, persecution for one's religious beliefs is wrong. It should not be permitted anywhere, and this bill, the "Freedom from Religious Persecution Act," has the important and laudable goal of intending to reduce and eliminate the widespread and ongoing religious persecution taking place throughout the world today. The United States, as a world leader, should do what we can to eradicate this human rights abuse. This Nation was founded on principles of religious freedom, and we have thriving faith communities today because of our commitment to those principles. Persecution is reprehensible, and we need to pursue all appropriate ways to stop it.

The bill seeks to achieve its objective by increasing the priority attached in U.S. foreign policy to the problem of religious persecution. The bill would impose sanctions on foreign governments that carry out or condone serious religious persecution. Also, the bill would seek to increase the refugee and asylum protections available to victims of religious persecution.

While I want to end religious persecution globally, there are defects in this bill that do not permit me to support the measure as reported to the House. The bill's automatic sanctions, which include restrictions on exports and foreign assistance would be counterproductive. Further, these measures will tie the President's hands in areas of foreign policy where the executive has traditionally had discretion in the exercise of his constitutional duties and powers to promote the full range of U.S. interests—including national security, economic prosperity, and respect for all human rights.

Our laws and policies already give significant weight to human rights, and I would support strict and severe sanctions against repressive governments under current law. Further, it is unlikely that the imposition of sanctions, as provided in this bill, would have much effect on governments that are of a mind to persecute people on account of their faith.

Such automatic sanctions risk strengthening the grip of those who permit or undertake religious intolerance in their countries. Sanctions may trigger reprisals against victims as well as an end to American engagement with offending governments. Furthermore, by establishing sanctions and preferential treatment for those fleeing religious persecution alone, the bill would signal to the world that this Nation believes in a an inappropriate hierarchy of human rights violations. What about our efforts toward universal respect for all civil and political rights? Severe and violent acts of persecution on ethnic, racial, or political grounds, for example, would not invoke these sanctions or bring about procedural advantages in the immigration context.

Although some religious organizations have expressed their support for the measure, others have stated that this bill would do more harm than good for the very people it seeks to protect. Clearly, we need to foster religious tolerance and respect for all human rights around the world. But we must do it in a proper fashion that helps, not hurts those that deserve our help.

Mrs. CAPPS. Mr. Chairman, I rise today to announce that I will vote for the Freedom from Religious Persecution Act. I am compelled, however, to express some deep concerns that I have with this legislation.

Religious persecution around the world is intolerable. All people should have the freedom to express their faith without fear of retribution. Tragically, the persecution of religious communities has claimed the lives of millions of people in this century, and today continues unchecked in many countries. Clearly, steps must be taken to stop this dangerous trend and I commend the authors of this bill for raising awareness in Congress about religious persecution.

Although I strongly support the spirit of this bill, I have some questions about the legislation that we are voting on today.

My first concern is that this bill could possibly bring harm to those who suffer from religious persecution, if the government in question chooses to blame religious groups for the imposition of U.S. sanctions. We surely would not want to endanger the safety and well-being of the very people we are trying to protect.

Additionally, I am troubled that this bill establishes a "hierarchy of human rights". If passed, religious persecution—as important as it may be—would be seen as a higher priority than other human rights—such as racial discrimination, violations of women's rights, and the suppression of free speech.

Instead of establishing a new office at the White House, I wonder if it wouldn't be more efficient to leave the issue of religious freedom to be dealt with in the State Department's human rights bureau. Religious persecution is an unforgivable crime around the globe, but our efforts to combat it must not be allowed to damage our fight for other critical human rights.

I will vote in favor of this bill today, because it sends a strong message against intolerable religious persecution. But I hope when the bill is considered in the Senate, and then in conference, we can roll up our sleeves to draft a better bill, that will work not only to end these unforgivable practices, but to help those who are oppressed all around the world.

Mr. WATTS of Oklahoma. Mr. Chairman, I rise today to urge my colleagues to support of H.R. 2431, the Freedom From Religious Persecution Act. It is high time that Congress take decisive steps to stop foreign governments from jailing, torturing or killing people, just because of their religious beliefs. We must also hold accountable those nations which are aware that religious bigotry is occurring within their borders, but do nothing of consequence to stop this injustice.

This legislation would require our government to stop giving non-humanitarian foreign aid to nations that persecute people for their religious beliefs. It would also require American executives who sit on the board of international banking institutions to oppose the issuance of loans to countries that practice or support religious persecution.

The Government of Sudan is one particular big offender in this regard. Sudan's main political party, the National Islamic Front, is responsible for the deaths of an estimated 1.3 million Christians and others who failed to recognize Islam as their faith.

Of course, Sudan is not the only nation with blood on its hands. The People's Republic of China has a history of imprisoning and killing citizens who refuse to register with one of the state's official religions, institutions where worship is organized and controlled by the government.

Some countries which practice or facilitate religious persecution, such as Pakistan, may even be allies of America when it comes to national security issues. But we still have an obligation as Americans to defend freedom. Just as America fought the spread of Communism during the Cold War, today, the United States must pour its heart and soul into stopping religious persecution. One good step towards this goal is by Congress passing the Freedom From Religious Persecution Act.

Mr. NADLER, Mr. Chairman, I rise to support the Freedom from Religious Persecution Act.

This bill is vitally important to combat the violent religious persecution that is tragically occurring in many nations across the world.

We need more effective tools to end the threats of murder, torture, rape, starvation, and enslavement now faced by millions of people of faith. I believe this bill would strengthen the United States' ability to promote human rights and effectively confront regimes that are abusive to religious minorities in their countries.

However, the United States must do more to become a safe haven for those fleeing persecution. Our current expedited removal procedures for asylum seekers are inhumane, dangerous, and morally offensive.

Asylum seekers ought to have a fair hearing before an immigration judge before they are sent back to a country where they may be threatened, beaten, or even killed.

Unfortunately, the provisions in this bill that would have made our immigration policy slightly more humane were removed from the legislation. I think we are making a big mistake. In fact, the provisions that would have protected asylum seekers fleeing religious persecution should have been expanded to aid those seeking asylum based on racial persecution, ethnicity, membership in a in a social group, or political opinion.

Our nation must never turn its back on those fleeing persecution. It is offensive to our American tradition, our cultural heritage, and the very nature of our republic.

This legislation does, however, for the first time require the GAO to conduct a study of airport deportations, so that we may gather data about the abuses that may be occurring in our immigration practices. What is happening to the people we turn away? How many people are we sending to their deaths? We need this information, and I am hopeful that once we have it we can revisit our immigration policy and end the shameful practice of turning away those who are seeking asylum from persecution.

Let me reiterate that I strongly support this legislation, I only wish it were stronger. I urge my colleagues to take an important step to protect human rights worldwide and vote for this legislation.

Mr. FAZIO of California. Mr. Chairman, the right to religious freedom should be a fundamental right that every citizen enjoys.

Indeed, our nation was founded on this premise.

Yet sadly, there are nations where being a Muslim, a Jew, a Christian, or any of a number of other religions, can cause you great harm.

It's difficult for many of us who live in a nation where everyone can worship as he and she chooses without fear of persecution to even imagine the possibility of being thrown in jail or being killed because of whom you pray to.

This brutal suppression of religious freedom, of course, is reprehensible.

And President Clinton has made securing religious freedom for people of all faiths a priority in our foreign policy.

The State Department has expanded coverage of religious freedom in its annual human rights report.

And the Administration has created an Advisory Committee on Religious Freedom Abroad.

In addition, the Secretary of State will be creating a senior-level coordinator responsible for integrating religious freedom into our foreign policy.

These stepped-up actions by the Clinton Administration will help us in persuading governments to prevent limitations on religious freedom.

Our current law already provides an adequate basis for us to impose sanctions on foreign governments when we need to take tough action.

So the question is: do we continue our policy of being quietly effective, using the wide range of tools in our foreign policy toolbox to get things done—or do we engage in a policy of ranting and raving that may backfire, causing more harm than good.

Public condemnation of governments that do not provide religious freedom often is appropriate.

Our President has not been shy about using the bully pulpit to criticize governments that don't do right by their citizens.

But this bill would make condemnation automatic—a situation not always appropriate that very well might put religious prisoners and their families in further jeopardy.

It also may jeopardize our efforts in other political and economic arenas that we use to improve relations that will result in tolerance for religious diversity.

That is the wrong approach.

We should be bold in our actions without jeopardizing our foreign policy and our broad global interests.

That's why our current policy is the best route to achieving the means that all of us here want to achieve.

You can be sure that some may use this bill in the Fall campaign to position those who are against it as being against religious freedom.

Chances are that the 30-second sound bites and the direct mail pieces that say "voted against the Freedom from Religious Persecution Act" already are in the works.

It is sad that some will seek political gain on an issue so delicate, but that is the state of politics in this day and age.

Make no mistake: no one who opposes this bill believes that killing, enslaving, or jailing those who practice their faith is just.

We abhor it.

But we believe there's a smarter way to put an end to these practices.

America is the greatest nation in the world because of our leadership in foreign affairs and the bridges we have built nations around the world.

We decry religious persecution whenever we see it.

While this legislation is good intentioned, it handcuffs our ability to have the flexibility we need to end religious persecution.

Let's not put our best efforts to stop religious persecution at risk with an ill-advised policy that is blind to policies that are effective on a nation-to-nation and case-to-case business.

Allow our diplomats to work effectively to allow religious freedom around the world.

Mr. PAYNE. Mr. Chairman, I rise in support of this bill.

I cannot condone any government that abuses the rights of its citizens whether it is for abuses in the category of human rights, democracy, freedom of speech, press. Likewise religious persecution is equally as important. This is not a one-size-fits-all approach. Today people all over the world are still persecuted for their beliefs. Many are living in constant terror and some even fear for their lives.

Christians, Muslims, Jews, and many others are singled out. Even in places like Germany, China, the North of Ireland, and the Sudan people are being persecuted for their religion.

In China officials crack down on unregistered Protestant house church members simply for practicing their religious beliefs. The situation in Sudan remains intolerable. In May the Popular Defense Force of the National Islamic Front (NIF) regime raided several villages, burning homes, schools, and two churches. Furthermore, it was reported that children of the black Africans in Sudan are being enslaved and forced to change their cultural identity and become Arabic-speaking Muslims. The Christian Solidarity International (CSI) estimates that there are tens of thousands of chattel slaves still in bondage in the borderlands between northern and southern Sudan.

Sudan has often been described as one million miles of suffering. A million southern Sudanese deaths over the past decade, executions of political opponents, the thousands of slaves that are branded like cattle to show ownership combined with the capture of some 3,000 ['95 & '96] children by the Lord's Resistance Army (LRA) aided by the al-Bashir government did not go unheeded.

Violations of religious freedom in this world are innumerable. Hopefully, we will be able to live in a world where people can practice their religion peacefully without any threat or fear. Once again, I support this bill and urge my colleagues to do the same.

Mr. POSHARD. Mr. Chairman, I rise today in strong support of H.R. 2431, the "Freedom From Religious Persecution Act of 1997." As Americans, we too often take for granted the freedoms we enjoy to practice our faith and live according to our moral, ethical and spiritual beliefs. What we must not forget is that all over the world, people are being persecuted on the basis of their religious beliefs, and I believe we have an obligation to do what we can to protect them.

It seems that every day we are greeted with horrifying accounts of religious persecution, involving forced relocation, enslavement, rape, starvation, torture and even murder. Perhaps most disturbing is that these atrocities are sanctioned by and carried out under the orders of foreign governments and local authorities. It is clearly not enough to simply urge these brutal regimes to grant their citizens the same religious liberties that are enjoyed in this country, and I believe that this legislation represents a necessary step in our efforts to combat the terrible reality of religious persecution.

H.R. 2431 is a moderate and reasoned response to a serious situation. This legislation will link U.S. aid to a country's performance on religious liberty and focuses on the most egregious forms of persecution against all religious groups. It does not impose embargoes, as some of my colleagues have sought to argue, but rather provides for moderate, targeted sanctions against specific governmental entities which have direct involvement in religious persecution. In addition, the bill permits waivers for national security reasons and in situations where sanctions are deemed by the president to be counter-productive.

Mr. Chairman, I am proud to be a co-sponsor of this important legislation, and I will take great pride in casting my vote in favor of its passage. I urge my colleagues to join me in supporting the religious freedom of all of our brothers and sisters around the world by voting yes on H.R. 2431.

Mr. PORTER. Mr. Chairman, I would first like to thank my friend and colleague FRANK WOLF for his consistent and strong leadership in bringing this vital issue in front of the Congress, and for his determination to focus attention on one of the most critical human rights crises of our day, religious persecution. He has been a voice crying in the wilderness for many years, speaking out for Tibetans in China, Christians in Sudan, and Bahai's in Iran, and I am proud of the work we have done together on these and other important human rights issues. I also want to thank the leadership of the House International Relations Committee—specifically Mr. GILMAN and Mr. SMITH—for shepherding this bill through the legislative process and for their commitment to human rights.

As co-chairman of the Congressional Human Rights Caucus, I have spent many hours in hearings and briefings receiving testimony from persons all over the world who have suffered from the most serious kinds of persecution. In fact, the Caucus was founded in 1983 after I returned from a trip to the former Soviet Union, where I witnessed the harsh religious persecution practiced by that regime. I have met people who have been imprisoned, tortured, raped and who have lost loved ones as a result of religious intolerance. Today, the House has an opportunity to say to the torturers, rapists and murderers "The United States is not going to stand by and allow you to terrorize people who are engaged in the peaceful practice of their religious beliefs." I call on all of my colleagues to join me in supporting this important legislation.

There has been a great deal of talk about what H.R. 2431 does and does not do. Once you cut through all of the hyperbole, it is clear that this is a reasonable and modest approach to a very serious issue. No government on this planet should receive U.S. assistance if they are engaged in the type of gross violations of human rights that are specified in this bill. No government should fail to take action against those who perpetrate these abuses, and continue to receive the benefit of U.S. foreign aid. In these times of fiscal constraint, America's foreign assistance programs have been cut to the bone. Every year, worthy projects and applicants go unfunded due to a lack of funds. In this climate, it is morally and fiscally reprehensible to allow abusive or grossly negligent regimes to receive aid. H.R. 2431 remedies this situation without punishing the innocent victims because it only cuts off non-humanitarian aid. This is an even-handed and compassionate response to the abuse of human rights.

I urge all Members to vote for this bill and send our support to those who suffer for their faith in silence and obscurity around the world.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of H.R. 3806, modified by the amendments printed in part 1 of House Report 105–534, is considered as an original bill for the purpose of amendment under the 5-minute rule and is considered read.

The text of the amendment in the nature of a substitute, as modified, is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Freedom From Religious Persecution Act of 1998".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress makes the following findings:

(1) Governments have a primary responsibility to promote, encourage, and protect respect for the fundamental and internationally recognized right to freedom of religion.

(2)(A) Since its inception, the United States Government has rested upon certain founding principles. One of those principles is that all people have the inalienable right to worship freely, which demands that religion be protected from unnecessary government intervention. The Founding Fathers of the United States incorporated that principle in the Declaration of Independence, which states that mankind has the inalienable right to "life, liberty, and the pursuit of happiness", and in the United States Constitution, the first amendment to which states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof". Therefore, in accordance with this belief in the inalienable right of freedom of religion for all people, as expressed by the Declaration of Independence, and the belief that religion should be protected from government interference, as expressed by the United States

Constitution, the Congress opposes international religious persecution and believes that the policies of the United States Government and its relations with foreign governments should be consistent with the commitment to this principle.

(B) Numerous international agreements and covenants also identify mankind's inherent right to freedom of religion. These include the following:

(i) Article 18 of the Universal Declaration of Human Rights states that "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance".

(ii) Article 18 of the Covenant on Civil and Political Rights declares that "Everyone shall have the right to freedom of thought, conscience, and religion . . ." and further delineates the privileges under this right.

(iii) The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief, adopted by the United Nations General Assembly on November 25, 1981, declares that "religion or belief, for anyone who professes either, is one of the fundamental elements in his conception of life . . ." and that "freedom of religion and belief should also contribute to the attainment of the goals of world peace, social justice and friendship among peoples and to the elimination of ideologies or practices of colonialism and racial discrimination".

(iv) The Concluding Document of the Third Follow-Up Meeting of the Organization for Security and Cooperation in Europe commits states to "ensure in their laws and regulations and in their application the full and effective exercise of the freedom of thought, conscience, religion or belief".

(3) Persecution of religious believers, particularly Roman Catholic and evangelical Protestant Christians, in Communist countries persists and in some cases is increasing.

(4) In many countries and regions thereof, governments dominated by extremist movements persecute non-Muslims and religious converts from Islam using means such as "blasphemy" and "apostasy" laws, and such movements seek to corrupt a historically tolerant Islamic faith and culture through the persecution of Baha'is, Christians, and other religious minorities.

(5) The extremist Government of Sudan is waging a self-described religious war against Christians, other non-Muslims, and moderate Muslims by using torture, starvation, enslavement, and murder.

(6) In Tibet, where Tibetan Buddhism is inextricably linked to the Tibetan identity, the Government of the People's Republic of China has intensified its control over the Tibetan people by interfering in the selection of the Panchen Lama, propagandizing against the religious authority of the Dalai Lama, restricting religious study and traditional religious practices, and increasing the persecution of monks and nuns.

(7) In Xinjiang Autonomous Region of China, formerly the independent republic of East Turkistan, where the Muslim religion is inextricably linked to the dominant Uyghur culture, the Government of the People's Republic of China has intensified its control over the Uyghur people by systematically repressing religious authority, restricting religious study and traditional practices, destroying mosques, and increasing the persecution of religious clergy and practitioners.

(8) In countries around the world, Christians, Jews, Muslims, Hindus, and other religious believers continue to be persecuted on account of their religious beliefs, practices, and affiliations.

(9) The 104th Congress recognized the facts set forth in this section and stated clearly the sense of the Senate and the House of Representatives regarding these matters in approving—

(A) House Resolution 515, expressing the sense of the House of Representatives with respect to the persecution of Christians worldwide;

(B) S. Con. Res. 71, expressing the sense of the Senate with respect to the persecution of Christians worldwide;

(C) H. Con. Res. 102, concerning the emancipation of the Iranian Baha'i community; and

(D) section 1303 of H.R. 1561, the Foreign Relations Authorization Act, Fiscal Years 1996 and 1997.

(10) The Department of State, in a report to Congress filed pursuant to House Report 104–863, accompanying the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208) set forth strong evidence that widespread and ongoing religious persecution is occurring in a number of countries around the world.

(11)(A)(i) In recent years there have been successive terrorist attempts to desecrate and destroy the premises of the Ecumenical Patriarchate in the Fanar area of Istanbul (Constantinople), Turkey.

(ii) Attempts against the Ecumenical Patriarchate have intensified, including the following:

(I) On September 30, 1996, a hand grenade was thrown into the headquarters of the Eastern Orthodox Patriarchate and exploded, causing damage to the physical structure of the grounds, most notably the Agios Georgios Church.

(II) On May 28, 1994, three powerful bombs were discovered in the living quarters of the Patriarch, and were subsequently defused only minutes before they were set to detonate.

(III) In July and August 1993, the Christian Orthodox cemetery in Yenikoy, near Istanbul, was attacked by vandals and desecrated.

(iii) His All Holiness Patriarch Bartholomew and those associated with the Ecumenical Patriarchate are Turkish citizens and thus must be protected under Turkish law against blatant and unprovoked attacks toward ethnic minorities.

(iv) The Turkish Government arbitrarily closed the Halki Patriarchal School of Theology in 1971.

(v) The Ecumenical Patriarchate is the spiritual center for more than 250,000,000 Orthodox Christians worldwide, including approximately 5,000,000 in the United States.

(vi) It is in the best interest of the United States to prevent further incidents regarding the Ecumenical Patriarchate and in the overall goals of the United States to establish peaceful relations with and among the many important nations of the world that have substantial Orthodox Christian populations.

(B) It is the sense of the Congress that—

(i) the United States should use its influence with the Turkish Government and as a permanent member of the United Nations Security Council to suggest that the Turkish Government—

(I) ensure proper protection for the Patriarchate and all of the Orthodox faithful residing in Turkey;

(II) provide for the proper protection and safety of the Ecumenical Patriarch and Patriarchate personnel;

(III) establish conditions that would prevent the recurrence of past terrorist activities and vandalism and other personal threats against the Patriarch;

(IV) establish conditions to ensure that the Patriarchate is free to carry out its religious mission; and

(V) do everything possible to find and punish the perpetrators of any provocative and terrorist acts against the Patriarchate; and

(ii) the Secretary of State should report to the Congress on an annual basis on the status and progress of the concerns expressed in clause (i).

(b) PURPOSE.—It is the purpose of this Act to reduce and eliminate the widespread and ongoing religious persecution taking place throughout the world today.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) DIRECTOR.—The term "Director" means the Director of the Office of Religious Persecution Monitoring established under section 5.

(2) LEGISLATIVE DAY.—The term "legislative day" means a day on which both Houses of Congress are in session.

(3) PERSECUTED COMMUNITY.—The term "persecuted community" means any religious group or denomination whose members have been found to be subject to category 1 or category 2 persecution in the latest annual report submitted under section 6(a) or in any interim report submitted thereafter under section 6(c) before the next annual report.

(4) PERSECUTION FACILITATING PRODUCTS.—The term "persecution facilitating products" means those crime control, detection, torture, and electroshock instruments and equipment (as determined under section 6(n) of the Export Administration Act of 1979) that are directly and substantially used or intended for use in carrying out acts of persecution described in paragraphs (5) and (6).

(5) CATEGORY 1 PERSECUTION.—The term "category 1 persecution" means widespread and ongoing persecution of persons on account of their religious beliefs or practices, or membership in or affiliation with a religion or religious group or denomination, whether officially recognized or otherwise, when such persecution—

(A) includes abduction, enslavement, killing, imprisonment, forced mass relocation, rape, crucifixion or other forms of torture, or the systematic imposition of fines or penalties which have the purpose and effect of destroying the economic existence of persons on whom they are imposed; and

(B) is conducted with the involvement or support of government officials or agents, or pursuant to official government policy.

(6) CATEGORY 2 PERSECUTION.—The term "category 2 persecution" means widespread and ongoing persecution of persons on account of their religious beliefs or practices, or membership in or affiliation with a religion or religious group or denomination, whether officially recognized or otherwise, when such persecution—

(A) includes abduction, enslavement, killing, imprisonment, forced mass relocation, rape, crucifixion or other forms of torture, or the systematic imposition of fines or penalties which have the purpose and effect of destroying the economic existence of persons on whom they are imposed; and

(B) is not conducted with the involvement or support of government officials or agents, or pursuant to official government policy, but which the government fails to undertake serious and sustained efforts to eliminate, being able to do so.

(7) RESPONSIBLE ENTITIES.—The term "responsible entities" means the specific government units, as narrowly defined as practicable, which directly carry out the acts of persecution described in paragraphs (5) and (6).

(8) SANCTIONED COUNTRY.—The term "sanctioned country" means a country on which sanctions have been imposed under section 7.

(9) UNITED STATES ASSISTANCE.—The term "United States assistance" means—

(A) any assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation), other than—

(i) assistance under chapter 8 of part I of that Act;

(ii) any other narcotics-related assistance under part I of that Act or under chapter 4 or 5 of part II of that Act, but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act;

(iii) disaster relief assistance, including any assistance under chapter 9 of part I of that Act;

(iv) antiterrorism assistance under chapter 8 of part II of that Act;

(v) assistance which involves the provision of food (including monetization of food) or medicine;

(vi) assistance for refugees; and

(vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10 of that Act;

(B) sales, or financing on any terms, under the Arms Export Control Act, other than sales or financing provided for narcotics-related purposes following notification in accordance with the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961; and

(C) financing under the Export-Import Bank Act of 1945.

(10) UNITED STATES PERSON.—The term "United States person" means—

(A) any United States citizen or alien lawfully admitted for permanent residence into the United States; and

(B) any corporation, partnership, or other entity organized under the laws of the United States or of any State, the District of Columbia, or any territory or possession of the United States.

SEC. 4. APPLICATION AND SCOPE.

The responsibility of the Secretary of State under section 5(g) to determine whether category 1 or category 2 persecution exists, and to identify persons and communities that are subject to such persecution, extends to—

(1) all foreign countries in which alleged violations of religious freedom have been set forth in the latest annual report of the Department of State on human rights under sections 116(d) and 502(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)); and

(2) such other foreign countries in which, either as a result of referral by an independent human rights group or nongovernmental organization in accordance with section 5(e)(2) or otherwise, the Director has reason to believe category 1 or category 2 persecution may exist.

SEC. 5. OFFICE OF RELIGIOUS PERSECUTION MONITORING.

(a) ESTABLISHMENT.—There shall be established in the Department of State the Office of Religious Persecution Monitoring (hereafter in this Act referred to as the "Office").

(b) APPOINTMENT.—The head of the Office shall be a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall receive compensation at a rate of pay not to exceed the rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) REMOVAL.—The Director shall serve at the pleasure of the President.

(d) BARRED FROM OTHER FEDERAL POSITIONS.—No person shall serve as Director while serving in any other position in the Federal Government.

(e) RESPONSIBILITIES OF DIRECTOR.—The Director shall do the following:

(1) Consider information regarding the facts and circumstances of violations of religious freedom presented in the annual reports of the Department of State on human rights under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)).

(2) Make findings of fact on violations of religious freedom based on information—

(A) considered under paragraph (1); or

(B) presented by independent human rights groups, nongovernmental organizations, or other interested parties, at any stage of the process provided in this Act.

When appropriate, the Director may hold public hearings subject to notice at which such groups, organizations, or other interested parties can present testimony and evidence of acts of persecution occurring in countries being examined by the Office.

(3) On the basis of information and findings of fact described in paragraphs (1) and (2), make recommendations to the Secretary of State for consideration by the Secretary in making determinations of countries in which there is category 1 or category 2 persecution under subsection (g), identify the responsible entities within such countries, and prepare and submit the annual report described in section 6.

(4) Maintain the lists of persecution facilitating products, and the responsible entities within countries determined to be engaged in persecution described in paragraph (3), revising the lists in accordance with section 6(c) as additional information becomes available. These lists shall be published in the Federal Register.

(5) In consultation with the Secretary of State, make policy recommendations to the President regarding the policies of the United States Government toward governments which are determined to be engaged in religious persecution.

(6) Report directly to the President and the Secretary of State, and coordinate with the appropriate officials of the Department of State, the Department of Justice, the Department of Commerce, and the Department of the Treasury, to ensure that the provisions of this Act are fully and effectively implemented.

(f) ADMINISTRATIVE MATTERS.—

(1) PERSONNEL.—The Director may appoint such personnel as may be necessary to carry out the functions of the Office.

(2) SERVICES OF OTHER AGENCIES.—The Director may use the personnel, services, and facilities of any other department or agency, on a reimbursable basis, in carrying out the functions of the Office.

(g) RESPONSIBILITIES OF THE SECRETARY OF STATE.—The Secretary of State, in time for inclusion in the annual report described in subsections (a) and (b) of section 6, shall determine with respect to each country described in section 4 whether there is category 1 or category 2 persecution, and shall include in each such determination the communities against which such persecution is directed. Any determination in any interim report described in subsection (c) of section 6 that there is category 1 or category 2 persecution in a country shall be made by the Secretary of State.

SEC. 6. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—Not later than April 30 of each year, the Director shall submit to the Committees on Foreign Relations, the Judiciary, Appropriations, and Banking, Housing, and Urban Affairs of the Senate and to the Committees on International Relations, the Judiciary, Appropriations, and Banking and Financial Services of the House of Representatives a report described in subsection (b).

(b) CONTENTS OF ANNUAL REPORT.—The annual report of the Director shall include the following:

(1) DETERMINATION OF RELIGIOUS PERSECUTION.—A copy of the determinations of the Secretary of State pursuant to subsection (g) of section 5.

(2) IDENTIFICATION OF PERSECUTION FACILITATING PRODUCTS.—With respect to each country in which the Secretary of State has determined that there is either category 1 or category 2 persecution, the Director, in consultation with the Secretary of Commerce, shall identify and list the items on the list established under section 6(n) of the Export Administration Act of 1979 that are directly and substantially used or intended for use in carrying out acts of religious persecution in such country.

(3) IDENTIFICATION OF RESPONSIBLE ENTITIES.—With respect to each country in which the Secretary of State has determined that there is category 1 persecution, the Director shall identify and list the responsible entities within that country that are engaged in such persecution. Such entities shall be defined as narrowly as possible.

(4) OTHER REPORTS.—The Director shall include the reports submitted to the Director by the Attorney General under section 9 and by the Secretary of State under section 10.

(c) INTERIM REPORTS.—The Director may submit interim reports to the Congress containing such matters as the Director considers necessary, including revisions to the lists issued under paragraphs (2) and (3) of subsection (b). The Director shall submit an interim report in the case of a determination by the Secretary of State under section 5(g), other than in an annual report of the Director, that category 1 or category 2 persecution exists, or in the case of a determination by the Secretary of State under section 11(a) that neither category 1 or category 2 persecution exists.

(d) PERSECUTION IN REGIONS OF A COUNTRY.—In determining whether category 1 or category 2 persecution exists in a country, the Secretary of State shall include such persecution that is limited to one or more regions within the country, and shall indicate such regions in the reports described in this section.

SEC. 7. SANCTIONS.

(a) PROHIBITION ON EXPORTS RELATING TO RELIGIOUS PERSECUTION.—

(1) ACTIONS BY RESPONSIBLE DEPARTMENTS AND AGENCIES.—With respect to any country in which—

(A) the Secretary of State finds the occurrence of category 1 persecution, the Director shall so notify the relevant United States departments and agencies, and such departments and agencies shall—

(i) prohibit all exports to the responsible entities identified in the lists issued under subsections (b)(3) and (c) of section 6; and

(ii) prohibit the export to such country of the persecution facilitating products identified in the lists issued under subsections (b)(2) and (c) of section 6; or

(B) the Secretary of State finds the occurrence of category 2 persecution, the Director shall so notify the relevant United States departments and agencies, and such departments and agencies shall prohibit the export to such country of the persecution facilitating products identified in the lists issued under subsections (b)(2) and (c) of section 6.

(2) Prohibitions on U.S. persons.—(A) With respect to any country in which the Secretary of State finds the occurrence of category 1 persecution, no United States person may—

(i) export any item to the responsible entities identified in the lists issued under subsections (b)(3) and (c) of section 6; and

(ii) export to that country any persecution facilitating products identified in the lists issued under subsections (b)(2) and (c) of section 6.

(B) With respect to any country in which the Secretary of State finds the occurrence of category 2 persecution, no United States person may export to that country any persecution facilitating products identified in the lists issued under subsections (b)(2) and (c) of section 6.

(3) Penalties.—Any person who knowingly violates the provisions of paragraph (2) shall be subject to the penalties set forth in subsections (a) and (b)(1) of section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16 (a) and (b)(1)) for violations under that Act.

(4) Effective date of prohibitions.—The prohibitions on exports under paragraphs (1) and (2) shall take effect with respect to a country 90 days after the date on which—

(A) the country is identified in a report of the Director under section 6 as a country in which category 1 or category 2 persecution exists,

(B) responsible entities are identified in that country in a list issued under subsection (b)(3) or (c) of section 6, or

(C) persecution facilitating products are identified in a list issued under subsection (b)(2) or (c) of section 6,

as the case may be.

(b) United States Assistance.—

(1) Category 1 persecution.—No United States assistance may be provided to the government of any country which the Secretary of State determines is engaged in category 1 persecution, effective 90 days after the date on which the Director submits the report in which the determination is included.

(2) Category 2 persecution.—No United States assistance may be provided to the government of any country in which the Secretary of State determines that there is category 2 persecution, effective 1 year after the date on which the Director submits the report in which the determination is included, if the Secretary of State, in the next annual report of the Director under section 6, determines that the country is engaged in category 1 persecution or that category 2 persecution exists in that country.

(c) Multilateral Assistance.—

(1) Category 1 persecution.—With respect to any country which the Secretary of State determines is engaged in category 1 persecution, the President shall instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and use his or her best efforts to deny, any loan or other utilization of the funds of their respective institutions to that country (other than for humanitarian assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit on the government of that country), effective 90 days after the Director submits the report in which the determination is included.

(2) Category 2 persecution.—With respect to any country in which the Secretary of State determines there is category 2 persecution, the President shall instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and use his or her best efforts to deny, any loan or other utilization of the funds of their respective institutions to that country (other than for humanitarian assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit on the government of that country), effective 1 year after the date on which the Director submits the report in which the determination is included, if the Secretary of State, in the next annual report of the Director under section 6, determines that the country is engaged in category 1 persecution or that category 2 persecution exists in that country.

(3) Reports to congress.—If a country described in paragraph (1) or (2) is granted a loan or other utilization of funds notwithstanding the objection of the United States under this subsection, the Secretary of the Treasury shall report to the Congress on the efforts made to deny loans or other utilization of funds to that country, and shall include in the report specific and explicit recommendations designed to ensure that such loans or other utilization of funds are denied to that country in the future.

(4) Definition.—As used in this subsection, the term "multilateral development bank" means any of the multilateral development banks as defined in section 1701(c)(4) of the International Financial Institutions Act (22 U.S.C. 262r(c)(4)).

(d) Relationship to Other Provisions.—The effective dates of the sanctions provided in this section are subject to sections 8 and 11.

(e) Duly Authorized Intelligence Activities.—The prohibitions and restrictions of this section shall not apply to the conduct of duly authorized intelligence activities of the United States Government.

(f) Effect on Existing Contracts.—The imposition of sanctions under this section shall not affect any contract that is entered into by the Overseas Private Investment Corporation before the sanctions are imposed, is in force on the date on which the sanctions are imposed, and is enforceable in a court of law on such date.

(g) Effect of Waivers.—Any sanction under this section shall not take effect during the period after the President has notified the Congress of a waiver of that sanction under section 8 and before the waiver has taken effect under that section.

SEC. 8. WAIVER OF SANCTIONS.

(a) Waiver Authority.—Subject to subsection (b), the President may waive the imposition of any sanction against a country under section 7 for periods of not more than 12 months each, if the President, for each waiver—

(1) determines—

(A) that the national security interests of the United States justify such a waiver; or

(B) that such a waiver will substantially promote the purposes of this Act as set forth in section 2; and

(2) provides to the Committees on Foreign Relations, Finance, the Judiciary, and Appropriations of the Senate and to the Committees on International Relations, the Judiciary, and Appropriations of the House of Representatives a written notification of the President's intention to waive any such sanction.

The notification shall contain an explanation of the reasons why the President considers the waiver to be necessary, the type and amount of goods, services, or assistance to be provided pursuant to the waiver, and the period of time during which such a waiver will be effective. When the President considers it appropriate, the explanation under the preceding sentence, or any part of the explanation, may be submitted in classified form.

(b) Additional Information.—In the case of a waiver under subsection (a)(1)(B), the notification shall contain a detailed statement of the facts particular to the country subject to the waiver which justifies the President's determination, and of the alternative measures the President intends to implement in order to achieve the objectives of this Act.

(c) Taking Effect of Waiver.—

(1) In general.—Subject to paragraph (2), a waiver under subsection (a) shall take effect 45 days after its submission to the Congress, or on the day after the 15th legislative day after such submission, whichever is later.

(2) In emergency conditions.—The President may waive the imposition of sanctions against a country under subsection (b) or (c) of section 7 to take effect immediately if the President, in the written notification of intention to waive the sanctions, certifies that emergency conditions exist that make an immediate waiver necessary.

(d) Sense of Congress.—It is the sense of Congress that in order to achieve the objectives of this Act, the waiver authority provided in this section should be used only in extraordinary circumstances.

SEC. 9. MODIFICATION OF IMMIGRATION POLICY.

(a) Inadmissibility of Certain Participants in Religious Persecution.—

(1) In general.—Section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)) is amended by adding at the end the following:

"(F) Participants in religious persecution.—Any alien who carried out or directed the carrying out of category 1 persecution (as defined in section 3 of the Freedom from Religious Persecution Act of 1998) or category 2 persecution (as so defined) is inadmissible.".

(2) Applicability.—The amendment made by paragraph (1) shall apply to persecution occurring before, on, or after the date of the enactment of this Act.

(b) Refugees.—

(1) Guidelines for addressing bias affecting refugees.—Not later than 180 days after the date of the enactment of this Act, the Attorney General and the Secretary of State shall jointly promulgate and implement guidelines for identifying and addressing improper biases, affecting the treatment of persons who may be eligible for admission into the United States as a refugee based

upon a claim of persecution or a well-founded fear of persecution on account of religion, on the part of—

(A) immigration officers adjudicating applications for admission as a refugee submitted by such persons and interpreters assisting immigration officers in adjudicating such applications; and

(B) individuals and entities assisting in the identification of such persons and the preparation of such applications.

(2) ADMISSION PRIORITY.—For purposes of section 207(a)(3) of the Immigration and Nationality Act, an individual who is a member of a persecuted community, and is determined by the Attorney General to be a refugee within the meaning of section 101(a)(42)(A) of the Immigration and Nationality Act, shall be considered a refugee of special humanitarian concern to the United States. In carrying out such section 207(a)(3), applicants for refugee status who are members of a persecuted community shall be given priority status equal to that given to applicants who are members of other specific groups of special concern to the United States. This paragraph shall be construed only to require that members of a persecuted community be accorded equal consideration in determining admissions under section 207(a) of such Act, and shall not be construed to require that any particular individual or group be admitted under that section.

(3) NO EFFECT ON OTHERS' RIGHTS.—Nothing in this section, or any amendment made by this section, shall be construed to deny any applicant for asylum or refugee status (including any applicant who is not a member of a persecuted community but whose claim is based on race, religion, nationality, membership in a particular social group, or political opinion) any right, privilege, protection, or eligibility otherwise provided by law.

(4) NO DISPLACEMENT OF OTHER REFUGEES.—Refugees admitted to the United States as a result of the procedures set forth in this section shall not displace other refugees in need of resettlement who would otherwise have been admitted in accordance with existing law and procedures.

(5) PERIOD FOR PUBLIC COMMENT AND REVIEW.—Section 207(d) of the Immigration and Nationality Act is amended by adding at the end the following:

"(4)(A) Notwithstanding any other provision of law, prior to each annual determination regarding refugee admissions under this subsection, there shall be a period of public review and comment, particularly by appropriate nongovernmental organizations, churches, and other religious communities and organizations, and the general public.

"(B) Nothing in this paragraph may be construed to apply subchapter II of chapter 5 of title 5, United States Code, to the period of review and comment referred to in subparagraph (A).".

(c) ASYLEES.—

(1) GUIDELINES FOR ADDRESSING BIAS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall develop and implement guidelines for identifying and addressing improper biases, affecting the treatment of persons who may be eligible for asylum in the United States, based upon a claim of persecution or a well-founded fear of persecution on account of religion, on the part of immigration officers carrying out functions under section 208 or 235 of the Immigration and Nationality Act and interpreters assisting immigration officers in carrying out such functions.]

(2) STUDIES OF EFFECT OF EXPEDITED REMOVAL PROVISIONS ON ASYLUM CLAIMS.—

(A) STUDIES.—

(i) PARTICIPATION BY UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.—The Attorney General shall invite the United Nations High Commissioner for Refugees to conduct a study, alone or in cooperation with the Comptroller General of the United States (as determined in the discretion of the United Nations High Commissioner for Refugees), to determine whether immigration officers described in clause (ii) are engaging in any of the conduct described in such clause.

(ii) DUTIES OF COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct a study, alone or, upon request by the United Nations High Commissioner for Refugees, in cooperation with the United Nations High Commissioner for Refugees, to determine whether immigration officers performing duties under section 235(b) of the Immigration and Nationality Act with respect to aliens who may be eligible to be granted asylum are engaging in any of the following conduct:

(I) Improperly encouraging such aliens to withdraw their applications for admission.

(II) Incorrectly failing to refer such aliens for an interview by an asylum officer for a determination of whether they have a credible fear of persecution (within the meaning of section 235(b)(1)(B)(v) of such Act).

(III) Incorrectly removing such aliens to a country where they may be persecuted.

(IV) Detaining such aliens improperly or in inappropriate conditions.

(B) REPORTS.—

(i) PARTICIPATION BY UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.—The United Nations High Commissioner for Refugees may submit to the committees described in clause (ii) a report containing the results of a study conducted under subparagraph (A)(i) or, if the United Nations High Commissioner for Refugees elected to participate in the study conducted under subparagraph (A)(ii), may submit with the Comptroller General of the United States a report under clause (ii).

(ii) DUTIES OF COMPTROLLER GENERAL.—Not later than September 30, 1999, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate a report containing the results of the study conducted under subparagraph (A)(ii). If the United Nations High Commissioner for Refugees requests to participate with the Comptroller General in the preparation and submission of the report, the Comptroller General shall grant the request.

(C) ACCESS TO PROCEEDINGS.—

(i) IN GENERAL.—Except as provided in clause (ii), to facilitate the studies and reports, the Attorney General shall permit the United Nations High Commissioner for Refugees and the Comptroller General of the United States to have unrestricted access to all stages of all proceedings conducted under section 235(b).

(ii) EXCEPTIONS.—Clause (i) shall not apply in cases in which the alien objects to such access, or the Attorney General determines that the security of a particular proceeding would be threatened by such access, so long as any restrictions on the United Nations High Commissioner for Refugees' access under this subparagraph do not contravene international law.

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1999 to carry out this paragraph not to exceed $1,000,000 to the Attorney General (for a United States contribution to the Office of the United Nations High Commission for Refugees for the activities of the United Nations High Commissioner for Refugees under this paragraph) and not to exceed $1,000,000 to the Comptroller General of the United States.

(d) TRAINING.—

(1) TRAINING ON RELIGIOUS PERSECUTION.—The Attorney General shall provide training regarding religious persecution to all immigration officers and immigration judges adjudicating applications for admission as a refugee or asylum applications, including—

(A) country-specific instruction on the practices and beliefs of religious groups, and on the methods of governmental and nongovernmental persecution employed on account of religious practices and beliefs; and

(B) other relevant information contained in the most recent annual report submitted by the Director to the Congress under section 6.

(2) INSTRUCTION BY NONGOVERNMENTAL EXPERTS.—It is the sense of the Congress that the Attorney General, in carrying out paragraph (1)(A), should include in the training under the paragraph, where practicable, instruction by nongovernmental experts on religious persecution.

(3) TRAINING FOR IMMIGRATION OFFICERS ADJUDICATING REFUGEE APPLICATIONS.—Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) is amended by adding at the end the following:

"(f) The Attorney General shall provide training in country conditions, refugee law, and interview techniques, comparable to that provided to full-time adjudicators of applications under section 208, to all immigration officers adjudicating applications for admission as a refugee under this section.".

(e) REPORTING.—Not later than March 30 of each year, the Attorney General shall provide to the Director, for inclusion in the Director's annual report under section 6(b)(4), a report containing the following:

(1) With respect to the year that is the subject of the report, the number of applicants for asylum or refugee status whose applications were based, in whole or in part, on religious persecution.

(2) In the case of such applications, the number that were proposed to be denied, and the number that were finally denied.

(3) In the case of such applications, the number that were granted.

(4) A description of other developments with respect to the adjudication of applications for asylum or refugee status that were based, in whole or in part, on religious persecution.

(5) A description of the training conducted for immigration officers and immigration judges under subsection (d)(1), including a list of speakers and materials used in such training and the number of immigration officers and immigration judges who received such training.

(6) A description of the development and implementation of anti-bias guidelines under subsections (b)(1) and (c)(1).

SEC. 10. STATE DEPARTMENT HUMAN RIGHTS REPORTS.

(a) ANNUAL HUMAN RIGHTS REPORT.—In preparing the annual reports of the State Department on human rights under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)), the Secretary of State shall, in the section on religious freedom—

(1) consider the facts and circumstances of the violation of the right to freedom of religion presented by independent human rights groups and nongovernmental organizations;

(2) report on the extent of the violations of the right to freedom of religion, specifically including whether the violations arise from governmental or nongovernmental sources, and whether the violations are encouraged by the government or whether the government fails to exercise satisfactory efforts to control such violations;

(3) report on whether freedom of religion violations occur on a nationwide, regional, or local level; and

(4) identify whether the violations are focused on an entire religion or on certain denominations or sects.

(b) TRAINING.—The Secretary of State shall—

(1) institute programs to provide training for chiefs of mission as well as Department of State officials having reporting responsibilities regarding the freedom of religion, which shall include training on—

(A) the fundamental components of the right to freedom of religion, the variation in beliefs of religious groups, and the governmental and nongovernmental methods used in the violation of the right to freedom of religion; and

(B) the identification of independent human rights groups and nongovernmental organizations with expertise in the matters described in subparagraph (A); and

(2) submit to the Director, not later than January 1 of each year, a report describing all training provided to Department of State officials with respect to religious persecution during the preceding 1-year period, including a list of instructors and materials used in such training and the number and rank of individuals who received such training.

SEC. 11. TERMINATION OF SANCTIONS.

(a) TERMINATION.—The sanctions described in section 7 shall cease to apply with respect to a sanctioned country 45 days, or the day after the 15th legislative day, whichever is later, after the Director, in an annual report described in section 6(b), does not include a determination by the Secretary of State that the sanctioned country is among those in which category 1 or category 2 persecution continues to exist, or in an interim report under section 6(c), includes a determination by the Secretary of State that neither category 1 nor category 2 persecution exists in such country.

(b) WITHDRAWAL OF FINDING.—Any determination of the Secretary of State under section 5(g) may be withdrawn before taking effect if the Secretary makes a written determination, on the basis of a preponderance of the evidence, that the country substantially eliminated any category 1 or category 2 persecution that existed in that country. The Director shall submit to the Congress each determination under this subsection.

SEC. 12. SANCTIONS AGAINST SUDAN.

(a) EXTENSION OF SANCTIONS UNDER EXISTING LAW.—Any sanction imposed on Sudan because of a determination that the government of that country has provided support for acts of international terrorism, including—

(1) export controls imposed pursuant to the Export Administration Act of 1979;

(2) prohibitions on transfers of munitions under section 40 of the Arms Export Control Act;

(3) the prohibition on assistance under section 620A of the Foreign Assistance Act of 1961;

(4) section 2327(b) of title 10, United States Code;

(5) section 6 of the Bretton Woods Agreements Act Amendments, 1978 (22 U.S.C. 286e–11); and

(6) section 527 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (as contained in Public Law 105–118);

shall continue in effect after the enactment of this Act until the Secretary of State determines that Sudan has substantially eliminated religious persecution in that country, or the determination that the government of that country has provided support for acts of international terrorism is no longer in effect, whichever occurs later.

(b) ADDITIONAL SANCTIONS ON SUDAN.—Effective 90 days after the date of the enactment of this Act, the following sanctions (to the extent not covered under subsection (a)) shall apply with respect to Sudan:

(1) PROHIBITION ON FINANCIAL TRANSACTIONS WITH GOVERNMENT OF SUDAN.—

(A) OFFENSE.—Any United States person who knowingly engages in any financial transaction, including any loan or other extension of credit, directly or indirectly, with the Government of Sudan shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 10 years, or both.

(B) DEFINITIONS.—As used in this paragraph:

(i) FINANCIAL TRANSACTION.—The term "financial transaction" has the meaning given that term in section 1956(c)(4) of title 18, United States Code.

(ii) UNITED STATES PERSON.—The term "United States person" means—

(I) any United States citizen or national;

(II) any alien lawfully admitted into the United States for permanent residence;

(III) any juridical person organized under the laws of the United States; and

(IV) any person in the United States.

(2) PROHIBITIONS ON UNITED STATES EXPORTS TO SUDAN.—

(A) PROHIBITION ON COMPUTER EXPORTS.—No computers, computer software, or goods or technology intended to manufacture or service computers may be exported to or for use of the Government of Sudan.

(B) REGULATIONS OF THE SECRETARY OF COMMERCE.—The Secretary of Commerce may prescribe such regulations as may be necessary to carry out subparagraph (A).

(C) PENALTIES.—Any person who violates this paragraph shall be subject to the penalties provided in section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410) for violations under that Act.

(3) PROHIBITION ON NEW INVESTMENT IN SUDAN.—

(A) PROHIBITION.—No United States person may, directly or through another person, make any new investment in Sudan that is not prohibited by paragraph (1).

(B) REGULATIONS.—The Secretary of Commerce may prescribe such regulations as may be necessary to carry out subparagraph (A).

(C) PENALTIES.—Any person who violates this paragraph shall be subject to the penalties provided in section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410) for violations under that Act.

(4) AVIATION RIGHTS.—

(A) AIR TRANSPORTATION RIGHTS.—The Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned or controlled, directly or indirectly, by the Government of Sudan or operating pursuant to a contract with the Government of Sudan from engaging in air transportation with respect to the United States, except that such aircraft shall be allowed to land in the event of an emergency for which the safety of an aircraft's crew or passengers is threatened.

(B) TAKEOFFS AND LANDINGS.—The Secretary of Transportation shall prohibit the takeoff and landing in Sudan of any aircraft by an air carrier owned, directly or indirectly, or controlled by a United States person, except that such aircraft shall be allowed to land in the event of an emergency for which the safety of an aircraft's crew or passengers is threatened, or for humanitarian purposes.

(C) TERMINATION OF AIR SERVICE AGREEMENTS.—To carry out subparagraphs (A) and (B), the Secretary of State shall terminate any agreement between the Government of Sudan and the Government of the United States relating to air services between their respective territories.

(D) DEFINITIONS.—For purposes of this paragraph, the terms "aircraft", "air transportation", and "foreign air carrier" have the meanings given those terms in section 40102 of title 49, United States Code.

(5) PROHIBITION ON PROMOTION OF UNITED STATES TOURISM.—None of the funds appropriated or otherwise made available by any provision of law may be available to promote United States tourism in Sudan.

(6) GOVERNMENT OF SUDAN BANK ACCOUNTS.—

(A) PROHIBITION.—A United States depository institution may not accept, receive, or hold a deposit account from the Government of Sudan, except for such accounts which may be authorized by the President for diplomatic or consular purposes.

(B) ANNUAL REPORTS.—The Secretary of the Treasury shall submit annual reports to the Congress on the nature and extent of assets held in the United States by the Government of Sudan.

(C) DEFINITION.—For purposes of this paragraph, the term "depository institution" has the meaning given that term in section 19(b)(1) of the Act of December 23, 1913 (12 U.S.C. 461(b)(1)).

(7) PROHIBITION ON UNITED STATES GOVERNMENT PROCUREMENT FROM SUDAN.—

(A) PROHIBITION.—No department, agency, or any other entity of the United States Government may enter into a contract for the procurement of goods or services from parastatal organizations of Sudan, except for items necessary for diplomatic or consular purposes.

(B) DEFINITION.—As used in this paragraph, the term "parastatal organization of Sudan" means a corporation, partnership, or entity owned, controlled, or subsidized by the Government of Sudan.

(8) PROHIBITION ON UNITED STATES APPROPRIATIONS FOR USE AS INVESTMENTS IN OR TRADE SUBSIDIES FOR SUDAN.—None of the funds appropriated or otherwise made available by any provision of law may be available for any new investment in, or any subsidy for trade with, Sudan, including funding for trade missions in Sudan and for participation in exhibitions and trade fairs in Sudan.

(9) PROHIBITION ON COOPERATION WITH ARMED FORCES OF SUDAN.—No agency or entity of the United States may engage in any form of cooperation, direct or indirect, with the armed forces of Sudan, except for activities which are reasonably necessary to facilitate the collection of necessary intelligence. Each such activity shall be considered as significant anticipated intelligence activity for purposes of section 501 of the National Security Act of 1947 (50 U.S.C. 413).

(10) PROHIBITION ON COOPERATION WITH INTELLIGENCE SERVICES OF SUDAN.—

(A) SANCTION.—No agency or entity of the United States involved in intelligence activities may engage in any form of cooperation, direct or indirect, with the Government of Sudan, except for activities which are reasonably designed to facilitate the collection of necessary intelligence.

(B) POLICY.—It is the policy of the United States that no agency or entity of the United States involved in intelligence activities may provide any intelligence information to the Government of Sudan which pertains to any internal group within Sudan. Any change in such policy or any provision of intelligence information contrary to this policy shall be considered a significant anticipated intelligence activity for purposes of section 501 of the National Security Act of 1947 (50 U.S.C. 413).

The sanctions described in this subsection shall apply until the Secretary of State determines that Sudan has substantially eliminated religious persecution in that country.

(c) MULTILATERAL EFFORTS TO END RELIGIOUS PERSECUTION IN SUDAN.—

(1) EFFORTS TO OBTAIN MULTILATERAL MEASURES AGAINST SUDAN.—It is the policy of the United States to seek an international agreement with the other industrialized democracies to bring about an end to religious persecution by the Government of Sudan. The net economic effect of such international agreement should be measurably greater than the net economic effect of the other measures imposed by this section.

(2) COMMENCEMENT OF NEGOTIATIONS TO INITIATE MULTILATERAL SANCTIONS AGAINST SUDAN.—It is the sense of the Congress that the President or, at his direction, the Secretary of State should convene an international conference of the industrialized democracies in order to reach an international agreement to bring about an end to religious persecution in Sudan. The international conference should begin promptly and should be concluded not later than 180 days after the date of the enactment of this Act.

(3) PRESIDENTIAL REPORT.—Not less than 210 days after the date of the enactment of this Act, the President shall submit to the Congress a report containing—

(A) a description of efforts by the United States to negotiate multilateral measures to bring about an end to religious persecution in Sudan; and

(B) a detailed description of economic and other measures adopted by the other industrialized countries to bring about an end to religious persecution in Sudan, including an assessment of the stringency with which such measures are enforced by those countries.

(4) CONFORMITY OF UNITED STATES MEASURES TO INTERNATIONAL AGREEMENT.—If the President successfully concludes an international agreement described in paragraph (2), the President may, after such agreement enters into force with respect to the United States, adjust, modify, or otherwise amend the measures imposed under any provision of this section to conform with such agreement.

(5) PROCEDURES FOR AGREEMENT TO ENTER INTO FORCE.—Each agreement submitted to the Congress under this subsection shall enter into force with respect to the United States if—

(A) the President, not less than 30 days before the day on which the President enters into such agreement, notifies the House of Representatives and the Senate of the President's intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) after entering into the agreement, the President transmits to the House of Representatives and to the Senate a document containing a copy of the final text of such agreement, together with—

(i) a description of any administrative action proposed to implement such agreement and an explanation as to how the proposed administrative action would change or affect existing law; and

(ii) a statement of the President's reasons regarding—

(I) how the agreement serves the interest of United States foreign policy; and

(II) why the proposed administrative action is required or appropriate to carry out the agreement; and

(C) a joint resolution approving such agreement has been enacted.

(6) UNITED NATIONS SECURITY COUNCIL IMPOSITION OF SAME MEASURES AGAINST SUDAN.—It is the sense of the Congress that the President should instruct the Permanent Representative of the United States to the United Nations to propose that the United Nations Security Council, pursuant to Article 41 of the United Nations Charter, impose measures against Sudan of the same type as are imposed by this section.

(d) ADDITIONAL MEASURES AND REPORTS; RECOMMENDATIONS OF THE PRESIDENT.—

(1) UNITED STATES POLICY TO END RELIGIOUS PERSECUTION.—It shall be the policy of the United States to impose additional measures against the Government of Sudan if its policy of religious persecution has not ended on or before December 25, 1998.

(2) REPORT TO CONGRESS.—The Director shall prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on or before February 1, 1999, and every 12 months thereafter, a report containing a determination by the Secretary of State of whether the policy of religious persecution by the Government of Sudan has ended.

(3) RECOMMENDATION FOR IMPOSITION OF ADDITIONAL MEASURES.—If the Secretary of State determines that the policy of religious persecution by the Government of Sudan has not ended, the President shall prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on or before March 1, 1999, and every 12 months thereafter, a report setting forth such recommendations for such additional measures and actions against the Government of Sudan as will end that government's policy of religious persecution.

(e) DEFINITIONS.—As used in this section:

(1) GOVERNMENT OF SUDAN.—The term "Government of Sudan" includes any agency or instrumentality of the Government of Sudan.

(2) NEW INVESTMENT IN SUDAN.—The term "new investment in Sudan"—

(A) means—

(i) a commitment or contribution of funds or other assets, or

(ii) a loan or other extension of credit,

that is made on or after the effective date of this subsection; and

(B) does not include—

(i) the reinvestment of profits generated by a controlled Sudanese entity into that same controlled Sudanese entity, or the investment of such profits in a Sudanese entity;

(ii) contributions of money or other assets where such contributions are necessary to enable a controlled Sudanese entity to operate in an economically sound manner, without expanding its operations; or

(iii) the ownership or control of a share or interest in a Sudanese entity or a controlled Sudanese entity or a debt or equity security issued by the Government of Sudan or a Sudanese entity before the date of the enactment of this Act, or the transfer or acquisition of such a share or interest, or debt or equity security, if any such transfer or acquisition does not result in a payment, contribution of funds or assets, or credit to a Sudanese entity, a controlled Sudanese entity, or the Government of Sudan.

(3) CONTROLLED SUDANESE ENTITY.—The term "controlled Sudanese entity" means—

(A) a corporation, partnership, or other business association or entity organized in Sudan and owned or controlled, directly or indirectly, by a United States person; or

(B) a branch, office, agency, or sole proprietorship in Sudan of a United States person.

(4) SUDANESE ENTITY.—The term "Sudanese entity" means—

(A) a corporation, partnership, or other business association or entity organized in Sudan; or

(B) a branch, office, agency, or sole proprietorship in Sudan of a person that resides or is organized outside Sudan.

(5) SUDAN.—The term "Sudan" means any area controlled by the Government of Sudan or by any entity allied with the Government of Sudan, and does not include any area in which effective control is exercised by an entity engaged in active resistance to the Government of Sudan.

(f) WAIVER AUTHORITY.—The President may waive the imposition of any sanction against Sudan under paragraph (2) or (8) of subsection (b) of this section for periods of not more than 12 months each, if the President, for each waiver—

(1) determines that the national security interests of the United States justify such a waiver; and

(2) provides to the Committees on Foreign Relations, Finance, the Judiciary, and Appropriations of the Senate and to the Committees on International Relations, the Judiciary, and Appropriations of the House of Representatives a written notification of the President's intention to waive any such sanction.

The notification shall contain an explanation of the reasons why the President considers the waiver to be necessary, the type and amount of goods, services, or assistance to be provided pursuant to the waiver, and the period of time during which such a waiver will be effective. When the President considers it appropriate, the explanation under the preceding sentence, or any part of the explanation, may be submitted in classified form.

(g) DULY AUTHORIZED INTELLIGENCE ACTIVITIES.—The prohibitions and restrictions contained in paragraphs (1), (2), (3), and (7) of subsection (b) shall not apply to the conduct of duly authorized intelligence activities of the United States Government.

SEC. 13. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsections (b) and (c), this Act and the amendments made by this Act shall take effect 120 days after the date of the enactment of this Act.

(b) APPOINTMENT OF DIRECTOR.—The Director shall be appointed not later than 60 days after the date of the enactment of this Act.

(c) REGULATIONS.—Each Federal department or agency responsible for carrying out any of the sanctions under section 7 shall issue all necessary regulations to carry out such sanctions within 120 days after the date of the enactment of this Act.

The CHAIRMAN. No amendment to that amendment in the nature of a substitute is in order unless printed in part 2 of that report. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment and shall not be subject to a demand for a division of the question.

It is now in order to consider Amendment No. 1 printed in part 2 of House Report 105–534.

AMENDMENT NO. 1 OFFERED BY MR. BRADY

Mr. BRADY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. Brady:

Page 14, line 9, strike "and".

Page 14, line 10, insert ", and transmit a copy of the report to the Commission on International Religious Persecution established under section 14" before the period.

Page 24, line 2 insert ", the Trade and Development Agency, or the Export Import Bank of the United States" after "Corporation".

Insert the following after section 12 and redesignate the succeeding section accordingly:

SEC. 13. PROMOTION OF RELIGIOUS FREEDOM.

(a) Establishment of a Religious Freedom Internet Site.—In order to facilitate access by nongovernmental organizations (NGOs) and by the public around the world to international documents on the protection of religious freedom, the Director shall establish and maintain an Internet site containing major international documents relating to religious freedom, each annual report submitted under section 6, and any other documentation or references to other sites as deemed appropriate or relevant by the Director.

(b) Training for Foreign Service Officers.—Chapter 7 of title I of the Foreign Service Act of 1980 is amended by adding at the end the following new section:

"SEC. 708. TRAINING FOR FOREIGN SERVICE OFFICERS.

"The Secretary of State and the Director of the Office of Religious Persecution Monitoring established under section 5 of the Freedom From Religious Persecution Act of 1998, acting jointly, shall establish as part of the standard training for officers of the Service, including chiefs of mission, instruction in the field of internationally recognized human rights. Such instruction shall include—

"(1) standards for proficiency in the knowledge of international documents and United States policy in human rights, and shall be mandatory for all members of the Service having reporting responsibilities relating to human rights, and for chiefs of mission; and

"(2) instruction on the international right to freedom of religion, the nature, activities, and beliefs of different religions, and the various aspects and manifestations of religious persecution.".

(c) High-level Contacts with NGOS.—United States chiefs of mission shall seek out and contact religious nongovernmental organizations to provide high-level meetings with religious nongovernmental organizations where appropriate and beneficial. United States chiefs of mission and Foreign Service officers abroad shall seek to meet with imprisoned religious leaders where appropriate and beneficial.

(d) Programs and Allocations of Funds by United States Missions Abroad.—It is the sense of the Congress that—

(1) United States diplomatic missions in countries the governments of which engage in or tolerate religious persecution should develop, as part of annual program planning, a strategy to promote the respect of the internationally recognized right to freedom of religion; and

(2) in allocating or recommending the allocation of funds or the recommendation of candidates for programs and grants funded by the United States Government, United States diplomatic missions should give particular consideration to those programs and candidates deemed to assist in the promotion of the right to religious freedom.

(e) Equal Access to United States Missions Abroad For Conducting Religious Activities.—

(1) In general.—Subject to this subsection, the Secretary of State shall permit, on terms no less favorable than that accorded other nongovernmental activities, access to the premises of any United States diplomatic mission or consular post by any United States citizen seeking to conduct an activity for religious purposes.

(2) Timing and location.—The Secretary of State shall make reasonable accommodations with respect to the timing and location of such access in light of—

(A) the number of United States citizens requesting the access (including any particular religious concerns regarding the time of day, date, or physical setting for services);

(B) conflicts with official activities and other nonofficial United States citizen requests;

(C) the availability of openly conducted, organized religious services outside the premises of the mission or post; and

(D) necessary security precautions.

(3) Discretionary access for foreign nationals.—The Secretary of State may permit access to the premises of a United States diplomatic mission or consular post to foreign nationals for the purpose of attending or participating in religious activities conducted pursuant to this Act.

(f) Prisoner Lists and Issue Briefs on Religious Persecution Concerns.—

(1) Sense of congress.—To encourage involvement with religious persecution concerns at every possible opportunity and by all appropriate representatives of the United States Government, it is the sense of the Congress that officials of the executive branch of the United States Government should promote increased advocacy on such issues during meetings between executive branch and congressional leaders and foreign dignitaries.

(2) Religious persecution prisoner lists and issue briefs.—The Secretary of State, in consultation with United States chiefs of mission abroad, regional experts, the Director, and nongovernmental human rights and religious groups, shall prepare and maintain issue briefs on religious freedom, on a country-by-country basis, consisting of lists of persons believed to be imprisoned for their religious faith, together with brief evaluations and critiques of policies of the respective country restricting religious freedom. The Secretary of State shall exercise appropriate discretion regarding the safety and security concerns of prisoners in considering the inclusion of their names on the lists.

(3) Availability of information.—The Secretary of State shall provide these religious freedom issue briefs to executive branch and congressional officials and delegations in anticipation of bilateral contacts with foreign leaders, both in the United States and abroad.

(g) Assistance for Promoting Religious Freedom.—

(1) Findings.—The Congress makes the following findings:

(A) In many nations where severe violations of religious freedom occur, there is not sufficient statutory legal protection for religious minorities or there is not sufficient cultural and social understanding of international norms of religious freedom.

(B) Accordingly, in its foreign assistance already being disbursed, the United States should make a priority of promoting and developing legal protections and cultural respect for religious freedom.

(2) Allocation of funds for increased promotion of religious freedoms.—Section 116(e) of the Foreign Assistance Act of 1961 is amended by inserting "and the right to free religious belief and practice" after "adherence to civil and political rights".

(h) International Broadcasting.—

(1) Section 302(1) of the United States International Broadcasting Act of 1994 is amended by inserting "and of conscience (including freedom of religion)" after "freedom of opinion and expression".

(2) Section 303(a) of the United States International Broadcasting Act of 1994 is amended—

(A) by striking "and" at the end of paragraph (6);

(B) by striking the period at the end of paragraph (7) and inserting "; and"; and

(C) by adding at the end the following:

"(8) promote respect for human rights, including freedom of religion.".

(i) International Exchanges.—Section 102(b) of the Mutual Educational and Cultural Exchange Act of 1961 is amended—

(1) by striking "and" after paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting "; and"; and

(3) by adding at the end the following:

"(12) promoting respect for and guarantees of religious freedom abroad by interchanges and visits between the United States and other nations of religious leaders, scholars, and religious and legal experts in the field of religious freedom.".

(j) Foreign Service Awards.—

(1) Performance pay.—Section 405(d) of the Foreign Service Act of 1980 is amended by inserting after the first sentence the following: "Such service in the promotion of internationally recognized human rights, including the right to religious freedom, shall serve as a basis for granting awards under this section.".

(2) Foreign service awards.—Section 614 of the Foreign Service Act of 1980 is amended by adding at the end the following new sentence: "Distinguished, meritorious service in the promotion of internationally recognized human rights, including the right to religious freedom, shall serve as a basis for granting awards under this section.".

SEC. 14. COMMISSION ON INTERNATIONAL RELIGIOUS PERSECUTION.

(a) Establishment and Composition.—

(1) Generally.—There is established the United States Commission on International Religious Persecution (hereinafter referred to as the "Commission").

(2) Membership.—

(A) Appointment.—The Commission shall be composed of—

(i) the Director; and

(ii) 4 other members, who shall be appointed as follows:

(I) 2 Senators, 1 of whom shall be appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader, and 1 of whom shall be appointed by the Minority Leader.

(III) 2 Members of the House of Representatives, 1 of whom shall be appointed by the Speaker of the House of Representatives upon the recommendations of the Majority Leader, and 1 of whom shall be appointed by the Minority Leader.

(B) CHAIR.—The Commission shall elect one of its members as chair.

(C) TIME OF APPOINTMENT.—The appointments required by subparagraph (A) shall be made not later than 120 days after the date of enactment of this Act.

(3) TERMS.—The term of office of each member of the Commission shall be 2 years, except that an individual may not serve more than 2 terms.

(4) QUORUM.—Three members of the Commission constitute a quorum of the Commission.

(5) MEETINGS.—Not more than 15 days after the issuance of an annual report under section 6, the Commission shall convene.

(6) ADMINISTRATIVE SUPPORT.—The Director shall provide to the Commission such staff and administrative services of the Office as may be necessary for the Commission to perform its functions. The Secretary of State shall assist the Director and the Commission by detailing staff resources as needed and as appropriate.

(7) COMPENSATION.—

(A) TRAVEL EXPENSES.—Members of the Commission shall receive no pay for services performed as such a member, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(B) NO COMPENSATION FOR GOVERNMENT EMPLOYEES.—Any member of the Commission who is an officer or employee of the United States shall receive no additional compensation for services performed as a member of the Commission.

(b) DUTIES OF THE COMMISSION.—

(1) In general.—The Commission shall have as its primary responsibility the consideration of the facts and circumstances of category 1 or category 2 persecution presented in each annual report issued under section 6 and the consideration of United States Government policies to promote religious freedom and prevent religious persecution, and to make appropriate policy recommendations to the President, the Secretary of State, and the Congress.

(2) POLICY REVIEW AND RECOMMENDATIONS IN RESPONSE TO VIOLATIONS.—The Commission, in evaluating United States Government policies, shall consider and recommend policy options to further enhance the effectiveness of sanctions related to religious persecution and human rights.

(3) POLICY REVIEW AND RECOMMENDATIONS IN RESPONSE TO PROGRESS.—The Commission shall make and provide an assessment of—

(A) the progress of sanctions imposed under section 7 on a country or responsible entity toward achieving termination of religious persecution, as well as the potential deterrence of religious persecution as a result of this Act in countries on which sanctions have not been imposed under this Act;

(B) diplomatic and other steps the United States has taken or should take to further accomplish the intended objectives of the sanctions, including the promotion of multilateral adoption of comparable measures;

(C) comparable measures undertaken by other countries;

(D) additional policy options to promote the objectives of this Act and an assessment of their potential effectiveness;

(E) any obligations of the United States under international treaties or trade agreements with which sanctions imposed under section 7 have conflicted or proposed policy options under paragraph (2) may conflict;

(F) any retaliation resulting from sanctions imposed under section 7 and the likelihood that a proposed policy option under paragraph (2) will lead to retaliation against United States interests, including agricultural interests; and

(G) the estimated impact from sanctions imposed under section 7 and proposed policy options under paragraph (2) on United States foreign policy, national security, economic, and humanitarian interests, including benefit or harm to United States businesses, agriculture, and consumers, the competitiveness of United States businesses, and the international reputation of the United States as a reliable supplier of products, technology, agricultural commodities, and services.

(4) EFFECTS ON RELIGIOUS COMMUNITIES AND INDIVIDUALS.—Together with specific policy recommendations provided under paragraphs (2) and (3), the Commission shall also indicate its evaluation of the potential effects of such policies, if implemented, on the religious communities and individuals whose rights are found to be violated in the country in question.

(5) MONITORING.—The Commission shall, on an ongoing basis, monitor facts and circumstances of religious persecution, in consultation with independent human rights groups and nongovernmental organizations, including churches and other religious communities, and make such recommendations as may be necessary to the appropriate agencies and officials of the United States Government.

(c) REPORT OF THE COMMISSION.—

(1) IN GENERAL.—Not later than March 1 of each year, the Commission shall submit a report to the President and the Congress setting forth its recommendations for changes in United States policy based on its evaluations under subsection (b).

(2) CLASSIFIED FORM OF REPORT.—The report may be submitted in classified form, together with a public summary of recommendations.

(3) INDIVIDUAL OR DISSENTING VIEWS.—Each member of the Commission may include the individual or dissenting views of the member.

(d) TERMINATION.—The Commission shall terminate 8 years after the initial appointment of its members.

The CHAIRMAN. Pursuant to House Resolution 430, the gentleman from Texas (Mr. BRADY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. BRADY).

Mr. BRADY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, America has never run from taking a stand on injustice in this world. It is not in our history, it is not in our heart. I know that the right to freedom of religion is under assault, renewed assault, throughout the world. Religious believers in many countries face severe forms of persecution, torture, beatings, rape, slavery and death for their peaceful beliefs.

Mr. Chairman, it is important that we take a stand, not simply denounce, but take a stand. So I appreciate the author of this bill, the gentleman from Virginia (Mr. WOLF), and the leadership of the gentleman from New Jersey (Mr. SMITH), in bringing this dialogue and bill to the floor.

The goal of my amendment is simple, to strengthen the impact of the act, to provide more tools to fight religious persecution, to enhance the accountability and heighten a year-round profile in the fight against religious persecution.

Specifically, this amendment provides more tools, among them establishment of a religious freedom Internet site, expanded international broadcasting, publication of religious prisoner lists, training for foreign service officers and equal access to U.S. missions abroad.

The amendment also expands contract sanctity and establishes a five member U.S. Commission on International Religious Persecution, four Members of Congress and the new director, to promote accountability, to evaluate the progress, to tell us how we are doing and what we can do to do it better, to report on efforts to secure multilateral cooperation, to put more pressure on these sanctioned countries and entities, to identify how America is being retaliated against, to assess the impact on American jobs and interests, and make recommendations to Congress on how we can further effectively act to end religious persecution around this globe.

Mr. Chairman, I yield one minute to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman, I thank my good friend for yielding me time.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Texas (Mr. BRADY). While the gentleman from Texas may be one of the most junior members of our Committee on International Relations, he is one of the most significant, and a key participant in our committee's deliberations on this bill and many other policy initiatives. The gentleman has offered many helpful suggestions along the way, and has demonstrated over and over again his commitment to the struggle against religious persecution, and I deeply, deeply, respect him.

The amendment offered by the gentleman from Texas (Mr. BRADY) today makes further positive contribution to the bill, and enhances the bill, as he pointed out, in a variety of ways.

I commend the gentleman from Texas (Mr. BRADY) for his work on behalf of this legislation and his very constructive amendment, and I do urge my colleagues to support it.

Mr. HASTINGS of Florida. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Florida (Mr. HASTINGS) is recognized for 5 minutes.

Mr. HASTINGS of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I stand in opposition at this time to the amendment, but I wish to commend the gentleman from Texas (Mr. BRADY) for attempting to improve this bill. I know that Mr. BRADY has worked diligently, and I compliment him on his efforts.

The gentleman's amendment contains a number of useful provisions. I do not think these provisions have been as carefully examined as we would like, and, in my view, they do not work well within the context of H.R. 2431. So while at this time I withdraw any of those reservations and will not oppose the efforts of the gentleman, I did at least want to register the reservation, in the hopes that we will continue in the effort to improve this bill.

Mr. Chairman, I yield back the balance of my time.

Mr. BRADY. Mr. Chairman, I yield two minutes to the gentleman from Florida (Mr. BILIRAKIS.)

Mr. BILIRAKIS. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I support the amendment of the gentleman from Texas (Mr. BRADY.) I would like to commend the gentleman from Virginia (Mr. WOLF) for his important work crafting this important bill to protect fundamental human rights.

I support this bill because it sends a clear message that the United States supports freedom of religion and human rights worldwide. The bill also contains language I offered to stop the religious persecution of Orthodox Christians in Turkey. The Ecumenical Patriarchate in Istanbul, Turkey, is the spiritual center for nearly 300 million Orthodox Christians worldwide, including 5 million in the United States. It has repeatedly been the target of attacks which have resulted in the deaths of its personnel.

The latest act of violence against the Patriarchate came in December 1997, just months after Congress awarded the Congressional Gold Medal to Patriarch Bartholomew. When he accepted the Congressional Gold Medal last year, the Patriarch emphasized that the Orthodox Church: "May be opposed, but opposes no one; may be persecuted, but does not persecute; is fettered, but chains no one; is derived of her freedom, but does not trample on the freedom of others."

It is incumbent upon us as leaders of the greatest democratic republic in the world, a Nation founded on the free exercise of religion, to ensure that the Patriarchate is free to carry out its non-political religious mission.

My language urges the United States to use its influence with the Turkish government to protect the Patriarch, the Patriarchate personnel, and all Orthodox faithful residing in Turkey. It also requires the administration to reported to Congress annually on the status of its efforts to achieve these goals.

H.R. 2431 states: "Governments have a primary responsibility to promote, encourage and protect respect for the fundamental and internationally recognized right to freedom of religion."

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Texas (Mr. BRADY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider Amendment No. 2 printed in part 2 of House Report 105-534.

AMENDMENT NO. 2 OFFERED BY MR. HASTINGS OF FLORIDA

Mr. HASTINGS of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. HASTINGS of Florida:

Page 15, line 4, insert the following after line 4:

(7) In consultation with the Secretary of State, make policy recommendations to the President that would make a priority of promoting and developing legal protections and cultural respect for religious freedom, including by—

(A) ensuring that funds made available for development assistance are used, among other things, to encourage and promote increased adherence to the right to free religious belief and practice;

(B) ensuring that United States international broadcasting is designed to promote respect for human rights, including freedom of religion, among other broadcasting goals; and

(C) ensuring that United States cultural and educational exchanges promote, among other goals, respect for and guarantees of religious freedom abroad, including through interchanges and visits between the United States and other countries of religious leaders, scholars, and religious and legal experts in the field of religious freedom.

(8) Assist the Secretary of State in establishing a program of granting awards to members of the Foreign Service who have provided distinguished, meritorious service in the promotion of internationally recognized human rights, including the right to religious freedom.

The CHAIRMAN. Pursuant to House Resolution 430, the gentleman ffrom Florida (Mr. HASTINGS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I opposed the bill in committee for a number of reasons, none of which have been addressed by the legislative process up to this point.

One of my key concerns is that this bill takes a negative approach to trying to solve a very, very complex issue. That is why I offer this amendment, which would institute positive incentives to promote religious freedom.

The amendment would authorize the director to weigh in on policy decisions that promote and develop legal protections and cultural respect for religious freedom in several United States programs. This does not mean increasing program costs. It does, however, mean that the current programs attempt to do something to alleviate religious persecution.

The Secretary of State's Advisory Committee on Religious Freedom Abroad has recommended that the Secretary promote a greater awareness of religious freedom in United States development programs in the broadcast of Radio Asia and the other radio services throughout the world, and in our culture and educational exchanges. The amendment follows through on these very productive suggestions.

The amendment would also reinforce United States Embassies' promotion of religious freedom by rewarding diplomats who have made valuable contributions to international human rights efforts, including the right to religious freedom. I hope and expect this amendment to get unanimous support from my colleagues.

Mr. Chairman, while I seek to improve the bill, I must continue to point to two of the very serious concerns with the heart of the bill. First, this bill, in my view, will not help those who suffer from religious persecution, and risks harm to the very communities it seeks to protect. Religious minorities in countries likely to be targeted under this bill fear that they will be blamed and they will suffer for the imposition of U.S. sanctions on their countries.

This was the concern raised by Dr. Youssef Boutros-Ghali, a Coptic Christian and Egypt's Minister of Economy, and by Reverend Joseph Pattiasina, the General Secretary of the Communion of Churches in Indonesia, who said the bill will jeopardize the relationship between the Christians and Islam.

Second, the mandatory automatic sanctions, although that has been modified in many respects, restricts the President's ability to manage the full range of United States national interests, including securing peace and security, economic prosperity, and even protection of other human rights.

A determination of religious persecution against any country would automatically trigger a fixed set of assistance and trade sanctions. No other U.S. interest could be considered in a decision of whether or not to impose such sanctions. This bill forces the United

States to use a single, inflexible preemptory unilateral weapon, sanctions, to address, issues of immense complexity and scope.

Many countries would be exposed to sanctions under this bill, including Egypt, Saudi Arabia, Indonesia, Pakistan and India. As pointed out by the gentleman from Indiana (Mr. HAMILTON), we have several national security interests in these countries, heightened only more by the events in the world today, the Middle East peace process, secure oil supplies, nonproliferation, and peace and stability in Asia. These countries buy American products. Sanctions mandated by this bill can and will surely harm some of these interests.

While H.R. 2431 is well-intentioned, it is harmful to American national interests and counterproductive to our shared goal of ending religious persecution. My amendment strengthens this bill, and I urge its adoption.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Chairman, I rise in favor of the amendment, but I ask unanimous consent to claim the time, since nobody seems to be opposed.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The gentleman from New Jersey (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first I want to commend the distinguished member of our Committee on International Relations for his amendment. I strongly urge its adoption.

The amendment of the gentleman from Florida (Mr. HASTINGS) expands the responsibilities of the director of the new Office of Religious Persecution Monitoring in several ways. The net effect would be to give the director a role in advising the President and the Secretary of State on additional steps that the United States can take to advance religious freedom around the world, including in such areas as international broadcasting and international exchanges in personnel incentives for State Department employees.

Just to respond, and not to get back to general debate, but the gentleman from Florida raised a couple of issues against the bill. I do hope Members will realize that there is a very generous waiver provision, I think perhaps it is too generous, but it does provide for national security concerns. Also under the provisions of the bill, the sanctions can be waived if the President believes that it would substantially promote the purposes of this act.

It is about time we took religious freedom seriously. This legislation does so.

The gentleman from Indiana (Mr. HAMILTON) earlier in the debate talked about the beheadings going on in Saudi Arabia. Usually they occur when somebody converts from being a Muslim to Christianity.

That is serious stuff. If we are going to look askance and act indifferent or raise our voice with nothing behind it, those beheadings will continue. But we must say very clearly and unambiguously that beheading people is something out of bounds and is truly egregious behavior, and certainly it is violative of all of the UN conventions, including the Declaration on Intolerance on Religion.

□ 1330

And so the stories need to conform, as do others, to these internationally recognized norms, and beheadings certainly are totally out of bounds, as is any other form of torture.

Mr. Chairman, I hope Members will support the bill, and again, I think this is a good amendment and I support it.

Mr. HASTINGS of Florida. Mr. Chairman, at this time I would like to thank my good friend and distinguished colleague, the gentleman from New Jersey (Mr. SMITH).

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. HASTINGS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 415, noes 3, not voting 14, as follows:

[Roll No. 154]

AYES—415

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas

Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—3

Chenoweth
Johnson (WI)
Paul

NOT VOTING—14

Bateman
Cannon
Fowler
Gonzalez
Harman
Hefner
Lewis (CA)
Quinn
Riggs
Skaggs
Souder
Torres
Traficant
Weldon (PA)

□ 1351

Mr. GOODLATTE changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part 2 of House Report 105–534.

AMENDMENT NO. 3 OFFERED BY MR. CAMPBELL

Mr. CAMPBELL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part 2 Amendment No. 3 printed in House Report 105–534 offered by Mr. CAMPBELL:

In section (12)(f), in the matter preceding paragraph (1), strike "paragraph (2) or (8) of subsection (b) of".

The CHAIRMAN. Pursuant to House Resolution 430, the gentleman from California (Mr. CAMPBELL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment makes the national security waiver complete. As the bill left the Committee on International Relations regarding Sudan, because of a jurisdictional dispute between the Committee on Ways and Means and Committee on International Relations, the waiver authority given to the President did not extend to all of the sanctions in the Sudan provision of the bill. With my amendment, it would do so.

Mr. Chairman, I will take an additional moment to say that if this amendment is adopted, and I am assured by my good friends that it shall be, I will then be very proud to support this bill. I am proud to stand with the gentleman from Virginia (Mr. WOLF) and the gentleman from New Jersey (Mr. SMITH), with the chairman of our committee, with many Members on the other side of the aisle, as well.

I suggest that with this amendment there is really no concern sufficient to oppose this bill from the point of view of the President's conduct with foreign affairs, because with this amendment every aspect of the bill that imposes a sanction can, in appropriate circumstances, be waived.

I also would note the kindness, the consideration that I have received from the authors of this bill through a very long process of drafting it, so that the sanctions which deal with the definition of an agency of a foreign nation are defined as narrowly as practicable, and so that the items regarding the barriers to export of those items that could facilitate persecution are defined to be only those which are specific, and I read, "directly and substantially used or intended for use in carrying out acts of religious persecution in such country."

With these understandings, the bill, it seems to me, remains a powerful statement against religious persecution, and yet does not interfere with the appropriate role of the President of the United States in foreign policy.

Mr. Chairman, my understanding is, if my amendment is accepted, all sanctions provided for in section 12, referred to in section 2, may be waived.

Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentleman from Virginia (Mr. WOLF), the author of the bill, so that he might perhaps speak to whether my understanding is correct. I am not seeking a colloquy, I am seeking merely to yield 1 minute.

Mr. WOLF. Mr. Chairman, that is correct. I thank the gentleman very, very much.

Mr. CAMPBELL. I am proud to stand with the gentleman from Virginia (Mr. WOLF).

Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. GILMAN), the distinguished chairman of our committee.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding. I am pleased to rise in support of the amendment offered by the distinguished member of our Committee on International Relations, the gentleman from California (Mr. CAMPBELL).

Mr. Chairman, this amendment restores to the bill a feature first suggested to us by the gentleman from California (Mr. CAMPBELL) that we had intended to adopt during markup during our committee, but were unable to adopt because of limitations on our committee's jurisdiction.

The gentleman from California rightly points out that if the President is to have authority to waive sanctions imposed on Sudan pursuant to the bill, he should have authority to waive all of those sanctions, and not just some of them. That is the purpose of the amendment. We welcome the improvement to our bill.

We thank the gentleman from California (Mr. CAMPBELL) for the close attention he has paid to our bill while we were considering it within our committee. I am grateful for his many positive contributions.

I urge my colleagues to adopt the Campbell amendment.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, we have worked very constructively with the gentleman from California on this amendment, as well as on the bill itself. It has been through a very long and arduous process, two full hearings in the full committee last September, a whole series of hearings in my subcommittee on religious persecution, and then the drafting and redrafting. The gentleman from California (Mr. CAMPBELL) has been very vital for that. We thank him for that. We appreciate his support for the full bill in final passage.

The CHAIRMAN. Does the gentleman from Indiana (Mr. HAMILTON) claim the time in opposition?

Mr. HAMILTON. I am not opposed to the amendment, Mr. Chairman.

I ask unanimous consent to control the time, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The gentleman from Indiana (Mr. HAMILTON) is recognized for 5 minutes.

Mr. HAMILTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say, while I do not support the bill, I do think this amendment improves the bill and it would be my intention to support it and vote for it.

Mr. Chairman, I yield to the distinguished gentlewoman from Texas, Ms. JACKSON-LEE.

□ 1400

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member, the gentleman from Indiana (Mr. HAMILTON), very much for his overall leadership throughout the years on so many important international issues. I also thank the gentleman from Virginia (Mr. WOLF) and the Committee on International Relations.

I rise to support the Campbell amendment, as well to support this legislation. In particular, I think it is extremely important to note that the President has already issued a broad range of waivers and sanctions against Sudan, and I think that this particular legislation that the gentleman from California (Mr. CAMPBELL) has gives the President greater flexibility but as well recognizes that we have responsibility to uphold the needs of the people in Sudan. So I do appreciate this amendment.

Mr. Chairman, I know how committed the gentleman from Virginia (Mr. WOLF) has been to these issues. That is why I join him, along with my good friend, the gentleman from Florida (Mr. HASTINGS) who has been very studious on these questions. I think when we begin to educate the American people about persecution, as we have seen and heard and as it has been expressed, abduction and enslavement, killing and imprisonment, forced mass relocation, rape, crucifixion or other forms of torture, then we recognize that the legislation is extremely important.

While many of my constituents have raised those concerns because they are aware of it, there are others likewise who bring to the table questions of whether or not we should be involved and engaged in unilateral sanctions.

I would simply say that I am looking forward to looking at both sides of the issue and have considered certainly the legislation of the Crane-Hamilton bill. But I think this issue is so very important to us as Americans. It is such an abiding issue for me, religious freedom, the lack of religious persecution, that it begs to be answered.

So I rise to be able to lend my support for the leadership of the gentleman from Virginia (Mr. WOLF) and to add to the supporters, to acknowledge the International Campaign of Tibet, His Holiness, the Dalai Lama, the U.S. Catholic Conference, the Religious Action Center for Reformed Judaism, the Salvation Army, the Anti-defamation League, a noted Chinese dissident, John Cardinal O'Connor, Archbishop of New York, and Jeff Fiedler, President of the Food and Allied Service Trades.

I think we are being begged for a response. We would be certainly remiss. More than that, it would be tragic not to stand up for religious freedom around this world. We must stand up for those to be allowed to express their beliefs. I thank the leadership, the gentleman from Virginia (Mr. WOLF) for this legislation.

Mr. Chairman, I rise today in support of H.R. 2431, the Freedom from Religious Persecution Act of 1998. Essentially, this bill is an effort to protect one of the most sacred rights that human beings can enjoy, the right to seek out and worship the divine as they may deem fit. All over the world, nations, sovereign powers and totalitarian groups are restricting the religious freedom of others. From Christians to Jews to Muslims to Bahai's, religious persecution, as we stand on the brink of the next millennium, is a widespread as ever. So, in response to the crisis, this bill establishes a new office in the State Department to monitor religious persecution overseas called the Office of Religious Persecution Monitoring, directs U.S. sanctions against countries and individuals determined to have engaged in religious persecution and provides asylum for religious refugees as determined by a series of guidelines mandated by the bill.

As our history teaches us, many of the founders of this great nation crossed the imposing gulf of the Atlantic Ocean in order to preserve the sanctity of their personal religious choices. Without reservation, they flatly refused to let others dictate for them who they could worship and how that worship should be conducted. Instead of bowing to the suppression of their beliefs, these brave pioneers of a new and enlightened sense of public governance, chose to protect their freedom above all. Well over two centuries later, this same struggle is being fought again by literally millions of people around the globe who simply refuse to betray their most sacred beliefs about God.

In Sudan, in particular, this struggle has taken on genocidal proportions. Some reports estimate that well over one million people have been killed by the Sudanese government, both Christians and Muslims, fighting to preserve their most fundamental religious beliefs. In China, millions of "house church" Christians are forced to worship in absolute secrecy in order to prevent the government from interfering in the practice of their worship. In Tibet, Buddhists have been brutalized, their religious leaders jailed, and their most holy of worship places completely desecrated. In Iran, practicing Bahai's have been met with a rash of sudden executions. And most recently, we have learned about the violent terrorism against Christians in both Pakistan and Egypt, while the governments of these nations have simply stood back and watched. So now that we know what is happening around us, what are we going to do about these on-going travesties of justice?

For me, the answer is as simple as this, we must take a stand on these important issues of principle. This bill, in my opinion, is a workable solution to these growing threats to religious freedom surging abroad. First of all, the bill does not exclude any religious groups from its protections. Whether you are Christian, Jew, Muslim, Hindu or something else, if you are persecuted because of your religious beliefs, this bill and its provisions will protect you. Furthermore, this bill is in no way mutually exclusive to any protections that may exist in current law for any other persecuted group. If you are persecuted for race, national origin, political affiliation or some other defining characteristic of personhood, existing federal law still addresses these concerns. Religion, I believe, because of the many on-going tragedies of persecution, terrorism and violence that I listed above, definitely deserves some form of special consideration and treatment. Thus, the necessity of creating a new federal sub-agency to be responsible for this volatile issue.

The newly created Office of Religious Persecution Monitoring in the State Department will be headed by a Director appointed by the President and confirmed by the Senate. This director should be recognized as an expert in the area of religious persecution and is barred specifically by the language of the bill, from holding any other federal position while serving in this capacity. More importantly though, this office is empowered by the bill to make findings of fact on any potential violations as discovered by the State Department and submit these findings to the Secretary (of State) and President with recommendations for action. This bill, in sum, is a powerful statement to nations of the world, that we will not countenance the rampant disregard of our fellow man's unalienable rights.

As for the bill's remaining provisions, in regard to the sanctions against aid given to countries that violate the religious freedom of their citizens; we should not, we must not, and we can not sit back and enrich governments that either conduct or condone the persecution of citizens on the basis of their religious beliefs. In all of our policy decisions, we need to show our displeasure with this kind of heinous conduct. And finally, the creation of a structured asylum program for religious refugees is a noble objective; an objective some believe is long overdue.

As people all around the world are celebrating the fiftieth anniversary of the Universal Declaration of Human Rights in their own special way, let's do so in ours. Let's support H.R. 2431, and help to ensure the protection of a freedom for others, that we in this nation often take for granted. The freedom to practice and express one's religious beliefs without interference or persecution. Vote for H.R. 2431.

Mr. HAMILTON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. CAMPBELL).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

The question is on the amendment in the nature of a substitute, as modified, as amended.

The amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MILLER of Florida) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes, pursuant to House Resolution 430, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SMITH of New Jersey. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 375, nays 41, answered "present" 1, not voting 15, as follows:

[Roll No. 155]

YEAS—375

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dixon
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Filner
Foley
Forbes
Ford
Fossella
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moakley
Moran (KS)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sanchez
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—41

Blumenauer
Bonilla
Brown (CA)
Chenoweth
Clay
Conyers
Crane
Crapo
DeGette
Dicks
Dingell
Dooley
English
Fazio
Gibbons
Hamilton
Hastings (FL)
Hilliard
Houghton
Jefferson
Johnson (CT)
Kolbe
Matsui
McDermott
Mink
Moran (VA)
Oberstar
Paul
Pickett
Pombo
Rangel
Sabo
Salmon
Sanford
Smith, Adam
Snyder
Stokes
Stump
Tauscher
Waters
Watt (NC)

ANSWERED "PRESENT"—1

Bonior

NOT VOTING—15

Bateman
Dickey
Fowler
Gonzalez
Harman
Hefner
Lewis (CA)
Mollohan
Obey
Quinn
Riggs
Sanders
Skaggs
Torres
Traficant

□ 1426

Mr. CONYERS, Mr. JEFFERSON, Mrs. MINK of Hawaii, and Mr. CLAY changed their vote from "yea" to "nay."

Mr. MINGE changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SANDERS. Mr. Speaker, I inadvertently missed rollcall vote 155, the Freedom From Religious Persecution Act, H.R. 2431. I am glad it passed. If I had been present, I would have voted yes.

GENERAL LEAVE

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2431, the bill just passed.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Missouri?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3760

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3760.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON SMALL BUSINESS

Mr. FAZIO of California. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 434) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

HOUSE RESOLUTION 434

Resolved, That the following named Member be, and is hereby, elected to the following standing committee of the House of Representatives:

To the Committee on Small Business, the following Member:

DONNA CHRISTIAN-GREEN of the Virgin Islands.

The resolution was ageed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I ask the gentleman from Texas (Mr. ARMEY), the distinguished majority leader, what the schedule for today and the remainder of the week and for the following week will be.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I am pleased to announce that we have concluded legislative business for the week. The House will next meet on Monday, May 18, at 12 noon for a pro forma session. There will be no legislative business and no votes on that day.

On Tuesday, May 19, the House will meet at 10:30 a.m. for morning hour and at 12 noon for legislative business.

On Tuesday we will consider a number of bills under suspension of the rules, a list of which will be distributed to Members' offices.

We also hope to consider H.R. 512, the new Wildlife Refuge Authorization Act, under an open rule, and begin general debate on H.R. 3616, the National Defense Authorization Act for fiscal year 1999. Time permitting, we will complete consideration of H.R. 3534, the Private Sector Mandates Act.

Members should note that we do not expect any recorded votes before 5 p.m. on Tuesday, May 19.

On Wednesday, May 20, and Thursday, May 21, the House will meet at 10 a.m., and on Friday, May 22, the House will meet at 9 a.m. to consider the following legislation:

Continued consideration of H.R. 3616, the National Defense Authorization Act for the fiscal year 1999;

H.R. 3150, the Bankruptcy Reform Act of 1998; and

H.R. 2183, the Bipartisan Campaign Integrity Act of 1997.

□ 1430

We also hope to have a number of conference reports ready for next week, including H.R. 2400, The Building Efficient Surface Transportation and Equity Act conference report; and H.R. 2646, The Education Savings Act for public and private schools conference report.

Mr. Speaker, we hope to conclude legislative business for the week on Friday, May 22. The House will be in recess for the Memorial Day district work period until Tuesday, June 2.

The House will reconvene on Wednesday, June 3, at 10:30 a.m. However, votes will be postponed until after 5:00 p.m. on Wednesday, June 3, the resumption of our work after the recess.

I thank the gentleman for yielding me the time.

Mr. BONIOR. Mr. Speaker, reclaiming my time, can the distinguished majority leader assure the House that we will vote on the final passage of campaign finance reform before the recess, as promised?

Mr. ARMEY. If the gentleman will continue to yield, I want to, of course, thank the gentleman for his inquiry.

Next week is, of course, a week where we have a great deal of work that is pending before the Nation and very important work. There is no doubt we will get to campaign finance reform. And this is, of course, a very big, broad-based debate, focused on honest and fair elections; and we intend to have that full debate and there will be full consideration.

So I have no way of assuring the gentleman of our ability to complete that work, given the fact that we have just, I think, until the end of today to file substitutes. So my anticipation is there will be a large number of voices that will want to be heard.

Mr. BAESLER. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Kentucky.

Mr. BAESLER. Mr. Speaker, if I could ask a question of the distinguished majority leader.

Since we are the blue dog with the sponsor of the discharge petition, we are concerned, very clearly, that the whole matter be discussed next week. And I just heard the comments of the gentleman to the gentleman from Michigan (Mr. BONIOR).

So does the majority leader think that we are going to be able to discuss the substance or just the rule next week?

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. If the gentleman is still talking about the consideration of honest and fair elections, certainly, I have no doubt, we will get beyond the rule and into the bill.

I simply cannot give my colleague any assurance about how far we will get relative to the amount of work to be done. But certainly the gentleman is correct; we will be discussing the legislation itself.

Mr. BONIOR. Can I ask my friend from Texas how much time does he anticipate that he may be setting aside for the campaign finance reform bill, the honest election bill that he referred to?

Mr. ARMEY. If the gentleman would further yield, I appreciate his interest. But we have sought full participation by everyone who has been working on this subject to give them an opportunity to present their recommendations and consider that. We will know more, of course, after the filing of all the substitutes before the committee. But we intend to give it as much time as it will take.

Mr. BONIOR. Mr. Speaker, I yield to my friend, the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I thank my colleague the distinguished minority whip for yielding. I wonder if I might ask a question, under his reservation, of the majority leader.

As the majority leader I think knows, there are bipartisan interests in activities of official business on Friday of next week, and I am wondering is it possible for the majority leader to give us a 2 o'clock or a 3 o'clock certain adjournment time, or, at least, would he be willing to entertain a request from this gentleman that we adjourn as early as possible on Friday?

Mr. ARMEY. I thank the gentleman. I do understand the importance of the work that my colleague is discussing here. And it is a Friday before a district work period.

We will undoubtedly find ourselves having to stay late on Wednesday night, perhaps Thursday night. And it is our intention to be able to conclude by 2 o'clock so that people can begin their district work period in a manner that would be consistent with the plans they have made.

Mr. BEREUTER. If the gentleman would continue to yield, I just wanted to thank the majority leader for that indication. I think it would be helpful in our planning and it is of bipartisan importance.

Mr. BONIOR. Finally, Mr. Speaker, I yield to my friend, the gentleman from Texas (Mr. STENHOLM) for an inquiry.

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding.

I would like to inquire of the majority leader if the leadership has ascertained as yet the nature of the rule under which we will consider campaign finance reform?

As my colleague is I am sure aware, the discharge petition that many of us felt would have given a very free and open debate of the issue includes some mode of operation that we feel is very, very important to the consideration of these competing ideas. The so-called freshman bill and the Shays-Meehan bill, we believe very strongly, should be considered in what we call the Queen of the Hill, in which the one that gets the most votes becomes the base bill; and then the open rule that I believe everyone has promised for amendment would then occur thereafter.

Could my colleague shed some light as to whether or not the leadership might be sympathetic to basically having the rule that was about to be discharged be the rule under which we will conduct the free and open debate?

Mr. ARMEY. As I said before, the substitutes are still being filed. But I believe the kind of rule the gentleman from Texas outlined, and again, I do not of course have the authority to speak on behalf of the Committee on Rules, but I would anticipate that if the gentleman is requesting the kind of rule outlined, anticipating that, that he should have good expectations that he will be pleased with the rule, from the discussions that I have heard.

Mr. BONIOR. I thank my colleague from Texas.

ADJOURNMENT TO MONDAY, MAY 18, 1998

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Florida?

There was no objection.

HOUR OF MEETING ON TUESDAY, MAY 19, 1998

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, May 18, 1998, it adjourn to meet at 10:30 a.m. on Tuesday, May 19, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING THE SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Monday, May 18, 1998, the Speaker, majority leader, and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

50TH ANNIVERSARY OF FOUNDING OF MODERN STATE OF ISRAEL

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, I would like to take this opportunity to extend my warmest congratulations and best wishes to the State of Israel and to her people on the occasion of the 50th anniversary of the founding of the modern State of Israel.

In 1948, Israel arose from the ashes of the Holocaust. On May 14, 1948, the people of Israel proclaimed the establishment of the sovereign and independent State of Israel. Over these last 50 years, the American people have formed a profound friendship with the people of Israel, and these bonds of friendship and cooperation have been significant for both our countries, and we give thanks for the miracle of her survival; for the history of Israel and the Jewish people is the story of redemption and freedom of all oppressed peoples everywhere.

So, to the people of Israel, I wish them a peaceful, prosperous, and successful future.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. LaHood). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRIBUTE TO MARJORY STONEMAN DOUGLAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Foley) is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I would like to take a moment to pay tribute to a remarkable Floridian who spent literally a century doing good on this Earth before passing away today.

Restoration of the Florida Everglades, one of the largest functioning ecosystems in the world, is a massive undertaking, and success will depend upon a united effort between the Federal Government, the State of Florida, and all local, regional, and tribal interests.

While the job of restoring the Everglades ecosystem is by no means complete, much has already been accomplished in the 50 years since President Truman designated the Everglades as a national park.

These accomplishments, Mr. Speaker, are in no small part due to the efforts of Marjory Stoneman Douglas. And for that reason, I was saddened to hear the news of her death this morning at the age of 108 years old.

While there are many different points of view about how to best clean up the Everglades, we all agree that it does in fact need to be restored. This was not always the case, though, in Florida. In fact, during campaigns in the 1930s, people would run for office and say, "If you will elect me governor of this State, I will drain that swamp and create growth and development opportunities." But it was through the efforts of Mrs. Douglas that Floridians began to view the Everglades as a national treasure that needs to be preserved rather than a simple swamp that needed to be transformed.

I read today from the Washington Post. "Environmentalist Marjory Stoneman Douglas, the fiesty, tireless grande dame of the Florida Everglades who led the fight to preserve her river of grass, died today. She was 108."

Let me give a few quotes from people who worked with her closely on the preservation of one of our most significant national treasures. "For many, Mrs. Douglas was more than an environmentalist. Joe Podgor, executive director of the 5,000-member Friends of the Everglades, which she helped found, once called her 'the giant on whose shoulders we all stand.' Clay Henderson, president of the Florida Audubon Society, said her campaign was 'certainly the turning point for the Everglades.' "

He also stated, "The good thing is that she lived long enough to see the restoration of the Everglades rise to the top of the national agenda. And so we've come too far now to be able to turn back."

"She was considered the authority on the delicate ecosystem, which is home to plants and animals found nowhere else.

"In 1947, she helped lead the successful push to have nearly 1.6 million acres designated as the Everglades National Park. That same year, she published her book, 'The Everglades: River of Grass,' the first attempt to put the history of the Everglades into one volume."

□ 1445

Until then, the Everglades was considered a wasteland to be conquered and used for farming, and State policies encouraging drainage and development. The book's title referred to the fact that the Everglades is really a wide river of shallow water flowing slowly southward across a low grassy plain.

The book combines scientific findings and traditional lore and reads nothing like a textbook. I give you a quote: "The clear burning light of the sun pours day long into the saw grass and is lost there, soaked up, never given back," she wrote. "Only the water flashes in glints. The grass yields nothing."

Long past an age when most people slow down, she continued to speak out on behalf of the imperiled south Florida region damaged by rapid development.

Among other honors, a special conservation award named for her, an act of the legislature in her name, and several Marjory Stoneman Douglas parks and schools. The high-rise gold glass building in Tallahassee that houses the State Department of Natural Resources is named for her. In 1993, when she was 103 years old, President Clinton awarded her the Presidential Medal of Freedom.

Even when others insisted the battle over the Everglades was lost, Mrs. Douglas refused to give up. She said, "It is not too late, or we would not be working. We simply cannot let everything be destroyed. We cannot do that, not if we want water. We have got to take care of what we have." Mrs. Douglas said in her 1990 interview. She led us in a valiant fight to preserve the Everglades.

I am proud of the work. Speaker Gingrich, Senator Dole, and others have helped, and Senator Connie Mack, in helping us achieve the largest Federal effort ever to preserve and protect the Everglades.

I was able to offer a $300 million effort on behalf of our colleagues and all Floridians to preserve our most vital natural resource in Florida, which is water, and our Everglades National Park, which is a treasure for generations to come.

But it is obviously today more the work of Marjory Stoneman Douglas that has brought us here today, both to honor her life, celebrate her presence, eulogize a tribute to her, the preservation of something so vitally important to over 14 million Floridians and actually the entire United States, the preservation, the lifeblood of Florida, the Everglades National Park.

ISSUES AFFECTING HAWAII

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. ABERCROMBIE) is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, I have in my hand the Asian American and Pacific Islander Journal of Health here from the autumn issue in 1993. It addresses the health status of Kanaka Maoli, the indigenous Hawaiians. It is written by my good friend Dr. Richard Kekuni Blaisdell.

In the process of reviewing this, Mr. Speaker, you will find that the purpose is to summarize the current health status of the Kanaka Maoli, the indigenous Hawaiian people, with historical background, the underlying factors responsible for the indigenous Hawaiian health plight and recommendations.

The principal findings, Mr. Speaker, are that the indigenous Hawaiians continue to have the worst health and socioeconomic indicators of the various ethnic groups who call their home Hawaii: cardiovascular disorders, cancer, diabetes, obstructive lung diseases, maternal and infant ill health, alcohol problems, obesity, major life-style risk factors, societal factors such as depopulation, foreign transmigration, colonial exploitation, cultural conflict and racism.

Since 1990, Mr. Speaker, as a result of our native Hawaiian health programs funded here in the Congress and under our auspices, native Hawaiian communities have established five island-wide native Hawaiian health care systems to improve availability, accessibility, and acceptability of health services to all of the indigenous Hawaiian people, to provide them with resources.

The health status is a grim one, Mr. Speaker, and I have to bring to your attention and to the rest of my colleagues the important matters which we have been addressing by congressional action and are now compromised.

The House Committee on the Budget yesterday released a proposed budget for the Federal Government for the coming year. Mr. Speaker, I am saddened, not just outraged, but saddened by the effort contained in that proposal to eliminate funding for the native Hawaiian health care programs. Why the leadership of the Committee on the Budget and the leadership, Mr. Speaker, in the majority Republican Conference, has chosen to attack native Hawaiian health courtrooms is beyond me.

The program addresses the documented needs of Hawaii's native citizens in a culturally relevant context. Of all of the races of people in the islands of Hawaii, the native Hawaiian people have had the most difficult times in health and social indicators. Why it is a position of the Republican majority to attack native Hawaiians is beyond my grasp at this time, Mr. Speaker.

They are hurting people in the lowest socioeconomic status with the highest overall mortality rate, the highest cancer mortality rate, the highest accident rate, the highest years of productive life lost to chronic disease, the highest infant mortality rate. I could go on with this, Mr. Speaker. It is a litany that we are trying to overcome.

These grim statistics can be attributed to the imposition of foreign cultures and practices upon the native Hawaiian people. Only since the 1988 introduction of the native Hawaiian health program have we begun to turn these statistics around. We need the budget for it, and we have achieved a balanced Federal budget in the process. I voted consistently to achieve that goal.

Mr. Speaker, I will end my remarks now, but will put forward the statistics as well as the background on the proposal to end these programs for native Hawaiians by the majority. I hope, Mr. Speaker, by the time we finish our budget proposal that we will be able to reverse this proposal.

DISTRACTIONS AND OBSTRUCTIONS IN CAMPAIGN FINANCE INVESTIGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MICA) is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I come before the House this afternoon after the proceedings that took place today. I am really concerned about the process of the House of Representatives and its investigative ability.

Today we saw an attempt to besmirch the reputation and interfere with the congressional investigation of campaign financing abuses in the 1996 election. Personally, I am quite disturbed by what we saw take place. I think it backfired on the other side of the aisle, and I think that they were surprised that some of their colleagues from the other side of the aisle joined with this side in voting down this unprecedented interference in the congressional investigative process.

The issue is not the Chairman of the House Committee on Government Reform and Oversight; the issue is, in fact, the delay, the diversion, the distraction, and the very obstruction of the congressional investigation process. I am really concerned about what again has taken place. We saw action on the floor today.

This is a situation that is very serious. For the first time in the history of our Federal elections process, we have seen an attempt to influence congressional and presidential elections by foreign money, foreign resources in our campaign process. Now we see an attempt to close down that investigation.

I have served on the Committee on Government Reform and Oversight and its predecessor since I came to Congress in 1993. That is one of the most important committees and responsibilities in this Congress.

It was founded and established by our Founding Fathers for a purpose, because they did not trust the appropriators, they did not trust the legislators, the authorizers; they wanted a third check and balance on the conduct and operation of our governmental system.

That is where the Committee on Government Reform and Oversight got its very roots and bearing. That is the difference between our system of governments and other democratic system of governments is that check and balance.

To close down that investigation, to divert the attention on the chairman is a misuse of power and responsibility in this House of Representatives, and I take great offense to it.

We have seen, again, unprecedented amounts of money, and our committee has been investigating. It may be too bad that it comes to the door of the White House, but it should be disclosed. It should be investigated. It cannot be shut down.

When the other side says that they will close down the proceedings of the House as far as investigation, when the Department of Justice says we agree that we will grant immunity and allow you to grant immunity for cooperation of these witnesses, and they try to divert attention from that and block us from investigating, they have shut down this process. It is an affront to every Member of Congress. It should be an affront to every citizen. It should be an affront to the media that they are trying to divert, to stall, and obstruct this process. The process will go forward.

I happen to be the only Member of the House that serves on both the Committee on Government Reform and Oversight and also on the Committee on House Oversight. It will come to one of those committees, or it will come to the floor. This matter will be thoroughly investigated as the Founding Fathers intended and as our congressional process and constitutional process require.

We have seen, now, the influx of Indonesian money, Chinese money, Thai money, Venezuelan money, Russian money, and convicted drug dealers' money into this process. In this process, the American people want to know the answers. Is this affecting our policy if our ports are given away? If we have imported Chinese weapons into this country, killing Americans, who is responsible? If we have a major Chinese cigarette manufacturer influencing our policy and contributing to our campaigns and influencing our elections? Let it all hang out.

I am personally offended by what they have tried to do here today to our Chairman who has on every occasion acted in an honorable fashion. I think a disruption of this process is a shame on this House of Representatives.

ANNOUNCEMENT OF RULES COMMITTEE MEETING

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, the Committee on Rules is scheduled to meet in 3 minutes today to consider a rule providing general debate only for H.R. 3616, the Defense Authorization Bill for Fiscal Year 1999.

We will meet at 3 o'clock next Tuesday to make in order other amendments to that legislation. The rule that we will put out today will be for general debate only.

Mr. Speaker, additionally, unfortunately, the minority leadership has decided to personally attack Members of the majority side this morning on the House floor. Also, there has been a decision by the minority to oppose on two occasions immunity for four witnesses which the Department of Justice approved before a House investigative committee.

Due to these unfortunate circumstances which the minority has brought to the House floor, the Committee on Rules will add to its afternoon agenda the following measures: H. Res. 432, expressing the sense of the House of Representatives concerning the President's assertion of executive privilege; and H. Res. 433, by myself, calling upon the President of the United States to urge full cooperation by his former political appointees and friends and their associates with congressional investigations.

Mr. Speaker, these measures will be considered on the House floor next week under an appropriate rule. Since the Democratic leadership has regrettably decided to embroil the floor in this kind of partisan and personal attacks, the House will consider resolutions next week which will bring some perspective to the current discussion of ethics in Washington, D.C.

□ 1500

TOBACCO FARMING IN AMERICA

The SPEAKER pro tempore (Mr. MCKEON). Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, there has been much discussion about tobacco settlements. If Congress is serious about passing tobacco settlement legislation this session, we need to act in a measured and collaborative way.

Let me say, though, that I do not smoke and I do not encourage others to smoke, and indeed, I support the efforts to discourage our teenagers from smoking. However, the decision to smoke is one best left to mature adults, and even then, after careful consideration. Children should not smoke, nor should they be enticed to smoke, and therefore, a public policy discouraging them from smoking and having enforcement to make sure that tobacco companies do not entice them is indeed appropriate.

With regard to the pending tobacco settlement, no matter how you feel about tobacco, one must view it for what it is; it is a legal commodity, grown by many American farmers.

These North Carolina farmers, our tobacco farmers, want the same thing as other Americans: a good quality of life overall for them and their families, for their children to have a good education, for them to have sufficient resources with which to provide their families with food, shelter and other amenities of life, saving for their retirement, a secure environment in which to live and to work, and most importantly, hope for the future.

These farmers, our tobacco farmers, care about their children as well as about other children in their community, instilling in them the values of honesty, hard work and a sense of community.

Mr. Speaker, like other American farmers, like those in your home State, these North Carolina farmers prepare their land, till it carefully, plant their crops, tend their fields, harvest their yields and market their products, much like commodities such as corn and wheat.

Tobacco is one of the main reasons that many small farmers are still able to stay in business, because no other crop yields as much income per acre. Most of these farmers are unable to find an alternative crop, although several of them are seeking them. To find an alternative crop with a comparative income indeed has eluded many. It would take almost eight times more acres of cotton, 15 times more acres of corn, 20 times more acres of soybeans, and 30 times more acres of wheat to equal the income from a single acre of tobacco.

The money earned by farmers and those employed in tobacco-related businesses flows into their communities, spreading these profits around. It has been estimated that the agricultural dollar turns over an average of 10 times in the farming local community. Do the math: $7.7 billion, which is estimated as the income to our State, equals $77 billion. $77 billion flows from those citizens who sell the seeds, fertilizers, pesticides, farm machines, groceries, clothing, as well as other important goods and services.

These monies make life possible, bearable, and sometimes even determine the quality of life in rural communities. That revenue also streams into the county, State and Federal tax coffers, supporting education and health care.

The total income impact is also felt in terms of jobs. Over 108,650 North Carolinians are tobacco farmers or are employed in tobacco-related jobs. Therefore, it is absolutely critical, as we continue the process from which a settlement will emerge, and it should go forward, that those who are in the House as well as those in the Senate should permit these hard-working farmers to continue to earn an honest living doing what they do best, farming, and sometimes, growing tobacco.

The public policy to restrain young people from smoking is an appropriate one. Equally as important, as we seek this public policy, we should not have a public policy that brings great devastation on large numbers of unintended victims; and I submit to you, the rural communities and farmers are unintended victims.

Mr. Speaker, these small farmers are essential to the continuation of agriculture in North Carolina and the vitality of our rural areas.

ORIGINAL COSPONSORSHIP OF H.R. 3868, THE BIPARTISAN NO TOBACCO FOR KIDS ACT OF 1998

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California, Mr. BILBRAY, is recognized for 5 minutes.

Mr. BILBRAY. Mr. Speaker, I rise today to express my strong support for H.R. 3868, the Bipartisan No Tobacco for Kids Act of 1998. This legislation, which was authored by my colleagues, Representatives JAMES HANSEN and MARTY MEEHAN, is aimed exclusively at preventing kids from smoking and reducing the adverse health effects of tobacco on children.

According to the Centers for Disease Control (CDC), 3,000 kids each day become regular cigarette smokers. In light of recent statistics that shows youth smoking on the rise, I believe it is imperative that we act assertively here in Congress to crack down on youth smoking and access to tobacco.

Before I came to Washington, D.C., I served on the San Diego County Board of Supervisors and was responsible for passing one of the most stringent anti-smoking ordinances in the country. Because of my prior commitment to and involvement with this issue at the local level, and the startling statistics that show youth smoking on the rise, I am only too glad to support H.R. 3868 as an original cosponsor. H.R. 3868 is the only anti-tobacco bill in Congress (including the Senate) which has received the endorsement of former Surgeon General C. Everett Koop and former Food and Drug Administration (FDA) Commissioner David Kessler. In fact, Koop and Kessler stated that other bills in both the House and Senate do not go far enough to reduce and prevent youth smoking.

This legislation establishes strong financial disincentives for tobacco companies that do not reduce tobacco consumption by minors by specified target dates. It has the stated goal of reducing tobacco use by children by 80 percent over the next ten years. This provision allows each tobacco manufacturer to determine the manner in which it will reach this mandatory goal. Federal requirements will apply only if the manufacturers are unable to achieve the reduction goals on their own.

H.R. 3868 includes an increase of $1.50 per cigarette pack, which will provide a financial disincentive for youth tobacco consumption. In addition, H.R. 3868 codifies the FDA provision from last summer's tobacco settlement that provides the FDA authority to regulate nicotine as a drug or a drug delivery device. This provision of the bill also contains added restrictions on advertising and marketing to youth.

H.R. 3868 contains a provision to prohibit smoking in public buildings and facilities, and it authorizes funding for essential federal tobacco education and prevention programs. In addition, the majority of the revenue generated from this legislation will be used to pay down the federal debt. While H.R. 3868 does not provide any special liability protections for the tobacco industry, it does offer to settle pending state tobacco lawsuits, such as the one recently settled in Minnesota.

I believe that this legislation will help to create an adequate "firewall" to protect public health and discourage and prevent youth tobacco smoking and possession. I feel very strongly that we should not tolerate youth smoking in our society with a "wink and a nod." We should treat teenage smoking as harshly as we would teenage drinking. As the father of two young children, I have a personal stake in passing this important legislation and helping to ensure that our kids do not develop this deadly habit. Statistics by the American Journal of Public Health show that minors illegally purchase 256 million packs of cigarettes each year. Our findings show that only 20 states have laws prohibiting tobacco possession by minors. We need to encourage states and localities to adopt and comply with strong anti-possession laws. The need for minor possession laws is illustrated by a CDC finding that 62 percent of minors who smoke say they buy their own cigarettes. In fact, I would support legislative efforts to require states to outlaw tobacco possession by minors as a condition of receiving federal funds.

Mr. Speaker, my father died of lung cancer at the age of 53 due to his smoking habit. All three of my brothers smoke. There is little I can do to change that; however, I can do something to prevent my five children from starting to smoke. H.R. 3868 accomplishes these goals. Congress cannot afford to sit idly by and do nothing while thousands of children pick up their first cigarette every day and begin this deadly habit.

I commend Representatives HANSEN and MEEHAN for initiating this legislation, and I urge my colleagues to cosponsor H.R. 3868, and build upon the bipartisan coalition of Members committed to preventing and reducing youth smoking.

THE CONSERVATION ACTION TEAM BUDGET FOR AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin (Mr. NEUMANN) is recognized for 60 minutes as the designee of the majority leader.

Mr. NEUMANN. Mr. Speaker, I rise today to talk about a new budget that has been introduced out here. There has been a lot of discussion recently about the House budget, or the John Kasich budget as it is sometimes known in the House Committee on the Budget.

I am a member of that committee and I think JOHN KASICH has done a tremendous job putting together a budget. But some of us don't think we have done quite enough in terms of reeling in government spending and getting this whole thing under control out here, so that the American people can keep more of their own money, so that Social Security can again be safe, and again we can start paying down the Federal debt.

So I rise today to talk about an alternative budget called the CATs budget, or Conservation Action Team budget, that promotes a lot of visions that are different.

Washington is truly an amazing place when you start talking about budgets and numbers and things, because everything gets twisted immediately. It amazes me to listen to people talk about how they are cutting spending in Washington, D.C.

I brought with me a chart today to show what happens in these different budget proposals that are being talked about out here. This black line on this chart shows inflationary increases in government spending. So if we allowed Washington or government spending to increase at the rate of inflation, that is what this black line on this chart represents.

The President made a budget proposal, and it is very clear from this that it allows government spending to go up much faster than the rate of inflation. That is growing government.

The United States Senate recently passed a budget, and again you can see that the Senate budget grows government, it allows government spending to increase faster than the rate of inflation.

The American people have a right to know that on the other side of the aisle they are going to call this a spending cut because, you see, since the Senate budget did not spend as much as the President's proposal, they are going to call this distance from here to here a "cut," even though the inflationary increase in government spending is down here at this black line and the Senate proposal increases spending much faster than the rate of inflation.

Some of us out here thought that government spending should not increase faster than the family budget or faster than the rate of inflation, so we put together our own budget. Our budget allows government spending to increase not quite at the rate of inflation, just a little bit slower than the rate of inflation.

For all of my colleagues out there and all the viewers out there that believe that government spending should not be going up at all, let me just agree with you. If I got to do this all by myself, this green line would be down here, and we would not allow government spending to increase at all.

So let me start by making it clear that this budget that we are talking about, the CATs budget, the Conservation Action Team budget, allows government spending to increase, but at a rate just slower than the rate of inflation.

So when people talk about this Conservation Action Team's budget and draconian cuts, we all ought to understand that what the CATs budget actually does is hold the rate of growth of government to approximately the rate of inflation. So when you talk about cuts in spending, there are no cuts in spending.

Spending in the first year of the CATs budget, the most conservative budget out here, spending in the first year will be approximately $1,720 billion. That is a lot of money. In the second year it is going to be $1,749 billion. I am not going to read all the numbers. But the point is the spending, even in the Conservation Action Team's budget, increases each and every year. So when the American people hear about draconian budget cuts in Washington, they ought to understand the fallacy of that discussion.

The reality is the most conservative budget proposed out here, that is the least government spending, allows government spending to increase at approximately the rate of inflation. The Senate proposal, well, that lets government spending go up much faster than the rate of inflation, and the President's proposal, of course, that increases government spending even more yet.

So I start with this discussion about the CATs budget. It is the only budget out here that holds the growth rate of Washington spending or government under the rate of inflation.

There are some other very unique things about the CATs budget I would like to talk about. There has been much discussion, and I am going to spend part of this hour today talking in more depth about Social Security.

There has been much discussion about the problem with Social Security. The President of the United States, Mr. Speaker, Saturday right in that chair, and he put his fist on the table and said, Social Security first; Social Security must be protected for our senior citizens. Well, I brought a chart along to show which budget really protects Social Security for our senior citizens.

The President's proposal has a very limited amount of money set aside to protect and preserve Social Security. The Senate did slightly better than the President, setting some money aside to preserve and protect Social Security. The CATs budget sets more money aside to protect Social Security than any other proposal out here.

The CATs budget holds the increase in government spending to the rate of inflation, and it puts more money aside for Social Security than any of the other proposals. Again, the President's proposal puts this much money aside for Social Security, the Senate puts this much, and the CATs budget, the Conservation Action Team's budget, puts more money aside for preserving Social Security than any of the other proposals out here.

The next important feature of the CATs budget that sets it apart from all the rest of the budgets. We recognize that the tax burden on American citizens is too high. Since the CATs budget spends less money, it allows spending to grow only at the rate of inflation, instead of faster than the rate of inflation, that allows us to decrease taxes on the American workers.

Today the American workers are paying $37 out of every $100 they earn in taxes. A generation ago that number was $25. I would like someone to help me understand why it is that the government needs $37 out of every $100 that American workers earn to run government at various levels, State, local, Federal, property taxes and so on.

So the CATs budget looks at this and says the tax burden on American workers is too high. We want to bring down that tax burden on American workers.

The President's budget proposes very minimal tax reductions. As matter of fact, some out here would say it is zero.

The Senate also proposed very minimal tax reductions on American workers. The CATs budget, the Conservation Action Team, provides $150 billion of tax relief to American workers.

Now, this should be kept in perspective. We are going to spend over 9,000 billions of dollars. So when we talk about returning or allowing the American people to keep an extra $150 billion of their own, we should understand that is 150 out of over 9,000 billions of dollars. It is just a tiny little bit of what is being taken from the American people in taxes already.

So the next important feature then that sets the CATs budget aside from any other proposal out here right now is the tax relief provided to the American people is significantly larger than the President's proposal, a lot larger than the Senate proposal; it is the most tax relief being proposed out here in Washington, D.C., today. It holds government spending increases to the rate of inflation, no draconian cuts, sets more money aside for Social Security, and provides more tax relief to the American people than any other proposal on the Hill.

I have a chart with a lot of numbers on it, but rather than talk about all of those numbers, I thought I would point out a couple of the key numbers.

The tax relief number is $150 billion being proposed in the CATs proposal. Defense is another important area, and I have to tell you this proposal is different than any other proposal here in Washington as it relates to defense.

You need to understand Washington language to understand this defense discussion. In Washington, when the President proposes cutting defense, that is, we are spending $260 billion this year, and he proposes taking that number down to $250 next year, and then Congress comes back and actually spends 260, so they spent 260 last year, they are spending 260 this year, but the President proposed cutting that spending to 250, that is called in Washington a $10 billion increase.

Let me walk through that one more time slowly, because it is confusing.

If we spent 260 last year and we spend 260 billion again this year, the exact same amount, but the President proposed spending 250 instead of 260, that 260 is called a $10 billion increase in defense spending.

Okay. This has been going on for quite some time, and there are some problems, quite frankly, in the defense budget. There are $75 hammers that people have heard about. Frankly, there is some waste there. The people who bought the $75 hammers ought to be fired, but that is not a reason to destroy our ability to defend ourselves as a Nation.

□ 1515

That is the wrong solution to the problems. Our budget allows defensive spending or spending for the Defense Department to increase at the rate of inflation. Let me say that once more very slowly. Like the rest of the CATs budget, defense spending increases at the rate of inflation.

Now, what is going to happen in this is over the next few weeks there will be a lot of people in Washington D.C. saying they are spending lots more money on defense. Well, for the last number of years, a lot of years, defense spending has been frozen. In fact, we spent less money on defense last year than my first year in office back in 1995.

I think it is time we look around the world and we see what is going on. India had nuclear tests. We understand Pakistan may have nuclear tests this weekend. China has been given the technology to launch an intercontinental missile at the United States and get it to reach the United States. It is time we as a Nation wake up to the fact that we ought to have a missile defense system prepared to defend our country.

It is time we wake up to the fact that our defense budget has been cut far enough. And we are not suggesting dramatic increases in defense spending, we are simply saying we have gone far enough with these cuts in defense, let us now level this thing off and allow defense spending to increase at the rate of inflation.

I point that out in our CATs budget, because it is the only budget on the Hill, the only proposal in Washington D.C. that allows inflationary increases in defense spending. Every other proposal out here either freezes it at last year's level or decreases defense spending significantly. I think we have reached a point in our defense spending where we need to wake up and realize that this is a dangerous world we live in and we need to maintain our ability to defend ourselves in this country.

I want to just go on from there and talk a little bit more about the Social Security situation.

The Social Security situation, remember, the CATs budget puts more money aside for Social Security than any other proposal on the Hill. I want to talk through Social Security in detail so that the viewers understand this debate that is going on here about Social Security, because in this community, what they talk about here and what they say and what it actually means out in the real world are generally two very different things. So let me go through Social Security.

The Social Security system this year is going to collect about $480 billion in taxes, out of workers' paychecks. They are bringing $480 billion into this city from Social Security taxes. We are paying out to our senior citizens in benefits, we are paying out in benefits about $382 billion. Now, if we are collecting $480 billion and paying $382 out in benefits, that leaves a $98 billion surplus in Social Security.

So let me be very clear about this. The Social Security system today collects more money than what it pays back out to our senior citizens in benefits. The reason they are doing that is because the baby boom generation, people in my age, and as I look around the people here in the House with me today, people in our age group are rapidly racing toward retirement, and there are lots of us. They are collecting more money than they are paying back out in benefits, and their surplus is supposed to be set aside so when us baby boom generation people, lots of us, reach retirement and there is too much money going out and not enough money coming in, at that point they are supposed to go to the savings account. They are supposed to take this $98 billion that is supposedly put in a savings account, get the money out of the savings account, and be able to make good on Social Security to tomorrow's seniors.

The year that these two numbers turn around is about 2012. So in about 2012, if we had this chart up here, the amount of money coming in compared to the amount of money going out, the amount of money coming in would be less than the amount of money going out, and that is the year that they have to go to that savings account to get the money.

It is important to understand what Washington is doing with that $98 billion. It comes as no great surprise when I am in town hall meetings with my constituents and we talk about this. I always ask them the question: Washington got $98 billion more in Social Security than what they paid out in benefits: what do you suppose they did with the money? And everybody says, they spent it. That is exactly right.

Washington has taken that $98 billion, they put it into, think of the second circle as a big government checkbook much like your own checkbook in your own home. They take that extra money, put it in the big government checkbook, they then spend all of the money out of that government checkbook and at the end of the year there is nothing left in that government checkbook, so they simply write an IOU. It is simply like you are going to have a savings account, but rather than actually writing a check, you simply write an IOU to the account at the end of the year. Remember, folks, at the year 2012, we need the money out of that savings account. We need those IOUs in the year 2012.

Now, we have reached this point out here where we are running these "surpluses." It is important the American people understand what this surplus actually is. In all fairness, before I go into this, we should point out that this is the same definition that has been used since 1969. That "surplus" is in this circle right over here. That "surplus" is after we put the $98 billion in the big government checkbook, if they spent all of the money out of the big government checkbook and there was no money left at the end of the year, they would call that a balanced budget, even though they have not written a check down here to the Social Security Trust Fund. So when we talk about surpluses, what it means is with that $98 billion in the big government checkbook, when they are looking at the book at the end of the year, without writing the check to the Social Security Trust Fund that there is some money somehow left in this checkbook.

Well, the bottom line on this thing, folks, is that the surplus is real, as defined in Washington terms, but most people in most places across America would say we better write a check down here to the pension fund or Social Security fund before we really call our checkbook balanced.

For that reason, in our office we wrote a bill called the Social Security Preservation Act. It is H.R. 857. We have about 90 cosponsors, some Democrats, some Republicans, currently in the House of Representatives. The Social Security Preservation Act is pretty straightforward. It simply takes the $98 billion extra that has been collected for Social Security and puts it right down here in the Social Security Trust Fund. It is not exactly Einstein kind of stuff, it is just the money coming in from Social Security actually goes into the Social Security Trust Fund. The way we do that is instead of putting IOUs in there, we put negotiable Treasury bonds, the same kind that any citizen in America can walk down to their local bank and get.

So the Social Security Preservation Act would require that we put real dollars into the Social Security Trust Fund so that Social Security is safe and secure for today's seniors.

I see some young people here in the gallery with us today, and my colleagues are concerned about the people in those age groups as well. My colleagues are concerned that even if we put all of this money into the trust fund that is supposed to be there, we still have a problem that in the year 2029, all of those surpluses in Social Security would be used up. So even if we put all of the money into the trust fund that we are supposed to, that solves the problem from 2012 to 2029, but we still have that longer term problem out there past the year 2029 that needs to be dealt with.

The first thing we need to do as a Nation when we look at these surpluses is we first have to enact a bill, the Social Security Preservation Act, that will put the money that is coming in from Social Security into the Social Security Trust Fund. We will then be looking at true surpluses as opposed to Washington-defined surpluses. Again, I do not think we should take anything away from the accomplishments of the last 3 years, because before this, it has been 30 years since we even got this far in terms of balancing the budget.

We are now ready to go on to that next step, and put the Social Security money into the Social Security Trust Fund and get to a point where Social Security is once again solvent, at least from 2012 to 2018.

I would like to go on with another part of the CATs budget and just talk a little bit more about what the CATs budget does. Again, I would reemphasize as it relates to Social Security, as it relates to Social Security, it puts more money into the Social Security Trust Fund in real dollars, not IOUs. It puts more money into the Social Security Trust Fund than any other proposal out here in Washington, D.C.

I would like to talk about another part of this budget that I think is very significant and very important, and that is as it relates to education. In the CATs budget, we make the requirement that 95 cents out of every dollar that is spent on education actually reaches the classroom to help kids.

Now, that may sound like common sense, but that is not what happens today. Today, Washington makes a decision to reach into the pockets of the American people and collect tax dollars under the mistaken idea that it is going to spend it on education. So Washington reaches into the pockets of the American people and brings the money to Washington. They then spend 40 cents on every dollar on bureaucracy. Washington then attaches strings to it and sends 60 cents back to the classroom under the requirements of whatever Washington deems appropriate. That is not good.

What we would like to see instead is we would like to see that money back in the pockets of the local parents, the local communities, and we would like to see the parents and the schools and the teachers and the communities making decisions on how to best spend that money. The benefit here, the real benefit, is that instead of 60 cents getting to the classroom to help our kids, 95 cents of every dollar gets to them. It effectively wipes out the huge bureaucracy that is eating up the money that is supposed to be going to help our kids in education.

I personally think it is disgraceful that America has let our kids slip to 21st in the world. I think when we start thinking ahead to future years, if we want a goal for the next generation, it should be that we should restore our kids to be the best educated kids in the entire world. I do not want to get them back in the top 10 or even the top 5. Our goal needs to be to get our kids to be the best educated kids in the whole world. We have been going about that all wrong.

What we have been doing so far is we have been saying, if we just expand Washington control, Washington can fix it; honest, trust us, Washington can fix education. Folks, we have slid down to 21st. Washington cannot fix education. Parents need to get actively involved in the choice of where their kids go to school, what they are taught in those schools, and how it is taught, because when we get parents back into the picture of education, we have a lot of side benefits, the most important of which is that our kids will rapidly move back to the top in terms of being the best educated kids in the world. I believe the most important thing we can do is reempower our parents to be actively involved in the education process of our kids.

I would like to just talk briefly about those side benefits, because I think when we look at goals for a generation, I think it is real important that those benefits get mentioned. When parents get more involved with their kids, an interesting thing happens. We looked at 12,000 teenagers, 12,000, a huge number, and of course, if we look at 12,000 teenagers, some are going to have crime problems, drug problems, teen pregnancy, teen smoking, and some are not going to have any of those problems.

What they did is they started looking at the ones with crime problems versus the ones that have not been involved with crime, and then they looked at the ones with drug problems and the ones without, and then they looked at teen pregnancies and where there is not teen pregnancies, and teen smoking and where there is not teen smoking; and they started looking at the characteristics in these homes where there were no teen pregnancies or teen smoking, teenage crimes or teenage drug use, and something became very obvious very quickly. The single most important characteristic of the homes where they did not have problems with these things versus the homes where they did, the single most important characteristic was the involvement of the parent with that child's, with that teenager's life. The greater the involvement of the parent, the less the likeliness of crime, drugs, teen smoking, teen pregnancies, a whole list of social problems.

So when we start looking at this education situation, if we can reempower our parents to be actively involved in what the kids are taught, where it is taught and how it is taught, that extra involvement in these teenagers' lives is going to have a tremendous side benefit, helping us solve crime problems, drug problems, teen pregnancies, teen smoking, a whole realm of social issues.

I do not want to be considered naive in this. I do not want to believe that just because we reempower our parents, there is not going to be any more crime in America. There are certainly other things that we must do. But I do believe that an important first step is improving education back to number one in the world and empowering the parents to be the number one influence in these kids' lives.

It leads us right back to the CATs budget. When we think about parents being forced to pay $37 out of every $100 they earn instead of $26 like it was a generation ago, what is happening in America is parents are being forced to take second and third jobs, and when they take second and third jobs, it is exactly the opposite result of what we want. To earn that extra $12 that government is collecting in taxes, that second job and third job, that means that the parents' time to spend with their kids is cut back dramatically.

So when we come back to that CATs budget and we think about relieving some of the tax burden on American workers, it is not going to automatically mean that the parents are going to go spend more time with the kids, but what it is going to mean is that instead of being forced to take the second job, at least they will have the opportunity to make the decision to spend that extra time with their kids, and that is what is going to lead us to solutions to so many of our problems in this great Nation that we live in.

I want to finish very briefly with a very brief discussion about how we got to where we are, because there has been a lot of discussion in this country, and of course all the Democrats say it was President Clinton and all the Republicans say, well, of course it was the Republican House and the Republican Senate that did it. I thought that rather than have that discussion, I thought we should just lay out some statistical facts and let the people draw their own conclusions.

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When I came here in 1995, it was 2 years after that tax increase. A lot of people are saying that 1993 tax increase is what has brought us this strong economy.

I would like to bring just a few of the facts here. When I came here in 1995, 2 years after the tax increase, this red line shows where the deficit was headed the year I came here. Remember, this includes using the Social Security money, as we talked about before. This yellow line shows where we were 1 year later, 1 year after the House changed control. The green line shows what we hope to do. That was our promise to the American people. The blue line, now at balance, shows what actually happened.

So when we talk about tax increasess versus controlling Washington spending, when we talk about the 1993 group raising taxes, that did not get the job done. When we talk about 1995 controlling spending, that led to the strong economy and got the job done.

There are some other very interesting statistics. To me, Americans understand that raising taxes is not the right way to solve our problems. This chart shows the interest rate fluctuation starting in 1993, when taxes were raised, and I would point out that from 1993 virtually right straight through to 1995, interest rates climbed. So in the face of higher taxes, the interest rates immediately went up.

That makes sense, because when they take more tax money out here to Washington, that means there is less money available in the private sector; less money available in the private sector led to this higher interest rates. When there was a change out here in Washington and the Republicans took over in 1995, the interest rates started dropping.

The reason was because we started getting a handle on controlling the growth of Washington spending. Remember, keep this in the context of what we have been talking about today. Instead of spending growing at twice the rate of inflation, spending is now going up at the rate of inflation; no draconian cuts, inflationary increases in spending. Instead of twice as fast as the rate of inflation, what happened immediately is the interest rates started falling.

It is interesting to look at this point where they reached their low level. That was January, 1996. To refresh the memory of anybody who does not remember what happened in January of 1996, that is when we folded. The American people starting doubting that we would keep our commitment to actually balance the budget. The interest rates responded immediately with a spike.

They then thought we were serious again, and Members can see that as we have now reached the balanced budget out here in March of 1998, the far side of the chart, it is very, very clear what has happened with the interest rates. By getting to a balanced budget, we have seen the interest rates come down from a high here to where they were today, almost a twofold percentage point drop.

But it is not only the interest rates. An amazing thing happens when I am in town hall meetings nowadays. I ask how many people own stocks, bonds, mutual funds, et cetera. Almost every hand in the room goes up.

When the tax increase took place in 1993, the stock market basically did not respond. There is virtually no change in that stock market from there right straight through to 1995. But in 1995 when the American people got to understand that we were serious about stopping this growth of Washington spending, and understand the growth of Washington spending, when you control that by spending less, by only allowing it to increase at the rate of inflation, that means there is more money left in the private sector; more money in the private sector, lower interest rates; capital available for growth and development, expansion, to buy houses, buy cars, then that is job opportunities. That means more people working, and of course, more taxes being paid in, which makes it all easier to do.

The stock market responded very quickly then. Basically since that 1995 takeover and since we got spending, got our arms around spending here, and just controlled it to a point where it is only going up at the rate of inflation, the stock market has also taken off in a corresponding way. I think the statistical facts, looking at this, make it pretty clear what has been going on.

I see my colleague, the gentleman from Minnesota (Mr. GUTKNECHT) has joined me. Mr. Speaker, I yield the balance of my time to the gentleman from Minnesota (Mr. GUTKNECHT).

CUTTING THE GROWTH OF WASHINGTON SPENDING

Mr. SPEAKER pro tempore (Mr. MCKEON). Under the Speaker's announced policy of January 7, 1997, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for the balance of the time of the gentleman from Wisconsin (Mr. NEUMANN).

Mr. GUTKNECHT. Mr. Speaker, as the gentleman from Wisconsin (Mr. NEUMANN) runs out the door, I want to say a special congratulations and thanks to my colleague.

I remember a couple of years ago when we first started having some joint town hall meetings. I represent Minnesota, he represents Wisconsin. When we first started talking about actually balancing the budget, and more importantly, even paying down some of the $5.4 trillion worth of debt that we have run up, that this Congress in the past, at least, has run up on our kids, a lot of people thought we were both crazy. We said that we believed we could balance the budget not just in 7 years, that it could actually be done in much less time.

As a matter of fact, the gentleman from Wisconsin (Mr. NEUMANN) came over to my district last year, we had a couple of joint appearances, and then we both predicted that there was a very good chance we would not only balance the budget this year, but there is a very good chance we would have a surplus this year.

How has that happened, I know many of our colleagues and folks ask who have been watching this discussion here in this special order this afternoon. It is important, sometimes, to go back to where we were. The charts the gentleman from Wisconsin (Mr. NEUMANN) was showing a few minutes ago showed what was happening for the last 30 years.

I had my staff do a little analysis. For the last 30 years, prior to the 1994 elections, for every dollar Washington took in it spent an average of $1.22. That was the pattern for every year. They could raise taxes, sometimes they would cut taxes, but the problem was spending.

In fact, a farmer in my district perhaps put it better than anybody else when we were talking one afternoon out on his farm. He said to me, the problem is not that we do not send enough money in to Washington. The problem is that Washington spends it faster than we can send it in. He was exactly right. That is what had been happening for the last 30 years.

For the first time in 1995, with the leadership of the gentleman from Ohio (Mr. JOHN KASICH) and the Committee on the Budget, they came out with a plan to dramatically change the way Washington does business. In the process, we have eliminated 300 different programs here at the Federal level; some of them big ones that people have heard of, like the Interstate Commerce Commission, and many small ones. But the point is, we began to change the whole tenor, the whole debate, the whole discussion, and the whole principles that were at stake here in Washington began to change.

In the process, we have reduced the rate of growth in Federal spending. Now, some people said we were making draconian cuts, that kids would lose their school lunches, all of these terrible things would happen to our senior citizens.

Most of that was hyperbole and is not true, but it is true that this Congress has dramatically reduced the rate of growth in Federal spending. As a matter of fact, we have cut the rate of growth in Federal spending almost in half.

When we combine that with a much stronger than expected economy, and I must say, again, that my colleague, the gentleman from Wisconsin, as a former entrepreneur and businessperson himself, understood that if there were some signals going out both to Wall Street and to Main Street, that for the first time in 30 years Congress was serious about reducing that $1.22 of spending for every dollar it takes in; that that message would be translated into the lower interest rates that folks on Wall Street and folks on Main Street would understand, that for the first time Congress was serious about controlling Federal spending. The net has been that the economy has been much stronger than even some of the most optimistic prognosticators told us a few years ago.

So when we combine a much stronger economy with real restraint in Federal spending, what we see today for the first time since I was in high school is not only a budget that is going to be in balance, but more important than that, a budget which will probably produce a significant surplus, we believe somewhere in the area of $80 billion this year, and also has a very good chance of producing surpluses in the $80 to $100 billion range every year for a number of years to come.

That is where we were back throughout the sixties, the seventies, the eighties. For every dollar that Washington took in, it spent $1.21. Now that number is actually 99 cents. For every dollar Washington will take in this year, we will spend 99 cents.

We still have a lot of problems. One of them is Social Security. I know the gentleman from Wisconsin (Mr. NEUMANN) has talked a lot about this. I am not certain if he got a chance to talk about it earlier. We do have a significant problem with Social Security. It really is generational.

I think we need to talk about generational fairness, when we talk about Social Security. Most of us have parents, and I am fortunate that both my parents are still living. They are both on Medicare, both on Social Security. Obviously, the last thing we want to do is pull the rug out from under them.

I happen to represent the baby boomers. I was born in 1951. We once had a demographer tell us there were more babies born in 1951 than any other year. We are the peak of the baby boomers. I understand the consequences to the Social Security trust fund when the baby boomers begin to retire in about the year 2010.

I also have three children, and I want to make certain that we do not do things with our generation that would make it impossible for the next generation to enjoy anywhere near the standard of living that we have enjoyed. So we really have three separate generations we have to deal with with Social Security.

When we talk about Social Security, and one of the things as it relates to the budget, currently we are taking in about $100 billion a year more than we are spending on Social Security. We should have a trust fund, there is a trust fund, but what happens is the money comes into the trust fund and then is loaned back to the Federal Government. In the process, it disguises the size of the debt. That started back in about 1964.

Some of us would argue that it was a mistake to go to the unified budget and use the surpluses in Social Security to make the budget deficit look smaller. But that is the way it is, that is the way it has been. I think at some point in the future, hopefully in the near future, we will begin to change that entire budget process so we have an honest and fair budget accounting.

So even though we will show a surplus this year technically, we will still be borrowing about $100 billion this year from the Social Security trust fund. We have to solve that and at least be aware of that.

I want to say a special congratulations to the gentleman from Ohio (Mr. JOHN KASICH). No one has fought harder in this Congress over the last 5 or 6 years to balance the Federal budget to get control of the Federal spending that that farmer talked about than the gentleman from Ohio (Mr. KASICH).

I also want to congratulate him, because as a member of the Committee on the Budget, we have been working long and hard over the last several months trying to come up with a budget plan, number one, which will advance the values that I think most Americans have and want. That is, they want us to pay down some of that national debt, they want to save Social Security, they would like to shrink the size of the Federal Government to allow for additional tax relief.

That is exactly what the gentleman from Ohio (Mr. KASICH) and the Republican members of the Committee on the Budget have been working on, and within the next week or 10 days we are going to be unveiling that plan, hopefully have it here on the House floor. Essentially what the gentleman from Ohio (Mr. KASICH) and the Committee on the Budget are talking about is restricting the rate of growth in Federal spending over the next 5 years to the inflation rate.

I know when that budget hits the floor there are going to be people who are going to say, oh, my goodness, you cannot restrict the rate of growth in Federal spending to the inflation rate. But ultimately they are going to have to ask themselves this question. They are going to have to choose between family budgets and the Federal budget; why is it more important that the Federal budget grow at greater than the inflation rate when many family budgets are not?

If we can do that, if we can exercise even that fiscal discipline to find an additional $100 billion, this does require some cuts in terms of what people had expected to spend in some of these programs. But generally speaking, as I say, we are going to allow Federal spending to grow at approximately the rate of inflation over the next 5 years.

In doing so, we will generate significant surpluses in our opinion, and more important, we will make room for significant tax relief. The tax I want to talk about that we hope that we will include in the final budget resolution, at least as a recommendation to our colleagues here in the House, will be for the marriage penalty tax.

I believe my numbers are correct. There are approximately 12 million American families who pay a tax penalty for the privilege or the right or the blessing, if you will, of being married.

I like to tell the story that in less than a month my wife and I will celebrate our 26th wedding anniversary. I steal this story from Senator PHIL GRAMM over in the Senate side, one of our colleagues over there, who says he has been married a long time. He believes his wife still loves him, but says, I wish the IRS would stop tempting my wife to leave me.

It is almost unconscionable, and frankly, I think it is almost immoral that the Federal Government charges married couples a higher tax rate, so that approximately 12 million American families pay a tax penalty of almost $2,000 per family for being married. We ought to encourage stronger marriages, not discourage them.

Here in Washington one of my favorite expressions, and altogether too often it is true, is that no good deed goes unpunished. In other words, if you work, you get punished; if you save, you get punished; if you create jobs, you get punished. That is the kind of thinking that really has occupied Washington for too long. What we are saying is that it is time to reverse some of those perverse incentives. Clearly the marriage penalty tax is one of those.

Our estimates are that to get rid of the marriage penalty tax, it would take about $100 billion over the next 5 years, which, coincidentally, if we limit the growth in Federal spending to the inflation rate over the next 5 years, frees up enough money to make that tax penalty go away.

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I think that is a good idea. I think that is an idea that once the American people have a chance to evaluate that, to understand it, I think they will agree that it is time to end the marriage penalty tax and, if we can make the Federal Government go on just a slight diet over the next five years and, to put this in context, over the next five years it is estimated that the Federal Government will spend about $9 trillion, that is with a "T" now, $9 trillion, that is how much we are expected to spend under the budget agreement that we set with the President last August 5.

What the Committee on the Budget is going to ask all Members of Congress to do is to tighten the Federal budget by $100 billion. To put that in some kind of a context that perhaps we can understand better, let us assume the Federal Government has a belt that is 9 feet around, in other words, the waste, the girth of the Federal budget is 9 feet or $9 trillion. What we are going to ask our colleagues to do is find a way to pull that belt in one inch. We are going to pull that belt in one notch.

If we can do that, we can eliminate the marriage penalty tax, we can create greater surpluses to make Social Security more solvent. We can begin to pay down the debt and ultimately, by sticking to a very simple formula of limiting the growth of the Federal budget to approximately the inflation rate, we can provide additional funds for tax relief. We can make Social Security solvent. But here is the best news of all, we can pay off the national debt. We can pay off the national debt in approximately 21 years. That may seem simple and it may seem almost too hard to believe, but we have run the numbers and they are accurate.

Now, I talked earlier about the generational fairness and being fair to our senior citizens. Certainly we do not want to pull the rug out from under them as it relates to Medicare or Social Security. We also understand what the baby boom generation is going to mean in terms of its retirement, what is going to happen when we begin to draw on those Medicare benefits. What we really want to do, though, is preserve the American dream for future generations. I cannot think of anything better to leave our kids than a debt free future.

I think if the American people have a chance to think about this, I think they are going to agree that the time has come to dream big dreams. There was an architect from Chicago who said, make no small plans. The American people have always made big plans. We are a people of big dreams.

In fact, Winston Churchill once observed, when he was talking about the American people, he said, you did not cross the oceans, fjord the streams, traverse the streams and deal with the droughts and pestilence because you were made of sugar candy. The American people are a tough people. They believe in big dreams. They believe in paying down the debt.

Out where I come from in farm country, it is almost the American dream to pay off the mortgage and leave our kids the farm. It is unfortunate, if you stop and think about it, what we have been doing here in the United States, particularly here in Washington over the last 30 or 40 years. They literally have been selling off the farm and leaving our kids the mortgage. That is worse than just bad politics. It is worse than just bad economics. It is fundamentally immoral.

So what we are saying is, if Washington can find a way, if we in Congress can take that 9-foot-long belt and if we can pull it in just one notch, one inch, we cannot only balance the budget, we can actually begin to pay down the national debt, and we can make room for tax relief for working families. We can make it easier so that they can take care of their kids and their families by eliminating the marriage penalty tax. That is a big dream. That is a big goal. But Americans love big dreams and big goals, and I think that this Congress is up to that task.

I think we can get it done. It is going to take the help of the American people. I think we have to help. We have to explain it to the American people so that they understand these are not draconian cuts we are going to be talking about. We are actually talking about limiting the growth in Federal spending over the next five years to the expected inflation rate. It can be done. In fact, if you compare what we are talking about to what has happened in corporate America over the last 5 years, these are very modest decisions that we are making today. And the budget proposal that we will bring to the floor of the House here in the next week or 10 days is incredibly modest and some might even say timid. But if you begin to make the right decisions, as we did 3 years ago, in terms of balancing the budget, limiting the growth in Federal spending, eliminating 300 different programs, taking other programs and figuring out ways to make them run more efficiently, ultimately there are big dividends for the American people and ultimately for the next generation of Americans.

I want to congratulate the gentleman from Wisconsin (Mr. NEUMANN) and the gentleman from Ohio (Mr. KASICH), members of the Committee on the Budget. We have come a long way. We have made tremendous progress in terms of balancing the budget, reforming welfare, saving Medicare. We still have a lot to do. We have got to make Social Security not only solvent for our parents and for the baby boomers, but we need to create an entirely new retirement system for the younger generation.

Among those options that we are looking at, and I think deserve very serious consideration, is the notion of personalized retirement accounts. Perhaps we can use some of those budget surpluses to make every American stakeholders in a brighter future and in their own retirement system using personalized retirement accounts. For example, if we have a $50 billion surplus and we divide it up among approximately 100 million taxpayers, we could put $500 in everybody's personalized retirement account. That is every American who pays taxes. And they could also contribute to that for themselves. Ultimately this becomes a profit sharing plan for the surplus. It encourages all Americans to take an active role in their government, to make certain that we do not have wasteful spending and that we keep control of Federal spending so that ultimately we have larger and larger surpluses, which then, portions of which could be distributed back to the American people through these personalized retirement accounts.

It is an idea whose time is coming, and we are going to have some interesting debate and discussion on that. I think ultimately a growing consensus will agree that that is one way that you can save the next generation in terms of their own retirement. So, as I say, we have made enormous progress. I am very pleased with the work we have done. I think if you consider where we were few years ago, it is amazing to look now at the American people and say, yes, we have a balanced budget, at least using the accounting terms that we have had since 1964.

There is much more to be done though. We have to save Social Security. We have to further strengthen Medicare. We have to create personalized retirement accounts for young people, and we have to create a system and almost an ethic here in Washington that makes it sure that we do not have deficits anymore, that we are always working trying to figure out ways to guarantee that we have surpluses. That will guarantee lower interest rates so that more Americans can afford homes and cars. It ensures a stronger economy so that more people who perhaps were on welfare, who were on those welfare rolls can move on to payrolls. That is really the goal, and so we can all have a brighter future and a better future for the next generation of Americans.

I want to thank the gentleman from Wisconsin (Mr. NEUMANN) for yielding me the time. I see my friend from South Dakota (Mr. THUNE) has joined us.

I yield to the gentleman from South Dakota (Mr. THUNE).

Mr. THUNE. I thank my good friend from Minnesota for yielding to me.

I appreciate the discussion that has been held on the floor this afternoon between he and our colleague, the gentleman from Wisconsin (Mr. NEUMANN) who has been a leader and at the forefront of addressing the Federal spending, the proclivity in this town to continue to spend more than we take in, has been very bold, I think, in the efforts that he has made to try and bring that spending under control and coming up with some solutions that in a very deliberate and systematic way address the long-term problems facing our country with respect to government spending and, in fact, most recently has begun discussion of this budget year, what we might do to slow the growth rate of Federal spending, rather than seeing it grow as it does and under the President's budget at twice the rate of inflation and even under the Senate-passed budget at 1½ times the rate of inflation, to getting it back to the rate of inflation.

If we can get to where we are controlling government spending in that fashion, I think we will see over time the revenue situation improve to where we not only can address the ongoing needs of government but furthermore address the long-term challenges that face our country, one of which is reestablishing the trust fund, the Social Security trust fund, which is going to provide for our retirement needs in the future and doing it in a way, again, that not only secures and ensures that those who are currently receiving benefits continue to receive benefits but also for future generations, that we do something to address the fact that the program, unless we make some changes and unless we do something to make sure the trust fund is in fact secure, that the dollars are not going to be there to pay out.

Finally, to give back to the American people a little bit more of what they earn. I think that the budget that the gentleman from Wisconsin has been working on, and you and others, starts moving us in that direction. I wanted to credit you with the work that is under way to address, again, the long-term problem in this country; that is, that Washington has a tendency, if there are any dollars around, they are going to get spent. We want to make sure that the American people are getting a good return on their taxes.

Furthermore, as we look down the road at what we can do to deliver tax relief and to give people in this country a little bit more, allow them to keep more of what they earn and make their budgets bigger and the Federal budget smaller, some systematic approaches toward tax relief and reform, ultimately, which I think should be our long-term goal, but at this point in time looking at how we best deliver tax relief to people in this country.

I know that there are a number of alternatives out there, one of which is eliminating the marriage penalty which I support because it is a very punitive thing directed at people who get married in this country. It is something that I think we all agree that we ought not penalize through the tax code as a matter of practice people for getting married. It is something we want to encourage, not only to get married but to stay married. I think that is something we all support.

There is another piece of legislation that I would like to mention, which I know is part of the cap proposal which is out there right now, that addresses this whole notion of allowing more people to pay at the lower 15 percent tax rate level as opposed to the higher 28 percent level. And this, if we can somehow raise the threshold at which the 28 percent rate kicks in, we will have more and more people paying more of their income or having more of their income covered at the lower 15 percent rate, therefore, paying less in taxes and having an incentive to go out and to do better and to improve their lot in life and to earn more, because we are not going to be taking 28 cents out of every dollar they earn. We are only going to be taking 15 cents, doing that in a way that delivers tax relief in a very broad based way so that anybody in this country, irrespective of their status, married or single or with children, that we get away from the Washington knows best way of directing tax relief to specific groups and targeting and, again, bring tax relief in a broad-based way that says to the American taxpayer, if you pay taxes, you deserve tax relief.

I think that ought to be one of the principles that we incorporate and one of the values that we try to advance as this debate over budgets begins in this budget year.

Mr. GUTKNECHT. I appreciate the gentleman. And the whole issue of taxes. I know this sometimes drives some of our more liberal colleagues into orbit when you talk about tax relief, allowing people to keep more of their own money. Sometimes we have to look at that from an historical perspective as well.

Back when I was growing up, my parents were able to raise 3 boys on one paycheck. The reason they could do that is the average family sent only about 4 percent of their gross income to the Federal Government in the form of taxes. Today the average family, when you put total taxes, now we are talking State, Federal and local taxes, altogether, the average family spends over 38 percent of their gross income on taxes.

I think most Americans are shocked when they learn that the average family spends more on taxes than they do on food, clothing and shelter combined. And that is why so many parents, now both parents have to work and, frankly, that has caused some social problems.

Mr. Neumann also has an excellent presentation when he talks about you can almost predict which kids are going to get involved in drugs, which kids are going to get involved in smoking cigarettes. It has something to do with having at least one parent home when they come home from school.

There are lots of things that could be solved if we could give parents more time to spend with their kids. If we can eliminate the marriage penalty tax, you take that 12 million American families that pay a penalty for being married, and this is why it is so unfair, if those people were living together without the benefit of marriage, they could file separately and save themselves thousands of dollars, $100 billion in taxes over the next five years. There is something just almost insidiously wrong with that. I think we have an opportunity in this budget plan to right that wrong.

I certainly support lowering the death tax. I would like to see lowering, if not eliminating capital gains. There are lots of areas where I think this Congress can effect tax relief. But there is one that I think stands out like none other, and that is this marriage penalty tax which, coincidentally, if you limit the growth in Federal spending to exactly the inflation rate for the next five years, you free up enough in terms of additional savings of Federal spending, less than projected, to afford to pay for this tax relief which I think families deserve and I think is the right thing to do.

Mr. THUNE. Mr. Speaker, I think it strikes at the very heart, much of the fabric of our Nation. There are certain things that we want to reinforce, families staying together and being able to spend more time with their children.

A lot of the social problems that we encounter in American today are the result of the fact that we have policies, even economic policies, even tax policies that are counterproductive to allowing parents and families to spend more time together. If you have more of that cohesive time together, you would not have some of the social problems that we are encountering, kids who fail to have the time that they need to have with their parents get involved in other activities and probably with people that should not be associated with. So these things are related.

When you talk about reinforcing the values that have helped build this country and make it great, I think, again, as a matter of policy, when you start dealing in the area of taxes and economic policy and the things that the Congress is able to do, it ought to be with an eye toward what can we do to further enhance those institutions that have strengthened and built this country. And certainly the family is one of those.

As you noted earlier, the fact that the tax burden on this country consistently continues to climb and to rise and people are shocked when they find out how much they are paying. Many of them do not realize it because in a very subtle way it comes out through the payroll tax, and it comes out through the payroll deduction and, therefore, unlike some taxes which you pay and you know exactly what you are paying in terms of taxes, there are a lot of sort of hidden taxes, I think, today.

□ 1600

So when people find out that they are spending, which the gentleman said, on average, for a family of 4 is 38 percent of their income just to pay the cost of government in this country, that is a staggering statistic when we consider the fact that when we started out some 30 or 40 years ago, as the gentleman also mentioned, it was 2 to 4 percent, roughly in that range.

And that is a trend which I think we have a responsibility as a Congress to try to reverse so that we get to a point in a peacetime economy, in an economy that continues to grow, we ought not to ask more of the American taxpayer.

I think much of what is being discussed today in terms of Federal programs are an expansion and a bigger role, which calls for more tax dollars from the American taxpayer to fund those programs, rather than looking at what we can do to address some of the problems, real problems that real people in this country have across the country in the area of child care, education and health care.

But if we allow them to keep more of what they earn, they have control. They are in a position of authority, they are in a position in which they can make decisions as they pertain to their family's particular situation and needs and how best to meet those needs.

I think it is a clear contrast in terms of the philosophy that is out there, the liberal philosophy, which says, let us build government programs and allow government to deliver the services and solve these problems and meet these needs. Or, rather, do we allow the American people, again as a matter in their day-to-day lives, allow them to keep more of what they earn and continually roll back the cost of government so their family budget is bigger and, therefore, they are better able and in a position to make decisions about the choices that are out there and the needs that they have.

I think, again, that is a clear contrast. It is a very clear separation in terms of the direction that we take the country between the point of view that we are going to bring to the table and that that the liberals do.

So as we continue down this road and track and look at ways in which we can better use the resources, be more efficient, modernize government in a way that increase employees' take-home pay for people in this country, in this budget debate, these are the things that will be underlying it. We will be talking a lot about numbers, and the numbers are on the surface, but when we get right down to it, the underlying values are what we want to reinforce in this discussion and the decisions that are made through the budget process.

So again I want to credit the gentleman from Minnesota (Mr. GUTKNECHT), my friend, and the gentleman from Wisconsin (Mr. NEUMANN), and I see the gentleman from Indiana (Mr. MCINTOSH) joining us in the well here, for the work that is ongoing in terms of how we can continue to slow the growth of government spending and to recognize the fact that we have serious problems out there, retirement issues that have to be addressed, Social Security, Medicare, and getting the cost of government under control and allowing people in this country to keep more of what they earn.

Those are the goals, I think, the principles and the values that we share and which I hope in this debate are reinforced and become a part of the final product.

Mr. GUTKNECHT. As the gentleman says, this is about values. And if my colleagues believe in faith, family, work, thrift, and personal responsibility, the budget we are putting forward, where we are going to spend $9 trillion over the next 5 years, all we are going to ask the government to do is tighten its belt one notch.

I think there is nobody who believes that in a 9-foot belt we cannot find 1 inch of fat that can be reduced in the Federal Government. And if we do that, we allow families to keep more so they can spend more, they can spend more time with their kids and they can build a better future not only for themselves but for their country, because they will spend that money a whole lot smarter than we will.

I want to thank and welcome the gentleman from Indiana (Mr. McINTOSH) and yield to him at this time.

MICROSOFT ANTITRUST CASE

Mr. McINTOSH. Mr. Speaker, I want first to thank the gentleman from Minnesota (Mr. GUTKNECHT) and say that I wholeheartedly endorse the budget the Conservative Action Team has brought to the House and appreciate the gentleman's work today to bring out that information.

I would like to speak, if I may, on a different topic for a few minutes. I want to applaud the fact that today Microsoft Corporation and the Justice Department reached a temporary cease-fire in the legal dispute about whether they can proceed to issue Windows 98 so that American consumers can have the latest in software technology for our home computers.

But I am troubled by what is going on in this case, and I wish to share my concerns with my colleagues today and with the American people, because I sense that our Justice Department is misusing the antitrust laws simply because they see a corporation in America that has produced a product that is very successful, very much valued by the American consumer and, frankly, poised to take us into the next century with a lead in that technology.

There is a proper role for antitrust laws in our economic marketplace, but they are to be used when there is a barrier to entry that allows a corporation to have an unfair competitive advantage in monopolizing a marketplace. When we talk to economists about the computer industry, and particularly about software, we do not see that type of barrier to entry. In fact, as Mr. Gates testified to the Senate, if he does not produce the best-operating software, one of his competitors who is very capable will produce a better software and immediately have the opportunity to take over that leading market share.

This is an area where technology is changing every day. Back 20 years ago, IBM was the leading computer manufacturer and had a dominant position. But they failed to see the advances that were happening in the software industry and lost that dominant position to Microsoft. How did this happen? It happened because the government stood back and allowed ingenuity and innovation to take its course in America.

And that is what we need to do today, make sure that no one is prevented from coming to the marketplace and offering a product, but not holding back those who have succeeded when they invest the fruits of those successes in developing new products which are available for the American public.

I will remind my colleagues, the product that Microsoft is accused of having used monopoly power for now costs the American consumer one-tenth of what it did but 5 years ago. So I would urge our Justice Department to be cautious in misapplying the antitrust laws so that we do not stifle innovation, but allow all American consumers to take advantage of lower prices, better technology and an increase in power to use the personal computer.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from California (Mr. DOOLITTLE) is recognized for 60 minutes.

Mr. DOOLITTLE. Mr. Speaker, we constantly hear these days from reformers who support a bigger Federal Government, that campaigns cost too much and that government must step in and further regulate campaign spending. But I ask my colleagues, is spending on political advertising really out of control?

Consider this: Tonight Americans will watch the final episode of Seinfeld and a 30-second ad purchased tonight during that final episode will cost $1.5 million for 30 seconds. By contrast, the cost of a typical congressional race is about $0.5 million or one-third the 30-second ad tonight on Seinfeld.

By restricting a candidate's ability to spend campaign dollars, we will restrict his ability to speak to potential voters through television, radio, mail and personal appearances. This is the very type of speech the Founders sought to protect through the first amendment to the United States Constitution.

When we support spending limits, we must feel that there is too much speech in political campaigns and that candidates communicate too much with voters. How is it that spending a few billion dollars exercising our most precious rights as Americans is deemed to be excessive while the tens of billions of dollars spent on disposable consumer products is not? Free political discourse and plenty of it is infinitely more valuable to the protection of our liberties than any beer or car commercial can ever be.

In 1996, spending on all campaigns, Federal and State, totaled just $4 billion, yet Americans spend roughly five times that much, or $20 billion per year, on laundry and dry cleaning. In comparison, total advertising in a year, that year, 1996, was around $150 billion versus the $4 billion spent on campaigns at all levels of government.

Total campaign spending viewed another way, per eligible voter, averages just $3.89, really the cost, approximately, of a McDonald's value meal. Is that amount too much? Even at a much higher price, liberty would be a much better value.

Total campaign spending as a percentage of the gross domestic product is not increasing, as is stated by some and implied by others, but rather it has remained fairly constant since 1980, fluctuating between .04 percent and .06 percent of the gross domestic product.

Voters have minds of their own. They are not helpless to make their own decisions in the face of political advertising. Money spent on advertising does not buy votes, it enhances a candidate's ability to communicate his message to voters.

I urge my colleagues to oppose any measure that would ration our constitutional rights, and I would remind people that the first amendment is quite clear on this subject. It states: Congress shall make no law, shall make no law, abridging the freedom of speech.

Next week the House of Representatives will engage in a historic debate about campaign reform and what needs to be done to address the problems that confront us. Before we can embark upon a course of reform, we had better have a clear understanding of what those problems are. Once we know what they are, we should then consider how to address them.

I would submit that the problem of campaign reform is much like the case of the sick patient who has been diagnosed and treated by the same physician for a long period of time. If the diagnosis is wrong, then the treatment prescribed is not going to help the patient. In this case, we see that the patient is ill and the same doctor is treating him and the same prescription is being offered, only more of it. And the more that is given, the sicker the patient gets.

We hear a great deal of talk today about the evils of soft money. Most Americans, I would venture, really have no idea even what soft money is. We hear the terms "hard money" in contrast to "soft money." We hear discussions of issue advocacy or we will hear the term "independent expenditure." I would just observe that these were terms that really came into being the first time the Dr. Regulator made his prescription for the patient when, in 1974, the Democrats ran through a partisan law that took partisan advantage and skewed the whole Federal law in favor of their party and against Republicans.

Now, after this law was passed, we began to understand a new term, the term of "PAC." I remember 2 or 3 years ago when our big government reformers were trying to outlaw PACs, or political action committees; it is funny that we do not hear much about that anymore. PACs have not changed, it is just that now all the focus is on something else, soft money. But let me just remind all my colleagues that basically the terms of "PACs" and "soft money" came into being as a result of the present Federal law, rammed through Congress by liberal Democrats taking advantage of the reaction against the Republicans and Richard Nixon. And they put that law through, and ever since we have seen the ill effects of that law.

☐ 1615

And now when the body politic is deemed to be even sicker, Dr. Regulator is back again with the same old prescription; more regulation. The answer is always the same; more regulation.

Now, what is the question? It is very interesting how over the years this has never changed. We always have to have a new law, a new regulation proposed to fix something. In this case, they are trying to fix our campaign system. Let me suggest that the cause of the patient's illness is the regulation itself. That is the cause. If we wanted to deal with the underlying problem and heal that patient, remove the regulation.

Now, there is a truly radical idea: remove the regulation, do not have more of it, as virtually everyone on the other side proposes and some of our own Republicans are proposing. Reconsider what is causing the sickness. Get a proper diagnosis. Then we will be able to proceed.

I would submit that the various ideas being advanced by the left and by some of us here on our side of the aisle are flat-out wrong and they will not solve the problem. I believe them to be highly undesirable, unconstitutional. But even setting aside those two things, actually they are quite unworkable. If regulation worked, we would not have the mess that we have today in our Federal campaign system; we would not have a presidential system that takes our taxpayer dollars and spends it on candidates that we oppose as taxpayers. That system needs to be repealed. That system is hurting us. That is denying the parties their most vibrant candidate.

Think for a minute to the 1996 campaign and what happened on the Republican side and think ahead to what is likely to happen this time around. The candidate who was nominated, the candidate who is going to be nominated is the one who has the highest name ID amongst the voters no matter what his ideas or record happens to be. There is very little information available to the voter about this person, and there will continue to be little information because we have such strict spending limits set in law that it is not possible for the candidates at the presidential level to communicate their ideas.

We saw that fully played out in the Republican side of it. Senator Dole, by the time he was able to win enough delegate votes to cinch up the nomination, was unable to continue spending between that point and the Republican Convention in midsummer because of the Federal campaign law. How on Earth can this be good policy? How can this be consistent with the precious first amendment, which says so clearly that Congress shall make no law abridging the freedom of speech?

Let me just observe, before this disastrous 1974 law rammed through Congress, bipartisan liberal Democrats twisting the law to their own advantage, the law that we live under today, our campaigns were relatively unregulated and it worked relatively well. It was not perfect, but we will never achieve perfection as long as mortal human beings are upon the face of the Earth governing themselves. So let us not look for perfection; let us look for the best that we can get and something that works.

I would submit, Mr. Speaker, that the system we have today is worse than what we had. We have tried to correct abuses and created far worse problems. The problems we have today are violations of the first amendment. We do not have free speech in this country anymore when it comes to campaigning.

I find in my district voters are hungry for reliable information about the candidates. They want to hear directly from the candidate and it is getting harder and harder to do that. People should be offended that under the present law an individual can, or, rather, a political action committee can contribute five times what an individual can contribute to a candidate's campaign. Why is that just or right or fair that there is a 5–1 advantage?

After all, the first amendment says Congress shall make no law abridging the freedom of speech. So how did it get abridged? By a statute enacted into law by the Congress and the President.

Well, this was tested in the famous Buckley v. Valeo case, and almost all of that tremendous law passed in 1994 was thrown out, except for just a couple of parts, the parts that remain with us today and that still negatively afflict the campaign system and really the body politic. And the Supreme Court did uphold the right by Congress to place limits on what amounts could be contributed to campaigns, limits that skewed it in favor of PACs and against individuals.

However, as time has gone on, the value of these limits has been eroded; whereas at the time, an amount that could be contributed to an individual was $1,000 or by an individual to a candidate was $1,000 and by a PAC to a candidate was $5,000. And while those limits are in effect right now under present law, which has never been changed, let me just observe we will have extraordinarily high inflation in the intervening years. So that today, the $1,000 and the $5,000 have been reduced by two-thirds.

Now, earlier I told my colleagues that the cost of a Seinfeld ad for 30 seconds was $1½ million. Those are today's prices in 1998. But we still live by a campaign law that was written in 1974, when the equivalent 30-second add was dramatically less. The fact of the matter is, political advertising of all kinds has gone up with inflation and probably above inflation, and yet campaigns are still restricted to the old limits that are the present limits.

Mr. Speaker, the gentleman from New York (Mr. SOLOMON) understands these issues very well and has been valiant in fighting to protect our First Amendment rights. And we hope and pray that others will be similarly valiant in the upcoming debate and series of votes that will be commencing next week.

Let me just observe that "hard money," the term that we apply to that, is contributed from individuals or PACs or parties to the campaign of the candidates. Those are hard dollars, strictly regulated by Federal law, very unfair, very burdensome, very biased Federal law that was passed over 20 years ago.

As I indicated before, the inflation has been dramatic, it has eroded the real purchasing value of the limitation by two-thirds, and we live with that today. As the cost of advertising has shot up over the years, campaign spending has followed the course of least resistance.

It so happens that it is possible to engage in a form of spending using soft money. Soft money is money that is not covered by the Federal law and it is money that cannot go directly to campaigns but it must be used for voter registration, get-out-the-vote effort, voter identification, those kinds of things. That is soft money.

That was felt to be very desirable at one point by our elected officials. And in fact, after the 1976 campaign Ford v. Carter, both parties felt that we should strengthen the ability of parties and we should strengthen it by allowing them to make greater use of the so-called "soft money," that in order to have healthy, vibrant political parties, they needed to be able to engage in this kind of campaign spending.

In fact, since that time, the U.S. Supreme Court has repeatedly held that we cannot proscribe spending by political parties in the soft money area. In fact, very recently in the Supreme Court case involving the Republican Party of Colorado, they explicitly held that this was clearly protected by the first amendment to the United States Constitution.

I remain amazed, despite these clear pronouncements of the Court time and time again, Buckley v. Valeo has been cited by the Court over 100 times in subsequent opinions. That was rendered in 1976. So, for 22 years, this case has been repeatedly cited and yet we are constantly finding bills introduced that fly right in the face of the U.S. Constitution as interpreted by the Supreme Court.

In fact, there is now a special project made up of law professors all over the country, I understand, to figure out ways to bring court challenges to get Buckley v. Valeo overturned. Because as long as that court opinion stands, none of these laws being proposed that abridge our first amendment rights is ever going to be able to stand the court test.

To commend a colleague who is a liberal Democrat, and with whom I disagree completely on this issue because I will commend him for his honesty, the gentleman from Missouri (Mr. GEPHARDT) recognizes that to do what he and the Democrats want to do cannot be done by statute; it can only be done by amending the Constitution of the United States. And indeed, that is what he has proposed to do, actually amend the Constitution, modify the first amendment, and basically make it possible so that Congress can legitimately abridge a citizen's first amendment rights and do so to accomplish the greater good of campaign reform, greater good in his mind, not in my mind and, I would submit, not in the minds of most Americans. But at least there is honesty in attempting to go about it the right way; because we cannot do the things that many of my colleagues seek to do and be consistent with our great U.S. Constitution until and unless we deregulate this campaign system and follow the Constitution, which clearly says that Congress is supposed to stay out of it.

And by the way, of all the types of speech, guess what the most vital, most important form of speech was in the minds of the framers? It was not the ability to go out and advertise automobiles or beer or something like that. It was political discourse, the very thing the British Government tried to abridge when it was in power. We tried to prevent that from ever happening again by having the first amendment to the United States Constitution, which I think is unique amongst the nations of the world. Our adherence to that is better than any other country. We have a very, very clear standard.

□ 1630

The government should not be able to regulate in this area. The government must not regulate in this area, and, indeed, the government cannot effectively regulate in this area. Because as long as we have any shred of a Constitution left, you are going to have the ability of individuals acting independently or of groups acting independently to contribute whatever amount of money they would like to political campaigns.

You see, today we are seeing increasingly the ability of the average person to run be depreciated. Look how with increasing frequency, individuals of personal wealth are running for these offices. Why? Because there is a great exception to the Federal campaign law, one the drafters of it did not wish to allow, but one the Supreme Court carved, and they carved it legitimately and correctly; that is, you have the unlimited right to spend whatever you wish on your campaign.

So an individual that is going to spend his own millions can do so for as much as he would like or she would like. Yet, that same individual who may have $1 billion can only give $1,000 to some other candidate, to a candidate of average means, to someone who works for a living and who supports his or her family, but who believes that he or she can make a difference in our public affairs.

But this person is not a millionaire or a billionaire. This person, therefore, cannot contribute his own personal wealth, because he does not have personal wealth. All he or she can do is go out and live by the limits imposed by Federal law and get these contributions in the amounts that I told you, $1,000 or $5,000.

In case anybody is wondering, you know, you hear these reports that Members of Congress have these fundraisers, and representatives of PACs come and tender the check. I will check my own campaign reports recently but, over time, I think I only have, out of about the half million dollars or so that I, as one representative, am able to raise in campaign dollars over a 2-year period, I will bet you I do not have more than two or at most three political action committees donate the maximum $5,000 contribution. It just is not that common.

The only reason I share that with you is to indicate that when you have to raise, as a challenger, by the way, you see, I am an incumbent now; if I really wanted to feather my own nest as an incumbent, I would climb on board and vote tomorrow for McCain-Feingold or Shays-Meehan, because I will make it infinitely more difficult for someone to try and challenge me. It will be infinitely more difficult as an incumbent and it will be infinitely more difficult for any challenger to be able to successfully challenge an incumbent.

Why? Because the incumbent has the advantages of office. Let us start with name identification in the mind of the voter. That is number one. Most people have heard of me in the Fourth Congressional District of California, because I am an incumbent and have run before.

By virtue of that fact, it is much easier for me to go out and hold a fundraiser and have a number of individuals come in and contribute to me in relatively small amounts, because I am known, than it is for a challenger who is virtually unknown to go out and hold a fund-raiser.

Almost no one will show up, figuratively speaking, because nobody knows the individual. They have never even heard of his name. So why would they show up at some event? Why would they write a check to him? They do not really know him. So name ID and incumbency are tremendous advantages.

Most studies show that the challenger has to outspend the incumbent in order to win the seat. You will make it infinitely more difficult for that challenger in order to prevail if you go with the big government types of campaign reform that impose further limits and further restrictions and get the heavy hand of government even further into the process.

Sometimes when I see what happens to groups that legitimately participate and have the FEC decide to go after them or some congressional committee decide to hold a hearing, when you look at the months of negative publicity involved, when you look at the hundreds of thousands of dollars in attorney's fees that have to be spent in order for these individuals or groups to defend themselves in the exercise of their legitimate constitutional rights, I mean, I ask myself, I think why on Earth would anybody ever put themselves through this?

The effect of all of this Federal regulation is to chill free speech. It is to make people think twice before they participate in the process. That is basically its effect. I believe, frankly, its intended effect is to drive people out in a way, and it is just better off not to get involved.

I would submit, Mr. Speaker, that that is the wrong way to go in our body politic. Free speech is precious. People should be able to engage in free speech without the fear of the government coming down on them. People should be encouraged to run for office, not discouraged.

It is very discouraging to a person of average means who may have good ideas, great ideas, who seeks to run a campaign, and find that he has got to raise that half million dollars by holding numerous fund-raisers, and being on the phone and raising money all the time, whereas, his wealthy opponent simply writes himself a check. He is on the air and in the mail and can sit back and let all the professionals do it. It is just not right.

This Republic was founded upon the idea that all men are created equal. Obviously by men, they meant men and women, but obviously not equal in result, but equal in the opportunity to work and to fight for the things that we believe in.

That opportunity is constrained today by the heavy hand of government. It is going to be made worse by the big government reformers who want to come in and sell you on some snake oil formula to give away your first amendment rights in exchange for the nirvana of campaign reform.

Mr. Speaker, I for one intend to be vigorously involved in this debate and to stand up for our fundamental freedoms. This is really the right to self-governance of the American people. It is not just politicians fighting amongst themselves over how much advantage they can get. I know that it seems that way to our American people.

I hope through these debates they will realize it is really their rights that we are protecting, their rights to freedom of speech, their rights to participate in the political process, their rights to dictate to their government, rather than to have their government controlling them and dictating to them.

After all, let us not forget the words of George Washington: Government does not reason. It is not eloquence. It is force. Like fire, it is a dangerous servant and a troublesome master.

Jefferson referred to it as a necessary evil. But let us remember that it is not a positive good as President Clinton and company would have you think, and therefore the more of it, the better. If some government is good, more is better. That is completely contrary to the founders who said that it is a necessary evil, that it could be a fearful master and a troublesome servant.

These are concepts, I think, that are almost lost today upon our students in the school, and their concepts we are going to have to revive here in the halls of freedom, in the halls of the United States Congress.

Mr. Speaker, I have appreciated the opportunity to engage in this special order, to get out some of my thoughts about what we need to do relative to the topic of campaign reform. Let me just close by, I guess, citing an ancient but well-founded concept, the hypocritic oath to physicians, which is first do no harm.

Mr. Speaker, it is my sincere hope and prayer that as we embark next week upon this important topic of the Constitution, first amendment rights and campaign reform, that we will, indeed, do no harm.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3616, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. SOLOMON (during the special order of Mr. DOOLITTLE) from the Committee on Rules, submitted a privileged report (Rept. No. 105–535) on the resolution (H. Res. 435) providing for consideration of the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. RES. 432, SENSE OF HOUSE CONCERNING PRESIDENT'S ASSERTION OF EXECUTIVE PRIVILEGE, AND OF H. RES. 433, CALLING UPON PRESIDENT TO URGE FULL COOPERATION BY FORMER POLITICAL APPOINTEES AND FRIENDS AND THEIR ASSOCIATES WITH CONGRESSIONAL INVESTIGATIONS

Mr. SOLOMON (during the special order of Mr. DOOLITTLE) from the Committee on Rules, submitted a privileged report (Rept. No. 105–536) on the resolution (H. Res. 436) providing for consideration of the resolution (H. Res. 432) expressing the sense of the House of Representatives concerning the President's assertions of executive privilege, and for consideration of the resolution (H. Res. 433) calling upon the President of the United States to urge full cooperation by his former political appointees and friend and their associates with congressional investigations, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. FOWLER (at the request of Mr. ARMEY) for today on account of attending her daughter's graduation.

Mr. QUINN (at the request of Mr. ARMEY) for today on account of family reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SKELTON) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. EDWARDS, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. FOLEY) to revise and extend their remarks and include extraneous material:)

Mr. NEY, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SKELTON) and to include extraneous matter:)

Mr. KIND.
Ms. FURSE.
Mr. MENENDEZ.
Mr. HOYER.
Ms. RIVERS.
Mr. BAESLER.
Mr. PASCRELL.
Mr. ROEMER.
Mr. UNDERWOOD.
Mr. ORTIZ.
Mr. DINGELL.
Mr. LEVIN.

(The following Members (at the request of Mr. FOLEY) and to include extraneous matter:)

Mr. COLLINS.
Mr. LEWIS of California.
Mr. WATT of North Carolina.
Mr. ADERHOLT.
Mr. BURTON of Indiana.
Mr. THOMAS.
Mr. QUINN.
Mr. PORTMAN.
Mrs. ROUKEMA.
Mr. SHUSTER.
Mr. LIVINGSTON.
Mr. RADANOVICH.
Mr. DAVIS of Virginia.

(The following Members (at the request of Mr. DOOLITTLE) and to include extraneous matter:)

Mr. FOX of Pennsylvania.
Mr. GALLEGLY.
Mr. BLUMENAUER.
Ms. DUNN.
Mr. BOB SCHAFFER of Colorado.
Mr. SMITH of Texas.
Mr. LATOURETTE.
Mrs. CUBIN.
Mr. UPTON.
Mr. DELAY.
Mr. LANTOS.
Mr. BARRETT of Wisconsin.
Mrs. LOWEY.
Mr. GUTIERREZ.
Mr. SKEEN.
Mr. MARTINEZ.
Mrs. MYRICK.
Mr. NUSSLE.
Mr. HILLIARD.
Mr. FRELINGHUYSEN.

ADJOURNMENT

Mr. DOOLITTLE. Mr. Speaker, I move that the House do now adjourn.

(The motion was agreed to; accordingly (at 4 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until Monday, May 18, 1998, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9154. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Simplification of Deposit Insurance Rules (RIN: 3064–AB73) received May 12,1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9155. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Georgia [GA-37-9811a; FRL-6003-8] received May 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9156. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 11–98 which constitutes a Request for Final Authority for a Supplement Four to the Memorandum of Understanding among the Governments of France, Germany, Italy, United Kingdom and the United States for the Medium Multiple Launch Rocket System (MLRS), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

9157. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan (Transmittal No. DTC–67–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9158. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan (Transmittal No. DTC–68–98), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

9159. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Greece (Transmittal No. DTC–45–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9160. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Singapore (Transmittal No. DTC–65–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9161. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Singapore (Transmittal No. DTC–64–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9162. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan (Transmittal No. DTC–55–98), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

9163. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Turkey (Transmittal No. DTC–52–98), pursuant to 22 U.S.C 2776(d); to the Committee on International Relations.

9164. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the semiannual report on the activities of the Office of Inspector General, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9165. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Reduction In Force And Mandatory Exceptions (RIN: 3206–AH64) received May 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9166. A letter from the Secretary of Education, transmitting a report of activities under the Freedom of Information Act for the calendar year 1997, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

9167. A letter from the Acting Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation entitled the "International Anti-Bribery Act of 1998"; jointly to the Committees on the Judiciary, Commerce, and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SOLOMON: Committee on Rules. House Resolution 435. Resolution providing for consideration of the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes (Rept. 105–535). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 436. Resolution providing for consideration of the resolution (H. Res. 432) expressing the sense of the House of Representatives concerning the President's assertions of executive privilege, and for consideration of the resolution (H. Res. 433) calling upon the President of the United States to urge full cooperation by his former political appointees and friends and their associates with congressional investigations (Rept. 105–536). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. WATTS of Oklahoma (for himself, Mr. DAVIS of Illinois, Mr. TALENT, Mr. DAVIS of Virginia, Mr. MCINTOSH, Mr. KNOLLENBERG, Mr. DEAL of Georgia, Mr. PITTS, Mr. ENSIGN, Ms. GRANGER, Mr. RIGGS, Mr. SESSIONS, Mr. THORNBERRY, Mr. GINGRICH, Mr. SENSENBRENNER, Mr. WAMP, Mr. DELAY, Mr. LARGENT, Mr. BONILLA, Ms. FURSE, Mrs. MYRICK, Mr. COBURN, Mr. CHABOT, Mrs. EMERSON, Mr. BURTON of Indiana, Mr. PETERSON of Pennsylvania, Mr. NORWOOD, Mr. GRAHAM, Mr. LEWIS of Kentucky, Mr. DOOLITTLE, Mr. RYUN, Mrs. NORTHUP, Mr. FROST, Mr. TOWNS, Mr. KING of New York, Mr. ENGLISH of Pennsylvania, Mr. SOUDER, Mr. WATKINS, Mrs. KELLY, Mr. BOEHNER, Mr. DOOLEY of California, Mr. ARMEY, Mr. HINOJOSA, Mr. DREIER, Mr. CALVERT, and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 3865. A bill to amend the Internal Revenue Code of 1986 to allow the designation of renewal communities, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Banking and Financial Services, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. BOEHLERT, and Mr. BORSKI) (all by request):

H.R. 3866. A bill to provide for the conservation and development of water and related resources, to authorize the Secretary to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BAESLER:

H.R. 3867. A bill to provide long-term economic assistance to tobacco farmers and workers and to communities dependent on tobacco production using funds contributed by tobacco product manufacturers and importers; to the Committee on Agriculture, and in addition to the Committees on Education and the Workforce, Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HANSEN (for himself, Mr. MEEHAN, Mr. WAXMAN, Mr. BILBRAY, Mr. DOGGETT, Mr. COOK, Mr. FAZIO of California, Mr. CANNON, Mr. PALLONE, Mr. FOX of Pennsylvania, Ms. DEGETTE, Mr. GILMAN, Mr. LEWIS of Georgia, Mrs. MORELLA, Mr. ABERCROMBIE, Mrs. ROUKEMA, Mrs. TAUSCHER, Mr. MCKEON, Mr. BLAGOJEVICH, Mr. HORN, Mr. BROWN of California, Mr. CAMPBELL, Mr. BONIOR, Mr. FORD, Mr. KENNEDY of Rhode Island, Mr. OBERSTAR, Mr. KENNEDY of Massachusetts, Mr. SCHUMER, Mr. OLVER, Mr. LAFALCE, Ms. NORTON, Mr. VISCLOSKY, Mr. ACKERMAN, Mr. MCDERMOTT, Mr. MATSUI, Mr. LAMPSON, Mr. DELAHUNT, Mr. MCHALE, Mr. YATES, Mr. POMEROY, Mr. BARRETT of Wisconsin, Mr. MARKEY, Ms. FURSE, Mr. BLUMENAUER, Mr. MINGE, Mr. VENTO, Mr. NADLER, Mr. STARK, Ms. PELOSI, Mr. MCGOVERN, Mr. SHERMAN, Ms. DELAURO, Mr. HINCHEY, Ms. ESHOO, Mr. GEPHARDT, Mr. FARR of California, Ms. LOFGREN, Ms. WOOLSEY, Mr. CARDIN, Ms. STABENOW, Mr. LEVIN, Ms. SLAUGHTER, Mr. MILLER of California, Mr. JOHNSON of Wisconsin, Mr. LIPINSKI, Mr. FROST, Mrs. MALONEY of New York, Mrs. CAPPS, Mr. LANTOS, Mr. WEYGAND, Mr. MENENDEZ, Mr. FILNER, Ms. MILLENDER-MCDONALD, Mr. GUTIERREZ, Mr. BORSKI, Mrs. LOWEY, Mr. CUMMINGS, Ms. ROYBAL-ALLARD, Mr. WEXLER, Mr. COYNE, Mr. MORAN of Virginia, Mr. GEJDENSON, Mr. CONYERS, Mrs. MCCARTHY of New York, Mr. DICKS, Mr. RUSH, Mr. PAYNE, Mr. DAVIS of Illinois, Ms. JACKSON-LEE, and Mr. STOKES):

H.R. 3868. A bill to prevent children from using tobacco products, to reduce the health costs attributable to tobacco products, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOEHLERT (for himself and Mr. Borski):

H.R. 3869. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize programs for predisaster mitigation, to streamline the administration of disaster relief, to control the Federal costs of disaster assistance, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BLUNT (for himself, Mr. Bentsen, Mr. Hulshof, Mr. Moran of Virginia, Mr. McCrery, Mr. Young of Alaska, Mr. Brady, Mr. Crapo, Mr. Deal of Georgia, Mrs. Emerson, Mr. Hill, Mr. Hutchinson, Mr. LaTourette, Mr. LoBiondo, Ms. McCarthy of Missouri, Mr. Maloney of Connecticut, Mr. Moran of Kansas, Mrs. Myrick, Mr. Talent, Mr. Pascrell, Mr. Pickering, Mr. Schumer, and Mr. Taylor of North Carolina):

H.R. 3870. A bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals; to the Committee on Ways and Means.

By Mr. CASTLE (for himself and Mr. Riggs):

H.R. 3871. A bill to amend the National School Lunch Act to provide children with increased access to food and nutrition assistance during the summer months; to the Committee on Education and the Workforce.

By Mr. CASTLE (for himself and Mr. Riggs):

H.R. 3872. A bill to amend the National School Lunch Act to extend the authority of the commodity distribution program through fiscal year 2003; to the Committee on Education and the Workforce.

By Mr. CASTLE (for himself and Mr. Riggs):

H.R. 3873. A bill to amend the Child Nutrition Act of 1966 to simplify program operations and improve program management under that Act; to the Committee on Education and the Workforce.

By Mr. CASTLE (for himself and Mr. Riggs):

H.R. 3874. A bill to amend the Child Nutrition Act of 1966 to make improvements to the special supplemental nutrition program for women, infants, and children and to extend the authority of that program through fiscal year 2003; to the Committee on Education and the Workforce.

By Mrs. CAPPS (for herself, Mr. Miller of California, Mr. Farr of California, and Ms. Harman):

H.R. 3875. A bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on submerged land of the Outer Continental Shelf that is adjacent to a coastal State that has declared a moratorium on such activity, and for other purposes; to the Committee on Resources.

By Mr. CLAY (for himself, Mr. Martinez, Mr. Strickland, Mr. Gephardt, Mr. Bonior, Mr. McGovern, Mr. Wise, Mr. Sawyer, Ms. Pelosi, Mr. Ford, Mr. Kildee, Mr. Payne, Ms. Kilpatrick, Mrs. Lowey, Mrs. Kennelly of Connecticut, Mr. Pastor, Ms. Carson, Mr. Conyers, Ms. Slaughter, Mr. Engel, Mr. Doyle, Mr. Gejdenson, Mrs. Mink of Hawaii, Mr. Wynn, Ms. Velázquez, Mr. Andrews, Mr. Kind of Wisconsin, Mr. Stark, Mr. Allen, Mr. Davis of Florida, Ms. Lofgren, Mr. Scott, Mr. Price of North Carolina, Mr. Neal of Massachusetts, Mr. Hinojosa, Mr. Obey, Mr. Jefferson, Mr. Owens, Ms. Woolsey, Ms. Norton, Mr. Farr of California, Mr. Kucinich, Mr. Torres, Mr. Blagojevich, Mr. McIntyre, Mr. Pomeroy, and Mr. Hoyer):

H.R. 3876. A bill to reduce class size; to the Committee on Education and the Workforce.

By Mr. COLLINS (for himself and Mr. Lewis of Georgia):

H.R. 3877. A bill to amend the Internal Revenue Code of 1986 to encourage the production and use of electric vehicles; to the Committee on Ways and Means.

By Mrs. CUBIN:

H.R. 3878. A bill to subject certain reserved mineral interests of the operation of the Mineral Leasing Act, and for other purposes; to the Committee on Resources.

By Ms. DUNN of Washington (for herself, Mr. Tanner, Mr. Gingrich, Mr. Cox of California, Mr. Jefferson, Mr. Crane, Mr. Bunning of Kentucky, Mr. Herger, Mr. McCrery, Mr. Sam Johnson, Mr. English of Pennsylvania, Mr. Watkins, Mr. Hostettler, Mr. Pickering, Mr. Weller, Mr. Camp, and Mrs. Thurman):

H.R. 3879. A bill to amend the Internal Revenue Code of 1986 to phaseout the estate and gift taxes over a 10-year period; to the Committee on Ways and Means.

By Mr. MARTINEZ (for himself, Mr. Clay, Mrs. Mink of Hawaii, Mr. Andrews, Mr. Scott, Ms. Woosley, Mr. Romero-Barcelo, Mr. Fattah, Mr. Hinojosa, Ms. Sanchez, Mr. Ford, and Mr. Kucinich):

H.R. 3880. A bill to authorize appropriations for fiscal years 1999, 2000, 2001, and 2002 to carry out the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant Act, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GALLEGLY (for himself, Mr. Horn, Ms. Lofgren, and Mr. Paul):

H.R. 3881. A bill to amend the Internal Revenue Code of 1986 to increase the Lifetime Learning Credit for tuition expenses for continuing education for secondary teachers in their fields of teaching; to the Committee on Ways and Means.

By Mr. JONES:

H.R. 3882. A bill to amend the Internal Revenue Code of 1986 to provide that a member of the Armed Forces of the United States shall be treated as using a principal residence while on extended active duty; to the Committee on Ways and Means.

By Mr. LEWIS of Kentucky:

H.R. 3883. A bill to revise the boundary of the Abraham Lincoln Birthplace National Historic Site to include Knob Creek Farm, and for other purposes; to the Committee on Resources.

By Mr. NADLER (for himself, Mrs. Maloney of New York, Mr. Manton, Mr. Hinchey, Mr. Towns, Mr. LaFalce, and Mr. Schumer):

H.R. 3884. A bill to provide for the disposition of Governors Island, New York; to the Committee on Government Reform and Oversight, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. RIVERS:

H.R. 3885. A bill to waive interest and penalties for failures to file schedule D of Form 1040 with a timely filed return for 1997; to the Committee on Ways and Means.

By Mr. RYUN (for himself, Mr. Stump, Mr. Saxton, Mr. Tiahrt, Mr. Dickey, Mr. Snowbarger, Mr. Wamp, and Ms. Danner):

H.R. 3886. A bill to prohibit the export of missile equipment and technology to the People's Republic of China; to the Committee on International Relations.

By Mr. STUPAK (for himself, Mr. Barrett of Wisconsin, Mr. Brown of Ohio, Mr. Holden, Mr. Kind of Wisconsin, Mr. Luther, Mr. Vento, Mr. Sabo, Mrs. Thurman, Mr. Bonior, Mr. Quinn, Mr. Obey, Mr. Johnson of Wisconsin, Ms. Stabenow, Mr. Kucinich, and Ms. Rivers):

H.R. 3887. A bill to prohibit oil and gas drilling in the Great Lakes; to the Committee on Resources.

By Mr. TAUZIN (for himself, Mr. Bass, Mr. Goodlatte, Mr. Gillmor, Mr. Burr of North Carolina, Mr. Skeen, Mr. Franks of New Jersey, and Mr. Bachus):

H.R. 3888. A bill to amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes; to the Committee on Commerce.

By Mr. UPTON:

H.R. 3889. A bill to amend the Federal Food, Drug, and Cosmetic Act to strengthen controls over tobacco; to the Committee on Commerce.

By Mr. DELAY:

H.J. Res. 119. A joint resolution proposing an amendment to the Constitution of the United States to limit campaign spending; to the Committee on the Judiciary.

By Mr. BLUNT (for himself, Mr. Gilman, Mr. Gallegly, Mr. Mica, Mr. Burton of Indiana, Mr. Pitts, and Mr. Brady):

H. Con. Res. 277. Concurrent resolution concerning the New Tribes Mission hostage crisis; to the Committee on International Relations.

By Mr. DELAY:

H. Res. 432. A resolution expressing the sense of the House of Representatives concerning the President's assertions of executive privilege; to the Committee on the Judiciary.

By Mr. SOLOMON:

H. Res. 433. A resolution calling upon the President of the United States to urge full cooperation by his former political appointees and friends and their associates with congressional investigations; to the Committee on the Judiciary.

By Mr. FAZIO of California:

H. Res. 434. A resolution designating minority membership on certain standing committees of the House; considered and agreed to.

By Mr. LINDER (for himself, Mr. Chambliss, and Mr. Deal of Georgia):

H. Res. 437. A resolution commending Jack Elrod for his contributions to the United States; to the Committee on Resources.

By Mr. RYUN (for himself, Mr. BLILEY, Mr. MILLER of Florida, Mr. HOSTETTLER, Mr. KING of New York, Mr. INGLIS of South Carolina, Mr. PETERSON of Pennsylvania, Mr. STARK, Mr. PAPPAS, Mr. HILLEARY, Mrs. CUBIN, Mrs. FOWLER, Mr. STUMP, Mr. SAXTON, Mr. TIAHRT, Mr. DICKEY, Mr. SNOWBARGER, Mr. WAMP, and Ms. DANNER):

H. Res. 438. A resolution expressing the sense of the House regarding the transfer to the People's Republic of China of technology that can be used in the development of strategic nuclear missiles; to the Committee on International Relations.

By Mr. UNDERWOOD:

H. Res. 439. A resolution concerning India's recent detonation of 5 nuclear devices; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. OBEY and Mr. GORDON.

H.R. 59: Mrs. BONO.

H.R. 65: Mr. SESSIONS.

H.R. 303: Mr. SESSIONS.

H.R. 306: Ms. ROS-LEHTINEN and Mr. PICKETT.

H.R. 1126: Mr. BRYANT, Mr. BONIOR, Mrs. MORELLA, and Mr. MOAKLEY.

H.R. 1159: Mr. OLVER.

H.R. 1165: Mrs. CAPPS.

H.R. 1173: Mr. BERRY and Mrs. ROUKEMA.

H.R. 1241: Mr. SHERMAN.

H.R. 1356: Mr. KENNEDY of Rhode Island.

H.R. 1376: Ms. BROWN of Florida, Mr. FATTAH, Mr. RODRIGUEZ, Mr. MALONEY of Connecticut, Mrs. MCCARTHY of New York, and Mr. OWENS.

H.R. 1378: Mr. BLILEY.

H.R. 1382: Mrs. KENNELLY of Connecticut and Mr. NEAL of Massachusetts.

H.R. 1671: Mr. FRANK of Massachusetts.

H.R. 1689: Mr. BERRY, Mr. BAESLER, Mr. SISISKY, and Mrs. BONO.

H.R. 1736: Ms. LOFGREN.

H.R. 1766: Mr. BUNNING of Kentucky, Mr. BURR of North Carolina, Mr. GRAHAM, Mr. HUNTER, Mr. KENNEDY of Rhode Island, Mr. LIVINGSTON, Ms. MCCARTHY of Missouri, Ms. MCKINNEY, Mr. MOLLOHAN, Mr. PETERSON of Pennsylvania, Mr. REYES, Mr. ROGERS, Mr. SAWYER, Mr. SHIMKUS, and Mr. WEYGAND.

H.R. 2009: Mr. SANDERS, Mr. SHAW, Mr. MOAKLEY, and Mr. MCHALE.

H.R. 2023: Mr. WYNN.

H.R. 2088: Mr. FROST.

H.R. 2202: Mr. JEFFERSON.

H.R. 2450: Mr. COBURN.

H.R. 2537: Mr. MCINTOSH.

H.R. 2538: Mr. LAZIO of New York.

H.R. 2719: Mrs. TAUSCHER.

H.R. 2727: Mr. HALL of Texas, Mr. HEFNER, Mr. ENGLISH of Pennsylvania, and Mr. GOODLING.

H.R. 2804: Mr. SCHUMER, Ms. STABENOW, and Ms. DELAURO.

H.R. 2819: Mr. SHAYS, Mr. WEYGAND, and Mr. HUTCHINSON.

H.R. 2821: Mr. SMITH of Michigan.

H.R. 2855: Mr. UNDERWOOD, Mr. PASCRELL, and Mr. BAESLER.

H.R. 3048: Ms. SANCHEZ.

H.R. 3093: Mr. OWENS.

H.R. 3166: Mr. PACKARD.

H.R. 3205: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. MCINTYRE.

H.R. 3274: Mr. BRYANT.

H.R. 3283: Mr. SANDLIN.

H.R. 3290: Mr. UPTON, Mr. HASTINGS of Washington, and Mr. BLUMENAUER.

H.R. 3396: Mr. YOUNG of Florida, Mr. FOLEY, Mr. WYNN, and Mr. GREENWOOD.

H.R. 3435: Ms. DANNER, Ms. MCCARTHY of Missouri, Mr. HILL, Ms. DELAURO, Mr. HUTCHINSON, Mr. KLUG, Mr. DOYLE, Mr. CLYBURN, and Mr. HUNTER.

H.R. 3466: Ms. FURSE.

H.R. 3494: Mr. PAPPAS.

H.R. 3514: Mr. DEUTSCH.

H.R. 3561: Mr. ALLEN.

H.R. 3566: Mr. GREENWOOD.

H.R. 3567: Mr. MCNULTY, Mr. MANTON, Mr. GEKAS, and Ms. RIVERS.

H.R. 3572: Mr. HOBSON, Mr. TALENT, Mr. HALL of Ohio, Mr. KUCINICH, Mr. CLEMENT, Mr. LATOURETTE, Mr. WELDON of Florida, and Mr. PRICE of North Carolina.

H.R. 3610: Mr. BUNNING of Kentucky, Mr. MALONEY of Connecticut, Mr. BOUCHER, Mr. WHITFIELD, Mr. SHAYS, Mr. WYNN, and Mr. GOODLING.

H.R. 3613: Mr. BRYANT, Mr. GILMAN, and Mrs. MORELLA.

H.R. 3636: Mr. SABO, Mr. BARRETT of Wisconsin, and Mr. MCHALE.

H.R. 3637: Mr. HILLIARD, Ms. LOFGREN, Mr. FROST, and Mr. SCHUMER.

H.R. 3650: Mr. ARMEY, Mrs. EMERSON, Mr. GILMAN, and Mr. OWENS.

H.R. 3680: Mr. PETERSON of Pennsylvania, Mr. KNOLLENBERG, Mr. SHAYS, Mr. CALLAHAN, Mr. HOEKSTRA, and Mr. NORWOOD.

H.R. 3783: Mr. ENGLISH of Pennsylvania and Mr. KIM.

H.R. 3807: Mr. ADERHOLT, Mr. BALLENGER, Mr. BARCIA of Michigan, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALLAHAN, Mr. COLLINS, Mr. COOKSEY, Mr. CRAPO, Mr. DICKEY, Mr. ENGLISH of Pennsylvania, Mr. EVERETT, Mr. HUTCHINSON, Mr. SAM JOHNSON of Texas, Mr. KIM, Mr. LAHOOD, Mr. MCHUGH, Mr. MANZULLO, Mr. MORAN of Kansas, Mr. NETHERCUTT, Mr. QUINN, Mr. SENSENBRENNER, and Mr. SHIMKUS.

H.R. 3822: Mr. NEUMANN.

H.R. 3841: Mr. KENNEDY of Massachusetts.

H. Con. Res. 47: Ms. DANNER, Mr. CALVERT, Mr. MCINTYRE, and Mr. BONIOR.

H. Con. Res. 203: Mr. SPRATT.

H. Con. Res. 210: Mr. NEAL of Massachusetts and Ms. STABENOW.

H. Con. Res. 214: Mr. DUNCAN, Mr. BLILEY, and Mr. DAVIS of Virginia.

H. Con. Res. 271: Ms. WOOLSEY.

H. Res. 247: Mr. MCGOVERN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3760: Mr. DAVIS of Illinois.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

[Submitted May 13, 1998]

H.R. 2183

OFFERED BY: MR. BASS

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Campaign Reform Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties.
Sec. 102. Increased contribution limits for State committees of political parties and aggregate contribution limit for individuals.
Sec. 103. Reporting requirements.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

Sec. 201. Definitions.
Sec. 202. Civil penalty.
Sec. 203. Reporting requirements for certain independent expenditures.
Sec. 204. Independent versus coordinated expenditures by party.
Sec. 205. Coordination with candidates.

TITLE III—DISCLOSURE

Sec. 301. Filing of reports using computers and facsimile machines.
Sec. 302. Prohibition of deposit of contributions with incomplete contributor information.
Sec. 303. Audits.
Sec. 304. Reporting requirements for contributions of $50 or more.
Sec. 305. Use of candidates' names.
Sec. 306. Prohibition of false representation to solicit contributions.
Sec. 307. Soft money of persons other than political parties.
Sec. 308. Campaign advertising.

TITLE IV—PERSONAL WEALTH OPTION

Sec. 401. Voluntary personal funds expenditure limit.
Sec. 402. Political party committee coordinated expenditures.

TITLE V—MISCELLANEOUS

Sec. 501. Prohibiting involuntary use of funds of employees of corporations and other employers and members of unions and organizations for political activities.
Sec. 502. Use of contributed amounts for certain purposes.
Sec. 503. Limit on congressional use of the franking privilege.
Sec. 504. Prohibition of fundraising on Federal property.
Sec. 505. Penalties for knowing and willful violations.
Sec. 506. Strengthening foreign money ban.
Sec. 507. Prohibition of contributions by minors.
Sec. 508. Expedited procedures.
Sec. 509. Initiation of enforcement proceeding.

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

Sec. 601. Severability.
Sec. 602. Review of constitutional issues.
Sec. 603. Effective date.
Sec. 604. Regulations.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

"(a) NATIONAL COMMITTEES.—

"(1) IN GENERAL.—A national committee of a political party (including a national congressional campaign committee of a political party) and any officers or agents of such party committees, shall not solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Applicability.—This subsection shall apply to an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee of a political party (including a national congressional campaign committee of a political party), or an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity.

"(b) State, District, and Local Committees.—

"(1) In general.—An amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity) for Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Federal election activity.—

"(A) In general.—The term 'Federal election activity' means—

"(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

"(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot); and

"(iii) a communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and is made for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).

"(B) Excluded activity.—The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

"(i) campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, provided the campaign activity is not a Federal election activity described in subparagraph (A);

"(ii) a contribution to a candidate for State or local office, provided the contribution is not designated or used to pay for a Federal election activity described in subparagraph (A);

"(iii) the costs of a State, district, or local political convention;

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office;

"(v) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of an individual who spends more than 20 percent of the individual's time on Federal election activity) as determined by a regulation promulgated by the Commission to determine the non-Federal share of a State, district, or local party committee's administrative and overhead expenses; and

"(vi) the cost of constructing or purchasing an office facility or equipment for a State, district or local committee.

"(c) Fundraising Costs.—An amount spent by a national, State, district, or local committee of a political party, by an entity that is established, financed, maintained, or controlled by a national, State, district, or local committee of a political party, or by an agent or officer of any such committee or entity, to raise funds that are used, in whole or in part, to pay the costs of a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) Tax-Exempt Organizations.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party, an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, an agent acting on behalf of any such party committee, and an officer or agent acting on behalf of any such party committee or entity), shall not solicit any funds for, or make or direct any donations to, an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application to the Secretary of the Internal Revenue Service for determination of tax-exemption under such section).

"(e) Candidates.—

"(1) In general.—A candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office shall not solicit, receive, direct, transfer, or spend funds for a Federal election activity on behalf of such candidate, individual, agent or any other person, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) State law.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for any activity other than a Federal election activity.

"(3) Fundraising events.—Paragraph (1) does not apply in the case of a candidate who attends, speaks, or is a featured guest at a fundraising event sponsored by a State, district, or local committee of a political party.".

SEC. 102. INCREASED CONTRIBUTION LIMITS FOR STATE COMMITTEES OF POLITICAL PARTIES AND AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUALS.

(a) Contribution Limit for State Committees of Political Parties.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C)—

(A) by inserting "(other than a committee described in subparagraph (D))" after "committee"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(D) to a political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $10,000".

(b) Aggregate Contribution Limit for Individual.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking "$25,000" and inserting "$30,000".

SEC. 103. REPORTING REQUIREMENTS.

(a) Reporting Requirements.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 203) is amended by inserting after subsection (d) the following:

"(e) Political Committees.—

"(1) National and congressional political committees.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

"(2) Other political committees to which section 323 applies.—A political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in subparagraphs (A) and (B)(v) of section 323(b)(2).

"(3) Itemization.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

"(4) Reporting periods.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) Building Fund Exception to the Definition of Contribution.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

SEC. 201. DEFINITIONS.

(a) Definition of Independent Expenditure.—Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) Independent expenditure.—

"(A) In general.—The term 'independent expenditure' means an expenditure by a person—

"(i) for a communication that is express advocacy; and

"(ii) that is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.".

(b) Definition of Express Advocacy.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) Express advocacy.—

"(A) In general.—The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by—

"(i) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates;

"(ii) referring to 1 or more clearly identified candidates in a paid advertisement that is broadcast by a radio broadcast station or a television broadcast station within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

"(iii) expressing unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

"(B) VOTING RECORD AND VOTING GUIDE EXCEPTION.—The term 'express advocacy' does not include a printed communication that—

"(i) presents information in an educational manner solely about the voting record or position on a campaign issue of 2 or more candidates;

"(ii) that is not made in coordination with a candidate, political party, or agent of the candidate or party; or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent; and

"(iii) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified candidates.".

(c) DEFINITION OF EXPENDITURE.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) a payment for a communication that is express advocacy; and

"(iv) a payment made by a person for a communication that—

"(I) refers to a clearly identified candidate;

"(II) is provided in coordination with the candidate, the candidate's agent, or the political party of the candidate; and

"(III) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).".

SEC. 202. CIVIL PENALTY.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(ii) by adding at the end the following:

"(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A)."; and

(B) in paragraph (6)(B), by inserting "(except an action instituted in connection with a knowing and willful violation of section 304(c))" after "subparagraph (A)"; and

(2) in subsection (d)(1)—

(A) in subparagraph (A), by striking "Any person" and inserting "Except as provided in subparagraph (D), any person"; and

(B) by adding at the end the following:

"(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.".

SEC. 203. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) of subsection (c) as subsection (f); and

(3) by inserting after subsection (c)(2) (as amended by paragraph (1)) the following:

"(d) TIME FOR REPORTING CERTAIN EXPENDITURES.—

"(1) EXPENDITURES AGGREGATING $1,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

"(A) shall be filed with the Commission; and

"(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.".

SEC. 204. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking "and (3)" and inserting ", (3), and (4)"; and

(2) by adding at the end the following:

"(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

"(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, a committee of the political party shall not make both expenditures under this subsection and independent expenditures (as defined in section 301(17)) with respect to the candidate during the election cycle.

"(B) CERTIFICATION.—Before making a coordinated expenditure under this subsection with respect to a candidate, a committee of a political party shall file with the Commission a certification, signed by the treasurer of the committee, that the committee has not and shall not make any independent expenditure with respect to the candidate during the same election cycle.

"(C) APPLICATION.—For the purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

"(D) TRANSFERS.—A committee of a political party that submits a certification under subparagraph (B) with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.".

SEC. 205. COORDINATION WITH CANDIDATES.

(a) DEFINITION OF COORDINATION WITH CANDIDATES.—

(1) SECTION 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "or" at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) anything of value provided by a person in coordination with a candidate for the purpose of influencing a Federal election, regardless of whether the value being provided is a communication that is express advocacy, in which such candidate seeks nomination or election to Federal office."; and

(B) by adding at the end the following:

"(C) The term 'provided in coordination with a candidate' includes—

"(i) a payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, or an agent acting on behalf of a candidate or authorized committee;

"(ii) a payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat);

"(iii) a payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made;

"(iv) a payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position;

"(v) a payment made by a person if the person making the payment has served in any formal policymaking or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made;

"(vi) a payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign;

"(vii) a payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (vi) for a communication that clearly refers to the candidate and is for the purpose of influencing an election (regardless of whether the communication is express advocacy);

“(viii) direct participation by a person in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate;

“(ix) communication by a person with the candidate or an agent of the candidate, occurring after the declaration of candidacy (including a pollster, media consultant, vendor, advisor, or staff member), acting on behalf of the candidate, about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy; or

“(x) the provision of in-kind professional services or polling data to the candidate or candidate's agent.

“(D) For purposes of subparagraph (C), the term ‘professional services’ includes services in support of a candidate's pursuit of nomination for election, or election, to Federal office such as polling, media advice, direct mail, fundraising, or campaign research.

“(E) For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.”.

(2) SECTION 315(a)(7).—Section 315(a)(7) (2 U.S.C. 441a(a)(7)) is amended by striking subparagraph (B) and inserting the following:

“(B) a thing of value provided in coordination with a candidate, as described in section 301(8)(A)(iii), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate.

(b) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking “shall include” and inserting “includes a contribution or expenditure, as those terms are defined in section 301, and also includes”.

TITLE III—DISCLOSURE

SEC. 301. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by striking paragraph (11) and inserting the following:

“(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

“(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

“(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form, including the use of a facsimile machine, if not required to do so under the regulation promulgated under clause (i).

“(B) The Commission shall make a designation, statement, report, or notification that is filed electronically with the Commission accessible to the public on the Internet not later than 24 hours after the designation, statement, report, or notification is received by the Commission.

“(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.”.

SEC. 302. PROHIBITION OF DEPOSIT OF CONTRIBUTIONS WITH INCOMPLETE CONTRIBUTOR INFORMATION.

Section 302 of Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by adding at the end the following:

“(j) DEPOSIT OF CONTRIBUTIONS.—The treasurer of a candidate's authorized committee shall not deposit, except in an escrow account, or otherwise negotiate a contribution from a person who makes an aggregate amount of contributions in excess of $200 during a calendar year unless the treasurer verifies that the information required by this section with respect to the contributor is complete.”.

SEC. 303. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting “(1) IN GENERAL.—” before “The Commission”; and

(2) by adding at the end the following:

“(2) RANDOM AUDITS.—

“(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act. The selection of any candidate for a random audit or investigation shall be based on criteria adopted by a vote of at least 4 members of the Commission.

“(B) LIMITATION.—The Commission shall not conduct an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer a candidate for the office sought by the candidate in an election cycle.

“(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.”.

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking “6 months” and inserting “12 months”.

SEC. 304. REPORTING REQUIREMENTS FOR CONTRIBUTIONS OF $50 OR MORE.

Section 304(b)(3)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(3)(A)) is amended—

(1) by striking “$200” and inserting “$50”; and

(2) by striking the semicolon and inserting “, except that in the case of a person who makes contributions aggregating at least $50 but not more than $200 during the calendar year, the identification need include only the name and address of the person;”.

SEC. 305. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

“(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

“(B) A political committee that is not an authorized committee shall not—

“(i) include the name of any candidate in its name; or

“(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of the committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.”.

SEC. 306. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after “SEC. 322.” the following: “(a) IN GENERAL.—”; and

(2) by adding at the end the following:

“(b) SOLICITATION OF CONTRIBUTIONS.—No person shall solicit contributions by falsely representing himself or herself as a candidate or as a representative of a candidate, a political committee, or a political party.”.

SEC. 307. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

(a) IN GENERAL.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 103(c) and section 203) is amended by adding at the end the following:

“(g) DISBURSEMENTS OF PERSONS OTHER THAN POLITICAL PARTIES.—

“(1) IN GENERAL.—A person, other than a political committee or a person described in section 501(d) of the Internal Revenue Code of 1986, that makes an aggregate amount of disbursements in excess of $50,000 during a calendar year for activities described in paragraph (2) shall file a statement with the Commission—

“(A) on a monthly basis as described in subsection (a)(4)(B); or

“(B) in the case of disbursements that are made within 20 days of an election, within 24 hours after the disbursements are made.

“(2) ACTIVITY.—The activity described in this paragraph is—

“(A) Federal election activity;

“(B) an activity described in section 316(b)(2)(A) that expresses support for or opposition to a candidate for Federal office or a political party; and

“(C) an activity described in subparagraph (C) of section 316(b)(2).

“(3) APPLICABILITY.—This subsection does not apply to—

“(A) a candidate or a candidate's authorized committees; or

“(B) an independent expenditure.

“(4) CONTENTS.—A statement under this section shall contain such information about the disbursements made during the reporting period as the Commission shall prescribe, including—

“(A) the aggregate amount of disbursements made;

“(B) the name and address of the person or entity to whom a disbursement is made in an aggregate amount in excess of $200;

“(C) the date made, amount, and purpose of the disbursement; and

“(D) if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.”.

(b) DEFINITION OF GENERIC CAMPAIGN ACTIVITY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 201(b)) is further amended by adding at the end the following:

“(21) GENERIC CAMPAIGN ACTIVITY.—The term ‘generic campaign activity’ means an activity that promotes a political party and does not promote a candidate or non-Federal candidate.”.

SEC. 308. CAMPAIGN ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever";

(ii) by striking "an expenditure" and inserting "a disbursement"; and

(iii) by striking "direct"; and

(B) in paragraph (3), by inserting "and permanent street address" after "name"; and

(2) by adding at the end the following:

"(c) Any printed communication described in subsection (a) shall—

"(1) be of sufficient type size to be clearly readable by the recipient of the communication;

"(2) be contained in a printed box set apart from the other contents of the communication; and

"(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

"(d)(1) Any broadcast or cablecast communication described in paragraphs (1) or (2) of subsection (a) shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement that—

"(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e) Any broadcast or cablecast communication described in paragraph (3) of subsection (a) shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following statement: '   is responsible for the content of this advertisement.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If broadcast or cablecast by means of television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

TITLE IV—PERSONAL WEALTH OPTION

SEC. 401. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 101) is amended by adding at the end the following:

"SEC. 324. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT.

"(a) Eligible House Candidate.—

"(1) Primary election.—

"(A) Declaration.—A candidate is an eligible primary election House candidate if the candidate files with the Commission a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

"(B) Time to file.—The declaration under subparagraph (A) shall be filed not later than the date on which the candidate files with the appropriate State officer as a candidate for the primary election.

"(2) General election.—

"(A) Declaration.—A candidate is an eligible general election House candidate if the candidate files with the Commission—

"(i) a declaration under penalty of perjury, with supporting documentation as required by the Commission, that the candidate and the candidate's authorized committees did not exceed the personal funds expenditure limit in connection with the primary election; and

"(ii) a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

"(B) Time to file.—The declaration under subparagraph (A) shall be filed not later than 7 days after the earlier of—

"(i) the date on which the candidate qualifies for the general election ballot under State law; or

"(ii) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

"(b) Personal Funds Expenditure Limit.—

"(1) In general.—The aggregate amount of expenditures that may be made in connection with an election by an eligible House candidate or the candidate's authorized committees from the sources described in paragraph (2) shall not exceed $50,000.

"(2) Sources.—A source is described in this paragraph if the source is—

"(A) personal funds of the candidate and members of the candidate's immediate family; or

"(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

"(c) Certification by the Commission.—

"(1) In general.—The Commission shall determine whether a candidate has met the requirements of this section and, based on the determination, issue a certification stating whether the candidate is an eligible House candidate.

"(2) Time for certification.—Not later than 7 business days after a candidate files a declaration under paragraph (1) or (2) of subsection (a), the Commission shall certify whether the candidate is an eligible House candidate.

"(3) Revocation.—The Commission shall revoke a certification under paragraph (1), based on information submitted in such form and manner as the Commission may require or on information that comes to the Commission by other means, if the Commission determines that a candidate violates the personal funds expenditure limit.

"(4) Determinations by commission.—A determination made by the Commission under this subsection shall be final, except to the extent that the determination is subject to examination and audit by the Commission and to judicial review.

"(d) Penalty.—If the Commission revokes the certification of an eligible House candidate—

"(1) the Commission shall notify the candidate of the revocation; and

"(2) the candidate and a candidate's authorized committees shall pay to the Commission an amount equal to the amount of expenditures made by a national committee of a political party or a State committee of a political party in connection with the general election campaign of the candidate under section 315(d).".

SEC. 402. POLITICAL PARTY COMMITTEE COORDINATED EXPENDITURES.

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) (as amended by section 204) is amended by adding at the end the following:

"(5) This subsection does not apply to expenditures made in connection with the general election campaign of a candidate for the House of Representatives who is not an eligible House candidate (as defined in section 324(a)).".

TITLE V—MISCELLANEOUS

SEC. 501. PROHIBITING INVOLUNTARY USE OF FUNDS OF EMPLOYEES OF CORPORATIONS AND OTHER EMPLOYERS AND MEMBERS OF UNIONS AND ORGANIZATIONS FOR POLITICAL ACTIVITIES.

(a) In General.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1)(A) Except with the separate, prior, written, voluntary authorization of the individual involved, it shall be unlawful—

"(i) for any national bank or corporation described in this section to collect from or assess a stockholder or employee any portion of any dues, initiation fee, or other payment made as a condition of employment which will be used for political activity in which the national bank or corporation is engaged; and

"(ii) for any labor organization described in this section to collect from or assess a member or nonmember any portion of any dues, initiation fee, or other payment which will be used for political activity in which the labor organization is engaged.

"(B) An authorization described in subparagraph (A) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such subparagraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(2)(A) Prior to the beginning of any 12-month period (as determined by the corporation), each corporation described in this section shall provide each of its shareholders with a notice containing the following:

"(i) The proposed aggregate amount for disbursements for political activities by the corporation for the period.

"(ii) The individual's applicable percentage and applicable pro rata amount for the period.

"(iii) A form that the individual may complete and return to the corporation to indicate the individual's objection to the disbursement of amounts for political activities during the period.

"(B) It shall be unlawful for a corporation to which subparagraph (A) applies to make disbursements for political activities during the 12-month period described in such subparagraph in an amount greater than—

"(i) the proposed aggregate amount for such disbursements for the period, as specified in the notice provided under subparagraph (A); reduced by

"(ii) the sum of the applicable pro rata amounts for such period of all shareholders who return the form described in subparagraph (A)(iii) to the corporation prior to the beginning of the period.

"(C) In this paragraph, the following definitions shall apply:

"(i) The term 'applicable percentage' means, with respect to a shareholder of a corporation, the amount (expressed as a percentage) equal to the number of shares of the corporation (within a particular class or type of stock) owned by the shareholder at the time the notice described in subparagraph (A) is provided, divided by the aggregate number of such shares owned by all shareholders of the corporation at such time.

"(ii) The term 'applicable pro rata amount' means, with respect to a shareholder for a 12-month period, the product of the shareholder's applicable percentage for the period and the proposed aggregate amount for disbursements for political activities by the corporation for the period, as specified in the notice provided under subparagraph (A).

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

SEC. 502. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

"SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

"(a) PERMITTED USES.—A contribution accepted by a candidate, and any other amount received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

"(1) for expenditures in connection with the campaign for Federal office of the candidate or individual;

"(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

"(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

"(4) for transfers to a national, State, or local committee of a political party.

"(b) PROHIBITED USE.—

"(1) IN GENERAL.—A contribution or amount described in subsection (a) shall not be converted by any person to personal use.

"(2) CONVERSION.—For the purposes of paragraph (1), a contribution or amount shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal officeholder, including—

"(A) a home mortgage, rent, or utility payment;

"(B) a clothing purchase;

"(C) a noncampaign-related automobile expense;

"(D) a country club membership;

"(E) a vacation or other noncampaign-related trip;

"(F) a household food item;

"(G) a tuition payment;

"(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

"(I) dues, fees, and other payments to a health club or recreational facility.".

SEC. 503. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

"(A) A Member of Congress shall not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period between January 1 of that year and the date of the general election for that Office, unless the Member has made a public announcement that the Member will not be a candidate for reelection to that year or for election to any other Federal office.".

SEC. 504. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) PROHIBITION.—

"(1) IN GENERAL.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value for a political committee or a candidate for Federal, State or local office from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. An individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, shall not solicit a donation of money or other thing of value for a political committee or candidate for Federal, State or local office, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

"(2) PENALTY.—A person who violates this section shall be fined not more than $5,000, imprisoned more than 3 years, or both."; and

(2) by inserting in subsection (b) after "Congress" "or Executive Office of the President".

SEC. 505. PENALTIES FOR KNOWING AND WILLFUL VIOLATIONS.

(a) INCREASED PENALTIES.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraphs (5)(A), (6)(A), and (6)(B), by striking "$5,000" and inserting "$10,000"; and

(2) in paragraphs (5)(B) and (6)(C), by striking "$10,000 or an amount equal to 200 percent" and inserting "$20,000 or an amount equal to 300 percent".

(b) EQUITABLE REMEDIES.—Section 309(a)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking the period at the end and inserting ", and may include equitable remedies or penalties, including disgorgement of funds to the Treasury or community service requirements (including requirements to participate in public education programs).".

(c) AUTOMATIC PENALTY FOR LATE FILING.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

"(13) LTY FOR LATE FILING.—

"(A) IN GENERAL.—

"(i) MONETARY PENALTIES.—The Commission shall establish a schedule of mandatory monetary penalties that shall be imposed by the Commission for failure to meet a time requirement for filing under section 304.

"(ii) REQUIRED FILING.—In addition to imposing a penalty, the Commission may require a report that has not been filed within the time requirements of section 304 to be filed by a specific date.

"(iii) PROCEDURE.—A penalty or filing requirement imposed under this paragraph shall not be subject to paragraph (1), (2), (3), (4), (5), or (12).

"(B) FILING AN EXCEPTION.—

"(i) TIME TO FILE.—A political committee shall have 30 days after the imposition of a penalty or filing requirement by the Commission under this paragraph in which to file an exception with the Commission.

"(ii) TIME FOR COMMISSION TO RULE.—Within 30 days after receiving an exception, the Commission shall make a determination that is a final agency action subject to exclusive review by the United States Court of Appeals for the District of Columbia Circuit under section 706 of title 5, United States Code, upon petition filed in that court by the political committee or treasurer that is the subject of the agency action, if the petition is filed within 30 days after the date of the Commission action for which review is sought.";

(2) in paragraph (5)(D)—

(A) by inserting after the first sentence the following: "In any case in which a penalty or filing requirement imposed on a political committee or treasurer under paragraph (13) has not been satisfied, the Commission may institute a civil action for enforcement under paragraph (6)(A)."; and

(B) by inserting before the period at the end of the last sentence the following: "or has failed to pay a penalty or meet a filing requirement imposed under paragraph (13)"; and

(3) in paragraph (6)(A), by striking "paragraph (4)(A)" and inserting "paragraph (4)(A) or (13)".

SEC. 506. STRENGTHENING FOREIGN MONEY BAN.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting the following: "CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS"; and

(2) by striking subsection (a) and inserting the following:

"(a) PROHIBITION.—It shall be unlawful for—

"(1) a foreign national, directly or indirectly, to make—

"(A) a donation of money or other thing of value, or to promise expressly or impliedly to make a donation, in connection with a Federal, State, or local election to a political committee or a candidate for Federal office; or

"(ii) a contribution or donation to a committee of a political party; or

"(B) for a person to solicit, accept, or receive such contribution or donation from a foreign national.".

SEC. 507. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by sections 101 and 401) is amended by adding at the end the following:

"SEC. 325. PROHIBITION OF CONTRIBUTIONS BY MINORS.

An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.".

SEC. 508. EXPEDITED PROCEDURES.

(a) IN GENERAL.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) (as amended by section 505(c)) is amended by adding at the end the following:

"(14)(A) If the complaint in a proceeding was filed within 60 days preceding the date of a general election, the Commission may take action described in this subparagraph.

"(B) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur, the Commission may order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties.

"(C) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

"(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

"(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.".

(b) REFERRAL TO ATTORNEY GENERAL.—Section 309(a)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking subparagraph (C) and inserting the following:

"(C) The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986, to the Attorney General of the United States, without regard to any limitation set forth in this section.".

SEC. 509. INITIATION OF ENFORCEMENT PROCEEDING.

Section 309(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is amended by striking "reason to believe that" and inserting "reason to investigate whether".

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

SEC. 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 602. REVIEW OF CONSTITUTIONAL ISSUES.

An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

SEC. 603. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect January 1, 1999.

SEC. 604. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 270 days after the effective date of this Act.

H.R. 2183

OFFERED BY MR. CAMPBELL

(Amendment in the Nature of a Substitute)

AMENDMENT No. 2: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Can't Vote, Can't Contribute Campaign Reform Act of 1998".

TITLE I—LIMITATIONS ON CONTRIBUTIONS

SEC. 101. LIMITATION ON AMOUNT OF CONTRIBUTIONS TO CANDIDATES BY INDIVIDUALS NOT ELIGIBLE TO VOTE IN STATE OR DISTRICT INVOLVED.

Section 315(a)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(A)) is amended by striking "in the aggregate, exceed $1,000;" and inserting the following: "in the aggregate—

"(i) in the case of contributions made to a candidate for election for Senator or for Representative in or Delegate or Resident Commissioner to the Congress by an individual who is not eligible to vote in the State or Congressional district involved (as the case may be) at the time the contribution is made (other than an individual who would be eligible to vote at such time but for the failure of the individual to register to vote), exceed $100; or

"(ii) in the case of any other contributions, exceed $1,000;".

SEC. 102. BAN ON ACCEPTANCE OF CONTRIBUTIONS MADE BY NONPARTY POLITICAL ACTION COMMITTEES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) Notwithstanding any other provision of this Act, no candidate for election for Federal office may accept any contribution from a political action committee.

"(2) In this subsection, the term 'political action committee' means any political committee which is not—

"(A) the principal campaign committee of a candidate; or

"(B) a national, State, local, or district committee of a political party, including any subordinate committee thereof.".

TITLE II—ENSURING VOLUNTARINESS OF CONTRIBUTIONS OF CORPORATIONS, UNIONS, AND OTHER MEMBERSHIP ORGANIZATIONS

SEC. 201. PROHIBITING INVOLUNTARY USE OF FUNDS OF EMPLOYEES OF CORPORATIONS AND OTHER EMPLOYERS AND MEMBERS OF UNIONS AND ORGANIZATIONS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1)(A) Except with the separate, prior, written, voluntary authorization of the individual involved, it shall be unlawful—

"(i) for any national bank or corporation described in this section (other than a corporation exempt from Federal taxation under section 501(c) of the Internal Revenue Code of 1986) to collect from or assess a stockholder or employee any portion of any dues, initiation fee, or other payment made as a condition of employment which will be used for political activity in which the national bank or corporation is engaged; and

"(ii) for any labor organization described in this section to collect from or assess a member or nonmember any portion of any dues, initiation fee, or other payment which will be used for political activity in which the labor organization is engaged.

"(B) An authorization described in subparagraph (A) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such subparagraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(2)(A) Prior to the beginning of any 12-month period (as determined by the corporation), each corporation to which paragraph (1) applies shall provide each of its shareholders with a notice containing the following:

"(i) The proposed aggregate amount for disbursements for political activities by the corporation for the period.

"(ii) The individual's applicable percentage and applicable pro rata amount for the period.

"(iii) A form that the individual may complete and return to the corporation to indicate the individual's objection to or approval of the disbursement of amounts for political activities during the period.

"(B) It shall be unlawful for a corporation to which subparagraph (A) applies to make disbursements for political activities during the 12-month period described in such subparagraph in an amount greater than the sum of the applicable pro rata amounts for such period of all shareholders who return the form described in subparagraph (A)(iii) to the corporation prior to the beginning of the period and indicate their approval of such disbursements.

"(C) In this paragraph, the following definitions shall apply:

"(i) The term 'applicable percentage' means, with respect to a shareholder of a corporation, the amount (expressed as a percentage) equal to the number of shares of the corporation (within a particular class or type of stock) owned by the shareholder at the time the notice described in subparagraph (A) is provided, divided by the aggregate number of such shares owned by all shareholders of the corporation at such time.

"(ii) The term 'applicable pro rata amount' means, with respect to a shareholder for a 12-month period, the product of the shareholder's applicable percentage for the period and the proposed aggregate amount for disbursements for political activities by the corporation for the period, as specified in the notice provided under subparagraph (A).

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

TITLE III—RESTRICTIONS ON SOFT MONEY

SEC. 301. BAN ON SOFT MONEY OF NATIONAL POLITICAL PARTIES AND CANDIDATES; BAN ON USE OF SOFT MONEY BY STATE POLITICAL PARTIES FOR FEDERAL ELECTION ACTIVITY.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"RESTRICTIONS ON USE OF SOFT MONEY BY POLITICAL PARTIES AND CANDIDATES

"SEC. 323. (a) BAN ON USE BY NATIONAL PARTIES.—

"(1) IN GENERAL.—No political committee of a national political party may solicit, receive, or direct any contributions, donations, or transfers of funds, or spend any funds, which are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY.—Paragraph (1) shall apply to any entity which is established, financed, maintained, or controlled (directly or indirectly) by, or which acts on behalf of, a political committee of a national political party, including any national congressional campaign committee of such a party and any officer or agent of such an entity or committee.

"(b) CANDIDATES.—

"(1) IN GENERAL.—No candidate for Federal office, individual holding Federal office, or any agent of such a candidate or officeholder may solicit, receive, or direct—

"(A) any funds in connection with any Federal election unless the funds are subject to the limitations, prohibitions and reporting requirements of this Act;

"(B) any funds that are to be expended in connection with any election for other than a Federal office unless the funds are not in excess of the applicable amounts permitted with respect to contributions to candidates and political committees under paragraphs (1) and (2) of section 315(a), and are not from sources prohibited from making contributions by this Act with respect to elections for Federal office; or

"(C) any funds on behalf of any person which are not subject to the limitations, prohibitions, and reporting requirements of this Act if such funds are for the purpose of financing any activity on behalf of a candidate for election for Federal office or any communication which refers to a clearly identified candidate for election for Federal office.

"(2) EXCEPTION FOR CERTAIN ACTIVITIES.—Paragraph (1) shall not apply to—

"(A) the solicitation, receipt, or direction of funds by an individual who is a candidate for a non-Federal office if such activity is permitted under State law for such individual's non-Federal campaign committee; or

"(B) the attendance by an individual who holds Federal office at a fundraising event for a State or local committee of a political party of the State which the individual represents as a Federal officeholder, if the event is held in such State.

"(c) STATE PARTIES.—

"(1) IN GENERAL.—Any payment by a State committee of a political party for a mixed political activity—

"(A) shall be subject to limitation and reporting under this Act as if such payment were an expenditure; and

"(B) may be paid only from an account that is subject to the requirements of this Act.

"(2) MIXED POLITICAL ACTIVITY DEFINED.—As used in this section, the term 'mixed political activity' means, with respect to a payment by a State committee of a political party, an activity (such as a voter registration program, a get-out-the-vote drive, or general political advertising) that is both for the purpose of influencing an election for Federal office and for any purpose unrelated to influencing an election for Federal office.

"(d) PROHIBITING TRANSFERS OF NON-FEDERAL FUNDS BETWEEN STATE PARTIES.—A State committee of a political party may not transfer any funds to a State committee of a political party of another State unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(e) APPLICABILITY TO FUNDS FROM ALL SOURCES.—This section shall apply with respect to funds of any individual, corporation, labor organization, or other person.".

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this Act shall apply with respect to elections occurring after January 1999.

H.R. 2183

OFFERED BY: MR. OBEY

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 3: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; FINDING.

(a) SHORT TITLE.—This Act may be cited as the "Let the Public Decide Campaign Finance Reform Act".

(b) FINDING.—The Congress finds that the existing system of private political contributions has become a fundamental threat to the integrity of the national election process and that the provisions contained in this Act are necessary to prevent the corruption of the public's faith in the Nation's system of governance.

TITLE I—EXPENDITURE LIMITATIONS AND PUBLIC FINANCING FOR HOUSE OF REPRESENTATIVES GENERAL ELECTIONS

SEC. 101. NEW TITLE OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new title:

"TITLE V—EXPENDITURE LIMITATIONS AND PUBLIC FINANCING FOR HOUSE OF REPRESENTATIVES GENERAL ELECTIONS

"SEC. 501. LIMITATION ON EXPENDITURES IN HOUSE OF REPRESENTATIVES GENERAL ELECTIONS.

"A candidate in a House of Representatives general election may not make expenditures other than as provided in this title.

"SEC. 502. SOURCES OF AMOUNTS FOR EXPENDITURES BY CANDIDATES IN HOUSE OF REPRESENTATIVES GENERAL ELECTIONS.

"The only sources of amounts for expenditures by candidates in House of Representatives general elections shall be—

"(1) the Grassroots Good Citizenship Fund, under section 505; and

"(2) additional amounts from State and national party committees under section 506.

"SEC. 503. DISTRICT LIMITATION ON EXPENDITURES BY MAJOR PARTY CANDIDATES.

"(a) IN GENERAL.—Except as provided in section 506, the maximum amounts of expenditures by major party candidates in House of Representatives general elections shall be based on the median household income of the districts involved, as provided for in subsections (b) and (c).

"(b) MAXIMUM FOR WEALTHIEST DISTRICT.—In the congressional district with the highest median household income, maximum combined expenditures for all major party candidates with respect to a House of Representatives general election shall be a total of $1,000,000.

"(c) MAXIMUM FOR OTHER DISTRICTS.—In each congressional district, other than the district referred to in subsection (b), the maximum combined expenditures for all major party candidates with respect to a House of Representatives general election shall be an amount equal to—

"(1) the maximum amount referred to in subsection (b), less

"(2) the amount equal to—

"(A) ⅔ of the percentage difference between the median household income of the district involved and the median household income of the district referred to in subsection (b), times

"(B) the maximum amount referred to in subsection (b).

"(d) ALLOCATION.—The maximum expenditure for a major party candidate in a congressional district shall be 50 percent of the maximum amount under subsection (b) or (c), as applicable.

"SEC. 504. DISTRICT LIMITATION ON EXPENDITURES BY THIRD PARTY AND INDEPENDENT CANDIDATES.

"(a) IN GENERAL.—Except as provided in section 506, the maximum amounts of expenditures by third party and independent candidates in House of Representatives general elections shall be the amount allocated under subsection (b).

"(b) ALLOCATION.—The maximum expenditure for a third party or independent candidate in a congressional district shall be—

"(1) the amount that bears the same ratio to the maximum amount under subsection (b) or (c) of section 503, as applicable, as the total popular vote in the district for candidates of the third party or for all independent candidates (as the case may be) bears to the total popular vote for all candidates in the 5 preceding general elections; or

"(2) in the case of a candidate in a district in which no third party or independent candidates (as the case may be) received votes in the 5 preceding general elections, the amount corresponding to the number of signatures presented to and verified by the Commission according to the following table:

"20,000 signatures	$75,000
30,000 signatures	100,000
40,000 signatures	150,000
50,000 signatures	200,000

"SEC. 505. GRASSROOTS GOOD CITIZENSHIP FUND.

"(a) CREATION OF FUND.—There is established in the Treasury a trust fund to be known as the 'Grassroots Good Citizenship Fund', consisting of such amounts as may be credited to such fund as provided in this section.

"(b) DISTRICT ACCOUNTS.—There shall be established within the Grassroots Good Citizenship Fund an account for each congressional district. The accounts so established shall be administered by the Commission for the purpose of distributing amounts under this title.

"(c) PAYMENTS TO CANDIDATES.—Subject to subsection (d), the Commission shall pay to each candidate from the Grassroots Good Citizenship Fund the maximum amount calculated for such candidate under section 503 or 504.

"(d) INSUFFICIENT AMOUNTS.—If, as determined by the Commission, there are insufficient amounts in the Grassroots Good Citizenship Fund for payments under subsection (c), the Commission may reduce payments to candidates so that each candidate receives a pro rata portion of the amounts that are available.

"(e) TRANSFERS TO FUND.—There are hereby credited to the Grassroots Good Citizenship Fund amounts equivalent to the amounts designated under section 6097 of the Internal Revenue Code of 1986.

"(f) EXPENDITURES.—Amounts in the Grassroots Good Citizenship Fund shall be available for the purpose of providing amounts for expenditure by candidates in House of Representatives general elections in accordance with this title.

"SEC. 506. ADDITIONAL AMOUNTS FROM STATE AND NATIONAL PARTY COMMITTEES.

"(a) CONTRIBUTIONS.—In addition to amounts made available under section 503 or 504, in the case of a candidate in a House of Representatives general election who is the candidate of a political party, the State and national committees of that political party may make contributions to the candidate totaling not more than 5 percent of the maximum expenditure applicable to the candidate under section 503 or section 504.

"(b) EXPENDITURES.—A House of Representatives candidate who is the candidate of a political party may make expenditures of the amounts received under subsection (a).

"SEC. 507. PUBLIC SERVICE ANNOUNCEMENTS.

"(a) IN GENERAL.—Beginning on January 15, and continuing through April 15 of each year, the Commission shall carry out a program, utilizing broadcast announcements and other appropriate means, to inform the public of the existence and purpose of the Grassroots Good Citizenship Fund and the role that individual citizens can play in the election process by voluntarily contributing to the fund. The announcements shall be broadcast during prime time viewing hours in 30-second advertising segments equivalent to 200 gross rating points per network per week. The Commission shall ensure that the maximum number of taxpayers shall be exposed to these announcements. Television networks, as defined by the Federal Communications Commission, shall provide the broadcast time under this section as part of their obligations in the public interest under the Communications Act of 1934. The Federal Election Commission shall encourage broadcast outlets other than the above mentioned television networks including radio to provide similar announcements.

"(b) GROSS RATING POINT.—The term 'gross rating point' is a measure of the total gross weight delivered. It is the sum of the ratings for individual programs. Since a household rating period is 1 percent of the coverage base, 200 gross rating points means 2 messages a week per average household.

"SEC. 508. DEFINITIONS.

"As used in this title—

"(1) the term 'House of Representatives candidate' means a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress;

"(2) the term 'median household income' means, with respect to a congressional district, the median household income of that district, as determined by the Commission, using the most current data from the Bureau of the Census;

"(3) the term 'major party' means, with respect to a House of Representatives general election, a political party whose candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in the preceding general election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office;

"(4) the term 'third party' means with respect to a House of Representatives general election, a political party whose candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in the preceding general election received, as the candidate of such party, less than 25 percent of the total number of popular votes received by all candidates for such office;

"(5) the term 'independent candidate' means, with respect to a House of Representatives general election, a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who is not the candidate of a major party or a third party; and

"(6) the term 'House of Representatives general election' means a general election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.".

TITLE II—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

SEC. 201. DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR GRASSROOTS GOOD CITIZENSHIP FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR GRASSROOTS GOOD CITIZENSHIP FUND

"Sec. 6097. Designation of overpayments for Grassroots Good Citizenship Fund.

"SEC. 6097. DESIGNATION OF OVERPAYMENTS FOR GRASSROOTS GOOD CITIZENSHIP FUND.

"(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

"(1) a specified portion (not less than $1 or more than $10,000, and not less than $1 or more than $20,000 in the case of a joint return) of any overpayment of tax for such taxable year, and

"(2) any contribution which the taxpayer includes with such return,

shall be paid over to the Grassroots Good Citizenship Fund under section 505 of the Federal Election Campaign Act of 1971.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for such taxable year. Such designation shall be made on the 1st page of the return.

"(c) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any portion of an overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

"Part IX. Designation of overpayments and contributions for certain purposes relating to House of Representatives elections."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 202. INCREASE IN CORPORATE INCOME TAX ON TAXABLE INCOME ABOVE $10,000,000.

(a) IN GENERAL.—Paragraph (4) of subsection (b) of section 11 of the Internal Revenue Code of 1986 is amended by striking "35 percent" and inserting "35.1 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(c) USE OF AMOUNTS RECEIVED.—Amounts received by reason of the amendment made by subsection (a) shall be paid over to the Grassroots Good Citizenship Fund under section 505 of the Federal Election Campaign Act of 1971.

TITLE III—BAN ON USE OF SOFT MONEY BY HOUSE CANDIDATES

SEC. 301. BAN ON USE OF SOFT MONEY BY HOUSE CANDIDATES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"BAN ON USE OF NON-REGULATED FUNDS BY HOUSE CANDIDATES

"SEC. 323. (a) IN GENERAL.—No funds may be solicited, disbursed, or otherwise used with respect to any House of Representatives election unless the funds are subject to the limitations and prohibitions of this Act.

"(b) HOUSE OF REPRESENTATIVES ELECTION DEFINED.—In this section, the term 'House of Representatives election' means any election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.".

TITLE IV—INDEPENDENT EXPENDITURES

SEC. 401. BAN ON INDEPENDENT EXPENDITURES IN HOUSE OF REPRESENTATIVES ELECTIONS.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection;

"(i) No person may make any independent expenditure with respect to an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.".

(b) CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.—

(1) IN GENERAL.—Section 301 of such Act (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following new paragraphs:

"(17) The term 'independent expenditure' means an expenditure for a communication (other than a communication which is described in clause (i) or clause (iii) of paragraph (9)(B) or which would be described in such clause if the communication were otherwise treated as an expenditure under this title)—

"(A) which is made during the 90-day period ending on the date of a general election for Federal office and which identifies a candidate for election for such office by name, image, or likeness; or

"(B) which contains express advocacy and is made without the participation or cooperation of, or consultation with, a candidate or a candidate's representative.

"(18) The term 'express advocacy' means, when a communication is taken as a whole and with limited reference to external events, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity, or an expression which would reasonably be construed as intending to influence the outcome of an election.".

(2) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of such Act (2 U.S.C. 431(8)(A)) is amended—

(A) in clause (i), by striking "or" after the semicolon at the end;

(B) in clause (ii), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new clause:

"(iii) any payment or other transaction referred to in paragraph (17)(A) that does not qualify as an independent expenditure under paragraph (17)(B).".

SEC. 402. BAN ON USE OF SOFT MONEY FOR CERTAIN EXPENDITURES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 301, is further amended by adding at the end the following new section:

"BAN ON USE OF NON-FEDERAL FUNDS FOR CERTAIN EXPENDITURES

"SEC. 324. (a) IN GENERAL.—No person may disburse any funds for any expenditure described in subsection (b) unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(b) EXPENDITURES DESCRIBED.—The expenditures described in this subsection are as follows:

"(1) An expenditure made by an authorized committee of a candidate for Federal office or a political committee of a political party.

"(2) An expenditure made by a person who, during the election cycle, has made a contribution to a candidate, where the expenditure is in support of that candidate or in opposition to another candidate for the same office.

"(3) An expenditure made by a person, or a political committee established, maintained or controlled by such person, who is required to register, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act (22 U.S.C. 611) or any successor Federal law requiring a person who is a lobbyist or foreign agent to register.

"(4) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(5) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

"(A) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(B) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.".

TITLE V—PROVISIONS RELATING TO HOUSE OF REPRESENTATIVES PRIMARY ELECTIONS

SEC. 501. LIMITATION ON EXPENDITURES IN HOUSE OF REPRESENTATIVES ELECTIONS OTHER THAN GENERAL ELECTIONS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 401, is further amended by adding at the end the following new subsection:

"(j)(1) The maximum expenditures for a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in any election other than a general election may not exceed ⅓ of the maximum applicable to the candidate in a general election under title V.

"(2) For purposes of limitations under this Act, any expenditure by a candidate referred to in paragraph (1), including an expenditure for the preparation, production, or presentation of communications through electronic media or in written form, shall, regardless of when the expenditure is made, be attributed to the appropriate general election, unless such expenditure is made solely for an election other than a general election.".

SEC. 502. LIMITATION ON ACCEPTANCE OF LARGE DONOR MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTIONS BY HOUSE OF REPRESENTATIVES CANDIDATES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 401 and 501, is further amended by adding at the end the following new subsection:

"(k)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, and the authorized political committees of such candidate, may not, with respect to an election other than a general election, accept contributions from large donor multicandidate political committees in excess of 20 percent of the maximum amount which the candidate may expend with respect to the election under subsection (j).

"(2) In paragraph (1), the term 'large donor multicandidate political committee' means a multicandidate political committee that accepts contributions totaling more than $200 from any single source in a calendar year.".

TITLE VI—CONSIDERATION OF CONSTITUTIONAL AMENDMENT

SEC. 601. EXPEDITED CONSIDERATION OF CONSTITUTIONAL AMENDMENT.

(a) IN GENERAL.—If any provision of this Act or any amendment made by this Act is found unconstitutional by the Supreme Court, the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in section 602 in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(b) SPECIAL RULES.—For purposes of applying subsection (a) with respect to such provisions, the following rules shall apply:

(1) Any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to the Committee on the Judiciary of the House of Representatives and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on the Judiciary of the Senate.

(2) Any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the Supreme Court finds a provision of this Act or an amendment made by this Act unconstitutional.

SEC. 602. CONSTITUTIONAL AMENDMENT DESCRIBED.

For purposes of section 601, a joint resolution described in this section is a joint resolution proposing the following text as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. Congress may provide for reasonable restrictions on contributions and expenditures in campaigns for election for Federal office as necessary to protect the integrity of the electoral process.

"SEC. 2. Congress shall have power to enforce this article by appropriate legislation. No legislation enacted to enforce this article shall apply with respect to any election held after the last day of the year of the third Presidential election held after the date of the enactment of the legislation, unless the period in which such legislation is in effect is extended by an Act of Congress which is signed into law by the President.".

H.R. 2183

OFFERED BY: MR. OBEY

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 4: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; FINDING.

(a) SHORT TITLE.—This Act may be cited as the "Let the Public Decide Campaign Finance Reform Act".

(b) FINDING.—The Congress finds that the existing system of private political contributions has become a fundamental threat to the integrity of the national election process and that the provisions contained in this Act are necessary to prevent the corruption of the public's faith in the Nation's system of governance.

TITLE I—VOLUNTARY EXPENDITURE LIMITATIONS AND PUBLIC FINANCING FOR HOUSE OF REPRESENTATIVES GENERAL ELECTIONS

SEC. 101. NEW TITLE OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new title:

"TITLE V—VOLUNTARY EXPENDITURE LIMITATIONS AND PUBLIC FINANCING FOR HOUSE OF REPRESENTATIVES GENERAL ELECTIONS

"Subtitle A—Public Financing for Certified House Candidates

"SEC. 501. PUBLIC FINANCING FOR CERTIFIED HOUSE CANDIDATES.

"A certified House candidate in a House of Representatives general election shall be entitled to payments from the Grassroots Good Citizenship Fund under section 521.

"SEC. 502. PROCEDURES FOR CERTIFICATION.

"(a) IN GENERAL.—The Commission shall certify that a candidate initially meets the requirements for a certified House candidate under section 502 if the candidate submits to the Commission in writing a statement with the following information and assurances:

"(1) An agreement to obtain and furnish to the Commission such evidence as it may request to ensure that the candidate meets the requirements relating to limitations on expenditures under subtitle B.

"(2) An agreement to keep and furnish to the Commission such records, books, and other information as it may request.

"(3) An agreement to audit and examination by the Commission and to the payment of any amounts found to be paid erroneously to the candidate under this title.

"(4) Such other information and assurances as the Commission may require.

"(b) AUTHORITY OF COMMISSION TO REJECT OR REVOKE CERTIFICATION.—The Commission may reject a candidate's application for treatment as a certified House candidate or revoke a candidate's status as a certified House candidate if the candidate knowingly and willfully violates or has violated any of the applicable requirements of this title with respect to the election involved or any previous election.

"Subtitle B—Limitations on Expenditures by Certified House Candidates

"SEC. 511. LIMITATION ON EXPENDITURES.

"A certified House candidate in a House of Representatives general election may not make expenditures other than as provided in this subtitle.

"SEC. 512. SOURCES OF AMOUNTS FOR EXPENDITURES BY CERTIFIED HOUSE CANDIDATES.

"The only sources of amounts for expenditures by certified House candidates in House of Representatives general elections shall be—

"(1) the Grassroots Good Citizenship Fund, under section 521; and

"(2) additional amounts from State and national party committees under section 522.

"SEC. 513. DISTRICT LIMITATION ON EXPENDITURES BY MAJOR PARTY CANDIDATES.

"(a) IN GENERAL.—Except as provided in section 515 and section 522, the maximum amounts of expenditures by certified House candidates in House of Representatives general elections who are major party candidates shall be based on the median household income of the districts involved, as provided for in subsections (b) and (c).

"(b) MAXIMUM FOR WEALTHIEST DISTRICT.—In the congressional district with the highest median household income, maximum combined expenditures for all certified House candidates who are major party candidates with respect to a House of Representatives general election shall be a total of $1,000,000.

"(c) MAXIMUM FOR OTHER DISTRICTS.—In each congressional district, other than the district referred to in subsection (b), the maximum combined expenditures for all certified House candidates who are major party candidates with respect to a House of Representatives general election shall be an amount equal to—

"(1) the maximum amount referred to in subsection (b), less

"(2) the amount equal to—

"(A) ⅔ of the percentage difference between the median household income of the district involved and the median household income of the district referred to in subsection (b), times

"(B) the maximum amount referred to in subsection (b).

"(d) ALLOCATION.—The maximum expenditure for a certified House candidate who is a major party candidate in a congressional district shall be 50 percent of the maximum amount under subsection (b) or (c), as applicable.

"SEC. 514. DISTRICT LIMITATION ON EXPENDITURES BY THIRD PARTY AND INDEPENDENT CANDIDATES.

"(a) IN GENERAL.—Except as provided in section 515 and section 522, the maximum amounts of expenditures by certified House candidates who are third party and independent candidates in House of Representatives general elections shall be the amount allocated under subsection (b).

"(b) ALLOCATION.—The maximum expenditure for a certified House candidate who is a third party or independent candidate in a congressional district shall be—

"(1) the amount that bears the same ratio to the maximum amount under subsection (b) or (c) of section 503, as applicable, as the total popular vote in the district for candidates of the third party or for all independent candidates (as the case may be) bears to the total popular vote for all candidates in the 5 preceding general elections; or

"(2) in the case of a candidate in a district in which no third party or independent candidates (as the case may be) received votes in the 5 preceding general elections, the amount corresponding to the number of signatures presented to and verified by the Commission according to the following table:

"20,000 signatures	$75,000
30,000 signatures	100,000
40,000 signatures	150,000
50,000 signatures	200,000

"SEC. 515. INCREASE IN AMOUNT FOR CANDIDATES WITH NONPARTICIPATING OPPONENT.

"In the case of a certified House candidate in a House of Representatives general election with an opponent who is a major party candidate who is not a certified House candidate, the amount otherwise provided in section 513 or section 514 (as the case may be) shall be increased by 100 percent.

"Subtitle C—Payments to Certified House Candidates

"SEC. 521. GRASSROOTS GOOD CITIZENSHIP FUND.

"(a) CREATION OF FUND.—There is established in the Treasury a trust fund to be known as the 'Grassroots Good Citizenship Fund', consisting of such amounts as may be credited to such fund as provided in this section.

"(b) DISTRICT ACCOUNTS.—There shall be established within the Grassroots Good Citizenship Fund an account for each congressional district. The accounts so established shall be administered by the Commission for the purpose of distributing amounts under this title.

"(c) PAYMENTS TO CANDIDATES.—Subject to subsection (d), the Commission shall pay to each certified House candidate from the Grassroots Good Citizenship Fund the maximum amount calculated for such candidate under section 513 or 514.

"(d) INSUFFICIENT AMOUNTS.—If, as determined by the Commission, there are insufficient amounts in the Grassroots Good Citizenship Fund for payments under subsection (c), the Commission may reduce payments to certified House candidates so that each candidate receives a pro rata portion of the amounts that are available.

"(e) TRANSFERS TO FUND.—There are hereby credited to the Grassroots Good Citizenship Fund amounts equivalent to the amounts designated under section 6097 of the Internal Revenue Code of 1986.

"(f) EXPENDITURES.—Amounts in the Grassroots Good Citizenship Fund shall be available for the purpose of providing amounts for expenditure by certified House candidates in House of Representatives general elections in accordance with this title.

"SEC. 522. ADDITIONAL AMOUNTS FROM STATE AND NATIONAL PARTY COMMITTEES.

"(a) CONTRIBUTIONS.—In addition to amounts made available under section 521, in the case of a certified House candidate in a House of Representatives general election who is the candidate of a political party, the State and national committees of that political party may make contributions to the candidate totaling not more than 5 percent of the maximum expenditure applicable to the candidate under section 513 or section 514.

"(b) EXPENDITURES.—A certified House candidate who is the candidate of a political party may make expenditures of the amounts received under subsection (a).

"Subtitle D—Miscellaneous Provisions

"SEC. 531. PUBLIC SERVICE ANNOUNCEMENTS.

"(a) IN GENERAL.—Beginning on January 15, and continuing through April 15 of each year, the Commission shall carry out a program, utilizing broadcast announcements and other appropriate means, to inform the public of the existence and purpose of the Grassroots Good Citizenship Fund and the role that individual citizens can play in the election process by voluntarily contributing to the fund. The announcements shall be broadcast during prime time viewing hours in 30-second advertising segments equivalent to 200 gross rating points per network per week. The Commission shall ensure that the maximum number of taxpayers shall be exposed to these announcements. Television networks, as defined by the Federal Communications Commission, shall provide the broadcast time under this section as part of their obligations in the public interest under the Communications Act of 1934. The Federal Election Commission shall encourage broadcast outlets other than the above mentioned television networks including radio to provide similar announcements.

"(b) GROSS RATING POINT.—The term 'gross rating point' is a measure of the total gross weight delivered. It is the sum of the ratings for individual programs. Since a household rating period is 1 percent of the coverage base, 200 gross rating points means 2 messages a week per average household.

"SEC. 532. DEFINITIONS.

"As used in this title—

"(1) the term 'certified House candidate' means, with respect to a House of Representatives general election, a candidate in such election who is certified by the Commission under subtitle A as meeting the requirements for receiving public financing under this title;

"(2) the term 'median household income' means, with respect to a congressional district, the median household income of that district, as determined by the Commission, using the most current data from the Bureau of the Census;

"(3) the term 'major party' means, with respect to a House of Representatives general election, a political party whose candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in the preceding general election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office;

"(4) the term 'third party' means with respect to a House of Representatives general election, a political party whose candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in the preceding general election received, as the candidate of such party, less than 25 percent of the total number of popular votes received by all candidates for such office;

"(5) the term 'independent candidate' means, with respect to a House of Representatives general election, a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who is not the candidate of a major party or a third party; and

"(6) the term 'House of Representatives general election' means a general election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.".

TITLE II—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

SEC. 201. DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR GRASSROOTS GOOD CITIZENSHIP FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR GRASSROOTS GOOD CITIZENSHIP FUND

"Sec. 6097. Designation of overpayments for Grassroots Good Citizenship Fund.

"SEC. 6097. DESIGNATION OF OVERPAYMENTS FOR GRASSROOTS GOOD CITIZENSHIP FUND.

"(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

"(1) a specified portion (not less than $1 or more than $10,000, and not less than $1 or more than $20,000 in the case of a joint return) of any overpayment of tax for such taxable year, and

"(2) any contribution which the taxpayer includes with such return,

shall be paid over to the Grassroots Good Citizenship Fund under section 521 of the Federal Election Campaign Act of 1971.

"(b) Manner and Time of Designation.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for such taxable year. Such designation shall be made on the 1st page of the return.

"(c) Overpayments Treated as Refunded.—For purposes of this title, any portion of an overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed."

(b) Clerical Amendment.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

"Part IX. Designation of overpayments and contributions for certain purposes relating to House of Representatives elections."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 202. INCREASE IN CORPORATE INCOME TAX ON TAXABLE INCOME ABOVE $10,000,000.

(a) In General.—Paragraph (4) of subsection (b) of section 11 of the Internal Revenue Code of 1986 is amended by striking "35 percent" and inserting "35.1 percent".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(c) Use of Amounts Received.—Amounts received by reason of the amendment made by subsection (a) shall be paid over to the Grassroots Good Citizenship Fund under section 521 of the Federal Election Campaign Act of 1971.

TITLE III—BAN ON USE OF SOFT MONEY BY HOUSE CANDIDATES

SEC. 301. BAN ON USE OF SOFT MONEY BY HOUSE CANDIDATES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"BAN ON USE OF NON-REGULATED FUNDS BY HOUSE CANDIDATES

"Sec. 323 (a) In General.—No funds may be solicited, disbursed, or otherwise used with respect to any House of Representatives election unless the funds are subject to the limitations and prohibitions of this Act.

"(b) House of Representatives Election Defined.—In this section, the term 'House of Representatives election' means any election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.".

TITLE IV—INDEPENDENT EXPENDITURES

SEC. 401. BAN ON INDEPENDENT EXPENDITURES IN HOUSE OF REPRESENTATIVES ELECTIONS.

(a) In General.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection;

"(i) No person may make any independent expenditure with respect to an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.".

(b) Clarification of Definitions Relating to Independent Expenditures.—

(1) In general.—Section 301 of such Act (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following new paragraphs:

"(17) The term 'independent expenditure' means an expenditure for a communication (other than a communication which is described in clause (i) or clause (iii) of paragraph (9)(B) or which would be described in such clause if the communication were otherwise treated as an expenditure under this title)—

"(A) which is made during the 90-day period ending on the date of a general election for Federal office and which identifies a candidate for election for such office by name, image, or likeness; or

"(B) which contains express advocacy and is made without the participation or cooperation of, or consultation with, a candidate or a candidate's representative.

"(18) The term 'express advocacy' means, when a communication is taken as a whole and with limited reference to external events, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity, or an expression which would reasonably be construed as intending to influence the outcome of an election.".

(2) Contribution definition amendment.—Section 301(8)(A) of such Act (2 U.S.C. 431(8)(A)) is amended—

(A) in clause (i), by striking "or" after the semicolon at the end;

(B) in clause (ii), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new clause:

"(iii) any payment or other transaction referred to in paragraph (17)(A) that does not qualify as an independent expenditure under paragraph (17)(B).".

SEC. 402. BAN ON USE OF SOFT MONEY FOR CERTAIN EXPENDITURES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 301, is further amended by adding at the end the following new section:

"BAN ON USE OF NON-FEDERAL FUNDS FOR CERTAIN EXPENDITURES

"Sec. 324. (a) In General.—No person may disburse any funds for any expenditure described in subsection (b) unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(b) Expenditures Described.—The expenditures described in this subsection are as follows:

"(1) An expenditure made by an authorized committee of a candidate for Federal office or a political committee of a political party.

"(2) An expenditure made by a person who, during the election cycle, has made a contribution to a candidate, where the expenditure is in support of that candidate or in opposition to another candidate for the same office.

"(3) An expenditure made by a person, or a political committee established, maintained or controlled by such person, who is required to register, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act (22 U.S.C. 611) or any successor Federal law requiring a person who is a lobbyist or foreign agent to register.

"(4) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(5) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

"(A) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(B) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.".

TITLE V—LIMITATIONS ON ACCEPTANCE OF LARGE DONOR PAC CONTRIBUTIONS IN HOUSE OF REPRESENTATIVES PRIMARY ELECTIONS

SEC. 501. LIMITATION ON ACCEPTANCE OF LARGE DONOR MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTIONS BY HOUSE OF REPRESENTATIVES CANDIDATES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 401, is further amended by adding at the end the following new subsection:

"(j)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who is not a certified House candidate under title V (and the authorized political committees of such candidate) may not, with respect to an election other than a general election, accept contributions from large donor multicandidate political committees in excess of 20 percent of the maximum amount which a certified House candidate may expend with respect to the general election under title V.

"(2) In paragraph (1), the term 'large donor multicandidate political committee' means a multicandidate political committee that accepts contributions totaling more than $200 from any single source in a calendar year.".

TITLE VI—CONSIDERATION OF CONSTITUTIONAL AMENDMENT

SEC. 601. EXPEDITED CONSIDERATION OF CONSTITUTIONAL AMENDMENT.

(a) In General.—If any provision of this Act or any amendment made by this Act is found unconstitutional by the Supreme Court, the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in section 602 in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(b) Special rules.—For purposes of applying subsection (a) with respect to such provisions, the following rules shall apply:

(1) Any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to the Committee on the Judiciary of the House of Representatives and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on the Judiciary of the Senate.

(2) Any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the Supreme Court finds a provision of this Act or an amendment made by this Act unconstitutional.

SEC. 602. CONSTITUTIONAL AMENDMENT DESCRIBED.

For purposes of section 601, a joint resolution described in this section is a joint resolution proposing the following text as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. In campaigns for election for Federal office, as necessary to protect the integrity of the electoral process, Congress may provide for reasonable restrictions on the making of independent expenditures for public communications made during the 90-day period ending on the date of a general election and on the making of expenditures for public communications which contain express advocacy.

"SEC. 2. Nothing in clause 1 may be construed to affect the validity of any restrictions on expenditures in campaigns for election for Federal office which are in effect prior to the adoption of this article.

"SEC. 3. Congress shall have power to enforce this article by appropriate legislation. No legislation enacted to enforce this article shall apply with respect to any election held after the last day of the year of the third Presidential election held after the date of the enactment of the legislation, unless the period in which such legislation is in effect is extended by an Act of Congress which is signed into law by the President.".

[Submitted May 14, 1998]

H.R. 2183

OFFERED BY: MR. DOOLITTLE

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 5: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Citizen Legislature and Political Freedom Act".

SEC. 2. REMOVAL OF LIMITATIONS ON FEDERAL ELECTION CAMPAIGN CONTRIBUTIONS.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) The limitations established under this subsection shall not apply to contributions made during calendar years beginning after 1998."

SEC. 3. TERMINATION OF TAXPAYER FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS.

(a) TERMINATION OF DESIGNATION OF INCOME TAX PAYMENTS.—Section 6096 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1997."

(b) TERMINATION OF FUND AND ACCOUNT.—

(1) TERMINATION OF PRESIDENTIAL ELECTION CAMPAIGN FUND.—

(A) IN GENERAL.—Chapter 95 of subtitle H of such Code is amended by adding at the end the following new section:

"SEC. 9014. TERMINATION.

"The provisions of this chapter shall not apply with respect to any presidential election (or any presidential nominating convention) after December 31, 1998, or to any candidate in such an election."

(B) TRANSFER OF EXCESS FUNDS TO GENERAL FUND.—Section 9006 of such Code is amended by adding at the end the following new subsection:

"(d) TRANSFER OF FUNDS REMAINING AFTER 1998.—The Secretary shall transfer all amounts in the fund after December 31, 1998, to the general fund of the Treasury."

(2) TERMINATION OF ACCOUNT.—Chapter 96 of subtitle H of such Code is amended by adding at the end the following new section:

"SEC. 9043. TERMINATION.

"The provisions of this chapter shall not apply to any candidate with respect to any presidential election after December 31, 1998."

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 95 of subtitle H of such Code is amended by adding at the end the following new item:

"Sec. 9014. Termination."

(2) The table of sections for chapter 96 of subtitle H of such Code is amended by adding at the end the following new item:

"Sec. 9043. Termination."

SEC. 4. DISCLOSURE REQUIREMENTS FOR CERTAIN SOFT MONEY EXPENDITURES OF POLITICAL PARTIES.

(a) TRANSFERS OF FUNDS BY NATIONAL POLITICAL PARTIES.—Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

(1) by striking "and" at the end of subparagraph (H);

(2) by adding "and" at the end of subparagraph (I); and

(3) by adding at the end the following new subparagraph:

"(J) in the case of a political committee of a national political party, all funds transferred to any political committee of a State or local political party, without regard to whether or not the funds are otherwise treated as contributions or expenditures under this title;".

(b) DISCLOSURE BY STATE AND LOCAL POLITICAL PARTIES OF INFORMATION REPORTED UNDER STATE LAW.—Section 304 of such Act (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d) If a political committee of a State or local political party is required under a State or local law, rule, or regulation to submit a report on its disbursements to an entity of the State or local government, the committee shall file a copy of the report with the Commission at the time it submits the report to such an entity.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections occurring after January 1999.

SEC. 5. PROMOTING EXPEDITED AVAILABILITY OF FEC REPORTS.

(a) MANDATORY ELECTRONIC FILING.—Section 304(a)(11)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(A)) is amended by striking "permit reports required by" and inserting "require reports under".

(b) REQUIRING REPORTS FOR ALL CONTRIBUTIONS MADE TO ANY POLITICAL COMMITTEE WITHIN 90 DAYS OF ELECTION; REQUIRING REPORTS TO BE MADE WITHIN 24 HOURS.—Section 304(a)(6) of such Act (2 U.S.C. 434(a)(6)) is amended to read as follows:

"(6)(A) Each political committee shall notify the Secretary or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution received by the committee during the period which begins on the 90th day before an election and ends at the time the polls close for such election. This notification shall be made within 24 hours (or, if earlier, by midnight of the day on which the contribution is deposited) after the receipt of such contribution and shall include the name of the candidate involved (as appropriate) and the office sought by the candidate, the indentification of the contributor, and the date of receipt and amount of the contribution.

"(B) The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.".

(c) INCREASING ELECTRONIC DISCLOSURE.—Section 304 of such Act (2 U.S.C. 434(a)), as amended by section 4(b), is further amended by adding at the end the following new subsection:

"(e)(1) The Commission shall make the information contained in the reports submitted under this section available on the Internet and publicly available at the offices of the Commission as soon as practicable (but in no case later than 24 hours) after the information is received by the Commission.

"(2) In this subsection, the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet-switched data networks.".

(d) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to reports for periods beginning on or after January 1, 1999.

SEC. 6. WAIVER OF "BEST EFFORTS" EXCEPTION FOR INFORMATION ON IDENTIFICATION OF CONTRIBUTORS.

(a) IN GENERAL.—Section 302(i) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(i)) is amended—

(1) by striking "(i) When the treasurer" and inserting "(i)(1) Except as provided in paragraph (2), when the treasurer"; and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply with respect to information regarding the identification of any person who makes a contribution or contributions aggregating more than $200 during a calendar year (as required to be provided under subsection (c)(3)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to persons making contributions for elections occurring after January 1999.

H.R. 2183

OFFERED BY: MR. DOOLITTLE

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 6: Strike all after the enacting clause and insert the following:

SECTION 1. TERMINATION OF TAXPAYER FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS.

(a) TERMINATION OF DESIGNATION OF INCOME TAX PAYMENTS.—Section 6096 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1997."

(b) TERMINATION OF FUND AND ACCOUNT.—

(1) TERMINATION OF PRESIDENTIAL ELECTION CAMPAIGN FUND.—

(A) IN GENERAL.—Chapter 95 of subtitle H of such Code is amended by adding at the end the following new section:

"SEC. 9014. TERMINATION.

"The provisions of this chapter shall not apply with respect to any presidential election (or any presidential nominating convention) after December 31, 1998, or to any candidate in such an election."

(b) TRANSFER OF EXCESS FUNDS TO GENERAL FUND.—Section 9006 of such Code is amended by adding at the end the following new subsection:

"(d) TRANSFER OF FUNDS REMAINING AFTER 1998.—The Secretary shall transfer all amounts in the fund after December 31, 1998, to the general fund of the Treasury."

(2) TERMINATION OF ACCOUNT.—Chapter 96 of subtitle H of such Code is amended by adding a the end the following new section:

"SEC. 9043. TERMINATION.

"The provisions of this chapter shall not apply to any candidate with respect to any presidential election after December 31, 1998."

(c) CLERICAL AMENDMENTS.—

(1) Table of sections for chapter 95 of subtitle H of such Code is amended by adding at the end the following new item:

"Sec. 09014. Termination."

(2) The table of sections for chapter 96 of subtitle H of such Code is amended by adding at the end the following new item:

"Sec. 9043. Termination."

Amend the title so as to read: "A bill to amend the Internal Revenue Code of 1986 to terminate public financing of presidential election campaigns.".

H.R. 2183

OFFERED BY: MR. FARR OF CALIFORNIA

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 7: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Political Reform Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONGRESSIONAL CAMPAIGN SPENDING LIMITS AND BENEFITS

Subtitle A—Election Campaign Spending Limits and Benefits

Sec. 101. Spending limits and benefits.

Subtitle B—Limitations on Contributions to House of Representatives Candidates

Sec. 121. Limitations on political committees.
Sec. 122. Limitations on political committee and large donor contributions that may be accepted by House of Representatives candidates.

Subtitle C—Related Provisions

Sec. 131. Reporting requirements.
Sec. 132. Registration as eligible House of Representatives candidate.
Sec. 133. Definitions.

Subtitle D—Tax on Excess Political Expenditures of Certain Congressional Campaign Funds

Sec. 141. Tax treatment of certain campaign funds.

TITLE II—INDEPENDENT EXPENDITURES

Sec. 201. Clarification of definitions relating to independent expenditures.
Sec. 202. Reporting requirements for certain independent expenditures.

TITLE III—CONTRIBUTIONS AND EXPENDITURES BY POLITICAL PARTY COMMITTEES

Sec. 301. Definitions.
Sec. 302. Contributions to political party committees.
Sec. 303. Increase in the amount that multicandidate political committees may contribute to national political party committees.
Sec. 304. Merchandising and affinity cards.
Sec. 305. Provisions relating to national, State, and local party committees.
Sec. 306. Restrictions on fundraising by candidates and officeholders.
Sec. 307. Reporting requirements.

TITLE IV—CONTRIBUTIONS

Sec. 401. Restrictions on bundling.
Sec. 402. Contributions by dependents not of voting age.
Sec. 403. Prohibition of acceptance by a candidate of cash contributions from any one person aggregating more than $100.
Sec. 404. Contributions to candidates from State and local committees of political parties to be aggregated.
Sec. 405. Prohibition of false representation to solicit contributions.
Sec. 406. Limited exclusion of advances by campaign workers from the definition of the term "contribution".
Sec. 407. Amendment to section 316 of the Federal Election Campaign Act of 1971.
Sec. 408. Prohibition of certain election-related activities of foreign nationals.

TITLE V—REPORTING REQUIREMENTS

Sec. 501. Change in certain reporting from a calendar year basis to an election cycle basis.
Sec. 502. Disclosure of personal and consulting services.
Sec. 503. Political committees other than candidate committees.
Sec. 504. Use of candidates' names.
Sec. 505. Reporting requirements.
Sec. 506. Simultaneous registration of candidate and candidate's principal campaign committee.
Sec. 507. Reporting on general campaign activities of persons other than political parties.

TITLE VI—BROADCAST RATES AND CAMPAIGN ADVERTISING

Sec. 601. Broadcast rates and campaign advertising.
Sec. 602. Campaign advertising amendments.
Sec. 603. Eligibility for nonprofit third class bulk rates of postage.

TITLE VII—MISCELLANEOUS

Sec. 701. Prohibition of leadership committees.
Sec. 702. Appearance by Federal Election Commission as amici curiae.
Sec. 703. Prohibiting solicitation of contributions by members in hall of the House of Representatives.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

Sec. 801. Effective date.
Sec. 802. Severability.
Sec. 803. Expedited review of constitutional issues.
Sec. 804. Regulations.

TITLE I—CONGRESSIONAL CAMPAIGN SPENDING LIMITS AND BENEFITS

Subtitle A—Election Campaign Spending Limits and Benefits

SEC. 101. SPENDING LIMITS AND BENEFITS.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 is amended by adding at the end the following new title:

"TITLE V—ELECTION SPENDING LIMITS AND BENEFITS

"TITLE V—ELECTION SPENDING LIMITS AND BENEFITS

"Subtitle A—Election Campaigns for the House of Representatives

"Sec. 501. Expenditure limitations.
"Sec. 502. Personal contribution limitations.
"Sec. 503. Definition.

"Subtitle B—Administrative Provisions

"Sec. 511. Certifications by Commission.
"Sec. 512. Examination and audits; repayments and civil penalties.
"Sec. 513. Judicial review.
"Sec. 514. Reports to Congress; certifications; regulations.
"Sec. 515. Closed captioning requirement for television commercials of eligible candidates.

"Subtitle C—Congressional Election Campaign Fund

"Sec. 521. Establishment and operation of the Fund.
"Sec. 522. Designation of receipts to the Fund.

"Subtitle A—Election Campaigns for the House of Representatives

"SEC. 501. EXPENDITURE LIMITATIONS.

"(a) IN GENERAL.—An eligible House of Representatives candidate may not, in an election cycle, make expenditures aggregating more than $600,000.

"(b) RUNOFF ELECTION AND SPECIAL ELECTION AMOUNTS.—

"(1) RUNOFF ELECTION AMOUNT.—If an eligible House of Representatives candidate is a candidate in a runoff election, the candidate may make additional expenditures aggregating not more than $200,000 in the election cycle.

"(2) SPECIAL ELECTION AMOUNT.—An eligible House of Representatives candidate who is a candidate in a special election may make expenditures aggregating not more than $600,000 with respect to the special election.

"(c) CLOSELY CONTESTED PRIMARY.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 20 percentage points or less, the candidate may make additional expenditures aggregating not more than $200,000 in the election cycle.

"(d) EXCEPTIONS TO LIMITATIONS.—

"(1) NONPARTICIPATING OPPONENT.—The limitations imposed by subsections (a) and (b) do not apply in the case of an eligible House of Representatives candidate if any other general election candidate seeking nomination or election to that office—

"(A) is not an eligible House of Representatives candidate; and

"(B) makes expenditures in excess of 30 percent of the limitation under subsection (a).

"(2) INDEPENDENT EXPENDITURES AGAINST ELIGIBLE CANDIDATE.—The limitations imposed by subsections (a) and (b) do not apply in the case of an eligible House of Representatives candidate if the total amount of independent expenditures made during the election cycle on behalf of candidates opposing such eligible candidate exceeds $15,000.

"(3) CONTINUED ELIGIBILITY FOR BENEFITS.—An eligible House of Representatives candidate referred to in paragraph (1) or paragraph (2) shall continue to be eligible for all benefits under this title.

"(e) EXEMPTION FOR LEGAL COSTS AND TAXES.—

"(1) IN GENERAL.—Any costs incurred by an eligible House of Representatives candidate or his or her authorized committee, or a Federal officeholder, for qualified legal services, for Federal, State, or local income taxes on earnings of a candidate's authorized committees, or to comply with section 512 shall not be considered in the computation of amounts subject to limitation under this section.

"(2) QUALIFIED LEGAL SERVICES.—For purposes of this subsection, the term 'qualified legal services' means—

"(A) any legal service performed on behalf of an authorized committee; or

"(B) any legal service performed on behalf of a candidate or Federal officeholder in connection with his or her duties or activities as a candidate or Federal officeholder.

"(f) Exemption for Fundraising or Accounting Costs.—Any costs incurred by an eligible House of Representatives candidate or his or her authorized committee in connection with the solicitation of contributions on behalf of such candidate, or for accounting services to ensure compliance with this Act, shall not be considered in the computation of amounts subject to expenditure limitation under subsection (a) to the extent that the aggregate of such costs does not exceed 10 percent of the expenditure limitation under subsection (a).

"(g) Indexing.—The dollar amounts specified in subsections (a), (b), and (c) shall be adjusted at the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1996.

"(h) Recall Actions.—The limitations of this section do not apply in the case of any recall action held pursuant to State law.

"SEC. 502. PERSONAL CONTRIBUTION LIMITATIONS.

"(a) Personal Contributions.—An eligible House of Representatives candidate may not, with respect to an election cycle, make contributions or loans to the candidate's own campaign totaling more than $50,000 from the personal funds of the candidate. Contributions from the personal funds of a candidate may not qualify for certification for voter benefits under this title.

"(b) Limitation Exception.—The limitation imposed by subsection (a) does not apply—

"(1) in the case of an eligible House of Representatives candidate if any other general election candidate for that office makes contributions or loans to the candidate's own campaign totaling more than $50,000 from the personal funds of the candidate; or

"(2) with respect to any contribution or loan used for costs described in section 501 (e) or (f).

"(c) Aggregation.—For purposes of subsection (a), any contribution or loan to a candidate's campaign by a member of a candidate's immediate family shall be treated as made by the candidate.

"SEC. 503. DEFINITION.

"As used in this title, the term 'benefits' means, with respect to an eligible House of Representatives candidate, reduced charges for use of a broadcasting station under section 315 of the Communications Act of 1934 (47 U.S.C. 315) and eligibility for nonprofit third-class bulk rates of postage under section 3626(e) of title 39, United States Code.

"Subtitle B—Administrative Provisions

"SEC. 511. CERTIFICATIONS BY COMMISSION.

"(a) General Eligibility.—The Commission shall certify whether a candidate is eligible to receive benefits under subtitle A. The initial determination shall be based on the candidate's filings under this title. Any subsequent determination shall be based on relevant additional information submitted in such form and manner as the Commission may require.

"(b) Certification of Benefits.—

"(1) Deadline for Response to Requests.—The Commission shall respond to a candidate's request for certification for eligibility to receive benefits under this section not later than 5 business days after the candidate submits the request.

"(2) Requests.—Any request for certification submitted by a candidate shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirement of this title.

"(3) Partial Certification.—If the Commission determines that any portion of a request does not meet the requirement for certification, the Commission shall withhold the certification for that portion only and inform the candidate as to how the request may be corrected.

"(4) Certification Withheld.—The Commission may withhold certification if it determines that a candidate who is otherwise eligible has engaged in a pattern of activity indicating that the candidate's filings under this title cannot be relied upon.

"(c) Withdrawal of Certification.—If the Commission determines that a candidate who is certified as an eligible House of Representatives candidate pursuant to this section has made expenditures in excess of any limit under subtitle A or otherwise no longer meets the requirements for certification under this title, the Commission shall revoke the candidate's certification.

"SEC. 512. EXAMINATION AND AUDITS; REPAYMENTS AND CIVIL PENALTIES.

"(a) Examinations and Audits.—

"(1) General Elections.—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 5 percent of the eligible House of Representatives candidates, as designated by the Commission through the use of an appropriate statistical method of random selection, to determine whether such candidates have complied with the conditions of eligibility and other requirements of this title. The Commission shall conduct an examination and audit of the accounts of all candidates for election to an office where any eligible candidate for the office is selected for examination and audit.

"(2) Special Election.—After each special election involving an eligible candidate, the Commission shall conduct an examination and audit of the campaign accounts of all candidates in the election to determine whether the candidates have complied with the conditions of eligibility and other requirements of this Act.

"(3) Affirmative Vote.—The Commission may conduct an examination and audit of the campaign accounts of any eligible House of Representatives candidate in a general election if the Commission determines that there exists reason to believe whether such candidate may have violated any provision of this title.

"(b) Notification of Excess Expenditures.—If the Commission determines that any eligible candidate who has received benefits under this title has made expenditures in excess of any limit under subtitle A, the Commission shall notify the candidate.

"(c) Civil Penalties.—

"(1) Excess Expenditures.—

"(A) Low Amount of Excess Expenditures.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subtitle A by 2.5 percent or less shall pay to the Commission an amount equal to the amount of the excess expenditures.

"(B) Medium Amount of Excess Expenditures.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subtitle A by more than 2.5 percent and less than 5 percent shall pay to the Commission an amount equal to three times the amount of the excess expenditures.

"(C) Large Amount of Excess Expenditures.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subtitle A by 5 percent or more shall pay to the Commission an amount equal to three times the amount of the excess expenditures plus, if the Commission determines such excess expenditures were knowing and willful, a civil penalty in an amount determined by the Commission.

"(2) Misused Benefits of Candidates.—If the Commission determines that an eligible House of Representatives candidate used any benefit received under this title in a manner not provided for in this title, the Commission may assess a civil penalty against such candidate in an amount not greater than 200 percent of the amount involved.

"(d) Limit on Period for Notification.—No notification shall be made by the Commission under this section with respect to an election more than 3 years after the date of such election.

"SEC. 513. JUDICIAL REVIEW.

"(a) Judicial Review.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) Application of Title 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) Agency Action.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"SEC. 514. REPORTS TO CONGRESS; CERTIFICATIONS; REGULATIONS.

"(a) Reports.—The Commission shall, as soon as practicable after each election, submit a full report to the House of Representatives setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the benefits certified by the Commission as available to each eligible candidate under this title; and

"(3) the names of any candidates against whom penalties were imposed under section 512, together with the amount of each such penalty and the reasons for its imposition.

"(b) Determinations by Commission.—Subject to sections 512 and 513, all determinations (including certifications under section 511) made by the Commission under this title shall be final and conclusive.

"(c) Rules and Regulations.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (d), to conduct such audits, examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(d) Report of Proposed Regulations.—The Commission shall submit to the House of Representatives a report containing a detailed explanation and justification of each rule and regulation of the Commission under this title. No such rule, regulation, or form may take effect until a period of 60 legislative days has elapsed after the report is received. As used in this subsection, the terms 'rule' and 'regulation' mean a provision or series of interrelated provisions stating a single, separable rule of law.

"SEC. 515. CLOSED CAPTIONING REQUIREMENT FOR TELEVISION COMMERCIALS OF ELIGIBLE CANDIDATES.

"No eligible House of Representatives candidate may receive benefits under subtitle A unless such candidate has certified that any television commercial prepared or distributed by the candidate will be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the commercial to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies.".

Subtitle B—Limitations on Contributions to House of Representatives Candidates

SEC. 121. LIMITATIONS ON POLITICAL COMMITTEES.

(a) MULTICANDIDATE POLITICAL COMMITTEES.—Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is amended by striking out "with respect" and all that follows through "$5,000," and inserting in lieu thereof: "which, in the aggregate, exceed $5,000 with respect to an election for Federal office or $8,000 with respect to an election cycle (not including a runoff election);".

(b) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of such Act (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder. Nothing in this paragraph shall be construed to permit the establishment, financing, maintenance, or control of any committee which is prohibited by paragraph (3) or (6) of section 302(e)."

(2) Section 302(e)(3) of such Act (2 U.S.C. 432(e)(3)) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee."

(c) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1998.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received before January 1, 1999; or

(B) contributions made to, or received by, a candidate on or after January 1, 1999, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate before January 1, 1999, over

(ii) such contributions received by the candidate before January 1, 1999.

SEC. 122. LIMITATIONS ON POLITICAL COMMITTEE AND LARGE DONOR CONTRIBUTIONS THAT MAY BE ACCEPTED BY HOUSE OF REPRESENTATIVES CANDIDATES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) LIMITATIONS ON CONTRIBUTIONS ACCEPTED BY HOUSE OF REPRESENTATIVES CANDIDATE.—

"(1) POLITICAL COMMITTEES.—A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to an election cycle, accept contributions from political committees aggregating in excess of $200,000.

"(2) PERSONS OTHER THAN POLITICAL COMMITTEES.—A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to an election cycle, accept contributions aggregating in excess of $200,000 from persons other than political committees whose contributions total more than $200.

"(3) CONTESTED PRIMARIES.—In addition to the contributions under paragraphs (1) and (2), if a House of Representatives candidate in a contested primary election wins that primary election by a margin of 20 percentage points or less, the candidate may accept contributions of—

"(A) not more than $66,600 from political committees; and

"(B) not more than $66,600 from persons referred to in paragraph (2).

"(4) RUNOFF ELECTIONS.—In addition to the contributions under paragraphs (1) and (2), a House of Representatives candidate who is a candidate in a runoff election may accept contributions of (A) not more than $100,000 from political committees; and (B) not more than $100,000 from persons referred to in paragraph (2).

"(5) EXEMPTION FOR CERTAIN COSTS.—Any amount—

"(A) accepted by a House of Representatives candidate; and

"(B) used for costs incurred under section 501 (e) and (f),

shall not be considered in the computation of amounts subject to limitation under this subsection.

"(6) TRANSFER PROVISION.—The limitations imposed by this subsection shall apply without regard to amounts transferred from previous election cycles or other authorized committees of the same candidate. Candidates shall not be required to seek the redesignation of contributions in order to transfer such contributions to a later election cycle.

"(7) INDEXATION OF AMOUNTS.—The dollar amounts specified in this subsection shall be adjusted at the beginning of each calendar year based on the increase in the price index determined under subsection (c), except that, for the purposes of such adjustment, the base period shall be calendar year 1996."

Subtitle C—Related Provisions

SEC. 131. REPORTING REQUIREMENTS.

Title III of the Federal Election Campaign Act of 1971 is amended by adding after section 304 the following new section:

"REPORTING REQUIREMENTS FOR HOUSE CANDIDATES

"SEC. 304A. A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who—

"(1) makes contributions in excess of $50,000 of personal funds of the candidate to the authorized committee of the candidate; or

"(2) makes expenditures in excess of 50 percent and 100 percent of the limitation under section 501(a);

shall report that the threshold has been reached to the Commission not later than 48 hours after reaching the threshold. The Commission shall transmit a copy to each other candidate for election to the same office within 48 hours of receipt."

SEC. 132. REGISTRATION AS ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATE.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by adding at the end the following new paragraphs:

"(6)(A) In the case of a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, who desires to be an eligible House of Representatives candidate, a declaration of participation of the candidate to abide by the limits specified in sections 315(i), 501, and 502 and provide the information required under section 503(b)(4) shall be included in the designation required to be filed under paragraph (1).

"(B) A declaration of participation that is included in a statement of candidacy may not thereafter be revoked."

SEC. 133. DEFINITIONS.

(a) IN GENERAL.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following new paragraphs:

"(19) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.

"(20) The term 'general election' means any election which will directly result in the election of a person to a Federal office.

"(21) The term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

"(22) The term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B).

"(23) The term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for a Federal office.

"(24) The term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

"(25) The term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

"(26) The term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office.

"(27) The term 'special election' means any election (whether primary, runoff, or general) for Federal office held by reason of a vacancy in the office arising before the end of the term of the office.

"(28) The term 'special election period' means, with respect to any candidate for any Federal office, the period beginning on the date the vacancy described in paragraph (28) occurs and ending on the earlier of—

"(A) the date the election resulting in the election of a person to the office occurs; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

"(29) The term 'eligible House of Representatives candidate' means a candidate for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress, who, as determined by the Commission under section 511, is eligible to receive benefits under subtitle A of title V by reason of filing a declaration of participation under section 302(e) and complying with the continuing eligibility requirements under section 511."

(b) IDENTIFICATION.—Section 301(13)(A) of such Act (2 U.S.C. 431(13)(A)) is amended by striking "mailing address" and inserting "permanent residence address".

Subtitle D—Tax on Excess Political Expenditures of Certain Congressional Campaign Funds

SEC. 141. TAX TREATMENT OF CERTAIN CAMPAIGN FUNDS.

(a) GENERAL RULE.—Chapter 41 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subchapter:

"Subchapter B—Excess Political Expenditures of Certain Congressional Campaign Funds

"Sec. 4915. Tax on excess political expenditures of certain campaign funds.

"SEC. 4915. TAX ON EXCESS POLITICAL EXPENDITURES OF CERTAIN CAMPAIGN FUNDS.

"(a) IMPOSITION OF TAX.—If any applicable campaign fund has excess political expenditures for any election cycle, there is hereby imposed on such excess political expenditures a tax equal to the amount of such excess political expenditures multiplied by the highest rate of tax specified in section 11(b). Such tax shall be imposed for the taxable year of such fund in which such election cycle ends.

"(b) APPLICABLE CAMPAIGN FUND.—For purposes of this section, the term 'applicable campaign fund' means any political organization if—

"(1) such organization is designated by a candidate for election or nomination to the House of Representatives as such candidate's principal campaign committee for purposes of section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)), and

"(2) such candidate has made contributions to such political organization during the election cycle in excess of the contribution limitation which would have been applicable under section 501(a) or 512(a) of such Act, whichever is applicable, if an election under such section had been made.

"(c) EXCESS POLITICAL EXPENDITURES.—

"(1) IN GENERAL.—For purposes of this section, the term 'excess political expenditures' means, with respect to any election cycle, the excess (if any) of the political expenditures incurred by the applicable campaign fund during such cycle, over, in the case of a House of Representatives candidate, the expenditure ceiling which would have been applicable under subtitle B of title V of such Act if an election under such subtitle had been made.

"(2) SPECIAL RULE FOR DETERMINING AMOUNT OF EXPENDITURES.—For purposes of paragraph (1), in determining the amount of political expenditures incurred by an applicable campaign fund, there shall be excluded any such expenditure which would not have been subject to the expenditure limitations of title V of the Federal Election Campaign Act of 1971 had such limitations been applicable, other than any such expenditure which would have been exempt from such limitations under section 501(e) or 501(f) of such Act.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELECTION CYCLE.—The term 'election cycle' has the meaning given such term by section 301 of the Federal Election Campaign Act of 1971.

"(2) POLITICAL ORGANIZATION.—The term 'political organization' has the meaning given to such term by section 527(e)(1).

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 4911(e)(4) shall apply."

(b) CLERICAL AMENDMENTS.—

(1) Chapter 41 of such Code is amended by striking the chapter heading and inserting the following:

"CHAPTER 41—LOBBYING AND POLITICAL EXPENDITURES OF CERTAIN ORGANIZATIONS

"Subchapter A. Public charities.

"Subchapter B. Excess political expenditures of certain campaign funds.

"Subchapter A—Public Charities".

(2) The table of sections for subtitle D of such Code is amended by striking the item relating to chapter 41 and inserting the following:

"Chapter 41. Lobbying and political expenditures of certain organizations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

TITLE II—INDEPENDENT EXPENDITURES

SEC. 201. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

"(17)(A) The term 'independent expenditure' means an expenditure that—

"(i) contains express advocacy; and

"(ii) is made without the participation or cooperation of and without consultation with a candidate or a candidate's representative.

"(B) The following shall not be considered an independent expenditure:

"(i) An expenditure made by an authorized committee of a candidate for Federal office.

"(ii) An expenditure if there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure.

"(iii) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.

"(iv) An expenditure if the person making the expenditure retains the professional services of any individual or other person also providing services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office. For purposes of this clause, the term 'professional services' shall include any services (other than legal and accounting services solely for purposes of ensuring compliance with any Federal law) in support of any candidate's or candidates' pursuit of nomination for election, or election, to Federal office.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

"(18)(A) The term 'express advocacy' means, when a communication is taken as a whole and with limited reference to external events, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party.

"(B) The term 'expression of support for or opposition to' includes a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity, or to refrain from taking action.".

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of such Act (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking "or" after the semicolon at the end;

(2) in clause (ii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that is not an independent expenditure under paragraph (17).".

SEC. 202. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (9); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following new paragraphs:

"(3)(A) Any person (including a political committee) making independent expenditures (including those described in subsection (b)(6)(B)(iii)) with respect to a candidate in an election aggregating $1,000 or more made after the 20th day, but more than 24 hours, before the election shall file a report within 24 hours after such independent expenditures are made. An additional report shall be filed each time independent expenditures aggregating $1,000 are made with respect to the same candidate after the latest report filed under this subparagraph.

"(B) Any person (including a political committee) making independent expenditures with respect to a candidate in an election aggregating $2,500 or more made at any time up to and including the 20th day before the election shall file a report within 48 hours after such independent expenditures are made. An additional report shall be filed each time independent expenditures aggregating $2,500 are made with respect to the same candidate after the latest report filed under this paragraph.

"(C) A report under subparagraph (A) or (B) shall be filed with the Commission and the Secretary of State of the State involved, and shall identify each candidate whom the expenditure is actually intended to support or to oppose. Not later than 48 hours after the Commission receives a report, the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

"(D) For purposes of this section, an independent expenditure shall be considered to have been made upon the making of any payment or the taking of any action to incur an obligation for payment.

"(4)(A) If any person (including a political committee) intends to make independent expenditures with respect to a candidate in an election totaling $2,500 or more during the 20 days before an election, such person shall file a report no later than the 20th day before the election.

"(B) A report under subparagraph (A) shall be filed with the Commission and the Secretary of State of the State involved, and shall identify each candidate whom the expenditure is actually intended to support or to oppose. Not later than 48 hours after the Commission receives a report under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.

"(5) The Commission may, upon a request of a candidate or on its own initiative, make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any candidate in any election which in the aggregate exceed the applicable amounts under paragraph (3) or (4). The Commission shall notify each candidate in such election of such determination within 48 hours after making it. Any determination made at the request of a candidate shall be made within 48 hours of the request.

"(6) At the time at which an eligible House of Representatives candidate is notified under paragraph (3), (4), or (5) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 504(a)(3)(B) or section 513(f).

"(7)(A) A person that makes a reservation of broadcast time to which section 315(a) of the Communications Act of 1947 (47 U.S.C. 315(a)) applies, the payment for which would constitute an independent expenditure, shall at the time of reservation—

"(i) inform the broadcast licensee that payment for the broadcast time will constitute an independent expenditure;

"(ii) inform the broadcast licensee of the names of all candidates for the office to which the proposed broadcast relates and state whether the message to be broadcast is intended to be made in support of or in opposition to each such candidate;

"(iii) transmit to all candidates for the office to which the proposed broadcast relates a script or tape recording of the communication, or an accurate summary of the communication if a script or tape recording is not available.".

TITLE III—CONTRIBUTIONS AND EXPENDITURES BY POLITICAL PARTY COMMITTEES

SEC. 301. DEFINITIONS.

(a) Contribution and Expenditure Exceptions.—(1) Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(A) in clause (x)—

(i) by striking "and" at the end of subclause (2),

(ii) by inserting "and" at the end of subclause (3), and

(iii) by adding at the end the following new subclause:

"(4) such activities are conducted solely by, and any materials are prepared for distribution and mailing and are distributed (if other than by mailing) solely by, volunteers;";

(B) in clause (xi), by striking "That" and all that follows through "Act;" and inserting "That—

"(1) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

"(2) such activities are conducted solely by, and any materials are prepared for distribution and mailing and are distributed (if other than by mailing) solely by, volunteers;" and

(C) in clause (xii)—

(i) by inserting "in connection with volunteer activities" after "such committee",

(ii) by striking "for President and Vice President",

(iii) by striking "and" at the end of subclause (2),

(iv) by inserting "and" at the end of subclause (3), and

(v) by adding at the end the following new subclause:

"(4) such activities are conducted solely by, and any materials are prepared for distribution and mailing and are distributed (if other than by mailing) solely by, volunteers;".

(2) Section 301(9)(B) of such Act (2 U.S.C. 431(9)(B)) is amended—

(A) in clause (viii)—

(i) by striking "and" at the end of subclause (2),

(ii) by inserting "and" at the end of subclause (3), and

(iii) by adding at the end the following new subclause:

"(4) such activities are conducted solely by, and any materials are prepared for distribution and mailing and are distributed (if other than by mailing) solely by, volunteers;"; and

(B) in clause (ix)—

(i) by inserting "in connection with volunteer activities" after "such committee",

(ii) by striking "for President or Vice President", and

(iii) by striking "and" at the end of subclause (2), by inserting "and" at the end of subclause (3), and by adding at the end the following new subclause:

"(4) such activities are conducted solely by, and any materials are prepared for distribution and are distributed (if other than by mailing) solely by, volunteers;".

(b) Generic Activities; State Party Grassroots Fund.—Section 301 of such Act (2 U.S.C. 431), as amended by section 133, is further amended by adding at the end the following new paragraphs:

"(30) The term 'generic campaign activity' means a campaign activity that promotes a political party rather than any particular Federal or non-Federal candidate.

"(31) The term 'State Party Grassroots Fund' means a separate segregated fund established and maintained by a State committee of a political party solely for purposes of making expenditures and other disbursements described in section 324(d).".

SEC. 302. CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES.

(a) Individual Contributions to State Party.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000; or

"(ii) any other political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $5,000,

except that the aggregate contributions described in this subparagraph which may be made by a person to the State Party Grassroots Fund and all committees of a State committee of a political party in any State in any calendar year shall not exceed $20,000; or".

(b) Multicandidate Committee Contributions to State Party.—Section 315(a)(2) of such Act (2 U.S.C. 441a(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $15,000; or

"(ii) to any other political committee established and maintained by a State committee of a political party which, in the aggregate, exceed $5,000,

except that the aggregate contributions described in this subparagraph which may be made by a multicandidate political committee to the State Party Grassroots Fund and all committees of a State committee of a political party in any State in any calendar year shall not exceed $15,000; or".

(c) Overall Limit.—Section 315(a)(3) of such Act (2 U.S.C. 441a(a)(3)) is amended to read as follows:

"(3)(A) No individual shall make contributions during any election cycle which, in the aggregate, exceed $100,000.

"(B) No individual shall make contributions during any calendar year—

"(i) to all candidates and their authorized political committees which, in the aggregate, exceed $25,000; or

"(ii) to all political committees established and maintained by State committees of a political party which, in the aggregate, exceed $20,000.

"(C) For purposes of subparagraph (B)(i), any contribution made to a candidate or the candidate's authorized political committees in a year other than the calendar year in which the election is held with respect to which such contribution is made shall be treated as made during the calendar year in which the election is held.".

(d) Presidential Candidate Committee Transfers.—(1) Section 315(b)(1) of such Act (2 U.S.C. 441a(b)(1)) is amended to read as follows:

"(B) in the case of a campaign for election to such office, an amount equal to the sum of—

"(i) $20,000,000, plus

"(ii) the amounts transferred by the candidate and the authorized committees of the candidate to the national committee of the candidate's political party for distribution to State Party Grassroots Funds.

In no event shall the amount under subparagraph (B)(ii) exceed 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). The Commission may require reporting of the transfers described in subparagraph (B)(ii), may conduct an examination and audit of any such transfer, and may require the return of the transferred amounts to the Presidential Election Campaign Fund if not used for the appropriate purpose."

(2) Subparagraph (A) of section 9002(11) of the Internal Revenue Code of 1986 is amended—

(A) by striking "or" at the end of clause (ii); and

(B) in clause (iii), by striking "offices," and inserting the following: "offices, or (iv) consisting of a transfer to the national committee of the political party of a candidate for the office of President or Vice President for distribution to State Party Grassroots Funds (as defined in the Federal Election Campaign Act of 1971) to the extent such transfers do not exceed the amount determined under section 315(b)(1)(B)(ii) of such Act,".

SEC. 303. INCREASE IN THE AMOUNT THAT MULTICANDIDATE POLITICAL COMMITTEES MAY CONTRIBUTE TO NATIONAL POLITICAL PARTY COMMITTEES.

Section 315(a)(2)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(B)) is amended by striking "$15,000" and inserting "$25,000".

SEC. 304. MERCHANDISING AND AFFINITY CARDS.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c) Notwithstanding the provisions of this section or any other provision of this Act to the contrary, an amount received from a corporation (including a State-chartered or national bank) by any political committee (other than a separate segregated fund established under section 316(b)(2)(C)) shall be deemed to meet the limitations and prohibitions of this Act if such amount represents a commission or royalty on the sale of goods or services, or on the issuance of credit cards, by such corporation and if—

"(1) such goods, services, or credit cards are promoted by or in the name of the political committee as a means of contributing to or supporting the political committee and are offered to consumers using the name of the political committee or using a message, design, or device created and owned by the political committee, or both;

"(2) the corporation is in the business of merchandising such goods or services, or of issuing such credit cards;

"(3) the royalty or commission has been offered by the corporation to the political committee in the ordinary course of the corporation's business and on the same terms and conditions as those on which such corporation offers royalties or commissions to nonpolitical entities;

"(4) all revenue on which the commission or royalty is based represents, or results from, sales to or fees paid by individual consumers in the ordinary course of retail transactions;

"(5) the costs of any unsold inventory of goods are ultimately borne by the political committee in accordance with rules to be prescribed by the Commission; and

"(6) except for any royalty or commission permitted to be paid by this subsection, no goods, services, or anything else of value is provided by such corporation to the political committee, except that such corporation may advance or finance costs or extend credit in connection with the manufacture and distribution of goods, provision of services, or issuance of credit cards pursuant to this subsection if and to the extent such advance, financing, or extension is undertaken in the ordinary course of the corporation's business and is undertaken on similar terms by such corporation in its transactions with nonpolitical entities in like circumstances."

SEC. 305. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—Title III of the Federal Election Campaign Act of 1971 is amended by inserting after section 323 the following new section:

"POLITICAL PARTY COMMITTEES

"SEC. 324. (a) LIMITATIONS ON NATIONAL COMMITTEE.—(1) A national committee of a political party and the congressional campaign committees of a political party may not solicit or accept contributions or transfers not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Paragraph (1) shall not apply to contributions—

"(A) that—

"(i) are to be transferred to a State committee of a political party and are used solely for activities described in clauses (xi) through (xvii) of paragraph (9)(B) of section 301; or

"(ii) are described in section 301(8)(B)(viii); and

"(B) with respect to which contributors have been notified that the funds will be used solely for the purposes described in subparagraph (A).

"(b) ACTIVITIES SUBJECT TO THIS ACT.—Any amount solicited, received, expended, or disbursed directly or indirectly by a national, State, district, or local committee of a political party with respect to any of the following activities shall be subject to the limitations, prohibitions, and reporting requirements of this Act:

"(1)(A) Any get-out-the-vote activity conducted during a calendar year in which an election for the office of President is held.

"(B) Any other get-out-the-vote activity unless subsection (c)(2) applies to the activity.

"(2) Any generic campaign activity.

"(3) Any activity that identifies or promotes a Federal candidate, regardless of whether—

"(A) a State or local candidate is also identified or promoted; or

"(B) any portion of the funds disbursed constitutes a contribution or expenditure under this Act.

"(4) Voter registration.

"(5) Development and maintenance of voter files during an even-numbered calendar year.

"(6) Any other activity that—

"(A) significantly affects a Federal election, or

"(B) is not otherwise described in section 301(9)(B)(xvii).

Any amount spent to raise funds that are used, in whole or in part, in connection with activities described in the preceding paragraphs shall be subject to the limitations, prohibitions, and reporting requirements of this Act.

"(c) GET-OUT-THE-VOTE ACTIVITIES BY STATE, DISTRICT, AND LOCAL COMMITTEES OF POLITICAL PARTIES.—(1) Except as provided in paragraph (2), any get-out-the-vote activity for a State or local candidate, or for a ballot measure, which is conducted by a State, district, or local committee of a political party shall be subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Paragraph (1) shall not apply to any activity which the State committee of a political party certifies to the Commission is an activity which—

"(A) is conducted during a calendar year other than a calendar year in which an election for the office of President is held,

"(B) is exclusively on behalf of (and specifically identifies only) one or more State or local candidates or ballot measures, and

"(C) does not include any effort or means used to identify or turn out those identified to be supporters of any Federal candidate (including any activity that is undertaken in coordination with, or on behalf of, a candidate for Federal office).

"(d) STATE PARTY GRASSROOTS FUNDS.—(1) A State committee of a political party may make disbursements and expenditures from its State Party Grassroots Fund only for—

"(A) any generic campaign activity;

"(B) payments described in clauses (v), (x), and (xii) of paragraph (8)(B) and clauses (iv), (viii), and (ix) of paragraph (9)(B) of section 301;

"(C) subject to the limitations of section 315(d), payments described in clause (xii) of paragraph (8)(B), and clause (ix) of paragraph (9)(B), of section 301 on behalf of candidates other than for President and Vice President;

"(D) voter registration; and

"(E) development and maintenance of voter files during an even-numbered calendar year.

"(2) Notwithstanding section 315(a)(4), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee, except a transfer may be made to a district or local committee of the same political party in the same State if such district or local committee—

"(A) has established a separate segregated fund for the purposes described in paragraph (1); and

"(B) uses the transferred funds solely for those purposes.

"(e) AMOUNTS RECEIVED BY GRASSROOTS FUND FROM STATE AND LOCAL CANDIDATE COMMITTEES.—(1) Any amount received by a State Party Grassroots Fund from a State or local candidate committee for expenditures described in subsection (b) that are for the benefit of that candidate shall be treated as meeting the requirements of subsection (b) and section 304(e) if—

"(A) such amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in section 315(a) (1)(A) and (2)(A); and

"(B) the State or local candidate committee—

"(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether such requirements are met; and

"(ii) certifies that such requirements were met.

"(2) For purposes of paragraph (1)(A), in determining whether the funds transferred meet the requirements of this Act described in such paragraph—

"(A) a State or local candidate committee's cash on hand shall be treated as consisting of the funds most recently received by the committee, and

"(B) the committee must be able to demonstrate that its cash on hand contains sufficient funds meeting such requirements as are necessary to cover the transferred funds.

"(3) Notwithstanding paragraph (1), any State Party Grassroots Fund receiving any transfer described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act, and shall submit to the Commission all certifications received, with respect to receipt of the transfer from such candidate committee.

"(4) For purposes of this subsection, a State or local candidate committee is a committee established, financed, maintained, or controlled by a candidate for other than Federal office.

"(f) Related Entities.—The provisions of this Act shall apply to any entity that is established, financed, or maintained by a national committee or State committee of a political party in the same manner as they apply to the national or State committee."

(b) Contributions and Expenditures.—

(1) Contributions.—Section 301(8)(B) of such Act (2 U.S.C. 431(8)(B)) is amended—

(A) in clause (viii), by inserting after "Federal office" the following: ", or any amounts received by the committees of any national political party to support the operation of a television and radio broadcast facility";

(B) by striking "and" at the end of clause (xiii);

(C) by striking clause (xiv); and

(D) by adding at the end the following new clauses:

"(xiv) any amount contributed to a candidate for other than Federal office;

"(xv) any amount received or expended to pay the costs of a State or local political convention;

"(xvi) any payment for campaign activities that are exclusively on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidate, and that are not activities described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1);

"(xvii) any payment for administrative expenses of a State or local committee of a political party, including expenses for—

"(I) overhead, including party meetings;

"(II) staff (other than individuals devoting a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election); and

"(III) conducting party elections or caucuses;

"(xviii) any payment for research pertaining solely to State and local candidates and issues;

"(xix) any payment for development and maintenance of voter files other than during the 1-year period ending on the date during an even-numbered calendar year on which regularly scheduled general elections for Federal office occur; and

"(xx) any payment for any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office and which is not an activity described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1).".

(2) Expenditures.—Section 301(9)(B) of such Act (2 U.S.C. 431(9)(B)) is amended—

(A) by striking "and" at the end of clause (ix);

(B) by striking the period at the end of clause (x) and inserting a semicolon; and

(C) by adding at the end the following new clauses:

"(xi) any amount contributed to a candidate for other than Federal office;

"(xii) any amount received or expended to pay the costs of a State or local political convention;

"(xiii) any payment for campaign activities that are exclusively on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidate, and that are not activities described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1);

"(xiv) any payment for administrative expenses of a State or local committee of a political party, including expenses for—

"(I) overhead, including party meetings;

"(II) staff (other than individuals devoting a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election); and

"(III) conducting party elections or caucuses;

"(xv) any payment for research pertaining solely to State and local candidates and issues;

"(xvi) any payment for development and maintenance of voter files other than during the 1-year period ending on the date during an even-numbered calendar year on which regularly scheduled general elections for Federal office occur; and

"(xvii) any payment for any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office and which is not an activity described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1).".

(c) Limitation Applied at National Level; Permitting Committees To Match Independent Expenditures Made on Opponent's Behalf.—Section 315(d) of such Act (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (3), by striking "The national committee" and inserting "Subject to paragraph (4), the national committee"; and

(2) by adding at the end the following new paragraph:

"(4)(A) Notwithstanding paragraph (3), the applicable congressional campaign committee of a political party shall make the expenditures described in such paragraph which are authorized to be made by a national or State committee with respect to a candidate in any State unless it allocates all or a portion of such expenditures to either or both of such committees.

"(B) For purposes of paragraph (3), in determining the amount of expenditures of a national or State committee of a political party in connection with the general election campaign of a candidate for election to the office of Representative, Delegate, or Resident Commissioner, there shall be excluded an amount equal to the total amount of independent expenditures made during the campaign on behalf of candidates opposing the candidate.".

(d) Limitations Apply for Entire Election Cycle.—Section 315(d)(1) of such Act (2 U.S.C. 441a(d)(1)) is amended by adding at the end the following new sentence: "Each limitation under the following paragraphs shall apply to the entire election cycle for an office.".

SEC. 306. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) State Fundraising Activities.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 122, is further amended by adding at the end the following new subsection:

"(j) Limitations on Fundraising Activities of Federal Candidates and Officeholders and Certain Political Committees.—(1) For purposes of this Act, a candidate for Federal office, an individual holding Federal office, or any agent of the candidate or individual may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

"(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

"(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under subsections (a) (1) and (2), and are not from sources prohibited by such subsections with respect to elections to Federal office.

"(2)(A) The aggregate amount which a person described in subparagraph (B) may solicit from a multicandidate political committee for State committees described in subsection (a)(1)(C) (including subordinate committees) for any calendar year shall not exceed the dollar amount in effect under subsection (a)(2)(B) for the calendar year.

"(B) A person is described in this subparagraph if such person is a candidate for Federal office, an individual holding Federal office, an agent of such a candidate or individual, or any national, State, district, or local committee of a political party (including a subordinate committee) and any agent of such a committee.

"(3) The appearance or participation by a candidate for Federal office or individual holding Federal office in any fundraising event conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if such candidate or individual does not solicit or receive, or make disbursements from, any funds resulting from such activity.

"(4) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law.

"(5) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.".

(b) Tax-Exempt Organizations.—Section 315 of such Act (2 U.S.C. 441a), as amended by section 122 and subsection (a), is further amended by adding at the end the following new subsection:

"(k) Tax-Exempt Organizations.—(1) If an individual is a candidate for, or holds, Federal office during any period, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if—

"(A) the organization is established, maintained, or controlled by such individual; and

"(B) a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns.

"(2) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.".

SEC. 307. REPORTING REQUIREMENTS.

(a) Reporting Requirements.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d) Political Committees.—(1) The national committee of a political party and any congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A State, district, or local committee of a political party to which section 324 applies shall report all receipts and disbursements for the reporting period, including separate schedules for receipts and disbursements for State Grassroots Funds.

"(3) Any political committee shall include in its report under paragraph (1) or (2) the amount of any transfer described in section 324(d)(2) and shall itemize such amounts to the extent required by section 304(b)(3)(A).

"(4) The Commission may prescribe regulations to require any political committee to which paragraph (1) or (2) does not apply to report any receipts or disbursements used in connection with a Federal election, including those which are also used, directly or indirectly, to affect a State or local election.

"(5) If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as subsection (b) (3)(A), (5), or (6).

"(6) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) Report of Exempt Contributions.—Section 301(8) of such Act (2 U.S.C. 431(8)) is amended by inserting at the end the following new subparagraph:

"(C) The exclusion provided in clause (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 (and disbursements therefrom) shall be reported.".

(c) Reports by State Committees.—Section 304 of such Act (2 U.S.C. 434), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(e) Filing of State Reports.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.".

(d) Other Reporting Requirements.—

(1) Authorized committees.—Section 304(b)(4) of such Act (2 U.S.C. 434(b)(4)) is amended—

(A) by striking "and" at the end of subparagraph (H);

(B) by adding "and" at the end of subparagraph (I); and

(C) by adding at the end the following new subparagraph:

"(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;".

(2) Names and addresses.—Section 304(b)(5)(A) of such Act (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking "within the calendar year", and

(B) by inserting ", and the election to which the operating expenditure relates" after "operating expenditure".

TITLE IV—CONTRIBUTIONS

SEC. 401. RESTRICTIONS ON BUNDLING.

Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8)(A) No person, either directly or indirectly, may act as a conduit or intermediary for any contribution to a candidate.

"(B)(i) Nothing in this section shall prohibit—

"(I) joint fundraising conducted in accordance with rules prescribed by the Commission by 2 or more candidates; or

"(II) fundraising for the benefit of a candidate that is conducted by another candidate.

"(ii) No other person may conduct or otherwise participate in joint fundraising activities with or on behalf of any candidate.

"(C) The term 'conduit or intermediary' means a person who transmits a contribution to a candidate or candidate's committee or representative from another person, except that—

"(i) a House of Representatives candidate or representative of a House of Representatives candidate is not a conduit or intermediary for the purpose of transmitting contributions to the candidate's principal campaign committee or authorized committee;

"(ii) a professional fundraiser is not a conduit or intermediary, if the fundraiser is compensated for fundraising services at the usual and customary rate;

"(iii) a volunteer hosting a fundraising event at the volunteer's home, in accordance with section 301(8)(b), is not a conduit or intermediary for the purposes of that event; and

"(iv) an individual is not a conduit or intermediary for the purpose of transmitting a contribution from the individual's spouse. For purposes of this section a conduit or intermediary transmits a contribution when receiving or otherwise taking possession of the contribution and forwarding it directly to the candidate or the candidate's committee or representative.

"(D) For purposes of this section, the term 'representative'—

"(i) shall mean a person who is expressly authorized by the candidate to engage in fundraising, and who, in the case of an individual, is not acting as an officer, employee, or agent of any other person;

"(ii) shall not include—

"(I) a political committee with a connected organization;

"(II) a political party;

"(III) a partnership or sole proprietorship;

"(IV) an organization prohibited from making contributions under section 316; or

"(V) a person required to register under the Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.).

"(E) For purposes of this section, the term 'acting as an officer, employee, or agent of any other person' includes the following activities by a salaried officer, employee, or paid agent of a person described in subparagraph (D)(ii)(IV):

"(i) Soliciting contributions to a particular candidate in the name of, or by using the name of, such a person.

"(ii) Soliciting contributions to a particular candidate using other than the incidental resources of such a person.

"(iii) Soliciting contributions to a particular candidate under the direction or control of other salaried officers, employees, or paid agents of such a person.

For purposes of this subparagraph, the term 'agent' shall include any person (other than individual members of an organization described in subparagraph (b)(4)(C) of section 316) acting on authority or under the direction of such organization.".

SEC. 402. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 122 and 306, is further amended by adding at the end the following new subsection:

"(1) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.".

SEC. 403. PROHIBITION OF ACCEPTANCE BY A CANDIDATE OF CASH CONTRIBUTIONS FROM ANY ONE PERSON AGGREGATING MORE THAN $100.

Section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441g) is amended by inserting ", and no candidate or authorized committee of a candidate shall accept from any one person," after "make".

SEC. 404. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)), as amended by section 121, is further amended by adding at the end the following new paragraph:

"(10) Notwithstanding paragraph (5)(B), a candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee) if such contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.".

SEC. 405. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after "Sec. 322." the following: "(a)"; and

(2) by adding at the end the following:

"(b) No person shall solicit contributions by falsely representing himself or herself as a candidate or as a representative of a candidate, a political committee, or a political party.".

SEC. 406. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM "CONTRIBUTION".

Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)), as amended by section 305, is amended—

(1) in clause (xix), by striking "and" after the semicolon at the end;

(2) in clause (xx), by striking the period at the end and inserting: "; and"; and

(3) by adding at the end the following new clause:

"(xxi) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course of such individual's responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 10 days after the date on which the advance is made, and the value of advances on behalf of a committee does not exceed $500 with respect to an election.".

SEC. 407. AMENDMENT TO SECTION 316 OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971.

Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended—

(1) by striking "(2) For" and inserting "(2)(A) Except as provided in subparagraph (B), for";

(2) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(3) by adding at the end the following:

"(B) Payments by a corporation or labor organization for candidate debates, voter guides, or voting records directed to the general public shall be considered contributions unless—

"(i) in the case of a candidate debate, the organization staging the debate is either an organization described in section 301 (9)(B)(i) whose broadcasts, cablecasts, or publications are supported by commercial advertising, subscriptions, or sales to the public, including a noncommercial educational broadcaster, or a nonprofit organization exempt from Federal taxation under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986 that does not endorse, support, or oppose candidates or political parties, and any such debate features at least 2 candidates competing for election to that office;

"(ii) in the case of a voter guide, the guide is prepared and distributed by a corporation or labor organization and consists of questions posed to at least two candidates for election to that office; and

"(iii) in the case of a voting record, the record is prepared and distributed by a corporation or labor organization at the end of a session of Congress and consists solely of votes by all Members of Congress in that session on one or more issues;

except that such payments shall be treated as contributions if any communication made by a corporation or labor organization in connection with the candidate debate, voter guide, or voting record contains express advocacy, or any structure or format of the candidate debate, voter guide, or voting record, or any preparation or distribution of any such guide or record, reflects a purpose of influencing the election of a particular candidate.".

SEC. 408. PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended by adding at the end the following new subsection:

"(c) A foreign national shall not directly or indirectly direct, control, influence, or participate in any person's election-related activities, such as the making of contributions or expenditures in connection with elections for any local, State, or Federal office or the administration of a political committee.".

TITLE V—REPORTING REQUIREMENTS

SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2), (3), (4), (6), and (7) of section 304(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b) (2)-(7)) are each amended by inserting "(election cycle, in the case of an authorized committee of a candidate for Federal office)" after "calendar year" each place it appears.

SEC. 502. DISCLOSURE OF PERSONAL AND CONSULTING SERVICES.

(a) REPORTING BY POLITICAL COMMITTEES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end the following: ", except that if a person to whom an expenditure is made by a candidate or the candidate's authorized committees is merely providing personal or consulting services and is in turn making expenditures to other persons (not including its owners or employees) who provide goods or services to the candidate or the candidate's authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

(b) RECORDKEEPING AND REPORTING BY PERSONS TO WHOM EXPENDITURES ARE PASSED THROUGH.—Section 302 of such Act (2 U.S.C. 432) is amended by adding at the end the following new subsection:

"(j) The person described in section 304(b)(5)(A) who is providing personal or consulting services and who is in turn making expenditures to other persons (not including employees) for goods or services provided to a candidate shall maintain records of and shall provide to a political committee the information necessary to enable the political committee to report the information described in section 304(b)(5)(A).".

SEC. 503. POLITICAL COMMITTEES OTHER THAN CANDIDATE COMMITTEES.

Section 303(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 433(b)) is amended—

(1) in paragraph (2), by inserting ", and if the organization or committee is incorporated, the State of incorporation" after "committee"; and

(2) by striking the "name and address of the treasurer" in paragraph (4) and inserting "the names and addresses of any officers (including the treasurer)".

SEC. 504. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not—

"(i) include the name of any candidate in its name, or

"(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 505. REPORTING REQUIREMENTS.

(a) FILING ON THE 20TH DAY OF A MONTH.—Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended—

(1) in paragraph (2)(A)(iii), by striking "15th" and inserting "20th";

(2) in paragraph (3)(B)(ii), by striking "15th" and inserting "20th";

(3) in paragraph (4)(A)(i), by striking "15th" and inserting "20th"; and

(4) in paragraph (8), by striking "15th" and inserting "20th".

(b) OPTION TO FILE MONTHLY REPORTS.—Section 304(a)(2) of such Act (2 U.S.C. 434(a)(2)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by inserting the following new subparagraph at the end:

"(C) in lieu of the reports required by subparagraphs (A) and (B), the treasurer may file monthly reports in all calendar years, which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-primary election report and a pre-general election report shall be filed in accordance with subparagraph (A)(i), a post-general election report shall be filed in accordance with subparagraph (A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.".

(c) POLITICAL COMMITTEES.—Section 304(a)(4) of such Act (2 U.S.C. 434(a)(4)) is amended in subparagraph (A)(i) by inserting ", and except that if at any time during the election year a committee receives contributions in excess of $100,000 ($10,000 in the case of a multicandidate political committee), or makes disbursements in excess of $100,000 ($10,000 in the case of a multicandidate political committee), monthly reports on the 20th day of each month after the month in which that amount of contributions is first received or that amount of disbursements is first anticipated to be made during that year" before the semicolon.

(d) INCOMPLETE OR FALSE CONTRIBUTOR INFORMATION.—Section 302(i) of such Act (2 U.S.C. 432(i)) is amended—

(1) by inserting "(1)" after "(i)";

(2) by striking "submit" and inserting "report"; and

(3) by adding at the end the following new paragraph:

"(2) A treasurer shall be considered to have used best efforts under this section only if—

"(A) all written solicitations include a clear and conspicuous request for the contributor's identification and inform the contributor of the committee's obligation to report the identification in a statement prescribed by the Commission;

"(B) the treasurer makes at least 1 additional request for the contributor's identification for each contribution received that aggregates in excess of $200 per calendar year and which does not contain all of the information required by this Act; and

"(C) the treasurer reports all information in the committee's possession regarding contributor identifications.".

(e) WAIVER.—Section 304 of such Act (2 U.S.C. 434), as amended by section 307, is further amended by adding at the end the following new subsection:

"(f) WAIVER.—The Commission may relieve any category of political committees of the obligation to file 1 or more reports required by this section, or may change the due dates of such reports, if it determines that such action is consistent with the purposes of this Act. The Commission may waive requirements to file reports in accordance with this subsection through a rule of general applicability or, in a specific case, may waive or extend the due date of a report by notifying all political committees affected.''.

SEC. 506. SIMULTANEOUS REGISTRATION OF CANDIDATE AND CANDIDATE'S PRINCIPAL CAMPAIGN COMMITTEE.

Section 303(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 433(a)) is amended in the first sentence by striking ''no later than 10 days after designation'' and inserting ''on the date of its designation''.

SEC. 507. REPORTING ON GENERAL CAMPAIGN ACTIVITIES OF PERSONS OTHER THAN POLITICAL PARTIES.

(a) REPORTING REQUIREMENT.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by sections 307 and 505, is further amended by adding at the end the following new subsection:

''(g) CERTAIN COMMUNICATIONS BY CORPORATIONS AND LABOR ORGANIZATIONS.—(1) Any person making disbursements to pay the cost of applicable communication activities aggregating $5,000 or more with respect to a candidate in an election after the 20th day, but more than 24 hours, before the election shall file a report of such disbursements within 24 hours after such disbursements are made.

''(2) Any person making disbursements to pay the cost of applicable communications activities aggregating $5,000 or more with respect to a candidate in an election at any time up to and including the 20th day before the election shall file a report within 48 hours after such disbursements are made.

''(3) Any person required to file a report under paragraph (1) or (2) which also makes disbursements to pay the cost directly attributable to a get-out-the-vote campaign described in section 316(b)(2)(B) aggregating $25,000 or more with respect to an election shall file a report within 48 hours after such disbursements are made.

''(4) An additional report shall be filed each time additional disbursements described in paragraph (1), (2), or (3), whichever is applicable, aggregating $10,000 are made with respect to the same candidate in the same election as the initial report filed under this subsection. Each such report shall be filed within 48 hours after the disbursements are made.

''(5) For purposes of this subsection, the term 'applicable communication activities' means activities which are covered by the exception to section 301(9)(B)(iii).

''(6) Any statement under this subsection—

''(A) shall be filed in the case of—

''(i) disbursements relating to candidates for the House of Representatives, with the Clerk of the House of Representatives and the Secretary of State of the State involved, and

''(ii) any other disbursements, with the Commission, and

''(B) shall contain such information as the Commission shall prescribe.''

(b) CONFORMING AMENDMENT.—Section 301(9)(B) of such Act (2 U.S.C. 431(9)(B)) is amended by inserting ''and shall, if such costs exceeds the amount described in paragraph (1), (2), or (4) of section 304(g), be reported in the manner provided in section 304(g)'' before the semicolon at the end of clause (iii).

TITLE VI—BROADCAST RATES AND CAMPAIGN ADVERTISING

SEC. 601. BROADCAST RATES AND CAMPAIGN ADVERTISING.

(a) BROADCAST RATES.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) by amending subsection (b) to read as follows:

''(b)(1) Except as provided in paragraph (2), the charges made for the use of a broadcasting station by a person who is a legally qualified candidate for public office in connection with the person's campaign for nomination for election, or election, to public office shall not exceed the charges made for comparable use of such station by other users thereof.

''(2) In the case of an eligible House of Representatives candidate, during the 30 days preceding the date of the primary or primary runoff election and during the 60 days preceding the date of a general or special election in which the person is a candidate, the charges made for the use of a broadcasting station by the candidate shall not exceed 50 percent of the lowest unit charge of the station for the same class and amount of time for the same period.'';

(2) by redesignating subsections (c) and (d) as subsections (f) and (g), respectively;

(3) by inserting after subsection (b) the following new subsections:

''(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1)(A), of a broadcast station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to subsection (b)(1)(A).

''(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.

''(d) If any person makes an independent expenditure through a communication on a broadcasting station that expressly advocates the defeat of an eligible House of Representatives candidate, or the election of an eligible House of Representatives candidate (regardless of whether such opponent is an eligible candidate), the licensee, as applicable, shall, not later than 5 business days after the date on which the communication is made (or not later than 24 hours after the communication is made if the communication occurs not more than 2 weeks before the date of the election), transmit to the candidate—

''(1) a statement of the date and time on which the communication was made;

''(2) a script or tape recording of the communication, or an accurate summary of the communication if a script or tape recording is not available; and

''(3) an offer of an equal opportunity for the candidate to use the broadcasting station to respond to the communication without having to pay for the use in advance.

''(e) A licensee that endorses a candidate for Federal office in an editorial shall, within the time period stated in subsection (d), provide to all other candidates for election to the same office—

''(1) a statement of the date and time of the communication;

''(2) a script or tape recording of the communication, or an accurate summary of the communication if a script or tape recording is not available; and

''(3) an offer of an equal opportunity for the candidate or spokesperson for the candidate to use the broadcasting station to respond to the communication.''; and

(4) in subsection (f), as redesignated by paragraph (2)—

(A) by striking ''and'' at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(3) the terms 'eligible House of Representatives candidate' and 'independent expenditure' have the meanings stated in section 301 of the Federal Election Campaign Act of 1971.''.

(b) REVOCATION OF LICENSE FOR FAILURE TO PERMIT ACCESS.—Section 312(a)(7) of such Act (47 U.S.C. 312(a)(7)) is amended—

(1) by striking ''or repeated'';

(2) by inserting ''or cable system'' after ''broadcasting station''; and

(3) by striking ''his candidacy'' and inserting ''his or her candidacy, under the same terms, conditions, and business practices as apply to its most favored advertiser''.

(c) MEETING REQUIREMENTS FOR RATES AS CONDITION OF GRANTING OR RENEWAL OF LICENSE.—Section 307 of such Act (47 U.S.C. 307) is amended by adding at the end the following new subsection:

''(f) The continuation of an existing license, the renewal of an expiring license, and the issuance of a new license shall be expressly conditioned on the agreement by the licensee or the applicant to meet the requirements of section 315(b), except that the Commission may waive this condition in the case of a licensee or applicant who demonstrates (in accordance with such criteria as the Commission may establish in consultation with the Federal Election Commission) that meeting such requirements will impose a significant financial hardship.''.

SEC. 602. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking ''Whenever'' and inserting ''Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever'';

(2) in the matter before paragraph (1) of subsection (a), by striking ''an expenditure'' and inserting ''a disbursement'';

(3) in the matter before paragraph (1) of subsection (a), by striking ''direct'';

(4) in paragraph (3) of subsection (a), by inserting after ''name'' the following ''and permanent street address''; and

(5) by adding at the end the following new subsections:

''(c) Any printed communication described in subsection (a) shall be—

''(1) of sufficient type size to be clearly readable by the recipient of the communication;

''(2) contained in a printed box set apart from the other contents of the communication; and

''(3) consist of a reasonable degree of color contrast between the background and the printed statement.

''(d)(1) Any communication described in subsection (a)(1) or (a)(2) that is provided to and distributed by any broadcasting station or cable system (as such terms are defined in sections 315 and 602, respectively, of the Federal Communications Act of 1934) shall include, in addition to the requirements of subsections (a)(1) and (a)(2), an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

''(2) If a communication described in paragraph (1) contains any visual images, the communication shall include a written statement which contains the same information as the audio statement and which—

"(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e)(1) Any communication described in subsection (a)(3) that is provided to and distributed by any broadcasting station or cable system described in subsection (d)(1) shall include, in addition to the requirements of that subsection, in a clearly spoken manner, the following statement: ' is responsible for the content of this advertisement.'; with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor.

"(2) If the communication described in paragraph (1) contains visual images, the communication shall include a written statement which contains the same information as the audio statement and which appears in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement for a period of at least 4 seconds.".

SEC. 603. ELIGIBILITY FOR NONPROFIT THIRD-CLASS BULK RATES OF POSTAGE.

Paragraph (2) of section 3626(e) of title 39, United States Code, is amended—

(1) in subparagraph (A) by striking "Committee, and the" and inserting "Committee, the", and by striking "Committee;" and inserting "Committee, and a qualified campaign committee;";

(2) by striking "and" at the end of subparagraph (B);

(3) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(4) by adding at the end the following:

"(D) the term 'qualified campaign committee' means the campaign committee of an eligible House of Representatives candidate; and

"(E) the term 'eligible House of Representatives candidate' has the meaning given that term in section 301 of the Federal Election Campaign Act of 1971.".

TITLE VII—MISCELLANEOUS

SEC. 701. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended—

(1) by amending paragraph (3) to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee."; and

(2) by adding at the end the following new paragraph:

"(6)(A) A candidate for Federal office or any individual holding Federal office may not establish, finance, maintain, or control any Federal or non-Federal political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office. This paragraph shall not preclude a Federal officeholder who is a candidate for State or local office from establishing, financing, maintaining, or controlling a political committee for election of the individual to such State or local office.

"(B) For 2 years after the effective date of this paragraph, any political committee established before such date but which is prohibited under subparagraph (A) may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified under section 501(c)(3) of the Internal Revenue Code of 1986; making a contribution to the treasury of the United States; contributing to the national, State or local committees of a political party; or making contributions not to exceed $1,000 to candidates for elective office.".

SEC. 702. APPEARANCE BY FEDERAL ELECTION COMMISSION AS AMICI CURIAE.

Section 306(f) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)) is amended by striking out paragraph (4) and inserting in lieu thereof the following new paragraph:

"(4)(A) Notwithstanding the provisions of paragraph (2), or of any other provision of law, the Commission is authorized to appear on its own behalf in any action related to the exercise of its statutory duties or powers in any court as either a party or as amicus curiae, either—

"(i) by attorneys employed in its office, or

"(ii) by counsel whom it may appoint, on a temporary basis as may be necessary for such purpose, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title. The compensation of counsel so appointed on a temporary basis shall be paid out of any funds otherwise available to pay the compensation of employees of the Commission.

"(B) The authority granted under subparagraph (A) includes the power to appeal from, and petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which the Commission appears pursuant to the authority provided in this section.".

SEC. 703. PROHIBITING SOLICITATION OF CONTRIBUTIONS BY MEMBERS IN HALL OF THE HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—A Member of the House of Representatives may not solicit or accept campaign contributions in the Hall of the House of Representatives, rooms leading thereto, or the cloakrooms.

(b) DEFINITION.—In subsection (a), the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, Congress.

(c) EXERCISE OF RULEMAKING AUTHORITY.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the House of Representatives, and as such this section is deemed a part of the rules of the House of Representatives and supersedes other rules only to the extent inconsistent therewith; and

(2) with full recognition of the constitutional right of the House of Representatives to change the rule at any time, in the same manner and to the same extent as in the case of any other rule of the House of Representatives.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 801. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act, but shall not apply with respect to activities in connection with any election occurring before January 1, 1999.

SEC. 802. SEVERABILITY.

(a) IN GENERAL.—Except as otherwise provided in this section, if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

(b) EXCEPTIONS.—If any provision of subtitle A of title V of the Federal Election Campaign Act of 1971 (as added by title I) is held to be invalid, all provisions of such subtitle, and the amendment made by section 122, shall be treated as invalid.

SEC. 803. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court finding any provision of this Act or amendment made by this Act to be unconstitutional.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SEC. 804. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out the provisions of this Act within 12 months after the effective date of this Act.

H.R. 2183

OFFERED BY: MR. HUTCHINSON

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 8: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bipartisan Campaign Integrity Act of 1998".

TITLE I—SOFT MONEY AND CONTRIBUTIONS AND EXPENDITURES OF POLITICAL PARTIES

SEC. 101. BAN ON SOFT MONEY OF NATIONAL POLITICAL PARTIES AND CANDIDATES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"BAN ON USE OF SOFT MONEY BY NATIONAL POLITICAL PARTIES AND CANDIDATES

"SEC. 323. (a) NATIONAL PARTIES.—A national committee of a political party, including the national congressional campaign committees of a political party, and any officers or agents of such party committees, may not solicit, receive, or direct any contributions, donations, or transfers of funds, or spend any funds, which are not subject to the limitations, prohibitions, and reporting requirements of this Act. This subsection shall apply to any entity that is established, financed, maintained, or controlled (directly or indirectly) by, or acting on behalf of, a national committee of a political party, including the national congressional campaign committees of a political party, and any officers or agents of such party committees.

"(b) CANDIDATES.—

"(1) IN GENERAL.—No candidate for Federal office, individual holding Federal office, or any agent of such candidate or officeholder may solicit, receive, or direct—

"(A) any funds in connection with any Federal election unless such funds are subject to the limitations, prohibitions and reporting requirements of this Act;

"(B) any funds that are to be expended in connection with any election for other than a Federal office unless such funds are not in excess of the amounts permitted with respect to contributions to Federal candidates and political committees under section 315(a)(1) and (2), and are not from sources prohibited from making contributions by this Act with respect to elections for Federal office; or

"(C) any funds on behalf of any person which are not subject to the limitations, prohibitions, and reporting requirements of this Act if such funds are for the purpose of financing any activity on behalf of a candidate for election for Federal office or any communication which refers to a clearly identified candidate for election for Federal office.

"(2) EXCEPTION FOR CERTAIN ACTIVITIES.—Paragraph (1) shall not apply to—

"(A) the solicitation or receipt of funds by an individual who is a candidate for a non-Federal office if such activity is permitted under State law for such individual's non-Federal campaign committee; or

"(B) the attendance by an individual who holds Federal office or is a candidate for election for Federal office at a fundraising event for a State or local committee of a political party of the State which the individual represents or seeks to represent as a Federal officeholder, if the event is held in such State.

"(c) PROHIBITING TRANSFERS OF NON-FEDERAL FUNDS BETWEEN STATE PARTIES.—A State committee of a political party may not transfer any funds to a State committee of a political party of another State unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) APPLICABILITY TO FUNDS FROM ALL SOURCES.—This section shall apply with respect to funds of any individual, corporation, labor organization, or other person.".

SEC. 102. INCREASE IN AGGREGATE ANNUAL LIMIT ON CONTRIBUTIONS BY INDIVIDUALS TO POLITICAL PARTIES.

(a) IN GENERAL.—The first sentence of section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking "in any calendar year" and inserting the following: "to political committees of political parties, or contributions aggregating more than $25,000 to any other persons, in any calendar year".

(b) CONFORMING AMENDMENT.—Section 315(a)(1)(B) of such Act (2 U.S.C. 441a(a)(1)(B)) is amended by striking "$20,000" and inserting "$25,000".

SEC. 103. REPEAL OF LIMITATIONS ON AMOUNT OF COORDINATED EXPENDITURES BY POLITICAL PARTIES.

(a) IN GENERAL.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended by striking paragraphs (2) and (3).

(b) CONFORMING AMENDMENTS.—Section 315(d)(1) of such Act (2 U.S.C. 441a(d)(1)) is amended—

(1) by striking "(d)(1)" and inserting "(d)"; and

(2) by striking ", subject to the limitations contained in paragraphs (2) and (3) of this subsection".

SEC. 104. INCREASE IN LIMIT ON CONTRIBUTIONS BY MULTICANDIDATE POLITICAL COMMITTEES TO NATIONAL POLITICAL PARTIES.

Section 315(a)(2)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(B)) is amended by striking "$15,000" and inserting "$20,000".

TITLE II—INDEXING CONTRIBUTION LIMITS

SEC. 201. INDEXING CONTRIBUTION LIMITS.

Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended by adding at the end the following new paragraph:

"(3)(A) The amount of each limitation established under subsection (a) shall be adjusted as follows:

"(i) For calendar year 1999, each such amount shall be equal to the amount described in such subsection, increased (in a compounded manner) by the percentage increase in the price index (as defined in subsection (c)(2)) for each of the years 1997 through 1998.

"(ii) For calendar year 2003 and each fourth subsequent year, each such amount shall be equal to the amount for the fourth previous year (as adjusted under this subparagraph), increased (in a compounded manner) by the percentage increase in the price index for each of the four previous years.

"(B) In the case of any amount adjusted under this subparagraph which is not a multiple of $100, the amount shall be rounded to the nearest multiple of $100.".

TITLE III—EXPANDING DISCLOSURE OF CAMPAIGN FINANCE INFORMATION

SEC. 301. DISCLOSURE OF CERTAIN COMMUNICATIONS.

(a) IN GENERAL.—Any person who expends an aggregate amount of funds during a calendar year in excess of $25,000 for communications described in subsection (b) relating to a single candidate for election for Federal office (or an aggregate amount of funds during a calendar year in excess of $100,000 for all such communications relating to all such candidates) shall file a report describing the amount expended for such communications, together with the person's address and phone number (or, if appropriate, the address and phone number of the person's principal officer).

(b) COMMUNICATIONS DESCRIBED.—A communication described in this subsection is any communication which is broadcast to the general public through radio or television and which mentions or includes (by name, representation, or likeness) any candidate for election for Senator or for Representative in (or Delegate or Resident Commissioner to) the Congress, other than any communication which would be described in clause (i), (iii), or (v) of section 301(9)(B) of the Federal Election Campaign Act of 1971 if the payment were an expenditure under such section.

(c) DEADLINE FOR FILING.—A person shall file a report required under subsection (a) not later than 7 days after the person first expends the applicable amount of funds described in such subsection, except that in the case of a person who first expends such an amount within 10 days of an election, the report shall be filed not later than 24 hours after the person first expends such amount. For purposes of the previous sentence, the term "election" shall have the meaning given such term in section 301(1) of the Federal Election Campaign Act of 1971.

(d) PLACE OF SUBMISSION.—Reports required under subsection (a) shall be submitted—

(1) to the Clerk of the House of Representatives, in the case of a communication involving a candidate for election for Representative in (or Delegate or Resident Commissioner to) the Congress; and

(2) to the Secretary of the Senate, in the case of a communication involving a candidate for election for Senator.

(e) PENALTIES.—Whoever knowingly fails to—

(1) remedy a defective filing within 60 days after notice of such a defect by the Secretary of the Senate or the Clerk of the House of Representatives; or

(2) comply with any other provision of this section,

shall, upon proof of such knowing violation by a preponderance of the evidence, be subject to a civil fine of not more than $50,000, depending on the extent and gravity of the violation.

SEC. 302. REQUIRING MONTHLY FILING OF REPORTS.

(a) PRINCIPAL CAMPAIGN COMMITTEES.—Section 304(a)(2)(A)(iii) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(2)(A)(iii)) is amended to read as follows:

"(iii) monthly reports, which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of the year, a pre-general election report shall be filed in accordance with clause (i), a post-general election report shall be filed in accordance with clause (ii), and a year end report shall be filed no later than January 31 of the following calendar year.".

(b) OTHER POLITICAL COMMITTEES.—Section 304(a)(4) of such Act (2 U.S.C. 434(a)(4)) is amended to read as follows:

"(4)(A) In a calendar year in which a regularly scheduled general election is held, all political committees other than authorized committees of a candidate shall file—

"(i) monthly reports, which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of the year, a pre-general election report shall be filed in accordance with clause (ii), a post-general election report shall be filed in accordance with clause (iii), and a year end report shall be filed no later than January 31 of the following calendar year;

"(ii) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such election, and which shall be complete as of the 20th day before the election; and

"(iii) a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election.

"(B) In any other calendar year, all political committees other than authorized committees of a candidate shall file a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.".

(c) CONFORMING AMENDMENTS.—(1) Section 304(a) of such Act (2 U.S.C. 434(a)) is amended by striking paragraph (8).

(2) Section 309(b) of such Act (2 U.S.C. 437g(b)) is amended by striking "for the calendar quarter" and inserting "for the month".

SEC. 303. MANDATORY ELECTRONIC FILING FOR CERTAIN REPORTS.

(a) IN GENERAL.—Section 304(a)(11)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(A)) is amended by striking the period at the end and inserting the following: ", except that the Commission shall require the reports to be filed and preserved by such means, format, or method, unless the aggregate amount of contributions or expenditures (as the case may be) reported by the committee in all reports filed with respect to the election involved (taking into account the period covered by the report) is less than $50,000.".

(b) PROVIDING STANDARDIZED SOFTWARE PACKAGE.—Section 304(a)(11) of such Act (2 U.S.C. 434(a)(11)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) The Commission shall make available without charge a standardized package of software to enable persons filing reports by electronic means to meet the requirements of this paragraph.".

SEC. 304. WAIVER OF "BEST EFFORTS" EXCEPTION FOR INFORMATION ON OCCUPATION OF INDIVIDUAL CONTRIBUTORS.

Section 302(i) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(i)) is amended—

(1) by striking "(i) When the treasurer" and inserting "(i)(1) Except as provided in paragraph (2), when the treasurer"; and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply with respect to information regarding the occupation or the name of the employer of any individual who makes a contribution or contributions aggregating more than $200 during a calendar year (as required to be provided under subsection (c)(3)).".

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

This Act and the amendments made by this Act shall apply with respect to elections occurring after January 1999.

H.R. 2183

OFFERED BY: MR. PAUL

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 9: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Voter Freedom Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Voting participation in the United States is lower than in any other advanced industrialized democracy.

(2) The rights of eligible citizens to seek election to office, vote for candidates of their choice and associate for the purpose of taking part in elections, including the right to create and develop new political parties, are fundamental in a democracy. The rights of citizens to participate in the election process, provided in and derived from the first and fourteenth amendments to the Constitution, have consistently been promoted and protected by the Federal Government. These rights include the right to cast an effective vote and the right to associate for the advancement of political beliefs, which includes the "constitutional right . . . to create and develop new political parties." Norman v. Reed, 502 U.S. 279, 112 S.Ct. 699 (1992). It is the duty of the Federal Government to see that these rights are not impaired in elections for Federal office.

(3) Certain restrictions on access to the ballot impair the ability of citizens to exercise these rights and have a direct and damaging effect on citizens' participation in the electoral process.

(4) Many States unduly restrict access to the ballot by nonmajor party candidates and nonmajor political parties by means of such devices as excessive petition signature requirements, insufficient petitioning periods, unconstitutionally early petition filing deadlines, petition signature distribution criteria, and limitations on eligibility to circulate and sign petitions.

(5) Many States require political parties to poll an unduly high number of votes or to register an unduly high number of voters as a precondition for remaining on the ballot.

(6) In 1983, the Supreme Court ruled unconstitutional an Ohio law requiring a nonmajor party candidate for President to qualify for the general election ballot earlier than major party candidates. This Supreme Court decision, Anderson v. Celebrezze, 460 U.S. 780 (1983) has been followed by many lower courts in challenges by nonmajor parties and candidates to early petition filing deadlines. See, e.g., Stoddard v. Quinn, 593 F. Supp. 300 (D.Me. 1984); Cripps v. Seneca County Board of Elections, 629 F. Supp. 1335 (N.D.Oh. 1985); Libertarian Party of Nevada v. Swackhamer, 638 F. Supp. 565 (D. Nev. 1986); Cromer v. State of South Carolina, 917 F.2d 819 (4th Cir. 1990); New Alliance Party of Alabama v. Hand, 933 F. 2d 1568 (11th Cir. 1991).

(7) In 1996, 34 States required nonmajor party candidates for President to qualify for the ballot before the second major party national convention (Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, and Wyoming). Twenty-six of these States required nonmajor party candidates to qualify before the first major party national convention (Arizona, California, Colorado, Connecticut Florida, Georgia, Illinois, Indiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nevada, New Hampshire, New Jersey, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Washington, and West Virginia).

(8) Under present law, in 1996, nonmajor party candidates for President were required to obtain at least 701,089 petition signatures to be listed on the ballots of all 50 States and the District of Columbia—28 times more signatures than the 25,500 required of Democratic Party candidates and 13 times more signatures than the 54,250 required of Republican Party candidates. To be listed on the ballot in all 50 States and the District of Columbia with a party label, nonmajor party candidates for President were required to obtain approximately 651,475 petition signatures and 89,186 registrants. Thirty-two of the 41 States that hold Presidential primaries required no signatures of major party candidates for President (Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin). Only three States required no signatures of nonmajor party candidates for President (Arkansas, Colorado, and Louisiana; Colorado and Louisiana, however, required a $500 filing fee).

(9) Under present law, the number of petition signatures required by the States to list a major party candidate for Senate on the ballot in 1996 ranged from zero to 15,000. The number of petition signatures required to list a nonmajor party candidate for Senate ranged from zero to 196,788. Thirty-one States required no signatures of major party candidates for Senate (Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, Texas, Utah, Washington, West Virginia, Wyoming). Only one State required no signatures of nonmajor party candidates for Senate, provided they were willing to be listed on the ballot without a party label (Louisiana, although a $600 filing fee was required, and to run with a party label, a candidate was required to register 111,121 voters into his or her party).

(10) Under present law, the number of petition signatures required by the States to list a major party candidate for Congress on the ballot in 1996 ranged from zero to 2,000. The number of petition signatures required to list a nonmajor party candidate for Congress ranged from zero to 13,653. Thirty-one States required no signatures of major party candidates for Congress (Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, Texas, Utah, Washington, West Virginia, Wyoming). Only one State required no signatures of nonmajor party candidates for Congress, provided they are willing to be listed on the ballot without a party label (Louisiana, although a $600 filing fee was required).

(11) Under present law, in 1996, eight States required additional signatures to list a nonmajor party candidate for President on the ballot with a party label (Alabama, Arizona, Idaho, Kansas, Nebraska, North Dakota, Ohio, Tennessee). Thirteen States required additional signatures to list a nonmajor party candidate for Senate or Congress on the ballot with a party label (Alabama, Arizona, Arkansas, California, Idaho, Hawaii, Kansas, Louisiana, North Dakota, Nebraska, Ohio, Oregon, Tennessee). Two of these States (Ohio and Tennessee) required 5,000 signatures and 25 signatures, respectively, to list a nonmajor party candidate for President or Senate on the ballot in 1996, but required 33,463 signatures and 37,179 signatures, respectively, to list the candidate on the ballot with her or his party label. One State (California) required a nonmajor party to have 89,006 registrants in order to have its candidate for President listed on the ballot with a party label.

(12) Under present law, in 1996 one State (California) required nonmajor party candidates for President or Senate to obtain 147,238 signatures in 105 days, but required

major party candidates for Senate to obtain only 65 signatures in 105 days, and required no signatures of major party candidates for President. Another State (Texas) required nonmajor party candidates for President or Senate to obtain 43,963 signatures in 75 days, and required no signatures of major party candidates for President or Senate.

(13) Under present law, in 1996, seven States required nonmajor party candidates for President or Senate to collect a certain number or percentage of their petition signatures in each congressional district or in a specified number of congressional districts (Michigan, Missouri, Nebraska, New Hampshire, New York, North Carolina, Virginia). Only three of these States impose a like requirement on major party candidates for President or Senate (Michigan, New York, Virginia).

(14) Under present law, in 1996, 20 States restricted the circulation of petitions for nonmajor party candidates to residents of those States (California, Colorado, Connecticut, District of Columbia, Idaho, Illinois, Kansas, Michigan, Missouri, Nebraska, Nevada, New Jersey, New York, Ohio, Pennsylvania, South Dakota, Texas, Virginia, West Virginia, Wisconsin). Two States restricted the circulation of petitions for nonmajor party candidates to the county or congressional district where the circulator lives (Kansas and Virginia).

(15) Under present law, in 1996, three States prohibited people who voted in a primary election from signing petitions for nonmajor party candidates (Nebraska, New York, Texas, West Virginia). Twelve States restricted the signing of petitions to people who indicate intent to support or vote for the candidate or party (California, Delaware, Hawaii, Illinois, Indiana, Maryland, New Jersey, New York, North Carolina, Ohio, Oregon, Utah). Five of these 12 States required no petitions of major party candidates (Delaware, Maryland, North Carolina, Oregon, Utah), and only one of the six remaining States restricted the signing of petitions for major party candidates to people who indicate intent to support or vote for the candidate or party (New Jersey).

(16) In two States (Louisiana and Maryland), no nonmajor party candidate for Senate has qualified for the ballot since those States' ballot access laws have been in effect.

(17) In two States (Georgia and Louisiana), no nonmajor party candidate for the United States House of Representatives has qualified for the ballot since those States' ballot access laws have been in effect.

(18) Restrictions on the ability of citizens to exercise the rights identified in this subsection have disproportionately impaired participation in the electoral process by various groups, including racial minorities.

(19) The establishment of fair and uniform national standards for access to the ballot in elections for Federal office would remove barriers to the participation of citizens in the electoral process and thereby facilitate such participation and maximize the rights identified in this subsection.

(20) The Congress has authority, under the provisions of the Constitution of the United States in sections 4 and 8 of article I, section 1 of article II, article VI, the thirteenth, fourteenth, and fifteenth amendments, and other provisions of the Constitution of the United States, to protect and promote the exercise of the rights identified in this subsection.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish fair and uniform standards regulating access to the ballot by eligible citizens who desire to seek election to Federal office and political parties, bodies, and groups which desire to take part in elections for Federal office; and

(2) to maximize the participation of eligible citizens in elections for Federal office.

SEC. 3. BALLOT ACCESS RIGHTS.

(a) IN GENERAL.—An individual shall have the right to be placed as a candidate on, and to have such individual's political party, body, or group affiliation in connection with such candidacy placed on, a ballot or similar voting materials to be used in a Federal election, if—

(1) such individual presents a petition stating in substance that its signers desire such individual's name and political party, body or group affiliation, if any, to be placed on the ballot or other similar voting materials to be used in the Federal election with respect to which such rights are to be exercised;

(2) with respect to a Federal election for the office of President, Vice President, or Senator, such petition has a number of signatures of persons qualified to vote for such office equal to one-tenth of one percent of the number of persons who voted in the most recent previous Federal election for such office in the State, or 1,000 signatures, whichever is greater;

(3) with respect to a Federal election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, such petition has a number of signatures of persons qualified to vote for such office equal to one-half of one percent of the number of persons who voted in the most recent previous Federal election for such office, or, if there was no previous Federal election for such office, 1,000 signatures;

(4) with respect to a Federal election the date of which was fixed 345 or more days in advance, such petition was circulated during a period beginning on the 345th day and ending on the 75th day before the date of the election; and

(5) with respect to a Federal election the date of which was fixed less than 345 days in advance, such petition was circulated during a period established by the State holding the election, or, if no such period was established, during a period beginning on the day after the date the election was scheduled and ending on the tenth day before the date of the election, provided, however, that the number of signatures required under paragraph (2) or (3) shall be reduced by $1/270$ for each day less than 270 in such period.

(b) SPECIAL RULE.—An individual shall have the right to be placed as a candidate on, and to have such individual's political party, body, or group affiliation in connection with such candidacy placed on, a ballot or similar voting materials to be used in a Federal election, without having to satisfy any requirement relating to a petition under subsection (a), if that or another individual, as a candidate of that political party, body, or group, received one percent of the votes cast in the most recent general Federal election for President or Senator in the State.

(c) SAVINGS PROVISION.—Subsections (a) and (b) shall not apply with respect to any State that provides by law for greater ballot access rights than the ballot access rights provided for under such subsections.

SEC. 4. RULEMAKING.

The Attorney General shall make rules to carry out this Act.

SEC. 5. GENERAL DEFINITIONS.

As used in this Act—

(1) the term "Federal election" means a general or special election for the office of—

(A) President or Vice President;

(B) Senator; or

(C) Representative in, or Delegate or Resident Commissioner to, the Congress;

(2) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States;

(3) the term "individual" means an individual who has the qualifications required by law of a person who holds the office for which such individual seeks to be a candidate;

(4) the term "petition" includes a petition which conforms to section 3(a)(1) and upon which signers' addresses and/or printed names are required to be placed;

(5) the term "signer" means a person whose signature appears on a petition and who can be identified as a person qualified to vote for an individual for whom the petition is circulated, and includes a person who requests another to sign a petition on his or her behalf at the time when, and at the place where, the request is made;

(6) the term "signature" includes the incomplete name of a signer, the name of a signer containing abbreviations such as first or middle initial, and the name of a signer preceded or followed by titles such as "Mr.", "Ms.", "Dr.", "Jr.", or "III"; and

(7) the term "address" means the address which a signer uses for purposes of registration and voting.

Amend the title so as to read: "A bill to enforce the guarantees of the first, fourteenth, and fifteenth amendments to the Constitution of the United States by prohibiting certain devices used to deny the right to participate in certain elections.".

H.R. 2183

OFFERED BY: MR. PAUL

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 10: Strike all after the enacting clause and insert the folowing:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Freedom Debate Act of 1998".

SEC. 2. REQUIREMENT THAT CANDIDATES WHO RECEIVE CAMPAIGN FINANCING FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND AGREE NOT TO PARTICIPATE IN MULTICANDIDATE FORUMS THAT EXCLUDE CANDIDATES WITH BROAD-BASED PUBLIC SUPPORT.

(a) IN GENERAL.—In addition to the requirements under subtitle H of the Internal Revenue Code of 1986, in order to be eligible to receive payments from the Presidential Election Campaign Fund, a candidate shall agree in writing not to appear in any multicandidate forum with respect to the election involved unless the following individuals are invited to participate in the multicandidate forum:

(1) Each other eligible candidate under such subtitle.

(2) Each individual who is qualified in at least 40 States for the ballot for the office involved.

(b) ENFORCEMENT.—If the Federal Election Commission determines that a candidate—

(1) has received payments from the Presidential Election Campaign Fund; and

(2) has violated the agreement referred to in subsection (a);

the candidate shall pay to the Treasury an amount equal to the amount of the payments so made.

(c) DEFINITION.—As used in this Act, the term "multicandidate forum" means a meeting—

(1) consisting of a moderated reciprocal discussion of issues among candidates for the same office; and

(2) to which any other person has access in person or through an electronic medium.

Amend the title so as to read: "A bill to require that candidates who receive campaign financing from the Presidential Election Campaign Fund agree not to participate in multicandidate forums that exclude candidates who have broad-based public support.".

H.R. 2183

OFFERED BY: MR. PETERSON OF MINNESOTA

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 11: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Financing of House of Representatives Elections Act of 1998".

SEC. 2. ESTABLISHMENT OF THE HOUSE OF REPRESENTATIVES CAMPAIGN TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to Trust Fund Code) is amended by adding at the end the following new section:

"SEC. 9511. HOUSE OF REPRESENTATIVES CAMPAIGN TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'House of Representatives Campaign Trust Fund', consisting of such amounts as may be appropriated or credited to such trust fund as provided in this section.

"(b) TRANSFER TO FUND OF AMOUNTS DESIGNATED BY INDIVIDUALS.—There is hereby appropriated to the House of Representatives Campaign Trust Fund amounts equivalent to the amounts designated under section 6097.

"(c) EXPENDITURE FROM FUND FOR PRIMARY ELECTIONS.—

"(1) IN GENERAL.—Amounts in the House of Representatives Campaign Trust Fund shall be available to provide payments with respect to a primary election to qualified House candidates under title V of the Federal Election Campaign Act of 1971.

"(2) AMOUNT.—Payments from the Fund shall be made, in such manner as the Federal Election Commission may prescribed by regulation, to each qualified House candidate in a primary election in an amount equal to the aggregate total of the first $200 in contributions from individuals.

"(d) EXPENDITURE FROM FUND FOR GENERAL ELECTIONS.—

"(1) IN GENERAL.—Amounts in the House of Representatives Campaign Trust Fund shall be available to provide payments with respect to a general election to qualified House candidates under title V of the Federal Election Campaign Act of 1971.

"(2) AMOUNT.—Payments from the Fund shall be made, in such manner as the Federal Election Commission may prescribed by regulation, to each qualified House candidate in a general election in an amount determined as follows:

"(A) In the case of a major party candidate, $500,000.

"(B) In the case of a third party or independent candidate, an amount that bears the same ratio to $1,000,000 as the total popular vote in the district for candidates of the third party or for all independent candidates (as the case may be) bears to the total popular vote for all candidates in the 5 preceding general elections.

"(3) DEFINITIONS.—In this paragraph—

"(A) the term 'major party' means, with respect to a House of Representatives general election, a political party whose candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in the preceding general election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office;

"(B) the term 'third party' means with respect to a House of Representatives general election, a political party whose candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in the preceding general election received, as the candidate of such party, less than 25 percent of the total number of popular votes received by all candidates for such office; and

"(C) the term 'independent candidate' means, with respect to a House of Representatives general election, a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who is not the candidate of a major party or a third party.

"(e) LIMITATION ON TOTAL AMOUNT OF PAYMENTS.—The aggregate amount of payments made from the Fund to any candidate with respect to an election cycle may not exceed 50 percent of the expenditure limit applicable with respect to the cycle under subtitle B of title V of the Federal Election Campaign Act of 1971.

"(f) REPAYMENT OF TRUST FUND FROM EXCESS FUNDS.—(1) If at the conclusion of a primary election or general election in which a candidate who has received payments from the House of Representatives Campaign Trust Fund under this section has excess campaign funds attributable to that election, such candidate shall within thirty days refund to the trust fund the amount of the excess campaign funds which equals the pro rata share that payments provided to such candidate from the trust fund accounted for of such candidate's total aggregated receipts from all sources with respect to such election.

"(2) In no case shall the amount of refund required under paragraph (1) exceed the total aggregated payments provided to such candidate from the Trust Fund with respect to that election.

"(g) INDEXING OF AMOUNTS.—Each of the amounts provided in this section shall be subject to indexing in the same manner as amounts described in title V of the Federal Election Campaign Act of 1971.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following new item:

"Sec. 9511. House of Representatives Campaign Trust Fund.".

SEC. 3. PUBLIC FINANCING FOR HOUSE CANDIDATES AGREEING TO LIMIT EXPENDITURES.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new title:

"TITLE V—VOLUNTARY EXPENDITURE LIMITATIONS AND PUBLIC FINANCING FOR HOUSE OF REPRESENTATIVES GENERAL ELECTIONS

"Subtitle A—Public Financing for Qualified House Candidates

"SEC. 501. PUBLIC FINANCING FOR QUALIFIED HOUSE CANDIDATES.

"A qualified House candidate in a House of Representatives election shall be entitled to payments from the House of Representatives Campaign Trust Fund under subchapter A of chapter 61 of the Internal Revenue Code of 1986.

"SEC. 502. PROCEDURES FOR CERTIFICATION.

"(a) IN GENERAL.—The Commission shall certify that a candidate initially meets the requirements for a qualified House candidate under if the candidate submits to the Commission in writing a statement with the following information and assurances:

"(1) An agreement to obtain and furnish to the Commission such evidence as it may request to ensure that the candidate meets the requirements relating to limitations on expenditures under subtitle B.

"(2) An agreement to obtain and furnish to the Commission such evidence as it may request to ensure that the candidate meets the requirements relating to the receipt of matching contributions under subtitle C.

"(3) An agreement to keep and furnish to the Commission such records, books, and other information as it may request.

"(4) An agreement to audit and examination by the Commission and to the payment of any amounts found to be paid erroneously to the candidate under this title.

"(5) Such other information and assurances as the Commission may require.

"(b) AUTHORITY OF COMMISSION TO REJECT OR REVOKE CERTIFICATION.—The Commission may reject a candidate's application for treatment as a qualified House candidate or revoke a candidate's status as a qualified House candidate if the candidate knowingly and willfully violates or has violated any of the applicable requirements of this title with respect to the election involved or any previous election.

"Subtitle B—Limitations on Expenditures by Qualified House Candidates

"SEC. 511. LIMITATION ON EXPENDITURES.

"(a) IN GENERAL.—Except as provided in subsection (b), a qualified House candidate in a House of Representatives election may not make expenditures with respect to the election cycle involved in excess of $750,000, of which not more than $250,000 may be expended with respect to any primary election occurring within the cycle.

"(b) EXCEPTIONS.—

"(1) NONPARTICIPATING OPPONENT.—In the case of a qualified House candidate with an opponent who is not a qualified House candidate, the amount otherwise provided in subsection (a) shall be increased by the amount by which the amount expended by the opponent exceeds the amount under subsection (a).

"(2) CLOSELY CONTESTED PRIMARY.—In the case of a qualified House candidate in a general election who won the primary involved by a margin of 10 percentage points or less, the amount otherwise provided under subsection (a) shall be increased by 20 percent.

"(3) RUNOFF ELECTION.—In the case of a qualified House candidate in a runoff election, the amount otherwise provided under subsection (a) shall be increased by 20 percent.

"SEC. 512. SOURCES OF AMOUNTS FOR EXPENDITURES BY QUALIFIED HOUSE CANDIDATES.

"The only sources of amounts for expenditures by qualified House candidates in House of Representatives general elections shall be the House of Representatives Campaign Trust Fund under subchapter A of chapter 61 of the Internal Revenue Code of 1986, except that in the case of a primary election, the candidate may expend an amount not in excess of 50 percent of the applicable expenditure limit from matching contributions described in section 521.

"Subtitle C—Matching Contribution Requirement for Primary Elections

"SEC. 521. REQUIRING MATCHING INDIVIDUAL CONTRIBUTIONS FOR PRIMARY ELECTIONS.

"With respect to a primary election, a qualified House candidate shall report to the Commission that the candidate and the authorized committees of the candidate have received contributions totaling at least $25,000 in contributions of $200 or less from individual contributors.

"Subtitle D—Miscellaneous Provisions

"SEC. 531. QUALIFIED HOUSE CANDIDATE DEFINED.

"In this title, the term 'qualified House candidate' means, with respect to an election for the office of Representative in or Delegate or Resident Commissioner to the House of Representatives, a candidate in such election who is certified by the Commission under subtitle A as meeting the requirements for receiving public financing under this title.

"SEC. 532. INDEXING OF AMOUNTS.

"The Commission shall issue regulations providing for the biennial indexing of the amounts provided in this title.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to elections occurring after December 1998.

SEC. 4. DESIGNATION OF INCOME TAX PAYMENTS TO THE HOUSE OF REPRESENTATIVES CAMPAIGN TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following new part:

"PART IX—DESIGNATION OF INCOME TAX PAYMENTS TO BE USED FOR THE HOUSE OF REPRESENTATIVES CAMPAIGN TRUST FUND

"Sec. 6097. Designation by individuals.

"SEC. 6097. DESIGNATION BY INDIVIDUALS.

"(a) IN GENERAL.—Every individual whose adjusted income tax liability for the taxable year is $5 or more may designate that $5 shall be paid over to the House of Representatives Campaign Trust Fund.

"(b) ADJUSTED INCOME TAX LIABILITY.—For purposes of this section, the adjusted income tax liability of an individual is the tax liability of such individual (as determined under subsection (b) of section 6096) for the taxable year reduced by the amount designated under section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) for such taxable year.

"(c) JOINT RETURNS.—In the case of a joint return showing adjusted income tax liability of $5 or more, each spouse may designate that $10 shall be paid over to the House of Representatives Campaign Trust Fund.

"(d) MANNER AND TIME OF DESIGNATION.—Subsection (c) of section 6096 shall apply to the manner and time of the designation under this section.".

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end the following new item:

"Part IX. Designation of income tax payments to be used for the House of Representatives Campaign Trust Fund.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 12: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paycheck Protection Act".

SEC. 2. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, or educating individuals about candidates for election for Federal office.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

Amend the title so as to read: "A Bill to protect individuals from having money involuntarily collected and used for political activities by a corporation or labor organization.".

H.R. 2183

OFFERED BY: MR. SHAYS

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 13: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Campaign Reform Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties.
Sec. 102. Increased contribution limits for State committees of political parties and aggregate contribution limit for individuals.
Sec. 103. Reporting requirements.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

Sec. 201. Definitions.
Sec. 202. Civil penalty.
Sec. 203. Reporting requirements for certain independent expenditures.
Sec. 204. Independent versus coordinated expenditures by party.
Sec. 205. Coordination with candidates.

TITLE III—DISCLOSURE

Sec. 301. Filing of reports using computers and facsimile machines.
Sec. 302. Prohibition of deposit of contributions with incomplete contributor information.
Sec. 303. Audits.
Sec. 304. Reporting requirements for contributions of $50 or more.
Sec. 305. Use of candidates' names.
Sec. 306. Prohibition of false representation to solicit contributions.
Sec. 307. Soft money of persons other than political parties.
Sec. 308. Campaign advertising.

TITLE IV—PERSONAL WEALTH OPTION

Sec. 401. Voluntary personal funds expenditure limit.
Sec. 402. Political party committee coordinated expenditures.

TITLE V—MISCELLANEOUS

Sec. 501. Codification of Beck decision.
Sec. 502. Use of contributed amounts for certain purposes.
Sec. 503. Limit on congressional use of the franking privilege.
Sec. 504. Prohibition of fundraising on Federal property.
Sec. 505. Penalties for knowing and willful violations.
Sec. 506. Strengthening foreign money ban.
Sec. 507. Prohibition of contributions by minors.
Sec. 508. Expedited procedures.
Sec. 509. Initiation of enforcement proceeding.

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

Sec. 601. Severability.
Sec. 602. Review of constitutional issues.
Sec. 603. Effective date.
Sec. 604. Regulations.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

"(a) NATIONAL COMMITTEES.—

"(1) IN GENERAL.—A national committee of a political party (including a national congressional campaign committee of a political party) and any officers or agents of such party committees, shall not solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY.—This subsection shall apply to an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee of a political party (including a national congressional campaign committee of a political party), or an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity.

"(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

"(1) IN GENERAL.—An amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity) for Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Federal election activity.—

"(A) In general.—The term 'Federal election activity' means—

"(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

"(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot); and

"(iii) a communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and is made for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).

"(B) Excluded activity.—The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

"(i) campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, provided the campaign activity is not a Federal election activity described in subparagraph (A);

"(ii) a contribution to a candidate for State or local office, provided the contribution is not designated or used to pay for a Federal election activity described in subparagraph (A);

"(iii) the costs of a State, district, or local political convention;

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office;

"(v) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of an individual who spends more than 20 percent of the individual's time on Federal election activity) as determined by a regulation promulgated by the Commission to determine the non-Federal share of a State, district, or local party committee's administrative and overhead expenses; and

"(vi) the cost of constructing or purchasing an office facility or equipment for a State, district or local committee.

"(c) Fundraising Costs.—An amount spent by a national, State, district, or local committee of a political party, by an entity that is established, financed, maintained, or controlled by a national, State, district, or local committee of a political party, or by an agent or officer of any such committee or entity, to raise funds that are used, in whole or in part, to pay the costs of a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) Tax-exempt Organizations.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party, an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, an agent acting on behalf of any such party committee, and an officer or agent acting on behalf of any such party committee or entity), shall not solicit any funds for, or make or direct any donations to, an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application to the Commissioner of the Internal Revenue Service for determination of tax-exemption under such section).

"(e) Candidates.—

"(1) In general.—A candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office shall not solicit, receive, direct, transfer, or spend funds for a Federal election activity on behalf of such candidate, individual, agent or any other person, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) State law.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for any activity other than a Federal election activity.

"(3) Fundraising events.—Paragraph (1) does not apply in the case of a candidate who attends, speaks, or is a featured guest at a fundraising event sponsored by a State, district, or local committee of a political party.".

SEC. 102. INCREASED CONTRIBUTION LIMITS FOR STATE COMMITTEES OF POLITICAL PARTIES AND AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUALS.

(a) Contribution Limit for State Committees of Political Parties.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C)—

(A) by inserting "(other than a committee described in subparagraph (D))" after "committee"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(D) to a political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $10,000".

(b) Aggregate Contribution Limit for Individual.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking "$25,000" and inserting "$30,000".

SEC. 103. REPORTING REQUIREMENTS.

(a) Reporting Requirements.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 203) is amended by inserting after subsection (d) the following:

"(e) Political Committees.—

"(1) National and congressional political committees.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

"(2) Other political committees to which section 323 applies.—A political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in paragraphs (2)(A) and (3)(B)(v) of section 323(b).

"(3) Itemization.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

"(4) Reporting periods.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) Building Fund Exception to the Definition of Contribution.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

SEC. 201. DEFINITIONS.

(a) Definition of Independent Expenditure.—Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) Independent expenditure.—

"(A) In general.—The term 'independent expenditure' means an expenditure by a person—

"(i) for a communication that is express advocacy; and

"(ii) that is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.".

(b) Definition of Express Advocacy.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) Express Advocacy.—

"(A) In general.—The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by—

"(i) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates;

"(ii) referring to 1 or more clearly identified candidates in a paid advertisement that is transmitted through radio or television within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

"(iii) expressing unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

"(B) Voting record and voting guide exception.—The term 'express advocacy' does not include a printed communication that—

"(i) presents information in an educational manner solely about the voting record or position on a campaign issue of 2 or more candidates;

"(ii) that is not made in coordination with a candidate, political party, or agent of the candidate or party; or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent;

"(iii) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified candidates.".

(c) DEFINITION OF EXPENDITURE.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) a payment for a communication that is express advocacy; and

"(iv) a payment made by a person for a communication that—

"(I) refers to a clearly identified candidate;

"(II) is provided in coordination with the candidate, the candidate's agent, or the political party of the candidate; and

"(III) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).".

SEC. 202. CIVIL PENALTY.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(ii) by adding at the end the following:

"(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A)."; and

(B) in paragraph (6)(B), by inserting "(except an action instituted in connection with a knowing and willful violation of section 304(c))" after "subparagraph (A)"; and

(2) in subsection (d)(1)—

(A) in subparagraph (A), by striking "Any person" and inserting "Except as provided in subparagraph (D), any person"; and

(B) by adding at the end the following:

"(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.".

SEC. 203. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) of subsection (c) as subsection (f); and

(3) by inserting after subsection (c)(2) (as amended by paragraph (1)) the following:

"(d) TIME FOR REPORTING CERTAIN EXPENDITURES.—

"(1) EXPENDITURES AGGREGATING $1,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

"(A) shall be filed with the Commission; and

"(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.".

SEC. 204. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking "and (3)" and inserting ", (3), and (4)"; and

(2) by adding at the end the following:

"(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

"(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, a committee of the political party shall not make both expenditures under this subsection and independent expenditures (as defined in section 301(17)) with respect to the candidate during the election cycle.

"(B) CERTIFICATION.—Before making a coordinated expenditure under this subsection with respect to a candidate, a committee of a political party shall file with the Commission a certification, signed by the treasurer of the committee, that the committee has not and shall not make any independent expenditure with respect to the candidate during the same election cycle.

"(C) APPLICATION.—For the purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

"(D) TRANSFERS.—A committee of a political party that submits a certification under subparagraph (B) with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.".

SEC. 205. COORDINATION WITH CANDIDATES.

(a) DEFINITION OF COORDINATION WITH CANDIDATES.—

(1) SECTION 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "or" at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) anything of value provided by a person in coordination with a candidate for the purpose of influencing a Federal election, regardless of whether the value being provided is a communication that is express advocacy, in which such candidate seeks nomination or election to Federal office."; and

(B) by adding at the end the following:

"(C) The term 'provided in coordination with a candidate' includes—

"(i) a payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, or an agent acting on behalf of a candidate or authorized committee;

"(ii) a payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat);

"(iii) a payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made;

"(iv) a payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position;

"(v) a payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made;

"(vi) a payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign;

"(vii) a payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (vi) for a communication that clearly refers to the candidate and is for the purpose of influencing an election (regardless of whether the communication is express advocacy);

"(viii) direct participation by a person in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate;

"(ix) communication by a person with the candidate or an agent of the candidate, occurring after the declaration of candidacy (including a pollster, media consultant, vendor, advisor, or staff member), acting on behalf of the candidate, about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy; or

"(x) the provision of in-kind professional services or polling data to the candidate or candidate's agent.

"(D) For purposes of subparagraph (C), the term 'professional services' includes services in support of a candidate's pursuit of nomination for election, or election, to Federal office such as polling, media advice, direct mail, fundraising, or campaign research.

"(E) For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.".

(2) SECTION 315(a)(7).—Section 315(a)(7) (2 U.S.C. 441a(a)(7)) is amended by striking subparagraph (B) and inserting the following:

"(B) a thing of value provided in coordination with a candidate, as described in section 301(8)(A)(iii), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate.

(b) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

TITLE III—DISCLOSURE

SEC. 301. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by striking paragraph (11) and inserting the following:

"(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

"(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

"(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form, including the use of a facsimile machine, if not required to do so under the regulation promulgated under clause (i).

"(B) The Commission shall make a designation, statement, report, or notification that is filed electronically with the Commission accessible to the public on the Internet not later than 24 hours after the designation, statement, report, or notification is received by the Commission.

"(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.".

SEC. 302. PROHIBITION OF DEPOSIT OF CONTRIBUTIONS WITH INCOMPLETE CONTRIBUTOR INFORMATION.

Section 302 of Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by adding at the end the following:

"(j) DEPOSIT OF CONTRIBUTIONS.—The treasurer of a candidate's authorized committee shall not deposit, except in an escrow account, or otherwise negotiate a contribution from a person who makes an aggregate amount of contributions in excess of $200 during a calendar year unless the treasurer verifies that the information required by this section with respect to the contributor is complete.".

SEC. 303. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1) IN GENERAL.—" before "The Commission"; and

(2) by adding at the end the following:

"(2) RANDOM AUDITS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act. The selection of any candidate for a random audit or investigation shall be based on criteria adopted by a vote of at least 4 members of the Commission.

"(B) LIMITATION.—The Commission shall not conduct an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer a candidate for the office sought by the candidate in an election cycle.

"(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.".

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking "6 months" and inserting "12 months".

SEC. 304. REPORTING REQUIREMENTS FOR CONTRIBUTIONS OF $50 OR MORE.

Section 304(b)(3)(A) of the Federal Election Campaign Act at 1971 (2 U.S.C. 434(b)(3)(A) is amended—

(1) by striking "$200" and inserting "$50"; and

(2) by striking the semicolon and inserting ", except that in the case of a person who makes contributions aggregating at least $50 but not more than $200 during the calendar year, the identification need include only the name and address of the person;".

SEC. 305. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not—

"(i) include the name of any candidate in its name; or

"(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of the committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 306. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after "SEC. 322." the following: "(a) IN GENERAL.—"; and

(2) by adding at the end the following:

"(b) SOLICITATION OF CONTRIBUTIONS.—No person shall solicit contributions by falsely representing himself or herself as a candidate or as a representative of a candidate, a political committee, or a political party.".

SEC. 307. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

(a) IN GENERAL.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 103(c) and section 203) is amended by adding at the end the following:

"(g) DISBURSEMENTS OF PERSONS OTHER THAN POLITICAL PARTIES.—

"(1) IN GENERAL.—A person, other than a political committee or a person described in section 501(d) of the Internal Revenue Code of 1986, that makes an aggregate amount of disbursements in excess of $50,000 during a calendar year for activities described in paragraph (2) shall file a statement with the Commission—

"(A) on a monthly basis as described in subsection (a)(4)(B); or

"(B) in the case of disbursements that are made within 20 days of an election, within 24 hours after the disbursements are made.

"(2) ACTIVITY.—The activity described in this paragraph is—

"(A) Federal election activity;

"(B) an activity described in section 316(b)(2)(A) that expresses support for or opposition to a candidate for Federal office or a political party; and

"(C) an activity described in subparagraph (C) of section 316(b)(2).

"(3) APPLICABILITY.—This subsection does not apply to—

"(A) a candidate or a candidate's authorized committees; or

"(B) an independent expenditure.

"(4) CONTENTS.—A statement under this section shall contain such information about the disbursements made during the reporting period as the Commission shall prescribe, including—

"(A) the aggregate amount of disbursements made;

"(B) the name and address of the person or entity to whom a disbursement is made in an aggregate amount in excess of $200;

"(C) the date made, amount, and purpose of the disbursement; and

"(D) if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.".

(b) DEFINITION OF GENERIC CAMPAIGN ACTIVITY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 201(b)) is further amended by adding at the end the following:

"(21) GENERIC CAMPAIGN ACTIVITY.—The term 'generic campaign activity' means an activity that promotes a political party and does not promote a candidate or non-Federal candidate.".

SEC. 308. CAMPAIGN ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever";

(ii) by striking "an expenditure" and inserting "a disbursement"; and

(iii) by striking "direct"; and

(B) in paragraph (3), by inserting "and permanent street address" after "name"; and

(2) by adding at the end the following:

"(c) Any printed communication described in subsection (a) shall—

"(1) be of sufficient type size to be clearly readable by the recipient of the communication;

"(2) be contained in a printed box set apart from the other contents of the communication; and

"(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

"(d)(1) Any communication described in paragraphs (1) or (2) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(2) If a communication described in paragraph (1) is transmitted through television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement that—

"(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e) Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following statement: ' is responsible for the content of this advertisement.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

TITLE IV—PERSONAL WEALTH OPTION

SEC. 401. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 101) is amended by adding at the end the following:

"SEC. 324. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT.

"(a) ELIGIBLE CONGRESSIONAL CANDIDATE.—

"(1) PRIMARY ELECTION.—

"(A) DECLARATION.—A candidate for election for Senator or Representative in or Delegate or Resident Commissioner to the Congress is an eligible primary election Congressional candidate if the candidate files with the Commission a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

"(B) TIME TO FILE.—The declaration under subparagraph (A) shall be filed not later than the date on which the candidate files with the appropriate State officer as a candidate for the primary election.

"(2) GENERAL ELECTION.—

"(A) DECLARATION.—A candidate for election for Senator or Representative in or Delegate or Resident Commissioner to the Congress is an eligible general election Congressional candidate if the candidate files with the Commission—

"(i) a declaration under penalty of perjury, with supporting documentation as required by the Commission, that the candidate and the candidate's authorized committees did not exceed the personal funds expenditure limit in connection with the primary election; and

"(ii) a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

"(B) TIME TO FILE.—The declaration under subparagraph (A) shall be filed not later than 7 days after the earlier of—

"(i) the date on which the candidate qualifies for the general election ballot under State law; or

"(ii) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

"(b) PERSONAL FUNDS EXPENDITURE LIMIT.—

"(1) IN GENERAL.—The aggregate amount of expenditures that may be made in connection with an election by an eligible Congressional candidate or the candidate's authorized committees from the sources described in paragraph (2) shall not exceed $50,000.

"(2) SOURCES.—A source is described in this paragraph if the source is—

"(A) personal funds of the candidate and members of the candidate's immediate family; or

"(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

"(c) CERTIFICATION BY THE COMMISSION.—

"(1) IN GENERAL.—The Commission shall determine whether a candidate has met the requirements of this section and, based on the determination, issue a certification stating whether the candidate is an eligible Congressional candidate.

"(2) TIME FOR CERTIFICATION.—Not later than 7 business days after a candidate files a declaration under paragraph (1) or (2) of subsection (a), the Commission shall certify whether the candidate is an eligible Congressional candidate.

"(3) REVOCATION.—The Commission shall revoke a certification under paragraph (1), based on information submitted in such form and manner as the Commission may require or on information that comes to the Commission by other means, if the Commission determines that a candidate violates the personal funds expenditure limit.

"(4) DETERMINATIONS BY COMMISSION.—A determination made by the Commission under this subsection shall be final, except to the extent that the determination is subject to examination and audit by the Commission and to judicial review.

"(d) PENALTY.—If the Commission revokes the certification of an eligible Congressional candidate—

"(1) the Commission shall notify the candidate of the revocation; and

"(2) the candidate and a candidate's authorized committees shall pay to the Commission an amount equal to the amount of expenditures made by a national committee of a political party or a State committee of a political party in connection with the general election campaign of the candidate under section 315(d).".

SEC. 402. POLITICAL PARTY COMMITTEE COORDINATED EXPENDITURES.

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) (as amended by section 204) is amended by adding at the end the following:

"(5) This subsection does not apply to expenditures made in connection with the general election campaign of a candidate for Senator or Representative in or Delegate or Resident Commissioner to the Congress who is not an eligible Congressional candidate (as defined in section 324(a)).".

TITLE V—MISCELLANEOUS

SEC. 501. CODIFICATION OF BECK DECISION.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following new subsection:

"(h) NONUNION MEMBER PAYMENTS TO LABOR ORGANIZATION.—

"(1) IN GENERAL.—It shall be an unfair labor practice for any labor organization which receives a payment from an employee pursuant to an agreement that requires employees who are not members of the organization to make payments to such organization in lieu of organization dues or fees not to establish and implement the objection procedure described in paragraph (2).

"(2) OBJECTION PROCEDURE.—The objection procedure required under paragraph (1) shall meet the following requirements:

"(A) The labor organization shall annually provide to employees who are covered by such agreement but are not members of the organization—

"(i) reasonable personal notice of the objection procedure, the employees eligible to invoke the procedure, and the time, place, and manner for filing an objection; and

"(ii) reasonable opportunity to file an objection to paying for organization expenditures supporting political activities unrelated to collective bargaining, including but not limited to the opportunity to file such objection by mail.

"(B) If an employee who is not a member of the labor organization files an objection under the procedure in subparagraph (A), such organization shall—

"(i) reduce the payments in lieu of organization dues or fees by such employee by an amount which reasonably reflects the ratio that the organization's expenditures supporting political activities unrelated to collective bargaining bears to such organization's total expenditures;

"(ii) provide such employee with a reasonable explanation of the organization's calculation of such reduction, including calculating the amount of organization expenditures supporting political activities unrelated to collective bargaining.

"(3) DEFINITION.—In this subsection, the term 'expenditures supporting political activities unrelated to collective bargaining' means expenditures in connection with a Federal, State, or local election or in connection with efforts to influence legislation unrelated to collective bargaining.".

SEC. 502. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

"SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

"(a) PERMITTED USES.—A contribution accepted by a candidate, and any other amount received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

"(1) for expenditures in connection with the campaign for Federal office of the candidate or individual;

"(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

"(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

"(4) for transfers to a national, State, or local committee of a political party.

"(b) Prohibited Use.—

"(1) In general.—A contribution or amount described in subsection (a) shall not be converted by any person to personal use.

"(2) Conversion.—For the purposes of paragraph (1), a contribution or amount shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal officeholder, including—

"(A) a home mortgage, rent, or utility payment;

"(B) a clothing purchase;

"(C) a noncampaign-related automobile expense;

"(D) a country club membership;

"(E) a vacation or other noncampaign-related trip;

"(F) a household food item;

"(G) a tuition payment;

"(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

"(I) dues, fees, and other payments to a health club or recreational facility.".

SEC. 503. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

"(A) A Member of Congress shall not mail any mass mailing as franked mail during the 180-day period which ends on the date of the general election for the office held by the Member or during the 90-day period which ends on the date of any primary election for that office, unless the Member has made a public announcement that the Member will not be a candidate for reelection during that year or for election to any other Federal office.".

SEC. 504. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) Prohibition.—

"(1) In general.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value for a political committee or a candidate for Federal, State or local office from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. An individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, shall not solicit a donation of money or other thing of value for a political committee or candidate for Federal, State or local office, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

"(2) Penalty.—A person who violates this section shall be fined not more than $5,000, imprisoned more than 3 years, or both."; and

(2) by inserting in subsection (b) after "Congress" "or Executive Office of the President".

SEC. 505. PENALTIES FOR KNOWING AND WILLFUL VIOLATIONS.

(a) Increased Penalties.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraphs (5)(A), (6)(A), and (6)(B), by striking "$5,000" and inserting "$10,000"; and

(2) in paragraphs (5)(B) and (6)(C), by striking "$10,000 or an amount equal to 200 percent" and inserting "$20,000 or an amount equal to 300 percent".

(b) Equitable Remedies.—Section 309(a)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking the period at the end and inserting ", and may include equitable remedies or penalties, including disgorgement of funds to the Treasury or community service requirements (including requirements to participate in public education programs).".

(c) Automatic Penalty for Late Filing.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

"(13) Penalty for late filing.—

"(A) In general.—

"(i) Monetary penalties.—The Commission shall establish a schedule of mandatory monetary penalties that shall be imposed by the Commission for failure to meet a time requirement for filing under section 304.

"(ii) Required filing.—In addition to imposing a penalty, the Commission may require a report that has not been filed within the time requirements of section 304 to be filed by a specific date.

"(iii) Procedure.—A penalty or filing requirement imposed under this paragraph shall not be subject to paragraph (1), (2), (3), (4), (5), or (12).

"(B) Filing an exception.—

"(i) Time to file.—A political committee shall have 30 days after the imposition of a penalty or filing requirement by the Commission under this paragraph in which to file an exception with the Commission.

"(ii) Time for Commission to rule.—Within 30 days after receiving an exception, the Commission shall make a determination that is a final agency action subject to exclusive review by the United States Court of Appeals for the District of Columbia Circuit under section 706 of title 5, United States Code, upon petition filed in that court by the political committee or treasurer that is the subject of the agency action, if the petition is filed within 30 days after the date of the Commission action for which review is sought.";

(2) in paragraph (5)(D)—

(A) by inserting after the first sentence the following: "In any case in which a penalty or filing requirement imposed on a political committee or treasurer under paragraph (13) has not been satisfied, the Commission may institute a civil action for enforcement under paragraph (6)(A)."; and

(B) by inserting before the period at the end of the last sentence the following: "or has failed to pay a penalty or meet a filing requirement imposed under paragraph (13)"; and

(3) in paragraph (6)(A), by striking "paragraph (4)(A)" and inserting "paragraph (4)(A) or (13)".

SEC. 506. STRENGTHENING FOREIGN MONEY BAN.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting the following: "CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS"; and

(2) by striking subsection (a) and inserting the following:

"(a) Prohibition.—It shall be unlawful for—

"(1) a foreign national, directly or indirectly, to make—

"(A) a donation of money or other thing of value, or to promise expressly or impliedly to make a donation, in connection with a Federal, State, or local election to a political committee or a candidate for Federal office, or

"(B) a contribution or donation to a committee of a political party; or

"(2) a person to solicit, accept, or receive a contribution or donation described in paragraph (1)(A) from a foreign national.".

SEC. 507. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by sections 101 and 401) is amended by adding at the end the following:

"SEC. 325. PROHIBITION OF CONTRIBUTIONS BY MINORS.

An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.".

SEC. 508. EXPEDITED PROCEDURES.

(a) In General.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) (as amended by section 505(c)) is amended by adding at the end the following:

"(14)(A) If the complaint in a proceeding was filed within 60 days preceding the date of a general election, the Commission may take action described in this subparagraph.

"(B) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur, the Commission may order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties.

"(C) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

"(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

"(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.".

(b) Referral to Attorney General.—Section 309(a)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking subparagraph (C) and inserting the following:

"(C) The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986, to the Attorney General of the United States, without regard to any limitation set forth in this section.".

SEC. 509. INITIATION OF ENFORCEMENT PROCEEDING.

Section 309(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is amended by striking "reason to believe that" and inserting "reason to investigate whether".

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

SEC. 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 602. REVIEW OF CONSTITUTIONAL ISSUES.

An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

SEC. 603. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect January 1, 1999.

SEC. 604. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 180 days after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. SNOWBARGER

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 14: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Elections and Political Accountability Act".

SEC. 2. REMOVAL OF LIMITATIONS ON FEDERAL ELECTION CAMPAIGN CONTRIBUTIONS.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) The limitations established under this subsection shall not apply to contributions made during calendar years beginning after 1998.".

SEC. 3. PROMOTING EXPEDITED AVAILABILITY OF FEC REPORTS; LOWERING THRESHOLD FOR COLLECTION AND DISCLOSURE OF IDENTIFICATION OF CONTRIBUTORS.

(a) MANDATORY ELECTRONIC FILING.—Section 304(a)(11)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(A)) is amended by striking "permit reports required by" and inserting "require reports under".

(b) REQUIRING REPORTS FOR CERTAIN CONTRIBUTIONS MADE TO ANY POLITICAL COMMITTEE WITHIN 60 DAYS OF ELECTION; REQUIRING REPORTS TO BE MADE WITHIN 48 HOURS.—Section 304(a)(6) of such Act (2 U.S.C. 434(a)(6)) is amended to read as follows:

"(6)(A) Each political committee shall notify the Secretary or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution in an aggregate amount equal to or greater than $100 which is received by the committee during the period which begins on the 60th day before an election and ends at the time the polls close for such election. This notification shall be made not later than midnight of the day on which the contribution is deposited (but in no event later than 48 hours after receipt) and shall include the name of the candidate involved (as appropriate) and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.

"(B) If a political committee returns a contribution for which notification is made under subparagraph (A), the committee shall notify the Secretary or the Commission, and the Secretary of State (as appropriate).

"(C) The notifications required under this paragraph shall be in addition to all other reporting requirements under this Act.".

(c) INCREASING ELECTRONIC DISCLOSURE.—Section 304 of such Act (2 U.S.C. 434(a)) is amended by adding at the end the following new subsection:

"(d)(1) The Commission shall make the information contained in the reports submitted under this section available on the Internet and publicly available at the offices of the Commission as soon as practicable (but in no case later than 24 hours) after the information is received by the Commission.

"(2) In this subsection, the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet-switched data networks.".

(d) LOWERING THRESHOLD FOR COLLECTION AND DISCLOSURE OF IDENTIFICATION OF CONTRIBUTORS.—

(1) REPORTING REQUIREMENTS.—Section 304(b)(3) of such Act (2 U.S.C. 434(b)(3)) is amended—

(A) in subparagraph (A), by striking "whose contribution or contributions have an aggregate amount or value in excess of $200 within the calendar year, or in any lesser amount if the reporting committee should so elect,"; and

(B) in subparagraphs (F) and (G), by striking "in an aggregate amount or value in excess of $200" each place it appears.

(2) INFORMATION REQUIRED TO BE FORWARDED TO POLITICAL COMMITTEES.—Section 302(b) of such Act (2 U.S.C. 432(b)) is amended—

(A) in paragraph (1), by striking "and if the amount of the contribution is in excess of $50" and inserting "together with"; and

(B) in paragraph (2), by striking "shall—" and all that follows and inserting the following: "shall forward to the treasurer such contribution, the name and address of the person making the contribution, and the date of receipt of the contribution, no later than 10 days after receiving the contribution.".

(3) INFORMATION REQUIRED TO BE KEPT BY POLITICAL COMMITTEES.—Section 302(c) of such Act (2 U.S.C. 432(c)) is amended—

(A) by striking paragraph (2); and

(B) in paragraph (3), by striking "or contributions aggregating more than $200".

(e) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to reports for periods beginning on or after January 1, 1999.

SEC. 4. PROHIBITING CONTRIBUTIONS BY FOREIGN NATIONALS AND INDIVIDUALS NOT QUALIFIED TO REGISTER TO VOTE IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended to read as follows:

"CONTRIBUTIONS BY FOREIGN NATIONALS AND INDIVIDUALS NOT QUALIFIED TO REGISTER TO VOTE IN FEDERAL ELECTIONS

"SEC. 319. (a) FOREIGN NATIONALS.—

"(1) IN GENERAL.—It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

"(2) DEFINITION.—As used in this subsection, the term 'foreign national' means a foreign principal, as defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)).

"(b) INDIVIDUALS NOT QUALIFIED TO REGISTER TO VOTE IN FEDERAL ELECTIONS.—

"(1) PROHIBITING CONTRIBUTIONS.—It shall be unlawful for any individual who is not qualified to register to vote in an election for Federal office directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office.

"(2) PROHIBITING SOLICITATION OR ACCEPTANCE OF CONTRIBUTIONS.—It shall be unlawful for any person to knowingly solicit, accept, or receive any contribution of money or other thing of value from an individual who is not qualified to register to vote in an election for Federal office.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections occurring after January 1999.

SEC. 5. FUNDING OF POLITICAL ACTIVITIES BY CORPORATIONS AND LABOR ORGANIZATIONS.

(a) PROHIBITING DONATION OF FUNDS TO POLITICAL PARTIES.—

(1) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) No national bank, corporation, or labor organization described in this section may make any payment of any gift, subscription, loan, advance, or deposit of money or anything of value to any political committee established and maintained by a political party (including a congressional campaign committee of a political party) in support of the committee's activities.

"(2) Paragraph (1) shall not apply to a contribution or expenditure made by a separate segregated fund of a corporation or labor organization described in subsection (b)(2)(C).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to elections occurring after January 1999.

(b) PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.—

(1) IN GENERAL.—Section 316 of such Act (2 U.S.C. 441b), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(d)(1) Except with the separate, prior, written, voluntary authorization of the individual involved, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders any dues, initiation fee, or other payment, or collect from or assess its employees any dues, initiation fee, or other payment as a condition of employment, if any part of such dues, fee, or payment will be used for Federal campaign activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for Federal campaign activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'Federal campaign activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office or educating individuals about candidates for election for Federal office, except that such term does not include the making of any communication provided by a corporation to its employees and their families or by a labor organization to its members and their families on any subject.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

SEC. 6. PROHIBITING CONTRIBUTIONS DURING SIX MONTHS FOLLOWING GENERAL ELECTION.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"PROHIBITING CONTRIBUTIONS DURING SIX MONTHS FOLLOWING GENERAL ELECTION

"SEC. 323. (a) IN GENERAL.—No person may make any contribution with respect to an election for Federal office to any political committee of a candidate for election for such office during the 180-day period which begins on the date of the previous regularly scheduled general election for such office, unless the election is a runoff or special election.

"(b) EXCEPTION FOR CONTRIBUTIONS IN CONNECTION WITH EXPENSES OF PREVIOUS ELECTION.—Subsection (a) shall not apply with respect to a contribution made solely in connection with the expenses of an election held prior to the date on which the contribution is made.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections occurring after January 1999.

SEC. 7. INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL ELECTION COMMISSION.

Section 314 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by adding at the end the following new sentence: "There are authorized to be appropriated to the Commission $60,000,000 for each of the fiscal years 1999, 2000, and 2001, of which not less than $28,350,000 shall be used during each such fiscal year for enforcement activities.".

SEC. 8. ENHANCING ENFORCEMENT OF CAMPAIGN FINANCE LAW.

(a) MANDATORY IMPRISONMENT FOR CRIMINAL CONDUCT.—Section 309(d)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)(1)(A)) is amended—

(1) in the first sentence, by striking "shall be fined, or imprisoned for not more than one year, or both" and inserting "shall be imprisoned for not fewer than 1 year and not more than 10 years"; and

(2) by striking the second sentence.

(b) CONCURRENT AUTHORITY OF ATTORNEY GENERAL TO BRING CRIMINAL ACTIONS.—Section 309(d) of such Act (2 U.S.C. 437g(d)) is amended by adding at the end the following new paragraph:

"(4) In addition to the authority to bring cases referred pursuant to subsection (a)(5), the Attorney General may at any time bring a criminal action for a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to actions brought with respect to elections occurring after January 1999.

H.R. 2183

OFFERED BY: MR. TIERNEY

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 15: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Clean Money, Clean Elections Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CLEAN MONEY FINANCING OF HOUSE ELECTION CAMPAIGNS

Sec. 101. Findings and declarations.
Sec. 102. Eligibility requirements and benefits of clean money financing of House election campaigns.

"TITLE V—CLEAN MONEY FINANCING OF HOUSE ELECTION CAMPAIGNS

"Sec. 501. Definitions.
"Sec. 502. Eligibility for clean money.
"Sec. 503. Requirements applicable to clean money candidates.
"Sec. 504. Seed money.
"Sec. 505. Certification by Commission.
"Sec. 506. Benefits for clean money candidates.
"Sec. 507. Administration of clean money.
"Sec. 508. Expenditures made from funds other than clean money.
"Sec. 509. Authorization of appropriations."

Sec. 103. Reporting requirements for expenditures of private money candidates.
Sec. 104. Transition rule for current election cycle.

TITLE II—INDEPENDENT EXPENDITURES; COORDINATED POLITICAL PARTY EXPENDITURES

Sec. 201. Reporting requirements for independent expenditures.
Sec. 202. Definition of independent expenditure.
Sec. 203. Limit on expenditures by political party committees.
Sec. 204. Party independent expenditures and other coordinated expenditures.

TITLE III—VOTER INFORMATION

Sec. 301. Free broadcast time.
Sec. 302. Broadcast rates and preemption.
Sec. 303. Campaign advertising.
Sec. 304. Limit on Congressional use of the franking privilege.

TITLE IV—SOFT MONEY OF POLITICAL PARTY COMMITTEES

Sec. 401. Soft money of political party committees.
Sec. 402. State party grassroots funds.
Sec. 403. Reporting requirements.

TITLE V—RESTRUCTURING AND STRENGTHENING OF THE FEDERAL ELECTION COMMISSION

Sec. 501. Appointment and terms of Commissioners.
Sec. 502. Audits.
Sec. 503. Authority to seek injunction.
Sec. 504. Standard for investigation.
Sec. 505. Petition for certiorari.
Sec. 506. Expedited procedures.
Sec. 507. Filing of reports using computers and facsimile machines.
Sec. 508. Power to issue subpoena without signature of chairperson.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Severability.
Sec. 602. Review of constitutional issues.
Sec. 603. Effective date.

TITLE I—CLEAN MONEY FINANCING OF HOUSE ELECTION CAMPAIGNS

SEC. 101. FINDINGS AND DECLARATIONS.

(a) UNDERMINING OF DEMOCRACY BY CAMPAIGN CONTRIBUTIONS FROM PRIVATE SOURCES.—The Congress finds and declares that the current system of privately financed campaigns for election to the House of Representatives has the capacity, and is often perceived by the public, to undermine democracy in the United States by—

(1) violating the democratic principle of "one person, one vote" and diminishing the meaning of the right to vote by allowing monied interests to have a disproportionate and unfair influence within the political process;

(2) diminishing or giving the appearance of diminishing a Member of the House of Representatives's accountability to constituents by compelling legislators to be accountable to the major contributors who finance their election campaigns;

(3) creating a conflict of interest, perceived or real, by encouraging Members to take money from private interests that are directly affected by Federal legislation;

(4) imposing large, unwarranted costs on taxpayers through legislative and regulatory outcomes shaped by unequal access to lawmakers for campaign contributors;

(5) driving up the cost of election campaigns, making it difficult for qualified candidates without personal fortunes or access to campaign contributions from monied individuals and interest groups to mount competitive House of Representatives election campaigns;

(6) disadvantaging challengers, because large campaign contributors tend to give their money to incumbent Members, thus causing House of Representatives elections to be less competitive; and

(7) burdening incumbents with a preoccupation with fundraising and thus decreasing the time available to carry out their public responsibilities.

(b) ENHANCEMENT OF DEMOCRACY BY PROVIDING CLEAN MONEY.—Congress finds and declares that providing the option of the replacement of private campaign contributions with clean money financing for all primary, runoff, and general elections to the House of Representatives would enhance American democracy by—

(1) helping to eliminate access to wealth as a determinant of a citizen's influence within the political process and to restore meaning to the principle of "one person, one vote";

(2) increasing the public's confidence in the accountability of Members to the constituents who elect them;

(3) eliminating the potentially inherent conflict of interest caused by the private financing of the election campaigns of public officials, thus restoring public confidence in the fairness of the electoral and legislative processes;

(4) reversing the escalating cost of elections and saving taxpayers billions of dollars that are (or that are perceived to be) currently misspent due to legislative and regulatory agendas skewed by the influence of contributions;

(5) creating a more level playing field for incumbents and challengers, creating genuine opportunities for all Americans to run

for the House of Representatives, and encouraging more competitive elections; and

(6) freeing Members from the constant preoccupation with raising money, and allowing them more time to carry out their public responsibilities.

SEC. 102. ELIGIBILITY REQUIREMENTS AND BENEFITS OF CLEAN MONEY FINANCING OF HOUSE ELECTION CAMPAIGNS.

The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"TITLE V—CLEAN MONEY FINANCING OF HOUSE ELECTION CAMPAIGNS

"SEC. 501. DEFINITIONS.

"In this title:

"(1) ALLOWABLE CONTRIBUTION.—The term 'allowable contribution' means a qualifying contribution or seed money contribution.

"(2) CLEAN MONEY.—The term 'clean money' means funds that are made available by the Commission to a clean money candidate under this title.

"(3) CLEAN MONEY CANDIDATE.—The term 'clean money candidate' means a candidate for Member of or Delegate or Resident Commissioner to the Congress who is certified under section 505 as being eligible to receive clean money.

"(4) CLEAN MONEY QUALIFYING PERIOD.—The term 'clean money qualifying period' means the period beginning on the date that is 180 days before the date of the primary election and ending on the date that is 30 days before the date of the general election. In the event of a special election, the clean money qualifying period shall begin on the earlier date of either the date that is 180 days before the date of the special election or on the date of announcement of such special election date if same as within 180 days of the date of the special election. It shall end on the date that is 30 days before the date of the special election.

"(5) GENERAL ELECTION PERIOD.—The term 'general election period' means, with respect to a candidate, the period beginning on the day after the date of the primary or primary runoff election for the specific office that the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of the general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

"(6) GENERAL RUNOFF ELECTION PERIOD.—The term 'general runoff election period' means, with respect to a candidate, the period beginning on the day following the date of the last general election for the specific office that the candidate is seeking and ending on the date of the runoff election for that office.

"(7) HOUSE OF REPRESENTATIVES ELECTION FUND.—The term 'House of Representatives Election Fund' means the fund established by section 507(a).

"(8) IMMEDIATE FAMILY.—The term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B).

"(9) MAJOR PARTY CANDIDATE.—The term 'major party candidate' means a candidate of a political party of which a candidate for Member of or Delegate or Resident Commissioner to the Congress, for President, or for Governor in the preceding 5 years received, as a candidate of that party, 25 percent or more of the total number of popular votes received in the State (or Congressional district, if applicable) by all candidates for the same office.

"(10) PERSONAL FUNDS.—The term 'personal funds' means an amount that is derived from—

"(A) the personal funds of the candidate or a member of the candidate's immediate family; and

"(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

"(11) PERSONAL USE.—

"(A) IN GENERAL.—The term 'personal use' means the use of funds to fulfill a commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office.

"(B) INCLUSIONS.—The term 'personal use' includes, but is not limited to—

"(i) a home mortgage, rent, or utility payment;

"(ii) a clothing purchase;

"(iii) a noncampaign-related automobile expense;

"(iv) a country club membership;

"(v) a vacation or other noncampaign-related trip;

"(vi) a household food item;

"(vii) a tuition payment;

"(viii) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

"(ix) dues, fees, and other payments to a health club or recreational facility.

"(12) PRIMARY ELECTION PERIOD.—The term 'primary election period' means the period beginning on the date that is 90 days before the date of the primary election and ending on the date of the primary election. In the event of a special primary election, if applicable, the term 'primary election period' means the period beginning on the date that is the longer of 90 days before the date of such special primary election, or the date of establishment by the appropriate election authority of the special primary election date and ending on the date of the special primary election.

"(13) PRIMARY RUNOFF ELECTION PERIOD.—The term 'primary runoff election period' means, with respect to a candidate, the period beginning on the day following the date of the last primary election for the specific office that the candidate is seeking and ending on the date of the runoff election for that office.

"(14) PRIVATE MONEY CANDIDATE.—The term 'private money candidate' means a candidate for Member of or Delegate or Resident Commissioner to the Congress other than a clean money candidate.

"(15) QUALIFYING CONTRIBUTION.—The term 'qualifying contribution' means a contribution that—

"(A) is in the amount of $5 exactly;

"(B) is made by an individual who is registered to vote in the candidate's State;

"(C) is made during the clean money qualifying period; and

"(D) meets the requirements of section 502(a)(2)(D).

"(16) SEED MONEY CONTRIBUTION.—The term 'seed money contribution' means a contribution (or contributions in the aggregate made by any 1 person) of not more than $100.

"(17) STATE.—The term 'State' includes the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, and Guam.

"SEC. 502. ELIGIBILITY FOR CLEAN MONEY.

"(a) PRIMARY ELECTION PERIOD AND PRIMARY RUNOFF ELECTION PERIOD.—

"(1) IN GENERAL.—A candidate qualifies as a clean money candidate during the primary election period and primary runoff election period if the candidate files with the Commission a declaration, signed by the candidate and the treasurer of the candidate's principal campaign committee, that the candidate—

"(A) has complied and will comply with all of the requirements of this title;

"(B) will not run in the general election as a private money candidate; and

"(C) meets the qualifying contribution requirement of paragraph (2).

"(2) QUALIFYING CONTRIBUTION REQUIREMENT.—

"(A) MAJOR PARTY CANDIDATES AND CERTAIN INDEPENDENT CANDIDATES.—The requirement of this paragraph is met if, during the clean money qualifying period, a major party candidate (or an independent candidate who meets the minimum vote percentage required for a major party candidate under section 501(9)) receives 1,500 qualifying contributions.

"(B) OTHER CANDIDATES.—The requirement of this paragraph is met if, during the clean money qualifying period, a candidate who is not described in subparagraph (A) receives a number of qualifying contributions that is at least 150 percent of the number of qualifying contributions that a candidate described in subparagraph (A) in the same election is required to receive under subparagraph (A).

"(C) RECEIPT OF QUALIFYING CONTRIBUTION.—A qualifying contribution shall—

"(i) be accompanied by the contributor's name and home address;

"(ii) be accompanied by a signed statement that the contributor understands the purpose of the qualifying contribution;

"(iii) be made by a personal check or money order payable to the House of Representatives Election Fund or by cash; and

"(iv) be acknowledged by a receipt that is sent to the contributor with a copy kept by the candidate for the Commission and a copy kept by the candidate for the election authorities in the candidate's State.

"(D) DEPOSIT OF QUALIFYING CONTRIBUTIONS IN HOUSE OF REPRESENTATIVES ELECTION FUND.—

"(i) IN GENERAL.—Not later than the date that is 1 day after the date on which the candidate is certified under section 505, a candidate shall remit all qualifying contributions to the Commission for deposit in the House of Representatives Election Fund.

"(ii) CANDIDATES THAT ARE NOT CERTIFIED.—Not later than the last day of the clean money qualifying period, a candidate who has received qualifying contributions and is not certified under section 505 shall remit all qualifying contributions to the Commission for deposit in the House of Representatives Election Fund.

"(3) TIME TO FILE DECLARATION.—A declaration under paragraph (1) shall be filed by a candidate not later than the date that is 30 days before the date of the primary election. With respect to any special primary election, a declaration under paragraph (1) shall be filed by a candidate not later than the date that is 30 days before the special primary election.

"(b) GENERAL ELECTION PERIOD.—

"(1) IN GENERAL.—A candidate qualifies as a clean money candidate during the general election period if—

"(A)(i) the candidate qualified as a clean money candidate during the primary election period (and primary runoff election period, if applicable); or

"(ii) the candidate files with the Commission a declaration, signed by the candidate and the treasurer of the candidate's principal committee, that the candidate—

“(I) has complied and will comply with all the requirements of this title; and

“(II) meets the qualifying contribution requirement of subsection (a)(2);

“(B) the candidate files with the Commission a written agreement between the candidate and the candidate's political party in which the political party agrees not to make any expenditures in connection with the general election of the candidate in excess of the limit in section 315(d)(3)(C); and

“(C) the candidate's party nominated the candidate to be placed on the ballot for the general election or the candidate qualified to be placed on the ballot as an independent candidate, and the candidate is qualified under State law to be on the ballot.

“(2) Time to file declaration or statement.—A declaration or statement required to be filed under paragraph (1) shall be filed by a candidate not later than the date that is 30 days before the date of the general election. With respect to any special general election, a declaration or statement required to be filed under paragraph (1) shall be filed by a candidate not later than the date that is 30 days before the date of the special general election.

“(c) General Runoff Election Period.—A candidate qualifies as a clean money candidate during the general runoff election period if the candidate qualified as a clean money candidate during the general election period.

“SEC. 503. REQUIREMENTS APPLICABLE TO CLEAN MONEY CANDIDATES.

“(a) Contributions and Expenditures.—

“(1) Prohibition of private contributions.—Except as otherwise provided in this title, during the election cycle of a clean money candidate, the candidate shall not accept contributions other than clean money from any source.

“(2) Prohibition of expenditures from private sources.—Except as otherwise provided in this title, during the election cycle of a clean money candidate, the candidate shall not make expenditures from any amounts other than clean money amounts.

“(b) Use of Personal Funds.—

“(1) In general.—A clean money candidate shall not use personal funds to make an expenditure except as provided in paragraph (2).

“(2) Exceptions.—A seed money contribution or qualifying contribution from the candidate or a member of the candidate's immediate family shall not be considered to be use of personal funds.

“SEC. 504. SEED MONEY.

“(a) Seed Money Limit.—A clean money candidate may accept seed money contributions in an aggregate amount not exceeding $35,000.

“(b) Contribution Limit.—Except as provided in section 502(a)(2), a clean money candidate shall not accept a contribution from any person except a seed money contribution (as defined in section 501).

“(c) Records.—A clean money candidate shall maintain a record of the contributor's name, street address, and amount of the contribution.

“(d) Use of Seed Money.—

“(1) In general.—A clean money candidate may expend seed money for any election campaign-related costs, including costs to open an office, fund a grassroots campaign, or hold community meetings.

“(2) Prohibited uses.—A clean money candidate shall not expend seed money for—

“(A) a television or radio broadcast; or

“(B) personal use.

“(e) Report.—Unless a seed money contribution or expenditure made with a seed money contribution has been reported previously under section 304, a clean money candidate shall file with the Commission a report disclosing all seed money contributions and expenditures not later than 48 hours after—

“(1) the earliest date on which the Commission makes funds available to the candidate for an election period under paragraph (1) or (2) of section 506(b); or

“(2) the end of the clean money qualifying period,

whichever occurs first.

“(f) Time to Accept Seed Money Contributions.—A clean money candidate may accept seed money contributions for an election from the day after the date of the previous general election for the office to which the candidate is seeking election through the earliest date on which the Commission makes funds available to the candidate for an election period under paragraph (1) or (2) of section 506(b).

“(g) Deposit of Unspent Seed Money Contributions.—A clean money candidate shall remit any unspent seed money to the Commission, for deposit in the House of Representatives Election Fund, not later than the earliest date on which the Commission makes funds available to the candidate for an election period under paragraph (1) or (2) of section 506(b).

“(h) Not Considered an Expenditure.—An expenditure made with seed money shall not be treated as an expenditure for purposes of section 506(f)(2).

“SEC. 505. CERTIFICATION BY COMMISSION.

“(a) In General.—Not later than 5 days after a candidate files a declaration under section 502, the Commission shall—

“(1) determine whether the candidate meets the eligibility requirements of section 502; and

“(2) certify whether or not the candidate is a clean money candidate.

“(b) Revocation of Certification.—The Commission may revoke a certification under subsection (a) if a candidate fails to comply with this title.

“(c) Repayment of Benefits.—If certification is revoked under subsection (b), the candidate shall repay to the House of Representatives Election Fund an amount equal to the value of benefits received under this title.

“SEC. 506. BENEFITS FOR CLEAN MONEY CANDIDATES.

“(a) In General.—A clean money candidate shall be entitled to—

“(1) a clean money amount for each election period to make or obligate to make expenditures during the election period for which the clean money is provided, as provided in subsection (c);

“(2) media benefits under section 315 of the Communications Act of 1934 (47 U.S.C. 315); and

“(3) an aggregate amount of increase in the clean money amount in response to certain independent expenditures and expenditures of a private money candidate under subsection (d) that, in the aggregate, are in excess of 125 percent of the clean money amount of the clean money candidate.

“(b) Payment of Clean Money Amount.—

“(1) Primary election.—The Commission shall make funds available to a clean money candidate on the later of—

“(A) the date on which the candidate is certified as a clean money candidate under section 505; or

“(B) the date on which the primary election period begins.

“(2) General election.—The Commission shall make funds available to a clean money candidate not later than 48 hours after—

“(A) certification of the primary election or primary runoff election result; or

“(B) the date on which the candidate is certified as a clean money candidate under section 505 for the general election,

whichever occurs first.

“(3) Runoff election.—The Commission shall make funds available to a clean money candidate not later than 48 hours after the certification of the primary or general election result (as applicable).

“(c) Clean Money Amounts.—

“(1) In general.—Except as provided in paragraph (2), the clean money amount paid to a clean money candidate with respect to an election shall be equal to the applicable percentage of 80 percent of the base amount for the election cycle involved, except that in no event may the amount determined under this subsection for a clean money candidate for an election cycle be less than the amount determined under this subsection for the candidate for the previous election cycle.

“(2) Reduction for uncontested elections.—If a clean money candidate has no opposition in an election for which a payment is made under this section, the clean money amount paid shall be 40 percent of the amount otherwise determined under paragraph (1).

“(3) Definitions.—

“(A) Applicable percentage.—In this subsection, the 'applicable percentage' is as follows:

“(i) 25 percent, in the case of a candidate in a primary election who is not a major party candidate.

“(ii) 40 percent, in the case of a major party candidate in a primary election.

“(iii) 60 percent, in the case of any candidate in a general election.

“(B) Base amount.—In this subsection, the term 'base amount' means (with respect to an election cycle) the national average of all amounts expended by winning candidates during the 3 most recent general elections for Member of, or Delegate or Resident Commissioner to, the Congress preceding the election cycle involved.

“(d) Matching Funds in Response to Independent Expenditures and Expenditures of Private Money Candidates.—

“(1) In general.—If the Commission—

“(A) receives notification under—

“(i) subparagraphs (A) or (B) of section 304(c)(2) that a person has made or obligated to make an independent expenditure in an aggregate amount of $1,000 or more in an election period or that a person has made or obligated to make an independent expenditure in an aggregate amount of $500 or more during the 20 days preceding the date of an election in support of another candidate or against a clean money candidate; or

“(ii) section 304(d)(1) that a private money candidate has made or obligated to make expenditures in an aggregate amount in excess of 100 percent of the amount of clean money provided to a clean money candidate who is an opponent of the private money candidate in the same election; and

“(B) determines that the aggregate amount of expenditures reported under subparagraph (A) in an election period is in excess of 125 percent of the amount of clean money provided to a clean money candidate who is an opponent of the private money candidate in the same election or against whom the independent expenditure is made, the Commission shall make available to the clean money candidate, not later than 24 hours after receiving a notification under subparagraph (A), an aggregate amount of increase in clean money in an amount equal to the aggregate amount of expenditures that is in excess of 125 percent of the amount of clean money provided to the clean money candidate as determined under subparagraph (B).

"(2) CLEAN MONEY CANDIDATES OPPOSED BY MORE THAN 1 PRIVATE MONEY CANDIDATE.—For purposes of paragraph (1), if a clean money candidate is opposed by more than 1 private money candidate in the same election, the Commission shall take into account only the amount of expenditures of the private money candidate that expends, in the aggregate, the greatest amount (as determined each time notification is received under section 304(d)(1)).

"(3) CLEAN MONEY CANDIDATES OPPOSED BY CLEAN MONEY CANDIDATES.—If a clean money candidate is opposed by a clean money candidate, the increase in clean money amounts under paragraph (1) shall be made available to the clean money candidate if independent expenditures are made against the clean money candidate or in behalf of the opposing clean money candidate in the same manner as the increase would be made available for a clean money candidate who is opposed by a private money candidate.

"(e) LIMITS ON MATCHING FUNDS.—The aggregate amount of clean money that a clean money candidate receives to match independent expenditures and the expenditures of private money candidates under subsection (d) shall not exceed 200 percent of the clean money amount that the clean money candidate receives under subsection (c).

"(f) EXPENDITURES MADE WITH CLEAN MONEY AMOUNTS.—

"(1) IN GENERAL.—The clean money amount received by a clean money candidate shall be used only for the purpose of making or obligating to make expenditures during the election period for which the clean money is provided.

"(2) EXPENDITURES IN EXCESS OF CLEAN MONEY AMOUNT.—A clean money candidate shall not make expenditures or incur obligations in excess of the clean money amount.

"(3) PROHIBITED USES.—The clean money amount received by a clean money candidate shall not be—

"(A) converted to a personal use; or

"(B) used in violation of law.

"(4) REPAYMENT; CIVIL PENALTIES.—

"(A) If the Commission determines that any benefit made available to a clean money candidate under this title was not used as provided for in this title, or that a clean money candidate has violated any of the spending limits or dates for remission of funds contained in this Act, the Commission shall so notify the candidate and the candidate shall pay to the House of Representatives' Election Fund an amount equal to the amount of benefits so used, or the amount spent in excess of the limits or the amount not timely remitted, as appropriate.

"(B) Any action by the Commission in accordance with this section shall not preclude enforcement proceedings by the Commission in accordance with section 309(a), including a referral by the Commission to the Attorney General in the case of an apparent knowing and willful violation of this title.

"(g) REMITTING OF CLEAN MONEY AMOUNTS.—Not later than the date that is 14 days after the last day of the applicable election period, a clean money candidate shall remit any unspent clean money amount to the Commission for deposit in the House of Representatives Election Fund.

"SEC. 507. ADMINISTRATION OF CLEAN MONEY.

"(a) HOUSE OF REPRESENTATIVES ELECTION FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a fund to be known as the 'House of Representatives Election Fund'.

"(2) DEPOSITS.—The Commission shall deposit unspent seed money contributions, qualifying contributions, penalty amounts received under this title, and amounts appropriated for clean money financing in the House of Representatives Election Fund.

"(3) FUNDS.—The Commission shall withdraw the clean money amount for a clean money candidate from the House of Representatives Election Fund.

"(b) REGULATIONS.—The Commission shall promulgate regulations to—

"(1) effectively and efficiently monitor and enforce the limits on use of private money by clean money candidates;

"(2) effectively and efficiently monitor use of publicly financed amounts under this title; and

"(3) enable clean money candidates to monitor expenditures and comply with the requirements of this title.

"SEC. 508. EXPENDITURES MADE FROM FUNDS OTHER THAN CLEAN MONEY.

"If a clean money candidate makes an expenditure using funds other than funds provided under this title, the Commission shall assess a civil penalty against the candidate in an amount that is not more than 10 times the amount of the expenditure.

"SEC. 509. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the House of Representatives Election Fund such sums as are necessary to carry out this title.".

SEC. 103. REPORTING REQUIREMENTS FOR EXPENDITURES OF PRIVATE MONEY CANDIDATES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

"(d) PRIVATE MONEY CANDIDATES.—

"(1) EXPENDITURES IN EXCESS OF CLEAN MONEY AMOUNTS.—Not later than 48 hours after making or obligating to make an expenditure, a private money candidate (as defined in section 501) that makes or obligates to make expenditures, in an aggregate amount in excess of 100 percent of the amount of clean money provided to a clean money candidate (as defined in section 501), during an election period (as defined by section 501) who is an opponent of the clean money candidate shall file with the Commission a report stating the amount of each expenditure (in increments of an aggregate amount of $100) made or obligated to be made.

"(2) PLACE OF FILING; NOTIFICATION.—

"(A) PLACE OF FILING.—A report under this subsection shall be filed with the Commission.

"(B) NOTIFICATION OF CLEAN MONEY CANDIDATES.—Not later than 24 hours after receipt of a report under this subsection, the Commission shall notify each clean money candidate seeking nomination for election to, or election to, the office in question, of the receipt of the report.

"(3) DETERMINATIONS BY THE COMMISSION.—

"(A) IN GENERAL.—The Commission may, on a request of a candidate or on its own initiative, make a determination that a private money candidate has made, or has obligated to make, expenditures in excess of the applicable amount in paragraph (1).

"(B) NOTIFICATION.—In the case of such a determination, the Commission shall notify each clean money candidate seeking nomination for election to, or election to, the office in question, of the making of the determination not later than 24 hours after making the determination.

"(C) TIME TO COMPLY WITH REQUEST FOR DETERMINATION.—A determination made at the request of a candidate shall be made not later than 48 hours after the date of the request.".

SEC. 104. TRANSITION RULE FOR CURRENT ELECTION CYCLE.

(a) IN GENERAL.—During the election cycle in effect on the date of enactment of this Act, a candidate may be certified as a clean money candidate (as defined in section 501 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)), notwithstanding the acceptance of contributions or making of expenditures from private funds before the date of enactment that would, absent this section, disqualify the candidate as a clean money candidate.

(b) PRIVATE FUNDS.—A candidate may be certified as a clean money candidate only if any private funds accepted and not expended before the date of enactment of this Act are—

(1) returned to the contributor; or

(2) submitted to the Federal Election Commission for deposit in the House of Representatives Election Fund (as defined in section 501 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)).

TITLE II—INDEPENDENT EXPENDITURES; COORDINATED POLITICAL PARTY EXPENDITURES

SEC. 201. REPORTING REQUIREMENTS FOR INDEPENDENT EXPENDITURES.

(a) INDEPENDENT EXPENDITURES.—Section 304(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c)) is amended—

(1) by striking "(c)(1) Every person" and inserting the following:

"(c) INDEPENDENT EXPENDITURES.—

"(1) IN GENERAL.—

"(A) REQUIRED FILING.—Except as provided in paragraph (2), every person";

(2) in paragraph (2), by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and adjusting the margins accordingly;

(3) by redesignating paragraphs (2) and (3) as subparagraphs (B) and (C), respectively, and adjusting the margins accordingly;

(4) by adding at the end the following:

"(2) HOUSE OF REPRESENTATIVES ELECTIONS WITH A CLEAN MONEY CANDIDATE.—

"(A) INDEPENDENT EXPENDITURES MORE THAN 20 DAYS BEFORE AN ELECTION.—

"(i) IN GENERAL.—Not later than 48 hours after making an independent expenditure, more than 20 days before the date of an election, in support of an opponent of or in opposition to a clean money candidate (as defined in section 501), a person that makes independent expenditures in an aggregate amount in excess of $1,000 during an election period (as defined in section 501) shall file with the Commission a statement containing the information described in clause (ii).

"(ii) CONTENTS OF STATEMENT.—A statement under subparagraph (A) shall include a certification, under penalty of perjury, that contains the information required by subsection (b)(6)(B)(iii).

"(iii) ADDITIONAL STATEMENTS.—An additional statement shall be filed for each aggregate of independent expenditures that exceeds $1,000.

"(B) INDEPENDENT EXPENDITURES DURING THE 20 DAYS PRECEDING AN ELECTION.—Not later than 24 hours after making or obligating to make an independent expenditure in support of an opponent of or in opposition to a clean money candidate in an aggregate amount in excess of $500, during the 20 days preceding the date of an election, a person that makes or obligates to make the independent expenditure shall file with the Commission a statement stating the amount of each independent expenditure made or obligated to be made.

"(C) Place of filing; notification.—

"(i) Place of filing.—A report or statement under this paragraph shall be filed with the Commission.

"(ii) Notification of clean money candidates.—Not later than 24 hours, but excluding the time from 5:00 p.m. Friday through and until 9:00 a.m. the following Monday, and legal holidays after receipt of a statement under this paragraph, the Commission shall notify each clean money candidate seeking nomination for election to, or election to, the office in question of the receipt of a statement.

"(D) Determination by the commission.—

"(i) In general.—The Commission may, on request of a candidate or on its own initiative, make a determination that a person has made or obligated to make independent expenditures with respect to a candidate that in the aggregate exceed the applicable amount under subparagraph (A).

"(ii) Notification.—Not later than 24 hours after making a determination under clause (i), the Commission shall notify each clean money candidate in the election of the making of the determination.

"(iii) Time to comply with request for determination.—A determination made at the request of a candidate shall be made not later than 48 hours after the date of the request.".

SEC. 202. DEFINITION OF INDEPENDENT EXPENDITURE.

(a) In General.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) Independent expenditure.—

"(A) In general.—The term "independent expenditure" means an expenditure made by a person other than a candidate or candidate's authorized committee—

"(i) that is made for a communication that contains express advocacy; and

"(ii) is made without the participation or cooperation of and without coordination with a candidate (within the meaning of section 301(8)(A)(iii)).

"(B) Express advocacy.—The term 'express advocacy' means a communication that is made through a broadcast medium, newspaper, magazine, billboard, direct mail, or similar type of communication and that—

"(i) advocates the election or defeat of a clearly identified candidate, including any communication that—

"(I) contains a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in (year involved)', 'vote against', 'defeat', 'reject', 'put a stop to (name of candidate)', 'send (name of candidate) home'; or

"(II) contains campaign slogans or individual words that in context can have no reasonable meaning other than to recommend the election or defeat of 1 or more clearly identified candidates; or

"(ii)(I) refers to a clearly identified candidate;

"(II) is made not more than 60 days before the date of a general election; and

"(III) is not solely devoted to a pending legislative issue before an open session of Congress.".

(b) Definition Applicable When Provision Not in Effect.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date of this Act in which the definition, or any part of the definition, under section 301(17)(B) of that Act (as added by subsection (a)) is not in effect, the definition of "express advocacy" shall mean, in addition to the part of the definition that is in effect, a communication that clearly identifies a candidate and taken as a whole and with limited reference to external events, such as proximity to an election, expresses unmistakable support for or opposition to 1 or more clearly identified candidates.

SEC. 203. LIMIT ON EXPENDITURES BY POLITICAL PARTY COMMITTEES.

Section 315(d)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)(3)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "in the case" and inserting "except as provided in subparagraph (C), in the case", and

(B) by striking "and" at the end;

(2) in subparagraph (B)—

(A) by striking "in the case" and inserting "except as provided in subparagraph (C), in the case", and

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(C) in the case of an election to the office of Representative in or Delegate or Resident Commissioner to the Congress in which 1 or more candidates is a clean money candidate (as defined in section 501), 10 percent of the amount of clean money that a clean money candidate is eligible to receive for the general election period.".

SEC. 204. PARTY INDEPENDENT EXPENDITURES AND OTHER COORDINATED EXPENDITURES.

(a) Determination to Make Coordinated Expenditures.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1)—

(A) by inserting "coordinated" after "make"; and

(B) by striking "(2) and (3)" and inserting "(2), (3), and (4)"; and

(2) by adding at the end the following:

"(4)(A) Before a committee of a political party makes a coordinated expenditure in connection with a general election campaign for Federal office in excess of $5,000, the committee shall file with the Commission a certification, signed by the treasurer, that the committee has not made and will not make any independent expenditures in connection with that campaign for Federal office. A party committee that determines to make a coordinated expenditure shall not make any transfer of funds in the same election cycle to, or receive any transfer of funds in the same election cycle from, any other party committee that determines to make independent expenditures in connection with the same campaign for Federal office.

"(B) A committee of a political party shall be considered to be in coordination with a candidate of the party if the committee—

"(i) makes a payment for a communication or anything of value in coordination with the candidate, as described in section 301(8)(A)(iii);

"(ii) makes a coordinated expenditure under this subsection on behalf of the candidate;

"(iii) participates in joint fundraising with the candidate or in any way solicits or receives a contribution on behalf of the candidate;

"(iv) communicates with the candidate, or an agent of the candidate (including a pollster, media consultant, vendor, advisor, or staff member), acting on behalf of the candidate, about advertising, message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics or strategy; or

"(v) provides in-kind services, polling data, or anything of value to the candidate.

"(C) For purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established by State political parties shall be considered to be a single political committee.

"(D) For purposes of subparagraph (A), any coordination between a committee of a political party and a candidate of the party after the candidate has filed a statement of candidacy constitutes coordination for the period beginning with the filing of the statement of candidacy and ending at the end of the election cycle.".

(b) Definitions.—

(1) Amendment of definition of contribution.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "or" at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) a payment made for a communication or anything of value that is for the purpose of influencing an election for Federal office and that is made in coordination with a candidate (as defined in subparagraph (C)).''; and

(B) by adding at the end the following:

"(C) For the purposes of subparagraph (A)(iii), the term 'payment made in coordination with a candidate' includes—

"(i) a payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, or an agent acting on behalf of a candidate or authorized committee;

"(ii) a payment made by a person for the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat);

"(iii) a payment made based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with a view toward having the payment made;

"(iv) a payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position;

"(v) a payment made by a person if the person making the payment has served in any formal policy or advisory position with the candidate's campaign or has participated in strategic or policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made; and

"(vi) a payment made by a person if the person making the payment retains the professional services of an individual or person who has provided or is providing campaign-related services in the same election cycle to a candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the payment is for services of which the purpose is to influence that candidate's election.

"(D) For purposes of subparagraph (C)(vi), the term 'professional services' includes services in support of a candidate's pursuit of nomination for election, or election, to Federal office such as polling, media advice, direct mail, fundraising, or campaign research.".

(2) Definition of contribution in section 315(a)(7).—Section 315(a)(7) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)) is amended by striking paragraph (B) and inserting the following:

"(B)(i) Except as provided in clause (ii), a payment made in coordination with a candidate (as described in section 301(8)(A)(iii)) shall be considered to be a contribution to the candidate, and, for the purposes of any provision of this Act that imposes a limitation on the making of expenditures by a candidate, shall be treated as an expenditure by the candidate for purposes of this paragraph.

"(ii) In the case of a clean money candidate (as defined in section 501), a payment made in coordination with a candidate by a committee of a political party shall not be treated as a contribution to the candidate for purposes of section 503(b)(1) or an expenditure made by the candidate for purposes of section 503(b)(2).".

(c) Meaning of Contribution or Expenditure for the Purposes of Section 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by striking "shall include" and inserting "includes a contribution or expenditure (as those terms are defined in section 301) and also includes".

TITLE III—VOTER INFORMATION

SEC. 301. FREE BROADCAST TIME.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) in subsection (a), in the third sentence, by striking "within the meaning of this subsection" and inserting "within the meaning of this subsection or subsection (c)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(3) by inserting after subsection (b) the following:

"(c) Free Broadcast Time.—

"(1) Amount of time.—A clean money candidate shall be entitled to receive—

"(A) 30 minutes of free broadcast time during each of the primary election period and the primary runoff election period; and

"(B) 75 minutes of free broadcast time during the general election period and general runoff election period.

"(2) Time during which the broadcast is shown.—The broadcast time under paragraph (1) shall be—

"(A) with respect to a television broadcast, the time between 6:00 p.m. and 10:00 p.m. on any day that falls on Monday through Friday;

"(B) with respect to a radio broadcast, the time between 7:00 a.m. and 9:30 a.m. or between 4:30 p.m. and 7:00 p.m. on any day that falls on Monday through Friday; or

"(C) with respect to any broadcast, such other time to which the candidate and broadcaster may agree.

"(3) Maximum required of any station.—The amount of free broadcast time that any 1 station is required to make available to any 1 clean money candidate during each of the primary election period, primary runoff election period, and general election period shall not exceed 15 minutes."; and

(4) in subsection (d) (as redesignated by paragraph (1))—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon, and by redesignating that paragraph as paragraph (4);

(C) by inserting after paragraph (1) the following:

"(2) the term 'clean money candidate' has the meaning given in section 501 of the Federal Election Campaign Act of 1971;

"(3) the terms 'general election period' and 'general runoff election period' have the meaning given in section 501 of the Federal Election Campaign Act of 1971;"; and

(D) by adding at the end the following:

"(5) the term 'primary election period' has the meaning given in section 501 of the Federal Election Campaign Act of 1971;

"(6) the term 'private money candidate' has the meaning given in section 501 of the Federal Election Campaign Act of 1971; and

"(7) the term 'primary runoff election period' has the meaning given in section 501 of the Federal Election Campaign Act of 1971.".

SEC. 302. BROADCAST RATES AND PREEMPTION.

(a) Broadcast Rates.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(2) by striking "The charges" and inserting the following:

"(1) In general.—Except as provided in paragraph (2), the charges"; and

(3) by adding at the end the following:

"(2) Clean money candidates.—In the case of a clean money candidate, the charges for the use of a television broadcasting station shall not exceed 50 percent of the lowest charge described in paragraph (1)(A) during—

"(A) the 30 days preceding the date of a primary or primary runoff election in which the candidate is opposed; and

"(B) the 60 days preceding the date of a general or special election in which the candidate is opposed.

"(3) Other house candidates.—In the case of a candidate for election for Member of, or Delegate or Resident Commissioner to, the Congress who is not a clean money candidate, paragraph (1)(A) shall not apply.

"(4) Rate cards.—A licensee shall provide to a candidate for Member of or Delegate or Resident Commissioner to the Congress a rate card that discloses—

"(A) the rate charged under this subsection; and

"(B) the method that the licensee uses to determine the rate charged under this subsection.".

(b) Preemption.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) (as amended by section 301) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

"(d) Preemption.—

"(1) In general.—Except as provided in paragraph (2), a licensee shall not preempt the use of a broadcasting station by a legally qualified candidate for Member of or Delegate or Resident Commissioner to the Congress who has purchased and paid for such use.

"(2) Circumstances beyond control of licensee.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.".

(c) Revocation of License for Failure to Permit Access.—Section 312(a)(7) of the Communications Act of 1934 (47 U.S.C. 312(a)(7)) is amended—

(1) by striking "or repeated";

(2) by inserting "or cable system" after "broadcasting station"; and

(3) by striking "his candidacy" and inserting "the candidacy of the candidate, under the same terms, conditions, and business practices as apply to the most favored advertiser of the licensee".

SEC. 303. CAMPAIGN ADVERTISING.

(a) Contents of Campaign Advertisements.—Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever"; and

(ii) by striking "direct"; and

(B) in paragraph (3), by inserting "and permanent street address" after "name"; and

(2) by adding at the end the following:

"(c) Any printed communication described in subsection (a) shall be—

"(1) of sufficient type size to be clearly readable by the recipient of the communication;

"(2) contained in a printed box set apart from the other contents of the communication; and

"(3) consist of a reasonable degree of color contrast between the background and the printed statement.

"(d)(1) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections, an audio statement that identifies the candidate and states that the candidate has approved the communication.

"(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement which appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

"(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement: '   is responsible for the content of this advertisement.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If broadcast or cablecast by means of television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

(b) REPORTING REQUIREMENTS FOR ISSUE ADVERTISEMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 103) is amended by adding at the end the following:

"(e) ISSUE ADVERTISEMENTS.—

"(1) IN GENERAL.—A person that makes or obligates to make a disbursement to purchase an issue advertisement shall file a report with the Commission not later than 48 hours after making or obligating to make the disbursement, containing the following information—

"(A) the amount of the disbursement;

"(B) the information required under subsection (b)(3)(A) for each person that makes a contribution, in an aggregate amount of $1,000 or greater in a calendar year, to the person who makes the disbursement;

"(C) the name and address of the person making the disbursement; and

"(D) the purpose of the issue advertisement.

"(2) DEFINITION OF ISSUE ADVERTISEMENT.—In this subsection, the term 'issue advertisement' means a communication through a broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising—

"(A) the purchase of which is not an independent expenditure or a contribution;

"(B) that contains the name or likeness of a candidate for Member of or Delegate or Resident Commissioner to the Congress;

"(C) that is communicated during an election year; and

"(D) that recommends a position on a political issue.".

SEC. 304. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

"(A)(i) Except as provided in clause (ii), a Member of Congress shall not mail any mass mailing as franked mail during the period which begins on the first day of the primary election period (as described in section 501(12) of the Federal Election Campaign Act of 1971) and ends on the date of the general election for that office (other than any portion of such period between the date of the primary election and the first day of the general election period), unless the Member has made a public announcement that the Member will not be a candidate for reelection in that year or for election to any other Federal office.

"(ii) A Member of Congress may mail a mass mailing as franked mail if—

"(I) the purpose of the mailing is to communicate information about a public meeting; and

"(II) the content of the mailed matter includes only the Representative's name, and the date, time, and place of the public meeting.".

TITLE IV—SOFT MONEY OF POLITICAL PARTY COMMITTEES

SEC. 401. SOFT MONEY OF POLITICAL PARTY COMMITTEES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 324. SOFT MONEY OF PARTY COMMITTEES.

"(a) NATIONAL COMMITTEES.—A national committee of a political party (including a national congressional campaign committee of a political party but not including an entity regulated under subsection (b)) shall not solicit or receive any contributions, donations, or transfers of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

"(1) IN GENERAL.—A State, district, or local committee of a political party shall not expend or disburse any amount during a calendar year in which a Federal election is held for any activity that might affect the outcome of a Federal election, including but not limited to voter registration or get-out-the-vote activities and/or generic campaign activities unless the amount is subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) ACTIVITY EXCLUDED FROM PARAGRAPH (1).—

"(A) IN GENERAL.—Paragraph (1) shall not apply to an expenditure or disbursement made by a State, district, or local committee of a political party for—

"(i) a contribution to a candidate for State or local office if the contribution is not designated or otherwise earmarked to pay for an activity described in paragraph (1);

"(ii) the costs of a State, district, or local political convention;

"(iii) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of any individual who spends more than 20 percent of the individual's time on activities during the month that may affect the outcome of a Federal election), except that for purposes of this paragraph, the non-Federal share of a party committee's administrative and overhead expenses shall be determined by applying the ratio of the non-Federal disbursements to the total Federal expenditures and non-Federal disbursements made by the committee during the previous presidential election year to the committee's administrative and overhead expenses in the election year in question;

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs that name or depict only a candidate for State or local office; and

"(v) the cost of any campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, if the candidate activity is not an activity described in paragraph (1).

"(B) FUNDRAISING COSTS.—A national, State, district, or local committee of a political party shall not expend any amount to raise funds that are used, in whole or in part, to pay the costs of an activity described in paragraph (1) unless the amount is subject to the limitations, prohibitions, and reporting requirements of this Act.

"(c) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party) shall not solicit any funds for or make any donations to an organization that is exempt from Federal taxation under section 501(a) of the Internal Revenue Code of 1986 and that is described in section 501(c) of such Code.

"(d) CANDIDATES.—

"(1) IN GENERAL.—A candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office shall not—

"(A) solicit, receive, transfer, or spend funds in connection with an election for Federal office unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act;

"(B) solicit, receive, or transfer funds that are to be expended in connection with any election other than a Federal election unless the funds—

"(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under section 315(a) (1) and (2); and

"(ii) are not from sources prohibited by this Act from making contributions with respect to an election for Federal office; or

"(C) solicit, receive, or transfer any funds on behalf of any person that are not subject to the limitations, prohibitions, and reporting requirements of this Act if the funds are for use in financing any campaign-related activity or any communication that refers to a clearly identified candidate for Federal office.

"(2) EXCEPTION.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for the individual's State or local campaign committee.

"(e) DEFINITION OF COMMITTEE.—In this section, the term 'committee of a political party' includes an entity that is directly or indirectly established, financed, maintained, or controlled by a party committee or its agent, an entity acting on behalf of a party committee, and an officer or agent acting on behalf of any such committee or entity.".

SEC. 402. STATE PARTY GRASSROOTS FUNDS.

(a) INDIVIDUAL CONTRIBUTIONS.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B) by striking "or" at the end;

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

"(C) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000;

"(ii) any other political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $5,000;

except that the aggregate contributions described in this subparagraph that may be made by a person to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $20,000; or".

(b) LIMITS.—

(1) IN GENERAL.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by striking paragraph (3) and inserting the following:

"(3) OVERALL LIMITS.—

"(A) INDIVIDUAL LIMIT.—No individual shall make contributions during any calendar year that, in the aggregate, exceed $25,000.

"(B) CALENDAR YEAR.—No individual shall make contributions during any calendar year—

"(i) to all candidates and their authorized political committees that, in the aggregate, exceed $25,000; or

"(ii) to all political committees established and maintained by State committees of a political party that, in the aggregate, exceed $20,000.

"(C) NONELECTION YEARS.—For purposes of subparagraph (B)(i), any contribution made to a candidate or the candidate's authorized political committees in a year other than the calendar year in which the election is held with respect to which the contribution is made shall be treated as being made during the calendar year in which the election is held.".

(c) DEFINITIONS.—Section 301 of the Federal Election Campaign Act of 1970 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) The term 'generic campaign activity' means a campaign activity that promotes a political party and does not refer to any particular Federal or non-Federal candidate.

"(21) The term 'State Party Grassroots Fund' means a separate segregated fund established and maintained by a State committee of a political party solely for purposes of making expenditures and other disbursements described in section 326(d).".

(d) STATE PARTY GRASSROOTS FUNDS.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 401) is amended by adding at the end the following:

"SEC. 325. STATE PARTY GRASSROOTS FUNDS.

"(a) IN GENERAL.—A State committee of a political party shall only make disbursements and expenditures from the committee's State Party Grassroots Fund that are described in subsection (d).

"(b) TRANSFERS.—

"(1) IN GENERAL.—Notwithstanding section 315(a)(4), a State committee of a political party shall not transfer any funds from the committee's State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee, except as provided in paragraph (2).

"(2) EXCEPTION.—A committee of a political party may transfer funds from the committee's State Party Grassroots Fund to a district or local committee of the same political party in the same State if the district or local committee—

"(A) has established a separate segregated fund for the purposes described in subsection (d); and

"(B) uses the transferred funds solely for those purposes.

"(c) AMOUNTS RECEIVED BY GRASSROOTS FUNDS FROM STATE AND LOCAL CANDIDATE COMMITTEES.—

"(1) IN GENERAL.—Any amount received by a State Party Grassroots Fund from a State or local candidate committee for expenditures described in subsection (d) that are for the benefit of that candidate shall be treated as meeting the requirements of 324(b)(1) and section 304(d) if—

"(A) the amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in section 315(a) (1)(A) and (2)(A)(i); and

"(B) the State or local candidate committee—

"(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether those requirements are met; and

"(ii) certifies that the requirements were met.

"(2) DETERMINATION OF COMPLIANCE.—For purposes of paragraph (1)(A), in determining whether the funds transferred meet the requirements of this Act described in paragraph (1)(A)—

"(A) a State or local candidate committee's cash on hand shall be treated as consisting of the funds most recently received by the committee; and

"(B) the committee must be able to demonstrate that its cash on hand contains funds meeting those requirements sufficient to cover the transferred funds.

"(3) REPORTING.—Notwithstanding paragraph (1), any State Party Grassroots Fund that receives a transfer described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act, and shall submit to the Commission all certifications received, with respect to receipt of the transfer from the candidate committee.

"(d) DISBURSEMENTS AND EXPENDITURES.—A State committee of a political party may make disbursements and expenditures from its State Party Grassroots Fund only for—

"(1) any generic campaign activity;

"(2) payments described in clauses (v), (ix), and (xi) of paragraph (8)(B) and clauses (iv), (viii), and (ix) of paragraph (9)(B) of section 301;

"(3) subject to the limitations of section 315(d), payments described in clause (xii) of paragraph (8)(B), and clause (ix) of paragraph (9)(B), of section 301 on behalf of candidates other than for President and Vice President;

"(4) voter registration; and

"(5) development and maintenance of voter files during an even-numbered calendar year.

"(e) DEFINITION.—In this section, the term 'State or local candidate committee' means a committee established, financed, maintained, or controlled by a candidate for other than Federal office.".

SEC. 403. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 303(b)) is amended by adding at the end the following:

"(f) POLITICAL COMMITTEES.—

"(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 324 APPLIES.—A political committee to which section 324(b)(1) applies shall report all receipts and disbursements made for activities described in section 324(b) (1) and (2)(A)(iii).

"(3) OTHER POLITICAL COMMITTEES.—Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements that are used in connection with a Federal election.

"(4) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for the person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

"(5) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods as reports are required for political committees under subsection (a).".

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

(c) REPORTS BY STATE COMMITTEES.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by subsection (a)) is amended by adding at the end the following:

"(g) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines that such reports contain substantially the same information.".

(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

(A) by striking "and" at the end of subparagraph (H);

(B) by inserting "and" at the end of subparagraph (I); and

(C) by adding at the end the following:

"(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;".

(2) NAMES AND ADDRESSES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended by striking "operating expense" and inserting "operating expenditure, and the election to which the operating expenditure relates".

TITLE V—RESTRUCTURING AND STRENGTHENING OF THE FEDERAL ELECTION COMMISSION

SEC. 501. APPOINTMENT AND TERMS OF COMMISSIONERS.

(a) IN GENERAL.—Section 306(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) There is established" and inserting "(1)(A) There is established";

(B) by striking the second sentence and inserting the following:

"(B) COMPOSITION OF COMMISSION.—The Commission is composed of 6 members appointed by the President, by and with the advice and consent of the United States Senate, and 1 member appointed by the President from among persons recommended by the Commission as provided in subparagraph (D).";

(C) by striking "No more than" and inserting the following:

"(C) PARTY AFFILIATION.—Not more than"; and

(D) by adding at the end the following:

"(D) NOMINATION BY COMMISSION OF ADDITIONAL MEMBER.—

"(i) IN GENERAL.—The members of the Commission shall recommend to the President, by a vote of 4 members, 3 persons for the appointment to the Commission.

"(ii) VACANCY.—On vacancy of the position of the member appointed under this subparagraph, a member shall be appointed to fill the vacancy in the same manner as provided in clause (i)."; and

(2) in paragraphs (3) and (4), by striking "(other than the Secretary of the Senate and the Clerk of the House of Representatives)".

(b) TRANSITION RULE.—Not later than 90 days after the date of enactment of this Act, the Commission shall recommend persons for appointment under section 306(a)(1)(D) of the Federal Election Campaign Act of 1971, as added by subsection (a)(1)(D).

SEC. 502. AUDITS.

(a) RANDOM AUDIT.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

(2) by adding at the end the following:

"(2) RANDOM AUDITS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), after every primary, general, and runoff election, the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act.

"(B) SELECTION OF SUBJECTS.—The subjects of audits and investigations under this paragraph shall be selected on the basis of impartial criteria established by a vote of at least 4 members of the Commission.

"(C) EXCLUSION.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under chapter 95 or 96 of the Internal Revenue Code of 1986.".

SEC. 503. AUTHORITY TO SEEK INJUNCTION.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

"(13) AUTHORITY TO SEEK INJUNCTION.—

"(A) IN GENERAL.—If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

"(i) there is a substantial likelihood that a violation of this Act is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction;

the Commission may initiate a civil action for a temporary restraining order or preliminary injunction pending the outcome of proceedings under paragraphs (1), (2), (3), and (4).

"(B) VENUE.—An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found, or in which the violation is occurring, has occurred, or is about to occur.";

(2) in paragraph (7), by striking "(5) or (6)" and inserting "(5), (6), or (13)"; and

(3) in paragraph (11), by striking "(6)" and inserting "(6) or (13)".

SEC. 504. STANDARD FOR INVESTIGATION.

Section 309(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437f(a)(2)) is amended by striking "reason to believe that" and inserting "reason to open an investigation on whether".

SEC. 505. PETITION FOR CERTIORARI.

Section 307(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437d(a)) is amended by inserting "(including a proceeding before the Supreme Court on certiorari)" after "appeal".

SEC. 506. EXPEDITED PROCEDURES.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) (as amended by section 503) is amended by adding at the end the following:

"(14) EXPEDITED PROCEDURE.—

"(A) 60 DAYS BEFORE A GENERAL ELECTION.—If the complaint in a proceeding was filed within 60 days before the date of a general election, the Commission may take action described in this subparagraph.

"(B) RESOLUTION BEFORE AN ELECTION.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur and it appears that the requirements for relief stated in clauses (ii), (iii), and (iv) of paragraph (13)(A) are met, the Commission may—

"(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

"(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, immediately seek relief under paragraph (13)(A).

"(C) MERITLESS COMPLAINTS.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

"(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

"(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.".

SEC. 507. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(g) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)) is amended by adding at the end the following:

"(5) FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.—

"(A) COMPUTERS.—The Commission shall issue a regulation under which a person required to file a designation, statement, or report under this Act—

"(i) is required to maintain and file the designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

"(ii) may maintain and file the designation, statement, or report in that manner if not required to do so under a regulation under clause (i).

"(B) FACSIMILE MACHINES.—The Commission shall prescribe a regulation that allows a person to file a designation, statement, or report required by this Act through the use of a facsimile machine.

"(C) VERIFICATION.—In a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying a designation, statement, or report. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

"(D) COMPATIBILITY OF SYSTEMS.—The Secretary of the Senate shall ensure that any computer or other system that the Secretary may develop and maintain to receive designations, statements, and reports in the forms required or permitted under this paragraph is compatible with any system that the Commission may develop and maintain.".

SEC. 508. POWER TO ISSUE SUBPOENA WITHOUT SIGNATURE OF CHAIRPERSON.

Section 307(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437d(a)(3)) is amended by striking ", signed by the chairman or the vice chairman,".

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 602. REVIEW OF CONSTITUTIONAL ISSUES.

An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

SEC. 603. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on January 1, 1999.

H.R. 2183

OFFERED BY MR. WHITE OF WASHINGTON

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 16: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Commission on Campaign Finance Reform Act of 1998".

SEC. 2. ESTABLISHMENT AND PURPOSE OF COMMISSION.

There is established a commission to be known as the "Independent Commission on Campaign Finance Reform" (referred to in this Act as the "Commission"). The purposes of the Commission are to study the laws relating to the financing of political activity and to report and recommend legislation to reform those laws.

SEC. 3. MEMBERSHIP OF COMMISSION.

(a) COMPOSITION.—The Commission shall be composed of 12 members appointed within 15 days after the date of the enactment of this Act by the President from among individuals who are not incumbent Members of Congress and who are specially qualified to serve on the Commission by reason of education, training, or experience.

(b) APPOINTMENT.—

(1) IN GENERAL.—Members shall be appointed as follows:

(A) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the Speaker of the House of Representatives.

(B) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the majority leader of the Senate.

(C) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the minority leader of the House of Representatives.

(D) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the minority leader of the Senate.

(2) FAILURE TO SUBMIT LIST OF NOMINEES.—If an official described in any of the subparagraphs of paragraph (1) fails to submit a list of nominees to the President during the 15-day period which begins on the date of the enactment of this Act—

(A) such subparagraph shall no longer apply; and

(B) the President shall appoint 3 members (one of whom shall be a political independent) who meet the requirements described in subsection (a) and such other criteria as the President may apply.

(3) POLITICAL INDEPENDENT DEFINED.—In this subsection, the term "political independent" means an individual who at no time after January 1992—

(A) has held elective office as a member of the Democratic or Republican party;

(B) has received any wages or salary from the Democratic or Republican party or from a Democratic or Republican party office-holder or candidate; or

(C) has provided substantial volunteer services or made any substantial contribution to the Democratic or Republican party or to a Democratic or Republican party office-holder or candidate.

(c) Chairman.—At the time of the appointment, the President shall designate one member of the Commission as Chairman of the Commission.

(d) Terms.—The members of the Commission shall serve for the life of the Commission.

(e) Vacancies.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(f) Political Affiliation.—Not more than 4 members of the Commission may be of the same political party.

SEC. 4. POWERS OF COMMISSION.

(a) Hearings.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. In carrying out the preceding sentence, the Commission shall ensure that a substantial number of its meetings are open meetings, with significant opportunities for testimony from members of the general public.

(b) Quorum.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings. The approval of at least 9 members of the Commission is required when approving all or a portion of the recommended legislation. Any member of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this section.

SEC. 5. ADMINISTRATIVE PROVISIONS.

(a) Pay and Travel Expenses of Members.—(1) Each member of the Commission shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(2) Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(b) Staff Director.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a staff director, who shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) Staff of Commission; Services.—

(1) In general.—With the approval of the Commission, the staff director of the Commission may appoint and fix the pay of additional personnel. The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the maximum annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code.

(2) Experts and consultants.—The Commission may procure by contract the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

SEC. 6. REPORT AND RECOMMENDED LEGISLATION.

(a) Report.—Not later than the expiration of the 180-day period which begins on the date on which the second session of the One Hundred Fifth Congress adjourns sine die, the Commission shall submit to the President, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate a report of the activities of the Commission.

(b) Recommendations; Draft of Legislation.—The report under subsection (a) shall include any recommendations for changes in the laws (including regulations) governing the financing of political activity, including any changes in the rules of the Senate or the House of Representatives, to which 9 or more members of the Commission may agree, together with drafts of—

(1) any legislation (including technical and conforming provisions) recommended by the Commission to implement such recommendations; and

(2) any proposed amendment to the Constitution recommended by the Commission as necessary to implement such recommendations, except that if the Commission includes such a proposed amendment in its report, it shall also include recommendations (and drafts) for legislation which may be implemented prior to the adoption of such proposed amendment.

(c) Goals of Recommendations and Legislation.—In making recommendations and preparing drafts of legislation under this section, the Commission shall consider the following to be its primary goals:

(1) Encouraging fair and open Federal elections which provide voters with meaningful information about candidates and issues.

(2) Eliminating the disproportionate influence of special interest financing of Federal elections.

(3) Creating a more equitable electoral system for challengers and incumbents.

SEC. 7. EXPEDITED CONGRESSIONAL CONSIDERATION OF LEGISLATION.

(a) In General.—If any legislation is introduced the substance of which implements a recommendation of the Commission submitted under section 6(b) (including a joint resolution proposing an amendment to the Constitution), subject to subsection (b), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of the legislation in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(b) Special Rules.—For purposes of applying subsection (a) with respect to such provisions, the following rules shall apply:

(1) Any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to the Committee on House Oversight of the House of Representatives and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on Rules and Administration of the Senate.

(2) Any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the recommendation involved is submitted under section 6(b).

(3) Notwithstanding subsection (d)(2) of section 2908 of such Act—

(A) debate on the legislation in the House of Representatives, and on all debatable motions and appeals in connection with the legislation, shall be limited to not more than 10 hours, divided equally between those favoring and those opposing the legislation;

(B) debate on the legislation in the Senate, and on all debatable motions and appeals in connection with the legislation, shall be limited to not more than 10 hours, divided equally between those favoring and those opposing the legislation; and

(C) debate in the Senate on any single debatable motion and appeal in connection with the legislation shall be limited to not more than 1 hour, divided equally between the mover and the manager of the bill (except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee), and the majority and minority leader may each allot additional time from time under such leader's control to any Senator during the consideration of any debatable motion or appeal.

SEC. 8. TERMINATION.

The Commission shall cease to exist 90 days after the date of the submission of its report under section 6.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as are necessary to carry out its duties under this Act.

Amend the title so as to read: "A bill to establish the Independent Commission on Campaign Finance Reform to recommend reforms in the laws relating to the financing of political activity.".

EXTENSIONS OF REMARKS

INTRODUCTION OF THE TEEN TOBACCO USE PREVENTION ACT OF 1998

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. UPTON. Mr. Speaker, I rise today in support of legislation that I am introducing to address a very serious and growing problem in this country—tobacco use by our youth. I have long been concerned about the increasing number of teens—and increasingly younger teens—who start smoking every year. Every day, 3,000 teens begin smoking. Teenagers typically begin to smoke at 14½ and become daily smokers before age 18. We know that if individuals do not start smoking as teenagers, they will probably never smoke. For many thousands of Americans, discouraging teens from tobacco use and making it much more difficult for them to purchase tobacco products is literally a matter of life and death.

That is why I am introducing the "Teen Tobacco Use Prevention Act of 1998." This legislation amends the Federal Food, Drug, and Cosmetic Act to keep tobacco products out of the hands of our nation's children, strengthen warning labels, and restrict tobacco product advertisements. Specifically, the legislation includes the following provisions:

1. Content and warning labels. Requires more complete product constituent labeling and increases the number, prominence, and strength of tobacco product warning labels on packages and print ads. Includes the requirement that the FDA promulgate a rule governing the testing, reporting, and disclosure of tobacco smoke constituents that the Agency determines the public should be informed of to protect public health. Prohibits the advertising of cigarettes and little cigars on media subject to FCC jurisdiction.

2. Statement of intended use. Requires manufacturers, distributors, and retailer advertising of tobacco products to include, after the product name, a statement of intended use as specified in the bill. For cigarettes, for example, the intended use statement is: "Cigarettes—A Dangerous Tobacco Product Intended For Use Only By Persons 18 or Older."

3. Vending machine sales. Prohibits the sale of cigarettes or smokeless tobacco products from vending machines, except in those locations in which the retailer or operator ensures that no person younger than 18 years of age is present or permitted to enter at any time. Includes a provision requiring the FDA to monitor compliance with the vending provisions for two years and to propose additional restrictions if there is evidence that young people are continuing to purchase tobacco products from vending machines.

4. Minimum age. Prohibits the sale or distribution of tobacco products to anyone younger than 18 years of age. Permits states to set a higher age. Requires retailers to verify that purchasers are 18 or older by checking identification that includes the bearer's date of birth and photograph for anyone 26 years of age or younger. Includes civil monetary penalties for the sale of tobacco products to minors. For the first offense, the FDA will send a letter to the violator describing the law, describing the violation, and describing the potential liability facing the retailer for subsequent violations. For the second violation, the penalty shall be $250. For the third, $500. The penalty will double in size for each subsequent violation.

5. Enforcement. States are required to strictly enforce restrictions on sales to minors and report annually on their progress in reducing such sales and the strategies they are or will be using. States are required to conduct random, unannounced inspections to ensure compliance. If states fail to comply, the Secretary is authorized to reduce their Substance Abuse Prevention and Treatment allotments.

6. Individual cigarettes and packages of less than 20. Prohibits sales or distribution of either.

7. Sampling. Prohibits.

8. Distribution through the mail. Prohibits the distribution of tobacco products through the mail, except for mail order sales subject to proof of age requirements. Manufacturers or others who wish to distribute tobacco products through the mail must first file with the Secretary of HHS for approval of the system they will use to ensure that these products will go only to persons 18 years of age or older. The Secretary will review these sales after two years to determine whether minors are obtaining tobacco products through the mail. Imposes the same penalties as those imposed for sales to minors.

9. Tobacco product use reduction targets. Requires the Secretary of HHS to establish a benchmark rate of current tobacco use by children and adolescents, measure youth tobacco product use annually, and report this information to Congress three years from the date of enactment, together with recommendations for additional recommendations if rates are not substantially declining (declining at a rate that would produce a 35 percent or greater reduction in the rate of youth tobacco use five years from the date of enactment; at least 50 percent by the seventh year; and at least 80 percent by the tenth year).

10. Effective Date. January 1, 1999.

Mr. Speaker, I am introducing this legislation because I believe that reducing teens' access to tobacco products and desire to use them must be at the heart of any tobacco initiatives we consider this year. I am very open to suggestions for improvements in the legislation I am introducing today, and I am most interested in working with my colleagues on both sides of the aisle to pass meaningful tobacco control and reform legislation in this session of Congress.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. KIND. Mr. Speaker, today was to be the day that the House of Representatives was to debate campaign finance reform, but we are not. The leadership of the House has broken another promise to the people of this nation. It is time to allow a vote on this important issue.

In an election this last Tuesday in Nebraska the voters rejected the candidate who ran a negative campaign, in support of the candidate who ran a positive issue oriented campaign. Hopefully the voters around the nation will reject these negative campaigns in favor of honest open discussion of the issues. We can help the process by reforming our campaign finance system. That won't happen if we are never allowed a vote on the floor of the House.

I hope that next week the leadership finally keeps it's word and allows a vote on campaign finance reform. The people of this nation are hungry for clean campaigns and clean elections and it is our responsibility to pass campaign finance reform now.

INTRODUCTION OF THE ADMINISTRATION'S WATER RESOURCES DEVELOPMENT ACT OF 1998

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. SHUSTER. Mr. Speaker, today I'm pleased to introduce by request the administration's Water Resources Development Act of 1998 (or WRDA 98). The proposed constitutes the Department of the Army's Civil Works legislative program for the Second Session of the 105th Congress.

The Transportation and Infrastructure Committee works very closely with the administration, particularly the Army Corps of Engineers and the office of the Assistant Secretary of the Army (Civil Works), to ensure that the Nation's largest water resources program is effective and responsive to current and future needs. The Committee welcomes the transmittal of this proposal to Congress as a sign of good faith and genuine interest in facilitating the enactment of a WRDA 98 before the year's end.

The Committee has held three hearings on proposals for a WRDA 98. We intend to look very closely at the administration's bill, request

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

from our Congressional colleagues, and recommendations from public witnesses and other interested parties. The intent is then to introduce and move through the Committee a bipartisan, widely supported bill.

The administration's bill, which we introduce by request today, has numerous provisions that should be supported. At the same time, I must emphasize that some of the bill's projects and programmatic proposals raise serious questions and, in some circles, strong opposition. I look forward to working closely with my colleagues and the administration to ensure that a WRDA 98 can move swiftly through the Congress and become law before the year's end.

IN RECOGNITION OF FOOD ALLERGY AWARENESS WEEK

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mrs. LOWEY. Mr. Speaker, I rise to recognize Food Allergy Awareness Week.

My colleagues, 5 to 8 million Americans suffer from food allergies. Five percent of all children are food allergic and hundreds of Americans die every year from food allergies.

And the number of food allergy sufferers is increasing. Indeed among children, allergy to nuts has skyrocketed in just the last twenty years alone.

Indeed, I have spoken to many constituents—young and old alike—who have shared with me their terrible experiences with allergies. I will never forget hearing the harrowing tale of a five year old rushed to the hospital in anaphylactic shock after inadvertently eating a nut.

Tragically, there is no cure for food allergies. That is why it is so critical that we invest more resources in allergy research and prevention programs.

As a member of the Appropriations subcommittee that funds the National Institutes of Health, I will be working hard with my colleagues this year to increase funding for biomedical research so that we can find a cure for food allergies. We must also invest more in public awareness and prevention programs at the CDC and FDA so that restaurants and food processors become more sensitive to the health needs of their consumers and customers.

I look forward to working with my colleagues to address this serious health problem so that we can find a cure for allergies in our lifetimes.

PERSONAL EXPLANATION

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. SMITH of Texas. Mr. Speaker, yesterday during Roll Call Vote 146, I voted aye believing that I was supporting Congresswoman ROUKEMA'S amendment #19 when in fact the vote was on Congressman LEACH'S amendment that I opposed. Please let the record reflect that I intended to vote no on Congressman LEACH'S amendment (Rollcall Vote No. 146), and aye on Congresswoman ROUKEMA'S amendment #19 (Rollcall Vote No. 147).

TEACHER INVESTMENT AND ENHANCEMENT ACT

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. GALLEGLY. Mr. Speaker, today I will introduce the Teacher Investment and Enhancement Act (TIE Act) along with my colleagues STEVE HORN, ZOE LOFGREN and RON PAUL to encourage secondary teachers to go back and take college courses in their fields of teaching.

While it is important to know how to teach, it is equally if not more important to know what you are teaching. This was proven, unfortunately, with the disappointing outcome of U.S. 12th graders in the Third International Math and Science Study (TIMSS). Our 12th graders out-performed only two countries—Cyprus and South Africa—out of 21 countries in math and science. Education Secretary Richard Riley attributed this to the fact that "too many science and math teachers are teaching out-of-field."

The TIE Act would increase the Lifetime Learning Tax Credit for tuition expenses for the continuing education of secondary teachers in their fields of teaching.

We need to ensure teachers are well-educated. How can we expect our children to learn a subject if their teachers are not knowledgeable in the subjects themselves? We simply cannot. Offering more education opportunities for our teachers is an investment in our children and one we cannot afford not to take. I strongly encourage my colleagues to cosponsor this important piece of legislation and work for its passage.

RATIFY THE COMPREHENSIVE TEST BAN TREATY

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Ms. FURSE. Mr. Speaker, in light of the appalling underground nuclear testing in India, I submit the following editorial "What Did We Tell You" written by former Senator Mark O. Hatfield and former Representative Mike Kopetski. I would like to join my former colleagues in urging the Senate to ratify the Comprehensive Test Ban Treaty.

WHAT DID WE TELL YOU?

INDIA'S TESTS OF NUCLEAR BOMBS PROVE THE NEED FOR TEST BAN TREATY

(By Mark O. Hatfield and Michael J. Kopetski)

The U.S. Senate has an historic opportunity to help shut the door on the most threatening menace to Americans: the risk of a renewed nuclear weapons arms race with Russia and China, and the proliferation of nuclear weapons. This lingering danger was dramatically illustrated on Monday when India conducted three nuclear tests at its Pokhra test site.

These tests are certain to alarm neighboring Pakistan and China, both of whom possess nuclear weapons of their own, and heighten tensions in this volatile region of the world. In order to reduce these risks, the Senate has the responsibility to promptly consider and ratify the Comprehensive Nuclear Test Ban Treaty.

Forty years ago this month, President Dwight D. Eisenhower recognized the value of stopping nuclear testing by initiating formal discussions with the Soviets for a "discontinuance of all nuclear weapons tests." His effort, unfortunately, fell short; but with the end of the Cold War, new opportunities and even stronger reasons for the test ban have emerged.

The collapse of America's old rival created the possibility of dramatically reducing the risk of a conflict involving nuclear weapons—a possibility that still threatens each and every American. In 1991, Presidents George Bush and Mikhail Gorbachev decided to seize the opportunity to reduce the nuclear danger. They signed a new strategic nuclear arms reduction agreement. President Bush took our nuclear-armed bombers off alert and withdrew most U.S. tactical nuclear weapons. President Gorbachev instituted a temporary halt to Soviet nuclear weapons testing.

While serving the people of Oregon as members of Congress, the two of us responded by introducing legislation to match the Soviet nuclear test moratorium with a one-year U.S. testing halt. We believed that it was—and still is—vital that the United States, as the world's pre-eminent power, set an example so that we can persuade other nations to refrain from acquiring nuclear weapons, and avoid giving any nuclear power reason to resume testing.

Later, in 1992, our legislation gained broad support and was strengthened to require the initiation of negotiations on a global ban on nuclear weapon test explosions. In 1993, President Clinton extended the U.S. moratorium on nuclear testing. In 1996, negotiations on the Comprehensive Nuclear Test Ban Treaty were completed. It has been signed by 149 nations, including all five nuclear weapon states. In September 1997, the president sent the treaty to the U.S. Senate for its approval.

The questions debated in 1992 are similar to the questions about the treaty in 1998: Can we verify the reliability of our nuclear arsenal without testing? Can we enforce a global ban on nuclear tests? What happens if America fails to act or approve the test ban?

The answer is the same as it was in 1992: A nuclear test ban is clearly in America's national security interest.

The U.S. nuclear weapons arsenal is well-tested. We have conducted 2,046 nuclear tests—more than 1,000 in the atmosphere. The United States possesses the most advanced, accurate and deadly nuclear arsenal in the world. Since the nuclear test moratorium of 1992, our nuclear weapons laboratories have maintained the safety and reliability of the U.S. nuclear weapons without nuclear testing. The directors of the three national nuclear weapons laboratories, as well as leading independent nuclear weapon scientists, have determined that the remaining arsenal can be maintained through non-nuclear tests and evaluations.

Given the overwhelming nuclear capability of the United States, the Test Ban Treaty is clearly in our national interest. It would make it much more difficult for other countries with advanced nuclear weapons to produce new and even more threatening ones. It also would help stop nuclear proliferation by deterring, if not preventing, any nation from developing sophisticated nuclear weapons that can be delivered by ballistic missiles. With the Test Ban Treaty in place, no would-be violator could be confident that a test nuclear explosion could escape detection.

Failure to act on the Test Ban Treaty this year would severely undermine U.S. leadership efforts to stop the spread of nuclear weapons. In 1995, the United States and other nuclear nations promised to deliver on the Test Ban Treaty in exchange for the indefinite extension of the Nuclear Non-Proliferation Treaty. It is a good deal that must be honored.

The Test Ban Treaty enjoys broad support. If the Senate is allowed to vote on the treaty this year, it would likely win the 67 votes needed for ratification. Current and past U.S. military leaders support the treaty, including Gen. Colin Powell and three other former chairmen of the Joint Chiefs of Staff. The public also strongly supports a permanent end to nuclear testing. A September 1997 national opinion poll revealed that 70 percent of the public wants the Senate to approve the treaty; only 13 percent oppose it.

Unfortunately, the leadership of the Senate Foreign Relations Committee is preventing the full Senate from considering the treaty. The committee needs to be persuaded to send the Test Ban Treaty to the Senate floor.

In the interest of a safer America and a more secure world, senators who recognize the risk of nuclear proliferation and the value of the test ban must provide the leadership necessary to allow the Senate to debate and vote on the treaty this year.

The time for nuclear testing is over. The time to approve the Comprehensive Nuclear Test Ban Treaty is now.

INTRODUCTION OF THE ESTATE AND GIFT TAX RATE REDUCTION ACT

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Ms. DUNN. Mr. Speaker, it's been said that only with our government are you given a "certificate at birth, a license at marriage and a bill at death." Today I am introducing the Estate and Gift Tax Rate Reduction Act which seeks to phase-down the onerous death tax. Each death tax rate will be reduced by five percentage points every year, until the highest rate bracket—55%—reaches zero in 2009. As these rates are lowered to zero, more and more families will no longer be forced to give the family savings to Uncle Sam and the family business will be saved.

One of the most compelling aspects of the American dream is to make life better for your children and loved ones. Yet, the current tax treatment of individuals and families and families at death is so onerous that when one dies, their children are many times forced to sell and turn over more than half of their inheritance just to pay the taxes. It takes place at an agonizing time for the family; when families should be grieving for a loved one, with friends and relatives, rather than spending painful hours with lawyers and bureaucrats.

By confiscating between 37% and 55%, the estate tax punishes life-long habits of savings, discourages entrepreneurship and capital formation, penalizes families, and has an enormous negative effect on other tax revenues. Americans today are living longer and enjoying their retirement. At a time when this Congress is discussing the future of Social Security, and how to personalize and modernize the system, we also need to encourage private investment. We should be encouraging people to plan for their future with retirement plans and IRAs, rather than encouraging reckless spending and a me-first attitude. This country was born on the promise of hope and opportunity, and by taxing families and businesses at their most agonizing time, we destroy their hope for the future.

By today's tax system, it is easier and cheaper to sell a business before death rather than try to pass it on after. More than 70% of family business and farms do not survive through the second generation. 9 out of 10 successors whose family-owned businesses failed within three years of the principal owner's death said trouble paying estate taxes contributed to the company's demise. For family owned business, this is a tax just because the business is changing ownership due to the death of an owner.

Aside from being a source of revenue, another express purpose of the estate tax was to break up large concentrations of wealth. 75 years later, however, reality suggests that rather than being an important means for promoting equal economic opportunity, the estate tax is in fact a barrier to economic advancement for people of all economic circumstances. It unduly burdens individual sacrifice to gain savings and investment, compared with consumptive uses of income. It impedes the upward mobility of labor by stifling productivity, wage growth, and employment opportunities. In effect, the death tax, which was established to redistribute wealth, hurts those it was meant to help—namely, America's working men and women. When small businesses close their doors, loyal employees lose their jobs.

The saying goes that death and taxes are the only certainties in life. I believe it is ridiculous that the government force the American people to deal with both on the same day. Families should be allowed—and encouraged—to save for future generations. I invite my colleagues to join JOHN TANNER and me in our bi-partisan effort to reduce this detrimental and cruel tax.

IN HONOR OF THE FAIRFAX CITY PROFESSIONAL FIREFIGHTERS AND PARAMEDICS ASSOCIATION, LOCAL 2702

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. DAVIS of Virginia. Mr. Speaker, on May 16, 1998, the Fairfax City Professional Firefighters and Paramedics Association, Local 2702, is celebrating their 20th Anniversary. No matter what the emergency is, their members are committed to providing outstanding emergency services to those in need. They are dedicated to fulfilling their organization's goals of saving lives, preserving property and the environment and ensuring the health and safety of our community.

Local 2702 was officially chartered on May 16, 1979 as a local union of the International Association of Fire Fighters. The 22 charter members were: Dennis Rubin, Larry Retzer, John Boon, Joel Hendelman, Mike Kalasanckas, John Long, Dwaine McCollum, Donald Barklage, Jr., Robert Keith Cunningham, Joseph Toy, Thomas Schwartz, Jeffery Sheriff, Joseph Bailey, George Brown, Charles Johnson, George Klumph, William Burris, Kenneth Hill, Dennis Rust and Gary Jones.

Since their inception, they have been led by strong leadership focused on ensuring that their department has the personnel and resources to safely and efficiently perform their jobs of helping the public. Dennis Rubin, John Boon, Ken Hahn, Richard Miller, Joel Hendelman, Frank Hall, and Jay Callan have served as President. Today, President Adrian Munday leads Local 2702 in serving the needs of the City of Fairfax's 20,000 residents.

The members of local 2702 respond to an astounding 8,000 fire and emergency calls a year. That's an average of 22 calls a day, which equals to almost one call per hour.

When not answering calls for help, Local 2702's members spend countless hours in the community teaching fire prevention, CPR, and other safety courses, conducting home safety inspections, installing fire detectors, and conducting child safety seat inspections. Furthermore, they support several charities, such as: Aluminum Cans for Burned Children, Muscular Dystrophy Association's Fill The Boot Campaign, Cub Scouts and Boy Scouts of America, Fairfax Little League, Braddock Road Youth Clubs, the International Association Fire Fighter's Fallen Fire Fighter Fund, and Heros Inc.

Local 2702 also answers the call for help from other Fire Departments in need around the country during times of crises. Last year, when North Dakota was devastated by rushing waters of a terrible flood, Local 2702 spent several days running calls for many of their fire departments so their fire fighters could return to their homes to be with their families and salvage their homes. When Hurricane Andrew touched down in Homestead, Florida, Local 2702 collected clothes and helped rebuild homes in this ransacked area. After the tragic bombing of Oklahoma City, Local 2702 provided financial assistance to families with children injured by the blast.

Mr. Speaker, on behalf of my colleagues in the House of Representatives, I salute these heroes of public service. For all their extraordinary services, we owe the members of Local 2702 a debt of gratitude.

TRIBUTE TO MARJORIE LANSING

HON. LYNN N. RIVERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Ms. RIVERS. Mr. Speaker, I would like to insert into the CONGRESSIONAL RECORD an obituary of Marjorie Lansing, which appeared in the New York Times on Monday, May 11, 1998.

Marjorie Lansing, a political scientist and sometime politician whose scholarly delineation of a gender gap in American voting patterns helped change the shape of political campaigns and spurred women into politics in the 1980s.

Ms. Lansing died on May 1 at a hospital near her home in Ann Arbor, Michigan. She was 82 and had been a professor of political science at Eastern Michigan University. Her family said the cause was cancer.

Though Dr. Lansing was not the first to investigate women's voting patterns, the issue received little serious attention until she published the first persuasive statistical evidence that women form a distinctive voting bloc. The dominant view had been that if women did not mimic their husbands' voting patterns, their attitudes at least reflected the same mix of socioeconomic and ethnic factors. If it seems surprising that those quaint views survived into the 1970s, it must be at least partly because Dr. Lansing came late to scholarship.

A native of Geneva, Florida, Dr. Lansing, who was born Marjorie Tillis, graduated from the old Florida State College for Women in Gainesville, taught high school and made a life-changing trip to Europe. Attracted to the political left since college, she raised money for the Spanish loyalist cause from fellow passengers on the voyage over, and after a heady tour of the continent returned to the United States eager to attend graduate school. After receiving a master's in sociology from Columbia in 1940, she worked as a government researcher in Washington and met and married a young economist named John Lansing. She set up housekeeping in Cambridge, Mass., while he completed his doctorate at Harvard and she plunged into the local leftist political scene, campaigning for Henry Wallace in the 1948 presidential race.

A high-spirited woman with an engaging manner, Dr. Lansing made a powerful impact on at least one political associate. According to family legend, after a single political meeting in Boston, the actor Zero Mostel was so taken with Dr. Lansing that he followed her to a bus stop, pretended he was her abandoned husband and in an impromptu performance worthy of the Broadway stage made an impassioned plea that she return to him and their babies.

In 1949, the Lansings moved to Ann Arbor, where he became a professor of economics at the University of Michigan and she became active in the Democratic Party while rearing three children, studying for a Ph.D. in political science at Michigan and teaching at Eastern Michigan.

She is survived by two sons, Steve, of Ann Arbor, and Philip, of Boise, Idaho; a daughter, Carol, of Santa Barbara, California, and six grandchildren.

By the time she obtained her doctorate in 1970, Dr. Lansing had come up with the findings that would make her reputation. But it had taken some doing. When she proposed as a doctoral dissertation a study that she expected would establish that women's voting patterns were significantly different from men's, her professors were so convinced there was no difference that they tried to discourage her. She persisted, and the dissertation she turned in was essentially the same book she and a statistician, Sandra Baxter, published in 1980. One reason for the delay between the dissertation and the book was that after her husband died in 1970, she concentrated on her teaching while stepping up her political activities, unsuccessfully running for several offices, including a House seat.

To those who had assumed that women followed men's voting patterns, her most surprising finding was that the greatest sex difference was not on home-and-hearth issues like the economy and education but in foreign affairs, particularly military issues, with women being distinctly less hawkish than men.

Although dozens of similar studies have since been published, Dr. Lansing's work is still cited by scholars. It is a measure of Dr. Lansing's prescience, if not of her influence, that three years after her landmark study, "Women in Politics: The Invisible Majority," was published by the University of Michigan Press, a revised edition carried the subtitle "The Visible Majority."

CONGRATULATIONS TO THE GEORGETOWN COLLEGE TIGERS NAIA NATIONAL CHAMPIONS

HON. SCOTTY BAESLER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. BAESLER. Mr. Speaker, today I would like to congratulate the Georgetown College men's basketball team on its first National Association of Intercollegiate Athletics (NAIA) tournament victory. On March 23rd, the Tigers beat Southern Nazarene 83–69. The following day, the national championship team returned from Tulsa, Oklahoma, to a parade down Georgetown's Main Street and a rousing pep rally with hundreds of delighted fans.

The Georgetown Tigers got to the final round by defeating Hannibal-LaGrange 80–68, Montana State-Northern 78–65, Central Washington 92–79 and top-seeded Azusa Pacific 94–76. They had advanced to the NAIA title game twice before, but this win represents only the fifth time since 1948 that a Kentucky team has won the NAIA championship game.

My heartiest congratulations to the Georgetown Tigers on a well-deserved victory!

INTRODUCTION OF BIG PINEY PUBLIC SALE ACT MINERAL ESTATE RELIEF

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mrs. CUBIN. Mr. Speaker, today I am introducing legislation which opens to federal oil and gas leasing certain parcels that have prospective value for oil and gas development. This bill will correct an error made by the BLM in leasing parcels of land near Big Piney, Wyoming which were subject to the 1964 Public Land Sale Act's statutory closure of the mineral estate to leasing. BLM has agreed that there is no current reason for the closure to continue and believes that the holder of the lease should be allowed to move forward with development.

The lands affected by this provision were sold at auction under the 1964 Act that required the mineral estate to be reserved to the United States in the patent to the high bidder. When BLM classified the lands for sale, BLM and the USGS recognized that the lands were "valuable for oil, gas and coal".

That 1964 Sale Act provided that the reserved federal minerals would be closed to mineral leasing, apparently because the lands were expected to be improved as part of expected local community growth after the sale and patenting of the surface.

The lands here remain grazing lands that are currently of the same type that are under multiple use for grazing and oil and gas exploration and development throughout southwestern Wyoming.

Air quality, wildlife and other public resource concerns can and will be addressed and protected through federal lease stipulations, just as was and is done for all the federal acreage currently under lease throughout the Big Piney-Labarge area, including one of these parcels that was already mistakenly leased by BLM.

I ask my colleagues to support me in this effort to correct the error by BLM and to further oil and gas development in southwestern Wyoming. Natural gas is the fuel of choice for many Americans today, and this bill would in a very small way contribute to our nation's energy needs by allowing prospectively valuable federal mineral rights to be competitively auctioned and to recognize the validity of an improvidently issued lease.

DEFEAT THE GEPHARDT CONSTITUTIONAL AMENDMENT TO AMEND THE FIRST AMENDMENT

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. DELAY. Mr. Speaker, today I submit for consideration of the House during the upcoming debate on campaign reform the constitutional amendment authored by House Minority Leader DICK GEPHARDT. I intend to offer the amendment if Mr. GEPHARDT chooses not to offer his legislation. I will offer the amendment, not in the hope of having it passed. I will offer it to demonstrate the truth—that reformers are trying to gut the First Amendment of the Constitution.

HUMAN SERVICES AMENDMENTS OF 1998

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. MARTINEZ. Mr. Speaker, I rise today to introduce the Human Services Amendments of 1998. This legislation will reauthorize and strengthen the Head Start, Low-Income Home Energy Assistance (LIHEAP) and Community Service Block Grant (CSBG) programs. When Congress last reauthorized these programs in 1994 it was the product of true bipartisan negotiations. I strongly believe that this bill is one which can capture the same bipartisan spirit.

The last reauthorization cycle produced major successful structural changes in these programs, eliminating the current need for an expansive rewrite of each statute. Presently these programs are working well and do not need significant modification. Instead of implementing wholesale change, this legislation builds upon the positive changes made in 1994 allowing the good work presently being done to continue.

Title I of the bill amends the Head Start Program. This legislation will refine Head Start's focus in two major areas—improving the transition of children from Head Start programs to school by strengthening the coordination between Head Start programs and schools and increasing the financial resources available and access to Early Head Start programs. The bill would increase the setaside for Early Head Start to 10%, with the stipulation that funds not be taken from current Head Start programs. The legislation would also allow expansion grants to be used by existing Head Start grantees to expand service to the Early Head Start population. Significant research has shown the importance of brain development in young children and an increased focus on intervening in a young child's life during the most sensitive of years is vitally important.

In improving the transition of children from Head Start programs to school, the bill would also require Head Start programs to coordinate services with the educational services of the local education agency projected to serve the children enrolled in their programs. The legislation would also require that the Secretary, in considering the expansion of Head Start programs, to consider the extent to which Head Start programs will coordinate services with local education agencies. Both of these provisions will ensure that the educational experiences and cognitive development gained by children in Head Start programs are not lost when they progress through school.

In addition, the bill improves the access of children with disabilities to quality programs and ensures that Head Start programs maximize their enrollment and resources and increase flexibility to deal with the transition of families from welfare to work by allowing the Secretary to permit up to 25% of enrollees in a Head Start program to be from families with incomes above the poverty line.

Title II of the bill amends LIHEAP. This legislation will maintain LIHEAP's focus on serving low-income individuals with the highest proportion of energy expenses. In addition, this bill reinforces that weatherization and energy-related home repair should be directed to low-income households, particularly those households with the lowest incomes and the highest proportion of household income for home energy. With this increased targeted emphasis on the poorest of our poor, the weatherization portion of LIHEAP will truly help those most in need.

Title III of the bill amends CSBG. Similar to the other two programs, a significant rewrite is not necessary, but the legislation does make several changes designed to improve the program. The bill raises the authorization level of the program by over $100 million to $650 million in FY 1999 and such sums in FYs 2000–2002. This will ensure that the significant increases in appropriations which this program has received in the last few years can be repeated. Also, the bill would give preference to private, non-profit organizations should an existing entity running a local program authorized under the statute terminate. In addition, this legislation would provide that CSBG carryover funds are reprogrammed at the local level. For each of the last three years similar language has been attached to the Labor-HHS Appropriations bill requiring this provision. Lastly, the measure would allow local community action agencies to offer services to improve literacy in the community. This would be a new activity for local community action agencies to address the illiteracy—one of the most pressing problems and indicators of poverty in our nation today.

In closing Mr. Speaker, I would like to stress that I believe this legislation is the beginning of another historic bipartisan effort to reauthorize and strengthen these programs. I urge all members of Congress to join me in supporting this legislation and to support the bill which will be the eventual product of our joint bipartisan discussions.

CONGRATULATIONS TO MISS KATIE PROPST

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, today, I rise to recognize Miss Katie Propst, a Merino High School Junior, residing in Merino, Colorado. Katie is the daughter of Ted and Penny Propst. Miss Propst recently drew honor to herself, her family, and her community by placing first place in the 43rd Annual Colorado Science and Engineering Fair.

Propst placed first in the contest's senior division of Health and Behavioral Sciences. Her project is entitled "Bacteriophage Therapy: Is It a Possible Alternative Treatment for Bacterial Infections?" Her immediate prize is an all-expense paid trip to the International Science and Engineering Fair in Fort Worth, Texas. There, she will compete at the International Science and Engineering Fair.

Katie has earned scholarships from Colorado State University and Colorado Northwestern Community College. She also received award prizes from the Colorado Association of Science Teachers, and the Rocky Mountain Inventors and Entrepreneurs Congress.

Propst's personal interests are in pathology and microbiology sciences. She believes that microbiology will help find alternatives to antibiotic resistant viruses. Propst undertook the study of treating an infection with a bacteriophage (virus) instead of the traditional antibiotic. The test subjects Propst used were tobacco hornworms. By injecting them with a bacterial infection and then treating the infection with a bacteriophage, Propst observed, "An antibiotic resistant alternative is needed for bacterial infections. If found successful in future studies, this form of treatment could possibly be used to treat infections."

At this point, Mr. Speaker, I submit for the RECORD, the following newspaper article about Katie Propst taken from the May 2, 1998, edition of the Sterling Journal Advocate.

Mr. Speaker, it is exciting to recognize Miss Katie Propst of Colorado's Fourth Congressional District. She is obviously very bright and certainly motivated to succeed. Please join me in wishing her well in her academic endeavors.

MERINO GIRL TOPS STATE SCIENCE EXHIBITOR LIST

(By Rebecca Giggs)

Katie Propst, Merino High School Junior, will soon be traveling to Fort Forth, Texas. It won't be a sightseeing trip, she will be competing at the International Science and Engineering Fair from May 10–16.

Propst's project "Bacteriophage Therapy: Is It a Possible Alternative Treatment For Bacterial Infections?" won top exhibitor at the 43rd Annual Colorado Science and Engineering Fair. Her prize is an all-expense paid trip to Internationals.

Propst placed first place in the senior division of Health and Behavioral Sciences. She earned scholarships from Colorado State University and Colorado Northwestern Community College.

Propst also earned $50 from the Colorado Association of Science Teachers for excellence in the use of the scientific method and $50 from the Rocky Mountain Inventors and Entrepreneurs Congress. Other winners at the fair from Merino were Kari Accomasso and Mackenzie Peake. Propst and Accomasso presented their projects on Friday to the Colorado-Wyoming Junior Academy of Science, and they hope to get their work published.

Propst's study was to inject tobacco hornworms with a bacterial infection. "Rather then treating this with an antibiotic, the infection was treated with a bacteriophage (virus)." Propst said. The virus's job was to get rid of the infection without harming the worm. Propst said she decided to do this project "Because I'm interested in a major in pathology." She added, "An antibiotic resistance alternative is needed for bacterial infections. If found successful in future studies, this form of treatment could possibly be used to treat infections."

Propst decided on this project after reading about a similar experiment in mice. She adjusted her experiment for hornworms.

Propst began her research in August and started doing experiments in January. "It's a 12-hour injection procedure. Then I follow the data for a week," she said. Propst's mother is a science teacher at Merino.

Propst said having access to the science room helped with her experiment. Propst said that her mother "Inspired me, she hasn't pushed me. Whatever I want to do is okay with her."

Propst didn't expect to win at the state fair. "I saw all those awesome displays and didn't think I had a chance. The key to winning is relating to the judges, be excited about what you are doing. The others who won were also personable. It's selling what you've found."

Propst said, "The people that deserve recognition are the school's faculty and administration. Without their financial and emotional support I wouldn't be doing this. There's an advantage to going to a small school. I'm looking forward to representing a small school."

Propst has been interested in pathology and microbiology since her last science project in the seventh grade. She said microbiology will help find alternatives to virus that have become resistant to antibiotics, viruses that have become more deadly. "It's amazing something so small can be so powerful," she said.

RECOGNIZING THE WORK OF MR. ARNETT FLOWERS, WARDEN OF EL RENO FEDERAL CORRECTIONAL FACILITY

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. WATTS of Oklahoma. Mr. Speaker, recently, we recognized the hard work of the dedicated men and women who work in correctional facilities across the country. Today, I wish to honor the accomplishments and efforts of Mr. Arnett Flowers, who is the Warden at the Federal Correctional Institution in El Reno, Oklahoma.

Prisons and correctional facilities are not easy places to work. They are dangerous places and an officer risks his life every day he or she works there. We must therefore especially appreciate the excellent work of people like Warden Flowers, who go the extra mile to serve the public and keep our families safe.

For 26 years, Warden Flowers has dedicated his life to saving taxpayer dollars by running efficient prisons. Most recently, by streamlining offices while maintaining the quality of prison maintenance at the El Reno facility, Warden Flowers has saved taxpayers $850,000 in operating expenses.

Under his direction, the El Reno Facility has worked with several state and federal law enforcement agencies to improve the quality of law enforcement. For example, Warden Flowers worked with the Federal Bureau of Investigation to construct a badly-needed pistol range on Bureau of Prisons property, therefore allowing both FBI agents and state correctional officers to use the new facility to improve their training.

Perhaps Warden Flowers' most important accomplishment is his work to help prisoners rehabilitate themselves, to cut down on the rate of repeat offenders. He has worked with several youth crime prevention initiatives, public, private and religious in nature. Warden Flowers realizes the best way to prevent crime is to give kids a positive influence and spiritual guidance at an early age.

Dedicated correctional officers like Warden Arnett Flowers play an integral role in maintaining law and order in our society. All Americans should appreciate the efforts of the hard-working correctional officers across our country who help keep violent offenders behind bars and who work tirelessly to keep our families safe.

HONORING DR. CLIFFORD SMITH

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. NUSSLE. Mr. Speaker, many people in this chamber are aware of my commitment to improving access to health care for rural residents. A doctor who practices in my district, Dr. Clifford Smith, was recently honored by the National Rural Health Association (NRHA) as the NRHA Rural Practitioner of the Year. He will officially receive this award tomorrow, May 15, 1998.

Dr. Smith was raised in my district, and I am pleased that he decided to remain in a rural area to practice medicine. I wish to congratulate Dr. Smith for this fine achievement. I am honored to submit an article from the April 15, 1998 edition of the Monona Billboard which describes Dr. Smith's commitment to his patients.

I am grateful for the many years of service that Dr. Smith has provided to my constituents.

DR. SMITH NAMED NATIONAL RURAL HEALTH PRACTITIONER

McGregor physician Dr. Clifford Smith has been selected as the 1998 National Rural Health Care Association Rural Practitioner of the Year. He will receive the award during the NRHA's 21st annual National Conference May 15, at Orlando, Fla.

Dr. Smith has practiced medicine in northeast Iowa and southwest Wisconsin since coming to McGregor in 1962. He first practiced at the McGregor Hospital. In 1963, he moved his office to 626 Main Street in McGregor and in 1979 the clinic was built. Dr. Smith became affiliated with Gundersen in 1987. Dr. Smith also comes to the Monona Gundersen clinic.

Smith was raised in Waterloo and decided as a youngster that he wanted to become a doctor. His plans were temporarily sidelined by World War II when he joined the Army with hopes of becoming a fighter pilot. He was a member of the famous Tuskegee Airmen, the first squadron of black American pilots to be allowed to fight for their country.

Returning to Iowa he attended the University of Iowa and went to Meharry Medical College, Nashville, Tenn. He worked in New Jersey for four years before starting his practice in McGregor.

In the nomination sent to the National Rural Health Care Association by Prairie du Chien Memorial Hospital and the Smith Gundersen McGregor Clinic staff, several stories are related to Dr. Smith's compassion and bedside manner.

Until his affiliation with Gundersen, Dr. Smith was known to accept bartering in exchange for care when the patient could not afford to pay.

He always carries his black bag and continues to make house calls to patients unable to come to the clinic.

Jean Bacon, RNC of Monona, has worked with Dr. Smith since his first day in McGregor. Today as Memorial Hospital's Emergency Department Clinical Coordinator, she still works with him. She says "Dr. Smith has been my family physician since he moved to this area. My family dearly loves him as do all of his patients. When my children were young they spoke of him as being really cool." She adds, "He is respected for his knowledge, but even more so for his compassion, caring and leadership as a role model."

Ellen Nierling, RNC, education director at Memorial Hospital, recalled a particularly busy night at the hospital working with Dr. Smith that left them both wondering at their career choices, but the following day Dr. Smith said, "It feels great when you know you make a difference in a patient's life."

Marilu Benz MD, Chief of Surgery and Chief of Staff at Memorial Hospital, states, "Dr. Smith is always willing to lend encouragement to hospital staff, and has a talent for bringing out the best in all of us. Our lives are truly enriched by his fine examples of devotion, compassion and dedication."

Dr. Smith is looking forward to the trip to Orlando. He says he has never been any place like it and, it should be fun.

His patients are proud of his national recognition, but they are even happier that even at 72, he is still there when they need him.

BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 1998

SPEECH OF

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. QUINN. Mr. Speaker, I rise today to speak on behalf of H.R. 2829, the "Bulletproof Vest Partnership Grant Act of 1998." I would like to thank my friend from Indiana Congressman VISCLOSKY, and my friend from New Jersey Congressman LOBIONDO, for bringing this long overdue and much needed bill to the floor of the House. Times have changed and we must pass H.R. 2829 in order to protect the men and women who risk their lives everyday for our safety. The bulletproof vests of 15 or 20 years ago are no longer adequate protection. The passage of this bill would authorize up to twenty-five million dollars a year for a new matching grant program to help state and local law enforcement departments purchase new bulletproof vests and body armor. The new body armor today is thinner, lighter and offers more protection. The vests can even be fitted with additional plates for even extra protection.

The bill would also give preference in awarding grants to jurisdictions where officers do not currently have vests. The grants will be sent directly to the agencies that apply for them, resulting in the officers getting their new vests and body armor that much quicker. From 1987 to 1996, 637 officers were feloniously killed by a firearm. Of that figure, 393 officers, roughly 62 percent, were not wearing a bulletproof vest or body armor when they were shot.

Every police officer and correctional officer in this country should have the protection of a bulletproof vest or body armor. This bill will go a long way in making that vision a reality. What better way to recognize national Police Week than by passing this legislation. Support H.R. 2829.

PERSECUTION OF ASSYRIAN CHRISTIANS

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. GUTIERREZ. Mr. Speaker, I rise today to urge my colleagues to recognize the religious persecution and ethnic bigotry confronting the Assyrian Christian community in Eastern Turkey, Syria, Northern Iraq and Iran. As we consider the Freedom from Religious Persecution Act, I believe that the record should document our Nation's concern and commitment to stopping the violence and oppression facing the Assyrian people.

The Assyrian people have faced persecution throughout their history. As a religious and linguistic minority throughout the Near East, Assyrian Christians have long been the victims of violence and repression. Forced assimilation and gross brutality against this persevering people have occurred too often. From the murder of thousands of Assyrians by the Iraqi military in August of 1933, known as the Simele Massacre, to the recent attacks on Assyrian villages in Northern Iraq by Kurdish terrorist factions, the Assyrian people have and still continue to be the victims of violent persecution for their beliefs and values.

More than 30 Assyrians have been killed in Southeastern Turkey during the past three years. Assyrian Christians are caught in the escalating warfare that has long engulfed this crossroads at the head of two ancient rivers, the Tigris and Euphrates. The conditions facing Assyrian Christians continue to deteriorate. It is also clear that our nation must do more to protect the Assyrian people, their unique culture and their religious freedoms.

Reports of religious intolerance toward members of the Syriac Orthodox Church and the Church of the East have been documented by United Nations (UN) human rights observers. The education of young Assyrians about their history and the traditions of their ancestors has been prevented by national and local authorities across the region. This persecution threatens the ability of Assyrians to freely practice their faith in their ancient homeland.

I believe our Government should pursue a policy that works to end this blatant religious bigotry toward Assyrian Christians. We must work with local and national leaders in Turkey to demand that the religious and civil rights of the Assyrian people be protected under Turkish laws. We must continue to pressure the various Kurdish factions across the region to respect the rights and autonomy of individual Assyrian towns and villages. We must also maintain the safe zone in Northern Iraq, to ensure that Saddam Hussein's tyranny cannot cause further destruction of the Assyrian community.

The traditions and customs of the Assyrian people have endured for countless generations. Our Nation must do all it can to ensure that these proud people can continue to abide and thrive in their ancestral homeland for countless more.

AMERICAN ARAB AND JEWISH FRIENDS OF METROPOLITAN DETROIT HOLDS 12TH ANNUAL AWARDS AND SCHOLARSHIP DINNER

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. LEVIN. Mr. Speaker, I rise today to recognize the American Arab and Jewish Friends of Metropolitan Detroit as they hold their 12th Annual Awards and Scholarship Dinner on Sunday, May 17, 1998 and honor two distinguished leaders from each community.

"The Friends" organization was established in 1981 to promote greater understanding and friendship between these two communities involving issues in Metropolitan Detroit. This annual dinner reflects their mission statement as it raises funds for college scholarships for Arab and Jewish high school seniors. The scholarship recipients are the winners of an essay contest emphasizing "The Ties That Bind" Americans of Arab, Chaldean, and Jewish backgrounds.

This year "The Friends" will honor two outstanding individuals who have sought to promote greater understanding between Arabs and Jews. They are both influential community activists who have been successful because of their intelligence, hard work, persistence, and a deep commitment to and caring for their community.

Dr. Haifa Fakhouri is the President and CEO of the Arab-American and Chaldean Council, the nation's largest community-based human service agency serving the Arabic and Chaldean speaking populations of southeast Michigan. Under her leadership, the Council grew from a single office in downtown Detroit to an agency of 28 outreach centers in the tri-county area. She has also served as a Special Advisor to the United Nation's on women's issues in the Arab World and as a delegate to the International Women's Conference in Mexico. Her work has been recognized through several awards including the Wayne State University Headliner Award and the Governor's Leadership Award.

Ms. Florine Mark is the President and CEO of The WW Group, Inc., the nation's largest franchise of Weight Watchers International. She started the company and has been the CEO for over 30 years during which the company has grown to approximately 70,000 members. She also serves as the Chair of the Detroit Branch of the Federal Reserve Bank of Chicago and serves on the boards of numerous community organizations including the American Red Cross, the Detroit Renaissance Board, and Hospice of Southeastern Michigan. Her work has been recognized through several awards including the National Association of Women Business Owners and the Michigan Entrepreneur of the Year Award.

Mr. Speaker, it is my pleasure to pay tribute to these outstanding leaders and friends and to an organization which plays an important role in reminding all of us that we share a common goal of peace and security in the Middle East and community activism at home.

IN APPRECIATION OF NATIONAL POLICE WEEK MAY 14TH, 1998

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. QUINN. Mr. Speaker, thirty-six years ago, President John F. Kennedy designated May 15th as Peace Officers' Memorial Day, and the week in which May 15th falls as National Police Week. I rise today to salute all law enforcement officers across this country, and to remember those who lost their lives in the line of duty.

The protection offered to each of us by this country's law enforcement officials should not be taken for granted, nor should we forget the men and women who lost their lives in the line of duty. In 1997, 160 law enforcement officers, nearly forty percent more than in 1996, lost their lives in the line of duty. From 1990–1995, there had been an average of 151 fatalities annually.

Over the past two years, the city of Buffalo has lost two of our finest law enforcement officials, killed in the line of duty. On April 9, 1997, Officer Charles McDougal was senselessly murdered while on duty. Just a few months ago, Officer Robert McLellan was killed while chasing a fugitive sought by bounty hunters. Both officers served their community with honor, distinction and bravery.

Members of the law enforcement agency throughout this country play an essential role in safeguarding the rights and freedoms of all Americans. We must continue to recognize and appreciate the problems, duties and responsibilities faced by all law enforcement officials throughout this country.

Every day, men and women across America go to work with the single purpose of making all of our lives safer. They work long hours in an often thankless job. But this week is our chance to thank them for all they have done and continue to do. It is also a chance to remember those that have died while making our country a safer place.

Mr. Speaker, I call upon all citizens of this country to observe Friday May 15 as Peace Officers' Memorial Day in honor of those peace officers who, through their courageous deeds, have lost their lives or have become disabled in the performance of duty.

HONORING JACK MCDOWELL, PULITZER PRIZE WINNING JOURNALIST, POLITICAL CONSULTANT, BELOVED FATHER AND HUSBAND

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. RADANOVICH. Mr. Speaker, I rise with the sad duty of informing you that America has lost an honored journalist, a warm friend and a great family man. Jack McDowell, whose storied career included winning a Pulitzer Prize for the now-defunct San Francisco Call-Bulletin, serving as political editor and columnist for the San Francisco Examiner and culminating with 26 years as partner in the highly successful political consulting firm Woodward & McDowell, has died at this home in Atherton. He was 84.

Born in Alameda to the founder and publisher of the Alameda Times-Star, McDowell quite literally had journalism in his blood. As a boy he snuck out of camp to make a lone trek through the Sierra snow to file a report from the ranger's station about how his Alameda boy scout troop was marooned by a freak springtime storm.

After attending what is now San Jose State University during Prohibition, McDowell went on to become managing editor and co-owner with his brother, W. Clifford McDowell, of the Eugene (Ore.) Daily News and Turlock Daily Journal.

In 1942 he was hired as a reporter for the Call-Bulletin. Three years later his story about the new process of donating blood that followed a donor's pint into the Pacific Theater of World War II and into the soldier who received the transfusion was awarded the Pulitzer Prize.

As his career progressed to writing a daily column, "Memo from Mac" and on to city editor of the Call-Bulletin, McDowell's noteworthy stories included confronting a wanted killer on the streets of San Francisco and taking the suspect back to the city room for an exclusive interview before turning him over to the police.

It was during the eras of Governors Goodwin Knight, "Pat" Brown and Ronald Reagan that McDowell served as political editor and columnist for the San Francisco Examiner. He was recognized as the dean of the capitol press corps and was often found at his "unofficial" office, the renowned gathering spot for California politicos, Frank Fat's.

After a learning period under the wing of famed California political consultants Stuart Spencer and Bill Roberts and serving as Statewide News Director of Governor Ronald Reagan's re-election campaign, McDowell and partner Richard Woodward, formed the firm Woodward & McDowell in 1971.

They successfully guided former San Francisco State University President S.I. Hayakawa to a seat in the United States Senate and went on to run some of the most controversial ballot measure campaigns in California, winning more than 95% of the time. McDowell earned the firm a reputation for honesty, credibility and journalistic standards that are a hallmark of the industry.

Mr. Speaker, with the loss of Jack McDowell we have lost a man for whom the standard was excellence, and nothing less. He will be sorely missed by his loving family, his colleagues at Woodward & McDowell and the many others who knew him as a man not only with a story to tell, but the best way to tell it.

IN SUPPORT OF ALEXIS HERMAN

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. HILLIARD. Mr. Speaker, I rise today in support of my friend, and our Labor Secretary, Ms. Alexis Herman. From what I have read, I do not believe that there exists any sound evidence that she was involved in any illegal acts. The charges are frivolous and unsubstantiated. And, for the life of me, I cannot understand what continues to possess the Attorney General to appoint Independent Counsels to investigate overtly partisan and unsubstantiated hearsay.

Even officials at the United States Department of Justice, in their memo to the three Judge panel overseeing this process, stated that no tangible evidence exists which proves that Secretary Herman was involved in anything even remotely illegal.

Mr. Speaker, I am deeply troubled at this wanton spirit of unwarranted prosecution, and at the Justice Department's willingness to appoint Independent Counsels to investigate unsubstantiated rumors.

Since the beginning of the Clinton administration, these so-called Special Prosecutors have cost the American taxpayers a fortune, yet; not one of the principals investigated, has yet to be convicted of any crime.

The costs of the investigations of the present administration total over $51 million, with no apparent end in sight. The examples of these politically inspired investigations include: $29 million and still counting for Ken Starr's investigations; $14 million for Donald Smaltz's investigations; $5.4 million for David Barrett's; $3.2 million for Daniel Pearson's; and $244,000 for Curtis von Kann's investigation.

It seems as though the leadership at the Justice Department is like a willow which blows in the wind, allowing it to bend to the desires of the current rumor-of-the-day.

All I can say is, shame on you Madame Attorney General, for allowing yourself to be influenced, at the eleventh hour, by unwarranted, last minute, right-wing, rumor-mongering. This is political folly at its very worse, and it is costing the country a great deal of money, and a larger amount of credibility.

RECOGNIZING KODAK OF WINDSOR, COLORADO

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, on May 7, 1998, officials of Kodak Colorado Division located in Colorado's Fourth Congressional District announced that the company is the first facility in the State of Colorado and the first sensitized manufacturing facility of Eastman Kodak Company to become registered for ISO 14001.

ISO 14001 Registration is given to companies by the British Standards Institution, Inc. (BSI) after completing a rigorous audit conducted by BSI representatives. The audit is a thorough examination of Environmental Management Systems in all major production and support areas on site including manufacturing processes, pollution prevention plans, and site procedures. "This registration is a true reflection of the efforts of our employees on behalf of environmental protection", said Lucille Mantelli, director of Communications and Public Affairs. "The Kodak Colorado Division is committed to being an environmentally responsible citizen, and to be registered as a ISO 14001 company is a recognition of our efforts in this arena." In order to retain the registration as a ISO 14001 company, third party audits are required semi-annually.

Mr. Speaker, this recognition shows the commitment Kodak has as a company, to be an environmentally sound, competitive organization maintain high standards of excellence for the community. I would like to thank Kodak of Windsor, Colorado for being such a conscientious corporate citizen.

MARKING THE DEDICATION OF THE BAKERSFIELD POLICE MEMORIAL

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. THOMAS of California. Mr. Speaker, this week is Law Enforcement Officers Memorial Week, seven days set aside to honor the courageous men and women who gave their lives protecting us and upholding the law. Yesterday, I was proud to vote for House Resolution 422 which states that law enforcement officers who have died in the line of duty should be honored, recognized, and remembered for their great sacrifice. Today I rise to help pay tribute to the law enforcement officers who died while serving Bakersfield, California.

With all of the advances that have been made in the field of American law enforcement this century, one sad and sobering fact remains the same: police officers are often killed in the line of duty. On May 15, the Bakersfield Police Department will dedicate a monument to honor the law enforcement officers who sacrificed their lives for the safety and well-being of the people of Bakersfield over the past century.

Of great men, Ralph Waldo Emerson once said "brave men who work while others sleep, who dare while others fly . . . they build a nation's pillars deep and lift them to the sky." The names which will be etched on this memorial will be an eternal reminder of the seven brave men who lost their lives daring to protect the people of Bakersfield.

Mr. Speaker, it is with great pride that I pay tribute to the law enforcement officials in Bakersfield who died in the line of duty. The somber black granite monument will be a lasting tribute to these individuals who put the safety of the community ahead of their own. I am proud to live in a town which has chosen to honor its fallen police officers in such a fitting and lasting manner.

PEACE OFFICERS MEMORIAL DAY AND POLICE WEEK, 1998

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. ROEMER. Mr. Speaker, this week Congress and the nation pause to honor the more than half a million law enforcement officers across the country who put their lives on the line each day to protect us and our families. These dedicated men and women are prepared to give what Abraham Lincoln called "their last full measure of devotion" so that we can continue to enjoy the freedom and quality of life that we sometimes take for granted.

Federal, state, and local police officers perform a great service for our communities. All too often they literally are the last thread between us and the forces of violence and chaos. We ask a great deal of the officers who protect us. We ask them to defend our homes and families; to patrol our roads and highways; and to bring justice to criminals and murderers who would otherwise prey on our society. We ask a great deal from this "blue line," but it never breaks and is always there to guard us. For this we owe the nation's police officers our deepest gratitude and our strong support.

Last year, 159 law enforcement officers made the ultimate sacrifice while working to protect us. This means that, on average, one law enforcement officer is killed somewhere in America nearly every other day. In Indiana, seven officers lost their lives—ranking Indiana fifth in the nation in terms of officers lost in the line of duty. Two officers from the congressional district I represent made the ultimate sacrifice last year: Paul Richard Deguch, from the South Bend Police Department, was murdered in the line of duty; and James Kautz, from the Long Beach Police Department, was killed while helping at the scene of a traffic accident.

This week we pay tribute not only to those who gave their lives, but also to every spouse, every child, every parent, and every friend. We pay tribute not only to those who died, but to those who have lost them, to the survivors. And we pay tribute to the law enforcement officers who continue to go to work each day, putting their lives on the line, in the name of freedom.

As we honor these heroes with ceremonies and flags standing at half-staff, we should rededicate ourselves to ending the violence that has taken such a toll on these peace officers. We can best honor their service by seeing that today's officers have the training, equipment and public support they need to accomplish their dangerous mission. To quote Lincoln again, our greatest tribute to these fallen officers is to see that they "shall not have died in vain."

1997–98 VFW VOICE OF DEMOCRACY SCHOLARSHIP COMPETITION

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. BURTON of Indiana. Mr. Speaker, I am pleased to submit the following for the CONGRESSIONAL RECORD:

"MY VOICE IN OUR DEMOCRACY"

(By Lori Parcel, Indiana Winner)

Who hasn't solved a jigsaw puzzle? We all have been faced with the task at one time or another. I remember the last time I tried to solve one. After hours of work, the puzzle was nearly complete . . . and then I realized that some of the pieces were missing. I scoured the area in search of the missing pieces, but I was unable to find them. The puzzle remained incomplete. In many ways, our democracy is a puzzle that consists of over 250 million pieces. Over 250 million voices which are inextricably bound. And interlocked within this tapestry, the tapestry of democracy, is my voice.

I realize that all of the pieces of the puzzle must be present for our government to be fully effective. However, looking around, I can't help but notice gaps in democracy's tapestry. Gaps which surely weaken the entire structure. I raise my voice to cry out to the missing pieces, to tell them to join the majority of Americans, to exchange ideas and strengthen our government, but my cry does not reach some. They do not understand that by discounting their own voices, and by ignoring my plea, they are hurting both themselves and our government. They do not realize that a democracy such as ours cannot effectively operate without their input. I use my voice to tell them about the time I was paging in the state legislature. I tell of a man who came into the statehouse and observed me tallying opinion surveys. The man, presumably a stray piece, was surprised that the surveys were tallied. He expressed his astonishment by saying, "That's where those surveys go. You actually read these. I did not think anyone listened, or that it was worth spending money for a stamp." The man did not understand that the absence a single voice, a solitary note in the symphony of our government, can throw harmony into discord.

I plea to the stray pieces once again. I tell them that, during my experience paging, I learned that legislators are people. They have pictures of their families on their desks, and they even drink coffee. They are no different from the rest of us except they have decided to make a career out of using their voices to build our democracy, to add more pieces to the puzzle in hope of solving our nation's problems.

But certainly one does not have to hold public office to have a voice in our government. Rosa Parks provided the impetus for the Civil Rights movement by simply refusing to give up her seat on the bus. She did not even have to open her mouth to have her voice heard throughout the nation.

My voice will not be the missing piece of the puzzle or the chord absent in the symphony. I may speak loudly and run for public office. Or I may speak softly by writing to my representative to tell him my opinions on an issue. But regardless of how I speak, my voice will always be audible. It must be, in order for me to be a fully participating member of our democracy. It is my duty to those who have sacrificed and those who continue to work for freedom throughout the world to exercise my right to participate in our government.

I realize that using my voice is critical to the continuation of democracy. Our government consists of millions of voices. Those of politicians and those of voters, but all of which are American voices. Exercising our voices through voting is our privilege, right, and duty as American citizens. In order to truly have a government of, by, and for the people, we must all work to build it. We must all contribute our piece of the puzzle, our voice, to our democracy. When I cast my vote a year from now, I will be doing far more than choosing one candidate from the ballot. I will be contributing my voice to the extensive puzzle which depicts the tapestry of our government. And I will be raising my voice, in harmony, to contribute to that symphony we call democracy.

HONORING WIVB–TV CHANNEL 4

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. QUINN. Mr. Speaker, I rise today to bring to the attention of my colleagues a very special anniversary in my district, that of our local television channel, WIVB–TV.

On May 14, 1948, then known as WBEN–TV, WIVB began service to the Greater Buffalo areas as our community's first television station. In addition to being the first television station in Western New York, WIVB was also first to offer live news broadcasts, live weather reports, live coverage of sporting events, and color broadcasting. This pioneering and innovative spirit has established WIVB a leader in local broadcasting.

In that proud tradition, WIVB–TV looks to the future with a continued commitment to ethical and ambitious journalism, technological innovations through Doppler Radar, and a growing system of local weather stations.

These impressive accomplishments would not have been possible without the many talented individuals who have served WIVB. Whether as an on-air television personality, or as one of the countless behind-the-scenes men and women who contribute so much to the success of the program, WIVB–TV, and indeed, our entire community, are indebted to their service.

Mr. Speaker, today I would like to join with the many residents of Buffalo and Western New York who enjoy WIVB's programming everyday in expressing my enthusiastic commendation to WIVB–TV Channel 4 on the occasion of its Fiftieth Anniversary, and send our best wishes for the next half-century.

CONGRATULATIONS TO JACK V. PANDOL

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Jack V. Pandol for being honored with the Boy Scouts of America Southern Sierra Council's Great American Award. This is one of the highest awards given by the Boy Scouts and is only the fourth in the 86-year history of the local Scout Council. As a man who has made lasting contributions to his community and country, Jack is very deserving of this award.

Jack Pandol began his service in the United States Army 25th Infantry Division during World War II. He fought in the Philippines and Japan and received the Purple Heart, Bronze Star, and Combat Infantry Badge for his distinguished service.

Jack V. Pandol is of Croatian descent and has been a Delano based farmer since 1941. In 1948, Jack and his two brothers purchased 400 acres of land from their parents. Today, this family owned farming operation has grown to over 6,000 acres of land in Kern and Tulare counties. He began as a grape grower, but soon branched out to become a grower, marketer, exporter, and importer. Jack is currently the President of Pandol Brothers, Inc. National and International Sales, and a partner in Pandol & Sons Farming. The Pandol firm currently does business in over thirty countries, representing growers from Washington state to South America and as far away as China.

Jack has been instrumental in the opening of foreign markets for international trade in Europe, the Orient and South America. He is known for his innovations in "barter" trade, fresh produce marketing, and general agriculture. Jack has received many awards for his work in the farming and shipping industries, and has served in many distinguished positions. Among these are Director of California Pacific Corporation, Advisory Board Member for the U.S. Department of Agriculture for Fruit and Vegetables, Member of the California Export Finance Board, Advisory Board Member for the U.S. Maritime Commission, President of Delano Grape Products, Vice President of the Rag Gulch Water District, and President of the California Grape and Tree Fruit League.

Mr. Speaker, it is with great honor that I congratulate Jack V. Pandol for being honored with the Boy Scouts of America Southern Sierra Council's Great American Award. Jack Pandol is an exceptional patriot whose contributions to agriculture have made a prominent impact in his community and beyond. I ask my colleagues to join me in wishing Jack V. Pandol many more years of success.

TRIBUTE TO HUGO F. SONNENSCHEIN, PRESIDENT OF THE UNIVERSITY OF CHICAGO

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. LEVIN. Mr. Speaker, as a proud alumnus of the University of Chicago, I rise today to welcome Dr. Hugo F. Sonnenschein, President of the University of Chicago, to Washington, D.C. and the U.S. Capitol on Thursday, May 21, 1998 in recognition of his substantial contribution to American education and to the general welfare of the United States as leader of that esteemed institution. On Thursday, May 21, President Sonnenschein will pay a rare visit to the University of Chicago alumni in the Greater Washington, D.C. area, to bring them news of developments at the University, and learn of developments among alumni in the Nation's capital.

Dr. Sonnenschein has served American higher education with extraordinary distinction, as researcher, teacher, and administrator. Before becoming the 11th President of the University of Chicago in 1993, Dr. Sonnenschein (A.B., University of Rochester, 1961; Ph.D., Purdue University, 1964) served as Provost, Princeton University, 1991 to 1993; Dean, School of Arts and Sciences, University of Pennsylvania, 1988 to 1991; and as a respected scholar of microeconomics.

Mr. Speaker, President Sonnenschein's visit to the Nation's capital is particularly significant. There are some four thousand graduates of the University of Chicago who enrich the political, educational, scientific, cultural, legal and business life of Greater Washington, D.C. The university educates all manner of leaders, and in the Nation's capital alone has produced distinguished Members of this great Congress, dedicated managers and administrators in the Executive Branch, and effective judges in the Federal Courts.

In addition, the University of Chicago takes special pride in its reputation as a teacher of teachers. A great number of its graduates are educators improving the lives of students at all levels of the American educational system and all over the world.

Mr. Speaker, since its founding in 1892, the University has been uniquely devoted to the creation of knowledge, and the research of its scholars in the humanities, social sciences, biological sciences, and natural sciences has made innumerable contributions both to our national life and to international progress.

The University's Washington, D.C.-area alumni look forward to greeting President Sonnenschein on May 21 to make friends, exchange ideas, and express their appreciation for his outstanding service to that esteemed educational institution.

For these reasons, Mr. Speaker, it is an honor and a privilege to ask my colleagues in this great Congress to join me in recognizing University of Chicago President Hugo F. Sonnenschein on his visit to the Nation's capital.

STATEMENT ON THE FREEDOM FROM RELIGIOUS PERSECUTION BILL

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. BLUMENAUER. Mr. Speaker, I voted against the "Freedom From Religious Persecution Act" because of conversations I had with religious leaders from around the world who convinced me this approach would not stop religious persecution, but could actually backfire.

During a meeting with a variety of Christian religious leaders organized by the National Council of Churches, I had the opportunity to visit with a number of bishops and ministers from Indonesia, Pakistan, the Middle East and the former Soviet Union. They were unanimous in their fear that the United States had very little cause to force countries to be more tolerant with different religious faiths. They were unanimous in their fear that this bill could be perceived as interference by the United States and could actually make things worse for the members of their faith.

Since I've arrived in Congress I have been working to understand the role the United States plays as the remaining superpower, militarily and economically, and I would hope morally. I have met with religious and business and political leaders both overseas and here in the United States including Aung San Suu Kyi, the 1991 Nobel Peace Prize winner from Myanmar (formerly known as Burma) and known dissidents in Thailand. I am convinced we do have a constructive role to play regarding religious persecution, but this legislation does not meet that goal.

HONORING OUR GOLD STAR MOTHERS

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to pay tribute to our Gold Star Mothers who have suffered the terrible losses of their sons and daughters for the defense of our nation. These young men and women were in the prime of life, full of hope and youthful promise, when they died defending their country and preserving our freedom.

Their loss was and is heart-breaking for the families and friends left behind. And—enjoying the long period of peace and freedom that these young American service men and women bought so dearly—we are in danger of forgetting their great sacrifice.

But there is one group of fine Americans who are uniquely able to make sure that the rest of us do not forget. They are the Gold Star Mothers. Each one lost a child who died in the military service of our country during this of war.

I am proud and grateful that we have a strong and active group of Gold Star Mothers in the Delaware Valley region including the 13th District of Pennsylvania which I represent in Congress.

The cast of "Reflections" is composed of students from Erdenheim Elementary School in Springfield Township, Montgomery County and students from Upper Dublin High School from Fort Washington, Pennsylvania as well as students from Thomas Edison and Olney High Schools in Philadelphia. The play is a retrospective of our patriotism and a testament to the sacrifices our country has asked of its mothers.

The Play was written, produced and directed by one of my constituents, Vietnam Veteran Frank "Bud" Kowalewski. I commend his tireless work in offering our young people the opportunity to honor lost lives, and teaching them the nature of valor and patriotism.

The play strives to educate the nation on the sacrifices made by Gold Star Mothers. I congratulate the cast on their achievements in reminding us all the true reason we celebrate Memorial Day in America.

On May 21st, 1998, the cast, dressed in historical period costumes, will accompany a local Gold Star Mother on a trip to Buffalo, New York. There, the cast will perform with students from Riverside High School in their Memorial Day Assembly. This production—"Reflections Going Home"—is dedicated as a Mother's Day Card Gold Card to all Gold Star Mothers.

Previously, the troupe has traveled to our nation's capital where they laid a wreath at the Vietnam War Memorial on the National Mall and were honored by Congress just last year.

The Gold Star Mothers are part of a group that had its roots in the first great conflict of the 20th Century—World War I. President Woodrow Wilson proclaimed that service flags would be displayed at homes that had family members serving the country. Blue Stars were displayed for each family member in the Armed Forces. And, as the war progressed and casualties mounted, the stars were turned to Gold Stars to represent each service member killed defending our country.

The Gold Star Mothers were officially organized in Washington, DC, in 1929. But one does not have to be a formal member of the national organization to be a Gold Star Mother. The standard for entering this revered group of Americans is much, much higher and more difficult than simply joining an organization. One must have had a child who made the supreme sacrifice for our country. It is a non-profit, non-political organization which was first organized by 25 mothers in June 1928 an was incorporated on January 5, 1929. In 1936 Congress—in a joint resolution—designated the last Sunday in September as Gold Star Mother's Day. In 1940, President Franklin Roosevelt further recognized the day.

These Gold Star Mothers, perhaps better than anyone else, know the agony that comes from caring for, nurturing, and raising up a child only to see that young life lost just as it is beginning. But these fine Americans deserve the greatest admiration, thanks and respect from all of us and I find it remarkable that this group of courageous women is that they refuse to allow their grief to become the victor. Instead, they chose to channel their pain and suffering into productive work to benefit veterans and the community at large.

These ladies whose loved ones did not make it home devote themselves to caring for and helping those who did. In a supreme act of love and concern for others, many Gold Star Mothers dedicate themselves to helping the children of other mothers, children who survived war. Gold Star Mothers assist in all manner of ways. They visit veterans' hospitals to help service people there. They take part in patriotic observances that help all of us remember the sacrifices that bought our freedom.

But the Gold Star Mothers did not stop there. They wanted to expand their opportunities to assist veterans and their families and sought a Congressional Charter so they could work in veterans' hospitals throughout the country. Their charter was granted in 1984 and outlines the objectives and purposes for which they were organized including; (1) assisting all veterans and their dependents in claims to the U.S. Veterans Administration, (2) inspiring respect for our flag, the Stars and Stripes, (3) encouraging a sense of individual obligation to the community, state and Union; and (4) perpetuating the memory of those whose lives were sacrificed in our nation's wars.

I salute the Gold Star Mothers of the Thirteenth Congressional District, the entire Greater Philadelphia area and the Nation as a whole. Starting with just 25 members, Gold Star Mothers grew quickly and today has members from all 50 states, the District of Columbia and Puerto Rico. All of us should be grateful that our Nation produces men and women with the courage and dedication to make the supreme sacrifice so that we might be free. We should be thankful too that our Nation has mothers whose courage and compassion help make those sacrifices worth it and—in the most special way—make sure that the memory of those who died for our country lives on.

God bless the Gold Star Mothers. We humbly offer our tears, humility and gratitude as a nation. We pray there will be no more lives unnecessarily lost and no more tears. God love and protect all of our brave soldiers in this great Nation.

THE 100TH ANNIVERSARY OF THE VISITING NURSE ASSOCIATION OF NORTHERN NEW JERSEY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to commemorate the 100th Anniversary of the Visiting Nurse Association of Northern New Jersey.

The Visiting Nurse Association of Northern New Jersey, officially incorporated in 1916, traces its roots to the Female Charitable Society established in Morristown in 1813. The Society was established by women who felt obligated to provide coal, food and clothing to poor individuals in northern New Jersey, and, by 1898, also provided nursing services. The VNA was founded on the enduring civic and charitable virtues embodied by the Society, and today continues their long tradition of serving the community.

In the early 1900's, Morris County, like many other areas in the country, experienced a wave of immigration that brought with it many challenges in providing health outreach services. To respond more effectively to these changing social conditions, the VNA hired its first full-time nurse in 1914, Ms. Mable R. Saulpaugh, who went on to make 771 house calls without the use of a car. By 1918, the VNA opened up its first day care center for expectant mothers, and, later that same year, purchased their first automobile, which greatly increased its sphere of influence.

During the 1920's and 1930's, the VNA established several key outreach tools to ensure that a broad spectrum of individuals were aware of the health services that the VNA could provide to them. Most popular among these was the Well Babies and Children parade, where prizes were awarded for the healthiest-looking baby and toddler. Additional tools included going directly into the schools and following up with home visits for children at risk of disease. Indeed, the VNA's prodigious outreach work served as an impetus for hospitals in the area to establish their own outpatient departments.

By 1936, the VNA's outreach methods provided for considerable success in fighting Tuberculosis, and played a major role in reducing it from the number one cause of death to the eighth in Morris County. During World War II, and in ensuing years, the VNA focused on increasing its staff size, so as to widen its ability to serve the community. By 1960, the VNA had expanded to eight nurses serving 37 towns in Morris County, with a total budget of $60,000. Less than twenty years later, the VNA had revenues in excess of $1 million, and today boasts a staff of 400 employees offering comprehensive health services to the Morris County area.

Mr. Speaker, throughout its long history, the Visiting Nurse Association of Northern New Jersey has never lost sight of its crucial role in providing superior home health care to those in need. As the VNA today deals with the extraordinary challenges of meeting the specific needs of those suffering from AIDS and other diseases, I ask you, Mr. Speaker, and my colleagues, to join me in commemorating the Visiting Nurse Association of Northern New Jersey on this special anniversary year.

BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 1998

SPEECH OF

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. CASTLE. Mr. Speaker, I want to express my strong support for H.R. 2829, the Bulletproof Vest Partnership Grant Act. This is much needed legislation to help protect our law enforcement officers as they work to make our communities safe.

The threats facing our police officers have grown more complex and dangerous. Policemen who put their lives on the line every day too often find themselves in the sights of criminal who have high powered automatic and semi-automatic weapons. Violent criminals have too often used these weapons against law enforcement officers. We need to give "the good guys," our law enforcement professionals, every means of protection against criminals. This problem is so severe that the federal government should support state and local efforts to provide more protection to our police men and women. That is the purpose of this legislation.

The Bulletproof Vest Partnership Grant Act authorizes the Bureau of Justice Assistance to make $25 million in grants to states or local governments to purchase bulletproof vests for use by law enforcement officers. These grants are matched by state and local governments, unless it would produce a financial hardship on the community. Additionally, it gives preferential treatment considerations to applications from jurisdictions that have the greatest need for such funding, a mandatory policy for using bulletproof vests, or a violent crime rate above the national average.

Since 1980, 1,182 police officers have been killed by firearms. According to the Federal Bureau of Investigation, 42 percent of those officers could have survived if they had been wearing bulletproof vests. Today, 25 percent of state and local law enforcement officers do not have access to a single bulletproof vest. That is 150,000 police officers who every day are 14 times more likely to die if they are hit by a bullet. The statistics are shocking and the public policy is uncontrovertible. Please join me in supporting final passage of H.R. 2829. Thank you.

CONDEMNING THE ATTACK ON AKIN BIRDAL: TURKEY'S LEADING RIGHTS ADVOCATE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. HOYER. Mr. Speaker, yesterday morning Akin Birdal, the President of the Human Rights Association of Turkey (IHD), was gunned down in his Ankara office. A right-wing squad has claimed responsibility for the attack which left Turkey's most vocal human rights critic comatose.

Since 1986, under Akin Birdal's leadership, the IHD has established itself as the largest independent human rights monitoring NGO in Turkey. Akim Birdal has appeared before the Helsinki Commission and met with its staff in Washington and Ankara. He is held in high regard by legislators and diplomats around the world. In recent years he has received awards from the Lawyers Committee for Human Rights, the International Human Rights Law Group and NGOs in Europe. Last year, he was elected Vice-President of the prestigious International Federation of Human Rights Leagues (FIHD).

This vile assault takes place against a backdrop of repression and intimidation against rights workers throughout Turkey. The Government of Turkey has criminalized non-violent human rights advocacy. Security forces and right-wing death squads have collaborated in the murders of human rights activities, Journalists, Kurdish dissidents and others. More than a dozen IHD offices have been closed by authorities and IHD leaders, including Mr. Birdal face continuous legal and other harassment.

Mr. Speaker, despite great personal danger, Akin Birdal and his colleagues dared to continue speaking against human rights violations by the State. The IHD has been especially critical of the "dirty war" waged against Turkey's Kurdish rebels. In recent weeks, the climate of intimidation escalated. Mr. Birdal reported numerous death threats against himself and his family. Unsubstantiated allegations by security officials leaked to the media stated that Birdal took orders from the PKK, an outlawed Kurdish guerrilla group. Mr. Birdal vigorously denied such allegations and denounced the "primitive conspiracy" orchestrated by Turkey's military rulers against their "enemies list."

Mr. Speaker, the shooting of Akin Birdal is a great tragedy for all who cherish human rights. His steadfast support for peace and non-violence is an inspiration to many in Turkey and abroad. IHD was working with NGOs around the world to commemorate the 50th anniversary of the Universal Declaration of Human Rights. On this auspicious occasion, it is sad to note deteriorating human rights conditions in Turkey and a steady slide towards outright military rule. Instead of supporting the work of independent human rights NGOs, which make significant contributions to development of civil society and the rule of law, the Government of Turkey instead represses them, labels their members "terrorists," and makes them open targets.

Mr. Speaker, the United States Government supports Turkey militarily, economically and politically. Turkey is a NATO ally and member of the Organization for Security and Cooperation in Europe. I therefore welcome the settlement by the State Department spokesperson condemning the attack and urging that the perpetrators be brought to justice.

However, our government must do more to demonstrate our commitment to democracy in Turkey. If we truly value a stable and long-term relationship, we must not continue to ignore the fact that the military's predominance in politics precludes true democracy. The inability of military or civilian administrations to peacefully address the Kurdish problem or the rise of Islamic political activism remains a recipe for disaster. The resulting political instability fuels the climate in which human rights activists are attacked, free speech is curtailed and other fundamental freedoms eroded.

Mr. Speaker, as I speak today, my thoughts and prayers are with Akin Birdal, his family, his colleagues at IHD and all those in Turkey committed to the ideals of human rights and democracy. It is a sad day for all, and we can only hope that this incident will make people think and act seriously about the state of human rights in Turkey.

A TRIBUTE TO VIRNITA McDONALD

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the fine work and truly remarkable dedication of Virnita McDonald of Joshua Tree, California. My dear friend Virnita will be recognized at a dinner honoring her longtime service to Copper Mountain College as it commemorates the McDonald Hall Student Center.

Virnita McDonald, a fine writer and public relations professional, has long been active in numerous community and civic affairs throughout the Morongo Basin. She has served on many boards and local commissions and has received a number of awards for her fine work. But Virnita is perhaps best known for her work relating to Copper Mountain College.

Virnita has been a driving force behind the establishment and success of Copper Mountain College since 1977 when she was first elected to the Board of Trustees. As of today, she has served five terms on the Board. Her tenacious advocacy for a campus in the Morongo Basin led her to participate in the very first fundraising efforts in 1979. The following year, Virnita went to Sacramento to personally lobby state legislators on establishing an auxiliary for the purpose of fundraising for the yet unnamed campus. Shortly thereafter, the trustees choose the name "Copper Mountain College" as a result of a contest to name the new college sponsored by the Hi-Desert Publishing Company. In 1981, community leaders gathered for the official groundbreaking at the future site of Copper Mountain College. Today, the campus continues to grow and prosper in remarkable ways as a result of Virnita's vision and determination.

In 1984, I had the distinct honor of nominating the Friends of Copper Mountain College for the Presidential Volunteer Action Award. At the time, Virnita was serving as president of the college board and was largely responsible for the incredible progress being made in moving the campus forward. Later that year, a group of "Friends" traveled to Washington, DC to accept the award from President Reagan. It was a touching and fitting tribute to Virnita and many others who had worked so hard to fulfill the dream of establishing a college campus in the Morongo Basin.

Mr. Speaker, Virnita McDonald has been at every step in the creation of Copper Mountain College and deserves a great deal of credit for her longtime devotion to this fine campus. I ask that you join me and our colleagues in paying tribute to this remarkable woman who fittingly will have her name associated in perpetuity with the new student center. Virnita McDonald is one of the finest, most devoted women I have ever met. As a mother, grandmother, great-grandmother, and as a community leader, Virnita continues to set a remarkable example for all of us to emulate. It is only appropriate that the House pay tribute to her today.

NATIONAL POLICE WEEK

HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. ADERHOLT Mr. Speaker, fantasy heroes can't help but call attention to themselves, with their unusual cars and costumes. Real life heroes, however, are often humble people, preferring to avoid the spotlight.

In October, 1997, Police Officer Chris McCurley of Etowah County, Alabama, lost his life in an unexpected gunfire battle. Three other officers were also shot in this savage attack: Rick Correll, Khris Yancey, and Gary Lee Entrekin—who lost a leg as a result of wounds. Officer McCurley's wife Donna, Tommy Watts, Officer Entrekin, and other officers are in Washington DC for National Police Week, which honors the work of officers all over the country.

Officer Entrekin's words about Chris McCurley are more eloquent than anything I could say:

> I worked side by side with him for years, and he helped me through a lot of hard times. He was the best partner you could ever ask for. He never backed down. He would be the one I'd want with me.

These are true American heroes, and on behalf of those whom they serve, it is my privilege today to thank them.

CLINTON ADMINISTRATION'S CHINA POLICY THREATENS INTERNATIONAL SECURITY

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. COLLINS. Mr. Speaker, increased regional tension and instability resulting from this week's nuclear test detonations in India have heightened concerns over the Administration's policy toward Communist China. China's targeting of thirteen CSS–4 missiles at the continental United States and its unwillingness to abide by existing non-proliferation agreements prove that China is a threat to peace, in general, and American interests, in particular. In light of these critical concerns, I urge the President not to agree to any future dual-use technology transfers to China at this time, including those in the Administration's proposed space agreement. Furthermore, I strongly urge the President and all Members of Congress to oppose maintaining China's Most-Favored Nation (MFN) trade status.

Since President Clinton's election in 1992, China has violated non-proliferation agreements at least twenty times. On a number of occasions, China has transferred military technologies directly to nations hostile to American interests, including Pakistan, Iran and Libya. Additionally, China continues to refuse to join the Missile Technology Control Regime to prevent the future spread of these dangerous technologies. In spite of a clear record of Chinese unreliability and irresponsibility, the Clinton Administration has continued to support waivers allowing additional missile technologies to be transferred from American corporations to the Chinese government. Of particular concern to me is the recent waiver granted by the President to Loral Space and communications, a company currently under investigation by the Justice Department for making allegedly illegal transfers of sensitive missile technologies to Communist China. As the editors of the New York Times noted in April, this waiver "could open the door to discussions about the same kind of guidance system expertise under investigation in the 1996 case, effectively undermining the Justice Department investigation" of Loral.

In the interest of justice and international security, I urge the President to withdraw his support for Most-Favored Nation status for China and to end American dual-use technology transfers to China. Only after it ceases to deploy missiles capable of attacking the United States mainland, ends its transfers of military technology to nations such as Pakistan, Iran and Libya, and agrees to the terms of the Missile Technology Control Regime should China become eligible to receive military technologies from the U.S. and be considered a candidate for Most-Favored Nation status.

I further urge that the President refuse to accept so-called "detargeting agreements" as progress toward any national security goal. As most Members are aware, retargeting can occur with a single keystroke in today's computer age. As long as China maintains offensive missile capabilities against the United States, American policy should seek to render these weapons unreliable and ineffective. Denial of technology transfers could prove a valuable tool in achieving this objective.

THE CINCINNATI OBSERVATORY: NATIONAL HISTORIC LANDMARK

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. PORTMAN. Mr. Speaker, I rise today to recognize the Cincinnati Observatory in Cincinnati, Ohio, which recently received the National Park Service's designation as a National Historic Landmark.

The Cincinnati Observatory is a nationally significant historical site for its association with individuals, institutions and events related to astronomy. Its two structures, now on 11 acres, were designed by nationally recognized master architect Samuel Hannaford and built in 1873 and 1904.

The Cincinnati Observatory is the oldest functioning observatory in the United States. The original telescope was the largest in the U.S. and the second largest in the world at the time. The observatory was associated with the careers of such famous American astronomers as Ormsby MacKnight Mitchel (1809–1862), who published *Sidereal Messenger*, the first attempt to bring astronomy to the public and Cleveland Abbe (1838–1916), a meteorologist who instituted daily weather bulletins in 1869. Abbe's work became popular with the public and led directly to the creation of the federal agency National Weather Bureau in 1870.

Paul Hergert (1908–1981) the world's foremost authority on the commodation of planetary orbits, served as director of the Observatory from 1946–1978. Under his leadership, the observatory became the original location of the Minor Planet Center, which was founded in 1947 by the International Astronomical Union. For the work he initiated at the Observatory, Hergert was elected to the National Academy of Science in 1962.

The Cincinnati Observatory embodies the rich history of American astronomy. It has gained international prominence for its landmark work in field of proper motions, gravitational studies and sidereal astronomy, including double stars, nebulae and clusters. Today, it serves as a vibrant public resource on the history and practice of astronomy.

All of us in Greater Cincinnati congratulate the Cincinnati Observatory, the Cincinnati Planning Association and the Observatory Planning Committee for their hard work and dedication to preserve this window to the past and inspiration for the future.

TRIBUTE TO FRANK T. VOTTO, Ed.D

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention Frank T. Votto, Ed.D., Superintendent of the Nutley School District who is retiring after 16 years of service to the Town of Nutley.

Frank has been a public school and collegiate educator for 35 years in New Jersey. He holds a Bachelor of Arts degree in Secondary Social Studies from Montclair State, a Master of Arts degree in Administration and Supervision from Kean College, and a Doctor of Education in administration, Curriculum, and Supervision from Rutgers University. He has served as an Adjunct Professor in Reading Studies at Middlesex County College, 1970–71, as Assistant Director of the Evening Division, 1971–72, also at Middlesex County College, and as House Principal of Plainfield High School, 1972–81.

Frank joined the Nutley School District in 1982, serving as Principal of Nutley High School. He served in this capacity until 1986 when he was promoted to Assistant Superintendent of Schools for Nutley. Ten years later he was promoted to Superintendent of Schools for the Nutley School District.

Frank is a representative of the New Jersey Association of School Administrators and served as President of the Assistant Superintendents Roundtable for Essex County. Since 1978, he has also served as Adjunct Professor in Administration, Curriculum, and Supervision at Jersey City State College.

Mr. Speaker, I ask that you join me, our colleagues, Frank's family and friends, and the Town of Nutley in recognizing the many outstanding and invaluable contributions Dr. Frank T. Votto has made to the Public School System of Nutley, New Jersey.

SECOND ANNIVERSARY OF TAIWAN PRESIDENT DR. LEE TENG-HUI'S INAUGURATION

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. UNDERWOOD. Mr. Speaker, in 1996, Dr. Lee Teng-hui was sworn in as the ninth President of Taiwan, Republic of China after having been elected in the first-ever popular election held in this island nation. This year marks the second year of his inauguration into office.

In addition to being one of our closest associates in Asia, Taiwan has steadily matured as an economic stronghold. The last few years has seen the republic's economy grow at a spectacular rate. It is currently one of the United States' largest trading partners.

As the delegate from Guam, I recognize the fact that the island and people that I represent share deep cultural and historical ties with Taiwan. My constituency includes a substantial number of Taiwanese immigrants. As in numerous locales, Taiwanese immigrants have integrated themselves with our island community over the years and have emerged as a vital force in the development and growth of Guam. In addition, Taiwanese tourists contribute to the island's economy. Made possible by the visa-waiver program recently implemented for Taiwanese citizens, Guam has greatly benefited from the business they bring.

We applaud Taiwan's economic achievements and political progress. I am positive that their leaders, many of whom were educated in the United States, will continue to lead their nation towards prosperity and success.

On behalf of the people of Guam I would like to congratulate President Lee Teng-hui on the second anniversary of his inauguration as president. I join the people of Taiwan in their celebrations and wish them continued prosperity.

TRIBUTE TO COMMANDER ROBERT WALKER DURFEY, JR.

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to an outstanding patriot, United States Coast Guard Commander Robert Walker Durfey, Jr. Today, in Corpus Christi, friends and colleagues will celebrate Commander Durfey's tenure, to date, in service to the United States. All of us wish him well as he continues his service in California.

During Commander Durfey's tenure at Group and Air Station Corpus Christi as Deputy Group Commander and Air Station Executive Officer, I have become familiar with his efficiency and uncanny ability to exercise good judgment in delicate situations. He was thoughtful about keeping my office apprised of situations as they occurred with regard to matters of security. He played a pivotal role in Operation Gulf Shield, the largest multi-agency counter-drug operation in the history of the United States.

As a former law enforcement officer myself, I am deeply aware of the price illegal drugs exact from our communities and our nation. Commander Durfey and I share a commitment to keeping drugs off the streets of our country. This warrior has been diligent and dignified in carrying out the policies of the United States; he is a true public servant.

But that is not the entire reason the Coastal Bend of South Texas will miss him. He is just an outstanding human being. He is a devoted Christian with a beautiful family. He is decent and dedicated to the service, to his family, but most of all to his men. He is thoughtful of the sailors in the ranks, and deeply respectful of his superiors.

He has the highest level of commitment and represents the height of integrity. If you are looking for an honest man, go meet Commander Durfey. He is always willing to go the extra mile for his duty; he is determined to do the job well. The Coast Guard is genetic with him. His father was Rear Admiral Robert Durfey (USCG, retired) and Commander Durfey readily admits to being in the Coast Guard "all his bloomin' life."

We will miss him in the Coastal Bend, but we can find great comfort that he will continue his quality service in northern California, which is familiar territory to him. He attended high school in Alameda and now returns with a vast amount of experience under his belt. While I cannot be at his ceremony today, I hope all of you will join me in commending this outstanding public servant and dedicated Coastie.

REMEMBERING JOHN B. BENNETT

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. QUINN. Mr. Speaker, I rise today to bring to the attention of my colleagues the dedication of a plaque commemorating the service of Mr. John B. Bennett, which occurred in my District this past Saturday at the West Side Rowing Club.

Mr. Bennett, who passed away May 27, 1995, is a true legend in Rowing in every sense of the word. During an era when club crews were as powerful as those at some of the big Universities, he dominated the field as North America's winningest Coach. His eight-oared crews won the U.S. National Championships in 1947, 1949, 1950, and 1951. Those same crews went on to win the Royal Canadian Henley Championships in 1946, 1947, 1949, 1950, 1951, and 1956.

Coach Bennett also led a four-oar team to a National Championship in 1956, and represented our Nation in the 1956 Olympic Games in Melbourne, Australia.

Even more important than his will to win and impressive records was Coach Bennett's leadership, involvement, and motivation of countless young men who were fortunate enough to be part of his teams.

Born and raised in Buffalo, New York, Coach Bennett served as a Member of the Buffalo Police Department for Thirty-three years, and attained the rank of Lieutenant.

Mr. Speaker, today I would like to join with the West Side Rowing Club, the Bennett Family, and our entire Western New York community in remembrance of Coach Bennett's service. I close with a caption from the newly dedicated plaque, which best sums up his amazing contributions:

"As remarkable as his coaching record was, his moral influence on hundreds of young men, many of who were war veterans, was stronger. He motivated his charges to be winners in life as well as on the water."

God Bless that unending commitment and Mr. John B. Bennett.

TRIBUTE TO THE MEMORY OF MILLBRAE POLICE OFFICER DAVID JOHN CHETCUTI

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. LANTOS. Mr. Speaker, I would like to invite my colleagues to join me in expressing our deepest sorrow at the devastating loss last month of Officer David John Chetcuti of the Millbrae, California, Police Department. Officer Chetcuti, who was only 43 years old, was killed on April 25 while aiding another officer during an exchange of gunfire with a heavily armed man.

Mr. Speaker, I ask my colleagues to join me in expressing our most sincere condolences to his wife Gail, his three sons—David, Jr., John, and Rickey—and their friends and family in Millbrae and throughout the Bay Area. All of us have been touched by Officer Chetcuti's generosity, service, duty and commitment to his community.

Last month's tragedy hangs even more heavily in our hearts this week as we commemorate National Police Week. President Clinton's words proclaiming this solemn occasion ring especially true in reflecting upon Officer Chetcuti: "This week a grateful Nation pauses to honor the more than half a million dedicated law enforcement officers across our country who put their lives on the line each day to protect us. These courageous and dedicated men and women daily wage the timeless battle for right over wrong, peace over conflict, and the rule of law over anarchy. . . . We lean heavily on this thin blue line, and it never breaks."

Officer Chetcuti honored this truth every day of his life through his extraordinary commitment to protecting all of us. As Mike Parker, Chief of the Millbrae Police Department, so eloquently remarked, "We lost Officer David J. Chetcuti when he was doing what he loved and did best, helping others."

David John Chetcuti was born in San Francisco on March 5, 1955. He was the youngest of seven children born to John and Lily Chetcuti. Dave graduated from Capuchino High School in San Bruno, and later joined the Millbrae Police Department as a Reserve Police Officer in November, 1983. In April 1987, Dave was hired as a Deputy Sheriff with the Alameda County Sheriff's Department. He returned to the Millbrae Police Department in December, 1987, shortly after graduating from Alameda County's 91st Basic Academy.

Throughout his distinguished eleven-year career, Officer Chetcuti consistently performed as an outstanding officer and leader in many different service capacities. In 1992, he was the first officer from the Millbrae Police Department to receive recognition for the highest number of drunk driving arrests during the "Avoid the 23" campaign. In 1995, he received the Department's Lifesaving Award for initiating CPR on a heart attack victim. Over the years, Officer Chetcuti received more than 33 written commendations and was named in countless news stories reporting arrests, investigations, and outstanding achievements.

Mr. Speaker, 23 police officers have died in the line of duty in the history of San Mateo

County, California. Behind each murder is a family grieving, a department devastated, and a community shaken. As we mourn Officer Chetcuti, and as we share our grief with his family, friends, and the people of Millbrae, I would like to pay tribute to these 22 brave men who preceded him in making the ultimate sacrifice for the safety and security of all of us.

These 22 officers are: Hugo Olazar, California Highway Patrol (1989); Joel M. David, East Palo Alto Police (1988); George L. Garrett, Jr., Redwood City Police (1981); Ralph Percival, California Highway Patrol (1974); Gordon Joinville, San Mateo Police (1968); Richard J. Klass, Daly City Police (1966); Charles Manning, Broadmoor Police (1964); Dale Krings, California Highway Patrol (1962); William E. Pitois, California Highway Patrol (1960); John W. Lyle, Menlo Park Police (1960); Eugene A. Doran, Hillsborough Police (1959); William Moyle, South San Francisco Police (1953); James Dalziel, California Highway Patrol (1945); Forrest Gerken, California Highway Patrol (1944); Herman G. Fleishman, Redwood City Police (1939); Jack Doyle, Daly City Police (1936); Pierre J. Larrecou, Sheriffs' Department (1927); Albert D. Coturri, San Bruno Police (1924); Herbert W. Lampkin, Sheriff's Department (1924); Arthur G. Meehan, San Bruno Police (1924); William Phillip McEvoy, Sheriff's Department (1897); and George Washington Tallman, Sheriff's Department (1888).

Mr. Speaker, I invite my colleagues to join me in paying tribute to the courageous officers of the Millbrae Police Department and all other police officers across America who risk their lives every working day. As we mark National Police Week, let us all take a moment to honor them, and to remember Officer David J. Chetcuti and his selfless contributions to the people of Millbrae.

IN RECOGNITION OF SAMUEL STEEL

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. SKEEN. Mr. Speaker, I rise today to pay tribute to Samuel Steel, the first graduate of New Mexico Agricultural College, now known as New Mexico State University, who will be receiving his honorary degree during tomorrow's pregraduation ceremonies in Las Cruces, New Mexico at the university.

Samuel Steel was completing his last semester toward his Bachelor of Science Degree at New Mexico Agricultural College when he was shot on March 9, 1893. He would have been the first graduate of a New Mexico Territory institution of higher learning had he not been killed at the age of 17.

Steel entered New Mexico Agricultural College at the age of 13. Accounts of his abilities indicated a young man of genius or near-genius aptitude. he entered his senior year in the fall of 1892 as the only member of his class. He was a member of the Columbian Literary Society, which created the *New Mexican Collegian*, the first college newspaper in the territory.

President Hiram Hadley said of Steel: "It is rather more than 40 years since I consecrated my life to the work of education. In that period I have had under my care many brilliant youths, a large number of whom now fill exalted positions in their chosen callings; but taken in all, I have never known the superior, or the equal of Samuel Steel. Personally, I loved him with a paternal affection, and had planned for him labor in which he was sure to distinguish himself."

In the 100th anniversary year of his death, the Sam Steel Society was formed to carry on the scholarly tradition of Steel by inducting new graduates and honored individuals into the Society. Two years later, the frontage road on I–10 along the southern edge of the campus was named Sam Steel Way.

On May 15, 1998, 105 years after he would have been the territory's first graduate of a New Mexico college, an honorary bachelor of science degree in general agriculture is being awarded to the late Samuel Steel. On hand to accept the degree will be three nephews—Captain Gordon Steel of the United States Air Force, Ric Steel of El Paso, and namesake Dr. Samuel Steel of San Francisco.

The diploma reads: "Be it known that for his outstanding scholarship as the first member of a senior class in a college in the New Mexico Territory, which set a standard of excellence for those who followed as students at New Mexico State University, the Regents hereby confer posthumously upon Samuel Steel the honorary degree of bachelor of science in general agriculture with all the honors and distinctions appertaining hereto."

A TIME TO HONOR THE FALLEN

HON. STEVE C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. LATOURETTE. Mr. Speaker, this week thousands of law enforcement officers from around the country have assembled in our nation's capital for National Police Week. One of the enduring ceremonies of Police Week is the candlelight vigil held each year at the National Law Enforcement Officers Memorial.

Each year at this memorial, about 10,000 people join together to honor our fallen officers. At last night's 10th Annual Candlelight Vigil, the names of 159 law enforcement officers who lost their lives in the line of duty in 1997 were added to the memorial. To date, more than 14,000 men and women have died while trying to keep our communities safe, with the earliest known death in 1794 when U.S. Marshal Robert Forsyth was shot and killed.

On average, one law enforcement officer is killed somewhere in America nearly every other day, so it is important that we as a nation honor those men and women in blue who have died. One of the men whose name was added to the wall this year is from the 19th Congressional District of Ohio, which I have the honor of representing. Ashtabula Police Department Patrolman Bill Glover was shot November 17, 1997, while apprehending a robbery suspect. He left behind a wife, Marianne, and three young children.

The addition of Officer Glover's name will bring the total number of Ohioans killed in duty to 621. Sadly, only four states—New York, California, Illinois and Texas—have had more officers killed in the line of duty than Ohio. Six of the Ohio officers who died in the line of duty are from my hometown of Lake Country, Ohio:

Constable Ernest C. Gray, Willoughby Township, July 16, 1919.

Deputy Marshal Lawrence R. Yaxley, Mentor Village, January 30, 1927.

Lt. Joyce Robbin Moore, Willoughby Police Department, March 22, 1955.

Patrolman John Apanites, Cleveland Police Department, April 7, 1969.

Auxiliary Capt. George Maxin, Willowick Police Department, December 31, 1976.

Detective Jack Spohn, Willoughby Police Department, August 2, 1998.

As a member of Congress, I have had the privilege of participating in National Police Week the last three years. Tonight, like the past three years, I will participate in a solemn Pipe Band March that will conclude with a wreath laying ceremony at the National Law Enforcement Officers Memorial. As in past years, I will be joined by Chief Jim McBride of the Lakeland Police Department.

I wish from the bottom of my heart we had no need for such a memorial, that every year could pass without candlelight vigils and wreath laying ceremonies. It would be a wonderful world if all our officers could live full lives, watch their children and grandchildren grow up, and die of old age in their beds next to their loved ones. Unfortunately, far too many die far too young, and we are left to try and make sense of their senseless deaths. Our National Law Enforcement Officers Memorial helps to make this possible.

I am honored to be able to pay tribute not only to our fallen officers from home, but also to all those who have bravely served our country. We must never forget their unselfish service because they never forgot their duty to serve and protect.

CONGRATULATING ELEANORE NISSLEY

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate Eleanore S. Nissley on being named 1998 Woman of the Year by the New Jersey Federation of Republican Women. This award is highly deserved, based on Eleanore's long record of service to the Republican Party, which spans five decades. Eleanore is a stalwart veteran of our party who has fought for Republican values since the Eisenhower Administration and is still fighting today. No one could be more deserving of this high honor.

Eleanore is an accomplished businesswoman, an active participant in our political process, an advocate of higher education, a supporter of mental health programs, and a true member of her community through organizations such as the United Way. She has truly followed the philosophy that a successful person should return something to the community, underscoring the contribution of volunteers to making their communities a better place to live, work, and raise a family.

I can think of few—if any—individuals who have a record of service to the Republican Party as impressive as Eleanore's. Her political activities go back to 1953, when she joined the Bergen County Young Republicans Club. She joined the Bergen County Republican Woman's Club and the Bergen County Republican Committee the following year and the New Jersey Federation of Republican Women in 1958. She has been the Republican State Committeewoman for Bergen County since 1965. She was secretary of the Republican State Committee from 1981 to 1997, when she became vice-chairwoman.

Eleanore has been to six of the last eight Republican National Conventions as either a delegate or alternate delegate. She was on hand for the nomination of Richard Nixon, Gerald Ford, Ronald Reagan, George Bush, and Bob Dole—every Republican President and Presidential nominee of the past two generations. Eleanore's participation in these events extended far beyond her official duties as a delegate, however. She returned home charged with the energy of the convention and worked tirelessly to campaign for the GOP nominee and to encourage other Republican women to do the same. She worked not only to support the presidential nominee at the head of the ticket but every Republican candidate as well. She was a leader among women whose strong advocacy and support were important to many women candidates. Her advocacy and support for me was a key to my election to Congress. I have always relied on her for sound advice and counsel.

Eleanore has an equally strong record of community service, particularly in education, young people and mental health. She served as vice chairwoman of the Bergen County Mental Health Board from 1969 to 1975 and has served on the boards of the Family Counseling Service of Ridgewood and the Health and Welfare Council of Bergen County. She was a member of the Lay Development Board that helped establish a College of Professional Psychology at Rutgers University and a member of the Professional Standards Review Committee of the New Jersey Psychological Association. She was an advisory associate to the Graduate School of Applied and Professional Psychology at Rutgers. She is a former trustee of Bergen Community College and a founding member of the Bergen Community College Foundation. Eleanore has also served on the boards of the Community Chest and the United Way. She is a former commissioner of the New Jersey Sports and Exposition Authority and is currently vice chairwoman of the Hackensack Meadowlands Development Commission.

However, this is not the first award Eleanore has received. She has been honored by a number of groups, including the Bergen County Young Republicans, the Meadowlands Chamber of Commerce, the New Jersey Council of County Colleges, and Bergen Community College, to name a few.

All of this has been done while pursuing an impressive business career and raising a family. A graduate of New York University with a bachelor's degree in education, Eleanore has been president of Anclote Estates since 1995 and of Steffens Realty Co. since 1984. She was previously with Cogenic Energy Systems Inc., the Fifth Avenue Collection Inc., and Sartex International Inc. Eleanore lives in Ridgewood. She has four children, Jim, Gale, Peter, and Debbie.

I would like to take this occasion to bring attention to the achievements and service of this outstanding lady and add the recognition of my colleagues in this House for all she has done for her community and the Republican Party. Eleanore is truly one of the outstanding Republican women in our State and has been a leader in promoting Republican candidates and ideals and making us the majority party across the USA. She has been an inspiration for women seeking to become active in our electoral process. I thank her for her many contributions and wish her continued success in the future.

RESOLUTIONS APPROVED BY THE NATIONAL SOCIETY DAUGHTERS OF THE AMERICAN REVOLUTION

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

Mr. LIVINGSTON. Mr. Speaker, I want to take this opportunity to insert the following resolutions passed by the National Society Daughters of the American Revolution (DAR) into the CONGRESSIONAL RECORD. The resolutions were passed by the DAR at its 107th Continental Congress which was held on April 22, 1998.

EMERGENCY RESOLUTION

THE NATO EXPANSION TREATY

Scheduled for U.S. Senate vote the week of 4/20/98

Whereas, Article 5 of the North Atlantic Treaty obligates each NATO member to "agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all";

Whereas, Expanding NATO to include Hungary, Poland and the Czech Republic will further obligate the United States to defend not only the borders but the NATO defined "interests" of Eastern Europe, and could result in further deployment of United States troops throughout the world; and

Whereas, The Treaty will add nothing to the territorial security of the United States, but will stretch an already thin United States military across an ever expanding area, increasing the risk to American servicemen, who will be fighting under United Nations command; therefore, be it

Resolved, That the National Society Daughters of the American Revolution does not view the NATO Expansion Treaty as in the best interest of the United States, and is opposed to any treaty that will undermine Congress' Constitutional responsibility to declare war, place United States troops under United Nations command and commit the United States to permanent involvement in foreign conflicts and wars.

PREAMBLE

Lord Thomas Macaulay

Letter to an American Friend, 23 May 1857, ". . . The average age of the world's greatest democratic nations has been 200 years. Each has been through the following sequence:

From bondage to spiritual faith.
From faith to great courage.
From courage to liberty.
From liberty to abundance.
From abundance to complacency.
From complacency to selfishness.
From selfishness to apathy.
From apathy to dependency.
And from dependency back again into bondage."

Can we escape this fate?

COMMEMORATIVE DEDICATIONS

OBSERVE THE CENTENARY OF THE DEATH OF A DAUGHTER: FRANCES E. WILLARD

(September 28, 1839—February 17, 1898), NSDAR #243; Chicago Chapter Charter & Ft. Dearborn Member

The National Society Daughters of the American Revolution, at the Seventh Continental Congress in 1898, mourned "the death of one of its most distinguished members". This year will mark the 100th anniversary of the death of Frances Elizabeth Caroline Willard, a remarkable woman.

Through the Women's Christian Temperance Union (WCTU), she educated millions to the dangers of alcohol, tobacco and drug use. As a suffragist for the rights of women and children, she helped create protection for them in working for their education and women's right to vote, the eight hour work day, equal pay for equal work, uniform marriage and divorce laws, prison reform, and she worked as a tireless advocate for the sanctity of the home. Author, educator, worker for peace and improvement of the human condition through passive demonstrations of strength, she made the nation and then the world conscious of the newly found resource of women. She trained women, encouraged them to achieve at their highest potential and then helped to provide a door through which they could enter into service. She was an integral part of many organizations, including the NSDAR, that a century after her death still continue their missions.

In 1905, her statue was placed in Statuary Hall in the Capitol Building in Washington, D.C. as an honored Illinoisan, the first woman to stand among the figures of great Americans of the United States. Today, Frances Willard is a reminder to all women that they can "Do Everything" to which they set their minds and hearts. The National Society Daughters of the American Revolution pays tribute to this famous American.

A PATRIOT & A PIONEER

Dr. Anita Newcomb McGee, one of the founders of the NSDAR, its first Librarian General and a co-founder with General George M. Sternberg of the DAR Hospital Corps in April 1898. She recruited qualified nurses for the Spanish American War.

She was appointed Acting Assistant Surgeon, U.S.A., in charge of army nurses on August 29, 1898; this empowered her to organize the Army Nurse Corp. After the war, in 1900, when the Army Reorganization Act was being written, Dr. McGee, at General Sternberg's request prepared the Army Nurse Corps section of the act which was not changed until 1947.

Her indomitable spirit lives on in the Dr. Anita Newcomb McGee Award to the Outstanding Army Nurse of the year. Dr. Anita Newcomb McGee was a patriot and a pioneer physician and deserves this centenary acknowledgement.

HISTORIC VIEW OF THE UN AND THE NSDAR

Whereas, In 1946, the National Society Daughters of the American Revolution adopted a resolution in support of the United Nations as an instrument to "promote international understanding and permanent peace" but at the same time began a "constructive campaign of education to prevent the confusion of this plan of world responsibility with any plan of World Government involving world citizenship, universal currency, free trade, and the dominance of the United States by other nations";

Whereas, The NSDAR continued to view the UN as a world organization of sovereign nations working together for world peace and understanding, while opposing any form of world government, but by 1955, citing UN assaults upon the Constitution of the United States, the NSDAR resolved that it was "clear that a CONCEALED purpose (of the UN) is to destroy the sovereignty of the United States of America in order to build a WORLD GOVERNMENT without the right of secession", and in 1958, for the first time, by an overwhelming vote, requested the United States to withdraw from the UN; and

Whereas, Over the years the NSDAR has objected to various UN commissions, special agencies and treaties and, believing control of the military is an essential ingredient of sovereignty, has also opposed agreements such as the Program for General and Complete Disarmament "creating a permanent UN peacekeeping force subjecting American troops to international control"; therefore, be it

Resolved, That every DAR member be mindful that upon application for membership, she pledges allegiance to the United States of America and agrees to support its Constitution, and as stated in the NSDAR Handbook, "DAR Membership is incompatible with any form of international, regional or world government which would dilute American sovereignty, supersede our constitutional rights and guarantees or limit our nation's independence."

WORLD HERITAGE SITES JEOPARDIZE AMERICAN LAND SOVEREIGNTY

Whereas, Independence Hall, cradle of American liberty, and 20 other uniquely American properties have been designated World Heritage Sites in direct violation of Article IV, Section 3 of the U.S. Constitution which authorizes Congress to make "all needful Rules and Regulations respecting Property belonging to the United States";

Whereas, The World Heritage program, under the control of UNESCO mandates that natural Heritage Sites in the United States can be designated Biosphere Reserves under the UNESCO Man and the Biosphere Program, and 47 Biosphere Reserves have been selected in the United States covering 50 million acres, land in which economic development, property rights and population dispersion are to be centrally managed by agencies of the United Nations; and

Whereas, In an effort to preserve federal, state and private property rights, The American Land Sovereignty Protection Act, currently before the United States Senate, would end United States participation in the United Nations Biosphere Reserves and World Heritage programs and eliminate the designation of all sites in the United States unless approved by Congress; therefore, be it

Resolved, That the National Society Daughters of the American Revolution be aware of the danger posed to freedom by the UNESCO controlled World Heritage Sites and Biosphere Reserve programs in which sovereign United States land is to be managed by the United Nations in accordance with international goals and dictates; and support the American Land Sovereignty Protection Act which would require consent of Congress, state and local authorities before submitting any American site to international supervision.

UNITED NATIONS CLIMATE CHANGE CONVENTION

Whereas, The United Nation's Framework Convention on Climate Change, signed in Japan in 1997, will mandate massive energy cuts, resulting in the loss of millions of jobs, exacerbating the exodus of energy dependent industry, and affecting all business, including agriculture;

Whereas, This will cause living standards to plummet and food prices to soar, while giving rise to a new global regulatory bureaucracy and forcing American industry to relocate in the 128 under developed countries exempt from the treaty, such as China, India and Mexico; and

Whereas, The government's own satellite program over the past 18 years shows a slight cooling, and many prominent climate scientists consider the global climate convention or treaty to be flawed and its goals unrealistic ". . . based solely on unproven scientific theories, imperfect computer models . . . and unsupported assumptions that catastrophic global warming follows from the burning of fossil fuels . . ."; therefore, be it

Resolved, That the National Society Daughters of the American Revolution oppose the United Nations Framework Convention on Climate Change which would result in deindustrialization of the United States, drastically lowering living standards as industry is forced to relocate in under developed countries exempt from the convention, and in a new global regulatory bureaucracy which would further destroy sovereignty.

INJUSTICE FOR ALL—WORLD COURT

Whereas, a global treaty conference to establish a world tribunal supported by the General Assembly of the United Nations, and already considered by many as an accomplished fact, will be held during June, 1998 in Rome to begin the treaty ratification process to establish an International Criminal Court (ICC);

Whereas, The definition of the new World Court of War Crimes is loosely defined and presently includes genocide, crime against humanity and war crimes with power to add other categories such as ecological crimes; and serious concerns are being raised about a tribunal dedicated to the creation of precedents in international law by judges from countries that are culturally alien to American values and outside the common law tradition, with no procedural rights or immunities as guaranteed by the United States Constitution and the Bill of Rights; and

Whereas, The United States will be expected to provide most of the enforcement personnel for the ICC, and American military personnel on United Nations peacekeeping forces will be at risk of being targeted with war crime charges; therefore, be it

Resolved, the National Society Daughters of the American Revolution oppose any efforts to surrender our nation's sovereignty to the United Nations by establishing the International Criminal Court, a world tribunal that will override the United States Constitution, the American legal system, and our inherent rights.

THE AMERICAN HERITAGE RIVERS INITIATIVE (AHRI)

Whereas, The American Heritage Rivers Initiative (AHRI), implemented by Presidential Executive Order 13061, allows federal takeover of 10 American rivers initially and ultimately as many as 114, establishing vaguely defined "river communities" including watershed areas[1];

Whereas, Although communities are encouraged to submit future plans for their river designation, the final decisions will be made by the AHRI Committee which is appointed by the President's Council on Environmental Quality, leaving nonelected state administrators, employees and nongovernmental organizations (NGO's) in control of designated rivers; and

Whereas, U.S. Representative Helen Chenoweth—Idaho has introduced legislation to stop federal funding of the AHRI, an initiative which imposes another layer of federal bureaucracy, violates constitutional and statutory law, reduces the states' domain and restricts private property rights; therefore, be it

Resolved, The National Society Daughters of the American Revolution oppose the American Heritage Rivers Initiative, a maneuver by the Executive Branch to thwart the powers reserved to Congress regarding regulation of navigable waters, to curb jurisdiction of states over land use planning as well as to restrict water rights, local zoning and individual property rights.

NATIONAL ID—ALL PERSONAL DATA

Whereas, The Fourth Amendment to the Constitution grants "The Rights of the people to be secure in their person, house, and effects"; and most losses of their individual freedoms have come as a result of governmental programs "to assist and make safe" all of which are seemingly benign when taken individually;

Whereas, Massive numbers of regulations and laws and a national ID enforced by a powerful bureaucracy, are characteristic of communism, fascism, and totalitarianism and, proposed legislation on encryption would necessitate giving a third party "the ability to read all E-mail, listen to telephone calls and read computer files", precluding privacy from government agencies; and

Whereas, Data consolidation into a national identification card is an approaching eventuality with the implementation of the military MARC card, the Employment Authorization Reader Card, bar coding, Social Security Card, Governmental Employment Card, biometric ID, and compilation of education, legal, family and health history; therefore, be it

Resolved, That the National Society Daughters of the American Revolution must continue to remain vigilant in regard to the encroachment on our constitutionally guaranteed liberties and freedoms, and oppose further increasingly invasive expansion of government into our daily lives and oppose data consolidation into a national identification card.

CENSUS 2000: SUPPORT FULL ENUMERATION VERSUS SAMPLING

Whereas, The Constitution of the United States mandates the enumeration of the population every ten years for the purpose of apportioning Congressional representation and determining the distribution of funding for government programs among the states which is essential to provide statistical information to be utilized in drawing district boundary lines which effect Congressional and local elections;

Whereas, In order to reduce the estimated cost of 4.8 million dollars for Census 2000, the Bureau of the Census is exerting pressure to change from the traditional method of full enumeration to a sampling procedure of unproven accuracy, in which only a percentage of the population would be counted; and

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[1] The Mississippi River watershed area drains over 40% of the United States.

Whereas, The information recorded in past census records is an invaluable tool for genealogists, historians and sociologists and should continue to be so; therefore, be it

Resolved, That the National Society Daughters of the American Revolution support the Constitutional requirement of full enumeration of the Census 2000 which will provide important and necessary information to the United States Government and its people.

NO TO PUERTO RICAN STATEHOOD

Whereas, When the House of Representatives recently voted by a margin of one to enable Puerto Rico to become the 51st state, the public was unaware that this was on the Congressional agenda although the President of Puerto Rico and his associates had retained 30 Washington, D.C. firms to lobby for statehood;

Whereas, The per capita income of Puerto Rico is half that of our poorest state, more than one half of its population would qualify for welfare, and 80% do not speak English and are resistant to learning English; yet as a state, Puerto Rico would have two Senators and probably six Representatives, the latter to be taken from the 50 States since the House of Representatives is capped at 435 members; and

Whereas, The reason given for statehood by a number of prominent Americans of Hispanic descent is that Puerto Rico's present commonwealth status does not meet the United Nations' criteria for ending colonialism; therefore, be it

Resolved, That the National Society Daughters of the American Revolution oppose making Puerto Rico the 51st state which, with more than one half of its population qualifying for welfare, would create a severe financial drain on taxpayers, would receive Congressional representation at the expense of other states, and would lead to social polarization, not assimilation, considering its different language and culture which its leaders have declared will be maintained.

FAST TRACK TRADE AUTHORITY

Whereas, Article I, Section 8, of the United States Constitution gives to Congress the power "to regulate commerce with foreign nations and among the several states", and the Framers of the Constitution, after extensive debate, relegated this power to Congress as a check and balance on the President's authority to make treaties and conduct foreign policy;

Whereas, The North Atlantic Fair Trade Act (NAFTA) set a precedent when it passed Congress by using a "fast track" procedure not found in the Constitution, and the President of the United States is now requesting extension of "fast track" authority to pass multinational trade agreements; and

Whereas, "Fast track" authority will restrict Congressional input to twenty hours of debate, and will limit the Congressional vote to 'yes or no', while prohibiting all rights to amend executive trade agreements; therefore, be it

Resolved, That the National Society Daughters of the American Revolution recommend NAFTA be rescinded and oppose extension of "fast track" trade authority to the President of the United States, whereby the Constitutional right of Congress to act on trade agreements would be eroded and power would be transformed to the Executive.

AMERICAN FAMILY

Whereas, Remembering that the NSDAR motto "God, Home and Country" focuses attention on the importance of God—spiritual values and morals, home—one's own dwelling place and that of their immediate kindred, comprising parents and children, and constituting the fundamental social unit in society, and country—the United States of America to which we pledge our allegiance;

Whereas, Since 1973, the family income has declined necessitating many families with both parents in the work force and children in day-care; the quality and parental control of many schools has been diminished; many types of media have overwhelmed American life altering moral standards; the pervasive influence of drugs, alcohol and violence has compromised the safety of the family; and the roles of both mother and father have been eroded by government and societal intervention; and

Whereas, Before passing laws, Congress and State Legislatures should consider the effects of law on the family, communities should support solutions so that families are nurtured and encouraged; families should increase their involvement in school matters; parents should carefully guide their family consumption of media and assume their responsibility as family leaders of moral standards, thus producing families with high moral standards and conscientious citizens; therefore, be it

Resolved, That the National Society Daughters of the American Revolution proudly proclaim its motto "God, Home and Country" as an example to the nation.

MILITARY STRENGTH

Whereas, In the last five years the government has downsized United States military forces by 40%, thus not only calling into question our ability to handle two conflicts in different parts of the world simultaneously, a stated military goal, but also endangering our status as the preeminent military power in the world;

Whereas, Although this country now has no defense against ballistic missiles, and although the proliferation of nuclear, chemical, and biological weapons and missile technology is increasing around the world to an alarming degree among nations of doubtful friendliness, our government, citing the constraints of the 1972 Anti-Ballistic Missile Treaty with the former Soviet Union, is opposed to a space based missile defense system, the most economical and efficient kind of middle defense; and

Whereas, The administration has just released to China our most advanced missile technology even though China threatened the United States with a missile strike on Los Angeles at the height of the Taiwan crisis, is arming rogue nations world wide, and its military strategist have written a book on how to win the coming war with the United States; therefore, be it

Resolved, That the National Society Daughters of the American Revolution recommend the following steps by the United States Government for the safety of the nation:

1. Rebuild the nation's armed forces so that there can be no doubt that the United States is the preeminate military power in the world and able to handle two conflicts simultaneously in different parts of the globe, a stated military goal,

2. Stop any further high technology transfers to China,

3. Cancel the 1972 Anti-ballistic Missile Treaty with the former Soviet Union and its constraints on missile defense, and

4. Fund the manufacture and deployment of a space based Anti-Ballistic Missile Defense System for the protection of the American homeland.

REAFFIRMATIONS

1. CHINA SPELLS TROUBLE (1997)

Resolved, That the National Society Daughters of the American Revolution oppose the granting of Most Favored Nation trading status, the leasing of the Long Beach naval base or any other American port facility, any joint military training exercises and the sale of military technology or hardware to communist China.

2. RESTORE CONSTITUTIONAL GOVERNMENT (1997)

Resolved, That the National Society Daughters of the American Revolution supports enumerated powers legislation which would require Congress to cite constitutional authority for all legislation, and further supports efforts to abolish the use of unbridled Executive Orders, restore Constitutional balance with strict limitation of Presidential power, thereby preserving the rights of the citizenry as intended by the Founding Fathers.

3. UNITED STATES PATENT RIGHTS (1997)

Resolved, That the National Society Daughters of the American Revolution stands opposed to the restructuring of the United States Patent and Trademark Office and to laws and international agreements that encroach on United States patent and trademark laws and Constitutional rights to "writings and discoveries" which rob inventors/writers/designers of their creative endeavors and allow worldwide use of their efforts.

SENATE—*Friday, May 15, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, thank You for this moment of prayer in which we can affirm our unity. Thank You for giving us the same calling: to express our love for You by faithful service to our country. So much of our time is spent debating our differences that we often forget the bond of unity that binds us together. We are one in our belief in You, the ultimate and only Sovereign of this Nation. You are the magnetic and majestic Lord. You enable us to work together.

Take charge of the control centers of our minds. Think Your thoughts through us. Take charge of our tongues so that we may speak truth with clarity, without rancor and anger. May our debates be an effort to reach agreement rather than simply to win an argument. Help us to think of each other as fellow Americans seeking Your best for our Nation.

Enable us to catch the drumbeat of Your direction and march to the cadence of Your guidance. Here are our lives. Invade them with Your calming Spirit, strengthen them with Your powerful presence, and imbue them with Your gift of faith to trust You to bring unity out of diversity. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. ALLARD. Thank you, Mr. President.

SCHEDULE

Mr. ALLARD. Mr. President, for the information of all Senators, this morning the Senate will be in a period of morning business until 12 noon. As a reminder, the majority leader has announced there will be no rollcall votes during today's session. A cloture motion was filed yesterday on the motion to proceed to the tobacco legislation and that vote will occur on Monday at a time to be determined by the two leaders, but not prior to 5 p.m.

Also at noon on Monday, the Senate will begin consideration of Senate bill 1723, the Abraham immigration legislation, under the consent agreement of May 13. Therefore, Members can expect a rollcall vote on cloture and additional votes with respect to the immigration legislation Monday evening.

BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 1998

Mr. ALLARD. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 1605) to establish a matching grant program to help States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1605) entitled "An Act to establish a matching grant program to help States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bulletproof Vest Partnership Grant Act of 1998".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the number of law enforcement officers who are killed in the line of duty would significantly decrease if every law enforcement officer in the United States had the protection of an armor vest;

(2) according to studies, between 1985 and 1994, 709 law enforcement officers in the United States were feloniously killed in the line of duty;

(3) the Federal Bureau of Investigation estimates that the risk of fatality to law enforcement officers while not wearing an armor vest is 14 times higher than for officers wearing an armor vest;

(4) the Department of Justice estimates that approximately 150,000 State, local, and tribal law enforcement officers, nearly 25 percent, are not issued body armor;

(5) according to studies, between 1985 and 1994, bullet-resistant materials helped save the lives of more than 2,000 law enforcement officers in the United States; and

(6) the Executive Committee for Indian Country Law Enforcement Improvements reports that violent crime in Indian country has risen sharply, despite a decrease in the national crime rate, and has concluded that there is a "public safety crisis in Indian country".

(b) PURPOSE.—The purpose of this Act is to save lives of law enforcement officers by helping State, local, and tribal law enforcement agencies provide officers with armor vests.

SEC. 3. MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part Y as part Z;

(2) by redesignating section 2501 as section 2601; and

(3) by inserting after part X the following new part:

"PART Y—MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS

"SEC. 2501. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance is authorized to make grants to States, units of local government, and Indian tribes to purchase armor vests for use by State, local, and tribal law enforcement officers.

"(b) USES OF FUNDS.—Grants awarded under this section shall be—

"(1) distributed directly to the State, unit of local government, or Indian tribe; and

"(2) used for the purchase of armor vests for law enforcement officers in the jurisdiction of the grantee.

"(c) PREFERENTIAL CONSIDERATION.—In awarding grants under this part, the Director of the Bureau of Justice Assistance may give preferential consideration, if feasible, to an application from a jurisdiction that—

"(1) has the greatest need for armor vests based on the percentage of law enforcement officers in the department who do not have access to a vest;

"(2) has, or will institute, a mandatory wear policy that requires on-duty law enforcement officers to wear armor vests whenever feasible; and

"(3) has a violent crime rate at or above the national average as determined by the Federal Bureau of Investigation; or

"(4) has not received a block grant under the Local Law Enforcement Block Grant program described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119).

"(d) MINIMUM AMOUNT.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.50 percent of the total amount appropriated in the fiscal year for grants pursuant to this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall be each be allocated .25 percent.

"(e) MAXIMUM AMOUNT.—A qualifying State, unit of local government, or Indian tribe may not receive more than 5 percent of the total amount appropriated in each fiscal year for grants under this section, except that a State, together with the grantees within the State may not receive more than 20 percent of the total amount appropriated in each fiscal year for grants under this section.

"(f) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under subsection (a) may not exceed 50 percent. Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection.

"(g) ALLOCATION OF FUNDS.—At least half of the funds available under this part shall be awarded to units of local government with fewer than 100,000 residents.

"SEC. 2502. APPLICATIONS.

"(a) IN GENERAL.—To request a grant under this part, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Director of the Bureau of Justice Assistance in such form and containing

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

such information as the Director may reasonably require.

"(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this part, the Director of the Bureau of Justice Assistance shall promulgate regulations to implement this section (including the information that must be included and the requirements that the States, units of local government, and Indian tribes must meet) in submitting the applications required under this section.

"(c) ELIGIBILITY.—A unit of local government that receives funding under the Local Law Enforcement Block Grant program (described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)) during a fiscal year in which it submits an application under this part shall not be eligible for a grant under this part unless the chief executive officer of such unit of local government certifies and provides an explanation to the Director that the unit of local government considered or will consider using funding received under the block grant program for any or all of the costs relating to the purchase of armor vests, but did not, or does not expect to use such funds for such purpose.

"SEC. 2503. DEFINITIONS.

"For purposes of this part—

"(1) the term 'armor vest' means body armor, no less than Type I, which has been tested through the voluntary compliance testing program operated by the National Law Enforcement and Corrections Technology Center of the National Institute of Justice (NIJ), and found to meet or exceed the requirements of NIJ Standard 0101.03, or any subsequent revision of such standard;

"(2) the term 'body armor' means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, stabbing, or other physical harm;

"(3) the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands;

"(4) the term 'unit of local government' means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level;

"(5) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)); and

"(6) the term 'law enforcement officer' means any officer, agent, or employee of a State, unit of local government, or Indian tribe authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following new paragraph:

"(23) There are authorized to be appropriated to carry out part Y, $25,000,000 for each of fiscal years 1999 through 2001.".

SEC. 4 SENSE OF THE CONGRESS.

In the case of any equipment or products that may be authorized to be purchased with financial assistance provided using funds appropriated or otherwise made available by this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

Amend the title so as to read "An Act to establish a matching grant program to help State and local jurisdictions purchase armor vests for use by law enforcement departments.".

Mr. CAMPBELL. Mr. President, on March 11, 1998, the Senate passed S. 1605, the Bulletproof Vest and Partnership Grant Act of 1998 which I introduced along with my colleagues Senators LEAHY and HATCH. On May 12, 1998, with strong bipartisan support, the House passed this bill and with mutually agreed upon modifications. Today, the Senate is about to pass this legislation by a unanimous vote and send it to the President for signature and enactment into law. I wish to thank the distinguished Chairman of the Senate Judiciary Committee, Senator HATCH, and the Committee's ranking member Senator LEAHY, for their help and support with this important legislation.

Two nights ago, on Wednesday, May 13, 1998, in observance of National Police Week, the National Law Enforcement Officers Memorial Fund held the Tenth Annual Memorial Candlelight Vigil and Reception honoring the fallen men and women in the line of duty. My heart goes out to the families and friends of these men and women and I am proud to be a part of a potential solution to this tragedy that faces police officers in the line of duty.

This legislation is endorsed by 38 Attorneys General, the Fraternal Order of Police, the National Sheriffs' Association, the International Union of Police Associations, the Police Executive Research Forum, the International Brotherhood of Police Officers, and the National Associations of Police Organizations. They know this legislation will benefit police and sheriffs' departments around the country.

There are far too many law enforcement officers who patrol our streets and neighborhoods without the proper protective gear against violent criminals.

As a former deputy sheriff, I know first-hand the risks which law enforcement officers face everyday on the front lines protecting our communities.

Today, more than ever, violent criminals have bulletproof vests and deadly weapons at their disposal. In fact, figures from the U.S. Department of Justice indicate that approximately 150,000 law enforcement officers—or 25 percent of the nation's 600,000 state and local officers—do not have access to bulletproof vests. Unfortunately, many police departments just do not have the resources to purchase vests on their own.

The evidence is clear that a bulletproof vest is one of the most important pieces of equipment that any law enforcement officer can have. Since the introduction of modern bulletproof material, the lives of more than 1,500 officers have been saved by bulletproof vests. In fact, the Federal Bureau of Investigation has concluded that officers who do not wear bulletproof vests are 14 times more likely to be killed by a firearm than those officers who do wear vests. Simply put, bulletproof vests save lives.

This Friday afternoon, at the 17th annual National Peace Officers' Memorial Service, the families, friends and colleagues of police officers who have lost their lives in the line of duty this past year will gather on the West Front of the Capitol to remember the courage and sacrifice of their fallen loved ones.

This heartfelt ceremony marks the climax of National Police Week here in Washington, DC. A perfect way to show tribute to these fallen men and women is through passage of the Bulletproof Vest Partnership Grant Act of 1998 by both houses of Congress.

The Bulletproof Vest Partnership Grant Act of 1998 will form a partnership with state and local law enforcement agencies in order to make sure that police officers who need bulletproof vests get one. It will do so by authorizing up to $25 million per year for a new grant program within the U.S. Department of Justice. The program will provide 50–50 matching grants to state and local law enforcement agencies and Indian tribes to assist in purchasing bulletproof vests and body armor. To ensure that the funding goes first to those police departments which need it most, the Director of the Bureau of Justice Assistance is given discretion to give preferential consideration to smaller departments whose budgets are scarce.

Additionally, those jurisdictions which do not receive any funding under the local law enforcement block grant program will be given preference. Furthermore, at least half of the funds available under this program will be awarded to jurisdictions with less than 100,000 residents.

While we know that there is no way to end the risks inherent to a career in law enforcement, we must do everything possible to ensure that officers who put their lives on the line every day also put on a vest. Body armor often means the difference between life and death.

Mr. LEAHY. Mr. President, today we complete the last step to enact the Bulletproof Vest Partnership Grant Act of 1998 that I introduced with Senator HATCH and Senator CAMPBELL last January. Our bipartisan legislation is intended to save the lives of law enforcement officers across the country by helping state and local law enforcement agencies provide their officers with body armor. When we began Senate consideration I urged action by this week, National Police Week. It is appropriate on the day of the Seventeenth Peace Officers' Memorial Service that along with honoring those who made the ultimate sacrifice in the interest of preserving the public safety, we in Congress do all that we can to protect our law enforcement officers.

Far too many police officers are needlessly killed each year while serving to protect our citizens. Just yesterday, the Federal Bureau of Investigation announced that 64 law enforcement officers were slain feloniously in the line of duty in 1997, up from 56 in 1996. And some of these deaths might have been prevented if officers were wearing body armor.

According to the FBI, more than 30 percent of the 1,182 officers killed by a firearm in the line of duty since 1980 could have been saved if they had been wearing body armor. Indeed, the FBI estimates that the risk of fatality to officers while not wearing body armor is 14 times higher than for officers wearing it.

Unfortunately, far too many state and local law enforcement agencies cannot afford to provide every officer in their jurisdictions with the protection of body armor. In fact, the Department of Justice estimates that approximately 150,000 State and local law enforcement officers, nearly 25 percent, are not issued body armor.

A recent incident along the Vermont and New Hampshire border underscores the need for the quick passage of this legislation to provide maximum protection to those who protect us. On August 19, 1997, Federal, State and local law enforcement authorities in Vermont and New Hampshire had cornered Carl Drega, after hours of hot pursuit. This madman had just shot to death two New Hampshire state troopers and two other victims earlier in the day. In a massive exchange of gunfire with the authorities, Drega lost his life.

During that shootout, all federal law enforcement officers wore bulletproof vests, while some state and local officers did not. For example, Federal Border Patrol Officer John Pfeifer, a Vermonter, who was seriously wounded in the incident. If it was not for his bulletproof vest, I would have been attending Officer Pfeifer's wake instead of visiting him, and meeting his wife and young daughter in the hospital a few days later.

The two New Hampshire state troopers who were killed by Carl Drega were not so lucky. They were not wearing bulletproof vests. Protective vests might not have been able to save the lives of those courageous officers because of the high-powered assault weapons used by this madman. But the tragedy underscores the point that all of our law enforcement officers, whether federal, state or local, deserve the protection of a bulletproof vest.

I am relieved that Officer John Pfeifer is doing well and is back on duty. We all grieve for the two New Hampshire officers who were killed. With that and lesser-known incidents as constant reminders, I will continue to do all I can to help prevent loss of life among our law enforcement officers.

The Bulletproof Vest Partnership Grant Act of 1998 will create a new partnership between the federal government and State and local law enforcement agencies to help save the lives of police officers by providing the resources for each and every law enforcement officer to have a bulletproof vest. Our bipartisan bill would create a $25 million matching grant program within the Department of Justice dedicated to helping State and local law enforcement agencies purchase body armor.

Action today would not have been possible without the extraordinary efforts of Congressman VISCLOSKY, Congressman LOBIONDO, and the more than 300 bipartisan cosponsors they assembled for their companion legislation in the House of Representatives. The endorsement and support of many law enforcement organizations including the Fraternal Order of Police, the National Sheriff's Association, the International Union of Police Associations, the Police Executive Research Forum, the International Brotherhood of Police Officers, and the National Association of Police Organizations have all been critical to focusing attention on this important initiative. In my home State of Vermont, the bill enjoys the strong support of Attorney General William Sorrell, the Vermont State Police, the Vermont Police Chiefs Association and many Vermont sheriffs, troopers, game wardens and other local and state law enforcement officials.

Since my time as a State prosecutor, I have always taken a keen interest in law enforcement in Vermont and around the country. Vermont has the reputation of being one of the safest states in which to live, work and visit, and rightly so. In no small part, this is due to the hard work of those who have sworn to serve and protect us. And we should do what we can to protect them, when a need like this one comes to our attention.

Our nation's law enforcement officers put their lives at risk in the line of duty everyday. No one knows when danger will appear. Unfortunately, in today's violent world, even a traffic stop may not necessarily be "routine." Each and every law enforcement officer across the nation deserves the protection of a bulletproof vest.

I am glad that the bill we enact today returns to the Senate bill from the version hastily substituted in a House committee. We include rather than exclude corrections officers. We include rather than exclude Indian tribes. We include a small State minimum to ensure that Vermont and other small States not lose out to their larger neighbors but are enabled to participate to at least a minimum extend in the program. We have been able to achieve quick passage because we have compromised to achieve consensus. Earlier this week, the House of Representatives passed our bill by a vote of 412–4.

I am also glad that we have been able to proceed this week to enact the Care for Police Survivors Act, which I cosponsored with Senators HATCH, BIDEN, DEWINE and SESSIONS as S.1985. This measure will change a ceiling into a floor for the Public Safety Officers Benefits program. Counseling services will no longer be capped at $150,000 a year.

The unfortunate reality of contemporary life is that we may still lose upwards of 100 law enforcement officers a year nationwide. I wish there were none and I will keep working to improve the assistance and support we provide our law enforcement officers. For those families that sacrifice a loved one in the line of duty I support the additional counseling services that could be made available by the Care for Police Survivors Act.

I hope the House of Representatives will also proceed this week to provide the college education assistance that would be made possible for the families of State and local law enforcement officers killed or disabled in the line of duty by the Public Safety Officers Educational Benefits Assistance Act, S. 1525. I am proud to have cosponsored the Federal Law Enforcement Dependents Assistance Act of 1996 and the pending bill that would extend the educational benefits that we previously provided to the children of federal law enforcement to the families of State and local public safety officials who die or are disabled in the line of duty. Those families make the ultimate sacrifice for our public safety and deserve our support and assistance. I commend Senator SPECTER and Senator BIDEN for their leadership on this effort.

The Senate Judiciary Committee reported this bill to the Senate last Thursday. I said then that I hoped it could be included in a package of legislation passed this week. A fitting tribute to those who gave their lives in preserving our public safety would be for Congress to enact during National Police Week and in anticipation of the annual memorial activities for law enforcement officers the Bulletproof Vest Partnership Act of 1998, S.1605; the Care for Police Survivors Act of 1998, S.1985 (or H.R. 3565 its House counterpart); and the Public Safety Officers Educational Benefits Assistance Act, S.1525. Together these make a significant package of legislation to benefit the families of those who serve in law enforcement.

I am encouraged that we have been able to achieve enactment of two of these three measures and look forward to enactment of the third, that to provide educational opportunities to the families of State and local law enforcement officers, as soon as the House is prepared to proceed.

Mr. THOMPSON. Mr. President, despite the respect that I have for Members who are co-sponsors of this legislation, I must oppose S. 1605.

I do not oppose this legislation because I believe that encouraging local law enforcement officers to be provided body armor is a poor idea. Rather, it is not an appropriate activity of the federal government.

If this new grant program passes, we will once again encourage people in communities all across the country to drive on past city hall, drive on past the state capitol, drive to the airport, fly to Washington and ask the Congress to help them solve a local problem. I believe that local problems can and should be solved by local people. There is hardly any more local issue than the equipment of local law enforcement officers.

Some localities are enlightened and have provided money for body armor. This bill penalizes them. Under this bill, residents of those communities, who have already paid taxes for body armor for their own law enforcement agents, would be taxed to pay for 50 percent of the cost of body armor of law enforcement in communities that have not taxed their citizens to pay for it. Well, as George Bernard Shaw said, "Any government that robs Peter to pay Paul can always count on the support of Paul."

The only purpose for which this money can be used by local government is to provide body armor. Communities that have not provided body armor and communities that have not managed to reduce their crime rates receive first preference for the award of the money. That certainly creates an unfortunate incentive. And it means that in the future, localities may forego important law enforcement efforts on the hope that if they wait a bit, taxpayers in other parts of the country will pay 50 percent of the cost.

Under this bill, taxpayer money will be returned to the people who paid it, less the carrying charges and with strings attached. What if the locality or state would like to spend the money on some other purpose than body armor? They are prohibited from doing so. Even if a community that has not provided body armor has a more pressing law enforcement need, they cannot spend the money on anything but body armor. This is an unwarranted intrusion on federalism. Maybe we would help more if we left more tax money to remain in localities in the first place.

This is exactly why the federal government should stay out of this. The era of big government is over I keep hearing, but here is a proposal to make it bigger. And somebody will have to pay for it with money that could have stayed right in the community where it was raised.

If this bill passes, there will be lots of opportunity to pass the buck. Municipalities that do not provide body armor can pass the buck to Washington, saying that the federal government now has the responsibility of doing so. The federal government will point out that most of the funds will have to come from the states and localities. Fingers will point everywhere and accountability will rest nowhere. This is undesirable in a democracy.

Therefore, I record my opposition to this legislation.

Mr. ALLARD. I ask unanimous consent that the Senate agree to the amendments of the House.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CARE FOR POLICE SURVIVORS ACT OF 1998

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of Calendar 347, H.R. 3565.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (H.R. 3565) to amend Part L of the Omnibus Crime Control and Safety Streets Act of 1968.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ALLARD. I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 3565) was deemed read the third time and passed.

Mr. BIDEN. Mr. President, I am pleased that the Senate has passed the House companion legislation—H.R. 3565—to S. 1985 the "Care for Police Survivors Act of 1998", which I introduced along with Senators HATCH, LEAHY, DEWINE and SESSIONS.

This week we celebrate National Police Week. As we honor those who protect us, it is important that we remember those who have fallen in the line of duty. However, more than mere remembrance is necessary. We must work to ensure that the loved ones these officers leave behind are comforted and assisted in every way. The Care for Police Survivors Act does just that.

This legislation modifies the Public Safety Officers Death Benefit program, which—as my colleagues know—establishes national programs that counsel and assist the families of slain police officers. The purpose of the Care for Police Survivors Act, which the House of Representatives passed overwhelmingly (403-8), is to enhance these national programs. It does so by directing more funds to these programs that counsel and support these families in the aftermath of tragedy. Under current law, these counseling programs have a ceiling of $150,000, this bill changes this to a floor of $150,000.

Mr. President, I have long been concerned about the plight of families of public safety officers killed in the line of duty—last year, Senator SPECTER and I introduced the Public Safety Officers Educational Assistance Act which provides for the education of the spouse and dependent children of law enforcement officers who die or are totally disabled in the line of duty. In that vein, this legislation offers assurance to those in the public safety profession—and even to those considering service as public safety officers—that there is a well established support system in place to comfort and assist their families and loved ones in the event that they die in the line of duty.

Mr. President, it is critical that we not only remember, but offer real help to the families of those police officers who have made the ultimate sacrifice to keep our streets and homes safe.

PUBLIC SAFETY OFFICERS EDUCATIONAL ASSISTANCE ACT OF 1998

Mr. ALLARD. I ask unanimous consent that the Senate now proceed to the consideration of calendar 359, S. 1525.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (S. 1525) to provide financial assistance for higher education to the dependents of Federal, State, and local public safety officers who are killed or permanently and totally disabled as the result of a traumatic injury sustained in the line of duty.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ALLARD. Mr. President, I ask unanimous consent the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 1525) was deemed read the third time, and passed, as follows:

S. 1525

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Safety Officers Educational Assistance Act of 1998".

SEC. 2. FINANCIAL ASSISTANCE FOR HIGHER EDUCATION TO DEPENDENTS OF PUBLIC SAFETY OFFICERS KILLED OR PERMANENTLY AND TOTALLY DISABLED IN THE LINE OF DUTY.

Part L of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) is amended—

(1) in the heading for subpart 2, by striking "**Civilian Federal Law Enforcement**" and inserting "**Public Safety**";

(2) in section 1211(1), by striking "civilian Federal law enforcement" and inserting "public safety";

(3) in section 1212(a)(1)(A), by striking "Federal law enforcement" and inserting "public safety";

(4) in section 1216(a), by inserting "and each dependent of a public safety officer killed in the line of duty on or after October 1, 1997," after "1992,"; and

(5) in section 1217—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (6) as paragraphs (2) and (3), respectively.

Mr. BIDEN. Mr. President, I am pleased that the Senate has passed S. 1525, the "Public Safety Officers Educational Assistance Act of 1998."

Last congress, the Senate passed the "Federal Law Enforcement Dependents Assistance Act"—led by Senators SPECTER and KOHL and co-sponsored by myself and nearly every member of the Judiciary Committee. This law provides for the education of the spouse and dependent children of federal law enforcement officers who die or are totally disabled in the line of duty.

The purpose of the legislation was to remove a significant financial burden from the families of these deceased officers and to allow them to continue on the educational path they would have followed had their parent or spouse not been killed in the line of duty.

Last fall, about 30 young men and women were able to go to college under this program. Unfortunately, this program is only available to the children of federal law enforcement officers.

The Public Safety Officers Educational Assistance Act, which Senator SPECTER and I introduced last year, extends these same educational benefits to the dependents of all public safety officers—in other words, not just federal—but also state, county and local law enforcement officers, and fire and rescue personnel—who have given their lives in the line of duty.

Under this bill, the Attorney General will administer a program which will provide up to $4,485 per child, per year to attend a 4-year college. This is the same amount of educational assistance the federal government provides to veterans.

The Justice Department estimates the total cost for this year to be about $300,000. What is more, the Justice Department already has the funds to pay for this $300,000 within their current budget—so we will not need any additional appropriations.

It is critical that we remember the families of those officers who have made the ultimate sacrifice to keep our streets and homes safe. This bill is intended to allow the dependents of public safety officers to continue with their education as they would have been able to do had their parent not been killed or totally disabled in the line of duty.

PASSAGE OF S. 1605, H.R. 3565, AND S. 1525

Mr. HATCH. Mr. President, this week we have been commemorating Peace Officer's Memorial Week, in honor of those law enforcement and public safety officers who have died in the line of duty. As we remember those who have fallen in defense of the public safety, it is highly fitting that the Senate consider legislation to help save police officers' lives, and also to do all we can to comfort and assist the families and loved ones they have left behind. Thus, I am gratified by the Senate's action today in passing three bills to accomplish these goals.

The first of these bills is S. 1605, the Bulletproof Vest Partnership Grant Act. This bill establishes a matching program to help States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers. The lives of our law enforcement officers will be secured by ensuring that every police officer who needs a bulletproof vest receives one, providing an increased measure of protection to those who protect the public.

The FBI estimates that nearly one third of the 1,182 law enforcement officers killed by a firearm in the line of duty since 1980 would be alive if they had worn a bulletproof vest. The FBI also approximates that the risk of fatality to law enforcement officers while not wearing an armor vest is 14 times higher than for officers wearing an armor vest. In addition, the Department of Justice estimates that nearly 150,000 State, local, and tribal law enforcement officers, roughly 25 percent, are not currently issued body armor. This piece of legislation will save officers' lives by helping get vests to those who need them.

The second of these bills is the Care for Police Survivors Act of 1998, H.R. 3565. I was proud to introduce the Senate companion to this bill, S. 1985. This bill will strengthen programs available to the families of our slain police officers. For example, groups such as Concerns for Police Officers, more commonly referred to as COPS, will now be allowed to increase and improve their services to these families. Authority will be given to the Director of the Bureau of Justice Assistance to spend no less than $150,000 out of the Public Safety Officers' Benefits program to support and enrich national peer support and counseling programs for families of police officers lost in the line of duty.

This act will also expedite the process of handling cases pending before the Public Safety Officers' Benefits Office by allowing the expenditure of PSOB program funds on outside hearing officers. Currently, survivors of fallen police officers have to wait entirely too long to obtain an appeal hearing for denial of benefits. By enacting this bill, we will make the process of helping these families less burdensome.

Finally, S. 1525, the Public Safety Officers Educational Assistance Act of 1998, will provide aid to the families of those federal law enforcement officers who are killed or totally disabled in the line of duty. By amending the Federal Law Enforcement Dependents Assistance Act, also known as the Degan Law, approximately $4,500 per year in college assistance will be awarded to participants—the children and spouses of these great officers. Under S. 1525, the current program will be expanded to cover state and local public safety officers as well. I am a proud supporter of this program that will both promote and fund education for the small number of families of those who have given their lives or health while protecting our communities.

The Department of Justice estimates that approximately 55 persons would take advantage of this amendment at an additional cost of $330,000 per year. Neither the existing scholarship program nor the expansion are an entitlement, and the cost of the scholarships can be covered under the appropriation for the existing Public Safety Officers benefit program. What an incredible service this will provide.

Mr. President, I am pleased that the Senate has chosen Police Officers Memorial Day to pass these three bills. I believe that by passing this legislation, we can acknowledge a small measure of our tremendous gratitude and support for these heroes and their families. I thank my colleagues for their support of these bills.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, there will now be a period for the transaction of morning business.

The able Senator from Ohio is recognized.

Mr. DEWINE. I thank the Chair.

DETERRING TEEN SMOKING: WHAT WORKS

Mr. DEWINE. Mr. President, this coming Monday, the Senate will begin historic debate on tobacco legislation. This debate represents a once-in-a-lifetime opportunity to reduce teenage smoking, a once-in-a-lifetime opportunity to save lives.

The window of opportunity opened by last year's tobacco settlement is closing fast, and that means we simply have to keep this process moving. We have to pass a comprehensive bill and we have to pass it now.

A comprehensive bill, Mr. President. That means we have to raise the price of tobacco. But it means much more than that alone. It means a public education campaign. It means limits on tobacco advertising. It means punishing tobacco companies if, in the future, we do not meet the goals we set for reducing teen smoking. Finally, it means enhanced enforcement so a black market does not develop.

There will be a great temptation as we go through this lengthy debate for us to get sidetracked over the coming weeks into debates on countless side issues. It is important that we not give in to that temptation. We need to keep our eyes firmly on a much larger goal, and that goal is saving the lives of America's children from tobacco and from illegal drugs. Frankly, the only way we can achieve this goal is to pass a comprehensive bill, a comprehensive bill that is focused on our one goal, reducing tobacco and drug use among our young people. For the reasons that I will outline in a moment, a piecemeal approach simply will not work. A piecemeal approach will fail.

I commend the majority leader, Senator LOTT, for his leadership in bringing this matter to the Senate floor. Now it is up to all of us to make the most of that opportunity. That is what I want to talk about today.

When a problem generates this much attention, we have to be all the more vigilant to make sure we pay attention to the light rather than to the heat; the facts, not the rhetoric.

Fact: 3,000 children start to smoke every day.

Fact: 1,000 of them are going to die early as a result of that.

Fact: We now have a once-in-a-lifetime opportunity to save these lives, a once-in-a-lifetime opportunity to do this through comprehensive legislation to reduce teenage smoking.

Fact: The number of legislative days we have left in this session in which to do this is rapidly shrinking.

Fact: If we do not do this now, it may never happen. The opportunity may never come again.

Fact: 1,000 early deaths caused every day by smoking. We need to act and we need to act now.

These are the facts. We cannot allow tobacco companies to lie about these facts or to obscure the fact that tobacco and illegal drugs together pose America's greatest public health challenge to our children. This is a huge challenge to our future. And we need a truly comprehensive approach to meet this challenge of tobacco and of illegal drugs.

What I would like to do over the next few minutes is examine some of the elements of the proposed tobacco legislation in a serious, and maybe even clinical, manner in an effort to try to determine which approaches work best in reducing smoking among our young people.

What works, Mr. President? What works to reduce teenage smoking? That is the key question. In fact, it is the only question that we should focus on as we debate tobacco legislation.

Let me begin by discussing the most controversial element of the various proposed tobacco bills—a tax on cigarettes.

Mr. President, the question of whether tobacco taxes will work in reducing teen smoking comes down to the question of how sensitive teen smokers are to changes in price. The way the economists phrase this question is: How elastic is the demand? How responsive is it? Does it go down when prices go up?

Mr. President, writing tobacco legislation would be a very easy task if the demand were very sensitive and responsive to prices. Then all we would need to do is increase the cost of a pack of cigarettes, and kids would stop smoking and their lives would be saved, and that would be it.

Regrettably, it is not that simple. Reputable individuals and organizations in the field of public health have studied this very question and are certainly far from a consensus.

In 1991, a study published in the Journal of Health Economics concluded that there is no statistically significant correlation between cigarette prices and youth smoking. However, a National Cancer Institute expert panel stated in 1993 that "a substantial increase in tobacco excise taxes may be the single most effective measure for decreasing tobacco consumption," and that "an excise tax reduces consumption by children and teenagers at least as much as it reduces consumption by adults."

Mr. President, the confusion continues. The Centers for Disease Control and Prevention have data indicating that in five of the six States that raised cigarette taxes between 1993 and 1995 teen smoking actually increased.

Yet, two reports published by the Surgeon General in 1994 and 1998 reached the opposite conclusion—that young people are at least as sensitive to price increases as adults.

Take all of these different findings together and they raise very serious questions about a tobacco-fighting strategy that is anchored solely by tax increases, or by an increase in the cost of cigarettes.

Here is what I think, Mr. President, based on my experience in working over the years against illegal drugs, based on my experience in working against driving under the influence of alcohol, that crusade, that effort: There is no one single remedy. There is no one single solution. I believe that raising tobacco costs will have an impact, but will only have an impact if that is included as part of the comprehensive approach, if the increase in tobacco prices is accompanied by advertising, by counteradvertising, by pulling down the pro-tobacco advertising on TV, by strict law enforcement. All of these things, I believe, have to come together. You cannot succeed in this effort without that kind of comprehensive approach. Raising the cost of tobacco will help, but it is simply not enough. To meet this kind of challenge, we need a comprehensive approach, one that will harness many different elements in the common purpose of saving children's lives.

In addition to raising the price of cigarettes, what else must we include in that comprehensive package? I outlined that a moment ago, but I would like to talk now in a little more detail about some of the other things that I think are necessary to do in addition to increasing the price of cigarettes.

Public education. Let's start with public education. My own experience with public education on health issues, Mr. President, would indicate to me that it does, in fact, work. Let me give you and my other colleagues an example.

Over the last several decades, we in this country have made tremendous progress in making our streets safer from alcohol-impaired drivers. Back when I was in the Ohio State Senate, I wrote legislation toughening our State's law on driving under the influence. But even more important than the laws we passed was the fact that we were able—all of us, collectively, working together—to begin to change public attitudes. This has been done by tough laws, but it has also been done by very effective advertising by groups such as the Mothers Against Drunk Driving.

It was a national campaign, and it made a difference. Talk to kids today and you will not find many who believe that driving while under the influence of alcohol is "cool" or a great thing to do. The people who do it today are treated with scorn, as they should be. See how often "designated drivers" are talked about today—a concept that 20 years ago nobody had ever heard about. Attitudes have been changed because of advertising. They have been changed because of what public officials—not just politicians, but people in the public sector—have been able to do and talk about. We have all, collectively, been able to change the culture. That is what we have done in regard to drinking and driving. That is what we have to do now in regard to teenage smoking.

I think we have to implement a similar strategy in regard to tobacco. We have to make a massive national investment in educating our young people and in changing attitudes. We should flood the airwaves with the truth—a positive advertising and education campaign to leave no doubt where America stands on this issue, to leave no doubt what the facts are. Tobacco and the use of it may be legal, but it still kills people. Our message must simply be: stay away from it.

Mr. President, we can do this. We have done it in other areas, and everything in our life and common sense indicates to us that it works. Those of us who are Members of the U.S. Senate, every single one of us, use a significant amount of TV advertising to get elected. Why did we do it? We did it because it works. Why do all the major products use advertising? Because it works. Why do all the national efforts in regard to drunken driving use this very creative type of advertising? Because it works. That is what we have to have in regard to this tobacco situation.

Let me talk further now about another element, a third element, in regard to this comprehensive package that I think has to be part of the bill that we finally approve. That has to do with limiting the type of tobacco advertising. The third proposal to reduce teenage smoking is to regulate the broadcast media in an effort to block the pro-tobacco message. We begin to run into some constitutional problems here, which I would like to discuss. The more constitutional lawyers look into this suggestion, the more problematic it becomes. Basically, it is going to be hard to achieve this objective without the agreement of the tobacco companies. I think we have to understand that.

In recent years, the Supreme Court has struck down as many as a dozen laws attempting to regulate commercial speech. In effect, the Court is reminding those of us in the legislative branch that the first amendment's guarantee of freedom of speech is an important constitutional value. As we look for national solutions to the tobacco-spawned health crisis, we would do well to remember that Congress cannot unilaterally restrict speech.

Specifically, the Court would most likely apply to any of the proposed limits on tobacco advertising the four-pronged test established by the 1980 case of Central Hudson Gas & Electric corporation versus Public Service Commission.

And it is more than likely, Mr. President, that the proposed limits would fail the tests laid out in that case—unless we had the agreement of those whose speech we seek to limit.

Those are the facts.

Under Central Hudson Gas, the first test to determine whether commercial speech is Constitutionally protected is: Is the speech false, misleading, or unlawful?

Mr. President, the days are long gone when tobacco could run ads saying that smoking is good for your health. Those old advertising campaigns may have failed this test. I think today's campaigns are clever enough—and empty enough—not to make any false claims, at least under that court decision.

The second test is: Does the limit on speech serve a substantial government interest? This is closely related to the third test: Does the limit on speech directly advance that substantial interest?

And on these tests, Mr. President, the weight of Constitutional opinion is against unilateral limits on tobacco advertising. Two of America's foremost Constitutional scholars have testified in Senate hearings on this issue.

Floyd Abrams—America's leading expert on First Amendment law—told the Commerce Committee, and I quote:

> Any legislation of Congress which would purport to do by law what the proposed settlement would do by agreement in terms of restricting constitutionally protected commercial speech is, in my estimation, destined to be held unconstitutional. * * * It is a basic tenet of First Amendment law that * * * the interest in protecting children from harmful materials "does not justify an unnecessarily broad suppression of speech directed at adults." * * * The sweep of the proposed settlement's restrictions on speech are simply not tailored to its supposed aim of protecting children.

And Harvard's Laurence Tribe—author of one of America's most influential Constitutional law textbooks—testified before the Judiciary Committee that, quote, "the proposed restrictions on tobacco advertising would raise very serious First Amendment questions if they were to be enacted into law by Congress."

The fourth and final test under this case asks: Is the limit on speech no more extensive than necessary to achieve the goal? On this too, the critics will note that if the same goal of reducing smoking can be achieved without recourse to speech limits, then the Constitutional claims of the speech regulators would fall.

Let me stress, Mr. President, that I am not talking about my own opinion of the Constitutionality of these measures. That would be a subject for another speech, another day. What I am talking about is the immense practical problem posed for us, by the likely opinion of the U.S. Supreme Court based on those previous decisions.

It's likely that the Supreme Court would find these unilateral measures unconstitutional.

The tobacco companies would love that. They would love to change the subject. We must not allow them to do that.

Remember the goal: We are trying to save children's lives. We are driving toward the end zone in the fight against these tobacco companies. We must not—must not—let ourselves get trapped into incurring useless penalties on the way.

This fight is too important—we cannot let it be reduced to passing legislation that will never be enforced. Our goal is to pass effective legislation—not legislation that will tie up our anti-smoking measures in court for years and years.

It's about results. It's about saving lives. We have to remember that.

Let me now turn to a fourth and final element in proposed tobacco legislation—the lookback provision. In my view, Mr. President, the lookback provision is a key component of any solid and effective antitobacco bill. It's a way to hold the tobacco companies liable for the bottom line on this effort to reduce teen smoking.

Put simply, Mr. President, the lookback provision says to the tobacco companies: If we fail to achieve our goal of substantial reductions in teen smoking, you—the tobacco companies—will pay. You will pay. You will pay a lot. We think that will serve as a deterrent. We think, Mr. President, that will affect the future conduct of tobacco companies.

Now, on this one too, Mr. President, the constitutional lawyers are raining on our parade. They point out that the kind of lookback provision we need may well run afoul of Constitutional guarantees of substantive due process. They could hold the tobacco industry liable for actions and results not strictly under the industry's control—and thus be Constitutionally inadmissible.

But I think the solution to this problem—and indeed to that of the First Amendment problem with ad limits—is relatively clear. The government may not be able to do these things by itself. But it can do them, if the industry agrees to them voluntarily.

This, Mr. President, gives us—public officials who are concerned with public health—an incentive to insist on a comprehensive solution, and not a piecemeal approach.

Acting unilaterally, we can punish the tobacco industry. And let me make clear—there's a great deal to be said for that. Their product has destroyed lives.

But if we act not unilaterally, but instead approve a comprehensive solution, then we can harness all our efforts in the interest of the public good. And we can hold the tobacco companies accountable for helping reduce teen smoking.

CONCLUSION

Mr. President, America's attention is engaged by a children's health crisis caused by tobacco and illegal drugs. This is a rare and unique opportunity for us here in the Congress to create some positive change—change that will save lives. We owe it to the American people to write tobacco legislation that represents the best thinking on what will really work to get kids to turn away from tobacco and illegal drugs, and toward a more promising future. I will continue to work throughout our legislative process to make sure the bill we pass lives up to what the American people deserve.

I hope the President of the United States will become more involved in this struggle. This, frankly, is an issue of great national importance—one that cries out for Presidential leadership.

Mr. President, even after we pass a bill in the Senate, there will still be a lot of work left to be done on this legislation—and frankly and candidly, it won't get done until everybody sits at the table and gets ready for some heavy lifting.

This includes the leadership of the Senate and the House, of course, and also the President of the United States. The President can make a huge difference in this process once he becomes fully engaged.

Finally, Mr. President, I remain optimistic that we can pass a strong and comprehensive bill, not just to reduce teen smoking but also teen drug use. Last year's settlement through the States' attorneys general and tobacco companies has given us a once-in-a-lifetime opportunity.

As this legislation moves through Congress, I believe we have to stay focused. We have to stay focused on the issue of saving children's lives. Let's vow to put together comprehensive legislation that really works. Let's do it now. And let's get it done. Mr. President, it will not be easy.

I again congratulate the majority leader for his leadership and for his courage in bringing this bill to the floor.

I congratulate all who have worked on this bill and other bills—Senator McCAIN, who has worked on this bill and brings this bill to the floor; Senator HATCH and others who have worked on other bills and other approaches. We are all going to have the opportunity next week to have our shot. We are all going to have our opportunity to work to try to fashion a good bill.

The main thing, however, is that we keep the process moving, that we keep it moving in the Senate, that we pass a bill that is comprehensive, that is practical, that we send it on to the House of Representatives, and ultimately then get it into a conference committee and to the President of the United States.

Frankly, it is only going to be at that time that tough, tough decisions are ultimately going to be made and that the package will finally be put together. But if we do not do our work in the Senate, if we do not keep the process moving, then we will have missed this historic opportunity. So the ball is in our court beginning next week. I fully expect the Senate to take up the bill, and I expect us to do what is in the best interests of our children and in the best interests of the future of this country.

I thank the Chair and I yield the floor.

Mr. President, at this point I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, might I inquire as to the nature of the proceedings of the Senate.

The PRESIDING OFFICER. The Senate is conducting morning business. Senators are recognized for 5 minutes each.

Mr. ASHCROFT. Mr. President, I ask unanimous consent I be allowed to speak for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TOBACCO

Mr. ASHCROFT. Mr. President, I rise today to have the opportunity of commenting on a matter which is a matter of great discussion in Washington and around the country. It is the so-called tobacco settlement. I say "so-called" because I think this is more about taxes than it is about tobacco. It is more about big government than it is about teen smoking. This is a measure of the magnitude of which obscures most of the things we have considered for a long time, at least those things considered in my time in the U.S. Senate.

Now, Washington may be entering a new era of surplus politics, but its inhabitants have yet to reject the sentiment that was expressed by King Henry IV nearly 600 years ago. He put it this way: You have gold and I want gold. Where is it? Well, that may be something that really describes America right now because this measure which is flying under the flag of the tobacco settlement is really a massive tax increase on the people of this great country.

This tax increase would total about $860-some billion—that is the original bill before it went to the Finance Committee. I don't know whether the increase from $1.10 to $1.50 a pack added in the Finance Committee is even reflected in those figures. We are talking about an $800 billion increase in taxes and it will be focused on people who make less than $30,000 a year. These are hard-working families, generally families with small children, at the beginning of their earning potential in life. To focus $860 billion in new taxes on those individuals is a very serious question.

As a matter of fact, that kind of serious question of $860 billion in new taxes and then about 17 new boards, agencies, commissions, et cetera, in government to spend the money is so obvious a question that I objected to moving to this bill very expeditiously, very rapidly. It looked to me like there was going to be a rush to try and get into this bill, and we would somehow be asked to have consideration of this bill which was not thorough and did not have the kind of complete debate and dialog which I think the Senate of the United States ought to have, and which I think we were created to have.

The founders of this great country said that the Senate of the United States was like the saucer; the cup was the House, and it was supposed to be a place where there were hot passions and emotions, but you spill things over into the saucer. It is a place where things cool. You should have the time to look at things carefully in the U.S. Senate. You should have the capacity to thoroughly discuss things. There should be open discussion. We have had a policy and a heritage in this great body of making sure that all the anticipatable consequences and results and effects of a particular proposed policy could be understood and debated and discussed here.

If I have the assurance that that is the strategy which we will pursue, that it will be a Senate strategy of complete discussion, that we will not unduly or inappropriately limit the kinds of amendments which are offered, that we are going to have an open discussion, that we are not going to rush in and impose cloture to stampede the Senate to a conclusion in what is a pretty highly charged and emotional area, then I have no objection to proceeding. I wouldn't object to proceeding to this bill unless I thought it was going to be something that was a must-do project and that the definition of "discussion" would be someone's time objective rather than a quality objective. The ultimate objective that we should have when we are discussing things in the U.S. Senate should be the quality of our output, not whether or not we want to get home for a vacation or take a break.

My own view is that I really do not want to stand in the way of this particular measure being considered, but I don't want anything to stand in the way of this measure being considered thoroughly, and that there be a full opportunity to provide debate, and that there be the potential for amendment which is thorough, which would provide the opportunity for alternatives so if we want to reach our real objective of somehow curtailing the adverse impacts of cigarettes on the young people of America, we wouldn't be locked in to some narrow set of agreements or agencies or taxes, but that we would think carefully about how it is done.

I simply want to say and make clear my position that while I did oppose a unanimous consent to move to this bill, I am not locked into a position of saying we should not consider tobacco.

If I believed that we have an opportunity to consider the so-called tobacco settlement fully and thoroughly and fairly in the great tradition of the Senate, then I am more than willing to proceed to consideration of this matter.

As a matter of fact, I would like to begin the discussion of the matter today talking about some of the things that I think are most difficult about this bill, and perhaps I think ought best be characterized as unwise. The Federal budget surplus is likely to exceed $45 billion this year, and you wonder why Congress would be considering massive new taxes if we are finally in a place of surplus. You would think we should be debating how to give money back to the American people instead of taking more money from the American people.

When our decision is to take money from the American people, our decision is basically that they can't spend it as wisely on their families as we can spend it on their families. After all, the families of America are what we are spending our resources on one way or the other. If we believe we are so much smarter than they are for meeting the needs of their family, we should take the money from them and spend it. But if we have a good awareness that American families know what they need and how to spend their money better than we can spend it on them, we ought to let American families have their resources to spend on themselves.

There are some things that have to be done collectively. We know about those things—certain law enforcement functions, national defense, certain government programs—but the never-ending explosion of taking the resources from families, suggesting that we have better things to do with that money than families do, is a presumption in which I will not imagine and I certainly will not persist.

I intend to fight to kill any tobacco bill that contains a tax increase of the magnitude being considered.

When you are talking about over $800 billion for smokers, for example, the tax that will be imposed against them and on them as a result of this bill will be 50 times greater—50 times greater—than the tax relief we gave them last year. I am not a person who has chosen to smoke, and I am not a person who is associated with the tobacco industry. I don't know of a single smoker in my family. It hasn't been in my family. It wasn't in my father's family. We were taught that tobacco was evil from day one. Speaking of old-time English kings, King James warned citizens of England hundreds of years ago that tobacco was bad for their health. I think people have known it. I don't think it is sneaking up on anybody. I think most Americans know that tobacco is not good for you. If you are close to someone who is smoking and you start choking, I think you understand that this stuff is not good for you. We know the pollutants contained in the byproducts of combustion, smoke, are bad even if you are just walking down a city street and get too many diesel fumes from a bus. So it is not a matter of not knowing.

The question is, Are we going to have a tobacco bill that taxes the American people at an incredibly high level—$860 billion-plus in new taxes—and that says to a fellow who chooses to smoke, in spite of what he knows, that, well, the kind of tax that you are going to pay is 50 times greater than any relief we have given you previously? This is a massive tax increase that will be inflicted on those who are least able to pay. Some estimates suggest that this tobacco bill would increase taxes by over $860 billion. This development of 17 new responsibilities in Government—for boards, commissions, or agencies, or, I suppose—and I hear there is a proposal now to take the formal boards, commissions, agencies out and allow them to be created not in the statute but by department heads on their own later on, so we would sort of fly the commissions, boards, and agencies below the radar screen of the American people.

The truth is, if you are going to spend $860 billion, you are going to have bureaucrats do it. Over 5 years, the hike would increase taxes $109 billion, more than erasing the entire effect of the measure of the tax relief we provided last year. Of course, I will mention that 60 percent of those who would be paying these taxes earn less than $30,000 a year. That really means these are, in many cases, young couples, couples with children. They are going to be bearing the burden of this tax increase. The Finance Committee came up with the idea that these taxes be increased by $1.50 a pack for cigarettes. Now, if you have a young family with a mother who smokes one pack a day and the father smokes two, that is $4.50 a day that the Government would be taking from that family. Over the course of a month, I think that is $140 a month, and 12 times 14, if my math serves me correctly, would be close to $1,600 a year. Now, that is serious. That is very serious. In my judgment, we have to think carefully about that kind of tax increase.

Mr. President, maybe you will do the math for me. I was doing that math in my head, so it may not be $1,600; it may be more than $1,600. I think it would be.

But the point is, this is a massive tax increase on people. What about the children in those families? The whole presumption of this idea that we can collect the $868 billion is that people are so addicted, they can't stop, so we will tax them. In spite of the fact that taxes are going up, there is going to be persistent use. On one hand, they say these taxes are going to keep people from smoking. On the other hand, they put a lot of money in the budget saying people won't be able to stop smoking and therefore we will get the money. It seems to me there is a little tension between these two arguments. It is a massive tax increase. It seems to me the only thing more addictive than nicotine is taxing and spending in the Congress.

People are going to say this is about teenage smoking, but this bill doesn't even make teenage smoking illegal in Washington, DC. This doesn't make teenage smoking illegal or unlawful in the Capitol or in the Senate office buildings. We are talking about what kind of messages we want to send to our teenagers. This Congress, the U.S. Senate, has never cared enough about the role modeling it does to forbid smoking in the in the U.S. Capitol or in the Senate office buildings. We are up here saying we are going to try and stop teenagers from smoking, and we stand around—I don't—and we don't stop smoking, we don't curtail smoking. We provide incentives. We make sure there are plenty of ashtrays. If you want to use the stairs in our buildings, that is where they put the ashtrays. If you need to draw a deep breath after four or five flights of stairs, you can be sure that because of our policy we will have a role model there smoking for you.

If we are really serious about teen smoking, there are other things to do other than raising taxes by $868 billion. If Washington gets its way, excise taxes will increase by $1.50 a pack. Now, my view is that this is not the kind of tax increase I was sent here to be involved in—an $868 billion increase on the taxes of the working people in this country. This is not what Republicans were sent here to do.

Lots of Republicans are fond of talking about Ronald Reagan. Well, people who make less than $30,000 a year frequently—some of them are Republicans, but some are what we call Reagan Democrats. Ronald Reagan was understood by those people to care for them, and he was understood by those people to be sensitive to their plight. They were called Reagan Democrats because of it This is a tax increase that is aimed right at Reagan Democrats. It will take the money and resources right out of their pockets, send it to Washington, keep them from being able to spend it on their own families.

Taxes are at an all-time high. Never before in the history of this country have taxes been so high. Just last week, on May 10, was tax freedom day this year. That means the average citizen had to work until May 10 in order to pay their taxes. The rest of the year, he or she can work for his or her family. What a deal. And we are going to add $868 billion to that burden? Pretty soon, we will be working more for the Government than for our families. If we think Government ought to be a bigger influence in this culture than families, I think we are sadly mistaken. Whether we succeed or fail in the next century is dependent on good, strong families. If moms and dads and families do their job, governing America will be easy. But if moms and dads and families can't do their job, governing America will be impossible. We cannot make it impossible for families to do the job that families ought to do in this country.

Total taxes as a share of total income have reached an all-time high in the United States of America. When I was born, in 1942, taxes as a share of the total income amounted to 21.1 percent. That was during the war—the big war, WW–II. Yet, that was 21.1 percent as a total share of income. We are approaching twice that much now. We are over 35 percent as a total share of income. It is time for us to come to the conclusion that if families are important in this country, leaving them with some of the money they earn is important, and an $860 billion-plus tax increase would be inappropriate.

Today, the median two-income family can expect to pay 37.5 percent of its income in Federal, State, and local taxes—37.5 percent. Three-eighths—3 out of every 8 days are devoted to paying the Government. It is getting worse. Taxpayers are working longer, harder than ever before to pay their taxes. It is time for us to think carefully about providing relief, rather than a massive increase in taxes.

The proposed tobacco bill is nothing more than an excuse for Washington to raise taxes and spend more money on new Federal programs. I will fight to kill any tobacco tax bill that contains a tax increase of the magnitude being considered. I didn't come here, and I don't think we were sent here, to have a massive raid on the families of America and their ability to provide for the needs of their families. What we are talking about is a cut in pay for Americans. We cut their pay by taking it when they earn it. I just do not think a pay cut for American families is what is needed at this moment. I think this country knows that if there is a cut anywhere, it should be a cut in Government, not a cut in families. I think we have to understand that is what we are talking about. So I urge my colleagues to oppose this legislation, which is a massive tax increase. It is a tax burden focused on those making less than $30,000 a year. The vast majority of the taxpayers who will pay the $860-plus billion will be people making less than $30,000 a year. I think of the kids of those moms and dads, who are both working and blue-collar folks, that they want to be able to do well by and do well for. We plan to tax them with the most, the lion's share of the burden of an $868 billion tax increase.

I reiterate again my position. I rose to object to moving to this bill when I thought we might be moving to it in haste; and that our consideration of the bill might be limited and compressed and inappropriately telescoped. It might be drawn together in such a way that we wouldn't have a thorough opportunity to debate this. It could be that I am wrong. With proper assurance that we would have the kind of full range of Senate debate, with the complete opportunity for amendment and that we will not be clotured so as to preclude the kind of debate that is necessary and appropriate in this respect, I don't mind moving forward to this issue. As a matter of fact, I wouldn't object to moving forward to the issue. We must, however, consider this issue based on its merits and not based on a schedule or convenience. This is too important an issue and too substantial a set of stakes for us to ignore the kind of full debate that the Senate rightfully should provide.

It is with that in mind that I rise to oppose this measure and to indicate my position on considering the measure. I hope when we have the opportunity to debate this measure fully, we will be able to see that a tax increase of that magnitude is not in the best interest of the American people. It is not in the best interest of the future of America. It is not a measure that really augurs well for the children of America. It is really a big government extension of the heavy hand of government in the pocketbooks of American families.

Thank you, Mr. President, for this opportunity.

I yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I want to be recognized for a unanimous consent request.

Before I do that, let me commend the junior Senator from Missouri. He is right on target. I would like to share with him that in the last 2 weeks I had over 20 town hall meetings in the State of Oklahoma. In not one meeting did anyone bring up this thing and initiate the discussion. I think this is really a beltway issue. When I brought it up and told them about the massive tax increase—the largest single tax increase, with the stroke of one pen that this results in—they were all very, very much against it. I think some people will try to use this as somehow a way to stop children from smoking when, in fact, it would not stop children from smoking.

Mr. ASHCROFT. I thank the Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the distinguished Senator from Oregon that I be recognized for as much time as I may consume as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that Lourdes Agosto be allowed floor privileges while I provide these remarks today.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL PEACE OFFICERS MEMORIAL DAY

Mr. SMITH of Oregon. Mr. President, I rise today in recognition of National Peace Officers Memorial Day, a day to commemorate and acknowledge the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

The men and women who serve this Nation as our guardians of law and order do so at great personal risk. There are very few communities in the United States that have not been touched by the senseless death of a police officer.

In Oregon we have seen our share of loss. In January in a standoff between the Portland police and a man with a high-powered SKS military rifle, Colleen Waibel, a 17-year veteran of the Portland Police Bureau, was shot and killed. Two other officers, Kim Keist and Sgt. James Hudson, were wounded in that same standoff. In July of last year, Thomas Jeffries, a Portland police officer, was shot and killed. In 1984, a Washington County sheriff's deputy, Robert Talburt, also died in the line of duty.

Mr. President, because of the dedication and sacrifice of our Nation's police officers, our communities are safer and our children have a better chance of receiving their education in a crime-free environment.

Today, more than 15,000 peace officers are expected to gather in our Nation's Capital, together with the families of their recently fallen comrades. The National Peace Officers Memorial Day provides our country an opportunity to show these public servants that their efforts on our behalf and those of their fallen comrades are greatly appreciated.

To the surviving families of those officers who have paid the ultimate price, this day will show that their sacrifice will always be remembered.

Mr. President, I am a proud cosponsor of Senate Resolution 201 designating May 15, 1998, as National Peace Officers Memorial Day. I urge my colleagues to join Senator KEMPTHORNE, myself, and others, in recognizing this important day.

I thank the President.

I yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first, I would like to say to the Senator from Oregon that I applaud him for this, and I would ask that my name be included as one of his original cosponsors.

PROHIBITING CONVEYANCE OF LAND AT LONG BEACH NAVAL STATION

Mr. INHOFE. Mr. President, I rise today to share with you and with my colleagues something I think is quite significant that is taking place, and also to correct some of the things that I have said that I found to be untrue.

I was on the floor yesterday introducing an amendment to the 1999 Senate defense authorization bill. In this authorization bill, I have an amendment that would stop the transfer of land in California at Long Beach to the COSCO, which is the Chinese Ocean Shipping Company. I would like to share why this is an important amendment.

I don't criticize any of my fellow Senators. But when I started talking about this yesterday, and I moved to set aside the Feinstein amendment in order to consider my amendment to stop the transfer of land to COSCO out in California, there was objection to that unanimous consent request. In a way, I think that is good because it gives me an opportunity to go into a lot more detail and to talk on some talk radio shows to alert America as to the seriousness of something that is happening out there.

I would like to start off by saying, however, that when I talked on the floor about the fact that President Clinton signed a waiver back in 1996, and then another waiver in 1998 that allowed the transfer of technology to the Chinese, this was something that I thought was done in secret. I found out just this morning that it was not done in secret. He signed a waiver. He apparently did not disobey any law or violate any law in so doing. However, since I am a member of both the Intelligence Committee and the Senate Armed Services Committee, and I was not aware that he signed the waiver in 1996 or 1998, and not one of my colleagues who I have talked to was aware of it, I reasonably assumed that it was done in secret.

To kind of give you the sequence in which this happened, I will tell you, Mr. President, that in June of 1989 we all saw what happened on the Tiananmen Square. At that time, as a result of the Tiananmen Square massacre, our country imposed some sanctions banning U.S. trade in dual-use technology. The President retains the power to grant waivers on a case-by-case basis. It seems to me that this President has an obsession in granting waivers and preferential treatment to China. In a minute I am going to read an article from this morning's New York Times that might shed a little light as to why the President was doing this. Let me finish with this sequence of events.

From 1990 to 1995, there were some waivers given for certain technologies. In 1995, President Clinton offered a waiver for commercial satellites, allowing U.S. satellites to be launched on Chinese rockets. The Loral Corporation—maybe it was a coincidence—which was the single largest contributor to the Democratic National Committee in two Presidential elections, in 1992 and 1996, took advantage of this waiver. So we had our commercial satellites placed on rockets that were designed and manufactured by the Chinese government. Anyway, one of these rockets went off, and there was an explosion in 1996, and they went in to investigate as to why the explosion took place. In 1998, just 2 months ago, in February of this year, the President granted another waiver allowing the transfer of information to China which gave them more reliability and accuracy in their missiles.

Now, I would like to put this in a context that is easier to understand for a lot of people who are not involved in these issues. I am from the State of Oklahoma. It is a known fact—there is nothing classified about it—that both China and Russia have missiles that can reach the United States from anyplace in China or Russia. Specifically, in the case of China, they have their CS–4 missile that has a range of 8,000 kilometers, and by going the polar route, it will reach anyplace in the continental United States or any part of the United States. So this missile will do it.

However, with the technology the Chinese had before the President allowed our technology to go over there and give them more accuracy, their missile could hit my State of Oklahoma but it could not pinpoint any particular city like Oklahoma City or Tulsa or Fort Sill or any of our military establishments. With this technology, it gives them the accuracy to do that. So that is what the President did. I am very concerned about this obsession that the President has to share everything that we have with the Chinese.

Let's keep in mind we are talking about the China Ocean Shipping Company. It is not just owned by the Chinese. It is owned and run by the Communist Chinese military. It was only a week ago Monday that the Washington Times came out and disclosed the content of a CIA report. This report stated that there were some 18 CS–4 missiles that China had that were targeted at various places around the world, and 13 of those missiles are targeted at cities, major cities in the United States of America.

Now, when you get a little bit concerned about the President giving preferential treatment to China with all these waivers, allowing them to have our technology so they can pinpoint their targets, and then we find out, as I think most of us knew anyway, that there are rockets in China, ICBMs aimed at major cities in the United States of America, it is very, very distressing.

This morning in the New York Times this article on the front page right here says, "Democrat Fund-Raiser Said to Name China Tie." This is a major breakthrough, and it may shed some light as to why the President has been granting these waivers and giving this Presidential treatment, and in my opinion changing his policy to the Far East from what it was when he ran for President in 1992. I recall that he made statements in opposition to MFN status for China. Now he is the leading advocate for MFN status for China. He was one who was opposed at one time to the normalization of our relations with Vietnam, and, of course, now, as we all know, he has headed up an effort that has successfully normalized those relations. He is right now spending much of his time trying to convince Congress to let the IMF bail out some Far Eastern banking concerns to the extent of $18 billion.

Let me just read, Mr. President, the first four paragraphs from this article in the New York Times, "Democrat Fund-Raiser Said to Name China Tie."

> A Democratic fund-raiser has told Federal investigators he funneled tens of thousands of dollars from a Chinese military officer to the Democrats during President Clinton's 1996 re-election campaign, according to lawyers and officials with knowledge of the Justice Department's campaign finance inquiry.
>
> The fund-raiser, Johnny Chung—

We all remember Johnny Chung, this friend of President Clinton's of long-standing—

> told investigators that a large part of the nearly $100,000 he gave to Democratic causes in the summer of 1996—including $80,000 to the Democratic National Committee—came from China's People's Liberation Army through a Chinese lieutenant colonel and aerospace executive whose father was Gen. Liu Huaqing, the officials and lawyers said.
>
> General Liu was then not only China's top military commander but also a member of the [top] leadership of the Communist Party.

It goes on to talk about this. It says.

> . . . investigators regard the identification of Ms. Liu—

This is his daughter—

> as a breakthrough in their long search for conformation of a "China Plan." The hunt was prompted after American intelligence intercepted telephone conversations suggesting that Beijing considered covertly influencing the American elections.

I am quoting all this out of an article that is in today's New York Times.

Now, Mr. President, I do want to go back and address my amendment because my amendment is going to be before this body this coming Tuesday, and when it is, I want to make sure that all of my colleagues who are watching right now, or listening, hopefully, have full knowledge of exactly what this amendment is all about.

First of all, I think it is important to look at what is COSCO. COSCO—that stands for the China Ocean Shipping Company—is owned by not just the Chinese Government, but it is run by China's military. COSCO reports to the Chinese Ministry of Communication which falls under the State Council which in turn is led by Communist Party politburo member and Premier Li Peng.

Now, I noticed the other day—I am quite sure it was in the Washington Times—that Sven Kramer, who has long served the National Security Council under both Democratic and Republican administrations—I think everyone in this body is familiar with Sven Kramer—said he is disgusted with the cavalier actions of an administration that critics say put a dial-for-dollars campaign ahead of national security. Kramer asserts he finds it difficult to believe that the United States would surrender key ports in Long Beach and at either end of the Panama Canal to the PLA—that is the People's Liberation Army—led shipping company called COSCO. He cites the "foolishness of the intelligence community" for not blowing the whistle on these operations.

So we have COSCO as a government-owned shipping company that is planning to take over the land in the Long Beach area which requires the President of the United States to sign a waiver.

Now, does anyone doubt that the President will sign this waiver? I have no doubt at all. I can stand on this Senate floor, and say that the President is planning to do that, because any President who signs a waiver allowing, in 1996 and in 1998, the Chinese to have technology that will give their missiles more accuracy to hit targets in the United States when we already know there are some 13 missiles that are targeted to the United States, would certainly not hesitate to sign this waiver. And so we have areas of concern about this company COSCO.

One of these areas of concern is that in March of 1996, in Oakland, CA, the COSCO ship *Express Phoenix*—that is the name of the ship—transported 2,000 illegal Chinese weapons, AK-47s—these are the machine guns, not the AK-47s that will fire one round at a time; those are replicas; these are the real things—transported 2,000 illegal Chinese machine guns to be used on and sold to California street gangs, to be used by street gangs. Fortunately, we found out about it and the guns were confiscated by the FBI.

This is also the same shipping company that has been stopped by the U.S. Coast Guard some six times because of various violations. This is the one that, in December of 1996, created a lot of damage to a boardwalk in New Orleans in their harbor. It also is the same shipping company that is in the process of gaining control of both the entrance and exit—it depends on which way you are going—of the Panama Canal, on the Atlantic and on the Pacific sides.

So we do have great concern over what COSCO has been doing. Last year, in the 1998 Senate authorization bill, the Senate defense authorization bill, I had an amendment that I wanted to put on. We were unsuccessful in getting it on. Congressman DUNCAN HUNTER over in the House of Representatives was unable to get his amendment on also. So he and I have been trying to do it this year. It is an amendment that would stop COSCO from being able to benefit from the transfer of this property.

On April 29, 1998, an appeals court decided that the Port of Long Beach followed State law in its environmental review process to plan to lease the land of the former Long Beach Naval Station to COSCO. So you can see, we are much closer than we were last year at this time when we tried to put these amendments on.

Anyway, I applaud Congressman DUNCAN HUNTER, who was able to offer and successfully pass an amendment in the House National Security Committee by a margin of 45 to 4. I am introducing an amendment that does exactly the same thing.

For people who are not aware of the process that is used around here, when you pass the defense authorization bills, they are passed by both the House and the Senate. Those items that are different from the House and Senate bills go into a conference committee. That conference committee is manned by both Members of the House and Members of the Senate. I will be a conferee on that conference committee.

By passing this amendment this coming Tuesday, we will be able to use the same language as Congressman DUNCAN HUNTER used successfully in putting it on the House version of the authorization bill and it will not be what we call a conferenceable item; in other words, it will be in there and it will be a done deal. So that is how significant this is, that we are able to get this passed.

I am hoping, if there is anyone out there who is really concerned about what is going on in our relationship with China, about the China missiles that are targeting sites in the United States, and are concerned about the preferential treatment we have been giving China when China—and you stop and think about this. Now the administration admits that there are some 25 nations that have weapons of mass destruction, either biological, chemical, or nuclear. And some of these nations are run by people who murder their own grandchildren, so they would not have any reluctance about sending a missile in our direction.

You might remember Saddam Hussein, who made the statement during the Persian Gulf war that if he had just waited a little bit longer to take his action in Kuwait, he might have had a missile that he could have used to stop us from interfering with what he was doing in Kuwait. That is pretty much a direct threat. You might remember also, it wasn't very long ago, a little over a year ago, when Taiwan was wanting to hold its elections and China was trying to intimidate Taiwan, that they were firing missiles in the Taiwan Straits. The second highest Chinese military official said: No, we are not concerned about the United States getting in here and getting involved, because they would rather defend Los Angeles than defend Taipei.

So, I say there is a threat out there. Those individuals, most of them liberals, most of them who want to continue the demise of our military defense system in this country where right now we are approximately one-half the force strength we were back in 1991—those individuals like to perpetuate this notion that somehow the cold war is over and there is no longer a threat out there, let's take that money and put it in social policy. And that is what we have been doing since this President was elected in 1992.

With that, while this doesn't resolve all the problems that we have, we still do not have any way of defending ourselves. I hope that everyone who is concerned with this issue, who is concerned with the transfer of our technology to China to allow them to pinpoint areas in the United States of America, will be aware of the fact that we do not have a national missile defense in America. How many people in America are aware that, if they fire a missile from Beijing and it comes over toward the United States of America, and it is headed for Washington, DC, it takes 35 minutes to get over here? If you ask the average person, what would Government do if that should happen—because certainly we have the satellite technology to know when they are launching these missiles—they say, well, I assume that Government would do something and knock down this missile during that 35 minutes it is coming over.

Here is the problem. We don't have the capability to do that. Somebody very smart, back in 1983, decided they were going to put together a program to deploy a national missile defense system by fiscal year 1998. That is now, fiscal year 1998. They were pretty smart back then, because now is when we need it. Now is when the threat is out there. Now is when we pick up the newspaper and we see things that are happening and that there are countries out there with weapons of mass destruction and now with the missile capability of hitting the United States. We need to do something.

The reason we cannot knock down a missile is not that we don't have missiles that will knock down missiles, it is just that in trying to adhere to these silly treaties like the ABM Treaty and some of the START treaties, disarmament treaties, we have agreed with parties in the former Soviet Union not to defend ourselves, or have a system that will adequately defend ourselves against a missile that is coming over from a foreign country. This is insane that we are doing this, but we are.

So, while we do have missiles, we can't knock down a missile that is coming over to the United States until it reenters the atmosphere. By that time, you have only 1 or 2 minutes to hit it, and it is going at such a velocity, our technology doesn't have anything that goes fast enough to knock it down. So we are naked right now to any kind of an attack that comes by way of missile from any of these countries that are out there that have access to missiles.

Don't think that just because China and Russia are the only countries that have these missiles, and they love us so dearly, supposedly, that no other countries can have missiles to deliver these weapons of mass destruction, because we know that both China and Russia are dealing, selling their technology to countries like Iran and other countries. So they are going to be able to have these missiles.

About a week ago, I was reminded again about how we are being lulled into, I suppose, a euphoric feeling of complacency, that there is not any threat out there. In a recent letter to a member of the Senate, Gen. Henry Shelton, the Chairman of the Joint Chiefs of Staff, said we are going to have 3 years' notice before there is any real threat of any missile coming over.

He said he thought we would have 3 years' notice because our intelligence tells us we are going to have 3 years' notice. It was only days later after he made that statement that we found out about the nuclear tests in India. And India—we find out in only this morning's paper it is understandable why they are doing this, because with the preferential treatment that we have given China, they are trying to build some type of system that will give them the capability of deterring aggression from the adjoining countries, both China and Pakistan.

So the threat is out there. I suggest, if our intelligence is good enough to rely on that we are going to have 3 years' notice before any ICBM comes over, that is the same intelligence that told us there wasn't anything going on in India.

On Tuesday, we will be offering this amendment. I am hoping all of my colleagues will be very sensitive to the fact that the No. 1 purpose for Government is to defend Americans against attack. We will have an opportunity to go a long way in accomplishing that this coming Tuesday, by passing my amendment to the defense authorization bill that will stop the transfer of this land from the United States to the China Ocean Shipping Company.

I yield the floor.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, May 14, 1998, the federal debt stood at $5,492,886,169,970.40 (Five trillion, four hundred ninety-two billion, eight hundred eighty-six million, one hundred sixty-nine thousand, nine hundred seventy dollars and forty cents).

One year ago, May 14, 1997, the federal debt stood at $5,339,781,000,000 (Five trillion, three hundred thirty-nine billion, seven hundred eighty-one million).

Five years ago, May 14, 1993, the federal debt stood at $4,247,909,000,000 (Four trillion, two hundred forty-seven billion, nine hundred nine million).

Twenty-five years ago, May 14, 1973, the federal debt stood at $453,698,000,000 (Four hundred fifty-three billion, six hundred ninety-eight million) which reflects a debt increase of more than $5 trillion—$5,039,188,169,970.40 (Five trillion, thirty-nine billion, one hundred eighty-eight million, one hundred sixty-nine thousand, nine hundred seventy dollars and forty cents) during the past 25 years.

DIGITAL MILLENNIUM COPYRIGHT ACT

Mr. KYL. Mr. President, I rise today to speak about a section in the Digital Millennium Copyright Act that I am particularly proud of, and that is the law enforcement exception in the bill. At the Judiciary Committee markup, Senator GRASSLEY and I, along with the assistance of Chairman HATCH and Senator ASHCROFT worked to strengthen the law enforcement exception in the bill. We received input on the language from the copyright community and the administration: the National Security Agency (NSA), the Central Intelligence Agency (CIA), the Departments of Commerce and Justice, and the Office of Management and Budget (OMB).

The law enforcement exception ensures that the government continues to have access to current and future technologies to assist in their investigative, protective, or intelligence activities. I am concerned that the tools and resources of our intelligence and law enforcement communities are preserved—and more importantly, not limited, by passage of S. 2037. Under that bill, a company who contracts with the government can continue to develop encryption/decryption devices under that contract, without having to worry about criminal penalties.

Because much of our leading technologies come from the private sector, the government needs to have access to this vital resource for intelligence and law enforcement purposes.

The law enforcement exception recognizes that oftentimes governmental agencies work with non-governmental entities—companies, in order to have access to and develop cutting edge technologies and devices. Such conduct should not be prohibited or impeded by this copyright legislation.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WARNER (for himself and Mr. ROBB):

S. 2086. A bill to revise the boundaries of the George Washington Birthplace National Monument; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER (for himself and Mr. ROBB):

S. 2086. A bill to revise the boundaries of the George Washington Birthplace National Monument; to the Committee on Energy and Natural Resources.

GEORGE WASHINGTON BIRTHPLACE NATIONAL MONUMENT LEGISLATION

Mr. WARNER. Mr. President, I rise today to introduce legislation which would preserve a tract of land of legendary historic significance. Many of my colleagues have heard me speak on the importance of preserving the legacy of George Washington, and have joined me as cosponsors of Senate Resolution 83, to commemorate the bicentennial of the death of our Founding Father. We have the opportunity to protect the scene of George Washington's early life, the site at which young Washington undertook lessons that taught him the principles which guided his life. By extending the boundaries of the George Washington Birthplace National Monument to include the 85 acre area in Stafford County, Virginia, known as Ferry Farm, we may celebrate that expanse of land where Washington developed his extraordinary character.

Ferry Farm was the childhood home of our first President. Lying across the Rappahannock River from historic Fredericksburg, Virginia, it is the site of the legendary cherry tree, chopped down by a boy who could not tell a lie. Here, a fable recounts, young Washington threw a stone across the Rappahannock, one of the last unspoiled scenic rivers in the country. And it was here that Washington developed those qualities of honesty, integrity, loyalty, perseverance, and devotion to public good which make him the indomitable role model for our country and the world at large. By preserving this site, we will sustain the environment in which our Founding Father grew into his role as a leader in military strategy as well as democratic principles. The exploration, research, and interpretation of this site will inspire and challenge all who visit to study the life of Washington, and his impact on our Nation.

Yet this site, the tangled brush, the serene river vista, belies the intertwining of history which occurred here. Along the banks of the Rappahannock, site of the formative years of our distinguished First President, also became the site of carnage, as our country was torn asunder by the ravages of the Civil War. In late April of 1862, the Union Army established Ferry Farm as its strategic crossing point in order to advance against Confederate forces west of Fredericksburg. The soldiers stationed at Ferry Farm were not unaware of the irony of their position. As one soldier wrote from his post,

> Could George Washington have beheld * * * with prophetic eye, the havoc that was to be wrought by those mighty hosts of his countrymen in fratricidal strife on the very ground * * * which must have been familiar to him in his youthful days * * * his patriotic soul would have been overwhelmed with grief.

It is our duty to recognize the history of this site—a reliquary for the memories of a man of great character and courage, as well as a melancholy field upon which our country struggled to preserve democracy. In saving this parcel of land, we venerate a leader whose principled life remains as model for us all, while consecrating land upon which our Union, for which Washington battled so courageously, fought for existence.

We cannot forfeit such a landmark to the forces of development. Ferry Farm is where Washington learned the values that made him the Father of Our Country—values as important to our nation today as they were to its establishment more than two hundred and fifty years ago. I look forward to the swift passage of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITION TO NATIONAL MONUMENT.

(a) IN GENERAL.—The boundaries of the George Washington Birthplace National Monument are modified to include the area comprising approximately 85 acres, generally known as "George Washington's Ferry Farm", in Stafford County, Virginia, and located across the Rappahannock River from Fredericksburg, Virginia, as generally depicted on the map entitled "George Washington Birthplace National Monument Boundary Map", numbered 322/80020 and dated May 1998.

(b) MAP.—The map described in subsection (a) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) ADMINISTRATION.—The area described in subsection (a) shall be managed—

(1) in accordance with the provisions of law generally applicable to the units of the National Park System, including the Act of August 25, 1916 (39 Stat. 565, chapter 408; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666, chapter 593; 16 U.S.C. 461 et seq.);

(2) to preserve the cultural and natural resources of the area that are associated with the boyhood home of George Washington; and

(3) to interpret those resources to enhance public understanding.

ADDITIONAL COSPONSORS

S. 358

At the request of Mr. DEWINE, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1890

At the request of Mr. DASCHLE, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1890, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 1891

At the request of Mr. DASCHLE, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1891, a bill to amend the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

AMENDMENT NO. 1334

At the request of Mr. BOND the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 1334 intended to be proposed to S. 1173, a bill to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

ADDITIONAL STATEMENTS

TRIBUTE TO FRANCIS ALBERT SINATRA

● Mr. MOYNIHAN. Mr. President, I rise to recognize Francis Albert Sinatra, a man whose voice brought wonder and joy to the lives of millions. Natural, original, the ultimate. These are just a few words to describe Mr. Sinatra's voice. A talent such as Mr. Sinatra's is rare, once in a lifetime. We are all very fortunate to have had the opportunity to experience Mr. Sinatra's voice and charisma.

Francis Albert Sinatra was born December 12, 1915, in a tough, working-class neighborhood of Hoboken, N.J. The son of Italian immigrants, Mr. Sinatra's determination, perseverance, and belief in himself led him to stardom. A dramatic American success story.

Mr. Sinatra's signature songs included "Night and Day," "Mack the Knife," "Old Man River," "New York, New York," "Come Fly With Me," "Strangers in the Night"—and, of course, "My Way." Indeed, he did do it his way and for that we all must be grateful.

Pete Hamill astutely described the world's love and attachment to Sinatra in New York magazine in 1980. He wrote,

> Sinatra's endurance has become a rallying point for many people who feel that their sacrifices and hard work are no longer honored, their values demeaned, their musical tastes ignored and sneered at. . . . They had overcome poverty and survived two world wars; they had educated their children and given them better lives; and sometimes their children didn't even care. But it should never be forgotten that Frank Sinatra was the

original working class hero. Mick Jagger's fans bought records with their allowances; Sinatra's people bought them out of wages.

Mr. Sinatra received the Kennedy Center honor in 1983 and was awarded the Medal of Freedom by President Reagan in 1985. And on May 14, 1997, the Congress awarded him the Congressional Gold Medal in "recognition of his outstanding and enduring contributions through his entertainment career and humanitarian activities, and for other purposes." I was pleased to be an original cosponsor of this resolution.

Mr. Sinatra recorded more than 200 albums, from Big Band to vocal American music. He won nine Grammy Awards. In 1954, he won the Oscar for his role in "From Here to Eternity."

Francis Albert Sinatra is an American phenomenon. He entertained the world for more than half a century. His songs have become classics, and belong to him alone. He was a man who chose not to hide his ethnic identity, but to flaunt it in an era when such things were not done. In so doing, he opened a path that allowed other ethnic entertainers to retain their own heritage and pride. In this, the American century, Frank Sinatra in many ways embodied the American spirit, and as our century comes to a close, we must acknowledge the loss of a unique American character, of his endurance, and his talent, and for this we mourn his passing, and praise his legacy.●

AMTRAK REFORM BOARD NOMINATIONS

● Mr. WYDEN. Mr. President, for the last three years, this Congress struggled with many of the difficult issues in the Amtrak reauthorization bill. We finally reached an agreement late last year and sent legislation to the President for his signature, which he signed on December 2, 1997.

In the process, my state, and its neighbors, lost a valuable service on the route of the Pioneer. I fought hard to keep that service running but citizens of eastern Oregon continue to feel frustrated over the loss of this service.

I want Amtrak to succeed and I want to make sure that the legislation we enacted last year is properly implemented. The Administration is late in submitting its nominations for the Amtrak Reform Board which was created in last year's bill. Although I hear that the Administration has begun the process of picking candidates for the seven positions that are required by law, I am concerned that the names under consideration will not represent the various regions of the country that make up the Amtrak system. If the restoration of the Pioneer is to receive fair consideration, it must be by a Board of Directors that reflects the regional needs of all sections of the country. My friend, the Majority Leader, who also sits on the Commerce Committee has made clear on more than one occasion that if Amtrak is only a series of regional corridors and not a national system, it will not continue to receive the support of Congress.

While I believe the new Amtrak Board should meet the qualifications spelled out in the Act, they should also have a sense of geographical balance. I fear the loss of support for a national system if we wind up with a Board that represents only one region of the country. In particular, the west and midwestern states again appear to be left out of consideration as sources of Amtrak director candidates.

As a member of the Senate Commerce Committee, I will be looking for regional balance when these nominations are submitted and encourage my colleagues to do so as well.●

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, in consultation with the Democratic leader, pursuant to Public Law 102–246, appoints Bernard Rapoport, of Texas, to the Library of Congress Trust Fund Board for a term of 5 years.

The Senator from New Mexico is recognized.

INDIA'S NUCLEAR BLAST

Mr. DOMENICI. Mr. President, I regret that I have to take a few moments and keep the distinguished Senator here, but I don't know whether I will get a chance to talk about the India nuclear blast if I don't do it today. I will be as brief as I can.

Yesterday, two committees of the Senate held hearings on India's recent underground nuclear tests. It is my understanding that those committees, particularly the Select Committee on Intelligence, which heard testimony from CIA Director Tenet, are most interested in why the United States had no advance warning of India's plan. I think the Senate needs to be very careful as it reviews the India situation not to kill the messenger.

The simple fact is that covert nuclear operations are extremely difficult and sometimes impossible to detect. Even before its tests, we knew a great deal about India's nuclear weapons program. We were cognizant of the readiness of their weapons, that because their test site had been prepared for tests in 1995, they could test on very short notice, and that the newly elected party had campaigned on a platform that included the development of nuclear weapons—all signs that should have made this week's tests less surprising. Yet, we were caught off guard. But I do not think that it is entirely the responsibility of our intelligence agencies.

Since the fall of the Soviet Union, U.S. policymakers have been subject to two sets of pressures, both of which have led us to consider reducing our nuclear stockpile to the lowest possible levels and have reduced our vigilance.

One of those pressures comes from an anti-nuclear movement which feels a moral imperative to abolish nuclear weapons. Everyone knows that we would like to abolish nuclear weapons, but what is going on in the world indicates that that will not occur just because the United States decides to do so.

The second pressure comes from our military, and it is felt largely in the authorization and appropriations process in the Congress.

Today, the emphasis in the Pentagon is on readiness, warfighting capability and nuclear weapons, and the strategic command which is responsible for their use has taken a second-class status to those branches of the service interested in tanks, planes, ships and troop readiness. As a result, we are seeing a diminution of the strategic command within the Pentagon and across policymakers in the Congress, as well as the administration, and a failure to recognize how attractive and important nuclear weapons are.

It takes the actions of an India to remind us that for a nation that perceives itself as threatened, wants to threaten, demonstrate its technical prowess or simply wants to join the elite nuclear club, nuclear weapons are extremely attractive. That is a deplorable situation, but it is a fact.

Unfortunately, in taking the actions it has of the last 2 days, India has destabilized an already precariously balanced region of the world. Although Pakistan and China were previously aware of India's nuclear capability, India's demonstrated willingness to further develop and demonstrate those capabilities is, by its nature, threatening to Pakistan and China. In turn, China and Pakistan, but Pakistan in particular, may also take steps to demonstrate their nuclear willingness.

The United States is correct to impose sanctions on India and to prepare to do so on Pakistan if they test. I hope that Pakistan will recognize by evaluating the situation in Russia that superpower status built on economic prowess is significantly more desirable than superpower status achieved through nuclear weapons at the expense of economic prowess.

Regardless of the achievements of the high-level U.S. delegation dispatched to Pakistan yesterday, it is obvious that there could be under consideration by both Pakistan and China the effect of nuclear weapons in the hands of India, which might force both countries to proceed with nuclear weapons.

We learned about India's tests first through a press announcement and then through our seismic monitors. India could just as well have tested their devices thousands of miles offshore on ships or drone planes. We would certainly have registered the tests, but we might never have known who tested. That was the situation in 1978 when a device exploded in the Indian Ocean and it took us many years to determine whose it was.

Incidentally, although today our satellites can detect atmospheric nuclear explosions, there has been some consideration of not replacing that capability when our current systems reach the end of their true lifetimes. This is just one symptom of our lax policy and declining attention to the threat of nuclear weapons.

Until it is disproved, and by that I mean something more than reassurances from the Indian Government which has already demonstrated a willingness to be misleading about these issues, we need to consider the possibility that India cooperated with other countries in conducting these tests.

We currently assume that all the devices that were detonated were Indian, that all the technicians on the site were Indian, and that the data has not been shared with other nations, but we cannot base our final analysis on assumptions.

India's tests cast a long shadow over the ratification of the Comprehensive Test Ban Treaty. To date, Chairman HELMS, chairman of the Senate Committee on Foreign Relations which has jurisdiction over all treaties, has indicated he is not in a hurry to report the Comprehensive Test Ban Treaty. I know some in arms control may have been frustrated by his position. Today, I think they are fortunate that the treaty will not be considered in the near future.

In light of the event which occurred in India, we need some time and, obviously, we need to think through the application of resources to the information necessary to make sure the test ban treaty can be carried out. India's willingness to test reminds us that global nuclear capabilities will not remain static if the United States agrees to lock in its nuclear capabilities pursuant to a test ban.

In the coming decades, other countries, whether they are signatories to the treaty or not, may develop nuclear capabilities and, given time, may even develop significant threatening nuclear capabilities, which is not the case at this point.

The United States nuclear posture is not established in response to the threat posed by a single country, but also considers threats that may be posed by strategic alliances. We need to recognize that the nuclear buildup we now expect to occur on the Pakistan-India border and that may spread to China could one day not be directed against one another, but there could be alliances which put America's future in jeopardy.

More so, we need to recognize that the nuclear arsenal of the United States, one that we maintain today and will maintain into the indefinite future, has to be able to respond to all potential scenarios that might unfold in an uncertain and changing world.

That means at a minimum, our weapons must be safe and reliable, not just theoretically so. We must have confidence in them as our tools of foreign policy and military policy. That requires our potential adversaries, whether they are our current adversaries or our current allies, be aware of our formidable scientific skills and our willingness to direct them toward the maintenance of our stockpile.

While there is some uncertainty, and my skepticism can be expected to continue to demand improvements, I am reasonably confident that the United States has the scientific ability to maintain our stockpile if we make that a priority. That requires that we make it a priority today, even though current focus is more on conventional warfighting capabilities, and we make it a priority into the future.

Everyone should understand that the United States has made a commitment that we will not test nuclear weapons. So we are not going to have any underground tests or any other kinds of tests. That means our scientists have to be capable of telling us that our stockpile is secure, safe and trustworthy.

That requires that we pay attention to what is needed to do that. The reason for the explosions in India is to make sure they can say, "We now know how to build a bona fide weapon, and that it will work." If they did not do the testing, they would be acting theoretically, they would be basing it on science, on modeling, on previous data about other weapons and weapons they might try to duplicate. But the only way to be sure and to have it right is to do tests.

We have done those. We are not doing them anymore. But everybody in this body and in the House and in the White House have to be concerned that if we have them, they have to be trustworthy. And to do that, we may have to spend a little bit of money on science and technology to make sure that without testing that they are valid.

We are not building any new nuclear weapons. We have committed to that. We have not for some time; and for the foreseeable future we will not.

Our nuclear posture cannot be based exclusively on our dedication to maintaining our own stockpile so it can respond to any potential threat; we must also work to understand and then reduce that threat. India's ability to conduct five tests without our previous knowledge, even though we should have been on alert for them, demonstrates how easy it is for a nation to develop such a capability.

So while I began my remarks by saying that the focus of our frustration should not be on our intelligence agencies alone, that they were unable to provide us advanced warning of India's plans, I also believe that in the future we must improve by an order of magnitude our ability to understand the nuclear threats we face.

We are considering entering into discussions on a new round of arms control agreements that would, for the first time, limit the number of nuclear warheads in the United States and Russia. We need to approach the notion of counting warheads and of entering into limits with a single country with great skepticism. Our inability to monitor India's nuclear activities should make it clear that we are far from having the ability to monitor a warhead limitation treaty now and for some time to come.

Mr. President, I yield the floor.

THE INDONESIAN CRISIS

Mr. FAIRCLOTH. Mr. President, I take the floor today to discuss the sorry state of affairs that we find in Indonesia. The latest reports are that nearly 400 people have died in the past week of rioting and looting.

Despite the crumbling of this nation, there is a stony silence from the Clinton administration. We have heard nothing. The administration apparently has no policy in place to deal with the instability in Indonesia. Yet, in my opinion, administrative policies were largely responsible for many of today's problems in Indonesia. We created the problem, and we are not doing anything about it.

First, during this administration, investments in Indonesia have soared. Lending to Indonesia during the last 4 years by U.S. banks was larger than to other major nations in Europe. It was too much money chasing too few worthwhile investments. So the money began to chase investments that were not worthwhile. The administration encouraged it and promoted it and had close ties to Indonesian conglomerates, the Lippo Group being a leading candidate.

Of course, this gold rush could not sustain itself. Vast amounts of money and weak investments always come home to you. And the bottom dropped out in Indonesia.

Rather than take responsibility for these problems and take a leadership role in handling the financial crisis in Asia, the answer of this administration has been to delegate the problems to the International Monetary Fund.

The IMF has bungled, from day one, the handling of the Indonesian crisis. From the closing of the banks on, from the day it went in, it has created a greater crisis.

We never should have turned over international economic and foreign policy to a group of 2,000 silk-suited bureaucrats that have little if any success to show for the billions and billions of American taxpayers' dollars that they have wasted throughout the world.

The panic began when IMF imposed their austerity measures. They have driven the Indonesian currency down to record low levels. Is it any wonder that riots have begun to break out in the streets and that 400 people have been killed when the currency is worth 300 percent less than it was a year ago?

In fact, the riots began to take hold when the government raised the cost of fuel and electricity, as mandated by the IMF.

Now, I repeat, the riots began to take hold when the government raised the cost of fuel and electricity as mandated by the IMF, the people we sent to bring calm and common sense to Indonesia. Another brilliant recommendation from the IMF, for a country finding itself plunged into poverty, was to raise the price of fuel and electricity.

This is, again, another reason why the IMF is the last institution we need to provide funding to in order to solve the world's economic problems. Their record of solving world economic problems could not be worse. In fact, I would like for someone to point out a world economic problem that they solved. The numbers they have made worse are far greater than those they have helped.

The only upturn in the Indonesian currency came when a currency board was suggested to stabilize monetary policy and there was a slight uptick in the value of the currency. But this idea was immediately smothered with pressure from the United States, this administration, and the IMF, that they could not have a currency board. Now we have a full-blown crisis in Indonesia. And the President is in Europe this week, and his aides are saying very little to nothing.

I think it is incumbent on this country to take a leadership role and solve this problem that we had a large hand in creating. It can only get worse. There can only be more bloodshed, and we have no idea what kind of leadership will arise from the streets of Jakarta. We have no idea. It is time for the administration to stop sitting on the sidelines and get engaged in either easing the economic problem or making plans for a transition from the Soeharto regime. The IMF has done enough damage. Now the United States has to take a leadership role in the financial and political affairs of this country.

It cannot—and I repeat, it cannot—be left up to the IMF anymore. It has proven its inability to function.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR RECORD TO REMAIN OPEN UNTIL 1 P.M.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the RECORD remain open until 1 p.m. today for the submission of statements and bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, MAY 18, 1998

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent when the Senate completes its business today it stand in adjournment until 11 a.m. on Monday, May 18. I further ask that on Monday, immediately following the prayer, the routine requests through the morning business hour be granted and the Senate begin a period of morning business until 12 noon, with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator DORGAN, 15 minutes; Senator CONRAD, 15 minutes; and Senator HUTCHINSON, 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FAIRCLOTH. Mr. President, I further ask that on Monday any votes ordered with respect to S. 1723, the Abraham immigration bill, be postponed to occur beginning at 5:45 p.m. I further ask that the cloture vote on the motion to proceed be vitiated and, following those stacked votes, the Senate proceed to S. 1415, the tobacco legislation. I further ask unanimous consent that no call for the regular order displace the tobacco legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FAIRCLOTH. Mr. President, for the information of all Senators, when the Senate reconvenes on Monday at 11:00 a.m., there will be a period of morning business until 12 noon. Following morning business, under a previous order, the Senate will begin consideration of S. 1723, the Abraham immigration legislation. Any votes ordered with respect to the Abraham bill will be postponed to occur beginning at 5:45 p.m. Also, following those votes, the Senate will begin consideration of the tobacco bill.

Senators should expect a busy session next week as the Senate considers the tobacco legislation. The cooperation of all Senators will be necessary so that the Senate can complete its work prior to the Memorial Day recess.

ADJOURNMENT UNTIL 11 A.M. MONDAY, MAY 18, 1998

Mr. FAIRCLOTH. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:55 a.m., adjourned until Monday, May 18, 1998, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate May 15, 1998:

THE JUDICIARY

ALVIN K. HELLERSTEIN, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK VICE LOUIS L. STANTON, RETIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be colonel

WILLIAM E. DICKERSON, 4851
JAMES J. DOUGHERTY, 8516
MICHAEL L. FARRELL, 2376

To be lieutenant colonel

GEORGE W. ESTES, 4772
DAVID P. KISSINGER, 1652
WILLIAM E. NELSON, 0185

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

HERBERT P. FRITTS, 4475
EDDIE L. NEWMAN, 2693
WILLIE H. OGLESBY, JR., 3742

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES NAVY FROM THE TEMPORARY DISABILITY RETIRED LIST UNDER TITLE 10, U.S.C. SECTION 1211:

To be lieutenant

MASAKO HASEBE, 7568

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

RICHARD B. ALSOP, 5877
DOUGLAS B. BECKER, JR., 5470
ROY G. BEJSOVEC, 7345
GUNTER I. BRAUN, 7245
CHAD D. BROWN, 3735
ERIK A. BURIAN, 5780
STEPHEN N. BURKE, 9520
THOMAS M. CALLENDER, 0158
JAMES B. CAWRSE, 9166
BLAKE L. CONVERSE, 4188
MICHAEL J. COX, 2977
JOHN R. CRAIG, 6692
FLOYD R. CRISP, II, 9832
MICHAEL S. FEYEDELEM, 2816
KEVIN S. FORD, 3288
RICHARD A. FREY, 0622
JAMES P. GOMPPER, 7340
FRANCIS R.J. GUTIERREZ, 9686
PAUL HARVEY, 4776
LYLE E. HOAG, 5196
THOMAS P. HOLLINGSHEAD, 9911
KEVIN D. JONES, 2783
MICHAEL I. KATAHARA, 2278
KYLE D. KLIEWER, 9120
KENN M. KNITTEL, 6959
JOHN J. LAPOINT, 2791
BRIAN M. LEPINE, 0612
DONALD B. LESH, 5284
ALBERT J. MAGNAN, 7092
CHARLES H. MCGUIRE, IV, 2421
JAMES C. MINISTER, 8152

DENNIS W. MITCHELL, 1494
DANIEL W. MONTGOMERY, 4031
DONALD R. MORDUS, 1419
ELMER M. NARRAVO, 4922
DOUGLAS B. OGLESBY, 0541
DAVID D. PETRI, 9847
MARK A. PROKOPIUS, 8242
TIMOTHY A. REXRODE, 2655
FARLEY K. REYNOLDS, 3446
TIMOTHY A. SCHORR, 2655
MELVIN J. SIMON, JR., 4334
STEVEN F. SMITH, JR., 9946
MICHAEL J. STEVENS, 8790
NEIL A. SZANYI, 9443
MICHAEL W. TEMME, 0064
JOHN D. THOMAS, 6371
STEVEN D. VINCENT, 6812
THEODORE A. ZOBEL, 0276

HOUSE OF REPRESENTATIVES—*Monday, May 18, 1998*

The House met at 12 noon and was called to order by the Speaker pro tempore (Mr. MILLER of Florida).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 18, 1998.

I hereby designate the Honorable DAN MILLER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

As we come together for prayer this day, gracious God, we ask Your blessing upon us and upon all people. We know not the petitions of each person, and we know not all the needs. Some seek healing and some seek a new direction; some seek renewal and a great vision; and some seek peace for a troubled soul. Whatever the need, O God, and whatever the circumstance, You have promised to be with us and bless us. For all Your blessings in our lives, we offer this prayer of thanksgiving and praise. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from California (Mr. FILNER) come forward and lead the House in the Pledge of Allegiance.

Mr. FILNER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3565. An act to amend Part L of the Omnibus Crime Control and Safe Streets Act of 1968.

The message also announced that the Senate passed a bill of the following title, in which concurrence of the House is requested:

S. 1525. An act to provide financial assistance for higher education to the dependents of Federal, State, and local public safety officers who are killed or permanently and totally disabled as the result of a traumatic injury sustained in the line of duty.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1605) "An Act to establish a matching grant program to help States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers.".

The message also announced that pursuant to Public Law 103-227, the Chair, on behalf of the President pro tempore and upon the recommendation of the Majority Leader, appoints the following individuals to the National Skill Standards Board:

Jon A. Reeves, of Mississippi, Representative of Business;

Ronald K. Robinson, of Mississippi, Representative of Labor; and

Earline N. Ashley, of Mississippi, Representative of Human Resources.

The message also announced that pursuant to Public Law 102-246, the Chair, on behalf of the Majority Leader, in consultation with the Democratic Leader, appoints Bernard Rapoport of Texas to the Library of Congress Trust Fund Board for a term of 5 years.

The message also announced that in accordance with sections 1928a-1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Arkansas (Mr. HUTCHINSON) as a member of the Senate Delegation to the North Atlantic Assembly during the Second Session of the One Hundred Fifth Congress, to be held in Barcelona, Spain, May 22-27, 1998.

APPOINTMENT AS MEMBER TO COMMISSION ON ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

The SPEAKER pro tempore. Pursuant to the provisions of Section 806(c)(1) of Public Law 104-132 and the order of the House Thursday, May 14, 1998, the Speaker on Friday, May 15, 1998, did appoint the following Member on the part of the House to the Commission on the Advancement of Federal Law Enforcement to fill the existing vacancy thereon:

Mr. Robert E. Sanders of Florida.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THANKS TO MEMBERS FOR HELP WITH FREEDOM FROM RELIGIOUS PERSECUTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WOLF) is recognized for 5 minutes.

Mr. WOLF. Mr. Speaker, last week, the House of Representatives passed the Freedom From Religious Persecution Act, H.R. 2431, by an overwhelming vote.

I wanted to share with my colleagues a letter from Wei Jingsheng, one of China's most noted political dissidents, who was watching in the gallery the vote and who was also watching on television in another Member's office, who said that the vote on H.R. 2431 was, and I quote, "a blow sent to oppression and a vote for freedom." He went on to say, "I am encouraged by the friends in the United States Congress and it gives hope to all those struggling on behalf of Chinese."

Mr. Speaker, I want to personally thank the 375 Members who helped send this message of hope.

But, passing H.R. 2431 in the House of Representatives would not have been possible without the help, though, of many, many people. I want to take this opportunity to thank the men and women here on Capitol Hill who worked long and hard to move forward this bill. I am grateful for their dedication.

I would especially like to thank Steve Rademaker, Chief Counsel of the House Committee on International Relations; Joseph Rees, Staff Director and Chief Counsel on the Subcommittee on International Operations on Human Rights; Brian Gunderson, Deputy Chief of Staff for the Majority Leader; Heidi Stirrup, Policy Advisor to the Majority Leader; and Gardner Peckham, Foreign Policy Advisor to the Speaker.

I also appreciate the tireless efforts of Carolyn Bartholomew with the office of the gentlewoman from California (Ms. PELOSI), Bob Zachritz with the office of the gentleman from Ohio (Mr.

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HALL), and Steve Golob and Rick Kessler with the office of the gentleman from California (Mr. BERMAN), Mark Lagon with the office of the gentleman from California (Mr. COX), and Amos Hochestein with the office of the gentleman from Connecticut (Mr. GEJDENSON).

Finally, I want to express my appreciation to Anne Huiskes, my senior legislative assistant, who has worked for over a year to bring this bill to the floor, pouring her heart and her soul into this effort to help make a difference in the lives of the persecuted people of all faiths around the world.

I deeply appreciate all of the efforts of the many people, some named and many more unnamed, who helped pass this important piece of legislation on behalf of those around the world who really have no other voice.

As Wei Jingsheng said, passing H.R. 2431 sent a positive message to oppressed people everywhere. Your work here in the Congress helped send this message, and I am truly grateful.

Mr. FILNER. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from California.

Mr. FILNER. Mr. Speaker, I thank the gentleman from Virginia (Mr. WOLF). He has thanked a lot of people, and I think people across America and around the world should know that a piece of legislation like this does not just come about without persistence, without passion, and without leadership.

In the 6 years that I have been here, he has led the way, the gentleman from Virginia (Mr. WOLF), for speaking about human rights and preservation of human rights, freedom from religious persecution, all over the world. We are grateful for him and for his leadership. This would not have passed without him, and we are all grateful to him.

Mr. WOLF. Mr. Speaker, I thank the gentleman for his comments.

VIOLATION OF RIGHTS OF CHAPLAIN WILLIE WILLIAMS AND COMDR. CHERYL WASHINGTON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, last week, my friend and colleague, the gentleman from Illinois (Mr. RUSH) spoke to us in this Chamber about the unfair treatment of two dedicated Navy officers, Chaplain Willie Williams and Lt. Commander Cheryl Washington. Simply stated, this case is a tragedy. It is a tragedy in all aspects.

The first tragedy was the heinous assault, a gang rape, that occurred at Miramar Naval Air Station in San Diego. Lives have been altered, changed and ruined. And only through tremendous faith and human will can this incident, this crime, ever be reckoned with and overcome.

The next tragedy was the treatment of a Navy Chaplain who only wanted to tell the truth. Someone who only tried to do what was right and just. Someone who saw wrong and tried to right it, who tried to make sure that justice prevailed. Yet, he also became a victim.

The next tragedy, the one that is most disappointing, the one I hope that can be rectified, is the tragedy of the response of the United States Navy.

The brave men and women of our Nation join the military services for many different reasons. Some join because they want an education, and they see the military as a way to break the bonds of poverty and to better themselves. Some join because they seek an adventure, an adventure that is not available to them in the small town where they live, or the crime-ridden streets of their city, or the mundaneness of their neighborhoods.

Some join to "be all that they can be." They want to prove to themselves that they are able to meet the physical, mental, and emotional challenges. Others join because they want to belong to a group, a group that has a purpose. There are as many reasons to join our Nation's military as there are people who have signed up.

Mr. Speaker, there is one underlying reason that is shared by all the enlisted personnel and officers who currently serve, who have ever served, and who sit today at a school desk and dream of serving. They all love this country, and they all want to see that America stays strong, independent and free. They all believe that they can make a difference in this country and that their best opportunity for making that difference is through serving our country by helping to defend it against aggression.

That is why this case is so sad and heartbreaking.

Chaplain Willie Williams, Lieutenant Commander Cheryl Washington, and scores of others have been let down, have been treated unfairly and unjustly, have been abused, and have been betrayed. They have been betrayed by the people who they served with, the people they trusted to do what was right, the people they willingly allowed to lead them, whom they willingly would follow into battle. If this continues much further, Mr. Speaker, they will have been betrayed by the institution that they loved, the United States Navy.

I was first contacted by Chaplain Willie Williams in January of this year. He had some very serious allegations to make. He claimed that a young woman had been sexually assaulted numerous times and that, when he reported this, he himself became the subject of investigation, and that the subsequent investigation was conducted with a complete lack of integrity, thoroughness, and efficiency.

I found this allegation, Mr. Speaker, very troubling. I represent a "Navy town." Many of you in this body have made official trips to San Diego to review our naval facilities there. There is no better Naval port in the world and no place where the quality of life for the men and women serve in the Navy is better. Thousands of Navy personnel retire to San Diego. In short, the Navy has been good to San Diego, and San Diego has been good to the Navy.

Whenever I am approached by anyone who tells of a Navy injustice, I tend to be skeptical. I want to believe the Navy, Mr. Speaker; but, with this case, there is something that was just not right. There was something that did not ring true.

I hope that this case is not over. Chaplain Williams has been court martialed. But he tried to do the right thing. He tried to stand up for fair play, he tried to stand up for justice, and he tried to stand up for the truth. I hope the Navy has not ignored these and chosen to follow a path that is littered with racial discrimination, yes, Mr. Speaker, cover-up and vindictiveness.

Mr. Speaker, I call today on Navy Secretary Dalton, as did the gentleman from Illinois (Mr. RUSH), to personally review this case and be sure that no stone is left unturned, that every step is taken to ensure that it is a road to justice that is traveled by our very own United States Navy.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Arkansas (Mr. HUTCHINSON) is recognized for 60 minutes as the designee of the majority leader.

Mr. HUTCHINSON. Mr. Speaker, it is my pleasure to rise today to speak on behalf of a subject that this Congress will address this week and probably even after we come back from the Memorial week break. The subject that we are going to address that I think is very important to the American voter is campaign finance reform.

Day after day, we see stories reported in the national media about the abuses of the last election on both sides of the aisle in the enormous and consistent chase of soft money.

I know the American people who hear these terms, probably their eyes glaze over and say, what are you talking about in soft money? The soft money we are speaking of is simply in the terms of the $100,000, the $200,000, or even the $1 million contribution that flow into the national political parties from corporations, from labor unions, and from wealthy individuals.

Ever since going back, really, to the early part of the 19th century or this century, we have banned corporate money and labor union money to individual candidates. Yet, even though an individual Federal candidate cannot receive the corporate or labor money, that same money can flow in under court decisions to the national parties to be used for campaign type ads that affect our elections and affect candidates. So that is the soft money loophole that people speak about.

Particularly this last election, we saw a chase as we have not seen before in our campaigns where our national parties and our Federal candidates pursued this soft money, the huge contributions. It had a greater impact than ever before. So that points up the need for campaign finance reform.

People ask me, why in the world are you being involved in this issue in the United States Congress? To me, it is very simple. It is the fact that, during my campaign, people asked me on the campaign trail, what are you going to do about reforming our campaign finance system?

□ 1215

I took the position, because I believed in it, that we ought to ban soft money to our national political parties, because of the abuses that we have seen. I believe that once you make that pledge, you ought to have the same position in Congress, so I have stayed committed to that.

While we first came here as freshmen members of this great body, I met with my colleagues from across the aisles, the Democrat freshmen, headed up by the gentleman from Maine (Mr. TOM ALLEN), and then others on the Republican side of the aisle, the gentleman from Montana (Mr. RICK HILL), the gentleman from Utah (Mr. MERRILL COOK), the gentleman from Texas (Mr. KEVIN BRADY), and others who worked diligently crafting a bipartisan bill on campaign finance reform that does not try to do damage to the other side but tries to keep a level playing field, so we can have a bill that will be constitutional, that would stop the greatest abuses, and then would be meaningful reform.

That is what we crafted after 5 months of diligent work. We came up with this bill, and now it is the leading bipartisan bill on this floor. We have over 75 cosponsors to this legislation.

I am very grateful to the Republican leadership who designated the freshman bill, the Bipartisan Campaign Integrity Act, as the bill that would come forward to this body this week as the base bill to engage in the debate on campaign finance reform.

As it comes to this body, it will be subject to amendments. It will be subject to different substitutes that will be offered. I think this is good. It is a very open process. It is one that everyone can participate in, present their ideas on campaign finance reform. We cannot guarantee the result. That assures that it is going to be a very democratic process.

After we engage in this debate I hope the American people will be engaged and they will call their representatives, and that they will express their views as to what represents the appropriate change that we should have.

The Bipartisan Campaign Integrity Act will be presented this week on the House floor. We will start debate. Again, there will be amendments that are offered. Let me explain basically what this bill does, because it is very simple. It is straightforward, but it is very substantial reform.

First of all, this bill bans soft money to the national political parties, again, the greatest source of abuse. There are those who say, well, it will just simply flow to the State parties at that point.

We do not believe, under the tenth amendment to the United States Constitution, that the Federal Government should federalize all of the elections, because if you have an election in Arkansas or in Oklahoma or in Pennsylvania, you are going to have State candidates on the ballot and Federal candidates on the ballot, and we should not direct how every State party in the Nation handles money. I believe that the State laws should govern much of what happens at the State party level. So we address, as the United States Congress, the greatest abuse, the soft money, the abusive money that goes to the national parties, and we stop that.

Second, we do set up the firewalls between the States that prevents this money from being transferred from State party to State party. Since the national parties cannot raise it, they cannot channel it down to the State parties. We also prohibit the Federal candidates or their agents from helping to raise that soft money, so this is very substantial reform when it comes to the abuse of soft money.

The second thing we do is that we provide more disclosure for the candidates and for all of the different groups that are engaging in issue-type campaigns and information to the voters. That is what is important, so the candidates will reveal in a more timely way how they are getting their money and how they are spending it, so there is information to the public on what the candidates are doing.

The next thing is information on what the issue groups are doing. We do not want to get into a constitutionally questionable area about where they get their money, but the people should know who is trying to influence the campaigns. Each of these groups, whether it is the AFL–CIO, the Right to Life, or the Sierra Club, or any other group that is out there, such as the Coalition for Better Government, who knows who they are? They should be able to say who they are and how much they are spending.

This is not an infringement upon the first amendment, this is consistent with our freedom of speech in America, but it still provides wonderful, important information to the electorate as to who is spending the money and who is trying to influence that campaign, who they are, and how much they were spending.

The next thing we do is that we index contributions to the rate of inflation. Right now the individual contribution limit has been fixed since the early 1970s. There has been no change in that. The fact that there has not been any change has allowed that individual contribution to be eroded by inflation, so what was a $1,000 contribution is now in effect a $300 contribution. So we strengthen the role of individuals by indexing their contributions to the rate of inflation.

These are important reforms that the Bipartisan Campaign Integrity Act accomplishes. These will be the basic parts of the reform that will be presented to this body this week.

Another way to express what we are trying to do is that we are trying to empower individuals in the election process. How do we empower individuals? We empower individuals under this bill first of all by restraining the voice of big money interests; in other words, that is the ban on soft money. In order to strengthen the people's voice, we have to restrain the big money interests in politics. In that way, it strengthens the voice of the individual.

I had a letter from a worker in my State who had worked hard for decades in building the party, in raising the small contributions, contributing the small contributions to the candidates. She wrote me a letter and said that it seems that that voice is being drowned out, the voice of the small contribution is being drowned out by the multinational corporations that are feeding our national political parties with literally millions of dollars of money. That was her impression. So if we restrain the big money interests, we empower the individual. That is what we are trying to do.

Many times the opponents to reform cite the Buckley versus Valeo decision. It is the United States Supreme Court decision that talks about free speech, that talks about campaign reform. They were evaluating the reform that was passed in the 1970s.

What the United States Supreme Court did in the Buckley versus Valeo decision was that it struck down limits on campaign spending, because spending was free speech. It struck down spending limits. Our bill does not do anything with spending. We do believe that it is appropriate that everyone spends money in campaigns because that is speech, that is free speech, that is first amendment privilege.

But the United States Supreme Court also said that it was consistent with the first amendment to restrict, have a reasonable restriction, on campaign contributions, so that is why they upheld the $1,000 limit. It has been upheld, the corporate ban on contributions, and the labor union ban on contributions. They upheld the political action committees.

So there are reasonable restraints that can be made that are consistent with the first amendment. We restrain the voice of big money interests by limiting their contributions and their voice, and that strengthens and empowers the voice of the individual in American democracy.

Another thing we do to empower individuals is to empower them with information. That is the disclosure provisions, information as to where the candidates are getting their money, information as to what the issue advocacy groups are doing, who they are and how much money they are spending; who is trying to influence the elections.

A voter out there needs to be empowered with that information to make good decisions on who they are going to vote for, who the special interests are, who is trying to influence that particular candidate, so we empower that individual with the information.

Then we empower that individual, finally, by strengthening their voice, by strengthening their contribution, again, by indexing it to inflation, increasing their voice, increasing the amount that they can contribute to a candidate. So you empower individuals in our system of democracy. I believe that is significant reform. It is substantial reform. It is important for the voice of democracy.

What will happen down the road? What will happen if this is passed? If this legislation is passed by this body, first of all, I believe it gives tremendous momentum for campaign finance reform over in the other body, the United States Senate.

Secondly, besides giving that momentum, it will be held constitutional, because we have been careful to protect the first amendment, not to tread upon the rights of groups that are trying to influence the elections of this country, which is their first amendment rights. It will be held constitutional. I believe the President will sign it because it represents significant reform, so I think it can become law.

Also, once this is passed, we will empower individuals in our system of democracy, and I believe we will strengthen the role of the political parties. I am a former State party chairman, so I believe in political parties. I believe in their voice, and that their voice should not be drowned out.

However, I do not believe we ought to nationalize everything; that there is a role of the State party, a role of the national party, and there should be a balance between those. Our bill strengthens individuals, strengthens the political parties, strengthens their voices, and is a balance between the role of the candidates and the role of the issue advocacy groups. It represents significant reform.

Members might ask, is it a cure-all? Is this going to stop all the abuses? I am afraid it is not. Any law we pass out of this body, there might be someone who will sit and figure out exactly a way to get around or avoid it. We tried to eliminate those loopholes, but there is going to be a chance for reform down the road.

In the 1970s, four campaign reform bills passed this body, passed the Senate, and were signed into law, four of them. It has been decades since. We have an opportunity now to pass another law and have it signed into enactment. If we can do this, then it will set a pattern that, yes, we might want to review these laws again down the road. There might be some areas that the States need to address, but it is substantial reform. It is the first step to reform. It is reform that will give momentum to this effort and return democracy to the individual, and strengthen their role. That is what we want to accomplish.

When we look at the people that support campaign finance reform, from both sides of the aisle, Democrats and Republicans, former Presidents, from Gerald Ford to George Bush to Jimmy Carter, all have said that we ought to ban soft money. We have academics who look at this and say we ought to do that, and that we can do it constitutionally. Then we have leaders of reform, people from both sides of the aisle in this House, that support this.

Sure, there are opponents of this. They are going to try to kill it at every turn, but I think we have a great opportunity in this body to give something to the American people to fulfill our responsibility to them, and to fulfill our promises to them. When we do this in a bipartisan fashion, they will believe that we have done something good. It will reduce cynicism in America, it will increase confidence, and I believe that it is the most important thing we can do for the American citizens in this United States Congress.

Therefore, I ask my colleagues to support the Bipartisan Campaign Integrity Act. I hope that as we start this process, it will be an open and a fair procedure, one that we can say we are proud of; and that when we finish, when the day is done, we will say we have passed something that is good for the American public.

ONE OF AMERICA'S WORST NATIONAL SECURITY SCANDALS

The SPEAKER pro tempore (Mr. MILLER of Florida). Under the Speaker's announced policy of January 7, 1997, the gentleman from California (Mr. ROHRABACHER) is recognized for 60 minutes as the designee of the majority leader.

Mr. ROHRABACHER. Mr. Speaker, what started off as leaks about American corporations upgrading Communist Chinese rockets and missiles is today emerging as one of our country's worst national security scandals.

What could be worse than American corporations using technology, paid for by the American taxpayer, to improve Communist Chinese missiles and rockets so they will have a better chance of striking the United States with nuclear weapons?

What is worse than having government watchdogs go after companies engaged in this betrayal of the American people, and to have the prosecution of those responsible undercut by an executive action taken by none other than President Bill Clinton?

What is worse than to find out that the executive that gave the missile technology to the Communist Chinese, as well as the Communist Chinese themselves, I might add, donated a million dollars to the President's reelection effort at the time the missile deal was in play?

Mr. Speaker, the American people have bent over backwards so many times to give their President the benefit of the doubt. Many think the attention paid to sex scandals swirling through this administration are a waste of time, even a joke, never mind that the liberal establishment destroyed the career of Bob Packwood, Senator Bob Packwood from Oregon, just a few short years ago on allegations which were far less than what now face the President; and they also, this same liberal establishment, tried just a few short years ago to destroy the career of Justice Clarence Thomas with charges far less significant than those that are now being made against the President.

□ 1230

Also I might add that a number of military careers have been destroyed by such sex scandals. Officers have been thrown out of their job, after serving many, many years with the military, by the claim that they must have the highest level of integrity, they must have the highest level of character, if they are to be trusted with the defense of our country, especially when it concerns nuclear weapons. But the double standard at the very top, of course, is a bit overwhelming, to say the least.

Again, of course, the charges against the President now being investigated center on allegations that the President encouraged a young lady to lie under oath on a legal deposition, read that commit perjury. And, okay, it does go back to the sexual proclivities of the President and also, the American people admittedly are getting tired of seeing the pandering of the news media——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida). The Chair would remind the Member to refrain from making personal references toward the President of the United States.

Mr. ROHRABACHER. I was not aware that I was making personal references to the President of the United States but, instead, about investigations into the President's proclivities. I believe that any mention about investigations is certainly possible. I would like to know what Member is objecting to my words.

The SPEAKER pro tempore. The Chair took the initiative in this reference to the President.

Mr. ROHRABACHER. I will take the Chair's admonition and interest.

We recognize that the media has trivialized the charges that have been made against the President and we realize that perhaps the American people are getting sick and tired of hearing about charges that go back to sexual activities that the President may or may not have been engaged in. And if what Ken Starr has been investigating seems complicated and now trivial, let us not lose sight of the fact that something now is emerging in Washington that is not trivial, that does not deal with a sex scandal, that what we are seeing emerge about this administration's dealings with the Red Chinese is both understandable and outrageous.

In short, President Clinton's White House has been in collusion with American high tech companies that have transferred to the Communist Chinese missile and rocket technology that increased their capability of successfully launching a nuclear strike against the United States of America. So while the news media was paying attention to charges and investigations that may go back to the President's sex life, let us not ignore or let us focus on something that everybody should be able to understand, the magnitude of which everyone should be able to understand, every man, woman, and child in our country has been put at risk by actions of a few profit-oriented aerospace tycoons.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. If the gentleman would suspend, the Chair would like to request that the Member not refer to the President of the United States in the personal manner that he just utilized. The gentleman may proceed.

Mr. ROHRABACHER. I would appeal the ruling of the Chair if it says that I am not permitted—I do not know who is telling the Chair that no one is permitted to talk about the policies of the President of the United States and use them as policies of the President of the United States.

The SPEAKER pro tempore. It was the references to the President's personal conduct rather than the policies of the President.

Mr. ROHRABACHER. Even if those personal positions are being investigated by a law enforcement agency?

The SPEAKER pro tempore. That is correct.

Mr. ROHRABACHER. Well, then I will refrain from that and I thank the Chair for pointing that out to me. I thought that referring to an investigation of the President in that area was permitted, and I will refrain from referring to that in the rest of my speech. Instead, I will refer to exactly what this speech is supposed to focus on and as only compared to those other items that I consider to be not understandable and trivial, but instead the fact that actions have been taken by this President that benefit aerospace tycoons that have put our country at risk.

The President, this President, may well have squashed attempts to prosecute people who have betrayed the safety and security of our country. This story started for me earlier this year when I first got wind of the assistance being provided to the Communist Chinese missile and rocket program.

As chairman of the space subcommittee, it is part of my job to keep track of America's space program. I am, in fact, as chairman of the space subcommittee, the point man in the House of Representatives in overseeing NASA and other space and technology budgets. I have, thus, some understanding of rockets and missiles that perhaps some others of our Members do not have.

Several years ago it was argued that American satellites should be permitted to be launched atop foreign rockets; that is, if the foreign customer, which American companies were selling their satellites to, demanded that those launches be made to those foreign, be made on top of those foreign rockets. That request by American satellite manufacturers made sense. We were competitive with the British and French as well as the Russians and, when quality was put into the equation, we were far superior; meaning American rockets were far superior to the Chinese long march rockets, which is their standard rocket for the Chinese arsenal.

So, thus, this Congress moved forward with the President of the United States to make legal the launching of American satellites on top of foreign rockets but with great restrictions to be placed on those satellite launches so that there would be no technology transfer.

As I say, I agreed with that position because I knew that once the long march rocket, which at that time was blowing up three out of four times, was used to put up an American satellite, people would soon see that it made no economic sense to use long march rockets. At no time did this Congress or anyone else ever suggest that American technology should be used to perfect Chinese long march rockets or to upgrade any Chinese missile system. But that is exactly what happened.

When the Chinese rockets failed, as predicted, the Chinese rockets, as I say, would go up and they would explode, reminiscent of the American, early American rockets of the 1950s. And as predicted, they blew up, and at that point most of us believed that the launches of American satellites to set up things like a telephone system in China and such, which are totally justified sales of technology, that they would have to be launched on American rockets. Yet some high rollers in certain American aerospace companies decided to upgrade the capability of the Communist Chinese in their ability to launch those rockets without any consideration of America's national security interests.

What may have been given to the Chinese? What is it that we are talking about when we are talking about a rocket system, the long march rocket that used to blow up and was totally unreliable and now is a reliable rocket system?

Well, what we gave them, what it looks like we may have given them, I should say, is missile command and control technology, missile guidance systems, stage separation technology and MIRVing technology. Demonstrating just how far things have gone in perfecting the long march rocket, on May 2 of this year, two Motorola satellites were put into orbit with one long march rocket.

To explain the importance of this, to understand the importance of this, we need to look at what technology is needed to send two satellites up on the same rocket.

First of all, those rockets were exploding. As one Motorola executive told me, Well, Mr. Chairman, as the rockets go up, they did not have the stage separation technology and they were blowing up when they were supposed to separate.

My reaction, of course, was, it is a very good thing that Red Chinese rockets blow up. We like them to blow up. We do not want them to have an effective rocket system.

What it also tells us, the May 2 launch, is, they have overcome that stage separation problem now. One long march rocket put two satellites up; the important phrase, "two satellites." That means that the Red Chinese now have MIRV capacity. They are utilizing MIRV technology.

To put this in perspective, that means that the Chinese, before any policies laid down by the President or in support of these companies, before they had an unreliable rocket system that would blow up three out of four times, now they have a system that will launch into space not only one satellite but two.

Now let us change the name. We are no longer talking about satellites. We are talking about nuclear warheads. The Chinese now, because it is the very same technology used to spit out those satellites, is the same technology that is used to spit out nuclear warheads. The Chinese now, using American technology, have the ability to launch, effectively launch nuclear warheads. And not just one warhead per rocket, they now have our MIRV technology that will permit them to launch numerous nuclear warheads at the United States per rocket, using our technology paid for by the American taxpayers.

Where were our watchdogs? When all of this was happening, where were our watchdogs? Well, this did not pass the attention of many long-time pros over at the CIA and the State Department and U.S. Customs. Our watchdogs were actually on the job and could not help but notice that the Chinese capability in their launching of their rockets and missiles was improving dramatically. In fact, moves have been made by our watchdogs to bring charges against several corporations that may have transferred this American technology to the Communist Chinese.

But in the midst of the preparation for bringing criminal charges, our President, President Bill Clinton, inexplicably issued two licenses that made it legal to sell that same technology to the Communist Chinese, undercutting the potential prosecutions of those who had been engaged in selling the same technology to them before.

This might be viewed as almost a retroactive licensing or waiver for past illegal activities. This is something we need to, as a Congress, to look into exactly what was behind that. When examining this issue, we need to also understand that the transfer of technology financed by the American taxpayer is a double betrayal of the American people.

First, let us understand that when you transfer American technology like rocket technology, American jobs are being destroyed and, second, our country is being put in jeopardy.

First, what about the jobs? I represent an area in Southern California in which aerospace plays a major role in our economy. Tens of thousands of people make their living in the aerospace industry. By transferring technology that was paid for by the taxpayers to the Chinese so that launches will be given to the Chinese rather than to Americans, we are betraying everyone who works in our aerospace industry.

When I say "we," it comes down to some of the bigwigs in the aerospace industry who are not considering their employees and some as well in the administration, the Clinton administration that are supposed to be making the decisions as to what is in the interest of our country. But of course, our relations with China over these last five years have been based on transferring jobs and wealth from the United States to Communist China.

□ 1245

How many people know that, when our companies are trying to sell a product in China, they have to pay a 30 or 40 percent tariff? The Chinese, on the other end, are flooding our markets with consumer goods and paying a 3 percent or 4 percent tariff. This is no accident. This is no mistake.

What does that do? That undercuts the ability of American companies, of American workers to do their job and to earn their living. So we have tariffs that are totally out of whack, and that is no accident.

Then we have got OPIC, Export-Import Bank, the World Bank and several other financial institutions that are financed by the American taxpayer. And what do we have? We have the taxpayer, again, subsidizing the building of a manufacturing plant in a Communist country, especially Communist China, which is the biggest human rights abuser on this planet.

Again, we have a policy that betrays the American people by taxing them in order to subsidize or guarantee loans to big corporations who will then build a plant in China to use slave labor, which will then be used to transfer goods or to sell goods to the United States, undercutting our own working people and putting them out of a job.

This is nonsense. This is bizarre. Who is watching out for the interests of the American people? Even environmental deals that we have been talking about, trying to set up environmental standards internationally, we managed to maneuver them and to work through problems and to negotiate.

When all the smoke clears away from the negotiations, we find we have a deal in which China and several other countries are excluded from harsh restrictions that are put on our country, which means that, when people invest in the future, they will invest in China instead of investing in the United States.

That is very predictable. No one can deny that. This is what will happen if these Kyoto treaties that we just negotiated, when it is implemented, it is the most massive transfer of wealth from the United States to China.

Why not? If you have so many restrictions in the United States and it is so costly to do business here, why not put your investment into China? Let us bend over backwards again and give those involved in this strategy the benefit of the doubt of why it is happening. Let us say that we are going to give everybody the benefit of the doubt that these nonsensical and horrible policies have been brought about by the best of intentions.

What they really want to do, or so they say, is to bring China into the family of nations. This is the way to bring China into the family of nations. Let us make China part of the global economy. The more business that we do with China, the more they are going to come and be more like western countries.

This is, let us hug a Nazi, and he is going to come along and not be a Nazi any more. Let us trade with Hitler, and then he will not want to invade Poland. Let us make sure that the Communists and the Nazis and the fascists do not feel threatened, do not feel threatened by anything that we do. Let us give them all of our weapons or at least let us not build any new weapons and so they will know they have nothing to fear from the United States.

This is the kind of nonsense that is at the basis of one of the worst betrayals of the interests of the American people that I have seen in my lifetime. Massive transfers of wealth and technology, even weapons technology, to the worst human rights abuser and worst potential aggressor on this planet.

China, the Chinese dictatorship, could incinerate all of Tibet; and these nincompoops making these arguments would still be arguing that we have got to prove our sincerity and maintain this unequal trade relationship with the Chinese.

In fact, the Communist Chinese are, at this moment, engaged in genocide against the people of Tibet, slowly but surely trying to replace them, totally replace them from that kingdom in the mountains overlooking India and China.

But even those who espouse this nonsense of encouraging an unequal relationship with China understand that this strategy does not excuse the transfer of weapons technology and technology of mass destruction to the Communist Chinese.

One of the most disturbing tidbits of information that has been coming to the surface now that this issue is being focused on by some of us in Congress was the effort of the Loral Corporation to ship other sophisticated weapon systems over to the Communist Chinese.

Even beyond the missiles and rockets, when former Secretary of Commerce Ron Brown went to Communist China, he was accompanied by Loral CEO Bernie Schwartz, who carried with him a list that has been compared to a catalog of high-tech weapons put out by the James Defense Publishers.

I have a list here of some of the weapons that Loral suggested be sold to the Communist Chinese. They include Airborne Reconnaissance Cameras, Weapon Delivery, Target Acquisition, Missile Guidance, Shipboard Target Acquisition, Radar Warning, Missile Warning, RF Jamming, IR Jamming.

Loral's list proposed the sale to Red China, also included some of our most deadly weapons in our inventory, including the AIM-9 Sidewinder, the massive missile artillery weapon MLRS, the Army's newest antimissile missile, the ERINT, the antiaircraft missile Chaparral, and even the advanced unmanned air vehicle called the Predator.

Loral also made sure that the list of ever-popular add-ons for jet fighters would include things such as laser bomb targeting pods, FLIR, Forward Looking Infra-Red, night vision and smart bomb targeting gear.

This is only a partial list of what Loral apparently would like to have sold to Communist Chinese.

Where would those weapons be used? First of all, I do not believe that it is justified for the United States to sell weaponry to any dictatorship. The Cold War is over.

It is time for the United States to set a standard that, if a country is not ruled by a democracy, by the people themselves, if there are not democratic rights and people, and you have a small clique of dictators running a country, we should not be selling weapons to that government, because those weapons will be used, among other things, to continue the suppression of their own people.

But, also, we know that dictatorships are actually more inclined towards aggression than are democratic countries. So we have here a company and maybe several companies that was seeking to make huge profits by selling sophisticated weapons to the world's worst human rights abuser, what I consider to be one of the world's worst dictatorships, even though it does permit our big boys to come in and make millions of dollars of profit if they can cut the right deal with the ruling clique.

Later, when the State Department began pointing out the potential danger to America of transferring these weapons, now, remember, all these weapons, someday we may be in a conflict with the Chinese, and those early defense systems and those radar systems may be used to shoot down American pilots, and that did not escape the attention of some of the people in our government, some of the watchdogs.

When some of our watchdogs began to raise questions about the transfer of these weapons, President Clinton, again, inexplicably gave the Commerce Department authority over the approval of certain of these strategic systems. It was no longer the State Department but the Commerce Department under Ron Brown then would have the ability to approve these transfers or at least some of these transfers of weapons.

Why did that happen? It made it easier to transfer these weapons, this American technology, because the State Department was taking a harder line than Secretary of Commerce Ron Brown.

Why did Loral want to transfer these weapons in the first place? The missile and rocket technology, why did Loral want to provide this to the Chinese? Today, Hughes Technology, Hughes Corporation, that is one of the companies that are being accused of helping the Chinese upgrade their rockets, they vehemently deny that they have ever transferred any technology or that they did anything to upgrade the technology of the Communist Chinese. Hughes Technology has denied that. Unless it is proven otherwise, I would choose to believe that Hughes is telling the truth in this particular case.

Loral, on the other hand, Mr. Schwartz has been around Capitol Hill in the last couple of weeks; and from what I understand, he has told people that what he did is not illegal. That is the defense. It was not illegal.

Of course, we need to know whether or not it was illegal at the time this transfer of technology took place and the rockets, Chinese Communist rockets and missiles were upgraded. We need to know whether it was legal at that time, and when did it become legal for it to happen, and why did it become legal for us to transfer technology to a Communist dictatorship which enables them to launch nuclear weapons against the United States.

But is there not even a question here beyond what is legal? Is it wrong for us to expect that American businessmen have some sort of moral considerations in what they are doing?

I fought here for years trying to convince the American business community that we should not be making a fast buck in Communist China while Christians are being persecuted, while you have got massacres going on at Tiananmen Square and the Muslims in the far reaches of China and with the Tibetans.

Is it not immoral with us to go over and do business with a Hitler-like regime, even though they are permitting us to set up a company there? Is that not immoral? Should we not have some moral considerations about this?

The businessmen always come to me and say, oh, forget that. That is so much hogwash. We are going to make them more liberal because we are going to be there with our values on the scene. That will affect these Chinese decision makers.

I want my colleagues to know that over 50 American businessmen have made that argument to me, and I have asked almost all of them the same question: When you have been to China, have you ever raised the human rights issue with the government officials in the area in which you are manufacturing? I have asked that question.

Guess how many American businessmen have answered in the affirmative? Oh, I have stepped forward, and I have advocated what Americans should advocate. I have advocated freedom with these people, and I have told these local officials they should not be closing down the local churches. They should not be throwing believers in jail, and they should not be suppressing freedom of speech. I stood up for that with these local officials.

Not one American businessman has ever told me that. Not one.

Now we have come to the point we have blurred right and wrong. We have blurred the difference between a dictatorship and a democracy so that our businessmen do not even know the difference between giving technology to a Communist Chinese dictatorship that would threaten every man, woman, and child in this country with nuclear incineration.

Ladies and gentlemen, make no doubt about it, today we are in greater peril because American technology has been given to a Communist dictatorship which will enable them to deliver nuclear weapons to the United States more effectively.

Does someone not have a moral obligation not to do that to his friends and neighbors? I do not say that we always have to run across the street and help someone who is being attacked by thugs. At least we should call the police. But, at the very least, we should not sell the thugs brass knuckles so that they can beat up the fellow even more, so they can beat up our family.

Some of these questions are important questions, not only the legal ones but also the moral questions. The moral questions need to be asked as well, and there will be hearings on the subject.

Why was this administration greasing the skids for this dastardly activity? As I say, Hughes Corporation denies that there was any transfer on their part and that they did not do anything. So skip back to Bernie Schwartz and Loral who now claim that, well, I did this or I did some of these things, but it was legal.

Why did the administration go along with it? Why did the administration act in a way that undercut the investigation, the prosecution of Loral for jeopardizing the American people's safety?

It is my sad duty, and I hope that this is permitted, to note that Bernard Schwartz, CEO of Loral Corporation, was the biggest single contributor to President Clinton's reelection effort with over $1 million in direct contribution and soft money being given by Mr. Bernard Schwartz to the Democratic Party.

Was this the reason that the President acted in a way that would undercut the prosecution of Loral for transferring weapons technology, nuclear rocket technology to the Communist Chinese? I cannot say that. We can never say absolutely. But it is something that we need to think about, and we need to ask questions about it and need to get to the bottom of it.

Then, in the last 2 days, we hear about Johnny Chung. During the election we all remember that name back there somewhere. Republicans were yelling about a guy named Johnny Chung. Now we find out, and from recent articles, that Johnny Chung, this Democrat wheeler and dealer, had $100,000 that he gave to the Democrats. Of course, they gave some of it back after Republicans raised a stink.

But this $100,000 that he transferred to Democratic coffers, where did Johnny Chung's money come from? We now find out it came from the People's Liberation Army in Communist China. If you look closer, it was not just the People's Liberation Army in Communist China. That was not just the source of the money. It was a lieutenant colonel in the People's Liberation Army who is deeply involved in the development of their missiles and rockets. That is where Johnny Chung's money came. That is just what we know. That is all we know. We know about that one source.

We do not know that there might be other sources, hundreds of thousands of other dollars that were transferred into the President's political coffers by the Communist Chinese during his reelection. This is perhaps one of the most dastardly acts that I have seen in just giving missile technology. That in and of itself is a dastardly act, giving missile technology to the Communist Chinese.

But that this administration not only did not act to stop it but seems to have acted in a way that greased the skids should be of concern to all Americans. This is a scandal that will not stop until we know the information.

Mr. Speaker, I apologize if earlier that I made reference to some things that I was not supposed to make reference to. I, in fact, was referencing those things to say that what we are talking about today is so much more important and so much more understandable than those other things that the President was accused of.

My intent was not to talk about the President's personal life. Instead, it was to focus on the actions of the President, as he has taken actions that affect the life and security of each and every American, the life and security of our country. Nowhere is that more clear than in this issue of technology transfer.

Again, let me close now by talking a little bit about what I consider the basic issue. We have already pointed out that, number one, there has been a transfer of technology paid for by the American people through our tax dollars to the Communist Chinese that have helped perfect their nuclear weapons delivery systems, something that goes to the heart of the security and safety of every American.

We pointed out that those corporations, that when the watchdogs in our government have begun to try to put together a prosecution of those involved with this breach of our security, perhaps the breaking of our law, that an action taken by the President may have undercut that prosecution. People are concerned about that.

We have also shown that at least one major corporate leader involved with this transfer of American technology was the largest contributor to President Clinton's reelection effort and that we have also shown that there is evidence that Communist Chinese money was transferred into that reelection effort as well.

But let us get right back to where it comes in. Why is this happening? This President, and people should not forget that, when this President first ran for office, he campaigned saying that President Bush was too soft on the Communist Chinese. AL GORE made statements saying that President Bush had coddled the Chinese.

By the way, that quotation by Vice-President GORE was made because President Bush had agreed, and this was before Tiananmen Square, to permit certain satellites to be launched on Chinese rockets. AL GORE characterized that during the election in 1992 as coddling these Communist dictators.

I will have to admit that my reaction to President Clinton's election was not as harsh as some of the other Republicans. I, in fact, had been disappointed with President Bush that he did not take a tougher stand against the Communist Chinese.

I thought, well, gee, here is one area that I can work with this new President, and maybe he believes in human rights, which is the rhetoric that we were hearing during the election.

Mr. Speaker, after becoming President of the United States, President Clinton immediately reversed his position on human rights in China. Most Favored Nation's status, all of a sudden, he has become this city's most potent advocate of Most Favored Nation's status for China. He, in fact, when we were out of session for a week, announced, from now on, there would be no trade negotiations with Communist China in which human rights would even be brought up by the administration as part of those negotiations, something that President Bush and every president had done up until that point.

In short, this administration immediately raced in the opposite direction it claimed that it would take when President Clinton was running for reelection. This is not the only example of that, but because we are talking about Chinese policy and the consequences of the Chinese policy, I thought I would bring that up today.

What we are really talking about is the fact that our government is not watching out for the interests of the American people.

We can talk about changing the rules. I know the fellow who spoke right before I got up today was talking about changing the campaign finance rules. Right now, we have laws governing the election laws that thick. As long as we are relying on laws rather than trying to elect people with character, the American people will still suffer the kind of betrayals that we are talking about today.

What we are talking about is a blurring of right and wrong, a blurring of the distinctions between democratic governments and Communist governments, a blurring of the very basic moral fiber of our decision, moral fiber of our people, and the moral basis of our decision making.

What we are talking about today also is an idea that, in some way, our elected people should be furthering the cause of some global strategy, rather than watching out for the interests of the American people.

When you blur the moral distinctions and you forget the interest of the American people, we are asking for the kind of economic betrayals and, yes, even national security betrayals that are encompassed in my remarks today.

The United States of America is the leading force and has been the leading force for democracy and honor and decency since our inception. That is what the founding of our country was all about.

Our country was about average people having rights that are given by God and that government having no power except that which was given to the government by the consent of the governed. Our government and our country was supposed to be an example to the rest of the world. When we get away from that, from those concepts that our Founding Fathers wanted us to be, and if we start weakening our own people, instead of being the champion of democracy, our country will be a weak milk cow to the interest, special interests for them to make money in projects all over the world. There is something wrong with that.

Our American people do not have the same opportunities. The American middle class do not have the same opportunities as they had because we have intentionally permitted other countries to establish the rules of trade which suck wealth out of the pockets of our middle class and put them into other countries to build those countries.

I say that those countries will never, will never rise up and never be part of a worthwhile global economy until they have had the reforms that are necessary for democratic government to exist in their countries.

We cannot make Communist China into a democratic China by ignoring the dictatorial nature of their regime that controls that people and shoveling money out of the pockets of our middle class and jobs out of our own cities into the mainland of China. That strategy will not work. It is an immoral strategy. It is a strategy that is a betrayal of our people.

I would hope today that, as this crisis and this scandal emerges, and the outrage of the American people, that their safety has just been put at risk, that they have been put at risk and that their safety has not been taken into consideration, that when this outrage sweeps America and they know their children and their families are now in jeopardy and in jeopardy because American technology has been placed in the hands of dictators, I hope that they will take a look a little deeper at some of the coverage of our news media into the frivolous scandals that I talked about earlier. And I am sorry if I made a personal reference to the President, but that is there.

They have been turned off, perhaps, at looking at some of the things that we are doing here that are important to their security. America has got to wake up. Americans have got to understand, or we are never going to be able to put a stop to this. This is only the first of many examples of where technology they paid for is being put to use to defeat them, to defeat their security, and to defeat the prosperity of this country.

With that, Mr. Speaker, I would hope that, before President Clinton goes to China, that we get to the bottom of this. The leadership in this House have committed themselves to hearings on this issue. I would hope that the American people would call their colleagues or their representatives, my colleagues, and to demand that we get to the bottom of this missile technology transfer before the President goes to China next month.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FILNER) to revise and extend their remarks and include extraneous material:)

Mr. EDWARDS, today, for 5 minutes.

Mr. FILNER, today, for 5 minutes.

(The following Member (at the request of Mr. WOLF) to revise and extend his remarks and include extraneous material:)

Mr. WOLF, today, for 5 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FILNER) and to include extraneous matter:)

Mr. KIND.
Mr. SERRANO.
Mr. ROEMER.
Mr. VISCLOSKY.
Mr. RANGEL.
Mr. OBEY.

(The following Members (at the request of Mr. WOLF) and to include extraneous matter:)

Mr. CAMP.
Mr. SOLOMON.
Mr. NEY.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1525. An act to provide financial assistance for higher education to the dependents of Federal, State, and local public safety officers who are killed or permanently and totally disabled as the result of a traumatic injury sustained in the line of duty; to the Committee on the Judiciary.

ADJOURNMENT

Mr. ROHRABACHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, May 19, 1998, at 10:30 a.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9168. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Mediterranean Fruit Fly; Addition to Quarantined Area [Docket No. 97–056–12] received May 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9169. A letter from the Director, Office of Procurement and Property Management, transmitting the Office's final rule—Agriculture Acquisition Regulation: Preference for selected biobased products (RIN: 0599–AA00) received May 13, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9170. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approval Numbers Under the Paperwork Reduction Act [FRL–6013–2] received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9171. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Michigan [MI67–01–7275; FRL–6003–6] received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9172. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan; Illinois [IL169–1a; FRL–6012–7] received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9173. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Physical Protection for Spent Nuclear Fuel and High-Level Radioactive Waste (RIN: 3150–AF32) received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9174. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Greece for defense articles and services (Transmittal No. 98–26), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9175. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Chile (Transmittal No. DTC–40–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9176. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the Committee's final rule—Procurement List; Additions—received May 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9177. A letter from the Chairman, Board of Directors, Tennessee Valley Authority, transmitting a report of activities under the Freedom of Information Act from January 1, 1997 to September 30, 1997, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

9178. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Increases [Docket No. 971229312–7312–01; I.D. 042398C] received May 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9179. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's "Major" final rule—Magnuson-Stevens Act Provisions; National Standard Guidelines [Docket No. 970708168–8073–02; I.D. 061697B] received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9180. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Service-Initiated Accounting Method Changes (Notice 98–31) received May 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9181. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Electronic Funds Transfer——Temporary Waiver of Failure to Deposit Penalty for Certain Taxpayers (Notice 98–39) received May 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9182. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Distribution of Stock and Securities of a Controlled Corporation [26 CFR 1.355–2] received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee on Ways and Means. H.R. 3433. A bill to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work and to extend Medicare coverage for such beneficiaries, and to amend the Internal Revenue Code of 1986 to provide a tax credit for impairment-related work expenses; with amendments (Rept. 105–537). Referred to the Committee on the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2202. A bill to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes; with an amendment (Rept. 105–538). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. House Concurrent Resolution 171. Resolution declaring the memorial service sponsored by the National Emergency Medical Services (EMS) Memorial Service Board of Directors to honor emergency medical services personnel to be the "National Emergency Medical Services Memorial Service" (Rept. 105–539). Referred to the House Calendar.

Mr. HYDE: Committee on the Judiciary. H.R. 3150. A bill to amend title 11 of the United States Code, and for other purposes; with an amendment (Rept. 105–540). Referred to the Committee of the Whole House on the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 3809. A bill to authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes; with an amendment (Rept. 105–541). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII,

Mr. BOEHNER introduced a resolution (H. Res. 440) expressing the sense of the Congress that the Committee on Government Reform and Oversight should confer immunity from prosecution for information and testimony concerning illegal foreign fundraising activities; which was referred to the Committee on Government Reform and Oversight.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 519: Mr. HEFLEY.

H.R. 1375: Mr. SPENCE and Mr. BENTSEN.

H.R. 1415: Mr. SCHUMER.

H.R. 1782: Mr. CAMPBELL.

H.R. 1813: Mr. PASTOR.

H.R. 1995: Ms. STABENOW, Mr. GEJDENSON, Ms. LEE, Mr. STRICKLAND, Mr. HALL of Ohio, Mrs. MCCARTHY of New York, Mr. RUSH, Mr. GREEN, Mr. WISE, Mr. NADLER, Mrs. CAPPS, Mr. KUCINICH, Mr. PASTOR, Mr. HOYER, Mr. REYES, Mr. ORTIZ, Mr. JOHNSON of Wisconsin, Mr. FORD, Mr. MORAN of Virginia, Ms. MCCARTHY of Missouri, Ms. KAPTUR, Mr. KIND of Wisconsin, and Mr. ANDREWS.

H.R. 2009: Mr. MOLLOHAN, Mr. HINCHEY, Mrs. MALONEY of New York, Mr. HANSEN, Mr. MARKEY, Mr. MORAN of Virginia, Mr. DAVIS of Virginia, Mr. COSTELLO, Mr. HASTINGS of Florida, and Ms. MCCARTHY of Missouri.

H.R. 2499: Mr. MCDADE, Mrs. ROUKEMA, and Mr. METCALF.

H.R. 2504: Mr. PETERSON of Minnesota and Mr. GUTIERREZ.

H.R. 2752: Mr. STUMP, Mr. GIBBONS, and Mr. BROWN of California.

H.R. 2760: Mr. BASS, Mr. SESSIONS, and Mr. BARRETT of Nebraska.

H.R. 2817: Mr. HERGER, Mr. FALEOMAVAEGA, and Mr. HEFLEY.

H.R. 2840: Mr. TALENT and Mr. SANDLIN.

H.R. 2884: Mr. MCHUGH.

H.R. 2990: Mr. MANTON, Mr. HALL of Texas, and Mr. LANTOS.

H.R. 3333: Ms. SLAUGHTER and Mr. PALLONE.

H.R. 3341: Mr. DOOLEY of California.

H.R. 3396: Mr. RILEY and Mr. ADERHOLT.

H.R. 3570: Mr. KUCINICH, Mr. SKAGGS, Mr. MCGOVERN, Mr. HINCHEY and Mr. BENTSEN.

H.R. 3615: Ms. CARSON and Mr. LAMPSON.

H.R. 3792: Mr. GOODLATTE and Mr. COBURN.

H.R. 3820: Mr. LUTHER and Mr. BARRETT of Wisconsin.

H.R. 3835: Mr. LATOURETTE, Mr. LEACH, Mr. BONIOR, and Mr. FROST.

H. Con. Res. 207: Mr. PAUL.

H. Res. 425: Mr. DELAHUNT, Mr. SHAYS, Mr. FARR of California, Mr. BROWN of California, and Mr. MILLER of California.

SENATE—*Monday, May 18, 1998*

The Senate met at 11 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, as we begin this new week, help us discover the power of resting in You and receiving the assurance and encouragement of Your amazing grace. You know our needs and are prepared to meet those needs with exactly the right gifts of Your Spirit. Thank You for being present, imbuing us with inspiration to lift our spirits, hovering over us with hope to press on. All through this week, there will be magnificent moments when we will overcome the temptation of trying to make it on our own strength and, instead, yield to the inflow of Your wisdom, insight, vision, and guidance. Our souls are meant to be containers and transmitters of Your power. Thank You in advance for an extraordinary week in which we are carried by Your presence rather than being bogged down trying to carry problems ourselves. In the Name of our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning, the Senate will be in a period of morning business until noon. Following morning business, under a previous order, the Senate will begin consideration of S. 1723, the Abraham of Michigan immigration legislation. Any votes ordered with respect to the Abraham bill will be postponed to occur beginning at 5:45 this evening. We have modified the time of the vote just a little to accommodate some Senators who will be coming in close to that time. So it will be 5:45 instead of the earlier indication of 5:30. It could involve one, two, or three votes, depending on how the amendments go during the day.

Following those votes, the Senate will begin consideration of S. 1415, the tobacco bill. Members should expect busy sessions every day this week as the Senate considers this important issue.

Also this week, the Senate may consider the ISTEA transportation conference report. I understand that the conferees have basically reached an agreement on the broad parameters, broad issues of the ISTEA transportation bill. They are running the numbers to make sure they have numbers that reflect what their agreements were. We hope to have a vote on that Thursday, or Friday at the latest. We may also consider the Coverdell A+ savings account conference report, if available.

The cooperation of all Senators will be necessary so that the Senate can complete its work prior to the Memorial Day recess. There will be ample opportunity for Senators to be heard this week, and there will be ample opportunity for Senators on either side of the aisle on the issues involved to be frustrated or to lose their temper perhaps. But I hope everybody will remain calm and be thoughtful in their debate. I believe we can proceed and get to a conclusion that will be acceptable to, hopefully, a large number of Senators in a bipartisan way.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SESSIONS). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from North Dakota, Mr. DORGAN, is recognized to speak for up to 15 minutes.

THE TOBACCO LEGISLATION

Mr. DORGAN. Mr. President, I thank the majority leader, Senator LOTT, for bringing the tobacco legislation to the floor of the Senate this week. He had indicated previously that he would do so, and he has kept that commitment. I think it will be helpful in this country to debate that issue this week on the floor of the Senate.

UNDERCUTTING OUR FAMILY FARMERS

Mr. DORGAN. Mr. President, I come to the floor today to talk about an issue dealing with agriculture. Later this week, sometime this weekend, a boat will pull up at a dock in California loaded with 1.4 million bushels of European barley. This barley was sold into this country with a subsidy of well over $1 a bushel. It is now being hauled from the European Union to the shores of the United States, deeply subsidized, unfair trade, undercutting our family farmers. It is an outrage, and it should not happen. We suggested that the sale be terminated when it was announced, but it was not. I suggest today that perhaps somebody ought to refuse to unload the barley when it reaches the shores of California.

Let me describe for a few moments why this is just a symbol of a very serious problem in the farm belt. I want to show a series of charts because I want the American people and my colleagues to understand that we are confronted with the question of whether we want any family farmers in this country's future. We are seeing family farmers going broke in record numbers. In my State, there was a 55-percent increase in auction sales over last year. They are calling auctioneers out of retirement to handle the auction sales, because there are so many sales of family farmers having to quit.

Now, farming isn't just a business. These are families living on the farm. There is a yard light that illuminates the place that represents the dreams of a family that wants to farm. These farms represent the economic blood vessels that pump life into our small towns. It is a way of life that is very important to this country.

There is a real difference between family farmers and the agri-factories that farm from California to the State of Maine with large mechanized corporate farming. The family farm makes a difference in our society. It is the seedbed of family values that has nurtured and rolled itself from the family farms to small towns, to America's cities. If America decides it doesn't care about whether there are family farmers, it will have lost something valuable.

I received a letter from a farmer just the other day. Its just one of many such letters from other farmers. I am getting many calls and considerable mail from farmers. This particular letter says, "It has come to my attention now as a farmer that the United States is preparing to let an entire industry"—that is, family farmers—"die. If an airline strikes, the President intervenes; if UPS strikes, the President intervenes; if a railroad suggests a strike, the President is up in arms. But when farm commodity prices fall and family farmers are in peril, nobody seems to say much."

Let me describe the circumstances of our North Dakota farmers. I met with

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

a group of North Dakota producers this past Saturday with my colleague, Senator CONRAD, in Fargo, ND. We visited, once again, about the problems and what can be done about them. Here is what they face. Our three largest crops—spring wheat, durum wheat, and barley—had a 41-percent reduction, a 21-percent reduction, and 41-percent reduction in gross income from reduced yield and price. Ask yourself, if you were in business and you have a 40-percent reduction in your gross sales and a reduction in your price, what is going to happen to your business?

These are family farmers. They don't have deep pockets. So here is what has happened, as a result, to net farm income. Take all the farmers out there in North Dakota and evaluate what happened to the net farm income. Net farm income in 1996 was $764 million, divided among 30,000 farmers. In 1997 net farm income was down 98 percent, down to $15 million in net farm income. Divided among all those farmers, that is less than $500 net income per farm. But this doesn't tell the whole story, because almost all of that net farm income goes to the state's largest farmers, and almost all of the middle- and lower-income farmers are seeing huge losses. Let me show my colleagues what has happened to the price of wheat.

One can make the case, or not make the case, that this has something to do with what Congress did. It probably has some small amount to do with what Congress did in passing a new farm bill, and maybe it has something to do with a lot of other things happening in the world.

Let's look at the price of the wheat. We passed a new farm bill back in April 1996. You see what happened to the prices received by farmers for wheat since May 1996. It has gone down, down, down, way down. It is now at the lowest level in five years. That is what farmers live on. The price determines whether they are going to make a living and stay on the farm. The price of wheat has gone down 44 percent. It is down, down, way down.

Let me show you what has happened to farmers' costs of production. Seed, fertilizer, fuel. They are all up, up, up, way up, month after month, year after year.

Let me show a chart, if I might, that talks about some of these specific trends. If you are a farmer, you need to have a tractor to plow. We don't do it with mules anymore; we do it with tractors. What has happened to the price of tractors? Farmers can tell you in an instant. The price goes up, up, straight up. The price of a combine is also up, up, straight up. How about the price of anhydrous ammonia, the fertilizer needed to provide the nutrients to these crops? You can see what has happened. There has been a huge spike in the last few years. The price of fuel is up. In the last five years, there has been a 70-percent increase in the cost of the inputs that many farmers have to buy to put a crop in the ground.

This isn't like other businesses. When you are a family farmer, you can't pass these costs along. People do not think much about family farmers, unfortunately. They get their butter from a carton; they get their milk from a bottle, or a carton; food from a can, or perhaps a box. But it all comes from the farm. It all comes from someone who gets up early to do the chores, and then gasses up the tractor, and goes out and plants the field.

Will Rogers some 60 years ago said, "If all the cows in the country failed to show up at the barn one morning to be milked, why, that would be a problem." He said, "If all the lawyers and accountants in America failed to show up for work one morning, we wouldn't miss a lunch." He was describing what is really important. Where does all of this come from? It comes from the ingenuity and risks taken by families who decide they want to farm as a way of life.

The price of a loaf of bread has almost no money in it for farmers. Here is the price of a loaf of bread. Here is what the farmer gets. Just about the heel, if that much.

So wheat 2 years ago was $5.50 a bushel, and now it is $3.20 or $3.30. Has anybody seen the price of a loaf of bread come down? I don't think so. What is happening is, the people who make the bread are making record profits. The people who haul the grain on the railroad tracks are making record profits. The people who put it in a plant and then perhaps puff it and then sell it on the grocery store shelf as Puffed Wheat are making a profit because it is more profitable to puff it than it is to grow it.

I wonder if there is not something wrong with this picture for America. The snap, crackle, and pop, the puff, and the crisp all have more value than the wheat. The package, the advertising, and the transportation have more value than the wheat.

This country can't decide on a policy that says family farming has merit and it is important to this country?

Finally, bread profits soar at the same time that wheat prices come down and family farmers go broke. Something is wrong with that picture.

This chart shows it on the same page. Bread costs continue to rise, and the price of wheat continues to fall.

I went to a small school. There were nine students in my class. They taught math at my school, maybe not higher math, but I can add and subtract. I understand what adds up and what doesn't. This doesn't add up. It does not add up if you care about whether this country has a future for family farmers. Farming is not just a business.

There are a lot of reasons that we are in trouble on the farm. Farmers are told by Congress that, we are not going to have a safety net for you anymore, and that we are going to pull that safety net out from underneath our farmers.

Farmer are unlike most other business. They take huge risks: First, they risk that when they plant a seed, it may not grow. So the cost of that seed might represent a loss in the farmers' pockets. Second, if the seed grows, it may be in June or July that a hailstorm will come and destroy the crop. Or the bugs will come and eat the crop; or crop disease, scab or vomitoxin, will come and destroy the crop.

Maybe none of those things happen. Maybe you plant a seed and it grows and none of those natural disasters occur. Then you combine the crop to get it off the field and take it to the grain elevator, only to discover that it costs you $5 a bushel to produce it and you get just $3.35 a bushel to sell it. The result is that your family is going to have to move from the farm. That yard light is going to go out. Someone will farm that land. It will be a big operator, or a big corporate farm. They will just fold it into their bigger corporate farm, and there will be tractors that will plow for miles. But that yard light will be out forever, and that small town will continue to die. The county will shrink. The rural life style will wither.

A wonderful author from my home State, who was a world-renowned author, died a couple of years ago. He made a prediction in his book. He stated it more eloquently than I can . He said that this country resulted from an agrarian lifestyle which created the family values that nurtured America and refreshed America. He reminded us that the family values that refreshed America continually came from the family farm, where neighbors understood that you have to help each other because the people can't do it alone. Without our family farms, those family values that rolled from rural America to our cities will be lost.

It is not to say that farmers are better than anybody else or have more value. It is just that farming is different. It is a family occupation. Yet, it has enormous risks. For years in this country we decided that we were going to try to provide some help to offset those risks. They do it in every other country.

We are the only superpower. We are the only nuclear superpower, military superpower, left. We are certainly an economic superpower. Almost any other country with any economic clout decides that, as part of its budget, it makes sure it continues to have a network of family farms. Therefore, it provides some price supports against all of these risks that family farmers face. But not us. We decided farmers should compete in the open market despite the fact that there isn't an open market.

As I said when I started, the ship that is going to dock in California at the end of this week will haul 1.4 million bushels of European Union barley subsidized to the tune of more than $1.10 cents a bushel. There is no American farmer that can compete with that. It is simply unfair.

But that is just the tip of the iceberg. In every direction you look in international trade, our farmers are injured. The California dock is not the only place. Go to the Canadian border, where we are flooded with unfairly traded Canadian imports. Go to the Mexican border and see what NAFTA has done with respect to the unfairness of agricultural trade. Go to China and ask why we can't get sufficient amounts of wheat or pork into China. Go to Japan and ask why it costs $30 a pound to buy a T-bone steak in Japan because you cannot get enough American beef in Japan.

We are rife with trade problems that injure the American farmer every single day. And our trade policy is apparently to sit on our hands and do nothing about it.

It seems to me that we can't enforce trade agreements. But first of all, we need to negotiate good agreements. Let me mention Will Rogers once again. Some 60 years ago, Will Rogers also said that, "The United States has never lost a war and never won in a conference."

First, we ought to get trade negotiators to go out and negotiate good agreements for this country. They ought to be hard-nosed economic trade agreements and not some soft-headed foreign policy negotiations about what we ought to do to help other countries.

I am not against helping other countries, but first I am for helping family farmers. We need trade policies that do not injure them. We need to help them. If they had any gumption, they would be at that dock out in California this week meeting the ship and suggesting that the ship should never be unloaded on American shores because it is symptomatic of everything that is wrong with our trade policy.

Second, we ought to decide that it matters to have a support price for family farmers. No, it would not be a giveaway nor a subsidy to farmers. The subsidy in American food policy is that we have the highest quality food anywhere in the world for the lowest price anywhere in the world. We have a cheap food policy that provides a subsidy to the consumer. This is at the expense of family farmers who can't make a living because what they grow they have to sell at well below the cost of what it took them to grow it. That adds up to a deficit, and that adds up to serious trouble.

In my judgment we ought to use every tool that is available to us as a country. Could the export enhancement program help? Maybe. Is it being used now? No. Why have we decided to disarm ourselves? The European Union uses their export subsidies to sell their grain from their family farmers into North African markets and they have 10 times the subsidies we have ever considered using. So, why does our country say, if they are going to take our African markets away from us, that is just fine, and we can't do anything about it? Would we disarm in any other way? Why would we disarm on trade competition? Why would we not say, on behalf of American producers, that we will stand up for you? This country believes in you. This country cares about you. Why on Earth will this country not decide that it will stand up for its producers?

We, in my judgment, must begin as a Congress now to evaluate whether the path we are on from the previous farm bill passed a couple of years ago is the right path or the wrong path. It was called the Freedom to Farm bill. Part of it was just fine. Part of it was to take government out of the decision of what crops a farmer was going to grow. I supported that part. But part of it was a devastating blow to farmers. It said, by the way, we are going to pull the rug out from under you in price supports, and we are going to say to you, compete in the free market when in fact there is no free market.

It asks our farmers—the Johnson's, the Larsen's, the Olson's, because I come from that part of the country where we have a lot of folks with those names—it asks those farmers to compete not just against French farmers, not just against German farmers or Italian farmers. It asks them to compete against all those governments as well that deeply subsidize their sales into foreign countries.

I ask the question today of Congress and also this administration whether they are willing to stand up and ask some tough questions about agricultural policy in this country. Do family farmers matter? Do you care? When you fly across the Dakotas and Nebraska and Kansas and the breadbasket of our country at night and look out the window of an airplane, do you care whether you see yard lights? Do you care about our farmers out there who are trying to make a living with great risk? Do you care whether they really have an opportunity to make it? Do you think they provide worth to our economy? Or is this just an economy now which says bigger is better, concentration has virtue, and that mergers and combinations have merit, because they have the financial clout and the capability to suggest that an economic system that rewards size and rewards bigness is the best system. I don't necessarily believe that.

Oh, I think the market system is a wonderful system, but I also believe that in this country agricultural producers have never experienced a free market and will never experience a free market unless substantial changes are made not just in this country but other countries as well.

I want to make one additional point. We now have a number of countries in this world in which our farmers can't market because we have embargoed them through sanctions. We have said we don't want to do business with Cuba; we don't like Fidel Castro. So wherever Cuba is going to buy wheat, it is not going to be from the American farmer. In Libya, we don't like Qadhafi. So where is it going to get its grain. It is not going to be from this country. Iraq, well, in the last year or so, we have shipped them a bit, but not much. Most of Iraq's grain comes from elsewhere because everyone knows the problems with Iraq.

I can go through a list of countries in which the American farmer pays a price because we have decided to embargo them. I happen to believe that you ought never under any circumstances decide to cut off shipments of food. Nobody is going to shoot food back at you. It seems to me it makes good sense in this country as a matter of public policy to decide that food shipments and food sales ought to be the last thing you would ever sever. We have a lot of hungry people in the world. It makes no sense to me to see a country with as bountiful an opportunity and as bountiful a harvest as we often get decide that somehow this grain doesn't have value. Gosh, I think this grain is more valuable than nuclear weapons. I think this grain is more valuable than most of what people produce. This is a hungry world and a growing hungry world.

It breaks my heart to see family farmers write to me day after day and come to me in North Dakota as they did this weekend and call day after day and tell me that their dream is ending.

A woman called a couple of weeks ago, and she began crying on the phone. She and her husband, just out of high school, began to farm. They have never done anything else. And they scraped and struggled and rented some land and then bought a little bit of land. She said, "We don't go to town on Saturday nights. We don't buy frills. We scrape by and we have always scraped by. We do nothing that is extravagant."

She said, "But, we finally have come to the end of the road. We are now in our mid-thirties. We have farmed for nearly 15 years and we have no other skills, but we just can't continue to make it unless farm prices improve. Our banker won't give us a loan. We can't put in the spring crop."

When you hear those stories, it breaks your heart because we are losing something valuable.

I would conclude today by simply saying this: My colleague, Senator CONRAD and I, have spoken on the floor

I guess a half dozen times on this subject. We want people to understand that this issue matters. This makes a difference to our country. There is a big difference between the right public policies and the wrong public policies. One offers people hope and one despair. One will help move us forward in trying to nurture and protect and help family farms in our future and one will move us backward towards farm failures and desolation and despair on the family farm.

Let me end as I began. North Dakota State University did a study and showed us that just in the last year there have been almost $400 million in losses in net farm income. That is $400 million just from those three crops: spring wheat, durum, and barley. The problem is that in that circumstance I have described in our State, family farmers just can't make it.

Something has to change. We need better trade policy, better price supports, commodity loan rates that give farmers a chance to market when it is advantageous to them, not just to the miller or the grocery manufacturer. We must fight for changes in policies. I know my colleague, Senator CONRAD, and others will be talking about this issue, but it is critically important. I will come to the floor again and again to talk about what we must do to solve this problem.

Recently, Dale Thorenson, a farmer from Newburg, ND wrote an opinion letter for the New York Times. He had received a gift subscription to the New York Times from his father-in-law, and thought that as a new subscriber he should write an article about the conditions facing farmers in North Dakota. I don't know if it has been printed yet in the New York Times, but it did get printed in the Grand Forks Herald. I hope the Times does print it because he eloquently captures the economic and policy dilemma that now surrounds our nation's family farmers.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Grand Forks Herald, May 10, 1998]

The Farm Crisis That Nobody Wants To Hear About

AS THE NATION PROSPERS, FARMERS IN THE NORTHERN PLAINS FLOUNDER

(By Dale A. Thorenson)

NEWBURG, N.D.—On April 3, the Dow Jones Industrial Average broke above 9,000—a new high-water mark in what seems to be an unending spiral upward. At the present rate of growth, a 12,000 Dow will be seen by the end of the year. Highly unlikely . . . but who is willing to step in front of this freight train?

Ten days later, on April 13, the price of the nearby contract of wheat at the Chicago Board of Trade broke the $3 mark—only this price was heading in the opposite direction of the Dow. The $3 offered for a bushel of wheat on April 13 was a far cry from the $7.16 mark reached just two years prior—a time when the new Freedom to Farm legislation was being enacted in our nation's capital.

The sponsors of Freedom to Farm promised this legislation would revolutionize the farming industry. Gone were the planted acreage mandates from the federal government. The farmer was given the flexibility to plant what the market wanted—hence the name Freedom to Farm was coined.

In return for this flexibility, the farmer signed a seven-year contract to receive declining support payments decoupled from production—severance pay, for lack of a better explanation—as he was weaned from federal subsidies. The farmer was told the rest of the world also would end subsidies and this new world market free from government intervention would cause unending growth in exports as markets expanded because of increased demand. The conventional wisdom of the time assumed the United States farmer—given this level playing field—would dominate world agriculture.

GOOD INTENTIONS GONE AWRY

Well, Freedom to Farm has revolutionized farming, but not in the way intended. And the playing field is far from being level. This farm program—called by many as Freedom to Farm—enacted in conjunction with historically high commodity prices, has turned out to be a sham. In what could almost be described as an ill-advised acceptance of a bribe, the farmer pocketed a first-year subsidy payment and a decent price for his crop. It has been downhill since—at least in wheat-producing regions of the Great Plains. But make no mistake about it. The corn and soybean farmers of the Midwest will get their turn on the rack. The $3,000-per-acre land costs of the Corn Belt will not be competitive with the new land being developed in South America at a cost of $50 per acre.

As if on cue, the costs of producing a crop—fertilizer, chemicals, machinery required—increased dramatically. The "bribe" went directly into the hands of the petrochemical companies who make the vast array of inputs needed for production agriculture. And, as the $3 price suggests, a downward spiral in wheat prices commenced.

One of the many important details left out of this so-called Freedom to Farm legislation was an iron-clad assurance from the European Union that they would agree to reduce their farm subsidies simultaneously. Supposedly, the EU was to phase out subsidies over the same time period. But the simple fact is that their phase-out is from a much higher level—and as speedy as a tortoise on a cold day. Also, unlike the intentions of the United States, the EU's subsidies will not end entirely.

Specifically, the 300 million or so people of the EU spent $47 billion to $48 billion on their farm program this past year. This is in comparison to the United States expenditures of a little more than $5 billion. In the matter of export enhancements—a procedure where the seller pays the buyer to buy the product—the EU spent about $7 billion to $8 billion. The United States anted up about $150 million, or about 50 times less. The negotiator from the EU who sold this bill of goods to the United States policy-makers could easily get a job selling furnaces in hell.

SHORTCHANGED IN WHEAT COUNTRY

As bad as this is, the wheat farmers of the Great Plains states were shorted in another way in comparison to the corn and soybean farmers in the Midwest. The federal loan rate for wheat was capped in the Freedom to Farm bill at $2.58, about 52 percent of the United States Department of Agriculture's most recent five-year average cost of production projection for a bushel of wheat—which was pegged at $5. In contrast, the federal loan rate for corn and soybeans stands at 72 percent and 89 percent, respectively, of USDA's recent cost of production estimate.

The United States produces about 9 billion bushels of corn and 2.5 billion bushels of soybeans annually. Annual production of wheat has been about 2.7 billion bushels in recent years. Uncapping the loan rate for wheat and raising it to the percentage of production costs enjoyed by the corn and soybean producers—$3.75—could potentially cost the U.S. Treasury up to $3 billion annually if the EU continued to insist on their predatory marketing tactics. But not doing so puts the U.S. wheat farmer in the position of competing not only with his contemporary in Europe, but also with the government treasuries in Europe. There should be little doubt as to who will survive this grain war if the situation remains the same.

North Dakota and northern Minnesota farmers especially have been hard hit with economic misfortune even beyond the disastrous collapse of wheat prices. This region is now going on five years of a serious wheat disease outbreak called Fusarium head blight brought on by abnormally wet periods during the flowering stage of the crop. Couple this dilemma with the harsh winter blizzards of 1996 to 1997, which then produced the well-publicized flood of the century in the Red River Valley, highlighted by the almost complete inundation of Grand Forks and East Grand Forks. Another pitfall is the proximity of this region to the Canadian wheat producing area, called the Prairie Provinces—Manitoba, Saskatchewan and Alberta. The North American Free Trade Agreement has allowed Canada to dump its excess wheat in the United States while maintaining the support for its farmers at the same time. Guess where in the United States Canada dumps this wheat?

The March 30 issue of Agweek, one of North Dakota's weekly agricultural news journals published by the Grand Forks Hearld—the paper whose "Come Hell and High Water" headline last April made it world-famous—listed approximately 180 farm auctions. Those were not poor operators or retirement sales, but good farmers—many of these farms were fairly large operations—in their prime who have simply given up. These farmers had survived the bloodbath in agriculture of the 1980s but were unable to survive Freedom to Farm. They will never be replaced.

This country, with all its abundance and prosperity, needs to come to the realization that a wheat farmer needs to receive more than a few pennies of the $1.50 a consumer pays for a loaf of bread. Europe, having starved twice in this century during two world wars, understands that and intends to keep its agricultural industry intact.

TRIVIAL PURSUIT

All the fuss lately about President Clinton's sex life or what a certain special prosecutor is thinking as he picks up his morning paper is really quite trivial in comparison with the many national and international problems now at hand. It is for this reason the public considers the current situation in Washington much ado about nothing and not because of the bemoaned fact that a new low in moral standards has been established.

In particular interest to more than a few Great Plains wheat farmers is if this country will stand up and fight for them. Or does the United States consider these farmers expendable in order to maintain this nation's longstanding policy of cheap food—even if in the end the reverse will surely happen?

A couple final questions on this subject this country needs to ask itself: If the agricultural sector of this country is deemed expendable and not worthy of preserving, will the United States one day become as reliant on food for foreign countries as it is for oil? If so, does the United States really want to take this risk?

Mr. DORGAN. Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota, Mr. CONRAD, is recognized to speak for up to 15 minutes.

Mr. CONRAD. I thank the Chair. I thank my colleague from North Dakota, Senator DORGAN.

Senator DORGAN and I participated in meetings this weekend with representatives of major farm organizations and people who are watching the farm economy, those who are charged with doing the statistics and the analysis from the university, also the head of the farm service agency who has been made part of a crisis response team by the Secretary of Agriculture to deal with the cash flow crisis that is occurring in North Dakota and other farm States as well.

Last week, I made a series of speeches on what I called the stealth disaster that is affecting North Dakota. Last year, many may recall that we were faced with more visible disasters—flooding and fires of unprecedented nature in the Grand Forks and Red River Valley area. This year, we have another disaster, but it is getting almost no attention. It is a stealth disaster. It is a stealth disaster because it is flying below the radar screen. It is not getting the kind of attention these other disasters did. And part of the reason is it is not so visible. It is not a story that you can easily put on television, but it is a disaster nonetheless.

As I showed last week, farm income in North Dakota declined from 1996 to 1997 by one measure by 98 percent. Those are statistics available to us from the Labor and Commerce Departments. By another measure, a study just done for Senator DORGAN and myself by North Dakota State University, farm income declined in that period by 59 percent. By either measure, these are dramatic and precipitous declines that are leading to a cash flow crisis that is engulfing the producers of our State. We anticipate losing perhaps as many as 10 percent of the farmers in North Dakota this year. We have lenders who are telling us, for the first time in history there is farmland in the richest part of North Dakota, which is the richest farmland in the world, that will not be farmed this year. That is a stunning development.

Growing up in North Dakota, we were always told that the Red River Valley of North Dakota used to be the bottom of a lake, it used to be the bottom of Lake Agassiz. Because it was the bottom of a lake, the lake deposited this extraordinary land, loam that is 6 to 8 feet deep. As I was growing up, we were told there had never been a crop failure in the history of North Dakota in the Red River Valley.

In the last 5 years, we have had 5 years of dramatically reduced production because of overly wet conditions and an outbreak of a disease called scab that took a third to a half of the crop last year in much of North Dakota. Scab is a fungus, and it is absolutely devastating. What we have learned is that the farm policy that is in place in this country cannot cope with this combination of disasters—disease and adverse weather coupled with very low prices. That is a triple whammy that is putting thousands and thousands of farmers out of business.

I thought it might be helpful to compare our agriculture policy in this country with our chief competitors', the Europeans, to see what they are doing versus what we are doing. Senator DORGAN made reference to what I have said—repeatedly last week on the floor—that it is one thing to say to our farmers, you go out and compete against the French farmer and the German farmer and we will see who wins, who is the best producer, who is the most efficient. We are willing to take on that fight any time, any place. But what we are being asked to do is not only compete against the French farmer and the German farmer, we are telling our producers to go and compete against the French Government and the German Government as well. That is not a fair fight. You can't ask a farmer out in North Dakota to take on that French farmer and that German farmer and while he is at it take on the combined resources of the French Government and the German Government. But that is exactly what we are doing.

This chart shows, for 1997, total agricultural expenditures, the United States versus the European Union. The European Union is in red; the United States is in blue. You can see, in 1997 they spent almost $46 billion supporting their producers. We spent $5 billion. That is not a fair fight. When we look to their spending on exports, the United States versus the European Union—again, the European Union is in red; the United States is in blue. This is to support exports. The Europeans spent almost $8 billion. We spent $56 million. That is a ratio of 138 to 1. That is not a fair fight. We are sending our troops into the battle and they are armed with BB guns and the other side is firing live ammunition. How are you going to win this kind of fight? We would never do this in a military confrontation. We would never allow ourselves to be in a situation in which the other side had the predominance of resources. But that is what we have done in a trade conflict, and it makes no sense.

Unfortunately, the pattern continues because, if you look at the expenditures of the two sides for market development, you see the Europeans spending $350 million a year; the United States, $225 million. Again, they are simply outgunning us at every turn in these battles for agricultural markets. They are winning these markets the old-fashioned way—they are buying them. And make no mistake, they have a strategy and they have a plan and their strategy and plan is to dominate world agricultural trade.

Let's look and see how successful they are with this strategy and plan. This chart shows what has happened to wheat exports from the European Union over an extended period of time, starting back in 1960, and going through 1996, the last year for which we have full information from the Europeans. Look at this trend and pattern. They have gone from being major importers of wheat to major exporters of wheat. And their improvement has really occurred, the most dramatic part, in the last 20 years. This did not happen by happenstance. This happened as a result of a concerted plan, a concerted strategy. Because the Europeans have been hungry twice, they never intend to be hungry again, and they recognize the critical importance of dominating world agricultural trade. That is the pattern, in terms of what they have done.

What have we done? From 1982 to 1996, this is what has happened to wheat exports from the United States. We are going nowhere. Worse than that, we are in steep decline. From 1995 to 1996, we have seen a very dramatic reduction in U.S. wheat exports. If you go back to 1995, that was not exactly a stellar performance in the last 16 years of history. So, while the Europeans are on the march, they are on the move, the United States is in retreat.

It doesn't happen just with wheat. This is the outlook with barley. From 1982 to 1996, net barley exports from the European Union—not quite the same pattern. They suffered a very steep loss in 1992 to 1994, but since then they are coming back and coming back strongly. During that same period, the United States has seen dramatic slippage. In 1992 to 1996, we have actually gone below the line. We have become an importer. In fact, we have just had a case where subsidized exports from the European Union have come into the United States for the first time. We are asleep at the switch. What is happening in this country?

We are going to have the same thing happen to us in agriculture that happened in electronics and automobiles and all the rest. We are going to wake up someday and we are going to find out that we have gone from being the major agricultural player in this world to being a second-class citizen, because we have been asleep at the switch. This is not the whole story. It is a part of the story, but there is much more to tell. If we look at trade policy, we see that too often the United States negotiates agriculture away for other sectors of the economy. We saw it in the Canadian Free Trade Agreement that now allows Canada to pump millions of bushels of unfairly traded Canadian grain into this country, weakening our markets, weakening our prices, and costing us substantially. That is happening today because of a loophole in the Canadian Free Trade Agreement where our people simply got outtraded.

We saw the same thing develop with NAFTA. In NAFTA, you recall, we negotiated a 10-percent reduction in tariffs by the Mexicans. They then turned around and devalued their currency by 50 percent. The net result, we went from a $2 billion trade surplus with Mexico to a $16 billion trade deficit. And some call that a success. If that is a success, I would hate to see failure. I wonder what would happen if we saw failure in our trade negotiations, based on what has been happening with the Canadian Free Trade Agreement—so-called free trade; the so-called NAFTA agreement, again so-called free trade agreement—and what has happened now with the European Union.

It is unbelievable, that they are sending into the United States from Europe—barley. It is so heavily subsidized in their country that it undercuts our producers right here at home. It is not because they are more efficient. It is not because they are more productive. It is because their country is buying these markets. They are spending $47 billion to support their producers when we are spending $5 billion. On exports, they are spending $8 billion a year when we are spending $56 million. And we wonder why we are losing the fight? If we were in any military confrontation we would understand very quickly that we are just outgunned.

Mr. President, it is time for the United States to fight back. We have to put the resources into this battle to win it. That is what we do in a military fight. That is what we ought to do in this trade confrontation. We ought to send a message to our friends in Europe that they are done having a free ride. We are in this fight and we are in it to win.

I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas, Mr. HUTCHINSON, is recognized to speak for up to 30 minutes. The Senator from Arkansas.

Mr. HUTCHINSON. Thank you, Mr. President.

NEW EVIDENCE OF PLA MONEY GOING TO THE DNC

Mr. HUTCHINSON. Mr. President, last week the Senate, by adopting two of the remaining eight House-passed China provisions, I believe took an important first step in reversing this Nation's failed, flawed and counterproductive policy of so-called "constructive engagement" with the People's Republic of China.

The first amendment we adopted last week, an amendment to the Defense Department authorization bill, requires the Department of Defense to monitor enterprises which are owned by the People's Liberation Army and gives the President increased authority to take action against these companies should circumstances warrant. It does not mandate the President to act, but it would give him enhanced authority to act should the evidence warrant it.

The second amendment we adopted gives the U.S. Customs Service increased funding and authority to stop the importation of goods produced in Chinese slave labor camps. The importation of goods produced by slave labor has been prohibited in this country for half a century, and yet the practice is continuing, unfortunately, and thus, this enhanced monitoring and enhanced authority for the Customs Service is essential.

These were two very, very important amendments, I believe, but there are six bills still remaining in the Foreign Relations Committee. I believe the Foreign Relations Committee will be taking those bills up tomorrow. I hope they will. But the votes that we cast last week could not possibly have been more timely. Their importance is best seen by new information uncovered last Friday by the New York Times, one day after we cast those two important votes on the floor of the U.S. Senate.

That story, covered by the New York Times, and now by every major newspaper in the country, revealed that Johnny Chung, the central figure in the Justice Department's campaign finance investigation, has now told investigators that a large part of the nearly $100,000 that he gave to the DNC and to other Democratic causes in the summer of 1996 came from the People's Liberation Army of the People's Republic of China.

Let me say that again. A large part of the $100,000—in fact, $80,000 of it—went to the DNC, and that money came from the Chinese Red army. This was the front-page story in the New York Times on Friday, May 15. Then inside the newspaper the headline is: "Fundraiser is Said to Tell of Donations from China Military to Democrats."

This is a very, very serious allegation that Mr. Chung has made in his cooperation with the Justice Department alleging that this money came not just from Chinese sources, but came from the Chinese Red military. Worse yet, this was no low-level PLA effort. It wasn't low-level figures in the People's Liberation Army, but according to Chung, these monies were provided by a Chinese lieutenant colonel and aerospace executive whose father, General Liu, was at the time China's top military commander and a member of the leadership of China's Communist Party.

This reaches to the very top echelon of the Chinese Government and to the very top levels of the PLA command system. Their very top leadership apparently hatched, planned, and carried out this so-called "China plan."

Let us not forget, Mr. President, that this whole investigation was started after an interception of a telephone communication suggesting that the People's Republic of China was considering a covert plan to influence United States elections. It would now appear that this so-called "China plan" was actually carried out by the top leadership of the PLA and the Communist Party.

Why would China and the PLA want to influence American elections? What motive would they have to pick and choose winners and losers in our own Presidential sweepstakes? The answer appears to be given in this very same New York Times article:

> At the time (of these payments from the PLA), President Clinton was making it easier for American civilian communications satellites to be launched by Chinese rockets, a key issue for the PLA and for Liu's company, which sells missiles for the military and also has a troubled space subsidiary.

There was a very, very vested interest by Lieutenant Colonel Liu in ensuring that Chinese rockets would be able to launch American satellites. Thus, while the DNC and the Democratic Party was being flooded with money from the head of the PLA, the head of the Democratic Party, President Clinton, was making it easier for the PLA to receive advanced technological support for its missile and space programs. The only question left to be answered seems to be, was it a quid pro quo?

To put the harmful effects of this "missiles for money" trade into context, or more appropriate, the "PLA Gate," it is important to note that until last year, China lacked the intelligence or technologies necessary to manufacture boosters that could reliably strike such long distances. This made China a weaker adversary.

In fact, in a debate that I had on the campus of the University of Mississippi at Oxford, a Firing Line debate that was carried nationwide by public television, Dr. Kissinger made this statement:

> I also do not believe that it is possible to argue that China can represent a military threat to the United States for the next 20 years.

I remember very vividly Secretary Kissinger making that statement. He almost ridiculed and disdainfully dismissed those who said that China could pose a military threat to the United States at any time in the next two decades. That is a direct quote from the Firing Line transcript.

My how time flies, because now we find, less than a year later, that all but five of the Chinese nuclear missiles are aimed and directed at the United States and, in fact, they do pose a threat. According to this article in the Washington Times, China targets nukes at the United States, according to a CIA report that was recently released. China now appears to pose a very real threat to the United States. This article noted that 13 of China's 18 long-range strategic missiles with ranges exceeding 8,000 miles and have single nuclear warheads are aimed at the United States. These missiles are in addition to China's growing arsenal of other weapons that can now reach the United States, many of which are mentioned in this article regarding the CIA report.

How could one of this country's leading China experts and most respected foreign policy adviser have been so far off when Secretary Kissinger said it would take two decades? Like those of us in the Senate, Dr. Kissinger may not have known that two U.S. companies, Loral Space and Communications and Hughes Electronic, illegally gave China space expertise during cooperation on a commercial satellite launch which could be used to develop an accurate launch and guidance system for ICBMs.

I am sure Dr. Kissinger would not have foreseen that this administration, in the middle of investigating this illegal transfer, would allow Loral to launch another satellite on a Chinese rocket and provide them the same expertise at issue in the criminal case. Nor is it likely that Dr. Kissinger would know that Motorola, under a waiver from this administration, has also been involved in "upgrading" China's missile capability, this according to the chairman of the House Science Subcommittee on Space and Technology.

The New York Times ran a follow-up article today providing some insight into this administration's policy on China and the transfer of sensitive technology. According to the article that appeared today in the New York Times, United States and China industry groups urged that satellite technology be taken off the list of banned exports, known as the munitions list.

The State Department sided with the Defense Department and the intelligence agencies, and the President's key advisers and noted that satellite technology holds secrets that hold "significant military and intelligence" information and thus should remain banned for export.

That was the position of key advisers to the President. That was the position of the Department of State and the Defense Department. The Clinton administration, though, sided with business groups and transferred this decision away from the State Department and left the decision up to the Commerce Department, which was then headed by his close friend, Ron Brown. In the end, satellite technology was removed from the munitions list. China was free to negotiate with U.S. businesses to obtain assistance with its space program.

The People's Liberation Army is engaged in a massive military buildup which has involved a doubling since 1992 of announced official figures for military spending by the People's Republic of China. This is incredible. It is amazing that we would at this time be circumventing our own ban on technology transfers and the launching of American satellites and the sharing of that valuable, valuable missile technology at the very time we see this massive military buildup.

The PLA is working to coproduce the SU–27 fighter with Russia. It is in the process of purchasing several substantial weapons systems from the Republic of Russia, including the 633 model of the Kilo-class submarine and the SS-N-22 Sunburn missile system specifically designed to incapacitate United States aircraft carriers and Aegis cruisers.

Mr. President, this increasingly aggressive military, the PLA, which cracked down on its own citizens in Tiananmen Square, killing over 2,000 Chinese students, that we are aware of, which held threatening war games off the coast of Taiwan, closing two of its largest ports, which has taken over disputed islands once claimed by the Philippines, which now has all but five of its long-range nuclear missiles pointed at the citizens of the United States, is being coddled, pampered and pandered to and appeased by this administration.

The gross irony here is that while the administration continues to allow the transfer of technology to China and the PLA, the People's Liberation Army, U.S. consumers are unwittingly funding China's military by purchasing items sold by PLA-owned enterprises operating in the United States.

The PLA operates literally thousands and thousands of businesses. It is unlike any other military in the world. It is not just funded from the general revenue of the Chinese budget, the Chinese Government budget. It rather is funded partially through enterprises and business operations by the military itself. It is estimated that the PLA earns between $2 billion and $4 billion annually through the many enterprises that it operates that deal in nonmilitary commodities, and that these enterprises profit handsomely from their activities right here in the United States of America.

A report released earlier this year indicated that vast quantities of goods, as varied as toys, ski gloves, garlic, iron weight sets, men's pants, car radiators, glassware, swimsuits, and much more, are being sold to U.S. consumers by PLA-owned firms and almost always without the knowledge of the American consumer.

Mr. President, this country was shocked last week by India's explosion into the nuclear family. We were all dismayed that a new threat to world security loomed on the horizon in India's completed nuclear tests. Why? Why would a country suffering from rampant poverty and class instability choose to spend its limited and valuable resources on a new nuclear weapon's program? The answer, I believe, lies in the failed policies of this administration.

It was just over 35 years ago that China last invaded India in an attempt to take over disputed territory. Since that time, there has been an uneasy and often hostile relationship between India and China, its larger neighbor to the north.

In addition to China's own military buildup, China was assisting other enemies of India in the development of their own nuclear and military capabilities, particularly the nation of Pakistan. In fact, the People's Liberation Army transferred technology relevant to the refinement of weapons-grade nuclear material, including the transfer of ring magnets, to the nation of Pakistan.

Mr. President, as this country moves closer to China, as we continue to assist its military machine, as we continue to turn a blind eye to China's transfer of technology to Pakistan, why would we be surprised that India would move to arm itself with nuclear weapons? Why are we surprised that a country that is surrounded by a much larger and better armed neighbor, that that nation would develop a defense similar to our own policy of "mutually assured destruction," a policy that prevailed during the cold war? Mr. President, it was U.S. policy that led to these tragic, sad developments in that entire arena in the world.

With all but five of China's long-range nuclear missiles pointed at the citizens of the United States, it is obvious that the increasingly aggressive People's Liberation Army views the United States as its most serious adversary.

It is a sad paradox that U.S. consumers are unwittingly funding the military that has their hand on the nuclear buttons which threaten our very existence and that our leadership is accepting money in return for relaxed controls on the transfer of military technology, or at least that is the allegation that has been made. That is the source and the subject of the investigation that is ongoing.

Not only is China an increasing threat internationally, but within their borders they continue to oppress their own people. The latest State Department report on human rights, to which I have referred repeatedly, says and shows that China is still a major offender of internationally recognized human rights. You pick the category, whether it is coerced abortion, the so-called one-child policy, whether it is slave labor and the refusal to allow international inspection teams to go in and look at these slave labor camps, whether it is the repression of all free expression or criticism of the Government, or whether it is other forms of human rights abuses like the repression of freedom to worship by religious minorities in China, you pick the category, and you will find that there is an absolute intolerance of freedom and that these ongoing abuses show us that they have not made progress under the current policy.

According to a recent report in the Washington Post entitled, "U.S.-China Talks Make Little Progress on Summit Agenda," we find that the United States is getting very few concessions from China relating to the inspection of the technology that we share with them. We are getting very few concessions on limiting the proliferation of technology to third parties like Iran. We are getting very few concessions on human rights conditions, particularly in the nation of Tibet.

So as we make our agenda, as we make the plans for the President's trip to China, what are we getting? Out of the negotiations that have been going on, what kind of concessions do we find from the Chinese Government? There have been four major high-profile prisoners who have been released. There are thousands that remain incarcerated, thousands who remain languishing in Chinese laogai camps, yet we are expected to say there is progress in human rights because four high-profile individuals have been released.

So, Mr. President, with your administration currently under investigation by your own Justice Department relating to this "missiles for money" transfer, it is inconceivable to me how you can go forward with your planned June 24th trip to China. The cloud now brewing over your administration's relationship with the leadership of the People's Republic of China makes suspect any agreements that may be reached or any statements that may be made during this summit.

Mr. President, until this cloud of criminal and ethical investigations has blown over and been resolved, I urge you to delay your planned trip in June, and to postpone it. It is imperative that this country present a unified foreign policy. It is imperative that we be united in our international relationships, and particularly our relationship with this, the most populous nation on the globe.

But in order to have that kind of unity, one that is free of partisanship, one that is untainted by allegations of illegal dealing, it is imperative that this planned trip in June be postponed. It is hard for me to imagine with such a cloud over our relationship with China, with such allegations of an organized, planned, if you will, conspiracy by the Chinese Government to influence the outcome of American elections, how any good could come from this trip to China at this stage. The atmosphere surrounding this summit has now been polluted.

Mr. President, here again is what we know. We know that the CIA intercepted a call which hinted at a plan by China to influence our elections. And may I say, my colleague, Senator THOMPSON, should feel vindicated. And those who ridiculed his allegation in this regard should apologize to him personally, I believe. The American people owe him a debt of gratitude for his untiring efforts to reveal this nefarious plan.

We know that the CIA intercepted that call. We know that Johnny Chung has testified that the PLA, through one of their top leaders, General Liu, provided $80,000 to the DNC and $20,000 to other Democratic causes.

We know that at the same time as these moneys were being given to the DNC, the same time those contributions were being made, Loral and Hughes provided key missile technology to China and the PLA—under a waiver granted by the Clinton administration.

We know that the State Department has said that this technology transfer "harmed our national security."

We know this, that an executive at Motorola also claims they are assisting China's missile program under a waiver from the Clinton administration.

We further know that the Clinton administration shifted the key decision-making authority on satellite and missile technology from the State Department to the Commerce Department, which was a much more China-friendly agency or Department.

We know this, that China transferred key military nuclear technology to Pakistan and to other rogue states like Iran, all without any action or denunciation by this administration.

We know that all but five of China's long-range nuclear missiles are pointed at the United States.

We know that the PLA continues to profit from selling consumer goods in the United States. And we know that the PLA continues to profit from slave labor.

We know that human rights continue to be abused in China and that this administration has soft-pedaled very serious human rights concerns.

This is an ugly list, detailing a tangled relationship that now appears to have forever damaged our national security, a relationship that now may have escalated the risk of nuclear war on the Asian continent and that will forever make it more difficult to keep the nuclear genie in a secure bottle.

This relationship must be investigated. I believe appropriate Senate committees will be doing that investigation. We know that the Justice Department is continuing this investigation, but all questions relating to how this relationship progressed must be answered, and the President should delay and postpone his planned trip to China until those answers are forthcoming. The American people deserve to have those answers.

I yield the floor.

Mr. GREGG. Mr. President, I ask unanimous consent to proceed as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TOBACCO LEGISLATION

Mr. GREGG. Mr. President, possibly later today we will begin on this floor the debate and voting on the language relating to the tobacco settlement. This is obviously a fairly significant piece of legislation. It has the potential to represent one of the most complex pieces of legislation ever considered by this body—at least certainly in my time in Government. It also represents, potentially, one of the largest tax increases that this Congress will consider assessing. It represents a dramatic step in a number of different areas of law in which this Congress has toyed with but has never really fully participated.

I want to talk about one specific area of that issue, which is the area of granting to a manufacturer of a product in this country product liability protection, or immunity, as the term has become known. There are a lot of products made in this Nation today, a lot of products made for the purpose of improving the lives of people, a lot of products made for enjoyment, products that are made to get us through a day, and products like tobacco. Most of these products—in fact, the vast majority of these products—have no special protection should they be produced in a manner that harms someone. And if an individual in our country is harmed by the use of a product, they have recourse through our court system. It is a very integral part of the free marketplace that an individual who buys a product have the ability to go into court and address the safety of that product as it affected that individual.

Why is that critical? Because a long time ago we rejected the concept of caveat emptor in this country—that if you sell somebody a product, the person who buys the product assumes all the risk. In order to discipline the marketplace, in order to make sure we had a safe marketplace where things being sold in our country in the capitalist system would have some discipline in the quality of those items, we have developed a large amount of case law that allows an individual who thinks they have been impacted or can prove they have been impacted by, or harmed by, a product sold to them has a right to go into court and proceed to get recovery for that harm, if they can prove it.

It is one of the really core elements that makes our marketplace work. It is one of the core elements that makes our Nation function as a dynamic economic engine. When we start addressing that issue of what rights an individual has in relationship to purchasing a product, we have to be very sensitive to the importance of maintaining the capacity of an individual to get redress in the court system. I say that in reference to the tobacco bill coming at us in an action that I think is absolutely inexplicable from the standpoint of maintaining a disciplined marketplace and from the standpoint of protecting individuals, which grants to the tobacco companies of this country—and internationally for that matter—protection from lawsuits where they have harmed individuals.

Why is this so outrageous, such an act of incomprehensibility from my standpoint? Because the product we are talking about here—tobacco—has three characteristics.

First, we know that it kills people, and the tobacco companies that produced it knew and know that it kills people.

Second, we know that it is an addictive product, and the tobacco companies that produced it knew it was addictive and, in fact, structured the product in such a way by putting a certain amount of nicotine into it, that they produced an even more addictive product than had they simply gone forward with pure tobacco.

Third, the tobacco companies intentionally, purposefully, with the idea that they would create a larger marketplace, targeted the sale of their product on children.

So we have a product that kills people, and the manufacturer of that product knew it; we have a product that was addictive, and the manufacturer of that product created it so that it would be addictive and knew it was; and we have a product where the companies that produced that product targeted children to try to produce a larger marketplace and a lifetime user once they get that child addicted—knowing that it would kill the children as they grew older. Knowing that.

And we have picked this product, with those three incredible characteristics that are applied to the tobacco industry, to be the first product to receive major protection—or we may pick this product. Hopefully, we won't. The bill coming before us chooses this product to be the first product to receive major product liability protection—to say to the companies that have produced this product that kills people, is addictive, and was targeted on kids: you will not have to pay the full cost of the harm you have created because the U.S. Congress is going to protect you, the tobacco industry, from the liability that the marketplace would force on you were we to go directly to the capitalist system which has dominated our country for over 200 years.

It is an absolute outrage that we are considering pursuing this course of action as a Congress.

Equally significant, I think, is the fact that we are doing this in a manner where we are claiming that we are actually harming the tobacco companies. This argument is being made in the marketplace of ideas around here that this tobacco bill is somehow, in some way, an attack on big tobacco, when with the immunity language in it, it is just the opposite—it is a protective blanket. It is an iron curtain of protection for big tobacco. And it is ironic that we put this immunity language on the table at the same time the tobacco companies have said they no longer will participate in the development of this settlement.

This immunity language was originally designed because we said if we didn't have immunity—or somebody said it; I didn't say it—it was said that if immunity did not exist for the tobacco industry, the tobacco industry would not come to the table and limit its advertising directed specifically at children. Now the tobacco industry has said: The heck with you guys. We don't like the bill, we are walking out, and we will have no more to do with this. So you don't limit us in any way on our advertising. And still we go forward with a bill that gives them immunity.

And for the immunity, what do we get? A tobacco industry that has walked away from the table. To begin with, we made a deal with the devil—or somebody made a deal with the devil. Now the devil has walked away from the table, and we find that this Congress is thinking about following the devil on its knees and saying: Please, Mr. Devil, take immunity, take it; we want to throw it at you even if you won't give us anything for it.

It is beyond comprehension that we are considering pursuing this course of action, but we appear to be considering that. I just wanted to highlight that at this point because I think the debate has gotten a little topsy-turvy. It is a little topsy-turvy when a bill is giving, for the first time in the history of our Nation, and in the jurisprudence history of our Nation, product liability protection of immense value to an industry that has produced a product that is inherently deadly and is addictive and is targeted on kids—the first time we are going to do that, and that bill is, for some reason, perceived as being antitobacco. It is not antitobacco. It is actually very protobacco.

Let's remember something else here as we think about this. We don't give this type of protection out easily around here. It took 6 years, I think it was—maybe longer—for us to give just a narrow little amount of protection to the airplane manufacturing industry for small planes because our airplane industry had been wiped out for small planes and nobody could buy a small plane made in the United States back in the mid-1980s. The whole industry had been wiped out by product liability litigation. So we put a little sliver of protection in order to resurrect that industry.

That industry does not produce an inherently deadly product that is addictive and that is targeted on kids. It took us 6 years to produce that little sliver of production. That is the only product liability protection passed by this Congress since I have been here. We don't give product liability protection to the doctor who develops and creates a new valve for somebody's heart which gives that person an extra amount of life, or a new hip design that allows a person to have the freedom to walk again. We don't give any protection to those individuals. If those valves don't work and regrettably a patient is harmed, there is a lawsuit, and there is recovery. We don't give any protection to innumerable, hundreds, thousands, tens of thousands of products that are lifesaving products that are produced for the purposes of bettering the life of an American citizen, or citizens around this world, whether it is a drug product, whether it is a medical device product, or whether it just happens to be an automobile. We don't give any product liability protection. But the first product liability protection we are going to give, if we pass this bill, will be to an industry that is producing and that has produced a product that for years—maybe generations even—it knew was deadly, it knew was addictive, and at least in the last 10 or 20 years it has targeted on kids for sale. It is beyond comprehension that we would consider doing that.

As we move forward in this bill, I certainly hope that we will reconsider that proposal, because what are we getting for that immunity protection? Absolutely nothing. The tobacco companies walked away from the table. We have gotten nothing. And I hope that we would reconsider that.

There will be a lot of talk about the fact, well, there is protection. It isn't really protection because there is a $6 billion, $8 billion—we don't know. We haven't seen the final language. The language is being written right now. It is being shifted around—I note for the press that might be listening, if there is any listening—shifting the language all around this bill, because it will be very difficult to target the immunity language in this bill. They are intentionally trying to make it procedurally very difficult to go after this language. But they keep shifting the numbers around, too. But the number is almost irrelevant because you are dealing with an industry that has the capacity to produce the profit to pick up the number. You would have to put out a fairly astronomical level to have any significant impact on the profitability over the long term of this industry.

You are giving this industry, as long as you give them immunity, the right to go out in the marketplace and sell this product and target it on kids. That is what you are doing. You are giving them the right to sell a product that kills kids, kills people, is addictive, and is targeted on kids. It is just absolutely inexcusable that we would consider doing this.

I certainly hope to be able to offer amendments that strip this out of the bill. It will be difficult, because there are a lot of parliamentary games going on around here right now. But it would be my hope that we could accomplish that.

Mr. President, I yield such time as I may have.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

AMERICAN COMPETITIVENESS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1723, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1723) to amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of the United States firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers.

The Senate proceeded to consider the bill.

Mr. HUTCHINSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, it is so ordered.

Mrs. FEINSTEIN. I ask unanimous consent to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I thank the Chair.

(The remarks of Mrs. FEINSTEIN pertaining to the submission of S. Con. Res. 97 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mrs. FEINSTEIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, as we begin debate on S. 1723, I would like to begin by yielding to the Senator from California for purposes of making a unanimous consent request.

The PRESIDING OFFICER. Under the previous order, there will be now 2 hours of general debate on the bill equally divided and controlled.

The Senator from California.

Mrs. FEINSTEIN. I thank the Chair. I thank the Senator.

PRIVILEGE OF THE FLOOR

Mrs. FEINSTEIN. I ask unanimous consent that Sandra Shipshock, a State Department fellow with Senator KENNEDY's staff, be given floor privileges for consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I thank the Chair.

(At the request of Mr. ABRAHAM, the following statement was ordered to be printed in the RECORD.)

• Mr. HATCH. Mr. President, the Senate is today considering The American Competitiveness Act of 1998, a modest, balanced, and critical change in our immigration laws.

The bill does three very important things: (1) it raises the limit on the annual number of temporary visas allowed for highly skilled foreign born professionals for a five-year period; (2) it increases enforcement and penalties to ensure the program works as intended; and (3) it increases the opportunities for American students and workers to fill the shortage of skilled high tech workers.

As we approach the 21st century, Mr. President, we face a critical challenge with respect to our workforce. The challenge concerns whether and how America's businesses and America's educational institutions are preparing the potential workforce for the 21st century.

It is estimated that about ten percent of this country's current information technology jobs are vacant and that this critical shortage of programmers, systems analysts, and computer engineers will increase significantly in the next decade.

In few places is this shortage more acute than in my own state of Utah where the high tech industry grew by 12 percent in 1996 and where our 1,900 high tech companies plan to add almost 20,000 jobs annually in the next 3 years. The primary potential impediment to our state's growth is the shortage of skilled workers.

Frankly, as I see it, we are only facing a real crisis if we fail to respond. For now I view it as an opportunity and a challenge; perhaps the greatest challenge of the next century. This challenge is to match the needs of high tech employers with the preparedness of and opportunities for the American worker.

Meeting this challenge effectively will demand the attention and commitment of businesses large and small; of our educational system at every level; of government, principally at the state and local level; and of parents and students as well. All of these entities must be working in partnership.

Just weeks ago, Mr. President, a new comprehensive international study listed American high school seniors as among the industrial world's least prepared in mathematics and science. Further, in advanced subjects like physics and advanced math not one of the countries involved scored lower than the U.S. If we ever needed a wake-up call, this is it.

It is in everyone's individual interests, as well as in the overall interests of this country, to enter the next century with a well-trained workforce that will help keep American companies competitive in the global economy.

Admittedly, as the grandparent of 17 young children who will be entering the workforce in the next century, I am enthusiastic that technology has opened so many tremendous opportunities. It remains clear that human capital is still the greatest asset this country has. Without human knowhow, the most sophisticated of computers is just a dumb machine.

Given that, there is no reason for any individual in our society who is willing to work should be left behind—not women, minorities, or the disabled. Responding aggressively and intelligently to the need to educate, train, and retrain the potential pool of high tech workers in the next century is the kind of affirmative action that can ensure that all individuals have the opportunity to work hard and prosper in the next century.

It is, however, an unfortunate reality that this kind of long term solution is insufficient to meet our most immediate needs. Thus, this legislation focuses on a limited short-term measure to raise the annual cap, currently at 65,000, for temporary visas for highly skilled workers. Notably, the cap for this year was reached last week!

Mr. President, as I understand it, critics of this legislation have focused on two arguments. First, some argue that there is no real shortage in high tech workers. While this will be addressed in more detail in due course, let me just say that I think any member with doubts over which bureaucratic study to believe ought to check the help wanted ads in their Sunday home town papers. I think those long list of job vacancies for computer and engineering jobs tell the story.

Further, critics argue that in exchange for this modest, 5 year increase in temporary visas, we need vast new bureaucratic requirements to protect American workers.

Mr. President, we will debate this question in more detail later, but let me respond briefly now.

First, I think the record is pretty clear that the temporary use of a limited amount of foreign talent—many of whom have attended U.S. universities and graduate schools—creates more, not fewer jobs for Americans. It also insures that American employers do not move to other countries with more and cheaper labor.

Second, there are already important limits in the law to make sure this program is not abused and that these visas are not used to hire cheaper labor. This bill enhances both the limits and restrictions on the use of these visas.

But at some point, Mr. President, you can go so overboard that a program becomes a bureaucratic nightmare of regulation and it is just not worth it, particularly for small and medium sized employers. I think that some of the alternatives proposed here—in response to a five year increase in temporary visas by about 25,000 a year—cross that line.

Finally, as we debate these so-called "labor protection" provisions, I think we need a little perspective here on what aspect of our immigration policy really puts American jobs at risk. (A) We have hundreds of thousands of illegal immigrants entering this country every year on top of the estimated 5 million illegal immigrants already here. (B) This Administration has a terrible record of failing to identify and deport criminal aliens who are released from prison and remain in this country. (C) We have a horrible situation of an inestimable number of smuggled immigrants being used as slaves and indentured servants.

I think that these areas ought to be our principal focus if we want to protect jobs for American workers, not finding more bureaucratic hurdles for a small and limited program with a history and record of little abuse.

I want to close for now, Mr. President, by recognizing the hard work and leadership of the Chairman of the Judiciary Committee's subcommittee on Immigration, Senator ABRAHAM.

I urge my colleagues to pass this important bill.●

Mr. ABRAHAM. Mr. President, Senator HATCH had hoped to be present for the launching of this legislation, and when last week it appeared, on either Wednesday or Thursday, that was going to take place, he was going to be in the manager's chair, at least initially, to begin the debate. He is not able to be here today, so we wanted to make sure his statement was included at the appropriate spot in the RECORD, which we have just done.

Mr. President, we are here to discuss a piece of legislation, the American Competitiveness Act, which passed the Senate Judiciary Committee a few weeks ago by a 12-to-6 vote, a piece of legislation which is extraordinarily important, I think, to our country at this time if we wish to remain strong and competitive and wish to have an economy that continues to grow with the success we have seen in recent months.

Basically, we are learning as we examine the economy that a very substantial reason for the recent economic growth stems from the tremendous success we have had in the development of our high-technology industries. Frankly, we are growing in those areas so fast that our labor force cannot even keep up with the speed of that growth. Indeed, studies conducted by a variety of organizations have suggested that we currently have a gap between the number of jobs in the information-technology and high-technology areas and the number of workers needed to fill them.

A study by Virginia Tech University has indicated that there are an estimated 340,000 current vacancies in information-technology jobs in America today. A study by the U.S. Department of Commerce indicates a projected growth of information-technology and high-tech jobs over the next decade of approximately 130,000 per year, and yet that very same study suggests we will only be producing something in the vicinity of 25 percent of the graduates needed to fill these jobs over that timeframe. Clearly, that suggests we have to get busy to make sure that our educational system, our job training system, and so on, meet these challenges.

We also know that this isn't just a bunch of statistics. You need only pick up the want ads of a newspaper or trade journal today and browse them and you will see, as these various newspapers I have here today suggest, the spectacular number of jobs available in these areas—high-tech jobs going unfilled, companies not able to find the skilled workers needed to fill them.

At the same time, the extent to which companies are being forced to improvise in order to meet this challenge is also interesting as well. Recently, in fact, in the Washington Post, we read of the story of various young people in high school in Fairfax County, VA, who are being tapped to fill some of these positions. In fact, I ask unanimous consent to have printed in the RECORD at this time one such story.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 1, 1998]

TEENS WITH TECH TALENT RISE TO TOP; NOT EVEN OUT OF HIGH SCHOOL, COMPUTER JOCKS RAKE IN BIG BUCKS

(By Eric L. Wee)

Life is good. That's what Doug Marcey will tell you as he sits in his basement on this Friday morning.

While others fight their way to the office, he's writing computer code in his jeans and bare feet in front of two blazing 21-inch monitors. The job pays well. For his work three days a week, a software company forks over $50,000 a year, enough to rent his three-bedroom town house in Fairfax County. Not a bad life.

Especially considering that Doug Marcey is only 17.

Computer companies in Washington and elsewhere, facing a shortage of tech talent, increasingly are turning to teenagers such as Doug to help fill out their employment rosters. Computer jocks as young as 14 are working as programmers, graphics artists and Web page designers, some of them drawing very adult salaries, using skills acquired in high school classes and during hours of surfing the Internet.

The rich job market even has some of the teenagers facing the sort of decisions that gifted athletes make: Do I stay in school or turn pro and make some big money?

"I got tired of high school," said Doug, who last fall chose not to return for his senior year at Fairfax's Thomas Jefferson High School for Science and Technology.

"It got too boring. I took all the computer courses I could and basically learned all that I could," said Doug, a 6-foot-4-inch baby-faced teenager in new Armani glasses who figures he'll still get a college diploma. "I was realizing that I could go out and work. . . . The cool thing about computers is that I can make lots of money doing what I really like doing."

So three days a week, Doug does everything from Web site work to helping make the company's programs more enticing to customers. The rest of the time, he takes classes at George Mason University. He's considering working full time, which would bump his salary to $70,000.

David Rosenfeld hired Doug at Nu Thena Systems Inc., a McLean company that creates software programs to let places such as Boeing Co. and the Jet Propulsion Laboratory model and test ideas on computers.

Rosenfeld figured if he didn't snap up Doug, someone else would. Indeed, Doug said he got a half-dozen offers after his junior year.

"There aren't that many programmers out there that are really creative," Rosenfeld said. "There are plenty who will do what you tell them to do, but there aren't many who can see a new way to do things. That's another tier of people, and I thought Doug was one of them. If you can get your hands on someone like that, you never let them go."

Washington area computer executives say that it's unclear how many teenagers are getting full- and part-time work from the area's high-tech companies but that they're sure it's becoming more common. The Washington Post interviewed nine such teenagers.

Nationally, the U.S. Department of Labor says, 22,000 teenagers ages 16 to 19 worked in the computer and data-processing industry last year, more than four times the number three years earlier.

Mario Morino, one of the Washington area's early successful technology entrepreneurs who now runs a Herndon-based technology think tank, said the nationwide shortage of high-tech workers has made those teenagers more attractive to companies. But even without the labor drought, Morino said, the youths would be enticing because of their incredible skills.

Employers say teenagers have an advantage in the cyber job market because they're often up on the newest technologies. While adult workers have time commitments such as families, teenagers can spend hours on the Internet, downloading and experimenting with the latest programs.

Federal work regulations don't allow anyone younger than 14 to work for pay. And 14- and 15-year-olds can put in only 18 hours a week during the school year. Those restrictions disappear at 16. The rules are there in part, Labor Department officials say, to make sure that work doesn't interfere with studies.

That's a concern of Donald Hyatt, director of Thomas Jefferson High School's computer laboratory. He said he constantly gets requests from companies for prospective employees and doesn't have enough students to fill all the summer internships offered. Every one of his seniors, he said, could leave school and make a large salary.

But he tries to convince them that they won't develop to their full potential that way. College offers opportunities to learn from top programmers, he argues, not to mention the value of getting a solid, broad-based education. And when it comes time for cyclical layoffs, he adds, those without college degrees often will be the first to go.

Seth Berger, a sophomore at Langley High School, isn't so sure. He said his computer work has taught him much more than any class. Seth looks like any other 16-year-old. He wears faded jeans and Nike Airs. He says "cool" often, and when he smiles, his braces show. But Seth is the computer graphics core of a company called Creative Edge Software Inc.—maker of a new martial arts computer game called "The Untouchable."

Travis Riggs, Seth's boss, said that soon after he was hired last year at age 15, it become clear that Seth was the company's best computer graphics specialist. Seth will get a percentage of the net profits from the game, which he said could add up to more than $50,000. Riggs has hired him for a second game and made him the sole computer graphics artist, bumping his cut to a six-figure sum if the game does well.

"I don't know if I'm going to go to college, especially since I can make money like this," Seth said. "If college costs 25 grand, for me it's going to cost $25,000, plus that I could be making. I'm going to go to college and spend [the equivalent of] $80,000 a year, to learn stuff I already know? That doesn't make sense to me when I look at it that way."

His mother, retired physician Amy Dwork-Berger, said she and her husband have accepted that Seth probably won't attend college. She sees him as an extremely bright person who would be frustrated by college's regimentation. And she sees his success in computer work as a positive influence on his life.

"It's been marvelous," she said. "College isn't the only way to learn. Seth doesn't fit the mold, and to make the most of his potential, you have to let him do what he needs to do. . . . He's happy. He's good at it. What more could a parent want?

Bruce Hurwitz takes a somewhat different view for his son, Gus, 17, who worked last summer for Netrix, a Herndon computer networking company. Gus also sells a program over the Internet that lets people access their computers remotely or set up Web pages. That now brings in from $750 to $2,500 a month.

Gus said that last year he was seriously considering not returning for his senior year, in part because computer work seemed more challenging. But he decided to stick with school and college plans after talking it over with his parents.

His father, a data communications executive for a French company, said he has worked to explain to Gus that college is a valuable time for exploring new, varied interests. And he warns his son that he won't always be the young hotshot, because new technologies will surface down the road.

"I'm nervous that he's 17 about to go on 40," he said. "I want him to be a child and enjoy himself. I want him to be exposed to the liberal arts and other things. I don't want him to be just a computer guy."

But as a computer guy, Gus is clearly exceptional. He tackled some of the company's most difficult tasks at the bargain rate of $9 an hour. Netrix's senior engineers "had their jaws to the ground" in amazement as Gus showed them new ways of doing things.

Randy Hare, Gus's former boss, estimates that Gus is as qualified as a typical senior-level system administrator in his thirties making $80,000 a year.

Although employers rave about such young computer aces, they say hiring teenagers can complicate workplace dynamics.

Datametrics Systems Corp., in Fairfax, got a taste of that when it hired Brent Metz, now 17, for the last two summers. The company, which sells a program that examines large computer systems for inefficiencies, gave Brent a project predicted that it would take him six to eight weeks. He finished it in a week and a half.

"I think there were a couple of [adult programmers] who felt threatened," said Grady Ogburn, a manager at Datametrics. "Up to that point, their programming efforts were shrouded in mystery. * * * They're experienced programmers taking x number of weeks to accomplish tasks, and everybody thinks that's a reasonable amount of time. Now here's this 16-year-old bringing all those estimates into question."

Brent's salary soon shot to $20 an hour, and Ogburn believed he was worth double that. Now Brent is starting his own Web page design company.

Although the junior employees generally blend in, employers say, you can't get away from the fact that they are, well, young.

Seth Berger's employer often has someone spend nearly an hour traveling to pick him up after school and bring him to the Dulles area office, because he can't drive yet.

A California software company that hired a 10-year-old for the summer two years ago had to get used to seeing its new software evaluator play with the copy machine on his breaks. They also had to accept the grammatical errors in his reports—understandable because he learned to write only a few years before.

But most say the young people's raw enthusiasm can be like a shot of adrenaline for other company employees. And Rosenfeld, like other bosses, said he'll give some jobs to 17-year-old Doug Marcey rather than an adult programmer because Doug doesn't yet know "what's impossible." Adults might give up, he said, but Doug will keep pushing.

Elliott Frutkin also believes in young talent. Last summer, he dug through 200 résumés but still couldn't find the right person to create graphics for his Georgetown startup Web page company, Ideal Computer Strategies. Finally he found the person he was looking for: the company's 14-year-old unpaid intern, Josh Foes.

Frutin said Josh, unlike others, could do advanced graphics work and understood how to translate the customers' concepts onto the computer. His pay jumped to $10 an hour and later to $25 an hour for urgent projects.

Josh, now 15, said it's changed the way he thinks about money. He recalls a friend who worked at a toy store saying he made more than $100 after putting in a long week. "That's the kind of thing I could make in a day, not working very hard," Josh said.

Now Frutkin does everything he can to entice Josh back, including offering to pay him an hourly rate equal to at least $35,000 a year.

"In today's market, it's impossible to find someone with those skills," Frutkin said. "The next ad I run may be in a high school newspaper rather than The Washington Post."

Mr. ABRAHAM. This story basically says, "Teens with tech talent rise to the top. Not even out of high school, computer jocks rake in big bucks." And it talks about how high school students working just part time are making $50,000 here in the Virginia suburbs filling some of these high-tech jobs for which it is difficult to locate sufficiently skilled personnel.

The unemployment rate, of course, as we all saw in the most recent numbers, is at a 30-year low, and that is great news. We want to see the unemployment rate go lower. But the fact that it is so low buttresses what these various statistics I have just described suggest; namely, that we are at a point now where we are having a hard time filling these high-tech jobs. And if we don't fill them and if the expansion can't continue, I fear we will start to see the unemployment rate going in the other direction, because we will not be able to sustain the economic growth we have and because, as a consequence of that, we will also start to see American companies forced to look elsewhere for the employees they need.

But the bottom line is this. There is a gap, and what we need to do, in my judgment, to address it is to provide both a short-term solution and a long-term solution as well. The long-term solution is very dependent on better targeting and more efficient operation of our job training programs and an educational system, a K–12 educational system, that gets more young people headed in the direction of filling these jobs as well as a higher education system that properly trains them to take these jobs.

The legislation which we have for consideration today, as I will indicate a little later on, aims to address the long-term solution that we are seeking. But until the education system can adjust, until the job training programs can be reconfigured, we need to do something in the short term, and that is also what S. 1723 is about.

What we need in the interim is to attract and find, be able to bring to this country from anywhere on the globe where they might reside, the highest skilled workers we can find to fill these jobs until we can produce enough workers here in this country to fill them. And that is the goal of this legislation.

There is a program under the existing immigration laws that allows people to come into this country on a temporary basis to fill high-skilled jobs. This is a program which is called the H-1B visa program. Since its inception about 8 years ago, the H-1B program has had a cap of 65,000 visas per year that may be made available for highly skilled people to come to this country to fill the types of jobs we are talking about here today. Until the 1997 fiscal year, however, we had never reached the 65,000 cap. It was not assumed we would reach it when the program was originally created. It was set at a fairly high level—at least it seemed to be the case at the time. But in 1997 the cap was hit, Mr. President. It was hit approximately early in July of 1997. What that meant was that at that point and from that point forward until the end of the fiscal year, companies in desperate need of high-tech workers, unable to find them in the United States, were also unable to bring them here from another country.

We estimated at that time in the Immigration Subcommittee that the cap would be hit even earlier in the 1998 fiscal year, and our estimate was correct. The cap was hit 1 week ago Friday. It was hit, in other words, at the very beginning of May in this fiscal year. It is our projection that if we do not increase this cap, it will be hit even earlier in the 1999 fiscal year, perhaps as early as February.

What it means for this year is very simple. Companies in the United States, high-tech companies that need skilled workers and cannot locate them here in the United States at this time—because in spite of all these want ads, there just aren't people adequately skilled to meet these specialized jobs—are not going to be able to bring another individual here until next October.

What that means in terms of its implications on the economy is very significant. There are a lot of ramifications to not increasing the cap. First, as I have alluded to already, there will be the potential to impair our economic growth. If we can't fill these jobs, the companies are forced to defer and delay the initiation of new projects and new product lines and a variety of other similar types of programs, then clearly it will have an impact and effect on economic growth. It means key projects will be put on hold. And we have a list. Since this cap was hit the other day, Mr. President, I have heard from an array of companies indicating that they envision in this year being forced to either take people off payroll or not to hire prospective candidates because they will not be able to get the talent they need to fill these key spots.

I ask unanimous consent to have printed in the RECORD the full list.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS ENDORSING THE AMERICAN COMPETITIVENESS ACT (S. 1723)

BUSINESS ORGANIZATIONS

American Business for Legal Immigration.
American Council of International Personnel.
American Electronics Association.
American Immigration Lawyers Association.
The Business Roundtable.
Business Software Alliance.
Computing Technology Industries Association.
Electronics Industry Association.
Information Technology Association of America.
National Association of Manufacturers.
National Technical Services Association.
Semiconductor Industry Association.
TechNet.
U.S. Chamber of Commerce.
Motion Picture Association of America, Inc.
PHARMA.

ETHNIC ORGANIZATIONS

Advocates for the Rights of Korean Americans.
American Arab Anti-Discrimination Committee.
American Association of Physicians of Indian Origin.
American Latvian Association in the United States.
Congress of Romanian Americans.
The Indus Entrepreneurs.
Joint Baltic American National Committee.
Korean Americans Association.
Lithuanian American Council.
National Albanian American Council.
National Asian Pacific American Legal Consortium.
The Polish American Congress.
Portuguese-American Leadership Council.
Slovak League of America.
U.S. Hispanic Chamber of Commerce.
U.S. Pan Asian American Chamber of Commerce.
National Federation of Filipino American Associations.
Emerald Isle Immigration Center.
India Abroad Center for Political Awareness.
B'Nai B'Rith International.
National Immigration Forum.
Immigration and Refugee Services of America.

UNIVERSITY ORGANIZATIONS

American Association of Community Colleges.
American Association of State Colleges and Universities.
American Council on Education.
Association of American Universities.
College and University Personnel Association.
Council of Graduate Schools.
Madonna University.
Michigan State University.
Michigan Technological University.
NAFSA: Association of International Educators.
National Association of Independent Colleges and Universities.
National Association of State Universities and Land Grant Colleges.
University of Michigan.

MICHIGAN ORGANIZATIONS

Bay de Noc Community College.
Citation Corporation-Automotive Sales & Engineering Division.
Compuware Corporation.
ITT Industries.
Energy Conversion Devices, Inc.
Michigan Manufacturers Association.
Swiftech Computing, Inc.
ERIM International, Inc.
Lansing Regional Chamber of Commerce.
Meijer Corporation.
Northern Initiatives.
Phillips Service Industries, Inc.
The Right Place Program-Grand Rapids.
Sensors, Inc.
Software Services Corporation.
Suomi College.
Superb Manufacturing, Inc.

LEADING SCIENTIFIC AND MEDICAL RESEARCH ORGANIZATIONS

American Society for Biochemistry.
American Society for Cell Biology.
Association of Independent Research Institutes.
Biophysical Society.
Genetics Society of America.

OTHER ORGANIZATIONS

Americans For Tax Reform.
Empower America.

EDITORIAL ENDORSEMENTS

The Washington Post.
Washington Times.
Miami Herald.
Detroit News.
Ann Arbor News.
Seattle Times.
The Courier-Journal, Louisville, KY.
The Atlanta Journal.
Chicago Tribune.
The Columbia Dispatch.
Fairfax Journal, Fairfax, VA.
Crain's Detroit Business.

Mr. ABRAHAM. Let me just mention a few of the companies we have heard from already: Intel, IBM, Hewlett-Packard, Ford Motor Company, Eli Lilly. The list goes on and on, and it spans a variety of areas from medical research to information technology. And as those projects go on hold, it means not only that the company will not be growing as fast as we would like to see, it also means that we will not be filling as many new job opportunities with people WHO currently are hoping that those companies will begin their new product lines. It is estimated by the Hudson Institute that if we don't increase this cap, we could see a significant impact on economic growth. They have even projected it to be as much as $200 billion in lost output. That almost works out to nearly $1,000 for every man, woman and child in the United States.

But the ramifications actually go beyond simply not being able to fill those positions until next October. There are other implications as well. For example, if we can't hire these talented people and bring them here now, foreign competitors can and will fill that gap, and we will lose people to other countries who will then be the ones developing the technologies that we are talking about. At the same time, if we don't even reach the cap and if American companies can't bring the talent here to fill their needs, it increases the possibility—in fact it is a very real possibility—that they will begin to move some of the operations we are talking about overseas. That means we don't just lose that one job which we are attempting to fill through a temporary worker. It means existing jobs in the United States could be lost if product lines of divisions, if new projects, are initiated in another country.

Obviously, we don't want to lose American jobs simply because we can't get certain specific skilled workers to this country to begin these kinds of operations. The types of operations we are talking about are also very significant. We are not just talking about a new widget being developed. We are talking about dealing with enormous important problems confronting our country at this time. We have all heard in recent weeks from Senator BENNETT, our colleague from Utah, who is the Senate's foremost expert on the problems we confront with the year 2K situation. Now, we have a Senate task force to examine those issues specifically with what the intent is for us in the Senate, but what we clearly know is there is not one sector of our economy that is not going to be impacted by the year 2K problems.

I have heard from numerous companies and numerous individuals trying to meet the year 2K challenges, who said it is absolutely vital that we increase the H–1B visa program at this time so we can bring in sufficient talent to deal with the year 2K problems between now and the end of 1999. Yet, as I say, we have hit the cap.

I will be talking about this in greater detail as we go along this afternoon, but let me talk specifically about what our legislation would do to meet these challenges, both the short-term problem we have, such as the year 2K problem, and the long-term problem we are trying to address, the challenge of having enough American workers to meet the dramatic increases in job creation in the information technology sector of the economy.

Our legislation would do the following: First, it would temporarily increase from 65,000 to 95,000 the cap on H–1B visas. That means an increase of 30,000 per year.

In addition, we have created as a safety valve—so we would have at least the possibility of congressional oversight and examination if we hit that 95,000 cap sooner than anticipated—a safety valve which would permit us to use up to 20,000 visas from the H–2B program, if such visas were available and unused by that program in the previous year. As I say, our legislation has a 5-year sunset to it. In short, we tried to make this a short-term rather than a long-term focus piece of legislation in the hope that in that 5-year period we can develop through job training programs and our educational system the talent we need right here at home. So it would be a 5-year program. Those increases we have mentioned would be for 5 years.

In addition, starting in the 1999 fiscal year, we would separate out of the H–1B program health care workers, and create a new category, the H1–C program with a limit of 10,000 annual visas for health care employees. We do that because a number of people have expressed concerns about the high-tech program, the skilled worker program. That addresses concerns that if we make this significant increase in the numbers, too many of those will end up being used in areas which do not necessarily, right now, seem to have the need that the high-tech information technology sector requires. So what we have decided to do in the legislation is essentially to create a new category of 10,000 visas that would be the limit annually for health care workers. That would reach 85,000 for the information technology and other high-skilled categories.

In addition, our legislation calls upon the INS to provide us with more information with regard to the H–1B program. One of the frustrations that we have all had, and I know the Senator from California and I have talked about this in the subcommittee when we discussed this program, is that we don't actually know how many workers are coming in, into various categories, because the records are not that explicit. We have records of who applies for these H–1B visas, but we do not and are unable to get a count on how they actually are distributed. We need that information if we are going to do the kind of long-term focus that I think necessary to properly oversee this whole program.

To that end, and in addition to getting numbers—thanks to an initiative that Senator KYL, a member of our subcommittee, has proposed—we include in the legislation the conducting of a study by the National Science Foundation to try to more accurately gauge our high-tech, skilled worker needs.

During the deliberations on this legislation in the committee when we had our hearings and so on, a lot of different issues were raised as to what the real long-term needs will be. Senator KYL, I think, has wisely proposed because our program is a 5-year program with a sunset that we, in a shorter period of time, study the actual situation, what the real needs are today, what are likely to be long term, to determine whether the projections in such things as the Commerce Department study bear out.

Finally, as I said, our legislation is aimed at being both a short-term as well as a long-term fix. The short-term fix is to increase the number of H–1B visas. The long-term fix is to provide various mechanisms by which American workers can be trained to fill these jobs. Thus, a key part of our legislation is a scholarship authorization which authorizes funds for scholarships in science and math for needy students. We have worked very closely with the Senate Labor and Human Resources Committee on this part of the legislation. We will be talking about it, I think, a little bit later. We have worked with Senators COLLINS and REED who have been involved in the higher education reauthorization bill to try to make sure our language tracks the language in that legislation. And we believe that, by focusing more resources on science and math and computer science training, we can have an excellent chance of meeting some of the long-term needs that have been referenced in my remarks today.

That is essentially what the legislation attempts to do. It also attempts to provide protection, protection for American workers to make certain the H–1B program is not abused. Already in the existing program I believe there is a very firm set of protections that stand as safeguards for American workers. Essentially, what those protections are is a requirement that anyone who brings somebody to this country under the H–1B visa program must pay that individual the higher of the prevailing wage or the salary in their company paid to people of like experience and skill. We think that is a pretty effective approach and it has proven to be effective. In the entire history of the H–1B program there have been only eight willful violations determined to have existed. But it was our view that if we were going to increase the numbers we should also increase the vigilance with which we look at this program and the penalties against anyone who might seek to take advantage of it.

So in addition to the aforementioned components of the legislation, our bill does the following: It increases from $1,000 to $5,000 per violation the fines to be imposed on any company that fails to meet that standard I indicated of requiring an H–1B individual to be paid the higher of the prevailing wage in the industry or the actual salaries paid in that company for this type of position.

Furthermore, in an attempt to make certain that no one in any way attempts to lay off an American worker to bring in an H–1B employee, we impose a $25,000 fine per violation and a 2-year debarment from the program where anyone violates the prevailing wage rule and it is determined has laid off somebody to fill the position with an H–1B worker.

In short, I think we have taken the steps necessary to guarantee that abuses in this program will not occur. And, as I said, at least in its history so far, very few have occurred. The legislation enjoys broad support, support here on the floor of the Senate on a bipartisan basis, support throughout the business community. It has been endorsed by the United States Chamber of Commerce, the National Association of Manufacturers, Tech Net—a high-tech trade organization—the Information Technology Association of America, the Motion Picture Association of America, and numerous other organizations.

It, likewise, enjoys broad support of the academic community, because many of these H–1B workers actually come to the country and assume jobs in academia teaching American kids the skills needed to fill these high-tech jobs. As a consequence, the legislation is endorsed by the Association of American Universities, the National Association of State Universities and Land Grant Colleges, and the American Council on Education.

It is similarly supported by a broad array of heritage groups, including the National Asian Pacific-American Legal Immigration Consortium, National Immigration Forum, the U.S. Hispanic Chamber of Commerce, the Polish-American Congress, B'nai B'rith, and a variety of others.

I will summarize later why this legislation must be passed, but I think in this opening statement I have laid out the key essentials. Right now, against the backdrop of very low unemployment in this country, we have a shortage of skilled workers. We need to address that on both the short- and long-term basis. Our legislation tries to do both.

In the short-term sense, we increase the cap on H–1B workers to come to this country. We need that or else we are going to see American jobs lost, not gained. This is not a zero sum situation, Mr. President. Without change in this cap, without doing it soon, we will start to see a very significant impact, I believe, in our high-tech industries.

Mr. President, I yield the floor. We expect to have additional speakers on our side as the afternoon goes on.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, very shortly, Senator KENNEDY, the ranking member of the Immigration Subcommittee of the Judiciary Committee, will be presenting an amendment which I will strongly support. It is very similar to the amendment which was offered in committee, proposed both by the Senator from Massachusetts and myself representing California. I voted for it then, and I will vote for it now.

I did in committee also vote for the Abraham bill, because Senator ABRAHAM is correct, there is a problem. The high-tech industry is consistently turning to foreign nationals to fill low-level computer-related jobs.

In my State of California, this is a very big deal. High tech currently provides about 814,000 jobs in California. That is 18½ percent of the total California employment. So it is a substantial industry. When this industry says to their Senator, "We can't hire high school or college graduates to fill our needs," I obviously have to be very concerned.

I have become very saddened by our high-tech CEOs who repeatedly tell me they cannot find qualified workers. As a matter of fact, during the hearings in the Judiciary Subcommittee, we even heard one CEO say that they advertised a brand new, I think it was a Ford Mustang for any individual who would take one of these computer-related jobs.

Senator ABRAHAM is correct, the industry will reach the cap of 65,000 by May of this year. As Senator ABRAHAM stated, this presents a very serious problem.

Let's talk for a moment about this 65,000 cap and the way it is now. The 1996 Labor Department report shows that only 41 percent of the H–1Bs presently are computer-related professions. Another 26 percent are physical therapists and health professionals. It is not only computer-related people who are presently coming into this country on a H–1B visa, 26 percent of them are physical therapists, which is kind of canny to me to think we can't find American health therapists for these jobs? The IG's report also shows that some H–1B employers have contracted their employees out to other companies functioning as job shops, companies that hire predominantly or exclusively H–1B's and contract them out. Current law does not prohibit this practice of running these job shops, despite the concern that these job shops are paying the H–1B's less than the prevailing wage and have a negative impact on the American worker's ability to keep his or her job.

The 1996 Labor Department report also indicates that 48 percent of employment-based, permanent immigration is admitted through the H–1B program, and this is a major point I want to make. The H–1B program is not necessarily just a temporary worker program. Fifty percent of these workers achieve permanent status and remain in this country essentially forever. This is a big problem.

From the CRS report on this issue, dated May 13, 1998, I read the following:

> In practical terms, the H–1B visa links the foreign student to legal permanent residence. Anecdotal accounts—

And I think Senator ABRAHAM mentioned correctly that we really don't know; the recordkeeping in this program is very bad—

> Anecdotal accounts tell of foreign students who are hired by U.S. firms as they are completing their programs. The employers obtain H–1B visas for the recent graduates, and if the employees meet expectations, the employers may also petition for the nonimmigrants to become legal permanent residents, through one of the employment-based immigration categories. Some policymakers consider this a natural and positive chain of events, arguing that it would be foolish to educate these talented young people, only to make them leave to work for foreign competitors. Others consider this a pathway program.

This is really my point and my concern about the Abraham legislation. The Abraham legislation essentially is a 5-year program, and over 5 years, it would permit 555,000 new foreign nationals to come into this country, 50 percent of whom would remain. This is the 555,000 that is specially targeted for high tech by the Abraham legislation. However, the Abraham legislation also provides an additional 10,000 workers per year for non-high-tech jobs. That is a total of 50,000 over 5 years. So when you add that together over 5 years, this is an additional 605,000 foreign workers coming into this country, taking jobs which many of us believe should be filled by American young people, American high school and college graduates. This is over a 77-percent increase in numbers, Mr. President.

The amendment that Senator KENNEDY will offer is essentially a 3-year program which is a total of only 270,000 workers coming in targeted for high tech over the 3 years. The program would sunset after 3 years, and we would have an opportunity to take a good look at that program at the end of that period of time, hopefully have better records by then and hopefully be better aware of what the needs are after that period of time.

I mentioned that there are about 815,000 high-tech workers in this country in California alone. So this is really a huge new immigration program over 5 years. Nobody should think to the contrary. It will let in over 600,000 foreign nationals, one-half of whom, by our own past statistics, will remain in this country as legal aliens able to work in this country. In other words, they will have green cards, and they will continue to go from temporary worker to permanent worker, thereby taking up a job which an American young person could occupy.

Now, this troubles me. It really troubles me. And the reason it troubles me is because these workers are not necessarily superstars. The superstars come in. These are lower level computer programmers. They really are $50,000-a-year job occupants.

As a matter of fact, there is a chart that essentially shows the salaries. Seventy-five percent of the workers who have been coming in under this program are at salaries from $25,000 to $50,000. So these are not, in the main, the jobs of $100,000 or more. These are exactly the jobs that graduates of the new age, graduates into the global economy from our schools all over the United States should be taking to develop a sinecure in an industry that is only going to bloom in the future.

So I am troubled by the Abraham bill's numbers. Again, they are 605,000 over 5 years. And 550,000 would go for high-tech workers as opposed to the amendment that Senator KENNEDY will shortly make, which would be a 3-year program, 270,000 jobs.

Mr. President, I yield the floor at the present time.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, thank you.

I would like to put a couple of points into perspective, first of all, which relate to the statements of the Senator from California with regard to the numbers. I indicated in my opening statement we have a very significant problem just understanding exactly what the numbers are.

For instance, the issue with respect to physical therapists taking 26 percent of these positions—we do not know that is the percentage of applications that have come to INS. And our legislation attempts to do two things to address it.

First, it attempts to force INS to tell us not what the application numbers are but who actually gets the H-1B positions. We need to know that to shape this program more effectively.

Second, with respect to health care workers and physical therapists, and so on, our legislation actually attempts to put a cap on that category of 10,000, so that, in fact, 26 or 30 percent of whatever of the H-1B visas cannot go into that category. The legislation that the Senator from California alludes to, that would not put that cap in place, means that literally all of the positions could go to these categories that I think most of us would agree do not need to be filled with H-1B workers. In fact, our legislation, the bill before us, attempts to move us in a direction to attempt to address that problem.

Next, with respect to the actual numbers themselves, the statistics of the Senator from California are not accurate. Currently, if we do nothing legislatively, 325,000 people will come in over the next 5 years under the H-1B program. Our legislation increases that amount by 30,000 per year to 475,000. And the amount that was referenced with respect to health care workers comes out of that 95,000. It is not in addition to the 95,000; it is 10,000 under the 95,000 per year cap. So the numbers that were just referenced simply are not correct.

Lastly, I would like to just comment this is not a bill about foreign exchange students, but I just say this: We already have in place a system by which individuals can get permanent green cards annually. Approximately 140,000 such cards are available each year. We do not use all of those. So whether or not people coming in under the H-1B program end up becoming permanent employees has not forced that number higher. We do not even use the 140,000. But to the extent that we do use permanent green cards for anyone, it seems to me, at least, that it makes more sense for the people who receive them to be people who came to the United States, were trained in our colleges, then worked in our companies and paid taxes. It seems to me they are more valid permanent green card recipients than individuals who did none of the above.

Why should we train people at our colleges to take on these very important 21st century jobs and then see them leave and go work for foreign competitors? Again, it would make some sense to bring that issue up if we were going to be limiting the number of permanent green cards available on an annual basis, but this legislation does not attempt to do this, nor was that part of anyone's proposal.

So I think, in sum, that the earlier statements I made remain accurate and certainly are on point to deal with the worker shortage we confront right now.

Mr. President, I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Missouri.

Mr. ASHCROFT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. The amendment that the Senator from Massachusetts will propose will not have a 3-year limit on it at this time. That was our bill we had in committee. Rather, it will require that employers look for American workers first before they hire foreign workers and that they have not laid off American workers 6 months prior or 3 months after they put in an application.

So I am happy to be able to make that clarification. And I believe Senator KENNEDY will be here momentarily.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. I yield 5 minutes to the Senator from Missouri to speak on the bill.

Mr. ASHCROFT. I ask unanimous consent at the conclusion of the 5 minutes speaking on this bill that I be able to continue for 10 minutes as in morning business to address other issues.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ASHCROFT. Thank you, Mr. President.

I want to begin by thanking Senator ABRAHAM of Michigan for his attention to this very important issue. It seems to me that this is a fundamental issue that relates to the success and survival of this culture in the next century.

The long-term impact of a Government-imposed shortage of high-tech workers is clear. If workers cannot come to these jobs, then the jobs will have to go to the workers.

We have an option here, an option of whether or not we bring workers to these jobs and have the industry in the United States or these companies decide to take these jobs to wherever the workers are otherwise.

Let us not fool ourselves. There are several countries that have the resources to begin a strong technology sector. I believe it would behoove us to make sure that the technology sector continues to exist in the United States of America.

Some of my colleagues seem to view this bill too narrowly. They view it as an immigration issue and an immigration issue alone. My colleagues are not to be blamed for wanting to make certain that Government policies respect the needs and interests of American workers. This legislation, however, does not threaten American workers in any way. No one is being replaced.

We are not dealing with a situation in which legal immigrants are coming to the United States to compete with low-income, native-born workers or, worse yet, coming to live off the Federal dole. That is not the situation here.

The shortage of workers in this industry is well documented. Filling these jobs with skilled workers, whether born here or overseas, is in America's best interests. We have a chance to either import the workers or export the jobs. It seems to me that clearly we would want to bring in these critical workers who can sustain this industry and help us sustain it as an American industry.

Indeed, it would be a grave mistake, in my judgment, to send even any portion of this dynamic and critical sector abroad in search of workers. It would send the wrong signal. It would be the wrong strategy. The economic and national security benefits of keeping this industry in the United States are substantial. They should not be overlooked. This industry will continue to flourish. But if the U.S. Government needlessly restricts one of the key inputs—that is, the necessary labor for growing—it will flourish somewhere else. We don't need for this industry to flourish on someone else's shores. We want this industry to flourish on our own.

I understand some of our colleagues will seek to amend the legislation. These amendments have noble sounding purposes and titles, but they are wolves in sheep's clothing. Excluding those that the subcommittee chairman has agreed to accept, these amendments are designed to kill the bill and should be defeated for that reason. Isn't it ironic that some Members are unwilling to help an industry do exactly what we want every industry in this country to do, and that is to become the best in the world. Some people want to keep our industry from attaining that standard.

We make the same mistake over and over again in Congress. We already are forcing the encryption industry to relocate to foreign shores through antiquated export restrictions, and now Members entertain amendments that will make difficult the United States success in the entire technology sector by restricting the import of needed skilled workers.

Perhaps the most disturbing amendments are those that would let loose a swarm of Federal bureaucrats into the high-tech industry to investigate hiring practices. Is this the role that we want Government to play in any industry—to create another set of regulatory hurdles that stifle growth and productivity? The energy of this recovery, the energy of our economy, has been provided by the high-tech industry, and it has been able to do so absent Government interference and control. I believe it would be an inappropriate decision, it would be a tremendous insult, and, frankly, an injury to this industry if we were to move Government in massively, as some of these amendments will propose.

As I have said before, we can allow workers to come to these jobs in America, or we can force those who want these jobs done to take the production facilities and the jobs that go with them someplace else. It seems that would be insanity. It does not take a highly trained computer expert to figure out what we want. We want to keep the jobs here. If we have the jobs here, and we can get the people, then keep the jobs here rather than export the jobs to where the workers may happen to be.

The technology sector of our country has had tremendous success by almost any measure—in productivity, in capital, in growth and in sales.

However, this thriving sector is running into a problem that even the best engineers cannot design around—a lack of individuals with the necessary skills to power the growth of American "high-tech" industries. The common approach of Silicon Valley of "Just Fix It" doesn't work in this instance—the engineers cannot overcome design flaws or test for efficiencies because the problem is imposed not by outdated technology but by the outdated laws of the federal government. The high tech sector has come to the federal government to ask for assistance in an area that is in the control of the federal government—the granting of visas to highly skilled technical workers.

I rise today to applaud an industry that is so dynamic that it has depleted the tremendous human resources available in this country so swiftly. We, as a nation, should take great pride in our technology sector, and even greater pride that this robust sector of our economy continues to thrive.

One frightening trend that has begun to emerge in this Congress is the consideration of laws that would directly involve the federal government in the operations of the technology sector. Any number of bills introduced with the best of intentions would have ignored budding and dynamic technology and instead imposed a quick legislative fix that would have remained in the code for years. This push for instant gratification and instant solutions will lead to disastrous results in the dynamic area of high technology. Instead, Members of Congress must start making the tough decisions on how to allow our technology sector to continue to be an engine of growth for our economy, continue to provide greater efficiencies for business, guarantee lifestyle enhancements to all people, and continue to position the United States as the world's technology leader. We need to focus less on imposing new government obstacles to tomorrow's technologies and more on removing government as an obstacle to growth in this dynamic sector.

This brings me to Senator ABRAHAM's legislation, the American Competitiveness Act. I am proud to be a cosponsor of this important legislation because it removes a government-imposed limit on the growth of the technology sector. We should all support the Abraham legislation as a means to facilitate the continued growth and success of an industry that is so important to our nation.

In closing, Mr. President, I must call attention to another troubling aspect of this debate, the glaring omission of leadership from the Clinton Administration. I am frustrated by this Administration's continuing talk of support for the industry of Silicon Valley. As I cast about in search of that support I find precious little. So I just ask—where is the Administration support for this important legislation? Where is the support for a well thought-out encryption policy, for the elimination of arbitrarily imposed taxation of the Internet—which currently remains international in scope but subject to tax by any municipality, or for leadership in confronting what may be the most dangerous threat to our economy, The Year 2000 bug? Mr. President, where was the Administration just two weeks ago when we were fighting to take a truly damaging provision on digital signatures out of the IRS bill?

I urge the Administration live up to its words and help us create jobs and growth in the technology sector. It is time for the Administration to stop talking the talk and begin walking the walk.

I urge my colleagues to support this legislation. I commend the subcommittee chairman, Senator ABRAHAM, for his outstanding work in this respect. It is not merely an immigration bill; this is a bill that relates to the success of the high-tech industry, an industry in which America continues to be the No. 1 power.

What is the situation regarding time?

The PRESIDING OFFICER. The Senator has 10 minutes to speak as in morning business.

Mr. ASHCROFT. I thank you for informing me of that.

TOBACCO SETTLEMENT LEGISLATION

Mr. ASHCROFT. I rise in opposition to the massive tax increases that are contained in the so-called tobacco settlement. I want the Senate to know that I will fight to kill any tobacco bill that contains a tax increase of the magnitude being considered, $868 billion.

The proposed tobacco bill is nothing more than an excuse for Washington to raise taxes and spend more money on Federal programs. It a shame that bad decisions made by free people in Washington, DC, become the basis for a monumental task. The decision to smoke isn't a good decision, but it is something that people are free to do. And we are using it as the basis for an incredible and substantial tax.

Let me just say that this tobacco settlement is the largest proposed increase in Government and bureaucracy since the proposed health care scheme, which both this Senate and the American people had the good judgment to reject.

It would be a travesty for Congress to use tobacco as a smokescreen for imposing this massive tax increase on the people of America and to cover an expansion of the "nanny" state.

This massive tax increase would be levied against those who are least capable of paying for it. According to the Congressional Research Service, "Tobacco taxes * * * are perhaps the most regressive tax levied."

Here we have a tax that falls most heavily on poor people. About 60 percent of this tax would fall on families earning $30,000 or less. Let me go to this chart. People earning under $30,000 would pay 59.4 percent of this tax; people paying $115,000 or more, 3.7 percent of this tax. This is nothing more or less than a massive tax increase, the incidence of which falls most heavily on poor families earning $30,000 or less. I think many times these are young families—mom and dad, maybe a couple of kids—stretching to make ends meet on $30,000 or less, and the lion's share, the overwhelming lion's share, is coming out of the pockets of individuals making less than $30,000 a year.

According to the Congressional Research Service, households earning less than $10,000 would feel the bite of the tax most of all. Smokers making less than $10,000 would pay in excess of 5 percent of their income in additional taxes. This is a massive tax increase on the poor. If Washington gets its way, cigarette excise taxes will rise by $1.50 a pack. For someone who smokes two packs a day and whose spouse perhaps smokes one pack as well, this amounts to a tax increase of $1,642.50 annually. And that tax increase for three packs a day on the family would be the same, whether the family was very poor or the family was very wealthy. To find out the magnitude of this tax, if you take $1,642 a year out of the income of poor Americans, you are really impairing significantly their ability to provide for their families.

It is immoral for this Government to tell poor families, you cannot provide for yourselves; we are going to take the money from you and force you to come to the Government to ask us to provide for you. Moreover, the new taxes paid by someone smoking two packs daily would exceed the per capita tax relief contained in the Senate budget resolution by a factor of 50.

The Senate budget resolution proposed tax relief for America. For the average smoker, smoking two packs a day, they would have a tax burden added to them 50 times as great as the tax relief that we proposed in the budget. I think that is unconscionable. It is obvious that the most addictive thing in Washington is not nicotine, the most addictive thing is taxing and spending.

In the 15 years prior to 1995, Congress has passed 13 major tax increases. A list of those tax increases includes the Crude Oil Windfall Profit Tax of 1980, the Omnibus Reconciliation Act of 1980, Tax Equity and Fiscal Responsibility Act of 1982, Social Security Amendments of 1983. Last year's Taxpayer Relief Act was the first meaningful tax cut since 1981.

The tobacco tax increase will more than erase—more than erase—all of the benefit to the American people of the tax cut passed last year. The tobacco tax increase also exceeds by a factor of 3 the relief projected in the budget resolution passed by the Senate last month, even as it applies to the entire population, not just to smokers.

The Congressional Budget Office expects the budget surplus will swell to between $43 billion and $63 billion this year. Why is that? Taxpayers are working longer, they are working harder, they are paying more taxes. You don't have the swelling of revenue to the Federal Government because people aren't paying taxes; you have it precisely because they are paying taxes. Taxes are going up. And we should be debating how to return money to the taxpayers, not how to siphon more out of their pockets—especially out of hard-working Americans at lower-income levels. The proposed tobacco bill is nothing more than an excuse for Washington to raise taxes and spend more money on new Federal programs. I will fight to kill any tobacco tax bill that contains a tax increase of the magnitude being considered. It is an affront to the dignity of Americans and it is immoral to take this kind of money away from poor families, which will force them into dependence on government in some circumstances, rather than allow them to have the money they earn to spend on their families.

To paraphrase President Reagan, the whole controversy comes down to this: Are you entitled to the fruits of your own labor, or does Government have some presumptive right to tax and tax and tax?

I urge my colleagues to oppose this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

AMERICAN COMPETITIVENESS ACT

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I know we have the time allocation. Could the Chair tell me how much remains on our side?

The PRESIDING OFFICER. The Senator's side has 47 minutes remaining.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Mr. President, as of May 7 the immigration quota for skilled temporary foreign workers was full. The 65,000 visas available each year under the H–1B visa category have been claimed. For the remainder of the fiscal year—almost 5 months—no more visas are available. The quota filled rapidly this year because U.S. high-tech computer companies are bringing in foreign programmers in record numbers. America's high-tech industry is undergoing extraordinary growth, and the demand is high for more workers, so they have turned to the immigration laws to bring them in from abroad. A temporary increase in the immigration quota is justified. We all want to ensure that our high-tech industries get the workers they need to remain healthy and competitive.

I have always felt that with regard to our immigration laws we ought to, first of all, recognize the importance of families and family reunification; and then, secondly, if they are going to bring in those who have special skills, which is going to expand the American economy, a case could be made for those individuals. They could make that—particularly in the years of 1980 and as we came into 1990, we are facing the unemployment that we are facing, we did recognize the importance of these special skills that will result in expanding the American economy and expanded employment. That does make sense.

The demand for more foreign workers is an embarrassing indictment of our failure to provide adequate training for American workers. These are good high-tech jobs in the modern economy. Over the next decade, it is estimated that high-tech computer companies will need 1.3 million additional employees, and American workers deserve help in obtaining the skills to compete for them.

It is not enough just to raise the immigration quota. Any bill that passes this Congress should, I believe, have two additional things. First, it must assure American workers that they will get the training opportunities they need to compete for these good jobs. It makes no sense to throw in the towel by increasing the immigration quota, even temporarily, without also investing substantially in the training of U.S. workers. We must not give away these good jobs forever. We must invest in our workers, and that means putting real money on the table for training American workers.

The bill that came out of our committee, I believe, failed. It was a good-faith effort to try to do so, but I believe it failed in making that kind of commitment. We have been working with the chairman of the committee to address that particular issue. There is no reason in the world why we should not provide these kinds of skills for American workers. That is really what this debate here this afternoon is all about. We recognize that we may very well have a need to increase this category in order to bring in some of those that have particular skills that might be important in terms of our American industry, and we can have a chance to go over the record on that particular issue. I think, quite frankly, it is a mixed issue. Nonetheless, given the evaluation of the information that is out there, I think we should take a temporary step. But beyond that, there is no reason why we should not develop the kinds of training programs and the kinds of initiatives to make sure, to the extent possible, that we are going to provide the skills to American workers so they can have the jobs, and not just have a more open-ended immigration policy in these categories for foreign-trained workers. That really is an important part of this debate.

A second very important part of this debate is how we are going to treat the American workers. We find that at least we will have a chance, probably, to go into this in some detail, and that there is at least a record out there that a number of these individuals come into this country, and they know that if they have their job terminated, they are effectively deported; they can't retain their green card. There is some evidence that these individuals have displaced American workers who were holding those jobs.

Then, subsequently, there has been an adverse impact on the wages of those workers who are virtually handcuffed, so-to-speak, and trying to complain about it, because if they complain, they are shipped back overseas. We want to make sure that, one, as a great Nation that has the capacity to train our workers, we are going to provide skills for those workers. For every worker that goes into the job market today, they are going to have seven different jobs. Under the excellence bill, which was passed just over a week ago by the leadership of Senators DEWINE, JEFFORDS, and WELLSTONE, we have tried to bring our training programs up to the demands of the turn of the century, so that Americans are going to have a continuing possibility for upgrading their skills. They are going to need that.

We as a nation should make sure that those kinds of opportunities for self-improvement are going to be available to working families in this country. That is very, very important, I believe.

The Senate went on record a week ago with a very strong bipartisan vote to do just that. We don't want to carve out an area. We don't want to say we will train Americans for some jobs but we are not going to train them for the computer jobs in this Nation. That makes no sense. That virtually turns our back on what we committed to American working families just a week ago. We shouldn't carve this area out and say, "We are not going to provide that." That is why we have been working with our friend and colleague, the Senator from Michigan, to try to address that. I think we have seen some important movement on this issue. I certainly appreciate his understanding of that importance. We are trying to work out an approach on that. That is going to meet some of the concerns that he and others have.

But a second important point is that we don't want to say to American workers who are working in the computer industry now, to have their boss come up to them and say, "You are fired because we have someone else who will replace you at the same wage." That is legal in America today. Any of these large companies can bring in the temporary workers having met some rather fundamental kinds of requirements and just displace Americans. I think that is wrong. I think that is absolutely and fundamentally wrong. We will have an amendment to try to address that issue.

Second, we want to make sure that there is going to be at least an effort, some effort. All we are talking about in this case is an attestation; we are saying to the employer that you attest that you have made an effort to try to hire an American worker. What we are saying is we are not setting up any type of rule or regulation. We are saying whatever the industry requires, whatever the pattern is in the particular industry. So if a particular industry is just publishing something on the Internet, e-mail, whatever, that is sufficient in terms of meeting that requirement. Whatever the industry does, we say that is fine. All the company has to do is just say OK, we have done that. That is all. That is the total amount of paperwork. But what we are trying to do is say that we are going to give some priority to American workers. The company is just going to have to follow whatever the industry does in recruiting, is going to have to do so with regard to these workers. I think that is very important. We don't want to displace American workers, and we want to make sure that an American worker who has those kinds of skills is going to be able to get that job. Those aren't, I don't think, very radical kinds of concepts if we are talking about what we are interested in—looking after American workers' families.

What are these jobs? When you come down to it, we will probably come back to revisit this issue a little later in the debate. But, according to Department of Labor figures, from 1997 on the H–1B jobs, on the certification of what these jobs are, and what they pay, this chart is an indication of what the pay is for these particular jobs. If you look at this particular chart, Mr. President, you will see that 76 percent of these jobs are from $25,000 to $50,000 a year. These are good jobs. It is difficult for me to believe that we cannot develop training and education programs so that American workers can get those particular jobs. Those are good jobs for working families. We are not prepared to say that we are going to turn our back on Americans for these kinds of jobs.

Another 16 percent go from $50,000 to $75,000. Those are good jobs, too. What you are talking about here is that more than 5 percent of those are below $75,000.

Then you have these in the smaller group, approximately 5 percent, that are in excess of that $75,000. Those are represented by those, I think, that we call the "Best and the Brightest" in this category. We said they don't have to go and have an attestation or requirement in terms of seeking alternatives for those individuals who are going to universities or doing research. They don't have to go through even these very preliminary steps. What we are trying to do is to say for the basic jobs that are in these categories that fall roughly in $75,000 or less that they should not displace American workers and that American workers ought to get the first crack at it. That is basically what the amendment I will be offering later this afternoon calls for, and what we, I believe, should bring to our attention.

Mr. President, it matters to U.S. high-tech companies that want more visas. But it also matters to workers who are laid off by unscrupulous employers and replaced by foreign workers. It matters to middle-aged computer programmers who work hard to keep up their skills but are laid off in favor of younger workers who will work longer hours at cheaper pay. And it matters to working families who would love to get one of these jobs and make $30,000, $40,000, or $50,000 a year. Many of the workers who come in under the H–1B visa program are obviously talented. We should put out the welcome mat for accomplished people who have unique skills to improve our economy and create jobs, but accomplished workers represent only a fraction of the foreign workers who come to the United States under the H–1B program.

I have indicated that more than 75,000 would be about 5 percent. We might even stretch it to up to 20 percent. Most of those who are coming into this program are lower-level computer programmers. Many are physical therapists, occupational therapists, nurses, and 80 percent are paid less than $50,000, as I referred to. These are good jobs, and the working families of America should get the first crack at them.

The bill before us does little or nothing to enhance the accountability and enforcement of the H–1B visa program. Some say the current program is satisfactory. They cite the low number of violators found by the Labor Department as evidence that the terms of the program are widely observed. But the reason so few violations are discovered is that the Labor Department's hands are tied. The Department cannot intervene unless a complaint is filed. And few workers dare complain. As I mentioned before, if they complain, they are shipped overseas and they are gone. No matter how poorly they are being trained and how overworked they are being worked, if they complain about that part and get fired, they lose their green card, and it is back to their country of origin. That has to be, and it is, an important factor. The fact that we have not had the complaints is because to do so would jeopardize their immigration status. So they either accept the abuses or change employers. But they don't complain.

We know there are serious problems. This is the issue. Two years ago, the Labor Department's inspector general completed the largest study of the program. That is the basic program, the fundamental, the temporary worker program, which is the issue that we are talking about here today. They reviewed some 720 cases in 12 States. The results were appalling. In 75 percent of the cases, the inspector general could not even tell from the employer's records whether the employer paid the H–1B foreign worker the proper wage. If those are good documents on what they paid, 19 percent of the employers paid less than the wage that they had promised on their applications.

Any bill that the Congress sends to the President must remedy this problem. The Labor Department should have the same authority to enforce the rules under this program as they have to enforce workplace standards and the minimum wage, and they should have the same authority that the Immigration and Naturalization Service has to ensure that employers do not hire illegal immigrant workers. That means giving the Labor Department authority to enforce the rule where there is reasonable cause to believe that they have been broken.

We permit the enforcement. If we do not have enforcement, we have abuses. Your rights are diminished if you do not have the ability to have a remedy. That is just basic fact. We don't have to spend the time on the floor to really debate that issue. Unless we are going to have that kind of protection, you are going to have the kind of abuses that have taken place and continue to take place.

Stephen Schultz is an engineer who was laid off from his job in Modesto, CA.

He was then asked to come back to his company on a temporary basis in order to train his foreign replacement. There was nothing Mr. Schultz could do about it. He was laid off and replaced by a foreign worker. To add insult to injury, he was asked to train his foreign replacement. Can you imagine that, Mr. President. Here is the person who is laid off. The company hires someone from overseas, brings them over here, puts them in that job and then hires the worker that had been working there, I believe in this case 5 to 7 years he had been working there, to train that worker to fill that person's job. That was happening. That was happening. Now, that is absolutely and fundamentally wrong, and we do not want to permit, as we are seeing in the expansion of this program, those kinds of practices.

I commend Senator ABRAHAM for recognizing the problem, but unfortunately the antilayoff provisions in the bill, I believe, are inadequate. They apply only in a very limited circumstance. The employers who lay off U.S. workers and replace them with foreign workers can be penalized under this bill only if they break the law first. Only if they break the law first. Under this bill, you can lay off American workers and replace them with foreign workers as long as you don't underpay them or use them as strikebreakers or commit some other violation first. We should require employers to state that they have been unable to find qualified workers in this country before they apply for workers from abroad.

Now, a high-tech facility in New Mexico announced a hiring freeze and refused to accept job applications, but at the same time they brought in 53 foreign workers under the H–1B visa program. Alan Ezer, a 45-year-old computer programmer with 10 years of experience in the field, has kept his skills up to date. He was willing to take a cut in pay to stay in the industry. After he was laid off, he sent out 150 résumés. He got one job interview and no job offers. Rose Marie Roo is an experienced computer programmer. When no one would hire her to do computer work, she and her husband opened a bed and breakfast in Florida. Peter Van Horn, age 31, with a masters degree in computer science, lives in California. Employers won't hire him either. The list goes on and on.

Many of the Nation's high-tech firms are blatantly turning away qualified U.S. workers while appealing to Congress for more foreign workers. Not all but some. And those are the ones that need the attention. It is that kind of injustice these amendments which I will be introducing focus on. So this, too, must change. Employers should be required to state that they have made an effort to recruit in this country first. Some argue that if we impose these new requirements, the program will bog down in redtape. They say employers will have to wait too long to get their workers from abroad.

Our solution, as I mentioned, is very simple. Employers must simply state on one sheet of paper they have laid someone off and that they have been unable to locate workers in this country. That is all. If you are concerned about redtape, then look at what the bill does. It transfers the program to the most overwhelmed and most backlogged agency in the Federal Government, the Immigration and Naturalization Service. It takes a year for American citizens to bring spouses or children here. That is supposedly our highest immigration priority, uniting citizens with their families, but it takes years just to process the paperwork to bring these families together. After individuals actually qualify for citizenship, it takes 2 years or even longer for them to have the forms completed.

So we have an opportunity today to pass legislation that responds to the needs of the high-growth high-tech industry and our workers. We should increase the quota temporarily. We must provide our workers with the training they need to assure them that our immigration programs do not unfairly disadvantage them as they compete for the new jobs.

Now, Mr. President, I will make some comments with regard to both of these amendments and then we can have some discussion. I will offer them with the understanding of the chairman so that we can move this process.

Before going further, Mr. President, on the recruitment amendment, I know that Senator ABRAHAM has announced the endorsement of this bill by certain groups. I have here in my hand 150 letters from American workers who are opposed to the bill. They are computer programmers and computer engineers who want a shot at these jobs. These are American workers. We believe they ought to be listened to.

I might just selectively insert some of these letters, not to unduly burden the CONGRESSIONAL RECORD, but we have more than 150 and scores more back at the office. I will introduce a select group to be able to reflect the concern that these American workers have about this particular bill.

It is interesting, Mr. President, when we were looking at what the needs were and we heard a good deal of testimony from different groups that one of the things that was pointed out by the General Accounting Office was the salaries in these particular areas have not increased effectively over time. At least some of the economists in the General Accounting Office found that sort of interesting because, generally speaking, when there is a greater demand for these kinds of skills, the salaries all go up. If you want to recruit people, with supply and demand, the salaries are going to increase, but they did not find that increase in the salaries. They sort of stayed standard in terms of other skilled occupations. That is where they had drawn some concerns about the legislation.

Now, Mr. President, I would I ask unanimous consent that the time I now use be allocated to the recruitment amendment, if there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I will just reserve the other time for general debate, if I could. And then I could stop and put that in. But I think this is OK with the chairman, or if the Senator wants to make some comments.

Mr. ABRAHAM. Actually, I was about to yield to Senator BROWNBACK. I think he would like to speak when the Senator is finished.

Mr. KENNEDY. Yes. I will just make some brief comments here and then I will yield.

My amendment says that before employers can bring in foreign workers under the H-1B visa program, they must attest that they have tried to hire U.S. workers first.

These are good well-paying jobs created by the high-tech American economy. My amendment assures that U.S. workers will get first crack at these jobs. If employers cannot find U.S. workers who are ready, able, and willing to do the job, then—and only then—should foreign workers be available. Employers should be required to recruit in Boston, Detroit, and Los Angeles before they recruit in other countries.

We hear a great deal about the impressive contributions of foreign workers to our economy. We should welcome outstanding workers who are exceptional in their fields and have impressive track records of accomplishment. In fact, my amendment rolls out the red carpet for such workers.

It exempts universities and non-profit research institutions from this requirement. The researchers they bring in from abroad under this program help to train college students for the future. There is no significant evidence of abuses in their recruitment.

But 80 percent of the applications received under the visa program are for jobs paying $50,000 or less. Half the applications are for computer programmers, most of them at lower levels. A quarter of the applications are for health care workers, particularly physical therapists. Other applications are for teachers, accountants, dietitians, piano tuners, drafters, realtors, construction workers, and many others.

Many of these workers are in the early stages of their careers. As the Republican views in the Committee report on this bill correctly note, "many H-1Bs are foreign students recruited off U.S. college campuses." U.S. workers should have first priority for these jobs.

In fact, American college students are specializing in computer studies in growing numbers. According to the Computer Research Association, the number of college students majoring in computer science increased by 91 percent from 1995 to 1997. My amendment will assure that when they graduate, they will not have to worry that they must compete with foreign workers for U.S. jobs.

Some argue that this amendment creates unnecessary additional paperwork. In fact, the amendment requires only that employers attest—on a simple, one-page H-1B application form—that they have tried to recruit U.S. workers for the job and failed. They are required only to use recruitment procedures that are common for the industry.

If the standard practice among computer companies is to post the job on the internet for five days, that's all they have to do to satisfy this requirement.

The Labor Department does not investigate the application in advance of the foreign worker coming here. In fact, the Labor Department is required to act on the application within seven days. So all the employer would do, under my amendment, is complete the one-page form. Nothing more.

Most high-tech companies should have no problem meeting this simple requirement. They say they recruit in the U.S. constantly and still have hundreds of openings.

All they have to do is check the box on the form, and send it in.

The problem is that many American workers have applied for high-tech jobs, only to be turned away.

Peter Van Horn is a 31-year-old from Mountain View, California. He has a master's degree in computer science. He is an expert in computer graphics. But he can't get a job in his field.

Bard-Alan Finlan is a computer engineer in his 40s. He knows the latest computer languages. He's received one interview in a year and a half, and still no job.

Kurt Granzen is an electronics worker. He was laid off from a Silicon Valley firm after it started hiring H-1B workers. He has been unable to find a job in his field for the past four years, after hundreds of interviews.

These well-trained U.S. workers deserve to know that we will not allow employers to bring in foreign workers before they have a fair opportunity to fill these jobs.

I urge my colleagues to support this important amendment.

I see other colleagues who desire to speak so I will withhold at this time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, I yield up to 5 minutes to the Senator from Kansas at this time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I appreciate the Senator from Michigan yielding time to me to speak on this very important amendment. I have been listening to the earlier debate about the ability of U.S. workers to get these jobs versus workers coming in from overseas. I think the critical point that maybe is not being clearly put forward on this is what we are talking about here is being able to keep U.S. businesses in the United States, and, thus, access to these jobs dominantly by—indeed, in many cases exclusively—by U.S. workers. We are trying to keep the businesses here. Many of these businesses could easily and rapidly move overseas, particularly ones in developing computer software and programming. That is something they could rapidly and easily move overseas. We want those jobs here so our workers have access to them.

What we are talking about in the amendment put forward by the Senator from Michigan, Senator ABRAHAM, is a present crunch that we have getting some workers into some of these jobs. This seriously needed legislation will raise the visa cap for professional workers from the present maximum of 65,000 to an additional 30,000 visas for 1998 with a 5-year sunset for additional H-1B visas. A failure to act would be a blow to many American companies, which are striving to obtain these workers at this immediate need and juncture in a very highly competitive marketplace. Without the visa increase, they will be denied the ability to secure workers central to their immediate needs.

I agree, we need to offer benefits and help more and make sure that U.S. workers have the greatest access, and they should. What we have is an immediate problem, and we don't want these businesses moving overseas. The legislation seeks to address this problem.

There is an immediate, severe, technical worker shortage in America which can only be met by this legislation. It is reported by the INS that by early May the present cap of 65,000 will have already been reached—already reached. This means that American businesses will be entirely foreclosed for over half a year from obtaining some of the highly skilled professional workers that they need under this option for immediate need—immediate work and immediate help—rather than moving these businesses overseas to be able to access those workers.

This legislation will help to maintain America's competitive edge in the global marketplace. It will encourage—not hurt—American business growth and, thus, job creation in the United States, which is presently at an extraordinarily high level. It will enable technical businesses to retain the workers required to develop their products in a highly competitive market. It will empower companies to maintain timely production schedules.

Companies from throughout the country say that they must have this additional ability to hire needed workers to be able to remain in the United States. This is especially true for high-tech industries across America which specialize in computer-related products. This industry is extremely time sensitive, requiring speedy product development and production. For example, computer software is frequently developed in 6-month cycles. Failing to deliver within these time frames because of technical worker shortages can severely compromise a company's competitive edge. One observer of the current system said:

> Critical projects will be abandoned or put on hold—at the cost of many more American

jobs. This can be disastrous for our industries with short product cycles that are trying to compete against fierce global competitors.

Who supports the legislation? Businesses, universities and ethnic organizations, all back this effort, as well as workers concerned that their companies might be forced to move offshore.

Speaking of that subject, the New York Times recently wrote this:

> If U.S. companies are told to put up "No Vacancy" signs, they are inevitably going to move more operations overseas, and that will spur more innovation, wealth creation, and jobs over there. By contrast, this legislation helps to encourage companies to stay within American shores and keep jobs here in America, and growth taking place here in America.

At this time of economic growth, our Government must be sensitive to respond to needs as they arise in the marketplace. This legislation is a sensible response to a legitimate problem, and represents that American Government is a partner to encouraging, not discouraging, growth, job creation, retention of jobs, and prosperity in America.

Mr. President, I yield the floor and commend Senator ABRAHAM for sponsoring this important legislation, needed for American jobs to be able to stay in America. I urge my colleagues to support it. I yield the time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself such time as I might use on my other amendment called the layoff amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, under this amendment, employers cannot lay off American workers and then import foreign workers to fill the same jobs. Believe it or not, it is perfectly legal today for an employer to lay off qualified American workers and replace them with foreign workers under the H-IB program, and unscrupulous employers have taken advantage of this loophole in the law.

In recent weeks, we have seen announcements of layoffs from many of the biggest U.S. companies, and many of these companies have asked Congress to increase immigration quotas so they can bring in more workers from abroad. We owe it to those laid-off U.S. workers to make sure their employers do not bring in foreign workers to fill their jobs.

On April 13, the Wall Street Journal reported:

> The past couple of weeks have seen a steady drum beat of layoff announcements in industry sectors that until recently have complained about personnel shortages.

The article included a long list of high-tech computer companies laying off thousands of workers. For example, on April 13, Intel Corporation announced plans to cut 3,000 jobs. Earlier in the month, Compaq Computer announced that it plans to lay off 15,000 workers as part of its merger with Digital, and the list goes on. Not all of these lost jobs are the same jobs that would be filled with foreign workers under the H-1B visa program. But we must be certain that no employer turns around and brings in a H-1B worker to fill a job from which American workers were laid off.

Stephen Schultz of Modesto, CA, an engineer, was laid off in November of last year. While he was looking for a new job, his former company called him back to train the foreign worker they had brought in to replace him. Mr. Schultz filed a complaint with the Department of Labor, complaining that he had been laid off and displaced by the foreign worker, but this offensive practice is currently legal under the current law. There is nothing the Labor Department can do about it. And that is plain, fundamentally wrong. This amendment addresses that injustice.

My amendment would give those laid-off workers a fighting chance. It says, "You have just been laid off. You are trying to feed your family. You are struggling to find a new job. So we will not compound your suffering by letting your former employer bring in a foreign worker to replace you."

As I mentioned earlier, I commend Senator ABRAHAM for acknowledging the problem. But, as I mentioned, the layoff protections in the pending legislation, I think, do not do the job. They offer little help to working Americans who lose their jobs in today's changing labor market. But under this bill, employers don't have to promise that they have not—and will not—lay off U.S. workers as a condition of their participation in the program. Under this bill, the only time that an employer can be penalized for replacing U.S. workers with foreign workers is if the employer also violates other requirements of the H-1B program.

That is under the Abraham proposal. It is not bad enough for an employer to lay off U.S. workers, but then they replace them with foreign workers. The employer has to underpay them to have some other violation of the law before the Labor Department can act. We believe that we should not displace American workers with foreign workers who are doing the same job—and we have language which effectively is the same in both bills; ours has a different triggering mechanism—we believe that we should not displace Americans with foreign workers who are doing the same job. That is what my amendment will do with regard to the layoff proposals.

Under the current bill, the engineer that I mentioned who was laid off in Modesto would have a case only if the employer who laid him off violated some other requirement of the program. He could be laid off, so to speak, as I understand the Abraham proposal, and they could hire another worker for his identical job, pay him less and, as in this particular case, if this person who was laid off wanted to, he could come back and train his replacement, and that American worker would virtually have no cause of action.

Under the current bill, an employer can lay off 1,000 American workers and bring in 1,000 H-1B workers to replace them as long as the employer pays them the same wage, and it is OK. Some argue that employers are unlikely to go through the effort to lay off an American to replace with a foreign worker. They cite studies to suggest foreign workers are actually paid higher wages than their American counterparts. If that is the case, then the employer should have no problem attesting, as a condition of their participation in the visa program, that they have not and will not lay off U.S. workers.

The fact is, employers do lay off American workers and replace them with foreign workers. That happens to be the information that we have. They want foreign workers because such workers are less likely to complain if their hours are extended and their working conditions are not as good. The Labor Department inspector general found that 75 percent of employers in the program could not even document that the wage they paid the foreign worker was the proper prevailing wage, and unscrupulous U.S. employers also want foreign workers because they are less likely to protest long hours and harsh working conditions. If they do, they know they may lose their jobs and have to leave the country.

An American software developer called my office recently and asked to remain anonymous for fear of reprisal by his employer. He spoke of how the high-tech firms are abusing their foreign workers. He said, "I had a good talk with an H-1B worker. He told me he was so anxious to work in this country that he would accept any salary. Even a pitifully low salary by our standards was high in his country. He has been here for 6 months and working 80-plus hours a week. The company knows they can pick up a well-educated foreign worker who will work many more hours for half as much salary. I have seen this, en masse, first hand."

The unscrupulous employers who engage in these flagrant abuses put honest employers at a severe competitive disadvantage.

Mr. President, what happens is, the American worker is displaced and that impacts that American worker. But if they get some foreign workers and then work them harder and longer, they have a competitive advantage over a company that just has American workers, and that threatens those

American workers. The other company that has foreign workers is competing with the company that has American workers, and they are not meeting their responsibilities.

All we are trying to do is make sure that all play the game by the same rules by which so many companies are willing to play. We want to make sure we are not creating abuses, which have been recognized in the past, and we want to make sure that, since we are expanding this program, we are going to give American workers first shot; we are not going to displace American workers, and we are going to give them the first shot at those jobs. Also, we are going to work out a training program over the period of this legislation so that at the end of the 5 years, we will have in place a training mechanism so that these jobs—the 80 percent which go to families earning less than $75,000, good jobs—will be going to Americans because they are going to have the training to do so. That is effectively what we are saying, Mr. President.

We need to address the abuses. We need to protect the workers. We should outlaw the abuses to protect the vast majority of American employers who play by the rules. We are protecting the American businessmen who are playing by the rules. They are playing by the rules because they are paying a fair salary for these computer experts and they are respecting them for their working conditions and are out there competing fair and square, while someone who is unscrupulous brings in the foreign worker in these circumstances and, in too many circumstances, displaces the American worker and has that worker working longer hours and under more difficult conditions. You have one worker who has already lost his or her job, and if you get several workers, they are going to be able to compete on an uneven playing ground with the American firm.

All we are saying is, No. 1, you can't displace an American worker with a foreign worker; No. 2, you have to at least attest that you have made a reasonable effort to hire an American worker; and, No. 3, we are going to work out the training program so that at the end of this program, in a period of years, we are going to have sufficient training so that Americans are going to be qualified to get those jobs, which are good jobs. That is what this issue is really about, Mr. President.

I did not want to leave the impression, but in my earlier comments, on which my staff has corrected me, if the foreign worker is paid less than Abraham, then the Abraham layoff does kick in, assuming a worker complains.

My point is, under Abraham, they can lay someone off as long as they meet the other rules of the program. They can still lay off the American worker. They see a layoff as a freebie, a free ride for employers who want to bring in the foreign workers.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBERTS). The time will run against the bill or the amendment. Will the Senator indicate his preference in regard to time?

Mr. KENNEDY. Time on the amendment. How much time remains on the amendment?

The PRESIDING OFFICER. The Senator has 11 minutes remaining on the layoff amendment.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I want to make a quick inquiry. Are we on an amendment at this point or are we on the bill generally?

The PRESIDING OFFICER. Technically, we are still on the bill.

AMENDMENT NO. 2412

(Purpose: To amend the Immigration and Nationality Act to provide for special immigrant status for NATO civilian employees in the same manner as for employees of international organizations)

Mr. ABRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM] for Mr. WARNER, for himself and Mr. ROBB, proposes an amendment numbered 2412.

Mr. ABRAHAM. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.

(a) IN GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking "or" at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

"(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

"(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO–6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

"(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness Act.".

(b) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) of such Act (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)(i)", and

(2) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)".

Mr. ABRAHAM. Mr. President, this amendment, which I am offering on behalf of the Senator from Virginia, Senator WARNER, would seek to grant permanent legal status, resident status to individuals who are stationed in the United States in conjunction with their responsibilities as part of NATO. I believe the amendment has been cleared on both sides. And so I hope that we can move rapidly to pass the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have no objection to it and urge the support for it, as we do the same, as I understand, with regard to United Nations personnel. This would provide a sense of equity in both of those areas. It seems to make sense.

The PRESIDING OFFICER. Is there any further debate on the amendment? If not, the question is on agreeing to the amendment No. 2412.

The amendment (No. 2412) was agreed to.

Mr. ABRAHAM. I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2413

(Purpose: To provide whistleblower protection to foreign H–1B workers who file successful complaints against employers for violations of the H–1B program)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2413.

Mr. KENNEDY. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, after line 16, insert the following:

SEC. . WHISTLEBLOWER PROTECTION.

Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by section 5 of this Act, is further amended—

(1) in subparagraph (C), by inserting ", or that the employer has intimidated, discharged, or otherwise retaliated against any person because that person has asserted a right or has cooperated in an investigation under this paragraph" after "a material fact in an application"; and

(2) by adding at the end the following new subparagraph:

"(F) Any alien admitted to the United States as a nonimmigrant described in section 101(a)(15)(H)(i)(b), who files a complaint pursuant to subparagraph (A) and is otherwise eligible to remain and work in the United States, shall be allowed to seek other employment in the United States for the duration of the alien's authorized admission, if—

"(i) the Secretary finds a failure by the employer to meet the conditions described in subparagraph (C), and

"(ii) the alien notifies the Immigration and Naturalization Service of the name and address of his new employer.".

Mr. KENNEDY. Mr. President, currently the Labor Department can investigate violations under the H–1B program only if a complaint has been filed by an aggrieved party. The complaint can be filed by a temporary foreign H–1B worker, and affected American workers. Few complaints are filed because workers are afraid of retaliation. And the H–1B workers are afraid if they complain, they could lose their jobs and then have to leave the country. American workers are afraid they will be blackballed in the industry if they complain.

So this amendment offers them the whistle-blower protection, and it penalizes employers if they retaliate against a whistleblower. So whether the whistleblowers are H–1B workers or affected American workers, the employer cannot retaliate against them.

In addition, under my amendment workers who filed a successful complaint against an employer can switch jobs if they wish and still remain in the United States for the duration of their visa. They just have to let the INS know their new address.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I compliment the Senator from Massachusetts on this amendment. I think it addresses a large part of the concern that he previously registered with respect to the way the program functions.

As I will indicate as we continue this debate this afternoon, it is not the intent of either this Senator or those of us who cosponsor the American Competitiveness Act to put any American worker at a disadvantage. We believe the protections that are already in place in this legislation—both in the existing laws as well as in my bill—will protect American workers.

Basically, you cannot bring a foreign worker in for lower pay and replace an American worker with that individual. If you do, you are violating the law. The Senator from Massachusetts earlier raised the concern that no one will complain because the H–1B visa holder, the foreign worker, will be afraid of consequences if they do so.

In my judgment, this whistle-blower provision will allay any such concerns. I think it ties nicely into the protections which we have built into S. 1723, the protections that come in the form of very severe penalties for anyone who willfully violates the law with respect to bringing in an H–1B employee.

So for that reason I am comfortable with and supportive of this amendment. We worked closely with Senator KENNEDY's staff on the crafting of the amendment, and I think it has been done in a way that effectively supplements what is already in place.

But let me, as long as we are on this, just briefly talk about this whole system. In his earlier statement with respect to his amendment, the Senator from Massachusetts expressed concern that no one would bring a complaint, that the complaint-driven system that currently exists is one which masquerades many violations. I do not believe it does. I think that complaints are very likely to occur under the current system simply because competitors could bring the complaints.

The salaries with which foreign workers are paid must be posted, not only posted at the job site, but at secondary sites and at the Department of Labor. If somebody believes that someone is gaining an unfair advantage by bringing in cheaper labor, they can complain as well. It does not necessarily have to be the foreign worker who brings the complaint; it can be a coworker who is mad because they see the foreign worker is coming in and driving his friends out of a job, or it can be a competitor.

It is possible, I suppose, although we do not have any documental evidence to this, that someone might be intimidated about bringing such complaints. For that reason, I think the whistle-blower provision is an effective way to address this one area that might be a loose end. I think it tightens up the process in such a way that we can have the confidence in a complaint-driven system necessary to maintain that system as it is working. And it is working effectively.

As I said earlier, as I will be saying in further debate on these amendments, in the entire history of this program there have only been eight willful violations in 8 years—one per year. And only one of those involved a situation where an employee was laid off.

We have heard descriptions of several of those, I think, already in the comments of the Senator from Massachusetts. Indeed, because there are so few, we have already heard about several of those instances on more than one occasion here today. They are wrong. They were punished. I think they should have been punished even more severely. I do not think they should bring a foreign worker in the United States, pay them a lower salary than you are paying an existing worker, and lay somebody off. I think if you do that, you ought to suffer stiff consequences, and our legislation administers those stiff consequences.

To the extent someone might have failed to raise a concern or a complaint because of fear of reprisal, I think Senator KENNEDY's amendment, which I am prepared to support at this time, closes that loophole as well and I think puts in place a system that can and should work effectively.

So, for that reason, I support the amendment. And I think we can move forward to adopt it here presently.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment No. 2413 offered by the Senator from Massachusetts.

The amendment (No. 2413) was agreed to.

Mr. HAGEL. Mr. President, I rise today to express my strong support for the American Competitiveness Act, of which I am a cosponsor.

The American Competitiveness Act is important to the American economy and to our Nation's high standing in a global economy. It will also have a positive and direct impact on promoting job creation and economic growth in Nebraska.

Mr. President, as the 21st Century quickly approaches, American companies, businesses and universities increasingly find themselves in a fiercely competitive global economy. Thus far, the United States has been able to succeed and benefit overwhelmingly from this increased "globalization."

However, our continued economic growth is being threatened by a shortage of highly skilled and internationally experienced workers, while companies around the U.S. have invested billions of dollars in educating and training employees, demand for qualified people continues to grow faster than the supply of available workers. This is particularly true in the area of information technology.

The shortage of workers with technical or computer-related skills is a real concern to Nebraska. My colleagues may not realize that Nebraska currently has an unemployment rate of 1.6%, which is the lowest rate in the country. While this is very good news, it also presents a challenge for many of Nebraska's employers.

Employers in Nebraska have told me over and over again that the state is unable to meet their increased demand for labor, particularly high-skilled labor. In fact, the Greater Omaha Chamber of Commerce estimates there are currently 1,500 to 2,000 job openings in the field of information technology in the Omaha area alone.

While the Chamber, other business community leaders, and the Nebraska state government, have been actively recruiting workers from within the state, across the country and around the world, they have not been able to produce enough skilled workers to keep pace with job growth.

The United States Senate can take an important step toward addressing this problem by passing the American Competitiveness Act. This legislation will immediately help America's companies and universities by raising the current ceiling on the number of foreign-born professionals we allow to work in the United States under the H–1B visa program. These temporary visas are used to attract the best and brightest minds from around the world to U.S. companies and universities, which helps them to compete in global markets.

We must also address our Nation's long term employment challenges by preparing more American students for the high technology, global workforce of tomorrow. Not enough of our students are being prepared, or preparing themselves, to excel in an increasingly high-tech economy.

The American Competitiveness Act takes steps to correct this situation by creating 20,000 scholarships annually for low-income American students to study math, engineering, and computer science. It also authorizes $10 million a year to train unemployed U.S. workers for jobs in the information technology industry.

I strongly urge my colleagues to support Senator ABRAHAM'S bill, which will keep American companies in this country, create and save American jobs and contribute to the growth of the economy. I urge my colleagues to support this bill because it will help ensure that America remains a great, industrious and rich nation both culturally and economically.

Mr. President, I ask unanimous consent that a letter sent to me by the Greater Omaha Chamber of Commerce in support of this legislation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GREATER OMAHA
CHAMBER OF COMMERCE,
Omaha, NE, May 8, 1998.

Senator CHUCK HAGEL,
U.S. Senate, Russell Office Building, Washington, DC.

DEAR SENATOR HAGEL: The Greater Omaha Chamber of Commerce has been working for several years on the challenge of Nebraska's shortage of skilled workers. We believe Senate bill 1723, known as the "American Competitiveness Act," will aid employers across the country in hiring the skilled workers needed to grow their businesses, especially in the information technology field. We are especially interested in the portion of the bill which increases the number of H–1B visas granted each year. At the current rate, the United States will reach the statutory quota on H–1B visas by the end of June, a full three months before the end of the fiscal year.

Currently, Omaha has approximately 1,200 H–1B visa holders employed in the metro area. There is room for considerable growth, and there are jobs to be filled. Omaha's unemployment rate is about 1.7%. It is one of the lowest in the nation and has consistently been so for the past several years. It is estimated the Omaha area currently has 1,500 to 2,000 job openings in the field of information technology.

The business community in Omaha has stepped up to the plate and is actively recruiting workers from across the country and around the world. Over the last four years, the Chamber has organized and attended numerous job fairs, initiated Internet recruiting and job posting programs, coordinated and funded national advertising campaigns and image marketing in an attempt to grow the size of our work force.

In addition to recruiting, Omaha has placed great emphasis on "growing our own." Omaha is a national leader in the School-to-Work arena and was one of the first six communities nationally to embrace and promote Work Keys, a work-based skills and job profiling assessment to better prepare our students for the work place. The University of Nebraska, with close to $50 million worth of private support, has established an innovative Institute which encompasses a new College of Information Science and Technology along with the inter-related engineering disciplines.

All of these efforts however, are not enough. The passage of Senate bill 1723 is imperative to the continued growth of the high-tech industry in Nebraska and the rest of the nation. It is reliably estimated that there are 346,000 computer related jobs vacant in the United States and that number will only increase in the coming years. Even with our best efforts nationwide, we will not produce sufficient qualified workers at a rate fast enough to keep pace with the job growth. By allowing greater numbers of skilled workers from other countries to fill available jobs in the United States, our employers will be better equipped to continue to fuel this country's and state's booming economy.

By not increasing the number of H–1B visas granted each year, the government is in effect encouraging United States businesses to enter an all-out civil war for the information technology workers we currently employ here. At a time when the United States is at an historically low rate of unemployment, it is unreasonable for the Federal Government to embrace a policy that in effect robs Peter to pay Paul.

On behalf of the Greater Omaha Chamber of Commerce, I again wish to reiterate our strong support for this legislation and urge immediate passage.

Sincerely,

C.R. "BOB" BELL,
President.

Mr. GRAMS. Mr. President, I rise to speak in support of S. 1723, the American Competitiveness Act introduced by Senator SPENCER ABRAHAM to increase the cap on H–1B visas to allow our companies to continue to compete.

We find ourselves in the midst of a booming American economy, now in its 87th month of the longest peacetime economic expansion experienced, and with the lowest inflation and unemployment (4.9%) in 25 years. However, we find that 350,000 information technology (IT) jobs nationwide are unfilled. As we speak, the ability to bring foreign nationals temporarily into the country on H–1B visas to fill those jobs has been halted as of Monday, May 11. As of last Friday, the 65,000 H–1B visa cap has been reached in this temporary immigrant category. New applications will be turned away and the information technology industry, as well as our universities and colleges will be harmed.

Minnesota companies affected by this cap have aggressively supported this legislation. 3M estimates its projected research effort will lack 80 technical employees for slots paying between $60,00 to $100,000. 3M had $15 billion in 1997 worldwide sales. Through the efforts of foreign nationals working in their research and development departments, 3M has been awarded 578 patents. We should continue to encourage this progress.

Cargill, another Minnesota-based company, has 10 to 15% of their technology department unstaffed—about 99 to 110 people with a starting salary of $44,000. They have not been able to meet their needs through local labor pools and universities. They have been forced to turn to temporary foreign nationals. Furthermore, they tell me they have a 15% turnover because of competition from other U.S. companies.

Honeywell has 7,500 Minnesota employees and does not hire a large number of H–1B nationals—only those of needed technical skills. However, these shortages affect the productivity of the whole company.

Even labor has agreed that there is a temporary need for this adjustment; that it may be warranted due to current market conditions and global demands. Education and training of the U.S. labor pool is being outstripped by racing technological advances and industry competition. The Department of Labor has projected the high tech industry will create 130,000 jobs each year for the foreseeable future.

This is at a time when the U.S. Chamber of Commerce tells us our domestic labor pool is shrinking. Baby boomers are leaving a 23 million people labor shortfall, and often it is difficult to replace them with employees who have the training and expertise to meet the needs of many highly technical areas.

Reports show fewer Americans seeking higher education are choosing the high tech fields of electrical engineering, computer science and mathematics. The number of Americans graduating with engineering degrees has declined 16% since 1985. Ironically, on the other hand, Mr. President, the United

States is educating a higher percentage of foreign nationals in these subjects—48% of PHDs are foreign, 22% of undergrads are foreign nationals, and 42% of Master of Sciences candidates are foreign nationals.

There is great global competition for all of these graduates. Japan, Germany, India and China are trying to lure them away with better deals and more benefits. However, the American life style and standard of living are a strong incentive in keeping them here.

Another sector affected by the H–1B cap is the university/college community. A great deal of research and development is carried on at U.S. schools of higher learning. Temporary visiting scholars and research fellows from abroad have extended our base and expanded our scope of understanding in many fields.

The University of Minnesota has written me asking for my strong support of this issue. Their ability to bring foreign scholars and high level faculty to their campus has raised their standards and strengthened their international stature. Their need has become even more critical since the cap has been reached, because they process 40% of their applications for these positions between May and September. They need help now.

However, I would like to point out, Mr. President, we do need to look for a more permanent solution to this problem. We cannot rely on foreign expertise forever. We need to educate our young people to fill these vacancies. I applaud the inclusion in S. 1723 of the training and scholarship incentives for educating our own information technology workers. 20,000 college scholarships a year will be made available to low-income students in math, engineering and computer science through the State Student Incentive Grant program. It will increase training for the unemployed and help people cross-train into these fields. After the bill expires in 5 years, I am hopeful the supply of permanent, skilled American workers will be sufficient to meet industry's needs.

This bill enhances the current H–1B visas by increasing the penalties five times and improving enforcement against willful offenders, although there have been few enforcement actions in the past.

S. 1723, also, provides no-layoff protection for American workers and prohibits underpayment of temporary foreign nationals. In an industry where starting salaries for these skilled workers are between $35,000 and $75,000, by law H–1Bs are to be paid the middle wage of the prevailing scale. This wage is posted at the work site and registered with the Labor Department.

Let me close, Mr. President, by saying that Minnesota companies such as Guidant, ADC Telecommunication, Ceridian (formerly Control Data), Imation (a 3M spin-off), Medtronic and the Carlson Companies should be able to fill their IT vacancies now with temporary foreign nationals without having to shift production off-shore. We need to keep jobs at home and benefit by the expertise and innovation brought to us by these global technicians. But more importantly, we need to review, upgrade and strengthen our U.S. educational system to the point where it can best serve our need for permanent talent driving the information technology explosion.

Mr. KENNEDY. Mr. President, I note that this bill contains authorization for programs that will assist in educating and training American workers for these positions. It is essential that we include education and training provisions within this bill, but I believe it is important that we go further.

In particular, I believe that employers who are using this program to fill short term needs should also contribute to programs that will educate and train American workers to fill these positions in the future. If we are going to increase the immigration quota, then I believe we have an obligation to assure American workers that they can get the training to compete for these good jobs.

So, Mr. President, I would hope that as this bill moves forward, we can continue to work together to secure funding for these programs as an integral component of this legislation, and in ways that assure that we are not taking away resources from other training programs to meet this need.

Mr. WELLSTONE. I am very pleased we could agree on language in the managers' amendment which authorizes new demonstration programs for technology skills training for American workers, provided that funding for such training does not diminish funding for existing federal job training programs. It is important that job-training provisions of this bill are consistent with extremely significant legislation we recently passed overwhelmingly to improve the federal workforce education and training system. I thank my colleagues for working with me to achieve that end.

Still, while many employers in this country are doing a great deal to educate and train technology workers, the clamor for a large increase in non-U.S. citizens to fill high-skill jobs here seems clearly to point to a lack both in those efforts and in our public job training system. Therefore I believe we also need to be sure that those who will benefit the most from any adjustment in immigrant policy will help us to address the underlying problem. We in the Senate cannot originate a revenue measure to fund the new training we authorize here. But it would be a serious mistake to enact a final bill that does not call on employers who have pushed for it and will benefit substantially from it to help pay for the new training authorized in the bill.

Mr. ABRAHAM. I, too, am committed to seeing to it that there is funding for these programs. As the Ranking Member knows, I believe that as far as the shortage of highly skilled workers is concerned, we have both a short term and a long term problem, and I believe these programs are an integral part of addressing our long term problem. I also believe the business community is already doing a great deal to help educate and train workers. That being said, I pledge to work with you, the other members of this body, the business community and other affected outside interests to seek ways to help fund these programs consistent with the principle you articulated.

Mr. SMITH of Oregon. Mr. President, as a cosponsor of S. 1723, I rise today to support the American Competitiveness Act.

Mr. President, the H–1B immigrant visa program is not the preferred avenue of hiring by our U.S. high tech companies. Hewlett-Packard, which is one of Oregon's largest high tech employers, currently employs more than 65,000 people in the United States and uses only 140 H–1B visas. Of these 140 H–1B visas, 17 of them have Ph.D. degrees and the remaining of them have at least an equivalency of a Masters degree.

Our American companies would prefer to invest in Americans and retain the current domestic workforce. These companies collectively already spend, and will continue to spend, billions of dollars each year on training and educating American workers. Notwithstanding the current workforce, they are unable to fill key personnel slots, and it is critical in order to remain competitive, that they have access, through the H–1B visas, to these foreign-born professionals.

According to the American Electronics Association, the U.S. electronics and information industry creates high-skilled, high value-added jobs. The rapid advances in computer technology have increased demand for trained specialists like computer engineers, computer systems analysis, database administrators, and computer support specialists.

Even the Bureau of Labor Statistics predicts that demand for these occupations will more than double by 2006. Oregon's largest employer in the state is Intel. And with more than 10,000 employees in Oregon, Intel's job growth has grown 167 percent since 1990, creating almost 40,000 jobs worldwide.

In this age of a global marketplace, it is imperative that American companies have access to a legal supply of skilled professionals in the United States so that they can continue to grow and expand in the United States.

Failure to increase the H–1B cap will create significant uncertainty about the U.S. government's commitment to enable American companies to compete and participate effectively in the global economy. These companies will be faced with the tough decisions to either stay in the U.S. without a sufficient number of highly skilled staff or possibly move their research and development facilities overseas.

Mr. President, the American Competitiveness Act raises the current cap for temporary foreign workers to 95,000 in fiscal year 1998 and contains a five-year sunset for the additional H-1B visas. While raising the temporary H-1B cap, the American Competitiveness Act also increases education and training in the high technology field for American citizens and establishes a data bank on the Internet that matches domestic applicants with available technology jobs.

Mr. President, I commend Senator ABRAHAM for his leadership on this issue and urge my colleagues to support the American Competitiveness Act.

Mr. WELLSTONE. Mr. President, there is little question that our country faces a skills shortage in industries with a concentration of workers who utilize high technology and information technologies. In Minnesota, we have very low unemployment in general, and Minnesota technology industry employers are having a hard time finding workers with the skills they need. The Minnesota Department of Economic Security released a study last week called "Beyond 2000: Information Technology Workers in Minnesota," which indicated that over 60 percent of information-technology employers in the state believe the shortage of qualified information technology workers is "moderately" or "extremely" serious. Representatives of the Minnesota High Tech Council have been in touch with my office. They believe that the provisions of the Abraham bill which raise the cap on the number of nonimmigrant workers allowed to come temporarily to work in the United States are necessary.

I agree that we want to make sure that immigration policy is consistent with our overall desire to remain the world's leader in high technology industries. The high tech sector is crucial in Minnesota. It is an engine of growth and a pillar of current very good economic performance by the state. I take seriously the argument that if the cap, which has been reached for this year, is not lifted, then a significant amount of U.S. high-tech business and a significant amount of jobs could actually be moved oversees.

At the same time, however, there are three areas of concern that I believe must be resolved in the bill before it merits support. First is the matter of job training for workers who are U.S. citizens. Much of the debate over the bill is focused on high tech workers. Clearly we would hope that when we are talking about good jobs—jobs that require significant information technology skills and which pay well—then we are making every effort to see to it that U.S. workers have a shot at those jobs. That means training.

As ranking member of the Labor Subcommittee on Employment and Training, I'm extremely pleased that we were able to complete and pass with an overwhelming vote recently a bill to reform the country's workforce training and education system. Still, even once that reform is enacted, following a conference with the House and passage of a conference report, I believe that the fact we are talking about a serious shortage of workers with technology skills indicates that our current federal job training system, even combined with the large amount of employer-sponsored education and training that is happening, remains inadequate. The skills shortage points to a failure in our efforts to educate and train.

I had intended to offer an amendment to improve the Abraham bill in this area. I am pleased, though, that we were able to agree to changes in the bill which first of all authorize new demonstration programs for technology skills training for American workers. That provision is in a managers' amendment, which it is my understanding will be accepted. The provision ensures that funding for that new training will not diminish funding for existing federal job training programs. It therefore is consistent with the workforce education and training reform we passed with such a large vote. It is crucial that a bill which aims to address a skills shortage in industries that have good jobs available take every step to make sure that our own citizens ultimately can become qualified for those jobs.

In my view, the new training authorized in the bill should be paid for largely with proceeds from a modest fee collected from employers for each application for the specialized visas. The Senate cannot technically originate a revenue measure to fund the new training we authorize here. But it is my hope that the House will include such a funding mechanism for new training of U.S. workers and that such a provision will be included in the conference bill. It would be a serious mistake to enact a bill that allows a large increase in the visas but does not call on those employers who will most benefit from the bill to help pay for the new training. I appreciate my colleagues' willingness to work with me on the provision that is included in the managers' amendment, and I appreciate as well the colloquy between Senators ABRAHAM, KENNEDY and myself indicating support from each of us for funding job training in this bill.

Mr. President, I also strongly support both amendments offered by my colleague Senator KENNEDY—one of the recruitment of U.S. workers for available high technology jobs and one regarding non-displacement of U.S. workers currently holding jobs in the information technology industry. They are moderate amendments and should be included in the bill.

Mr. ABRAHAM. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not run against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, at this time, I yield 10 minutes to the Senator from Arizona, Mr. McCAIN, to speak on the bill.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I rise today to express my strong support for S. 1723, the American Competitiveness Act, of which I am proud to be an original co-sponsor. Although it deals ostensibly with the visa cap on foreign-born high-tech workers, its effect would be far more profound—to enhance the competitiveness of the American economy at a time when U.S. companies, if given access to the necessary resources, are poised to dominate the Information Age for decades to come. As the representatives of the American people, we in Congress should do all we can to contribute to their potential for success in the global economy.

Mr. President, I want to say a special thanks to the Senator from Michigan, Senator ABRAHAM. Senator ABRAHAM brought this issue to the attention of my colleagues on both sides of the aisle a long time ago. It is a critical issue. It is far more important than it appears on its surface. As I mentioned earlier when we discussed this bill upon the contemplation of it coming before the Senate, the high-tech community, the "silicon valleys" all over America, are saying that they need to have skilled workers if we are going to maintain the dominance of this industry and remain competitive throughout the world.

The fact is that this piece of legislation is as important to our high-tech community as any that we will consider this year before the U.S. Senate. The taxing of the Internet is close. The issue of pornography on the Internet is close. But this issue of being able to have enough skilled workers to continue this incredible revolution going on in Silicon Valley, I believe, is of the utmost importance. The Senator from Michigan has led on this issue, and all of us are very grateful for his participation.

I might add that he had to go through some very delicate negotiations with the other side of the aisle in order to bring this issue to its conclusion.

I am convinced that the best thing government can do to advance the fortunes of the private sector is to stay out of its way. I support this bill because it makes progress toward that end while providing for the regulatory framework and new educational opportunities to protect and promote American workers. By raising the arbitrary cap on temporary immigrant visas for skilled foreign workers—a cap set in 1990, when the Democrats controlled Congress and the American economy was in recession—this legislation gets government out of the way of American companies, universities, and research labs which simply cannot hire the skilled professionals they need in the domestic labor market because of an arbitrary, anachronistic cap on H–1B visas that does not reflect the forces of supply and demand in the American economy today.

Opponents of this legislation surely cannot believe that government knows better than business what's best for business in America. We cannot and should not condemn American companies for wishing to remain competitive in the global marketplace. Indeed, we should encourage the companies that employ our citizens, contribute to our tax base, and produce the goods and services we consume daily to retain the competitive edge that has sustained them by whatever means are available within the law. If we do not consent to raising the cap on H–1B visas for skilled foreign workers, we will be handicapping the very American companies and their employees we profess to support as legislators empowered by the people to advance the public interest.

Critics having charged that this legislation subordinates the public interest to the private interests of American companies engaged in a vast conspiracy to hoodwink Congress and the American people so that they may replace American professionals with skilled foreign workers content with below-market salaries and no benefits.

Had these critics read our bill or spoken with those of us who support it, they would have had to devise new arguments against raising the H–1B cap by virtue of the emptiness of their own rhetoric. It is a fact that this legislation penalizes any employer which lays off an American worker in order to replace him with an H–1B visa holder and pays that individual anything less than the average prevailing wage in that line of work—a standard which often results in a higher salary than made by American entry-level workers. It is also a fact that the Department of Labor is empowered under the law to investigate and penalize willful abuse of the H–1B visa program and has done so repeatedly since the program began in 1990—a fact which disarms those militants who insist that there exist rampant fraud and abuse within the H–1B market.

This is not a debate about the facts, which are unambiguous. This is a debate about the way in which American society responds to the new challenges and opportunities offered by economic globalization and a knowledge-based economy. We can row with the tide or against it, but we will not have an equal prospect for success. Allowing more skilled professionals to enter the U.S. job market to fill jobs Americans are not filling will enhance the dynamism of the American economy by allowing it to more efficiently produce the goods and services demanded by the American consumer and those who buy American exports overseas.

Erecting barriers to the inflow of valuable human capital will not help American businesses, workers, or consumers. Businesses will suffer from the costs of a labor shortage which they are powerless to change in the short term. Workers will suffer when their companies lose the profits that would accrue from hiring the skilled workers that are unavailable. And consumers will pay higher prices for the goods and services which are available while going without those which are not. Everyone will lose as American companies shift production overseas to the sources of the specialized labor they cannot attract in the United States.

Mr. President, the Information Technology Association of America estimates that there are more than 346,000 unfilled positions for highly-skilled workers in American companies today.

A recent Department of Labor study estimates that the American economy will generate 1.3 million new jobs during each of the next 10 years in the computer and information-technology industries. The same study predicts that American universities will be able to supply only a quarter of the graduates needed to fill those jobs during that period. The Hudson Institute predicts that in a few years this worker shortage, if not addressed, will cause a five percent drop in the growth rate of the gross domestic product, which breaks down to a startling $200 billion loss in national output.

In the words of T.J. Rodgers, President and CEO of Cypress Semiconductor Corporation, "It takes two percent of Americans to feed us all, and five percent to make everything we need. Everything else will be service and information technology, and in that world humans and brains will be the key variable. Any country that would limit its brain power to single select group from that country alone is going to self-destruct."

I support this bill because I do not wish to encourage more U.S. companies to set up shop in India, Pakistan, Costa Rica, and other sources of skilled labor unavailable in sufficient quantities in the United States. I support this bill because I do not think a job is better going unfilled than going to an educated foreign national on a temporary visa to the United States. I support this bill because I believe the Information Age will be built upon a globalized market for people and technology, not upon barriers to the free flow of goods, services, and professional workers. I support this bill because I do not believe the endless advertisements for specialized labor at attractive salaries in the Employment section of the Sunday newspaper represent a conspiracy by Big Business to fool us all into thinking there really are jobs on offer in many of America's fastest-growing companies. I support this bill because I do not think the government is a better judge of the needs of American companies, universities, and laboratories than are the very companies, universities, and laboratories that have urged us to write this legislation.

Mr. President, I, for one, do not take the health of the American economy or the fabulous returns offered by Wall Street for granted. America prospers when we allow entrepreneurs, small businesses, companies, universities, and research labs to create wealth and knowledge. Government does not cause economic growth; hard-working people do. It is appalling to think that we would stand in the way of those who would temporarily come to our country to add their value to the economy by working in jobs Americans cannot and do not fill.

Over the long term, we must see to it that American workers possess the skills and know-how to fill the jobs created by American high-tech firms. For this reason, our legislation provides for 20,000 new college scholarships annually for low-income students in math, engineering, and computer science through the State Student Incentive Grant program. Our bill also sunsets the higher H–1B visa cap after five years so we can determine whether an increased supply of foreign professionals remains necessary to our economic well-being.

American unemployment levels stand at their lowest levels in over two decades. Americans are not responding to the "Wanted" ads in their local newspapers for high-tech and other skilled positions at U.S. companies, universities, and research centers. Company recruiters are hounding college students—on campus, in the libraries, *even at the beach* during Spring Break—to sign on to lucrative contracts with American firms.

Mr. President, we simply cannot afford to allow this desperate trend to continue. The 65,000-person cap on H–1B workers for Fiscal Year 1998 was reached last week. American companies cannot meet their hiring needs until the new Fiscal Year begins on October 1 unless Congress acts now. Should we fail to do so, we will all pay the price imposed by our shortsightedness. The Information Age and the global marketplace are a reality which we neglect at our peril when we refuse to provide the regulatory framework within which the American economy can thrive and Americans can prosper. The American Competitiveness Act deserves our support.

Mr. President, in addition, this is the last of several bills that we call high-tech bills. I think it is the most important one. I hope that we in the Senate recognize that we need to enact further legislation to help high-tech industries in America.

What has happened is remarkable. What has happened is fragile. And what has happened deserves our attention and support as we provide an enormous growth in opportunity, growth in the way of economy and opportunity to provide knowledge to all Americans and all citizens of the world in the most unprecedented fashion; in fact, the most remarkable changes taking place in the world since the industrial revolution.

I appreciate the cognizance by the Senator from Michigan of this fact and his responsibility for this important legislation.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Mr. President, I would like to thank the Senator from Arizona for his support of this legislation. He has been a great ally with regard to not only this bill but, as the Presiding Officer knows, a variety of other similar legislation to make America more competitive. I thank him for having helped me to move the legislation to the floor today. He has been a great friend and ally on this.

I now yield up to 10 minutes to the Senator from Washington to speak with respect to the legislation.

The PRESIDING OFFICER. The distinguished Senator from Washington is recognized.

Mr. GORTON. Mr. President, this debate on the bill of the Senator from Arizona and his opponents, or those who would significantly change it and limit it, is a debate between optimists and pessimists about the American condition. Senator ABRAHAM's proposal stems from the proposition that we are in a society so dynamic, changing so rapidly, with so many new technologies on each and every day, that we can do nothing but benefit by recruiting into that economy the most highly skilled people from dozens of nations around the world who seek to make their contribution to humanity as a part of the United States of America as against the nations from which they come, hobbled by societal and governmental restrictions. A large number of the men and women on whom this battle is being waged have been educated here in the United States and have already begun to become a part of our culture. It is the theory of this bill, a theory borne out by the experience of H-1B so far, that not only are these men and women who seek to become Americans contributing to their own well-being and to the progress of our society but are, in fact, creating jobs for others.

The opponents of this bill, those who would restrict it, those who would tie it by all kinds of restrictions so as to make it impracticable for most of the high-tech companies of the United States to use, still believe implicitly in a zero sum economy—that any job, no matter how skilled, taken by someone who was born somewhere else will inevitably result in a job being deprived from some person born in the United States of America.

They do this despite the fact that at the hearing on this bill, as I understand it, the Department of Labor could come up with only one example of a true displacement and a guess that there might be two or three others somewhere across the United States.

So, Mr. President, if you believe that we are not really competitive, that we can't grow, that every job that one person takes of a skilled nature simply comes at the expense of another job already there, then of course you can support the amendments proposed by the Senator from Massachusetts and by the administration, and wreck a system that has already been so successful that we need to expand it in order to meet the expanding needs of a dynamic and growing American society and American economy.

I find it particularly curious that these attempts to say that every recruiting company must follow rules set out by the Government in recruiting and in retention, detailed rules with major penalties for noncompliance, have made no such proposal with respect to the great bulk of American immigration.

We get tens, hundreds of thousands of immigrants every year who come to the United States under the guise of family reunification, as seekers of political asylum, as refugees, the great bulk of which have few, if any, skills and over whom there has been a major debate lasting over the last 3 years as to their eligibility for various forms of welfare and who, when they get jobs in order to get off welfare, will be taking the lowest skilled jobs that the United States has to offer where there may well be a real displacement. Yet, these requirements, the requirements of the amendments we are about to deal with, do not deal with these immigrants coming in far larger numbers than the extra 30,000 skilled employees about whom we are speaking at the present time.

Mr. President, the proposal of the Senator from Michigan is a proposal for a dynamic future for the United States. It is a proposal that will not only create opportunities for men and women, many of whom are educated in the United States, and others of whom are exceptional people for themselves, but for the new jobs and the new opportunities they will create.

Let me just take one or two examples of a specific company and the way in which it would be impacted by the proposed amendments. My friends at Microsoft tell me they will have hired an individual for a 12-month contract to do a very specific task, say, to develop an Internet site for stamp and coin collectors but then determined that there wasn't enough to warrant going on with the project and dismissed the employee. The proposed amendments backed by the administration would prevent Microsoft from hiring any new H-1B worker for any project for a period of at least 3 to 9 months, or if someone is dismissed because they have worked on a project and are experts at something which is now an anachronism, you cannot hire a new one through H-1B for something that looks to the future and is totally and completely different without meeting all of these restrictions.

Today we have an example of the Clinton administration's desire to have lawyers and judges design computers. In the amendments this afternoon, quite consistent with that philosophy, we have its desire to act as an employment agency for all of the high-tech companies in America, to tell them who they can hire, when they can hire them, when they can fire them, and what the restrictions on them will be.

That is not the way we caused our economy in the course of the last 10 years to be one about which we have many questions, many jealousies of the Japanese and of others to the point at which we clearly dominate the world in the very fields in which this bill by the Senator from Michigan is designed to keep us preeminent.

I congratulate the Senator from Michigan for his dogged determination to see to it that we get to this vote and to say that we should deal with it with no amendments other than those of which he approves.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, just while my friend from the State of Washington is here, I would ask him if he would read through both the amendments which I intend to offer about protection against displacement of U.S. workers, because the Senator has misstated what my amendment does and then differed with it. The amendment is very clear. It says:

> For purposes of this section the term "replacement" means the employment of the nonimmigrant at the specific place of employment in the specific employment opportunity from which the United States worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid off.

That is identical language to what is in the Abraham amendment. So it is difficult—when the Senator talks about Microsoft talking about laying off some employee, not being able to hire someone for 6 months is completely inaccurate. I intend to speak further, but if the Senator wanted to make some comment I would be glad to hear it. But I hope perhaps he might look at page 2 at the definitions of the amendment and I think he would find it is different from what the Senator has stated.

Mr. GORTON. Mr. President, this Senator simply wishes to report that the Kennedy amendments place the Department of Labor in the shoes of most of these employers with respect to the criteria with which they will engage in employment. We have sent the amendments that the Senator from Massachusetts proposes to the companies that will be affected by them and asked them, the people who are engaged in these hiring activities, what the impact will be. They report to us exactly what I have told the Senate here today. They report, in fact, that the Kennedy amendments are so disastrous for their recruiting they will be worse off with 95,000 H–1Bs and the Kennedy amendments than they would be to retain present law.

I, for one, am willing to accept the views of the employers in the high-tech community on the impact of these amendments as being exactly what they feel would apply to them. They do not want the Department of Labor making more of their employment decisions than they are making today.

Mr. KENNEDY. Well, Mr. President, this is the problem. Some companies distort and misrepresent what these amendments are. All the Senator has to do is read the amendment. In the recruitment area, our amendment says:

> Take such steps to include a good faith recruitment in the United States using procedures that meet industry-wide standards.

Those are industry-wide standards. All we are trying to do is protect American workers. If there is a job out there and an American can do it, we are saying let him or her have the first crack at it. Let's not displace an American worker with a foreign worker and then find the corresponding pressure that is put upon them.

As I mentioned before, over 90 percent of the workers who are coming in are making $75,000 or less. So it is difficult for me to listen to the Senator from Washington talk about the kind of esoteric job he was looking at in terms of what might be needed for Microsoft and relating it to the more than 90 percent of workers who earn less than $75,000 per year. These are the workers—75 percent earn less than $50,000 and 16 percent earn more than $75,000. It seems to me we ought to be able to develop the training programs for those workers.

I would like to read through a few of the letters we have here that I mentioned earlier. One is from February of this year from Mr. Whittlinger in Torrance, CA.

> Chalk up a Republican's support for your stand on not allowing foreign high tech immigrants in until and unless more Americans are given a chance first. I am unemployed (downsized) and cannot get a job, yet I see companies bring in foreign programmers over hiring me who is already trained (although perhaps not to latest technology/program languages). But I also see a reduced quality and wages (which I think is the primary goal of these companies.)

This is from a technology information worker who expressed his views on this particular provision.

Jay Roberts from the State of Maryland writes:

> Currently, I work in the information industry as a senior level individual. My observation is there is little if any shortage.

This is a recruiter who says he is in the information industry. And he says:

> We are quite capable of hiring all the qualified help that we need at currently prevailing wages. Should there be any question on this point, prepare the most qualified software resume of which you can think and send it to Microsoft. There is a 95 percent chance that they will not even acknowledge it.
>
> There not being a true software professional shortage makes us face this for what it is—the H1B program is in effect an indentured servant program. H1B workers typically work at lower wages than Americans, and with less complaint.
>
> * * * * *
>
> The current technology revolution has the promise of restoring broad middle class prosperity, which has been severely eroded. . . .
>
> * * * * *
>
> If wages do increase to reflect temporary shortages, this soon corrects itself by more college graduates and career challenges.
>
> * * * * *
>
> Please demonstrate that you support the goals, prosperity, and future of your constituency by opposing increases in the H1B quotas. Furthermore, please begin efforts to force H1B employers to proactively demonstrate that they are hiring and training U.S. citizens prior to any H1B approval.

This is to President Clinton on the same issue, from Mr. Burns, of Portland, OR.

> If companies are truly so desperate for engineers they should try raising salaries or expanding in areas of the US outside of Silicon Valley. And if the visa limit must truly be raised, then companies who hire H1B engineers should be willing to never layoff US citizen engineers, but I doubt they'll ever accept that.
>
> High-Tech companies are always in favor of a free market and want to limit government intervention. But, when it comes to employment, they demand special treatment rather than letting supply and demand dictate salaries.

I guess he must be referring to what the GAO report showed, that there hadn't been any noticeable, significant increase in salaries in these areas. Generally, when you get a shortage of the professional personnel, salaries go up: Supply and demand. The GAO review of the Commerce Department's study indicates there is no increase, virtually, in these salaries. That is what we are seeing, and we are hearing from a lot of these American workers, who are trying to find employment.

Here is a letter dated February of this year:

> Dear Mr. President,
>
> I am graduating with a degree of computer science this spring. I am in deep debt and hope to find work quickly so I may repay it.
>
> If you allow them to raise or eliminate the current 60,000 person quota on foreign computer workers it will be nothing less than a knife in my heart.
>
> * * * * *
>
> I hope you are on the side of indebted college students on this one.

You know, the list goes on. Here is the letter from Martin Rojo, San Mateo. He said:

> . . .I am a professional software engineer who conducts hiring interviews. I can state that in my experience there is no shortage of qualified workers. While it is rare that someone exactly matches a job description in the esoteric world of software and hardware, the candidate's mental acumen is a more important indicator of success than any specific language or platform.
>
> The real purpose behind any attempt to lift visa restrictions is, in my opinion, to allow importation of cheap labor. Part of my past coworkers were hired on H–1B visas, and they were tied to an employer in the manner of an indentured servant, while perfectly qualified American citizens did not get the job. This might be fine in farm labor, but there are many Americans who would fill the open positions if allowed.

We are basically saying OK, let's increase the numbers in a temporary way. But let us also develop training programs so Americans can fill those jobs in the future. And let's say no to displacing American workers with foreign temporary workers. And let's also say that there must be at least minimum efforts to recruit Americans, following whatever the industry standard is.

All they have to do is attest, check the box, "We have followed the industry standard and attest we have tried to hire an American."

I find it difficult to understand, among our colleagues here—what is wrong with seeking American workers for these jobs? What is wrong with just asking employers to observe a requirement to recruit American workers? That is what these amendments do. They ensure that employers are at least going to make an effort to try to recruit Americans and make assurance they are not going to lay off Americans and to displace those Americans from a job that will then be filled by a foreigner.

It seems to me, if we had those two measures and an effective training program, then we could respond to whatever the needs of the information technology industry are for the best and the brightest workers.

But it comes down, Mr. President, to what we do for American workers who, despite doing a good job, in many instances, have been displaced. We find out that there is basic prejudice and discrimination against them. I think that is wrong.

I reserve the remainder of my time.

Mr. ABRAHAM. I yield 1 minute to the Senator from Washington.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Washington is recognized.

Mr. GORTON. Perhaps, Madam President, I owe the Senator from Massachusetts an apology. Perhaps it is true that he knows better than these high-tech companies whom they ought to hire and when they ought to hire them. Perhaps his effectively granting to the Department of Labor the determination of when a layoff is a layoff and when it is not, when a replacement is an appropriate replacement and when it is not, will be dealt with entirely benignly and will not harm any of our international competitiveness.

But, Madam President, I think not. I believe that these companies are better judges of their own needs than is the Senator from Massachusetts or the Department of Labor. And I am convinced that, looking around us, we can see how well this system has worked for the last 10 years, as evidenced by the dynamism and the growth of the American economy matched by no one else. Let's extend what already works rather than destroying what already works. Let's be optimists and not pessimists.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Madam President, I will yield at this point to the Senator from Ohio, up to 10 minutes. I believe we have used all of our time on the bill, so I yield 10 minutes to him, off of one of the amendments that are time controlled.

Before he speaks, I thank the Senator from Ohio for his work and his staff's efforts to work with our staff and the staff of the ranking member and Senator LIEBERMAN and several others, and especially the Senator from Vermont, the chairman of the Labor Committee, to craft what will be ultimately a provision in the managers' amendment that I think effectively begins to address the issue of job training as a part of this legislation.

At this point, I yield to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, I am proud to be a cosponsor of S. 1723, the American Competitiveness Act. I'd like to commend Senators ABRAHAM and HATCH for introducing such a well crafted piece of legislation.

I think the title of this bill—the American Competitiveness Act—is especially appropriate, since we are talking about a bill that will make our companies stronger and more able to compete in the global marketplace. None of our businesses can run efficiently when they are understaffed—and in today's marketplace there are plenty of overseas competitors who will pick up the slack and take away our customers if we give them that opportunity.

When the Commerce Department, using the Labor Department's data, projects that our economy will continue to grow at such a rate that more than 1.3 million new information technology jobs will be created over the next decade—but that our universities will produce less than a quarter of the necessary number of information technology graduates, simple math tells us that there will be a shortage of these highly skilled workers.

It may surprise people that the high-tech industry is not just about Silicon Valley. Ohio now ranks 10th in the nation in high-tech employment and 8th in high-tech exports. In Ohio, these jobs, on average, pay close to $14,000 higher than Ohio's average private sector wage—$14,000. I want to keep these jobs in Ohio and I don't want to see them moved overseas.

But let's look beyond statistics at what some of the largest employers in our country are telling us. They are the one we need to listen to. NCR, a leading high-tech company based in Ohio, has expressed concern that the estimated 340,000 high-tech worker shortage nationwide could affect NCR's ability to fill key high-tech positions. TRW, which is also based in Ohio, is a good example of how this shortage of skilled workers affects more than just the information technology industry. TRW, which produces safety equipment for the automotive industry and equipment for the defense industry, tells me that only one U.S. citizen for every 10 foreign students apply at TRW when they go onto a college campus to recruit. The company currently has 1,100 openings nationwide. These unfilled jobs are not helping this company to expand and create more jobs.

Procter & Gamble is another Ohio-based company that uses H-1B visas to hire about six to ten foreign nationals a year. Some people may wonder why such a low number of employees are so essential to a company's productivity, but these specialized scientists, many with doctoral degrees, are needed for key projects. Reaching this year's arbitrary limit on H-1B visas will prevent all employers from filling such specialized positions until the next fiscal year begins, thus delaying some key projects for up to 6 months. When those key projects are delayed, this means other American workers cannot work, other American workers will not be able to work on these projects. In our global marketplace, competitiveness demands that our companies be able to beat their overseas competitors to market. Any delay in the product cycle—from innovation or creation to production—impedes such competitiveness and could result in such companies moving their operations overseas where such hiring limitations do not exit for their overseas competitors.

Also, in a global marketplace, it only makes sense that small and large domestic companies must cater to a wide range of customer preferences and needs—they must know what the traditions and cultures of all of the countries are that they serve. I would rather have these companies hire a few foreign workers under our H-1B visa program, rather than have these companies move their base of operations—and American jobs—overseas.

The best and the brightest of the foreign workforce are brought into our country under the H-1B system. These are productive men and women who create innovative technologies—many receiving patents for the U.S. companies they work for—and whose ideas launch new projects and, thus, create new jobs for our domestic workforce.

I am a firm believer in educating and training our domestic workforce from within, so that this shortage of highly skilled labor may one day be solved. I strongly believe that part of the solution to this shortage depends on how we raise and educate our children and teenagers—this is why the 20,000 scholarships per year created under this bill (some for low income students) for math and engineering and computer science majors is such an important part of the bill, and such a strong contribution. I again salute my colleague from Michigan for inclusion of this Provision in the bill. Improving the educational process—whether it is job training focused on teens and adults, or math and science courses for children—is not something that can be achieved overnight. We must realistically face the shortage of highly skilled, high-tech workers and allow our companies to hire the workers they need to stay competitive in this global marketplace. The world will not wait for us to catch up in the math and science fields. We must move forward.

The enforcement penalties included in the bill will also help us protect our domestic workforce form those who willfully violate the H-1B program. First, the bill increases penalties for such violators by 5 times the current penalty—by increasing fines from $1,000 to $5,000. The bill also provides for a 5-year probationary period during which spot inspections of the violating firms may occur at the discretion of the Department of Labor. The bill also adds a $25,000 fine per violation, and a two-year debarment from all employment immigration programs, in cases where an employer lays off a U.S. worker and willfully underpays a H1-B worker to replace the U.S. worker.

This bill also modifies the per-country limits on employment based visas. This modification will help prevent further discriminatory effects that the current per-country limit creates for otherwise qualified people from China and India.

I strongly support Senator ABRAHAM's bill. I believe it contains essential provisions to protect our domestic workforce from willful violators by increasing fines and investigative or probationary periods. Our domestic employers and workforce need to have the cap on H-1B visas raised in order to remain competitive. I urge my colleagues in the Senate to vote in favor of the Abraham bill.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Madam President, I thank the Senator from Ohio for his support and help on this legislation. As I said before, it is especially appropriate to thank him because of his leadership on the entire topic of workforce development. He is the chairman of the Senate subcommittee that deals with preparing our workforce, job training and other similar topics. I know his support of the approach we are taking in this legislation should satisfy Members on both sides of the aisle, given the respect with which he is held on these issues, that the legislation which we are working on today addresses the concerns of the long term of how we are going to prepare American workers to hold these jobs when this short-term solution expires. I thank him.

Madam President, I suggest the absence of a quorum and ask that the time not be assessed to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I yield myself 11 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TOBACCO LEGISLATION AND YOUTH SMOKING

Mr. KENNEDY. Madam President, we will be moving toward the votes as set out by the two leaders for votes on these amendments in approximately 2 hours. But while there is a brief moment, I would like to address the Senate on one of the issues that we will be addressing later this evening and on tomorrow. That is the amendment that will be offered hopefully in a bipartisan way by Republicans and Democrats on the tobacco bill to raise the cost per pack of tobacco from $1.10 to $1.50.

I have hopes that this will be a bipartisan amendment since there have been Republicans and Democrats who have supported that position both in the Finance Committee when the Finance Committee accepted that concept last week and also in the Budget Committee. I think that there are those on both sides of the aisle that support that particular measure.

I will strongly support the measure and welcome the opportunity to be one of those who commends that position to the Senate, when it is hoped, we will have some determination on that as one of the first orders of business. I believe that under the proposition, which will be announced later on this evening by the two leaders, that will be one of the measures which will be addressed and voted on tomorrow. So I will just take a few moments now to express my strong support for increasing the cigarette price by $1.50 per pack.

Mr. President, youth smoking in America has reached epidemic proportions. According to the report issued last month by the Centers for Disease Control Prevention, smoking rates among high school students have risen by nearly a third between 1991 and 1997. Among African-Americans, the smoking rates have soared by 80 percent. And more than 36 percent of high school students smoke—a 19-year high.

With youth smoking at such a crisis level and still increasing, we cannot rely on half measures. Congress must use the strongest legislative tools available to reduce youth smoking as rapidly as possible.

The amendment we will have before us tomorrow will provide for a cigarette price increase of $1.50 per pack over the next 3 years. The $1.10 per pack increase over 5 years in the managers' amendment is not adequate to achieve the youth smoking reduction goals of 60 percent. And by raising it by $1.50 instead of $1.10 a pack, we can deter an additional 750,000 children from smoking over the next 5 years. That will mean 250,000 fewer premature deaths from tobacco-induced illnesses.

Public health experts have overwhelmingly concluded that an increase of $1.50 a pack is the minimum cigarette price increase necessary to achieve our youth-smoking reduction goals.

Dr. C. Everett Koop and Dr. David Kessler, the National Academy of Sciences, the American Cancer Society, the American Heart Association, the American Lung Association, the American Medical Association, the ENACT Coalition, and the Save Lives Not Tobacco Coalition have all stressed the importance of a price increase of at least $1.50 a pack. It is the single most important step we can take to reduce youth smoking.

More than a third of the Senate have already cosponsored bills proposing the $1.50 a pack increase. The Senate Budget Committee endorsed $1.50 on a bipartisan vote of 14-8 in March. Last Thursday, a bipartisan majority in the Finance Committee voted for a cigarette price index of $1.50. Too many young lives are at stake for us to ignore the advice of all the public health experts.

Mr. President, the $1.10 increase, on the other hand, simply will not do the job. According to the University of Illinois' Professor Frank Chaloupka, the Nation's leading authority on the impact of higher cigarette prices on teenage smoking, an increase of $1.50 a pack would reduce youth smoking by nearly 50 percent. When combined with the youth access provisions and other tobacco control measures, the $1.50 per pack increase will reduce youth smoking by 60 percent and reach the target that we have set. In addition, if the tobacco industry plays by the rules and no longer targets young Americans with their advertisements and promotions, no look-back penalties would need to be applied above the $1.50 a pack increase.

According to Professor Chaloupka, the $1.10 increase will reduce youth smoking by only a third. Even with the nonprice provision in the tobacco legislation, it would be very difficult to achieve the targets for reducing youth smoking.

Ask any parents if saving 750,000 additional children from a lifetime of nicotine addiction and tobacco-induced disease is worth the extra 40 cents needed for the $1.50 price increase instead of the $1.10 increase.

Ask any person who is concerned about the health of the Nation's children whether we should do all we can to prevent these young Americans from taking up this deadly habit.

The vast majority of the American people support the $1.50 per pack increase and Congress should support it, too. Ask any taxpayer if they want to continue to shoulder the burden of paying the health costs of the Nation's smokers. Seventy-five percent of Americans do not smoke, yet the Department of Treasury finds that they pay $130 billion each year for the health costs in lost productivity of the 25 percent who do smoke.

Ask any American if they have had enough of the tobacco industry's distortions and denials of the addictiveness of nicotine or about the industry's cynical marketing of cigarettes to children or about the industry's decades-long coverup of the health risks associated with smoking.

This is an industry which once argued that cigarettes are no more addictive than Gummy Bears. This is an industry that used Joe Camel in advertising blatantly designed to hook children on smoking, yet they now ask us to believe that a $1.10 or $1.50 increase will lead to big tobacco's bankruptcy and a rampant black market for illegal cigarettes.

The challenge is clear. One million young people between the ages of 12 and 17 take up the deadly habit each year—3,000 new smokers a day. The average smoker begins smoking at age 13 and becomes a daily smoker before age 15. One-third of these children will die prematurely from a tobacco-induced disease.

Once children become hooked on cigarette smoking at a young age, it becomes increasingly harder for them to quit. And 90 percent of current adult smokers began to smoke before they reached the age of 18. Ninety-five percent of teenaged smokers say they intend to quit in the near future, but only a quarter of them actually do quit within the first 8 years of beginning to smoke.

The tobacco companies have known these facts for years. They are fully aware that they need to persuade children to take up smoking in order to preserve their future profits. That is why big tobacco has long targeted children with billions of dollars in advertising and promotional giveaways that promise popularity, excitement and success for young men and women who take up smoking.

The recent documents released in the Minnesota case against the tobacco industry reveals the true extent of the industry's marketing strategy to children.

In 1981, in the Philip Morris memo, "Young Smokers, Prevalence, Implications and Related Demographic Trends," the authors wrote that:

> It is important to know as much as possible about teenage smoking patterns and attitude. Today's teenager is tomorrow's potential regular customer. The overwhelming majority of smokers first begin to smoke while still in their teens.

The smoking patterns are particularly important to Philip Morris. Furthermore, it is during the teenage years that the initial choice is made. Nothing is done to reverse this trend in adolescent smoking. The Centers for Disease Control and Prevention estimate that 5 million of today's children will die prematurely from smoke-caused illnesses.

The American public has had enough of the daily tragedy of death and disease caused by tobacco use. They are demanding dramatic action by Congress to drastically curb youth smoking. This Congress will be judged in large measure by whether or not we respond effectively to that challenge. Increasing cigarette prices by $1.50 is the most effective way to reduce teenage smoking. The public health community agrees it is the minimum increase needed to achieve the national goal of reduced youth smoking by 60 percent over 10 years. Study after study has shown that raising cigarette prices is the most powerful weapon in reducing cigarette use among children, since children have less income than adults to spend on tobacco, and most children are not yet addicted.

Philip Morris, the Nation's largest tobacco company, concedes as much in an internal memorandum as far back as 1981. That memorandum stated, "It is clear that price has a pronounced effect on the smoking prevalence of teenagers." And the goals of reducing teenage smoking and balancing the budget would both be served by increasing the Federal excise tax on cigarettes. In 1982, R.J. Reynolds said essentially the same thing in that "the key finding is that younger adult males are highly sensitive to price. Price may create a barrier which prevents the appeal from developing into an ongoing choice to become a smoker."

Canada increased its cigarette prices between 1980 and 1981 until there was a $3 difference in cigarette prices with the United States overall. An increase of $1.50 a pack is clearly realistic. In addition, it is not likely that the $1.50 increase in the manufacturers' level will turn into a much higher real price increase at the retail level.

The difference between a $1.10 increase and a $1.50 increase is literally that 750,000 more children will be deterred from smoking over the next 5 years. We shouldn't sacrifice these children to a lifetime of tobacco-induced illnesses. The lives of these children hang in the balance.

The American people are calling on you to have the courage to act. The $1.50 increase has broad public support. The public health community deserves the support of the full Senate, too.

* * *

AMERICAN COMPETITIVENESS ACT

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, would the distinguished chairman of the Immigration Subcommittee yield me 5 minutes to speak on behalf of his bill and against the Kennedy amendments?

Mr. ABRAHAM. I yield the Senator from Texas such time as he may need. I believe this would have to be yielded from time that is to be available for the amendments

The PRESIDING OFFICER. The Senator is correct. There is 1 minute 20 seconds remaining on the bill.

Mr. ABRAHAM. I yield 5 minutes from the time reserved for our side.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Madam President, I thank our dear colleague for yielding. I congratulate him on this bill, the American Competitiveness Act.

Over the years, we have wisely attracted the best and brightest to America. We have recognized that having talented people come to our country to work has not only not displaced American workers, but it has created an intellectual base that has help create millions of jobs.

I want to congratulate Senator ABRAHAM for this bill. I think it is vitally important, and I am proud to be a supporter of the bill. I think it is interesting to note that the companies most strongly supporting Senator ABRAHAM's bill are America's fastest growing companies. These are the companies that are creating most of the new jobs in America. Especially those companies that are in high-tech areas and research areas that are primarily responsible for generating the new products, the new know-how and the new technology that will create jobs now and in the 21st century.

I understand that Senator KENNEDY will be offering two amendments. Although they have not technically been offered yet, I know enough about the amendments to know that I am opposed to them. Senator KENNEDY is trying to preserve the jobs of the 1950s. Senator ABRAHAM is trying to create jobs now and in the 21st century. Senator KENNEDY believes that if we can keep new, talented people out of America, as a contributory factor to the intellectual base of our country, we can induce innovative businesses to hire more Americans. Senator ABRAHAM understands that we need an intellectual base to help us create the products and the technology that will create thousands and ultimately millions of new jobs.

In these two amendments that will be offered, we really have a debate between the past and the future. The past deals with the idea that we can somehow protect jobs by keeping talented people out of the country. The future is a recognition that America has literally drained the brain talent of the world by bringing talented people to America, and, in the process, talented people here have found more opportunity, more freedom, than any other people who have lived. They have created an economic system that is unrivaled throughout the world.

The first amendment Senator KENNEDY will offer states that if a company brings in an H-1B visa worker, and later has to lay someone off, the company is in violation of the law. The problem is that in dealing with innovative companies, people are hired based on creating new products and based on success of their research. To force a company to guarantee that it will not, in the next 6 months, have to lay anyone off is to ask them to guarantee the success of their research. As we know from the experience of Europe, which is still trying to follow the policies of the 1950s that are built into the Kennedy amendments, if a company does not have the right to lay people off when a project fails, it can not take the risk to hire the very people who make it possible for it to succeed.

The second amendment deals with giving the Labor Department the ability to make a final judgment and to second-guess an employer as to whether or not a person who is a resident of the United States could have been found to do the work. I simply want to remind my colleagues that the existing law states that a company can not bring in an H–1B worker from outside and pay them less than either the prevailing wage or the actual wage. So it is not a case of bringing in people who will work for less.

Also, the bill offered by Senator ABRAHAM strengthens current law by providing a $25,000 fine and a 2-year debarment from the program for those who willfully violate the law.

So the question is: If there are talented people who can come to our universities, to our research labs, to our high-tech companies bringing with them human capital that can help us create technology and products that will put millions of our own people to work, why not ask them to come to America, instead of inducing American companies to invest abroad in order to employ them in their country?

It seems to me that the most revealing thing about this whole debate is the companies that use this H–1B program are the companies that have the fastest growing employment base of American citizens. We are not talking about companies that are experiencing declining employment trying to bring in technical people from abroad. It is companies in Silicon Valley that want to bring in people with special expertise. This will allow these companies, through the application of their genius to practical business problems, to hire hundreds and ultimately thousands more people.

If Senator KENNEDY's amendments were valid, the companies that use this program would be companies where employment is declining. But the plain truth, as is evident to anyone who looks at the data, is that the companies using these programs are companies that are creating the largest number of jobs in America.

So if Microsoft—assuming the Government doesn't put them out of business by trying to limit technology—can put hundreds of thousands of Americans to work by bringing someone to this country who has special expertise, why not let them do it. Especially when this bill strengthens the law by imposing a $25,000 fine on companies that violate procedures aimed at dealing with the legitimate problems raised by Senator KENNEDY and others—that people will be brought here who will work for less and therefore undercut the wage base of American workers.

So I hope these two amendments will be defeated. I think it is very revealing that our high-tech industries say they would rather not have the bill if the Kennedy amendments are adopted. That suggests to me that the purpose of the amendments are to kill the bill.

Mr. KENNEDY. Madam President, I yield myself 4 minutes on the amendments.

As I am sure the Senator from Texas knows, about 85 percent of these jobs earn $75,000 a year, or less. I am just wondering what we have against Americans and American workers that we are so prepared to turn over these good jobs to foreigners.

Now, if the Senator wants to say, well, what about these $75,000 jobs? The GAO pointed out that there is no increase in the salary of these workers. I thought supply and demand said that if we have that great a demand, we are going to see an increase in salaries; right? Wrong. The GAO report says there is no indication of that.

So these are good jobs. I say, let's try an American first. Let's develop the kinds of skills employers need so that we won't need to have this continue after the expiration of this particular proposal. Let's try an American first. And if we are not going to do that, let's just ensure that an American who is in that job and working, as the record demonstrates today, isn't going to get laid off and replaced by a foreign worker who then is going to work longer hours and be threatened day after day that if they complain at all, they are going to have their green card taken and they will be shipped overseas. That is the case, in many instances.

Madam President, I find it difficult to just accept the Senator's argument that this really is just the pure free market system working at its best. I think we owe something to American workers. It is so interesting that all of these companies want to have a free enterprise system—except when it comes to paying wages and salaries. Then they want to do it and get cheaper workers in from overseas and then exploit them. We want to protect against that. That is what those amendments would do.

I withhold the balance of my time.

Mr. GRAMM. Madam President, I ask the Senator from Michigan to yield me an additional 5 minutes.

Mr. ABRAHAM. Madam President, I yield an additional 5 minutes to the Senator from Texas.

Mr. GRAMM. Madam President, first of all, I always welcome Senator KENNEDY giving me lectures about supply and demand. I wish I believed in my heart that he believed in supply and demand.

Secondly, one of the purposes of the bill is to add teeth to the provision about hiring Americans first. This is done by imposing a $25,000 fine on people who displace American workers in order to hire H–1B workers, or people who violate the law that prohibits hiring these workers at less than the current wage rate.

Obviously, we are talking about very talented people when we are talking about people coming in for salary of $75,000. I have to admit that I am somewhat struck by the paradox. Only last week, we were debating an effort I had undertaken to make people who come to America, come with their sleeves rolled up, rather than their hand held out to get food stamps; and last week the Senate voted to give them food stamps for 7 years.

When the Senator from Michigan says, we should let very talented people come and not let them work for less than Americans, and if they can bring talent that will make American products more competitive and help create American jobs, we should let them come in and work in limited numbers, under strict requirements. I think one might be confused to hear that we are perfectly willing to let people come here and go on welfare; it is when they want to come and go to work that we have an objection. Well, I do not.

I go back to the point that the companies who are hiring these people are not companies that are in decline. I know the Senator feels this concern in his heart, and I have no doubt about the sincerity of his position. If these were companies in decline and they were trying to drive down their wage base by simply hiring people with standard skills to displace Americans, I would be siding with Senator KENNEDY. But what is happening here is companies that are using this program are our most innovative companies. They are the companies that have the most talented workers that they can hire in our country. They are our fastest growing companies. They are companies that are creating jobs now, and they are laying the technological foundations that will create hundreds, thousands, and ultimately millions of jobs in the future. They want to reach out in the world and pick the most talented, the best and the brightest, to come to America on a temporary basis and help us develop the technology that will create jobs—good jobs, high-paying jobs, $75,000-a-year jobs—for our own workers.

So I strongly support the provision offered by the Senator from Michigan. I do believe that the amendments offered by the Senator from Massachusetts are well intended, but I think they are wrongheaded in the sense that, in the name of protecting jobs, we are keeping out a very small number of very select people who are working at labs at Harvard University, or working in Silicon Valley, or working in research institutes all over the country to create technology that puts millions of our people to work.

I yield the floor.

Mr. KENNEDY. Madam President, I have 150 letters and scores more back in my office of Americans who have training and skills in computer knowledge and technology and are unable to get the jobs. You can, under this proposal, hire 1,000 foreign workers and displace 1,000 American workers and it doesn't violate any law. It violates no law. I think we ought to protect American workers, and if there is a job out there, an American worker ought to have a crack at it before it goes overseas.

Madam President, I see my friend and colleague from Nevada who, under the agreement, is to be recognized to offer an amendment.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, let's put ourselves in the situation that a woman from Las Vegas found herself in.

The PRESIDING OFFICER. Is the Senator from Nevada offering his amendment?

Mr. REID. I will offer it at the appropriate time. I have the floor now.

The PRESIDING OFFICER. Unless time is yielded to the Senator under the agreement on the bill, the Senator——

Mr. REID. My amendment has no time.

AMENDMENT NO. 2414

(Purpose: To require that applications for passports for minors have parental signatures)

Mr. REID. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2414.

Mr. REID. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC . PASSPORTS ISSUED FOR CHILDREN UNDER 16.

(a) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking "Before" and inserting "(a) IN GENERAL.—Before", and

(2) by adding at the end the following new subsection:

"(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

"(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

"(A) both parents of the child if the child lives with both parents;

"(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

"(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

"(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed on or after the date of the enactment of this Act.

Mr. REID. Madam President, let's assume that you are a mother, you have a 6-year-old child, you have recently been divorced, and you go to pick the child up from school and he is not there. You wonder what happened to your child. You call the police; the police have no knowledge of his whereabouts. No one seems to know what happened to your child. But as things are pieced together, you learn that your husband, who you recently divorced, has taken the child from school and to Croatia. This happens during the time of the Balkans war. What as a mother are you to do? Your child is in Croatia. You were married to a Croatian.

This is a situation that 1,000 parents face every year in our country. Over 1,000 children are taken from this country, normally as a result of the mother and father not getting along, or recently divorced, and they are taken many times to a country where one of the parents was born. Sometimes the parent just takes off to a country they are familiar with. They want to get away from the wife or husband, recognizing that it will be difficult, if not impossible, to get the baby back.

The tragedy is of a thousand stories a year; there are many thousands of stories I could retell.

The Las Vegas Review Journal reported about a woman by whose name is Lilly Waken. Her two daughters left home for a party. The children never came back. Frantically, she called the police. She called the hospitals. She learned that her husband had taken them away and had bought three one-way tickets to Damascus, Syria. That was 18 months ago. She hasn't seen her children since.

My amendment is all about fairness and prevention. It is about preventing a problem that plagues this country, the international children's abduction problem. As I have indicated, 1,000 or more children are abducted every year in our country. These children, as I have indicated, are abducted during or shortly after a contentious divorce, sometimes even by an abusive parent, at a time when these children are most vulnerable and uncertain about their future. They are then snatched from custody of one parent and hauled over to a foreign country.

In the case that I first spoke of, a young boy by the name of Mikey Kale from Las Vegas was taken to Croatia. His mother worked for months and months, and was finally able, after spending a tremendous amount of money trying to get the return of her son—remember, this is in a country that was Mikey Kale Passport and Notification Amendment at war—she was able to get her child back.

I am proposing this legislation, the Mikey Kale Passport Notification Amendment, after this young boy taken to Croatia, Mikey Kale. This amendment is very simple. It will require that parents who are married must both sign for a passport for their child. If there has been a divorce, the one with primary custody must sign for the child to obtain a passport. We have a provision in this bill so that, under extreme circumstances, the Secretary of State can waive the requirements if the Secretary determines that the circumstances do not permit the obtaining of the signatures of both parents.

Madam President, this legislation was passed before in this body. It went to the House where it was knocked out in conference. Why? For the same reason that the State Department indicated in a recent article in Parade Magazine, it is going to create too much paperwork. I say, Madam President, that is too much baloney. It may be too much paperwork for them. But for the parents and the children involved in this, it is better to spend a little extra time when someone comes to get a passport to make sure that the passport is obtained properly. It is not asking too much of the State Department to insure that people who are going to get a passport for a child to check out that the child is, in effect, not being kidnaped.

The aim of the amendment is prevention. It prevents parental abductors from obtaining U.S. passports for their minor children. One of the best ways to prevent international parental abductions is to make it more difficult for the abductors to obtain a passport.

Madam President, prior to coming to this body I practiced law and did divorce work, among other things. When Mikey Kale's mother came to me, it flooded memories back to my mind about a case that I had where there was a contested divorce. I represented a police officer from Henderson, NV. Suddenly, my client picked up the two children and went to Mexico. He called me from Mexico, and said, "I'm not coming back until I get what I asked for from my wife." So I called the opposing counsel and told him what had happened. My client stayed down in Mexico for years until finally the mother of the two children, in effect, gave him what he wanted. It was a difficult situation. The children were never in school during that period of time.

Madam President, this is a very serious problem. We who are parents and grandparents know that we are the ones who are looked upon as protectors of our children. But those who should be protecting children are doing the worst for the child by taking them to a strange country, recognizing that the standards and customs in that country are much different from ours, and that it is going to be difficult, if not impossible, to get that child back.

It is reported that the State Department has had thousands and thousands of these reported kidnapings, and that they just write them off after a year or two, closing 80 percent of their files.

This amendment is a simple legislative solution which will implement a system of checks prior to the issuance of a minor child's passport thereby protecting both parental rights and the rights of the child.

Two years ago the same amendment passed. The State Department and their lobbyists prevailed upon those in conference to remove this provision. In the meantime, 2,000 children in this country have been abducted to other countries—2,000 children. Think of the grief that has been caused to those children and to the parents of those children. This, Madam President, should stop. We should not listen to what the State Department says, that because they are understaffed and don't want to go into the details of who has custody, they cannot implement this preventive measure. I say let's save some pain and suffering of these little children, and also of one of the parents.

This problem is more common than one would think. As I stated earlier, 1,000 children are abducted every year. Here in the United States missing and abducted children are counted meticulously, in some countries they keep no records whatsoever. Forty-five nations have signed a Hague treaty designed to resolve international child custody disputes. Most countries have not.

Finding a missing child is very difficult. This problem is no better illustrated, as I have indicated, than that of Mikey Kale for whom this amendment is named.

Let me repeat. On Valentine's Day in 1993, Mikey was abducted by the ex-husband of Barbara Spierer and taken to Croatia—kidnaped, for lack of a better description. As I have said, after tremendous emotional and financial efforts, Barbara was one of the lucky ones. She got her baby boy back.

Regardless of the number of cases—whether it is 1,000 cases, which it is, or 10 cases a year, which it isn't—one case of abduction is one too many. My amendment seeks to prevent even that one tragedy from occurring. One of the most difficult and frustrating elements for parents of internationally abducted children is that the U.S. laws and court orders are usually ignored in a foreign country. If they are not ignored, the possible pain and expense of legal representation in that country are unbearable.

Many of these cases involve parents who have relatively no assets. So the one who is, in effect, left behind, when the child has been kidnaped, can do nothing.

One country alone has 45 cases of American children being abducted. Letters to that foreign head of state have had no effect, and none of the 45 have been voluntarily returned.

An inconceivable, irrefutable fact is that once a child is abducted from the United States, it is almost impossible to get the child back.

Madam President, once again, the aim of this amendment is prevention—prevention of anguish to families, prevention of parental rights being violated, prevention of a child being abducted. Until more can be done, I believe a simple, cost-effective legislative solution to protect our children's rights is essential, and I ask my colleagues to join me.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. ABRAHAM. Madam President, I would like to speak on the amendment, but what I will do is note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Madam President, I will speak very briefly in support of the Reid amendment.

I think the concerns he has raised here are very important ones and need to be addressed. I would actually add to the examples he used other situations which have occurred to constituents of mine in which following a divorce decree in this country, a spouse who maintains dual citizenship in some fashion goes to a country of his or her other citizenship with the child after there has been an agreement with regard to visitation. The American citizen spouse who remains in the United States then seeks to visit on the basis of that visitation agreement and finds, when visiting the foreign country, the child is not available, cannot be found, has disappeared, usually just to another city or another relative's home or something else, but basically because of the limited amount of time the visiting spouses have in the country, they no longer have the opportunity to see their children.

This is not the case of an abduction per se, but it is relatively similar in terms of the implications. So I think the outlawing this amendment takes helps to address the most egregious form of this problem. But I indicate to the Senator from Nevada I not only would be willing to accept this amendment and support it, but I look forward to working with him—and I know of several other Senators who have approved—to see if there are ways we could also address these other cases where we may not be dealing with abduction, but still dealing with the circumstance where parents are prevented from seeing their children.

So I thank the Senator from Nevada for his amendment.

Mr. KENNEDY. Madam President, I thank the Senator from Nevada for bringing this matter to our attention once again. As we were saying a few moments ago, this was accepted in the last debate on immigration reform in 1996. When it went to conference, there were a number of us who were excluded. If we had been able to participate, we would have supported this measure. But we were in a different regime at the time.

In so many areas of immigration policy there are the opportunities for abuse by a few. But as the Senator has pointed out, thousands can still be affected by the injustice. The Senator has identified one instance in which a family was harmed. We would be glad to work with him and with Senator ABRAHAM to see what could be worked through in the conference. If somehow we are not persuasive in the conference, we will join with him later in offering his amendment on appropriations bills or other bills. But I think the Senator has made a strong case, just as he did the last time. I think he has identified a very important issue.

Mr. REID. Madam President, I ask unanimous consent that my request for the yeas and nays be withdrawn subject to the manager of the bill accepting the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the amendment.

The amendment (No. 2414) was agreed to.

Mr. REID. Madam President, I move to reconsider the vote.

Mr. BUMPERS. Madam President, I ask unanimous consent the Senator from Rhode Island, Mr. REED, be recognized for 7 minutes in order to offer an amendment, and immediately following the conclusion that I be recognized for the same purpose of offering an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object—I do not intend to—he will go for 7 minutes and then we will have a chance to respond to his amendment? Are we going to have time to dispose of his amendment before the Senator from Arkansas?

Mr. REED. I think in that time we can dispose of the amendment.

Mr. BUMPERS. The amendment, I think, can be disposed of in 7 minutes.

Mr. KENNEDY. That is fine.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Rhode Island is recognized.

Mr. REED. I thank the Chair.

AMENDMENT NO. 2415

(Purpose: To strike section 4, relating to education and training in science and technology)

Mr. REED. I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:.

The Senator from Rhode Island [Mr. REED] proposes an amendment numbered 2415.

Mr. REED. Madam President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, beginning with line 1, strike all through page 29, line 10.

Mr. REED. Madam President, my amendment would strike section 4 of the underlying legislation. This section proposes to amend the State Student Incentive Grant Program, the SSIG Program.

I first want to recognize Senator ABRAHAM's efforts on behalf of this legislation and to underscore that I understand the issue the Senator is attempting to address is the lack of suitable training in our country to provide the types of scientists and engineers which this legislation hopes to attract through immigration policies. But I would object to the importation of the SSIG Program into this legislation; to pull SSIG in is inappropriate.

We all recognize we do have to educate and train more Americans to take up these high-tech jobs, but this immigration bill is not the right vehicle, and the SSIG Program is not the right approach to simply target high-tech training in the United States.

I would like to briefly set the record straight with respect to SSIG, its status, and I hope its future.

First, the State Student Incentive Grant Program is within the jurisdiction of the Labor and Human Resources Committee. We have been considering its reformation and improvement over the last several months, and we have made progress in that regard. We are on the verge, after deliberation in the committee, of bringing a bill to the floor which will make significant improvements to SSIG.

I would like to also point out that the State Student Incentive Grant Program was initiated back in 1972 by Senator Jacob Javits of New York. It was created not as a way to bootstrap high-tech learning in the United States, but to meet a critical deficiency—the need to provide resources to low-income students to enable them to go to college in a vast array of programs, letting them make the decision of where their talent will carry them, but giving them the resources to go to college and stay in college.

In its more than 20-year history, it has been a remarkably effective program. It takes Federal dollars and offers a one-for-one dollar match with the States to provide need-based grants to students. It has no federal overhead. It delivers money in the form of grants to low-income students that need these resources to go on to college.

Now, if we are talking about providing more opportunities for Americans to be scientists, to be engineers, to do all the things that we want them to do and not have to rely upon foreign nationals coming into our country, SSIG is the wrong place to start. We should be starting in the elementary and secondary schools. We should be recognizing that in many of our schools, particularly low-income urban schools with high minority enrollments, 50 percent of those students are likely to have a science or math teacher who never concentrated on science or math in college. And that is one reason we are not developing, here in the United States, those skills necessary for this high-tech age. So, if we are really interested in having Americans qualify to take these jobs, bringing SSIG into this bill, hijacking it, Shanghaiing it into this bill is not going to do it. We have to start early and consistently to reach young people.

I believe we have made progress in this regard. We have made progress, both in terms of identifying the need to improve elementary and secondary education, and, as I mentioned before, we have made progress working closely with my colleague, the Senator from Maine, Senator COLLINS, to improve SSIG. We have introduced, with 17 other Senators, a bipartisan proposal to reform SSIG. It is called the LEAP Act. This proposal will create a two-tiered proposal: Up to $35 million, there will continue to be a one-for-one match of Federal dollars to State dollars; but when we go beyond that amount, we will allow the States a great deal more flexibility, flexibility that they will have to recognize by matching $2 for every one Federal dollar. But within that more flexible regime of options, we have actually built in, at the request of Senator ABRAHAM, the ability of States to develop scholarship programs that are targeted to mathematics and computer science and engineering. In effect, working very closely with the Senator, who is sincerely committed to improving the quality of education throughout this country, we have done in the LEAP Act in the Labor Committee what is purported to be done here in this legislation.

Now, we are concerned—frankly, I am concerned—that if we act in this immigration bill, we might upset the progress we have made to date on the LEAP Act. We might, in fact, compromise its fundamental commitment not to one specific sector of study but to a broader social purpose—of giving low-income students the chance to go on to college.

I hope we will not do that. I feel very strongly about SSIG. I felt very strongly last year—again, working with Senator COLLINS from Maine. We came to the floor, we literally saved this program from extinction with an overwhelming vote of 84 to 4 to maintain appropriations for SSIG. Having, in a sense, given renewed life to this legislation, I want the opportunity, with my colleagues, to ensure that we continue this program as a need-based program and not at this moment, for convenience, for an attempt to respond to a legitimate concern about training high-tech personnel, to distort the purpose, the goals, and the future of SSIG.

I think, working together with my colleagues, we can maintain the integrity of SSIG and we can also, using the Higher Education Act, strengthen it, reform it, and make it adaptable and make it accessible to a new generation of American students.

I have had the opportunity to work with Senator ABRAHAM. We have, I think, mutual appreciation of the need for SSIG. I hope, working with him over the next several weeks as this measure goes forward, and given his commitment to work together on this whole topic of the State Student Incentive Grant Program—I am prepared at this moment to seek unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 2115) was withdrawn.

Mr. REED. I yield to the Senator from Michigan, if he had a comment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Madam President, I briefly would like to do a couple of things. First, I compliment the Senator from Rhode Island as well as the Presiding Officer for their efforts on this issue. As I mentioned earlier in my opening statement about the legislation before us, our office has been very grateful to you as well as to Senator JEFFORDS and others on the Labor Committee for the efforts that have been engaged in to help us craft, in the higher education bill, language which was consistent with our objectives in terms of trying to provide ways by which we can incentivize more young people in our country to fill these jobs we know are going to be created in the future.

And under no circumstances, I think the Senator from Rhode Island knows, and I know the Senator from Maine knows as well, are any of us involved in the development of this legislation seeking to, in any context, reduce or undermine the SSIG program. To the contrary, I think everybody who is a cosponsor is a strong supporter. So we look forward to working with you. I have appreciated the efforts of the Senator from Rhode Island to assist us in this and thank him for what he has already done and what we look forward to doing together, to find a way to address this issue in the context of other legislation that will be before us.

Mr. KENNEDY. Madam President, I thank the Senator, my friend from Rhode Island. We have had the good opportunity to work with the Senator from Rhode Island and also the Senator from Maine on this particular issue. I know that the Senator from Rhode Island is someone who has been on the education committees, not only in the Senate but also in the House of Representatives, and is someone with a number of years of experience with this important issue. The Senator from Rhode Island has spent a lot of time in developing an understanding of this particular program and how it works in the States. He has also found how it can best be targeted in ways that offer the best opportunity for needy students, giving focus in areas of important need—math and science and other skills. So, we will continue to work with him. We appreciate his leadership and the leadership of the Senator from Maine in this area.

We have been trying to work to assure that Americans are going to develop the skills to be able to compete in these areas. This is really a combination of both the education and training aspects that Senator DEWINE, Senator REED, and Senator COLLINS have been working on, as well as the Senator from Michigan. And that is a reflection of the good faith of the Senator from Michigan on it.

So I appreciate his willingness of the Senator from Rhode Island, at this time, to continue to work with us. We give the Senator the assurance we will continue to work very closely with him, and with the Senator from Maine, as we move on into the conference. But I appreciate his cooperation and leadership on this issue.

AMENDMENT NO. 2416

(Purpose: To repeal the Immigrant Investor Program)

The PRESIDING OFFICER. The Senator from Arkansas is recognized, under the previous order.

Mr. BUMPERS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], proposes an amendment numbered 2416.

Mr. BUMPERS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

"SEC. ——. REPEAL OF IMMIGRANT INVESTOR PROGRAM.

"Section 203(b)(5) of the Immigration and Nationality Act, as amended, (8 U.S.C. 1153(b)(5)) shall be repealed effective on the date of enactment of this Act."

The PRESIDING OFFICER. The Senator will be advised that there are 90 minutes equally divided under the time agreement.

The Senator from Arkansas.

Mr. BUMPERS. I thank the Chair for reminding me.

Madam President, this amendment repeals a provision in the immigration laws that was a tragic mistake when it was enacted. My amendment to strike that provision deals with economics, it deals with patriotism, it deals with immigration, and it deals with fraud. In order for my colleagues to understand precisely what we are talking about, let me set the stage. I fought this battle in 1989 and, at the expense of sounding a little self-serving, lost, but predicted what has happened would happen.

The immigration bill considered by the Senate in 1989 included a provision of the bill to increase investment because we were headed into a recession. We decided we would take a page out of the play books of Canada and Australia. We thought, if they can sell citizenship for $200,000, citizenship in the United States ought to be worth at least $1 million. It is a very logical assumption. So, we said, in that bill in 1989, we will reserve 4,800 visas for foreigners who wants to come into this Nation and bring $1 million and hire 10 people: We will give you a green card at the end of 2 years, and, at the end of an additional 3 years, we will make you a citizen of the United States.

Then in the conference committee we decided we could do even better than that. We said: You don't have to bring $1 million dollars; bring $500,000. If you put a hamburger joint up that will hire 10 people in an area of high unemployment or in a rural area, we will do the same thing for you. We cut the price of citizenship from $1 million to $500,000 and the 4,800 slots that we reserved in the Senate bill increased to 10,000 in the conference report.

Multiply $1 million by 10,000 visas and just think of all the magnificent investment we would have in this country and how many jobs we would create.

Madam President, that "ain't" all. We said not only will you not really have to create 10 jobs with your $500,000 or your $1 million, you only have to maintain 10 jobs. What does that mean? If old Joe's hamburger joint is about to go out of business and he has 10 employees and you are willing to buy his place and keep those 10 employees working, you have maintained 10 jobs, so you qualify for American citizenship.

Then in 1993 we decided we would liberalize it a little further. Not only do you not have to create 10 jobs, not only do you not have to maintain 10 jobs, all you have to do is indirectly provide 10 jobs if you invest in businesses located in certain areas known as Regional Centers . What does that mean? You are making widgets. You employ five people to make widgets. You have two people to distribute them and three people to sell them. Those are indirectly created jobs. Therefore, you get your green card at the end of 2 years, and you get your citizenship papers at the end of 5 years.

I can remember at that time how we thought Hong Kong was going to flood this Nation with people with $1 million in their pocket because they were terrified of the Chinese taking over Hong Kong. I must say, the program, such as it is, has been mostly of people from the Pacific rim—Hong Kong, Korea, Taiwan.

Madam President, do you know the nice thing about this? If you have $500,000 to invest, bring the little wife and kids, too, you are all welcome. They are also going to ultimately be entitled to citizenship.

What have been the results? Madam President, a cottage industry of consultants and limited partnerships has grown up in this Nation. No plan the U.S. Congress has ever devised has been scam-proof, and God knows this one is no exception. What do these consultants do? Why, they advertise in the newspapers in Hong Kong, in Oman, in Taiwan, and they say, "You don't even need $500,000, you don't need $1 million, you only need $100,000." We have gone from $1 million to $500,000 to $100,000. We have gone from creating jobs to maintaining jobs to indirectly providing jobs. It is incredible what has happened to this program.

How do they get by with this? These consultants form limited partnerships. They get several of these people who have $100,000 and they pool all those $100,000 contributions from various people.

What about the $500,000 requirement? How are you going to put up $100,000 and meet that? Easy. You give a promissory note for $400,000. You give $100,000 in cash—incidentally, there is a little matter of a $35,000 to $50,000 fee that goes to the consultant. So if you come, you ought to have $150,000 in your pocket, $50,000 for the consultant and $100,000 to show your good faith, and then be willing to sign a note for $400,000. But not to worry. At the end of 2 years, your note is forgiven. Forget the $400,000 note. If you are in the $1 million class, forget the $900,000 note.

And if, at the end of 2 years, the business has not done well, shut it down. When you shut it down, you can go down to the courthouse and apply for your citizenship 3 years later. You do not have to maintain the business for the ensuing 3 years to get your citizenship. Shut that sucker down after 2 years; it has probably been a loser anyway.

Madam President, Russell Burgoise was quoted in an April 13, 1998 New York Times article. He is a spokesman for the Immigration Service. He said: "These plans don't meet either the spirit or the letter of the law."

Recently, when the INS sought to revoke up to 5,000 visas, the New York Times in the same article said "influential Members of Congress protested the Government was changing rules in midstream," and the INS backed off.

Late in 1997, the Times of Oman, not a widely read paper in Washington, contained an advertisement which said: "U.S. green card for anyone who can show U.S. $500,000."

They ought to be prosecuted for misleading advertising. It doesn't take $500,000, just $100,000 would do fine if you know the right consultant in this country.

It is an interesting thing that it took these consultants and these limited partnerships to figure out how to get the program going. Until the latter part of 1996, the investor visa program had been an even worse disaster than its worst critics—namely me—had predicted. Nobody was showing much interest.

In 1992, 280 people applied, 240 were approved. In 1993, 384; 1994, 407; 1995, 291; 1996, 616; in 1997, 1,110. The consultants are getting geared up now. It is still a far cry from the 10,000 slots available, but in 1997, 1,110 petitions were approved. But over the last 7 years, only 3,284 have been approved.

So, despite the fact that the program has been weakened unbelievably to make almost anybody eligible for it, nobody much has been applying. Out of 7 years, we only got 3,000-plus, and we are supposed to be doing 10,000 each year.

AIS, one of the consulting organizations I mentioned a moment ago, specializes, as I said, in pooling investors to bankroll larger products.

Now you should know that a lot of people invest their $100,000 not to become American citizens; they come here because they want to purchase citizenship for their children and educate them here. Or they come here for any host of other reasons. Maybe they are actually coming with their family. That would be a fairly laudable purpose. But they do not come because they want citizenship. And a lot of people will freely tell you the reason they did not want to be citizens of the United States is because they will have to pay taxes. They have to pay taxes on all of their income all over the world wherever it may come from. They are not about to do that. They only have to come here twice a year to keep their eligibility for the green card.

AIS has advertised "Alternate residency: Less restrictive and expensive than other plans in other countries." You are not becoming a citizen of the United States. You do not have to love the flag. You do not have to say the Pledge of Allegiance. You do not have to fight our wars. You do not have to be any particular age. You do not have to have any specialized education. You do not have to have any experience. You do not have to know the language. All you need is "green." You do not have to know anything about the poor and huddled masses that Emma Lazarus wrote about.

Madam President, this program is so rife with fraud. In some instances, you can get your entire $500,000 back. If you invest $500,000 or $1 million, there are some plans under which you can get it all back and still get your citizenship.

Harold Ezell, a former INS regional immigration commissioner—now a lawyer in Newport Beach, CA—this is a former INS official's quote. What did he say about Congress, about this bill? "They were smoking something when they wrote it." "We've shot ourselves in the foot." Another attorney said, "You know, since we're blatantly soliciting the wealthy, we might ought to charge $2 million."

Madam President, the investor visa program makes no economic sense either. The underlying bill we are debating today would raise the cap on the number of workers who will come into this country who have skills, principally for the computer industry.

The Senator from Michigan, who is handling this bill on the floor, wants to raise the annual limit on people coming into this country from 60,000 to 95,000. Now, you think about the incongruity of raising the level of people we invite into this country because they have a skill and because we have a labor shortage. We would not do it otherwise. We have a labor shortage of so-called skilled workers. At least, that is the proposition. I do not believe it, and I am not going to vote for the bill. I will announce that right now.

This country, incidentally, as great as we are, to be depending on the rest of the world to send us their skilled workers so we can stay afloat in the computer industry, or whatever, is the height of something or other. If we have a $50 billion surplus looming this year, for Pete's sake, let us educate our youngsters so we do not have to depend on anybody else for these skills. That should not be too difficult.

But here we are saying we want to invite an additional 35,000 laborers into this country because we have a labor shortage, and at the same time saying, "If you will give us $100,000 or $500,000"—whichever the case may be—"and hire 10 people, we'll give you citizenship."

There is an outfit in West Virginia called InterBank, and they want to create a telemarketing business. While the deal has not been approved yet, the wages will be $6 an hour. I have not seen a McDonald's in I don't know how long that didn't have a sign in the window saying, "Help wanted. Pay up to $6 an hour." We are desperate for workers at all levels in this country, and here we are asking people to put up money and come into this country and hire workers. How silly can we get? Even if it were not rife with fraud, even if it were not shameless to be selling American citizenship, it makes no economic sense. It is an oxymoron to vote at the same time to bring 95,000 workers in and ask somebody else to come in and hire more workers.

Every time Alan Greenspan appears on a television station, every time he appears before the Banking Committee, every time he appears before the Joint Economic Committee, Wall Street and all of America holds its breath for fear he is going to announce an increase in interest rates. And why are they afraid he is going to raise interest rates? Because they have a labor shortage. In Economic 101 at the University of Arkansas, I was taught—and it is still a fundamental economic principle—that when you have a labor shortage, you have to pay more for labor. You think McDonald's is paying $6 an hour because they want to see how far they can exceed the minimum wage? They are paying $6 an hour because they cannot find workers for any less than that. That is still a pitiful wage, but be that as it may, I am not here to debate that.

What I am saying is, everybody is scared to death that this labor shortage is going to kick wages up, that in turn is going to create inflation, and inflation is going to cause Alan Greenspan to raise interest rates, and raising interest rates is going to bring the longest sustained period of economic prosperity in the United States to a grinding halt. These are not things that you have to be a rocket scientist to understand. Everybody knows precisely what I am talking about.

Finally, Madam President—and I am reluctant to say this because I am not one who has stood on the floor of the U.S. Senate and waved the flag and beat my chest and talked about what a great patriot I am. I put in 3 years in the Marine Corps in World War II, for a very simple reason—we were in a war where the absolute freedom of this Nation was at stake. Not even a second thought about it. And 25, 30 other million men and women did the same thing.

I have voted against constitutional amendments on flag burning. Nobody is more deeply offended than I am to see an American flag burn. There are ways to deal with it. But you do not need to tinker with the Bill of Rights for the first time in more than 200 years.

I still get goose bumps at a military parade when Old Glory goes by. And I am offended by a law which puts American citizenship up for bid by either the wealthy or those willing to participate in a fraud.

How crassly we demean this precious blessing we call citizenship. Emma Lazarus who wrote those magnificent words in the Statue of Liberty about, "Give us your poor, your tired, your huddled masses," Emma Lazarus must be whirling in her grave to even hear such a debate as this going on. The families of the people whose sons and daughters fought those wars for citizenship and freedom—and the families of those who died, and they did it because they valued citizenship so highly—must be weeping at the thought of citizenship being sold to the highest bidder. It is vulgar. How we champion citizenship that we once prized so highly.

Madam President, these people are not the poor. They are not the huddled masses who were our ancestors and who came here for freedom to contribute their labor and their values to live, live free, and to raise their families and die here, even in battle, if need be.

These people who we welcome for $1 million are coming twice a year because that is the only way they can keep their green card. They don't want citizenship because that would require them to pay taxes.

What in the name of God has happened to this place?

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia. Who yields time?

Mr. ABRAHAM. I yield the Senator from West Virginia such time as he may need to speak in opposition to the amendment by the Senator from Arkansas.

Mr. ROCKEFELLER. Madam President, I am grateful to my friend from the State of Michigan.

I start out by disputing any thought by the senior Senator from Arkansas that the words "patriotism" and "Bumpers" don't go side by side—I know the Senator himself knows that to be true—in his service in the Marine Corps, his service in this body, the things he has been through over the years. He is a patriot. He is a marvelous man.

He happens, however, to be marvelously wrong on the amendment that he puts forward, which in spite of the larger framework of the immigration bill, is a very specific and very targeted amendment which would do enormous damage to what we are trying to do in areas of my State that need this program desperately, and which do enormous damage to some of the things that I and others I work with—Governor Underwood and others—are trying to do in the State of West Virginia. I refer to the attempt to eliminate the EB5, the immigrant Investor Program. I didn't say that with an abundance of fluency, and there is a reason for that. It is not one of the things that trips off your lips. I confess that it was not until relatively recently, in the last several years, that I, indeed, learned what it was at all because we had not had experience.

Let me give a little context. I was Governor of the State of West Virginia for 8 years and I was always very frustrated, and I say to my fellow Governor from the State of Arkansas, of all of the money that was discretionary to the Governor during the 8 years that this Senator was Governor, I spent 75 percent of it on water and sewer, which of course is invisible and never seen. And I put more per capita in one of our poorest counties in southern West Virginia called McDowell County, which used to be referred to as the $1 billion coal field, and now is mostly worked out and people have left. Even when I came to West Virginia as a VISTA volunteer in 1964, I say to the Senator, there were tens of thousands of people in McDowell County, the Senator would remember. Now there are about a handful.

I felt that I had not come through properly in spite of efforts for McDowell County, for Wyoming County, for Mercer County, for southern West Virginia, for people who had broken their backs and given their lives, many of them, and who walk around, some of them carrying oxygen tanks. For some it is a 10-minute walk from one side of a room to another side to adjust the television and back because of something called black lung or because of diseases they have accumulated by virtue of being coal miners.

These are the areas I am talking about. There are other areas in West Virginia and the State of Arkansas and in the State of Massachusetts and in the State of Michigan and in the State of Maine, all of our States, where people just don't have the opportunity to have jobs because they live in rural areas. It might be a worked-out coal mining area which is called rural, or it might be an area which is mostly trees which would be called rural, but it is rural and jobs don't tend to go there. People don't tend to build the interstates over there.

I am old fashioned about it, but the reason that I stayed in West Virginia as a VISTA volunteer, more than anything I wanted to see people go to work. I think my friend from Arkansas understands that. I think he understands it very well. What I found was there were just certain blocks, certain ways, certain impediments that nature put up which just didn't allow some of our good people to be able to go to work by accident of their birth or by the fact they were so close to their families that they didn't leave and go to other places like so many others had done from Appalachia. So they stayed and they can't work and they want to work, and they want so badly to work but there is no work. So that is how I came to know what the EB5 Immigrant Investor Program is.

"Give us your poor," the Senator from Arkansas said. Well, our income and our population is increasing, I am happy to say, in West Virginia at a very healthy rate. Things are being done right there. People have caught the flavor of it and there is a sense of optimism which I haven't seen there in 20 or 30 years.

But I learned about this program that the Senator wants to eliminate in this amendment. It is just a little thing down here. It says, "Repeal. . . Section 203(b)(5)," et cetera—one sentence which nobody can understand, but I know exactly what it does. It would eliminate everything that I am talking about, just eliminate it. It would be gone.

I learned about this program because of a company called InterBank. It is a merchant banking company. They run a program which is called Invest in America. Nothing wrong that I can see in that, especially because in this program InterBank has pooled millions of dollars in foreign investments, millions of dollars to establish new operations in teleservicing—telemarketing some call it; I call it teleservices—in exactly the kind of areas in West Virginia I was talking about.

I was in Welch, WV, in McDowell County on a freezing-cold day when they announced they were going to create 400 new jobs. The next day they had 1,500 applicants from that county; the word traveled so fast. This was considered the best news that had ever happened to that county. And now they are looking at others. They are looking, in fact, at putting, 10, 12, 15,000 jobs across the State of West Virginia in precisely the kinds of places where nobody else will go to invest, and they want to do it in telemarketing, or teleservicing as I prefer to call it. West Virginia is important in that we are wired very well in terms of fiber optics, so it is a superb place for them to do that.

It is like with the telephone system. If you are in Washington, DC, and you call information, you are talking to somebody in West Virginia. Where you live, where you reside doesn't make that much difference anymore. But it makes a tremendous difference in southern West Virginia and in other parts of West Virginia where people do not have work, where people remember having had work because of coal mining or remember when they had an opportunity for work, but they were rejected for work. Now they realize that they could get into these programs and get trained because InterBank is going to put a lot of money into training people, West Virginia people, and I assume people in other parts of the country, other industries like them in other parts of the country.

We are talking about $7 or $8 an hour. I don't ridicule that. And I don't ridicule it because it is a company that has benefits particularly when it is a company that provides health benefits, which is something I care about as much as anybody on this planet, and they are included. My people will get them or my people will not get them, depending, and it is true for all the rest of the people in this country who interact with this program as to whether this amendment passes or fails, which is why I hope so much that it fails.

Yes, it is true there has been some abuse, and the Senator, I believe, quoted the New York Times. I don't necessarily think because something is in the New York Times and it is printed, it defines what national policy is to be, but I read it every day and I respect it very much, and there was an article saying there had been some abuse. There have been 30 or 40 articles talking about the abuse in Medicare and I don't hear anybody talking of getting rid of Medicare, because HCFA is trying to crack down. There is, I am sure, abuse in the farmers assistance programs which help the Senator and the people he represents from Arkansas, which don't do our people any good at all in West Virginia.

All I am saying is that there is always abuse in Federal programs, but it is usually a little bit. In the case of the INS, I have talked with Doris Meissner about the problem of abuse and about these programs. She has put our InterBank program on hold, in fact, even though they have done nothing wrong, because they have the FBI and the INS who looks into this, and the State Department looks into it. They have a total of five separate reviews that are involved in this. The INS is not only taking steps to correct whatever abuse that may exist, but they are so adamant about it that they are taking those programs where there are no problems and making them wait until they have a chance to look at the entire thing. I pleaded with Doris Meissner to approve this program, which had no deficiencies, and she said, "I can't do it. We have to put it near the end of the line so we can review all of these programs to make sure there is no fraud and abuse, and where there is, we can get rid of it."

Now, is the idea that somebody would be able to bring some money into the United States to put a West Virginian, or a Washingtonian, or Oregonian, or somebody from Maine, Vermont, or Wisconsin, to work, that they would bring in some money and they would be given a period of a couple of years for review and, after the review, which is a three-agency review, they be allowed to stay because they have brought money, which is then pooled, which puts people to work in areas where nobody else will put them to work, is there something wrong with that? I certainly don't see it.

If it is helping my people in southern West Virginia, or from the State of Maine, where there is so much of the population located in one section—and I am sure some industry will not go into the interior section because the infrastructure isn't there, but they might with innovative thinking such as InterBank has put forward.

So I think eliminating a program, just wiping it out for the idea of somehow being able to say I am against waste, fraud, and abuse and I am going to have none of it, when one knows there may be, as in Medicare—I repeat, there is waste, fraud, and abuse in Medicare, and the Health Care Financing Administration which is going crazy trying to cure that abuse, most of which comes from the private sector. Here, INS is doing the same thing. They admit it is a good program, but they admit they cannot have a program that has any abuse at all in it. So they are stopping everything until they have a chance to review it.

Yes, we need to take steps to prevent abuses in this or any other program—INS, Medicare, crop subsidies, or any other thing that involves the U.S. taxpayers' money—but to eliminate a program that holds out more for the people of my State in terms of areas where people have had a hard time getting jobs, all of a sudden having a $7- or $8-per-hour job with health benefits, I can't imagine doing such a thing.

I passionately urge my colleagues to defeat the amendment of the Senator, my friend from Arkansas.

I thank the Senator from Michigan, and I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Before the Senator leaves, let me say how much I appreciate his very kind and complimentary remarks in his opening statement, and to say that I value his friendship very highly. He and I have been close friends for many years. We were both Governors and we relate in that way. His uncle used to be Governor of my State. I must say to the Senator from West Virginia that I wonder what has happened since 1989 when he voted with me on precisely the same amendment, and his vote now after the INS says we must have been smoking something when we passed the bill in the first place?

Mr. ROCKEFELLER. If I may answer, as the Senator well knows, the amendment he referred to was in 1989, as my encyclopedic memory comes flashing before me like a billboard here in the Senate. As I told the Senator, on that particular bill, I felt I voted wrong and I have told him since then that I should have voted against him. In reflection, I think my vote at that time was based on too much of a knee-jerk theory on the idea that somehow it was wrong, when, in fact, it was exactly, I think, the right thing to do. The case didn't seem to be as strongly made at that point. If the Senator would put that forward again, I would vote against it in a flash.

Mr. BUMPERS. Would the Senator answer one additional question? First of all, I come from a poor State, too. In Arkansas, our teachers' salaries are 45th in the Nation. I don't know where we are economically; it's in that vicinity. I relate to the poverty you have described in southern West Virginia. Yet, I have to say I believe that if I could communicate the remarks I made a moment ago in offering this amendment to the people of my State—and there are plenty of areas in the Mississippi Delta where we are desperate for jobs, and this may be a gross exaggeration—I believe 90 percent of the people of my State would agree that it is wrong to be selling citizenship like this. They might be willing to accept tax credits to attract foreign investment. They might be willing to do all kinds of things that you and I did as Governor to try to attract industry into our States. But I believe that people in my State would take a very dim view if they knew, No. 1, the amount of fraud that has now been uncovered in the program; and, No. 2, the fact that we are selling citizenship in exchange for a few bucks from some of the wealthy people in other countries just to come here and get citizenship. Don't you think there is something a little crass about that?

Mr. ROCKEFELLER. I say to the Senator from Arkansas, what strikes me as utterly crass is the thought that for the words the Senator used, that I would then take away or deny the opportunity for the people that I love so much in my State, that you love so much in your State in the delta area, or wherever it may be, from having jobs when they have never been able to have jobs before.

Let me tell you something very plain and clear. Arkansas, Mississippi, Louisiana, and West Virginia have statistically bound themselves together on the bottom of the charts for a long time. I am absolutely, flat-out sick of it. There are not many principles that will get me over the fact that I am sick of seeing my people not being able to work when my people—if you are a West Virginian and you go down to North Carolina and apply for a job, and they ask—and this is true—"Where do you come from?" and you say, "West Virginia," you are hired because of the work ethic, because these people have known jobs. There has been a tradition in parts of our State where people have known jobs. When they have had a chance to get those jobs, there is a 1-percent turnover, or less, and absenteeism is 1 percent or less per year. They work.

We had AT&T close down a plant employing 450 people in Charleston, WV, the capital of our State. After the workers got their pink slips, I say to the Senator from Arkansas, saying they were fired, and it had been announced in the press, just against hope, I guess, they worked harder, their productivity went up after they got their pink slips. And they kept the plant open.

I don't mean to filibuster the Senator's question because it was an honorable question.

Mr. BUMPERS. I had a question. I wanted the Senator to give me a full and complete answer according to his beliefs.

Let me make one other observation. The other day, the Appropriations Subcommittee on HUD–VA very graciously invited me over to question Dan Goldin, who is, as the Senator knows, the Administrator of NASA. And, as the Senator knows, I am opposed to the space station. I know the Senator is strongly in favor of the space station. But I asked Mr. Goldin about the $6.8 billion overrun that has just been announced. It has not been built. It is not deployed and operating. It is a 43-percent cost overrun. I said, "Mr. Goldin, is there any threshold beyond which you would not be willing to go to build the space station?" He said he had not thought about it.

If somebody asked me desperately, "We want jobs in Arkansas"—and as much as I want to do something about the delta area of my State, there is a threshold beyond which I would not be willing to cross. That would be to sell citizenship to a bunch of takers and not givers.

Mr. ROCKEFELLER. This is not a matter of selling citizenship, I repeat. I want to be able to explain that. It is not a matter of selling citizenship.

You come in, and then for $500,000, if you can produce 10 jobs for West Virginia, for Americans, if you can do that, then after a period of 2 years of that activity, then by three different agencies with an analysis from those agencies, which is extremely tough, if you then pass muster, then you can become a citizen, but not before.

If you would ask if I would turn down somebody from England, or if I would turn down somebody from somewhere else, and I worked for 10 years to get the Toyota Motor Company to come to West Virginia—10 years, and they came, do I feel that somehow—I am just making a point—that because the person comes from Japan, or because they come from Taiwan, or because they come from some other place and they have some money and they want to come to this country, which is what the Statue of Liberty is all about, and they are willing to put 10 Americans to work and those 10 Americans turn out to be 10 West Virginians in the case of InterBank, and other companies that are interested in West Virginia in a like manner, I would say bring them on.

Mr. BUMPERS. Here is a quote. It says, "The immigrant investor program was created 8 years ago. It allowed foreigners to put up $500,000 to create 10 jobs."

Mr. ROCKEFELLER. The Senator says "foreigners," people who are not from this country.

Mr. BUMPERS. I am quoting a newspaper article.

I will answer the next question. This is an op-ed piece in a West Virginia newspaper.

> Yesterday the United States was selling citizenship. The program was supposed to spur job creation. The investors have the money to spend, and the benefits are worth it to them. Is it fair to open a door to citizenship but let only the rich pass through? Of course not. But that is what is done. Now there are new problems. Years after the program was established companies began springing up to pool investments and people seeking those visa. A Virginia firm called the InterBank Group plans to use some of that capital to build two telemarketing centers in southern West Virginia."

That is what the Senator alluded to in his comments.

They say:

> The InterBank ran into trouble in California where the Department of Corporations in March indicated that the company was luring investors who had no way of knowing that their investment would qualify them for a visa. InterBank says it was all a misunderstanding and is being worked out. Meanwhile, INS is reexamining the foreign investment deal, including InterBank, and hoping to set up stricter rules. InterBank maintains its deal should pass muster and is going ahead with the telemarketing centers. But the money is tied up until INS makes a call. That the visa program has run into trouble shouldn't be a shock to anyone. It is just too tempting with all of that money, and all of those communities are grateful for any investment.

Mr. ROCKEFELLER. May I answer the Senator?

Mr. BUMPERS. Certainly.

Mr. ROCKEFELLER. Let me answer the Senator specifically, returning to what he has read. The reference to InterBank was not accurate.

Yes; a desist and refrain order was issued against the bank because it was thought that InterBank was selling securities to Americans in California.

I hope my colleagues are listening, because this is important, because the Senator is attempting to put me on the defensive, and therefore his amendment, which I strongly oppose, seems to have more weight. But the Senator is wrong in his criticism, because he has read the New York Times with too much faith.

> The issue began from an ad in fact that InterBank ran in a Japanese language magazine. This magazine was translated into English and had some circulation in California

which is understandable.

> Although the InterBank program is only available to foreign nationals California's Commissioner of Corporations was unaware of the program and assumed that the ad was an offer for the sale of securities in California to Americans. Since that time the matter has been completely settled, and InterBank is seeking to have the order lifted.

Mr. BUMPERS. Let me just say to the Senator from West Virginia that there isn't a Senator in the U.S. Senate for whom I have greater respect and hopefully a warmer friendship and whose opinions I value highly. I tell you, I have been in that position many, many times where I simply disagreed with somebody who couldn't understand why I disagreed with them. And the Senator is a great champion for the people of West Virginia. The jobs situation in West Virginia is paramount to him, more than almost anything else in that State; that is, trying to improve the quality of life for people. I certainly would not ever suggest anything to the contrary. It is just that I would be willing to provide jobs for the people of West Virginia by attracting foreign investments with tax credits and anything under the shining sun, except offering them citizenship. There is just something crass about that that really hits me right here. That is the only difference we have.

Mr. ROCKEFELLER. No; the only difference we have is maybe broader than that, because I take it philosophically. I grew up in a very lucky fashion, unlike the Senator from Arkansas. Sometimes in private we joke about that, and we have a good laugh about it.

But my great-great-grandfather came from somewhere in Germany. Nobody really knows what he was doing. And he came to this country because he wanted to be able to do something better, to have a better life. I find nothing wrong with that. I thought that, again, was what the Statue of Liberty was all about. My family has done well. Other families have done well. People not only do well in this country, they do well in other countries. Often people who do well in other countries want to come to the United States either for their own professional purposes or because they feel they can use the money which they have earned in other countries to better affect this country. That is one reason why people are investing. Is it wrong for foreigners to buy in the stock market? No. They are. It is one of the reasons they are doing so well; we are a good deal.

What I am saying is, positively the Senator was wrong in his previous question about California, that the commissioner of corporations was totally unaware of this program. What I am saying is that allowing people to pool money to put West Virginians, or

Kansans, or others to work is a principle which is no less evil than allowing 17 people from Boston or 13 people from Magnolia, AR, to pool funds and put people to work in those two States.

Citizens of the world want to come to this country. That is why we are so much populated by people who came from other countries, including my own family, and including the Senator's, at some point. That is what is great about this country. If in that process we create jobs for people who in the 34 years that I have been in West Virginia have never held a job before and it brings with it health benefits, then don't expect me to stand in its way.

Mr. BUMPERS. We are all indebted to your great-great-grandfather who immigrated to this country. We are indebted to him for coming because he wanted to be free; he wanted to live and die here; he wanted to raise his family here.

These people do not even come to the United States. They live in Hong Kong and they send their money.

I yield the floor and reserve the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Massachusetts.

Mr. KENNEDY. How much time do we have on the Bumpers amendment?

The PRESIDING OFFICER. The Senator from Arkansas has 13 minutes 27 seconds. The Senator from Massachusetts has 22 minutes 30 seconds.

Mr. KENNEDY. I have listened to the debate on this issue. It has been an important and illuminating debate. We are really talking, as I understand it—and I am going to ask the Senator from West Virginia a question about this—we are talking about approximately 1,000, maybe 1,500 visas or green cards a year. We issue about 900,000 green cards annually, and with the investor visa, we are talking about a very small program by comparison. There is a principle involved and I have heard the Senator from Arkansas. But it actually is a very, very modest program. It was developed at a time when we had higher unemployment than we do at the present time. It was a recognition that in many of these areas of unemployment we were trying to devise as many different kinds of ways to bring jobs into those areas as possible.

But I ask the Senator from West Virginia if he would not agree with me that the immigration policy is a policy which is basically to benefit the United States? That is overarching and a generalization, I know. But our overall immigration policy includes a number of different features.

We have the reunification of families. That has a very high priority.

We have provisions in our immigration laws for 140,000 skilled workers. Most of our major hockey league players are players from other countries. They come over here, play hockey, get citizenship, and make a lot of money. We have artists who come in here and appear on our stages and they make a lot of money. They have money when they come in here, and they make a lot of money, but we feel they add to the theater or to sports, so we let them in. We have artists who come over here who are wealthy and have particular talents and settle here, get green cards and become citizens. But we believe they add to the country, too, so we let them in.

We are, as I understand it, not a nation that just is taking in the dispossessed, although we have an important tradition for that. As I look at immigration, the way that it actually works —a matter which we have been debating here—I believe we ought to give Americans the first crack at these jobs under the temporary worker program, which we can certainly do. But if we are talking about Andrew Lloyd Webber coming over here, he gets in here. He has not waited 2 years, 3 years to get in. He comes on in as fast as the Concorde can bring him. You can say, "Well, that is unfair. That is unfair. Why are we going to take Lloyd Webber? Why is he jumping over all these other people who want to come here?" But we still believe he is exceptional and adds something to our nation.

These are all balances, though the Senator may not agree with me. What we did in creating the investor visa was very modest. No one quite understood it, because we had never done it before. But it was an effort to try to get some jobs in underserved areas. We had seen that the idea of an investor visa had been utilized in other countries with a modest amount of success—not great success but a modest amount. But we said that in our law, immigrant investors must also create jobs because jobs are needed in West Virginia, needed in Roxbury, MA, needed in Lawrence, MA, and needed in southeastern Massachusetts.

Maybe this hasn't worked as well as many of us would like, but nonetheless in some areas, in my own State in some areas, there has been some positive development. Sure, it is 10 jobs per investor. Sure, I would like them to be better jobs than some of the investors have created, but there have been jobs that wouldn't have been there or that would have disappeared without these investments.

But I would just say to the Senator, with all respect to my colleague from Arkansas, we have just let in, thank God, one of the best baseball pitchers that we have on the Boston Red Sox. He did not wait like unskilled people do, coming from all over the world. He came right in, and he has been pitching. He started pitching 5 days after he was in this country and he has been just superb.

I wanted to say to the Senator and ask him, does he not believe that we have an immigration policy that includes a variety of these features; the overwhelming aspect of it is the reunification of families? That is its heart and soul, as I believe it should be. We have debated what is a family—a nuclear family, whether it is just brothers and sisters, older brothers and sisters, younger brothers and sisters, small children. We have had that debate. There are important differences in this body on that issue. But it has been families.

We have also cut back on low-skilled workers which we did not do 20 years ago, and the reason why? Because we find that they are a depression factor on wages for American workers in entry-level jobs. Interesting. That was not a factor years and years ago. But it is now. It is now. That is why there has been some alteration and change.

So I just wondered whether the Senator from West Virginia agrees with me that we have in our immigration policy a variety of different features. There are some features of it I disagree with and we have debated some in the last bill which came through this body, which I opposed for various other reasons, not important here today.

In creating the investor visa, jobs were important. And that was the balance that was made—to permit the visa if it created jobs. It has been a very modest program and all of us hope that it can be strengthened.

But I would ask my colleague whether he does not agree in the total lexicon of consideration of the immigration policy we shouldn't at least be able to consider the feature of national need.

Mr. ROCKEFELLER. I say to my friend from Massachusetts that I certainly do agree with the variety of the application he describes. And I would also say to my friend from Massachusetts the final words of the Senator from Arkansas, Mr. BUMPERS, before sitting down were oh, no, these are all people who are living in Hong Kong, which is an odd statement to make. But I want my colleagues to pay very, very close attention when I say that the majority of the people involved in this program are coming to this country, are bringing their families to this country, want to settle in this country, want to educate their children in this country. They are not doing this from long distance like it is totally legal for them to do, for example, to invest in our stock market from long distance.

As the Senator from Massachusetts has said, these are people who for the most part plan to come into this country, bring their families, are in this country. That is one of the ways that you can come to this country. You want your children to go to good schools, You want them to have a better life than they do from where they might come—just the wide open spaces, the wide open opportunities of America. So this is one of the vehicles.

On the way, by the way, it helps create potentially tens of thousands of jobs in this country, and then 5,000 or 6,000 jobs in my State of West Virginia from people who are for the most part deciding to come to live in this country and to make their money available to put my people to work. I would not argue against that.

Mr. BUMPERS. Will the Senator be willing to answer this question. He said most of these people are coming into this country. What is the Senator's source for that information?

Mr. KENNEDY. If the Senator will yield for that, you have to come in in order to qualify for it.

Mr. BUMPERS. I do not know where the bill says that. Could the Senator quote that for me in the bill?

Mr. KENNEDY. It is self-evident in the application of the green card. You cannot get the green card unless you come here. That is the provision. It is self-evident because that is what the Senator is complaining about—they are coming over here and getting the green card.

Mr. BUMPERS. That is right. They get the green card at the end of 2 years.

Mr. KENNEDY. That is exactly correct.

Mr. BUMPERS. But they don't have to be here for that first 2 years to get it. And there is nothing in the law that requires them to be here.

Mr. KENNEDY. The statute says primary residence.

Mr. BUMPERS. Primary residence in Hong Kong or the Senator is saying the United States is the primary residence?

Mr. KENNEDY. In the United States, or they lose their immigration status. It says the U.S. must be the primary residence in the legislation.

Mr. ROCKEFELLER. If the Senator from Arkansas would yield for this statement. The statement we got is from the official documents, in fact, sent from West Virginia by InterBank in which they declare that the majority of their people are coming here to live, to bring their families and to raise their families.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, how much time does the Senator from Arkansas have remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 11 minutes 45 seconds.

Mr. BUMPERS. How much time do the opponents have?

The PRESIDING OFFICER. They have 14 minutes 30 seconds.

Mr. BUMPERS. Mr. President, some of this information is really strange to me. It is things I never heard before. The Immigration and Naturalization Service is the one who said, first, that we must have been smoking something when we passed this law, and, second, that we shot ourselves in the foot. And now they say that this program cannot be monitored.

The law does require the INS, incidentally, to study the background of these people. You think about that. And the INS says that is utterly impossible. This can be drug money. Any guy who has run drugs in Colombia or wherever can come to this country, put up $100,000, and pretend that he is creating jobs and get himself a green card in 2 years.

Hold a hearing in the Judiciary Committee and ask the INS how well they are monitoring this program? They will tell you they don't even come close to having the personnel to monitor this program, or the background of the people who are coming in, the background of those who are putting the money up. Of course they can't. They can't stop the hoards crossing the border from Mexico into the United States. They can't stop the hoards coming into our airports. How do you expect them to do background checks to determine whether or not this money that they do put up, which is about 20 percent or 10 percent of the required amount, how do you expect them to be able to determine whether that is drug money or not? Whether the guy is an escaped convict or not? Whether he is simply coming to educate his children and comes here long enough to set the thing up and goes back to Korea or Hong Kong or Taiwan or wherever. Most all of these people are coming from the Pacific rim.

When I say that, I say that advisedly. They are not coming at all. They are coming to visit and then they are going home. They are buying what is advertised by AIS, the biggest limited partnership who deals in these things; they are buying American citizenship and they are buying an alternate residence.

Mr. President, let me say one other thing in response to the statement of the Senator from Massachusetts. Pedro Martinez gets a permit to come here for a certain number of days and then he has to go back to the Dominican Republic? Other players, such as Livan Hernandez, of Cuba, came here because he was a baseball pitcher and because he was willing to get in a boat and risk his life, I suppose. Was he one of those? Let me ask the Senator from Massachusetts, was Livan Hernandez one of the boat people that they rescued?

Mr. KENNEDY. Yes. He was one of those. Although we have many others.

Mr. BUMPERS. I would almost be willing to grant him carte blanche, if he wants to come here bad enough to get into a little old boat and come from Cuba, that is fine. Give that guy a chance to become an American citizen. That is the way our ancestors came. They took risks to get here. They would do anything in the world—to fight and scratch and claw to get here. And people still do.

So what are we doing? We are not rewarding them. We are taking up some of the immigration slots in this country with this scam, one of the biggest scams ever perpetrated by the U.S. Congress deliberately.

Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. If no one yields time, it will be evenly divided between the two sides.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just 1 more minute. On the issue of the presence of the applicant, the law itself says:

> Continuing residence: The alien must establish that he has continuously resided in the United States since the date the alien was granted the temporary resident status.

So, according to the law, it says must "continuously reside in the United States."

Mr. BUMPERS. Mr. President, if I may respond to that, that is exactly what the INS says. They cannot monitor this program. They don't have the people to monitor it. They don't know whether they are staying or not.

But if you talk to these people running these limited partnerships and consulting firms who are the people really making money out of this—you have to pay them $50,000 up front to pull this scam off. And INS will tell you that they cannot monitor the very question, the very point that the Senator from Massachusetts makes. They are not complying with any of these laws. INS will tell you some of them are and some of them aren't, but they cannot monitor it. The law is bad and the enforcement is impossible.

Mr. President, I ask unanimous consent that an article appearing in the New York Times on April 12, 1998, and an article in the Washington Post, dated December 29, 1997, setting out virtually everything I just pointed out in my remarks, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, April 13, 1998]

ABUSES ARE CITED IN TRADE OF MONEY FOR U.S. RESIDENCE

(By Eric Schmitt)

WASHINGTON, APRIL 12.—A Federal program that grants wealthy foreign investors permanent residency in the United States is being manipulated, the Immigration and Naturalization Service says, with investors' money being pooled so that most of them obtain residency visas without making the required investment.

The program, established by Congress in 1990, envisioned wealthy foreigners investing directly in American businesses. But in recent years, a cottage industry of consultants has sprung up to pool money in creative ways from the foreigners, who under the program must invest at least $500,000 in an American business that creates or saves jobs.

In return, the foreigners receive a permanent residency visa, or green card, the coveted document that is the first step toward American citizenship.

A six-month Government review concluded last month that many of the consulting firms that link the immigrants to business opportunities in the United States had improperly exploited loopholes to guarantee rates of return and limit investor risk. Under some consultants' plans, for example, foreigners would only have to pay about one-third of the required $500,000 investment, with a promissory note for the rest that could eventually be forgiven by the consulting firm or the American business.

"These plans do not meet either the spirit or the letter of the law established by Congress," said Russell Bergeron, a spokesman for the immigration service.

But when immigration officials moved this year to revoke more than 5,000 visas granted under the program, mostly to immigrants from Taiwan, China, South Korea and Hong Kong, a number of influential lawmakers from both parties, including Senator Edward M. Kennedy, Democrat of Massachusetts, protested that the Government was changing the rules in midstream.

The immigration service, the lawmakers said, knew all along what the investors were doing and never raised an eyebrow when the Government approved the visa petitions. The lawmakers criticized a freeze the agency has imposed on most new visas until it sorts out what kinds of investments are allowed. They contend that the freeze has stymied growth in economically depressed parts of the country that the program was intended to help invigorate.

"For months, American jobs, created by the investor visa program, have been ensnared in bureaucratic red tape," said Representative Lamar Smith, a Texas Republican who heads the House Judiciary subcommittee on immigration. "Job opportunities have been stifled by a heavy-handed Government agency."

In response to the criticism, the immigration service backtracked a bit late last month, allowing 1,500 investors and their families, who had received conditional green cards and completed a two-year waiting period, to stay in the United States.

But hundreds of other applicants in the pipeline will have to refile their visa petitions under new guidelines being developed. Critics say the immigration service did not publicize this decision, leaving immigrants and their lawyers in limbo.

"The immigration service is wreaking havoc on everyone's lives, and it makes zero sense to me," said Denyse Sabagh, a former president of the American Immigration Lawyers Association, who now represents one of the consulting firms.

The issue has rekindled a fierce debate over the propriety of using permanent residency visas to attract foreign capital and create, or at least save, American jobs.

The uproar also underscores deficiencies in the immigration service. Its loosely worded regulations are an easy target for consulting firms looking for loopholes. And its examiners, who are trained to ferret out most routine immigration fraud, are ill-equipped to address increasingly complicated financial plans.

"The I.N.S., unlike the I.R.S., isn't typically an agency that has to police against highly sophisticated investment devices," said David A. Martin, the former general counsel of the immigration service whose blistering 36-page memorandum last December became the centerpiece of the Government's review of the program.

For the immigration service, the visa program is the latest in a string of contentious issues to catch the attention of the Republican-led Congress, which over the past year has criticized the agency for wrongly naturalizing tens of thousands of immigrants and which has even suggested abolishing the service.

The immigrant investor program, which offers 10,000 visas a year, has never caught on the way its proponents had hoped. Until two years ago, the immigration service never issued more than 600 visas a year to investors and members of their immediate families.

Congress created the program to compete with other countries, including Canada and Australia, that offered similar visas to attract foreign capital and create jobs. But the American model required larger investments, the hiring of at least 10 employees who were not related to the investor, and an audit two years after the visa was issued to insure the investment and employees were still in place.

In the past two years, immigration officials say consulting firms have devised savvier business plans for immigrants to use and stepped up their marketing, particularly in Asian and Middle Eastern publications. The number of visas issued to investors jumped to 1,110 in fiscal year 1997 from 295 visas in fiscal year 1996.

At the same time, American consular officials in Tokyo, Taipei, Guangzhou, Seoul and Hong Kong raised questions about dozens of visa petitions. Consuls found that many plans called for a down payment, typically $150,000 on a $500,000 investment, and arranged a promissory note for the rest. After two years, the investor would get a green card and then, the plans suggested, the remaining $350,000 would be forgiven.

Last month, the California Department of Corporations ordered a Virginia-based firm, Interbank Immigration Services, to stop offering investment programs to wealthy immigrants.

The company, California officials said, promised qualified immigrants a green card within eight weeks if they bought a stake in a Delaware limited partnership. The stakes were in turn sold to a Bahamian enterprise for an annuity that matured in five years. But state officials said investors had no guarantee that they would realize the promised benefits.

Reports like this prompted the immigration service to conduct its review. "Little by little, the program may have gotten out of control," said a State Department official familiar with the visa program.

But many consulting firms say that they have followed the rules and that they are being penalized for the abuses of a few or by lax oversight by immigration officials.

One such firm, American Export Partners of Charleston, S.C., has pooled more than $8 million in cash and promissory notes from investors, mostly from Asia, and, with the Government's blessing, created a commercial financing company to make loans to American exporters. Thirty-eight of the firm's investors have received green cards, said Timothy D. Scranton, a managing director.

One loan was a $750,000 line of credit to Pillow Perfect, a bedding manufacturer in Woodstock, Ga. "They're providing financing for my company to grow and hire more people," said Paul Ratner, president of Pillow Perfect, whose work force has increased to 50 employees from 20 employees in the past two years.

Mr. Ratner said that he had consulted several local banks but that American Export was "more competitive and easier to deal with."

Other middlemen are changing their marketing practices to address the Government's complaints. One of the largest consulting firms, AIS of Greenbelt, Md., said it sent a revised business plan to the immigration service in February.

"Things are continuing to evolve," said William P. Cook, a lawyer for AIS who was the immigration service's general counsel when the visa program was created.

The immigration service insists that it still supports the program—but with several changes—and plans to ask the Commerce Department and Small Business Administration for technical help in reviewing future immigrant-investor financial packages.

But immigration lawyers and their clients say the program will stay stuck in neutral until the immigration service drafts a clear set of rules for the industry and immigrants to follow. "What we need now is for the I.N.S. not to issue more general counsel memos, but regulations," Mr. Cook said.

[From the Washington Post, December 29, 1997]

U.S. Issuing More Visas to Investors; Critics Say 1990 Statute Opens Path to Citizenship for Wealthy Foreigners

(By William Branigin)

For those with a desire to emigrate and cash to spare, the recent ad in the Times of Oman offered an enticing proposition: "U.S. Green Card for anyone who can show U.S. $500,000."

Green cards for sale? Those coveted credit card-size documents, which confer legal U.S. resident status and constitute the first step toward citizenship, on the block for cold cash in a Persian Gulf sultanate?

What appeared on the face of it to be a dubious offer in fact was based on a little-known—but quite legal—U.S. government program to encourage immigration by wealthy foreign investors. The investor visa program, passed by Congress in 1990 as a way to compete for foreign capital and create U.S. jobs, reserves up to 10,000 green cards a year for investors and their immediate families.

To qualify, the principals must each create at least 10 full-time U.S. jobs by investing $1 million—or $500,000 if the jobs are in certain high-unemployment areas—in the establishment of a new business, or the rescue or expansion of an existing one. The workers must not be relatives of the investors, but they do not necessarily have to be U.S. citizens.

So far, the program has not really taken off. In recent years, issuances have numbered only in the hundreds. In 1996, the latest fiscal year for which figures are available, 936 people received them, including spouses and children. More than 80 percent of the visas went to Asians, mostly from Taiwan, South Korea, China and Hong Kong.

In part because of promotions like the one by a private consulting firm in Oman, however, the investor visa program gradually is becoming better known around the world. Its boosters expect the 1997 numbers to show a sharp increase, perhaps double the 1996 total. And with Hong Kong now under Beijing's control and Asian economies in turmoil, the promoters hope to attract even greater numbers of wealthy Asians.

The program has spurred an industry of consultants and facilitators who link investors with business opportunities in the

United States, handle the visa applications and even arrange financing for the required investment money. The industry leader is a Greenbelt-based firm called AIS Inc. (originally American Immigration Services) that specializes in pooling investors together to bankroll larger projects. It says it has obtained visa approvals for more than 1,000 investors who have committed more than $500 million to U.S. businesses since 1991.

The firm boasts a high-profile management team led by Diego C. Asencio, a retired senior U.S. diplomat, as president. Gene McNary, a former commissioner of the Immigration and Naturalization Service, is one of the company's top lawyers. Its board of directors includes former ambassadors Stephen W. Bosworth and Jack F. Matlock Jr., former assistant secretaries of state William Clark and Richard W. Murphy, retired Democratic congressman John Bryant of Texas and Prescott S. Bush, the brother of former president George Bush and chairman of the private USA-China Chamber of Commerce.

Among the projects to which AIS has channeled investments are restaurants, hotels, apparel and equipment manufacturing companies and a chain of retirement homes. The investors include businessmen, bankers, doctors and other professionals.

The visa program's advocates argue that it brings in immigrants with needed capital, saves troubled companies and creates or preserves jobs. By contrast, they point out, growing numbers of immigrants who enter the United States under the current system, which stresses family ties, are poor, unskilled and uneducated, and thus often a burden to society.

But critics of the scheme say there is something unsettling about marketing immigrant visas like a commodity. Although the green cards are "conditional" for two years under the program, pending verification that the investment has been made and the jobs created, the transaction is viewed by some as only one step removed from selling U.S. citizenship.

"If it's one step, it's a mile wide," said McNary, who disputes that view. The program lately has met with some recalcitrance within the INS and the State Department, just as it did in 1990 when congressional opponents charged it would allow well-off foreigners to "buy green cards," he said. But that notion is misguided, McNary insisted, because the participants "are investing in our economy and serving the national interest. These are good people who blend into American culture."

In its literature, AIS describes the investor visa program as offering "the best of both worlds": the security and convenience of "alternate residency" in the United States, with no real requirement to live here full time. An AIS brochure touts the program as less restrictive and expensive than similar plans in other countries such as Canada, which requires investor immigrants to stay there at least 183 days of the year. The U.S. program also sets no requirements on age, prior business training or experience, education level or language skill, the brochure points out.

"The only requirement for the investor," it says, "is that he have the required net worth and initial capital," which must come from a "lawful source" but may include gifts, inheritances and bank loans.

Mr. BUMPERS. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent I be permitted to put in a quorum call and the time be equally charged to the proponents and opponents.

The PRESIDING OFFICER. Is there objection? The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I seek the floor at this time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I have not spoken yet on this amendment by the Senator from Arkansas, but I think the points that have been made in opposition are ones that our colleagues should observe closely. I think if they do, they would argue in favor of a "no" vote on the amendment.

I would just say this, though, to the Senator from Arkansas. There obviously have been some concerns raised by the program. He has raised some of those concerns today, and they have been the subject of various articles. But we have not in the Immigration Subcommittee up until this point yet conducted any hearing or examination to determine the degree to which these concerns are appropriately warranted.

It is my understanding, though, that the Immigration and Naturalization Service is currently making some significant internal changes to the program that many believe have been previously undermining the goal of the program. I want to look at what the INS is proposing. Based on what I have heard so far, I have some concerns about the approach they are taking, but I want to get a better feel from that before I believe we should move forward with a specific fix—whether it is the fix proposed here, of eliminating the program, or some modified approach.

This amendment, if accepted, would simply eliminate the use of these visas. I do believe there are a number of circumstances where we need to learn more before we would go forward. So, therefore, I don't think we should at this point simply hack off an important part of the immigration system without further deliberation and examination. I think the intention of the Immigrant Investor Program is a good intention. We have heard from the Senator from West Virginia of some of the benefits that have already taken place. The goal is of attracting and creating more jobs for Americans and so on. If refinements need to be made, I think we need to examine the program a little more extensively than we have done. I think we need to go beyond the reports in the media. And I think we need to see exactly what the INS' final proposal would be.

I say to my colleague from Arkansas, certainly we intend to exercise such oversight in our subcommittee, regardless of what the outcome is here today. But I think it would make sense for us to have that oversight before we simply move to eliminate this program.

Mr. President, I yield the floor at this time. Let me ask, before I do, what the status is with regard to time.

The PRESIDING OFFICER. The Senator from Michigan controls 10 minutes 35 seconds. The Senator from Arkansas has 5 minutes 22 seconds.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me just say to the distinguished floor manager, Senator HARKIN had a 5-minute statement. We are scheduled to vote at 5:45. I am not sure what other amendments are to be voted on besides mine. I assume after that, final passage?

Mr. ABRAHAM. The intent of the majority leader would be to have the votes on the amendments to begin at 5:45. I believe we already have an order entered into to that effect. And then final passage to follow on votes on the amendments for which votes were requested. I assume a vote will be requested on the amendment of the Senator from Arkansas. The Senator from Massachusetts has two amendments.

Mr. BUMPERS. Have the votes been ordered on the amendments of the Senator from Massachusetts?

Mr. KENNEDY. No, but we will.

Mr. ABRAHAM. And we also need to dispose of the managers' amendment prior to the beginning of the voting. We are hoping to begin the voting—the order calls for it to begin in 15 minutes.

Mr. BUMPERS. Mr. President, let me say to both floor managers, I was prepared to yield back my time, but Senator HARKIN came over and waited quite awhile. He had a statement he wanted to make for 5 minutes on something completely unrelated. I reserve my time.

Mr. KENNEDY. I had planned to put my two amendments in and make comments for about 4 minutes or so on both of those amendments. I expect Senator ABRAHAM to do about the same, and then we will be almost at the time for the vote. I have about 4 or 5 minutes.

Mr. BUMPERS. Is this as good a time as any to ask for the yeas and nays on my amendment? I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENTS NOS. 2417 AND 2418

Mr. KENNEDY. Mr. President, I send two amendments to the desk.

The PRESIDING OFFICER. If there is no objection, the pending amendment will be set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes amendments numbered 2417 and 2418.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2417

(Purpose: To ensure that employers recruit qualified United States workers first, before applying for foreign workers under the H–1B program)

On page 41, after line 16, insert the following new section:

SEC. . RECRUITMENT OF UNITED STATES WORKERS PRIOR TO SEEKING TEMPORARY FOREIGN WORKERS UNDER THE “H–1B VISA” PROGRAM.

(a) In General.—Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following new subparagraph:

“(E)(i) The employer, prior to filing the application, has taken timely, significant, and effective steps to recruit and retain sufficient United States workers in the specialty occupation in which the nonimmigrant whose services are being sought will be employed. Such steps include good faith recruitment in the United States, using procedures that meet industry-wide standards, offering compensation that is at least as great as that required to be offered to nonimmigrants under subparagraph (A), and offering employment to any qualified United States worker who applies.

“(ii) Clause (i) shall not apply with respect to aliens seeking admission or status as nonimmigrants described in section 101(a)(15)(H)(i)(b) who are—

“(I) aliens with extraordinary ability, aliens who are outstanding professors and researchers, or certain multinational executives and managers described in section 203(b)(1), or

“(II) aliens coming as researchers or faculty at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965; 20 U.S.C. 1141(a)) (or a related or affiliated non-profit entity of such institution) or a non-profit or Federal research institute or agency.”.

AMENDMENT NO. 2418

(Purpose: to ensure that participating employers cannot lay off United States workers and replace them with temporary foreign workers under the H–1B visa program)

Beginning on page 30, strike line 12 and for all that follows through line 21 on page 32.

On page 41, after line 16, add the following new section:

SEC. . PROTECTION AGAINST DISPLACEMENT OF UNITED STATES WORKERS.

(a) In General.—Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following:

“(E) The employer has not replaced any United States worker with a nonimmigrant described in section 101(a)(15)(H)(i) (b) or (c)—

“(i) within the 6-month period prior to the filing of the application,

“(ii) during the 90-day period following the filing of the application, and

“(iii) during the 90-day period immediately preceding and following the filing of any visa petition supported by the application.”.

(b) Definitions.—Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended by adding at the end the following:

“(3) For purposes of this subsection:

“(A) The term ‘replace’ means the employment of the nonimmigrant, including by contract, employee leasing, temporary help agreement, or other similar basis, at the specific place of employment and in the specific employment opportunity from which a United States worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid off.

“(B) The term ‘laid off’, with respect to an individual, means the individual’s loss of employment other than a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of grant, contract, or other agreement. The term ‘laid off’ does not include any situation in which the individual involved is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at equivalent or higher compensation and benefits as the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

“(C) The term ‘United States worker’ means—

“(i) a citizen or national of the United States,

“(ii) an alien who is lawfully admitted for permanent residence, or

“(iii) an alien authorized to be employed by this Act or by the Attorney General, if the individual is employed, including employment by contract, employee leasing, temporary help agreement, or other similar basis.”.

Mr. KENNEDY. Mr. President, do I have 5 minutes?

The PRESIDING OFFICER. The Senator has sufficient time.

Mr. KENNEDY. I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we are at the time where, in just a few minutes, we will be making a decision about expanding a provision of the immigration law that provides for temporary workers. This is a provision now that has been, by and large, used for workers 85 percent of whom make $75,000 or less.

There is a small group of highly skilled, highly talented individuals who do a great deal better than that. They are really not an issue in this particular amendment, as far as I am concerned, because they only take a very small number of the green cards that will be issued.

There is a substantive question about how much of a problem there is. Under the Abraham amendment, we will temporarily be opening up this quota in a very significant way. Tens of thousands of new immigrants will be coming to the United States. In our particular proposal, that was not so.

Let me read two letters that indicate what the challenge is. One is from Sally Barnett. She is from Plano, TX:

> I just heard via the radio that several companies, including Texas Instruments, Microsoft, etc., wish to bring in immigrants to do high-tech engineering. I live in Dallas and have for 3 years. I graduated with a degree in mathematics and went back to school in the late 1980s and received my degree in computer programming. I have two positions in the field . . . I have applied all over Dallas but never get an interview. I have my resume on the Internet. I had a 4.0 average in my classes in the late 1980s . . . I do not even demand a high salary but I can’t even get an interview for a job.

This is a computer technician who is unable to get a job. I had scores of letters that I read from earlier in this debate.

Jim Sizemore from Cupertino, CA, has a long letter:

> Do not increase the immigration quota for high-tech workers. This will force employers to act responsibly to get more from their high-tech talent . . . to invest in domestic training, to internally develop talent, and to take action to retain the talent they have. Don’t let employers off the hook from taking such actions.
>
> Importing more foreign labor is a cheap and easy answer for companies who don’t want to do what’s right. Importing foreign labor is wrong for current workers . . . .

Wrong for American workers.

That gets to the heart of my two amendments. There are three different issues here. One is training, to make sure down the road that we provide adequate training so that American workers will have the skills to get all of these jobs and hopefully be able to do that in the next 3 or 4 years. We are working out that particular provision.

But the two amendments that I offer say something else. They say that we will not permit Americans who have those jobs today to be laid off from those jobs and to substitute for those Americans foreign workers. That is permitted today, and that is wrong. That is wrong, because we know what has happened. Foreign workers come on in, and they are forced to work longer and harder and are in the position where they refuse to complain because they know if they do complain, they are going to have their green card pulled and will be sent back to their country of origin. We have the record; that happens, and that is wrong. That amendment no. 1.

The second amendment says, before you go out and hire a foreign worker, you at least have to make a reasonable effort to try to hire an American worker. We do it by just saying any employer has to follow the industry standards for recruitment in that industry, and simply indicate on the application form that that is what they have done.

Basically, we are saying, what is wrong with American workers? Clearly, they can be trained to take these jobs. We believe they should be able to do so.

Secondly, we believe that there are tens of thousands of workers across this country who ought to be able to maintain their jobs and not be replaced by foreigners in this country. We also believe that Americans ought to be given a chance for these jobs in the United States before they go overseas.

Those are effectively the two amendments before us. We believe in American workers. We believe they can be trained. We believe they ought to be given the first opportunity for hiring. And we believe that they ought to be able to hold those jobs and not be displaced if they have the needed skills. Mr. President, I hope that we will have a vote in favor of my amendments.

I yield back what time I have, and I ask that it be in order to ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection to requesting the yeas and nays? Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Thank you, Mr. President. I will respond to the amendments that have finally been offered, as well as to speak about the bill in general.

With respect to these amendments, let me say this: Our whole intent in addressing this legislation from the beginning was to provide three things:

A short-term solution to meet the current, very significant shortage in high-tech workers which our high-tech industry is confronting, a shortage which, if not met, will severely hurt the American economy and, in my judgment, dramatically reduce our economic growth.

The second goal of the legislation is to address the long-term needs we will have for high-tech workers, skilled workers, information technology workers. We attempt to do that in this legislation. We do believe that American workers, American kids, have the skills and talent it takes. The goal is to have the right job training and educational opportunities so that people can develop these skills, and we are in the process, through this legislation, of setting in motion both a scholarship component as well as a job training component to assist in what is obviously a much broader, macro effort that must be undertaken to effectively, in a long-term sense, meet the challenges of the job market of the 21st century.

At the same time, we felt it was important in this legislation to protect American workers so that these programs cannot be abused. Let me begin by saying I think these amendments are a solution in search of a problem. For those Members watching and listening right now, in the entire history of this program there have only been eight willful violations of hundreds of thousands of cases—only eight willful violations in this program, and each has been punished.

Our legislation says even though that is a tremendous track record and a great expression of the fact that this is a program not being abused, we want to go further. We have dramatically toughened the penalties in such a way that if anybody willfully violates the provisions of using H-1B employees and H-1B visa holders and lays off someone—Mr. President, that has only happened one time in the entire history of the program—if it happens, if somebody is displaced for an H-1B employee, then the company involved will be debarred and prevented from even using the H-1B program for 2 years. In addition, they would pay a $25,000 penalty fine per violation.

In short, we have addressed each of the things that have been raised by Senator KENNEDY. In my judgment, we have addressed them in an effective way, considering the fact that in the history of the program there have been, in fact, so very few violations.

I also say this. The solution proposed by the Senator from Massachusetts would give the Department of Labor a dramatically increased role in the supervision of the high-tech community and other businesses and entities using skilled workers. I do not personally believe either of these amendments could be implemented without the Department of Labor creating massive new bureaucratic regulations and micromanaging these companies.

Indeed, I do not believe these companies would go forward and hire anyone on an H-1B program without getting some type of prior clearance from the Department of Labor.

We have an attestation process in place, a recruitment process in place for permanent workers. It takes 2 years before the various hoops and regulations can be met. I am not saying that is wrong, but I am saying it is unworkable in the context of temporary workers. We have dramatic needs today for these workers.

We have heard, as I said in my opening statement, about the year 2000 problem. We cannot wait 2 years to bring in additional workers to cure the year 2000 problem because we will already be in the year 2000. In a similar sense, we simply cannot take the existing program and undermine it with these complicated bureaucratic Department of Labor regulations.

I have heard from the various companies and entities that are seeking an increase in the cap on H-1B visas. They have said an increase in the cap would be meaningless and totally nullified if these kinds of labor provisions are included. They go too far. They would undermine the whole program. And indeed, if they were to be enacted or passed in the form of these amendments, I would be inclined to encourage the majority leader to pull the bill down because I think it would create ultimately a greater problem than we already have today. We have a serious problem already.

So, for those reasons, Mr. President, I urge our colleagues to support my motion which I intend to make to table those amendments, and I urge them to pass the legislation. It is vitally needed. It is important to our economy. It is important to our ability to meet the year 2000 challenges, and it is important for us to bring the academics here to train American students so that we will produce these additional workers. That is why it has such broad-based support, bipartisan support in the Senate, academic support throughout the academic community, business support throughout the business community, support among heritage groups, and others.

Mr. President, this is not a situation where we are dealing in a zero sum game. People coming in under the H-1B program are not taking jobs away from Americans. In virtually every case, they are contributing to a business, a company, an organization that is growing; and they are creating more opportunities. That is the evidence we had before us in the committee. I think it is what will happen in the 5-year period for which we are seeking this increase, and that will give us time to solve the problem in the long term.

Mr. President, I ask unanimous consent that letters I have received from various business groups in opposition to the Kennedy amendments to S. 1723 be entered in the RECORD:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
MANUFACTURERS,
Washington, DC, May 18, 1998.

Hon. SPENCER ABRAHAM,
Senate Dirksen Office Building
Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the 14,000 members of the National Association of Manufacturers (NAM), including approximately 10,500 small manufacturers we want to thank you for your continuing efforts to temporarily expand the number of highly skilled, foreign-born professionals allowed into the United States on a short-term basis. As you know, the cap on H1-B visas was reached over a week ago—nearly five months before the end of the fiscal year. If your bill, S. 1723, is not enacted soon, the ability of U.S. companies to compete in the global marketplace will suffer. With unemployment at a record low, and thousands of vacancies in the high-technology sector alone, we cannot emphasize enough the importance of temporarily raising the number of H1-B visas available.

While there is no question that raising the cap is a necessary short-term step so that U.S. companies can fill vital vacancies, we do not believe that the cap should be raised at all costs. Specifically, we strenuously oppose the Kennedy-Feinstein attestation amendments that would impose new mandates on all employers and fundamentally and permanently change the HI-B program. Instead, we believe that your bill, which would impose new and substantial penalties on those who break the law without burdening law-abiding employers, is the correct approach. If the Kennedy-Feinstein attestation amendments are adopted in their current form, all positive benefits from raising the cap would be negated and we would regretfully have to oppose final passage.

We have repeatedly urged your colleagues to vote for S. 1723 without amendment, even identifying it as a Key Manufacturing Vote in the NAM's Voting Record for the 105th Congress. As always, we are prepared to assist you in whatever manner possible to raise the H1-B cap in a way that will protect American workers while allowing U.S. companies to stay strong and keep their competitive edge.

Sincerely,

PAUL R. HUARD,
Senior Vice President.

CHAMBER OF COMMERCE
1615 H STREET, N.W.
Washington, DC, May 18, 1998.

Hon. SPENCER ABRAHAM,
Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the U.S. Chamber of Commerce, the world's largest business federation, representing more than three million businesses and organizations of every size, sector and region, I wish to make clear our opposition to the amendments we understand will be offered by Senator Kennedy to the American Competitiveness Act of 1998 which will add complex "attestation" procedures to the H–1B visa application process.

These amendments would seriously undermine the H–1B program. Their broad and ill-defined requirements would, as a matter of reality, empower the Department of Labor to second guess every hiring decision by an employer and to evaluate the nature of every job in an employer's workforce. The program would grind to a halt. Unfortunately, the employer community's experience with the Department under the permanent visa program has demonstrated that these fears are well-founded.

If these amendments are adopted, the Chamber would be forced to withdraw its support for the legislation.

SINCERELY,
R. Bruce Josten.

AMERICAN BUSINESS FOR
LEGAL IMMIGRATION
May 18, 1998.

DEAR SENATOR: We write to express our continuing support for S. 1723, the American Competitiveness Act, and to oppose amendments scheduled to be offered by Senator Ted Kennedy on the floor of the Senate.

The Kennedy amendments on "recruitment" and "non-displacement" needlessly impose regulatory burdens on vital and competitive sectors of our economy. The attestation provisions contained in these amendments would gut a program that has helped our economy grow since 1990. The Senate Judiciary Committee, on a bipartisan basis, explicitly rejected this anti-business approach and instead embraced a tough enforcement regime directed at the abusers, and not the legitimate, law-abiding U.S. companies and universities that employ H–1B workers.

If you support the businesses and institutions that benefit from and utilize this program, you should not impose anti-business provisions that have no place or role in this legislation. Therefore, we strongly urge you to reject the Kennedy amendments to S. 1723.

Sincerely,

American Council on International Personnel; American Electronic Association; American Immigration Lawyers Association; Business Software Alliance; Computing Technology Industry Association; Electronic Industries Alliance; Information Technology Association of America; National Association of Manufacturers; National Technical Services Association; Semiconductor Equipment and Materials International (SEMI); Semiconductor Industry Association; Software Publishers Association; The Technology Network; U.S. Chamber of Commerce.

ITAA
MAY 18, 1998.

Senator Spencer Abraham,
Chairman Subcommittee on Immigration and Refugee Affairs, Committee on the Judiciary, Washington, DC.

DEAR CHAIRMAN ABRAHAM: Thank you for your continued leadership on the need to bring highly skilled temporary foreign workers to the United States. We are very pleased the Senate is moving toward final action on this bill.

As you know, time is running out. the H-1B cap has been reached. The United States Senate needs to act now and pass S. 1723, the "American Competitiveness Act of 1998."

We want to express our very strong opposition to amendments that will make the H–1B program useless by adding unnecessary regulatory burdens. Providing more H–1B visas, as your bill does, while at the same time adding unworkable provisions relating to recruiting and layoffs, could harm critical projects, such as solving the Year 2000 challenge. As has been documented repeatedly, the IT workforce shortage is one of the reasons companies are not moving quickly enough to solve Year 2000 problems. One senior executive at a major company told me last week he is 350 IT workers short for Year 2000 projects.

We urge you and your colleagues to reject these negative amendments. Your bill, with a strong emphasis on enforcement and sanctions against violators of the H–1B program, has the appropriate tools for dealing with alleged H–1B violations.

We also hope your colleagues will note that delay on the H–1B cap increase While the H–1B program is not the only solution to the IT worker shortage, as I explained during your Subcommittee hearing, it is an important element of dealing with the shortage in the short-term.

It would be ironic of the Senate, just a short time after establishing a Special Committee to deal with Year 2000, did not take action to pass the H–1B, a direct element for addressing the Year 2000 challenge.

Thank you again for your leadership on this important issue.

Sincerely,

HARRIS N. MILLER,
President.

NATIONAL IMMIGRATION FORUM

PRO-IMMIGRANT ORGANIZATIONS CALL ON POLITICAL LEADERS TO REFRAIN FROM BASHING LEGAL IMMIGRANTS IN COMING DEBATE OVER H–1B VISAS

This week the full Senate and the House Judiciary Committee will take up proposed legislation to address the shortage of highly skilled workers in part by increasing the availability of H–1B visas. This is a category of temporary legal immigration in which high tech and other companies can sponsor talented foreign-born employees. Many of these skilled workers are top graduates of America's finest universities.

As the discussion unfolds in the coming days and weeks, and differences are debated, we call on our leaders to underscore, rather than undermine, America's great tradition as a nation of immigrants. For most of our history, the American people have extended a generous welcome to those willing to work hard and contribute their skills and talents to this society. It would be unfortunate if leaders in the heat of political battle did damage to this nation's spirit of tolerance and respect for diversity.

Furthermore, we urge our nation's political leaders to refrain from stereotyping and stigmatizing immigrants as harmful to the nation. Foreign-born professionals who enter the United States on H–1B visas come from a variety of ethnic backgrounds and as such are easy targets for those looking to "blame foreigners." In recent weeks, for example, extreme anti-immigrant groups have used the occasion of the H–1B debate to aggressively pit immigrants against the native-born. Their attacks come dangerously close to legitimizing a climate of hostility directed at immigrants and refugees generally.

Individuals who come here on H–1B visas are not a threat to U.S. workers. Much like legal immigrants sponsored by families or those admitted as refugees, they make important contributions to our society and our economy. They fill important positions at high tech companies, universities, and in a variety of other fields. Rather than harming native-born Americans, these immigrants, many of whom become permanent immigrants to our country, strengthen America. We ask all of our leaders to bear this in mind as we proceed with this important debate.

Mr. ABRAHAM. Mr. President, I thank the Presiding Officer and I yield the floor at this time.

The PRESIDING OFFICER. Does the Senator yield back the time in opposition to the Kennedy amendments?

Mr. ABRAHAM. Yes. I yield back the remainder of my time on the amendments as well, except I believe you still have Senator BUMPERS' amendment.

At this point, Mr. President, I ask unanimous consent there be 2 minutes of debate equally divided between each of the stacked votes which I am about to propose; and I further ask unanimous consent the order of the votes be as follows: a vote on or in relation to the Kennedy amendment No. 2418, followed by a vote on or in relation to Kennedy amendment No. 2417, followed by a vote on or in relation to the Bumpers amendment 2416.

The PRESIDING OFFICER. No. 2416?

Mr. ABRAHAM. No. 2416.

The PRESIDING OFFICER. If there is no objection, the first vote will be on the Kennedy amendment No. 2418, followed by a vote on the Kennedy amendment No. 2417. Is there objection—Without objection, it is so ordered.

AMENDMENT NO. 2419

(Purpose: To set forth manager amendments.)

Mr. ABRAHAM. Mr. President, I send an amendment to the desk on behalf of myself, Senator KENNEDY, and Senator MCCAIN in the form of a managers' amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM] for himself, Mr. KENNEDY and Mr. MCCAIN, proposes an amendment numbered 2419.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 9, insert "and for any other fiscal year for which this subsection does not specify a higher ceiling," after "1997".

Beginning on page 27, strike line 6 and all that follows through page 29, line 10, and insert the following: "is amended in section 415A(b) (20 U.S.C. 1070c(b)), by adding at the end the following new paragraph:

"(3) MATHEMATICS, COMPUTER SCIENCE, AND ENGINEERING SCHOLARSHIPS.—It shall be a permissible use of the funds made available to a State under this section for the State to establish a scholarship program for eligible students who demonstrate financial need and who seek to enter a program of study leading to a degree in mathematics, computer science, or engineering.".

On page 32, between lines 21 and 22, insert the following:

(d) PROHIBITION OF USE OF H-1B VISAS BY EMPLOYERS ASSISTING IN INDIA'S NUCLEAR WEAPONS PROGRAM.—Section 214(c) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) The Attorney General shall not approve a petition under section 101(a)(15)(H)(i)(b) for any employer that has knowledge or reasonable cause to know that the employer is providing material assistance for the development of nuclear weapons in India or any other country.".

On page 32, line 22, strike "(d)" and insert "(e)".

On page 33, line 1, strike "(e)" and insert "(f)".

Beginning on page 36, line 25, strike "the National" and all that follows through "methods" on line 3 of page 37 and insert "a study involving the participation of individuals representing a variety of points of view, including representatives from academia, government, business, and other appropriate organizations,".

On page 34, line 15, strike "(f)" and insert "(g)".

On page 35, line 20, strike "(g)" and insert "(h)".

On page 41, after line 16, insert the following:

SEC. 10. JOB TRAINING DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Subject to subsection (c), in establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of enactment of this Act, or a successor Federal law, the Secretary of Labor shall establish demonstration programs to provide technical skills training for workers, including incumbent workers.

(b) GRANTS.—Subject to subsection (c), the Secretary of Labor shall award grants to carry out the programs to—

(1) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of enactment of this Act, or successor entities established under a successor Federal law; or

(2) regional consortia of councils or entities described in paragraph (1).

(c) LIMITATION.—The Secretary of Labor shall establish programs under subsection (a), including awarding grants to carry out such programs under subsection (b), only with funds made available to carry out such programs under subsection (a) and not with funds made available under the Job Training Partnership Act or a successor Federal law.

Mr. ABRAHAM. Mr. President, let me indicate the managers' amendment contains several components, one of which pertains to the issue of job training. We have worked very closely with Senator LIEBERMAN, as I said earlier, with Senator DEWINE, with a variety of other Members with respect to this issue. This amendment modifies the job training and scholarships sections authorized by S. 1723 as reported out of committee.

In the job training end, the end product is the result, as I said, of work with Senators KENNEDY, WELLSTONE, LIEBERMAN, ROBB, DEWINE, and the chairman of the Labor Committee, Senator JEFFORDS. And without giving all the details, it would allow the Secretary of Labor to provide demonstration projects through part D of title IV of the JTPA Program for private industry councils or their successors or regional consortia, private industry councils or their successors.

It would also allow the Secretary to support innovative technical skills training programs provided at the local level to help prepare workers with the skills necessary for the 21st century. In that sense, it conforms with the workforce development legislation we passed just last week. With respect to scholarships, I think we have already expressed during the discussion of Senator REED's amendment the actions we are taking there.

In addition, the managers' amendment, at the request of Senator KYL and the National Science Foundation, also makes some changes in the way the panel study in workforce issues is to be organized. It contains various technical fixes to address a pay-go issue raised by the transfer of authority to process labor condition applications from the Department of Labor to the Immigration and Naturalization Service. It handles other technical corrections as well.

Finally, it adds a prohibition. The Attorney General may not approve a petition for an H-1B petition if he or she concludes that the petitioning employer is assisting in the development of India's nuclear energy program or any other nation engaged in the development of weapons of mass destruction.

Obviously, a number of us in the Senate are concerned about the recent nuclear tests that have been conducted and the concern about the proliferation of weapons of mass destruction, and so we have given the Attorney General the power to intervene if she were to conclude that someone attempting to use an H-1B visa would be somehow connected to a program of that sort.

I also indicate I will be working with all interested Senators—and a number of them have talked to us—about this to make sure these provisions are as effective as possible in preventing these visas from being used by anyone to assist in the development of weapons of mass destruction.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. I thank my friend and colleague from Michigan, first, for his overall leadership in introducing the underlying bill, which I am pleased to be a cosponsor of, and, secondly, for being very thoughtful and accommodating in including the language he has described in this managers' amendment which would authorize demonstration projects for technical skills training for workers, including incumbent workers through local and regional consortia of private sector groups.

Mr. President, this accomplishes two breakthroughs, I think. What it is aimed at, first, is to focus not only on folks who are out of work, but people who are in work but need training to hold their jobs and to upgrade themselves. The second is to stimulate companies to work together to train workers in a given area in which there is a regional or local shortage. I thank Senator ABRAHAM and the other cosponsors of this amendment and the bill for the work they have done.

Mr. President, I am one of many Senators who have cosponsored this bill, but I wish to recognize the singular achievements of my colleague, Senator SPENCER ABRAHAM, for introducing the bill and for advancing it so thoughtfully, so energetically, and so cooperatively.

In one sense we are called upon to pass legislation to respond to a crisis, as so often seems the case. Just last week the Immigration and Naturalization Service announced that the 65,000 person cap on H-1B visas for fiscal year 1998 had been reached. Unless we act, for the remaining five months of the fiscal year, American employers will be unable to hire the temporary foreign workers who help fill gaps in our very tight labor market for skilled professionals. With each successive year, the backlog would only grow. Skilled foreign professionals, many of them graduates of our finest universities, would be driven to jobs with our international economic competitors.

But this crisis is different from other crises, for it reflects the good news that we are in the midst of a period of unprecedented economic growth. The national unemployment rate last month was only 4.3%. Even more remarkable, the unemployment rate for college graduates was only 1.7%. The Bureau of Labor Statistics does not keep statistics for the information technology sector, but most experts estimate that the unemployment rate there has sunk to well below 1%. Various studies are reporting hundreds of thousands of unfilled positions in the high tech sector. Last month representatives of major American corporations like IBM could be found on the beaches of Florida, recruiting college seniors on their Spring Break.

In short, Americans looking for work are finding jobs like never before. But in certain sectors of the economy, and in certain parts of the country, there are not enough Americans able to fill all of the available jobs. The H–1B program allows employers to hire skilled foreign workers for six-year periods, provided that the employers pay them the same wages that other workers receive, and that the foreign workers are not employed in connection with a strike or a lock-out. All sorts of employers benefit from the H–1B program, from corporations to universities to non-profits, but at the moment it is the rapidly growing high-tech companies that are most in need of additional skilled workers.

But it is not just those companies that benefit from the H–1B program: in some senses, all Americans do. That is because the growth of the high tech sector has been a crucial element of our recent economic resurgence. It is vitally important that we keep the jobs associated with this vibrant industry here in the United States and that we keep this industry growing with the innovative ideas of the brightest people we can find. Unfortunately, at the present time our educational system is not producing enough graduates in the relevant fields of math, science, computers and engineering to keep up with demand. The long term solution to this problem is obviously to encourage more education and job training of American citizens in high-tech fields, and S. 1723 does speak to that need by providing $50 million in matching funds for educational scholarships as well as $10 million per year to train unemployed workers in new skills. But in the short term, we must act quickly to ensure that American information technology companies are not forced to slow their domestic operations or, worse, move their operations overseas in search of the skilled foreign workers who would come to the U.S. if given the chance. The skilled foreign workers employed under the H–1B program will keep their employers strong and growing so that they can hire even more American workers.

Senator ABRAHAM made an important accommodation in Committee when he modified his bill so that the increase in H–1B visas would sunset after five years. During the first years of that period, the bill calls for a study by the National Academy of Sciences to examine the future training and education needs of American students to ensure that their skills are matched to the needs of the information technology sector. The study would also assess the need by the high-tech sector for foreign workers with specific skills, and would examine the effects of increasing globalization. By the time the increase in visas is set to expire, Congress will have had an excellent opportunity to re-examine the H–1B program in light of additional information and new economic conditions, and hopefully there will be many more skilled American workers to fill these jobs.

A progressive new idea included in the bill is the authorization of demonstration projects for technical skills training for workers, including incumbent workers, by local and regional consortia of private sector groups. This is a very important addition to the bill, and I want to thank Senator ABRAHAM for including it. Two ideas behind the demonstration projects' authorization language in this bill can be particularly important. First, training our workforce with the skills needed for today's industry must include the training of incumbent workers. Training is now a lifelong process and should not be withheld from people because they already have a job. The Workforce Investment Partnership Act addressed this issue by eliminating the income requirement for some of the Labor Department's adult training programs. We need to turn Labor Department programs into programs that industry wants to partner with, and a large part of that metamorphosis must include incumbent worker training.

The second important element of these demonstration projects is stimulating companies to work together. We need to change the institutional mind set of American companies so that they will collaborate with each other on training skilled workers for their industry. Many small and medium-sized companies cannot afford to run training programs by themselves. Some of the larger corporations have substantially cut their training programs because skilled workers move quickly from one job to another in today's labor market. Yet, all these companies may be competing in a region for the same pool of skilled labor. It only makes sense for these employers to join together to train workers in these skills. It makes sense for the government to be the coalescing force in bringing these groups together to fill the regional community's needs. We hope that these demonstration projects will show industry how successful such regional skills alliances can be.

I have prepared a more detailed description of these demonstration projects, which I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is ordered. (See exhibit 1.)

Mr. LIEBERMAN. I thank Senator ABRAHAM and the other cosponsors of the American Competitiveness Act for the time they have put into this bill, and I thank my colleagues Senators KENNEDY and FEINSTEIN for their very constructive efforts as well. All of us are interested in what is best for the American economy, and what is best for American workers. I am supporting the American Competitiveness Act because I am convinced that the bill will strengthen economic opportunities for all Americans while we respond to the daunting but exciting challenges of this new high-tech age.

EXHIBIT 1

ADDITIONAL STATEMENT OF SENATOR LIEBERMAN: DESCRIPTION OF DEMONSTRATION PROJECTS FOR TECHNICAL SKILLS TRAINING

One provision in S. 1723, as adopted in the Manager's Amendment, specifically allows for demonstration programs to provide technical skills training for workers, including incumbent workers, by consortia of private industry councils. As the lead sponsor of this provision in the manager's Amendment I want in these remarks to particularly address the intent and meaning of the provision.

These demonstration projects include two elements that I believe are essential to help us prepare our workforce with the skills they need for today's fast-paced economy and help update our training programs for the needs of the 21st Century. These are, first, including incumbent workers in training programs and, second, stimulating collaboration between companies to train a pool of skilled workers.

Employees now need to update their skills continually to remain competitive. The realty is that we have a global economy and there is, more and more, a global workforce. If companies cannot find skilled workers in the United States, they will find them in another country. Realistically, we must include workers who have jobs now in training programs to upgrade and update their skills so they can qualify for the changing needs of industry, instead of waiting until they lose their job or become dislocated workers from a declining industry.

The demonstration projects described in the Manager's Amendment to S. 1723 would allow the Secretary of Labor to award grants to consortia, made up of a number of companies in the same region, educational institutions, labor organizations, state and local governments, and private industry councils established under section 102 of the Job Training Partnership Act, or successor entities. These consortia would develop training programs for technical skills needed by a number of companies in that region. Only with industry leading the skills training can we be sure that workers are being trained for jobs that actually exist. That is why the provision in this bill as amended by the Manager's Amendment creates an industry-driven training program.

Why does this new provision indicate the federal government needs to be involved? Because industry does not normally cooperate in training workers. Small companies, and 90% of firms in the United States are small businesses, don't have the resources to invest in lengthy training. Larger companies used to provide training programs, but in the high-tech field, workers move quickly from one job to another chasing higher salaries. Many companies are reticent to invest in long-term training for employees that may quickly move on. Cooperation within an industry provides a solution to this program. This program is intended to specifically allow participation by small and medium-sized companies. The new provision in the Manager's Amendment to S. 1723 would enable this approach.

The government's role under this new provision would be to provide the catalyst to bring the companies together to cooperate on training. The federal funds that would be available under this new provision should be matched by funds from the consortium. The Secretary of Labor would have the discretion to undertake this implementation approach. Of course, available federal funds are meant only to start the process—federal funding would end over time after which the consortia would continue the cooperative training programs alone.

In the last few years, a small number of regional and industry-based training alliances in the United States have emerged, usually in partnership with state and local governments and technical colleges, that exemplify the type of program on which this provision in the Manager's Amendment is modeled. In Rhode Island, with help from the state's Human Resource Investment Council, plastics firms developed a skills alliance. The Wisconsin Regional Training Partnership, metal-working firms in conjunction with the AFL–CIO, set up a teaching factory to train workers. Without some kind of support, such as created by the new provision in this bill, to create alliances, small- and medium-sized firms just don't have the time or resources to collaborate on training. In fact, almost all the existing regional skills alliances report that they would not have been able to get off the ground without an independent, staff entity to operate the alliance. Widespread and timely deployment of these kinds of partnerships is simply not likely to happen without the incentives established by a federal initiative, which would be created by this provision. This provision can help create successful models and templates that others can replicate across the nation.

I am very appreciative that Senator Abraham has included the technical skills training provision in the manager's amendment to S. 1723.

Mr. DOMENICI. Mr. President, I wonder if I might have 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. DOMENICI. Mr. President, I rise to congratulate the Senator from Michigan. I believe the time for this bill and this change in the quotas has come and he has had the courage and the intelligence to see it and to bring us a bill that will truly enhance our productivity and our capacity to man the kind of high-tech programs that this country so desperately needs to stay up front.

Already in many parts of the country there are not the skilled workers necessary for many of these jobs. This bill won't take care of all of that, but it is a recognition that a small portion of it ought to take place as provided for in this legislation.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 2419. The amendment (No. 2419) was agreed to.

Mr. McCAIN. Mr. President, I would like to commend Senator ABRAHAM for the fine job he has done in guiding S. 1723 through the legislative process. The American Competitiveness Act is an important step forward in ensuring that America's high-technology companies have the skilled personnel they need to compete both domestically and globally.

There is one area that I regret we were not able to work out: the issue of the exploitation of visas, including H–1B visas, by foreign countries for training individuals in fields essential for the development of weapons of mass destruction. I attempted to negotiate language with the gentleman from Michigan that would ensure that countries like India, which recently detonated five nuclear weapons, would not be able to send individuals to work in the United States in a capacity that would enable them to return home with sensitive knowledge on developing nuclear, chemical, or biological weapons. Unfortunately, those negotiations ended without a satisfactory resolution, and I remain very concerned about this very serious problem.

When those of us who are original cosponsors of the American Competitiveness Act chose to support this bill, we did not envision the most glaring and ominous violation of international norms to occur: the testing of multiple nuclear weapons by the government of India. The repercussions of that series of tests are serious indeed; India's relations with Pakistan and China have long been confrontational, with four wars occurring between it and its neighbors since it attained independence from Britain. This ill-timed, ill-considered decision to conduct nuclear tests, emanating as it did from the most infantile and dangerous of motives—the desire to be respected as a nuclear power—fully warranted the immediate implementation of sanctions against India.

If there is a consensus about any aspect of U.S. national security policy since the end of the Cold War, it is the threat to international stability posed by the proliferation of weapons of mass destruction, especially nuclear weapons. By running on a platform of elevating its "bomb in the basement" capability to one of overtly brandishing its capability to inflict widespread destruction, India's new government has undermined our ability to contain the arms race in one of the world's most inherently volatile regions. It is now imperative that the United States adopt every measure to ensure we do not inadvertently contribute to India's ability to further refine its nuclear weapons capabilities. For this reason, I had hoped to have an amendment adopted that would have addressed this concern.

As a cosponsor of the American Competitiveness Act, I understand the requirements of U.S. industry for highly skilled workers. Raising the cap on H–1B visas will aid American companies in meeting that requirement. To the extent that India's military-industrial complex can benefit from sending technicians and scientists to the United States, however, the program can work against our own national security interests. My amendment would have helped to prevent that situation from coming about by prohibiting Indian nationals associated with its nuclear weapons program from attaining H–1B visas.

I hope to work with the chairman of the Immigration Subcommittee on the future to help the Congress attain a better understanding of any possible correlation between foreign technicians, engineers and scientists working in the United States and the problem of proliferation. In the meantime, I reiterate my strong support of S. 1723 and again thank the gentleman from Michigan for his hard and productive work on this legislation.

Mr. KYL. Mr. President, I support S. 1723, the American Competitiveness Act. Business, professional associations, and various governmental entities have presented convincing evidence of the need to raise the current 65,000 annual cap on H1–B workers. It is also true that there is significant conflicting evidence, which is why I believe the requirement in the bill for a non-biased report on high-technology labor needs is one of the most important provisions of the bill.

Over the past two years I have heard from numerous employers from around the state of Arizona, including such major employers as Intel Corporation, Motorola, the TRW, who have provided evidence and anecdotes about why more H1–B workers are needed. For example, TRW tells about a foreign student it hired from an American university because the foreign student was the only individual who could produce a formula to redesign a component of the "air-bag" to make it safer and better designed. If TRW had not been allowed to hire the foreign student, it believes it would still be searching for an engineer to perform the job.

This year and last, the 65,000 annual ceiling on H1–B workers has been reached. That means that for the next four months, until the end of the fiscal year, employers who cannot find American workers to perform certain specialty jobs, including computer programming, engineering, and other high-technology positions, will not have that work performed until the 1999 fiscal year begins, this October 1. For anyone who has ever run a business and experienced worker shortages, they know that not being allowed to hire necessary personnel can be devastating.

I support an increase in the cap for this year. I also support a short term increase, for five years, in the number of aliens granted H1–B visas. With the increasing number of high-technology jobs, including positions related to the Year 2000 problem, and, until this year, a decreasing number of students studying in high-tech-oriented majors, employers will be challenged in the near term to find enough qualified workers.

Having said this, however, I reiterate that there are conflicting issues surrounding the H1–B foreign worker debate that must be examined and addressed at the end of the five-year authorization. When the full Judiciary Committee considered S. 1723, the Judiciary Committee accepted my provision to limit the authorization to five years and require that various interests on both sides get together and issue a non-biased report within two years of enactment of the bill about labor market needs over the next ten years for high-technology workers. This study and report, to be overseen by the National Science Foundation, will include representatives with varying interests for academia, business, and government, and, among other issues, will assess the future training and education needs of American students to ensure that their skills match the needs of the IT industry over the next 10 years. It will also provide an analysis of progress made since 1998 by educators, employers, and government entities to improve the teaching and educational level of American students in the fields of math, science, computer and engineering.

The report, and the requirement that the authorization be limited to five years, is clearly necessary. My office has been inundated with information from government agencies, the high-technology industry, and professional associations that represent particular high-tech industries. But the information has been inconsistent. For example, information we received from the Commerce Department indicates that the United States is currently experiencing a significant high-technology worker shortage and over the next 10 years, the U.S. will generate more than 100,000 information-technology jobs annually. An interest group study, conducted by Virginia Tech, found that there is a current vacancy rate of 346,000 high-technology positions in the United States. The Labor Department projects that our economy will produce more than 130,000 information-technology jobs in each of the next ten years, for a total of more than 1.3 million positions. The Hudson Institute estimates that the unaddressed shortage of skilled workers throughout the U.S. will result in a five percent drop in the growth rate of GDP.

On the other hand, information provided for the General Accounting Office about the Commerce Department's assessment of information-technology shortages indicates that the Commerce report contained serious methodological weaknesses. The GAO, however, also found that its assessment should "not necessarily lead to a conclusion that there is no shortage. Instead, as the Commerce report states, additional information and data are needed to more accurately characterize the IT labor market now and in the future.

The GAO report also provided Bureau of Labor Statistics estimates on projected growth for high-technology jobs and found that, compared to the expected 13 percent growth in other jobs by the year 2005, IT occupations are expected to grow 60 percent over the same period.

Increasing wages of IT workers and the unemployment rate of IT workers also signal shortages in the IT field. But in these areas, there is also conflicting information. For example, reports conducted by consulting and interest groups found that salaries for IT workers rose higher than for other specialty occupations in 1996 and 1997. But, according to the GAO, the percentage changes for the IT industry over the period between 1983 and 1997 were comparable to, or lower, than other speciality occupations. Such statistics may support the high-technology sector's anecdotal evidence that demand, relative to other occupations in a period of relatively low unemployment, has grown substantially over the past couple of years.

There are also anecdotal stories in leading newspapers about the difficulty American college graduates are experiencing trying to enter the high-technology job market. But, statistics about specific high-tech professions paint a different picture. For example, the unemployment rate among electrical engineers nationally is below one percent. Anecdotal evidence points toward one assessment but statistics seem to point toward high demand for these U.S. workers.

So, the required repot will serve as an important tool in the reauthorization of the H1–B program, but regardless of the outcome of the report, it is very important for the private sector and for government, all the way up to the Executive Branch, to encourage young people to be fully prepared, first, for job markets where there is an abundance of jobs and, second, for the very jobs that will keep America strong and competitive on a global basis. To that end, I am supportive of the bill's provision to authorize $50 million in scholarships for low-income students pursuing degrees in math, engineering, and science. It is my hope that the provision, coupled with related provisions in the Senate-passed job-training consolidation bill and the National Science Foundation reauthorization, will help young people go into high tech fields.

There are other aspects of this legislation that I want to highlight. As foreign workers continue to be admitted into the American workforce, and as the five-year reauthorization progresses, I will work with the State Department and the Immigration and Naturalization Service to scrutinize which workers really make up our population of H1–B workers. Let's make sure that the H1–B program only admits those workers who will perform a "specialty occupation" as defined by the Immigration and Nationality Act, including the following; the individual possesses unique knowledge or skills; the individual can localize a product based on native knowledge of language or culture of the foreign market; the individual will contribute to a company's global presence; or, an employer finds an inadequate number of highly qualified American workers to fill the job.

In addition, it is important to understand the dynamics by which H1–B employees come to stay in the United States permanently, instead of returning home after the six years they are authorized to work in this country under the visa. While it is true that in 1990, immigration reforms made it possible for H1–B workers to, with "dual intent," enter the United States on an H1–B visa and then remain in the United States permanently, I believe it is important to know how many immigrants are entering the United States on an H1–B visa and then staying here permanently.

Finally, it is very important that the Labor Department respond to questions posed in March by Immigration Subcommittee Chairman SPENCER ABRAHAM about abuses in the H1–B program. It is important to understand why the number of complaints about the H1–B process are so few. I support the provisions of the bill that increase penalties to $25,000 per violation and provide for a two-year debarment from the H1–B program for employers who willfully violate the law, but we need to know more about whether or not a substantial number of employers do or do not violate H1–B immigration law.

Mr. President, I will support passage of S. 1723. Companies in the United States must not be impeded from hiring needed employees. I look forward to a comprehensive assessment of high-technology employer needs from the report included in the bill and to critically applying that assessment when we look at and reauthorize the H1–B program in five years.

AMENDMENT NO. 2418

Mr. ABRAHAM. I move to table the amendment by the Senator from Massachusetts and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. HAGEL). The question is on the motion to table amendment 2418 offered by the Senator from Massachusetts, Mr. KENNEDY. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. FAIRCLOTH) is necessarily absent.

Mr. FORD. I announce that the Senator from Michigan (Mr. LEVIN) is necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. LEVIN) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 38, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—60

Abraham
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Brownback
Burns
Chafee
Cleland
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Murray
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—38

Akaka
Biden
Boxer
Breaux
Bryan
Bumpers
Byrd
Campbell
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Landrieu
Lautenberg
Leahy
Mikulski
Moseley-Braun
Moynihan
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NOT VOTING—2

Faircloth
Levin

The motion to table the amendment (No. 2418) was agreed to.

Mr. ABRAHAM. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2417

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Massachusetts.

Mr. ABRAHAM. Mr. President, I move to table the second Kennedy amendment numbered 2417, and I also seek unanimous consent that the following rollcall votes be 10 minutes in duration.

The PRESIDING OFFICER. The Senators are advised that there are 2 minutes of debate.

Mr. LOTT. Mr. President, there was a unanimous consent request that the next votes be reduced to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, in my amendment we are basically saying let the best and the brightest come into the United States on the basis of their extraordinary contributions in our research facilities or universities or other places.

But the fact of the matter is that most of jobs for which employers seek H-1B workers pay $75,000 or less, and 75 percent of them are $50,000 or less. Those are good jobs for Americans. We are saying: Make sure you are going to offer it to an American before you are going to apply to hire a foreign worker.

We prescribe in our amendment that recruitment standard is whatever the industry does normally when recruiting workers. If employers follow that procedure, all they have to do is attest that they have followed those procedures and they are protected.

These are good jobs. Americans are qualified for these jobs, and we ought to put American workers first. That is what this amendment is about.

Mr. President, before we vote, I would like to thank Senator ABRAHAM for his courtesies in this debate, and his staff, Lee Otis, Stuart Anderson and Cesar Conda. I would also like to thank my own staff, Michael Myers, my staff director, and Sandy Shipshock, who has worked diligently for many months on my staff as a Pearson Fellow from the State Department. I am deeply grateful for their help.

Mr. ABRAHAM. Mr. President, our legislation puts America's workers first, and it severely punishes anybody who tries to do otherwise.

But the provisions in the regulations that would be necessary to implement this amendment would give the Department of Labor dramatic intrusive powers to intervene in hiring decisions of high-tech companies involving temporary workers. In the permanent worker category, these kinds of provisions typically delay a hiring decision by as much as 2 years. We oppose that in the temporary category. It would have the effect, Mr. President, of setting back the entire temporary worker program when we need it most—as we are trying to address the year 2000 problem and other immediate emergencies before us. For that reason, I propose that we vote to table.

The PRESIDING OFFICER. Is the Senator making a motion to table the amendment?

Mr. ABRAHAM. Mr. President, I did move to table earlier.

I guess the Presiding Officer did not hear.

Mr. KENNEDY. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Michigan to lay on the table the amendment of the Senator from Massachusetts. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. FAIRCLOTH), is necessarily absent.

Mr. FORD. I announce that the Senator from Michigan (Mr. LEVIN), is necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. LEVIN) would vote "nay."

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—59

Abraham
Allard
Ashcroft
Baucus
Bennett
Bond
Brownback
Burns
Chafee
Cleland
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Murray
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—39

Akaka
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Campbell
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Landrieu
Lautenberg
Leahy
Mikulski
Moseley-Braun
Moynihan
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NOT VOTING—2

Faircloth
Levin

The motion to lay on the table the amendment (No. 2417) was agreed to.

Mr. ABRAHAM. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2416

The PRESIDING OFFICER. The pending question is on agreeing to the Bumpers amendment, No. 2416.

The Senator from Arkansas.

Mr. BUMPERS. Could we have a little order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BUMPERS. Mr. President, in 1989 this body adopted a provision that said anybody who will invest $500,000 or $1 million in this country and create or maintain 10 jobs can get a green card for 2 years and, 3 years later, have American citizenship. The program never took off, and since that time a cottage industry has grown up of people who were advertising in Taiwan and Oman and saying: "$100,000 is all you need. You give us a $400,000 promissory note, you still get your green card." The INS says it is impossible to monitor. You don't know where these people are coming from; you don't know where their money is coming from.

Mr. President, what we are doing allowing this to continue—and the INS says it is a disaster—is cheapening American citizenship. You want foreign investment? Give them tax breaks. Do not—do not—cheapen American citizenship. These are not the tired, these are not the poor, these are not the huddled masses. These are people from Hong Kong, Korea, the Pacific rim, who don't even come here; they send $100,000. They don't even want our citizenship, because they have to pay taxes.

It is a terrible, shameful thing. It is downright vulgar. I plead with you, vote to strike that provision from the bill.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, this program is a very small program. It is a maximum of 1,000 visas a year. It means people who come to this country to create jobs will be given a chance to do so. We have not examined or studied some of the complaints that have been brought forth in both today's debate and in the news media in our subcommittee. Until we do, I urge the Senate not to eliminate this program. I believe it is creating jobs, not taking them away.

Mr. BUMPERS. Mr. President, I ask unanimous consent for 5 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. The distinguished Senator from Michigan said 1,000 slots. It is 10,000 slots.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I move to table the Bumpers amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on the motion to table amendment No. 2416 offered by the Senator from Arkansas, Mr. BUMPERS.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. FAIRCLOTH) is necessarily absent.

Mr. FORD. I announce that the Senator from Michigan (Mr. LEVIN) is necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. LEVIN) would vote "nay."

The result was announced—yeas 74, nays 24, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—74

Abraham
Akaka
Ashcroft
Bennett
Bond
Boxer
Breaux
Brownback
Bryan
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerry
Kohl
Kyl
Lautenberg
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Reid
Robb
Rockefeller
Roth
Santorum
Sessions
Shelby
Smith (NH)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—24

Allard
Baucus
Biden
Bingaman
Bumpers
Cleland
Conrad
Feingold
Glenn
Harkin
Hollings
Hutchinson
Kerrey
Landrieu
Mikulski
Moynihan
Murray
Reed
Roberts
Sarbanes
Smith (OR)
Torricelli
Wellstone
Wyden

NOT VOTING—2

Faircloth
Levin

The motion to lay on the table the amendment (No. 2416) was agreed to.

Mr. ABRAHAM. I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPLANATION OF ABSENCE

Mr. LEVIN. Mr. President, because of a flight cancellation and delays, I missed three votes this afternoon. If I were here, I would have voted against tabling all three amendments. While there are times when a temporary increase in High-Skilled Worker Visas is necessary, this bill doesn't adequately protect American workers, and I am therefore unable to support the bill on final passage.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Parliamentary inquiry. Have the yeas and nays been ordered on final passage?

The PRESIDING OFFICER. They have not.

Mr. ABRAHAM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New York (Mr. D'AMATO) and the Senator from North Carolinaa (Mr. FAIRCLOTH) are necessarily absent.

The result was announced—yeas 78, nays 20, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—78

Abraham
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Burns
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
Daschle
DeWine
Dodd
Domenici
Dorgan
Enzi
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kerrey
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thompson
Thurmond
Warner
Wyden

NAYS—20

Akaka
Biden
Bumpers
Byrd
Durbin
Feingold
Glenn
Harkin
Hutchinson
Kennedy
Kerry
Levin
Mikulski
Moseley-Braun
Moynihan
Rockefeller
Sarbanes
Thomas
Torricelli
Wellstone

NOT VOTING—2

D'Amato
Faircloth

The bill (S. 1723), as amended, was passed as follows:

S. 1723

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "American Competitiveness Act".

(b) REFERENCES IN ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to or a repeal of a provision, the reference shall be deemed to be made to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) American companies today are engaged in fierce competition in global markets.

(2) Companies across America are faced with severe high skill labor shortages that threaten their competitiveness.

(3) The National Software Alliance, a consortium of concerned government, industry, and academic leaders that includes the United States Army, Navy, and Air Force, has concluded that "The supply of computer science graduates is far short of the number needed by industry.". The Alliance concludes that the current severe understaffing could lead to inflation and lower productivity.

(4) The Department of Labor projects that the United States economy will produce more than 130,000 information technology jobs in each of the next 10 years, for a total of more than 1,300,000.

(5) Between 1986 and 1995, the number of bachelor's degrees awarded in computer science declined by 42 percent. Therefore, any short-term increases in enrollment may only return the United States to the 1986 level of graduates and take several years to produce these additional graduates.

(6) A study conducted by Virginia Tech for the Information Technology Association of America estimates that there are more than 340,000 unfilled positions for highly skilled information technology workers in American companies.

(7) The Hudson Institute estimates that the unaddressed shortage of skilled workers throughout the United States economy will result in a 5-percent drop in the growth rate of GDP. That translates into approximately $200,000,000,000 in lost output, nearly $1,000 for every American.

(8) It is necessary to deal with the current situation with both short-term and long-term measures.

(9) In fiscal year 1997, United States companies and universities reached the cap of 65,000 on H-1B temporary visas a month before the end of the fiscal year. In fiscal year 1998 the cap is expected to be reached as early as May if Congress takes no action. And it will be hit earlier each year until backlogs develop of such a magnitude as to prevent United States companies and researchers from having any timely access to skilled foreign-born professionals.

(10) It is vital that more American young people be encouraged and equipped to enter technical fields, such as mathematics, engineering, and computer science.

(11) If American companies cannot find home-grown talent, and if they cannot bring talent to this country, a large number are likely to move key operations overseas, sending those and related American jobs with them.

(12) Inaction in these areas will carry significant consequences for the future of American competitiveness around the world and will seriously undermine efforts to create and keep jobs in the United States.

SEC. 3. INCREASED ACCESS TO SKILLED PERSONNEL FOR UNITED STATES COMPANIES AND UNIVERSITIES.

(a) ESTABLISHMENT OF H1-C NONIMMIGRANT CATEGORY.—

(1) IN GENERAL.—Section 101(a)(15)(H)(i) (8 U.S.C. 1101(a)(15)(H)(i)) is amended—

(A) by inserting "and other than services described in clause (c)" after "subparagraph (O) or (P)"; and

(B) by inserting after "section 212(n)(1)" the following: ", or (c) who is coming temporarily to the United States to perform labor as a health care worker, other than a physician, in a specialty occupation described in section 214(i)(1), who meets the requirements of the occupation specified in section 214(i)(2), who qualifies for the exemption from the grounds of inadmissibility described in section 212(a)(5)(C), and with respect to whom the Attorney General certifies that the intending employer has filed with the Attorney General an application under section 212(n)(1).".

(2) CONFORMING AMENDMENTS.—

(A) Section 212(n)(1) is amended by inserting "or (c)" after "section 101(a)(15)(H)(i)(b)" each place it appears.

(B) Section 214(i) is amended by inserting "or (c)" after "section 101(a)(15)(H)(i)(b)" each place it appears.

(3) TRANSITION RULE.—Any petition filed prior to the date of enactment of this Act, for issuance of a visa under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act on behalf of an alien described in the amendment made by paragraph (1)(B) shall, on and after that date, be treated as a petition filed under section 101(a)(15)(H)(i)(c) of that Act, as added by paragraph (1).

(b) ANNUAL CEILINGS FOR H1-B AND H1-C WORKERS.—

(1) AMENDMENT OF THE INA.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended to read as follows:

"(g)(1) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year—

"(A) under section 101(a)(15)(H)(i)(b)—

"(i) for each of fiscal years 1992 through 1997, and for any other fiscal year for which this subsection does not specify a higher ceiling, may not exceed 65,000,

"(ii) for fiscal year 1998, may not exceed 95,000,

"(iii) for fiscal year 1999, may not exceed the number determined for fiscal year 1998 under such section, minus 10,000, plus the number of unused visas under subparagraph (B) for the fiscal year preceding the applicable fiscal year, and

"(iv) for fiscal year 2000, and each applicable fiscal year thereafter through fiscal year 2002, may not exceed the number determined for fiscal year 1998 under such section, minus 10,000, plus the number of unused visas under subparagraph (B) for the fiscal year preceding the applicable fiscal year, plus the number of unused visas under subparagraph (C) for the fiscal year preceding the applicable fiscal year;

"(B) under section 101(a)(15)(H)(ii)(b), beginning with fiscal year 1992, may not exceed 66,000; or

"(C) under section 101(a)(15)(H)(i)(c), beginning with fiscal year 1999, may not exceed 10,000.

For purposes of determining the ceiling under subparagraph (A) (iii) and (iv), not more than 20,000 of the unused visas under subparagraph (B) may be taken into account for any fiscal year.".

(2) TRANSITION PROCEDURES.—Any visa issued or nonimmigrant status otherwise accorded to any alien under clause (i)(b) or (ii)(b) of section 101(a)(15)(H) of the Immigration and Nationality Act pursuant to a petition filed during fiscal year 1998 but approved on or after October 1, 1998, shall be counted against the applicable ceiling in section 214(g)(1) of that Act for fiscal year 1998 (as amended by paragraph (1) of this subsection), except that, in the case where counting the visa or the other granting of status would cause the applicable ceiling for fiscal year 1998 to be exceeded, the visa or grant of status shall be counted against the applicable ceiling for fiscal year 1999.

SEC. 4. EDUCATION AND TRAINING IN SCIENCE AND TECHNOLOGY.

(a) DEGREES IN MATHEMATICS, COMPUTER SCIENCE, AND ENGINEERING.—Subpart 4 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070c et seq.) is amended in section 415A(b) (20 U.S.C. 1070c(b)), by adding at the end the following new paragraph:

"(3) MATHEMATICS, COMPUTER SCIENCE, AND ENGINEERING SCHOLARSHIPS.—It shall be a permissible use of the funds made available to a State under this section for the State to establish a scholarship program for eligible students who demonstrate financial need and who seek to enter a program of study leading to a degree in mathematics, computer science, or engineering.".

SEC. 5. INCREASED ENFORCEMENT PENALTIES AND IMPROVED OPERATIONS.

(a) INCREASED PENALTIES FOR VIOLATIONS OF H1-B OR H1-C PROGRAM.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended—

(1) by striking "a failure to meet" and all that follows through "an application—" and inserting "a willful failure to meet a condition in paragraph (1) or a willful misrepresentation of a material fact in an application—"; and

(2) in clause (i), by striking "$1,000" and inserting "$5,000".

(b) SPOT INSPECTIONS DURING PROBATIONARY PERIOD.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following:

"(D) The Secretary of Labor may, on a case-by-case basis, subject an employer to random inspections for a period of up to five years beginning on the date that such employer is found by the Secretary of Labor to have engaged in a willful failure to meet a condition of subparagraph (A), or a misrepresentation of material fact in an application.".

(c) LAYOFF PROTECTION FOR UNITED STATES WORKERS.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by subsection (b), is further amended by adding at the end the following:

"(F)(i) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition in paragraph (1) or a willful misrepresentation of a material fact in an application, in the course of which the employer has replaced a United States worker with a nonimmigrant described in section 101(a)(15)(H)(i) (b) or (c) within the 6-month period prior to, or within 90 days following, the filing of the application—

"(I) the Secretary shall notify the Attorney General of such finding, and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $25,000 per violation) as the Secretary determines to be appropriate; and

"(II) the Attorney General shall not approve petitions filed with respect to the employer under section 204 or 214(c) during a period of at least 2 years for aliens to be employed by the employer.

"(ii) For purposes of this subparagraph:

"(I) The term 'replace' means the employment of the nonimmigrant at the specific place of employment and in the specific employment opportunity from which a United States worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid off.

"(II) The term 'laid off', with respect to an individual, means the individual's loss of employment other than a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant, contract, or other agreement. The term 'laid off' does not include any situation in which the individual involved is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at the equivalent or higher compensation and benefits as the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

"(III) The term 'United States worker' means—

"(aa) a citizen or national of the United States;

"(bb) an alien who is lawfully admitted for permanent residence; or

"(cc) an alien authorized to be employed by this Act or by the Attorney General.".

(d) Prohibition of Use of H–1B Visas by Employers Assisting in India's Nuclear Weapons Program.—Section 214(c) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) The Attorney General shall not approve a petition under section 101(a)(15)(H)(i)(b) for any employer that has knowledge or reasonable cause to know that the employer is providing material assistance for the development of nuclear weapons in India or any other country.".

(e) Expedited Reviews and Decisions.—Section 214(c)(2)(C) (8 U.S.C. 1184(c)(2)(C)) is amended by inserting "or section 101(a)(15)(H)(i)(b)" after "section 101(a)(15)(L)".

(f) Determinations on Labor Condition Applications To Be Made by Attorney General.—

(1) In general.—Section 101(a)(15)(H)(i)(b) (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended by striking "with respect to whom" and all that follows through "with the Secretary" and inserting "with respect to whom the Attorney General determines that the intending employer has filed with the Attorney General".

(2) Conforming amendments.—Section 212(n) (8 U.S.C. 1182(n)(1)) is amended—

(A) in paragraph (1)—

(i) in the first sentence, by striking "Secretary of Labor" and inserting "Attorney General";

(ii) in the sixth and eighth sentences, by inserting "of Labor" after "Secretary" each place it appears;

(iii) in the ninth sentence, by striking "Secretary of Labor" and inserting "Attorney General";

(iv) by amending the tenth sentence to read as follows: "Unless the Attorney General finds that the application is incomplete or obviously inaccurate, the Attorney General shall provide the certification described in section 101(a)(15)(H)(i)(b) and adjudicate the nonimmigrant visa petition."; and

(v) by inserting in full measure margin after subparagraph (D) the following new sentence: "Such application shall be filed with the employer's petition for a nonimmigrant visa for the alien, and the Attorney General shall transmit a copy of such application to the Secretary of Labor."; and

(B) in the first sentence of paragraph (2)(A), by striking "Secretary" and inserting "Secretary of Labor".

(g) Prevailing Wage Considerations.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following new subsection:

"(i)(1) In computing the prevailing wage level for an occupational classification in an area of employment for purposes of section 212(n)(1)(A)(i)(II) and section 212(a)(5)(A) in the case of an employee of—

"(A) an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity, or

"(B) a nonprofit or Federal research institute or agency,

the prevailing wage level shall only take into account employees at such institutions, entities, and agencies in the area of employment.

"(2) With respect to a professional athlete (as defined in section 212(a)(5)(A)(iii)(II)) when the job opportunity is covered by professional sports league rules or regulations, the wage set forth in those rules or regulations shall be considered as not adversely affecting the wages of United States workers similarly employed and be considered the prevailing wage.

"(3) To determine the prevailing wage, employers may use either government or nongovernment published surveys, including industry, region, or statewide wage surveys, to determine the prevailing wage, which shall be considered correct and valid if the survey was conducted in accordance with generally accepted industry standards and the employer has maintained a copy of the survey information.".

(h) Posting Requirement.—Section 212(n)(1)(C)(ii) (8 U.S.C. 1182(n)(1)(C)(ii)) is amended to read as follows:

"(ii) if there is no such bargaining representative, has provided notice of filing in the occupational classification through such methods as physical posting in a conspicuous location, or electronic posting through an internal job bank, or electronic notification available to employees in the occupational classification.".

SEC. 6. ANNUAL REPORTS ON H1–B VISAS.

Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following:

"(3) Using data from petitions for visas issued under section 101(a)(15)(H)(i)(b), the Attorney General shall annually submit the following reports to Congress:

"(A) Quarterly reports on the numbers of aliens who were provided nonimmigrant status under section 101(a)(15)(H)(i)(b) during the previous quarter and who were subject to the numerical ceiling for the fiscal year established under section 214(g)(1).

"(B) Annual reports on the occupations and compensation of aliens provided nonimmigrant status under such section during the previous fiscal year.".

SEC. 7. STUDY AND REPORT ON HIGH-TECHNOLOGY LABOR MARKET NEEDS.

(a) Study.—The National Science Foundation shall oversee a study involving the participation of individuals representing a variety of points of view, including representatives from academia, government, business, and other appropriate organizations, to assess the labor market needs for workers with high technology skills during the 10-year period beginning on the date of enactment of this Act. The study shall focus on the following issues:

(1) The future training and education needs of the high-technology sector over that 10-year period, including projected job growth for high-technology issues.

(2) Future training and education needs of United States students to ensure that their skills, at various levels, are matched to the needs of the high technology and information technology sector over that 10-year period.

(3) An analysis of progress made by educators, employers, and government entities to improve the teaching and educational level of American students in the fields of math, science, computer, and engineering since 1998.

(4) An analysis of the number of United States workers currently or projected to work overseas in professional, technical, and managerial capacities.

(5) The following additional issues:

(A) The need by the high-technology sector for foreign workers with specific skills.

(B) The potential benefits gained by the universities, employers, and economy of the United States from the entry of skilled professionals in the fields of science and engineering.

(C) The extent to which globalization has increased since 1998.

(D) The needs of the high-technology sector to localize United States products and services for export purposes in light of the increasing globalization of the United States and world economy.

(E) An examination of the amount and trend of high technology work that is outsourced from the United States to foreign countries.

(b) Report.—Not later than October 1, 2000, the National Science Foundation shall submit a report containing the results of the study described in subsection (a) to the Committees on the Judiciary of the House of Representatives and the Senate.

(c) Availability of Funds.—Funds available to the National Science Foundation shall be made available to carry out this section.

SEC. 8. LIMITATION ON PER COUNTRY CEILING WITH RESPECT TO EMPLOYMENT-BASED IMMIGRANTS.

(a) Special Rules.—Section 202(a) (8 U.S.C. 1152(a)) is amended by adding at the end the following new paragraph:

"(5) Rules for employment-based immigrants.—

"(A) Employment-based immigrants not subject to per country limitation if additional visas available.—If the total number of visas available under paragraph (1), (2), (3), (4), or (5) of section 203(b) for a calendar quarter exceeds the number of qualified immigrants who may otherwise be issued such visas, the visas made available under that paragraph shall be issued without regard to the numerical limitation under paragraph (2) of this subsection during the remainder of the calendar quarter.

"(B) Limiting fall across for certain countries subject to subsection (e).—In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(b) exceeds the maximum number of visas that may be made available to immigrants of the state or area under section 203(b) consistent with subsection (e) (determined without regard to this paragraph), in applying subsection (e) all visas shall be deemed to have been required for the classes of aliens specified in section 203(b).".

(b) Conforming Amendments.—

(1) Section 202(a)(2) (8 U.S.C. 1152(a)(2)) is amended by striking "paragraphs (3) and (4)" and inserting "paragraphs (3), (4), and (5)".

(2) Section 202(e)(3) (8 U.S.C. 1152(e)(3)) is amended by striking "the proportion of the visa numbers" and inserting "except as provided in subsection (a)(5), the proportion of the visa numbers".

(c) ONE-TIME PROTECTION UNDER PER COUNTRY CEILING.—Notwithstanding section 214(g)(4) of the Immigration and Nationality Act, any alien who—

(1) as of the date of enactment of this Act is a nonimmigrant described in section 101(a)(15)(H)(i) of that Act;

(2) is the beneficiary of a petition filed under section 204(a) for a preference status under paragraph (1), (2), or (3) of section 203(b); and

(3) would be subject to the per country limitations applicable to immigrants under those paragraphs but for this subsection,

may apply for and the Attorney General may grant an extension of such nonimmigrant status until the alien's application for adjustment of status has been processed and a decision made thereon.

SEC. 9. ACADEMIC HONORARIA.

Section 212 (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

"(p) Any alien admitted under section 101(a)(15)(B) may accept an honorarium payment and associated incidental expenses for a usual academic activity or activities, as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) or other nonprofit entity and is made for services conducted for the benefit of that institution or entity.".

SEC. 10. SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.

(a) IN GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking "or" at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

"(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

"(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO-6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

"(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness Act.".

(b) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) of such Act (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)(i)", and

(2) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)".

SEC. 11. WHISTLEBLOWER PROTECTION.

Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by section 5 of this Act, is further amended—

(1) in subparagraph (C), by inserting ", or that the employer has intimidated, discharged, or otherwise retaliated against any person because that person has asserted a right or has cooperated in an investigation under this paragraph" after "a material fact in an application"; and

(2) by adding at the end the following new subparagraph:

"(F) Any alien admitted to the United States as a nonimmigrant described in section 101(a)(15)(H)(i)(b), who files a complaint pursuant to subparagraph (A) and is otherwise eligible to remain and work in the United States, shall be allowed to seek other employment in the United States for the duration of the alien's authorized admission, if—

"(i) the Secretary finds a failure by the employer to meet the conditions described in subparagraph (C), and

"(ii) the alien notifies the Immigration and Naturalization Service of the name and address of his new employer.".

SEC. 12. PASSPORTS ISSUED FOR CHILDREN UNDER 16.

(a) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking "Before" and inserting "(a) IN GENERAL.—Before", and

(2) by adding at the end the following new subsection:

"(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

"(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

"(A) both parents of the child if the child lives with both parents;

"(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

"(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

"(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed on or after the date of the enactment of this Act.

SEC. 13. JOB TRAINING DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Subject to subsection (c), in establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of enactment of this Act, or a successor Federal law, the Secretary of Labor shall establish demonstration programs to provide technical skills training for workers, including incumbent workers.

(b) GRANTS.—Subject to subsection (c), the Secretary of Labor shall award grants to carry out the programs to—

(1) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of enactment of this Act, or successor entities established under a successor Federal law; or

(2) regional consortia of councils or entities described in paragraph (1).

(c) LIMITATION.—The Secretary of Labor shall establish programs under subsection (a), including awarding grants to carry out such programs under subsection (b), only with funds made available to carry out such programs under subsection (a) and not with funds made available under the Job Training Partnership Act or a successor Federal law.

Mr. ABRAHAM. Mr. President, I move to reconsider the vote.

Mr. ROTH. Mr. President, I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. WYDEN. Mr. President, I voted for S. 1723 because I am convinced that some high technology companies are facing critical labor shortages, which is in turn hampering growth in this important economic sector of Oregon's economy. It is critically important, however, that the final legislation contain additional protections for workers rights. Specifically, we should make certain that no qualified U.S. worker will be laid off simply to be replaced by a foreign worker. Further, we should ensure that employers who want to use this program have taken steps to find qualified American workers. I look forward to continued progress on this legislation as it proceeds to conference.

Mr. LOTT. First of all, I want to congratulate the Senator from Michigan for his efforts on this very important legislation. I also appreciate the cooperation of Senators on the other side of the aisle that worked through the day, including Senator KENNEDY, so that we could get to a conclusion on this important legislation. I think it is good for the country. It is the fourth of the high-tech bills that we worked on last week. I thought the combination of those four bills were important and will make a difference in our high-tech community and having the workers and the opportunity for workers to be able to do these important jobs in the high-tech sector. I congratulate Senator ABRAHAM for his work, and Senator MCCAIN, who came up with the suggestion that we try to do several of these high-tech bills in a row.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to S. 1415, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance.

MODIFICATIONS TO COMMERCE COMMITTEE SUBSTITUTE

Mr. LOTT. Mr. President, on behalf of the chairman, the ranking member and a majority of the members of the Commerce Committee, I wish to modify the Commerce Committee substitute.

Before the Chair declares the amendment is modified, I announce to the Members that this is the text of the so-called managers' amendment that the chairman and ranking member have been working on for the last few days. The modification also incorporates the Finance Committee reported amendments as part of the new Commerce Committee substitute.

Mr. HOLLINGS. May I make an inquiry of the majority leader?

Mr. LOTT. We have a series of things we need to do in a row, if I could get through those.

The Chair needs to rule, I believe.

The PRESIDING OFFICER. The amendment is so modified.

Mr. LOTT. On behalf of the chairman and a majority of the members of the Commerce Committee, I wish to further modify the Commerce Committee substitute. Again, before the Chair declares that the amendment is further modified, I announce to the membership this modification would delete some of the Finance Committee amendments from the text of the Commerce Committee modification.

The PRESIDING OFFICER. The amendment is so modified.

Mr. LOTT. Finally, again on behalf of the chairman and a majority of the members of the Commerce Committee, I further modify the committee substitute. Again, before the Chair announces the modification, this last change would incorporate the Lugar Farmer's protection amendment as part of the Commerce Committee substitute.

The PRESIDING OFFICER. The amendment is so modified.

Mr. LOTT. For the information of all Senators, as a result of this action, the pending Commerce Committee Substitute contains the following: The so-called managers' amendment; all of the Finance Committee reported amendments, except the $1.50 increase; Title 14, with respect to declaring the price increase a tax increase; the three deletions with respect to the LEAF Act; the lookback and the compliance fund and tobacco tax trust fund; and the Lugar-Farmer's protection amendment.

Finally, I ask unanimous consent that the modified committee substitute be printed as a Senate amendment and the final version incorporating all of the modifications only be printed in the RECORD.

Mr. HOLLINGS. I object.

Mr. LOTT. At this point, Mr. President, I ask the Senate if they would allow me to go through this.

Mr. HOLLINGS. I do object.

Mr. LOTT. I wanted to give you a chance to inquire, but by objecting you certainly can inquire.

Mr. HOLLINGS. I do object. Mr. President, this has been a long, hard road, as you well know. Almost a year ago the White House, health community and the States, and the States' attorneys general all met and everyone was provided for except the person who really depended on his living—that is, the tobacco farmer. So I got together during the fall with the distinguished Senator from Kentucky, Senator FORD, and he and I worked diligently over the fall period developing what we call the LEAF Act, which not only took care of the farmer but the farm community; namely, the warehousemen, the bank that is financing, the equipment dealer, and everything else of that kind.

There is no question that if this so-called tobacco bill works, there can't be any tobacco farmer unless they are tobacco companies. This is going to diminish the tobacco companies to a great extent and limit the tobacco farmers, as they go down or out of business. We have included the LEAF Act as sort of a safety net. Now, we met in the Commerce Committee on that basis. I know the distinguished chairman, Senator MCCAIN, came to me, and on the basis of him going along with the LEAF Act, we made it a bipartisan bill and voted it out 19–1.

The distinguished chairman also went to South Carolina before thousands of farmers and represented: Don't worry about the LEAF Act. Mr. President, I have been in five conferences now—two actually in my own hideaway in the Capitol—with the White House, the majority leadership, Senator MCCAIN, and others, on this pack of bills. It included Senators on both sides of the aisle, with staffs and everything else. In the five meetings, including the one at 4 o'clock this afternoon, I was always counseled: Don't worry, the LEAF Act is intact.

Don't give me the double talk that it is still intact, not when you put in the Lugar bill by a majority vote. The Lugar bill, by a majority vote, puts that farmer out of business. That is the one thing that the distinguished Senator from Kentucky, and others, have worked and counseled against, and everything else of that kind.

I question, respectfully, that the majority leader identified the majority of the Commerce Committee members. That is all your Republicans; is that what you say?

Mr. LOTT. Yes, it is.

Mr. HOLLINGS. I am dismayed. About a half-hour ago, I had a chance to talk, of course, just a bit with the majority leader. Until now, nothing has been said, and this kind of conduct and course of conduct is just the worst I have seen in my 30-some years up here. There is nothing you can do if they want to change their votes. They all voted for the bill, and I know how they felt because I talked to various Members. I have been talking to them intermittently over the past several months, and over the past 1 month in conferences with the White House. And now, to come at the last minute and have the ground cut from under you with this particular request on the premise that you want to be fair and give everybody a fair vote, that isn't what I worked for. I worked to give this a particular priority that no one else has given it—and certainly not to tobacco companies. I think the tobacco companies have the pressure on at this point to go along with the Lugar amendment and save them billions of dollars. That could be the case.

I yield to my distinguished friend from Kentucky.

Mr. FORD. Mr. President, reserving the right to object, I say this with all respect to the majority leader and to my colleague. It is very difficult to understand what has developed. I thought I understood the rules very well and worked diligently, along with the distinguished Senator from South Carolina, and others, including Senator FRIST, who worked hard to work out the FDA amendment that is in the bill; all of us worked hard to put this together.

I understand the 60-vote rule. I understand that very well, because this amendment by Senator LUGAR cannot raise the money. They talked about a lump sum payment and had to change it today because it is 3 years or more. There is no lump sum payment here. You are fooling the farmers, misrepresenting things to the farmer, if the Lugar amendment gets in here. It is the farmer versus the manufacturer. The manufacturer, under the Lugar amendment, will save a billion dollars a year, minimum—a billion dollars a year. You are going to see that check signed tomorrow. You are going to see the press conference tomorrow. You are going to see the farmers come in here tomorrow, because they are opposed to Lugar. You can have all the misgivings you want. There could be ghosts behind every tombstone about the future, but you have to lay groundwork.

I say to the majority leader, with all respect, if this is done to us, I am going to make it as difficult as I can to see that the bill is not passed this week, and probably not in June. I believe my responsibility here is to the farmer, not to the manufacturer and not to misrepresent that 40 percent of all the money raised by the McCain bill will go to the farmers under 3 years.

Think about that 40 percent. What are you going to reduce? Research? What are you going to reduce? Advertising? What are you going to reduce in order to get that money? Sure, you have to raise it $1.50 to pay for Lugar, and you may not be able to do it then. So here we are, saying to those of us who have worked for months—and I have been on the front porches of grocery stores, in kitchens of farmers, I have been in six States talking to farmers, and this is what the farmers wrote—the LEAF Act. They didn't write the Lugar amendment.

I am sorry that the chairman of the Agriculture Committee is not going to have a vote. I feel sorry for him, but this is the nature of this institution. This is the nature, this is the rule, and this is the precedent. You are following the rules, that is true. But when it comes down to the farmer versus the manufacturer—and this Lugar amendment will give billions to the manufacturer—then I think that the Senate will have a question of whether they want to support the farmer or whether they want to support the tobacco manufacturer.

I know there is nothing I can do, Mr. President. I can object to the unanimous consent, but eventually we will vote on it. Everybody is working hard on the other side to get a bill out of here—just get it out of here. We don't want to touch it, we don't want to fool with it anymore, because what comes out of conference is going to be a minuscule bill. You will have a hard time getting that bill through this body. So rather than starting to take the hide off of folks in the beginning before you even bring the bill up, it seems to me it is a little bit disconcerting.

The chairman of the Commerce Committee has been as straight with me and with us as he could be. I find no fault with what he has attempted to do, because some things we can't agree on. But we were not disagreeable. Everything has always been on top of the table with us, and his word has been as good as gold; his word has been his bond. And now the majority leader takes over all this hard work he has done and say to the chairman of the committee, and to us who worked to cooperate, that what you did and your cooperation is for naught.

I yield the floor.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the majority leader?

Mr. HOLLINGS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, there is objection. Before I renew the request that I made, which was merely that this substitute be printed as a Senate amendment and the final version only be printed in the Record, I want to note that all this means is that we would have to print all three of these documents, which are all pretty substantial in size. We can do that, but there is a cost involved and there is time involved. I hoped that there would not be objection to having this document printed. It would be available to the Members to review. But if there is objection to that, it won't stop anything. We will go forward.

Let me respond to a lot that has been said because I thought it was important that the former chairman of the Commerce Committee, the Senator from South Carolina who worked with Senator McCain, be heard, and I thought it was very important that the Senator from Kentucky make his case. But let me also explain what is going on here.

Everybody knows this has not been easy to get through the committee process to get at this point on the floor of the Senate with a lot of give and take and a lot of Senators who had to take positions that were hard for them, including the Senator from Arizona, Senator McCain. And other Senators who are going to be involved in this have had to accept some things they didn't go along with. I acknowledge that the Senator from South Carolina has worked very carefully with the Senator from Arizona. But also it is my job as majority leader to try to find a responsible way to move this forward to get it to the floor in the fairest possible way. There is no way to do that without some people feeling like, "Well it is not exactly the way I wanted it," or "It doesn't give me a fair position," or "It doesn't give me more than a fair position. All I want is an advantage."

Now the Senator from Indiana is chairman of the Agriculture Committee. It seems rational to me that you would understand that as majority leader I would be interested and concerned in the position, or an amendment to be offered on this important piece of legislation by the chairman of the Agriculture Committee, and, if we didn't do it this way, he would be disadvantaged in that he would have to have 60 votes, not 51—not a majority, a supermajority of 60 votes. I understand that the Senator from Kentucky wanted to require that, and he has used his influence to get it in the position where that could have occurred. He also understands that what I am doing here is perfectly within the rules. I am trying to get everybody on a fair and equal footing. I don't know how the votes are going to go.

Mr. FORD. Will the majority leader yield?

Mr. LOTT. If I could, because I didn't interrupt the Senator from Kentucky.

I don't know how the voting is going to go. Senator Lugar might get 51 votes. Senator Ford might win and prevail because 51 votes cannot be achieved for the Lugar amendment. There are a lot of people who don't think either one of these are all that hot. Quite frankly, they would like a whole different arrangement to be of assistance legitimately to the tobacco farmers. These are not the only two solutions in the world. There might be some other ones.

I do not want to disadvantage anybody. But this is an amendment that has been around on this subject for quite some time. Senator Lugar has never made it a secret of the fact that he would want this to be offered, or as an alternative available to him to be offered. There are others who do not like this provision or that provision that is included or not included. But, in other instances, the Senators would have to offer an amendment only to get 50 votes.

So I think this is a fair way to go. I am sorry the Senator doesn't agree with it. But I have been very meticulous to make sure that everybody was aware of what we were trying to do here. I have not been in all of these substantive negotiations. I have been strictly looking at how we can move this forward and what the process is to have it come up and considered in a fair way.

The chairman of the Finance Committee is standing here now wanting to ask some questions of the Chair about what this means for the Finance Committee and what they did. They had a tough time. They came up with some improvements. They came up with some things certainly I don't agree with, and I don't think the chairman does, either. But he is willing to get a clarification of what it means for him, and to go forward. I think he has taken the right position.

So I just wanted to take this opportunity to say that I understand where everybody is coming from but that I think this is the fair way to do it.

I don't think we ought to start over by saying, "Well, if we don't get this, or don't get that, we are going to kill it." I don't think anybody wants that to happen on your side of the aisle. Let's go forward. Let's have some amendments. And let's see where the votes are. That is the way to do this.

Mr. FORD. Mr. President, continuing to reserve the right to object.

Mr. LOTT. I believe there is no reservation.

The PRESIDING OFFICER. An objection was heard, and the majority leader is recognized.

Mr. LOTT. Let me do this, Mr. President, so that the Senator can respond. I yield to the Senator from Kentucky so he can respond.

Mr. FORD. I say to the majority leader that I understand that Senator Lugar is chairman of the Agriculture Committee. I understand that Senator Lugar has been around here more than a week or two. I understand that Senator Lugar should understand the rules. And I understand that he has been working diligently, along with others, to make this work. I have been doing the same. And then when I get it to a point where you have it where you think you are safe and that you are protected, then in order to be fair about it, in order to be fair about it, you change everything we have done for the last 10 months, except that I get a vote up and down. But I had the position—or we had it in a position where it would take 60.

So I think that the fairness now in all of the work that you do that is not fair, and so, therefore, the work you do is out the window because it is not fair. I thought when you made it through here, and you got it through the committee, and you got it on the floor, that was pretty fair after 10 months. Now because another Senator doesn't have an opportunity to bring it up——

Mr. LOTT. The only time there would be a guarantee of that is when it has gone through the Senate, the House, then a conference, and the President puts pen to paper.

Mr. FORD. I understand you are talking about fairness here and you are being unfair to those of us who worked so hard.

Mr. LOTT. Mr. President, I renew my request with respect to the subcommittee substitute.

Mr. KERRY. Reserving the right to object.

Mr. HOLLINGS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized under the reservation.

Mr. KERRY. Mr. President, nobody needs to speak for either the Senator from Kentucky or the Senator from South Carolina. They have done it for many years here, and they are as capable as anybody. But I would like to say that I understand the difficulties in which the majority leader finds himself. He gets approached by people on both sides, from all sides, and it is difficult to bring this piece to the floor. But there is a process by which we have been working and by which, I think, most of us understood that we were sort of teeing this legislation up for the floor. I think it has been an exceptional process. I applaud the Senator from Arizona, the chairman of the Commerce Committee, for the way in which he has tried to meld those forces over the course of the last months.

The truth is that the Senator from Kentucky and the Senator from South Carolina, who is the ranking member and who could have stood in the way, significantly along the way here, of progress, has moved along the way to get us to where we are with an understanding of where he stood with respect to critical issues. Everybody here understands how you approach any of these negotiations. There is a certain amount that you are willing to give up with an understanding of what you are getting and that you are where you are.

Through all of these meetings, through all of the interventions to this point in time, neither the Senator from South Carolina nor I have been part of those meetings, nor any of my colleagues have had any knowledge whatsoever that this "rule" might be invoked. They have had no opportunity to think about an alternative process to work with their colleagues, or otherwise.

I simply say that suddenly at 4 o'clock in the afternoon the entire ground has shifted. That is within the rules. The Senator from Kentucky has acknowledged that. I acknowledge that. That may be one of the very difficult decisions that the majority leader has to make.

But if fairness is what we are really looking for here, it seems to me that maybe there is a way to find some alternative method of including the Senator from Kentucky and the Senator from South Carolina and the chairman of the Agriculture Committee to find out how you might resolve this other than to do it in this sort of fairly unilateral fashion. I don't know if that is possible. But I would certainly say that in the context of the way in which the negotiations have been conducted to reach this point that also strikes me as being fair.

Mr. LOTT. Mr. President, will the Senator yield?

Mr. KERRY. I am happy to yield.

Mr. LOTT. The Senator from Massachusetts is speaking under reservation.

Let me assure him that I have looked at all of the alternatives. I have looked at the best possible way to bring this up. I didn't know it was going to wind up having to be done this way. We didn't know 2 weeks ago that we would have the Finance Committee angles. I have said all along that Senator LUGAR, chairman of the Agriculture Committee, was going to have a fair shot, along with anybody else, to offer his amendment and win or lose by majority vote. I am surprised that some people are surprised by this. But I understand. But I just say that I have been having people on this side of the aisle complain about this, too. There are a lot of people on my side of the aisle who do not want this brought up under this concept, or any other.

But I will say this to Senators on both sides of the aisle: Anybody who wants to stand in the way of this bill, if you don't want us to try to find a way to deal with children's porn, and drug abuse by children, if you don't want us to find a way to try to deal with the health problems caused by tobacco—all I am trying to do is get a 51-vote majority for an amendment—go right ahead. There are people on both sides of the aisle threatening to do just that.

Now, I know the Senator from Massachusetts is trying to contribute by saying let's keep calm and can we find a way to work this out. I think this is a fair way, and I admonish everybody to stay calm, too, and keep our eye on what is the target here. It is bigger than the sum of its parts, and we ought to keep that in mind. We may not be able to do it this week. We may never be able to do it. The odds are very strong that this thing is going to implode by the weight we are placing on it. Every time we tested it, it has gotten bigger, fatter and more difficult to get through. So it is OK with me however it works out. But I believe we have here a reasonable way to begin this process, and I urge my colleagues, hold your fire. Let's go ahead with the opening statements by the Senators. Let's get some amendments going. Who knows for sure how it is going to work out?

Mr. McCAIN. Will the Senator yield?

Mr. KERRY. I would be happy to yield after I finish my comment.

I will not object, Mr. President. But I would simply say that I think the Senator from Arizona would agree that in the judgment of most of us we thought we made it smaller and slimmer and easier, but that will be proven over the course of the next days. I appreciate what the majority leader has said, and I think hopefully we can find some way to resolve this as we go through the next days.

Mr. McCAIN. Will the Senator yield?

Mr. KERRY. I will yield the floor.

The PRESIDING OFFICER. Is there objection to the majority leader's——

Mr. McCAIN addressed the Chair.

Mr. HOLLINGS. Reserving the right to object.

Mr. KERRY. I yield to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Massachusetts has not had the floor—

Mr. McCAIN. Reserving the right to object.

The PRESIDING OFFICER. And thereby does not have the authority to yield. The majority leader has the floor.

Mr. McCAIN. Will the majority leader yield to me for a brief comment? The majority leader has the floor.

Mr. LOTT. Mr. President, I had a request pending, but if I have the time——

The PRESIDING OFFICER. Is there an objection?

Mr. McCAIN. Reserving the right to object.

Mr. HOLLINGS. Reserving the right to object.

The PRESIDING OFFICER. The Senator is recognized.

Mr. McCAIN. This is a difficult situation and not the first that we have been through in this process, nor regrettably, I feel, will it be the last. I have great sympathy for my two dear friends—one from Kentucky, one from South Carolina—who fought very hard for the people they represent. I also understand, and I think we all should, the position of the majority leader, who, despite the predictions of many, has been steadfast throughout as far as saying this bill would come to the floor and we would resolve it, if there was anything within his power to do it.

It was my understanding I would be managing this bill with the distinguished Senator from South Carolina. I will make every effort to make sure that fairness is the order of the day, which has been the way we have conducted our relationship and our negotiations throughout this bill. I will do everything in my power.

I understand very well how concerned the Senators from South Carolina and Kentucky are. I also understand that the majority leader has the right to do these things. We saw them when the other side of the aisle was in the majority. I saw it on several bills where modifications were put into bills which made it no longer a 60-vote proposition but 51–49. I didn't like that at the time. But it is perfectly correct in the parliamentary fashion.

I would, again, like to echo the words of the majority leader. We are going to hear attacks. There are people waiting right now to attack this bill in the most vociferous and passionate fashion, and there are people on the other side who will say: You guys aren't tough enough on these tobacco companies; you have got to do more. The first amendment is going to smack them for a buck 50 instead of a buck ten. We will hear over here: This is the biggest tax increase in history; you are doing way too much.

But I believe the great center will hold on this bill, and I believe that a fair procedure will follow. And I want to commit to my colleagues that will happen. I am sorry, I say to my friends from South Carolina and from Kentucky, this has been distressing to them, but I hope we can move forward in a fair and equitable fashion.

The PRESIDING OFFICER. Is there objection to the majority leader's——

Mr. HOLLINGS. Reserving the right to object.

Mr. DASCHLE. Reserving the right to object.

The PRESIDING OFFICER. The distinguished Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I have not wanted to get into this until now, but I must say I applaud what the distinguished chairman has said in a couple of aspects. First of all, I think that it is true; up until now, there has been a good deal of effort on both sides to bring this bill to the floor. We wouldn't be here today were it not for the leadership of the Senator from Arizona and the tremendous work put forth by the Senator from South Carolina, as well as the Senator from Kentucky. It is the only way we got to this point. We got here because the ranking member and the chairman concluded that this bill needed to get to the floor, and we were under a timeframe within which to do that.

That has now happened. It was only through that effort that we were able to get this far. And I think it is fair to say both sides have been working in good faith to bring us to this point.

So there is really two questions here. No. 1, is it within the right of the majority leader to amend his legislation as he has proposed to do? And clearly he is within his rights to do that. The real question is, Is it in keeping with what we have established as the working order here? Are we in the same kind of partnership that we thought we had all the way through this process as we moved procedurally to the floor?

The answer clearly is no; this was a surprise. Senator HOLLINGS has been in the meetings discussing what would go in the managers' amendment until at least 4 o'clock this afternoon. Senator HOLLINGS, the administration and others have signed off on every single piece of what was to go into the managers' amendment.

I just left the floor to check with the administration to see if they knew that this was in the managers' amendment, and the answer was emphatically no. No one told them this was going to be included. No one gave them any indication.

So clearly we start this debate with a very serious misunderstanding and a very serious violation of good faith. It is within the right of the majority to take steps of this kind, but, unfortunately, it comes at a price. That price is the cooperation needed to complete our work. The price is coming to terms with all the other procedural questions we have to face.

How is it possible to get unanimous consent under these circumstances? How is it possible to get any understanding about the degree to which we can agree on amendments with this problem?

So, Mr. President, we have compounded the problem this afternoon, unnecessarily it seems to me. The majority leader has a job to do. He has to make choices, and I understand that. But I hope as those choices are made, we clearly demonstrate the appreciation for the kind of communication that is going to be absolutely essential if we get anything done at all. I hope we can work through this. I hope before the night is out, or at the very latest tomorrow morning, we can resolve this matter, because if we are going to move forward adequately, successfully, it has to be resolved. I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). Is there objection?

Mr. HOLLINGS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Chair.

Mr. President, there is not any question about the majority leader's right to proceed as he does and make that request. But he only does that with the majority vote of the Commerce Committee. That is the dismaying thing to this particular Senator, because when you meet as the ranking member, you represent not only yourself but the committee members and other Senators interested, of course, in the tobacco farmer. And you are not just wanting to assure yourself. You are wanting to assure others you represent because they are constantly asking these questions. So everyone, the White House, the health community, everyone now has gotten in step as of 4 o'clock on the LEAF Act, and to come now with this procedure and say they have the majority, which would include the distinguished chairman of the committee, is a shocking surprise to me. I can tell you that right now because I have been with him. I got with him only on this understanding. And to come now and put the LEAF Act in jeopardy with this particular procedure, I just had to stand up here and register my objection.

Now, I don't want to object in a silly fashion to the printing, so I will withhold it, but the bipartisanship is ended.

Mr. ROTH. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Without objection, the majority leader's request is agreed to.

(The committee substitute, as modified to incorporate the text of amendment No. 2420, will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I rise to make a parliamentary inquiry on behalf of my distinguished ranking member, Senator MOYNIHAN, and myself, as chairman of the Finance Committee.

The Senate has before it a modification to the Commerce Committee substitute and Finance Committee amendment to S. 1415, the National Tobacco Policy and Youth Smoking Reduction Act. If the modification were introduced as a bill, would it be referred to the Finance Committee?

The PRESIDING OFFICER. Yes, it will.

Mr. ROTH. Mr. President, further parliamentary inquiry——

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. Yes, it would.

Mr. ROTH. The modification contains settlement payments and health fees. Is it true that these provisions, no matter how they are designated, are revenue measures, and, thus, within the jurisdiction of the Finance Committee?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROTH. Mr. President, Senator MOYNIHAN and myself would like to note for the record that the modification of the Commerce Committee substitute violates Rule 15 of the Standing Rules of the Senate. Neither Senator MOYNIHAN nor I will raise the point of order because, even if we did raise the point of order, the leaders or managers could accomplish the same result by offering the identical text as a floor amendment.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD. This material is the technical explanation that describes the amendments made by the Committee on Finance to S. 1415, as reported by the Committee on Commerce, Science, and Transportation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TECHNICAL EXPLANATION OF FINANCE COMMITTEE AMENDMENT TO S. 1415 (AS APPROVED ON MAY 14, 1998)

I. TOBACCO EXCISE TAX AND TRUST FUND PROVISIONS

A. PRESENT-LAW TAX AND TRUST FUND PROVISIONS

Excise taxes on tobacco products. Excise taxes imposed on cigarettes, cigars, chewing tobacco and snuff, pipe tobacco, and cigarette papers and tubes (Code sec. 5701). In addition, tax will be extended to "roll-your-own tobacco" at the same rates as pipe tobacco, effective on January 1, 2000. These taxes are imposed upon removal of the taxable tobacco products by the manufacturer, or on importation into the United States.[1] The current tax rates are shown in the table below:

Tobacco product	Tax rate
Cigarettes:	
Small cigarettes[2]	$12.00 per thousand (24 cents per pack of 20 cigarettes).
Large cigarettes	$25.20 per thousand.
Cigars:	
Small cigars	$1.125 per thousand.
Large cigars	12.75% of manufacturer's price, up to $30 per thousand.
Chewing tobacco	$0.12 per pound.
Snuff	$0.36 per pound.
Pipe tobacco	$0.675 per pound.
Cigarette papers	$0.0075 per 50 papers.
Cigarette tubes	$0.15 per 50 tubes.

Effective on January 1, 2000, the tax rate on small cigarettes is scheduled to increase by $5 per thousand (to 34 cents per pack of 20 small cigarettes), and the tax rates on other taxable tobacco products are scheduled to increase by proportionate amounts. Effective on January 1, 2002, a further increase of $2.50 per thousand (to 39 cents per pack of 20 small cigarettes) is scheduled to become effective. (Tax rates on other taxable tobacco products will increase proportionately on that date as well.)

Generally, excise taxes on tobacco products that are removed during any semimonthly period must be paid by the 14th day after the last day of such semimonthly period. Late payment of tobacco excise taxes is subject to interest charges and penalties in the same manner as the late payment of other types of taxes. In addition, a failure to pay penalty equal to 5 percent of the tax due, but unpaid, is assessed under section 5761(b).

Revenues from the current tobacco products excise taxes are deposited in the General Fund of the Treasury.

Tobacco occupational excise tax. An annual excise tax of $1,000 per premise generally is imposed on manufacturers of tobacco products, manufacturers of cigarette papers and tubes, and export warehouse proprietors (Code sec. 5731). The occupational tax is $500 per premise for taxpayers with annual gross receipts less than $500,000. Revenues from the occupational tax are deposited in the General Fund of the Treasury.

Penalty excise taxes. In addition to excise taxes imposed primarily to raise revenue, the Internal Revenue Code (the "Code") includes several excise taxes imposed as "penalties" for taking (or failing to take) certain required actions. Examples of these excise taxes include taxes on excess lobbying expenditures by charitable organizations, certain "self-dealing" activities by officers and others involved with private foundations, failures by private foundations to distribute required percentages of income, and numerous regulatory excise taxes imposed with respect to specified activities of qualified pension plans. Present law does not establish any underage smoking reduction goals or impose any penalty excise tax with respect to such goals.

Overview of Internal Revenue Code Trust Funds. Most Trust Funds that are financed with dedicated excise tax revenues are established in the Code (secs 9501 et. seq.). Examples of these Trust Funds are the Airport and Airway Trust Fund, the Highway Trust Fund, the Black Lung Trust Fund, the Aquatic Resources Trust Fund, the Inland Waterways Trust Fund, the Hazardous Substance Superfund, the Leaking Underground Storage Tank Trust Fund and the Oil Spill Liability Trust Fund. Each of these Trust Funds includes provisions dedicating specified revenues to the Trust Fund and provisions approving expenditure purposes of the Trust Fund (generally as those purposes are in effect on the date of enactment of specific authorizing legislation). The Code also contains general provisions relating to the management of these Trust Funds. In general, Trust Fund expenditures are subject to the annual appropriations process. Under present law, there is no Federal trust fund relating to tobacco taxes and spending programs.

B. DESCRIPTION OF FINANCE COMMITTEE AMENDMENT RELATING TO TOBACCO TAXES AND TRUST FUND

Increase in tobacco products excise tax rates. In lieu of the payments (including the initial $10 billion payment) required of tobacco manufacturers under S. 1415, as reported by the Committee on Commerce, Science, and Transportation (the "Commerce Committee"), the current Federal excise tax rate on small cigarettes is increased by $1.50 per pack of 20 small cigarettes. The tax rates on all other taxable tobacco products are increased proportionately to the increases specified for small cigarettes. In addition, the effective date for imposition of tax on "roll-your-own" tobacco is accelerated from January 1, 2000, to January 1, 1999. Each of these rate increases will be phased-in ratably over a three-year period (calender years 1999, 2000, and 2001). Thus, for example, the tax rate on small cigarettes will increase by 50 cents per pack of 20 cigarettes on January 1, 1999, by an additional 50 cents per pack on January 1, 2000, and by an additional 50 cents per pack on January 1, 2001. (These increases are in addition to the rate increases currently scheduled to take effect in 2001 and 2003.)

On each January 1 beginning in calendar year 2002, all tobacco excise tax rates will be adjusted for inflation, as measured by changes in the CPI occurring during the 12-month period ending on the preceding August 31.

Floor stocks taxes comparable to those imposed when tobacco excise tax rates previously have been increased will be imposed on each tax increase date. Floor stocks taxes must be paid no later than July 1 of the year of tax increase.

As stated above in the description of present law, the current tobacco products excise taxes apply to tobacco products manufactured in, or imported into, the United States. Solely for purposes of these increased tax amounts, the term United States includes U.S. possessions as well as the 50 States and the District of Columbia. Accordingly, no amount of the increase will be covered-over to U.S. possessions under Code section 7652.

Further, the effective date of certain compliance provisions relating to exported cigarettes is accelerated from January 1, 2000, to January 1, 1999.

Impose penalty excise tax for failure to meet underage smoking reducing goals. Both the National Tobacco Proposed Resolution (the "Proposed Resolution") and S. 1415, as reported by the Commerce Committee, would establish goals for the reduction of underage smoking and would impose lookback "surcharges" or "assessments" on tobacco manufacturers if these goals are not met. In lieu of the lookback surcharges or assessments, the Finance Committee amendment imposes a non-deductible penalty excise tax on all manufacturers and importers of cigarettes and smokeless tobacco.

All manufacturers and importers of cigarettes and smokeless tobacco are subject to the penalty excise tax. Imposition of this penalty excise tax is governed by the smoking reduction goals and imposed at the rates specified in S. 1415, as reported by the Commerce Committee. In addition, the Finance Committee amendment provides that the determination of whether underage smoking goals are met is determined under rules prescribed by the Secretary of the Treasury (in consultation with the Public Health Service). Beginning in that year, the Secretary of the Treasury is directed to publish by February 15 of each calendar year the amount of tax allocated to each cigarette and smokeless tobacco manufacturer and importer based on their prior year's excise tax liability.

The penalty excise tax is payable in full no later than April 1 of each calendar year. Cigarette manufacturers and importers are jointly and severally liable for payment of this tax imposed with respect to cigarettes as provided in the Proposed Resolution and S. 1415, as reported by the Commerce Committee. Smokeless tobacco manufacturers and importers similarly are jointly and severally liable for payment of tax attributable to smokeless tobacco. Other Code administrative and enforcement provisions applicable to excise taxes generally apply to this tax.

Deletion of Federal requirements relating to "pass through" of payments. The provisions in S. 1415, as reported by the Commerce Committee, requiring that tobacco manufacturers use their best efforts to pass through to consumers the amount of any payments on a per unit basis are deleted.

Deletion or modification of miscellaneous "fees" contained in S. 1415. The provisions of S. 1415, as reported by the Commerce Committee, that impose separate "fees" to support the Tobacco Community Revitalization Trust Fund programs, the "fees" and operative Trust Fund provisions related to international tobacco control, the "fees" and "assessments" on nonparticipating manufacturers, the Tobacco Asbestos Trust Fund and related programmatic provisions, the Compliance Bonus Fund, and the provision relating to child care and early childhood development spending are deleted from the bill.

The Finance Committee amendment provides that, notwithstanding any other provision of law, all charges or user fees imposed under the titles of the bill other than the revenue title must be set in amounts that recover only costs attributable to providing services to the party paying the fees (i.e., must be true, or cost-based, user fees rather than disguised taxes).

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[1] Footnotes appear at end of article.

Establishment of National Tobacco Settlement Trust Fund. In lieu of the multiple separate Trust Funds provided for under the Commerce Committee titles of S. 1415, as reported, a National Tobacco Settlement Trust Fund (the "Tobacco Trust Fund") is established in the Treasury Department pursuant to provisions enacted into the Trust Fund provisions of the Code. Amounts equal to the net revenues[4] from the changes made by the Finance Committee amendment are to be deposited in the Tobacco Trust Fund.[5] The Tobacco Trust Fund further will receive amounts equal to all penalties imposed under S. 1415.

Amounts in the Tobacco Trust Fund generally are available for expenditure as provided in subsequently enacted appropriations Acts.[6]

Amounts in the Tobacco Trust Fund are available for expenditure for the programs provided in S. 1415, as those programs are in effect on the date of the bill's enactment.

The Tobacco Trust Fund includes a separate account, the State Tobacco Settlement Account (the "State Account"), to administer distribution of Trust Fund monies to States. The State Account will receive revenues equal to 30 percent of the net revenues produced by the increases in tobacco taxes during the five calendar years, 1999 through 2003. In calendar year 2004 and thereafter, this percentage will increase to 45 percent. These revenues are not available to finance any other Trust Fund expenditure purposes. States are eligible for payments from the State Account and the Tobacco Trust Fund generally only if they waive their rights to any future payments under State settlements with the tobacco manufacturers or importers.

Each State is eligible to receive the portion of the monies in the State Account shown in the table entitled "Distribution of Funds to States" below, except the States of Mississippi, Florida, Texas, and Minnesota are guaranteed that amounts those States receive will not be less than the amounts they would have received under their previously negotiated settlements with the tobacco companies, determined on a year-by-year basis.

In general, there are no requirements or restrictions on the use of funds appropriated to the States from the Tobacco Trust Fund; however, the Finance Committee amendment clarifies that the Medicaid cost recovery provisions apply to States that use Tobacco Trust Fund payments in their Medicaid programs. Cost recovery is waived for States that use the Tobacco Trust Fund for other purposes.

Provisions further are included ensuring that no tax revenues are deposited into the Tobacco Trust Fund if any monies are spent other than as authorized under these provisions.

General administrative provisions applicable to Code Trust Funds apply to the Tobacco Trust Fund, except no interest would accrue on unspent balances in the Tobacco Trust Fund. As with other Code Trust Funds, the Tobacco Trust Fund is not permitted to borrow from the General Fund.

DISTRIBUTION OF FUNDS TO STATES

State	Percentage
Alabama	1.237
Alaska	0.400
Arizona	1.709
Arkansas	0.954
California	8.695
Colorado	0.990
Connecticut	1.548
Delaware	0.400
D.C.	0.474
Florida	4.768
Georgia	2.735
Hawaii	0.800
Idaho	0.400
Illinois	3.930
Indiana	1.490
Iowa	0.932
Kansas	0.800
Kentucky	1.664
Louisiana	1.723
Maine	0.800
Maryland	1.425
Massachusetts	3.802
Michigan	3.586
Minnesota	1.246
Mississippi	1.701
Missouri	1.701
Montana	0.400
Nebraska	0.400
Nevada	0.400
New Hampshire	0.400
New Jersey	3.755
New Mexico	0.800
New York	12.812
North Carolina	1.977
North Dakota	0.400
Ohio	4.205
Oklahoma	0.800
Oregon	1.353
Pennsylvania	4.421
Rhode Island	0.800
South Carolina	1.090
South Dakota	0.400
Tennessee	2.851
Texas	5.930
Utah	0.400
Vermont	0.400
Virginia	1.348
Washington	1.726
West Virginia	0.782
Wisconsin	1.841
Wyoming	0.400

II. TRADE PROVISIONS

1. Section 1107—Ban on distribution of tobacco products produced by child labor. The Finance Committee amendment to Section 1107 clarifies that the amendment to Section 307 of the Tariff Act of 1930 contained in S. 1415 applies to imports of tobacco products produced by forced or indentured child labor.

2. Section 1133—Limits on the authority to promote the exportation of tobacco. The Finance Committee amendment codifies current policy set out in the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 1998, which prohibits any officer, employee, department or agency of the United States from promoting the sale or export of tobacco products, or from seeking the removal of nondiscriminatory barriers to trade in tobacco. The Finance Committee amendment clarifies that ministerial or clerical functions, such as the collection of export documents by Customs Service officials upon export through a U.S. port, would not constitute promotion of the sale or export of tobacco products within the meaning of section 1133. The Finance Committee clarifies further that United States Trade Representative (USTR) retains the authority to seek redress from discriminatory barriers to U.S. market access, with the proviso that USTR must consult with the Department of Health and Human Services prior to taking such action. Finally, in the Committee's view, nothing in section 1133 should be construed to prohibit the reduction of tariffs or other trade barriers through comprehensive trade negotiations that incidentally include tobacco products, provided that such reductions are not primarily directed at reducing tariffs or trade restraints on tobacco products.

3. Section 1134—Report on impact on U.S. international obligations. The Finance Committee amendment strikes Section 1134 from the bill.

4. Section 1145—Anti-smuggling provisions/prohibition on imports except under a permit. The Finance Committee amendment ensures that the bill imposes identical permit requirements on persons engaged in the production or marketing of tobacco products, regardless of the country or origin of the product and irrespective of their role in the distribution chain, whether through the manufacture, import, sale, distribution or warehousing of tobacco products. The Finance Committee amendment clarifies that the legislation does not create a separate import licensing regime for imports. The legislation does not affect the administration of tariff rate quotas the United States currently imposes on imports of tobacco and manufactured tobacco.

5. Section 1147—Ships stores, duty-free shops, and foreign trade zones. The Finance Committee amendment would permit the continued use of duty-free stores and foreign trade zones for the import, sale, manufacture, distribution, and export of tobacco products, provided that such activities comply with all applicable U.S. laws relating to the import, sale, distribution and/or marking of tobacco products in the customs territory of the United States, including restrictions on sales to minors. The Finance Committee amendment would also prohibit the importation of tobacco or tobacco products previously sold for export and exempt from excise tax as ships stores or in duty-free shops.

III. ELIMINATION OF LIMITATION ON MEDICAID COVERAGE OF SMOKING CESSATION AGENTS

Under the committee amendment, states will not be allowed to exclude from coverage or restrict agents when used to promote smoking cessation. States will maintain the authority to exclude from coverage or restrict nonprescription drugs when used to promote smoking cessation.

IV. MASTECTOMY HEALTH CARE PROVISION

A. PRESENT LAW

Under present law, group health plans must meet certain requirements with respect to limitations on exclusions of preexisting conditions and must not discriminate against individuals based on health status. An excise tax of $100 per day during the period of noncompliance is imposed on the employer sponsoring the plan if the plan fails to meet these requirements. The maximum tax that can be imposed during taxable year cannot exceed the lesser of 10 percent of the employer's group health plan expenses for the prior year or $500,000. No tax is imposed if the Secretary determines that the employer did not know, and exercising reasonable diligence would not have known, that the failure existed.

B. DESCRIPTION OF FINANCE COMMITTEE AMENDMENT

The Finance Committee amendment requires that certain group health plans satisfy two additional requirements: (1) provide for impatient coverage with respect to the treatment of breast cancer, and (2) provide inpatient coverage for reconstructive surgery following mastectomies. Failure to comply with these requirements would result in the same exercise tax applicable to failure to comply with the limitations on exclusions of preexisting conditions and discriminating against individuals based on health status.

The amendment requires a group health plan that provides medical and surgical benefits to ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as determined by the attending physician to be medically appropriate following: (1) a mastectomy; (2) a lumpectomy; or (3) a lymph node dissection for the treatment of breast cancer.

The amendment requires a group health plan that provides medical and surgical benefits with respect to a mastectomy to ensure that, in a case in which a mastectomy patient elect breast reconstruction, coverage is provided for: (1) all stages of reconstruction of the breast on which the mastectomy has been performed; (2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and (3) the costs of prostheses and complications of mastectomy including lymphodemas, in the manner determined by the attending physician and the patient to be appropriate.

The amendment requires a group health plan to provide notice to all participants and beneficiaries under the plan of the inpatient coverage available with respect to the treatment of breast cancer and reconstructive surgery following mastectomies.

The amendment does not pre-empt any State law in effect on the date of enactment with respect to health insurance coverage that: (1) requires coverage for a minimum length of hospital stay following a surgical treatment for breast cancer; (2) requires coverage of at least the coverage of reconstructive breast surgery required under the proposal; or (3) requires coverage for breast cancer treatments (including breast reconstruction) in accordance with scientific evidence-based practices or guidelines recommended by established medical associations.

FOOTNOTES

[1] The term United States includes the 50 States and the District of Columbia.

[2] A significant majority of taxable cigarettes, and of taxable tobacco products, is small cigarettes.

[3] These rules may be, but are not required to be, based on the University of Michigan's National High School Drug Use Survey, "Monitoring the Future" (the specified source under the Proposed Resolution and S. 1415, as reported by the Commerce Committee.

[4] The term "net revenues" means the gross payments received less an income tax offset.

[5] These amounts would be reduced by any refunds of tax previously paid that were properly allocable to revenues deposited into the Tobacco Trust Fund.

[6] As reported by the Commerce Committee, S. 1415 provides that spending for certain programs is to be direct spending. This provision in the Finance Committee amendment supersedes those direct spending provisions (except in the case of amounts deposited into the State Account, described below, and S. 1415's provisions for payments to tobacco farmers).

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I concur in the judgment of our distinguished chairman on the important question of the jurisdiction of the Committee on Finance and I thank him for insisting that it be made clear for the record, as indeed has been done thanks to the distinguished Presiding Officer.

Mr. President, S. 1415, the tobacco legislation now before the Senate, was ordered referred to the Committee on Finance on May 13, 1998. It was so referred because the Senate Parliamentarian determined that the bill is in the jurisdiction of the Finance Committee. That action preserved the jurisdiction over tax legislation for which the Finance Committee has been responsible for 181 years.

The RECORD should be clear that this is indeed a tax bill. The Parliamentarian has so determined; the Joint Committee on Taxation has concurred.

One may refer to certain provisions of this legislation as "annual payments," "lookback assessments," or "fees," but they are taxes. As Richard Cardinal Cushing said, "When I see a bird that walks like a duck and swims like a duck and quacks like a duck, I call that bird a duck." Call it whatever you like, but this bill raises taxes on tobacco, and we're not fooling anybody to suggest otherwise.

And as I have said, taxes have been the jurisdiction of the Committee on Finance for going on two centuries now. In the case of excise taxes, which figure prominently in this bill, the Finance Committee's jurisdiction has been recognized since 1817, the year after the Committee was established. That was the 14th Congress. George W. Campbell of Tennessee, was Chairman; Senator Rufus King, of New York, was Ranking Member.

Likewise our jurisdiction over income taxes has been recognized since the first income tax was enacted in 1861. And the Standing Rules of the Senate have explicitly provided for our jurisdiction over "revenue measures generally"—tax bills—since 1946, the year that the jurisdictions of all Senate Committees were first set forth in the Rules. I might add that our jurisdiction over international trade matters, which also arise in this bill, is equally clear and equally longstanding.

Our revered Chairman, Senator ROTH, last week insisted—with the full support of our Committee Members—that this legislation be considered by the Finance Committee before it went to the floor. It was referred to us on Wednesday, and we marked it up on Thursday. The vote to report favorably the Finance Committee amendments was 13–6.

The Finance Committee made several important improvements to the bill. First, we converted the assorted "payments" and "assessments" to taxes. Second, we approved an increase of $1.50 per pack in the tax on tobacco, to be phased in over three years. Third, we struck from the bill a tax on exports that was a clear violation of Article I, Section 9 of the U.S. Constitution. And finally, we adopted an amendment by Senator D'AMATO to require that health plans provide coverage for minimum hospital stays and reconstructive surgery associated with the treatment of breast cancer.

Some of these changes have now been included in the pending Commerce Committee substitute. Owning to the parliamentary situation, some of the other Finance Committee amendments will require separate votes. But thanks to our Chairman, the essential point has been made; the jurisdiction of the Committee on Finance has been preserved and affirmed.

I thank the Chair and yield the floor.

Mr. MCCAIN. Mr. President, I now ask unanimous consent that there be a period for the transaction of routine morning business until 8 p.m., with Senators permitted to speak for up to 10 minutes each.

Mr. ASHCROFT. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ASHCROFT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. Mr. President, the Senator from Missouri is not recognized for suggesting the absence of a quorum, is that right?

The PRESIDING OFFICER. The Senator from Arizona does not lose the floor when he makes a unanimous consent request.

Mr. MCCAIN. Thank you. Mr. President, the Senate will now take up the National Tobacco Policy and Youth Smoking Reduction Act (S. 1415). Six weeks ago, the Senate Commerce Committee approved this measure by an overwhelming vote of 19–1.

I want to thank the Majority Leader and Senator DASCHLE, and all Senators for allowing this bill to come to the floor. Thanks to the work of so many people including the medical community, especially Dr. Koop, Dr. Kessler; the attorneys general, and so many of our colleagues on both sides of the aisle over many years, Congress has a rare and historic opportunity to put an end to what the American Medical Association calls a "pediatric epidemic."

Mr. President tobacco is a legal product that adults may acquire if they choose to do so. Under this bill it will remain so. But the widespread use of tobacco in this country presents a problem every responsible adult would concede will not go away on its own.

Three thousand American children take up the smoking habit every day. For one thousand of them the decision will prove to be fatal. Those children will be among the 460,000 Americans a year who die early—substantially early—from smoking related disease including cancer, emphysema, stroke and heart disease. Warnings about the lethal effect of tobacco have not discouraged juvenile smoking. Sadly, the Center for Disease Control reports that teen smoking is on the rise today.

In recent years, we have learned how callously indifferent tobacco companies are to the loss and suffering their product causes. We have learned how tobacco companies will undermine any public good if it serves their commercial interests. We have learned that nothing, not even the health of children, is off limits to tobacco companies if it serves their bottom line. What profits the nation is a matter of no consequence to tobacco companies if it does not profit them.

Mr. President, we have learned that the tobacco companies, well aware that kids make up the vast majority of their "replacement" market have, for years, intentionally and systematically targeted children in their marketing and advertising—kids as young as 13 years old, and even younger.

The disclosure of truckloads of internal industry documents have exposed once and for all the appallingly malicious lie that tobacco executives have for years sworn, often under oath, to be true—that they do not market to children.

They not only have marketed to children, they have thrived on it. And I am entirely confident that they will continue to do so unless we who are elected to protect the national interest, stand up, at long last, to the tobacco interests. That is what this legislation is intended to do.

Studies show that children are particularly susceptible to the industry's marketing pitches. So effective have these companies been at appealing to youth, many children can identify Joe Camel as readily as they do Barney or cartoon characters.

We have come to learn that as part of their strategy to hook kids early, at any cost, tobacco companies manipulated nicotine levels to enhance its addictive qualities; engaged in sham medical research; quashed information about the danger and addictiveness of tobacco; abused the nation's laws to cloak their activities and lied to Congress and the American people.

Tobacco companies have long hoped that money, in the form of campaign contributions, would enable them to maintain the status quo, and insulate them from the consequences of their actions. For too long, I fear, they have been right.

We are all too familiar with the influence of tobacco money. I appeal to my colleagues, now is the time to stop tobacco companies from buying political indulgence of their intentional sacrifice of our children to the imperatives of preserving a market for their product.

It is illegal for children to purchase tobacco in every state in the country. And in every state in the country, tobacco companies have invested enormous sums of money and time to encourage widespread law breaking.

Now is the time to put an end to it. And, Mr. President, now is also the time to stop the endless drain on taxpayers, which amounts to an annual tax of $50 billion imposed on taxpayers to underwrite tobacco related health care costs—an estimated $1.7 trillion over the life of this bill.

Over the past 3 weeks, the tobacco companies have launched a massive campaign of diversion. Once again, they hope to use their vast resources to divert the country from the truth, and to frustrate us in our task to defend against the threat they pose to our children. As they have so often in the past, the tobacco companies are lying to all of us again, and using their wealth to frighten us all into submission.

I would like to quote Dr. C. Everett Koop who said about this campaign.

> When you see the advertising from the tobacco industry consider the source. These people are experts at manipulation and have been lying to the American people for decades.

Dr. Koop called on all Members of Congress to support tough tobacco legislation. Mr. President, the bill we are presenting to the Senate is indeed tough medicine, for a tough problem. Every expert medical witness who has testified before Congress, as well as every living Surgeon General has called on Congress to pass tough, comprehensive tobacco legislation. The measure we will now consider is exactly that—tough, comprehensive legislation.

The bill is based on the framework of the June 20th settlement between the industry and the state attorneys general and contains the six major elements experts agree are essential if we are to stop kids from smoking.

These include restrictions on marketing aimed at youth; stronger youth access prohibitions; deterrant price increases; regulatory oversight of tobacco ingredients; and counter advertising campaigns to educate youth.

I would like to address each of these in greater detail. First, like the June 20th settlement, the bill imposes advertising restrictions to eliminate marketing appeals to youth. The bill would implement the FDA rules banning tobacco billboard and outdoor advertising around schools, playgrounds and other areas frequented by children.

It would restrict point-of-sale advertising to ensure that cigarette pitches aren't directed at children and would require bold new warning labels on cigarette packaging.

Second, as contemplated in the June 20th agreement, the bill will raise cigarette prices sufficient to deter youth consumption. Experts say the most important step to deter youth consumption is a substantial hike in the price of tobacco products. I want to say that again, Mr. President. Experts say the most important step to deter youth consumption is a substantial hike in the price of tobacco products.

The Centers for Disease Control reports that smoking less than 100 cigarettes can result in clinical addiction, and that higher pricing is essential to deter underage use. Accordingly, the bill would increase the price per pack of cigarettes by a minimum of $1.10 over five years with a commensurate rise in the price of smokeless tobacco. The administration believes that this hike, included in the President's budget request, would cut youth consumption in half.

Three, the bill establishes the same youth smoking reduction targets agreed to by the industry last summer. Four and one-half million underage Americans use tobacco and the number is growing. The bill calls for a 60 percent reduction in youth consumption within 10 years and levies heavy financial assessments on the industry if they are not achieved. Tobacco companies have skillfully determined how to induce kids to smoke. With ample motivation they can apply those skills to help reverse their handiwork.

Four, stronger enforcement of youth access rules. While smoking by minors is prohibited in every state, kids continue to buy tobacco. The bill would require retailers to be licensed by the state and card tobacco purchasers in the same manner as alcohol sales. And it requires that tobacco products be stored in areas inaccessible to youth. In addition, the bill would ban cigarette sales from vending machines, a major conduit of tobacco products to kids. all of these restrictions were part of last year's settlement.

Five, cigarette ingredient regulation. Cigarettes contain numerous active ingredients harmful to health including nicotine, tar and ammonia. Evidence suggests that the tobacco industry has manipulated these ingredients to enhance their addictive qualities, and in some instances added benign substances such as molasses to sweeten the taste for introductory users, which is how the industry refers to children.

The bill would permit the FDA to oversee and regulate tobacco products to protect public health, and promote the development of safer cigarettes. In rulemaking two years ago, FDA asserted authority over tobacco under its existing "drug device powers." This bill, thanks to the Presiding Officer, Senator FRIST—Dr. FRIST establishes basically the same authorities, but in a separate and distinct chapter of law that addresses tobacco products only.

The legislation, however, imposes several important checks on the FDA authority. Any ban on nicotine or class of tobacco product could not go into effect for two years, enabling Congress market potential of any modification to cigarettes that would push smokers to contraband.

Again, the attorneys general, in their agreement with the industry called for greater FDA oversight of tobacco.

Six, the bill provides funding for smoking prevention and cessation programs; counter-advertising campaigns, and vital health research. These initiatives are financed by annual payments made by the industry.

Smoking related health care costs exceed $50 billion per year. The bill would require the industry to pay $526 billion over the next 25 years to reimburse taxpayers for costs to Medicare and state health care programs. Last summer's agreement called on the industry to pay $368.5 billion. This would have raised the price per pack of cigarettes by $68 cents over 5 years, an amount public health authorities found insufficient to effect youth usage. And the sums would not have been sufficient to pay for assistance to farmers, who were left out of last year's agreement by the industry.

Finally, the bill would place a cap on the tobacco industry's yearly liability exposure without barring any individual or group's ability to sue or receive compensation. The tobacco industry has successfully fended off lawsuits for years. However, the trend is changing and as massive new judgments are awarded against the tobacco industry, bankruptcy is always a possibility.

Experts agree that bankruptcy is an undesirable outcome for the nation economically, legally and medically. Involving bankruptcy would permit the industry to shield themselves from their financial responsibilities including compensation to victims. When the asbestos companies went bankrupt and left a financial and legal mess that is still with us, only the lawyers made out. Moreover, the extinction of domestic manufacturers would simply push tobacco users to foreign brands or unregulated contraband which would constitute a public health crisis.

We have heard many opinions about whether the industry will submit to this legislation. Legal challenges, of course, would delay reforms, so industry cooperation would be advantageous. While, according to public health authorities, price hikes are essential, they, alone, won't do the job. The proposed advertising restrictions and youth usage penalties, which industry is threatening to challenge, are also essential parts of the solution.

The National Tobacco Policy and Youth Smoking Reduction Act, however, was never intended to be a "deal" with the tobacco industry. Our mission was to pass the best possible legislation to stop children from smoking.

As I said, tobacco is a legal product and the decision to use it, though risky, is a choice for adults to make. Nevertheless, the Nation requires that the tobacco industry join us in the fight to protect our children. If they choose not to, the American people will respond accordingly, Congress will act, and the States will resume their lawsuits to extract in court what we might more efficiently achieve through cooperation.

Mr. President, we sent a modification to the bill to the desk in the form of a committee substitute. I would like to take a moment to explain how it would modify the bill as passed by the committee.

First, the amendment addresses the concern expressed by some that the bill was too "bureaucratic." Although the bulk of the panels and boards were temporary, advisory and entailed little or no additional federal costs, and the majority were contemplated in the June 20th Agreement, the Committee substitute eliminates all but three: an unpaid Scientific advisory board at FDA to help assess lower risk tobacco products; a part time board to help formulate counter-advertising strategies; and a three judge panel to assess attorney client privilege claims.

Second, all receipts and disbursements under the act are routed through a single, on-budget, trust fund operated by the Secretary of the Treasury. The amendment eliminates, the role of special trustees; the international trust fund, the farmers trust fund as well as the asbestos trust funds and associated trustees. All funding under the act will come from the single Tobacco trust.

Third, the amendment toughens enforcement against contraband smuggling by requiring that manufacturers and wholesalers be licensed; that records be kept for large transactions. These and other anti-smuggling measures were worked out with the administration.

Four, the amendment drops certain provisions with respect to international marketing that had constitutional problems, or were violations of international law. Among the items dropped was the special licensing fee, the designated trust fund; prohibitions with respect to duty free shops, extraterritorial criminal provisions.

Five, the amendment imposes tougher look-back assessments on the industry. The Committee reported bill capped look-back assessments at $3.5 billion per year. The amendment raises the ceiling to $4 billion, and establishes a company-specific penalty of $1,000 per underage user of a particular tobacco brand beyond the target level.

Six, the amendment modifies the committee bill with respect to second hand smoke. Under the bill as reported, states were given the opportunity to opt out of the federal program. Under the amendment, negotiated with the White House, state can only opt out if they implement their own program that is as effective in protecting public health, based on the best available science.

Seven, the amendment eliminates the asbestos trust fund. In its place the modification authorizes appropriations from the main fund to assist asbestos victims should Congress establish a program to do so.

Eight, the amendment ensures that with certain deminimus exceptions, all tobacco companies, whether it choses to settle its state cases or not, are responsible for the annual payments to effect the $1.10 price increase.

The requirement that non-participating manufacturers pay 150% of the annual payment has been dropped. Instead, manufacturers that wish to settle their state cases must pay the up-front payment they agreed to last year, and sign the state protocols binding them to the additional requirements they agreed to with the state attorneys general, including tougher advertising and marketing restrictions. In return for agreeing to the broader restrictions, and not to challenge their obligations under the protocols, participating companies would receive a yearly liability cap of $8 billion.

In addition, the committee modification drops several civil liability provisions, including a requirement that civil actions be directed at the tobacco manufacturer not its parent company.

Finally, the Committee modification sets out funding parameters for the trust fund.

The Joint Committee on Tax anticipates receipts into the trust fund of nearly $65 billion over five years. Because the payments are volume adjusted, this number could rise or fall depending upon the volume of tobacco sales.

For this reason, the amendment expresses annual funding in terms of percentage of yearly receipts and, except for state funding, places a dollar ceiling should receipt exceed expectations. Any amount above the ceiling would be transferred to the Medicare Trust funds.

Under the modifications, the States would receive 40 percent of the yearly receipts; health research—22 percent; public health programs—22 percent; and farmer assistance—16 percent.

The Office of Management and Budget estimates that under this prescription, States would receive a total of $26 billion over five years. In a modification agreed to by the National Governors Association, 50 percent of the state funds—regarded as the federal share of Medicaid recoupment—will be made available to the states for a menu of purposes, including safe and drug free schools, Child Care and Development Block Grants, substance abuse grants and others. As I said, this menu was agreed to by the National Governors Association.

The other half of the State money would have no menu attached and would be used at the sole discretion of the State.

Mr. President, I would like to briefly comment on the chief criticism of this bill launched by the industry—that it is all about tax and spend Government.

The industry agreed last summer to pay $368 billion and to submit itself to almost every aspect of the legislation we are debating. The agreed to increase the price per pack of cigarettes to reduce youth consumption. They agreed to abide by advertising restrictions. They agreed to submit themselves to lookback assessments. They agreed to enhanced FDA authority over their products. They agreed to stiffer youth access rules and they agreed to open up their documents to the public. And they agreed to finance smoking prevention and cessation programs and health research.

Are the measures tougher than they agreed to? Yes, without question.

Now because the industry fears that the bill may actually achieve what it purports to, the effort has been transmuted from enlightened public policy to tax and spend Government.

Let us be clear, those who vote against this measure because they believe it is tax will merely kill the ability to settle State suits collectively and efficiently so that we can move on to the job at hand—protecting the health of our kids.

If this bill is killed, the States will merely resume their suits, at great cost in terms of money and time, and the outcome will be the same as it has been in Mississippi, Florida, Texas and Minnesota. If we take that unwise course, the ultimate prices in cigarettes will be little different from what might result from this bill, but we will pay an awful price in terms of the 3,000 children a day who will become regular users of tobacco and consign themselves to the consequences before they are adult enough to make that life or death decision.

Mr. President, I asserted earlier that tobacco companies have long sought refuge in lies. They have lied about the effects of their product and about the strategies they use to market them. They are lying about the purposes and effect of the bill we are now considering. They have spared no expense to cover their purposes with lies. They have lied, no matter the cost to public health. They have sacrificed the truth and our children to their greed. They have lied, because lying has been profitable, Mr. President, because lying worked. No more. No more. The lying stops today.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the distinguished chairman, the manager, for his eloquent comments with respect to the debate that now begins in the U.S. Senate.

Senator HOLLINGS has asked me to open on behalf of the committee, and I do so with great respect for his leadership and his involvement in helping to bring the U.S. Senate to a point where we can engage in this consideration. He continues to fight extraordinarily for what he believes in very deeply, and particularly, along with the Senator from Kentucky, for the farmers who may be impacted by this legislation. And that is a fight that we will continue to have over the course of the days ahead.

This is not just the opportunity, Mr. President, for a historic debate; it is an extraordinary opportunity for historic action by the U.S. Senate.

For years, many people across this country have worked hard for this moment. For years, we have waited for the opportunity for the Senate to be able to step up to bat and exercise its responsibility to protect the children of the country. And literally we have the opportunity, whether it is this week, which we hope it might be, or in the next weeks, when it might inevitably be, we have the opportunity to act on behalf of the children of this country in a very direct way that expert after expert, Surgeon General after Surgeon General, pediatrician after pediatrician, cancer specialist after cancer specialist, all have said is necessary for the better health policy of our Nation.

It is a tribute to the outrage in this country that by now millions of Americans understand that 3,000 children will start smoking today and will get hooked—some 6,000 will try it, but 3,000 children will wind up smoking. And of those, 1,000 of them will die early because of the habit they get that they could not kick. Every American has now come to understand the way in which children have been manipulated, aggressively marketed to, in order to suck them into this addiction which ultimately can cost their lives.

That is what we are voting on on the floor of the U.S. Senate. That is what this debate will be about over the course of the next few days. There is a growing awareness now in America that we lose the lives of over 400,000 of our fellow citizens each year because of smoking-related illnesses—more people than we lost in all of World War II, more people than we lost in all of Vietnam and all of Desert Storm combined. And we lose this every year. And it costs us billions of dollars in the health care system of our Nation, in our insurance, in the hospital wards where some people who have no insurance are paid for by the rest of their fellow Americans.

So this week in the Senate, we are moving beyond the point of simply articulating a threat to the children of our country. No one, I think, now disputes the notion that there is harm associated with smoking. And now the U.S. Senate and the Congress need to act with legislation that carries the imprints of both parties, of Senators of both parties, of Governors of both parties, of 44 very tenacious and courageous attorneys general. Now is the time to follow through on their efforts.

I urge all my colleagues—Democrat, Republican, liberal, conservative, no matter what particular passion politically brings them to the U.S. Senate—I urge them over the course of the next days to put aside that partisanship and to try to set aside the inclination to make the perfect the enemy of the very good and to focus today and throughout this week on passing effective legislation that puts America's children out of harm's way and secures for the Senate's legacy one of cooperation and accomplishment, something that many people have felt has been too absent in the workings of the Senate these recent years.

There is a growing feeling that unless we act with a sense of bipartisan and a real dedication to doing what is in the national interest on smoking, that somehow we might let this historic opportunity slip through our fingers. I do not dispute the possibility of that, but, on the other hand, I believe that the Senate clearly has shown its willingness on many occasions in the past to rise to this kind of occasion, to ignore those that Senator MCCAIN just referred to who will spend billions and billions of dollars, who have a long record of misleading America and the Congress with respect to this issue—that we will ignore those special, narrow interests in favor of the larger common interests of our fellow citizens. That is precisely what most of us came here to see this Senate do. And now we can take pride in the possibility of being part of that.

I believe that when my colleagues read the managers' amendment, the bill that is before them, they will find that there is in this a mainstream concept, that there is in this a view that really does represent common sense. I think it is a rare occasion that, on a subject as ripe for dissent as the subject of tobacco, any committee in the Senate could conceivably send a bill to the floor of the Senate by a vote of 19–1.

The Commerce Committee is, in point of fact, a microcosm of the whole Senate. There are the extremes that we have on both sides, the hard-line points of view on both sides; and there is, of course, every point of view in between that somehow finds a center. And I believe that in the end, when all of the debate and all of the anguish over this bill has been worked through, we will find that we will be somewhere relatively close to what the managers' amendment proposes and to what the Senate has advocated.

As I say that, I personally believe there are improvements that can be made. There are things in this bill with which I don't agree. There are things that we have all reserved the right to try to change. What is important, Mr. President, that we permit the Senate, at this moment, to affect that change, that we permit it to work its will and to ultimately vote on a bill.

Senator MCCAIN, I might say, has approached this task by reaching out all across party lines, reaching out to every sector of interest group that is represented in this debate. I know that he and others on the committee have tried to listen hard. It is my belief that when Senators examine the bill, while they will undoubtedly find a particular point of view here or there with which they could find disagreement and make suggestions for improvement. I believe the fact is that they will have a renewed respect for the way in which Senator MCCAIN and the Commerce Committee and Senator HOLLINGS reached out to demonstrate some tough decisionmaking under difficult pressures.

I also believe that in the end the changes that have been made, most of those in the managers' amendment, clearly make this a stronger and better bill than it was when it did leave the Commerce Committee. I remind my colleagues that the Commerce Committee, at the time we sent it out of committee, reserved the right at that point, knowing there were some issues that weren't quite completely vetted, to make changes in a managers' amendment as we brought it to the floor. The structure of the bill has now been changed so that the provisions that are most critical—for reducing youth smoking, the annual payments, the look-back assessments, and the advertising restrictions—will be implemented without the tobacco industry's assent, if that is our only choice.

I think every member of the committee, I am sure every Member of the Senate, would prefer that the tobacco companies were part of the solution and not a continued part of the problem. We would prefer that they were, in fact, signing on to all, everything, that we may embrace here in the Senate. I believe that the industry's participation in youth smoking reduction efforts is obviously preferable, but I think we have made a genuine effort to try to respond to most of their needs. As the chairman pointed out and I will underscore, almost every concept in this bill was embraced by the tobacco companies in their settlements that they arrived at with the attorneys general. In fact, most of the concepts are arrived at in the settlements they have still reached, most recently last week in Minnesota, with a few exceptions.

The fact is there are some aspects of this that are tougher—but tougher in fact, not tougher in total concept. They do reach farther in amount of money. There are greater limitations on liability because many people believe those liability provisions were too great. But the fundamental principle that there should be some restraints, that there should be some kind of look back, that there should be advertising restraints, that there should be an increase in the price, were all accepted by the companies themselves, and it is certainly subject to debate and to discretion within the Senate to ultimately agree on what those levels ought to be.

When first presented to the Commerce Committee, the tobacco settlement would have provided the tobacco companies with what most people believe was an unprecedented level of immunity from civil action—elimination of class actions, punitive damages. Aggregation of claims would not have been allowed. Claims based on addiction would not have been allowed. It would have allowed parent companies to shield their tobacco profits from liability. It would have risked the ability of injured persons to file State claims. It would have kept those State claims in State courts.

Mr. President, those restraints on the ability of our citizens to be able to seek redress were plain and simply excessive. These liability restrictions are especially dangerous to the public health because this kind of liability threat is, in the final analysis, the strongest and most important insurance that the tobacco companies will take public health concerns seriously, finally, after so many years of ignoring them.

Let me be clear: The bill before the Senate no longer contains special protections for the industry. That, I believe, was an important step toward a workable piece of legislation.

We also must pass legislation that contains high compliance standards to ensure that retailers will stop selling cigarettes to minors. We believe we have strengthened this element of the bill. We penalize States which do not achieve a 90-percent compliance rate after a 5-year grace period. When 62 percent of 12- to 17-year-old children in this Nation report they could succeed in buying their own cigarettes, that nearly half of them have never been asked to provide a positive identification, it seems to me it is time for us, as a nation, to get serious about compliance. This bill does that.

In order to ensure that the tobacco companies actually have sufficient incentives to reduce youth smoking, they and their shareholders must now know that they will pay significantly if youth smoking rates do not decrease dramatically, which means they must join in the efforts to help us reduce smoking among our youth. That is why the look-back assessments are so important.

Under the managers' bill, the cap on industry-wide assessments has been raised to $4 billion, and there are new uncapped company-by-company payments of $1,000 per child who smokes. That is an incentive to be helpful. Not only have the assessments been significantly increased but they are no longer tax deductible. That is, in fact, a greater incentive for people to understand that this bill means business.

In addition, and this is very important to many who have been part of the process, the look-back assessments are now tied to the liability provision so that companies which continue to entice minors will lose any liability protections whatever—that is to say the cap particularly or any other protections in the aggregation preemption.

I think it is nearly universally agreed that we cannot fundamentally regulate tobacco without a strong and effective FDA authority over tobacco products. The distinguished Presiding Officer has played a critical role, along with Dr. Koop and Dr. Kessler, the White House, and the Department of Health and Human Services, in helping to come together in a considerable effort of negotiation in order to come up with FDA authority within this legislation.

The FDA will have specific and broad new authority to regulate tobacco products. Indeed, Dr. Koop has publicly praised the provision as a substantial improvement over the provision in the proposed settlement. I am confident that Dr. Koop, Dr. Kessler, and others will continue to work with Congress on this matter to ensure that the FDA has the authority it needs to protect kids and to promote public health.

What we have before the Senate is not perfect legislation. None of us has ever known a perfect piece, I think, to come to the floor of the Senate. We will have a critical debate in the days ahead about whether or not we can find room for improvement. There are many ideas that different Senators will offer. I look forward to that debate with respect to children, with respect to farmers, with respect to liability, attorney's fees, and other issues.

Finally, we owe a great deal to the leadership and hard work of our colleague, Senator KENT CONRAD, who has spoken out on tobacco with a great deal of passion, but more importantly, who helped, through a long process of working with the task force, to shape and mold what is in front of the Senate today. I appreciate how sensitive Senator CONRAD has been toward passing legislation in this Congress and how seriously he has fought to make certain that Congress will find a middle ground place where all of us can, hopefully, ultimately come to agreement.

In the managers' amendment there are several improvements that reflect Senator CONRAD's priorities and the great work that he has performed as leader of the Democratic task force on tobacco.

So now the full Senate has the opportunity to work its will, to pass this bill with the managers' amendment, to send America into the next century with the knowledge that we are a Nation not just with a responsible policy toward an addictive substance, not just with a responsible policy toward our children, but that we know how to translate our conscience into public legislation, that we can reach beyond partisanship in order to find the common ground.

To my colleagues, I say simply that history has finally put this legislation on the floor of the Senate in a decade-long fight to protect our children. We weren't fighting for party. No one in this fight ought to have an ideological ax to grind.

In the final analysis, the one priority that will bring us together is fundamental: This debate is about our children and it is about our responsibility of raising a generation of healthy children who will live up to their potential, free from the grasp of a dangerous drug. That is our challenge, and I believe that the Senate can meet it.

I join with my colleague, the Senator from Arizona, in suggesting that this is the moment for the Senate to break away from the mendacity, the deception and willful effort to try to undercut the health of our kids over such a long period of time. I hope we are going to do that.

I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, over the next several days, we will be discussing a comprehensive piece of legislation that many of us have participated in drafting over the last really 9, 10 months—a piece of legislation, which I think is a superb start to accomplishing the goal on which I hope we will continue to focus. I think we are going to see, over the next several days, a lot of debate and probably a number of amendments. We will see a lot of arguing back and forth and a lot of turf wars will be expressed here on the floor.

I just make a plea to my colleagues that, throughout that period of time, we keep coming back to what our true focus is, the reason for having this bill. It really goes back to some of the data and statistics that have already been mentioned, which I am sure we will mention again and again. But we are here in order to reduce the number of kids smoking, teen smoking, under-age smoking.

We have heard over the last several months about the number of kids who start smoking every day; 3,000 kids start smoking every day. And 1,000, or 1 out of every 3 of those kids who start today, will die prematurely. That means they will die earlier than they would if they had never started smoking. That means a thousand children today, over the last 24 hours, have started smoking and will die before their time because they started smoking today. Ninety percent of all adult smokers began smoking at or before age 18. In fact, 50 percent of all adults smoking today started under the age of 14—maybe 8, 10, 12, or 13 years of age.

The problem we face today—and, of course, I speak as a Senator now, but I also speak as a physician who has taken an oath to dedicate my life to improving the quality of life of others—is that of premature death. It is as simple as that. However, the problem is not getting better, it is actually getting worse. In fact, the percentage of teens smoking every day has increased by 40 percent—these are teenagers, children—from 17 percent of 12th graders smoking in 1992 to 24 percent in 1997. If you look at the teenagers smoking from the 8th grade to the 12th grade, it climbed from 13 percent in 1992 to 18 percent in 1997. So this problem right now is becoming worse.

Really, the statement I want to make and urge all my colleagues to keep in mind is that our focus has to be on the health of the next generation and to keep in mind the challenges that youngsters face as they travel from that very tricky path from childhood to adulthood, surrounded by these temptations. Really, what we need to do is address over the next several days, using the template of this bill now on the floor, and ask the question: What can we do to make it more likely that these children will arrive at adulthood without crippling addictions?

Mr. President, I would like to briefly comment on one aspect of this bill, on which I have spent a great deal of time. I want to comment on it this evening, as this bill is introduced. It is a part of the bill that is greatly misunderstood by many because they haven't yet read the bill or had it presented to them. It has to do with the Food and Drug Administration authority in this bill. I am not going to walk through the provisions, but I want to briefly explain what we set out to do and what is in the bill.

Right now, drugs and medical devices are regulated by the FDA in a single chapter. An attempt has been made by the current administration to regulate tobacco through this chapter, chapter 5 of FDA law, with the authorities given the devices. How and why? It basically is a way, through existing regulation, existing statute or authority, to regulate tobacco as a drug delivery device; but to me it is like taking a round peg and trying to put it in a square hole or taking a square peg and trying to put it in a round hole—it just doesn't fit. It just doesn't fit to try and say that tobacco should be regulated as a drug delivery device. The attempt has been made to regulate tobacco by using the restrictive device authority in chapter V. I point this out because it is the reason we have created a whole new chapter for the regulation of tobacco. This new chapter reflects that tobacco is a unique product, very different from drugs and very different from devices.

Chapter 5 of the Federal Food, Drug and Cosmetic Act is that chapter that, heretofore, an attempt has been made to regulate tobacco through. It is the drug and device chapter. Tobacco just does not fit there. Here is one brief example, so that people will understand why we created a new chapter. Chapter 5 calls on the Secretary to determine whether the regulatory actions taken will "provide reasonable assurance of the safety and effectiveness" of the drug or the device.

Well, clearly, tobacco is not safe or effective; we know that. It is dangerous to one's health. That has clearly been demonstrated over the last 20, 25 years. You can talk about the effectiveness of a pacemaker or a heart valve or an artificial heart; you can talk about those devices as being safe and effective. You really cannot apply that to tobacco. Therefore, instead of taking tobacco and ramming it through the drug and device provisions, we felt it was important to look at the unique nature of tobacco, write a separate chapter, and that is what is in the bill today. It is called chapter 9. This gave us the flexibility to create a new standard that was appropriate for tobacco products. The bill states that the Secretary may find that regulations and other requirements imposed on tobacco products "are appropriate for the protection of public health." This is the standard we use instead of the safety and effectiveness standard found in chapter 5.

There are a number of other provisions in the device section that are duplicative or not well-suited when you are attempting to regulate tobacco. Yes, they are appropriate for drugs and devices, but not for tobacco. This chapter 9, which is in the underlying bill, the managers' amendment, contains certain new provisions that grant the Secretary explicit authority to undertake regulatory measures particularly relevant to tobacco. It requires manufacturers to submit to the Secretary information about the ingredients, components and substances in their products. It requires reporting of the content delivery and form of nicotine in their products. It requires reporting of their research on the health, behavioral, and physiological effects of tobacco products. It requires reporting on the reductions in risks associated with available technology, as well as research on the marketing of tobacco products. Yes, this bill does create a new, separate chapter for regulation of tobacco products. But the reason it is important is because it does not fit, it does not make sense to regulate tobacco as safe or effective.

With that, Mr. President, the only primary change made to the FDA provisions in the underlying McCain bill is a revision which I support. In the managers' amendment there is a prohibition of the FDA from banning tobacco sales from a particular type of retail outlet such as convenience stores. In the managers' amendment, we limit the FDA authority to the removal of the license of individual operators for failure to comply with a licensing agreement. This addresses the concerns by many of the retailers who came forward concerned that the FDA could ban sales from good operators who are not selling to kids because of a few bad actors. I support that revision in the initial FDA provisions of the bill.

In closing, Mr. President, I do have concerns with the McCain bill. I will be open minded when considering amendments to it. I think it is a very good starting point. But it is a starting point. We can and should work on improving it over the next several days as long as we do not lose sight of our ultimate objective. And that is a comprehensive approach that looks at public health initiatives, that looks at youth access issues, that looks at the advertising and marketing, because, I believe, that it is only by having a comprehensive approach that we will achieve the objective of preventing teen smoking.

I will be employing one criterion as I look at each of the amendments as they come forward. And that is, Is this amendment likely to complement a comprehensive campaign to prevent youth smoking? In other words, does it help restrict advertising, promote public health, and address youth access to tobacco with the end result of a reduction in youth smoking?

Mr. President, I yield the floor.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING THE AMERICAN AUTOMOBILE ASSOCIATION LIFESAVING MEDAL RECIPIENTS

Mr. DASCHLE. Mr. President, I am proud to announce to the Senate today the names of the two young men who have been selected to receive the 1998 American Automobile Association Lifesaving Medal. This award is the highest honor given to members of the school safety patrol.

There are roughly 500,000 members of the school safety patrol in this country, helping over 50,000 schools. Every day, these young people ensure that their peers arrive safely at school in the morning, and back home in the afternoon.

Most of the time, they accomplish their jobs uneventfully. But on occasion, these volunteers must make split-second decisions—placing themselves in harm's way to save the lives of others. This year's honorees exemplify this selflessness, and richly deserve recognition.

The first AAA Lifesaving Medal recipient comes from Kensington, Maryland.

On October 1, 1997, Rock View Elementary School Safety Patrol Joseph Coggeshall was preparing to end his shift at the busy intersection of Connecticut Avenue and Denfeld Road.

Getting ready to go home himself, Joseph noticed one last group of children heading home. He decided to stay at his post a little longer. As they reached the intersection, two boys, ages 6 and 7, attempted to go around Joseph's outstretched arms and into traffic. Reacting quickly, Joseph grabbed both children, pulling them back onto the curb just before they would have entered into rush-hour traffic on a six-lane highway. Joseph probably saved those boys' lives.

This year's second AAA Lifesaving Medal honoree comes from San Mateo, California.

On January 5, 1998, St. Timothy School Safety Patrol Christopher Aquino stood his usual post at the north gate crosswalk.

Close by, a father led his two young daughters, ages 3 and 6, toward the crosswalk. Spotting the family car parked across the street, the 3-year-old broke free from her father's hand, sprinted into the road and into the path of an oncoming truck. On instinct, and with no regard for his own safety, Christopher ran after her, grabbed her by the hand and returned her safely to her father.

Mr. President, on behalf of the Senate, I wish to extend congratulations and thanks to these two young men. They are an asset to their communities, and their families, and neighbors should be very proud of their courage and dedication.

I would also like to recognize the American Automobile Association for providing the supplies and training necessary to keep the safety patrol on duty nationwide.

Since the 1920's, AAA clubs across the country have been sponsoring student safety patrols to guide and protect younger classmates against traffic accidents. Easily recognizable by their fluorescent orange safety belt and shoulder strap, safety patrol members represent the very best of their schools and communities. Experts credit school safety patrol programs with helping to lower the number of traffic accidents and fatalities involving young children.

We owe AAA our gratitude for their tireless efforts to ensure that our Nation's children arrive to and from school safe and sound.

And we owe our thanks to Joseph Coggeshall and Christopher Aquino for their selfless actions. The discipline and courage they displayed deserves the praise and recognition of their schools and their communities.

TRIBUTE TO KIMBERLY SCHUBERT, A GIRL SCOUT GOLD AWARD RECIPIENT

Mr. DASCHLE. Mr. President, I would like to salute an outstanding young woman who has been honored with the Girl Scout Gold Award by Girl Scouts of the Black Hills Council in Rapid City, SD. Kimberly Schubert of Rapid City was honored yesterday for earning the highest achievement award in U.S. Girl Scouting.

The Girl Scout Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning and personal development. The award can be earned by girls ages 14–17, or in grades 9–12.

Girl Scouts of the USA, an organization serving over 3 million girls, has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must earn 4 interest projects patches, the Career Exploration pin, the Senior Girl Scout leadership award, and the Senior Girl Scout Challenge, as well as design and implement a Girl Scout Gold Award project. A plan for fulfilling these requirements is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

As a member of the Girl Scouts of the Black Hills Council, Kim Schubert began working toward the Gold Scout Award in 1996. She completed her project in the areas of sports and leadership, and she richly deserves the public recognition for this significant service to her community and her country.

HONORING THE FLOYDS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data is undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Margaret and Tom Floyd of Charleston, Illinois, who on June 12, 1998, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Floyds' commitment to the principles and values of their marriage deserves to be saluted and recognized.

THE VERY BAD DEBT BOXSCORE

MR. HELMS. Mr. President, at the close of business Friday, May 15, 1998, the federal debt stood at $5,496,348,505,044.25 (Five trillion, four hundred ninety-six billion, three hundred forty-eight million, five hundred five thousand, forty-four dollars and twenty-five cents).

One year ago, May 15, 1997, the federal debt stood at $5,344,063,000,000

(Five trillion, three hundred forty-four billion, sixty-three million).

Twenty-five years ago, May 15, 1973, the federal debt stood at $452,610,000,000 (Four hundred fifty-two billion, six hundred ten million) which reflects a debt increase of more than $5 trillion—$5,043,738,505,044.25 (Five trillion, forty-three billion, seven hundred thirty-eight million, five hundred five thousand, forty-four dollars and twenty-five cents) during the past 25 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty and one nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO BURMA—MESSAGE FROM THE PRESIDENT—PM 127

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the emergency declared with respect to Burma is to continue in effect beyond May 20, 1998.

As long as the Government of Burma continues its policies of committing large-scale repression of the democratic opposition in Burma, this situation continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to maintain in force these emergency authorities beyond May 20, 1998.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 18, 1998.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4876. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated May 13, 1998; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Commerce, Science, and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Finance, and to the Committee on Foreign Relations.

EC–4877. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Post Bankruptcy Loan Servicing Notices" (RIN0560–AE62) received on May 7, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4878. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Special Combinations for Tobacco Allotments and Quotas" (RIN0560–AF14) received on May 13, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4879. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pine Shoot Beetle; Quarantined Areas" (Docket 97–100–2) received on May 7, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4880. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mediterranean Fruit Fly; Addition to the Quarantined Area" (Docket 97–056–11) received on May 13, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4881. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Gypsy Moth Generally Infested Areas" (Docket 98–025–1) received on May 13, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4882. A communication from the Deputy Under Secretary for Natural Resources and Environment, Department of Agriculture, transmitting, pursuant to law, the report of a rule regarding the sale and disposal of national forest timber (RIN0596–AB41) received on May 11, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4883. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Investment and Deposit Activities; Corporate Credit Unions" received on May 7, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–4884. A communication from the Acting Director of the Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, the report of a rule entitled "Implementation of the Privacy Act of 1974" (RIN2550–AA05) received on May 13, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–4885. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, three reports concerning direct spending or receipts legislation within seven days of enactment dated May 6, 1998; to the Committee on the Budget.

EC–4886. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Lipase Enzyme Preparation From Rhizopus Niveus; Affirmation of GRAS Status as a Direct Food Ingredient" (Docket 90G–0412) received on May 7, 1998; to the Committee on Labor and Human Resources.

EC–4887. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits" received on May 13, 1998; to the Committee on Labor and Human Resources.

EC–4888. A communication from the Chief of the Programs and Legislation Division of the Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the report of a cost comparison of the Personal Development functions at the U.S. Air Force Academy, Colorado; to the Committee on Armed Services.

EC–4889. A communication from the Chief of the Programs and Legislation Division of the Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the report of a cost comparison of the Cadet Subsistence functions at the U.S. Air Force Academy, Colorado; to the Committee on Armed Services.

EC–4890. A communication from the Chief of the Programs and Legislation Division of the Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the report of a cost comparison of Civil Engineering functions at Cheyenne Mountain Air Station, Colorado; to the Committee on Armed Services.

EC–4891. A communication from the Chief of the Programs and Legislation Division of the Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the report of a cost comparison of the Logistics functions at the U.S. Air Force Academy, Colorado; to the Committee on Armed Services.

EC–4892. A communication from the Secretary of the Panama Canal Commission, transmitting, pursuant to law, the report of a rule entitled "Tolls for Use of Canal; Rules for Measurement of Vessels" (RIN3207–AA45) received on May 11, 1998; to the Committee on Armed Services.

EC–4893. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on proposed obligations for weapons destruction and non-proliferation in the former Soviet Union; to the Committee on Armed Services.

EC–4894. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report on Reserve component equipment and military construction requirements not included in a fiscal year's budget request; to the Committee on Armed Services.

EC-4895. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Electronic Funds Transfer" received on May 13, 1998; to the Committee on Armed Services.

EC-4896. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the Commission's annual report for calendar year 1997; to the Committee on Rules and Administration.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-421. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE CONCURRENT RESOLUTION NO. 141

Whereas, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Public Law 104-193, bars legal, noncitizen immigrants from receiving assistance under the federal Food Stamp Program; and

Whereas, food stamp eligibility is barred until legal immigrants become citizens, can demonstrate forty qualifying quarters of work in the United States, or meet five-year or military exemptions; and

Whereas, immigrants who lost their food stamp benefits under PRWORA are legal immigrants, residing in the United States under one of several immigration provisions that permit noncitizens to reside in this country permanently; and

Whereas, with most immigrant households that lost benefits, at least one child is a United States citizen; and

Whereas, a large proportion of the legal immigrants who lost food stamp benefits were the most vulnerable, including children, the elderly, and disabled; and

Whereas, between August 1996 and July 1997, the number of immigrants in Hawaii receiving assistance decreased from 10,332 to 2,285 individuals, a decrease of 8,047 individuals; and

Whereas, based on an average household size of 2.4 individuals, the Hawaii State Department of Human Services estimates that there are approximately 2,900 fewer immigrant families receiving food stamp assistance; and

Whereas, last year's Balanced Budget Act began to restore other types of benefits to legal immigrants, such as disability payments and indigent health care to disabled legal immigrants who were in this country in 1996; and

Whereas, progress towards restoring the nutritional safety net to some of the most vulnerable groups of legal immigrants must be continued to make it possible for all working families to meet the responsibilities of health and economic self-sufficiency; and

Whereas, the Clinton Administration, as a part of its 1999 budget proposal, will propose to restore federal food stamp benefits to 730,000 legal immigrants who lost their benefits as a result of PRWORA; now, therefore, be it

Resolved by the House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, the Senate concurring, That the United States Congress is strongly urged to restore food stamp benefits to legal, noncitizen immigrants who have been denied participation in the federal Food Stamp Program due to Public Law 104-193, PRWORA; and be it

Further resolved That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States, and Hawaii's Congressional Delegation.

POM-422. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE CONCURRENT RESOLUTION NO. 43

Whereas, a strong and viable agricultural industry is vital to Hawaii's economic base; and

Whereas, as many as twenty-four new alien species are introduced into the State each year, placing a dire threat on Hawaii's environment and agriculture industry; and

Whereas, the cost to the State to eradicate or mitigate the harmful effects of these alien species would be monumental; and

Whereas, vegetables and fruits can carry salmonella if they are tainted by sewage water or unclean hands; and

Whereas, E. coli has been found on lettuce; and

Whereas, in 1996, Guatemalan raspberries that were contaminated with the parasite Cyclospora cayetanensis resulted in a rash of poisoning that sickened thousands of people in twenty-nine states; and

Whereas, this outbreak occurred again in 1997; and

Whereas, the U.S. Federal Drug Agency (FDA) has seven hundred inspectors and lab personnel to monitor fifty-three thousand food processing plants in the U.S. and all imported fresh and processed produce; and

Whereas, plant inspections have decreased from one inspection every three to five years in 1992, to one inspection every ten years today; and

Whereas, of the nearly two-thirds of all winter produce eaten in the U.S., about six hundred million servings comes into the U.S. through the Nogales, Arizona, checkpoint each day; and

Whereas, about seventy percent of the trucks go through the Nogales entry gates without any inspection of the cargo; and

Whereas, although the FDA is the agency that is primarily responsible for food safety, its purview is mostly limited to testing for excessive pesticide residue and cursory random examination of about thirty percent of the trucks coming through Nogales, of which samples are taken from about three percent of the trucks; and

Whereas, the FDA has no on-the-spot testing for pathogens such as cyclospora, cryptosporidia, or E. coli, which are all linked to food borne illnesses; and

Whereas, globalization of the food marketplace is exposing some consumers to a host of strange microbes, and therefore, legislation has been introduced in Congress to create a billion-dollar-a-year Food Safety Administration; now, therefore, be it

Resolved by the House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, the Senate concurring, That Congress is urged to require that the importation of all agricultural products into Hawaii have a designation of country or origin and a certification of inspection based on United States Department of Agriculture standards to verify that each imported product has passed all U.S. health and agricultural requirements; and be it

Further resolved, That Congress support the creation of a federal Food Safety Administration; and be it

Further resolved, That certified copies of this Concurrent Resolution be transmitted to the President and Vice President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, Hawaii's Congressional Delegation, and the Governor.

POM-423. A resolution adopted by the Mayor and City Council of the City of LaFollette, Tennessee relative to postal services; to the Committee on Governmental Affairs.

POM-424. A petition from the Demographer of the State of Michigan relative to the year 2000 census; to the Committee on Governmental Affairs.

POM-425. A resolution adopted by the Council of the City of Oak Ridge, Tennessee relative to U.S. Department of Energy missions in Oak Ridge; to the Committee on Governmental Affairs.

POM-426. A resolution adopted by the Council of the City of Cincinnati, Ohio relative to the U.S. Postal Service; to the Committee on Governmental Affairs.

POM-427. A resolution adopted by the Senate of the Legislature of the State of Tennessee; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 106

Whereas, under the provisions of legislation recently passed by the U.S. Senate, each of the fifty (50) states would stand to lose twenty-one and one-half percent (21.5%) of their annual highway funding if their respective legislatures failed to enact federally prescribed laws on three (3) public safety issues; and

Whereas, specifically, S. 1173 would compel state legislatures to enact the following three (3) sanctions or else lose a significant amount of their state's share of federal highway dollars:

(1) the establishment of .08% as the legal blood alcohol content level for the offense of driving while intoxicated;

(2) a prohibition on open containers of alcoholic beverages in moving motor vehicles; and

(3) the enactment of mandatory sentences for drivers who repeatedly operate a motor vehicle while intoxicated; and

Whereas, although these three (3) public safety objectives are indeed worthy, past experience has proven that federal mandates are not in the best interests of the people of Tennessee and our system of government as enunciated by the 10th Amendment to the United States Constitution, which limits the federal government's powers to those specifically delineated in the U.S. Constitution, with the remaining powers and duties falling under the province of the states' legislatures; and

Whereas, these three (3) public safety objectives are presently being carefully and exhaustively considered by state legislatures, as they should be; and

Whereas, these public safety objectives are strictly state issues, as they encompass precisely the type of powers envisioned by our founding fathers to be reserved to the states by the 10th Amendment; and

Whereas, State legislatures should act to accomplish these public safety objectives only after pertinent data has been accumulated and verifiable results have been demonstrated for their respective state; no two

(2) states are exactly alike and different approaches to accomplish these goals may be necessary in each state; and

Whereas, past experience has also conclusively demonstrated that incentive grants are far more effective than federal mandates; and

Whereas, the incentive grant approach permits state and federal governments to collaborate in order to achieve shared public safety objectives; and

Whereas, in addition to allowing the states and the federal government to work respectfully together as equals, instead of operating as opposing and divisive forces, the incentive grant approach does not require any preemption of state rights or prerogatives, does not impose any federal mandates upon state governments, and does not threaten states with the loss of transportation dollars (in a bill, "BESTEA", that allegedly provides for increased funding from the highway and other transportation funds and restoration of integrity to those same funds); and

Whereas, this General Assembly is most fervently opposed to federal mandates of any kind and requests the U.S. Congress to respect the 10th Amendment, as well as their counterparts at the state level; now, therefore, be it

Resolved by the Senate of the One-Hundredth General Assembly of the State of Tennessee, That this General Assembly hereby memorializes the United States Congress (and specifically the Tennessee Congressional delegation) to refrain from enacting into law the mandates and sanctions imposed on the several states by S. 1173 (or H.R. 2400, if amended to reflect the Senate Bill) of the One Hundred Fifth U.S. Congress and to instead maintain the incentive grant approach to accomplishing public safety objectives shared by state and federal governments. Be it

Further Resolved, That the Chief Clerk of the Senate is directed to transmit enrolled copies of this resolution to the Speaker and the Clerk of the U.S. House of Representatives; the President and the Secretary of the U.S. Senate; and to each member of Tennessee's Congressional delegation.

POM–428. A resolution adopted by the House of the Legislature of the State of Michigan; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 173

Whereas, hunting and fishing are important activities for millions of Americans. Hunting and fishing afford people an opportunity to enjoy the beauty of the outdoors and to pursue activities strongly associated with our pioneer heritage of generations past. For some people the woods and waters are much more than an occasional recreational diversion. For these citizens, hunting and fishing represent a way of life; and

Whereas, through intense study, hunting and fishing have become key tools in managing our wildlife resources. Regulations balance the population levels of game animals and fish. This has enormous benefits for our environment; and

Whereas, in recent years, there are increasing numbers of conflicts between those who hunt and fish and certain groups that are committed to halting hunting and fishing. There have been instances of individual and organized efforts to obstruct hunting and fishing. In response to growing concerns, Michigan enacted legislation in 1996 to make it a crime to harass a person lawfully engaged in hunting or fishing; and

Whereas, in 1996, the citizens of Michigan voted on statewide ballot questions related to hunting. Michigan voters strongly supported a proposal affirming scientific management of hunting while rejecting a proposal that sought to impose restrictions on certain hunting practices. In other states, however, voters have approved significant restrictions on hunting. In the public discussions on these questions, it is clear that many aspects of hunting and fishing are misunderstood by a growing number of people. Changes in where people live, as urban and suburban acreage engulfs more of our rural areas, likely contribute to misinformation about hunting and fishing and

Whereas, responsible hunting and fishing practices, like those exercised by the millions of people who enjoy Michigan's outdoor bounty each year, enrich us all. Even those who may never know the joys of these sports benefit in the efficient and humane treatment of animals and fish that scientific management offers. We must ensure that these time-honored and productive pursuits are available for future generations; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to recognize the right of all citizens to hunt and fish; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–429. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Environment and Public Works.

HOUSE RESOLUTION

Whereas, many municipalities own antiquated sewerage treatment facilities which face substantial and sometimes complete reconstruction to meet Environmental Protection Agency standards, the cost of which can place extreme hardship on the municipality; and

Whereas, the Environmental Protection Agency has levied significant fines on various muicipalities and their authorities for failure to comply with sewerage treatment standards in the operation of these outdated systems; and

Whereas, municipalities have limited funds from which to draw for both the fines and penalties and the repair and construction and thereby have been or will be forced to raise local taxes on residents to pay these fines and penalties; and

Whereas, the funds to pay for such fines and penalties were raised at the local level, thereby seriously depleting resources available for the municipalities and their authorities to take full corrective action for the noncomplying systems; and

Whereas, these fines have posed a great hardship on those municipalities by forcing them to divert funds needed for the actual repair and restoration of the noncomplying systems toward paying for the fines and penalties; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States to enact legislation directing the Environmental Protection Agency to return no less than 80% of all fines and penalties collected from any municipality, its authorities or agencies to some for the rehabilitation of the existing facilities to bring those facilities to required environmental standards, which may include expenditures for equipment and materials to correct operating deficiencies at the facilities involved in the violation; and be it

Further resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–430. A concurrent resolution adopted by the Legislature of the State of Idaho; to the Committee on Environment and Public Works.

HOUSE JOINT MEMORIAL NO. 13

Whereas, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, Public Law 102–240, expired on September 30, 1997, and federal surface transportation programs are now being temporarily authorized under the Surface Transportation Extension Act (STEA) of 1997, which expires on May 1, 1998; and

Whereas, delay or disruption of federal surface transportation funds to the states and local governments would cause serious transportation and economic problems for the states and their citizens; and

Whereas, the United States Congress is currently considering various bills and amendments concerning a multiyear reauthorization of ISTEA; and

Whereas, the Legislature of the State of Idaho recognizes the many positive aspects of ISTEA which should be retained in any new federal surface transportation authorization act, including: the need for development of intermodal transportation systems; the development of partnerships between federal, state, local and tribal governments for the delivery of transportation systems and services; and an increased level of responsibility and flexibility given to state, local and tribal governments to address their unique transportation needs and characteristics; and

Whereas, ISTEA does need revision in order to eliminate programs that are no longer needed or are unproductive and to remove or revise those provisions which are overly restrictive on the states. Now, therefore, be it

Resolved by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, That the Congress of the United States adopt, in as timely a manner as possible, a multiyear federal surface transportation program reauthorization legislation which:

1. Increases total federal funding for highways to the maximum level sustainable by federal law, including spending authority for funds derived from transfer of 4.3¢ in motor fuel taxes from the General Fund to the Highway Trust Fund;

2. Includes fair and equitable formulas for distribution of federal highway funds, based on the extent and use of the highway system, both rural and urban;

3. Recognizes the national interest in federal lands and the economic impact on states with a large percentage of federal lands;

4. Streamlines and simplifies ISTEA by reducing regulations and mandates on the states;

5. Provides greater flexibility for state and local highway programs to spend funds in accordance with their unique transportation characteristics and priorities. Be it

Further resolved That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to President Bill Clinton, Secretary of Transportation Rodney Slater, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation of the State of Idaho in the Congress of the United States.

POM-431. A resolution adopted by the Senate of the Legislature of the State of Hawaii; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 76

Whereas, a safe and efficient highway system is essential to the nation's international competitiveness, key to domestic productivity, and vital to our quality of life; and

Whereas, Hawaii has critical highway investment needs that cannot be addressed with current financial resources. The Federal Highway Administration rates 313 miles of Hawaii's most important roads in either poor or mediocre condition and judges 51 per cent of our bridges to be deficient; and

Whereas, the current level of federal funding for the nation's highway system is inadequate to meet rehabilitation needs, to protect the safety of the traveling public, to begin solving congestion and rural access problems, to conduct adequate transportation research, and to keep the United States competitive in a global economy; and

Whereas, the federal highway program is financed by dedicated user fees collected from motorists to improve the highway system and deposited into the federal Highway Trust Fund. The Taxpayer Relief Act of 1997 transferred all federal motor fuel taxes into the Highway Trust Fund but provided no mechanism to ensure the funds are spent; and

Whereas, the 1998 congressional budget would constrain federal highway spending well below the level of highway tax receipts, allowing the Highway Trust Fund's cash balance to grow from just over $22 billion today to more than $70 billion by 2003; and

Whereas, Hawaii and other states will be prohibited from obligating any federal highway funds after April 30, 1998, unless Congress and the President enact new highway legislation by that date; and

Whereas, without federal highway funds, many states will be forced to delay life-saving safety improvements, congestion relief projects, and other road and bridge improvements; now, therefore, be it

Resolved by the Senate of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, That the United States Congress enact legislation reauthorizing the federal highway program by May 1, 1998; and be it

Further resolved, That the reauthorization bill should fund the federal highway program at the highest level that the user-financed Highway Trust Fund will support; and be it

Further resolved, That certified copies of this Resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and Hawaii's congressional delegation.

POM-432. A resolution adopted by the Board of Commissioners of the Town of Manteo, North Carolina relative to the Cape Hatteras Lighthouse; to the Committee on Energy and Natural Resources.

POM-433. A resolution adopted by the Senate of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Energy and Natural Resources.

SENATE RESOLUTION

Whereas, The Delaware and Lehigh Navigation Canal National Heritage Corridor was established by the Congress of the United States in 1988 pursuant to the Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988 (Public Law 100-692, 102 Stat. 4552); and

Whereas, The Corridor was established to define the boundaries of these historic waterways and to coordinate efforts to preserve their unique and historic character in recognition of the important role that the Delaware Canal and the Lehigh Navigation Canal played in transporting coal from the anthracite region of Pennsylvania's northeast to the industrial regions of New York, New Jersey and Philadelphia, which helped to transform Pennsylvania from an economy based on agriculture to an economy based on industry and trade; and

Whereas, Congress established the Corridor for the purpose of assisting the Commonwealth of Pennsylvania and its local governments in developing and implementing integrated cultural, historical and natural resource policies that will preserve the Delaware Canal's and the Lehigh Navigation Canal's unique contributions to our national heritage; and

Whereas, Congress established the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission to organize these efforts, to coordinate the development of a Cultural Heritage and Corridor Management Plan and to facilitate the distribution of funds to projects undertaken in the Corridor; and

Whereas, The Cultural Heritage and Corridor Management Plan authorized by Congress to coordinate Federal, State and local efforts in this regard has been completed with the cooperation of many Federal, State and local agencies; and

Whereas, Consistent with the purposes of the act, the implementation of the Cultural Heritage and Corridor Management Plan has resulted in a strong regional coalition that has sparked dozens of community revitalization, economic development and resource preservation projects in Luzerne, Carbon, Lehigh, Northampton and Bucks counties; and

Whereas, The existence of the Corridor has encouraged individual communities to interpret their heritage in the context of a nationally significant story of settlement and industrialization and has assisted those communities in the development of educational public programs for people of all ages and interests; and

Whereas, The Corridor has received $2.7 million in Federal funds and has stimulated $29.1 million in State, local and private matching dollars at a rate of greater than ten to one, creating new investment and improvements to the natural, cultural, scenic and historic resources of the Corridor; and

Whereas, The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission is scheduled to terminate on November 18, 1998; and

Whereas, The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, recognizing the continued relevance of the commission's activities to preserve the Corridor, has requested that Congress authorize a ten-year extension of the commission to the year 2008 and authorize additional Federal funds for the completion of the goals set in the Cultural Heritage and Corridor Management Plan; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize Congress to authorize a ten-year extension of the Delaware and Lehigh Navigation Canal National Heritage Corridor Act and to authorize continued Federal support for Corridor projects; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-434. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Energy and Natural Resources.

HOUSE RESOLUTION

Whereas, The Delaware and Lehigh Navigation Canal National Heritage Corridor was established by the Congress of the United States in 1988 pursuant to the Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988 (Public Law 100-692, 102 Stat. 4552); and

Whereas, The corridor was established to define the boundaries of these historic waterways and to coordinate efforts to preserve their unique and historic character, in recognition of the important role that the Delaware Canal and the Lehigh Navigation Canal played in transporting coal from the anthracite region of Pennsylvania's northeast to the industrial regions of New York, New Jersey and Philadelphia, which helped to transform Pennsylvania from an economy based on agriculture to an economy based on industry and trade; and

Whereas, Congress established the corridor for the purpose of assisting the Commonwealth of Pennsylvania and its local governments in developing and implementing integrated cultural, historical and natural resource policies that will preserve the Delaware Canal's and the Lehigh Navigation Canal's unique contributions to our national heritage; and

Whereas, Congress established the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission to organize these efforts, to coordinate the development of a Cultural Heritage and Corridor Management Plan and to facilitate the distribution of funds to projects undertaken in the corridor; and

Whereas, The Cultural Heritage and Corridor Management Plan authorized by Congress to coordinate Federal, State and local efforts in this regard has been completed with the cooperation of many Federal, State and local agencies; and

Whereas, Consistent with the purposes of the act, the implementation of the Cultural Heritage and Corridor Management Plan has resulted in a strong regional coalition that has sparked dozens of community revitalization, economic development and resource preservation projects in Luzerne, Carbon, Lehigh, Northampton and Bucks Counties; and

Whereas, The existence of the corridor has encouraged individual communities to interpret their heritage in the context of a nationally significant story of settlement and industrialization and has assisted those communities in the development of educational public programs for people of all ages and interests; and

Whereas, The corridor has received $2.7 million in Federal funds and has stimulated $29.1 million in State, local and private matching dollars at a rate of greater than ten to one, creating new investment and improvements to the natural, cultural, scenic and historical resources of the corridor; and

Whereas, The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission is scheduled to terminate on November 18, 1998; and

Whereas, The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, recognizing the continued relevance of the commission's activities to preserve the corridor, has requested that Congress authorize a ten-year extension of the commission to the year 2008 and authorize additional Federal funds for the completion of the goals set in the Cultural Heritage and Corridor Management Plan; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize Congress to authorize a ten-year extension of the Delaware and Lehigh Navigation Canal National Heritage Corridor Act and to authorize continued Federal support for corridor projects; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-435. A concurrent resolution adopted by the Legislature of the State of Kansas; to the Committee on Energy and Natural Resources.

House Concurrent Resolution No. 5035

Whereas, Each state is able and has the right to determine if there should be competition in retail sales of electricity within the state and the time period for implementation of competition; and

Whereas, Each state has unique electric power supply sources and demand requirements that cannot readily be accommodated by a federal mandate; and

Whereas, Availability of reliable electric energy at affordable prices has a tremendous impact on the public health and welfare in each state; and

Whereas, The Legislature of the State of Kansas created the Retail Wheeling Task Force, composed of legislators and representatives of all interested parties, to study and make recommendations regarding competition in retail sales of electricity in Kansas; and

Whereas, The Task Force devoted long hours for 18 months to understanding the issue of competition in retail sales of electricity, its potential impact on the citizens of this state and means of addressing the issue to benefit the greatest number of Kansans; and

Whereas, The federal government does not have the knowledge, time or money necessary to similarly assess the needs of each individual state: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: The Legislature of the State of Kansas strongly urges the Congress of the United States not to take action to mandate competition in retail sales of electricity and to leave that responsibility to the individual states; and

Be it further resolved: The Secretary of State is directed to send enrolled copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, each United States Senator and each United States Representative representing Kansas, the secretary of the United States Department of Energy and the President of the United States.

POM-436. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Energy and Natural Resources.

House Joint Memorial No. 9

Whereas, Idaho was admitted to the Union on July 3, 1890; and

Whereas, the Idaho Admission Bill, 26 Stat. L. 215, ch. 656, provides that the Congress would grant certain lands to the state for the support of public schools and did grant those lands; and

Whereas, Section 5 of the Idaho Admission Bill, 26, Stat. L. 215, ch. 656, requires that the proceeds from the sale of those lands shall constitute a permanent school fund, only the interest of which can be used to support public schools; and

Whereas, the restrictions on the use of proceeds and interest are inconsistent with modern concepts of prudent investment; and

Whereas, the restrictions can be modified to reflect modern business practices without undue risk to the state or the beneficiaries of the funds:

Now therefore, be it resolved by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, That the Congress expeditiously amend the Idaho Admissions Bill, 26 Stat. L. 215, ch. 656, as follows: Section 5. Sale or lease of school lands. (a) Except as provided in subsection (b) all lands herein granted for educational purposes shall be disposed of sold only at public sale, the proceeds to constitute a permanent public school permanent endowment fund. Proceeds from the sale of school lands may be deposited into a land bank fund to be used to acquire other lands in the state for the benefit of the endowment beneficiaries, under such laws as may be prescribed by the legislature. If the land sale proceeds are not used to acquire other lands in the state within a time provided by the legislature, the proceeds and any earnings on the proceeds shall be deposited into the public school permanent endowment fund. The interest earnings of which only the public school permanent endowment fund shall be deposited into an earnings reserve fund and distributed expended in the support of said public schools of the state in the manner prescribed by law. Such lands may, under such regulations laws as the legislature shall prescribe, be leased, for periods of not more than ten years, and in the case of an oil, gas, or other hydrocarbon lease or a geothermal resource and associated byproducts lease, for as long thereafter as such product is produced in paying quantities or the lessee in good faith is conducting well drilling or construction operations provided any such lease secures the maximum long-term financial return, and such lands shall not be subject to preemption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only. (b) Such lands may be exchanged for other lands, public or private. The values of such lands so exchanged shall be approximately equal or, if they are not approximately equal, they shall be equalized by the payment of money by the appropriate party. If any such lands are exchanged with the United States, such exchange shall be limited to Federal lands within the State that are subject to exchange under the laws governing the administration of such lands. All such exchanges heretofore made with the United States are hereby approved;

Be it further resolved that the Secretary of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

POM-437. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Energy and Natural Resources.

House Joint Memorial No. 10

Whereas, on January 22, 1998, U.S. Forest Service chief Michael Dombeck proposed a major overhaul of the forest road system, including a proposal to halt all road construction in roadless areas of national forests; and

Whereas, forests occupy some ¾ billion acres, or ⅓ of the land area of the United States and the change would effectively create the largest de facto wilderness bill in history which would close public access to in excess of 47% of the national forest land base outside established wilderness, as well as limit access to wilderness; and

Whereas, this proposed policy change will result in an eighteen-month moratorium on road building within roadless areas currently defined as areas over 5,000 acres, roadless areas identified and inventoried within their forest plans, roadless areas over 1,000 acres that are adjacent to other roadless areas of 5,000 acres or larger which are congressionally designated wilderness or "wild river" corridors, roadless or very low density areas designated for inclusion by regional foresters because of their unique ecological or social values, and decommissioning of "unneeded" existing roads; and

Whereas, a moratorium by administrative fiat circumvents the public participation and environmental documentation requirements of the National Environmental Policy Act and the National Forest Management Act, as well as the Congress of the United States; and

Whereas, Idaho Code sections 40–107 and 40–204A define "federal lands rights-of-way" within the context of Revised Statute 2477, codified as 43 United States Code 932, and Idaho House Joint Memorial No. 6 of 1993 affirms Idaho's interest in maintaining Revised Statute 2477 authorization and grants, in rights-of-way access to unreserved, or formerly unreserved public lands; and

Whereas, as counties are entitled to receive 25% of receipts from national forest lands, the new policy has the potential of eliminating $100 million dollars in desperately needed moneys for local schools; and

Whereas, the administration has only evaluated the devastating economic effect on timber harvest and is ignoring the negative impact on mining, grazing, commercial and private recreationists and local economies; and

Whereas, unemployment rates could rise up to 33% in 7 western states and in some eastern and southern states; and

Whereas, forest roads are an integral part of maintaining forest health, as well as an integral part of a socioeconomic base that would shortchange rural counties of millions in revenue for having federal forests within their boundaries; and

Whereas, a road moratorium would preempt all state and local laws and regulations; now, therefore, be it

Resolved, by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Congress of the United States is urged to recognize state and county rights-of-way under Revised Statute 2477 and take appropriate action to invalidate the proposed policy change for forest roadless areas; and be it further

Resolved that the Congress of the United States is urged to do all within its statutory authority to deny funding for the implementation of the proposed policy change by administrative fiat; and be it further

Resolved that the Chief Clerk of the House of Representatives be, an she is hereby authorized and directed to forward a copy of this Memorial to the Honorable William Clinton, President of the United States, to the Honorable Dan Glickman, Secretary of Agriculture, to Chief Michael Dombeck, United States Forest Service, to the President of the Senate and the Speaker of the House of Representatives of Congress, the congressional delegation representing the State of Idaho in the Congress of the United States, and to the Honorable Phil Batt Governor of the State of Idaho.

POM-438. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Energy and Natural Resources.

HOUSE JOINT MEMORIAL NO. 14

Whereas, the United States Department of Agriculture, in concert with the United States Department of the Interior, has been actively involved for the last three and one-half years in the promulgation of a $35-40 million dollar land management project involving virtually all of the Northwestern States, named the Interior Columbia Basin Ecosystem Management Project (ICBEMP); AND

Whereas, ICBEMP has not been properly authorized by the United States Congress, nor coordinated with the state of Idaho, notwithstanding the inevitable involvement of intermingled state and private lands; and

Whereas, representatives of a number of federal wildlife, natural resource and land management agencies have been engaged in the preparation of an ICBEMP Draft Environmental Impact Statement (DEIS) without sufficient regard to or consideration of state concerns and interests; and

Whereas, there is no definitive description of an ecosystem or ecosystem management contained in the ICBEMP DEIS as drafted, and associated documents; and

Whereas, implementation of ICBEMP will have major impacts on the management of federal lands and therefore major impacts on the counties of this state including a reduction in human economic use of public lands, delays in land use decision-making and new restrictions on both commodity and noncommodity public land outputs, including recreation; and

Whereas, the preferred alternative in the DEIS, while supposedly designed to aggressively restore ecosystems and support people, in reality focuses on ecosystem protection to be achieved by minimizing human impacts to the environment; and

Whereas, the DEIS's Desired Range of Future Conditions reflect the personal values of its authors and are not necessarily based on a sound scientific information; and

Whereas, ecological considerations have been given more weight than providing predictable levels of goods and services from federal lands while procedures and standards for measurement have not been developed for ecosystem health and ecological integrity; and

Whereas, the ICBEMP DEIS fails to explicitly identify the economic or social needs of people, cultures, and communities in the Columbia River Basin as they pertain to federal lands and fails to define sustainable and predictable levels of products and services from U.S. Forest Service and Bureau of Land Management lands; and

Whereas, the DEIS contains no significant legal justification for shifting to ecosystem based management while at the same time nullifying the many years of cooperative effort contained in existing land management plans; now, therefore, be it

Resolved by the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urgently request the Congress of the United States to take action immediately to terminate the Interior Columbia Basin Ecosystem Management Project with no Record of Decision being approved. We request that all funding enabling further action toward the implementation be terminated and withdrawn from all federal agencies involved. All valid science based information developed by this project should be communicated to BLM district managers and National Forest supervisors for consideration of public input in statutorily scheduled environmental land and resource management plan revisions; be it further

Resolved that the members of the Second Regular Session of the Fifty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, strongly support natural resource planning and environmental management featuring site-specific management decisions made by local decision-makers, local citizenry and parties directly and personally affected by environmental land and resource management decisions; and be it further

Resolved that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the Secretary of the United States Department of Interior, to the Chief of the Forest Service of the United States Department of Agriculture, to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the state of Idaho in the Congress of the United States.

POM-439. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Energy and Natural Resources.

SUBSTITUTE HOUSE JOINT MEMORIAL 4035

Whereas, The citizens of Washington State place great value upon their natural heritage and desire to protect and enhance it; and

Whereas, The growing population of Washington State is placing growing demands on the state's natural resources available for recreation; and

Whereas, Because of this growing demand and its attendant impacts on the environment, the federal government is considering restrictions on public access to popular recreation sites in Washington's central Cascade Mountains; and

Whereas, Plum Creek Timber Company, L.P. presently owns numerous sites near the Alpine Lakes Wilderness Area which are of surpassing recreational and environmental value; and

Whereas, Such lands are located in a "checkerboard" pattern of alternating sections, and configuration that presents both private and public land managers with difficulties in meeting their respective objectives; and

Whereas, Both sectors have stated a willingness to exchange lands to accommodate mutual interests; and

Whereas, The federal government and Plum Creek Timber Company are completing an environmental impact statement for an exchange of private and public lands in the Cascade Mountains; and

Whereas, This process has involved extensive public participation; and

Whereas, This exchange complements the President's Forest Plan; and

Whereas, This exchange, if completed as currently proposed, would transfer into public ownership up to 60,000 acres of private land while transferring into private ownership up to 40,000 acres of public land; and

Whereas, The United States Forest Service and Plum Creek Timber Company L.P., have worked toward this land exchange for over a decade, expending more than two million dollars in environmental studies and land analysis; and

Whereas, Time is of the essence because the longer it takes to complete the exchange, the less private land will be precluded from harvest activities;

Now, therefore, Your Memorialists respectfully pray that the United States Government promptly complete the proposed Interstate 90 land exchange, thus securing the greatest possible environmental, recreational, and land-management benefits at the earliest possible time; be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, the United States Secretary of Agriculture Dan Glickman, and each member of Congress from the State of Washington.

POM-440. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Energy and Natural Resources.

SENATE CONCURRENT RESOLUTION NO. 16

Whereas, the coastal regions of the United States are fragile environmentally and under intense pressure from storms and natural disasters, population growth and, in some states, from onshore support activities that are necessitated by the development of the nation's oil and natural gas resources on the federal Outer Continental Shelf; and

Whereas, each year the federal government receives billions of dollars in revenues from the development of oil and natural gas resources on the federal Outer Continental Shelf, a capital asset of this nation; and

Whereas, the federal government does not share directly with the coastal states a meaningful share of these revenues, while the federal government does share with states fifty percent of the revenues from onshore federal mineral development; and

Whereas, at least a portion of the revenues from this capital asset of the nation should be reinvested in infrastructure and environmental restoration in the coastal regions of this nation; and

Whereas, states that host onshore activities in support of the offshore federal Outer Continental Shelf mineral development should receive a share of these revenues to offset state impacts of this development; and

Whereas, the Outer Continental Shelf Policy Committee of the United States Department of the Interior has recommended that all states, and the territories, should receive a portion of these revenues as an automatic payment annually pursuant to a formula based on proximity to offshore production, miles of shoreline and population; and

Whereas, members of Congress representing coastal states are preparing federal legislation to enact the proposal to share a portion of federal Outer Continental Shelf revenues with all coastal states and the territories; therefore, be it

Resolved that the Legislature of Louisiana memorializes the Congress of the United

States to support and adopt legislation to provide for the sharing of revenues generated through mineral exploration on the federal Outer Continental Shelf with coastal states and territories pursuant to a formula recommended by the Outer Continental Shelf Policy Committee; and be it further

Resolved that a copy of this Resolution be transmitted to the secretary of the United States Senate, the clerk of the United States House of Representatives and to each member of the Louisiana Congressional delegation.

EXECUTIVE REPORTS OF COMMITTEE

The following executive report of committees was submitted:

By Mr. BOND, from the Committee on Small Business:

Fred P. Hochberg, of New York, to be Deputy Administrator of the Small Business Administration.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KYL (for himself and Mr. McCAIN):

S. 2087. A bill to authorize the Secretary of the Interior to convey certain works, facilities, and titles of the Gila Project, and designated lands within or adjacent to the Gila Project, to the Wellton-Mohawk Irrigation and Drainage District, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI:

S. 2088. A bill to require the Secretary of Agriculture to grant an easement to Chugach Alaska Corporation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CONRAD (for himself and Mrs. FEINSTEIN):

S. 2089. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for information technology training expenses paid or incurred by the employer, and for other purposes; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. INHOFE, Mr. GRAHAM, Mr. SMITH of New Hampshire, and Mr. JEFFORDS):

S. 2090. A bill to extend the authority of the Nuclear Regulatory Commission to collect fees through 2003, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BENNETT:

S. Res. 231. A resolution to make a technical amendment to Senate Resolution 208; considered and agreed to.

By Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. DODD, and Ms. LANDRIEU):

S. Con. Res. 97. A concurrent resolution expressing the sense of Congress concerning the human rights and humanitarian situation facing the women and girls of Afghanistan; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself and Mr. McCAIN):

S. 2087. A bill to authorize the Secretary of the Interior to convey certain works, facilities, and titles of the Gila Project, and designated lands within or adjacent to the Gila Project, to the Wellton-Mohawk Irrigation and Drainage District, and for other purposes; to the Committee on Energy and Natural Resources.

WELLTON-MOHAWK TITLE TRANSFER ACT OF 1998

• Mr. KYL. Mr. President, today I introduced a bill to transfer title to the Wellton-Mohawk Irrigation and Drainage District in Yuma, Arizona from the Federal Government to the project beneficiaries. The repayment obligation for construction costs was fully satisfied as of May 30, 1987. This bill is the product of intensive negotiations between the project beneficiaries and the Bureau of Reclamation and will be the subject of a hearing in the Water and Power Subcommittee on June 9. At that time, I will hear from all interested parties about how to successfully complete this project transfer.

As you may know, Mr. President, numerous project transfers have been proposed, both in this session of Congress and the 104th Session. Thus far, none have been completed. With this bill, we in Arizona hope to reverse that trend. In March of this year, I met with Patty Beneke, Assistant Secretary of the Interior for Water and Science, and Bob Johnson, Regional Director for the Bureau of Reclamation, and they assured me that the Wellton-Mohawk project was a perfect example of the kind of project that should transfer under the administration's 1995 Framework for Transfer. I believe Bob Johnson referred to this project as "low-hanging fruit." I assume by that, he meant that it could transfer quickly and easily. I hope this is the case.

The Wellton-Mohawk project is located in Yuma County, Arizona and irrigates approximately 63,000 acres of prime agricultural lands. This irrigation district is a major contributor to the economy of Yuma County—the largest agriculturally developed county in Arizona—and posts approximately three-quarters of a billion dollars in annual agricultural sales. Transfer of title from the Federal Government will affect neither the productivity nor the efficiency of the irrigation district. I believe that transfer would only enhance the District's productivity.

Both sides stand to benefit from this title transfer. The District looks forward to a reduction in Federal Government involvement; would benefit from better land-management opportunities; and would have the opportunity to assure increased protection of the environmental values of the Gila River riparian habitat. The Federal Government benefits, too. A successful title transfer would advance the administration's stated goal of reduction in government as well as eliminate the responsibility for managing the patchwork of lands that make up the District. The Bureau of Reclamation would be relieved of the administrative and financial burden of facilities oversight currently required due to Federal ownership.

In negotiations, the Bureau of Reclamation has raised several issues that need to be addressed in order to effect a successful transfer. These issues include environmental mitigation, administrative costs, identification and valuation of lands, and agricultural return flows. One of the benefits of my legislation is that it provides a Memorandum of Agreement, to be negotiated between the Bureau and the District, that will address all of these concerns in an open and mutually beneficial process.

I am pleased thus far by the cooperation of all stakeholders. I look forward to continuing the process at the Water and Power subcommittee hearing on June 9, 1998. I thank Senator McCAIN for his cosponsorship of this bill, and I look forward to his support, as well as that of the rest of my colleagues, on this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wellton-Mohawk Title Transfer Act of 1998".

SEC. 2. CONVEYANCE OF TITLE TO WORKS, FACILITIES AND LANDS.

(a) DEFINITIONS.—

(1) MEMORANDUM OF AGREEMENT.—The term "Memorandum of Agreement" means the agreement between the Secretary and Wellton-Mohawk, relating to the transfer, dated on or before July 1, 1998.

(2) RECLAMATION.—The term "Reclamation" means the Department of the Interior, Bureau of Reclamation.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) WELLTON-MOHAWK.—The term "Wellton-Mohawk" means the Wellton-Mohawk Irrigation and Drainage District, an irrigation and drainage district created, organized, and existing under and by virtue of the Laws of the State of Arizona.

(5) WESTERN.—The term "Western" means the Department of Energy, Western Area Power Administration.

(b) IMPLEMENTATION. The Secretary shall carry out the provisions of the Memorandum of Agreement. If transfer has not occurred by the date set forth in the Memorandum of Agreement, but review under the National Environmental Policy Act has been completed and fair market value has been established, then upon tender of fair market value to the Secretary by Wellton-Mohawk, all right, title, and interest of the United States in and to the works, facilities, and lands described in the Memorandum of Agreement shall transfer to and vest in Wellton-Mohawk by operation of Law. The Secretary shall provide such evidence of title as may be requested by Wellton-Mohawk. In the event that no Memorandum of Agreement is agreed to by July 1, 1998, this Act shall be considered null and void.

(c) WATER AND POWER DELIVERY.—Notwithstanding the transfer of title to works, facilities, and lands, the Secretary is authorized and shall continue to deliver water to Wellton-Mohawk in accordance with the terms of the Amendatory and Supplemental Consolidated Contract with Wellton-Mohawk Irrigation and Drainage District for Delivery of Water, Construction of Works, Repayment, and Project Power Supply (Reclamation's Contract Number 1-07-30-W0021 Amendment No. 1) including any renewals, amendments, supplements, or extensions thereof. Notwithstanding the transfer of title to works, facilities, and lands, the Secretary and Western are authorized and shall continue to provide Wellton-Mohawk with project reserved power from the Parker Reclamation Power Plant and Davis Reclamation Power Plant, in accordance with the terms of the Consolidated Contract and the Power Management Agreement (Reclamation's and Western's contract Numbers 6-CU-30-P1136, 6-CU-30-P1137 and 6-CU-30-P1138) including any renewals, amendments, supplements, or extensions thereof.

(d) LIABILITY.—Effective on the date of conveyance of the project works, facilities and lands, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed works, facilities, and lands, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors as provided in the Federal Tort Claims Act (28 U.S.C. 2671 et seq.).

(e) AGRICULTURAL RETURN FLOWS.—As a condition of transfer, Wellton-Mohawk shall agree that: (1) the volume of agricultural return flows from Wellton-Mohawk delivered to Reclamation's Main Outlet Drain at Station 0+00 shall comply with applicable law and contracts and shall not exceed 175,000 annual acre feet; and (2) Wellton-Mohawk and Reclamation shall work cooperatively to attempt to limit return flows to the design capacity of the Yuma Desalinization Plant.

(f) REPORT.—The Secretary shall provide a report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within eighteen months from the date of enactment of this Act on the status of the transfer, any obstacles to completion of the transfer as provided in this Act, and the anticipated date for such transfer.

(g) AUTHORIZATION.—There are authorized to be appropriated such sums as necessary for the purposes of this Act.●

Mr. MCCAIN. Mr. President, I rise today in support of legislation to authorize the Secretary of the Interior to transfer certain works, facilities, and titles of the Gila Project, and designated lands to the Wellton-Mohawk Irrigation and Drainage District. This legislation will allow the Bureau of Reclamation to carry out a transfer under the terms and conditions of a cooperative agreement between the Bureau and the District.

I am pleased that my colleague from Arizona, Senator JON KYL, has taken the lead in crafting this important proposal. It will enable the Bureau of Reclamation to divest its responsibility for the operation, maintenance, management, and regulation of Wellton-Mohawk. The Wellton-Mohawk project includes 375 miles of irrigation/drainage canals and laterals, and three major pumping plants, all of which support 63,000 acres of prime agricultural lands. This transfer will eliminate Federal government oversight of Wellton-Mohawk and will empower the District management to take over the title.

Mr. President, the Wellton-Mohawk District is a major contributor to the economy of Yuma County, which is the most agriculturally developed county in Arizona. The farms in the region provide an estimated economic impact of three-quarters of a billion dollars every year. Conveyance of the project to the local management would help to sustain the economic viability of area agricultural interests.

The cooperation by the administration and the District over the last few years, especially at the regional level, has spurred this privatization initiative. This legislation anticipates an aggressive time line for the Bureau of Reclamation and the District to lay out the terms and conditions of the conveyance under a Memorandum of Agreement (MOA), During a hearing before the House Subcommittee on Water and Power Resources, the Commissioner of the Bureau of Reclamation called the Wellton-Mohawk project a "good candidate for transfer" and furthermore stated that the administration would endorse legislation that allows the District and the Secretary to negotiate the terms of a transfer pursuant to a Memorandum of Agreement.

Under the terms of the legislation, the parties will establish a process by which the fair market value of the transfer will be assessed. The Memorandum will also lay out a plan for an environmental impact analysis in compliance with the National Environmental Policy Act (NEPA). The Secretary of the Inferior is expected to carry out the transfer if the terms are decided upon in the Memorandum of Agreement by a set date. However, the conveyance may not go forward if the appraisal or the NEPA process have not been completed.

I want to make clear that this legislation is not a directed transfer, but simply implements the MOA as decided upon between the Administration and the District. If consensus cannot be reached in the form of an MOA, this legislation to privatize Wellton-Mohawk will have no effect and will not require the government to transfer total or otherwise divest itself of any assets.

Mr. President, I laud the considerable efforts of the Wellton-Mohawk District in forgoing this agreement. I look forward to working with Senator KYL to see this initiative through to smooth and expedient completion.

By Mr. MURKOWSKI:

S. 2088. A bill to require the Secretary of Agriculture to grant an easement to Chugach Alaska Corporation, and for other purposes; to the Committee on Energy and Natural Resources.

CHUGACH ALASKA CORPORATION SETTLEMENT IMPLEMENTATION ACT

● Mr. MURKOWSKI. Mr. President, this morning I introduce legislation to implement a settlement agreement between the Chugach Alaska Corporation (CAC) and the United States Forest Service.

Pursuant to section 1430 of the Alaska National Interest Lands Conservation Act (ANILCA), the Secretary of the Interior, the Secretary of Agriculture, the State of Alaska, and the Chugach Alaska Corporation, were directed to study land ownership in and around the Chugach Region in Alaska. The purpose of this study was two-fold. First, was to provide for a fair and just settlement of the Chugach people and realizing the intent, purpose, and promise of the Alaska Native Claims Settlement Act by Chugach Alaska Corporation. Second, was to identify lands that, to the maximum extent possible, are of the like, kind, and character of those traditionally used and occupied by the Chugach people, and, to the maximum extent possible, are coastal accessible and economically viable.

On September 17, 1982, the parties entered into an agreement now known as the 1982 Chugach Natives, Inc. Settlement Agreement in order to set forth a fair and just settlement for the Chugach people pursuant to the study directed by Congress. Among the many provisions of this agreement the United States was required to convey to Chugach Alaska Corporation not more than 73,308 acres of land in the vicinity of Carbon Mountain. The land eventually conveyed contained significant amounts of natural resources; however, they were inaccessible by road. Therefore, a second major provision of the Settlement Agreement granted Chugach Alaska Corporation rights-of-way across Chugach National Forest to their land and required the United States to also grant an easement for the purpose of constructing and using roads and other facilities necessary for development of that tract of land on terms and conditions to be determined in accordance with the Settlement Agreement. It is obvious that without such an easement the land conveyed to CAC could not be utilized or developed in a manner consistent with the intent of Congress as expressed in ANILCA and ANCSA.

More than 15 years after the Settlement Agreement was signed, the much needed easement has still not been granted and the CAC remains unable to make economic use of their lands. It seems absurd to me that Congress passed a Settlement Act for the Benefit of Alaska Natives; then the federal government entered into a Settlement Agreement to implement that Act where the CAC was concerned; and today, we find ourselves once again in a position of having to force the government to comply with these agreements.

I have spoken directly to the Regional Forester about this issue and to the Chief of the Forest Service. While they assure me the issue is being addressed and, in fact, have signed an MOU to keep it moving forward, they cannot give me any assurance that it will conclude. Therefore, I find it necessary to once again have Congress rectify inaction on behalf of the Forest Service.

The legislation is simple and straightforward. It directs the Secretary of Agriculture to grant an easement to the CAC by December 11, of this year. It does not prevent the current process from going forward, it simply assures that there will be an end to it.

It is my intent to hold a hearing on this issue in the Energy and Natural Resources Committee as soon as possible.•

By Mr. CONRAD (for himself and Mrs. FEINSTEIN):

S. 2089. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for information technology training expenses paid or incurred by the employer, and for other purposes; to the Committee on Finance.

INVESTMENT TAX CREDIT LEGISLATION

• Mr. CONRAD. Mr. President, today we are considering legislation, S. 1723, to respond to the difficulties that many American companies are experiencing in recruiting skilled workers to fill key positions in the information technology (IT) field. I commend my distinguished colleague from Michigan for focusing attention on this critical IT worker shortage issue.

Last September, the Department of Commerce released an important study, "America's New Deficit: The Shortage of Information Technology Workers", alerting us to the severe shortage of information technology workers. Shortly after the Commerce report was released, the Information Technology Association of America (ITAA) released a study by Virginia Tech—"Help Wanted 1998: A Call For Collaborative Action For the New Millennium:"—which estimated that there are more than 340,000 highly skilled positions in the information technology field that are not filled. Moreover, the Department of Labor projected that our economy will require more than 130,000 information technology jobs in three fields—computer scientists and engineers, systems analysts, and computer programmers—every year for the next ten years.

Mr. President, according to the Department of Commerce, information technologies are the most important enabling technologies in the economy today. They affect every sector and industry in the United States, in terms of digitally-based products, services, production and work processes. Thus, severe shortages of information technology workers could undermine U.S. innovation, productivity and competitiveness in world markets.

Concern over this IT worker shortage was expressed very clearly in recent testimony before the Senate Judiciary Committee by Michael Murray, Vice President for Human Resources and Administration at Microsoft. Mr. Murray commented, "As a leader in the American IT industry, we are deeply concerned that the current skills shortage will threaten our competitiveness in global markets, thereby jeopardizing the $1 trillion this industry contributes to the U.S. economy". According to the Commerce Department, the problem is compounded by the fact that there is also a global shortage of skilled IT workers, in part the result of many developing countries like Malaysia pursuing IT-based economic development growth plans.

Mr. President, today we are considering legislation to amend the Immigration and Nationality Act to help American firms remain competitive in the global information technology market. Specifically, we are debating whether to increase the number of H1B visas that are available for highly skilled workers to fill IT positions in the U.S. S. 1723 would increase the current cap on H1B visas for skilled workers from 65,000 per year to 95,000 for the remainder of the year, and to 115,000 by fiscal year 2000.

From my discussions with information technology leaders, and on the basis the reports from the Commerce Department and ITAA regarding the IT worker shortage, there are compelling reasons to raise the cap on H1B visas. In many instances, American IT companies need the experience and language abilities of foreign workers to effectively compete in local markets. Additionally, with the IT industry's heavy reliance on research and development, there are times when the unique skills of a foreign worker contribute significantly in the development of critical information technology.

Mr. President, while it may be necessary to increase the number of H1B visas that are available for skilled IT workers, there are education and training initiatives that we must also encourage the IT industry to undertake to make certain that opportunities are available for U.S. workers who want to enter the information technology field. We must especially focus on retraining unemployed and older displaced workers, and encourage new partnerships between the IT industry and education institutions—both at the secondary and higher education level—to meet this IT worker shortage challenge.

I have been impressed, Mr. President, with the many education and training initiatives that the IT industry has undertaken in response to this shortage. I know that the IT industry is investing millions of dollars in education and training programs for American workers, especially to inform young people about the opportunities in the IT field. Several weeks ago, I had the privilege of visiting students in the Red River High School in Grand Forks, ND, who are participating in an excellent computer network training program sponsored by the CISCO Corporation. Very shortly, these young people will be able to enter the job market with skills that will be invaluable.

I am also aware of several excellent partnerships that Microsoft has initiated with Green Thumb for older workers, and the American Association of Community Colleges to train students at technical and community colleges. There are, of course, many other excellent examples of ongoing partnerships in the IT industry.

Mr. President, while these efforts are Herculean in many respects, we need to encourage more education initiatives to train American students and workers to fill IT jobs that will be so critical to maintain our leadership in the 21st century. For this reason, I introduced an amendment to S. 1133 on March 17, 1998, to increase the number of partnerships between the IT industry, and education institutions and job training programs by providing a tax credit for employers who offer information technology training for individuals.

The credit would be an amount equal to 20 percent of information technology training program expenses, however, not to exceed $6,000 in a taxable year. The value of the credit would increase by 5 percentage points if the IT training program is operated in an empowerment zone or enterprise community, in a school district in which at least 50 percent of the students in the district participate in the school lunch program, or in an area designated as a disaster zone by the President or Secretary of Agriculture. I am very pleased that this initiative has been endorsed by the Information Technology Association of America.

Mr. President, although S. 1723 may not be the appropriate measure to offer IT training tax credit legislation, I believe it is important to call attention to this legislation to emphasize the need for more education and training opportunities for American workers in the IT field. Therefore, I am today introducing my IT training tax credit legislation, and I hope that my colleagues who are supporting an increase in the H1B visa cap for foreign workers, will also support this provision to train and educate American workers for IT positions. We have an obligation to make certain that opportunities in this exciting field are available to American workers and students. I welcome cosponsors of this legislation, and I ask unanimous consent Mr. President, that the text of this legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45D. INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.

"(a) GENERAL RULE.—For purposes of section 38, in the case of an employer, the information technology training program credit determined under this section is an amount equal to 20 percent of information technology training program expenses paid or incurred by the taxpayer during the taxable year.

"(b) ADDITIONAL CREDIT PERCENTAGE FOR CERTAIN PROGRAMS.—The percentage under subsection (a) shall be increased by 5 percentage points for information technology training program expenses paid or incurred by the taxpayer with respect to a program operated in—

"(1) an empowerment zone or enterprise community designated under part I of subchapter U,

"(2) a school district in which at least 50 percent of the students attending schools in such district are eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act, or

"(3) an area designated as a disaster area by the Secretary of Agriculture or by the President under the Disaster Relief and Emergency Assistance Act in the taxable year or the 4 preceding taxable years.

"(c) LIMITATION.—The amount of information technology training program expenses with respect to an employee which may be taken into account under subsection (a) for the taxable year shall not exceed $6,000.

"(d) INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'information technology training program expenses' means expenses paid or incurred by reason of the participation of the employer in any information technology training program.

"(2) INFORMATION TECHNOLOGY TRAINING PROGRAM.—The term 'information technology training program' means a program—

"(A) for the training of computer programmers, systems analysts, and computer scientists or engineers (as such occupations are defined by the Bureau of Labor Statistics),

"(B) involving a partnership of—

"(i) employers, and

"(ii) State training programs, school districts, or university systems, and

"(C) at least 50 percent of the costs of which is paid or incurred by the employers.

"(e) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to information technology training program expenses (determined without regard to the limitation under subsection (c)).

"(f) ALLOCATIONS.—For purposes of this section, rules similar to the rules of section 41(f)(2) shall apply."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following new paragraph:

"(13) the information technology training program credit determined under section 45D."

(c) NO CARRYBACKS.—Subsection (d) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

"(9) NO CARRYBACK OF SECTION 45D CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the information technology training program credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 45D. Information technology training program expenses."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.●

ADDITIONAL COSPONSORS

S. 831

At the request of Mr. SHELBY, the names of the Senator from Arizona (Mr. KYL) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 981

At the request of Mr. LEVIN, the names of the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of S. 981, a bill to provide for analysis of major rules.

S. 1021

At the request of Mr. HAGEL, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1021, a bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

S. 1264

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1264, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement.

S. 1350

At the request of Mr. LEAHY, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 1350, a bill to amend section 332 of the Communications Act of 1934 to preserve State and local authority to regulate the placement, construction, and modification of certain telecommunications facilities, and for other purposes.

S. 1580

At the request of Mr. SHELBY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1580, a bill to amend the Balanced Budget Act of 1997 to place an 18-month moratorium on the prohibition of payment under the medicare program for home health services consisting of venipuncture solely for the purpose of obtaining a blood sample, and to require the Secretary of Health and Human Services to study potential fraud and abuse under such program with respect to such services.

S. 1647

At the request of Mr. BAUCUS, the names of the Senator from California (Mrs. BOXER), the Senator from North Dakota (Mr. CONRAD), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1675

At the request of Mr. SHELBY, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1675, a bill to establish a Congressional Office of Regulatory Analysis.

S. 1677

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1680

At the request of Mr. DORGAN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1680, a bill to amend title XVIII of the Social Security Act to clarify that licensed pharmacists are not subject to the surety bond requirements under the medicare program.

S. 1693

At the request of Mr. THOMAS, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1693, a bill to renew, reform, reinvigorate, and protect the National Park System.

S. 1707

At the request of Ms. MIKULSKI, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1707, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improved safety of imported foods.

S. 1758

At the request of Mr. SESSIONS, his name was added as a cosponsor of S. 1758, a bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

S. 1875

At the request of Mr. DASCHLE, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1875, a bill to initiate a coordinated national effort to prevent, detect, and educate the public concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect and to identify effective interventions for children, adolescents, and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effect, and for other purposes.

S. 1877

At the request of Mr. WYDEN, the names of the Senator from Nevada (Mr. BRYAN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1877, a bill to remove barriers to the provision of affordable housing for all Americans.

S. 1908

At the request of Mr. MOYNIHAN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1908, a bill to amend title XVIII of the Social Security Act to carve out form payments to Medicare+Choice organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care.

S. 2007

At the request of Mr. COCHRAN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2007, a bill to amend the false claims provisions of chapter 37 of title 31, United States Code.

S. 2022

At the request of Mr. DEWINE, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2022, a bill to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

S. 2031

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska (Mr. HAGEL), the Senator from Nevada (Mr. REID), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2031, a bill to combat waste, fraud, and abuse in payments for home health services provided under the medicare program, and to improve the quality of those home health services.

S. 2033

At the request of Mr. ABRAHAM, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 2033, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

SENATE JOINT RESOLUTION 46

At the request of Mr. LOTT, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of Senate Joint Resolution 46, a joint resolution expressing the sense of the Congress on the occasion of the 50th anniversary of the founding of the modern State of Israel and reaffirming the bonds of friendship and cooperation between the United States and Israel.

SENATE CONCURRENT RESOLUTION 55

At the request of Mr. GREGG, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of Senate Concurrent Resolution 55, a concurrent resolution declaring the annual memorial service sponsored by the National Emergency Medical Services Memorial Service Board of Directors to honor emergency medical services personnel to be the "National Emergency Medical Services Memorial Service."

SENATE CONCURRENT RESOLUTION 96

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of Senate Concurrent Resolution 96, a concurrent resolution expressing the sense of Congress that a postage stamp should be issued honoring Oskar Schindler.

SENATE CONCURRENT RESOLUTION 97—EXPRESSING THE SENSE OF CONGRESS CONCERNING THE HUMAN RIGHTS AND HUMANITARIAN SITUATION FACING THE WOMEN AND GIRLS OF AFGHANISTAN

Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. DODD, and Ms. LANDRIEU) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 97

Whereas the legacy of the war in Afghanistan has had a devastating impact on the civilian population, and a particularly negative impact on the rights and security of women and girls;

Whereas the current environment is one in which the rights of women and girls are routinely violated, leading the Department of State in its 1997 Country Report on Human Rights, released January 30, 1998, to conclude that women are beaten for violating increasingly restrictive Taliban dress codes, which require women to be covered from head to toe, women are strictly prohibited from working outside the home, women and girls are denied the right to an education, women are forbidden from appearing outside the home unless accompanied by a male family member, and beatings and death result from a failure to observe these restrictions;

Whereas the Secretary of State stated, in November 1997 at the Nasir Bagh Refugee Camp in Pakistan, that if a society is to move forward, women and girls must have access to schools and health care, be able to participate in the economy, and be protected from physical exploitation and abuse;

Whereas Afghanistan recognizes international human rights conventions such as the Convention on the Prevention and Punishment of the Crime of Genocide, the International Covenant on Civil and Political Rights, the Covenant on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women, and the International Covenant on Economic, Social, and Cultural Rights, which espouses respect for basic human rights of all individuals without regard to race, religion, ethnicity, or gender;

Whereas the use of rape as an instrument of war is considered a grave breach of the Geneva Convention and a crime against humanity;

Whereas people who commit grave breaches of the Geneva Convention are to be apprehended and subject to trial;

Whereas there is significant credible evidence that warring parties, factions, and powers in Afghanistan are responsible for numerous human rights violations, including the systematic rape of women and girls;

Whereas in recent years Afghan maternal mortality rates have increased dramatically, and the level of women's health care has declined significantly;

Whereas there has been a marked upswing in human rights violations against women and girls since the Taliban coalition seized Kabul in 1996, including Taliban edicts denying women and girls the right to an education, employment, access to adequate health care, and direct access to humanitarian aid; and

Whereas peace and security in Afghanistan are conducive to the full restoration of all human rights and fundamental freedom, the voluntary repatriation of refugees to their homeland in safety and dignity, the clearance of mine fields, and the reconstruction and rehabilitation of Afghanistan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) deplores the continued human rights violations by all parties, factions, and powers in Afghanistan;

(2) condemns targeted discrimination against women and girls and expresses deep concern regarding the prohibitions on employment and education;

(3) strongly condemns the use of rape or other forms of systematic gender discrimination by any party, faction, or power in Afghanistan as an instrument of war;

(4) calls on all parties, factions, and powers in Afghanistan to respect international norms and standards of human rights;

(5) calls on all Afghan parties to bring an end without delay to—

(A) discrimination on the basis of gender; and

(B) deprivation of human rights of women;

(6) calls on all Afghan parties in particular to take measures to ensure—

(A) the effective participation of women in civil, economic, political, and social life throughout the country;

(B) respect for the right of women to work;

(C) the right of women and girls to an education without discrimination, reopening schools to women and girls at all levels of education;

(D) respect for the right of women to physical security;

(E) those responsible for physical attacks on women are brought to justice;

(F) respect for freedom of movement of women and their effective access to health care; and

(G) equal access of women to health facilities;

(7) supports the work of nongovernmental organizations advocating respect for human rights in Afghanistan and an improvement in the status of women and their access to humanitarian and development assistance and programs;

(8) calls on the international community to provide, on a nondiscriminatory basis, adequate humanitarian assistance to the people of Afghanistan and Afghan refugees in neighboring countries pending their voluntary repatriation, and requests all parties in Afghanistan to lift the restrictions imposed on international aid and to cease any action which may prevent or impede the delivery of humanitarian assistance;

(9) welcomes the appointment of Ambassador Lakhbar Brahimi as special envoy of the United Nations Secretary General for Afghanistan, and encourages United Nations efforts to produce a durable peace in Afghanistan consistent with the goal of a broad-based national government respectful of human rights; and

(10) calls on all warring parties, factions, and powers to participate with Ambassador Brahimi in an intra-Afghan dialogue regarding the peace process.

SEC. 2. ADDITIONAL ACTION BY PRESIDENT.

It is the sense of Congress that the President and Secretary of State should—

(1) work with the United Nations High Commissioner for Refugees to—

(A) guarantee the safety of, and provide development assistance for, Afghan women's groups in Pakistan and Afghanistan;

(B) increase support for refugee programs in Pakistan providing assistance to Afghan women and children with an emphasis on health, education, and income-generating programs; and

(C) explore options for the resettlement in western countries of those Afghan women, particularly war widows and their families, who are under threat or who fear for their safety or the safety of their families;

(2) establish an Afghanistan Women's Initiative, based on the successful model of the Bosnian Women's Initiative and the Rwandan Women's Initiative, that is targeted at Afghan women's groups, in order to—

(A) assist Afghan women in Pakistan and Afghanistan in local capacity building;

(B) provide humanitarian and development services to the women and the families most in need; and

(C) promote women's economic security;

(3) make a policy determination that—

(A) recognition of any government in Afghanistan by the United States depends on the human rights policies towards women adopted by that government;

(B) the United States should not recognize any government which systematically maltreats women; and

(C) any nonemergency economic or development assistance will be based on respect for human rights; and

(4) call for the creation of—

(A) a commission to establish an international record of the criminal culpability of any individual or party in Afghanistan employing rape or other crime against humanity considered a grave breach of the Geneva Convention as an instrument of war; and

(B) an ad hoc international criminal tribunal by the United Nations for the purposes of indicting, prosecuting, and imprisoning any individual responsible for crimes against humanity in Afghanistan.

SEC. 3. REPORT.

It is the sense of Congress that the Secretary of State should submit a report to Congress not later than 6 months after the date of the adoption of this resolution regarding actions that have been taken to implement this resolution.

Mrs. FEINSTEIN. Mr. President, I rise today to submit a resolution expressing concern over the continuing deterioration of the rights of women and girls in Afghanistan, and calling on the administration to increase its efforts to provide humanitarian assistance and to protect the human rights of Afghan women.

I am joined in this resolution by Senators BROWNBACK, DODD, and LANDRIEU.

Mr. President, every day the women of Afghanistan are excluded from the international community's prevailing vision of human rights, and continue to lack basic legal rights, access to education, and access to economic opportunity. Indeed, perhaps nowhere in the world today is there a clearer test of our commitment to the cause of women's rights than Afghanistan.

In March of this year I convened a meeting with leading Non-Governmental organizations, the Administration, and Afghan women themselves to discuss the situation in Afghanistan and what options are available to the international community to make the lives of Afghanistan's women better.

Among those participating were representatives of the Department of State, the International Commission of the Red Cross, Save the Children, the Women's Commission on Refugee Women and Children, Women in Refugee Development, and the Women's Alliance for Peace and Human Rights in Afghanistan, among others.

We discussed the legacy of close to twenty years of war and bloodshed which has torn apart Afghanistan: More than 1 million people have died, and much of the capital of Kabul lies in ruins.

There are more than 50,000 war widows in Kabul alone, many dependent on international humanitarian assistance for their very survival. The ICRC, for example, distributes food to some 15,000 widows in Kabul.

According to Theresa Loar, the State Department's Senior Coordinator for Women's Issues, in the 1980s a growing number of Afghan women worked outside the home. There were female lawyers, judges, doctors, and teachers. This trend was reversed in 1992 and now, under the Taliban, "women and girls became, and remain today, virtually invisible."

Education is a major concern, where edicts prevent girls from attending school and receiving an education. A small, low-profile, "home school" movement has started, with an estimated 6,500 girls and boys attending classes in Kabul. These home schools, however, are no substitute for access to a real education.

On September 6, 1997 the Taliban government issued a statement demanding that admission of female patients to hospitals cease immediately, and that all female medical staff stop working. After negotiations with the ICRC the Taliban government reconsidered, but women still face great difficulties in getting access to medical care.

Many Non-Governmental Organizations are doing work which I can describe as nothing short of heroic to provide medical and humanitarian assistance under the most adverse of circumstances. But they are faced with numerous constraints, from difficulties in collecting data and verifying beneficiary cards, to laws and practices which prevent the distribution of assistance or services directly to the women in need.

The U.S. State Department's 1997 human rights report states: "Women were beaten for violating increasingly restrictive Taliban dress codes, which require women to be covered from head to toe. Women were strictly prohibited from working outside the home, and women and girls were denied the right to an education. Women were forbidden from appearing outside the home unless accompanied by a male family member. Beatings and death resulted from a failure to observe these restrictions."

The women of Afghanistan, who have seen their families destroyed by war, are now having their economic life and their fundamental human rights stripped away, and an already war-torn and war-weary Afghanistan has been pushed to the brink of disaster.

Fully half of Afghanistan's population cannot work for a living or be educated. Fully half the population of Afghanistan are being systematically denied their basic human rights. We must act to stop these injustices and to bring peace to Afghanistan.

Ambassador Richardson's recent initiative, which led to the unprecedented peace talks between representatives of the Taliban and the Northern Alliance in Islamabad last month and an agreement to set up a 40-member Ulema commission to find a solution for the civil conflict, represents perhaps the best opportunity for a comprehensive peace in Afghanistan in over a generation.

The ultimate outcome of these discussions are still in doubt, however, and, movement at the peace talks has been accompanied by reports of new fighting in the fields, with both sides reportedly acquiring new weapons.

I believe we must give our full support to these peace talks. But I also believe that we must be prepared for continued violence in Afghanistan, and for the situation faced by Afghanistan's women to get worse before it gets better. As we await the outcome of these peace talks—and there is no quick or apparent solution in sight—we must continue to work to alleviate the plight of Afghanistan's women.

The resolution I submit today calls on the administration to create an Afghan Women's Initiative, along the lines of the successful Bosnian and Rwandan Women's Initiatives which the administration has created in the past two years. Those initiatives have assisted the victims of those wars by promoting the reintegration of women into the economy with an emphasis on capacity-building, training programs, legal assistance, and support for microenterprise projects, as well as refugee reintegration and protection.

I believe that the successes of those two programs can serve as a model for a similar initiative for the women of Afghanistan, as well as the numerous Afghan women in refugee camps in Pakistan. The women of Afghanistan could greatly benefit from such a women's initiative, and I look forward to working with the administration to design and implement such a program.

Second, this resolution calls for the international community to investigate charges of rape and abuse as instruments of the now almost decade-long civil war which has torn Afghanistan apart, and, if credible evidence exists, to convene a war crimes tribunal to prosecute the perpetrators.

Credible charges have been made about the systematic use of rape by several of the factions and parties involved in this struggle, and I believe that these charges must be investigated and, if true, must lead to indictments and trials.

Finally, I believe that the United States must be clear in stating that we will not recognize any government in Afghanistan unless it is broad-based, respective of all Afghans, and respects international norms of behavior in human rights, including the rights of women and girls. As we continue to work for peace in Afghanistan, this resolution calls for an unequivocal statement of administration policy on this point.

The United States, with our history of commitment to women's rights and equality, must redouble its efforts to place respect for women's rights at the top of the international community's agenda in Afghanistan, and I urge my colleagues to support this resolution.

This resolution, essentially, asks the President and the Secretary of State to work with the United Nations High Commissioner of Refugees to guarantee the safety of and provide development assistance for Afghan women in Pakistan, as well as Afghanistan, and to increase support for various refugee programs, to explore options for resettlement, and to establish in Afghanistan a women's initiative which is based on the successful model of the Bosnian women's initiative and the Rwandan women's initiative that are targeted toward Afghani women's groups.

SENATE RESOLUTION 231—MAKING A TECHNICAL AMENDMENT TO SENATE RESOLUTION 208

Mr. BENNETT submitted the following resolution; which was considered and agreed to:

S. RES. 231

Resolved, That Senate Resolution 208, agreed to April 2, 1998 (105th Congress), is amended—

(1) in section 3(a)(8), by inserting "reimbursable or" before "non-reimbursable"; and

(2) striking section 5 and inserting the following:

"SEC. 5. FUNDING.

"(a) IN GENERAL.—There shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations, for use by the special committee to carry out this resolution—

"(1) not to exceed $575,000 for the period beginning on April 2, 1998, through February 28, 1999, and $575,000 for the period beginning on March 1, 1999, through February 29, 2000, of which not to exceed $200,000 shall be available for each period for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946; and

"(2) such additional sums as may be necessary for agency contributions related to the compensation of employees of the special committee.

"(b) EXPENSES.—Payment of expenses of the special committee shall be disbursed upon vouchers approved by the chairman, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.".

AMENDMENTS SUBMITTED

AMERICAN COMPETITIVENESS ACT

WARNER (AND ROBB) AMENDMENT NO. 2412

Mr. ABRAHAM (for Mr. WARNER, for himself and Mr. ROBB) proposed an amendment to the bill (S. 1723) to amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of the United States firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers; as follows:

At the appropriate place in the bill insert the following new section:

SEC. . SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.

(a) IN GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking "or" at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

"(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

"(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO–6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

"(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness Act.".

(b) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) of such Act (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)(i)", and

(2) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)".

KENNEDY (AND JOHNSON) AMENDMENT NO. 2413

Mr. KENNEDY (for himself and Mr. JOHNSON) proposed an amendment to the bill, S. 1723, supra; as follows:

On page 41, after line 16, insert the following:

SEC. . WHISTLEBLOWER PROTECTION.

Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by section 5 of this Act, is further amended—

(1) in subparagraph (C), by inserting ", or that the employer has intimidated, discharged, or otherwise retaliated against any person because that person has asserted a right or has cooperated in an investigation under this paragraph" after "a material fact in an application"; and

(2) by adding at the end the following new subparagraph:

"(F) Any alien admitted to the United States as a nonimmigrant described in section 101(a)(15)(H)(i)(b), who files a complaint pursuant to subparagraph (A) and is otherwise eligible to remain and work in the United States, shall be allowed to seek other employment in the United States for the duration of the alien's authorized admission, if—

"(i) the Secretary finds a failure by the employer to meet the conditions described in subparagraph (C), and

"(ii) the alien notifies the Immigration and Naturalization Service of the name and address of his new employer.".

REID AMENDMENT NO. 2414

Mr. REID proposed an amendment to the bill, S. 1723, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC . PASSPORTS ISSUED FOR CHILDREN UNDER 16.

(a) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking "Before" and inserting "(a) IN GENERAL.—Before", and

(2) by adding at the end the following new subsection:

"(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

"(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

"(A) both parents of the child if the child lives with both parents;

"(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

"(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

"(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed on or after the date of the enactment of this Act.

REED AMENDMENT NO. 2415

Mr. REED proposed an amendment to the bill, S. 1723, supra; as follows:

On page 27, beginning with line 1, strike all through page 29, line 10.

BUMPERS AMENDMENT NO. 2416

Mr. BUMPERS proposed an amendment to the bill, S. 1723, supra; as follows:

At the end of the bill add the following:

SEC. . REPEAL OF IMMIGRANT INVESTOR PROGRAM.

Section 203(b)(5) of the Immigration and Nationality Act, as amended, (8 U.S.C. 1153(b)(5)) shall be repealed effective on the date of enactment of this Act.

KENNEDY (AND JOHNSON) AMENDMENTS NOS. 2417–2418

Mr. KENNEDY (for himself and Mr. JOHNSON) proposed two amendments to the bill, S. 1723, supra; as follows:

AMENDMENT NO. 2417

On page 41, after line 16, insert the following new section:

SEC. . RECRUITMENT OF UNITED STATES WORKERS PRIOR TO SEEKING TEMPORARY FOREIGN WORKERS UNDER THE "H-1B VISA" PROGRAM.

(a) IN GENERAL.—Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following new subparagraph:

"(E)(i) The employer, prior to filing the application, has taken timely, significant, and effective steps to recruit and retain sufficient United States workers in the specialty occupation in which the nonimmigrant whose services are being sought will be employed. Such steps include good faith recruitment in the United States, using procedures that meet industry-wide standards, offering compensation that is at least as great as that required to be offered to nonimmigrants under subparagraph (A), and offering employment to any qualified United States worker who applies.

"(ii) Clause (i) shall not apply with respect to aliens seeking admission or status as nonimmigrants described in section 101(a)(15)(H)(i)(b) who are—

"(I) aliens with extraordinary ability, aliens who are outstanding professors and researchers, or certain multinational executives and managers described in section 203(b)(1), or

"(II) aliens coming as researchers or instructors at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965; 20 U.S.C. 1141(a)) (or a related or affiliated nonprofit entity of such institution) or a nonprofit or Federal research institute or agency.".

AMENDMENT NO. 2418

Beginning on page 30, strike line 12 and all that follows through line 21 on page 32.

On page 41, after line 16, add the following new section:

SEC. . PROTECTION AGAINST DISPLACEMENT OF UNITED STATES WORKERS.

(a) IN GENERAL.—Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following:

"(E) The employer has not replaced any United States worker with a nonimmigrant described in section 101(a)(15)(H)(i) (b) or (c)—

"(i) within the 6-month period prior to the filing of the application,

"(ii) during the 90-day period following the filing of the application, and

"(iii) during the 90-day period immediately preceding and following the filing of any visa petition supported by the application.".

(b) DEFINITIONS.—Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended by adding at the end the following:

"(3) For purposes of this subsection:

"(A) The term 'replace' means the employment of the nonimmigrant, including by contract, employee leasing, temporary help agreement, or other similar basis, at the specific place of employment and in the specific employment opportunity from which a United States worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid off.

"(B) The term 'laid off', with respect to an individual, means the individual's loss of employment other than a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant, contract, or other agreement. The term 'laid off' does not include any situation in which the individual involved is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at equivalent or higher compensation and benefits as the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

"(C) The term 'United States worker' means—

"(i) a citizen or national of the United States,

"(ii) an alien who is lawfully admitted for permanent residence, or

"(iii) an alien authorized to be employed by this Act or by the Attorney General,

if the individual is employed, including employment by contract, employee leasing, temporary help agreement, or other similar basis.".

ABRAHAM (AND OTHERS) AMENDMENT NO. 2419

Mr. ABRAHAM (for himself, Mr. KENNEDY, and Mr. MCCAIN) proposed an amendment to the bill, S. 1723, supra; as follows:

On page 25, line 9, insert "and for any other fiscal year for which this subsection does not specify a higher ceiling," after "1997".

Beginning on page 27, strike line 6 and all that follows through page 29, line 10, and insert the following: "is amended in section 415A(b) (20 U.S.C. 1070c(b)), by adding at the end the following new paragraph:

"(3) MATHEMATICS, COMPUTER SCIENCE, AND ENGINEERING SCHOLARSHIPS.—It shall be a permissible use of the funds made available to a State under this section for the State to establish a scholarship program for eligible students who demonstrate financial need and who seek to enter a program of study leading to a degree in mathematics, computer science, or engineering.".

On page 32, between lines 21 and 22, insert the following:

(d) PROHIBITION OF USE OF H-1B VISAS BY EMPLOYERS ASSISTING IN INDIA'S NUCLEAR WEAPONS PROGRAM.—Section 214(c) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) The Attorney General shall not approve a petition under section 101(a)(15)(H)(i)(b) for any employer that has knowledge or reasonable cause to know that the employer is providing material assistance for the development of nuclear weapons in India or any other country.".

On page 32, line 22, strike "(d)" and insert "(e)".

On page 33, line 1, strike "(e)" and insert "(f)".

Beginning on page 36, line 25, strike "the National" and all that follows through "methods" on line 3 of page 37 and insert "a study involving the participation of individuals representing a variety of points of view, including representatives from academia, government, business, and other appropriate organizations,".

On page 34, line 15, strike "(f)" and insert "(g)".

On page 35, line 20, strike "(g)" and insert "(h)".

On page 41, after line 16, insert the following:

SEC. 10. JOB TRAINING DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Subject to subsection (c), in establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of enactment of this Act, or a successor Federal law, the Secretary of

Labor shall establish demonstration programs to provide technical skills training for workers, including incumbent workers.

(b) GRANTS.—Subject to subsection (c), the Secretary of Labor shall award grants to carry out the programs to—

(1) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of enactment of this Act, or successor entities established under a successor Federal law; or

(2) regional consortia of councils or entities described in paragraph (1).

(c) LIMITATION.—The Secretary of Labor shall establish programs under subsection (a), including awarding grants to carry out such programs under subsection (b), only with funds made available to carry out such programs under subsection (a) and not with funds made available under the Job Training Partnership Act or a successor Federal law.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

LOTT AMENDMENT NO. 2420

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment incorporating all modifications to the Commerce Committee substitute to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

[The amendment will appear in a future issue of the RECORD.]

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the full Energy and Natural Resources Committee to consider the fiscal and economic implications of Puerto Rico status.

The hearing will take place on Tuesday, May 19, 1998, at 9:30 A.M. in room SH-216 of the Hart Senate Office Building.

For further information, please call Betty Nevitt, Staff Assistant at (202) 224-0765.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet in open session of the Senate on Wednesday, May 20, 1998 beginning at 10 p.m. to mark up the following: S. 1691, the American Indian Equal Justice Act; and S. 2069, a bill to permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation. The meeting will be held in room 485 of the Russell Senate Office Building.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Thursday, May 21, 1998, 10:00 a.m. in SD-430 of the Senate Dirksen Building. The subject of the hearing is "Genetic Information and Health Care." For further information, please call the committee, 202/224-5375.

SUBCOMMITTEE ON INTERIOR AND SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. GORTON. Mr. President, I would like to announce for the public that a joint field hearing has been scheduled before the Subcommittee on Interior of the Senate Committee on Appropriations and the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place in Spokane, Washington at the Spokane City Hall, in the City Council Chambers, on Thursday, May 28, 1998, from 11:00 a.m.–4:00 p.m. The Spokane City Hall is located at 808 West Spokane Falls Boulevard, Spokane, Washington.

The purpose of this hearing is to receive testimony and examine issues associated with the Interior Columbia Basin Ecosystem Management Plan.

Those who wish to submit written statements should write to the Committee on Appropriations U.S. Senate, Washington, D.C. 20510. For further information, please call Amie Brown at (202) 224-6170 or Kevin Johnson at (202) 224-7233.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet for a joint hearing on Monday, May 18, 1998, at 3 p.m. The subject of the hearing is "The Role of Faith Based Charities in the District of Columbia."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, May 18, 1998 at 2:00 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HEIDI MARIE NOYES: MISS NEW HAMPSHIRE 1998

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Heidi Marie Noyes for being crowned Miss New Hampshire 1998. As Miss Winnipesaukee, Heidi prevailed over a competitive field of thirteen New Hampshire women. Her triumph earns Heidi the right to represent New Hampshire in the Miss America pageant in Atlantic City this September.

One has to admire Heidi for her persistence and dedication. She had appeared in the pageant five times in the last seven years. Heidi's runner-up finish last year and her victory this year attest to her drive to improve and triumph.

Heidi is deeply committed to helping children. She studies criminal justice at Franklin Pierce College in order to eventually work as an advocate for children and to campaign for juvenile law reform. She has been a volunteer for the Youth Services Court Diversion Program in Belknap County for the past six years, and she models in United Way bridal shows to benefit charity. Heidi's platform issue as Miss New Hampshire is the "Let's Get Motivated" scholarship program that she founded three years ago.

At only 23 years old, Heidi is the owner of two dance studios, The Broadway North School of Performing Arts and Broadway North Andover. She is a renowned dancer herself, winning the talent portion of the Miss New Hampshire pageant twice. She was chosen to tour the United States with Dance Caravan and was the Grand National Female Tap Soloist for Hoctor's "Stars of Tomorrow" dance competition in 1992.

I am proud to represent Heidi Marie Noyes in the United States Senate, and wish her much success as Miss New Hampshire.•

IN MEMORY OF RABBI MOSHE SHERER

• Mr. MOYNIHAN. Mr. President, I rise to share with the Senate the sorrowful news that Rabbi Moshe Sherer, one of American Jewry's leading communal leaders, passed away yesterday afternoon at the age of 76. Rabbi Sherer was the President of Agudath Israel of America for over 30 years and has served as a reasoned, wise voice whose counsel was widely respected in the Yeshivot of his beloved Brooklyn and the halls of government in lower Manhattan, Albany, Washington, and Jerusalem.

I first met Rabbi Sherer in the early days of the Kennedy Administration when he came to Washington on behalf of Aguduth Israel. I quickly learned to admire his sagacity and rely on his insightful counsel and abiding integrity. For over thirty-five years he was a treasured mentor and a trusted friend.

World Jewry has lost one of its wisest statesmen. American Orthodoxy has lost a primary architect of its remarkable postwar resurgence. All New

Yorkers have lost a man of rare spiritual gifts and exceptional creative vision.

While the Senate convenes today, tens of thousands of Jews are gathering in Brooklyn, New York to bid a reverential farewell to this exceptional teacher and rare leader. New York's Governor George Pataki, New York City Mayor Rudolph Giuliani, and New York City Council Speaker Peter Vallone are among the distinguished public officials participating in the funeral.

Rabbi Sherer passed away only hours before the President of the Senate, Vice President AL GORE, addressed Agudath Israel's 76th anniversary dinner in New York. He spoke for the Senate and for all Americans when he eulogized the Rabbi as "a remarkable force for the understanding and respect and growth of Orthodox Jewry over the past fifty years", whose "contributions to spreading religious freedom and understanding have been truly indispensable in defending and expanding those same rights for all Americans in all faiths."

I know I speak for the entire Senate when I express my condolences to his widow Deborah, his loving children Mrs. Rachel Langer, Mrs. Elky Goldschmidt and Rabbi Shimshon Sherer, his bereaved colleagues at Agudath Israel, and all who mourn the loss of this unusual man of conscience and conviction.

I ask that a brief obituary of Rabbi Sherer, as prepared by Agudath Israel, be printed in the RECORD.

The obituary follows:

Rabbi Moshe Sherer, 76, widely acknowledged as the elder statesman of the American Orthodox Jewish community, was a leader of Agudath Israel of America, a major national Jewish Orthodox organization, for over half a century, including more than thirty years as the organization's president. He also was appointed in 1980 as chairman of the Agudath Israel World Organization, an international confederation of Agudath Israel organizations in a host of countries around the globe.

A prime catalyst of the American Orthodox Jewish community's remarkable growth in size and strength since the Holocaust, the American-born Rabbi Sherer empowered the evolution of an organization that one member of the Jewish establishment in 1941 called "a sickly weed" into a major and effective force on the American political and communal scene. He took Agudath Israel from a small group of activists to a formidable movement—with tens of thousands of members and supporters; branches across the country; and a Washington office that advocates for a host of issues of concern to the American Orthodox Jewish community, from religious rights to moral matters, from non-public education to the welfare of Jews in lands of oppression. He also helped establish Agudath Israel's celebrated Jewish youth groups and summer camps, and pioneered the organization's current role as a leading force in the provision of social and educational services in the New York area.

Rabbi Sherer's earliest work on behalf of the Jewish community—the efforts that first evoked the larger non-Orthodox Jewish establishment's opprobrium—was the grass-roots, and largely illegal, organization and transport of food shipments to starving Jews in Nazi-occupied Eastern Europe in 1941. His efforts also produced affidavits for European Jewish refugees that helped them immigrate to the United States.

After the end of World War II, he and Agudath Israel continued to assist European Jews—survivors interned in Displaced Person camps—with foodstuffs and religious items, and helped facilitate the immigration and resettlement of Jewish refugees on these shores. In ensuing decades, Rabbi Sherer spearheaded Agudath Israel's efforts on behalf of endangered Jews behind the Iron Curtain and in places like Syria and Iran. In 1991, years of clandestine activity on behalf of Soviet Jews culminated in his establishment of an office in Moscow to coordinate Agudath Israel's activities in Russia. Under his leadership, Agudath Israel also played an important role in providing social welfare and educational assistance to Israeli Jews, and in advocating for Israel's security needs.

Ignoring the pessimistic predictions about Orthodox Jewry made by sociologists and demographic experts in the 40s and 50s, Rabbi Sherer went on to help engineer a remarkable change in the scope, image and influence of the American Orthodox Jewish world. A staunch advocate of Jewish religious education as early as the 1960s, he helped establish the principle in numerous federal laws—like the Elementary and Secondary Education Act of 1965—and state laws that, to the full extent constitutionally permissible, children in non-public schools were entitled to governmental benefits and services on an equitable basis with their public school counterparts. He thereby allied himself with Catholic school advocates and again rankled the larger American Jewish establishment. In 1972, his efforts on behalf of education led to his being named national chairman of a multi-faith coalition of leaders representing the 5 million non-public school children in the United States.

Under his leadership, Agudath Israel helped foster the phenomenal growth of Jewish adult education as well. This past September, the Agudath Israel-sponsored celebration of the most recent completion of the "Daf Yomi" page-a-day Talmud study program drew over 70,000 Jews to central locations nationwide.●

RECOGNITION OF EARTH ANGELS

● Mr. BOND. Mr. President, I rise today to pay tribute to the Earth Angels in my home State of Missouri. Earth Angels received the Award for Environmental Sustainability from Renew America. They were among twenty-eight winners from more than 1,600 applicants who exemplify Earth Day.

Earth Angels is a branch of the Guardian Angel Settlement Association in St. Louis, Missouri. The group is made up of more than 150 inner city children and led by Neil Andre, Director of Earth Angels. Their projects range from recycling to planting trees in their Forest of Life to collecting money for other environmental groups. The group is supported by selling "Earth Angel stock." People who buy into the group get a quarterly newsletter with their latest project updates. Earth Angels gives "at risk" children a chance to be part of an important cause and organization.

Commending Neil Andre and the Earth Angels for their Award for Environmental Sustainability, I wish them continued success in the future. It is extremely gratifying to learn of a group of children doing so much to help our environment. Congratulations for a job well done.●

NAT BINGHAM

● Mrs. BOXER. Mr. President, I wish today to acknowledge the life and passing of a special man. Nat Bingham was many things: a fisherman, a conservationist, an advocate, an innovator, a husband, a father and a friend to anyone who cares about California's magnificent coastal environment and the lives it supports and sustains. By all accounts he was a person of great decency and conviction. He cared deeply for his profession and all those who heed its honorable call. He will be missed.

Nat and his wife Kathy made their home in Mendocino County on California's rugged North Coast. Tragically, Kathy died just two weeks before Nat. They are survived by their two children, Jolene and Eli. My heart goes out to them both.

Nat first became involved with fisheries management issues through his local Salmon Trollers Marketing Association. He served in a number of capacities with the Association before becoming its representative to the Pacific Coast Federation of Fisherman's Associations (PCFFA). On the PCFFA's board, and eventually as its president, he worked tirelessly on issues of habitat and species protection, preservation and restoration.

After stepping down from the PCFFA's board, Nat eventually sold his boat and went to work full-time on salmon restoration and fish habitat issues.

It is no exaggeration to say that Nat Bingham was involved with almost every major fisheries issue in California over the last 20 years. Over the course of his career, Nat achieved a near universal reputation for fairness, independence and results. Is he is not a legend already, it is certain he will become one.

I had great personal respect for Nat Bingham. Just before his death, I offered my strong support for his re-appointment to the federal government's Pacific Fishery Management Council. Nat was ideally suited for this important position. For his sake and the country's sake, I regret very much that he was denied the opportunity to continue his valuable service.

The people who knew him best describe Nat as a gentle, good and moral man. He was passionate about what he believed in, but regardless of the issues at stake he never failed to treat others with a genuine dignity and respect. In my opinion this is one of the true tests of a leader, and it is one of the principal reasons why he will be so dearly missed. Though his life's work should continue on in the efforts of his fellows, Nat Bingham's spirit and dedication can never be replaced.•

SEMITOOL RECEIVES SBA AWARD

• Mr. BURNS. Mr. President, I am proud to announce that Semitool, Inc., of Kalispell, Montana, has been awarded the Small Business Administration's (SBA) 1998 Entrepreneurial Success Award.

The state of Montana has rapidly entered the high-tech field in recent years, and Semitool illustrates the best of what can be done in our state. I nominated Semitool, which designs and manufactures equipment used in the production of semiconductors and other electronic devices, for the award last December because of their great success in the high-tech industry.

As you may know, Mr. President, the SBA grants the Entrepreneurial Success Award to companies launched as “small” businesses that received SBA assistance and have since grown. The criteria include growth in the number of employees, increase in sales, comparisons between current and past financial reports, innovativeness of product or service offered, and evidence of contributions to the local community.

With good ideas, hard work, and an initial boost by the SBA, Semitool has become a major source for employment in Kalispell, employing roughly 1,100 people. It's this kind of entrepreneurial spirit that will keep Montana, and our nation, strong.

Again, I congratulate Semitool on their success, and I yield the floor.•

TECHNICAL AMENDMENT TO SENATE RESOULTION 208

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate resolution 231, submitted earlier today by Senator BENNETT; and, further, that the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 231) was agreed to.

The resolution (S. Res. 231) reads as follows:

Resolved, That Senate Resolution 208, agreed to April 2, 1998 (105th Congress), is amended—

(1) in section 3(a)(8), by inserting “reimbursable or” before “non-reimbursable”; and

(2) striking section 5 and inserting the following:

“SEC. 5. FUNDING.

“(a) IN GENERAL.—There shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations, for use by the special committee to carry out this resolution—

“(1) not to exceed $575,000 for the period beginning on April 2, 1998, through February 28, 1999, and $575,000 for the period beginning on March 1, 1999, through February 29, 2000, of which not to exceed $200,000 shall be available for each period for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946; and

“(2) such additional sums as may be necessary for agency contributions related to the compensation of employees of the special committee.

“(b) EXPENSES.—Payment of expenses of the special committee shall be disbursed upon vouchers approved by the chairman, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.”.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT 105–45

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on May 18, 1998, by the President of the United States:

ILO Convention (No. 111) Concerning Discrimination (Employment and Occupation) (Treaty Document No. 105–45.)

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the Convention (No. 111) Concerning Discrimination (Employment and Occupation), adopted by the International Labor Conference at its 42nd Session in Geneva on June 25, 1958. Also transmitted is the report of the Department of State, with a letter dated January 6, 1997, from then Secretary of Labor Robert Reich, concerning the Convention.

This Convention obligates ratifying countries to declare and pursue a national policy aimed at eliminating discrimination with respect to employment and occupation. As explained more fully in the letter from Secretary Reich, U.S. law and practice fully comport with its provisions.

In the interest of clarifying the domestic application of the Convention, my Administration proposes that two understandings accompany U.S. ratification.

The proposed understandings are as follows:

The United States understands the meaning and scope of Convention No. 111 in light of the relevant conclusions and practice of the Committee of Experts on the Application of Conventions and Recommendations which have been adopted prior to the date of U.S. ratification. The Committee's conclusions and practice are, in any event, not legally binding on the United States and have no force and effect on courts in the United States.

The United States understands that the federal nondiscrimination policy of equal pay for substantially equal work meets the requirements of Convention 111. The United States further understands that Convention 111 does not require or establish the doctrine of comparable worth with respect to compensation as that term is understood under United States law and practice.

These understandings would have no effect on our international obligations under Convention No. 111.

Ratification of this Convention would be consistent with our policy of seeking to adhere to additional international labor instruments as a means both of ensuring that our domestic labor standards meet international requirements, and of enhancing our ability to call other governments to account for failing to fulfill their obligations under International Labor Organization (ILO) conventions. I recommend that the Senate give its advice and consent to the ratification of ILO Convention No. 111.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 18, 1998.*

ORDERS FOR TUESDAY, MAY 19, 1998

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Tuesday, May 19. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 10 a.m. with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I further ask that following morning business on Tuesday, the Senate resume consideration of S. 1415, the tobacco legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I further ask unanimous consent that the Senate stand in recess from 12:30 p.m. until 2:15 p.m. to allow the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, when the

Senate reconvenes on Tuesday at 9:30 a.m. there will be a period of morning business until 10 a.m. Following morning business, the Senate will resume consideration of S. 1415, the tobacco legislation. It is hoped that Members will come to the floor to debate this important legislation and offer amendments under short time agreements.

Roll Call votes may occur prior to the 12:30 policy luncheons. Members should expect votes throughout Tuesday's session in order to make good progress on the tobacco bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:35 p.m., adjourned until tomorrow, Tuesday, May 19, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 18, 1998:

THE JUDICIARY

JOSE DE JESUS RIVERA, OF ARIZONA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF ARIZONA FOR THE TERM OF FOUR YEARS VICE JANET NAPOLITANO, RESIGNED.

EXTENSIONS OF REMARKS

A QUARTER CENTURY OF HEALTH CARE SERVICE TO THANKFUL PATIENTS

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. HORN. Mr. Speaker, Long Beach, California, has been blessed with several quality medical centers. Led by physicians who have dedicated their lives to the health of this community, this city has been at the forefront of medical research and healthcare delivery. On May 22nd, the Long Beach Medical Association will honor physicians who have served with distinction for twenty-five years.

As Long Beach business has grown, so has a stable residential environment. Long Beach has futuristic medical centers led by physicians and healthcare executives who have created a solid base in research and service.

Four decades ago, Long Beach was also an embryo of the managed care industry. Ideas were encouraged to flow and mature into reality. Those who thought there might be a better way were encouraged.

A quarter of a century sometimes seems only a few years ago. With modern medicine, it is a long time. The physicians being honored have been awakened from quiet dreams, deserted many a hot dinner, deferred family vacations, and ignored sunny days to serve their patients unselfishly. These Long Beach physicians have been available regardless of weather, holiday, or time of day, 7 days a week, 52 weeks a year—relentless in their devotion to their patients and their patients' families. The persistent and professional dedication of these doctors is helping advance excellent healthcare into the 21st century.

The community and their patients are forever indebted to these accomplished professionals:

Marcy L. Zwelling Aamot, MD; (President, Long Beach Medical Association) A.S. Abbasi, MD; Raymond Abraham, MD; Harry Alban, MD; Seymour Alban, MD; Edward Allred, MD; Maher Azer, MD; Carlos Badel, MD; John Barloon, MD; Robert Barmeyer, MD; Gordon Bateman, MD; Edson Beebe, MD; Selden Beebe, MD; Arthur Beland, MD; James H. Bell, MD; Irving Berke, MD; Yale Bickel, MD; Gerald Blatt, MD; Myron Bloom, MD; William Bloomer, MD; G. Ray Bouch, MD; George Boucher, MD; William Boucher, MD; Arthur Bowman, MD; James Brennan, MD; Ian Brodie, MD; Carl Brossia, MD; Thomas Buhl, MD; C.C. Calescibetta, MD; Constance Calogeris, MD; Darrell Cannon, MD; Jean Carlin, MD; Stanley Carson, MD; Neil Chamberlain, MD; Carmen Chamberlen, MD; Andrew Choy, MD; William Clark, MD; Robert Cleveland, MD; Bernard Cooperman, MD; Jerome Cope, MD; Thomas Coughlin, MD; Nolan Cramer, MD; John Crivaro, MD; Daniel Cunningham, MD.

Dominic DeCristafaro, MD; Richard DeGolia, MD; Michael De Luca, MD; Eknath Deo, MD; Richard Egan, MD; Isaac Eisenstein, MD; Sidney Ellery, MD; Earl Feiwell, MD; Bertman Belsher, MD; Jerry Finklestein, MD; Robert Fox, MD; Robert Frankenfield, MD; Michael Freund, MD; Gerand Gagnon, MD; Douglas Garland, MD; Leland Garrison, MD; Max Gaspar, MD; Arthur Gelb, MD; Lawrence Gershon, MD; Charles V. Gilliland, MD; Howard Gilman, MD; Robert Godwin, MD; Kevin Gohar, MD; Stanley Golanty, MD; S. Myron Goldstein, MD; Abraham Golum, MD; Donald Greco, MD; Stuart Green, MD; Thomas Lee Grubbs, MD; David Hamm, MD; Ronald Hartman, MD; Paul Hartstein, MD; Robert Heebner, MD; Alan Hemphill, MD; Alan Hermer, MD; Francis Hertzog, MD; Lun Hom, MD; Wilmer Irvine, MD; Mas Itano, MD.

Douglas Jackson, MD; Hawley Jackson, MD; Henry Januszka, MD; James Jen Kin, MD; Charles Jenkins, MD; Alexander Kadvany, MD; Marvin Kaplan, MD; John Kashiwabara, MD; William Kemper, MD; Samia Khwaja, MD; Russell King, MD; Harold Klem, MD; Rolf Koenker, MD; John Kregzde, MD; Geza Krempels, MD; Arnold Kushner, MD; Young Jae Kwin, MD; Leroy Leabman, MD; Paul Lee, MD; Hyuck Lee, MD; Sol Ludmerer, MD; Jack Lynn, MD; Jack Mosier, MD; Yang Wen Lee, MD; Robert Levitt, MD; Arthur Litman, MD; Robert Lugliani, MD; John Lungren, MD; Kenneth Lynch, MD; William Lyons, MD; Montie Magree, MD; Victor Maron, MD; Illuminida Martin, MD; Mahammad Maznavi, MD; Arthur McGowan, MD; John Messenger, MD; Gerald Miller, MD; Don Harper Mills, MD; Charles Morrell, MD; Herbert Movius, MD; Glenn Nakadate, MD; Nord Nation, MD; David Neer, MD; Harold Neibling, MD.

Harold Ochsner, MD; Donald Odriscoll, MD; Donald Ostergard, MD; Arnold Ostrow, MD; Edgar R. Palarea, MD; James Patton, MD; Sidney Penn, MD; Jules Perley, MD; Michael Perley, MD; Jared Piety MD; Samuel Pilchman, MD; S. Gainer Pillsbury, MD; Marshall Redding, MD; Enrique Reed, MD; Glee Renick, MD; William Rhorer, MD; Jeff Riker, MD; Daniel Rodiles, MD; Maurice Rosenbaum, MD; Frederick Rosenbert, MD; David Rozran, MD; John Rosental, MD; Richard Ryder, MD; Bernard Sachs, MD; John Saylor, MD; Lewis Schainuck, MD; Judson Schoendorf, MD; Robert Schumacher, MD; Boyd Schultz, MD; Harold Seifer, MD; Stephen Severance, MD; Allan Shanberg MD; Ralph Simonian, MD; Nicholas Skandalakis, MD; Matthew Sloan, MD; Clyde Smith, MD; Ronald Smith, MD; William Snape, MD; Richard Spellberg, MD; William Stanton, MD; John Steen, MD; Sidney Stern, MD; Michael Strauss, MD; Jose Sturich, MD; B.V. Sury, MD; Alex Sweet, MD.

Jesus Tan, MD; Paul Teng, MD; Eugene Temkin, MD; Paul Thompson, MD; Malcolm Todd, MD; William Todd, MD; Del Tomeoni, MD; Peter Trafas, MD; Leonard Wachs, MD; Winfried Waider, MD; Venkat Warren, MD; Ezzat Wassef, MD; Carlton Waters, MD; Michael Weller, MD; Robert Wells, MD; Stephen Wertheimer, MD; Katherine White, MD; Irvin White, MD; Edward Wiater, MD; Richard Wigod, MD; William Wild, MD; Leon Wiltse, MD; David Wood, MD.

IN MEMORY OF DAVID THIESEN OF CROOKSVILLE, OH

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. NEY. Mr. Speaker, I rise today in memory of David Thiesen, who passed away on February 8, 1998. David gave his life in the line of duty, battling a fire. His life was dedicated to helping others.

David was a kind and caring individual. Those that knew him also knew that firefighting was in his blood. David was always around to lend a helping hand with a smile. He dedicated his life to the fire department.

Mr. Speaker, it is a privilege for me to pay my last respects to a man who gave so much of himself to his country, his community and his family. David will be missed by all whose lives he touched. I am honored to have represented him and proud to call him a constituent.

TRIBUTE TO METUKA BENJAMIN

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Metuka Benjamin for her contribution to the education of the children of the Stephen S. Wise Temple schools.

Because education without vision is like a present without a future, Metuka Benjamin has dedicated her life to improving the future of the Jewish people by making available to their children the finest educational programs in the United States. For more than 34 years, since the founding of Stephen S. Wise Temple in 1964, Metuka Benjamin has worked closely with the distinguished Rabbi Isaiah Zeldin to ensure that every child would receive the benefit of a first class education.

Now, in 1998, Metuka Benjamin serves as Director of Education over all the Stephen S. Wise Temple schools as part of the largest synagogue in the world.

At this time, the synagogue, its membership and the community are witnessing the realization of their dream with the completion of the Arts and Sports Pavilion, the Science and Study Building and the Administration Building of the Milken Community High School of Stephen S. Wise Temple. The Milken Community High School students and faculty are now occupying their new and permanent home on Mulholland Drive.

As we celebrate the 50th Anniversary of Israel, I would like to take this opportunity to acknowledge the remarkable accomplishments of Metuka Benjamin, as well as her commitment to Stephen Wise Temple and its schools,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Jewish Life and Israel. Mr. Speaker, distinguished colleagues, please join me in honoring one of the most respected educators of our time, Metuka Benjamin.

TRIBUTE TO BISHOP EDDIE L. LONG

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Ms. McKINNEY. Mr. Speaker, today, I had the pleasure of hosting, my pastor, Bishop Eddie L. Long, who was the House Guest Chaplain for the Day. Bishop Long is the pastor of New Birth Missionary Baptist Church in Georgia's Fourth Congressional District. Through Bishop Long's leadership, New Birth Missionary Baptist Church has grown from 300 members in 1984 to nearly 22,000 members.

New Birth Missionary Baptist Church has worked to focus the community efforts on saving at-risk youth. Through a program called Project Impact, members of the new Birth Missionary Baptist Church work within the state judicial system to rehabilitate first-time juvenile nonviolent offenders. Without this program, many of these first-time offenders would be incarcerated in our already overcrowded juvenile system with a greater likelihood that they would commit more serious offenses.

Bishop Eddie Long is not only the leader of New Birth Missionary Baptist Church but also a leader within the community and the world. He is an active member of the Morehouse School of Religion Board of Directors and also serves as a moderator of the American Baptist Churches of the South.

Mr. Speaker, I would like to ask that my colleagues on both sides of the aisle join me in welcoming Bishop Eddie L. Long to the United States House of Representatives.

TRI-CITY SPECIAL OLYMPICS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. VISCLOSKY. Mr. Speaker, I am pleased to announce that the Twenty-First Annual Tri-City Special Olympics Track and Field meet was held on Saturday, May 16, 1998, at the Central High School football field in East Chicago, Indiana. Approximately 350 children from East Chicago, Hammond, and Whiting participated in the track and field meet, which has become one of the most outstanding events of the year in the Tri-City area.

Saturday's ceremonies began with the traditional passing of the torch. Adam Stiles of Hammond carried the Olympic torch into the stadium and past the reviewing stand, where he then passed it to Denise Pickford of the Lake County Association for the Retarded (LCAR), who relayed the torch to Jerrid Orange of East Chicago, the anchor runner responsible for lighting the Olympic flame. All three runners returned to their groups for the ceremonies, which included the posting of the colors near the American Legion Posts, the singing of The National Anthem to the accompaniment of the Central High School marching band, and the recitation of the Special Olympic Oath before each event, which was led by Rita Jurik of LCAR. This year's oath is "Let Me Win, but if I Cannot Win, Let Me Be Brave in the Attempt."

The Special Olympics ended with the release of balloons out of the stadium and the distribution of awards to all of the participants. All Special Olympians received an award because the courage to strive and dare is tantamount to winning over adversity.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in congratulating all of the participants in the Tri-City Special Olympics for their determination and will to succeed. Also, I would like to commend all of those involved in making the Special Olympics a success. Their hard work and dedication helped to create a sense of pride and accomplishment in all of the children who participated in the event.

FACT SHEET ON THE "LET THE PUBLIC DECIDE CAMPAIGN FINANCE REFORM ACT"

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. OBEY. Mr. Speaker, I submit the following for the RECORD:

CAMPAIGN CONTRIBUTIONS

Congressional candidates would not be funded with private money in the general elections. Instead, the citizen-funded Grassroots Good Citizenship Fund would equally provide money to the major party's nominees and provide funds for third party and independent candidates.

SOFT MONEY

The use of soft money is prohibited with respect to any House of Representatives election.

THE GRASSROOTS GOOD CITIZENSHIP FUND

Money for the Grassroots Good Citizenship Fund will be provided by voluntary additional payments from public spirited citizens and a .1% tax on corporate income of $10,000,000 or above.

Major party candidates' funds will be based on the median household income of each district. The maximum amount allocated will be $500,000 per candidate for the districts with the highest median household income and all other districts will be equal to that amount minus ⅔ percentage difference between the median household income in that district and the highest district.

Independent candidates will receive funds based on the corresponding number of signatures collected and verified by the commission.

Third party candidates will receive a proportional amount based on that party's vote in the last five elections.

"INDEPENDENT EXPENDITURES" AND "EXPRESS ADVOCACY" ADS

Independent expenditures and express advocacy activities relating to the election of Members of the House of Representatives are prohibited during the 90 days prior to the general election.

CHANGES IN PRIMARY ELECTION FUNDS

The maximum expenditure in a primary will be capped to ⅓ of the amount allocated in the primary election. Large donor PACs will be limited to 20% of this amount.

WHAT IF THESE PROVISIONS ARE FOUND UNCONSTITUTIONAL BY THE SUPREME COURT?

If the Supreme Court rules against provisions in this bill, the House will consider under expedited procedures, a constitutional amendment empowering Congress to make reasonable restrictions on contributions and expenditures.

IN MEMORY OF KATHRYN ANN MAYFIELD OF CROOKSVILLE, OHIO

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. NEY. Mr. Speaker, I rise today in memory of Kathryn Ann Mayfield, who passed away on October 26, 1997. Kathryn was a member of the Crooksville Fire Department and Emergency Squad. She was also an active member of the St. Bernard Catholic Church. Kathryn lost her life after helping others as she often did by fighting fires.

Kathryn was a kind and caring individual. She will be sorely missed by her two sons, daughter and three grandchildren. She was a special person and it was apparent in every aspect of her life.

Mr. Speaker, it is a privilege for me to pay my last respects to a woman who gave so much of herself to her country, her community and her family. Kathryn will be missed by all whose lives she touched. I am honored to have represented her and proud to call her a constituent.

TRIBUTE TO RABBI MARVIN SUGARMAN

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Rabbi Marvin Sugarman for his passionate efforts to improve the quality of life in our community.

Rabbi Sugarman has shown outstanding commitment at the Shaarey Zedek Congregation in North Hollywood. He has been a spiritual leader of the Jewish community for thirty years.

The Talmud states that "Charity promotes peace, and he who gives much charity will bring great peace on earth and above." In the spirit of words, Rabbi Sugarman has expended endless energy in enhancing the Jewish Community of North Hollywood. The community has reaped the benefits of having a tireless leader at the forefront of their religious spiritualism, as they have come together in harmony under his guidance.

Rabbi Sugarman's academic record has proven him to be a diligent student of Judaism. While attending the Talmudical Academy of Baltimore, Rabbi Sugarman was honored for his academic ability with the Jewish Studies Award. After earning a four-year scholarship to fund his college education, he continued his education at Yeshiva University in New York City, graduating with a Bachelor of Arts degree in 1954.

Following his time of study in New York, Rabbi Marvin Sugarman successfully held pulpits in Canada, Pennsylvania, and Indiana, where he increased awareness and participation in the Jewish religion. During this period, Rabbi Sugarman was also a recipient of the Ethics Award.

In the late sixties, Rabbi Sugarman moved to the West Coast, and began working with the Jewish community of the Shaarey Zedek Congregation in North Hollywood, With thirty years of spiritual leadership of the highest accord, Rabbi Sugarman is a highly-respected individual by both the Shaarey Zedek congregation members and by the whole Jewish community in Southern California.

In addition to caring for the needs of the Jewish Community, Rabbi Sugarman is also a husband, father of five, and a grandfather of twenty-six.

Mr. Speaker, distinguished colleagues, please join me in paying tribute to Rabbi Marvin Sugarman. He is deserving of our utmost respect and praise.

MY VOICE IN OUR DEMOCRACY

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Ms. McKINNEY. Mr. Speaker, I would like to submit for this CONGRESSIONAL RECORD the enclosed prize winning script written by Ms. Hannah Leatherbury.

MY VOICE IN OUR DEMOCRACY

1997–98 VFW VOICE OF DEMOCRACY SCHOLARSHIP COMPETITION—GEORGIA WINNER

(By Hannah Leatherbury)

This morning I woke up and fixed myself a bowl of Lucky Charms. I sat down with my cereal and turned on the T.V. to the "Today" news program. At the news desk, Anne Currey was reporting on the events of the U.P.S. strike, and the effectiveness of the postal workers' protest. After the commercial break, Katie Couric began speaking to a woman in Illinois who was holding her own protest. This woman was protesting the behavior of her children. She had climbed a tree in her front yard and was remaining "on strike" until her children agreed to do their chores and adjust their attitudes. Katie asked the woman if her protest had succeeded and the mother triumphantly replied: "Yes." At first I asked myself how this story qualified as NEWS; and suddenly it dawned on me that even the commonplace person has the right to be heard. Here was a lady from Illinois who was being interviewed on national television because in our democracy she had the right to state her opinion and to have it be heard. This irritated mother was being listened to as widely as the participants of the U.P.S. strike. My voice, like hers, has the ability to sound as loud and as clear as the liberty bell itself.

I can express my opinions through writing. I can write my local newspaper and state my views on important issues. Not only can my letter influence the topic of the next editorial, but I can even be printed in conjunction with the editorial. I can write for my school newspaper and voice my opinion to my peers. I can write letters to my local congressman explaining my concerns with the decisions being made in the legislature. I can even voice my opinion in a letter to the president. In our democracy I can be confident that, through my writing, my voice is heard in even the highest branches of the government.

As a consumer I can call or write businesses and respond to the quality of their products. If my whip cream isn't satisfactory all I need to do is write the consumer goods services and wait for a reply. On paper my voice is one of an opinionated person, not one of an insignificant teenager.

My voice can be heard by joining and organizing groups that share in my beliefs in my community. The student government in my school allows students to share their ideas in improving their school P.L.A.N.E.T. (the school organized environmental group) allows young people my age to take a stand against pollution. There are so many organizations in a community's schools, churches, and businesses which give us all the opportunity to speak up.

I can even organize my own protests if my opinion is strong enough. I have the ability to boycott and convince others to boycott businesses. If there is a legitimate reason for opposition, your age and social status does not matter; you can be heard. I can speak of the absurdity and lack of intelligence in our nation's top positions and not have to worry about being slapped with a charge of treason. I can laugh out loud and comment on the editorial cartoon making fun of the government without going to jail. The United States Constitution grants us all the freedom of choosing to use our voices.

Without democracy, this morning and every morning of my life would be dramatically different. The government could ban Lucky Charms from the shelves for its high sugar content, and I would have no right to protest the decision. The news would be filled with the same faces of rich powerful government officials. Instead of the cheerful Katie Couric, we would be greeted each morning by a government appointed figure (similar to the teacher of Ferris Buler) with a monotonous voice and a personality comparable to that of an inchworm. The government would have the authority to tell the American people what they wanted us to hear, thus we would repeat what our government wanted us to repeat without question. We would hear only of "important" people and the woman in Illinois could forget about having her voice heard.

In a country without democracy, my voice would be one among thousands of precious pearls locked in a safe never to be displayed in public. Fortunately, democracy enables my tiny pearl of wisdom to be removed from its safe and placed on a necklace to be worn at a grand banquet.

CONGRATULATING THE METHODIST HOSPITALS, INC

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 15, 1998

Mr. VISCLOSKY. Mr. Speaker, It is my distinct pleasure to congratulate The Methodist Hospitals, Inc. as it celebrates its 75th Diamond Jubilee Anniversary this Sunday, May 17, 1998. Methodist will commemorate its 75 years of dedicated service to the communities of Northwest Indiana in a Rededication to Community Service ceremony and Community Open House to be held at its Northlake Campus in Gary, Indiana. The celebration will serve as an opportunity for Methodist to reaffirm its commitment to excellence in health care services to every individual in Gary, Merrillville, and the surrounding communities.

Methodist Hospital was established in 1923 in response to concerns that a larger hospital would be needed to accommodate the growing population of the emerging "Steel City" of Gary. The events leading up to Methodist's dedication on May 27, 1923, however, can be traced back to 1910, when a registered nurse by the name of Margaret Pritchard came to Gary with the vision of establishing a hospital. In acquiring donations from a group of doctors in 1911, Ms. Pritchard witnessed the accomplishment of this task with the opening of Gary General Hospital on Van Buren Street. Over the next few years, measures were taken to provide for Gary General's future funding and growth, which resulted in an affiliation with Methodist Episcopal Hospital of the State of Indiana in Indianapolis, a major fundraising campaign targeting the steel mills, and the donation of property by the Gary Land Company. On June 11, 1923, Methodist Hospital and its School of Nursing officially opened.

After Methodist separated from the hospital board in Indianapolis in 1942, it expanded through major construction efforts and development of services to accommodate health care needs beyond the boundaries of Gary. Some of the hospital's additional services came with its establishment of Lake County's first physical therapy department in 1949, the county's first acute care unit for psychiatric patients in 1951, and the state's first accredited, full-service rehabilitation services center in 1971. Methodist further expanded its services to Northwest Indiana when it built a new 165-bed hospital facility in Merrillville, Indiana, which was completed in 1975. As a result of its growth, Methodist became regarded as a regional health care system and thus, the two facilities became Northlake Campus in Gary and Southlake Campus in Merrillville. In February of 1981, H. Theodore Tatum Family Health Center opened at the Northlake Campus, providing a base for the Family Practice Residency Program, and offering additional medical care for the community.

During the past two decades, Methodist Hospital has continued to grow and change, reflecting the needs of the communities and responding to the new era of outpatient services made possible by advances in technology and medicine. Methodist remains a not-for-profit community-based health care system, and is affiliated with various prestigious organizations, including: the Joint Commission for American Hospital Organizations; the Indiana State Board of Health, the Accreditation Council for Graduate Medical Education; and the American Academy of Family Physicians. Over the years, Methodist has taken an active role in bettering its communities by forging partnerships with schools, churches and businesses, and participating in outreach programs, such as Healthy Start, for prenatal and infant wellness, and Turning Point Center for addictions. In its 75th year of existence, Methodist Hospital has renewed its commitment to the residents of Northwest Indiana into the next century and beyond.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending the administrators, health care professionals, and other individuals who, over the years, have contributed to Methodist Hospitals' success in achieving its standards of excellence. Their hard work has improved the quality of life for everyone in Indiana's First Congressional District.

FACT SHEET ON THE "LET THE PUBLIC DECIDE CAMPAIGN FINANCE REFORM ACT" CORRESPONDS TO H.R. 3852

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. OBEY. Mr. Speaker, I submit the following for the RECORD:

CAMPAIGN CONTRIBUTIONS

Congressional candidates who voluntarily agree would not be funded with private money in the general elections. Instead, the citizen-funded Grassroots Good Citizenship Fund would equally provide money to the major party's nominees and provide funds for third party and independent candidates.

SOFT MONEY

The use of soft money is prohibited with respect to any House of Representatives election.

THE GRASSROOTS GOOD CITIZENSHIP FUND

Money for the Grassroots Good Citizenship Fund will be provided by voluntary additional payments from public spirited citizens and a .1% tax on corporate income of $10,000,000 or above.

Major party candidates' funds will be based on the median household income of each district. The maximum amount allocated will be $500,000 per candidate for the districts with the highest median household income and all other districts will be equal to that amount minus ⅔ percentage difference between the median household income in that district and the highest district.

Independent candidates will receive funds based on the corresponding number of signatures collected and verified by the commission.

Third party candidates will receive a proportional amount based on that party's vote in the last five elections.

"INDEPENDENT EXPENDITURES" AND "EXPRESS ADVOCACY" ADS

Independent expenditures and express advocacy activities relating to the election of Members of the House of Representatives are prohibited during the 90 days prior to the general election.

CHANGES IN PRIMARY ELECTION FUNDS

The maximum expenditure in a primary will be capped to ⅓ of the amount allocated in the primary election. Large donor PACs will be limited to 20% of this amount.

WHAT IF THESE PROVISIONS ARE FOUND UNCONSTITUTIONAL BY THE SUPREME COURT?

If the Supreme Court rules against provisions in this bill, the House will consider under expedited procedures, a constitutional amendment empowering Congress to make reasonable restrictions on independent expenditures and express advocacy ads for the 90 day period preceding the general election.

IN MEMORY OF STEPHEN CARLETTI OF CROOKSVILLE, OHIO

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. NEY. Mr. Speaker, I rise today in memory of Stephen Carletti, who passed away on February 8, 1998. Stephen gave his life in the line of duty, battling a fire. His life was dedicated to helping others.

Stephen was a kind and caring individual. He never hesitated to lend a helping hand. Stephen was actively involved at the United Methodist Church. He was also a role model to youth groups and the local Boy Scouts.

Mr. Speaker, it is a privilege for me to pay my last respects to a man who gave so much of himself to his country, his community and his family. Stephen will be missed by all whose lives he touched. I am honored to have represented him and proud to call him a constituent.

TRIBUTE TO ARTHUR GILBERT

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday May 14, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Arthur Gilbert, for his leadership and philanthropy in our community.

As Arthur celebrates his 85th birthday, it seems an appropriate time to acknowledge his distinguished career and extraordinary contributions to the development of our community and our country. Working in Los Angeles and other parts of the country, Arthur has used his talents to construct industrial buildings of several million square feet, industrial parks ranging from 20 to 100 acres and shopping centers ranging from 5 to 30 acres. His true leadership in this industry was demonstrated with the conclusion of the first real estate joint venture with a life insurance company in the United States.

It is nearly impossible to drive along Wilshire Boulevard and not come across some project that has involved Arthur Gilbert's capable and careful planning. Examples of Arthur's work include Union Bank regional headquarters; the Bankers Life Insurance Building; the American Cement Building; California Federal Savings; and Gibralter Square. Arthur has also been involved with developments throughout the country from Kansas City to Palm Springs to Chicago to Virginia.

In addition to the physical development of our community, Arthur has played an integral role in its cultural advancements as well. He created the premier micro mosaic collection in the world, and is a patron of art history in this phenomenal genre of art. Arthur has amassed an incomparable collection of silver and gold boxes which he has shared with the public in Los Angeles. This world renowned collection will be permanently housed at Somerset House in London for international audiences to enjoy.

Arthur is a stalwart supporter of the U.S.—Israel relationship and a vigilent critic of anti-Semitism. He speaks forcefully, thoughtfully and with a command of the facts. When he thinks the community and press is not listening sufficiently he buys a large newspaper advertisement so we all get the message.

Arthur is also a honorary Trustee for the Arm and Hammer United World College of America West, a member of the National Board of Directors of the American Technion Society and a Fellow of the Hebrew University in Jerusalem. He plays a leadership role in a variety of other organizations; and many charitable organizations and educational institutions have been enriched through his philanthropy and advice.

Arthur has done all of this in a mere 85 years. Mr. Speaker, distinguished colleagues, please join me in celebrating the birthday of one of the preeminent citizens of Los Angeles, Mr. Arthur Gilbert. We know that Arthur, along with his wife Marjorie, Son Colin and stepdaughter Susan will be benefitting our community for many, many years to come.

TRIBUTE TO MATTHEW CWIKLA

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. BONIOR. Mr. Speaker, on January 1, 1998 the town of Mt. Clemens, Michigan lost a resident who in just sixteen short years made a great impact on the community. On New Years Day, Matthew Cwikla went to his room to finish his homework before watching the Rose Bowl game. His family found him a short time later. Matt died suddenly from Viral Myocarditis, a rare virus which attacks the heart muscle. In the time following Matt's death, his family was joined by more than 1500 people offering their support and condolences.

Matt was an extremely special young man who affected all who knew him. He was president of his junior class at Mt. Clemens High School and a member of the National Honor Society and the Varsity Tennis Team. Matt was also a manager of the student run record store, Downtown Sound, in Mt. Clemens where I had the opportunity to meet and come to know him. He was extremely professional and kind and made a lasting impression on me.

I also had the chance to work with Matt last summer when he participated in my district's Congressional Student Leadership Summit where students from across the district come together to participate in a mock session of Congress. This summit brings out some of the best and brightest students in my district and Matt was certainly one of them.

In Matt's memory, the Cwikla family has established the Matthew J. Cwikla Memorial Scholarship to financially assist other bright stars from Mt. Clemens High School. To Matthew's parents, John and Cynthia; his sisters, Julie and Katherine; and all of his friends and family, Matthew was a special person who will never be forgotten. So many of us consider ourselves fortunate to have crossed his path.

50TH ANNIVERSARY OF THE STATE OF ISRAEL

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. ROEMER. Mr. Speaker, I rise in strong support of House Joint Resolution 102, "Expressing the Sense of the Congress on the Occasion of the 50th Anniversary of the Founding of the Modern State of Israel."

I wish to convey my warmest congratulations to the Jewish community on this happy occasion of the 50th anniversary of Israel. I am proud to be a cosponsor of this important resolution, which commends Israel for its achievements in building a new state and a democratic society, reaffirms the bonds of friendship and cooperation between the United States and Israel, and extends our best wishes to the State of Israel for a peaceful, prosperous, and successful future.

Mr. Speaker, the Bible tells the story of so many miracles of importance to the Jewish community, from the parting of the Red Sea to the oil which burned for eight nights. The fact that Israel has survived and flourished for 50 years as a free and democratic nation under the most difficult of circumstances is, in its own right, a modern-day miracle that rivals all the miracles of the past. It is a tribute to the strength of the Jewish religion and the determination of the Jewish people in South Bend, Indiana and across the world. I hope that as we join in this momentous celebration, we can not only reflect on the struggles and sacrifices which marked the first 50 years of Israel's existence, but also look forward to a future of peace and happiness for Israel and the Jewish community everywhere.

I strongly believe that it is most appropriate for the Congress on behalf of the American people to reaffirm the bonds of warm friendship that link us with the Jewish people and Israel. Traditionally, Israel has been our strongest democratic ally in the volatile Middle East region, revealing the strong common links that bind us with the people of Israel and reflect our shared experiences and interests.

Mr. Speaker, once again, let me express my strong support for House Joint Resolution 102 and my congratulations to the Jewish community on this happy occasion of the 50th Anniversary of the founding of the modern State of Israel.

THE TOWN OF STUYVESANT CELEBRATES 175 YEARS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. SOLOMON. Mr. Speaker, I have always been proud of the heritage and physical beauty of the 22nd Congressional District of New York which I have the privilege of representing. It is for this reason, to savor the history and character of the picturesque towns and counties, that I return home every weekend.

We often forget, Mr. Speaker, that the real America is not Washington, but the small towns and villages where real people live and work. I would like to talk about one such town today.

The Town of Stuyvesant, New York in Columbia County will be commemorating 175 years of existence since they separated from the nearby Township of Kinderhook back in 1823. Mr. Speaker, Stuyvesant is one of the many beautiful river towns that border the majestic Hudson River in New York and as a river town over that long timeframe, it has endured many transformations. And in many ways, those changes reflect the changes in the river, from the evolving trade involving furs, fishing, mills and ice harvesting, to a bustling brick industry and at a stop along the commercial channel running from New York City to Albany, Stuyvesant has adapted to the times. Yet make no mistake, even as times have changed and industry has changed, the people from Stuyvesant and the nearby towns in Columbia and Greene Counties are characterized by their connection to this wonderful river.

But not everyone around the country has the opportunity to celebrate and rejoice in what the people of Stuyvesant can this weekend. Even though things have changed there, like everywhere else, there is something special that remains an unmistakable part of the town's character that not enough people throughout the country can still boast of today. That something is the distinct small town charm that grips the town and the good citizens of the Township of Stuyvesant. It can be seen at the church halls and the fire department, at the veterans posts and across the streets and fields where children play and farmers work. And that camaraderie can be seen in the way the people of Stuyvesant and their local leaders are again focusing on their trusty neighbor, the Hudson, and their miles of waterfront as a vital resource and gateway to another new era for the town.

Yes, Mr. Speaker, that small town camaraderie and neighborly hospitality is one thing that thankfully hasn't changed. But I'll tell you about another thing. It's the pride and values of the citizenry. These are the things that I admire most about the towns like Stuyvesant throughout my congressional district and that I'll miss most about the people I've had the privilege of serving. And this weekend, Mr. Speaker, on May 16th and 17th, the residents of Stuyvesant will take part in day long festivities commemorating their heritage. There will be historical sites and artifacts on display, a play, parades and a spectacular fireworks display to enjoy with friends and neighbors and where they can give thinks for the town and community they share.

Mr. Speaker, I commend the good people of Stuyvesant for their commitment to their home and hard work in organizing this memorial to their heritage. I ask that you and all members of the House join me in paying tribute to them on the occasion of the town's 175th birthday and in wishing them many more years of good fortune and prosperity alongside the Hudson River in one of the most beautiful river valleys anywhere in this world.

HONORING THE 25TH ANNIVERSARY CELEBRATION OF THE SAGINAW COUNTY COMMISSION ON AGING

HON. DAVE CAMP

OF MICHIGAN

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. CAMP. Mr. Speaker, it is with great pride that my colleague, Mr. BARCIA, and I rise today to recognize the Silver Anniversary Celebration of the Saginaw County Commission on Aging. The Commission was founded on January 1, 1973, and from that point on has been an invaluable asset to the surrounding community. Saginaw County can be proud of their County Commission on Aging. Since their beginning they have passed many milestones and touched the lives of thousands of Seniors over the years.

Providing transportation and meals to Senior Citizens, preparing a monthly newsletter to keep Seniors updated on important developments within their community and sponsoring an annual Crafts and Hobby Show are the type of services the Saginaw County Commission on Aging has offered its Seniors over the past twenty-five years. Twenty-five years ago a group of community leaders had a vision to establish an organization that would serve the Seniors of their community. Today, that organization can be proud of the many lives it has touched over the years.

On Friday evening, as citizens gather to reflect on the Saginaw County Commission on Aging's long and productive history, they can be proud of how this organization has benefited the community. It is the special, caring people that comprise this organization that have allowed it to grow over the years and meet new challenges.

Mr. BARCIA. At a time when we know that effective services can best be provided by partnerships between concerned individuals on a local level working with programs offered by the federal and state governments, the Saginaw County Commission on Aging has done an outstanding job of letting the seniors of the Saginaw County community know that assistance is available for them. I want to offer my compliments and thanks to Judy Spaner, the Director of the Commission, and her excellent staff for the work that they do, continuing the heritage of accomplishment at the Commission.

Mr. Speaker, when we concentrate on providing services to people with decisions made on a local level, we need to celebrate important milestones like the 25th anniversary of the Saginaw County Commission on Aging. We urge you and all of our colleagues to join us in wishing the Commission and the people that benefit from its programs a very happy anniversary, and many more to come.

TRIBUTE TO DR. HUGO MORALES

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Dr. Hugo H. Morales, an outstanding individual who has devoted his life to his family and to serving the community. Dr. Morales celebrated his 65th birthday in the company of his family and friends this past Saturday, May 16, 1998.

Born on May 14, 1933, Dr. Morales received a Medical Doctor (MD) degree from the University of Santo Domingo, Dominican Republic in 1956. He also attended New York Policlinic Medical School and Hospital Post-Graduate course in Medicine from September 1961 to June 1963.

Dr. Morales founded the Bronx Mental Health Center in 1965. It consists of 35 employees who provide innovative, comprehensive ambulatory mental health care services to low-income minority patients from the Bronx and other boroughs.

Dr. Morales' effective management helps to assure that quality mental health care is provided. He evaluates and comments upon the efficiency of various means of rendering therapeutic services.

Mr. Speaker, I applaud the commitment and the efforts of Dr. Morales and his staff in the assistance they provide to the low- and moderate-income families in our community.

The business and professional organizations to which he has belonged, like the honors and awards he has been given are almost beyond counting.

It is a privilege for me to represent the 16th district of New York, where the Bronx Mental Health Center is located. I have witnessed first-hand the exemplary work they are doing for our community and I am deeply impressed.

Dr. Morales is married to Gladys and they have two children, Nilda who is married to Richard and Hugo who is married to Serani. They have three grandchildren, Natasha, Conrad and Clifford.

Mr. Speaker, I ask my colleagues to join me and the family of Dr. Hugo Morales in wishing him a Happy 65th Birthday.

CONGRATULATING THE COLUMBIA UNIVERSITY SCHOOL OF SOCIAL WORK

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. RANGEL. Mr. Speaker, on the occasion of the Centennial of the oldest social work training program in the nation, I hereby offer congratulations to the Columbia University School of Social Work which I am proud to say is located in my Congressional District.

Evolving from a summer program organized by the Charity Organization Society in New York, the School of Social Work has a long and distinguished history of pioneering research, informed advocacy, and exceptional professional training.

It is a remarkable accomplishment that social workers have played key roles in every major social reform movement, from settlement houses to labor reform, to the New Deal, to civil rights, and voter registration. Many of the things we take for granted today—Social Security, child labor laws, the minimum wage, the 40-hour work week, Medicare—came about because social workers saw injustice, acted, and inspired others.

Throughout the century, Columbia's faculty, students, and alumni have worked tirelessly to address both the causes and symptoms of our most pressing social problems. National movements, such as the White House Conference on Children and the National Urban League, have emerged from projects undertaken by the School's faculty and administrators in cooperation with professional and community organizations.

The entire nation has benefited from the work of people like Eveline Burns (Social Security); Mitchell I. Ginsberg (Head Start); Richard Cloward (welfare rights and voter registration); Alfred Khan and Sheila B. Kamerman (crossnational studies of social services); and David Fanshel (children in foster care).

As your School, and indeed the social work profession, move into their second centuries, they will be challenged to respond to social change, new social problems, family change, and evolving societal commitments. Now more than ever, we will need well-trained and dedicated social workers to work with troubled children and families, organize communities for change, conduct cutting-edge research, administer social programs, and alleviate society's most intractable problems.

It is with appreciation and admiration, that I extend my best wishes to the Columbia University School of Social Work on its Centennial, and look forward to its future activity and achievement.

HONORING MAJOR JAMES WILLIAM REED

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1998

Mr. NEY. Mr. Speaker, I rise today to honor Major James William Reed who was a pilot in the Air Force and shot down on July 24, 1970. Until April of 1998, Major Reed was considered an MIA.

Major Reed's family never gave up and worked very hard to find out exactly what happened to him. In 1991, the Air Force did a survey of the crash site and decided to do a complete excavation of the site. The findings concluded that Major Reed did die in the crash.

Major James William Reed was an accomplished pilot and flew over 350 missions before his death. He was also a very kind and unselfish man that he displayed in many ways. Since Major Reed was single, he would volunteer to fly missions so that other men with families would not have to risk their life.

Major James William Reed will be buried with full military honors that he is so deserving. The memorial service will be held on May 24, 1998 where Major Reed's family will finally be able to put him to rest. Mr. Speaker, I ask that my colleagues join me in honoring Major James William Reed who gave so much to his family, friends and country.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 19, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 20

9:30 a.m.

Commerce, Science, and Transportation

Oceans and Fisheries Subcommittee

To hold hearings on S. 1480, to authorize appropriations for the National Oceanic and Atmospheric Administration to conduct research, monitoring, education and management activities for the eradication and control of harmful algal blooms, including blooms of Pfiesteria piscicida and other aquatic toxins.

SR–253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of Defense, focusing on Army programs.

SD–192

Foreign Relations

European Affairs Subcommittee

To hold hearings to review Russian foreign and domestic policy.

SD–419

Judiciary

To hold hearings on S. 1645, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions.

SD–226

Indian Affairs

Business meeting, to mark up S. 1691, to provide for Indian legal reform.

SR–485

Joint Economic

To hold hearings to examine the current state of intelligence operations in the United States.

SD–106

12:00 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for osteoporosis prevention, education and research.
SD-138

2:30 p.m.
Judiciary
Technology, Terrorism, and Government Information Subcommittee
To hold hearings on S. 512, to amend chapter 47 of title 18, United States Code, relating to identity fraud.
SD-226

Select on Intelligence
To hold hearings on the nomination of Joan Avalyn Dempsey, of Virginia, to be Deputy Director of Central Intelligence for Community Management.
SD-106

MAY 21

10:00 a.m.
Energy and Natural Resources
To hold joint hearings with the Committee on Foreign Relations to examine the status of Iraqi sanctions.
SD-419

Foreign Relations
To hold joint hearings with the Committee on Energy and Natural Resources to examine the status of Iraqi sanctions.
SD-419

Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine the benefits of commercial space launch for foreign satellite and Intercontinental Ballistic Missiles (ICBM) programs.
SD-342

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Labor and Human Resources
To hold hearings on genetic information issues.
SD-430

1:00 p.m.
Indian Affairs
To hold oversight hearings on addressing the unmet health care needs in Indian country.
SD-106

2:00 p.m.
Energy and Natural Resources
Energy Research and Development, Production and Regulation Subcommittee
To hold hearings on S. 1141, to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy- based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and S. 1418, to promote the research, identification, assessment, exploration, and development of methane hydrate resources.
SD-366

Foreign Relations
To hold hearings on the nomination of Jeffrey Davidow, of Virginia, to be Ambassador to Mexico.
SD-419

4:00 p.m.
Foreign Relations
International Operations Subcommittee
To hold hearings to examine the certification of a United Nations reform budget of $2,533 billion.
SD-419

JUNE 4

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.
SD-366

JUNE 11

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.
SD-366

JUNE 16

10:00 a.m.
Judiciary
To hold hearings to examine mergers and corporate consolidation.
SD-226

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.
345 Cannon Building

CANCELLATIONS

MAY 20

10:00 a.m.
Governmental Affairs
To continue hearings to examine Government computer security.
SD-342

MAY 21

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the content of certain music lyrics.
SR-253

POSTPONEMENTS

MAY 20

2:00 p.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings to examine trade barriers to U.S. soda ash exports to Asia.
SD-419

SENATE—*Tuesday May 19, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Dr. Jere Allen, Executive Director, District of Columbia Baptist Convention.

We are very pleased to have you with us.

PRAYER

The guest Chaplain, Dr. Jere Allen, offered the following prayer:

Let us pray.

Dear Heavenly Father, we acknowledge that Thou art the creator and sustainer of this, Thy universe, and we are called to be caretakers of all Thou hast made for an appointed time. Guide the inner control centers of these Thy servants in the Senate that they might be responsible stewards of the power of decision granted to them. Bring to their consciousness that evil rewards with temporary power and impermanent gain, but righteousness is eternally on the scaffolds and will ultimately sway the future. Move their consciousness upward toward the crystal clear purity of Thyself. Grant those who serve here the ability to hear Thy voice in the midst of a cacophony of conflicting opinions that vie for attention. Endow them with wisdom, patience, courage and peace as they make and live with decisions that affect so many. In Your holy Name we pray. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. HUTCHINSON. I thank the Chair.

APPRECIATION OF THE OPENING PRAYER

Mr. HUTCHINSON. Mr. President, I join my colleagues in thanking our visiting Chaplain for the opening prayer today.

SCHEDULE

Mr. HUTCHINSON. Mr. President, for the information of all Senators, today there will be a period of morning business until 10 a.m. Following morning business, the Senate will resume consideration of S. 1415, the tobacco legislation. It is hoped that Members will come to the floor to debate this important legislation and other amendments under short time agreements. Rollcall votes may occur prior to the 12:30 policy luncheons, and Members should expect those throughout today's session in order to make good progress on the tobacco bill.

I thank my colleagues for their attention.

The PRESIDENT pro tempore. The able minority leader is recognized.

(Mr. HUTCHINSON assumed the Chair.)

TOBACCO AND PUBLIC HEALTH

Mr. DASCHLE. Mr. President, the debate on tobacco legislation that we will begin again at 10 o'clock this morning is one of the most significant in which any of us will ever be involved.

Smoking is, in the words of former Surgeon General C. Everett Koop, "the chief, single avoidable cause of death in our society, and the most important public health issue of our time."

Every year, tobacco kills more than 400,000 Americans—accounting for more than one out of every five deaths in our country. Smoking kills more people than die from AIDS, alcohol, car accidents, murders, suicides and fires—combined.

So often, when we hear that someone has died as a result of smoking, we think, "That was their choice. They were adults."

But chances are, they were not adults when they made the decision to pick up that first cigarette.

Ninety percent of adult smokers started smoking at or before the age of 18—before they were even old enough to buy cigarettes legally.

The average youth smoker starts smoking at 13, and is addicted by the time he or she is 14. One out of every three of those children will eventually die from smoking.

It may take another 20 or 30—or even 50—years until that decision catches up with them. But the decision is made when they are children.

That is what this debate is really about. Are we willing, as a nation, to protect our children from an epidemic that may eventually kill them?

During the first half of this century, another epidemic threatened America's children: polio.

Summer was a time of fear for American parents and their children. Parents kept their children out of swimming pools, movie theaters—anywhere the virus might be spread.

Still, thousands of children died every year from polio, and tens of thousands were crippled.

The worst polio epidemic in U.S. history occurred in 1952, when nearly 60,000 new cases were reported.

Back then, America marshaled all its resources and all its resolve and, in 1953, Jonas Salk discovered a vaccine.

As a result, polio has all but vanished from this nation.

We may not be able to eliminate all tobacco-related disease, as we eliminated polio. But we can dramatically reduce the number of people who pick up that first cigarette as teenagers and become addicted and eventually die from smoking.

The bill that will be pending in just a few moments provides the comprehensive approach that is needed to do that.

It is supported by a majority of this Senate—Democrats and Republicans—and by the President.

More importantly, it is supported by the American people.

CIGARETTE COMPANIES TARGET KIDS

Smoking by teenagers is now at a 19-year high.

Every day, 3,000 kids become regular smokers. That's more than a million kids a year.

The increase in teen smoking is not an accident. It is the result of a deliberate and aggressive marketing campaign.

Once-secret internal industry documents make it clear that the tobacco industry targets kids—and has for more than 25 years.

The tobacco industry spends $13 million a day—$5 billion a year—on advertising. Many of their ads are specifically targeted to kids.

A 1981 Philip Morris internal memo makes clear why.

According to that memo, "The overwhelming majority of smokers first begin to smoke while still in their teens. . . . The smoking patterns of teenagers are particularly important to Philip Morris."

A 1984 RJ Reynolds internal memo—written just before RJR launched its "Joe Camel" campaign—is even more blunt.

"If younger adults turn away from smoking," it says, "the (tobacco) industry must decline, just as a population that does not give birth will eventually dwindle . . . Younger adult smokers are our only source of replacement smokers."

"Replacement smokers." That's how RJR sees children: as "replacements" for older smokers who quit—or die from tobacco-related disease.

If we can keep kids from smoking when they're young, chances are they will never smoke.

Tobacco companies know that. That's one reason they're spending $50 million to try to kill this bill.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

THE TOBACCO INDUSTRY IS SCARED

Another reason is because they don't want to be held accountable for the damage they knowingly caused in the past.

The tobacco industry is being sued by states across the country. States are demanding to be reimbursed for billions of dollars they have already spent treating smoking-related illnesses.

The cases aren't going well for the industry. In the last year alone, it has settled out of court with four states, rather than risk going into court and losing even more.

The $6.6 billion the tobacco industry agreed to earlier this month to pay Minnesota is the third-largest court settlement in U.S. history. It is topped only by the $11.3 billion it agreed to pay Florida, and the $15.3 billion it will pay Texas.

THE TRUTH ABOUT THE TOBACCO BILL

The tobacco industry is scared. So they are spending $50 million to try to kill this bill. We have all heard their arguments.

First, they are trying to convince the American people that the only reason Congress wants to pass a tobacco bill is to raise mountains of money.

The truth is, 40 percent of the money that would be raised by this bill wouldn't go to the federal government at all.

It would go to state taxpayers, to reimburse them for money they've already spent treating tobacco-related illnesses.

The rest of the money would be used for three purpose: To support medical research on treating smoking-related illness and preventing smoking; to dramatically reduce teen smoking; and to help tobacco farmers make the transition to other crops.

The industry's second argument is that this bill will create a black market for cigarettes.

They point to the cigarette smuggling problems Canada experienced in the early 1990s when it raised tobacco prices.

The reality is, our bill includes tough anti-smuggling, anti-black market provisions that Canada lacked.

It is worth mentioning, I think, that a lobbyist who enlisted several law enforcement groups to warn that this bill could create a black market in cigarettes also has another employer: a leading tobacco company.

The third argument the tobacco industry makes is that our bill would drive cigarette companies into bankruptcy.

Mr. President, the tobacco industry makes $100 billion a year.

Even if it made only $100 million a year, it still would not be in danger of bankruptcy because, under this bill, it is smokers—not tobacco companies—who pay.

Finally, the tobacco industry wants people to believe that we're on a slippery slope; that today, tobacco is the whipping boy, but next it will be alcohol or some other product.

This argument ignores one crucial distinction: tobacco is the only legal product sold in the United States that will kill you when used as intended.

Mr. President, the companies that are making these claims are the same companies whose CEOs raised their hands and swore before Congress that cigarettes are not addictive.

They were blowing smoke then, and they are blowing smoke now.

As I said, this is a historic opportunity. If we fail to grasp it, our Nation will pay a terrible price. Unless we reverse current trends, 5 million children who are under the age of 18 today will die from smoking-related illnesses.

Have you ever known anyone who has died from cancer or emphysema or some other tobacco-related disease?

It's torture—on them, and for the people who love them. Unless we act now to reverse current trends, Americans will spend $1 trillion over the next 20 years—$1 trillion, a thousand-billion dollars—to treat smoking-related illnesses.

This bill would raise $516 billion over 25 years, $516 billion over 25 years to save $1 trillion over 20 years—and 5 million children. Mr. President, that sounds like a pretty good deal to me.

Several years ago, internal documents that the tobacco industry had for years kept secret—that the industry had for years denied even existed—began to trickle out. After a while, the trickle became a flood. As a result of these documents, we now know cigarette manufacturers have known for decades that tobacco is addictive.

We now know that cigarettes kill people directly, and they are a contributing cause of illnesses from heart disease to sudden infant death syndrome. We now know that tobacco companies manipulate the level of nicotine in cigarettes to hook smokers. We now know that the industry aggressively targets children. We now know that the price of cigarettes influences kids' decision to smoke. We know that's true. But we also know it's not enough.

The only way we are going to break the deadly cycle of teen smoking and addiction and death is with a comprehensive bill that includes price hikes, plus strong counter-advertising efforts and effective retail licensing, and sets goals for reducing teen smoking and sanctions against tobacco companies for failure to attain them. That is what this bill contains. If we can improve it, we should. And then we should pass this bill, and urge the House to pass it as well.

Teen smoking is an epidemic. If this Congress can't protect children from a deadly health threat, what in the world can we do?

In 1973, a senior RJ Reynolds employee wrote a memo entitled "research planning memorandum on some thoughts about new brands of cigarettes for the youth market." In that memo, he argued—and I quote—"there is certainly nothing immoral or unethical about our company attempting to attract (teen) smokers to our products."

Mr. President, most Americans disagree with that assertion. Most Americans believe that aggressively marketing to children a product you know could eventually kill them is both immoral and unethical. And, they believe it ought to be illegal.

As the industry's own documents reveal, most adult smokers start smoking as teenagers. Victor Crawford was one of those kids.

He started smoking when he was 13 years old. He died 50 years later, after the cancer that was caused by smoking had spread from his throat to his pelvis, lungs and liver. As an adult Victor Crawford served 16 years as a member of Maryland's House of Delegates and its state Senate. He was a colorful and effective politician. He was also a 2½ pack-a-day smoker. In 1986, Victor Crawford left politics and went to work in Maryland's state capital into the work of lobbying. One of his clients was the Tobacco Institute, the propaganda arm of the tobacco industry. The Tobacco Institute paid him $200 an hour to help kill whatever tobacco restrictions came before the Maryland General Assembly.

Six years later, in 1992, he was diagnosed with throat cancer. His doctors told him he had three months to live. But, with the help of new and experimental treatments, he managed to hang on for three years.

Victor Crawford used those last three years of his life to prevent other young people from making the same mistake he had made when he picked up that first cigarette at 13.

At first reluctantly, then passionately, he spoke about the pain of his illness, and his remorse over having contributed, through his work, to the suffering of others.

He described his former employers, the tobacco industry, as "hard-nosed, brilliant and ruthless. I can also state without question," he said, "that the profit motive is supreme, and that there is no avenue they will not explore and no means they will not use to that end."

He told his story to state legislatures, on "60 Minutes," in Ann Landers' column—wherever he thought it would get through.

A year and a half before he died, he returned to the Maryland Statehouse—to the place where he had worked as a legislator and lobbyist. Only this time he as a witness, testifying in support of a law regulating public smoking. He wore a wig to hide the baldness caused by chemotherapy, and he was terribly gaunt. But everyone who heard him was deeply moved.

Said on of his former colleagues after his testimony, "Yours was the voice of truth."

Mr. President, Victor Crawford's voice—and the voice of America's children—are calling to us today.

They are asking us to protect them from addiction.

They are asking us to protect them from painful and premature death.

Are we listening?

It is time for Congress to pass a national bill to reduce teen smoking and to tell the cigarette manufacturers, "Our children are not 'replacement smokers,' and you cannot prey on them anymore."

I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand we are in morning business?

The PRESIDING OFFICER. The Senator is correct.

TROUBLING NEW DEVELOPMENTS IN SOUTH ASIA

Mr. HARKIN. Mr. President, I wanted to take just a little bit of time this morning to again alert Senators and others about troubling new developments in South Asia after India thumbed its nose at the world community and exploded five underground nuclear weapons. Conditions seem to be spiraling out of control in the nation of India. We now see that a key Indian official, according to the news this morning, a key Indian official is warning Pakistan and making very threatening, provocative statements, about the area that we know as Jammu-Kashmir. Indian Home Minister Advani—there is a picture of him here clenching his fist, saying they were, basically, not going to have a peaceful resolution at all of the situation in Kashmir. I am quoting from the article:

> While India's previous government had a policy of not making hostile statements about Pakistan, the BJP [that is the party that is now in power in India] as recently as two years ago advocated "reclaiming" Pakistan's portion of Kashmir.

It is interesting that:

> In the course [it says here] of broadening its platforms for this year's parliamentary elections—and cobbling together a coalition government of 14 disparate parties—such references to Kashmir were dropped. But Advani [the Home Minister] was pointed in his reference today to the disputed state, although he couched it more in terms of Pakistan's stance toward Kashmir than India's.

But now Advani said, and I quote from the article:

> [Nuclear weapons testing] has brought about a qualitatively new stage in Indo-Pakistan relations and signifies—even while adhering to the principle of no first strike—[that] India is resolved to deal firmly with Pakistan's hostile activities in Kashmir.

Wait a minute, Mr. President. He is talking about Pakistan's hostile activities in Kashmir? It is India that has around 300,000 troops in Kashmir. It is India that is spending about a large portion of its military budget every year in Kashmir. It is by Indian troops that human rights groups have said that in the last several years, perhaps in the last 10 years, upwards of 13,000 people have been killed in Kashmir—not by Pakistani troops, but by Indian troops.

What this Home Minister Advani is doing is trying to cover what India has done in Kashmir by blaming it on Pakistan.

Quite frankly, Kashmir is the East Timor of South Asia, to those of us who have followed the problems of East Timor, a tiny little island nation on the eastern tip of Indonesia. It was a Portuguese colony for several hundred years. When the Portuguese left, the Indonesians came in to claim East Timor, but they have no rightful claim to it; it is a separate island nation.

Since that time, East Timorese have been put to death by the Indonesians, slaughtered, people driven out of their homes, driven out of their jobs. What has happened in East Timor is a blight on Indonesia, and the world community has spoken out forcefully against what Indonesia has done in East Timor. But the world community is standing silently by while the same kind of slaughter and repression is occurring in the tiny state of Kashmir.

If you go back to when India and Pakistan were partitioned off, this tiny area up in northwest India on the border of Pakistan and India, the United Nations recognized in the late 1940s that this issue needed to be resolved, and urged for it to be resolved through a plebiscite, to have a vote of the people in this area: Did they want to stay with Pakistan, or did they want to go with India?

But India refuses outside mediation, even from the UN. I had always hoped, as many have hoped, that we would have some kind of a peaceful resolution of Kashmir. But now India is shaking its fist at Pakistan and speaking provocatively of reclaiming certain areas of Kashmir that have already been recognized as being at least an adjunct to, adhering to Pakistan, an area called Azad Kashmir.

Mr. President, I don't think we can idly stand by and let India continue these kinds of provocative measures. The world community must speak with one voice in condemning the actions by India with strong sanctions. I will have a sense-of-the-Senate resolution, which I hope we can bring up sometime this week in conjunction with others, dealing with the Indian explosion of nuclear weapons and dealing with the Pressler amendment that Senator BROWNBACK and I will be offering sometime this week, I hope.

I have a sense-of-the-Senate resolution calling upon the United States to take the lead in getting other nations together to act as an intermediary in the dispute on Kashmir. Better that we act now, better that we try to seek peaceful resolutions of Kashmir before this whole thing blows up, before the BJP of India is able to take it to a higher level, a more provocative level that would involve the use of arms.

I hope we can get the support of other Senators in asking the United States to act as a mediator to this very dangerous situation that now exists in Kashmir and South Asia.

I thank the President. I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I am on the floor this morning to introduce a bill called the Emergency Medical Services Efficiency Act. My statement is going to take about 10 or 15 minutes. I ask unanimous consent that I be allowed to have up to 15 minutes, even though I know it is going to run into the time of 10 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Thank you very much.

(The remarks of Mr. GRAMS pertaining to the introduction of S. 2091 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRAMS. Thank you very much, Mr. President, for the time. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1415, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

MODIFIED COMMITTEE SUBSTITUTE

(The text of the committee substitute, as modified to incorporate the text of amendment No. 2420, submitted on May 18, 1998, reads as follows:)

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Tobacco Policy and Youth Smoking Reduction Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purpose.
Sec. 4. Scope and effect.
Sec. 5. Relationship to other, related Federal, State, local, and Tribal laws.
Sec. 6. Definitions.
Sec. 7. Notification if youthful cigarette smoking restrictions increase youthful pipe and cigar smoking.
Sec. 8. FTC jurisdiction not affected.
Sec. 9. Congressional review provisions.

TITLE I—REGULATION OF THE TOBACCO INDUSTRY

Sec. 101. Amendment of Federal Food, Drug, and Cosmetic Act of 1938.
Sec. 102. Conforming and other amendments to general provisions.
Sec. 103. Construction of current regulations.

TITLE II—REDUCTIONS IN UNDERAGE TOBACCO USE

Subtitle A—Underage Use

Sec. 201. Findings.
Sec. 202. Purpose.
Sec. 203. Goals for reducing underage tobacco use.
Sec. 204. Look-back assessment.
Sec. 205. Definitions.

Subtitle B—State Retail Licensing and Enforcement Incentives

Sec. 231. State retail licensing and enforcement block grants.
Sec. 232. Block grants for compliance bonuses.
Sec. 233. Conforming change.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

Sec. 261. Tobacco use prevention and cessation initiatives.

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

Sec. 301. Cigarette label and advertising warnings.
Sec. 302. Authority to revise cigarette warning label Statements.
Sec. 303. Smokeless tobacco labels and advertising warnings.
Sec. 304. Authority to revise smokeless tobacco product warning label statements.
Sec. 305. Tar, nicotine, and other smoke constituent disclosure to the public.

Subtitle B—Testing and Reporting of Tobacco Product Smoke Constituents

Sec. 311. Regulation requirement.

TITLE IV—NATIONAL TOBACCO TRUST FUND

Sec. 401. Establishment of trust fund.
Sec. 402. Payments by industry.
Sec. 403. Adjustments.
Sec. 404. Payments to be passed through to consumers.
Sec. 405. Tax treatment of payments.
Sec. 406. Enforcement for nonpayment.

Subtitle B—General Spending Provisions

Sec. 451. Allocation accounts.
Sec. 452. Grants to States.
Sec. 453. Indian health service.
Sec. 454. Research at the National Science Foundation.
Sec. 455. Medicare cancer patient demonstration project; evaluation and report to Congress.

TITLE V—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

Sec. 501. Definitions.
Sec. 502. Smoke-free environment policy.
Sec. 503. Citizen actions.
Sec. 504. Preemption.
Sec. 505. Regulations.
Sec. 506. Effective date.
Sec. 507. State choice.

TITLE VI—APPLICATION TO INDIAN TRIBES

Sec. 601. Short title.
Sec. 602. Findings and purposes.
Sec. 603. Application of title to Indian lands and to Native Americans.

TITLE VII—TOBACCO CLAIMS

Sec. 701. Definitions.
Sec. 702. Application; preemption.
Sec. 703. Rules governing tobacco claims.

TITLE VIII—TOBACCO INDUSTRY ACCOUNTABILITY REQUIREMENTS AND EMPLOYEE PROTECTION FROM REPRISALS

Sec. 801. Accountability requirements and oversight of the tobacco industry.
Sec. 802. Tobacco product manufacturer employee protection.

TITLE IX—PUBLIC DISCLOSURE OF TOBACCO INDUSTRY DOCUMENTS

Sec. 901. Findings.
Sec. 902. Applicability.
Sec. 903. Document disclosure.
Sec. 904. Document review.
Sec. 905. Resolution of disputed privilege and trade secret claims.
Sec. 906. Appeal of panel decision.
Sec. 907. Miscellaneous.
Sec. 908. Penalties.
Sec. 909. Definitions.

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

Sec. 1001. Short title.
Sec. 1002. Definitions.

Subtitle A—Tobacco Community Revitalization

Sec. 1011. Authorization of appropriations.
Sec. 1012. Expenditures.
Sec. 1013. Budgetary treatment.

Subtitle B—Tobacco Market Transition Assistance

Sec. 1021. Payments for lost tobacco quota.
Sec. 1022. Industry payments for all department costs associated with tobacco production.
Sec. 1023. Tobacco community economic development grants.
Sec. 1024. Flue-cured tobacco production permits.
Sec. 1025. Modifications in Federal tobacco programs.

Subtitle C—Farmer and Worker Transition Assistance

Sec. 1031. Tobacco worker transition program.
Sec. 1032. Farmer opportunity grants.

Subtitle D—Immunity

Sec. 1041. General immunity for tobacco producers and tobacco warehouse owners.

TITLE XI—MISCELLANEOUS PROVISIONS

Subtitle A—International Provisions

Sec. 1101. Policy.
Sec. 1102. Tobacco control negotiations.
Sec. 1103. Report to Congress.
Sec. 1104. Funding.
Sec. 1105. Prohibition of funds to facilitate the exportation or promotion of tobacco.
Sec. 1106. Health labeling of tobacco products for export.
Sec. 1107. International tobacco control awareness.

Subtitle B—Anti-smuggling Provisions

Sec. 1131. Definitions.
Sec. 1132. Tobacco product labeling requirements.
Sec. 1133. Tobacco product licenses.
Sec. 1134. Prohibitions.
Sec. 1135. Labeling of products sold by Native Americans.
Sec. 1136. Limitation on activities involving tobacco products in foreign trade zones.
Sec. 1137. Jurisdiction; penalties; compromise of liability.
Sec. 1138. Amendments to the Contraband Cigarette Trafficking Act.
Sec. 1139. Funding.
Sec. 1140. Rules and regulations.

Subtitle C—Other Provisions

Sec. 1161. Improving child care and early childhood development.
Sec. 1162. Ban of sale of tobacco products through the use of vending machines.
Sec. 1163. Amendments to the Employee Retirement Income Security Act of 1974.

TITLE XII—ASBESTOS-RELATED TOBACCO CLAIMS

Sec. 1201. National tobacco trust funds available under future legislation.

TITLE XIII—VETERANS' BENEFITS

Sec. 1301. Recovery by Secretary of Veterans' Affairs.

TITLE XIV—EXCHANGE OF BENEFITS FOR AGREEMENT

Sec. 1401. Conferral of benefits on participating tobacco product manufacturers in return for their assumption of specific obligations.
Sec. 1402. Participating tobacco product manufacturer.
Sec. 1403. General provisions of protocol.
Sec. 1404. Tobacco product labeling and advertising requirements of protocol.
Sec. 1405. Point-of-sale requirements.
Sec. 1406. Application of title.
Sec. 1407. Governmental claims.
Sec. 1408. Addiction and dependency claims; Castano Civil Actions.
Sec. 1409. Substantial non-attainment of required reductions.
Sec. 1410. Public health emergency.
Sec. 1411. Tobacco claims brought against participating tobacco product manufacturers.
Sec. 1412. Payment of tobacco claim settlements and judgments.
Sec. 1413. Attorneys' fees and expenses.
Sec. 1414. Effect of court decisions.
Sec. 1415. Criminal laws not affected.
Sec. 1416. Congress reserves the right to enact laws in the future.
Sec. 1417. Definitions.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The use of tobacco products by the Nation's children is a pediatric disease of epic and worsening proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under Article I, Section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation's economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) The citizens of the several States are exposed to, and adversely affected by, environmental smoke in public buildings and other facilities which imposes a burden on interstate commerce.

(13) Civil actions against tobacco product manufacturers and others are pending in Federal and State courts arising from the use, marketing, and sale of tobacco products. Among these actions are cases brought by the attorneys general of more than 40 States, certain cities and counties, and the Commonwealth of Puerto Rico, and other parties, including Indian tribes, and class actions brought by private claimants (such as in the Castano Civil Actions), seeking to recover monies expended to treat tobacco-related diseases and for the protection of minors and consumers, as well as penalties and other relief for violations of antitrust, health, consumer protection, and other laws.

(14) Civil actions have been filed throughout the United States against tobacco product manufacturers and their distributors, trade associations, law firms, and consultants on behalf of individuals or classes of individuals claiming to be dependent upon and injured by tobacco products.

(15) These civil actions are complex, time-consuming, expensive, and burdensome for both the litigants and Federal and State courts. To date, these civil actions have not resulted in sufficient redress for smokers or non-governmental third-party payers. To the extent that governmental entities have been or may in the future be compensated for tobacco-related claims they have brought, it is not now possible to identify what portions of such past or future recoveries can be attributed to their various antitrust, health, consumer protection, or other causes of action.

(16) It is in the public interest for Congress to adopt comprehensive public health legislation because of tobacco's unique position in the Nation's history and economy; the need to prevent the sale, distribution, marketing and advertising of tobacco products to persons under the minimum legal age to purchase such products; and the need to educate the public, especially young people, regarding the health effects of using tobacco products.

(17) The public interest requires a timely, fair, equitable, and consistent result that will serve the public interest by (A) providing that a portion of the costs of treatment for diseases and adverse health effects associated with the use of tobacco products is borne by the manufacturers of these products, and (B) restricting throughout the Nation the sale, distribution, marketing, and advertising of tobacco products only to persons of legal age to purchase such products.

(18) Public health authorities estimate that the benefits to the Nation of enacting Federal legislation to accomplish these goals would be significant in human and economic terms.

(19) Reducing the use of tobacco by minors by 50 percent would prevent well over 60,000 early deaths each year and save up to $43 billion each year in reduced medical costs, improved productivity, and the avoidance of premature deaths.

(20) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products and these efforts have resulted in increased use of such products by youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(21) In 1995, the tobacco industry spent close to $4,900,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(22) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(23) Tobacco product advertising is regularly seen by persons under the age of 18, and persons under the age of 18 are regularly exposed to tobacco product promotional efforts.

(24) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(25) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(26) Tobacco advertising increases the size of the tobacco market by increasing consumption of tobacco products including increasing tobacco use by young people.

(27) Children are more influenced by tobacco advertising than adults, they smoke the most advertised brands, and children as young as 3 to 6 years old can recognize a character associated with smoking at the same rate as they recognize cartoons and fast food characters.

(28) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market.

(29) Comprehensive advertising restrictions will have a positive effect on the smoking rates of young people.

(30) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(31) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones. Text-only requirements, while not as stringent as a ban, will help reduce underage use of tobacco products while preserving the informational function of advertising.

(32) It is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

(33) If, as a direct or indirect result of this Act, the consumption of tobacco products in the United States is reduced significantly, then tobacco farmers, their families, and their communities may suffer economic hardship and displacement, notwithstanding their lack of involvement in the manufacturing and marketing of tobacco products.

(34) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to clarify the authority of the Food and Drug Administration to regulate tobacco products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), by recognizing it as the primary Federal regulatory authority with respect to the manufacture, marketing, and distribution of tobacco products;

(2) to require the tobacco industry to fund both Federal and State oversight of the tobacco industry from on-going payments by tobacco product manufacturers;

(3) to require tobacco product manufacturers to provide ongoing funding to be used for an aggressive Federal, State, and local enforcement program and for a nationwide licensing system to prevent minors from obtaining tobacco products and to prevent the unlawful distribution of tobacco products, while expressly permitting the States to adopt additional measures that further restrict or eliminate the products' use;

(4) to ensure that the Food and Drug Administration and the States may continue to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(5) to impose financial surcharges on tobacco product manufacturers if tobacco use by young people does not substantially decline;

(6) to authorize appropriate agencies of the Federal government to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(7) to provide new and flexible enforcement authority to ensure that the tobacco industry makes efforts to develop and introduce less harmful tobacco products;

(8) to confirm the Food and Drug Administration's authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(9) in order to ensure that adults are better informed, to require tobacco product manufacturers to disclose research which has not previously been made available, as well as

research generated in the future, relating to the health and dependency effects or safety of tobacco products;

(10) to impose on tobacco product manufacturers the obligation to provide funding for a variety of public health initiatives;

(11) to establish a minimum Federal standard for stringent restrictions on smoking in public places, while also to permit State, Tribal, and local governments to enact additional and more stringent standards or elect not to be covered by the Federal standard if that State's standard is as protective, or more protective, of the public health;

(12) to authorize and fund from payments by tobacco product manufacturers a continuing national counter-advertising and tobacco control campaign which seeks to educate consumers and discourage children and adolescents from beginning to use tobacco products, and which encourages current users of tobacco products to discontinue using such products;

(13) to establish a mechanism to compensate the States in settlement of their various claims against tobacco product manufacturers;

(14) to authorize and to fund from payments by tobacco product manufacturers a nationwide program of smoking cessation administered through State and Tribal governments and the private sector;

(15) to establish and fund from payments by tobacco product manufacturers a National Tobacco Fund;

(16) to affirm the rights of individuals to access to the courts, to civil trial by jury, and to damages to compensate them for harm caused by tobacco products;

(17) to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(18) to impose appropriate regulatory controls on the tobacco industry; and

(19) to protect tobacco farmers and their communities from the economic impact of this Act by providing full funding for and the continuation of the Federal tobacco program and by providing funds for farmers and communities to develop new opportunities in tobacco-dependent communities.

SEC. 4. SCOPE AND EFFECT.

(a) INTENDED EFFECT.—This Act is not intended to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) except as provided in this Act, affect any action pending in State, Tribal, or Federal court, or any agreement, consent decree, or contract of any kind.

(b) TAXATION.—Notwithstanding any other provision of law, this Act and the amendments made by this Act shall not affect any authority of the Secretary of the Treasury (including any authority assigned to the Bureau of Alcohol, Tobacco and Firearms) or of State or local governments with regard to taxation for tobacco or tobacco products.

(c) AGRICULTURAL ACTIVITIES.—The provisions of this Act which authorize the Secretary to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

SEC. 5. RELATIONSHIP TO OTHER, RELATED FEDERAL, STATE, LOCAL, AND TRIBAL LAWS.

(a) AGE RESTRICTIONS.—Nothing in this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), as amended by this Act, shall prevent a Federal agency (including the Armed Forces), a State or its political subdivisions, or the government of an Indian tribe from adopting and enforcing additional measures that further restrict or prohibit tobacco product sale to, use by, and accessibility to persons under the legal age of purchase established by such agency, State, subdivision, or government of an Indian tribe.

(b) ADDITIONAL MEASURES.—Except as otherwise expressly provided in this Act, nothing in this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), or rules promulgated under such Acts, shall limit the authority of a Federal agency (including the Armed Forces), a State or its political subdivisions, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products, including laws, rules, regulations, or other measures relating to or prohibiting the sale, distribution, possession, exposure to, or use of tobacco products by persons of any age that are in addition to the provisions of this Act and the amendments made by this Act. No provision of this Act or amendment made by this Act shall limit or otherwise affect any State, Tribal, or local taxation of tobacco products.

(c) NO LESS STRINGENT.—Nothing in this Act or the amendments made by this Act is intended to supersede any State, local, or Tribal law that is not less stringent than this Act, or other Acts as amended by this Act.

(d) STATE LAW NOT AFFECTED.—Except as otherwise expressly provided in this Act, nothing in this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), or rules promulgated under such Acts, shall supersede the authority of the States, pursuant to State law, to expend funds provided by this Act.

SEC. 6. DEFINITIONS.

In this Act:

(1) BRAND.—The term "brand" means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging, logo, registered trademark or brand name, identifiable pattern of colors, or any combination of such attributes.

(2) CIGARETTE.—The term "cigarette" has the meaning given that term by section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(1)), but also includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

(3) CIGARETTE TOBACCO.—The term "cigarette tobacco" means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements for cigarettes shall also apply to cigarette tobacco.

(4) COMMERCE.—The term "commerce" has the meaning given that term by section 3(2) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(2)).

(5) DISTRIBUTOR.—The term "distributor" as regards a tobacco product means any person who furthers the distribution of cigarette or smokeless tobacco, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this Act.

(6) INDIAN COUNTRY; INDIAN LANDS.—The terms "Indian country" and "Indian lands" have the meaning given the term "Indian country" by section 1151 of title 18, United States Code, and includes lands owned by an Indian tribe or a member thereof over which the United States exercises jurisdiction on behalf of the tribe or tribal member.

(7) INDIAN TRIBE.—The term "Indian tribe" has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(8) LITTLE CIGAR.—The term "little cigar" has the meaning given that term by section 3(7) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(7)).

(9) NICOTINE.—The term "nicotine" means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

(10) PACKAGE.—The term "package" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which cigarettes or smokeless tobacco are offered for sale, sold, or otherwise distributed to consumers.

(11) POINT-OF-SALE.—The term "point-of-sale" means any location at which a consumer can purchase or otherwise obtain cigarettes or smokeless tobacco for personal consumption.

(12) RETAILER.—The term "retailer" means any person who sells cigarettes or smokeless tobacco to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

(13) ROLL-YOUR-OWN TOBACCO.—The term "roll-your-own tobacco" means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

(14) SECRETARY.—Except in title VII and where the context otherwise requires, the term "Secretary" means the Secretary of Health and Human Services.

(15) SMOKELESS TOBACCO.—The term "smokeless tobacco" means any product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

(16) STATE.—The term "State" means any State of the United States and, for purposes of this Act, includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

(17) TOBACCO PRODUCT.—The term "tobacco product" means cigarettes, cigarette tobacco, smokeless tobacco, little cigars, roll-your-own tobacco, and fine cut products.

(18) TOBACCO PRODUCT MANUFACTURER.—Except in titles VII, X, and XIV, the term "tobacco product manufacturer" means any person, including any repacker or relabeler, who—

(A) manufactures, fabricates, assembles, processes, or labels a finished cigarette or smokeless tobacco product; or

(B) imports a finished cigarette or smokeless tobacco product for sale or distribution in the United States.

(19) UNITED STATES.—The term "United States" means the 50 States of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

SEC. 7. NOTIFICATION IF YOUTHFUL CIGARETTE SMOKING RESTRICTIONS INCREASE YOUTHFUL PIPE AND CIGAR SMOKING.

The Secretary shall notify the Congress if the Secretary determines that underage use of pipe tobacco and cigars is increasing.

SEC. 8. FTC JURISDICTION NOT AFFECTED.

(a) IN GENERAL.—Except where expressly provided in this Act, nothing in this Act shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

(b) ENFORCEMENT BY FTC.—Any advertising that violates this Act or part 897 of title 21, Code of Federal Regulations, is an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) and shall be considered a violation of a rule promulgated under section 18 of that Act (15 U.S.C. 57a).

SEC. 9. CONGRESSIONAL REVIEW PROVISIONS.

In accordance with section 801 of title 5, United States Code, the Congress shall review, and may disapprove, any rule under this Act that is subject to section 801. This section does not apply to the rule set forth in part 897 of title 21, Code of Federal Regulations.

TITLE I—REGULATION OF THE TOBACCO INDUSTRY

SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT OF 1938.

(a) DEFINITION OF TOBACCO PRODUCTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(kk) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).".

(b) FDA AUTHORITY OVER TOBACCO PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

"CHAPTER IX—TOBACCO PRODUCTS

"SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS

"(a) IN GENERAL.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

"(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

"(2) a health claim is made for such products under section 201(g)(1)(C) or 201(h)(3).

"(b) APPLICABILITY.—This chapter shall apply to all tobacco products subject to the provisions of part 897 of title 21, Code of Federal Regulations, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

"(c) SCOPE.—

"(1) Nothing in this chapter, any policy issued or regulation promulgated thereunder, or the National Tobacco Policy and Youth Smoking Reduction Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V of the Federal Food, Drug and Cosmetic Act or any other chapter of that Act.

"(2) The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of the manufacturer, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority whatsoever to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer. Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer. Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production. For purposes of the preceding sentence, the term 'controlled by' means a member of the same controlled group of corporations as that term is used in section 52(a) of the Internal Revenue Code of 1986, or under common control within the meaning of the regulations promulgated under section 52(b) of such Code.

"SEC. 902. ADULTERATED TOBACCO PRODUCTS.

"A tobacco product shall be deemed to be adulterated if—

"(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any poisonous or deleterious substance that may render the product injurious to health;

"(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

"(3) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

"(4) it is, or purports to be or is represented as, a tobacco product which is subject to a performance standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

"(5) it is required by section 910(a) to have premarket approval, is not exempt under section 906(f), and does not have an approved application in effect;

"(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

"(7) it is a tobacco product for which an exemption has been granted under section 906(f) for investigational use and the person who was granted such exemption or any investigator who uses such tobacco product under such exemption fails to comply with a requirement prescribed by or under such section.

"SEC. 903. MISBRANDED TOBACCO PRODUCTS.

"(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

"(1) if its labeling is false or misleading in any particular;

"(2) if in package form unless it bears a label containing—

"(A) the name and place of business of the tobacco product manufacturer, packer, or distributor; and

"(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count,

except that under subparagraph (B) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

"(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

"(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

"(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

"(7) if, in the case of any tobacco product distributed or offered for sale in any State—

"(A) its advertising is false or misleading in any particular; or

"(B) it is sold, distributed, or used in violation of regulations prescribed under section 906(d);

"(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

"(A) a true statement of the tobacco product's established name as defined in paragraph (4) of this subsection, printed prominently; and

"(B) a brief statement of—

"(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

"(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is necessary to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

"(9) if it is a tobacco product subject to a performance standard established under section 907, unless it bears such labeling as may be prescribed in such performance standard; or

"(10) if there was a failure or refusal—

"(A) to comply with any requirement prescribed under section 904 or 908;

"(B) to furnish any material or information required by or under section 909: or

"(C) to comply with a requirement under section 912.

"(b) PRIOR APPROVAL OF STATEMENTS ON LABEL.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement and no advertisement of a tobacco product, published after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall, with respect to the matters specified in this section or covered by regulations issued hereunder, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55). This subsection does not apply to any printed matter which the Secretary determines to be labeling as defined in section 201(m).

"SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

"(a) REQUIREMENT.—Not later than 6 months after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit to the Secretary the following information:

"(1) A listing of all tobacco ingredients, substances and compounds that are, on such date, added by the manufacturer to the tobacco, paper, filter, or other component of each tobacco product by brand and by quantity in each brand and subbrand.

"(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine.

"(3) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, behavioral, or physiologic effects of tobacco products, their constituents, ingredients, and components, and tobacco additives, described in paragraph (1).

"(4) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

"(5) All documents (including underlying scientific information) relating to marketing research involving the use of tobacco products.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

"(b) ANNUAL SUBMISSION.—A tobacco product manufacturer or importer that is required to submit information under subsection (a) shall update such information on an annual basis under a schedule determined by the Secretary.

"(c) TIME FOR SUBMISSION.—

"(1) NEW PRODUCTS.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of this chapter, the manufacturer of such product shall provide the information required under subsection (a) and such product shall be subject to the annual submission under subsection (b).

"(2) MODIFICATION OF EXISTING PRODUCTS.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive, increases or decreases the quantity of an existing tobacco additive or the nicotine content, delivery, or form, or eliminates a tobacco additive from any tobacco product, the manufacturer shall within 60 days of such action so advise the Secretary in writing and reference such modification in submissions made under subsection (b).

"SEC. 905. ANNUAL REGISTRATION.

"(a) DEFINITIONS.—As used in this section—

"(1) the term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user; and

"(2) the term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

"(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

"(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

"(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

"(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) of this section shall list such tobacco products in accordance with such system.

"(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

"(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by one or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

"(h) FOREIGN ESTABLISHMENTS MAY REGISTER.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, may register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

"(i) REGISTRATION INFORMATION.—

"(1) PRODUCT LIST.—Every person who registers with the Secretary under subsection (b), (c), or (d) of this section shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

"(A) in the case of a tobacco product contained in the applicable list with respect to which a performance standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

"(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

"(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a performance standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

"(2) BIANNUAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

"(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1) of this subsection. A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

"(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

"(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

"(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

"(j) Report Preceding Introduction of Certain Substantially-equivalent Products into Interstate Commerce.—

"(1) In general.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, as defined by the Secretary by regulation shall, at least 90 days before making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall by regulation prescribe)—

"(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act; and

"(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

"(2) Application to certain post-August 11th products.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall be submitted to the Secretary within 6 months after the date of enactment of that Act.

"SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

"(a) In General.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, or subsection (d) of this section shall not apply to such tobacco product.

"(b) Information on Public Access and Comment.—Each notice of proposed rulemaking under section 907, 908, 909, or 910, or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

"(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

"(2) the period within which interested persons may present their comments on the notice or findings (including the need therefor) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefor.

"(c) Limited Confidentiality of Information.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 904, 907, 908, 909, or 910 or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

"(d) Restrictions.—

"(1) The Secretary may by regulation require that a tobacco product be restricted to sale, distribution, or use upon such conditions, including restrictions on the access to, and the advertising and promotion of, the tobacco product, as the Secretary may prescribe in such regulation if, because of its potentiality for harmful effect or the collateral measures necessary to its use, the Secretary determines that such regulation would be appropriate for the protection of the public health. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such condition may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

"(2) The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

"(3) No restriction under paragraph (1) may prohibit the sale of any tobacco product in face-to face transactions by a specific category of retail outlets.

"(e) Good Manufacturing Practice Requirements.—

"(1) Methods, facilities, and controls to conform.—

"(A) The Secretary may, in accordance with subparagraph (B), prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, pre-production design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter.

"(B) The Secretary shall—

"(i) before promulgating any regulation under subparagraph (A), afford an advisory committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

"(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

"(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

"(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities; and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

"(2) Exemptions; variances.—

"(A) Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

"(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

"(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

"(iii) contain such other information as the Secretary shall prescribe.

"(B) The Secretary may refer to an advisory committee any petition submitted under subparagraph (A). The advisory committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

"(i) the date the petition was submitted to the Secretary under subparagraph (A); or

"(ii) the day after the petition was referred to an advisory committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

"(C) The Secretary may approve—

"(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

"(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

"(D) An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

"(E) After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

“(3) Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act.

“(f) EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from this chapter under such conditions as the Secretary may prescribe by regulation .

“(g) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

“SEC. 907. PERFORMANCE STANDARDS.

“(a) IN GENERAL.—

“(1) FINDING REQUIRED.—The Secretary may adopt performance standards for a tobacco product if the Secretary finds that a performance standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

“(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

“(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

“(2) CONTENT OF PERFORMANCE STANDARDS.—A performance standard established under this section for a tobacco product—

“(A) shall include provisions to provide performance that is appropriate for the protection of the public health, including provisions, where appropriate—

“(i) for the reduction or elimination of nicotine yields of the product;

“(ii) for the reduction or elimination of other constituents or harmful components of the product; or

“(iii) relating to any other requirement under (B);

“(B) shall, where necessary to be appropriate for the protection of the public health, include—

“(i) provisions respecting the construction, components, ingredients, and properties of the tobacco product;

“(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

“(iii) provisions for the measurement of the performance characteristics of the tobacco product;

“(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

“(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

“(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

“(3) PERIODIC RE-EVALUATION OF PERFORMANCE STANDARDS.—The Secretary shall provide for periodic evaluation of performance standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (2) by any person.

“(4) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall, to the maximum extent practicable—

“(A) use personnel, facilities, and other technical support available in other Federal agencies;

“(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

“(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, or consumer organizations who in the Secretary's judgment can make a significant contribution.

“(b) ESTABLISHMENT OF STANDARDS.—

“(1) NOTICE.—

(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a tobacco product.

“(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a tobacco product shall—

“(i) set forth a finding with supporting justification that the performance standard is appropriate for the protection of the public health;

“(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate; and

“(iii) invite interested persons to submit an existing performance standard for the tobacco product, including a draft or proposed performance standard, for consideration by the Secretary.

“(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to be appropriate for the protection of the public health.

“(D) The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the performance standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

“(E) The Secretary shall provide for a comment period of not less than 60 days.

“(2) PROMULGATION.—

“(A) After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a performance standard and after consideration of such comments and any report from an advisory committee, the Secretary shall—

“(i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

“(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

“(B) A regulation establishing a performance standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before one year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

“(3) SPECIAL RULE FOR STANDARD BANNING CLASS OF PRODUCT OR ELIMINATING NICOTINE CONTENT.—Because of the importance of a decision of the Secretary to issue a regulation establishing a performance standard—

“(A) eliminating all cigarettes, all smokeless tobacco products, or any similar class of tobacco products, or

“(B) requiring the reduction of nicotine yields of a tobacco product to zero,

it is appropriate for the Congress to have the opportunity to review such a decision. Therefore, any such standard may not take effect before a date that is 2 years after the President notifies the Congress that a final regulation imposing the restriction has been issued.

“(4) AMENDMENT; REVOCATION.—

“(A) The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B) of this subsection, amend or revoke a performance standard.

“(B) The Secretary may declare a proposed amendment of a performance standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

“(5) REFERENCE TO ADVISORY COMMITTEE.—The Secretary—

“(A) may, on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a performance standard; or

“(B) shall, upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,

refer such proposed regulation to an advisory committee, for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this subparagraph to the advisory committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The advisory committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

“SEC. 908. NOTIFICATION AND OTHER REMEDIES

“(a) NOTIFICATION.—If the Secretary determines that—

“(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

"(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

"(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

"(c) RECALL AUTHORITY.—

"(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

"(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

"(A) If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

"(B) An amended order under subparagraph (A)—

"(i) shall not include recall of a tobacco product from individuals; and

"(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

"(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

"SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

"(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

"(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

"(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

"(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

"(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

"(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

"(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) of this subsection continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"(b) REPORTS OF REMOVALS AND CORRECTIONS.—

(1) Except as provided in paragraph (3), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

"(A) to reduce a risk to health posed by the tobacco product; or

"(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

"(2) No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a) of this section.

"SEC. 910. PREMARKET REVIEW OF CERTAIN TOBACCO PRODUCTS.

"(a) IN GENERAL.—

"(1) PREMARKET APPROVAL REQUIRED.—

"(A) NEW PRODUCTS.—Approval under this section of an application for premarket approval for any tobacco product that is not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, is required unless the manufacturer has submitted a report under section 905(j), and the Secretary has issued an order that the tobacco product is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act.

"(B) PRODUCTS INTRODUCED BETWEEN AUGUST 11, 1995, AND ENACTMENT OF THIS CHAPTER.—Subparagraph (A) does not apply to a tobacco product that—

"(i) was first introduced or delivered for introduction into interstate commerce for commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act; and

"(ii) for which a report was submitted under section 905(j) within 6 months after such date,

until the Secretary issues an order that the tobacco product is substantially equivalent for purposes of this section or requires premarket approval.

"(2) SUBSTANTIALLY EQUIVALENT DEFINED.—

"(A) For purposes of this section and section 905(j), the term 'substantially equivalent' or 'substantial equivalence' mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

"(i) has the same characteristics as the predicate tobacco product; or

"(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

"(B) For purposes of subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

"(C) A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

"(3) HEALTH INFORMATION.—

"(A) As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

"(B) Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

"(b) Application.—

"(1) Contents.—An application for premarket approval shall contain—

"(A) full reports of all information, published or known to or which should reasonably be known to the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

"(B) a full statement of the components, ingredients, and properties, and of the principle or principles of operation, of such tobacco product;

"(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

"(D) an identifying reference to any performance standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such performance standard or adequate information to justify any deviation from such standard;

"(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

"(F) specimens of the labeling proposed to be used for such tobacco product; and

"(G) such other information relevant to the subject matter of the application as the Secretary may require.

"(2) Reference to Advisory Committee.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

"(A) may, on the Secretary's own initiative; or

"(B) shall, upon the request of an applicant,

refer such application to an advisory committee and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

"(c) Action on Application.—

"(1) Deadline.—

"(A) As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b) of this section, the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

"(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

"(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that one or more grounds for denial specified in paragraph (2) of this subsection apply.

"(B) An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

"(2) Denial of approval.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

"(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

"(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

"(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

"(D) such tobacco product is not shown to conform in all respects to a performance standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

"(3) Denial Information.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with one or more protocols prescribed by the Secretary).

"(4) Basis for finding.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(5) Basis for action.—

"(A) For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include one or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

"(B) If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

"(d) Withdrawal and Temporary Suspension.—

"(1) In general.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

"(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

"(B) that the application contained or was accompanied by an untrue statement of a material fact;

"(C) that the applicant—

"(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

"(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

"(iii) has not complied with the requirements of section 905;

"(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

"(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

"(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a performance standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

"(2) Appeal.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such withdrawal, obtain review thereof in accordance with subsection (e) of this section.

"(3) Temporary suspension.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

"(e) Service of Order.—An order issued by the Secretary under this section shall be served—

"(1) in person by any officer or employee of the department designated by the Secretary; or

"(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

"SEC. 911. JUDICIAL REVIEW.

"(a) In General.—Not later than 30 days after—

"(1) the promulgation of a regulation under section 907 establishing, amending, or revoking a performance standard for a tobacco product; or

"(2) a denial of an application for approval under section 910(c), any person adversely affected by such regulation or order may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit wherein such person resides or has his principal place of business for judicial review of such regulation or order. A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by the Secretary for that purpose. The Secretary shall file in the court the record of the proceedings on which the Secretary based the Secretary's regulation or order and each record or order shall contain a statement of the reasons for its issuance and the basis, on the record, for its issuance. For purposes of this section, the term ‘record’ means all notices and other matter published in the Federal Register with respect to the regulation or order reviewed, all information submitted to the Secretary with respect to such regulation or order, proceedings of any panel or advisory committee with respect to such regulation or order, any hearing held with respect to such regulation or order, and any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

“(b) Court May Order Secretary to Make Additional Findings.—If the petitioner applies to the court for leave to adduce additional data, views, or arguments respecting the regulation or order being reviewed and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceedings before the Secretary, the court may order the Secretary to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Secretary may modify the Secretary's findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file with the court such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the regulation or order being reviewed, with the return of such additional data, views, or arguments.

“(c) Standard of Review.—Upon the filing of the petition under subsection (a) of this section for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. A regulation or order described in paragraph (1) or (2) of subsection (a) of this section shall not be affirmed if it is found to be unsupported by substantial evidence on the record taken as a whole.

“(d) Finality of Judgment.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

“(e) Other Remedies.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

“(f) Regulations and Orders Must Recite Basis in Record.—To facilitate judicial review under this section or under any other provision of law of a regulation or order issued under section 906, 907, 908, 909, 910, or 914, each such regulation or order shall contain a statement of the reasons for its issuance and the basis, in the record of the proceedings held in connection with its issuance, for its issuance.

“SEC. 912. POSTMARKET SURVEILLANCE

“(a) Discretionary Surveillance.—The Secretary may require a tobacco product manufacturer to conduct postmarket surveillance for a tobacco product of the manufacturer if the Secretary determines that postmarket surveillance of the tobacco product is necessary to protect the public health or is necessary to provide information regarding the health risks and other safety issues involving the tobacco product.

“(b) Surveillance Approval.—Each tobacco product manufacturer required to conduct a surveillance of a tobacco product under subsection (a) of this section shall, within 30 days after receiving notice that the manufacturer is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of useful data or other information necessary to protect the public health. The Secretary may not approve such a protocol until it has been reviewed by an appropriately qualified scientific and technical review committee established by the Secretary.

“SEC. 913. REDUCED RISK TOBACCO PRODUCTS.

“(a) Requirements.—

“(1) In general.—For purposes of this section, the term ‘reduced risk tobacco product’ means a tobacco product designated by the Secretary under paragraph (2).

“(2) Designation.—

“(A) In general.—A product may be designated by the Secretary as a reduced risk tobacco product if the Secretary finds that the product will significantly reduce harm to individuals caused by a tobacco product and is otherwise appropriate to protect public health, based on an application submitted by the manufacturer of the product (or other responsible person) that—

“(i) demonstrates through testing on animals and short-term human testing that use of such product results in ingestion or inhalation of a substantially lower yield of toxic substances than use of conventional tobacco products in the same category as the proposed reduced risk product; and

“(ii) if required by the Secretary, includes studies of the long-term health effects of the product.

If such studies are required, the manufacturer may consult with the Secretary regarding protocols for conducting the studies.

“(B) Basis for finding.—In making the finding under subparagraph (A), the Secretary shall take into account—

“(i) the risks and benefits to the population as a whole, including both users of tobacco products and non-users of tobacco products;

“(ii) the increased or decreased likelihood that existing users of tobacco products will stop using such products including reduced risk tobacco products;

“(iii) the increased or decreased likelihood that those who do not use tobacco products will start to use such products, including reduced risk tobacco products; and

“(iv) the risks and benefits to consumers from the use of a reduced risk tobacco product as compared to the use of products approved under chapter V to reduce exposure to tobacco.

“(3) Marketing requirements.—A tobacco product may be marketed and labeled as a reduced risk tobacco product if it—

“(A) has been designated as a reduced risk tobacco product by the Secretary under paragraph (2);

“(B) bears a label prescribed by the Secretary concerning the product's contribution to reducing harm to health; and

“(C) complies with requirements prescribed by the Secretary relating to marketing and advertising of the product, and other provisions of this chapter as prescribed by the Secretary.

“(b) Revocation of Designation.—At any time after the date on which a tobacco product is designated as a reduced risk tobacco product under this section the Secretary may, after providing an opportunity for an informal hearing, revoke such designation if the Secretary determines, based on information not available at the time of the designation, that—

“(1) the finding made under subsection (a)(2) is no longer valid; or

“(2) the product is being marketed in violation of subsection (a)(3).

“(c) Limitation.—A tobacco product that is designated as a reduced risk tobacco product that is in compliance with subsection (a) shall not be regulated as a drug or device.

“(d) Development of Reduced Risk Tobacco Product Technology.—A tobacco product manufacturer shall provide written notice to the Secretary upon the development or acquisition by the manufacturer of any technology that would reduce the risk of a tobacco product to the health of the user for which the manufacturer is not seeking designation as a ‘reduced risk tobacco product’ under subsection (a).

“SEC. 914. PRESERVATION OF STATE AND LOCAL AUTHORITY.

“(a) Additional Requirements.—

“(1) In general.—Except as provided in paragraph (2), nothing in this Act shall be construed as prohibiting a State or political subdivision thereof from adopting or enforcing a requirement applicable to a tobacco product that is in addition to, or more stringent than, requirements established under this chapter.

“(2) Preemption of certain state and local requirements.—

“(A) Except as provided in subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement applicable under the provisions of this chapter relating to performance standards, premarket approval, adulteration, misbranding, registration, reporting, good manufacturing standards, or reduced risk products.

“(B) Subparagraph (A) does not apply to requirements relating to the sale, use, or distribution of a tobacco product including requirements related to the access to, and the advertising and promotion of, a tobacco product.

“(b) Rule of Construction Regarding Product Liability.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

“(c) Waivers.—Upon the application of a State or political subdivision thereof, the Secretary may, by regulation promulgated after notice and an opportunity for an oral hearing, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a requirement of such State or political subdivision applicable to a tobacco product if—

"(1) the requirement is more stringent than a requirement applicable under the provisions described in subsection (a)(3) which would be applicable to the tobacco product if an exemption were not in effect under this subsection; or

"(2) the requirement—

"(A) is required by compelling local conditions; and

"(B) compliance with the requirement would not cause the tobacco product to be in violation of any applicable requirement of this chapter.

"SEC. 915. EQUAL TREATMENT OF RETAIL OUTLETS.

"The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.".

SEC. 102. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) by inserting "tobacco product," in subsection (a) after "device,";

(2) by inserting "tobacco product," in subsection (b) after "device,";

(3) by inserting "tobacco product," in subsection (c) after "device,";

(4) by striking "515(f), or 519" in subsection (e) and inserting "515(f), 519, or 909";

(5) by inserting "tobacco product," in subsection (g) after "device,";

(6) by inserting "tobacco product," in subsection (h) after "device,";

(7) by striking "708, or 721" in subsection (j) and inserting "708, 721, 904, 905, 906, 907, 908, or 909";

(8) by inserting "tobacco product," in subsection (k) after "device,";

(9) by striking subsection (p) and inserting the following:

"(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(J)(2).";

(10) by striking subsection (q)(1) and inserting the following:

"(q)(1) The failure or refusal—

"(A) to comply with any requirement prescribed under section 518, 520(g), 906(f), or 908;

"(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 906(f), or 909; or

"(C) to comply with a requirement under section 522 or 912.";

(11) by striking "device," in subsection (q)(2) and inserting "device or tobacco product,";

(12) by inserting "or tobacco product" in subsection (r) after "device" each time that it appears; and

(13) by adding at the end thereof the following:

"(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).".

(c) SECTION 303.—Section 303(f) (21 U.S.C. 333(f)) is amended—

(1) by amending the caption to read as follows:

"(f) CIVIL PENALTIES; NO-TOBACCO-SALE ORDERS.—";

(2) by inserting "or tobacco products" after "devices" in paragraph (1)(A);

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

"(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).";

(4) by striking "assessed" the first time it appears in subparagraph (A) of paragraph (4), as redesignated, and inserting "assessed, or a no-tobacco-sale order may be imposed,";

(5) by striking "penalty" in such subparagraph and inserting "penalty, or upon whom a no-tobacco-order is to be imposed,";

(6) by inserting after "penalty," in subparagraph (B) of paragraph (4), as redesignated, the following: "or the period to be covered by a no-tobacco-sale order,";

(7) by adding at the end of such subparagraph the following: "A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.";

(8) by adding at the end of paragraph (4), as redesignated, the following:

"(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.";

(9) by striking "(3)(A)" in paragraph (5), as resdesignated, and inserting "(4)(A)";

(10) by inserting "or the imposition of a no-tobacco-sale order" after "penalty" the first 2 places it appears in such paragraph;

(11) by striking "issued." in such paragraph and inserting "issued, or on which the no-tobacco-sale order was imposed, as the case may be."; and

(12) by striking "paragraph (4)" each place it appears in paragraph (6), as redesignated, and inserting "paragraph (5)".

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) by striking "and" before "(D)" in subsection (a)(2);

(2) by striking "device." in subsection (a)(2) and inserting a comma and "(E) Any adulterated or misbranded tobacco product.";

(3) by inserting "tobacco product," in subsection (d)(1) after "device,";

(4) by inserting "or tobacco product" in subsection (g)(1) after "device" each place it appears; and

(5) by inserting "or tobacco product" in subsection (g)(2)(A) after "device" each place it appears.

(e) SECTION 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.".

(f) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting "tobacco product," after "device," each place it appears; and

(2) by inserting "tobacco products," after "devices," each place it appears.

(g) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) by inserting "tobacco products," in subsection (a)(1)(A) after "devices," each place it appears;

(2) by inserting "or tobacco products" in subsection (a)(1)(B) after "restricted devices" each place it appears; and

(3) by inserting "tobacco product," in subsection (b) after "device,".

(h) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting "tobacco products," after "devices,".

(i) SECTION 709.—Section 709 (21 U.S. C. 379) is amended by inserting "or tobacco product" after "device".

(j) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) by inserting "tobacco products," after "devices," in subsection (a) the first time it appears;

(2) by inserting "or subsection (j) of section 905" in subsection (a) after "section 510"; and

(3) by striking "drugs or devices" each time it appears in subsection (a) and inserting "drugs, devices, or tobacco products";

(4) by inserting "tobacco product," in subsection (e)(1) after "device,";

(2) by redesignating paragraph (4) of subsection (e) as paragraph (5) and inserting after paragraph (3), the following:

"(4) Paragraph (1) does not apply to any tobacco product—

"(A) which does not comply with an applicable requirement of section 907 or 910; or

"(B) which under section 906(f) is exempt from either such section.

This paragraph does not apply if the Secretary has determined that the exportation of the tobacco product is not contrary to the public health and safety and has the approval of the country to which it is intended for export or the tobacco product is eligible for export under section 802.".

(k) SECTION 802.—Section 802 (21 U.S.C. 382) is amended—

(1) by striking "device—" in subsection (a) and inserting "device or tobacco product—";

(2) by striking "and" after the semicolon in subsection (a)(1)(C);

(3) by striking subparagraph (C) of subsection (a)(2) and all that follows in that subsection and inserting the following:

"(C) is a banned device under section 516; or

"(3) which, in the case of a tobacco product—

"(A) does not comply with an applicable requirement of section 907 or 910; or

"(B) under section 906(f) is exempt from either such section,

is adulterated, misbranded, and in violation of such sections or Act unless the export of the drug, device, or tobacco product is, except as provided in subsection (f), authorized under subsection (b), (c), (d), or (e) of this section or section 801(e)(2) or 801(e)(4). If a drug, device, or tobacco product described in paragraph (1), (2), or (3) may be exported under subsection (b) and if an application for such drug or device under section 505, 515, or 910 of this Act or section 351 of the Public Health Service Act (42 U.S.C. 262) was disapproved, the Secretary shall notify the appropriate public health official of the country to which such drug, device, or tobacco product will be exported of such disapproval.";

(4) by inserting "or tobacco product" in subsection (b)(1)(A) after "device" each time it appears;

(5) by inserting "or tobacco product" in subsection (c) after "device" and inserting "or section 906(f)" after "520(g).";

(6) by inserting "or tobacco product" in subsection (f) after "device" each time it appears; and

(7) by inserting "or tobacco product" in subsection (g) after "device" each time it appears.

(l) Section 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking "and" after "cosmetics,"; and

(2) inserting a comma and "and tobacco products" after "devices".

(m) Effective Date for no-tobacco-sale order amendments.—The amendments made by subsection (c), other than the amendment made by paragraph (2) thereof, shall take effect only upon the promulgation of final regulations by the Secretary—

(1) defining the term "repeated violation", as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time that constitute a repeated violation;

(2) providing for notice to the retailer of each violation at a particular retail outlet;

(3) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on false identification does not constitute a violation of any minimum age requirement for the sale of tobacco products.

SEC. 103. CONSTRUCTION OF CURRENT REGULATIONS.

(a) In General.—The final regulations promulgated by the Secretary in the August 28, 1996, issue of the Federal Register (62 Red. Reg. 44615-44618) and codified at part 897 of title 21, Code of Federal Regulations, are hereby deemed to be lawful and to have been lawfully promulgated by the Secretary under chapter IX and section 701 of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, and not under chapter V of the Federal Food, Drug, and Cosmetic Act. The provisions of part 897 that are not in effect on the date of enactment of this Act shall take effect as in such part or upon such later date as determined by the Secretary by order. The Secretary shall amend the designation of authority in such regulations in accordance with this subsection.

(b) Limitation on Advisory Opinions.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary or the Food and Drug Administration as binding precedent.

(1) The preamble to the proposed rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents" (60 Fed. Reg. 41314-41372 (August 11, 1995)).

(2) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act;; (60 Fed. Reg. 41453-41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (61 Fed. Reg. 44396-44615 (August 28, 1996)).

(4) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination;; (61 Fed. Reg. 44619-45318 (August 28, 1996)).

TITLE II—REDUCTIONS IN UNDERAGE TOBACCO USE

Subtitle A—Underage Use

SEC. 201. FINDINGS.

The Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and ensure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSE.

This title is intended to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways: by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and providing support for further reduction efforts.

SEC. 203. GOALS FOR REDUCING UNDERAGE TOBACCO USE.

(a) Goals.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required percentage reductions in underage use of tobacco products set forth in this title are achieved.

(b) Required Reductions for Cigarettes.—With respect to cigarettes, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Cigarette Use
Years 3 and 4	15 percent
Years 5 and 6	30 percent
Years 7, 8, and 9	50 percent
Year 10 and thereafter	60 percent

(c) Required Reductions for Smokeless Tobacco.—With respect to smokeless tobacco products, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Smokeless Tobacco Use
Years 3 and 4	12.5 percent
Years 5 and 6	25 percent
Years 7, 8, and 9	35 percent
Year 10 and thereafter	45 percent

SEC. 204. LOOK-BACK ASSESSMENT.

(a) Annual Performance Survey.—Beginning no later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (d)(1), to determine—

(1) the percentage of all young individuals who used a type of tobacco product within the past 30 days; and

(2) the percentage of young individuals who identify each brand of each type of tobacco product as the usual brand of that type smoked or used within the past 30 days.

(b) Annual Determination.—The Secretary shall make an annual determination, based on the annual performance survey conducted under subsection (a), of whether the required percentage reductions in underage use of tobacco products for a year have been achieved for the year involved. The determination shall be based on the annual percent prevalence of the use of tobacco products, for the industry as a whole and of particular manufacturers, by young individuals (as determined by the surveys conducted by the Secretary) for the year involved as compared to the base incidence percentages.

(c) Confidentiality of Data.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information or described in it to be identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purpose. The information may not be published or released in any other form if the individual supplying the information or described in it is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(d) Methodology.—

(1) In general.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) be a household-based, in person survey (which may include computer-assisted technology);

(C) measure use of each type of tobacco product within the past 30 days;

(D) identify the usual brand of each type of tobacco product used within the past 30 days; and

(E) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) from the annual performance survey.

(2) Criteria for deeming point estimates correct.—Point estimates under paragraph (1)(E) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of

tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a particular manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) is such that the 95-percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(e) INDUSTRY-WIDE NON-ATTAINMENT SURCHARGES.—

(1) SECRETARY TO DETERMINE INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT SURCHARGE FOR CIGARETTES.—For each calendar year in which the percentage reduction in underage use required by section 203b) is not attained, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$80,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$400,000,000, plus $160,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$1,200,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$4,000,000,000

(3) NON-ATTAINMENT SURCHARGE FOR SMOKELESS TOBACCO.—For each year in which the percentage reduction in underage use required by section 203c) is not attained, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$8,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$40,000,000, plus $16,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$120,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$400,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under subsection (e) shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under subsection (e)(2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under subsection (e)(3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall make such allocations according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(f) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) REQUIRED PERCENTAGE REDUCTIONS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act shall reduce the percentage of young individuals who use such manufacturer's brand or brands as their usual brand in accordance with the required percentage reductions described under subsections (b) (with respect to cigarettes) and (c) (with respect to smokeless tobacco).

(2) APPLICATION TO LESS POPULAR BRANDS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act for which the base incidence percentage is equal to or less than the *de minimis* level shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand remains equal to or less than the *de minimis* level described in paragraph (4).

(3) NEW ENTRANTS.—Each manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand is equal to or less than the *de minimis* level.

(4) DE MINIMIS LEVEL DEFINED.—The *de minimis* level is equal to 1 percent prevalence of the use of each manufacturer's brands of tobacco product by young individuals (as determined on the basis of the annual performance survey conducted by the Secretary) for a year.

(5) TARGET REDUCTION LEVELS.—

(A) EXISTING MANUFACTURERS.— For purposes of this section, the target reduction level for each type of tobacco product for a year for a manufacturer is the product of the required percentage reduction for a type of tobacco product for a year and the manufacturers base incidence percentage for such tobacco product.

(B) NEW MANUFACTURERS; MANUFACTURERS WITH LOW BASE INCIDENCE PERCENTAGES.—With respect to a manufacturer which begins to manufacture a tobacco product after the date of the enactment of this Act or a manufacturer for which the baseline level as measured by the annual performance survey is equal to or less than the *de minimis* level described in paragraph (4), the base incidence percentage is the *de minimis* level, and the required percentage reduction in underage use for a type of tobacco product with respect to a manufacturer for a year shall be deemed to be the number of percentage points necessary to reduce the actual percent prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used for such year to the *de minimis* level.

(6) SURCHARGE AMOUNT.—

(A) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by such manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(B) AMOUNT.—The amount of the manufacturer-specific surcharge for a type of tobacco product for a year under this paragraph is $1,000, multiplied by the number of young individuals for which such firm is in noncompliance with respect to its target reduction level.

(C) DETERMINATION OF NUMBER OF YOUNG INDIVIDUALS.—For purposes of subparagraph (B) the number of young individuals for which a manufacturer is in noncompliance for a year shall be determined by the Secretary from the annual performance survey and shall be calculated based on the estimated total number of young individuals in such year and the actual percentage prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used in such year as compared to such manufacturer's target reduction level for the year.

(7) DE MINIMIS RULE.—The Secretary may not impose a surcharge on a manufacturer for a type of tobacco product for a year if the Secretary determines that actual percent prevalence of young individuals identifying that manufacturer's brands of such tobacco product as the usual products smoked or used for such year is less than 1 percent.

(g) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (e)(2), (e)(3), and (f)(6)(B) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(h) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(i) BUSINESS EXPENSE DEDUCTION.—Any surcharge paid by a tobacco product manufacturer under this section shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(j) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(k) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 205. DEFINITIONS.

In this subtitle:

(1) BASE INCIDENCE PERCENTAGE.—The term "base incidence percentage" means, with respect to each type of tobacco product, the percentage of young individuals determined to have used such tobacco product in the first annual performance survey for 1999.

(2) MANUFACTURERS BASE INCIDENCE PERCENTAGE.—The term "manufacturers base incidence percentage" is, with respect to each type of tobacco product, the percentage of young individuals determined to have identified a brand of such tobacco product of such manufacturer as the usual brand smoked or used in the first annual performance survey for 1999.

(3) YOUNG INDIVIDUALS.—The term "young individuals" means individuals who are over 11 years of age and under 18 years of age.

(4) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(5) NON-ATTAINMENT PERCENTAGE FOR CIGARETTES.—The term "non-attainment percentage for cigarettes" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of cigarettes is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of cigarettes is greater than the base incidence percentage, adding—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(6) NON-ATTAINMENT PERCENTAGE FOR SMOKELESS TOBACCO PRODUCTS.—The term "non-attainment percentage for smokeless tobacco products" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is greater than the base incidence percentage, by adding—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(7) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

Subtitle B—State Retail Licensing and Enforcement Incentives

SEC. 231. STATE RETAIL LICENSING AND ENFORCEMENT BLOCK GRANTS.

(a) IN GENERAL.—The Secretary shall make State retail licensing and enforcement block grants in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $200,000,000 for each fiscal year to carry out the provisions of this section.

(b) REQUIREMENTS.—

(1) ESTABLISHMENT.—The Secretary shall provide a block grant, based on population, under this subtitle to each State that has in effect a law that—

(A) provides for the licensing of entities engaged in the sale or distribution of tobacco products directly to consumers;

(B) makes it illegal to sell or distribute tobacco products to individuals under 18 years of age; and

(C) meets the standards described in this section.

(2) STATE AGREEMENT REQUIRED.—In order to receive a block grant under this section, a State—

(A) shall enter into an agreement with the Secretary to assume responsibilities for the implementation and enforcement of a tobacco retailer licensing program;

(B) shall prohibit retailers from selling or otherwise distributing tobacco products to individuals under 18 years of age in accordance with the Youth Access Restrictions regulations promulgated by the Secretary (21 C.F.R. 897.14(a) and (b));

(C) shall make available to appropriate Federal agencies designated by the Secretary requested information concerning retail establishments involved in the sale or distribution of tobacco products to consumers; and

(D) shall establish to the satisfaction of the Secretary that it has a law or regulation that includes the following:

(i) LICENSURE; SOURCES; AND NOTICE.—A requirement for a State license for each retail establishment involved in the sale or distribution of tobacco products to consumers. A requirement that a retail establishment may purchase tobacco products only from Federally-licensed manufacturers, importers, or wholesalers. A program under which notice is provided to such establishments and their employees of all licensing requirements and responsibilities under State and Federal law relating to the retail distribution of tobacco products.

(ii) PENALTIES.—

(I) CRIMINAL.—Criminal penalties for the sale or distribution of tobacco products to a consumer without a license.

(II) CIVIL.—Civil penalties for the sale or distribution of tobacco products in violation of State law, including graduated fines and suspension or revocation of licenses for repeated violations.

(III) OTHER.—Other programs, including such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase, or attempt to purchase tobacco products.

(iii) JUDICIAL REVIEW.—Judicial review procedures for an action of the State suspending, revoking, denying, or refusing to renew any license under its program.

(c) ENFORCEMENT.—

(1) UNDERTAKING.—Each State that receives a grant under this subtitle shall undertake to enforce compliance with its tobacco retailing licensing program in a manner that can reasonably be expected to reduce the sale and distribution of tobacco products to individuals under 18 years of age. If the Secretary determines that a State is not enforcing the law in accordance with such an undertaking, the Secretary may withhold a portion of any unobligated funds under this section otherwise payable to that State.

(2) ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.—A State that receives a grant under this subtitle shall—

(A) conduct monthly random, unannounced inspections of sales or distribution outlets in the State to ensure compliance with a law prohibiting sales of tobacco products to individuals under 18 years of age;

(B) annually submit to the Secretary a report describing in detail—

(i) the activities carried out by the State to enforce underage access laws during the fiscal year;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18 years;

(iii) how the inspections described in subparagraph (A) were conducted and the methods used to identify outlets, with appropriate protection for the confidentiality of information regarding the timing of inspections and other investigative techniques whose effectiveness depends on continued confidentiality; and

(iv) the identity of the single State agency designated by the Governor of the State to be responsible for the implementation of the requirements of this section.

(3) MINIMUM INSPECTION STANDARDS.—Inspections conducted by the State shall be conducted by the State in such a way as to ensure a scientifically sound estimate (with a 95 percent confidence interval that such estimates are accurate to within plus or minus 3 percentage points), using an accurate list of retail establishments throughout the State. Such inspections shall cover a range of outlets (not preselected on the basis of prior violations) to measure overall levels of compliance as well as to identify violations. The sample must reflect the distribution of the population under the age of 18 years throughout the State and the distribution of the outlets throughout the State accessible to youth. Except as provided in this paragraph, any reports required by this paragraph shall be made public. As used in this paragraph, the term "outlet" refers to any location that sells at retail or otherwise distributes tobacco products to consumers, including to locations that sell such products over-the-counter.

(d) NONCOMPLIANCE.—

(1) INSPECTIONS.—The Secretary shall withhold from any State that fails to meet the

requirements of subsection (b) in any calendar year an amount equal to 5 percent of the amount otherwise payable under this subtitle to that State for the next fiscal year.

(2) Compliance rate.—The Secretary shall withhold from any State that fails to demonstrate a compliance rate of—

(A) at least the annual compliance targets that were negotiated with the Secretary under section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) as such section was in effect before its repeal by this Act through the third fiscal year after the date of enactment of this Act;

(B) at least 80 percent in the fourth fiscal year after such date;

(C) at least 85 percent in the fifth and sixth fiscal years after such date; and

(D) at least 90 percent in every fiscal year beginning with the seventh fiscal year after such date,

an amount equal to one percentage point for each percentage point by which the State failed to meet the percentage set forth in this subsection for that year from the amount otherwise payable under this subtitle for that fiscal year.

(e) Release and Disbursement.—

(1) Upon notice from the Secretary that an amount payable under this section has been ordered withheld under subsection (d), a State may petition the Secretary for a release and disbursement of up to 75 percent of the amount withheld, and shall give timely written notice of such petition to the attorney general of that State and to all tobacco product manufacturers.

(2) The agency shall conduct a hearing on such a petition, in which the attorney general of the State may participate and be heard.

(3) The burden shall be on the State to prove, by a preponderance of the evidence, that the release and disbursement should be made. The Secretary's decision on whether to grant such a release, and the amount of any such disbursement, shall be based on whether—

(A) the State presents scientifically sound survey data showing that the State is making significant progress toward reducing the use of tobacco products by individuals who have not attained the age of 18 years;

(B) the State presents scientifically-based data showing that it has progressively decreased the availability of tobacco products to such individuals;

(C) the State has acted in good faith and in full compliance with this Act, and any rules or regulations promulgated under this Act;

(D) the State provides evidence that it plans to improve enforcement of these laws in the next fiscal year; and

(E) any other relevant evidence.

(4) A State is entitled to interest on any withheld amount released at the average United States 52-Week Treasury Bill rate for the period between the withholding of the amount and its release.

(5) Any State attorney general or tobacco product manufacturer aggrieved by a final decision on a petition filed under this subsection may seek judicial review of such decision within 30 days in the United States Court of Appeals for the District of Columbia Circuit. Unless otherwise specified in this Act, judicial review under this section shall be governed by sections 701 through 706 of title 5, United States Code.

(6) No stay or other injunctive relief enjoining a reduction in a State's allotment pending appeal or otherwise may be granted by the Secretary or any court.

(f) Non-participating States Licensing Requirements.—For retailers in States which have not established a licensing program under subsection (a), the Secretary shall promulgate regulations establishing Federal retail licensing for retailers engaged in tobacco sales to consumers in those States. The Secretary may enter into agreements with States for the enforcement of those regulations. A State that enters into such an agreement shall receive a grant under this section to reimburse it for costs incurred in carrying out that agreement.

(g) Definition.—For the purposes of this section, the term "first applicable fiscal year" means the first fiscal year beginning after the fiscal year in which funding is made available to the States under this section.

SEC. 232. BLOCK GRANTS FOR COMPLIANCE BONUSES.

(a) In General.—The Secretary shall make block grants to States determined to be eligible under subsection (b) in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $100,000,000 for each fiscal year to carry out the provisions of this section.

(b) Eligible States.—To be eligible to receive a grant under subsection (a), a State shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

(2) with respect to the year involved, demonstrate to the satisfaction of the Secretary that fewer than 5 percent of all individuals under 18 years of age who attempt to purchase tobacco products in the State in such year are successful in such purchase.

(c) Payout.—

(1) Payment to State.—If one or more States are eligible to receive a grant under this section for any fiscal year, the amount payable for that fiscal year shall be apportioned among such eligible States on the basis of population.

(2) Year in which no State receives grant.—If in any fiscal year no State is eligible to receive a grant under this section, then the Secretary may use not more than 25 percent of the amount appropriated to carry out this section for that fiscal year to support efforts to improve State and local enforcement of laws regulating the use, sale, and distribution of tobacco products to individuals under the age of 18 years.

(3) Amounts available without fiscal year limitation.—Any amount appropriated under this section remaining unexpended and unobligated at the end of a fiscal year shall remain available for obligation and expenditure in the following fiscal year.

SEC. 233. CONFORMING CHANGE.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) is hereby repealed.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

SEC. 261. TOBACCO USE PREVENTION AND CESSATION INITIATIVES.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following:

"Part D—Tobacco Use Prevention and Cessation Initiatives

"Subpart I—Cessation and Community-Based Prevention Block Grants

"SEC. 1981. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

"(a) In General.—From amounts contained in the Public Health Allocation Account under section 451(b)(2)(A) and (C) of the National Tobacco Policy and Youth Smoking Reduction Act for a fiscal year, there are authorized to be appropriated (under subsection (d) of such section) to carry out this subpart—

(1) for cessation activities, the amounts appropriated under section 451 (b)(2)(A); and

(2) for prevention and education activities, the amounts appropriated under section 451 (b)(2)(C).

"(b) National Activities.—

"(1)Not more than 10 percent of the amount made available for any fiscal year under subsection (a) shall be made available to the Secretary to carry out activities under section 1981B and 1981D(d).

"(2) Not more than 10 percent of the amount available for any fiscal year under subsection (a)(1) shall be available to the Secretary to carry out activities under section 1981D(d).

"SEC. 1981A. ALLOTMENTS.

"(a) Amount.—

"(1) In general.—From the amount made available under section 1981 for any fiscal year the Secretary, acting through the Director of the Centers for Disease Control and Prevention (referred to in this subpart as the 'Director'), shall allot to each State an amount based on a formula to be developed by the Secretary that is based on the tobacco prevention and cessation needs of each State including the needs of the State's minority populations.

"(2) Minimum amount.—In determining the amount of allotments under paragraph (1), the Secretary shall ensure that no State receives less than ½ of 1 percent of the amount available under section 1981(a) for the fiscal year involved.

"(b) Reallotment.—To the extent that amounts made available under section 1981 for a fiscal year are not otherwise allotted to States because—

"(1) 1 or more States have not submitted an application or description of activities in accordance with section 1981D for the fiscal year;

"(2) 1 or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) the Secretary has determined that the State is not in compliance with this subpart, and therefore is subject to penalties under section 1981D(g);

such excess amount shall be reallotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year involved without regard to this subsection.

"(c) Payments.—

"(1) In general.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall utilize the funds made available under this section to make payments to States under allotments under this subpart as provided for under section 203 of the Intergovernmental Cooperation Act of 1968.

"(2) Federal grantees.—From amounts available under section 1981(b)(2), the Secretary may make grants, or supplement existing grants, to entities eligible for funds under the programs described in section 1981C(d)(1) and (10) to enable such entities to carry out smoking cessation activities under this subpart, except not less than 25 percent of this amount shall be used for the program described in 1981C(d)(6).

"(3) Availability of funds.—Any amount paid to a State for a fiscal year under this subpart and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such payment was made.

"(d) REGULATIONS.—Not later than 9 months after the date of enactment of this part, the Secretary shall promulgate regulations to implement this subpart. This subpart shall take effect regardless of the date on which such regulations are promulgated.

"SEC. 1981B. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, without charge to a State receiving an allotment under section 1981A, provide to such State (or to any public or nonprofit private entity within the State) technical assistance and training with respect to the planning, development, operation, and evaluation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance or training directly, through contract, or through grants.

"(b) PROVISION OF SUPPLIES AND SERVICE IN LIEU OF GRANT FUNDS.—The Secretary, at the request of a State, may reduce the amount of payments to the State under section 1981A(c) by—

"(1) the fair market value of any supplies or equipment furnished by the Secretary to the State; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1981C. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"SEC. 1981C. PERMITTED USERS OF CESSATION BLOCK GRANTS AND OF COMMUNITY-BASED PREVENTION BLOCK GRANTS.

"(a) TOBACCO USE CESSATION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(1) may be used for the following:

"(1) Evidence-based cessation activities described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) evidence-based programs designed to assist individuals, especially young people and minorities who have been targeted by tobacco product manufacturers, to quit their use of tobacco products;

"(B) training in cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(C) programs to encourage health insurers and health plans to provide coverage for evidence-based tobacco use cessation interventions and therapies, except that the use of any funds under this clause to offset the cost of providing a smoking cessation benefit shall be on a temporary demonstration basis only;

"(D) culturally and linguistically appropriate programs targeted toward minority and low-income individuals, individuals residing in medically underserved areas, uninsured individuals, and pregnant women;

"(E) programs to encourage employer-based wellness programs to provide evidence-based tobacco use cessation intervention and therapies; and

"(F) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(b) STATE AND COMMUNITY ACTION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(2) may be used for the following:

"(1) Evidence-based activities for tobacco use prevention and control described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) State and community initiatives;

"(B) community-based prevention programs, similar to programs currently funded by NIH;

"(C) programs focused on those populations within the community that are most at risk to use tobacco products or that have been targeted by tobacco advertising or marketing;

"(D) school programs to prevent and reduce tobacco use and addiction, including school programs focused in those regions of the State with high smoking rates and targeted at populations most at risk to start smoking;

"(E) culturally and linguistically appropriate initiatives targeted towards minority and low-income individuals, individuals residing in medically underserved areas, and women of child-bearing age;

"(F) the development and implementation of tobacco-related public health and health promotion campaigns and public policy initiatives;

"(G) assistance to local governmental entities within the State to conduct appropriate anti-tobacco activities.

"(H) strategies to ensure that the State's smoking prevention activities include minority, low-income, and other undeserved populations; and

"(I) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(c) COORDINATION.—Tobacco use cessation and community-based prevention activities permitted under subsections (b) and (c) may be conducted in conjunction with recipients of other Federally—funded programs within the State, including—

"(1) the special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(2) the Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.);

"(3) the State Children's Health Insurance Program of the State under title XXI of the Social Security Act (42 U.S.C. 13397aa et seq.);

"(4) the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.);

"(5) an Indian Health Service Program;

"(6) the community, migrant, and homeless health centers program under section 330 of the Public Health Service Act (42 U.S.C. 254b);

"(7) state-initiated smoking cessation programs that include provisions for reimbursing individuals for medications or therapeutic techniques;

"(8) the substance abuse and mental health services block grant program, and the preventive health services block grant program, under title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.);

"(9) the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(10) programs administered by the Department of Defense and the Department of Veterans Affairs.

"(d) LIMITATION.—A State may not use amounts paid to the State under section 1981A(c) to—

"(1) make cash payments except with appropriate documentation to intended recipients of tobacco use cessation services;

"(2) fund educational, recreational, or health activities not based on scientific evidence that the activity will prevent smoking or lead to success of cessation efforts

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition of the receipt of Federal funds; or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity or a private entity consistent with subsection (b)(1)(C).

This subsection shall not apply to the support of targeted pilot programs that use innovative and experimental new methodologies and include an evaluation component.

"(e) ADMINISTRATION.—Not more than 5 percent of the allotment of a State for a fiscal year under this subpart may be used by the State to administer the funds paid to the State under section 1981A(c). The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1981D. ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION.—The Secretary may make payments under section 1981A(c) to a State for a fiscal year only if—

"(1) the State submits to the Secretary an application, in such form and by such date as the Secretary may require, for such payments;

"(2) the application contains a State plan prepared in a manner consistent with section 1905(b) and in accordance with tobacco-related guidelines promulgated by the Secretary;

"(3) the application contains a certification that is consistent with the certification required under section 1905(c); and

“(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this subpart (including assurances regarding compliance with the agreements described in subsection (c)).

“(b) State Plan.—A State plan under subsection (a)(2) shall be developed in a manner consistent with the plan developed under section 1905(b) except that such plan—

“(1) with respect to activities described in section 1981C(b)—

“(A) shall provide for tobacco use cessation intervention and treatment consistent with the tobacco use cessation guidelines issued by the Agency for Health Care Policy and Research, or another evidence-based guideline approved by the Secretary, or treatments using drugs, human biological products, or medical devices approved by the Food and Drug Administration, or otherwise legally marketed under the Federal Food, Drug and Cosmetic Act for use as tobacco use cessation therapies or aids;

“(B) may, to encourage innovation and experimentation with new methodologies, provide for or may include a targeted pilot program with an evaluation component;

“(C) shall provide for training in tobacco use cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

“(D) shall ensure access to tobacco use cessation programs for rural and underserved populations;

“(E) shall recognize that some individuals may require more than one attempt for successful cessation; and

“(F) shall be tailored to the needs of specific populations, including minority populations; and

“(2) with respect to State and community-based prevention activities described in section 1981C(c), shall specify the activities authorized under such section that the State intends to carry out.

“(c) Certification.—The certification referred to in subsection (a)(3) shall be consistent with the certification required under section 1905(c), except that

“(1) the State shall agree to expend payments under section 1981A(c) only for the activities authorized in section 1981C;

“(2) paragraphs (9) and (10) of such section shall not apply; and

“(3) the State is encouraged to establish an advisory committee in accordance with section 1981E.

“(d) Reports, Data, and Audits.—The provisions of section 1906 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part, except that the data sets referred to in section 1905(a)(2) shall be developed for uniformly defining levels of youth and adult use of tobacco products, including uniform data for racial and ethnic groups, for use in the reports required under this subpart.

“(e) Withholding.—The provisions of 1907 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

“(f) Nondiscrimination.—The provisions of 1908 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

“(g) Criminal Penalties.—The provisions of 1909 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

“SEC. 1981E. STATE ADVISORY COMMITTEE.

“(a) In General.—For purposes of sections 1981D(c)(3), an advisory committee is in accordance with this section if such committee meets the conditions described in this subsection.

“(b) Duties.—The recommended duties of the committee are—

“(1) to hold public hearings on the State plans required under sections 1981D; and

“(2) to make recommendations under this subpart regarding the development and implementation of such plans, including recommendations on—

“(A) the conduct of assessments under the plans;

“(B) which of the activities authorized in section 1981C should be carried out in the State;

“(C) the allocation of payments made to the State under section 1981A(c);

“(D) the coordination of activities carried out under such plans with relevant programs of other entities; and

“(E) the collection and reporting of data in accordance with section 1981D.

“(c) Composition.—

“(1) In general.—The recommended composition of the advisory committee is members of the general public, such officials of the health departments of political subdivisions of the State, public health professionals, teenagers, minorities, and such experts in tobacco product research as may be necessary to provide adequate representation of the general public and of such health departments, and that members of the committee shall be subject to the provisions of sections 201, 202, and 203 of title 18, United States Code.

“(2) Representatives.—With respect to compliance with paragraph (1), the membership of the advisory committee may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized under section 1981C.

“Subpart II—Tobacco-Free Counter-Advertising Programs

“SEC. 1982. FEDERAL-STATE COUNTER-ADVERTISING PROGRAMS.

“(a) National Campaign.—

“(1) In general.—The Secretary shall conduct a national campaign to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals, to encourage those who use such products to quit, and to educate the public about the hazards of exposure to environmental tobacco smoke.

“(2) Requirements.—The national campaign under paragraph (1) shall—

“(A) target those populations that have been targeted by tobacco industry advertising using culturally and linguistically appropriate means;

“(B) include a research and evaluation component; and

“(C) be designed in a manner that permits the campaign to be modified for use at the State or local level.

“(b) Establishment of an Advisory Board.—

“(1) In general.—The Secretary shall establish a board to be known as the ‘National Tobacco Free Education Advisory Board’ (referred to in this section as the ‘Board’) to evaluate and provide long range planning for the development and effective dissemination of public informational and educational campaigns and other activities that are part of the campaign under subsection (a).

“(2) Composition.—The Board shall be composed of—

“(A) 9 non-Federal members to be appointed by the President, after consultation and agreement with the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the Health or Representatives, of which—

“(i) at least 3 such members shall be individuals who are widely recognized by the general public for cultural, educational, behavioral science or medical achievement;

“(ii) at least 3 of whom shall be individuals who hold positions of leadership in major public health organizations, including minority public health organizations; and

“(iii) at least 3 of whom shall be individuals recognized as experts in the field of advertising and marketing, of which—

“(I) 1 member shall have specific expertise in advertising and marketing to children and teens; and

“(II) 1 member shall have expertise in marketing research and evaluation; and

“(B) the Surgeon General, the Director of the Centers for Disease Control and Prevention, or their designees, shall serve as an ex officio members of the Board.

“(3) Terms and vacancies.—The members of the Board shall serve for a term of 3 years. Such terms shall be staggered as determined appropriate at the time of appointment by the Secretary. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

“(4) Travel expenses.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

“(5) Awards.—In carrying out subsection (a), the Secretary may—

“(A) enter into contracts with or award grants to eligible entities to develop messages and campaigns designed to prevent and reduce the use of tobacco products that are based on effective strategies to affect behavioral changes in children and other targeted populations, including minority populations;

“(B) enter into contracts with or award grants to eligible entities to carry out public informational and educational activities designed to reduce the use of tobacco products;

“(6) Powers and duties.—The Board may—

“(A) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this section; and

“(B) secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section.

“(c) Eligibility.—To be eligible to receive funding under this section an entity shall—

“(1) be a—

“(A) public entity or a State health department; or

“(B) private or nonprofit private entity that—

“(i)(I) is not affiliated with a tobacco product manufacturer or importer;

“(II) has a demonstrated record of working effectively to reduce tobacco product use; or

"(III) has expertise in conducting a multimedia communications campaign; and

"(ii) has expertise in developing strategies that affect behavioral changes in children and other targeted populations, including minority populations;

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities to be conducted using amounts received under the grant or contract;

"(3) provide assurances that amounts received under this section will be used in accordance with subsection (c); and

"(4) meet any other requirements determined appropriate by the Secretary.

"(d) USE OF FUNDS.—An entity that receives funds under this section shall use amounts provided under the grant or contract to conduct multi-media and non-media public educational, informational, marketing and promotional campaigns that are designed to discourage and de-glamorize the use of tobacco products, encourage those using such products to quit, and educate the public about the hazards of exposure to environmental tobacco smoke. Such amounts may be used to design and implement such activities and shall be used to conduct research concerning the effectiveness of such programs.

"(e) NEEDS OF CERTAIN POPULATIONS.—In awarding grants and contracts under this section, the Secretary shall take into consideration the needs of particular populations, including minority populations, and use methods that are culturally and linguistically appropriate.

"(f) COORDINATION.—The Secretary shall ensure that programs and activities under this section are coordinated with programs and activities carried out under this title.

"(g) ALLOCATION OF FUNDS.—Not to exceed—

"(1) 25 percent of the amount made available under subsection (h) for each fiscal year shall be provided to States for State and local media-based and nonmedia-based education, prevention and cessation campaigns;

"(2) no more than 20 percent of the amount made available under subsection (h) for each fiscal year shall be used specifically for the development of new messages and campaigns;

"(3) the remainder shall be used specifically to place media messages and carry out other dissemination activities described in subsection (d); and

"(4) half of 1 percent for administrative costs and expenses.

"(h) TRIGGER.—No expenditures shall be made under this section during any fiscal year in which the annual amount appropriated for the Centers for Disease Control and Prevention is less than the amount so appropriated for the prior fiscal year.".

"PART E—REDUCING YOUTH SMOKING AND TOBACCO-RELATED DISEASES THROUGH RESEARCH

"SEC. 1991. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

No expenditures shall be made under sections 451(b) or (c)—

"(1) for the National Institutes of Health during any fiscal year in which the annual amount appropriated for such Institutes is less than the amount so appropriated for the prior fiscal year;

"(2) for the Centers for Disease Control and Prevention during any fiscal year in which the annual amount appropriated for such Centers is less than the amount so appropriated for the prior fiscal year; or

"(3) for the Agency for Health Care Policy and Research during any fiscal year in which the annual amount appropriated for such Agency is less than the amount so appropriated for the prior fiscal year.

"SEC. 1991A. STUDY BY THE INSTITUTE OF MEDICINE.

"(a) CONTRACT.—Not later than 60 days after the date of enactment of this title, the Secretary shall enter into a contract with the Institute of Medicine for the conduct of a study on the framework for a research agenda and research priorities to be used under this part.

"(b) CONSIDERATIONS.—

"(1) IN GENERAL.—In developing the framework for the research agenda and research priorities under subsection (a) the Institute of Medicine shall focus on increasing knowledge concerning the biological, social, behavioral, public health, and community factors involved in the prevention of tobacco use, reduction of tobacco use, and health consequences of tobacco use.

"(2) SPECIFIC CONSIDERATIONS.—In the study conducted under subsection (a), the Institute of Medicine shall specifically include research on—

"(A) public health and community research relating to tobacco use prevention methods, including public education, media, community strategies;

"(B) behavioral research relating to addiction, tobacco use, and patterns of smoking, including risk factors for tobacco use by children, women, and racial and ethnic minorities;

"(C) health services research relating to tobacco product prevention and cessation treatment methodologies;

"(D) surveillance and epidemiology research relating to tobacco;

"(E) biomedical, including clinical, research relating to prevention and treatment of tobacco-related diseases, including a focus on minorities, including racial and ethnic minorities;

"(F) the effects of tobacco products, ingredients of tobacco products, and tobacco smoke on the human body and methods of reducing any negative effects, including the development of non-addictive, reduced risk tobacco products;

"(G) differentials between brands of tobacco products with respect to health effects or addiction;

"(H) risks associated with environmental exposure to tobacco smoke, including a focus on children and infants;

"(I) effects of tobacco use by pregnant women; and

"(J) other matters determined appropriate by the Institute.

"(c) REPORT.—Not later than 10 months after the date on which the Secretary enters into the contract under subsection (a), the Institute of Medicine shall prepare and submit to the Secretary, the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives, a report that shall contain the findings and recommendations of the Institute for the purposes described in subsection (b).

"SEC. 1991B. RESEARCH COORDINATION.

"(a) IN GENERAL.—The Secretary shall foster coordination among Federal research agencies, public health agencies, academic bodies, and community groups that conduct or support tobacco-related biomedical, clinical, behavioral, health services, public health and community, and surveillance and epidemiology research activities.

"(b) REPORT.—The Secretary shall prepare and submit a report on a biennial basis to the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives on the current and planned tobacco-related research activities of participating Federal agencies.

"SEC. 1991C. RESEARCH ACTIVITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"(a) DUTIES.—The Director of the Centers for Disease Control and Prevention shall, from amounts provided under section 451(c), and after review of the study of the Institute of Medicine, carry out tobacco-related surveillance and epidemiologic studies and develop tobacco control and prevention strategies; and

"(b) YOUTH SURVEILLANCE SYSTEMS.—From amounts provided under section 451(b), the Director of the Centers for Disease Control and Prevention shall provide for the use of youth surveillance systems to monitor the use of all tobacco products by individuals under the age of 18, including brands-used to enable determinations to be made of company-specific youth market share.

"SEC. 1991D. RESEARCH ACTIVITIES OF THE NATIONAL INSTITUTES OF HEALTH.

"(a) FUNDING.—There are authorized to be appropriated, from amounts in the National Tobacco Settlement Trust Fund established by section 401 of the National Tobacco Policy and Youth Smoking Reduction Act.

"(b) EXPENDITURE OF FUNDS.—The Director of the National Institutes of Health shall provide funds to conduct or support epidemiological, behavioral, biomedical, and social science research, including research related to the prevention and treatment of tobacco addiction, and the prevention and treatment of diseases associated with tobacco use.

"(c) GUARANTEED MINIMUM.—Of the funds made available to the National Institutes of Health under this section, such sums as may be necessary, may be used to support epidemiological, behavioral, and social science research related to the prevention and treatment of tobacco addiction.

"(d) NATURE OF RESEARCH.—Funds made available under subsection (d) may be used to conduct or support research with respect to one or more of the following—

"(1) the epidemiology of tobacco use;

"(2) the etiology of tobacco use;

"(3) risk factors for tobacco use by children;

"(4) prevention of tobacco use by children, including school and community-based programs, and alternative activities;

"(5) the relationship between tobacco use, alcohol abuse and illicit drug abuse;

"(6) behavioral and pharmacological smoking cessation methods and technologies, including relapse prevention;

"(7) the toxicity of tobacco products and their ingredients;

"(8) the relative harmfulness of different tobacco products;

"(9) environmental exposure to tobacco smoke;

"(10) the impact of tobacco use by pregnant women on their fetuses;

"(11) the redesign of tobacco products to reduce risks to public health and safety; and

"(12) other appropriate epidemiological, behavioral, and social science research.

"(e) COORDINATION.—In carrying out tobacco-related research under this section, the Director of the National Institutes of Health shall ensure appropriate coordination with the research of other agencies, and shall avoid duplicative efforts through all appropriate means.

"(h) ADMINISTRATION.—The director of the NIH Office of Behavioral and Social Sciences Research may—

"(1) identify tobacco-related research initiatives that should be conducted or supported by the research institutes, and develop such projects in cooperation with such institutes;

"(2) coordinate tobacco-related research that is conducted or supported by the National Institutes of Health;

"(3) annually recommend to Congress the allocation of anti-tobacco research funds among the national research institutes; and

"(4) establish a clearinghouse for information about tobacco-related research conducted by governmental and non-governmental bodies.

"(f) TRIGGER.—No expenditure shall be made under subsection (a) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

"(g) REPORT.—The Director of the NIH shall every 2 years prepare and submit to the Congress a report ——— research activities, including funding levels, for research made available under subsection (c).

(b) MEDICAID COVERAGE OF OUTPATIENT SMOKING CESSATION AGENTS.—Paragraph (2) of section 1927(d) of the Public Health Service Act (42 U.S.C. 1396r-8(d)) is amended—

(1) by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I); and

(2) by striking "drugs." in subparagraph (F), as redesignated, and inserting "drugs, except agents, approved by the Food and Drug Administration, when used to promote smoking cessation.".

"SEC. 1991E. RESEARCH ACTIVITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

"(a) IN GENERAL.—The Administrator of the Agency for Health Care Policy and Research shall carry out outcomes, effectiveness, cost-effectiveness, and other health services research related to effective interventions for the prevention and cessation of tobacco use and appropriate strategies for implementing those services, the outcomes and delivery of care for diseases related to tobacco use, and the development of quality measures for evaluating the provision of those services.

"(b) ANALYSES AND SPECIAL PROGRAMS.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research, shall support—

"(1) and conduct periodic analyses and evaluations of the best scientific information in the area of smoking and other tobacco product use cessation; and

"(2) the development and dissemination of special programs in cessation intervention for health plans and national health professional societies.".

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

SEC. 301. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) IN GENERAL.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) LABEL REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

"WARNING: Cigarettes are addictive"
"WARNING: Tobacco smoke can harm your children"
"WARNING: Cigarettes cause fatal lung disease"
"WARNING: Cigarettes cause cancer"
"WARNING: Cigarettes cause strokes and heart disease"
"WARNING: Smoking during pregnancy can harm your baby"
"WARNING: Smoking can kill you"
"WARNING: Tobacco smoke causes fatal lung disease in non-smokers"
"WARNING: Quitting smoking now greatly reduces serious risks to your health"

"(2) PLACEMENT; TYPOGRAPHY; ETC..—

"(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package. The word "WARNING" shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

"(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

"(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(b) ADVERTISING REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

"(2) TYPOGRAPHY, ETC..—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word "WARNING" shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital "W" of the word "WARNING" in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

"(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

"(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

"(3) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

"(4) MARKETING REQUIREMENTS.—

"(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.".

(b) REPEAL OF PROHIBITION ON STATE RESTRICTION.—Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended—

(1) by striking "(a) ADDITIONAL STATEMENTS.—" IN SUBSECTION (A); AND

(2) by striking subsection (b).

SEC. 302. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 301 of this title, is further amended by adding at the end the following:

"(c) CHANGE IN REQUIRED STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 303. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

"SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) GENERAL RULE.—

"(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

"WARNING: This product can cause mouth cancer"

"WARNING: This product can cause gum disease and tooth loss"

"WARNING: This product is not a safe alternative to cigarettes"

"WARNING: Smokeless tobacco is addictive"

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 25 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(b) REQUIRED LABELS.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word "WARNING" shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.".

SEC. 304. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 303 of this title, is further amended by adding at the end the following:

"(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 305. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 301 of this title, is further amended by adding at the end the following:

"(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

Subtitle B—Testing and Reporting of Tobacco Product Smoke Constituents

SEC. 311. REGULATION REQUIREMENT.

(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of this Act, the Secretary, through the Commissioner of the Food and Drug Administration, shall promulgate regulations under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) that meet the requirements of subsection (b) of this section.

(b) CONTENTS OF RULES.—The rules promulgated under subsection (a) of this section shall require the testing, reporting, and disclosure of tobacco product smoke constituents and ingredients that the Secretary determines should be disclosed to the public in order to protect the public health. Such constituents shall include tar, nicotine, carbon monoxide, and such other smoke constituents or ingredients as the Secretary may determine to be appropriate. The rule may require that tobacco product manufacturers, packagers, or importers make such disclosures relating to tar and nicotine through labels or advertising, and make such disclosures regarding other smoke constituents or ingredients as the Secretary determines are necessary to protect the public health.

(c) AUTHORITY.—The Food and Drug Administration shall have authority to conduct or to require the testing, reporting, or disclosure of tobacco product smoke constituents.

TITLE IV—NATIONAL TOBACCO TRUST FUND

SEC. 401. ESTABLISHMENT OF TRUST FUND.

(a) CREATION.—There is established in the Treasury of the United States a trust fund to be known as the "National Tobacco Trust Fund", consisting of such amounts as may be appropriated or credited to the trust fund.

(b) TRANSFERS TO NATIONAL TOBACCO TRUST FUND.—There shall be credited to the trust fund the net revenues resulting from the following amounts:

(1) Amounts paid under section 402.

(2) Amounts equal to the fines or penalties paid under section 402, 403, or 405, including interest thereon.

(3) Amounts equal to penalties paid under section 202, including interest thereon.

(c) NET REVENUES.—For purposes of subsection (b), the term "net revenues" means the amount estimated by the Secretary of the Treasury based on the excess of—

(1) the amounts received in the Treasury under subsection (b), over

(2) the decrease in the taxes imposed by chapter 1 and chapter 52 of the Internal Revenue Code of 1986, and other offsets, resulting from the amounts received under subsection (b).

(d) EXPENDITURES FROM THE TRUST FUND.—Amounts in the Trust Fund shall be available in each fiscal year, as provided in appropriation Acts. The authority to allocate net revenues as provided in this title and to obligate any amounts so allocated is contingent upon actual receipt of net revenues.

(e) BUDGETARY TREATMENT.—The amount of net receipts in excess of that amount which is required to offset the direct spending in this Act under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall be available exclusively to offset the appropriations required to fund the authorizations of appropriations in this Act (including the amendments made by this Act), and the amount of such appropriations shall not be included in the estimates required under section 251 of that Act (2 U.S.C. 901).

(f) ADMINISTRATIVE PROVISIONS.—Section 9602 of the Internal Revenue Code of 1986 shall apply to the trust fund to the same extent as if it were established by subchapter A of chapter 98 of such Code, except that, for purposes of section 9602(b)(3), any interest or proceeds shall be covered into the Treasury as miscellaneous receipts.

SEC. 402. PAYMENTS BY INDUSTRY.

(a) INITIAL PAYMENT.—

(1) CERTAIN TOBACCO PRODUCT MANUFACTURERS.—The following participating tobacco product manufacturers, subject to the provisions of title XIV, shall deposit into the National Tobacco Trust Fund an aggregate payment of $10,000,000,000, apportioned as follows:

(A) Phillip Morris Incorporated—65.8 percent.

(B) Brown and Williamson Tobacco Corporation—17.3 percent.

(C) Lorillard Tobacco Company—7.1 percent.

(D) R.J. Reynolds Tobacco Company—6.6 percent.

(E) United States Tobacco Company—3.2 percent.

(2) NO CONTRIBUTION FROM OTHER TOBACCO PRODUCT MANUFACTURERS.—No other tobacco product manufacturer shall be required to contribute to the payment required by this subsection.

(3) PAYMENT DATE; INTEREST.—Each tobacco product manufacturer required to make a payment under paragraph (1) of this subsection shall make such payment within 30 days after the date of compliance with this Act and shall owe interest on such payment at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the date of enactment of this Act, for payments made after the required payment date.

(b) ANNUAL PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3) the tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403:

(1) year 1—$14,400,000,000.

(2) year 2—$15,400,000,000.

(3) year 3—$17,700,000,000.

(4) year 4—$21,400,000,000.

(5) year 5—$23,600,000,000.

(6) year 6 and thereafter—the adjusted applicable base amount under section 403.

(c) PAYMENT SCHEDULE; RECONCILIATION.—

(1) ESTIMATED PAYMENTS.—Deposits toward the annual payment liability for each calendar year under subsection (d)(2) shall be made in 3 equal installments due on March 1st, on June 1st, and on August 1st of each year. Each installment shall be equal to one-third of the estimated annual payment liability for that calendar year. Deposits of installments paid after the due date shall accrue interest at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date.

(2) RECONCILIATION.—If the liability for a calendar year under subsection (d)(2) exceeds the deposits made during that calendar year, the manufacturer shall pay the unpaid liability on March 1st of the succeeding calendar year, along with the first deposit for that succeeding year. If the deposits during a calendar year exceed the liability for the calendar year under subsection (d)(2), the manufacturer shall subtract the amount of the excess deposits from its deposit on March 1st of the succeeding calendar year.

(d) APPORTIONMENT OF ANNUAL PAYMENT.—

(1) IN GENERAL.—Each tobacco product manufacturer is liable for its share of the applicable base amount payment due each year under subsection (b). The annual payment is the obligation and responsibility of only those tobacco product manufacturers and their affiliates that directly sell tobacco products in the domestic market to wholesalers, retailers, or consumers, their successors and assigns, and any subsequent fraudulent transferee (but only to the extent of the interest or obligation fraudulently transferred).

(2) DETERMINATION OF AMOUNT OF PAYMENT DUE.—Each tobacco product manufacturer is liable for its share of each installment in proportion to its share of tobacco products sold in the domestic market for the calendar year. One month after the end of the calendar year, the Secretary shall make a final determination of each tobacco product manufacturer's applicable base amount payment obligation.

(3) CALCULATION OF TOBACCO PRODUCT MANUFACTURER'S SHARE OF ANNUAL PAYMENT.—The share of the annual payment apportioned to a tobacco product manufacturer shall be equal to that manufacturer's share of adjusted units, taking into account the manufacturer's total production of such units sold in the domestic market. A tobacco product manufacturer's share of adjusted units shall be determined as follows:

(A) UNITS.—A tobacco product manufacturer's number of units shall be determined by counting each—

(i) pack of 20 cigarettes as 1 adjusted unit;

(ii) 1.2 ounces of moist snuff as 0.75 adjusted unit; and

(iii) 3 ounces of other smokeless tobacco product as 0.35 adjusted units.

(B) DETERMINATION OF ADJUSTED UNITS.—Except as provided in subparagraph (C), a smokeless tobacco product manufacturer's number of adjusted units shall be determined under the following table:

For units:	Each unit shall be treated as:
Not exceeding 150 million	70% of a unit
Exceeding 150 million	100% of a unit

(C) ADJUSTED UNITS DETERMINED ON TOTAL DOMESTIC PRODUCTION.—For purposes of determining a manufacturer's number of adjusted units under subparagraph (B), a manufacturer's total production of units, whether intended for domestic consumption or export, shall be taken into account.

(D) SPECIAL RULE FOR LARGE MANUFACTURERS.—If a tobacco product manufacturer has more than 200 million units under subparagraph (A), then that manufacturer's number of adjusted units shall be equal to the total number of units, and not determined under subparagraph (B).

(E) SMOKELESS EQUIVALENCY STUDY.—Not later than January 1, 2003, the Secretary shall submit to the Congress a report detailing the extent to which youths are substituting smokeless tobacco products for cigarettes. If the Secretary determines that significant substitution is occurring, the Secretary shall include in the report recommendations to address substitution, including consideration of modification of the provisions of subparagraph (A).

(e) COMPUTATIONS.—The determinations required by subsection (d) shall be made and certified by the Secretary of Treasury. The parties shall promptly provide the Treasury Department with information sufficient for it to make such determinations.

(f) NONAPPLICATION TO CERTAIN MANUFACTURERS.—

(1) EXEMPTION .—A manufacturer described in paragraph (3) is exempt from the payments required by subsection (b).

(2) LIMITATION.—Paragraph (1) applies only to assessments on cigarettes to the extent that those cigarettes constitute less than 3 percent of all cigarettes manufactured and distributed to consumers in any calendar year.

(3) TOBACCO PRODUCT MANUFACTURERS TO WHICH SUBSECTION APPLIES.—A tobacco product manufacturer is described in this paragraph if it—

(A) resolved tobacco-related civil actions with more than 25 States before January 1, 1998, through written settlement agreements signed by the attorneys general (or the equivalent chief legal officer if there is no office of attorney general) of those States; and

(B) provides to all other States, not later than December 31, 1998, the opportunity to enter into written settlement agreements that—

(i) are substantially similar to the agreements entered into with those 25 States; and

(ii) provide the other States with annual payment terms that are equivalent to the most favorable annual payment terms of its written settlement agreements with those 25 States.

SEC. 403. ADJUSTMENTS.

The applicable base amount under section 402(b) for a given calendar year shall be adjusted as follows in determining the annual payment for that year:

(1) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—Beginning with the sixth calendar year after the date of enactment of this Act, the adjusted applicable base amount under section 402(b)(6) is the amount of the annual payment made for the preceding year increased by the greater of 3 percent or the annual increase in the CPI, adjusted (for calendar year 2002 and later years) by the volume adjustment under paragraph (2).

(B) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(2) VOLUME ADJUSTMENT.—Beginning with calendar year 2002, the applicable base amount (as adjusted for inflation under paragraph (1)) shall be adjusted for changes in volume of domestic sales by multiplying the applicable base amount by the ratio of the actual volume for the calendar year to the base volume. For purposes of this paragraph, the term "base volume" means 80 percent of the number of units of taxable domestic removals and taxed imports of cigarettes in calendar year 1997, as reported to the Secretary of the Treasury. For purposes of this subsection, the term "actual volume" means the number of adjusted unites as defined in section 402(d)(3)(A).

SEC. 404. PAYMENTS TO BE PASSED THROUGH TO CONSUMERS.

Each tobacco product manufacturer shall use its best efforts to adjust the price at which it sells each unit of tobacco products in the domestic market or to an importer for resale in the domestic market by an amount sufficient to pass through to each purchaser on a per-unit basis an equal share of the annual payments to be made by such tobacco product manufacturer under this Act for the year in which the sale occurs.

SEC. 405. TAX TREATMENT OF PAYMENTS.

All payments made under section 402 are ordinary and necessary business expenses for purposes of chapter 1 of the Internal Revenue Code of 1986 for the year in which such payments are made, and no part thereof is either in settlement of an actual or potential liability for a fine or penalty (civil or criminal) or the cost of a tangible or intangible asset or other future benefit.

SEC. 406. ENFORCEMENT FOR NONPAYMENT.

(a) PENALTY.—Any tobacco product manufacturer that fails to make any payment required under section 402 or 404 within 60 days after the date on which such fee is due is liable for a civil penalty computed on the unpaid balance at a rate of prime plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date, during the period the payment remains unmade.

(b) NONCOMPLIANCE PERIOD.—For purposes of this section, the term "noncompliance period" means, with respect to any failure to make a payment required under section 402 or 404, the period—

(1) beginning on the due date for such payment; and

(2) ending on the date on which such payment is paid in full.

(c) LIMITATIONS.—

(1) IN GENERAL.—No penalty shall be imposed by subsection (a) on any failure to make a payment under section 402 during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(2) CORRECTIONS.—No penalty shall be imposed under subsection (a) on any failure to make a payment under section 402 if—

(A) such failure was due to reasonable cause and not to willful neglect; and

(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(3) WAIVER.—In the case of any failure to make a payment under section 402 that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed under subsection (a) to the extent that the Secretary determines that the payment of such penalty would be excessive relative to the failure involved.

Subtitle B—General Spending Provisions

SEC. 451. ALLOCATION ACCOUNTS.

(a) STATE LITIGATION SETTLEMENT ACCOUNT.—

(1) IN GENERAL.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 40 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $196,500,000,000, then beginning with the eleventh year the 40 percent share will be adjusted as necessary, to a percentage not in excees of 50 percent and not less than 30 percent, to achieve that 25-year total amount.

(2) APPROPRIATION.—Amounts so calculated are hereby appropriated and available until expended and shall be available to States for grants authorized under this Act.

(3) DISTRIBUTION FORMULA.—The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

(4) USE OF FUNDS.—A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act.

(5) FUNDS NOT AVAILABLE AS MEDICAID REIMBURSEMENT.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) PUBLIC HEALTH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Public Health Account. Twenty-two percent of the net revenues credited to the trust fund under section 401(b)(1) and all the net revenues credited to the trust fund under section 401(b)(3) shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of:

(A) CESSATION AND OTHER TREATMENTS.—Of the total amounts allocated to this account, not less than 25 percent, but not more than 35 percent are to be used to carry out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act.

(B) INDIAN HEALTH SERVICE.—Of the total amounts allocated to this account, not less than 3 percent, but not more than 7 percent are to be used to carry out activities under section 453.

(C) EDUCATION AND PREVENTION.—Of the total amounts allocated to this account, not less than 50 percent, but not more than 65 percent are to be used to carry out—

(i) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(ii) smoking prevention activities under section 223;

(iii) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and

(iv) international activities under section 1132.

(D) ENFORCEMENT.—Of the total amounts allocated to this account, not less than 17.5 percent nor more than 22.5 percent are to be used to carry out the following:

(i) Food and Drug Administration activities.

(I) The Food and Drug Administration shall receive not less than 15 percent of the funds provided in subparagraph (D) in the first fiscal year beginning after the date of enactment of this Act, 35 percent of such funds in the second year beginning after the date of enactment, and 50 percent of such funds for each fiscal year beginning after the date of enactment, as reimbursements for the costs incurred by the Food and Drug Administration in implementing and enforcing requirements relating to tobacco products.

(II) No expenditures shall be made under subparagraph (D) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

(ii) State retail licensing activities under section 251.

(iii) Anti-Smuggling activities under section 1141.

(c) HEALTH AND HEALTH-RELATED RESEARCH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited

to the trust fund under section 401(b)(1), 22 percent shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) $750,000 shall be made vailable in fiscal year 1999 for the study to be conducted under section 1991 of the Public Health Service Act.

(B) National Institutes of Health Research under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 75 percent, but not more than 87 percent shall be used for this purpose.

(C) Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, and Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) National Science Foundation Research under section 454. Of the total amounts allocated to this account, not less than 1 percent, but not more than 1 percent shall be used for this purpose.

(E) Cancer Clinical Trials under section 455. Of the total amounts allocated to this account, $750,000,000 shall be used for the first 3 fiscal years for this purpose.

(d) FARMERS ASSISTANCE ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year—

(A) 16 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act; and

(B) 4 percent shall be allocated to this account for each subsequent year until the account has received a total of $28,500,000,000.

(2) APPROPRIATION.—Amounts allocated to this account are hereby appropriated and shall be available until expended for the purposes of section 1012.

(e) MEDICARE PRESERVATION ACCOUNT.—There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. If, in any year, the net amounts credited to the trust fund for payments under section 402(b) are greater than the net revenues originally estimated under section 401(b), the amount of any such excess shall be credited to the Medicare Preservation Account. Beginning in the eleventh year beginning after the date of enactment of this Act, 12 percent of the net revenues credited to the trust fund under seciton 401(b)(1) shall be allocated to this account. Funds credited to this account shall be transferred to the Medicare Hospital Insurance Trust Fund.

SEC. 452. GRANTS TO STATES.

(a) AMOUNTS.—From the amount made available under section 402(a) for each fiscal year, each State shall receive a grant on a quarterly basis according to a formula.

(b) USE OF FUNDS.—

(1) UNRESTRICTED FUNDS.—A State may use funds, not to exceed 50 percent of the amount received under this section in a fiscal year, for any activities determined appropriate by the State.

(2) RESTRICTED FUNDS.—A State shall use not less than 50 percent of the amount received under this section in a fiscal year to carry out additional activities or provide additional services under—

(A) the State program under the maternal and child health services block grant under title V of the Social Security Act (42 U.S.C. 701 et seq.);

(B) funding for child care under section 418 of the Social Security Act, notwithstanding subsection (b)(2) of that section;

(C) federally funded child welfare and abuse programs under title IV-B of the Social Security Act;

(D) programs administered within the State under the authority of the Substance Abuse and Mental Health Services Administration under title XIX, part B of the Public Health Service Act;

(E) Safe and Drug-Free Schools Program under title IV, part A, of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7111 et seq.);

(F) the Department of Education's Dwight D. Eisenhower Professional Development program under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.); and

(G) The State Children's Health Insurance Program authorized under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), provided that the amount expended on this program does not exceed 6 percent of the total amount of restricted funds available to the State each fiscal year.

(c) NO SUBSTITUTION OF SPENDING.—Amounts referred to in subsection (b)(2) shall be used to supplement and not supplant other Federal, State, or local funds provided for any of the programs described in subparagraphs (A) through (G) of subsection (b)(2). Restricted funds, except as provided for in subsection (b)(2)(G), shall not be used as State matching funds. Amounts provided to the State under any of the provisions of law referred to in such subparagraph shall not be reduced solely as a result of the availability of funds under this section.

(d) FEDERAL-STATE MATCH RATES.—Current (1998) matching requirements apply to each program listed under subsection (b)(2), except for the program described under subsection (b)(2)(B). For the program described under subsection (b)(2)(B), after an individual State has expended resources sufficient to receive its full Federal amount under section 418(a)(2)(B) of the Social Security Act (subject to the matching requirements in section 418(a)(2)(C) of such Act), the Federal share of expenditures shall be 80 percent.

(e) MAINTENANCE OF EFFORT.—To receive funds under this subsection, States must demonstrate a maintenance of effort. This maintenance of effort is defined as the sum of—

(1) an amount equal to 95 percent of Federal fiscal year 1997 State spending on the programs under subsections (b)(2)(B), (c), and (d); and

(2) an amount equal to the product of the amount described in paragraph (1) and—

(A) for fiscal year 1999, the lower of—

(i) general inflation as measured by the consumer price index for the previous year; or

(ii) the annual growth in the Federal appropriation for the program in the previous fiscal year; and

(B) for subsequent fiscal years, the lower of—

(i) the cumulative general inflation as measured by the consumer price index for the period between 1997 and the previous year; or

(ii) the cumulative growth in the Federal appropriation for the program for the period between fiscal year 1997 and the previous fiscal year.

The 95-percent maintenance-of-effort requirement in paragraph (1), and the adjustments in paragraph (2), apply to each program identified in paragraph (1) on an individual basis.

(f) OPTIONS FOR CHILDREN'S HEALTH OUTREACH.—In addition to the options for the use of grants described in this section, the following are new options to be added to States' choices for conducting children's health outreach:

(1) EXPANSION OF PRESUMPTIVE ELIGIBILITY OPTION FOR CHILDREN.—

(A) IN GENERAL.—Section 1920A(b)(3)(A)(I) of the Social Security Act (42 U.S.C. 1396r-1a(b)(3)(A)(I)) is amended—

(i) by striking "described in subsection (a) or (II) is authorized" and inserting "described in subsection (a), (II) is authorized"; and

(ii) by inserting before the semicolon ", eligibility for benefits under part A of title IV, eligibility of a child to receive benefits under the State plan under this title or title XXI, (III) is a staff member of a public school, child care resource and referral center, or agency administering a plan under part D of title IV, or (IV) is so designated by the State".

(B) TECHNICAL AMENDMENTS.—Section 1920A of that Act (42 U.S.C. 1396r-1a) is amended—

(i) in subsection (b)(3)(A)(ii), by striking "paragraph (1)(A)" and inserting "paragraph (2)(A)"; and

(ii) in subsection (c)(2), in the matter preceding subparagraph (A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(2)(A)".

(2) REMOVAL OF REQUIREMENT THAT CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS BE REDUCED BY COSTS RELATED TO PRESUMPTIVE ELIGIBILITY DETERMINATIONS.—

(A) IN GENERAL.—Section 2104(d) of the Social Security Act (42 U.S.C. 1397dd(d)) is amended by striking "the sum of—" and all that follows through the paragraph designation "(2)" and merging all that remains of subsection (d) into a single sentence.

(B) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have taken effect on August 5, 1997.

(3) INCREASED FUNDING FOR ADMINISTRATIVE COSTS RELATED TO OUTREACH AND ELIGIBILITY DETERMINATIONS FOR CHILDREN.—Section 1931(h) of the Social Security Act (42 U.S.C. 1396u-1(h)) is amended—

(A) by striking the subsection caption and inserting "(h) INCREASED FEDERAL MATCHING RATE FOR ADMINISTRATIVE COSTS RELATED TO OUTREACH AND ELIGIBILITY DETERMINATIONS FOR CHILDREN.—";

(B) in paragraph (2), by striking "eligibility determinations" and all that follows and inserting "determinations of the eligibility of children for benefits under the State plan under this title or title XXI, outreach to children likely to be eligible for such benefits, and such other outreach- and eligibility-related activities as the Secretary may approve.";

(C) in paragraph (3), by striking "and ending with fiscal year 2000 shall not exceed $500,000,000" and inserting "shall not exceed $525,000,000"; and

(D) by striking paragraph (4).

(g) PERIODIC REASSESSMENT OF SPENDING OPTIONS.—Spending options under subsection (b)(2) will be reassessed jointly by the States and Federal government every 5 years and be reported to the Secretary.

SEC. 453. INDIAN HEALTH SERVICE.

Amounts available under section 451(b)(2)(B) shall be provided to the Indian Health Service to be used for anti-tobacco-related consumption and cessation activities including—

(1) clinic and facility design, construction, repair, renovation, maintenance and improvement;

(2) provider services and equipment;

(3) domestic and community sanitation associated with clinic and facility construction and improvement; and

(4) other programs and service provided through the Indian Health Service or through tribal contracts, compacts, grants, or cooperative agreements with the Indian Health Service and which are deemed appropriate to raising the health status of Indians.

SEC. 454. RESEARCH AT THE NATIONAL SCIENCE FOUNDATION.

Amounts available under section 451(c)(2)(C) shall be made available for necessary expenses in carry out the National Science Foundation Act of 1950 (U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881).

SEC. 455. MEDICARE CANCER PATIENT DEMONSTRATION PROJECT; EVALUATION AND REPORT TO CONGRESS.

(a) Establishment.—The Secretary shall establish a 3-year demonstration project which provides for payment under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of routine patient care costs—

(1) which are provided to an individual diagnosed with cancer and enrolled in the Medicare program under such title as part of the individual's participation in an approved clinical trial program; and

(2) which are not otherwise eligible for payment under such title for individuals who are entitled to benefits under such title.

(b) Application.—The beneficiary cost sharing provisions under the Medicare program, such as deductibles, coinsurance, and copayment amounts, shall apply to any individual in a demonstration project conducted under this section.

(c) Approved Clinical Trial Program.—

(1) In general.—For purposes of this section, the term "approved clinical trial program" means a clinical trial program which is approved by—

(A) the National Institutes of Health;

(B) a National Institutes of Health cooperative group or a National Institutes of Health center; and

(C) the National Cancer Institute,

with respect to programs that oversee and coordinate extramural clinical cancer research, trials sponsored by such Institute and conducted at designated cancer centers, clinical trials, and Institute grants that support clinical investigators.

(2) Modifications in approved trials.—Beginning 1 year after the date of enactment of this Act, the Secretary, in consultation with the Cancer Policy Board of the Institute of Medicine, may modify or add to the requirements of paragraph (1) with respect to an approved clinical trial program.

(d) Routine Patient Care Costs.—

(1) In general.—For purposes of this section, the term "routine patient care costs" include the costs associated with the provision of items and services that—

(A) would otherwise be covered under the Medicare program if such items and services were not provided in connection with an approved clinical trial program; and

(B) are furnished according to the design of an approved clinical trial program.

(2) Exclusion.—For purposes of this section, the term "routine patient care costs" does not include the costs associated with the provision of—

(A) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

(B) any item or service supplied without charge by the sponsor of the approved clinical trial program.

(e) Study.—The Secretary shall study the impact on the Medicare program under title XVIII of the Social Security Act of covering routine patient care costs for individuals with a diagnosis of cancer and other diagnoses, who are entitled to benefits under such title and who are enrolled in an approved clinical trial program.

(f) Report to congress.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit a report to Congress that contains a detailed description of the results of the study conducted under subsection (e) including recommendations regarding the extension and expansion of the demonstration project conducted under this section.

TITLE V—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

SEC. 501. DEFINITIONS.

In this title:

(1) Assistant secretary.—The term "Assistant Secretary" means the Assistant Secretary of the Occupational Safety and Health Administration of the Department of Labor.

(2) Public facility.—

(A) In general.—The term "public facility" means any building used for purposes that affect interstate or foreign commerce that is regularly entered by 10 or more individuals at least 1 day per week including any building owned by or leased to an agency, independent establishment, department, or the executive, legislative, or judicial branch of the United States Government.

(B) Exclusions.—The term "public facility" does not include a building or portion thereof which is used for residential purposes or as a restaurant (other than a fast food restaurant), bar, private club, hotel guest room or common area, casino, bingo parlor, tobacconist's shop, or prison.

(C) Fast food restaurant defined.—The term "fast food restaurant" means any restaurant or chain of restaurants that primarily distributes food through a customer pick-up (either at a counter or drive-through window). The Assistant Secretary may promulgate regulations to clarify this subparagraph to ensure that the intended inclusion of establishments catering to individuals under 18 years of age is achieved.

(3) Responsible entity.—The term "responsible entity" means, with respect to any public facility, the owner of such facility except that, in the case of any such facility or portion thereof which is leased, such term means the lessee if the lessee is actively engaged in supervising day-to-day activity in the leased space.

SEC. 502. SMOKE-FREE ENVIRONMENT POLICY.

(a) Policy Required.—In order to protect children and adults from cancer, respiratory disease, heart disease, and other adverse health effects from breathing environmental tobacco smoke, the responsible entity for each public facility shall adopt and implement at such facility a smoke-free environment policy which meets the requirements of subsection (b).

(b) Elements of Policy.—

(1) In general.—The responsible entity for a public facility shall—

(A) prohibit the smoking of cigarettes, cigars, and pipes, and any other combustion of tobacco within the facility and on facility property within the immediate vicinity of the entrance to the facility; and

(B) post a clear and prominent notice of the smoking prohibition in appropriate and visible locations at the public facility.

(2) Exception.—The responsible entity for a public facility may provide an exception to the prohibition specified in paragraph (1) for 1 or more specially designated smoking areas within a public facility if such area or areas meet the requirements of subsection (c).

(c) Specially Designated Smoking Areas.—A specially designated smoking area meets the requirements of this subsection if—

(1) the area is ventilated in accordance with specifications promulgated by the Assistant Secretary that ensure that air from the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility;

(2) the area is maintained at negative pressure, as compared to adjoining nonsmoking areas, as determined under regulations promulgated by the Assistant Secretary;

(3) nonsmoking individuals do not have to enter the area for any purpose while smoking is occurring in such area; and

(4) cleaning and maintenance work are conducted in such area only when no smoking is occurring in the area.

SEC. 503. CITIZEN ACTIONS.

(a) In General.—An action may be brought to enforce the requirements of this title by any aggrieved person, any State or local government agency, or the Assistant Secretary.

(b) Venue.—Any action to enforce this title may be brought in any United States district court for the district in which the defendant resides or is doing business to enjoin any violation of this title or to impose a civil penalty for any such violation in the amount of not more than $5,000 per day of violation. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce this title and to impose civil penalties under this title.

(c) Notice.—An aggrieved person shall give any alleged violator notice at least 60 days prior to commencing an action under this section. No action may be commenced by an aggrieved person under this section if such alleged violator complies with the requirements of this title within such 60-day period and thereafter.

(d) Costs.—The court, in issuing any final order in any action brought under this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing plaintiff, whenever the court determines such award is appropriate.

(e) Penalties.—The court, in any action under this section to apply civil penalties, shall have discretion to order that such civil penalties be used for projects which further the policies of this title. The court shall obtain the view of the Assistant Secretary in exercising such discretion and selecting any such projects.

(f) Application with OSHA.—Nothing in this section affects enforcement of the Occupational Safety and Health Act of 1970.

SEC. 504. PREEMPTION.

Nothing in this title shall preempt or otherwise affect any other Federal, State, or local law which provides greater protection from health hazards from environmental tobacco smoke.

SEC. 505. REGULATIONS.

The Assistant Secretary is authorized to promulgate such regulations, after consulting with the Administrator of the Environmental Protection Agency, as the Assistant Secretary deems necessary to carry out this title.

SEC. 506. EFFECTIVE DATE.

Except as provided in section 507, the provisions of this title shall take effect on the first day of January next following the next regularly scheduled meeting of the State legislature occurring after the date of enactment of this Act at which, under the procedural rules of that legislature, a measure under section 507 may be considered.

SEC. 507. STATE CHOICE.

Any State or local government may opt out of this title by promulgating a State or local law, subject to certification by the Assistant Secretary that the law is as or more protective of the public's health as this title, based on the best available science. Any State or local government may opt to enforce this title itself, subject to certification by the Assistant Secretary that the enforcement mechanism will effectively protect the public health.

TITLE VI—APPLICATION TO INDIAN TRIBES

SEC. 601. SHORT TITLE.

This title may be cited as the "Reduction in Tobacco Use and Regulation of Tobacco Products in Indian Country Act of 1998".

SEC. 602. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that Native Americans have used tobacco products for recreational, ceremonial, and traditional purposes for centuries.

(b) PURPOSE.—It is the purpose of this title to—

(1) provide for the implementation of this Act with respect to the regulation of tobacco products, and other tobacco-related activities on Indian lands;

(2) recognize the historic Native American traditional and ceremonial use of tobacco products, and to preserve and protect the cultural, religious, and ceremonial uses of tobacco by members of Indian tribes;

(3) recognize and respect Indian tribal sovereignty and tribal authority to make and enforce laws regarding the regulation of tobacco distributors and tobacco products on Indian lands; and

(4) ensure that the necessary funding is made available to tribal governments for licensing and enforcement of tobacco distributors and tobacco products on Indian lands.

SEC. 603. APPLICATION OF TITLE TO INDIAN LANDS AND TO NATIVE AMERICANS.

(a) IN GENERAL.—The provisions of this Act shall apply to the manufacture, distribution, and sale of tobacco or tobacco products on Indian lands, including such activities of an Indian tribe or member of such tribe.

(b) TRADITIONAL USE EXCEPTION.—

(1) IN GENERAL.—In recognition of the religious, ceremonial, and traditional uses of tobacco and tobacco products by Indian tribes and the members of such tribes, nothing in this Act shall be construed to permit an infringement upon upon the right of such tribes or members of such tribes to acquire, possess, use, or transfer any tobacco or tobacco product for such purposes, or to infringe upon the ability of minors to participate and use tobacco products for such religious, ceremonial, or traditional purposes.

(2) APPLICATION OF PROVISIONS.—Paragraph (1) shall apply only to those quantities of tobacco or tobacco products necessary to fulfill the religious, ceremonial, or traditional purposes of an Indian tribe or the members of such tribe, and shall not be construed to permit the general manufacture, distribution, sale or use of tobacco or tobacco products in a manner that is not in compliance with this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)

(c) LIMITATION.—Nothing in this Act shall be construed to permit an Indian tribe or member of such a tribe to acquire, possess, use, or transfer any tobacco or tobacco product in violation of section 2341 of title 18, United States Code, with respect to the transportation of contraband cigarettes.

(d) APPLICATION ON INDIAN LANDS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Interior, shall promulgate regulations to implement this section as necessary to apply this Act and the Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) with respect to tobacco products manufactured, distributed, or sold on Indian lands.

(2) SCOPE.—This Act and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) shall apply to the manufacture, distribution and sale of tobacco products on Indian lands, including such activities by Indian tribes and members of such tribes.

(3) TRIBAL TOBACCO RETAILER LICENSING PROGRAM.—

(A) IN GENERAL.—The requirements of this Act with respect to the licensing of tobacco retailers shall apply to all retailers that sell tobacco or tobacco products on Indian lands, including Indian tribes, and members thereof.

(B) IMPLEMENTATION.—

(i) IN GENERAL.—An Indian tribe may implement and enforce a tobacco retailer licensing and enforcement program on its Indian lands consistent with the provisions of section 231 if the tribe is eligible under subparagraph (D). For purposes of this clause, section 231 shall be applied to an Indian tribe by substituting "Indian tribe" for "State" each place it appears, and an Indian tribe shall not be ineligible for grants under that section if the Secretary applies that section to the tribe by modifying it to address tribal population, land base, and jurisdictional factors.

(ii) COOPERATION.—An Indian tribe and State with tobacco retailer licensing programs within adjacent jurisdictions should consult and confer to ensure effective implementation of their respective programs.

(C) ENFORCEMENT.—The Secretary may vest the responsibility for implementation and enforcement of a tobacco retailer licensing program in—

(i) the Indian tribe involved;

(ii) the State within which the lands of the Indian tribe are located pursuant to a voluntary cooperative agreement entered into by the State and the Indian tribe; or

(iii) the Secretary pursuant to subparagraph (F).

(D) ELIGIBILITY.—To be eligible to implement and enforce a tobacco retailer licensing program under section 231, the Secretary, in consultation with the Secretary of Interior, must find that—

(i) the Indian tribe has a governing body that has powers and carries out duties that are similar to the powers and duties of State or local governments;

(ii) the functions to be exercised relate to activities conducted on its Indian lands; and

(iii) the Indian tribe is reasonably expected to be capable of carrying out the functions required by the Secretary.

(E) DETERMINATIONS.—Not later than 90 days after the date on which an Indian tribe submits an application for authority under subparagraph (D), the Secretary shall make a determination concerning the eligibility of such tribe for such authority. Each tribe found eligible under subparagraph (D) shall be eligible to enter into agreements for block grants under section 231, to conduct a licensing and enforcement program pursuant to section 231, and for bonuses under section 232.

(F) IMPLEMENTATION BY THE SECRETARY.—If the Secretary determines that the Indian tribe is not willing or not qualified to administer a retail licensing and enforcement program, the Secretary, in consultation with the Secretary of Interior, shall promulgate regulations for a program for such tribes in the same manner as for States which have not established a tobacco retailer licensing program under section 231(f).

(G) DEFICIENT APPLICATIONS; OPPORTUNITY TO CURE.—

(i) If the Secretary determines under subparagraph (F) that a Indian tribe is not eligible to establish a tobacco retailer licensing program, the Secretary shall—

(I) submit to such tribe, in writing, a statement of the reasons for such determination of ineligibility; and

(II) shall assist such tribe in overcoming any deficiencies that resulted in the determination of ineligibility.

(ii) After an opportunity to review and cure such deficiencies, the tribe may reapply to the Secretary for assistance under this subsection.

(H) SECRETARIAL REVIEW.—The Secretary may periodically review the tribal tobacco retailer licensing program of a tribe approved pursuant to subparagraph (E), including the effectiveness of the program, the tribe's enforcement thereof, and the compatibility of the tribe's program with the program of the State in which the tribe is located. The program shall be subject to all applicable requirements of section 231.

(e) ELIGIBILITY FOR PUBLIC HEATH FUNDS.—

(1) ELIGIBILITY FOR GRANTS.—

(A) For each fiscal year the Secretary may award grants to Indian tribes from the federal Account or other federal funds, except a tribe that is not a participating tobacco product manufacturer (as defined in section 1402(a), for the same purposes as States and local governments are eligible to receive grants from the Federal Account as provided for in this Act. Indian tribes shall have the flexibility to utilize such grants to meet the unique health care needs of their service populations consistent with the goals and purposes of Federal Indian health care law and policy.

(B) In promulgating regulations for the approval and funding of smoking cessation programs under section 221 the Secretary shall ensure that adequate funding is available to address the high rate of smoking among Native Americans.

(2) HEALTH CARE FUNDING.—

(A) INDIAN HEALTH SERVICE.—Each fiscal year the Secretary shall disburse to the Indian Health Service from the National Tobacco Settlement Trust Fund an amount determined by the Secretary in consultation with the Secretary of the Interior equal to the product of—

(i) the ratio of the total Indian health care service population relative to the total population of the United States; and

(ii) the amount allocated to the States each year from the State Litigation Trust Account.

(B) FUNDING.—The trustees of the Trust Fund shall for each fiscal year transfer to the Secretary from the State Litigation Trust Account the amount determined pursuant to paragraph (A).

(C) USE OF HEALTH CARE TRUST FUNDS.—Amounts made available to the Indian Health Service under this paragraph shall be made available to Indian tribes pursuant to the provisions of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.), shall be used to reduce tobacco consumption, promote smoking cessation, and shall be used to fund health care activities including—

(i) clinic and facility design, construction, repair, renovation, maintenance, and improvement;

(ii) health care provider services and equipment;

(iii) domestic and community sanitation associated with clinic and facility construction and improvement;

(iv) inpatient and outpatient services; and

(v) other programs and services which have as their goal raising the health status of Indians.

(f) PREEMPTION.—

(1) IN GENERAL.—Except as otherwise provided in this section, nothing in this Act shall be construed to prohibit an Indian tribe from imposing requirements, prohibitions, penalties, or other measures to further the purposes of this Act that are in addition to the requirements, prohibitions, or penalties required by this Act.

(2) PUBLIC EXPOSURE TO SMOKE.—Nothing in this title shall be construed to preempt or otherwise affect any Indian tribe rule or practice that provides greater protections from the health hazard of environmental tobacco smoke.

(g) DISCLAIMER.—Nothing in this Act shall be construed to increase or diminish tribal or State jurisdiction on Indian lands with respect to tobacco-related activities.

TITLE VII—TOBACCO CLAIMS

SEC. 701. DEFINITIONS.

In this title:

(1) AFFILIATE.—The term "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this definition, ownership means ownership of an equity interest, or the equivalent thereof, of ten percent or more, and person means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(2) CIVIL ACTION.—The term "civil action" means any action, lawsuit, or proceeding that is not a criminal action.

(3) COURT.—The term "court" means any judicial or agency court, forum, or tribunal within the United States, including without limitation any Federal, State, or tribal court.

(4) FINAL JUDGMENT.—The term "final judgment" means a judgment on which all rights of appeal or discretionary review have been exhausted or waived or for which the time to appeal or seek such discretionary review has expired.

(5) FINAL SETTLEMENT.—The term "final settlement" means a settlement agreement that is executed and approved as necessary to be fully binding on all relevant parties.

(6) INDIVIDUAL.—The term "individual" means a human being and does not include a corporation, partnership, unincorporated association, trust, estate, or any other public or private entity, State or local government, or Indian tribe.

(7) TOBACCO CLAIM.—The term "tobacco claim" means a claim directly or indirectly arising out of, based on, or related to the health-related effects of tobacco products, including without limitation a claim arising out of, based on or related to allegations regarding any conduct, statement, or omission respecting the health-related effects of such products.

(8) TOBACCO PRODUCT MANUFACTURER.—The term "tobacco product manufacturer" means a person who—

(A) manufactures tobacco products for sale in the United States after the date of enactment of this Act, including tobacco products for sale in the United States through an importer;

(B) is, after the date of enactment of this Act, the first purchaser for resale in the United States of tobacco products manufactured for sale outside of the United States;

(C) engaged in activities described in subparagraph (A) or (B) prior to the date of enactment of this Act, has not engaged in such activities after the date of enactment of this Act, and was not as of June 20, 1997, an affiliate of a tobacco product manufacturer in which the tobacco product manufacturer or its other affiliates owned a 50 percent or greater interest;

(D) is a successor or assign of any of the foregoing;

(E) is an entity to which any of the foregoing directly or indirectly makes, after the date of enactment of this Act, a fraudulent conveyance or a transfer that would otherwise be voidable under part 5 of title 11 of the United States Code, but only to the extent of the interest or obligation transferred; or

(F) is an affiliate of a tobacco product manufacturer.

(9) CASTANO CIVIL ACTIONS.—The term "Castano Civil Actions" means the following civil actions: Gloria Wilkinson Lyons et al. v. American Tobacco Co., et al. (USDC Alabama 96-0881-BH; Agnes McGinty, et al. v. American Tobacco Co., et al. (USDC Arkansas LR-C-96-881); Willard R. Brown, et al. v. R.J. Reynolds Co., et al. (San Diego, California-00711400); Gray Davis & James Ellis, et al. R.J. Reynolds Tobacco Co., et al. (San Diego, California-00706458); Chester Lyons, et al. v. Brown & Williamson Tobacco Corp., et al. (Fulton County, Georgia-E-59346); Rosalyn Peterson, et al. v. American Tobacco Co., et al. (USDC Hawaii-97-00233-HG); Jean Clay, et al. v. American Tobacco Co., et al. (USDC Illinois Benton Division-97-4167-JPG); William J. Norton, et al. v. RJR Nabisco Holdings Corp., et al. (Madison County, Indiana 48D01-9605-CP-0271); Alga Emig, et al. v. American Tobacco Co., et al. (USDC Kansas-97-1121-MLB); Gloria Scott, et al. v. American Tobacco Co., et al. (Orleans Parish, Louisiana-97-1178); Vern Masepohl, et al. v. American Tobacco Co., et al. (USDC Minnesota-3-96-CV-888); Matthew Tepper, et al. v. Philip Morris Incorporated, et al (Bergen County, New Jersey-BER-L-4983-97-E); Carol A. Connor, et al. v. American Tobacco Co., et al. (Bernalillo County, New Mexico-CV96-8464); Edwin Paul Hoskins, et al. v. R.J. Reynolds Tobacco Co., et al.; Josephine Stewart-Lomantz v. Brown & Williamson Tobacco, et al.; Rose Frosina, et al. v. Philip Morris Incorporated, et al.; Catherine Zito, et al. v. American Tobacco Co., et al.; Kevin Mroczkowski, et al. v. Lorillard Tobacco Company, et al. (Supreme Court, New York County, New York-110949 thru 110953); Judith E. Chamberlain, et al. v. American Tobacco Co., et al. (USDC Ohio-1:96CV2005); Brian walls, et al. v. American Tobacco Co., et al. (USDC Oklahoma-97-CV-218-H); Steven R. Arch, et al. v. American Tobacco Co., et al. (USDC Pennsylvania-96-5903-CN); Barreras-Ruiz, et al. v. American Tobacco Co., et al. (USDC Puerto Rico-96-2300-JAF); Joanne Anderson, et al. v. American Tobacco Co., et al. (Know County, Tennessee); Carlis Cole, et al. v. The Tobacco institute, Inc., et al. (USDC Beaumont Texas Division-1:97CV0256); Carrol Jackson, et al. v. Philip Morris Incorporated, et al. (Salt Lake County, Utah-CV No. 98-0901634PI).

SEC. 702. APPLICATION; PREEMPTION.

(a) APPLICATION.—The provisions of this title govern any tobacco claim in any civil action brought in an State, Tribal, or Federal court, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act.

(b) PREEMPTION.—This title supersedes State law only to the extent that State law applies to a matter covered by this title. Any matter that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable State, Tribal, or Federal law.

(c) CRIMINAL LIABILITY UNTOUCHED.—Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors, or their officers, directors, employees, successors, or assigns.

SEC. 703. RULES GOVERNING TOBACCO CLAIMS.

(a) GENERAL CAUSATION PRESUMPTION.—In any civil action to which this title applies brought involving a tobacco claim, there shall be an evidentiary presumption that nicotine is addictive and that the diseases identified as being caused by use of tobacco products in the Center for Disease Control and Prevention Reducing the Health Consequences of Smoking: 25 Years of Progress: A Report of the Surgeon General (United States Public Health Service 1989), The Health Consequences of Smoking: Involuntary Smoking, (USPHS 1986); and The Health Consequences of Using Smokeless Tobacco, (USPHS 1986), are caused in whole or in part by the use of tobacco products, (hereinafter referred to as the "general causation presumption"), and a jury empaneled to hear a tobacco claim shall be so instructed. In all other respects, the burden of proof as to the issue of whether a plaintiff's specific disease or injury was caused by smoking shall be governed by the law of the State or Tribe in which the tobacco claim was brought. This general causation presumption shall in no way affect the ability of the defendant to introduce evidence or argument which the defendant would otherwise be entitled to present under the law of the State or Tribe in which the tobacco claim was brought to rebut the general causation presumption, or with respect to general causation, specific causation, or alternative causation, or to introduce any other evidence or argument which the defendant would otherwise be entitled to make.

(b) ACTIONS AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.—In any civil action brought involving a tobacco claim against participating tobacco product manufacturers, as that term is defined in title XIV, the provisions of title XIV apply in conjunction with the provisions of this title.

TITLE VIII—TOBACCO INDUSTRY ACCOUNTABILITY REQUIREMENTS AND EMPLOYEE PROTECTION FROM REPRISALS

SEC. 801. ACCOUNTABILITY REQUIREMENTS AND OVERSIGHT OF THE TOBACCO INDUSTRY.

(a) ACCOUNTABILITY.—The Secretary, following regular consultation with the Commissioner of Food and Drugs, the Surgeon

General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health shall annually issue a report as provided for in subsection (c).

(b) TOBACCO COMPANY PLAN.—Within a year after the date of enactment of this Act, each participating tobacco product manufacturer shall adopt and submit to the Secretary a plan to achieve the required percentage reductions in underage use of tobacco products set forth in section 201, and thereafter shall update its plan no less frequently than annually. The annual report of the Secretary may recommend amendment of any plan to incorporate additional measures to reduce underage tobacco use that are consistent with the provisions of this Act.

(c) ANNUAL REPORT.—The Secretary shall submit a report to the Congress by January 31 of each year, which shall be published in the Federal Register. The report shall—

(1) describe in detail each tobacco product manufacturer's compliance with the provisions of this Act and its plan submitted under subsection (b);

(2) report on whether each tobacco product manufacturer's efforts to reduce underage smoking are likely to result in attainment of smoking reduction targets under section 201;

(3) recommend, where necessary, additional measures individual tobacco companies should undertake to meet those targets; and

(4) include, where applicable, the extent to which prior panel recommendations have been adopted by each tobacco product manufacturer.

SEC. 802. TOBACCO PRODUCT MANUFACTURER EMPLOYEE PROTECTION.

(a) PROHIBITED ACTS.—No tobacco product manufacturer may discharge, demote, or otherwise discriminate against any employee with respect to compensation, terms, conditions, benefits, or privileges of employment because the employee (or any person acting under a request of the employee)—

(1) notified the manufacturer, the Commissioner of Food and Drugs, the Attorney General, or any Federal, State, or local public health or law enforcement authority of an alleged violation of this or any other Act;

(2) refused to engage in any practice made unlawful by such Acts, if the employee has identified the alleged illegality to the manufacturer;

(3) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of such Acts;

(4) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under such Acts, or a proceeding for the administration or enforcement of any requirement imposed under such Acts;

(5) testified or is about to testify in any such proceeding; or

(6) assisted or participated, or is about to assist or participate, in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of such Acts.

(b) EMPLOYEE COMPLAINT.—

(1) Any employee of a tobacco product manufacturer who believes that he or she has been discharged, demoted, or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 180 days after such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary alleging such discharge, demotion, or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of its filing.

(2)(A) Upon receipt of a complaint under paragraph (1) of this subsection, the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days after the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any such person acting in his or her behalf) and the person alleged to have committed such violation of the results of the investigation conducted under this paragraph. Within 90 days after the receipt of such complaint, the Secretary shall (unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation) issue an order either providing the relief prescribed in subparagraph (B) of this paragraph or denying the complaint. An order of the Secretary shall be made on the record after notice and the opportunity for a hearing in accordance with sections 554 and 556 of title 5, United States Code. Upon the conclusion of such a hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in subparagraph (B) of this paragraph, but may not order compensatory damages pending a final order. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If, in response to a complaint under paragraph (1) of this subsection, the Secretary determines that a violation of this paragraph has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his or her former position together with compensation (including back pay), terms, conditions, and privileges of his or her employment. The Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this subparagraph, the Secretary, at the request of the complainant, shall assess the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred (as determined by the Secretary), by the complainant for, or in connection with, the bringing of the complaint upon which the order is issued.

(3)(A) The Secretary shall dismiss a complaint filed under paragraph (1) of this subsection, and shall not conduct the investigation required under paragraph (2) of this subsection, unless the complainant has made a *prima facie* showing that any behavior described in subsection (a) of this section was a contributing factor in the unfavorable personnel action alleged in the complaint.

(B) Notwithstanding a finding by the Secretary that the complainant has made the showing required by subparagraph (A) of this paragraph, no investigation required under paragraph (2) of this subsection shall be conducted if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior. Relief may not be ordered under paragraph (1) of this subsection if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.

(C) The Secretary may determine that a violation of subsection (a) of this section has occurred only if the complainant has demonstrated that any behavior described in subsection (a) of this section was a contributing factor in unfavorable personnel action alleged in the complaint.

(c) JUDICIAL REVIEW.—

(1) Any person adversely affected or aggrieved by an order issued under subsection (a) of this section may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days after the issuance of the Secretary's order. Judicial review shall be available as provided in chapter 7 of title 5, United States Code. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any criminal or civil proceeding.

(d) NONCOMPLIANCE.—Whenever a person has failed to comply with an order issued under subsection (b)(2) of this section, the Secretary may file a civil action in the United States district court for the district in which the violation occurred to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages.

(e) ACTION TO ENSURE COMPLIANCE.—

(1) Any person on whose behalf an order was issued under subsection (b)(2) of this section may commence a civil action to require compliance with such order against the person to whom such order was issued. The appropriate United States district court shall have jurisdiction to enforce such order, without regard to the amount in controversy or the citizenship of the parties.

(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

(f) ENFORCEMENT.—Any non-discretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(g) APPLICABILITY TO CERTAIN EMPLOYEES.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the manufacturer (or the agent of the manufacturer) deliberately causes a violation of any requirement of this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq), or any other law or regulation relating to tobacco products.

(h) EFFECT ON OTHER LAWS.—This section shall not be construed to expand, diminish, or otherwise affect any right otherwise available to an employee under Federal or State law to redress the employee's discharge or other discriminatory action taken by a tobacco product manufacturer against the employee.

(i) POSTING.—The provisions of this section shall be prominently posted in any place of employment to which this section applies.

TITLE IX—PUBLIC DISCLOSURE OF TOBACCO INDUSTRY DOCUMENTS

SEC. 901. FINDINGS.

The Congress finds that—

(1) the American tobacco industry has made claims of attorney-client privilege, attorney work product, and trade secrets to

protect from public disclosure thousands of internal documents sought by civil litigants;

(2) a number of courts have found that these claims of privilege were not made in good faith; and

(3) a prompt and full exposition of tobacco documents will—

(A) promote understanding by the public of the tobacco industry's research and practices; and

(B) further the purposes of this Act.

SEC. 902. APPLICABILITY.

This title applies to all tobacco product manufacturers.

SEC. 903. DOCUMENT DISCLOSURE.

(a) Disclosure to the Food and Drug Administration.—

(1) Within 60 days after the date of enactment of this Act, each tobacco product manufacturer shall submit to the Food and Drug Administration the documents identified in subsection (c), including documents for which trade secret protection is claimed, with the exception of any document for which privilege is claimed, and identified in accordance with subsection (b). Each such manufacturer shall provide the Administration with the privilege and trade secret logs identified under subsection (b).

(2) With respect to documents that are claimed to contain trade secret material, unless and until it is finally determined under this title, either through judicial review or because time for judicial review has expired, that such a document does not constitute or contain trade secret material, the Administration shall treat the document as a trade secret in accordance with section 708 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379) and the regulations promulgated thereunder. Nothing herein shall limit the authority of the Administration to obtain and use, in accordance with any provision of the Federal Food, Drug, and Cosmetic Act and the regulations promulgated thereunder, any document constituting or containing trade secret material. Documents and materials received by the Administration under this provision shall not be obtainable by or releasable to the public through section 552 of title 5, United States Code, or any other provision of law, and the only recourse to obtain these documents shall be through the process established by section 905.

(3) If a document depository is not established under title XIV, the Secretary shall establish by regulation a procedure for making public all documents submitted under paragraph (1) except documents for which trade secret protection has been claimed and for which there has not been a final judicial determination that the document does not contain a trade secret.

(b) Separate Submission of Documents.—

(1) Privileged trade secret documents.—Any document required to be submitted under subsection (c) or (d) that is subject to a claim by a tobacco product manufacturer of attorney-client privilege, attorney work product, or trade secret protection shall be so marked and shall be submitted to the panel under section 904 within 30 days after its appointment. Compliance with this subsection shall not be deemed to be a waiver of any applicable claim of privilege or trade secret protection.

(2) Privilege and trade secret logs.—

(A) In general.—Within 15 days after submitting documents under paragraph (1), each tobacco product manufacturer shall submit a comprehensive log which identifies on a document-by-document basis all documents produced for which the manufacturer asserts attorney-client privilege, attorney work-product, or trade secrecy. With respect to documents for which the manufacturer previously has asserted one or more of the aforementioned privileges or trade secret protection, the manufacturer shall conduct a good faith *de novo* review of such documents to determine whether such privilege or trade secret protection is appropriate.

(B) Organization of log.—The log shall be organized in numerical order based upon the document identifier assigned to each document. For each document, the log shall contain—

(i) a description of the document, including type of document, title of document, name and position or title of each author, addressee, and other recipient who was intended to receive a copy, document date, document purpose, and general subject matter;

(ii) an explanation why the document or a portion of the document is privileged or subject to trade secret protection; and

(iii) a statement whether any previous claim of privilege or trade secret was denied and, if so, in what proceeding.

(C) Public inspection.—Within 5 days of receipt of such a log, the Depository shall make it available for public inspection and review.

(3) Declaration of compliance.—Each tobacco product manufacturer shall submit to the Depository a declaration, in accordance with the requirements of section 1746 of title 28, United States Code, by an individual with responsibility for the *de novo* review of documents, preparation of the privilege log, and knowledge of its contents. The declarant shall attest to the manufacturer's compliance with the requirements of this subsection pertaining to the review of documents and preparation of a privilege log.

(c) Document Categories.—Each tobacco product manufacturer shall submit—

(1) every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) all documents produced by any tobacco product manufacturer, the Center of Tobacco Research or Tobacco Institute to the Attorney General of any State during discovery in any action brought on behalf of any State and commenced after January 1, 1994;

(3) all documents produced by any tobacco product manufacturer, Center for Tobacco Research or Tobacco Institute to the Federal Trade Commission in connection with its investigation into the "Joe Camel" advertising campaign and any underage marketing of tobacco products to minors;

(4) all documents produced by any tobacco product manufacturers, the Center for Tobacco Research or the Tobacco Institute to litigation adversaries during discovery in any private litigation matters;

(5) all documents produced by any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute in any of the following private litigation matters:

(A) Philip Morris v. American Broadcasting Co., Law No. 7609CL94x00181-00 (Cir. Ct. Va. filed Mar. 26, 1994);

(B) Estate of Butler v. R.J. Reynolds Tobacco Co., Civ. A. No. 94-5-53 (Cir. Ct. Miss., filed May 12, 1994);

(C) Haines v. Liggett Group, No. 84-CV-678 (D.N.J., filed Feb. 22, 1984); and

(D) Cipollone v. Liggett Group, No. 83-CV-284 (D.N.J., filed Aug. 1, 1983);

(6) any document produced as evidence or potential evidence or submitted to the Depository by tobacco product manufacturers in any of the actions described in paragraph (5), including briefs and other pleadings, memoranda, interrogatories, transcripts of depositions, and expert witnesses and consultants materials, including correspondence, reports, and testimony;

(7) any additional documents that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute have agreed or been required by any court to produce to litigation adversaries as part of discovery in any action listed in paragraph (2), (3), (4), or (5) but have not yet completed producing as of the date of enactment of this Act;

(8) all indices of documents relating to tobacco products and health, with any such indices that are maintained in computerized form placed into the depository in both a computerized and hard-copy form;

(9) a privilege log describing each document or portion of a document otherwise subject to production in the actions enumerated in this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains, based upon a good faith *de novo* re-review conducted after the date of enactment of this Act is exempt from public disclosure under this title; and

(10) a trade secrecy log describing each document or portion of a document that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this title.

(d) Future Documents.—With respect to documents created after the date of enactment of this Act, the tobacco product manufacturers and their trade associations shall—

(1) place the documents in the depository; and

(2) provide a copy of the documents to the Food and Drug Administration (with the exception of documents subject to a claim of attorney-client privilege or attorney work product).

(1) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control—

(A) produced, or ordered to be produced, by the tobacco product manufacturer in any health-related civil or criminal proceeding, judicial or administrative; and

(B) that the panel established under section 906 determines is appropriate for submission.

(3) All studies conducted or funded, directly or indirectly, by any tobacco product manufacturer, relating to tobacco product use by minors.

(4) All documents discussing or referring to the relationship, if any, between advertising and promotion and the use of tobacco products by minors.

(5) A privilege log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer maintains is exempt from public disclosure under this title.

(6) A trade secrecy log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this Act.

(e) DOCUMENT IDENTIFICATION AND INDEX.—Documents submitted under this section shall be sequentially numbered and marked to identify the tobacco product manufacturer. Within 15 days after submission of documents, each tobacco product manufacturer shall supply the panel with a comprehensive document index which references the applicable document categories contained in subsection (b).

SEC. 904. DOCUMENT REVIEW.

(a) AJUDICATION OF PRIVILEGE CLAIMS.—An claim of attorney-client privilege, trade secret protection, or other claim of privilege with respect to a document required to be submitted by this title shall be heard by a 3-judge panel of the United States District Court for the District of Columbia under section 2284 of title 28, United States Code. The panel may appoint special masters, employ such personnel, and establish such procedures as it deems necessary to carry out its functions under this title.

(b) PRIVILEGE.—The panel shall apply the attorney-client privilege, the attorney work-product doctrine, and the trade secret doctrine in a manner consistent with Federal law.

SEC. 905. RESOLUTION OF DISPUTED PRIVILEGE AND TRADE SECRET CLAIMS.

(a) IN GENERAL.—The panel shall determine whether to uphold or reject disputed claims of attorney client privilege, attorney work product, or trade secret protection with respect to documents submitted. Any person may petition the panel to resolve a claim that a document submitted may not be disclosed to the public. Such a determination shall be made by a majority of the panel, in writing, and shall be subject to judicial review as specified in this title. All such determinations shall be made solely on consideration of the subject document and written submissions from the person claiming that the document is privileged or protected by trade secrecy and from any person seeking disclosure of the document. The panel shall cause notice of the petition and the panel's decision to be published in the Federal Register.

(b) FINAL DECISION.—The panel may uphold a claim of privilege or protection in its entirety or, in its sole discretion, it may redact that portion of a document that it determines is protected from public disclosure under subsection (a). Any decision of the panel shall be final unless judicial review is sought under section 906. In the event that judicial review is so sought, the panel's decision shall be stayed pending a final judicial decision.

SEC. 906. APPEAL OF PANEL DECISION.

(a) PETITION; RIGHT OF APPEAL.—Any person may obtain judicial review of a final decision of the panel by filing a petition for review with the United States Court of Appeals for the Federal Circuit within 60 days after the publication of such decision in the Federal Register. A copy of the petition shall be transmitted by the Clerk of the Court to the panel. The panel shall file in the court the record of the proceedings on which the panel based its decision (including any documents reviewed by the panel in *camera*) as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have exclusive jurisdiction to affirm or set aside the panel's decision, except that until the filing of the record the panel may modify or set aside its decision.

(b) ADDITIONAL EVIDENCE AND ARGUMENTS.—If the any party applies to the court for leave to adduce additional evidence respecting the decision being reviewed and shows to the satisfaction of the court that such additional evidence or arguments are material and that there were reasonable grounds for the failure to adduce such evidence or arguments in the proceedings before the panel, the court may order the panel to provide additional opportunity for the presentation of evidence or arguments in such manner and upon such terms as the court deems proper. The panel may modify its findings or make new findings by reason of the additional evidence or arguments and shall file with the court such modified or new findings, and its recommendation, if any, for the modification or setting aside of the decision being reviewed.

(c) STANDARD OF REVIEW; FINALITY OF JUDGMENTS.—The panel's findings of fact, if supported by substantial evidence on the record taken as a whole, shall be conclusive. The court shall review the panel's legal conclusions *de novo*. The judgment of the court affirming or setting aside the panel's decision shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(d) PUBLIC DISCLOSURE AFTER FINAL DECISION.—Within 30 days after a final decision that a document, as redacted by the panel or in its entirety, is not protected from disclosure by a claim of attorney-client privilege, attorney work product, or trade secret protection, the panel shall direct that the document be made available to the Commissioner of Food and Drugs under section 903(a). No Federal, Tribal, or State court shall have jurisdiction to review a claim of attorney-client privilege, attorney work product, or trade secret protection for a document that has lawfully been made available to the public under this subsection.

(e) EFFECT OF NON-DISCLOSURE DECISION ON JUDICIAL PROCEEDINGS.—The panel's decision that a document is protected by attorney-client privilege, attorney work product, or trade secret protection is binding only for the purpose of protecting the document from disclosure by the Depository. The decision by the panel shall not be construed to prevent a document from being disclosed in a judicial proceeding or interfere with the authority of a court to determine whether a document is admissible or whether its production may be compelled.

SEC. 907. MISCELLANEOUS.

The disclosure process in this title is not intended to affect the Federal Rules of Civil or Criminal Procedure or any Federal law which requires the disclosure of documents or which deals with attorney-client privilege, attorney work product, or trade secret protection.

SEC. 908. PENALTIES.

(a) GOOD FAITH REQUIREMENT.—Each tobacco product manufacturer shall act in good faith in asserting claims of privilege or trade secret protection based on fact and law. If the panel determines that a tobacco product manufacturer has not acted in good faith with full knowledge of the truth of the facts asserted and with a reasonable basis under existing law, the manufacturer shall be assessed costs, which shall include the full administrative costs of handling the claim of privilege, and all attorneys' fees incurred by the panel and any party contesting the privilege. The panel may also impose civil penalties of up to $50,000 per violation if it determines that the manufacturer acted in bad faith in asserting a privilege, or knowingly acted with the intent to delay, frustrate, defraud, or obstruct the panel's determination of privilege, attorney work product, or trade secret protection claims.

(b) FAILURE TO PRODUCE DOCUMENT.—A failure by a tobacco product manufacturer to produce indexes and documents in compliance with the schedule set forth in this title, or with such extension as may be granted by the panel, shall be punished by a civil penalty of up to $50,000 per violation. A separate violation occurs for each document the manufacturer has failed to produce in a timely manner. The maximum penalty under this subsection for a related series of violations is $5,000,000. In determining the amount of any civil penalty, the panel shall consider the number of documents, length of delay, any history of prior violations, the ability to pay, and such other matters as justice requires. Nothing in this title shall replace or supersede any criminal sanction under title 18, United States Code, or any other provision of law.

SEC. 909. DEFINITIONS.

For the purposes of this title—

(1) DOCUMENT.—The term "document" includes originals and drafts of any kind of written or graphic matter, regardless of the manner of production or reproduction, of any kind or description, whether sent or received or neither, and all copies thereof that are different in any way from the original (whether by interlineation, receipt stamp, notation, indication of copies sent or received or otherwise) regardless of whether confidential, privileged, or otherwise, including any paper, book, account, photograph, blueprint, drawing, agreement, contract, memorandum, advertising material, letter, telegram, object, report, record, transcript, study, note, notation, working paper, intra-office communication, intra-department communication, chart, minute, index sheet, routing sheet, computer software, computer data, delivery ticket, flow sheet, price list, quotation, bulletin, circular, manual, summary, recording of telephone or other conversation or of interviews, or of conferences, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, regardless of the manner produced or reproduced. Such term also includes any tape, recording, videotape, computerization, or other electronic recording, whether digital or analog or a combination thereof.

(2) TRADE SECRET.—The term "trade secret" means any commercially valuable plan, formula, process, or device that is used for making, compounding, processing, or preparing trade commodities and that can be said to be the end-product of either innovation or substantial effort, for which there is a direct relationship between the plan, formula, process, or device and the productive process.

(3) CERTAIN ACTIONS DEEMED TO BE PROCEEDINGS.—Any action undertaken under this title, including the search, indexing, and production of documents, is deemed to be a "proceeding" before the executive branch of the United States.

(4) OTHER TERMS.—Any term used in this title that is defined in section 701 has the meaning given to it by that section.

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal $\frac{1}{10}$ of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(*l*) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to

carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) Tobacco-growing counties.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) Distribution.—

(A) Economic development activities.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) Technical assistance activities.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) Tobacco warehouse owner initiatives.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) Tobacco-growing counties.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) Preferences in Hiring.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) Maintenance of Effort.—

(1) In general.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) Reduction of grant amount.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) Federal funds.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) Definitions.—In this section:

"(1) Individual acreage limitation.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) Individual marketing limitation.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) Individual tobacco production permit.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) National acreage allotment.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) National average yield goal.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) National marketing quota.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

“(7) Permit yield.—The term ‘permit yield’ means the yield of tobacco per acre for an individual tobacco production permit holder that is—

“(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

“(B) adjusted by a weighted national yield factor calculated by—

“(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

“(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

“(b) Initial Issuance of Permits.—

“(1) Termination of flue-cured marketing quotas.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

“(2) Issuance of permits to quota holders that were principal producers.—

“(A) In general.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

“(B) Notification.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

“(C) Individual acreage limitation for 1999 marketing year.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

“(D) Individual marketing limitation for 1999 marketing year.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

“(3) Quota holders that were not principal producers.—

“(A) In general.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

“(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

“(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

“(B) Medical hardships and crop disasters.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

“(C) Administration.—The Secretary shall issue regulations—

“(i) defining the term ‘person’ for the purpose of this paragraph; and

“(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

“(4) Issuance of permits to principal producers of flue-cured tobacco.—

“(A) In general.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

“(B) Individual acreage limitations.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

“(C) Individual marketing limitations.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

“(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

“(ii) the ratio that—

“(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

“(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

“(D) Special rule for tenant of leased flue-cured tobacco.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

“(5) Option of quota lessee or quota tenant to relinquish permit.—

“(A) In general.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

“(B) Notification.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

“(C) Reallocation of permit.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

“(6) Active producer requirement.—

“(A) Requirement for sharing risk.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

“(B) Criteria for sharing risk.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

“(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

“(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

“(iii) the person may not receive any of the return before the sale of the crop.

“(C) Persons not sharing risk.—

“(i) Forfeiture.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

“(ii) Reallocation.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

“(D) Notice.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

“(E) Review.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

“(7) County of origin requirement.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

“(8) County production pool.—

“(A) In general.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

“(B) Priority.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

“(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

“(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individufal marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103–465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) Funding.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) Effective Date.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) Termination Date.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) Program Authority and Method of Distribution.—

"(1) Program authority.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) Construction.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) Designation.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) Amount of Grants.—

"(1) Amounts.—

"(A) In general.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) Part-time rule.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) Maximum.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) Prohibition.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) Period of Eligibility for Grants.—

"(1) In general.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) Construction.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) Prohibition.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) Applications for Grants.—

"(1) In general.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) Information and assurances.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) Distribution of Grants to Students.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) Insufficient Funding.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) Treatment of Institutions and Students Under Other Laws.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) In General.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) Tobacco Farm Families.—

"(1) In general.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act); or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual—

"(i) who was a brother, sister, stepbrother, stepsister, son-in-law, or daughter-in-law of an individual described in subparagraph (A); and

"(ii) whose principal place of residence was the home of the individual described in subparagraph (A); or

"(D) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) Administration.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) Satisfactory Progress.—

"(1) In general.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) Special rule.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) Waiver.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) Students Who Are Not Secondary School Graduates.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) Examination.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) Determination.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) Special Rule for Correspondence Courses.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) Courses Offered Through Telecommunications.—

"(1) Relation to correspondence courses.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) Restriction or reductions of financial aid.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) Definition.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) Study Abroad.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) Verification of Social Security Number.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) Pending verification.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) Denial or termination.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) Construction.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

TITLE XI—MISCELLANEOUS PROVISIONS

Subtitle A—International Provisions

SEC. 1101. POLICY.

It shall be the policy of the United States government to pursue bilateral and multilateral agreements that include measures designed to—

(1) restrict or eliminate tobacco advertising and promotion aimed at children;

(2) require effective warning labels on packages and advertisements of tobacco products;

(3) require disclosure of tobacco ingredient information to the public;

(4) limit access to tobacco products by young people;

(5) reduce smuggling of tobacco and tobacco products;

(6) ensure public protection from environmental tobacco smoke; and

(7) promote tobacco product policy and program information sharing between or among the parties to those agreements.

SEC. 1102. TOBACCO CONTROL NEGOTIATIONS.

The President, in consultation with the Secretary of State, the Secretary of Health and Human Services, and the United States Trade Representative, shall—

(1) act as the lead negotiator for the United States in the area of international tobacco control;

(2) coordinate among U.S. foreign policy and trade negotiators in the area of effective international tobacco control policy;

(3) work closely with non-governmental groups, including public health groups; and

(4) report annually to the Congress on the progress of negotiations to achieve effective international tobacco control policy.

SEC. 1103. REPORT TO CONGRESS.

Not later than 150 days after the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall transmit to the Congress a report identifying the international fora wherein international tobacco control efforts may be negotiated.

SEC. 1104. FUNDING.

There are authorized such sums as are necessary to carry out the provisions of this subtitle.

SEC. 1105. PROHIBITION OF FUNDS TO FACILITATE THE EXPORTATION OR PROMOTION OF TOBACCO.

(a) IN GENERAL.—No officer, employee, department, or agency of the United States may promote the sale or export of tobacco or tobacco products, or seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, unless such restrictions are not applied equally to all tobacco and tobacco products. The United States Trade Representative shall consult with the Secretary regarding inquiries, negotiations, and representations with respect to tobacco and tobacco products, including whether proposed restrictions are reasonable protections of public health.

(b) NOTIFICATION.—Whenever such inquiries, negotiations, or representations are made, the United States Trade Representative shall notify the Congress within 10 days afterwards regarding the nature of the inquiry, negotiation, or representation.

SEC. 1106. HEALTH LABELING OF TOBACCO PRODUCTS FOR EXPORT.

(a) IN GENERAL.—

(1) EXPORTS MUST BE LABELED.—It shall be unlawful for any United States person, directly or through approval or facilitation of a transaction by a foreign person, to make use of the United States mail or of any instrument of interstate commerce to authorize or contribute to the export from the United States any tobacco product unless the tobacco product packaging contains a warning label that—

(A) complies with Federal requirements for labeling of similar tobacco products manufactured, imported, or packaged for sale or distribution in the United States; or

(B) complies with the specific health hazard warning labeling requirements of the foreign country to which the product is exported.

(2) U.S. REQUIREMENTS APPLY IF THE DESTINATION COUNTRY DOES NOT REQUIRE SPECIFIC HEALTH HAZARD WARNING LABELS.—Subparagraph (B) of paragraph (1) does not apply to exports to a foreign country that does not have any specific health hazard warning label requirements for the tobacco product being exported.

(b) UNITED STATES PERSON DEFINED.—For purposes of this section, the term "United States person" means—

(1) an individual who is a citizen, national, or resident of the United States; and

(2) a corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States.

(c) REPORT TO CONGRESS ON ENFORCEMENT; FEASIBILITY REGULATIONS.—

(1) THE PRESIDENT.—The President shall—

(A) report to the Congress within 90 days after the date of enactment of this Act—

(i) regarding methods to ensure compliance with subsection (a); and

(ii) listing countries whose health warnings related to tobacco products are substantially similar to those in the United States; and

(B) promulgate regulations within 1 year after the date of enactment of this Act that will ensure compliance with subsection (a).

(2) THE SECRETARY.—The Secretary shall determine through regulation the feasibility and practicability of requiring health warning labeling in the language of the country of destination weighing the health and other benefits and economic and other costs. To the greatest extent practicable, the Secretary should design a system that requires the language of the country of destination while minimizing the dislocative effects of such a system.

SEC. 1107. INTERNATIONAL TOBACCO CONTROL AWARENESS.

(a) ESTABLISHMENT OF INTERNATIONAL TOBACCO CONTROL AWARENESS.—The Secretary is authorized to establish an international tobacco control awareness effort. The Secretary shall—

(1) promote efforts to share information and provide education internationally about the health, economic, social, and other costs of tobacco use, including scientific and epidemiological data related to tobacco and tobacco use and enhancing countries' capacity to collect, analyze, and disseminating such data;

(2) promote policies and support and coordinate international efforts, including international agreements or arrangements, that seek to enhance the awareness and understanding of the costs associated with tobacco use;

(3) support the development of appropriate governmental control activities in foreign countries, such as assisting countries to design, implement, and evaluate programs and policies used in the United States or other countries; including the training of United States diplomatic and commercial representatives outside the United States;

(4) undertake other activities as appropriate in foreign countries that help achieve a reduction of tobacco use;

(5) permit United States participation in annual meetings of government and non-government representatives concerning international tobacco use and efforts to reduce tobacco use;

(6) promote mass media campaigns, including paid counter-tobacco advertisements to reverse the image appeal of pro-tobacco messages, especially those that glamorize and "Westernize" tobacco use to young people; and

(7) create capacity and global commitment to reduce international tobacco use and prevent youth smoking, including the use of models of previous public health efforts to address global health problems.

(b) ACTIVITIES.—

(1) IN GENERAL.—The activities under subsection (a) shall include—

(A) public health and education programs;

(B) technical assistance;

(C) cooperative efforts and support for related activities of multilateral organization and international organizations;

(D) training; and

(E) such other activities that support the objectives of this section as may be appropriate.

(2) GRANTS AND CONTRACTS.—In carrying out this section, the Secretary shall make grants to, enter into and carry out agreements with, and enter into other transactions with any individual, corporation, or other entity, whether within or outside the United States, including governmental and nongovernmental organizations, international organizations, and multilateral organizations.

(3) TRANSFER OF FUNDS TO AGENCIES.—The Secretary may transfer to any agency of the United States any part of any funds appropriated for the purpose of carrying out this section. Funds authorized to be appropriated by this section shall be available for obligation and expenditure in accordance with the provisions of this section or in accordance with the authority governing the activities of the agency to which such funds are transferred.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from the National Tobacco Trust Fund, to carry out the provisions of this section, including the administrative costs incurred by any agency of the United States in carrying out this section, $350,000,000 for each of the fiscal years 1999 through 2004, and such sums as may be necessary for each fiscal year thereafter. A substantial amount of such funds shall be granted to non-governmental organizations. Any amount appropriated pursuant to this authorization shall remain available without fiscal year limitation until expended.

Subtitle B—Anti-smuggling Provisions

SEC. 1131. DEFINITIONS.

(a) INCORPORATION OF CERTAIN DEFINITIONS.—In this subtitle, the terms "cigar", "cigarette", "person", "pipe tobacco", "roll-your-own tobacco", "smokeless tobacco", "State", "tobacco product", and "United States ", shall have the meanings given such terms in sections 5702(a), 5702(b), 7701(a)(1), 5702(o), 5702(n)(1), 5702(p), 3306(j)(1), 5702(c), and 3306(j)(2) respectively of the Internal Revenue Code of 1986.

(b) OTHER DEFINITIONS.—In this subtitle:

(1) AFFILIATE.—The term "affiliate" means any one of 2 or more persons if 1 of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of other or others of such persons, and any 2 or more of such persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

(2) INTERSTATE OR FOREIGN COMMERCE.—The term "interstate or foreign commerce" means any commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(4) PACKAGE.—The term "package" means the innermost sealed container irrespective of the material from which such container is made, in which a tobacco product is placed by the manufacturer and in which such tobacco product is offered for sale to a member of the general public.

(5) RETAILER.—The term "retailer" means any dealer who sells, or offers for sale, any tobacco product at retail. The term "retailer" includes any duty free store that sells, offers for sale, or otherwise distributes at retail in any single transaction 30 or less packages, or it equivalent for other tobacco products.

(6) EXPORTER.—The term "exporter" means any person engaged in the business of exporting tobacco products from the United States for purposes of sale or distribution; and the term "licensed exporter" means any such person licensed under the provisions of this subtitle. Any duty-free store that sells, offers for sale, or otherwise distributes to any person in any single transaction more than 30 packages of cigarettes, or its equivalent for other tobacco products as the Secretary shall by regulation prescribe, shall be deemed an "exporter" under this subtitle.

(7) IMPORTER.—The term "importer" means any person engaged in the business of importing tobacco products into the United States for purposes of sale or distribution; and the term "licensed importer" means any such person licensed under the provisions of this subtitle.

(8) INTENTIONALLY.—The term "intentionally" means doing an act, or omitting to

do an act, deliberately, and not due to accident, inadvertence, or mistake. An intentional act does not require that a person knew that his act constituted an offense.

(9) MANUFACTURER.— The term "manufacturer" means any person engaged in the business of manufacturing a tobacco product for purposes of sale or distribution, except that such term shall not include a person who manufactures less than 30,000 cigarettes, or its equivalent as determined by regulations, in any twelve month period;; and the term "licensed manufacturer" means any such person licensed under the provisions of this subtitle, except that such term shall not include a person who produces cigars, cigarettes, smokeless tobacco, or pipe tobacco solely for his own personal consumption or use.

(10) WHOLESALER.—The term "wholesaler" means any person engaged in the business of purchasing tobacco products for resale at wholesale, or any person acting as an agent or broker for any person engaged in the business of purchasing tobacco products for resale at wholesale, and the term "licensed wholesaler" means any such person licensed under the provisions of this subtitle.

SEC. 1132. TOBACCO PRODUCT LABELING REQUIREMENTS.

(a) IN GENERAL.—It is unlawful for any person to sell, or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from Customs custody for use, any tobacco product unless such product is packaged and labeled in conformity with this section.

(b) LABELING.—

(1) IDENTIFICATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require each manufacturer or importer of tobacco products to legibly print a unique serial number on all packages of tobacco products manufactured or imported for sale or distribution. The serial number shall be designed to enable the Secretary to identify the manufacturer or importer of the product, and the location and date of manufacture or importation. The Secretary shall determine the size and location of the serial number.

(2) MARKING REQUIREMENTS FOR EXPORTS.—Each package of a tobacco product that is exported shall be marked for export from the United States. The Secretary shall promulgate regulations to determine the size and location of the mark and under what circumstances a waiver of this paragraph shall be granted.

(c) PROHIBITION ON ALTERATION.—It is unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark or label required under this subtitle upon a tobacco product in or affecting commerce, except pursuant to regulations of the Secretary authorizing relabeling for purposes of compliance with the requirements of this section or of State law.

SEC. 1133. TOBACCO PRODUCT LICENSES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program under which tobacco product licenses are issued to manufacturers, importers, exporters, and wholesalers of tobacco products.

(b)(1) ELIGIBILITY.—A person is entitled to a license unless the Secretary finds—

(A) that such person has been previously convicted of a Federal crime relating to tobacco, including the taxation thereof;

(B) that such person has, within 5 years prior to the date of application, been previously convicted of any felony under Federal or State law; or

(C) that such person is, by virtue of his business experience, financial standing, or trade connections, not likely to maintain such operations in conformity with Federal law.

(2) CONDITIONS.—The issuance of a license under this section shall be conditioned upon the compliance with the requirements of this subtitle, all Federal laws relating to the taxation of tobacco products, chapter 114 of title 18, United States Code, and any regulations issued pursuant to such statutes.

(c) REVOCATION, SUSPENSION, AND ANNULMENT.—The program established under subsection (a) shall permit the Secretary to revoke, suspend, or annul a license issued under this section if the Secretary determines that the terms or conditions of the license have not been complied with. Prior to any action under this subsection, the Secretary shall provide the licensee with due notice and the opportunity for a hearing.

(d) RECORDS AND AUDITS.—The Secretary shall, under the program established under subsection (a), require all license holders to keep records concerning the chain of custody of the tobacco products that are the subject of the license and make such records available to the Secretary for inspection and audit.

(e) RETAILERS.—This section does not apply to retailers of tobacco products, except that retailers shall maintain records of receipt, and such records shall be available to the Secretary for inspection and audit. An ordinary commercial record or invoice will satisfy this requirement provided such record shows the date of receipt, from whom such products were received and the quantity of tobacco products received.

SEC. 1134. PROHIBITIONS.

(a) IMPORTATION AND SALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of importing tobacco products into the United States; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so imported.

(b) MANUFACTURE AND SALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of manufacturing, packaging or warehousing tobacco products; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so manufactured, packaged, or warehoused.

(c) WHOLESALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of purchasing for resale at wholesale tobacco products, or, as a principal or agent, to sell, offer for sale, negotiate for, or hold out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, the purchase for resale at wholesale of tobacco products; or

(2) for any person so engaged to receive or sell, offer or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so purchased.

(d) EXPORTATION.—

(1) IN GENERAL.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(A) to engage in the business of exporting tobacco products from the United States; or

(B) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products received for export.

(2) REPORT.—Prior to exportation of tobacco products from the United States, the exporter shall submit a report in such manner and form as the Secretary may by regulation prescribe to enable the Secretary to identify the shipment and assure that it reaches its intended destination.

(3) AGREEMENTS WITH FOREIGN GOVERNMENTS.—The Secretary is authorized to enter into agreements with foreign governments to exchange or share information contained in reports received from exporters of tobacco products if the Secretary believes that such an agreement will assist in—

(A) insuring compliance with any law or regulation enforced or administered by an agency of the United States; or

(B) preventing or detecting violation of the laws or regulations of a foreign government with which the Secretary has entered into an agreement.

Such information may be exchanged or shared with a foreign government only if the Secretary obtains assurances from such government that the information will be held in confidence and used only for the purpose of preventing or detecting violations of the laws or regulations of such government or the United States and, provided further that no information may be exchanged or shared with any government that has violated such assurances.

(e) UNLAWFUL ACTS.—

(1) UNLICENSED RECEIPT OR DELIVERY.—It is unlawful for any licensed importer, licensed manufacturer, or licensed wholesaler intentionally to ship, transport, deliver or receive any tobacco products from or to any person other than a person licensed under this chapter or a retailer licensed under the provisions of this Act, except a licensed importer may receive foreign tobacco products from a foreign manufacturer or a foreign distributor that have not previously entered the United States.

(2) RECEIPT OF RE-IMPORTED GOODS.—It is unlawful for any person, except a licensed manufacturer or a licensed exporter to receive any tobacco products that have previously been exported and returned to the United States.

(3) DELIVERY BY EXPORTER.—It is unlawful for any licensed exporter intentionally to ship, transport, sell or deliver for sale any tobacco products to any person other than a licensed manufacturer or foreign purchaser.

(4) SHIPMENT OF EXPORT-ONLY GOODS.—It is unlawful for any person other than a licensed exporter intentionally to ship, transport, receive or possess, for purposes of resale, any tobacco product in packages marked "FOR EXPORT FROM THE UNITED STATES," other than for direct return to the manufacturer or exporter for re-packing or for re-exportation.

(5) FALSE STATEMENTS.—It is unlawful for any licensed manufacturer, licensed exporter, licensed importer, or licensed wholesaler to make intentionally any false entry in, to fail willfully to make appropriate entry in, or to fail willfully to maintain properly any record or report that he is required to keep as required by this chapter or the regulations promulgated thereunder.

(h) EFFECTIVE DATE.—The provisions of this section shall become effective on the date that is 365 days after the date of enactment of this Act.

SEC. 1135. LABELING OF PRODUCTS SOLD BY NATIVE AMERICANS.

The Secretary, in consultation with the Secretary of the Interior, shall promulgate regulations that require that each package of a tobacco product that is sold on an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9)) be labeled as such. Such regulations shall include requirements for the size and location of the label.

SEC. 1136. LIMITATION ON ACTIVITIES INVOLVING TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.

(a) MANUFACTURE OF TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.—No person shall manufacture a tobacco product in any foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.).

(b) EXPORTING OR IMPORTING FROM OR INTO A FOREIGN TRADE ZONE.—Any person exporting or importing tobacco products from or into a foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.), shall comply with the requirements provided in this subtitle. In any case where the person operating in a foreign trade zone is acting on behalf of a person licensed under this subtitle, qualification as an importer or exporter will not be required, if such person complies with the requirements set forth in section 1134(d)(2) and (3) of this subtitle.

SEC. 1137. JURISDICTION; PENALTIES; COMPROMISE OF LIABILITY.

(a) JURISDICTION.—The District Courts of the United States, and the United States Court for any Territory, of the District where the offense is committed or of which the offender is an inhabitant or has its principal place of business, are vested with jurisdiction of any suit brought by the Attorney General in the name of the United States, to prevent and restrain violations of any of the provisions of this subtitle.

(b) PENALTIES.—Any person violating any of the provisions of this subtitle shall, upon conviction, be fined as provided in section 3571 of title 18, United States Code, imprisoned for not more than 5 years, or both.

(c) CIVIL PENALTIES.—The Secretary may, in lieu of referring violations of this subtitle for criminal prosecution, impose a civil penalty of not more than $10,000 for each offense.

(d) COMPROMISE OF LIABILITY.—The Secretary is authorized, with respect to any violation of this subtitle, to compromise the liability arising with respect to a violation of this subtitle—

(1) upon payment of a sum not in excess of $10,000 for each offense, to be collected by the Secretary and to be paid into the Treasury as miscellaneous receipts; and

(2) in the case of repetitious violations and in order to avoid multiplicity of criminal proceedings, upon agreement to a stipulation, that the United States may, on its own motion upon 5 days notice to the violator, cause a consent decree to be entered by any court of competent jurisdiction enjoining the repetition of such violation.

(e) FORFEITURE.—

(1) The Secretary may seize and forfeit any conveyance, tobacco products, or monetary instrument (as defined in section 5312 of title 31, United States Code) involved in a violation of this subtitle, or any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of this chapter. For purposes of this paragraph, the provisions of subsections (a)(2), (b)(2), and (c) through (j) of section 981 of title 18, United States Code, apply to seizures and forfeitures under this paragraph insofar as they are applicable and not inconsistent with the provisions of this subtitle.

(2) The court, in imposing sentence upon a person convicted of an offense under this subtitle, shall order that the person forfeit to the United States any property described in paragraph (1). The seizure and forfeiture of such property shall be governed by subsections (b), (c), and (e) through (p) of section 853 of title 21, United States Code, insofar as they are applicable and not inconsistent with the provisions of this subtitle.

SEC. 1138. AMENDMENTS TO THE CONTRABAND CIGARETTE TRAFFICKING ACT.

(a) DEFINITIONS.—Section 2341 of title 18, United States Code, is amended—

(1) by striking "60,000" and inserting "30,000" in paragraph (2);

(2) by inserting after "payment of cigarette taxes," in paragraph (2) the following: "or in the case of a State that does not require any such indication of tax payment, if the person in possession of the cigarettes is unable to provide any evidence that the cigarettes are moving legally in interstate commerce,";

(3) by striking "and" at the end of paragraph (4);

(4) by striking "Treasury." in paragraph (5) and inserting "Treasury;"; and

(5) by adding at the end thereof the following:

"(6) the term 'tobacco product' means cigars, cigarettes, smokeless tobacco, roll your own and pipe tobacco (as such terms are defined in section 5701 of the Internal Revenue Code of 1986); and

"(7) the term 'contraband tobacco product' means—

"(A) a quantity in excess of 30,000 of any tobacco product that is manufactured, sold, shipped, delivered, transferred, or possessed in violation of Federal laws relating to the distribution of tobacco products; and

"(B) a quantity of tobacco product that is equivalent to an excess of 30,000 cigarettes, as determined by regulation, which bears no evidence of the payment of applicable State tobacco taxes in the State where such tobacco products are found, if such State requires a stamp, impression, or other indication to be placed on packages or other containers of product to evidence payment of tobacco taxes, or in the case of a State that does not require any such indication of tax payment, if the person in possession of the tobacco product is unable to provide any evidence that the tobacco products are moving legally in interstate commerce and which are in the possession of any person other than a person defined in paragraph (2) of this section.".

(b) UNLAWFUL ACTS.—Section 2342 of title 18, United States Code, is amended—

(1) by inserting "or contraband tobacco products" before the period in subsection (a); and

(2) by adding at the end thereof the following:

"(c) It is unlawful for any person—

"(1) knowingly to make any false statement or representation with respect to the information required by this chapter to be kept in the records or reports of any person who ships, sells, or distributes any quantity of cigarettes in excess of 30,000 in a single transaction, or tobacco products in such equivalent quantities as shall be determined by regulation; or

"(2) knowingly to fail or knowingly to fail to maintain distribution records or reports, alter or obliterate required markings, or interfere with any inspection as required with respect to such quantity of cigarettes or other tobacco products.

"(d) It shall be unlawful for any person knowingly to transport cigarettes or other tobacco products under a false bill of lading or without any bill of lading.".

(d) RECORDKEEPING.—Section 2343 of title 18, United States Code, is amended—

(1) by striking "60,000" in subsection (a) and inserting "30,000";

(2) by inserting after "transaction" in subsection (a) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation," ;

(3) by striking the last sentence of subsection (a) and inserting the following:

"Except as provided in subsection (c) of this section, nothing contained herein shall authorize the Secretary to require reporting under this section.";

(4) by striking "60,000" in subsection (b) and inserting "30,000";

(5) by inserting after "transaction" in subsection (b) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation,"; and

(6) by adding at the end thereof the following:

"(c)(1) Any person who ships, sells, or distributes for resale tobacco products in interstate commerce, whereby such tobacco products are shipped into a State taxing the sale or use of such tobacco products or who advertises or offers tobacco products for such sale or transfer and shipment shall—

"(A) first file with the tobacco tax administrator of the State into which such shipment is made or in which such advertisement or offer is disseminated, a statement setting for the persons name, and trade name (if any), and the address of the persons principal place of business and of any other place of business; and

"(B) not later than the 10th day of each month, file with the tobacco tax administrator of the State into which such shipment is made a memorandum or a copy of the invoice covering each and every shipment of tobacco products made during the previous month into such State; the memorandum or invoice in each case to include the name and address of the person to whom the shipment was made, the brand, and the quantity thereof.

"(2) The fact that any person ships or delivers for shipment any tobacco products shall, if such shipment is into a State in which such person has filed a statement with the tobacco tax administrator under paragraph (1)(A) of this subsection, be presumptive evidence that such tobacco products were sold, shipped, or distributed for resale by such person.

"(3) For purposes of this subsection—

"(A) the term 'use' includes consumption, storage, handling, or disposal of tobacco products; and

"(B) the term 'tobacco tax administrator' means the State official authorized to administer tobacco tax laws of the State.".

(e) PENALTIES.—Section 2344 of title 18, United States Code, is amended—

(1) by inserting "or (c)" in subsection (b) after "section 2344(b)";

(2) by inserting "or contraband tobacco products" after "cigarettes" in subsection (c); and

(3) by adding at the end thereof the following:

"(d) Any proceeds from the unlawful distribution of tobacco shall be subject to seizure and forfeiture under section 981(a)(1)(C).".

(f) REPEAL OF FEDERAL LAW RELATING TO COLLECTION OF STATE CIGARETTE TAXES.—

The Act of October 19, 1949, (63 Stat. 884; 15 U.S.C. 375-378) is hereby repealed.

SEC. 1139. FUNDING.

(a) LICENSE FEES.—The Secretary may, in the Secretary's sole discretion, set the fees for licenses required by this chapter, in such amounts as are necessary to recover the costs of administering the provisions of this chapter, including preventing trafficking in contraband tobacco products.

(b) DISPOSITION OF FEES.—Fees collected by the Secretary under this chapter shall be deposited in an account with the Treasury of the United States that is specially designated for paying the costs associated with the administration or enforcement of this chapter or any other Federal law relating to the unlawful trafficking of tobacco products. The Secretary is authorized and directed to pay out of any funds available in such account any expenses incurred by the Federal Government in administering and enforcing this chapter or any other Federal law relating to the unlawful trafficking in tobacco products (including expenses incurred for the salaries and expenses of individuals employed to provide such services). None of the funds deposited into such account shall be available for any purpose other than making payments authorized under the preceding sentence.

SEC. 1140. RULES AND REGULATIONS.

The Secretary shall prescribe all needful rules and regulations for the enforcement of this chapter, including all rules and regulations that are necessary to ensure the lawful distribution of tobacco products in interstate or foreign commerce.

Subtitle C—Other Provisions

SEC. 1161. IMPROVING CHILD CARE AND EARLY CHILDHOOD DEVELOPMENT.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund such sums as may be necessary for each fiscal year to be used by the Secretary for the following purposes:

(1) Improving the affordability of child care through increased appropriations for child care under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(2) Enhancing the quality of child care and early childhood development through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(3) Expanding the availability and quality of school-age care through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(4) Assisting young children by providing grants to local collaboratives under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.) for the purpose of improving parent education and supportive services, strengthening the quality of child care, improving health services, and improving services for children with disabilities.

(b) SUPPLEMENT NOT SUPPLANT.—Amounts made available to a State under this section shall be used to supplement and not supplant other Federal, State, and local funds provided for programs that serve the health and developmental needs of children. Amounts provided to the State under any of the provisions of law referred to in this section shall not be reduced solely as a result of the availability of funds under this section.

SEC. 1162. BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.

(a) BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.—Effective 12 months after the date of enactment of this Act, it shall be unlawful to sell tobacco products through the use of a vending machine.

(b) COMPENSATION FOR BANNED VENDING MACHINES.—

(1) IN GENERAL.—The owners and operators of tobacco vending machines shall be reimbursed, subject to the availability of appropriations under subsection (d), for the fair market value of their tobacco vending machines.

(2) TOBACCO VENDING REIMBURMENT CORPORATION.—

(A) CORPORATION.—Reimbursment shall be directed through a private, nonprofit corporation established in the District of Columbia, known as the Tobacco Vending Reimburment Corporation (in this section referred to as the "Corporation"). Except as otherwise provided in this section, the Corporation is subject to, and has all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code section 29-501 et seq.).

(B) DUTIES.—The Corporation shall—

(i) disburse compensation funds to vending companies under this section;

(ii) verify operational machines; and

(iii) maintain complete records of machine verification and accountings of disbursements and administration of the compensation fund established under paragraph (4).

(3) MANAGEMENT OF CORPORATION.—

(A) BOARD OF DIRECTORS.—The Corporation shall be managed by a Board of Directors that—

(i) consists of distinguished Americans with experience in finance, public policy, or fund management;

(ii) includes at least 1 member of the United States tobacco vending machine industry;

(iii) shall be paid an annual salary in an amount determined by the President of the Corporation not to exceed $40,000 individually, out of amounts transferred to the Corporation under paragraph (4)(A);

(iv) shall appoint a President to manage the day-to-day activities of the Corporation;

(v) shall develop guidelines by which the President shall direct the Corporation;

(vi) shall retain a national accounting firm to verify the distribution of funds and audit the compensation fund established under paragraph (4);

(vii) shall retain such legal, management, or consulting assistance as is necessary and reasonable; and

(viii) shall periodically report to Congress regarding the activities of the Corporation.

(B) DUTIES OF THE PRESIDENT OF THE CORPORATION.—The President of the Corporation shall—

(i) hire appropriate staff;

(ii) prepare the report of the Board of Directors of the Corporation required under subparagraph (A)(viii); and

(iii) oversee Corporation functions, including verification of machines, administration and disbursement of funds, maintenance of complete records, operation of appeals procedures, and other directed functions.

(4) COMPENSATION FUND.—

(A) RULES FOR DISBURSEMENT OF FUNDS.—

(i) PAYMENTS TO OWNERS AND OPERATORS.—The Corporation shall disburse funds to compensate the owners and operators of tobacco vending machines in accordance with the following:

(I) The fair market value of each tobacco vending machine verified by the Corporation President in accordance with subparagraph (C), and proven to have been in operation before August 10, 1995, shall be disbursed to the owner of the machine seeking compensation.

(II) No compensation shall be made for a spiral glass front vending machine.

(ii) OTHER PAYMENTS.—Funds appropriated to the Corporation under subsection (d) may be used to pay the administrative costs of the Corporation that are necessary and proper or required by law. The total amount paid by the Corporation for administrative and overhead costs, including accounting fees, legal fees, consultant fees, and associated administrative costs shall not exceed 1 percent of the total amount appropriated to the Corporation under subsection (d).

(B) VERIFICATION OF VENDING MACHINES.—Verification of vending machines shall be based on copies of official State vending licenses, company computerized or handwritten sales records, or physical inspection by the Corporation President or by an inspection agent designated by the President. The Corporation President and the Board of Directors of the Corporation shall work vigorously to prevent and prosecute any fraudulent claims submitted for compensation.

(C) RETURN OF ACCOUNT FUNDS NOT DISTRIBUTED TO VENDORS.—The Corporation shall be dissolved on the date that is 4 years after the date of enactment of this Act. Any funds not dispersed or allocated to claims pending as of that date shall be transferred to a public anti-smoking trust, or used for such other purposes as Congress may designate.

(c) SETTLEMENT OF LEGAL CLAIMS PENDING AGAINST THE UNITED STATES.—Acceptance of a compensation payment from the Corporation by a vending machine owner or operator shall settle all pending and future claims of the owner or operator against the United States that are based on, or related to, the ban of the use of tobacco vending machines imposed under this section and any other laws or regulations that limit the use of tobacco vending machines.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Corporation from funds not otherwise obligated in the Treasury or out of the National Tobacco Trust Fund, such sums as may be necessary to carry out this section.

SEC. 1163. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

"SEC. 713. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the surgical treatment of breast cancer (including a mastectomy, lumpectomy, or lymph node dissection for the treatment of breast cancer) is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, and subject to subsection (d), to be medically appropriate.

"(2) Exception.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician in consultation with the patient determine that a shorter period of hospital stay is medically appropriate.

"(b) Reconstructive Surgery.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed;

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

"(3) the costs of prostheses and complications of mastectomy including lymphedemas;

in the manner determined by the attending physician and the patient to be appropriate. Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan or coverage. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

"(c) Notice.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

"(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(d) No Authorization Required.—

"(1) In general.—An attending physician shall not be required to obtain authorization from the plan or issuer for prescribing any length of stay in connection with a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

"(2) Prenotification.—Nothing in this section shall be construed as preventing a group health plan from requiring prenotification of an inpatient stay referred to in this section if such requirement is consistent with terms and conditions applicable to other inpatient benefits under the plan, except that the provision of such inpatient stay benefits shall not be contingent upon such notification.

"(e) Prohibitions.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

"(1) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to individuals to encourage such individuals to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; and

"(5) subject to subsection (f)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(f) Rules of Construction.—

"(1) In general.—Nothing in this section shall be construed to require a patient who is a participant or beneficiary—

"(A) to undergo a mastectomy or lymph node dissection in a hospital; or

"(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

"(2) Limitation.—This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

"(3) Cost sharing.—Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(4) Level and type of reimbursements.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(g) Preemption, Relation to State Laws.—

"(1) In general.—Nothing in this section shall be construed to preempt any State law in effect on the date of enactment of this section with respect to health insurance coverage that—

"(A) such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection of breast cancer;

"(B) requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section; or

"(C) requires coverage for breast cancer treatments (including breast reconstructfon) in accordance with scientific evidence-based practices or guidelines recommended by established medical associations.

"(2) Application of section.—With respect to a State law—

"(A) described in paragraph (1)(A), the provisions of this section relating to breast reconstruction shall apply in such State; and

"(B) described in paragraph (1)(B), the provisions of this section relating to length of stays for surgical breast treatment shall apply in such State.

"(3) Erisa.—Nothing in this section shall be construed to affect or modify the provisions of section 514 with respect to group health plans.".

(b) Clerical Amendment.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for reconstructive surgery following mastectomies.".

(c) Effective Dates.—

(1) In general.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) Special rule for collective bargaining agreements.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

TITLE XII—ASBESTOS-RELATED TOBACCO CLAIMS

SEC. 1201. NATIONAL TOBACCO TRUST FUNDS AVAILABLE UNDER FUTURE LEGISLATION.

If the Congress enacts qualifying legislation after the date of enactment of this Act to provide for the payment of asbestos claims, then amounts in the National Tobacco Trust Fund established by title IV of this Act set aside for public health expenditures shall be available, as provided by appropriation Acts, to make those payments. For purposes of this section, the term "qualifying legislation" means a public law that amends this Act and changes the suballocations of funds set aside for public health expenditures under title IV of this Act to provide for the payment of those claims.

TITLE XIII—VETERANS' BENEFITS

SEC. 1301. RECOVERY BY SECRETARY OF VETERANS AFFAIRS.

Title 38, United States Code, is amended by adding after part VI the following:

"PART VII—RECOVERY OF COSTS FOR TOBACCO-RELATED DISABILITY OR DEATH

"CHAPTER 91—TORT LIABILITY FOR DISABILITY, INJURY, DISEASE, OR DEATH DUE TO TOBACCO USE

"Sec.
"9101. Recovery by Secretary of Veterans Affairs
"9102. Regulations
"9103. Limitation or repeal of other provisions for recovery of compensation
"9104. Exemption from annual limitation on damages

"§ 9101. Recovery by Secretary of Veterans Affairs

"(a) Conditions; exceptions; persons liable; amount of recovery; subrogation.—In any case in which the Secretary is authorized or required by law to provide compensation and medical care services under this title for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veteran's active military, naval, or air service under circumstances creating a tort liability upon a tobacco product manufacturer (other than or in addition to the United States) to pay damages therefor, the Secretary shall have a right to recover (independent of the rights of the injured or diseased veteran) from said tobacco product manufacturer the cost of the compensation paid or to be paid and the costs of medical care services provided, and shall, as to this right, be subrogated to any right or claim that the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors has against such third person to the extent of the cost of the compensation paid or to be paid and the costs of medical services provided.

"(b) ENFORCEMENT PROCEDURE; INTERVENTION; JOINDER OF PARTIES; STATE OR FEDERAL COURT PROCEEDINGS.—The Secretary may, to enforce such right under subsection (a) of this section—

"(1) intervene or join in any action or proceeding brought by the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors, against the tobacco product manufacturer who is liable for the injury or disease; or

"(2) if such action or proceeding is not commenced within 6 months after the first day on which compensation is paid, or the medical care services are provided, by the Secretary in connection with the injury or disease involved, institute and prosecute legal proceedings against the tobacco product manufacturer who is liable for the injury or disease, in a State or Federal court, either alone (in its own name or in the name of the injured veteran, his or her guardian, personal representative, estate, dependents, or survivors) or in conjunction with the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors.

"(c) CREDITS TO APPROPRIATIONS.—Any amount recovered or collected under this section for compensation paid, and medical care services provided, by the Secretary shall be credited to a revolving fund established in the Treasury of the United States known as the Department of Veterans Affairs Tobacco Recovery Fund (hereafter called the Fund). The Fund shall be available to the Secretary without fiscal year limitation for purposes of veterans programs, including administrative costs. The Secretary may transfer such funds as deemed necessary to the various Department of Veterans Affairs appropriations, which shall remain available until expended.

"§ 9102. Regulations

"(a) DETERMINATION AND ESTABLISHMENT OF PRESENT VALUE OF COMPENSATION AND MEDICAL CARE SERVICES TO BE PAID.—The Secretary may prescribe regulations to carry out this chapter, including regulations with respect to the determination and establishment of the present value of compensation to be paid to an injured or diseased veteran or his or her surviving spouse, child, or parent, and medical care services provided to a veteran.

"(b) SETTLEMENT, RELEASE AND WAIVER OF CLAIMS.—To the extent prescribed by regulations under subsection (a) of this section, the Secretary may—

"(1) compromise, or settle and execute a release of, any claim which the Secretary has by virtue of the right established by section 9101 of this title; or

"(2) waive any such claim, in whole or in part, for the convenience of the Government, or if he or she determines that collection would result in undue hardship upon the veteran who suffered the injury or disease or his or her surviving spouse, child or parent resulting in payment of compensation, or receipt of medical care services.

"(c) DAMAGES RECOVERABLE FOR PERSONAL INJURY UNAFFECTED.—No action taken by the Secretary in connection with the rights afforded under this chapter shall operate to deny to the injured veteran or his or her surviving spouse, child or parent the recovery for that portion of his or her damage not covered hereunder.

"§ 9103. Limitation or repeal of other provisions for recovery of compensation and medical care services

"This chapter does not limit or repeal any other provision of law providing for recovery by the Secretary of the cost of compensation and medical care services described in section 9101 of this title.

"§ 9104. Exemption from annual limitation on damages

"Any amount recovered under section 9101 of this title for compensation paid or to be paid, and the cost of medical care services provided, by the Secretary for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veteran's active military, naval, or air service shall not be subject to the limitation on the annual amount of damages for which the tobacco product manufacturers may be found liable as provided in the National Tobacco Policy and Youth Smoking Reduction Act and shall not be counted in computing the annual amount of damages for purposes of that section.".

TITLE XIV—EXCHANGE OF BENEFITS FOR AGREEMENT TO TAKE ADDITIONAL MEASURES TO REDUCE YOUTH SMOKING

SEC. 1401. CONFERRAL OF BENEFITS ON PARTICIPATING TOBACCO PRODUCT MANUFACTURERS IN RETURN FOR THEIR ASSUMPTION OF SPECIFIC OBLIGATIONS.

Participating tobacco product manufacturers shall receive the benefits, and assume the obligations, set forth in this title.

SEC. 1402. PARTICIPATING TOBACCO PRODUCT MANUFACTURER.

(a) IN GENERAL.—Except as provided in subsection (b), a tobacco product manufacturer that—

(1) executes a protocol with the Secretary of Health and Human Services that meets the requirements of sections 1403, 1404, and 1405; and

(2) makes the payment required under section 402(a)(1),

is, for purposes of this title, a participating tobacco products manufacturer.

(b) DISQUALIFICATION.—

(1) INELIGIBILITY.—Notwithstanding subsection (a), a tobacco product manufacturer may not become a participating tobacco products manufacturer if—

(A) the tobacco product manufacturer or any of its principal officers (acting in that official's corporate capacity), is convicted of—

(i) manufacturing or distributing misbranded tobacco products in violation of the criminal prohibitions on such misbranding established under section 301 or 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 or 333);

(ii) violating reporting requirements established under section 5762(a)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 5762(a)(4));

(iii) violating, or aiding and abetting the violation of chapter 114 of title 18, United States Code; or

(iv) violating Federal prohibitions on mail fraud, wire fraud, or the making of false statements to Federal officials in the course of making reports or disclosures required by this Act; or

(B) the tobacco product manufacturer, at the end of the 1-year period beginning on the date on which such manufacturer fails to make a required assessment payment under title IV of this Act, has not fully made such payment.

(2) DISQUALIFICATION.—A tobacco product manufacturer that has become a participating tobacco product manufacturer shall cease to be treated as a participating tobacco product manufacturer if—

(A) it, or any of its principal officers (acting in that official's corporate capacity) is convicted of an offense described in paragraph (1)(A); or

(B) it fails to make such a payment within the time period described in paragraph (1)(B).

(c) NON-PARTICIPATING TOBACCO MANUFACTURERS.—Any tobacco product manufacturer that—

(1) does not execute a protocol in accordance with subsection (a);

(2) fails to make the payment required by section 402(a)(1) (if applicable to that manufacturer);

(3) is not eligible, under subsection (b)(1), to become a participating tobacco product manufacturer; or

(4) ceases to be treated as a participating tobacco product manufacturer under subsection (b)(2),

is, for purposes of this title, a non-participating tobacco product manufacturer.

SEC. 1403. GENERAL PROVISIONS OF PROTOCOL.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it—

(1) contains the provisions described in subsection (b); and

(2) is enforceable at law.

(b) REQUIRED PROVISIONS.—The protocol shall include the following provisions:

(1) The tobacco product manufacturer executing the protocol will not engage in any conduct that was, either on the date of enactment of this Act, or at any time after the date of enactment of this Act—

(A) prohibited by this Act;

(B) prohibited by any regulation promulgated by the Food and Drug Administration that applies to tobacco products; or

(C) prohibited by any other statute.

(2) The tobacco product manufacturer executing the protocol will contract with only such distributors and retailers who have operated in compliance with the applicable provisions of Federal, State, or local law regarding the marketing and sale of tobacco products and who agree to comply with advertising and marketing provisions in paragraph (3).

(3) The tobacco product manufacturer executing the protocol will be bound in marketing tobacco products by the following provisions, whether or not these provisions have legal force and effect against manufacturers who are not signatories to the protocol—

(A) the advertising and marketing provisions of part 897 of title 21, Code of Federal Regulations, that were published in the Federal Register on August 28, 1996, and which shall be adopted and incorporated as independent terms of the protocol;

(B) the requirements of section 1404; and

(C) the requirements of section 1405.

(4) The tobacco product manufacturer executing the protocol will make any payments to the National Tobacco Trust Fund in title IV that are required to be made under that title or in any other title of this Act.

(5) The tobacco product manufacturer executing the protocol will be bound by the provisions of title IV, and any other title of this Act with respect to payments required under title IV, without regard to whether those provisions have legal force and effect against manufacturers who have not become signatories.

(6) The tobacco product manufacturer executing the protocol will make the industry-wide and manufacturer-specific look-back assessment payments that may be required under title II.

(7) The tobacco product manufacturer executing the protocol will be bound by the provisions of title II that require a manufacturer to make look-back assessments, and any other title of this Act with respect to such assessments, without regard to whether such terms have legal force and effect against manufacturers who have not become signatories.

(8) The tobacco product manufacturer executing the protocol will, within 180 days after the date of enactment of this Act and in conjunction with other participating tobacco product manufacturers, establish a National Tobacco Document Depository in the Washington, D.C. area—

(A) that is not affiliated with, or controlled by, any tobacco product manufacturer;

(B) the establishment and operational costs of which are allocated among participating tobacco product manufacturers; and

(C) that will make any document submitted to it under title IX of this Act and finally determined not to be subject to attorney-client privilege, attorney work product, or trade secret exclusions, available to the public using the Internet or other means within 30 days after receiving the document.

(c) Provisions Applicable to Documents.—The provisions of section 2116(a) and (b) of title 44, United States Code, apply to records and documents submitted to the Depository (or, to the alternative depository, if any, established by the Secretary by regulation under title IX of this Act) in the same manner and to the same extent as if they were records submitted to the National Archives of the United States required by statute to be retained indefinitely.

SEC. 1404. TOBACCO PRODUCT LABELING AND ADVERTISING REQUIREMENTS OF PROTOCOL.

(a) In General.—For purposes of section 1402, a protocol meets the requirements of this section if it requires that—

(1) no tobacco product will be sold or distributed in the United States unless its advertising and labeling (including the package)—

(A) contain no human image, animal image, or cartoon character;

(B) are not outdoor advertising, including advertising in enclosed stadia and on mass transit vehicles, and advertising from within a retail establishment that is directed toward or visible from the outside of the establishment;

(C) at the time the advertising or labeling is first used are submitted to the Secretary so that the Secretary may conduct regular review of the advertising and labeling;

(D) comply with any applicable requirement of the Federal Food, Drug, and Cosmetic Act, the Federal Cigarette Labeling and Advertising Act, and any regulation promulgated under either of those Acts;

(E) do not appear on the international computer network of both Federal and non-Federal interoperable packet switches data networks (the "Internet"), unless such advertising is designed to be inaccessible in or from the United States to all individuals under the age of 18 years;

(F) use only black text on white background, other than—

(i) those locations other than retail stores where no person under the age of 18 is permitted or present at any time, if the advertising is not visible from outside the establishment and is affixed to a wall or fixture in the establishment; and

(ii) advertisements appearing in any publication which the tobacco product manufacturer, distributor, or retailer demonstrates to the Secretary is a newspaper, magazine, periodical, or other publication whose readers under the age of 18 years constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence, and that is read by less than 2 million persons under the age of 18 years as measured by competent and reliable survey evidence;

(G) for video formats, use only static black text on a white background, and any accompanying audio uses only words without music or sound effects;

(8) for audio formats, use only words without music or sound effects;

(2) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of brand-name product identification of the tobacco product is contained in a movie, program, or video game for which a direct or indirect payment has been made to ensure its placement;

(3) if a direct or indirect payment has been made by any tobacco product manufacturer, distributor, or retailer to any entity for the purpose of promoting use of the tobacco product through print or film media that appeals to individuals under the age of 18 years or through a live performance by an entertainment artist that appeals to such individuals;

(4) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia or product identification identical to, similar to, or identifiable with the tobacco product is used for any item (other than a tobacco product) or service marketed, licensed, distributed or sold or caused to be marketed, licensed, distributed, or sold by the tobacco product manufacturer or distributor of the tobacco product; and

(5)(A) except as provided in subparagraph (B), if advertising or labeling for such product that is otherwise in accordance with the requirements of this section bears a tobacco product brand name (alone or in conjunction with any other word) or any other indicia of tobacco product identification and is disseminated in a medium other than newspapers, magazines, periodicals or other publications (whether periodic or limited distribution), nonpoint-of-sale promotional material (including direct mail), point-of-sale promotional material, or audio or video formats delivered at a point-of-sale; but

(B) notwithstanding subparagraph (A), advertising or labeling for cigarettes or smokeless tobacco may be disseminated in a medium that is not specified in paragraph (1) if the tobacco product manufacturer, distributor, or retailer notifies the Secretary not later than 30 days prior to the use of such medium, and the notice describes the medium and the extent to which the advertising or labeling may be seen by persons under the age of 18 years.

(b) Color Print Ads on Magazines.—The protocol shall also provide that no tobacco product may be sold or distributed in the United States if any advertising for that product on the outside back cover of a magazine appears in any color or combination of colors.

SEC. 1405. POINT-OF-SALE REQUIREMENTS.

(a) In General.—For purposes of section 1402, a protocol meets the requirements of this section if it provides that, except as provided in subsection (b), point-of-sale advertising of any tobacco product in any retail establishment is prohibited.

(b) Permitted POS Locations.—

(1) Placement.—One point-of-sale advertisement may be placed in or at each retail establishment for its brand or the contracted house retailer or private label brand of its wholesaler.

(2) Size.—The display area of any such point-of-sale advertisement (either individually or in the aggregate) shall not be larger than 576 square inches and shall consist of black letters on white background or another recognized typography.

(3) Proximity to candy.—Any such point-of-sale advertisement shall not be attached to or located within 2 feet of any display fixture on which candy is displayed for sale.

(c) Audio or Video.—Any audio or video format permitted under regulations promulgated by the Secretary may be played or shown in, but not distributed, at any location where tobacco products are offered for sale.

(d) No Restrictive Covenants.—No tobacco product manufacturer or distributor of tobacco products may enter into any arrangement with a retailer that limits the retailer's ability to display any form of advertising or promotional material originating with another supplier and permitted by law to be displayed in a retail establishment.

(e) Definitions.—As used in this section, the terms "point-of-sale advertisement" and "point-of-sale advertising" mean all printed or graphical materials (other than a pack, box, carton, or container of any kind in which cigarettes or smokeless tobacco is offered for sale, sold, or otherwise distributed to consumers) bearing the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco, which, when used for its intended purpose, can reasonably be anticipated to be seen by customers at a location where tobacco products are offered for sale.

SEC. 1406. APPLICATION OF TITLE.

(a) In General.—The provisions of this title apply to any civil action involving a tobacco claim brought pursuant to title VII of this Act, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act, only if such claim is brought or maintained against—

(1) a participating tobacco product manufacturer or its predecessors;

(2) an importer, distributor, wholesaler, or retailer of tobacco products—

(A) that, after the date of enactment of this Act, does not import, distribute, or sell tobacco products made or sold by a non-participating tobacco manufacturer;

(B) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(C) that is not itself a non-participating tobacco product manufacturer;

(3) a supplier of component or constituent parts of tobacco products—

(A) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(B) that is not itself a non-participating tobacco product manufacturer;

(4) a grower of tobacco products, unless such person is itself a non-participating tobacco product manufacturer; or

(5) an insurer of any person described in paragraph (1), (2), (3), or (4) based on, arising out of, or related to tobacco products manufactured, imported, distributed, or sold (or tobacco grown) by such person (other than an action brought by the insured person), unless such insurer is itself a non-participating tobacco product manufacturer.

(b) EXCEPTIONS.—The provisions of this title shall not apply to any tobacco claim—

(1) brought against any person other than those described in subsection (a) or to any tobacco claim that reached final judgment or final settlement prior to the date of enactment of this Act;

(2) against an employer under valid workers' compensation laws;

(3) arising under the securities laws of a State or the United State;

(4) brought by the United States;

(5) brought under this title by a State or a participating tobacco product manufacturer to enforce this Act;

(6) asserting damage to the environment from exposures other than environmental smoke or second-hand smoke; or

(7) brought against a supplier of a component or constituent part of a tobacco product, if the component or constituent part was sold after the date of enactment of this Act, and the supplier knew that the tobacco product giving rise to the claim would be manufactured in the United States by a non-participating tobacco product manufacturer.

SEC. 1407. GOVERNMENTAL CLAIMS.

(a) IN GENERAL.—Except as provided in subsection (b) and (c), no State, political subdivision of a State, municipal corporation, governmental entity or corporation, Indian tribe, or agency or subdivision thereof, or other entity acting in *parens patriae*, may file or maintain any civil action involving a tobacco claim against a participating tobacco product manufacturer.

(b) EFFECT ON EXISTING STATE SUITS OF SETTLEMENT AGREEMENT OR CONSENT DECREE.—Within 30 days after the date of enactment of this Act, any State that has filed a civil action involving a tobacco claim against a participating tobacco product manufacturer may elect to settle such action against said tobacco product manufacturer. If a State makes such an election to enter into a settlement or a consent decree, it may maintain a civil action involving a tobacco claim only to the extent necessary to permit continuing court jurisdiction over the settlement or consent decree. Nothing herein shall preclude any State from bringing suit or seeking a court order to enforce the terms of such settlement or decree.

(c) STATE OPTION FOR ONE-TIME OPT OUT.—Any State that does not make the election described in subsection (b) may continue its lawsuit, notwithstanding subsection (a) of this section. A State that does not make such an election shall not be eligible to receive payments from the trust fund in title IV.

(d) 30-DAY DELAY.—No settlement or consent decree entered into under subsection (b) may take effect until 30 days after the date of enactment of this Act.

(f) PRESERVATION OF INSURANCE CLAIMS.—

(1) IN GENERAL.—If all participating tobacco product manufacturers fail to make the payments required by title IV for any calendar year, then—

(A) beginning on the first day of the next calendar year, subsection (a) does not apply to any insurance claim (including a direct action claim) that is a tobacco claim, regardless of when that claim arose;

(B) any statute of limitations or doctrine of laches under applicable law shall be tolled for the period—

(i) beginning on the date of enactment of this Act; and

(ii) ending on the last day of that calendar year; and

(C) an insurance claim (including a direct action claim) that is a tobacco claim and that is pending on the date of enactment of this Act shall be preserved.

(2) APPLICATION OF TITLE 11, UNITED STATES CODE.—For purposes of this subsection, nothing in this Act shall be construed to modify, suspend, or otherwise affect the application of title 11, United States Code, to participating tobacco manufacturers that fail to make such payments.

(3) STATE LAW NOT AFFECTED.—Nothing in this subsection shall be construed to expand or abridge State law.

SEC. 1408. ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.

(a) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(b) CASTANO CIVIL ACTIONS.—

(1) The rights and benefits afforded in this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute the exclusive remedy for the purpose of determining civil liability as to those claims asserted in the Castano Civil Actions, and all bases for any such claim under the laws of any State are preempted (including State substantive, procedural, remedial, and evidentiary provisions) and settled. The Castano Civil Actions shall be dismissed with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions, as defined in section 1417(2), in accordance with this Act. For purposes of determining application of statutes of limitation or repose, individual actions filed within one year after the effective date of this Act by those who were included within a Castano Civil Action shall be considered to have been filed as of the date of the Castano Civil Action applicable to said individual.

(2) For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(3) The participating tobacco product manufacturers shall pay the arbitration award.

SEC. 1409. SUBSTANTIAL NON-ATTAINMENT OF REQUIRED REDUCTIONS.

(a) ACTION BY SECRETARY.—If the Secretary determines under title II that the non-attainment percentage for any year is greater than 20 percentage points for cigarettes or smokeless tobacco, then the Secretary shall determine, on a brand-by-brand basis, using data that reflects a 1999 baseline, which tobacco product manufacturers are responsible within the 2 categories of tobacco products for the excess. The Secretary may commence an action under this section against the tobacco product manufacturer or manufacturers of the brand or brands of cigarettes or smokeless tobacco products for which the non-attainment percentage exceeded 20 percentage points.

(b) PROCEDURES.—Any action under this section shall be commenced by the Secretary in the United States District Court for the District of Columbia within 90 days after publication in the Federal Register of the determination that the non-attainment percentage for the tobacco product in question is greater than 20 percentage points. Any such action shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code.

(c) DETERMINATION BY COURT.—In any action under this section, the court shall determine whether a tobacco product manufacturer has shown, by a preponderance of the evidence that it—

(1) has complied substantially with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, or of any Federal or State laws regarding underage tobacco use;

(2) has not taken any material action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(3) has used its best efforts to reduce underage tobacco use to a degree at least equal to the required percentage reductions.

(d) REMOVAL OF ANNUAL AGGREGATE PAYMENT LIMITATION.—Except as provided in subsections (e) and (g), if the court determines that a tobacco product manufacturer has failed to make the showing described in subsection (c) then sections 1411 and 1412 of this Act do not apply to the enforcement against, or the payment by, such tobacco product manufacturer of any judgment or settlement that becomes final after that determination is made.

(e) DEFENSE.—An action under this section shall be dismissed, and subsection (d) shall not apply, if the court finds that the Secretary's determination under subsection (a) was unlawful under subparagraph (A), (B), (C), or (D) of section 706(2) of title 5, United States Code. Any judgments paid under section 1412 of this Act prior to a final judgment determining that the Secretary's determination was erroneous shall be fully credited, with interest, under section 1412 of this Act.

(f) REVIEW.—Decisions of the court under this section are reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party. The applicability of subsection (d) shall be stayed during the pendency of any such petition or review.

(g) CONTINUING EFFECT.—Subsection (d) shall cease to apply to a tobacco product manufacturer found to have engaged in conduct described in subsection (c) upon the later of—

(1) a determination by the Secretary under section 201 after the commencement of action under subsection (a) that the non-attainment percentage for the tobacco product in question is 20 or fewer percentage points; or

(2) a finding by the court in an action filed against the Secretary by the manufacturer, not earlier than 2 years after the determination described in subsection (c) becomes final, that the manufacturer has shown by a preponderance of the evidence that, in the period since that determination, the manufacturer—

(A) has complied with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, and of any other applicable Federal, State, or local laws, rules, or regulations;

(B) has not taken any action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(C) has used its best efforts to attain the required percentage reduction for the tobacco product in question.

A judgment or settlement against the tobacco product manufacturer that becomes final after a determination or finding described in paragraph (1) or (2) of this subsection is not subject to subsection (d). An action under paragraph (2) of this subsection shall be commenced in the United States District Court for the District of Columbia, and shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code. A decision by the court under paragraph (2) of this subsection is reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party, and the decision shall be stayed during the pendency of the petition or review. A determination or finding described in paragraph (1) or (2) of this subsection does not limit the Secretary's authority to bring a subsequent action under this section against any tobacco product manufacturer or the applicability of subsection (d) with respect to any such subsequent action.

SEC. 1410. PUBLIC HEALTH EMERGENCY.

If the Secretary, in consultation with the Commissioner of Food and Drugs, the Surgeon General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health determines at any time that a tobacco product manufacturer's actions or inactions with respect to its compliance with the Act are of such a nature as to create a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the Secretary may bring an action under section 1409 seeking the immediate suspension of the tobacco product manufacturer's annual limitation cap on civil judgments. If the court determines that the Secretary has proved by clear and convincing evidence that the subject manufacturer's actions or inactions are of such a nature that they present a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the court may suspend the subject manufacturer's annual limitation cap on civil judgments.

SEC. 1411. TOBACCO CLAIMS BROUGHT AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.

(a) Permissible Defendants.—In any civil action to which this title applies, tobacco claims may be filed or maintained only against—

(1) a participating tobacco product manufacturer; or

(2) a surviving entity established by a participating tobacco product manufacturer.

(b) Actions Involving Participating and Non-Participating Manufacturers.—In any civil action involving both a tobacco claim against a participating tobacco product manufacturer based in whole or in part upon conduct occurring prior to the date of enactment of this Act and a claim against 1 or more non-participating tobacco product manufacturers, the court, upon application of a participating tobacco product manufacturer, shall require the jury to or shall itself apportion liability as between the participating tobacco product manufacturer and non-participating tobacco product manufacturers.

SEC. 1412. PAYMENT OF TOBACCO CLAIM SETTLEMENTS AND JUDGMENTS.

(a) In General.—Except as provided in this section, any judgment or settlement in any civil action to which this subtitle applies shall be subject to the process for payment of judgments and settlements set forth in this section. No participating tobacco product manufacturer shall be obligated to pay a judgment or settlement on a tobacco claim in any civil action to which this title applies except in accordance with this section. This section shall not apply to the portion, if any, of a judgment that imposes punitive damages based on any conduct that—

(1) occurs after the date of enactment of this Act; and

(2) is other than the manufacture, development, advertising, marketing, or sale of tobacco products in compliance with this Act and any agreement incident thereto.

(b) Registration With the Secretary of the Treasury.—

(1) The Secretary shall maintain a record of settlements, judgments, and payments in civil actions to which this title applies.

(2) Any party claiming entitlement to a monetary payment under a final judgment or final settlement on a tobacco claim shall register such claim with the Secretary by filing a true and correct copy of the final judgment or final settlement agreement with the Secretary and providing a copy of such filing to all other parties to the judgment or settlement.

(3) Any participating tobacco product manufacturer making a payment on any final judgment or final settlement to which this section applies shall certify such payment to the Secretary by filing a true and correct copy of the proof of payment and a statement of the remaining unpaid portion, if any, of such final judgment or final settlement with the Secretary and shall provide a copy of such filing to all other parties to the judgment or settlement.

(c) Liability Cap.—

(1) In general.—The aggregate payments made by all participating tobacco product manufacturers in any calendar year may not exceed $8,000,000,000.

(2) Implementation.—The Secretary shall initiate a rulemaking within 30 days after the date of enactment of this Act to establish a mechanism for implementing this subsection in such a way to ensure the fair and equitable payment of final judgments or final settlements on tobacco claims under this title. Amounts not payable because of the application of this subsection, shall be carried forward and paid in the next year, subject to the provisions of this subsection.

(3) Inflation adjustment.—

(A) In general.—The amount in paragraph (1) shall be increased annually, beginning with the second calendar year beginning after the date of enactment of this Act, by the greater of 3 percent or the annual increase in the CPI.

(B) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) Rounding.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(d) Injunctive Relief.—A participating tobacco product manufacturer may commence an action to enjoin any State court proceeding to enforce or execute any judgment or settlement where payment has not been authorized under this section. Such an action shall arise under the laws of the United States and may be commenced in the district court of the United States for the district in which the State court proceeding is pending.

(e) Joint and Several Liability.—All participating tobacco product manufacturers shall be jointly and severally liable for, and shall enter into an agreement to apportion among them, any amounts payable under judgments and settlements governed by this section arising in whole or in part from conduct occurring prior to the date of enactment of this Act.

(f) Bankruptcy of Participating Manufacturer.—No participating tobacco product manufacturer shall cease operations without establishing a surviving entity against which a tobacco claim may be brought. Any obligation, interest, or debt of a participating, tobacco product manufacturer arising under such liability apportionment agreement shall be given priority and shall not be rejected, avoided, discharged, or otherwise modified or diminished in a proceeding, under title 11, United States Code, or in any liquidation, reorganization, receivership, or other insolvency proceeding under State law. A trustee or receiver in any proceeding under title 11, United States Code, or in liquidation, reorganization, receivership, or other insolvency proceeding under State law, may avoid any transfer of an interest of the participating tobacco product manufacturer, or any obligation incurred by such manufacturer, that was made or incurred on or within 2 years before the date of the filing of a bankruptcy petition, if such manufacturer made such transfer or incurred such obligation to hinder or defeat in any fashion the payment of any obligation, interest, or debt of the manufacturer arising under the liability apportionment agreement. Any property vesting in the participating tobacco product manufacturer following such a proceeding shall be subject to all claims and interest of creditors arising under the liability apportionment agreement.

(f) Limitation on State Courts.—No court of any State, Tribe, or political subdivision of a State may take any action to inhibit the effective operation of subsection (c).

SEC. 1413. ATTORNEYS' FEES AND EXPENSES.

(a) Arbitration Panel.—

(1) Right to Establish.—For the purpose of awarding of attorneys' fees and expenses relating to litigation affected by, or legal services that, in whole or in part, resulted in or created a model for programs in, this Act, and with respect to which litigation or services the attorney involved is unable to agree with the plaintiff who employed that attorney with respect to any dispute that may arise between them regarding the fee agreement, the matter at issue shall be submitted to arbitration. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the plaintiff, one of whom shall be chosen by the attorney, and one of whom shall be chosen jointly by those 2 arbitrators.

(2) Operation.—Not later than 30 days after the date on which all members of an arbitration panel are appointed under paragraph (1), the panel shall establish the procedures under which the panel will operate which shall include—

(A) a requirement that any finding by the arbitration panel must be in writing and supported by written reasons;

(B) procedures for the exchanging of exhibits and witness lists by the various claimants for awards;

(C) to the maximum extent practicable, requirements that proceedings before the panel be based on affidavits rather than live testimony; and

(D) a requirement that all claims be submitted to an arbitration panel not later than 3 months after the date of this Act and a determination made by the panel with respect to such claims not later than 7 months after such date of enactment.

(3) Right to petition.—Any individual attorney or group of attorneys involved in litigation affected by this Act shall have the right to petition an arbitration panel for attorneys' fees and expenses.

(4) Criteria.—In making any award under this section, an arbitration panel shall consider the following criteria:

(A) The time and labor required by the claimant.

(B) The novelty and difficulty of the questions involved in the action for which the claimant is making a claim.

(C) The skill requisite to perform the legal service involved properly.

(D) The preclusion of other employment by the attorney due to acceptance of the action involved.

(E) Whether the fee is fixed or a percentage.

(F) Time limitations imposed by the client or the circumstances.

(G) The amount involved and the results obtained.

(H) The experience, reputation, and ability of the attorneys involved.

(I) The undesirability of the action.

(J) Such other factors as justice may require.

(5) Appeal and enforcement.—The findings of an arbitration panel shall be final, binding, nonappealable, and payable within 30 days after the date on which the finding is made public, except that if an award is to be paid in installments, the first installment shall be payable within such 30 day period and succeeding installments shall be paid annually thereafter.

(b) Validity and Enforceability of Private Agreements.—Notwithstanding any other provision of this Act, nothing in this section shall be construed to abrogate or restrict in any way the rights of any parties to mediate, negotiate, or settle any fee or expense disputes or issues to which this section applies, or to enter into private agreements with respect to the allocation or division of fees among the attorneys party to any such agreement.

(c) Offset for Amounts Already Paid.—In making a determination under this section with regard to a dispute between a State that pursued independent civil action against tobacco product manufacturers and its attorney, the arbitration panel shall take into account any amounts already paid by the State under the agreement in dispute.

SEC. 1414. EFFECT OF COURT DECISIONS.

(a) Severability.—If any provision of titles I through XIII, or the application thereof to any person, manufacturer or circumstance, is held invalid, the remainder of the provisions of those titles, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(b) Nonseverability.—If a court of competent jurisdiction enters a final decision substantially limiting or impairing the essential elements of title XIV, specifically the requirements of sections 1404 and 1405, then the provisions of section 1412 are null and void and of no effect.

SEC. 1415. CRIMINAL LAWS NOT AFFECTED.

Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors or their directors, officers, employees, successors, or assigns.

SEC. 1416. CONGRESS RESERVES THE RIGHT TO ENACT LAWS IN THE FUTURE.

The right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress in accordance with the provisions of Article I of the Constitution of the United States and more than 200 years of history.

SEC. 1417. DEFINITIONS.

In this title:

(1) Terms defined in title VII.—Any term used in this title that is defined in title VII has the meaning given to it in title VII.

(2) Additional definitions.—

(A) Addiction claim; dependence claim.—The term "addiction claim" or "dependence claim" refers only to any cause of action to the extent that the prayer for relief seeks a cessation program, or other public health program that is to be available to members of the general public and is designed to reduce or eliminate the users' addiction to, or dependence on, tobacco products, and as used herein is brought by those who claim the need for nicotine reduction assistance. Neither addiction or dependence claims include claims related to or involving manifestation of illness or tobacco-related diseases.

(B) Compensatory damages.—The term "compensatory damages" refers to those damages necessary to reimburse an injured party, and includes actual, general, and special damages.

(C) Protocol.—The term "protocol" means the agreement to be entered into by the Secretary of Health and Human Services with a participating tobacco product manufacturers under this title.

(D) Punitive damages.—The term "punitive damages" means damages in addition to compensatory damages having the character of punishment or penalty.

(E) Secretary.—The term "Secretary" means the Secretary of the Treasury, except where the context otherwise requires.

TITLE XV—TOBACCO TRANSITION

SEC. 1501. SHORT TITLE.

This title may be cited as the "Tobacco Transition Act".

SEC. 1502. PURPOSES.

The purposes of this title are—

(1) to authorize the use of binding contracts between the United States and tobacco quota owners and tobacco producers to compensate them for the termination of Federal programs that support the production of tobacco in the United States;

(2) to make available to States funds for economic assistance initiatives in counties of States that are dependent on the production of tobacco; and

(3) to terminate Federal programs that support the production of tobacco in the United States.

SEC. 1503. DEFINITIONS.

In this title:

(1) Association.—The term "association" means a producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers.

(2) Buyout payment.—The term "buyout payment" means a payment made to a quota owner under section 1514 for each of the 1999 through 2001 marketing years.

(3) Contract.—The term "contract" or "tobacco transition contract" means a contract entered into under section 1512.

(4) Governor.—The term "Governor" means the chief executive officer of a State.

(5) Lease.—The term "lease" means—

(A) the rental of quota on either a cash rent or crop share basis;

(B) the rental of farmland to produce tobacco under a farm marketing quota; or

(C) the lease and transfer of quota for the marketing of tobacco produced on the farm of a lessor.

(6) Marketing year.—The term "marketing year" means—

(A) in the case of Flue-cured tobacco, the period beginning July 1 and ending the following June 30; and

(B) in the case of each other kind of tobacco, the period beginning October 1 and ending the following September 30.

(7) Owner.—The term "owner" means a person that, at the time of entering into a tobacco transition contract, owns quota provided by the Secretary.

(8) Price support.—The term "price support" means a nonrecourse loan provided by the Commodity Credit Corporation through an association for a kind of tobacco.

(9) Producer.—The term "producer" means a person that for each of the 1995 through 1997 crops of tobacco (as determined by the Secretary) that were subject to quota—

(A) leased quota or farmland;

(B) shared in the risk of producing a crop of tobacco; and

(C) marketed the tobacco subject to quota.

(10) Quota.—The term "quota" means the right to market tobacco under a basic marketing quota or acreage allotment allotted to a person under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(11) Secretary.—The term "Secretary" means the Secretary of Agriculture.

(12) State.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(13) Tobacco.—The term "tobacco" means any kind of tobacco for which—

(A) a marketing quota is in effect;

(B) a marketing quota is not disapproved by producers; or

(C) price support is available.

(14) Tobacco product manufacturer.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(15) Transition payment.—The term "transition payment" means a payment made to a producer under section 1515 for each of the 1999 through 2001 marketing years.

(16) Trust fund.—The term "Trust Fund" means the Tobacco Community Revitalization Trust Fund established by section 1511.

(17) United states.—The term "United States", when used in a geographical sense, means all of the States.

Subtitle A—Tobacco Production Transition

CHAPTER 1—TOBACCO TRANSITION CONTRACTS

SEC. 1511. TOBACCO COMMUNITY REVITALIZATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the "Tobacco Community Revitalization Trust Fund", consisting of amounts paid into the Trust Fund under subsection (d).

(b) ADMINISTRATION.—The Trust Fund shall be administered by the Secretary of the Treasury.

(c) USE.—Funds in the Trust Fund shall be available for making—

(1) buyout payments;

(2) transition payments; and

(3) rural economic assistance block grants under section 1521.

(d) TRANSFER FROM NATIONAL TOBACCO SETTLEMENT TRUST FUND.—The Secretary of the Treasury shall transfer from the National Tobacco Settlement Trust Fund to the Trust Fund such amounts as the Secretary of Agriculture determines are necessary to carry out this title.

(e) TERMINATION.—The Trust Fund shall terminate effective September 30, 2003.

SEC. 1512. OFFER AND TERMS OF TOBACCO TRANSITION CONTRACTS.

(a) OFFER.—The Secretary shall offer to enter into a tobacco transition contract with each owner and producer.

(b) TERMS.—

(1) OWNERS.—In exchange for a payment made under section 1514, an owner shall agree to relinquish the quota owned by the owner.

(2) PRODUCERS.—In exchange for a payment made under section 1515, a producer shall agree to relinquish the value of the quota leased by the producer.

(c) RIGHT TO GROW TOBACCO.—Each owner or producer that enters into a contract shall have the right to continue the production of tobacco for each of the 1999 and subsequent crops of tobacco.

SEC. 1513. ELEMENTS OF CONTRACTS.

(a) DEADLINES FOR CONTRACTING.—

(1) COMMENCEMENT.—To the maximum extent practicable, the Secretary shall commence entering into contracts under this chapter not later than 90 days after the date of enactment of this Act.

(2) DEADLINE.—The Secretary may not enter into a contract under this chapter after June 30, 1999.

(b) DURATION OF CONTRACT.—The term of a contract shall—

(1) begin on the date that is the beginning of the 1999 marketing year for a kind of tobacco; and

(2) terminate on the date that is the end of the 2001 marketing year for the kind of tobacco.

(c) TIME FOR PAYMENT.—A buyout payment or transition payment shall be made not later than the date that is the beginning of the marketing year for a kind of tobacco for each year of the term of a tobacco transition contract of an owner or producer.

SEC. 1514. BUYOUT PAYMENTS TO OWNERS.

(a) IN GENERAL.—The Secretary shall make buyout payments in 3 equal installments, 1 installment for each of the 1999 through 2001 marketing years for each kind of tobacco involved, to an owner that owns quota at the time of entering into a tobacco transition contract.

(b) COMPENSATION FOR LOST VALUE.—The payment shall constitute compensation for the lost value to the owner of the quota.

(c) PAYMENT CALCULATION.—Under this section, the total amount of the buyout payment made to an owner shall be determined by multiplying—

(1) $8.00; by

(2) the average annual quantity of quota owned by the owner during the 1995 through 1997 crop years.

SEC. 1515. TRANSITION PAYMENTS TO PRODUCERS.

(a) IN GENERAL.—The Secretary shall make transition payments in 3 equal installments, 1 installment for each of the 1999 through 2001 marketing years for each kind of tobacco produced, to a producer that—

(1) produced the kind of tobacco for each of the 1995 through 1997 crops; and

(2) entered into a tobacco transition contract.

(b) TRANSITION PAYMENTS LIMITED TO LEASED QUOTA.—A producer shall be eligible for transition payments only for the portion of the production of the producer that is subject to quota that is leased (as defined in section 1503(5) of this Act) during the 3 crop years described in subsection (a)(1).

(c) COMPENSATION FOR LOST REVENUE.—The payments shall constitute compensation for the lost revenue incurred by a tobacco producer for a kind of tobacco.

(d) PRODUCTION HISTORY; PRODUCTION.—

(1) PRODUCTION HISTORY.—The Secretary shall base a transition payment made to a producer on the average quantity of tobacco subject to a marketing quota that is produced by the producer for each of the 1995 through 1997 crops.

(2) PRODUCTION.—The producer shall have the burden of demonstrating to the Secretary the production of tobacco for each of the 1995 through 1997 crops.

(e) PAYMENT CALCULATION.—Under this section, the total amount of the transition payment made to a producer shall be determined by multiplying—

(1) $4.00; by

(2) the average quantity of the kind of tobacco produced by the producer for each of the 1995 through 1997 crops.

CHAPTER 2—RURAL ECONOMIC ASSISTANCE BLOCK GRANTS

SEC. 1521. RURAL ECONOMIC ASSISTANCE BLOCK GRANTS.

(a) IN GENERAL.—From funds transferred from the Trust Fund, the Secretary shall use $200,000,000 for each of fiscal years 1999 through 2003 to provide block grants to tobacco-growing States to assist areas of such a State that are economically dependent on the production of tobacco.

(b) PAYMENTS BY SECRETARY TO TOBACCO-GROWING STATES.—

(1) IN GENERAL.—The Secretary shall use the amount available for a fiscal year under subsection (a) to make block grant payments to the Governors of tobacco-growing States.

(2) AMOUNT.—The amount of a block grant paid to a tobacco-growing State shall be based on, as determined by the Secretary—

(A) the number of counties in the State in which tobacco production is a significant part of the county's economy; and

(B) the level of economic dependence of the counties on tobacco production.

(c) GRANTS BY STATES TO ASSIST TOBACCO-GROWING AREAS.—

(1) IN GENERAL.—A Governor of a tobacco-growing State shall use the amount of the block grant to the State under subsection (b) to make grants to counties or other public or private entities in the State to assist areas that are dependent on the production of tobacco, as determined by the Governor.

(2) AMOUNT.—The amount of a grant paid to a county or other entity to assist an area shall be based on—

(A) the ratio of gross tobacco sales receipts in the area to the total farm income in the area; and

(B) the ratio of all tobacco related receipts in the area to the total income in the area.

(3) USE OF GRANTS.—A county or other entity that receives a grant under this subsection may use the grant in a manner determined appropriate by the county or entity (with the approval of the State) to assist producers and other persons that are economically dependent on the production of tobacco, including use for—

(A) on-farm diversification, alternatives to the production of tobacco, and risk management;

(B) off-farm activities such as education, retraining, and development of non-tobacco related jobs; and

(C) assistance to tobacco warehouse owners or operators.

(d) TERMINATION OF AUTHORITY.—The authority provided by this section terminates September 30, 2003.

Subtitle B—Tobacco Price Support and Production Adjustment Programs

CHAPTER 1—TOBACCO PRICE SUPPORT PROGRAM

SEC. 1531. INTERIM REFORM OF TOBACCO PRICE SUPPORT PROGRAM.

(a) PRICE SUPPORT RATES.—Section 106(f) of the Agricultural Act of 1949 (7 U.S.C. 1445(f)) is amended by adding at the end the following:

"(9) TOBACCO PRICE SUPPORT RATES.—Notwithstanding any other provision of this subsection, the price support rate for each kind of tobacco for which quotas were approved for the 1998 crop shall be reduced by—

"(A) for the 1999 crop, 25 percent from the 1998 support rate for a kind of tobacco;

"(B) for the 2000 crop, 10 percent from the 1999 support rate for a kind of tobacco; and

"(C) for the 2001 crop, 10 percent from the 2000 support rate for a kind of tobacco.".

(b) NO NET COST TOBACCO FUND.—Section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445-1) is amended—

(1) by striking "quota tobacco" each place it appears and inserting "tobacco";

(2) in subsection (a), by striking paragraph (7) and inserting the following:

"(7) the term 'tobacco' means any kind of tobacco for which—

"(A) a marketing quota is in effect;

"(B) a marketing quota is not disapproved by producers; or

"(C) price support is available.";

(3) in the second sentence of subsection (c), by striking "contributed by producer-members or";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking clause (i);

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(III) in clause (ii) (as so redesignated), by striking subclause (II) and inserting the following:

"(II) the amount of per pound purchaser assessments that are payable by domestic purchasers of Flue-cured and Burley tobacco under clause (i); and"; and

(ii) in subparagraph (B)—

(I) by striking "that, upon" and all that follows through "In making" and inserting "in making"; and

(II) in the last sentence, by striking "contributions and";

(B) in paragraph (2)—

(i) by striking "producer contribution or"; and

(ii) by striking subparagraphs (A) and (B) and inserting the following:

"(A) from the person that acquired the tobacco involved from the producer;

"(B) if the tobacco involved is marketed by a producer through a warehouseman or agent, from the warehouseman or agent, who may add an amount equal to the purchaser assessment to the price paid by the purchaser;";

(C) in paragraph (3), by striking ", and use of" and all that follows through "of the Fund"; and

(D) in paragraph (7), by striking "contributions and"; and

(5) in subsection (h), by striking "contribution or" each place it appears.

(c) No Net Cost Tobacco Account.—Section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2) is amended—

(1) by striking "quota tobacco" each place it appears and inserting "tobacco";

(2) in subsection (a), by striking paragraph (5) and inserting the following:

"(5) the term 'tobacco' means any kind of tobacco for which—

"(A) a marketing quota is in effect;

"(B) a marketing quota is not disapproved by producers; or

"(C) price support is available;";

(3) in subsection (c)(1), by striking "producers, purchasers," and inserting "purchasers"; and

(4) in subsection (d)—

(A) in paragraph (1)—

(i) by striking subparagraph (A);

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(iii) in subparagraph (A) (as redesignated), by striking "also";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in the first sentence, by striking "the amount of the marketing assessment" through "association's area and"; and

(II) by striking the second sentence;

(ii) in subparagraph (C)(ii)—

(I) by striking "sum of the";

(II) by striking "producer and"; and

(III) by striking "producers and"; and

(C) in paragraph (3)—

(i) by striking "(3)(A)" and all that follows through the end of subparagraph (B) and inserting the following:

"(3) Collection of assessments.—

"(A) Purchasers.—Except as provided in subparagraphs (B) and (C), an assessment to be paid by a purchaser under paragraph (1) shall be collected from the person who acquired the tobacco involved from the producer.

"(B) Warehouseman or agent.—If tobacco of the kind for which an account is established is marketed by a producer through a warehouseman or agent, the purchaser assessment shall be collected from the warehouseman or agent, who may add an amount equal to the purchaser assessment to the price paid by the purchaser."; and

(ii) in subparagraph (C), by striking "both the producer and".

(d) Administrative Costs.—Section 1109 of the Agriculture and Food Act of 1981 (Public Law 97–98; 7 U.S.C. 1445 note) is repealed.

(e) Crops.—This section and the amendments made by this section shall apply with respect to the 1999 through 2001 marketing years.

SEC. 1532. TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM.

(a) Parity Price Support.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(1) in the first sentence of subsection (a), by striking "tobacco (except as otherwise provided herein), corn," and inserting "corn";

(2) by striking subsections (c), (g), (h), and (i);

(3) in subsection (d)(3)—

(A) by striking ", except tobacco,"; and

(B) by striking "and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;"; and

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) Termination of Tobacco Price Support.—Sections 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsections (a) through (f).

(c) Definition of Basic Agricultural Commodity.—Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking "tobacco,".

(d) Review of Burley Tobacco Imports.—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(e) Powers of Commodity Credit Corporation.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended by inserting "(other than tobacco)" after "agricultural commodities" each place it appears.

(f) Transition Provisions.—

(1) Liability.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date of this section.

(2) Tobacco inventories.—The Secretary shall issue regulations that require the orderly sale of tobacco inventories held by associations.

(3) No net cost tobacco fund.—

(A) In general.—Section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1) is amended by adding at the end the following:

"(i) Assessments To Cover Net Losses After 2001 Marketing Year.—

"(1) In general.—Effective the day after the last day of the 2001 marketing year for the kind of tobacco involved, purchasers and importers of tobacco shall pay no net cost assessments as determined by an association, with the approval of Secretary, and as provided in this subsection.

"(2) Basis.—The amount of the assessment shall be based on any unpaid past losses, and anticipated future losses, from sales of tobacco inventory.

"(3) Collection.—Assessments shall be collected as provided in subsection (d)(2).

"(4) Penalty for failure to pay assessment.—Penalties for failure to pay assessments shall be calculated as provided in subsection (h).

"(5) Duration of assessments.—Assessments required under this subsection shall be required until—

"(A) all tobacco price support loans, including interest, are repaid to the Commodity Credit Corporation; and

"(B) the Commodity Credit Corporation has been reimbursed for all net losses sustained as a result of price support loans provided through the 2001 crop of the kind of tobacco involved.".

(B) Conforming amendments.—Section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1) (as amended by section 1531(b)) is amended—

(i) in subsection (a)—

(I) in paragraph (5), by inserting "and" after the semicolon;

(II) in paragraph (6), by striking "; and" and inserting a period; and

(III) by striking paragraph (7);

(ii) by striking subsection (b);

(iii) in subsection (d)—

(I) in the last sentence of paragraph (1), by striking "the amounts which the Corporation will lend to the association under such agreements and";

(II) by striking paragraph (2) and inserting the following:

"(2) collect the assessment due under paragraph (1) by directly notifying the purchaser or importer of the amount of the assessment and how payment should be made;"; and

(III) in paragraph (3), by striking ": *Provided*, That," and all that follows and inserting ", except that, notwithstanding any other provision of law, the association may use amounts in the Fund (including interest and other earnings) for the purposes of reducing the association's outstanding indebtedness to the Corporation associated with 1982 and subsequent crops of tobacco;";

(iv) in subsection (e)—

(I) in the first sentence, by striking "or provide" and all that follows through "the association"; and

(II) by striking the second sentence; and

(v) in subsection (h), by striking "(h)(1)(A)" and all that follows through the end of subparagraph (B) and inserting the following:

"(h) Failure To Pay Contributions or Assessments.—

"(1) In general.—

"(A) Purchasers.—Each purchaser that fails to pay an assessment as required by subsection (d)(2) at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the 2001 marketing year on the quantity of tobacco as to which the failure occurs.

"(B) Importers.—Each importer that fails to pay an assessment as required by subsection (d)(2) at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, for a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of tobacco for the 2001 marketing year on the quantity of tobacco as to which the failure occurs.".

(4) No net cost tobacco account.—

(A) In general.—Section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2) is amended by adding at the end the following:

"(k) Assessments To Cover Net Losses After 2001 Marketing Year.—

"(1) In general.—Subject to subsection (b), effective the day after the last day of the 2001 marketing year for the kind of tobacco involved, purchasers and importers of tobacco shall pay no net cost assessments as determined by an association, with the approval of Secretary, and as provided in this subsection.

"(2) Basis.—The amount of the assessment shall be based on any unpaid past losses, and anticipated future losses, from sales of tobacco inventory.

"(3) Collection.—Assessments shall be collected as provided in subsection (d)(3).

"(4) Penalty for failure to pay assessment.—Penalties for failure to pay assessments shall be calculated as provided in subsection (j).

"(5) DURATION OF ASSESSMENTS.—Assessments required under this subsection shall be required until—

"(A) all tobacco price support loans, including interest, are repaid to the Commodity Credit Corporation; and

"(B) the Commodity Credit Corporation has been reimbursed for all net losses sustained as a result of price support loans provided through the 2001 crop of the kind of tobacco involved.".

(B) CONFORMING AMENDMENTS.—Section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2) (as amended by section 1531(c)) is amended—

(i) in subsection (a)—

(I) by striking paragraph (5); and

(II) by redesignating paragraphs (6) through (8) as paragraphs (5) through (7), respectively;

(ii) by striking subsection (b) and inserting the following:

"(b) ESTABLISHMENT.—Notwithstanding section 106A, the Secretary shall, on the request of any association, and may, if the Secretary determines, after consultation with the association, that the accumulation of the No Net Cost Tobacco Fund for the association under section 106A is, and is likely to remain, inadequate to reimburse the Corporation for net losses that the Corporation sustains under its loan agreement with the association, establish and maintain in accordance with this section a No Net Cost Tobacco Account for the association in lieu of the No Net Cost Tobacco Fund established within the association under section 106A.";

(iii) in subsection (d)—

(I) in the third sentence of paragraph (2)(A), by striking "the amounts which the Corporation will lend to such association under such agreements and"; and

(II) by striking paragraph (3) and inserting the following:

"(3) COLLECTION.—Any assessment to be paid by a purchaser or importer under paragraph (1) shall be collected from the purchaser or importer by the Secretary."; and

(iv) in subsection (j), by striking "(j)(1)(A)" and all that follows through the end of subparagraph (B) and inserting the following:

"(j) FAILURE TO PAY CONTRIBUTIONS OR ASSESSMENTS.—

"(1) IN GENERAL.—

"(A) PURCHASERS.—Each purchaser that fails to pay to the Secretary an assessment as required by subsection (d)(3) at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the 2001 marketing year on the quantity of tobacco as to which the failure occurs.

"(B) IMPORTERS.—Each importer that fails to pay to the Secretary an assessment as required by subsection (d)(3) at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, for a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of tobacco for the 2001 marketing year on the quantity of tobacco as to which the failure occurs.".

(g) NET GAINS HELD BY COMMODITY CREDIT CORPORATION.—The Secretary shall ensure that the net gains in the No Net Cost Tobacco Account of the Commodity Credit Corporation as of September 30, 2002, equal or exceed the balance in the Account that existed on September 30, 1998.

(h) CROPS.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall apply the day after the last day of the 2001 marketing year for the kind of tobacco involved.

(2) NET LOSSES TO THE COMMODITY CREDIT CORPORATION.—Sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1, 1445–2) are repealed effective on the date on which the Secretary—

(A) determines that—

(i) all tobacco price support loans, plus interest, have been repaid by associations; and

(ii) the Commodity Credit Corporation has been reimbursed for all net losses sustained as a result of price support loans provided through the 2001 crop of the kind of tobacco involved; and

(B) publishes a notice of the determination in the Federal Register.

CHAPTER 2—TOBACCO PRODUCTION ADJUSTMENT PROGRAMS

SEC. 1541. TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS.

(a) DECLARATION OF POLICY.—Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking "tobacco,".

(b) DEFINITIONS.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C);

(2) in paragraph (6)(A), by striking "tobacco,";

(3) in paragraph (7), by striking the following:

"tobacco (flue-cured), July 1—June 30;

"tobacco (other than flue-cured), October 1–September 30;";

(4) in paragraph (10)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(5) in paragraph (11)(B), by striking "and tobacco";

(6) in paragraph (12), by striking "tobacco,";

(7) in paragraph (14)—

(A) in subparagraph (A), by striking "(A)"; and

(B) by striking subparagraphs (B), (C), and (D);

(8) by striking paragraph (15);

(9) in paragraph (16)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B); and

(10) by redesignating paragraphs (16) and (17) as paragraphs (15) and (16), respectively.

(c) PARITY PAYMENTS.—Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended in the first sentence by striking "rice, or tobacco," and inserting "or rice,".

(d) MARKETING QUOTAS.—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(e) ADMINISTRATIVE PROVISIONS.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking "tobacco,".

(f) ADJUSTMENT OF QUOTAS.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(1) in the first sentence of subsection (a), by striking "peanuts, or tobacco" and inserting "or peanuts"; and

(2) in the first sentence of subsection (b), by striking "peanuts or tobacco" and inserting "or peanuts".

(g) REPORTS AND RECORDS.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(1) by striking "peanuts, or tobacco" each place it appears in subsections (a) and (b) and inserting "or peanuts"; and

(2) in subsection (a)—

(A) in the first sentence, by striking "all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,"; and

(B) in the last sentence, by striking "$500;" and all that follows through the period at the end of the sentence and inserting "$500.".

(h) REGULATIONS.—Section 375(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375(a)) is amended by striking "peanuts, or tobacco" and inserting "or peanuts".

(i) EMINENT DOMAIN.—Section 378 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378) is amended—

(1) in the first sentence of subsection (c), by striking "cotton, tobacco, and peanuts" and inserting "cotton and peanuts"; and

(2) by striking subsections (d), (e), and (f).

(j) BURLEY TOBACCO FARM RECONSTITUTION.—Section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) is amended—

(1) in subsection (a)—

(A) by striking "(a)"; and

(B) in paragraph (6), by striking ", but this clause (6) shall not be applicable in the case of burley tobacco"; and

(2) by striking subsections (b) and (c).

(k) ACREAGE-POUNDAGE QUOTAS.—Section 4 of the Act entitled "An Act to amend the Agricultural Adjustment Act of 1938, as amended, to provide for acreage-poundage marketing quotas for tobacco, to amend the tobacco price support provisions of the Agricultural Act of 1949, as amended, and for other purposes", approved April 16, 1965 (Public Law 89–12; 7 U.S.C. 1314c note), is repealed.

(l) BURLEY TOBACCO ACREAGE ALLOTMENTS.—The Act entitled "An Act relating to burley tobacco farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended", approved July 12, 1952 (7 U.S.C. 1315), is repealed.

(m) TRANSFER OF ALLOTMENTS.—Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

(n) ADVANCE RECOURSE LOANS.—Section 13(a)(2)(B) of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c–1(a)(2)(B)) is amended by striking "tobacco and".

(o) TOBACCO FIELD MEASUREMENT.—Section 1112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203) is amended by striking subsection (c).

(p) LIABILITY.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date under subsection (q).

(q) CROPS.—This section and the amendments made by this section shall apply with respect to the 1999 and subsequent crops of the kind of tobacco involved.

Subtitle C—Funding

SEC. 1551. TRUST FUND.

(a) REQUEST.—The Secretary of Agriculture shall request the Secretary of the Treasury to transfer from the Trust Fund amounts authorized under sections 1514, 1515, and 1521 to the account of the Commodity Credit Corporation.

(b) TRANSFER.—On receipt of such a request, the Secretary of the Treasury shall transfer amounts requested under subsection (a).

(c) USE.—The Secretary of Agriculture shall use the amounts transferred under subsection (b) to carry out the activities described in subsection (a).

(d) TERMINATION OF AUTHORITY.—The authority provided under this section shall expire on September 30, 2003.

SEC. 1552. TOBACCO RELATED ADMINISTRATIVE COSTS AND SUBSIDIES.

(a) IN GENERAL.—The Secretary shall provide, by regulation, for a nonrefundable marketing assessment paid by purchasers of tobacco during each of the 1999 through 2024 fiscal years.

(b) BASIS.—The assessment shall be—

(1) on a per pound basis, as determined by the Secretary; and

(2) based on estimated annual costs to the Federal Government of tobacco related administrative costs and subsidies in accordance with this section.

(c) AGGREGATE ASSESSMENT AMOUNT.—For each fiscal year, the Secretary shall estimate the costs to the Federal Government relating to tobacco that involve—

(1) agricultural extension;

(2) handling, sampling, grading, inspecting, and weighing;

(3) administering and providing subsidies for crop insurance; and

(4) administering the tobacco price support program for each of the 1999 through 2001 fiscal years.

(d) ASSESSMENT AMOUNT FOR EACH KIND OF TOBACCO.—For each fiscal year, the Secretary shall determine the amount of the total costs determined under subsection (c) that benefit each kind of tobacco.

(e) ESTIMATED MARKETINGS.—For each fiscal year, the Secretary shall estimate the pounds marketed during the fiscal year for each kind of tobacco.

(f) ASSESSMENT RATE.—For each kind of tobacco for each fiscal year, the Secretary shall calculate an assessment rate per pound by dividing—

(1) the amount determined under subsection (d); by

(2) the estimated pounds marketed as estimated under (e).

(g) REMITTANCE BY PURCHASER.—For each fiscal year, each purchaser of tobacco shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment equal to the amount obtained by multiplying—

(1) the assessment rate for the kind of tobacco purchased; by

(2) the number of pounds of the kind of tobacco purchased.

(h) PENALTIES.—If any purchaser fails to remit the assessment required by this section or fails to comply with such requirements for recordkeeping as are established by the Secretary to carry out this section, the purchaser shall be liable to the Secretary for a civil penalty in an amount determined by the Secretary that does not exceed the amount obtained by multiplying—

(1) the quantity of the kind of tobacco involved in the violation; by

(2) the assessment rate for the kind of tobacco.

(i) ENFORCEMENT.—The Secretary may enforce this section in the courts of the United States.

SEC. 1553. COMMODITY CREDIT CORPORATION.

The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title and the amendments made by this title.

Subtitle D—Miscellaneous

SEC. 1561. LIABILITY FOR OBLIGATIONS OF TOBACCO PRODUCT MANUFACTURERS.

A person that owns or produces tobacco, or owns or operates a tobacco warehouse, shall not be liable for—

(1) any action or legal penalty or obligation of a manufacturer of a tobacco product under this Act; or

(2) any financial penalty or payment owed by a manufacturer of a tobacco product under this Act.

SEC. 1562. FDA REGULATION OF TOBACCO PRODUCTION AND FARMS.

Notwithstanding any other provision of law, an officer, employee, or agent of the Food and Drug Administration shall not—

(1) regulate the production of a crop of tobacco by a person; or

(2) enter the farm of a person that owns or produces tobacco without the consent of the person.

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I have reached an understanding with the Senator from South Carolina and the Senator from Kentucky and the Senator from Massachusetts that the Senator from Kentucky would like to speak for half an hour. Senator FAIRCLOTH will be recognized for his first-degree amendment following the statement by the Senator from Kentucky. Following that it is our understanding there will either be a second-degree amendment to the Faircloth amendment, or, if not, the Faircloth amendment will be disposed of, and following that it was our understanding that the other side of the aisle would have the next amendment, and go back and forth as is the tradition of this body, from one side to the other with amendments. All amendments which are in the first degree will be open, obviously, to second-degree amendments. As the Faircloth amendment would be open to second-degree amendment, so will the next Democrat amendment be open to second-degree amendments.

I expect shortly the Senator from Kentucky to come to speak for approximately half an hour. The Senator from North Carolina is agreeable. I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, if I could simply clarify that, also I think we would put it in the context of the unanimous consent request that first recognition be for the half hour to the Senator from Kentucky. But if I could clarify it, we would request that the second-degree amendments would be the right of the Democrat leader, and, likewise, the first-degree amendment placed on the Democrat side would be subject to a second-degree amendment by the Republican side. With that understanding, we ask unanimous consent the Senate accept that as the procedure for the first two amendments.

Mr. MCCAIN. Will the Senator yield? I am afraid at this time we just have to have an understanding because it has not been cleared on either side. I am confident that understanding would be honored. But I don't think we can lock it in as a unanimous consent agreement at this time. I would like to have the Senator from Kentucky, if it is agreeable to my friends from South Carolina and Massachusetts, to have the Senator from Kentucky recognized for his statement.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, we are going into probably what can be called a frustrating period. It is difficult for me to in 30 minutes say what is in my heart and on my mind as it relates to the tobacco legislation.

The PRESIDING OFFICER. If the Senator will suspend, we need order in the Senate please. If Senators and staff will take their audible conversations to the cloakroom, it would be appreciated. The Senator from Kentucky is recognized.

Mr. FORD. I thank the Chair for his courtesies. He is a gentleman and a scholar.

Mr. President, today the Senate begins what I hope is a productive debate on S. 1415, the National Tobacco Policy and Youth Smoking Reduction Act. We have come a long way in this debate. But in the 15 weeks left in this session we also have a long way to go.

Nothing surprises me anymore concerning tobacco legislation. Yesterday afternoon they asked me if I was surprised. I said no. I was angry. So, therefore, I wasn't surprised. Last year, I would not have believed the tobacco manufacturers, attorneys general, and public health groups would have agreed on a comprehensive settlement. But on June 20, 1997, a national settlement was announced. I would not have believed that the Senate Commerce Committee could have reported a bill of this magnitude, and to do so in only one day of markup. But on April 1st, under the leadership of the Senator from Arizona, the Commerce Committee did just that by a vote of 19 to 1. Last Thursday, the Finance Committee modified the bill again in only one day.

But part of the explanation for the success of the chairman of the Commerce Committee was his ability to get Senators to wait to debate many issues. A lot of them were left to the Senate floor. This bill raises hundreds of billions of dollars. Estimates of the Commerce Committee product range from $516 billion to almost $1 trillion.

This is a tremendous amount of money by any standard. The Finance Committee increased the taxes raised by this bill even further.

But not surprisingly, there is no shortage of ideas around here on what to do with the money. Some want to use it to offset tax cuts. Some want to expand existing spending programs. Some want to fund new spending programs. The one thing nearly all of these ideas have in common is that they have nothing to do with youth smoking. We have taken our eye off the problem of youth smoking. It is how can we raise more money and spend it on other programs.

Somehow, almost miraculously, the two committee chairmen were able to get members of their committee to defer the debate on how to spend all of this money. But that debate cannot be deferred any longer, Mr. President—not if the Senate is actually going to pass a bill. With the confusion that was expressed here yesterday, there are some who are beginning to wonder if a bill can be passed.

How all of this money is used goes to the very heart of the bill, and until we answer these fundamental questions, it is impossible to say with any certainty what kind of bill we have. Mr. President, there is an equally important issue that goes to the heart of the bill as well. It will define what this legislation is really all about. There is no more important issue to me personally than how we treat tobacco farmers and rural and tobacco-growing communities under this bill.

In many ways, tobacco farmers and tobacco-growing communities are the innocent victims in this whole debate. They have not been sued. They have not been accused of withholding documents or information. They have not been accused of manipulating the tobacco grown on their farms.

Mr. President, tobacco farmers and tobacco-growing communities are scared about what is going on in Washington, DC. They are bewildered at the almost daily barrage of hostile comments coming from various sources in this city. Most tobacco farmers are engaged in the same livelihood as their fathers, their grandfathers, and in some cases their great grandfathers on the same farm and on the same ground.

Just like most Americans, tobacco farmers also don't want to see young people smoke. The poll in my State was something over 90 percent that opposed youth smoking. But they are having a hard time figuring out what some of the difficulties in Congress have to do with youth smoking. To most tobacco farmers much of the discussion in Congress sounds like an attempt to punish an industry with the youth smoking issue finishing a distant second. Tobacco farmers are being lumped in with tobacco manufacturers.

A recent Congressional Quarterly article about the plight of tobacco farmers quoted one farmer from King, NC, about the tobacco debate in Congress. He said, and I quote:

> They are making us feel like drug dealers. That just burns me up. They put us in the tobacco industry when all we are doing is growing a legal crop.

Tobacco farmers have been on a roller coaster ride for several years. But that ride has been almost out of control for the last year. Among the greatest disappointments was the June 20th settlement agreement itself. That agreement, which threatens to throw the lives of tobacco farmers into turmoil, did not provide one thin dime for tobacco farmers. Zero. Zip.

The tobacco companies, attorneys general, and public health groups who were huddled in hotel rooms putting the deal together did not even invite tobacco farmers to the table. They would not let them in the door. It is tough to find words to express how insulting I found this.

The June 20th tobacco settlement included money for event sponsors who would lose tobacco sponsorship under the settlement. The settlement had money for teams or entries in such events. They had money for NASCAR races. They had money for rodeos. Somehow, they found $750 million for these people. But there was nothing for tobacco farmers.

Mr. President, tobacco farmers in my state were at first shocked by news of the settlement. Then they became angry. I encouraged them not to get mad, but to get to work. I urged them to come up with a plan for themselves, to help tobacco farmers and tobacco growing communities deal with the settlement. And Mr. President, tobacco farmers did go to work. I pledged to them last summer that I would do everything in my power to represent their interests, and to see to it that a proposal drafted by tobacco farmers would be included in any legislation considered by Congress. I'm here today to keep my word.

Mr. President, there are 124,000 tobacco farm families producing the crop across 20 states in this country. That represents 6 percent of the farms in the United States. Most of these farms are in the southeast. On average, these tobacco farms are 126 acres—about one-third the size of the average U.S. farm. So we're talking about small, family farm operations.

In Kentucky, tobacco is produced in 119 of 120 counties. Two-thirds of the farmers in my state produce tobacco. They average about 4 acres of tobacco. It is less than 3 percent of their cropland, yet it brings about 25 percent of their farm income. Most tobacco farmers in my state have family incomes of less than $35,000—including non-farm income. Make no mistake, we're talking about middle- to low-income families.

The tobacco settlement will have a significant negative impact on the family farms in my state, and this impact must be considered in any tobacco legislation.

Tobacco farmers started meeting last summer to deal with the impact of the settlement. They came up with three general principles for tobacco settlement legislation: (1) the legislation must preserve the federal tobacco program; (2) fair compensation should be provided to tobacco farmers should their ability to produce the crop be diminished; and (3) the impact on tobacco farming communities should be taken into account.

Mr. President, farms in my State and other States are valued with the quota. If the quota under the so-called Lugar-McConnell bill is implemented, from $2 billion to $4 billion in reduction of farmland value will occur in the fourth year because we lose the quota. What does that do? It has a rippling effect on local taxes, the tax base, the income for the cities and the counties, our school systems, to say nothing of the business community of these small communities.

After countless meetings among tobacco farming groups from states like Kentucky, North Carolina, South Carolina, Tennessee, Virginia, and Georgia, an outline of a tobacco farmer proposal came together. We worked hard to iron out details and put "meat on the bones."

I daresay, Mr. President, there are not many Senators who have sat on the porch of many grocery stores and talked to farmers. There are not many Senators in this body who have sat in the kitchen and had a cup of coffee with farm families, talking about what is about to happen to them and their future. I think I understand and feel what they say because I grew up on a farm and I raised tobacco until I was drafted into World War II.

Finally, last October, I introduced the Long-term Economic Assistance for Farmers Act, or one we refer to as the LEAF Act. It was cosponsored by 9 tobacco state Senators.

But our work didn't stop there. We continued to work through the winter and spring to improve the proposal. Finally, after nine months of work, a consensus proposal was developed to assist tobacco farmers and their communities.

We have provided direct payments to farmers in the event their ability to produce declines. This is the very heart of the LEAF Act. It is designed to make farmers whole as the value of their assets decline.

We also made changes to make tobacco companies pay for any possible administrative provisions associated with the tobacco program. Mr. President, I have been working for 16 years to eliminate any opportunity for critics to claim that there is a tobacco "subsidy." In 1982, we started requiring tobacco farmers to pay for the tobacco loan program. I worked closely with Senator HELMS to achieve these changes. Senators THURMOND, HOLLINGS, and WARNER were all in the Senate at that time, and will remember these changes.

In 1986, we required tobacco companies to share in these costs. The tobacco loan program has operated at no net cost to taxpayers since that time. Still, there were criticisms. Salaries at USDA, crop insurance, and extension services all are partially attributable to tobacco. Mr. President, under the LEAF Act, all of these costs—and any other conceivable USDA cost associated with tobacco—will now be paid by tobacco companies. There will no longer be any basis, directly or indirectly, to allege that there is a tobacco subsidy. All possible taxpayer costs have been eliminated under the LEAF Act.

And you know something, Mr. President. Our tobacco farmers make an extra payment, a deficit reduction payment that is taken out of their check before they get it from the warehouse and it goes to the general fund. Last year, it was almost $32 million. And not another farmer in this country—maybe the peanuts—makes a payment out of their check called a budget reduction payment. It was over $32 million last year.

Mr. President, we have wanted to look beyond the tobacco farmer and the tobacco program. The LEAF Act attempts to take a broader view and deal with the entire impact on tobacco communities and the next generation.

Why is it so important? We had to have some financial underwriting of the 13 colonies—and that was tobacco through Virginia. They underwrote the debt of the colonies. It has been around a long time. "Mr. Jones came in to buy his spring planting and paid for it with some of the finest tobacco I have seen"—a quote from history. That was before we became colonies. The pages of Virginia history are splattered with tobacco juice. Just think about it. And they want to do away with it overnight. It cannot be done.

We've included economic development assistance. We've included grants for higher education for the children of tobacco farm families. And we have included assistance for displaced workers who have jobs in warehousing, processing, and manufacturing tobacco. We understand things are changing for tobacco and we want to prepare these communities.

Mr. President, I'm grateful to Senator MCCAIN for his leadership in including the LEAF Act as Title Ten of S. 1415. It's an essential part of the overall picture. It must be included in any tobacco settlement legislation. The LEAF Act has broad support among tobacco farming groups. It's supported by the public health community. President Clinton, who visited Kentucky in April, announced that the LEAF Act satisfies his fifth principle for tobacco legislation of providing assistance to tobacco farmers and tobacco growing communities.

But let me provide fair warning, Mr. President. I will keep my pledge to my tobacco farmers. I will do everything in my power to oppose attempts to undermine the LEAF Act, or attack the federal tobacco program, or threaten the ability of tobacco farmers in my state to deal with the impact of the national tobacco settlement.

How many farmers out there have 98 percent of their product controlled by four companies? There is no leverage. The tobacco farmers have no leverage if we don't have a tobacco program. We have four companies that handle 98 percent of all the product, so if we don't have that, we are at their mercy.

I don't know how many farmers around here have heard of "farm buy." They just go directly to the farm and buy it from big farmers, and the small farmer is gone, has no leverage whatsoever. And, as we see, people attack the farm program. A proposal has been made which is nothing short of a thinly veiled bribe to offer larger tobacco farmers a promised lump-sum payment in exchange for eliminating the tobacco program. We found out yesterday it is not a lump sum payment, it is 3 years. And if you look at the bill that was introduced, that is before the Senate, 50 percent of all the money goes to the States and 40 percent of that money will be taken up by the McConnell-Lugar bill. That leaves 10 percent for everybody else. But in the bill it says only 16 percent of the money can go to the farmer.

Where are we on this—40 percent we would have to take in order to pay for it, yet the bill says only 16 percent? We are going to try to correct that if we can, because it is talking out of both sides of the mouth, and you can't do that around here—only for awhile.

This is a classic example of Washington telling people, "We are smarter than you." But it simply won't work. Tobacco farmers want to keep a supply management program. For 3 years, every 3 years, farmers vote on whether to keep the tobacco program. Earlier this year, farmers of flue-cured and burley tobacco, the two largest types of tobacco, voted overwhelmingly to keep the program. In a referendum conducted by USDA for both types of tobacco, almost 98 percent of tobacco farmers voted to keep the program. But now some in Congress want to tell farmers that, "We are smarter than you." That is what is wrong with this place. That is why people don't like us. There are 98 percent of a group saying, "This is what we would like to have and what we would like to keep." And what do we say up here? "You don't know what you are talking about. This is what is good for you. This is what is good for you. So you don't know what you are talking about, and we are going to take care of it for you."

So, 98 percent of those down there who voted, it doesn't make any difference what you do. This is typical Washington, DC, arrogance. I have already discussed how my small, average tobacco farmer—there are 124,000 of those, but there are only 4 large manufacturers, controlling over 98 percent of the cigarette market. This disparity in bargaining power could not be greater. Unless tobacco farmers have some mechanism to bargain together jointly, they are helpless; they are helpless in dealing with the large tobacco manufacturers. The tobacco program provides that mechanism, and it must not be tampered with as a part of this legislation.

The focus of the bill should be, must be, youth smoking. I voted for smoke-free schools. I have voted, tried every way I can, to stop youth smoking. So I have no apologies to make, because I want to stop it. Over 90 percent of the people polled in my State want to stop it. But the focus of this bill must be on youth smoking, which is to focus on what will work to reduce youth smoking.

Youth smoking rates peaked in the 1970s. Starting in about 1979, youth smoking rates began to decline and continued to decline through the 1980s. Then, about 1991 or 1992, they started to climb again. No one knows exactly why. And guess what; youth alcohol use started to go up at the same time, binge drinking started to go up, marijuana use started to go back up. In fact, youth usage of marijuana has been increasing faster than cigarette smoking during the 1990s. So far, Congress has failed to look broadly at all these trends. Surely this is more than a coincidence. When we look at the causes of youth smoking increases, we should also look at drinking and illegal drug use.

The American people seem to have a better sense of that than Congress. They seem to realize that teenage behavioral changes are more complex than just tobacco, and the youth tobacco rates have been influenced by more than just slick advertising by the tobacco industry. In fact, one recent poll verified these opinions. A Tarrance Group/KRC research poll conducted earlier this month asked people why they thought youth smoking rates had been going up. Mr. President, 58 percent said the influence of peers and friends was the main reason; 18 percent said the parents' example was the main reason; 12 percent said Hollywood, television, and popular culture were the main reasons; and only 6 percent said the tobacco industry and advertising were the main reasons—only 6 percent. So we have a lot more to learn about this issue, and I think, really, how little we do know should have an influence on how broad we make this legislation.

I have serious concerns about the size of the legislation. These concerns existed even before the Finance Committee took its action to increase the size of the bill. First, the bill as reported by the Commerce Committee appears to contain language never considered by the committee on April 1. I am specifically referring to the annual payments made by the industry. In the McCain committee amendment adopted by the committee, the annual payment starting in the sixth year was set at $21 billion, plus an adjustment up for inflation and down for volume. However, in the reported bill, the sixth-year payment is the "adjusted applicable base amount," which it defined as the amount of the preceding year, which appears to be $23.6 billion. I do not know where the language came from. I do not recall it ever being approved by the committee. However, it appears they add $2.6 billion per year for 20 years to the cost of the bill. In other words, it appears that $52 billion has been added to the cost of the bill. I hope we can clear up some of these things.

Mr. President, OMB proceeded to take a number of misleading steps to achieve competing objectives. They totally omitted the bill's revenue impact on prices in several respects. They ignored any costs from future legislation and attorneys' fees. They ignored additional regulatory costs of complying with the bill. They ignored price increases resulting from higher sales taxes, State excise taxes, wholesale and retail margin increases, manufacturers' future price increases, and they ignored the new licensing fee in title XI.

But perhaps the most offensive manipulation by OMB involved their conflicting projected volume declines. OMB projected youth smoking would decline by 60 percent when calculating the look-back penalties, but they projected youth smoking to decline by only 29 percent when calculating the price-per-pack increase.

As we say down in Kentucky, there is something about that that ain't right. But you need a small consumption decline to make the price-per-pack increase smaller. OMB just had it both ways. They changed the projections to say the bill costs $516 billion and raises the price by $1.10.

Mr. President, I have Wall Street Journal analyses, I have all these things I could read here this morning. I don't know how much time I have left. It is probably getting close to the time.

The PRESIDING OFFICER. The Senator has approximately 4 minutes remaining.

Mr. FORD. Good. I thank the Chair.

Let me also outline several other concerns I have with S. 1415 which I hope can be corrected or improved during the debate.

First, we have continuing concerns about the potential for a black market. We say we can stop that, but Mexico sells cigarettes that I smoke for 90 cents to $1 a pack at retail. Indian reservations are selling cigarettes at a retail of around $1.20. If these new estimates are correct, we are creating a disparity in price of up to $4 a pack. This is well above the level experts say will cause black market activity. In fact, we already have a considerable amount of smuggling in this country because of the large State excise tax increases in recent years. A disparity in price of only 50 to 60 cents per pack has already proven to be enough to create black market incentives, and they are going on right now within our own country. Canada fussed at us, you know, when they raised their prices. Now we have two borders.

We raised prices that come from Canada and from Mexico, the Caribbean and wherever. These fellows do pretty good out there. They are called cartels. We have had a hard time stopping drugs from coming in. What are we going to do when cigarettes are added to that? When you go down to the skid, "You want some cheap cigarettes or I have another menu on the other side over here starting with marijuana." It is interesting how we are going to provide for that and are playing into the hands of those people.

The international provisions of title XI sets dangerous precedents, Mr. President. If it were any other product, this would not even be tolerated. I hope title XI can be eliminated or substantially improved.

I have concerns that the bill gives the FDA excessive authority to do what I suspect they wanted to do for the last several years—ban the product. It is my hope that we can place reasonable limits on the unbridled authority.

Several serious constitutional concerns have been identified, particularly since the tobacco manufacturers are unlikely to sign on to this legislation. Late last month, four State attorneys general sent a letter to Senator HATCH outlining these concerns. Constitutional concerns throw into jeopardy the advertising and marketing restrictions, the upfront payment, the look-back provisions, the document disclosure section, and the so-called corporate culture language.

These are legitimate concerns. Each one will have a suit filed. It will be completed. They will file another suit. It will be completed, and we will be in court under these provisions for a long, long time. I hope these concerns can be addressed as well.

Mr. President, a recent Wall Street Journal poll showed that Americans have serious doubt about the motives behind this debate. By a nearly 2-to-1 margin, a majority of the people thought the current debate was more about raising taxes to pay for new programs than it was about reducing youth smoking. We have a chance to change some views with the way this debate on the bill is conducted and the final product.

I have two overriding tests for the final product produced on this floor: No. 1, does the bill adequately compensate and protect farmers and farming communities? And No. 2, is the bill more about reducing youth smoking or punishing an industry?

I look forward to the debate and the opportunity to find the answers to many of these problems. I say to the Chair and to my colleagues in the Senate that I am going to do whatever I can to be sure that the farming community is protected in this bill. With the procedure that occurred late yesterday, to undo all of the work for 10 long months that many of us have put into this legislation, to undo it in a motion is a serious thing. I think it rubbed some of us a little bit the wrong way, as we say. There will be some scorched-Earth approach as we develop this. If we can work out something, I would love to do it. But I will not work out anything that does not compensate and take care of the farmers who I am here to represent, and I intend to represent them as long as I can stand and as long as people will listen to me. I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. KERRY. Mr. President, if I can just inquire, it was my understanding—if I can just inquire——

Mr. GRAMM. I yield without losing my right to the floor, Mr. President.

Mr. KERRY. I understand. I ask the Senator from Texas how long he will be speaking, because I understood the Senator from North Carolina was going to offer an amendment.

Mr. GRAMM. Mr. President, I want to make an opening statement on the bill. I want to cover quite a few areas. I always try to be brief but it is going to take me a reasonable amount of time to complete my statement. What I would like to suggest is that I go ahead and make my opening statement—and I will try to do it as briefly as I can—and then I will yield the floor and allow the normal process to continue.

Mr. KERRY. I thank the Senator.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator is recognized.

Mr. GRAMM. Mr. President, I begin by congratulating our dear colleague, Senator MCCAIN, for the leadership he has provided on this bill. Senator MCCAIN was asked to report a bill out of the Commerce Committee. He didn't get an opportunity to choose who was on the committee. He didn't get the opportunity to write the bill as he would have chosen to write it. But his mission, as assigned him by the majority leader, was to report a bill from the Commerce Committee.

Serving as a member of the Finance Committee which got sequential referral of this bill and, in the process, made the bill worse, I begin by saying that no matter where I end up on this bill, I congratulate Senator MCCAIN for the work he has done in bringing the best bill he could, given the committee he had to work with and the many interests competing against each other on this bill.

While we are not on the same side today, I hope that at the end of the process, after conference, perhaps we will be on the same side, but I want to make it clear that, in my opinion, it is unfortunate that when we debate a big issue—and this is a very big issue—often we stand on the floor of the Senate and talk about things that not only don't mean very much to the American public, but often don't mean very much to us.

Today we are debating a very big issue: hundreds of billions of dollars of taxes, hundreds of billions of dollars of spending, a high and noble purpose trying to prevent children from smoking and, in the process, affecting their health. So this is a big issue.

I simply lament that so much of the debate is tainted by trying to impugn the motives of people who are engaged in the debate. We have all seen ads run in the paper that refer to this as the McCain bill which is aimed at raising taxes and increasing spending. The bill does raise taxes, it does increase spending, but that is not the intent of the Senator from Arizona. There is no doubt in my mind that he has brought us the best bill that his committee was capable of writing.

Let me also say that anyone who opposes the bill knows that they are immediately going to be tarred as being the spokesman for the tobacco industry, which in this debate has become the embodiment of all evil on this Earth. I just lament, going into the debate, that we cannot simply debate the issues without getting into impugning the motives of the people who are involved in the debate.

While it may sound trite to many people who might watch this debate, let me say that I believe that for all practical purposes, everyone involved in this debate in the Senate is trying to do what they believe is right, and they are neither the servant, in their own minds, at least, of those who want a massive increase in taxes and spending, nor are they the servant of the tobacco industry.

It is a shame that when you debate a really important issue, that rather than being able to simply focus on the substance of the issue, you end up being pigeonholed, with the debate focused around whose interest you supposedly speak for.

Obviously, the first question we have to ask on this bill is, What is the primary effect of the bill? This bill, obviously, raises taxes by hundreds of billions of dollars. Depending on the estimates you look at—they vary greatly—there is as much as a $200 billion difference in the estimates as to how much money this bill raises. But once you get to $500 or $600 billion, arguing about another $100 or $200 billion does not really add much to the debate.

The bottom line is this bill is a huge tax bill by any definition of "tax bill." It is also a massive spending bill. In fact, we will have never passed a bill—let me state it as my opinion. In trying to look back and attempt to fit this bill into the broad range of legislation dealt with by Congress, it is hard for me to find an initiative that is this big in terms of its fiscal impact since Lyndon Johnson was President in the first year after the Kennedy assassination. So this is a big bill—big taxes, big spending, and a big and noble objective.

The first point I would like to comment on is, Is this about tax and spend, or is this about children smoking? We have ads in the newspapers every day arguing one point or another. We have ads running in many of the States urging our colleagues to not band together with the cigarette companies against our children. We have ads in the paper urging other colleagues to not participate in tax or spend. How can you ferret out what the truth is? Well, obviously, it is a very difficult task. But let me tell you what I think are some of the hallmarks we ought to look at in trying to ferret out the truth.

Let me try first to define the question more precisely. Are we raising tobacco taxes to prevent children from smoking or to fund new spending programs? It seems to me that is a fair question to begin with in this debate. And let me tell you what I think would be some of the hallmarks you would find if the tax increase were to deter smoking rather than to fund programs and the hallmarks you would find if it had instead become a piggy bank for massive new spending.

If the objective of the tax increase was simply to discourage smoking, then I think what we would find would be an effort to give the money back in tax cuts because the objective would be to affect the price of cigarettes, not—Mr. President, could we have order?

The PRESIDING OFFICER. The Senator is correct. If we could take audible conversations from the floor to the cloakroom.

Mr. FORD. I am glad it is audible.

The PRESIDING OFFICER. If we could take the less audible conversations to the cloakroom, it would be appreciated.

Mr. GRAMM. I thank the Chair.

The PRESIDING OFFICER. The distinguished Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I think if you were looking at a rational policy to deter the consumption of an item by raising its price, but your objective was not to collect a huge amount of money to spend and your objective was solely to get people to reduce their consumption of that product, it seems to me that one of the hallmarks of such a program, one of the outward and visible signs of that objective, would be the imposition of an excise tax to raise the price of that product. But you would try to offset the bulk of that with a tax cut that was more or less aimed at giving tax cuts to people in the same income groups as those who would be paying the higher taxes so that you would not be lowering their real income.

But in this case, I simply note, Mr. President, in looking at this bill we do not see that happening. In this bill, we are seeing hundreds of billions of dollars of new taxes, but we are seeing none of this money given back to the people who are paying these taxes. So I would think that is evidence that raising revenues to fund new spending plays a significant role in this bill and in the final outcome of the bill, whether or not that is the stated objective of the legislation.

I think a second hallmark of a bill that has turned into a giant piggy bank would be the kind of spending which occurs—have you ever noticed when you are spending your own money you tend to spend it pretty prudently, but when suddenly you have an opportunity, a financial bonanza to spend someone else's money, the spending becomes very, very careless?

Well, I would pose as a question, in trying to determine if this is about children or about money—what evidence is there in this bill of careless spending? I want to just present two pieces of evidence. The first has to do with payments to attorneys. I know many Members of this body are attorneys, and I am not going to get into all this business about "some of my best friends are attorneys," and I am not trying to bash attorneys, but I am trying to make a point about spending at a level that could only suggest this bill has become a piggy bank for massive new spending.

Let me begin by looking at the amount of money going to attorneys out of this bill.

By almost anybody's measure, this bill will, if adopted, set out a procedure where attorneys who have been involved in these cases will get a payment of at least $4 billion. Now, nobody knows what $1 billion is. Maybe Ross Perot does, but few others know what $1 billion is, so let me try to convert it down to English.

In the lawsuits which have been settled and where billings have been submitted lawyers are said to be seeking $5.7 billion.

Now, let me try to convert that into something which people can understand. If the lawyers who have worked on these cases were paid $1,000 an hour for an estimated total of 200,000 hours they have spent on the lawsuits which have occurred to date, they would be owed $200 million, but they are reported to be seeking $5.7 billion or close to an average of $30,000 an hour and the effective rate of compensation in this bill could be—let me swallow before I say the number—$100,000 an hour. Now, I ask my colleagues, what kind of legislation would we ever pass, in representing the 260 million people who live in this country, that would pay anybody $100,000 an hour to do anything? The plain answer, we all know, is that we would never, ever, pass an appropriations bill that compensated somebody at $100,000 an hour. In fact, we would be very much challenged and probably criticized—and probably justly—if we were compensating people $1,000 an hour.

Now, what does it suggest about this bill? Let me make it clear, we are going to have a debate about lawyers' fees, and I will have a lot to say when we have the debate, but my purpose here is not to mock the fact that we could be paying $100,000 an hour to lawyers under this bill. My point is a far more important point, and that is, how could you have a bill that paid $100,000 an hour? The only way you could have a bill that paid $100,000 an hour is if you had put together a bill that had massive amounts of money that are not viewed as money that has come from real taxpayers and, therefore, you have sort of a "slam it up against the wall" kind of approach to distribute the money. Only in a bill where the objective was to raise revenue and spend it without any regard for the priorities of spending it could you possibly end up with a bill that would compensate attorneys at $100,000 an hour—especially a bill that is sanctioned by the Federal Government and especially a bill where the money is coming not from tobacco companies but from people who are in families, 73 percent of them, that make less than $50,000.

A look at the lawyer fees in this bill is an important piece of evidence, it seems to me, that needs to be looked at in this debate as to whether this is about smoking or whether it is about money.

The next issue is equally controversial, and I am not going to debate it here. I will probably get into the debate when we have amendments about compensation to tobacco growers, but I want to make the same point about the tobacco settlement with farmers that I made about the lawyers. Let me give a little short course on the history of American tobacco policy. Again, my purpose is not to criticize the policy of the settlement but to make the point about how careless we have been in spending the hundreds of billions of dollars that are entailed in this bill.

The tobacco program started in 1938 as a way of trying to raise the price of tobacco. It was a program instituted by the Government to benefit the tobacco grower, and it was a program where we provided a production quota where the people who were growing tobacco in 1938 received quota based on the number of acres they were growing. The idea was to limit production, to keep people out of the tobacco-growing industry, and to make the price of tobacco products higher than they would be in a competitive market. Not singling out tobacco here, we did it for virtually every other crop, but that is how the program started. The program was an effort to use Government power to benefit tobacco farmers, something not uncommon. We use Government power all the time to promote the interests of many groups, generally at the expense of the consumer.

Now, what has happened over time is that more and more of the people who own these quotas have moved off to the big cities, and when we are talking about compensating tobacco farmers, you get the idea that we are talking about compensating people who are actually growing tobacco. The great bulk of every proposal that has been made—from the Ford proposal to the Lugar proposal, to the Kennedy proposal, to the Robb proposal—a lot of proposals, but virtually all of these proposals are focused fairly narrowly on compensating people who own the quotas, not the people who grow the tobacco.

Now, why is this important? It is important because 63 percent of the quotas that the Government gave away in the first place are owned by people who don't grow tobacco. So when we are going to compensate under this program in the name of helping tobacco farmers, the truth is that the great bulk of the money is going to people who don't grow tobacco but they have often become very wealthy people by owning a benefit which the Government gave them, and they then leased that quota to grow tobacco to farmers who actually get out and farm tobacco, which is a tough, backbreaking business.

Now, getting to my point. What do you think would be a reasonable compensation for us to give to the holders of these quotas to, in essence, end the program? Let me remind my colleagues that unless the bill has been changed and it has been rewritten—and I am eager to hear what the new provisions are—but unless they have been changed, we are not talking about taking the land when we pay people. We are not talking about barring them from growing tobacco. We are simply compensating them for an effect that we believe this bill will have on demand. And while we throw around numbers, the plain truth is, nobody knows what effect the bill will have on the demand for tobacco.

We are in the midst of a program where we are phasing out Government price supports in the broad base of American agriculture through a bill referred to as Freedom to Farm. Under this bill, we set up a 7-year program where we provide transition payments to farmers so that at the end of the 7 years they have the freedom to farm, the freedom to succeed, and the freedom to fail. Let me say, it is one of the most enlightened policies we have instituted.

Here is my point: We have evidence for seven crops as to how much we have paid people who grow those crops in return for phasing out the Government program. Let me just run through some of these costs. For wheat growers, we are paying them $125 an acre. That is to phase out the wheat program. We pay it over 7 years, $125 an acre. For corn, we pay $200 an acre, paid out over 7 years. For grain sorghum, we pay $131 an acre. For barley, we pay $70 an acre. For oats, we are paying $8.38 an acre. For upland cotton, we are paying $245.99 an acre. For rice, we are paying $714.09 an acre.

Now, how much do you think we are paying per acre in the least costly tobacco bill which has been proposed? Let me give you a hint. It is about $18,000 an acre. Let me repeat that number. If we paid tobacco quota owners—not tobacco farmers; we are paying the people that own the Government license; relatively little of the money is going to the farmer—if we paid them the total of the amount per acre that we paid all of the other seven crops combined—in other words, we paid them every penny we pay corn, wheat, grain sorghum, barley, oats, upland cotton, and rice combined—we would pay them $1,495.78 per acre. If we paid them the combined amount for all 7 crops, it would be that amount, but yet we are paying almost 18 times the amount we paid every other crop combined to buy out tobacco producers.

And the final incredible paradox is that we have a market for tobacco quotas. In other words, I could go out this afternoon—I do not know if I could do it this afternoon because this bill is on the floor and I guess people think it might pass. But last week, I could have bought a quota to grow tobacco for $3,784. That was the average cost of a quota, at least the only number I could find last week. If people have other numbers, I would be happy to be educated.

But we are getting ready to pay somebody who went out on Friday and bought that quota five times what they paid for the quota, and then we are still going to let them grow tobacco, and we are still going to let them own the land.

I am not here today to criticize the tobacco program. I am here to raise the question, Is this bill about smoking or is it about money?

When we are paying lawyers $100,000 an hour and when we are paying tobacco growers, or at least the people who own the right to grow tobacco under a Federal licensing program, 18 times what we paid all 7 major crops combined to phase out their program, does it not suggest that this bill is about money, and not only the use of money, the vulgar use of money? How can we justify these kind of numbers?

Let me make it clear. I have many colleagues from tobacco-producing States. I don't have tobacco in my State. It is easy to pile on some State when you don't have the product grown in your State. I experienced that with sheep and goat raisers. I am willing to support a buy out of tobacco growers and the people who hold quotas. But I cannot justify the kind of figures we are talking about—18 times the combined buy out of all 7 other basic agricultural products when added together.

What does all of this suggest? It suggests that this bill is not only about money and quantities of money, the likes of which we have seldom seen here, but it is also about the perilous use of this money where we are taking money and collecting taxes and we are distributing it to various interest groups and the lack of care with which we are distributing it is clearly indicted by the amounts of money that we are giving people.

We are going to get a chance to vote on both of these issues. I do not want to enter into a debate about them here. I will debate both of them when we get to them.

But the point I want to make is this: This is evidence that this bill is about money and not about teenage smoking. It is clear evidence, it seems to me, that in distributing this money the totals are so big that there has not been great care taken with the distribution. Please recognize that if working people got to keep the money, they would spend it wisely. Even if it were in the appropriations process in Congress, much of it might be thrown away but some of it might be used for some good or objective effort.

I simply say this bill stands indicted in how careless we have spent hundreds of billions of dollars in dividing up this windfall, this winning of the lottery, by the designation of this industry as the enemy of the people and thereby creating a right and a public demand that we seize this money.

The next issue I want to talk about is the tax itself. On this issue, I think we have one of the greatest gulfs between the rhetoric of the bill and the reality of the bill that exists. The rhetoric of the bill is that we are taxing these tobacco companies. The rhetoric of the bill is these tobacco companies have conspired to deceive; these tobacco companies have conspired to induce children to smoke. I don't dispute that. I think it is true. I think there is increasing evidence that is true. But the rhetoric is that somehow we are penalizing the tobacco companies and the tobacco industry with this massive bone-crushing tax of hundreds of billions of dollars. That is the rhetoric.

But what is the cold, hard reality? The cold, hard reality is that virtually none of these taxes are being paid for by tobacco companies, and, in fact, we have an incredible provision in the committee bill to make it a crime if the tobacco company absorbs any of the tax and does not pass it through to the consumer. So not only does the tobacco company not pay these hundreds of billions of dollars of taxes, but we have in this bill a provision—almost unimaginable—that makes it a crime for the companies not to force the consumer to pay the tax. So not only do we not tax the tobacco companies but we protect them in case any of them would say, "Well, look, I do not want to pass the whole thing through but I would like more of the market."

Who pays this tax? I would like to suggest that my colleagues ought to go out in Washington, DC, and walk the streets and try to take a look at who is smoking. What they are going to find when they do that is that basically smoking in America, while there are exceptions to every rule, smoking today is basically a blue-collar phenomenon. When you look at the distribution of the tax burden, you see it as clearly as anything that is visible. The tax that this bill imposes, hundreds of billions of dollars of taxes, will be borne overwhelmingly by blue-collar workers.

According to the Joint Tax Committee, 74 percent of the taxes that will be collected under this bill will be paid for by Americans who are in families who have incomes of less than $50,000 a year.

So the rhetoric is we are taxing these big, evil, conspiring tobacco companies. But the cold reality is that not only are we not taxing these tobacco companies, but we have provisions in the bill that protect the tobacco companies from anyone not passing the tax through to the consumer.

So every penny, for all practical purposes, of hundreds of billions of dollars we are going to collect is coming from real honest to goodness people who are buying tobacco products, the very victims of the conspiracy that this bill is said to rectify. The very victims of the conspiracy that this bill is aimed at rectifying are the people who will pay these taxes. And 74 percent of them are members of families who earn less than $50,000 a year.

I don't have any intention, with all due respect, of hurrying up my statement. I intend to cover each of these issues, and I am not going to delay them. I am certainly not filibustering.

Mr. McCAIN. Will the Senator from Texas yield for a comment?

Mr. GRAMM. I would be happy to yield without losing my right to the floor.

Mr. McCAIN. The Senator from Texas was not on the floor but we did have an understanding that we would move forward with an amendment. I ask the Senator not to deprive us of any information or knowledge that we need from him. But we did have an understanding before the Senator came to the floor. I could have blocked the Senator from taking the floor. But I didn't choose to.

So I would appreciate it, if at least at some point we could move forward. I thank my dear friend from Texas.

Mr. GRAMM. Let me say, I understand the Senator from Arizona wanting to move the bill forward. There are some key points that need, I believe, to be made before we start voting on amendments. I am not going to be in any way dilatory. I have several other issues I want to cover. But I will move with all due speed in covering them.

But I do want to say that we have a bill that has come to the floor without objection. We are debating it and I want to make it clear that we are going to debate this bill. We are going to have a full airing of views. It is imperative that we all understand what is in the bill. I intend to object to the unanimous consent requests that would limit my right or the right of other Senators. This is the Senate.

I remind my colleagues that when Jefferson came back from France where he had been Minister to France when the Constitution was written and he asked Washington what the Senate was for—and many of you know the story—Washington, being a southerner, often cooled his tea in a saucer before he drank it. Jefferson asked him what the Senate was for. If you had the House, what did you need the Senate for? And Washington explained to Jefferson that in moments of heated public passion, the heat of public opinion would overwhelm the House but the Senate would be like this saucer, as he poured his tea into his saucer to cool, and it will cool passions before it acts.

So I do not intend to delay, but I do not intend to be hurried either, nor do I intend to have my rights limited even by my dearest of all friends, Senator McCAIN.

Now, 74 percent of the taxes that are collected under this bill are collected from Americans who are in families that have incomes of less than $50,000 a year. Far from taxing the evil tobacco companies, the cold reality is, as much as we would like it to be otherwise, as much as we would like to convince ourselves and others that it is otherwise, this is a massive, regressive, crushing tax on blue-collar America.

Let me give you a figure which is astounding to me, and if it weren't from the Joint Tax Committee I would question its validity. But listen to this number. Of Americans who make $10,000 a year or less—very-low-income Americans—if we pass this bill, we will raise the percentage of their income coming to the Federal Government by 41.2 percent.

Let me give you that number again. For people in America who earn $10,000 or less, so substantial is the impact of this cigarette tax on the amount of their income coming to the Federal Government that the percentage of their income going in Federal taxes will increase by 41.2 percent from this cigarette tax increase alone.

Who is paying this tax? Americans who make less than $10,000 a year are seeing their Federal taxes rise by 40 percent as a result of this bill. Those who make between $10,000 and $20,000 will see their Federal taxes rise by 9.8 percent. Those who make between $20,000 and $30,000 will see their Federal taxes rise by 4.4 percent. Needless to say, by the time you get down to us, Members of the Senate, we see our Federal taxes—relatively few of us smoke, but on average people who make more than $100,000 will see their Federal taxes rise by only .1 percent.

So I think we are going to have to come to grips with one clear fact about taxes: We are not taxing tobacco companies. We are not taxing evildoers. We are not taxing conspirers. We are taxing victims.

I hate pulling my mama into the debate, but it is such a beautiful example, I can't resist. My mother is 85 years old. She smokes Marlboros. I have spent my 55 years of life trying to get her to quit smoking, and I have failed. And now the doctors tell me that one part of her that is still in relatively good shape is her lungs. So I have quit trying to get my mother to stop smoking. I still believe it would be good for her not to smoke, but I can't get her to stop.

But here is the point. The whole logic of this bill is saying to Florence Gramm, "Florence, you have been exploited. Joe Camel has made you smoke for 65 years. The tobacco companies, through their advertising, have forced you to smoke. And in doing so, they have affected your health. They have perpetrated a terrible evil, and we are going to do something about it."

So Florence asks, "Well, what are you going to do about it?" Well, what are we going to do about it? We are going to make my 85-year-old mother pay higher taxes. So we tell her she is exploited. We are outraged about it. The President is outraged about it. We are outraged about it. So what do we do to her to show her how outraged we are? We raise her taxes.

Now, please forgive me if I seem to be struck by the incredible paradox that under this bill the victim is penalized and the perpetrator of the fraud is not only not penalized, not taxed, but protected by an incredible provision that forces those who might not pass through all of the tax to my mother to do so.

One final point before I leave taxes in my effort to get on and finish my opening comment goes back to this evidence. What is the evidence that this is about getting people to quit smoking, and what is the evidence that this is about money? Well, let me give you a clear-cut piece of evidence. If the objective of the bill was to get people to quit smoking, you would put the tax on full tilt on day 1. When an amendment was offered in the Finance Committee to raise the tax to $1.50 a pack, the proponent of the amendment offered it phased in over a 10-year period so as to prevent a consumer backlash.

What is a consumer backlash? Why would you phase a tax in if the objective is to get people to respond to the tax? Well, we all know. Many of us have served on the Finance Committee. All of us have been involved in debates that entailed tax increases. The reason you phase a tax in is to try to hide it from the taxpayer and to try to reduce the backlash to it or the economic or political response to it, and the way you do it is, you start it out small and then each year you make it bigger, hoping nobody notices. But isn't it an incredible paradox that a tax which is supposed to be a tax to shock people into stopping smoking is phased in so as to minimize the "consumer backlash" to it? If the purpose of the tax was to get people to stop smoking, you would hit people with a tax at its highest level on day 1. Consumer backlash would be what you want. But if the purpose was to raise money, then you would phase in the tax.

I submit that the proposal before us, the amendment to raise the tax to $1.50, and every proposal save the one in Finance where I raised this point, each of these proposals phases in the tax, and you would never phase in the tax if the purpose of the tax was to get people to respond to it and stop smoking. You would phase in the tax only if you wanted to minimize their response to it and their awareness of it. I think that is additional evidence that the objective of this bill, or at least the likely result of it, is to raise hundreds of billions of dollars and spend the money. The bill is not structured in a way one would believe it would be if its sole objective was to get people to quit smoking.

I have three final issues I want to talk about. The first issue is one that weighs heavily on my mind. Maybe I am the only Member of the Senate who is concerned about this, but it is an issue that I am greatly concerned about. We are setting a precedent for America's future with this bill. There are many elements of the bill that I am sympathetic to, but there is one element I am very frightened about. Here is that element. It is stated in a clear form—maybe overstated, but I don't think so. What has happened in this bill is we have picked, in this case an industry, and it has been so vilified that it is popular to tax the product it produces, even though the tax is on blue collar workers and not the tobacco companies. And the logic of this is, because of the negative impact on people's health of consuming this product, that tobacco, nicotine, is addictive, and the people who sell the product know that and market it in such a way as to get people to consume the product. So as a result, we are getting ready to impose one of history's larger tax increases on the consumers of this product.

This is a view which basically says my mother is not to blame for having smoked for 65 years, it is not her fault; she was induced to smoke by an industry which conspired to attract her as a customer, and to hold her as a customer. Now, if we take that view in this bill, there is no way you can look at this bill without reaching the conclusion that we have decided my mother and the millions of other people who smoke are victims and they have, against their will, made a decision—if we divorce them from responsibility for their own decisions, where does this end? Does anybody here who has ever known an alcoholic not believe that spirits, whiskey, alcohol is addictive? Is there anyone listening to this debate anywhere, who has ever known someone who was an alcoholic, who doesn't believe you can get addicted to whiskey?

Next month, are we going to have this same—or next year—are we going to have the same process with regard to hard whiskey and beer and wine? Are we going to discover somewhere in the deep files of the liquor companies 10 years from now that they targeted their ads to today's 15 year olds?

Are we going to discover that the beer brewers have figured out what ads to run to get us to go to the refrigerator and get a cool one? And are we going to start this process next year on alcohol? I don't see how it can be otherwise. Does it end there?

When I go to McDonald's, attracted, as our President is attracted, against my will—I would like to be as thin as the Senator from South Carolina. But McDonald's and every other fast food producer in America conspire against me. They fill up the television with ads that attract me to go and to eat. They do studies to try to determine my weakness. Am I not victimized by McDonald's and Burger King? And, if I am victimized, are they not liable? If I am not responsible, are they not responsible?

Here is my point. I hope my colleagues will not take it as a trivial point because I don't mean it as a trivial point. Where does this end? If we don't hold people accountable for decisions they make, does it end with tobacco? Does it end with alcohol? Does it end with fattening foods? Where does this debate end?

Let me submit the plain truth is everybody who has thought for a millisecond about this issue has thought about this and nobody knows the answer to it. And I submit this is a profound question we need to pray over for an extended period of time before we set a precedent which says people are not responsible for the decisions they make and, therefore, somebody else is responsible, and they can be made liable.

Two final points: Nobody is looking at black markets. We have a bunch of people who are talking as if they are economists and they know what they are talking about. You know, we have all seen—many have repeated the study—if you raise the price of tobacco by 10 percent, you are going to have a 6-percent decline in consumption. If you think about that, everybody knows that is nonsense. So you could, by doubling the price of cigarettes, eliminate smoking in America? Does anybody really believe that? But yet ads run every day with that figure in it. People repeat it. Somebody made it up. It makes no sense whatsoever.

Europe has imposed very, very high taxes on tobacco. Has it stopped teenage smoking? No. Has it stopped adult smoking? No. Will raising the price of cigarettes—other things being the same—have some marginal impact on tobacco use? Yes. But can we say for every 10 percent we raise prices, consumption will decline by 6 percent? Absolutely not. Any good freshman student in economics would laugh at such an assertion.

But even more laughable is the arrogance of government. Let me just give you some facts. Great Britain has imposed a very high price on tobacco. But have they been able to enforce the tax? The answer is no. Fifty percent of the British market for cigarettes today, according to an article by Bruce Bartlett in the Wall Street Journal, and a fairly comprehensive study he has done at the National Center for Policy Analysis and the De Tocqueville Institute—what he has found is that countries that have imposed high tobacco taxes have seen an explosion in black market sales of cigarettes and, as a result, the cigarettes sell at substantially below the price with the tax, and in some cases they sell at less than they sold for before the new tax.

When Britain has 50 percent of its cigarettes that are bought on the black market and smuggled into the country, or are produced illegally there, when Italy has 20 percent, when Spain has 23 percent, when even States in our country at the low level we now tax relative to the levels we are talking about here have experienced that, when there is more money in smuggling cigarettes in Great Britain than in smuggling 20 pounds of marijuana—should not we at least look and make some objective judgment as to whether or not we are taking an action which will fill our country up with illegal cigarettes, and so we will have some hood on the corner who is saying to our children: Look, I can sell you these cigarettes, these brands at this price; I can sell you marijuana for this price; a little crack cocaine for this price. But you know the response you get when you raise this issue? The response is that people who wouldn't know economics from ethnic studies say: There is nothing to this.

There is everything to this. It is a cold reality that in Europe black markets in cigarettes are now a way of life. I think in setting out a policy that is aimed at, at least nominally, getting our children not to smoke, we need some hard evidence about black markets. If we have black markets in Canada, if we have black markets all over Europe, if we have black markets in Asia, what is the reason to believe that we are not going to have black markets in the United States of America? I believe this is an issue which needs to be dealt with.

A final point and I will be through with my opening statement. I am loathe to do this because I know when I do it my telephones are going to ring off the wall, so people who work for me please forgive me. But you get the idea in reading the newspaper in Washington, DC and in working in the Senate that this issue is the all-consuming issue in America; that this is an issue the whole world, at least our part of it, our constituencies, are focused on and nothing else. One of the things I try to do is to find out what exists within the beltway and what exists in America, and try to determine what the public really thinks and what is it they want us to do.

So last month I got my office to keep pretty meticulous records about the amount of information we were getting in our office about this bill and the tobacco issue. And, as of that period, ads had been run in the Dallas Morning News and the Houston Chronicle—those are the two biggest papers in my State. Some television ads, I believe, had been run. So the question was, over a 30-day period, how many of the 19 million people in my State thought this was a big enough issue to pick up the telephone and call my office?

Let me give you the results. We had about 1,400 people call our Washington office and say, "Don't raise taxes on cigarettes." Every one of them was generated, as best we could tell—everyone called in on a WATS number and they had been triggered to do so.

Three hundred people called in and said, "Raise taxes on cigarettes; save our children." But as best we can determine, almost every one of them was triggered with the use of a WATS line and by an organized group.

Here is the most revealing and important thing. Last month, in my seven offices in the State, so far as I am aware, virtually no one called on this issue. It is the No. 1 issue in Washington, DC. Ads are being run here, there, and everywhere. And in 30 days, virtually nobody who actually had to pick up their phone and call, as they normally would call an office—not triggered by a special interest group—called my office on this issue.

Why is that relevant? Why it is relevant is, I think the Senate, as the greatest deliberative body in the world, needs to take a step back and not stop considering the bill—far from it. But we need to not let the special interests that are opposed to the bill or the special interests that are for the bill dominate our thinking on this bill.

We need a broader perspective, and the plain truth is, this is not the be all and end all of America. My view is, we need to be sure we know what we are doing, and we need to do the right thing, because the truth is, obviously we have all been told—every time I raise this issue in one of our closed meetings, people say, "Yeah, but they haven't run the TV commercial yet attacking you," or whomever. Let's not underestimate the American people. My urging here is that we take a long, hard look at this thing and we try to figure out what the right thing is and that we do it.

This is a very important issue. There is a lot of money involved here. A lot of hard-working, blue-collar people are going to suffer, as a result of this tax, a lower standard of living. A lot of people are going to get huge quantities of money.

Let me say that I don't have any doubt that the 1,400 people who called me against this bill on the WATS line were triggered by the tobacco companies, but I also don't have any doubt that almost all of the 300 people who called me for it were triggered by the groups that hope to get billions of dollars from this bill.

As I see this thing, the only two clearly defined constituencies here are people who have a direct interest in the bill. I think we ought to listen to them to see if they have anything to say, but I don't believe we should be frightened of them. I believe we should try to ferret out what are the facts. I think we need to look at each and every one of these issues: Who is paying the taxes? Who is hurt? Who is helped? How is the money being spent? Is the money being spent wisely? Are we going to affect teenage smoking? Is this the best way to do it? Is there a better way to do it? Do we do it without reallocating hundreds of billions of dollars from blue-collar workers to basically bureaucrats and public interest advocates who—I don't know how they determine what the public interest is to advocate it, and I am always suspicious of anybody who advocates the public interest, other than myself.

These are the things that I urge my colleagues to look at. Let's not delay, but let's take the time to know what we are doing. Let's give some prayerful thought about where we are going to be next year if the same thing is happening to alcohol. Where are we going to be the next year if the same thing is happening to the fast food industry? Where does all this end once you start it? I don't know the answer to this, but I think we ought to know the answer before we start down this road.

Let me conclude by simply repeating the remark I made earlier, and that is, I congratulate Senator MCCAIN for his work in the Commerce Committee. Having had a little opportunity to try to have a positive impact in the Finance Committee, I have a greater appreciation of the difficulty he faced. I think it is clear the Finance Committee made the bill worse in every respect than if they had never touched it. The question is, Given that we now have the bill on the floor, what can we do to make it better?

I hope at the end of the process that I might be on the same side as the Senator from Arizona. I think the better we understand the bill, the better the chances are that we will serve the public interest and that that will happen.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Arizona.

Mr. MCCAIN. Mr. President, very briefly, I thank the Senator from Texas, as always, for his thoughtful and insightful views. Obviously, I am not in agreement on a number of the things he said, but his and my disagreements have always been very agreeable. I believe he has contributed an enormous amount. I do agree with him, I don't know what would have happened if we had given the Finance Committee another 24 hours, which I think is, as he mentioned, a cautionary lesson as to what we have had to go through and what we will go through on the floor and what might have happened if it had gone to other committees.

Just one other point I want to make for my friend from Texas. Yes, the attacks have started. Millions of dollars have been directed at me, so I do know what it is like. You say you don't know what it is like. I know what it is like. I am a big boy, and I can take it, but I have been rather interested at the ferocity of these attacks and how personal they have been. Obviously, I will not respond in kind. I would have liked to have seen the tobacco companies spend some of this money on trying to stop kids from smoking and other worthwhile efforts. But it is their right as corporate citizens to do so.

I mention to my colleagues, Senator HOLLINGS has remarks that he would like to make, and it is my understanding, after that, I say to Senator FAIRCLOTH, that we will propound a unanimous consent request which will make his amendment in order, with a motion to table at a time certain after that. That will be at the completion of Senator HOLLINGS' remarks, so we can move forward with the amending process.

I thank Senator FAIRCLOTH for his patience and good humor throughout this delay this morning. I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Texas reminds me of that youngster who went to the psychiatrist. The psychiatrist drew some circles on the blackboard and said, "Now what do you think of?"

He said, "Sex."

He drew lines up and down. The youngster said, "Sex."

He drew some crosses. He said, "Sex."

The psychiatrist said, "Young man, you're the most oversexed person."

The youngster said, "Doc, you're the one drawing the dirty pictures."

The Senator from Texas is the one drawing the dirty pictures. I have never heard so many extreme nonsensicals in my life. We want to keep his dear mother here. No one is victimizing her. What we are going to try to do is help the doctors to counsel her to stop smoking.

Let's get back to last June, almost a year ago, to show you how far out of kilter this thing has gotten.

What happened was, to the surprise of many—I did not know, and I do not know of any Congressman or Senator who participated. I do not think there was a Congressman at the table. I do not think there was a Senator at the table. But the tobacco companies, together with the States attorneys general and the White House and the health community, announced a dramatic settlement of $368 billion. That is without a Congressman or Senator even thinking in these terms.

I have been up here 30 years. And I have worked with the Cancer Institute, Dr. Koop and Dr. Kessler and others. Thirty-some years ago, yes, we put notification on a pack of cigarettes. And we have admonished—I have seen demonstrations by the Cancer Institute that stopped me from smoking. But we have not done near what was announced last June.

Last June, the communities got together on the basis of the companies stating, in essence, "Look, we're tired of winning these cases." As we speak on the floor of the Congress today, no one has won a jury verdict against a tobacco company, period. I think it is in the main, on account of the publicity and the health and the notification of the assumption of risk, that smoking is dangerous to your health. The companies themselves are engaged in advertising Miller High Life Beer, Kraft Foods; different other things of that kind, Ritz Crackers, what have you.

They are good businessmen. They are not a bunch of crooks, as they are trying to be depicted here once the politicians got this particular issue. They have run a touchdown in all the directions and in all extremes. But what happened was the companies said, "Look, rather than paying out all these costs to lawyers and winning every case after case, why don't we get together and continue in an orderly fashion."

We are not going to have prohibition. Even I heard Dr. Koop testify to that before our committee that no, he was not attesting to having prohibition. We are not going to have prohibition of tobacco. Tobacco was here. The Indians were smoking it when we arrived.

Just the other day we had a celebration with our role model, the former distinguished majority leader, Mike Mansfield, whom when you go to the Mansfield Room, he is very proud of that portrait of himself smoking that pipe. And he is 95 years of age.

So we live in the world of reality. Hopefully, this Congress will get back to reality and not the nonsense that we have just heard of about taxes and what the idea was and everything else of that kind.

The idea was to get an arrangement whereby the companies who could win every advertising case about Joe Camel and everything else of that kind says, "We'll stop advertising in this manner. We'll stop spending that money on advertising. We'll stop spending this money on lawyers. And we'll make an agreement with you to pay in so much of our profits. Necessarily, you say that you want to raise the price because that is the best control of tobacco consumption, so we'll go along with raising the price."

We live in the real world. I think it is $4 or $5 or something in downtown London. I was visiting with a friend not long ago from Canada. He picked out of his pocket and lit up a cigarette. And I said, "How much, by the way, was that pack?" He said, "This one is $7, but in Canada it is $6 to $10." You see, that shocks us who really have not paid that close attention.

I never heard of any $360 billion, and I have been working on the defense budget for years on end. That is only $245 billion. Here we come with an amount that they agreed to pay themselves with an increase in the cost. The politicians coming around hollering, tax, tax, tax—tax and spend, tax and spend, and everything else, including the companies. Under the whole cloth, the tobacco companies are the ones who thought of the idea of taxing $368 billion. And this just carries it up to $500 billion.

So they are the ones who gave us the idea that let us go ahead and see how much, if you please, Mr. President, you could charge on cigarettes, as much as possible, to try to stop the smoking, pay for the advertising, pay the States back for their Medicaid costs, start some children's programs. Yes, they talk about it—tax and spend. The spending is on children, on helping to get children to stop smoking. The distinguished Senator from Texas knows that. We are doing that, and we are going to use that money to try to stop children from smoking.

And, you know, Mr. President, they went even further than I would have gone if I had been their lawyer or I had been the CEO, and that is take some kind of pledge and penalty for what they call "look back." It took me a long time—they said, "We're going to be responsible for stopping smoking in America."

Now, whoever heard of that? We have been trying to do it with notification on the packages. The health community has been trying it. Every doctor now will counsel you. So there is nothing new. But the tobacco companies are supposed to advertise in an adverse fashion and pay a penalty that goes up, up and away if, as a company, they do not comply or accomplish it.

Now, that was a pretty solid agreement that has been distorted in every fashion here which does not seem to get any understanding because the jackals have taken over now, cackling up here about tax and spend and everything else of that kind, going into $18,000 an acre, $100,000-an-hour lawyers' fees, and all these other things.

Mr. President, my distinguished colleague from North Carolina has an amendment that he wants to put in—and I want to yield to him just as promptly as I can—relative to legal fees. And we will debate that and the contribution made by trial lawyers.

Let me just state ahead of time, categorically—and I am looking over here at a chart that says "Minimal Ethics." Not at all, absolutely not at all. I have to say something about that chart. I cannot resist the temptation. I have been at the trial bar, and if they think it is anything unethical, we could go to the company lawyers who are now being investigated for conspiring with the company executives on how to avoid these charges and everything else of that kind.

Man, oh, man, talk about being unethical, after the abuse and the challenge they have been through. There is a little attorney general down there in Mississippi. I was just watching it the other night. I was not that familiar with him—Mike Moore. He literally was sued by his own Governor trying to bring tobacco to the bar of justice. But he stuck to his guns. Maybe they call that unethical bringing that case against the industry, or a contingent fee is unethical. But it goes for the "every mother's son" the best of counsel. And corporate America and the Chamber of Commerce does not like that.

Billable hours, good Lord have mercy, we are going to get into a good debate on billable hours. And there are 60,000 of them registered to practice in the District of Columbia, 60,000—oh, they got all lawyers in Japan right here in the District—59,000 will never see a courtroom or know anything about law. It's fixing me and fixing this one and that one. It's fixing the jury. Unethical? Unethical? I want to hear what is unethical about trial lawyers compared to the billable hour crowd.

But back to the Senator from Texas, and he was talking about the amount of money, the billions here, to buy out the farmers. At least we are paying the farmers who have been making a good living to get out of that, not for those who didn't make a living, went broke, and we came and gave them food stamps to the tune of 431 billion bucks, Resolution Trust Company. Half of it was in the State of Texas. We bought every swimming pool, every tennis court, every golf course, every country club that you could possibly imagine. It was improperly financed. You and I know it. Over $200 billion to one State. But they want to talk about honest, hard-working tobacco farmers out there at the sweat of their brow being bought out of this particular business, coming up here with all these fanciful figures; $18,000 an acre—that takes care of the warehouse, that takes care of the bank on the loan, that takes care of the equipment, that takes care of the community, that takes care of his children.

When he is out of the business, how do you send them to college? So you let them come in on Pell grants. Yes, it is a comprehensive approach. The LEAF Act is intended, because we saw last fall that the chairman of the Agriculture Committee wanted to just put them out of business, and not take care of the communities.

I have I don't know how many farmers in South Carolina, I think about 2,000 tobacco farms, over $200 million, a big cash crop. So when we saw that, we moved. I want to say this categorically and just dispassionately, how shocked and dismayed I am to get into this particular situation. The record ought to reflect it. When we saw the chairman of the Agriculture Committee who said he had seen polls and everybody in tobacco farming wanted to get out of it, which is out of the whole cloth. I have been traveling to tobacco farmers, campaigning, crisscrossing all over the State. I never saw the tobacco farmers trying to get out of the business, but that is what he said.

I said we are really in trouble. The distinguished Senator from Kentucky, Senator FORD, and I, we have the LEAF Act and, yes, we positioned it. We knew what we were doing because the distinguished chairman of the Commerce Committee came to me and said, "Evidently, they are going to have a tough time getting a bill out of any committee, and the majority leader asked if we can get one out of our committee. I would like to have it bipartisan," the chairman said. I said, "I would like to have it bipartisan, too, but we have to take care of the farmers."

He hesitated a few days and came back and said, "All right, we will take care of the farmers." And we went all the way down to Florence and said the LEAF Act was taken care of, taking care of the farmers. The President of the United States went out to Kentucky and said the LEAF Act is taking care of farmers. We had five conferences trying to get this bill finalized with the White House, with the Republican majority and with the Democratic minority to work out what we could, to get a comprehensive policy and get it over to the House side. Each time we checked, the LEAF Act was there, undisturbed.

Now, last night, out of the clear blue—which is one of the reasons I wanted the floor—we get Senator LUGAR's bill which had one hearing last fall, I think last September, according to the record, never a markup, and get this whining out here about equal treatment. Why we have to give him—the Agriculture Committee likes the bill, had been marked up and reported, like ours had been worked upon. No, we have been hedging against that nonsense of the Lugar approach since last fall and working around the clock, locking down everything, and they come and tell us that they couldn't avoid it. They had to get a majority of the Commerce Committee members. I am dismayed the chairman voted with that majority. After all our work trying to work together. That explains my statement yesterday about the bipartisanship.

Now, back to just exactly what we have here with respect to being victimized and everything else of that kind. I think that agreement, having been worked out within the Commerce Committee and all of these conferences and everything else, was a pretty judicious instrument in that you cannot have tobacco farmers, Senator, unless there are tobacco companies. You can put the companies out of business. We have a mob scene here, a lynch mob coming forward; get rid of the company.

Every time we agreed on something, Senator MCCAIN and I heard from different groups, "more, more, more, they are liars," they are this, they are that. Let's agree on all of that, you can put them out of business. Then McCAIN and HOLLINGS can start their own tobacco company or maybe it would be SESSIONS and HOLLINGS. It would be a pretty good business. All we have to do is get the tobacco from Turkey. We don't have any false records they can go and embarrass us with—juries and everything else of that kind. We can go back and get old Joe Camel and start advertising again. Ain't nothing wrong with that. They tried end on end before the courts to kick out their advertising, constitutional right, first amendment, and we can go make a living, and what has happened? Nothing for the children.

So that is a pretty good political charade to come out on the floor of the Senate and say, now, is it tax or is it for the children, and analyze it in this tricky mind as being just a tax. It is an increase in price. You don't have to pay it. It is voluntary. I quit smoking. They say more than half of the people could quit smoking. Yes, it is addictive to some, just like alcohol. We could say get rid of Ronald McDonald, advertising fat for the children. Go after that. With that, I can agree with the Senator from Texas.

When you come right down to it, it is a balancing act that we are engaged in, and nobody wants to acknowledge it. We can get rid of the tobacco companies, but that does nothing for us at all. It doesn't do anything for the health community. It doesn't do anything for the children. It doesn't do anything for the payments to be made. This is money going back to the States. It doesn't do anything for the programs. It doesn't do anything for the look back. It doesn't do anything to anything.

So these people that run around and want $1.50 and more and more and more, don't even understand the problem, don't even understand what we are trying to do on the floor of the Senate with the tobacco bill.

We are trying to go along with respectable companies—yes, they did stand up and falsely state that they didn't think it was addicting and everything, but those folks are gone. If you don't think they have exactly, just tell the truth. Go over to the Defense Department and get their civil and criminal docket and you will find true blue chip corporations of America trying to defraud the government at every turn. It is a sad thing.

Then I have to look up here at minimal ethics in the business crowd. I talked to my friend, Tom Donohue, yesterday and I worked with him. I have every chamber of commerce award that you could possibly get.

But to get up here and let this legalistic crowd take over and start controlling—here is the Republican movement that doesn't want to have price controls, wants to deregulate, wants to get rid of the Government, and now wants to fix prices, wants to fix fees. How can you tell when these lawyers have really made the case? It isn't an hourly thing. Until last June, there wasn't any case. Nobody has made any—they have gotten some settlements. I know the best of the best from my hometown tried one for ancillary smoke—what do you call it? Voluntary smoke? Involuntary smoke? Whatever it is—up in Indiana during the months of February and March, and even he lost that.

We are saying that you are not going to have any more immunity, or have a limit on the immunity. They can still bring individuals. They can still bring class actions. Everything is still in the commerce bill.

I would like to have given what they promised last June—the immunity. But we did put an $8 billion cap on it. But the reason for giving any immunity is that the juries of America have given them immunity, period. They know the assumption of risk and everything else of that kind. It has been out there 30 some years. By the time we get along with some petitions before the court and everything, it will be 40 to 50 years, and everybody will have known about it; you won't be able to get a verdict against the companies.

So we who are responsible for public policy are also at a crossroads. There is a pool of opportunity draining out on us. We ought to be acting this year. We ought to be acting this week. We ought to get with this thing on a realistic basis and how we brought this bill out, and not engage in trickery and come back in and take a bill that never was reported out of the committee, never onto the floor, never in debate, and say, "Stick it in, because we can fix the majority on the Commerce Committee." I am saddened to see that. I never have seen that happen before. I checked with the Parliamentarian. They said yes, it could happen. But I never have seen that and it was sad to see.

I have a lot of other things here that we could touch upon, but the distinguished Senator from North Carolina has been waiting. I hope when he does present his amendment, that he amends the words "minimal ethics." I don't know that any trial lawyer—they win some cases, but they lose a lot of cases.

As between the billable hour crowd and those working for the client rather than for themselves, because the clock keeps running, that is the most vicious thing that ever happened to my profession—this billable hour group. That is the worst thing I have ever seen occur, because I practiced law—never with billable hours; I got results for that client. Then he understood that was the charge, because we won. When we lost, we assumed all the costs. Everybody knows just that. What has been unethical, according to the testimony made to that attorney general down there, is the companies have been unethically engaged and the Chamber of Commerce has been supporting them.

I hope the Senator from North Carolina will amend the words there on "minimal ethics."

I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask at this time unanimous consent that Senator FAIRCLOTH be recognized to offer an amendment.

Mr. President, we still have one Member on our side who needs to be contacted.

I seek at this time that Senator FAIRCLOTH be recognized to offer an amendment, and that we proceed under the understanding that no second-degree amendment be in order to the amendment until the motion to table is made at 4 p.m.; that, if the amendment is not tabled, the Senator from South Carolina, Senator HOLLINGS, be recognized to offer a relevant second-degree amendment; and the time between now and 4 be equally divided.

Mr. President, this body proceeds on comity. I would like to proceed under that understanding, and as soon as we contact one Member, then we will put this into a formal unanimous consent agreement.

At the moment, I would like to ask for my colleagues' indulgence so that Senator FAIRCLOTH can be recognized to offer his amendment.

Mr. HOLLINGS. If the distinguished leader will yield, I understand we are coming back at 2:15. I was trying to get an hour on our side.

Mr. McCAIN. We will proceed under that understanding, and we will attempt to put it into a unanimous consent agreement between now and the next 5 or 10 minutes, and, if not, to try to have it between now and by 2:15 when we return.

I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2421 TO MODIFIED COMMITTEE AMENDMENT

(Purpose: To limit attorneys' fees)

Mr. FAIRCLOTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. FAIRCLOTH), for himself, Mr. SESSIONS, and Mr. MCCONNELL, proposes an amendment numbered 2421 to the modified committee amendment.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

Sec. . Limit on Attorney's Fees.

(a) FEE ARRANGEMENTS.—Subsection (f) shall apply to attorneys' fees provided for or in connection with an action of the type described in such subsection under any—

(1) court order;

(2) settlement agreement;

(3) contingency fee arrangement;

(4) arbitration procedure;

(5) alternative dispute resolution procedure (including mediation);

(6) retainer agreements; or

(7) other arrangement providing for the payment of attorneys' fees.

(b) REQUIREMENTS.—No award of attorneys' fees under any action to which this Act applies shall be made under this Act until the attorneys involved have—

(1) provided to the Congress a detailed time accounting with respect to the work performed in relation to the legal action involved; and

(2) made public disclosure of the time accounting under paragraph (1) and any fee arrangements entered into, or fee arrangements made, with respect to the legal action involved.

(c) APPLICATION.—This section shall apply to fees paid or to be paid to attorneys under any arrangement described in subsection (a)—

(1) who acted on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(2) who acted on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(3) who act at some future time on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(4) who act at some future time on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(5) who acted on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(6) who act at some future time on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(7) who acted on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(8) who act at some future time on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(9) who expended efforts that in whole or in part resulted in or created a model for programs in this Act;

(10) who acted on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9) of this subsection; or

(11) who act at some future time on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9) of this subsection.

(d) REPORT.—

(1) Each attorney whose fees for services already rendered are subject to subsection (a) shall, within 60 days of the date of the enactment of this Act, submit to Committees on the Judiciary of the House of Representatives and the Senate a comprehensive record of the time and expenses for which the fees are to be paid. Such record shall be subject to section 1001(a) of title 18, United States Code.

(2) Each attorney whose fees for services rendered in the future are subject to subsection (a) shall, within 60 days of the completion of the attorney's services, submit to Committees on the Judiciary of the House of Representatives and the Senate a comprehensive record of the time and expenses for which the fees are to be paid. Such record shall be subject to section 1001(a) of title 18, United States Code.

(e) SEVERABILITY.—If any provision of this section or the application of such provision to any person or circumstances is held to be unconstitutional, the remainder of this section and the application of the provisions of such to any person or circumstance shall not be affected thereby.

(f) GENERAL LIMITATION.—Notwithstanding any other provision of law, for each hour spent productively and at risk, separate from the reimbursement of actual out-of-pocket expenses as approved by the court in such action, any attorneys' fees or expenses paid to attorneys for matters described in subsection (c) shall not exceed $250 per hour.

Mr. FAIRCLOTH. Mr. President, I am offering this important amendment because we cannot allow this tobacco bill to turn into "Wheel of Fortune" for trial lawyers. That is why my amendment caps attorney fees at $250 per hour.

Under the current bill, trial lawyers will get some $4 billion per year. Billion—with a "b". And this is a conservative estimate—assuming a 15 percent contingent fee. The Medicaid cases will generate $1.2 billion per year. The tort cases will yield some $2.8 billion per year.

A Florida circuit court judge, Harold Cohen, estimated their fees at $185,186 per hour.

Let's see how this compares to regular Americans.

The average physician earns $96.15 per hour, the average lawyer makes $48.07 per hour, pharmacists make $25.98 per hour, police officers earn $16.65 per hour, carpenters make $13.03 per hour, automobile mechanics earn $12.35 per hour, barbers make $8.37 per hour, and bakers earn $7.65 per hour.

The PRESIDING OFFICER. Under the previous order, the Senate is to recess at 12:30. That hour having arrived——

Mr. HOLLINGS. Mr. President, I ask unanimous consent it be extended until 12:45.

The PRESIDING OFFICER. Is there objection?

Mr. FAIRCLOTH. I do not object.

The PRESIDING OFFICER. The Senator is recognized until 12:45.

Mr. FAIRCLOTH. So, Mr. President, who are these "superman" lawyers who deserve to be paid more than 20,000 times the salary of a working American?

Well, one of them is Hugh Rodham, the President's brother-in-law. He is on line to get $50 million as a Castano group lawyer. Let me tell you about the hard work that he has done to get this big fee. Let me tell you about his background that made him so important to this group of trial lawyers.

Well, actually, let me just read a couple of quotes from major newspapers to describe his work.

"And just for good measure, the state of Florida has hired Hugh Rodham (Hillary Clinton's brother) to be a part of their litigation team, despite his complete lack of experience in these types of cases." That's from the Knoxville News-Sentinel on July 20, 1997.

Here is another choice description of the fifty-million-dollar man and his invaluable work.

Hugh Rodham "spen[t] the last hours of the June 20th settlement talks in a corner reading a paperback by Jack Higgins, 'Drink with the Devil.'" That's from the Washington Post on June 23, 1997.

Mr. President, I don't believe that this amendment needs much more justification than that. Fifty million dollars to sit there reading a book.

But, if that isn't enough, let me talk about the Texas trial lawyers. These fine lawyers will get $88,000 per hour. This means $88 million per lawyer. What more can I say?

Well, here's something. The money will be paid from money that was supposed to go for Medicare. Who do we pay—the sick and elderly or the greedy lawyers?

Mr. President, there is a major political force at work behind the scenes in this tobacco legislative effort. I'm not talking about so-called "big tobacco." What I'm talking about is the trial lawyers.

They negotiate settlements in the millions of dollars, and they take fees in the millions of dollars, dwarfing what their clients get. They also stand to be the biggest winners if the tobacco settlement is enacted—a fact that appears to have become obscured in this debate.

Now, with this national tobacco litigation settlement before us, we're not just talking about millions of dollars, or tens of millions of dollars, or even hundreds of millions of dollars.

We are talking about tens of billions—with a "b"—of dollars that will be transferred from the pockets of average smokers in this country into the coffers of a handful of trial lawyers.

I have read published reports that the trial lawyers are estimating that they will make upwards of $15 billion to $20 billion. That is hard to fathom.

To illustrate, in the two biggest individual State settlements that have taken place so far, take a wild guess at what the major issue of controversy has been?

For those of you who have not been paying attention, it has been attorneys' fees for the private plaintiffs' attorneys who were brought in to help the states sue the tobacco companies.

In the State of Texas, for example, their $15 billion settlement is tied up because the Texas trial lawyers demanded over $2.3 billion for their work. These demands are ridiculous, and if we approve the McCain bill, we will be approving such billion dollar deals for these trial lawyers.

Yes, the McCain bill provides the option for attorneys to use an arbitration panel to determine reasonable fees, but what attorney would be foolish enough to seek reasonable fees if they can get $2.8 billion. And, what is considered "reasonable" in this climate?

It is ironic that these trial lawyers were brought in by the various States to pursue claims on behalf of the taxpayers in those States.

That is, they have been brought in to stand in the shoes of our State governments and their taxpayers. But I ask you: who ultimately will be the greatest beneficiaries—the taxpayers or the lawyers? Experience has already provided us with an answer.

We should not forget how the deck has been stacked with respect to these State lawsuits. It was only when State governments decided to use their weight, leverage, and resources to go toe-to-toe with the tobacco companies that these companies decided to settle the cases.

States legislatures have even changed the laws mid-stream and retroactively to tilt the balance in their favor.

The most recent example of this was in April when the Maryland General Assembly voted to change the law to permit the State of Maryland to seek compensation for taxpayer money paid for smoking-related illnesses.

They first sued the companies, then realized winning the lawsuit perhaps was not going to be quite as easy as they first thought. They then went to the Maryland legislature and had the law changed retroactively so that their lawsuit against tobacco companies would be considerably easier.

You can be sure that the Maryland plaintiffs' attorneys who stand to have a huge pay day as a result of this lawsuit were closely involved in lobbying the legislature on changing the liability law.

I'm not saying that the attorneys' should not be reasonably compensated for the hours and energy they have spent in helping the States reach these settlements.

All I am saying is that it is outrageous to say that a group of plaintiffs' attorneys should be allowed to enrich themselves under the guise of claims on behalf of taxpayers. These are the same taxpayers on whose back the spending in the McCain bill will fall.

Let's also look at how this relates to our past debates over tort reform. The motivation behind national tort reform is that our system of justice has been distorted by a group of trial lawyers who caused the litigation explosion in this country.

At a minimum, it is highly ironic that we are now talking about passing a national tobacco settlement bill that will handsomely reward the very same trial lawyers who have so badly corrupted our justice system.

None of us should turn a blind eye to the fact that the debate on tobacco settlement legislation, under the guise of protecting youth, is really a debate about the pot of gold that potentially awaits the trial bar.

And that's not to mention the "tax and spenders" who want to fund a host of social programs unrelated to tobacco. Not only are we standing here debating a huge tax increase on working men and women, we are simultaneously opening a can of worms.

We're talking about sanctioning a handful of attorneys' attempts to enrich themselves at the expense of the clients—in this case, taxpayers—they purport to represent. I urge all my colleagues to give this serious thought.

This tobacco bill is not a lottery. This is not "jackpot justice" for trial lawyers. The trial lawyers are playing "Wheel of Fortune" with the taxpayers money and it must be stopped.

I urge you to support my amendment.

RECESS

The PRESIDING OFFICER. The Senate stands in recess until 2:15.

Thereupon, at 12:47 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent that no second-degree amendments be in order to amendment No. 2421 prior to a motion to table to be made at 5 p.m. I further ask unanimous consent that if the amendment is not tabled, Senator HOLLINGS be recognized to offer a relevant second-degree amendment and that the time between now and 5 p.m. be equally divided.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. McCAIN. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 2421

Mr. HOLLINGS. Mr. President, in response to my distinguished colleague from North Carolina, Senator FAIRCLOTH, as the saying goes around here—and it is genuine—I have the greatest respect and friendship for the distinguished Senator. He and I have known each other for a good 30, 40 years almost.

I really am a little dismayed and disappointed to see this assault on attorneys' fees in the context of what is ethical on behalf of trial lawyers. When they put a billboard up with respect to ethical practices and making millions—we will get the board, I guess, and have it displayed.

But let me say a word, Mr. President, about lawyers themselves. A lot has occurred over my few years of public service. In the early days, what we had in the State legislature was about 85 percent of the membership was practicing attorneys. Today, fewer than 15 percent are practicing attorneys. That has come about, in a sense, as a result of billable hours.

When we came out of the war and set up our practices, what really occurred was we had to do services for the client, whether it was in the field of real estate, whether it was in the field of a criminal charge, or whatever. It was an agreed-to fee or, in many instances, a contingent fee on winning the case. That is how I grew up as an attorney, which characterizes me now as a "trial lawyer"—I hope not an unethical one.

I was listening very closely to the Senator from North Carolina. The best I can tell is he used the expression "litigation explosion." We can get into that. We have debated that, and we found through various studies made by the Rand Corporation for corporate America that there is no litigation explosion.

"Corrupted our justice system." The nearest thing I could find out was the fee itself, and it was too large, as the distinguished Senator surmised, and that in itself was unethical.

We know that people make money. I understand that the fellow on Headline News today, William Gates, a very, very successful entrepreneur, never completed college, but he is a genius with a business worth some $39 billion. He makes, doing nothing, just $125,000. I know he has a modest salary, but it would only go to the tax folks. But he operates, and he operates very successfully. They have 21,000 employees there at that Microsoft entity. Every one of the 21,000 is a millionaire due to the leadership and accomplishment of Mr. Gates.

Now, that is what is to be considered when we talk about trial lawyers taking on a noncase and developing a case. That really nettles my corporate friends. Incidentally, I should say this, that the corporate friends have been mine over the many, many years, as they well know from my votes here in the U.S. Senate. And we are very proud of the industrial development we have in South Carolina and the efforts of our Chamber of Commerce there. They are highly regarded, highly respected. But they had not gotten into this limbo, so to speak, of being unethical when you win a case.

Specifically speaking, going to lawyers generally, it is the genius of America that fashioned this great Republic. Lawyers, if you please, you can go back, Mr. President, to the earliest days. "Is life so dear or peace so sweet as to be purchased at the price of chains and slavery? Forbid it, Almighty God. I know not what course others may take, but as for me, give me liberty or give me death!"—a lawyer, Patrick Henry.

Or otherwise that 30-some-year-old, with quill in hand, seated at that table, "We hold these truths self-evident, that all men are created equal."—Thomas Jefferson, the lawyer.

The most applicable one, Mr. President, to this present day, "But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the greatest difficulty lies in this: you must first enable the government to control the governed and in the next place oblige it to control itself."—that is our problem now—James Madison, a lawyer.

Or the Emancipation Proclamation—Abraham Lincoln, a lawyer. Or in the darkest days of the Depression, bringing about not only economic revival, but equal justice under law, "All we have to fear is fear itself."—Franklin Roosevelt, a lawyer. Or giving substance to equal justice under law—Thurgood Marshall.

I know the abhorrence some have for my friend, Morris Dees, down there with the Southern Poverty Law Center, or with Ralph Nader keeping the conscience clear with respect to consumer safety in America. But these are lawyers who are out leading the way.

There is no question, Mr. President, that there is no higher calling for a profession than to eliminate itself. If the ministers could eliminate all sin and the doctors all disease, we lawyers are burdened with the challenge of trying to eliminate injury in cases. When I first came to the Senate that was really what was at hand, what you might call class actions.

Up there in Buffalo, NY, Love Canal, toxic fumes, poisonous air. And as a result of the class actions there, the next thing you know what we had was the Environmental Protection Agency, which in and of itself, despite those who criticize the bureaucracy of it, has eliminated not only the injury and drinking their own sewage and breathing their own toxic fumes, but eliminated thousands and thousands of individual cases.

Then next, of course, we had the matter of the asbestos cases. We had the cases with respect to the Dalkon Shield, breast implants; we had the cases of the little children burning up in flammable blankets in their cribs. And we got the Consumer Product Safety Commission. I just talked the other day to the chairman there who is doing the outstanding job that she is doing at the Consumer Product Safety Commission looking at all of these particular instrumentalities.

And good corporate America does just that. The J.C. Penney Company—there is no more outstanding firm. I have visited their laboratories where they have instituted safety tests of all the articles to be sold, particularly in the field of children's toys, and what have you. So the trial lawyers brought that about.

And, Mr. President, just this past week I noticed a little squib in the Times. They had down there that Ford Motor Company had recalled an engine. They took the initiative of recalling 1,700,000 pickup trucks because the link bolt on the wheel was loose. The wheel threatened to come off and cause an injury.

Now, Ford Motor Company was not particularly enthused about safety, we know, because back in 1978 Mark Robinson had to bring that Pinto case. And they got a verdict of $3.5 million actual damages and a verdict of $125 million punitive damages. No, they never collected a dime, I don't believe, for those punitive damages.

But I say to the Senator from North Carolina, I can tell you now, that saved a lot of injury and a lot of cases, because Chrysler has just had a recall that I saw in the news. And you can go right on down. That brought about attention to safety and people not burning up and having the wheels lock on them, and those kinds of things, and coming off and causing that injury.

That brings us, Mr. President, to the present case at hand, which, in essence, was not a case at all. I never heard of bringing in, in a class action, the tobacco companies and getting them to agree not to sell their product, but rather to advertise adversely not to sell, not to attract; on the other hand, agreeing, if you please, to a look-back provision whereby they would be burdened with the beauty of diminishing business for themselves, tobacco consumption, particularly in the field for little children, and raising the price of their product whereby the moneys would go then to the attorneys general and the U.S. Government to help pay these expenses, and so forth. That was not a case that was just filed and tried a few weeks later, and they got a verdict.

On the contrary, it was a long, hard, contingency struggle with a guarantee not only to get nothing had it not succeeded—and none have succeeded so far. I repeat, no one has sued a tobacco company and gotten a jury verdict as of this minute, period. But they said, we think we can do it if you let us try; and we will take it on a contingent basis. I do not know what the percentage is down in Florida or Texas or Mississippi where they have settled—somewhere around 10, 15 percent or whatever.

The States, the health community, the U.S. Government had nothing to lose. The lawyers bringing this pioneering, if you please, health care for all of America, they had everything to lose. In fact, a fine attorney general down there, Mike Moore, had to really withstand being sued by his own Governor of his own State of Mississippi trying to prevent him from bringing the case.

Don't give me this billable hours or $180,000 an hour or $5 an hour or whatever it is. This isn't any hourly thing. This is a no-case situation whereby you turn around and have to pay legal fees to defend yourself in order to bring the case, and he withstood that for a year in the courts with his reputation relatively ruined, but holding on. Then after they won that, they literally had to hide the witness and secure his safety because they had a whistleblower in one of the companies who was willing to bring forth the records and say here they are, here is the actual fact within the company records, here is what they stated, here is what their research found, here are their plans on advertising and here are the ingredients they also included in order to bring about addiction. They had to hide the witness.

Don't give me billable hours. I don't know how much hog farmers make. I am waiting for my friend to come back, but I know the lawyers make nothing unless they succeed in bringing this case. Now, of course, having done that, and getting these other lawyers in, his friend, Dickey Scruggs, and Ron Motley from my State of South Carolina, they had an expert approach. If a painter paints a $10 million painting, I don't know how much he gets an hour for painting it, but you have to have expertise.

The ingenuity of using the RICO provision of the distinguished Senator from Utah, that is what they did. They said we can use the RICO provision and really go after them. And that was a wonderful, ingenious approach to the actual trial of this particular class action. You have to understand all along nobody over the 3-year period is paying anybody a red cent when they talk about billable hours. So they brought their case, they struggled along, and they got right to the point where it was going to be exposed, that particular record of the unethical.

My distinguished friend on the other side of the aisle has a sign up there about ethical; it is the unethical conduct of the corporate lawyers, not the trial lawyers. They have not mentioned one thing unethical other than they won the case and they will get a good fee. They deserve every dime of it and more. They ought to get some kind of award from the health community because this will save us billions and billions of dollars in cost, in health care, hundreds and thousands and perhaps millions of lives from cancer deaths.

Not Dr. Kessler, not Dr. Koop, but Mike Moore, Dickey Scruggs, Ron Motley have done more to save people from cancer than Koop and Kessler combined, and Koop and Kessler have tried their best, but there is more than one way to skin a cat. No one in Congress was at that table. There wasn't any Senator—"I introduced the bill." There wasn't any Congressman, "I sponsored, I cosponsored," all of this "I" stuff. Now they have a lynch mob going on because the polls show that lawyers are unpopular, particularly trial lawyers.

I have a friend in town here, sends me a thank-you note at Christmas, Victor Schwartz. We have been in this routine 20 years. Victor represents the business round table and the Chamber of Commerce, and he gets the conference board and he gets all these retainers so long as he doesn't win the case. It reminds me of Sam Ervin's famous story about the doctor who practiced there in Monroe, NC, for some 32 years all by himself. Finally, he had a young son who graduated from medical school and he turned to him and said, "Son, I haven't had a vacation in 32 years. I am taking off with your mother for a couple of weeks." He comes back and the son walks up to him and he says, "You know Ms. Smith, Daddy?" "What about her?" He said, "There is really no arthritis in her back, I got that thing cured." He said, "Oh, my heavens. That is the patient that sent you through med school. Why did you do that?"

You can solve cases, but that is our problem with most lawyers now. As long as they can get a continuance, as long as they can make a motion, as long as they can delay, as long as they bureaucratize the judicial system—and that is the corporate defendant crowd. The plaintiff doesn't win until he concludes a case. He has no time; he has about five or six cases waiting, a lot of time out there, a lot of money, a lot of time investigating everything else. What happens is that he finally scores, but he not only scores for himself, he scores here in this particular case for all of America, because they met last June and they had the sensibility not to be greedy. The inference is that you have a greedy bunch that is unethical; they are getting too much. Not at all.

The fact is, they had the sensibility to say, like Kansas City, there is only so far that we can go. There has to be balance. If we put them out of business, if we continue to pressure and take legitimate companies out of business, then what will happen is that newcomers without these records that are really bringing about the settlements for us, they won't have any records of any kind of additives. They won't have any records of any kind of lies to Members of Congress or anything of that kind. They won't have any records of agreeing not to advertise or agreeing to advertise adversely to children, or agreeing to a look-back provision. What we will do, like Samson, is pull down the temple walls and ruin us all and we will have gotten nowhere.

Now, we understand here this week we can get nowhere. We can start with lawyer fees. We can start with $1.50, $2 a pack, up, up and away. We can have impossible look-back penalties and everything else of that kind, but this isn't the end of Congress. We will be back and we can always amend what we never have tried before, like look-back and nonadvertising agreements.

But my counsel is let's move on with the provision of the commerce bill which says simply as to the agreements made within the States, we don't disturb them—all of them, as best I can tell, are under arbitration. But as to the new agreements made for lawyers, they are subject to arbitration for both sides and approved by the court itself. Now, there is nothing unethical or untoward or whatever it is. The beginning lawyers who made the case are deserving. The others who are piling on deserve a heck of a lot less. We all know that.

So we are not just setting an example here of $185,000 for nothing but trial lawyers as the thing is depicted at the present time.

I can see we have some others that would like to be heard at this particular time. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield time to the distinguished Senator from Utah.

Mr. HATCH. I am very concerned about this and a whole raft of other amendments as well.

First of all, I think we need to examine the context in which this amendment is being debated.

If the Members of this body succumb to the temptation to "pile on," to "out-tobacco" Big Tobacco—and that is surely where we are headed—we will guarantee that the tobacco companies are not part of the equation.

Why should we care about this? Tobacco causes cancer and a panoply of other serious diseases. The companies have known this for literally decades; they have known nicotine makes their products addictive. They have continued to market their products, and to target their marketing plans and their advertising to children.

That being said, I implore my colleagues to recognize that if the tobacco companies are not part of the equation, then we will not have a meaningful bill that can work. It is as simple as that.

Last June 20, the tobacco companies agreed voluntarily to make payments which will range up to $368.5 billion over the next 25 years. They freely chose to make those payments, payments which will help Congress fund a new War on Tobacco, in exchange for certain changes in the law, such as a more predictable litigation environment.

In order to devise a bill which is workable and which will not be litigated for years, we have to respect the legal boundaries imposed by our Constitution, that great document upon which our Country was founded. Constitutional scholars have examined the provisions incorporated in the Commerce bill, and have found them to be lacking.

For example, public health experts have testified before our Committee that advertising restrictions are an important weapon in any new War on Tobacco. But legal scholars have also cautioned that those restrictions must be drafted in a manner which is constitutionally permissible—which, by the way, this bill is not.

As chairman of the Judiciary Committee and as someone who has been concerned about constitutional principles during my tenure in office, I must caution that unless this bill is changed in some very fundamental aspects, we will wind up in 10 years of litigation over a variety of issues, not the least of which will be constitutional issues that will literally cause more problems than anyone ever envisioned.

During each of those years, one million more kids will become addicted to tobacco and will die prematurely because the Congress is pursuing a constitutional collision course which could ultimately render substantial parts of the Commerce bill null.

It is important to note that, while the tobacco companies voluntarily agreed to the $368.5 billion amount, they have refused to agree to the Commerce bill's $516 billion price tag.

We have all seen estimates that the Commerce bill will add $1.10 to the price of a pack of cigarettes in the next five years. What that Treasury estimate does not take into account are any increases due to State excise taxes, wholesaler or retailer markups, attorneys fees, reductions in volume due to increases in black market sales, or imposition of "look-back" penalties.

Let us be real. The manufacturers, for instance, added 5 cents per pack solely because of just one State settlement, the Minnesota settlement.

The $1.10 figure is a myth.

During the course of 10 hearings on the tobacco issue, the Judiciary Committee heard an abundance of evidence on this issue.

We had three financial analysts testify at our hearings, each of whom did independent analyses, using very detailed economic models, and none of them concurred with an estimate as low as $1.10. Their estimates ranged as high as $2.50 to $3.00, for a total cost of about $5.00 per pack.

If that happens, there will be a raging black market. It will be even worse than it is now. We have received testimony that one out of five cigarette packs sold in California today is contraband. Can you imagine what is going to happen if this bill forces tobacco prices up to between $4.50 and $5.00 per pack?

There is an additional implication that, with the exception of our colleague from Texas, Senator GRAMM, and our colleague from Illinois, Senator MOSELEY-BRAUN, no one is focusing on.

Who will bear the brunt of these increased costs, of these new payments intended to curb youth smoking? It is adults at the lower end of the economic spectrum. For example, almost one-third of people with incomes below $10,000 per year are smokers.

It would be better to bring this agreement into some perspective where we can get the tobacco companies on board, however reluctantly.

I would like nothing more than for them to pay $1 trillion per year. But the practical reality is that that will not happen. They will either move offshore or go bankrupt first, and they will be totally beyond our control.

If we design a program which does not have their open opposition, which is modeled on their voluntary agreement of June 20, 1997, we will have effective accountability, because we will have look-back provisions that are constitutional. We will have an effective ban on advertising provisions, because without their compliance Congress cannot enact stringent advertising restrictions. In short, without the reluctant agreement of the tobacco companies, we will not have the comprehensive program that many of us want.

Having said that, I have listened carefully to my colleague from South Carolina.

It is well known that I have been an advocate for legal reforms.

It is well known that I am supportive of product liability reform.

It is well known that I have not been someone who just is a rubber stamp for the trial lawyers of America, even though I have been one myself.

It is well known that I think there are excesses in the law.

But I think we go a long way toward being excessive as a Congress if we start setting fees for professionals in our society, professionals who are not directly participating in a government program.

If we allow ourselves to start dictating what fees have to be paid to certain professions in our society, however tempting, then I think we are starting down a dangerous road.

How can conservatives support setting fees in a free market system? That is as bad as setting prices.

I have extensively examined the tobacco issue. One thing has become evident. We would not be here today debating this legislation were it not for the Castano attorneys.

The distinguished Senator from South Carolina has made some very telling points. Yes, there are excesses. Yes, there are things we can criticize. Yes, we know that many of the trial lawyers have been associated with one political party.

That irritates some people, and rightly so. But the fact of the matter is that he is right. It has been the contingent fee system that has allowed people who do not have any money to be able to defend themselves, to assert their rights, and to obtain verdicts in their best interests. And without the attorneys being willing to take cases on a contingent fee basis, many of the wrongs in our society would not be righted.

Frankly, I have been on both sides. I started out as an insurance defense lawyer. I tried medical liability defense cases. I know what it is like to have people, plaintiffs lawyers, bringing lawsuits, some of which are trumped up.

But I have also been on the other side where people who were humble, without money, had no recourse other than to hope they could find an attorney who would take their case on a contingent fee.

This meant that if I didn't win the case, I didn't get paid. If I won the case, then I got somewhere between 25 and 40 percent of the verdict. I never had a case where my client got less as a result of the contingent fee paid to me than they would have gotten by a settlement before a verdict—never, at least not to my recollection.

On this particular issue, Senator McCAIN and those who have written this bill—basically the White House, if you will—inserted a reasonable provision. That provision says that, for the purposes of awarding attorneys' fees and expenses for those actions, the matters of issue shall be submitted to arbitration before a panel of arbitrators.

In other words, they are not going to give the trial lawyers a free ride here. They are going to require them to submit their fees to arbitration. They are going to have to come in and justify those fees.

In any such arbitration, the panel shall consist of three attorneys, one of whom will be chosen by the Castano plaintiffs' litigation committee, that is, the plaintiffs' attorneys who were signatories to the June 20, 1997, settlement agreement.

It seems to me that our distinguished Senator from Arizona did a good job in putting this provision in. A similar provision is in the legislation I filed on November 13.

This represents a reasonable approach to the problem.

The fact of the matter is that I have devoted a lot of study to the Castano group.

And, yes, most of them are Democrats. Most of them are liberal Democrats at that. But there are a number of them who are Republicans, a very small percentage of them.

The fact of the matter is that politics should not play a part in this. Without the Castano group, we would not be debating this issue; we would not have been able to bring national debate to the point of considering a bill which penalizes the tobacco industry anywhere between $368.5 billion and estimates as high as $800 billion over 25 years.

I believe that members of the Castano group alone have spent somewhere between $20 million and $40 million in basic time alone. That is a lot of money. Some have argued that this figure could approach $100 million.

This has been going on for years, in State after State. It has been going on at the expense of the attorneys, without whom we would not be having this opportunity to start a whole new national War on Tobacco.

I have to admit, at times my angst over the trial lawyers' support for one side or another shows at times. That is true for most Senators. And the trial bar has brought a lot of this criticism upon itself, to be fair. They seem to be looking out only for their interests sometimes, which is not unusual in the business community.

But we should not allow that to cloud the facts on this issue. We should think twice before we move toward having the Congress of the United States set attorneys' fees.

What is it going to be next? Accounting fees? What is it going to be? Private doctors' fees? Our public attempts at rate setting already have proven how government interference can distort the marketplace.

But I agree with the Senator from South Carolina—this is the last bastion of freedom there is.

Whether you like the trial lawyers or not, they take cases that nobody else will take. They do it at their own expense many times. Yes, they make a lot of money, if they are good enough. But the fact of the matter is they play a very significant and important role in our society. It is just that simple.

I agree with many of my colleagues on the other side. Large hourly legal fees are a concern. That is why the bill sets up an arbitration panel which will examine fees based on set criteria such as the time spent and the complexity of the case. Attorneys should have to justify their fees; I don t disagree with that position.

I cannot condone legal fees which approach $1,000 per hour. But that is not the real issue. When we start setting attorneys' fees, whether they are $100, $250, $500, or $1,000, it is a very serious matter.

PRIVILEGE OF THE FLOOR

I ask unanimous consent that Bruce Artim and Marlon Priest of my staff be permitted privileges of the floor throughout this session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Let me close with this.

I am very sympathetic to the motivation of this amendment and to the arguments that the Senator from North Carolina has made.

However, there are a number of reasons that I have given here that this amendment is flawed and, in fact, is unlawful.

As much as I dislike this Commerce Committee bill, and as much as I think it is a piling on, the approach it uses to resolve the attorneys' fees issue is far more preferable than an arbitrary price cap.

For Congress to interfere retroactively with private contracts would be, in my opinion, unconstitutional. Congress should not break private contracts.

The June 20, 1997, settlement recognized that a private agreement between a plaintiff and his or her attorney is a legally enforceable contract with which we should not unilaterally interfere, however well-intentioned our motives are.

Such interference by capping a contractual fee might very well constitute a taking under the Fifth Amendment to the Constitution. The Supreme Court cases clearly say that the Federal Government cannot confiscate money or interfere with a lawful contract.

Under any view of federalism, there is no justification whatsoever for Congress, entering the field of pure State activity to alter the rights and remedies of private parties and then dispensing, with no due process, protections guaranteed by the Constitution.

Regulation of attorneys' fees properly belongs in the domain of the States. Such usurpation of State prerogatives may very well violate the Tenth Amendment. Recent court opinions such as New York v. United States and Prinz v. United States have made the Tenth Amendment a shield against Federal imposition on the sovereign authority of the States.

State courts have already shown a willingness to step in and prevent unreasonable and excessive fees in tobacco settlements. For example, in the Florida case, the Court threw out a contingency fee arrangement where it was found to be clearly excessive. This shows that the State courts will be best equipped to address this issue by utilizing the arbitration clause of the Commerce Committee bill.

I think we must also examine the precedent we are setting here in having the U.S. Congress consider singling out any profession for a cap on their earnings. We do not do this for corporate CEOs, although we have tried in the past. We don't do it for sports figures or entertainers, for that matter. Should we consider capping Jerry Seinfeld's pay because he makes tens of millions of dollars a year, or my dear friend Karl Malone because he makes millions of dollars every year as one of the greatest basketball players who ever lived?

No, we don't do that, and we should not be doing it here, even though I do have some sympathy for what motivates the distinguished Senators on the other side of this issue.

I compliment my friend from South Carolina in his statements here today. They are fair statements for the most part, arguing that, without the trial lawyers being able to take contingent fee cases and to be able to uphold the rights of the downtrodden and those who don't have any money and those who can't afford any attorneys, we would not have nearly the justice ideal we have today.

I also compliment my colleagues from Alabama and North Carolina, who have argued very forcefully and potently for this amendment. They make a number of compelling arguments.

I know I have taken too long and I apologize to my colleagues. I feel deeply about this.

I recognize I have irritated just about everybody in the debate. I haven't meant to. It isn't my desire.

I feel very deeply we need to pass a strong anti-tobacco bill which is constitutionally sound and which will not be litigated for years. The best way to do this is to model it after the agreement reached last year between all the parties.

That, I believe, would be in the best interests of our children.

I cannot tolerate the fact we are going to have 10 years of litigation because we are considering faulty legislation. We should be pulling the companies in, albeit kicking and screaming, and making them be active participants. I want them to be part of the solution. Some may view that as naive, but I am optimistic.

The fact that we are considering legislation with such obvious flaws bothers me terribly. I am also bothered by the fact that we will go so far as to start setting professional fees here in the Congress of the United States.

Having said that, I yield the floor.

Mr. HOLLINGS. Mr. President, I think the distinguished Senator from Utah has made a very, very powerful statement. We are most grateful.

I yield to the distinguished Senator from Illinois 10 minutes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, let me say to my friend, the Senator from Utah, I appreciated his oration and his irritation. He plays a valuable role in the Senate, and he raises issues that are important to all of us regardless of which side of the aisle we fall.

This amendment, sponsored by the Senator from North Carolina, Mr. FAIRCLOTH, is one which we should understand what it stands for. This is an amendment to limit the attorneys' fees that will be payable to plaintiffs' attorneys who joined with all the States' attorneys general to bring the lawsuits against tobacco companies.

Now, to paraphrase my friend, the Senator from Arkansas, Mr. BUMPERS, the tobacco companies hate these attorneys like the Devil hates holy water. Were it not for these attorneys, there would be no McCain bill in the Chamber this week. Were it not for these attorneys, there would have been no State lawsuits. Were it not for these attorneys, these tobacco companies would continue to make billions of dollars, would continue to exploit our children, would continue to be the source of the No. 1 preventable cause of death in America month after month, year after year, and decade after decade.

So it is no wonder that the Senator from North Carolina wants to get even with these attorneys. They have upset the apple cart for Tobacco Row. These attorneys have joined with States' attorneys general, 42 of them, to bring lawsuits which have successfully brought the tobacco companies to their knees. And if this Senate has the courage this week that I hope it does, we will pass the most comprehensive historic legislation this Nation has ever seen to protect our children from continued exploitation by these tobacco companies.

So here comes the Senator from North Carolina, and he says, well, I think it is only reasonable that we limit these attorneys to fees of no more than $250 an hour. At least I think that is what his amendment says; it has been written over a couple times. But I think that is what he ended up concluding. For most people in America, $250 an hour is an amazing amount of money. To anybody who would think about making $10,000 a week, that is an amazing amount of money. But, ladies and gentlemen, we are talking about attorneys who are playing in the big leagues here.

Isn't it interesting that all of his rancor and all of his anger about attorneys' fees only affect the fees that are being paid to attorneys who are fighting tobacco companies. I have searched this amendment, line for line and page for page, to find some limitation on the amount of money paid to the attorneys for the tobacco companies. No, not a single word of limitation. Pay them what you will. But the plaintiffs' attorneys, representing the children who are being exploited by these companies, the plaintiffs' attorneys who come in here representing flight attendants to try to make sure in a courtroom that they are protected from the kind of secondhand smoke that is damaging, those are the targets of the Senator from North Carolina.

Isn't it an amazing thing that these tobacco companies, when they put their enemies list together, put at the very top these attorneys. Well, why did these State attorneys general bring in these private attorneys as part of the lawsuits? For one simple reason: They didn't have the resources in many States to really go after these tobacco giants, so they brought in the trial attorneys and they said, "If you are going to sue the tobacco firms, do it on a contingent basis. If you win the lawsuit, which has never been done—never been done—if you win the lawsuit, you will win a substantial fee. If you lose, you go home emptyhanded." These attorneys said, "We will take it on; on a contingent fee basis, we will take it on." And guess what. They are about to win. If we do the right thing, they will win. In at least four States, they have won. It just angers the tobacco companies to think that they are going to have to pay the fees of the attorneys who sued them.

Why did we need these attorneys? Because, honestly, ladies and gentlemen, when it came to Congress, when it came to State legislatures, when it came to many Governors' offices, and, yes, even when it came to the White House year after year and time after time, the tobacco companies had a cozy relationship. They knew no one was going to go in and challenge them.

Mr. FAIRCLOTH. Will the Senator yield?

Mr. DURBIN. But in a courtroom, it is a different story. In a courtroom—I will when I finish; I will be happy to yield when I finish. In a courtroom, it is one attorney against another. It is a jury of peers, 12 Americans sitting in judgment, and that is when the tobacco companies are being brought to their knees. They could not buy it through lobbyists. They could not buy it through political contributions. They had to walk into a courtroom. And when it happened in 42 different States, they said, "It is time to settle. The game is over." So naturally they are angry with these attorneys, these trial lawyers who have brought them to their knees.

And think about the limitation of $250 an hour. Not a word about limiting the amount of money paid to the tobacco company attorneys, and certainly not one word about limiting the money paid to the tobacco company executives. Four years ago, do you remember that shameful scene when seven tobacco company executives, under oath, in the House of Representatives swore to God on a stack of Bibles that tobacco was not addictive? Tobacco is not addictive. Imagine they would say that. And these men, who were being paid millions of dollars a year by exploiting our children and selling their products, are not even mentioned in this amendment.

Now, if we are going to work out some moral outrage about how much money we are going to pay people, then let us include not just trial lawyers. Let's include the attorneys for the tobacco companies. Let's include the tobacco company executives. Or let's call this amendment for what it is. This is an effort to get rid of the element that has brought the tobacco companies finally to this Senate floor and brought us finally to comprehensive legislation.

I yield to the Senator from North Carolina.

Mr. KERRY. Not on your time.

Mr. FAIRCLOTH. Does the Senator have a copy of the amendment?

Mr. KERRY. Mr. President, I would ask the Senator to yield on the time of the Senator from North Carolina.

Mr. FAIRCLOTH. I am satisfied.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FAIRCLOTH. Does the Senator have a copy of the amendment?

Mr. DURBIN. I have the amendment 2421.

Mr. FAIRCLOTH. Look at the top of page 2 and line 10 at the bottom. What does it say?

Mr. DURBIN. I am sorry. Page 2?

Mr. FAIRCLOTH. Page 2. Read the top line.

Mr. DURBIN. "* * * made public disclosure of the time accounting under paragraph (1) and any fee * * *".

Mr. FAIRCLOTH. Now read the bottom, line 10. It clearly includes the attorneys for the tobacco companies.

Mr. DURBIN. I am sorry, Senator. I do not see that reference in here in the copy I have.

Mr. FAIRCLOTH. If the Senator will read, at the top, it clearly says—in the English language it is pretty clear—that it includes all matters, defendant or otherwise.

Mr. DURBIN. I am sorry, but I do not see that reference, unless this is another copy of the amendment.

Mr. FAIRCLOTH. "* * * who acted at some future time on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9) of this subsection."

Mr. DURBIN. Will the Senator clarify then, is he saying that any of the attorneys hired by the tobacco companies and paid by the tobacco companies relative to this litigation will be limited to how much they will be paid——

Mr. FAIRCLOTH. Yes.

Mr. DURBIN. By the tobacco companies?

Mr. FAIRCLOTH. That is exactly what I am saying.

Mr. DURBIN. Whether that money comes through this agreement or not?

Mr. FAIRCLOTH. That is exactly right.

Mr. DURBIN. How will the Senator possibly monitor that and police that in terms of the banks and hordes of attorneys who represent these tobacco companies? In the issue of the plaintiffs, we clearly have a case with an attorney general and we have a law firm that has reached an agreement and contract with them. Is the Senator from North Carolina saying, then, that as to all the activities of attorneys for tobacco companies that he is going to limit their fees to $250 an hour?

Mr. FAIRCLOTH. If they submit a record, they will have to submit a record to the Congress. And of course it would be perjury to lie about it. They have to submit the record. Yes, I am saying they are going to be held responsible. And to the same fees that we are paying the plaintiffs' attorneys.

Mr. DURBIN. What if they have already been paid?

Mr. FAIRCLOTH. Then it will be up to the tobacco companies to make an adjustment.

Mr. DURBIN. The tobacco companies will have to call their attorneys in and make an adjustment under your act?

Mr. FAIRCLOTH. Yes.

Mr. DURBIN. I say to the Senator, I believe that is a very difficult thing to accomplish. I don't think it is going to happen. What the Senator is asking——

Mr. FAIRCLOTH. It is difficult to see $185,000 an hour paid to plaintiffs' attorneys that come out of the working people of this country, too. And that bothers me considerably.

Mr. DURBIN. Mr. President, I say to the Senator the money that comes into this comes from tobacco companies which have made a profit at the expense of children and Americans for a long period of time.

Mr. FAIRCLOTH. I beg to correct you. It comes from the taxpayers of this country. The tax is on cigarettes and cigarettes are smoked by generally people with incomes of less than $40,000 to $50,000 a year. They are going to pay 70 percent of this tax. We are going to buy Lear jets for attorneys out of the working people of this country because 70 percent of this money we are going to pay to these attorneys comes from people making less than $40,000 a year. And how anybody can justify paying an attorney $100,000-plus an hour, and taking it out of the pockets of people making less than $40,000 a year, I don't know.

Mr. DURBIN. Let me say to the Senator from North Carolina, what I understand this bill to include is an arbitration proceeding, if there is any question about the fees to be paid to attorneys, and in the case of the State of Florida, that in fact occurred. The attorneys' fees were reduced. But let's not lose site of the bottom line here. Were it not for these attorneys bringing these lawsuits, we wouldn't be here today. We would not be discussing that legislation.

Mr. FAIRCLOTH. I don't know that that is true. But they arbitrated it in Florida down to $180,000 an hour. But I would like to yield the floor now to Senator Sessions.

The PRESIDING OFFICER (Mr. Kempthorne). The Senator from Illinois controls the floor—has the floor.

Mr. DURBIN. How much time do I have?

Mr. KERRY. Mr. President, I believe the time agreement was the time would come from the Senator from North Carolina.

The PRESIDING OFFICER. That is correct.

Mr. FAIRCLOTH. The time was yielded to me, Mr. President. Our debate was on my time.

The PRESIDING OFFICER. Right. The Senator from Illinois does control the floor. The time was charged to the Senator from North Carolina. So the Senator from Illinois still has the floor.

Mr. DURBIN. I believe the Senator from South Carolina recognized me for 10 minutes. Do I have any time remaining on that?

The PRESIDING OFFICER. The Senator has 4½ minutes.

Mr. DURBIN. Mr. President, 4½ minutes? I yield that back to the Senator from Massachusetts, who has been kind enough to wait.

Mr. KERRY. I thank the Chair. I understand the Senator wants to yield some time now. I think we can go back and forth.

The PRESIDING OFFICER. Who yields time?

Mr. FAIRCLOTH. Thank you. I yield the time. I yield whatever time is desired by the Senator from Alabama, Mr. Sessions.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. KERRY. Mr. President, point of inquiry?

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. If I could ask the Senator from Alabama how much time he might use so other colleagues can plan, so we can proceed down?

Mr. SESSIONS. Mr. President, 15 minutes.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, this is, indeed, an important issue. We have heard a lot today about validity of contingent fees. Historically, contingent fees have not been favored by the law. They have been scrutinized. Lawyers ethically were supposed to take fees on a paying basis unless the person could not afford to hire a lawyer—but we have always affirmed a contingency fee basis. I am not here to criticize that. I am not. This legislation in no way would stop private attorneys from going forward with contingent fee arrangements with their clients. As an attorney, I have filed cases on an hourly fee basis and on a contingency fee basis. I don't think there is anything wrong with that and I don't mean to suggest there is.

But in the history of litigation, in the history of America, in the history of law, in the history of the world there have never been fees equivalent to the ones we are talking about today. They go beyond anything we can imagine. These fees are beyond any payments that have ever been known in the world of law. I call them the mother of all attorney's fees. This is a serious matter.

The attorneys general of the United States have come to this Congress, this Senate, and they have asked us to approve a settlement, to add things to it, to review it and comprehensively deal with this matter. So one of the things that we have to deal with is attorneys' fees.

Under the Constitution, the Congress is empowered to regulate. We do it when we enact a minimum wage. A person has a contract with somebody at $4 an hour, and we say the wage ought to be $5 an hour; that contract is vitiated. We have a lot of containment of attorney's fees in America.

Indeed, with regard to Social Security cases, there is a limitation on attorney's fees. With regard to the Criminal Justice Act, the limit is $75 an hour. Under the Equal Access to Justice Act, attorney's fees are limited to $125 an hour. Limitation of attorney's fees is common. We have had a number of research papers written on fee limitations. A professor from Cardozo School of Law has written comprehensively on this legislation and says it is, indeed, constitutional.

To illustrate the amount of money at issue in these cases, I would like the people of this country and the Members of this body to think about this: The yearly general fund budget for the State of Alabama is less than $1 billion. In Texas, a judge has approved payment of $2.3 billion to a handful of lawyers for this litigation. They approved that kind of fee.

In Florida, attorneys are still battling to obtain $2.8 billion in fees—that is two thousand eight hundred million dollars—two thousand eight hundred million dollars. That is absolutely unconscionable, as a judge in Florida said, and as anyone who has any sense of decency ought to understand. We have been asked to pass legislation dealing with this health care problem and try to do something about teenagers and smoking? We have a right to pass legislation dealing with attorney's fees.

Let me share something with you. People may not understand exactly how all of this has occurred. I have a transcript of a recent 20/20 program about the Florida attorney's fees debate. Let me share some of what was said in that program. The segment is entitled, "What A Deal."

> Hugh Downs. What is your time worth? How does $7,000 an hour sound? That's what some lawyers want to be paid for their work on Florida's suit against the tobacco industry. Each and every one of them could become a millionaire many times over, just from this one case.

So, did they really earn their fee? Well, John Stossel tells us how the lawyers came to demand a king's ransom for their work.

> John Stossel. The children are supposed to benefit from the new money for anti-smoking programs. And later the governor invited in some children and dummied up a check to celebrate the first $750 million payment. But now it turns out that Florida's taxpayers may not get as much of that money as they thought because Florida lawyers are in a legal battle over how much money they should get.
>
> Montgomery, the plaintiff's lawyer in the case, says they deserve $2.8 billion. That's right—billion, says Stossel.
>
> He (referring to Mr. Montgomery) doesn't exactly need the money.
>
> This is his multimillion-dollar house in luxurious Palm Beach right next to the ocean.
>
> The house is so huge, it looks more like a palace. Even his Rolls Royce and his Bentley live in a garage that's bigger than many houses. Montgomery got this rich suing carmakers and hospitals and insurance companies.
>
> Bob Montgomery. So this is my putting green, and this is my sand trap. And what I do is I have these balls, and this is where I drive them.
>
> John Stossel. Out into the water?
>
> Bob Montgomery. Out into the water.

He has so much money, he doesn't worry about his golf balls. He hits them out into the ocean.

> John Stossel. The inside of the house is even more grand. Montgomery has a vast art collection.

Another attorney, Mr. Fred Levin, defends the fees.

> Fred Levin. It was contracted.
>
> John Stossel. So who made this contract?
>
> Fred Levin. Well, the State did. It was a valid, legitimate contract.
>
> John Stossel. Fred Levin helped the governor put the deal together.
>
> You're a private lawyer? (Asked of Mr. Levin.)
>
> Fred Levin. Right.
>
> John Stossell. What are you doing there? Just giving advice?
>
> Fred Levin. Well, yes.
>
> John Stossel. Friendly advice?
>
> Fred Levin. Yes, I was a—I'm a good friend of the governor's.
>
> John Stossel. Friendship starts to explain how some of these private lawyers were selected and ended up with a contract that says each now is entitled to hundreds of millions of dollars. It began 4 years ago, when Levin came up with a scheme to use Florida's legislature to make it easier to win a suit against big tobacco.
>
> Fred Levin. I took a little-known statute called a Florida Medicaid recovery statute, changed a few words here and a few words there, which allowed the state of Florida to sue tobacco companies without ever mentioning the word "tobacco" or cigarettes. The statute passed in both the house and the senate. No one voted against it.
>
> John Stossel. Well, did the people know what they were voting for?
>
> Fred Levin. No. And if I told them, they'd have stood up and made a—you know, they'd have been able to keep—keep me from passing the bill.
>
> John Stossel. This made the suit much more winnable?
>
> Fred Levin. Oh, God. It meant it was a slam dunk.
>
> John Stossel. And who would get to be the lead lawyer on this slam-dunk offense?
>
> Fred Levin. Initially, I was assuming that I would be bringing the case. But then they said, "Fred Levin's going to make all the money."
>
> John Stossel. Fred Levin's doing a scam here. He's changing the law so he can get rich.
>
> Fred Levin. So I went to the governor and I said, "Listen, let me help you get a group of lawyers together, our dream team, and I'll get out."

Mr. Montgomery suggests that if he lost the case, he would have been out $500,000. He probably has that much invested in all of his automobiles in this mansion he has. He suggested his cost was $500,000.

> John Stossel. Am I missing something here? The controversy has become, should the dream team get billions from the 25-percent deal they have with the State or from arbitration? My question is, why do private lawyers get so much of the State's money in the first place? When this construction company got the contract to replace this Florida bridge, they had to compete against other construction companies. There was competitive bidding. To win the job, they had to show they were qualified and submit the lowest bid. All States have such rules to prevent politicians from funneling projects to their friends. But that's not what happened with the lawyers. Here, Fred Levin called some friends. You picked the dream team.

Then Mr. Stossel discussed how the deal was negotiated and the fact that Mr. Levin and the Governor were close, riding in the same car together.

Then Mr. Stossel asked Mr. Levin why the Governor was spending the night at this trial lawyer Montgomery's house.

> Fred Levin. Well, when he's in Pensacola, he sleeps at my house, so——
>
> John Stossel. That week, Levin threw a big party. His estate's so big he buses the guests in from where they've parked their cars. The Governor came, of course.

And they talked about how the Governor's guests had raised a lot of money for him.

As Professor Lester Brickman of Cardozo Law School said:

> It's an outrage. It's more than greed, it's a scam.
>
> John Stossel. Law professor Lester Brickman, who's an expert on legal fees, says it's not right to hand such a lucrative-fee case to a friend.

This is the issue we are talking about today. I was attorney general of Alabama when this litigation was being suggested. I had groups of trial lawyers come to me and ask me to file the litigation. We had meetings and we discussed it. They wanted a contingent fee, as I recall, 25 percent of the recovery.

I remember saying, "Well, some of the States are moving along fine in this litigation. If they win, I assume Alabama will be able to win with our own staff. I don't believe we need you to represent us."

They said, "Well, you don't just hire us, you can hire some of your law firm friends, too. You can cut them in on the deal." That was one of the things they suggested to me.

I said, "We're not hiring lawyers for friendship. We're not hiring lawyers to pass out funds to people we want to give money to. If we need a lawyer, we'll hire a lawyer." I didn't do so.

Basically, what I had predicted came true. When the end came, the tobacco companies settled all over America. Some States had hired lawyers on a contingent-fee basis, lawyers that may have only worked a few weeks or months, and then began to come in and claim 25 percent of $2 billion, $3 billion, $15 billion. This is supposed to be fair and just? I submit that it is not.

My good friend and chairman of the Judiciary Committee, on which I serve, expressed real concern that we ought not attack contingency-fee contracts, as these contracts benefit people who cannot afford to hire lawyers on an hourly basis. I don't intend to undermine normal contingent-fee contracts, and nothing in our amendment does that.

I think everyone needs to know that this McCain bill that the administration has approved and signed off on, and the trial lawyers, I suppose, have signed off on, calls for a panel of arbitrators. It consists of three people: The Castano plaintiffs; I understand one of them may get $50 million out of this litigation. Plaintiffs would have one member on the arbitration panel. The other members of the group would be the manufacturers and the attorney general. They get to pick the second one.

But you see, there is a problem there, because the accord really is between the manufacturers and the attorneys general and the plaintiffs' lawyers. I submit that they are not defending the best interests of the people—they signed those contracts together.

In this situation, the plaintiff lawyers have placed themselves in—and I don't know any other way to say it—a conflict-of-interest position. When the tobacco companies agreed to settle, they went to the lawyers on the other side and said, "Now, let's talk about your fee. We won't pay all the money to the State and let you be paid by the State, because that would look bad. We'll just have a little side agreement, and we'll pay your fee, and it won't come out of the State's money."

The attorneys general agreed to that. So the attorneys general are in on the agreement. And the plaintiff lawyers are in on the agreement. And the tobacco companies are in on the agreement. Anybody who knows anything about economics and thinks realistically about this matter will know there are not two separate pots of money.

The attorneys' fees and the recovery by the States are all payments by the tobacco companies to get these people off their backs. The tobacco companies do not care whether lawyers get the money or whether the children of the State or the children of the United States get the money. They are not concerned about that. They want this litigation over.

So this is what we have. The more you pay the lawyers, the more likely they may be to compromise the interests of the State and the children. Every dollar that goes to them is a dollar that would not go to the children.

The third member of this arbitration panel is picked by the plaintiffs and the manufacturers and the Attorney General. So you have more of the same. This is not an effective arbitration panel. It is a stacked deck. I am not sure some of the people who defended this panel have fully thought that through. We will need to talk to them about that. But this is not an acceptable panel.

Some people say, "Well, Congress can't undermine contracts." We limit the minimum wage. And Florida has limited attorney's fees—at least so far they have tried to. People on the other side say, "Well, it's not so bad. Florida limited their attorney's fees contracts. So if Florida can limit that contract, why can't we limit their fee?" But in Texas they did not. In Texas a judge has approved $2.3 billion in attorneys' fees.

I will point this out to you: I have a recent article about the owner of the

Baltimore Orioles making over $1 billion from these attorneys' fees, $1 billion—B-I-L-L-I-O-N—$1 billion. I suspect he probably is making more off the lawsuit than he has made on all of his other investments.

Do you know how many billionaires there are in the United States according to Forbes? I had my staff check. There are about 60. I wonder how many new billionaires these attorneys' fees will make? Who will pay for this wealth transfer? Who will be making more Montgomerys with multimillion-dollar mansions on the beach, who hit their golf balls out into the water because they have so many they don't care, and have world-renowned painting collections?

I am not weeping at all over the poor state of these attorneys. I think it is time for us to have a clear policy about what we ought to pay. This body voted last year that $250 was a fair wage for them to be paid per hour, and I think it is, too. I support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. How much time do I have left?

The PRESIDING OFFICER. The proponents have 58 minutes 30 seconds.

Mr. SESSIONS. The 15 minutes?

The PRESIDING OFFICER. The 15 minutes have expired.

Who yields time?

Mr. KERRY. I presume the Senator can yield himself more time if he wants to.

Mr. SESSIONS. I will reserve the time on this side.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, I yield myself such time as I use. I will not use that much time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, it is time we really talked about what is really happening here. And it is time that we face reality with respect to this amendment.

I am just astounded listening to the Senator from North Carolina and the Senator from Alabama suggest they know better than their own attorneys general, who are elected, after all, who are accountable to the people of their States, just as we are as Senators, and who suddenly, representing the Republican Party, are attacking people because they have made some money and they do not like the way they have made some money.

This is an unprecedented situation as far as I know. The Senator from Utah, the distinguished chairman of the Judiciary Committee, could not have put it more strongly or directly. He asked the question, What is our party coming to if this is what we stand for?

Now, I ask my colleagues just to read this amendment. This amendment says:

> No award of attorneys' fees under any action to which this Act applies shall be made * * * until * * * [they] have provided to the Congress a detailed time accounting with respect to the work performed.

They want to turn the U.S. Congress into an accounting committee for attorneys, private attorneys who have contracted privately with the attorneys general of their States.

But after that, if ever there was a violation of what I thought the Republican Party stood for, here it is. "This section shall apply to fees paid or to be paid to attorneys under any arrangement * * *" i.e., retroactively. They are going to go back and say, no matter how many hours attorneys may have worked, no matter how much their firm may have put in, they are going to have to live by a certain fee that may be well below what they have already invested in a case.

But even more importantly, they do this for any attorney "who acted on behalf of a State or a political subdivision of a State in connection with any past litigation," "who acted on behalf of a State or [any] political subdivision of a State in connection with any future litigation," "who acted at some future time on behalf of a State or a political subdivision of a State in connection with any past litigation," "who act at some future time on behalf of a State or a political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies * * *"

Here is the most extraordinary long-arm reach of the Federal Government into the affairs of States from the very people who are most consistently on the floor of the U.S. Senate saying, "Keep the Federal Government out of our business. Keep the Federal Government away from intruding. Don't put mandates on the State. Don't preempt State action." And here we are with the greatest single preemption, intrusion, and nit-picking, micromanaging that I have ever seen.

That said, they are not even dealing with reality, Mr. President. They are coming in here and talking about $180,000 fees. That is not what they got in Florida. In point of fact, that is what the attorneys may have asked for because that was their agreement, but that is not—they are subject to arbitration.

Every single State is subject to arbitration. This bill honors the notion that there will be arbitration. No one expects attorneys to be paid the kind of money that is being thrown around on the floor of the U.S. Senate. That is not going to happen. And they cannot point to an instance where it actually has happened.

In Minnesota, they settled for 7.5 percent. The Attorney General settled, all of the parties settled. And what is really fascinating is my friend from Alabama says there are not two pots of money. Well, that is not true. In Minnesota there are two pots of money, because they came to an agreement that one pot would pay the people what they get by virtue of a settlement, and the companies, the tobacco companies will wind up paying the attorney fees outside of it. That can happen in each and every other State subject to the determination of the arbitration process, subject to the courts, subject to the attorneys general and others.

Who is the Senator from North Carolina, who is the Senator from Alabama to say that the attorney general of a State does not know what he is doing, that the attorney general of a State is incompetent to decide that he wants to run for reelection based on what he thought was a fair approach to arriving at a settlement?

Why is it fair? It is fair, Mr. President, because no one wanted to take these cases. No one wanted to take these cases. I stand with my friend from South Carolina as somebody who has tried a case and who has taken a contingency case.

When I first got out of school I started a law firm. We did not have the money to carry the case. We did not have anybody supporting us. But about six or seven people who had hairs implanted in their head from rug fibers came to us. It turned out that the hairs were cancer, carcinogenic, and they got extraordinary blisters and reactions to this and spent days in hospitals and being treated.

But how were they going to get redress? Well, they got a couple of young lawyers who took the cases on a contingency. And we took those cases based on the notion that we invested our money in the depositions. We invested our money and the time put into it. And we worked for 2 long years, Mr. President, in order to be able to finally take that case to court, win the case in court, and ultimately force the rest of the cases to settlement. There are countless examples like that.

America is going to have an opportunity to see a movie soon in which John Travolta will play Jan Schlichtmann, a young attorney up in Massachusetts who took a case of people in the City of Woburn, who had been poisoned by toxics put into the well system and their kids were dying of leukemia. This was a case that nobody wanted to take. This was a case that took years to prove, and they brought experts from all over the country. They invested in it themselves to the point, Mr. President, they were floating their own credit cards to the point of bankruptcy. They mortgaged their home to the point of bankruptcy. This lawyer lost his automobile. It was repossessed because he was going to win on behalf of these people. Ultimately, he was able to pay off all the bills and he barely made any money at all.

That is a case you win. Most cases in America are stacked against the plaintiffs. In most cases in America, corporations have all the money. That we have seen from the tobacco industry over the last years. And that is why, as the Senator from South Carolina pointed out, in all the years of litigation, not one single penny has been paid out in the court as a result of a victory won in the court at this point in time.

Who will bring those cases? This isn't the only example of that. There is the most extraordinary misunderstanding in America about contingency fees and what happens for the cases that are won that create a big stir. There are dozens of cases that are lost. There are dozens of cases litigated where people make an effort and they don't win. And that is our system of jurisprudence in America. That is how we provide the average citizen, the person who doesn't have the bucks, access to the courthouse. And here we are with a system that we have worked out in this bill which sets up arbitration which says, in section 1407, that in any case where the State and their litigation counsel failed to agree on attorney fees and related expenses, the matter of attorney fees and extensions shall be submitted to arbitration.

There is no automatic payout in this bill. No attorney walks away with fees that any attorney general or any State thinks are wrong. That is not going to happen. And there are people accountable at the State level if it did happen. It is not the business of the U.S. Senate to step in and suggest that, because the Senator from Alabama finds the lifestyle of a particular individual who may not even have made the money through that case, other cases—finds it onerous, to say we will limit it.

I bet any one of us could find any number of corporate executives, chieftains, in this country who have their airplanes, who have their nice cars, who may or may not choose to hit a golf ball in the ocean. I am sure you could say they have a lifestyle that somehow people find a little bit objectionable or they are jealous of, but since when in this country do we say we will limit their capacity for earnings and step in and become the accounting agency for those kinds of transactions?

I hope my colleagues will measure carefully the capacity in this bill. This would interfere with private contracts. The amendment is not necessary, because a bill has a means of resolving these. The courts have already shown an unwillingness to prevent any unreasonable fee, and these contingency fees preserve the rights of our citizens to be able to have access to the court.

Let me share why that is so important. It was the result of a suit brought on contingency that helped make automatic teller machine operators responsible to put those machines in a way that people weren't attacked or somehow there was a sense of responsibility about the locations. That is one of those victories that you win because people took a case.

Another case, where a $10 million punitive damage award against Playtex removed from the market tampons linked to toxic shock syndrome—those problems had been deliberately overlooked by the company. It was only because of the suit that people were protected.

In St. Louis, a jury returns a $79 million award against Domino's Pizza because of its fast delivery policy. We had a woman, Jean Kinder, who suffered head and spinal injuries when a delivery driver ran a red light and hit her, because the policy was, you have to push delivery. They changed their policy because a lawyer brought that concept to court, and it was rectified.

An 81-year-old died from a fatal kidney ailment after taking an arthritis pain relief drug called Oraflex for about 2 months. The manufacturer had known of the serious problems associated with the drug but failed to warn the doctors, and, in fact, Eli Lilly removed the drug, as a result of that suit, from the world market after it had been available in the United States for less than a year.

Eight punitive damages awards were required before the A.H. Robins Company recalled the Dalkon Shield, the IUD, and we all know what happened with respect to that.

All of these were instances, Mr. President, where American citizens were protected by virtue of the capacity of a lawyer to take a case. I can tell you, if you limit these fees to the level they want, what you are really doing is limiting the access of the average American to the courtroom, because you will make it impossible for lawyers to take those fees under those circumstances—not to mention the unconstitutionality and questionable practice of how you regulate defendants' fees in totally private contractual relationships outside of anything to do with State action, outside of anything to do with a compelling straight interest, with no appropriate rational nexus that the court requires for that kind of test.

This doesn't work. It is not needed. It is wrong. It is an exaggerated problem seeking some kind of solution. This is not the solution.

I reserve the remainder of my time.

Mr. FAIRCLOTH. I yield whatever time is desired to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. I will share a few thoughts as we discuss this thing. I think the feelings are strong on both sides.

I suggest that Federal action is appropriate here because the States have asked for a comprehensive settlement of this matter. The legislation that we have proposed is a comprehensive piece of legislation. It involves where the money goes. We don't agree with the States on everything that they say, and we will be doing things differently in a number of ways. It will represent the consensus of the House and the Senate and the President, if he signs it.

I think it is perfectly appropriate for us to deal with the problem of just how much these litigators make. When you have a young lawyer taking on a big company and winning a contingent fee verdict and making some money off of it—we are not trying to undo that. We are talking about a massive effort, nationwide, that has resulted in incredibly huge profits or windfall attorney fees that ought to be contained by the very nature of this. We have a right to legislate that.

Whereas at this stage Florida has reduced the attorney's fees that were to be awarded of $2.8 million, one of the lawyers, I think, is still contesting that, and they may not prevail. Or if they do, it is just proof of the fact that courts and legislative bodies have the power to deal with excessive fees in this kind of circumstance.

Finally, they say, well, there is an arbitration panel in this agreement. I must tell you, the configuration of that panel is unacceptable. It is unacceptable for two different reasons, really. It is unacceptable, No. 1, because it doesn't even come into play unless the attorney involved is unavailable to agree with the plaintiff. The plaintiff is the attorney general or, I guess, representing the State, of the people. I am on page 438 of the agreement. It says you can't have arbitration unless the attorney involved—that is, the private plaintiff lawyer—is unable to agree with the plaintiff—that is, the attorney general who employed that attorney—the attorney general, with respect to any dispute that may arise between them regarding their fee agreement.

Why, this is the fox guarding the hen house. These are the same people that agreed to the fees. We don't have a good thing there.

Then, when it talks about submitting it to arbitration, the makeup of the panel shall consist of three persons, one of them chosen by the plaintiff—that is, the attorney general—one of them chosen by the attorney—that is, the plaintiff's attorney—and one of them chosen jointly by the two of them. That is who is making the decision—the same people that got us into this fix. I submit that is not an effective arbitration panel and it is not something that at all deals with the seriousness of the problem.

Lester Brickman, when he was interviewed on "20/20," the professor from Cardozo Law School, made these statements: "These are politicians involved who are stroking the backs of lawyers because lawyers have stroked their backs before and may yet stroke their backs again. So I think the public perception here, which is probably pretty accurate, is that it smells."

I want to make one more point. I think this is really important. I can see how that could be of confusion. The Senator from Massachusetts says there really are two pots. This is fundamental when you think about it. It is not two pots. There is one pot of money; that is the tobacco companies; and they will pay it over to get rid of this lawsuit. And they are willing to pay as much to the lawyers to get them to agree to the settlement. It is not a healthy relationship. It is not a healthy relationship. And the suggestion that the tobacco company can go over here to the side and enter into a side deal with the lawyers who are supposed to be representing the State and the people to pay their fee, and that is not going to affect the overall settlement, is not sound thinking. It is the same money, and every dollar they agree to give is one dollar less that goes to the people and victims of smoking.

I believe the present proposal is not effective at all. I object to it. I believe the Senator from North Carolina has a proposal that will fix this matter. It will be a generous fee for these attorneys. They worked on it for 4 years, and they have 10,000 hours. They get paid $250 for every one of those hours. That is perfectly generous.

I yield the floor.

Mr. HOLLINGS. I yield to the distinguished Senator from New Jersey 5 minutes.

Mr. TORRICELLI. Although I have not been in this institution long, I have already discovered one thing about the Senate. Things are not often as they appear. This discussion has been almost entirely about money, what fees are paid, and who pays them.

But in truth, this amendment is not about money, it is about power. It is about whether or not the individual American who has little or no money, cannot afford expert testimony, cannot afford to pay the fees with extensive and complex litigation, can stand in a courtroom face to face with the largest and richest, most powerful corporations in the world and get justice.

Through almost all of the history of this Republic, we have assured that right to every American. But today, this Congress is at a point of judgment about the tobacco industry because those individual lawyers, on contingency fees, representing individual American citizens, have brought us to this point of decision.

Make no mistake about it, Americans are dealing with the reality of health care and tobacco and the financing of our future health care as a result of a potential tobacco settlement, not because of this Congress, not because of the good graces of American industry, not because the leadership of the President, but because of the threat in courts of law that individual attorneys, on contingency fees, have found justice for individual American citizens.

This fight is not about money. There are ample resources in any tobacco settlement. The fees would be paid. It is about whether or not this door to American justice is to be closed. And that is the decision.

The great irony of it is, on the other side of the aisle, the party which has always claimed to represent the rights of the individual, the founding wisdom of our constitutional system, and the prerogatives of individual State governments, would be bringing this amendment at all. If it were to succeed, the Senate of the United States would be setting professional fees, a judgment that not only does not belong here but demeans the institution. The Senate of the United States would be taking prerogatives away from State governments and State attorneys general which have negotiated these decisions or made these judgments.

The McCain legislation deals with this, in what I believe is a proper fashion, in setting arbitration panels where arbitrators can pay what expenses the lawyers had, what they had to pay, the risk they took, the time involved, and then, on a professional, informed basis, decide on proper compensation.

Alternatively, that judgment will be made here, and on what basis? Who here knows the risks involved, what expenses were incurred, what professional judgments were required? Never in my limited experience in this institution would we be making a less informed decision.

Mr. President, I strongly urge the defeat of this amendment. The attorneys general of this country have availed themselves of a right that individual Americans have used for generations. They made a judgment to the taxpayers of this country who could not afford to pay private attorneys the enormous fees, the enormous costs through recent years, to avail themselves of contingency fees to protect the taxpayers just as individual Americans have done for years. Now it is time to ensure that system worked—that freedom to remain with the individual States to reach their own final judgments.

Finally, Mr. President, let me suggest to you this legislation is not only inappropriate for the institution, it is not only denying Americans a power of equal justice against the strong and the powerful, which they have enjoyed for generations, it is also, finally, if nothing else, patently, clearly, unequivocally unconstitutional. On what basis will the Federal Government take this judgment away from the States under the 10th amendment? And on what basis would this Congress decide to take this compensation away from individual Americans in what is clearly an unconstitutional seizure of property without compensation?

Mr. President, this amendment is bad on a variety of bases. Collectively, it is almost unthinkable. I am very pleased that Senator HOLLINGS and Senator KERRY have led us in the debate, and am more than a little proud that the chairman of the Judiciary Committee, on which I am proud to serve, Senator HATCH, once again, as has been his tradition, has come to the floor of this institution in the protection of the prerogative of the institution and the Constitution of the United States.

I thank the Senator from South Carolina for yielding the time.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. FAIRCLOTH. I do. I yield 15 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 15 minutes.

Mr. McCONNELL. Thank you, Mr. President.

I thank my friend from North Carolina.

The Faircloth cap is an attempt to insert a bit of sanity into a world of attorney-fee madness. The national tobacco settlement has turned into the "national lawyer enrichment deal." Let me tell you a little about the current "national lawyer enrichment deal."

Under the current bill, conservative estimates say that we are about to hand over approximately $4 billion a year to lawyers —$4 billion a year—every year—for at least the next 25 years. This, Mr. President, is absolutely outrageous.

I am sure the friends of the trial bar will stand up and say I am exaggerating. They will say we are stretching this one. Lawyers aren't really asking for that much money, it will be said. They aren't that greedy, some will claim. They just want to be paid a fair wage for a good day's work. Well, let's see if I am exaggerating. Let's see if the trial lawyers just want a fair wage for a good day's work. Let's take a little tour of the "national lawyer enrichment deal."

In Minnesota, where a few lawyers are reportedly seeking to rake in approximately $450 million, the lawyers in Minnesota actually took the case to trial, so it is reasonable to assume that they employed more attorneys and put in more hours than some lawyers in other States. So let's assume that 50 lawyers worked a total of 100,000 hours. These 50 lawyers would each take home $9 million for his or her labor—$9 million. And what is the hourly fee for the hard-working plaintiffs' lawyers in Minnesota? It is $4,500 an hour, Mr. President, $4,500 an hour for the plaintiffs' lawyers in Minnesota.

Well, let's take a look at Mississippi. We will stop off in Mississippi on our national tour. The latest reports out of Mississippi are that the lawyers are seeking $250 million. Assuming that 25 lawyers worked on these cases for 25,000 hours, the Congress would be authorizing each lawyer to receive $10 million a piece.

Let's break that down on an hourly basis. If each of these lawyers worked 1,000 hours exclusively on the tobacco litigation, that would enable them to earn $10,000 an hour. Pretty good day's pay, I would say—$10,000 an hour.

Now let's stop off in Florida, and this is better than Disney World. A handful of trial lawyers in Florida are trying to take us for a ride, the ride of our lives. These fellows are looking to receive as much as $2.8 billion. One lawyer has already sued for his $750 million share of the pot. And we don't even have to make assumptions in Florida because the judge has already done the math for us. The judge looked at the greedy grab by the lawyers and concluded that the demands for attorneys' fees—and this is quoting the judge—"Simply shock[ed] the conscience of the court." The judge concluded that even if the lawyers worked 24 hours a day, 7 days a week, including holidays, for over 3 years, they would earn over $7,000 an hour—$7,000 an hour. In fact, we know the actual hourly rate for the Florida attorneys is immensely higher because no one can seriously contend that any lawyer, much less every lawyer, worked 24 hours a day, 7 days a week, on tobacco litigation for 3½ years.

But it gets better. The final stop on our lawyer enrichment tour is Texas. There a handful of lawyers are going after $2.2 billion. Well, let's see what kind of hourly fee the lawyers want in Texas. Texas did not go to trial so it is reasonable to assume Texas put in far less time than Minnesota.

Again, assuming that 25 lawyers worked a total of 25,000 hours, then each of these lawyers could earn $88 million. And what kind of hourly fee is that for our Texas trial lawyers? That is $88,000 an hour—$88,000 an hour for the plaintiffs' lawyers in Texas. And if that is not outrageous enough, the $2.2 billion for attorneys in Texas have to be paid out of the Medicare money. So who do we pay, the sick and the elderly or the greedy and the lawyerly?

Let's compare the tobacco trial lawyers to the rest of the world. Let's see how $88,000 an hour compares to the average wage of others in our booming national economy.

First, we know that minimum wage mandates that workers be paid $5.15 an hour. We certainly know that the tobacco trial lawyers are making a heck of a lot more than the minimum wage earner. Senator KENNEDY will have to pass an awful lot of minimum wage hikes this year to keep up with the plaintiffs' lawyers. In fact, we are going to authorize the trial lawyers to earn nearly 50 times the minimum wage under the Faircloth amendment.

Simply put, the tobacco trial lawyer is also making a heck of a lot more money than every other wage earner in our country—everybody. As Senator FAIRCLOTH has pointed out, the baker earns $7.65 an hour; the barber, $8.37 an hour; the auto mechanic, $12.35 an hour; the carpenter, $13.03 an hour; the police officer, $16.65 an hour; the pharmacist, $25.98 an hour; all the rest of the lawyers, $48.07 an hour; and the doctors, $96.15 an hour. That is what everybody else is making. The Faircloth cap would bring the trial lawyers' stake back to the edge of reason. The cap would allow lawyers to recover their costs as well as a reasonable hourly rate as high as $250 an hour.

I might say even the $250-an-hour rate sort of makes me cringe. I suspect if the Senator from North Carolina had his way about it, it would be lower than that. But that is what the amendment states.

I know that amount is not exactly $88,000 an hour. I would not argue that $250 an hour is as good as $88,000 an hour. But it is not exactly chicken feed, and it is way the heck more than anybody else in America is making on an hourly basis. I would say there are a lot of us in the Senate who would like to have that kind of take-home pay. I know there are a lot of folks in America who would be more than happy for $250 an hour.

This cap is extremely generous and eminently reasonable. In fact, the Federal Government has established numerous attorney fee caps over the years that prove the point. Under the Equal Access to Justice Act, the fee cap is $125 an hour; under the Criminal Justice Act, $75 an hour; under the Internal Revenue Code, $110 an hour.

We ought to pass the Faircloth cap. It is fair and it is constitutional. A sweeping Federal regulatory bill cannot leave out the matter of lawyers' fees, especially allow when omitting the issue would allow for such abuse.

Let me spell this out.

The tobacco bill is an all-encompassing Federal regulatory scheme. The scheme will expand the Federal jurisdiction over tobacco products, regulate the manufacture, advertising, and sale of tobacco products, fundamentally affect and alter past, present, and future litigation over tobacco products, and facilitate the implementation of the settlement reached between 40-some-odd States and the cigarette manufacturers.

It would defy all logic and reason to pass this type of sweeping Federal regulation without including some type of minimal regulation for the payment of attorneys' fees for civil actions affected by the bill. Basic fairness requires that we not neglect this critical issue.

Throughout the debate over the tobacco settlement, we have constantly heard assertions that the tobacco companies have gone after women, children, and the elderly. If we don't pass this sensible fee cap, then we will not only be creating an exclusive club of trial lawyer billionaires—that is with a "b," Mr. President, billionaires—but we will be unleashing a legion of lawyers to prey upon these very same persons in future tobacco cases affected by this bill. Surely, nobody in the Senate would want such a result.

No one is trying to deny any lawyer a fair wage. Surely, $250 an hour, which is in the Faircloth amendment, is more than a fair wage by the standard of anybody else living in our country.

A vote for the Faircloth amendment is a vote for reason and sanity. Let's stop the National Lawyer Enrichment Tour before it starts.

Mr. President, just a couple of other observations that I would like to make before relinquishing the floor.

Neither the Contracts Clause nor the Due Process clause prohibit regulation of attorney fees as part of a broad, comprehensive regulatory bill.

The Court has pointed out that a "party complaining of unconstitutionality . . . must overcome a presumption of constitutionality and 'establish that the legislature acted in an arbitrary and irrational way.'"

It is neither arbitrary nor irrational to regulate attorney fees as part of a comprehensive federal effort to expand federal jurisdiction over tobacco products, regulate the manufacture, advertising and sale of tobacco products, fundamentally affect and alter past, present, and future litigation over tobacco products, and facilitate the implementation of the settlement reached between forty-some-odd states and cigarette manufacturers. In fact, it would defy all logic and reason to pass this type of sweeping federal regulation without including some type of minimal regulation for the payment of attorney fees for civil actions affected by this bill.

Even CRS—when looking at a standalone fee cap last October—determined that "it seems very likely that the proposal in question would not violate due process."

Federal courts have routinely upheld laws that abrogate past contracts, so long as those laws have a rational basis. It is certainly a rational basis to regulate fees as part of a broad regulatory package. Moreover, it is rational to ensure that an equitable amount of finite resources will be available to protect the national public health and welfare and to compensate those who suffer from tobacco-related diseases.

In fact, the Supreme Court has declared that "Congress may set minimum wages, control prices, or create causes of action that did not previously exist."

In one classic Supreme Court case, the Court held that Congress could retroactively cancel a "free rail pass for life" given as part of a settlement of litigation. Moreover, to accept the trial lawyers' takings argument, one would also have to consider it a constitutional violation for Congress to require States to abrogate contracts with state employees in order to increase the minimum wage.

Professor Brickman has explained that "[i]f individual parties could insulate themselves from congressional legislation by entering into private contracts before such legislation were enacted, then:

> the result would be that individuals and corporations could, by contracts between themselves, in anticipation of legislation, render of no avail the exercise by Congress, to the full extent authorized by the Constitution, of its power to regulate commerce. No power of Congress can be thus restricted. The mischiefs that would result from a different interpretation of the Constitution will be readily perceived.

Finally, the "constitutionality of the amendment under a Taking Clause analysis is further buttressed by the fact that attorneys affected by the regulation are receiving substantial financial benefits from [the Tobacco Bill]." (Brickman Letter at 2.) These *substantial benefits for attorneys*, financial and otherwise, include the fact that the federal government is: (1) ratifying the national tobacco settlement, (2) establishing a national trust fund to provide States with Medicaid reimbursements and attorneys with a basis for recovery, (3) removing limits on tort liability in future cases, (4) making it easier for plaintiffs to recover by changing the burden of proof and establishing a presumption that certain diseases are caused by use of tobacco products, and (5) creating a national public database with incriminating documents to use against tobacco companies in present and future litigation.

No court would view these substantial benefits for plaintiffs' attorneys and conclude that they have suffered an unconstitutional taking. Even the CRS document referenced by the opponents of this amendment clearly spells out that "indeed, the Supreme Court has never found a taking based on federal legislative alteration of existing private contracts."

Mr. President, I commend the distinguished Senator from North Carolina for an outstanding and important amendment. There should be no tobacco bill at all—at all—unless this unjust enrichment of this select group of lawyers is curbed. The Faircloth amendment would do that. I commend the distinguished Senator from North Carolina for his good work, and I am happy to be a cosponsor of his amendment, and I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). Who yields time?

Mr. HOLLINGS. I yield 5 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. WELLSTONE. I thank Senator HOLLINGS.

Mr. President, here we go again. Now we find out that this bill covers not only prospective actions but it also has been expanded to cover, and thereby affect, four State settlements that have already been finalized in Mississippi, Florida, Texas, and Minnesota.

We have been through this before in Minnesota. The tobacco industry challenged the State entering into a contingent fee with attorneys. They took this challenge to the trial court, to appellate court, and the Minnesota Supreme Court, and they lost every time. This amendment is another tobacco company amendment, and I believe they will lose again on the floor of the U.S. Senate.

Mr. President, I have to respond to some of what I have heard my colleagues on the other side say about how these attorneys have done so little. That is a bitter irony, from the point of view of a Senator from the State of Minnesota. Minnesota, for instance, from August 1994, when the case commenced, until January 1998—we had numerous, unprecedented pretrial and discovery proceedings. Over 34 million pages of documents were reviewed. The majority of them had never been disclosed. The tobacco companies fought this over and over and over again on privilege claims. They lost.

And the irony, I say to my colleague from South Carolina, is that much of what we know about all of the tobacco companies' tactics of misinformation and deceit come from those documents—from the State of Minnesota, from that case, from that settlement. It has a lot to do with the fact that people in the country want us to pass tough legislation. It has a lot to do with the fact that Minnesota led the way.

What we are really talking about here is something very historic. These States went on a contingent fee basis with lawyers, took on the tobacco companies, and these settlements were historic because these were the first time that this tobacco industry had ever lost in court. Despite the long odds, Attorney General Humphrey and other attorneys general took on the industry, went with contingent fee, and the tobacco industry tried to stop it. They lost in Minnesota. And because of this work, with 34 million documents, additional information, a record of deceit and misinformation by this industry—that is what this debate is all about.

This is not about anything other than making sure that when consumers want to take on a powerful industry like the tobacco industry, or the State of Minnesota wants to take on a powerful industry like the tobacco industry, they won't be able to do so. As a matter of fundamental fairness, this amendment should be defeated. I just have to simply say, I don't know where my colleague from Kentucky gets all of his arithmetic from—I am talking about Senator McCONNELL from Kentucky——

Mr. FORD. Thank you. Thank you.

Mr. WELLSTONE. Not Senator FORD—dividing up how many lawyers worked on this and how much they got paid and all the rest of it. I never heard any of that before.

Here is what I do know. It is true the State of Minnesota took on this industry. It is true the tobacco industry, just like some of my colleagues, don't want that to happen. It is true they challenged the contingency fee, just like my colleagues are trying to do here today on the floor of the Senate. But the tobacco industry lost in Minnesota in a case that went to the Supreme Court. Minnesota, working with lawyers and working with consumers, unearthed—what is it again; let me make sure I have the exact figure—34 million pages of documents.

Mr. President, this amendment should be defeated. If it is adopted, it would be great for the tobacco industry, but it would not be great for the consumers and people we represent, and I think Minnesota is living proof of that.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Will my colleague be kind enough to give me 10 seconds?

Mr. HOLLINGS. I yield 3 or 4 more minutes.

Mr. WELLSTONE. I thank my colleague. I won't need that much time.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Joe Goodwin, who is an intern, be allowed the privilege of the floor for the duration of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. FAIRCLOTH. Mr. President, I yield myself 3 minutes.

We have had a lot of conversation today about limiting attorneys' fees, that this would be a new thing, that the Federal Government should never get into limiting the fees that these magnificent saviors of society, the trial lawyers, have done for us.

We limit attorneys' fees to every other attorney under the Equal Access to Justice Act. We limit to $125 attorney fees against the Federal Government in civil rights cases. Now, maybe they are less important than the tobacco case, but they only get $125 an hour.

The Criminal Justice Act has a cap in most criminal cases of $75 an hour, and the Internal Revenue Code limits to $110 an hour a cap for winning parties in tax cases. And here we are talking about $88,000 an hour in Texas, and this is a fixed, done deal. This is not a guess—$88,000 an hour.

I just had to think what that meant. A trial lawyer makes more in an hour and a half than a U.S. Senator makes in a year. Now, maybe he is worth more, according to the testimony we have heard, but in an hour and a half, a Texas trial lawyer makes almost exactly the same amount of money that we pay a U.S. Senator for a full year's work. And they are saying, "No, you cannot cap these great people, they have saved society." Time after time we hear what they have done to save mankind. Well, I don't think they are saving mankind. They are saving their own kind, and that is exactly what they are working on.

We go back to what they are worth. I don't see how anybody can justify this. They say we are setting fees. We set fees on doctors of all types—anesthesiologists. For all doctors, we set fees. We set hospital rates. We set lawyer's fees. But yet, when it comes to these exorbitant, ridiculous fees that the American taxpayers are paying—and I repeat that 70 percent of this tax that is being collected and given to these attorneys is coming from people making less than $40,000 a year. Extrapolated, that is about 26 minutes' work for a Texas trial lawyer.

The PRESIDING OFFICER. The Senator has used the 3 minutes he has yielded himself.

Mr. FAIRCLOTH. I thank the Chair. Does Senator SESSIONS wish to speak?

Mr. FORD. Mr. President, are we swapping sides now?

Mr. HOLLINGS. I yield such time as necessary to the distinguished Senator from Kentucky.

The PRESIDING OFFICER. The Senator from South Carolina has less than 15 minutes.

Mr. FORD. About 4 minutes.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. I thank the Chair, and I thank my friend from South Carolina. I am not a lawyer, and I don't understand all the work that lawyers do. When I was growing up, my dad said a little knowledge of the law is dangerous. Get yourself a good lawyer and stay with him or her. That is what I have tried to do.

I have been in the insurance business, and I understand that very well. How many times has an independent agent down in some small community—and I have done it on many occasions—been asked to make bids on a piece of property or on a fleet of trucks or liability, or whatever it might be, and the staff in that little agency work for hours, day and night, putting together a comprehensive bid. Lo and behold, we lose. That is part of the game.

Then we get another bid. It may be on a county or on a city, and we work for days and into the nights putting together a comprehensive bid. And we lose.

But lo and behold, one time we submit a comprehensive bid and what happens? We win. It makes us feel good. But then somebody comes along and says, "Ford, you've made too much money." Well, I have lost 100 times and finally win one and they say, "Ford, you've made too much money, you just can't do that." So they limit the amount of money I can make as an insurance agent.

It is the same thing that happened yesterday. Ninety-eight percent of the farmers who have tobacco quotas voted to keep the farm program. But in here, on the Senate floor yesterday afternoon, they said that 98 percent didn't know what they were talking about—"We're going to wipe out the quotas because we know more than you do." That is why they don't like politicians in Washington. They don't want to do what their constituents want them to do.

Here we are saying after 98 percent of the people voted one way, "You don't know what you want, and we're going to take care of you." It is the same way with the attorneys general. Over 40 of them took on the tobacco industry. It was a pretty awesome cause, and they have won. They worked out a deal.

Now we say, "After you have done all that, you can't charge that much." You sign a contingency fee. What is a contract for? Are we the "big brothers" that vitiate contracts? I don't think so. You talk about protecting little fellows. As I understand the tobacco deal, it came from a little fellow whose secretary lost her mother, and he figured out that the States could sue. A little fellow made it, and he came along and others joined with him.

We are now saying to these 40-some-odd attorneys general, "You don't know what you're doing, you paid too much." We weren't even in on it. We didn't even help. But now in the end, we say, "No, you can't have that, that's too much."

They took the chance. How much did it cost? How much did they pay? Everything they have paid comes out of this hourly cap. I am sure that some lawyers do better than others. Lord, when I was in the insurance business, I would have loved to have had a boat. I had a johnboat I fished in, and I was proud of it. I had a decent automobile—I didn't have a jet to fly around in—but I was proud of it. I made it by being competitive. I went to the people who had an opportunity to give me a chance, and I asked them, "Can I bid?" We worked it that way.

The PRESIDING OFFICER. The 4 minutes yielded has expired.

Mr. FORD. I ask for 1 more minute.

Now we are saying you can't just do it. If there ever was an intrusion in private practice, private business—I am surprised at the Republican side. Ninety-eight percent of the farmers say we want it one way, and they say, "You can't have it because you don't know what you're talking about."

Lawyers go out and win a case, and they say, "You've got too much by winning, we're going to take it away from you."

I don't understand what this body is trying to do. I don't want you to take anything out of my pocket, but that is the name of the game, as I see it, and when you win, you win; when you lose, you lose. When you lose, you pay it all. When you win, you get to pay off what it cost you. You don't put all that in your pocket.

So I go back to the insurance business. We spent hours and hours trying to be competitive and win one. But we did not win them all. We lost a lot of them. But when we did win one, I would not want somebody coming along saying, "You have made too much."

It is like gambling. You have to pay—they had an amendment around here saying, "If you win, you have to pay tax on it; but if you lose, you can't deduct it."

Oh, we are doing pretty good around here, Mr. President. I hope that someday we can come down and have a little common sense and we can try to work this to the advantage of everybody in this country under the basis that we are competitive. It is a free system. And if you come out ahead, Lord, let's don't say, "You made too much." Let us praise them for being good. The prize is being good. You made it work.

So we are saying, "If you are good, you are going to be handicapped." That sounds like a horse race to me. I come from Kentucky. We race thoroughbreds. If you have one that is way out front, you better put 126 pounds on him. If you have one that is light, you put 112 or 114.

So that is what we are trying to do here. If you are a thoroughbred doing a good job, we are trying to handicap you from running a race.

Well, Mr. President, I hope this amendment is not approved. I hope my friend from South Carolina wins on this one. Then we can get on to other things and help the farmers that have a tobacco quota. Let them win a little something in the days to come.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, I would like to make a——

The PRESIDING OFFICER. Does the Senator from Alabama ask unanimous consent to use time from the Senator from North Carolina?

Mr. SESSIONS. I did not hear the President.

The PRESIDING OFFICER. The Senator from North Carolina controls time.

Does the Senator ask unanimous consent that he be allowed the use that time?

Mr. SESSIONS. Yes. I ask unanimous consent that I be allowed to use time from the Senator from North Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I would like to mention a few things.

First of all, attorneys' fees do affect the settlement because it is money otherwise available to be paid by the tobacco companies that could be used for health of the children and the good things this bill seeks to do, for that money is directly usable for good things, and it ought not to be given away in unprecedented windfalls for attorneys, many of whom did little work.

I know the distinguished Senator from Minnesota said that his lawyers did a lot of work. And I think that is probably true. Perhaps the Minnesota attorneys have done more work than any other group of attorneys in the country. And they were paid, I believe, $450 million. That is not $2.8 billion. That is 5, 10 times what they made. So they did a lot of work in Minnesota, and they are going to get fees far less than this settlement would call for.

People say we should not mess with the contracts. But the other arguments from the people opposing the Faircloth amendment are: Don't worry about it. Florida reduced their fees. Although Texas hasn't yet, they may yet. And there are arbitration policies to reduce fees.

So they are already admitting it is appropriate to reduce these fees. And as was noted, we contain fees for doctors and lawyers and every other kind of litigation—on many other kinds of litigation in the country. And we are comprehensively dealing with a health problem that is significant.

Now, we are here setting about to pass legislation to control abuses by tobacco. And I submit we can control abuses by attorneys.

Let me make one more important point. With regard to this litigation, States have the right to opt out. They are not required to be bound by this and, therefore, the 10th amendment, in my opinion, would not be implicated. They could opt out and not be bound by this agreement.

But they have sought our legislation to comprehensively deal with this in a fair way. And that would call upon us, I submit, to contain the abuses of the attorneys fees.

Mr. President, I conclude my remarks at this time and recognize Senator ENZI from Wyoming, who I understand wishes to make remarks, unless our time has expired and you want to go back to your side, which you should be entitled to.

Mr. HOLLINGS. We only have about 7 minutes left. So you have a half-hour or more.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Does the Senator from Wyoming ask unanimous consent to take time from the Senator from North Carolina?

Mr. ENZI. I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Thank you, Mr. President. And I say thank you to the Senator from North Carolina.

Mr. President, I do rise to support the amendment numbered 2421 which is offered by the Senator from North Carolina, Senator FAIRCLOTH. I am very much in support of this amendment. And part of it is as a protection to the attorneys. I know they are very sensitive to the kind of reputation they get in a lot of instances, and this is one of those "save the reputation of the lawyers" amendments. I am sure a lot of people out there are not used to making $88,000 an hour, and as a result they are probably a little upset with the attorneys who might get that in some of these tobacco cases.

One of the things that people are seeing in this country is a new lottery. And this new lottery is one that requires you have an attorney to scratch your card for you. The tobacco situation is probably one of the new easy targets. In fact, I am predicting that the courts are soon going to be clogged with lawsuits, and part of that is because there are attorneys out there who can see this as a retirement bill as well as an easy target. It has been adjudicated, it has been worked, and it is easy to see that the tobacco companies have been hiding documents and doing a number of other things.

Along with these remarks, I want to state I am probably one of the few who has not received any money from the tobacco lobby. I have been very concerned about these issues. I grew up in a house where both of my parents smoked, and my dad paid probably the ultimate price for that, even though he quit before he passed away.

The amendment would only require lawyers to provide an accounting of their legal work to the Congress in relation to the legal actions that are covered by the underlying bill, including any fee arrangements entered into, and it would limit the payments of attorneys' fees to $250 an hour. That is not $250 an hour total for the firm; that is for the lawyers that are involved in this, and there may be more than one lawyer involved in it. So it isn't a complete limitation.

I have heard some comments that this may just be the start of limiting other kinds of occupations. Perhaps it is, and perhaps it ought to be. Again, I think the people would be appalled to find out that people might make up to $88,000 an hour. And that might not even be the highest case in it.

I do have to give some reference to the accountants who were mentioned. In accounting ethics, the amount that you charge cannot be based on what you find or the amount that you are working with. It is based on hours worked. We already have that kind of a limitation.

I don't know of any other occupation where you get to find a pot of money and then, without being injured or damaged in the case, be able to share in that pot of money. Usually you have to have some separate arrangement for it, some kind of a limitation. Part of that is to discourage greed.

What is happening with the tobacco bill is that there are some wealthy and connected trial lawyers that are lining their pockets from the settlement supposedly made on behalf of the American public. This bill would impose one of the most regressive taxes in American history with outrageous legal fees charged by insider lawyers, some of whom become billionaires as a result of their reputation for the States and class actions.

A document here mentions that the attorney general of Mississippi, Mike Moore, got to pick the No. 1 campaign contributor, Richard Scruggs, who received $2.4 million in fees for the State's asbestos litigation. Then he got to lead the Medicaid recovery suit.

Minnesota lawyers might want to know why Attorney General Humphrey chose Robins, Kaplan, with a 25 percent fee arrangement when Texas, Illinois, Indiana, and West Virginia all had lower percentages than that. They were the ones that had to do the harder work, the initial action.

The Wall Street Journal reported last fall that four lawyers who helped to settle Florida's billion-dollar windfall were now demanding 25 percent of the settlement, or $1.4 billion. Florida Attorney General Bob Butterworth has called that enough to choke a horse.

In Texas, Governor Bush has filed a legal challenge to the $2.3 billion contingency fee, part of the recent Texas settlement. He did that in the interests of the taxpayers who may end up paying for that.

This is not a defense of tobacco or the executives who run the industry. It is quite the opposite. In fact, I am getting a lot of comments from folks in my State. One lady said, "Let's see now, the tobacco companies have been abusing my body for all of these years while I have been smoking, and now you are going to punish them, and the way you are going to punish them is to tax me?"

They are figuring that out all over this country. It isn't the companies that are going to be paying the tab. In these lawsuits, it isn't the companies that are going to be paying the tab on that either. Sometimes it is the taxpayers.

In a lot of these lawsuits, it comes directly out of the amount of money that the individuals might have gotten. They don't have control over how much those lawsuits are going to be. If that amount of money holds for the State of Texas, those attorneys will earn $88,000 per hour for their legal representation. The American taxpayers are going to be left holding the tab for a number of outrageous fees.

I think it is proper for us, again, in defense of the legal institution, to limit those fees so people aren't seeing these as a lottery for attorneys where everybody else gets the pain and the attorneys get the dollars.

I ask that you support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield 4 minutes to the distinguished Senator from Tennessee.

Mr. THOMPSON. Thank you, Mr. President.

Mr. President, I rise in opposition to this amendment, not because I favor the underlying bill. I do not favor the underlying bill.

I want to specifically address this amendment and what is going on with regard to this amendment. We need to get back to the basic question of what we are all doing here, why we came here, and what we ought to be doing as U.S. Senators. We who pretend to call ourselves conservatives ought to really ask the question, whether or not we want to get into lawsuits that have already been decided pursuant to contracts that have already been executed between private practitioners of the law and sovereign States, and to go in and say that we are going to abrogate what you have done to private citizens agreeing to cases that have already been decided and say we will undo all of that. We, the Federal Government, we, the U.S. Senate, are going to get right into the middle of that and we are going to require you to send billing records to the Judiciary Committee that I sit on.

I did not come to the U.S. Senate to review billing records from lawyers in private lawsuits.

Now, we need to get away from deciding who the good guys are and the bad guys are and just jumping on the bad guys. Nobody likes trial lawyers. You heard a defense already about how great contingent fees are and they are necessary, and all that is true, and so forth. It is beside the point with regard to this. The point is really us. This particular amendment has nothing to do with the tobacco deal. This applies whether or not a company is making a deal with the government or not. It applies to Federal lawsuits. It applies to State lawsuits. This has nothing to do with the tax money we are going to be raising if this bill passes, which I will oppose. It is dipping into a completely different area that has nothing to do with the tobacco legislation because we feel like trial lawyers are getting fees that are too great.

Mr. President, I don't care what the trial lawyers get, if it is something that is agreed to by the parties and is something that is supervised by the courts. It has been pointed out that in one case in Florida the courts found that the fee was outrageous. That is the very point. If a court determines that a fee is outrageous, they can set it aside. It is regulated by the courts. It is regulated by the States. Every State in this Union regulates attorneys' fees. If it is outrageous, if it is not justified, people can take a claim to the States.

Should the Federal Government and should we on our side of the aisle, of all people, be urging the Federal Government to get into the middle of private lawsuits and deciding what fees ought to be in cases where there is a Federal court or a State court that has already decided, and has nothing to do with Federal legislation otherwise? I think that is tremendously bad policy.

I think this whole tobacco approach, quite frankly, is bad policy. I think this idea of taxing waitresses and cab drivers in order to give these same lawyers attorneys' fees of any kind is a bad idea. But the tobacco companies are bad guys, the trial lawyers are bad guys, and we are forgetting the principles that we came up here and are supposed to be supporting; that is, let the Federal Government do what they are supposed to be doing, let individuals have individual responsibility, let sovereign States make the laws, if they want to, and let private litigants go to court and fight it out before a jury of their peers.

Therefore, I oppose the amendment.

I thank the Chair.

Mr. GORTON. Mr. President, I do not approve of the Faircloth amendment that seeks to limit attorneys fees in tobacco cases to $250 an hour. In addition to being impracticable—it makes the United States Congress bookkeepers charged with tabulating every lawyer hour in tobacco cases—the amendment simply is unfair. While $250 per hour may be just compensation in some cases, I do not agree that this arbitrary cap is appropriate in all instances.

Attorneys who took tremendous risks and initiated cases on novel theories deserve, I believe, to be compensated for more than those who filed the just-add-water complaints. Even late-coming attorneys in these groundbreaking cases deserve to be paid at least as much as the tobacco company lawyers. This amendment would not allow this, however, because, while the plaintiff lawyers who have not yet been paid would be subject to the cap, many tobacco company lawyers have already been paid an hourly rate that is significantly higher than $250 per hour.

While I strongly disagree with this one-size-fits-all approach, I share Senator FAIRCLOTH's concern with excessive attorneys fees. I suggest, however, that there are other methods and other limits that are far less burdensome on Congress, and will provide a more equitable outcome. I urge my colleagues to join me in opposing this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. FAIRCLOTH. I yield 15 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator has just under 20 minutes. Does he yield 15 minutes?

Mr. FAIRCLOTH. I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me first say that I always enjoy hearing our colleague from Tennessee speak. I find myself agreeing with everything he said. But it really has no application to the bill which is before the Senate and the amendment which is submitted to that bill. I agree with the Senator from Tennessee. We ought not to be involved in these things. But that is what has brought us to the floor of the Senate today because we are involved in that. We are getting ready, as he said—his words are better than any words I could come up with—we are getting ready to tax waitresses and taxi drivers to collect $500 billion to $700 billion, which will be used, among other things, to pay lawyers.

So to lament that we are in this debate, I think, is something that I agree with but it is not relevant to the debate that is before us, which I want to be engaged in.

I spoke at some length this morning, so I don't need to repeat a speech I have already given. But, in watching this debate unfold, there are several issues that have been raised that I want to answer.

The first issue is we should not be setting fees. I want to ask the Senator from North Carolina a couple of questions, if I could have his attention. Are we not setting the equivalent of excise taxes to be paid by blue-collar workers all over America in this bill?

Mr. FAIRCLOTH. Absolutely, we are.

Mr. GRAMM. Are we, in this bill, not setting out in detail, in fact in 753 pages of detail, how we are going to spend every penny of this $500 billion to $700 billion?

Mr. FAIRCLOTH. We have detailed every dime of the expenditure and now we have opposition to detailing the attorney fees.

Mr. GRAMM. Mr. President, the point I make is that we have set out in detail how we are going to take $500 billion to $700 billion out of the pockets of blue-collar workers.

Let me remind my colleagues that 73 percent of this money will be collected from people and families who earn less than $50,000 a year, and people who make less than $10,000 a year will see their Federal taxes rise by 41 percent as a result of this cigarette tax. That is set out in detail in the 753 pages of this bill. The 753 pages of this bill set out in detail how we are going to undertake the largest expenditure of taxpayer money since we initiated in the Great Society the year Lyndon Johnson became President, and each and every part is set out in here.

My answer to the question is we shouldn't. We shouldn't be setting these fees. The assertion is we are setting everything else. We are setting an excise tax equivalent. We are setting the expenditure in minute detail for everything else. The legal fees will arise from this settlement, which will be adopted by Congress and signed by the President.

So, if we are doing all of those things, why shouldn't we set fees? Obviously, we should.

Mr. FAIRCLOTH. Will the Senator from Texas yield for a question?

Mr. GRAMM. I would be happy to yield.

Mr. FAIRCLOTH. There is great conversation that we are going into these attorney settlements with tobacco companies; that that is wrong; that we shouldn't do that; we are interfering in a private contract. Yet, we are telling the tobacco companies, without any question, cancel your contracts in advertising, whether it is television, billboards, newspapers, racetracks. All those you cancel. You go back and retroactively do it. And because we are trying to set caps on attorneys' fees, they say we are interfering in the private sector. What is the other part of the bill?

Mr. GRAMM. I would say the argument is even stronger than that. The whole purpose of this 753 pages is to abrogate all of those court settlements. The whole purpose of this bill, the whole purpose of this 753 pages, is to interfere with each and every one of those court decisions. That is the whole purpose.

So if we are going to set out how we are going to collect the money, if we are going to set out how we are going to spend the money, should we not set out how we are going to spend the money that relates to the portion of the settlement that will go to attorneys' fees?

The second statement is we are abrogating contracts. Do we not have in this bill an arbitration panel that is supposed to set these legal fees? The answer is yes. We do. In fact, this bill sets out in some detail an arbitration panel that is going to set legal fees.

So the argument that by setting out in law what the maximum legal fee is we are abrogating the contract, that is a house we passed 15 miles down the road in this bill, because this bill sets up an arbitration panel to set the fees.

All the Senator from North Carolina is doing is saying, having decided that we are going to have fees set, let's let Members of the Senate stand up and cast a vote on this issue. Let's not hide behind some arbitration panel, which will be made up exclusively, I assume, of lawyers to make this decision.

What is really the issue here? The issue here boils down to this: We understand that when we are looking at a payment, which has been estimated—and I think correctly—at roughly $4 billion to attorneys, given the billing records on the cases that have been tried, that comes—there are about 45,454 hours—what this really comes down to is about $88,000 an hour as a potential payment.

Does anybody believe we would pass an appropriation bill paying some $88,000 an hour? Well, maybe some believe it. Maybe we would. But I think that you would be kind of embarrassed if you went back home and it became known that you were going to pay somebody more for working 3 hours than we pay the President of the United States for the entire year. I don't think so. Why do we have this kind of money in this bill? Because we are spending somebody else's money. Because as a prominent Democrat politician in my State said of this whole tobacco issue, "We won the lottery. We won the lottery."

All the Senator from North Carolina is doing is saying we are going to set the fee at five times the normal fee that is set. It seems to me that is imminently reasonable. As a matter of principle, if we were debating what our rules should be in this debate, my view is the States have settled these lawsuits and those settlements ought to stand. I believe that the Federal Government ought to be looking at Federal interests and letting the States settle these issues.

If that were the case, then I think setting this arbitrary cap would make no sense. But the point is that is not what we are debating. We are debating this great big, thick bill that goes back in and changes the settlement which sets out the amount of money that is going to be paid, which pays a payment to the States that is not directly related to what they settled for, which sets out in detail how we are going to spend this almost unbelievable amount of money, even for Washington, DC. The idea that we would do all these things and then we would suddenly get squeamish when it comes down to guaranteeing that we are not going to pay plaintiffs' attorneys $88,000 an hour, I think if we are suddenly going to become immodest about what we are doing in this bill, if shame is suddenly going to enter into our thinking, it is a little bit late at this point.

So I agree that this whole exercise has us doing things we ought not to be doing. But this is not my bill. I perfectly well understand this is not the bill of the Senator from Tennessee. His sentiments on the bill are the same as mine. I hope we can improve it. I hope we can find something we can all be for.

But I wanted to make my point, that to say we shouldn't be setting this fee when we are setting everything else doesn't make any sense. To say we shouldn't be abrogating contracts when the bill specifically abrogates contracts, it just does it through this arbitration board, which we shouldn't hide behind.

I think the choice is clear, and I am for the amendment.

Mr. THOMPSON. Will the Senator yield for a question?

Mr. GRAMM. If I have the time, I would.

Mr. FAIRCLOTH. I yield whatever time the Senator needs.

Mr. THOMPSON. I have a question. It seems to me that we both agree that we have a bill that we do not like and that we have an arbitration provision in that bill that we do not like. That legislation has not passed yet. The Senator says we are doing all of these things—we might; we might not; that has not passed.

Would it not be better for the Senator from Texas and me to join in trying to defeat that arbitration provision and trying to defeat that bill instead of adding to a bad provision an even worse provision that goes against our principles, that gets us involved in private litigation, and that causes people to have to send billing records up to the Judiciary Committee where we go through and try to justify some kind of an hourly rate?

Mr. GRAMM. Let me respond to the Senator's question. Generally, the case goes directly to the heart of the matter. If I thought that we could correct every problem with the bill, then I don't think there would be a need for this amendment. But my concern is that, given that anyone who opposes the bill is immediately tarred as being the lackey of the tobacco industry, given the head of steam, at least outside the beltway that the bill has, I am not confident we can correct it, and if the bill ends up passing so that my 85-year-old mother has to pay more for her cigarettes, which I wish she would quit smoking, I would at least be able to say that we guaranteed that no plaintiff's attorney is buying a Lear jet with that money.

So this amendment will make the plaintiffs' attorneys millionaires but it will not make them billionaires.

Now, should we have the power to stop them from being billionaires? If this were a State matter and we were not involved in it, my answer would be no. But this bill is a preemption of all those State settlements, so how can we do all those other things, set out in detail where the money is coming from and how it is going to be spent, and then leave the potential that we are going to be reading in the newspaper next month that a plaintiff's attorney got $88,000 an hour from the tax imposed on blue-collar workers? I don't want to risk that happening. That is why I am for the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. FAIRCLOTH. I yield 5 minutes to the Senator from Kansas, Mr. BROWNBACK.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank the Senator from North Carolina for yielding me 5 minutes. I want to stand up and speak on behalf of Grandma Gramm, that her money not go to lawyers as well.

Mr. President, I have been following this debate back in the office. I followed it for some period of time. I serve on the Commerce Committee. I initiated this debate in the Commerce Committee and discussed it there. It seems as if the points have been pretty well made, pretty significantly made and repeated in the true tradition of the Senate about five times, so we all get it pretty clearly.

One thing that I want to point out, though, at this juncture, because the debate has been engaging, is whether or not the Senate should set legal fees, whether we should get involved in this. And I generally, as a principle, would say no, we should not, but the fact is, in this bill we already are setting legal fees. We are setting them in this bill. And so to the extent that we are going to set them, I think the only question for us to ask ourselves is how much.

Should it be nearly $100,000 an hour or should it be $250 an hour? As to the question of whether or not we are setting legal fees, they are being set in this bill. In this bill, we are providing the money. We are setting in place the mechanism to give this money to the trial lawyers.

That is happening. I don't care how you cut it. That is what happens if this bill passes. If this bill doesn't pass, that doesn't happen. We are setting the amount the lawyers are going to get. The only question that remains is how much per hour is good compensation.

Now, I understand the good Senator from South Carolina. He and I debated this in the Commerce Committee. He thinks they are entitled to whatever they can get because they were the ones willing to put forward this litigation. They were the ones willing to put themselves on the line. They were the ones willing to say, I am going to go out here, and I may not get a dime or I may hit the jackpot. I hit the jackpot.

So they are entitled to get that. I understand that. But I can't vote for that. I can't in the Senate say I am going to tax the people so that we can transfer $100,000 per hour in legal fees.

I think Grandma Gramm would say $250 an hour is too much, too, but it is a lot closer and a lot better than $100,000 per hour. And this bill sets those legal fees. No matter how you cut it, it puts the money in place to set those legal fees. Without this bill, that money doesn't go. With this bill, that money does go to lawyers. So it is only a question of how much. I just ask my colleagues to look at it. Which is the more appropriate figure, $100,000 an hour or $250 an hour?

With that, everything having been said four or five times, I yield back the remainder of my time to the manager of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. How much time do I have remaining?

The PRESIDING OFFICER. Three minutes 45 seconds.

Mr. HOLLINGS. Mr. President, if there was any real sincerity or concern about money—and, incidentally, I never have seen my Republican friends ever worry about people making money. You all really are worried about people making money? Come on. You know and I know they would come in here and say, here is the head of Philip Morris—and I got all these things, billable hours—$85,779,000 with stock options there. That is his pay, according to the Wall Street Journal.

But I can play that game of so much an hour. Let's talk about the 5 years with nothing an hour. "He either fears his fate too much or his dessert is small," we say in the practice, "to fail to put it to the touch and win or lose it all."

And the lawyers in Florida, in Texas, in Minnesota—nothing an hour as of now. Instead of a jackpot, they are hitting a hijacking on the floor of the Senate by a crowd that is trying to make TV shorts that HOLLINGS is in the pocket of the trial lawyers. The truth of it is, I am trying to get into their pocket. I can tell you that right now. And I might succeed. I got some names here from the different Senators around that seem to know them better than I do.

But in any event, the comeuppance is that blood, sweat, and tears. There isn't any question about it, by gosh, when you take the little lady who came in, and they decided to bring the case, and he got his friends in and they worked it. And I asked them. I said, "I saw one account they had $5 million invested in the Mississippi case." They said, "Well, they got that from the asbestos cases and everything else." Maybe that is what it is; the Chamber of Commerce just doesn't like class actions. But that is cleaning up bad medical devices, the implants, the asbestosis, and now cleaning up tobacco.

This is not a billable hours thing. They haven't got billable hours. Zero hours, 1993; zero hours, 1994, 1995, 1996, 1997, 1998. They haven't gotten a dime. And you all are trying to hijack them on what has been agreed to by the attorneys general, by the Governors, by the clients and everything else, preying around like vultures on agreements made. Ex post facto now, they want to come in and show how concerned they are. If you had been concerned, you would have done something about it. I have been up here 30 years, and they haven't done anything other than put the ad on a packet of cigarettes.

Now we have somebody who has brought tobacco to the bar of justice, and they haven't gotten anything yet—zero hours. And yet you all want to come in here and play this game about you are all worried about who is getting the money.

Mr. President, it is absolutely ludicrous for this group to come in. It is another design. It is just that you take a poll. They don't like lawyers in the poll, so they make the little TV short in the campaign this fall and they say so-and-so is in the pocket of the trial lawyers, yak, yak, yak, and everything else of that kind. But I will show where the attorneys general and the Governors and the parties all agreed and the work did it. And we didn't do it up here in Washington. Now is no time to come in here and start preying on people on an agreement that has already been made.

The PRESIDING OFFICER. All time yielded to the Senator from South Carolina has expired.

The Senator from North Carolina.

Mr. FAIRCLOTH. How much time do I have?

The PRESIDING OFFICER. Three minutes 9 seconds.

Mr. FAIRCLOTH. I yield 2 of those minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, we are looking at a situation that is literally intolerable. It is not acceptable to have these kinds of fees. I know contracts were entered into, but nobody expected it to break the way it did. We have law firms in States that literally did only a few weeks' worth of work; States are going to recover billions of dollars, and they are going to get 15, 20, 25 percent of that recovery. We already have provisions in this bill, agreed to by the President and the trial lawyers and the members of the other party, to contain some of these fees in a poor and ineffective way. I say if we can do it that way, let's do it straight up. Let's have a fair fee per hour: The more hours you work, the more money you get paid. We have evolving all sorts of contracts in this case and abrogating them, and we can certainly make a rational agreement on attorneys' fees.

I yield the floor.

Mr. FAIRCLOTH. I thank the Senator.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. We have been on this now for several hours, and we have come down to two things: Should we abrogate contracts or not? They say they are contracts with these attorneys, they have made these contracts. Well, maybe they have. But we are writing 750 pages of law abrogating contracts that the tobacco companies have written with advertising agencies, every condition conceivable. It is 750 pages of abrogating contracts.

Now, if anyone can sit here and tell me that they believe that $88,000 an hour, which is the established fee on the Texas attorneys, is a reasonable fee, now, this is being paid by taxpayers' dollars; we are collecting this money from the working people. Seventy percent, as has been said by Senator GRAMM and many others, 70 percent of it is coming from people making less than $40,000 a year. This is Federal tax dollars. It might not have started out to have been Federal tax dollars, but that is what it has become when we tax cigarettes and put the tax on these people.

When I look at the reality, as I believe was mentioned by Senator GRAMM, when a Texas lawyer makes in 3 hours more than the President makes in a year, and a Texas lawyer makes more in an hour and a half than a U.S. Senator makes in a year, there is something wrong with the system. We might not be that good, but we aren't that bad.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator's time has expired.

Mr. HOLLINGS. Mr. President, under the agreement I move to table the amendment. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from South Carolina to lay on the table the Faircloth amendment, No. 2421.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mrs. BOXER (when her name was called). Present.

Mr. LOTT (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.

The result was announced—yeas 58, nays 39, as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—58

Akaka
Baucus
Bennett
Biden
Bingaman
Breaux
Bryan
Bumpers
Cleland
Cochran
Collins
Conrad
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hatch
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Roth
Sarbanes
Shelby
Smith (OR)
Specter
Stevens
Thompson
Torricelli
Wellstone
Wyden

NAYS—39

Abraham
Allard
Ashcroft
Bond
Brownback
Burns
Byrd
Campbell
Chafee
Coats
Coverdell
Craig
Enzi
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hagel
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Snowe
Thomas
Thurmond
Warner

ANSWERED "PRESENT"—2

Boxer
Lott

NOT VOTING—1

Smith (NH)

The motion to lay on the table the amendment (No. 2421) was agreed to.

Mr. HOLLINGS. I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, it is now our intention——

Mr. FORD. I apologize to the Chairman. Could we have order? The Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

Mr. MCCAIN. Mr. President, I have several comments to make.

First of all, it is time we started getting a list of the amendments. So we would appreciate it if on both sides we could have Members get their amendments so that we could start in the process, as we always do, of narrowing down the amendments and seeing which can be agreed to and start looking at time agreements.

Mr. President, the second thing I mention is that we will now be going, as we have agreed amongst us to go, to the other side for an amendment. It is my understanding that amendment will be the issue of raising from $1.10 to $1.50 a pack. We would like to work on a unanimous consent agreement so that it would read that there would be the amendment relative to $1.50, and no second-degree amendments be in order to the amendment prior to the motion to table. Further, we would ask if the amendment is not tabled, it be open to relevant second-degree amendments, and the time between now and that time to be determined be equally divided, with a vote occurring on or in relation to the amendment.

The Senator from New Hampshire wants assurance as to when his amendment will be considered. We are trying to work that out with the majority leader. I know there are people on the other side who also want assurances for their amendments. I believe the Senator from Missouri, Senator ASHCROFT, is also looking for the same. But it would be our intention at this time, after the usual formalities, to move to the amendment on that side.

Mr. NICKLES. Will the Senator yield?

Mr. MCCAIN. I am glad to yield to the Senator from Oklahoma.

Mr. NICKLES. Just for the Senators' information, now the Senate just had a vote on limiting legal fees. That probably is not the only vote that we are going to have on that issue. And the Senator managing the bill, I compliment him for doing a very good job.

I might mention, some of us also have statements we would like to make on the bill. We have been on the bill now for a day. This is a very extensive, expensive bill. Some of us wish to speak on the bill. We wish to tell our constituents what is in this bill, maybe why we have some concerns, maybe so we might be able to influence people on how various amendments might go.

But I just tell my friend and colleague from Arizona, certainly the idea of going back and forth on amendments is acceptable, I think, for all Senators certainly on this side. But in all likelihood, there will be additional amendments dealing with the issue we just debated.

Mr. MCCAIN. I say to my friend from Oklahoma, I greatly fear there are lots of amendments right now that are being contemplated on both sides. That is why I think we have to start through this process.

I ask Members on this side to provide us with their amendments—so we can start through this process.

Mr. HOLLINGS. We are prepared on this side with the Kennedy amendment.

Mr. MCCAIN. It is still our desire to finish this bill before the weekend.

I yield the floor.

Mr. GREGG. Reserving the right to object. Is the unanimous consent request propounded?

Mr. MCCAIN. No.

The PRESIDING OFFICER. There is no unanimous consent request.

Mr. GREGG. Mr. President, do I now have the floor?

The PRESIDING OFFICER. Yes.

Mr. GREGG. Mr. President, since I have the floor, I understand there is some comity here on amendments back and forth. But what I would like is to get an understanding, as we move through this process, that those of us who have amendments which have some impact on this bill and which need some time to be debated are going to get a commitment for time and a place when they will be brought up.

I can offer my amendment at this time. It is not my inclination to do that, if I can get an understanding without losing the floor that I am going to get a time to bring up my amendment.

I ask the leader of the bill if he would be willing to agree—and opposing side—if they would be willing to agree that the amendment on immunities, which I think everybody is familiar with and is sponsored by myself and Senator LEAHY, would be available to be brought up at a time specific on Thursday so that there will be a reasonable lead time here, and that time would be at 10 o'clock, assuming that is agreeable to everybody and we have 3 hours on that amendment and no second-degrees be in order and we proceed to vote on it.

Without that sort of an assurance, I am going to offer my amendment at this time.

Mr. DOMENICI. Will the Senator yield?

Mr. GREGG. I will not yield the floor, but I yield for a question. I yield to the Senator from New Mexico for a question.

Mr. DOMENICI. Senator GREGG, doesn't it seem like this is a very important bill? I gather that it is probably, in one fell swoop, adding more money to government than anything we have ever done in any single bill in modern history. Don't you think we have rules and we ought to take our time and do this in a normal manner that befits the Senate for one of the most important spending bills that we have had in decades?

Mr. GREGG. I think that is probably true. The Senator from New Mexico is accurate. The normal manner is to offer my amendment at this time, since I have the floor.

I am willing to wait until Thursday to do that if I get assurance——

Mr. MCCAIN. Will the Senator yield?

Mr. GREGG. I yield.

Mr. MCCAIN. Let me mention, the Senator and I just had a conversation where I said he would achieve his goal of a date certain for his amendment and he said he would agree to a time agreement.

Mr. GREGG. If I have the representation of the Senator from Arizona that sometime on Thursday, hopefully early in the day, we will get this amendment up, it will have a reasonable amount of time and will not be subject to second-degrees, to the extent if that is in the capacity of the Senator from Arizona, and the representation from the other side that that is possible, I am perfectly happy to go forward.

Mr. GRAMM. Will the Senator yield?

Mr. MCCAIN. May I say in response to the Senator from New Hampshire that it has been the custom in this body to go from one side to the other with amendments to start with. We just finished with an amendment from this side and would like to move to that side.

I, again, assure the Senator from New Hampshire that the only reason I cannot assure him right now is the majority leader is making these decisions, but I can assure him that the amendment will be considered. I will work on having it done sometime in the next 48 hours, with a reasonable time agreement, if that is reasonable to the Senator from New Hampshire.

Mr. GREGG. I think that is probably a reasonable statement from the Senator from Arizona, who has a fine reputation in this institution, and I will yield the floor.

Mr. MCCAIN. Mr. President, we need to move forward. I would like to move forward with an amendment, and I hope my colleagues would show that comity. It is the other side's turn.

I ask that after my friend from Texas makes any comment, if we could move forward. I yield for a question.

Mr. GRAMM. Mr. President, first of all, going back from one side to the other is the practice when we have a unanimous consent agreement. The Senate procedure is recognizing people who, in a timely fashion, ask to be recognized, and they are the first on their feet and they are recognized.

I went to great effort to try to see that no one objected to bringing the bill up, because I think the bill needs to be debated and I think we all need to be educated. But I am not going to agree to a time limit on an amendment that I have not seen, nor am I going to agree to not having a second-degree amendment on an amendment that I have not read, nor am I in any way going to limit my ability as one Member of the Senate to have a full debate. So I would be happy to have the Senator be recognized to offer his amendment tonight if we want a gentleman's agreement. It is a major amendment. If the Senator wants to require some debate, we will want to look at it and see if we want to second degree. We may or may not agree tomorrow to having a time limit on it.

Not having seen the amendment and not knowing exactly where we are, I just say to the Senator from Arizona, I am ready to move ahead. I would be happy to have the Senator recognized but I am not ready to waive my right and the right of every other Senator to a full debate to offer second-degree amendments. I want to put people on notice of that.

Mr. MCCAIN. Let me say—I believe I have the floor—that is exactly what we are doing. I just wanted to allow the other side to propose an amendment and then we will work on making sure everybody has their views and this amendment is debated and discussed thoroughly, and then we would look forward, obviously, to a time where we could vote on the issue.

Mr. KERRY. Mr. President, if I could say to my colleagues, there has been a request for some colleagues to be able to speak on the bill. Last night, we were here for a period of time and there weren't many Senators here. Again, tonight, depending on the time that Senator KENNEDY is engaged in debate, there will be time, I am confident, for people to be able to speak on the bill. So I hope that Senators who have that desire will take advantage of that.

Second, I think there has been no effort whatever to try to limit the debate at this point. It is rather an effort to try to gather all the amendments, find out what the second-degree amendments are, share them with everybody on both sides, and have a sense of how we can proceed in an orderly fashion.

But as colleagues know, the manager of the bill could have come to the floor, filled a tree, held the floor, gone through an alternative process. We are trying to avoid that, trying to do this in a cooperative, bipartisan way, moving from side to side, recognizing the needs of a lot of Senators to be heard. So we hope Senators will take advantage of that.

The Senator from Massachusetts wants to be recognized now as the next Senator to propose an amendment.

Mr. NICKLES. Mr. President, I will be very brief. I am not trying to delay my colleague from Massachusetts.

I am telling my colleague from Arizona—and actually I told him in private what my colleague from Texas just said—I am not going to agree to a unanimous consent. This proposal was to vote on a $1.50 tax increase, and vote on or in relation to the amendment at 10 a.m. tomorrow morning. I am not going to. That is one of the largest tax increases in history. It says no second-degree amendments. Some of us aren't quite ready to go quite that fast.

This idea of saying submit all your amendments—I am working on a bunch of amendments, but I will tell you we just got the bill last night. We were being pretty collegial saying we are not going to object to going to the bill. We could have tied the Senate up for 3 days and had more time to study the bill. Some of us need time to study the bill. Some of us are reading the bill and there are interesting things to find.

On the first day the bill is on the floor to say we will have an amendment introduced at 6 p.m. and we will vote tomorrow morning at 10 a.m. on the largest tax increase, without giving us a chance to offset it, without giving us a chance to amend it, I think is a serious mistake.

Now, we are not going to be railroaded. It takes unanimous consent to pass this kind of amendment or get this kind of agreement. I told my good friend from Arizona he is not going to get it. So we can have the debate. We need to have the debate. We need to talk about whether this is a tax increase or price increase. I think we need to study this thing a little bit further and not try to railroad it through the Senate.

I am happy to yield to my friend from Utah.

Mr. HATCH. This is not some itty-bitty bill. This involves as much as $860 billion, according to some.

Is the Senator aware of that?

Mr. NICKLES. Yes, I am.

Mr. HATCH. Is the Senator aware that there are all kinds of viewpoints about this bill?

Mr. NICKLES. Absolutely.

Mr. HATCH. On both sides of the floor.

Is the Senator aware that, frankly, there is no way of getting voluntary protocols under this bill that would resolve the constitutional issues involved in this bill, especially with regard to the look-back provisions, the ban on advertising, and other issues?

Mr. NICKLES. I appreciate my colleague's remarks, the chairman of the Judiciary Committee. I know he has had hearings on at least tobacco legislation. I don't know that anybody has had hearings on this bill.

Right now we are being asked to vote on some of the most significant amendments of this bill and we really have had very little time to even debate the general provisions of the bill, to maybe ask the sponsor of the bill and the proponents of the bill to explain some sections.

Just to give you an example, there is a look-back provision. The Senator from Utah said maybe it is unconstitutional. There was a look-back provision that was added that wasn't passed out of the Commerce Committee and that wasn't passed out of the Finance Committee. It was just added. It was introduced last night. The look-back provision says we are going to do sampling and find out. If we don't meet the target for teenage consumption, as specified, there will be a penalty of $1,000 per teenager who smokes specific brands.

It looks very bureaucratic and, frankly, unworkable to this Senator.

Mr. HATCH. Will the Senator yield?

Mr. NICKLES. Yes.

Mr. HATCH. I have to tell the distinguished Senator from Oklahoma that we had constitutional experts come in and say there is no way that look-back provision is constitutional. They are also saying that, of course, they tried to cure the advertising restrictions by adopting the FDA regulation. But we have top-flight, from the left to the right, constitutional experts saying that is unconstitutional.

Then, last but not least, we have a section 14 on here that basically talks about the other advertising restrictions that almost everybody agrees are essential if we want to do something about teen smoking, and, by gosh, those other advertising provisions have got to have a voluntary protocol, have to have the tobacco companies on board in order to be effective, or they are unconstitutional. What are we going to do? Vote for an unconstitutional bill, or work on it, and work, as the Senate should, on a bill that could amount to as much as close to $900 billion?

Mr. NICKLES. I appreciate the Senator's comments. I will yield the floor in just a moment. I just make the comment to my good friend and colleague, I stand willing to work with him. I have no intention of unduly delaying. I know my colleague from Massachusetts has an amendment to increase—I don't know if it is taxes or fees of $1.50. I know there are other amendments dealing with the taxes, or the fees, and we need to address those. We can do so. I just do not think we can do it in that short of a timeframe that was proposed.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. McCAIN. Mr. President, I believe I have the right of first recognition.

The PRESIDING OFFICER. The Senator from Massachusetts has been recognized.

Mr. KENNEDY. The Senator from Arizona, as I remember, had the floor.

Mr. McCAIN. Mr. President, I seek recognition. I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Just a brief comment: I thank the Senator from Oklahoma for his concerns, and the Senator from Texas, the Senator from Utah as well. We would like to get amendments together so we can move forward. I understand the concerns. They have been made to me, and on this floor. We look forward to a vigorous debate.

I thank the Senator for his willingness to work, all of us together. I thank the Senator from Massachusetts for his indulgence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 2422 TO MODIFIED COMMITTEE SUBSTITUTE

(Purpose: To modify provisions relating to industry payments)

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself, and Mr. LAUTENBERG, Mr. CONRAD, and Mr. GRAHAM proposes an amendment numbered 2422 to the modified committee substitute.

The text of the amendment reads as follows:

Beginning in section 402, strike subsection (b) and all that follows through section 403(2) and insert the following:

(b) ANNUAL PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3) the participating tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in paragraph (4) and section 403:

(1) For year 1—$14,400,000,000;

(2) For year 2, an amount equal to the product of $1.00 and the total number of units of tobacco products that were sold in the United States in the previous year.

(3) For year 3, an amount equal to the product of $1.50 and the total number of units of tobacco products that were sold in the United States in the previous year.

(4) For year 4, and each subsequent year, an amount equal to the amount paid in the prior year, multiplied by a ratio in which the numerator is the number of units of tobacco products sold in the prior year and the denominator is the number of units of tobacco products sold in the year before the prior year, adjusted in accordance with section 403.

(c) PAYMENT SCHEDULE; RECONCILIATION.—

(1) ESTIMATED PAYMENTS.—Deposits toward the annual payment liability for each calendar year under subsection (d)(2) shall be made in 3 equal installments due on March 1st, on June 1st, and on August 1st of each year. Each installment shall be equal to one-third of the estimated annual payment liability for that calendar year. Deposits of installments paid after the due date shall accrue interest at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date.

(2) RECONCILIATION.—If the liability for a calendar year under subsection (d)(2) exceeds the deposits made during that calendar year, the manufacturer shall pay the unpaid liability on March 1st of the succeeding calendar year, along with the first deposit for that succeeding year. If the deposits during a calendar year exceed the liability for the calendar year under subsection (d)(2), the manufacturer shall subtract the amount of the excess deposits from its deposit on March 1st of the succeeding calendar year.

(d) APPORTIONMENT OF ANNUAL PAYMENT.—

(1) IN GENERAL.—Each tobacco product manufacturer is liable for its share of the applicable base amount payment due each year under subsection (b). The annual payment is the obligation and responsibility of only those tobacco product manufacturers and their affiliates that directly sell tobacco products in the domestic market to wholesalers, retailers, or consumers, their successors and assigns, and any subsequent fraudulent transferee (but only to the extent of the interest or obligation fraudulently transferred).

(2) DETERMINATION OF AMOUNT OF PAYMENT DUE.—Each tobacco product manufacturer is liable for its share of each installment in proportion to its share of tobacco products sold in the domestic market for the calendar year. One month after the end of the calendar year, the Secretary shall make a final determination of each tobacco product manufacturer's applicable base amount payment obligation.

(3) CALCULATION OF TOBACCO PRODUCT MANUFACTURER'S SHARE OF ANNUAL PAYMENT.—The share of the annual payment apportioned to a tobacco product manufacturer shall be equal to that manufacturer's share of adjusted units, taking into account the manufacturer's total production of such units sold in the domestic market. A tobacco product

manufacturer's share of adjusted units shall be determined as follows:

(A) UNITS.—A tobacco product manufacturer's number of units shall be determined by counting each—

(i) pack of 20 cigarettes as 1 adjusted unit;

(ii) 1.2 ounces of moist snuff as 0.75 adjusted unit; and

(iii) 3 ounces of other smokeless tobacco product as 0.35 adjusted units.

(B) DETERMINATION OF ADJUSTED UNITS.—Except as provided in subparagraph (C), a smokeless tobacco product manufacturer's number of adjusted units shall be determined under the following table:

For units:	Each unit shall be treated as:
Not exceeding 150 million	70% of a unit
Exceeding 150 million	100% of a unit

(C) ADJUSTED UNITS DETERMINED ON TOTAL DOMESTIC PRODUCTION.—For purposes of determining a manufacturer's number of adjusted units under subparagraph (B), a manufacturer's total production of units, whether intended for domestic consumption or export, shall be taken into account.

(D) SPECIAL RULE FOR LARGE MANUFACTURERS.—If a tobacco product manufacturer has more than 200 million units under subparagraph (A), then that manufacturer's number of adjusted units shall be equal to the total number of units, and not determined under subparagraph (B).

(E) SMOKELESS EQUIVALENCY STUDY.—Not later than January 1, 2003, the Secretary shall submit to the Congress a report detailing the extent to which youths are substituting smokeless tobacco products for cigarettes. If the Secretary determines that significant substitution is occurring, the Secretary shall include in the report recommendations to address substitution, including consideration of modification of the provisions of subparagraph (A).

(e) COMPUTATIONS.—The determinations required by subsection (d) shall be made and certified by the Secretary of Treasury. The parties shall promptly provide the Treasury Department with information sufficient for it to make such determinations.

(f) NONAPPLICATION TO CERTAIN MANUFACTURERS.—

(1) EXEMPTION.—A manufacturer described in paragraph (3) is exempt from the payments required by subsection (b).

(2) LIMITATION.—Paragraph (1) applies only to assessments on cigarettes to the extent that those cigarettes constitute less than 3 percent of all cigarettes manufactured and distributed to consumers in any calendar year.

(3) TOBACCO PRODUCT MANUFACTURERS TO WHICH SUBSECTION APPLIES.—A tobacco product manufacturer is described in this paragraph if it—

(A) resolved tobacco-related civil actions with more than 25 States before January 1, 1998, through written settlement agreements signed by the attorneys general (or the equivalent chief legal officer if there is no office of attorney general) of those States; and

(B) provides to all other States, not later than December 31, 1998, the opportunity to enter into written settlement agreements that—

(i) are substantially similar to the agreements entered into with those 25 States; and

(ii) provide the other States with annual payment terms that are equivalent to the most favorable annual payment terms of its written settlement agreements with those 25 States.

SEC. 403. ADJUSTMENTS.

The applicable base amount under section 402(b) for a given calendar year shall be adjusted as follows in determining the annual payment for that year:

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, the adjusted applicable base amount under section 402(b)(4) is the amount of the annual payment made for the preceding year increased by the greater of 3 percent or the annual increase in the CPI.

(2) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(3) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

Mr. KENNEDY. Mr. President, I want to express my appreciation to the Senator from Arizona, who, as I understand, was trying to work out a decent process so that we might debate this during the course of the evening, and then at least work out some process where we could have a fair allocation of balance in terms of time as we debated it tomorrow. I hope those who support that position would, if we don't get a formal agreement, at least follow that process tonight and also in the morning. Then the leaders and those who are interested in either extending debate, or amendment, or whatever they want to, will proceed and will obviously have the right to do it.

I want to thank the Senator from Arizona, who was trying in his conversations with us to work out a process so there could be an adequate time for debate and discussion, and also balance in terms of time between those who favor this position and those who are opposed to it.

I want to express our appreciation to all of our Members for the opportunity of raising this issue with my friend and colleague from New Jersey, Senator LAUTENBERG, who has been one of the really important leaders here in the Senate on the tobacco issues; also, our friend and colleague, Senator CONRAD, who has been the chair of a task force on the tobacco-related issues, and has been really tireless in terms of developing a command of this issue, and has also been tireless in trying to work out bipartisan support, not just on this issue but on other issues as well; our friend, Senator DURBIN, who has been so involved in this issue, in particular on the price, as well as a number of my other colleagues; my colleague from Massachusetts; Senator REED; and so many others. I am grateful to all of them.

We look forward over the period of these next several hours and hopefully at a time during tomorrow morning to be able to present this issue to the U.S. Senate.

We are very mindful that only a few hours ago, just a few yards from where we gathered this evening, we had the good opportunity to be with Dr. Koop, who is really the foremost public health official in this country and who has been such a leader in protecting the children in this Nation on this issue, as well as many others. I think that all of us who were gathered there were impressed that Dr. Koop was speaking on behalf of all of the public health community. It was really a singular voice in which he spoke for all of the public health communities. We can spell out the reasons why as we get into the debate and discussion on this issue. He was speaking not as a partisan, not as a Republican, not as a Democrat, but for all Americans, because that is what his service has been to this country as our Surgeon General. He has been the defender of the public health, and also as one who is a keen analyst as to what has been the real strategy of the tobacco industry over the period of these past years, who recognized what their strategy was in order to meet their financial requirements, that it was going to have to make a particular appeal to the children in this country.

He spelled that strategy out long before it became evident as a result of the various publications of various documents that have been made available to the American people during the process of the various State suits. He is really one of the great giants.

I took the opportunity at that time to thank him for his strong support of an amendment that was going to raise the price of a package of cigarettes to $1.50, because this would mean anywhere from 750,000 to 900,000 young people who would not be engaged in smoking and anywhere from 250,000 to about 300,000 young people children who would not die a premature death.

I thanked Dr. Koop on that occasion for the families. I thanked him for the children who would not have the addiction. I thanked him for their parents because their children would not be addicted. I thanked him, for all Americans, for his willingness to take a stand on this issue.

Mr. President, the amendment we are bringing here this evening is not an issue which is strange to the Members of this body over the period of these past weeks and months. I think all Americans have probably had the opportunity to listen to the public health community, represented, as I said, by Dr. Koop, and Dr. Kessler, and the representatives of many of those that have been afflicted with the kinds of illnesses and diseases that have been caused by addiction.

We have heard the uniform appeal—the uniform appeal of all of those who have really studied this issue in any detail—that if we are going to have a significant impact on reducing the addiction of children in our country, the best way to do this is by having an increase in the cost per pack of cigarettes, and to do it in a timely way.

By "in a timely way," we mean doing it rapidly. We have devised this amendment to be a stepped-up process over a period of 3 years. There are others who have favored a $1.50 increase a pack in a 2-year period. We have accepted that particular challenge and followed their guidance. This amendment, more than any other proposal or amendment that is going to come in this Chamber, is motivated by protecting the children of this country. That is the reason behind this amendment, clear and simple. If you are interested in public health, you support this amendment. If you are interested in protecting children, you support this amendment. If you are interested in doing something about the problems of addiction and children, you support this amendment. If you are interested in trying to provide some limitation on children being involved in gateway drugs, you support this amendment.

For all of these reasons and many more, this is a compelling amendment, and it is supported overwhelmingly by the American people, by families all over this Nation, Republican and Democrat, North and South alike. We will have the charts available that will indicate what the various data reflect. That is important and useful perhaps for some.

But what we are motivated by and why we are offering this amendment is because of public health. Those who have studied this issue in terms of children believe that this is the first and most important step we can take to reduce the smoking addiction of children.

This chart, Mr. President, points out very quickly and easily for the benefit of the Members the number of children who will be deterred from smoking by an increase of $1.10, 3 million; $1.50, 3,750,000. The difference of the proposal that is in this Chamber will be 750,000. That is what we are talking about by accepting this particular amendment. We will come back to elaborate on that in a while. We are talking about the number of children whose lives will be saved by the cigarette price increase. We are talking about 125,000 who will have an early death.

I think one of the questions we are going to be asked sometime during this debate is, well, this is fine and well that you talk about increasing the cost per pack to $1.50, but how do we know this is really going to have the impact that you are stating here this evening?

We will have a chance again either later tonight or tomorrow to go through a number of the public health reviews and the studies and the testimony that has been taken by a number of the committees over the period of these past weeks. We have had a number of committee hearings on this very issue. But perhaps one of the most impressive factors has been what happened with the significant price increase in our neighboring country of Canada that moved up to a $5 per pack price increase in 1991 and what happened to youth smoking over that period of time. You see the dramatic reduction of youth smoking as a result of the significant increase in the price of cigarettes.

I hope we will not have to take a great deal of time to review that particular phenomenon. It is irrefutable. It is absolutely irrefutable. The public health information is irrefutable; that with a dramatic and significant increase in the price we see a significant reduction in youth smoking. This is one of the clearest examples to demonstrate what we hope will be achieved.

We have set a goal of a 60-percent reduction in youth smoking over 5 years by increasing the price per pack of cigarettes. That is a national goal, and that has been one that has been stated and reaffirmed by many, even those who do not support this particular proposal. The only way we will get the 60-percent reduction over the 5-year period is by going to $1.50 per pack. That is basic and that is fundamental. But I just mention here that after a period of time we saw there was a growth in terms of the black market in Canada.

Mr. President, 85 percent of the Canadian people live proximate to the United States. There was an increase in smuggling, and there was a decision that was made by the Government of Canada to basically leave it up to the Provinces as to whether they were going to maintain their increase in the higher cost per pack. So they left it up to the particular Provinces, and the result from leaving it up to the Provinces is in the Provinces that maintained the higher cost, we saw the continuation of a significant reduction in youth smoking—a significant reduction.

We will have a chance perhaps, if necessary, to go Province by Province, but, nonetheless, that was the result. We cannot make the case any clearer than has been made, that this particular amendment is the amendment that deals with children; this particular amendment is the amendment that deals with addiction. If you are interested in trying to do something in the interest of public health, this is the amendment, with all due respect to the other amendments. We understand the relationship that they have to each other, and I am a strong supporter of the other provisions of the legislation. With the dramatic proposals that we are making here on the increase in the cost, when you have the other programs that are built in to deter individuals from beginning smoking and the other reductions in advertising, all of it has a symbiotic effect that will have an important impact on children. We are doing everything we can.

The basic support for the proposal we are advocating today is a culmination of everything that has been recommended to us by the public health community. We have taken their recommendations and now are bringing them to the Senate. We know the American people are for it. The question is going to be, are we going to have the support of the Members or is the power of the cigarette and tobacco industry, which has been reflected in so many ways over the period of recent months and in recent years, going to be again demonstrated in this Chamber in terms of resisting these issues.

Senator CONRAD, who has held hearings with regard to the issues of smuggling and what will the impact of this be on the tobacco industry. All of these issues are important, but make no mistake about it, Mr. President, those of us who are advocating this amendment are advocating it for a very fundamental reason, and that is to protect children in our country and in our society, and we believe that the kinds of protections we are offering here are the kinds of protections that are going to have the most important impact for our country.

We offer this amendment which is really one we believe the Senate should move towards and be willing to accept. We can go back in terms of the time and understand what is really happening out there in America, the impact that tobacco has on the young people of this country.

I see my colleagues from New Jersey and North Dakota are here and ready to address this issue, but let me just take a few moments to go through the way children become involved in the addiction of tobacco.

Smoking begins early, Mr. President. 16 percent of adults who are daily smokers began smoking—and these are the cumulative figures—by age 12. Just think about it. By the age of 12, 16 percent; by the age of 14, 37 percent. By 16 or under, we are talking about 62 percent. These are the children who become addicted. These are the children who do not have the benefit of being able to make a balanced and informed judgment about going ahead and involving themselves in the use of tobacco.

We are talking about very young children who begin the utilization of tobacco and move on through. By the age of 16, 62 percent of those who eventually are going to become addicted have already started down that path, and they are the ones who have been targeted by the tobacco industry for marketing—for addiction. It is for these children that the studies demonstrate that the increase in the costs of tobacco, because of the limitations in their purchasing power, will be a very, very powerful and important disincentive to these young people. Added to the other features of the program, it will be a serious disincentive for them to get started smoking.

Mr. President, I will wind up now to let my colleagues speak. I hear often: Isn't this really a disservice to those families who may be involved in smoking, that they will have to pay, really, a disproportionate share because we will have an increase in the costs of these cigarettes? I must say, that is an argument that you hear out here occasionally on the floor of the U.S. Senate, but the fact is I don't hear that back home in my State of Massachusetts. People, even in blue-collar areas, who perhaps smoke more than others in a community, are saying we are not less concerned about our children than those who may come from a different socioeconomic background. Those working families are concerned about their children. Time in and time out, when you ask working families, "Do you want to do something about reducing the opportunity for your children to start smoking," their answer is yes, and overwhelmingly yes. Because they understand, as all of us understand, that these children, once they get started down the path towards addiction, find it extremely difficult if not impossible, to begin to get control.

Mr. President, I will yield the floor now. I look forward to our continued discussion of this.

I ask unanimous consent to add the names of Senators HARKIN and WELLSTONE as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

Mr. McCAIN. Mr. President, I do not support this amendment. I don't doubt that the goals of the Senator from Massachusetts and those who support this amendment are the same as those who support the underlying bill, which is $1.10. I reject the notion that more is automatically better. There is a point at which we have gone too far. Some believe strongly we have already passed that threshold. We just had a little discussion while we were waiting, while the Senator from Massachusetts was waiting to propose his amendment, that amplified the concerns of many who believe this legislation has gone too far. On the other side, there are some, including the sponsor of this amendment, who believe we have not gone far enough. I don't want us to engage in a bidding war. If $1.50 is acceptable, then why not $2 or $3 or $5, et cetera?

I point out to my colleagues a very important point here. The bill already has a mechanism for increasing the price of tobacco if other methods fail. That is what we call the look-back provisions. The look-back provisions are penalties that are both company specific and industry wide, if there is not a decrease in teenage smoking.

If our goal is to reduce teenage smoking, which it is, then these look-back provisions achieve what the amendment of the Senator from Massachusetts seeks. I have not been around as long as some, but too often our fidelity to a cause is measured only by how high a price we can extract and how much we are willing to bid up.

It was back in March when the Commerce Committee began work on this issue. We worked for a long time and we came out with a package by a 19 to 1 vote. As part of that package, it was determined that $1.10 was the appropriate cost—the price of a pack of cigarettes. I might add that was also the position of the White House, the administration, that $1.10 was the appropriate number.

Since then, we have toughened the look-back provisions. We have raised the cap on how much liability the tobacco companies would have on an annual basis. We have toughened up this bill to the point where it has been of great concern on the other side of the aisle. The $1.10 was part of a carefully negotiated package. In and of itself it was not a magic number. The $1.10 was a tradeoff in return for a cap on liability, in return for the look-back provisions, in return for a number of other things—the language concerning the authority of the FDA. So, this was all put together in a package.

I say to the Senator from Massachusetts that he was not part of those negotiations because he is not part of the committee. That is very understandable, although I noted during the time we were doing those negotiations the Senator from Massachusetts was very vociferous in his opposition to almost anything that we did. In fact, he was quoted in the newspaper, much to my surprise, as criticizing the committee, which I chair. I was somewhat intrigued by that, but that certainly is the right of the Senator from Massachusetts to question the credibility of the Commerce, Science, and Transportation Committee.

I respect the commitment of the Senator from Massachusetts to the children of America. I respect his belief that $1.50 will do more than will $1.10. But I urge my colleagues to understand that the $1.10 was not plucked out of the air. The $1.10 was the best expert advice we could get and with the concurrence of the administration. There are those in the public health community who agree with the Senator from Massachusetts that it is not high enough. There are others in the public health community who say that $1.50 is not enough. There are those on both sides of the aisle who think we should have no protections of any kind nor anything for the tobacco industry. Frankly, I believe that would just kill the tobacco industry.

We are not in the business of trying to kill the tobacco industry. Let's keep that in mind. Because, if 40 million Americans are going to smoke, they are going to continue to smoke, and we are not going to be able to prohibit that. We tried that with alcohol many years ago. But if we are trying to attack the issue of kids smoking, we do have a problem with too high a cost for a pack of cigarettes. That has been highlighted by the Senator from Utah concerning the possibility of contraband. There is a problem, obviously, with too high a cost for a pack of cigarettes, that there would be a black market that would spring up in America. We used the best advice that we could get from throughout the administration, from the public health community, and from many others, which allowed us to come up with $1.10 as the cost of a pack of cigarettes to achieve the goal of reducing teenage smoking, along with the other aspects of this comprehensive settlement.

I point out again to my colleague from Massachusetts, we have a look-back provision in the bill. For every child over the quota in the percentage that is not reduced by the tobacco companies, there is a $1,000-per-child penalty provision in this bill. That effectively achieves the goal which I believe this amendment seeks.

Mr. President, I know there are many other speakers. We will probably discuss this some more between now and final passage.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Missouri.

AMENDMENT NO. 2427 TO AMENDMENT NO. 2422

(Purpose: To strike provisions relating to
consumer taxes)

Mr. ASHCROFT. Mr. President, I rise today to offer an amendment. My amendment addresses this massive tax that is to be imposed on the people of this country, particularly on hard-working, poor people in America. My amendment strips this legislation of the provisions which will impose $755 billion in new taxes on the American people.

More precisely, my amendment strikes the upfront payment of $10 billion. Tobacco companies won't bear the cost of this payment; consumers will.

This bill, which purports to vilify the tobacco companies—and I am certainly not here to defend them. As a non-smoker, and having watched a number of my friends die as a result of smoking, I am not here to defend the tobacco companies. But the bill specifically provides that tobacco companies will not bear the cost of these payments, consumers will. This bill requires and would make law the fact that tobacco companies can't bear this cost of $755 billion. This bill requires that consumers bear this cost. They will bear the cost in the form of higher prices, and there are actually penalties in this proposed law for the companies if they do not transfer to the consumers any of these costs.

"Section 405. Payments to be passed through to consumers." Here is the text of the law itself:

> Target price. Each participating tobacco product manufacturer shall use its best efforts to adjust the price at which it sells each unit of tobacco products in the domestic market or to an importer for resale in the domestic market by an amount sufficient to pass through to each purchaser on a per-unit basis an equal share of the annual payments to be made by such participating tobacco product manufacturer under this Act and the Master Settlement agreement for the year in which the sale occurs.

The specific law of the statute requires that these so-called penalties are really not penalties on the tobacco companies at all—that these so-called penalties penalize the consumers. It is strange, indeed, to say to individuals, "The tobacco companies have been misbehaving. For years, they have been targeting you unduly, they have been providing you with a product which is deleterious to your health, and what we are going to do to them is nothing, basically, except to protect their markets, make sure their market shares are locked in, and give them protection from civil prosecution. But because you have been the recipient of the disease and the difficulty you have from smoking, we are going to pass through the payments to you."

This is adding insult to injury in the most classic of all ways. Remember, these are not penalties on tobacco companies, they are taxes levied on the users of tobacco products.

Tobacco companies will still pay hefty penalties if teenage smoking targets are not met, but consumers will be safe from hundreds of billions of dollars in new taxes if my amendment is adopted.

The so-called look-back provisions of this proposed law say that tobacco companies are going to have stiff penalties to pay if teenage smoking doesn't decline, and those stiff penalties are left in place by the amendment which I am offering.

It is only the consumer, who is being asked to pay substantially higher prices by way of what really amounts to a tax, who will be saved the $755 billion which will otherwise be occasioned on those consumers in the event my amendment is not adopted.

Americans today are working longer and harder than ever to pay their taxes. The Federal budget is in surplus. Congress should be debating how to return money to the taxpayer, not how to siphon more out of the pockets of working Americans.

This is nothing more, nor less, than a massive tax increase on the American people—$755 billion, which the law requires to be passed through to consumers. Not that they receive $755 billion; the law requires that consumers end up paying $755 billion more as a means of punishing the tobacco companies—three-quarters of a trillion dollars in penalties to consumers whom we are trying to protect.

As currently drafted, the proposed tobacco bill is nothing more than an excuse for Washington to raise taxes and spend money. It seems strange that, in this town, virtually anything will be an adequate excuse for raising taxes. Bad decisions by free people become excuses for massive tax increases in this country.

This is the largest proposed increase in Government since President Clinton proposed his health care scheme. Oddly enough, his health care scheme was greeted initially with a relatively high level of support. But as the public learned more about the health care scheme, they understood that it was more scheme than health care, and, frankly, as the public learns more about this so-called tobacco settlement, they will realize that it is far more tax and Government than it is anything else—17 boards, commissions, and agencies.

This huge tax increase will be levied against those who will be least capable of paying. According to the Congressional Research Service, right now we know that tobacco taxes are perhaps the most regressive tax levied in America. Tobacco taxes are perhaps the most regressive taxes levied in America. About 60 percent—60 percent, 59.4 percent I think is the number; yes—59.4 percent of the new $755 billion tax will land on people who make less than $30,000 a year.

These are young families. They are working families. To take a three-pack-a-day figure from those families, some $1,600 a year, is to take their capacity to provide for their families and require it to be spent in Government on something else, something that the bureaucrats in Washington will consume, something that will not go to benefit their families.

Sixty percent of the tax will fall on families earning $30,000 a year or less. Households earning $10,000 will feel the bite of this tax increase most of all.

Listen to this: The Joint Committee on Taxation estimates that these households will see their Federal taxes rise by 44.6 percent. As currently drafted, this legislation will cause someone who smokes two packs daily to pay the Government an annual additional fee of $803—an additional $803. Smoking is already an expensive habit, and the collection of this money is predicated upon the fact that people will not quit, not that people will quit. You can't get these kinds of numbers, $755 billion, from people who quit. You are going to get this amount of money because you know people won't quit and can't quit, and the reason by those who come forward with this tax is, it is necessary, they say, because this is addictive.

They say people can't quit. That is what is wrong with tobacco. And yet they say that people will choose to pay this because they choose to continue to smoke. Whether they choose to or not, someone who earns $10,000 a year, already spending a couple hundred, maybe $1,000 of that $10,000 on cigarettes, now has to pay the Government of the United States an additional $803 annually. Frankly, my amendment would prevent that from happening.

As currently drafted, this legislation allows tobacco companies to deduct the mandatory payments ultimately paid by consumers as a regular business expense. So what we have here is really an implied subsidy of the tobacco industry, tobacco companies being able to pass through costs to the consumer which the tobacco company then gets to deduct.

Again, we find ourselves, here in this setting, subsidizing tobacco companies, megatobacco companies, the cash cows of American industry, we are subsidizing these companies by placing on ordinary human beings, working families—we are subsidizing them by placing this $755 billion tax on working families. Over 5 years, that write-off would be worth about $36 billion to the tobacco industry. I cannot imagine anything more inappropriate than to take money from the hard-working families of America and then to use that money which we have taken from the hard-working families of America to provide a $36 billion subsidy through special write-off provisions for the tobacco industry.

By eliminating the annual payments, my amendment would prevent the tobacco companies from claiming the deduction. I think we should stop the subsidy for tobacco, in particular for tobacco companies, especially providing a subsidy for them by allowing them to deduct payments that are not really going to be made by them—payments that are going to be passed through to consumers, hard-working families with children to feed and clothe, families with payments to make, families of individuals who might want to quit smoking but cannot. This bill is predicated upon the fact that these families will continue.

This massive Government bureaucracy that is planned and the massive amounts of spending that are projected are all based on this willingness expressed in this bill to tax ordinary working families—ordinary working families—massive amounts. And 59.4 percent of the money will be paid by families under $30,000; 3.7 percent by families making $115,000 or more. This is the most regressive graph of taxation that I have seen since I have had the opportunity to serve in the U.S. Senate.

Before we consider passing a massive tax increase like this, it would behoove us to review the Government's record thus far with respect to taxes, spending, and Government employment. In Washington, DC, taxes and spending are more addictive than nicotine.

In the 15 years prior to 1995, Congress passed 13 major tax increases. Let me refer to the chart which has just been set up here. The Crude Oil Windfall Profit Act of 1980; the Omnibus Reconciliation Act of 1980; the Tax Equity and Fiscal Responsibility Act of 1982; the Social Security Amendments of 1983; the Deficit Reduction Act of 1984; the Consolidated Omnibus Budget Reconciliation Act of 1985; the Omnibus Reconciliation Act of 1986; the Omnibus Budget Reconciliation Act of 1987; the Technical and Miscellaneous Revenue Act of 1988; the Omnibus Budget Reconciliation Act of 1989; the Omnibus Reconciliation Act of 1990; the Energy Policy Act of 1992; the Omnibus Budget Reconciliation Act of 1993—15 years, 13 major tax increases.

Mr. KERRY. Mr. President, will the Senator yield for a question?

Mr. ASHCROFT. I will yield for a question.

Mr. KERRY. Didn't most of those also have tax cuts in them?

Mr. ASHCROFT. I think it is pretty clear that the amount of money being taken from the American family is going up and up. This year, for example, the average American family had to work until the 10th day of May—we just passed it—for Government. That was the time it took for people to satisfy the obligation to Government. That time has been extending into the year very rapidly through this entire time period.

It is true that very frequently the Congress gives a little bit here and takes a lot here, so that there are in this time setting different changes in the taxes. But if you want to look over the period of time—and I think it would be a fair thing to do; and I will be happy to do that; and I will bring information about that to the floor—that over time—over time—the Congress of the United States has taken a bigger and bigger and bigger bite of the income of workers in the United States. And, as a matter of fact, this would be another huge bite it would take out of the workers, especially of low-income families.

Mr. KERRY. Mr. President, I appreciate the Senator being willing to yield. And I just wanted to make it clear that the record was clear in his answer that there were tax cuts of significance. You can make adjustments as to who might have benefited and who did not, but those were not just tax increases. I think that is an important point.

I thank the Senator.

Mr. ASHCROFT. I thank the Senator from Massachusetts.

These items, which I have listed here, are times when the taxes were raised on American families and American industry. I think over time most of us understand that we are paying more in taxes now than ever before. As a matter of fact, right now Americans work harder and longer in peace and prosperity than we have worked at any time in history to pay our taxes.

So whether or not there were a few things in this list where someone was given a tax break while someone else had a tax increase, that may have been the case, but the truth of the matter is, we have been taking two steps backwards at least for every step forward. Government has been taking a bigger and bigger and bigger share. And now Americans work further and further into the year every year in order just to satisfy the appetite of Government rather than to provide for themselves.

Last year's Taxpayer Relief Act was the first meaningful tax cut since—well, since about 1981. And the tobacco tax increase would more than erase every bit of what we did last year in terms of taking more from the American people. It seems to me that what we need to do is not go back on what we did last year; we need to extend what we did last year. We do not need to increase taxes. Taxes are at an all-time high.

Tax freedom day, as I mentioned, was May 10 this year. Federal, State, and local taxes claimed 37.6 percent of the income of a median two-income family in 1997. Now, these taxes were more than the couple spent on food, shelter, clothing, and transportation—more than they spent on their cars, their houses, their food, and their clothing.

It seems to me that we ought to be wondering about how we could reduce taxes. During Bill Clinton's first 5 years in office, the Federal Government collected 29 cents in taxes for every dollar increase in the gross domestic product. According to the Joint Economic Committee, "The federal government is now taking a higher share of economic growth than under any president in recent history."

The Joint Economic Committee continues: "The average rate during the entire era before President Clinton—from Presidents Eisenhower to Bush—was 19%." We are now taking 29 cents of each dollar increase in domestic product.

Obviously, the Federal Government has yet to reject the sentiment expressed by King Henry IV nearly 600 years ago. He put it this way: "You have gold. I want gold. Where is it?"

Well, I think we have a bill here that says, "You have gold. We want gold. And we don't care how poor you are. We don't care how you're struggling to make ends meet." As a matter of fact, we will make a very repressive tax, but we want to spend. Tax-and-spend as tax-and-spend—it does not matter which party sponsors it, who does it. Tax-and-spend is the invasion of Government in the province of the lives of individuals, and we have every reason to want to reject it.

To collect this bounty, the Federal Government has developed a complex system. A recent report by the Heritage Foundation reveals just how complex.

Mr. President, 136,000 employees at IRS and elsewhere in the Government who are responsible for the tax laws; $13.7 billion is the amount of tax money spent by the IRS and other agencies to enforce and oversee the code; 17,000 is the number of pages of IRS laws and regulations, 12,000 not including Tax Court decisions and IRS letter rulings—12,000.

And 5.5 million is the number of words in the income tax laws and regulations; 820, the number of pages added to the Tax Code by the 1997 Budget Act; 250 is the number of pages needed to explain just one paragraph in the Internal Revenue Code; 271 is the number of new regulations issued by the IRS in 1997; 261 is the number of pages of regulations needed to clarify the Tax Code's "arms-length standard" for international intercompany transactions, and on and on and on.

Incidentally, 293,760 is the number of trees it takes each year to supply the 8 billion pages of paper used to file income taxes in the United States.

Many years ago, Senator Everett Dirksen quipped, "a billion dollars here, a billion dollars there, and pretty soon you're talking about real money."

Unfortunately, because of Washington's profligate ways, what was once real money has become little more than a rounding error. The budget resolution passed by the Senate last month recommended the Federal Government spend $9.15 trillion over the next 5 years. That is a 17.3-percent increase from the previous 5 years.

According to a recent Cato report, the Government's fiscal record is nothing to brag about. Over the past 10 years, the Federal domestic expenditures have soared by 79 percent. After adjusting for inflation, this is an enormous 34-percent increase. Over that same period, family income adjusted for inflation has grown by 9 percent. There is the contrast. There is the problem: a 34-percent increase in Government, Federal domestic expenditures; a 9-percent increase in the income of the average family.

So today I provide an opportunity for this body, the Senate of the United States, I provide an opportunity for the Senate to say to the American people, "Enough is enough." Even if you make a bad decision as a free person to smoke, we are not going to decide that we are going to take from you the capacity to spend money and resources on your own family. We are not going to say that the tobacco companies are bad operators and bad companies, and as a result of their problems and their poor conduct, we are going to punish you, the individuals who smoke.

We are not going to provide that 59.4 percent of all the $755 billion to be collected by individuals trapped in the habit of smoking is to be provided by individuals who make less than $30.000. We are not going to continue to inflict that kind of harm on individuals who are low income and compound the problem. Now Government will come in and sweep from them their capacity to provide for their own families.

That is not something that we are interested in doing. We are interested instead of saying we don't really agree with this bill, in saying that everything has to be passed on to the consumer, that as a way of punishing tobacco companies we will take money from consumers. We are going to try to make it very difficult. If a guy smokes a couple of packs a day, we are going to make sure that he spends 800 bucks more a year just for the Government, not to be able to address the needs of his family, not to provide for his family, not to provide for himself. But we are going to just say because tobacco companies have done things that are improper, we are going to punish hard-working American citizens.

My own view is that is a misplaced effort. If we really want to try to make sure that we curtail teen smoking, there are a lot of things we could do. I don't even think this bill makes it illegal for teens to possess tobacco. I don't think it even makes it illegal to possess tobacco in the District of Columbia. This bill doesn't even curtail, in my understanding, doesn't curtail smoking in the Capitol. We criticize Joe Camel, a cartoon character. We criticize a cartoon character for being a role model for young people who want to emulate and smoke. But we don't curtail, I don't believe—and I would be glad to be corrected—I don't think we stop smoking in the U.S. Capitol. In the District of Columbia, we don't make it illegal for teens to possess tobacco. Now, it is virtually uniform around the country that it is illegal to sell tobacco to teens, but there are things we can and ought to do to curtail tobacco use among teens.

And I leave with this amendment, I leave in the bill the penalties on tobacco companies for failure to meet the targets. I simply, with this amendment, take the penalties against consumers out of the bill. I simply do not provide for the punishment of poor American families, working families. I do not provide for their punishment for what the tobacco companies have done. I think it is inappropriate.

So I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. Ashcroft] proposes an amendment numbered 2427 to amendment numbered 2422.

Mr. ASHCROFT. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

(1) Amounts equivalent to penalties paid under section 202, including interest thereon.

(c) Repayable Advances.—

(1) Authorization.—There are authorized to be appropriated to the trust fund, as repayable advances, such sums as may from time to time be necessary to make the expenditures authorized by this Act.

(2) Repayment with interest.—Repayable advances made to the trust fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the trust fund for such purposes.

(3) Rate of interest.—Interest on advances made under this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the anticipated period during which the advance will be outstanding.

(d) Expenditures From Trust Fund.—Amounts in the trust fund shall be available in each calendar year, as provided by appropriations Acts, except that distributions to the States from amounts credited to the State Litigation Settlement Account shall not require further authorization or appropriation and shall be as provided in the Master Settlement Agreement and this Act, and not less than 15 percent of the amounts shall be expended, without further appropriation, notwithstanding any other provision of this Act, from the trust fund for each fiscal year, in the aggregate, for activities under this Act related to—

(1) the prevention of smoking;

(2) education;

(3) State, local, and private control of tobacco product use; and

(4) smoking cessation.

(e) Budgetary Treatment of Trust Fund Operations.—The receipts and disbursements of the National Tobacco Settlement Trust Fund shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

(f) Administrative Provisions.—Section 9602 of the Internal Revenue Code of 1986 shall apply to the trust fund to the same extent as if it were established by subchapter A of chapter 95 of such Code.

SEC. 402. STATE LITIGATION SETTLEMENT ACCOUNT.

(a) In General.—There is established within the trust fund a separate account, to be known as the State Litigation Settlement Account.

(b) Transfers to Account.—From amounts received by the trust fund under section 403, the State Litigation Settlement Account shall be credited with all settlement payments designated for allocation, without further appropriation, among the several States.

(c) Reimbursement for State Expenditures.—

(1) Payment.—Amounts credited to the account are available, without further appropriation, in each fiscal year to provide funds to each State to reimburse such State for amounts expended by the State for the treatment of individuals with tobacco-related illnesses or conditions.

(2) Amount.—The amount for which a State is eligible for under subparagraph (A) for a fiscal year shall be based on the Master Settlement Agreement and its ancillary documents in accordance with such agreements thereunder as may be entered into after the date of enactment of this Act by the governors of the several States.

(3) Use of funds.—A State may use amounts received under this subsection as the State determines appropriate.

(4) Funds not available as Medicaid reimbursement.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(d) Payments To Be Transferred Promptly To States.—The Secretary of the Treasury shall transfer amounts available under subsection (c) to each State as amounts are credited to the State Litigation Settlement Account without undue delay.

( ) Provisions Relating to Amounts in Trust Fund.—

(1) Certain provisions null and void.—Notwithstanding any other provision of law, the following provisions of this Act shall be null and void and not given effect:

(B) Sections 402 through 406.

Mr. McCAIN. Mr. President, for the information of all Senators, I have been authorized by the majority leader to announce there will be no further votes this evening. The Senate will remain in session for those Members interested in debating this important issue.

By mid to late morning tomorrow, I intend to move to table the pending Ashcroft amendment and the Kennedy amendment, all in an effort to move this bill along. Again, the next vote should occur around 11 a.m. on Wednesday.

While I have the floor, Mr. President, I make one comment. I am the father of four children. I come from a high-income bracket. I love my children. I believe that low-income Americans love their children, as well. And I have talked to many low-income Americans, both in person and by mail and on talk shows, who have said, "Senator McCain, I smoke. I wish I didn't smoke. My children are beginning to smoke. Please do everything you can to stop it."

Mr. President, to believe somehow that low-income families aren't as concerned about their children and whether they are going to smoke or not, frankly, is not something that I agree with, nor I believe is it fair to low-income families all over America. Low-income families in America love their children as I love my children.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 2421

Mr. LAUTENBERG. Mr. President, this obviously is going to be a fairly long debate. We are going to hear about everything from tax policy to love of country to how we deal with our budgets. We are going to hear all kinds of things.

Mr. President, I join with my distinguished friend and colleague from Massachusetts in proposing the $1.50 amendment, if I can call it that, that both he and I have had a longtime interest in. I want to make some comments on the entire bill before I go into the specifics of the $1.50.

Senator KENNEDY has been the leader in all matters of health and concern for young people, always out in the front, helping to defend what is right in our country. I have great respect for him and I am pleased to share this particular interest in reducing teen smoking.

Today we begin consideration of legislation that is long overdue. It tackles one of the most important health issues of our time, because today we begin the questions to finally reform the way tobacco products are sold in this country and the way the tobacco industry operates.

Getting to this point has not been an easy journey. Despite the fact that the tobacco industry has for decades engaged in shameless corporate conduct, the Congress has never acted in a comprehensive way to get this industry under control. However, we have now reached a point where the American people no longer tolerate inaction on this issue.

I have been fighting to protect Americans from the dangers of smoking for over a decade in the U.S. Senate, along with the distinguished Senator from Illinois, Senator DURBIN. We authored the first ban on smoking in airplanes in 1987. Just a few weeks ago, we celebrated the tenth anniversary of the implementation of that legislation.

Frankly, I believe that ban, that opportunity for people to fly and to travel in that close space free of tobacco smoke, was a catalyst for further antitobacco activity. They saw how pleasant it was. When people rode on airplanes, they saw how nice it was to have smoke-free travel, freedom from other people's tobacco smoke. Many who suffered from allergies, or had respiratory problems, or just couldn't endure being trapped in a smoking airplane cabin finally felt free to travel by airplane in what they considered a personally safer environment.

But, despite the wishes of the American people, we had a tough time getting that legislation in place. It was a long, tough battle. We argued. We negotiated. We finally settled for a 2-hour ban, with the promise that we would wait 18 months for studies to come in. But the interest of the public was so overwhelming that we didn't have to wait 18 months. It began to become a cry across the country: Please, if you are going to ban smoking in airplane flights for 2 hours, for goodness sake, if it is a 6-hour flight, give us a break. And we immediately changed what had been a 2-hour ban to a 6-hour ban and now all flights across this country and many across the ocean.

But despite the wishes of the American people, the tobacco industry has been able to use its power and its influence to stop real reform of tobacco industry behavior until this week.

Now, we are poised to finally act in a comprehensive way to tackle the major problems this industry has caused our Nation. First and foremost is the issue of teen tobacco use.

Mr. President, newly released industry documents show how the tobacco industry specifically and deliberately targeted our kids for addiction. They knew what they were doing. They put up fancy drawings and beautiful pictures of healthy people riding horseback and playing sports. They knew what was happening. They knew very well they were creating addiction for the children. They were seducing them into picking up the smoking habit.

In addition, the industry's very own documents talk about ways to further entrap young smokers into a lifetime of addiction by manipulating the quality of nicotine in these cigarettes. The documents recently revealed also contain strategies on how to spread fake science to confuse their customers about the health effects of tobacco products.

Mr. President, not only did the industry commit these acts but it came before the Congress and lied about it. Now these very same companies have decided that they are going to fight back against the popular will. They are going to fight back against the Congress' final awakening to the evils of smoking and to do something about it. They have decided that they are going to take a chance and spend $50 million or more for deceit with a misleading advertising campaign to stop the Senate action this week. You have seen it on TV. You hear it on the radio. You see it in print: After all, we were willing to pay $500 million. After all, we want to be proper citizens. But the Senate and the House want to take away our right. They want to invade people's lives.

It is for that very reason that we have to act now and pass strong comprehensive tobacco legislation. The Senate must prove to the American people this week that we have broken from the past; we will no longer trade the future of our children for cold, hard tobacco industry campaign cash. This is effectively our Bastille Day. The reign of the tobacco industry on Capitol Hill must end today, now. We have an opportunity to prove to the American people that big tobacco's free ride is over.

Mr. President, there are going to be lots of votes for us this week to prove our good faith.

The chairman of the Commerce Committee, Senator MCCAIN, and the committee itself have given us a foundation to build on. I congratulate them and thank them for this and commend them for all of their hard work.

But we have more heavy lifting to do, because what we see in front of us has to be amended and has to be expanded in order to do the job that we want to see done. Our Nation's leading health experts tell us that we have a way to go this week before this bill should be approved by the U.S. Senate. Names that Americans trust, like Dr. C. Everett Koop, Dr. David Kessler, tell us that this bill needs improvement.

That is why it is imperative that the Senate adopt amendments that will be offered to put some more teeth into this bill. We will have votes this week on the Kennedy-Lautenberg amendment that would call for a $1.50 price increase on a pack of cigarettes to really discourage youth smoking.

We will also vote on whether Congress should provide this industry with special protections on legal liability. Additionally, we will likely vote on look-back surcharges to see whether or not the companies will use all of their skills and knowledge to reduce teen smoking. And we will likely vote on preemption of local laws and on advertising restrictions. These will all be key votes, and the American people will be watching.

I will not make my final decision on this legislation until I see the outcome of these votes and see what difference the amendments make in the quality and the extent of this bill. I hope, Mr. President, we can head into the Memorial Day weekend proud of what we did this week.

As we remember our brave men and women who sacrificed their lives fighting for our country, I ask my colleagues to join the fight to protect our people from premature death and sickness as we would have if a foreign invader was to declare war on us and in 1 year killed more than 400,000 Americans—400,000 Americans. It is more deaths in 1 year than all of the combat deaths in all of the wars fought by Americans in the 20th century. We are looking at World War I, World War II, Korea, Vietnam, and other wars fought in this century. Once again, more Americans die each and every year from tobacco-caused disease than died in combat in all of the wars that I have just mentioned.

So we want to fight back against the attackers, as we should. What if we were invaded by a foreign enemy? Now is the time to respond to a call to arms.

Mr. President, this $1.50 amendment will test whether or not we are serious about cutting teen smoking or whether we are going to once again appease the industry. If we are serious about cutting teen smoking, then we must raise the price of cigarettes by at least $1.50 a pack. We have to get to that level quickly, within 3 years.

I want to point out on this chart what we understand. The source of this is the Department of the Treasury. It says the number of children who will be deterred from smoking based on these prices: A $1.10 increase will stop 3 million kids from picking up the smoking habit; a $1.50 increase will stop 3.75 million children from picking up the smoking habit. We know that once they start—we have seen it on the chart displayed by the Senator from Massachusetts about when people start smoking at a very young age. I know I did. It took me some 25 years to recognize what a foolish thing I was doing. I didn't recognize it until my youngest daughter said one day, "Daddy, we learned in school today that if you smoke, you will get a black box in your throat, and I love you, and I do not want you to have a black box in your throat. Daddy, please stop smoking." Within 3 days I stopped smoking, after numerous attempts.

The number of children whose lives will be saved by the cigarette price increases is 1 million at $1.10; $1.50, 1.25 million people—1.25 million children whose lives will be saved by responding to that pressure from the price increase.

We have heard everything here today about tax increases and how we are taxing those unfortunate people of modest income.

The Senator from Arizona said everybody loves their children just as much regardless of their income class. The fact is we would like, all of us, to see the cessation of smoking or the reduction of smoking among children.

One of the things that happens as we discuss this $1.50-a-pack possibility is that we would then be extracting from those whose use costs us more because of their habit to pay for some of the costs that they incur. If someone wants to use their car more often, they buy more gasoline. They pay a higher price. If they want a bigger house, they pay a higher price. If they want to use more fuel to warm or cool their house, they pay a bigger price. If they use more of the health care system, they should pay a bigger price. It is an unfortunate reality, but smoking costs this country $50 billion a year in increased health costs—$50 billion a year. And we are talking about something that is considerably less of a tax, less of a cost on those companies and the individuals who pick up the smoking habit.

We want to stop people from smoking. Just think about it. We heard talk about the fact that this is a tax increase on hard-working families. Well, hard-working families ought to be interested in the money that they save. Imagine if we stopped people from smoking. Here we say a million and a quarter people. It will cost them over $2,000 a year, or they will save $2,000 a year as a result of dropping the smoking habit. Two packs of cigarettes a day, estimated at the lowest, perhaps $4 a pack, if the $1.50 increase goes into effect. But let's say it is $3 a pack. Three dollars a pack, twice a day; $6 times 7, $42 a week, times 52 weeks a year; over $2,000 a year that poor, hard-working families could very well use to buy other things they need far more than cigarettes.

Smoking among children and teens has reached epidemic proportions. Three thousand children begin smoking each and every day, and a third of them, 1,000, will die prematurely as a result of the smoking habit. Every year we lose over 400,000 Americans to tobacco-related illness and over 90 percent of them started as kids.

The managers' amendment claims to raise the price of a pack of cigarettes $1.10 in 5 years, but the public health community tells us that $1.10 just won't do the job. The goal we have set in Congress is to cut teen smoking in half, and if you examine the $1.10 proposal, it is clear that it doesn't cut it. Independent economists tell us that a $1.10 increase will only result in a 33-percent reduction in teen smoking over 5 years.

Hallelujah, I would love to see that happen—even that. But on the other hand, these same economists say a $1.50 price increase will result in the 50-percent reduction target in 5 years. What an accomplishment that would be. Imagine that in a few years when those kids who would have started smoking are not smoking. More than 200,000 Americans who would have otherwise died would be alive. Families would not be grief stricken at the loss of someone they care about because of the smoking habit, or watch someone who was a good athlete unable to function, unable to run, unable to breathe without lots of labor because we were in this early stage able to stop teen smoking.

The reason we are not focused on adults so much in this as teen smoking is because it doesn't have the same impact on adult smokers. We have over 40 million people who are addicted to tobacco. I never met anybody who is a smoker who will not tell me about the number of times they stopped and how long. They remember those as key moments in their life: I once stopped for 2 weeks, for 2 solid weeks I didn't have a cigarette. What do you think? And then I was watching the ball game or my friend Charlie at the office had a problem and got sick and I started smoking again. And I will be darned; I just haven't been able to stop. But one of these days I am going to do it, I promise you that. I wish I could.

Talk to people who stand outside buildings all over America who are prohibited by the rules from smoking in the building and you see them puffing away. I was one. I don't make fun of them, I promise you that. See them standing out there in the cold weather freezing to finally get that puff on the cigarette.

The other day I took the train from Philadelphia to Newark, and I watched a fellow get off the train, light up quickly on the platform, take two or three drags on the cigarette and chuck it and get back in the train. He is not happy with his habit. He may have been happy to have a puff on that cigarette, but I assure you, when that man thinks about what he is doing, he is not happy that he is an addict. No addict, whether illegal drugs or tobacco, is happy with the condition, but they are committed to it.

And so our mission is to stop them before they start, because it is unrealistic to say stop after they have been doing it for a long time. You can never get to it. So what we will do is make an investment now that will start to pay off 5 years from now, 10 years from now, 20 years from now, when we will see our costs for health care and our costs for lost productivity will diminish considerably, and maybe even end, and we will be looking at a Nation that is considerably healthier.

Why should the Senate stand for half measures? Public health organizations and Drs. Koop and Kessler agree that the price of tobacco products must be increased by at least $1.50 in 3 years, and be continuously indexed, by the way, for inflation. Otherwise, we will fall short of meeting our goals of cutting teen smoking in half.

A variety of factors contribute to a teenager's decision to try that first cigarette or chew that first bit of spit tobacco, as we call it. But the price of tobacco is a critical factor. The higher the price, the less likely the child will be to continue to use tobacco.

Again, the U.S. Department of the Treasury says it—the number of children who will be deterred from smoking if we adjust the prices, according to this chart.

I would also like to ask my colleagues not to be fooled by the industry's deceptions that this price increase will bankrupt them. I remind my colleagues that these are the same folks who testified before Congress under oath that nicotine is not addictive. The tobacco industry made $7.2 billion in profit in 1997. And according to an MIT analysis, a $1.50 price increase would not bankrupt the industry by any stretch of the truth or imagination. In fact, the MIT analysis shows an industry profit of $5.2 billion with a $1.50 price increase.

And further, the industry claims that this price increase will create a black market. Well, this black market looks like a red herring to me, I must tell you. We can pass tough antismuggling laws that will prevent a black market. It doesn't, unfortunately, hurt the tobacco companies if their product is sold in a black market. I want everybody to keep that in mind. If company X sells its products and it gets by without the $1.50 user fee imposed on it, they still get the same profit back in Winston Salem, NC, or wherever they are based. So that black market, so to speak, is not something that, frankly, I see making the tobacco companies very unhappy. In fact, the managers' amendment includes antismuggling language that I coauthored. This language is tough. It will go a long way towards cracking down on smuggling—the same way we have cracked down on alcohol smuggling in recent years.

This $1.50 proposal has bipartisan support. I offered it as a sense of the Senate in the Budget Committee, and it passed overwhelmingly. It passed in the Budget Committee. A similar proposal passed with a bipartisan vote last week in the Finance Committee. There is a bipartisan Hansen-Meehan bill in the House that also increased the price by $1.50 over 3 years.

Mr. President, this amendment has bipartisan support because the American people strongly support it. A recent poll by the American Cancer Society showed that 59 percent of the American people support a $1.50 price increase—people who are going to be affected by it.

I think it is time for the full Senate to pass a $1.50 price increase and protect our children once and for all. We are going to see it in the voting. That voting is a public document that everyone can see, a public action that everyone can see.

I am going to close in just a couple of minutes here. I listened to the debate. I listened to the cries that this is just another scheme, a scheme to tax the public so those of us who are responsible for legislation and operation of Government can spend the money. That is the biggest hoax in the world.

Nobody, this Senator or any other Senator, on the right, on the left, in the Republican Party or the Democrats, enjoys spending the public's money. That is pure baloney, as we say in polite circles. We don't like taxing anybody. But people who smoke cause this society to spend $100 billion a year as a result of their smoking. We have the unfortunate experience of seeing a loved one die, or with a tracheotomy, as we saw last week at a hearing here. We heard a woman who was induced to represent a tobacco company as a model when she was 17 years old, and she said her employer said unless you smoke also, actually smoke, you don't quite have the real action that shows the satisfaction a smoker gets. And now she smokes through a tracheotomy in her throat. She was barely able to utter the sounds. It was pathetic, Mr. President, to see that happen.

I also had the benefit of a hearing where we had a famous male model for one of the tobacco companies who said he is dying. He said he was so ashamed of himself, when he went into the doctors office, went in for surgery, and the doctor said to him, "For goodness sake, don't smoke for a couple of weeks before you get to the hospital, whatever you do," and his doctor caught him smoking in the waiting room, waiting to be admitted to the hospital so he could have a lung taken out. That is how addicting tobacco is.

We ought not feel sorry for the people who run the tobacco companies. They ought to be ashamed. They ought to pay the price. It is time for them to come clean with the American public and say, "OK, we have done it wrong. We have made a mistake. We want to cooperate." Instead, they are mounting all kinds of spurious campaigns to try to deceive the public that the Senate, that the Congress, is trying to hurt them or hurt their families. It is not true. We ought not let them get away with it. So when I hear the stories, oh, we are going to just tax the American public, and a recitation of when these tax increases go through—I would like to recite just a few numbers in response.

There has never been a time in the history of this country when the economy is better than it is these very days, and it is better because we took some specific actions. It is better because we had a balanced budget on our agenda, and we approved one last year. I am a member of the Budget Committee and we saw it happen. We decided we were going to control our expenses. And the economy is booming. Look at the stock market. Look at interest rates—low; stock market, high. Interest rates, low; mortgage rates, low; home ownership high—we have not ever seen that kind of affluence in this society.

Everybody is not participating. I am not saying that at all. But to suggest that we have done things wrong in this country, in the management of this economy, and that what we have done is just picked people's pockets and taken the money and thrown it away is nonsense and the public will see through it. They are not going to believe that stuff. They have heard it before. They have seen it before. They know their children have a chance at a good job, they have a chance to get an education, that health care for their grandparents is going to be more assured. Social Security has moved up in its solvency— 2032 is the prospect. It is incredible. People can feel a lot better about their lives.

And longevity? Mr. President, I hate to admit how old I am, but I can tell you if you want to run or jog or go skiing or do all the other things, I am there, because there is an opportunity in this country to have a full life as one ages. I was a soldier in World War II. I served 3 years in the Army. I count my blessings every day for the good health I have seen and the five—and sixth grandchild, maybe today or maybe tomorrow that child will arrive. I can't wait for my daughter to say, "Hey, Dad, we have a new one in the family." I can assure you that child will never smoke if the parents or the grandparents have anything to say about it.

We want our children to be healthy. That is the purpose of this. It is to bring health to the younger part of our society so that, as they age they, too, can enjoy their grandchildren, enjoy their life, be in good health, do whatever they want to do—run, dance, whatever, and feel good about the life they have led. That is the kind of America we have today. That is the kind of America that developed because it had leadership and a willingness to pay the price with some tough votes, some which I didn't make that I wish I had.

So I want to see us pass this to tell the American people we are finished fooling around. We mean it when we say we want to stop teen smoking. We mean it when we say we are going to eliminate this scourge from our society. And we mean it when we stand up here and we vote and we say: OK, let the public see how we are doing it.

I yield the floor.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank my colleagues, Senator KENNEDY and Senator LAUTENBERG, for offering this important amendment. I would like to start by answering some of what our colleague from Missouri, Senator ASHCROFT, was referring to in terms of tax increases. The Senator from Missouri, Senator ASHCROFT, was referring to tax increases that have occurred. He was discussing what he termed the very high tax rates we currently face.

I wanted to bring some historical perspective to that question. This chart shows the outlays of the Federal Government in blue, the receipts of the Federal Government in red, over the last 20 years. As one can see, the spending of the Federal Government as a percentage of our national income has been coming down since President Clinton came into office. Spending has been coming down. Yes, revenue has been going up. And the result has been balanced budgets. That is how you balance a budget. We had $290 billion deficits, and it required cutting spending and, yes, revenue coming up to balance the budget.

We heard a lot of talk about balancing the budget before the 1993 budget deal was passed that, in fact, cut spending and, yes, raised revenue to balance the budget. But what happened? All we got was rhetoric. Let's just look at the record here. If we want to start talking about budgets and deficits, if that is what this debate is going to be about, let's have the debate. Here is what happened under President Reagan. The deficit skyrocketed. We had a lot of rhetoric about balancing the budget, but what we got were a lot of deficits, a lot of red ink, tripling the national debt. What we got under President Bush was even worse. The deficit nearly doubled from already high levels.

Now, what happened when President Clinton and the Democrats passed a budget plan to reduce the deficit? Yes, we did cut spending. Yes, we did raise revenue from the wealthiest 1.5 percent of the people in this country to balance the budget. And that is what has triggered this economic resurgence in this country—that is what I believe. I think the record is absolutely clear. Here are the facts. The deficit each and every year came down after we passed that 1993 budget plan, and now they are actually talking about budget surpluses this year.

That is the record. Those are the facts. But it doesn't tell the full story. Because while revenues went up, overall revenues went up, what happened to the individual tax burden—the individual tax burden? This shows, in 1984, the tax burden for a family of four with a median income level of $54,900 in 1999.

This is income plus payroll tax burden. These are the Federal taxes people are paying. In 1984, that burden on a family of four was 17 percent of their income. In 1999, it will be 15.1 percent. The tax burden on a family of four at the median income in this country has gone down. It has gone down, because while revenues are up, we have changed the distribution by giving targeted tax relief to moderate-income people.

That was our plan. That is what passed. That is what has made that difference in the lives of American families. Their tax burden has gone down, looking at the income and payroll taxes that they pay.

By the way, these are not KENT CONRAD's figures, these are the figures of the U.S. Treasury Department. That is for a family of four earning about $55,000 next year. That is what their tax burden is going to be.

For a family of four at half the median income, at $27,450, their tax burden will have been cut in half. These are facts. In 1984, a family of four earning $27,450 paid 13.2 percent. In 1999, they are going to pay 6.5 percent. Their tax burden, income and payroll taxes combined, has been cut in half. Now, those are facts.

Let's start talking about the issue that is in front of us.

The tobacco industry has a history of making statements that, frankly, are false. I don't know how else to say it. I don't know how to say it diplomatically when somebody is saying something that just "ain't" so. Let's look at the record.

I talk about these as the top 10 tobacco tall tales and the truths.

Tall tale No. 1: They came before Congress and they said tobacco has no ill health effects.

The truth: This is from their own documents. This is a 1950s Hill and Knowlton memo quoting an unnamed tobacco company research director. And he said:

> Boy, wouldn't it be wonderful if our company was first to produce a cancer-free cigarette. What we could do to the competition.

This is the industry that says their products cause no ill health effects.

Tall tale No. 2: Tobacco has no ill health effects.

Truth: From a 1978 Brown and Williamson document:

> Very few customers are aware of the effects of nicotine, i.e., its addictive nature and that nicotine is a poison.

These are the industry's own words. This is why this industry has no credibility anymore, when they come up with all this scare talk about black markets and bankruptcy and all the rest. And we will get to those issues one by one. This is their record for credibility.

Tall tale No. 3: Nicotine is not addictive, they told the American people.

The truth: From their own document, a 1972 research planning memo by R.J. Reynolds Tobacco Company researcher Claude Teague:

> Happily for the tobacco industry, nicotine is both habituating—

Addictive—

> and unique in its variety of physiological actions.

That is tall tale No. 3.

Tall tale No. 4: Again, the industry says nicotine is not addictive.

This is from a 1992 memo from Barbara Reuter, director of portfolio management for Philip Morris' domestic tobacco business:

> Different people smoke cigarettes for different reasons. But, the primary reason is to deliver nicotine into their bodies. Similar organic chemicals include nicotine, quinine, cocaine, atropine and morphine.

I don't know how these guys can run around the country saying their products aren't addictive, which their own documents—which we only received through the disclosure of the lawsuit in Minnesota—reveal that they know perfectly well they are addictive. They have known it a long time, and they have run around the country saying things that just aren't so. That is tall tale No. 4.

Tall tale No. 5: Tobacco companies did not manipulate nicotine levels.

The truth, from a 1991 R.J. Reynolds report:

> We are basically in the nicotine business. . . . Effective control of nicotine in our products should equate to a significant product performance and cost advantage.

They are in the nicotine business, and nicotine is addictive. Their previous document, it is like cocaine, it is like morphine—who are they kidding? We know better. We have read their documents. That is the problem with the credibility of this industry. We have now actually had a chance to read their documents that they had hidden away for so long.

This is tall tale No. 6: Tobacco companies did not manipulate nicotine levels.

The truth can be found in a 1984 British-American Tobacco memo:

> Irrespective of the ethics involved—

That is an interesting way to begin a memo—

> Irrespective of the ethics involved, we should develop alternative designs (that do not invite obvious criticism)—

You've got to love these guys—

> which will allow the smoker to obtain significant enhanced deliveries of [nicotine] should he so wish.

"Yeah, let's go out and give them double doses of nicotine so we hook them even further."

Tall tale No. 7: Tobacco companies don't market to children.

They came up to Congress, and they said, "We don't target children. We wouldn't do that."

Here is a 1978 memo from a Lorillard tobacco executive:

> The base of our businesses are high school students.

They don't target kids? What is that? That is their own words in their own documents. Of course, they were hidden away a long time, but now that we have them, we know what these folks have been up to. We know what these companies have been up to.

Tall tale No. 8: Again, their claim tobacco companies don't market to children.

Let's just look at their own words again. A 1976 R.J. Reynolds research department forecast:

> Evidence is now available to indicate that the 14- to 18-year-old age group is an increasing segment of the smoking population. RJR must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long term.

I don't know what could be more clear than the industry's own words.

Tall tale No. 9: Again, their claim they don't market to children.

This is from a 1975 report from Philip Morris researcher Myron Johnston:

> Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers, 15- to 19-years-old. My own data shows even higher Marlboro market penetration among 15- to 17-year-olds."

These are the industry's words. These are their words. This is their credibility that they have shredded. I don't know how many more examples we need to understand that this industry comes before us and they don't have clean hands. They don't come here with credibility, because they have undermined their own credibility with their statements of the past.

Tall tale No. 10: Again, their claim tobacco companies don't market to children.

This is from a Brown and Williamson document.

The truth:

> The studies reported on youngsters' motivation for starting their brand preferences, as well as the starting behavior of children as young as 5 years old—

Five years old—

> the studies examined young smokers' attitudes toward "addiction" and contain multiple references to how very young smokers at first believe they cannot become addicted, only to later discover, to their regret, that they are.

Well, it seems to me the record on the credibility of this industry is quite clear.

So that brings us to the question of this amendment. And the importance of this amendment has everything to do with reducing youth smoking. That really is the reason for this amendment, because we have held over 24 hearings in our task force and we have heard repeatedly from the experts. And we have looked at the evidence.

The evidence shows, first of all, that the percentage of teens who smoked in the past month is going up. It has gone from 28 percent of 12th graders in 1991 to this year, 36 percent. The pattern is the same for 10th graders and 8th graders. Smoking among high school seniors is at unprecedented levels. The percentage of seniors who smoked in the last month: in 1991, it was 28.3 percent; 1997, 36.5 percent. Teenage smoking is going up. Eighth graders, 10th graders, 12th graders, the pattern is the same.

The question before the body is, well, is there any indication that a price increase will change that? And the evidence is overwhelming. Our own Congressional Research Service tells us for every 10-percent increase in price, you will get about a 7-percent reduction in teen smoking; a 10-percent increase in price, a 7-percent reduction in youth smoking.

It is not just the Congressional Research Service. The studies that have been done on the econometrics of demand versus price show the same thing. Dr. Chaloupka did the breakthrough study. He concluded much the same thing as the Congressional Research Service: for every 10-percent increase in price, about a 7-percent reduction in youth usage.

But we do not have to rely on studies. We do not have to look at econometrics analysis and we do not have to listen to the Congressional Research Service. We do not have to listen to Drs. Koop and Kessler. All we have to do is look to our neighbors to the north. Here is what happened there. Youth smoking declined sharply when they saw a significant price increase. This isn't some academic study. This is what happened in the real world.

Well, the experts, as I have said, have all testified to precisely that fact. And here is what two of the noted experts tell us about different levels of pricing and what it will mean to reductions in youth smoking.

The Treasury Department tells us over 5 years that under the proposed settlement we would get an 18-percent reduction in youth smoking. Under the legislation before us, by Senator McCAIN, we get a 32-percent reduction. Under the amendment before us, we would get a 40-percent reduction. Now that is the Treasury Department.

Dr. Chaloupka, who is perhaps the most widely recognized expert because he has studied all the studies, has concluded that the proposed settlement would reduce teen smoking 20 percent, the work by Senator McCAIN and the bill before us would reduce youth smoking over 5 years by 33 percent, but the amendment before us would reduce youth smoking by 51 percent. These are what the experts are telling us.

I ask unanimous consent to have printed in the RECORD a letter I have just received from Dr. Koop and Dr. Kessler. It is addressed to me.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE ADVISORY COMMITTEE ON
TOBACCO POLICY AND PUBLIC HEALTH,
May 19, 1998.

Hon. KENT CONRAD,
U.S. Senate, Washington, DC.

DEAR SENATOR CONRAD: I am writing to urge that you and your colleagues support an amendment to the Commerce Committee bill to raise and accelerate the price increase on tobacco products. I do so because I believe that such an increase will be one of the most effective means available to the Senate to reduce the number of children who start smoking or using spit tobacco.

The Advisory Committee on Tobacco and Public Health Policy that we chaired last summer recommended that the price per pack increase by at least $1.50. This in itself was moderate and realistic: Other studies have recommended that the price increase by $2.00 or more. But the message is clear: Raising prices reduces youth smoking.

It is as simple as this: Price affects demand, and price affects demand steeply among children. Study after study has demonstrated that when prices go up, fewer children start to smoke. This is important because children are not yet addicted and they can refrain from tobacco use. Moreover, there is good evidence that if people do not start smoking by the age of 18, they do not start at all.

And the size of the price hike matters. The most prominent experts on tobacco sales, estimate that a price increase of $1.10 will result in a 34% decline in children smoking, while an increase of $1.50 will result in a 56% decline. The amendment would result in a 22% further decline in children smoking.

So we urge you to move decisively and to act on the behalf of the Nation's children. Increase the price. Lower the demand. Save children from this addictive and deadly product.

Sincerely,
C. EVERETT KOOP, M.D.
DAVID A. KESSLER, M.D.

Mr. CONRAD. The letter says:

> [We are] writing to urge that you and your colleagues support an amendment . . . to raise and accelerate the price increase on tobacco products. [We] do so because [we] believe such an increase will be one of the most effective means available to the Senate to reduce the number of children who start smoking or use spit tobacco.

They go on to point out:

> It is as simple as this: Price affects demand, and price affects demand steeply among children. Study after study has demonstrated that when prices go up, fewer children start to smoke. This is important because children are not yet addicted and they can refrain from tobacco use. Moreover, there is good evidence that if people do not start smoking by the age of 18, they do not start at all.

This is Dr. Koop, the former Surgeon General of the United States, and Dr. Kessler, the former head of the Food and Drug Administration. They go on to say:

> And the size of the price hike matters. The most prominent experts on tobacco sales, estimate that a price increase of $1.10 will result in a 34% decline in children smoking, while an increase of $1.50 will result in a 56% decline. The amendment would result in a 22% further decline in children smoking.

That is from Dr. Koop and Dr. Kessler, men who have served both Republican administrations and Democratic administrations, telling us to support this amendment.

Now, what does it mean when we talk about more teenagers not smoking? What does it mean in terms of lives? Well, here is what it means: A $1.50 price means 2.7 million additional teenagers not smoking, that is over the bill before us. And it means 800,000 children over time not dying because of the use of tobacco products.

What we are talking about in this amendment is not just dollars and cents. It is much more important than that. It is children's lives. We are talking about a vote that means 800,000 more people will live if we pass it. So the choice before this body is really very simple: Do you want 800,000 more people to live or do you want them to die?

This is going to be an important vote and an important question before every Member of this Senate. I hope it is on everybody's conscience tonight: What are we going to do? How are we going to vote? What difference are we going to make? What are we going to say? Are we going to save 800,000 people—800,000 children—or are we going to condemn them to death by using the only legal product in America, when used as intended by the manufacturer, that addicts and kills its customers?

Mr. President, 400,000 people are going to die this year because of tobacco-related illnesses. It is by far and away the biggest health threat that is controllable. So this vote tomorrow is going to be a vote on 800,000 American lives. Are we going to save them? Or are we going to condemn them to death? And it is an awful death.

At hearing after hearing we have heard the stories of those who have been through the agonizing experience of being told they are dying of cancer. The last hearing we had we had a man who had been a Winston model. Now he has lung cancer. We had a woman who had been a Lucky Strike spokesperson, and by the terms of her contract was required to start smoking. Now she speaks through a voice box.

Over and over, we had the testimony of people, the devastation of using tobacco products, what it has meant to their families and to themselves.

I can remember very well being in New Jersey at a hearing Senator LAUTENBERG organized. We had a young woman there named Gina Seagraves. And she testified telling of the effect on her family of the loss of her mother at an early age, how it devastated their family. She broke down and cried. And she said, "Please have the courage to stand up to the tobacco companies and do what you can to keep kids from getting hooked."

Well, that is what this debate is about. That is what this vote is about.

And when the industry says, "Well, you're going to bankrupt us," here is what the experts at the Treasury—the secretary for Financial Markets testified before our task force. And I quote, "We do not believe that the proposed legislation will materially affect the industry's risk of insolvency."

He went on and said in the very next sentence, "Even under conservative assumptions with respect to price, domestic sales volume, and operating margins, the tobacco industry will remain very profitable." They are not going bankrupt. They are going to have their profits nicked a little bit. They are not going bankrupt.

In fact, here is what is going to happen to them. When you do a financial analysis of these companies—this was done by the U.S. Treasury Department—under a $1.10 increase, their profits in the year 2003 will be $5 billion. If, instead, we raise the price to $1.50, their profits will be $4.3 billion in the year 2003. They are not going bankrupt.

That is flawed. They run around the country saying they will be bankrupted. Every objective analyst has said they are not going bankrupt. Their profits will be somewhat reduced, but they will still enjoy massive profits. If fact, this industry is three times as profitable as the average consumer goods industry in America today. Their profit margins are 30 percent. The average consumer goods company has a 10 percent margin.

Let's not cry any crocodile tears for this industry. When they come before us and say they will be bankrupted by $1.10 under the McCain bill or $1.50 under the Kennedy-Lautenberg amendment, they are not telling the truth, just like they didn't tell the truth when they said their products didn't cause health problems, just like they didn't tell the truth when they said their products weren't addictive, just like they didn't tell the truth when they said they didn't market to kids, just like they didn't tell the truth when they said these products were not manipulated to further addict young people.

Look, the record is clear on every issue: They are not telling the American people the full truth.

When we investigate this question further, they say it will bankrupt them. They say it will create this massive black market. Let's look. Let's look at where we fit in terms of tax and prices and where the rest of the industrialized world fits in.

This chart came out of the Washington Post last Saturday. These are not my numbers; these are from the Washington Post last Saturday. Prices in Norway on a pack are well over $6, about $7 a pack in Norway. In Britain, prices are about $5 a pack; in Denmark, just under $5 a pack; in Finland, just under $5 a pack; in New Zealand, about $4.20 a pack; in France, about $3.75 a pack; in Canada, about $3.50 a pack; in the Netherlands, about $3.30 a pack; in Singapore, nearly $4 a pack; in Brazil, Thailand, and the United States, under $2. Our average price, about $1.94.

So they talk about this massive black market. How is it that these countries that have much higher prices don't have much of a black market problem? And even if we added $1.10 to $1.94—which is in the McCain bill, taking it to $3.04—we would be well below most of the rest of the industrialized world in terms of a price. Even if we had $1.50, we would be well below the average price in the rest of the industrialized world.

Again on this question of black market activity, we had an international expert before our task force. He provided us with this chart. It showed the price of cigarettes and the level of smuggling in the countries of the European Union. It was a very, very interesting report. This man is an international consultant to countries on how to combat smoking. Here is what his report shows. Countries with high smuggling levels are in red; medium are in yellow; low smuggling rates are in green. On this axis, we have the price per pack.

What you find is very interesting. The countries with the highest prices have the least smuggling. The countries with lower prices have the smuggling problem. Spain has the lowest price, yet it has the highest smuggling problem of any country in Europe. Portugal has a medium level of smuggling and has among the lowest prices. You can see right up the line. But the countries with the highest prices have the lowest rates of smuggling—France, Ireland, U.K., Finland, Denmark.

Now, these guys come around and say there will be this massive black market—massive black market. It hasn't developed in these other countries in the European Union that have much higher prices than we do. Why not? Because they have control mechanisms. They have labeling. They have licensing of those who sell.

Here is what the Treasury Department, Larry Summers, Deputy Secretary, said just at the end of last month: "The black market can and should be minimized through careful legislation." He said, "By closing the distribution chain for tobacco products, we will be able to ensure that these products flow through legitimate channels and effectively police any leakages that do take place."

I close as I began. This is a question of saving children's lives. This vote tomorrow is a question of, do we save 800,000 lives or don't we? A very simple choice—a profound choice, but it is very simple. That is what this vote will be tomorrow. Are we going to keep an additional 2.7 million kids from taking up the habit of smoking? That translates into 800,000 lives saved. Or do we miss the opportunity to throw those kids a lifeline and prevent them from taking up a habit that will addict them, that will create disease in them, and that will ultimately kill a third of them? That is the record.

The factual base could not be more clear. Every health expert that came before our task force said that is the issue. That is why Dr. Koop and Dr. Kessler have written us this day and urged us to have the courage to act. I hope our colleagues will have the courage to act.

I want to commend Senator MCCAIN. I want to commend Senator KERRY and the other Members of the Commerce Committee who have done a Herculean job to get us an excellent package to begin deliberations on. They have done a superb job and have shown remarkable public courage. I think every American should stand up and commend them for what they have done. They have brought to this floor the most sweeping, the most comprehensive, the most profound bill in terms of tobacco policy we have ever had before us. They have done it against long odds. We are in their debt. But it is also true we have an opportunity to make this bill somewhat better. I hope we take that chance.

I yield the floor.

Mr. MCCAIN. I want to thank the Senator from North Dakota for not only his kind remarks but for the enormous contributions he has made to this effort. He has worked tirelessly. He has appeared with our committee—not before our committee, but with our committee, where we had one of the most stimulating, I think, dialog and exchange of views since I have been a member of that committee.

I want to thank him. I know there will continue to be areas where we are not in agreement. The fact is, we disagree very agreeably.

I also want to mention again our friends, the attorneys general who began this process. Forty of them settled a suit with the industry back on June 20. This legislation that we are considering now is a direct result of that initial effort on their part. They have been extremely helpful as we moved this process along.

It is my understanding that the Senator from Massachusetts has agreed to conclude his remarks after the wrap-up. Is that correct?

Mr. KENNEDY. That is correct.

Mr. McCAIN. I yield the floor.

Mr. KERRY. I thank the Chair. I will be very brief. I join in thanking Senator CONRAD for his very generous comments about the Commerce Committee and about Senator MCCAIN's and my efforts in it.

The truth is that so much of the energy of the Senate has been focused as a result of Senator CONRAD's leadership. The task force effort that he put together was really exemplary. It reached every corner of every community that has anything to do with this issue. It is one of the most thorough and exacting pieces of work that I have seen in the Senate. I think Senator MCCAIN would agree with me that there are significant components of the product that has been brought to the floor as a result of his efforts and leadership and his vision about this issue. So I think the quality of the presentation he just made to the Senate and to the country is a tribute to the groundwork he has done in order to get us here.

Likewise, for years, my colleague from Massachusetts, the senior Senator from Massachusetts, has been at the forefront of all of the health issues with respect to children and, particularly, leading the effort with respect to the awareness of tobacco, and his leadership on this has been essential to our ability to have this product. So I thank them for that. I will say more about this particular issue tomorrow.

Very quickly, I might say to the Senator from North Dakota that a few weeks ago there was an article in the New York Times that showed that the smuggling, to the degree there was a problem, has fundamentally been between countries, our cigarettes going out from the United States to Europe as a consequence of the price differential. If anything, as a result of the increase in price, there is a potential of closing that gap, No. 1.

No. 2, with respect to those who worry about Mexico or an infusion into this country, we have an increase in the law enforcement and inspection capacity. Most people in the law enforcement community accept that the returns on heroin and cocaine are so much more significant than the bulk difficulties of transferring cigarettes, and that is a deterrent to those becoming a problem.

Most people want the quality of the American cigarette. They are not particularly prepared to smoke Chinese or other kinds of cigarettes. There are a whole lot of ingredients that work against the smuggling argument, and we will get to that.

I thank the Senator for his efforts.

REGARDING PLACEMENT OF THE REQUIRED INSCRIPTIONS ON QUARTER DOLLARS ISSUED UNDER THE 50 STATES COMMEMORATIVE COIN PROGRAM

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3301, which was received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 3301) to amend chapter 51 of title 31, U.S. Code to allow the Secretary of the Treasury greater discretion with regard to the placement of the required inscriptions on quarter dollars issued under the 50 States commemorative coin program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent that the bill be considered read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3301), was considered read the third time, and passed.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, May 18, 1998, the federal debt stood at $5,497,225,027,113.83 (Five trillion, four hundred ninety-seven billion, two hundred twenty-five million, twenty-seven thousand, one hundred thirteen dollars and eighty-three cents).

Five years ago, May 18, 1993, the federal debt stood at $4,284,320,000,000 (Four trillion, two hundred eighty-four billion, three hundred twenty million).

Ten years ago, May 18, 1988, the federal debt stood at $2,523,270,000,000 (Two trillion, five hundred twenty-three billion, two hundred seventy million).

Fifteen years ago, May 18, 1983, the federal debt stood at $1,268,788,000,000 (One trillion, two hundred sixty-eight billion, seven hundred eighty-eight million).

Twenty-five years ago, May 18, 1973, the federal debt stood at $453,126,000,000 (Four hundred fifty-three billion, one hundred twenty-six million) which reflects a debt increase of more than $5 trillion—$5,044,099,027,113.83 (Five trillion, forty-four billion, ninety-nine million, twenty-seven thousand, one hundred thirteen dollars and eighty-three cents) during the past 25 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:55 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that pursuant to the provisions of section 806(c)(1) of Public Law 104–132, the Speaker appoints the following member on the part of the House to the Commission on the Advancement of Federal Law Enforcement to fill the existing vacancy thereon: Mr. Robert E. Sanders of Florida.

ENROLLED BILLS SIGNED

At 2:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1065. An act to establish a matching grant program to help State and local jurisdictions purchase armor vests for use by law enforcement departments.

H.R. 3565. An act to amend Part L of the Omnibus Crime Control and Safe Streets Act of 1968.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 8. A bill to reauthorize and amend the Comprehensive Environmental Response, Liability, and Compensation Act of 1980, and for other purposes (Rept. No. 105–192).

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 172. A resolution congratulating President Chandrika Bandaranaike Kumaratunga and the people of the Democratic Socialist Republic of Sri Lanka on the celebration of 50 years of independence.

S. Res. 188. A resolution expressing the sense of the Senate regarding Israeli membership in a United Nations regional group.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Charles H. Dolan, Jr., of Virginia, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2000. (Reappointment)

William Joseph Burns, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Hashemite Kingdom of Jordan.

Federal Campaign Contribution Report

Nominee: William J. Burns.

Post: Ambassador to Jordan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: William J. Burns, none.
2. Spouse: Lisa A. Carty, none.
3. Children: Elizabeth and Sarah Burns, none.
4. Parents: William F. Burns, $100, 1996, Republican National Committee; Margaret C. Burns, none.
5. Grandparents: William H. and Eleanor Burns (deceased); John and Mary Cassady (deceased).
6. Brothers and spouses: John R. and Ann Davis Burns, none; Robert P. and Vicki Burns, none.
7. Sisters and spouses: Mark E. and Jennifer Burns, none.

Ryan Clark Crocker, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic.

Federal Campaign Contribution Report

Nominee: Ryan Clark Crocker.

Post: Ambassador to Syrian Arab Republic.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: Christine Barns Crocker, none.
3. Children and spouses: none.
4. Parents: Carol Crocker, none; Howard Crocker (deceased).
5. Grandparents: All deceased since 1926.
6. Brothers and spouses: none.
7. Sisters and spouses: none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of March 26, 1998 and April 22, 1998, at the end of the Senate proceedings.)

In the Foreign Service nominations beginning Alexander Almasov, and ending James Hammond Williams, which nominations were received by the Senate and appeared in the RECORD of March 26, 1998

In the Foreign Service nominations beginning Joan E. La Rosa, and ending Morton J. Holbrook, III, which nominations were received by the Senate and appeared in the RECORD of March 26, 1998

In the Foreign Service nominations beginning Michael Farbman, and ending Mary C. Pendleton, which nominations were received by the Senate and appeared in the RECORD of April 22, 1998

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAMS:

S. 2091. A bill to amend title XVIII of the Social Security Act to ensure medicare reimbursement for certain ambulance services, and to improve the efficiency of the emergency medical system, and for other purposes; to the Committee on Finance.

By Mr. SMITH of Oregon (for himself, Mr. WYDEN, Mr. THOMAS, and Mr. BROWNBACK):

S. 2092. A bill to promote full equality at the United Nations for Israel; to the Committee on Foreign Relations.

By Mr. FEINGOLD:

S. 2093. A bill to provide class size demonstration grants; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DORGAN (for himself, Mr. KEMPTHORNE, Mr. WYDEN, Mrs. MURRAY, Mr. JOHNSON, Mr. BAUCUS, Mr. CRAIG, Mr. BURNS, Mr. SMITH of Oregon, Mr. CONRAD, Mr. GORTON, Mr. DASCHLE, Mr. ENZI, and Mr. THOMAS):

S. Res. 232. A resolution to express the sense of the Senate that the European Union should waive the penalty for failure to use restitution subsidies for barley to the United States and ensure that restitution or other subsidies are not used for similar sales in the United States and that the President, the United States Trade Representative, and the Secretary of Agriculture should conduct an investigation of and report on the sale and subsidies; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAMS:

S. 2091. A bill to amend title XVIII of the Social Security Act to ensure medicare reimbursement for certain ambulance services, and to improve the efficiency of the emergency medical system, and for other purposes; to the Committee on Finance.

EMERGENCY MEDICAL SERVICES EFFICIENCY ACT OF 1998

Mr. GRAMS. Mr. President, I rise this morning on behalf of all those who serve their fellow citizens through their active participation in the Nation's emergency care system to introduce the Emergency Medical Services Act.

Mr. President, as a Senator who is deeply concerned about the ever-expanding size and scope of the Federal Government, I have long believed Washington is too big, too clumsy and too removed to deal effectively with many of the issues in which it already meddles.

However, I also believe there's an overriding public health interest in ensuring a viable, seamless, nationwide EMS system. By designating this week as National EMS Week, the Nation recognizes those individual who make the EMS system work.

There is no more appropriate time to reaffirm our commitment to EMS by addressing some of the problems the system is presented with daily.

I have been privileged to get to know the men and women who dedicate their talents to serving others in an emergency. We have together discussed problems within the EMS system and concluded there are areas in which the Federal Government can help.

The original result of our discussions concerning the Federal role in EMS was S. 238, the Emergency Medical Services Act [EMSEA]. When I introduced S. 238 on January 30, 1997, I acknowledged that it wasn't intended to solve all the problems EMS faces; it was merely a first step toward a meaningful national dialog on EMS. Indeed, this first step was a productive one.

Last summer, I assembled EMS and health care leaders in Minnesota, asked them to take another look at the EMSEA, and report back to me with their thoughts. In January, I received a copy of their report.

I was extremely pleased with their efforts and have used those suggestions as the basis for the legislative language comprising the new Emergency Medical Services Efficiency Act I am introducing today.

I have often said that Congress has a tendency to wait until there's a crisis before it acts, but Congress cannot wait until there's a crisis in the EMS system before we take steps to improve it. There is simply too much at stake.

Whether we realize it or not, we depend on and expect the constant readiness of emergency medical services. To ensure that readiness, we need to make efficient and effective efforts to secure the stability of the system.

This has been my focus in redrafting this legislation.

There are many similarities between S. 238 and the new bill I am introducing today.

For instance, we continue to assert that the most important thing we can do to maintain the vitality of the EMS system is to compel the government to reimburse for the services it says it will pay for under Medicare.

In the meetings I have had with ambulance providers, emergency medical technicians, emergency physicians, nurses, and other EMS-related personnel, their most common request is to base reimbursement on a "prudent layperson" standard, rather than the ultimate diagnosis reached in the emergency room.

While the Balanced Budget Act of 1997 [BBA] contained a provision basing reimbursement for emergency services on the prudent layperson standard, we have yet to see HCFA's interpretation of the provision and whether it will include ambulance services.

I have written letters to HCFA and Senate Finance Committee Chairman WILLIAM ROTH indicating my understanding that ambulance services would be considered part of "emergency services" as defined in the BBA.

I have been given no assurances from HCFA that they intend to include ambulance services as part of the "emergency services" definition in the balanced budget agreement.

To illustrate how prevalent this problem is, I want to share with you a case my staff worked on relating to Medicare reimbursement for ambulance services. Please keep in mind that this is the fee-for-service Medicare program.

It was back in 1994 that Andrew Bernecker of Braham, MN, was mowing with a power scythe and tractor when he fell. The rotating blades of the scythe severely cut his upper arm. Mr. Bernecker tried to walk toward his home but was too faint from the blood loss, so he crawled the rest of the way.

Afraid that his wife, who was 86 years old at the time, would panic—or worse, have a heart attack—he crawled to the pump and washed as much blood and dirt off as he could. His wife saw him and immediately called 911 for an ambulance.

He was rushed to the hospital where Mr. Bernecker ultimately had orthopedic surgery and spent some time in the intensive care unit.

In response to the bills submitted to Medicare, the Government sent this reply with respect to the ambulance billing:

> Medicare Regulations Provide that certain conditions must be met in order for ambulance services to be covered.
>
> Medicare pays for ambulance services only when the use of any other method of transportation would endanger your health.

The Government denied payment, claiming the ambulance wasn't medically necessary.

Apparently, Medicare believed the man's wife—who was, remember, 86 years old—should have been able to drive him to the hospital for treatment. Mr. and Mrs. Bernecker appealed, but were denied, and they began paying what they could afford each month on the ambulance bill.

After several years of paying $20 a month, they finally paid off the ambulance bill. Medicare however, later reopened the case and reimbursed the Berneckers.

I believe the experience this family had with Medicare's denial of payment for ambulance services happens far too often, and Congress needs to make sure it doesn't happen again.

Another similarity between the two versions of this bill is the creation of a Federal commission on emergency medical services to make recommendations and to help provide input on how Federal regulatory actions affect all types of EMS providers.

EMS needs a seat at the table when health care and other regulatory policy is made.

Few things are more frustrating for ambulance services than trying to navigate and comply with the tangled mess of laws and regulations from the Federal level on down, only to receive either a reimbursement that doesn't cover the costs of providing the service or otherwise a flat denial of the payment.

Mr. President, I came across this chart last year, the chart I have with me on the floor this morning, that demonstrates how a Medicare claim moves from submittal to payment, denial, or write-off by the ambulance provider.

If you look at this chart, I ask you, tell me how a rural ambulance provider who depends on volunteers has the manpower or the expertise to navigate through this entire mess. And, in the event that it is navigated successfully, ambulance services are regularly reimbursed at a level that doesn't even cover their costs.

Now let us talk about how much it costs to run just one ambulance. There is the cost of the dispatcher who remains on the line to give prearrival assistance, the ambulance itself, which costs from $85,000 to $100,000 to put on the road, the radios, beepers, and the cellular telephones used to communicate between the dispatcher, the ambulance, and the hospital, the supplies and equipment in the ambulance, including defibrillators, stretchers, EKG monitors, and bandages, and the two emergency medical technicians or paramedics who both drive the ambulance and provide care to the patient, the vehicle repair, maintenance, and insurance costs, and the liability insurance for the paramedics. As you can see, the list goes on and on.

Yes, the costs can be high, but it is clear to me that, with the uncertainty ambulance providers face out in the field each day, they need to be prepared for every type of injury or condition. Mr. President, that is expensive, but we as consumers expect that in the case of an emergency.

I am convinced those who complain about the high costs of emergency care would be aghast if the ambulance that arrived to care for them in an emergency didn't have the lifesaving equipment needed for their treatment.

Let us be honest with ourselves: We want the quickest and best service when we face an emergency—and the bottom line is that costs money.

Mr. President, many of our political debates in Washington center around how to better prepare for the 21st century.

I have always supported research and efforts to expand the limits of technology and continue to believe technological innovations and advances in biomedical and basic scientific research hold tremendous promise.

Under the new bill I am introducing today, Federal grant programs will be clarified to ensure that EMS agencies are eligible for programs that relate to highway safety, rural development, and tele-health technology.

Emergency medical services have come a long way since the first ambulance services began in Cleveland and New York City way back during the 1860's.

Indeed, the scientific and technological advances have created a new practice of medicine in just 2 short decades, and have dramatically improved the prospects of surviving any serious trauma.

There is reason to believe further advances will have equally meaningful results.

Innovations like tele-health technology may soon allow EMT's, nurses, and paramedics to perform more sophisticated procedures under a physician's supervision via real-time, ambulance-mounted monitors and cameras networked to emergency departments in specific service areas.

By not considering EMS agencies for Federal grant dollars, we may cause significant delays in the application of current technologies. That would be a mistake.

Perhaps the most dramatic departure the reintroduced bill takes from S. 238 related to the designation of a lead Federal agency for EMS.

In August of 1996, the National Highway Traffic and Safety Administration and the Health Resources and Services Administration, Maternal and Child Health Bureau issued their report, "Emergency Medical Services: Agenda for the Future."

The report outlined specific ways EMS can be improved, and one of the stated goals was the authorization of a "lead Federal agency."

My original legislation instructed the Secretaries of Health and Transportation to confer on and facilitate the transfer of all EMS-related functions to the Department of Transportation.

While we recognized that there would be some who would applaud the notion and others who would berate it, the suggestion compelled people to consider the issue and offer alternative approaches.

The recommendations of the advisory committee and the comments I have received from national groups indicate we have yet to reach a solution to the problematic designation of a lead Federal agency.

As such, under the new legislation, we call for an independent study to determine which existing agency or new board would best serve as the lead Federal entity for EMS.

The concerns expressed to me about designating the Department of Transportation as the lead Federal agency were virtually identical to the concerns about granting lead-agency designation to the Department of Health and Human Services. It just didn't seem to fit.

Therefore, I believe the most appropriate action is to take our time and get it right by conducting this study.

Mr. President, in 1995, there were approximately 100 million visits to emergency departments across the country.

Roughly 20 to 25 percent of those visits started with a call for an ambulance. Each one of those calls is important, especially to those seeking assistance and the responding EMS personnel.

The Nation owes a great deal to the EMS personnel who have dedicated themselves to their profession because they care about people and they want to help those who are suffering.

Nobody gets rich as a professional paramedic, and there is even less compensation as a volunteer. The field of emergency medical services presents many challenges—but offers the reward of knowing you helped someone in need of assistance.

Every year, the American Ambulance Association recognizes EMS personnel across the country for their contributions to the profession, and bestows upon them the Stars of Life Award.

This year, 124 individuals have been chosen by their peers to be honored for demonstrating exceptional kindness and selflessness in performing their duties.

I ask unanimous consent to have printed the 1998 American Ambulance Association Stars of Life honorees in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1998 STARS OF LIFE HONOREES

Alaska—Monica Helmuth.

Arizona—Jeff Mayhew, Michael Norling, Tammy Smith, Karen Deo, and Sharon R. Featherston.

California—Eva Eveland, John Erie Henry, Chris McGeragle, Nephty Landin, Victor Oseguera, Todd Hombs, Kathy Hester, Les Hutchison, David Pratt, Ted Boorkman, and Paul Maxwell.

Colorado—Kurt Dennison and Jed Swank.

Connecticut—Leonard Sudniek, Michael Pederson, and Alfonso Anglero.

Delaware—Mary McGuire.

Florida—Sean Kelley, Kenneth Warner, David Meck, and John Morrow.

Georgia—Damon Wisdom and Dwayne Friday.

Hawaii—Thomas Sodoma.

Iowa—Elaine Snell and Gary Soderstrom.

Illinois—Julie Burke.

Indiana—Thomas Shoemaker, Rebecca Johnson, and Betty Nickens.

Kansas—Darren Root.

Kentucky—Aaron Gutermuth.

Louisiana—Mark Reis, Wilson "Billy" Hughes, Patrice Shows, and Dennis McKinley.

Massachusetts—Warren F. Nicklas, Shawn Payton, Bernard Underwood, Chester "Chuck" Cummens, Michael Ward, Dana Gerrard, Priscilla Gerrard, and John Conceison, Jr.

Maryland—James Pirtle, John Dimitriadis, Chad Packard, and Jeff Meyer.

Maine—Paul Knowlton and Doug Chapelle.

Michigan—Nancy Hunger, Craig Veldheer, Jeffrey Buchanan, Timothy Waters, Lydia Paulus, Thomas Scott, and Tonya Prescott.

Minnesota—Daryl Howe, Dan Anger, and John Hall.

Missouri—David Michael, Royce McGuire, and Kirk N. Wattman.

Mississippi—Denise Pilgreen.

North Carolina—Cynthia Seamon, Amy Beinke, Jerry Cornelison, Ronald Corrado, Thomas Wright, Tim Marshburn, and Heather VanRaalte.

Nebraska—Jodi Kozol.

New Jersey—Kimberly Matthews and Michael Maciejczyk.

New Mexico—Gergory Pollard.

Nevada—Mike Denton and Eric Guevin.

New York—Thomas Murphy, Vicki Knarr, Tina Pawlukovich-Cross, Lynn Pulaski, Stacey Wallace, Larry Abbey, Edward Schaeffer, Brent Sala, Dana Peritore, Jean Zambrano, Darrel Grigg, Debra Yandow, John Falgitano, Sam Lubin, and Jim Mazzucca.

Ohio—Kenton Kirkland, Robert Good, and James Drake.

Oklahoma—Terri Farmer.

Oregon—Gregory Sanders, Doug Carlson, and Shawn Hunt.

Pennsylvania—Lisa Mauger, Stephanie Schmoyer, and Christine Webster.

Tennessee—James Quilliams.

Texas—Cory Jeffcoat, Eric Silva, Christine Saucedo, Elaine Tyler, and Brad Redden.

Utah—Marcie Mehl, Charles Cruz, and Patrick Eden.

Virginia—Gerrit "Bip" Terhune.

Vermont—Eric Davenport and Paul Jardine.

Washington—George McGibbon and Jim Hogenson.

Mr. GRAMS. Mr. President, in closing I have talked with many EMT's, paramedics, and emergency nurses, and most tell me that they wouldn't think of doing anything else for their chosen career.

So, in honoring them during this National EMS Week, I can think of no better way to recognize their service than through the introduction of legislation that will help them to help others.

I ask my colleagues to support them by supporting the Emergency Medical Services Act.

By Mr. SMITH of Oregon (for himself, Mr. WYDEN, Mr. THOMAS, and Mr. BROWNBACK):

S. 2092. A bill to promote full equality at the United Nations for Israel; to the Committee on Foreign Relations.

EQUALITY FOR ISRAEL AT THE UNITED NATIONS ACT OF 1998

Mr. SMITH of Oregon. Mr. President, today I introduce legislation requiring the Secretary of State report on actions taken by our Ambassador to the United Nations to push the nations of the Western Europe and Others Group (WEOG) to accept Israel into their group.

As you may know, Israel is the only nation among the 185 member states that does not hold membership in a regional group. Membership in a regional group is the prerequisite for any nation to serve on key United Nations bodies such as the Security Council. In order to correct this inequality, I am introducing "The Equality for Israel at the United Nations Act of 1998." I believe that this legislation will prompt our United Nations Representative to make equality for Israel at the United Nations a high priority.

I am proud to be joined by Senators WYDEN, BROWNBACK, and THOMAS as original co-sponsors of this important legislation.

Mr. President, Israel has been a member of the United Nations since 1949, yet it has been continuously precluded from membership in any regional bloc. Most member states from the Middle East would block the vote needed to join their own regional group. The Western Europe and Others Group, however, has accepted countries from other geographical areas—the United States and Australia for example.

Recently United Nations Secretary General Kofi Annan announced that "It's time to usher in a new era of relations between Israel and the United Nations . . . One way to rectify that new chapter would be to rectify an anomaly: Israel's position as the only Member State that is not a member of one of the regional groups, which means it has no chance of being elected to serve on main organs such as the Security Council or the Economic and Social Council. This anomaly would be corrected."

I believe it is time to back Secretary General Annan's idea with strong support from the United States Senate and I ask all my colleagues to join me in sending this message to the UN to stop this discrimination against Israel.

Mr. President, I ask unanimous consent to have this legislation printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2092

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equality for Israel at the United Nations Act of 1998".

SEC. 2. EFFORTS TO PROMOTE FULL EQUALITY AT THE UNITED NATIONS FOR ISRAEL.

(a) CONGRESSIONAL STATEMENT.—It is the sense of the Congress that—

(1) the United States must help promote an end to the persistent inequity experienced by Israel in the United Nations whereby Israel is the only longstanding member of the organization to be denied acceptance into any of the United Nations regional blocs, which serve as the basis for participation in important activities of the United Nations, including rotating membership on the United Nations Security Council; and

(2) the United States Ambassador to the United Nations should take all steps necessary to ensure Israel's acceptance in the Western Europe and Others Group (WEOG) regional bloc, whose membership includes the non-European countries of Canada, Australia, and the United States.

(b) REPORTS TO CONGRESS.—Not later than 60 days after the date of the enactment of this Act and on a quarterly basis thereafter, the Secretary of State shall submit to the appropriate congressional committees a report which includes the following information (in classified or unclassified form as appropriate):

(1) Actions taken by representatives of the United States, including the United States Ambassador to the United Nations, to encourage the nations of the Western Europe and Others Group (WEOG) to accept Israel into their regional bloc.

(2) Efforts undertaken by the Secretary General of the United Nations to secure Israel's full and equal participation in that body.

(3) Specific responses solicited and received by the Secretary of State from each of the nations of Western Europe and Others Group (WEOG) on their position concerning Israel's acceptance into their organization.

(4) Other measures being undertaken, and which will be undertaken, to ensure and promote Israel's full and equal participation in the United Nations.

By Mr. FEINGOLD:

S. 2093. A bill to provide class size demonstration grants; to the Committee on Labor and Human Resources.

• Mr. FEINGOLD. Mr. President, today I introduce the National SAGE Act. This legislation would authorize a limited number of innovative demonstration grant programs to assist states in their efforts to reduce public school class size and improve learning in the earliest grades.

Mr. President, my own state of Wisconsin has been a leader in the effort to reduce class size in public schools. This legislation is modeled after Wisconsin's successful pilot program, the Student Achievement Guarantee in Education of SAGE program. I am proud that my bill bears the same name as that groundbreaking program.

SAGE is a very appropriate acronym for this legislation, for a sage is a teacher who imparts knowledge and wisdom through direct engagement with his or her students. By providing grants to states trying to reduce class size and implement educational reforms, the National SAGE Act would give students and teachers more opportunities to interact directly. The result will be better teacher morale, better student performance and a happier, more successful school.

Mr. President, I have heard about the need for smaller classes from parents, teachers and school administrators around Wisconsin—including my mother-in-law, who has been a 1st grade teacher for more than 20 years in Waunakee. They all tell me by reducing class size students receive more attention from teachers, and it stands to reason that more attention will translate into more learning.

When asked to evaluate the Wisconsin SAGE program, eight-year teaching veteran Shelia Briggs, of Glendale Elementary School in Madison, Wisconsin said, "SAGE is just phenomenal. I have kindergarteners who are writing paragraphs. In addition, behavior is a huge benefit of SAGE. With too many little bodies, you will have difficulties. Things are so much more manageable." Additionally, second grade teacher Amy Kane says, "I have taught second grade for nine years and never had this high a percentage of readers. Their writing skills are much higher, and they are able to behave better. I make contact with parents now that I could never make with 34 students."

Wisconsin's SAGE program has again demonstrated empirically what we know instinctively: students in smaller classes get more attention from teachers, and teachers with fewer students will have more time and energy to devote to each child.

In addition to vital input from these Wisconsin educators, other studies confirm that small class size promotes effective teaching and learning. The leading scientific studies of the impact of small class size, Tennessee's STAR study and its follow up, the Lasting Benefit Study, found that students in small classes in the early years earned significantly higher scores on basic skill tests in all four years and in all types of schools. Follow-up studies have shown that these achievement gains were sustained in later years even if students are placed in larger classes. While I certainly recognize that teacher quality, high expectations an parental involvement are important factors in quality education, the significance of small class size should not be underestimated and cannot be ignored.

Mr. President, Wisconsin is not the only state fighting to reduce class size and implement educational reforms in its public schools. Several states have made small class size a priority, including California, Tennessee, Indiana and Nevada to name a few. My legislation, the National SAGE Act, authorizes $75 million over a period of five years to fund a limited number of demonstration grants to state that create innovative programs to reduce-public school class size and improve educational performance, as Wisconsin has done. The Secretary of Education would choose the states to receive funding based on several criteria, including the state's need to reduce class size, the ability of a state education agency to furnish 50 percent of the funds and the degree to which parents, teachers, school administrators and local teacher organizations are consulted in designing the program. The funding for the National SAGE Act would be fully offset by cuts in a wasteful federal program that subsidizes research and development for a huge aircraft manufacturer. That's classic corporate welfare and by eliminating it, we can fund this important SAGE program and still reduce federal spending by more than $1.7 billion over a five year period.

The National SAGE Act also includes a comprehensive research and evaluation component to document the benefit of smaller class size in the earliest grades, and support efforts to reduce class size in schools all over America.

Mr. President, I want to take a moment to say how pleased I am that the Clinton Administration has been pushing the issue of class size to the forefront of the education debate. In January I wrote to the President requesting that he make reducing class size a priority in his FY 99 education budget. I was pleased that the President's budget includes an incentive to help schools provide small classes in the early grades.

While I support the intent of the President's class size proposal, it is not funded. I was uncomfortable with the President's original proposal to fund a small class size initiative with money from a tobacco settlement that did not yet exist. I am hopeful that Congress will soon pass tobacco legislation, Mr. President, but it is best that we not tie class size legislation to something as controversial and decisive as the tobacco bill.

My fear is that the end of the 105th session will come and Congress will go home having done nothing to assist States trying to reduce class size. My bill approaches this issue more directly, without the baggage of the tobacco bill and without expanding the deficit.

I have been very active on the class size issue over the last year because again—I believe that there is a great national purpose of helping our children to learn by doing all we can to reduce class sizes for children in the earliest grades. While I embrace that national purpose, I do not seek a national mandate for smaller classes. That is not a proper federal goal. Instead, I support smaller classes as a national goal, to be achieved by the local school boards. I think we all can agree that there are no magic remedies to the problems in our public schools and no instant fix to improve learning. However, I believe that targeting federal funds matched on a 50–50 basis by state funding, to assist school districts moving toward smaller class size, is an effective use of federal dollars.

At its core, Mr. President, the small class size issue is really about protecting pubic education. The promising achievements of state efforts in education reform merit strong federal support. We have an obligation to strengthen public schools, because they are the principal institution for educating American children.

Public schools are all-inclusive; they accept all students, regardless of income, race, religion or ethnicity. In introducing the National SAGE Act today, I want to reiterate my strong commitment to quality public education. I am proud of the education I received from Wisconsin's public schools; proud to have graduated from them, and proud that my children attend them. I am committed to helping our public schools improve and adapt and respond to the increased burdens placed on them. I feel strongly that the federal government has a limited—but important role to play in public education.

Mr. President, the Washington Post recently wrote an article about the growing number of families in the Washington area deciding to educate their children at home, rather than participate in the public school system. Mr. President, this trend is not happening in Washington alone, but around the nation.

The Post article states that one of their biggest complaints for families opting out of the public schools is large class size. Parents understand the importance of a low teacher to child ratio in the classroom. They understand the critical difference additional teacher attention can make for their child's educational achievement.

The parent's highlighted in the Post article, Mr. President, are fed up with public school classes made up of twenty-five to thirty students or more, fed up with the lack of individual attention their children are receiving in the classroom; and finally, Mr. President, parents are fed up with the discipline problems created by too many children and too few adults in one classroom.

While I support the choices of families who send their children to public schools or home school their children, the growing trend to move public resources away from the public schools, where more than 90% of our nation's children are educated, is disturbing. Instead of abandoning public education with tax breaks for private schools or spending time and energy designing a Constitutionally flawed voucher program, Congress should be working to ensure that we target federal dollars to meet the needs of local school districts. Those of us who believe a high quality public education system is essential to the productivity of our nation should be very alarmed by this growing effort to move resources away from our public schools.

Mr. President, the federal government has a responsibility during the 105th Congress to take a positive step toward helping school districts reduce class size as part of an overall effort to improve education and ensure that our children have the best chance to excel and reach their full potential. I look forward to continued debate on this issue and hope that my colleagues will consider the National SAGE Act as a reasonable, fiscally responsible proposal to assist states in their efforts to reduce public school class size and improve learning in the earliest grades.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2093

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. CLASS SIZE DEMONSTRATION GRANTS.

Subpart 3 of part D of title V of the Higher Education Act of 1965 (20 U.S.C. 1109 et seq.) is amended to read as follows:

"Subpart 3—Class Size Demonstration Grants

"SEC. 561. PURPOSE.

"It is the purpose of this subpart to provide grants to State educational agencies to enable such agencies to determine the benefits, in various school settings, of reducing class size on the educational performance of students and on classroom management and organization.

"SEC. 562. PROGRAM AUTHORIZED.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall award grants, on a competitive basis, to State educational agencies to pay the Federal share of the costs of conducting demonstration projects that demonstrate methods of reducing class size that may provide information meaningful to other State educational agencies and local educational agencies.

"(2) FEDERAL SHARE.—The Federal share shall be 50 percent.

"(b) RESERVATION.—The Secretary may reserve not more than 5 percent of the amount appropriated under section 565A for each fiscal year to carry out the activities described in section 565.

"(c) SELECTION CRITERIA.—The Secretary shall make grants to State educational agencies on the basis of—

"(1) the need and the ability of a State educational agency to reduce the class size of an elementary school or secondary school served by such agency;

"(2) the ability of a State educational agency to furnish the non-Federal share of the costs of the demonstration project for which assistance is sought;

"(3) the ability of a State educational agency to continue the project for which assistance is sought after the termination of Federal financial assistance under this subpart; and

"(4) the degree to which a State educational agency demonstrates in the application submitted pursuant to section 564 consultation in program implementation and design with parents, teachers, school administrators, and local teacher organizations, where applicable.

"(d) PRIORITY.—In awarding grants under this subpart, the Secretary shall give priority to demonstration projects that involve at-risk students in the earliest grades, including educationally or economically disadvantaged students, students with disabilities, and limited English proficient students.

"(e) GRANTS MUST SUPPLEMENT OTHER FUNDS.—A State educational agency shall use the Federal funds received under this subpart to supplement and not supplant other Federal, State, and local funds available to the State educational agency to carry out the purpose of this subpart.

"SEC. 563. PROGRAM REQUIREMENTS.

"(a) ANNUAL COMPETITION.—In each fiscal year, the Secretary shall announce the factors to be examined in a demonstration project assisted under this subpart. Such factors may include—

"(1) the magnitude of the reduction in class size to be achieved;

"(2) the level of education in which the demonstration projects shall occur;

"(3) the form of the instructional strategy to be demonstrated; and

"(4) the duration of the project.

"(b) RANDOM TECHNIQUES AND APPROPRIATE COMPARISON GROUPS.—Demonstration projects assisted under this subpart shall be designed to utilize randomized techniques or appropriate comparison groups.

"SEC. 564. APPLICATION.

"(a) IN GENERAL.—In order to receive a grant under this subpart, a State educational agency shall submit an application to the Secretary that is responsive to the announcement described in section 563(a), at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) DURATION.—The Secretary shall encourage State educational agencies to submit applications under this subpart for a period of 5 years.

"(c) CONTENTS.—Each application submitted under subsection (a) shall include—

"(1) a description of the objectives to be attained with the grant funds and the manner in which the grant funds will be used to reduce class size;

"(2) a description of the steps to be taken to achieve target class sizes, including, where applicable, the acquisition of additional teaching personnel and classroom space;

"(3) a statement of the methods for the collection of data necessary for the evaluation of the impact of class size reduction programs on student achievement;

"(4) an assurance that the State educational agency will pay, from non-Federal sources, the non-Federal share of the costs of the demonstration project for which assistance is sought; and

"(5) such additional assurances as the Secretary may reasonably require.

"(d) SUFFICIENT SIZE AND SCOPE REQUIRED.—The Secretary shall award grants under this subpart only to State educational agencies submitting applications which described projects of sufficient size and scope to contribute to carrying out the purpose of this subpart.

"SEC. 565. EVALUATION AND DISSEMINATION.

"(a) NATIONAL EVALUATION.—The Secretary shall conduct a national evaluation of the demonstration projects assisted under this subpart to determine the costs incurred in achieving the reduction in class size and the effects of the reductions on results, such as student performance in the affected subjects or grades, attendance, discipline, classroom organization, management, and teacher satisfaction and retention.

"(b) COOPERATION.—Each State educational agency receiving a grant under this subpart shall cooperate in the national evaluation described in subsection (a) and shall provide such information to the Secretary as the Secretary may reasonably require.

"(c) REPORTS.—The Secretary shall report to Congress on the results of the evaluation conducted under subsection (a).

"(d) DISSEMINATION.—The Secretary shall widely disseminate information about the results of the class size demonstration projects assisted under this subpart.

"SEC. 565A. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $15,000,000 for fiscal year 1999 and each of the 4 succeeding fiscal years.".

SEC. 2. PRIVATE SECTOR FUNDING FOR RESEARCH AND DEVELOPMENT BY NASA RELATING TO AIRCRAFT PERFORMANCE.

The Administrator of the National Aeronautics and Space Administration may not carry out research and development activities relating to the performance of aircraft (including supersonic aircraft and subsonic aircraft) unless the Administrator receives payment in full for such activities from the private sector.●

ADDITIONAL COSPONSORS

S. 374

At the request of Ms. SNOWE, her name was added as a cosponsor of S. 374, a bill to amend title 38, United States Code, to extend eligibility for hospital care and medical services under chapter 17 of that title to veterans who have been awarded the Purple Heart, and for other purposes.

S. 772

At the request of Mr. SPECTER, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 772, a bill to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Georgia [Mr. CLELAND] was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1464

At the request of Mr. HATCH, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1464, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 1534

At the request of Mr. TORRICELLI, the name of the Senator from Georgia [Mr. CLELAND] was added as a cosponsor of S. 1534, a bill to amend the Higher Education Act of 1965 to delay the commencement of the student loan repayment period for certain students called to active duty in the Armed Forces.

S. 1645

At the request of Mr. ABRAHAM, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 1645, a bill to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions.

S. 1700

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1700, a bill to designate the headquarters building of the Department of Housing and Urban Development in Washington, District of Columbia, as the "Robert C. Weaver Federal Building".

S. 1758

At the request of Mr. LUGAR, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1758, a bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

S. 1997

At the request of Ms. MIKULSKI, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1997, a bill to protect the right of a member of a health maintenance organization to receive continuing care at a facility selected by that member.

S. 2054

At the request of Mr. JEFFORDS, the name of the Senator from Georgia [Mr. CLELAND] was added as a cosponsor of S. 2054, a bill to amend title XVIII of the Social Security Act to require the Secretary of Veterans Affairs and the Secretary of Health and Human Services to carry out a model project to provide the Department of Veterans Affairs with Medicare reimbursement for Medicare health-care services provided to certain Medicare-eligible veterans.

S. 2064

At the request of Ms. MIKULSKI, the names of the Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Oregon [Mr. WYDEN] were added as cosponsors of S. 2064, a bill to prohibit the sale of naval vessels and Maritime Administration vessels for purposes of scrapping abroad, to establish a demonstration program relating to the breaking up of such vessels in United States shipyards, and for other purposes.

S. 2084

At the request of Mrs. BOXER, the names of the Senator from New Jersey [Mr. TORRICELLI] and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 2084, a bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on submerged land of the Outer Continental Shelf that is adjacent to a coastal State that has declared a moratorium on mineral exploration, development, or production activity in adjacent State waters.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE CONCURRENT RESOLUTION 84

At the request of Mr. KEMPTHORNE, the names of the Senator from Alabama [Mr. SESSIONS] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Concurrent Resolution 84, a concurrent resolution expressing the sense of Congress that the Government of Costa Rica should take steps to protect the lives of property owners in Costa Rica, and for other purposes.

SENATE RESOLUTION 188

At the request of Mr. MOYNIHAN, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of Senate Resolution 188, a resolution expressing the sense of the Senate regarding Israeli membership in a United Nations regional group.

SENATE RESOLUTION 232—EXPRESSING THE SENSE OF THE SENATE RELATIVE TO EUROPEAN UNION SUBSIDIES OF BARLEY

Mr. DORGAN (for himself, Mr. KEMPTHORNE, Mr. WYDEN, Mrs. MURRAY, Mr. JOHNSON, Mr. BAUCUS, Mr. CRAIG, Mr. BURNS, Mr. SMITH of Oregon, Mr. CONRAD, Mr. GORTON, Mr. DASCHLE, Mr. ENZI, and Mr. THOMAS) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 232

Whereas, in an unprecedented sale, the European Union entered into a contract with a United States buyer to sell heavily subsidized European barley to the United States;

Whereas the sale of almost 1,400,000 bushels (30,000 metric tons) of feed barley was shipped from Finland to Stockton, California;

Whereas news of the sale depressed feed barley prices in the California feed barley market;

Whereas, since the market sets national pricing patterns for both feed and malting barley, the sale would mean enormous market losses for barley producers throughout the United States, at a time when the United States barley producers are already suffering from low prices;

Whereas the European restitution subsidies for this barley amounts to $1.11 per bushel ($51 per metric ton);

Whereas the price-depressing effects of this one sale will continue to adversely affect market prices for at least a 9-month period as this grain moves through the United States marketing system;

Whereas this shipment is part of about 2.1 million metric tons of European feed barley that have been approved for restitution subsidies by the European Union this year;

Whereas the availability of the additional subsidized European barley in the international market not only artificially depressed market prices, but also threatens to open new import channels into the United States;

Whereas, as the world's largest feed grain producer and the world's largest exporter of feed grains, the United States does not require imported feed grains;

Whereas, at the same time that subsidized European barley is being imported into the United States, some United States feed grains are prevented from entering European markets under European Union food regulations;

Whereas United States barley growers continue to suffer the negative impacts of the sale, regardless of whether the subsidized European barley was originally targeted for sale into the United States and whether the subsidies comply with the letter of current World Trade Organization export subsidy rules; and

Whereas the sale not only undermines the intent and the spirit of free trade agreements and negotiations, it also moves away from the goals of level playing fields and fairness in trade relationships: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF SENATE ON EXPORT OF EUROPEAN BARLEY TO THE UNITED STATES.

It is sense of the Senate that—

(1) the European Union should—

(A) take immediate steps to waive the penalty for failure to use restitution subsidies for barley exported to the United States; and

(B) establish procedures to ensure that restitution and other subsidies are not used for sales of agricultural commodities to the United States or other countries of North America;

(2) the President of the United States, the United States Trade Representative, and the Secretary of Agriculture should immediately consult with the European Union regarding the sale of European feed barley to the United States in order to avoid any future sale of any European barley to the United States that is based on restitution or other subsidies; and

(3) not later than 60 days after approval of this resolution, the United States Trade Representative and the Secretary of Agriculture should report to Congress on—

(A) the terms and conditions of the sale of European barley to the United States;

(B) the results of the consultations under paragraph (2);

(C) other steps that are being taken or will be taken to address to such situations in the future; and

(D) any additional authorities that may be necessary to carry out subparagraphs (B) and (C).

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

FAIRCLOTH (AND OTHERS) AMENDMENT NO. 2421

Mr. FAIRCLOTH (for himself, Mr. SESSIONS, and Mr. MCCONNELL) proposed an amendment to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

At the appropriate place, insert the following:

Sec. . Limit on Attorney's Fees.

(a) FEE ARRANGEMENTS.—Subsection (f) shall apply to attorneys' fees provided for or in connection with an action of the type described in such subsection under any—

(1) court order;

(2) settlement agreement;

(3) contingency fee arrangement;

(4) arbitration procedure;

(5) alternative dispute resolution procedure (including mediation);

(6) retainer agreements; or

(7) other arrangement providing for the payment of attorneys' fees.

(b) REQUIREMENTS.—No award of attorneys' fees under any action to which this Act applies shall be made under this Act until the attorneys involved have—

(1) provided to the Congress a detailed time accounting with respect to the work performed in relation to the legal action involved; and

(2) made public disclosure of the time accounting under paragraph (1) and any fee arrangements entered into, or fee arrangements made, with respect to the legal action involved.

(c) APPLICATION.—This section shall apply to fees paid or to be paid to attorneys under any arrangement described in subsection (a)—

(1) who acted on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(2) who acted on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(3) who act at some future time on behalf of a State or political subdivision of a State in connection with any past litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(4) who act at some future time on behalf of a State or political subdivision of a State in connection with any future litigation of an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures;

(5) who acted on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(6) who act at some future time on behalf of a plaintiff class in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(7) who acted on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(8) who act at some future time on behalf of a plaintiff in civil actions to which this Act applies that are brought against participating or nonparticipating tobacco manufacturers;

(9) who expended efforts that in whole or in part resulted in or created a model for programs in this Act;

(10) who acted on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9) of this subsection; or

(11) who act at some future time on behalf of a defendant in any of the matters set forth in paragraphs (1) through (9) of this subsection.

(d) REPORT.—

(1) Each attorney whose fees for services already rendered are subject to subsection (a) shall, within 60 days of the date of the enactment of this Act, submit to Committees on the Judiciary of the House of Representatives and the Senate a comprehensive record of the time and expenses for which the fees are to be paid. Such record shall be subject to section 1001(a) of title 18, United States Code.

(2) Each attorney whose fees for services rendered in the future are subject to subsection (a) shall, within 60 days of the completion of the attorney's services, submit to Committees on the Judiciary of the House of Representatives and the Senate a comprehensive record of the time and expenses for which the fees are to be paid. Such record shall be subject to section 1001(a) of title 18, United States Code.

(e) SEVERABILITY.—If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such to any person or circumstance shall not be affected thereby.

(f) GENERAL LIMITATION.—Notwithstanding any other provision of law, for each hour spent productively and at risk, separate from the reimbursement of actual out-of-pocket expenses as approved by the court in such actions, any attorneys' fees or expenses paid to attorneys for matters described in subsection (c) shall not exceed $250 per hour.

KENNEDY (AND OTHERS) AMENDMENT NO. 2422

Mr. KENNEDY (for himself, Mr. LAUTENBERG, Mr. CONRAD, Mr. GRAHAM, Mr. WELLSTONE, and Mr. HARKIN) proposed an amendment to the bill, S. 1415, supra; as follows:

Beginning in section 402, strike subsection (b) and all that follows through section 403(2) and insert the following:

(b) ANNUAL PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3) the participating tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in paragraph (4) and section 403:

(1) For year 1—$14,400,000,000;

(2) For year 2, an amount equal to the product of $1.00 and the total number of units of tobacco products that were sold in the United States in the previous year.

(3) For year 3, an amount equal to the product of $1.50 and the total number of units of tobacco products that were sold in the United States in the previous year.

(4) For year 4, and each subsequent year, an amount equal to the amount paid in the prior year, multiplied by a ratio in which the numerator is the number of units of tobacco products sold in the prior year and the denominator is the number of units of tobacco products sold in the year before the prior year, adjusted in accordance with section 403.

(c) PAYMENT SCHEDULE; RECONCILIATION.—

(1) ESTIMATED PAYMENTS.—Deposits toward the annual payment liability for each calendar year under subsection (d)(2) shall be made in 3 equal installments due on March 1st, on June 1st, and on August 1st of each year. Each installment shall be equal to one-third of the estimated annual payment liability for that calendar year. Deposits of installments paid after the due date shall accrue interest at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date.

(2) RECONCILIATION.—If the liability for a calendar year under subsection (d)(2) exceeds the deposits made during that calendar year, the manufacturer shall pay the unpaid liability on March 1st of the succeeding calendar year, along with the first deposit for that succeeding year. If the deposits during a calendar year exceed the liability for the calendar year under subsection (d)(2), the manufacturer shall subtract the amount of the excess deposits from its deposit on March 1st of the succeeding calendar year.

(d) APPORTIONMENT OF ANNUAL PAYMENT.—

(1) IN GENERAL.—Each tobacco product manufacturer is liable for its share of the applicable base amount payment due each year under subsection (b). The annual payment is the obligation and responsibility of only those tobacco product manufacturers and their affiliates that directly sell tobacco products in the domestic market to wholesalers, retailers, or consumers, their successors and assigns, and any subsequent fraudulent transferee (but only to the extent of the interest or obligation fraudulently transferred).

(2) DETERMINATION OF AMOUNT OF PAYMENT DUE.—Each tobacco product manufacturer is liable for its share of each installment in proportion to its share of tobacco products sold in the domestic market for the calendar year. One month after the end of the calendar year, the Secretary shall make a final determination of each tobacco product manufacturer's applicable base amount payment obligation.

(3) CALCULATION OF TOBACCO PRODUCT MANUFACTURER'S SHARE OF ANNUAL PAYMENT.—The share of the annual payment apportioned to a tobacco product manufacturer shall be equal to that manufacturer's share of adjusted units, taking into account the manufacturer's total production of such units sold in the domestic market. A tobacco product manufacturer's share of adjusted units shall be determined as follows:

(A) UNITS.—A tobacco product manufacturer's number of units shall be determined by counting each—

(i) pack of 20 cigarettes as 1 adjusted unit;

(ii) 1.2 ounces of moist snuff as 0.75 adjusted unit; and

(iii) 3 ounces of other smokeless tobacco product as 0.35 adjusted units.

(B) DETERMINATION OF ADJUSTED UNITS.—Except as provided in subparagraph (C), a smokeless tobacco product manufacturer's number of adjusted units shall be determined under the following table:

For units:	Each unit shall be treated as:
Not exceeding 150 million	70% of a unit
Exceeding 150 million	100% of a unit

(C) ADJUSTED UNITS DETERMINED ON TOTAL DOMESTIC PRODUCTION.—For purposes of determining a manufacturer's number of adjusted units under subparagraph (B), a manufacturer's total production of units, whether intended for domestic consumption or export, shall be taken into account.

(D) SPECIAL RULE FOR LARGE MANUFACTURERS.—If a tobacco product manufacturer has more than 200 million units under subparagraph (A), then that manufacturer's number of adjusted units shall be equal to the total number of units, and not determined under subparagraph (B).

(E) SMOKELESS EQUIVALENCY STUDY.—Not later than January 1, 2003, the Secretary shall submit to the Congress a report detailing the extent to which youths are substituting smokeless tobacco products for cigarettes. If the Secretary determines that significant substitution is occurring, the Secretary shall include in the report recommendations to address substitution, including consideration of modification of the provisions of subparagraph (A).

(e) COMPUTATIONS.—The determinations required by subsection (d) shall be made and certified by the Secretary of Treasury. The parties shall promptly provide the Treasury Department with information sufficient for it to make such determinations.

(f) NONAPPLICATION TO CERTAIN MANUFACTURERS.—

(1) EXEMPTION .—A manufacturer described in paragraph (3) is exempt from the payments required by subsection (b).

(2) LIMITATION.—Paragraph (1) applies only to assessments on cigarettes to the extent that those cigarettes constitute less than 3 percent of all cigarettes manufactured and distributed to consumers in any calendar year.

(3) TOBACCO PRODUCT MANUFACTURERS TO WHICH SUBSECTION APPLIES.—A tobacco product manufacturer is described in this paragraph if it—

(A) resolved tobacco-related civil actions with more than 25 States before January 1, 1998, through written settlement agreements signed by the attorneys general (or the equivalent chief legal officer if there is no office of attorney general) of those States; and

(B) provides to all other States, not later than December 31, 1998, the opportunity to enter into written settlement agreements that—

(i) are substantially similar to the agreements entered into with those 25 States; and

(ii) provide the other States with annual payment terms that are equivalent to the most favorable annual payment terms of its written settlement agreements with those 25 States.

SEC. 403. ADJUSTMENTS.

The applicable base amount under section 402(b) for a given calendar year shall be adjusted as follows in determining the annual payment for that year:

(1) IN GENERAL.—Beginning with the sixth calendar year after the date of enactment of this Act, the adjusted applicable base amount under section 402(b)(4) is the amount of the annual payment made for the preceding year increased by the greater of 3 percent or the annual increase in the CPI.

(2) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(3) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

HUTCHINSON AMENDMENTS NOS. 2423–2426

(Ordered to lie on the table.)

Mr. HUTCHINSON submitted four amendments intended to be proposed by him to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

AMENDMENT NO. 2423

Add at the end the following new sections:

SEC. ___. CONGRESSIONAL STATEMENT OF POLICY.

It is the sense of Congress that the President should make freedom of religion one of the major objectives of United States foreign policy with respect to China. As part of this policy, the Department of State should raise in every relevant bilateral and multilateral forum the issue of individuals imprisoned, detained, confined, or otherwise harassed by the Chinese Government on religious grounds. In its communications with the Chinese Government, the Department of State should provide specific names of individuals of concern and request a complete and timely response from the Chinese Government regarding the individuals' whereabouts and condition, the charges against them, and sentence imposed. The goal of these official communications should be the expeditious release of all religious prisoners in China and Tibet and the end of the Chinese Government's policy and practice of harassing and repressing religious believers.

SEC. ___. PROHIBITION ON USE OF FUNDS FOR THE PARTICIPATION OF CERTAIN CHINESE OFFICIALS IN CONFERENCES, EXCHANGES, PROGRAMS, AND ACTIVITIES.

(a) PROHIBITION.—Notwithstanding any other provision of law, for fiscal years after fiscal year 1997, no funds appropriated or otherwise made available for the Department of State, the United States Information Agency, and the United States Agency for International Development may be used for the purpose of providing travel expenses and per diem for the participation of nationals of the People's Republic of China described in paragraphs (1) and (2) in conferences, exchanges, programs, and activities:

(1) The head or political secretary of any of the following Chinese Government-created or approved organizations:

(A) The Chinese Buddhist Association.

(B) The Chinese Catholic Patriotic Association.

(C) The National Congress of Catholic Representatives.

(D) The Chinese Catholic Bishops' Conference.

(E) The Chinese Protestant "Three Self" Patriotic Movement.

(F) The China Christian Council.

(G) The Chinese Taoist Association.

(H) The Chinese Islamic Association.

(2) Any military or civilian official or employee of the Government of the People's Republic of China who carried out or directed the carrying out of any of the following policies or practices:

(A) Formulating, drafting, or implementing repressive religious policies.

(B) Imprisoning, detaining, or harassing individuals on religious grounds.

(C) Promoting or participating in policies or practices which hinder religious activities or the free expression of religious beliefs.

(b) Certification.—

(1) Each Federal agency subject to the prohibition of subsection (a) shall certify in writing to the appropriate congressional committees no later than 120 days after the date of enactment of this Act, and every 90 days thereafter, that it did not pay, either directly or through a contractor or grantee, for travel expenses or per diem of any national of the People's Republic of China described in subsection (a).

(2) Each certification under paragraph (1) shall be supported by the following information:

(A) The name of each employee of any agency of the Government of the People's Republic of China whose travel expenses or per diem were paid by funds of the reporting agency of the United States Government.

(B) The procedures employed by the reporting agency of the United States Government to ascertain whether each individual under subparagraph (A) did or did not participate in activities described in subsection (a)(2).

(C) The reporting agency's basis for concluding that each individual under subparagraph (A) did not participate in such activities.

(c) Definition of Appropriate Congressional Committees.—For purposes of this section the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

SEC. . CERTAIN OFFICIALS OF THE PEOPLE'S REPUBLIC OF CHINA INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION.

(a) Requirement.—Notwithstanding any other provision of law, any national of the People's Republic of China described in section (a)(2) (except the head of state, the head of government, and cabinet level ministers) shall be ineligible to receive visas and shall be excluded from admission into the United States.

(b) Waiver.—The President may waive the requirement in subsection (a) with respect to an individual described in such subsection if the President—

(1) determines that it is vital to the national interest to do so; and

(2) provides written notification to the appropriate congressional committees (as defined in section (c)) containing a justification for the waiver.

SEC. . SUNSET PROVISION.

Sections and shall cease to have effect 4 years after the date of the enactment of this Act.

Amendment No. 2424

Add at the end the following new title:

TITLE —FORCED ABORTIONS IN CHINA

SEC. . SHORT TITLE.

This title may be cited as the "Forced Abortion Condemnation Act".

SEC. . FINDINGS.

Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For over 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the population control policies of the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program, in fact the Communist Chinese Government encourages both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and immunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, and no evidence has been made available to suggest that the perpetrators have been punished.

(B) People's Republic of China population control officials, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical force.

(C) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families which cannot pay the fine may be subject to confiscation and destruction of their homes and personal property.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to population control under the slogan "better to have more graves than one more child". Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy.

(F) Since 1994 forced abortion and sterilization have been used in Communist China not only to regulate the number of children, but also to eliminate those who are regarded as defective in accordance with the official eugenic policy known as the "Natal and Health Care Law".

SEC. . DENIAL OF ENTRY INTO THE UNITED STATES OF PERSONS IN THE PEOPLE'S REPUBLIC OF CHINA ENGAGED IN ENFORCEMENT OF FORCED ABORTION POLICY.

The Secretary of State may not issue any visa to, and the Attorney General may not admit to the United States, any national of the People's Republic of China, including any official of the Communist Party or the Government of the People's Republic of China and its regional, local, and village authorities (except the head of state, the head of government, and cabinet level ministers) who the Secretary finds, based on credible information, has been involved in the establishment or enforcement of population control policies resulting in a woman being forced to undergo an abortion against her free choice, or resulting in a man or woman being forced to undergo sterilization against his or her free choice.

SEC. . WAIVER.

The President may waive the requirement contained in section with respect to a national of the People's Republic of China if the President—

(1) determines that it is in the national interest of the United States to do so; and

(2) provides written notification to Congress containing a justification for the waiver.

Amendment No. 2425

Add at the end the following new title:

TITLE —OPPOSITION TO CONCESSIONAL LOANS TO CHINA

SEC. . SHORT TITLE.

This title may be cited as the "Communist China Subsidy Reduction Act of 1998".

SEC. . FINDINGS.

Congress finds that—

(1) the People's Republic of China has enjoyed ready access to international capital through commercial loans, direct investment, sales of securities, bond sales, and foreign aid;

(2) regarding international commercial lending, the People's Republic of China had $48,000,000,000 in loans outstanding from private creditors in 1995;

(3) regarding international direct investment, international direct investment in the People's Republic of China from 1993 through 1995 totaled $97,151,000,000, and in 1996 alone totaled $47,000,000,000;

(4) regarding investment in Chinese securities, the aggregate value of outstanding Chinese securities currently held by Chinese nationals and foreign persons is $175,000,000,000, and from 1993 through 1995 foreign persons invested $10,540,000,000 in Chinese stocks;

(5) regarding investment in Chinese bonds, entities controlled by the Government of the People's Republic of China have issued 75 bonds since 1988, including 36 dollar-denominated bond offerings valued at more than $6,700,000,000, and the total value of long-term Chinese bonds outstanding as of January 1, 1996, was $11,709,000,000;

(6) regarding international assistance, the People's Republic of China received almost $1,000,000,000 in foreign aid grants and an additional $1,566,000,000 in technical assistance grants from 1993 through 1995, and in 1995 received $5,540,000,000 in bilateral assistance loans, including concessional aid, export credits, and related assistance; and

(7) regarding international financial institutions—

(A) despite the People's Republic of China's access to international capital and world financial markets, international financial institutions have annually provided it with more than $4,000,000,000 in loans in recent years, amounting to almost a third of the loan commitments of the Asian Development Bank and 17.1 percent of the loan approvals by the International Bank for Reconstruction and Development in 1995; and

(B) the People's Republic of China borrows more from the International Bank for Reconstruction and Development and the Asian Development Bank than any other country, and loan commitments from those institutions to the People's Republic of China quadrupled from $1,100,000,000 in 1985 to $4,300,000,000 by 1995.

SEC. . OPPOSITION OF UNITED STATES TO CONCESSIONAL LOANS TO THE PEOPLE'S REPUBLIC OF CHINA.

Title XV of the International Financial Institutions Act (22 U.S.C. 262o–262o–1) is amended by adding at the end the following:

"SEC. 1503. OPPOSITION OF UNITED STATES TO CONCESSIONAL LOANS TO THE PEOPLE'S REPUBLIC OF CHINA.

"(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Directors at each international financial institution (as defined in section 1702(c)(2) of the International Financial Institutions Act) to use the voice and vote of the United States to oppose the provision by the institution of concessional loans to the People's Republic of China, any citizen or national of the People's Republic of China, or any entity established in the People's Republic of China.

"(b) CONCESSIONAL LOANS DEFINED.—As used in subsection (a), the term 'concessional loans' means loans with highly subsidized interest rates, grace periods for repayment of 5 years or more, and maturities of 20 years or more.".

SEC. . PRINCIPLES THAT SHOULD BE ADHERED TO BY ANY UNITED STATES NATIONAL CONDUCTING AN INDUSTRIAL COOPERATION PROJECT IN THE PEOPLE'S REPUBLIC OF CHINA.

(a) PURPOSE.—It is the purpose of this section to create principles governing the conduct of industrial cooperation projects of United States nationals in the People's Republic of China.

(b) STATEMENT OF PRINCIPLES.—It is the sense of Congress that any United States national conducting an industrial cooperation project in the People's Republic of China should:

(1) Suspend the use of any goods, wares, articles, or merchandise that the United States national has reason to believe were mined, produced, or manufactured, in whole or in part, by convict labor or forced labor, and refuse to use forced labor in the industrial cooperation project.

(2) Seek to ensure that political or religious views, sex, ethnic or national background, involvement in political activities or nonviolent demonstrations, or association with suspected or known dissidents will not prohibit hiring, lead to harassment, demotion, or dismissal, or in any way affect the status or terms of employment in the industrial cooperation project. The United States national should not discriminate in terms or conditions of employment in the industrial cooperation project against persons with past records of arrest or internal exile for nonviolent protest or membership in unofficial organizations committed to nonviolence.

(3) Ensure that methods of production used in the industrial cooperation project do not pose an unnecessary physical danger to workers and neighboring populations or property, and that the industrial cooperation project does not unnecessarily risk harm to the surrounding environment; and consult with community leaders regarding environmental protection with respect to the industrial cooperation project.

(4) Strive to establish a private business enterprise when involved in an industrial cooperation project with the Government of the People's Republic of China or other state entity.

(5) Discourage any Chinese military presence on the premises of any industrial cooperation projects which involve dual-use technologies.

(6) Undertake to promote freedom of association and assembly among the employees of the United States national. The United States national should protest any infringement by the Government of the People's Republic of China of these freedoms to the International Labor Organization's office in Beijing.

(7) Provide the Department of State with information relevant to the Department's efforts to collect information on prisoners for the purposes of the Prisoner Information Registry, and for other purposes.

(8) Discourage or undertake to prevent compulsory political indoctrination programs from taking place on the premises of the industrial cooperation project.

(9) Promote freedom of expression, including the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media. To this end, the United States national should raise with appropriate authorities of the Government of the People's Republic of China concerns about restrictions on the free flow of information.

(10) Undertake to prevent harassment of workers who, consistent with the United Nations World Population Plan of Action, decide freely and responsibly the number and spacing of their children; and prohibit compulsory population control activities on the premises of the industrial cooperation project.

(c) PROMOTION OF PRINCIPLES BY OTHER NATIONS.—The Secretary of State shall forward a copy of the principles set forth in subsection (b) to the member nations of the Organization for Economic Cooperation and Development and encourage them to promote principles similar to these principles.

(d) REGISTRATION REQUIREMENT.—

(1) IN GENERAL.—Each United States national conducting an industrial cooperation project in the People's Republic of China shall register with the Secretary of State and indicate that the United States national agrees to implement the principles set forth in subsection (b). No fee shall be required for registration under this subsection.

(2) PREFERENCE FOR PARTICIPATION IN TRADE MISSIONS.—The Secretary of Commerce shall consult the register prior to the selection of private sector participants in any form of trade mission to China, and undertake to involve those United States nationals that have registered their adoption of the principles set forth above.

(e) DEFINITIONS.—As used in this section—

(1) the term "industrial cooperation project" refers to a for-profit activity the business operations of which employ more than 25 individuals or have assets greater than $25,000; and

(2) the term "United States national" means—

(A) a citizen or national of the United States or a permanent resident of the United States; and

(B) a corporation, partnership, or other business association organized under the laws of the United States, any State or territory thereof, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.

SEC. . PROMOTION OF EDUCATIONAL, CULTURAL, SCIENTIFIC, AGRICULTURAL, MILITARY, LEGAL, POLITICAL, AND ARTISTIC EXCHANGES BETWEEN THE UNITED STATES AND CHINA.

(a) EXCHANGES BETWEEN THE UNITED STATES AND CHINA.—Agencies of the United States Government which engage in educational, cultural, scientific, agricultural, military, legal, political, and artistic exchanges shall endeavor to initiate or expand such exchange programs with regard to China.

(b) SENSE OF CONGRESS.—It is the sense of Congress that a federally chartered not-for-profit organization should be established to fund exchanges between the United States and China through private donations.

AMENDMENT NO. 2426

Add at the end the following new titles:

TITLE —MONITORING OF HUMAN RIGHTS ABUSES IN CHINA

SEC. . SHORT TITLE.

This title may be cited as the "Political Freedom in China Act of 1998".

SEC. . FINDINGS.

Congress makes the following findings:

(1) Congress concurs in the following conclusions of the United States State Department on human rights in the People's Republic of China in 1996:

(A) The People's Republic of China is "an authoritarian state" in which "citizens lack the freedom to peacefully express opposition to the party-led political system and the right to change their national leaders or form of government".

(B) The Government of the People's Republic of China has "continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms".

(C) "[a]buses include torture and mistreatment of prisoners, forced confessions, and arbitrary and incommunicado detention".

(D) "[p]rison conditions remained harsh [and] [t]he Government continued severe restrictions on freedom of speech, the press, assembly, association, religion, privacy, and worker rights".

(E) "[a]lthough the Government denies that it holds political prisoners, the number of persons detained or serving sentences for 'counterrevolutionary crimes' or 'crimes against the state', or for peaceful political or religious activities are believed to number in the thousands".

(F) "[n]onapproved religious groups, including Protestant and Catholic groups * * * experienced intensified repression".

(G) "[s]erious human rights abuses persist in minority areas, including Tibet, Xinjiang, and Inner Mongolia[, and] [c]ontrols on religion and on other fundamental freedoms in these areas have also intensified".

(H) "[o]verall in 1996, the authorities stepped up efforts to cut off expressions of protest or criticism. All public dissent against the party and government was effectively silenced by intimidation, exile, the imposition of prison terms, administrative detention, or house arrest. No dissidents were known to be active at year's end.".

(2) In addition to the State Department, credible independent human rights organizations have documented an increase in repression in China during 1995, and effective destruction of the dissident movement through the arrest and sentencing of the few remaining pro-democracy and human rights activists not already in prison or exile.

(3) Among those were Wang Dan, a student leader of the 1989 pro-democracy protests, sentenced on October 30, 1996, to 11 years in prison on charges of conspiring to subvert the government; Li Hai, sentenced to 9 years in prison on December 18, 1996, for gathering information on the victims of the 1989 crackdown, which according to the court's verdict constituted "state secrets"; Liu Nianchun,

an independent labor organizer, sentenced to 3 years of "re-education through labor" on July 4, 1996, due to his activities in connection with a petition campaign calling for human rights reforms; and Ngodrup Phuntsog, a Tibetan national, who was arrested in Tibet in 1987 immediately after he returned from a 2-year trip to India, where the Tibetan government in exile is located, and following a secret trial was convicted by the Government of the People's Republic of China of espionage on behalf of the "Ministry of Security of the Dalai clique".

(4) Many political prisoners are suffering from poor conditions and ill-treatment leading to serious medical and health problems, including—

(A) Wei Jingsheng, sentenced to 14 years in prison on December 13, 1996, for conspiring to subvert the government and for "communication with hostile foreign organizations and individuals, amassing funds in preparation for overthrowing the government and publishing anti-government articles abroad," is currently held in Jile No. 1 Prison (formerly the Nanpu New Life Salt Farm) in Hebei province, where he reportedly suffers from severe high blood pressure and a heart condition, worsened by poor conditions of confinement;

(B) Gao Yu, a journalist sentenced to 6 years in prison in November 1994 and honored by UNESCO in May 1997, has a heart condition; and

(C) Chen Longde, a leading human rights advocate now serving a 3-year reeducation through labor sentence imposed without trial in August 1995, has reportedly been subject to repeated beatings and electric shocks at a labor camp for refusing to confess his guilt.

(5) The People's Republic of China, as a member of the United Nations, is expected to abide by the provisions of the Universal Declaration of Human Rights.

(6) The People's Republic of China is a party to numerous international human rights conventions, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. . CONDUCT OF FOREIGN RELATIONS.

(a) Release of Prisoners.—The Secretary of State, in all official meetings with the Government of the People's Republic of China, should request the immediate and unconditional release of Ngodrup Phuntsog and other prisoners of conscience in Tibet, as well as in the People's Republic of China.

(b) Access to Prisons.—The Secretary of State should seek access for international humanitarian organizations to Drapchi prison and other prisons in Tibet, as well as in the People's Republic of China, to ensure that prisoners are not being mistreated and are receiving necessary medical treatment.

(c) Dialogue on Future of Tibet.—The Secretary of State, in all official meetings with the Government of the People's Republic of China, should call on that country to begin serious discussions with the Dalai Lama or his representatives, without preconditions, on the future of Tibet.

SEC. . AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL PERSONNEL AT DIPLOMATIC POSTS TO MONITOR HUMAN RIGHTS IN THE PEOPLE'S REPUBLIC OF CHINA.

There are authorized to be appropriated to support personnel to monitor political repression in the People's Republic of China in the United States Embassies in Beijing and Kathmandu, as well as the American consulates in Guangzhou, Shanghai, Shenyang, Chengdu, and Hong Kong, $2,200,000 for fiscal year 1998 and $2,200,000 for fiscal year 1999.

SEC. . DEMOCRACY BUILDING IN CHINA.

(a) Authorization of Appropriations for NED.—In addition to such sums as are otherwise authorized to be appropriated for the "National Endowment for Democracy" for fiscal years 1998 and 1999, there are authorized to be appropriated for the "National Endowment for Democracy" $5,000,000 for fiscal year 1998 and $5,000,000 for fiscal year 1999, which shall be available to promote democracy, civil society, and the development of the rule of law in China.

(b) East Asia-Pacific Regional Democracy Fund.—The Secretary of State shall use funds available in the East Asia-Pacific Regional Democracy Fund to provide grants to nongovernmental organizations to promote democracy, civil society, and the development of the rule of law in China.

SEC. . HUMAN RIGHTS IN CHINA.

(a) Reports.—Not later than March 30, 1998, and each subsequent year thereafter, the Secretary of State shall submit to the International Relations Committee of the House of Representatives and the Foreign Relations Committee of the Senate an annual report on human rights in China, including religious persecution, the development of democratic institutions, and the rule of law. Reports shall provide information on each region of China.

(b) Prisoner Information Registry.—The Secretary of State shall establish a Prisoner Information Registry for China which shall provide information on all political prisoners, prisoners of conscience, and prisoners of faith in China. Such information shall include the charges, judicial processes, administrative actions, use of forced labor, incidences of torture, length of imprisonment, physical and health conditions, and other matters related to the incarceration of such prisoners in China. The Secretary of State is authorized to make funds available to nongovernmental organizations presently engaged in monitoring activities regarding Chinese political prisoners to assist in the creation and maintenance of the registry.

SEC. . SENSE OF CONGRESS CONCERNING ESTABLISHMENT OF A COMMISSION ON SECURITY AND COOPERATION IN ASIA.

It is the sense of Congress that Congress, the President, and the Secretary of State should work with the governments of other countries to establish a Commission on Security and Cooperation in Asia which would be modeled after the Commission on Security and Cooperation in Europe.

SEC. . SENSE OF CONGRESS REGARDING DEMOCRACY IN HONG KONG.

It is the sense of Congress that the people of Hong Kong should continue to have the right and ability to freely elect their legislative representatives, and that the procedure for the conduct of the elections of the first legislature of the Hong Kong Special Administrative Region should be determined by the people of Hong Kong through an election law convention, a referendum, or both.

SEC. . SENSE OF CONGRESS RELATING TO ORGAN HARVESTING AND TRANSPLANTING IN THE PEOPLE'S REPUBLIC OF CHINA.

It is the sense of Congress that—

(1) the Government of the People's Republic of China should stop the practice of harvesting and transplanting organs for profit from prisoners that it executes;

(2) the Government of the People's Republic of China should be strongly condemned for such organ harvesting and transplanting practice;

(3) the President should bar from entry into the United States any and all officials of the Government of the People's Republic of China known to be directly involved in such organ harvesting and transplanting practice;

(4) individuals determined to be participating in or otherwise facilitating the sale of such organs in the United States should be prosecuted to the fullest possible extent of the law; and

(5) the appropriate officials in the United States should interview individuals, including doctors, who may have knowledge of such organ harvesting and transplanting practice.

TITLE —AGREEMENT ON NUCLEAR COOPERATION

SEC. . AMENDMENT TO JOINT RESOLUTION RELATING TO AGREEMENT FOR NUCLEAR COOPERATION.

The joint resolution entitled "Joint Resolution relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China (Public Law 99–183; approved December 16, 1985) is amended—

(1) in subsection (b)—

(A) by inserting "and subject to section 2," after "or any international agreement,"; and

(B) in paragraph (1) by striking "thirty" and inserting "120"; and

(2) by adding at the end the following:

"Sec. 2. (a) Action by Congress To Disapprove Certification.—No license may be issued for the export to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement, and no approval for the transfer or retransfer to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall be given if, during the 120-day period referred to in subsection (b)(1) of the first section, there is enacted a joint resolution described in subsection (b) of this section.

"(b) Description of Joint Resolution.—A joint resolution is described in this subsection if it is a joint resolution which has a provision disapproving the President's certification under subsection (b)(1), or a provision or provisions modifying the manner in which the Agreement is implemented, or both.

"(c) Procedures For Consideration of Joint Resolutions.—

"(1) Reference to committees.—Joint resolutions—

"(A) may be introduced in either House of Congress by any Member of such House; and

"(B) shall be referred, in the House of Representatives, to the Committee on International Relations and, in the Senate, to the Committee on Foreign Relations.

It shall be in order to amend such joint resolutions in the committees to which they are referred.

"(2) Floor consideration.—(A) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to joint resolutions described in subsection (b).

"(B) It is not in order for—

"(i) the House of Representatives to consider any joint resolution described in subsection (b) that has not been reported by the Committee on International Relations; and

"(ii) the Senate to consider any joint resolution described in subsection (b) that has not been reported by the Committee on Foreign Relations.

"(c) Consideration of Second Resolution Not in Order.—It shall not be in order in either the House of Representatives or the

Senate to consider a joint resolution described in subsection (b) (other than a joint resolution described in subsection (b) received from the other House), if that House has previously adopted such a joint resolution.

"(d) Procedures Relating to Conference Reports in the Senate.—

"(1) Consideration.—Consideration in the Senate of the conference report on any joint resolution described in subsection (b), including consideration of all amendments in disagreement (and all amendments thereto), and consideration of all debatable motions and appeals in connection therewith, shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

"(2) Debate on amendments in disagreement.—In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment to any amendment in disagreement shall be received unless it is a germane amendment.

"(3) Consideration of veto message.—Consideration in the Senate of any veto message with respect to a joint resolution described in subsection (b), including consideration of all debatable motions and appeals in connection therewith, shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.".

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

ASHCROFT AMENDMENT NO. 2427

Mr. ASCHCROFT proposed an amendment to amendment No. 2422 proposed by Mr. Kennedy to the bill, S. 1415, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

(1) Amounts equivalent to penalties paid under section 202, including interest thereon.

(c) Repayable Advances.—

(1) Authorization.—There are authorized to be appropriated to the trust fund, as repayable advances, such sums as may from time to time be necessary to make the expenditures authorized by this Act.

(2) Repayment with interest.—Repayable advances made to the trust fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the trust fund for such purposes.

(3) Rate of interest.—Interest on advances made under this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the anticipated period during which the advance will be outstanding.

(d) Expenditures From Trust Fund.—Amounts in the trust fund shall be available in each calendar year, as provided by appropriations Acts, except that distributions to the States from amounts credited to the State Litigation Settlement Account shall not require further authorization or appropriation and shall be as provided in the Master Settlement Agreement and this Act, and not less than 15 percent of the amounts shall be expended, without further appropriation, notwithstanding any other provision of this Act, from the trust fund for each fiscal year, in the aggregate, for activities under this Act related to—

(1) the prevention of smoking;

(2) education;

(3) State, local, and private control of tobacco product use; and

(4) smoking cessation.

(e) Budgetary Treatment of Trust Fund Operations.—The receipts and disbursements of the National Tobacco Settlement Trust Fund shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

(f) Administrative Provisions.—Section 9602 of the Internal Revenue Code of 1986 shall apply to the trust fund to the same extent as if it were established by subchapter A of chapter 95 of such Code.

SEC. 402. STATE LITIGATION SETTLEMENT ACCOUNT.

(a) In General.—There is established within the trust fund a separate account, to be known as the State Litigation Settlement Account.

(b) Transfers to Account.—From amounts received by the trust fund under section 403, the State Litigation Settlement Account shall be credited with all settlement payments designated for allocation, without further appropriation, among the several States.

(c) Reimbursement for State Expenditures.—

(1) Payment.—Amounts credited to the account are available, without further appropriation, in each fiscal year to provide funds to each State to reimburse such State for amounts expended by the State for the treatment of individuals with tobacco-related illnesses or conditions.

(2) Amount.—The amount for which a State is eligible for under subparagraph (A) for a fiscal year shall be based on the Master Settlement Agreement and its ancillary documents in accordance with such agreements thereunder as may be entered into after the date of enactment of this Act by the governors of the several States.

(3) Use of funds.—A State may use amounts received under this subsection as the State determines appropriate.

(4) Funds not available as medicaid reimbursement.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(d) Payments To Be Transferred Promptly To States.—The Secretary of the Treasury shall transfer amounts available under subsection (c) to each State as amounts are credited to the State Litigation Settlement Account without undue delay.

( ) Provisions Relating to Amounts in Trust Fund.—

(1) Certain provisions null and void.—Notwithstanding any other provision of law, the following provisions of this Act shall be null and void and not given effect:

(B) Sections 402 through 406.

KERREY AMENDMENTS NOS. 2428–2429

(Ordered to lie on the table.)

Mr. KERREY submitted two amendments intended to be proposed by him to the bill, S. 1415, supra; as follows:

Amendment No. 2428

At the end of subtitle C of title XI add the following:

SEC. . LIMITATION ON FUNDING OF PROGRAMS AND ACTIVITIES.

Notwithstanding any other provision of law, only amounts deposited into the National Tobacco Trust Fund may used to fund the programs and activities authorized under this Act.

Amendment No. 2429

Section 1991D of the Public Health Service Act, as added by section 221, is amended by inserting after subsection (g) the following:

"(i) Community-Based Activities of Tobacco Scholars.—

"(1) In general.—Of the sums made available to the National Institutes of Health under this section, the Director shall make available a portion of such sums to support the community-based activities of the tobacco scholars assigned to States in accordance with paragraph (2).

"(2) Tobacco scholars.—The Director of the National Institutes of Health shall—

"(A) designate individuals to serve as tobacco scholars from among individuals who receive funding through the National Institutes of Health for tobacco-related research; and

"(B) assign a tobacco scholar to each State.

"(3) Community-based activities.—For purposes of paragraph (1), the term 'community-based activities' includes—

"(A) public forums for sharing research by tobacco scholars and other tobacco-related research with the medical community within States; and

"(B) dissemination of information to the public on tobacco-related research and the health-related implications of the conclusions of such research through means such as public forums, public service announcements, advertisements, and television broadcasts.

KERREY (AND KENNEDY) AMENDMENT NO. 2430

Mr. KERREY (for himself and Mr. Kennedy) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

At the end of title XI, add the following:

SEC. . PROGRAM OF PAYMENTS TO CHILDREN'S HOSPITALS THAT OPERATE GRADUATE MEDICAL EDUCATION PROGRAMS.

(a) Payments.—

(1) In general.—The Secretary shall make payments under this section to each children's hospital for each hospital cost reporting period beginning after fiscal year 1998 and before fiscal year 2003 for the direct and indirect expenses associated with operating approved medical residency training programs.

(2) Capped Amount.—The payments to children's hospitals established in this subsection for cost reporting periods ending in a

fiscal year are limited to the extent of funds appropriated under subsection (d) for that fiscal year.

(3) PRO RATA REDUCTIONS.—If the Secretary determines that the amount of funds appropriated under subsection (d) for cost reporting periods ending in a fiscal year is insufficient to provide the total amount of payments otherwise due for such periods, the Secretary shall reduce the amount payable under this section for such period on a pro rata basis to reflect such shortfall.

(b) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—The amount payable under this section to a children's hospital for direct and indirect expenses relating to approved medical residency training programs for a cost reporting period is equal to the sum of—

(A) the product of—

(i) the per resident rate for direct medical education, as determined under paragraph (2), for the cost reporting period; and

(ii) the weighted average number of full-time equivalent residents in the hospital's approved medical residency training programs (as determined under section 1886(h)(4) of the Social Security Act) for the cost reporting period; and

(B) the product of—

(i) the per resident rate for indirect medical education, as determined under paragraph (3), for the cost reporting period; and

(ii) the number of full-time equivalent residents in the hospital's approved medical residency training programs for the cost reporting period.

(2) PER RESIDENT RATE FOR DIRECT MEDICAL EDUCATION.—

(A) IN GENERAL.—The per resident rate for direct medical education for a hospital for a cost reporting period ending in or after fiscal year 1999 is the updated rate determined under subparagraph (B), as adjusted for the hospital under subparagraph (C).

(B) COMPUTATION OF UPDATED RATE.—The Secretary shall—

(i) compute a base national DME average per resident rate equal to the average of the per resident rates computed under section 1886(h)(2) of the Social Security Act for cost reporting periods ending during fiscal year 1998; and

(ii) update such rate by the applicable percentage increase determined under section 1886(b)(3)(B)(i) of such Act for the fiscal year involved.

(C) ADJUSTMENT FOR VARIATIONS IN LABOR-RELATED COSTS.—The Secretary shall adjust for each hospital the portion of such updated rate that is related to labor and labor-related costs to account for variations in wage costs in the geographic area in which the hospital is located using the factor determined under section 1886(d)(3)(E) of the Social Security Act.

(3) PER RESIDENT RATE FOR INDIRECT MEDICAL EDUCATION.—

(A) IN GENERAL.—The per resident rate for indirect medical education for a hospital for a cost reporting period ending in or after fiscal year 1999 is the updated amount determined under subparagraph (B).

(B) COMPUTATION OF UPDATED AMOUNT.—The Secretary shall—

(i) determine, for each hospital with a graduate medical education program which is paid under section 1886(d) of the Social Security Act, the amount paid to that hospital pursuant to section 1886(d)(5)(B) of such Act for the equivalent of a full twelve-month cost reporting period ending during the preceding fiscal year and divide such amount by the number of full-time equivalent residents participating in its approved residency programs and used to calculate the amount of payment under such section in that cost reporting period;

(ii) take the sum of the amounts determined under clause (i) for all the hospitals described in such clause and divide that sum by the number of hospitals so described; and

(iii) update the amount computed under clause (ii) for a hospital by the applicable percentage increase determined under section 1886(b)(3)(B)(i) of such Act for the fiscal year involved.

(c) MAKING OF PAYMENTS.—

(1) INTERIM PAYMENTS.—The Secretary shall estimate, before the beginning of each cost reporting period for a hospital for which a payment may be made under this section, the amount of the payment to be made under this section to the hospital for such period and shall pay such amount in 26 equal interim installments during such period.

(2) FINAL PAYMENT.—At the end of each such period, the hospital shall submit to the Secretary such information as the Secretary determines to be necessary to determine the final payment amount due under this section for the hospital for the period. Based on such determination, the Secretary shall recoup any overpayments made, or pay any balance due. The final amount so determined shall be considered a final intermediary determination for purposes of applying section 1878 of the Social Security Act and shall be subject to review under that section in the same manner as the amount of payment under section 1886(d) is subject to review under such section.

(d) LIMITATION ON EXPENDITURES.—

(1) IN GENERAL.—Subject to paragraph (2), there are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for payments under this section for cost reporting periods beginning in—

(A) fiscal year 1999 $100,000,000;

(B) fiscal year 2000, $285,000,000;

(C) fiscal year 2001, $285,000,000; and

(D) fiscal year 2002, $285,000,000.

(2) CARRYOVER OF EXCESS.—If the amount of payments under this section for cost reporting periods ending in fiscal year 1999, 2000, or 2001 is less than the amount provided under this subsection for such payments for such periods, then the amount available under this subsection for cost reporting periods ending in the following fiscal year shall be increased by the amount of such difference.

(e) RELATION TO MEDICARE AND MEDICAID PAYMENTS.—Notwithstanding any other provision of law, payments under this section to a hospital for a cost reporting period—

(1) are in lieu of any amounts otherwise payable to the hospital under section 1886(h) or 1886(d)(5)(B) of the Social Security Act to the hospital for such cost reporting period, but

(2) shall not affect the amounts otherwise payable to such hospitals under a State medicaid plan under title XIX of such Act.

(f) DEFINITIONS.—In this section:

(1) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term "approved medical residency training program" has the meaning given such term in section 1886(h)(5)(A) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(A)).

(2) CHILDREN'S HOSPITAL.—The term "children's hospital" means a hospital described in section 1886(d)(1)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(iii)).

(3) DIRECT GRADUATE MEDICAL EDUCATION COSTS.—The term "direct graduate medical education costs" has the meaning given such term in section 1886(h)(5)(C) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(C)).

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. McCAIN. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, May 19, 1998, at 9:30 a.m. on Oversight of the Wireless Bureau of the Federal Communications Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCAIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, May 19, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to consider the fiscal and economic implications of Puerto Rico status.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. McCAIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 19, 1998 at 2:30 p.m. to hold a Business Meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. McCAIN. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, May 19, 1998, at 10:00 a.m. for a hearing on "Government Computer Security."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. McCAIN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on "Health Care Quality: Grievance Procedures" during the session of the Senate on Tuesday, May 19, 1998, at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS AND COMPETITION

Mr. McCAIN. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights, and Competition, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Tuesday, May 19, 1998 at 10:00 a.m.

to hold a hearing in room 226, Senate Dirksen Building, on "Consolidation in the Telephone Industry: Good or Bad for Consumers?"

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Tuesday, May 19, 1998 at 2:30 p.m. to hold a hearing in room 226, Senate Dirksen Building, on: "S. 1914, The Business Bankruptcy Reform Act: Business Bankruptcy Issues in Review."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NATO WRAP UP

• Mr. BINGAMAN. Mr. President, I joined the majority of my Senate colleagues in voting overwhelmingly in favor of the resolution approving the accession to NATO of Poland, Hungary, and the Czech Republic. I believe that these three countries have made remarkable progress in establishing democratic institutions and undertaking fundamental economic reforms. In addition, for the United States to refuse their admission into NATO at this stage would undermine U.S. leadership both in the Atlantic Alliance and globally.

However, my support for the admission of Poland, Hungary, and the Czech Republic into NATO should not be interpreted as a green light for further rounds of NATO enlargement. I believe that there is no mandate for further rounds of NATO enlargement. As the forty-one votes in support of the Warner Amendment indicate, more than enough Senators are concerned about moving too fast on NATO enlargement to block approval of the accession of any additional states to NATO in the near-term. In addition, provisions of the NATO resolution makes clear that the Senate expects to be closely consulted prior to any future negotiations on inviting other countries to join NATO.

We must get answers to critical questions before we even begin to consider whether additional countries should be invited to join NATO. Before any further enlargement is contemplated, the United States needs to know the costs of the first several years of integrating Poland, Hungary, and the Czech Republic into NATO, and the burden sharing arrangements for meeting those costs. In addition, the Alliance must first complete revising and updating its Strategic Concept, the statement of NATO's fundamental military mission. This will allow NATO members, and countries potentially seeking membership, to judge for themselves whether further expansion strengthens—or undermines—the Alliance's ability to carry out its strategic mission.

I continue to have serious doubts about the wisdom of any further enlargement of NATO. In rushing to bring the states of the former Warsaw Pact and the former Soviet Union into the NATO military fold, we risk undermining our ability to work with Russia to reduce the most immediate threats to our security. In particular, I am concerned about the adverse impact that the consideration of the Baltic states for NATO membership might have on on-going U.S.-Russian cooperative initiatives. These initiatives address some of our highest security concerns, including the containment of the proliferation of nuclear, chemical, and biological technology and materials, and achieving mutual reductions in strategic nuclear forces. With regard to the Baltics, I draw the attention of my colleagues to a colloquy between Sen. BIDEN and myself recorded in the CONGRESSIONAL RECORD of April 30th, on page S3888. This colloquy clarifies that the United States has not pre-committed, either in the U.S.-Baltic Charter of Partnership or elsewhere, to support NATO membership for the Baltic states.

I hope now we can put the distraction of NATO enlargement behind us. It has yet to be explained how the expansion of a military alliance, formed during the height of the Cold War to defend its members' territory from external attack, serves our needs in today's changed security environment. The threats we face today require careful consideration of a full range of options—whether NATO, the Partnership for Peace initiative between NATO and 28 countries of Europe and the former Soviet Union, or other collective security arrangements—to increase the security and stability of all democratic states.

The Senate, as well, needs to turn its attention to efforts that mutually enhance the security of the United States, its NATO allies, and the states of Eastern Europe, including Russia. These include laying the groundwork for Senate approval of the Comprehensive Test Ban Treaty, supporting the elimination of Russian strategic arms under the Cooperative Threat Reduction program, and encouraging acceleration of the START process to further reduce Russian nuclear weapons. In the long-run these initiatives offer valuable alternatives to NATO enlargement for addressing the highest security concerns in today's post-Cold War security environment.•

TRIBUTE TO THE WILLIAM E. BIVIN FORENSICS SOCIETY: 1998 NATIONAL COLLEGIATE DEBATE CHAMPIONS

• Mr. MCCONNELL. Mr. President, I rise today to ask my colleagues to join me in congratulating the William E. Bivin Forensic Society—the debate team at Western Kentucky University, located in Bowling Green, Kentucky—for their recent victories at the national collegiate debate championships.

In mid-March, Western won the Delta Sigma Rho—Tau Kappa Alpha Lincoln-Douglas Debate Championships at Miami University in Ohio. Two members of the team, Mike McDonner and Aaron Whaley—were co-national champions in the individual competition.

Then, in April, Western also won at the National Forensics Association tournament at Western Illinois University, defeating Ohio State University by a 5-0 decision. Mike McDonner again captured the individual title, and teammate Kerri Richardson was a semifinalist. In addition, Kristin Pamperin and Doug Morey were quarterfinalists. Other varsity members of the victorious Western Kentucky team were Amanda Gibson and Aaron Whaley. Novice debaters Mitchell Bailey, Jennifer Cloyd and Brian Sisk also contributed to the team title.

These two debates comprise the national championships in college debating circles, and it is extremely rare that one team wins both events. Amazingly, this is second time in three years that Western Kentucky has claimed both debates. The winning tradition being built in Bowling Green is a testament to the strong leadership of the team's coach, Judy Woodring.

Mr. President, Western Kentucky University's debate team is building quite a tradition. I offer my congratulations to Coach Woodring and to all the members of the Bivin Forensics Society for another great year. With two national championships in three years, I expect that we may be seeing the beginning of a dynasty in Bowling Green.•

MIGNON CLYBURN'S APPOINTMENT TO THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

• Mr. HOLLINGS. Mr. President, I rise today to congratulate Mignon Clyburn, daughter of U.S. Representative JAMES CLYBURN, on her election to the South Carolina Public Service Commission. The PSC—which overseas electricity, gas, phone, water, and sewer rates—is crucial to safeguarding consumer rights for all the people of South Carolina. Its work will be especially important and complex now that the telecommunications and utilities industries have been deregulated. It is because the work of the Public Service Commission is so important that I am glad to see someone as capable and dedicated as Mignon Clyburn appointed to the Commission.

Public service flows in Mignon's blood. Her father, the first black Representative elected from South Carolina since Reconstruction, served South Carolina for many years in various community and state positions before entering the House of Representatives.

Mignon has worked for over a decade as the driving force behind The Coastal Times newspaper. Her tireless work writing, editing, and marketing the magazine has earned it well-deserved praise as one of the best community papers in the Southeast. Mignon also has served her community through extensive volunteer work with the United Way and other organizations.

Mr. President, Mignon Clyburn will make an excellent Commissioner. She understands the importance of the Public Service Commission for the people of South Carolina. She said after accepting the position, "I think this is the most significant agency . . . in the state. What's more vital or fundamental than your utilities?"

Mignon Clyburn will make a wonderful Public Service Commissioner. She is an intelligent, hard working, and committed to improving the life of every South Carolinian. I am confident she will be a dedicated and effective guardian of South Carolina consumers.●

NATIONAL ASSOCIATION OF LETTER CARRIERS FOOD DRIVE

● Mr. SANTORUM. Mr. President, I rise today to discuss the importance of the National Association of Letter Carriers Food Drive. The National Association of Letter Carriers Food Drive, held in conjunction with the U.S. Postal Service and local United Way, is the largest one-day collection of food in the Nation. Last year almost 5,000 pounds were collected in Horsham, Pennsylvania, while some 73 million pounds were collected nationwide.

On Saturday, May 9, letter carriers in Horsham and across the Nation reached out to help their neighbors who fell on hard times by collecting nonperishable food donations along their mail routes. Each year, their efforts help to restock the shelves of local food pantries. Likewise, the donations raided through this annual event prepare charities for the overwhelming demand for food during the Thanksgiving and Christmas holiday seasons.

Mr. President, I commend the letter carriers, the men and women of the U.S. Postal Service, and the United Way for making this collection possible. On behalf of the United States Senate, I would like to recognize the dedication of these public servants and the generosity of the families who donated to this worthy cause. I ask my colleagues to join me in extending the Senate's best wishes for continued success to all those who participated in the National Association of Letter Carriers Food Drive.●

TRIBUTE TO GEORGE NORCROSS

● Mr. LAUTENBERG. Mr. President, I rise today to remember a dear friend and treasured community leader in Southern New Jersey, George Norcross II.

George and I shared many experiences and values and each of us ended up in public service.

We both grew up in a poor, urban environment, he in Camden, and I in Paterson. We both lost our fathers at a very young age, but continued to attend high school while beginning to work. We both served in the military during World War II, he in the Navy and I in the Army.

After George returned from the war, he built a career in union organizing efforts and community service. His was a voice of strength and determination for working families in Camden County—and what a loud voice it was! He fought tooth and nail for union workers, never without a cigar in hand. But his rough exterior was complemented by his caring heart, and the effectiveness of his work with organized labor was reinforced through his numerous philanthropic activities.

The Union Organization of Social Services, of which George became president in 1955, reflected his marriage of organized labor and charity work. The mission of UOSS is to deal with drug and alcohol abuse, job training, food banks, disaster relief, clothing drives and blood banks within its community.

George was also active in the United Way his entire life, serving as its general chairman in 1992 and as chairman emeritus after his retirement. His involvement with this organization led to the United Way's Labor Support Committee, which raised millions of dollars for charity.

As a tough negotiator, a coalition builder, and someone who always got the job done, George's unrivaled union leadership will never be forgotten. He served as president of the AFL-CIO Central Labor Union for 16 years, was a member of the International Brotherhood of Electrical Workers Local 1448, and became the international representative of the International Union of Electrical Workers.

George and I shared the conviction that educational opportunity is critical to a robust and stable democracy. George's dedication to providing educational opportunities to others led to his creation of the Peter J. McGuire Scholarship Program in conjunction with the American Federation of Teachers. These scholarships, presented every year at New Jersey's Labor Day celebration, benefit children of southern New Jersey union members. And if my schedule didn't permit me to attend this annual event one year, I would get an earful from George!

George's union leadership and sense of civic responsibility have benefitted countless New Jerseyans, including students able to go to school on scholarship, people in need who receive help, and workers with grievances whose rights are defended.

George Norcross will be dearly missed. I want to extend my heartfelt condolences to Carol, George's wife of 43 years, and his four sons, George III, John, Don and Phil. I know I will continue to cross paths and work with them on behalf of New Jersey.●

TRIBUTE TO GARY HIRSHBERG

● Mr. SMITH of New Hampshire. Mr. President, I rise today to recognize Gary Hirshberg, president and chief executive officer of Stonyfield Farm in Londonderry, New Hampshire, who is being honored with the two most prestigious business leadership awards in New Hampshire. Dedicated to social and environmental corporate responsibility, Gary Hirshberg became the first New Hampshire entrepreneur to be named both "Business Leader of the Year" by Business NH magazine and "New Hampshire's 1998 Small Business Person of the Year" by the United States Small Business Administration.

A New Hampshire native and third-generation manufacturer, Gary's vision and commitment to social and environmental issues played an integral role in the development of Stonyfield Farm. Gary Hirshberg was named CEO shortly after joining Stonyfield. Together, with founder Samuel Kaymen, they embarked on an educational project designed to revitalize family farms in the New England dairy industry while positively impacting the environment and the local economy.

The same dedication and determination that prompted two individuals to do everything from milk cows to deliver products out of an old farmhouse in Wilton, helped the Stonyfield Farm family to grow to its current 150 employees and 21,000-square-foot, custom-designed "Yogurt Works" in Londonderry. Having been raised on a farm myself, I can appreciate the hard work done by Gary and his partner over the years. As Gary watched the company's distribution expand to all 50 States and Great Britain and annual sales exceed $40 million, he never lost sight of his commitment to family-owned farms. Under Gary Hirshberg's leadership, Stonyfield Farm continues to promote awareness of the plight of the small farm through such programs as "Adopt a Cow," and to raise environmental consciousness through the company's use of operationally efficient natural resources and its sponsorship of recycling programs.

As a former small business owner, I appreciate the challenges faced by small business owners and understand that these businesses are the backbone of our economy. Consequently, I have worked throughout my tenure in Congress to lift the tax and regulatory burden from the shoulders of small business so that the dreams and aspirations of people like Gary Hirshberg and Stonyfield Farm may continue to grow and prosper. Gary's compassion and commitment to local communities, environmental awareness, and social responsibility embodies the true New Hampshire spirit. I commend him for serving as a role model for not only the youth of the Granite State but for all of us. It is with great pride that I represent Gary Hirshberg in the United States Senate.•

TRIBUTE TO MARJORY STONEMAN DOUGLAS

• Mr. GRAHAM. Mr. President, I rise today with a heavy heart and bearing the sorrow that Floridians and Americans everywhere feel at the death of a national treasure—Marjory Stoneman Douglas.

Marjory Stoneman Douglas is and will always be the "Mother of the Everglades." That title was made official in 1993, when President Clinton presented here with the Presidential Medal of Freedom—our Nation's most prestigious civilian honor.

Over 130 years ago, upon meeting Harriet Beecher Stowe for the first time, President Abraham Lincoln greeted the author of Uncle Tom's Cabin with this salutation: "So this is the little woman who started the great war."

Marjory Stoneman Douglas was equally influential in her own time. She was the feisty woman who started the great effort to save the Everglades from mankind's abuse and neglect.

She was born on April 7, 1880 in Minneapolis, Minnesota. Perhaps it was this connection to "The Land of Ten Thousand Lakes" that was responsible for her intense passion for environmental preservation. She graduated from Wellesley College just over two decades later with the prophetic title of "Class Orator."

These two characteristics—a love of nature and a powerful determination to make her voice heard—would soon come together to the benefit of the Florida Everglades. In 1915, Marjory arrived in Miami and joined the staff of the *Miami Herald*. With the exception of a brief stint as a Red Cross worker during World War I, she spent the next eighty-three years working to save the Everglades from destruction.

When Marjory Stoneman Douglas arrived in South Florida, many people thought of the Everglades as nothing more than another Florida swamp. Indeed, Governor Napoleon Bonaparte Broward, who served from 1905 to 1909, had proposed draining the Everglades to reclaim the land there.

Marjory did not brook ignorance about the Everglades. Instead, she poured time, energy, blood, sweat, and tears into re-educating the people of Florida about the crowning jewel in Florida's collection of environmental treasures. Long before scientists became alarmed about the effects on the natural ecosystems of South Florida, she was taking public officials to task for destroying wetlands, eliminating the sheet flow of water across the Everglades, and upsetting the natural cycles upon which the entire South Florida ecosystem depends.

Marjory's oratory and hustle produced tangible accomplishments. Her crusade to win Federal protection for the wetlands scored a major victory when President Harry Truman dedicated Everglades National Park in 1947.

That same year, she published the work that would jump-start the modern era of Everglades restoration: The Everglades: River of Grass. To this day, that tome stands as the definitive descriptive of the national treasure she fought so hard to protect.

Visitors travel thousands of miles to see the Everglades. Scientists and naturalists spend entire lifetimes studying the Everglades' diverse habitats and unique collection of plants and animal life. Today, public officials from every ideological persuasion and geographic location line up to support efforts to protect the Everglades. None of this would have been possible without Marjory Stoneman Douglas' Herculean efforts.

She supplemented her hard work and determination with a disarming candor. Some people will remember that Marjory co-authored a 1920's anti-gangster play entitled Storm Warnings. That title was well-suited to the personality of its author. She would frequently blow in like a Florida summer thunderstorm and give you her thoughts in no uncertain terms, leaving you dazed and drained but unmistakably sure of her intentions.

When I was a state legislator in the late 1960's, Marjory came to Tallahassee to speak to the Dade County delegation. She conveyed one simple, blunt message: we would safeguard the health of the Everglades and if we didn't, we would all spend an uncomfortable afterlife in hell.

I took those words to heart. When I was Governor from 1979 to 1987, Marjory and I teamed up to launch a campaign to safeguard the Florida Everglades. It is an effort that has attracted broad, bipartisan support over the years—a testament to Marjory's persuasive powers.

In 1997, I joined Senator CONNIE MACK and U.S. Representative PETER DEUTSCH in introducing legislation to name over 1.3 million acres of the Everglades after its modern savior. President Clinton signed that legislation in mid-November, and I helped to dedicate the "Marjory Stoneman Douglas Wilderness" on December 4, 1997—Everglades National Park's 50th Birthday. Marjory's ashes will be scattered over that wilderness area.

Marjory Stoneman Douglas was a friend and mentor to me for many years. I will miss her greatly. I want to conclude today by reading from John Rothchild's introduction to her autobiography. Recalling her appearance at a 1973 public meeting in Everglades City, Mr. Rothchild offered this apt description:

> Mrs. Douglas was half the size of her fellow speakers and she wore huge dark glasses, which along with the huge floppy hat made her look like Scarlet O'Hara as played by Igor Stravinsky. When she spoke, everybody stopped slapping [mosquitoes] and more or less came to order. She reminded us all of our responsibility to nature. Her voice had the sobering effect of a one-room schoolmarm's. The tone itself seemed to tame the rowdiest of the local stone crabbers, developers, and the lawyers on both sides. I wonder if it didn't also intimidate the mosquitoes.

Marjory Stoneman Douglas always got your attention—she was the most eloquent spokesperson that the Everglades will ever have. The embattled wetland lost its "Mother" last week, but we must keep her memory and legacy alive by continuing our efforts to preserve the Everglades for future generations of Floridians and Americans.•

TRIBUTE TO DR. ALVIN C. POWELEIT: A FIXTURE IN NORTHERN KENTUCKY FOR OVER 50 YEARS

• Mr. McCONNELL. Mr. President, I rise today to remember the life of Dr. Alvin C. Poweleit. For nearly 50 years, the people of Covington were blessed to have Dr. Poweleit as a member of their community, and few families were not touched by the kind gentleman known as "Pepa."

Pepa Poweleit grew up in northern Kentucky in the town of Newport. After earning his medical degree, Dr. Poweleit returned to Newport in the late 1930s as general practitioner. Like most young men of his generation, he left his hometown behind when he signed up to serve in World War II. He soon found himself in the Philippines, where he was the first U.S. medical officer to be decorated in the war, when he saved personnel in a submerged Brenn Gun Carrier.

Dr. Poweleit spent over three years in Japanese POW camps in the Philippines, and was a survivor of the Bataan Death March. After the war, Dr. Poweleit returned to northern Kentucky, where he opened up his own practice in Covington as an eye, ear, nose and throat specialist.

For the last 50 years, the Poweleit family has maintained the office at the corner of Eighth and Scott in Covington. It was a rare day that Dr. Poweleit didn't work 14 hours. If there were sick patients to be seen, Pepa Poweleit would see every single one. At a time when most people lived within walking distance of their family doctor, it wasn't rare to see Dr. Poweleit still in the office after midnight.

Pepa Poweleit retired from practice in 1981, leaving the family practice to his son Alvin D, an eye specialist known in the community as Dr. Alvin. Carrying on the tradition of family practice, Dr. Alvin remains a fixture today in the Covington community.

Mr. President, last June, Pepa Poweleit was tragically killed when the car in which he was a passenger was run into by a truck. He was 89. Pepa Poweleit was a beloved figure in the communities of Northern Kentucky. Though nearly two decades have gone by since he retired, and almost a year has passed since his death, Pepa Poweleit is still sorely missed.●

NATIONAL EMS WEEK

● Mr. SANTORUM. Mr. President, I rise today to congratulate Lisa Mauger, Mary McGuire, Stephanie Schmoyer and Christine Webster on being honored with the Stars of Life award by the American Ambulance Association (AAA).

For the past four years, AAA has honored paramedics and emergency medical service (EMS) personnel who exemplify what is best about their field. Past Stars of Life award recipients have included paramedics who were part of the rescue efforts during disasters like the Centennial Olympic Park and Oklahoma City bombings and the severe flooding in the South and Midwest.

Through a spirit of selflessness, Lisa, Mary, Stephanie and Christine have dedicated themselves to serving others. Their spirit of community is a great source of pride, not only for Pennsylvania, but for the United States.

Mr. President, I hope my colleagues will join with me in honoring these women for their faithful service and extending best wishes for continued success in the years to come.●

ORDERS FOR WEDNESDAY, MAY 19, 1998

Mr. McCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, May 20.

I further ask that, on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate resume consideration of the pending amendments to the tobacco legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCAIN. Mr. President, a motion to table the Kennedy amendment and the Ashcroft amendment is expected to occur by midmorning. In addition, several other amendments are expected to be offered. Therefore, votes can be expected throughout the day and into the evening on Wednesday.

ORDER FOR ADJOURNMENT

Mr. McCAIN. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, I join all of my colleagues in thanking our friend and colleague and chairman of our task force, Senator CONRAD, for the enormously informative presentation that was made in support of our proposal before the Senate now, which is to raise the cost of a pack of cigarettes by $1.50.

I thank my colleague and friend, Senator KERRY, for his comments and for all the work he has done, as well, in bringing us to where we are in this legislative session, so that we are having an opportunity to debate these issues on the floor of the Senate and having an opportunity to express a judgment about these matters this afternoon, again tomorrow, and the remainder of this week.

This is enormously important. Perhaps, in many respects, it is the most important measure that we will have before the Senate in this term—certainly one of the most important public health issues that we will have before the Senate. I think it is important that the American people give focus and attention to this issue and, in particular, to the amendments we are now discussing and debating on the increase of the per pack cost of cigarettes.

I also mention our colleague and friend, the chairman of the committee, Senator McCAIN. I, too, want to join in expressing appreciation for the fact that we had the opportunity to get to this legislation through his leadership. Now we have an opportunity to strengthen and improve it. We are grateful for his leadership.

Mr. President, I want to just take a few moments to respond to the issue that Senator McCAIN spoke to when we were making the presentation about the importance of increasing the price per pack by $1.50. Senator McCAIN at that time talked about, what is magical about $1.50? What is really the difference between that and $2 or $2.50 or $3?

Mr. President, I think it is important to understand why we do have the $1.50. It is, as I mentioned earlier, and as Senator LAUTENBERG and Senator CONRAD have pointed out, the recommended figure by not just the majority, but the entirety of the public health community, to be essential if we are going to have some impact in reducing cigarette smoking by teenagers in this country and also to achieve the goal that was established by the attorneys general in their own proposal. They established a 10-year goal of 60 percent. That was in the initial proposal made by the attorneys general—the 60 percent.

In our Committee on Labor and Human Resources, which had the consideration of this legislation for a short period of time—we had the jurisdiction because of the responsibility that the committee has regarding the Food and Drug Administration, and we had a markup on the legislation—we had a majority of the members who said, "We don't want to see a reduction of 60 percent, we want a reduction of 80 percent." If we are going to accept that, then we have to find out how we are going to get and reach that particular goal. That is really the fundamental issue. It doesn't do much good to say we are going to set a goal of 30, 40, 50, or 60 percent and then not take the steps to be able to achieve it.

The attorneys general went with 60 percent. The goal established out of the Commerce Committee was 60 percent. So it is fair enough to ask ourselves, will we reach that goal of 60 percent with the proposal of the Commerce Committee? And what we are saying is that we will not. You won't reach that with $1.10. You will get maybe into a 34, 36 percent reduction, but you are not going to get the 60 percent reduction, which has been the goal—and I think a worthwhile goal—to see that 60 percent of the young people in this country are going to stop smoking over a period of 10 years. We will be able to reach that with $1.50. I will come back and explain that in greater detail in a few moments. We will be able to reach that and give the authority for that.

The chairman of the Commerce Committee says we will get there, and if we don't get there on the front end, we will get there on the back end by the requirements we have on the look-back provisions. But I think it is fair to say that with the look-back provisions, and the capping of the payments on the look-back provisions of some $4 billion, that the best estimate, even if you are going to have the violations of the look-back provisions, you are only talking about perhaps 15 or 20 cents more per pack.

So you get up to maybe $1.30 or $1.35. But you still are not getting to where the health economists and professionals say you have to get in order to have the significant reduction.

That is really the issue that is before the Senate. That is the question that we are going to decide on tomorrow.

What is the justification for not taking the recommendations of the public health community? What is possibly the reason for not doing so? There are those who can say, "Well, if you do so you are going to pay for the industry itself." Senator CONRAD just responded to that.

I come back to the excellent testimony we had before the Judiciary Committee and before the task force that responds to that which estimates that even with $1.50 as Jeffrey Harris, who is probably the most thoughtful and competent unbiased health economist who has studied this for the longest period of time, has estimated that even with an increase of $1.50, that by the year 2003 the profits for the industry will be in excess of $5 billion just on the domestic sales of product here in the United States, a very, very generous profit for this industry—a generous profit for the industry even at $1.50.

What is possibly the reason not to support the recommendation of the public health community which says we ought to go to $1.50 a pack if we are serious about stopping young people from smoking?

That is overwhelming testimony. That is overwhelming presentation. It is overwhelming evidence. It has not been rebutted. It won't be rebutted. It hasn't been rebutted tonight. It won't be rebutted tomorrow. And it has not been rebutted by any of the publications, including the tobacco industry itself. It has not been rebutted.

We will come back to what the tobacco industry has been doing. So this is the issue. Why wouldn't we want to do it? What is going to be the argument against it? I don't find the arguments very persuasive. I do not hear them. It is just, "Well, we have a better way of doing it." But we are taking a very significant chance. Why do that when we have such overwhelming and powerful evidence this amendment can make a significant difference, and based upon the human tragedy that is taking place among our teenagers every single day across this country? It isn't a problem that is becoming less important. It is becoming more important. It isn't an issue that is resolving itself. It is becoming more acute. That is the question that we can ask.

We in this body tomorrow can take a major step in improving the quality of life for young people in this country for years ahead. The overwhelming majority of the American people are for it. The powerful special interests of the tobacco industry are against it. And we are going to find out here on the floor of the Senate when that rollcall is going to be there whether we are going to stand with the families and stand with the children of this country and stand with the future, or whether we are going to stand with an industry that has been so discredited in terms of its representations and presentations in this whole discussion and debate and over the period of this past year. That is the issue. I don't think we can have many that are more clearly defined than the one we have before us and will have before us tomorrow.

According to University of Illinois Professor Chaloupka, the Nation's leading authority on the impact of higher cigarette prices on teenage smoking, a $1.50 per pack increase in cigarette prices will reduce the teenage smoking by 56 percent over 10 years. A $1.10-a-pack increase, on the other hand, will reduce youth smoking rates by only 34 percent. In fact, the $1.15 increase will only return youth smoking to its 1991 level because of the recent surge in teenage smoking rates. That is clearly unacceptable.

FDA Commissioner David Kessler has called smoking a "pediatric disease with its onset in adolescents." In fact, studies show that over 90 percent of the current adult smokers began to smoke before they reached the age of 18.

It makes sense for Congress to do what we can to discourage young Americans from starting to smoke during these critical years. A $1.50-a-pack increase over 3 years is the right medicine. A $1.10 increase won't do the job.

Youth smoking in America has reached epidemic proportions. According to a report issued last month by the Centers for Disease Control and Prevention, smoking rates among high school students soared by nearly a third between 1991 and 1997. Among African-Americans, the rates have soared by 80 percent. More than 36 percent of high school students smoke, a 1991 year high.

With youth smoking at crisis levels and still increasing we cannot rely on halfway measures. Congress must use the strongest legislative tools available to reduce youth smoking as rapidly as possible.

Mr. President, let's take a look at what has been happening to the teenagers in this country over the period of the recent years. Tobacco use, as mentioned, is a "pediatric disease with its onset in adolescents." It is no coincidence that teenage smoking has continued to increase since the early 1990s. The industry has systematically reduced its prices on cigarettes and increased its spending on marketing and promotional strategies targeted at youth.

A significant date in this cynical manipulation is April 2, 1993, a day which will live in infamy in the tobacco industry. On that day, often called "Marlboro Friday," the Nation's largest tobacco company, Philip Morris, fired the opening salvo in the new price strategy which reversed a decade-long decline in youth smoking in the United States. Philip Morris slashed 40 cents off the price of Marlboro, its most popular brand of cigarettes among children. The strategy was defined to protect its profits against generic and discount brands which were capturing an increased share of the market.

Let me show this chart which gives the overall changes about what is happening with teenage smoking here in the United States. In 1991, it increased 27 percent; in 1993, 30 percent; in 1995, 34.5 percent; in 1997, 36.4 percent; a yearly average of a 32-percent rise since 1991.

This is going up so rapidly that we have to ask ourselves what are we going to do to try to slow it down? What can we do to possibly stop it? And the goals that have been set by the attorneys general and by the Commerce Committee is 60 percent. Let's try to do that. The best way is with the $1.50.

Teenage smoking on the rise. Just look at who has been the targets of the tobacco companies.

Blacks and non-Hispanic increased 80.2 percent. They have been targeted by the industry. They have been successful. Hispanic, up 34 percent, and white and non-Hispanic, 28 percent. They have been the targets of the tobacco industry effort to expand their market to bring these young people into addiction to be the source of profits for future years.

The tobacco industry looks at a child, and, says, "This is my profit for the future years. See what I can do to get that child addicted."

You say, "How can you say that, Senator? How can you make a statement like that on the floor of the U.S. Senate?"

Listen to what the Philip Morris memo says in 1987 at the Minnesota trial.

> The '82–'83 round of price increases prevented 500,000 teenagers from starting to smoke. This means that 420,000 of the nonstarters would have been Philip Morris smokers. We were hit hard. We don't need that to happen again.

This isn't a statement made by the Senators from Massachusetts, North Dakota or New Jersey. Here it is in the words of the tobacco industry. Listen to what they say about an increase in price.

> The '82–'83 price increase prevented 500,000 teenagers from starting to smoke. This means that 420,000 of the nonstarters would have been Philip Morris smokers.

That is their percent of the market.

> We were hit hard. We don't need that to happen again.

Well, they will have a chance to have it happen to them again tomorrow at noontime when we do what the cigarette companies dread the most, give them an increase in price. That is what they dread the most. We will hear, oh, my goodness, all this fluttering around over this tax bill—can we afford it; it is regressive, and all the rest.

If you want to stop teenagers from smoking, there it is, according to the industry itself. And now, Mr. President, we see what has happened. Every parent in this country ought to be concerned about the explosion in the numbers of teenage smokers in this country with an extraordinary rise, the fastest rise we have seen really in the history of any kind of documentation about kids smoking.

Now, you can say let's look again at what was really the reason for this.

Well, Mr. President, I suppose it is all summarized best by this Philip Morris memo. We can see now what they were talking about when you look at what has happened to the real price—the impact on teen smoking from 1980 to 1995. Here is the steep increase in the price, and here is the decline in the teenage smoking.

That is what Philip Morris was talking about—the '1982–83 increase in the price and the decline in the teenage smoking, right there. There it is, Mr. President. And that represents the 420,000 Philip Morris potential smokers who didn't get started—in just that short line here.

But now let's look at what has happened with the price over the rest of the period of time. We had the gradual increase. And we will hear more about that. That is basically the monitoring and increasing of what? You say, Senator, well, it is just the price that is going up. How could they possibly—why would they do that?

Well, there is no question the price was on the rise all through here and look what was happening with teenage smoking, Mr. President. Look what was happening with teenage smoking. As the prices were going up here, the number of teenage smokers was coming down here.

We are challenged: Well, who are these public health officials? Where are these studies? What kind of findings is Dr. Koop referring to?

Just look at this record. Just look at this record as to what is happening out there in the countryside, the dramatic increases in the number of kids that are going ahead and smoking and look in the more recent times. And then look what happened where you have the increase in the price and the decline here. And then we see the drop, the real price right here corresponding to the dramatic increase and leveling off.

See the drop here, Mr. President. You see the drop in the real price and the explosion of teenage smoking. How many times do we have to make this case?

Well, you know something. People can say, "Well, look, it is flattened off." This hasn't flattened off.

Well, what happened in the interim? What happened in the interim is the explosion of the tobacco industry in advertising, $5 billion a year in advertising. And that has made sure that these kids continued on with their smoking. They monitor this carefully, what the price and the necessary advertising is. They take the focus groups; they do their polling; they do their marketing surveys. And then they know exactly what to do, how to calculate this, and that is what they are doing.

This whole group, increasing 30 percent a year during all of this period of time, are the kids that are being addicted to smoking. As we found out in our Judiciary Committee, we are a Nation that is concerned about what we are going to do about the problems of substance abuse, and just about every professional will tell you that the gateway in terms of the use of heroin, cocaine, the other substance abuse starts with smoking—and starts with teenage smoking. And they can draw you a correlation about where those kids start getting off the straight and narrow path almost by the time they begin to smoke as kids. That record is out there. I will put some of that in the RECORD and reference it tomorrow morning, Mr. President, but that is a fact and they can demonstrate that to you. That makes the case about as well as it can be made.

I don't know how much more convincing you have to be. I do not hear the response from our colleagues and friends who are opposed to this. According to Jeffrey Harris, health economist at MIT, who is the most experienced, thoughtful and knowledgeable, and certainly the most experienced in terms of these issues, the profit even with $1.50 for the industry itself will be $5.1 billion—$5.1 billion—$5.7 billion under the McCain bill; with no legislation, $6.3 billion. Very, very profitable industry. And another $2 billion to $3 billion per year from international cigarette sales and from nontobacco products—Miller, Kraft, Nabisco.

We are talking about economic dynamite when we are talking about these companies. And they shed these crocodile tears if we propose putting on a $1.50 per pack.

The thing we do know, Mr. President, is that we will have a significant impact in reducing teenage smoking. Why take a chance? Why take a chance of not doing this job right? Why take a chance of not taking the steps that are necessary to move ahead to make a difference for all of these kids? I do not understand it.

We have heard about some of the reasons why we should not do it. I think the Senator from North Dakota stated it well. If we do it, the arguments have been made, they won't be profitable. That has been responded to. If we do it, we are going to get into questions of smuggling. We will have to deal with this issue. And as Senator CONRAD had pointed out, the smuggling is not taking place in the countries with the highest costs, which you would normally think. Countries where smuggling is the greatest is where the prices are, in some instances, a quarter or a third of the higher price, but fail to have effective law enforcement provisions. So you can say, "Well, what are you going to have in terms of law enforcement provisions?"

Mr. President, others will speak to this. But just to mention briefly: Closed distribution systems; require licensing of everyone in the cigarette distribution chain, manufacturer or wholesaler, distributor and retailer; all cigarettes manufactured for export must be clearly marked so they can be easily identified; additional law enforcement resources for Customs and ATF.

We hear excellent responses from those who have responsibilities for smuggling, and they have answered to that. So we know we are going to have minimal impact on the profits of the industry. We know it can work effectively on smuggling. And we know what group in our society is going to benefit the most.

Let me just continue about the teenagers and some of the things that happen to these teenagers. Philip Morris reduced prices by 50 cents in my own State of Massachusetts and New York, both of which had recently increased their cigarette tax. This is some 3 years ago. A month later, R.J. Reynolds, the Nation's second largest cigarette company, which manufactures Camel cigarette, responded by matching Philip Morris price cuts on its most popular brands with teenagers, and the price cuts came at the same time the Federal tax was being increased from 20 to 24 cents a pack and a larger tobacco increase was being considered to fund the Clinton administration's proposal for health care reform. In addition to the price cuts, the tobacco industry continued to spend on advertising, promotional giveaways, T-shirts, coupons, sports gear, buy-some-get-some-free offers to increase sales.

And, as I mentioned, much of this advertising was targeted to children and adolescents, promising popularity, excitement, success, for those who begin to smoke. It is no coincidence, then, that the price cuts and increased advertising aimed at kids led to the rise in teenage smoking.

I just show that, time in and time out, if you lower the price and you increase the advertising, you increase the teenage smoking. That is as clear as it is that we are standing tonight. You just cannot argue with those facts; they are indisputable. And, still, we are having to make this case for the increase, for $1.50. The $1.50 per pack will address these problems. We will see this dramatic reduction in teenage smoking. It has been stated by those who have studied and reviewed this. The amendment we are proposing provides for the cigarette price index of $1.50 a pack for the next 3 years. The $1.10 increase over 5 years in the managers' amendment is not adequate to achieve the youth smoking reduction goals.

If you had the $1.10 in 1 year, even $1.10 in 2 years, you would have some impact. But $1.10 over 5 years is not going to have the kind of impact, even with the look-back provisions, that those who support that proposal are supporting, particularly if you are talking about reductions of 60 percent. You cannot have it both ways. If you are going to reach 60 percent, you have to have the increase in the price, and it has to be fast. And you have to have the corresponding counteradvertising measures and other supports, and a look-back provision that is going to be worthy of the name. But just to say we are establishing a goal and then not to have the real teeth in that proposal I think diminishes what we are stating is our goal and what should be our goal, and that is to pass legislation that is going to do something about kids smoking in our country and around the world.

By raising the price by $1.50 instead of $1.10, we will prevent an additional 750,000 children from smoking over the next 5 years. That will mean 250,000 fewer premature deaths from tobacco-induced diseases. What other step could we take here in the U.S. Senate, what could we possibly do in this session, so we could say we will save the lives of 250,000 children in the action of a single day? You don't find it. We won't have it. It is not there. But it will be tomorrow. We will have that kind of impact. And that is the issue.

Public health experts have overwhelmingly concluded that the increase of $1.50 is the minimum price increase necessary to achieve our youth smoking reduction. Dr. Koop, Dr. Kessler, the Academy of Sciences, the American Cancer Society, the American Heart Association, American Lung Association, American Medical Association, the ENACT Coalition, Save Lives Not Tobacco Coalition, have all stressed the importance of a price increase of at least $1.50 per pack—some for $2, most for $1.50. And even those that were for $2 believe $1.50 with adequate look-back can achieve the goal. It is the single most important step we can take to reduce youth smoking.

More than a third of the Members of the Senate have already cosponsored bills proposing $1.50 increase, because, as our colleagues know, the Budget Committee endorsed a $1.50 increase on a bipartisan vote, 14 to 8, in March. Last Thursday, a bipartisan majority of the Finance Committee voted for a cigarette price increase of $1.50. Too many young people are at stake for us to ignore the advice of all of our public health experts. Those efforts were bipartisan. Just as Dr. Koop speaks for Republicans and Democrats, those efforts were bipartisan in the Finance Committee and the Budget Committee. It should be bipartisan tomorrow.

The American people have had enough of the tobacco industry's distortions and denials about the addictiveness of nicotine. They have had enough of the industry's cynical marketing of cigarettes to children. They have had enough of the industry's decades-long coverup of the health risks associated with smoking.

This is an industry which once argued that cigarettes are no more addictive than Gummy Bears. This is an industry that used Joe Camel in advertising, blatantly designed to hook children on smoking. Now they ask us to believe that a $1.50 increase will lead to the bankruptcy of big tobacco and a rampant black market for illegal cigarettes. That argument by big tobacco has no more credibility than any of the other false arguments that have been made over the past 30 years and more. Over the years, big tobacco has proved itself to be the master of the big lie. Congress should have learned this lesson long ago, and it is time to trust the Nation's public health leaders, not big tobacco's public health prevaricators.

The tobacco companies have known these facts about addiction. For years they have been fully aware that they need to persuade children to take up smoking in order to preserve their future profits. That is why big tobacco has targeted children, the billions of dollars in advertising and promotional giveaways, their promise of popularity, excitement, and success for young men and women who take up smoking.

The recent documents released in the Minnesota case against the industry reveal the vast extent of the industry's marketing strategy to children. In the 1981 Philip Morris memo entitled "Young Smokers, Prevalence, Implications, Related Demographic Trends," the authors wrote that it is important to know as much as possible about teenage smoking patterns and attitudes. "Today's teenager is tomorrow's potential regular customer and the overwhelming majority of smokers first beginning to smoke while still in their teens and the smoking patterns of teenagers are particularly important to Philip Morris. Furthermore, it is during the teenage years that the initial choice is made."

If nothing is done to reverse this trend in adolescent smoking, the Centers for Disease Control and Prevention estimate 5 million of today's children will die prematurely from smoke-caused illnesses. Five million of today's children will die from smoke-caused illnesses. The American public has had enough of the daily tragedy of death and disease caused by tobacco use. The tobacco industry has literally had a license to kill for many decades. Now the license is being revoked and Americans are demanding dramatic action by Congress to drastically curb youth smoking.

This Congress will be judged, in large measure, by whether or not we respond effectively to that challenge, and increasing cigarette prices by $1.50 is the most effective way to reduce teenage smoking. The public health community agrees it is the minimum increase needed to achieve 60 percent over 10 years.

The $1.50 has the broad support of the health community, and it deserves the broad support of the U.S. Senate as well.

In conclusion, I want to mention again what this issue is all about, and that is what this amendment will do for the young people of this country.

We have the $1.10 increase over a 5-year period that is in the measure that is before us this evening. The measure that we offer will raise the price of cigarettes by $1.50. The number of children whose lives will be saved by the cigarette price increase by $1.10, over what it would otherwise be, will be 1 million: increasing cigarettes by $1.50, an additional 1.25 million. There is for every 10 percent, some 7-percent increase in reduced teenage smoking.

The difference from the $1.10 and the $1.50 is 750,000 in terms of those teenagers who will smoke—750,000. Mr. Koop said today the new studies would bring it up to 900,000. But we are talking between 750,000 to 900,000 children, of which some 300,000 of those will die prematurely. We can save those children. We can save the 750,000 who would otherwise smoke, and we can say to the 300,000 young people, the children in America today, "We can save your lives as well." The question is, Are we willing to take that step to raise the cost by $1.50?

I certainly hope we will, Mr. President. I point out that even raising it by $1.50, we will be where most of the European countries are. Even with the $1.50 increase, the United States will be at $3.59; France at $3.50; United Kingdom at $4.40; Denmark at $5.10; and Norway at $6.82. We will be right in the middle of the industrial nations of the world.

Let me say, the tobacco industry makes profits on all of those countries. The tobacco industry makes generous profits from all of these countries that are a good deal higher than even the $3.50, as well as from the other countries.

Mr. President, this actually is a modest step, a very modest step, but one that is necessary in order to protect the young people of this country. I hope we will do so tomorrow when the roll is called.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will stand in adjournment until tomorrow, May 20, at 9:30 a.m.

Thereupon, the Senate, at 8:23 p.m., adjourned until Wednesday, May 20, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 19, 1998:

THE JUDICIARY

CARL J. BARBIER, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA, VICE OKLA JONES, II, DECEASED.

HOUSE OF REPRESENTATIVES—*Tuesday, May 19, 1998*

The House met at 10:30 a.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate passed a bill of the following title, in which concurrence of the House is requested:

S. 1723. An act to amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of United States firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to 5 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SAXTON) for 5 minutes.

IMF PROGRAM SPARKS INDONESIAN TURMOIL

Mr. SAXTON. Mr. Speaker, Americans across our country have seen televised pictures of rioting in Indonesia, of social unrest and political unrest and, according to various news service accounts, the outbreak of rioting in Indonesia was triggered by price increases of basic commodities mandated by the International Monetary Fund. One recent Reuters news story notes that the IMF conditions were "A key cause of the recent demonstrations."

The recent violence raises important questions about whether the IMF and its program underestimated the political fragility and instability, both political and social, of Indonesia. This is a relevant concern because political instability could well undermine the potential for economic stabilization.

In yesterday's Wall Street Journal there was an article, and I would like to read a few lines from it. Date line, Washington:

Last fall, Indonesia turned to the International Monetary Fund for an economic life raft. Instead, the resulting IMF program contributed to the turmoil now wracking the world's fourth most populous nation. The IMF program failed to stabilize the Indonesian economy, its stated purpose. As the economy worsened, domestic dissatisfaction grew.

And it goes on,

Jeffrey Sachs, whose Harvard institute has long been an adviser to Indonesia, has been warning for months that the U.S.-backed IMF prescription was harsh and counterproductive.

In addition, it goes on,

Malaysian prime minister Mahathir Mohamad also blames the IMF for worsening Indonesia's problems. "The IMF is not sensitive to social and economic restructuring," he said, according to Malaysia's official news agency.

To answer these questions, more information is needed to understand the International Monetary Fund program and its recent impact on Indonesia. Once again I call on the IMF and the Treasury to publicly release its staff reviews of the Indonesian bailout so that Congress, the public, and private experts can better understand the IMF policy and its effects.

Previous problems with the IMF program were documented in the New York Times article last winter which reported that the International Monetary Fund reviewed and found that the IMF conditions had sparked a bank run on Indonesia several months ago. In recent days the Wall Street Journal has also come to similar conclusions, and I just read from that article.

Given this horrific outburst of violence in Indonesia, Congress has an important obligation to examine the role of the IMF and the role it has played in contributing to this situation with, I might add, the use of U.S. taxpayers' dollars. While it is clear that the policies of the Indonesian government had caused severe economic problems, it appears that the IMF conditions made the situation even worse.

The fragility of the political environment and the potential for violence must be adequately considered when considering these programs. For example, is it not evident that the IMF formally integrated a political risk analysis into the economic program? Obviously, it failed to do so. If the IMF program failed to address the potential that it could destabilize political, social and economic conditions even further, then it was flawed to start with.

Congress has the public need and the ability to examine the IMF staff reviews of the bailouts to determine whether the risks of the IMF program were adequately considered. We have that responsibility and the IMF should give us the information. These documents have been requested repeatedly of the IMF and the Treasury Department. It has been made clear that they may be sanitized before their release.

Mr. Speaker, I include the entire article from the Wall Street Journal for the RECORD:

[From the Wall Street Journal, May 18, 1998]

TIME WILL TELL IF IMF HELPED SAVE OR WRECK INDONESIA

(By Bob Davis and David Wessel)

WASHINGTON.—Last fall, Indonesia turned to the International Monetary Fund for an economic life raft. Instead, the resulting IMF program contributed to the turmoil now wracking the world's fourth most-populous nation.

The IMF program failed to stabilize the Indonesian economy, its stated purpose. As the economy worsened, domestic dissatisfaction grew. The fund also high-lighted what the IMF and the U.S. condemn as a crooked brand of capitalism practiced by the Suharto regime, undermining its legitimacy and emboldening the opposition.

Whether the IMF, in the end, is seen as a villain that provoked widespread suffering or a catalyst for constructive change depends largely on what happens in Indonesia over the coming weeks and months.

IMF critics, led by outspoken Harvard University economist Jeffrey Sachs whose Harvard institute has long been an adviser to Indonesia, have been warning for months that the U.S.-backed IMF prescription was harsh and counterproductive. "The IMF program was really badly designed and made a bad situation worse," says Steven Radelet, a Sachs colleague.

Malaysian Prime Minister Mahathir Mohamad also blames the IMF for worsening Indonesia's problems. "The IMF is not sensitive to the social cost of economic restructuring," he said, according to Malaysia's official news agency.

But the Indonesian government hurt itself, too. It backtracked on pledges it made publicly to the IMF, undermining the confidence of both domestic and foreign investors. It vowed to dismantle unpopular arrangements that enriched Suharto cronies, but then rebuilt them under different names. And, at a pivotal moment, it flirted with a controversial currency-board approach to monetary policy. After a parade of international leaders pressured Indonesia to live up to its agreements, Mr. Suharto relented, underscoring his weakness to the newly emboldened opposition.

Then earlier this month, Mr. Suharto's new cabinet ministers changed direction and implemented IMF-backed increases in fuel prices much faster than the IMF demanded, sparking the recent riots. Although the IMF program allowed for the increases to be spread out over a month, some prices soared as much as 70% overnight. "We didn't set a precise date for [removing subsidies]. The date was chosen by the government," an IMF official says.

Despite occasional misgivings about some elements of the IMF approach, the Clinton administration strongly defends the fund.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

"The IMF didn't create the Indonesian economic and political crisis," says Mr. Clinton's national security adviser, Sandy Berger. "Indonesia created the economic and political crisis. The International Monetary Fund came in to try to help restore stability and put it on a path back towards growth."

At their annual summit this weekend, leaders of the Group of Seven large industrial nations and Russia, put the onus on the Suharto government. "Successful economic reform and international support for it will require political and social stability," they said in a statement, and urged the Indonesian government to open a dialogue with opposition leaders over reforms that address "the aspirations of the Indonesian people."

Inside the IMF, some argue that the fund's willingness to confront not only fiscal and financial policy issues, but also the corruption of the Suharto regime, is hastening long-overdue social change. Indeed, IMF programs in Korea and Thailand, they argue, may be succeeding precisely because they coincide with political reforms—a new democratic government in Seoul, constitutional reforms in Bangkok. Mr. Suharto's departure wouldn't be mourned at the IMF.

But it's also clear that IMF advice failed to revive the Indonesian economy and may have worsened a bad situation. Last year's demand that Indonesia close 16 troubled banks—meant a signal that the government was finally addressing problems in the financial sector—backfired. Depositors pulled funds out of other banks, further weakening the system.

Harvard's Mr. Radelet said the IMF's emphasis on ending monopolies and closing government projects that are owned by friends and family of Mr. Suharto didn't address some fundamental economic problems. For months, for instance, the fund did little to help restructure Indonesian companies' huge foreign debt, which prevents them from getting the added financing needed to run their businesses and from taking advantage of a weak currency to increase exports.

The IMF has until early June to decide whether to disburse another $1 billion to Indonesia, as part of a $43 billion bailout package it cobbled together for the nation. Indonesian authorities have said they plan to roll back some of the price increases that sparked riots. But that by itself isn't expected to put the IMF's added lending in jeopardy.

TRIBUTE TO THE HONORABLE JENNINGS RANDOLPH

The SPEAKER pro tempore (Mr. PETRI). Under the Speaker's announced policy of January 21, 1997, the gentleman from West Virginia (Mr. RAHALL) is recognized during morning hour debates for 4 minutes.

Mr. RAHALL. Mr. Speaker, on May 8 this year, the Nation lost a great man, a former U.S. Senator, a beloved West Virginian, a great orator, a man of civility and courtesy, a master of the legislative compromise, a builder of concrete, asphalt and stone, and a builder of character named Jennings Randolph, who died at the grand old age of 96.

When Senator Randolph passed on, it was truly the end of an era. He was the last living Member of Congress from the New Deal era, making him the last of the New Deal legislators who voted to enact the Social Security System and a minimum wage.

On May 11 of this year, had he lived, Senator Randolph would have marked the 65th anniversary of his freshman speech on the floor of the House. He spoke on the subject of Mother's Day, an event founded by fellow West Virginian Anna Jarvis, and his speech, an eloquent one, was entitled, "The Unapplauded Molders of Men". This speech was given on the 69th day of Roosevelt's famous first 100 days, and on that day Jennings Randolph the great orator was born.

As many of my colleagues will know, it was Senator Randolph who began, during his House tenure, to amend the Constitution to allow 18-year-olds to vote. He succeeded in this endeavor in 1972, as a U.S. Senator, with the 21st Amendment to the Constitution, the first and only constitutional amendment that took a mere 90 days to achieve ratification by the requisite number of States and to become the law of the land.

At one time, I am told, he forced then-President Nixon to spend the funds appropriated for the interstate system by filing an injunction against Nixon's practice of impounding the funds, keeping them from being spent. It was in the 1974 budget act that impounding funds by a President was first restricted.

Jennings Randolph would be proud of our every effort, Mr. Speaker, and success this very day in freeing some of the collected motorists' gas taxes and spending them on transportation needs. Yes, J.R., we will one day restore trust to our Highway Trust Funds.

I would like to tell my colleagues a little something about the Senator's lifelong public service, that we have seen little written about of recent date. Having traveled so often with the Senator, many times late at night in a very small plane, two or four-passenger plane, sometimes through very stormy weather, the first comment the Senator would make upon landing was "Where is the telephone?". I would be thinking of other places to visit but the Senator was always wanting to keep in touch with the people.

Senator Randolph was known for his devotion to people and his compassion for all people in need. He coauthored the Randolph-Shepherd Act for the Blind, giving blind persons the opportunity and the right to be employed and have the dignity of a paycheck. The blind are still benefiting from that effort today.

He fought for and maintained the Black Lung Benefits Act throughout his public life in the Senate. Once, when he was being chastised by some of his Coal Mining constituents because the Black Lung benefits bill was then languishing in the Senate with no action being taken, Senator Randolph quietly but firmly said: There are only 18 coal mining states in the Union. Those 36 Senators are going to vote for this legislation. Persuading 64 other Senators representing non-coal mining states that their constituents should or must allow their tax dollars to be used to pay for the benefits for workers in other States is not an easy matter to accomplish. It takes time. And I pay those 64 Senators the courtesy of approaching them one on one, personally, to discuss the plight of coal miners with black lung disease, and their need for disability compensation for themselves and, for those who have died, their widows and orphans. He told them "it will get done * * *" And it did.

Senator Randolph, concerned for the plight of mentally and physically disabled children and concerned over their lack of an appropriate education, established the first Subcommittee on the Handicapped in the Senate, and he chaired that Subcommittee with passion and the courage of his beliefs as he authored and guided to enactment the Education for all Handicapped Children Act. Today, the Special Education law is working to mainstream disabled children into regular classrooms with their peers across this Nation in every school building getting a free and equal education to which all children are entitled.

It was Senator Randolph, with his great love for airplanes and aviation, who first proposed the establishment of the National Air and Space Museum. When he first proposed it, of course, the space age hadn't been ushered in yet—and so when asked to give the Dedication speech for the new Museum, Randolph remarked that it took so long to get Congress to act on his proposed aviation museum, they had to add the word "space" to its name.

And it was Senator Jennings Randolph who, with another licensed pilot aboard, flew the first coal-fueled aircraft from Morgantown, West Virginia to National Airport. Senator Randolph was always looking for ways in which coal mined by his coal-mining constituents could be used to help strengthen and stabilize the economic base of his beloved State of West Virginia.

And finally, but never lastly, the Senator realized his long held dream of establishing a peace-arm of the U.S. Government. Serving under Roosevelt when the Nation was drawn into World War II, Randolph believed that the U.S. Government ought to have a Peace Department since it had a War Department (the War Department was changed to the Defense Department in 1948, the year after Randolph left the House). It took him from 1943 to 1984—41 years—but the last legislative initiative he authored and guided to enactment was the creation of the U.S. Institute for Peace, a still vital, thriving institution devoted to the waging of peace, not war.

Speaking of the U.S. Institute of Peace, the Senate's consideration of the legislation in 1984 was not an easy road. Some of the more conservative Members accused him of creating an institution that would attract communists and become a possible security risk. And one Member went so far as to call Senator Randolph the "Jane Fonda" of the Senate. Randolph did not respond to the charges, of course, for that was not his way. But he did try to get President Reagan to support his Peace Institute bill.

One day, when the Labor and Public Welfare Committee in the Senate was about to vote on whether to waive the budget act so that the Randolph Peace Institute bill could come to the floor for a vote, President Reagan called Senator Randolph. The Senator gently but firmly said to the Committee Clerk: Please tell the President I am busy here. I will have to call him back." In about 15 minutes the Committee had voted favorably on the budget waiver Senator Randolph needed, and he then turned to the Clerk and said: Please get the President for me, I can talk with him now. To which the Clerk replied: The White House is still on the line, Senator, waiting for you to finish.

Randolph still did not get the President to endorse his bill, but he spoke with him about why he should do so.

As I conclude, Mr. Speaker, I quote from Senator Randolph's maiden speech on the House floor in 1933, when he said,

> Volumes have been written about kings and emperors; historians have told of the exploits of a thousand heroes of battle; biographers have packed into colorful words the life and death of our statesmen; while painters have filled galleries with the likenesses of our living great.

Some day, some enterprising young scholar will write volumes about Jennings Randolph, and historians will tell of his exploits, and biographers will pack many colorful words about the life of this mighty statesman from West Virginia, Jennings Randolph.

INTRODUCTION OF AUTO CHOICE REFORM ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Texas (Mr. ARMEY) is recognized during morning hour debates for 2 minutes.

Mr. ARMEY. Mr. Speaker, tomorrow the Subcommittee on Finance and Hazardous Materials of the Committee on Commerce will hold a hearing on my bill, the Auto Choice Reform Act, which will cut auto insurance premiums by 24 percent and save American drivers $193 billion over 5 years.

Today we are forced to pay more than is necessary for auto liability insurance in order to be eligible to play the tort lottery, whether we want to or not. Some people see this lottery as a way to hit the jackpot. They exaggerate their real damages in order to sue for huge noneconomic damage awards. This fraud and abuse, as well as the excessive lawsuits, have helped drive up the cost of auto insurance and have led to the undercompensation of seriously injured victims.

Auto Choice addresses these problems by giving American drivers a choice in the kind of insurance they can buy. Under Auto Choice they can stay in the tort system or they can opt to collect their actual losses from their own insurance company and forego suits for economic damages. In exchange, they will see lower premiums and better compensation.

Americans should be free to buy the auto insurance policy that best fits their needs. Auto Choice gives them this freedom.

THE ARMENIAN JOURNEY TO WORCESTER

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Massachusetts (Mr. MCGOVERN) is recognized during morning hour debates for 1 minute.

Mr. MCGOVERN. Mr. Speaker, on Sunday I had the privilege to welcome to Worcester, Massachusetts, His Holiness Karekin I, Supreme Patriarch and Catholicos of all Armenians.

Also present were Worcester Mayor Raymond Mariano; Massachusetts Governor Paul Celluci; Archbishop Khajag Barsamian, Primate of the Diocese of the Armenian Church of America; Reverent Father Aved Terzian, Pastor of the Armenian Church of our Savior; and many other ecumenical and governmental officials.

Worcester is a fitting site to welcome his Holiness on his Pontifical visit to celebrate the centennial of the Armenian church in the United States. In 1891, the Armenian Church of our Savior on Salisbury Street in Worcester was the first Armenian church founded in the United States.

Today, over 1,400 Armenian Americans reside in the Third Congressional District of Massachusetts. The history of their journeys to America is a proud and important part of our community heritage.

These stories were recently highlighted in a published story in the Worcester Magazine entitled, "The Armenian Journey to Worcester". In honor of the visit of his Holiness to Worcester, I include the story in the RECORD:

[From Worcester Magazine, Apr. 29, 1998]

THE ARMENIAN JOURNEY TO WORCESTER

(By Clare Karis)

"Who today remembers the extermination of the Armenians?" Adolf Hitler's ominous words, spoken on the eve of his invasion of Poland on Aug. 22, 1939, launched his six-year extermination of 6 million Jews and 7 million others. His reasoning, unconscionable as it was, was chillingly clear: Not much attention was paid to that genocide, surely we can up the count this time.

Nearly 60 years later, the average American knows little of the Armenian Genocide. But that blood-soaked page of history is seared indelibly into the memories of those who survived. Those who saw their own mothers doused with kerosene and set on fire. Those who saw their brothers beheaded. Those who saw their families, one by one, drop starved and exhausted to the burning desert sands. Those who saw a river run red with blood. Those who, by whatever twist of fate or fortune, escaped with their lives.

But those survivors' numbers are fast dwindling. Children who witnessed the Armenian Genocide of 1915 are now 90 or so. And as the corps of survivors is reduced, so too is the chance that the story will be documented, recorded and passed on—and heeded.

"Those who cannot remember the past are condemned to repeat it." George Santayana's prophecy, inscribed in the atrium of the Simon Wiesenthal Center in Los Angeles, is darkly telling on the 83rd anniversary of the genocide, which began April 24, 1915, and before its end claimed the lives of up to 2 million Armenians.

A goodly number of the diaspora settled in Worcester. The Armenians equated the city with America; they would say, "Worcester is America." A strong and insular Armenian community sprang up in the Laurel Hill neighborhood, which reminded the emigres of the sun-splashed hills and valleys of their beloved homeland. That neighborhood was known as "Little Armenia"; after housing became scarce there the population spilled out onto nearby streets—Chandler, Bancroft, Pleasant, May, Irving—to become the colony "Big Armenia." It was a joyful day for the God-fearing tempest-tossed when the Laurel Street Church opened its doors for worship and community gatherings.

The survivors live each day with their memories. Their ears echo even now with the sound of an ax splitting a door, bullets whistling through the air, a baby crying over its mother's body. Their unrelenting mind's eye flashes back and then fast-forwards—like jump cuts in a macabre film noir—to and from images that can never be forgotten.

For some eyewitnesses, the memories run clear and pure as a mountain stream. For others, the waters have muddied; images have begun to dim and blur and overlap until it's hard to separate what happened eight decades ago from yesterday's daydream or last week's nightmare. One of our chroniclers, Dr. George Ogden, is very careful to say that he can't be quite sure that all he remembers today happened exactly the way he thinks it did. It was a lifetime ago, after all, and he was just a little boy. But how can he forget being dragged to a police station and having his hands flayed until they bled because he hummed a patriotic song?

In the book Black Dog of Fate, a cousin of author Peter Balakian gives this acount of what she saw along the Euphrates. "We were delirious from hunger and thirst. We picked seed out of the camel dung and cleaned them off the best we could and put them on the rocks to dry them out in the sun before we ate them. . . . Whenever we passed a eucalyptus tree I gathered some leaves so that at night I could suck on them to get water in my mouth. . . . For miles and miles you saw nothing but corpses, and the brown water sloshing up on the banks. I found corpses washed up, half deteriorated, headless, limbless, body parts floating. Hundreds of rotting bodies were piled in heaps and the black terns were feeding on them. Many women and girls threw themselves in the river rather than be abducted or raped. At several spots there were girls who had tied their hands together and drowned themselves . . . their blue bodies were still tied to each other's. Their tongues were black, half-eaten, and their hair was muddy and dry like old grass. There were dead babies too . . . when Dikran, who was delirious now, began to pick the bodies out of the water, the gendarmes whipped him and told him to put them back. Later the geese and the wildcats came down from the valley to eat them."

Turkish officials denied then—and continue to deny—that such gory tableaux were any more than the usual unfortunate sidelights of war, certainly not evidence of any premeditated plot to kill off the Armenians. At a genocide commemoration at which Balakian, a poet, spoke, Turkish people passed around pamphlets. One, published by the Assembly of Turkish American Associations, attempted to debunk Armenians' claims that they had suffered atrocities in the Ottoman Empire.

"Carefully coached by their Armenian nationalist interviewers," it said, "these aged Armenians relate tales of horror which supposedly took place some 66 years ago in such detail as to astonish the imagination. Far more Turks then Armenians died in the same war . . . consequently one cannot conclude that the Armenians suffered any more terribly or that the Ottoman government attempted to exterminate them. There was no genocide committed against the Armenians in the Ottoman Empire before or during World War I. No genocide was planned or ordered by the Ottoman government and none was carried out."

But Judith Herman, in Trauma and Recovery, points out, "After every atrocity one can expect to hear the same predictable apologies: It never happened; the victim lies; the victim exaggerates; the victim brought it about herself; and in every case it is time to forget the past and move on. The more powerful the perpetrator, the greater is his prerogative to name and define reality, and the more completely his arguments prevail."

The people whose stories are told here have done their best to move on. But they will never forget.

MARION DER KAZARIAN

Marion Der Kazarian was born in 1909, and is 89. She witnessed the death of her father, the Rev. Father Haroutune Der Harootunian, at the hands of Ottoman Empire soldiers in Armenia when she was 6 years old. She immigrated to America in 1921. Graduating from North High School in 1930, she opened Marion's Beauty Shop, where she worked until she married Garabed Der Kazarian and they had children. She has written a book about her experience, "Sacrifice and Redemption."

I was 6 years old when the massacres started. My father was reading the Bible to us. It was night. All of a sudden, the door broke and six gendarmes came in and dragged my father out—like a criminal. My father, who was the priest of the village. My youngest sister Rose ran after them, begging, "Daddy, Daddy, don't go! Please don't take my daddy away." Father stopped and removed a cigarette case from his coat pocket and handed it to her. "Keep this for me until my return," he said in a soft voice. His cheeks were wet with tears. We were left alone.

My mother had gone to Chimishgazak [a city in Armenia, now part of Turkey]. In 1914, my father had befriended a gendarme who told him, "This time it's going to be terrible, not like before. You come over my house. I'll save all your children." My father didn't want to leave so the gendarme said, "Then separate the children." My mother took my brothers to Chimishgazak and they went to school there. When the war broke out, my father said, "We must bring the children together. If anything happens, we'll all die together." So my mother went to bring the boys back to Ashodavan.

After my father was taken, we were all alone and scared but we thought we should go outside. We knew they would find us anyway. People were gathered in front of our house. They were all crying and the gendarmes were hitting them. They used cloths [in people's mouths] to keep them from yelling. The weather was cool and damp. Everyone was crying for their father and mother. The Turkish soldiers were very mean. They wanted to keep the people quiet so they were hitting . . . hitting them hard.

The men had been tied up and taken to the Euphrates River. They lined the men up by the river, with my father in front. They were on their knees with their hands bound behind them. They told my father, "If you renounce your Christian faith, we will spare your life." But my father said, "I will die for my faith." So they killed him. Then they went down the row asking all the men the same thing. When they said "No," they killed them.

Suddenly, people started to yell and scream. They saw clothes coming down the river—the river was all bloody. My sister-in-law Anna had three young children. When she saw the priestly robes of my father in the river, she knew he had been killed. She was crazed with grief. She jumped into the current with her sons. All four drowned. The men's bodies were left on the bank, purposely, to rot and be picked over by birds and animals.

Now we waited for our destiny. What would happen to us? Toward morning, the Turkish soldiers came and took us. They wanted us to cross the river. The man who had befriended my father, the same soldier who warned us about the massacres, came over and said, "I want to take the whole family to my house. I'll keep you. Or you probably won't come out alive." So we went with him.

In the meantime, my mother was out looking for us in the Dersim mountains. She had gone to Chimishgazak to get the other children but they weren't there, so she set out to find the rest of us. She met a lady who told her, "I saw your children. I know where they are. I'll get them to you." The lady told my sister, who had gone to fetch water, "Come here next day, and I'll bring your mother." The next morning my sister told me, early, "We're going out to fetch water." So we went. These two ladies came. We could not recognize the ladies. They were all bundled up so they wouldn't be recognized.

We started walking. Halfway, we met my brother. He was looking for my mother too. We walked all day and came to a cottage in Haghtouk where everyone was staying. I found my sister there, my youngest brother. They were all there. When the lady from the well took off her disguise, Rose and I said, "Mother, mother!" We all cried.

We stayed there that winter. It was a very bad winter. In the summer we heard that the Russian Armenians were coming to save us. There were about 10,000 Armenians in the Kurdish mountains. We had to wait for our turn. We came to Erzeroum. We stayed in the barracks. There was no food, nothing. The Red Cross came the next day and opened a cafeteria. They would give us just a cup of tea and one piece of sommi, bread.

In 1987, the Turkish government claimed that the bones and skeletons of more than 10,000 bodies found in Erzeroum belonged to Turkish citizens killed by Armenians. They built a monument over the bones and said we killed them, that the Armenians killed the Turkish people. But they lied. If the genocide didn't happen, where are all our relatives? What happened to 2 million Armenians? They didn't just disappear.

One day all the men and women were called together and told they would be separated because the Turkish soldiers were coming. So the older people were separated on one side and the younger ones on the other. There were two different roads we were supposed to take. There was fighting in back of us. We reached Baku. We stayed there three days. Again the Turkish soldiers came. Then we went on to Stavropol. We met my mother, who was already there.

We stayed there in Russia for three years. We were comfortable. Then the revolution started. It was terrible, worse than the first one. When we tried to leave, a crowd of men and women were at the railroad station. It was full of people. Everyone was pushing, pushing. I couldn't find my mother. I was crying for her. Everyone was gone, and I was screaming for my mother. This old man came and said, "Why are you crying?" He said, "Don't cry, they'll wait for you at the second station." Then he put me on the wagon, the train, and then my mother was there. From there we went to Constantinople and from Constantinople to America.

DR. GEORGE OGDEN

Dr. George Ogden was born June 5, 1911, in Armenia and is 87. He immigrated to the United States in 1920, settling in Kenosha, Wis., and earned a Ph.D. in surgical chiropody from Northwestern Institute of Foot Surgery. He relocated to Worcester, where he practiced for many years. He and his wife Mary, who was a WAC during World War II, have been married since 1941.

It was a terrible massacre. In order to hide it, the Turkish soldiers sent the Armenians to the desert. They threw them in the river. But they couldn't hide it. They would pick you at random from every family in the country where there were mostly Armenians. They would take the Armenians out and wouldn't tell them what it was all about. They colored it as if nothing serious was going to happen until they collected them all together. And then! Some of them they threw out to the desert, some they threw in the river. Any way it was convenient for them to kill the Armenians.

After the genocide, people sang the song of the misery they went through. It describes the Euphrates river flowing with blood, how awful the Euphrates river looked, flowing with blood instead of water.

I remember I was given a licking in one of the police stations because I hummed the song I was singing as I was selling pencils. The commissar had a whip and a sword on the wall and he said, "Tell your story." I told him where I heard the song and he took the whip from the wall and hit me in the hand. Oh, I was in such pain. It took weeks to heal the wounds. I was only 5 or 6 years old. He said, "Next time you say anything against the government, we're going to cut your hand off." And that's all I remember as a child. There are other things . . . but it was so long ago and I was very young. It's like a dream.

My mother used to lose her babies and she blamed it on the condition of the country, what was happening, how terrible it was how the Turks persecuted the Armenians. She had so much milk after losing the babies that she used to feed other children.

Because of my experiences as a 5-year-old in Turkey it has been my ambition to take children at kindergarten age and teach them that human beings ought to be cherished and raised in the right way: to be proud of their heritage, believe in the sanctity of children and teach them peace—instead of when they get to high school creating their own heritage because they think they're "it," you know! And when they get to be 20, 21, they want to make all the money in the world. Proudness doesn't come from money. It comes in taking care of the young. The kindergarten program should be revamped so by the time children graduate kindergarten they are already good citizens of America—citizens of peace.

JOHN KASPARIAN

John Kasparian was born in Van, Turkish Armenia, in 1907, and is 91. He immigrated to the United States in 1927. He married in 1932; his wife Virginia died recently. For 55 years, Kasparian owned and operated a shoe-repair shop in Worcester. He saw his 5-year-old brother die of starvation in Armenia.

I lived in Van. I was 7 to 8 years old when I noticed the fighting—24 hours steady, for three months. The Armenians didn't have any army but everyone got together to fight because the Turks were trying to get our country at any cost. They were killing us right and left. But being killed was happier than having your arm or leg cut off and suffering for God knows how long. If you say anything against them, they cut your neck. It was nothing to them to kill humans left and right. It's the God's truth.

My father was trying to protect our house and got shot in his leg. They bandaged it up and he was still fighting, fighting. Finally one of our close friends came and said, "Dick, you better get out of the house and run for your life. They're going to kill your family, without any question."

So we got out, ran out with just what we had on us. No food, nothing. For four or five days, believe me, eating grass. We lived on grass. And thirsty! You couldn't get any water until the rain came. We had to drink the dirty water that animals were going through. We traveled 11 days to reach Yerevan. Left and right, oh my God, people were dying.

Of course, in Armenia they were just as poor as we were in those days. We had to go in back of restaurants and houses and go through garbage, we were so hungry. Who would think to take a bone and bite to try to get something from it? We were six of us, two sisters, my brother, my mother and my father and myself. On the way we lost my brother. In Armenia—we got there at night, it was cold weather—we stay outside, nothing on us, until the sun comes up. Someone told us all the people from Van were in a central park so we go over there and I see my brother who was lost, 5 years old. He was delirious. He didn't know what was going on. He was hungry, thirsty. After three or four days of suffering, he died of starvation.

I have to try to make some money for the family. My mother and father had no job yet so I go around selling water for money. So help me, 2 cents, anything, just to get us by. Then my mother started to make cigarettes, wrapping cigarettes. She hung a box on my neck and I said, "What the heck is this?" She said, "People smoke—you go out, you sell cigarettes." That's how I lived until my father got a job for the American consulate as an Armenian interpreter. From then on, I was relieved! (laughs). Hey, at that time I was 9 years old.

I came here in 1927. We landed in Providence. A friend of my father who was like a brother to him, they had an apartment already, a four-room apartment. We had been living six of us in one room in Armenia, in Van. I couldn't believe it. Four rooms?!—I never saw that in my life.

I have to ask: All the world knows this [genocide] happened. Why is the American government not taking it seriously? Why?

But the only enjoyment and pleasure I get out of my life is in living in the United States. There is no other country in the world would ever be happier than here. A lot of Americans don't appreciate this life. It's a heavenly country. It's heaven on earth.

CHINA CONNECTIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, over the weekend a lot of people have been calling for hearings on the emerging China scandal. I come to the well this afternoon to rise in support of the New York Times editorial on Sunday entitled, "The New China Connection", that calls for the appointment of a special prosecutor. I thought my colleagues should hear what the Times wrote:

> All the disclosures about Johnny Chung, other contributors and their links to China make it clearer than ever that the Attorney General Reno needs to transfer the Justice Department's investigation to an independent counsel. The White House was intensely involved in fund-raising at the highest levels, and only an inquiry led by someone other than a political appointee of the President will satisfy the public.

Mr. Speaker, this is a major concession by The New York Times, and I thought I would call it to my colleagues' attention. These calls for an independent prosecutor come on the heels of groundbreaking and explosive reporting by the Times' investigative journalist, Jeff Gerth.

□ 1045

Mr. Gerth reported on Friday, May 15, that Johnny Chung has admitted that a large portion of the money he raised for the Democrats originated with the People's Liberation Army, the PLA, of China. Mr. Speaker, this is a communist military party. Mr. Chung has identified the conduit of the illegal campaign funds as a Chinese aerospace executive and Chinese Lieutenant Colonel Liu Chaoing, who just happens to be the daughter of General Liu Huaquing, who just happened to be at that time China's most senior and top-ranked military commander in the PLA.

Mr. Speaker, General Liu was also a member of the top leadership of China's Communist Party as he served as a member of the Standing Committee, the very top circle of political leadership in China. General Liu was also vice-chairman of the powerful Central Military Commission and was in charge of China's drive to modernize the People's Liberation Army by selling weapons to other countries and using the hard currency to acquire Western technology.

Newsweek goes on to point out that the latest scandal, in their May 25 issue entitled "A Strange Brew," is also very revealing. It appears on July 19, 1996, Colonel Liu, the daughter of General Liu, arrived at the Los Angeles home of financier Eli Broad, shook the President's hand, had her picture taken with him. Ms. Liu, accompanied by fund-raiser Johnny Chung, is known to have attended a military institute in China used for counterintelligence training.

What Liu did a week after meeting the President is even more interesting. She signed papers incorporating a company in California called Marswell Institute. She and Chung were the only listed directors. U.S. intelligence sources say Marswell is an affiliate of a similarly named firm in Hong Kong, which shares ownership with yet another company they describe as a "front" for the "general political department" of the PLA.

Mr. Speaker, what were China and the Chinese military leaders after? There is some evidence that what they were after was a change in U.S. satellite export policy that made it easier for China to use their missiles to launch American satellites, which also allowed China to further improve their missile capabilities. This same missile technology can be used for intercontinental ballistic missiles, which China now has fixed nuclear targets on.

So, Mr. Speaker, I come to the floor this afternoon to echo the comments from the Sunday editorial from The New York Times. It is time for Attorney General Reno to transfer the department's investigation out of their department into an independent counsel, and I ask her to do it promptly.

TRIBUTE TO SENATOR JENNINGS RANDOLPH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from West Virginia (Mr. WISE) is recognized during morning hour debates for 5 minutes.

Mr. WISE. Mr. Speaker, today in Salem, West Virginia, in a quiet funeral service, former United States Senator Jennings Randolph comes home to his final rest, to where he grew up and lived. And indeed perhaps it is a fitting memorial to Senator Randolph that this week the Congress of the United States is working on another highway bill for another six years, because Senator Randolph, of course, was Chair of the Senate Public Works Committee. In 1937, as a Member of this body, the House of Representatives, he held hearings on creating a national highway system 20 years ahead of the interstate highway system.

With Senator Randolph's death, an era has truly passed. He was the last surviving Member of Congress of the original New Deal Congress that came in in 1933. And every West Virginian who heard him speak treasures the memory of hearing him recount being called to the White House in the first 100 days with the banks closing, businesses closing, pensions being dissolved.

I can still hear Senator Randolph's tones as he talked about how Franklin

Roosevelt rallied the country. And of course, Senator Randolph was there for the creation of Social Security, for the WPA, for economic recovery, and to create many of the institutions that we take for granted today. Yes, he was a builder, a builder of highways and infrastructure, a creator and preserver of the Appalachian Regional Commission, as well as creating educational opportunities, too.

No matter how many years Jennings Randolph had in his life, he always fought for young people. That is why he was a tireless battler for the 26th Amendment to the Constitution, which in the early 1970's gave the right to vote to those between the ages of 18 and 21. The last speech I ever heard Senator Randolph give was lamenting low voter turnout in our country and challenging all of us, all of us as citizens, to be able to go to the polls and exercise our most precious franchise.

Mr. Speaker, we West Virginians have much to remember in this gentle man. When we drive along on a modern four-lane road or we go to a job training class, when we make use of an Appalachian Regional Commission facility, perhaps a health clinic, when we turn on our spigot and we get fresh water, or perhaps when we retire and we know that Social Security will be there, and of course for the youth, the youth that Jennings Randolph believed in so much that he fought and won for them the right to vote.

Mr. Speaker, a gentle man with a great heart comes home to rest today, and all West Virginia gives thanks for this rich and meaningful life.

AMERICAN TECHNOLOGY TRANSFERS TO CHINA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from California (Mr. ROHRABACHER) is recognized during morning hour debates for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, outrage is sweeping the United States of America, and a justifiable outrage. The American people are finding out now that the technology that they paid for with their tax dollars to be developed during the Cold War, that some of that technology has been transferred to the communist Chinese in order to upgrade the capabilities of their nuclear weapons delivery system.

When President Clinton became President of the United States, we had a chance to confront any wrongdoing or aggression or belligerency committed by the communist Chinese, knowing that the people of the United States were not at risk. Now, after 5 years, we find almost miraculously that the Chinese have developed the capability of hitting the United States with nuclear weapons.

The outrage that I talked about, as I suggested, comes from the fact that we are now learning that it was American corporations, some moguls from the aerospace industry, who decided to take American technology and improve those Chinese rockets. Then we find out that this administration, inside the administration, the watchdogs that noticed that this illegal act and immoral act was taking place, that when the watchdogs tried to create and tried to establish an investigation and to prosecute those people who had transferred that missile technology, that their effort was undercut by no one else but the President of the United States.

President Bill Clinton took the steps that were necessary to transfer the authority of blocking some certain transfers of technology from the State Department, which opposed that transfer, to the Commerce Department that was headed by Ron Brown which was interested in facilitating transfers of technology. The President also issued waivers and licenses that undercut those people who were preparing the prosecution of those people in the aerospace industry that transferred that technology to the communist Chinese.

And yes, there is one other step in this story of betrayal, and that is the information that now is emerging that the President of the United States, during his reelection effort, received millions of dollars in contributions from those who were transferring this technology, in the same time period that the waivers and licenses were being issued by the Oval Office in order to facilitate those transfers.

Bernard Swartz, the CEO of Lorel Corporation, the corporation that transferred much of this technology, is the biggest contributor to the President's reelection campaign, over a million dollars to the President's reelection or to the Democratic party. And then, of course, we hear about money coming from the communist Chinese themselves, filtering it into the President's reelection campaign, Johnny Chung just a few days ago admitting that the $100,000 he tried to funnel into the Democratic campaign came from the People's Liberation Army.

I would ask my colleagues to pay attention to this story, because the People's Liberation Army, the source of those funds was not just the army itself, it was that part of the communist Chinese army that deals with missile and rocket development. A lieutenant colonel in the Chinese Army gave that money to Johnny Chung to funnel into the President's campaign.

Yes, there is justifiable outrage. The President has a lot of questions to answer, as do these corporations, both on moral grounds and on legal grounds. The President should cancel his trip to China until those questions have been answered, and there should be a moratorium on all presidential actions concerning waivers and licenses and the shipping of technology to communist China until we get to the bottom of this.

Every man, woman, and child in the United States now is in jeopardy of nuclear incineration by the communist Chinese if we ever do confront them in their wrongdoing, because of technology that has been transferred to them with the help of this President and with the profit of American companies making profit off technology developed by the taxpayers for the protection of our country.

This is the most serious scandal that I have heard. Maybe the American people cannot understand what sex scandal and character has to do with making decisions, but this is very understandable. Our country has been betrayed. We need to get to the bottom of it.

TRIBUTE TO SENATOR JENNINGS RANDOLPH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from West Virginia (Mr. MOLLOHAN) is recognized during morning hour debates for 4 minutes.

Mr. MOLLOHAN. Mr. Speaker, it is an honor for me to rise today with my good friends and colleagues, the gentleman from West Virginia (Mr. RAHALL) and the gentleman from West Virginia (Mr. WISE) in tribute to a fine gentleman and faithful advocate of the people of West Virginia.

I am speaking, of course, of Senator Jennings Randolph, whose lifetime of distinguished service came to an end just 11 days ago. We all mourn his passing, and certainly we send our deepest sympathies to his family. Our thoughts are with them in these difficult days. While recovering from such a loss is a painful process, we hope they find comfort in the legacy he leaves behind, for it truly is a remarkable one.

On the day after Senator Randolph's death, newspapers across the State recounted his inspiring story, the story of a young journalist who was elected to Congress as a New Deal Democrat and would become the last member of the storied class that served in the first 100 days of FDR's presidency. He was thrust into the House during an extraordinary time in our Nation's history, a time of despair, sorrow, and suffering, and he was a part of the extraordinary solution, the package of reforms that revised our Nation, bringing sustenance, opportunity, and hope to millions.

Jennings Randolph never lost that passion for helping those who needed help the most, especially the poor and disabled. The young New Deal Democrat would become a mature hand in the great society, never wavering in his belief that government can and should play an active role in solving people's problems, and he worked mightily to better his home State of West Virginia.

Senator Randolph was a champion of the interstate highway system, the Appalachian Regional Commission, local airports, and countless infrastructure projects that brought the basics to our people. That is how he thought of himself, once saying, "I essentially am a West Virginia senator. I'm not what you'd call a national Senator or international Senator."

It is true that Jennings Randolph was an effective, tireless advocate of West Virginia. But if my colleagues think that he did not have an influence on this Nation, they would be badly mistaken. After all, it was Jennings Randolph who authored the constitutional amendment that gave 18-year-olds the right to vote. And in so many other areas, his work and support was crucial to policies that advantaged citizens from coast to coast. Throughout his service in the House and then in the Senate, he was a model of courtesy, of grace and professionalism.

As the Senate historian said so well, "Very few senatorial careers were as full as his. He always struck me," the historian, "as the image of a Senator's Senator, a teacher within the institution who would take young Senators beneath his wing and lecture them, sometimes gently and sometimes not so gently, about the importance of etiquette."

□ 1100

Mr. Speaker, with Jennings Randolph passing, the people of West Virginia have lost a great friend and representative. We salute his lasting record of achievement and honor his memory as a passionate, dedicated public servant.

WELLER-McINTOSH II MARRIAGE TAX COMPROMISE

The SPEAKER pro tempore (Mr. PETRI). Under the Speaker's announced policy of January 21, 1997, the gentleman from Illinois (Mr. WELLER) is recognized during morning hour debates for 5 minutes.

Mr. WELLER. Mr. Speaker, questions are often asked in this body, and I think one of the most important questions asked is: Why is enactment of the Marriage Tax Elimination Act so important for working families in America? I think this series of questions best illustrates why.

Do Americans feel that it is fair that our Tax Code imposes a higher tax penalty on marriage? Do Americans feel that it is fair that 21 million married working couples on average pay $1,400 more a year just because they are married, $1,400 more than an identical couple that lives together outside of marriage?

Do Americans feel that it is right that our Tax Code actually provides an incentive to get divorced because the only way today to avoid the marriage tax penalty is to get divorced and to live together outside of marriage?

Clearly, Americans feel that the marriage tax penalty is not only unfair, it is wrong. It is immoral that our Tax Code punishes society's most basic institution. The Congressional Budget Office tells us that 21 million married working couples pay an average of $1,400 more just because they are married.

Let me give you an example of a couple in the south suburbs. I represent the south side of Chicago and the south suburbs of Chicago and Illinois. I have an example here of a south suburban couple, working man and working woman, who pay the marriage tax penalty.

The gentleman is a machinist at Caterpillar where they make the big equipment, the heavy earth-moving equipment. This machinist makes $30,500 a year. Under the current Tax Code, if you add in the standard deduction and exemption, he is taxed at the 15 percent rate.

Say this machinist meets a schoolteacher a tenured schoolteacher in the Joliet public schools. The schoolteacher has an identical income. She would be in the 15 percent tax rate if she stays single. But if they choose to get married, if they choose to live in holy matrimony, under our Tax Code, this married working couple, a machinist at Caterpillar and a schoolteacher in the Joliet public schools who choose to get married, will pay the average marriage tax penalty of almost $1,400.

In Washington, D.C., $1,400 is just a drop in the bucket. But in Joliet, Illinois, in the south suburb of Chicago, $1,400 for this machinist and schoolteacher is real money, real money for real people: one year's tuition at Joliet Junior College, 3 months of day care at the local day care center in Joliet; and it is also several months' worth of car payments. That is real money that Uncle Sam is taking away from this machinist and this schoolteacher just because they are married.

We have a solution. We believe that elimination of the marriage tax penalty should be our number one priority as we address the tax provisions in this year's balanced budget which will be, hopefully, the second balanced budget in over a generation.

The Marriage Tax Elimination Act, which is now called the compromise as well as Weller-McIntosh II, it is pretty simple. What it does is it doubles the standard deduction for those who do not itemize from $4,150 for a single person, $8,300 for a married couple, simply doubling it, helping eliminate the marriage penalty.

Also, for the five tax brackets, we double the income threshold for couples. Currently, you are in the 15 percent tax bracket if you make $24,650. We double that to $49,300, eliminating the marriage penalty. Because, currently, even if you are making $24,650, our current Tax Code, you can only make $42,000. So there is about an $8,000 marriage tax penalty in the 15 percent tax bracket.

We want to eliminate the marriage tax penalty. The Marriage Tax Elimination Act of 1998 accomplishes that goal. We believe it should be the centerpiece of this year's balanced budget plan.

There are always competing ideas, and President Clinton has a good idea. He says our priority should be expanding the current child care tax credit. Under the President's child care tax credit, the average family that will qualify would see about an extra $368 in total take-home pay a year.

If we eliminate the marriage tax penalty for that machinist and schoolteacher, they would see an extra $1,400 in take-home pay. So let us think about that which is better. If we eliminate the marriage tax penalty, $1,400 will pay for almost 3 months of child care at a local day care center in Joliet. If we forget about eliminating the marriage tax penalty and just do the expanding the current child tax credit, the President's $358 will pay for 3 weeks worth of day care in Joliet, Illinois. So which is better, 3 weeks or 3 months?

Clearly, elimination of the marriage tax penalty is a better deal for working couples and working married couples throughout America.

What is the bottom line? We want to eliminate the marriage tax penalty. It is wrong that our Tax Code punishes society's most basic institution. It is time that we stop punishing marriage.

We think about it. This Congress in the last 3 years has made helping families by raising take-home pay a real priority. We strengthened families by providing the adoption tax credit in 1996 so that families who hope to provide a loving home for a child in need of adoption can better afford it.

In 1997, we provided the $500 per child tax credit which will benefit 3 million children in Illinois, an extra $1½ billion in higher take-home pay that will stay in Illinois rather than coming to Washington.

Let us eliminate the marriage tax penalty. $1,400 is real money for real people. Let us make elimination of the marriage tax penalty the centerpiece of this year's budget agreement.

OLDER AMERICANS ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from California (Ms. SÁNCHEZ) is recognized during morning hour debates for 2 minutes.

Ms. SANCHEZ. Mr. Speaker, May is Older Americans Month, which gives us the special opportunity to honor our Nation's seniors. The theme of this month is living longer and growing stronger in America; and we are saluting the growing numbers of Americans who enjoy increased longevity and continue to contribute to their families, their communities and to this country. However, we cannot adequately honor them unless we have first ensured them a safe and a healthy lifestyle.

Americans age 65 and older are the fastest-growing segment of our population. In just 2 years, there will be over 35 million of them in this country. Unfortunately, some of the most critical programs that provide seniors with food, health care, and living assistance are now being threatened.

The Older Americans Act has not been reauthorized since 1995. The programs are running out of funding. As a result, seniors throughout this country are suffering.

I have heard from many back home about how these cuts are affecting their lives. I have received many letters from seniors telling me their stories of having to be on a waiting list for 3 years just to get something like Meals on Wheels.

The majority party in this House must promise, and there is no better time than this month of May to get working on the reauthorization of the Older Americans Act. We must complete this work before the 105th Congress adjourns. If not, then essential programs like Meals on Wheels, nutritional services, and elder abuse prevention programs are not going to reach some of our neediest seniors.

Throughout the decades of its existence, the Older Americans Act has served our Nation's aging population well. These programs are important not only because they help seniors maintain a healthy lifestyle, but they also bolster seniors' independence and their sense of dignity. If we are to truly honor our Nation's seniors this month, then we must reauthorize the Older Americans Act.

COSPONSOR HOUSE RESOLUTION 37, MASS TRANSIT PASSES FOR HOUSE EMPLOYEES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, today, tens of thousands of Americans are celebrating Bike to Work Day by using bicycles to get to their place of employment. They are reinforcing the notion that using a bicycle can be fun; it can provide a healthy and convenient alternative to the private automobile. It will illustrate the impact that small steps can take to improve our quality of life.

At a time when we in Congress are worried about the health of the District of Columbia, when we are concerned about the funding of the Washington Area Mass Transit Authority, when we are looking at almost a billion dollars just to replace the Wilson Bridge here in the metropolitan area, and when, in Washington, D.C., consistently, the congestion is ranked in the top five in the country, bicycles make sense.

There is another simple step that we can take to improve the quality of life, and that is using more effectively the $10 billion investment that we have made in the Washington Area Metro System. It, too, is a way to save money, protect the environment, and improve the quality of life. It has been part of the Federal policy for years to promote the use of transit as an alternative to the single occupant vehicle.

In my community of Portland, Oregon, we promote that alternative by using transit passes as a way to make it easier for employees while we save money. There are over 60 individual companies that provide transit passes to over 45,000 people in the community.

Just this last month, the largest private sector employer in Oregon, Intel, developed a program that is providing free passes for all 11,000 of its employees because it makes sense for the company and for the community.

Here in Washington, D.C., we have over 1,000 employers in the private sector, over 100 Federal agencies that together provide transit checks for over 50,000 commuters in the metropolitan area. Even the United States Senate for the last 6 years has provided transit passes for its employees who do not get free parking.

I would suggest that it is time for us in the House of Representatives to take a step back and look at our policies to get in step with what we suggest the rest of America could do. If only 5 percent of our employees used the transit program, one-half the percentage in the United States Senate, we could eliminate this parking on the parking lot immediately adjacent to the Washington Capitol South Metro Station. We could obviously save the upkeep, the 24-hour-a-day staffing that is there to protect the cars, and we could convert that block into a higher and better use. Certainly there are a number of opportunities for one of the most valuable pieces of real estate in Washington, D.C.

I have introduced House Resolution 37; and, currently, there are over 180 of my colleagues that have cosponsored it. I would suggest that it is time for the remaining people in the House to take a step back, think about what is good for the environment, think about what is fair for our employees, to not simply provide up to $2,000 a year of free parking but provide an alternative for our employees who decide to do the right thing, protecting the environment by using mass transit.

It is good for the environment. It is good for our employees. It is a simple step to use our land more thoughtfully. Most important, it gets the House of Representatives in step with the Senate, with the rest of the Federal bureaucracy, and with what we are telling the private sector to do.

I strongly urge my colleagues to join me in sponsoring House Resolution 37.

OPPOSE ANY EFFORT TO REPEAL THE PRESSLER AMENDMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, as you know, last week, the Republic of India conducted five underground nuclear tests. The Clinton administration imposed sanctions after the second set of tests and I believe was correct in doing so. These sanctions are extremely severe and may affect as much as $20 billion in funds to India.

Mr. Speaker, I am also concerned now that U.S. policy proceed toward an increased dialogue with India. We have made tremendous strides in improving relations between our two countries in recent years, and we must not go back to a Cold War strategy.

Unfortunately, there are Members of this body who feel that there is a need to impose further trade and economic sanctions. There may be an attempt to attach an amendment to the House defense authorization bill that would remove Most Favored Nation's status to India on textile and apparel products.

□ 1115

Mr. Speaker, imposing further economic sanctions on India is meritless and counterproductive to current relations. It would only hurt the workers in India who make the textiles. This amendment to the defense authorization bill would derail U.S.-India relations at times when dialogue between the two democracies is paramount.

I was pleased to read that, at the G–8 summit in England, President Clinton stated that, although sanctions were necessary, he did not want to isolate India.

Mr. Speaker, India cited the threat from China and Pakistan as major reasons for conducting the nuclear tests. For years, Pakistan and China have cooperated in nuclear and missile development. A recent Congressional Research Service Center study showed that the Chinese government had transferred missile technology and nuclear equipment and materials to Iran and Pakistan numerous times. All of these transfers were clearly in violation of international and U.S. law, but they were not met with economic sanctions by the administration.

Mr. Speaker, China is a nuclear-armed dictatorship that had a border war in 1964 against India. Much to India's concern, China continues to maintain a nuclear presence in occupied

Tibet and a large military force in Burma. It is unfortunate that the administration and Members of this body continue to overlook these facts.

India's nuclear tests must be understood in the context of the huge threat posed by China. The United States should be taking the military and nuclear threat from China's dictatorship more seriously.

Mr. Speaker, It is important that the United States continue dialogue with the Indian government at this time. We must urge the Indian government to sign the Comprehensive Test Ban Treaty immediately, without conditions. By signing the treaty, India could assume leadership on international negotiations on capping the accumulation of weapons-grade fissile terms.

It is also important that we not encourage an arms buildup in south Asia. I would urge Members of this body to oppose any effort to repeal the Pressler amendment. Repeal of the Pressler amendment would allow for the delivery of 26 F-16 jet fighters to Pakistan.

U.S. national security adviser Sandy Berger confirmed that the delivery of fighter jets was one of the proposals made to the Pakistan government recently to prevent them from conducting their own nuclear tests, and this is very bad policy. The repeal of the Pressler amendment and the delivery of the F-16 fighters would only increase tension within the region. The U.S. cannot help bring peace to south Asia if it continues to fuel an arms race in that region.

Lastly, Mr. Speaker, I strongly urge President Clinton to continue with his plans to visit India later this year. It has been over 20 years since an American President has visited India. The President has not said he would cancel the trip, but I suppose there is some doubt about that. The President's trip would accelerate negotiations and dialogue on nuclear nonproliferation. Furthermore, it would show to the Indian people that the United States wishes to maintain a long-term relationship with India.

Mr. Speaker, now is the time to continue our dialogue with India and try to get India involved in signing the test ban treaty and trying to promote peace in south Asia. Let us move forward. Let us proceed with a dialogue. Let us not move backward with our relations with India. We have come a long way, and this is the time now to show there can be restraint on both sides.

NUCLEAR DISARMAMENT TO STOP NUCLEAR PROLIFERATION

The SPEAKER pro tempore (Mr. PETRI). Under the Speaker's announced policy of January 21, 1997, the gentleman from American Samoa (Mr. FALEOMAVAEGA) is recognized during morning hour debates for 2 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, India, the world's largest democracy, detonated five nuclear weapons tests last week in the name of national security. This shocked the world and demonstrated in graphic fashion the perceived unfairness and inherent weakness of the international nuclear nonproliferation system now in place.

We can expect Pakistan to reciprocate and go nuclear, and I would not be surprised to see other countries like North Korea, Iran and Libya to resume their nuclear programs.

Mr. Speaker, this madness and insane rush towards nuclear proliferation is inevitable as long as we continue to perpetuate a 24-year make-believe situation that India could not explode a nuclear bomb, and 28 years of a highly discriminatory and one-sided world of nuclear haves and have-nots. If we are serious about stopping nuclear proliferation, the United States and the nuclear powers must take the first step and commit to a concrete timetable for nuclear disarmament and a verification process.

One of America's finest military officers, former Commander of the U.S. Strategic Command General Lee Butler, said,

> Proliferation cannot be contained in a world where a handful of self-appointed nations both arrogate to themselves the privilege of owning nuclear weapons and extol the ultimate security assurance they assert such weapons convey. A world free of the threat of nuclear weapons is necessarily a world devoid of nuclear weapons. The United States should make unequivocal its commitment to the elimination of nuclear arsenals and take the lead in setting an agenda for moving forthrightly toward that objective.

Mr. Speaker, at this important time of peace, we should pay close attention to General Butler's concerns and foresight.

Mr. Speaker, whether we like it or not, India is now an official member of the so-called "Nuclear Club." But do not blame India for this. Blame our one-sided and faulty policy towards nuclear nonproliferation.

REAUTHORIZE THE OLDER AMERICANS ACT NOW

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized during morning hour debates for 1 minute.

Mrs. CLAYTON. Mr. Speaker, I have in my hand a sampling of hundreds of plates that I have received from senior citizens in my district when I visited them at centers or they have mailed them to me. The plates make a point. They are really about the reauthorization of the Older Americans Act. This act has not been reauthorized now for more than 2 years.

For 30 years, this act has provided the provisions for food, for health care and for a number of services that are very, very important to senior citizens. It allows them to have a quality of life in their homes, without which they would not have.

So I urge our colleagues, during the month of May, which is Senior Citizens Month, to make sure that they consider the reauthorization of the Older Americans Act.

We should not be feeding our senior citizens on paper plates. We really should be feeding them on fine China, because they have given their life for the betterment of their communities.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 12 noon.

Accordingly (at 11 o'clock and 21 minutes a.m.), the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. EMERSON) at 12 noon.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

O gracious God, from whom we have come and to whom we belong, we are grateful for all Your blessings, for family and friends and colleagues, for freedom and opportunity, for the responsibilities we have as citizens.

We pray, O God, that we will be steadfast custodians of the resources of the land and use our time, talents and treasure in ways that promote the noble ideals that we hold dear. We especially pray for those who work for understanding and reconciliation among all peoples. May we see Your vision, gracious God, of a time when our communities and the world will enjoy a bounty of peace.

And now may Your blessing, O God, that is new every morning, be with us this day and evermore. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Nevada (Mr. GIBBONS) come forward and lead the House in the Pledge of Allegiance.

Mr. GIBBONS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

DISPENSING WITH CALL OF PRIVATE CALENDAR

Mr. HYDE. Madam Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
Washington, DC, May 19, 1998.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on May 18, 1998 at 3:35 p.m. and said to contain a message from the President whereby he notifies the Congress that he has issued a notice continuing the national emergency with respect to Burma.

With warm regards,

ROBIN H. CARLE,
Clerk.

CONTINUATION OF EMERGENCY WITH RESPECT TO BURMA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–253)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the Federal Register for publication, stating that the emergency declared with respect to Burma is to continue in effect beyond May 20, 1998.

As long as the Government of Burma continues its policies of committing large-scale repression of the democratic opposition in Burma, this situation continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to maintain in force these emergency authorities beyond May 20, 1998.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 18, 1998.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minute requests.

DAMAGE IS DONE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Madam Speaker, as Chairman of the House Committee on Intelligence, I sadly report to my colleagues today that today we are faced with a more dangerous world. The nuclear arms race is on again, and it has intensified. That is a tragedy.

How did it happen? We have reports now that the Indian government has acknowledged that India's concern about Chinese capabilities and Chinese support for Pakistan nuclear development were critical factors in India's decision to proceed with testing. So our national security has been weakened, our children go to sleep less safe tonight.

The administration has much explaining to do about its failed policy, but two steps seem very obvious: first, an appointment of an independent counsel now that there is clear and credible evidence of illegal foreign intelligence participation; and, second, cancellation of President Clinton's scheduled June visit to China, which would only further destabilize the region and intensify the problem.

SPEAKER'S REMARKS WERE RECKLESS

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Madam Speaker, last week the Speaker of the House publicly characterized Secretary of State Madeleine Albright as "an agent for the Palestinians."

I realize that there are those in this Chamber who do not feel that the United States should live up to its treaty obligations by acting as an unbiased mediator in the Middle East peace process. But to characterize the Secretary of State in this manner was unfair and irrational.

I understand that it would be best explained as political posturing in an election year, but while we may have grown accustomed to reckless rhetoric when it comes to domestic politics, it is inexcusable to exploit the peace process for domestic political gain.

No lasting peace in the Middle East can be secured by riding political winds in the United States. The people that must determine the acceptability of any peace settlement are those living in the region. It is critical that the administration remain focused on what might be acceptable over the long term to Israelis—to Palestinians and in fact, to all who long for a secure, lasting and just peace throughout the middle east.

I urge the Speaker to retract and apologize for his remarks and to honor America's commitment to the peace process.

CONGRESS MUST INVESTIGATE CHINESE POLITICAL DONATIONS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, California businessman Johnny Chung gave $300,000 to the Democrat National Committee. Chung said he got the money from a member of the Chinese army.

Surprise. This is the same guy Chung who said, my donations are subway tokens for a train ride to the White House. Train ride, folks. How about a free ride? Maybe a joy ride.

Let us tell it like it is. This is not about tokens, coffees, the Lincoln bedroom, Bill Clinton, Democrats or Republicans. This is about national security, folks. And Americans did not give their lives in foreign wars to have the Chinese Communists buy our freedom. Beam me up. Congress must investigate this Chinese connection.

I yield back what national security I have left.

TRIBUTE TO FRANK SINATRA

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Madam Speaker, last Thursday, Americans lost a great entertainer. In fact, many would say that Frank Sinatra was one of the greatest entertainers of our time. Indeed, Frank Sinatra loved Nevada, and Nevada loved Frank Sinatra. He was indeed perhaps the greatest entertainer to appear in any Nevada showroom; and, since his passing, many Americans have learned what Nevadans have known all along: Mr. Sinatra's heart was bigger than all outdoors.

Next week in Las Vegas, celebrities from around the world will participate in a Frank Sinatra Las Vegas Celebrity Classic golf tournament. This event will benefit Opportunity Village in Las

Vegas, a charitable organization which provides vocational training and continuing education to the mentally disabled.

Frank Sinatra has always opened his heart and wallet to those in need. He did it his way; and, for that, Americans are extremely grateful to this international icon.

OPERATION CASABLANCA

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Madam Speaker, today I rise to compliment our Customs Service, our DEA and our other law enforcement officers for the successful money laundering undercover operation, code named "Casablanca."

An extensive money laundering ring of Colombian and Mexican drug dealers, who have been using dozens of Mexican and American banks to launder and disguise their billions of dollars of ill-gotten gains, have now been broken up. Many individuals have been arrested, millions of assets have been seized, along with tons of illicit drugs.

The substantial funds that this operation uncovered flowing from the illicit drug trade underscores just how serious the challenge is from these illicit drug dealers and the corruption they foster in the banking system and in democratic institutions throughout the world.

The magnitude of the disclosure and expanse of the monies and influence from illicit drugs shows our need for a serious and meaningful war on drugs. Our drug czar, Barry McCaffrey, believes that the term "war on drugs" is not appropriate to apply to the problems of drugs in our Nation. Many of us disagree. Our Speaker's task force efforts will hopefully turn this around.

Operation "Casablanca" makes it clear that what is at stake here deserves a war footing by our Nation and the international community. We need to fight drugs on all fronts, including both the demand and supply side simultaneously, as well as hitting them in the pocketbooks, just as "Casablanca" has done.

UNLAWFUL TRANSFER OF MISSILE TECHNOLOGIES WARRANTS IMMEDIATE INVESTIGATION

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Madam Speaker, I, along with many of my colleagues, had an opportunity to hear the Vice President of the United States speak on foreign policy matters last night; and, Madam Speaker, the Vice President went into great detail of his concern and disdain for the transfer of missile technology from the Russians to the Iranians. But, Madam Speaker, not one word was uttered by our Vice President about concerns of the transfer of our own missile technology to the Chinese government.

There are serious questions that exist, Madam Speaker. Indeed, The Washington Post reports this morning that $632,000 in donations to the Democrat party were given by Loral Missile Defense System CEO Bernard Schwartz, the party's largest single donor in the 1996 election.

Madam Speaker, this transcends the issue of Democrats versus Republicans. As Americans, this Congress needs to investigate the unlawful transfer of missile technologies from this government and from our defense capabilities to the People's Republic of China.

Madam Speaker, this House must investigate. There is no other choice.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule 1, the Chair announces that she will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

RICKY RAY HEMOPHILIA RELIEF FUND ACT OF 1998

Mr. HYDE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1023) to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Ricky Ray Hemophilia Relief Fund Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEMOPHILIA RELIEF FUND

Sec. 101. Ricky Ray Hemophilia Relief Fund.
Sec. 102. Compassionate payment relating to individuals with blood-clotting disorders and HIV.
Sec. 103. Determination and payment.
Sec. 104. Limitation on transfer of rights and number of petitions.
Sec. 105. Time limitation.
Sec. 106. Certain claims not affected by payment.
Sec. 107. Limitation on agent and attorney fees.
Sec. 108. Definitions.

TITLE II—TREATMENT OF CERTAIN PRIVATE SETTLEMENT PAYMENTS IN HEMOPHILIA-CLOTTING-FACTOR SUIT UNDER THE MEDICAID AND SSI PROGRAMS

Sec. 201. Treatment of certain private settlement payments in hemophilia-clotting-factor suit under the Medicaid and SSI programs.

TITLE I—HEMOPHILIA RELIEF FUND

SEC. 101. RICKY RAY HEMOPHILIA RELIEF FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the "Ricky Ray Hemophilia Relief Fund", which shall be administered by the Secretary of the Treasury.

(b) INVESTMENT OF AMOUNTS IN FUND.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on and proceeds from any such investment shall be credited to and become part of the Fund.

(c) AVAILABILITY OF FUND.—Amounts in the Fund shall be available only for disbursement by the Secretary of Health and Human Services under section 103.

(d) TERMINATION.—The Fund shall terminate upon the expiration of the 5-year period beginning on the date of the enactment of this Act. If all of the amounts in the Fund have not been expended by the end of the 5-year period, investments of amounts in the Fund shall be liquidated, the receipts of such liquidation shall be deposited in the Fund, and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury of the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund to carry out this title $750,000,000.

SEC. 102. COMPASSIONATE PAYMENT RELATING TO INDIVIDUALS WITH BLOOD-CLOTTING DISORDERS AND HIV.

(a) IN GENERAL.—If the conditions described in subsection (b) are met and if there are sufficient amounts in the Fund to make each payment, the Secretary shall make a single payment of $100,000 from the Fund to any individual who has an HIV infection and who is described in one of the following paragraphs:

(1) The individual has any form of blood-clotting disorder, such as hemophilia, and was treated with antihemophilic factor at any time during the period beginning on July 1, 1982, and ending on December 31, 1987.

(2) The individual —

(A) is the lawful spouse of an individual described in paragraph (1); or

(B) is the former lawful spouse of an individual described in paragraph (1) and was the lawful spouse of the individual at any time after a date, within the period described in such subparagraph, on which the individual was treated as described in such paragraph and through medical documentation can assert reasonable certainty of transmission of HIV from individual described in paragraph (1).

(3) The individual acquired the HIV infection through perinatal transmission from a parent who is an individual described in paragraph (1) or (2).

(b) CONDITIONS.—The conditions described in this subsection are, with respect to an individual, as follows:

(1) SUBMISSION OF MEDICAL DOCUMENTATION OF HIV INFECTION.—The individual submits to the Secretary written medical documentation that the individual has an HIV infection.

(2) Petition.—A petition for the payment is filed with the Secretary by or on behalf of the individual.

(3) Determination.—The Secretary determines, in accordance with section 103(b), that the petition meets the requirements of this title.

SEC. 103. DETERMINATION AND PAYMENT.

(a) Establishment of Filing Procedures.—The Secretary of Health and Human Services shall establish procedures under which individuals may submit petitions for payment under this title. The procedures shall include a requirement that each petition filed under this Act include written medical documentation that the relevant individual described in section 102(a)(1) has (or had) a blood-clotting disorder, such as hemophilia, and was treated as described in such section.

(b) Determination.—For each petition filed under this title, the Secretary shall determine whether the petition meets the requirements of this title.

(c) Payment.—

(1) In general.—To the extent there are sufficient amounts in the Fund to cover each payment, the Secretary shall pay, from the Fund, each petition that the Secretary determines meets the requirements of this title in the order received.

(2) Payments in case of deceased individuals.—

(A) In general.—In the case of an individual referred to in section 102(a) who is deceased at the time that payment is made under this section on a petition filed by or on behalf of the individual, the payment shall be made as follows:

(i) If the individual is survived by a spouse who is living at the time of payment, the payment shall be made to such surviving spouse.

(ii) If the individual is not survived by a spouse described in clause (i), the payment shall be made in equal shares to all children of the individual who are living at the time of the payment.

(iii) If the individual is not survived by a person described in clause (i) or (ii), the payment shall be made in equal shares to the parents of the individual who are living at the time of payment.

(iv) If the individual is not survived by a person described in clause (i), (ii), or (iii), the payment shall revert back to the Fund.

(B) Filing of petition by survivor.—If an individual eligible for payment under section 102(a) dies before filing a petition under this title, a survivor of the individual may file a petition for payment under this title on behalf of the individual if the survivor may receive payment under subparagraph (A).

(C) Definitions.—For purposes of this paragraph:

(i) The term "spouse" means an individual who was lawfully married to the relevant individual at the time of death.

(ii) The term "child" includes a recognized natural child, a stepchild who lived with the relevant individual in a regular parent-child relationship, and an adopted child.

(iii) The term "parent" includes fathers and mothers through adoption.

(3) Timing of payment.—The Secretary may not make a payment on a petition under this title before the expiration of the 120-day period beginning on the date of the enactment of this Act or after the expiration of the 5-year period beginning on the date of the enactment of this Act.

(d) Action on Petitions.—The Secretary shall complete the determination required by subsection (b) regarding a petition not later than 120 days after the date the petition is filed under this title.

(e) Humanitarian Nature of Payment.—This Act does not create or admit any claim of or on behalf of the individual against the United States or against any officer, employee, or agent thereof acting within the scope of employment or agency that relate to an HIV infection arising from treatment with antihemophilic factor, at any time during the period beginning on July 1, 1982, and ending on December 31, 1987. A payment under this Act shall, however, when accepted by or on behalf of the individual, be in full satisfaction of all such claims by or on behalf of that individual.

(f) Administrative Costs Not Paid From Fund.—No costs incurred by the Secretary in carrying out this title may be paid from the Fund or set off against, or otherwise deducted from, any payment made under subsection (c)(1).

(g) Termination of Duties of Secretary.—The duties of the Secretary under this section shall cease when the Fund terminates.

(h) Treatment of Payments Under Other Laws.—A payment under subsection (c)(1) to an individual—

(1) shall be treated for purposes of the Internal Revenue Code of 1986 as damages described in section 104(a)(2) of such Code;

(2) shall not be included as income or resources for purposes of determining the eligibility of the individual to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits, and such benefits shall not be secondary to, conditioned upon reimbursement from, or subject to any reduction because of receipt of, any such payment; and

(3) shall not be treated as a third party payment or payment in relation to a legal liability with respect to such benefits and shall not be subject (whether by subrogation or otherwise) to recovery, recoupment, reimbursement, or collection with respect to such benefits (including the Federal or State governments or any entity that provides such benefits under a contract).

(i) Regulatory Authority.—The Secretary may issue regulations necessary to carry out this title.

(j) Time of Issuance of Procedures.—The Secretary shall, through the promulgation of appropriate regulations, guidelines, or otherwise, first establish the procedures to carry out this title not later than 120 days after the date of the enactment of this Act.

SEC. 104. LIMITATION ON TRANSFER OF RIGHTS AND NUMBER OF PETITIONS.

(a) Rights Not Assignable or Transferable.—Any right under this title shall not be assignable or transferable.

(b) 1 Petition With Respect to Each Victim.—With respect to each individual described in paragraph (1), (2), or (3) of section 102(a), the Secretary may not make payment with respect to more than 1 petition filed in respect to an individual.

SEC. 105. TIME LIMITATION.

The Secretary may not make any payment with respect to any petition filed under this title unless the petition is filed within 3 years after the date of the enactment of this Act.

SEC. 106. CERTAIN CLAIMS NOT AFFECTED BY PAYMENT.

A payment made under section 103(c)(1) shall not be considered as any form of compensation, or reimbursement for a loss, for purposes of imposing liability on the individual receiving the payment, on the basis of such receipt, to repay any insurance carrier for insurance payments or to repay any person on account of worker's compensation payments. A payment under this title shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

SEC. 107. LIMITATION ON AGENT AND ATTORNEY FEES.

Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the petition of an individual under this title, more than 5 percent of a payment made under this title on the petition. Any such representative who violates this section shall be fined not more than $50,000.

SEC. 108. DEFINITIONS.

For purposes of this title:

(1) The term "AIDS" means acquired immune deficiency syndrome.

(2) The term "Fund" means the Ricky Ray Hemophilia Relief Fund.

(3) The term "HIV" means human immunodeficiency virus.

(4) Unless otherwise provided, the term "Secretary" means Secretary of Health and Human Services.

TITLE II—TREATMENT OF CERTAIN PAYMENTS IN HEMOPHILIA-CLOTTING-FACTOR SUIT UNDER THE SSI PROGRAM

SEC. 201. TREATMENT OF CERTAIN PAYMENTS IN HEMOPHILIA-CLOTTING-FACTOR SUIT UNDER THE MEDICAID AND SSI PROGRAMS.

(a) Private Payments.—

(1) In general.—Notwithstanding any other provision of law, the payments described in paragraph (2) shall not be considered income or resources in determining eligibility for, or the amount of—

(A) medical assistance under title XIX of the Social Security Act, or

(B) supplemental security income benefits under title XVI of the Social Security Act .

(2) Private payments described.—The payments described in this subsection are—

(A) payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corporation, et al., 96–C–5024 (N.D. Ill.); and

(B) payments made pursuant to a release of all claims in a case—

(i) that is entered into in lieu of the class settlement referred to in subparagraph (A); and

(ii) that is signed by all affected parties in such case on or before the later of—

(I) December 31, 1997, or

(II) the date that is 270 days after the date on which such release is first sent to the persons (or the legal representative of such persons) to whom the payment is to be made.

(b) Government Payments.—

(1) In general.—Notwithstanding any other provision of law, the payments described in paragraph (2) shall not be considered income or resources in determining eligibility for, or the amount of supplemental security income benefits under title XVI of the Social Security Act.

(2) Government payments described.—The payments described in this subsection are payments made from the fund established pursuant to section 101 of this Act.

Amend the title so as to read: "A bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated antihemophilic factor, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. HYDE) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE

Mr. HYDE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 1023, the Ricky Ray Hemophilia Relief Fund Act of 1998. This legislation has 270 cosponsors in the House, including our distinguished Speaker; and I am informed the Minority Leader also supports this legislation.

When communities in our great Nation are devastated by a natural disaster such as floods or tornadoes, we rush to their aid, as well we should. The hemophilia community has been devastated by another type of natural disaster, the HIV contamination of the blood-clotting products which they need to treat their hemophilia. This legislation provides the disaster relief necessary to assist this community through a very difficult time.

In the late 1970s and early 1980s, half of all people with blood-clotting disorders in the United States were infected with HIV due to their use of blood-clotting products which were on the market at that time. During this period, people with blood-clotting disorders needed to use these products to live a relatively normal life; and because each dose came from a pool of thousands of blood donors, it was almost certain that they would become HIV infected.

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However, at that time HIV had not been identified and no tests were available to detect its presence. Most people with blood clotting disorders are already financially strapped by the medical costs they incur to treat their disorder. With earlier medical costs of over $150,000 and the added tragedies of an HIV infection, these families have been emotionally and financially devastated.

In cases involving other types of blood and blood products, such as transfusion cases, where a primary provider or a small child was infected, settlements usually were for hundreds of thousands of dollars. Many of the HIV infected people with hemophilia were young fathers and children.

After many years of litigation, the manufacturers of these blood clotting products containing HIV have set up a fund which provides $100,000 to individuals and their families. However, when considering the incredible financial burden placed on these families due to medical costs and, in many cases, loss of the primary provider of the family, this amount will not sufficiently lift this community out of the financial crisis that has developed.

While no amount will completely alleviate the losses felt, H.R. 1023 provides a payment equal to that of the industry. The amount available to these families would then be comparable to that potentially realized by other HIV-infected blood victims through settlement.

There is a manager's amendment to this legislation. The bill as reported by the committee included a provision of no more than 2 percent of these payments that may be used for attorneys' fees. Concern was raised during committee consideration that should there be a complication in the processing of an individual's application, 2 percent would be insufficient to address that concern, and the 2 percent limitation on attorneys' fees has been increased to 5 percent.

I know my budget-conscious colleagues may balk at this expenditure, but when an extreme crisis hits an American community, we should as a Nation respond to that community's need. That is what this bill does. To aid this community in crisis, I urge a favorable vote on H.R. 1023.

Madam Speaker, I reserve the balance of my time.

Mr. SCOTT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 1023, the Ricky Ray Hemophilia Relief Fund Act of 1998. The purpose of the bill is to establish a fund to provide compassionate payments of $100,000 to individuals with hemophilia who contracted HIV, the AIDS virus, from contaminated blood-clotting products.

Hemophilia is a blood-clotting disorder genetically passed to sons by their mothers. In the late 1970s and early 1980s approximately 7,200 boys and men were infected with HIV through the use of blood-clotting products. That is nearly half of all people with hemophilia in the United States.

Because these blood-clotting products were derived from pools made up of literally thousands of donors, including prisoners, it has been nearly impossible to conclude causation and liability to any one manufacturer for selling contaminated blood products. Although, as the chairman mentioned, many cases have been settled, of the dozen or so cases that eventually went to trial, the manufacturers were only held liable in two cases, one of which was reversed and the other is still on appeal. To make matters worse, many of the States have passed so-called blood shield laws to protect blood banks from liability when blood-based diseases are passed on to users.

Notwithstanding the industry's courtroom success and new blood shield laws, the industry recently established a fund to provide $100,000 to individuals who contracted HIV through contaminated blood-clotting products in exchange for signing waivers releasing the industry from any future liability. Many hemophiliacs and their families have accepted this offer. Unfortunately, the $100,000 industry payment is insufficient to cover the enormous costs of blood-clotting drugs which people with hemophilia must continue to have in order to live a relatively normal life, and the enormous costs of drugs to combat the AIDS virus. Accordingly, this legislation is necessary to provide additional financial assistance.

The administration supports this proposal. We want to thank the chairman for the manager's amendment to increase the attorneys' fee provision from 2 to 5 percent, because we support this amendment, because we believe that it will allow claimants greater access to legal counsel in processing their applications under the bill.

Madam Speaker, I reserve the balance of my time.

Mr. HYDE. Madam Speaker, I am pleased to yield 8 minutes to the distinguished gentleman from Florida (Mr. GOSS), one of the driving forces behind this excellent legislation.

Mr. GOSS. Madam Speaker, I thank the distinguished gentleman from Illinois (Mr. HENRY HYDE), chairman of the Committee on the Judiciary, with my great respect for him, and I thank him personally from my heart for getting this legislation this far.

Madam Speaker, I rise today in support of H.R. 1023, the Ricky Ray Hemophilia Relief Fund Act, which is designed to respond to the tragedies of hemophilia-associated AIDS.

I first became involved in this issue some nine years ago when I met the Ray family. Ricky Ray, like his two brothers, contracted HIV through the use of contaminated blood products. Ricky, the eldest of the three boys, died of AIDS in 1992 at the age of 15. Before his death Ricky and his family courageously spoke out and became national symbols of the terrible situation we are facing. He inspired many of his peers to tell their stories and begin seeking answers from the Federal Government and the blood product manufacturing industry.

I am saddened that he did not live to see the day when legislation named in his honor would win the approval of this body. But we know his brothers and sisters, his parents, and the extended family of friends he established around the country recognize the enormous contribution that he made in his very short life. It is appropriate that the legislation before us bears his name, and I am pleased that Ricky's mother Louise is here with us today.

Madam Speaker, hemophilia is an inherited blood-clotting disorder causing serious internal bleeding episodes that, if left untreated, can lead to disfigurement and death. People with hemophilia rely on blood products, commonly called factor, which are manufactured and sold by pharmaceutical companies.

Because these products are made from the pooled blood of thousands of people, the potential for infection with a blood-borne disease among those who use them is obviously very high, something that has been known for decades. In fact, hemophilia sufferers have long been described as the canaries in the coal mine, because when something goes wrong with the blood supply it shows up in the hemophilia community first.

Soon after the introduction of clotting factor in the 1970s, the hepatitis virus swept through the hemophilia community. Largely as a result of the hemophilia community's experience with the hepatitis virus, the Federal Government adopted the national blood policy, which charged the Public Health Service, including the Centers for Disease Control, Food and Drug, and the National Institutes of Health with ensuring the safety and adequacy of the Nation's blood supply. It is worth noting that the Federal responsibility for blood and blood products is indeed unique. No other product has a national policy.

In the early 1980s a much more deadly disease struck as approximately one-half of the Nation's hemophiliacs, some 7,200 people at a minimum, became infected with HIV through the use of contaminated blood products. How did this happen? Why did the system that was established to safeguard the supply of blood and blood products fail to heed the early warning signs and prove so slow to respond to a dangerous threat?

In 1993 I joined with Senators GRAHAM of Florida and KENNEDY of Massachusetts in asking the Department of Health and Human Services to conduct a review of the events surrounding this medical disaster. The results of that intensive and objective review are contained in a report prepared by the Institute of Medicine, an arm of the National Academy of Sciences.

The IOM found "a failure of leadership and inadequate institutional decision-making processes" in the system responsible for ensuring blood safety, concluding that "a failure of leadership led to less than effective donor screening, weak regulatory actions, and insufficient communication to patients about the risk of AIDS."

While the IOM report is important, it does not begin to quantify the human dimension. For me, that is the most compelling part of this tragedy. We cannot talk to these victims without being moved by what they have gone through. It is important to keep in mind that the people with hemophilia already have to manage a sometimes debilitating disease. The average person with hemophilia spends approximately $100,000 per year on clotting factor alone. Many people with hemophilia have had a difficult time obtaining both health and life insurance, understandably.

In addition to the difficulties associated with hemophilia itself, the added complication of HIV AIDS has hit the hemophilia community particularly hard. Each treatment costs somewhere in the range of $10,000 to $50,000 per year, varying on the stage of the disease and the course of the treatment.

As a result of these extraordinary costs and the disproportionate impact of this tragedy on men, who most typically suffer from hemophilia and who tended to be the head of many of these households, many of these folks have been financially devastated. In some cases entire generations have been wiped out: fathers, sons, uncles. Most tragically, some men infected their wives with HIV before they became aware that they had contracted the disease. We know of cases where unborn children in these circumstances were also infected.

The emotional toll on all of these families has been immense. Madam Speaker, the Federal Government cannot become involved in every tragic case that occurs in this country, but this case is unique. I believe the Federal Government can and should, for compassionate reasons, act to help the hemophilia community.

While we cannot right all the wrongs in the world, we should pass this legislation to acknowledge the unique responsibility of the government to protect the blood supply and provide some measure of compassionate assistance to these victims. While I am encouraged that a final class settlement between the people of hemophilia and the blood product manufacturing companies is in fact going forward, it does not change my view that government also must act.

As my colleagues know, and as the hemophilia community has learned firsthand, moving a bill through the legislative process is a slow, difficult, and sometimes frustrating experience, amen. When I first introduced the Ricky Ray bill, we had about two dozen cosponsors. Since then support for the bill has swelled to 270 cosponsors, and we have secured unanimous approval for all three committees with jurisdiction.

This incredible progress is the direct result of the courage, diligence, and hard work of the hemophilia community. Of particular notice is the work of a group of high school students from Robinson Secondary School in Fairfax, Virginia. For several years these kids, as part of a marketing education program called DECA, have lobbied to pass this bill. Their efforts have been extraordinary, and they show that democracy can and does work.

Finally, Madam Speaker, let me say thank you to the congressional staff that have worked with me through the years to research and understand this tragedy, explain it to the House, and get this bill moving.

Madam Speaker, for too long the hemophilia community has felt that government first let them down and later abandoned them. I sincerely hope that the House action today will provide some measure of reassurance that their voices do count, that the legislative process does work, and that we have not forgotten them or the tragedy that befell their community. I only wish we had a cure for AIDS.

I strongly urge my colleagues to support this important legislation.

Madam Speaker, I include for the RECORD the following CRS report.

The report referred to is as follows:

CRS REPORT FOR CONGRESS—BLOOD AND BLOOD PRODUCTS: FEDERAL REGULATION AND TORT LIABILITY

(By Diane T. Duffy and Henry Cohen, Legislative Attorneys, American Law Division)

SUMMARY

Part I of this report, by Diane Duffy, Legislative Attorney, provides an overview of the Federal government's regulation of blood products. Part II, by Henry Cohen, Legislative Attorney, examines tort liability for injuries caused by defective blood or blood products.

The Food and Drug Administration (FDA) regulates blood and blood products under two statutes which overlap to a certain degree: the Federal Food, Drug and Cosmetic Act [FFDCA] and the Public Health Services Act (PHSA). Regulations are issued in order to implement the provisions of these statutes. Current statutory and regulatory law operates to govern the licensing, production, testing, distribution, labeling, review and approval of all drugs and biologics. Specifically, under the FFDCA, drugs, which include biologics such as blood and blood components or derivatives, which are intended to cure, mitigate, or prevent disease, are regulated. The enforcement and penalties provisions of the FFDCA can be applied to biological product manufacturers. Within the agency, the Center for Biologics Evaluation and Review has jurisdiction over the regulation of these articles.

Tort liability for injuries caused by defective blood or blood products is a form of products liability, which is governed primarily by state law. Products liability is strict liability, which means that, to recover, the plaintiff does not have to prove that the defendant was negligent, but need prove only that the defendant sold a defective product and that the plaintiff's injury resulted from the defect. However, all 50 states—48 through "blood shield" statutes—provide that blood transfusions are not subject to strict liability. The primary rationale for this is the belief that holding suppliers of blood or blood products strictly liable would make blood transfusions too expensive.

Part I of this report, by Diane Duffy, Legislative Attorney, provides an overview of the Federal government's regulation of blood products. Part II, by Henry Cohen, Legislative Attorney, examines tort liability for injuries caused by defective blood or blood products.

PART I: FEDERAL REGULATION OF BLOOD PRODUCTS

Issues relating to the regulation of blood products have been raised in the context of individuals with hemophilia who contracted Human Immunodeficiency Virus (HIV), the virus which causes AIDS, through the use of contaminated blood products. In the 104th Congress, bills have been introduced by Rep. Goss and Sen. DeWine which would establish a trust fund to compensate hemophiliacs, their spouses or estates, who contracted HIV through tainted blood products. This part of the report summarizes Rep. Goss' bill (H.R. 1023, 104th Congress)[1]; discusses current Federal law that directs and authorizes the regulation of blood products; and discusses regulatory issues and events which are notable in this context. In particular, it focuses on issues which tend to indicate that the regulation of blood products has been different than the regulation of other articles which are within the jurisdiction of the Food and Drug Administration (FDA).

Summary: The Ricky Ray Hemophilia Relief Fund Act of 1995

H.R. 1023, 104th Congress, introduced by Rep. Goss, establishes procedures for claims for compassionate payments with regard to persons with blood clotting disorders, e.g., hemophilia, who contracted HIV due to contaminated blood products. The bill, entitled the Ricky Ray Hemophilia Relief Fund Act of 1995, states that about half of all individuals in the U.S. who suffer from blood clotting diseases like hemophilia, were exposed to HIV through the use of blood clotting agents. The bill finds that the Federal government has a shared responsibility with the blood products industry for protecting the safety of the blood supply and for regulating blood clotting agents. H.R. 1023 finds that people with blood clotting disorders were at a very high risk of contracting HIV during the period beginning in 1980 and ending in 1987, when the last mass recall of contaminated anti-hemophilic factor (AHF) occurred. The bill states that it was during this period that the Federal government did not require the blood products industry to use means to ensure safety of blood products that were marketed for sale to people with blood clotting disorders. Moreover, it finds that the government did not require that all available information about the risks of contamination be dispensed and failed to properly regulate the blood products industry. Based upon these and other findings, the bill establishes a fund to compensate individuals in this circumstance. The fund is named after a child born with hemophilia who, like his two younger brothers and others, became infected with HIV through the use of contaminated blood clotting products.[2]

Specifically, the fund provides for partial restitution to people who were infected with HIV after treatment, during the period of 1980–1987, with contaminated blood products. The fund is established in the Department of the Treasury, is to be administered by the Secretary, and is to remain viable for five years after the date of enactment. The bill authorizes to be appropriated to the fund $1,000,000,000, to be disbursed by the Attorney General. H.R. 1023 provides that any person who submits to the Attorney General written medical documentation that he has an HIV infection shall receive $125,000 if each of these conditions is met:

(A) 1. The person has any form of blood clotting disorder and was treated with blood clotting agency in the form of blood components or blood products at any time during the period of January 1, 1980 and ending December 31, 1987; or

2. The person is the lawful spouse of the infected person or is the former lawful spouse of the infected person at the time so described in the bill.

3. The person acquired HIV through perinatal transmission from a parent who is an individual described in the above paragraphs.

(B) A claim for payment is filed with the Attorney General.

(C) The Attorney General determines that the claim meets the requirements under this bill, if enacted.

The Attorney General is required to establish procedures for the claims and payments and must determine whether the claim meets all the requirements. Claims are to be assessed and paid, if appropriate, within 90 days of their filing. In the case of a deceased claimant, the payment is to be made to the deceased's estate or in the manner set forth in the bill. Payments made from the fund shall be in full satisfaction of all claims of or on behalf of the individual against the United States that arise out of both the HIV infection and treatment during the period of time noted. With regard to judicial review, any person whose claim is denied may seek judicial review in a district court of the U.S. The court shall review the denial on the administrative record and hold unlawful and set aside the denial if it was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

Regulation of blood products

The Food and Drug Administration (FDA) regulates blood and blood products under two statutes which overlap to a certain degree: the Federal Food, Drug and Cosmetic Act [FFDCA][3] and the Public Health Services Act (PHSA)[4] and implementing regulations.[5] Current statutory and regulatory law operates to govern the licensing, production, testing, distribution, labeling, review and approval of all drugs and biologics. Under the FFDCA, drugs intended for the cure, mitigation, or prevention of disease, which include biologics such as blood and blood components or derivatives, are regulated.[6] Biological products are regulated by the FDA's Center for Biologics Evaluation and Review under the authority of the FFDCA, PHSA and implementing regulations.[7] The FDA is the primary agency for protecting the nation's blood supply and it is directed and authorized to regulate blood-banking, the handling of source plasma, and the manufacturer of blood products. Investigations of a new biological product is done under investigational new drug procedures found in the drug section of the FFDCA because the PHSA specifically regulates after the product is in the stream of commerce, not before. The enforcement and penalties provisions of the FFDCA can be applied to biological product manufacturers.

Under section 351 of the PHSA[8], blood products are regulated under the category of biological products. Current law provides that no person may sell, barter, exchange or offer to sell, barter, exchange or conduct interstate commerce of the same or bring from a foreign country any virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic products, or analogous products applicable to the prevention, treatment, or cure of diseases or injuries of man unless the same has been propagated or manufactured and prepared at an establishment holding an unsuspended or unrevoked license, issued by the Secretary, to propagate or manufacture and prepare the biological product.

Moreover, the law provides that each package of the product must be plainly marked with the proper name of the product, the name, address and license number of the manufacturer and the expiration date. The statute prohibits the false labeling or marking of any package or container containing the biological product and authorizes department officials to inspect establishments. Current law governs licensing for both the establishment and the product. For example, the statute provides that licenses for the maintenance of the establishment are issued after a showing that the establishment and the products meet standards designed to insure the continued safety, purity and potency of the products. Further authority is provided for suspending and revoking licenses. Also, when a batch, lot or other quantity of a licensed product presents an imminent or substantial hazard to the public health, the Secretary shall issue an order, under 5 U.S.C. §554, immediately ordering the recall of the quantity. The assessment of civil money penalties is authorized for violations. Any person who violates this section or aids in the violation of this section may be punished upon conviction by a fine or imprisonment or both. In sum, the agency is authorized to enforce the law through various enforcement tools including, seizure, application for recall, injunction, criminal prosecution, or administrative techniques, e.g. suspension, revocation of license.[9]

Implementing regulations governing blood and blood products provide further detail. For example, 21 C.F.R. Part 600 addresses general standards for establishments that manufacture a product subject to licensing as a blood product. It defines critical terms, e.g., biological product, sterility, purity, establishment, etc. These regulations state that with respect to an establishment, a person shall be designated as the "responsible head who shall exercise control of the establishment in all matters relating to compliance with the provisions" of these regulations.[10] This part governs inspections with respect to time of inspection, duties of inspectors and more. In addition, regulations require other actions, for instance, the postmarket reporting of adverse experiences.[11]

Part 601 governs two types of licensing: the establishment and the product.[12] The FDA is charged with issuing licenses only after all pertinent requirements and conditions are met. The agency is authorized to enforce provisions of current law through administrative measures to revoke or suspend a license. Provisions for review of the agency's decision regarding suspension or revocation are also addressed. Section 601.25 establishes the review procedures to determine that licensed biological products are safe and effective and not misbranded under prescribed, recommended or suggested conditions of use. Notably, Subpart E provides for the accelerated approval of biological products for serious or life threatening illnesses. This section permits the agency to approve products on a fast track to provide meaningful therapeutic benefit to patients over existing treatments, that is, to treat patients unresponsive to or intolerant of, available therapy.

To assist the agency in fulfilling its duty to evaluate the safety and effectiveness and labeling of biological products, Part 601 also

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Footnotes at end of report.

authorizes the FDA to appoint advisory review panels to (1) evaluate the safety and effectiveness of biological products for which a license has been issued under §351 of the PHSA; (2) review the labeling of such biological products; and (3) advise the Commissioner on which of the biological products under review are safe, effective and not misbranded. The members of the panel shall be qualified experts, appointed by the Commissioner, and shall include persons from lists submitted by organizations representing professional, consumer, and industry interests. Such persons shall represent a wide divergence of responsible medical and scientific opinion. The Commissioner designates the chair of each panel (for each type of biological product) and minutes of all meetings must be made. Additionally, regulations provide that interested persons can participate in the advisory panels sessions to the extent that the FDA must publish a notice in the Federal Register requesting interested persons to submit, for review and evaluation by the advisory panel, published and unpublished data and information pertinent to the biological products.

To a certain extent, the industry regulates itself through the adherence to good manufacturing practices (GMPs). Part 606 sets forth these GMPs for blood[13] and blood components and provides uniform and industry-specific guidelines and requirements to insure safety, effectiveness, purity and other important features of blood products.[14] These regulations pertain to personnel of the establishment, e.g., requirement to designate person in control of establishment; facilities maintenance, e.g., adequate space, quarantine storage, orderly collection of blood, etc.; equipment, e.g., calibrated, properly maintained, etc.; and, supplies and reagents, e.g., storage in a safe, sanitary and orderly manner. The GMPs detail finished product controls, container labels, records and reporting procedures and importantly, the adverse reaction process.

Part 607 requires the registration of establishments which include human blood and plasma donor centers, blood banks, transfusion services, other blood product manufacturers and independent laboratories that engage in quality control and testing for registered blood product establishments. The regulations also provide special standards for human blood and blood products, some of which apply directly to those being treated for hemophilia. For example, Part 640 addresses the product known as Cryoprecipitated AHF, a preparation of antihemophilic factor which is obtained from a single unit of plasma collected and processed in a closed system. The source material for this product is plasma which may be obtained by whole blood collection or plasmapheresis.[16] The regulations establish procedures pertaining to the suitability of donors; the collection of source material; the testing of blood; processing; quality control; and further requirements. With specific regard to donor testing, the regulations provide that the blood from which the plasma is separated must be tested as prescribed in §§610.40 [Test for hepatitis B], 610.45 [Test for HIV] and 640.5 [Test for syphilis, blood group, and Rh factors]. The test must be conducted on a sample of the blood collected at the time of donation and the container must be properly labeled. Manufacturers of this product are responsible for testing and recordkeeping. Moreover, quality control tests for potency of the antihemophilic factor must be conducted each month on at least four representative containers of Cryoprecipitated AHF. The results must be maintained at the establishment for inspection and review by the FDA.

As soon from the above examination of statutory and regulatory law, the legal requirements and procedures, as well as industry GMPs, create a complex and far-reaching regulatory structure for biological products and blood products in particular. To a certain extent, under the FFDCA and the PHSA, the licensing of biologics is more restrictive than that for other regulated articles, e.g., new drug. For example, a new drug under the FFDCA needs an approved new drug application (NDA), however, a new biologic needs to fulfill higher requirements. A generic biological product such as a serum must be approved by the FDA under the PHSA for its purity, potency and effectiveness based upon data submissions.[16] The PHSA states that licenses for new products may be issued only upon a showing that meets these express standards.[17] Additionally, related regulations and GMPs must be fully satisfied to ensure compliance.

Second, manufacturers of the product are individually licensed as capable of making the product on the particular manufacturing site.[18] Regulations at Part 607, discussed above, must be fully met for each establishment and for each product. Enforcement and inspection authority under the Act may be triggered to address alleged violations of the law or regulations or to insure ongoing compliance. Inspectors are authorized to examine records of the licensed establishments while GMPs guide recordkeeping, facility and equipment management, personnel regulations and similar procedures. Moreover, the FDA inspectors are granted special inspection authority for biological products and special procedures apply. For instance, as noted above, a specific person must be designated as being in control of the facility for regulatory and compliance purposes.[19] Moreover, and particularly with regard to blood clotting agents for hemophilia, extensive and frequent testing of lots and batches is required after initial production. The FDA may exercise its enforcement authority under the FFDCA and PHSA to suspend or revoke the license for either the product or the establishment, to seize, to seek recalls, injunctions, assess penalties, and to exercise a range of impressive enforcement tools.[20]

The entire licensure process is complex and intended to insure purity, potency and prevent misbranding. Some view it as the functional equivalent to a NDA for a new drug. Regulation of biological products is more restrictive in scope and has appeared to evolve to meet the unique needs and characteristics of biological products. While there are many similarities in the regulation of the drugs, devices, and biological products during premarket and post-market phases, there appears to be a greater emphasis on regulatory standards and requirements for biologics at the manufacturing level. Commentators have noted that the unique and separate histories of the regulation of drugs and biologics may account for the difference in regulatory approach.[21] One reason may be attributed to the fact that the Biologics Act[22] predates the FFDCA and that it was not enforced by the FDA until 1972, when jurisdiction for these matters was transferred to the FDA from the National Institutes of Health. Extensive government involvement and regulation of the manufacturing process grew out of early tragic incidents when it was determined that microbes contaminated vaccines.[23] Thus, where the primary focus is on the final product for drugs and devices, for biologics, it was determined that government regulation was needed much earlier and more strictly than for other articles under the various pertinent statutes.

Additionally, blood and blood products are the subject of an articulated national policy. Other articles under the FFDCA and PHSA have not been focused upon nationally in such a way. In 1973, the National Blood Policy was announced and the Public Health Service, including the CDC, the FDA and NIH, was charged with responsibility for protecting the nation's blood supply. The Policy recognized that reliance on "commercial sources of blood and blood components for transfusion, therapy . . . contributed to significantly disproportionate incidence of hepatitis, since such blood is often collected from sectors of society in which transmissible hepatitis is more prevalent."[24] The Policy encouraged efforts to establish an all-volunteer blood donation system and to eliminate commercialized acquisition of blood and blood components.

The Policy listed four goals: to provide an adequate supply of blood; to ensure a higher quality of blood; to facilitate maximum accessibility to services; and to achieve total efficiency.[25] According to the Institute of Medicine's [IOM] 1995 study, the first actions under the policy included adoption of an all-volunteer blood collection system; coordination of costs; regionalization of blood collection and distribution; and, an examination of standards of care for hemophiliacs and other special groups. The Policy did not address the commercialization of plasma, the preparation and marketing of plasma derivatives, and the commercial acquisition of blood for diagnostic reagents.[26]

Contaminated blood products and brief overview of Government actions during the 1980's

In the context of blood products regulation and the government's focus on the nation's blood supply, events occurred in the 1980s which led hemophiliacs and others to contract HIV from contaminated blood and blood products. The IOM study indicates that in September of 1982, of the 593 cases of AIDs reported to the CDC, 3 were hemophiliacs. Later, the CDC noted that the hemophilia patients who had AIDS had all received large amounts of a commercially manufactured anticoagulant known as AHF (antihemophilic factor)[27] Evidence seemed to indicate that children with hemophilia were at risk for the disease.[28] As more cases were reported, the IOM report states that a national survey indicated that 30% or more of all hemophiliacs had abnormal immunological tests. By January 1983, evidence from CDC investigations strongly indicated that blood and blood products transmitted AIDS and that it could be transmitted through sexual contact. It appeared that AIDS was occurring in individuals with hemophilia who had received AHF concentrate.[29] In March, 1983, the PHS issued its first formal recommendations on the prevention of AIDS and with regard to hemophiliacs, the recommendation stated that work should continue toward development of safer blood products for use by hemophiliac patients.[30] H.R. 1023 states that thousands became infected with HIV through the use of contaminated blood clotting products.[31]

The IOM report indicates that numerous measures were publicized and taken with regard to blood and plasma donations, collection and use, e.g. quarantine and disposal. The FDA announced that it approved a heat treatment to inactivate viruses in AHF concentrate, which purported to help protect individuals with hemophilia from Hepatitis B, and perhaps, AIDs.[32] The IOM report states that: "Government and private agencies identified, considered, and in some cases adopted strategies for dealing with the risk of transmitting AIDs through blood and blood products. The recommended safety measures were limited in scope. . . ."[33]

In 1983, the FDA's Blood Product Advisory Committee (BPAC) met to reconsider blood and blood products policies. One company recalled AHF concentrate when it determined that the concentrate was made from pools containing plasma from a person diagnosed with AIDs. However the IOM report notes that this recall was expressly not viewed as a recall of all such products and that the agency did not initially initiate a nationwide call of the concentrate.[34] The BPAC stated in mid-1983 that the criteria for deciding to withdraw lots of AHF concentrate should be based on evidence that plasma from a donor with AIDs had been present in the pooled plasma from which the lot was manufactured and recommended to the FDA a case-by-case decision regarding withdrawal for each lot that included plasma from a person who had AIDS or was suspected of having AIDS.[35] Some physicians switched from AHF concentrate to cryoprecipitate in those with less severe hemophilia. The IOM concluded "[b]lood safety policies changed very little during 1983 [and that there] were missed opportunities to learn from pilot tests to screen potentially infected donors or implement other control strategies that had been rejected as national policy."[36] Inaction relating to donor screening and surrogate marker testing was emphasized in the report.[37]

BPAC served as an advisory committee for the FDA and was the forum for industry and interested entities to participate in and influence the FDA's policy regarding blood products regulation.[38] According to the IOM report, BPAC's membership included blood and plasma organization representatives, scientists, and physicians.[39] The report concluded that valuable screening measures were not recommended by the BPAC due to uncertainties regarding scientific data, i.e., data from CDC, and "pressures from the blood industry and special interest groups."[40] Thus, options that could have reduced infection were not pursued. HIV testing and additional donor screening procedures were implemented in 1985. The IOM concluded that the FDA relied too heavily on BPAC and did not independently assess its recommendations and statements, and did not observe principles for proper management of advisory committees.[41] Moreover, IOM concluded that the membership of BPAC limited the information and points of view expressed to the agency and found possible issues relating to conflicts of interest. The report focused on the agency's role as being responsible for protecting the nation's blood supply, providing leadership and communication of information to those at risk.[42]

Conclusion to Part I

In sum, the blood and blood products regulation under the FFDCA and PHSA are restrictive and complex, governing primarily licensing of products and sites, as well as the final product, and authorize extensive enforcement actions. The FDA is the lead agency responsible for regulation of these articles and was charged with this responsibility in 1972. The products themselves seem to have been accorded special status, to a certain degree, under the statutes for regulation. Moreover, blood and blood products have been part of an articulated National Blood Policy. Events of the 1980s resulted in individuals with hemophilia, and many others, to contract HIV through the use of contaminated blood and blood products. This spurred intense examination of the FDA, its regulatory actions, and the use of its advisory committee BPAC, during this period. H.R. 1023, and S. 1189, were introduced to provide for payments from a trust fund to those with blood clotting disorders who contracted HIV at this time.

PART II: TORT LIABILITY FOR INJURIES CAUSED BY DEFECTIVE BLOOD OR BLOOD PRODUCTS

"Products liability" refers to the liability of a product manufacturer or subsequent seller for damages resulting from an injury caused by a product defect. Products liability is governed primarily by state common (i.e., court-made) law, as modified by state statute, although federal statutes occasionally preempt aspects of state products liability law. For example, prior to filing suit under state law for injuries caused by defective vaccines, one must file a claim under the National Children Vaccine Injury Act of 1986, as amended.[43]

Products liability differs from most other liability for non-intentional torts because products liability is strict liability, which means that, to recover, the plaintiff does not have to prove that the defendant was negligent (i.e., failed to exercise due care). All the plaintiff generally must prove in a products liability action is that the defendant sold a defective product and that the plaintiff's injury resulted from the defect.[44]

Products liability suits sometimes also allege a breach of warranty, on the theory that the fact that the product was defective constitutes a breach of the implied warranties that goods shall be merchantable (fit for ordinary purposes) and fit for any particular purpose for which they are required. These implied warranties arise under Uniform Commercial Code §§2–314 and 2–315, which has been enacted into law in every state but Louisiana. A suit for breach of warranty is similar to one for strict liability in tort in that in neither type of case need the plaintiff prove negligence. Breach of warranty suits predate strict tort liability suits, which came into being only in the 1960s.

One situation in which strict liability is generally not applied is in suits involving unavoidably unsafe products, among which, as noted below, some courts include blood. Restatement (Second) of Torts §402A comment k, which courts generally follow, provides: "There are some products which, in the present state of human knowledge, are quite incapable of being made safe for their intended and ordinary use. This is especially common in the field of drugs. An outstanding example is the vaccine for the Pasteur treatment of rabies, which not uncommonly leads to very serious and damaging side effects when it is injected. Since the disease itself inevitably leads to a dreadful death, both the marketing and the use of the vaccine are fully justified, notwithstanding the unavoidable high degree of risk which they involve. Such a product, properly prepared, and accompanied by proper directions and warnings, is not defective, nor is it *unreasonably* dangerous" [emphasis in original].

Case law

The seminal products liability blood transfusion case was *Perlmutter* v. *Beth David Hospital*, decided by the New York Court of Appeals in 1954.[45] It was a breach of warranty case (as it predated strict tort liability), and the issue was whether a transfusion constituted the sale of a product, in which case a transfusion of contaminated blood would constitute a breach of warranty, or whether it constituted the provision of a medical service, in which case the plaintiff would have to prove negligence to recover. This distinction was critical because there was no means to detect the presence of the hepatitis virus in blood, nor a practical method to treat the blood to eliminate the danger of hepatitis. Therefore, if the court deemed the transfusion a sale, it would turn hospitals into insurers of the risk of contaminated blood, but if it deemed it a service, then plaintiffs in most cases would go uncompensated because of the difficulty in proving negligence.

The court held that the transfusion should be treated as a service, because, "when service predominates, and the transfer of personal property is but an incidental feature of the transaction, the transaction is not deemed a sale. . . ."[46] The *Perlmutter* decision was widely followed by the courts, and extended to blood banks as well as hospitals. In *Community Blood Bank, Inc.* v. *Russell*, however, a Florida court found it "a distortion to take what is, at least arguably, a sale, twist it into the shape of a service, and then employ this transformed material in erecting the framework of a major policy decision."[47] This policy decision, of course, is whether "the social utility of an abundant blood supply outweighs the risks to individuals"[48] The Florida court, needless to say, found the transfusion to be a sale, and a transfer of contaminated blood to be a breach of warranty.

"*Community Blood Bank* thus paved the way for the greatest assault on the *Perlmutter* citadel, which came in *Cunningham* v. *MacNeal Memorial Hospital*,[49] where the defendant once again was a hospital, not a blood bank."[50] The plaintiff, who had contracted serum hepatitis from defective blood supplied by the hospital during a transfusion, asserted a claim in strict liability and won, with the court refusing to allow the hospital the defense that there was no means to detect the existence of serum hepatitis in whole blood. The court wrote: "To allow a defense to strict liability on the ground that there is no way, either practical or theoretical, for a defendant to ascertain the existence of impurities in his product would be to emasculate the doctrine and in a very real sense return to a negligence theory."[51]

Some courts, even if they treated a transfusion as the sale of a product and not as a service, found for the defendant under Restatement (Second) of Torts §402A comment k, mentioned above. They "considered whether liability without fault was applicable in view of a claim that blood containing hepatitis is a product which is unavoidably unsafe and thus is not an unreasonably dangerous product for which the blood bank could be held liable without fault. With some authority to the contrary, the courts have reasoned that blood infected with hepatitis virus is such an unavoidably unsafe product, since there is a great need for blood for operations and surgical procedures, but the possibility of blood being infected with hepatitis cannot be totally eliminated despite due care being taken, and therefore they have held that a blood bank cannot be held liable without fault for injuries to a patient who contracted hepatitis from the blood it supplied."[52]

Blood shield statutes; negligence suits

The Illinois legislature responded to the *Cunningham* decision by enacting a statute that provides, in part: "The procuring, furnishing, donating, processing, distributing or using human whole blood, plasma, blood products, blood derivatives and products, corneas, bones, or organs or other human tissue for the purpose of injecting, transfusing or transplanting any of them in the human body is declared for purposes of liability in tort or contract [i.e., breach of warranty] to be the rendition of a service . . . and is declared not to be a sale of any such items and no warranties of any kind or description nor strict tort liability shall be applicable thereto, except as provided in Section 3 [which imposes liability for negligence]." [53]

A subsequent Illinois case upheld the constitutionality of this statute, writing: "[I]t was predicted at the time *Cunningham* was handed down that the imposition of liability without fault on the distributors of blood would cause the cost of transfusions to skyrocket. . . . Moreover, implicit in the legislature's declaration of public policy is the fear that the imposition of strict tort liability would cause the financial considerations arising out of increased exposure to tort litigation to impinge on the exercise of sound medial judgment in a field where an individual's life might be at stake." [54]

Illinois' approach is now the approach of all 50 states, with 48 states having enacted blood shield statutes, and Minnesota, New Jersey, and District of Columbia courts having reached the same result on their own.[55] Blood shield statues "expressly characterize blood transfusions as services or explicitly state that blood transfusions will not be subject to strict liability." [56] A 1990 Washington case articulated the policy justifications for blood shield statutes: "First, the societal need to ensure an affordable, adequate bloody supply furnishes a persuasive reason for distinguishing between victims of defective blood and victims of other defective products. Second, strict liability cannot provide an incentive to promote all possible means of screening the blood for HIV. Third, although the producers may be in a better position to spread the costs, it is not in society's best interest to have the price of a transfusion reflect its true costs." [57]

Blood shield statutes do not preclude all lawsuits alleging injuries caused by contaminated blood. Even in a state with a blood shield statute, one commentator notes, "It seems likely that an action in express warranty or innocent tortious misrepresentation would lie if a supplier of a blood product misrepresented the product's safety, and a plaintiff relied on the misrepresentation to his detriment in the purchase of use of the product." [58]

Another commentator addresses a different situation in which strict liability may remain: "So blood shield statutes were expressly enacted to address only the threat of serum hepatitis, and it was not until after it was discovered that the HIV virus was transmittable through blood that legislatures amended these statutes to deal with potential AIDS liability. Courts have held that these amendments are not to be applied retroactively. Consequently, plaintiffs who received contaminated transfusions before the amendment are not barred by the blood shield statutes from bring strict liability actions." [59]

A blood shield statute was also held inapplicable in a suit against a pharmaceutical company where the relevant statute (Indiana Code 16–41–12–11) applied to the distribution of blood by a "bank, storage facility, or hospital." The Indian Court of Appeals wrote: "[W]e simply cannot conclude that our legislature intended to include a pharmaceutical company, which commercially produces blood products for mass distribution, as an entity within the same class described as an organ or a blood "bank or storage facility." The manufacture and distribution of blood products by pharmaceutical companies is better characterized as the sale of a product rather than the provision of a service. . . . It is quite unlikely that our legislature intended to include pharmaceutical companies in its definition of "bank or storage facility" simply because the manufacture or production of blood products incidentally involves their storage." [60]

Finally, blood shield statutes do not, of course, preclude suits for damages caused by negligence, and, "[w]ith strict liability effectively eliminated as a possible remedy [in transfusion cases], negligence remains the only viable alternative." [61] "To recover under a negligence cause of action a transfusion-related AIDS victim must prove that a standard of care existed, that the defendant's conduct fell below that standards, and that this conduct was the proximate cause of the plaintiff's injury. Plaintiffs who have contracted AIDS through transfusions of blood and blood products have alleged negligence in both blood testing and donor screening." [62]

It is relevant to note here that, in 1985, the Food and Drug Administration (FDA) licensed the enzyme-linked immunsorbent assay (ELISA) test, which "has proven 98.6% effective in detecting exposure to AIDS [in blood], and when coupled with a second test, the Western Blot Analysis, the rate of detection rises to 100%." [63] The existence of this test enables plaintiffs to argue that a failure to use this test constitutes negligence. A federal court of appeals wrote: "We believe that the FDA's recommendation of February 19, 1985, that blood facilities begin testing all donated blood as soon as testing supplies become commercially available imposed a duty on [the blood bank] to test all its blood supplies for antibodies to the AIDS virus." [64]

One commentator reports: "As the rampant spread of AIDS continues and its devastating effects, both socially as well as personally, are being publicized, courts are weighing the consequences of the AIDS epidemic against the necessity of assuring an adequate supply of blood. . . . In the past several years, courts have started to rethink their position on denying recovery to victims of AIDS-tainted transfusions. Several approaches [to proving negligence] have been utilized with some success. These approaches include: (1) failure of the blood supplier or doctor to adequately warn the blood recipient of the inherent dangers associated with a blood transfusion [thus denying] the patient the opportunity to make an informed choice; (2) inadequate screening of blood donors [thus] allowing high-risk individuals to continue donating blood; and (3) using a blood transfusion when an alternate, safer method of sustaining life was available." [65]

Selected recommendations in the legal literature; The National Childhood Vaccine Injury Act of 1986

One commentator writes: "Although absolute protection for these entities [blood banks and blood product manufacturers] may have been logical or desirable when the HIV virus was undetectable in blood, the better view based on current medical and scientific knowledge would be to allow post-1985 recipients of contaminated transfusions to recover under the theories of strict liability and breach of warranty. This would place the burden on the blood banks and blood products manufacturers to ensure the safety of the products they distribute." [66]

The same writer adds: "Moreover, court and legislatures should distinguish between hospitals, blood banks, and blood products manufacturers. Blood banks, and especially blood products manufacturers, are active players in the economic marketplace, selling goods rather than providing services." [67]

These views are echoed by another commentator: "While hospitals may be characterized as service-providers, it is merely a legal fiction to so characterize blood and blood products providers. To hold them liable only in negligence—and then to allow the blood industry itself to set the standard of care accepted in the community, thus requiring innocent plaintiffs to shoulder an extraordinary burden of proof—violates all notions of fair play. It is time that blood products purchased for a price, and particularly manufactured blood derivative products, be recognized for the products they are. Even under the 402A comment k exception for "unavoidably unsafe" products, it would be unthinkable to term blood contaminated by the HIV virus as not "unreasonably dangerous." It would be hard to think of anything more unreasonably dangerous." [68]

An advocate of the blood shield statutes could respond to these arguments by quoting the justifications various courts have proffered for the statutes.[69]

Finally, one commentator proposes: "The National Childhood Vaccine Injury Act (NCVIA) should serve as the structural model for "alternative legislation." . . . [P]otential claimants should seek capped [no-fault] compensation in a court of claims on waiver of potential tort claims against blood products manufacturers. Petitions should receive compensation from a fund financed by both congressional appropriations and revenue raised through an industry tax based on the sale of blood products." [70]

The National Childhood Vaccine Injury Act of 1986,[71] was enacted because Congress feared that some vaccine manufacturers might leave the market, which could create a genuine health hazard in the United States. The Act provides federal no-fault compensation to persons who suffer injury or death from specified vaccines. It allows more limited recovery than is generally allowed against manufacturers under state tort law, but it was hoped that "the relative certainty and generosity of the system's awards will divert a significant number of potential plaintiffs from litigation." [72]

The Act established a National Vaccine Injury Compensation Program funded by a manufacturers' excise tax on certain vaccines. Persons injured by a vaccine administered after October 1, 1988, with claims of more than $1,000, may not sue the vaccine administrator or manufacturer unless they first file a petition in the United States Court of Federal Claims for compensation under the Program. Upon the filing of a petition, the court must issue a decision within a specified period. Under the Program, compensation is limited to actual reimbursable expenses, up to $250,000 for pain and suffering and emotional distress, $250,000 in the event of a vaccine-related death, actual and anticipated loss of earnings, and attorney's fees and other costs, but no punitive damages.

A petitioner dissatisfied with his recovery under the Program may reject it and file a tort suit (state statutes of limitations are stayed during the pendency of the federal petition), which is governed by state law, with some limitations, such as that there are rebuttable presumptions that manufacturers who comply with federal regulations are not subject to failure to warn suits or to punitive damages.

Treatment of blood and blood products in 104th Congress products liability legislation

On May 2, 1996, President Clinton vetoed H.R. 956, 104th Congress, the Common Sense Product Liability Legal Reform Act of 1996. On May 9, the House failed to override the veto.[73] The vetoed bill had been agreed upon in a House-Senate conference, which adopted the Senate version of the provision that dealt with blood and blood products.

Both the House and Senate versions addressed blood and blood products in their respective definitions of "product." Section 108(8)(B) of the House-passed bill provided: "The term ["product"] does not include . . . "human tissue, human organs, human blood, and human blood products."

Section 101(13)(B) of the Senate-passed bill, by contrast, provided: "The term 'products' does not include . . . tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof), are subject, under applicable State law, to a standard of liability other than negligence. . . ."

The Senate bill, in others words, did apply to blood and blood products in strict liability and breach of warranty actions, although these actions are precluded by all state laws, except apparently in the limited instances noted on page 15 of this report.[74] The Senate-passed bill did not apply in blood and blood products that are the subject of negligence actions. The House-passed bill did not apply in any suits involving blood or blood products.

The committee report that accompanied the House bill states merely, with respect to the exclusion: "Tissue, organs, blood, and blood products—that are human in origin— . . . are explicitly excluded from the product definition."[75] The committee report that accompanied the Senate bill goes into more detail:[76] "Claims for harm caused by tissue, organs, blood and blood products used for therapeutic or medical purposes are, in the view of most courts, claims for negligently performed services and are not subject to strict product liability.[77] The Act thus respects state law by providing that, in those states, the law with respect to harms caused by these substances will not be changed.[78] In the past, however, a few states have held that claims for these substances are subject to a standard of liability other than negligence, and this Act does not prevent them from doing so.[79] See, e.g., *Cunningham* v. *MacNeal Memorial Hosp.*, 266 N.E.2d 897 (Ill. 1970) (overturned by Ill. Ann. Stat. Ch. 111½, sections 2 and 3).[80] Such actions would be governed by the Act. . . ."[81]

The conference committee version of H.R. 956, as noted, adopted the Senate provision that dealt with blood and blood products (renumbered as §101(14)(B)). The joint explanatory statement of the conference committee, did not, however, discuss the provision.[82]

Recent settlement[83]

On August 14, 1996, a federal judge gave preliminary approval to a settlement between hemophiliacs infected with AIDS and four pharmaceutical companies that allegedly had manufactured blood clotting products contaminated with HIV.[84] Judge John F. Grady of the U.S. District Court for the Northern District of Illinois tentatively certified a settlement class, preliminarily approved the settlement agreement, and authorized the parties to begin notifying class members.

The plaintiffs contended that the companies sold tainted blood clotting products from 1978 until 1985, when new heat sterilization procedures came into practice. Under the settlement, each class member would receive $100,000, regardless of the number of class members; the total number of class members reportedly could range as high as 10,000. A fairness hearing is scheduled before Judge Grady on November 25, 1996.

FOOTNOTES

[1] Sen. DeWine's bill is substantially similar to H.R. 1023.

[2] The bill indicates that Ricky Ray died at age 15 of hemophilia-associated AIDS.

[3] 21 U.S.C. §§301 et seq.

[4] 42 U.S.C. §262.

[5] FDA regulations pertaining to blood products are set forth at 21 C.F.R. Parts 600 [Biological products; general]; 601 [Licensing]; 606 [Good manufacturing practices for blood and blood products]; 607 [Establishment registration and product listing for manufacturers of human blood and blood products]; 610 [General biological products standards]; and, 640 [Additional standards for human blood and blood products].

[6] 21 U.S.C. §321(g)(1) [Definitions; drug].

[7] According to an intra-agency agreement that differentiates drugs and biologics, biologics include: vaccines, allergens and in vivo diagnostic allergenic products; human blood and blood derived products; immunoglobulin products; products composed of or intended to contact intact cells or intact microorganisms including viruses, bacteria, fungi, etc.; non-antibiotic products that are proteins, peptides, or carbohydrate products produced by cell culture; protein products produced in animal body fluids by genetic alteration of the animal; venoms and their constituents; synthetically produced allergenic products intended to specifically alter the immune response to a specific antigen or allergen; and certain drugs used in conjunction with blood banking or transfusion. "FDA's Intercenter Agreement," Treatise on Food and Drug Administration, James O'Reilly, §13.21 [Biological Products].

[8] 42 U.S.C. §262.

[9] The FDA is not authorized to mandate recalls.

[10] 21 C.F.R. §600.10.

[11] 21 C.F.R. §600.80.

[12] This also includes the licensing of foreign establishments and products.

[13] Blood means whole blood collected from a single donor and processed either for transfusion or further manufacturing.

[14] Component means that part of a single donor unit of blood separated by physical or mechanical means.

[15] Subpart F; 21 C.F.R. §640.50.

[16] 42 U.S.C. §262(d).

[17] Id.

[18] Id.; Food and Drug Regulation, James O'Reilly, §13.22.

[19] 21 C.F.R. Part 606.

[20] The FDA is authorized to act via the misbranding and adulteration sections of the FFDCA and can take various actions for enforcement under 21 U.S.C. §357.

[21] See, for example, Regulation of Biologics Manufacturing: Questioning the Premise, Food and Drug Law Journal, Vol. 49, No. 1, 1994, pp. 213, 216.

[22] The Act was originally enacted in 1902 and reenacted in 1944 when the PHSA was enacted; codified at 42 U.S.C. §262.

[23] FDLJ, infra, at 216.

[24] Reprinted in the Institute of Medicine's [IOM] "HIV and the Blood Supply," National Academy of Sciences, 1995, p. 41.

[25] Id.

[26] Id.

[27] IOM, at p. 68.

[28] Id.

[29] Id., at p. 70. AHF concentrate is manufactured from pools containing plasma from donors.

[30] Id., at p. 73.

[31] H.R. 1023, §2 (10).

[32] Id., at p. 73.

[33] Id., at pp. 73–4.

[34] Id., at p. 74.

[35] Id., at p. 75.

[36] Id., at p. 75-6.

[37] IOM, at pp. 101-133.

[38] The FDA is authorized, or at times directed, to use advisory committees. The Federal Advisory Committee Act, FACA, is applicable to the FDA and defines "advisory committee" as any committee, board, commission, counsel, conference, panel task force or, other similar group . . . which is established by a statute, established or used by the President, or established or utilized by the one or more agencies in the interest of obtaining advice or recommendations." 5 U.S.C. App. §3. As discussed above, FDA regulations provide additional and specific requirements for advisory committees, how they are constituted, meetings, participation by interested persons, and similar issues.

[39] IOM, at p. 121.

[40] Id., at p. 127.

[41] IOM, at p. 213.

[42] Id., at p. 215.

[43] 42 U.S.C. §§300aa et seq., discussed infra, at pp. 18–19.

[44] To recover in a products liability suit, the plaintiff must prove that the defect was present at the time it left the hands of the defendant. If a defect was present at the time of manufacture, but a plaintiff sues a seller instead of the manufacturer, then the seller may recover from the manufacturer any damages it pays to the plaintiff. In the past decade, almost half the states have enacted statutes making product sellers other than manufacturers strictly liable only when the manufacturer cannot be sued or would be unable to satisfy a judgment. See Fifty-State Surveys of Selected Products Liability Issues (CRS Report No. 95–300 A).

[45] 123 N.E.2d 792 (N.Y. 1954).

[46] Id. at 794.

[47] 185 So.2d 749 (Fla. Dist. Ct. App. 1966), aff'd as modified, 196 So.2d 115 (Fla. 1967).

[48] Terri S. Hall, Bad Blood: Blood Industry's Immunity From Liability For Transfusion-Borne Disease, 12 Journal of Products Liability 25, 33 (1989).

[49] 266 N.E.2d 897 (Ill. 1970).

[50] Hall, supra note 48.

[51] Cunningham, supra note 49, at 902.

[52] Annotation, Liability of Blood Supplier or Donor for Injury or Death Resulting from Blood Transfusion, 34 ALR4th 508, 513.

[53] 745 Ill. Compiled Stat. Ann. 40/2 (Smith-Hurd).

[54] Glass v. Ingalls Memorial Hospital, 336 N.E.2d 495, 499 (Ill. 1975).

[55] Andrew R. Klein, Beyond DES: Rejecting the Application of Market Share Liability in Blood Products Litigation, 68 Tulane Law Review 883, 915 (1994). The citations to 44 of the 48 state blood shield statutes appear in M. Stuart Madden, PRODUCTS LIABILITY (2d ed. 1988 & Supp. 1993) §6.19 n.1. Minnesota repealed its statute, Minn. Stat. §525.928, in 1991.

[56] Dana J. Finberg, Blood Bank and Blood Products Manufacturer Liability in Transfusion-Related AIDS Cases, 26 University of Richmond Law Review 519, 524 (1992).

[57] Howell v. Spokane & Inland Empire Blood Bank, 785 P.2d 815, 817 (Wash. 1990).

[58] Robert E. Cartwright and Jerry J. Phillips, PRODUCTS LIABILITY (1986 & Supp. 1992) at §4.03 (Supp. p. 127). Of course, a blood supplier may avoid this liability simply by not making warranties or representations as to a product's safety.

[59] Finberg, supra note 56, at 525–526.

[60] JKB, SR., and VB v. Armour Pharmaceutical Company, 660 N.E.2d 602 (Ind. App. 1996).

[61] Kathryn Glasgow Lofti, Suppliers of AIDS-Contaminated Blood Now Face Liability, 34 Howard Law Review 183, 196 (1991).

[62] Finberg, supra note 56, at 533.

[63] Id. at 521.

[64] Kirkendall v. Harbor Insurance Co., 887 F.2d 857, 861 (8th Cir. 1989).

[65] Lofti, supra note 61, at 200, 197.

[66] Finberg, supra note 56, at 537.

[67] Id.

[68] Hall supra note 48, at 43.

[69] See, text accompanying notes 54 and 57, supra.

[70] Klein, supra note 55, at 931, 932–933. The author of this proposal, however, would not allow a petitioner to use the no-fault compensation scheme unless he first "demonstrate[d] a diligent, but unsuccessful, effort to prove which manufacturer produced the product that caused his infection. Thus, only plaintiffs unable to prove traditional cause in fact would use alternative legislation." Id. at 933.

[71] 42 U.S.C. §§300aa et seq. The summary of the Act that follows draws heavily from Lester S. Jayson, Handling Federal Tort Claims: Administrative and Judicial Remedies §1.25 (1996).

[72] H.R. Rep. No. 99-908, Part 1, 99th Cong., 2d Sess. 13 (1986).

[73] For additional information see The Products Liability Conference Committee Bill (CRS Rep. No. 96–276 A).

[74] See, text accompanying note 48, supra.

[75] H.R. Rep. No. 104–64, Part 1, 104th Cong., 1st Sess. 30 (1995).

[76] The footnotes that accompany the following quotation are all by the author of this memorandum; they do not appear in the Senate report.

[77] This, of course, is because the blood shield statutes generally preclude suits except in negligence.

[78] This statement does not explain the reluctance to change negligence actions involving tissue, organs, blood, and blood products, when there is no reluctance to change negligence actions involving other products. Section 102(a)(1) of the bill provides that the bill would apply to any product liability action (with exceptions not relevant here), and section 101(14) defines "product liability action" as "a civil action brought under any theory [i.e., including negligence] for harm caused by a product."

[79] This is true, but does not explain why the bill would apply to strict liability actions involving tissue, organs, blood, and blood products, but not to negligence actions involving those products. Whether the bill would apply to a particular type of suit is unrelated to the question of whether that type of suit may be brought. This is because the bill would affect only particular aspects of products liability suit; it would not alter their nature as negligence, breach of warranty, or strict liability suits.

[80] This statute was renumbered as indicated in note 53, supra.

[81] S. Rep. No. 104-69, 104th Cong., 1st Sess. 24 n.86 (1995).

[82] H.R. Rep. No. 104-481, 104th Cong., 2d Sess. (1996).

[83] The following is based on an article in 24 Products Safety & Liability Reporter 761 (Aug. 16, 1996).

[84] Walker v. Bayer AG (N.D. Ill., MDL No. 93-C-7452).

[From the Committee to Study HIV Transmission Through Blood and Blood Products, Division of Health Promotion and Disease Prevention, Institute of Medicine, National Academy Press, Washington, D.C., 1995]

HIV AND THE BLOOD SUPPLY: AN ANALYSIS OF CRISIS DECISIONMAKING

(By Lauren B. Leveton, Harold C. Sox, Jr., and Michael A. Stoto)

EXECUTIVE SUMMARY

A nation's blood supply is a unique, lifegiving resource and an expression of its sense of community. In 1993, voluntary donors gave over 14 million units of blood in the United States (Wallace, et al. 1993). However, the characteristic that makes donated blood an expression of the highest motives also makes it a threat to health. Derived from human tissue, blood and blood products can effectively transmit infections such as hepatitis, cytomegalovirus, syphilis, and malaria from person to person (IOM 1992). In the early 1980s blood became a vector for HIV infection and transmitted a fatal illness to more than half of the 16,000 hemophiliacs in the United States and over 12,000 blood transfusion recipients (CDC, MMWR; July 1993).

Each year, approximately four million patients in the United States receive transfusions of approximately 20 million units of whole blood and blood components. The blood for these products is collected from voluntary donors through a network of nonprofit community and hospital blood banks. Individuals with hemophilia depend upon blood coagulation products, called antihemophilic factor (AHF) concentrate, to alleviate the effect of an inherited deficiency in a protein that is necessary for normal blood clotting. The AHF concentrate is manufactured from blood plasma derived from 1,000 to 20,000 or more donors, exposing individuals with hemophilia to a high risk of infection by blood-borne viruses.

The safety of the blood supply is a shared responsibility of many organizations including the plasma fractionation industry, community blood banks, the federal government, and others. The Food and Drug Administration (FDA) has regulatory authority over plasma collection establishments, blood banks, and all blood products. Since 1973, the FDA has established standards for plasma collection and plasma product manufacture and a system for licensing those who met standards. The Centers for Disease Control and Prevention (CDC) has responsibility for surveillance, detection, and warning of potential public health risks within the blood supply. The National Institutes of Health (NIH) supports these efforts through fundamental research. During the 1950s and 1960s, blood shield laws were adopted by 47 states. These laws exempt blood and blood products from strict liability or implied warranty claims on the grounds that they are a service rather than a product. The laws were developed on the premise that given the inherently risky nature of blood and blood products, those providing them required protection if the blood system was to be a reliable resource.

As a whole, this system works effectively to supply the nation with necessary blood and blood products, and its quality control mechanisms check most human safety threats. The events of the early 1980s, however, revealed an important weakness in the system—in its ability to deal with a new threat that was characterized by substantial uncertainty. With intent to prepare the guardians of the blood supply for future threats concerning blood safety, the Department of Health and Human Services commissioned the Institute of Medicine to study the transmission of HIV through the blood supply. The Committee to Study HIV Transmission Through Blood and Blood Products undertook this assignment fully aware of the advantages and dangers of hindsight. Hindsight offers an opportunity to gain the understanding needed to confront the next threat to the blood supply. The danger of hindsight is unfairly finding fault with decisions that were made in the context of great uncertainty.

HISTORY

The Risk of AIDS

Starting with the identification of 26 homosexual men with opportunistic diseases in June 1981, the CDC's *Morbidity and Mortality Weekly Report* became the source for reports of the epidemic. By July 1982, enough cases had occurred with common symptomatology to name the new disease "acquired immune deficiency syndrome" (AIDS). By January 1983, epidemiological evidence from CDC's investigations strongly suggested that blood and blood products transmitted the agent causing AIDS and that the disease could also be transmitted through intimate heterosexual contact. The conclusion that the AIDS agent was blood-borne was based on two findings. First, AIDS was occurring in transfusion recipients and individuals with hemophilia who had received AHF concentrate; these patients did not belong to any previously defined group at risk for contracting AIDS. Second, the epidemiologic pattern of AIDS was similar to hepatitis B, another blood-borne disease.

Immediate Responses to Evidence of Blood-Borne AIDS Transmission

In the first months of 1983, the epidemiological evidence that the AIDS agent was blood-borne led to meetings and public and private decisions that set the pattern of the blood industry's response to AIDS, starting with a public meeting convened by the CDC in Atlanta on January 4, 1983. Later that month, the leading blood bank organizations, and, separately, the National Hemophilia Foundation (NHF) and the blood products industry, issued statements about preventing exposure to AIDS. In March 1983, the Assistant Secretary for Health promulgated the first official Public Health Services (PHS) recommendations for preventing AIDS, and the FDA codified safe practices for blood and plasma collection.

The government and private agencies quickly identified, considered, and in some cases adopted strategies for dealing with the risk of transmitting AIDS through blood and blood products. The recommended safety measures, however, were limited in scope. Examples include: questions to eliminate high-risk groups such as intravenous drug users, recent immigrants from Haiti, and those with early symptoms of AIDS or exposure to patients with AIDS; direct questions about high-risk sexual practices were generally not used. These questions reflected a lack of consensus about the magnitude of the threat, especially among physicians and public health officials who had trouble interpreting the unique epidemiological pattern of AIDS. The recommendations also reflected uncertainty about the benefits of identifying and deferring potentially infected blood and plasma donors, treatment of blood products to inactivate viruses, recall of products derived from donors known to have or suspected of having AIDS, and changes in transfusion practice and blood product usage. The costs, risks, and benefits of these and other potential control strategies were uncertain.

Opportunities to Reformulate Policy

In the interval between the decisions of early 1983 and the availability of a blood test for HIV in 1985, public health and blood industry officials became more certain that AIDS was a blood-borne disease as the number of reported cases of AIDS among hemophiliacs and transfused patients grew. As their knowledge grew, these officials had to decide about recall of contaminated blood products and possible implementation of a surrogate test for HIV. Meetings of the FDA's Blood Products Advisory Committee in January, February, July and December 1983 offered major opportunities to discuss, consider, and reconsider the limited tenor of the policies.

Despite these and other opportunities to review new evidence and to reconsider earlier decisions, blood safety policies changed very little during 1983. Many officials of the blood banks, the plasma fractionation industry, and the FDA accepted with little question estimates that the risk of AIDS was low ("one in a million transfusions"), and they accepted advice that control strategies (such as automatic withdrawal of AHF concentrate lots containing blood from donors suspected of having AIDS, or a switch from AHF concentrate to cryoprecipitate in mild or moderate hemophiliacs) would be ineffective, too costly, or too risky. During this period, there were missed opportunities to learn from local attempts to screen potentially infected donors or implement other control strategies that had been rejected as national policy.

Research Activities

From 1983 through 1985, research on AIDS included epidemiological analysis to understand patterns of spread and etiology, the search for methods to control or eliminate the disease, and evaluation of the efficacy of potential safety measures such as surrogate tests for the infection. Related research on methods to inactivate hepatitis B virus in AHF concentrate had begun in the 1970s and came to fruition in the early 1980s.

Scientists at the Pasteur Institute in Paris first isolated the retrovirus now known as

HIV-1 in 1983. Investigators at the National Institutes of Health (NIH) provided convincing evidence that HIV-1 was the causative infectious agent of AIDS in 1984, and were also able to propagate HIV-1 in the laboratory, thus providing the basis for a blood test to identify individuals infected by the virus. Scientists at NIH isolated and characterized HIV in 1984. Viral inactivation methods for AHF concentrate were developed in laboratories of the plasma fractionators, and the FDA licensed the new processes quickly. Although the pace of viral inactivation research had been slow, it accelerated in the 1980s, largely in response to hepatitis, and had identified effective strategies by 1984. However, research into other potential ways to safeguard the blood supply such as the use of surrogate tests was not pursued vigorously, and there was relatively little research on blood safety issues per se.

FINDINGS

The Committee framed its approach by examining four topics that are essential components of a focused strategy for ensuring the safety of the blood supply: blood product treatment, donor screening and deferral, regulation of removal of contaminated products from the market, and communication to physicians and patients.

Product Treatment

Plasma products can be treated by a variety of physical and chemical processes to inactivate viruses and thus to produce a product free from contamination and relatively safe for transfusion. Shortly after the development of the technology to manufacture AHF concentrate, it was recognized that these products carried a substantial risk of transmitting hepatitis B. Although some blood derivative products had been treated with heat to destroy live viruses since the late 1940s, Factor VIII and IX concentrates in the United States were not subject to viral inactivation procedures until 1983 and 1984. If this technology had been developed and introduced before 1980 to inactivate hepatitis B virus and non-A, non-B hepatitis virus, fewer individuals with hemophilia might have been infected with HIV.

Overall, the record of the plasma fractionators and the FDA with respect to the development and implementation of heat treatment is mixed. The Committee's analysis focused on whether the basic knowledge and technology for inactivating viruses in AHF concentrate had been available before 1980 and whether industry had appropriate incentives (from FDA, NIH, NHF, or others) to develop viral inactivation procedures. In the Committee's judgment, heat treatment processes to prevent the transmission of hepatitis, an advance that would have prevented many cases of AIDS in individuals with hemophilia, might have been developed before 1980. For a variety of reasons (e.g., concern about possible development of inhibitors and higher costs), however, neither physicians caring for individuals with hemophilia nor the Public Health Service agencies actively encouraged the plasma fractionation companies to develop heat treatment measures earlier. The absence of incentives, as well as the lack of a countervailing force to advocate blood product safety, contributed to the plasma fractionation industry's slow rate of progress toward the development of heat-treated products. Once plasma fractionators developed inactivation methods, however, the FDA moved expeditiously to license them.

Donor Screening and Deferral Policies

The purpose of donor screening and deferral procedures is to minimize the possibility of transmitting an infectious agent from a unit of donated blood to the recipient of that unit, as well as to ensure the welfare of the donor. Donor screening includes the identification of suitable donors; the recruitment of donors; and the exclusion of high-risk individuals through methods and procedures used at the time of donation, such as questionnaires, interviews, medical exams, blood tests, and providing donors with the opportunity to self-defer. Donor deferral is the temporary or permanent rejection of a donor based on the results of the screening measures.

By January 1983, in addition to suggesting that the agent causing AIDS was transmitted through blood and blood products and could be sexually transmitted, the epidemiological evidence also demonstrated that there were several groups who had an increased risk of developing AIDS. The highest incidence of the disease was in male homosexuals, who donated blood frequently in some geographic regions. The Committee found that organizations implemented donor screening measures in different ways at different times. Plasma collection agencies had begun screening potential donors and excluding those in any of the known risk groups as early as December 1982, and CDC scientists suggested in January 1983 that blood banks do likewise. Also in January, the blood-banking organizations (the American Association of Blood Banks, the American Red Cross, and the Council of Community Blood Center) issued a joint statement that recommended the use of donor screening questions to detect early symptoms of AIDS or exposure to AIDS patients. The statement, however, did not advocate directly questioning donors about their sexual preferences. Blood banks did institute some screening measures in early 1983, but only a few asked potential donors questions about homosexual activities. At the same time, CDC scientists also suggested that all blood and plasma collection agencies employ an available surrogate test for hepatitis B core antigen (anti-HBc). Most blood and plasma collection agencies rejected this recommendation. Although the precise impact of these two actions is not known, earlier implementation of either probably would have reduced the number of individuals infected with HIV through blood and blood products. In March 1983 the PHS issued recommendations that identified high-risk individuals for AIDS and stated that these individuals should not donate plasma or blood.

Based on its review of the evidence, the Committee found that decisionmakers involved with donor screening and deferral acted with good intent in some instances. In other instances, however, preference for the status quo under the prevailing conditions of uncertainty and danger led decisionmakers to underestimate the threat of AIDS for blood recipients. The Committee concluded that when confronted with a range of options for using donor screening and deferral to reduce the probability of spreading HIV through the blood supply, blood bank officials and federal authorities consistently chose the least aggressive option that was justifiable. In adopting this limited approach, policymakers often passed over options that might have initially slowed the spread of HIV to individuals with hemophilia and other recipients of blood and blood products, for example, by screening male donors for a history of sexual activity with other males and screening donated blood for the anti-HBc antibody. The Committee believes that it was reasonable to require blood banks to implement these two screening procedures in January 1983. The FDA's failure to require this is evidence that the agency did not adequately use its regulatory authority and therefore missed opportunities to protect the public health.

Regulations and Recall

The FDA is the principal regulatory agency with authority for blood and blood products, but it exercises its authority largely through informal action. Recall—the removal of a product from the market—exemplifies the relationship between the FDA's potent formal powers and its informal modus operandi. Recall is a voluntary act undertaken by the manufacturer but overseen by the FDA, which has the authority to seize or revoke the license of a product. Regulation of blood and blood products has been generally based on establishing a scientific consensus. Because the FDA's resources are limited, it relies upon the blood industry and others for cooperation. The FDA's Blood Products Advisory Committee is a venue for consensus-building about blood regulatory policy. In an industry in which firm and product reputation is critical to market success, the FDA's collegial approach is usually effective.

The Committee analyzed the FDA's exercise of its regulatory powers by examining how it acted during four critical events: (1) letters issued by the FDA in March 1983 requiring particular practices related to donor screening and the segregation of high-risk plasma supplies; (2) a July 1983 decision not to recall plasma products "automatically" whenever they could be linked to individual donors who had been identified as having or as suspected of having AIDS; (3) a decision not to recall nontreated AHF concentrate when heat-treated AHF concentrate became available in 1983; and (4) a delay of years in the FDA's formal decision to recommend tracing recipients of transfusions from a donor who was later found to have HIV. For each of these, the Committee posed a series of hypotheses to explain the FDA's actions. These focused on the reach of the agency's legal powers, the information available at the time in relation to relevant public health considerations, the agency's resources, the FDA's institutional culture, the economic costs of particular actions, and the prevailing political climate.

The analysis of these four events led the Committee to identify several weaknesses in the FDA's regulatory approach to blood safety issues. The agency's March 1983 letters may have been unclear concerning whether all of their recommendations were required to be implemented by the addressed. Handling of the case-by-case recall decision suggested that the agency lacked both the capacity to structure its advisory process adequately and to analyze independently the recommendations that were made to it. In the Committee's judgment, these and other events indicate the need for a more systematic approach to blood safety regulation when there is uncertainty and danger to the public.

Communication to Physicians and Patients

As evidence accrued on the possibility that the blood supply was a vector for AIDS consumers of blood and blood products and their physicians found themselves in a complex dilemma about how to reduce the risk of infection. Restricting or abandoning the use of blood and blood products could lead to increased mortality and morbidity. On the other hand, continued use of these products apparently increased the risk of AIDS. The

Committee investigated the processes by which physicians and patients obtained information about the epidemic and the costs, risks, and benefits of their clinical options.

A wide range of clinical options were available by late 1982 and might, in some instances, have reduced or eliminated dependence on AHF concentrate and there by reduce the risk of HIV transmission. As often happens in times of intense scientific and medical uncertainty such as in the early 1980s, individuals with hemophilia and transfusion recipients had little information about risks, benefits, and clinical options for their use of blood and blood products.

The dramatic successes of treatment with AHF concentrate in the 1970s provided a context in which thresholds for abandoning or radically restricting the use of these products for individuals with severe hemophilia were high. both physicians and individuals with hemophilia express reluctance about returning to the era of clinical treatment before the introduction of AHF concentrate. The National Hemophilia Foundation (NHF) and physicians, in their effort to find the right balance between the risks and benefits of continued use of AHF concentrate, tended to overweight the well-established benefits of AHF concentrate and underestimate the risks of AIDS, which were still uncertain.

In addition, the Committee found that prevailing assumptions about medically acceptable risks, especially regarding hepatitis, led to complacency and a failure to act with sufficient concern upon reports of a new infectious risk. Ultimately, assumptions about medical decisionmaking practices in which patient played a relatively passive role led to failures to disclose completely the risk of using AHF concentrate and thereby did not enable individuals to make informed decisions of themselves. As the potential dimensions of the epidemic among individuals with hemophilia became clear, communication between physicians and patients was further compromised by physicians' reticence to discuss the dire implications of widespread infection with their patients and families.

Institutional barriers to patient-physician communications and relationships between relevant organizations also impeded the flow of information. If the NHF had received input from a wider group of scientific and medical experts, more explicit and systematic dissemination of a range of clinical options might well have been possible. In addition, the financial and other relationships between the NHF and the plasma fractionation industry created a conflict of interest that seriously compromised the perceived independence of NHF's recommendations.

No organization stepped forward to communicate widely the risks of blood transfusions to potential recipients. Many blood bank officials during this period publicly denied that AIDS posed any significant risk to blood recipients. In this context, and because many transfusions occurred on an emergency basis, patients were typically not apprised of the growing concerns about the contamination of the blood supply. For both individuals with hemophilia and recipients of blood transfusion, physicians concern that their patients might refuse care deemed a "medical necessity" further contributed to failure to inform them of the risks.

CONCLUSIONS

Decisionmaking Under Uncertainty

The events and decisions that the Committee has analyzed underscore the difficulty of personal and institutional decisionmaking when the stakes are high, when knowledge is imprecise and incomplete, and when decisionmakers may have personal or institutional biases. The Committee attempted to understand the complexities of the decisionmaking process during this uncertain period and to develop lessons to protect the blood supply in the future. In retrospect, the system did not deal well with contemporaneous blood safety issues such as hepatitis, and was not prepared to deal with the far greater challenge of AIDS.

Although enough epidemiological evidence has emerged by January 1983 to strongly suggest that the agent causing AIDS was transmitted through blood and blood products and could be sexually transmitted to sexual partners, the magnitude of the risk for transfusion and blood product recipients was not know at this time. Policymakers quickly developed several clinical and public health options to reduce the risk of AIDS transmission. There was, however, substantial scientific uncertainty about the costs and benefits of the available options. The result was a pattern of responses which, while not in conflict with the available scientific information, were very cautious and exposed the decisionmakers and their organizations to a minimum of criticism.

Blood safety is a shared responsibility of many diverse organizations. They include U.S. Public Health Service agencies such as the CDC, the FDA, and the NIH, and private-sector organizations such as community blood banks and the American Red Cross, blood and plasma collection agencies, blood product manufacturers, groups like the National Hemophilia Foundation, and others. The problems the Committee found indicated a failure of leadership and inadequate institutional decision making process in 1983 and 1984. No person or agency was able to coordinate all of the organizations sharing the public health responsibility for achieving a safe blood supply.

Bureaucratic Management of Potential Crises

Federal agencies had the primary responsibility for dealing with the national emergency posed by the AIDS epidemic. The Committee scrutinized bureaucratic function closely and came to the following conclusions about the management of potential crises.

First, unless someone from the top exerts strong leadership, legal and competitive concerns may inhibit effective action by agencies of the federal government. Similarly, when policymaking occurs against a backdrop of a great deal of scientific uncertainty, bureaucratic standard operating procedures designed for routine circumstances seem to take over unless there is a clear-cut decision-making hierarchy. An effective leader will insist upon coordinated planning and execution. Focusing efforts and responsibilities, setting timetables and agendas, and assuming accountability for expeditious action cannot be left to ordinary standard operating procedures. These actions are the responsibilities of the highest levels of the public health establishment.

Second, the FDA and other agencies in the early 1980s lacked a systematic approach to conducting advisory committee processes. These agencies should tell their advisory committees what it expects from them, keep attention focused on high-priority topics, and independently evaluate their advice. Because mistakes will always be made and opportunities missed, regulatory structures must organize and manage their advisory boards to assure both the reality and the continuous appearance of propriety.

Third, agencies should not rely upon the entities they regulate for analysis of data and modeling of decision problems.

Fourth, agencies need to think far ahead. They must monitor more systematically the long-term outcomes of blood transfusion and blood product infusion to anticipate both new technologies and new threats to the safety of the blood supply. The Committee believes that the Public Health Service should plan what it will do if there is a threat to the blood supply. It should specify actions that will occur once the level of concern passes a specified threshold. The Committee favors a series of criteria or triggers for taking regulatory or other public health actions in which the response is proportional to the magnitude of the risk and the quality of the information on which the risk estimate is based. Taking on small steps allows for careful reconsideration of options, particularly as information about uncertain risks unfolds. Not all triggering events need lead to drastic action; some may merely require careful reconsideration of the options or obtaining new information.

RECOMMENDATIONS

The Committee's charge was to learn from the events of the early 1980s to help the nation prepare for future threats to the blood supply. From the record assembled for this study, the Committee identified potential problems with the system in place at that time and has identified some changes that might have moderated some of the effects of the AIDS epidemic on recipients of blood and blood products. The federal and private organizations responsible for blood safety and the public health more generally will have to evaluate their current polices and procedures to see if they fully address the issues raised by these recommendations.

The Public Health Service

Several agencies necessarily play important, often differentiated, roles in managing a public health crisis such as the contamination of blood and blood products by the AIDS virus. The National Blood Policy of 1973 charged the PHS (including the CDC, the FDA, and the NIH) with responsibility for protecting the nation's blood supply.

The Committee has come to believe that a failure of leadership may have delayed effective action during the period from 1982 to 1984. This failure led to less than effective donor screening, weak regulatory actions, and insufficient communication to patients about the risks of AIDS. In the event of a threat to the blood supply, the Public Health Service must, as in any public health crisis, insist upon coordinated action. The Secretary of Health and Human Service is responsible for all the agencies of the Public Health Service,[1] and therefore the Committee makes—Recommendation 1: The Secretary of Health and Human Services should designate a Blood Safety Director, at the level of a deputy assistant secretary or higher, to be responsible for the federal government's efforts to maintain the safety of the nation's blood supply.

To be effective in coordinating the various agencies of the PHS, the Blood Safety Director should be at the level of a deputy assistant secretary or higher, and should not be a representative of any single PHS agency.

In considering the history of the contamination of the blood supply with HIV and the current surveillance, regulatory, and administrative structures for ensuring the safety of our nation's blood resources, the Committee became convinced that the nation needs a far more responsive and integrated process to ensure blood safety. To this end,

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Footnotes appear at the end of article.

the Committee makes—Recommendation 2: The PHS should establish a Blood Safety Council to assess current and potential future threats to the blood supply, to propose strategies for overcoming these threats, to evaluate the response of the PHS to these proposals, and to monitor the implementation of these strategies. The Council should report to the Blood Safety Director (see Recommendation 1). The Council should also serve to alert scientists about the needs and opportunities for research to maximize the safety of blood and blood products. The Blood Safety Council should take the lead to ensure the education of public health officials, clinicians, and the public about the nature of threats to our nation's blood supply and the public health strategies for dealing with these threats.

The proposed Blood Safety Council would facilitate the timely transmission of information, assessment of risk, and initiation of appropriate action both during times of stability and during a crisis. The Council should report to the Blood Safety Director (see Recommendation 1). The Council would not replace the PHS agencies responsible for blood safety but would complement them by providing a forum for them to work together and with private organizations. The PHS agencies would be represented on the Council.

The Blood Safety Council should consider the following activities and issues: to deliberate the need for a system of active surveillance for adverse reactions in blood recipients; to establish a panel of experts to provide information about risks and benefits, alternative options for treatment, and recommended best practices (see Recommendation 13); and to investigate methods to make blood products safer, such as double inactivation processes and reduction of plasma pool size.

When a product or service provided for the public good has inherent risks, the common law tort system fails to protect the rightful interests of patients who suffer harms resulting from the use of those products and services. To address this deficiency, the Committee makes—Recommendation 3: The federal government should consider establishing a no-fault compensation system for individuals who suffer adverse consequences from the use of blood or blood products.[2]

For such a no-fault system to be effective, standards and procedures would have to be determined prospectively to guide its operations. There needs to be an objective, science-based process to decide which kinds of adverse outcomes are caused by blood-borne pathogens and which individual cases of these adverse outcomes deserve compensation. As with vaccines, such a system could be financed by a tax or fee paid by all manufacturers or by the ultimate recipients of blood products. However, had there been a no-fault compensation system in the early 1980s, it could have relieved much financial hardship suffered by many who became infected with HIV through blood and blood products in the United States. The no-fault principles outlined in this recommendation might serve to guide policymakers as they consider whether to implement a compensation system for those infected in the 1980s.

The Centers for Disease Control and Prevention

The CDC has an indispensable role in protecting our nation's health: to detect potential public health risks and sound the alert. In order to improve CDC's efficacy in this critical role, the Committee makes—Recommendation 4: Other federal agencies must understand, support, and respond to the CDC's responsibility to serve as the nation's early warning system for threats to the health of the public.

One way to begin to implement this recommendation is for the Secretary of Health and Human Services to insist that an agency that wishes to disregard a CDC alert should support its position with evidence that meets the same standard as that used by the CDC in raising the alert.

In order to carry out its early warning responsibility effectively, the CDC needs good surveillance systems. The Committee, believing that the degree of surveillance should be proportional to the level of risk inherent in blood and blood products and should include both immediate and delayed effects, makes Recommendation 5: The PHS should establish a surveillance system, lodged in the CDC, that will detect, monitor, and warn of adverse effects in the recipients of blood and blood products.

The Food and Drug Administration

The FDA has legal authority to protect the safety of the nation's blood supply, and it is the lead federal agency in regulating blood banking practice, the handling of source plasma, and the manufacture of blood products from plasma. The Committee's recommendations focus on decisionmaking and the role of advisory committees in formulating the FDA's response to crises.

In the Committee's judgment, a more systematic approach to blood safety regulation, one that is better suited to conditions of uncertainty, is needed. In particular, the Committee recommends (see Chapter 8) that the PHS develop a series of criteria or triggers for taking regulatory or other public health actions for which the response is proportional to the magnitude of the risk and the quality of the information on which the risk estimate is based. In order that the perfect not be the enemy of the good, the Committee makes—Recommendation 6: Where uncertainties or countervailing public health concerns preclude completely eliminating potential risks, the FDA should encourage, and where necessary require, the blood industry to implement partial solutions that have little risk of causing harm.

In all fields, decisionmaking under uncertainty requires an iterative process. As the knowledge base for a decision changes, the responsible agency should reexamine the facts and be prepared to change its decision. The agency should also assign specific responsibility for monitoring conditions and identifying opportunities for change. In order to implement these principles at the FDA, the Committee makes—Recommendation 7: The FDA should periodically review important decisions that it made when it was uncertain about the value of key decision variables.

Although the FDA has a great deal of regulatory power over the blood products industry, the agency appears to regulate by expressing its will in subtle, understated directives. Taking this into account, the Committee makes—Recommendation 8: Because regulators must rely heavily on the performance of the industry to accomplish blood safety goals, the FDA must articulate its requests or requirements in forms that are understandable and implementable by regulated entities. In particular, when issuing instructions to regulated entities, the FDA should specify clearly whether it is demanding specific compliance with legal requirements or is merely providing advice for careful consideration.

In the early 1980s, the FDA appeared too reliant upon analyses provided by industry-based members of the Blood Products Advisory Committee (BPAC). Thus the Committee arrived at—Recommendation 9: The FDA should ensure that the composition of the Blood Products Advisory Committee reflects a proper balance between members who are connected with the blood and blood products industry and members who are independent of industry.

An agency that is well-practiced in orderly decisionmaking procedures will be able to respond to the much greater requirements of a crisis. This consideration leads to—Recommendation 10: The FDA should tell its advisory committees what it expects from them and should independently evaluate their agendas and their performance.

Advisory committees provide scientific advice to the FDA, but they do not make regulatory decisions for the agency. The FDA's lack of independent information and an analytic capability of its own meant that it had little choice but to incorporate the advice of BPAC into its policy recommendations. To ensure the proper degree of independence between the FDA and the BPAC, the Committee makes—Recommendation 11: The FDA should develop reliable sources of the information that it needs to make decisions about the blood supply. The FDA should have its own capacity to analyze this information and to predict the effects of regulatory decisions.

Communication to Physicians and Patients

One of the crucial elements of the system for collecting blood and distributing blood products to patients is the means to convey concern about the risks inherent in blood products. In today's practice of medicine, in contrast to that of the early 1980s, patients and physicians each accept a share of responsibility for making decisions.

In instances of great uncertainty, it is crucial for patients to be fully apprised of the full range of options available and to become active participants in the consideration and evaluation of the relative risks and benefits of alternative treatments. To encourage better communication, the Committee makes—Recommendation 12: When faced with a decision in which the options all carry risk, especially if the amount of risk is uncertain, physicians and patients should take extra care to discuss a wide range of options.

Given the inherent risks and uncertainties in all blood products, the public and providers of care need expert, unbiased information about the blood supply. This information includes risks and benefits, alternatives to using blood products, and recommended best practices. In order to provide the public and providers of care with information they need, the Committee makes—Recommendation 13: The Department of Health and Human Services should convene a standing expert panel to inform the providers of care and the public about the risks associated with blood and blood products, about alternatives to using them, and about treatments that have the support of the scientific record.

One lesson of the AIDS crisis is that a well-established, orderly decisionmaking process is important for successfully managing a crisis. This applies as much to clinical decisionmaking as to the public health decision process addressed by earlier recommendations. As the narrative indicates, there are both public health and clinical approaches to reducing the risk of blood-borne diseases. The Blood Safety Council called for in Recommendation 2 would deal primarily with risk assessment and actions in the public health domain that would reduce the chance that blood products could be vectors of infectious agents. The primary responsibility of the expert panel on best practices called for in Recommendation 13 would be to provide the clinical information that physicians and their patients need to guide their individual health care choices. To be most effective, this panel should be lodged in the Blood Safety Council (see Recommendation 2) so that both bodies can interact and coordinate their activities in order to share information about emerging risks and clinical options.

Recommendation 14: Voluntary organizations that make recommendations about using commercial products must avoid conflicts of interest, maintain independent judgment, and otherwise act so as to earn the confidence of the public and patients.

One of the difficulties with using experts to give advice is the interconnections that experts accumulate during their careers. As a result, an expert may have a history of relationships that raise concerns about whether he or she can be truly impartial when advising a course of action in a complex situation. One way to avoid these risks is to choose some panelists who are not expert in the subject of the panel's assignment but have a reputation for expertise in evaluating evidence, sound clinical judgment, and impartiality.

Financial conflicts of interest influence organizations as well as individuals. The standards for acknowledging, and in some cases avoiding, conflicts of interest are higher than they were 12 years ago. Public health officials, the medical professions, and private organizations must uphold this new, difficult standard. Failure to do so will threaten the fabric of trust that holds our society together.

REFERENCES

Centers for Disease Control, Morbidity and Mortality Weekly Report, July 23, 1993. Institute of Medicine, Emerging Infections. Washington, D.C.: National Academy Press, 1992.

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FOOTNOTES

[1] In the 1980s and now, the PHS agencies report to the Assistant Secretary of Health. As this report was being written, the Department of Health and Human Services has proposed to eliminate the office of the Assistant Secretary, so that the PHS agencies would report directly to the Secretary.

[2] One Committee member (Martha Derthick) abstains from this recommendation because she believes that it falls outside of the Committee's charge.

Mr. SCOTT. Madam Speaker, I yield such time as he may consume to the distinguished gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, I, too, rise in strong support of H.R. 1023, the Ricky Ray Hemophilia Relief Fund Act. Before I begin my statement, I want to acknowledge and commend the fine work of my colleague, the gentleman from Florida (Mr. PORTER GOSS). He has truly provided outstanding leadership in this particular issue.

Let me ask Members to imagine that they are the parent of three fine sons, each of whom has inherited the gene for hemophilia. Now imagine, if you can, that each of your sons acquires the AIDS virus through a contaminated blood transfusion. Two brothers die before age 40, and the third is very sick. Among them, they have 9 children, your grandchildren, all of whom will be left fatherless.

At least one family in my district does not have to imagine what that would be like, Madam Speaker. They know, because this is precisely what is happening to them. Nor is their heartbreaking story, unfortunately, unique. I have received letters from people in Abington, Weymouth, Duxbury, and other towns throughout Massachusetts who have lost family members and friends to hemophilia-associated AIDS.

Every death from AIDS is a tragedy that touches many lives. Yet, who can fathom the sheer devastation that is visited on families such as these? The enormity of their experience becomes still more compelling when one learns that the government, our government, could have acted to prevent it.

In 1980 when the first Americans began to fall ill from the mysterious ailment that would ultimately be called AIDS, the technology became available to pasteurize blood-clotting agents. Yet, for 7 years the government failed to require the blood products industry to make use of this technology, nor did the government require the industry to inform the public about the risks of contamination with HIV and other blood-borne pathogens.

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As a result, at least 8,000 people with hemophilia and other blood-clotting disorders contracted HIV/AIDS from transfusions of contaminated antihemophilic factor or AHF between 1980 and 1987. This means that as many as 50 percent of all individuals who suffer from blood-clotting disorders were exposed to HIV through their use of AHF.

In 1995, an independent scientific review conducted by the Institute of Medicine concluded that this tragedy occurred because the government failed to take the steps that could have prevented it. Some might argue that we cannot afford to do anything about that, but I believe we have an obligation to acknowledge what happened and make restitution to the victims of this disaster and their families.

This bill will not compensate them for the terrible harm that was done to them, nor will it begin to cover their medical costs. But it will mean a great deal to them to know that their country has not abandoned them. I am proud to be an original cosponsor of this bill and urge all of my colleagues to join in supporting it today.

Mr. HYDE. Madam Speaker, I yield 1 minute and 30 seconds to the gentleman Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Madam Speaker, I thank my colleague, the gentleman from Florida (Mr. GOSS), for his hard work on this legislation.

I am pleased to come to the well today to speak in behalf of passage of this legislation because, Madam Speaker, I had a chance to listen to a young man from my State recount the very real difficulties that he confronted from receiving a transfusion of HIV-tainted blood. His name, Jeremy Storms.

Jeremy lived the Scriptures in which he so fervently believed. He let his light shine among men and, despite all the medical difficulties he encountered, many times he traveled here to Washington to tell us of the challenges he faced. He had a wisdom beyond his years. He would joke, you know, I used to be upset that I was a hemophiliac. Now I wish it was the only problem I had.

Jeremy passed away a few short months ago, but he did not live in vain. For his mother and father and family and for countless other families, this House on this day at this hour acknowledges the role of the Federal Government in public health and, yes, in personal responsibility.

I would urge this body, adopt this legislation in memory of Ricky Ray, Jeremy Storms and so many others.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise in support of this bill. Having functioned as a registered professional nurse, I have observed over the years persons who are afflicted and need frequent transfusions are more subjected to the risk of HIV than others on a normal basis. This has been one of the viruses that has come along in our history that we have not found any way to conquer it. That we must always be mindful of.

Nothing is more important than assuring a family that when they have a loved one that needs a transfusion it is free of viruses and any other bacteria. We have gone a long way in that. We have had to deal with the virus of the 1930s for pneumonia and the virus of polio for the 1950s. Now we are having to deal with another major virus, the HIV virus.

So many people are so unaware of their risk for this disease, for the disease which the virus will cause. We must do all that we can to protect the general public, and this bill goes a long way in protecting the hemophiliacs because they can not get around having the transfusions.

I have observed too many families, heterosexual, intact families be destroyed by contamination from the young children and some young adults getting transfusions, blood transfusions. I do think, and I agree with the gentleman that there is a public health responsibility of our Federal Government, and this is one of those major issues that, until we find medical breakthroughs, we as a government need to take the responsibility of ensuring the availability of safe, virus-free blood.

Mr. HYDE. Madam Speaker, I yield 3 minutes to the gentleman from Florida (Mr. BILIRAKIS).

Mr. BILIRAKIS. Madam Speaker, I, too, rise in strong support of H.R. 1023.

First and foremost, I want to commend my colleague, the gentleman from Florida (Mr. GOSS), for his tireless efforts to secure passage of this important measure.

As chairman of the Subcommittee on Health and Environment of the Committee on Commerce, I am pleased to be an original cosponsor of the bill.

As my colleagues have already noted, H.R. 1023 provides compassionate payments to individuals with blood-clotting disorders who contracted HIV due to contaminated blood products. The National Hemophilia Foundation estimates that nearly 8,000 individuals with hemophilia contracted HIV from the Nation's blood supply which became contaminated before the identification of and development of tests to detect its presence.

These individuals and their families were already burdened by the medical costs of treating their blood-clotting disorders, and many have been financially devastated by the costs associated with HIV infection. This is a tragedy, and I share the Foundation's view that passage of this bill will serve to rebuild trust in the Federal Government in its essential role of protecting the U.S. blood supply and blood products.

A number of my constituents, including Margie and Johnny Kellar of Palm Harbor, have contacted me to urge enactment of this critical legislation. I share the desire to secure prompt passage of the bill, and I am pleased that the House is considering it today under a suspension of the rules.

As Members know, provisions of H.R. 1023 which fall within the jurisdiction of the House Committee on Commerce were enacted last year as part of the balanced budget law. Those provisions exempted the private settlement funds from the calculation of income for the purposes of determining Medicaid eligibility. This language was designed to ensure that those who accepted the private settlement would not lose their eligibility under the Medicaid program.

My Subcommittee on Health and Environment has jurisdiction over the Medicaid provisions, and I was pleased to secure their enactment as part of the 1997 balanced budget law.

The measure before us today extends similar protections to recipients of Supplemental Security Income benefits.

Again, I want to commend the gentleman from Florida (Mr. GOSS) for his leadership on this issue and his diligent efforts in bringing H.R. 1023 to the floor. I urge all of my colleagues to lend their wholehearted support to passage of this important bill.

Mr. SCOTT. Madam Speaker, I reserve the balance of my time.

Mr. HYDE. Madam Speaker, may I inquire how much time remains?

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Illinois (Mr. HYDE) has 5 minutes remaining.

Mr. HYDE. Madam Speaker, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Madam Speaker, I thank the gentleman for yielding me this time.

I commend my colleague the gentleman from Florida (Mr. GOSS) for his vigilance in getting this legislation to the floor. I also am an original cosponsor of the Ricky Ray Relief Act. I am deeply committed to seeing this bill become public law.

Madam Speaker, my involvement in this issue began back in 1994 when I, too, was contacted by Gale and Randy Ellman. The Ellmans lost their son Eric Brandon when he was 14 years old. Eric died as a result of infusing a clotting factor that was tainted with HIV. His death is a double tragedy because it could have been avoided.

While we cannot bring back Ricky or Eric, we can try today to rectify this wrong. According to best estimates, about 8,000 hemophiliacs have been infected with HIV. This represents half the hemophiliacs in the country. By passing this bill we are simply saying that we acknowledge the government's failure, through the FDA, to protect our Nation's blood supply and regulate the sale of blood products.

Will $100,000 make up for the pain and suffering these families had to endure? The answer is no. But what it will do is say to thousands of people so deeply affected by this tragedy that your government wants to right the wrong.

The Ellmans called my office this morning to express their heartfelt gratitude for my support for this legislation and for my other colleagues' support. I say to the Ellmans and the many other families so devastated by what has happened to them, it is the very least we can do.

The SPEAKER pro tempore. The gentleman from Virginia (Mr. SCOTT) has 11½ minutes remaining.

Mr. SCOTT. Madam Speaker, I reserve the balance of my time.

Mr. HYDE. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Madam Speaker, I rise today to voice my strong support for H.R. 1023, the Ricky Ray Hemophilia Relief Fund Act.

As an original cosponsor in both this Congress and the 104th Congress, I am enormously proud that we have been able to bring this bill to the floor in a bipartisan manner with the support and cosponsorship of over 270 Members.

The gentleman from Florida (Mr. GOSS) has done a tremendous job in garnering support for the Ricky Ray Act and ensuring that it come before the full House today.

I also express my appreciation to the chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), as well.

I also want to recognize the hard work of the students at the Robinson Secondary School in Fairfax, Virginia, on behalf of the thousands of hemophiliacs suffering from AIDS. They have dedicated themselves over the past couple of years to winning passage of this legislation and are now witnessing that democracy does work.

As my colleagues know, this legislation is named for Ricky Ray, a young boy from Florida who died in 1992 of hemophilia-related AIDS that he contracted through the use of blood-clotting products. Approximately one-half of all hemophilia sufferers were infected with HIV through the use of blood-clotting products between 1980 and 1987. The Federal Government has a shared responsibility for this tragedy because it failed to fulfill its responsibility to protect the Nation's blood supply and to regulate the safety of blood products.

The Ricky Ray bill gives a one-time payment of $100,000 each to about 7,200 hemophiliacs, about half of whom are still surviving, who were infected with the AIDS virus from blood-clotting agents between July 1, 1982, and December 31, 1987. It also implements a sunset provision after 5 years from the date of the bill's enactment.

Passage of this legislation will mark a defining and critical moment in the lives of many innocent AIDS sufferers, not because of the relatively small amount of money they receive but because of the peace they and their families will have in knowing that their government has taken responsibility for what happened to them and is attempting to compensate them for their suffering to the extent that we are able to do so.

I strongly urge all of my colleagues to vote in favor of the Ricky Ray bill.

Mr. SCOTT. Madam Speaker, I yield 4 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Madam Speaker, I thank my colleague from Virginia for yielding me this time.

I rise in strong support of the Ricky Ray Hemophilia Relief Fund Act. I want to commend our colleague, the gentleman from Florida (Mr. GOSS), for his leadership and compassion in bringing this legislation to the floor as a sponsor of this bill.

The life of the boy who gave his name to this legislation should remind all of us of the many different tragedies and demonstrations of courage and compassion the AIDS epidemic has brought us.

In his short life, Ricky witnessed the prejudice and fear which surrounded hemophilia, AIDS particularly, in its first decade but which is still all too common today. He had hemophilia, but he contracted AIDS and was the victim of much discrimination. He and his family watched their home burn down because neighbors were afraid of his illness.

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His family struggled with the tremendous financial burden of providing for a child with hemophilia and AIDS. Ricky's parents saw their son pass away as they confronted the limits of treatment to fight the HIV disease.

Each of these aspects of Ricky's life is important to remember today: The prejudice, the crushing financial burden, the hope for cures which have yet to come, and the inspiring courage and compassion of this young man, his family and friends. This was Ricky's story, and it is the story of thousands of other people, many of whom have died, many are living today with hemophilia, HIV and AIDS.

The resources that Congress can provide will not solve the tragedy of hemophilia and AIDS for Ricky Ray and others like him, but they will help individuals, families and communities begin to recover from the calamity that has befallen them. Whether the Federal Government acted appropriately to protect blood clotting products in the 1980s is not the issue today. At issue now is providing assistance to individuals and families who have been forced to confront a personal and financial crisis brought by two debilitating diseases.

The Federal Government must do many things to respond to the AIDS epidemic and to hemophilia. It must protect the Nation's blood supply; provide prevention interventions; in the case of HIV-AIDS, fund research to find a cure and a vaccine; and support health care and needed services for those who are ill.

But as with other major catastrophes, the Federal Government also must provide the resources which help families and communities take the first steps toward recovery. For that I am grateful to the gentleman from Florida (Mr. GOSS) for his leadership, to the gentleman from Virginia (Mr. SCOTT) for his participation in this, as well as the gentleman from Illinois (Mr. HYDE) and others, and I urge my colleagues to support H.R. 1023.

Mr. HYDE. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SCOTT. Madam Speaker, I yield myself such time as I may consume just to thank the gentleman from Florida (Mr. GOSS) for his hard work on this, the gentleman from Illinois (Mr. HYDE) for his leadership, and the gentleman from North Carolina (Mr. WATT), whose subcommittee considered this.

Ms. CHRISTIAN-GREEN. Madam Speaker, I rise today in strong support of H.R. 1023, a bill to provide compassionate payments to individuals with blood-clotting disorders such as Hemophilia, who contracted the HIV virus due to contaminated blood.

My colleagues, children, especially minority children, are one of the most rapidly increasing segments of our population being infected with HIV. And, in all cases they are the innocent victims. Any legislation which helps to improve the quality of life of these children is worthy of all of our support.

Prevention programs, while available to all, often do not reach out to the most needy populations. Where we most need to improve our effort in this regard, is in making sure that the treatments which have been developed and proven to improve lives and health, are made accessible to all who need it. This bill does it.

As a family physician who has treated several patients with hemophilia, I am pleased to support H.R. 1023 and urge all my colleagues to do so as well.

Ms. JACKSON-LEE of Texas. Madam Speaker, as Chair of the Children's Congressional Caucus, and a co-sponsor of this bill, I want to take a few minutes to speak about the importance of this issue and this bill.

H.R. 1023 is named after Ricky Ray, a child victim of hemophiliac associated AIDS. Like thousands of others, Ricky Ray became infected with HIV through the use of contaminated blood products. Ricky brought national attention to this tragedy before he died from AIDS at age 15, 1992.

The Ricky Ray Hemophilia Relief Fund Act will not only acknowledge the federal government's unique responsibility to protect the nation's blood supply, it will also provide recognition to and some small solace to those living with hemophilia related HIV and their families. Almost 50% of the U.S. hemophilia population has been infected with HIV through tainted blood products. This bill will also authorize a $750 million fund to provide compassionate assistance to individuals struggling with the emotional and financial costs of this disease.

In my home State of Texas, AIDS was the sixth leading cause of death among young people aged 13–24, and currently worldwide approximately 775,000 Americans are infected with the HIV virus.

Although we can never fully compensate the victims and families of those who are living with hemophilia related AIDS and HIV, we must show our compassion and our recognition of their plight, through the legislation here today.

Ms. FURSE. Madam Speaker, I rise today in support of H.R. 1023, the Ricky Ray Hemophilia Relief Fund Act. I want to congratulate my colleague, Mr. GOSS, for his hard work and relentless efforts to pass this bill through the House.

In 1994, shortly after I was first elected to the House, a constituent of mine named Katherine Royer brought to my attention the plight of people with hemophilia who became infected with HIV through tainted blood products. Many of these people were children. Until I met Katherine, I had no idea that over 7,000 people with hemophilia had become infected with HIV, and their already complicated lives were getting even more difficult. Her family's story was powerful, and Katherine has relentlessly pursued this issue in her community and with her elected officials.

I strongly support H.R. 1023 because it acknowledges that the government must protect the nation's blood supply, and provides assistance to the victims of this tragedy. With yearly medical costs of over $150,000, and a lack of legal options, many of the affected families have been devastated financially. While this bill can not bring back loved ones, it can provide those who are still living with some degree of financial relief. In addition, it recognizes, finally, the tragedy that occurred and the impact it had on the entire hemophilia community.

I thank Katherine for bringing this issue to my attention, and am pleased that H.R. 1023 is finally on the floor of the House. I strongly urge all my colleagues to support it.

Mr. SHAW. Madam Speaker, I strongly support H.R. 1023, the "Ricky Ray Hemophilia Relief Fund Act of 1998."

H.R. 1023, sponsored by my friend PORTER GOSS, is named for Ricky Ray, a 15-year-old Florida hemophiliac who died in 1992. This bill represents the best of what government can do to help needy families struggling to overcome personal tragedy. For some, including the bill's namesake, H.R. 1023 comes too late to provide help. But for many others it will provide welcome relief, and I am proud not only to be an original cosponsor, but also to have helped H.R. 1023 progress through the Ways and Means Committee to the House floor today.

Even though the bill was first marked up by the Judiciary Committee, an important component is the promise H.R. 1023 would keep by continuing Supplemental Security Income (SSI) benefits to needy individuals, which falls under the jurisdiction of the Committee on Ways and Means and the Subcommittee on Human Resources that I chair. These critical benefits will remain available despite a recent settlement and also new federal funds that otherwise would disqualify hemophiliacs who contracted the AIDS virus through tainted blood products in the 1980s from continued SSI eligibility. There is ample precedent for SSI to ignore such payments, and I can scarcely think of a more worthy class than this limited number of hemophiliacs, many of them children at the time, who have been afflicted with the AIDS virus. The Congressional Budget Office has told us the cost is minimal, especially when compared with the tragedy these individuals and their families have already experienced.

Another important feature of the bill is that it would exempt the payments from federal income taxes. Chairman BILL ARCHER summarized the issue well when the Committee on Ways and Means unanimously approved H.R. 1023 last month: "No amount of money in the world can fix this tragedy, but we want to make sure that the federal payments are treated as tax-free, as they should be, and that SSI benefits stay unchanged for these innocent victims. They've been through enough as it is."

Madam Speaker, I commend Congressman GOSS for his diligence in pressing for passage of this important bill, and urge all of our colleagues to support it.

Mr. ARCHER. Madam Speaker, I rise today in support of H.R. 1023, the Ricky Ray Hemophilia Relief Act. As an original cosponsor to the legislation introduced by my friend and colleague, PORTER GOSS, I believe that H.R. 1023 takes a positive step in addressing a great wrong that was committed affecting seven thousand Americans, over half of the hemophilia community.

In 1995, the Institute of Medicine conducted an independent review which concluded that the system designed to ensure the safety of blood and blood products had been ill-prepared to deal with the dangers of blood-borne viruses and had failed to protect the public health. As a result, thousands of Americans with hemophilia became infected with HIV through the use of these contaminated blood products.

The portion of the legislation that came before the Ways and Means Committee ensures that payments to people with hemophilia who contracted HIV from tainted blood products will be tax-free and not threaten benefits under the Supplemental Security Income (SSI) system. While no amount of money in the world can fix this tragedy, Congress must do all it can to make certain that the SSI benefits of these individuals living with two chronic and expensive diseases remain unchanged.

Finally, I want to commend: Congressman GOSS; Chairmen HYDE and BLILEY; the National Hemophilia Foundation (NHF); Ray Stenhope, a Houstonian who is Past-President of NHF; Dr. Keith Hoots and the folks at the Gulf States Hemophilia Treatment Center at Hermann Hospital in Houston; and everyone else who worked long and hard to bring this legislation before the House of Representatives. While I realize that these courageous individuals and their families will have to continue to live with the horrors of this tragedy, I hope that this bill will at least bring them some comfort.

Mr. SCOTT. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and pass the bill, H.R. 1023, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated antihemophilic factor, and for other purposes.".

A motion to reconsider was laid on the table.

VETERANS TRANSITIONAL HOUSING OPPORTUNITIES ACT OF 1998

Mr. STUMP. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3039) to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to guarantee loans to provide multifamily transitional housing for homeless veterans, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Transitional Housing Opportunities Act of 1998".

SEC. 2. LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS.

(a) IN GENERAL.—Chapter 37 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS

"§ 3771. Definitions

"For purposes of this subchapter—

"(1) the term 'veteran' has the meaning given such term by paragraph (2) of section 101;

"(2) the term 'homeless veteran' means a veteran who is a homeless individual; and

"(3) the term 'homeless individual' has the same meaning as such term has within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302).

"§ 3772. General authority

"(a) The Secretary may guarantee the full or partial repayment of a loan that meets the requirements of this subchapter.

"(b)(1) Not more than 15 loans may be guaranteed under subsection (a), of which not more than 5 such loans may be guaranteed during the 3-year period beginning on the date of enactment of the Veterans Transitional Housing Opportunities Act of 1998.

"(2) A guarantee of a loan under subsection (a) shall be in an amount that is not less than the amount necessary to sell the loan in a commercial market.

"(3) Not more than an aggregate amount of $100,000,000 in loans may be guaranteed under subsection (a).

"(c) A loan may not be guaranteed under this subchapter unless, prior to closing such loan, the Secretary has approved such loan.

"(d)(1) The Secretary shall enter into contracts with a qualified nonprofit organization to obtain advice in carrying out this subchapter, including advice on the terms and conditions necessary for a loan that meets the requirements of section 3773.

"(2) For purposes of paragraph (1), a qualified nonprofit organization is a nonprofit organization—

"(A) described in paragraph (3) or (4) of subsection (c) of section 501 of the Internal Revenue Code of 1986 and exempt from tax under subsection (a) of such section, and

"(B) that has experience in underwriting transitional housing projects.

"(e) The Secretary may carry out this subchapter in advance of the issuance of regulations for such purpose.

"(f) The Secretary may guarantee loans under this subchapter notwithstanding any requirement for prior appropriations for such purpose under any provision of law.

"§ 3773. Requirements

"(a) A loan referred to in section 3772 meets the requirements of this subchapter if—

"(1) the loan is for—

"(A) construction of, rehabilitation of, or acquisition of land for a multifamily transitional housing project described in subsection (b), or more than one of such purposes;

"(B) refinancing of an existing loan for such a project;

"(C) financing acquisition of furniture, equipment, supplies, or materials for such a project; or

"(D) in the case of a loan made for purposes of subparagraph (A), supplying such organization with working capital relative to such a project;

"(2) the loan is made in connection with funding or the provision of substantial property or services for such project by either a State or local government or a nongovernmental entity, or both;

"(3) the maximum loan amount does not exceed the lesser of—

"(A) that amount generally approved (utilizing prudent underwriting principles) in the consideration and approval of projects of similar nature and risk so as to assure repayment of the loan obligation; and

"(B) 90 percent of the total cost of the project;

"(4) the loan is of sound value, taking into account the creditworthiness of the entity (and the individual members of the entity) applying for such loan;

"(5) the loan is secured; and

"(6) the loan is subject to such terms and conditions as the Secretary determines are reasonable, taking into account other housing projects with similarities in size, location, population, and services provided.

"(b) For purposes of this subchapter, a multifamily transitional housing project referred to in subsection (a)(1) is a project that—

"(1)(A) provides transitional housing to homeless veterans, which housing may be single room occupancy (as defined in section 8(n) of the United States Housing Act of 1937 (42 U.S.C. 1437f(n)));

"(B) provides supportive services and counselling services (including job counselling) at the project site with the goal of making such veterans self-sufficient;

"(C) requires that the veteran seek to obtain and keep employment;

"(D) charges a reasonable fee for occupying a unit in such housing;

"(E) maintains strict guidelines regarding sobriety as a condition of occupying such unit; and

"(F) may include space for neighborhood retail services or job training programs; and

"(2) may provide transitional housing to veterans who are not homeless and to homeless individuals who are not veterans if—

"(A) at the time of taking occupancy by any such veteran or homeless individual, the transitional housing needs of homeless veterans in the project area have been met;

"(B) the housing needs of any such veteran or homeless individual can be met in a manner that is compatible with the manner in which the needs of homeless veterans are met under paragraph (1); and

"(C) the provisions of subparagraphs (D) and (E) of paragraph (1) are met.

"(c) In determining whether to guarantee a loan under this subchapter, the Secretary shall consider—

"(1) the availability of Department of Veterans Affairs medical services to residents of the multifamily transitional housing project; and

"(2) the extent to which needs of homeless veterans are met in a community, as assessed under section 107 of Public Law 102–405.

"§ 3774. Default

"(a) The Secretary shall take such steps as may be necessary to obtain repayment on any loan that is in default and that is guaranteed under this subchapter.

"(b) Upon default of a loan guaranteed under this subchapter and terminated pursuant to State law, a lender may file a claim under the guarantee for an amount not to exceed the lesser of—

"(1) the maximum guarantee; or

"(2) the difference between—

"(A) the total outstanding obligation on the loan, including principal, interest, and expenses authorized by the loan documents, through the date of the public sale (as authorized under such documents and State law); and

"(B) the amount realized at such sale.

"§ 3775. Audit

"During each of the first 3 years of operation of a multifamily transitional housing project with respect to which a loan is guaranteed under this subchapter, there shall be an annual, independent audit of such operation. Such audit shall include a detailed statement of the operations, activities, and accomplishments of such project during the year covered by such audit. The party responsible for obtaining such audit (and paying the costs therefor) shall be determined before the Secretary issues a guarantee under this subchapter.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 37 of title 38, United States Code, is amended by adding at the end the following new items:

"SUBCHAPTER VI—LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS

"3771. Definitions.
"3772. General authority.
"3773. Requirements.
"3774. Default.
"3775. Audit.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. STUMP) and the gentleman from Illinois (Mr. EVANS) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. STUMP).

GENERAL LEAVE

Mr. STUMP. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material on H.R. 3039, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 3039 is the Veterans Transitional Housing Opportunity Act of 1998. It authorizes the VA to guarantee home loans for multi-unit transitional housing for homeless veterans. The bill also requires homeless projects using these loans to work with VA health care facilities as well as State and local authorities. Additionally, it requires residents to seek and obtain employment and maintain sobriety.

The bill is based on a model that stresses personal responsibility, addiction recovery and work. The project must provide supportive services, sobriety, personal and job counseling. Residents are required to pay a reasonable fee for their residence.

Many committee members have contributed to this bill from both sides of the aisle and we appreciate that very much.

Madam Speaker, I reserve the balance of my time.

Mr. EVANS. Madam Speaker, I yield myself such time as I may consume.

I am pleased to be an original cosponsor of H.R. 3039, the Veterans Housing Opportunities Act of 1998. This bill will furnish yet another tool to meet the housing and supportive service needs of homeless veterans.

Many of these men and women, who once served their country with honor, can return to society as productive citizens if they are provided with an appropriate continuum of care. The program established under H.R. 3039 will provide the sanctuary, support and services necessary to achieve this goal.

I want to thank the chairman of the full committee, the gentleman from Ohio (Mr. STOKES) for his help in the development of this legislation. I also want to commend the chairman of the Subcommittee on Benefits of the Committee on Veterans' Affairs, the gentleman from New York (Mr. JACK QUINN), and the ranking Democrat on the committee, the gentleman from California (Mr. BOB FILNER), for their hard work on these issues. Their cooperative bipartisan efforts have resulted in a bill that is good for the veterans of this country. I urge my colleagues to support H.R. 3039.

Madam Speaker, I reserve the balance of my time.

Mr. STUMP. Madam Speaker, I yield such time as he may consume to the gentleman from New York (Mr. QUINN), the chairman of the Subcommittee on Benefits of the Committee on Veterans' Affairs.

Mr. QUINN. Madam Speaker, I thank the gentleman for yielding me this time.

H.R. 3039 is a bill to provide a VA loan guarantee for transitional housing for homeless veterans. In testimony before our Subcommittee on Benefits here in Washington, D.C., as well as testimony at a hearing held in Buffalo, New York, in my district, witness after witness said that the major stumbling block to providing services to homeless veterans is the inability to obtain stable funding. H.R. 3039 is intended to address this obstacle, thereby increasing the supply of transitional housing for homeless veterans.

It is fairly common knowledge that veterans comprise about one-third of homeless adults in this country, and that a high percentage of the homeless suffer from substance abuse and mental illness. Four years ago the Congress called for programs serving homeless veterans to receive a proportional share of funding for the homeless. Unfortunately, that has not happened.

Moreover, there appears to be a niche that is not being filled in the continuum of service necessary to move chronically affected veterans from being a drain on society to being productive citizens. That niche is transitional housing.

H.R. 3039 authorizes loans for transitional housing programs that will provide a supportive and structured environment for our homeless veterans. The bill has the following features:

The VA would be authorized to guarantee up to 15 loans for multi-unit transitional housing for homeless veterans, but the VA could not guarantee more than 5 loans in the first 3 years of the program. The aggregate value of the loans is capped at $100 million.

The bill requires VA to obtain advice in administering the program from a not-for-profit corporation experienced in developing these kinds of programs. This approach obviates the need for the VA to develop additional staff or expertise, and should enable the VA to manage the program within its existing resources.

The borrowers must work with VA health care facilities and State and local authorities to provide a full range of supportive services to maintain sobriety as well as personal counseling and employment services. Projects must work closely with the VA and non-VA sources as a means to reduce the project costs and enhance the effectiveness of the project and other related programs.

This bill requires residents to seek and obtain employment and to maintain sobriety. It is a tough love approach. While the bill does not require a zero tolerance approach to substance abuse for those enrolled in the program, the committee believes that the potential negative impact of those who continue to abuse drugs or alcohol on those wishing to remain clean and sober justifies the zero tolerance.

Finally, residents are required to pay a reasonable fee for their residence because it promotes personal responsibility. Along with staying clean and sober, part of taking personal responsibility is paying one's way in the world and is yet another step toward becoming a fully productive citizen.

I would like to thank all the members of the committee for the bipartisan manner in which we worked through this to bring the bill to the floor. The subcommittee and the gentleman from California (Mr. FILNER) and his staff worked very hard; the gentleman from Illinois (Mr. LANE EVANS), who traveled to Buffalo for the hearing we had, I am also appreciative to him, and especially thank the chairman of the committee, the gentleman from Arizona (Mr. STUMP) for his leadership on the issue.

Madam Speaker, it is a good bill. We believe it fills a void that now exists in the homeless programs, particularly for our veterans in this country, and I urge my colleagues to support H.R. 3039.

Mr. EVANS. Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, as the ranking Democrat member of the Subcommittee on Benefits of the Committee on Veterans' Affairs, I want to also commend the chairman of the subcommittee, the gentleman from New York (Mr. QUINN), for his leadership on H.R. 3039, the Veterans Transitional Housing Opportunities Act for 1998.

This bill, as the gentleman has explained, will provide the transitional housing so desperately needed by the hundreds of thousands of veterans who sleep on America's streets each night. There is virtually no disagreement that one-third of the homeless men in this country are veterans. In my hometown of San Diego, it is estimated that 40 to 50 percent of the homeless are veterans.

I am very troubled that this very difficult problem never seems to get better. The number of homeless veterans never seems to decrease. I conclude from this that our approach must change. And although H.R. 3039 is not a panacea, I am convinced this program can provide the assistance and support necessary for homeless veterans to reestablish themselves as solid contributing citizens.

This program emphasizes self-sufficiency by requiring housing providers to make available job counseling to veteran residents and by requiring veterans to find and keep a job and to pay a reasonable fee for their housing. H.R. 3039 will provide a hand up, not a handout.

I want to thank the gentleman from New York (Mr. QUINN) for his willingness to reexamine the funding mechanism that was included in H.R. 3039 as introduced. Although the officials of the Veterans Administration did not fully articulate their concerns regarding this section of the bill until rather late in the process, the issues they raised were indeed important, and I am pleased we were able to come to an agreement on the funding issue.

H.R. 3039 is an excellent bill, and I urge my colleagues to vote in favor of this measure.

Mr. STUMP. Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN), chairman of the Committee on International Relations.

Mr. GILMAN. Madam Speaker, I thank the gentleman for yielding me this time, and I am pleased to rise in strong support of H.R. 3039, the Veterans Transitional Housing Opportunities Act, creating a pilot program to allow the Department of Veterans Affairs to guarantee loans to community-based organizations providing services for homeless veterans.

I commend the distinguished chairman of our Committee on Veterans' Affairs, the gentleman from Arizona (Mr. STUMP), for his work on this bill, and the gentleman from New York (Mr. QUINN), and the gentleman from California (Mr. FILNER) for their work on this important legislation.

Homelessness, regrettably, is a widespread problem among our veterans. It is also unfortunate that many of those veterans who are homeless also require psychiatric care and rehabilitation treatment to recover from alcohol or substance abuse. Moreover, such veterans also often require training in marketable job skills to assist them in earning a living after they have recovered.

The duty of providing housing rehabilitation and job training for homeless veterans is expensive. Increasingly, the Department of Veterans Affairs, with its new drive towards efficiency and outpatient care, has been unable to meet those needs. This bill directs the VA to guarantee the full or partial repayment of 15 loans to community-based organizations, with a maximum guarantee amount of $100 million, to fulfill these needs.

Accordingly, Madam Speaker, I urge my colleagues to support this worthy legislation.

Mr. STUMP. Madam Speaker, I yield myself the balance of my time to thank the chairman of the subcommittee, the gentleman from New York (Mr. QUINN), and the gentleman from California (Mr. FILNER), the ranking member of the subcommittee, as well as the gentleman from Illinois (Mr. LANE EVANS), the ranking member of the full committee, for all their hard work in putting this bill together.

This is a bipartisan bill, and I would urge the Members to support it.

Mr. REYES. Madam Speaker, I rise today in strong support of H.R. 3039, the Veterans Transitional Housing Opportunities Act of 1998, and ask unanimous consent to revise and extend my remarks.

This bill will provide a much needed boost to improving the availability of safe and secure homes for our Veterans. I am proud to join the Chairman and Ranking Member of the Veterans' Affairs Committee as a co-sponsor of this important bill, which will provide a much needed boost to the pool of housing for our homeless veterans.

In America, where there is so much prosperity, it is a tragedy that so many of our citizens are homeless, day after day, night after night, looking for shelter. Moreover, it is disturbing that one third of our nation's homeless are men and women who admirably served our country as veterans. This legislation reaffirms our commitment to our veterans wherever they are, to provide them safe and secure shelter by authorizing $100 million in loan guarantees for the development of transitional housing, and by providing for support and counseling. I am proud to state that the Veterans' Affairs Committee has sought to bring these homeless veterans hope and independence. A home is the foundation of our country, and this legislation will bring our homeless veterans out from the cold.

Moreover, this legislation is good policy as it provides for partnerships with local communities to provide this housing. By requiring local and community involvement, we can ensure that the specialized needs of our nation's veterans are secured across the country.

As we take up this important legislation, we recommit ourselves to improving the lives of our nation's veterans. Today I stand with my colleagues on the Veterans Committee and the entire House in strongly supporting this bill. This legislation will truly begin to bring our dedicated and courageous veterans home. I encourage its unanimous passage.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise before you today to express my support of the Veterans Transitional Housing Opportunities Act of 1998 (H.R. 3039). The statistic noting that one in three homeless Americans are military veterans is staggering. The shortage of transitional housing is a result of the difficulty of veterans in obtaining financing. This bill helps to address that problem. Our military is one of this country's strongest resources and I believe wholeheartedly, that we owe it to our servicemen and servicewomen to assist these protectors of our country and Constitution in their time of need.

This bill does not provide assistance without conditions. Those who are eligible to participate in the program must seek and subsequently maintain a job, pay a reasonable rent and remain drug and alcohol free. These safeguards in determining eligibility will protect the program from potential abuses.

In conclusion, I want to applaud Representative STUMP for introducing this bill and urge my colleagues to join me in supporting the Veterans Transitional Housing Opportunities Act of 1998. These quarter of a million veterans served this country when we needed them; it is now our turn to serve them.

Mr. STUMP. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EVANS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. STUMP) that the House suspend the rules and pass the bill, H.R. 3039, as amended.

The question was taken.

Mr. STUMP. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1300

AUTHORIZING MAJOR MEDICAL FACILITY PROJECTS AND MAJOR MEDICAL FACILITY LEASES FOR DEPARTMENT OF VETERANS AFFAIRS FOR FISCAL YEAR 1999

Mr. STUMP. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3603) to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 1999, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3603

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.

(a) In General.—The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in the amount specified for that project:

(1) Alterations to facilitate consolidation of services in buildings 126 and 150, and demolition of seismically unsafe building 122 at the Department of Veterans Affairs Medical Center, Long Beach, California, in an amount not to exceed $23,200,000.

(2) Construction and seismic work at the Department of Veterans Affairs Medical Center, San Juan, Puerto Rico, in an amount not to exceed $50,000,000.

(3) Outpatient clinic expansion at the Department of Veterans Affairs Medical Center, Washington, D.C., in an amount not to exceed $29,700,000.

(4) Construction of a psychogeriatric care building and demolition of seismically unsafe building 324 at the Department of Veterans Affairs Medical Center, Palo Alto, California, in an amount not to exceed $22,400,000.

(5) Construction of an ambulatory care addition and renovations for ambulatory care at the Department of Veterans Affairs Medical Center, Cleveland (Wade Park), Ohio, in an amount not to exceed $28,300,000, of which $7,500,000 shall be derived from funds appropriated for a fiscal year before fiscal year 1999 that remain available for obligation.

(6) Construction of an ambulatory care addition at the Department of Veterans Affairs Medical Center, Tucson, Arizona, in an amount not to exceed $35,000,000.

(7) Construction of an addition for psychiatric care at the Department of Veterans Affairs Medical Center, Dallas, Texas, in an amount not to exceed $24,200,000.

(8) Outpatient clinic projects at Auburn and Merced, California, as part of the Northern California Healthcare Systems Project, in an amount not to exceed $3,000,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1999 that remain available for obligation.

(b) Construction of Parking Facility.—The Secretary may construct a parking structure at the Department of Veterans Affairs Medical Center, Denver, Colorado, in an amount not to exceed $13,000,000, of which $11,900,000 shall be derived from funds in the Parking Revolving Fund.

SEC. 2. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may enter into leases for satellite outpatient clinics as follows:

(1) Baton Rouge, Louisiana, in an amount not to exceed $1,800,000.

(2) Daytona Beach, Florida, in an amount not to exceed $2,600,000.

(3) Oakland Park, Florida, in an amount not to exceed $4,100,000.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1999—

(1) for the Construction, Major Projects, account $205,300,000 for the projects authorized in section 1(a); and

(2) for the Medical Care account, $8,500,000 for the leases authorized in section 2.

(b) Limitation.—(1) The projects authorized in section 1(a) may only be carried out using—

(A) funds appropriated for fiscal year 1999 pursuant to the authorization of appropriations in subsection (a);

(B) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1999 that remain available for obligation; and

(C) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1999 for a category of activity not specific to a project.

(2) The project authorized in section 1(b) may only be carried out using funds appropriated for a fiscal year before fiscal year 1999—

(A) for the Parking Revolving Fund; or

(B) for Construction, Major Projects, for a category of activity not specific to a project.

SEC. 4. THRESHOLD FOR TREATMENT OF PARKING FACILITY PROJECT AS A MAJOR MEDICAL FACILITY PROJECT.

Section 8109(i)(2) of title 38, United States Code, is amended by striking out "$3,000,000" and inserting "$4,000,000".

SEC. 5. PROCEDURES FOR NAMING OF PROPERTY BY SECRETARY OF VETERANS AFFAIRS.

(a) In General.—Subchapter II of chapter 5 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 530. Procedures for naming property

"(a) If the Secretary proposes to designate the name of any property of the Department other than for the geographic area in which that property is located, the Secretary shall conduct a public hearing before making the designation. The hearing shall be conducted in the community in which the property is located. At the hearing, the Secretary shall receive the views of veterans service organizations and other interested parties regarding the proposed name of the property.

"(b) Before conducting such a hearing, the Secretary shall provide reasonable notice of the proposed designation and of the hearing. The notice shall include—

"(1) the time and place of the hearing;

"(2) identification of the property proposed to be named;

"(3) identification of the proposed name for the property;

"(c)(1) If after a hearing under subsection (a) the Secretary intends to name the property involved other than for the geographic area in which that property is located, the Secretary shall notify the congressional veterans' affairs committees of the Secretary's intention to so name the property and shall publish a notice of such intention in the Federal Register.

"(2) The Secretary may not designate the property with a name for which a notice was published in the Federal Register pursuant to paragraph (1) until the end of a 60-day period of continuous session of Congress following the date of the submission of notice under paragraph (1). For purposes of the preceding sentence, continuity of a session of Congress is broken only by an adjournment sine die, and there shall be excluded from the computation of such 60-day period any day during which either House of Congress is not in session during an adjournment of more than three days to a day certain.

"(3) Each notice under paragraph (1) shall include the following:

"(A) An identification of the property involved.

"(B) An explanation of the background of, and rationale for, the proposed name.

"(C) A summary of the views expressed by interested parties at the public hearing conducted in connection with the proposed name, together with a summary of the Secretary's evaluation of those views.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 529 the following new item:

"530. Procedures for naming property.".

(c) Effective Date.—Section 530 of title 38, United States Code, as added by subsection (a), shall take effect as of January 1, 1998.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. Stump) and the gentleman from Illinois (Mr. Evans) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. Stump).

GENERAL LEAVE

Mr. STUMP. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3603, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 3603 authorizes a total of $205 million in major medical construction projects throughout the United States. It also authorizes $8.5 million in VA's medical care account for leasing facilities. All of these projects will be funded from this increase at the top of the VA's priority list of construction projects.

Madam Speaker, let me mention one of the provisions contained in this bill. After the bill reported out of the Committee, we became aware of a controversy regarding the VA Secretary's authority to name VA facilities. In order to avoid circumstances like this in the future, we have added this provision establishing a public hearing procedure to be followed by the Secretary if he decides to name a facility other than for the geographic area in which it is located. This provision would be retroactive until January 1 of this year.

Madam Speaker, I reserve the balance of my time.

Mr. EVANS. Madam Speaker, I yield myself such time as I may consume.

I am pleased to rise in support of H.R. 3603, a bill to authorize VA's major medical construction and lease projects for fiscal year 1999.

I want to commend my colleague, the gentleman from Arizona (Mr. Stump), the Chairman of the Committee, for supporting a completely bipartisan process. The projects VA identified as the highest priorities comprise those we recommended for funding for fiscal year 1999.

I believe the bill will allow VA to fund projects that are consistent with VA's efforts to ensure patient safety and accommodate more care on an outpatient basis.

We have been cautious stewards, and the projects authorized in this bill are of vital importance to VA and the veterans that rely on them for their care. I recommend support for adoption of the major medical construction projects contained in H.R. 3603, as amended; and I urge my colleagues to support the resolution.

While VA has significantly reduced its reliance on outpatient bed care, VA providers will continue in the foreseeable future to need beds in a variety of settings. Remaining beds must be housed in modern, safe and accessible facilities. Two projects redress systemic, seismic problems in the San Juan, Puerto Rico and Long Beach, California facilities and both were requested by the Administration.

Other selected projects allow VA to continue moving more expensive hospital bed care to outpatient care settings. Some projects consolidate VA's activities and allow it to become more cost effective. In addition, the Committee is authorizing funds for three major leases for outpatient facilities. These leases will allow VA to take advantage of the community's excess capacity and become more accessible to its users. These projects are not only consistent with recent trends in VA health care, they are consistent with the direction of modern medicine.

Mr. STUMP. Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Madam Speaker, I thank the gentleman from Arizona (Mr. STUMP) for yielding me the time.

Madam Speaker, I am pleased to rise in strong support of this measure, legislation authorizing major medical construction projects and facility leases for the VA in fiscal year 1999 throughout our country.

I commend the distinguished chairman, the gentleman from Arizona (Mr. STUMP), for his work in bringing this measure to the floor at this time and for his committee's work.

One of the most important responsibilities that we have as a Nation is to provide proper medical care for our veterans. As our veterans population ages, the need for medical care becomes even more acute. This legislation will allow the Department of Veterans Affairs to fund nine high-priority medical projects throughout our Nation and to lease three medical facilities.

Accordingly, I urge my colleagues to join in supporting this worthy legislation, which will provide improved health care for our veterans.

Mr. EVANS. Madam Speaker, I yield 2 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Madam Speaker, I thank the gentleman from Illinois (Mr. EVANS) for yielding me the time.

I rise today in support of this legislation because it addresses the critical needs of medical centers throughout the country. In Denver, for example, the need for a new parking structure has increased with the expansion of programs provided by the VA Medical Center, especially outpatient programs and the increasing employment necessitated by the programs.

Currently, the lack of available parking impedes access to care. Less than 400 parking spaces are available on the grounds; and many patients, some of whom it is difficult to walk far, have to park up to five blocks away from the medical center.

H.R. 3603 addresses this problem. It provides for construction of a multilevel structure to house 700 parking spaces, and it includes a horizontal connection to the existing medical center. Consequently, it will enhance our ability to provide timely, efficient health care to the veterans, the many veterans, in the Denver metropolitan area.

I thank the Ranking Member, the gentleman from Illinois (Mr. EVANS), and the Chairman of the Committee, the gentleman from Arizona (Mr. STUMP), for their leadership and assistance in providing this important funding.

Mr. STUMP. Madam Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS), chairman of the Subcommittee on Health.

Mr. STEARNS. Madam Speaker, I thank the distinguished gentleman from Arizona (Mr. STUMP), chairman of our full committee, for yielding me the time.

I rise in support of H.R. 3603, which, of course, is the construction authorization bill.

Madam Speaker, the VA health care system is going through a period of needed change toward providing care more efficiently and improving veterans' access to care. With our encouragement, VA has opened many community-based clinics to bring medical care closer to all of our veterans.

Nevertheless, Congress expects VA to continue to provide hospital and nursing home care for veterans in VA medical centers across this country. Like the veterans themselves, many of these facilities are aging, are having problems in construction. We cannot turn our backs on our veterans, and we should not turn our backs on the hospitals on which they depend. We must face the fact that some of these facilities require major renovations to meet patient care, safety and, of course, privacy requirements.

The VA's major construction budget is the vehicle to address those needs. Yet, despite the fact that many VA hospitals need significant construction work, the administration's fiscal year 1999 budget proposes to fund construction work at only two VA medical centers. This is unclear to me why. The administration even failed to request any funding for three projects that VA itself has indicated is their top priority.

Madam Speaker, this bill will remedy this failure. In proposing $205 million for major medical construction, H.R. 3603 would authorize what the committee believes is both a more appropriate level of construction funding than the $84 million proposed by the President and a more appropriate mix of needed construction projects.

With this legislation, Congress would set a course towards remedying some of the most pressing construction needs in the entire VA system. These include projects to provide badly needed outpatient clinic capacity at some of VA busiest medical centers, improve psychiatric care and renovation of seismically unsafe facilities.

As Memorial Day approaches, we must not only remember our veterans but take steps, like the passage of this legislation this afternoon, to honor the commitments to our veterans. I urge my colleagues to support H.R. 3603.

Mr. EVANS. Madam Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise in support of this bill.

Much of my career was spent working with veterans at the Veterans Administration Medical Center in Dallas, and I know full well the strides that they have attempted to make to improve services.

The Veterans Integrated Service Network 17 serving North, Central and South Texas, has sought major construction assistance for over 10 years to replace its 58-year-old mental health facility at the Dallas VA Medical Center.

The North Texas VA Mental Health Enhancement Project was originally authorized in 1996, and I am very pleased that the Committee on Veterans' Affairs saw fit to include this vital project in the major construction authorization bill for 1999.

The Veterans Integrated Service Network 17 has the highest concentration of combat veterans in the U.S., as well as the highest proportion of POWs and Posttraumatic Stress Disorder treatment programs.

The Dallas Medical Center is the primary veterans' mental health provider in the network, serving approximately 7,000 veterans with mental health needs each year. The Dallas VA has done an extraordinary job streamlining its mental health programs to better serve Texas veterans with mental health needs. But the age, limited space, and poor physical condition of the 1930s-era mental health facilities have severely limited its ability to treat many veterans seeking mental health services. Some of these buildings are literally crumbling around our veterans. All are functionally obsolete.

Our veterans really do deserve better. The mental health enhancement project will consolidate all mental health inpatient and outpatient programs currently scattered around VA campus in makeshift sites into one new building located adjacent to the clinical building. This will allow the Dallas VA to expand its outpatient programs and reduce its inpatient nursing beds.

As important, veterans will be able to go to one location for mental health and medical services rather than being run all over the campus.

I urge my colleagues to vote for this bill.

I know that this project, as essential as it is and just beginning to get some attention, I know how important the rest of them are, and I hope we can support all of them.

Mr. EVANS. Madam Speaker, I yield 2 minutes to the gentleman from Puerto Rico (Mr. ROMERO-BARCELÓ).

Mr. ROMERO-BARCELÓ. Madam Speaker, I thank the distinguished ranking member, the gentleman from Illinois (Mr. EVANS), for yielding me the time.

I rise in support of H.R. 3603.

On February 9, 1971, the aftershocks of an earthquake in California were felt all the way to Washington. A shift in the San Andreas Fault caused the destruction of the San Fernando Veterans Administration Hospital in Sylmar, California, resulting in the death of 46 patients. With a great sense of urgency, the U.S. Congress convened hearings and eventually established the Chartered Committee on Safety.

The Veterans Administration initiated a comprehensive assessment of every VA medical center in the system. The studies revealed that 68 medical centers were located in at-risk geographic areas where major or moderate earthquakes may occur. Of these, 39 facilities were found to be in need of seismic strengthening and compliance with seismic codes.

Despite the fact that Puerto Rico is located in one of the most seismically active zones in the United States and that the potential for loss of life ranks very high in the event of an earthquake, seismic corrections and strengthening at the Puerto Rico VA Medical Center initially were not prioritized in the highest-risk group.

VA studies in 1990 confirmed the high seismicity of the site and urged that the San Juan Medical Center warranted inclusion in this group. San Juan was then added to the inventory of high-risk facilities and scheduled last.

VA studies anticipate that in an earthquake, without seismic corrections, Building 1, the main hospital, would sustain serious structural damage, possibly collapsing and resulting in a loss of life.

After a decade of delays, this center, which happens to be one of the busiest, if not the busiest, VA hospital centers in the United States, will finally receive the necessary funds in fiscal year 1999 to guarantee the safety of the American veterans in Puerto Rico.

San Juan's VA Medical Center is currently the only remaining hospital identified as the highest priority need that still remains in the at-risk inventory group. The President's budget for fiscal year 1999 requests $50 million for this project as part of the VA's major medical construction project. A two-story, 155-bed medical and surgical building that includes a 15-bed spinal cord injury center will be constructed to correct seismic deficiencies at the Medical Center.

I want to thank the Chairman, the gentleman from Arizona (Mr. STUMP), and the Ranking Member, the gentleman from Illinois (Mr. LANE), and all of the members of the Committee on Veterans' Affairs who have recommended that this project be authorized.

I urge the Members of the U.S. Congress to approve this much-needed VA construction bill without further delays. The American veterans and their families in Puerto Rico deserve to receive treatment in a healthy, safe environment that poses no unnecessary health, safety or life-threatening risks, just like any other veteran in any other State of the Union. I urge approval of this bill.

Mr. STUMP. Madam Speaker, I reserve the balance of my time.

Mr. EVANS. Madam Speaker, I yield back the balance of my time.

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

In closing, let me thank the gentleman from Illinois (Mr. EVANS), the Ranking Member of the full committee, the gentleman from Florida (Mr. STEARNS) and the gentleman from Illinois (Mr. GUTIERREZ), the Chairman and Ranking Member of the subcommittee, for all their hard work in putting this bill together.

This is a bipartisan bill, and I urge all Members to support it.

Mr. HORN. Madam Speaker, I rise today in strong support of H.R. 3603, the VA Major Medical Facility Projects Authorization bill. This bill authorizes $205 million for major medical facility projects across the country, $140 million more than the President requested in his budget.

Along with the other worthy projects in this bill, $23 million is dedicated to the consolidation of clinical and administrative services into a seismically upgraded building at the Long Beach VA Medical Center. Providing a broad range of inpatient, outpatient, and home care services for veterans throughout Southern California, the Long Beach VA has been recognized for the integral role it plays in Southern California's health care system. The Long Beach Center has also achieved national prominence in the field of spinal cord injury and the rehabilitation of paraplegic and quadriplegic patients.

Given the seismically unstable location of the Medical Center, it is critical that all acute patient care facilities are located in seismically safe buildings. This legislation ensures that. Not only does this protect project the health and safety of the Long Beach VA employees and its patients, it also makes efficient use of scarce government funds. This project will avoid a cost of $34 million for additional seismic corrections and save $5.6 million in annual recurring operating expenses. Now that is a project worth investing in.

As we honor those who have served and sacrificed their lives for our country over the Memorial Day weekend, it is fitting that today the House is considering legislation to fulfill our continuing obligation to our nation's veterans. Their service on our nation's behalf stands as a model of courage and commitment. We cannot afford to forget them.

Mr. WELLER. Madam Speaker, I rise today to express my dismay at a provision that was slipped into H.R. 3603, the bill to authorize major medical facility projects for the Department of Veterans Affairs. This provision was included specifically to undo the naming of the Abraham Lincoln National Cemetery near Joliet, Illinois in my congressional district. It came to my attention today, that a section was added to the bill which would set up new procedures for the naming of national veterans cemeteries and other properties of the VA. I was appalled to learn that this provision is retroactive to January 1, 1998! This is obviously intended to invalidate the decision of Secretary Togo West to name the cemetery after Abraham Lincoln. This provision is an outrage! It is a direct assault on the wishes of the veterans in Illinois. I would like to note that the naming of the cemetery as the Abraham Lincoln National Cemetery was endorsed by the Illinois State American Legion, VFW, Amvets, Disabled American Legion and American Ex-POWs. Clearly the veterans—those who will be buried there—want this name. Clearly, this provision was inserted into the bill to go against the wishes of the veterans. Abraham Lincoln created the national cemetery system. Illinois is the "Land of Lincoln." This name is not only appropriate for the cemetery in Joliet, it is the only name endorsed by the veterans—those who sacrificed for their country. I will fight to have this retroactive provision changed. I submit a copy of my statement to appear in the CONGRESSIONAL RECORD.

VETERANS OF FOREIGN WARS,
DEPARTMENT OF ILLINOIS,
Springfield, IL, May 21, 1997.

Hon. JERRY WELLER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WELLER: The Department of Illinois, Veterans of Foreign Wars, takes great pride in supporting the introduction of legislation naming the new Veterans Cemetery at the former Joliet Arsenal the "Abraham Lincoln National Cemetery".

In naming the 982 acre site after President Abraham Lincoln, we not only acknowledge the role he played in creating the National Cemetery System, but also honor the memory of the courageous men and women who answered our nation's call to defend democracy and freedom.

The Department of Illinois, Veterans of Foreign Wars certainly commend the Department of Veterans Affairs, Department of Defense, Congress and the local communities for their vision and initiatives in acquiring a portion of the former Joliet Army Ammunition Plant, and the beautiful Hoff Woods site for use as the new National Cemetery to serve the veterans and families of this midwest region.

We certainly appreciate your introducing this most important legislation in the House of Representatives and look forward to the passage of same.

With warmest personal regards and best wishes, I remain

Sincerely,

DONALD HARTENBERGER,
Department Commander.

THE AMERICAN LEGION,
DEPARTMENT OF ILLINOIS,
Bloomington, IL, April 10, 1997.
Hon. JERRY WELLER,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE WELLER: The American Legion, Department of Illinois, takes great pride in supporting the introduction of legislation naming the new veterans cemetery at the former Joliet Arsenal the "Abraham Lincoln National Cemetery."

On Saturday, April 5, 1997 at Normal, Illinois, our state Executive Committee approved a resolution commending the Department of Veterans Affairs, Department of Defense, Congress and the local communities for their vision and initiatives in acquiring a portion of the former Joliet Army Ammunition Plant, and the beautiful Hoff Woods site, for use as the new National Cemetery to serve the veterans and families of this midwest region.

A copy of the approved resolution is attached and we respectfully urge the Secretary of Veterans Affairs and the United States Congress to confirm the designation of the former Joliet Arsenal as the "Abraham Lincoln National Cemetery" to honor all veterans and President Abraham Lincoln, who first established the National Cemetery system.

Sincerely,

VINCENT A. SANZOTTA,
Department Adjutant.

AMVETS,
ILLINOIS STATE HEADQUARTERS,
Springfield, IL, September 26, 1997.
Hon. JERRY WELLER,
Cannon House Office Bldg.,
Washington, DC.

DEAR CONGRESSMAN WELLER: Our last State Executive Committee Meeting, held at the Hilton Hotel, Springfield, Illinois, on September 12–14, 1997. At this meeting it was voted unanimously to endorse your legislation to name the Joliet National Cemetery as the Abraham Lincoln National Cemetery.

Since Mr. Lincoln was instrumental in establishing the first National Cemetery, it is only befitting that he finally receives the honor of having a National Cemetery named after him.

Sincerely,

JERRY F. FOSTER,
Department Commander.

AMERICAN EX-PRISONERS OF WAR,
DEPARTMENT OF ILLINOIS,
Park Ridge, IL, October 21, 1997.
Hon. JERRY WELLER,
130 Cannon Building,
Washington, DC.

DEAR HONORABLE WELLER: We the American Ex-Prisoners of War of the State of Illinois all agree to the naming of the veterans cemetery in Joliet, Illinois to be called Abraham Lincoln Veterans Cemetery.

Thank you for the American Ex-P.O.W.'s for their opinion on this matter.

Sincerely,

DONALD MCCORMICK, *Commander.*

DISABLED AMERICAN VETERANS,
DEPARTMENT OF ILLINOIS,
Oak Park, IL, October 28, 1997.
Hon. JERRY WELLER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WELLER: The Department of Illinois, Disabled American Veterans, strongly supports the introduction of legislation naming the new Veterans Cemetery at the former Joliet Arsenal the "Abraham Lincoln National Cemetery."

Mr. Lincoln, as we all know, was instrumental in establishing the first National Cemetery and it is only befitting that he receives the honor of having a National Cemetery named after him.

We certainly appreciate your introducing this most important legislation in the House of Representatives because now the veterans and their families in this Midwest region will have a place to rest which they truly deserve and are entitled to.

Sincerely,

GEORGE M. ISDALE, JR.,
Department Adjutant.
TED BUCK,
Department Commander.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today to express my support for H.R. 3603, a bill to authorize major medical facility projects for the Veterans' Department.

The bill authorizes the Secretary of Veterans Affairs to carry out major medical facility projects at Department of Veterans Affairs medical centers or outpatient clinics in 8 locations, including one in my home state of Texas. This bill is a result of members from both parties working together to ensure that facilities with the greatest need for construction work will receive the resources necessary to provide high quality care to our veterans.

I'm particularly pleased with the emphasis this bill gives to projects that will increase the VA's ability to provide outpatient care to veterans.

This bill effectively balances our fiscal responsibilities with the needs of these facilities and the veterans who depend on them.

This legislation also stays focused on health care's shifting emphasis from inpatient to ambulatory care by including a number of outpatient projects.

I join my colleagues on both sides of the aisle in supporting this legislation so the men and women who fought for our freedom will be provided with the best possible medical care.

Mr. STUMP. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Arizona (Mr. STUMP) that the House suspend the rules and pass the bill, H.R. 3603, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1315

COLLECTIONS OF INFORMATION ANTIPIRACY ACT

Mr. COBLE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2652) to amend title 17, United States Code, to prevent the misappropriation of collections of information, as amended.

The Clerk read as follows:

H.R. 2652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Collections of Information Antipiracy Act".

SEC. 2. MISAPPROPRIATION OF COLLECTIONS OF INFORMATION.

Title 17, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 12—MISAPPROPRIATION OF COLLECTIONS OF INFORMATION

"Sec.
"1201. Definitions.
"1202. Prohibition against misappropriation.
"1203. Permitted acts.
"1204. Exclusions.
"1205. Relationship to other laws.
"1206. Civil remedies.
"1207. Criminal offenses and penalties.
"1208. Limitations on actions.

"§ 1201. Definitions

"As used in this chapter:

"(1) COLLECTION OF INFORMATION.—The term 'collection of information' means information that has been collected and has been organized for the purpose of bringing discrete items of information together in one place or through one source so that users may access them.

"(2) INFORMATION.—The term 'information' means facts, data, works of authorship, or any other intangible material capable of being collected and organized in a systematic way.

"(3) POTENTIAL MARKET.—The term 'potential market' means any market that a person claiming protection under section 1202 has current and demonstrable plans to exploit or that is commonly exploited by persons offering similar products or services incorporating collections of information.

"(4) COMMERCE.—The term 'commerce' means all commerce which may be lawfully regulated by the Congress.

"(5) PRODUCT OR SERVICE.—A product or service incorporating a collection of information does not include a product or service incorporating a collection of information gathered, organized, or maintained to address, route, forward, transmit, or store digital online communications or provide or receive access to connections for digital online communications.

"§ 1202. Prohibition against misappropriation

"Any person who extracts, or uses in commerce, all or a substantial part, measured either quantitatively or qualitatively, of a collection of information gathered, organized, or maintained by another person through the investment of substantial monetary or other resources, so as to cause harm to the actual or potential market of that other person, or a successor in interest of that other person, for a product or service that incorporates that collection of information and is offered or intended to be offered for sale or otherwise in commerce by that other person, or a successor in interest of that person, shall be liable to that person or successor in interest for the remedies set forth in section 1206.

“§ 1203. Permitted acts

“(a) Individual Items of Information and Other Insubstantial Parts.—Nothing in this chapter shall prevent the extraction or use of an individual item of information, or other insubstantial part of a collection of information, in itself. An individual item of information, including a work of authorship, shall not itself be considered a substantial part of a collection of information under section 1202. Nothing in this subsection shall permit the repeated or systematic extraction or use of individual items or insubstantial parts of a collection of information so as to circumvent the prohibition contained in section 1202.

“(b) Gathering or Use of Information Obtained Through Other Means.—Nothing in this chapter shall restrict any person from independently gathering information or using information obtained by means other than extracting it from a collection of information gathered, organized, or maintained by another person through the investment of substantial monetary or other resources.

“(c) Use of Information for Verification.—Nothing in this chapter shall restrict any person from extracting information, or from using information within any entity or organization, for the sole purpose of verifying the accuracy of information independently gathered, organized, or maintained by that person. Under no circumstances shall the information so extracted or used be made available to others in a manner that harms the actual or potential market for the collection of information from which it is extracted or used.

“(d) Nonprofit Educational, Scientific, or Research Uses.—Nothing in this chapter shall restrict any person from extracting or using information for nonprofit educational, scientific, or research purposes in a manner that does not harm the actual or potential market for the product or service referred to in section 1202.

“(e) News Reporting.—Nothing in this chapter shall restrict any person from extracting or using information for the sole purpose of news reporting, including news gathering, dissemination, and comment, unless the information so extracted or used is time sensitive, has been gathered by a news reporting entity for distribution to a particular market, and has not yet been distributed to that market, and the extraction or use is part of a consistent pattern engaged in for the purpose of direct competition in that market.

“(f) Transfer of Copy.—Nothing in this chapter shall restrict the owner of a particular lawfully made copy of all or part of a collection of information from selling or otherwise disposing of the possession of that copy.

“§ 1204. Exclusions

“(a) Government Collections of Information.—

“(1) Exclusion.—Protection under this chapter shall not extend to collections of information gathered, organized, or maintained by or for a government entity, whether Federal, State, or local, including any employee or agent of such entity, or any person exclusively licensed by such entity, within the scope of the employment, agency, or license. Nothing in this subsection shall preclude protection under this chapter for information gathered, organized, or maintained by such an agent or licensee that is not within the scope of such agency or license, or by a Federal or State educational institution in the course of engaging in education or scholarship.

“(2) Exception.—The exclusion under paragraph (1) does not apply to any information required to be collected and disseminated—

“(A) under the Securities Exchange Act of 1934 by a national securities exchange, a registered securities association, or a registered securities information processor, subject to section 1205(g) of this title; or

“(B) under the Commodity Exchange Act by a contract market, subject to section 1205(g) of this title.

“(b) Computer Programs.—

“(1) Protection not extended.—Subject to paragraph (2), protection under this chapter shall not extend to computer programs, including, but not limited to, any computer program used in the manufacture, production, operation, or maintenance of a collection of information, or any element of a computer program necessary to its operation.

“(2) Incorporated collections of information.—A collection of information that is otherwise subject to protection under this chapter is not disqualified from such protection solely because it is incorporated into a computer program.

“§ 1205. Relationship to other laws

“(a) Other Rights Not Affected.—Subject to subsection (b), nothing in this chapter shall affect rights, limitations, or remedies concerning copyright, or any other rights or obligations relating to information, including laws with respect to patent, trademark, design rights, antitrust, trade secrets, privacy, access to public documents, and the law of contract.

“(b) Preemption of State Law.—On or after the effective date of this chapter, all rights that are equivalent to the rights specified in section 1202 with respect to the subject matter of this chapter shall be governed exclusively by Federal law, and no person is entitled to any equivalent right in such subject matter under the common law or statutes of any State. State laws with respect to trademark, design rights, antitrust, trade secrets, privacy, access to public documents, and the law of contract shall not be deemed to provide equivalent rights for purposes of this subsection.

“(c) Relationship to Copyright.—Protection under this chapter is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection or limitation, including, but not limited to, fair use, in any work of authorship that is contained in or consists in whole or part of a collection of information. This chapter does not provide any greater protection to a work of authorship contained in a collection of information, other than a work that is itself a collection of information, than is available to that work under any other chapter of this title.

“(d) Antitrust.—Nothing in this chapter shall limit in any way the constraints on the manner in which products and services may be provided to the public that are imposed by Federal and State antitrust laws, including those regarding single suppliers of products and services.

“(e) Licensing.—Nothing in this chapter shall restrict the rights of parties freely to enter into licenses or any other contracts with respect to the use of collections of information.

“(f) Communications Act of 1934.—Nothing in this chapter shall affect the operation of the provisions of the Communications Act of 1934 (47 U.S.C. 151 et seq.), or shall restrict any person from extracting or using subscriber list information, as such term is defined in section 222(f)(3) of the Communications Act of 1934 (47 U.S.C. 222(f)(3)), for the purpose of publishing telephone directories in any format.

“(g) Securities Exchange Act of 1934 and Commodity Exchange Act.—Nothing in this chapter shall affect—

“(1) the operation of the provisions of the Securities Exchange Act of 1934 (15 U.S.C. 58a et seq.) or the Commodity Exchange Act (7 U.S.C. 1 et seq.);

“(2) the public nature of information with respect to quotations for and transactions in securities that is collected, processed, distributed, or published pursuant to the requirements of the Securities Exchange Act of 1934;

“(3) the obligations of national securities exchanges, registered securities associations, or registered information processors under the Securities Exchange Act of 1934; or

“(4) the jurisdiction or authority of the Securities and Exchange Commission or the Commodity Futures Trading Commission.

“§ 1206. Civil remedies

“(a) Civil Actions.—Any person who is injured by a violation of section 1202 may bring a civil action for such a violation in an appropriate United States district court without regard to the amount in controversy, except that any action against a State governmental entity may be brought in any court that has jurisdiction over claims against such entity.

“(b) Temporary and Permanent Injunctions.—Any court having jurisdiction of a civil action under this section shall have the power to grant temporary and permanent injunctions, according to the principles of equity and upon such terms as the court may deem reasonable, to prevent a violation of section 1202. Any such injunction may be served anywhere in the United States on the person enjoined, and may be enforced by proceedings in contempt or otherwise by any United States district court having jurisdiction over that person.

“(c) Impoundment.—At any time while an action under this section is pending, the court may order the impounding, on such terms as it deems reasonable, of all copies of contents of a collection of information extracted or used in violation of section 1202, and of all masters, tapes, disks, diskettes, or other articles by means of which such copies may be reproduced. The court may, as part of a final judgment or decree finding a violation of section 1202, order the remedial modification or destruction of all copies of contents of a collection of information extracted or used in violation of section 1202, and of all masters, tapes, disks, diskettes, or other articles by means of which such copies may be reproduced.

“(d) Monetary Relief.—When a violation of section 1202 has been established in any civil action arising under this section, the plaintiff shall be entitled to recover any damages sustained by the plaintiff and defendant's profits not taken into account in computing the damages sustained by the plaintiff. The court shall assess such profits or damages or cause the same to be assessed under its direction. In assessing profits the plaintiff shall be required to prove defendant's gross revenue only; defendant must prove all elements of cost or deduction claims. In assessing damages the court may enter judgment, according to the circumstances of the case, for any sum above the amount found as actual damages, not exceeding three times such amount. The court in its discretion may award reasonable costs and attorney's fees to the prevailing party and shall award such costs and fees where it determines that an action was brought under this chapter in bad faith against a nonprofit educational, scientific, or research institution, library, or archives, or an employee or agent of such an entity, acting within the scope of his or her employment.

"(e) REDUCTION OR REMISSION OF MONETARY RELIEF FOR NONPROFIT EDUCATIONAL, SCIENTIFIC, OR RESEARCH INSTITUTIONS.—The court shall reduce or remit entirely monetary relief under subsection (d) in any case in which a defendant believed and had reasonable grounds for believing that his or her conduct was permissible under this chapter, if the defendant was an employee or agent of a nonprofit educational, scientific, or research institution, library, or archives acting within the scope of his or her employment.

"(f) ACTIONS AGAINST UNITED STATES GOVERNMENT.—Subsections (b) and (c) shall not apply to any action against the United States Government.

"(g) RELIEF AGAINST STATE ENTITIES.—The relief provided under this section shall be available against a State governmental entity to the extent permitted by applicable law.

"§ 1207. Criminal offenses and penalties

"(a) VIOLATION.—

"(1) IN GENERAL.—Any person who violates section 1202 willfully, and—

"(A) does so for direct or indirect commercial advantage or financial gain, or

"(B) causes loss or damage aggregating $10,000 or more in any 1-year period to the person who gathered, organized, or maintained the information concerned,

shall be punished as provided in subsection (b).

"(2) INAPPLICABILITY.—This section shall not apply to an employee or agent of a nonprofit educational, scientific, or research institution, library, or archives acting within the scope of his or her employment.

"(b) PENALTIES.—An offense under subsection (a) shall be punishable by a fine of not more than $250,000 or imprisonment for not more than 5 years, or both. A second or subsequent offense under subsection (a) shall be punishable by a fine of not more than $500,000 or imprisonment for not more than 10 years, or both.

"§ 1208. Limitations on actions

"(a) CRIMINAL PROCEEDINGS.—No criminal proceeding shall be maintained under this chapter unless it is commenced within three years after the cause of action arises.

"(b) CIVIL ACTIONS.—No civil action shall be maintained under this chapter unless it is commenced within three years after the cause of action arises or claim accrues.

"(c) ADDITIONAL LIMITATION.—No criminal or civil action shall be maintained under this chapter for the extraction or use of all or a substantial part of a collection of information that occurs more than 15 years after the investment of resources that qualified the portion of the collection of information for protection under this chapter that is extracted or used.".

SEC. 3. CONFORMING AMENDMENT.

The table of chapters for title 17, United States Code, is amended by adding at the end the following:

"12. Misappropriation of Collections of Information .... 1201".

SEC. 4. CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) DISTRICT COURT JURISDICTION.—Section 1338 of title 28, United States Code, is amended—

(1) in the section heading by inserting "**misappropriations of collections of information,**" after "**trade-marks,**"; and

(2) by adding at the end the following:

"(d) The district courts shall have original jurisdiction of any civil action arising under chapter 12 of title 17, relating to misappropriation of collections of information. Such jurisdiction shall be exclusive of the courts of the States, except that any action against a State governmental entity may be brought in any court that has jurisdiction over claims against such entity.".

(b) CONFORMING AMENDMENT.—The item relating to section 1338 in the table of sections for chapter 85 of title 28, United States Code, is amended by inserting "misappropriations of collections of information," after "trade-marks,".

(c) COURT OF FEDERAL CLAIMS JURISDICTION.—Section 1498(e) of title 28, United States Code, is amended by inserting "and to protections afforded collections of information under chapter 12 of title 17" after "chapter 9 of title 17".

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act, and shall apply to acts committed on or after that date.

(b) PRIOR ACTS NOT AFFECTED.—No person shall be liable under chapter 12 of title 17, United States Code, as added by section 2 of this Act, for the use of information lawfully extracted from a collection of information prior to the effective date of this Act, by that person or by that person's predecessor in interest.

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

GENERAL LEAVE

Mr. COBLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 2652, the Collections of Information Antipiracy Act, and urge my colleagues to support this important bill. Developing, compiling, distributing, and maintaining commercially significant collections of information requires substantial investments of time, personnel, and money. Information companies, especially small businesses, must dedicate massive resources when gathering and verifying factual material, presenting it in a user-friendly way, and keeping it current for and useful to customers.

H.R. 2652, Madam Speaker, prohibits the misappropriation of valuable commercial collections by unscrupulous competitors who grab data collected by others, repackage it, and market a product that threatens competitive injury to the original collection.

This protection is modeled in part on the Lanham Act, which already makes similar kinds of unfair competition a civil wrong under Federal law. Importantly, this bill maintains existing protection for collections of information afforded by copyright and contract rights. It is intended to supplement these legal rights, not to replace them.

The Collections of Information Antipiracy Act is a balanced proposal. It is aimed at actual or threatened competitive injury for misappropriation of collections of information, not at noncompetitive uses. The goal is to stimulate the creation of even more collections and to encourage even more competition among them. The bill avoids conferring any monopoly on facts or taking any other steps that might be inconsistent with these goals.

The version under consideration today contains several noncontroversial technical amendments. The legislation is necessary, in my opinion, and well-balanced, and I urge my colleagues to support it.

Madam Speaker, I would be remiss if I did not mention this. Much information has been disseminated about this bill, and I want to advise the Members of a couple facts that I think are pertinent.

Last February, in fact, the afternoon of the hearing that was conducted, we met with representatives of the university community and asked them for specific instances where they would be concerned about this bill, that we might be able to correct some problems or concerns. None was forthcoming.

As recently as yesterday, a representative from the university community made it clear that he could not give one specific instance where detriment would result, but that he felt that maybe some future unforeseen circumstance might crop up. Madam Speaker, that could happen with any legislation.

I will be doggone if I am going to stand in the path of small businesses and perhaps encourage their bankruptcy ultimately in the fear of a prospective unforeseen circumstance. If that circumstance does arise, then we will repair it and correct it at the time.

The libraries, we met with our friends from the American Library Association, again, last February, asking them, tell us what is wrong and we will fix it. A total of 10 amendments have been made a part of this bill, 10 amendments that were forthcoming from earlier opponents of the bill.

I think we have done all we can do. I think we have a good piece of legislation here. I urge my colleagues to support it.

Madam Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of this bill. The principle is very straightforward. The Supreme Court decided a while ago that people who put together the phone book could not have a property interest in the phone numbers. We do not actually deal with that decision here. That particular decision is not overturned.

But it did leave at risk work that people do to collect information. Essentially the state of the law now, opponents to this bill want the state of the law to remain such that you can go through considerable work to compile data. People who have been in the data compilation business know that it is often not fun. It can be very hard work. It can be unexciting work. But it could give you a very useful work product.

What we are being asked to do by those who simply want to defeat this bill is to leave that work totally unprotected legally as far as the Federal government is concerned. You do the work, you do all the research, and you come up with a significantly useful collection of information. This law says anybody else who wants to can go and take that and do whatever they want with it.

We do in this bill, to the extent that we were capable of doing it, make a distinction. Nothing in this bill in any way retards the intellectual use of that data. A scoundrel who wants to do research and publish some of it as part of his or her study, if you want to go to the data collection and usurp from it so you can prove your point, you can do it. If you want to go to the data collection and reproduce it and get paid for reproducing somebody else's work, this bill says you cannot.

So that is the distinction we have tried to draw between making the intellectual product here fully accessible but protecting it commercially. If in fact you leave it unprotected commercially, you will almost certainly have less work done.

The notion that people should go and do this, do all this data collection, with their work product totally unprotected from anybody else who wants to use it for any purpose, including passing it on, selling it to somebody else, seems to me to be in error.

One of the things we have done, we have had hearings, and we are told, Madam Speaker, that this is too quickly being done and we should pull this bill. Yes, the people who do not want to deal with it now argue to pull the bill.

Why do people say, let us pull the bill? There are two circumstances in which those of us in the legislative body argue that a bill should be pulled. One, it really did come up too quickly, and we really have not had a chance to look at it.

This bill had its first public hearing in October of last year and then a second public hearing in February of this year. It was voted on in subcommittee two months ago. The number of people who have been prevented from studying this bill by time is zero. People have had months to look at it.

Since we have had two public hearings on the bill, a markup two months ago in subcommittee and then a markup in full committee, and then we were going to be on the calendar last week. One of those terrible legislative diseases known as turfitis, which is particularly virulent at the Subcommittee on Energy and Power; you have got to be careful when you are walking on the first floor past the Subcommittee on Energy and Power. You have got a vicious case of "It is mine, and nobody else can look at it." That will break out. That held us off a week.

At any rate, we have had a lot of time that people are aware of this bill. Still, what is their complaint? We have got to study this some more. They are lucky that this bill is not covered by the data collection, I suppose. They would have a long time to study it.

The point is, Madam Speaker, that you say pull the bill when you do not have any substantive arguments. We all say let us delay it. We all say we are not sure what it does. That is when you do not have substantive arguments. I say that because we have asked for substantive arguments.

I very much agree that full use should be there intellectually. I do not want to interfere with researchers who use those data collections.

I have yet to hear a specific instance of how the legislation we are bringing forward prevents people from doing research, from reading the data and using it in that reasonable way.

We have tried in various ways. People said, well, what about the concept of fair use? It does not technically apply, but it could interfere with figures. We said it does not. We have said this bill specifically allows you to do research, allows you to reproduce some parts of it to make your argument. It does not allow you to simply take other people's work product and sell it and get paid for it.

We have had a series of cases, of meetings and hearings, and no one has come forward with specifics. Look at the literature that has been put out. Various organizations have said this is not a good bill, stop it. But I have not been able to find in any of this literature a specific example of how this legislation will interfere with legitimate intellectual activity.

We make a distinction here in this bill between commercial use of someone else's property and the intellectual use. If people think we have not done the balance perfectly, I would be willing to listen, but they do not want to come forward with specifics.

I want to talk also about my friends, the libraries. Some of my friends are librarians. My chief of staff in Massachusetts was the head of a library board and built a beautiful library building. I think libraries are very important.

To the extent that librarians come and say to us, you are going to prevent our readers from being able to read this, do research with this, write a paper based on it, I would be opposed to the bill if it did that. That is not what they are saying. Essentially what they are saying is, some of the people who have done all this work might charge us more than we want to pay.

We underfund libraries. I think we do. If I were in charge, we would give libraries more money than other places. The answer, however, to a public sector inadequately funding libraries is not to empower libraries to take other people's work product for nothing. The answer is further and better to fund libraries.

So I will await the end of this debate, and thereafter I will still be waiting for specifics. I am available. If people will show myself, the chairman, our very able staffs how this interferes with free and open exchange of information, with intellectual use for this, we will try to change that.

I do not think that is the problem. I think people have been able to get some of this information for free. I suppose, as between paying for it and getting it for free, most of us would rather get it for free, if you assume that there is an endless supply of it coming, and if you assume that people who have to give it to you for free and allow you to reuse it will not stop this kind of work.

I think if we do not pass this, you will begin to see a diminution in the kind of data that is available. Nothing in this bill will interfere with the intellectual use of it, so I hope the bill is passed.

Mr. COBLE. Madam Speaker, I have no speaker, but I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I yield 5 minutes to the very distinguished but not infallible gentleman from California (Mr. BROWN), the ranking member of the Committee on Science.

Mr. BROWN of California. Madam Speaker, I thank the distinguished gentleman for allowing me to express myself on this bill. I acknowledge that I am distinguished but not infallible. Sometimes I even wonder if I am distinguished.

But let me tell you that without pretending to understand all of the implications of this bill, I found out very quickly, when it was placed on the schedule, that there are a lot of extremely worried people out there who should know what they are talking about or who, on the other hand, may be totally paranoid. It may well be that there are a lot of paranoid people out there.

I suspect that what has happened here is that those organizations, and I have circulated a "Dear Colleague" letter which lists these, and they include some of the most distinguished organizations in this country, beginning with the library associations and the AAAS, American Association for the Advancement of Science, and many others are worried about this bill.

They may be worried because they do not understand it, and I will confess that. Their tactics seem to be not necessarily to kill the bill, but to allow more time for these scholars and academics and so forth to see if they can find flaws in it and to present those flaws for protection.

These individuals and organizations are notoriously slow in their ability to act promptly on legislation and sometimes other things, but that does not mean that they are wrong. When I see a compilation of organizations as broad as have taken a stand in opposition to this bill, I would like to alert a broader audience to the fact that there could be some flaws.

Knowing the distinguished chairman of the subcommittee and the ranking member and having heard their statements, as the gentleman from North Carolina (Mr. COBLE) says, tell us what is wrong and we will fix it, the gentleman from Massachusetts (Mr. FRANK) said the same thing, and similar language, and I have faith that we would do that.

I would like to have my own little laundry list of the things that need to be done here; but, frankly, I do not have the competence to come up with that kind of a list. What I am trying to accomplish here, and I hope that my motives are understood, is to put on the record the concern of some of these groups which I have known and worked with for many, many years. They are all respectable. They all think they know what they are talking about. And put their concerns on the record so that we may get a broader analysis of this.

I would have hoped that this could have been done in the normal legislative process, and that we could have considered this bill, not on suspension, but with an opportunity to debate it and amend it on the floor. Unfortunately, that is not a possibility at this point.

□ 1330

But it may be. If we defeat it on suspension, we may be able to bring it back, or we may be able to take corrective action in the Senate. This is my whole purpose, and I confess it quite willingly.

It is my understanding that H.R. 2652 addresses only one aspect of the complex subject of adjusting intellectual property protection laws to meet the demands of the new digital age. Unfortunately, as I have indicated, it may be a flawed and controversial attempt, which should have not come up on the suspension calendar.

The problem is that the bill has not found yet a proper balance between protecting original investments in data bases and the economic and social cost of unduly restricting and discouraging downstream application of these data bases, particularly in regard to uses for basic research or education.

Some of these scientific data bases are extremely large and complex. For example, we are spending billions on an effort to characterize the human genome, and we have thousands of scientists working on it. A portion of that work only, and it may be a small portion, is either patentable or protected under copyright laws. The rest of it is going to be freely available. It may be that this legislation is going to cause considerable problem with that massive collection of research data. I hope that that is not the case, but I do not think anyone can tell you at this point whether it or is not.

Progress in science requires full and open availability of scientific data. New knowledge is built on previous findings and unfettered access and use of factual information. This bill will impede research by restricting the ability of scientists to draw on data, facts and even mathematical formulas from previous scientific work for the production of new and innovative work.

It is for this reason, Madam Speaker, that I ask that the bill be defeated on suspension, and, hopefully, brought back after further study.

H.R. 2652 addresses one aspect of the complex subject of adjusting intellectual property protection laws to meet the demands of the digital age. Unfortunately it is a flawed and controversial attempt, which should not have come to the Floor on the Suspension Calendar.

The problem is that the bill has not found a proper balance between protecting original investments in databases and the economic and social costs of unduly restricting and discouraging downstream applications of these databases—particularly in regard to uses for basic research and education.

Progress in science requires full and open availability of scientific data. New knowledge is built on previous findings and unfettered access and use of factual information.

The bill will impede research by restricting the ability of scientists to draw on data, facts, and even mathematical formulas from previous scientific work for the production of new, innovative works. To date, these types of activities have not only been permissible, but expressly protected under copyright law and the fair use concept.

By granting unprecedented rights to ownership of facts—not just rights to the expression of facts and information, as is the case for copyright—the bill will certainly increase the costs of research, but more importantly, reduce the openness of exchange of scientific data and information and also reduce collaboration among scientists.

The provisions in the bill that purport to give exceptions for research and education uses are illusory—triggered only if users can show that the use will not harm actual or potential markets. This is far less "fair use" than under copyright law.

Also, there is no language for mandatory legal licenses, or other limitations, that would require providers of sole source databases to make data available for research, education, and other public interest uses on fair and equitable terms.

Many fields of inquiry that involve statistical compilations and analysis of raw data would be restricted by this bill, such as climate modeling and economic forecasting. Also, research activities involving collaborative sharing of large data bases, such as the sequencing of the human genome, would be adversely affected.

The stated objective of the bill is to protect against individuals stealing non-copyrightable commercial databases, and then taking away the market of the original compiler of the data. The reach of the bill goes far beyond this goal.

Alternative draft legislation that is narrowly based on misappropriation case law is being worked out by the communities with reservations about H.R. 2652. Such an approach would leave existing research and education uses of databases unchanged, while providing added protections for commercial, noncopyrightable databases.

Any legislative action to protect the contents of databases should proceed using a cautious, minimalist approach that balances the interests of creators, publishers, and users, and of society as a whole.

This is not the approach that was taken in developing H.R. 2652.

Despite concerns raised by libraries, research and educational institutions, commercial database companies, and computer and telecommunications companies, the bill has been brought to the floor as a non-controversial measure under suspension of the rules.

This procedure is inappropriate since it affords no opportunity for Members to offer amendments or present alternative approaches to address the many concerns that have been raised about the bill.

The House should reject H.R. 2652 in its current form, and work toward a compromise, such as the alternative I referred to, that will balance the concerns of the various communities of interest.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself such time as I may consume to make two points.

First, with regard to the human genome, I am glad the gentleman brought that point up. Let me say, I fully respect the gentleman's motives. He performs a very useful service as the leading Democratic member on the Committee on Science, and it is entirely valid for him to be bringing these concerns forward.

The point I would make, not to him, but to those on whose behalf he is quite legitimately speaking here, is that this has been pending business since hearings last October. We have had it before us. At various stages people say we have a problem; we say, fine, let us hear it. Two months ago we had a subcommittee markup. We had a subsequent committee markup. A week ago this bill was pulled off the floor, and tomorrow never comes.

I think it will come, if we in fact vote this bill out of here. By the way, it will not go from here to the President's desk. It will go from here to that august wonderful chamber on the other side of this building, which, under the House rules, is the beneficiary of all of our good comments, and they will have some time to work on it, and I do not think they are likely to speed it through.

I do believe that if we do not get a bill over there, it is kind of late in the session, measured by the amount of time that has passed, not the amount of bills that have passed, but it is late in the session, and if we do not get it over there, they will never get to the point. And we look forward to the discussion.

Just to give one example, by the way, on the human genome project, that is Federally funded, page 6 of the bill:

> Protection shall not extend to collections of information gathered, organized or maintained by or for a government entity, Federal, State or local, including any employee or agent of such entity or any person exclusively licensed by such entity within the scope of the employment agency licensed.

Indeed, one difference between our version and the European version is they do not exempt, as we do, government information.

Mr. BROWN of California. Madam Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. BROWN of California. Madam Speaker, I am glad the gentleman made this point. As the gentleman probably knows, there has been considerable publicity within the last few weeks about a private research organization which has stated it can do the remainder of the human genome project faster and quicker than the government-funded projects. I have no idea what the impact of this legislation will be.

Mr. FRANK of Massachusetts. Madam Speaker, reclaiming my time, I will tell the gentleman what the impact is. If we go forward with the government funded proposal, and he has more to say about that than I do, and I have a suggestion, which is cancel that wasteful space station and do that instead with this money and do it quicker, with the shortfall from the Russians that you are going to have to make up, but if we go ahead and do this governmentally funded, that work will not be protectable and it will remain fully open. The fact that some other privately funded entity has chosen to do the work will have no negative effect on people's access to the work that is government funded.

Mr. BROWN of California. Madam Speaker, I am glad for that assurance.

Mr. FRANK of Massachusetts. Madam Speaker, I yield 3 minutes to the distinguished gentlewoman from the District of Columbia (Ms. NORTON)

Ms. NORTON. Madam Speaker, I thank my good friend, the distinguished ranking member, for yielding time to me, and I thank both the distinguished chair and the distinguished ranking member for pressing forward with such persistence in the wake of some considerable resistance, and not "Waiting for Godot" in the absence of anything concrete.

Madam Speaker, I am very afraid that Federal copyright law is in danger of becoming a dinosaur if we do not learn to keep up with the technology. I would be the first, as a First Amendment lawyer in my early days, to stand on the other side if I thought there were a real danger here.

But in fact there is another kind of danger, Madam Speaker; there is a new kind of plagiarism, much of it coming out of the new technology. The new plagiarism robs companies who, by the sweat of their proverbial brows, develop collections that we all need and use every day.

These data base providers have no rights that pirates are bound to respect. Some of the victims, are familiar names, such as NASDAQ, based here in the district. Many more of them are small businesses like Warren Publishing, a company also located in this city. Georgia pirates copied Warren Publishing's unique and original cable system Factbook and sold it under their own name for very little because the pirates did not have to invest the hundreds of thousands of dollars in human, technical and financial resources that Warren Publishing put in to research, to update and to verify the product. Nevertheless, the 11th Circuit discarded Warren Publishing's original contributions altogether simply because the company had worked from a larger and less well-defined listing.

As one known for paying close attention to First Amendment issues, I have felt an obligation to inspect the bill carefully to make sure that educational institutions and researchers are not deterred in the marketplace of free exchange of information and ideas.

I am still an academic, a tenured professor of law at Georgetown University law school who teaches a course there every year and who is working on a book. I would not want to be part and parcel of deterring other researchers. But in an age of instant communication, Federal copyright law must keep up with technology, or risk stifling the development of usable information and the creative entrepreneurship that the new technology allows, not to mention the increase in jobs that businesses like Warren Publishing and NASDAQ are creating every day.

Mr. FRANK of Massachusetts. Madam Speaker, I yield back the balance of my time.

Mr. COBLE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I will sum up very briefly. My friend the gentleman from Massachusetts (Mr. FRANK) and the gentlewoman from the District of Columbia (Ms. NORTON) have pretty well touched it.

I say to my friend the gentleman from California (Mr. BROWN), I am not talking about you, but some people in this fray have inserted paranoia, deception and fear into this message, and then they are very cleverly targeting that message to a select group. Well, if you do that, chances are you are going to get some attention.

But as the gentleman from Massachusetts said and as I said, this has been before us since last October. It has been on the table. We have begged people to come forward, and some did come forward, and we took their amendments and worked them into the bill.

This is a good bill, Madam Speaker, and I urge my colleagues to support it.

Mr. DELAHUNT. Madam Speaker, I rise in strong support of H.R. 2652, the Collections of Information Antipiracy Act.

Collections of information—"databases"—have become an indispensable feature of today's information society. By organizing billions of bits of raw data into retrievable form, databases enable medical researchers, travel writers, legal professionals, historians, business managers and consumers to navigate the expanding universe of human knowledge to find the information they need.

The creation and maintenance of an electronic database is a labor-intensive process that requires an enormous investment of time and resources. Yet thanks to digital technology, the end product can be copied and distributed by unscrupulous competitors with only a few clicks of a mouse.

Under current law, there is little the creator of the database can do to prevent this. For many years, federal courts afforded copyright protection to compilations developed through significant investments of time and hard work—the "sweat of the brow." But in a 1991 decision, *Feist Publications* v. *Rural Telephone Service Co.,* the Supreme Court discarded the "sweat of the brow" doctrine, and announced that compilations would henceforth merit copyright protection only if the arrangement of the information displays a sufficient degree of originality—a standard which, by their nature, few databases are likely to meet.

Without effective legal protection against piracy, companies will have little incentive to continue to invest their time and money in database development. Should they fail to do so, it is the public that will be the poorer for it.

The Collections of Information Antipiracy Act will address this problem by prohibiting the misappropriation for commercial purposes of collections of information whose compilation has required the investment of substantial time and resources.

At the same time, the bill is drafted so as not to inhibit free access to information for non-profit, educational, scientific or research purposes.

Mr. Speaker, this is a balanced and sensible response to the problem of database piracy, and I urge my colleagues to give it their support.

Mr. COBLE. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 2652, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

LIMITING JURISDICTION OF FEDERAL COURTS WITH RESPECT TO PRISON RELEASE ORDERS

Mr. COBLE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3718) to limit the jurisdiction of the Federal courts with respect to prison release orders.

The Clerk read as follows:

H.R. 3718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON PRISONER RELEASE ORDERS.

(a) IN GENERAL.—Chapter 99 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1632. Limitation on prisoner release orders

"(a) LIMITATION.—Notwithstanding section 3626(a)(3) of title 18 or any other provision of law, in a civil action with respect to prison conditions, no court of the United States or other court listed in section 610 shall have jurisdiction to enter or carry out any prisoner release order that would result in the release from or nonadmission to a prison, on the basis of prison conditions, of any person subject to incarceration, detention, or admission to a facility because of a conviction of a felony under the laws of the relevant jurisdiction, or a violation of the terms or conditions of parole, probation, pretrial release, or a diversionary program, relating to the commission of a felony under the laws of the relevant jurisdiction.

"(b) DEFINITIONS.—As used in this section—

"(1) the terms 'civil action with respect to prison conditions', 'prisoner', 'prisoner release order', and 'prison' have the meanings given those terms in section 3626(g) of title 18; and

"(2) the term 'prison conditions' means conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 99 of title 28, United States Code, is amended by adding at the end the following new item:

"1632. Limitation on prisoner release orders.".

(c) CONSENT DECREES.—

(1) TERMINATION OF EXISTING CONSENT DECREES.—Any consent decree that was entered into before the date of the enactment of the Prison Litigation Reform Act of 1995, that is in effect on the day before the date of the enactment of this Act, and that provides for remedies relating to prison conditions shall cease to be effective on the date of the enactment of this Act.

(2) DEFINITIONS.—As used in this subsection—

(A) the term "consent decree" has the meaning given that term in section 3626(g) of title 18, United States Code; and

(B) the term "prison conditions" has the meaning given that term in section 1632(c) of title 28, United States Code, as added by subsection (a) of this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

GENERAL LEAVE

Mr. COBLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3718.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Madam Speaker, I yield such time as he may consume to the author of the bill, the gentleman from Texas (Mr. DELAY), the distinguished majority whip.

Mr. DELAY. Madam Speaker, I thank the gentleman from North Carolina for yielding me this time.

Madam Speaker, I rise today in support of my bill, H.R. 3718. This bill is simple. It ends forever the early release of violent felons and convicted drug dealers by judges who care more about the ACLU's prisoners rights wish-list than about the Constitution and the safety of our towns and communities and fellow citizens.

Under the threat of Federal courts, states are being forced to prematurely release convicts because of what activist judges call "prison overcrowding." In Philadelphia, for instance, Federal Judge Norma Shapiro has used complaints filed by individual inmates to gain control over the prison system and established a cap on the number of prisoners. To meet that cap, she ordered the release of 500 prisoners per week.

In an 18 month period alone, 9,732 arrestees out on the streets of Philadelphia on pretrial release because of her prison caps were arrested on second charges, including 79 murders, 90 rapes, 701 burglaries, 959 robberies, 1,113 assaults, 2,215 drug offenses and 2,748 thefts.

How does she sleep at night? Each one of these crimes was committed against a person with a family dreaming of a safe and peaceful future, a future that was snuffed out by a judge who has a perverted view of the Constitution.

Of course, Judge Shapiro is not alone. There are many other examples. In a Texas case that dates back to 1972, Federal Judge William Wayne Justice took control of the Texas prison system and dictated changes in basic inmate disciplinary practices that wrested administrative authority from staff and resulted in rampant violence behind bars.

Under the threats of Judge Justice, Texas was forced to adopt what is known as the "nutty release" law that mandates good time credit for prisoners. Murderers and drug dealers who should be behind bars are now walking the streets of our Texas neighborhoods, thanks to Judge Justice.

Wesley Wayne Miller was convicted in 1982 of a brutal murder. He served only 9 years of a 25 year sentence for butchering a 18-year-old Fort Worth girl. Now, after another crime spree, he was rearrested.

Huey Meaux was sentenced to 15 years for molesting a teenage girl. He was eligible for parole this September, after serving only 2 years in prison.

Kenneth McDuff was on death row for murder when his sentence was commuted. He ended up murdering someone else.

In addition to the cost to society of Judge Justice's activism, Texas is reeling from the financial impact of Judge Justice's sweeping order.

I remember back when I was in the State legislature, the State of Texas spent about $8 per prisoner per day keeping prisoners. By 1994, when the full force of Judge Justice's edict was finally being felt, the State was spending more than $40 every day for each prisoner. Now, that is a five-fold increase over a period when the State's prison population barely doubled.

The truth is, no matter how Congress and State legislatures try to get tough on crime, we will not be effective until we deal with the judicial activism. The courts have undone almost every major anti-crime initiative passed by the Legislative Branch. In the 1980's, as many states passed mandatory minimum sentencing laws, the judges checkmated the public by imposing prison caps.

□ 1345

When this Congress mandated the end of consent decrees regarding prison overcrowding in 1995, some courts just ignored our mandate.

There is an activist judge behind each of the most perverse failures of today's justice system: violent offenders serving barely 40 percent of their sentences; 3½ million criminals, most of them repeat offenders, on the streets, on probation or parole; 35 percent of all persons arrested for violent crime on probation, parole, or pretrial release at the time of their arrest.

The Constitution of the United States gives us the power to take back our streets. Article III allows the Congress of the United States to set jurisdictional restraints on the courts, and my bill will set such restraints.

I presume we will hear cries of court-stripping by opponents of my bill. These cries, however, will come from the same people who voted to limit the jurisdiction of Federal courts in the 1990 civil rights bill.

Let us not forget the pleas of our current Chief Justice of the United States, William Rehnquist. In his 1997 year-end report on the Federal judiciary, he said, "I therefore call on Congress to consider legislative proposals that would reduce the jurisdiction of Federal courts." We should heed Justice Rehnquist's call right here, right now, today.

Madam Speaker, this bill is identical to the amendment that I offered several weeks ago to H.R. 1252, the Judicial Reform Act. My amendment passed at that time 367 to 52. That is right, 367 yeas and 52 nays.

While that is an overwhelming victory, it is not enough. I am saddened, I am saddened that 52 Members of this body could so callously vote against protecting the families they represent.

Despite the fact that the liberal legal establishment will fight against my bill and the families it will help protect, many of my liberal Democrat colleagues voted for my amendment, and I greatly appreciate their vote. They could not afford not to. How can any Member of this body go home to their district and face a mother whose son or daughter has been savagely beaten and killed by some violent felon, a felon let out of prison early to satisfy the legal community's liberal agenda, to satisfy prison overcrowding or prison conditions? Nothing in my bill takes away the ability to change prison overcrowding and prison conditions. We are just saying, one cannot use early release to satisfy that condition.

Judicial activism threatens our safety and the safety of our children if, in the name of justice, murderers and rapists are allowed to prowl our streets before they serve their time. I say it is time to return some sanity to our justice system and keep violent offenders in jail.

I strongly urge my colleagues, for the sake of the families they represent, to support my bill.

Mr. SCOTT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in opposition to H.R. 3718, which would unconstitutionally limit the authority of Federal judges to remedy inhumane prison conditions. This bill also improperly interferes with the work of the judicial branch of our constitutional system of government.

H.R. 3718 is a radical and dangerous proposal with two impermissible goals. First, it would terminate ongoing consent decrees in prison condition cases. Second, it would prohibit judges from issuing prisoner release orders to remedy unconstitutional overcrowding.

The effort to terminate consent decrees is totally unwarranted. This amendment only affects those consent decrees that State and local governments want to remain in effect or that are necessary because of current and ongoing violations of Federal rights. The Prison Litigation Reform Act of 1995 eliminated all other consent decrees, so the only ones left are those that State and local governments want to remain in effect or are necessary because of current and ongoing violations of the Constitution.

A consent decree is a voluntary contract between two parties to end the active phase of litigation. This legislation does not close the case; it simply prohibits States from negotiating a resolution of the case. Therefore, it requires States to expend substantial sums of money to litigate issues for which there is no dispute and for which there is an agreement for the proper resolution of the case.

Congress has no business dictating to States how they should resolve litigation involving State institutions. If a State has decided that a consent decree meets the State's needs and is preferable to costly litigation, Congress should stay out of it.

Furthermore, Madam Speaker, the Federal termination of prisoner release orders is unnecessary. Most court orders in jail and prison cases do not include prison population caps, and the 1995 Prison Litigation Reform Act already requires a three-judge court before any population cap is imposed. And even if there is a cap, prisoners are released only if State officials elect to meet the cap through releases rather than building new facilities or adopting sentencing alternatives.

This bill will effectively prohibit courts from enforcing constitutional rights of prisoners by agreement and will only be able to enforce those rights with a full-blown court trial that may result in even more draconian resolutions than a consent decree would have resulted in.

Madam Speaker, this legislation is a recipe for chaos. We passed a Prison Litigation Reform Act less than 2 years ago. It eliminated all consent decrees without ongoing violations. The courts are only beginning to address the complicated, practical and constitutional issues raised by this act. Hundreds of cases are pending in trial and appellate courts. The Supreme Court is likely to have a review in the near future. The passage of this bill will only add confusion, delay resolution of pending cases, raise difficult issues of retroactivity, and actually create new litigation.

This amendment is counter-productive for all of those who want to streamline prison lawsuits. The 1995 act already strips courts of authority to enforce the Constitution in certain cases. H.R. 3718 takes us further down that dangerous path.

Court-stripping threatens the role of the judiciary and our system of checks and balances and should not be expanded. Today, court-stripping hurts prisoners, but tomorrow, it may affect others in our society who rely on courts to administer justice and enforce their rights.

I strongly oppose this legislation and urge my colleagues to do the same.

Madam Speaker, there are a few cases that I just want to cite that may be affected by this legislation. It has already been pointed out that we passed legislation creating more prisoners, and if we are going to pass that legislation, it is incumbent upon us to build the prisons to accommodate those prisoners. Let me just list a few consent decrees that this bill will terminate.

A consent decree was entered in the Virgin Islands in 1994 because prisoners were locked up for 23 hours a day in overcrowded, filthy, rat- and roach-infested cells. One-man cells were used to house four or five prisoners with mattresses on the floor, frequently soaked by overflowing toilets; drinking water was contaminated with sewage.

The consent decree remains in effect today, because an evidentiary hearing found many of the problems still persisted. There is no screening for new prisoners for tuberculosis, and mentally ill prisoners are still being housed with the general population and suffering abuse. Several of the mentally ill were badly beaten, and one died. That consent decree would be set aside by this legislation.

Another in Hawaii, 1987, to remedy dangerously inadequate medical and mental health care and environmental conditions. The consent decree remains in effect today because the problem still exists. Today, the facility is very overcrowded, with men sleeping on the floor in cells where there are backed-up toilets spilling sewage. Because of the overcrowding, mentally ill and dangerous populations are mixed together with potential risk to both groups.

Madam Speaker, there are other cases that would be affected by this. The consent decrees would be eliminated if this bill were to be passed.

Prison staff in Louisiana, a Louisiana case, 1995, prison staff were found to be engaging in sexual abuse of women prisoners ranging from vulgar and obscene sexual comments to forcible sexual rape. Prison staff were not only accused of participating in the sexual misconduct but allowing male prisoners to enter female prisons to engage in forcible intercourse with women prisoners. That consent decree would be set aside by this legislation.

Juveniles held in New Orleans. Juveniles held in Conchetta facility in New Orleans Parish Prison lack such supplies as sheets, underwear and shoes. They are at risk because of inadequate mental, dental and mental health care facilities and unsafe environmental conditions. Children are regularly beaten by staff. That consent decree would be set aside by this legislation.

In the State of Georgia, more than 200 women, some as young as 16 years old, were coerced into having sex with prison guards, maintenance workers, teachers and even a prison chaplain. The sexual abuse comes to light when women became pregnant and were required to undergo abortions. That consent decree would be set aside.

So, Madam Speaker, I would hope that we would not expand the prison litigation court-stripping that we passed in 1995, and that we would defeat this bill.

Mr. COBLE. Mr. Speaker, I yield 6 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, let me strongly support the efforts of the Majority Whip, the gentleman from Texas (Mr. DELAY), to pass this legislation. We supported it as an amendment to the Judicial Reform Act, and I would hope my colleagues will overwhelmingly support it as a free-standing measure.

This bill goes right to the heart of a horrible situation we in Florida have faced. In 1993, the Florida Department of Corrections reported that between January 1, 1987, and October 10, 1991, some 127,486 prisoners were released early from Florida prisons. Within a few years of their early release, they committed over 15,000 violent and property crimes, including 346 murders and 185 sex offenses.

Now, Florida tried to stop the early release program last year, the "gain time" provision, which was a tool used by the legislature back in the 1980s to avert overcrowding, but the judge said, no, cannot do it. It is part of their sentence now. Even though it was not applied at the beginning of their sentence, the "gain time" provision now acts as a part of their sentence and reduces the amount of time that the prisoner is held in custody.

Now, let me ask all in America who are listening to think about this for a minute. Who is paying for the kind of policy that we are trying to prevent? One involves a 21-year-old convicted burglar who got out of prison last October on early release. A month later, he was charged with kidnapping and murdering a 78-year-old woman in Avon Park near my district. He abducted her from her home, forced her into the trunk of her car, and killed her in an orange grove about 20 miles away.

Then there is the 30-year-old man jailed in 1989 on grand theft and armed burglary charges who was released early in 1992 because of prison overcrowding. Four years later, he was charged with murdering the owner of a convenience store in West Palm Beach, Florida.

Now, Mr. Speaker, last month a 30-year-old drifter jailed in 1986 for kidnapping and brutally beating a British tourist in Hollywood, Florida, was released early in 1986, was charged with first degree murder of a teenager after her partially mutilated corpse was found in a bathtub in Miami Beach.

In 1991, and it is sad that I have to continue to report these statistics, but it goes to the heart of the argument that I just heard a moment ago. In St. Lucie County, which I represent, a Fort Pierce police officer, Danny Parrish, was murdered by an ex-convict who had been released after serving less than a third of a prison term for auto burglary. Officer Parrish stopped him for driving the wrong way on a one-way street. The ex-convict, who admitted later he did not want to go back to prison for violating probation, disarmed Officer Parrish and killed him with his own gun.

□ 1400

When are we going to wake up in America to the problems that are occurring in our community because of this type of behavior?

The gentleman who argues against the bill suggests the problems that are in prison today, and suggests rape in prison, dirty conditions; they suggest a lot of things. But what happens when they are out on the streets? Who speaks for the victims? Who speaks for the families?

I often think at times maybe we should encourage a judge who has provided an early release waiver for a prisoner who ultimately causes a family member to be killed, maybe the judge should come to the funeral and give condolences to the family, to recognize what is going on.

Time and time again I hear in our prison systems that a judge has intervened and allows cigarette smoking, video machines, weight lifting, because we have to coddle and provide for the criminal. What about the victim? Is it not a prison, after all? Is it not a prison sentence? Is it not serving time for bad behavior?

But somehow, through this debate, it is all about the prisoner. It is all about somebody who has devastated another family, another life, who has raped another individual. So we tell our society and we tell our children, do not worry about it, because if you are sentenced to 10 years, with early release and gained time, you will be out in 2. There is no crime you will ever pay for. There is no serious consequence for your behavior. There is no serious consequences for your action. Some person's loved one has to die, and the person who commits the crime is out shortly thereafter.

A friend of mine in Lakewood, Florida, their daughter was killed by an illegal immigrant who was sentenced to 7 years for murder, which is regrettable that we only have 7 years prison time for a murder of another human being, and was released in 2½ years. Immigration says we cannot deport him.

Mr. Speaker, this bill is about doing what is right for society. It is about doing what is right for the American public. It is about maintaining order in our streets, and about making certain that prisoners who are in fact sentenced, who are the criminals, who are the bad guys, people who actually commit the crimes are treated like the prisoners they are; no happy time, no gained time, no judge intervening.

When the court rules and issues a sentence, the sentence should be fulfilled. It should be carried out. If it takes political courage to build the additional jail cells, then I say, talk to the politicians and get them to do that, but do not let one life be in jeopardy. Do not let one life be in jeopardy because of the continued persistence of judicial activists who insist that somehow these people have extraordinary rights, and those of the victims are often neglected.

So I again urge my colleagues, as they have in the past, by an overwhelming vote, to support H.R. 3718, the bill offered by the gentleman from Texas (Mr. DELAY) limiting Federal court jurisdictions over Federal prison release orders, and urge its passage today. It is the most important piece of legislation we will see in the House this week, and possibly this year.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, violating the Constitution and constitutional violations are not the solution to prison overcrowding. The Constitution is not violated when we deny someone weight training or access to a color television. If we are going to pass legislation like three-strikes-and-you-are-out, or mandatory minimums, if we are going to try to pass those slogans, three-strikes-and-you-are-out has been studied and has been determined to be just a waste of money. Mandatory minimums result in high-risk prisoners getting not enough time and the low-risk prisoners getting too much time.

Mr. Speaker, if we are going to pass that legislation, we have to fund the prisons. These violations are not just weight training and color TV. They include rapes, assaults, living in sewer- and rat-infested conditions. We need to fund those prisons and keep these within the constitutional constraints if we are going to pass that legislation.

I think there are a lot of easier ways to deal with the prison problem. That is to prevent more crimes before they occur. But if we are going to pass legislation like this, Mr. Speaker, we have to pay the bill. We have very serious, ongoing constitutional violations.

We have situations where the consent decrees are the easiest ways for the States to deal with this, if they want. They do not have to agree to a consent decree. We should not tie their hands and force them into litigation, where they may end up in more draconian sanctions than the consent decrees they have agreed to.

Mr. Speaker, I reserve the balance of my time.

Mr. COBLE. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. I appreciate the remarks of the gentleman from Virginia, Mr. Speaker. The problem is nothing in my bill changes the concerns that he has. It does not eliminate the ability for courts to enter into consent decrees, it does not have anything to do with prisoners filing claims that prison conditions are cruel and unusual. I just feel that it is cruel and unusual to turn violent criminals out on the streets for prison conditions.

It is very simple. We are just saying that they cannot turn violent criminals out on the streets because of prison conditions. They can do anything else to correct bad prison conditions, and the cases that the gentleman cites are horrible. They should be corrected.

What we are saying is that we cannot turn them back out on the street to prey on our constituents because of prison conditions. Correct them in a different way. We can also renegotiate consent decrees, those consent decrees that this legislation may affect. Article 3 of the Constitution allows us to do it and precedent allows us to do it.

We are just saying, do not turn violent criminals out on the street because of prison overcrowding and prison conditions.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to read the bottom of page 2 of the bill. It says

> Termination of existing consent decrees. Any consent decree that was entered into before the date of the enactment of the Prison Litigation Reform Act of 1995, that is in effect on the day before the date of the enactment of this Act, and that provides for remedies relating to prison conditions shall cease to be effective on the date of the enactment of this Act.

That eliminates all consent decrees, not just those that have as a remedy the release of prisoners. So all of those cases where there are rapes, assaults, and everything else are included.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, the gentleman is right, reading from the bill, that eliminates all consent decrees, but it does not preclude anybody from renegotiating consent decrees, and leaving out the fact that they are turning violent criminals out on the streets.

Mr. SCOTT. Mr. Speaker, I would point out that in the beginning of the bill, as is indicated, it would eliminate any consent decree that provides for remedies relating to prison conditions.

The beginning of the bill says that notwithstanding that section, no court "* * * shall have jurisdiction to enter or carry out any prisoner release order that would result in the release from or nonadmission to a prison on the basis of prison conditions of the person subject to incarceration, detention, or admission."

That has essentially eliminated a lot of the jurisdiction the court had in the beginning. If someone were only to provide for unconstitutional violations, at the prison, I am not sure what the court could do. They have been essentially eliminated from anything other than consent decrees. If the locality does not agree to it, the court would essentially be, because of this bill, without remedy to remedy constitutional violations.

The law that passed 2 years ago is now being litigated. This bill just takes away the authority from the courts to enforce the constitutional rights of the citizens. I think it should not be passed.

Mr. Speaker, I reserve the balance of my time.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3718, as we know, is a freestanding version of an amendment which the gentleman from Texas (Mr. DELAY) offered to H.R. 1252, the Judicial Reform Act of 1998, last month; April 23rd, to be exact. The House at that time overwhelmingly adopted the DeLay amendment by a vote of 367 to 52.

I think it is a good bill. I think it will help keep convicted felons off the streets, which of course is the intent, in a constitutionally permissible manner.

Mr. SCOTT. Mr. Speaker, I yield back the balance of my time.

Mr. COBLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 3718.

The question was taken.

Mr. SCOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

DRUG FREE BORDERS ACT OF 1998

Mr. ARCHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3809) to authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposees, as amended.

The Clerk read as follows:

H.R. 3809

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Free Borders Act of 1998".

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES CUSTOMS SERVICE FOR DRUG INTERDICTION AND OTHER PURPOSES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL OPERATIONS.—Subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)) are amended to read as follows:

"(A) $964,587,584 for fiscal year 1999.

"(B) $1,072,928,328 for fiscal year 2000.".

(b) COMMERCIAL OPERATIONS.—Clauses (i) and (ii) of section 301(b)(2)(A) of such Act (19 U.S.C. 2075(b)(2)(A)(i) and (ii)) are amended to read as follows:

"(i) $970,838,000 for fiscal year 1999.

"(ii) $999,963,000 for fiscal year 2000.".

(c) AIR INTERDICTION.—Subparagraphs (A) and (B) of section 301(b)(3) of such Act (19 U.S.C. 2075(b)(3)(A) and (B)) are amended to read as follows:

"(A) $98,488,000 for fiscal year 1999.

"(B) $101,443,000 for fiscal year 2000.".

(d) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 301(a) of such Act (19 U.S.C. 2075(a)) is amended by adding at the end the following:

"(3) By no later than the date on which the President submits to the Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).".

SEC. 102. NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND THE GULF COAST SEAPORTS.

(a) FISCAL YEAR 1999.—Of the amounts made available for fiscal year 1999 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, $90,244,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, as follows:

(1) UNITED STATES-MEXICO BORDER.—For the United States-Mexico border, the following:

(A) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).

(B) $11,000,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $12,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1–MeV).

(D) $7,200,000 for 8 1–MeV pallet x-rays.

(E) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(F) $600,000 for 50 contraband detection kits to be distributed among all southwest border ports based on traffic volume.

(G) $500,000 for 25 ultrasonic container inspection units to be distributed among all ports receiving liquid-filled cargo and to ports with a hazardous material inspection facility.

(H) $2,450,000 for 7 automated targeting systems.

(I) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat.

(J) $480,000 for 20 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(K) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured.

(L) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports with the greatest volume of outbound traffic.

(M) $180,000 for 36 AM traffic information radio stations, with 1 station to be located at each border crossing.

(N) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane.

(O) $950,000 for 38 spotter camera systems to counter the surveillance of customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring.

(P) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry.

(Q) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing.

(R) $400,000 for license plate reader automatic targeting software to be installed at each port to target inbound vehicles.

(S) $1,000,000 for a demonstration site for a high-energy relocatable rail car inspection system with an x-ray source switchable from 2,000,000 electron volts (2–MeV) to 6,000,000 electron volts (6–MeV) at a shared Department of Defense testing facility for a two-month testing period.

(2) United States-Canada border.—For the United States-Canada border, the following:

(A) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(B) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(C) $3,600,000 for 4 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(F) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(G) $400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.

(3) Florida and gulf coast seaports.—For Florida and the Gulf Coast seaports, the following:

(A) $4,500,000 for 6 Vehicle and Container Inspection Systems (VACIS).

(B) $11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $7,200,000 for 8 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(b) Fiscal Year 2000.—Of the amounts made available for fiscal year 2000 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 101(a) of this Act, $8,924,500 shall be for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(c) Acquisition of Technologically Superior Equipment; Transfer of Funds.—

(1) In general.—The Commissioner of Customs may use amounts made available for fiscal year 1999 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) can be obtained at a lower cost than the equipment described in subsection (a).

(2) Transfer of funds.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of—

(A) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1) for equipment specified in any other of such subparagraphs (A) through (R);

(B) the amount specified in any of subparagraphs (A) through (G) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (G); and

(C) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).

SEC. 103. PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT FOR THE UNITED STATES-MEXICO AND UNITED STATES-CANADA BORDERS.

Of the amounts made available for fiscal years 1999 and 2000 under subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)), as amended by section 101(a) of this Act, $117,644,584 for fiscal year 1999 and $184,110,928 for fiscal year 2000 shall be available for the following:

(1) A net increase of 535 inspectors, 120 special agents, and 10 intelligence analysts for the United States-Mexico border and 375 inspectors for the United States-Canada border, in order to open all primary lanes on such borders during peak hours and enhance investigative resources.

(2) A net increase of 285 inspectors and canine enforcement officers to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Mexico border.

(3) A net increase of 40 inspectors at sea ports in southeast Florida to process and screen cargo.

(4) A net increase of 300 special agents, 30 intelligence analysts, and additional resources to be distributed among offices that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations.

(5) A net increase of 50 positions and additional resources to the Office of Internal Affairs to enhance investigative resources for anticorruption efforts.

(6) The costs incurred as a result of the increase in personnel hired pursuant to this section.

SEC. 104. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

As part of the annual performance plan for each of the fiscal years 1999 and 2000 covering each program activity set forth in the budget of the United States Customs Service, as required under section 1115 of title 31, United States Code, the Commissioner of the Customs Service shall establish performance goals, performance indicators, and comply with all other requirements contained in paragraphs (1) through (6) of subsection (a) of such section with respect to each of the activities to be carried out pursuant to sections 102 and 103 of this Act.

TITLE II—OVERTIME AND PREMIUM PAY OF OFFICERS OF THE UNITED STATES CUSTOMS SERVICE; MISCELLANEOUS PROVISIONS

Subtitle A—Overtime Pay and Premium Pay of Officers of the United States Customs Service

SEC. 201. CORRECTION RELATING TO FISCAL YEAR CAP.

Section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) is amended to read as follows:

"(1) Fiscal year cap.—The aggregate of overtime pay under subsection (a) (including commuting compensation under subsection (a)(2)(B)) that a customs officer may be paid in any fiscal year may not exceed $30,000, except that—

"(A) the Commissioner of Customs or his or her designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Customs Service; and

"(B) upon certification by the Commissioner of Customs to the Chairmen of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that the Customs Service has in operation a system that provides accurate and reliable data on a daily basis on overtime and premium pay that is being paid to customs officers, the Commissioner is authorized to pay any customs officer for one work assignment that would result in the overtime pay of that officer exceeding the $30,000 limitation imposed by this paragraph, in addition to any overtime pay that may be received pursuant to a waiver under subparagraph (A).".

SEC. 202. CORRECTION RELATING TO OVERTIME PAY.

Section 5(a)(1) of the Act of February 13, 1911 (19 U.S.C. 267(a)(1)), is amended by inserting after the first sentence the following new sentence: "Overtime pay provided under this subsection shall not be paid to any customs officer unless such officer actually performed work during the time corresponding to such overtime pay.".

SEC. 203. CORRECTION RELATING TO PREMIUM PAY.

(a) In General.—Section 5(b)(4) of the Act of February 13, 1911 (19 U.S.C. 267(b)(4)), is amended by adding after the first sentence the following new sentence: "Premium pay provided under this subsection shall not be paid to any customs officer unless such officer actually performed work during the time corresponding to such premium pay.".

(b) Corrections to Night Work Differential Provisions.—Section 5(b)(1) of such Act (19 U.S.C. 267(b)(1)) is amended to read as follows:

"(1) Night work differential.—

"(A) 6 p.m. to midnight.—If any hours of regularly scheduled work of a customs officer occur during the hours of 6 p.m. and 12 a.m., the officer is entitled to pay for such hours of work (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate.

"(B) MIDNIGHT TO 6 A.M.—If any hours of regularly scheduled work of a customs officer occur during the hours of 12 a.m. and 6 a.m., the officer is entitled to pay for such hours of work (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.

"(C) MIDNIGHT TO 8 A.M.—If the regularly scheduled work assignment of a customs officer is 12 a.m. to 8:00 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.".

SEC. 204. USE OF SAVINGS FROM PAYMENT OF OVERTIME AND PREMIUM PAY FOR ADDITIONAL OVERTIME ENFORCEMENT ACTIVITIES OF THE CUSTOMS SERVICE.

Section 5 of the Act of February 13, 1911 (19 U.S.C. 267), is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) USE OF SAVINGS FROM PAYMENT OF OVERTIME AND PREMIUM PAY FOR ADDITIONAL OVERTIME ENFORCEMENT ACTIVITIES.—

"(1) USE OF AMOUNTS.—For fiscal year 1999 and each subsequent fiscal year, the Secretary of the Treasury—

"(A) shall determine under paragraph (2) the amount of savings from the payment of overtime and premium pay to customs officers; and

"(B) shall use an amount from the Customs User Fee Account equal to such amount determined under paragraph (2) for additional overtime enforcement activities of the Customs Service.

"(2) DETERMINATION OF SAVINGS AMOUNT.—For each fiscal year, the Secretary shall calculate an amount equal to the difference between—

"(A) the estimated cost for overtime and premium pay that would have been incurred during that fiscal year if this section, as in effect on the day before the date of the enactment of sections 202 and 203 of the Drug Free Borders Act of 1998, had governed such costs; and

"(B) the actual cost for overtime and premium pay that is incurred during that fiscal year under this section, as amended by sections 202 and 203 of the Drug Free Borders Act of 1998.".

SEC. 205. EFFECTIVE DATE.

This subtitle, and the amendments made by this subtitle, shall apply with respect to pay periods beginning on or after 15 days after the date of the enactment of this Act.

Subtitle B—MISCELLANEOUS PROVISIONS

SEC. 211. ROTATION OF DUTY STATIONS AND TEMPORARY DUTY ASSIGNMENTS OF OFFICERS OF THE UNITED STATES CUSTOMS SERVICE TO PROMOTE INTEGRITY.

(a) IN GENERAL.—Section 5 of the Act of February 13, 1911 (19 U.S.C. 267), as amended by this Act, is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) ROTATION OF DUTY STATIONS AND TEMPORARY DUTY ASSIGNMENTS OF CUSTOMS OFFICERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, bargaining agreement, or Executive order, in order to ensure the integrity of the United States Customs Service, the Secretary of the Treasury—

"(A) may transfer up to 5 percent of the customs officers employed as of the beginning of each fiscal year to new duty stations in that fiscal year on a permanent basis; and

"(B) may transfer customs officers to temporary duty assignments for not more than 90 days.

"(2) VOLUNTARY AND OTHER TRANSFERS.—A transfer of a customs officer to a new duty station or a temporary duty assignment under paragraph (1) is in addition to any voluntary transfer or transfer for other reasons.

"(3) ADDITIONAL REQUIREMENT.—The requirements of this subsection, including any regulations established by the Secretary to carry out this subsection, are not subject to collective bargaining.

"(4) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated for fiscal year 2000 $25,000,000 to carry out this subsection.

"(B) AVAILABILITY OF AMOUNTS.—Amounts authorized to be appropriated under subparagraph (A) are authorized to remain available until expended.

"(5) RULE OF CONSTRUCTION.—The authority provided by this subsection may be exercised only to the extent that in the applicable appropriations Act (or in the committee report or joint statement of managers to such Act) an account is specifically established for the authority provided by this subsection.".

(b) EFFECTIVE DATE.—Section 5(f) of the Act of February 13, 1911, as added by subsection (a), shall take effect on October 1, 1999.

SEC. 212. EFFECT OF COLLECTIVE BARGAINING AGREEMENTS ON ABILITY OF UNITED STATES CUSTOMS SERVICE TO INTERDICT CONTRABAND.

Section 5 of the Act of February 13, 1911 (19 U.S.C. 267), as amended by this Act, is further amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) EFFECT OF COLLECTIVE BARGAINING AGREEMENTS ON ABILITY OF CUSTOMS SERVICE TO INTERDICT CONTRABAND.—

"(1) SENSE OF THE CONGRESS.—It is the sense of the Congress that collective bargaining agreements should not have any adverse impact on the ability of the United States Customs Service to interdict contraband, including controlled substances.

"(2) PROVISIONS CAUSING ADVERSE IMPACT TO INTERDICT CONTRABAND.—

"(A) REQUIREMENT TO MEET.—If the Commissioner of the Customs Service determines that any collective bargaining agreement with the recognized bargaining representative of its employees has an adverse impact upon the interdiction of contraband, including controlled substances, the parties shall meet to eliminate the provision causing the adverse impact from the agreement.

"(B) FAILURE TO REACH AGREEMENT.—If the parties do not reach agreement within 90 days of the date that the Commissioner of Customs made the determination of adverse impact, the negotiations shall be considered at impasse and the Commissioner of Customs may immediately implement the last offer of the Customs Service. Such implementation shall not result in an unfair labor practice or, except as may be provided under the following sentence, the imposition of any status quo ante remedy against the Customs Service. Either party may then pursue the impasse to the Federal Service Impasses Panel pursuant to section 7119(c) of title 5, United States Code, for ultimate resolution.

"(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to limit the authority of the Commissioner of Customs to implement immediately any proposed changes without waiting 90 days, if exigent circumstances warrant such immediate implementation, or if an impasse is reached in less than 90 days.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. ARCHER) and the gentleman from California (Mr. MATSUI) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ARCHER).

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3809.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as my colleagues know, drug use among teenagers is now skyrocketing. This Congress is dedicated to winning the war on drugs because our very children's lives are at stake.

Last week Anthony Butler, a 17-year-old from Annapolis, Maryland, told the Congress that he started smoking marijuana when he was 12 years old, age 12. At age 13 he was sentenced to juvenile life after being found guilty of several crimes. He said drugs were, and I quote, "* * * easy to get. They were everywhere." During those years they were available even in his juvenile detention center, Boys Village in Prince Georges County.

This young man could be anyone's son, grandson, nephew, or little brother. The point is, we are losing the war on drugs, and the statistics are grim. More kids are using marijuana, more kids are using cocaine, more kids are using heroin, more kids are risking their lives, and more kids are dying.

Mr. Speaker, this bill will help keep drugs out of our children's hands and out of their lives. We must stop drugs from coming across our borders. Last year the Customs Service seized 1 million pounds of narcotics, and impressive as that is, Anthony Butler still was able to get drugs at the drop of a hat, and that, Mr. Speaker, is frightening.

Mr. Speaker, the reasons to step up the war on drugs are clear, yet the U.S. Customs service and the Clinton administration support for this bill has been anything but unwavering. Last Tuesday at the subcommittee markup of this legislation, the U.S. Customs Service said they supported each and every provision of this bill, including provisions that I expect will be heatedly debated today.

But sadly, it appears as though Washington's labor bosses have tightened their grips on the Clinton administration, and even on its drug czar. Politics, unfortunately, has entered into the decision-making process of the administration, because by last Thursday, U.S. Customs had reversed its position and no longer supports this bill to beef up our borders against drugs.

Today the administration is backtracking. It now supports the bill, but opposes one of its most significant elements because of labor opposition, and an element, I must say, that was encouraged to be put in the bill by the Customs Department itself to enable it to do a better job.

I am deeply disappointed in the administration's change of heart, driven by politics, to put the interests of Washington's labor bosses above the well-being of children like Anthony Butler from Annapolis, Maryland.

Let me make clear the provisions do one thing and one thing only: They help win the war on drugs. One provision gives Customs the flexibility to deploy personnel where they are needed most. Drug smugglers do not work 9 to 5, and our Nation's front line of defense in the war on drugs cannot work 9 to 5, either.

Another says if a group of employees under the collective bargaining agreement refuses to work with Customs on drug interdiction, thus undermanning the war on drugs, Customs must bring the matter to negotiations for 90 days. If there is no resolution, Customs may implement its last offer, so that Customs can stop drugs from crossing our border while the union pursues its remedies.

☐ 1415

One procedure that is being blocked today by a local union is used everywhere else along the U.S.-Mexico border, resulting in 50 percent seizure of all drugs in one site, San Ysidro, California. We need to join together to protect our children from the scourge of drugs. This is not a time for partisan politics or for special interest influence in either party. We must put our children first.

Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

H.R. 3809 poses an unfortunate dilemma for many Members. On the one hand, it authorizes additional resources needed by the United States Customs Service for antidrug enforcement. On the other hand, it contains provisions affecting Customs employees and their collective bargaining rights in particular, which are controversial and do not have bipartisan support.

Title I of the bill authorizes appropriations for the Customs Service for fiscal years 1999 and 2000, as requested by the President, plus additional funds authorized specifically for additional equipment and personnel to strengthen enforcement along our borders against illegal drugs and other contraband.

The $90 million earmarked for the latest equipment and technology and the $301 million earmarked over 2 prior years for an additional 1,745 Customs inspectors, special agents and other personnel are necessary for additional resources to detect and interdict illegal drugs.

Mr. Speaker, the problem with this bill, however, is two provisions in the bill which Democrats opposed in the Committee on Ways and Means, sections 211 and 212. These two sections would allow Customs managers to abrogate unilaterally collective bargaining agreements between Customs management and Customs employees and to regulate the collective bargaining process as it applies to the temporary reassignment of Customs inspectors and the interdiction of contraband.

Specifically, section 211 authorized Customs management to reassign its employees without regard to any existing executive order, Federal law or collective bargaining agreement. Section 212 authorizes Customs to determine whether a collective bargaining agreement has an adverse impact on the interdiction of contraband and to implement a management action if agreement is not reached within 90 days with the union. Under exigent circumstances, whatever Customs basically determines them to be, management action may be implemented immediately.

In short, Mr. Speaker, Customs is being authorized to ignore and abrogate collective bargaining agreements negotiated in good faith. That is the major problem with this legislation.

I might just point out to the chairman of the Committee on Ways and Means that the administration is not opposing this provision because of special interests or because of labor. It is because the administration believes that contracts should not be abrogated.

I think it is about time that the majority begin to stop considering it a conspiracy every time something that they disagree with happens. They should stop looking under the bed or opening up closets. Maybe they might then come to the realization that sometimes these decisions are made based upon good faith and certainly upon good policy and good judgment.

Most of the Members on our committee did support this legislation. It is my hope that when this matter goes to the House-Senate conference that we can correct section 211 and section 212, which certainly need major revisions, if, in fact, this bill is eventually to get to the President and certainly before the President will sign this legislation.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. MATSUI. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding to me and certainly want to associate my comments with his.

Section 203 also is of some concern in that it impacts on the premium pay that is earned by Customs employees. I would say to my friend from Florida, who is managing the bill, and my friend from California, I intend to vote for this bill when it comes up for a vote, voice vote or however it will be. But I will be watching very closely, as the gentleman from California indicates, what happens in conference.

Very frankly, what was done as it relates to the employees and to the integrity of the contracts that they have negotiated and entered into gives me great concern. That is not the thrust of this bill, but it is one of the tangential impacts that I think should give everybody in this House concern. I hope that in conference these concerns will be addressed, this facet of it will be fixed, so that the very positive aspects of this bill can go forward.

I thank the gentleman for yielding to me.

Mr. MATSUI. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). Without objection, the gentleman from Florida (Mr. SHAW) is recognized to control the time.

There was no objection.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

I would point out to my friend from California that the vote in the Committee on Ways and Means was unanimous; all that were there voted for it with, I believe, one Member voting present. There were no negative votes. It is a very well-thought-out bill.

I would also tell my friend from Maryland that we believe that we took care of the problem with regard to the existing contract in that the provision that was talked about as abrogating the rights of a contract does not take place until the existing contract expires in 1999. Also, there is a provision within that contract that very specifically states that if the law should change during the period of the labor contract, that the law would certainly prevail.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HASTERT).

Mr. HASTERT. Mr. Speaker, I thank the gentleman from Florida for yielding me the time.

This bill has been a long time coming. I have taken about four or five trips to the border myself to try to look at the problems, understand what is going on.

If we go to Tijuana, the crossing there, if we go to Laramie, if we go to El Paso, if we go to Nogales, what they tell us time after time is, Congressman, we have a problem. Because if this lane of traffic has an INS inspector and this lane of traffic has a Customs inspector and, in fact, in El Paso they sit up on the bridge over in Mexico and they look with their binoculars and they say, with their telephones, go into lane 3 because an INS inspector is there and they cannot lift the trunk because that is in the contract. And we know that the drug smugglers know who these people are. They know what lane they are in. They said, we cannot get everything we should get because these union contracts stand in our way.

When I talk about that to my folks back home, they say, well, that is a common-sense thing. Why do we not change things that should be changed?

The other problem, part of this problem, if we have a Customs agent who has been on a job and, according to their contract, they can bid on a job and they can live on the border for 20 years, the same place, their brother-in-law can live across the border. It is common sense that maybe the potential for corruption happens when somebody is too long in one place and too close to situations. Maybe we ought to change that; and when the contract comes up to be renewed, maybe those are the things that ought to be renegotiated.

So I take my hat off to the gentleman from Illinois (Mr. CRANE), the gentleman from Texas (Mr. ARCHER), and the gentleman from Florida (Mr. SHAW) for coming forward with a good, common-sense bill.

That is not all this bill does. It also brings in 1700 new officers so that we can attack smuggling from Florida, the Gulf Coast and our southwest and Canadian borders. This bill puts some teeth into what we need to do.

I support it and ask for Members' positive vote.

Mr. MATSUI. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, if there is any domestic issue that deserves action across party lines, this is it, drugs. My staff and I have worked actively in this fight against drugs as a number one priority in Washington and at home.

At home, we have worked building antidrug coalitions, always nonpartisan, always across all kinds of lines involving parents and students and teachers, leaders in the business community, law enforcement and religious communities.

The administration announced a 10-year national drug strategy, and it addresses supply and demand factors, both of them. The strategy calls for an enhanced border effort.

When some of us were in Chile with the President at the summit of the Presidents of the Americas, we met with the President and discussed especially this border problem. And he said to us, a bipartisan group, will you work with me to enhance border efforts on a bipartisan basis? And the answer from all of us on a bipartisan basis was yes.

The main part of this bill embodies that spirit, an enhanced effort at the border. It was worked out on a bipartisan basis.

That is not true of subtitle B of title II, so-called miscellaneous provisions. The gentleman from Illinois says this bill has been a long time in coming, but these provisions, abrogation of contract provisions, were sprung without a hearing at the last minute last Tuesday without any bipartisan discussion whatsoever. Those are the facts.

The chairman of the committee has talked that we should not politicize drugs, and how true it is; but that is exactly what the majority does when they raise provisions without talking to us for one second, at the last minute, without any hearings on a bill that is a long time in coming.

These provisions may not go into effect this year, but when they go into effect, they give a government agency the power to abrogate a collective bargaining agreement, a contract, without any standards; and it seems to me that those of us who believe in the contract provisions, who believe in the contract process in this country, that they would hesitate before setting this kind of a precedent.

I am going to vote for this bill. I am hoping that the Senate will look at these provisions. They already have a bill that authorizes the Customs Department. It does not contain these contract abrogation provisions.

Let us pass this along to the Senate, hoping that they will keep what is necessary here, the fight against drugs, and remove the political parts of this bill.

Mr. SHAW. Mr. Speaker, I yield myself 15 seconds to reply to the gentleman from Michigan.

The provision that he is claiming that is politicized came from the administration. We did not jump this or spring this on the Democrats. This was requested by the Customs Department themselves.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, as we debate this bill today to tighten up the border and clamp down on drugs coming into this country, I think it is probably appropriate to pause and remember why we are here.

We do have an increasing drug problem in this country. We have had a doubling of teenage drug use in the last 5 years in this country. Prices are down; volumes are up. We have a crisis.

I have focused more on the demand side, on the prevention/education side, because I think that is ultimately how we are going to solve this problem. We also have to acknowledge that to the degree to which we have high volumes and low prices on the street, we are going to have an increasing problem on the demand side. So they are linked. That point has been made to me a lot by my colleagues, and I am a believer.

Today, 70 percent of high school seniors tell us they can get drugs within 24 hours. Given where we are, given the situation, I think that this legislation is a good balance. I think it is a good way to be sure that we are doing a much better job on the border, which we have to do.

There are a series of changes in here. It increases the number of inspectors and special agents. It increases resources at the border, something the gentleman from Michigan (Mr. LEVIN) said the President is in favor of.

We are doing this on a bipartisan basis. It enhances the technology available to them. Others are going to talk more about this, but it is amazing the degree to which these Customs officers are now asked to work with poor technology, dealing with thousands and thousands of drugs coming across busy border crossings made busier by NAFTA, which I supported and many other Members on both sides did. We need to give them the technology to check these trucks.

□ 1430

Finally, the flexibility to be able to deploy these resources where they are needed. If we are to have a real war on drugs, we have to fight it like a war. We have to give the Customs Service the flexibility to put personnel where they are needed, and that includes rotations, and that includes nighttime service, and that includes the ability to be flexible to respond to ever-changing border situations, because the smugglers will find a new way to come in every chance they get.

So to me this is kind of a basic commonsense response. If we are serious about drugs, we have to do it. It is a reasonable response to a crisis situation.

Mr. MATSUI. Mr. Speaker, I yield ½ minute to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, I just wanted to say to my friend from Florida that we discussed this in the Committee on Ways and Means and it was clear that the staff of the majority discussed this and helped initiate this. Maybe discussed it with the administration. We are waiting for the evidence. But there was not the full discussion with the minority. There was no discussion with us.

And maybe this is part of what was described in the Washington Post, an effort by the Republicans to politicize this issue instead of coming together. So I urge we move ahead with this bill but look at the bad provisions in conference.

Mr. MATSUI. Mr. Speaker, I yield 3½ minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding me this time. I appreciate he does not have a lot of time, and in 3½ minutes I cannot tell my colleagues the frustration of working in this body.

The reason I rise in strong opposition to this bill, among many, is the information that we hear here about one agency being able to open trunks and the other agency not being able to open trunks. To suggest that a collective bargaining contract leads to corruption is ridiculous.

I patrolled our border for more than 26 years with the Border Patrol and also served as an inspector at our ports of entry for 4 years. I know what the men and women of our borders are asked to do on a daily basis. I know the dedication they pour into their work each and every day to keep our communities safe.

I do not understand how this body can vote on a bill which will send many of our customs inspectors home to their families with less pay and will take away their current negotiating rights. I do not understand how we can be so hypocritical as to ask our inspectors to do more but give up their rights while serving as a first line of defense on our borders.

I think I do understand how we work in this House but I do not agree with it. The reason that our borders and our fight against drugs does not work is because too often in this House we make it a political issue. I make it a practice to act in the best interest of our border and do not politicize the needs of our border.

I am a cosponsor of the bill offered by the gentleman from California (Mr. HUNTER), which increases our Border Patrol presence and gives our agents more flexibility while doing their jobs because it is the right thing to do. He is a cosponsor of my bill to separate the enforcement functions of the INS and create a new agency, again because it is the right thing to do. It serves the needs of our communities, not the needs of our political agendas.

I stand here today deeply disturbed with this body, because the legislation that is pending before us has nothing to do with the border, it has nothing to do with fighting drugs; it has everything to do with politics. When are we going to act in the best interest of our border communities and pass legislation which addresses the needs of our drug enforcement agencies?

We should not use the issue to push political agendas. If this bill is designed to make some Members look bad and choose between much-needed personnel and technology and the rights of our agents and inspectors who enforce our narcotics and immigration laws, then shame on us for politicizing the security and the integrity of our borders and misusing the trust and faith placed in us by our communities.

No one in this body today should fall into this trap. I refuse to compromise the security of our Nation and the rights of our hard working and dedicated agents and inspectors. We all owe it to our men and women who stand on the border of this great country, keeping our families and our communities safe, and ask nothing in return except the fundamental right of fair treatment.

I ask all my colleagues, based on 26½ years of experience in fighting drugs, in fighting illegal immigration on our borders, to oppose this bill. There were no hearings held. This is a mishmash and a missed opportunity to do what is right.

Mr. SHAW. Mr. Speaker, may I inquire as to the time remaining on either side?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Florida (Mr. SHAW) has 9¾ minutes remaining, and the gentleman from California (Mr. MATSUI) has 8¼ minutes remaining.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH), a distinguished member of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Florida for yielding me this time.

I listened with great interest to my friend from Texas and his very unique perspective, and he raises an interesting question that I think we should all take into account: workers' rights versus workers' responsibilities. I was intrigued to hear many Members of the minority even offering that predictable cacophony of complaints prompted by the Washington union bosses, and I have a couple of letters here urging opposition to this legislation.

But I think it is a fair question to ask: Do workers' responsibilities ever rank preeminently as opposed to coexisting with workers' rights? Because what we have, my colleagues, is a full-fledged crisis. And even though our drug czar, General McCaffery, today would criticize us for using the term "war on drugs," Mr. Speaker, that is exactly what we should be committed to do.

If we are serious about stopping this flow of drugs, that means that all available personnel should be called into action to do their jobs. And when it comes to collective bargaining, though I am pleased to admit the JD in my name does not stand for Juris Doctor, I am not a lawyer and never played one on TV, and I consider that an asset, but it is a well-held legal fact that this body can change the terms of any agreement involving Federal workers and workers' agreements.

What we have, Mr. Speaker, is a chance to go on record. What do we hold in higher esteem: A collective bargaining agreement or the future of our children and interdicting drugs? This should be all about drug interdiction and it has very little to do with workers' rights.

Mr. Speaker, I urge passage of the legislation.

Mr. MATSUI. Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding me this time.

Yes, we must be relentless, Mr. Speaker, in our war on drugs, but not at the expense of the soldiers whom we must rely on to fight that battle. H.R. 3809 gives us tools in this tough battle but puts those who will use the tools into straightjackets.

Provisions of this bill will rob Customs employees, who are the frontline drug enforcement personnel, of both their hazard pay to work essential nighttime shifts and their negotiating rights. This makes no sense at a time when we are asking these soldiers to work harder and smarter with new high-tech equipment.

I say to the distinguished chairman of this committee and to the distinguished gentleman from Arizona (Mr. HAYWORTH) that we are not talking here about union bosses, we are not talking about special interests, we are talking about the men and women who are fighting the war on drugs.

This bill would allow Customs Service management to back out of agreements made with rank-and-file employees. And because armies are dependent on the loyalty and respect between soldiers and officers, we cannot win the war on drugs if management makes agreements with employees but then has the congressional approval to break them at will.

Congress will waste taxpayers' money if it authorizes expensive cutting-edge equipment while at the same time undermining employee morale and labor standards. A drug interdiction program for the century depends on 21st century equipment and a 21st century work force. The Customs Service will not be able to retain or attract the high quality employees needed to operate upgraded equipment if it downgrades the labor standards.

This bill should not be passed in its present form, Mr. Speaker. The aim of this bill is good, but it has not gone through the normal legislative process to fix the problems. Let us defeat this bill today, fix the problems, bring it back under regular order for a unanimous vote of support.

Let us make this war on drugs, I say to my friends on the other side of the aisle, unanimous. Let us not politicize it with this kind of bill that was brought with only a few days' notice, that undermines the men and women who are going to fight this war.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida (Mr. MCCOLLUM), the chairman of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. McCOLLUM. Mr. Speaker, I thank the gentleman for yielding me this time, and I want to commend the gentleman from Florida (Mr. SHAW) and the others who sponsored this bill. It is a terrific piece in the puzzle to get us back to the point where we are actually fighting a war against drugs; where we are putting the full energy of this country where it needs to be.

With double the teenage drug use in the last six years in this country, it is very apparent we have a big time problem. We need education, we need training, we need drug treatment, but we also have to stop the flow of drugs coming into this country. This is one piece in that puzzle that deals with the Customs Service, and it is a very good piece in that puzzle.

In order to stop the flow of drugs from coming in here, or at least to cut back about 80 percent, which is what is necessary for us to increase the price of drugs on the streets and reduce the amount that is available, that is flooding our streets, and make the job of demand easier, then we have to do things in the source countries to reduce the flow of drugs out of Colombia, Peru, Bolivia, places like that, Mexico, and we have to stop the drugs when they are coming across our coastal waters, but we also have to stop them at our borders.

That is where the Border Patrol comes in, the Coast Guard comes in, DOD, DEA, everybody, but Customs is a very important part of that. This bill would put $960 million of new money at this effort through Customs. It is a 31 percent increase over the President's request for Customs. It would mean 1,705 new personnel and all kinds of new equipment, including x-ray equipment at our borders, not only the borders with Mexico and the United States but Canada and the United States and along the coast of Florida, which is very important to our State in the region where I come from.

This is a very, very important bill to beef up the Customs portion and to put us on track where we can actually have the right personnel, the right equipment at every level, in source countries, transit and at the border, to really fight a true war against drugs. And I urge the adoption of this drug border enforcement, Drug-Free Border Act that the gentleman from Florida (Mr. SHAW), the gentleman from Illinois (Mr. CRANE) and others are sponsoring today.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I rise in support of this bill to support U.S. Customs' interdiction efforts with the latest high-tech equipment for detecting narcotics coming through commercial trade, although I am going to work to remove the anti-worker provisions the Republican leadership has stuck in this bill.

The eradication of illegal drugs in our society is a number one priority of the Congressional Black Caucus. We put it in our priority statement over two years ago and we have been working very hard. I am pleased that the Republican leadership has finally gotten around to calling for funding the sophisticated antidrug technology that we possess. I was calling for this during the debate over fast track, when I put out a major report on the effect of NAFTA and other trade treaties on the increase of drug trade through commercial trucks and ships.

Unfortunately, neither the Republican leadership nor the drug czar wanted to address the drugs and trade then. I could not even get the Republican Members of this House to accept a copy of the report that I put together talking about what was going on.

I also introduced my legislation January 27, 1998, that calls for funding sophisticated high energy container x-ray systems and automated targeting systems for inspection of cargo at major border checkpoints. I am pleased that this bill will authorize these inspection systems. Some would say the Republicans stole my legislation, but whether they did or not, I am glad that they finally caught up.

I must say I do have reservations about some of the provisions that have been stuck in the bill. I think it was in there because it was supposed to scare away people who are friends to organized labor, but we are not running from this. We will straighten it out in conference. The Senate put it in. They did it right. This provision that my colleagues on the other side have put in is just a poison pill, but I will support the bill and work to take that out.

I want my colleagues to know we must commend this administration for the big money-laundering bust that just took place. I am going to know my colleagues are serious when they join me on the money laundering bill that takes some of the American banks into the 21st century.

Mr. SHAW. Mr. Speaker, I yield 2½ minutes to the gentleman from Iowa (Mr. NUSSLE), a distinguished member of the Committee on Ways and Means.

Mr. NUSSLE. Mr. Speaker, I thank the gentleman for yielding me this time. By the way, that was bipartisanship. I am glad that there are at least some folks that are coming down here in a very bipartisan way talking about drugs but, unfortunately, that is not happening all the way across the board.

Just to clear up a couple of things that have been discussed here today. I was at a meeting. It was not staff that had the meeting with Customs about whether or not to put these changes in in section B. I was at the meeting. They asked for it. They are part of the administration. It has been a bipartisan effort to make these changes from the beginning. If somebody did not happen to be at the meeting, that is not my fault.

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That is not Customs' fault. But this has been going on for a long time. And I realize that there are a few people that have got their noses out of joint. But it is not because, I do not believe, they believe we should not be doing things about drugs. It is for other reasons.

Let me just tell my colleagues a little bit about this bill that I think we need to consider. One is that there is no abrogation of contract. All right? There is no such thing as that in this bill. What there is is that there is a time limit, and it says, "If you cannot get your ducks in order within 90 days," and we have had examples that have been pointed out that have been as long as 4 years and running where opportunities to make agreements between the union members and management have not been worked out, "exigent circumstances can be grounds for making these changes."

Let me just give my colleagues an example of what exigent circumstance might be. Back this last year, in March of 1997, the FBI intelligence discovered that there was a drug smuggling ring on the border of California that was going to use extreme measures in retaliation for lost shipments of drugs; and, so, what the Customs Service did was they said to their workers, "You are ordered to wear bullet-proof vests and body armor." And so what happened? Union representatives said, "That is not in our contract. We don't have to."

Well, body armor and bullet-proof vests are not just there for the protection of the one person who wears it or a union member. It is there to protect the border. And it in that kind of exigent circumstance that the Customs Department needs to be able to suggest that current union contracts do not stand in the way of bullets flying at the border. Body armor stands in the way, possibly.

So not contracts, not union organizations, but exigent circumstances in this instance needed to be the grounds for this extreme measure. It needs to be part of this bill. The Customs Service has asked for it. It has been bipartisan. Let us vote for this bill.

Mr. MATSUI. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, like all working families in this country and Members of this body, I am committed to the fight against illegal drugs flowing into our country across our borders. We need to strengthen our efforts to halt the flood of drugs to our cities and suburbs and States. This is the context, Mr. Speaker, in which I rise to oppose H.R. 3809.

I believe that the drug issue is too important to clot it with anti-Customs Service worker provisions, wherever those provisions came from. This measure is far too controversial to be considered under the suspension calendar. It needs to be sent back to the Committee on Rules for full consideration.

This bill has a number of laudable aspects. It increases funds authorized for Customs Service to use for drug interdiction activities, earmarks money for the hiring of more than 1,700 new Customs inspectors, special agents, K–9 enforcement officers, provides for a variety of new high-tech equipment.

But illegal drugs will not be stopped by technology or money alone. Drugs will be halted by the motivated and dedicated people who work for the Customs Service. These civil servants are the first line of defense against the drugs flowing into our country. Why attack them? They did not create the drug problem. This is where H.R. 3809 becomes an extreme and radical measure.

Customs agents have freely chosen to belong to a union, and they worked with Customs management to establish one of our Nation's most innovative labor-management partnerships. This bill would punish them for their efforts. This bill would allow the Commissioner of the Customs Service to unilaterally cancel any aspects of the collective bargaining agreement. The bill would destroy the collective bargaining process in the Customs Service.

This is wrong. Government workers have rights. Why, in the name of the fight against drugs, do we have legislation in front of us which attacks the rights of working people? Mr. Speaker, I submit that there ought to be rehabilitation for those who want to knock down wages and benefits of workers in the name of fighting drugs.

Mr. MATSUI. Mr. Speaker, may I inquire of the amount of time we have on our side?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from California (Mr. MATSUI) has 1¾ minutes remaining.

Mr. MATSUI. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me the time.

Let me begin by saying that I fully support the funding increases in this bill for drug interdiction. That should have and could have been the focus of this debate. Unfortunately, at the last moment, provisions were added to this bill which changes character and also made it an anti-worker bill. Why this bill takes a swipe at workers I do not understand, but it does.

Sections 221 and 222 of title II of this bill would remove the negotiating rights for front-line drug enforcement personnel, the very people that we are asking to take on this risky task of stopping drugs from coming through.

On one day in April of last year, two U.S. Customs Inspectors were shot. At the same time that same day, there was a bomb threat in a cross-border pedestrian tunnel, and there was a 100-mile pursuit of a truck filled with immigrants who had no right to be in this country, this truck barreling through a border checkpoint and almost running down a Border Patrol agent. Those are the kinds of things that happen.

Those employees put their life on the line. They should have every right to decide under what conditions they would work.

Now, management does not have to agree to everything; and that is what the collective bargaining process is for. If we allow the process to work, it would work very well. Unfortunately, even in this own House, we do not follow process.

This bill was introduced on May 7. We had a hearing on April 20 on Customs' issues. So at the hearing itself on these issues, we never took up this bill nor those anti-worker provisions. May 12, this went before the subcommittee; May 14, it went before the subcommittee; and today it is on the floor.

Never once have we had a chance to discuss these anti-worker provisions. We would all probably be standing supporting this bill if it were not for the fact that, at the last moment, anti-worker provisions were added. It is a way to cloak those ugly provisions and get this bill passed. We should really be voting no on this bill until those provisions are removed.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to those that said that there have not been hearings on this bill, there have been over the years. Last year, we had a hearing on it. We had a couple hearings this year.

And I would like to also say to those and particularly the gentleman from Ohio, who spoke before the gentleman from California, in talking about a poison pill and the gentlewoman from California talking about a poison pill, the provisions that they are complaining about were written by the administration and given to us for insertion in the bill.

I am pleased to speak today on the merits of H.R. 3809, the Drug Free Borders Act of 1998. H.R. 3809 was reported by the Committee on Ways and Means last Thursday, May 14, by a bipartisan vote of 29–0. We have heard so much about fighting the war on drugs, and I am here to tell my colleagues that H.R. 3809 is absolutely essential to this cause.

This bill proposes an additional $232 million in Customs authorizations over the President's request for fiscal 1999. I can think of no better reason to support this bill than its ability to provide for 1,745 additional Customs officers and special agents to protect our borders. Yes, that is 1,745 additional Customs people. This authorization will specifically target those areas that have been identified as major drug smuggling and transportation and distribution networks in our country.

I would like to bring to the attention of my colleagues an example of what these resources would add to the outstanding performance of our Customs officers. In what Treasury Secretary Robert Rubin and Attorney General Janet Reno have referred to as the largest, most comprehensive drug money laundering case in the history of the United States law enforcement, Customs just this past weekend seized over four tons of cocaine and marijuana, conducted over 70 arrests, and made over $155 million in illegal laundered drug money in Los Angeles.

H.R. 3809 would also correct the problems with the overtime and nighttime pay of Customs officers that has proven to be disturbingly flawed. Overtime payment for work not even performed should stop. Who can argue with that? Night pay at noontime should stop. Who can argue with that? Any savings resulting from the elimination of these problems should fund additional drug enforcement efforts. Who can argue with that?

To ensure the integrity of the United States Customs Service, H.R. 3809 would allow the Secretary of the Treasury to rotate up to 5 percent of the Customs officers as of October 1, 1999. This provision would become effective after the conclusion of the current contract between Customs and its union to ensure that it does not abrogate the terms of a national contract, contrary to what has been argued here on this floor today.

Finally, H.R. 3809 seeks to eliminate many of the factors that inhibit the Customs officers from performing their drug interdiction effort.

Currently, labor negotiations have been cited as a major impediment to these vital efforts. In my state of Florida, for instance, one labor negotiation in Miami has dragged on for almost four years at one of the most critical ports in the country. This bill would allow the Commissioner of Customs to limit any additional negotiations to 90 days.

H.R. 3809 simply seeks to give Customs the tools it needs to fight the war on drugs without delay. We cannot afford delay in this war . . . for delay means more drugs getting into the hands of our children.

The U.S. Customs Service deserves our praise, my colleagues, but most importantly today, they deserve our support by voting yes to H.R. 3809, in allowing them to do even more in fighting for our nation's future and the future of our children. We must join together to protect our children from the scourge of drugs, without partisanship or special interests. Vote Yes to put our Children first.

Mr. GOSS. Mr. Speaker, our borders are the last line of defense between our Nation's cities and towns and the organized drug smugglers who market their poisons. We must make the United States border a perilous obstacle for those engaging in this destructive trade. That means stepping up border enforcement and keeping one pace ahead of the traffickers. The Drug Free Borders Act represents the first step toward that end by providing for new special agents and inspectors at the U.S. Department of Customs, as well as for the purchase of valuable new detection technologies.

Troubling trends like an 85% drop in customs drug seizures in the past year, declining prices and increasing availability, clearly show we are losing the battle to stop these poisons at our borders. There are miles upon miles of American border which we actively encourage people to cross every day for trade and tourism and the criminals we are fighting have the deftness to exploit any weak link in our defenses. Therefore, in stopping the drug supply we must create a barrier that extends from our shores out to the original source of the drugs.

Keeping ahead of the drug smugglers is a daunting task and requires reliance on the eyes and ears of a strong intelligence capability. To win this war we need to know where the traffickers are headed before they get there and the networks they use to move their contraband.

This is doable if we make the commitment. The end result will be to make involvement with drug trade a dangerous occupation from the fields where the drugs are produced to the street corners of our cities and neighborhoods, and all points between.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 3809, the Drug Free Borders Act. This legislation provides a much needed increase in the authorization for the U.S. Customs Service to fight the entry of illegal drugs at our borders.

The last four years have shown a steady increase in the number of drug users, particularly in adolescents. Teenage drug use has sharply risen every year since 1993, and shows no sign of abating soon.

This rise in drug use has paralleled an emphasis on the part of the Federal Government with regard to interdiction and with regard to treatment. The end result today is a readily available supply of drugs that is both inexpensive and of the highest purity in history.

If our Nation wants to successfully reduce teenage drug use, we need to adopt a bilateral approach of simultaneously reducing both supply and demand. This bill beefs up our interdiction efforts on our borders, particularly with Mexico.

Mr. Speaker, it is time for our Nation to get serious on the issue of reducing drug use. We have given treatment a chance over the last five years, and the results have shown that treatment alone is not enough. Unless our interdiction efforts are increased and improved, no treatment program will be able to avoid being overwhelmed in the deluge of cheap, highly pure drugs that currently exists.

Accordingly, I urge my colleagues to support this worthwhile legislation.

Mr. METCALF. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I would like to congratulate Chairman CRANE and Chairman ARCHER on a much needed piece of legislation. However, I would like to voice my concerns over two specific sections in the legislation.

Section 211 and Section 212 of the legislation contain provisions that are of concern to me and my constituents who are employed as customs agents on the northern border, Mr. Speaker.

The first concern I have is that the legislation allows for the involuntary transfer of up to 5% of the customs service personnel. This will potentially exacerbate the situation on the northern border that has left our customs agents out manned in their fight to prevent the importation of drugs as the Administration continually emphasizes the southern border by transferring agents south and not providing replacements.

The second concern I have deals with the rights of the union. This legislation allows the customs service, when faced with provisions of a collective bargaining agreement that impede drug interdiction to eliminate the provision. While this is important, I question the method used in the bill to implement this.

The provision allows the Customs Service to eliminate the provision after 90 days and implement their last offer. This gives the Customs Service very little motivation to negotiate in good faith when they know that if they hold out for 90 days their way will be the policy. I hope that this situation can be corrected in the conference on this legislation.

Mr. Speaker, this legislation does do many important things. It provides the necessary resources to purchase materials that will dramatically improve the ability of customs agents to utilize modern technology in their interdiction efforts. It authorizes new agents at the borders to address the dramatic shortfall that is present today. All of these things are necessary, vital and long overdue.

Mr. ORTIZ. Mr. Speaker, I rise today in opposition to H.R. 3809, the Drug Free Borders Act of 1998. I do so reluctantly, because this bill contains a significant funding increase for the Customs Service and their efforts to stop drugs from entering this country. Unfortunately, it does so at the expense of the men and women who are on the front line, the Customs agents themselves. Let me be clear, I fully support increasing funding for the Customs Service's counter-drug efforts. However, this bill would completely eliminate the worker rights and protections that I have supported and worked to protect throughout my service in the Congress.

H.R. 3809 has the right idea, but unquestionably the wrong methods. The labor provisions of this bill void any and all collective bargaining agreements that have been crafted so carefully to keep Customs agents working at peak effectiveness. By allowing the unilateral suspension of these agreements, we jeopardize the morale of the very people we rely on to protect our children from drug smugglers and pushers.

Mr. Speaker, I question the philosophy of this bill, which seems to increase the effort against drugs by punishing the people doing the work. I think this is a bad idea. Instead, we need to support our Customs agents, not demoralize them. Yes, increase funding. Yes, buy more equipment. Yes, put more agents along the border. But support these people. If we create an environment that demoralizes our Customs agents, how can we expect to attract and keep good agents?

Again, I think the aim of this bill is good. But the way it treats the people on the front lines leaves me no alternative but to reluctantly oppose it. It is my hope that a new bill will come forward. A bill that contains the funding that Customs so desperately needs, but also supports the people who wear the uniform of the Customs Service.

Mr. POSHARD. Mr. Speaker, it is with great regret that I rise today to register my opposition to H.R. 3809, the "Drug Free Borders Act." Once again, an important and well-intentioned piece of legislation has become a vehicle for an underhanded attack on working men and women, and I urge my colleagues to resist the majority's misguided effort and vote no on this bill.

I strongly support increased authorization levels for drug interdiction activities of the U.S. Customs Service. I am sure that no member of this body would argue that the flow of drugs into this country is an urgent crisis which requires our unflagging attention. I applaud the efforts of my colleagues to recognize and combat this problem with increased funding, additional inspectors and new drug detection equipment.

Unfortunately, I cannot ignore other provisions which seek to alter the fundamental labor rights of Customs Service employees. First, the bill would allow the Customs Service to break collective bargaining agreements already in place, stripping America's front-line drug enforcement personnel of their negotiating rights. In addition, H.R. 3809 seeks to make major changes to the rules governing overtime pay to Customs employees, creating the likelihood of pay cuts for those who work non-traditional shifts. As troubling as the provisions themselves is the fact that, despite the seriousness of the issues involved, no hearings were held on this anti-worker language, no committee report was issued, and now the measure is brought up under suspension, limiting the time for debate and eliminating any possibility of amendment.

Mr. Speaker, I would like very much to be able to cast a vote in support of increased drug interdiction efforts, and I will certainly do so if anti-worker provisions are removed from this bill during conference. However, I cannot stand by as the rights of America's Customs workers, who risk their lives to keep our borders free of drugs, are attacked. I will oppose this bill, and I urge my colleagues to do the same.

Mrs. MCCARTHY of New York. Mr. Speaker, there are many good provisions in H.R. 3809 that I strongly support, especially provisions in Title I that provide the U.S. Customs Service with significant resources to combat the flow of illegal drugs over our borders. However, I have serious concerns about other provisions of the bill which will deny Customs Service personnel their hard-earned rights and benefits.

There are few activities which are more important to the health and safety of our nation, and to the future of our young people, than drug interdiction. The men and women of the

Customs Service should be commended for their courage and tireless efforts to keep drugs from entering our country. In FY 1996 alone, the Customs Service seized over 1 million pounds of narcotics, including 33,000 pounds of cocaine, 545,000 pounds of marijuana and almost 460 pounds of heroin along the Southwest border. This has not been easy, and many Customs Service personnel have risked their lives and their safety to seize illegal drugs.

Of course, we cannot stop these activities until we stop the flow of drugs into our country altogether. While Title I of H.R. 3809 moves us toward that goal, I am afraid that two provisions of Title I will actually move us backward. Section 203 of the bill would reduce or deny premium pay that many Customs Service personnel receive for working long shifts at off-hours. And Sections 211 and 212 could let the Customs Service undermine the collective bargaining agreement worked out between the Service and its personnel.

If the goal of this legislation is to make the Customs Service more productive and efficient at stopping drugs, then it makes no sense to roll back the rights and benefits that attract the best people. Worse, we should not deny benefits to the very men and women who have sacrificed so much to keep our country safe. I am particularly concerned that these provisions are being voted on by the House with a minimum of debate and deliberation, and under a procedure that will not allow Members to strike these provisions. Nevertheless, we must remove these provisions from the bill.

I am committed to working with my colleagues in the other body to pass a Customs Service authorization bill that strengthens the Service and helps its dedicated personnel stop illegal drugs.

Mr. RODRIGUEZ. Mr. Speaker, I am deeply disturbed by the way the Drug Free Borders Act of 1998 came to the floor. Instead of fashioning a bipartisan bill to help the U.S. Customs Service protect our borders from contraband such as illicit drugs, child pornography, money laundering and counterfeit merchandise, a partisan group which clearly does not understand the dynamics of our nation's Southwest border has decided to attack the people on the front lines of the war on drugs.

Outside the partisan efforts to cripple federal employees, I support this bill. I have three international ports in my district on the Texas-Mexico border. My constituents want those ports to have the best equipment and personnel possible to keep illegal drugs out and to facilitate legal trade. I have traveled the border with U.S. Customs employees and seen the challenges they face. I have also seen the pride Customs employees have for their jobs. I have shared the excitement they experience when a truck filled with drugs is caught. There are few things I want more than to end this nation's drug epidemic. But we cannot end the problem by busting labor agreements and demoralizing U.S. Customs agents and inspectors.

The majority leadership is stooping to a familiar low by bringing this bill to the floor under a suspended rule. We have no opportunity for full debate; all amendments are prohibited. This bill is take it or leave it. The majority leadership wants this bill to fail and blame the Administration or pass without any input from the minority. The majority leaders should be ashamed of their partisan games at the expense of our Nation's war on drugs. If the majority leadership wanted to pass effective legislation they should have allowed Members of Congress the chance to amend the labor portions of this bill and pass effective drug fighting legislation. I urge Members to oppose this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, even though I rise today in support of the Drug Free Borders Act, H.R. 3809, I do believe that there are yet still unresolved difficulties in the language of the bill that must be addressed. In particular, sections 211 and 212 raise some serious labor issues and need to be explored further.

These provisions nullify the collective bargaining process by authorizing Customs managers to abrogate unilaterally collective bargaining and partnership agreements. These agreements were developed to aid the efforts of Customs managers and employees in stopping the flow of drugs into our streets. I find it troubling to ask these men and women to put their lives on the line to fight in the war on drugs, when we allow their managers to ignore their collective voice. Sections 211 and 212 have the potential to strip Customs employees of their morale.

In addition, these provisions would establish a very dangerous precedent. The Customs collective bargaining agreement is no different from those of other Federal agencies; these provisions will render this process meaningless.

In conclusion, I urge my colleagues to voice concerns about sections 211 and 212 and to reconsider the statement that these provisions make. If it is truly the primary goal of Congress to stop illegal drugs from invading our country, we must show support for these very important players in that fight.

Mr. ABERCROMBIE. Mr. Speaker, I rise to express my reluctant support of H.R. 3809.

There are many good provisions in the bill which mark an escalation in our war against drug smuggling and our fight against the use of illegal drugs in our society. I support the war against drugs. However, I am very concerned about the harmful provisions contained in this bill that can be counterproductive in that they erode the working conditions of the Customs employees who are on the front lines of this war.

It is very unfortunate that this bill contains language that would permit the Customs Commissioner to abrogate the collective bargaining agreements his agency has reached with employees and which are currently in effect. Not only is the provision blatantly unfair to the employees of the Customs Service, but it is an attempt to set a precedent for undermining labor-management relations between the federal government and its unions. This can have a serious detrimental effect on the morale, and consequently the effectiveness, of the people who fight on the front lines of this war against drugs. Congress should not, except perhaps under the most extraordinary circumstances, enact legislation to alter collective bargaining agreements. Although wanting to make our borders more secure against illegal drug importation is a highly desirable goal, it should not be used to disguise a political attack on dedicated Customs Service personnel. If the Customs Service needs additional resources to successfully accomplish its mission, I am willing to help find additional funds for that purpose.

If we are serious about curbing drug smuggling and illegal drug usage in this country, we must dedicate the necessary federal resources instead of undercutting the personnel we depend on to carry out these policies.

I will support H.R. 3809 to move it along in the legislative process, but I strongly urge that the anti-collective bargaining provisions be dropped from this bill. Congress needs to get into the business of passing legislation that will keep drugs out of this country, not assault those who are the principal soldiers in the battle.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ARCHER) that the House suspend the rules and pass the bill, H.R. 3809, as amended.

The question was taken.

Mr. SHAW. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule 1 and the Chair's prior announcement, further proceedings on this motion will be postponed.

NATIONAL HISTORIC PRESERVATION FUND AUTHORIZATION

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1522) to extend the authorization for the National Historic Preservation Fund, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1522

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF NATIONAL HISTORIC PRESERVATION ACT.

The National Historic Preservation Act (16 U.S.C. 470 and following; Public Law 89–665) is amended as follows:

(1) In the third sentence of section 101(a)(6) (16 U.S.C. 470a(a)(6)) by striking "shall review" and inserting "may review" and by striking "shall determine" and inserting "determine".

(2) Section 101(e)(2) (16 U.S.C. 470a(e)(2)) is amended to read as follows:

"(2) The Secretary may administer grants to the National Trust for Historic Preservation in the United States, chartered by an Act of Congress approved October 26, 1949 (63 Stat. 947), consistent with the purposes of its charter and this Act.".

(3) Section 102 (16 U.S.C. 470b) is amended by redesignating subsection (e) as subsection (f) and by redesignating subsection (d), as added by section 4009(3) of Public Law 102–575, as subsection (e).

(4) Section 101(b)(1) (16 U.S.C. 470a(b)(1)) is amended by adding the following at the end thereof:

"For purposes of subparagraph (A), the State and Indian tribe shall be solely responsible for determining which professional employees, are necessary to carry out the duties of the State or tribe, consistent with standards developed by the Secretary.''.

(5) Section 107 (16 U.S.C. 470g) is amended to read as follows:

''SEC. 107. Nothing in this Act shall be construed to be applicable to the White House and its grounds, the Supreme Court building and its grounds, or the United States Capitol and its related buildings and grounds as depicted on the map entitled 'Map Showing Properties Under the Jurisdiction of the Architect of the Capitol' and dated November 6, 1996, which shall be on file in the office of the Secretary of the Interior.''.

(6) Section 108 (16 U.S.C. 470h) is amended by striking ''1997'' and inserting ''2004''.

(7) Section 110(a)(1) (16 U.S.C. 470h-2(a)(1)) is amended by inserting the following before the period at the end of the second sentence: '', especially those located in central business areas. When locating Federal facilities, Federal agencies shall give first consideration to historic properties in historic districts. If no such property is operationally appropriate and economically prudent, then Federal agencies shall consider other developed or undeveloped sites within historic districts. Federal agencies shall then consider historic properties outside of historic districts, if no suitable site within a district exists. Any rehabilitation or construction that is undertaken pursuant to this Act must be architecturally compatible with the character of the surrounding historic district or properties''.

(8) The first sentence of section 110(l) (16 U.S.C. 470h-2(l)) is amended by striking ''with the Council'' and inserting ''pursuant to regulations issued by the Council''.

(9) The last sentence of section 212(a) (16 U.S.C. 470t(a)) is amended by striking ''2000'' and inserting ''2004''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1522 is a bill introduced by my colleague, the gentleman from Colorado (Mr. HEFLEY). He is to be commended for the hard work he has done to craft a bill that addresses needed changes in current law and which continues funding for a program that is appreciated by all Americans.

H.R. 1522 reauthorizes the National Historic Preservation Fund through the year 2004. This fund has been used to protect many of our most cherished historical sites around the country. This bill also makes many changes to the National Historic Preservation Act in order that it can function better in protecting our priceless national historic treasures.

I want to add, however, that the protection of our national treasures, which this bill provides, nearly did not make it to the floor today because of an eleventh hour concern by OMB, who suddenly opposed this bill, even though the agency had months and months to comment on it on any problems they may have had.

Nevertheless, everyone worked hard last night to address the concerns of OMB, and we now have a bill which we can agree with and the Administration can support.

□ 1500

Mr. Speaker, this is an important bill, and the National Historic Preservation Fund needs to be reauthorized. I urge my colleagues to support H.R. 1522.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank and commend the gentleman from Utah (Mr. HANSEN), the chairman of the Subcommittee on National Parks and Public Lands for his leadership in the management of this legislation before the House today.

Mr. Speaker, H.R. 1522 amends the National Historic Preservation Act of 1966. Through this act, historically significant buildings, sites and districts have been preserved, keeping America's history alive.

The primary purpose of the bill before us today is to reauthorize the National Historic Preservation Fund. Monies from the fund are derived from the Land and Water Conservation Fund, and Congress set the authorization level at $150 million per year.

Authorization for the fund expired on September 30, 1997. This bill extends authorization of the fund through the year 2004. As I have stated throughout our consideration of this bill, I would prefer the bill end there. In fact, the bill that was first introduced or the one that we brought to the floor today, I would not be able to support its passage.

However, the bill's chief sponsor, the gentleman from Colorado (Mr. HEFLEY) brought many sides together and has put together a bill that I believe is worthy of our support. I do want to commend the gentleman from Colorado for his leadership and for his ability to bring everyone together at the table and to come out with a consensus as we have now. He worked even this morning to address concerns raised by the administration.

Mr. Speaker, even with all the changes made to the bill since its introduction, concerns over certain provisions still exist. In particular, the Office of Management and Budget is concerned with the provision which takes away the mandatory requirement for the Keeper of the Register to make a determination of whether or not his site is eligible to be listed on the Register of Historic Places when property owners oppose the designation.

The Office of Management and Budget and the National Park Service fear this language could require the Keeper to act only in the most contentious of issues, thereby politicizing the process.

Regardless of this language, Mr. Speaker, however, the current practice whereby no site is placed on the Register while owners oppose such a designation remains intact. The statement of administration policy of this legislation states that the administration has no objection to the passage of H.R. 1522 but will work to have the discretionary language removed during Senate consideration of the legislation.

Another provision that remains a concern to some is one that contains language providing that States and Indian tribes will be responsible for determining which professional employees are needed to carry out the preservation duties within their jurisdiction.

Debate on professional standards continue within the preservation community, and any changes to this area I believe are best handled after that debate is concluded and agreement is reached.

Mr. Speaker, the bill will also allow States and Indian tribes to decide which professional positions are needed to address their specific needs.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I am pleased to yield whatever time he may consume to the distinguished gentleman from Colorado (Mr. HEFLEY), the sponsor of this bill.

Mr. HEFLEY. Mr. Speaker, to both the Chairman and the Ranking Member, I extend my appreciation for their help as we worked through this process and did try to bring all the groups together.

Mr. Speaker, it seems to me that one of the roles of government is the preservation of our historic values. To paraphrase one historian, we are unlikely to deal well with our future if we do not understand our past.

Since 1966, the Historic Preservation Fund has been part of the way this Nation seeks to accomplish that. The bill before us today reflects the success and maturity of that program. Rather than a set of sweeping reforms, H.R. 1522 attempts to fine-tune what is a mature program.

The bill reauthorizes the Historic Preservation Fund at its existing level through the year 2004. I should point out that, despite the authorization level, actual appropriations have never exceeded $50 million, and, in the last 7 years, have only twice exceeded $40 million.

The 2004 end date is intended to bring into sync budget deadlines for this program, the Advisory Council on Historic Preservation, and the budget agreement.

The bill also makes a number of changes to reflect what is happening in the States.

It reemphasizes this Congress' commitment to the rights of private property owners.

It gives State and tribal historic preservation offices greater flexibility in the hiring of their employees.

The provision recognizes Interior's ongoing work at developing standards for these employees, but gives States and tribes the right to make the call on what professionals they need.

It allows the Federal Government, through the National Trust for Historic Preservation, to respond to emergencies such as the Mississippi floods of 1994.

The bill also codifies an executive order directing government agencies to give consideration to the use of historic buildings in historic districts and central business areas.

This is not only something Federal agencies should do as a matter of course, it may help blunt the erosion of downtown areas.

The bill also contains a provision backed by strong report language which signals the Committee on Resources' intent that government agencies in Washington should honor the intent of preservation laws in their dealings with local preservation agencies.

Too often, the law has been observed only as an afterthought.

As I said, this should not be a controversial bill. There are areas where the involved parties simply agree to disagree. We do not agree on everything in it.

But it has the backing of the Nation's five major preservation groups, the Preservation Action, National Trust for Historic Preservation, American Cultural Resources Association, National Alliance of Preservation Commissions, National Conference of State Historic Preservation Offices. So it does have a broad base of support.

Mr. Speaker, I will close and encourage passage of this piece of legislation.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 5½ minutes to my good friend, the gentleman from West Virginia (Mr. WISE).

Mr. WISE. Mr. Speaker, I thank the gentleman very much for yielding to me.

First, let me say to those of you who brought this bill to the floor, I appreciate what you are doing and the sincerity. I am going to be the skunk at the picnic because I am not a fan, based upon personal experience, and I guess that is what we bring to the floor a lot.

I am not a fan of the National Keeper's office, nor how it is conducted. Let me just say, as I unfold this tale for a second, that as this bill moves forward, I hope that some of my concerns will be incorporated in deliberations, particularly as you discuss this with the other body.

Yes, the project I am about to relate to you is a controversial highway project. Those in the environmental community have opposed it assiduously for many years. Their only problem is 75 percent of everybody in an affected county supports it. Their problem is every elected official from the town council to whatever office you want to point to supports this project.

So what we have done, then, over time, is we have gone through all the hurdles. We have gone through the executive branch. We have gone through the Federal Highway Administration. We have gone through the West Virginia Department of Transportation. We have gone through Federal court and won against environmentalists who want to oppose it. We have gone to the Congress, and the Congress has approved money. Every branch, I thought.

And then who pops up just as we are going to bid? The Keeper of the National Historic Registry to declare a community in Hardy County, West Virginia, which is appropriately named, I guess, "Old Fields" as a historic district. She could have identified farm buildings and designated them. She did not. She made it a historic district, which then brings this highway project to a halt within that area.

So I call and I say, to whom do we appeal to? I call the Secretary of the Interior's office. We do not know. Do I have to go back to court now?

So the history of this particular situation is replete with bureaucratic abuse, deadlines that have been passed for review, which, of course, if you pass a deadline, it means your highway department and your contractors and your engineers cannot move forward. We have probably cost the taxpayers millions of dollars in simply delays by this delay.

Oh, yes, yes, one other factor, the State involvement. The State Historic Preservation Officer, about as competent a person as I have met and a true professional, recommended against the Keeper taking this action. Then the night after the action was announced, I get a call from the Hardy County preservation officer who lives where, in Old Fields, West Virginia, who says, what is going on? We never recommended that this be declared a historic district.

That is my tale.

Mr. Speaker, to those moving this bill, I am interested in historic preservation, but I am not interested in historic preservation that denies a future. I guess what I would ask is, as we move forward we closely monitor the discretion that this official has. Because whether it is her office or her personality, and I am not sure which, but whichever one it is, there is clear need to put some teeth in here and to put in some oversight.

I would just urge us not to move forward and to give the directive that you shall declare areas historic areas. I hope we would at least keep it at bay so we can continue to review this discretion and, when appropriate, abuses.

Mr. HEFLEY. Mr. Speaker, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Colorado.

Mr. HEFLEY. Mr. Speaker, we share the gentleman's concerns, too, and we want it to work. What we are trying to do with the reauthorization to make it work, let me just share with you the report language of what we intend here.

H.R. 1522 modifies the existing Secretarial review of nominations to the National Historic Register as an option of appeal, rather than a mandatory stage in the nominating process as it currently exists, which speaks to what you just spoke to. This legislation intends that most of the decision making would take place at the State and local level, which is also what you want.

Mr. WISE. Yes, Mr. Speaker.

Mr. HEFLEY. I think we share the same kind of goals. You have had a very bad experience with it, and I think a lot of us have. We want to make it work right. We do not want to throw it out, because I think it does have merit, but I want it to work.

Mr. WISE. Mr. Speaker, if I may say to the gentleman from Colorado (Mr. HEFLEY) and the gentleman from Utah (Mr. HANSEN), I never thought of either of you friends of overarching and overreaching government, so I am quite confident and I am pleased you are moving in that direction. But I think this is a situation that I would hope that, on both sides of the aisle, you would be looking at in your deliberations.

Mr. FALEOMAVAEGA. Mr. Speaker, would the gentleman yield to me?

Mr. WISE. I yield to the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Speaker, I would say to the gentleman from West Virginia that his eloquent statement has been well taken. I am sure my good friend from the other side of the aisle, the chairman of the subcommittee, and the gentleman from Colorado (Mr. HEFLEY) and myself will definitely look into the wordage of not only the report but the language itself to make sure that it does not reflect the kind of example that you have just shared with us this afternoon.

Mr. WISE. Mr. Speaker, I thank the gentleman for his time and his consideration.

Mr. HANSEN. Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield 3 minutes to my good friend, the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding and for all his hard and skillful work on the bill. In a moment, I am going to ask the chairman of the subcommittee, the gentleman from Utah (Mr. HANSEN), if he would engage in a brief colloquy with me.

Before I do so, I want to thank the gentleman from Utah (Mr. HANSEN) and the gentleman from Colorado (Mr. HEFLEY) for really quite exemplary work on this bill. I am aware of the balance that must be achieved here and how difficult a bill like this is to get through the committee while bearing in mind the necessary balance.

I am, of course, a strong supporter of the Historic Preservation Act. I represent a historic city, a city that was born with the Nation itself, with much to preserve on the Federal side and on the local side.

I want to thank the gentlemen, also, for the faith they have kept to the Congressional Accountability Act because of the way they have brought our own agent, the Architect of the Capitol, under the Act, while giving him full latitude to accomplish his job.

As we may recall, the Congressional Accountability Act indicated that Congress would submit itself to the same laws as everyone else. We have done that and kept faith with that. We have brought ourselves into account with this promise in this Act.

I want to express my appreciation to both the gentleman from Colorado and the gentleman from Utah for the kind consideration and the sensitive way in which they have dealt with the special historic preservation issues in the District of Columbia.

We have had an unfortunate experience involving a historic property in the District of Columbia. I believe that this language will guarantee that that experience will not be repeated.

I do want to say to the gentleman from Colorado and the gentleman from Utah that we have begun to work with the Architect of the Capitol and so believe that he also understands the intent. But to make certain of that, I ask the gentleman from Utah if he would engage in a colloquy with me.

Mr. HANSEN. Mr. Speaker, if the gentlewoman would yield, I am happy to.

□ 1515

Ms. NORTON. Is it the gentleman's understanding that by restricting the application of the exemption in section 107 of the Act, it is the intent of the Congress that the Architect of the Capitol at a minimum give public notice to the abutters and the surrounding neighborhood prior to undertaking a restoration or renovation project on a historic building?

Mr. HANSEN. Mr. Speaker, if the gentlewoman will yield, that is what we expect, with the exceptions that are in the bill. I think we have covered that.

Ms. NORTON. I appreciate the colloquy, and I thank the gentleman.

Mr. VENTO. Mr. Speaker, I rise in strong support of H.R. 1522, which will reauthorize the National Historic Preservation Act.

One of the many things that makes our nation great is our strong, collective sense of history. We teach our children from an early age about our past triumphs and failures and the lessons we've learned from them. This tradition enables America to grow better with each passing day: as we improve our understanding of the past, we increase our chances of mastering the future.

That is why I am such a strong supporter of the National Historic Preservation Act, passed by Congress and signed by the President in 1966. The Historic Preservation Act authorizes the Department of the Interior to manage the National Register of Historic Places, encourages State-level efforts to preserve these important locations, and provides grants and expertise to the many individuals and associations across America who have dedicated their lives to protecting and preserving these treasures.

Mr. Speaker, my home State of Minnesota has a long legacy of historic preservation. Established in 1849, the Minnesota Historical Society preserves the history of Minnesota through a variety of activities while overseeing a number of libraries, collections and historic sites. One needs only to walk down beautiful Summit Avenue, a historic district in Saint Paul, to appreciate how interested Minnesotans are to preserving the jewels of our past. Indeed, since 1966, when Congress passed the Historic Preservation Act, the State Historic Preservation Office of Minnesota has inventoried more than 45,000 properties in all 87 counties of the State. And at the end of 1996, the National Register of Historic Places contained more than 1,460 Minnesota listings. For that, the Minnesota Historical Society deserves the appreciation of not just Minnesotans, but all Americans.

Our State Historic Preservation Office (S.H.P.O.) is not just the mansions of Summit Ave., St. Paul, but the common housing and work places that need sound historic preservation efforts and understanding the culture and people means understanding where we came from. But the S.H.P.O. doesn't and can't do it alone. Congress appropriated $36 million for the Historic Preservation Fund in 1997.

That money provides funding for State offices like the S.H.P.O. as I described in Minnesota. $36 million is not nearly enough and this measure continues the past authorization of $150 million per year. We could accomplish even more with that kind of money. These dollars are multiplied many times over but every day we are losing historic fabric—our connection to our past.

I have attached to my statement an article from the Minneapolis Star-Tribune that details the ten most endangered historic properties in Minnesota this year. The properties are in urban areas such as my St. Paul district and rural areas in Northern Minnesota such as Itasca County. With additional funding, the talented and hard-working folks at the Minnesota Historical Society could work to acquire, protect and preserve these important places. Hopefully we could in future years meet the promise of authorization closer to the amount dedicated to this purpose.

So I support this bill, Mr. Speaker. It continues and hopefully will build upon Congress' important role in the protection of America's treasures, ensuring the protection of our historic legacy for future generations.

10 Endangered Properties for '98—The Preservation Alliance of Minnesota Lists Structures Threatened by Storms, Demolition or Neglect

(By Linda Mack)

The entire city of St. Peter, "ma and pa" resorts up north, boarded-up buildings at Fort Snelling and a former dairy farm near Brainerd are listed among Minnesota's 10 most endangered properties of 1998.

Threatened by demolition, neglect or storm damage, the 10 buildings or groups of buildings have been selected by the Preservation Alliance of Minnesota, a statewide nonprofit membership group, to draw attention to the state's historic resources and the need for their preservation.

George Edwards, who moved to Minneapolis recently from Atlanta, GA, to head the Preservation Alliance, said Minnesota's endangered buildings "face the same threats that we're seeing around the country—under-appreciation of our heritage, neglect and a shift in priorities."

Apart from the tornado-ravaged buildings of St. Peter, many of which will be rebuilt, the challenge for most of the communities is finding new uses for old buildings whose original purpose has been lost, such as the old City Hall in Nashwauk or the Hotel Lac qui Parle in Madison. Or, in the case of the small resorts built in the early 20th century, the key to preservation may be building a coalition of historic resorts to do joint marketing. The list, said Edwards, is just a start.

The update on last year's 10 most endangered properties is mixed.

The Stillwater Bridge may have a better chance of surviving because of a recent ruling by a federal judge that a new bridge across the St. Croix River would adversely affect the scenic riverway. Historic buildings at the University of Minnesota's Twin Cities campus are being studied for reuse rather than slated for demolition. The Washburn Crosby "A" Mill on the Minneapolis riverfront has been stabilized and the Utility Building next to it will be redeveloped for housing. Red Wing's Washington School was demolished, but the city's Central High School is being studied for reuse and is still being used.

The future of other properties on last year's list—such as the Mannheimer-Goodkind House in St. Paul, the Handicraft Building in downtown Minneapolis and Albert Lea's downtown commercial buildings—remains uncertain.

DEPARTMENT OF THE DAKOTA BUILDINGS, FORT SNELLING, HENNEPIN COUNTY

Built between 1879 and 1905, the 28 buildings on 141 acres of land overlooking the Minnesota River form a familiar landmark near the Minneapolis-St Paul International Airport, but they are now mostly empty and boarded-up. Competing interests of state and federal agencies have stalled resolution of their future. The Minnesota Department of Natural Resources is now sponsoring a re-use study. The buildings were on the list of endangered buildings last year as well.

ANOKA AMPHITHEATER, ANOKA, ANOKA COUNTY

This little-known but charming open air theater overlooking the Mississippi River was designed by Prairie School architects Purcell and Elmslie in 1914. Unused for many years and in need of work, the amphitheater sits in the way of a road widening planned by the Minnesota Department of Transportation. The road wouldn't take the whole theater, but it would lop off the back of it. Other alternatives should be pursued, say preservationists, and the amphitheater kept as part of a park.

ARMSTRONG-QUINLAN HOUSE, ST. PAUL, RAMSEY COUNTY

The 1886 red brick Romanesque house sits in literal and metaphorical limbo surrounded by parking lots on the edge of downtown St. Paul. Owned by the state of Minnesota, it is a lonely reminder of an earlier grand era of residential buildings in downtown St. Paul. It's unlikely the construction of a new hockey arena nearby will help resolve its future.

EARLY 20TH CENTURY RESORTS, CASS COUNTY AND ELSEWHERE

The small rustic resorts run by owner-operators grew up in the early automobile era and make up a charming part of the northern Minnesota landscape. But bigger, fancier resorts, often with centralized operations, are the wave of the future. And the rise in property values and taxes makes it harder and harder for "ma and pa" operators to survive.

DISTRICT NO. 5 SCHOOLHOUSE, BERGEN TOWNSHIP, MCLEOD COUNTY

Rural schoolhouses are fast disappearing, and this red brick one built about 1910 is among the most endangered of a number nominated for the list. Their original use is outmoded, but they form a significant part of the rural landscape.

HOTEL LAC QUI PARLE, MADISON, LAC QUI PARLE COUNTY

The city of Madison owns the small hotel on a downtown corner and says there's no reuse. Local citizens argue the building forms an important anchor to downtown's character and have persuaded the city to do a structural analysis. Madison has already lost one landmark, a tiny but ornate Prairie School bank designed by architects Purcell and Elmslie in 1913 and demolished in 1968.

NASHWAUK CITY HALL, NASHWAUK, ITASCA COUNTY

Built in 1915, this solid and graceful civic building is one of three intact city halls constructed in company towns during the boom period of the western Mesabi Iron Range. But the city moved out in 1977, and the building faces demolition because of neglect.

ECHO DAIRY FARM, BRAINERD, CROW WING COUNTY

This impressive complex of high-roofed dairy barns just south of Brainerd was built in the early 1920s as one of Minnesota's first corporate agricultural operations and operated until 1971. The city of Brainerd has bought the complex for expansion of an industrial park.

STONE BUILDINGS OF OTTAWA TOWNSHIP, OTTAWA TOWNSHIP, LE SUEUR COUNTY

Built during the 1850s to 1870s, seven native limestone buildings—houses, churches and a town hall—form a charming remnant of a Minnesota River village that was once a center of stone quarrying. Their future may not be so charming: They stand on land that is a prime target for an advancing silica sand mining operation.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 1522, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1522, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

WETLANDS AND WILDLIFE ENHANCEMENT ACT OF 1998

Mr. HEFLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2556) to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act, as amended.

The Clerk read as follows:

H.R. 2556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wetlands and Wildlife Enhancement Act of 1998".

SEC. 2. REAUTHORIZATION OF NORTH AMERICAN WETLANDS CONSERVATION ACT.

Section 7(c) of the North American Wetlands Conservation Act (16 U.S.C. 4406(c)) is amended by striking "not to exceed" and all that follows through the end of the sentence and inserting "not to exceed $30,000,000 for each of fiscal years 1999 through 2001.".

SEC. 3. REAUTHORIZATION OF PARTNERSHIPS FOR WILDLIFE ACT.

Section 7105(h) of the Partnerships for Wildlife Act (16 U.S.C. 3744(h)) is amended by striking "for each of fiscal years" and all that follows through the end of the sentence and inserting "not to exceed $3,000,000 for each of fiscal years 1999 through 2001.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. HEFLEY) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are voting on H.R. 2556, which authorizes the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

The North American Wetlands Conservation Act is one of several programs devoted to improving wetlands protection in the United States, Canada and Mexico. It matches Federal dollars with contributions from State, local and private organizations for wetland conservation projects in the U.S., Canada and Mexico that support the North American Wildlife Management plan. The program has resulted in the protection of more than 3 million acres of wetlands in the U.S. and Canada over the past seven years.

The population of most species of migratory ducks and geese in North America have been increasing for the past several years. It is impossible to say whether or not any single program has caused this increase, but habitat conservation is certainly making an important contribution. There is widespread agreement that the North American Wetlands Conservation Act is a critical part of this effort. The bill, as amended at subcommittee, is strongly supported by Ducks Unlimited and the International Association of Fish and Wildlife Agencies.

The Partnerships for Wildlife Act was enacted to ensure that nongame, nonendangered wildlife did not slip through the cracks between existing conservation programs. It also matches Federal dollars with State and local funds to support a wide variety of wildlife conservation and appreciation projects.

H.R. 2556 reauthorizes the North American Wetlands Conservation Act at its current authorization levels for three years. I urge Members to vote aye on this important environmental bill.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2556. This bill helps protect wildlife habitat and will enhance the management of nongame wildlife. I want to thank the subcommittee chairman, the gentleman from New Jersey (Mr. SAXTON) for bringing this legislation before the House. The bill reauthorizes the highly successful North American Wetlands Conservation Act and will improve the management of nongame species of wildlife by reauthorizing the program of Federal matching grants for such activities.

In the seven years of its existence, the North American Wetlands Conservation Act has resulted in the protection of millions of acres of wetlands in the United States, Canada and Mexico. $244 million in North American wetlands programs grants for this voluntarily, non-regulatory program have been matched by more than $510 million in funding by conservation partners, conserving valuable habitat for migratory birds and many non-migratory species as well.

The amendment also reauthorizes the Partnerships for Wildlife Act, which provides matching grants for nongame wildlife conservation and appreciation. Unfortunately, we do not have a dedicated source of funding like the Wallop-Breaux Fund for nongame conservation. Lacking a dedicated source of funding, conservation needs for these species are mounting. For example, the states currently estimate their unmet needs for management and conservation of nongame species at over $300 million annually.

Mr. Speaker, I hope we have the opportunity to give permanent funding for nongame species serious consideration in the near future. But, in the meantime, we will continue doing what we can under the Partnerships for Wildlife Program.

In summary, this is sound legislation to benefit wildlife through non-regulatory programs that leverage scarce Federal resources, and I urge the House to support H.R. 2556.

Mr. SAXTON. Mr. Speaker, the North American Wetlands Conservation Act is a program that has proven itself in many ways. The law was designed to be a catalyst for partnerships between various levels of government and the private sector to accomplish incentive-based wetlands conservation. It demanded a non-federal match in order to level federal dollars and the match that has been produced has more than doubled that required threshold. This high match level is one evidence of the success of partnership the Act intended and delivered.

Another group of very important partners are the members of the North American Wetlands Council. These unpaid volunteers contribute incredible numbers of man hours to this process. Ducks Unlimited is an excellent example of a Wetlands Council member. From the beginning of the program DU has volunteered to serve. They not only commit the equivalent of a full time staff member to assist in carrying out Council business, they play a key role in communicating support for the program on Capitol Hill. They have contributed by far and away more match funding continentally for these projects than any other partner group. It is partners like DU with a demonstrated level of commitment that the Act envisions should serve on the North American Wetlands Conservation Council. That kind of commitment is what creates this program's level of success.

Mr. PALLONE. Mr. Speaker, I yield back the balance of my time.

Mr. HEFLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. HEFLEY) that the House suspend the rules and pass the bill, H.R. 2556, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HEFLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2556, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

NEW WILDLIFE REFUGE AUTHORIZATION ACT

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 512) to prohibit the expenditure of funds from the Land and Water Conservation Fund for the creation of new National Wildlife Refuges without specific authorization from Congress pursuant to a recommendation from the United States Fish and Wildlife Service to create the refuge, as amended.

The Clerk read as follows:

H.R. 512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Wildlife Refuge Authorization Act".

SEC. 2. REQUIREMENTS RELATING TO DESIGNATION OF NEW REFUGES.

(a) Limitation on Appropriations From Land and Water Conservation Fund.—

(1) In general.—No funds are authorized to be appropriated from the land and water conservation fund for designation of a unit of the National Wildlife Refuge System, unless the Secretary of the Interior has—

(A) completed all actions pertaining to environmental review that are required for that designation under the National Environmental Policy Act of 1969;

(B) provided notice to each Member of and each Delegate and Resident Commissioner to the Congress elected to represent an area included in the boundaries of the proposed unit, upon the completion of the preliminary project proposal for the designation; and

(C) provided a copy of each final environmental impact statement or each environmental assessment resulting from that environmental review, and a summary of all public comments received by the Secretary on the proposed unit, to—

(i) the Committee on Resources and the Committee on Appropriations of the House of Representatives;

(ii) the Committee on Environment and Public Works and the Committee on Appropriations of the Senate; and

(iii) each Member of or Delegate or Resident Commissioner to the Congress elected to represent an area included in the boundaries of the proposed unit.

(2) Limitation on application.—Paragraph (1) shall not apply to appropriation of amounts for a unit of the National Wildlife Refuge System that is designated, or specifically authorized to be designated, by law.

(b) Notice of Scoping.—The Secretary shall publish a notice of each scoping meeting held for the purpose of receiving input from persons affected by the designation of a proposed unit of the National Wildlife Refuge System. The notice shall be published in a newspaper distributed in each county in which the refuge will be located, by not later than 15 days before the date of the meeting. The notice shall clearly state that the purpose of the meeting is to discuss the designation of a new unit of the National Wildlife Refuge System.

(c) Limitation on Application of Federal Land Use Restrictions.—Land located within the boundaries (or proposed boundaries) of a unit of the National Wildlife Refuge System designated after the date of the enactment of this Act shall not be subject to any restriction on use of the lands under Federal law or regulation based solely on a determination of the boundaries, until an interest in the land has been acquired by the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a little history on this particular legislation. I introduced this legislation four years ago in Congress in response a problem that had arisen and come to my attention over the creation of a new wildlife refuge.

Over the past several years, Congress has authorized 70 new wildlife refuges throughout this country of the 513 current. The rest of the 443 refuges were created with little or no oversight by Congress. I feel it is very important that Congress fulfill its responsibility as a watchdog of the taxpayer money in the creation of a new wildlife refuge.

Currently, the refuge system is suffering a construction and maintenance backlog of over $600 million. At the same time, every single year we create new wildlife refuges throughout the country.

During the effort that has been made over the past year to bring this legislation to the floor, compromise legislation was reached with the gentleman from Michigan (Mr. DINGELL) and the chairman of the Committee on Resources, the gentleman from Alaska (Mr. YOUNG), that we believe everyone has agreed to at this point.

What it does is it in essence requires that upon the creation of a new wildlife refuge, that Members must be notified if a refuge is being created in their district; that all the environmental documents, the environmental assessment, the environmental impact statement and a summary of the public comments relating to the proposed new refuge must be given to the Congressional committee of authority, as well as the appropriating committee; and that notices of scope and meetings required under the NEPA process are published in local newspapers notifying the people who live in that particular area that there is the possibility of creation of the new wildlife refuge in that area.

Mr. Speaker, we also clarify, and I believe this is very important, that the determination of the boundary for a new refuge does not impose any additional Federal land use restrictions as a result of simply determining the proposed boundary until the land is acquired by the Federal Government.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the substitute amendment to H.R. 512. I opposed the bill as it was reported from the Committee on Resources because it imposed unjustified restrictions on the use of the Land and Water Conservation Fund to establish national wildlife refuges. This issue was debated on several occasions within the committee and on the floor over the last two years and, in my opinion, the supporters of this proposal never made a convincing case that there was something fundamentally flawed with the process used to establish new wildlife refuges.

Increasingly, land and water fund monies are used to acquire refuge lands to protect endangered species or threatened wetlands. In fact, Federal ownership of habitat for threatened and endangered species is one of the best ways to relieve the burden on landowners of endangered species protection and to avoid costly controversial endangered species listings. Further, there is often a need to act expeditiously to acquire land to prevent harmful development. Yet, because of the Fish and Wildlife Service's policy of acquiring only from willing sellers, property rights are respected. In summary, the bill, as reported from the Committee on Resources, was unnecessary and harmful in my opinion to the National Wildlife Refuge System.

We have now, however, worked out a compromise that addresses concerns about public notice of and Congressional oversight over new refuge designations without unduly hampering the designation process. Through NEPA and at the Administrative Procedures Act, there is already a process for providing public notice and soliciting input into the establishment of a new refuge. In addition, Congress has control over refuge land acquisition through appropriations from the Land and Water Conservation Fund.

Mr. Speaker, no process is perfect and there is always room for improvement. The bill before the House today provides for even better public notice and input, as well as making sure that any Member of Congress whose district includes lands being considered for inclusion in the new refuge will be amply notified.

It also explicitly states what is already the case under current law, that the designation of a proposed refuge boundary does not give the Fish and Wildlife Service any regulatory authority over private lands within the proposed boundary unless and until that land is acquired by the government. In other words, the proposed boundary is a wish-list for acquisition, and nothing more.

By ensuring that the local community is fully vested in any new refuge and by laying to rest landowners' fears that their property rights will be compromised, it is hoped that H.R. 512 will actually facilitate the establishment of new refuges.

So, Mr. Speaker, I support the substitute. I commend the chairman of the Committee on Resources, the gentleman from Alaska (Mr. YOUNG) for working with the minority and the administration to craft such a reasonable compromise, and I urge the House to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. Mr. Speaker, I am in full agreement with the original intent of this measure. In fact, I wish the bill even went further toward making Federal agencies accountable for their actions.

Mr. Speaker, I think it would surprise many people to know that current law allows Federal bureaucrats to create national wildlife refuges at will without the consent of Congress and without thorough public debate that should accompany any allocation of taxpayer money. The creation of wildlife refuges is particularly important in my district, where we are currently debating the future management of a stretch of the Columbia River called the Hanford Reach.

The Department of Energy, which currently owns the land on both sides of the river where the Hanford Reach is, has stated that it no longer needs to own, manage or maintain the land on the opposite side of the river from the Hanford nuclear reservation. However, back in 1971, the Department of Energy had already decided that they did not need to manage their own lands and signed a lease agreement with the U.S. Fish and Wildlife Service to manage a portion of the lands as a national wildlife refuge. No act of Congress, no public commented, no discussion whatever. Instead, the Saddle Mountain National Wildlife Refuge was created through a simple lease agreement with the Department of Energy.

Now, I am not suggesting that the national wildlife refuge system has not benefitted our wildlife, and I am not suggesting that this particular refuge has not been important to our area. In fact, far from it. However, continuing to allow the purchase of private property by the Federal Government without thorough and open discussion and the involvement of Congress really belies the national nature of these refuges.

The American people must have some level of confidence that our national wildlife refuges are created not only for scientific reasons, but with the appropriate consideration of local concerns and priorities.

Because I know that the distinguished chairman of the Committee on Resources shares my concerns on refuge designations, I would like to engage in a colloquy with the gentleman so he might indicate whether the committee plans to address this issue in the future.

□ 1530

Mr. YOUNG of Alaska. Mr. Speaker, if the gentleman will yield, I am pleased to respond to that inquiry.

I certainly understand the gentleman's concern, and I can assure the gentleman that the committee is fully committed to strengthening the congressional role on national wildlife refuge systems as well as designations and other what we call acquisition of lands by any other Federal agency.

Mr. HASTINGS of Washington. Mr. Speaker, I appreciate the Chairman's strong leadership on national resource issues generally and, in particular, on his commitment to focus further committee action on the increasing issues of concern to the West. I look forward to helping in any way that I can.

Mr. PALLONE. Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume to say that I speak in support of H.R. 512, and I can only suggest that this is just a small step forward in the right direction.

I often suggest in this legislative work that nothing happens without a reason. The reason I introduced this bill, we did have cases where the Fish and Wildlife Department, especially in the district of the gentleman from California (Mr. POMBO), there is another one in another district, one of the Members came to me the other day where they do it by action of the agency without any input from the Congress. Under our Constitution, we are the only ones that should have the authority to make designation of lands.

This is a small step forward and requires the agencies to go forth and at least identify the representative of that area and also have consultation with public input and then having to come back to the Congress for the identification of those refuges that would take place. I think it is important that we must keep the integrity for the refuge system in place, and I hold no second place to anyone when it comes to refuge creations by act of Congress.

The gentleman from Michigan (Mr. DINGELL), a dear friend of mine, and I worked on this legislation for over 28 years. So I am confident that this is the right step. But I will, as the gentleman from Washington asked me, continue, as chairman of the committee, to watch what the agencies are doing. How does this affect the community? Is the community supportive? And, really, who is asking for this refuge? If it is scientifically backed up, people back it up, then it ought to go forward and go through the congressional action.

I rise in support of this modified version of H.R. 512, which is the product of successful negotiations between the Department of the Interior, our colleagues, JOHN DINGELL, GEORGE MILLER, RICHARD POMBO, and me.

While this compromise is not as comprehensive as a Congressional authorization, it will improve the refuge land acquisition process and establish additional safeguards for private property owners.

Under the terms of this proposal, no money can be authorized to be appropriated from the Land and Water Conservation Fund to create a new refuge unless: The environmental reviews required by the National Environmental Policy Act are completed; a copy of the final environmental impact statement or environmental assessment and a summary of all public comments on the proposed refuge are provided to the House and Senate authorizing and appropriations committees; and the Department of the Interior provides notice to each Member of Congress representing a district in which the proposed wildlife refuge will be located when a preliminary project proposal is completed.

The bill also requires that notice be provided in the local newspapers of an affected community of any public meetings to discuss the scope of a proposed new refuge. In fact, according to NEPA regulations (40 CFR 1501.7), "There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to proposed action. This process shall be termed scoping."

Finally, H.R. 512 clarifies that no additional land use restrictions shall be imposed on property included within the acquisition boundary of a National Wildlife Refuge until that land is purchased by the Federal Government.

This compromise does not provide the same level of oversight that is afforded to Bureau of Land Management lands, National Forests, Parks, or Scenic Rivers. It does, however, provide an increased opportunity for Congressional review when necessary, fairness to property owners who are waiting to sell their land to the government, better notice to the public when new refuges are proposed, and statutory protection to private landowners whose property is located within a refuge boundary.

With a $600 million backlog of critical resource management needs, reasonable people can ask why the U.S. Fish and Wildlife Service is obsessed with buying more private land, which by their own admission they are incapable of managing effectively. Nevertheless, I recognize that many members of this body want additional land acquisitions and because of their support, this process is likely to continue in the future. At the same time, there are thousands of Americans who want to keep and use their private property without the shadow of Federal land control. This measure strikes a balance between those groups.

It allows the creation of new wildlife refuges while ensuring that the local community and its elected representatives in Congress are informed of the Service's plans for new refuges. Finally, this institution will have a full and complete record of information in order to assess the merits of the various land acquisition requests.

I urge an "aye" vote on this important legislation.

Mr. DINGELL. Mr. Speaker, I rise today in support of this legislation, as amended in response to an agreement between Chairman YOUNG, the gentleman from Tennessee (Mr. TANNER), the gentleman from California (Mr. POMBO) and myself.

As agreed to, H.R. 512 will codify several existing practices of the Fish and Wildlife Service to make absolutely certain that property owners, local governments, concerned citizens, and Members of Congress are brought into the public comment and review process when a new wildlife refuge is added to our National Wildlife Refuge System using Land and Water Conservation Act funds.

The compromise before us today is substantially different than the bill as reported by Committee. Had the reported measure been presented here for debate without amendment, I would have fought vigorously against its enactment. However, I am pleased to report to my colleagues that the bill as presented today does not create needless roadblocks in creating new refuges, will not tie the hands of the Fish and Wildlife Service in proceeding with land acquisition, and does not establish a new Congressional review and approval process for the creation of new wildlife refuges.

Instead, H.R. 512 would enact a requirement that all environmental analysis required under the National Environmental Policy Act (NEPA) be completed prior to acquisitions of new LWCF refuges, and that Members of Congress in affected areas be notified early in the acquisition process.

Last year, through the sustained efforts of my dear friend, Chairman YOUNG, Ranking Member GEORGE MILLER and Interior Secretary Bruce Babbitt, Congress approved long-overdue legislation to specify the mission and management direction of the Refuge System. The original text of H.R. 512 was deliberately left out of the National Wildlife Refuge System Improvement Act because of intense and broad opposition to what was rightly viewed as tying the hands of our Nation's refuge managers.

However, the Fish and Wildlife Service has acknowledged isolated cases in which its personnel could have acted with more sensitivity and accountability to the local citizens and property owners within refuge acquisition boundaries. The Service has indicated to me that it has strong public participation policies in place when new wildlife refuges are created. I urge the Director and her subordinates to place a high priority on responsiveness in such cases, so that answers are provided, fears are allayed, and property owners can count on a positive relationship with their refuge system neighbors.

Mr. Speaker, while the legislation before us today will not prevent every future complaint or problem, it will hopefully be a gentle reminder that citizens have every right and expectation to fair, prompt and just treatment by the Federal agencies that serve them.

I hope that the passage of this bill will eliminate the need some have felt to legislate solutions to rather confined sets of problems on our National Wildlife Refuge System. As a Member of the Migratory Bird Conservation Commission, I take great pride in serving this body to assure that our wildlife refuges live up to the vision of their founder, President Theodore Roosevelt, when he created the first refuge almost a century ago. When writing legislation, we must keep the best interests of the whole system in mind.

Finally, I want to remind my colleagues that the Fish and Wildlife Service is a modest-sized agency with a large and important mission, and that we are fortunate it provides the American taxpayers with a group of highly skilled, dedicated and motivated employees who take pride in preserving our Nation's ecological heritage. To my colleagues who never have visited a wildlife refuge in your home states, I urge you to do so, to meet your refuge managers and express your interest in helping form a strong partnership between your constituents and those who manage their wildlife refuges.

Mr. UNDERWOOD. Mr. Speaker, today I rise in support of the substitute to H.R. 512, the New Wildlife Refuge Reauthorization Act. I feel that it is appropriate for the Congress to be a part of the process in the purchasing of land by the United States Fish & Wildlife Service. I fully support the requirement in the bill that the Congressional member, whose district is directly affected by the decision to establish a wildlife refuge, be notified in advance of the transaction.

I understand that we are here today to improve upon a procedure which has existed since the establishment of the Land and Water Conservation Fund by Congress in 1965. I caution my fellow colleagues, however, that as we seek to become active participants we are still neglected in other processes that the Fish & Wildlife Service can and has exploited.

The reacquisition in Guam, by the United States, at the close of WWII resulted in large tracts of land condemned at the expense of landowners on Guam. U.S. officials reasoned with locals that the condemnations were in the interest of National Security. At that time, approximately one-half of Guam's land mass was taken. Today, one-third is still held by the Department of Defense. The people of Guam have lived with this reality for the better part of this century.

Though this situation has been one in which the people of Guam have had to endure, it was not widely questioned. After all, the security of your liberators is important to the security of yourself and at the time, threats to democracy were still clearly visible in the era of the Cold War. With the close of the Cold War era, however, the mindsets of individuals and families began to change. It was logical to think that if land takings were a result of National Security, and the threats to American democracy ceased to exist as another world power, then maybe someday the United States may give some land back to the people of Guam.

Perhaps this logic was too simple, but it was not far off. The focus of U.S. demilitarization and transition to opening up America to a global economy prompted downsizing of America's military services. Each of us here with a military base in their district are all too familiar with the Base Realignment and Closure Commission, which was created to close military installations based on need and not want.

In my district of Guam, this news was difficult for civil service employees who designed their careers around military presence on our island. After all, the military's years of presence and integration with the local community was accepted and welcomed. For landowners and their descendants, the news of base closures was a glimmer of hope that military land would be returned to anxious families.

Aside from being second-class citizens or regularly put-off in aspirations to seek a new political relationship, Guam does have something in common with other states of the Union. Not all the lands acquired by the Fish & Wildlife Service, for purposes of establishing a Wildlife Refuge, come from tapping the Land and Water Conservation Fund or the Migratory Bird Conservation Fund, nor does all the land come from private donations. My colleagues, our commonality is that the Fish & Wildlife Service can take lands from our districts without our knowledge, without our consultation, even without notice to our respective local governments.

In the case of my island of Guam, the Fish & Wildlife Service seized more than 300 acres of land to be deemed excess by the US Air Force. This figure may seem small upon first hearing but if added to the additional 28,000 acres designated as an overlay for the refuge, proportionately, this is akin to condemning 12 states and making them off limits. Fish & Wildlife arranged for this possession to occur with no notice to myself or any other local government leader. Fish and Wildlife hid behind procedural nonsense which leaves for no consideration to any entity other than themselves.

Often, Mr. Speaker, I express to the Congress circumstances that are unique to Guam's situation. In many cases, the experiences of my island and people have not and will not be duplicated or relived in any other territory or state, or by any other American citizen. I must remind my colleagues, however, that this is not the case in this case.

In light of these concerns, I am in agreement with the substitute to H.R. 512 and am appreciative that we are working to correct problems with current land acquisition procedures. In the future, I am hopeful that the issues I raised can be addressed in discussions with my colleagues.

We want to protect our resources; we want to protect the endangered species. But we must do so in a collaborative manner and in a way which takes into account local leadership and concerns.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the bill, H.R. 512, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to establish requirements relating to the designation of new units of the National Wildlife Refuge System.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill just passed and just debated.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from Alaska?

There was no objection.

NATIONAL EMERGENCY MEDICAL SERVICES MEMORIAL SERVICE

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 171) declaring the memorial service sponsored by the National Emergency Medical Services (EMS) Memorial Service Board of Directors to honor emergency medical services personnel to be the "National Emergency Medical Services Memorial Service," as amended.

The Clerk read as follows:

H. CON. RES. 171

Whereas in 1928 Julian Stanley Wise founded the first volunteer rescue squad in the United States, the Roanoke Life Saving and First Aid Crew, and Virginia has subsequently taken the lead in honoring the thousands of people nationwide who give their time and energy to community rescue squads through the establishment of To The Rescue, a museum located in Roanoke devoted to emergency medical services (EMS) personnel;

Whereas to further recognize the selfless contributions of EMS personnel nationwide, the Virginia Association of Volunteer Rescue Squads, Inc., and the Julian Stanley Wise Foundation, in conjunction with To The Rescue, in 1993 organized the first annual National Emergency Medical Services (EMS) Memorial Service at Greene Memorial United Methodist Church in Roanoke, Virginia, to honor EMS personnel from across the country who have died in the line of duty;

Whereas the annual National EMS Memorial Service has captured national attention by honoring 119 providers of emergency medical services from 35 States;

Whereas the singular devotion of EMS personnel to the safety and welfare of their fellow citizens is worthy of the highest praise;

Whereas the annual National EMS Memorial Service is a fitting reminder of the bravery and sacrifice of EMS personnel nationwide;

Whereas according to the Department of Health and Human Services, 170,000 Americans require emergency medical services on an average day, a number which projects to over 60,000,000 people annually; and

Whereas the life of every American will be affected, directly or indirectly, by the uniquely skilled and dedicated efforts of EMS personnel who work bravely and tirelessly to preserve America's greatest resource—people: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. OFFICIAL SITE OF NATIONAL MEMORIAL SERVICE.

The Congress declares the City of Roanoke, Virginia, to be the official site of the National Emergency Medical Services Memorial Service to honor emergency medical services personnel who have died in the line of duty.

SEC. 2. RULE OF CONSTRUCTION.

Nothing in this resolution shall be construed to place the National Emergency Medical Services Memorial Service under Federal authority or to require any expenditure of Federal funds.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 171, the resolution now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I encourage my colleagues to approve H. Con. Res. 171 introduced by the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Virginia (Mr. GOODE), which designates the city of Roanoke, Virginia, to be the official site of the National Emergency Medical Services Memorial Service.

H. Con. Res. 171, Mr. Speaker, does honor to the memory of 119 emergency medical services personnel in 35 States who laid down their lives for their fellow Americans in the line of duty. I urge my colleagues to support this measure to bring greater public acclaim to the many men and women who have sacrificed their time, and even their lives, for the health and safety of others.

Mr. Speaker, I would communicate to my fellow Members that this passed through our subcommittee and full committee on a voice vote unanimously.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the legislation we are considering today, the National Emergency Services Memorial Service. I strongly support this effort to honor the dedicated men and women in our emergency medical service and rescue squads who have laid down their lives in the line of duty.

All across the country, municipal and volunteer EMS and rescue squads saves thousands of lives each year. In this capacity, these brave women and men often place their lives in grave danger to save the lives of their fellow citizens.

In my district in northeast Ohio, rescue squads in communities like Medina and Brunswick and Sheffield Lake are on call night and day, utilizing their well-honed skills to meet the needs of citizens whom they serve.

This legislation, which pays homage to EMS personnel who have died in the line of duty by recognizing an annual national memorial service in their honor, was unanimously passed by the Committee on Commerce.

I would like to thank my Chairman, the gentleman from Florida (Mr. BILIRAKIS), for his leadership on this issue in honor of the thousands of dedicated EMS and rescue squad professionals around the country and those who have died in the line of duty saving lives. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I thank the ranking member of our subcommittee, the gentleman from Ohio (Mr. BROWN), for his great cooperation and the work done by both staffs, majority and minority.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I especially want to give my thanks to the gentleman from Florida (Mr. BILIRAKIS) for moving this legislation through his subcommittee and the gentleman from Virginia (Mr. BLILEY) for moving it through the full Committee on Commerce, and I also want to thank the gentleman from Ohio (Mr. BROWN) for his assistance as well.

Mr. Speaker, I rise today along with my good friend and colleague from Virginia (Mr. GOODE) in supporting House Concurrent Resolution 171 which I have introduced to honor emergency medical services personnel and, in particular, those who have given their lives in the line of duty and also to name Roanoke, Virginia, as the official site of the National Emergency Medical Services Memorial Service held each year to honor those fallen EMS personnel.

In 1928, an aptly-named gentleman from Roanoke, Virginia, Julian Stanley Wise, founded the first volunteer rescue squad in America, the Roanoke Life Saving and First Aid Crew. This organization was the forerunner of today's emergency medical services programs. Today, thousands of dedicated citizens give their time and energy to community rescue squads across the country as EMS personnel, and many have made the ultimate sacrifice by giving their lives for the safety and welfare of their fellow citizens.

To further recognize the contributions of both Julian Wise and countless EMS personnel nationwide, a museum was established in Roanoke to pay tribute to both volunteer and career EMS personnel. This museum called, To the Rescue, includes a memorial "Tree of Life," which includes a bronze oak leaf that has inscribed on it the names of all those who have been recognized. A national EMS Memorial Book, located beside the Tree of Life, contains a picture and brief biography of each person recognized.

In 1993, to honor EMS personnel from across the country who have died in the line of duty, the Virginia Association of Volunteer Rescue Squads, Incorporated, and the Julian Stanley Wise Foundation, in conjunction with To the Rescue, organized the first annual National Emergency Medical Services Memorial Service in Roanoke. Since then, the National Emergency Medical Services Memorial Service has captured national attention by honoring 119 providers of emergency medical services from 35 States who have given their lives in the line of duty.

The life of every American will be affected directly or indirectly by the uniquely skilled and dedicated efforts of the EMS personnel who work bravely and tirelessly to preserve America's greatest resource: her people. Because the memorial service held in Roanoke is a fitting reminder of that bravery and sacrifice, it is only appropriate that Congress recognize the City of Roanoke as the official site of the National Emergency Medical Services Memorial Service.

Similar legislation has been introduced in the Senate by Senator GREGG of New Hampshire, as well as Senators WARNER and ROBB of Virginia. I join my colleague from Virginia (Mr. GOODE) today in urging my colleagues to support this resolution, and I also would urge the Senate to act swiftly to pass this important resolution and recognize the important role that EMS personnel play in the life of every American citizen.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Mr. Speaker, I want to say a special word of thanks to the gentleman from Virginia (Mr. GOODLATTE) for his leadership on this measure and to thank the committee for their prompt action and for doing it right before the Memorial Day recess.

Over the course of a number of years, I have had the opportunity to come to know many members of the Virginia Association of Volunteer Rescue Squads. I have seen their experiences in many different avenues and the work that they have done. I also know the hard work that they did in the Virginia general assembly over many years. I know of the kindnesses personally that they extended to my mother when she was ill and needed their assistance on many occasions.

So, at the outset, I want to commend the Members of the Virginia Association of Volunteer Rescue Squads on originating the National EMS Memorial Service in Roanoke, Virginia, and in continuing to be one of its major supporters. Now, the service takes in squads, emergency medical services teams and other units from all across the Nation. In the past few years, they have been as far away as the State of Washington and the State of California.

In closing, I simply want to say it is indeed fitting that Congress spend a few minutes to honor the men and women who have given their lives in this honorable pursuit and to declare the memorial service held in Roanoke, Virginia and sponsored by the National Emergency Medical Services Memorial Service board to honor emergency medical service personnel who have died in the line of duty.

Mr. RODRIGUEZ. Mr. Speaker, a little over a year ago, on the night of May 3, 1997, Jessie F. Bricker, Jr., a brave fire fighter from San Antonio, Texas, responded to a four-alarm fire. After joining in a battle that lasted over 7 hours, soon after he returned to the station, Mr. Bricker succumbed to smoke inhalation and died. Over 100 others like Mr. Bricker have paid the ultimate price for their service to our communities. Let us stand here today and convey to the loved ones of these fallen personnel that these sacrifices do not go unnoticed. I rise in strong support of H. Con. Res. 171, which recognizes the sacrifices of the men and women who risk their lives each day to protect us in cities and towns all across the country.

We cannot bring back those brave emergency personnel like Jessie Bricker who gave their lives to protect us. But we can take action today to recognize the risks that our fire fighters face each day. This bill would honor the National Emergency Medical Service Memorial Service which each year recognizes those who have fallen in the line of duty. Furthermore, this legislation expresses the gratitude that we show for the dedication of volunteer and career emergency personnel, who each day leave the security of their homes and families to serve those in need all across America.

Mr. OXLEY. Mr. Speaker, today the House will consider legislation, H. Con. Res. 171, to declare that the memorial service held each year in Roanoke, Virginia to honor emergency medical services personnel who have died in the line of duty be designated as the "National Emergency Medical Services Memorial Service". As the House debates this thoughtful legislation, I would like to take a moment to honor one of my constituents, a dedicated and heroic paramedic who was killed in the line of duty.

On June 6th of last year Mr. Robert Good, of Marion Ohio, was responding to a motor vehicle accident involving live downed power lines. Knowing of the danger, Mr. Good and several other rescue workers extracted the accident victim from the automobile. While Robert Good was able to save the lives of two people, a bystander whom he pushed out of the way of live power lines and his partner whom he directed to stay clear of the accident, he was, unfortunately, not able to save himself. Mr. Good, the motor vehicle accident victim, and two rescue volunteers were killed in the courageous rescue attempt.

Since this is National Emergency Medical Services Week, it is fitting that today the House is passing legislation honoring those emergency medical services personnel, like Mr. Good, who have died while saving the lives of those in need. We all owe a debt of gratitude to these highly skilled professionals.

This week, Mr. Good will also be honored posthumously as part of a program that pays tribute to the men and women of the emergency medical service profession. During the ceremony, Mr. Good's partner will accept the appropriately named Stars of Life award on his behalf. I believe this is a fitting award for his selfless actions to save the lives of others. At this time, allow me to personally add my praise and tribute to the memory of Mr. Good for his courageous actions. Robert Good was truly a hero to all who knew him and benefited from his valiant and noble work.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would like to take advantage of this great opportunity to personally thank the emergency medical personnel of our nation.

This resolution specifically memorializes our fallen emergency workers through the recognition of the National Emergency Medical Services Memorial Service held every year in Roanoke, Virginia. It is only appropriate since Roanoke is the site of the first-ever volunteer rescue squad in the United States, the "Roanoke Life Saving and First Aid Crew". The members of that crew helped establish a tradition of selflessness and virtue that lives on today through our emergency health care workers.

Although we live in a nation of relative prosperity and health, over 170,000 people require some sort of emergency medical assistance every day. That amounts to 60 million Americans during the course of the year. As staggering an amount as that is, even more impressive is the fact that the great majority of those people will survive and be treated for their ailments successfully. By passing this resolution, we commend the workers who maintain that standard of excellence, at the risk of their own lives.

I also understand that to limit the extent of our praise to the quantity of injuries our emergency medical personnel treat would be a great disservice. We note that these heroes and heroines often go beyond their job descriptions and perform with expertise, technique, and compassion. Colleagues, I assure you, without them, life as we enjoy it would be substantially different.

I implore my colleagues to support this celebration of the unrecognized daily deeds done by our fellow Americans. There can be no higher praise for any of these individuals, who are oftentimes placed in harm's way, yet almost always reach beyond the realm of good samaritanship and into the province of heroism.

Mr. BILIRAKIS. Mr. Speaker, I would like to acknowledge committee staffers John Ford and Marc Wheat.

Having done that, I have no further requests for time, and I yield back the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 171), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title was amended so as to read: "Concurrent resolution declaring the city of Roanoke, Virginia, to be the official site of the National Emergency Medical Services Memorial Service."

A motion to reconsider was laid on the table.

NATIONAL BONE MARROW REGISTRY REAUTHORIZATION ACT OF 1998

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2202) to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Bone Marrow Registry Reauthorization Act of 1998".

SEC. 2. REAUTHORIZATION.

(a) ESTABLISHMENT OF REGISTRY.—Section 379(a) of the Public Health Service Act (42 U.S.C. 274k(a)) is amended—

(1) by striking "(referred to in this part as the 'Registry') that meets" and inserting "(referred to in this part as the 'Registry') that has the purpose of increasing the number of transplants for recipients suitably matched to biologically unrelated donors of bone marrow, and that meets";

(2) by striking "under the direction of a board of directors that shall include representatives of" and all that follows and inserting the following: "under the direction of a board of directors meeting the following requirements:

"(1) Each member of the board shall serve for a term of two years, and each such member may serve as many as three consecutive two-year terms, except that such limitations shall not apply to the Chair of the board (or the Chair-elect) or to the member of the board who most recently served as the Chair.

"(2) A member of the board may continue to serve after the expiration of the term of such member until a successor is appointed.

"(3) In order to ensure the continuity of the board, the board shall be appointed so that each year the terms of approximately ⅓ of the members of the board expire.

"(4) The membership of the board shall include representatives of marrow donor centers and marrow transplant centers; recipients of a bone marrow transplant; persons who require or have required such a transplant; family members of such a recipient or family members of a patient who has requested the assistance of the Registry in searching for an unrelated donor of bone marrow; persons with expertise in the social sciences; and members of the general public; and in addition nonvoting representatives from the Naval Medical Research and Development Command and from the Division of Organ Transplantation of the Health Resources and Services Administration.".

(b) PROGRAM FOR UNRELATED MARROW TRANSPLANTS.—

(1) IN GENERAL.—Section 379(b) of the Public Health Service Act (42 U.S.C. 274k(b)) is amended by redesignating paragraph (7) as paragraph (8), and by striking paragraphs (2) through (6) and inserting the following:

"(2) carry out a program for the recruitment of bone marrow donors in accordance with subsection (c), including with respect to increasing the representation of racial and ethnic minority groups (including persons of mixed ancestry) in the enrollment of the Registry;

"(3) carry out informational and educational activities in accordance with subsection (c);

"(4) annually update information to account for changes in the status of individuals as potential donors of bone marrow;

"(5) provide for a system of patient advocacy through the office established under subsection (d);

"(6) provide case management services for any potential donor of bone marrow to whom the Registry has provided a notice that the potential donor may be suitably matched to a particular patient (which services shall be provided through a mechanism other than the system of patient advocacy under subsection (d)), and conduct surveys of donors and potential donors to determine the extent of satisfaction with such services and to identify ways in which the services can be improved;

"(7) with respect to searches for unrelated donors of bone marrow that are conducted through the system under paragraph (1), collect and analyze and publish data on the number and percentage of patients at each of the various stages of the search process, including data regarding the furthest stage reached; the number and percentage of patients who are unable to complete the search process, and the reasons underlying such circumstances; and comparisons of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers; and".

(2) REPORT OF INSPECTOR GENERAL; PLAN REGARDING RELATIONSHIP BETWEEN REGISTRY AND DONOR CENTERS.—The Secretary of Health and Human Services shall ensure that, not later than one year after the date of the enactment of this Act, the National Bone Marrow Donor Registry (under section 379 of the Public Health Service Act) develops, evaluates, and implements a plan to effectuate efficiencies in the relationship between such Registry and donor centers. The plan shall incorporate, to the extent practicable, the findings and recommendations made in the inspection conducted by the Office of the Inspector General (Department of Health and Human Services) as of January 1997 and known as the Bone Marrow Program Inspection.

(c) PROGRAM FOR INFORMATION AND EDUCATION.—Section 379 of the Public Health Service Act (42 U.S.C. 274k) is amended by striking subsection (j), by redesignating subsections (c) through (i) as subsections (e) through (k), respectively, and by inserting after subsection (b) the following subsection:

"(c) RECRUITMENT; PRIORITIES; INFORMATION AND EDUCATION.—

"(1) RECRUITMENT; PRIORITIES.—The Registry shall carry out a program for the recruitment of bone marrow donors. Such program shall identify populations that are underrepresented among potential donors enrolled with the Registry. In the case of populations that are identified under the preceding sentence:

"(A) The Registry shall give priority to carrying out activities under this part to increase representation for such populations in order to enable a member of such a population, to the extent practicable, to have a probability of finding a suitable unrelated donor that is comparable to the probability that an individual who is not a member of an underrepresented population would have.

"(B) The Registry shall consider racial and ethnic minority groups (including persons of mixed ancestry) to be populations that have been identified for purposes of this paragraph, and shall carry out subparagraph (A) with respect to such populations.

"(2) INFORMATION AND EDUCATION REGARDING RECRUITMENT; TESTING AND ENROLLMENT.—

"(A) IN GENERAL.—In carrying out the program under paragraph (1), the Registry shall carry out informational and educational activities for purposes of recruiting individuals to

serve as donors of bone marrow, and shall test and enroll with the Registry potential donors. Such information and educational activities shall include the following:

"(i) Making information available to the general public, including information describing the needs of patients with respect to donors of bone marrow.

"(ii) Educating and providing information to individuals who are willing to serve as potential donors, including providing updates.

"(iii) Training individuals in requesting individuals to serve as potential donors.

"(B) PRIORITIES.—In carrying out informational and educational activities under subparagraph (A), the Registry shall give priority to recruiting individuals to serve as donors of bone marrow for populations that are identified under paragraph (1).

"(3) TRANSPLANTATION AS TREATMENT OPTION.—In addition to activities regarding recruitment, the program under paragraph (1) shall provide information to physicians, other health care professionals, and the public regarding the availability, as a potential treatment option, of receiving a transplant of bone marrow from an unrelated donor.".

(d) PATIENT ADVOCACY AND CASE MANAGEMENT.—Section 379 of the Public Health Service Act (42 U.S.C. 274k), as amended by subsection (c) of this section, is amended by inserting after subsection (c) the following subsection:

"(d) PATIENT ADVOCACY; CASE MANAGEMENT.—

"(1) IN GENERAL.—The Registry shall establish and maintain an office of patient advocacy (in this subsection referred to as the 'Office').

"(2) GENERAL FUNCTIONS.—The Office shall meet the following requirements:

"(A) The Office shall be headed by a director.

"(B) The Office shall operate a system for patient advocacy, which shall be separate from mechanisms for donor advocacy, and which shall serve patients for whom the Registry is conducting, or has been requested to conduct, a search for an unrelated donor of bone marrow.

"(C) In the case of such a patient, the Office shall serve as an advocate for the patient by directly providing to the patient (or family members, physicians, or other individuals acting on behalf of the patient) individualized services with respect to efficiently utilizing the system under subsection (b)(1) to conduct an ongoing search for a donor.

"(D) In carrying out subparagraph (C), the Office shall monitor the system under subsection (b)(1) to determine whether the search needs of the patient involved are being met, including with respect to the following:

"(i) Periodically providing to the patient (or an individual acting on behalf of the patient) information regarding donors who are suitability matched to the patient, and other information regarding the progress being made in the search.

"(ii) Informing the patient (or such other individual) if the search has been interrupted or discontinued.

"(iii) Identifying and resolving problems in the search, to the extent practicable.

"(E) In carrying out subparagraph (C), the Office shall monitor the system under subsection (b)(1) to determine whether the Registry, donor centers, transplant centers, and other entities participating in the Registry program are complying with standards issued under subsection (e)(4) for the system for patient advocacy under this subsection.

"(F) The Office shall ensure that the following data are made available to patients:

"(i) The resources available through the Registry.

"(ii) A comparison of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers.

"(iii) A list of donor registries, transplant centers, and other entities that meet the applicable standards, criteria, and procedures under subsection (e).

"(iv) The posttransplant outcomes for individual transplant centers.

"(v) Such other information as the Registry determines to be appropriate.

"(G) The Office shall conduct surveys of patients (or family members, physicians, or other individuals acting on behalf of patients) to determine the extent of satisfaction with the system for patient advocacy under this subsection, and to identify ways in which the system can be improved.

"(3) CASE MANAGEMENT.—

"(A) IN GENERAL.—In serving as an advocate for a patient under paragraph (2), the Office shall provide individualized case management services directly to the patient (or family members, physicians, or other individuals acting on behalf of the patient), including—

"(i) individualized case assessment; and

"(ii) the functions described in paragraph (2)(D) (relating to progress in the search process).

"(B) POSTSEARCH FUNCTIONS.—In addition to the case management services described in paragraph (1) for patients, the Office may, on behalf of patients who have completed the search for an unrelated donor, provide information and education on the process of receiving a transplant of bone marrow, including the posttransplant process.".

(e) CRITERIA, STANDARDS, AND PROCEDURES.—Section 379(e) of the Public Health Service Act (42 U.S.C. 274k), as redesignated by subsection (c) of this section, is amended by striking paragraph (4) and inserting the following:

"(4) standards for the system for patient advocacy operated under subsection (d), including standards requiring the provision of appropriate information (at the start of the search process and throughout the process) to patients and their families and physicians;".

(f) REPORT.—Section 379 of the Public Health Service Act, as amended by subsection (c) of this section, is amended by adding at the end the following subsection:

"(l) ANNUAL REPORT REGARDING PRETRANSPLANT COSTS.—The Registry shall annually submit to the Secretary the data collected under subsection (b)(7) on comparisons of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers. The data shall be submitted to the Secretary through inclusion in the annual report required in section 379A(c).".

(g) CONFORMING AMENDMENTS.—Section 379 of the Public Health Service Act, as amended by subsection (c) of this section, is amended—

(1) in subsection (f), by striking "subsection (c)" and inserting "subsection (e)"; and

(2) in subsection (k), by striking "subsection (c)(5)(A)" and inserting "subsection (e)(5)(A)" and by striking "subsection (c)(5)(B)" and inserting "subsection (e)(5)(B)".

SEC. 3. RECIPIENT REGISTRY.

Part I of title III of the Public Health Service Act (42 U.S.C. 274k et seq.) is amended by striking section 379A and inserting the following:

"SEC. 379A. BONE MARROW SCIENTIFIC REGISTRY.

"(a) ESTABLISHMENT OF RECIPIENT REGISTRY.—The Secretary, acting through the Registry under section 379 (in this section referred to as the 'Registry'), shall establish and maintain a scientific registry of information relating to patients who have been recipients of a transplant of bone marrow from a biologically unrelated donor.

"(b) INFORMATION.—The scientific registry under subsection (a) shall include information with respect to patients described in subsection (a), transplant procedures, and such other information as the Secretary determines to be appropriate to conduct an ongoing evaluation of the scientific and clinical status of transplantation involving recipients of bone marrow from biologically unrelated donors.

"(c) ANNUAL REPORT ON PATIENT OUTCOMES.—The Registry shall annually submit to the Secretary a report concerning patient outcomes with respect to each transplant center. Each such report shall use data collected and maintained by the scientific registry under subsection (a). Each such report shall in addition include the data required in section 379(l) (relating to pretransplant costs).".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended—

(1) by transferring section 378 from the current placement of the section and inserting the section after section 377; and

(2) in part I, by inserting after section 379A the following section:

"SEC. 379B. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $18,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003.".

SEC. 5. STUDY BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—During the period indicated pursuant to subsection (b), the Comptroller General of the United States shall conduct a study of the National Bone Marrow Donor Registry under section 379 of the Public Health Service Act for purposes of making determinations of the following:

(1) The extent to which, relative to the effective date of this Act, such Registry has increased the representation of racial and ethnic minority groups (including persons of mixed ancestry) among potential donors of bone marrow who are enrolled with the Registry, and whether the extent of increase results in a level of representation that meets the standard established in subsection (c)(1)(A) of such section 379 (as added by section 2(c) of this Act).

(2) The extent to which patients in need of a transplant of bone marrow from a biologically unrelated donor, and the physicians of such patients, have been utilizing the Registry in the search for such a donor.

(3) The number of such patients for whom the Registry began a preliminary search but for whom the full search process was not completed, and the reasons underlying such circumstances.

(4) The extent to which the plan required in section 2(b)(2) of this Act (relating to the relationship between the Registry and donor centers) has been implemented.

(5) The extent to which the Registry, donor centers, donor registries, collection centers, transplant centers, and other appropriate entities have been complying with the standards, criteria, and procedures under subsection (e) of such section 379 (as redesignated by section 2(c) of this Act).

(b) REPORT.—A report describing the findings of the study under subsection (a) shall be submitted to the Congress not later than October 1, 2001. The report may not be submitted before January 1, 2001.

SEC. 6. COMPLIANCE WITH NEW REQUIREMENTS FOR OFFICE OF PATIENT ADVOCACY.

With respect to requirements for the office of patient advocacy under section 379(d) of the Public Health Service Act, the Secretary of Health and Human Services shall ensure that, not later than 180 days after the effective date of this Act, such office is in compliance with all requirements (established pursuant to the *amendment made by section 2(d)) that are additional to the requirements that under section 379 of such Act were in effect with respect to patient advocacy on the day before the date of the enactment of this Act.*

SEC. 7. EFFECTIVE DATE.

This Act takes effect October 1, 1998, or upon the date of the enactment of this Act, whichever occurs later.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2202 and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am delighted this afternoon, truly delighted, to ask my colleagues in the House to support H.R. 2202, the National Bone Marrow Registry Reauthorization Act of 1998. I would acknowledge the hard work of Mr. Marc Wheat of the Majority staff, Mr. John Ford of the Minority staff, and other staffers from Mr. YOUNG'S office and staffers in the Senate in the process of working out this legislation.

I know that many of my colleagues in the House have heard from individuals whose lives were saved by this program, but many Members may not know that this legislation has been championed by a man whose own daughter was saved by the program. Coincidentally, if that is a proper word, he decided to go forward with this program quite a few years ago, and it was after he decided to go through with this program and put it into effect that his daughter was saved by the program.

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That, of course, I am referring to my friend and colleague, the gentleman from Florida (Mr. BILL YOUNG).

The gentleman from Florida (Mr. YOUNG) secured the original appropriation which established this important program in early 1987 through a grant to the Department of the Navy. In this Congress he has worked tirelessly to secure reauthorization of the program, and I was pleased to support his effort as a cosponsor of H.R. 2202.

In 1997 the National Marrow Donor Program was responsible for facilitating 1,280 unrelated marrow transplants, men and women who never met each other but knew that through the simple procedure of marrow donation a life would be saved.

There are approximately 5,000 to 7,000 Americans who could benefit from potentially lifesaving unrelated donor transplants, and yet for many, matches cannot be found yet. But thanks to the great work of the men and women in this program, over 3 million Americans have volunteered to be listed confidentially in a registry of the national marrow donor program.

Through innovative cooperation with programs in other countries, including Germany, France, Israel, South Africa, Greece, among others, patients can search for their tissue type through a worldwide network of 37 registries in 29 countries. Through this network the National Marrow Donor Program has direct access to over 4 million volunteer donors worldwide.

The language in the bill under consideration today is identical to an amendment approved by voice vote in the Subcommittee on Health and Environment which I chair. My substitute amendment represented a consensus position developed through long negotiations between the majority and minority of the Committee on Commerce and the Committee on Labor and Human Resources in the other body, the Department of Health and Human Resources, the Food and Drug Administration, the National Institutes of Health, the National Bone Marrow Donor Program itself, and many associations and interested parties who want to see this authorization pass this year.

Mr. Speaker, I want to again express my great appreciation on behalf of all of us, and on behalf of the many people out there who have benefited from this program and who will continue to benefit, and to the gentleman from Florida (Mr. YOUNG) for his efforts to secure this reauthorization.

Mr. Speaker, I urge all of my colleagues to join me in expressing their strong support for passage of this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the legislation we are considering today to reauthorize the National Bone Marrow Donor Registry Program. This program has given thousands of patients suffering from diseases like leukemia a second chance at life.

I would like to recognize the work of my chairman, the gentleman from Florida (Mr. MIKE BILIRAKIS) and the sponsor of this legislation, the gentleman from Florida (Mr. BILL YOUNG), in moving this important bill to the floor.

I extend a special thanks to the gentlewoman from Southern California (Ms. JUANITA MILLENDER-MCDONALD), who has worked tirelessly to include provisions in the bill to help meet the needs of minority and mixed-race patients. For patients who suffer from terminal diseases, such as cancer and blood and immune system disorders, the transplantation of bone marrow offers their only hope for a cure.

In 1987, with a small grant to the Department of the Navy, the National Marrow Donor Program was established to help facilitate bone marrow matches between patients and donors and maintain a registry of individuals willing to donate marrow. I am pleased that since its inception 12 years ago NMDP has facilitated over 6,500 marrow transplants between unrelated patients and donors around the world. Further, the annual number of transplants has increased by 53 percent between 1994 and 1997, since NMDP was transferred to Health Resources Services Administration.

I am pleased the legislation we are considering today builds upon this success by fully funding current and new innovative educational campaigns to increase the number of willing donors which will obviously, in turn, increase the number of successful transplantations. Working with patients and physicians, NMDP and its partners can improve outreach and increase awareness of the importance of marrow donation. This work is especially important if we are going to continue to increase the number of minorities, such as African Americans and Latinos, who are successfully matched with willing donors.

Mr. Speaker, we can all take pride in the accomplishments of this lifesaving program. I am hopeful we can work together to ensure that more sick patients have access to these lifesaving therapies by passing this legislation today.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I gladly yield such time as he may consume to the gentleman from Florida (Mr. BILL YOUNG), my friend, neighbor, and colleague.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I would have to say this is an exciting moment. This legislation, we have worked long and hard to get it in a condition that everybody could support. The basic idea here is that it extends the authorization for the National Marrow Donor Program, which, as my distinguished friends the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) have said, is a lifesaver.

It is actually a miracle. This process allows people who really had no chance for life, there was no outlook, they were not going to survive, but when the opportunity to have a bone marrow transplant came about and we were able to find enough donors to create a registry, peoples' lives have been saved. People have had a second chance for life where none existed before.

Mr. Speaker, I want to thank the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) as the ranking minority member, and every Member of this Congress. This program, from when we began in 1985, we began to try to create this program, and we hit a lot of doors that were not open to us. We were told by people high up in the realm of medical research that this would never work. In fact, one of our committees was told in testimony, well, you will be lucky if you could ever get 50,000 people willing to be a bone marrow donor.

Mr. Speaker, as we speak today, there are more than 3 million Americans who are in that registry with their marrow typed and ready to be a donor. In addition, as the gentleman from Florida (Mr. BILIRAKIS) has pointed out, we have agreements with many other nations, and we are exchanging patients and exchanging bone marrow across the ocean itself, saving lives around the world.

I want to thank the many people in the Congress who have made it possible to keep this program going. I want to thank the many people in the medical community who have been heroes in this effort. I want to thank the millions of donors who have been willing to give another person a second chance for life. This Nation of ours is full of heroes, and the list is lengthy. I wish we had time to mention all of them by name, but obviously we do not.

Mr. BROWN of Ohio. Mr. Speaker, I yield 4 minutes to my friend, the gentlewoman from California (Ms. MILLENDER-MCDONALD), who has shown great leadership in coming to our committee and on the floor on this issue.

Ms. MILLENDER-MCDONALD. Mr. Speaker, I thank the gentleman for yielding me the time, and for his comments.

Mr. Speaker, I am so proud to be able to stand before the Members today, a day when the House will finally vote on one of the most important pieces of legislation affecting the health of minorities and their families. For more than a year now I have been working to increase the number of minorities and people of mixed ancestry on the National Bone Marrow Registry, not only through legislation but through coordinated outreach efforts throughout this country.

I would like to thank the gentleman from Florida for working so closely with me to make sure that when we reauthorize this program, we do everything possible to increase the number of minorities and people of mixed ancestry.

Every year, Mr. Speaker, more than 30,000 people are diagnosed with one of the 60 diseases that can be cured with a bone marrow transplant. Of those, only 30 percent will have a family member who is a marrow match. That means 20,000 people each year need to find an unrelated marrow donor.

There are almost 2 million registered donors in this country, an increase of more than 260 percent since the beginning of 1993. But of these impressive numbers of transplants, Mr. Speaker, minorities continue to receive far fewer transplants.

In fact, in 1997, only 65 African Americans received transplants, 105 Hispanic Americans received transplants, and approximately 37 people of mixed ancestry received transplants. During that same year, however, 1,021 caucasians received transplants; so we can see, Mr. Speaker, the critical need for this.

Again, let me thank the gentleman from Florida (Mr. YOUNG) for his leadership on this issue. I urge all of my colleagues to join me in voting yes for H.R. 2202. The day has finally come to close the gap on this critical minority health care disparity.

Mr. YOUNG of Florida. Mr. Speaker, will the gentlewoman yield?

Ms. MILLENDER-MCDONALD. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. I just wanted to express to the Speaker and the Members, Mr. Speaker, my appreciation for the really hard work that the gentlewoman has done in this effort.

We introduced the bill almost a year ago, as the gentlewoman is well aware, and because of the bureaucracy involved, it has taken a while, but the gentlewoman has stayed right there on track and helped keep it moving. I mentioned many of the heroes, and the gentlewoman is one of the heroes at the top of the list.

Ms. MILLENDER-MCDONALD. Mr. Speaker, I thank the gentlemen from Florida, Mr. YOUNG and Mr. BILIRAKIS, for their leadership.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Speaker, I rise this afternoon in strong support of H.R. 2202, the National Bone Marrow Registry Reauthorization Act of 1998.

I want to also commend my good friend and colleague, the gentleman from Florida (Mr. YOUNG) for introducing and working hard and diligently for the consideration of this legislation, and my subcommittee chairman, the gentleman from Florida (Mr. BILIRAKIS) and his ranking member, the gentleman from Ohio (Mr. BROWN), for the smooth passage through the committee process.

Mr. Speaker, this program is a vital one. This holds out promise for nearly the approximately 12,000 people each year who are diagnosed with diseases for which bone marrow transplantation may offer the possibility of a cure.

The National Bone Marrow Donor Registry established by this program provides for a central registry of bone marrow donors, linking a network of 100 donor centers, 111 transplant centers, and 11 recruitment groups across the country.

The registry is also a research organization, studying the effectiveness of unrelated marrow transplants. This program has been effective in increasing the availability of unrelated bone marrow transplants, which have grown in number from 200 in 1989 to almost 1,300 in 1997 last year.

In my State of Michigan our donor centers have, as of March of this year, registered over 92,000 donors and facilitated some 291 transplants. However, estimates suggest that those who could benefit from bone marrow transplants far outnumber the actual recipients by a 2- or 3-to-1 margin. All of us have individuals in our districts hoping desperately that they will be successfully matched with a volunteer donor. For too many, that hope will not be realized.

Mr. Speaker, this is particularly true for minority individuals, who are underrepresented in the donor registry. This legislation that we are considering this afternoon strengthens the program's focus on minority recruitment.

I encourage all of us here to register as a volunteer donor. I did, because of my relationship with the gentleman from Florida (Mr. YOUNG). The process is very simple. You have to go to a donor center and give a blood sample. That is all it is. You can literally give the gift of life to another individual through this simple act.

Mr. DELAHUNT. Mr. Speaker, I rise in strong support of H.R. 2202, the National Bone Marrow Registry Reauthorization Act of 1998.

For over a decade, the National Bone Marrow Program has brought hope to the over 30,000 patients diagnosed each year with leukemia and more than 60 otherwise fatal blood disorders. From modest beginnings, the program now maintains a registry of millions of potential donors.

H.R. 2202 will expand and improve the National Bone Marrow Registry, establishing new services to help patients locate donors, redoubling efforts to recruit donors within underserved populations, and encouraging continued advances in the science of marrow transplantation.

For me, this bill has very personal meaning. It calls to mind a very special young woman and her family in Duxbury, Massachusetts, whom I have had the honor of knowing since I learned of their story in the local press.

The young woman is Brittany Lambert, who suffers from a rare blood disorder called myelodysplasia, for which she received a bone marrow transplant from an unrelated donor found through the registry. When Brittany's first transplant failed, she needed a second one. Through it all, she has shown qualities of courage and tenacity that would make any parent proud.

Brittany has been lucky in at least one respect: her parents, Jim and Linda Haehnel, and her sister, Brianne, have been with her every step of the way. In fact, when I met Jim Haehnel back in February of 1997, he was organizing a screening drive for Brittany at an

Air National Guard base in my district. I was among the 300 people who registered as potential donors on that occasion, and I promised Jim that I would do everything I could to see that more people have the opportunity to join in this effort.

The Haehnel family has shown tremendous fortitude in the face of repeated setbacks. They have continued to do everything they can to see that kids like Brittany get a second chance at life.

It is because of the heroism and selflessness of people like Brittany and her family that this program exists. And it is because of them that I feel so strongly about this effort. I am proud to join with my colleague, Mr. YOUNG, in cosponsoring this legislation, and I hope that all of my colleagues will give it their support.

Mr. PORTER. Mr. Speaker, I rise to commend my good friend, BILL YOUNG, for his tireless efforts to promote and strengthen the National Bone Marrow Donor Registry. There is no stronger advocate in the Congress for this vital public policy initiative than BILL. His work has provided a second chance at life for thousands of individuals who suffer from debilitating illness and fatal blood disease. Because of BILL's outstanding leadership, the registry has grown tremendously. I am proud to cosponsor this vital legislation and I will continue to support BILL's important efforts.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the bill, H.R. 2202, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXTENDING CERTAIN PROGRAMS UNDER THE ENERGY POLICY AND CONSERVATION ACT

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 2472) to extend certain programs under the Energy Policy and Conservation Act.

The Clerk read as follows:

Senate amendment to House amendment to Senate amendment:

In lieu of the matter proposed to be inserted by the House amendment, insert:

SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

The Energy Policy and Conservation Act is amended—

(1) in section 166 (42 U.S.C. 6246) by striking “1997” and inserting in lieu thereof “1999”;

(2) in section 181 (42 U.S.C. 6251) by striking “1997” both places it appears and inserting in lieu thereof “1999”;

(3) by striking “section 252(l)(1)” in section 251(e)(1) (42 U.S.C. 6271(e)(1)) and inserting “section 252(k)(1)”;

(4) in section 252 (42 U.S.C. 6272)—

(A) in subsections (a)(1) and (b), by striking “allocation and information provisions of the international energy program” and inserting “international emergency response provisions”;

(B) in subsection (d)(3), by striking “known” and inserting after “circumstances” “known at the time of approval”;

(C) in subsection (e)(2) by striking “shall” and inserting “may”;

(D) in subsection (f)(2) by inserting “voluntary agreement or” after “approved”;

(E) by amending subsection (h) to read as follows:

“(h) Section 708 of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out—

“(1) the international energy program, or

“(2) any allocation, price control, or similar program with respect to petroleum products under this Act.”;

(F) in subsection (k) by amending paragraph (2) to read as follows:

“(2) The term ‘international emergency response provisions’ means—

“(A) the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program, and

“(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including the July 11, 1984, decision by the Governing Board on ‘Stocks and Supply Disruptions’) for—

“(i) the coordinated drawdown of stocks of petroleum products held or controlled by governments; and

“(ii) complementary actions taken by governments during an existing or impending international oil supply disruption.”; and

(G) by amending subsection (l) to read as follows:

“(l) The antitrust defense under subsection (f) shall not extend to the international allocation of petroleum products unless allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.”; and

(5) in section 281 (42 U.S.C. 6285) by striking “1997” both places it appears and inserting in lieu thereof “1999”.

(6) at the end of section 154 by adding the following new subsection:

“(f)(1) The drawdown and distribution of petroleum products from the Strategic Petroleum Reserve is authorized only under section 161 of this Act, and drawdown and distribution of petroleum products for purposes other than those described in section 161 of this Act shall be prohibited.

“(2) In the Secretary's annual budget submission, the Secretary shall request funds for acquisition, transportation, and injection of petroleum products for storage in the Reserve. If no requests for funds is made, the Secretary shall provide a written explanation of the reason therefore.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. DAN SCHAEFER) and the gentleman from Texas (Mr. HALL) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. DAN SCHAEFER).

GENERAL LEAVE

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 2472, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

□ 1600

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill reauthorizes provisions of the Energy Policy and Conservation Act relating to the Strategic Petroleum Reserve and U.S. participation in the International Energy Agreement through fiscal year 1999. These provisions, which expired on September 30, assure that if there is any emergency dealing with energy at all, the President's authority to draw down the Strategic Petroleum Reserve is preserved and the ability of U.S. oil companies to participate in the International Energy Agreement without violating the antitrust laws is expanded and extended.

Because of their importance to U.S. national energy security, I believe these programs should be reauthorized. And with the decision by the President and the appropriators to stop the budgetary sales of oil from the Strategic Petroleum Reserve, I believe it is now appropriate to pass a long-term extension. I certainly do appreciate that fact because that has been a long-standing problem that we have had selling off our oil.

In recent years, with respect to the Strategic Petroleum Reserve, this body has been penny wise and pound foolish. For the past 3 years, we have allowed our energy security, for which we paid for so dearly, to be sold at less than half of what it cost us. If the most recent sale had gone through with today's oil prices being so low, the taxpayers would have lost at least $175 million, but they would also have lost something even more important, the energy security in this country.

In the past decade of low oil prices and steady supply, we have become increasingly dependent on foreign oil. We now rely on oil imports to meet more than half of our daily petroleum needs. Moreover, we have become complacent about how vulnerable that dependence makes the United States.

When oil prices fell to record lows recently, OPEC and non-OPEC producing countries began to restrict production in order to boost the prices. While we are still a long way from the oil embargo of the 1970s, our vulnerability remains, and we must guard carefully the energy security we have built up with the Strategic Petroleum Reserve.

Mr. Speaker, the provisions contained in H.R. 2472 will help the United States preserve its energy security. It is a good bill, and I endorse its adoption wholeheartedly.

Finally, there are several conservation-related programs contained in EPCA which were discussed at the subcommittee hearing that are not included in this bill that we are considering today, but we do have a bill coming up that would extend these programs as well. I intend to work with the interested parties to mark up that bill and reauthorize those programs in the near future.

Mr. Speaker, before I reserve the balance of my time, I would like to thank my good friend, the gentleman from Texas (Mr. HALL), for his continual support on this issue. I know that coming from the State of Texas it is very important to him.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield myself such time as I may consume.

I will be brief because, as usual, the gentleman from Colorado (Mr. DAN SCHAEFER) has done a good job of laying out the reasons for supporting H.R. 2472. It simply reauthorizes the key sections of the Energy Policy and Conservation Act. The underlying House bill was handled in a bipartisan manner in the Committee on Commerce and passed on a voice vote.

Actually, the changes that are made herein are supported by both industry and the administration, of course supported by the subcommittee and the committee. I know of no objection to this legislation.

Last winter's instability in the Middle East pretty well underscored how quickly circumstances can change. It was a volatile situation that served as a reminder of the need for the United States to be energy independent.

This will ensure that the United States and the industry will be able to fulfill their duties in any oil-related emergency. For that reason I thank the gentleman from Virginia (Mr. BLILEY) and the gentleman from Colorado (Mr. DAN SCHAEFER) for bringing this important bill to the House floor. It is important to our country's economic and energy security, and I am pleased to support this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Colorado (Mr. DAN SCHAEFER) that the House suspend the rules and concur in the Senate amendment to the House amendment to the Senate amendment to the bill, H.R. 2472.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment to the House amendment to the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

MANDATES INFORMATION ACT OF 1998

The SPEAKER pro tempore (Mr. KNOLLENBERG). Pursuant to House Resolution 426 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3534.

□ 1606

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3534) to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes, with Mr. SHIMKUS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, May 13, 1998, the amendment offered by the gentleman from Virginia (Mr. DAVIS) had been disposed of, and the bill was open for amendment at any point.

Are there further amendments to the bill?

Mr. MOAKLEY. Mr. Chairman, I move to strike the last word, and I rise to offer an amendment to H.R. 3534, the Unfunded Mandates Information Act of 1997.

Mr. Chairman, this amendment would strike from the bill language which was added in committee at the last minute by the gentleman from California (Mr. DREIER) to exempt tax revenue from the private sector point of order. The Dreier language ignores the spirit of this bill, which is to force Congress to think twice before we impose any burden on private companies.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I would like to inquire, is the amendment pending?

Mr. MOAKLEY. Mr. Chairman, I intend to offer the amendment. I have not offered the amendment.

Mr. DREIER. I thank the gentleman.

Mr. MOAKLEY. I thank the gentleman for noticing.

Mr. Chairman, the point of order triggers a debate and a vote on the question of consideration. It makes Congress take notice and make informed decisions about whether or not to proceed. The Dreier amendment changes the whole picture. It says we should ignore real costs to private companies and individuals as long as that revenue generated is fully spent in tax or tariff reductions. A tax on coal deserves debate on its own, but if it is coupled with a tax break for ethanol, it suddenly is not worth Congress' attention.

The Dreier language says that we have to know how the revenue was spent before we know whether a tax or a tariff is a burden. Consider what that means to excise taxes like taxes on gas and tobacco, where many people believe that the revenue generated should be dedicated only to certain spending programs. If a measure increases gas taxes and requires that the money be spent on highway repair only, the measure would be subject to an unfunded mandate point of order.

However, Mr. Chairman, if the same gas tax increase is completely offset by a provision to allow billionaires to avoid some kind of Federal tax liability, then the point of order just would not apply.

Consider also a tobacco bill, which we may be considering some day, that raises cigarette taxes and spends that money to prevent teenage smoking or on health care costs and health care research or on aid to the tobacco farmer, that bill will be subject to a point of order. But, Mr. Chairman, under the Dreier language, if that tobacco revenue is given away in tax cuts rather than these programs I just enumerated, then the point of order just does not apply.

I believe this approach is uneven. I believe it is arbitrary. It goes against the fundamental purpose of the bill, which is to make Congress reconsider whether it wants to impose any private sector burdens.

Therefore, Mr. Chairman, I urge my colleagues to support my amendment that I am about to file and strike this language to the bill and return it to the original intent of the sponsors.

Mr. DREIER. Mr. Chairman, I move to strike the last word. I would like to engage my colleague, if I could, with a question. Is there an amendment that we are considering here?

Mr. MOAKLEY. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Chairman, there is an amendment at the desk.

Mr. DREIER. I do not have anything to say, Mr. Chairman, until I know what it is.

Mr. MOAKLEY. Mr. Chairman, if the amendment is there, maybe the Clerk could read the amendment.

Mr. DREIER. Mr. Chairman, I guess the gentleman will be recognized then in support of his amendment and I would like to be heard in opposition to it.

AMENDMENT OFFERED BY MR. MOAKLEY

Mr. MOAKLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOAKLEY:

On page 5, line 13, strike "(3)" and all that follows through line 5, page 6.

Mr. MOAKLEY. Mr. Chairman, I know I just gave a vivid explanation of the amendment. I do not want to subject the House to it again. I know that the gentleman from California (Mr. DREIER) has good enough memory to remember what I said so we can address my amendment now.

☐ 1615

Mr. DREIER. Mr. Speaker, I rise in opposition to the amendment, not surprisingly, and I have a prepared statement which I know the gentleman from Massachusetts (Mr. MOAKLEY) will understand very clearly.

Mr. Chairman, I oppose the Moakley amendment because it seeks to perpetuate a set of budget rules that have, for the past decade, dramatically shifted Federal policy in the direction of more Washington spending programs at the expense of tax relief for working families.

At a time when the Federal Government is raising $500 billion more in revenue than was projected in the Balanced Budget Act, it is unconscionable our colleagues in the minority would attempt to further rig the rule so that those revenues which belong to hardworking families can be used to tax and spend our way out of a balanced budget.

H.R. 3534 provides that if a measure contains private sector mandates exceeding $100 million, consideration of the measure may be subject to a point of order. An exception is made for legislation containing tax or tariff provisions which cause the $100 million threshold to be exceeded but result in an overall net reduction of tax or tariff revenue over a 5-year period, provided that the bill does not include other nonrevenue-related Federal private sector mandates that exceed that $100 million threshold. If a bill contains tax or tariff provisions which result in a net increase in revenues, or it contains nonrevenue related mandates, a point of order may still apply.

This language is necessary, Mr. Chairman, because in the universe of private sector mandates, our budget rules discriminate against tax cuts by requiring that they be paid for by increases in other tax revenues or reductions in mandatory spending. In other words, our budget rules require us to impose mandates on the private sector as a condition of providing tax relief to the American people.

In addition, given the dynamic effects of tax rate changes, I find it hard to believe that anyone would suggest that tax rate reductions that may actually raise revenue, such as the capital gains tax cut, we all know it has been a revenue raiser, should be treated as private sector mandates and subject to a point of order. Mr. Chairman, I find it ludicrous, but that is exactly what would happen if the Moakley amendment were to prevail.

Mr. Chairman, I also want to respond to some inaccuracies in the administration's policy statement on this bill. It states, and I quote,

> The administration is especially concerned about the amendment added to the bill that would establish a point of order on the use of user fees and revenues.

Mr. Chairman, someone did not read the amendment that was adopted in the Committee on Rules that I offered because the point of order was always in the bill. The amendment that I authored in the Committee on Rules makes an exception to that point of order.

The statement for the administration further goes on, and I quote,

> This amendment could delay or undermine funding for a number of well-established and important programs and laws that have traditionally received bipartisan support, including airline, air traffic and ground safety; the Superfund program; the Senate passed version of the Internal Revenue Service reform bill; and legislation under consideration that provides relief to tobacco farmers and additional resources for public health and health research.

Once again, Mr. Chairman, the person who wrote that statement obviously did not read the bill or my amendment. All H.R. 3534 says is that if a point of order is made, it is subject to 20 minutes of debate, after which the Members must vote on whether to proceed with consideration of the legislation. All we are doing is encouraging a deliberative process.

This mechanism was crafted to ensure that the House would have additional information and debate time on certain Federal mandates, but that legislation containing such mandates could continue to be considered by the House if a majority so desires. The Dreier amendment, adopted by the Committee on Rules, does nothing to change this process.

In other words, if Congress takes up legislation to raise tobacco taxes and uses that revenue to fund President Clinton's great budget blow-out proposals that he unveiled here in his State of the Union message, that legislation could be subject to a question of consideration. The Committee on Rules amendment did nothing to change that outcome. If, however, revenues from a tobacco tax increase are returned to working families in the form of tax relief, then the Committee on Rules amendment provides an exclusion from the point of order.

Mr. Chairman, the Moakley amendment seeks to strike this taxpayer protection and allows legislation providing a net tax reduction to be subject to a point of order if it contains loophole closers or tax rate cuts that actually raise revenue. This will further bias our procedures against tax cuts and seriously undermine our efforts to simplify the Tax Code and provide badly needed tax relief to working families.

For this reason and all of these reasons, Mr. Chairman, I am going to oppose the amendment.

Mr. MOAKLEY. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN pro tempore (Mr. SHIMKUS). Without objection, the gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 5 minutes.

There was no objection.

Mr. MOAKLEY. Mr. Chairman, I paid very close attention to my dear friend's explanation, but the provision of the Dreier amendment really distorts the underlying purpose of the unfunded mandate bill. It used to focus on whether or not there was a mandate. Now, under the Dreier amendment, it focuses on whether it is a tax bill and how the funds from the tax bill would be handled. If Members choose to give a tax break to someone else, the issue of a mandate on a private business does not get debated in the House.

The purpose of the unfunded mandate bill is very simple. It calls upon Congress to look and see how it affects that private business. And, therefore, if we raise a tax on that business and we do not use it to help those types of businesses, but give it back in tax relief, then it is not an unfunded mandate but it still hurts that private person who we are trying to protect. This is not a tax bill, it is an unfunded mandate bill.

Now, for instance, if an aviation tax increase faces a point of order, if money is spent to improve airports, so the aviation tax goes to build up the airports, put new towers in there, then a point of order can lie. But if this money from that aviation tax goes to the fat cats, no point of order.

Gasoline tax. If the gasoline tax is used to build roads, to improve safety factors; point of order lies. But if we take that tax money and give it for some other purpose, no point of order.

Tobacco tax. If that money is used to educate children to stop smoking, if that money is used to show people through all kinds of means how bad tobacco is for them, point of order. But if we give that money back as a tax rebate to the big fat cats, no point of order.

Mr. Chairman, the Dreier amendment distorts the basis of this unfunded mandate bill.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding, and I think the gentleman has really explained this very well once again. He is in favor of spending for a wide range of very well intentioned proposals, and I think a lot of these issues need to be addressed; whereas we, with my amendment, are focusing on this whole question of reducing the tax burden on working families.

But, let me just say that I am a little confused at exactly what we have before us right now, because apparently, and the gentleman can correct me if I am wrong, but the amendment that has just been put forward goes much further than simply deleting the so-called Dreier language. It appears to me it guts the entire bill.

Now, my friend told me that he is no longer supportive of the bill as he might have been in the past when we were talking earlier, but the way this amendment has been crafted, I have just been informed that it basically strikes out all points of order that can be raised against private sector mandates. Is that the gentleman's intention?

Mr. MOAKLEY. Mr. Chairman, that is not my intention, no.

Mr. DREIER. So the gentleman's intention is to simply to delete the Dreier amendment?

Mr. MOAKLEY. That is all.

Mr. DREIER. I think, Mr. Chairman, I would just like to inquire, then, of the Chair, if it does go beyond simply deleting the Dreier amendment.

The CHAIRMAN pro tempore. The Chair cannot interpret the meaning of an amendment.

Mr. MOAKLEY. Reclaiming my time, Mr. Chairman, the gentleman just made my point for me. If we raise tobacco taxes to advertise to stop kids from smoking, a point of order would lie. But if we give tax rebates back, a point of order would not lie. This is not a tax bill; this is an unfunded mandate bill.

But the gentleman from California (Mr. DREIER) makes it a tax bill. And this is a great loophole that we can reward our big fat cats with tax breaks at the expense of those youngsters that do not get the proper education to stop smoking.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts (Mr. MOAKLEY) has expired.

(On request of Mr. DREIER, and by unanimous consent, Mr. MOAKLEY was allowed to proceed for 2 additional minutes.)

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. DREIER. I think, once again, we are making each other's arguments. My friend is for tax and spend, we are for cutting the tax burden on working families. So we have clarified that.

But let me just ask this question once again. Does the gentleman's amendment go beyond simply deleting the Dreier language that was passed in Committee on Rules? He has just said that is what his intent is, but I am continually told by our crack staff assistants around here that it goes well beyond that.

Mr. MOAKLEY. Mr. Chairman, that is not my intent. If that is what this amendment does, I will pull it back and just eliminate the Dreier amendment. That is not my intent.

This is not a tax and spend bill.

Mr. DREIER. Could we clarify that before we proceed further with the debate?

Mr. MOAKLEY. But this is a bill that if we tax the tobacco industry, we should put it toward education.

Mr. DREIER. This is a big tax and spend bill, and I would just like to make sure we have the right amendment before us.

The CHAIRMAN pro tempore. The gentleman from California will suspend. The time is controlled by the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. MOAKLEY. Which the gentleman kindly gave to me, Mr. Chairman.

As I said, this is not rewarding anybody, but if a private business has a tax put on it, it is very unfair to use that tax money to give it back in rebates to people in other businesses. If it is tax because of a certain reason, it should be used in the furtherance of that business.

This is an unfunded mandate. We should not persecute people by taking their tax money and putting it in other places. That is all I am trying to say.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. WAXMAN. I want to see if I understand the amendment, Mr. Chairman.

The underlying bill requires that the House pay special attention if there is a mandate on private enterprise.

Mr. MOAKLEY. The gentleman is correct.

Mr. WAXMAN. Now, that mandate can be a new regulatory requirement or it can be a tax. That is a mandate that they have to pay.

Mr. MOAKLEY. The gentleman is correct.

Mr. WAXMAN. As I understand the Dreier amendment, he would say it is all right to put a tax on a business if we give a tax break to another business.

Mr. MOAKLEY. The gentleman is exactly correct.

Mr. WAXMAN. It is still a mandate on the company that has the tax burden. On the other hand, as I understand the Dreier amendment, if we put a tax burden on one enterprise in order to spend the money on some worthwhile purpose, as the Congress sees fit, then that would be an unfunded mandate and require the operation of the underlying bill.

Mr. MOAKLEY. The gentleman is correct.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts (Mr. MOAKLEY) has again expired.

(On request of Mr. DREIER, and by unanimous consent, Mr. MOAKLEY was allowed to proceed for 1 additional minute.)

Mr. MOAKLEY. Mr. Chairman, I am overwhelmed by the gentleman from California's generosity.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I think my friend from West Los Angeles has actually made a very good point. There are more than a few Members in this House, including the chairman of the Committee on Ways and Means, we have a couple of very distinguished members of the Ways and Means here who are looking at the idea of overhauling the Tax Code.

And I will tell my colleagues, I hear often from the people whom I am privileged to represent in California that they want us to certainly pare back, overhaul or possibly even eliminate the Internal Revenue Service. The gentleman from Texas (Mr. ARCHER) has a proposal, we have flat rate tax proposals, but it appears to me that if we were to proceed with the Moakley language deleting the amendment I offered in the Committee on Rules, we could not even consider a complete overhaul of the Tax Code, which the American people desperately want.

And so, as my friend from California (Mr. WAXMAN) has just indicated, we have a situation here that, yes, there could be some kind of modification, but I think it is very troubling this would tie the hands of a Congress that really wants to do these kinds of things.

Mr. MOAKLEY. Mr. Chairman, reclaiming my time, the gentleman has misstated the case. This does not stop any kind of tax refund from going over, but the gentleman, in effect, has admitted he is making a tax bill out of this unfunded mandate bill, is what he is doing.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. WAXMAN. I am perplexed by my friend from California's statement as well. As I understand the underlying bill, it does not stop the Congress from doing anything. It just simply says, wait a minute, we want to take a look at this.

And if we are going to put a burden on private enterprise, we want to have a special focus on that and make people have to debate it and vote on it. If we are going to put a tax increase on some business, that seems to me a sufficient burden that we are putting on them that we ought to stop and be sure that that is what we want to do.

As I understand the Dreier amendment, which the Moakley amendment would strike, it would have us ignore what the burden is on a private business, a small business, particularly, if there is a tax break for someone else.

MODIFICATION TO AMENDMENT OFFERED BY MR. MOAKLEY

Mr. MOAKLEY. Mr. Chairman, I ask unanimous consent, because of the conversation with the gentleman from California (Mr. DREIER) and I had to make sure I do not go beyond eliminating the Dreier amendment, to modify my amendment.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment offered by Mr. MOAKLEY:

Page 5, line 23, strike the italized words through line 4, page 6.

The CHAIRMAN pro tempore. Is there objection to the modification to the amendment offered by the gentleman from Massachusetts?

There was no objection.

□ 1630

Mr. HAYWORTH. Mr. Chairman, I move to strike the requisite number of words.

I appreciate the opportunity to engage in this debate because I would echo what my colleague, the gentleman from California (Mr. DREIER), on this side of the aisle has had to say. Despite my deep personal affection for my friend, the gentleman from Massachusetts (Mr. MOAKLEY), the Ranking Minority Member of the Committee on Rules, what my colleague from California points out is quite true. What, in essence, the Moakley amendment allows to have happen is for this Chamber to continue the culture of spending and raise barriers to the American people hanging on to more of their hard-earned money.

Indeed, as a member of the Committee on Ways and Means, I am challenged and chagrined by the fact that our existing budgetary rules already raise so many hurdles, where if to offer tax cuts to one segment of the American population, we must have, in fact, revenue offsets.

What we should be about in this Chamber, my colleagues, when we strip away all the discussion of rules, all the inside baseball, all the legislative minutia with which we deal here, the fact is we should make it easier for the American people to hang on to what they earn; and we should reject any language, no matter its intent, that makes it tougher for the American people to hold on to their hard-earned money.

The American people are already overregulated and over taxed, and we must do all we can to preserve the notion that they should hold on to more of their money and send less of it here to Washington. Accordingly, my colleagues, I would ask that we reject the Moakley amendment, stand in favor of families, stand in favor of families holding on to more of their hard-earned money.

I could not help but note the difference to hear my colleague from Massachusetts refer to those who might receive a tax cut as "fat cats." I do not believe that the working family in Payson, Arizona, one of my friends who owns a print shop there who has a family of four who now, through our historic agreement to offer tax relief at a $400 per child tax credit this year that increases to $500 next year, can be called a "fat cat" because he and his wife hold on to $1,600 dollars of their income to spend on their families as they see fit.

So we are witnessing here in this Chamber, Mr. Chairman, a great cultural and philosophical divide among those who favor the culture of tax-and-spend and Washington-knows-best and those of us who believe that no matter how well-meaning a Washington bureaucrat may be, no matter how well-meaning my friend on the other side of the aisle may be, Mr. Chairman, when this comes to our pocketbook, no matter our economic station in life, no one knows better how to spend for their family and save for their future than they do.

That is the essence of this debate. That is why the Moakley amendment must be rejected, to reverse the culture of tax-and-spend and stick up for American families.

Mr. MORAN of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am certainly sorry that my colleague is challenged and chagrined on this. But as an original sponsor of the unfunded Mandates Reform Act and as a strong supporter of the Mandates Information Act, I support the Moakley amendment. A vote for the Moakley amendment is a vote to strike language that would erode the intent of the Mandates Information Act. So, in other words, the Moakley amendment is an attempt to maintain the integrity of the Mandates Information Act.

It was not a part of the original Mandates Information Act, the language that the gentleman from Massachusetts (Mr. MOAKLEY) is attempting to strike. It is not supported by the business community or the bill's original sponsors. It was added at the last minute by the House leadership, apparently to serve a political objective.

I am opposed to this because it waives the right for anyone to challenge a private or a public sector mandate if the bill results in a net tax decrease.

So, in other words, it allows a bill to amass major tax increases as long as they can find some other, albeit unrelated, tax decrease to offset the major tax increases. That means, despite a number of tax increases and provisions that close tax loopholes in the 1997 Tax Relief Act, no one would have been able to raise a point of order on the revenue measures because the bill contained a net tax deduction.

This year's highway bill, however, would have been subject to a point of order since there was no net tax decrease but there was an extension of the current Federal gasoline excise tax. Do we really want to create two categories of tax bills, one that is exempt and another that is subject to the provisions that we fought hard to include in the Unfunded Mandate Reform Act and the Mandates Information Act? I think not. I would be surprised if my friend and colleague would not agree that we should not have two separate categories of tax increases.

So I urge my colleagues to support the Moakley amendment and restore the integrity and the intent of the Mandate Information Act. Let us be evenhanded when we deal with tax measures.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I would simply say, as has been made very clear, that the thrust of what this amendment that I have offered is designed to do is to decrease that extraordinary burden on working families.

I think that while there may be this view out there, my friend said he has been a long-time supporter of this measure, I would like to share with him and my colleagues a list of just a few of those people who have said that they support the bill as it was reported in the Committee with the Dreier language.

That includes the National Governors Association, the National Conference of State Legislatures, the National League of Cities, the National Association of Counties, the National Taxpayers Union, the U.S. Chamber of Commerce, the National Federation of Independent Business, the American Farm Bureau, Citizens for a Sound Economy, the National Restaurant Association, the National Retail Federation, Small Business Survival Committee, Associated Builders and Contractors, Associated General Contractors, American Subcontractors Association, National Association of Self-employed, National Association of Manufacturers, and on and on and on and on.

So virtually everyone is supportive of the language as has come out. My friend, who has been a supporter of the bill, I appreciate it, and he is welcome to stand alone in favor of tax increases over tax cuts.

Mr. MORAN of Virginia. Well, it just seems to me that we ought to spotlight it when there is any tax increase. And that is what the gentleman from Massachusetts (Mr. MOAKLEY) is attempting to do, and that is why I support the

Moakley amendment. I thank the gentleman for his input, though.

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to start by thanking the gentleman from Virginia (Mr. MORAN) for his unwavering support for the underlying legislation, H.R. 3534. I think what the gentleman from California (Mr. DREIER) has done is an improvement to the bill, and I hope that he will reconsider his opposition to the Dreier addition and then in the end support us on final passage once we are able to defeat the Moakley amendment.

I think this really comes down to a philosophical debate in some regards as to tax versus spend. But let me just make one distinction that has not been made clearly on the debate that I think is a logical distinction and the reason I think it is important to accept the Dreier language and not knock it out with this Moakley amendment.

Under the budget rules that we live under, we essentially discriminate against tax cuts. How do we do that? If we want to reduce taxes under our rules that we all live under, we have to mandate. In other words, we have to come up with tax increases somewhere else. The other choice is to increase entitlement spending, which I do not think anyone on the floor tonight particularly wants to do, or decrease entitlement spending to offset those tax cuts.

So we are in a position now where if we want tax relief, let us say the capital gains differential that we put into place last year, we have got to go into the Tax Code and we have got to find loophole closures in that Tax Code that are essentially revenue raisers, which are, under the terms of this legislation, as was said earlier, new mandates. In other words, tax increases are new mandates.

So it would be, it seems to me, illogical to say every time we want to give any kind of tax relief we have to mandate, as rule number one; and then on the other hand step in and say, and if we mandate, we are then subject to this mandate exercise.

So I think this is important, and I think it makes sense. I would also say that we are hearing some scenarios, maybe on both sides but I want to focus on ones on the other side, that just are not true. The point has been made the other night and again today that this would somehow not enable us to move forward with the tobacco agreement. How does this change that?

Under the legislation without the Dreier language, there would be to difference with regard to the tobacco legislation than there would be having accepted the Dreier language. So it is not going to have any effect on the tobacco legislation and the possibility of a cigarette tax.

Mr. MOAKLEY. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. But this does change it. It does slant it. If we do not have a point of order prevail against it because it is going to go back to some program, talking about the tobacco, that is going to stop smoking, a point of order is going to lie upon it. But if we are going to take that money and give it back as tax rebates, a point of order does not lie against it. And the argument is not going to be on what it does, it is going to be on procedure.

Well, Mr. Chairman, this is not a mandate. This is not a point of order under the unfunded mandate because it says, if there is going to be a tax break, there is no point of order, Mr. Chairman, it gives a point of order.

It does slant the debate.

Mr. PORTMAN. Mr. Chairman, reclaiming my time, I would make two points.

One is that my colleague should like this amendment in that case because it is more likely that some kind of tobacco legislation I guess would not get through because the point of order would lie without the Dreier language in both of those scenarios. The point of order would lie in the case where there was more spending, and the point of order would lie in the case where there was a net tax decrease.

All the Dreier amendment is trying to do is, in the case where there is a net tax decrease, partly for philosophical reasons and partly because of this absurdity where we are told if we have tax decreases we have to mandate, so then why should the mandate be subject to this? So I really do not understand how it relates at all to the tobacco legislation.

If anything, I would hope that my colleague would stand up and support the gentleman from California (Mr. DREIER) because he might help him here. He is carving out at least some area where we would not subject it to this information requirement.

I would also say, to make the point that was made earlier by the gentleman from California (Mr. WAXMAN), if the majority of this House determines that they would like to spend that money, fine. This is an informational process; and if in the end, after a 20-minute debate, 10 minutes on each side, regarding this new private sector mandate or this new tax increase, this House determines that it is in the interest of the country to move forward with the legislation, we would simply vote by a majority vote, as we did with regard to minimum wage last year, to move forward with the legislation.

So I do not understand quite what the big concern is about this language. I think it is logical, given our budget rules that we have to live under; and I would support the language and oppose the Moakley amendment.

Mr. MOAKLEY. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Chairman, actually, I think the gentleman from Ohio is disturbed with the budget act. I think we should amend the budget act. But do not try to straighten out the budget act with this amendment.

Mr. PORTMAN. Mr. Chairman, is the gentleman from Massachusetts offering an amendment to change the budget rules? Because I do not think it would be germane here. We have to live under these rules. They are the rules that we have.

Mr. DREIER. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio (Mr. PORTMAN) be given an additional 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PORTMAN. Mr. Chairman, I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. I thank my friend, the gentleman from Ohio (Mr. PORTMAN).

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Mr. MORAN of Virginia. Mr. Chairman, I thank both gentlemen. An additional point needs to be made, that while the administration opposes this bill in general, their principle objection seems to be to this particular provision.

Those who want the overall bill to pass, I think it makes enactment problematic when this particular provision is included. So I think that needs to be seriously considered within the context of whether we should pass this particular amendment.

Mr. WAXMAN. Mr. Chairman, would the gentleman yield?

Mr. PORTMAN. I am happy to yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I was trying to understand the point that you were making. You said that the budget rules require that there be a tax increase in order for there to be a tax decrease.

The budget rules also require that there be some kind of spending if there were going to be an increase in the amount for entitlements like Social Security or Medicare.

So what I do not understand is why, when we put a tax burden on a small business in order to raise money, that is not considered unfunded mandate in order to get some attention here in the House if the money taken from that small business is used to give, maybe, a big business a tax break, but it is considered unfunded mandate if you ask that businessman to pay more taxes and we use it to help Social Security or Medicare.

I do not understand why that distinction should hold. If it is a burden on a business, then we ought to stop and take a look at it. Which is the purpose of the underlying bill?

Mr. PORTMAN. Mr. Chairman, reclaiming my time, I think what the gentleman is saying, in essence, is that there is discrimination in this legislation against new spending. I guess I would answer him by saying, getting back to this philosophical question, you are probably right. We have a $5.5 trillion debt in this country. I think the problem that we are trying to address here is not on the tax side in terms of tax increases. It is more in terms of spending being out of control and a need to begin it get some control over the mandates on the private sector. That is the bias here.

As I said earlier, there is a philosophical difference here.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. PORTMAN) has expired.

(By unanimous consent, Mr. PORTMAN was allowed to proceed for 1 additional minute.)

Mr. PORTMAN. Mr. Chairman, I would also say that if you look at the budget rules when we are talking about taxes, this is just a carve-out for taxes, it just has to do with situations where you have a net decrease in taxes in a tax package. Right now, we are living under rules that I think, despite what the gentleman from Massachusetts (Mr. MOAKLEY) may believe about those rules, we are going to continue to have to live under, which say that every time you want to give tax relief, you have to mandate. It seems to me, again, it would be absurd, then, to require those mandates to be subject to this if we are requiring ourselves to mandate.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield to me?

Mr. PORTMAN. I will be happy to yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I understand the distinction the gentleman is making, but if we imposed a tax on tobacco and wanted to use that money to help pay for Medicare, we would not have the opportunity to have a focus on that new tax increase.

If we had that tax on tobacco and wanted to give a tax break to growers of corn, then we would say, whoa, wait a minute, we are going to take a special look at that tax on tobacco. That just, to me, does not make a lot of sense.

Mr. PORTMAN. Mr. Chairman, I think it is the converse of what the gentleman just explained.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Moakley amendment, and I do so out of very grave concern for the effects of the underlying legislation on the Aviation Trust Fund.

The Moakley amendment would ensure that revenues raised from aviation users will continue to be dedicated to the purposes for which the Aviation Trust Fund was established, for investment in air traffic control, air traffic safety, air traffic security, equipment, and in airport capital needs. Revenues raised from aviation users under the concept of the Aviation Trust Fund are deposited in that trust fund. It is to be used solely for improvements in our air traffic control system and for operation and maintenance of the system.

Air traffic controllers, air traffic safety equipment, radars, terminal Doppler weather radar equipment that we need in our en route centers for control of aircraft at high altitudes, these are very costly systems. They need to be updated and maintained, and the upgrade needs to be planned out years in advance. That is why we have this concept of a trust fund with a dedicated revenue stream to these critical investments. We have tried to strengthen the Aviation Trust Fund in recent years.

There was a vote not too long ago in which we failed by only five votes of taking that trust fund entirely off the budget. Current legislation to take the trust fund off budget has 243 cosponsors; to make it more difficult, not less, to divert resources from protecting aviation safety for the American public. That is a bipartisan commitment.

The underlying bill, H.R. 3534, would undermine that commitment. Taxes raised on the concept of this bill from the aviation industry could more easily be spent on tax cuts for upper income Americans of the top 1 percent or 2 percent of millionaires in this country than they could be spent on aviation investments.

The underlying bill would mean that, if Congress moved to raise aviation excise taxes to improve our air traffic control system, for the modernization of the aircraft control system, for aviation security as we are now in the process of doing, a point of order could lie automatically against such legislation. That would be outrageous.

If we do not change this underlying bill, if it should become law, and I am confident the President will veto it, we will have moved backward, not forward, in our efforts to modernize the air traffic control system. We have made a 30-year almost commitment to improving aviation safety, security, expanding capacity to the Nation's airports through the Aviation Trust Fund. It is astonishing to me to see legislation come up here that makes it more difficult.

The Moakley amendment would stop that rollback, allow us to continue our efforts and modernize the air traffic control system, improve aviation safety. I urge its adoption.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I do not have any further time.

Mr. DREIER. I ask unanimous consent, Mr. Chairman, that the gentleman be given 2 additional minutes.

Mr. OBERSTAR. No, I do not seek additional time. The gentleman has had sufficient time to discuss the amendment.

Mr. DREIER. I wanted to clarify.

The SPEAKER pro tempore. The time is controlled by the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I yield back the balance of my time.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a most curious exercise. We have a bill on the floor which says that any time we pass a law, we have to have a special vote in this House as to whether we are going to consider it if it is going to impose any unfunded mandates on any citizen.

That means if we are going to tighten the law with regard to protecting people under the Food and Drug Act from unsafe food, drugs, cosmetics, or if we are going to deal with the problems of Superfund or brownfields, or if we are going to deal with the problems of water pollution, because it is going to cost money, we are going to have to have a special vote before we can consider those questions.

It means any time that we do something that the people want that is going to protect their health, safety, or welfare, or any time we are going to do anything that is going to make life better for the people of this country, we are going to stop and have to have a special vote. Somebody over here, I think, assumes that this is going to be very helpful to them politically.

Then along comes this curious amendment which says if you are going to do that, you do not have to have the vote if you have a tax cut in the bill. That is very strange. It does not say the tax cut has to go to the people. We are going to pay the cost. All it says is you are going to have a tax cut of approximately the same amount. Hardly good sense. It sort of smells of blackmail or something of that kind.

But the hard fact of the matter is, it is not going to do anything that is going to be of any particular merit. It is just going to have another vote.

The practical result of this legislation is that, where something is necessary to be done, we will probably have the extra vote. The process will be delayed. We will have a point of order, and we will have a huge wrangle about it, but nobody is going to be better by the result of this.

The tax cut, which supposedly, if it is going to occur, can go to anybody. You give it to all the millionaires and say, millionaires, you do not have to pay any tax; and that way, we will have benefited the economy to offset a change in the food and drug laws to protect people from unsafe food, drugs, and cosmetics.

The gentleman from Massachusetts is smart enough to have recognized this and to have offered an amendment which would address this. I hope that the House is wise enough to accept the amendment offered by the gentleman from Massachusetts. It will benefit the legislation somewhat. The legislation will have less of a curiosity to it. It might even look a little better. But it is not going to benefit the operation of the House particularly, even as amended.

The practical result of the amendment is going to be simply to eliminate a little bit of the obfuscation and, quite honestly, the stupidity of the bill as amended. The practical result of all this is going to be, however, that we are still going to have a bad bill.

I know the House is probably going to vote for this because my Republican colleagues are going to go home and make speeches about it and tell everybody what a great job they did in amending the rules of the House by statute. That is a curious process, too, and I am sure they can explain that to their constituents, but I cannot.

I do not think that their constituents, if they really will reflect on this, are going to come to the conclusion that this kind of convoluted relationship of a tax cut to the public interest is something which, in fact, is going to benefit either the country or the procedures of the House of Representatives.

My counsel to the House, I know it is not going to be listened to on the Republican side of the aisle because they do not seem to listen to common sense on many days, but it is to simply observe that the amendment should be adopted, the bill should be rejected, and we should go about legislating in the fashion that hundreds of years of legislators have found serves the public interest without any nonsensical proposals of this type.

Mr. GILLMOR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Chairman, I thank my friend for yielding to me. I appreciate his courtesy, Mr. Chairman, and I rise simply to respond to the statements that were made by the distinguished ranking member of the Committee on Transportation and Infrastructure, and I am very, very sad that he would not yield to me for a clarification.

The statement that he made in the well was a very eloquent argument against the underlying unfunded mandates bill. He does not want us to in any way be able to zero in and target those mandates which are imposed by Washington, D.C. onto the private sector, small businessmen and women of our economy.

He tried to say that he simply was supporting the Moakley amendment in opposition to the amendment that I had offered in the Committee on Rules. But he went much, much further than that.

There are no tax increases in the ISTEA legislation that has moved forward. It seems to me that we should recognize that what the gentleman was trying to do was simply trying to oppose the entire language. What the gentleman argued would not in any way be addressed if we simply passed the Moakley amendment and then went ahead and passed the legislation.

Mr. Chairman, I thank my friend, the gentleman from Ohio, for yielding so I can clarify that.

Ms. LEE. Mr. Chairman, I rise to speak in strong support of the Moakley amendment to H.R. 3534. This amendment is essential in that it corrects several major defects that are now embedded in H.R. 3534. As a new Member to this House, I am acutely aware, as I know my colleagues are, of the ramifications of the actions that we take in this body. I have many problems with the main bill, H.R. 3534 and will vote against it. But the last minute provisions that were inserted by Mr. DREIER set up parliamentary procedure which favors tax cuts over using revenues for their intended purpose, like excise taxes, or for investing in national priorities.

The new language looks at the way revenues from a program are used, before applying the point of order. Revenues that are used for a tax cut are exempted from the point of order. This exempts a whole class of legislation from the need to raise the private sector mandate point of order. For instance: a bill which increases revenues, like the gas tax, and requires that the money be used to repair bridges or our infrastructure, would be subject to a point of order. But if this same tax is used to reduce taxes to a billionaire to avoid a tax obligation, a point of order would not apply, there would be no floor discussion allowed for this class of loophole.

I know that many of my constituents, our hard-pressed middle-class working people, know that the actual value of their wages have declined, during the same time that more billionaires and CEO's with unbelievably large salaries, have been created. These constituents would be very angry to learn, find it hard to believe that we would support a bill that does not allow discussion when tax breaks to the wealthy are given but forces a discussion if the tax obligation provides for improving the public good.

Further, my constituents would find it alarming that a point of order does not apply, in other words, no debate would be allowed, if a tax hike is used to give a tax break to someone, and the net effect is zero income.

My constituents would be enraged with another aspect of the Dreier amendment to H.R. 3534 that would not allow discussion if increased tax revenues from trust funds, like the Superfund revenues, are used on programs for the national welfare, but if increased tax revenues are used to create more loopholes which provide escape from taxes for a privileged few, no point of order applies.

My small business constituents would really feel attacked by another aspect of the Dreier amendment which would not allow debate on mandates which give a tax break to someone else but increases his, a small businessman's, costs.

The American people learned many lessons in the last few years. One of the lessons is that although we are upset by having to pay taxes, that taxes are essential in a complex, fast-paced country like ours. We value our leadership in the world; to maintain that leadership we must have a national Government that functions. We need to know that basic needs are taken care of, like our airports, our environment, our infrastructure. Many of these programs are paid for by special taxes with protected revenues, our trust accounts like Superfund, like airport taxes, like black lung. These trust funds would be severely effected by H.R. 3534 without the Moakley amendment. One of our abiding principles is that we must have representation with taxation. We must allow the same points of order to be raised when we give a tax break to the rich as when we promote a program for the rest of us. I urge my colleagues to vote for the Moakley amendment.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment offered by the gentleman from Massachusetts (Mr. MOAKLEY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. MOAKLEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 426, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. MOAKLEY) will be postponed.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN:

Page 6, line 5, after "exceeded" insert "or that would remove, prevent the imposition of, prohibit the use of appropriated funds to implement, or make less stringent any such mandate established to protect human health, safety, or the environment".

Page 6, after line 5, insert the following new paragraph and renumber the succeeding paragraphs accordingly:

(4) MODIFICATION OR REMOVAL OF CERTAIN MANDATES.—(A) Section 424(b)(1) of such Act is amended by inserting "or if the Director finds the bill or joint resolution removes, prevents the imposition of, prohibits the use of appropriated funds to implement, or makes less stringent any Federal private sector mandate established to protect human health, safety, or the environment" after "such fiscal year" and by inserting "or identify any provision which removes, prevents the imposition of, prohibits the use of appropriated funds to implement, or makes less stringent any Federal private sector mandate established to protect human health, safety, or the environment" after "the estimate".

Page 6, lines 14, 16, 18, and 20, after "intergovernmental" insert "mandate" and after the closing quotation marks insert "and by inserting 'mandate or removing, preventing the imposition of, prohibiting the use of appropriated funds to implement, or making less stringent any such mandate established to protect human health, safety, or the environment'".

Page 6, line 18, strike "and".

Page 6, line 20, strike the period and insert"and".

Page 6, after line 20, insert the following:

(v) by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting "and" and by adding the following new clause after clause (iv):

(v) any provision in a bill or resolution, amendment, conference report, or amendments in disagreement referred to in clause (i), (ii), (iii), or (iv) that prohibits the use of appropriated funds to implement any Federal private sector mandate established to protect human health, safety, or the environment.".

Page 7, line 12, strike "one point" and insert "two points" and on line 14, insert after "(a)(2)" the following: "with only one point of order permitted for provisions which impose new Federal private sector mandates and only one point of order permitted for provisions which remove, prevent imposition of, prohibit the use of appropriated funds to implement, or make less stringent Federal private sector mandates.".

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Chairman, this amendment we call the "Defense of the Environment Amendment." It is based on the bill H.R. 1404, which is supported by every major environmental group and the AFL/CIO. It has been cosponsored by nearly 100 members.

Proponents of the underlying bill, H.R. 3534, have claimed that sometimes Congress does not sufficiently deliberate before enacting legislation. They say that sometimes an issue is so important that we need an extra procedural step. This procedural step or "point of order" allows any Member who identifies one of these important issues to immediately stop action here on the floor of the House of Representatives and call for a brief debate and then a vote.

The amendment I am offering is about an issue that I think deserves special procedural attention every bit as much as those singled out in this legislation and in previous legislation that we have adopted. Two years ago, we adopted this kind of procedure when it came to imposing an unfunded mandate on State, local, and tribal governments.

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The bill before us would expand the application of these procedural protections to requirements on the private sector.

The "Defense of the Environment Amendment" would build on this legislation to offer special protection to issues of great importance to the American people, requirements established to protect public health, safety and the environment.

This amendment would help guard against Congress repealing current environmental and public health protections without adequate consideration. Over the years, we have seen that when Congress legislates in a deliberate, collegial, bipartisan fashion, we are able to enact public health and environmental laws that work well and are supported by environmental groups and by the business community.

However, sometimes the democratic, small "d," democratic process is obstructed and anti-environmental riders are attached to Appropriations bills or other "must-pass" pieces of legislation. Often this happens with absolutely no debate or consideration by the Committee of jurisdiction. These anti-environmental riders, some of which have become law, have increased clear-cut logging in our National Forests, crippled protection of endangered species, stalled the Superfund program, backslid on energy efficiency standards and blocked the regulation of radioactive contaminants in drinking water.

Those are some of the examples of riders that passed. Now let me give you some examples of riders that were attached to legislation that were later taken out. They were not made into law, but, nevertheless, we did not get a special opportunity to deliberate clearly and understand that we were going to reduce protection of the environment.

We have had riders that would have opened up the Arctic National Wildlife Refuge to oil drilling, without a chance for a separate vote. We have had a rider that prohibited the regulation of arsenic in drinking water without a separate vote. We have had riders that halted implementation of the Clean Air Act's operating permit program without a separate vote and terminated the environmental enforcement attorneys at the Department of Justice, with no special focus on this issue. We have had riders that exempted oil refineries and cement kilns from air toxic standards and exempted specific polluters from environmental laws, such as a rider that would have exempted an industrial facility in Kalamazoo, Michigan, from Federal water pollution control requirements, again without a separate opportunity to examine that issue.

What I am offering by way of an amendment to this bill is a procedure that is designed to shine light on these stealth attacks on our environmental laws. This amendment would not prohibit Congress from repealing or amending any environmental law, but would simply allow a debate and a vote before Congress acts. That is what the underlying bill does for new mandates on private enterprise, just as previous legislation called for this special sunshine for provisions that would mandate additional requirements on State, local, and tribal governments.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The time of the gentleman from California (Mr. WAXMAN) has expired.

(By unanimous consent, Mr. WAXMAN was allowed to proceed for 30 additional seconds.)

Mr. WAXMAN. Mr. Chairman, the environment is just as important to the American people as unfunded mandates. The environment is just as important for special procedural attention as new requirements that raise taxes or otherwise place mandates on the private sector. Let us pass this amendment and ensure Congress thinks before repealing critical public health and environmental protections.

Mr. Chairman, I ask for an affirmative vote for this amendment.

Mr. DREIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me begin by saying that like my friend, the gentleman from California (Mr. WAXMAN), I share representation of the Los Angeles area with him and I am very sensitive and concerned about environmental quality, both in California and throughout this country and throughout the world, and I will say that I would do nothing whatsoever that would in any way jeopardize or endanger environmental quality in this country.

All we are saying with the underlying language here is we would look at the perspective imposition of mandates on the private sector, and we will have a 20-minute debate and we will be able to look specifically at that mandate, and we will be able to then proceed with an up or down vote here.

I think it needs to be very clear, as the gentleman from Ohio (Mr. PORTMAN), the gentleman from Texas (Mr. STENHOLM), the gentleman from California (Mr. CONDIT) and I pointed out in a "Dear Colleague" the other day, that this underlying bill itself will not end private sector mandates, just as the Unfunded Mandates Reform Act which we passed has not ended public sector mandates.

It will, however, force the Congress to consider the effects of mandates on consumers, workers and small businesses, including any disparate impact on particular regions of the country or industries, and to work with the private sector to establish our public policies in the most efficient and cost effective manner. That is what the whole goal of this bill is designed to address.

This bill cannot be used to block a vote on environmental health and safety mandates. A point of order is subject, as I said, to the 20 minutes of debate, after which the Members must vote on whether to proceed with consideration of the legislation.

This mechanism was crafted to ensure that the House would have additional information and debate time on certain Federal mandates, but that legislation containing such mandates could continue to be considered by the House, if a majority so desires.

This is clearly, Mr. Chairman, about having accurate information. There are some horror stories that have been brought to our attention here. In 1993, the Department of Transportation considered promulgating hazardous material regulations for the shipping of butter and salad oil. The plan would have required 24 hours of hazardous material classroom and field training for workers who responded to butter or salad oil spill emergencies. In November of 1995, Congress approved legislation requiring Federal agencies charged with the regulation of oil to treat animal fats and vegetable oils differently from toxic chemicals. Under the Waxman amendment, that legislation would have been subject to a point of order, which seems to me to be very preposterous.

Mr. Chairman, while the Clean Water Act requires a waste treatment facility to submit a simple form stating that a fence restricts access by the public, the Resource Conservation and Recovery Act requires an additional 25 pages detailing the fence design, the location of the posts and gates, a cross-section of the wire mesh and other minor technical matters. One facility had to submit a six-foot stack of supporting documents with its permit application. Under the amendment we are considering right now by the gentleman from California (Mr. WAXMAN), legislation to streamline this paperwork process and save hundreds of trees would be subject to a point of order.

So all we are saying, Mr. Chairman, is we want the House to deliberate, but we do not want to move ahead with this sort of tactic which, I think, would jeopardize the goal of the underlying legislation.

Mr. PALLONE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in strong support of the Waxman amendment and in strong opposition to the underlying bill.

The Republican majority has become quite adept over the last few years in carrying out their anti-environmental agenda by tacking riders on to appropriation measures and other unrelated bills. This stealth approach allows them to claim a clean environmental record without necessarily cleaning up the environment. In fact, in many instances, they are doing quite the opposite.

Just a couple of weeks ago, for example, the emergency supplemental appropriations bill was brought to the floor with at least three anti-environmental riders relating to paving our parks and allowing big oil companies to rob American taxpayers for the use of public lands for private financial gain.

The Waxman amendment would establish a point of order and allow for the opportunity for debate and a vote on provisions like these that would weaken current environmental law. In this way, we would be able to put an end to the stealth attack on the environment and instead debate these issues out in the open, as all business should be conducted in this House.

Unfortunately, however, even if the Waxman amendment passes, this is still an incredibly bad bill, and I would still urge my colleagues to vote against the bill. The bill is, again, just another attempt to block the open consideration of vital environmental worker safety and human health legislation.

An incredible concept, this bill establishes a new point of order against legislation based on the cost to the private sector. What this means is the cost of any legislation to private companies would be universally considered by Congress as more important than any benefits of that legislation to human health, worker safety or the environment.

For example, and I use the Clean Water Act because the gentleman from California used it, if we were to try to bring the Clean Water Act to the floor under the new rules established by this bill, it would be subject to a point of order. In order to avoid having to be recorded as voting against a good environmental bill like the Clean Water Act, under this bill Members could simply vote not to consider the Clean Water Act at all; or, even worse, in order to have the Clean Water Act considered, the American taxpayer would have to foot the bill for cleaning up our Nation's waters and not the polluters.

But it gets even crazier, and this goes back to the Moakley amendment. This bill makes it so revenues raised for a certain purpose cannot be used for that purpose unless there are equivalent tax cuts included in the bill, regardless of where those tax cuts are taken. That means, for example, that if a bill includes a tax on chemical and petroleum products, I will use the example of the Superfund tax, and the revenue created is to be used for cleaning up toxic waste sites, that bill would be subject to a point of order. However, if the same bill included an equivalent tax break for the wealthy, there would be no point of order. In my opinion, this makes no sense. It is obviously weighed heavily procedurally against any environmental initiatives.

For these reasons, I urge my colleagues to vote for the Waxman amendment. Even if the Waxman amendment passes, I still urge my colleagues to vote against the bill. It is bad, extremely unwarranted, and it would drastically change the way we do business in the House of Representatives.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, the gentleman obviously is against the bill. If someone supports this bill, because they think it makes sense to have a point of order and a focus and a debate and then a vote before we put a mandate on a private business, I think, for the same arguments, it is important to have a point of order, an opportunity for a debate and a vote when it comes to an environmental issue, especially if we are going to have something snuck into a bill that would remove some environmental protection.

So on the same logic for those who support the bill, for education, for an opportunity to have some sunshine about what we are to do and clear deliberation before we do it, I think we ought to have this amendment. It is consistent with the bill.

Whether one is against the bill, but also for those for the bill, I think this amendment goes well with this legislation.

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in very strong support of H.R. 3435, but equally strong support against the amendment of the distinguished gentleman from California (Mr. WAXMAN), which I think will seriously gut this particular piece of legislation.

Mr. Chairman, I used to be an independent businessman and I used to be a former local official with the local government, and I can tell you unfunded Federal mandates are real, they do have an impact, and generally they harm the folks back home.

I think that everybody understands these mandates are sort of a hidden tax. They fall on business, they fall on consumers, and I think we need an effective deterrent. In the 104th Congress we started this process, and we dealt with the public sector. After a lot of refinement, thanks to the gentleman from Ohio (Mr. PORTMAN) and the gentleman from California (Mr. CONDIT) and some others, we have got a much improved bill now for the private sector which will do the same thing.

I think that H.R. 3435 in its present form supplies more information to Members on the impact of what these mandates are all about without enabling those intent on dilatory mischief. I think that is where we are right now, frankly. Essentially it would permit the House to have a separate debate and vote on whether or not it wants to impose a private sector mandate greater than $100 million. That is reasonable, I think it is appropriate, it is good government, and I cannot see the problem.

Now, I have heard many environmental groups are opposed to this bill and support the Waxman amendment. I am an environmentalist. I have served on very distinguished environmental groups and boards, the National Audubon Society at the national level, and I have done local things and State things. I have my fingerprints all over environmental legislation, in Florida and elsewhere. I am certainly not going to sell out on the environment.

But I think it is pretty clear that what we have got here is somehow we are trying to bring the environment into this, that it is going to be a casualty because we are going to deal with unfunded mandates in the private sector. By some great, long stretch, we are no longer going to be able to have environmental legislation, because, somehow or other, we are going to weaken benefits to health, safety or environmental standards.

I think H.R. 3435 establishes a mechanism for Members to receive objective cost information that CBO can provide, and then have a debate and a vote on that particular issue. That is what we tried to do in this.

As I say, it has been much crafted, and I think they have it right. I know they have a lot of good folks over at CBO that could do a lot of things, they are very talented, but I do not think they have anything in terms of structure or expertise to begin to quantify the nature of "benefits."

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Balancing the merits of potential mandates with the overall benefits to Americans is important if we know what the benefits are. I think we have set up the normal debate process to do that in this particular legislation. I frankly think that transparency is great. We are going to let the sun shine in. We should welcome it.

I do not think the Waxman amendment, no matter how well intended, is really about protecting the environment. I think it tends more to be an obstruction and probably more in the line of going back to some other legislation we have seen which has been litmus test type legislation, which simply says one cannot do anything with private property rights because somehow or other it therefore makes all other environmental legislation unenforceable, too expensive, too extreme or something along those lines.

My line on the environment is this: This is a country that is going to take care of the environment, but this is also a country that is going to protect private property rights. It says so in the Constitution of the United States of America, which is where I am standing right now.

I do not believe either the private property people or the environmental people are ever going to win the whole battle. It is going to take working cooperation between the two. I think the working cooperation of the gentleman from California (Mr. CONDIT) and the gentleman from Ohio (Mr. PORTMAN) has shown that the environmental interests in this bill have been properly balanced. I am convinced, having sat on the Committee on Rules, that we got it right. I do not think the environment comes out second best anywhere along the line.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I think the gentleman misunderstands the amendment. The underlying bill requires that we give a focus of attention before we go to mandate something on business, and that makes sense in and of itself, but we are saying before we do something like have an amendment that opens up the Arctic National Wildlife Refuge or halts the limitation of a Clean Air Act provision, that we also have a chance to look at that and vote on it separately.

Otherwise what I fear is that anti-environmental provisions will be wrapped up in a bill and we will not be able to have a chance to look at it and consider it and then vote on it. Just as I think a lot of people will worry that an unfunded requirement on business would be wrapped up in a bill.

The CHAIRMAN pro tempore (Mr. GILLMOR). The time of the gentleman from Florida (Mr. GOSS) has expired.

(By unanimous consent, Mr. GOSS was allowed to proceed for 1 additional minute.)

Mr. GOSS. Mr. Chairman, I understand what the distinguished gentleman is saying. I understand, and I do not want to get into opening up this whole debate because we could go on endlessly doing that and we only have a minute. The point I would simply make is that the gentleman is trying to shift the burden with his amendment.

I do not think the burden should be shifted. I think we have it right to say that the unfunded mandate should be recognized for what it is and dealt with for what it is in fair debate. The gentleman wishes, by his amendment, to shift the burden to prove the other part of that. I think the reason we are putting the legislation out is to get the burden the way we want it.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, the point that I am making is that just as it is important to have a focus on an unfunded mandate and a chance for the House to consider it, it is just as important to have the focus on the environmental issue and give the House a chance to debate and vote on it separately. I want the two to be treated equally, and I do not think that they are at odds with each other.

Mr. GOSS. Mr. Chairman, reclaiming my time, I believe that the formula that the gentleman from Ohio (Mr. PORTMAN) and the gentleman from California (Mr. CONDIT) have come up with in fact does that. It just proves it shifts the burden in the debate, that is all.

Ms. FURSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there are tremendous parts in H.R. 3534. I think we do need to look at all the information when we make decisions. But the only problem is that we have seen some really terrible examples where something came through on a rider. I want to speak about these riders.

Mr. Chairman, we had a terrible rider that went through on our forests, and we were told all sorts of things, but it was just stuck on a bill, 1030 one night. Here it came, nobody debated it, nobody had had a hearing on it, and some of us fought it, and we lost. And that rider has cost my district, it has cost the Northwest. It has cut trees on steep slopes, and from that cutting, again, nobody discussed it, nobody had a hearing on it, from that cutting we have had flooding, we have had deaths as a result of that clear-cutting on areas that were unstable.

So I want to talk a little bit about why it is important that we talk about the environment and we understand that it is great to get the costs from the CBO, it is great to know what the mandate will cost us. But I think what we do not get if we do not have full debate is we do not hear what the benefits will be from an environmental law. So I want to talk about the benefits.

Mr. Chairman, on the Columbia River we have lost hundreds and thousands of salmon, and it is going to cost us a lot of money, a lot of money to bring those salmon back. But what is the benefit if we spend that money? What is the benefit of the Federal laws that are going to require us to bring those salmon back? Well, let me tell my colleagues some of the benefits.

One of the benefits is that economists now predict that if we brought the runs back to the Columbia River, we could create 40,000 family wage jobs, 40,000 family wage jobs. Let us be able to discuss that. Let us not just say it is going to cost X millions of dollars to do something; let us say what is it going to do for that environment in that economy, to bring back certain jobs that the environmental laws are going to allow us to do.

So I think again the gentleman from California (Mr. WAXMAN) is right, that what we want to do is have full debate; we want to make sure that the cost and the benefits are reviewed.

We have heard that there is no way we can quantify benefits. I disagree with that. We know, we know that the Pacific Northwest has lost $13 billion because we have lost salmon. Finally we have some Federal laws that are going to make us rebuild those runs, and those fishing families in my district who have lost their boats, lost their homes, lost their livelihood, for a moment we are going to have a little look at the benefit, the benefit to our economy.

So I am going to support the Waxman amendment because it makes sense. Let us not in this body, the people's House, let us not pass laws in the dead of night, let us not do these quick fixes that really do not fix anything.

A recent poll in the Pacific Northwest has shown that the number one issue, not the number one environmental issue, the number one issue for the people of the Northwest is the environment and protection of the environment. So by golly, I say that my constituents deserve the right to hear that other side.

Mr. Chairman, I want to end by saying let us support the rider offered by the gentleman from California (Mr. WAXMAN). Let us not pass H.R. 3435 until we have some cost-benefit analysis.

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me just make a couple of points. First of all, this well-intended effort by the gentleman from California (Mr. WAXMAN) I think just does not work in the context of this legislation. I think it has very serious problems. CBO cannot do the analysis. The gentleman is in the Chamber, and I hope he will listen to some of my concerns and perhaps answer some of them.

Not only does it substantially increase CBO's workload, and we have talked to CBO about this, and also degrade its ability to do its core function, which its core function is budget analysis and mandate analysis. That is what they do. That is what the Congressional Budget Office is all about. But also, CBO just cannot add anything new to this debate. They cannot do the benefit analysis that the gentlewoman just talked about prior to my taking the mike. They analyze cost information. They do not do noneconomic benefit analysis.

If the goal here is to prevent efforts to weaken or remove mandates, then Members should simply vote against such proposals on the floor. I can recall very well those riders coming up and a lot of debate right here in the well of the House on that, and that is fine. The purpose of the point of order in the underlying legislation is to give Members the opportunity to consider private sector mandates, hidden mandates in the legislation, and to get information on those mandates from the experts at CBO that can objectively provide that information. This is an objective informational requirement. And these are mandates and information that we do not otherwise systematically consider.

That is the way this legislation has been drafted. If the gentleman from California (Mr. WAXMAN) and others would like to add some rider legislation, maybe they can spend the next year as we spent the last year, putting something together that makes sense on riders, but it does not fit with this legislation. It creates another point of order that I think is so vaguely defined that it could be used to hold practically any bill up. I have a lot of questions with it.

Let me just ask a few right now. The Waxman amendment, as drafted, has a lot of flaws that do not work with the underlying bill and it has some very serious implications that just have not been thought through. Who determines whether the mandate is weakened or not? Let me just go through these questions, if I might. Is that driven by reduction in direct or indirect costs to the private sector?

What if the private sector becomes more efficient in implementing mandates, which happens all the time. Look at all the environmental legislation that was talked about here earlier today. The private sector is learning to meet the same goals with fewer resources. With less of a burden on the private sector, is that a reduction in the mandate? The way I read the legislation, it would be, because it is a reduction in cost.

Does that trigger this legislation, even though the goals are still being met? Is there any credit given when the net costs are less because the private sector is being more efficient? Is that requirement lessened? I just think these questions have not been thought out.

The threshold. There is no threshold in this legislation. How much costs have to be reduced for this to apply? As I read the legislation, if the costs are reduced by $1, if it is $1 less, then that is somehow a reduction in the mandate and there is no threshold. As we know, in the underlying legislation we purposely worked through this. We have a $100 million threshold before the information requirement even applies on the private sector mandates.

I guess the bottom line is, this is a well-intended effort by the gentleman from California (Mr. WAXMAN) I am sure, and I know he is well-intended on the environment, but if there is any lesson we can draw from the Unfunded Mandate Relief Act of 1995, it is that we need to define the terms very carefully. The Parliamentarian's Office, the Congressional Budget Office will tell us that.

The reason it has worked over the last 3 years is we took our time, we defined the terms. I think in the estimation even of those who voted against the legislation, some of whom are here today, it has worked very well. Why? Because at the committee level, the committees have dealt with the mandates to try to lesson the mandates and come up with the most cost-effective way to meet the same targets. That is what is likely to happen on this legislation.

If we go ahead with the Waxman amendment, it is my concern, very, very strong concern, that we are going to essentially have an unworkable piece of legislation that will not work in the way that the Unfunded Mandate Relief Act of 1995 works and the way that this bill is intended after a year's worth of drafting.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. Mr. Chairman, I would be happy to yield to both of my colleagues from California. I will first yield to the gentleman from California (Mr. WAXMAN), who is standing.

Mr. WAXMAN. Mr. Chairman, I just wanted to point out to the gentleman that we removed the requirement that the gentleman has in his underlying bill to have the Congressional Budget Office analyze the costs.

All that the CBO would do would be to identify the provision, and in identifying that provision, it allows a Member to make the point of order for consideration. We do not block any actions, we only ask that they give consideration to that issue. There is no cost that CBO would have to incur in analyzing this provision.

Mr. PORTMAN. Mr. Chairman, reclaiming my time, I find that hard to believe. I do not know how the Congressional Budget Office is going to determine, in these complicated situations, whether in fact there has been a reduction in the requirement. I talked earlier about the lack of a threshold, for instance.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. PORTMAN) has expired.

(By unanimous consent, Mr. PORTMAN was allowed to proceed for 2 additional minutes.)

Mr. PORTMAN. Mr. Chairman, I ask for additional time simply to yield to my colleague from California (Mr. CONDIT).

Mr. CONDIT. Mr. Chairman, I rise today to oppose the Waxman amendment, but not the intent of my colleague and my friend.

The purpose of this bill is to provide an informed debate and to oversee often what are hidden costs to a new regulation. Should the same consideration be given to the impact on health, safety of workers and our environment? Absolutely. We ought to have all the facts before us before we make a decision as it relates to those issues.

But this amendment, frankly, goes a little bit too far in that I do not think that it is perfected and well thought out. The gentleman from Ohio (Mr. PORTMAN) mentioned that it does not have a threshold. That means that we could make any minor change and we could have a point of order. In the unfunded mandate part of this on the business or the private sector, we would at least have a $100 million threshold. It has to be some kind of significant action before one can make a point of order.

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Under the amendment offered by the gentleman from California (Mr. WAXMAN), it could be anything, anything that they determine to have any kind of negative impact, they could have a debate and call for a point of order. I think that is unnecessary. I think that delays the process.

In addition to that, we were very careful. There was some consideration given whether or not you could have a point of order on every section of a bill, how many times you could do the point of order. It was the decision of the Committee on Rules, and I think a good one, that we do it one time, each bill. We did not want to be dilatory. We did not want to delay the process. This would create another point of order. I think that is unnecessary.

I think we ought to work on the suggestion of the gentleman from California (Mr. WAXMAN). I absolutely think we ought to take those things into consideration, but this is not the bill to do it on. This has not been thought out well enough for us to amend this bill, to change this bill and make it head in a little different direction. This is about information, and I would encourage my colleagues on this side of the aisle to vote against the Waxman amendment.

Ms. SLAUGHTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Waxman amendment, and I want to agree with my colleague, the gentleman from California (Mr. CONDIT), and I am pleased that he understands the wisdom of what the gentleman from California (Mr. WAXMAN) wants to do.

I think my colleague, the gentlewoman from Oregon (Ms. FURSE), made a wonderful point that I hope was not lost, that all mandates or anything else, any laws, are not just reckoned in costs in dollars. She pointed out loss of life and loss of things that are irreplaceable, priceless.

I think the gentleman from California (Mr. WAXMAN) is doing a good thing here, because he wants to protect the public health and the environment. I do not support the types of order that the underlying bill creates.

I understand what they are for. They are designed to sensitize Members to the effects of the proposed legislation, but I believe most of us in the House already understand the implications, and this type of emphasis is largely unneeded. In my district, my constituents keep me well-informed about how proposed private sector mandates will affect their business.

However, if we are going to expand this type of point of order, we should tag for Members bills that have the effect of reducing the protection of public health and the environment. The sick, the disabled, the young cannot be expected to monitor the legislation in the same fashion as large corporations. If public health protections for them are to be weakened, we ought to be sure that all the Members who vote for that weakening have that fact brought to their attention.

Similarly, our Nation's air, water, soil, forest, wilderness and wildlife cannot speak for themselves. Again, every Member should know when casting his or her own vote that environmental protections will be lessened.

Unhappily, over the last 3 years many bills would have been subject to that point of order. For example, in the last Congress I fought a bill that would have frozen new regulations that were designed to protect the public from bacteria-contaminated meat and poultry, from Cryptosporidium in drinking water, and from lead in imported foods. These issues are becoming more and more important to the American public.

Perhaps a specific point of order would have helped convince the majority in Congress that their votes against my amendment and for that bill put the health and lives of thousands of Americans at risk.

The current majority has led a relentless assault on the environment since taking over the Congress. Without regard to the impact on citizens and the environment, the full House of Representatives has approved measures designed to relax and to roll back existing environmental regulations and to halt Federal agency rulemaking designed to protect our national heritage.

The House went so far as to pass legislation to stop the listing of endangered species and passed a bill to weaken dramatically the Clean Water Act. Measures to allow clearcutting in our Federal forest lands led to a massacre of healthy trees with a so-called salvage rider, and the Congress continues to consider legislation to have taxpayers reimburse polluters for cleaning up the toxic waste sites and to cut the funding for Federal land acquisition.

The threat to our landmark environmental laws has been real. Perhaps this health, safety, and environmental point of order would have caused Members to take a second look at the bills that weakened these important provisions.

Mr. Chairman, if we are going to continue on this route of bringing special attention to the effect of certain kinds of bills, I believe that the degradation of public health, safety and environmental protections deserves this special attention, too. I urge my colleagues to support the Waxman amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by our colleague, the gentleman from California (Mr. WAXMAN). I rise in strong support of the Waxman amendment. I think it is an important amendment, and I think it is consistent with the underlying debate that requires the Congress of the United States to pay particular attention to the cost of unfunded mandates and the cost of our actions around here. I think it is just as important and every bit as important that we do the same thing with respect to the environment.

The problem is that, time and again in this Congress, we have seen matters of the environment come before this Congress with little or no debate, and in some instances with no underlying hearings, to be thrust upon the House of Representatives, very often from the Senate, from time to time in the appropriations bills as matters of riders that deal with the fundamental and basic underlying environmental laws of this country, the Clean Water Act, the Clean Air Act, the questions of Superfund or brownfields cleanup, forest safeguards, the Forest Practices Act, the mining laws of this country, and multi-million dollar subsidy issues.

Time and again, these matters have been brought to this floor with no provisions in the rules for debate. Very often now, we find that they are hidden away in the report language, so we cannot even get at them on the floor of the House of Representatives. We cannot get a vote on these matters. We very often are limited in our time to discuss them. Yet, they have huge impacts on the environment of this country. That is why we need the Waxman amendment, so we will have an opportunity to discuss these in the daylight.

There is a reason why these changes in environmental law are not brought before the Congress in a freestanding bill that is brought out here under a rule so it can be debated and voted up-or-down. It is because the legislation cannot support that, or the majority party does not want to be identified in that action. But if you can tuck them away in a larger bill, if you can put them into a must-pass appropriations bill, if you can get them into a bill at the end of the session, fine, they are willing to do it, with total disregard for the impact to the environment and notice to our colleagues here in the House of Representatives.

That is why the Waxman legislation is so terribly important. This is not a contest between unfunded mandates and the environment. In many instances, these two situations rise separate of one another. But this is about whether or not, as we do the people's business here, we will have the opportunity to raise these issues and to have a free and fair and open debate.

In the history of this Congress over the last several years, that simply has not been the case. That is why we have to ask for this. Our colleague, the gentlewoman (Ms. FURSE) raised the issue of the forest rider, a forest rider that went through this House with little or no debate, only to do a great deal of devastation.

We have seen on now three different occasions where similar riders have been approached, to be put on legislation coming before the House of Representatives. Our constituents are now spending billions of dollars a year to go back and to correct some of these incredible environmental insults that have taken place with respect to water quality, with respect to the cleanliness of water, with respect to the Forest Practices Act and to the Endangered Species Act.

In the committee on which I serve, the Committee on Resources, time and again we see legislation coming from that committee that wants to legislatively state that this piece of legislation or this action to be taken by the Federal Government, by a private party or somebody else is, in fact, sufficient under the Endangered Species Act, it is sufficient under the National Environmental Protection Act. They want to do that by fiat, with no debate, no discussion, just declare the action sufficient.

Historically, when we have done that, we have had to go back and spend millions of dollars to make up for the mistakes.

Now we see legislation on our committee where they want to seek waivers of the Clean Water Act, wholesale waivers of the Clean Water Act, and then they will be brought out here in suspension, they will be brought out with little or no debate. The Waxman amendment is an opportunity to give the environment the kind of priority that the American people attach to this subject.

As we know, in poll after poll after poll the overwhelming majority of Americans consider themselves environmentalists. They consider the environment very important. If we even ask them the question of comparing and contrasting it to the health of the economy, they want the environment taken care of. That is what the American people want. That is what most Members of this House say they want, but that is not what happens in the House of Representatives. That is what brings about the necessity of the Waxman amendment.

Mr. Chairman, I would hope my colleagues would support this amendment as part of the underlying legislation.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Waxman amendment.

Mr. Chairman, this is an important amendment, and certainly defense of the environment is something we all should be hailing. This Mandates Act of 1998 is a simple bill that extends to the private sector an information process currently employed to assist in understanding the impact of national policy upon State and local government that already is in law.

Currently, when Congress is considering a legislative provision that imposes unfunded mandates on State and local governments, we are required to subject that proposal to extensive study and open debate. This measure, H.R. 3534, extends the requirement to unfunded mandates imposed on the private sector.

For the record, Mr. Chairman, I note that this is opposed by some potent groups such as the AFL–CIO and a slew of environmental organizations. A concern clearly persists about whether advocates are interested in the information for good-faith analysis, or whether this is a clever means to tie the legislative process into knots and make it more difficult for Congress or for this legislative body to act.

This measure, however, is not flawed beyond repair. Our colleague, the gentleman from California (Mr. WAXMAN), who has impressive environmental credentials, is offering an important amendment. His defense of the environment amendment would extend the requirements of study and open debate to proposals in Congress that affect the environment.

While the amendment of the gentleman from California (Mr. WAXMAN) would only affect environmental proposals directly related to the work of the private sector, it would unquestionably benefit our constituents, our communities, and our children.

The fact of the matter is that Congress too often has a problem with special interests successfully attaching anti-environmental riders to appropriations bills and unrelated measures that must pass. This circumvents the deliberation and debate that is needed to understand the ramifications.

The fact is that deliberate consideration of policy has been homogenized these past years, to the point where we have budget, tax, authorization, appropriation, all in one measure, with no chance to debate, to discuss, no hearings, no public participation or understanding. It is a bad process, and it translates into bad policy.

Just the most recent emergency spending measure signed by the President includes provisions which would allow the construction of a six-lane highway through the congressionally designated Petroglyphs National Monument. There are other provisions that allow oil companies who have and will drill on public lands to avoid fair compensation to the American taxpayer.

In the past, our riders have been used to irresponsibly expand the anti-environmental salvage logging program that some of my colleagues spoke of, stall efforts to clean up toxic waste, and block regulation of radioactive contaminants in drinking water, and even derail studies that provide the information to craft environmental policy.

It is apparent, Mr. Chairman, why the advocates want to duck debating and voting upon these provisions. The reason is, they lose. They could not prevail on the merits. But that is just one of the kickers of working in a congressional circumstance, where the anti-environmental minority of the majority is able to forcefeed bad policy, special interest provisions, into must-pass legislation.

That is why the Waxman amendment would help check this. It would not place any burdens on business. It would not even prevent us from repealing environmental laws if that is the judgement of the majority. It just requires that we debate and vote on significant legislative provisions that are going to affect our environment.

Make no mistake about it, Mr. Chairman. Voting against this Waxman amendment sends our constituents around the Nation a very important message. It speaks louder than all the rhetoric. That message will be that the regular democratic process does not matter when Members of the House are making decisions that could affect our environment; if Members vote no, that they would not want to be held accountable for these riders but choose to remain handicapped by burying the controversy in the excuse that they had no choice.

Today we have a choice to empower ourselves. Let us stop the assault on the environment, let us stop the assault on the legislative process, let us stop making excuses, and support the Waxman amendment to H.R. 3534. It is good for democracy, the environment, and our stewardship, and the legacy we leave to future generations.

□ 1745

Mr. CONDIT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I want to just bring up a point, I spoke a minute ago and I wanted to talk a little bit about the intent of this bill. The intent of this bill is to provide information to the Members about the cost of an unfunded mandate on the private sector.

Since I have been here, maybe it was different when some of the other Members, they have been here, maybe they found it a little bit different. But I have found that when someone introduces a piece of legislation and it goes through the process, that they are introducing that legislation and it is passed out of committee and gets to this floor because somebody thinks it has a benefit to this country. We clearly debate the benefit. I mean, the benefit is espoused by the author of the bill. If it gets out of committee, it is espoused by the committee members, the chairman of the committee, everyone clearly understands that there is a so-called benefit.

Some Members may disagree and say, well, it really does not do that, but there is a debate. We do spend a lot of time talking about the benefit.

What we do not talk about and what we do not focus on is the hidden cost and who is going to pay that cost. And what the unfunded mandate bill does is focus on that. It requires this body to spend a little bit of time to take a look at what the cost is, who is going to pay the cost. It is sort of a cost-benefit analysis, and I think everything that we do should have a cost-benefit analysis to it. But that is what this bill does. It provides position. It focuses on that hidden cost that we do not talk about too much because we do not want the people to know that we are putting a mandate on that ultimately is going to cost them some money, cost a business some money. And we know who they are going to pass it on to, to the consumer and the taxpayer.

That is what this is about today. Do not let anyone else move us in a different direction. If we want to talk about the environmental and work programs and all of that, that is fine. We ought to do that. But we ought to do that in a thoughtful way and a comprehensive way, like we have done the unfunded mandates bill. We ought to go through the process.

Mr. Chairman, I yield to the gentleman from Ohio (Mr. PORTMAN), cosponsor of this bill.

Mr. PORTMAN. Mr. Chairman, I think the gentleman just made a great point, which is the underlying intent of this legislation in sunshine. It is trying to get at these private sector unfunded mandates. It is not about the merits or demerits of any new environmental legislation, any new civil rights legislation. It is about having information on something that is now a hidden tax on the American people, something we ought to know about.

As I said earlier, the gentleman from California (Mr. CONDIT) and I worked for a year on this, working with CBO, working with the Parliamentarian's office, working folks that actually have to make this place work day to day, as we did with the Unfunded Mandates Relief Act 3 years ago that dealt with State and local government mandates.

We have come up with what we think is a balanced approach that actually works because CBO can do this. They can assess the cost. What they cannot do and, again, to reiterate what my colleague from California just said, what they cannot do is they cannot assess the benefits. The Waxman legislation is well-intended. Again, he may want to spend some time putting together something more thoughtful that deals with riders, but this is not the right place or time for this legislation. It will not work. This amendment will not work in the context of the bill that the gentleman from California (Mr. CONDIT) just explained.

I just feel very strongly that it is time for us to be more accountable around here. It is time for us to have good government. It is time for us to know what we are doing. It is time for us to legislate with good information.

That is all this says. Just as in the case of the Unfunded Mandate Relief Act of 3 years ago, we will still continue to mandate when it is the will of this Congress and in the public interest to do so, but we will do so with information we do not have now. So I want to commend my colleague from California (Mr. CONDIT) for working on this legislation so hard over the last year. He is the lead sponsor of this legislation. I urge my colleagues to defeat the Waxman amendment and to move on to final passage.

The CHAIRMAN pro tempore (Mr. GILLMOR). The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 426, further proceedings on the amendment offered by the gentleman from California (Mr. WAXMAN) will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. TRAFICANT:

Page 8, after line 11, add the following new subsection:

(d) ANNUAL CBO REPORTS.—Within 90 calendar days after the end of each fiscal year, the Director of the Congressional Budget Office shall transmit a report to each House of Congress of the economic impact of the amendments made by this Act to the Congressional Budget Act of 1974 on employment and businesses in the United States.

Mr. TRAFICANT. Mr. Chairman, there has been a lot of debate on each side of this issue. A lot of it makes sense. A lot of it is analytical on what may be, what might be, what could have, what should have.

My amendment is just a straightforward little piece of legislation that says, if this becomes law, what we are debating today, that we do not guess what the impact will be, that there shall be a report to the Congress explaining in detail what the impact of this legislation is on our business, industry and jobs. It is straightforward. It is not real fancy. But after it is over and we begin to compile all of the data subsequent to this legislation, we will have someone to report to us and give us the impact as it truly affects and if in fact at that point whether the Congress should either fine tune it, scrap it or enhance it. Very simple and straight forward, I would hope that the committee would accept it.

Mr. GOSS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would be very happy to advise the distinguished gentleman from Ohio, whose championship of workers rights is well known, that I see no reason not to accept this amendment. I think it causes no problem. I would not oppose it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. TRAFICANT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT:

Page 5, line 21, strike "amendment".

Page 6, strike lines 15 and 16 and in lines 17 and 19 redesignated clauses (iii) and (iv) as (ii) and (iii) respectively.

Mr. BOEHLERT. Mr. Chairman, the purpose of this amendment is very simple. I want to preserve the ability of the House to have open debate.

H.R. 3534 is advertised as an effort to ensure that the House has adequate debate on important issues. But its actual effect in some cases would be just the opposite. This bill would ensure that no amendment that any segment of industry opposed could ever be debated for more than 20 minutes. That is right. No amendment that any segment of industry opposed could ever be debated for more than 20 minutes. There would never be such a thing as an open rule again.

Why do I say that? It is not just hyperbole. Under this bill, any Member could raise a point of order against any amendment because he or she believed that it would cost industry more than $100 million. No proof is necessary. It could just be a gut reaction. Simply raising the point of order would stop all debate and put the question before the House.

A point of order could also be raised if the Congressional Budget Office had not completed a mandate analysis of the amendment. Even though CBO virtually never does such an analysis, there simply is no time for this to happen.

But the sponsors of the bill will say that their free-ranging industry-based point of order creates no problem because the House can overrule it. But let us take a very real and typical example.

Three years ago during the Clean Water Act debate in 1995, the gentleman from New Jersey (Mr. SAXTON) and I offered a substitute. That substitute engendered a lengthy debate, it went over to the second day, that changed some views about the bill and aired many concerns, even though the substitute eventually lost. I might point out that when we went into this, the initial check said we did not have 100 votes. We ended up with 185 votes. If the debate went longer, we might have prevailed.

Guess what would have happened under H.R. 3534? We would have had exactly 10 minutes to put forth our views on such a complicated, far ranging, important issue.

What is the excuse that is given for limiting debate so sharply? Why do we want to stifle discussion in a society that prides itself on a marketplace of ideas and in a body that the Constitution designed for maximum airing of issues? The reason is that some segments of industry do not win every single legislative battle. Guess what? No one does.

The sponsors say their concern is that industry's viewpoint is not heard. But does anyone actually believe that industry lacks political clout on Capitol Hill? Just take a look at H.R. 3534. We were interested in finding a compromise on this bill, and we worked very hard to effect a compromise. But some industry groups objected to compromise so the negotiations ended. So industry was able to block a compromise on a bill that is premised on the idea that industry has no clout on Capitol Hill. That is a rather telling irony.

With my amendment, the bill will still give industry additional tools to fight private mandates, tools that other interest groups lack. They will still have new points of order available against bills, conference reports, motions and resolutions. All my amendment does is remove the provision of the bill that creates a brand new point of order against amendments. As I have said, that provision of the bill will effectively shut down all debate.

I am not arguing that Congress never imposes mandates that are a bad idea. We do it on occasion and we should not do it. I am not arguing that industry is always wrong and that their adversaries are always right. Industry is oftentimes right and their adversaries are oftentimes wrong.

Indeed, I am a sponsor of a Superfund reform bill that business groups large and small have embraced and the environmental groups have questioned. But I do not believe that we should restructure the rules of the House so that one side has the upper hand in every single debate.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. BOEHLERT) has expired.

(By unanimous consent, Mr. BOEHLERT was allowed to proceed for 1 additional minute.)

Mr. BOEHLERT. Mr. Chairman, let me make two final points. First, private sector mandates are different from intergovernmental mandates in many ways but in one in particular. States and localities do not have the clout on Capitol Hill that industry does. States and localities needed new tools to get their views across. That is hardly the case with industry.

Finally, this is not just an environmental matter. Yes, the new rules set up under H.R. 3534 would have made it tougher to pass a Clean Air Act and the Clean Water Act and other landmark bills, but as the gentleman from Iowa (Mr. GANSKE) pointed out last week during debate on H.R. 3534, we will also make it hard to pass a bill to help HMO patients and to control big tobacco. Remember, the points of order in this bill are available if even just a single industry has a complaint with a bill or amendment.

I urge support for my amendment. It is reasonable. It is the middle ground. It will give industry additional clout on Capitol Hill without shutting down the amendment process. If you believe in open debate, vote for my amendment.

Mr. DAVIS of Virginia. Mr. Chairman, I move to strike the last word. I would like to ask my colleague from New York, if this amendment were to pass, would the bill be acceptable to the gentleman?

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Virginia. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, no, as a matter of fact, I have some complaints with the bill.

Mr. DAVIS of Virginia. So this would not make the bill acceptable to the gentleman?

Mr. BOEHLERT. It would not. It would improve the bill, but it would not make it acceptable in its present form.

Mr. DAVIS of Virginia. Mr. Chairman, I think the gentleman has some merit with this, although the experience on this legislation with unfunded mandates, as it pertains to State and local government, has not raised the specter of problems that the gentleman from New York suggests in his comments here where we have had the opportunities, through amendment, to raise these objections.

I think over a total of five times this was raised in the last Congress, and it has not been dilatory, has not deprived this body of the opportunity to debate fully the merits and allow the House to debate the particular mandate on the merits.

The theory of this bill, the actual practice we have seen in the unfunded mandates bill that has worked well, is to give committees an incentive to do their work up front before bills ever reach the floor. By making points of order not apply to amendments sends the message that it is all well and good to do the work on the floor and not in the committee. That is a concern.

I think the gentleman does raise some interesting points that have intrigued me, that, should we accept this amendment, that in point of fact in a number of instances we might be able to have a more full and straightforward debate on the amendment.

The question is, if this is a gutting amendment, which is what I am afraid the gentleman is indicating to me, I would be prone to be against it.

Mr. BOEHLERT. Mr. Chairman, if the gentleman will continue to yield, it is not a gutting amendment. I would classify it as a perfecting amendment because I really think that we should have full and open debate on some sensitive issues here on the floor of the House. We should not limit debate to 10 minutes simply because one Member might have a gut feeling. Sometimes gut feelings are correct. I agree with that.

□ 1800

Mr. DAVIS of Virginia. But the burden would be on the Member who raises the objection to show the $100 million threshold as being met. They would have to come armed with those costs and do their homework ahead of time.

This could not be raised in a willy-nilly fashion without the appropriate substantive work showing that this would have a $100 million cost impact on American businesses.

Mr. BOEHLERT. We would not have scoring of amendments. That is the problem. We would not have the time to do that. When we have extended debate on a very controversial item, sometimes during the debate, in the course of that debate proponents or opponents bring out something that prompts an individual to draft an amendment that might be an amendment to improve a bill.

But the fact of the matter is, if someone has the gut feeling, as I pointed out, and not facts but just a gut feeling that it might, might, have the imposition of a new mandate on business, they could just raise a point of order. We would debate it for 10 minutes and 10 minutes only and that would be the end of it, and then the House would vote up and down based on very limited debate.

Mr. DAVIS of Virginia. I share the gentleman's concern. That has not been our experience, of course, with the unfunded mandates bill as it applies to State and local government.

Mr. BOEHLERT. But it is a different set of issues.

Mr. DAVIS of Virginia. It is very much the same set of issues, but it does not mean that it could not happen and this body would be deprived of that. And so, for that reason, at this point I am trying to draw the gentleman out a little bit further in terms of his other concerns with this bill that could be perfected in a way that he could address this and support the legislation.

Mr. BOEHLERT. Well, I think we should have more balance in this whole approach to things. I think if we have mandates on the one side, we should have mandates on the other, if we run that risk.

Mr. DAVIS of Virginia. Well, let me just reply to that. We can do that, but CBO cannot really address anything but the fiscal costs. The benefits are really not within their purview. It is not within their expertise. This has not been something we have traditionally assigned them to do.

That is what makes the gentleman from California's amendment more difficult to put in this body, although I think that the goal of it is one which I can sympathize with.

Mr. BOEHLERT. I thank the gentleman for his comments and appreciate them.

Mr. DAVIS of Virginia. In conclusion, Mr. Chairman, let me say this amendment is a little contrary to the underlying purpose of this legislation.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Virginia. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I appreciate the gentleman raising the questions, and I would ask the author of the amendment, again, what he would do in a situation where we had a manager's amendment on the floor, where we had a substitute amendment?

This is a loophole big enough to drive a very large semi trailer through, because we could essentially put all the mandates in the manager's amendment or the substitute amendment and it would have gotten around the informational requirements in the legislation.

I wonder if the gentleman has thought through that scenario or that possibility and what his response would be.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Virginia. I yield to the gentleman from New York.

Mr. BOEHLERT. Indeed, I have. I have spent a lot of time anticipating that.

Mr. PORTMAN. If the gentleman from Virginia will continue to yield, I know the gentleman is very engaged in this legislation and spent a lot of time on it, and I would like to hear what he thinks.

Mr. BOEHLERT. One of the things I have done, in terms of talking about tractor trailers, I have offered an amendment to another bill that would limit the size of tractor-trailers on our Nation's highways for safety.

Mr. PORTMAN. That is along the lines we tried to do earlier in changing the subject, but keeping on the subject of mandates, seriously, I wonder if the gentleman has a response to that concern.

Mr. CONDIT. I move to strike the requisite number of words.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. CONDIT. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I thank my colleague and the lead sponsor of the legislation, the gentleman from California (Mr. CONDIT) for yielding.

I would like to give the gentleman from New York (Mr. BOEHLERT) the opportunity to discuss the possibility that if we were not to permit the informational requirement to apply to any amendments, would we not, in effect, circumvent the intent of the legislation by having an amendment which is in essence the legislation, such as a manager's amendment, which sometimes we do consider on the floor, or a substitute amendment for the legislation, and if he had any ideas as to how perhaps his amendment could be altered to take into account that possibility.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. CONDIT. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, to respond to the gentleman from Ohio, the manager's amendment would be okay, because that comes from outside the committee. But I am talking about in the Committee of the Whole, when we offer amendments, I think we should have the opportunity when amendments are offered to have a full and open airing, pros and cons. That helps me in making up my mind as we are dealing with some of these very important topics.

But I think the gentleman will concede that one Member, based upon a gut reaction or an instinct, and often gut reactions and instincts are correct but often they are not, could raise a point of order against the amendment, and then the Chair would automatically have to limit debate to 10 minutes and there would be a vote. And I would be called upon, as would the gentleman would be called upon and our colleagues would be called upon to make a decision on a very important amendment with very limited input, and I do not want that. I want to expand the knowledge that we have as a base to make decisions.

Mr. PORTMAN. Again, Mr. Chairman, if the gentleman will continue to yield, I understand what the gentleman is trying to get at, and certainly agree that that is a concern.

I would also remind the gentleman that the gentleman from Virginia (Mr. DAVIS) has already mentioned that our experience in the Unfunded Mandate Relief Act of 1995, which has been in place for almost 3 years, is in fact what happens is at the committee level we come up with better legislation. And that indeed when we talk about the mandate, and this is public sector mandates, albeit it is 10 minutes on each side, the debate tends to be about whether to move forward with the legislation because of the benefits. In other words, we do not just focus on the cost.

So I would say it has not been a problem in our experience with the Unfunded Mandates Relief Act that passed 3 years ago that dealt with the public sector. With the private sector, there may be the possibility for some additional concerns.

I also would remind the gentleman that with regard to private sector mandates, two things are different. One is that the threshold is raised to $100 million from $50 million, so it will apply to fewer mandates. Second is that one must consolidate the point of order.

In other words, we cannot have a point of order on every private mandate that is in a piece of legislation or, for that matter, in an amendment. Instead, we have to consolidate all of those various point of order mandates into one point of order and then have the debate. That is to avoid the dilatory tactics that some were concerned about with regard to this legislation.

So it is a little different from that, in a sense provides even more safeguards, but if the gentleman would be willing to talk about the possibility of taking out of consideration these broad-based amendments that would, in effect, be the legislation, maybe there is a way we can resolve this.

Mr. BOEHLERT. Mr. Chairman, I would be glad to accept a perfecting amendment dealing with a manager's amendment so that the gentleman's concern would be addressed.

Mr. PORTMAN. Mr. Chairman, I would like to yield back to my colleague from California, who is again the lead sponsor of this legislation, to get his thoughts.

Mr. CONDIT. Mr. Chairman, reclaiming my time, I agree with the gentleman from Ohio. I do have a problem with the manager's amendment. If we come in with a very broad amendment, we could undercut the very intention of the unfunded mandate legislation in that if it did not qualify for a point of order, it could put all kinds of mandates and costs on. And that would become a little unworkable, I think.

If we could perfect this so that we were talking about other amendments, I certainly would be open.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. CONDIT. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, the gentleman is referring to other than the manager's amendment?

Mr. CONDIT. Other than the manager's amendment.

Mr. BOEHLERT. If the gentleman will continue to yield, if he wants to work that language out right now, I would be glad to accept that.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

I appreciate and say to my friend, the gentleman from New York, that I rise in opposition to his amendment although I can see where he would like to go with this amendment. And I would think that we could work something out if we had time to work something out.

But I have to say that the gentleman's amendment guts this bill. It completely guts the intent of this bill. The whole intent is to provide some process by which we can bring to the light of day a visible opportunity to discuss the fact that what we do in this Chamber has a direct impact on the private sector of this country. That is what this is about.

If we have a situation here where the gentleman's amendment became part of the bill, then there is no use of having debate, because we could play all kinds of shenanigans with a bill to try to put the House in the position of not implementing the intent of this bill, because all we have to do is pull the substantive stuff out of a bill, offer it as a committee substitute or as a manager's amendment, and we negate the whole reason for the bill.

So I just hope that we can work with the gentleman. I think there is a way that we can work this out. I understand and sympathize with the gentleman from New York that he does not want to stifle debate. Nor do I. But I would say to the gentleman from New York that we could probably fashion an amendment that looks at, say, for instance, amendments that are not printed in the RECORD or amendments that are just brought to the floor ad hominem. But to exclude all amendments from a bill slows down and violates the spirit of debate.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. DeLAY. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, as I have said, we have agreed, we have agreed based upon the colloquy I had with the gentleman from Ohio, to include the manager's amendment in the exemption.

Mr. DeLAY. Reclaiming my time, I understand, and appreciate the gentleman trying to work with us. I appreciate that offer. But there is also committee substitutes, where a committee would bring to the floor and the opportunity for a committee.

I see the chairman of the Committee on Rules is coming to the floor. He understands what this does to the Committee on Rules and the ability to manage debate on a bill on the floor. The gentleman's amendment not only creates huge loopholes in this bill, we might as well not even have the bill. But if we could narrow it down to a specific type of amendment, then maybe we could work with the gentleman and even accept his amendment.

Mr. BOEHLERT. If my colleague will continue to yield, I would like to point out this is not, as it has been characterized, a gutting amendment. What we are trying to do is ensure that an amendment proposed on the floor has a full and open airing so that our colleagues will have the benefit of the thinking of the proponent and the opponents of the amendment. The bill's resolutions, as provided for in the base bill, would still be subject to a point of order.

The fact of the matter is, characterizing something as a gutting amendment does not, in fact, mean it is a gutting amendment. That is not my intent, to gut the bill. My intent is to improve the bill.

Mr. DeLAY. Mr. Chairman, I appreciate the gentleman's support for the bill, but the way we read it, and certainly the way the Committee on Rules reads it and the Committee on Rules staff reads it, is that the gentleman's amendment is so broad and includes so much that it, in effect, does kill the entire intent of the bill and the whole reason for the bill.

So unless we can work something out, I would urge our Members to vote against the gentleman's amendment.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the sponsor of this amendment happens to be a very good friend of mine. His district borders mine. But I just have to severely admonish him for bringing this kind of amendment to the floor.

The gentleman represents a district just like mine. I have more small businesses in my district up and down the Hudson Valley and the Catskill Mountains, the Adirondack Mountains, probably than any of my colleagues. But all of my colleagues have literally thousands of small businesses. If my colleagues have been a town mayor, as I have, or a town supervisor or a county legislator or even a State legislator, they know what Federal mandates do to small businesses.

First of all, if we do it to the public sector, to the towns and the villages and the cities and the counties, we raise property taxes. We have got people living on fixed incomes that cannot afford to pay the taxes today on their property. We fixed that several years ago, because we said if we were going to levy a Federal mandate on local governments that forces up real estate taxes, then we would have to come on this floor and we would have a separate vote, just so that the American people can see what we are doing and, more than that, Members themselves can see what they are doing. Because if we have not served in local government or county government, sometimes we may not know what that is. So now that is taken care of.

Now let us take a look at the small businesses. I will never forget when I was a small businessman just starting out, and I had a wife and five children, and we could hardly make it as it was because my wife and I chose to have her stay home with those children all the time they were growing up, and it was rough. And every time I turned around it seemed like we had either the State government or the Federal Government coming in with some kind of a mandate that took money out of my business which we did not even have, and we had to give it to the government to pay for those Federal mandates. Well, if we had had this kind of a rule on the floor back 30 years ago, I probably would have been a lot more successful than I am.

And all we are saying today is that in the private sector, if we want to vote to levy a mandate on the private sector, on private businesses, then we ought to have a separate debate on it on the floor here, just sort of like we are doing right now. Now, what is wrong with that? What is wrong with it is nothing.

My good friend comes in here and, unlike the public sector, now he wants to do something to the small businessman.

☐ 1815

He wants to say that if anybody brings an amendment on this floor and offers it to a bill, that that does not count because it was not in the bill in the first place. Well, my colleagues, that is a gutting amendment.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, two things. One, I have served in local government as a former county executive, so I know whereof he speaks. Secondly, I am not suggesting that proposed mandates are good or bad. Some are good. Some are bad.

The only thing I am trying to protect is the opportunity for full and open debate on the floor of the people's House. What could be wrong with that?

Mr. SOLOMON. Mr. Chairman, reclaiming my time, because the gentleman knows that if his amendment goes through, there will never be that debate on the mandate itself. And that is where we missed the boat all these years. We need to have that 20-minute debate so it sets the parameters so we know what we are going to vote on.

Like, right now, how many Members are on this floor right now? Maybe 25, if that. Where are the other 400 Members? They have no idea what is going on here. And nine times out of ten, when we come to a bill with an unfunded mandate in it, they are not going to know what they are voting on over here.

All we are saying is, let us have a rollcall and get the Members over here, and let us point out the mandate that is coming to them. And then all the time they are considering the merit of the bill, then they will keep in mind that there is a mandate out there. The gentleman knows that is exactly how it works.

I am Chairman of the Committee on Rules. I have been a member of that Committee for 10 years. I know the rules of this House. And I would tell the membership, on behalf of local businesses across this Nation, if they vote for the Boehlert amendment, they are voting to gut this legislation. And I would be tempted to pull the legislation and take it off the floor if that were the case.

Please come over here and vote no on the Boehlert amendment. Vote for small businesses that create 75 percent of all the new jobs in America every single year.

All the kids graduating from high school this coming month in June, all of them graduating from college, 75 percent of those jobs being offered to those kids are going to be from small businesses; and this will help to keep those small businesses profitable so they can hire them. Vote no on the Boehlert amendment, and then let us pass this measure.

The CHAIRMAN pro tempore (Mr. GILLMOR). The question is on the amendment offered by the gentleman from New York (Mr. BOEHLERT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. BOEHLERT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House resolution 426, further proceedings on the amendment offered by the gentleman from New York (Mr. BOEHLERT) will be postponed.

AMENDMENT OFFERED BY MR. BECERRA

Mr. BECERRA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BECERRA:

Page 6, line 5, after "exceeded" insert "or that would remove, prevent the imposition of, prohibit the use of appropriated funds to implement, or make less stringent any such mandate established to protect civil rights".

Page 6, after line 5, insert the following new paragraph and renumber the succeeding paragraphs accordingly:

(4) MODIFICATION OR REMOVAL OF CERTAIN MANDATES.—(A) Section 424(b)(1) of such Act is amended by inserting "or if the Director finds the bill or joint resolution removes, prevents the imposition of, prohibits the use of appropriated funds to implement, or makes less stringent any Federal private sector mandate established to protect civil rights" after "such fiscal year" and by inserting "or identify any provision which removes, prevents the imposition of, prohibits the use of appropriated fund to implement, or makes less stringent any Federal private sector mandate established to protect civil rights" after "the estimate".

Page 6, lines 14, 16, 18, and 20, after "intergovernmental" insert "mandated" and after the closing quotation marks insert "and by inserting mandate or removing, preventing the imposition of, prohibiting the use of appropriate funds to implement, or making less stringent any such mandate established to protect civil rights' ".

Page 7, line 12, strike "one point" and insert "two points" and on line 14, insert after "(a)(2)" the following: "with only one point of order permitted for provisions which impose new Federal private sector mandates and only one point of order permitted for provisions which remove, prevent imposition of, prohibit the use of appropriated funds to implement,or make less stringent Federal private section mandates.".

Mr. BECERRA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BECERRA. Mr. Chairman, I yield myself such time as I may consume. Let me explain my amendment briefly.

We have entered into a debate through the amendment by my colleague and friend from California (Mr. WAXMAN) on the issue of what happens when a particular bill or a piece of legislation has the effect of weakening protections for the environment or public health and safety, and we had some discussion on that amendment.

If my colleagues look at the legislation that we are discussing now and we now relate that same type of debate or discussion on the issue of civil rights, what we find is that this legislation actually would permit, permit, this Congress to establish laws that will weaken our current civil rights protections that we provide to the American public.

Let me give my colleagues a quick example of what I mean.

In both fair employment and housing law, there are exemptions made for small businesses. A small business is defined as having fewer than 15 employees. If we have legislation which attempted to broaden the definition of a small business to, say, 50 employees, in other words, something more than 15 employees, what we would do is we would now be excluding from civil rights laws and protections a whole array, many, many more businesses that now have up to 50 employees. Where, right now, under current law, those businesses that have between 16 and 50 employees would have the civil rights laws in the books applied to them; with this legislation, that would no longer be the case.

I do not believe it is the intent of the authors of this legislation or of anyone in this Congress to weaken civil rights protections for the elderly, for the infirm, the disabled, for minorities that have been discriminated over the past, other people based on religion. I do not believe that is the intent of this Congress. Yet the legislation, as it is written, would allow that to happen.

Why do I say that? Well, if my colleagues recall when we had the debate on the Unfunded Mandates Reform Act, when it was passed last session, a number of us raised this concern that we would make it nearly impossible to enforce and protect civil rights laws, constitutional protections and other matters with the legislation had it been drafted back then a couple years ago.

We got included in the legislation the Unfunded Mandates Reform Act legislation that, in essence, said, we cannot apply this unfunded mandates law on bills that try to enforce constitutional rights of individuals or attempt to establish or enforce any statutory rights that prohibit discrimination. So no points of order would lie against legislation that tried to do exactly that, enforce constitutional rights or establish or enforce statutory rights that prohibit discrimination.

But we have a situation here where now we are not necessarily trying to enforce the law. In this case, if legislation comes forward which tries to diminish the impact of that law, weakening that law, as the example I gave before where we went from considering a small business to mean only 15 or fewer employees in a business to now 50 or fewer employees in a business, by weakening that law, what we have done is weakened civil rights protections.

I do not believe that that is the intent of this legislation and its sponsors. I would hope that Congress would not intend to go in that direction. And I offer this amendment to try to address that concern and hope that it can be unanimously accepted by this body.

Mr. Chairman, if I could give one last example to, hopefully, make this as clear as possible.

Right now, under the Americans With Disabilities Act, the ADA, a disabled individual who may have to use a wheelchair is entitled to be able to access a public place. And if there is a business that wants to open itself up to the public, it must also make itself available to disabled who are in wheelchairs.

Well, if we had legislation that attempted to remove the ramp-access requirements for disabled, that currently would not be protected under the Unfunded Mandates Reform Act. This legislation would now make it possible to remove those standards and weaken the laws.

So, for those reasons, I would ask Members to consider this amendment and adopt it unanimously.

Mr. PORTMAN. Mr. Chairman, I rise to reluctantly oppose the amendment. We are just looking at the language over here.

But, in essence, what this does, as I see it, is it builds on the Waxman amendment we debated previously regarding the environment and says that, with regard to any civil right or constitutionally protected right where there is a lessening of some requirement, that there be a point of order.

Again, it is not what this legislation is about. We specifically in the legislation, the underlying bill, which is the Unfunded Mandates Relief Act of 1995, exclude all civil rights, all constitutionally protected rights. And that is very clear. And I think that carve-out was appropriate, although it was debated, as some will remember, 3 years ago; and I think that is appropriate.

What this legislation would purport to do or this amendment would purport to do is to go well beyond that and say that, any time there is a determination by somebody that there has been a diminution of some kinds of rights, then there be a point of order.

Again, it may be a good idea to do if the gentleman would like to sit down and work on some legislation. It took Mr. CONDIT and I about a year to come up with this legislation on private-sector mandates. There might be some way to do it. But it does not fit into this legislation.

CBO is not able to do this. It is not their job. They do cost analysis and budget. That is who we are relying on here.

And if we learned anything in the experience of the Unfunded Mandates Relief Act over the last 3 years, and it has worked well, it is that we need to clearly define the terms. We need to have the minimum of ambiguity and the maximum of clear, concise definitions to be able to make this work right so that at the committee level we come up with better legislation that does not mandate on State and local government and now with this legislation mandate on the private sector without fully understanding the cost and coming up with the least costly way to achieve the same results.

I would just say to the gentleman it is an interesting idea. Maybe there is some legislation that could be crafted to achieve his objective. But this is not the place to do it.

Mr. CONDIT. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. CONDIT. Mr. Chairman, I thank the gentleman for yielding.

I want to join with the gentleman from Ohio (Mr. PORTMAN) in opposition to this amendment. We were very sensitive to this issue. We did exempt it out of the bill. The civil rights issue was exempted out of the bill.

After our last experience about 3 years ago, we had a healthy debate about it and we tried to be conscientious about it and be sensitive. My colleague is right. It was not our intent to change the civil rights law, to do anything to weaken them; and I do not believe that is the intent of anybody in this room.

So I would oppose the amendment. Although I would tell my colleague from California, I would be delighted if he has got a proposal like the gentleman from California (Mr. WAXMAN) that we can perfect and work on. I am open to do that. But I think today to bring this up, it does not fit with what we are doing. And our efforts I think are honorable in saying that we exempt this, and our commitment to the gentleman to try to work out a solution is there.

Mr. BECERRA. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. BECERRA. Mr. Chairman, I thank my friend, the gentleman from Ohio (Mr. PORTMAN), for yielding; and I also thank my friend from California (Mr. CONDIT) for his words.

I appreciate what the gentleman from California has just said. And I agree. I do not think it is the intent of anyone, whether it is the sponsors or anyone who would vote on this legislation, to diminish, to weaken civil rights protections.

But I think, and we can always sit down and discuss this further. I believe if we read closely what is clearly covered under the law under the Unfunded Mandates Reform Act and what the legislation we have before us do in tandem is it would permit legislation that would weaken civil rights protections.

Because the Unfunded Mandates Reform Act only spoke about laws that establish or enforce; it did not talk about laws that weaken. So laws that weaken are permitted to go through this process without coverage to the Unfunded Mandates Reform Act.

Mr. PORTMAN. Reclaiming my time for a moment, let us back up and talk about the fundamental philosophy on this legislation. This is with regards to new mandates on business. The previous legislation was new mandates on the public sector.

We chose to carve out the situation of constitutionally protected rights or civil rights. In other words, even if there is a new mandate on the public sector, it is not subject to this informational requirement if it relates to civil rights. In other words, it is a carve-out; it protects it.

The gentleman just made the assertion that somehow this legislation could affect civil rights law negatively by diminishing civil rights. It would have no impact on that. This legislation would not apply. In fact, this legislation goes out of its way to make sure that we are not going to put any barriers in place of any kinds of civil rights.

There is a legitimate debate we would have as to whether we should have excluded included all civil rights from the requirements on this bill. After all, it is just informational. But we thought civil rights is so important and it is defined as constitutionally protected rights that we did not subject it to the information requirements in this legislation.

The situation that the gentleman is describing of diminishing civil rights simply would not be affected by this legislation one way or the other.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. PORTMAN) has expired.

(By unanimous consent, Mr. PORTMAN was allowed to proceed for 1 additional minute.)

Mr. PORTMAN. Mr. Chairman, I yield to the gentleman from California (Mr. BECERRA).

□ 1830

Mr. BECERRA. Mr. Chairman, I thank the gentleman. I do not think we will need the time.

Mr. PORTMAN. Mr. Chairman, reclaiming my time, I think it is irrelevant to what we are debating today because it does not affect a diminution of civil rights one way or the other; and, specifically, civil rights were excluded from the requirement of information that is in the legislation.

Mr. BECERRA. But if we gauge in a discussion and find that the legislation does affect and the law as it exists does affect those civil rights protections, would the gentleman be willing, or I ask the two sponsors, will they be willing to then incorporate language to make sure that we do not weaken civil rights protections.

Mr. PORTMAN. The gentleman from California (Mr. CONDIT) has expressed my views on this; we are happy to sit down and have a dialogue about it.

The CHAIRMAN pro tempore (Mr. GILLMOR). The question is on the amendment offered by the gentleman from California (Mr. BECERRA).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. BECERRA. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 426, further proceedings on the amendment offered by the gentleman from California (Mr. BECERRA) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 426, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: The amendment, as modified, offered by the gentleman from Massachusetts (Mr. MOAKLEY); the amendment offered by the gentleman from California (Mr. WAXMAN); the amendment offered by the gentleman from New York (Mr. BOEHLERT); and the amendment offered by the gentleman from California (Mr. BECERRA).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT, AS MODIFIED, OFFERED BY MR. MOAKLEY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment, as modified, offered by the gentleman from Massachusetts (Mr. MOAKLEY), on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 176, noes 233, not voting 23, as follows:

[Roll No. 156]

AYES—176

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Engel
Eshoo
Etheridge
Evans
Farr
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McHale
McKinney
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sawyer
Scott
Serrano
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—233

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Gutknecht
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCarthy (NY)
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—23

Baesler
Bateman
Clay
Crane
Ewing
Fattah
Ganske
Gibbons
Gonzalez
Goodling
Greenwood
Harman
Inglis
Johnson (WI)
Livingston
McNulty
Meeks (NY)
Paxon
Rogan
Ryun
Schumer
Shuster
Skaggs

□ 1853

Messrs. McINTOSH, WELDON of Florida, and FORBES changed their vote from "aye" to "no."

Messrs. GORDON, SPRATT and STUPAK and Mrs. CAPPS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GIBBONS. Mr. Chairman, on rollcall no. 156, I was unavoidably detained. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. INGLIS of South Carolina. Mr. Chairman, on rollcall no. 156, I was inadvertently detained. Had I been present, I would have voted "no."

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. GILLMOR). Pursuant to House Resolution 426, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. WAXMAN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. WAXMAN) on which further proceedings were postponed, and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 221, not voting 21, as follows:

[Roll No. 157]

AYES—190

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bilbray
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Engel
Eshoo
Etheridge
Evans
Farr
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lazio
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan

Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sawyer
Saxton
Scott
Serrano
Shays
Sherman
Slaughter
Smith (NJ)
Smith, Adam
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates
Turner
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—221

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Deal
DeLay
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Fawell
Foley
Fossella
Fowler
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant

NOT VOTING—21

Baesler
Bateman
Clay
Crane
Dickey
Ewing
Fattah
Ganske
Gonzalez
Goodling
Greenwood
Harman
Livingston
McNulty
Meeks (NY)
Paxon
Rogan
Ryun
Schumer
Shuster
Skaggs

□ 1902

Mr. DAVIS of Virginia, Mr. LAZIO of New York, Ms. WATERS and Mrs. ROUKEMA changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BOEHLERT

The CHAIRMAN pro tempore (Mr. GILLMOR). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. BOEHLERT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 223, not voting 20, as follows:

[Roll No. 158]

AYES—189

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fawell
Fazio
Filner
Forbes
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Green
Gutierrez
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McKinney
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Petri
Pomeroy
Porter
Poshard
Quinn
Rahall
Ramstad
Rangel
Rivers
Rodriguez
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sawyer
Saxton
Scott
Serrano
Shays
Slaughter
Smith (NJ)
Smith, Adam
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—223

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Foley
Fossella
Fowler
Fox
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Portman
Price (NC)
Pryce (OH)
Radanovich
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Shimkus
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas

Thornberry
Thune
Tiahrt
Traficant
Turner
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—20

Baesler
Bateman
Clay
Crane
Ewing
Fattah
Ganske
Gonzalez
Goodling
Greenwood
Harman
Livingston
McNulty
Meeks (NY)
Paxon
Rogan
Ryun
Schumer
Shuster
Skaggs

☐ 1912

Mr. DINGELL, Mr. MORAN of Virginia and Mrs. ROUKEMA changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BECERRA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. BECERRA) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 231, not voting 21, as follows:

[Roll No. 159]

AYES—180

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bilbray
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Chenoweth
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McHale
McKinney
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sànchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Shays
Sisisky
Skelton
Slaughter
Smith, Adam
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—231

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Fawell
Foley
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Manzullo
McCarthy (NY)
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Shimkus
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—21

Baesler
Bateman
Clay
Crane
Ewing
Fattah
Ganske
Gonzalez
Goodling
Greenwood
Harman
Livingston
McNulty
Meeks (NY)
Miller (FL)
Paxon
Rogan
Ryun
Schumer
Shuster
Skaggs

☐ 1920

Mr. GORDON changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ROGAN. Mr. Chairman, on rollcall Nos. 156, 157, 158, 159 I was unavoidably detained. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mrs. CHENOWETH. Mr. Speaker, it was my intention to vote "no" on roll call vote No. 159, but was recorded as voting "yes."

I would like to have it reflected in the RECORD that I should have been recorded as voting "no" on this roll call vote.

Mr. GEPHARDT. Mr. Chairman, I rise in opposition to H.R. 3534.

I agree with the objective of this legislation—which is to ensure that Congress fully considers the costs of legislation to the private sector prior to voting on that legislation.

But once again, House Republican leaders have hijacked a common sense objective—and turned it into a stealth attack on our laws to protect public health and the environment.

This bill establishes a procedural obstacle—a point of order—against Congressional action on a whole host of issues critical to the American people—from future increases in the minimum wage to broader patient protections for patients in managed care plans to the Senate-passed IRS reform legislation.

And it doesn't deliver relief from all private-sector mandates. The bill's protection from mandates is in fact arbitrary and inconsistent.

For example, assume that Congress extends the Superfund tax on big companies. If the bill used these revenues to clean up toxic waste sites—the very purpose of this tax—the bill would face a point of order under H.R. 3534. But if the bill used all the revenues to provide tax breaks to wealthy special interests, there would be no point of order. In both cases a private sector mandate is imposed—but in only one case is that mandate subject to review.

Make no mistake about it. If this legislation, as the Republicans have amended it, were to become law, it would enact a procedural obstacle to programs that command bipartisan support—the highway bill, our toxic waste cleanup program, our airport and airline safety programs, and legislation to reduce underage teen smoking, to name just a few.

In short, this bill gives House Republican leaders a procedural device to kill important health and environmental proposals without directly voting against them. It's all part of the Republican Congress' stealth agenda: to look for ways to weaken our health and environmental laws without the glare of publicity.

Instead of attacking our environmental laws, we should be protecting them. And instead of sneak attacks mounted by Republican Leaders under cover of darkness, we should be debating all riders freely and openly.

That is why I have cosponsored Congressman WAXMAN's Defense of the Environment Amendment. This amendment simply requires a separate vote on all legislative riders that weaken our environmental laws. If we are going to insist upon a careful analysis of the costs of legislation to the private sector, we should do no less for the environment.

Over the past four years, the House Republican leadership has repeatedly weakened our environmental laws by attaching legislative riders—often in the dark of night and with little debate—on high-priority spending bills.

Americans want healthy forests. But Republicans have used special-interest riders to clear-cut our forests and to undermine the protection of endangered species.

Americans want our toxic waste sites cleaned up. But Republicans have used riders to stall our toxic waste cleanup program.

And Americans want to reduce oil import dependence and the risk of global climate change. But Republicans have used riders to block new energy efficiency standards.

In the recent supplemental spending bill, Republican riders gave out special subsidies for the oil and gas industry and launched additional assaults on our public lands.

The Defense of the Environment amendment will give us a better chance to reign in these extremist attacks on the environment. It deserves approval. I urge your support.

Mr. STENHOLM. Mr. Chairman, I rise in strong support of H.R. 3534, the Mandates Information Act. This bill extends to the private sector comparable procedural limitations currently placed on legislation imposing unfunded federal mandates on state or local governments.

Small businesses are the backbone of the economy in my District and, in fact, across the country. It always has been my practice to take the impact on small businesses into account when legislation is being considered, and it is for this reason that I support this bill.

The bill before us requires Congressional committees to include in their legislative reports detailed information on potential private sector mandates in excess of $100 million that would result from the legislation. H.R. 3534 also requires that the Committee reports provide information on a proposed bill's effect on consumer prices and the supply of goods and services in consumer markets, as well as on matters relating to workers.

Those of us supporting this bill dare not oversell its merits. H.R. 3534 will not end private sector mandates. What it will do is force Congress to honestly examine and make public the consequences of its actions, considering the effects of mandates on consumers, workers and small businesses. Congress would fully retain its right to pass whatever legislation it chooses. There easily could be instances in which Congress determines that the benefit of the regulation is worth its cost. This measure would simply force Congress to reveal and consider more complete information about the policies we approve.

I do want to mention one reservation I have about the bill before us. The current legislation states that points of order would not be permitted against bills that have net decreases in tax revenues over five years, even if the measure includes a tax increase. This provision assumes that the mix of tax provisions resulting in a decrease in revenues automatically will be a net positive for businesses, workers and consumers. There is absolutely no reason for such an assumption. This provision places tax cutting of any sort above all other priorities, including reducing business' regulatory burdens, maintaining a balanced budget, or a wide array of other priorities which could be expressed through certain tax cuts. While I trust the good intentions of the author of this language, I believe that those supporting this language are looking at this issue from a narrow perspective which ignores unintended consequences these supporters would not appreciate.

Reducing the burdens imposed on small business by the federal government is one of my highest priorities in Congress. I will continue to do whatever I can to encourage and promote a business climate which is conducive to maintaining and expanding small business opportunities. Enactment of this legislation will assist me and other Representatives in this effort.

Mr. HALL of Texas. Mr. Chairman, I am pleased to rise today in support of H.R. 3534, the Mandates Information Act. This bill directs Members of Congress, for the first time, to carefully consider the burden that unfunded mandates impose on the groups they intend to help—small businesses, consumers and employees.

Mr. Chairman, H.R. 3534 is very simply a common sense bipartisan effort to ensure that policy-makers focus their attention on the costs of legislation on the private sector before it is passed.

In 1995, with the passage of the Unfunded Mandates Act, Congress addressed the significant problem that federal government mandates have on the operation of state and local governments. These mandates create equally burdensome problems on those in the private sector, especially the small business owner. H.R. 3534 will remedy the problem of federal mandates on our nation's small businesses and their employees by taking the reforms of the Unfunded Mandates Act of 1995 and applying them to the private sector. It is the next logical step in an effort to ensure our government accomplishes its public policy initiatives in the most cost effective manner.

Mr. Chairman, I believe that this bill makes good sense for the federal government, for industry and for every American citizen trying to create a better way of life for themselves and their families—I urge my colleagues to support this legislation.

The CHAIRMAN. Are there other amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. RIGGS) having assumed the chair, Mr. GILLMOR, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3534) to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes, pursuant to House Resolution 426, he reported the bill, as amended, back to the House with further sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MOAKLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 279, noes 132, not voting 21, as follows:

[Roll No. 160]

AYES—279

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bentsen
Bereuter
Berry
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Dickey
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Fawell
Fazio
Foley
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Gekas
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo

Lofgren
Lucas
Luther
Maloney (CT)
Manzullo
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHugh
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Roukema
Royce
Salmon
Sánchez
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Shimkus
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—132

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Berman
Bilbray
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Carson
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Engel
Eshoo
Evans
Farr
Filner
Forbes
Frank (MA)
Furse
Gejdenson
Gephardt
Gilchrest
Gutierrez
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Klink
Kucinich
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lowey
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McGovern
McHale
McKinney
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Rahall
Rangel
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Scott
Serrano
Shays
Slaughter
Stark
Stokes
Stupak
Thompson
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—21

Baesler
Bateman
Buyer
Clay
Crane
Ewing
Fattah
Ganske
Gonzalez
Goodling
Greenwood
Harman
Livingston
McInnis
McNulty
Meeks (NY)
Paxon
Ryun
Schumer
Shuster
Skaggs

□ 1940

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3534, the bill just passed.

The SPEAKER pro tempore (Mr. RIGGS). Is there objection to the request of the gentleman from California?

There was no objection.

SENSE OF CONGRESS THAT COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT SHOULD CONFER IMMUNITY CONCERNING ILLEGAL FOREIGN FUNDRAISING ACTIVITIES

Mr. COX of California. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 440) expressing the sense of the Congress that the Committee on Government Reform and Oversight should confer immunity from prosecution for information and testimony concerning illegal foreign fundraising activities.

The Clerk read as follows:

H. RES. 440

Whereas the Committee on Government Reform and Oversight is currently investigating the unprecedented flow of illegal foreign contributions to the Clinton-Gore campaign during the 1996 Presidential campaign;

Whereas more than 90 witnesses in the investigation have either asserted the fifth amendment or fled the United States to avoid testifying, including 53 persons involved in raising money for the Democratic National Committee or the Clinton-Gore campaign;

Whereas among the 53 persons who have either asserted the fifth amendment or fled the United States to avoid testifying are former Associate Attorney General Webster Hubbell; former White House aide Mark Middleton; longtime Clinton friends John Huang, Charlie Trie, and James and Mochtar Riady; and Chinese businessman Ted Sieong and 11 members of his family;

Whereas democratic fundraiser Johnny Chung has told Department of Justice investigators that he funneled more than $100,000 in illegal campaign contributions from a Chinese military officer to Democrats during the 1996 campaign cycle, according to a New York Times report on May 15, 1998;

Whereas Chung told Federal investigators much of the $100,000 he gave to the Democratic National Committee in the 1996 campaign came from Communist China's Peoples Liberation Army through Liu Chaoying, a Chineese Lieutenant Colonel and aerospace industry executive;

Whereas Chung's account and supporting evidence, such as financial records, is the first direct evidence of Communist Chinese campaign contributions being funneled to the Democratic National Committee and Clinton-Gore '96;

Whereas subsequent to the receipt of the illegal campaign contributions from Communist Chinese officials the Clinton Administration relaxed export controls and overruled a Pentagon ban on the sale and export of sophisticated satellite technology to China;

Whereas on April 23 and May 13, 1998, the Committee on Government Reform and Oversight unsuccessfully sought to grant immunity from prosecution to 4 important witnesses, including 2 former employees of Johnny Chung who have direct knowledge concerning Communist Chinese attempts to influence United States policy and make illegal campaign contributions;

Whereas these 4 witnesses, Irene Su, Nancy Lee, Larry Wong, and Kent La, each have direct information concerning the efforts employed by Johnny Chung, Ted Sieong, and other foreigners to violate Federal campaign laws and exercise foreign influence over the 1996 elections;

Whereas the Department of Justice does not object to the Committee on Government Reform and Oversight's desire to confer immunity on Irene Wu, Nancy Lee, Larry Wong, and Kent La;

Whereas Irene Wu, Johnny Chung's office manager and primary assistant, would provide the Committee on Government Reform and Oversight firsthand information and knowledge about Chung's payments to Clinton-Gore '96 and his relationships with foreign nationals;

Whereas Nancy Lee, an engineer at Mr. Chung's company, solicited contributions from her colleagues for the benefit of Clinton-Gore '96, and those contributions serve as the foundation of criminal charges brought against Mr. Chung;

Whereas Larry Wong, a long-time friend and associate of convicted felon Gene Lum, has direct knowledge concerning Lum's method of making illegal foreign money contributions to Clinton-Gore '96;

Whereas Kent La, the United States distributor of Communist Chinese cigarettes, has direct and relevant information about illegal foreign money contributions made to the Democratic National Committee by Ted Sioeng; and

Whereas the inability of the Committee on Government Reform and Oversight to confer immunity on these 4 important witnesses serves as an impediment to the important work of the committee in determining the extent to which officials and associates of the Chinese and other foreign government sought to influence the 1996 elections and United States policy in violation of Federal campaign contribution laws and regulations: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Committee on Government Reform and Oversight should vote to direct the General Counsel of the House of Representatives to apply to a United States district court for an order immunizing from use in prosecutions the testimony of, and other information provided by, Irene Wu, Nancy Lee, Larry Wong, and Kent La at proceedings before or ancillary to the Committee.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. COX) and the gentleman from California (Mr. WAXMAN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. COX).

Mr. COX of California. Mr. Speaker, I ask unanimous consent to yield my time to the gentleman from Ohio (Mr. BOEHNER) and that he may be able to yield time as he sees fit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, yesterday I introduced House Resolution 440. This resolution expresses the sense of Congress that the Committee on Government Reform and Oversight should confer immunity to four witnesses who have direct knowledge about how the Chinese government made illegal campaign contributions in an apparent attempt to influence our foreign policy. This resolution is not about titillating gossip, nor is it about partisan politics. Simply put, this resolution is about determining whether American lives have been put at risk and whether Communist-controlled companies and Chinese officials were given access to sophisticated technology that jeopardizes our national security.

To give my colleagues a sense as to why this resolution is so important, I would like to ask them to consider some disturbing revelations that have come to light about the connection between the Clinton administration and Communist China.

Last week various news sources, including the New York Times, reported that the Clinton administration's decision to approve exports of satellite technology to China in 1996 may have been connected with campaign contributions to the Democrat Party. In short, it is alleged that the Clinton administration granted waivers to two companies in 1996, Loral Space and Communications and Hughes Electronic Corporation, that allowed them to export sophisticated satellite technology to Communist China.

Loral's chairman, Bernard Schwartz, donated more than $600,000 to the Democrat Party. Last week the New York Times also reported that in March of 1996, the President overruled both the State Department and the Pentagon, which wanted to keep sharp limits on China's ability to launch American-made satellites using Chinese rockets, and turned oversight of granting such permission for these launches over to the Commerce Department, which was in favor of permitting them.

At the time the Commerce Department was headed by the late Ron Brown, who was previously chairman of the Democratic National Committee.

One of the beneficiaries of that decision, according to the Times, was China Aerospace, a military-run Chinese company that employed Liu Chaoying as an executive. The Times also reported that one-time Democratic fund-raiser Johnny Chung has told the Justice Department investigators that he funneled $100,000 in cash from Liu to the Democratic National Committee during the 1996 presidential campaign.

□ 1945

Liu is a lieutenant colonel in the Chinese army and the daughter of a top Chinese military official.

The Times' report is significant in that it represents the most solid evidence yet of a Chinese connection in the campaign finance scandal. More importantly, it opens the door to allegations that the Chinese government was able to jeopardize U.S. national security because of illegal campaign contributions.

Mr. Speaker, one might logically ask, "How does this affect America's national security?" Well, I think the answer is quite obvious. Any technology transfer that benefits China's space program also benefits China's missile program.

In fact, a little over 2 weeks ago it was reported in The Washington Times that Communist China had aimed 13 long-range strategic missiles at the United States. These missiles have a range of 8,000 miles and are capable of delivering nuclear warheads that can obliterate an entire city in a single blast.

We have also learned that China is aggressively pursuing development and modernization of their entire missile program. Not only are they improving the accuracy of their short-range missiles which threaten their neighbors, they are also developing an entirely new class of missiles capable of bringing their nuclear weapons to American families.

So, Mr. Speaker, we need to know why and if the President of the United States changed the policy in a way that gave sensitive and sophisticated missile technology to a Nation that now aims nuclear weapons at our sons and daughters. Mr. Speaker, I can only ask all of my colleagues to join with me as we try to ensure whether or not our children grow up in a safe world or in a world in the throes of another arms race, or even another Cold War.

President Clinton is expected to travel to China next month where he is also expected to announce new space technology cooperation agreements. Before he leaves, the American people must know exactly if past cooperation with China has undermined our national security.

Congress and the American people must have the answers to some very specific questions:

Why did the President overrule the State Department and turn such important decisions over to the Commerce Department?

How did this transfer of technology jeopardize our national security and American lives?

No Member of this body should rest until we know the answers to these questions. Giving immunity to these four important witnesses is a first step in opening the door to the truth in these very important matters.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as may consume.

Mr. Speaker, I rise in support of the Boehner resolution. I completely agree that the four witnesses should be given immunity. I believe every Democrat on the House Committee on Government Reform and Oversight also supports immunity for the witnesses.

In fact, our only reservation on the merits has been that the witnesses still have not provided proffers of their testimony, which is a standard and essential procedure in an immunity case. That is what we said when the committee first voted on immunity on April 3, it is what I said in a letter to the Speaker on May 10, and it is what we said again when the committee voted on immunity on May 13.

On May 10, I sent a letter to the Speaker, and I want to quote from that letter. I wrote to the Speaker and I said:

> I am writing in the spirit of bipartisanship to work with you to find a constructive solution to the difficult problems facing the Committee on Government Reform and Oversight. During the past several weeks, you have personally attacked me and questioned my integrity without justification. I believe, however, that the American people expect more from us than name calling and partisan battles. Instead of escalating this fight, I want to make a genuine attempt to work with you to meet these expectations.

I said to the Speaker, and I further quote,

> I am prepared to recommend to my Democratic colleagues that they support the pending immunity requests, but before I do, I believe the rules and procedures guiding the committee's campaign finance investigation must be changed so that the committee can conduct a fair and thorough investigation.

Well, 2 weeks have passed, and the Speaker still has not responded to my letter and my request that we work together. We have tried to make it as clear as possible that our problem is not with immunity, our problem is with the gentleman from Indiana (Mr. DAN BURTON) and his handling of this investigation. That is a problem the Speaker, the gentleman from Ohio (Mr. BOEHNER), and the other Members of the Republican leadership insist on ignoring.

Since we last voted in committee, new information has come to light, originally in The New York Times, about the possibility that Johnny Chung may have been a conduit for political contributions from China. The new allegations are serious and deserve thorough congressional investigation.

Although there is no indication that the four witnesses seeking immunity have information relevant to these new allegations, the new evidence reinforces my belief that the witnesses should be given immunity. The new evidence also reinforces my belief that the gentleman from Indiana is the wrong person to be leading this investigation.

We are dealing with extremely serious allegations. We owe the American people a serious, credible investigation. So here we are today, and the Republican leadership has made no attempt to work with us in a bipartisan way. The Republican leadership is not sending this issue to another committee, it is not bringing the issue up on the House floor, it is not proposing to fix the Burton problem. The leadership is here telling us immunity is essential and then insisting on the one immunity option they know we will oppose. It is rare that partisanship and cynicism are this transparent.

Two weeks ago The New York Times, which has been leading the call for a thorough and aggressive investigation into the President's 1996 campaign, printed an editorial called "The Dan Burton Problem," and I want to take a moment and read in part from that editorial.

> By now, even Representative DAN BURTON ought to recognize that he has become an impediment to a serious investigation of the 1996 campaign finance scandals. If the House inquiry is to be responsible, someone else on Mr. BURTON's committee should run it.
>
> Coming on the heels of an impolitic remark by Mr. BURTON about the President 2 weeks ago, the tapes fiasco is forcing the House Republicans to confront two blunders: The first was to entrust the investigation of campaign finance abuses to Mr. BURTON, the chairman of the House Government Reform and Oversight Committee. The second was to give him unilateral power to release confidential information.
>
> Mr. BURTON, a fierce partisan, not known for balanced judgment, was plainly the wrong man for a sensitive job. If Mr. BURTON will not step aside, Speaker NEWT GINGRICH should convene the Republican Caucus and ask it to name a replacement. Mr. GINGRICH should also agree to rules both to provide a check on the new Chairman's power and to enhance bipartisanship.
>
> By agreeing to improvements in the rules, Republicans would remove a major criticism of the committee's process as well as the Democrats' excuse for denying immunity. For now, Mr. GINGRICH seems determined to back Mr. BURTON. That will only delay getting a truthful account of fund-raising in the 1996 election.

My colleagues, this is a serious matter, and that is why we have asked that the Speaker give us leadership on this issue to work with us in a bipartisan manner. It sometimes seems that the Speaker acts as if he thinks he is still in the minority; that he is an insurgent. But the Speaker is the Speaker of the House. He is the Speaker of the whole House, and he should be working to bring all of us together for a fair and credible investigation, not trying to drive partisan wedges between us and trying to impede a serious investigation.

Now, the Republicans have a majority in this House. When the chairman of the investigation calls the President of the United States a scum bag, when he admits he is after the President, when he doctors transcripts that purport to represent evidence the committee obtained, when he issues over 600 unilateral subpoenas and targets 99 percent of his 1,000 subpoena and other information requests to Democrats, we Republicans and Democrats have a very real problem.

When the committee's Republican chief counsel quits because he is not allowed to conduct a professional investigation, when the Republican chief investigator is fired, we have a very real problem. We have a committee out of control. But because Republicans have the majority in this House, it is a problem that they alone can solve. All the Democrats ask is what The New York Times proposed: Act responsibly, solve the problem. We are prepared to vote for immunity if the majority is willing to work with us in even the most minimal way.

I am going to vote for this resolution because it really is tantamount to a meaningless gimmick. It is an empty exercise in political posturing. I should also point out for the record that the resolution contains a number of basic factual errors, and I will submit information correcting these mistakes.

A meaningful act would be to reform the procedures we have in the Committee on Government Reform and Oversight, or send this matter to another committee, so that we can get on with the investigation.

If this matter is as important to the Speaker as he says it is, and it should be, we only ask that he work with us for a constructive investigation. Please do not posture on such an important issue. Democrats are ready and have been ready to vote for immunity. All we ask is that the investigation be fair, bipartisan and competent.

And that means, by the way, that we get the facts, and then see what conclusions those facts lead us to, not reach the conclusions first and then try to see what facts will fit into those conclusions.

I have heard incredible statements by some of my Republican colleagues when they talk about money from the Chinese government going to the President of the United States and he knowingly then gives weapons technology to the Chinese that may jeopardize our national security. If that is the allegation, we better have facts to back it up because, quite frankly, that is not just accusing the President of the United States of a crime, that is accusing the President of the United States of the crime of treason.

We ask the Speaker, bring us together to act rationally. We ask the Speaker to work with us. Give us bipartisanship. Make some tough decisions. If the Speaker is going to send this to the committee for another vote, take some time first to meet with the minority Members and try to find common ground. If that does not occur, it will be absolutely clear that this is all about cynical politics not genuine concern, and the American people will have yet another reason to tune us all out.

Mr. Speaker, I provide for the RECORD the letter to the Speaker and information correcting the factual errors contained in the resolution to which I referred to earlier:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT
REFORM AND OVERSIGHT,
Washington, DC, May 10, 1998.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I am writing in the spirit of bipartisanship to work with you to find a constructive solution to the difficult problems facing the Committee on Government Reform and Oversight. During the past several weeks, you have personally attacked me and questioned my integrity without justification. I believe, however, that the American people expect more from us than name-calling and partisan battles. Instead of escalating this fight, I want to make a genuine attempt to work with you to meet their expectations.

I am prepared to recommend to my Democratic colleagues that they support the pending immunity requests. But before I do, I believe that the rules and procedures guiding the Committee's campaign finance investigation must be changed so that the Committee can conduct a fair and thorough investigation.

Of course, such changes also require that the chair of the investigation be fair and credible. Mr. BURTON, the current chairman, has disqualified himself by his actions. He has called the President a vulgar name and said that he is out to get the President. And he has "doctored" evidence by releasing altered and selectively edited transcripts of the Webster Hubbell tapes. There are several senior Republican members of the Committee who could immediately take his place and continue the investigation. For the investigation to have any legitimacy, this must happen.

A fair investigation must have fair procedures. Some have asserted that the Democratic members want a veto over the conduct of the investigation. This is not true. We are not seeking the right to block the issuance of subpoenas or the release of documents. All we want is the opportunity to present our arguments to the Committee if we raise objections that the chair is unwilling to acknowledge. We recognize that we are in the minority and that we can be outvoted. Fairness dictates, however, that we should at least have the right to appeal our case to the Committee members if we are summarily rejected by the chair.

I am not asking for unusual procedures. The exact opposite is the case. In the last year, Mr. BURTON issued over 600 subpoenas unilaterally, without minority concurrence or a Committee vote. That is more than three unilateral subpoenas for every day the House was in session. To the best of my knowledge, however, no Democratic committee chairman since the McCarthy era forty years ago ever issued a subpoena unilaterally. The congressional subpoena power is an awesome power. It compels an individual to turn over documents to Congress or to testify before Congress against the individual's will. Prior to Mr. BURTON, committee chairmen simply did not exercise this power unilaterally.

As LEE HAMILTON, the chair of the House Iran-Contra investigation, wrote me:

> As a matter of practice in the Iran-Contra investigation, the four Congressional leaders of the Select Committee—Senators INOUYE and Rudman, Representative Cheney and I—made decisions jointly on all matter or procedural issues, including the issuance of subpoenas. I do not recall a single instance in which the majority acted unilaterally.

Likewise, Mr. BURTON's unilateral release of subpoenaed documents is the exception, not the rule. I cannot think of a precedent for a committee chairman releasing such personal information—such as Mr. Hubbell's private conversations with his wife and daughters—unilaterally.

There are many precedents in congressional history for fair investigative procedures. You have referred repeatedly to the Watergate investigation as a model of bipartisanship. The House Watergate investigation had fair procedures that provided the minority the right to seek a committee vote if they objected to a proposed subpoena or document release. These Watergate procedures would provide an excellent model for this investigation.

Fair procedures do not lead to gridlock. To the contrary, they lead to bipartisan cooperation and a more successful investigation. They also are a safeguard against the kind of abuses that have characterized Mr. BURTON's investigation. Under the rules followed in other congressional investigations, the entire committee is accountable for the investigation. Under Mr. BURTON's rules, the Committee has transferred virtually all its power to him alone and he is accountable to no one. The events of the past weeks make it clear why this model should never be used again.

Senator THOMPSON followed fair procedures in his campaign finance investigation, and he was able to accomplish far more than Mr. BURTON. In fact, he held 33 days of hearings and filed a 1,100-page report before Mr. BURTON held his twelfth day of hearings. The Thompson procedures would be another excellent model for this investigation.

You have accused me and other Democrats of "stonewalling" the investigation. That is not accurate. Mr. BURTON has had virtually limitless powers. Democrats have blocked none of the 602 unilateral subpoenas he has issued, nor have we blocked any of the 148 depositions that his staff has conducted. In fact, we even supported the only other three immunity requests made by Mr. BURTON. I want to be part of a thorough investigation of campaign finance abuses. I don't want to be in a position I am in now, where I must oppose immunity requests as a matter of principle.

Mr. Speaker, I am willing to put partisanship aside in addressing the problems on the Committee on Government Reform and Oversight. I hope you will join with me in this effort.

Sincerely,

HENRY A. WAXMAN,
Ranking Minority Member.

FACTUAL INACCURACIES IN H. RES. 440

Claim: "[M]ore than 90 witnesses in the investigation have either asserted the fifth amendment or fled the United States to avoid testifying."

Fact: This number is misleading because it includes:

12 individuals who have been given immunity and already testified;

8 Buddhist nuns who were never immunized because their testimony would have duplicated other testimony;

21 individuals who are listed as having fled the country who in fact live in foreign countries;

11 individuals who, while not cooperating with Congress, have been convicted by or are cooperating with the Department of Justice.

Claim: "[S]ubsequent to the receipt of the illegal campaign contributions from Communist Chinese officials the Clinton Administration relaxed export controls . . . on the sale and export of sophisticated satellite technology to China."

Fact: This statement is inaccurate. The Clinton administration relaxed export controls before not after, June 1996, when Johnny Chung reportedly first met Liu Chaoying. The Clinton administration announced its decision to move commercial communications satellites from the Munitions List to the Commerce Control List of dual-use items, moving export licensing jurisdiction from the Department of State to the Department of Commerce. In March 1996—three months before Mr. Chung allegedly met Ms. Liu. Moreover, the practice of issuing waivers was not begun by the Clinton Administration. According to the *New York Times* (May 17, 1998), it was first used by the Bush Administration.

Claim: "[T]he Department of Justice does not object to the Committee on Government Reform and Oversight's desire to confer immunity on . . . Kent La."

Fact: The Department of Justice does have serious reservations about immunizing Kent La. In a letter dated April 22, 1998, the Department of Justice expressed its view that "if Mr. La were to testify publicly at this time, the Department's criminal investigation could in fact be compromised. Even if Mr. La were to testify in a closed session, any disclosure or leak of that testimony, whether intentional or inadvertent, could seriously compromise the investigation and any subsequent prosecutions." The numerous leaks of information during the course of Committee's investigation suggests that the confidentiality that the Department of Justice has requested could not be maintained.

Claim: The four witnesses have "direct knowledge" concerning "Communist Chinese attempts to influence United States policy and make illegal campaign contributions," "illegal foreign money contributions made to the Democratic National Committee by Ted Sioeng," or "convicted felon Gene Lum['s] . . . method of making illegal foreign money contributions to Clinton-Gore '96."

Fact: The four witnesses have had employment or business relationships with Johnny Chung, Ted Sioeng, and Gene Lum. It is not yet clear, however, that any of the four witnesses have significant information about the alleged illegal activities involving foreign contributions. Based on what is currently known about the witnesses, they would appear to be relatively minor witnesses with little new information to provide investigators.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding me this time. This is really a sad day for the House, that we have to bring a resolution like this to the House, and I rise in strong support of the resolution. I wish we did not have to bring it.

To some, bipartisan means as long as they buy into their partisanship, they will go along. To some, they think it is the chairman of the committee that is the problem. This has nothing to do with the chairman of the committee. What it has to do, and the American people have seen it, that if people really wanted to get to the truth, the revelations that came over the weekend, we would have known years ago, at least months ago.

☐ 2000

But the American people have seen this administration stonewalling and dragging their feet, hiding documents, hiding behind their lawyers. We have seen Members of the other party and the other body attacking Chairman THOMPSON, attacking Chairman D'AMATO. And over here they attack the gentleman from Iowa (Mr. LEACH), they attack the gentleman from Pennsylvania (Mr. KLINK), and now they are attacking the gentleman from Indiana (Mr. BURTON), all for one purpose; and that is they are scared to death to get to the truth.

Well, if all the scandals surrounding the Clinton administration had not meant much to the American people in the last 3 months, the latest revelations coming about the White House prove that they matter now.

According to press accounts, the White House accepted campaign contributions from officials of the Communist Chinese army and then later approved the shipment of sensitive defense technology to that country. Now, we do not know if there is a connection there or not. But the American people have the right to know the truth. And this was done over the objections of several foreign policy advisors in this administration. This technology has threatened the balance of power in Asia, giving India an excuse to test nuclear weapons, thereby threatening the security of every human being on earth.

So, Mr. Speaker, where were the Democrats when we asked them for their cooperation earlier this year in finding out the facts about this serious situation? Where were the Democrats when the House Committee on Government Reform and Oversight tried to interview witnesses who had important information about this national security crisis?

Some of our friends on the other side of the aisle appear to be turning their backs on the truth because they want to play these partisan games. Well, Mr. Speaker, this is no time for partisan games. Our national security is threatened by this new Asian arms race, which has been unwittingly jump-started by the political hacks at the White House.

Now, I hope that these latest revelations would give even the fiercest partisan a reason to seek the truth. My friends, these events have put into motion the greatest crisis the world has seen since the end of the Cold War. Now is the time for Congress to work together to find out the facts, and I urge my Democrat colleagues to join us now in investigating these allegations. The American people have a right to know the truth.

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the Majority Leader, the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I will get to the point. The point is we have long since now passed the point at which we can be casual about this. We are not talking about campaign finance violations. We are not talking about small things. We have very big questions here and very grave questions before the American people.

Did the President of the United States permit the sale of technology to China that would allow them to target missiles against United States citizens?

Did the President of the United States allow that sale to be made by an American firm already under investigation for trespasses against American law regarding the sale of such merchandise?

Did the President of the United States allow that sale against the protest of his own State Department and his own Department of Defense and over the objections of his own Justice Department?

Did the President of the United States know that the money received for his campaign, the campaign for people of his party, came from an officer in the Chinese Government who is also a major officer in Chinese corporations that were under sanction by the United States Government?

Did the transfer of the missile technology to China spark India's nuclear testing?

And did India's nuclear testing, in response to China's new capacity, spark the desire to do so in Pakistan?

Does the Defense Department find our national security is threatened?

Is the President, as Bill Safire suggests, the "proliferation president"?

Does the President of the United States have the standing in the international community to be the leader that America must have in its president?

Just last week, the President failed to convince our major allies to join us in sanctioning India over testing nuclear weapons. Yesterday, he agreed to waive Helms/Burton sanctions on European countries helping Iran develop its oil industry, and I am still wondering where did that come from.

Last year, the President could get very little support for efforts to force weapons inspections in Iraq. And, last year, the President could not even get his own party in the House of Representatives to give him fast track authority.

The President of the United States should command international respect as the leader of the free world. Until President Clinton comes forward with the truth, the cloud hanging over this presidency in not only international affairs but domestic affairs will grow.

Mr. Speaker, I suppose there are times when it is amusing and even entertaining to pretend a wide-eyed innocence as one joins the stonewalling effort of the administration. If it were only a matter of domestic campaign finance law, violations, perhaps America could afford to give a wink and a nod to feigning moral outrage because one does not like the chairman of the committee, or that committee, or the other committee, or this committee.

But this is bigger than that. It is more important than that. It is about the genuine security needs of the American people in a world that may, in fact, be increasingly more dangerous than we ever thought we would face again and about the President of the United States being respected in the international community so that he can give the leadership in world affairs that this Nation feels it must give.

This is a serious matter. It is time to get serious. It is time to put away all the lawyer tricks. It is time to put away all the cute politics. It is time to get serious and say to the President, to all with whom he has had association in these matters, "Come forward. Tell the truth. Get it off your chest. You will feel better for it. It is possible that you may make it possible for us to make America safer for it."

Mr. WAXMAN. Mr. Speaker, may I inquire how much time is remaining on each side?

The SPEAKER pro tempore (Mr. RIGGS). Both the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. WAXMAN) control 9½ minutes.

Mr. WAXMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Speaker, I am not usually engaged in these type of discussions, but I made it a point to come down tonight because I like the gentleman from Ohio (Mr. BOEHNER). I have had the occasion to spend some time with him and find him to be a man of admirable quality. I came to the House at the same time that the Majority Leader came to the House, and I find him to be a man of quality.

Indeed, it is a sad day for the House of Representatives and for this government. We seem to be ever increasingly accepting leaks, contentions, illogical reasoning; and bright and intelligent men that exercise unusual influence in this House and in this country are willing to leap ahead and make conclusions, as the gentleman from California said, making a charge that the President of the United States is guilty of treason.

I have served in this House probably longer than most Members here because I started my service as a page and I followed the House through. So I went through the McCarthy hearings. And I am not going to make any reference that this reminds me of that because that is something for historians to determine.

But I have taken the time to read the RECORD of the House in 1972 and 1973 and 1974, and I would challenge my friends on the other side to examine the statements of then Speaker Carl Albert, the Majority Leader, or at that time the Majority Leader, and the Majority Whip and the Caucus Chairman and show us one instance where that leadership came to the floor of the House of Representatives to assert an indictment and a conviction for the crime of treason against the President of the United States on the basis of leaked information in a New York newspaper by unnamed investigators that have arrived at some facts that they do not draw conclusions from.

I would like to tell my friends on the other side, I have been a very serious member of the Committee on Government Reform and Oversight for 18 months now in this investigation. I have sat through hundreds of hours of hearings and depositions and things that have been thrown around this town and around this world.

The Majority Leader yesterday said that he was going to see that the deposition of Johnny Chung was released. Well, by golly, if he can release it, I wish he would tell me where it is. Because I sat in a meeting when Johnny Chung and his lawyer refused to take a deposition before this Committee but was entertained by the Chairman of our Committee for about 2 or 2½ hours in, quote, a friendly discussion; and at that time and through those 2 hours of testimony never did he remotely indicate where any funds came from from foreign government, foreign agents, or that he, in fact, had any activity that would castigate not only the national Democratic party but certainly not the President of the United States.

Suddenly, the deposition is to be released on Wednesday. Apparently, my friend from Ohio has more information than I have. I have been 2 weeks at hearings asking for proffers.

In his opening statement, my colleague indicated what these four witnesses are going to testify to. Why did not the gentleman from Indiana (Mr. BURTON) allow to us have those proffers if he is sharing it with the majority side and conference chairman?

Mr. Speaker, we are not going to solve this. But I want to say one thing. I think the leaks that were made over the weekend are serious leaks. They are not proper. They are not right. They do not stand for anything. But they are things that we should be investigating. I think it is time to put politics and partisanship aside. We may have serious problems. And we may have none.

If my colleagues want my belief, I am going to tell them this. If I conclude that for an $80,000 contribution to the Democratic National Committee that the President of the United States committed treason, I will tender my resignation the day that fact is established to me.

I cannot believe that any responsible Representative, Republican, Democrat, Independent, in the Congress of the United States could be so foolhardy to think that the President of the United States would risk that country's security, violate his oath of office, commit treason, and subject not only every man, woman, and child in America, but the 6 billion people of this world, to nuclear war. What a charge. What an incredible charge.

All I suggest, my colleagues, is before we make these wild allegations, statements and charges, please take the time to realize that a bipartisan investigation is necessary; and that is the only thing the gentleman from California (Mr. WAXMAN) requests.

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Mr. BOEHNER. Mr. Speaker, no one is alleging any specific act. There are questions, lots of questions that we are trying to get answers to.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. FOWLER).

Mrs. FOWLER. Mr. Speaker, I rise in support of this resolution. It is unfortunate that this has become a partisan debate. I rise today, not as a Republican, but as a member of the House Committee on National Security.

Make no mistake about it. This is a national security issue. This is about finding out how and why the Clinton administration overruled Pentagon experts to allow sensitive military technology to be transferred to the Chinese.

My colleagues on the other side of the aisle are not happy with the course of the campaign finance investigation. They are opposing immunity for four key witnesses to register their protest with the Chairman. But, Mr. Speaker, who is really being punished? Who is hurt if there is a successful effort to block Congress' attempt to determine the truth? A nation, Mr. Speaker.

Our Nation is at risk. Our men and women in uniform are at risk. The American people deserve to know why their Commander in Chief approved the sale of sensitive military technology to China, not once, but twice, over the objections of his Defense Department, State Department, Justice Department, and intelligence agencies.

This is a national security issue that should not be subject to the same partisanship that has characterized so much of the campaign finance investigation.

I urge my colleagues to consider this Nation's legitimate national security interest and vote yes on the Boehner resolution.

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, my colleague from Pennsylvania asks how could we possibly think that a donation of $80,000 could cause the President to do something so terrible as has been suggested here. We are not talking about $80,000. We are not talking about $80,000 at all. We are talking about hundreds of thousands, if not millions, of dollars that were funneled into the President's reelection effort by people involved with these transfers of technology.

I have never called to treason and I will not call to treason. I think what we have here is a betrayal of the interest of the people of the United States of America, especially if that had anything to do with those millions of dollars that were funneled into the President's reelection effort from the Red Chinese and the American companies that were involved with transferring the technology.

Why do we have to come to the floor to insist that these four individuals who know about these campaign contributions be permitted to testify? It is absolutely ridiculous that we have had to come this far.

No one will ever be able to know for sure what is going on if you are saying what is happening here unless we hear their testimony. We need to get to the bottom of this. This is a national security issue as well as a political corruption issue. But no one will ever be perfect enough when a Democrat President is being investigated.

Ken Starr had impeccable credentials and now he has been vilified. The gentleman from Indiana (Mr. BURTON) makes one or two verbal mistakes and all of a sudden that is being used as a diversion to pull the public's attention away from these very serious national security charges.

We need to get to the bottom of this. We need to make sure, and we are not going to be diverted by some nonsense about the gentleman from Indiana (Mr. BURTON) made a couple of verbal abuses. That does not cut it with us when we have weapons technology going to improve the Communist Chinese capabilities of launching nuclear weapons against the United States of America. That is that serious.

Mr. WAXMAN. Mr. Speaker, may I inquire how much time is remaining on each side.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman from California (Mr. WAXMAN) has 4½ minutes remaining, and the gentleman from Ohio (Mr. BOEHNER) has 6 minutes remaining.

Mr. BOEHNER. Mr. Speaker, I yield 2¼ minutes to the gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Mr. Speaker, I thank the gentleman from Ohio for yielding time to me.

Mr. Speaker, as usual, when our colleague from California (Mr. WAXMAN) speaks I think of many things. One thing that I thought of was Alice in Wonderland. When Alice is admonished to say what she means, she says "I do. At least I mean what I say. That is the same thing, you know." "Not quite so," she was then lectured. "Saying that you mean what you say is the same as I mean what I say. I say what I mean would be like saying I say what I eat is the same as I eat what I see."

Unlike Alice in Wonderland, Mr. Speaker, we are in the real world. Mr. WAXMAN gets up here and pontificates about how he will vote for this resolution knowing full well that then when he goes back to the committee, he and all of his colleagues or at least those who still travel in lockstep with him will vote against it. He means what he says, and he says what he means, but neither is actually the case.

I did not object when the gentleman from California said he was going to insert corrective language in his statement. The reason that I did not object to it was the fact that I certainly hoped that he will correct the one misstatement that I find in the resolution on page 2, paragraph 4, which says that Mr. Chung's account and supporting evidence is the first direct evidence of Communist Chinese campaign contributions.

I presume that the gentleman from California (Mr. WAXMAN) will insert in the RECORD the voluminous amounts of material and evidence directly related thereto that is already in the RECORD of direct evidence of Communist Chinese campaign contributions.

He may want to go back and I presume he will correct the RECORD to indicate and set forth the eight trips that Ng Lap Seng made to this country in 1994, 1995 and 1996, bringing large amounts, hundreds of thousands of dollars of cash in here and within 2 days of each one of those entries into this country made a visit to the White House, and on most occasions visited directly with Mark Middleton at the White House.

The gentleman from California might also go back and review some of the tapes in which Mr. Clinton, the President of the United States, was meeting

Chinese officials and others thanking them for attending a fund-raising event. He might also review the voluminous evidence we have of other money coming from Macao and the Bank of China into the Clinton/Gore campaign in 1995 and 1996.

Mr. WAXMAN. Mr. Speaker, I yield 4 minutes to the gentleman from West Virginia (Mr. WISE).

Mr. WISE. Mr. Speaker, the gentleman from Ohio (Mr. BOEHNER) has made very serious allegations and demanded an investigation. I think he is correct in terms of requesting the investigation based on the allegations he has made.

The gentleman from Texas (Mr. DELAY), the majority whip, the Republican whip, has made serious allegations, and they too should be investigated. The gentleman from Texas (Mr. ARMEY), the majority leader. Has made serious allegations.

As a 16-year member of the Committee on Government Reform and Oversight and one who is a subcommittee chair in my time, I, too, agree that because those allegations have been made they should be investigated.

The gentleman from Texas (Mr. ARMEY), the majority leader, said something that stuck with me, and I remember he said this is too big, in effect, for partisanship. He is absolutely correct. That is why we ask that it not be a partisan investigation, because these allegations are so serious that are being made that if the American people are to accept the results of any investigation it must be a credible investigation.

So what we have asked those of us Democrats, and I hate to think on the Committee on Government Reform and Oversight we have now gotten to the point of having to identify ourselves as partisan labels, we never had to do that before, but those of us who voted against immunity do not vote against immunity because we want to stop an investigation. We voted because it is not a credible investigation.

The gentleman from Ohio (Mr. BOEHNER) referred to allegations in the New York Times, and that, on the basis of those, the committee ought to look at it. But it also should be mentioned the New York Times editorial of May 8, which says, and I quote:

> By now, even Representative DAN BURTON to recognize that he has become an impediment to a serious investigation of the 1996 campaign finance scandals.

If the 1996 campaign finance scandals are such that he is an impediment to them, what about something as serious as the allegations that have been made by the gentleman from the other side?

We have seen an investigation on our committee which was to be bipartisan; and, yet, 1,037 out of 1,049 subpoenas, depositions, interrogatories, and other information requests, in this so-called bipartisan investigation have been targeted at whom? At Democrats, despite the fact that in Republican, in soft, despite the fact that in the soft money raising contest it was the Republican Party that raised the most soft money and indeed it is the soft money that is the basis of 95 percent of all allegations, whether directed at Republicans or at Democrats.

Mr. Speaker, we want immunity. We want a thorough investigation. We want to walk with or talk and work with the leadership of the other side. We want a credible investigation.

What is a credible investigation? It is one like they did in Watergate. It is one like they did in Iran Contra. It is one like our committee did up until a couple years ago in which, when there is a subpoena to be issued, it cannot be unilaterally issued by one person. That is abuse of power. But that one person must consult with the minority.

If there is no agreement reached, we take it to the committee. That is all. Then the best sides wins. The side that demonstrates the merits of the argument decides whether or not that subpoena is issued. That is all. That is the way this committee has operated and that is the way this Congress has operated until recently.

So, yes, the American people deserve that credible investigation. They must know that these allegations are out there and they are serious, know that those allegations are out there and the American people want this investigation. But it has got to be credible if it is to have any credibility.

So we want to work with you, Mr. Speaker, want to work with the other side. We want that investigation. If it is, and I believe it is, these allegations are that important, simply by being raised, then it demands going the extra level to make sure that that investigation has the credibility and the bipartisanship that is so important.

That is why I will vote for this, because I happen to believe that these individuals ought to be given immunity. I also want to make sure that the committee has to operate in such a way that the investigation and the product is credible and not simply something that at the end of the day was not worthy of the entire Congress.

Mr. BOEHNER. Mr. Speaker, I yield 1 minute to my colleague from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, this debate is not about the gentleman from Indiana (Mr. BURTON) or Bill Clinton. It is not about the Lincoln bedroom or Monica Lewinsky. This debate is about our national security.

This is no fly on our face. This is an elephant eating our assets, and that elephant is China, Communist China, with a foothold on our soil that has missiles, as we speak, pointing and capable of hitting every American city, a nation that threatened Taiwan. What are we, nuts? Now we find out that Johnny Chung got $300,000 from a member of the Chinese Army to gain access to the White House, and he boasts about it.

Look, the White House is not a one-stop shopping mall for campaign headquarters, folks. Congress must investigate this matter, and a Congress that plays partisan politics with this is a Congress that endangers the national security of every citizen.

I support the resolution, and I am glad to see that the Democrats will be supporting it as well. We must support this resolution, and we must investigate this matter.

Mr. BOEHNER. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Ohio on the other side of the aisle for offering the proper picture here.

Mr. Speaker, I rise without venom or vitriol tonight. My colleague from West Virginia is correct. These are serious allegations that go to the heart of our constitutional republic. This must transcend partisanship. This Congress must do its constitutional duty.

Our founders wisely granted this branch oversight over the executive branch. Accordingly, these witnesses should be granted immunity for all the right reasons, because, as Republicans and Democrats, we recognize that we are Americans first, and we owe it to the citizens of this Nation to get to the bottom of these disturbing allegations.

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Mr. WAXMAN. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I want a serious investigation. I want us to be able to conduct this investigation responsibly, competently and fairly. We have a resolution on the floor like this. After all the months we have asked for bipartisanship, it still seems to me like we are in the process of kids' play.

Let us work together. This matter must be investigated in a way that speaks well of the House. I ask the Speaker to work with us. This is not the time to fire up your base; this is the time for you to be a leader of the House for the people of this country.

Mr. BOEHNER. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. COX), the chairman of the Republican Policy Committee.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman from California (Mr. COX) is recognized for one and three-quarter minutes.

Mr. COX of California. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, what I hear from the minority side is that they are in support of granting immunity to these witnesses; just not now, just not at this time and this place, just not in this way, because they are busy protesting the committee and its existence.

It is perhaps politically acceptable to engage in acts of political protest in an election year, but obstruction of justice is not an acceptable form of protest. Today, the minority stands alone in obstructing the grants of immunity to these 4 witnesses, because the Clinton administration——

POINT OF ORDER

Mr. WAXMAN. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. WAXMAN. Mr. Speaker, I would inquire of the Chair whether an accusation of obstruction of justice is permitted on the House floor.

The SPEAKER pro tempore. The reference to obstruction of justice should not be made with respect to specific or certain Members of the House of Representatives.

Mr. COX of California. Mr. Speaker, with the permission of the gentleman, I will withdraw the remark, to the extent that it conveys violation of statute. I do not mean to suggest that. What I mean to suggest very explicitly is that the minority is obstructing what the Justice Department itself wishes to do.

In its defense of the Clinton administration, the minority is more tendentious than is the administration itself. The administration has no objection to the grant of immunity to these witnesses.

The most important of the four witnesses whose testimony we seek to immunize is Kent La. Kent La is the United States distributor for Red Pagoda Mountain Cigarettes, the largest Communist Chinese brand. The man who is a distributor for these cigarettes in the United States is the person whose testimony we seek to hear.

The contributions that Mr. La is going to testify about, from Communist Chinese tobacco billionaire Ted Sioeng, his family and their associates in the worldwide tobacco business, totalled over $400,000 to the Democratic National Committee in 1996 alone. All these contributions were solicited by John Huang, $50,000 of them came from Kent La himself.

We can differ about the facts, but we should not differ about whether to get the facts. Let us get the truth. Let us grant immunity to these witnesses, as the Clinton administration agrees we can and must.

Mr. WAXMAN. Mr. Speaker, I rise in support of the Boehner resolution.

I completely agree that the four witnesses should be given immunity. I believe every Democrat on the House Government Reform and Oversight Committee also supports immunity for the witnesses. In fact, our only reservation on the merits has been that the witnesses still haven't provided proffers of their testimony, which is a standard and essential procedure in immunity cases.

That is what we said when the Committee first voted on immunity on April 23. It's what I said in a letter to the Speaker on May 10. And it's what we said again when the Committee voted on immunity on May 13.

In my May 10 letter to the Speaker, I wrote:

> I am writing in the spirit of bipartisanship to work with you to find a constructive solution to the difficult problems facing the Committee on Government Reform and Oversight. During the past several weeks, you have personally attacked me and questioned my integrity without justification. I believe, however, that the American people expect more from us than name-calling and partisan battles. Instead of escalating this fight, I want to make a genuine attempt to work with you to meet their expectations.
>
> I am prepared to recommend to my Democratic colleagues that they support the pending immunity requests. But before I do, I believe the rules and procedures guiding the Committee's campaign finance investigation must be changed so that the Committee can conduct a fair and thorough investigation.

I ask unanimous consent that the full text of this letter be inserted in the RECORD.

Two weeks have passed, and the Speaker still has not responded to my letter and my request that we work together. We have tried to make it as clear as possible that our problem isn't with immunity; our problem is with DAN BURTON and his handling of the investigation.

That's a problem the Speaker, Mr. BOEHNER, and the other members of the Republican leadership insist on ignoring.

Since we last voted in committee, new information has come to light in the New York Times about the possibility that Johnny Chung may have been a conduit for political contributions from China. The new allegations are serious and deserve thorough congressional investigation. Although there is no indication that the four witnesses seeking immunity have information relevant to these new allegations, the new evidence reinforces my belief that the witnesses should be given immunity.

The new evidence also reinforces my belief that DAN BURTON is the wrong person to be leading the investigation. We are dealing with extremely serious allegations. We owe the American people a serious, credible investigation.

The Committee's Democrats have said we would vote for immunity if the Dan Burton problem were fixed. We have said we would encourage the Democrats on either the House Oversight Committee or the House International Relations Committee to vote for immunity if this issue were sent to those committees. We have said we would support immunity on the floor. But we have been as clear as we can that we will not support immunity without first addressing the Dan Burton problem.

So here we are today and the Republican leadership has made no attempt to work with us in a bipartisan way. The Republican leadership is not sending this issue to another committee, it's not bringing the issue up for a floor vote, it's not proposing to fix the Burton problem. The leadership is here telling us immunity is essential and then insisting on the one immunity option they know we will oppose. It's rare that partisanship and cynicism are this transparent.

Two weeks ago, the New York Times, which has been leading the call for a thorough and aggressive investigation into the President's 1996 campaign, printed an editorial entitled "The Dan Burton Problem." I want to take a moment and read it.

[From the New York Times, May 8, 1998]

THE DAN BURTON PROBLEM

By now even Representative Dan Burton ought to recognize that he has become an impediment to a serious investigation of the 1996 campaign finance scandals. He has dismissed David Bossie, the mischievous aide who helped issue inaccurate transcripts of Webster Hubbell's jailhouse conversation's, and has apologized to his fellow Republicans. But: that cannot compensate for inept behavior that has hobbled the inquiry and complicated Independent Counsel Kenneth Starr's criminal investigation of intriguing comments on the tapes. If the House inquiry is to be responsible, someone else on Mr. Burton's committee should run it.

Coming on the heels of an impolitic remark by Mr. Burton about the President two weeks ago, the tapes fiasco is forcing House Republicans to confront two blunders. The first was to entrust the investigation of campaign finance abuses to Mr. Burton, the chairman of the House Government Reform and Oversight Committee. The second was to give him unilateral power to release confidential information. Mr. Burton, a fierce partisan not known for balanced judgment, was plainly the wrong man for a sensitive job.

When the committee convenes next Wednesday, Democrats plan to offer motions to transfer leadership of the inquiry to another Republican on the committee. They will also ask the committee to adopt the same bipartisan rules for issuing subpoenas and releasing documents that have been followed by all previous Congressional investigations.

But it should not come to that. If Mr. Burton will not step aside, Speaker Newt Gingrich should convene the Republican caucus and ask it to name a replacement. Mr. Gingrich should also agree to rules both to provide a check on the new chairman's power and to enhance bipartisanship.

At the same meeting, the committee will wrestle with whether to grant immunity from prosecution to four witnesses who are expected to testify about questionable donations to Democrats in the 1996 campaign. House Democrats have threatened to block immunity as leverage to win a rules change granting them more say. By agreeing to improvements in the rules, Republicans would remove a major criticism of the committee's process as well as the Democrats' excuse for denying immunity.

For now, Mr. Gingrich seems determined to back Mr. Burton. That will only delay getting a truthful account of fund-raising in the 1996 election.

There is a Dan Burton problem. It's very real. When the Chairman leading the investigation calls the President a scumbag, when he admits he's "after" the President, when he doctors transcripts that purport to represent evidence the committee obtained, when he issues over 600 unilateral subpoenas and targets 99% of his 1000 subpoena and other information request to Democrats, we—Republicans and Democrats—have a very real problem. When the committee's Republican Chief Counsel quits because he's not allowed to conduct a professional investigation, when the Republican Chief Investigator is fired, we have a very real problem and a committee out of control. But because Republicans have a majority in the House, it's a problem only they can solve.

All the Democrats ask is what the New York Times proposed. Act responsibly. Solve the problem. We are prepared to vote for immunity if you are willing to work with us in even the most minimal way.

I'm voting for this resolution today because it's a meaningless gimmick. It's an empty exercise in political posturing. I also should point out for the record that the Resolution contains a number of basic factual errors, and I ask unanimous consent that information correcting these mistakes be inserted after my statement.

A meaningful act would be to reform the procedures we have in the Government Reform Committee, or to send this matter to another committee so that we can get on with the investigation. Mr. Speaker, if this matter is as important to you as you say it is—and as it should be—work with us for a constructive investigation. Don't posture on such an important issue. Democrats are ready—have been ready—to vote for immunity. All we ask is that the investigation be fair, bipartisan, and competent.

Instead of bringing us together and acting rationally, the Republican leadership is bringing a gimmick to the floor and continuing to allow what should have been a serious investigation to degenerate into a circus. Instead of dealing with the Dan Burton problem, which is unpleasant for them to confront, they pretend it doesn't exist.

I urge all my colleagues to vote for this gimmick. But I ask the Republican leadership to show some genuine leadership. Make some tough decisions. Give true bipartisanship a try. And work with us so that we can have a meaningful investigation.

If you are going to send this to the committee for another vote, take some time first to meet with the minority members and try to find common ground. If you don't, it will be absolutely clear that this is all about cynical politics, not genuine concern. And the American people will have yet another reason to tune us all out.

FACTUAL INACCURACIES IN H. RES. 440

Claim: "[M]ore than 90 witnesses in the investigation have either asserted the fifth amendment or fled the United States to avoid testifying."

Fact: This number is misleading because it includes: 12 individuals who have been given immunity and already testified; 8 Buddhist nuns who were never immunized because their testimony would have duplicated other testimony; 21 individuals who are listed as having fled the country who in fact live in foreign countries; 11 individuals who, while not cooperating with Congress, have been convicted by or are cooperating with the Department of Justice.

Claim: "[S]ubsequent to the receipt of the illegal campaign contributions from Communist Chinese officials the Clinton Administration relaxed export controls . . . on the sale and export of sophisticated satellite technology to China."

Fact: This statement is inaccurate. The Clinton administration relaxed export controls before, not after, June 1996, when Johnny Chung reportedly first met Liu Chaoying. The Clinton administration announced its decision to move commercial communications satellites from the Munitions List to the Commerce Control List of dual-use items, moving export licensing jurisdiction from the Department of State to the Department of Commerce, in March 1996—three months before Mr. Chung allegedly met Ms. Liu. Moreover, the practice of issuing waivers was not begun by the Clinton Administration. According to the New York Times (May 17, 1998), it was first used by the Bush Administration.

Claim: "[T]he Department of Justice does not object to the Committee on Government Reform and Oversight's desire to confer immunity on . . . Kent La."

Fact: The Department of Justice does have serious reservations about immunizing Kent La. In a letter dated April 22, 1998, the Department of Justice expressed its view that "if Mr. La were to testify publicly at this time, the Department's criminal investigation could in fact be compromised. Even if Mr. La were to testify in a closed session, any disclosure or leak of that testimony, whether intentional or inadvertent, could seriously compromise the investigation and any subsequent prosecutions." The numerous leaks of information during the course of Committee's investigation suggests that the confidentiality that the Department of Justice has requested could not be maintained.

Claim: The four witnesses have "direct knowledge" concerning "Communist Chinese attempts to influence United States policy and make illegal campaign contributions," "illegal foreign money contributions made to the Democratic National Committee by Ted Sioeng," or "convicted felon Gene Lum['s] . . . method of making illegal foreign money contributions to Clinton-Gore '96."

Fact: The four witnesses have had employment or business relationships with Johnny Chung, Ted Sioeng, and Gene Lum. It is not yet clear, however, that any of the four witnesses have significant information about the alleged illegal activities involving foreign contributions. Based on what is currently known about the witnesses, they would appear to be relatively minor witnesses with little new information to provide investigators.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Cox) that the House suspend the rules and agree to the resolution, House Resolution 440.

The question was taken.

Mr. WAXMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Without objection, the three suspension votes postponed earlier today will be 5 minute votes immediately following this vote, so there will be a 15 minute vote, followed by three 5 minute votes.

There was no objection.

The vote was taken by electronic device, and there were—yeas 402, nays 0, not voting 30, as follows:

[Roll No. 161]

YEAS—402

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Farr
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis

McIntyre
McKeon
McKinney
Meehan
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—30

Archer
Baesler
Barr
Bateman
Bilbray
Clay
Cooksey
Crane
Cummings
Dicks
Ewing
Fattah
Fawell
Ganske
Gonzalez
Goodling
Greenwood
Harman
Hinchey
Livingston
McDade
McIntosh
McNulty
Meek (FL)
Meeks (NY)
Paxon
Schumer
Shuster
Skaggs
Waters

□ 2054

Mr. ABERCROMBIE changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BILBRAY. Mr. Speaker, on Rollcall No. 161, I was unavoidably detained. Had I been present, I would have voted "Yes".

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. RIGGS). Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 3039, by the yeas and nays;

H.R. 3718, de novo; and

H.R. 3809, by the yeas and nays.

The Chair will reduce to 5 minutes the time for all electronic votes in this series.

VETERANS TRANSITIONAL HOUSING OPPORTUNITIES ACT OF 1998

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3039, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. STUMP) that the House suspend the rules and pass the bill, H.R. 3039, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 405, nays 1, not voting 26, as follows:

[Roll No. 162]

YEAS—405

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Farr
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—1

Sanford

NOT VOTING—26

Archer
Baesler
Bateman
Clay
Cooksey
Crane
Dicks
Ewing
Fattah
Fawell
Ganske
Gonzalez
Goodling
Greenwood
Harman

Hinchey
Kennedy (MA)
McDade
McIntosh
McNulty
Meek (FL)
Meeks (NY)
Paxon
Schumer
Shuster
Skaggs

□ 2103

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LIMITING JURISDICTION OF FEDERAL COURTS WITH RESPECT TO PRISON RELEASE ORDERS

The SPEAKER pro tempore (Mr. PEASE). The pending business is the question de novo of suspending the rules and passing the bill, H.R. 3718.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 3718.

The question was taken.

RECORDED VOTE

Mr. SCOTT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 352, noes 53, not voting 27, as follows:

[Roll No. 163]

AYES—352

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Costello
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Everett
Farr
Fazio
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Torres
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Yates
Young (AK)
Young (FL)

NOES—53

Barrett (WI)
Blumenauer
Bonior
Campbell
Carson
Clyburn
Conyers
Davis (IL)
DeGette
Delahunt
Dingell
Dixon
Evans
Filner
Ford
Frank (MA)
Furse
Gutierrez
Hastings (FL)
Hilliard
Jackson (IL)
Johnson, E. B.
Kennedy (RI)
Kilpatrick
Kleczka
Leach
Lee
Lewis (GA)
McDermott
McKinney
Meehan
Millender-McDonald
Miller (CA)
Oberstar
Obey
Olver
Owens
Payne
Pelosi
Rangel
Rush
Sabo
Sanders
Scott
Serrano
Stark
Stokes
Stupak
Thompson
Tierney
Towns
Velázquez
Watt (NC)

NOT VOTING—27

Archer
Baesler
Bateman
Clay
Cooksey
Crane
Dicks
Ewing
Fattah
Fawell
Ganske
Gonzalez
Goodling
Greenwood
Harman
Hinchey
McDade
McIntosh
McNulty
Meek (FL)
Meeks (NY)
Paxon
Schumer
Shuster
Skaggs
Waters
Woolsey

□ 2111

Ms. PELOSI and Mr. RUSH changed their vote from "aye" to "no."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CUMMINGS. Mr. Speaker, on rollcall number 163, my vote on H. Res. 440, I was unavoidably detained and missed the vote. Had I been present, I would have voted in favor of the resolution.

DRUG FREE BORDERS ACT OF 1998

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3809, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ARCHER) that the House suspend the rules and pass the bill, H.R. 3809, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 320, nays 86, not voting 26, as follows:

[Roll No. 164]

YEAS—320

Abercrombie
Ackerman
Aderholt
Andrews
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bentsen
Bereuter
Berry
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Etheridge
Everett
Farr
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)

Frelinghuysen
Frost
Gallegly
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHale
McHugh
McInnis
McIntyre
McKeon
Meehan
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sánchez
Sandlin
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—86

Allen
Baldacci
Barrett (WI)
Becerra
Berman
Bilbray
Blumenauer
Bonilla
Bonior
Brown (OH)
Carson
Clyburn
Conyers
Costello
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Engel
Evans
Fazio
Filner
Frank (MA)
Furse
Gejdenson
Green
Gutierrez
Hastings (FL)
Hilliard
Hoyer
Jackson (IL)
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kilpatrick
Kucinich
Lee
Lewis (GA)
Manton
Markey
Martinez
McDermott
McGovern
McKinney
Miller (CA)
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Poshard
Reyes
Rodriguez
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Scott
Serrano
Smith, Adam
Stark
Stokes
Thompson
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Wexler

NOT VOTING—26

Archer
Armey
Baesler
Bateman
Clay
Cooksey
Crane
Dicks
Ewing
Fattah
Fawell
Ganske
Gonzalez
Goodling
Greenwood
Harman
Hinchey
McDade
McIntosh
McNulty
Meek (FL)
Meeks (NY)
Paxon
Schumer
Shuster
Skaggs

☐ 2119

Mr. DOGGETT changed his vote from "nay" to "yea."

Mr. MOLLOHAN changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize appropriations for the United States Customs Service for drug interdiction, and for other purposes.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ARMEY. Mr. Speaker, on rollcall No. 164, I was unavoidably detained. Had I been present, I would have voted "aye."

LEGISLATIVE PROGRAM

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, the last order of business this evening will be a rule which will make in order two hours of general debate only, no amendments, and then tomorrow the first order of business will be taking up another rule on the defense authorization bill which will then make in order amendments. But for this evening, there will be no further votes if there is no vote on this rule.

I would ask the gentleman from Texas if it is his understanding that he does not intend to ask for a vote on this rule.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, I do not intend to ask for a vote on this rule. I know of no one on my side of the aisle who is going to ask for a vote on this rule.

Mr. SOLOMON. Mr. Speaker, if we can then proceed with the debate on the rule, we do not intend to use much time on it and then we can go right to the general debate.

NOTICE OF INTENT TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

Mr. OBEY. Mr. Speaker, pursuant to clause 1(c) of House Rule XXVIII, I hereby notify the House of my intention tomorrow to offer the following motion to instruct House conferees on H.R. 2400, Building Efficient Surface Transportation and Equity Act of 1998:

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2400, be instructed to insist that no provisions to prohibit or reduce service-connected disability compensation to veterans for smoking-related illnesses be included in the conference report on H.R. 2400 to offset spending for highway or transit programs.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 435 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 435

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on National Security. After general debate the Committee of the Whole shall rise without motion. No further consideration of the bill shall be in order except pursuant to subsequent order of the House.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), a very strong supporter of the defense budget, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 435 is a rule providing for general debate consideration of H.R. 3616, the Fiscal 1999 Defense Authorization Bill. The rule waives points of order against consideration of the bill and provides two hours of general debate only, which we will take up in just a few minutes. Further consideration of the bill will be governed by a rule that the Committee on Rules will report out later today.

This rule is necessary simply to get the ball rolling on this massive, complex bill which always requires a great deal of floor time.

Mr. Speaker, the annual defense authorization bill is without question one of the most important bills we consider in this body each year. In doing our business that sometimes seems routine, we should never lose sight of the fact that the number one duty of the Federal Government is the protection of national security and that is exactly what this bill is all about here tonight. As usual, the gentleman from South Carolina (Mr. SPENCE) and the gentleman from Missouri (Mr. SKELTON) and their staffs have done outstanding work, and I commend them and urge support for the rule so that they can get on with their business tonight.

Mr. Speaker, it is absolutely imperative that this bill contain adequate funding for our military personnel who are right now out in the field standing vigilant on behalf of all Americans all over this world.

Mr. Speaker, it is imperative that this bill set out the policies which are consistent with and seek to maintain the unique warrior culture of our military, and that is exactly what it is, it is a warrior culture and that is what it has to be, for without that we cannot win wars, and that is what militaries are for. Some people seem to have forgotten that over the course of years.

Mr. Speaker, to the best extent possible this bill does all of that within the budget restrictions we have to live by. I congratulate and I commend both the gentleman from South Carolina (Mr. SPENCE) and the gentleman from Missouri (Mr. SKELTON) and again their staffs for their outstanding work on behalf of military preparedness.

At $270.8 billion, this bill once again adds money to the President's annually inadequate defense budget request. Very importantly, the bill provides for the first time in 13 years an inflation adjusted increase in procurement spending. That means in being able to purchase the hardware that is going to give the best state of the art equipment to young men and women that serve in the military today. This is exceedingly important.

This account provides for the weapons and equipment that we send our young men into battle with and it has been cut by nearly 70 percent since 1985. I will bet Members did not know that, did they? It is well past time that we reversed this trend.

These accounts contain adequate funding for the President's request of $36 billion for research and development. Again, if we do not have the research and development, we will not have that state of the art equipment that will give our men and women the best. These accounts contain adequate funding for the weapons systems of tomorrow, such as the F-22 Stealth Fighter, the Marine Corps V-22 troop carrier, and the next generation of aircraft carriers and submarines. These accounts also contain funding to bring us one step closer to developing and deploying defenses against ballistic missiles, something we may need even sooner if certain U.S. businesses continue to assist China missile programs with a wink and a nod from the Clinton administration, and we will be debating this at length during this upcoming debate.

This bill also contains, very importantly, a 3.6 percent pay raise for our military personnel and adds significant funding increases for the barracks, for the family housing and for child care centers. We have to keep in mind, Mr. Speaker, that when I served with some of my colleagues in the Marine Corps more than 45 years ago, almost all of us, noncommissioned officers, as I was, were single. Almost all of the commissioned officers were single under the grade of colonel. Today that is absolutely reversed. Therefore, it is imperative that we do provide housing and child care centers for our military in order to keep the kind of personnel that we want in the military.

Despite all of these excellent provisions in this bill, Mr. Speaker, let me go on the record once again as I have for several years now. We continue to provide inadequate, yes, I will repeat, inadequate funds for this Nation's defenses. Despite our additions to the President's request, this bill will represent the 14th straight year of inflation adjusted cuts to this budget. Our military is vastly smaller and it is older than during Desert Storm and, God forbid, if we had to go back and have the same kind of rearm go that we had in Desert Storm, we could not do it today and that means the men and women that we put in danger's way are going to be very, in very serious condition. Most experts agree, not just with me, that such a mission would simply be impossible today.

□ 2130

Worse, this smaller force is being asked to do more and more and more and more by the administration. We are bogged down in a fanciful nation-building mission in Bosnia. We also have a seemingly never-ending mission in Iraq.

And I support the Iraq mission, but my point is that our military is stretched almost to its breaking point, my colleagues. Our men and women are being asked to do too much, with less training, less support and with older and older equipment.

The predictable results are that the recruiters are unable to meet the quotas. If my colleagues do not believe it, they should go back into their districts and go and sit down with the Marine Corps and the Navy and the Army and the Air Force recruiters, and they will tell my colleagues that they are having trouble recruiting a real cross-section of America today.

Air Force and Navy pilots are resigning in droves today because they do not think that the career is there. Are they going to be able to advance up the promotion ladder? And under today's military level of funding, the answer is no. They know they will be cashiered out at an early age and, therefore, how can they afford to stay in the military and still support their families? They cannot. And that is why we have to pass this bill today.

All this, as the world just gets more and more dangerous. We have a nuclear arms race going on right now in South Asia, aided and abetted by the increasingly aggressive Communist China, and we will debate that at length for about 4 hours tomorrow morning. The Middle East peace process is in deep trouble. Saddam Hussein, according to the U.N. weapons inspectors, continues to conceal his weapons of mass destruction capabilities, and North Korea remains as dangerous as ever.

Unfortunately, Mr. Speaker, history has not ended and conflict among nations has not ceased, nor will it in my colleagues' lifetime and mine. But in order to deter conflict and to prepare for all contingencies, we need the strongest, best trained, best equipped and most ready military force that we can possibly have. We have had that, but have taken ourselves to the verge of squandering it over the past several years with these budget cuts.

For several years running, the Committee on National Security and the Committee on Appropriations have made valiant and worthy attempts to correct this increasingly dangerous situation by adding to the President's budget request. But it has not been enough. Mr. Speaker, somehow we are all going to have to figure out a way to get more money allocated to defense before we come to regret what we have done here on this floor over the years.

Despite all this, I nonetheless urge support of the rule and this bill as we debate through this week. It is vital legislation and it is simply the best we can do at this juncture. And once again I would commend the gentleman from South Carolina (Mr. FLOYD SPENCE), the gentleman from Missouri (Mr. IKE SKELTON), and the Committee on National Security and their staff for the excellent work on bringing this bill to the floor.

Let us pass this rule quickly, get on to the general debate, and then get into the amendment process tomorrow.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a noncontroversial rule which merely facilitates the work of the House. The Committee on Rules has also reported a rule which provides for the consideration of the amendments to the Department of Defense authorization for fiscal year 1999.

However, as in the years past, the Committee on Rules has recommended this separate rule providing for general debate on the DOD authorization in anticipation of another rule which will set the terms of debate on the many substantive issues relating to the operations of the Department of Defense.

Mr. Speaker, there is a matter related to the consideration of this rule by the Committee on Rules I would like to call to the attention of the House. Last Thursday afternoon, just minutes before the Committee on Rules convened to consider this noncontroversial rule, the chairman announced from the floor that the committee would be considering two resolutions which had not been previously noticed to the committee. This chairman said these matters were being brought to the Committee on Rules solely because the Democratic leadership had earlier that day offered a privileged resolution relating to the conduct of the investigation on campaign finance by the chairman of the Committee on Government Reform and Oversight.

Mr. Speaker, I only raise this issue because these matters were brought to the Committee on Rules with no notice to the Democratic members. The chairman of the committee, my friend the gentleman from New York (Mr. SOLOMON), did call the ranking member to inform him of his decision to bring these matters before the committee as emergency matters, but he did so only moments before going to the floor to make this general announcement, during which he said the committee was due to meet in 3 minutes.

Mr. Speaker, I do not dispute the authority of the chairman to bring those matters that he chooses before the committee for its consideration. What I would merely like to point out is that the manner in which these resolutions were brought to the committee only perpetuate a problem he is seeking to remedy.

That being said, Mr. Speaker, let me add that I have no objection to this rule providing for general debate on the authorization for the programs of the Department of Defense for fiscal year 1999, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the gentleman from Colorado (Mr. MCINNIS) be allowed to manage the rest of the time on this rule.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MCINNIS. Mr. Speaker, I yield 3½ minutes to the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I rise in support of this bill and of this rule as the minimum support necessary to meet our basic security requirements around the world. I sincerely hope that over the year we can begin to debate our responsibility in solving the many challenges facing our military.

With the passage of this bill, the Congress has joined the President in responsibility for underfunding the critical functions of national security. The duty now rests squarely with the Congress to provide sufficient resources for a strong and ready military force capable of meeting our global responsibilities while keeping faith with the men and women in uniform who sacrifice so much for this country.

I had hoped the President would lead on this issue, laying out the case for the American people that it is still a dangerous world and the United States must be prepared to lead and to act whenever our interests are at stake. I am not hopeful that he will.

The revelations of China's influence in White House policy and the very troubling transfer of missile technology to the Chinese military have gravely damaged our national security and may have ignited a new wave of proliferation and arms race throughout Asia. Meanwhile, at home, the President continues to put campaign promises and jobs in California ahead of complying with the base closure law and hundreds of millions of dollars in savings represented by the consolidation of excess capacity.

I do not expect too much leadership from a White House that promised a 1-year mission to Bosnia for a cost of $1 billion, and now our military is stuck in an endless stalemate that will cost well over $10 billion and even more in eroded military readiness.

That leaves it to us. It is the principal job of the Congress to provide for the national defense. We do not need a bigger Department of Defense, but we do need a more modern one with adequately supported professionals and clearly defined goals.

After 14 straight years of real decline in defense spending, it is long past time for a change. If we are to remain great and free and respected around the world, we need the courage and foresight to provide for a strong and ready force. George Washington warned that the only way to ensure peace was to be prepared for war. I am afraid today that we are prepared for neither.

The Joint Chiefs of Staff and the CBO tell us the national military strategy is underfunded by nearly $15 billion per year for the next 6 years. At less than 1 percent of the Federal budget and one-tenth percent of our GDP, I ask each of my colleagues, if we cannot afford this investment now, when times are good and we have the first balanced budget in a generation, when will we afford it? Let us commit what modest investment in national defense will be included with debt reduction and family tax cuts as we reprioritize Federal expenditures under a budget surplus.

Our military readiness is already broken. Retention and recruiting are at nearly all-time lows. Morale is falling. The only thing holding our military together is the tireless effort, dedication, patriotism and self-sacrifice of the men and women who volunteer to serve in our armed forces. They can only bear this burden so long before health, safety and family fall victim to relentless operational tempo.

I salute these people and thank them for all they do. We owe it to them to show our full support before we ask the last full measure of their devotion. I hope we in the Congress can show that kind of leadership.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding me this time.

I think it is unfortunate that we are having and will have the debate tonight on the largest single expenditure of the government of the United States, late at night with virtually no Members in attendance.

Further, it is unfortunate that as the bill moved forward, that there were two copies of the report on this bill available in the anteroom of the committee for the 435 Members of the Congress. If any Member wanted to attempt to develop an amendment, they could have gone down and sat in the anteroom and tried to pore through the hundreds of pages of the bill, because the amendments were due on Thursday and the reports were issued to the Members' offices today. I think that is equally unfortunate.

And what we can expect from that is that many vital issues will not get the scrutiny that they should have on the floor of the House of Representatives or in the Congress.

Procurement reform. No one can argue that the procurement system of the Pentagon works well. The scandals are still there. If it is not toilet seats, it is screwdrivers. If it is not screwdrivers, it is fasteners. If it is not fasteners, it is whole weapon systems that do not work.

These things should be adequately reviewed. But profits come before efficiency, or even come before national security, and certainly come before the troops.

We are not going to address effectively in this bill the fact that 15,000 enlisted families are eligible for food stamps in the military. The small across-the-board raise given in this bill is not going to boost those families up above that level.

We are not going to effectively address the much more cost-effective alternative of the National Guard as an alternative to full-time standing military for the defense needs of our country. We are still going to short the National Guard in this bill.

People say, well, there is not enough money to go around. Well, the Pentagon is spending a lot of time pushing some other big programs that are of dubious value, another generation of attack submarines. When the last one, *Seawolf*, was launched, a senior chief said, "Now, if we could just find somebody to fight with." Well, now we are going to develop another generation of submarines, even more sophisticated, even though there are none as sophisticated as the last ones we are still launching.

We are still going to invest $3.8 billion in ballistic missile defense, some of it oriented toward theater defense to defend our troops, but some of it still following the fantasy launched by Star Wars $50 billion ago with not yet one successful test. There will be no amendments on that issue here on the floor of the House. There will be very little discussion of that issue here on the floor of the House.

These are things that deserve scrutiny. These are things that should have amendments oriented toward them. But the process that was adopted here, two reports available, amendments due by Thursday, reports issued today to Members, did not lead to that and the debate late at night does not either.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Oregon, I know he is getting ready to leave the Chamber, but I think he needs to be aware, because he is probably going to be embarrassed by the fact that he was not, that hundreds of copies of the committee print were available a week ago Monday. Last Monday a week.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. MCINNIS. I will not yield.

Mr. DEFAZIO. If the gentleman will yield.

Mr. MCINNIS. I have not yielded.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. MCINNIS) has the time.

Mr. DEFAZIO. That is an inaccurate statement.

Mr. MCINNIS. Mr. Speaker, I ask for order on the floor. I have time on the floor.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. MCINNIS) has the time.

Mr. MCINNIS. Furthermore, I would advise the gentleman that over 100 amendments have been filed. So what I would surmise from this is that a number of our colleagues have determined that this is a very open process. They have taken the time to file over 100 amendments.

The fact that the gentleman from Oregon neglected to do this or neglected to watch the schedule, he should not then come down here on the floor and say that this rule is not fair.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, my staff contacted the committee. They were told two copies were available in the anteroom. Beyond that, we know that the process is preloaded.

I have just reviewed the list of amendments that are being allowed. There is not one single amendment that would cut $1 from any program. There is not one single amendment being allowed that would review the efficiency or the effectiveness of the procurement program.

This has been going on for years here on the floor of the House. Members can take the amendments up there and they will not be allowed to talk to them on the floor. The only amendments here on the floor are going to be amendments that enhance the spending under this bill.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume once again to correct. I mean the gentleman from Oregon makes it sound like there were lots of amendments up there to decrease spending and none of them were allowed on the floor.

Only one amendment was filed, Mr. Speaker. Only one amendment. I think we need to show the whole story, show the whole picture here before we reflect upon our colleagues some kind of Committee on Rules that is theoretically disorderly and not fair. It is eminently fair.

This rule has had over 100 amendments. We are going to have lots of debate in the next few days. And, quite frankly, the gentleman needs to be a little more accurate, in my opinion, in regards to the action the Committee on Rules has taken.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Speaker, I thank the gentleman for yielding me this time, and I also want to take this opportunity to thank the chairman, the gentleman from South Carolina (Mr. SPENCE), and the ranking member, the gentleman from Missouri (Mr. SKELTON), for what I see as a very important issue that has been included in this authorization bill, which is to extend the national mail order pharmacy program to Medicare eligibles.

□ 2145

While Congress has authorized a mail-order pharmacy program and allowed retirees who live near those areas that the bases have been designated to be closed, they are allowed to participate, but this has left out hundreds of thousands of other brave, retired servicemen and women who have continued to be locked out of this process.

Currently, this program does not include the vast majority of our Nation's Medicare-eligible military retirees. That is why last year I introduced some legislation, H.R. 1773, to expand the mail-order program to all Medicare-eligible military retirees. This measure has been supported by both the Air Force Sergeants Association and the Army Retirement Council, both of which have worked tirelessly on this issue.

I would also like to point out that the hard work of one of my constituents who serves on one of these committees, Mr. Ebitz, first brought this issue to my attention.

The legislation before us today will require that the DOD submit a plan to Congress by March 1, 1999. This plan must provide for a system-wide redesign of the military mail-order pharmacy system, which includes a system-wide drug benefit for all beneficiaries, including Medicare-eligible beneficiaries.

I think the DOD and this Congress have an implied moral commitment to provide this care to all military beneficiaries. By supporting the expansion of the mail-order program, we can send a clear message that the passage of time does not either erase the service of our military retirees and what they have given to us nor our Government's obligation to their well-being.

Mr. MCINNIS. Mr. Speaker, may I ask how much time is remaining?

The SPEAKER pro tempore (Mr. PEASE). The gentleman from Colorado (Mr. MCINNIS) has 17 minutes remaining. The gentleman from Texas (Mr. FROST) has 22 minutes remaining.

Mr. MCINNIS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, I would like to take this opportunity to speak against this rule and the rule that will come up tomorrow.

Mr. Speaker, about $18 billion of our Nation's money, most of it coming from the Department of Defense, is spent on the war on drugs. In February, to my knowledge, we had a special forces aid team in Colombia training the Lance Arrows. I visited that group a week before the Lance Arrows were ambushed. Out of 125, I think 18 straggled back. The rest were killed or captured.

We also have Seals down there. We have E–3s flying. We have P–3s flying. We have surveillance C–130s, one of which was shot up by the Peruvians.

An American airman fell to his death I think 11,000 feet out of the plane.

The point that I am trying to make, Mr. Speaker, is that I offered an amendment to the Committee on Rules to require all Department of Defense employees to be tested for drugs. Because we have some Department of Defense employees, particularly our uniformed personnel, who are literally putting their lives on the line as we speak. So should we not know that all of the people within the Department of Defense are pulling for the same team?

The uniformed military personnel and some civilians are required to be drug tested. We know from conversations that have been intercepted from the drug lords that they know when the planes are flying, they know when the ships are patrolling; and I suspect there are some people within the Department of Defense that are giving this information away.

Is it for money? Is it for drugs? I think we deserve to know. And I think the American people deserve a Department of Defense, as a matter of fact, the American people deserve a Federal workforce that is drug free. And the best way to see to it that that happens is to allow drug testing as a condition of employment.

That is why I must express my deep anger that every single Republican member of the Committee on Rules voted against bringing this amendment to the floor. I do want to congratulate my Democratic colleagues who voted for that. But that is one of the 100 amendments that should have been voted on. That is why I will be voting against the rule both tonight and tomorrow.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

The amendment of the gentleman sounds good. I think the amendment has a lot of merit to it. However, this amendment was offered last year. It is going to be addressed at the Committee on Government Oversight and Reform. Other committees are going to take a look at it. That is a more appropriate location.

I would urge my colleague to go ahead and support the rule. That is what is going to allow us some good debate.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

This is the rule for general debate only. We will have the opportunity tomorrow to consider a rule which will provide for the consideration of various amendments. I urge the adoption of this rule, and I yield back the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

I also urge that we pass this bill. We are going to have appropriate time for general debate this evening. The next few days are going to be consumed on the issue of defense. It is absolutely critical.

I think the good congressman, the gentleman from the State of Utah (Mr. HANSEN), stated it very well in his remarks. He quoted George Washington, "The best way to be prepared for peace is to be prepared for war."

I think these are key issues. I think both sides of the aisle have a lot of keen interest in seeing that our defense is strong and appropriate. And, therefore, I urge the first step in this process, and that is passage of the bill. I urge a yes vote.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. HEFLEY). Pursuant to House Resolution 435 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3616.

The Chair appoints the gentleman from Michigan (Mr. CAMP) as chairman of the Committee of the Whole, and requests the gentleman from Indiana (Mr. PEASE) to assume the chair temporarily.

□ 2153

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes, with Mr. PEASE (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from South Carolina (Mr. SPENCE) and the gentleman from Missouri (Mr. SKELTON) each will control 1 hour.

The Chair recognizes the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on May 6, the Committee on National Security reported H.R. 3616 on a bipartisan vote of 50–1. Although this kind of support may leave everyone with the impression that all is well with our military and that crafting this bill was easy, the truth was far different.

Caught between an international geopolitical environment that requires an expansive United States national security strategy and a domestic political environment bounded by declining defense budgets locked in place by the Balanced Budget Act, the Committee is left to figure out how best to manage risk; and there should be no illusions about the level of risk associated with the problems that our military confronts in carrying out its mission.

The Joint Chiefs of Staff recently assessed it as moderate to high. Thus, our actions in this bill are intended to protect as best we can those programs that will help lower the risks to our national security interests by improving readiness, enhancing quality of life, and increasing the pace of which the rapidly aging equipment is modernized.

When the fiscal year 1999 defense budget is measured by any of last year's Quadrennial Defense Reviews three central requirements for the U.S. military, shaping the international environment, preparing for uncertain future or responding to the crisis of war, it is inadequate.

Despite the Nation's extensive national security requirements and the administration's heavy use of the military all over the world, the fiscal year 1999 defense budget continues for the 14th consecutive year a pattern of real decline in defense spending.

The President's budget request represents a 1.1 percent decline from current defense spending levels and is $54 billion short of even keeping pace with record low inflation over the next 5 years. The spending levels authorized in this bill are almost 40 percent lower than those of little more than a decade ago and, in fact, represent the lowest level of inflation-adjusted defense spending since before the Korean War.

Earlier this year, the Joint Chiefs of Staff, the Nation's military leaders, testified that their fiscal year 1999 budgets contained shortfalls of more than $10 billion. Over the 5-year defense plan, the Chiefs of Staff testified that their shortfalls amounted to more than $58 billion.

Mr. Chairman, I will submit a summary of the shortfalls identified by the Service Chiefs along with my statement.

Unfortunately, it is not hard to appreciate why the unofficial motto of today's military is "doing more with less." Force structure and resources continue to decline, while missions continue to increase.

Since 1987, active duty personnel have been cut by more than 800,000.

Since 1990, the Army has been reduced from 18 to 10 divisions.

Since 1988, the Navy has reduced its ships from 565 down to 346.

Since 1990, the Air Force has reduced its fighter wings from 24 down to 12.

And since 1988, the United States military has closed more than 900 bases and facilities around the world and 97 bases and facilities here at home.

At the same time, our military is shrinking, operations around the world are increasing:

Between 1960 and 1991, the Army conducted 10 operational events. In just the last 7 years, they have conducted 26 such operational events.

In the 7-year period from 1982 to 1989, the Marine Corps participated in 15 contingency operations. However, since 1989 and the fall of the Berlin Wall, they have participated in 62 such contingency operations.

Similarly high operation national tempos are also impacting the Navy and the Air Force.

The threats and challenges America confronts around the world today and the resulting pressures they have placed on a still shrinking United States military have been underestimated by the administration and by many in Congress. At this critical point in history, the mismatch between the Nation's military strategy and the resources required to implement it grows larger every day. Consequently, a wide range of quality of life, readiness and modernization shortfalls have developed. If left unresolved, these shortfalls threaten the viability of today's all-volunteer force, risk a return to the hollow military of the late 1970s and jeopardize America's ability to effectively protect and promote its national interests around the world.

And these are not just my own personal conclusions. They reflect a consensus view held by the Committee on National Security's senior leadership on both sides of the aisle.

Back on April 22, I joined the gentleman from Missouri (Mr. Skelton) and the committee's senior Republican and Democrat members in publicly calling upon the President and the congressional leadership to provide for increased defense spending in the face of these worsening military shortfalls.

The letter we signed stated, in part, and I will read from that:

> Despite several years of aggressive Pentagon reform, it is apparent that even if the most optimistic estimates of reform-generated savings materialize, they will fall far short of adequately addressing underfunded quality of life, readiness and modernization requirements as well as the inevitable deployments in the years ahead. Having just concluded our initial oversight hearings on the fiscal year 1999 defense budget request, it is our collective judgment that, short of an unwise retrenchment and overhaul of United States national military strategy, fixing the Nation's long-term defense program will require increased defense spending. Without additional defense resources to reverse the 14-year pattern of spending decline, the military services will be unable to stabilize their shrinking force structures, protect quality of life and readiness and modernize rapidly aging equipment.

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Mr. Chairman, I will submit a copy of the complete April 22 bipartisan letter along with my statement.

Despite the Committee on National Security's attempt to manage the growing risk, we can only make improvements at the margin in the absence of additional defense resources. The magnitude of the shortfalls is so great that they cannot be eliminated simply through a wiser allocation of resources contained in the President's request.

By reprioritizing the President's request, the committee has provided the military services some of the tools they need to better recruit and train quality personnel, better train personnel to the highest possible standards, and better equip them with advanced military technology.

At the same time, the committee has tried to provide those who wear their uniform and their families with a quality of life more commensurate with that of the American citizens they are sworn to protect. As a result of these improvements, H.R. 3616 received strong bipartisan support in committee and should receive the same in the full House.

Nonetheless, every Member of the House should be deeply troubled that 14 years of a shrinking military and declining budgets have left the world's only superpower running a moderate-to-high risk when it comes to protecting and promoting its national security interests around the world.

Mr. Chairman, I will leave discussion of the many specific initiatives in the bill to my colleagues on the Committee on National Security who have worked very hard since February to get us to the point here tonight. However, I would like to recognize the hard work of the subcommittee and panel chairman and ranking members. Their leadership and bipartisan approach to issues have permitted the committee, even without additional resources, to significantly improve upon the administration's request in this bill.

I would specifically like to single out and thank the gentleman from Missouri (Mr. SKELTON), the committee's new ranking member, for all of his help, support, and hard work. The gentleman from Missouri (Mr. SKELTON) is not only a relentless advocate for a strong military defense, he works very hard to ensure an open committee process. His handiwork is evident in the overwhelming bipartisan support H.R. 3616 received in the committee.

Finally, Mr. Chairman, I would like to thank the staff for their enormous dedication and effort. While the staff is usually the first to get the blame, they rarely receive any of the credit. All you have to do is take a look at the size and complexity of this bill to understand the importance of the committee staff to the defense authorization process.

Mr. Chairman, I urge support of this bipartisan bill.

Mr. Chairman, the material I referred to is as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATIONAL SECURITY,
Washington, DC, April 21, 1998.

MEMORANDUM FOR HNSC MEMBERS

From: Chairman Floyd D. Spence

Re unfunded requirements of the military services

During the committee's March 12, 1998 hearing, I asked each of the four service chiefs to identify all underfunded or unmet quality of life, readiness and modernization requirements in the five year budget plan and to estimate how much it would cost to fully fund these requirements over the next five years.

The lists that the services forwarded reveal substantial underfunded requirements. In fiscal year 1999 alone, these shortfalls total over $10 billion; for the five-year period ending in fiscal year 2003, the shortfalls amount to over $58 billion. Moreover, if you study the chiefs' responses, I believe a compelling case can be made that the shortfalls may be understated. It is particularly troubling that these shortfalls have been identified at a time when the Balanced Budget Act of 1997 (BBA) has set defense spending at levels that continue the fourteen year trend of real decline for the next five years.

It is also interesting to note that the five-year defense budget plan called for in the BBA falls more than $54 billion short of keeping pace even with today's record low inflation (see attached chart). And, were inflation to increase even modestly to historical averages, the five-year plan could fall short of inflation by as much as $100 billion.

The attached table presents the underfunded or unmet requirements by service in each of the next five years. Should you require additional information or have any further questions, please contact Andrew Ellis (5-9648) or Dino Aviles (6-0533) on the committee staff.

Attachments (2)

MILITARY SERVICES UNFUNDED PRIORITIES

[millions of current year dollars]

	Fiscal year—					Total
	1999	2000	2001	2002	2003	
Army:						
FY 99 Contingency Ops (Bosnia)	1,390.0	....	....	....	....	1,390.0
MIL-Tech Restoration	36.5	....	....	....	....	36.5
Real Property Maintenance	463.5	500.0	500.0	500.0	500.0	2,463.5
Base Operations	500.0	500.0	500.0	500.0	500.0	2,500.0
ARNG & USAR OPTEMPO	199.8	250.0	250.0	250.0	250.0	1,999.8
Military Pay	120.0	....	....	....	....	120.0
MILCON	214.4	....	....	....	....	214.4
Soldier Life Support	72.1	....	....	....	....	72.1
Embedded Diagnostics (TMDE)	39.5	....	....	....	....	39.5

MILITARY SERVICES UNFUNDED PRIORITIES—Continued

[millions of current year dollars]

	Fiscal year—					Total
	1999	2000	2001	2002	2003	
Comanche (2nd prototype acceleration)	24.0					24.0
Crusader	11.5					11.5
AFATDS	20.7					20.7
HMMWV	65.7					65.7
Apache 2nd FLIR	50.3					50.3
Command and Control	22.5					22.5
Engineer Equipment	46.9					46.9
Demonstration of New Technology	39.8					39.8
Tactical Vehicles and Trailers	92.7					92.7
Family of Medium Tactical Vehicles	88.0					88.0
Blackhawk Helicopters (8 for ARNG)	78.5					78.5
C^3 Equipment	92.9					92.9
Apache Longbow (training devices)	40.2					40.2
Small Arms	41.8					41.8
Javelin	37.9					37.9
Test Equipment and Facilities	10.0					10.0
Ammunition Production Base	39.3					39.3
Test Equiipment and Range Improvements	34.6					34.6
Depot Maintenance		400.0	400.0	400.0	400.0	1,600.0
Training and Support		350.0	350.0	350.0	350.0	1,400.0
Ammunition, Force XXI, night vision, soldier modernization, combat support/combat service support, and C^3I		2,000.0	2,000.0	2,000.0	2,000.0	8,000.0
Critical Modernization (Abrams tank, Bradley FV, Apache Longbow 2nd gen FLIR, digitization)		1,000	1,000	1,000	1,000.0	4,000.0
Army total	3,873.0	5,000.0	5,000.0	5,000.0	5,000.0	23,873.0
Navy:						
Aviation Spares	45.0					45.0
OPTEMPO (Steaming days for mine warfare)	20.0					20.0
Ship Depot Maintenance	90.0					90.0
Real Property Maintenance	391.0					391.0
Reserve Pay (ADT & ADSW)	20.0					20.0
TOMAHAWK Missile Recertification	27.0					27.0
Shipbuilding (CVN-77 and ADCX)	550.0					550.0
Aircraft Procurement (E-2C and AIP)	143.0					143.0
MILCON-QOL and Other	273.0					273.0
RDT&E (Aviation Programs)	45.0					45.0
LANTIRN Pods	8.0					8.0
Submarine equipment and RDT&E	94.0					94.0
Ship Self Defense systems	30.0					30.0
CVN RDT&E (technology insertion)	33.0					33.0
Cooperative Engagement Capability (CEC)	20.0					20.0
IT-21 Procurement and O&M	143.0					143.0
O&M-QOL (BEQ furnishings)	10.0					10.0
O&M-Other (NSIPS, ATMs, Recruiting)	93.0					93.0
STANDARD Missile Procurement	48.0					48.0
Family Housing	53.0					53.0
Shipbuilding Rates		600.0	600.0	600.0	600.0	2,400.0
Aircraft Procurement Rates		750.0	750.0	750.0	750.0	3,000.0
RDT&E (next generation combatants)		400.0	400.0	400.0	400.0	1,600.0
Recruiting, Training and Retention		400.0	400.0	400.0	400.0	1,600.0
MILCON		700.0	700.0	700.0	700.0	2,800.0
Navy total	2,136.0	2,850.0	2,850.0	2,850.0	2,850.0	13,536.0
Marine Corps:						
Personnel Support Equip/Initial Issue	64.0					64.0
Other Personnel Education and Training	2.6					2.6
Family Housing	82.1					82.1
MILCON—QOL	100.7					100.7
USMCR OPTEMPO & ADSW	6.7					6.7
Recruiting & Advertising	22.4	30.0	30.0	30.0	30.0	142.4
Depot Maintenance	20.7					20.7
Base Operations Support	10.4					10.4
Operating Forces Support	16.1					16.1
Miscellaneous Readiness Activities	23.0					23.0
Aviation Modernization (MV-22, AV-8B, etc)	290.5	750.0	750.0	750.0	750.0	3,290.5
Ground Equipment Modernization	265.4	650.0	650.0	650.0	650.0	2,865.4
Amphibious Equipment Modernization (LCAC)	32.8					32.8
Real Property Maintenance	72.0	120.0	132.9	102.8	95.5	523.2
MILCON—Other	74.0	176.0	181.0	143.0	141.0	715.0
Personnel Mgmt & Other	2.6					2.6
Increase Equipment Maintenance		100.0	100.0	100.0	100.0	400.0
Total Marine Corps	1,086.0	1,826.0	1,843.9	1,775.8	1,766.5	8,298.2
Air Force:						
Spares	219.6	295.8	311.5	240.9	208.8	1,276.6
Depot Maintenance	182.4	121.9	168.7	198.2	208.2	879.4
Engines	274.4	321.7	254.6	221.9	231.8	1,304.4
Training	73.3	59.5	60.8	62.1	63.4	319.1
Technical Orders	24.0	57.5	38.4	29.5	26.2	175.6
Real Property Maint	363.0	424.0	499.0	608.0	508.0	2,402.0
Base Operating Support	294.4	205.9	170.6	172.5	189.9	988.3
Aircraft Systems	157.3	157.3	166.5	182.3	255.5	918.9
Space Launch Ranges	28.3	24.3	32.3	33.4	22.2	140.5
MILCON—Readiness	310.6	272.3	231.3	216.2	209.8	1,240.2
War Reserve Material	64.0	13.0				77.0
MILCON—QOL	464.4	439.9	416.2	410.8	411.1	2,142.4
Communications	96.4	99.7	99.1	85.5	87.4	468.1
Special Purpose Vehicles	50.0	52.8	46.9	41.7	42.6	234.0
Air Force Total	2,557.1	2,545.6	2,495.9	2,503.0	2,464.9	12,566.5
Total, All Services	9,652.1	12,221.6	12,189.8	12,128.8	12,081.4	58,273.7

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATIONAL SECURITY,
Washington, DC, April 22, 1998.

Hon. WILLIAM J. CLINTON, President of the United States of America.
Hon. NEWT GINGRICH, Speaker of the House.
Hon. RICHARD A. GEPHARDT, House Minority Leader.
Hon. TRENT LOTT, Senate Majority Leader.
Hon. TOM DASCHLE, Senate Minority Leader.

DEAR SIRS: The fiscal year 1999 defense budget request represents the fourteenth consecutive year of real decline in defense spending that has occurred under Administrations and Congressional majorities of both parties.

The fall of the Berlin Wall brought with it an opportunity to reduce the nation's Cold War defense structure. We believe, however, that the threats and challenges America confronts today and the resulting pressures they have placed on a still shrinking U.S. military have been underestimated. At what we believe to be a critical point in history, the mismatch between the nation's military strategy and the resources required to implement it is growing. Consequently, a wide range of quality of life, readiness and modernization shortfalls have developed that, if left unchecked, threaten the long-term viability of today's all-volunteer force. Compelling our men and women in uniform to "do more with less" risks a return to a hollow military and jeopardizes America's ability to effectively protect and promote its national interests around the world.

Make no mistake, the men and women who serve in uniform today comprise the finest military force in the world. They are truly America's best and brightest. It took almost a generation following the Vietnam War to build the force that quickly and decisively won the Persian Gulf War just seven years ago. Yet as the pace of military operations increases against a backdrop of declining resources, we must recognize that our all-volunteer force is under stress. We need to take better care of our men and women in uniform.

Despite several years of aggressive Pentagon reform, it is apparent that even if the most optimistic estimates of reform-generated savings materialize, they will fall far short of adequately addressing underfunded quality of life, readiness and modernization requirements as well as the inevitable deployments in the years ahead. Having just concluded our initial oversight hearings on the fiscal year 1999 defense budget request, it is our collective judgment that, short of an unwise retrenchment and overhaul of U.S. national military strategy, fixing the nation's long-term defense program will require increased defense spending. Without additional defense resources to reverse the fourteen year pattern of spending decline, the military services will be unable to stabilize their shrinking force structures, protect quality of life and readiness and modernize rapidly aging equipment.

In the context of the first federal budget surplus in three decades and today's strong economy, we call on you, the nation's bipartisan political leadership, to reopen negotiations on the Balanced Budget Act of 1997 in order to provide for a sustained period of real growth in defense spending. We understand that other issues would be part of any such agenda. However, the inevitable result of adhering to an agreement that ensures declining defense budgets indefinitely will be the hollowing of the U.S. military. Because we believe that to "provide for the common defense" is the federal government's first, and most important, responsibility, we stand ready to work with you to ensure that America maintains a military befitting our nation's superpower status—a military that remains second to none.

Sincerely,

FLOYD D. SPENCE,
Chairman, Committee on National Security.
DUNCAN HUNTER,
Chairman, Subcommittee on Military Procurement.
CURT WELDON,
Chairman, Subcommittee on Military Research and Development.
HERBERT H. BATEMAN,
Chairman, Subcommittee on Military Readiness.
JOEL HEFLEY,
Chairman, Subcommittee on Military Installations and Facilities.
IKE SKELTON,
Ranking Member, Committee on National Security.
NORMAN SISISKY,
Ranking Member, Subcommittee on Military Procurement.
OWEN B. PICKETT,
Ranking Member, Subcommittee on Military Research, and Development.
SOLOMON P. ORTIZ,
Ranking Member, Subcommittee on Military Readiness.
NEIL ABERCROMBIE,
Ranking Member, Subcommittee on Military Installations and Facilities.
GENE TAYLOR,
Ranking Member, Subcommittee on Military Personnel.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Members of the House, I rise to offer my support and make the following observations on H.R. 3616, the National Defense Authorization Act For Fiscal Year 1999.

Allow me, first, to congratulate the distinguished gentleman from South Carolina (Mr. SPENCE) for his commitment to having the work on the committee carried on in a bipartisan fashion, as was reflected as such in this bill. Not only did he and I work together on a number of issues, but the staff that worked for the minority had numerous occasions to work with the staff on the majority to influence and improve the overall product of this bill. Overall, this truly was a bipartisan effort and can be best summarized by the overwhelming support that the bill received in the committee, 50 votes for with only one against.

This will also be the last time, Mr. Chairman, that the gentlewoman from California (Ms. HARMAN) and the gentleman from Pennsylvania (Mr. MCHALE) will participate in these deliberations. I want to thank them for their fine work over the years and their contributions to the work in this committee. Their presence will certainly be missed.

As we begin consideration of this bill, let me underline the point that this year we are operating under the restrictions of the Balanced Budget Act of 1997. The totals on defense were agreed to by both executive and legislative branches last summer. As a result, the overall total for the defense budget today, $270 billion in budget authority, which we handle on our committee, is as much a reflection of congressional priorities as it is of executive priorities.

As a result of that agreement, the task of trying to address the many issues affecting the Armed Forces has become much more difficult to manage this year than in past years. Over the past 3 years, the committee and this Congress added funds to defense. We did not have that option this year and worked within the confines of the Balanced Budget Act of 1997.

Let me try to set the scene a bit as we consider this defense bill. The fallen Berlin wall in 1989 and the subsequent collapse of the Soviet Union 2 years later brought with it the end of the Cold War. It also brought with it the opportunity to substantially reduce both the size of our Armed Forces and reduce the burden of defense expenditures on our Nation.

In 1989, we had over 2.1 million active duty service members in an Army of 18 divisions, a Navy of over 540 ships, and an Air Force of 24 fighter wing equivalents. Today, the military is about 1.4 million active duty service members in an Army of 10 divisions, a Navy with 315 ships, and an Air Force with 20 fighter wing equivalents.

The percentage of Gross Domestic Product, the GDP, devoted to defense in 1989 was 5.7 percent. For the current fiscal year, we are spending 3.2 percent of the Gross Domestic Product on defense. Next year will be 3.1 percent, the smallest share we will have spent on defense since 1941 when the Japanese attacked Pearl Harbor.

I cite these figures simply to highlight the point that, with the end of the Cold War, we made substantial reductions in both the size of our Armed Forces and the burden of defense spending. It was proper to do both.

Since the end of the Cold War, we have had five different reviews of our defense structure.

Our current defense strategy is a subset of our national security strategy. As described in the Quadrennial Defense Review, our defense strategy calls for shaping the international environment in ways favorable to United States interests, responding to the full spectrum of crises when it is in our interest to do so, and preparing now for an uncertain future.

In short, Mr. Chairman, we are trying to deal with the problems of today in anticipating the needs of tomorrow. It is the right strategy to have at a time of change and uncertainty.

However, as we have reduced the size of our forces since 1989, we have also increased the pace of our military deployments. This is serious. An Army cut almost 40 percent since 1988 has experienced a 300 percent increase in its operational pace. An Air Force that has undergone similar personnel reductions has experienced a fourfold increase in its operational pace.

Each of the services is struggling with a task of adjusting the size, composition, mission of its forces to deal with the implications of operating in this more demanding post-Cold War environment.

Our Armed Forces today are ready. However, if we keep up the current pace of operations and deployments, we may not be ready 5 years from now. Let me just say again, I believe we were right to reduce our forces and defense spending when the Cold War came to an end. I also believe we are right to have a defense strategy that promotes our involvement in the world.

But I believe that we may have reduced the size of our forces and the size of the defense budget a little too much. I believe we have a mismatch between the demanding goals we have set for ourselves and the resources we are willing to spend to obtain those goals.

That is why, about a month ago, senior committee leaders of both parties wrote the President and senior leaders in this Congress that the current strategy required increased defense spending.

Because of the changed economic conditions in which we find ourselves, I believe we should place an increase in defense spending on the national agenda. I believe that we can increase defense spending without having to reduce domestic spending; that we can increase defense spending and also reduce the national debt; that we can increase defense spending by also saving Social Security. But we will also have to arrive at a new national consensus to do so.

The world is still a complex, ever-changing, and dangerous place. In many ways, yesterday's solutions have spawned today's problems. The challenges we face are numerous: the proliferation of weapons of mass destruction, the intentions and actions of rogue states, the threat of terrorism, the possible emergence of China as a hostile power in the 21st century, the uncertain future of Russia, drug trafficking, the security of our information systems, regional hot spots, and last, but not least, humanitarian crises.

We have an opportunity to promote a more peaceful, prosperous, and stable world than those of us who lived through the troubling middle years of this century would ever have thought possible. However, we must be vigilant and remain engaged abroad. An important part of that engagement effort is a properly sized, trained, equipped, and ready military to protect our national interests.

As we consider this bill, I hope my colleagues will keep these concerns in mind. Despite the constraints of the Balanced Budget Act, I believe we have fashioned a pretty good bill.

We have provided a pay raise of 3.6 percent, half a percent more than the Department of Defense requested, supported the Department's requested real increase in the procurement budget for modernization, and maintained strong support for the cooperative threat reduction program, which is very important, to accelerate the dismantlement of former Soviet strategic offensive arms that threaten our country.

One important matter that I want to highlight concerns a report the committee has requested by the Department on Counterterrorism and Defense against the use by terrorists of weapons of mass destruction on United States territory.

Since 1994, Congress has expressed increasing concern about this threat. It is a very difficult, complex issue requiring Federal, State, local efforts, and coordination. Our effort is simply one more step to try to deal with the issue in a comprehensive fashion. Much work has been done in this area, and much more needs to be done. My concern is that we do so in a well-planned, well-coordinated effort at the State, Federal, and local levels.

In addition to the report, I will cosponsor, Mr. Chairman, an amendment with the gentleman from Pennsylvania (Mr. WELDON) addressing this important anti- and counterterrorism issue.

In a defense bill recommending $270.8 billion in budget authority, there were, of course, issues of contention. The decision to include two recommendations of the Kassebaum-Baker panel on gender-integrated training stirred one of the most substantive debates at both the subcommittee and full committee mark-up sessions. I did not support including those recommended in our bill.

As one who believes that we need to provide for a sustained period of real growth in defense spending, I believe that we undermine our case by funding unnecessary programs and weapons. In our bill, we have added seven C–130s that were neither requested by the Pentagon in its budget request nor even placed on the services' unfunded requirements list. At the same time, we did not fully fund the administration's request for the F–18 E/Fs, which the Navy has told us is their number one requirement.

Despite these flaws, overall, this is a good bill.

I will defer to other members of the committee on both sides to discuss the many important initiatives found in this bill. They have worked hard, and I compliment all of the members of the committee. Those on our side of the aisle have been very, very cooperative, and they have worked very hard. This is especially true of the subcommittee and panel chairman and ranking members.

Allow me to thank the staff who so ably assist us. Their dedication and expertise and capacity for hard work, Mr. Chairman, cannot be underestimated.

Mr. SPENCE. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. HUNTER), the Chairman of our Subcommittee on Military Procurement.

Mr. HUNTER. Mr. Chairman, I want to thank the gentleman from South Carolina (Mr. SPENCE), chairman of the full committee, who wrapped this package together along with his counterpart, the gentleman from Missouri (Mr. SKELTON), and commend them for doing more with less this year.

I want to thank also the wise gentleman from Virginia (Mr. SISISKY), who is my good partner on the Subcommittee on Military Procurement, for all the work that he did.

Having thanked those gentlemen, Mr. Chairman, let me say that this has been a thankless year for this committee, because we have been forced to preside over the decline of America's defenses, a very dramatic decline.

Anyone who looks at this chart and looks at the various functions, mandatory outlays which have increased from 1991 to fiscal year 2001 by over 38 percent, domestic discretionary outlays, that includes all the social programs that have increased some 15 percent in that same period of time.

Finally, look at defense going down 33 percent over that period of time. We understand that we have reversed our priorities and that we no longer consider the security of this Nation to be the number one priority. That mistake we have made in the past, my friends; and, in the past, it has cost American lives.

□ 2215

If we get specific, we can talk about the reductions in force structure that we have made. We have gone down since Desert Storm from the 18 Army divisions we had to only 10 today, the same number of divisions we had when South Korea was invaded in 1950; we have gone down from 24 to 13 fighter air wings, cut our air power almost in half; and we have cut our ships from 546 ships to about 333 ships.

At the same time, we have put enormous strain on our people, and we are losing our people. The other day, when I had a chance to go up with the C–5 refueling with some of our great Air Force personnel and had a chance to talk with some of those personnel about whether or not they wanted to stay in the Air Force, the answer that all of us got back was disturbing, because we are projected to be 835 pilots short this year. And it is not just a money problem. It is a fact that we have such a small force now and such major obligations around the world that our pilots are not able to spend that graduation with their daughter, or go to their son's wedding, or do the other things that the men and women in uniform like to do, that is, to have a family life. So we are dropping down radically on personnel.

The Commandant of the Marine Corps told us a couple of months ago that at times he has had the highest OPTEMPO, that means the most Marines staying the longest time away from home since World War II. You can go right through the personnel problems and see that we are in fact approaching that time in 1979 when, as a guy in San Diego, I could look at our naval personnel and see that we had 1,000 chief petty officers a month leaving the Navy. That was a dramatic problem. We are approaching that same problem today across the array of military services.

Now, with respect to our modernization accounts, this account is about $60 billion less in real dollars than it was in the 1980s. That means we are using tanks, planes and ships much longer than we used them in the past. We are running out their lifetime. As a result of that, we have grounded some 907 Huey helicopters because they are not safe to fly anymore. We are building five ships this year. We are building to a 200 ship Navy. Just a few years ago we had almost a 600 ship Navy, and none of our projections for projecting the American power and foreign policy have lessened. So we have dramatically cut the national security budget.

We had just a few cents to spend on what I call platform items this year. We bought a few Blackhawk helicopters, two F–16 fighters, probably fewer F–16's than Sweden is going to buy this year, and just a few other platforms. That is all we could afford to add to the budget this year. We are buying some 66 total tactical aircraft, and that is in fact about 1½ times the buy that Switzerland made a couple of years ago on aircraft.

So we are rapidly disserving our military people in a most critical way. That is, we are not giving them the equipment they need to do the job. That is just as important as giving them pay, giving them quality of life, giving them good living quarters. So, Mr. Chairman, we can a lot with the few dollars that we had this year.

I want to thank all of the folks that worked so hard on the other side of the aisle, all of our staff members. I hope the House will pass this defense budget, and then come back to raise the top line, spend more on defense, and give us more security.

Mr. SKELTON. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. SISISKY).

Mr. SISISKY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, let me say to our distinguished chairman, the gentleman from South Carolina (Mr. SPENCE), I appreciate everything he has done. Of course, to our ranking member, the gentleman from Missouri (Mr. SKELTON), and, of course, my chairman of the Subcommittee on Procurement, the gentleman from San Diego, California (Mr. HUNTER), my sincere thanks.

It is strange, this is my 16th bill, and it is very strange what we are doing. We are not talking about a lot of things that happened in the bill. What we are talking about is why we are short in the bill. I am not opposed to that, because I am going to say the same thing, after I talk a little bit about the procurement bill.

Before I do that, let me ask all of my colleagues to support this defense authorization bill. It is not a perfect bill, but it is about as perfect as we can make it within current budget limitations. As ranking member of the Subcommittee on Military Procurement, I am all too aware of how budget limits impact procurement.

Let me just pick two items. I am delighted that we were able to fund the advance funding for CVN–77, which is a transition carrier between the CVX, the last of the Nimitz carriers. My biggest concern, however, on the other side, is we had to cut 36 F–18 E/Fs from the Navy.

We have reduced this program so much that these reductions threaten to postpone the initial operational capability and first deployment, yet this aircraft is on time, under budget and meeting all performance specifications. Even these marginal reductions will force the unit costs up by $2.4 million for each of the remaining 27 aircraft. I completely understand why this reduction is made, but I cannot help but think there might have been a better solution, and I appreciate the commitment of the gentleman from California (Chairman HUNTER) to look for a better solution in the conference.

Other than that, all Members should realize their requests for additional funding totalled about $6 billion. Even with the shifting of funds from other accounts to the procurement account, we were only able to come up with less than $1 billion.

Nevertheless, this bill authorizes $49 billion for procurement, an increase of $2.8 billion over last year, and $300 million more than the President's request. Despite these small gains, there remains very serious shortfalls, as shown by the unfunded priority list submitted by the military services. These shortfalls occur in all DOD accounts, and most of our chairmen and ranking members have written the leadership, as you heard, in both houses, maybe even asking to open the 1997 budget agreement.

The reason is we really are in danger of having a hollow force. Our military and civilian leaders persist in saying that our forces are "adequate" or "barely adequate." I am concerned, however, that words like "adequate" or "barely adequate" are not good enough to send our young warriors into harm's way. My concern is that over the last 14 years, so this is bipartisan now, of declining defense budgets, we have cut so deep that we simply may not be good enough to meet current threats with an acceptable level of risk.

Our problem is that procurement, readiness, training and other things that contribute to effective military operations are on very thin ice, and I worry that the risks we take because we do not have enough money in the defense budget will come back to haunt us. I worry we may not wake up until we suffer some disaster, like when the hostage rescue fell apart in 1980, or when our positions were overrun during the early stages of Korea.

I worry that their can-do attitude will lead our young men and women to stand up and salute, even when we assign a task for which they are not adequately equipped or trained, and they have done that before.

The bottom line is that it took a bipartisan effort to get us in this hole, and I think it will take a bipartisan effort to get us out.

So I ask all of my colleagues to support this bill, which is the best we can do under the circumstances. But I also ask you to ponder the risk of cutting national security this close to the bone. In my opinion, this budget is no longer "adequate" or "barely adequate." We already passed that point a year or two ago.

Mr. SPENCE. Mr. Chairman, I yield four minutes to the gentleman from Colorado (Mr. HEFLEY), the chairman of the Subcommittee on Military Installations and Facilities.

Mr. HEFLEY. Mr. Chairman, I have always felt that the Subcommittee on Military Installations and Facilities has been the most bipartisan committee that I have seen since being in the Congress, and I think this year the full committee has indicated that they, too, are a very bipartisan committee, and has produced a product, which, while we are not totally satisfied with it, at least it is a product that I think every Member should support in a bipartisan way.

I rise to support H.R. 3616, the National Defense Authorization Act for 1999. It is a bipartisan bill, it deserves strong bipartisan support, and I want to spend just the few brief moments that I have available to highlight the military construction aspects of this legislation.

The Subcommittee on Military Installations and Facilities continues to be deeply concerned about the serious shortfalls in basic infrastructure. We are all talking about shortfalls, and they are there, and every single subcommittee chairman and ranking member will probably mention this, in military housing and other facilities that affect the readiness and training of the Armed Forces and the quality of life for military personnel and their families.

The budget requested by the administration for 1999 continued a pattern of significant deterioration in funding programs by the Department of Defense for military construction. Overall, the administration proposed 7 percent less in military construction's accounts than one year ago, and 15 percent less than the program authorized by Congress. Yet the military services continue to provide testimony and other evidence that their needs are not being met adequately by the administration's program.

Based on the record, it is clear that the construction programs of the services would need to be at least twice as large as they currently are to begin to address the backlog of serious shortfalls in facilities. The evidence that antiquated, obsolete, overused inadequate facilities and military housing are an impediment to effective training and readiness and to the assurance of decent quality of life for military personnel is clear to anyone who would care to examine the record built by the subcommittee.

Earlier this year, in response to a question from the gentleman from South Carolina (Chairman SPENCE) about their unfunded requirements, the service chiefs provided a list of shortfalls across the broad spectrum of need. The unfunded MILCON requirement identified by the chiefs is $7.6 billion. The recommendations the committee brings to the House today will help alleviate a portion of the backlog and critical shortfalls.

H.R. 3616 does not go as far as I would like. The fiscal constraints faced by the committee prevented us from providing as much in the way of additional resources as we have over the past three years. This bill, however, contains an additional $450 million in added funding for military construction and military family housing, which would permit us to buy back about one-third of the administration's $1.4 billion cut in the MILCON top line. Given the condition of facilities and the needs identified by the services, it is not enough, but I believe we will make good use of these limited funds.

The bipartisan bill would provide an additional $183 million for quality of life enhancements. These funds would provide additional military family housing, troop housing, child development centers, fitness centers and other community support facilities that are integral to the support of military personnel and their families. In addition, it would provide additional funding for military construction to support the training, readiness and maintenance requirements of the active and reserve components.

In closing, I want to express again my appreciation to the members of the subcommittee, especially the ranking Democrat member, the gentleman from Hawaii (Mr. ABERCROMBIE), for their contributions to this legislation. This is truly a bipartisan effort, as I stated at the outset, and I urge all Members to support H.R. 3616.

Mr. SKELTON. Mr. Chairman, I yield five minutes to the gentleman from Virginia (Mr. PICKETT).

Mr. PICKETT. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I commend the committee chairman and the members and staff for the balanced and responsive bill we have before us. This bill has been thoughtfully and carefully put together within the constraints of a defense budget that continues to decline in purchasing power.

In any undertaking of this kind, the defining of and the adherence to a system of priorities is absolutely essential for a realistic and responsive program. My comments will relate primarily to the research and development part of this bill.

The investment for basic research and for science and technology programs has been maintained at current levels. It is widely acknowledged that these basic research and technology programs have been the crucial component in developing and fielding technologically superior weapons systems that have given our military forces a decided advantage over their adversaries.

In spite of the success in developing and fielding improved weapons systems and weapon systems upgrades, there a constant struggle to appropriately and adequately prepare our forces for the unpredictable and speculative battlefield of the 21st Century. The Army is continuing development of its top priority new weapons systems, the Crusader Self-Propelled Howitzer and the Comanche helicopter. The Navy is moving ahead with the DD–21 destroyer, the follow-on to the Nimitz aircraft carrier, and a new class of attack submarine.

□ 2230

The Air Force is reaching the end of its development of the F–22 and is moving forward along with the Navy and Marine Corps in the development of the Joint Strike Fighter. These visible priority programs point the way to the military of the future. Nevertheless, the pursuit of lighter and more lethal weapons, the development of speedier and more stealthy equipment, and the quest for successful leap-ahead technologies continues.

The Department of Defense has said many times that if our forces are called into combat, we do not want a fair fight. We want our forces to have a clearly superior capability, both in weapons systems and technology. That is the direction in which this bill continues to move our defense program, although I must say that the move is at a slower pace than I believe is desirable.

The committee and committee staff have been alert and diligent in reallocating resources to higher priority and more timely projects. Additional support has been provided to missile defense programs in an effort to make certain that these programs are not resource constrained. With alarming reports of continuing advances by other nations in missile technology, every effort must be made to develop and deploy workable and defendable missile defense systems on behalf of our Nation at the earliest possible time.

The level of readiness of our military forces continues to be the subject of intense debate and discussion. After thoughtful and careful consideration of a wide variety of materials and testimony, I am persuaded that the readiness of our military has indeed declined. This is an ominous sign at a time when the shortfall for funding the procurement necessary to modernize our forces is approaching a deficiency of 25 percent of the amount needed. It is time for the Congress to provide more resources to our military.

Mr. Chairman, within the limits of the 1999 level of resources available to our committee, I believe the defense program incorporated in this bill is as robust and effective as can be devised. For this, I compliment the committee and our staff and encourage all Members to fully support H.R. 3616.

Mr. SKELTON. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. ORTIZ).

Mr. ORTIZ. Mr. Chairman, I want to thank the gentleman for yielding me this time.

I rise in strong support of H.R. 3616, the National Defense Authorization Act for fiscal year 1999. I want to specifically address the provisions in the Act relating to military readiness.

First, I would like to express my personal appreciation to the Subcommittee on Readiness leadership and to my colleagues on both the subcommittee and the full committee for the manner in which they conducted the business of the subcommittee this session. I want to specifically thank the gentleman from South Carolina (Mr. SPENCE), my chairman, and the ranking member, the gentleman from Missouri (Mr. SKELTON). Although the gentleman from Virginia (Mr. BATEMAN) is not with us today, I want to express my appreciation for his personal involvement and the extraordinary steps that he took in getting us to where we are.

We had the opportunity to see the readiness through a different set of eyes, the eyes of the brave soldiers, sailors and airmen who are entrusted with the awesome responsibility of carrying out our national military strategy. We heard them talk about the shortage of repair parts while we were conducting hearings throughout the continental United States, and the extra hours spent trying to maintain old equipment, and the shortage of critical personnel. While we in this body might differ on some policy and program objectives, we on the subcommittee were able to get a better appreciation of the challenges that these brave souls faced in trying to do more with less. For their effort we can all be proud. I personally remain concerned about how long they will be able to keep up the pace.

The readiness provisions in the bill reflect some of the steps I believe are necessary with the dollars available to make their task easier. It does not provide all that is needed. I would be more pleased if the migration of O&M funds to other accounts did not take place. Much more could be used. I remain perplexed when I reflect on the impact that the resource shortages are having on every facet of our military. That includes the stability of our dedicated civilian employees who are also being asked to remain productive while at the same time the department appears to be trying to take away their jobs.

Mr. Chairman, I share the comments that have often been repeated by our subcommittee members and other Members that readiness across the board is in bad shape, and we need to do something about it. At the same time, I believe that the readiness provisions represent a step in the right direction. I would hope that as we continue through the passage of this bill and go into conference with the Senate, that we will continue to search for opportunities to increase the resources available for the readiness accounts. I ask my colleagues to support this great bill.

Mr. SPENCE. Mr. Chairman, I yield 6½ minutes to the gentlewoman from Jacksonville, Florida (Mrs. FOWLER), the vice-chair of the Subcommittee on Readiness.

Mrs. FOWLER. Mr. Chairman, I rise today in strong support of H.R. 3616, the National Defense Authorization Act for fiscal year 1999, and I want to especially thank our Chairman, the gentleman from South Carolina (Mr. SPENCE) and ranking member, the gentleman from Missouri (Mr. SKELTON) for their strong commitment to national defense and for the bipartisan manner in which they fashioned this excellent piece of legislation.

In its continuing effort to assess force readiness, this year our committee once again conducted a series of field hearings at various military installations throughout the country to hear from our operational field commanders and senior noncommissioned officers from all the military services. The overwhelming impression left with the committee was of a force working harder, longer, and with fewer personnel than ever before. Funding and forces continue to shrink while demands of the job increase.

For example, the Army has conducted 26 operational events, now these are actions other than routine training and alliance operations, since 1991, compared to only 10 during the preceding 31 years. The Marine Corps has conducted 62 contingency operations since 1997, compared to only 15 such operations since 1982 to 1989. These increases in operational tempo are occurring at the same time that the Army has been reduced from 18 to 10 divisions, the Navy is on a track to eliminate nearly 250 ships, or almost 45 percent of the fleet, and the Air Force has been reduced from 24 to 12 fighter wings.

Among the disturbing problems identified in the committee's hearings and investigations were indications of a growing shortage of spare parts which has led to the increased cannibalization of frontline equipment, combat systems being operated at a pace that requires far more extensive maintenance and repair, and the deterioration of facilities where personnel live and work to levels below acceptable standards.

Mr. Chairman, these are indicators of broader trends throughout the force that are raising doubts about present and future readiness. To address many of these issues, H.R. 3616 includes provisions to increase funding for critical readiness areas, including depot maintenance, replacement spare parts and real property maintenance. Because there are no additional funds to pay for these increases, the committee had to reprioritize several of the nonreadiness related administrative and support accounts.

Now, according to senior Pentagon leaders, readiness is at acceptable levels, or readiness is as good as it has ever been, yet when we go out in the field and talk to individual military members, we hear a very different story. To get at these discrepancies concerning the condition of our armed forces, H.R. 3616 contains provisions that require DOD to expand and improve its readiness reporting system. I believe these and other provisions found in this bill will provide necessary up-to-date readiness information to the senior leadership of the Pentagon and to Congress, and will offer visibility into readiness deficiencies before they can become full-scale breakdowns.

Now, there is one other point I would like to make. The committee has recently heard from the Secretary of Defense and the entire Joint Chiefs of Staff emphasizing the importance of fully funding the Operations and Maintenance budget to ensure readiness. Now, although I emphatically agree that readiness must be kept at the highest possible level, it is important to stress that not all of the operations and maintenance budget is directly tied to military readiness.

Of all the major elements of the defense budget, perhaps the least understood is the O&M account. At $94.8 billion, O&M funding accounts for the largest share of the President's defense budget request for fiscal year 1999, and it is traditionally considered the readiness account. But the O&M account, or more precisely, accounts, includes much more than critical readiness spending. In addition to paying for day-to-day military operations, training, supply and equipment maintenance, O&M funds administrative functions, environmental restoration, cooperative threat reduction efforts, humanitarian assistance, and many other programs. Now, whatever the merits of these other programs, they are related only marginally to the readiness of U.S. forces to fight the Nation's wars. In fact, only about one-half of the total O&M account is directly related to readiness.

After a thorough subcommittee review of the administration's O&M budget request for fiscal year 1999, I am convinced that it is riddled with accountant-inspired gamesmanship designed to inflate the O&M top line and create the appearance of an administration fully committed to funding readiness. H.R. 3616 addresses the under-funding of critical readiness accounts by realigning funds from non-readiness accounts.

Mr. Chairman, frankly, I would prefer to be taking up legislation that would provide more funding for defense than is authorized by this bill. Fiscal year 1999 will represent the fourteenth year in a row in which real defense spending declined, but given the budget constraints under which we have to operate, I believe H.R. 3616 goes as far as it can to ensure that the Defense Department receives the resources necessary to provide for the most important readiness requirements for our military forces.

Mr. Chairman, let me close by thanking the Chairman of the Subcommittee on Readiness, my good friend, the gentleman from Virginia (Mr. BATEMAN) who was recuperating from surgery during markup, but whose good counsel was invaluable to me as I stood in as acting chairman, as well as the ranking member the gentleman from Texas (Mr. ORTIZ), for his outstanding leadership and for his contributions and his good friendship. The Subcommittee on Readiness had to deal with several difficult issues transcending political lines, and our task would have been far more difficult if not for the expertise and assistance of these 2 distinguished Members and the cooperation of all of the subcommittee's Members.

I urge my colleagues to vote "yes" for the bill.

Mr. SKELTON. Mr. Chairman, I yield 6 minutes to the distinguished gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Chairman, a while back I was visiting the honors class at Hattiesburg High School. One of my students asked me that in my capacity as a member of the Committee on National Security, "What are you? Are you the cheerleaders or the critics for America's military?" And my answer to her was, we are both.

The cheerleader in me wants to report that I think we did the very best we could with what we had. The critic in me wants to point out that I do not think this Congress as a whole is appropriating enough to our Nation's defense.

I hear on a daily basis some of my colleagues come to the House floor and say, well, we are pretty close to balancing the budget, so let us give our wealthiest contributors a big tax break. Some of my other colleagues come to the House floor and say, well, we are almost balancing the budget, so let us pass a whole bunch of new social programs. They are both wrong.

The highest priority of this Nation has to be to defend this Nation, the States can do almost everything else, and I am troubled that we are not doing it well enough. I am also troubled that of the 5 people who put together the defense budget, I am sorry, the overall budget for this Nation, the President of the United States, the President of the Senate, the Speaker of the House, the Chairman of the Committee on the Budget in the House, the Chairman of the Committee on the Budget in the Senate, not one of them has spent one second in the uniform of our country. It does not surprise me that they do not think this is important. They never did.

We have to ask ourselves, what is going to be our legacy? President Jefferson has the legacy of sending Lewis and Clark out to chart the American West and the Louisiana Purchase as a result of it. Earlier in this century an America that thought they could do anything anywhere built the Panama Canal.

What is this committee's legacy? I am sorry to say it is treading water. Treading water because we know we have an op tempo problem and yet we could not find the money, the rest of the Congress would not give us the money to properly budget the use of the Guard and Reserve so that we could give some of the standing force a break.

We know we have health care problems, not only for active duty, but for our retirees. We know we could fix that with Medicare subvention for about $2 billion a year, yet the rest of the Congress will not let us do that.

□ 2245

Every single American over the age of 65 now gets health care, but those people who were promised it in return for serving their country for 20 years, they are being turned away at the base hospital for lack of funds. That is not right.

A brilliant plan was put together by our Armed Forces for a mail order pharmacy plan for our retirees, and for lack of funds it will not be put into effect.

There are still 12,000 fine young Americans in uniform who have to get food stamps in order to feed their kids. That is wrong. It costs about $100 million to fix it, yet the rest of the Congress will not give this committee the money to fix it.

Let me make this perfectly clear. I think this committee is bipartisan. The people who care about the military are on this committee. Whether they are Democrats or Republicans, they care. The problem is, what is happening with the other 435? Where are they for the thing that should count the most? Where will they be when someone launches a biological attack on our Nation and we are not ready to respond?

If Members do not think it could happen, they should pick up a book called The Cobra Event. Our Supreme Allied Commander in Europe, General Wesley Clark, made his staff read it because it is so believable.

What is good about the bill? Something that I think is important is we are going to return to separate gender training at the basic level. A kid going to boot camp goes from being a high school senior, where he is on top of the world, to suddenly he cannot do or she cannot do anything right. They are, in my opinion, at their most vulnerable. When they are at their most vulnerable, we do not need them being led by a sexual predator. By separating the sexes, by separating the gender of the people running them through boot camp, we can minimize the opportunity for that to go wrong. We can get our drill instructors back to doing their job and our troops going back to basic training.

We restore the funding for the Youth Challenge Program, a beautiful program by the National Guard that takes at-risk youth between the ages of 16 and 19 years old and gives them a General Equivalency Diploma. They go through a boot-camp-type environment and get themselves drug-free. To date, on a nationwide basis, 96 percent of those kids have gone on to get a job, join the American military, or further their education.

As the Chairman, the gentleman from California (Mr. HUNTER), pointed out, we have done as good as we could on procurement: stepped forward funding for LST8, 3 DDGs and some Navy vessels.

But, again, as he mentioned, there are 900 Huey aircraft that we will not allow to fly because we are afraid that they and the crews in them will fall out of the sky, because the rest of this Congress is not putting forward enough funds to defend our Nation.

Mr. Chairman, we have to ask ourselves, what will be our legacy as Members of Congress? We are only here for so long. We need to do the best we can with what we have.

My challenge to all of us, Democrats and Republicans, is not to fight with each other but spread the message to the rest of the Congress that this has to be our Nation's greatest priority, because nothing else matters if we cannot defend ourselves.

Mr. SPENCE. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. WELDON), chairman of our Subcommittee on Military Research and Development.

Mr. WELDON of Pennsylvania. Mr. Chairman, first of all, let me thank our distinguished committee chairman, who is one of our outstanding leaders in this body on issues involving national security and support for our troops and our veterans, and the ranking member.

The two of them are a dynamic team. They work together. They both come from the same common perspective on the defense for this Nation, and they really set the right tone for the committee. It is because of their leadership that we had a 50 to 1 vote to get our bill out of committee, and most of our subcommittees likewise had very solid votes in reporting out their portions of this bill, so I want to applaud both of them and all the members of our committee who work so well together on the issue of our country's national security.

Mr. Chairman, I rise for this brief period of time to say that, unfortunately, I think we are facing a train wreck unlike any that we have seen, certainly in the 12 years I have been in Congress and I think really in the history of this country, involving national security. The train wreck is being caused by, unfortunately, a number of things coming together all at one time. I think it is going to peak at around the turn of the century.

I want to go through that briefly. The American people have been led to believe that we are spending so much more money on defense today than we have in the past. I use a simple comparison. When John Kennedy was President, it was a time of relative peace. It was after Korea and before Vietnam. We were spending 52 cents of every tax dollar on the military, 9 percent of our GNP. In this year's budget we are spending 16 cents of the Federal tax dollar on the military, about 2.9 percent of our GNP on defense. So, in fact, the relative percentage of total Federal dollars on the military has dwindled dramatically. This is the 14th consecutive year of real cuts in defense spending.

Unfortunately, as that defense number comes down, some other things have happened. First of all, in John Kennedy's era, we had the draft. Young people were taken out of high school, they served the country for 2 years, and they were paid far below the minimum wage. They were not married. They did not have the expenses a married person would have.

That is not the case today. We have an all-volunteer force, well-educated, maybe with college degrees, many married and with children, education costs, housing costs, transportation costs to move these families around the world, so a much larger percentage of that smaller amount of money goes for the quality of life of our troops.

Mr. Chairman, we know we are always going to fund quality of life for our troops. But some other things have occurred since the John Kennedy era. In the last 6 years alone, Mr. Chairman, we have seen our troops deployed 25 times at home and abroad. That is a lot of deployments.

Let us compare the last 6 years to the previous 40 years, where our troops were only deployed 10 times. In these 25 deployments in the last 6 years, while defense spending has gone down dramatically, none of those deployments have been budgeted for. So to pay for all those deployments, Haiti, Somalia, Bosnia, and the domestic deployments here at home, we have had to take money out of the modernization of the next generation of equipment to support our troops. We have had to rob the R&D accounts. In fact, Bosnia alone will have cost us, by the end of this fiscal year, $9.4 billion.

We are facing a crisis, Mr. Chairman. We do not have the money to put into modernization. We do not have the money for R&D. The President says, close more bases. We are not going to get around to base closing because the process was politicized 3 years ago.

All of this happens at a time when, in the year 2000, we are being asked to fund a new aircraft carrier, a new attack submarine, DD–21s. We are being asked to fund three new tactical aviation programs, the F–22, the joint strike fighter, and the F/A–18 E&F, the Commanche for the Army, the V–22 for the Marine Corps. We are being asked to fund national missile defense, theater missile defense systems, none of which are properly budgeted. For the Army after next, digitize the battlefield, and give the Navy the spy war system they need to get on the cutting edge of technology. In addition, we are being asked by the Defense Science Board to put $4 million more into information warfare, and we are being asked to put more money into antiterrorism.

Mr. Chairman, all of those factors add up to disaster. By the turn of the century, if this Congress does not begin to address defense in a realistic way, this country is going to be in for a rude awakening. In fact, some of our generals are already telling us, as we had General Tilelli come in and General Prueher of the U.S. Pacific Command. U.S. Pacific Command reported deficiencies in six of the eight measured areas that they have responsibility for. The Navy's U.S. Pacific fleet has only 73 percent of the young sailors it needs.

There is an almost 10 percent shortage in Navy noncommissioned officers. The Hawaii-based fleet lacks 1,900 sailors who have key technical skills. The Air Force units in the Pacific area, a serious manning shortage, which we can correct in the short term.

We do not have enough spare parts. We have some air wings where one-third of the planes are not flying because we have cannibalized them to keep the other two-thirds flying. This same pattern exists for both the Army and the Marine Corps.

Mr. Chairman, we are doing the best we can this year in an impossible budget situation, but this Congress had better understand that if we do not change direction and begin to put some additional dollars into the defense of this country to modernize and take care of our R&D needs, or if we do not begin to reduce the deployment level, or get our allies to put more money on the table to pay for these deployments, we are going to face I think one of the most politically damaging situations that this country will have ever faced involving national security.

I urge my colleagues to pay attention to this debate tomorrow on this bill.

Mr. SKELTON. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise tonight in support of this bill. I want to thank both the gentleman from South Carolina (Chairman SPENCE) and the ranking member, the gentleman from Missouri (Mr. SKELTON), for their hard work to produce the best budget possible in this time of ever-increasing defense budgets.

Although I believe the committee produced a good bill under the circumstances, I also believe this Nation is not providing enough for national defense. If we continue on the course set out in the balanced budget agreement, the national security of this Nation will be jeopardized. This is the 14th straight year of real declines in the defense budget. The fiscal year 1999 defense budget request represents the lowest real level of U.S. spending since before the Korean War.

Although I do not endorse a $400 billion budget like those of the 1980s, I do believe that this budget and the ones planned for the next 5 years are critically insufficient to maintain a strong military with a decent quality of life for the personnel and high-tech weapons needed to protect our country and defeat any enemy.

Not only is the funding level too low, but the size of our force is insufficient for all of the missions they are being required to accomplish. As an example, Army deployments have increased 300 percent since 1989. The Army is currently funded at 488,000 soldiers. The budget request only provided for 480,000. How can we expect the Army to handle an increase of 300 percent with these continued decreases in the end strength?

At a time when the Army deployments are the highest in history, I believe it is ill-advised to endorse decreasing the end strength of our Army. Our Army is losing outstanding young men and women, both enlisted and officers, because they are away from home far too often. When they are home, they are required to work long hours and not spend quality time with their families. Because of the strain and the pressure, many choose to end marriages or, as an alternative, to save marriages by leaving the service.

Our soldiers should not be forced to make such unacceptable choices. It appears that the United States military operations throughout the world are not decreasing. As such, reducing the end strength of the Army can only exacerbate this problem.

I am one of those many current and former soldiers who believes that the Army should be maintained at a minimum level of 500,000. Of course, this strength level also requires an increase in the Department of Defense budget.

I also want to remind this Congress of our duty to protect our military personnel. Although the Cold War has ended, new and different threats have emerged. It is our duty to ensure that the weapons systems to protect our soldiers in the field are sufficiently funded.

One of the greatest current and future threats is from weapons of mass destruction delivered on short- and medium-range ballistic and cruise missiles. Countries throughout the world are working feverishly to develop or procure the technology to deliver these types of weapons.

We talk about our concerns with North Korea, Iran, Iraq, and Libya, but what about other countries? India's actions last week should serve as a wake-up call that there are other nations to watch and that countries may be closer to obtaining the technology than we are aware of. We must continue to support theater missile defense programs to ensure that we deploy systems to defend against these threats as soon as possible.

I believe that my colleagues should support this bill before us, but I also urge this Congress and the administration to work together and increase the budget for the Department of Defense.

Mr. SKELTON. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Chairman, let me, first of all, thank the gentleman from South Carolina (Chairman SPENCE) for giving the opportunity to me to serve on that committee, and also to the gentleman from Missouri (Mr. IKE SKELTON) for allowing me also to work with him.

Let me just share two concerns that I have with the existing bill, and I think they are very important. One of the first ones is the fact, and I was real disappointed that the Committee on Rules did not allow an opportunity for the language that would have struck out the segregation language that exists in the bill. I think we have a real serious problem in that particular bill if we are going to segregate women. We are going in the wrong direction in that area.

□ 2300

When we talk about separate but equal, it was not equal for blacks, and I can assure my colleagues that it is not going to be equal for women. There is a need for us and I would ask the leadership to ask the Committee on Rules to reconsider that opportunity. If not, then I would ask the leadership and the conference committee that as they go into the conference with the Senate, that they strike out that language because I think it is very detrimental.

When we hear the arguments as it deals with the separate but equal doctrine and what we want to do with women in the military, I think that I hear what I used to recall back in the 1960s, when we talked about co-ed education in our universities and some of the same language, and it is unfortunate that that is the case.

I want to also share with my colleagues an additional concern that I have as it deals with cost. I know we have had a great number of individuals come up here and talk about the need for more resources. We also need to look in terms of the language and what it is in there.

Number one, I want you to look very specifically as it deals with the C-17 language. That particular language, number one, sets a very negative precedent. Number two, it is extremely costly, and number three, when it comes to readiness, puts us in danger. I want to be able to share a little bit with you when it comes to the President.

At this particular time, the language that we have there begins to tell the Department of Defense what should be core and what should not. As you well know, the last time we did the piece of legislation, we indicated that that is the responsibility of the Department of Defense, not the Congress. I think we are setting a very negative precedent.

Secondly, as it deals with cost, one of the estimates is $500 million in terms of the cost just by that particular amendment alone in terms of what it is doing, not to mention that if you begin to move the C-17 work from the private sector where it is right now into the depots, we are going to have a situation that it might be up to $1.5- to $2 billion in cost. So I would ask you seriously to look at that language and be able to take that into consideration when you make those decisions.

Thirdly, I think we are all concerned about readiness so that if, as we move, and if you look at that language on the C-17, when it comes to the readiness issue, it really sets a situation in which the depots are not ready to deal with that. They have not been working with that. As Members well know, one of the engines is a commercial engine on the commercial flights, and moving them towards that would be extremely costly and, in terms of readiness, is going to cause a situation where it might take a year and a half to 2 to 3 years before we would even be capable, not to mention the cost of $ 1.5- to $2 billion, so that as we talk about cost and our concerns regarding readiness and regarding other options, we also need to look at the existing language that is extremely detrimental.

I would ask that you consider those options as we move forward as it deals with the language on the C-17 and again on the previous item that I had talked to you on the segregation of the armed forces and not allowing the women to have equal opportunity. If we expect them to be able to participate, they should be able to practice.

Mr. Chairman, I rise today to express concern with a provision in the Defense Authorization bill regarding the maintenance of the C–17 cargo aircraft. The provision added in committee will significantly increase the costs of maintaining the C–17 by potentially billions of dollars. This increased cost will likely reduce the procurement of future C–17 aircraft, decrease Air Force readiness and airlift capability, and force the Air Force to hire more acquisition personnel. The C–17 is essential for our nation's sustained global power projection and the future backbone of our expeditionary force.

Specifically, the bill preempts the Secretary of Defense's authority to determine what systems of the C–17 must be maintained in-house, abrogating the depot provisions adopted in last years defense bill. The C–17 provision structures weapons systems support without regard to Air Force readiness requirements, hobbles partnerships and competition essential for maximizing limited budgets, and delays defense acquisition reforms.

For years Congress called on the Department of Defense to implement acquisition reform. The C–17 program is a prime example of the Department's acquisition reform advances in significantly reducing the life cycle costs of new aircraft. However, this bill's restrictive C–17 provision will reverse those advances. In addition, last years authorization bill attempted to reduce the Department of Defense's acquisition workforce, or "professional shoppers," by 25,000. However, this bill would require the Air Force to hire hundreds more of professional shoppers rather than streamlining the bureaucracy.

Other fiscally irresponsible aspects of the C–17 provision discourage public-private partnerships that would save taxpayers millions of dollars while maintaining a high mission-capable rate for the C–17. The bill forces the Air Force to waste more than $500 million to create in-house maintenance capabilities before an intelligent decision can be made on this new weapon system. In addition, the engine on the C–17 is a commercial engine developed for the Boeing 757. To create an in-house capability for the engine, which the authorization would, would cost the Air Force between $1 billion and $2 billion for the purchase of propriety data alone.

In today's constrained defense budget, we cannot expect the Department of Defense to come up with billions of additional dollars to maintain the C–17 in an antiquated manner that doesn't capitalize on the strengths of both the public and private sector and advances in manufacturing. The C–17 was efficiently designed to be maintained on the flight line to reduce maintenance costs. The billions of dollars the C–17 provision would likely decrease procurement of future C–17 aircraft. This is totally unacceptable.

In closing, Congress should not preempt the warfighter on the decision of maintenance of the C–17, the C–17 provision will force the Air Force to spend billions on the tail instead of the essential tooth, and the measure will have a detrimental impact on readiness.

Mr. SPENCE. Mr. Chairman, I yield back the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

I would like to add a word or two. Out of this early general debate this evening, it does appear that there is a bipartisan consensus in favor of doing better for our national security. It is a matter of resources. It is a matter of spending. In this good bill, we have, as has been said, we have done well with what we had, but I think there is that growing understanding that we need to place national security at the top of the list, and I hope that this debate has brought the attention to the other Members of this body as well as to those others who are interested.

I have a couple of other messages, Mr. Chairman. One is to the, if they were here in front of me, parents of the young men and young women in uniform. I would tell them that they should be so very, very proud of what their family members are doing. They are professionals. They are dedicated. Their operational tempo at times is horrendous, and yet they are doing what their Nation is calling upon them to do without complaining as committed young Americans. So I would tell them, Mr. Chairman, that I and all of us on this committee thank them for their efforts.

Mr. Chairman, if the young people in uniform were sitting here watching us this evening, I would have a message for them as well. My message to them would be to stay the course. If they are in the Navy, steady as you go, because they are so very, very important to the future of our country, to the national security of our country, to where we are as the world leader bringing stability to the various corners of this globe. I would tell them not to get discouraged. I would tell them that sooner or later they will write some brilliant pages in the history books of this country. Those would be my two messages, Mr. Chairman. I am proud of the young folks in uniform. I hope they stay the course, not to get discouraged but to know how so very, very important they are.

I again thank the members of this committee, the gentleman from South Carolina (Mr. SPENCE), the Chairman. This has been an absolute thrill for me to be the ranking member on this committee, and I appreciate the courtesies that he has extended to me personally and that the entire committee has extended to those of us on this side of the aisle.

Mr. Chairman, I yield back the balance of my time.

Ms. HARMAN. Mr. Chairman, I rise in support of this bill. The Committee has worked hard to develop a good, bipartisan bill, and I commend our chairman and ranking member for their leadership.

The Cold War is long gone, Mr. Chairman, but the world is still a dangerous place. Look at the nuclear tests last week in India. Look at the advanced ballistic missiles under development in Iran. Dangers can emerge anywhere, and with little warning. I think this bill reflects a determination to maintain our position of strength within that uncertain world.

No bill is perfect, and this bill is no exception. Consider the fact that our military is finding it increasingly difficult to get permission to use forward bases. This calls for an increased emphasis on power projection.

To me, that means the B–2 Bomber, which can strike any target in the world from Whitman Air Force Base, Missouri, within 24 hours. It also means the Super Hornet, which offers a leap ahead in naval aviation attack capabilities over the aging planes on carrier decks today. But the B–2 production line has been allowed to close, and three Super Hornet aircraft were cut from the request this year.

I think we could have done more to increase the efficiency of the Defense Department—to squeeze savings out of the bureaucracy that we could use for more modern weapons systems. I know that this body takes defense reform seriously, though, and will continue to pursue it, if not in this bill.

I am particularly troubled by a couple of signals this bill sends to women.

First, it perpetuates the policy of barring women serving overseas from using their own funds to obtain legal abortion services in military hospitals. Women who volunteer to serve in our Armed Forces already give up many freedoms and risk their lives to defend our country. They should not have to sacrifice their privacy, their health, and their basic constitutional rights to a policy with no valid military purposes.

Second, the bill prejudges its own congressionally-created commission studying basic training and instead forces the services to segregate men and women.

Such a requirement is premature, may affect unit cohesion and readiness, and will not address the serious problems of sexual misconduct and harassment confronting the services.

The segregated training provision is opposed by the Army, Navy and Air Force. All believe that the best way to train soldiers, sailors and airmen is to "train the way we fight." That means in integrated units.

As Navy Vice Chief of Staff Admiral Pilling testified before the Personnel Subcommittee, if men and women do not learn how to live and work together during basic training, are the confined quarters aboard ship the next-best place? I think not.

The provision is also opposed by the top enlisted men of all four services, including the sergeant major of the Marine Corps, Lewis G. Lee.

And implementing the segregated living requirements required with the bill is expensive—$159 million for the Army alone. It is deeply troubling that, at a time of increasingly scarce resources, the Committee has opted for this expensive and unnecessary course of action.

Lastly, Mr. Chairman, in my view, the long term consequences of this provision will be to roll back opportunities for women in the military. It will reduce training resources for female recruits. And it will not reduce the incidents of sexual harassment and misconduct.

Nearly 50 years ago, the Supreme Court told us that "separate but equal" is inherently unequal. Mr. Chairman, I regret the Committee has failed to recognize this admonition.

Ms. GRANGER. Mr Chairman, I rise today in strong support of the 1999 National Defense Authorization Act. I particularly want to thank Chairman SPENCE, Procurement Subcommittee Chairman HUNTER, and Research and Development Subcommittee Chairman WELDON for their very hard work to produce a bill that meets the needs of our armed services at a time when overall defense spending is in its fourteenth year of real decline.

H.R. 3616 conforms to the defense spending limits established in the Balanced Budget Act of 1997. However, I share Chairman SPENCE's and the defense community's concerns that these funding levels are inadequate to meet the increasing number of threats to our national security.

If you question the need to strengthen America's defenses, just take a look around the world:

Unstable and unfriendly nations around the world are developing medium and long range missile capabilities that directly threaten U.S. forces deployed abroad, and may pose a threat to the continental U.S. in the near future.

India and Pakistan are engaged in a nuclear arms race that could destabilize all of South Asia.

U.S. forces are still in Bosnia, with no end to that operation in sight.

And, Saddam Hussein is continuing to ignore the terms and conditions that Iraq agreed to at the end of the Persian Gulf War.

Moreover, serious personnel problems are emerging throughout the services. Readiness has been sacrificed as the size of our military has been reduced. Morale and retention are low as quality of life issues are ignored or postponed in order to pay for ongoing operations.

Our military is nothing without our brave service men and women, and they need to know they have this Congress' strong support.

Strong support also means the best weapons available. This is why it is so important that the committee included funding for two F–16s, eight V–22s, two F–22s, and continued R&D for the multi-service, multi-role joint strike fighter.

Many members may not realize that procurement of new weapons systems has declined by 70 percent over the last decade. These are the very weapons that were crucial to winning the Persian Gulf War. This is why it is essential to maintain the F–16, which is the workhorse of the Air Force's fighter fleet, and to proceed with procurement of innovative new planes like the V–22 and the F–22.

In closing, Mr. Chairman, I strongly support passage of H.R. 3616, and I want to thank Chairman SPENCE, and the other subcommittee chairman, once again, for all of their hard work on this legislation.

But, I also want to warn my colleagues that our national security cannot be taken for granted. Current defense levels cannot be sustained at the funding levels contained in the budget, and we cannot wait for a crisis situation to revisit this issue.

I am looking forward to working with Chairman SPENCE, and other concerned members, to improve the condition of our armed forces and to ensure that our military remains the best fighting force in the world.

The CHAIRMAN pro tempore (Mr. PEASE). All time for general debate has expired.

Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MORAN of Kansas) having assumed the chair, Mr. PEASE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes, had come to no resolution thereon.

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 3616, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (H. Rept. No. 105–544) on the resolution (H. Res. 441) providing for further consideration of the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE ALL-AMERICAN RESOLUTION

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, today I rise to introduce the All-American Resolution expressing the sense of Congress that any missile defense system deployed to protect the U.S. from missile attacks would include protection for Alaska, Hawaii and territories.

As we can see on this diagram right now, Alaska comes into direct threat by India, China, et cetera, and now the administration sought to avoid protecting Alaska, avoid protecting Hawaii, and I think it is reprehensible to have that occur.

It is time for us to recognize that Alaska and Hawaii are part of the United States and ought to be protected. In fact, we ought to set up our own missile system in Alaska so that we can counterattack in this uncertain time. I urge the passage of this legislation.

Today I rise to introduce "The All-American Resolution" expressing the sense of the Congress that any missile defense system deployed to protect the U.S. from missile attack should include protection for Alaska, Hawaii, territories and commonwealths of the United States.

The U.S. Constitution provides that it is an essential responsibility of the federal government to protect all United States citizens against foreign attack. However, the Administration's development plan is based on a policy of observing the restrictions of the 1972 Anti-Ballistic Missile (ABM) Treaty, which prohibits the deployment of a missile defense system capable of defending all U.S. territory. As such, the plan excludes Alaska, Hawaii, and territories. While this legislation does not attempt to abrogate or amend the ABM Treaty, it does express the sense of Congress that space, sea, or land-based systems are required to include them and the commonwealths, when a system is deployed in the future.

A year ago the Alaska State Legislature passed a resolution expressing the view of the people of Alaska that they, along with other Americans, should be defended against a missile attack. Why are Alaskans concerned about their vulnerability to missile attack? In 1995, the Administration adopted a national intelligence estimate (NIE) asserting that the U.S. did not face a threat of missile attack for at least 15 years. To arrive at this conclusion, the Administration excluded from the National Intelligence Estimate (NIE) an assessment of the threat of missile attack to Alaska and Hawaii. Excluding Alaska and Hawaii from the NIE served to bypass an earlier assessment by then-Deputy Secretary of Defense John Deutch that territories in these two states could be subject to attack by a North Korean missile, the Taepo Dong 2, by the end of this decade. In fact, the Secretary of Defense issued a report titled Proliferation: Threat and Response (November 1997) which exemplifies the possible threat to Alaska from both North Korea and China.

I believe it is reprehensible to prepare the NIE while leaving some Americans undefended in its pursuit of the most minimal missile defense capability possible. My resolution also provides that Alaska and Hawaii, territories and commonwealths must be included in any NIE prepared by the Administration.

While Alaska and Hawaii were the only two states excluded from consideration under the NIE, most states and territories will be vulnerable as well. The Administration's missile defense plan calls for the development of a system in which a deployment decision may be made in 2000 and deployment completed by 2003. This could leave the vast majority of U.S. territory vulnerable to missile strikes. The Administration's policy views the ABM Treaty as "the cornerstone of strategic stability."

I will give a quick history of the ABM Treaty. Article I of the ABM Treaty barred the deployment of a national missile defense system capable of defending all the nations' territory. In fact, Article III of the Treaty, as amended by a 1974 Protocol, permitted the deployment of a single missile defense site that is capable of protecting only the region in which it is deployed. The U.S. designated Grand Forks, North Dakota as this site, although the system located there is mothballed. Taking the Grand Forks system out of mothballs and upgrading its capabilities may allow it to provide protection to all of America. Whether you agree with the ABM Treaty, or not, I believe we would all agree on the necessity to defend all of America, including Alaska, Hawaii, the territories and commonwealths from the threat of ballistic missile attacks.

I call on all my colleagues who wish to see their constituents protected, to look seriously at the resolution introduced today. My friends, this act will improve the interests of all Americans, now and into the future.

□ 2310

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PEASE). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

OPEN MARKETS, REMOVE SANCTIONS AND AGGRESSIVELY PROMOTE AGRICULTURAL EXPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, I rise today to address a serious problem facing the First District of Kansas and, indeed, all of rural America.

Over the past 2 years, prices for wheat and other major agricultural commodities have been in a free-fall. Cash wheat today in Dodge City, Kansas, closed at $2.86 per bushel. That is almost $2 less per bushel than just 1 year ago and other commodities have experienced similar price declines.

Soon the combines will start their annual trek north from the Great Plains of Texas to Canada. If current harvest projections hold true, a large U.S. wheat crop will put further downward pressure on already depressed prices.

While there is no silver bullet, there are several important steps the President and Congress can take to improve the economic outlook for this Nation's farmers and ranchers. According to USDA, exports are predicted to be down at least $4 billion this year. This is a clear signal that Congress and the President must be aggressive in opening markets and promoting agricultural exports.

We should start by using the tools we already have at our disposal. Since coming to Congress about a year and a half ago, I have communicated regularly with Agriculture Secretary Dan Glickman on the importance of using the Export Enhancement Program for wheat and flour. While wheat flour and wheat exports have been seriously injured by European trade barriers and sizable foreign subsidies, under USDA's current plan wheat and flour will receive no assistance from EEP.

I know Secretary Glickman cares deeply about the problems faced by Kansas wheat farmers, but I am concerned that he receives insufficient support from the Clinton administration in implementing policy changes that could assist agricultural producers. Recently Secretary Glickman announced the use of EEP to combat specific injurious trade barriers. While I support this action, I remain concerned that when the Europeans spent $7.7 billion on export subsidies, the United States only spent $56 million.

This is an example of what we face. The European Community is spending almost $47 billion annually in 1997 in assistance and subsidies to agriculture. Of that, about $7.7 billion is in assistance and subsidies toward exports, while in the United States we spend only $5.3 billion annually, almost an 8-time difference we face as a disadvantage. And this line we cannot even see, this blue line, is what we spend in assisting agricultural exports in this

United States for American agricultural producers.

We may not be waving the white flag in defeat, but we are certainly far from putting up the necessary fight on behalf of the American farmer. This is not to say that all efforts have been in vain. This past year Secretary Glickman has been successful in increasing the GSM 102, export credit guarantee program, from $3 billion last year to almost $6 billion this year. This support has been beneficial but much more needs to be done.

Market access for agricultural products must also be improved. Our farmers continue to suffer the consequences of foreign policy decisions that shut them out of markets around the world. It is time for these markets to be opened.

Wheat imports to North Korea, Cuba, Iran and Iraq have all doubled since 1995 and now account for over 10 million tons of wheat. These growing markets are off-limits to U.S. producers but not to Canadians and not to Australian farmers. Our sanctions now wall off 11 percent of the world wheat market, a segment larger than the lost sales of the Soviet grain embargo several years ago. In today's global economy, unilateral sanctions by the U.S. unfairly penalize our producers, reward our competitors, and have little impact on changing behavior in the target country. The American farmer is tired of paying the price for failed U.S. foreign policy.

Mr. Speaker, the last farm bill asked American farmers to take agriculture in a more market-oriented direction. But in order to have true market orientation, we need markets. The only way to improve prices on a long-term basis is to pursue aggressive, even-handed trade initiatives. The decisions made here in Washington, D.C. have real world implications for agricultural producers. Now is the time to open markets, remove sanctions and aggressively promote agricultural exports to give our farmers a fighting chance. Mr. Speaker, it is time to trade.

THE INDONESIA CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

BACKGROUND

Mr. PAUL. Mr. Speaker, the Soviet system, along with the Berlin Wall, came crashing down in 1989, the same year the new, never-to-end, era came to a screeching halt in Japan. The Japanese economic miracle of the 1970's and the 1980's, with its "guaranteed" safeguards, turned out to be a lot more vulnerable than any investor wanted to believe. Today the Nikkei stock average is still down 60% from 1989, and the Japanese banking system remains vulnerable to its debt burden, a weakening domestic economy and a growing Southeast Asian crisis spreading like a wild fire. That which started in 1989 in Japan—and possibly was hinted at even in the 1987 stock market "crash"—is now sweeping the Asian markets. The possibility of what is happening in Asia spreading next to Europe and then to America should not be summarily dismissed.

ECONOMIC FALLACY

Belief that an artificial boom, brought about by Central Bank credit creation, can last forever is equivalent to finding the philosopher's stone. Wealth cannot be created out of thin air, and new money and credit, although it can on the short-term give an illusion of wealth creation, is destructive of wealth on the long run. This is what we are witnessing in Indonesia—the long run—and it's a much more destructive scenario than the currently collapsing financial system in Japan. All monetary inflation, something all countries of the world are now participating in, must by their very nature lead to an economic slump.

The crisis in Indonesia is the predictable consequence of decades of monetary inflation. Timing, severity, and duration of the correction, is unpredictable. These depend on political perceptions, realities, subsequent economic policies, and the citizen's subjective reaction to the ongoing events. The issue of trust in the future and concerns for personal liberties greatly influences the outcome. Even a false trust, or an ill-founded sense of security from an authoritarian leader, can alter the immediate consequences of the economic corrections, but it cannot prevent the inevitable contraction of wealth as is occurring slowly in the more peaceful Japan and rapidly and violently in Indonesia.

The illusion of prosperity created by inflation, and artificially high currency values, encourage over-expansion, excessive borrowing and delusions that prosperity will last forever. This attitude was certainly present in Indonesia prior to the onset of the economic crisis in mid 1997. Even military spending by the Indonesian government was enjoying hefty increases during the 1990's. All that has quickly ended as the country now struggles for survival.

But what we cannot lose sight of is that the Indonesia economic bubble was caused by a flawed monetary policy which led to all the other problems. Monetary inflation is the mother of all crony "capitalism."

CHARACTERISTICS OF THE CORRECTION

One important characteristic of an economic correction, after a period of inflation (credit expansion) is its unpredictable nature because subjective reactions of all individuals concerned influence both political and economic events. Therefore, it's virtually impossible to predict when and how the bubble will burst. It's duration likewise is not scientifically ascertainable.

A correction can be either deflationary or inflationary or have characteristics of both. Today, in Indonesia, the financial instruments and real estate are deflating in price, while consumer prices are escalating at the most rapid rate in 30 years due to the depreciation of the rupiah. Indonesia is in the early stages of an inflationary depression—a not unheard of result of sustained Central Bank inflationary policy. Many believe price inflation only occurs with rapid growth. This is not so.

Blame is misplaced. Rarely is the Central Bank and paper money blamed—unless a currency value goes to zero. In Indonesia the most vulnerable scapegoat has been the Chinese businessmen, now in threat of their lives and fleeing the country.

A much more justifiable "scapegoat" is the IMF and the American influence on the stringent reforms demanded in order to receive the $43 billion IMF bailout. IMF policy only aggravates and prolongs the agony while helping the special interest rich at the expense of the poor. The IMF involvement should not be a distraction from the fundamental cause of the financial problem, monetary inflation, even if it did allow three decades of sustained growth.

"Crony capitalism" was not the cause of Indonesia's trouble. Inflationism and political corruption allows crony capitalism to exist. It would be better to call it economic interventionism for the benefit of special interests—a mild form of fascism—than to abuse the free market term of capitalism.

Any serious economic crisis eventually generates political turmoil, especially if political dissent has been held in check by force for any significant period of time. There should be no surprise to see the blood in the streets of Jakarta—soon to spread and build. Political events serve to aggravate and magnify the logical but subjectively sensitive declining currency values and the faltering economy. The snowballing effect makes the political crisis much more serious than the economic crisis since it distracts from the sound reforms that could restore economic growth. These circumstances, instead of leading to more freedom, invite marshal law for the purpose of restoring stability and the dangers that go with it.

Errors in economic thinking prompt demands from the masses for more government programs to "take care" of the rapidly growing number of poor. Demands for more socialism and price controls results whether it's in education, medical care, unemployment benefits or whatever—all programs that Indonesia cannot afford even if they tried to appease the rioting populous.

SOLUTIONS ATTEMPTED

The IMF's $43 billion bailout promise has done nothing to quell the panic in the streets of Jakarta. If anything, conditions have worsened; the Indonesians deeply resent the austere conditions demanded by the IMF. Since the U.S. is the biggest contributor to the IMF and the world financial and military cop, resentment toward the United States is equal to that of the IMF. The Indonesian people know they won't be helped by the bailout. They already see their jobs disappearing and prices soaring. The political and economic future, just a few months ago looking rosy, is now bleak beyond all description. Indonesians know what the American taxpayers know; the IMF bailout helps the rich lenders who for decades made millions but now want their losses covered by weak victims. Is there any wonder resentment and rage prevails in Indonesia?

The U.S. has just sent a military delegation to study and obviously advise the Indonesian government regarding the law and order crisis now in process. Our officials say that we're there to watch that the Indonesian military do not abuse the rights of Indonesian citizens.

Even if true, and well motivated, where did this authority come from for us to run to the scene of the crime—on the other side of the world and pretend we have all the answers. Proper authority or not put aside, the Indonesian people perceive even a few U.S. military advisors as a further threat to them. The U.S. is seen as an extension of the IMF and is expected to more likely side with the Indonesian military than with the demonstrators. No government likes to see any dissolution of government power, even the questionable ones. It might encourage others unhappy with their own government. And it is not like the U.S. government is innocent and benign, considering our recent history at Kent State, Waco, and Ruby Ridge and the hundreds of no-knock entries made in error, causing loss of life, multiple injuries and destruction of property. Let us make sure our own government acts responsibly in all matters of law and order here at home before we pretend we can save the world—a responsibility not achievable even if motivated with the best of intentions.

Effort to prop up an ailing economy after the financial bubble has been popped, prolongs the agony and increases the severity of the correction. Japan's bubble burst in 1989 and there is not yet any sign of the cleansing of the system of bad debt and mal-investment which is necessary before sound growth will resume. And Indonesia is embarking on the same predictable course. Restoration of free markets, and establishing sound monetary policy has not yet been considered. The people of Indonesia and the rest of the world should prepare for the worst as this crisis spreads. For Congress, the most important thing is to forget the notion that further taxing American workers to finance a bail-out, that won't work, is the worst policy of all for us to pursue.

The Indonesian government had one idea worth considering under these very difficult circumstances. They wanted to replace their central bank with a currency board. It's not the gold standard, but it would have been a wise choice under current conditions. But the United States and the IMF insisted that in order to qualify for IMF funding this idea had to be rejected outright and the new central bank for Indonesia had to be patterned after the Federal Reserve with, I'm sure, ties to it for directions from Greenspan and company. A currency board would allow a close linkage of the rupiah to the dollar, its value controlled by market forces, and would have prevented domestic Indonesia monetary inflation—the principal cause of the economic bubble now collapsed. The shortcoming of a currency board is that the Indonesian currency and economy would be dependent on dollar stability which is far from guaranteed.

REFUSAL

In the approximately 8 months since the crisis hit Indonesia there has been no serious look at the underlying cause—monetary inflation brought about by a central bank. Nor has any serious thought gone into the internationalization of credit as United States exports of billions of dollars, and thus our own inflation, to most nations of the world who hold these dollars in reserve and use them to further inflate their own currencies. Our huge negative trade balance and foreign debt is not considered by conventional wisdom to be relevant to the Asian currency problems, yet undoubtedly it is. True reform to deal with the growing worldwide crisis can only be accomplished by us first recognizing the underlying economic errors that caused the current crisis.

The philosophy of the free market holds a lot of answers, yet the difference between free market capitalism and interventionist political cronyism has not been considered by any of the world banking and political leaders currently addressing the exploding Southeast Asian crisis.

Concern for personal liberty is not a subject associated with the crisis and is an ongoing casualty of past and current policy. A greater concern for individual liberty will be required if a positive outcome is to be expected from the fall-out of the Indonesian crisis. Let's hope we can get our priorities straight. Congress has an obligation not to worsen the crisis by capitulating to more bail-outs and to remain vigilant enough to keep the administration from accomplishing the same bail-out through Executive Orders outside the law.

MESSAGE

What should the message be to the Congress and the American people regarding this sudden and major change in the economic climate in Indonesia? First and foremost is that since we operate with a fiat currency, as do all the countries of the world, we are not immune from a sudden and serious economic adjustment—at any time. Dollar strength and our ability to spend dollars overseas, without penalty, will not last forever. Confidence in the U.S. economy, and the dollar will one day be challenged. The severity of the repercussion is not predictable but it could be enormous. Our obligation, as Members of Congress, is to protect the value of the dollar, not to deliberately destroy it, in an attempt to prop up investors, foreign governments or foreign currencies. That policy will only lead to a greater crisis for all Americans.

As the Asian crisis spreads, I would expect Europe to feel the crunch next. Unemployment is already at a 12% level in Germany and France. The events can be made worse and accelerated by outside events like a Middle Eastern crisis or a war between India and Pakistan both now rattling their nuclear weapons. Eventually though, our system of "crony capitalism" and fiat money system will come under attack. Our system of favoring industries is different than the family oriented favoritism of Suharto, but none-the-less is built on a system of corporate welfare that prompts constant lobbying of Congress and the Administration for each corporation's special interests. We have little to talk about as we preach austerity, balanced budgets and sound money to the current victims. Our day will come when we will humble ourselves before world opinion as our house of cards comes crashing down.

We will all know we are on the right track when the people and our leaders are talking of restoring liberty to all equally, and establishing a sound money system that prevents the Fed from manufacturing money and credit out of thin air for the benefit of politicians, corporations and bankers who directly benefit.

PREVENTING TEEN PREGNANCY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, first of all, I am pleased to have the time to speak here today about the importance of preventing teen pregnancy, and I think it is crucially important that we recognize this month as Teen Pregnancy Prevention Month.

As a member of the Women's Congressional Caucus and the Chair of the Children's Congressional Caucus, I have been a strong advocate of teen pregnancy prevention.

I recently offered an amendment to H.R. 2264, a labor and appropriations bill which was to increase funding by $2 million for teen pregnancy programs sponsored by the CDC.

The consequences of teenage pregnancy and child-bearing are serious and contribute to many of the nation's enduring social problems.

Becoming pregnant and having a baby early in life makes it difficult to create an emotionally and financially sound environment for children.

Yet every year, approximately one million teenagers in this country become pregnant and 90 percent of those pregnancies are unintended.

Teenage girls have a higher risk of pregnancy complications, including maternal mortality and morbidity, miscarriages, still births, premature births and nutritional deficiencies than adult women.

Fewer than 60% of these teen mothers graduate from high school by age 25, and in addition to a lower educational status, early childbearing has an impact on the economic status of teens by affecting employment opportunities, marital options, and family structure.

Teen mothers are four times as likely as women who have their first child after adolescence to be poor in their 20's and early thirties, and are likely to have lower family incomes later in life.

In my home state of Texas, the birth rate for teenagers 15–18 years of age is 78.9%.

Although this is a decrease by 3.9% since 1991, far too many of our communities' children across the United States are having children of their own.

Teenage pregnancy and childbearing come hand in hand with a level of risk for all involved.

We all carry the potential burden when children themselves have children, personally, societally and economically.

Our country spends more than $20 billion each year assisting teen parents and their children.

Only through education and programs such as campaigns such as The National Campaign to Prevent Pregnancy, and a similar program through the Texas Southern University in Houston, Texas that focuses on the prevention of pregnancy in pre-adolescents and adolescents.

Our children and our adolescents carry the future of tomorrow. We must do everything we can to help our children prolong childbearing and parenting until they can truly be responsible adults and parents.

JASON HU—A MODERN DIPLOMAT WITH VISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLOMON) is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, in the April 10 edition of the Central Daily News, published in Taipei, there was an excellent article about Taiwan's Foreign Minister Jason Hu. Jason was the former Taiwan representative in Washington, D.C. and a friend to many of us on the Hill.

I would like to ask the permission to print the article, in an English translation by Professor N. Mao, for the reference of my colleagues and friends.

JASON HU—A MODERN DIPLOMAT WITH VISION

Will Jason Hu be the ruling Kuomintang candidate to run for Mayor of the city of Taipei?

This topic stirred up considerable speculation in the offices of the Taipei Economic Cultural Representative Office in Washington, D.C. Most of Jason Hu's former assistants professed high confidence in Jason Hu's waging a successful campaign for the job, but they would prefer to see Jason stay on as the Republic of China's Foreign Minister.

One close aide of Jason's commented that the Republic of China's diplomatic work needs someone like Jason, a non-career but highly innovative diplomat with fresh ideas and vision. Nearly all of Jason's former aides expressed the view that they would not want to see Jason leave his current post as Foreign Minister.

BREAKTHROUGH IN TAIPEI-U.S. RELATIONS

Will Jason Hu run for the office of the Mayor of Taipei? Someone who knows Jason well commented that Jason would not have any intention of running for the office, but if Jason were asked by the Kuomintang, Jason will run. Why? Jason is very loyal to the party.

If the Kuomintang can't find any other candidate to run for the office and if the Kuomintang leaders keep asking Jason to run, Jason will run.

Jason is not a career diplomat. During his tenure as Taipei's highest ranking diplomat in Washington, D.C., Jason shed outdated conventions and emerged a winner in gaining new friends for his country during a period of diplomatic low tide between Washington and Taipei.

In June 1996, Jason assumed the post as Taipei's representative in Washington, D.C. Immediately after arrival in Washington, he was an enthusiastic participant in activities sponsored by other diplomats, the U.S. Congress, think-tanks, international organizations, U.S. Government officials and any other persons or groups, whether or not their countries recognize Taipei.

He would meet with anyone if he thought that person would enhance Taipei's diplomatic interests. Jason is a man full of self-confidence, wit, humor, sincerity and considerable personal charm. During his short tenure in Washington, he was a highly visible diplomat and even earned the admiration of diplomats in the U.S. State Department for his professionalism. In fact, during Jason's fifteen months in Washington, he won the confidence of the United States Government, acceptance of the diplomatic corps, respect of the overseas Chinese in the United States and loyalty of his colleagues. He was also popular with the press.

It has been less than 8 years since Jason Hu entered government office.

When he first served as the government's spokesman, he impressed everyone with his leadership abilities. But what distinguished him the most was his service as Taipei's top diplomat in Washington. Before he came to Washington, Taipei maintained low-level contacts with the U.S. Government. But with Jason's efforts, within half a year after Jason's arrival in Washington, the level of contacts between Taipei and Washington was significantly upgraded. Moreover, being a non-career diplomat, Jason was an innovative diplomat with new ideas.

His activities in Washington extended far beyond traditional diplomatic circles; he had direct contacts with many international organizations stationed in Washington.

PERSISTENT JASON HU

A man full of self-confidence Jason is gifted with the ability to foster a favorable environment for talks with friends and strangers. For protocol reasons, he could not be formally addressed as "Ambassador Hu" in Washington but could be properly addressed as "Doctor Hu" of Oxford University.

No one could ignore his impressive Oxonian credentials. In 1995 Jason held a face-to-face dialogue with Dr. Kissinger and he equaled Kissinger in terms of knowledge and sharp analytical ability. Jason is a confident man but definitely not an arrogant man.

In fact, Jason can make any adversary happy to be in his company.

After a few witty introductory remarks, Jason will make his listener eager for more conversation. When the "chemistry" is right, Jason tries his best to persuade his adversary of his viewpoints. Even though differences of opinion may persist Jason never allows his adversary to feel confrontational.

Even though Jason Hu has left Washington for more than six months, friends still talk about his innovative personal style in approaching friends and foe.

Another characteristic of Jason's is his persistence. In April 1997, during Speaker Gingrich's Asian tour the Speaker and his delegation made a whirlwind 4-hour stop in Taipei.

At first, everyone, including Gingrich himself, believed that it was not possible to add Taipei to the Speaker's Asian itinerary, but Jason Hu persisted in asking the Speaker to reconsider his itinerary. Finally, he convinced the Speaker of the uttermost importance for the delegation to stop in Taipei. Gingrich relented and squeezed in four precious hours in Taipei.

At about the same time, in a number of articles the New York Times mentioned the "Taiwan factor," implying Taiwan was a troublemaker in U.S. relations with China. Jason Hu repeatedly communicated with the editors of the New York Times, trying to convince them of Taipei's perspectives. As a result of Jason's efforts, the New York Times has not again mentioned the "Taiwan factor."

JASON HU—A MAN OF POTENTIAL

After the 1996 U.S. elections, Jason Hu visited former Senator Robert Dole, former National Security Advisor Tony Lake and former Secretary of Defense William Perry, briefing them of the developments in Taiwan.

It appears that Messrs Dole, Lake and Perry all have now developed a good understanding of the issues affecting Taiwan. Jason Hu deserves credit for making these opinion-makers aware of Taiwan's developments.

Will Jason Hu run for the Taipei mayoral seat? The answer will come in May of this year. Considering Jason Hu's electability and potential, he will be a winning card for the Kuomintang.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CRANE (at the request of Mr. ARMEY) for today on account of illness.

Mr. BATEMAN (at the request of Mr. ARMEY) for today and the balance of the week on account of medical reasons.

Mr. MEEKS of New York (at the request of Mr. GEPHARDT) for today and the balance of the week on account of family matters.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today and the balance of the week on account of official business.

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today on account of family business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. REYES) to revise and extend their remarks and include extraneous material:)

Mr. EDWARDS, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mrs. CAPPS, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

Ms. CHRISTIAN-GREEN, for 5 minutes, today.

(The following Members (at the request of Mr. MORAN of Kansas) to revise and extend their remarks and include extraneous material:)

Mr. KINGSTON, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. HUTCHINSON, for 5 minutes each day, today and on May 20, 21 and 22.

Mr. PAUL, for 5 minutes, today.

Mr. MCINNIS, for 5 minutes each day, today and on May 20.

Mr. METCALF, for 5 minutes, today.

Mr. FRANKS of New Jersey, for 5 minutes each day, today and on May 20, 21 and 22.

Mr. EHRLICH, for 5 minutes, on June 2.

Mr. RIGGS, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes each day, today and on May 20.

Mr. SOLOMON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. REYES) and to include extraneous matter:)

Ms. ESHOO.
Mr. KIND.
Mr. KENNEDY of Rhode Island.
Mr. HALL of Ohio.
Mr. BONIOR.
Mr. SHERMAN.
Mr. VISCLOSKY.
Mr. KILDEE.
Mr. EDWARDS.
Mr. SKELTON.
Mr. THOMPSON.
Mrs. MALONEY of New York.
Ms. PELOSI.
Mr. SCHUMER.
Mrs. CAPPS.
Ms. SÁNCHEZ.
Mr. STARK.
Ms. HARMAN.
Mr. RUSH.

(The following Members (at the request of Mr. MORAN of Kansas) and to include extraneous matter:)

Mr. RADANOVICH.
Mr. SMITH of New Jersey.
Mr. NEY.
Mr. YOUNG of Alaska.
Mr. ARCHER.
Mr. GILMAN.
Mr. MCCOLLUM.
Mr. WALSH.
Mr. HORN.
Mr. SHAW.
Mr. DELAY.
Mr. PORTMAN.
Mr. SMITH of Michigan, in two instances.
Mr. REYES.
Mr. HALL of Texas.
Mr. GOODLATTE.
Mr. GILLMOR.
Mr. LAZIO of New York.
Mr. BLUMENAUER.
Mr. CLYBURN.
Mr. MORAN of Kansas.
Mr. PAPPAS.
Mr. KILDEE.
Mr. CONDIT.
Mr. PAYNE.
Mr. PACKARD.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1723. An act to amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of United States firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers; to the Committee on the Judiciary, and in addition, to the Committee(s) on Education and the Workforce, and the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3565. An act to amend Part L of the Omnibus Crime Control and Safe Streets Act of 1968.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1605. An act to establish a matching grant program to help State and local jurisdictions purchase armor vests for use by law enforcement departments.

ADJOURNMENT

Mr. MORAN of Kansas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 19 minutes p.m.), the House adjourned until Wednesday, May 20, 1998, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports concerning the foreign currencies and U.S. dollars utilized for official foreign travel during the fourth quarter of 1997 and first quarter of 1998 by Committees of the House of Representatives, as well as a consolidated report of foreign currencies and U.S. dollars utilized for speaker-authorized official travel during April of 1998, pursuant to Public Law 95–384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1997

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Bob Smith	12/7	12/14	Australia				152.46				152.46
Hon Bill Barrett	12/7	12/14	Australia				152.46				152.46
Hon Richard Pombo	12/7	12/14	Australia				152.46				152.46
Hon. Tom Ewing	12/7	12/14	Australia				152.46				152.46
Hon Frank Lucas	12/7	12/14	Australia				152.46				152.46
Hon. Sam Farr	12/7	12/14	Australia				152.46				152.46
Hon. Eva Clayton	12/7	12/14	Australia				152.46				152.46
Hon. Gary Condit	12/7	12/14	Australia				152.46				152.46
Hon. John Boehner	12/7	12/14	Australia				152.46				152.46
Hon. Collin Peterson	12/7	12/14	Australia				152.46				152.46
Paul Unger	12/7	12/14	Australia				152.46				152.46
Andrew Baker	12/7	12/14	Australia				152.46				152.46
Lynn Gallagher	12/7	12/14	Australia				152.46				152.46
Bryce Quick	12/7	12/14	Australia				152.46				152.46
Jason Vaillancourt	12/7	12/14	Australia				152.46				152.46
William O'Conner	12/7	12/14	Australia				152.46				152.46
Committee total							2,439.36				2,439.36

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BOB SMITH, Chairman, Apr. 29, 1998

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Frank R. Wolf	1/11	1/14	Russia		670.00						670.00
Commercial airfare							4,961.00				4,961.00
Hon. John P. Murtha	1/7	1/9	Japan		354.00						354.00
	1/9	1/11	South Korea		456.00						456.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Commercial airfare							5,747.00				5,747.00
Gregory R. Dahlberg	1/7	1/9	Japan		354.00						354.00
	1/9	1/11	South Korea		456.00						456.00
Commercial airfare							5,747.00				5,747.00
Hon Esteban Torres	1/15	1/18	Belgium		852.00		(3)				852.00
	1/18	1/20	Poland		556.00						556.00
Charles Flickner	2/20	2/26	Mongolia		1,399.00						1,399.00
Commercial airfare							5,456.00				5,456.00
William B. Inglee	2/15	2/17	Hungary		494.00						494.00
	2/17	2/19	Czech Republic		564.00						564.00
	2/19	2/21	Poland		556.00						556.00
Commercial airfare							3,999.38				3,999.38
John G. Shank	2/12	2/16	Bosnia/Herzegovina		1,204.00						1,204.00
	2/16	2/19	Czech Republic		696.00						696.00
	2/19	2/21	Poland		456.00						456.00
Commercial airfare							4,103.91				4,103.91
James W. Dyer	2/13	2/16	Bosnia		903.00						903.00
	2/16	2/18	Czech Republic		464.00						464.00
Commercial airfare							5,533.81				5,533.81
Scott Lilly	2/16	2/19	Thailand		720.00						720.00
	2/19	2/22	Indonesia		802.75						802.75
	2/22	2/25	Japan		849.00						849.00
Commercial airfare							4,965.00				4,965.00
Mark W. Murray	2/16	2/19	Thailand		720.00						720.00
	2/19	2/22	Indonesia		802.75						802.75
	2/22	2/25	Japan		849.00						849.00
Commercial airfare							4,965.00				4,965.00
Hon. Charles Taylor	2/14	2/19	Russia		1,350.00						1,350.00
Commercial airfare							5,838.00				5,838.00
Committee total					17,125.50		51,316.10				68,441.60
Committee on Appropriations, Surveys and Investigations Staff:											
Bertram F. Dunn	2/15	2/19	Turkey		723.00		5,110.22		89.90		5,923.12
	2/19	2/21	Germany		390.25						390.25
Carroll L. Hauver	2/15	2/19	Turkey		723.00		5,110.22		82.85		5,916.07
	2/19	2/21	Germany		390.25						390.25
William P. Haynes, Jr	3/29	4/1	Panama		470.25		1,898.00		51.00		2,419.25
Patricia M. Murphy	3/29	4/1	Panama		470.25		2,173.00		61.00		2,704.25
Michael Welsh	3/29	4/1	Panama		470.25		2,173.00		100.75		2,744.00
Committee total					3,637.25		16,464.44		385.50		20,487.19

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BOB LIVINGSTON, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING AND FINANCIAL SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. James Leach	1/17	1/19	Hong Kong		786.00		(3)		4,121.43		4,907.43
	1/19	1/21	China		514.00		(3)				514.00
	1/21	1/22	Korea		228.00		(3)				228.00
	1/22	1/25	Japan		843.00		(3)				843.00
Hon. Bruce Vento	1/17	1/19	Hong Kong		786.00		(3)				786.00
	1/19	1/21	China		514.00		(3)				514.00
	1/21	1/22	Korea		228.00		(3)				228.00
	1/22	1/25	Japan		843.00		(3)				843.00
Hon. Ken Bentsen	1/17	1/19	Hong Kong		786.00		(3)				786.00
	1/19	1/21	China		514.00		(3)				514.00
	1/21	1/22	Korea		228.00		(3)				228.00
	1/22	1/23	Japan		281.00		2,249.00				2,530.00
Hon. Maurice Hinchey	1/17	1/19	Hong Kong		786.00		(3)				786.00
	1/19	1/21	China		514.00		(3)				514.00
	1/21	1/22	Korea		228.00		(3)				228.00
	1/22	1/25	Japan		843.00		(3)				843.00
Hon. Jesse Jackson, Jr.	1/17	1/19	Hong Kong		786.00		(3)				786.00
	1/19	1/21	China		514.00		(3)				514.00
	1/21	1/22	Korea		228.00		(3)				228.00
	1/22	1/25	Japan		843.00		(3)				843.00
James McCormick	1/17	1/19	Hong Kong		786.00		(3)				786.00
	1/19	1/21	China		514.00		(3)				514.00
	1/21	1/22	Korea		228.00		(3)				228.00
	1/22	1/25	Japan		843.00		(3)				843.00
David Runkel	1/17	1/19	Hong Kong		786.00		(3)				786.00
	1/19	1/21	China		514.00		(3)				514.00
	1/21	1/22	Korea		228.00		(3)				228.00
	1/22	1/25	Japan		843.00		(3)				843.00
Committee total					16,035.00		2,249.00		4,121.43		22,405.43

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

JIM LEACH, Chairman, Apr. 30, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. John Dingell	1/15	1/18	Belgium		852.00						852.00
	1/18	1/20	France		598.00						598.00
	1/20	1/22	Poland		556.00						556.00
Hon. Tom Sawyer	1/15	1/18	Belgium		852.00		1,732.72				2,584.72
Committee total					2,858.00		1,732.72				4,590.72

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

TOM BLILEY, Chairman, Apr. 29, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON NATIONAL SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Visit to Bosnia, Croatia and Germany, December 30, 1997–January 1, 1998:											
Hon. John M. Spratt, Jr.	12/30	12/31	Bosnia		175.00						175.00
	12/31	12/31	Croatia								
	12/31	1/1	Germany		200.00						200.00
Commercial airfare							4,968.80				4,968.80
Visit to Malaysia, Indonesia and Australia, January 7–19, 1998:											
Hon. Floyd D. Spence	1/7	1/9	Malaysia		324.00						324.00
	1/9	1/11	Indonesia		494.00						494.00
	1/11	1/19	Australia		1,891.00						1,891.00
Hon. Herbert H. Bateman	1/7	1/9	Malaysia		324.00						324.00
	1/9	1/11	Indonesia		494.00						494.00
	1/11	1/19	Australia		1,891.00						1,891.00
Hon. Owen B. Pickett	1/7	1/9	Malaysia		324.00						324.00
	1/9	1/11	Indonesia		494.00						494.00
	1/11	1/19	Australia		1,891.00						1,891.00
Hon. Tillie K. Fowler	1/7	1/9	Malaysia		324.00						324.00
	1/9	1/11	Indonesia		494.00						494.00
	1/11	1/19	Australia		1,891.00						1,891.00
Hon. John M. McHugh	1/7	1/9	Malaysia		324.00						324.00
	1/9	1/11	Indonesia		494.00						494.00
	1/11	1/13	Australia		472.00						472.00
Commercial airfare							2,755.08				2,755.08
Hon. Paul McHale	1/7	1/9	Malaysia		324.00						324.00
	1/9	1/11	Indonesia		494.00						494.00
	1/11	1/19	Australia		1,891.00						1,891.00
Hon. Lindsey Graham	1/7	1/9	Malaysia		324.00						324.00
	1/9	1/11	Indonesia		494.00						494.00
	1/11	1/19	Australia		1,891.00						1,891.00
Hon. Van Hilleary	1/7	1/9	Malaysia								
	1/9	1/11	Indonesia								
	1/11	1/19	Australia								
Peter M. Steffes	1/7	1/9	Malaysia		324.00						324.00
	1/9	1/11	Indonesia		494.00						494.00
	1/11	1/19	Australia		1,891.00						1,891.00
Steven A. Thompson	1/7	1/9	Malaysia		324.00						324.00
	1/9	1/11	Indonesia		494.00						494.00
	1/11	1/19	Australia		1,891.00						1,891.00
Delegation expenses	1/7	1/9	Malaysia				354.12		581.13		935.25
	1/11	1/19	Australia				3,522.00		2,730.00		6,252.00
Visit to Italy, Bosnia, Macedonia, Azerbaijan and Belgium, January 4–12, 1998:											
Hon. Ike Skelton	1/4	1/6	Italy		796.00						796.00
	1/6	1/6	Bosnia								
	1/6	1/8	Macedonia		372.00						372.00
	1/8	1/9	Azerbaijan		346.00						346.00
	1/9	1/12	Belgium		540.00						540.00
Hon. Gene Taylor	1/4	1/6	Italy		796.00						796.00
	1/6	1/6	Bosnia								
	1/6	1/8	Macedonia		372.00						372.00
	1/8	1/9	Azerbaijan		346.00						346.00
	1/9	1/12	Belgium		540.00						540.00
Hon. Silvestre Reyes	1/4	1/6	Italy		796.00						796.00
	1/6	1/6	Bosnia								
	1/6	1/8	Macedonia		372.00						372.00
	1/8	1/9	Azerbaijan		346.00						346.00
	1/9	1/12	Belgium		540.00						540.00
Michael R. Higgins	1/4	1/6	Italy		796.00						796.00
	1/6	1/6	Bosnia								
	1/6	1/8	Macedonia		372.00						372.00
	1/8	1/9	Azerbaijan		346.00						346.00
	1/9	1/12	Belgium		540.00						540.00
Delegation expenses	1/4	1/6	Italy						359.41		359.41
Visit to Peru and Colombia, January 8–17, 1998:											
Andrea K. Aquino	1/08	1/13	Peru		1,194.00						1,194.00
	1/13	1/17	Colombia		772.00						772.00
Commercial airfare						2,340.00					2,340.00
George O. Withers	1/08	1/13	Peru		1,194.00						1,194.00
	1/13	1/17	Colombia		772.00						772.00
Commercial airfare						2,340.00					2,340.00
Visit to Germany, Hungary, Bosnia and Belgium, January 20–25, 1998:											
John D. Chapla	1/20	1/21	Germany		206.00						206.00
	1/21	1/23	Hungary		494.00						494.00
	1/22	1/22	Bosnia								
	1/23	1/23	Bosnia								
	1/23	1/25	Belgium		552.00						552.00
Commercial airfare						4,154.20					4,154.20
Donna L. Hoffmeier	1/20	1/21	Germany		206.00						206.00
	1/21	1/23	Hungary		494.00						494.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON NATIONAL SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	1/22	1/22	Bosnia								
	1/23	1/23	Bosnia								
	1/23	1/25	Belgium		552.00						552.00
Commercial airfare						4,154.20					4,154.20
David J. Trachtenberg	1/20	1/21	Germany		206.00						206.00
	1/21	1/22	Hungary		247.00						247.00
	1/22	1/23	Bosnia		351.00						351.00
	1/23	1/25	Belgium		552.00						552.00
Commercial airfare						4,154.20					4,154.20
Thomas J. Donnelly	1/20	1/21	Germany		206.00						206.00
	1/21	1/22	Hungary		247.00						247.00
	1/22	1/23	Bosnia		351.00						351.00
	1/23	1/25	Belgium		552.00						552.00
Commercial airfare						4,154.20					4,154.20
Lara L. Roholt	1/20	1/21	Germany		206.00						206.00
	1/21	1/22	Hungary		494.00						494.00
	1/22	1/23	Bosnia								
	1/23	1/25	Belgium		552.00						552.00
Commercial airfare						4,154.20					4,154.20
Joseph F. Boessen	1/20	1/21	Germany		206.00						206.00
	1/21	1/22	Hungary		247.00						247.00
	1/23	1/24	Germany		281.00						281.00
Commercial airfare						2,978.20					2,978.20
Thomas P. Glakas	1/20	1/21	Germany		206.00						206.00
	1/21	1/22	Hungary		247.00						247.00
	1/22	1/23	Bosnia		351.00						351.00
	1/23	1/25	Belgium		552.00						552.00
Commercial airfare						4,154.20					4,154.20
Visit to Sweden, January 30–February 2, 1998:											
Hon. Curt Weldon	1/30	2/2	Sweden		800.00						800.0
Commercial airfare							3,936.58				3,936.58
Visit to Germany and Bosnia, February 6–8, 1998:											
Hon. Norman Sisisky	2/6	2/8	Germany		472.00						472.00
	2/6	2/6	Bosnia								
Visit to Panama, Peru and Colombia, February 12–20, 1998:											
Hon. Gene Taylor	2/12	2/14	Panama		366.00						366.00
	2/14	2/17	Peru		602.00						602.00
	2/17	2/20	Colombia		660.00						660.00
Commercial airfare							1,929.00				1,929.00
Visit to Russia, February 16–19, 1998:											
Hon. Curt Weldon	2/16	2/19	Russia		1,000.00						1,000.00
Commercial airfare							5,474.00				5,474.00
Committee total					47,943.00		55,522.98		3,670.54		107,136.52

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FLOYD SPENCE, Chairman, Apr. 30, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Jim Oberstar	2/16	1/16	Canada								
Commercial airfare							902.19				902.19
Art Chan	2/16	2/16	Canada								
Commercial airfare							866.00				
Committee total							1,768.19				1,768.19

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BUD SHUSTER, Chairman, May 1, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON VETERANS' AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

FOR HOUSE COMMITTEES

Please Note: If there were no expeditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BOB STUMP, Chairman, Apr. 27, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent, or U.S. currency[2]
Hon. Porter Goss	1/3	1/9	Middle East		1,037.00		(3)				1,037.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Thomas Newcomb	1/3	1/9	Middle East		1,563.00		(3)				1,563.00
Michael Sheehy	1/4	1/2	Europe & Asia		2,054.00		(3)				2,054.00
Hon. Sanford Bishop	1/19	1/26	Asia		1,636.00				105.00		1,741.00
Commercial airfare							7,041.93				7,041.93
Calvin Humphrey	1/19	1/26	Asia		1,636.00				105.00		1,741.00
Commercial airfare							7,206.62				7,062.62
Hon. Porter Goss	1/29	2/2	North & Central America		936.00		(3)				936.00
Hon. Bill McCollum	1/29	2/2	North & Central America		1,043.00		(3)				1,043.00
John Millis	1/29	2/2	North & Central America		1,043.00		(3)				1,043.00
Patrick Murray	1/29	2/2	North & Central America		1,043.00		(3)				1,043.00
Christopher Barton	1/29	2/2	North & Central America		1,043.00		(3)				1,043.00
Wendy Selig	1/29	2/2	North & Central America		1,043.00		(3)				1,043.00
Patrick Murray	2/12	2/14	South America		542.00						542.00
Commercial airfare							1,438.77				1,438.77
Hon. Porter Goss	2/14	2/22	Europe		2,428.00		(3)				2,428.00
Thomas Newcomb	2/14	2/22	Europe		2,463.00		(3)				2,463.00
John Millis	2/19	2/21	Middle East		480.00						480.00
Commercial airfare							5,451.49				5,451.49
Mary Engebreth	3/3	3/8	Oceania		1,273.00						1,273.00
Commercial airfare							7,714.97				7,714.97
Patrick Murray	3/6	3/10	Europe		1,021.00						1,021.00
Commercial airfare							1,269.00				1,269.00
Committee total					19,684.00		30,122.78				50,016.78

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

PORTER J. GOSS, Chairman, Apr. 29, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO BOSNIA, MACEDONIA, CROATIA, GERMANY, HUNGARY AND IRELAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 2 AND APR. 7, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Bob Riley	4/2	4/3	Germany		156.00						156.00
Hon. Ernest Istook	4/2	4/3	Germany		156.00						156.00
Hon. Bob Etheridge	4/2	4/3	Germany		156.00						156.00
Dan Gans	4/2	4/3	Germany		156.00						156.00
Carolyn Bartholomew	4/2	4/3	Germany		156.00						156.00
Hon. Bob Riley	4/3	4/5	Hungary		494.00						494.00
Hon. Ernest Istook	4/3	4/5	Hungary		494.00						494.00
Hon. Bob Etheridge	4/3	4/5	Hungary		494.00						494.00
Dan Gans	4/3	4/5	Hungary		494.00						494.00
Carolyn Bartholomew	4/3	4/5	Hungary		494.00						494.00
Hon. Bob Riley	4/5	4/6	Croatia		278.00						278.00
Hon. Ernest Istook	4/5	4/6	Croatia		478.00						278.00
Hon. Bob Etheridge	4/5	4/6	Croatia		278.00						278.00
Dan Gans	4/5	4/6	Croatia		278.00						278.00
Carolyn Bartholomew	4/5	4/6	Croatia		278.00						278.00
Hon. Bob Riley	4/6	4/7	Ireland		168.00						168.00
Hon. Ernest Istook	4/6	4/7	Ireland		168.00						168.00
Hon. Bob Etheridge	4/6	4/7	Ireland		168.00						168.00
Dan Gans	4/6	4/7	Ireland		168.00						168.00
Carolyn Bartholomew	4/6	4/7	Ireland		168.00						168.00
Dan Gans									[3] 360.00		360.00
Hon. Bob Riley	4/2	4/7			[4] 32.00						32.00
Hon. Ernest Istook	4/2	4/7			[4] 32.00						32.00
Hon. Bob Etheridge	4/2	4/7			[4] 32.00						32.00
Dan Gans	4/2	4/7			[4] 32.00						32.00
Carolyn Bartholomew	4/2	4/7			[4] 32.00						32.00
Committee total					5,640.00				360.00		6,000.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Film and film processing.
[4] In-flight meals.

BOB RILEY, May 7, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, TRAVEL TO SPAIN, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 21 AND APR. 24, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Fred L. Turner	4/21	4/24	Spain	98,879	645.00					98,879	645.00
Committee total				98,879	645.00					98,879	645.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FRED L. TURNER, May 5, 1998.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9183. A letter from the Chairman, Postal Rate Commission, transmitting a copy of the Postal Rate Commission's recommended decision in the Omnibus Rate Case R97–1; to the Committee on Government Reform and Oversight.

9184. A letter from the the Chief Administrative Officer, the U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period January 1, 1998 through March 31, 1998 as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a; (H. Doc. No. 105—254); to the Committee on House Oversight and ordered to be printed.

9185. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—SPECIAL LOCAL REGULATIONS; River Race Augusta, Augusta, GA [CGD07–98–013] (RIN: 2115–AE46) received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9186. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 and 767 Series Airplanes [Docket No. 98–NM–111–AD; Amendment 39–10522; AD 98–10–10] (RIN: 2120–AA64) received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9187. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron (Bell)-manufactured Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P Helicopters; and Southwest Florida Aviation SW204, SW204HP, SW205, and SW205A–1 Helicopters [Docket No. 97–SW–35; Amendment 39–10521; AD 97–20–09] (RIN: 2120–AA64) received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9188. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Model ASK 21 Sailplanes [Docket No. 97–CE–103–AD; Amendment 39–10518; AD 98–10–07] (RIN: 2120–AA64) received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9189. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model C–212 Series Airplanes [Docket No. 97–NM–297–AD; Amendment 39–10519; AD 98–10–08] (RIN: 2120–AA64) received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9190. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron (Bell) Model 204B, 205A, and 205A–1 Helicopters [Docket No. 97–SW–32–AD; Amendment 39–10520; AD 97–18–11] (RIN: 2120–AA64) received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9191. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Burkhart Grob Luft-und Raumfahrt Models G115C, G115C2, G115D, and G115D2 Airplanes [Docket No. 98–CE–24–AD; Amendment 39–10517; AD 98–10–06] (RIN: 2120–AA64) received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9192. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan [Docket No. 27744; SFAR67] (RIN: 2120–AG56) received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9193. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9–10, -20, -30, -40, and -50 Series Airplanes, and C–9 (Military) Airplanes [Docket No. 97–NM–40–AD; Amendment 39–10473; AD 98–08–24] (RIN: 2120–AA64) received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9194. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model SA–365N1, AS–365N2, and SA–366G1 Helicopters [Docket No. 97–SW–49–AD; Amendment 39–10515; AD 98–10–04] (RIN: 2120–AA64) received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9195. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29214; Amdt. No. 1866] (RIN: 2120–AA65) received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9196. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Aviation Charter Rules [Docket OST–97–2356] (RIN: 2105–AB91) received May 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2863. A bill to amend the Migratory Bird Treaty Act to clarify restrictions under that Act on baiting, to facilitate acquisition of migratory bird habitat, and for other purposes; with an amendment (Rept. 105–542). Referred to the Committee of the Whole House on the State of the Union.

Mr. CANADY: Committee on the Judiciary. House Joint Resolution 78. Resolution proposing an amendment to the Constitution of the United States restoring religious freedom; with an amendment (Rept. 105–543). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 441. Resolution providing for further consideration of the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes (Rept. 105–544). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. GILMAN (for himself and Mr. PAYNE):

H.R. 3890. A bill to promote democracy and good governance in Nigeria, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Banking and Financial Services, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODLATTE:

H.R. 3891. A bill to amend the Trademark Act of 1946 to prohibit the unauthorized destruction, modification, or alteration of product identification codes, and for other purposes; to the Committee on the Judiciary.

By Mr. RIGGS:

H.R. 3892. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a program to help children and youth learn English, and for other purposes; to the Committee on Education and the Workforce.

By Mr. ENSIGN (for himself and Mr. GIBBONS):

H.R. 3893. A bill to amend the Crime Control Act of 1990 with respect to the work requirement for Federal prisoners and to amend title 18, United States Code, with respect to the use of Federal prison labor by nonprofit entities, and for other purposes; to the Committee on the Judiciary.

By Mr. HALL of Ohio (for himself, Mr. BOEHLERT, and Mr. HOBSON):

H.R. 3894. A bill to reinvigorate science and technology functions of the Department of the Air Force; to the Committee on National Security.

By Mrs. KENNELLY of Connecticut:

H.R. 3895. A bill to provide grants to improve firearms safety, and to provide for the study of the effects of developing firearms technology on firearms safety; to the Committee on the Judiciary.

By Mr. OWENS (for himself, Mr. ENGEL, Mr. FORD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HILLIARD, Mr. HINOJOSA, Ms. KILPATRICK, Mr. KUCINICH, Mr. LEWIS of Georgia, Ms. NORTON, Mr. MCGOVERN, Mr. SANDERS, and Mr. PAYNE):

H.R. 3896. A bill to authorize the Secretary of Education to make grants to institutions of higher education for postsecondary information technology education and employment assistance projects; to the Committee on Education and the Workforce.

By Mr. RUSH (for himself, Mr. SERRANO, Mr. CUMMINGS, Ms. KILPATRICK, Mr. HILLIARD, Mr. JACKSON, Mr. CLAY, Ms. DELAURO, Ms. FURSE, Mr. FROST, Mr. TOWNS, Mr. GUTIERREZ, Mr. LIPINSKI, Mr. STOKES, and Mr. DAVIS of Illinois):

H.R. 3897. A bill to provide for programs to develop and implement integrated cockroach management programs in urban communities that are effective in reducing health risks to inner city residents, especially children, suffering from asthma and asthma-related illnesses; to the Committee on Commerce.

By Mr. SESSIONS (for himself, Mr. Gilman, Mr. Doolittle, Mr. Kingston, Mr. Fossella, Mr. Redmond, Mr. Pappas, Mr. Traficant, Mr. Gibbons, Mr. Cook, Mr. Calvert, Mr. DeLay, Mr. Cooksey, Mrs. Emerson, Mr. Nethercutt, Mr. Ryun, Mr. LaTourette, Mrs. Chenoweth, Mr. Saxton, Mr. Goss, Mr. Peterson of Pennsylvania, Mr. Smith of Oregon, Ms. Granger, Mr. Souder, Mr. Smith of Texas, Mr. Nussle, Mr. Fox of Pennsylvania, Mr. Bob Schaffer, Mr. Bonilla, Mr. Brady, Mr. Sam Johnson, Mr. Mica, Mr. Barr of Georgia, Mr. Manzullo, Mr. Watts of Oklahoma, Mr. Scarborough, Mr. Portman, Mr. McCollum, and Mr. Baker):

H.R. 3898. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to conform penalties for violations involving certain amounts of methamphetamine to penalties for violations involving similar amounts of cocaine base; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAZIO of New York (for himself, Mr. Leach, Mr. Baker, Mr. Campbell, Mrs. Kelly, Mr. Ney, Mr. Fox of Pennsylvania, Mr. Redmond, Mr. Ryun, Mr. Shays, Mr. Nussle, and Mr. Metcalf):

H.R. 3899. A bill to expand homeownership in the United States; to the Committee on Banking and Financial Services.

By Mr. SHAYS (for himself and Mr. Barrett of Wisconsin):

H.R. 3900. A bill to establish Federal penalties for prohibited uses and disclosures of individually identifiable health information, to establish a right in an individual to inspect and copy their own health information, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. STABENOW (for herself and Mrs. Morella):

H.R. 3901. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reauthorize funding for the grant program to encourage arrest policies in dealing with domestic violence; to the Committee on the Judiciary.

By Ms. STABENOW (for herself and Mrs. Morella):

H.R. 3902. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reauthorize funding for court-appointed special advocates for victims of child abuse, training programs on child abuse for judicial personnel and attorneys, and closed-circuit television and video taping of child victim testimony; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska:

H.R. 3903. A bill to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes; to the Committee on Resources, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. Abercrombie, Mr. Aderholt, Mr. Bartlett of Maryland, Mr. Brady, Mr. Doolittle, Mr. English of Pennsylvania, Mr. Everett, Mr. Sam Johnson, Mrs. Mink of Hawaii, Mr. Nethercutt, Mr. Portman, Mr. Romero-Barceló, Mr. Dan Schaefer of Colorado, Mr. Smith of New Jersey, Mr. Spence, Mr. Underwood, Mr. Weldon of Pennsylvania, Mr. Hostettler, Mr. Talent, Mr. Gilman, Mr. Gibbons, Mr. Ryun, Mr. Goss, Mr. Gillmor, Mr. Skeen, Mr. Livingston, Mr. Herger, Mr. Armey, Mr. Riggs, and Mr. Davis of Illinois):

H. Con. Res. 278. Concurrent resolution stating the sense of Congress that any national missile defense program to provide protection for the United States against the threat of ballistic missile attack should provide for the protection of Alaska, Hawaii, and the territories and commonwealths of the United States on the same basis as the contiguous States; to the Committee on National Security.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of May 18, 1998]

H.R. 3809: Mr. Wamp and Mr. Thomas.

[Submitted May 19, 1998]

H.R. 7: Mr. Shaw.

H.R. 135: Ms. Lee and Mr. Kanjorski.

H.R. 676: Mr. Boehlert.

H.R. 678: Mr. Gekas, Mr. Quinn, and Mr. Allen.

H.R. 754: Mr. Boswell and Ms. Roybal-Allard.

H.R. 815: Mr. Tauzin.

H.R. 902: Ms. Pryce of Ohio.

H.R. 953: Mrs. Thurman and Mr. Berman.

H.R. 1054: Mr. Ehlers, Mr. Solomon, and Mr. Fossella.

H.R. 1126: Mr. Cramer, Mr. Walsh, Mr. Deutsch, Ms. Pryce of Ohio, Mr. Gilchrest, Mr. Jefferson, and Mr. Bateman.

H.R. 1378: Mr. Sununu.

H.R. 1382: Mr. Paul, Mr. Waxman, and Ms. Stabenow.

H.R. 1401: Mr. Levin.

H.R. 1425: Ms. DeGette.

H.R. 1548: Mr. Paul.

H.R. 1560: Mr. Shimkus and Mr. Burr of North Carolina.

H.R. 1766: Mr. Bentsen and Mr. Packard.

H.R. 1842: Mr. Inglis of South Carolina.

H.R. 1884: Mr. Paul.

H.R. 1951: Mr. Greenwood and Ms. Lee.

H.R. 2004: Mr. Strickland.

H.R. 2023: Mr. Schumer, Mr. Abercrombie, and Ms. Eddie Bernice Johnson of Texas..

H.R. 2124: Mr. Neumann.

H.R. 2290: Mr. Sandlin.

H.R. 2352: Mr. Bryant.

H.R. 2478: Mr. Frank of Massachusetts.

H.R. 2504: Mr. English of Pennsylvania and Mrs. Meek of Florida.

H.R. 2519: Mr. Lampson.

H.R. 2538: Mr. Doolittle, Mr. Duncan, Mr. Ensign, Mr. Gallegly, Mr. Hefley, Mr. Peterson of Pennsylvania, Mr. Radanovich, and Mr. Gilchrest.

H.R. 2613: Mr. Pastor, Mr. Rahall, Mr. Dooley of California, Mr. Olver, Mr. Faleomavaega, Mr. Ortiz, Mr. Costello, Mr. Wise, Mr. McHugh, Mr. Paul, Ms. Danner, Mr. Hall of Texas, and Mr. Poshard.

H.R. 2721: Mr. Lewis of Kentucky.

H.R. 2863: Mr. Istook, Mr. Hoekstra, Mr. Ramstad, Mr. Manzullo, and Mr. McInnis.

H.R. 2879: Mr. McKeon and Mr. Inglis of South Carolina.

H.R. 2888: Mr. Watts of Oklahoma.

H.R. 2923: Mr. Manton.

H.R. 2946: Ms. Pelosi.

H.R. 3032: Mr. Andrews and Mr. Smith of Texas.

H.R. 3048: Mrs. Thurman.

H.R. 3050: Mr. Skelton and Mr. Brown of California.

H.R. 3131: Mr. Lantos and Mr. Underwood.

H.R. 3181: Mr. Romero-Barceló.

H.R. 3217: Mr. Crane, Mrs. Thurman, and Mr. Watts of Oklahoma.

H.R. 3234: Mr. Norwood.

H.R. 3242: Mr. Paul.

H.R. 3304: Mrs. Emerson.

H.R. 3341: Mr. Filner and Mr. Underwood.

H.R. 3342: Mr. Allen and Mr. McGovern.

H.R. 3398: Mr. Frost.

H.R. 3400: Mr. Baldacci.

H.R. 3464: Mr. Frost.

H.R. 3470: Ms. Kaptur.

H.R. 3514: Mr. Thompson.

H.R. 3526: Mr. Stenholm, Mr. Miller of California, and Mr. Lewis of Georgia.

H.R. 3550: Mr. Etheridge and Ms. Kilpatrick.

H.R. 3566: Mr. Smith of New Jersey.

H.R. 3567: Mr. McIntyre, Mr. Sandlin, Mr. Dooley of California, Mr. Klug, Mr. Ehlers, and Mr. Knollenberg.

H.R. 3570: Mr. Ackerman.

H.R. 3605: Mr. Davis of Florida, Mr. Kleczka, Mr. Blumenauer, Mr. Levin, Mr. Kanjorski, Mr. Meehan, Mr. McHale, and Ms. Slaughter.

H.R. 3615: Mr. Thompson and Ms. McCarthy of Missouri.

H.R. 3629: Mr. Largent.

H.R. 3636: Ms. Jackson-Lee and Mr. Bonior.

H.R. 3644: Mr. Camp.

H.R. 3648: Mr. Hyde, Mr. Crane, Mr. Snyder, and Mr. Bereuter.

H.R. 3651: Mr. Forbes and Mr. Frost.

H.R. 3674: Mr. Visclosky.

H.R. 3688: Mr. Largent, Mr. Skeen, and Mr. Moran of Kansas.

H.R. 3735: Mr. Aderholt.

H.R. 3764: Mr. LoBiondo, Mr. Rohrabacher, Mr. Cunningham, Mr. Nethercutt, Mr. Porter, and Mr. Hyde.

H.R. 3802: Mr. Brown of Ohio.

H.R. 3833: Ms. DeLauro.

H.R. 3849: Mr. Ehlers, Mr. Solomon, and Mr. Fossella.

H.R. 3877: Mr. Bishop.

H.R. 3879: Mr. John, Mr. Hall of Texas, Mr. Cramer, Mr. Sessions, Mr. Redmond, Mr. Dickey, Mr. Nethercutt, Mr. McCollum, Mr. Watts of Oklahoma, Mr. Goode, Mr. Pappas, Mr. McKeon, and Mr. Bonilla.

H. Con. Res. 126: Ms. Norton and Mr. Rothman.

H. Con. Res. 203: Mr. McDermott, Mr. Olver, Mr. Franks of New Jersey, Mr. Cook, Mr. Bilbray, Mr. Berman, Mr. Bereuter, Mr. Pastor, and Mrs. Clayton.

H. Con. Res. 208: Mr. Lampson, Ms. Slaughter, Mr. Costello, Mr. Clyburn, Mr. Dooley of California, Mrs. Fowler, Mr. McIntosh, Mr. Bateman, Mr. Sisisky, Mr. Evans, Mr. Edwards, Mr. Weygand, Mr. Brady, Mr. Baldacci, Mr. Greenwood, Mr. Paxon, Mr. Hobson, Mr. Gordon, Mr. Hutchinson, Mr. Lewis of Kentucky, Mr. Graham, Mr. Doyle, Mr. Hinchey, and Mr. McIntyre.

H. Con. Res. 233: Mr. WATTS of Oklahoma.

H. Con. Res. 258: Mr. PITTS, Mr. SANDERS, Mr. BROWN of Ohio, Mrs. MORELLA, Mr. MANTON, Ms. FURSE, and Mr. BLUMENAUER.

H. Con. Res. 267: Mr. ROGAN.

H. Res. 363: Mr. SANDLIN.

H. Res. 404: Mrs. MINK of Hawaii.

EXTENSIONS OF REMARKS

RELIGIOUS GROUPS CHALLENGE GROWING INTOLERANCE IN BELGIUM

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. SMITH of New Jersey. Mr. Speaker, as Chairman of the Subcommittee on International Operations and Human Rights, and as Co-Chairman of the Helsinki Commission, I am alarmed at the growing religious intolerance toward religious minorities that we are observing in Western Europe. I am pleased that a coalition of religious groups is building in Europe to combat the rising intolerance, and in fact a legal challenge to these onerous actions is to be announced in Belgium on May 20.

In the last few years, we have witnessed disturbing government interference in the affairs of religious communities in Western Europe through new religion laws, parliamentary investigations into minority beliefs and religious groups, and new government bureaucracies created to disseminate government propaganda on religious organizations. These new laws, parliamentary investigations and government information centers stigmatize as "dangerous" groups such as the Jehovah Witnesses, Baha'i, Hindus, and charismatic Catholic and Protestant groups. These government actions violate the religious liberty principles found in numerous international documents, including the Helsinki Final Act, particularly the commitment to "foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers" found in the Vienna Concluding Document of 1989 (Paragraph 16.2).

In January, I traveled to Moscow with my good friends and colleagues Representatives FRANK WOLF and TONY HALL to raise our concerns with the 1997 Russian religion law. There, we met with minority religious groups concerned that the new law would limit their ability to freely practice their faith. While it remains to be seen how this law will be implemented, on its face, the law clearly violates numerous Helsinki human rights principles.

Also in January, another Helsinki Commission delegation led by fellow Commission Representative JOHN PORTER, raised concerns with the Austrian Government regarding their new law restricting religious freedom. The Austrian law, passed by the Austrian Parliament on December 10, 1997, requires that a religious group prove a 20-year existence in Austria, have a creed distinct from previously registered groups, and have a membership of at least 0.02% of the population or 16,000 members before they are granted full rights under law. The premise extended by the Austrian Government for such intense regulation of religious groups is that the government is responsible for the content of belief available for public consumption, just as the government regulates the quality of food for public consumption. The Austrian Government's opinion that the government must "approve" religious belief before it is available for the public reveals a shocking retreat from democratic principles which encourage the free exchange of ideas and the freedom of the individual to choose his or her own religious belief.

Several Western European parliaments have or are currently investigating the reporting on the activities of minority religious groups. These parliamentary investigations have also had a chilling effect on religious liberty and appear to cause a public backlash against groups being investigated or labeled "dangerous." For instance, the German Bundestag is currently conducting its investigation into "dangerous sects" and "psycho-groups" and issued an interim report in January 1998. At the Helsinki Commission's September 1997, hearing, independent evangelical church representatives reported a direct correlation between the harassment, vandalism and threats of violence they experience and the investigation by the German Bundestag's commission.

The French Parliament's 1996 report contained a list of "dangerous" groups in order to warn the public against them and the Belgian Parliament's 1997 report had an informal appendix, which was widely circulated, listing 189 groups and included various allegations against many Protestant and Catholic groups, Quakers, Hasidic Jews, Buddhists, and the YWCA.

Equally alarming has been the establishment of government information centers by Western European parliaments to alert the public to "dangerous" groups. The Austrian and Belgian Governments have set up hotlines for the public and, through government sponsored advisory centers, distributes information on groups deemed "dangerous." In Austrian Government literature, Jehovah's Witnesses are labeled "dangerous" and members of this group report that the stigma associated with this government label is difficult to overcome in Austrian society. These information centers directly violate the commitments that Austria and Belgium have made as participating States of the OSCE to "foster a climate of mutual tolerance and respect" and excessively entangle the government in the public discussion on religious beliefs.

On Wednesday (May 20), at the European Parliament, a coalition of religious groups, including Hasidic Jews, Baha'i, Seventh Day Adventist and other leaders from the evangelical Protestant community representing 90 percent of Belgium's Protestant community, are holding a press conference. They are publishing a petition to the Belgian authorities, announcing the launch of a court challenge to the Belgian Parliamentary Report, and highlighting their concerns over the Belgian Government's Advice and Information Center. The premise of the legal challenge is that these actions by the Belgian Government violate Belgium's international commitments to religious liberty. I commend the work that these and other groups such as Human Rights Without Frontiers are doing to highlight and challenge the governmental actions that violate the Helsinki Accords and other international commitments to religious liberty.

TRIBUTE TO LOU AND JUNE LORCH

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Lou and June Lorch for their efforts to improve the quality of life in our community.

Lou and June have exhibited exemplary leadership with their active participation in the Jewish communities of Congregation Beth Kodesh and Shomrei Torah Synagogue. Each has spent countless hours working for the benefit of others, and together they have contributed to the successful development of a growing Jewish community.

Lou's positions and accomplishments illustrate a zest for life and a vigorous dedication to the causes which he supports. At Temple Beth Kodesh, Lou served at various times as Religious Vice President, Ways and Means Vice President, Executive Vice President and as the Men's Club President. After Shomrei Torah Synagogue was formed by the merging of Temple Beth Kodesh and Temple Beth Ami, Lou served as the co-chairman of the High Holy Days seating committee. Currently, he holds a seat on the Jewish National Fund's Board of Directors and the Chatsworth Chamber of Commerce.

June's contributions to the Jewish community embody the spirit of enthusiasm and leadership as well. Having served most notably as Ways and Means Vice President on the Congregation Beth Kodesh Sisterhood Executive Board, she has also held positions including Party Shop Chairperson and Chanukah craft and needlepoint workshops instructor. As a result of her tireless efforts for the community, June was awarded the Chayem Olam award, the Sisterhood's highest honor. In addition, June was named an honorary member of the Men's Club and served as the National Governor of the CAIR Evolution Versus Society.

Besides Lou and June's individual achievements, they have joined forces to chair the Congregational Blood Bank Drive and together played an integral role in planning the synagogue's auction and annual dinner dance.

The Lorch's achievements in the Jewish community highlight a successful career in the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

insurance industry with the Lorch Insurance Agency. Lou has served as the President of the Independent Insurance Agents and Brokers Association and as the State Director of the California Insurance Agents and Brokers Association. A highlight of his career came in 1988, when he was awarded the prestigious Van Dawson Award. In the past, June has served as the Lorch Insurance Agency's Chief Financial Officer.

Mr. Speaker, distinguished colleagues, please join me in paying tribute to two distinguished members of our community. Lou and June Lorch epitomize community leadership and awareness, and should be recognized for their contributions.

THE GLACIER BAY NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 1998

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing the Glacier Bay National Park Boundary Adjustment Act of 1998. The legislation is a manifestation of efforts to make the construction and operation of a small hydroelectric facility near the city of Gustavus, Alaska, possible through a land exchange. The hydro project would be constructed and operated by Gustavus Electric Company, and is intended to benefit the city's residents by providing a cheap source of electricity as an alternative to using diesel-powered generators. The project could also supply low-cost power to the National Park Service facilities in Glacier Bay National Park.

An Act of Congress is necessary to allow the development of this hydro project. The project location is within designated wilderness of Glacier Bay National Park. Current law governing wilderness areas does not permit such construction and operation of hydro power facilities. The legislation I am introducing will provide for a land exchange in which the appropriate lands where the project is located are transferred to the State of Alaska, and the Park Service acquires State lands of equal value to compensate. Once the state acquires its lands under the exchange, construction of the facility will be possible.

To reflect an understanding among the parties to this exchange, this legislation requires that the proper environmental and economic analyses and licensing procedures of the Federal Energy Regulatory Commission be followed prior to any transfer of lands. This stipulation assures the integrity of the lands and wildlife will be maintained before construction of the project may begin. In addition, the bill requires an exchange that is of equal value to the State and the federal government, and a "no net loss" of wilderness acreage.

The major provisions of this bill were negotiated by people most directly affected by the land exchange. It is therefore a local solution to a local problem.

TRIBUTE TO JOSUE HOYOS

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Ms. ESHOO. Mr. Speaker, I rise to honor Josue Hoyos, Vice-President of Skyline College in San Mateo County, upon his retirement after 33 years of dedicated service to education.

Josue Hoyos has always taken pride in commitment to his country and to others, as demonstrated by his service in the U.S. Army from 1958 to 1960 and his activity with the Civil Rights movement in the 60's and 70's, marching with Cesar Chavez and the Farm Workers Union.

Josue Hoyos began his teaching career in 1965 at Ridgeview Junior High School in Napa where he was appointed to a faculty group to develop a team teaching approach to World History, a major innovation in the teaching of history at that time. He was appointed Director of Adult Basic Education at Napa College in 1969 and devoted himself to teaching ESL in the fields to farm workers, serving as a liaison to the Mexican American Community and strengthening the ABE program. Josue Hoyos developed the first EOPS program for Napa College in 1970, began the development of a Chicano Studies Curriculum and taught U.S. and Chicano History.

In 1972 Josue Hoyos was appointed to head the Open Education Program (EOPS) at Skyline College. He was instrumental in forming a Traveling Seminar to visit community colleges in California to learn about Learning Centers for Developmental Education. The result of the Traveling Seminar and the proposals which were written followed the plan for the Learning Center developed at Skyline College. Josue Hoyos was also the first Special Program and Services Dean at Skyline.

Josue Hoyos was appointed Dean of Students at Cañada College in 1977, where he developed a School Relations Program and continued to work closely with the community and legislative bodies in the interest of the College.

While Dean of Special Programs and Services at College of San Mateo in 1980, Josue Hoyos was the operations administrator of the first child care center in the San Mateo Community College District and established the successful Parent's Night Program and Services.

Josue Hoyos served in the first U.C. Berkeley Community College Council in the early 1980's which developed processes to ease the tension between the University of California system and Community Colleges, and to increase the number of transfers to U.C. As a result of the Council, several community colleges implemented the U.C. Guaranteed Enrollment Program or U.C. Scholars program for graduating high school seniors who were eligible to be admitted to U.C., but because of space limitation were not accepted. The University guaranteed their admission as juniors if they went to selected community colleges that had agreements with U.C.

In 1989 Josue Hoyos was appointed Vice President for Student Services at Skyline College. He developed and implemented the College's first Security Department, chaired the committee that developed the Student Equity Plan, one out of eleven Community College Plans that were approved out of 107 colleges, developed the Incident Command System for disaster preparedness, initiated the planning process for the Student Services Center and led the development of Skyline College's first Children's Center.

Josue Hoyos has served on numerous Community College Committees developing school policies. In addition, he has been an active participant in community organizations including the Napa City Planning Commission where he was instrumental in pushing through the first low income housing plans in 1970, Co-founder of the Chicano Educators Association in Marin, Napa, and Sonoma Counties and a member of the Mexican American Educators Association, Planned Parenthood, Hispanic Concilio of San Mateo County, the Child Care Coordinating Council, the Daly City/Colma Chamber of Commerce, the Hispanic Chamber of Commerce and the Latino Leadership Council of San Mateo County.

Throughout his distinguished career, Josue Hoyos has earned the respect and admiration of his colleagues and peers and has done the utmost to improve the educational system. He has touched the lives of countless students and has served as an inspiration to many. I ask my colleagues to join me in congratulating Josue Hoyos on his retirement, commending him for his tireless efforts and dedication, and wishing him all the best in the years ahead.

IN CELEBRATION OF THE DENNISON RAILROAD DEPOT MUSEUM AND EAST OHIO GAS

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

> The Dennison Railroad Depot Museum and East Ohio Gas will celebrate on May 21, 1998, the Ribbon Cutting Ceremony and Preview Opening in celebration of the East Ohio Gas Centennial Exhibit titled "A century of Service Built on Trust."
>
> This exhibit is a traveling exhibit prepared by the Ohio Historical Society and will be making its debut in the museum's new Keystone Exhibition Hall. This is an honor for both the Dennison Railroad Depot Museum and East Ohio Gas. I am extremely proud to represent both companies and wish them the best of luck in their future endeavors. I know this will prove to be very successful.

Mr. Speaker, I ask that my colleagues join me in congratulating the Dennison Railroad Depot Museum and East Ohio Gas. The growth and economic opportunity they have brought to the Ohio Valley is to be commended. I wish both companies continued success and prosperity.

CONGRATULATIONS TO THE SPRECKELS SUGAR CO.

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Spreckels Sugar Company as they celebrate their centennial anniversary. The Spreckels family has created an important sugar company with the kind of hard work and determination it takes to succeed in the business world. This family-owned business has made a tremendous impact on both the business and agricultural community. Their efforts in the sugar industry, combined with years of exceptional service, make the Spreckels Sugar Company deserving of this recognition.

Sugar and sugar beet history run deep in the annals of California. The first successful sugar beet processing plant in California was built in 1870 in Alvarado. The second plant was built in Watsonville in 1888. The Watsonville plant was eventually dismantled and became part of the world's largest beet processing plant of its time. This plant, built by Claus Spreckels, was the beginning of Spreckels Sugar Company. The plant was built in the town bearing the Spreckels' family name in the fertile Salinas Valley.

Claus Spreckels died nine years after the opening of the Spreckels factory. At this point his sons, John D. and A.B. Spreckels, took the reins of the company. They followed in the footsteps of their father and planned the expansion of the Spreckels Sugar Company to meet the sugar requirements of California's rapidly growing population. In time, they expanded to sell sugar to both the East and West Coasts.

The Mendota plant, where Spreckels' 100-year celebration is being held, was the past plant built in California, in 1963.

Historically, the Mendota factory has operated from the time fields dried in the spring (March or April) until the "spring crop" is harvested. Following a short shutdown in June, the factory is restarted in July and March through October without a shutdown, producing over 2,000,000 cwt. sugar per year, processing approximately 735,000 tons of sugar beets.

The San Joaquin Valley has been the primary source of the Mendota factory's beet supply, with the exception of several occasions when beets were shipped by rail from the Imperial Valley. Additionally, the San Joaquin Valley has been the source of beets for the other California Spreckels factories during the summer months. Millions of tons of beets have been shipped over the years by rail and truck to Spreckels, California (near Salinas), Manteca, and Woodland and to this day are still being shipped to Tracy and Woodland.

In January 1996, Spreckels Sugar Company was purchased by Imperial Holly Corporation. The Woodland, Tracy, Mendota, and Brawley plants in California are now part of the Imperial Holly family and are known as Spreckels Sugar Company, a division of Holly Sugar Corporation. Imperial's purchase of Savannah Sugar in October of last year makes Spreckels a part of the largest sugar refiner, processor, and marketer in the United States.

Mr. Speaker, it is with great honor that I congratulate Spreckels Sugar Company as they celebrate their centennial anniversary. I applaud their years of exceptional service and commitment to the Sugar Beet industry. Spreckels shows just how successful a small family owned business can become with hard work and determination. I ask my colleagues to join me in wishing the Spreckels Sugar Company many more years of success.

PORTSMOUTH MIDDLE SCHOOL ANNUAL FIELD TRIP TO WASHINGTON, D.C.

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. KENNEDY of Rhode Island. Mr. Speaker, I want to take this opportunity to praise the hard work of those who organized the Portsmouth Middle School Annual Field Trip to Washington, DC. Every year a group of students from the school are taken to the capital to have a tour. A number of people put a great deal of time and effort into organizing this trip. In fact these same dedicated individuals have been making this trip for over twenty years. I would like to acknowledge these people for the work they have done. Richard Munch, Beverly Tavares, Paul Fuller, Andrew Schlachter, Harold Weymouth, Beverly Mankofsky, Jackie Shearman, Heather Baker. Without their constant help and support the trip would not take place.

The trip enables young students to see the Capital up close and they learn a great deal of how the government works. It is important that our young people get to see for themselves the legislative process. They get a tour of the Capital which goes through all aspects of the legislature. They are able to learn the procedures of Congress and they get a taste of how the process functions. This is a very educational tour as these students are able to hear the history of the nation and the capital. They go to Congressional offices, are shown through the Capitol and see the House in action.

I believe that it is an important aspect of our democracy that people can come and see the political process themselves. Many members of the populace never get a chance to do this. Often the legislative process seems far removed from the average person's everyday life. It is often seen as a process that they cannot have any part in. We need to educate people in what we do. To show them that we are here to serve them and that we are answerable to them. This is how our democracy works and young people should be aware of these principles.

The Capital tour gives a taste of history of the United States. I believe that these young people need to learn about their history and the work that our great leaders have put in to creating the nation we have today. It is the people that I mentioned above from Portsmouth Middle School who make this trip possible. They have over the years acted beyond the call of duty to make these trips work. I would like to acknowledge their efforts and note that I appreciate the work they do to show a new generation of young people our democratic process.

APPOINTMENT OF CONFEREES ON H.R. 629, TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

SPEECH OF

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. REYES. Mr. Speaker, the following resolution was submitted in Spanish for the RECORD following Mr. Reyes' remarks on H.R. 629 on Thursday, May 14. This is the English translation to be inserted in the RECORD.

FIRST.—The Joint Committees on Ecology and the Environment, Border Issues and Foreign Relations of the Chamber of Deputies reiterate their complete rejection of the planning, construction and operation of the Radioactive Waste Dump that the Governor of Texas is trying to establish in the town of Sierra Blanca, Texas, and express their disagreement, concern and disapproval of the decisions, adopted and followed until now by the Government of the United States of America, which favor installation of dumps on the southern border with Mexico, without taking into account the potential negative impact that such decisions can have on human health and the environment in communities located on both sides of the border.

SECOND.—The Joint Committees of the Chamber of Deputies have conducted an evaluation of available information on this dump project, the result of which shows that its operation would entail potential adverse impacts.

THIRD.—The Joint Committees of the Chamber of Deputies kindly request that the Office of the Secretary of Foreign Relations transmit to the Government of the United States of America the Chamber of Deputies complete rejection of the construction and operation of a radioactive waste dump in Sierra Blanca, Texas.

FOURTH.—The Chamber of Deputies presents to the Office of the Secretary of Foreign Relations the possibility of considering the formulation of the following proposals to the Government of the United States of America.

(a) Insist on the relocation of the Sierra Blanca project to a site located outside the 100 kilometers of the border zone.

(b) State the disapproval of the Chamber of Deputies with respect to decisions of the United States of America which favor the installation of hazardous and radioactive waste dumps within the border strip.

(c) Begin negotiation of an amendment to the La Paz Agreement in which the installation and operation of hazardous and radioactive waste dumps are explicitly prohibited in the 100-kilometer strip of the common border.

(d) Demonstrate to the members of the U.S. House of Representatives the desire of the Chamber of Deputies that they vote against the Compact Law which authorizes the dumping of wastes among the states of Texas, Maine and Vermont, by virtue of [the fact that] their approval signifies notable support for the construction and operation of a radioactive waste dump in Sierra Blanca, Texas, and represents a violation of the spirit of the La Paz Agreement.

(e) Include the topic of radioactive and hazardous waste dumps on the agenda of the next meeting of the Mexico-United States Binational Commission to negotiate the suspension of dump projects in the 100-kilometer strip of the border.

FIFTH.—The Joint Committees of the Chamber of Deputies and the Committee of International Affairs are instructed:

(a) To include this matter on the agenda of the next Mexico-United States Interparliamentary Meeting.

(b) That the Ecology and Environment, Border Issues and Foreign Relations Committees of the Chamber of Deputies propose that the Governors of the border states of the Mexican Republic and their respective Congresses be informed about projects attempting to be established in the border zone, exhorting them to define a joint strategy so that dumps not be implemented in the 100-kilometer border strip, and requesting their support of the present Report.

(c) To form a plural commission, made up of deputies [who are] members of the Joint Committees to meet with federal, local and legislative authorities of the United States of America to deal with the Sierra Blanca case and demonstrate their rejection of same.

SIXTH.—The Joint Committees express that the present case constitutes a valuable opportunity for both countries to show their will, responsibility and ability to cooperate in dealing with similar matters of common interest.

SEVENTH.—To the effect that public opinion has greater awareness of the subject, it is suggested that a document be drawn up, to be disseminated by the national and international communication media, in which the problems and current situation of the project in question are expressed.

EIGHTH.—The Joint Committees of the Chamber of Deputies request that this report be sent to the Honorable Chamber of Senators so that, within the framework of the faculties conferred on it by the Political Constitution of the United Mexican States, it proposes the actions necessary for the report's implementation.

Given in the Committee Room of the San Lazaro Legislative Palace, April 27, 1998.

TRIBUTE TO HERB AND SHEILA FRANKEL

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Herb and Sheila Frankel for their efforts to improve the quality of life in our community.

Although Herb and Sheila both spent their childhoods in Chicago and the families knew each other, the two met and married a year later in Los Angeles. With Herb having already served in the US Army and working in the family retail business and Sheila working as a dental assistant, the family moved to the San Fernando Valley in 1974 and began to focus their energy on Jewish community involvement.

The Talmud states, "He who gives charity serves the Holy One daily, and sanctifies his name." The Jewish community of the Shomrei Torah Synagogue and the San Fernando Valley have appreciated and enjoyed the charity of the Frankels for many years, as the devotion of their energies have given the community the strength to expand, and set into motion programs that will not only benefit today's members, but also the next generation.

The Frankel family has devoted a large amount of time to the Jewish communities of Temple Beth Ami and Shomrei Torah Synagogue. Their efforts illuminate a zealous determination to contribute to and support a growing Jewish community.

Herb has held many leadership offices such as Financial Secretary, Vice President and a three year term as President of Temple Beth Ami. He also co-chaired the merger committee of Temple Bet Ami and Congregation Beth Kodesh when the two Jewish communities joined to form Shomrei Torah Synagogue. Currently, Herb is the co-chairperson of the High Holy Days seating committee.

Sheila has served as an active member of the Sisterhood of Shomrei Torah Synagogue on the Donor Committee and as the chairperson of numerous Donor luncheons.

Herb and Sheila have had three beautiful children, Paul, Laurie and Adam. Unfortunately, Laurie was lost to cancer in 1995. Sheila's sister Roberta and Brother-in-law Ron Katz are also members of Shomrei Torah Synagogue.

Mr. Speaker, distinguished colleagues, please join me in honoring two outstanding individuals of our community. Herb and Sheila Frankel are dedicated members of Shomrei Torah Synagogue and role model for the West San Fernando Valley Jewish community.

IN RECOGNITION OF JOHN J. MURRAY

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. HALL of Texas. Mr. Speaker, it is with a great deal of personal gratification that I pay tribute to the major accomplishments over the past six decades of an individual who not only dedicated his military career to serving and honoring our country, but also continued that service in his leadership positions at Raytheon—formerly E—Systems. On 29 May 1998, Mr. John J. Murray will retire from Raytheon Systems Company in Greenville, TX, with 31 years of dedicated service on programs that contributed to the strength of our national defense and commercial welfare.

Mr. Murray was born on January 6, 1922, in Brooklyn, New York. He attended school there and graduated in 1939. In 1957, he received a Bachelor of Science in Political Science from St. Joseph's College in Pennsylvania while teaching ROTC. That same year he graduated from the United States Air Force Command and Staff College at Maxwell Air Force Base, Alabama. Mr. Murray retired from the United Staes Air Force in 1967. He continued his education in 1977 by earning his Master's of Business Administration at the University of Dallas in Texas.

Mr. Murray served 24 years as an officer in the Air Force, retiring as a Lieutenant Colonel and Combat Rated Pilot with more than 5,000 flying hours. His military career earned him the Air Medal with two oak leaf clusters and numerous other military service medals. During his Air Force Career, he served in a variety of operational and staff positions. In some of his early military assignments, between 1944 and 1960, he served in several operational and administrative positions and became qualified in 20 different aircraft.

Mr. Murray started his career flying "The Hump" in the China-Burma theater of WW II in C–47 aircraft for the U.S. Army Air Corps. He then signed on as a Base Legal Officer at Mitchell Field, New York and tried about 400 cases. Mr. Murray served as Commander of a Tactical Reconnaissance Squadron from 1960 until 1964. From 1964 through 1967, he was assigned as Operational Plans Officer, Headquarters North American Air Defense Command. In this capacity, he was specifically responsible for planning the systems requirements, operational employment concepts, and force levels, as well as performing operational analyses of the Improved Manned Interceptor and Airborne Warning and Control System Programs. Mr. Murray continues to be a member of the Air Force Association and has been a member of the Greenville Flying Club for many years.

Mr. Murray began his remarkable career with Raytheon System Company—Greenville, then known as LTV Electro Systems, in 1967. His extensive 31 years of experience at Raytheon Systems Company—Greenville has included a wide variety of program management positions. From 1968 to 1973, he was Program Manager for the Airborne Surveillance and Control System on the EC–121T aircraft. He was assigned special duties during 1973 that involved detailed preparation of the operations and logistics plan for the Sinai Field Mission Program. From 1973 to 1978, he was the Integrated Logistics Support Program Manager for the E–4A modification effort. From 1978 to 1980, he served as the Program Manager for the 4950th Test Wing Class II Modification Services Program.

Mr. Murray's management positions ranged from very high technologies with the Advanced Research Project Agency, where he successfully managed the Multitude Chip Module Program and the Applied Specific Electronic Module Program during the 1990 to 1995 time frame, to very large and complex aircraft programs during the 1980s. His management experience has also included service as the Material Program Manager for the E–4B Advanced Airborne Command Post Program. For 19 of those years, Mr. Murray was honored by being appointed consecutively to serve as chairman of the Employees' Political Action Committee (PAC). The Greenville PAC was organized in September 1976, with a mission to encourage Greenville employees to be better informed on federal, state, and local policies and action, and intensify the employees' and company's networking effort with elected representatives. During this 19-year chairman position, he inspired continued communications among members of our U.S. Congress, the PAC, and the population of Hunt County, Texas by hosting informative political forums at Greenville.

On election years, people running for local, state, and national elected positions were invited to speak giving the employees a first hand knowledge of each candidate's opinions. Those elected were invited back to brief PAC members of events in their respective jurisdictions. Some of the special guests over the past 19 years include: Governors Bill Clements and George W. Bush; U.S. Senators Lloyd Bentsen, Phil Gramm, Kay Bailey Hutchison, John Tower; U.S. Representatives Dick Armey, Joe Barton, Jim Chapman, Sam Hall, Sam Johnson, Max Sandlin, and myself. Mr. Murray has briefed influential people in Washington on Raytheon Systems Company—Greenville programs and shaped funding for many of the national security aircraft. He represented the interest of Greenville employees, the company, and the American free enterprise system.

Mr. Murray's career at Raytheon has been one of "can do" and "team spirit." He has been a leader, encourager, friend to all, and an anchor in times of difficulty. He has always been ready to contribute in whatever capacity was needed and his range of experience has been a benefit to many younger employees. Mr. Murray is a native of New York as is his wife, the former Terry Casey. They moved to Texas in 1967 and are 31-year residents of Greenville, Texas. They have three children: two daughters, Laura Murray and Nancy Feuille; and one son, Bill Murray. They also have six grandchildren.

Mr. Speaker, when we adjourn today's session—let us do so in honor and respect for this great American.

TRIBUTE TO ED WEINSTEIN

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. SHAW. Mr. Speaker, in just a few months, the accounting profession will bid farewell to one of its illustrious members. Ed Weinstein epitomizes what CPAs stand for: honesty, integrity, and forthrightness in all matters. Ed majored in accounting at Columbia University and earned his MBA from the Wharton School. He then joined Touche Ross and Co., and is currently a senior partner in the Deloitte & Touche firm. He has spent most of his professional career in New York and Pennsylvania, and during part of that time he managed the firm's Philadelphia office.

But Ed has done more than serve his clients; he serves his community and gives selflessly of his time and talents to many worthy and deserving causes. He is currently involved in the New York City Police Foundation, the Cooper-Hewitt National Museum of Design, and the New York City Public/Private Initiatives Commission. He is a Public Member of the New York City Rent Guidelines Board and is actively involved in Operation Exodus, the United Israel Appeal.

Fittingly, Ed has been acknowledged by his peers for his professional and civic activities. The New York Society of CPAs awarded Ed "The Arthur J. Dixon Public Service Award" and he received the New York City Police Department's Certificate of Commendation of 1994.

As a fellow CPA, I know the accounting profession will surely miss him, but I also know that Ed intends to continue many of the important community activities in which he is currently involved.

On behalf of my colleagues, I extend to Ed and his wonderful wife, Sandra, our very best wishes for a long and well-deserved retirement.

INTRODUCTION OF THE TRADEMARK ANTI-COUNTERFEITING ACT OF 1998

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. GOODLATTE. Mr. Speaker, I rise today to introduce the Trademark Anticounterfeiting Act of 1998. This important legislation will provide law enforcement the tools they need to combat the growing crime of altering or removing product identification codes from goods and packaging. This bill will also provide manufacturers and consumers with civil and criminal remedies to fight those counterfeiters and illicit distributors of goods with altered or removed product codes. Finally, this bill will protect consumers from the possible health risks that so often accompany tampered goods.

Most of us think of UPC codes when we think of product identification codes—that block of black lines and numbers on the backs of cans and other containers. However, product ID codes are much more than simple UPC codes. Product ID codes can include various combinations of letters, symbols, marks or dates that allow manufacturers to "fingerprint" each product with vital production data, including the batch number, the date and place of manufacture, and the expiration date. These codes also enable manufacturers to trace the date and destination of shipments, if needed.

Product codes play a critical role in the regulation of goods and services. For example, when problems arise over drugs or medical devices regulated by the Food and Drug Administration, the product codes play a vital role in conducting successful recalls. Similarly, the Consumer Product Safety Commission and other regulators rely on product codes to conduct recalls of automobiles, dangerous toys and other items that pose safety hazards.

Product codes are frequently used by law enforcement to conduct criminal investigations as well. These codes have been used to pinpoint the location and sometimes the identity of criminals. Recently, product codes aided in the investigation of terrorist acts, including the bombing of Olympic Park in Atlanta and the bombing of Pan Am Flight 103 over Lockerbie, Scotland.

At the same time, manufacturers have limited weapons to prevent unscrupulous distributors from removing the coding to divert products to unauthorized retailers or place fake codes on counterfeit products. For example, one diverter placed genuine, but outdated, labels of brand-name baby formula on substandard baby formula and resold the product to retailers. Infants who were fed the formula suffered from rashes and seizures.

We cannot take the chance of any baby being harmed by infant formula or any other product that might have been defaced, decoded or otherwise tampered with. FDA enforcement of current law has been vigilant and thorough, but this potentially serious problem must be dealt with even more effectively as counterfeiters and illicit distributors utilize the advanced technologies of the digital age in their crimes.

Manufacturers have attempted, at great expense and with little success, to prevent decoding through new technologies designed to create "invisible" codes, incapable of detection or removal. However, decoders have proven to be equally diligent and sophisticated in their efforts to identify and defeat new coding techniques. We therefore must provide manufacturers with the appropriate legal tools to protect their coding systems in order for them to protect the health and safety of American consumers.

Currently, federal law does not adequately address many of the common methods of decoding products and only applies to a limited category of consumer products, including pharmaceuticals, medical devices and specific foods. Moreover, current law only applies if the decoder exhibits criminal intent to harm the consumer. It does not address the vast majority of decoding cases which are motivated by economic considerations, but may ultimately result in harm to the consumer.

My legislation will provide federal measures which will further discourage tampering and protect the ability of manufacturers to implement successful recalls and trace products when needed. It would prohibit the alteration or removal of product identification codes on goods or packaging for sale in interstate or foreign commerce, including those held in areas where decoding frequently occurs.

The legislation will also prohibit goods that have undergone decoding from entering the country, prohibit the manufacture and distribution of devices primarily used to alter or remove product identification codes, and allow the seizure of decoded goods and decoding devices. It will require offenders to pay monetary damages and litigation costs, and treble damages in the event of repeat violations. The bill will also impose criminal sanctions, including fines and imprisonment for violators who are knowingly engaged in decoding violations.

The bill would not require product codes, prevent decoding by authorized manufacturers, or prohibit decoding by consumers. It is a good approach designed to strengthen the tools of law enforcement, provide greater security for the manufacturers or products, and most importantly, provide consumers with improved safety from tampered or counterfeit goods. I urge my colleagues to join me in supporting passage of this bill, which will go a long way toward closing the final gap in federal law enforcement tools to protect consumers and the products they enjoy.

THE AMERICAN HOMEOWNERSHIP ACT OF 1998

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. LAZIO of New York. Mr. Speaker, today I am proud to introduce with my colleagues the "American Homeownership Act of 1998." For most Americans, the most important financial investment we make in our lives is the purchase of a home. Homeownership creates a sense of community and common good, binding neighbors together. Homeownership is the cornerstone of strong families, prosperous communities and a dynamic nation, and this important legislation is designed to provide all families great opportunities to attain and preserve the American dream of owning their own home.

This Act will reduce barriers to the production of affordable housing, protect our Nation's senior citizens when they obtain reverse mortgages, and enable those who receive federal housing assistance, such as public housing or Section 8 housing, to use these funds in creative ways to achieve homeownership. This bill contains important provisions to assist self-help housing providers, such as Habitat for Humanity, in achieving their goals of helping our poor citizens move into their own homes. The American Homeownership Act provides increased flexibility to State and local governments to leverage federal housing funds, provided through the HOME Program, to attain higher levels of homeownership in their areas through local homeownership initiatives. This bill contains provisions to enhance and improve the manufactured housing industry. Moreover, this legislation seeks to address concerns raised by Native American groups who fear that federal bureaucratic procedures will hinder their efforts to increase homeownership on Indian lands.

BARRIERS TO AFFORDABLE HOUSING

We must eliminate the bureaucratic red tape and excessive regulation that stifles homeownership. Unnecessary governmental regulation adds 20 to 35 percent, thousands of dollars, to the cost of a new home according to the National Association of Home Builders.

I am pleased to join with my good friends and colleagues, TOM CAMPBELL, JACK METCALF and JON FOX to incorporate legislation Mr. CAMPBELL has previously introduced to reduce barriers to affordable housing.

The Act requires all Federal agencies to include a housing impact analysis with any proposed regulations to certify such regulations have no significant negative impact on the availability of affordable housing. Local nonprofits and community development groups are given the opportunity to offer alternatives if it is found that the rule would have a deleterious effect on affordable housing.

REVERSE MORTGAGES FOR SENIORS

We must preserve and protect opportunities for senior citizens to remain in their own homes near their families and friends. The American Homeownership Act makes the FHA-insured reverse mortgage program permanent. A reverse mortgage offers sometimes the only tool to for "house-rich", "cash-poor" seniors to remain in their own homes by providing extra income for living and medical expenses or crucial home repairs. We also will require HUD to prohibit financial entities from charging seniors extortionate fees when obtaining a reverse mortgage in response to allegations to fraud and abuse within the program last year.

HOMEOWNERSHIP OPTION IN FEDERALLY-ASSISTED HOUSING

The American Homeownership Act of 1998 will allow families receiving rental voucher assistance under the Section 8 program to use these funds in a properly structured homeownership program that would help them buy their own homes. Residents and public housing authorities are authorized to use funds normally used to pay rents for either downpayment assistance or toward mortgage payments.

HOME, HOME LOAN GUARANTEE PROGRAM, HOMEOWNERSHIP ZONES

The most innovative tools for expanding homeownership opportunities are being created at the state and local level. The American Homeownership Act creates a HOME Loan Guarantee program to allow communities to tap into future HOME grants for affordable housing development. HOME is one of the most successful Federal block grant programs, and is designed to create affordable housing for low-income families. The Act also provides grant authority for use in "Homeownership Zones"—designated areas where large scale development projects are designed to reclaim distressed neighborhoods by creating homeownership opportunities for low and moderate income families. Flexibility is also granted in defining metropolitan areas to allow greater homeownership opportunities for suburbs affected by the high home prices of nearby cities.

MANUFACTURED HOUSING

More and more families are living in manufactured homes than ever before. The days of trailer parks filled with metallic shoebox-shaped "homes" are gone. Many of today's manufactured homes are multi-sectioned with vaulted ceilings and state of the art appliances. They are also very affordable for more than 18 million Americans—$40,000 to $70,000 for a new, multi-sectioned manufactured home, compared to $158,000 for the average new home.

I am pleased to join with my colleagues BOB NEY, KEN CALVERT, DAVID MCINTOSH and others in including legislation we previously introduced to reform and modernize the Federal manufactured housing program.

The American Homeownership Act of 1998 promotes the quality, safety and affordability of manufactured homes by ensuring uniform standards and codes for construction across the country. The legislation improves the Federal management of the program by establishing a consensus committee of consumers, industry experts and government officials to advise HUD on regulation enforcement.

HOUSING ON INDIAN LANDS

I am pleased to join with my colleague Mr. REDMOND of New Mexico to include in this bill an Indian Lands Status Commission which will develop recommended approaches to improving how the Bureau of Indian Affairs conducts title reviews in connection with the sale of Indian lands. Receipt of a certificate from the Bureau of Indian Affairs is a prerequisite to any sales transaction on Indian lands, and the current procedure is overly burdensome and presents a regulatory barrier to increasing homeownership on Indian lands. This Commission is charged with providing Congress with methods to address these concerns.

Mr. Speaker, this homeownership legislation recognizes that the strength of our Nation lies in its individual communities, and that federal government policy should be encouraging and fostering, instead of hindering, the efforts of localities and individuals to achieve the American dream of homeownership.

HONORING REVEREND BRAXTON BURGESS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. KILDEE. Mr. Speaker, it is an honor to rise before you today to recognize the achievements of Reverend Braxton Vincent Burgess of Flint, Michigan. On Saturday, May 30, the congregation of Flint's Quinn Chapel African Methodist Episcopal Church will honor Reverend Burgess for the many contributions he has made to our community.

Reverend Burgess earned his Bachelor of Science degree from Wilberforce University in Ohio and continued his education at Payne Theological Seminary where he received his Master's of Divinity. To continue his mission of peace and social change, he received a diploma in urban ministry from the Urban Training Center of Chicago and served as a member of President Carter's White House Council on Arms Control.

In 1967, Reverend Burgess was ordained as an Itinerant Elder in the African Methodist Episcopal Church. Since that time he has committed his life's work to providing spiritual guidance and counsel to countless individuals. As a member of the Board of Directors of the Urban League of Flint, Past President of the Greater Flint Association of Christian Churches, and a member of the Board of Directors of the United Way of Genesee County, Reverend Burgess has been a highly effective leader. His dedication to ensuring that everyone is afforded a quality education is evidenced by his tenure on the Advisory Committee for the Mott Adult High School Continuing Education Program.

Reverend Burgess's tireless service and deeds have earned him recognition from various groups such as the Flint Optimist International, Western Michigan University's Black Studies Department, the State of Michigan House of Representatives, and the Flint Chapter of the NAACP, to name a few.

Mr. Speaker, it is with great pride that I ask my colleagues in the House of Representatives to join me in saluting an inspirational individual, Reverend Braxton Vincent Burgess. He deserves our thanks for a lifelong commitment to making our community a much better place.

TRIBUTE TO HERB AND SHIRLEY CANE

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Herb and Shirley Cane for their devoted efforts to improve the quality of life in our community.

Herb and Shirley have played an instrumental role in leading the Jewish community of the San Fernando Valley. Their continued community activism demonstrates a commitment to the further enhancement of the organization to which they have already dedicated so much valuable time and effort.

Herb Cane's relentless and unselfish dedication to the Jewish community has set the foundation for many growing Jewish youth programs. After his term as the first president of the Kadima Hebrew Academy for two and a half years, Herb headed the committee that would establish Kadima as an independent community school. In addition to this effort, he was also greatly committed to the fiscal stability of the young institution. Herb has served on the advisory and grant selection committee of the Ann Zatz Memorial Fund and the B'nai Brith Youth Organization. This organization has provided yearly scholarships for youth leadership training in Israel.

Shirley has also shown a great commitment to expanding the Jewish community in the San Fernando Valley. She played an integral role in founding the Honor Chapter of B'nai Brith Women in Canoga Park and presided over the Honor Chapter for a period. Shirley is a past president of Kidney Infection Needs Detection (K.I.N.D.) and served on the Cedars-Sinai Liaison Council. In addition to these roles, she has also held executive positions on the board of Congregation Beth Kodesh, the Congregation's Sisterhood and served as President of Friends of Kadima. Shirley is currently serving on Kadima Hebrew Academy's Board of Directors. As a tribute for her hard work, Congregation Beth Kodesh awarded her with the Sisterhood Chayeh Olam Award.

Married for thirty-five years, Herb and Shirley are the founders and main supporters of the Stacey Cane Youth Theater, named after their daughter whom they lost to breast cancer. Their continued support of the Shomrei Torah Synagogue is greatly appreciated as it continues to successfully expand into the next century.

Mr. Speaker, distinguished colleagues, please join me in paying tribute to Herb and Shirley Cane. They have shown an unwavering commitment to the community and deserve our recognition and praise.

ROBERT W. GENZMAN IN MEMORIAM

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. McCOLLUM. Mr. Speaker, I come before this body tonight to express my deep sadness over the death of Robert W. Genzman, one of the finest individuals I have ever known. Bob Genzman passed away in Orlando on May 12, 1998. He left a legacy of public service and accomplishment that will serve as an example for many in the years to come.

Bob Genzman received a B.A. from the University of Pennsylvania, an M.S. degree from the London School of Economics, and in 1977 a J.D. from Cornell Law School. Following law school Bob spent 2 years as staff counsel to the House Select Committee on Assassinations as one of several attorneys assigned to investigate the assassination of President Kennedy. He participated in public hearings and wrote and edited substantial portions of the Committee's final report. Later he spent several years as a Legislative Assistant to Congressman BOB LIVINGSTON.

From 1980 to 1983 he was Assistant United States Attorney in Orlando. After entering the private practice of law, Bob was tapped in 1987 to take a leave of absence from his law firm and serve as Associate Minority Counsel for the Republican Members of the House Select Committee to Investigate Covert Arms Transactions with Iran. In this capacity he did a great amount of research, deposed numerous witnesses, questioned in open hearings several of these witnesses including Secretary of Defense Caspar Weinberger, and wrote and edited substantial portions of the Committee's final report.

In early 1988 Bob Genzman was selected by President Reagan to serve as United States Attorney for the Middle District of Florida. Appointed by President Bush shortly after he took office, Bob was U.S. Attorney for the Middle District until 1993. He supervised 94 attorneys in a 35 county district with offices in Tampa, Orlando, Jacksonville and Fort Myers. During his tenure he pioneered the use of the federal criminal law for possession and use of a firearm by a convicted felon to prosecute previously convicted felons serving relatively short sentences in state or county jails so as to get them off the streets and locked up in a federal prison for a lengthy period of time. Attorney General Richard Thornburgh embraced this as a national policy under the name "Operation Triggerlock."

I got to know Bob Genzman quite well while I served as a member of the Iran Contra Committee. He was an excellent counsel for the Committee and struck me as bright, capable, even tempered, gracious and compassionate. When the office of U.S. Attorney opened, it was a pleasure for me to recommend him for this position. There had been much turmoil in this office, and everyone who worked with Bob Genzman while he was U.S. Attorney says he settled the office down and ran it with great professionalism.

Above all else, Bob Genzman was a family man. He is survived by his wife, Martha; his 5 year old twin children, Rob and Jackie; and his parents, Catherine and Glenn Genzman.

IN RECOGNITION OF LOIS NELSON

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to an extraordinary senior citizen from Princeton, Texas—Mrs. Lois Nelson—whose success story is worthy of recognition. What makes Mrs. Nelson so extraordinary is that she entered the workforce for the first time in 1982 at the age of 68 and has been active ever since.

In 1982 Mrs. Nelson began working through the Green Thumb program as the site manager for the Senior Citizen's Center in Princeton. As site manager, Mrs. Nelson spent countless hours recruiting members, organizing activities, counseling fellow seniors and distributing food to those less fortunate. Seven years ago, she began her quest to fulfill a lifetime dream—to become a librarian. Mrs. Nelson became an aide in both the elementary and high school libraries. In this capacity, she applied herself to learn and master the skills necessary to be a successful librarian, but she was still lacking one credential—a high school diploma. At the age of 79, Mrs. Nelson returned to the classroom and in April of 1994, received her GED.

On March 1, 1995, as a result of hard work and determination, a dream came true for Mrs. Nelson when she received her County Librarian, Grade 3 Certification. As a librarian for the Princeton Independent School District, Mrs. Nelson not only performed her professional duties but also recruited Green Thumb applicants and GED students, assisted in a community green house project, and helped with the school tax office. Her boundless energy and enthusiasm were never more prevalent than in 1996, when Mrs. Nelson had openheart surgery. Within six weeks and at the age of 81, she was back at work, fulfilling her official and voluntary duties.

Mrs. Nelson's enthusiasm for life, quest for knowledge, and willingness to give of herself set an example for all of us. In addition to obtaining her GED and receiving her County Librarian Certification, she has been active in a variety of community service efforts. Mrs. Nelson has participated in the 55-Alive class, attended Gang Awareness Inservice and Citizen's Crime class and served as a Pink Lady for the Ladies Volunteer Auxiliary at Columbia Medical Center—all after the age of 75.

In recognition of her exemplary achievements, Mrs. Nelson was nominated for the 1997 Outstanding Older Worker of Texas award. Today I am pleased to announce Mrs. Nelson's selection for Honorable Mention in this statewide search. Mrs. Nelson is living proof that life can be challenging and filled with opportunity, regardless of age.

Mr. Speaker, I am honored today to pay tribute to this outstanding senior citizen from the Fourth District of Texas. Mrs. Lois Nelson is an inspiration and role model to all Americans.

WESTHILL CHOIR WINS NORTH AMERICAN MUSIC FESTIVAL

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. WALSH. Mr. Speaker, it is my privilege today to recognize publicly the accomplishments of scholastic musicians and singers across the United States, and in particular some of my constituents in Central New York—the winners of the North American Music Festival in New York this spring, Westhill High School Concert Choir.

The choir was awarded First Place with a Superior rating. The Westhill High School Women's Ensemble also was awarded the First Place Trophy with a Superior rating. Members of the Ensemble also belong to the Concert Choir.

I want to congratulate Choral Director William Black for his tireless dedication and talented instruction. I would also ask my colleagues to join me in saluting the participants in such school groups in every district, in every state.

This kind of extracurricular activity nurtures sensitivity for beauty in music and song in young people. I am very proud of the programs which address such an important aspect of education and especially proud of the Westhill participants this year who won the American Music Festival.

They are: Michael Aquayo, Jeffrey Aldrich, Jaime Arnold, Kirstin Axford, Lacey Ballard, Katie Balogh, Jessica Bartle, Betsy Bartle, Nell Beadling, Claire Berkery, Erin Berkery, Katherine Bernstein, Brendan Brieaddy, Megan Brody, Sarah Brody, Kelley Burkett, Melody Calley, John Carpenter, Bryant Carruth, Paul Cella, Margaret Chajka, Michael Cieply, Marie Connell, Heather Cutler, Jessica Diaz, Laura DiSerio, Hilary Donegan, Erin Dowd, Brian Dudiak, Victoria Duffy, Jennifer Ernestine, Catherine Evans, Jennifer Fetter, Kristen Finn, Meghann Finerghty, Jamir Flores, Robert Flynn, Casey Foreman, Megan Foreman, Erin Frost, Rebecca Fullan, Jenelle Gallardo, Nicholas Gambino, Elizabeth Garofano, Manjinder Gill, Stephanie Grosso, Rebekah Guss, Kathleen Guyder, Kelly Hall, Colleen Harrington, Cara Hart, Sheehan Hayes, Benjamin Haynes, Erin Hogan, Julie Howard, Juliana Ingraham, Kristen Ingraham, Jonathan Jackowski, Lyndsay Jesmain, Joelle Kearns, Patrick Keeler, Elizabeth Kelly, Margaret Kelly, Jessica LaFex, Margaret LaFex, Allison Lang, Sara Lange, Meghan Lantier, Colleen Lavin, Marie Lebro, Emily Lemanczyk, Elizabeth Lemmerman, Kimberly Majewicz, Erin McCormick, Meghan McClees, Bryan McMahon, Molly Michaels, Rickard Mulligan, Kelly Murphy, Larissa Murphy, David Mushow, Andrea Nedoshytko, Julie Nichols, Pamela Norton, Colleen O'Brien, William O'Sullivan, Amelia Ott, Emily Ott, Jeffrey Pacelli, Jonathan Patrei, Julie Patriarco, Leah Patriarco, Jason Paussa, Sarah Pelligrini, Ana Pinker, Jessica Pouliot, John Powers, Sarah Quintana, Rebecca Reidy, Molly Rickert, Kathleen Roche, Carolyn Rolince, Jessica Roliance, Lauren Ryan, Marie Sampo, Michael Scheid, Elisa Sciscioli, Kelley Seymour, Daniel Silky, Kimberly Smith, Katherine Snyder, Jennifer Sobecki, John Sondej, Bryan Sparkes, Elizabeth Stebbins, Carissa Stepien, Lindsay Sterbank, Jillian Stevenson, Brian Stiles, Caitlin Sullican, Calleen Sullican, Matthew Tiffault, Matthew Thornton, Jamie Toth, Elizabeth Tucker, Erica Volpe, Kathryn Walsh, Kimberly Walsh, Maureen Walsh, Jessica Waters, Joseph Waters, George Welch, Shannon Wiktorowicz, Cassandra Williams, and Nathaniel Wood.

HANK STRAM/TONY ZALE SPORTS AWARD BANQUET

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to announce that Lodge 2365 of the Polish National Alliance of the United States, also known as the Silver Bell Club, held its 25th Annual Hank Stram/Tony Zale Sports Award Banquet yesterday, May 18, 1998, at the Radisson Hotel at Star Plaza in Merrillville, Indiana. Eighteen Northwest Indiana high school students of Polish and Slavic descent received the prestigious Hank Stram/Tony Zale Award plaque at last night's banquet. These outstanding students were chosen to receive the award by their respective schools on the basis of academic and athletic achievement. All proceeds from the banquet will go toward a scholarship fund which will be awarded to deserving students next year.

This year's Hank Stram/Tony Zale Award recipients include: Andrew Bien of Boone Grove High School; Jeff Bozovich of Chesterton High School; Andrew Byrom of Merrillville High School; Luke DeBold of Andrean High School; Tania Fliter of Griffith High School; Stephen Hnatiuk of Hobart High School; Cheryl Jakubczyk of Hammond High School; Richard Jaryszak of Lowell High School; Dan Kaminski of Portage High School; Steve Kaminski of Portage High School; Annie Knish of Munster High School; Ben Lyon of Highland High School; Justin Marcinkewicz of Bishop Noll Institute; Kelly O'Brien of Crown Point High School; Dan Perryman of Lake Station Edison High School; Eileen Stahura of Whiting High School; Becky Turek of Valparaiso High School; and Melissa Wychocki of Lake Central High School.

Hank Stram, one of the most successful coaches in professional football history, was present at yesterday's event. Hank was raised in Gary, Indiana, and he graduated from Lew Wallace High School where he played football, basketball, baseball, and ran track. While attending college at Purdue University in West Lafayette, Hank won four letters in baseball and three letters in football. During his senior year, he received the coveted Big Ten Medal, which is awarded to the conference athlete who best combines athletic and academic success. After college, Hank entered the NFL where he became best noted for coaching the Kansas City Chiefs to a Super Bowl victory in 1970.

The late Tony Zale was a champion boxer from Gary, Indiana. During his boxing career, Tony defeated the National Boxing Association champion in July of 1940, became a world titleholder when he defeated World Middleweight Champion, Georgie Abrams, in 1941, and successfully defended his title against famous boxer, Rocky Graziano, in 1945. When Tony retired from boxing in 1948, he left the profession with the distinction of fighting and beating every contender in the middleweight division during his championship reign from 1941 through 1948 and, in the 1950s, he was inducted into the World Boxing Hall of Fame. Tony Zale passed away in March of last year.

The distinguished speaker at last night's event was former NFL quarterback and head football coach, Sam Wyche. An NFL player and coach for 27 years, Sam was one of the original Cincinnati Bengals in 1968, and he was the quarterback on the Bengals first playoff team in 1970. Sam began his coaching career with Bill Walsh and the San Francisco 49ers. He coached quarterback Joe Montana from his rookie year through the 49ers first Super Bowl victory in 1981. Sam was then head coach of the Bengals in Super Bowl XXIII, which was against the 49ers. Sam has just completed his first year as one of the members of NBC's pre-game show, "NFL on NBC".

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending the Silver Bell Club for hosting this celebration of success in sports and academics. The hard work of all those involved in planning this worthwhile event is indicative of their devotion to the very gifted young people in Indiana's First Congressional District.

TRIBUTE TO MRS. SANDY CANDIOTTY

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Mrs. Sandy Candiotty for her outstanding commitment to others that has done so much to improve the quality of life in our community. Both as a successful business woman and as an avid supporter of charitable projects, she has used her intelligence and charisma to distinguish herself as a woman of valor.

The Talmud tells us that "He who does charity and justice is as if he had filled the whole world with kindness." Sandy has had a long tradition of service to the community through her family. Her father's family, the Taylors, founded Taylortown, Pennsylvania in the 1700's as well as Belmont County in Ohio. In addition to this, one of the family's most famous sons was Zachary Taylor, the 12th president of the United States.

In the business community, Sandy served in management and supervisory positions at Bank of America, Great Western Savings and Mercury Savings. While serving in these positions she was involved in all aspects of marketing. At Mercury, she also developed an entirely new staff training program for the company. Sandy converted to Judaism and married Max Candiotty on June 2, 1991.

At the Sephardic Temple-Tifereth Israel she has served as Sisterhood Co-President and as

Vice-President of Programming. She is a board member and serves on the executive board of My Discovery Place where she has chaired three major fund raisers. At the Maimonides Academy she has co-chaired two Chinese Auctions and has helped out in numerous school related projects.

Sandy also serves on the Board of Directors of the Sephardic Educational Center, and is active in the UJF Sephardic Women's Division, the Bureau of Jewish Education and the Women's League of the University of Judaism where she received the coveted Torah Fund Award. As a supporter of the humanities and the arts she has assisted the American Friends of Israel Museum, the Smithsonian, the Metropolitan, the Los Angeles County Museum, and has been appointed Chair of the Levy Sephardic Museum.

Mrs. Candiotty has served her own family as well, and has raised both her son Stephen and her daughter Dana to be successful and contributing members of the community. We are told in the Talmud that "When you teach your son you teach your son's sons," and Sandy has taken her commitment to education seriously.

Mr. Speaker, distinguished colleagues, please join me in paying tribute to Sandy Candiotty. Her dedication to charity and service has improved the community and made her a role model for us all.

TRIBUTE TO SISTER GLORIA JEAN ZIESKE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. BONIOR. Mr. Speaker, today I would like to congratulate, Sister Gloria Jean Zieske for her hard work and dedication to education. Sister Gloria Jean is retiring after twenty years as Principal of St. Veronica's School in Eastpointe, Michigan. Her friends, colleagues, and students will honor her with a reception on Sunday, May 31st.

Education has always been important to Sister Gloria Jean. She has studied at Nazareth College, University of Notre Dame, University of Dayton, Marygrove College, Edgewood College and Siena Heights College. As both a teacher and administrator, Sister Gloria Jean has been sharing the joys of learning with children since 1949. In 1997, Sister Gloria Jean received recognition from the University of Notre Dame for her contributions to Catholic education. She was also nominated by Today's Catholic Teachers as one of the 25 most influential individuals in Catholic education.

She joined the faculty at St. Veronica's in 1978. Sister Gloria Jean has been more than just a Principal, she has taught religion and coordinated the Elementary Religious Education Program. For more than twenty years, the students and parishioners of St. Veronica's have been graced by Sr. Gloria Jean's spirit and love of learning.

St. Veronica's School is a very special place. As a graduate of this school, I know how hard the staff and faculty work to create an educational and spiritual environment. Sister Glorida Jean's compassion and interest in improving the educational system have made her a compelling symbol of everything that education should embrace. I would like to give my heartfelt congratulations to Sister Gloria Jean as she celebrates her retirement.

CONGRATULATING MISSION SAN JOSE HIGH SCHOOL FOR WINNING EDUCATION DEPARTMENT'S BLUE RIBBON AWARD

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. STARK. Mr. Speaker, I would like to congratulate Mission San Jose High School for winning the Blue Ribbon award from the Department of Education. Mission San Jose was one of six California schools to win this prestigious award and one of 166 schools nationwide.

Mission San Jose proves that public schools can be effective advocates for all students to succeed in the 21st Century. Mission San Jose believes that all students can learn and all students will learn. The facts prove them correct.

Mission San Jose High School has an attendance rate of over 95 percent and a dropout rate of .05 percent. The student average SAT scores are in the top 5 percent of the nation. 65 percent of the student body is on the honor roll and most important to me is that 95 percent of students go on to post-secondary institutions.

These numbers speak for themselves and for the faculty and administrators at Mission San Jose High. I congratulate Principal Mathog for her outstanding leadership and positive views.

This success by one of our public schools is the best argument against some of the arguments of my colleagues. Eliminating the Department of Education and advocating public funds to be spent on scholarship vouchers for private schools is not the right step to providing opportunity and hope for all students. Public schools work and I can prove it.

Mission San Jose deserves this award and I congratulate them.

HONORING JOHN BRUEN SR.

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. GILMAN. Mr. Speaker, it is with regret that I inform our colleagues of the passing of one of the most remarkable residents of my 20th Congressional District of New York.

John Bruen Sr. was 92 years young when he died this past weekend, but right until the end he remained the embodiment of the dignity of the individual.

John Bruen was born in 1906 in Goshen, NY, and lived in that community his entire life. His grandfather was a runaway slave, who had shown John the scars on his back from the whippings he had received as a slave, and which remained on him until the day he died.

Because of his heritage, John was working for civil rights for all Americans long before it became fashionable to do so. As a young man, he worked grooming horses at the Goshen Historic Track in Goshen, New York. It was there, as a boy, that he learned his love of reading and especially his love of history. A friend gave him a biography of Abraham Lincoln, and that initiated John's lifelong dedication to equality for Afro Americans.

John married Gertrude Van Dyke in 1925, and they had six children.

John loved his family and taught them to share his love of liberty and of history. He worked for 30 years for the Erie Railroad, but was a true renaissance man: in the 1930's, John began his career as a semi-pro baseball player. In one season, he had an astonishing .517 batting average. Those were the days when professional baseball was closed to Black Americans. However, when Jackie Robinson broke that color barrier, forever, John Bruen was one of the first to cheer him on.

John became an expert on the life stories of those heroes who paved the way for equality: Frederick Douglass, Harriet Tubman, W.E.B. Dubois, Martin Luther King, Jr., as well as Jackie Robinson, and a host of others. John was a good friend of another outstanding resident of our region—Floyd Patterson—and the two of them shared their love for boxing, at which John also tried his hand, and for humanitarianism.

John had a gift for the written word, and from 1959 until near his death, the daily and weekly newspapers in Orange County, New York, published his views on the issues of the day. He was a consistent fighter against segregation, prejudice, and racism. He was superb at quoting those figures from the past who he so admired, and who he believed were living proof that all the races should live in harmony.

John was always of tremendous help to me throughout my career in public service. He used his column effectively to promote the causes he so believed in, and to remind us of our responsibilities to human rights for all. John was quick to praise those of us who supported civil rights, but would not consider compromise on those issues he considered basic to human dignity.

To John's surviving children, to his many loved ones, and to those who greatly admired him, we extend our heartfelt condolences. While John Bruen Sr. may not be quoted in our textbooks or popular histories, it is in great part due to the relentless trails blazed and consciences stirred by individuals such as John throughout our nation that we are closer than ever to achieving the dream of Martin Luther King Jr.

John you left your mark—we will long miss you.

TRIBUTE TO THE UNION OF ORTHODOX JEWISH CONGREGATIONS OF AMERICA

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. SCHUMER. Mr. Speaker, I am speaking today in honor of a leading organization in America's Jewish community, the Union of Orthodox Jewish Congregations of America, in recognition of its 100th anniversary.

The Orthodox Union represents over one million members from one thousand congregations across the country in matters religious and communal. In its efforts to assist Orthodox Jews in America, the Orthodox Union runs the renowned Kashruth Certification Program to guarantee certified kosher food for the observant. The Orthodox Union's National Council for the Jewish Disabled serves as an outreach program for the deaf and the developmentally disabled which has helped thousands of disabled live fuller lives. The Orthodox Union has always been at the forefront of the fight for the concerns of the world's Jewish population, working to strengthen and protect the state of Israel as well as defending Jewish civil rights and playing a vital role in the struggle to save the Soviet Jewry.

The Union of Orthodox Jewish Congregations of America was established in 1898 by Dr. Henry Pereira Mendes, the leader of the Spanish & Portuguese Synagogue in New York to promote Torah Judaism and help organize the fragmented American Orthodox Jewish community. Since then, the Orthodox Union has served the needs of over 1 million members in more than 1,000 congregations nationwide. To address the need for Jewish continuity the Orthodox Union created the NCSY, a dynamic outreach movement for teenagers. Through its efforts, the Orthodox Union has helped the modern orthodox congregant prosper in a world which often seeks to strip them of their religious and cultural identity. In this role, the Orthodox Union has played a vital part in the worldwide advancement of Judaism.

On this anniversary, I call upon all of my colleagues in the House to join me in giving tribute to the Union of Orthodox Jewish Congregations of America in recognition of the defining role that it has played in the formation of modern American Judaism. I congratulate the Orthodox Union on its successful first one hundred years, and wish it many more.

BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 1998

SPEECH OF

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. WALSH. Mr. Speaker, I rise today to commend the House of Representatives for passing H.R. 2829, the Bulletproof Vest Partnership Grant Act of 1998.

I have met with law enforcement officials from across my district who feel this is an important and useful bill. Currently, 25 percent of our nation's state and local law enforcement officials do not have access to bulletproof vests. Additionally, police officers not wearing a bulletproof vest have a fatality risk 14 times that of officers wearing a vest. There is an obvious need to make sure those who risk their lives on our behalf have access to these lifesaving devices.

H.R. 2829 will ensure that for the days to come, no police officer will be left unnecessarily exposed in the line of duty. Bulletproof vests are one of the most basic forms of law enforcement protection, and America now sends a message to its law enforcement officials—we will protect you who valiantly protect us every day.

HONORING THE CHINATOWN COMMUNITY DEVELOPMENT CENTER OF SAN FRANCISCO

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Ms. PELOSI. Mr. Speaker, I rise today to bring to the attention of my colleagues the Chinatown Community Development Center of San Francisco, which has been selected to receive the Fannie Mae Foundation Sustained Excellence Award.

For the past 21 years, the Chinatown Development Center (CCDC) has served Northeastern San Francisco neighborhoods through providing low-income housing development and management and by fostering a sense of community. CCDC incorporates a unique approach to community development that combines housing advocacy with community involvement through grassroots organizing and neighborhood planning. Supportive services empower residents to become self-sufficient and to participate in formulating public policy issues that directly affect them. Throughout its 21-year history, CCDC's principal projects reflect how it has merged housing with community improvement.

The significant contributions that CCDC has made include managing more than 1,000 units of affordable housing with a multitude of tenant services and the creation of 10 commercial spaces for small businesses to help provide employment for local residents. The CCDC has also contributed to fostering neighborhood pride through the creation of a street cleaning venture called the Chinatown Environmental Organizations and through coordination of neighborhood-based planning resulting in the renovation of five new parks, gardens, and courtyards in neighborhoods with limited safe, recreational areas. Additionally, CCDC provides citizenship and educational classes, as well as counseling and translation services for its residents.

We in San Francisco are proud of our diversity and CCDC has played a key role in supporting immigrant and low-income populations throughout the city. By investing in low-income residents, CCDC has brought new life and hope to San Francisco's low-income neighborhoods. CCDC is a model of sustained high quality housing development and management combined with active grassroots community organizing. CCDC possesses a clear vision for sustaining its communities for years to come. I join with the people of San Francisco in congratulating and thanking Gordon Chin and CCDC for its 21 years of accomplishments and send my very best wishes for continued success.

ARMED FORCES' DAY "WE MUST REMEMBER"

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Ms. SANCHEZ. Mr. Speaker, this weekend I joined the veterans in my community to recognize the first day the Prisoner of War and Missing in Action Flag was flown Nationally on Armed Forces' Day.

During the day, I had the opportunity to hear the stories of America's POWs and MIAs.

Their stories weighed on my heart and angered my senses. These men deserve from the United States as much, if not more, than they have given to us.

For these reasons, I cosponsored Public Law 105–85, legislation that requires the flying of the POW/MIA flag at Federal facilities, including U.S. Post Offices.

Having the flag flown at Federal offices and facilities will help us remember the work that remains to honor these courageous individuals and their families.

The POW/MIA flag offers us an opportunity not only to remember and recognize those we have lost, but also to rededicate ourselves to the cause of finding these men or their remains and bringing them home to their families and their grateful Nation.

We need to secure a full accounting of the men and women who fought for our Nation's flag and who were captured by the enemy or listed as missing.

We must work together to ensure the fullest possible accounting of these men for their family and all Americans who have benefited from their fight for freedom and liberty.

Although this is a good first step to recognizing and remembering those missing soldiers, I believe we must do more.

Recently, I joined several of my colleagues in contacting the State Department expressing our concern about the POW/MIA who are still unaccounted for from the Korean War.

We felt that the POW/MIA subject should have been a priority subject during the negotiations in Geneva this past December.

I strongly believe that any agreement for peace must include a serious commitment on the part of the government of North Korea to locate missing soldiers of the thousands of Korean Veterans I represent.

As you know, a lasting peace on the Korean Peninsula, underscored by a unified democratic government is a goal for which our Veterans fought bravely during the conflict of 1950–1953.

Under adverse conditions, and sometimes against a numerically superior enemy, U.S. troops battled to preserve a non-communist enclave on the Asian continent.

At a time during the cold war when the forces of communism seemed on the rise across the world, the performance of our valiant soldiers, sailors and airmen affirmed the resolve of democracy.

Now that the first steps to achieving peace in Korea are being taken, it is paramount that the US negotiators insist on POW/MIA closure subject to any formal accord.

By doing so, we honor the troops who put forth the ultimate sacrifice;

We honor their families, who have lived with uncertainty about their loved ones for over 40 years; most importantly;

We honor those veterans of the Korean War still living, who will never forget their colleagues lost on the nameless hills, ridges and valleys during those 3 long years.

I will continue to urge the State Department to work with the Pentagon in articulating a clear and resolute position for the United States on unresolved POW/MIA personnel cases as the talks continue.

A lasting peace cannot be fully achieved unless those who fought for it are accounted for by a grateful nation.

And I will continue to express my concern to the federal government.

It has been over 20 years since the war in Vietnam ended, yet our Government has still not accounted for so many of those men who went to a far away nation to defend an unknown people against an unseen enemy.

We have almost erased the scourge of Communism from the face of the earth, yet we have not yet fully recognized all of the men who made this victory of democracy possible.

Until we bring home these men, the war is not over. We must continue to fight and remember those we have lost in our battle for freedom.

Until all of the men, from throughout this country, have been accounted for, we must not rest in our efforts.

As a member of the National Security Committee, I commit myself to America's veterans. I commit myself to working in the memory of the thousands of Americans who served in America's wars and were captured by the enemy or listed as missing in action.

I commit myself to the families of those whose fate has been unknown and who have had to suffer tragic and continuing hardships.

In Washington, engraved at the Veterans' Administration Building, is a quote from Abraham Lincoln, "To care for him who shall have borne the battle, and for his orphan."

I do not believe that America has sufficiently cared for all of those men who have been declared missing or captured.

Until we have a full accounting, we cannot fulfill this promise to America's veterans and families.

A SPECIAL TRIBUTE TO BLAIR J. NAHM ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT, NEW YORK

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District, Blair J. Nahm. Blair recently accepted his offer of appointment to attend the United States Military Academy at West Point, New York.

The Nahm family has a long tradition with West Point, as Blair's older brother, Reid, is currently a Cadet Third Class. As Blair will soon be graduating from Tiffin Columbian High School, he, too, will be embarking on what figures to be one of the most educational and challenging opportunities of his life.

While attending Columbian High School, Blair excelled academically by attaining a 3.735 grade point average, placing him in the top ten percent of his class. Blair's academic excellence was extended through his involvement in the National Honor Society. He also participated in the Ohio Test of Scholastic Achievement, where he placed second in the district in pre-calculus.

Blair is also a fine student-athlete, and has distinguished himself on the fields of competition. He was a key member of the Varsity Football Team and Varsity Wrestling Team. In fact, during his junior year of wrestling, Blair received the Wrestling Iron Man Award for his accomplishments.

Mr. Speaker, I am confident that Blair will be very successful at West Point and in all of his future endeavors. I would urge my colleagues to stand and join me in paying tribute to Blair J. Nahm, and in wishing him well as he prepares to enter the United States Military Academy.

A TRIBUTE TO DR. MARJORIE SLAVENS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. SKELTON. Mr. Speaker, let me take this opportunity to say a few words in tribute to an outstanding teacher, Dr. Marjorie Slavens, who after nearly 40 years in the teaching profession, has decided to retire.

Dr. Slavens, who has been blind since a small child, has dedicated her life to teaching others. She is a Phi Beta Kappa from the University of Missouri at Columbia—holding both Bachelor of Arts and Master of Arts degrees. She earned her PH.D. from St. Louis University in St. Louis, MO. After graduating, Dr. Slavens began teaching Spanish in the Department of Modern Languages at Rockford College in Rockford, IL, and continued at this post for 33 years. During this period, student workers proudly assisted Dr. Slavens by taking attendance and proctoring tests, and tape-recording examinations for Slavens to grade.

Dr. Slavens's unique teaching style has earned recognition. In 1987, Dr. Slavens received the Illinois Lieutenant Governor's Award for service to the foreign language teaching profession. The college also appointed her Director of Advising, and she published Rockford College's first Academic Advising Handbook. In 1989, she was awarded the Mary Ashby Cheek Award that recognized her as an Honorary Alumni of the college. In 1991, a committee composed of faculty, staff, and students selected Dr. Slavens to receive the Sears Foundation Award for teaching excellence and campus leadership.

Mr. Speaker, I am certain that the Members of the House will join me in congratulating Dr. Marjorie Slavens on a spectacular teaching career. As she prepares for her retirement and the enjoyment therein, Dr. Slavens will undoubtedly take pride in her legacy as one of the nation's most special educators.

PEACE OFFICERS' MEMORIAL DAY

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. EDWARDS. Mr. Speaker, on May 15 our Nation honored the brave men and women in law enforcement with Peace Officers' Memorial Day, designated 36 years ago by President John F. Kennedy. This day of acknowledgment for the selfless contributions made by hardworking individuals falls during National Police Week. I rise today to pay tribute to all law enforcement professionals across our country and to honor those who have made the ultimate sacrifice.

Last year, 159 officers lost their lives in the line of duty. These fine individuals died serving the best interests of our society, working hard to protect our citizens. Patrolling our streets and highways, protecting our homes and families, and seeking out criminals are in the job descriptions of law enforcement professionals. Yet we all too often take for granted these hardworking people.

The National Association of Police Chiefs reported 21 confirmed line-or-duty deaths for January of 1998, ten more than reported in January of 1997. Even as crime rates are dropping, peace officer fatalities are steadily rising. Since 1980, 1,182 officers have been killed in the line of duty by firearms. According to the Federal Bureau of Investigation, 42 percent of those officers could have survived had they been wearing bulletproof vests. That is why I am pleased that the Bulletproof Vest Partnership Act was approved by Congress last week. This bill will provide Federal grants to match State and local government funds in purchasing bulletproof vests for law enforcement officers. This bill will take steps to provide these brave men and women with the tools they need to fight crime, protect society, and insure that they make it home.

We should not forget the hardworking, courageous men an women who every day step into the role of peace officer to make our society a safer place. I thank the Members for supporting the Bulletproof Vest Partnership Act and observing National Police Week and Peace Officers' Memorial Day.

THE NIGERIAN DEMOCRACY AND CIVIL SOCIETY EMPOWERMENT ACT, H.R. 3890

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. GILMAN. Mr. Speaker, today I am introducing, along with Representative DONALD M. PAYNE of New Jersey, the Nigerian Democracy and Civil Society Empowerment Act, H.R. 3890. Mr. PAYNE, a senior member of our International Relations Committee, has been a true leader in Congress on this issue. He identified the corrupt, venal nature of the Nigerian regime long before many of us, and I am pleased to work with him on this bill.

Mr. Speaker, while many other African nations are moving toward democracy and joining the world economy, the military government of Nigeria has become one of the most brutal and corrupt dictatorships on the continent.

Nevertheless, Nigeria remains important to U.S. interests. With a population of more than 100 million people, and the strongest military in the region, Nigeria is the key to security and development in all of West Africa. If Nigeria descends into chaos, millions of people from Senegal to Cameroon will suffer.

Nigerian drug traffickers, who have thrived under this regime, are among the most skilled in the world, reportedly delivering 70% of the heroin that enters Chicago alone, as part of their world-wide distribution networks.

Our bill sends a clear message to the military regime in Nigeria that the status quo is unacceptable. The Nigerian people want and deserve a real transition to democratic, civilian government, and this measure points U.S. foreign policy toward that goal. This legislation does three things.

It establishes a program to assist those in Nigeria who are willing to take risks for democracy and human rights. As was done during the apartheid regime in South Africa, the United States will aid those who stand against the illegitimate government of Nigeria and for a return to democratic, civilian rule.

The bill codifies into law the various sanctions that have been imposed on Nigeria by executive order, from visa restrictions to prohibitions on weapons sales, and establishes conditions under which these sanctions can be lifted.

The bill also mandates further measures if a transition to a democratic government under civilian control does not occur by the end of this year. These include additional visa restrictions and a prohibition against Nigerian athletes and teams participating in events in the United States.

While there are no provisions for economic sanctions in the bill, we are considering additional measures that could be added in committee mark-up on the House floor.

Mr. Speaker, the Nigerian regime is among the most venal, brutal, and corrupt regimes in the world. It is not enough to simply call them names, however. We must continue to put pressure on the military government and isolate it from the civilized world. This bill will help accomplish those goals, and I urge my colleagues to support it.

H.R. 3890

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nigerian Democracy and Civil Society Empowerment Act".

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The continued rule of the Nigerian military government, in power since a 1993 coup, undermines confidence in the Nigerian economy, damages relations between Nigeria and the United States, threatens the political and economic stability of West Africa, and harms the lives of the people of Nigeria.

(2) The transition plan announced by the Government of Nigeria on October 1, 1995, which includes a commitment to hold free and fair elections, has so far failed to foster an environment in which such elections would be considered free and fair, nor was the transition plan itself developed in a free and open manner or with the participation of the Nigerian people.

(3) The international community would consider a free and fair election in Nigeria one that involves a genuinely independent electoral commission and an open and fair process for the registration of political parties and the fielding of candidates and an environment that allows the full unrestricted participation by all sectors of the Nigerian population.

(4) In particular, the process of registering voters and political parties has been significantly flawed and subject to such extreme pressure by the military so as to guarantee the uncontested election of the incumbent or his designee to the presidency.

(5) The tenure of the ruling military government in Nigeria has been marked by egregious human rights abuses, devastating economic decline, and rampant corruption.

(6) Previous and current military regimes have turned Nigeria into a haven for international drug trafficking rings and other criminal organizations.

(7) On September 18, 1997, a social function in honor of then-United States Ambassador Walter Carrington was disrupted by Nigerian state security forces. This culminated a campaign of political intimidation and personal harassment against Ambassador Carrington by the ruling regime.

(8) Since 1993, the United States and other members of the international community have imposed limited sanctions against Nigeria in response to human rights violations and political repression.

(9) According to international and Nigerian human rights groups, at least several hundred democracy and human rights activists and journalists have been arbitrarily detained or imprisoned, without appropriate due process of law.

(10)(A) The widely recognized winner of the annulled June 6, 1993, presidential election, Chief Moshood K. O. Abiola, remains in detention on charges of treason.

(B) General Olusegun Obassanjo (rt.), who is a former head of state and the only military leader to turn over power to a democratically elected civilian government and who has played a prominent role on the international stage as an advocate of peace and reconciliation, remains in prison serving a life sentence following a secret trial that failed to meet international standards of due process over an alleged coup plot that has never been proven to exist.

(C) Internationally renowned writer, Ken Saro-Wiwa, and 8 other Ogoni activists were arrested in May 1994 and executed on November 10, 1995, despite the pleas to spare their lives from around the world.

(D) Frank O. Kokori, Secretary General of the National Union of Petroleum and Natural Gas Workers (NUPENG), who was arrested in August 1994, and has been held incommunicado since, Chief Milton G. Dabibi, Secretary General of Staff Consultative Association of Nigeria (SESCAN) and former Secretary General of the Petroleum and Natural Gas Senior Staff Association (PENGASSAN), who was arrested in January 1996, remains in detention without charge, for leading demonstrations against the canceled elections and against government efforts to control the labor unions.

(E) Among those individuals who have been detained under similar circumstances and who remain in prison are Christine Anyanwu, Editor-in-Chief and publisher of The Sunday Magazine (TSM), Kunle Ajibade and George Mbah, editor and assistant editor of the News, Ben Charles Obi, a journalist who was tried, convicted, and jailed by the infamous special military tribunal during the reason trials over the alleged 1995 coup plot, the "Ogoni 21" who were arrested on the same charges used to convict and execute the "Ogoni 9" and Dr. Beko Ransome-Kuti, a respected human rights activist and leader of the pro-democracy movement and Shehu Sani, the Vice-Chairman of the Campaign for Democracy.

(11) Numerous decrees issued by the military government in Nigeria suspend the constitutional protection of fundamental human rights, allow indefinite detention without charge, revoke the jurisdiction of civilian courts, and criminalize peaceful criticism of the transition program.

(12) As a signatory to the International Covenant on Civil and Political Rights (ICCPR), the Harare Commonwealth Declaration, and the African Charter on Human and Peoples' Rights, Nigeria is obligated to grant its citizens the right to fairly conduct elections that guarantee the free expression of the will of the electors.

(13) Nigeria has played a major role in restoring elected, civilian governments in Liberia and Sierra Leone as the leading military force within the Economic Community of West African States (ECOWAS) peacekeeping force, yet the military regime has refused to allow the unfettered return of elected, civilian government in Nigeria.

(14) Despite organizing and managing the June 12, 1993, elections, the Nigerian military regime nullified that election, imprisoned the winner a year later, and continues to fail to provide a coherent explanation for their actions.

(15) Nigeria has used its military and economic strength to threaten the land and maritime borders and sovereignty of neighboring countries, which is contrary to numerous international treaties to which it is a signatory.

(b) DECLARATION OF POLICY.—Congress declares that the United States should encourage political, economic, and legal reforms necessary to ensure rule of law and respect for human rights in Nigeria and support a timely and effective transition to democratic, civilian government in Nigeria.

SEC. 3. SENSE OF CONGRESS.

(a) INTERNATIONAL COOPERATION.—It is the sense of Congress that the President should, in any and all international fora, seek the cooperation of other countries as part of the United States policy of isolating the military government of Nigeria.

(b) UNITED NATIONS HUMAN RIGHTS COMMISSION.—It is the sense of Congress that the

President should instruct the United States Representative to the United Nations Human Rights Commission (UNHRC) to use the voice and vote of the United States at the annual meeting of the Commission—

(1) to condemn human rights abuses in Nigeria; and

(2) to press for the appointment of a special rapporteur on Nigeria, as called for in Commission Resolution 1997/53.

(c) SPECIAL ENVOY FOR NIGERIA.—It is the sense of Congress that, because the United States Ambassador to Nigeria, a resident of both Lagos and Abuja, Nigeria, is the President's representative to the Government of Nigeria, serves at the pleasure of the President, and was appointed by and with the advice and consent of the Senate, the President should not send any other envoy to Nigeria without prior notification of Congress and should not designate a special envoy to Nigeria without consulting Congress.

SEC. 4. ASSISTANCE TO PROMOTE DEMOCRACY AND CIVIL SOCIETY IN NIGERIA.

(a) DEVELOPMENT ASSISTANCE.—

(1) IN GENERAL.—Of the amounts made available for fiscal years 1999, 2000, and 2001 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), not less than $10,000,000 for fiscal year 1999, not less than $12,000,000 for fiscal year 2000, and not less than $15,000,000 for fiscal year 2001 should be available for assistance described in paragraph (2) for Nigeria.

(2) ASSISTANCE DESCRIBED.—

(A) IN GENERAL.—The assistance described in this paragraph is assistance provided to nongovernmental organizations for the purpose of promoting democracy, good governance, and the rule of law in Nigeria.

(B) ADDITIONAL REQUIREMENT.—In providing assistance under this subsection, the Administrator of the United States Agency for International Development shall ensure that nongovernmental organizations receiving such assistance represent a broad cross-section of society in Nigeria, including—

(i) organizations with representation from various ethnic groups;

(ii) organizations containing journalists, lawyers, accountants, doctors, teachers, and other professionals;

(iii) business organizations;

(iv) organizations that represent constituencies from northern Nigeria;

(v) religious organizations with a civic focus; and

(vi) other organizations that seek to promote democracy, human rights, and accountable government.

(3) GRANTS FOR PROMOTION OF HUMAN RIGHTS.—Of the amounts made available for fiscal years 1999, 2000, and 2001 under paragraph (1), not less than $500,000 for each such fiscal year should be available to the United States Agency for International Development for the purpose of providing grants of not more than $25,000 each to support individuals or nongovernmental organizations that seek to promote, directly or indirectly, the advancement of human rights in Nigeria.

(b) USIA INFORMATION ASSISTANCE.—Of the amounts made available for fiscal years 1999, 2000, and 2001 under subsection (a)(1), not less than $1,000,000 for fiscal year 1999, $1,500,000 for fiscal year 2000, and $2,000,000 for fiscal year 2001 should be made available to the United States Information Agency for the purpose of supporting its activities in Nigeria, including the promotion of greater awareness among Nigerians of constitutional democracy, the rule of law, and respect for human rights.

(c) STAFF LEVELS AND ASSIGNMENTS OF UNITED STATES PERSONNEL IN NIGERIA.—

(1) FINDING.—Congress finds that staff levels at the office of the United States Agency for International Development in Lagos, Nigeria, are inadequate.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator of the United States Agency for International Development should—

(A) increase the number of United States personnel at such Agency's office in Lagos, Nigeria, from within the current, overall staff resources of such Agency in order for such office to be sufficiently staffed to carry out subsection (a); and

(B) consider placement of personnel elsewhere in Nigeria.

SEC. 5. PROHIBITION ON ECONOMIC ASSISTANCE TO THE GOVERNMENT OF NIGERIA; PROHIBITION ON MILITARY ASSISTANCE FOR NIGERIA; REQUIREMENT TO OPPOSE MULTILATERAL ASSISTANCE FOR NIGERIA.

(a) PROHIBITION ON ECONOMIC ASSISTANCE.—

(1) IN GENERAL.—Economic assistance (including funds previously appropriated for economic assistance) may not be provided to the Government of Nigeria.

(2) ECONOMIC ASSISTANCE DEFINED.—As used in this subsection, the term "economic assistance"—

(A) means—

(i) any assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and any assistance under chapter 4 of part II of such Act (22 U.S.C. 2346 et seq.) (relating to economic support fund); and

(ii) any financing by the Export-Import Bank of the United States, financing and assistance by the Overseas Private Investment Corporation, and assistance by the Trade and Development Agency; and

(B) does not include disaster relief assistance, refugee assistance, or narcotics control assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.).

(b) PROHIBITION ON MILITARY ASSISTANCE OR ARMS TRANSFERS.—

(1) IN GENERAL.—Military assistance (including funds previously appropriated for military assistance) or arms transfers may not be provided to Nigeria.

(2) MILITARY ASSISTANCE OR ARMS TRANSFERS.—The term "military assistance or arms transfers" means—

(A) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) (relating to military assistance), including the transfer of excess defense articles under section 516 of that Act (22 U.S.C. 2321j);

(B) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) (relating to international military education and training);

(C) assistance under the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act (22 U.S.C. 2763); or

(D) the transfer of defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).

(c) REQUIREMENT TO OPPOSE MULTILATERAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in paragraph (2) to use the voice and vote of the United States to oppose any assistance to the Government of Nigeria.

(2) INTERNATIONAL FINANCIAL INSTITUTIONS DESCRIBED.—The international financial institutions described in this paragraph are the African Development Bank, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the International Monetary Fund.

SEC. 6. EXCLUSION FROM ADMISSION INTO THE UNITED STATES OF CERTAIN NIGERIAN NATIONALS.

Notwithstanding any other provision of law, the Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States, any alien who is—

(1) a current member of the Provisional Ruling Council of Nigeria;

(2) a current civilian minister of Nigeria not on the Provisional Ruling Council;

(3) a military officer currently in the armed forces of Nigeria;

(4) a person in the Foreign Ministry of Nigeria who holds Ambassadorial rank, whether in Nigeria or abroad;

(5) a current civilian head of any agency of the Nigerian government with a rank comparable to the Senior Executive Service in the United States;

(6) a current civilian advisor or financial backer of the head of state of Nigeria;

(7) a high-ranking member of the inner circle of the Babangida regime of Nigeria on June 12, 1993;

(8) a high-ranking member of the inner circle of the Shonekan interim national government of Nigeria;

(9) a civilian who there is reason to believe is traveling to the United States for the purpose of promoting the policies of the military government of Nigeria;

(10) a current head of a parastatal organization in Nigeria; or

(11) a spouse or minor child of any person described in any of the paragraphs (1) through (10).

SEC. 7. ADDITIONAL MEASURES.

(a) IN GENERAL.—Unless the President determines and certifies to the appropriate congressional committees by December 31, 1998, that a free and fair presidential election has occurred in Nigeria during 1998 and so certifies to the appropriate committees of Congress, the President, effective January 1, 1999—

(1) shall exercise his authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) to prohibit any financial transaction involving the participation by a Nigerian national as a representative of the Federal Republic of Nigeria in a sporting event in the United States;

(2) shall expand the restrictions in Presidential Proclamation No. 6636 of December 10, 1993, to include a prohibition on entry into the United States of any employee or military officer of the Nigerian government and their immediate families;

(3) shall submit a report to the appropriate congressional committees listing, by name, senior Nigerian government officials and military officers who are suspended from entry into the United States under section 6; and

(4) shall consider additional economic sanctions against Nigeria.

(b) ACTIONS OF INTERNATIONAL SPORTS ORGANIZATIONS.—It is the sense of Congress that any international sports organization in which the United States is represented should refuse to invite the participation of any national of Nigeria in any sporting event in the United States sponsored by that organization.

SEC. 8. WAIVER OF PROHIBITIONS AGAINST NIGERIA IF CERTAIN REQUIREMENTS MET.

(a) IN GENERAL.—The President may waive any of the prohibitions contained in section 5, 6, or 7 for any fiscal year if the President makes a determination under subsection (b) for that fiscal year and transmits a notification to Congress of that determination under subsection (c).

(b) PRESIDENTIAL DETERMINATION REQUIRED.—A determination under this subsection is a determination that—

(1) the Government of Nigeria—

(A) is not harassing human rights and democracy advocates and individuals who criticize the government's transition program;

(B) has established a new transition process developed in consultation with the prodemocracy forces, including the establishment of a genuinely independent electoral commission and the development of an open and fair process for registration of political parties, candidates, and voters;

(C) is providing increased protection for freedom of speech, assembly, and the media, including cessation of harassment of journalists;

(D) has released individuals who have been imprisoned without due process or for political reasons;

(E) is providing access for international human rights monitors;

(F) has repealed all decrees and laws that—

(i) grant undue powers to the military;

(ii) suspend the constitutional protection of fundamental human rights; or

(iii) allow indefinite detention without charge, including the State of Security (Detention of Persons) Decree No. 2 of 1984; and

(G) has unconditionally withdrawn the Nigerian internal security task force from regions in which the Ogoni ethnic group lives and from other oil-producing areas where violence has been excessive; or

(2) it is in the national interests of the United States to waive the prohibition in section 5, 6, or 7, as the case may be.

(c) CONGRESSIONAL NOTIFICATION.—Notification under this subsection is written notification of the determination of the President under subsection (b) provided to the appropriate congressional committees not less than 15 days in advance of any waiver of anye prohibition in section 5, 6, or 7, subject to the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

SEC. 9. PROHIBITION ON UNITED STATES ASSISTANCE OR CONTRIBUTIONS TO SUPPORT OR INFLUENCE ELECTION ACTIVITIES IN NIGERIA.

(a) PROHIBITION.—

(1) IN GENERAL.—No department, agency, or other entity of the United States Government shall provide any assistance or other contribution to any political party, group, organization, or person if the assistance or contribution would have the purpose of effect of supporting or influencing any election or campaign for election in Nigeria.

(2) PERSON DEFINED.—As used in paragraph (1), the term "person" means any natural person, any corporation, partnership, or other juridical entity.

(b) WAIVER.—The President may waive the prohibition contained in subsection (a) if the President—

(1) determines that—

(A) the climate exists in Nigeria for a free and fair democratic election that will lead to civilian rule; or

(B) it is in the national interests of the United States to do so; and

(2) notifies the appropriate congressional committees not less than 15 days in advance of the determination under paragraph (1), subject to the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

SEC. 10. REPORT ON CORRUPTION IN NIGERIA.

Not later than 3 months after the date of the enactment of this Act, and annually for the next 5 years thereafter, the Secretary of State shall prepare and submit to the appropriate congressional committees, and make available to the public, a report on governmental corruption in Nigeria. This report shall include—

(1) evidence of corruption by government officials in Nigeria;

(2) the impact of corruption on the delivery of government services in Nigeria;

(3) the impact of corruption on United States business interests in Nigeria;

(4) the impact of advance fee fraud, and other fraudulent business schemes originating in Nigeria, on United States citizens; and

(5) the impact of corruption on Nigeria's foreign policy.

SEC. 11. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

Except as provided in section 6, in this Act, the term "appropriate congressional committees" means—

(1) the Committee on International Relations of the House of Representatives; and

(2) the Committee on Foreign Relations of the Senate.

CONGRATULATING GULFSTREAM FOR WINNING THE 1997 COLLIER TROPHY

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. HORN. Mr. Speaker, I rise today to call the attention of the House to the winner of the 1997 Robert J. Collier Trophy, aviation's most prestigious award. The National Aeronautic Association (NAA) recently awarded the Collier Trophy to the Gulfstream Aerospace Corporation and the Gulfstream V Industry Team for the Gulfstream V—the world's first ultra-long range business jet. The trophy honors the year's top aeronautical achievement in the United States.

Gulfstream employs 5,800 people at five locations, including approximately 800 at its Long Beach, California facility in my Congressional District. The Gulfstream V is completed at the Long Beach facility. The Collier Trophy brings a well-deserved honor to all of Gulfstream's employees.

The NAA specifically recognized Gulfstream and the Gulfstream V Industry Team "for successful application of advanced design and efficient manufacturing techniques, together with innovative international business partnerships, to place in customer service the Gulfstream V." This aircraft is capable of flying 6,500 nautical miles at speeds up to Mach .885. It has a superior cabin environment with a 100 percent fresh air ventilation system, customized interiors, and the company's oversized signature oval windows offering panoramic views. The Gulfstream V has set 46 world and national records since receiving final certification on April 11, 1997. These records include: the first-ever nonstop flight from New York to Tokyo by a business jet; a climb to 51,000 feet in just over 15½ minutes; and the first-ever nonstop business aircraft flight between Washington, DC, and Dubai.

Amazingly, the Gulfstream V achieved these records while overcoming such challenges as using a new airframe with a new engine. And the project stayed fundamentally on schedule. By listening to customers throughout the production of the Gulfstream V, Gulfstream showed its commitment to superior service.

The Gulfstream V is not only a remarkable achievement in America's aviation history, but in our nation's business tradition as well. The story of this aircraft's production fits well in America's heritage of bold, entrepreneurial risk-taking. When Gulfstream first decided to pursue this project in the early 1990s, it was a relatively small, privately held company, and the Gulfstream V carried with it significant financial risks. Instead of backing down in the face of economic adversity, Gulfstream launched a series of partnerships under revenue-sharing agreements that allowed the Gulfstream V to become a reality.

The Collier Trophy has been awarded since 1911 "for the greatest achievement in aeronautics or astronautics in America, with respect to improving the performance, efficiency, and safety of air or space vehicles, the value of which has been thoroughly demonstrated by actual use during the preceding year." Until this century, men and women could only look at the sky and wonder what it was like to fly. Air and space travel was the stuff of science fiction and fantasy. But starting with that fateful first flight in Kitty Hawk, America has led the way in man's conquest of the skies.

The list of the Collier Trophy's winners tells nearly the entire history of America"s leadership in aviation and space travel. Past winners include Orville Wright, Charles E. "Chuck" Yeager, Neil Armstrong and the Apollo 11 flight crew, Cessna, and Boeing. The Trophy is on permanent display at the Smithsonian Institution's National Air and Space Museum. Gulfstream's employees and partners should take great pride in this historic achievement. They deserve it.

HONORING ATHENA AWARD WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. SMITH of Michigan. Mr. Speaker, I rise to pay special tribute to one of my constituents who has recently been honored with the ATHENA award by the Lenawee County Chamber of Commerce.

Janet McDowell is an assistant to the superintendent of the Lenawee Intermediate School District. She has been presented with the ATHENA award for her outstanding contributions to the Lenawee County community.

It is gratifying that the Lenawee Chamber of Commerce has devoted itself to the task of recognizing those people who make such valuable contributions to our community. And it is even more inspiring to know of the many good works of area residents such as Janet McDowell.

As the Lenawee Chamber realizes, a healthy economic climate is not the sole characteristic that makes a community worthwhile. While we can do much to create a climate that brings jobs, builds roads, lowers taxes, and eliminates deficits, the most important deficit we as a nation and a community must face is a deficit of values and character.

For this reason, Mr. Speaker, I wanted to tell my colleagues about those people who demonstratee the true meaning of community service in my district in Michigan. So many people talk about the need to get involved and pitch in when they see a problem, but Janet McDowell is one person who takes action.

Janet has distinguished herself as a volunteer for a number of local organizations, including the United Way and the American Red Cross. She is an active member of the Lenawee Chamber and a vigorous participant in her chosen community.

Mr. Speaker, on behalf of my constitutents, I extend my congratulations and appreciation to Janet McDowell. May she continue to be a source of encouragement to men and women whose professional accomplishments and public service endeavors are worthy of recognition.

TRIBUTE TO DEBORAH R. JOHNSON

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Ms. Deborah R. Johnson of Columbia, South Carolina, a Richland School District One's 1998–1999 Teacher of the Year Finalist. Aside from being a recent finalist for the district's top teaching honor, Ms. Johnson received her school's top honor by being named Virginia Pack Elementary School Teacher of the Year. She is also a Richland School District One Honor Roll Teacher of the Year.

Ms. Johnson received most of her formal education in the Sixth Congressional District, which I represent. She graduated from Burke High School in Charleston, South Carolina, and South Carolina State College, now South Carolina State University, in Orangeburg. She went on to receive her Masters in Education and Computer Technology from the University of Charleston, S.C.

Ms. Johnson began her distinguished teaching career in the Charleston County public schools system. She was once Teacher of the Month and twice the Distinguished Reading Teacher in the district. She was also Charleston County School District's Teacher of the Year for two consecutive years. During the 1994–1995 school year Ms. Johnson received both the President's Award and an Outstanding Achievement Award for post-secondary level teaching.

Aside from having an impact on the lives of many students, Ms. Johnson remains very active in her community. She is often a poll manager for the election commission, a tutor for "Community Helpers," a member of the National Association for the Advancement of Colored People (NAACP), and a member of the Alpha Kappa Alpha Sorority.

As a former teacher in the school district where Ms. Johnson began teaching, I take great pleasure in her many accomplishments. With a new millennium in sight, excellent teachers should be our nation's most prized possessions, for it is through their efforts the quality of our leaders of tomorrow will be determined. Mr. Speaker, I ask you to join me today in honoring Deborah R. Johnson for her outstanding work as a role model and teacher.

RECOGNIZING READING COMMUNITY CITY SCHOOLS

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. PORTMAN. Mr. Speaker, I rise today to recognize Reading Community City Schools on their Celebration of Excellence, which will be held on May 20, 1998.

Reading Community City Schools have demonstrated a strong track record of academic excellence, parental involvement and community support. In fact, several Reading schools have been recognized as Blue Ribbon award winners by the State of Ohio.

In particular, Reading Central Community Elementary School has received national recognition for excellence by being named as a National Blue Ribbon School for 1996–1997. This designation—given to only 268 public and private elementary schools nationwide—is a real tribute to the faculty, staff, students and parents who have shown a great deal of dedication, leadership and hard work.

Too often, newspaper headlines are filled with stories about inadequate performance by our schools and our students. It is my hope that the achievements of Reading Community City Schools will serve as a model and will inspire other schools in our region and throughout the country to work toward new levels of academic excellence.

I commend Superintendent John Varis, Board of Education President Albert Kretschmar, the faculty, staff, parents and—most importantly—the students themselves, for their hard work and dedication that have made this Celebration of Excellence so richly deserved.

RECOGNIZING THE 100TH ANNIVERSARY OF THE BOROUGH OF STOCKTON

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. PAPPAS. Mr. Speaker, it is my privilege to send congratulations and best wishes to the citizens of the Borough of Stockton, New Jersey as they commemorate the 100th anniversary of the incorporation of their community. This is a day of celebration and remembrance—a time to celebrate the growth and achievements of Stockton while remembering the efforts and sacrifice of the good men and women, past and present, who helped to make the Borough what it is today.

On Saturday, May 16, 1998, the Borough will celebrate its centennial with a parade, music and a picnic. Local students will also present a time capsule during the celebration as a way of passing along a piece of Stockton's history for future generations.

The Borough was named for Richard Stockton, a signer of the Declaration of Independence and member of the Continental Congress. In the years to come, I sincerely hope that Stockton will continue to build on the foundations of the past to ensure a happy and prosperous future for all its residents.

I offer my congratulations and best wishes to Mayor Gigi Celli and the Borough Council. It is my honor to have this municipality within the boundaries of my district. And it is my good fortune to be able to participate in its very special day.

H.R. 1522 SPONSOR JOEL HEFLEY AMENDS THE NATIONAL HISTORIC PRESERVATION ACT

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. BLUMENAUER. Mr. Speaker, Congress has a role to play in the design, preservation, and livability of our nation's capital. The land that houses the nation's congressional offices, the Botanical Garden and several of the administrative offices is under the stewardship of the Architect of the Capitol. In the past, Congress has exempted the Architect of the Capitol from meeting the same building, design, and community notification guidelines it requires other builders in the city and nation to meet. These exemptions have not worked to the public's benefit.

In the early 1960's Congress spent over $100 million to build the Rayburn House Office Building. It was designed by the Architect of the Capitol of the time, J. George Stewart. The building sits on 50 acres and is widely considered a waste of precious space. Only 15 percent of the building is used for hearing rooms and offices. Forty-two percent is used for parking. The appearance and design of the building since its inception has been considered architecturally void and barely functional with its hallways that end without warning.

Again, in 1997 the Architect of the Capitol, without consulting the public, demolished an historic row house built in 1890 to construct a $2 million day care center. The location was bitterly opposed by residents and local groups. The Architect demolished the historic house and constructed a new structure with what appeared to be an act of very little coordination with the people who lived in the neighborhood. Sadly enough, today the structure is nonfunctional due to a deadly toxin which developed on site.

Fortunately, Representative JOEL HEFLEY's bill H.R. 1522 takes steps to bring the Architect of the Capitol under the same guidelines as other builders who are required to abide by the National Preservation Act. I am pleased and hopeful the mistakes of the past will not have the opportunity to be repeated due to the building guidelines in this bill and other efforts currently in process by my office. The Architect of the Capitol needs to update their services by including the public in their decision making process and by following building guidelines established by Congress.

Currently, I am working to expand the efforts put forth in H.R. 1522 with legislation that would address several areas of the operation of the Architect of the Capitol. The major elements of the bill provide for community notification, a community comment period, annual auditing of their expenditures, historical impact statements and environmental impact statements for new buildings and a separate department of recycling with public reports as to the success of the recycling program.

In addition, I would like to add that H.R. 1522 successfully addresses the codification of Executive Order 12072 and 13006. By drawing investment away from our cities, urban sprawl has been sucking the life out of our downtowns. Sprawling development leads directly to traffic congestion, decreased air quality, loss of farm and forest land, decreased water quality and the need for costly new infrastructure. As land development continues to press further and further out, many of our older suburbs have begun to deteriorate as well.

Despite the fact that Executive Order 12072 and 13006 require federal agencies to try to locate in our cities, strong evidence suggests that federal agencies continue to abandon our cities in favor of suburban locations inaccessible to urban workers and urban transportation services. I am extremely pleased to see the codification of these Executive Orders, so that our federal agencies will no longer contribute to the blight of urban sprawl.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. KIND. Mr. Speaker, this could finally be the week. After a year and a half of work by members of Congress, reform groups and the general public the pressure to schedule a vote on campaign finance reform may have succeeded. This week, if the leadership keeps it's word, we will begin consideration of campaign finance reform.

This debate is long overdue. I have been delivering a daily statement in the House of Representatives calling for a vote. Enough has already been said about the abuses of the system or the way that money has distorted our democratic process. It should be clear by now that the public is frustrated with the system and they want change. Now is the time to bring some control to the out of control money race that dominates our elections.

I will not stop my work until the leadership finally allows a vote on campaign finance reform on the floor of the House. We have seen promises broken in the past, but we will not let the leadership break their promise this time. The people are demanding reform and it is time for us to take action.

CONGRATULATING TYLER SELLERS OF VICKSBURG, MISSISSIPPI

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. THOMPSON. Mr. Speaker, I rise today to congratulate one of my constituents, Tyler Sellers of Vicksburg, Mississippi, for winning a Grand Prize during the recent international poetry contests sponsored by the River of Words Environmental Poetry and Art Project. A third grader at Culkin Elementary School, Tyler has written a truly moving description of one of the pleasures we can all gain from a healthy natural environment. I would like to read the poem into the CONGRESSIONAL RECORD in hopes that it will encourage all its readers to develop a better appreciation of the great outdoors.

FISHING ON THE OUACHITA

I burn my lure beneath the surface,
Cordell redfin, real as rainbow
you like to feast on.
Starving striped bass
cruising for a bleeding shad,
you rise swift as white gulls above me,
deep from your blue hidden kingdom.
I wait for the moment
when I feel you strike
like a flood swallowing a levee.
Your fight breaks the water,
silver courage stronger than this line.
It gives, you take,
becoming my wish for another day.

CONGRATULATIONS TO THE REPUBLIC OF CHINA

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. PAYNE. Mr. Speaker, I rise today to congratulate the Republic of China. If there is one country that deserves praise, it is the Republic of China on Taiwan. It is a country without natural resources, yet it has become an oasis of wealth in Asia. This economic miracle is due to the leadership of Taiwan's President Lee Teng-hui and Vice President Lien Chan.

Sworn in as the ninth president and vice president of the Republic of China on May 20, 1996, President Lee and Vice President Lien have worked very hard to maintain Taiwan's economic growth and initiated all types of political reform. Today, Taiwan stands tall among all nations. It is rich, free and respects human rights. It is a full democracy.

On the occasion of President Lee and Vice President Lien's second anniversary in office, I extend to them my best wishes and congratulations.

HONORING REPRESENTATIVE MIKE NYE

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. SMITH of Michigan. Mr. Speaker, I rise to join the citizens of Hillsdale and Branch Counties to pay special tribute to our representative in the Michigan legislature.

So many people talk about the kind of leader they want to represent them in government and Mike Nye fits that definition by every measure.

This week, my friends in Hillsdale County will honor Mike Nye for his sixteen years of dedicated leadership in Lansing. They know, as I do, that few people have accomplished more in that time for the people of Michigan.

Mike Nye's retirement from the state legislature is a great loss. As a member of the House, he fought for commonsense legal reform and worked to provide better health care to poor children and was the innovator of reforms that have resulted in a better education system for Michigan. Mike Nye's improvements in court reform, school reform, tort reform, and juvenile justice reform will be a continuing legacy of his knowledge, ability and leadership in the Michigan legislature.

In an era of overheated rhetoric and blatant partisanship, Mike Nye stands out as a conciliator—a legislator who brought people together. Mike Nye was often the man people turned to when they needed a leader to finalize and pass legislation.

Mr. Speaker, my colleagues and I here in Washington can learn a lot from the service of Mike Nye. His contributions to public policy are equaled by his and his wife, Marcie's, dedication to their community. Marcie's leadership in working in the prison system with her Kids Need Moms program is a great example of their commitment to help people.

I know Mike's future contributions will be just as worthwhile to all of us, regardless of what path he may take. God bless you, Mike, and good luck.

INTRODUCTION OF THE URBAN ASTHMA REDUCTION ACT OF 1998

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. RUSH. Mr. Speaker, I am pleased today to join with several of my colleagues, to introduce The Urban Asthma Reduction Act of 1998.

This bill takes an important step towards increasing the federal commitment to reducing the high rate of asthma-related illnesses and hospitalizations of inner city children who suffer from asthma and who also are allergic to cockroach allergen. In 1997, the National Institutes of Health (National Institutes of Allergy and Infectious Diseases) reported conclusively that asthmatic children who were both allergic to cockroaches, and exposed to high cockroach allergen levels, were hospitalized 3.3

times more often than children who were either only exposed or allergic.

The link between asthma and allergy to cockroaches is a serious public health concern. In light of the NIH findings, there should be increased federal assistance to communities to address the problem.

Asthma is on the rise, especially in inner cities. Last month, the Centers for Disease Control (CDC) and Prevention reported that more than 15 million Americans suffer from asthma—an increase of 75 percent between 1980 and 1994.

Asthma is a growing concern for poor and minority communities, especially African American and Latinos. In 1993, among children and adults, African Americans were 3 to 4 times more likely than whites to be hospitalized for asthma. They were 4 to 6 times more likely to die from asthma.

The social and economic costs are high. These children are more likely to miss school more often, go to the doctor or emergency room more frequently, and lose sleep. Consequently, the adults who care for these children may have to miss work to care for them. According to The Washington Post (April 24, 1998) the Centers for Disease Control reported that costs related to asthma were estimated to be $6.2 billion in 1990, and expected to more than double by the year 2000.

The Urban Asthma Reduction Act of 1998 asks for action. The bill proposes to amend the Preventive Health and Health Services Block Grant Program, authorized by the Public Health Service Act, by adding integrated cockroach management to rodent control as an eligible activity for funding. Several groups have expressed support in working on behalf of the legislation. These include the Chicago Asthma Coalition, Southside Health Consortium American Lung Association, and the Safer Pest Control Project, a statewide coalition that promotes pesticide use reduction throughout Illinois.

Integrated cockroach management is a multi-faceted approach to controlling the prevalence of cockroaches while minimizing pesticide use. It involves a range of techniques that include building cleaning and maintenance, and using pesticides as a means of last resort. The funds could be used for structural rehabilitation of buildings. This includes patching holes or open pipes that allow cockroaches entry; caulking cracks in walls; moving bushes away from buildings so cockroaches do not have easy access; and ensuring that all windows are properly screened.

Integrated cockroach management can work. One example comes from Chicago. Residents of the Henry Horner Public Housing Development successfully created and carried out an integrated pest control program with assistance from the Safer Pest Control Project. The Henry Horner Pest Control Program is illustrative of the type of pro-active and preventive work that the Urban Asthma Reduction Act of 1998 would support.

The Urban Asthma Reduction Act creates new possibilities for communities that are serious about making integrated pest management a component of a comprehensive public health policy. City-wide cockroach control carried out in Budapest, Hungary between 1978 and 1990 resulted in nearly cockroach-free housing, schools, factories, hospitals, and other public facilities. Budapest's experience is documented in "Efficacy of Large-Scale Rat and Cockroach Control Actions in Budapest Shown by Experiences Over a 23-Year Period," a paper presented at the 1996 International Conference on Urban Pests held in Edinburgh, Scotland.

Both the Henry Horner Pest Control program and the experience of Budapest demonstrate that a significant reduction in urban cockroach prevalence can be achieved and maintained. My hope is that the Urban Asthma Reduction Act of 1998 will prove a viable tool for urban communities to improve the quality of life and health of all residents, but especially children who suffer from asthma. I urge all my Colleagues to join me in cosponsoring this legislation.

HONORING THE 57TH ANNIVERSARY OF THE BATTLE OF CRETE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mrs. MALONEY of New York. Mr. Speaker, I rise today to mark the 57th anniversary of the Battle of Crete. This is a historic event with direct significance to the allies' victory of World War II.

On May 20, 1941, thousands of German paratroopers and gliders began landing on Crete. Both the allies and Nazis wanted Crete because of its strategic location. At that time the British controlled the island. It was a very strong point on the lifeline to India and protected both Palestine and Egypt.

The Nazi invasion force included the elite German paratroopers and glider troops. Hitler felt this was to be an easy victory, yet he is quoted to have said shortly after the invasion, "France fell in 8 days. Why is Crete free?" The invasion of Crete took 11 days. It resulted in more than 6,000 German troopers listed as killed, wounded or missing in action. The losses to the elite 7th parachute division were felt so hard by the German Military it signified the end of large-scale airborne operations.

This valiant fight by the Cretan people began in the first hour of the Nazi airborne invasion. In contrast of the European underground movements that took a year or more after being invaded to activate. Young boys, old men and women displayed breathtaking bravery in defending their Crete. German soldiers never got used to Cretan women fighting them. They would tear the dress from the shoulder of suspected women to find bruises from the recoil of the rifle. The penalty was death. The Times (London) July 28, 1941 report that "five hundred Cretan women have been deported to Germany for taking part in the defense of their native island."

Another surprise for the German soldiers who invaded Crete was the heroic resistance of the clergy. A priest leading his parishioners into battle was not what the Germans anticipated. At Paleochora, Father Stylianos Frantzeskis, hearing of the German airborne invasion, rushed to his church, sounded the bell, took his rifle and marched his volunteers toward Maleme to write history. This struggle became an example for all Europe to follow in defying German occupation and aggression.

The price paid by the Cretans' for their valiant resistance to Nazi forces was high. Thousands of civilians died from random executions, starvation, and imprisonment. Entire communities were burned and destroyed by the Germans as a reprisal for the Cretan resistance movement. Yet this resistance lasted for four years. The battle of Crete was to change the final outcome of World War II.

The Battle of Crete significantly contributed in delaying Hitler's plan to invade Russia. The invasion was delayed from April to June of 1941. The two month delay in the invasion made Hitler's forces face the Russian winter. The Russian snow storms and the sub zero temperatures eventually stalled the Nazi invasion before they could take Moscow or Leningrad. This was the beginning of the downfall of the Nazi reign of terror.

This significant battle and the heroic drive of the Cretan people must always be remembered and honored. Democracy came from Greece and the Cretan heroes exemplified the courage it takes to preserve it.

Today, the courage and fortitude of the Cretan people is seen in the members of the United Cretan Associations of New York, that is located in Astoria. The association's Chairman Steven Kohilakis and Co-Chairman Charles Marangoudakis, together with the presidents of the member clubs: Emmanuel Taouganakis, Omonia, Emmanuel Velonakis, Minos, Emmanuel Piperakis, Cretan Brotherhood, George Filippakis, Erotokritos and Aretousa, Marina Pefani, Pasifai, Cleo Aliferis, Cretan Sisterhood, Emmanuel Vlastakis, Filoxenia, John Daskos, Diktamos, Andreas Fiotodimitrakis, Labris, Mr. Polihronakis, Idomeneas and Mr. Berikakis, Kazatzakis are excellent representatives of their Cretan heritage.

I request my colleagues to join me in honoring the Cretans in the United States, Greece and the diaspora.

A SPECIAL TRIBUTE TO SCOTT B. RADCLIFFE ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT, NEW YORK

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to a truly outstanding young man from Ohio's Fifth Congressional District, Scott B. Radcliffe. Scott recently accepted his offer of appointment to attend the United States Military Academy at West Point, New York, and will soon enroll as part of the Cadet Class of 2002.

Scott, who is from Perrysburg, Ohio, will soon be graduating from Perrysburg High School. After graduation, he will begin preparing for what figures to be one of the most exciting, challenging, and educational experiences of his life: his four years at West Point.

While attending high school in Perrysburg, Scott distinguished himself as a talented student. His academic achievements in the classroom are certainly accomplishments of which he can be proud. An honors student, Scott has maintained a cumulative grade point average of 3.3, placing him near the top in his class of 315 students.

In addition to his excellent work in the classroom, Scott has proven himself to be a talented and gifted student-athlete. Scott has excelled on the fields of competition throughout his high school career. During his senior year, he was selected as the Captain of the Varsity Football Team and the Varsity Basketball Team. He has also been active in the Perrysburg Show Choir, symphony, and the school musical.

Mr. Speaker, each year, I have the opportunity to nominate several outstanding young men and women from the Fifth District to the nation's military academies. I am pleased that Scott was among those nominated for the West Point Class of 2002. I would urge my colleagues to stand and join me in paying special tribute to Scott Radcliffe, and in wishing him well at West Point and in the future.

IN HONOR OF PEOPLE'S SELF-HELP HOUSING

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mrs. CAPPS. Mr. Speaker, I rise today to pay tribute to an organization that has provided countless Central Coast families with hope and a home, People's Self-Help Housing.

People's Self-Help Housing is being honored today by the Fannie Mae Foundation for sustained excellence in their work. It is an award of recognition that is justly deserved.

Through the efforts of the good and hardworking individuals at People's Self-Help, more Central Coast families live in places they want to call home. I extend to them my sincerest thanks for their years of dedication, and congratulations for achieving this well deserved commendation for the Fannie Mae Foundation.

People's Self-Help Housing has been providing housing for low income families for more than 25 years. They have produced over 1400 units for low income seniors, families, farmworkers, and other special needs groups. Expanding beyond their original "sweat equity" program, People's Self-Help now handles affordable rental units, property management and complete construction services. They provide well managed properties and ensure that much needed health and education services are available to residents of these communities.

Mr. Speaker, I have known the head of this wonderful organization, Jeannette Duncan, for years and I have seen firsthand the fantastic work that this group does. People's Self-Help helps to fill a glaring need in our bucolic seaside and inland rural communities. Housing is expensive on the Central Coast and finding clean, affordable, quality homes and apartments can be a real struggle for people of limited means or extraordinary needs.

Among their many accomplishments, People's Self-Help has provided farmworkers with national award-winning townhouses in Santa Maria, updated the Victoria Street apartments in downtown Santa Barbara, and provided apartments for seniors in Templeton. Through their creativity and persistence, the Central Coast has filled communities where low and moderate income families find an opportunity to participate in the American dream.

They have done these things by working with developers, banks, local, state and Federal officials. But most of all, they have done this by thinking first and foremost of the communities they serve and the people who so often are forgotten in our society.

This is an example of public-private partnership that works, providing services to communities that need them and opening the doors of opportunity to all.

I commend Jeannette and everyone at People's Self-Help for their years of service and success, and in the recognition that is being bestowed upon them today.

HONORING CALVIN AND MARJORIE BRIGHT

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. CONDIT. Mr. Speaker, I rise today to honor a pair of very special friends of mine—Calvin and Marjorie Bright—and to recognize them as they become the first recipients of the Bart Bennett Community Award.

This award, given by the City of Modesto in my district in California's great Central Valley, is in honor of Calvin and Marjorie's tireless efforts of putting others before themselves and working for the betterment of our community.

Not only are these people pioneers in local housing, they have given back to the community time and time again. Perhaps Community Housing and Shelter Services Executive Director Diana Olsen summed it up the best when she said, "I can't think of anyone else that deserves this award more."

Calvin and Marjorie were volunteering their time and efforts before voluntarism became popular. I'd like to take a moment to focus on some of their achievements. Not only did they establish the Bright Family Foundation which includes the Marjorie H. Bright Scholarship Program for students at California State University Stanislaus, Modesto Junior College, University of the Pacific and San Jose State University and other universities in Utah and Oklahoma; they also sponsor a medical fellowship at the University of California, San Francisco School of Medicine.

Particularly poignant to me is the fact that despite their success, they have never forgotten their roots in helping provide scholarships for students from their high school alma mater, Beggs High School, in Beggs, Oklahoma. I am honored to call Calvin and Marjorie my friends. The Bright Foundation also actively supports the Children's Crisis Center and the Boy Scouts of America.

Calvin formed Bright Development in 1971 in Modesto. The firm has built approximately 3,000 single-family homes, in addition to townhouses, apartments and commercial office buildings. He founded Bright Foods in Turlock in 1956, one of the first frozen prepared food processing plants on the West Coast. Bright Foods and FM Stamper of St. Louis were merged and renamed Banquet Foods in 1966. Banquet was later sold to RCA Victor in 1969.

Marjorie Bright worked actively in the couple's food processing and building businesses. She was the personnel and labor relations manager of Bright Foods and now serves as the general manager of Woodside Management Group. Woodside has more than 100 employees and manages approximately 3,000 apartments.

Mr. Speaker, it is with great pride that I stand before the House of Representatives and ask my colleagues to join me in honoring Calvin and Marjorie Bright for their outstanding service to our community.

CONGRATULATIONS TO MINDY BACCUS, VFW VOICE OF DEMOCRACY SCHOLARSHIP WINNER

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. MORAN of Kansas. Mr. Speaker, I rise today to congratulate Ms. Mindy Baccus from Ada, Kansas on being named a National winner in the 1998 Voice of Democracy Scholarship Competition sponsored by the Veterans of Foreign Wars and its Ladies Auxiliary.

Ms. Baccus is a senior at Minneapolis High School and hopes to pursue a career in communications or Law. She has been honored for her scholastic and extracurricular activities and exhibits outstanding leadership qualities. She has again distinguished herself by writing and orating the best patriotic script in Kansas entitled "My Voice in Our Democracy" for this nationwide competition. Her insight into the importance of each individual's role in our democracy and the eloquence with which she states her ideas, exemplifies the principles this country was founded upon. I am proud to announce that as a result of her hard work, Ms. Baccus has been awarded $3,500.

The men and women of the Veterans of Foreign Wars and its Ladies Auxiliary deserve recognition for their generous sponsorship of this scholarship program. I especially commend VFW Post 3201 and its Ladies Auxiliary in Minneapolis, Kansas for their local sponsorship. This year fifty-six young leaders from across the nation received scholarships totaling $128,500.

I am proud that the VFW have honored Ms. Mindy Baccus with this year's award. I wish Ms. Baccus all the best in her chosen career path and in her studies at William Jewell College.

"MY VOICE IN OUR DEMOCRACY"

Ballots! Ballots! Get'em while they're hot! Here sir, have a ballot! What!? You don't want one! You're a US citizen 18 or over, aren't you? Well, then take a ballot. Oh, you think one person can't make a difference?

What about you ma'am. You want one, right? After all, women fought for the right to vote for over a century. You'll take advantage of that privilege, won't you? What, you think your opinion doesn't matter. Well, you're wrong. You need to sit down and let me tell you about my voice in our democracy. In fact, all of you need to listen because anyone can have a voice in our democracy as long as they remember what voice truly stands for. My voice is vibrant, overcoming, insightful, confident, and educated.

Never half-hearted, my voice is pulsing with life, energy, and vigor. No one can resist being drawn to my enthusiasm. Whether writing letters to public officials, discussing policy decisions with those around me, or encouraging my peers to become more active in government; I always convey my beliefs with energy and vitality. By doing so, I set an example that others are compelled to follow because everyone can see that I truly believe in what I'm saying. However, regardless of how vibrant my voice is, someone is usually waiting to stifle it.

For that reason, my voice must be overcoming. I know that I must never let others make me compromise what I truly believe. Because so many policies in our society today are controversial, viewpoints often encounter strong opposition, but in order to be as close to a democracy as possible, many diverse opinions must be heard. Obviously, without a voice that's overcoming, having any voice in our democracy would be extremely difficult. Often, fully understanding a situation will help me overcome obstacles.

As a result, I must be insightful. By looking deeply into a situation, I can find details which support my opinion and by pointing out aspects of an argument that others may have missed, I can gain more support for my view. Additionally, thoroughly exploring a policy helps me to make the right decision from the beginning. Soon, others will recognize me as a strong analyst and will gain more respect for my views, even if they don't agree with them. Although my peers may not agree with me, I will never stop believing in myself.

That's why my voice must be confident. If I don't believe in myself, no one else will believe in me either. Regardless of the opposition I face or whether I feel like I'm alone in my views, I can never let myself feel defeated. As long as I know I am right and tenaciously defend my opinions, I will never be conquered. Even if I have to write a letter daily for years, make thousands of signs, or vote year after year for the same proposal, I will eventually make a difference as long as I believe in myself. Still, it's hard to be confident if I don't know about the issue.

In order to have a strong voice in our democracy, I must be educated. First, without being informed, I cannot know enough about issues to find the position I want to fight for, and without fully understanding my views, I cannot adequately defend them. Finally, since affairs in a democracy are constantly changing, education can never stop; it must be ongoing. Overall, knowledge is power especially when it comes to democracy.

Vibrant, overcoming, insightful, confident, and educated. Although the use of the acronym V.O.I.C.E. is clever, this actually is what voice truly stands for. I know my voice in our democracy embodies all of these traits and will as I continue to enter adulthood. Everyone has a voice in our democracy; they must simply learn to use it. One person can truly make a difference, and that one person could be me * * * or you. Ballots! Ballots! Get'em while they're hot. Here, would you like a ballot? Of course you would.

AIR FORCE SCIENCE AND TECHNOLOGY REINVIGORATION ACT

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. HALL of Ohio. Mr. Speaker, today I join my colleague Mr. Boehlert in introducing the Air Force Science and Technology Reinvigoration Act, a bill to restore the role of scientific research as a driving force in the decision-making of the United States Air Force. The bill establishes the new positions of Assistant Secretary of the Air Force for Science and Technology and Deputy Chief of Staff for Science and Technology. The bill will require minimal expense. The two new positions are similar to positions which once existed in the Air Force. These changes could help reinvigorate Air Force science and technology and help return the Air Force to the spirit of its founding mission—a mission that established and maintained the world's supreme air fighting force.

BACKGROUND

Scientific investigation, accompanied by the new knowledge it generates and the foundation it lays for development of new technologies, is the cornerstone of air and space superiority. The Air Force as no other military service should recognize the singular importance of science to its beginning and survival. Technology has been an engine that drives the Air Force as an institution. More than the other services, the Air Force is where scientists and engineers must do their work years before the battle begins.

As critical as it is to military aviation, support for science and technology has been feast or famine throughout Air Force history. In times of war or national emergency, science and technology are almost always fully funded and encouraged. However, as soon as the crisis is over, science and technology are de-emphasized until the next crisis. As a result, in the past the United States has found itself technologically behind enemies and allies, and has been forced to play catchup when responding to a national emergency.

The feast-or-famine approach has not yet failed us. However, as technology becomes more complex, the lead time from the inception of new research to fully-deployed weapon systems grows longer. For example, the smart weapons that worked so well in Desert Storm were the result of a technology build up that began in the 1960s. Unless the Air Force stabilizes long-range research at sufficiently high levels, our Nation could face a crisis without the technology necessary for victory.

AIR FORCE SCIENCE AND TECHNOLOGY POLICY

A HISTORICAL OVERVIEW

Air Force science and technology (S&T) grew from the technical revolution that began with development of the first airplane by the Wright brothers in Dayton, Ohio. The Army purchased a plane from the Wright brothers, but the service did not appreciate the value of scientific research in the new field of aeronautics. Few pilots received technical training. For the most part, they cared only about the finished product. Between 1909 and the beginning of World War I, the Army Signal Corps purchased 24 airplanes, but conducted no aviation research. During World War I, the Army designed no military aircraft, instead relying on foreign aircraft that were shipped to the United States and copies.

In October 1917, the Army established the Experimental Engineering Division at McCook Field in Dayton, Ohio, to help the fledgling American aeronautical industry design and produce military planes. McCook Field operated as no other Army Air Field. It employed primarily a civilian workforce of scientists, engineers, and support personnel who were exempted from many of the ordinary civil service rules, including those on hiring. The Army recruited the best and brightest scientists and engineers in the country from industry and academia, both seasoned professionals and new graduates.

In the early 1920s, McCook Field was the place to be for anyone interested in aeronautical science and engineering. It was the place to discover how to design and build military aircraft, and more importantly, to develop new concepts and technologies. It had beocme the United States' center of aeronautical research and development.

By the mid 1920s, the engineering staff designed and tested its own aircraft prototypes and equipment, including engines. The experimental engineering activities at McCook field came to an abrupt end when the aeronautical industry complained of unfair competition. World War I was over and industry leaders thought there was no longer any need for the Army Air Corps to experiment with aeronautics or develop new military aircraft. They—and the Nation as a whole—felt there would never be another war like World War I.

The Army Air Corps found new importance in scientific research after President Franklin D. Roosevelt assigned the Corps the emergency role of carrying air mail in 1934. The Army Air Corps' men and equipment were unprepared to accomplish the mission. The Corps discovered that its inability to respond successfully to the national emergency was a direct result of the cancellation of its aeronautical experimental engineering program. This experience lead the Army Air Corps into an ambitious research and development program which reached its height by 1939. Some of the technological advances made during this period were all metal aircraft, pressurized cabins, retractable landing gear, and automatic landing systems. However, this technology was aimed at building better planes, not war fighting machines.

When World War II began, the Army Air Forces had already started to dismantle its aviation research programs and it was conducting little research to develop military aircraft. Aircraft developed during and after the air mail crisis was retrofitted for war service. Once again the country had to ramp up aviation research on a crisis basis.

By hiring outside expert scientific and engineering consultants, the Army Air Forces quickly developed a successful wartime research and development effort. Some of the most important aircraft of World War II and immediately afterward were developed during this period, including pursuit planes and giant, long range bombers, such as the B–29 and the B–36. Revolutionary new technologies included jet and rocket motor propulsion, advanced aerodynamics, gun and bomb sights, radars and communications equipment, and synthetic materials. However, after the war, it became apparent that the American program lagged behind both the German and British programs. This position was unacceptable to the men who would soon lead the new Air Force. They determined this would never happen again.

ESTABLISHMENT OF THE U.S. AIR FORCE

The experience of World War II clarified the problems that had plagued military aviation from the beginning. The Army was not organized to conduct advanced research for two reasons: First the Army Air Forces was a branch of the Army and did not have control of its own budget, research, or weapons development. Second, and perhaps even more important, the Army's policy stated that military research and development should be confined to improving existing aircraft, tanks, and artillery.

Gen Henry H. "Hap" Arnold, Commander of the Army Air Forces in World War II, recognized the importance of the technological revolution that had taken place during the war, especially its potential to project air power. He knew all too well the historical pattern of feast and famine in aviation research and he set about to preserve and expand the military scientific cooperation that had been built up during the war.

In 1944, Gen. Arnold told a group of scientists, "For twenty years the Air Force was built around pilots and more pilots. The next Air Force will be built around scientists."

It was clear to Gen. Arnold that air power was essential to victory in World War II and research was the key to air power. He felt that research should be continuous, without the fits and starts of the past, and that it should tap the best minds of the Nation. His deepest concern was that in the next war, unlike previous conflicts, advanced enemy technology would not give the United States time to get ready after the outbreak of hostilities.

Gen. Arnold commissioned Dr. Theodore von Karman, the prominent aerodynamicist and mathematician and head of the Guggenheim Aeronautical Laboratory of the California Institute of Technology, to survey wartime technological achievements and chart a future course for an independent Air Force. The result was Toward New Horizons, a 12-volume report delivered to Gen. Arnold on December 15, 1945. This work, written by 25 eminent scientists, became the blueprint of Air Force research and development.

Dr. von Karman believed that only a constant inquisitive attitude toward science and ceaseless and swift adaptation to new developments could maintain national security. He was convinced that the twentieth century had transformed war from a drama of human endurance to a technological contest for control of the air. In the introduction to his report (called, "Science, the Key to Air Supremacy," Dr. von Karman recommended a peacetime research and development budget equal to five percent of the annual Army Air Forces wartime budget. Dr. von Karman forcefully argued for an institutional alignment in which science permeated the entire military structure. To do this, he recommended separating the management and funding of research from weapons systems procurement, working closely with industrial research efforts, and providing technical education of officers.

The efforts of Gen. Arnold and Dr. von Karman came to fruition with the National Security Act of 1947, which changed the Army Air Forces to the independent U.S. Air Force (USAF). The new USAF was no longer bound to the Army and its procurement-drive policies. It was now free to pursue the research that would be necessary to give the United States air and space supremacy.

RESEARCH AND DEVELOPMENT IN THE NEW U.S. AIR FORCE

General Arnold was not able to complete his vision of an Air Force lead by science and he retired due to ill health. Dr. von Karman continued the effort, resulting in the establishment of a permanent Scientific Advisory Board (1947) and the Office of Air Research (OAR) in the Materiel Command's Engineering Division (1948).

In the late 1940s the Air Force issued a master plan for research and development which was shaped by Brig. Gen. Donald L. Putt, Director of Research and Development. Like Gen. Arnold and Dr. von Karman, Gen. Putt thought that scientific research and development decisions were too much influenced by the need for procurement.

In keeping with the Arnold-von Karman vision, the plan gave top billing in the Air Force mission to research and development during peacetime. The plan also recommended that all research and development activities should be unified under the direction of a Deputy Chief of Staff for Research and Development.

Putt's efforts eventually lead to the establishment in 1950 of the Air Research and Development Command (ARDC) to concentrate resources and facilities on turning out new and radically improved materiel and techniques. These include supersonic flight, guided missile technology, "swing wing" aircraft, ramjet propulsion, ballistic missiles, "century series" fighters (F–100, F–102, *et al.*), and research aimed at reducing the radar cross section of air vehicles.

The outbreak of the Korean War and the creation of ARDC in 1950 brought temporary funding and manpower relief to Air Force scientific research and technology development. However, the research laboratories were still spending most of their resources on near-term engineering development of new systems and engineering in support of the maintenance depots. "Over the horizon" (long-range technology) projects still took a decidedly back seat.

This lack of long-range planning hit home on October 4, 1957, when the Soviets placed the first artificial satellite in orbit around the earth. The shock to the U.S. public caused by Sputnik was profound.

The Air Force responded with a sustained scientific research and technology development effort unparalleled in the history of aviation warfare. General Bernard Schriever, Commander of ARDC, successfully advocated expanded emphasis in research and development funding. As a result, in 1961 the Air Force established Air Force Systems Command (AFSC), with responsibility for all research, development, procurement, production, testing, and evaluation.

With most of the elements in place, the Air Force came as close to the Arnold-von Karman vision as it has ever been. Some of the research conducted by Air Force laboratories under AFSC at this time included the advanced turbine engine gas generator program, a high-bypass turbofan engine for the giant C–5A airlifter, ramjet and scramjet power plants, aircraft and spacecraft electrical systems, composites (carbon-carbon) for use in structures subject to extremely high temperatures (i.e., jet and rocket engine nozzles and leading edges of aerospace vehicles), early research into revolutionary active phased array radars, airborne lasers, electronic warfare jammers, terminally guided laser weapons, and forward looking infrared technology. Also, new developments included fly-by-wire technology, which revolutionized aircraft maneuverability and control, and very large integrated circuit chips which were forerunners of today's electronics revolution.

Because of the long lead time from the inception of new technology to the deployment of a completed weapon system, much of this technology did not reach fruition until the 1990s when it performed with devastating effectiveness in the Persian Gulf War.

America's involvement in Southeast Asia in the late 1960s and early 1970s resulted in the diversion of funding from far-term research to support near term combat needs. Funding for research and development continued to drop with declines in the overall reductions in defense after the Vietnam War. Funding continued a boom and bust cycle through the 1970s, 1980s, and 1990s, resulting in some important gains during the boom times. But the ups and downs resulted in inefficiency and lost knowledge during the down times—exactly the situation Gen. Arnold had feared and tried to avoid.

AIR FORCE HAS RETURNED TO "BAD OLD DAYS"

With the end of the Cold War, the Air Force science research and development budget entered into a slide. Worse, reorganizations pushed advocates for science funding lower in the Air Force bureaucracy. With the 1992 merger of the Air Force Logistics and Systems Commands into the Materiel Command, a major voice was lost in the chain of command for scientific research. Science and technology fell to a distant third place behind procurement and logistics/maintenance. With a 1987 reorganization, the position of Assistant Secretary for Research, Development, and Logistics was eliminated, reducing the voice for science among the civilian leadership of the Air Force. The 1987 reorganization also removed the position of Deputy Chief of Staff for Research, Development, and Acquisition. These administrative actions left research and development virtually without a voice at the highest levels of Air Force headquarters.

The 15 volume New World Vistas Study undertaken by the Air Force Scientific Advisory Board and reported to the Chief of Staff of the Air Force in 1995 made a number of recommendations to reinvigorate Air Force Science and Technology. Air Force leadership has implemented very few if any of the recommendations.

In the mid–1990's, in a complete reversal of Air Force policy, the Air Force decided to eliminate the graduate school of engineering within the Air Force Institute of Technology. This school ensured that scientific education was integrated into the training of Air Force officers and it provided additional research for the Air Force laboratories. Only after a storm of severe criticism did the Air Force agree to maintain the school.

The strongest evidence that the Arnold-von Karman model for the Air Force has collapsed is the initial science and technology budget the service submitted to the Secretary of Defense for fiscal 1999. Despite specific Defense Department guidance to maintain science and technology funding at the previous year's level, the Air Force tried to slash its science and technology funding by 15 percent below the fiscal 1998 level. This represented a cut of $250 million below the previously approved baseline for fiscal 1999. Apparently, this was done in an effort to support procurement, maintenance, and supply accounts.

The Air Force's budget request for fiscal 1999 would have set the level of funding for science and technology at only 1.3 percent of the total Air Force budget—one of the lowest levels in Air Force history. At this level, broad categories of scientific research would have been eliminated, forcing the cancellation of long-standing Air Force programs and threatening the irreversible loss of valued institutional knowledge. This extraordinary attempt to cut science and technology funding represented a giant leap backwards to the Army Air Corps mentality, when short-term expediency prevailed over ensured future excellence.

Fortunately, the Secretary of Defense overruled the Air Force recommendations and restored some of the funding before sending the budget to Congress. Still, the approved higher level of science and technology funding represents only 1.5 percent of the Air Force's total budget—the lowest of any of the three services in fiscal 1999 and unusually low for peacetime.

As we approach the 21st century, with future battles certain to be fought and won in the air and even space, technology looms as the dominant factor. Now more than ever, long-term investments are required to maintain technological—and thus military—superiority. Once, in an era of simpler technology, America's superior brainpower could overtake the enemy's technology through sudden spurts of scientific development. But that era is gone forever. A gap in today's science and technology funding may not show up as a warfighting deficiency for a generation or two. But by then, it will be impossible for even our nation's vast scientific resources to catch up. Gen. Arnold's prediction more than half a century ago has come to pass.

Likewise, another prediction of Gen. Arnold may yet come true—that the next war will be won not by pilots, but by scientists. Unfortunately, the Air Force is heading in a direction where our pilots will be inadequately supported by the best technology. The continued erosion of funding for scientific research and the continued aging of the science and technology community will leave the Air Force where it started—depending upon someone else's technology.

The vision of Gen. Arnold and Dr. von Karman is gone. What was intended to be the technology service is now behind the other services in future thinking. In short, today's Air Force is eating its own seed corn at such a rate that tomorrow's Air Force could be flying with yesterday's technology.

The legislation I introduce today is a modest attempt to restore the role of science and technology in the Air Force through organizational change. First, it would separate S&T management and funding from the management and funding of procurement. This would ensure higher visibility of S&T funding and make it more difficult to shift funds from S&T to pay for other requirements. This is in keeping with the Arnold-von Karman model, and was the procedure followed from the inception of the Air Force until the creation of the Air Force Materiel Command in 1992. The historical record shows that investment in S&T by the Air Force and its processors provided tremendous returns when put under separate management (i.e., the Experimental Engineering Division, McCook Field; Materiel Division, Wright Field; Air Research and Development Command, Wright Field; and Air Force Systems Command).

Second, the measure would create the position of Assistant Secretary of the Air Force for S&T. (A similar position existed under administrative action until 1987.) The Assistant Secretary would be responsible for the Air Force laboratories, Air Force Office of Scientific Research, and S&T funding. This would ensure that S&T had an advocate at the highest levels in the civilian leadership of the Air Force.

Third, the legislation will create the position of Deputy Chief of Staff for Science and Technology. This change would not require an additional Deputy Chief of Staff since it would designate one of the existing five Deputy Chiefs of Staff positions already authorized under law. Again, this provision represents more of a return to the historical Air Force organizational structure. Between 1950 and 1987, the Air Force maintained a position of Deputy Chief of Staff for Development.

The legislation requires the Air Force to establish an independent, outside panel to review priorities of S&T programs each year. The goal is to eliminate 5 percent of S&T programs each year and apply funds from the discontinued programs to new developing S&T programs.

The measure calls for the Secretary of the Air Force to contract with the National Research Council of the National Academy of Sciences to study the technology base of the Air Force and make recommendations.

In addition, the legislation establishes a nonbinding goal that S&T funding should be 2.5 percent of the annual Air Force total obligation authority. This level is slightly higher than the actual amount spent by the Air Force over the last 9 years, but it is well below the 5 percent goal recommended by Dr. von Karman.

The legislation also establishes the goal that over the next five years, 15 percent of science and technology funding should be invested in "new starts science and technology areas" identified in the 1997 New World Vistas study. This investment policy will direct the Air Force to invest in the long term key technologies needed to create the quantum leaps in capability in the next century.

These changes would have little or no direct effect on the total amount of Air Force spending. However, they are aimed at shifting priorities to give greater emphasis to S&T. But even more important, these changes would better integrate the needs of scientific research into all levels of decision-making within the Air Force.

More and more, our Nation will depend on air and space power for victory during military conflict. More and more, air and space power will depend on technology. However, with longer lead times for technology development, the nation no longer has the luxury of ramping up scientific research only during the time of crisis. Establishing science and technology as a priority for military aviation has worked in the past and should continue to work in the future to maintain our Nation's security.

The text of the bill follows:

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Air Force Science and Technology Reinvigoration Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) When the Air Force was established in 1947 as an independent service, its founders expected that it would ensure that scientific research and technology development would be a priority of America's aeronautical defenses.

(2) Scientific investigation, accompanied by the new knowledge it generates, is the cornerstone of air, space, and information superiority. To maintain air, space, and information superiority, a strong research base is critical. Sustaining a strong research and development base is a continuous effort, taking place both inside and outside the Air Force and involving the best minds of the Nation.

(3) The vision of Air Force founder General Henry H. Arnold and others—that the Air Force should be built around science—remains as vital today as it was more than 50 years ago.

(4) Investment in Air Force research and development has resulted in benefits to American industry, especially the aerospace industry, and made significant contributions to the American economy.

SEC. 3. SENSE OF CONGRESS REGARDING SCIENCE AND TECHNOLOGY FUNCTIONS OF THE DEPARTMENT OF THE AIR FORCE.

It is the sense of Congress that—

(1) to ensure sufficient financial resources are devoted to emerging technologies, not less than 2.5 percent of the funds available for obligation by the Air Force should be dedicated to science and technology;

(2) management and funding for science and technology by the Air Force should be separate from management and funding for acquisition by the Air Force;

(3) to increase long-term investments, not less than 15 percent of science and technology funds available for obligation by the Air Force should be invested in new technology areas, including critical information technology programs, for the next 5 years;

(4) to maintain a sufficient base of scientists and engineers to meet the technological challenges of the future, the Air Force should—

(A) increase the number of Air Force officers and civilian employees holding doctorate degrees in technical fields; and

(B) increase the number and variety of technical degrees at the master's level granted to Air Force officers and civilian employees from both the Air Force Institute of Technology and civilian universities; and

(5) to ensure Air Force science and technology does not stagnate, a concentrated effort should be made to eliminate 5 percent of science and technology programs each year, with funds from the discontinued programs used for new science and technology programs.

SEC. 4. AMENDMENTS RELATING TO SCIENCE AND TECHNOLOGY FUNCTIONS OF THE DEPARTMENT OF THE AIR FORCE.

(a) SEPARATION OF RESEARCH AND DEVELOPMENT FUNCTION FROM EQUIPPING FUNCTION OF SECRETARY OF THE AIR FORCE.—Section 8013(b) of title 10, United States Code, is amended—

(1) in paragraph (4), by striking "(including research and development)" and

(2) by adding at the end the following new paragraph:

"(13) Research and development.".

(b) RESEARCH AND DEVELOPMENT FUNCTION OF THE OFFICE OF THE SECRETARY OF THE AIR FORCE.—(1) Section 8014(c)(1) of such title is amended by adding at the end the following new subparagraph:

"(H) Research and Development.".

(2) Section 8014 of such title is amended—

(A) by striking out subsection (d); and

(B) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(c) ESTABLISHMENT OF ASSISTANT SECRETARY OF THE AIR FORCE FOR SCIENCE AND TECHNOLOGY.—(1) Section 8016 of such title is amended—

(A) in subsection (a), by striking out "four" and inserting in lieu thereof "five" and

(B) in subsection (b), by adding at the end the following new paragraph:

"(4) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Science and Technology. The Assistant Secretary shall have as his principal duty the overall supervision of science and technology functions of the Department of the Air Force.".

(2) Section 5315 of title 5, United States Code, is amended in the item relating to the Assistant Secretaries of the Air Force by striking out "(4)" and inserting in lieu thereof "(5)".

(d) ESTABLISHMENT OF DEPUTY CHIEF OF STAFF FOR SCIENCE AND TECHNOLOGY.—Section 8035 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) One of the Deputy Chiefs of Staff shall be the Deputy Chief of Staff for Science and Technology.".

SEC. 5. STUDY.

(a) REQUIREMENT.—The Secretary of the Air Force shall enter into a contract with the National Research Council of the National Academy of Sciences to study the technology base of the Air Force.

(b) MATTERS COVERED.—The study shall—

(1) recommend the minimum requirements to maintain a technology base that is sufficient, based on both historical developments and future projections, to project superiority in air and space weapons systems, and information technology;

(2) address the effects on national defense and civilian aerospace industries and information technology by reducing funding below the minimum level described in paragraph (1) of section 3; and

(3) recommend the appropriate level of staff holding baccalaureate, masters, and doctorate degrees, and the optimal ratio of civilian and military staff holding such degrees, to ensure that science and technology functions of the Air Force remain vital.

(c) REPORT.—Not later than 120 days after the date on which the study required under subsection (a) is completed, the Secretary shall submit to Congress a report on the results of the study.

THE BORDER PROTECTION AND INFRASTRUCTURE ACT OF 1998

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. PACKARD. Mr. Speaker, I would like to take this opportunity to applaud Congressman DUNCAN HUNTER (R–CA) for his ongoing efforts to curb the importation of illegal drugs at our Southwestern border. Last week Congressman HUNTER introduced the Border Protection and Infrastructure Act of 1998, an initiative that provides vital support along specific points of our border with Mexico.

This legislation falls in line with our recently launched plan for winning the war on drugs: decreasing demand, stopping supply, increasing accountability. Stopping supply hits close to home in my district, which lies just north of the San Diego border with Mexico. Nearly 70% of the nation's illegal drug supply comes across the borders in our region.

Congressman HUNTER'S bill authorizes the construction of multi-barrier fencing at high-traffic corridors, including San Diego. The areas outlined in this legislation are generally stretches of border that have urban areas on either side and lack natural obstacles, making them ideal locations of smuggling drugs. Multiple barrier fencing has proved to be an effective tool in the battle against the importation of illicit substances. After the construction of fencing began in San Diego in 1991, cocaine interdiction increased by 1000% and murders along this border are now virtually non-existent.

I am pleased to join Congressman HUNTER in his effort to prevent illegal drug abuse by assuring that these substances never find their way into our country. Mr. Speaker, stopping supply is a key battle in the war on drugs. I urge my colleagues to support the Border Protection and Infrastructure Act of 1998.

HONORING CLARISA F. HOWARD

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Ms. HARMAN. Mr. Speaker, I rise today to recognize Clarisa F. Howard and her efforts on behalf of City of Hope National Medical Center through her sponsorship of the celebration, "Commitment to Excellence—Commitment to Life."

Twenty-six years ago, Mrs. Howard began her corporate leadership in financial management, strategic business planning, operations and personal administration. As the President/CEO of bd Systems, Inc., a female-minority owned small aerospace and information technologies firm, she had dedicated herself to developing quality products and customer service. For these efforts, she has been recognized by the National Association of Women Business Owners 1998 NAWBO Businesswoman of the Year Award, the 1997 Ronald H. Brown Award for Courage, the 1996 AT&T Entrepreneur of the Year Award, and the 1996 El Camino College Foundation Roundtable Award.

In addition to her professional accomplishments, Mrs. Howard has an unwavering commitment to the community. She is a member of the National Association of Women Business Owners, The Trusteeship, the Southern California Chapter of the International Women's Forum, the Association of Black Women Entrepreneurs, and Emily's List. She supports inner city youth programs through in-kind donations, monetary contributions and bd technical assistance. bd's internship program for disadvantaged students provides mentoring and work experience while they pursue academic studies.

Medical research became important to her when her nephew, Anthony Nickols, was diagnosed with Non-Hodgkins Lymphoma. At the celebration on June 13, 1998, Mrs. Howard invites others to join her in support of the researchers and Anthony's physician so they might continue to search for cures to give hope to future generations.

OPPOSE THE "GEPHARDT CONSTITUTIONAL AMENDMENT" PROTECT THE FIRST AMENDMENT

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. DELAY. Mr. Speaker, I have submitted to the House Committee on Rules the "Gephardt Constitutional Amendment" to amend the First Amendment for consideration by the House during debate on campaign reform.

I have agreed to offer the amendment, not in the hope that it will pass, but in the hope that the House will bury this dangerous idea forever.

The "Gephardt Constitutional Amendment," would permit Congress and the states to enact laws regulating federal campaign expenditures and contributions. H.J. Res. 47 would challenge all pre-existing First Amendment jurisprudence and would give to Congress and the states unprecedented, sweeping and undefined authority to restrict speech protected by the First Amendment since 1791.

Because it is vague and over-board, H.J. Res. 47 would give Congress a virtual "blank check" to enact any legislation that may abridge a vast array of free speech and free association rights that we now enjoy.

I request that the Amendment be printed in the RECORD pursuant to the Rules Committee request prior to consideration by the full House.

JOINT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO LIMIT CAMPAIGN SPENDING

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"Article—1

"Section 1. To promote the fair and effective functioning of the democratic process, Congress, with respect to elections for Federal office, and States, for all other elections, including initiatives and referenda, may adopt reasonable regulations of funds expended, including contributions, to influence the outcome of elections, provided that such regulations do not impair the right of the public to a full and free discussion of all issues and do not prevent any candidate for elected office from amassing the resources necessary for effective advocacy.

"Section 2. Such governments may reasonably defined which expenditures are deemed to be for the purpose of influencing elections, so long as such definition does not interfere with the right of the people fully to debate issues.

"Section 3. No regulation adopted under this authority may regulate the content of any expression or communication.".

The Gephardt Amendment is nothing more than a direct attack on our First Amendment freedoms. It is my hope that the House considers this amendment, and buries it forever.

SENATE—*Wednesday, May 20, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, we press on with renewed hope for the debate over crucial issues before us. We know that if we trust You and proceed with honest exchange and civility, You will help us succeed together.

Make us so secure in Your love that our egos will not get in the way; grant us Your power, so we will not need to manipulate in a power struggle; free us from secondary loyalties, so we can focus on the future of our Nation as our primary concern. Thank You for the strength and vitality that You provide. We commit this day and our lives to You. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. ALLARD. Thank you, Mr. President.

SCHEDULE

Mr. ALLARD. Mr. President, for the information of all Senators, today the Senate will resume consideration of the tobacco legislation. There are two amendments currently pending, and it is expected that a vote on or in relation to one or both of those amendments will occur by 11 a.m. this morning.

It is hoped that following disposition of those amendments, Members will come to the floor to offer and debate remaining amendments to the tobacco legislation under short time agreements. Therefore, Members should expect rollcall votes throughout Wednesday's session as the Senate attempts to make good progress on this important bill.

I thank my colleagues for their attention, and I yield the floor.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The able Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, it is our effort to try to divide the time between now and 11 evenly on both sides, although we are going to do that without a unanimous consent request. We would like to try to do it just as a matter of comity; and hopefully we can make that work.

I yield the floor.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDENT pro tempore. The clerk will report the bill.

The assistant legislative clerk read as follows:

> A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

> Kennedy/Lautenberg amendment No. 2422 (to amendment No. 2420), to modify those provisions relating to revenues from payments made by participating tobacco companies.
>
> Ashcroft amendment No. 2427 (to amendment No. 2422), to strike those provisions relating to consumer taxes.

Mr. WELLSTONE addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I ask the manager that I may have 6 minutes to speak.

AMENDMENT NO. 2422

Mr. WELLSTONE. Mr. President, when the Congress first conceived of comprehensive tobacco legislation, the primary goal was to deter youth smoking—I will say that again—the primary goal was, and is, to deter youth smoking.

We have now discovered, through millions of documents—the State of Minnesota has led the way; my State, Minnesota, has led the way—that the industry has over the years intentionally marketed to our children, intentionally targeted our children. Our children, our sons and daughters—their profits. Our children's lives for their money. This is an unacceptable tradeoff.

Mr. President, do not take my words as a Senator from Minnesota as the final words on this matter. Let us just look at the tobacco companies' own documents.

An R.J. Reynolds document penned in 1976:

> Evidence is now available to indicate that 14–18 year old group is an increasing segment of the smoking population. RJR-(tobacco) must soon establish a successful new brand in this market if our position in the industry is to be maintained in the long term.

Philip Morris in 1981:

> Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while still in their teens . . . The smoking patterns of teenagers are particularly important to Philip Morris.

The 1998 report, "Taking Action to Reduce Tobacco Use," published by the Institute of Medicine of the National Academy of Sciences, concluded—and I quote—

> . . . the single most direct and reliable method for reducing consumption is to increase the price of tobacco products, thus encouraging the cessation and reducing the level of initiation of tobacco use.

And, colleagues, we can look at tobacco to see what effect raising prices has.

Between 1979 and 1991, real prices in Canada increased from $2.09 to $5.42. And when that happened, the smoking usage among 15- to 19-year-olds fell from 42 percent to 16 percent. This is dramatic evidence; it is not a conjecture on my part. It is an important analysis.

Now, colleagues, the tobacco industry has blitzed the Senate on this amendment. We have a second-degree amendment that doesn't want to do with any raise in price. And what are they saying? They are saying that this will bankrupt us. What are they saying? This will create a black market.

But, Mr. President, Jeffrey Harris, who is a leading and impartial expert, talks about the tobacco industry making about $5 billion in profits in the year 2003. It does not sound like they are going to go under.

And we can look at other countries—the United Kingdom, Ireland, Denmark, and Finland—all of which have added on taxes to reduce usage, none of which has had a problem with this black market which we are supposed to be faced with.

Mr. President, let me just simply say again what my colleague Senator KENNEDY has said. The $1.10 tax that we now have, the $1.10 increase in the price—Senator MCCAIN deserves a tremendous amount of credit for his leadership. But the fact of the matter is, if we had $1.10, we could decrease youth smoking by about 34 percent; that would be $1.10. If we went to $1.50, we could decrease youth smoking close to 56 percent.

I say to my colleagues, even if the evidence is somewhat ambiguous, even if there are other studies suggesting that this might not happen, at least to this extent, what side do we want to err on? Do we want to err on the side of not jacking up the price and dramatically reducing the demand, especially among teenagers and young people, and getting to a 60 percent reduction? Or do we want to err on the side

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

of not having the price high enough, combined with other smoking cessation programs that we need to put in effect, and continuing to see our children addicted, continuing to see our children take up smoking tobacco, and continuing to see our children die at an early age?

Mr. President, let me conclude. Price increases will not bankrupt the industry. Price increases will not create a black market. What price increases will do is save lives. Let me repeat that one more time, because quite often what the tobacco industry has done over the years—I think my State of Minnesota has proven this through the documents that we have unearthed—is what they do is what they know how to do best, which is they simply lie and distort the truth.

So let me be clear about what this amendment is about. Colleagues, the price increase in the Kennedy amendment will not bankrupt the industry. The price increase that the Kennedy amendment calls for, $1.50, will not create a black market. What this price increase will do is save lives. It is for the lives of all Americans, it is for the lives of young people that should not die a premature death, that I ask my colleagues to support Senator KENNEDY's amendment.

Yesterday, my colleague from Massachusetts pointed out that an additional 40-percent increase will mean that 750,000 more children will not start smoking—750,000 children that won't start smoking. This is about saving lives. This is, I think, perhaps the most important public health amendment that we have, because if we want to dramatically decrease demand and stop smoking among teenagers, we have to get the price up there to lessen the demand. This amendment does that. I ask all of my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to thank my friend and colleague from Minnesota for his excellent presentation and his compelling arguments and for the persuasiveness of his argument.

The fact of the matter is on this issue the American people are on our side. The question is going to be in the next hour and a half or 2 hours whether the Members of this body are going to be on the side of the children of this Nation and on the side of the parents of this Nation in taking the kind of important steps that are recommended virtually by every public health official that has studied this issue over a long period of time. We have placed in the RECORD the various studies and the various support material.

The fact of the matter is, although there is some progress that will be made under the proposal that is before the Senate, what will happen if there is no change at all, if there is no change at all, is that we obviously will not see any reduction in youth smoking. With the proposal that is before the U.S. Senate now, we will see a 34-percent reduction in youth smoking as a result of the increase in the cost of cigarettes. With the $1.50 increase, a 56 reduction. The attorneys general established as a goal a 60-percent reduction. The Commerce Committee established as a goal a 60-percent reduction. Our particular proposal will go to 56 percent and with the kind of look-back provisions we will obviously be able to achieve this goal. That is what this issue is about.

We will have the opportunity, as the Senator from Minnesota has stated, to save 750,000 American children from smoking, and we will have the opportunity to save some 250,000 to 300,000 lives of children. This is the most important public health issue.

It is important for us to look at what is happening to the young children of this country over the period of the last 5 years. Look what has happened since 1991, 1993, 1995, 1997. Over this period of time, we have seen the absolute explosion in the utilization of cigarettes by young people in this country. The target of the tobacco industry, as demonstrated by their own material, has been with the youth of this country, and particularly with the minorities of this Nation. All you have to do is look at these statistics from 1991 through 1997. There is an 80-percent increase in black and non-Hispanic use of cigarettes, 80-percent increase. This is what is happening in the United States of America. Among Hispanics, it has gone up some 34 percent over the period of these past 6 years. Among white, non-Hispanic young people in our country, some 28 percent. This is an average rise, since 1997, of 32 percent—32-percent increase.

What all of that means in terms of addiction, what all of that means in terms of the dangers with substance abuse, this is a gateway drug. Members of the Senate are talking about doing something about substance abuse. You have a chance to do it in an hour and a half by doing something about curtailing the use by our teenagers of these cigarettes. This is a national tragedy. We have an opportunity in an hour and a half to do something about it.

You can have the various questions whether it really makes much of a difference if we move ahead with an increase in price or does it really make very much difference in terms of the young people of this country. Let's take a look at what the record has been from 1980 to the present time on the issues of price and the issues of teen smoking.

We can have study after study after study, but, Mr. President, for those opposed to this amendment, I hope they would be able to refute what this chart demonstrates, and demonstrates very convincingly. Here we have in the early 1980s and 1982, we have a sharp increase in the costs, the real price of cigarettes, and a sharp decline, considerable sharp decline in teenagers smoking. This is what Philip Morris said about that, and we are not talking about an academic study. We are not talking about medical economists. We are not talking about Members of the Congress and the Senate who just want to see an decrease in smoking because we somehow think there might be some reduction in teenagers smoking.

This is what the industry said in the Philip Morris memo from 1987 that was in the Minnesota trial: "The 1982, 1983 round of price increases prevented 500,000 from starting to smoke"—that is indicated in this line here—"500,000 teenagers from starting to smoke. This means 420,000 of the nonstarters would have been Philip Morris smokers. We were hit hard. We don't need that to happen again."

"We don't need that to happen again."

No wonder out in the waiting room, in the reception room, I can't get in there because of the tobacco lobbyists—high-priced tobacco lobbyists. They don't want this to happen again. And it can happen. It can happen. It can happen in an hour and a half from now if the Members of this body are going to put the public health first in this debate on the issue that we have at hand.

Here the chart shows the increase in the price and the reaction as a result of the statistic—the reduction in teenage smoking—and the tobacco industry acknowledging the relationship. So we have, as we went through the period of the 1980s, the increase in the real price, and we saw a rather significant increase in the real price going up during this period of time, and we see the corresponding reduction in terms of the teenage smoking. Until when? Until when? Until 1991. Then what happened to the real price? The real price went down and the real price went down on what they call Marlboro Friday, when the Nation's largest tobacco company, Philip Morris, fired the newest salvo which reversed the decade-long use in smoking. They slashed 40 cents off the brand of Marlboros, the most popular brand among children. The strategy was designed to protect prices. If Philip Morris reduced prices by 50 percent in Massachusetts, and a month later, R.J. Reynolds—the second largest tobacco company, which manufactures Camels—had a corresponding reduction.

So we have the major tobacco companies going down, the major price going down. Look on this chart what has happened in terms of youth smoking, escalating, going up dramatically. Price decline, youth smoking increases; price increase, youth smoking goes down. We have seen that continue over a long period of time.

We could say what happened in here over the period for the last year or two, we have seen little blips going up, 10 cents, to cover the costs of various settlements they have had, an increase of 35 percent. It would not really reflect on this chart.

Now what we have seen in here is $5 billion in tobacco industry advertising, an explosion in advertising. It makes our case, Mr. President.

It makes our case for the proposal that we have at hand. Increase the cost and the price of cigarettes, do it in a significant time with a shock treatment of 3 years. The way that we saw it this time, it is going to have a dramatic impact on young people. Increase the antitobacco advertising, which is in this bill; develop the cessation programs, which are in this bill; strengthen the look-back provisions, which are in this bill; do the kind of prohibition on advertising that is in this bill, and you have the combination of elements that will work to bring a significant reduction in teenage smoking—a significant reduction in teenage smoking.

Mr. President, we must have learned from the past. We have a pathway here that is outlined by the history of this industry, and the things that have been effective—not just studies, not just testimony, not just surmise, but real facts, Mr. President. Over that long period of time, we have the incontrovertible case that has been made here yesterday, last night, and this morning, again, that cannot be answered. We will hear answers like, oh, well, we will develop a smuggling industry; we can't do this because we don't know where the money is going to be expended; we can't do this because we will have this or that kind of a problem.

There is an issue before the Senate: Can we do something with regard to seeing a significant, dramatic reduction in terms of teenage smoking? The answer to that is, yes, by supporting our amendment that virtually every public health official in this country supports—not only Dr. Koop, not only Dr. Kessler, but the Cancer Society, the Lung Society, and every public health group across the Nation, Republican and Democrat alike. That is the issue that we have. Now is the time to make that judgment. We will have the opportunity to do that in a short period of time.

Mr. President, I see others who want to address the Senate. I yield at this time.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, although we haven't established an exact time for the tabling motion, as I mentioned last night, we will try to do them sometime around 11 o'clock. But I do want the proponents and opponents of these amendments to have ample time to discuss and debate. I think we are working on an informal agreement that we will go from side to side. I see the Senator from Missouri here. If it is agreeable, I would like for him to have recognition next. I will just comment briefly, if I could.

If the Ashcroft amendment is agreed to, smokers won't be relieved of any price increase in this bill. Quite the contrary. If the amendment prevails, the States, at an enormous time and expense, will resume their suits, as we all know. There have been four settlements already, and 36 other States are in line. As we know from the other four States, they will prevail. There were four suits, four settlements. Minnesota is receiving twice—double—what they would have received as a result of the June 20 agreement between the attorneys general in the industry.

So let's not have any mistake. This amendment won't eliminate an increase in cigarette prices, because when the tobacco companies agree to pay the State of Minnesota a certain amount of money, they increase the price for a pack of cigarettes in order to be able to make a settlement. That is how it computes. Make no mistake, its passage will delay getting about the business at hand, and 3,000 kids a day will begin to smoke and a thousand will die substantially earlier as a result.

Mr. President, I will make more comments later. Have no doubt about the effect of the Ashcroft amendment, which would be simply to delay price increases and delay our ability to attack the issue of kids smoking, because there will be added expenses passed on to the consumer as a result of these settlements. In case the Senator from Missouri missed it, Minnesota and the tobacco companies just settled for double what had been in the original settlement. Those costs will be passed on to the person who purchases a pack of cigarettes. Economics work that way.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I wanted to indicate to my friend from Arizona that the Senator from Missouri indicates to me that he intends to speak for a relative period of time. It was agreeable to him as a result of that to try to accommodate a couple of Members over here, unless they want to wait until afterwards. I am just trying to balance it. Could the Senator perhaps give us some indication of the length of time, so we can try to pin this down?

Mr. ASHCROFT. Mr. President, I can't give a specific time. I would be pleased to let a couple of your folks go ahead, and I will follow them if that would be the understanding.

Mr. McCAIN. We have to go back and forth.

Mr. KERRY. Mr. President, that is fine.

Mr. McCAIN. He is going to talk sooner or later. I am sorry he can't determine how much time he is going to talk.

Mr. KERRY. Fine, Mr. President. We will try to stick with that.

A NEW GRANDCHILD FOR SENATOR LAUTENBERG

Mr. KENNEDY. Mr. President, a new grandchild for our good friend and colleague from New Jersey was born early this morning. That is joyous and good news. In the midst of this tumultuous debate, we can all join in wishing him congratulations.

Mr. LAUTENBERG. My daughter called at 8:30 saying that she had the baby at home at 5:30.

Thank you very much for the kind words.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. KERRY. With that appropriate announcement, and the joy that it brings, we will yield to the Senator from Missouri and take our licks.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

AMENDMENT NO. 2427

Mr. ASHCROFT. Mr. President, I rise today to discuss the tobacco bill. While I will begin my remarks discussing my pending amendment to strike all of the consumer taxes out of the bill, I also wish to address the large expansion of Government in the pending legislation. I will discuss the inevitable black market that will result from the policies in this bill. I will also address the failure of this administration to focus its priorities and resources on teen drug use.

Mr. President, along with my colleagues, I am truly concerned about teen smoking. However, I do not believe that is the focus of this legislation. Teen smoking is not the central thrust of what is happening here.

This is a massive, massive tax increase on low-income Americans. Instead of helping children, it is very likely to end up hurting children and hurting families. I think it is important that we carefully review the content of this legislation with that in mind. Thirty-nine percent of high school students in Missouri reported smoking during the past 30 days. This is a terrible statistic to have to cite. However, communities in the State are looking for ways to reduce smoking in my State and it is working. It is working without destroying the capacity of low-income families to provide for their children. It is working without destroying the capacity of low-income families to be independent. It is working without an $800, or $900, or $1,000, or $1,600 tax increase on those low-income families. Three packs a day for a family at $1.50 a pack takes you to about $1,600 a year.

If we can find a way to reduce the impact of teen smoking without taking $1,600 a year out of the budgets of these poor families, that will be $1,600 a year that could be spent for education, $1,600 a year these families will be able to retain and spend for better health care, or it will be $1,600 a year these families can spend for food and clothing.

For example, I come from a town called Springfield, MO. It is my hometown. My family moved there when I was a very young lad. In stepping up its enforcement of local ordinances prohibiting the sale of tobacco products to teens, they are enacting constitutional limitations on advertising. Parents, teachers, and community leaders are working together to fight the problem. They think they can do it, if they work together. I believe they can do it. They can do it without ruining finances and the opportunity that low-income families ought to have to provide for themselves. The tobacco industry knows they can do it. As one tobacco executive stated, they can't win fighting teen smoking rules on the State and local level. The tobacco industry knows there are going to be rules there, and they can be there, and there can be effective rules.

If this tobacco bill contained the solutions to the problems that are being enacted in communities today, I don't think I could be here to argue nearly as effectively that this bill is not focused on teen smoking.

A lot of communities are making possession of tobacco products illegal for teens. This bill doesn't do that. This bill says it is all right for teens to have tobacco. This bill basically says it is all right for teens to smoke. This bill just says it is wrong to sell it to them and it is wrong to advertise it. But it doesn't really do anything about the possession of tobacco.

Although Congress has the authority, we do not make it illegal for minors to possess or use tobacco even where we control the local situation. We make the laws. We are the city government in some respects for the District of Columbia. It would be possible for us to say, at least where we have authority on military bases, or the District of Columbia, that we could have laws against teen smoking and against the possession of tobacco. But we don't have that in this bill. We only have rules regarding the point of sale. Whether one store or another can sell it, and whether or not they can be on top of the counter or under the counter, or whether or not the brand name can be visible, or things like that, even then we only make the retailers responsible for the transaction. There is no disincentive for teenagers to try to possess and acquire and smoke cigarettes. There is not any in this bill. This is designed as if teenagers are totally expected to be irresponsible. First of all, the decision is, they can't make good decisions; and, second, we don't ask them to make any good decisions. We don't even ask them to refrain from smoking in this bill.

We create a massive tax increase on 98 percent of smokers to try to discourage 2 percent of all retail sales. What do I mean by that? Two percent of all retail sales in smoking go to teenagers; 98 percent go to adults. So we are raising the taxes on 98 percent in order to try to create a disincentive for the 2 percent.

Unfortunately, I don't think we have done a very good job, because we don't even seek to make illegal the possession on the part of the 2 percent. If, in fact, we don't want teenagers smoking, why do we fail to say something about their possession of tobacco? Why do we fail to say anything about their smoking? It seems to me that we are missing the boat in a significant way if we don't say something about the smoking.

For a long time now, we have had a responsibility imposed on the tobacco companies, and appropriately so, to label cigarettes and to tell people the truth about cigarettes on the package. As a matter of fact, you can't even have a billboard about cigarettes without saying on the billboard something that is true about cigarettes. There ought to be said something through this legislation. We need truth in labeling on this legislation. There is a big truth-in-labeling problem here.

This is an $868 billion—that is not million, that is billion—tax increase. It creates Government programs; after-government programs funding, sort of, directed for the next 25 years to take decisionmaking away from future Congresses of the United States, designed to lock things in; creates a huge Government regulatory scheme the likes of which we have not seen since the Clinton proposal to nationalize the health care system.

Here you have a situation. You say you are against teen smoking. You don't even bother to outlaw possession of teen tobacco for teens even in places like the District of Columbia where you have the authority to do so. You do not do what lots of towns are doing around the United States of America in an effective program. You raise $868 billion worth of taxes, mostly on poor people, on people who can ill afford to pay it. You raise taxes on 98 percent of the smokers, who are the adults, in an effort to try to curtail smoking on 2 percent of the smokers, the young people.

We create this huge Government regulatory scheme which will have the Federal Government virtually in every store, supermarket, or convenience store telling them how to run their business. This designs a system that will undoubtedly create a black market in tobacco sales, a black market that will make Prohibition look like a very peaceful time in our country's history. Cigarette smuggling will become very, very lucrative. Some people think that smuggling doesn't exist in the United States now. There is a big problem in cigarette smuggling currently, but it is just the tip of the iceberg, which will become apparent if we continue on this plan to impose $1.50 a pack in terms of the cigarette tax on the working poor of America.

I happen to be a father of three children. I was delighted to hear the good news of the Senator from New Jersey. I happen to have some good news in my own family. These are the pictures of my grandson who was born just 8 weeks ago. I didn't really plan this to be a part of any presentation. But the Senator from New Jersey should have pictures shortly.

Mr. LAUTENBERG. Would the Senator like to give me a chance to show mine?

Mr. ASHCROFT. Yes. I yield, with the opportunity to regain the floor at the end of his display.

Mr. LAUTENBERG. I wish the Senator the same good fortune, I say to my colleague. I thank him.

Mr. ASHCROFT. I thank the Senator.

But I don't want my children to smoke. I hope that they have never smoked. I don't know that they have ever smoked. I hope my grandson never smokes. However, what I want more for them is that we have a Government that serves the needs of the American people rather than a Government that serves its own needs. I suspect that this bill, unfortunately, is a bill which tends to address the needs of Government, the perceived needs of the bureaucracy, as much as it tends to do anything that is beneficial, and certainly the kinds of impacts on American families in terms of increased taxes on these hard-working individuals of low income would more than outweigh the benefit.

I have sought to amend this with a simple amendment. My amendment would strip this legislation of the provisions which impose $755 billion in new taxes on the American people. More precisely, my amendment strikes the upfront payment in the bill and the consequential outcome of that which would result in that kind of commitment by the American people of $755 billion.

Those who support this bill would like for the American people to believe that it is a tough tobacco bill. But what the American people are beginning to find out is that this bill, while it is tough, is going to be tough on the American people.

Mr. President, it is my understanding that there are Members who need an opportunity to speak. I would be happy to yield the floor on the condition that I would be given the floor at the conclusion of this time to speak.

Mr. McCAIN. I object.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. ASHCROFT. Mr. President, what the American people are beginning to find out is that tobacco companies won't bear the cost of this payment.

I regret my inability to cooperate with other Members of the Senate, but an objection has been heard. I will continue with my remarks, but I hope to be able to accommodate my colleagues.

Mr. President, what the American people are beginning to find out is that tobacco companies won't bear the cost of the payments, that consumers will. This bill requires that the consumers pay the price. A lot of people are distressed. A lot of people have come to the conclusion that big tobacco is not worthy of being favored. Frankly, there are a lot of things in this bill that big tobacco favors.

As a matter of fact, they helped write this bill. It has gotten a little bit beyond their desire in terms of a number of the requirements, but many of the components of this bill are there because big tobacco put them there, things that would limit the liability of tobacco companies and the like. But this bill, in terms of its taxes, is big money. This bill requires that the taxes be passed on to consumers in the form of higher prices.

There has been some discussion about whether these are really taxes or not, because they are not called taxes in the bill. That is another aspect about the truth in labeling that ought to exist here. We have required it of tobacco companies. We ought to require it of the Congress. These are charges which are authorized. They are authorized in the bill. They are basically required in the bill. But they are required to be collected as part of the price of cigarettes, and then the money is to be given to the Government. And the Government is to spend the money. But we refuse to call them taxes.

Now, whenever the price of something is increased with the requirement that the money be given to the Government and that the Congress then decide how the money is spent, that looks an awful lot like a tax. That is the definition of a tax. Our failure to call it a tax in the bill doesn't mean that it is not a tax. It just means that it is a tax that we will not admit is a tax.

They say if it walks like a duck and squawks like a duck, if it quacks like a duck and acts like a duck, it is probably a duck. Well, this is a higher price that is charged for these cigarettes. It is collected from the people. It gets transmitted to the Government and the Government spends it on Government programs. Now, I think that walks like a duck and squawks like a duck. I think it acts like a duck and quacks like a duck. I think it is a duck or it is a tax, if you want to use that word.

And here is the provision from the bill itself. I guess it is section 404—I need to be corrected on that—instead of section 405. Frankly, we haven't had this bill in its final form long enough to examine it. This is another one of these bills that comes to the floor of the Senate before the Congressional Budget Office has had a chance to score it, before anybody has a chance to read it. We throw it on the desk and we say we are starting to debate it. Little wonder we have some of these numbers wrong.

Section 404 says, "Payments to be passed through to consumers." So all the big, heavy penalties in this bill, they are not to be borne by the tobacco companies. These are to be borne by consumers. Consumers are going to pay for this. And, obviously, that is something. So that the bill doesn't just allow tobacco companies to recoup their costs, it requires that they not impair their profits, that they not otherwise find ways to keep the consumers from paying this very massive tax, a regressive tax that hits the poor people of America the most. It requires that these taxes be paid by consumers. The only way this bill is going to have a major dent in the way tobacco is consumed is that the Federal Government gets paid big, big bucks.

As I indicated earlier, many local communities—State, city and county governments—are providing ways to reduce teen smoking. They want to do it by outlawing the possession of tobacco by young people so that smoking by young people would be considered illegal. This bill doesn't do that. This bill taxes the 98 percent of the adult smokers at an incredibly high rate, along with the 2 percent of teen smokers, and really impairs the ability of families to make ends meet. It actually penalizes the companies if they do not pass these costs on. So no company, no tobacco company is to pay any of this $755 billion that I am seeking to delete in this amendment. It is illegal, according to the bill, to have the tobacco companies pay any of this money. This money is to be paid by consumers.

Also, my amendment strikes the annual payments required by this legislation. Again, this bill actually requires the tobacco industry to pass along this cost to consumers. Remember, these are not the real penalties on tobacco companies. These are taxes levied on the users of tobacco products. Under this amendment, tobacco companies would still pay hefty penalties if teenage smoking targets are not met.

So my amendment does not save the tobacco companies from paying penalties if the teenage smoking targets are not met. The incentives for the tobacco companies to avoid teenage smoking are left in this bill, and there is a serious penalty in the bill that would require that the payments be made by tobacco companies if we do not reduce teen smoking. That is left alone. What I take out of the bill is the $755 billion in taxes on consumers.

A lot of people wonder why, if the tobacco companies are the bad folks, as the subject of this bill, that instead of taxing the tobacco companies, we are taxing consumers. Well, they ought to wonder about that. Basically, what we do is we leave the requirement that teen smoking be reduced, we leave the penalties if you do not reduce teen smoking on the tobacco companies. But we stop the tax that will take $800, $1,000, $1,600 from three-pack-a-day families, $1,600 a year out of their budgets, out of their take-home budgets.

So our approach is not to say that the tobacco companies should not be responsible for reducing teen smoking. Tobacco companies were responsible for promoting it. This amendment does not say they are not responsible for reducing it. This amendment says the tobacco companies will be responsible for reducing it, and if these tobacco companies do not get it reduced, they, as a matter of fact, are going to be in serious trouble. They are going to have to pay very significant penalties. But I do not believe we should say that the American people are the ones who should be penalized for the conduct of the tobacco companies.

Frankly, that is what this bill does. There is a lot of evidence in this case, in this situation about tobacco companies and about their conscious desire to focus their advertising on teen smokers and potential teen smokers, and there is a big presumption that if people didn't start when they were teens, they wouldn't start later. It might be that those people would start later on. You know, you can't automatically assume that if someone starts when he is 14, if you don't let him start when he is 14, that he would not start later when he was 18, 19 or 20. Everybody starts driving a car at the age of 16. That doesn't mean, if you move the age up to 20, that nobody would start driving a car later on.

There is a presumption in all this data that somehow if they didn't start when they were younger, they wouldn't start later. These same people who start young while it is legal now may start older when it is legal later if we were to do something like this. I don't think that presumption follows.

But Americans already are burdened with taxes that are inordinately high. Americans today are working longer and harder than ever before to pay their taxes. How many families are there with both parents in the workplace, working day, working night, trying to make ends meet, trying to have food and clothing for their children? And they are already paying incredibly high taxes. We are now paying the highest taxes overall in the history of this country. And surprisingly enough—I suppose that it is not all that great a surprise—we have got taxes to the point where the Federal budget is in surplus. The Congressional Budget Office indicates that the surplus will be between $43 billion and $63 billion. I think that when we have a surplus, we ought to be debating how we reduce taxes on people, how we make it easier for them and their families, how we somehow make it possible for them to meet the needs of their families instead—not how to siphon more money out of the pockets of working Americans.

Mr. LAUTENBERG. Will the Senator yield for a question?

Mr. ASHCROFT. I will yield for a question with the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator has a right to yield for a question without losing the floor.

Mr. LAUTENBERG. The Senator makes a statement that if this fee was not paid, it would enable the family to spend—I think the figure used was $1,600 on food and clothing. The Senator said that earlier. And if the addict is using the money to buy cigarettes, that certainly doesn't free up any additional spending power unless the Senator sees another way to do it. I am not quite sure I understand where the Senator goes with that.

Mr. ASHCROFT. I am not quite sure I understand the question. Are you saying that they will use the money to buy additional cigarettes? If you want to restate the question, I will be happy to have you do so. I do not want to lose the floor by having a restatement of the question.

The PRESIDING OFFICER. The Senator does not lose the floor by yielding for a question.

Mr. LAUTENBERG. The Senator before said that $1,600 a year that the person would pay in additional taxes would prevent them from having the ability to spend it on food and clothing, et cetera.

But, eventually, over a period of time that would be a cost which does not exist altogether for a million teenagers, and they would, therefore, be able to exchange the money not used to buy cigarettes, if they were able to close out on the smoking addiction, to be used for other things; is that not true?

Mr. ASHCROFT. If the Senator is making the point that these people will not be buying cigarettes and therefore would not be paying this tax, that is contrary to what this bill assumes. This bill assumes this income. And in order to assume this income, you have to presuppose that people will not stop buying cigarettes.

You cannot get $868 billion over the next 25 years if people stop buying cigarettes. The first presumption of this bill—there are several presumptions—is that people are addicted. That is one of the evils we are supposed to be addressing. But after we presume they are addicted, we take advantage of the addiction by imposing a tax on the addicted. And then we spend the money we receive from the tax. .If they are going to quit smoking because the price goes up, then we are not going to get the money. You can't have both the "quit" and the "money." If people quit smoking, they won't pay the tax, and we have $868 billion in this bill that we are presuming people are going to go ahead and pay. That is the money I am talking about, the $868 billion that is coming out of the budgets of families.

What is stunning to me is that 59.4 percent of this tax increase, 59.4 percent of it comes from people who make less than $30,000 a year. 60 percent of the $800 billion—about $500 billion—is coming out of the pockets of people who make less than $30,000 a year. We take that out of their pockets. We can't spend it here if they don't send it here. So this whole bill is predicated on them sending it here. And when they send it here and we spend it, that means they can't spend it.

What do we spend it on? We spend it on 17 new boards and commissions, or—I guess there is an amendment now which says these are no longer to be identified as boards and commissions. So we have gone from the lack of accountability of boards and commissions, to the anonymity of stealth commissions and boards that will be tucked away in agencies. All the spending will still take place, but it will be done without as many labels.

We are talking about a massive tax increase of $868 billion. That is what is going to happen. That is what is projected. You don't get the money from the people at the same time they keep the money. This money can only be in one place.

Mr. HATCH. Will the Senator yield for a question without losing his right to the floor?

Mr. ASHCROFT. I would.

Mr. HATCH. The $868 billion is one of the estimates, is it not——

Mr. ASHCROFT. Yes, it is.

Mr. HATCH. Of Wall Street analysts who have thoroughly developed tobacco models, economic models, and have spent literally years developing these models?

Mr. ASHCROFT. Yes.

Mr. HATCH. They say that when you extrapolate out the $1.10 price of the Commerce Committee bill—or the managers' amendment as I think we should call it—the actual price tag could range as high as $868 billion, because the $1.10 number is based solely on the manufacturers' level and does not count the wholesale or retail markups or any other factors which could lead to price increases, such as state excise taxes?

Mr. ASHCROFT. I think this is more conservative. If you were to go beyond the $1.50——

Mr. HATCH. I am saying the $1.50 would be even higher, wouldn't it? That is what I am asking.

Mr. ASHCROFT. Yes. That's exactly right.

Mr. HATCH. The $1.50 number is certain to be even higher?

Mr. ASHCROFT. We have understated the burden here.

Mr. HATCH. Could I also ask my friend another question? Those who are arguing for a $1.50 price increase are saying there will be no black market, that there will be no smuggling of any consequence. Is it not true that after California raised its excise tax in 1988, today they are finding that one out of five packs of cigarettes are contraband today. Is that not true?

Mr. ASHCROFT. I have to look at my own experience as Governor. We even had problems with smuggling from neighboring States that had low tobacco taxes. Contraband is already a big problem in tobacco.

Mr. HATCH. Let me just show you this chart in connection with my next question. It is one thing to talk about Norway, Denmark and the United Kingdom as some have in this body. It is entirely another thing to talk about the United States of America where most of the big tobacco companies actually reside and exist.

This chart shows U.S. cigarette imports from Canada, 1984 through 1996. You notice it was relatively level here up until 1990, when Canada suddenly increased their excise taxes dramatically. Then, all of a sudden we have imports from Canada going up dramatically. There were U.S. cigarette imports from Canada in 1984, imports which then went back into Canada and sold as contraband at a lower price. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that. I think we invite a disaster in terms of black marketing and in all kinds of legal violations. We are going to be introducing young people to illegal ways of transacting business on the black market. We are going to be introducing young people to segments of society they should not be associating with.

Mr. HATCH. The Senator serves on the Senate Judiciary Committee with me, and I believe is fully aware of the hearings, where we discussed the fact that four major law enforcement organizations representing hundreds of thousands of policemen in this country said that if we go to $1.10, which we believe could extrapolate as high as $800 billion, that we would have a dramatic increase in contraband which would spawn all sorts of violence?

Mr. ASHCROFT. I am.

Mr. HATCH. The Senator is aware of these compelling arguments from law enforcement?

Mr. ASHCROFT. I am aware of that.

Mr. GRAMM. Will the Senator yield on this point?

Mr. ASHCROFT. I would be happy to yield for a question.

Mr. GRAMM. I want to pose a question related to what the Senator from Utah has said. The Canadian experience, as the Senator is probably aware, is critically important because many economists and others who study this data claim that the numbers asserting a 10-percent increase in prices results in a 6-percent decrease in consumption are false. In fact, if these numbers really held true, we could increase prices by 200 percent and eliminate all smoking in the country. Everyone knows that is a nonsensical result.

Is the Senator aware that, when challenged on this point, the administration has used the Canadian experience as proof of the success of raising taxes? When challenged on the assertion that there is clear and convincing evidence of a dramatic decline in smoking and teenage smoking as a result of tax increases, administration spokesman and Treasury Department official, Jonathan Gruber pointed to the Canadian experience. I would like to read from an editorial by Nick Brookes printed in today's Washington Post. Mr. Brookes is talking about the Canadian experience and quotes the health minister of Canada. Basically, as the Senator from Utah pointed out, the Canadians had such a disastrous experience with black markets and smuggling that it actually drove the effective cost to teenagers of cigarettes down, not up.

Mr. HATCH. If the Senator will yield——

Mr. ASHCROFT. I reclaim the floor.

Mr. GRAMM. Let me finish my question.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. GRAMM. Let me finish my question and then the Senator from Utah will have the opportunity to ask one.

Mr. HATCH. I will be happy to do that.

Mr. MCCAIN. We need to have the regular order here in the Senate. Everybody has a right to speak, but we ought to have a regular order, parliamentary routine here.

The PRESIDING OFFICER. The Senator from Missouri has the floor and he has the right to yield for a question.

Mr. GRAMM. Will the Senator yield?

Mr. ASHCROFT. I will be happy to yield to the Senator from Texas for a question.

Mr. GRAMM. Returning to the point on which I would like to base the question. The administration asserts that there will be a dramatic impact on teenage smoking by raising tobacco taxes. The question about the impact of higher taxes on teenage smoking was posed today in USA Today. When Americans were asked, "Do you believe higher cigarette taxes will reduce teen smoking?" 70 percent said no and 29.9 percent said yes? Is the Senator aware of that?

Mr. ASHCROFT. I was not aware of that, but I am happy to have the Senator point it out.

Mr. GRAMM. The point I want to make is this: The administration has used the Canadian experience as proof of the effectiveness of raising taxes on teen smoking. Canada raised taxes dramatically on cigarettes and then later decided to cut taxes. Is the Senator aware that the Health Minister in Canada, Diane Marleau, has said that the Government's decision to cut taxes in Canada would actually reduce consumption among teenagers because it would "end the smuggling trade and force children to rely on regular stores for cigarettes where they are forbidden to buy them until they turn 19?"

Mr. ASHCROFT. I am aware of that, and I think it is a very important point.

Mr. GRAMM. Is the Senator aware that in Illinois, Massachusetts, Hawaii, and Nebraska teenage smoking has increased as cigarette taxes have risen?

Mr. ASHCROFT. I am aware of that, and I think it reinforces the point that the Canadian Health Minister was making, that there are times when an increase in the price increases the interest of youngsters in smoking.

Mr. GRAMM. Is the Senator concerned that we could get into a position of having an active black market, as is true now in many countries in northern Europe, in Canada, and in many of our own States with high tobacco taxes? If we end up spawning a black market so that cigarettes are purchased by teenagers and by adults illegally, does the Senator share my concern that we could get into a situation where the black marketing of cigarettes could become an entre to inducing people to take a step beyond cigarettes to drugs?

Mr. ASHCROFT. If cigarettes sold illegally become commonplace, it might well be that people will have greater access to an array of contraband items—"Here, you can either buy cigarettes from me, or you can buy marijuana from me, or you can buy drugs from me." I am aware of that potential. I answer the question of the Senator from Texas by saying I am not only aware of it, but I am deeply concerned about it because drugs are a serious threat. They, in many respects, are far more serious than the threat of cigarettes.

Mr. GRAMM. Is the Senator aware that in a poll taken last week, American families were asked what concerns they have about what their teenager is doing? Thirty-nine percent were concerned about illegal drugs, 16 percent were concerned about joining a gang, 9 percent were concerned about their teenager drinking alcohol, 7 percent were concerned about their teenager having sex, 7 percent were concerned about their teenager driving recklessly, and 3 percent were concerned about smoking. So if we create a black market by increasing tobacco taxes, we could easily be taking a step that converts an issue that concerns 3 percent of American families into an issue that concerns 39 percent of American families, that is their teenager using illegal drugs.

Mr. ASHCROFT. I am aware of that. I think the American people have a pretty clear understanding of what the most serious long-term threats are, and they rank those appropriately. I think it would be a tragedy if we were to, out of good intentions, do something which resulted in a black market and promoted drug use and smoking on the part of teenagers rather than curtailing both of those.

Mr. GRAMM. I will ask one final set of questions, and then I will yield the floor.

As the Senator said, 34 percent of the cost of this tax will be paid by families earning less than $15,000 a year, 13.1 percent will be paid by families earning between $15,000 and $22,000 a year, and 12 percent will be paid by families earning between $22,000 and $30,000 a year.

The Joint Tax Committee estimates that an individual making less than $10,000 a year would see a 41.2 percent increase in their Federal tax burden as a result of this tax increase. The newest numbers I have seen indicate that an individual who smokes could see their Federal tax burden rise by $356 as a result of this tax. A couple where both husband and wife smoke would see their tax burden rise $712 a year as a result of this tax.

Here is my question: Considering the concern the Senator from Utah has about black markets, what will the price of a pack of cigarettes be under this bill?

It is my understanding that today, depending on which State you live in, the price is roughly $2 a pack. The underlying bill has a $1.10 tax per pack increase, and a series of other provisions that will drive up the cost, including, the look-back penalty, some estimate it could be as high as 44 cents per pack; the liability cost, 50 cents per pack; the licensing fee, 14 cents per pack; and the decline in volume could be as much as 48 cents per pack.

I do not know how to assess these numbers. I certainly do not claim to be an expert on them. Does the Senator have any idea, what the price of a pack of cigarettes will be under the McCain bill and how much a pack of cigarettes will be if this new amendment, raising the cost $1.50 per pack, is adopted?

It is a critical question. If we know the cost will be $5 a pack, for example, we can look at the experience of Europe where they have similar taxes. We could look at their black market structure, look at the amount of illegal transactions occurring, and begin to see what the impact of this will be. But nowhere have I seen any bottom-line figure on what the price of a pack of cigarettes will be as a result of the underlying bill and the amendment that the Senator is trying to kill through his amendment.

Does the Senator have any data on that?

Mr. ASHCROFT. There is some data on that. Some analysts have predicted that the price per pack would be much more than the $1.10 increase by the time you work it through the system. They have estimated that the increase will be $2.78 a pack.

Mr. GRAMM. So that would mean roughly $4 a pack, depending on what State you are in?

Mr. ASHCROFT. I think the price these analysts have indicated is $4.68. You first tack on the $1.10 tax. Then you add all the other costs in this bill that will most likely be passed on to consumers. Then the look-back penalties capped at $3 billion a year have to be added. The liability of $8 billion a year capped has to be added. In the analysis, it was assumed only 20 percent of this will have to be paid out every year. However, due to changes in the bill, and no doubt on behalf of the trial lawyers, I think 100 percent of the $8 billion will be paid out every year.

It is clear to me that you have a very serious price increase. And the suggestion that it is $1.10 or $1.50 is very, very conservative. The truth of the matter is it is likely to be 2 to 3 times that much.

Mr. CONRAD. Will the Senator yield on that point?

Mr. GRAMM. Will the Senator continue to yield?

Mr. ASHCROFT. I continue to yield for a question.

Mr. GRAMM. No one knows exactly the impact of this tax increase. One of the things we need to know, in order to estimate the impact of the bill on things like a black market, is what would be the price of a pack of cigarettes. I assume the Senator is aware that one-half of all cigarettes consumed in Great Britain are purchased on the black market. When you reach the threshold of promoting illegal activity, you end up not getting the revenues and dramatically lowering the price of the product. By adopting this amendment we could actually lower the effective price to teenagers of tobacco products by creating a black market that would come from the increase in price.

Is the Senator concerned about that?

Mr. ASHCROFT. I am concerned about that.

Mr. HATCH. Would the Senator continue to yield to me?

Mr. ASHCROFT. I yield to the Senator from Utah for a question.

Mr. HATCH. I have a series of questions I want to ask. I did enjoy and appreciate the questions asked by the distinguished Senator from Texas, because he raised a lot of very important points that were brought out in the Judiciary Committee's hearings.

Keep in mind, when the Treasury Department testified before the Judiciary Committee, I sent a letter to Secretary Rubin beforehand asking for the economic model they had used to justify their forecast. All they brought was a five-line chart—no model, no backup justification, no real economic analysis.

We had three of the top Wall Street analysts come in and provide us with very highly thought-through analysis showing that the price of cigarettes per pack could go up somewhere between $4.68, $4.78 and $5.00 or thereabouts. And that is on the basis of the Treasury's projected $1.10 increase, not the $1.50 figure we are debating today.

Now, my friend and colleague, Senator KENNEDY, has made a passionate plea here for $1.50. That would mean at a minimum an additional 40 cents more on each pack of cigarettes, although it will probably be higher. That is at the manufacturer's level. That does not count all the extrapolated things the distinguished Senator from Missouri has talked about.

Is that right?

Mr. ASHCROFT. That is correct.

Mr. HATCH. The Senator from Massachusetts has suggested that the bill increase each pack of cigarettes by $1.50 instead of $1.10.

Of course, everybody knows that the distinguished Senator from Massachusetts and I share a common goal of reducing youth smoking, as evidenced by the Hatch-Kennedy bill which was enacted last year. That bill added an excise tax to reduce youth smoking and to help with child health insurance.

But is the Senator aware that there is no proof that raising the price by $1.50 per pack would reduce youth smoking by 60 percent as has been alleged? Are you aware of that?

Mr. ASHCROFT. There isn't any proof.

Mr. HATCH. Not any?

Mr. ASHCROFT. It is a vast presumption, and it is a dangerous presumption.

Mr. HATCH. Is the Senator aware there is domestic and international evidence that such a price increase will worsen problems for law enforcement officers and lower-income taxpayers?

Now our colleague from Massachusetts showed a chart of Canadian cigarette prices and youth smoking over time. Let me point out that chart also demonstrates how youth smoking is not predicted by price.

Between 1979 and 1981, Canadian prices were static, but youth smoking decreased by 10 percent. Is the Senator aware of that?

Mr. ASHCROFT. I am pleased to be aware of it.

Mr. HATCH. All right. Our colleague from Massachusetts also suggested we can use the Canadian experience to predict American youth behavior. If true, then American and Canadian youths smoke for the same reasons—peer pressure and status. Many experts agree that status smoking, like $150 tennis shoes, is far less price sensitive. Even a $1.50 price increase will fail in head-to-head competition with ads like this in Sports Illustrated for Camel. Here is an attractive model smoking a cigarette—"What you're looking for" the advertisement says.

The fact of the matter is that many members of the scientific and medical communities do not see as essential a price increase of up to $1.50.

Is the Senator aware that after following 13,000 kids for 4 years, Dr. Philip DeCicca of Cornell University, in a National Cancer Institute funded study—a National Cancer Institute funded study, a public health study, if you will—found "Little evidence that taxes reduce smoking onset between 8th and 12th grade"? Are you aware of that?

Mr. ASHCROFT. I am.

Mr. HATCH. Dr. DeCicca's analysis is even more compelling when you look at our principal target, those kids who never smoked. He found that the effect of price on the probability of starting to smoke by grade 12 was essentially zero, zip, zero; that price did not influence them. Children were going to use tobacco products anyway because of peer pressure and status. It had no effect.

Is the Senator aware of that?

Mr. ASHCROFT. I am aware.

Mr. HATCH. This study is crucial because it is perhaps the only scientific study tracking the smoking behaviors of the same kids over a period of time. All other studies have relied on a cross-sectional analysis of unlike communities.

Now, is the Senator aware that just a few days ago the Congressional Research Service released its updated report, "The Proposed Tobacco Settlement Effects on Prices, Smoking Behavior and Income Distribution," where they carefully reviewed the scientific literature on the effects of price on youth usage?

Now, let me just quote from that report. And I want to ask the Senator if he is aware of this?

The findings in these studies cast doubt on the large participation elasticities that were initially assumed in formulating policies to reduce teen smoking.

Perhaps this is true because while 36.5 percent of youth have smoked in the past month, only 14.3 percent of youth smoked more than 10 cigarettes each day. Experts believe addicted persons are less responsive to price.

Now, let us not fool ourselves. Kids are different from adults and often unpredictable.

Is the Senator aware of those facts?

Mr. ASHCROFT. I certainly am. And I think the nature of the questioning of the Senator is very helpful in developing for us all an understanding of the real impact of price in terms of teen smoking. I welcome his questions.

Mr. HATCH. I believe the Senator will remember, if he will, that Dr. Frank Chaloupka, who testified before the Judiciary Committee, has written: "Youth and young adults have been found to be less responsive to price than older groups."

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that. I was grateful for his important contribution.

Mr. HATCH. Our colleague from Massachusetts showed a chart entitled, "Cigarette Prices and Daily Cigarette Smoking Among Canadians Age 15 through 19" which he suggested concludes the price increase caused all of the reduced youth smoking.

Is the Senator aware of that?

Mr. ASHCROFT. Yes, I am.

Mr. HATCH. Let me bring to the Senator's attention, during that same period, U.S. youth smoking decreased by 40 percent. So much for that argument of the Senator from Massachusetts. Were you aware of that?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. I have one final concern about the chart displayed by our colleague from Massachusetts on tobacco use and price. That chart ended in 1991. It did not include any data since then. I want to show you this chart again.

This chart shows the growth of Canadian exports to the United States. You will notice up until 1991 the growth was minimal, hardly at all. And then it moved suddenly up. The Judiciary Committee heard testimony that most of these cigarettes were smuggled back into Canada. Now, since smugglers do not seek IDs, I suspect youth were able to easily obtain bootleg cigarettes at an affordable price. Maybe this is why we have not seen the smoking prevalence rates and prices beyond 1991; perhaps that is why the chart of the Senator from Massachusetts ended there. But this is when they hiked up the excise tax in Canada. Look how the imports from Canada to the United States went up. Of course, they continued to just skyrocket because they were sending their exports to the United States and then the contraband was coming back.

Only when they had to voluntarily reduce their prices did their exports to the United States go down.

Mr. ASHCROFT. If the Senator is asking if that represents a black market for cigarettes in Canada, I think he is right. These were imported to the United States for smuggling back into Canada, and it represents that while the prices were high in Canada, there was a real aggravated problem with a black market in Canada. As long as you sell cigarettes illegally, I think selling them to underage individuals is an easy next step.

Mr. HATCH. If you listen closely to the debate, you will hear some assert with mathematical certainty that we need to increase the tax on cigarettes by $1.10 a pack, or $1.50 a pack, or by $2 per pack to get the maximum health impact in terms of youth participation rates.

We saw that yesterday in the arguments from the Senator from Massachusetts and the Senator from North Dakota, respectively.

Mr. CONRAD. Will the Senator yield?

Mr. HATCH. If I could finish my questions to the person who has access to the floor.

And we have heard more today along those lines.

Now, we will hear about the Surgeon Generals' reports, about the Institute Of Medicine report, about the Chaloupka study. Is the Senator aware of the widely-cited findings that for every 10 cents that the price of tobacco goes up we can expect to see a 7-percent decrease in youth smoking? Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that citation and study. I don't believe it.

Mr. HATCH. Let me go further. I am sorry to take so much of the Senator's time, but I think it is important.

Mr. ASHCROFT. I think this is important.

Mr. HATCH. Those figures sound impressive at first, but we need to stop and question how applicable such a study is for a complex adolescent social behavior and for the price increases we are debating today. Are there not limits to extrapolating this estimate into the price range that we are talking about today?

Mr. KERRY. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. KERRY. Does the Senator not have to ask a legitimate question?

Mr. HATCH. I have been asking questions one right after the other.

The PRESIDING OFFICER. The Senator from Missouri has the floor, and he does have the right to yield for a question.

Mr. KERRY. Would the Senator permit a parliamentary question? Would the Senator from Missouri yield for a question?

Mr. ASHCROFT. The Senator from Missouri has yielded for a question, which is underway. As soon as the Senator from Utah is finished with his question, I will be happy to yield for another question.

Mr. HATCH. Is the Senator aware—and I apologize to my colleagues. I do want to get through this, because this is important. The distinguished Senator has raised these issues. He deserves a lot of credit.

And, secondly, I point out that the other side had a lot of time last night and this morning to talk about their positions on this. The record should be made clear that many of their allegations are incorrect. I believe the evidence shows that they are incorrect. I think the Senator's answers to my questions will help to show that there is a dramatically different explanation for many of the charts which have been displayed here last night and this morning.

Let me ask some more questions. Is the Senator aware there must be some limits to extrapolating this estimate into the price range we are talking about, because if we just straight-lined this projection to a $1.50 increase, we would have to expect that literally all youth smoking would cease? That would be news to those many countries with cigarette prices which are more than $1.50 higher than in the United States.

Mr. ASHCROFT. I am aware of that. I think it is a point well made.

Mr. HATCH. I ask the Senator if he is aware of this? First, I believe both intuitively as a parent and grandparent many times over, and from examining the data, that if we raise the price of a product like cigarettes, as a general matter, we can expect children to purchase less of it—at least that is the common economic thought. But having said that, and, after all, it is a simple matter of economics that other factors are held constant. As price goes up, we can expect quantity and demand to go down.

I want to take just a few minutes to look behind the actual data of some of the frequently cited studies. Is the Senator aware that a fair reading of the literature suggests we are not dealing with some sort of simple, timeless, immutable algorithm when we are dealing with the price/elasticity issue?

Is the Senator aware of that? He has been making that case here this morning.

Mr. ASHCROFT. I am.

Mr. HATCH. I ask the Senator, isn't it reasonable to question that a difference between the $1.10 tax and the $1.50 will not necessarily mean 800,000 premature deaths?

Mr. ASHCROFT. I think the Senator is entirely correct; to assume that you can just automatically make that kind of change really is poor economics. It starts in the primer and stays there rather than finding out the way in which the real world would react.

Mr. HATCH. Is the Senator aware it is unclear if such an analysis is focusing on tax receipts made to the Treasury or the actual at-the-cash-register price?

Mr. ASHCROFT. Yes, I am.

Mr. HATCH. Price is undoubtedly a key factor. I hope I have reviewed some of the key data, and I ask if the Senator does agree with me that we should not overemphasize price alone and, so to speak, put all of our eggs into that one price basket?

Mr. ASHCROFT. It is very wise to point that out. I have to say that the studies which the Senator has cited I think make that a compelling conclusion. You have to ignore an overwhelming weight of scientific evidence to persist in the naive notion that there is a straight line in extrapolation of price increase and demand reduction among teenagers.

Mr. HATCH. Would the Senator agree, in my view we can be most successful in meeting our public health goals by coming up with a "basket" of antitobacco policies that would include price increases, counteradvertising, public education, enhanced enforcement measures, cessation programs, and marketing and advertising restrictions that go way beyond what the Constitution would allow us to legislate?

Mr. ASHCROFT. I am aware of the Senator's position in that respect.

I believe if this were truly an antismoking measure for teenagers and that were its real intent, we would have things like making illegal the possession of tobacco in areas where the Federal Government has jurisdiction.

Mr. HATCH. Does the Senator agree we should come up with a comprehensive package of mutually reinforcing policies, that if we come up with a package at all, overreliance on price strategy could be misplaced?

Mr. ASHCROFT. I agree our pricing strategy is potentially very seriously misplaced in this measure.

Mr. HATCH. Is the Senator aware that the Institute of Medicine of the National Academy of Sciences issued a report calling on the nation to take action to reduce tobacco use? Is the Senator aware of that?

Mr. ASHCROFT. I am.

Mr. HATCH. Let me ask the Senator if he is aware of just a few short excerpts from one paragraph of the 36-page report. The focus is on the need for the level of required price increases. "Raising the prices of tobacco products is a proven way of reducing tobacco use in the short and medium terms. Price hikes encourage the cessation and thwart initiation. Higher prices have the added benefit of reducing use among people not yet addicted to nicotine, including young people whose level of tobacco consumption may be even more sensitive to price. The impact and simplicity of price hikes were the main reason for the 1994 IOM report's first recommendation of a $2 per pack cigarette tax increase."

Now the paragraph notes that this recommendation is consistent with the Koop-Kessler report and the National Cancer Policy Board, which it notes calls for a $2 price increase before concluding with this following sentence: "Such a price increase should also have the desired disproportionately greater impact on preventing the initiation of tobacco use among young people."

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that particular statement.

Mr. HATCH. Let me ask if the Senator agrees. In fairly categorical language, a price hike in the $2 range is characterized as a "proven way to cut youth smoking." In fact, it almost sounds like the $2 per pack comes right out of a mathematical formula.

The more something costs, the less of it a kid can probably afford. In an era of $150-a-pair Air Jordans, we must allow for the possibility that what kids will do, particularly when social status is involved, can be a tricky, sometimes counterintuitive behavior that can involve a lot more than just sheer price.

Does the Senator agree with me on that?

Mr. ASHCROFT. I definitely agree with the Senator. I think that habits by young people in the marketplace frequently do not reflect traditional economic analysis.

Mr. HATCH. Having set out the 1998 IOM study, I compare its tone and ask the Senator if he agrees with the April 1998 CBO report called "The Proposed Tobacco Settlement: Issue From a Federal Perspective?"

Now, this CBO paper examines the literature and paints a far murkier picture of the state of evidence than did the IOM study. For example, the first sentence of this section, entitled "Response of Youth" states—and I ask the Senator if he is aware of this quote—"In contrast with the consistent responsiveness of adults to changes in price, the evidence on how young people respond is highly variable?"

Mr. ASHCROFT. I am aware of that. It seems to me that it actually confronts, in a very direct way, those other studies that make serious presumptions that are unwarranted.

Mr. HATCH. The Congressional Budget Office report: Is the Senator aware of the Congressional Budget Office report reviewing many of the same studies relied upon in the earlier 1994 Institute of Medicine study, and in the 1994 Surgeon General's report entitled "Preventing Tobacco Use Among Young People"?

Mr. ASHCROFT. I am aware of it. I think it is very valuable that they have done so.

Mr. HATCH. It is very important to this debate, it seems to me.

Does the Senator agree with me?

Mr. ASHCROFT. It is very important.

Mr. HATCH. It would seem to me that anybody who is intelligently watching this debate would want to consider this. Is that right?

Mr. ASHCROFT. I think the information provided in the CBO is critical to an intelligent decision in this matter.

Mr. HATCH. The CBO catalogued a wide range of elasticity and reports, "Most findings are on the high side of the range." However, the Congressional Budget Office next cites two studies based on the National Health and Nutrition Examination Survey that found elasticities near zero. After summarizing the data for a series of studies, the Congressional Budget Office discussed a Cornell study that employed a longitudinal methodology as opposed to a cross-sectional analysis undertaken by most studies.

It said in the Congressional Budget Office report, "The participation elasticities that DeCicca and colleagues estimated for each followup were similar to those found in the cross sectional studies. The Congressional Budget Office considered roughly 0.5 to 0.70. However, they found that when children who were already smoking at the time of the first survey in the eighth grade were excluded from the analysis, the effect of price on the probability of starting to smoke by the 12th grade was essentially zero.

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it.

Mr. HATCH. This study found, after excluding those already smoking in eighth grade, that the effect of price on the probability of starting to smoke by the 12th grade was essentially zero.

The Congressional Budget Office made the following comment with respect to this study: "Findings should be troubling to those who look forward to a large increase in tobacco prices as a foolproof means of reducing rates of youth smoking. It is possible that existing studies showing high price elasticity among teens and young adults which use similar State level adjusters may have inadequately controlled the effect of the community environment."

Is the Senator aware of that quote?

Mr. ASHCROFT. I am aware of it.

Mr. HATCH. It is a very important quote. That certainly does not seem to echo the almost unequivocal of some other studies.

To be fair, the Congressional Budget Office concludes that most of the evidence does, in fact, point to a relatively high price elasticity for young adults but concludes this discussion with the cautionary note that all the would-be social engineers, it seems to me, should take to heart. We have plenty of them around here. "Most of the evidence points to a relatively high total price elasticity of tobacco consumption among teenagers. But those estimates could be exceedingly optimistic. How young people would respond to large changes in the price of cigarettes remains, like many of their behaviors, uncertain."

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that CBO conclusion. I think it provides us with a sound basis for questioning what others are assuming, and they are assuming that, I think, at serious peril.

Mr. HATCH. Is the Senator also aware that, unlike the Institute of Medicine, the Congressional Budget Office reads the studies and concludes that the data suggests a level of uncertainty on the price issue?

Mr. ASHCROFT. Yes.

Mr. HATCH. Let's be honest here. There are many uncertainties here. We are talking about tobacco price increases never before contemplated or experienced in our country. But as we listen to this debate, I think it would be wise for all of us to heed the words of caution by the Congressional Budget Office when we hear someone say that all the public health experts agree that price is the single most effective way to cut youth consumption.

Does the Senator agree with me on that statement?

Mr. ASHCROFT. I think is dangerous to say that all the health experts agree, or all statistics agree. I think the Congressional Budget Office study clearly indicates that there are other factors that are very serious that interrupt what would otherwise be economic assumptions and the assumption of addiction itself is a way of saying that ordinary economics don't apply.

Mr. HATCH. If data were unequivocal on the price issue, as some have already argued, or will argue, in this debate, how is it that the Congressional Budget Office—I ask the Senator this—felt compelled to so carefully qualify what some characterize as a near scientific certitude?

Mr. ASHCROFT. My view is that they are self-compelled because they were interested in writing a record which was seriously flawed. The Congressional Budget Office's responsibility is to provide us with the information on the basis of which we can make good decisions, and not seriously flawed information. I think that there is responsibility and an opportunity to improve our potential for good decisionmaking. That is why they would have to challenge those studies which, obviously, would be misleading if not understood in the light of the Congressional Budget Office qualification.

Mr. HATCH. Now, of course, if you were tied down to particular numbers in a budget table or in a bill financing table and neither could justify these numbers so that precisely the preordained amount of revenue comes into the U.S. Treasury, you might be inclined to overplay the public health rationale beyond what is warranted from the actual data. Does the Senator agree with me on that?

Mr. ASHCROFT. Yes, I would. If the President of the United States, for instance, needed a certain amount of money, you might be inclined to find statistics which would provide a basis for generating that amount of money.

Mr. HATCH. I ask the distinguished Senator if he agrees with me that the American people, see if he agrees with me that the American people are not exactly unfamiliar with the sometimes backwards, the end-justifies-the-means, cook-the-books nature of policymaking in Washington.

Mr. ASHCROFT. They are not.

Mr. HATCH. All right. Why do you think the polls are showing that by a decisive 70 percent to 20 percent margin the public thinks the Congress is more interested in the revenue and spending side of this tobacco legislation than we are in the public health component?

Mr. ASHCROFT. Well, for a variety of reasons. I am sure our history is part of that, but part of the reason is that in this bill we are not doing some of the things which could be done to curtail teenage smoking. So it becomes apparent that we are doing things that are not necessary and not doing things that are necessary.

Mr. HATCH. Does the Senator remember back in the late 1980s when the American people made us repeal the catastrophic health insurance legislation, the same public considered and soundly rejected the Rube Goldberg-inspired, Ira Magaziner-designed Clinton health care reform proposal?

Mr. ASHCROFT. We are all well aware of that.

Mr. HATCH. I would submit to you that this is the same public that we can expect to watch us closely as we perform our magic on this particular bill. Does the Senator agree with me with regard to youth smoking?

Mr. ASHCROFT. I think the public is already watching. It is reflected in measurements of the public sentiment when they indicate they believe on about a 70 percent to 30 percent basis that this is a tax and spend, big Government measure rather than a real smoking cessation measure.

Mr. HATCH. Let me just bring to the distinguished Senator's attention that during that same period of smoking decline in Canada, U.S. youth smoking decreased by 40 percent without a price increase. So much for the reasons that price is the only reason for youth smoking decrease. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. I have one final concern with the chart that was used by our distinguished friend from Massachusetts on Canadian tobacco use and price. As I said, that chart ended in 1991. When you look from 1991 on, Canadian imports to our country went up dramatically. Most were smuggled back into Canada and created a huge black market. Does the Senator remember, before the Judiciary Committee, we had the former mayor of Cornwall testify before our committee?

Mr. ASHCROFT. I am aware of that testimony.

Mr. HATCH. And he talked about how the black market came in with all of the accompanying organized crime and criminal activity to the point where his life was threatened, his family's life was threatened, people were shot at, and all kinds of other unsavory criminal practices began. Does the Senator remember that testimony?

Mr. ASHCROFT. I am aware of that testimony, and I thank the Senator for bringing it again to our attention.

Mr. HATCH. Now, the Judiciary Committee—I am sure the Senator is aware of this, too—heard testimony that most of these cigarettes, on that peak, that were imported into the United States were smuggled back into Canada.

Mr. ASHCROFT. They send them out the front door and bring them in the back door.

Mr. HATCH. Sure. They sent them out and brought them back. People are saying there is not going to be any smuggling here, not going to be any black market. They are ignoring hundreds of thousands of police people. They are ignoring the facts that occurred in Canada, England, and almost everywhere else.

Mr. ASHCROFT. They are ignoring the fact that there is a lot of cigarette smuggling in the United States today at current taxation levels. To aggravate that with an additional $1.50 a pack would be to skyrocket the smuggling problem.

Mr. HATCH. Since smugglers do not seek identification or IDs, I suspect youth were able to easily obtain bootleg cigarettes. Keep in mind Mexico's per pack price is 94 cents. Right?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. Maybe we have never seen the smoking prevalence rates and prices beyond 1991 in the distinguished Senator's chart because smoking rates did not increase when the tax was decreased by the Canadian government.

Now, despite emphatic and passionate pleas, the scientific evidence on the effect of price is equivocal. Does the Senator agree with me on that?

Mr. ASHCROFT. There is ambiguity as to whether or not price is a conclusive determinant for teenagers in their decision to begin to smoke.

Mr. HATCH. Is the Senator aware that today Barry Meier writes a very compelling article in the New York Times. He says:

> But with the Senate having begun debate on Monday on tobacco legislation, many experts warn that such predictions are little more than wild estimates that are raising what may be unreasonable expectations for change in rates of youth smoking.

Is the Senator aware of that comment?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. Mr. Meier also quotes Mr. Richard Kluger, author of a book on smoking and health, who has said this. I ask the Senator if he is aware of it?

I think this whole business of trying to prevent kids from smoking being the impetus behind legislation is great politics, but it is nonsense in terms of anything you can put number next to.

Is the Senator aware of that?

Mr. ASHCROFT. I am, I am in possession of the article, and I am grateful for the work of Mr. Meier.

Mr. HATCH. I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 20, 1998]

POLITICS OF YOUTH SMOKING FUELED BY UNPROVEN DATA

LEGISLATION'S DESIRED EFFECTS DRESS UP AS FACTS

(By Barry Meier)

It is the mantra of the nation's opponents of smoking: sweeping changes in the way cigarettes are marketed and sold over the next decade would stop thousands of teenagers each day from starting the habit and spare a million youngsters from untimely deaths.

President Clinton recently warned, for example, that one million people would die prematurely if Congress did not pass tobacco legislation this year. And Senator John McCain, Republican of Arizona and the author of a $516 billion tobacco bill, has urged lawmakers to stop "3,000 kids a day from starting this life-threatening addiction."

But with the Senate having begun debate on Monday on tobacco legislation, many experts warn that such predictions are little more than wild estimates that are raising what may be unreasonable expectations for change in rates of youth smoking.

After the $368.5 billion settlement proposal between tobacco producers and state officials was reached last year, for example, the American Cancer Society said a 60 percent decrease in youth smoking in coming years could reduce early deaths from diseases like lung cancer by a million. But while many politicians say the legislation would most likely produce a 60 percent drop in youth smoking, that figure appears to have come from projections and targets.

Social issues often spark unfounded claims cloaked in the reason of science. But the debate over smoking, politically packaged around the emotional subject of the health of children, is charged with hyperbole, some experts say. Politicians and policy makers have tossed out dozens of estimates about the impact of various strategies on youth smoking, figures that turn out to be based on projections rather than fact.

"I think this whole business of trying to prevent kids from smoking being the impetus behind legislation is great politics," said Richard Kluger, the author of "Ashes to Ashes" (Knopf, 1996), a history of the United States' battle over smoking and health. "But it is nonsense in terms of anything that you can put numbers next to."

Everyone in the tobacco debate agrees that reducing youth smoking would have major benefits because nearly all long-term smokers start as teen-agers. But few studies have analyzed how steps like price increases and advertising bans affect youth-smoking. And those have often produced contradictory results.

Consider the issue of cigarette pricing. In recent Congressional testimony, Lawrence H. Summers, the Deputy Treasury Secretary, cited studies saying that every 10 percent increase in the price of a pack of cigarettes would produce up to a 7 percent reduction in the number of children who smoke. Those studies argue that such a drop would occur because children are far more sensitive to price increases than adults.

"The best way to combat youth smoking is to raise the price," Mr. Summers said.

But a recent study by researchers at Cornell University came to a far different conclusion, including a finding that the types of studies cited by Mr. Summers may be based on a faulty assumption.

Donald Kenkel, an associate professor of policy analysis and management at Cornell, said earlier studies tried to draw national patterns by correlating youth smoking rates and cigarette prices in various states at a given time.

But in the Cornell study, which looked at youth smoking rates and cigarette prices over a period of years, researchers found that price had little effect. For example, the study found that states that increased tobacco taxes did not have significantly fewer children who started smoking compared with states that raised taxes at a slower rate or not at all.

Mr. Kenkel added that he had no idea how the price increase being considered by Congress—$1.10 per pack or more—would affect smoking rates because the price of cigarettes, now about $2 a pack, has never jumped so much. And he added that there were so few studies on youth smoking rates and price that any estimate was a guess.

"It is very difficult to do good policy analysis when the research basis is as thin and variable as this," Mr. Kenkel said.

Jonathan Gruber, a Treasury Department official, said that the Cornell study had its own methodological flaws and that the earlier findings about prices supported the department's position. He also pointed out that Canada doubled cigarette prices from 1981 to 1991 and saw youth smoking rates fall by half.

Under the tobacco legislation being considered in the United States, cigarette prices would increase by about 50 percent. And while advocates of the legislation say that the increase would reduce youth smoking by 30 percent over the next decade, they say that an additional 30 percent reduction would come through companion measures like advertising restrictions and more penalties for store owners who sold cigarettes to under-age smokers and for youngsters who bought them.

The claim that comprehensive tobacco legislation would reduce youth smoking by 60 percent over the next decade is perhaps that most frequently cited number by advocates of such bills. But that figure first emerged last year in a different context and quickly came under attack.

The American Cancer Society, soon after the settlement plan was reached in June between the tobacco industry and 40 state attorneys general, said that one goal of that agreement—a 60 percent decline in youth smoking rates over the next decade—would spare one million children from early deaths from smoking related diseases. The plan, which recently collapsed, would have raised cigarette prices by about 62 cents over a decade and banned certain types of tobacco advertising and promotional campaigns.

But some tobacco opponents soon found fault with the cancer society's estimates. For one, those critics pointed out that the 60 percent figure represented only a target, and that penalties would be imposed on tobacco companies if it were not reached. And the cancer society, they added, had not performed any analysis of the June deal to determine whether it could produce a 60 percent decline in youth smoking.

"They basically made up the number and I think it was totally irresponsible of them," said Dr. Stanton Glantz, a professor of medicine at the University of California at San Francisco. "It is like assuming that by snapping our fingers we could make breast cancer go away."

In a letter to Dr. Glantz, Dr. Michael Thun, the cancer society's vice president for epidemiology and surveillance research, acknowledged that the group's statement was based on an "if-then" projection, rather than an analysis of whether the proposal's programs would accomplish that goal.

"The way the number was derived has nothing to do with what will effectively get us there," Dr. Thun said in a recent interview.

The new 60 percent estimate is based on a different formulation. But it, like the cancer society statistic, also coincides with a target for reducing youth smoking that would result in industry penalties if not reached. And along with questioning the impact of price on reaching such a goal, experts are at odds over whether advertising bans and sales restrictions would produce the projected 30 percent drop in youth smoking.

In California, for example, youth smoking began to decline in the early 1990's soon after the state began one of the most aggressive anti-smoking campaigns in the country. But it has begun to rise again in recent years.

Dr. John Pierce, a professor of cancer prevention at the University of California at San Diego, said he thought that reversal might reflect the ability of cigarette makers to alter their promotional strategies to keep tobacco attractive to teen-agers even as regulators try to block them.

For their part, cigarette makers, whose internal documents suggest a significant impact on youth smoking from price increases, appear happy to play both sides of the statistical fence. Last year, they estimated that the price increase in the June plan would cause sales to drop by nearly 43 percent among all smokers over a decade. But now that Congress is considering raising prices by twice that much, producers have turned around and said that higher prices would undermine, rather than help, efforts to reduce youth smoking.

Steven Duchesne, an industry spokesman, said tobacco companies thought that high cigarette prices would encourage those in the black market to target teen-agers.

"Smugglers would sell cigarettes out of the back of trucks without checking ID's," Mr. Duchesne said.

Experts agree that unless significant changes are made in areas like price and advertising, youth smoking rates will not decline. But unlike politicians, many of them are unwilling to make predictions. Instead, they say that the passage of tobacco legislation would guarantee only one thing: the start of a vast social experiment whose outcome is by no means clear.

Mr. ASHCROFT. I am pleased to forward the article to the desk and ask for its inclusion in the RECORD.

Mr. HATCH. Let me ask the Senator, if he will, using another chart, our colleague argued last night that the 1993 American price decrease led to more youth smoking. I would call my colleague's attention to the fact that in at least 1 year both price and youth smoking decreased. Later, there was a dramatic increase in youth smoking without a proportional price increase. These facts provide further evidence that price is not the only determinant of smoking behavior as some would lead us to believe. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it, and I am convinced that price is not the only determinant.

Mr. HATCH. Now, tobacco analyst Martin Feldman, who actually did the economics on this based upon an extensive model, unlike the Treasury Department, who was willing to testify and face cross-examination before the Judiciary Committee, testified before the Judiciary Committee, and I believe the Senator is aware of this, that between 1986 and 1996, the real price of cigarettes in the United Kingdom, rose by 26 percent and national cigarette consumption fell 17 percent.

Is the Senator aware that youth smoking did not decrease during that same time?

Mr. ASHCROFT. I think that data is very instructive. It tells us something about the fact that the youth culture is not always predictable in terms of traditional economics, that the price may not be the determinant of whether individuals begin smoking as young people.

Mr. HATCH. Is the Senator aware that actually the British Office for National Statistics reported that the percentage of smokers amongst those 11 to 16 increased by 8 percent despite the healthy price increase?

Mr. ASHCROFT. I am pleased that you would bring that to my awareness.

Mr. HATCH. Our colleague from Massachusetts, for whom I have the greatest respect, would lead us to believe that all public health experts advocate a $1.50 price increase to reduce teen smoking. There has never been a U.S. price increase of this magnitude.

Mr. ASHCROFT. I am aware of the fact that this would be a totally unique circumstance never before——

Mr. HATCH. Keep in mind it is a lot more than just a $1.50. That is just the manufacturer's price. You go on up from there?

Mr. ASHCROFT. It would probably be something in the neighborhood of closer to over $3 in terms of the increase in the price of cigarettes.

Mr. HATCH. Is the Senator aware of the approach that I have been trying to take toward this, that we believe it should be a payment schedule. There would still be excise taxes. We think it should be a payment schedule that the tobacco companies meet regardless of how their profits go, up or down. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of the Senator's position in that regard.

Mr. HATCH. So the payment would not be affected by whether the excise taxes go up or down. The payments would have to be made over a number of years, all $428 billion of them, which is $60 billion more than in the settlement. Is the Senator aware of this, $60 billion more than the attorneys general, Castano group, et cetera, and tobacco companies' agreement back on June 20, 1997? Is the Senator aware of it?

Mr. ASHCROFT. I am aware of the Senator's intention in that respect.

Mr. HATCH. So it is a stiff increase in penalty, but at least it is at a level where perhaps we can get the companies to come back on board and at least voluntarily agree to the advertising protocols, consent protocols, and voluntarily agree to the look-back provisions and make them, thus, constitutional.

Mr. ASHCROFT. I understand the Senator's position.

Mr. HATCH. You understand my position on that?

In 1996—is the Senator aware in 1996 Secretary Shalala estimated that the 1996 FDA rule would reduce smoking by 50 percent over 7 years? Guess what? There was no price increase in that regulation.

> Secretary Shalala used the word "historic"—this is the most important public health initiative in a generation. It ranks with everything from polio to penicillin. I mean, this is huge in terms of its impact. Out goal is very straightforward; to reduce the amount of teenage smoking in the United States by half over the next 7 years.

Are you aware of that statement by our Secretary, our esteemed Secretary?

Mr. ASHCROFT. I am aware of that statement.

Mr. HATCH. Well, there was no price increase in that recognition. How, we are being led to believe that price is the answer. It goes further. David Kessler said this:

> Don't let the simplicity of these proposals fool you. If all elements of the antismoking package come into play together, change could be felt within a single generation, and we could see nicotine addiction go the way of small pox and polio.

Are you aware of that statement by the former——

Mr. ASHCROFT. I am aware of the statement of Dr. Kessler.

Mr. HATCH. Former head of the FDA? Here is one by President Clinton:

> That's why a year ago I worked with the FDA, and we launched this nationwide effort to protect our children from the dangers of tobacco by reducing access to tobacco products, by preventing companies from advertising to our children. The purpose of the FDA rule was to reduce youth smoking by 50 percent within 7 years.

That was President Clinton's statement. Is the Senator aware of that?

Mr. ASHCROFT. Indeed it was.

Mr. HATCH. I think the point I am making here is no matter what we do here will be a price increase. The question is, How far can you increase it without it being counterproductive and producing an overwhelming black market in contraband all over our country. Is the Senator as concerned about that as I am?

Mr. ASHCROFT. I am deeply concerned about the creation of a black market which not only destabilizes any of the intentions of this bill, but probably would make cigarettes far more available to young people than they are in society today.

Mr. HATCH. I appreciate the Senator's comments. These quotes by Donna Shalala, by David Kessler, by the President of the United States, with regard to the FDA regulation supposedly going to reduce teen smoking by 50 percent over 7 years—guess what, there was no price increase in that regulation. Now we are led to believe that price increases are the sole answer—at least by the arguments made by the other side on this issue.

Is the Senator aware—let me just examine another factor and see if he is aware of that. We are being told the Senate's inaction on a $1.50 price increase over the next 3 years will culminate in children dying. Is the Senator aware of that argument.

Mr. ASHCROFT. I am aware of that argument.

Mr. HATCH. It seems to have been made here regularly. If that is the case, why, then, did the President of the United States advocate for a price increase of up to $1.50 over 10 years? What does our colleague from Massachusetts know that the President didn't know?

Mr. ASHCROFT. I am not in a position to answer that question. I think the question is a very good question, but it would have to be addressed to the Senator from Massachusetts.

Mr. HATCH. Let me just say this, and ask this question. You know, the very people who are arguing for this $1.50 increase, it seems to me, are the very people who are pricing this bill right out of the marketplace so we cannot get a constitutionally sound bill. Is the Senator aware of that?

Mr. ASHCROFT. I believe that they have increased this, the cost of this bill, by hundreds of billions of dollars.

Mr. HATCH. We have had witnesses from the left and the right, constitutional experts, come before our committee and say that, basically, without a voluntary consent protocol or a voluntary consent decree with the companies on board, that literally—literally, you could not have the advertising restrictions.

Mr. ASHCROFT. I think it is pretty clear that the infringement of the first amendment that has been applied by the highest courts to commercial speech as well as speech by ordinary citizens would be substantial were it not to have the complicity of those affected.

Mr. HATCH. Was not the Senator there in those Judiciary Committee hearings when these experts on constitutional law from the left to the right said this bill would not be constitutional, would be highly suspect.

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. Unconstitutional both on the advertising restrictions, which of course that is what the FDA regulations call for, and on the look-back provisions? Just to mention two.

Mr. ASHCROFT. I am very well aware of the serious constitutional problems of this proposed measure, which would be intensified, absent the agreement of the companies themselves.

Mr. HATCH. Does the Senator remember Floyd Abrams, leading first amendment expert in this country, in my opinion and I think in the opinion of most people, from the left to the right, in his statement:

> Any legislation of Congress which would purport to do by law what the proposed settlement would do by agreement, in terms restricting constitutionally protected commercial speech, is, in my estimation, destined to be held unconstitutional? It is unlikely that at the end of the day the FDA's proposed regulations could survive first amendment scrutiny.

Does the Senator remember that?

Mr. ASHCROFT. I am aware of that statement before the committee.

Mr. HATCH. Is the Senator aware that the American Civil Liberties Union, speaking to the Senate Judiciary Committee, February 20, 1998, had this to say:

> Both the legislation and proposed regulation by the Food and Drug Administration are wholly unprecedented and, if enacted, will most likely fail to withstand constitutional challenges.

Mr. ASHCROFT. I am.

Mr. HATCH. Is the Senator aware that Judge Robert Bork said on January 16, 1996:

> The recent proposal of the FDA to restrict severely the first amendment rights of American companies and individuals who in one way or another have any connection with tobacco products is patently unconstitutional under the Supreme Court's current doctrine concerning commercial speech, as well as under the original understanding of the first amendment.

Mr. ASHCROFT. I am aware of that. That is why I mentioned the commercial speech reservations that I had earlier.

Mr. HATCH. Isn't it a wonderful thing that the commerce bill, or should I say the managers' amendment, has done that which nobody else has ever been able to do in the history of this country; that is, bring together the ACLU and Robert Bork on this issue.

Mr. ASHCROFT. That, indeed, is an amazing feat.

Mr. HATCH. It really is. But we also had testimony from Larry Tribe, on the left, who also basically said this would be very constitutionally suspect. Now, to make a long story short, the very people who are arguing—I will ask the Senator this. Aren't the very people who are arguing for this $1.50 increase the people who have basically blown the tobacco companies out of the equation so that you cannot get the voluntary consent decrees to make these matters constitutional so that this will work, not just from a price increase standpoint but from an advertising restrictions standpoint, and from a look-back provision standpoint?

Mr. ASHCROFT. I think it is pretty clear they have boosted, or seek to boost the kind of financial impact to a very serious—hundreds of billions of dollars—extent.

My objection is that this is all passed on to low-income people, consumers. Obviously there are other impacts as well. Obviously it affects the ability of companies to participate in this kind of settlement.

Mr. HATCH. Is the Senator aware of, similarly, last week we heard testimony on this issue. I asked Professor Burt Neuborne of the NYU law school specifically if he thought the FDA rules could pass constitutional muster. I have to say, he was one of the most impressive constitutional experts I have had in my 22 years of listening to constitutional law from experts on the Judiciary Committee. In asking him a question, I pointed out that earlier in the hearing that Mr. David Ogden, counsel to the Attorney General, testified that the FDA rules were narrowly tailored and could satisfy the leading cases in the area of commercial free speech, the Supreme Court's decision in 44 Liquormart, and the Scenic Hudson cases.

So I asked Professor Neuborne whether the FDA rules were narrowly tailored, as required by current Supreme Court doctrine. I want to see if the Senator remembers what he said.

He said:

> I could start by semantics. Mr. Ogden of the Justice Department used the word "appropriately tailored." He is too good a lawyer to use the words "narrowly tailored" because the FDA rules are not narrowly tailored. The FDA rules take the position that all color, all figures, all human beings are inherently attractive to children in a way that causes them to smoke.

Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that. I think it is a profound insight and it absolutely represents good legal analysis.

Mr. HATCH. He went on to say:

> But its not a narrowly tailored response to say that all use of color, all use of human figures, all use of imagery is banned so that adults can't see them either, and I don't think that could be reasonably defended.

Do you remember that?

Mr. ASHCROFT. I am aware of that statement and I happen to agree that there is a very serious constitutional problem with this kind of limitation, even of commercial speech.

Mr. HATCH. He is not alone. I venture to say that any constitutional expert who tries to contradict what these gentlemen have said is going to be in severe jeopardy of losing his or her reputation.

Is the Senator aware that this whole push to raise the cost, to pile on, that basically knocks the tobacco companies out of the equation, to pile on—which is what is happening in this bill and what certainly would be extended by the amendment of the distinguished Senator from Massachusetts—that that basically knocks the tobacco companies out?

Mr. ASHCROFT. I am not in a position to say whether or not what the tobacco companies could do.

Mr. HATCH. They have said——

Mr. ASHCROFT. They have indicated clearly that the additions and the aggravations and the different kinds of changes that have been made have made it impossible for them to continue in their support of the measure.

Mr. HATCH. There is no doubt in my mind that they are not going to continue unless we get this into some reasonable posture. Is the Senator aware that many people lost their breath when they first heard of $368.5 billion as the settlement figure given last June 20 by the attorneys general, the Castano group and the tobacco companies? They were astounded. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it, and if the people lost their breath thinking this was to be paid by the tobacco companies, they will really lose their breath when they understand these costs are mandated by the statute to be passed on to consumers.

Mr. HATCH. I think the Senator is aware, is he not, that there has to be a way to pay for the program? If you don't have the voluntary consent of the companies, albeit kicking and screaming, then how do you make the bill constitutional in the end? Is the Senator aware of that?

Mr. ASHCROFT. I am aware of the Senator's position.

Mr. HATCH. Is the Senator aware of another position this Senator has, and I think many others as well, and that is that if this bill passes in its current form and is not constitutional, that there will be at least 10 years of effective litigation by the tobacco companies who are not going to allow them to climb all over them, especially when they know these provisions are unconstitutional? Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that, and during that period of time, the poor people, the working-class people of the United States are going to have a very, very serious tax increase as a result of this kind of greed expressed here.

Mr. HATCH. Is the Senator aware that we have 3,000 kids beginning smoking every day and 1,000 will die a premature death?

Mr. ASHCROFT. I am aware that 3,000 children try smoking every day. I am also aware there are about 8,000 children, according to General McCaffrey, who try drugs every day. I am concerned we do not have a so-called solution here that really shoves people even more into the drug category.

Mr. HATCH. Is the Senator aware that if a young teenager smokes, there is an 8 times propensity to graduate to marijuana, and if that teenager then graduates to marijuana, there is a greater propensity to graduate to harder drugs?

Mr. ASHCROFT. I am aware of linkages that have been drawn between marijuana smoking and hard drugs.

Mr. HATCH. So if this price increases that we are talking about here, way above the $368.5 billion, do not bring the tobacco companies on board—and the tobacco companies say they are not going to come on board—then, basically, we are going to have 10 years of constitutional litigation where approximately 1 million children a year will start a habit later leading to their premature death because we failed to act properly in this matter. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of the fact that the absence of the tobacco companies in any final resolution would result in very serious litigation which would involve serious delays.

Mr. HATCH. Is the Senator aware that I have fought the tobacco industry my whole Senate career, and I take second place to nobody as far as trying to get this matter under control?

Mr. ASHCROFT. Indeed, I am.

Mr. HATCH. Is the Senator aware that on one occasion, I was accused—I won't say by whom—of being a pawn for the tobacco companies, because I want to see this thing work and get it done?

Mr. ASHCROFT. There are a number of incredible things that have been said about the Senator, and I think that is one of them.

Mr. HATCH. Well, it was very offensive to me. If we don't work this out so that the parties agree in a consent decree, then we are going to have years of litigation where even more people will die from smoking-related diseases and millions of kids will be hooked on cigarettes.

In 1996, as I said, and I ask the Senator if he remembers this, Secretary Shalala estimated that the 1996 FDA rule would reduce smoking by 50 percent over 7 years. David Kessler said it. The President believes that. There was no price increase involved in that, just the rule. But that rule will not be in effect if we don't have a voluntary consent decree.

And, I might add, there are those who believe that rule shouldn't be in effect under current FDA law, the way it is currently written.

Let me ask the Senator to consider another fact. We are being told that the Senate's inaction on a $1.50 price increase over the next 3 years will result in children dying. If that is the case, then why did the President of the United States advocate for a price increase of up to $1.50 but over 10 years? Is the Senator aware that Surgeon General Satcher, our Nation's doctor, did not call for a $1.50 price increase?

Mr. ASHCROFT. I am pleased to be made aware of that by the Senator from Utah.

Mr. HATCH. Rather, he echoed the President's position. He referred to prices as one of the most cost-effective, short-term strategies to reduce youth smoking. Will the Senator help me to understand their failure to be advocates, if the evidence is, as our colleague from Massachusetts said, "overwhelming and powerful"? More recently, my colleague and I attended a Judiciary Committee hearing to determine if it is possible to design a plan to keep kids from smoking. Is the Senator aware of this? Dr. Greg Connally, head of the Massachusetts drug control program, testified that the remarkable success of the Massachusetts program in reducing by 30 percent cigarette consumption in the 18- to 24-year-olds was because of the clean air indoor legislation and advertising. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it, and that is why I think it is unnecessary to massively burden working Americans with an oppressive tax in order to achieve what State and local entities are doing without this kind of imposition on working people of America.

Mr. HATCH. That came right out of Massachusetts.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. HATCH. Let me finish this line of thought, and I will be happy to yield.

Mr. ASHCROFT. I reassert my right to the floor, and I will be happy to yield for another question, but I have yielded to the Senator from Utah and the floor is not his to yield.

The PRESIDING OFFICER. The Senator from Missouri controls the floor.

Mr. ASHCROFT. I yield to the Senator from Utah.

Mr. HATCH. Let's look more closely at the 1994 IOM study which is the basis of the 1998 IOM study. A fair reading of this 1994 IOM study seems far less definitive than is being portrayed by some in this debate.

On page 187 of the 1994 Institute of Medicine study, it says:

> Only a few studies have examined the question of whether cigarette price increases affect teenagers differently than adults.

It then reviewed the only three studies done to that point in the United States. It found relatively high price elasticities in two of these studies but noted that the third study, the second National Health and Nutrition Examination Survey, "failed to find a statistically significant effect of cigarette prices on cigarette smoking in youths age 12 through 17." Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it, and I am pleased to have you remind us all of the information in these studies.

Mr. HATCH. So the data that is not so categorical as being portrayed by the proponents of this amendment. In fact, the 1994 IOM report noted the conflict, not the consensus, in the data. It noted that that requires further study.

On page 188 of the IOM study, it says this:

> The conflicting results of the few U.S. studies have examined the impact of cigarette prices on consumption by adolescents, including possible substitution of smokeless tobacco products in response to higher cigarette prices, reinforce the need for new research to assess the potential for using higher tobacco taxes to deter adolescent tobacco use.

Is the Senator aware of that?

Mr. ASHCROFT. It is clear that the studies are conflicting. Some of the assumptions which have been purported by others to be universal simply are not universal and are not supportable when they are alleged to be universal.

Mr. HATCH. Is the Senator aware that in a recent peer-reviewed article in the Journal of the American Medical Association, the authors conclude that price increases have limited value? Is the Senator aware of that?

Mr. ASHCROFT. I am pleased to be aware of it and thank the Senator for bringing it to the attention of the Senate.

Mr. HATCH. Since the tobacco companies cut their prices to wipe out the tax increases, these public health scientists attributed the success of the tobacco control program in Massachusetts to other components of the comprehensive program. Is the Senator aware of that?

Mr. ASHCROFT. Yes, I am.

Mr. HATCH. In the same hearing, Dr. William Roper, who is Dean of the University of North Carolina School of Public Health, called for a significant price increase but failed to recommend an amount. Is the Senator aware of that?

Mr. ASHCROFT. I am.

Mr. HATCH. Dr. Michael Fiore, director of the University of Wisconsin School of Medicine Center for Tobacco Research and Prevention and Chair of the Agency for Health Care Policy and Research clinical practice guideline panel on smoking cessation testified that one of the most effective ways to reduce youth smoking is to focus on the current adult smokers. He never mentioned a price increase to reduce youth smoking. Is the Senator aware of that?

Mr. ASHCROFT. I am aware of it.

Mr. HATCH. We all know teenage behavior is at best unpredictable. Dr. Warner of the University of Michigan estimated that the 1983 doubling of the Federal excise tax would decrease the number of teenage smokers by 800,000. This estimate fell short by one-fourth. This overzealous estimate should give all of us pause in stepping into the unchartered waters of a $1.50 price increase.

We should not lead our mothers in this society to believe that if we raise the price of cigarettes by $1.50, their children will not smoke. Is the Senator aware of that?

Mr. ASHCROFT. I agree with that. We should not mislead parents. I would firmly underscore the idea that the single, most important factor in whether or not young people smoke is the extent to which their parents are active in helping them not to smoke.

Mr. HATCH. I tell my colleagues, I am just about through with my questions for now. I will have many, many more later on other aspects of this bill. But I wanted to get these points across. I really appreciate the courtesy of my colleague and his forbearance in being willing to answer all these questions.

The main point is, there cannot be clear and unequivocal support for a price increase of $1.50. I have never seen a price increase of that magnitude. That has never been done.

Dr. Chaloupka also writes that less educated persons are less price responsive. An American adult, who is a one-pack-a-day smoker would face a $547 increase. The Senator has been making that case, I believe. Is that correct?

Mr. ASHCROFT. Yes. I believe a one-pack-a-day habit in participating in smoking would cost an additional $547—if you had three packs a day, it takes you to about $1,600. Money that is taken from the family. It does not matter how much the family makes. It could be very low income. Most smokers tend to be in the low-income areas. So it is a very, very aggressive tax on low-income America.

Mr. HATCH. This tax increase would take away more than 5 percent of the income of an American making $10,000 a year. Is that correct?

Mr. ASHCROFT. In some cases that is the kind of bite it would take out of their ability to buy food, shelter, and clothing to provide for their families.

Mr. HATCH. Is it not correct, I ask my colleague from Missouri, who has been making very important points here during this debate, is it correct that currently smokers with incomes under $30,000 pay almost 50 percent of the tobacco excise tax?

Mr. ASHCROFT. Well, right here under the new plan it is projected to almost 60 percent.

Mr. HATCH. Right. If this $1.50 goes through, it will be probably that high. And even at $1.10, it would be approaching 60 percent; is that correct?

Mr. ASHCROFT. That is correct.

Mr. HATCH. Well, I am disappointed that some of my colleagues on the other side of the aisle are so ready to support a new tax-and-spend program supposedly aimed at children but weighing so heavily on the backs of addicted, low-income adult workers under the guise that they are helping children.

Does the Senator agree with me on that?

Mr. ASHCROFT. I do.

Mr. KERRY. Will the Senator yield?

Mr. HATCH. I will take only a few more minutes.

While I agree—I will make this clear—that a price increase is an important component of a comprehensive program, the reason I have gone through all this is there is no clear and convincing evidence of what that amount should be.

Let us be honest, the CBO found there is uncertainty and the price rise is not foolproof.

Do you agree with that?

Mr. ASHCROFT. I do agree that a price rise is certainly not a foolproof strategy for reducing teen smoking. There are ways to reduce teen smoking, and a number of them are not included in this legislation.

Mr. HATCH. I would just like to ask my friend maybe one or two more questions.

If we have to have a tobacco settlement, would it not be much better to force the tobacco companies to come back on board so we can resolve the constitutional issues and have voluntary consent protocols so we can actually reduce youth smoking?

Mr. ASHCROFT. My view is we should target to do things we can actually do to reduce teen smoking, and we have to do it in a way that is not an oppressive tax burden on hard-working families, especially low-income families in America.

The proposal to raise this tax to $1.50, the proposal to have it at $1.10 is an unacceptable incursion into the ability of families to provide for themselves. That is why I oppose this $1.10 pass-through tax on American consumers, particularly low-income individuals.

Mr. HATCH. Is the Senator aware that this Senator, the chairman of the Judiciary Committee, has spent an extensive amount of time studying this issue, trying to come up with a way that you can punish the tobacco companies while getting their consent to the advertising restrictions, so they have to live up to the deal?

Mr. ASHCROFT. I am fully aware of the Senator's efforts in this respect and say he is to be commended for working so hard as he has. I know of no other individual who has dedicated himself more thoroughly to the attempt to resolve these issues than the Senator from Utah as the chairman of the Judiciary Committee.

Mr. HATCH. Is the Senator aware of the Senator from Utah's long-term antipathy toward this industry?

Mr. ASHCROFT. Indeed I am. Everyone is aware of that. We could submit that for the RECORD for which people could take judicial note.

Mr. HATCH. Is the Senator aware of how hard the Senator from Utah studied just exactly what would be the highest amount we could charge and still keep the tobacco companies—yes, kicking and screaming and fighting, and say they are gouged—on board to get these voluntary consent protocols so we can make this matter constitutional?

Mr. ASHCROFT. I think it is pretty clear we can often find how hard someone has worked and studied by the nature of the questions they have asked. The nature of the questions you have asked is such that everyone can know that you have done perhaps as much work as anyone could possibly do in examining these issues.

Mr. HATCH. Is the Senator aware——

Mr. KERRY. Will the Senator yield for an administrative question?

Mr. HATCH. I have one or two questions.

Mr. KERRY. It is not up to the Senator from Utah to make that decision.

The PRESIDING OFFICER (Mr. BURNS). Will the Senator respond?

Mr. HATCH. Will the Senator yield further to me?

Mr. ASHCROFT. I will not yield for a different set of questions at this time. I am yielding to the Senator from Utah at this time.

Mr. KERRY. I thank the Chair.

Mr. HATCH. I would be happy to—I do not think the Senator from Utah is abusing the rules. I think I have the privilege to ask all the questions I can. I think these have been intelligent questions. I think they have been right on point. I think they hopefully will help to elucidate what we need to know.

Mr. KERRY. The Senator is not entitled to make a statement.

Mr. HATCH. Does the Senator agree with my last statement?

Mr. ASHCROFT. Yes, I do.

Mr. HATCH. Now——

Mr. KERRY. Mr. President, could I ask one administrative question of the Senator from Missouri?

The PRESIDING OFFICER. Will the Senator from Missouri yield for a question?

Mr. ASHCROFT. The Senator from Missouri will yield for an administrative question on the presumption and understanding that I retain the floor after the question has been asked.

The PRESIDING OFFICER. The Senator will not lose the floor upon responding to the question.

Mr. KERRY. Mr. President, I will not assert this, but ask the Senator from Missouri if he is aware that under the rules of the Senate, and under precedence of the Senate, a Senator may yield for a question, a Senator may not yield for a statement in the guise of a question, and a Senator may not yield for a question proceeded by or followed by a statement. And that under rule 194 of the Senate, either by request of the Senator or by decision of the Chair, a Senator may be asked, in fact, to give up his right to the floor and take his seat if that rule is violated? Is the Senator aware of that?

Mr. ASHCROFT. I am aware of that.

Mr. KERRY. I thank the Chair.

Mr. HATCH. Will the Senator yield?

Mr. ASHCROFT. I am pleased to yield to the Senator from Utah for a question and thank him for his questions. I appreciate the way in which he has framed these questions. I think it has been very productive and helpful in this debate.

Mr. HATCH. I thank the Senator for his leadership on the floor in pointing out the problems that exist with regard to this "piling on" mentality. Is the Senator aware that we did it in the catastrophic bill, and we all lost that?

Mr. ASHCROFT. I am aware of that.

Mr. HATCH. I have no doubt that if the managers' amendment of $1.10 goes through—does the Senator have any doubt that if a managers' amendment of $1.10 goes though, let alone $1.50, that we will wind up with another similar process and problems on our hands?

Mr. ASHCROFT. I think we have a major problem on our hands. I am not concerned about piling on the companies—I am concerned about piling on the consumers, or piling on the poor people of America a tax burden which they should not be asked to carry for reasons which I think are inadequate to justify.

Mr. HATCH. I agree with the Senator and ask a final question, I apologize to my colleagues for taking this time. As everybody knows, I don't take an awful lot of time on the floor. If we are going to resolve this matter, it seems to me, and I wonder if the Senator would agree with me, that we have to take into consideration the approximately 50 million users of tobacco products in this society, many of whom are hooked on these products, or at least addicted to them; we have to consider the children; we have to consider using this money for tobacco-related purposes to the utmost extent that we can.

Would the Senator agree with me on those?

Mr. ASHCROFT. I agree we have to do what we can to appropriately use what resources we can to reduce teen smoking.

Mr. HATCH. I am concerned about what is going on on the floor right now. I am concerned about the managers' amendment. I am concerned about it ever really working, and I imagine the Senator—and this is a question—is as concerned as I am.

Mr. ASHCROFT. I am deeply concerned, particularly about the impact of these massive taxes on low-income families and there ability to make ends meet and maintain their independence.

Mr. HATCH. Despite what Michael Douglas said in the popular movie "Wall Street," greed is not good, and it is especially onerous and burdensome when the greed comes from Congress itself.

Would the Senator agree with me on that?

Mr. ASHCROFT. I agree that greed is not good, and it is particularly repugnant when it is Government asking for more and more from people who can afford it less and less. I think that is what we have here—those who are asking for more and more from consumers who can afford less and less.

Mr. HATCH. I want to personally compliment the Senator for his work on the floor. I know he has taken a lot of time and has had to give up his office work and a lot of other things to be able to join in this colloquy, but this is important. I believe his colloquy is important if we want to understand both sides of this issue on the $1.50. I want to compliment the Senator for being willing to have the fortitude, the dedication, and the drive to stand here and do this.

I apologize to the rest of my colleagues for having taken as long as I have to ask these questions, but I think every question has been pertinent and to the point and every question has tried to enlighten, and that is what questions are for. That is why the rules provide for it.

I thank my colleague for allowing me to do this.

Mr. ASHCROFT. I am pleased to have had the opportunity to answer the questions. I indicated the nature of the questions has been a very specific, particularly questions regarding a variety of studies. These studies have challenged the fallacious assumption that there is an automatic streamline correlation between price increase and potential for reducing smoking, especially among young people, and the clear indication on the part of the Senator from Utah, through his questions, of the amount of study, efforts, investigation, and analysis in which he has engaged is the kind of analysis, investigation, study, and questioning that will refine our ability to make the right decision here.

(Earlier the following occurred and, by unanimous consent, was ordered to be printed at this point in the RECORD.)

Mr. McCAIN. Mr. President, I ask the Senator to yield for a minute so I can make an administrative announcement. it has nothing to do with the issue at hand; it is so that we can provide courtesy to other Members.

Mr. ASHCROFT. Mr. President, I am please to yield, with this understanding: I ask unanimous consent that at the conclusion of the remarks of the manager of the bill, I be allowed again to speak and have my position on the floor.

Mr. CONRAD. Mr. President, reserving the right to object.

Mr. McCAIN. Let me just do this first.

Mr. CONRAD. Reserving the right to object, let me understand this. The Senator from Missouri is asking that at the end of the managers' remarks he be recognized?

Mr. ASHCROFT. I will yield only in a way that does not forfeit my right to the floor.

The PRESIDING OFFICER (Mr. HUTCHINSON). Is there objection?

Mr. CONRAD. I won't object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, the reason I interrupt is that many Members were laboring under the correct impression that we were probably going to have a vote about now on a tabling motion. Obviously, because of the extent of the debate and the desire of both sides to speak, we will not have the tabling motion at this time. I will do so after it appears that most Members on both sides have had an opportunity to talk about the issue. I think the Senator from Massachusetts agrees that we would not want to have a tabling motion since the other side has not had an opportunity to speak.

Mr. HATCH. Will the Senator yield?

Mr. McCAIN. Can I finish speaking? Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Missouri has yielded to the manager of the bill and then, by unanimous consent, he will resume recognition.

Mr. McCAIN. Mr. President, I believe the unanimous consent agreement ends when I complete my remarks; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. McCAIN. Mr. President, I ask the indulgence of the Senator from Missouri and the Senator from Utah until I finish my remarks. I think that is a fairly common courtesy that is extended around here.

We intend to have a tabling motion on both the Ashcroft second-degree amendment and on the underlying Kennedy amendment, and I would guess probably within a couple of hours we will be able to finish the discussion on this side and have ample time to respond on that side. For the benefit of my colleagues, I am trying to make this process as convenient as I can for every Member of the Senate so that they can anticipate and adjust their schedules accordingly. I have now completed my remarks.

Mr. HATCH. Mr. President, I ask unanimous consent that the remarks of the distinguished Senator from Arizona not interrupt our questions and remarks.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the remarks of the Senator from Arizona not interrupt the questions of the Senator from Utah in the RECORD.

I am pleased to yield to the Senator from Utah for a question.

The PRESIDING OFFICER. Without object, it is so ordered.

Mr. HATCH. We were going through this CBO report. I apologize to the distinguished Senator from Arizona for irritating him. I thought he had finished his remarks. I always intend to extend courtesy throughout the Senate.

Mr. KERRY. Would the Senator extend that courtesy to me for the purpose of an administrative question?

Mr. HATCH. Yes.

Mr. ASHCROFT. Mr. President, I reassert my right to the floor and indicate that I would be pleased to yield to the minority manager of the bill for purposes of an administrative question, with the understanding that at the conclusion of his remarks, or question, I reacquire the right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KERRY. I thank the Senator from Missouri very much.

Mr. ASHCROFT. If there was a question propounded to me, it was during the time when I was listening to another question. I need to have it again propounded.

Mr. KERRY. I did not propound a question yet. I was waiting for the Senator to finish. I simply wanted to ask the following. There was an effort between the other manager and myself to try to have comity here so that we weren't really operating in a strict sense by asserting rights to the floor. We were trying to move back and forth in a relatively fair manner, without any sense of trying to cut anybody off. There is no effort here to stop somebody from being able to speak. There is an effort to try to share the opportunities with a lot of busy Senators. So what we are trying to do is get a sense of the length of time, in fairness to colleagues who are lined up to speak.

If the Senator wants to continue to speak, that is obviously his privilege. He can also come back at any time and resume speaking. We are making no effort to hold the floor on this side. We are making no effort to delay. Each of the Senators will speak for a brief period of time. So we are very happy to accommodate our colleagues. I simply ask him if he might give us, at this point, some indication of either when he would complete this round or whether he would be willing to allow some other Senators, perhaps, to have a chance to also speak and then perhaps come back. We are trying to do this in a fair-minded way.

Mr. ASHCROFT. May I answer the question without forfeiting my right to the floor?

The PRESIDING OFFICER. Yes.

Mr. ASHCROFT. I earlier agreed and, as a matter of fact, urged you to have Members from your side go ahead of me. I don't mind them having a chance to speak. When we sought unanimous consent for that, it was objected to by the manager of the bill. I had intended, in every respect, to provide for ample debate.

My view is that this is a very important topic. I learned last night in an announcement by those managing this bill that there would be an effort made to table this amendment without giving a full opportunity for discussion and that there was a time set without even so much as seeking an agreement from Senators as to how much time could be spent.

In my judgment, if you are going to have an $868 billion tax increase on the American people in pursuit of an objective, which is allegedly the reduction of teen smoking, but has lots of other consequences and is unlikely to achieve the objective, we ought to at least be able to debate it. So I am very willing to consider full debate. I want to have that on this issue. But the managers of this bill have basically signaled to me that they intend to truncate debate, that they don't want this discussed.

So it was my judgment that I needed to come to the floor and bring the evidence with me and then speak about this bill. I intend to speak about it and say what I think needs to be said. I am very pleased to have questions raised. But when questions are raised, obviously, that comes out of the time for me to make my remarks. That would extend the time. I think my position is clear. Early on, I tried to make it possible for those in the Chamber to go ahead of me and make remarks, and that was rejected. So if my only choice is to make my own remarks, then I will make my own remarks. But I sought to make it possible for others to speak.

Mr. KERRY. Mr. President, without the Senator losing any right to the floor, I ask if I may ask a question.

Mr. ASHCROFT. With the understanding that I reacquire the floor at the conclusion of the question, I would be happy to yield.

Mr. KERRY. Mr. President, I ask my colleague if he would agree to the following structure then.

Would it be agreeable to the Senator from Missouri, since he and the intercessions of the Senator from Utah have now taken up about an hour and 15 minutes, if we were to have perhaps 45 minutes or an hour for those on our side to speak, with the understanding that when they are finished the Senator from Missouri would then be recognized to again continue his remarks?

Mr. ASHCROFT. I would like to let the Senator from Utah finish his line of questioning, and then I would be agreeable to such.

Mr. KERRY. Again, without the Senator losing his right to the floor, I propound a question. How long does the Senator from Utah think that might be?

Mr. HATCH. Am I entitled to speak? I don't think it will be too much longer. But I would like to go through my questions. I am not intending to delay here. This is a very large bill, perhaps the largest the Senate has ever considered, at least in recent memory. We need to question its full impact as we proceed. That is the right way to make policy on such an important issue.

Mr. KERRY. Again, I ask the question without the Senator losing his right to the floor. Could we then enter into an agreement that I ask unanimous consent that when the Senator from Utah has completed his series of questions to the Senator from Missouri, that at that time there be 1 hour allocated to this side of the aisle, to the Democrats, for their debate, at which point the Senator from Missouri would again be recognized to resume his comments?

Mr. GRAMM. Reserving the right to object, Mr. President.

Mr. PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, it is clear we are dealing with an issue of grave importance, representing tremendous amounts of money, with very strong passions on the issue. And, quite frankly, there is relatively little good information about the bill. We don't even know what the impact of this amendment would be in terms of the cost of the product on which the tax would be imposed. The logical thing to do is follow the rules of the Senate. The rules of the Senate are very clear. As long as a Senator wishes to speak, or answer questions, that Senator has the right to do it.

I think, rather than interrupting the process, we would all be better off to just follow the rules of the Senate.

On that basis, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KERRY. Mr. President, parliamentary inquiry: Is it not a rule of the Senate that one may ask for unanimous consent and, in asking for unanimous consent, we are following the rules of the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. Objection was heard.

The Senator from Missouri has the floor.

Mr. HARKIN. Mr. President, will the Senator yield for a unanimous consent request?

Mr. ASHCROFT. I will yield with the understanding that my right to the floor is not forfeited to the Senator from Iowa.

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Michele

Chang, a detailee to my staff, and Peter Reinecke and Sabrina Corlette of my staff be granted floor privileges for the duration of the consideration of S. 1415.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I thank the Senator.

Mr. CONRAD. Will the Senator from Missouri yield for a question?

Mr. HATCH. If I could continue——

Mr. ASHCROFT. I would like to yield to the Senator, but I am in the midst of yielding for questions to the Senator from Utah. I want to persist in that line of questioning. So I reassert my right to the floor.

If the Senator from Utah was asking me a question, I would ask him to request that I yield for the purpose of a question.

Mr. HATCH. Will the Senator please ask unanimous consent that the colloquy not be interrupted?

Mr. ASHCROFT. I ask unanimous consent of the Presiding Officer that our colloquy not be interrupted by these other proceedings, and that the other proceedings be printed suitably at the end of the questioning.

Mr. McCAIN. Reserving the right to object, I certainly wouldn't want to interrupt that important colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I say that the distinguished Senator from Arizona may not appreciate this colloquy.

Mr. ASHCROFT. If that is a question, I am aware of that fact.

Mr. HATCH. I have to admit that I don't appreciate some of the colloquies that have gone on before, but Senators have a right to do so. This is too important an issue for the American public. We need to look at the real facts on such important legislation. We are not just trying to run any bill through because some people want to. I think this legislation deserves debate. We are talking about price levels that will amount to huge tax increases for some American people. We are talking about a bill which does not have the cooperation of the tobacco companies, thus raising serious constitutional questions.

(End of earlier proceedings.)

Mr. ASHCROFT. Mr. President, I am deeply troubled about the fact that we are, in this process, taxing American families and taxing those American families who have very limited income. Fifty-nine point four percent of the $755 billion that my amendment would take out of this bill, which are taxes on consumers—59.4 percent of that is to be paid by families with incomes of less than $30,000. If you move it up to the $60,000 level, you are talking abut almost two-thirds of the people, hard-working families from our culture, who struggle to put clothing on the backs of their children and the right kind of food on the table.

There is a suggestion by some that they can just stop smoking automatically. If they are going to stop smoking, why are we counting on the money? We are counting on receiving almost $1 trillion over the next 25 years from these folks, and it is predicated on the idea that they can't stop smoking. If it were a switch that we could flip on and off, perhaps we would go find the switch and do it. But that is not what we are talking about. We are talking about taxing individuals who don't have any elasticity of demand.

There has been a lot of talk about the elasticity of demand, economics—that if you elevate the price, the demand will go down. If people are addicted, they can't stop, so they have to pay. That is these folks here—59.4 percent of the individuals paying this tax will be individuals making under $30,000 a year.

Americans are working longer and harder than ever to pay their taxes. The number of moms and dads, two parents in the family, both working; or in single-parent families, obviously, the only parent is working—we are taking more and more of their resources. We take now more of the income of the American people than ever before in taxes. We are at peace, we are in prosperity, but still, Government is costing more than ever before. We have charged so much for Government, we are finding we have a $43 billion surplus. CBO says it might be up to a $63 billion surplus.

What are we going to do? Instead of giving people their money back, instead of saying, "You send it, we spend it," we should be saying, "You earned it, we returned it." No, we are not doing that. Where are we going with this? We are inviting another $868 billion of burden on those who can least afford to pay it. It is just incredible. We should be debating how to return the money to taxpayers, not how to siphon more out of their pockets. As currently drafted, the proposed tobacco bill is nothing more than an excuse for Washington to raise taxes and spend more money.

I might add that earlier I sent to the desk a modification of the amendment making technical changes. That does not require anything. I want to indicate to the Senate that I had done so, and it doesn't require action.

This proposed increase in Government and taxes is the biggest proposed increase since President Clinton's proposed increase on health care. My own sense is that it took a while for the people of the country to realize what the Federal takeover in health care was going to do to this country, when the American people figured out what it was going to cost. And when the American people understand that this isn't a penalty on the tobacco companies, this $755 billion that I want to knock out of this bill isn't something that the tobacco companies will pay, this is something consumers will pay.

The law specifically forbids a tobacco company from passing this on to consumers. There is a mandatory rule that this can't come out of the profits of tobacco companies. This can't come out of their retained earnings. This can't come out of their capitalization. This has to be imposed on the backs of these workers, these folks who are making under $30,000 a year, these additional folks making under $60,000 a year.

Here we could have an additional 17 boards and commissions. There is the statute: "Payments to be Passed Through to Consumers"—not payments to be endured or suffered by the tobacco companies. But these are payments to be undertaken by poor families. Three packs a day, $1,600 a year—that is what they are asking for, $1,600 a year off of the tables, out of the houses, out of the budget for the children in these families. That is what this law is about. This is a law that would take an enormous amount of resources from the families of America. They are already paying taxes that are virtually out of sight. They are already paying taxes for more than food, clothing, shelter, and transportation combined in this country, and we are going to add to the poorest of the poor this incredible burden. Seventeen boards, commissions, and agencies—they say they have been removed from the legislation. The bureaucracies envisaged by the bill will still be there; it is just that they are no longer sort of visible. We have gone from unaccountability to anonymity. That will not cure things. This huge tax increase would be levied against those who are least capable of paying.

According to the Congressional Research Service, tobacco taxes are perhaps the most regressive tax that is levied in America. It is a tax that hits poor people the hardest. And we are discussing what we want to do with that $868 billion of additional burden on the poor. About 60 percent of this tax increase would fall on families earning $30,000 a year or less. Those earning less than $10,000 a year make up only 10 percent of the population, but 32 percent of those people smoke. So the current tobacco tax represents 5 percent of the smokers' income in this category.

This would take from the people who are struggling to make ends meet, making $10,000 a year, 5 percent of their income. That is really a pack-a-day habit we are talking about. We are not talking about a two-packs-a-day habit. If they have two packs a day, it is far more than 5 percent of $10,000. Those making between $10,000 and $20,000 a year are only 18 percent of the population; however, 30 percent of them smoke. The current tobacco tax would take a real chunk—2 percent of the smokers' income—in that category. This bill amounts to a tax increase on 31 percent of Americans who earn under $20,000 a year.

So among those who are the poorest of our hard-working Americans, who are low-income, they are the people who really get hit with this. And 31 percent of all people making less than $20,000 a year are the individuals who are going to be sustaining this tax burden. Households earning less than $10,000 a year will feel the bite of this tax increase most of all.

The Joint Committee on Taxation estimates that these households, those earning less that $10,000 a year overall, would see their Federal taxes rise by 44.6 percent—44.6 percent. Those making between $10,000 a year and $20,000 a year make up 18 percent of the population; 30 percent of them smoke. In most areas of the country, somebody earning $10,000 a year is well below the poverty line. But here we come. We are so interested in additional revenue, at a time when we have surplus, that we are willing to sock it to those who are low-income individuals.

We spend much of our time in this body trying to find solutions for those in this income bracket. We have tax credits; we have welfare programs; we have educational grants; we have job training programs. They cost us billions of dollars a year. We try to lift people in those low-income brackets out of their problems and difficulties. However, today, Members of this body are enthusiastically saddling them with a huge, huge tax burden. In fact, some are even trying to make it worse.

It is pretty clear that some people have come and said that people will stop smoking. I will get to that next. Here it is. The kind of tax increase, if you are making under $10,000 a year, is 44 percent. We are not really tax increasing anybody since most smokers are concentrated in this part of the graph. Low-income people are going to pay the lion's share. They are going to have very significant increases in their tax load.

Now, some Members were critical about the statement that this is a huge tax increase on low-income people. It was stated that I was assuming that they would be irresponsible and not take care of their families' needs. I am not saying here that anybody is irresponsible. I do think that the Government has frequently been irresponsible. It is irresponsible to take this much of the income from people who are trying to clothe their families and feed their families.

The revenue assumptions in this bill are based on the fact that most people will continue to smoke. You can't have it both ways. You can't say that people are going to suddenly stop smoking; you can't say that and still say you are going to spend the money and collect the money. This is basically a tax, a tax that relates to the increase in the price of cigarettes, a tax that passes money from low-income, hard-working Americans to big Government in America so the Government can do a wide variety of things.

Frankly, I think some of the things that this proposes to do are literally laughable. Some of the programs that are in this bill are designed to curtail smoking overseas. So we are going to tax low-income Americans, folks who are struggling at $10,000, $15,000, or $20,000 a year to make ends meet; we are going to take money from them and go overseas and run antismoking campaigns. Now, in my judgment, that is a very, very serious disconnect with what we are supposed to do. We are supposed to make it possible for Americans to live decently and independently and provide for their children, to have a framework in which Government at least lets them enjoy the fruits of the things they labor to produce; and if we don't do that, it seems to me that we obviously have failed.

I don't believe we should be taking money from hard-working, low-income Americans and putting it into a foreign aid system that tries to tell people on the other side of the world how they should act and what they should do. If I believed that everybody would quit smoking, the impact of this bill obviously would not be so significant because it would not be a tax. But it is clear that there will be a tax, and there is a predicated set of receipts that is going to run between three-quarters of a trillion dollars and a trillion dollars. Everyone in this Chamber, the administration, and health officials are making the assumption that people will continue to smoke.

As currently drafted, this legislation will cause somebody who smokes two packs daily to pay the Government an additional $803 a year. A lot of families could take a vacation on $803. A lot of families could buy additional clothing. A lot of families could afford courses at a junior college to change their skill levels and upgrade their jobs. A lot of families could care for a relative or otherwise do something that we need to get done rather than send this money to Washington, DC. That is $803 for somebody who smokes two packs a day. For a family smoking three packs a day, it is even more.

My amendment would prevent that from happening. My amendment simply says we are not going to punish the American people for that which the tobacco companies have done; we are not going to hurt the hard-working Americans of low-income as a means of objecting to the abuses of big tobacco.

Moreover, as currently drafted, this legislation allows the tobacco companies to deduct the mandatory payments that are ultimately to be paid by consumers as regular business expenses. Over 5 years, that kind of writeoff would be worth about $36 billion in the tobacco industry. So if we are giving a tax break to the tobacco industry that is going to be worth $36 billion to them over 5 years, and part of that comes as a result of the fact that we are taxing individual consumers, I think that is really unfair.

Let's take a second to understand this. In this legislation that is supposed to be so tough on the tobacco industry—and, frankly, the tobacco industry participated in formulating almost all of the basic components of this legislation—the companies act as a tax collector by sending the U.S. Treasury $102 billion over the next 5 years. Then they get a tax deduction, and they cost U.S. taxpayers—all taxpayers, whether they are smokers or not—$36 billion in lost revenues because of the tax deduction.

What you get here is a subsidy through the back door. They send in $102 billion they collect from people and then they get $36 billion of it back as a tax break for the company. I think that is a particularly anomalous result. That is a result which we certainly do not really want to have. They collect money from poor, hard-working Americans, turn it in, and when they turn it in they get a tax deduction of $36 billion.

Before we consider passing a massive tax increase, it should behoove us to review the government's record thus far in respect to taxes, spending, and government employment. Where have we been recently in terms of tax increases, in terms of spending? In Washington, taxes and spending are the only things more addictive than nicotine. Policymakers in Washington think they know better how to spend the money of families than American families do.

In the 15 years prior to 1995, Congress passed 13 major tax increases. Last year's Taxpayer Relief Act was the first meaningful tax cut since 1981. The tobacco tax increase would more than erase that relief. We need more tax relief, not less. If we have the increase that is proposed here, it will totally erase the relief we gave last year. The tobacco industry tax, then, proposed in this bill is not a tax on the industry. It is a tax on the consumers. It would more than erase the relief we gave them last year.

The tax relief date has now set a record of May 10. People work longer this year for the Government than ever before. Federal, State, and local taxes claim 37.6 percent of the income of a median two-income family in 1997, more than the couple spent on food, and shelter, on clothing, and transportation combined.

During Bill Clinton's first 5 years in office the Federal Government collected 19 cents in taxes for every dollar increase in the gross domestic product. According to the Joint Economic Committee, the Federal Government is now taking a higher share of economic growth than under any President in recent history. The Joint Economic Committee continues: The average rate during the entire era before Clinton from Presidents Eisenhower to Bush was 19 percent. Obviously, the Federal Government has yet to reject the idea that it can just tax and spend and tax and spend.

The PRESIDING OFFICER. The Chair notes that you wanted to modify your amendment. Is that correct?

AMENDMENT NO. 2427, AS MODIFIED

Mr. ASHCROFT. That is correct. I modify my amendment which is at the desk, which is technical in nature.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2427), as modified, is as follows:

In lieu of the language proposed to be inserted insert the following:

CERTAIN PROVISIONS RELATING TO AMOUNTS IN TRUST FUND NULL AND VOID.—

Notwithstanding any other provision of law, the following provisions of this Act shall be null and void and not given effect:

(1) Paragraphs (1) and (2) of Section 401(b);

(2) Section 402(a); and

(3) Sections 401 through 406.

Mr. McCAIN. Parliamentary inquiry, Mr. President: Does that last request require a unanimous consent?

The PRESIDING OFFICER. It does not require a UC.

Mr. McCAIN. Thank you.

Mr. ASHCROFT. Mr. President, I thank the Chair.

Members of this body have been arguing over the past few days that there is no tax in this bill. In fact, the Finance Committee, in its mark, at least tried to level with the American people by reporting out a bill that calls it a tax. For a long time this was sailing under a sail which was mislabeled. Webster's Dictionary defines a tax as a compulsory payment, usually a percentage levied on income, property, values, sales prices, et cetera, for the support of government. Let's lay this argument to rest now and forever. This is a tax. It is a compulsory payment made at the point of sale for the benefit of government. In this bill we have compulsory payments by the industry.

The bill then requires the cost of these payments to be passed on as price increases to consumers, and even penalizes companies if they fail to collect this tax. Payments are used to fund massive programs for Federal and State governments. It has been said that industry is the group that is convincing people this is a tax bill. Frankly, industry couldn't make this a tax bill if it weren't a tax bill. Frankly, this body cannot keep it from being a tax bill if the language of the bill is really taxing. What we know is that the Senate can't keep it from being a tax if it is really a tax by calling it something else, and industry couldn't make it a tax by calling it a tax. The truth of the matter is it is an elevated price required to be collected, the proceeds of which go to support government.

The supporters of this bill claim this legislation is needed to curb teen smoking. "Do it for the children" is all we hear. But this bill is about big government, not about protecting the health of young people. It is about more bureaucracy. It is about more Federal programs. It is about higher taxes, new bureaucracy.

The bill reported out of committee contained 19 new boards, commissions, and agencies—17 new boards, commissions and agencies—a blatant expansion of government claim under immediate and harsh criticism. What happened? We have a claim that the bureaucracy has been eliminated. But is it really? I don't think that it is really eliminated. I think the names have been changed. But the same tangled mess as this chart represents still exists in this bill.

This is the structure of the National Tobacco Policy and Youth Smoking Reduction Act that was reported by the Senate Commerce Committee on the 1st of May 1998, just a couple weeks ago. This is a complicated set of extremes. I might add that these are funding extremes. Money is flowing like a flood. The bureaucracy is still in this bill. It is just more anonymous, less visible, less accountable. The names may have been changed, but it is still the same animal.

Let's look at the whole chart. Here we have the International Tobacco Control Trust Fund. Interesting. The International Tobacco Control Trust Fund, foreign aid grants to support tobacco control. The international program is still here. I will talk more about it in a minute.

The Tobacco Asbestos Trust Fund, $21 billion allows payments to be made for asbestos claims when Congress enacts qualifying legislation. Payments will be made out of the tobacco trust fund for the 22-percent set-aside for public health expenditures.

Compliance bonuses for States: Here it is. It is still in there.

Research activities for CDC, Institute for Medicine, and NIH are still in there.

State licensing program grants are still in there.

The National Tobacco Free Education Program is still on the chart.

The Indian tribe enforcement bureaucracy is still there.

The Indian tribe public health grants are still in there.

Counteradvertising programs are still in there.

The prevention of tobacco smuggling measure is still in there.

Veterans programs are still in there.

The National Tobacco Document Depository is still here.

Smoking cessation programs are here.

Child care development block grants are still there.

We are going to be taxing those lowest income families to provide additional child care for others.

Tobacco community revitalization, this is the tobacco farmer; very serious questions about this particular portion of the bill.

The Senator from Texas talked about the so-called Tobacco Community Revitalization Program. He brought out, as a matter of fact, on the floor yesterday the fact that he priced tobacco allotments per acre. It could be purchased for about $3,500 or $3,600. Then he indicated that the payment envisaged here was a multiple of about five times that high.

The international programs, which I mentioned, are kind of interesting. The committee bill contained the American Center on Global Health and Tobacco, which was authorized to receive $150 million a year so that we could sort of be influential overseas with our policy on tobacco.

We want to tax the lowest income families in America. We want to tax hard-working people, increase their taxes. My amendment would delete $755 billion in taxes on these individuals contained in this bill.

This bill is designed to fund things like the American Center on Global Health and Tobacco. The center is not to be found in the managers' amendment. In its place, the Secretary of Health and Human Services is authorized to establish an international tobacco control awareness effort. So instead of having this agency sort of be out there created by the statute, we have just authorized the bureaucracy to create a new agency. The Secretary of Health and Human Services is authorized to establish an international tobacco control awareness effort.

Now, here we have to remember—we are taxing American low-income families to do this—59.4 percent of all the taxes that go to establish this international program on tobacco awareness are going to come from families making less than $30,000 a year. What is this new effort required to do? One, support the development of appropriate governmental control activities in foreign countries—enhance foreign countries' capacities to collect, analyze, and disseminate data about the cost of tobacco use.

We are going to fund foreign countries so that they can have studies on how much it costs to use tobacco. And we are going to do that by taxing low-income people. Sixty cents out of every dollar in this program is going to come from families with less than $30,000—low-income individuals, less than $30,000. How much money will this cost?

Mr. KERRY. Mr. President, will the Senator from Missouri be willing to yield for a question?

The PRESIDING OFFICER. Will the Senator yield for a question?

Mr. ASHCROFT. I will for a question.

Mr. KERRY. Mr. President, I would ask the Senator from Missouri whether he is aware that the chart that he has there is the representation of the bill when it came out of the Commerce Committee, not of the managers' amendment, and that under the managers' amendment all bureaucracies were, in fact, eliminated and only three existing entities exist? I wonder if the Senator is aware that there are only three entities.

Mr. ASHCROFT. As a matter of fact, I have been speaking about that. I indicated that this was the chart and these functions remain. But very frequently, instead of the bureaucracy still being there and labeled and identified, you have a transfer from the bureaucracy to something that you just ask the Secretary to do.

For instance, I have just been talking about the transition from the international tobacco control trust fund, and in its place the new bill has "the Secretary of Health and Human Services is authorized to establish." So instead of actually establishing, you just authorize that a bureaucrat establishes it. You get it out of the bill, but you still have it in terms of consequence, and you still have all the money available to be spent for the same purposes.

That is my understanding of what has happened here, and you are going to have $35 million each year for the first 5 years, and then such funds as may be necessary for these international activities. So I am aware of the fact that the bureaucracies were taken out of the bill ostensibly, but I am also aware of the fact that what you let go out the front door it looks to me like you bring back in the back door, because the Secretary of Health and Human Services is authorized to establish—it is not in the bill anymore, but the Secretary of Health and Human Services is authorized to establish an international control awareness effort, and that is basically for the same purposes.

Mr. KERRY. Mr. President, will the Senator further yield for a question without losing his right to the floor?

Mr. ASHCROFT. Yes.

Mr. KERRY. Is the Senator not aware that each of those responsibilities which are designated to existing entities are already existing programs and existing efforts? Most of the requirements, whether it is money in public health, money in farmer community assistance, or health research, they are all ongoing programs, but that this augments their ability to be able to achieve the goals of existing programs?

Mr. ASHCROFT. I understand that some of these programs are already programs which are undertaken, but not even close to the extent that this bill mandates—thus expanding the already oversized Government bureaucracy. I also understand that what we have here is a pot of money that we think we can generate by taxing the lowest-income, hardest-working poor people in the country. And what we are going to do is to start spending more money for these overseas studies, and we are going to put 60 percent of that additional money that comes out of this additional $868 billion tax—$6 out of every $10 is going to come out of the pockets of Americans earning less than $30,000 a year. That is really troubling me.

Mr. HUTCHINSON. Mr. President, will the Senator from Missouri yield for a question?

Mr. ASHCROFT. I am pleased to yield for a question, understanding I do not yield the floor.

Mr. HUTCHINSON. I presided the previous hour, and I was fascinated by some of the information that the Senator has been providing our colleagues and the American people. Did I hear the Senator correctly that 60 percent of the increased taxes in the base bill would fall upon lower-income Americans?

Mr. ASHCROFT. Well, people who earn less than $30,000 a year would pay, according to the estimates, 59.4 percent. So I don't want to inordinately suggest that it is a full 60. It is 59.4 percent of those taxes would hit people who earn less than $30,000 a year.

Mr. HUTCHINSON. For my benefit, how much in the base bill would a pack of cigarettes increase?

Mr. ASHCROFT. Well, in the base bill it has been suggested that the increase in the cost of a package of cigarettes would be about—total increase would be about $2.68 at a minimum. That includes all the things that are in the bill. The $1.10 which is the mandated price increase, by the time it works its way through the system, would be about a $2.68 increase in the price of cigarettes.

Mr. HUTCHINSON. Two dollars and what?

Mr. ASHCROFT. A $2.68 increase.

Mr. HUTCHINSON. Would the consumer buying a package of cigarettes actually see the price go up that much?

Mr. ASHCROFT. Yes. I would say it is fair to say they would be seeing that increase in terms of the consequences of the bureaucracy in this bill.

Mr. HUTCHINSON. For a family of three, let's suppose, a mom and dad and a child, in which one or both smoke two packs a day between them or separately—but two packs a day—then we are taking $5 a day, $1,500 a year, away from their consumable income. Is my math approximately correct on that?

Mr. ASHCROFT. It would include the current cost of the cigarettes. We are talking about a two-pack-a-day thing. It is really about, the increase is about—you are right, as a matter of fact.

Mr. HUTCHINSON. So even with a $1.10 increase, we are looking at better than $2 a day, or a $600, $700 increase?

Mr. ASHCROFT. Yes. At $1.10 a day, 365 days would be about $400, and for two packs, that would take it to $800. I think it figures out to $803, if it is just at $1.10 on the increase.

Mr. HUTCHINSON. I did a little focus grouping in Arkansas where I just asked people—one lady had six children, five of whom smoke. They are between the ages are 35 and 40, grown children. I asked her would they quit smoking if it went up $1.50 a pack. She laughed. She said, "No, they won't. They are addicted, and they wouldn't do it."

Mr. ASHCROFT. My view—and I am pleased to have the question—my view is, this bill is predicated on the idea that people won't quit. If this bill were predicated on the idea that people would quit, we would not have the big numbers and the big money to pass around. We are assuming that these people who earn less than $30,000 a year are strapped in the habit of smoking, can't quit, and therefore we are going to be able to have $868 billion of their money over the next 25 years.

Mr. HUTCHINSON. If I could ask the Senator from Missouri, if a family is making $30,000, with children—and there are many of those in Arkansas, many, many, tens of thousands—assuming the budget is tight already, they are having a hard time making ends meet, that every dollar is already spent, where then would you anticipate them cutting back to pay that additional tax for cigarettes that is envisioned in this proposal?

Mr. ASHCROFT. Families have a tough decision where they cut back, but I imagine it would hurt virtually everything they do in some measure. I doubt if they would take it all out of one area. For instance, I don't think they would stop driving their car, and I don't think they would stop eating. They can't do that. But I think virtually every aspect of their existence. If you are talking $800, $1,200 a year, $100 a month, for instance, on three packs a day, if you take that $100 of a month out of the budget of low income families, we may drive some of them into dependency. And that is the last thing government should do is make it hard for people to provide for their families. We should be finding ways to make it easier for people to provide for their families.

Mr. HUTCHINSON. With this very dramatic tax increase on low and middle income families, some people could lose their health insurance, end up on Medicaid conceivably?

Mr. ASHCROFT. Obviously, they could be forced into all kinds of reliance on outside sources. With the stress that would happen to a family that lost $100 a month by virture of this kind of massive Federal tax on the family, who knows what happens even in the way the family is composed in a setting like that because financial stress is a big part of the challenge to families generally. This is an anti-family measure. This takes from families a very serious proportion of the resources they use to care for one another. And when we say that Government wants this money so badly it will take it from you, and we know you are going to pay it because you are addicted and can't stop, we have really allowed the greed of Government to overtake us. And to say to families, it doesn't matter about you, we are so interested in doing what we want to do—and it does shock me that we are going to spend this money overseas, keeping data about the costs of smoking overseas. I just can't imagine how many folks in Arkansas or my home State of Missouri, who are earning $30,000 or $10,000 or $15,000, would want to make these kinds of payments so they could keep track of the costs of smoking in foreign jurisdictions. That is mind-boggling.

Mr. HUTCHINSON. If the Senator will yield for a further question?

Mr. ASHCROFT. I will yield for a further question.

Mr. HUTCHINSON. Last weekend I read a 35-page summary of the 750-page original bill, but with the changes that have been envisioned—and the Senator has mentioned this in his remarks—how much would be going overseas for smoking cessation and education programs overseas? How much was that?

Mr. ASHCROFT. The bill, I think, provides that there are $350 million for each of the first 5 years. And then, after that, there would be "such sums as may be necessary."

Mr. HUTCHINSON. Did I hear the Senator correctly in describing this as a kind of foreign aid bill, at least to some extent?

Mr. ASHCROFT. We are paying for governments overseas. We are paying for someone else's government, for their studies overseas. We are helping foreign governments decide how costly it is for their citizens, I guess. I don't know if this is an idea to make sure—we want people overseas to make sure they realize how much it is costing them to smoke?

I think we have a responsibility to people in this country, who know how much it is costing them to live, to let them keep some of the money they earn so they can help their families. But the $350 million a year that goes into this program is something that I seriously question whether we want to tax the lowest income people in America in order to achieve.

Mr. HUTCHINSON. Am I correct in understanding that this would be a massive transfer of wealth from the lower-income Americans to citizens—people who are not even citizens of this country?

Mr. ASHCROFT. Most certainly. It would be taking money from low-income Americans and transferring what resource they have to provide for their families, a significant portion of it, and sending it to foreign governments so they can conduct studies about what the costs of smoking are in their culture.

Mr. HUTCHINSON. Am I further correct that the States that have low per capita income—because almost 60 percent of this will fall on those earning under $30,000 a year, States like Arkansas, which is ranked in the lower 5 or 10 percent of income in the Nation—that this would fall disproportionately upon those lower-income States?

Mr. ASHCROFT. Obviously. You know, 60 percent of all these sums are going to come from people who earn less than $30,000 a year. So States that have a high population that earn in the category of less than $30,000 a year are going to be paying far more of this than the other States which have high-income individuals and are not so populated by individuals who smoke.

Now the real correlation is, if you smoke, you are going to pay this increase in taxes. It turns out that smoking is the custom, is the choice—I think it is a bad one; I have never thought smoking was a good choice—it is the choice of people who are low-income, and it is something they feel they choose to do. It just astounds me that only in Washington, DC, is a bad choice made by free people the basis for taxation.

People are free. We haven't suggested they are not free to make this choice. We just want to make it hard. We are apparently willing to make it hard for those people, and we are willing to do that in order to fund overseas programs.

Mr. HUTCHINSON. Of course I appreciate that. I don't smoke. I have never taken any money from any of the tobacco companies. I know anybody who objects to this bill will be portrayed as being a defender of tobacco companies. I have never taken any.

But my question for the Senator would be. Has there been any study as to what kind of fiscal impact this would have on State and local governments? And is there a potential of it undermining the revenue base that local governments would have because of the increased taxation at the Federal level?

Mr. ASHCROFT. There are some interesting things that come as a result of this proposed tax increase.

No. 1, it would mean that the Federal Government profited more than any other entity or institution from smoking in this culture. We would have more benefit from smoking than any of the companies would in profit. So the Federal Government would become the No. 1 beneficiary of tobacco use in the country.

No. 2, if there is a serious black market problem with contraband cigarettes, then that changes a number of calculations. One of the things it will change is, if people go into the black market on cigarettes sales, they not only don't pay their Federal tax, which is this additional $1.50 that is being proposed here today per pack, but they will also not be paying the State tax. You can't imagine some contraband person saying, "We are going to go ahead and pay all the State taxes on these contraband cigarettes, but we are not going to pay the Federal tax."

So it might well be if the black market develops a sense of intensity and there is a substantial velocity in the black market, that money which had previously been paid to States by cigarette marketers, that money from those packs that are no longer being sold in the open market but are being sold in the black market, States could lose that revenue stream which they now have from the legitimate sale of cigarettes.

It should be noted that there is already a black market problem in cigarettes because of different State levels and just because the tax is so high. This would probably—frankly, it might serve to make millionaires out of some people who are already dabbling in the black market for cigarettes.

Mr. HUTCHINSON. If the Senator will yield for one final question, as I listened to his comments, they reflected my own feelings—his concern about low-income Americans. It struck me that those who have professed to be the greatest defenders of the poor are those who seem to be the proponents of this massive tax increase upon working poor Americans. But the Earned-Income Tax Credit Program is a program designed to assist those who are working Americans, low-income working Americans, to prevent them from falling into dependency and being on the welfare system.

Is there anything in this base bill that would, in a sense, compensate those low-income working Americans who are going to see this very confiscatory tax imposed upon them through this dramatic increase in the price of cigarettes, to assist them in reforming the EITC Program or in some way offsetting these additional taxes that they will be paying? Or is this an absolute, real loss of consumable income for those who are most poor in our society?

Mr. ASHCROFT. This is a very good question. I thank the Senator for asking it. These are hardworking people, struggling. They get up early in the day, work late at night, sometimes rely on friends and relatives to help care for their children. Sometimes they can afford day care; sometimes they can't. But, basically, this is a bill which says we are going to take their money and we are going to spend it in this kind of bureaucracy.

As I indicated, some of these bureaucracies are relabeled and they are not constituted independently anymore. Some of these are constituted only by virtue of the fact that they are authorized for a Secretary, a Cabinet Secretary, to appoint. But, by and large, in the grand scheme of things, this is a situation where the money goes; it does not come. And the money —there is no specific indemnity for individuals who are the people who are hit by this tax. I know of nothing in this bill that says, for people who have a very serious consequence as a result of this tax, we are going to mitigate it in some way. It is simply not there.

Frankly, we have to be honest. The proponents want to impose this tax to make it very difficult for people to smoke. But for people who are addicted, it will be more difficult for them to stop. And that is why they can presume that we will be collecting these hundreds and hundreds and hundreds of billions of dollars.

Mr. HUTCHINSON. I thank the Senator.

Mr. ASHCROFT. Mr. President, I thank the Senator from Arkansas for the kinds of inquiries that he raised. They go right to the heart of the issue. This tax is focused on the lowest-income individuals in the United States, people who have the least capacity to pay. Frequently, people making in the $30,000 range will be young people. They haven't gotten their incomes up high. They are the people with children in their families, so they need to be able to provide for those children. They need to be able to make sure they are cared for. They need to try to start putting something away so those kids can someday go to college. Instead of allowing them to put something away, we are going to take something away.

For a two-pack-a-day family, that is $803 we are going to take away. Pardon me, that is under the $1.10 figure; that is not under the $1.50 figure. For a three-pack-a-day family, that will take you over $100 a month we are going to take away so that the family can't put it away for when they have needs. Frequently, in many of these families, they are not in a position to put anything away. These are families literally making it from check to check, and we are intending to come in and make this kind of substantial demand on them.

The bill requires States to have massive licensing schemes for retailers who sell tobacco products. So there will be significant new bureaucracies at the State level. These are just examples of bureaucracy in this bill. I want to mention that just once more. One of the strongest aspects of this bill is the States will be eligible to receive a total of $100 million a year in compliance grants if they reach a certain level where kids are unable to purchase tobacco products.

Then it requires States to give out part of those funds to retailers with outstanding compliance records. Let me make it clear. It currently is illegal for a minor to purchase tobacco products in every State of the Union. However, Congress is now establishing a program of bureaucracy to reward retailers for following the law. I think it is pretty clear that this is the kind of double whammy that Government too frequently has. It is against the law in the States for retailers to sell cigarettes to youngsters, and now we are going to have a special incentive program paying large amounts of money, up to $100 million a year, if the retailers will only abide by the law.

Mr. INHOFE. Will the Senator yield?

Mr. ASHCROFT. I will be happy to yield to the Senator from Oklahoma for a question.

Mr. INHOFE. I was presiding the other day, and I want to make sure I understood you correctly. You drew a relationship between our tax reductions that we were able to pass last year that we all went home and were so proud of—and we are talking about the child credit, and we are talking about the estate tax changes, relating that to the tax increase under certain assumptions. I would like to have you repeat that for my benefit.

Mr. ASHCROFT. I think the facts are these: That this massive tax on poor people in the United States would more than wipe out the entire tax cut passed last year, and that is at the assumption level of $1.10 a pack—not at the assumption level of $1.50 a pack, which is the Kennedy proposal.

I want to make it clear that I am against the $1.10-a-pack increase, not because it is an increase on the tobacco companies, but precisely because it is not. This is not a tax or an injury to the tobacco companies; this is something that is required of the consumer.

What I am saying is that we would collect so much money—even at $1.10 a pack—from people that it would totally erase last year's tax relief.

Mr. INHOFE. If you will yield further, you are talking about the child tax credit, you are talking about the education incentives, the estate and gift tax reductions, the IRA exemptions, the corporate AMT reductions—all of these would be offset in terms of a tax increase?

Mr. ASHCROFT. The family kinds of things, the capital gains sort of things—these are the things that would be totally wiped out by the additional collections which would be mandated under this bill. They are mandated that they be collected from, basically, the poorest people in the culture—60 percent, basically, under $30,000. It would mean that over time, over the last 2 years, we would have had a tax increase not a tax decrease.

Mr. INHOFE. If you will yield further, I think so often we talk about the fact that 54 percent of the taxes would be paid by people with incomes under $30,000 a year. We forget sometimes to mention that only 3.7 percent of the tax will be borne by those with incomes over $115,000, which I think is very significant.

I ask you this question since you represent the fine State of Missouri and I represent your neighboring State of Oklahoma. I had an experience and I just want to see if Missouri is anything like Oklahoma.

Over the last 10 days, I have had 3 days of townhall meetings throughout the State. As you know, I am active in aviation. I have all these townhall meetings at airports. With 20 meetings in 3 days—that was kind of a record for me, because normally I do five a day—not one time in one townhall meeting, in Watonga, OK, in Oklahoma City, in Miami, OK, right up on your border, or anyplace in Oklahoma, did anyone bring up the subject of the tobacco bill.

I brought it up in about half those meetings just because nobody had asked the question about this tobacco bill. Then when I talked to them about it, they said they had read about it and they said, "We're opposed to it."

In Oklahoma, in those meetings, there was not one hand that went up when I asked, "Is there anyone here who is in support of this tobacco tax increase in this tobacco bill?" Not one.

Is there something unusual about Oklahoma, or could it be that this is really a beltway issue? Have you tested your people in Missouri on this?

Mr. ASHCROFT. My encounter has been this: First of all, the bill is not raised, but when people find out that instead of punishing the tobacco companies, we are taxing tobacco users, so that an individual who earns less than $30,000 a year, if he is a two-pack-a-day smoker, he is going to pay an additional $803 in taxes, they don't understand that. They say, "Wait a second, if you are trying to punish evil tobacco companies, if that is your objective, punish the companies but don't punish hard-working Americans who are struggling to make ends meet."

My phones have begun to ring when people began to understand that this is not a circumstance where we are going to try to punish the tobacco companies to that extent. The real punishment comes because this law requires—this law forbids the tobacco company from taking any of this tax out of its earnings—it requires the company to "pass it on."

What is interesting, it is even more anomalous than that. The tobacco company collects this $109 billion in the next 5 years, or whatever it is, and turns it into the Government, and we give them a tax deduction for it so that they end up having a $36 billion subsidy that comes back for their having, basically, been involved in the collection of this sum of payment to the Government.

My own view is that when people find out this bill really is a bill against hard-working Americans and it is a tax measure, that is when we are going to start hearing more about it. People thought this was antitobacco. There are some things in the bill that distress the tobacco companies, but, frankly, I am more distressed about what we do for them—shutting down their liability, cutting it off. I think it is wrong to say that there is a certain amount that they can be liable for and no more.

You don't have any guarantees against lawsuits as a citizen. If you do things that are wrong, people can sue you. There is no limit to what can be collected against you if you do things that are wrong. This bill puts clear limits in for the tobacco companies, basically saying no matter what you do, you can only have this much money awarded against you in court.

So no matter how many people are affected, whether it is cancer or emphysema, lung disease, heart disease, no matter how much it is that the courts might allocate against you, we are going to lock down the thing in this bill, we are going to provide a limitation.

Some people don't understand. Originally, they thought this was anti-tobacco companies, and the companies are upset with them, but there are lots of things in here which are procompany and they are really anticonsumer.

Mr. INHOFE. That is interesting.

Let me ask just one more question, if I might, because I haven't heard it in this debate actually coming up. I had an experience. Over the Easter recess, I went on a missionary trip over to west Africa to Togo, Nigeria, Benin, and that area. I thought it was the appropriate thing to do, to go over and talk about Jesus on the Easter break.

The international publications I saw when I changed planes in Paris going down over the Sahara Desert and then again coming out of the Middle East, had articles—this is, what, 2 weeks ago, 3 weeks ago—articles on what a great boom our tobacco bill in this country is going to do for their tobacco industries. They were referring to both legal and illegal, I suspect. But has anybody looked at the effect that this would have on the economies of those areas where they would be direct beneficiaries of what we do here if this thing should pass?

Mr. ASHCROFT. I think it is clear that there has been inadequate examination. This bill hasn't had the kind of scoring that normally attends a bill. This bill was rushed and changed. The ink was not dry on the changes when the bill was submitted.

Virtually no one had read the entire bill when it was offered. And we are now in this debate on the bill. And that is why I am willing to take the kind of time we are taking to discuss it.

It was suggested yesterday that this massive tax increase would be concluded, that we would know what we were going to do on it because they were going to have a motion to table, and that motion to table would end this debate.

I just do not think when you have this kind of massive Government—a 17-agency creation; $868 billion—that you rush through. I think it is clear we need to have the kind of thorough discussion, discussion that would allow us to debate the issues.

Mr. INHOFE. I thank the Senator for yielding.

Lastly, I just ask if your office has received the same thing our office has. We count letters when they come in and we read these letters from people who have picked up notions on this thing. And they are running right now in Oklahoma to my office—this is the district offices in Oklahoma as well as the office here—about 10 to 1 against this massive takeover by the Federal Government. And one of the major concerns they say is, "What's next?" You know, it is tobacco today. Then alcohol? Then fatty foods? Or what is going to be next?

Mr. ASHCROFT. Fatty foods I am worried about. I eat so many of them and I do not want them to take away burgers.

(Mr. HAGEL assumed the chair.)

Mr. INHOFE. The last thing I mention is, I read an article in the Wall Street Journal, I think last week, that talked about the nations that have actually had this happen, causing great increases in taxes to try to stop that particular habit—Denmark, Sweden, so forth—and that the result has been they have had to repeal those tax increases in almost every case.

Are you aware of that?

Mr. ASHCROFT. Yes. The debate this morning really helped, I think, to clarify the issue, that in England, for example, it is said that half of all cigarettes are sold on the black market.

Mr. INHOFE. Yes.

Mr. ASHCROFT. Senator HUTCHINSON just asked me a very important question. If we drive things into black market sales, then States which have been relying on reasonable tobacco taxes as a funding stream—if the tobacco sales go into the black market and underground, we actually make it very difficult for those States to continue with their programs because we will deprive them of the same stream.

America has seen the kind of chaos that can come to law enforcement when we condition people to do things that are illegal because Government gets so invasive and heavyhanded.

And if we condition people to be involved in illegal activities, where we have inordinate unjustifiable taxes that are imposed on consumers, and we prepare them and teach them to be involved in the black market, it is a lesson which we will regret having taught for a long, long time.

Mr. INHOFE. I applaud the Senator for taking the leadership to stop this from happening. And I appreciate your yielding for questions.

Mr. ASHCROFT. I thank the Senator from Oklahoma and really appreciate the questions which he propounds because they get to the heart of the matter. And I appreciate also the fact that you have relayed your experience with your town hall meetings.

No other Senator in the U.S. Senate, I would venture to say, no other public official, deals with the public as intimately and aggressively as you do. You know, five town hall meetings a day, hopping from airport to airport; of course no other Senator that I know of has flown a light plane around the world on his own. I know that JOHN GLENN has orbited the Earth. But you have stopped and talked to people most everywhere and certainly in Oklahoma.

So I thank you for bringing that particular item to our attention.

Mr. INHOFE. I would only respond by saying that I think I have told Senator GLENN, I may have more hours than he has, but he has a lot more miles.

Mr. ASHCROFT. I am sure that is the case. I thank the Senator from Oklahoma.

I just want to say this question of the black market is a very serious question.

If we aggravate the already tender situation which exists regarding the smuggling of cigarettes, we could literally create a very serious problem. And the problem not only relates to the loss of revenue to the Government, but it is also an issue that would and could be a problem which moves the black market in cigarettes from the sort of commercial area where black market cigarettes now are sold to stores and then the stores illegally sell cigarettes that have not had the right taxes paid on them. It could move it into the general population.

If we start teaching young people that they can buy cigarettes cheaply on the black market, and they start to do things like that, it is, in my judgment, a very, very, very serious problem in terms of what we have taught and what we have conditioned in this culture.

Furthermore, if we move the black market into sort of a retail situation—and I have some awareness of this because when I was Governor of my State, we had a significant cigarette tax, at least compared to neighboring States. There is some tobacco grown in Missouri, but very, very little. But we border on serious tobacco States, like Kentucky and Tennessee. And those States had very low tax rates. We had substantially higher tax rates. There were lots of cigarettes that came across the border of our States, but they really were not sold on the retail market. They were sold to folks who would sell them in stores with phony tax stamps and the like.

But if we get to the point where we are going to have black market cigarettes sold in retail, and we condition young people to start saying that "I can break the law here," there are two consequences. One, that is a very bad thing to get young people into. Two, those who are willing to break the law, to retail market substances which are illegal to sell to youngsters, probably will be selling other substances. So they may well be selling drugs, and they may say to the youngsters, "What do you want? I have cigarettes. I have marijuana. I have drugs." And if you drive the price of cigarettes up substantially, it begins to make the price differential far less. So I have very serious reservations about what we might do in terms of a black market.

Mr. ENZI. Mr. President, would the Senator yield for a question?

Mr. ASHCROFT. I would be pleased to yield for a question to the Senator from Wyoming.

Mr. ENZI. Thank you for yielding.

I appreciate the vast amount of knowledge that you have shared. And I have actually a series of questions that I would like to have answered in regard to the bill. And like I say, I have been very impressed at all the knowledge.

Mr. ASHCROFT. I hope I can answer these questions.

Mr. ENZI. I recognize you do not have a laptop in which you can store all this vast information; you are using strictly the computer there. But I have some concerns, and I would like to know what you think on these concerns.

When I was out in Wyoming this last weekend, one of the State Senators there brought me the question—he said, "Now during the last session of the legislature, we looked at putting a 15-cent a pack"—that is 15, not 50—"cent a pack tax on cigarettes in our State. And that would raise $8 million a year for us. And now I hear Congress talking about"—and at the time his knowledge was only on the $1.10, not the much higher $1.50; it was $1.10 a pack—"and out of the $1.10 a pack," which of course will be levied on Wyoming just the same way the 15-cent a pack would be levied, "our State will get $6 million."

He is a little bit concerned about where all the revenue might be going. How could there be a miscalculation of that magnitude on the amount of funds that would be delivered by this? He has done extensive research into it. And I have to say that causes some concern for me, too—when 15 cents a pack will produce $8 million and $1.10 will only produce $6 million.

I guess maybe you might interpret that the $1.50 increase is to bring that up to $8 million for us. But that sounds like a poor way to do business.

Could it be that the $1.50 costs so much to collect, coming back here, so much gets held by the bureaucracy, that we are only going to get $6 million bucks out of $1.10?

Mr. ASHCROFT. I would venture to say the State of Wyoming does not have a foreign aid program under the guise of the cigarette tax. So you will not have a program to develop an awareness overseas of the costs of smoking.

One of the things that is in the international aspect of the bill we have here is that money will be taken, hundreds of millions of dollars every year will be sent to help foreign governments trying to decide what the cost of smoking is in their culture. I just don't think it is very likely that the Wyoming House of Representatives and Senate, which you presided over at one time, would be making that kind—the answer is, that is just a small part of what we are doing here.

I admit the foreign aid is not a big part of this bill, but there are 17 new boards and commissions in the Federal Government, specific and categoric programs, and this isn't designed to provide income to the States. This is really a program that will provide income to the Federal Government. It will provide massive amounts of income to trial attorneys. It will provide serious income to tobacco farmers. If the one aspect of this bill goes through, it will give them about $18,000 an acre for their allotments. Of course, farmers don't even own the allotments. In a lot of cases, it is owned by someone else. Most of the lands could be bought for far less than $18,000 an acre.

We are in a situation where this is a Federal measure which is going to support everything from foreign aid to trial lawyers and Federal programs. It is no wonder it won't do Wyoming good.

Mr. ENZI. I need to ask how people would expect me to support $1.10 a pack when the State legislature looked at 15 cents a pack totally dedicated to health and turned that down.

This one, as you mentioned, has all of these other ramifications. I know that one of the ramifications is to cut down on teen smoking. So I have addressed that in a number of trips I have made to the State. I tried to visit schools on Friday, and I am in Wyoming most of the time. I wonder how $1.10 is going to cause any concern. After all, kids will pay $50 for a pair of tennis shoes—I actually said $50 to see if people were paying attention. They will pay $150—I was in the shoe business for 28 years—$150 for a pair of tennis shoes. The parents can't afford it, but the kids can. In talking to these kids, they seemed to think that $1.10 a pack would be a deterrent for a few days until they realized how they were going to raise the other $1.10 a pack and maybe smoke one cigarette less, but probably not smoke cigarettes less.

These kids asked me, and I want to ask you, how the price of a pack of cigarettes going up will deter smoking when the cost of marijuana is extremely high and there is no indication of it going down and there is still an increase in marijuana smoking. That is all black market. So if we think we are doing an elimination of the black market, that creates a great deal of concern to me, and apparently to you. I ask the Senator to give me some kind of an indication of whether the Senator thinks that price will make a difference.

Mr. ASHCROFT. I thank the Senator from Wyoming for the question. This was the subject of a very serious set of questions that were propounded by the Senator from Utah earlier today. He literally went through the studies that have been presented by the administration and the studies that are being used to support the demand for a $1.50-a-pack increase, the demands being made by Senator KENNEDY in his proposal. Those individuals are not satisfied with $1.10 a pack. They want to take it up to $1.50 a pack as a tax increase.

Frankly, when you look at all the data, you can look at part of the graph and it looks like it reinforces what is being said about smoking going down when you increase the price. Price—CBO seriously questions price in terms of whether elasticity of demand depends on price. They raise a serious question about that, and they cite studies to challenge it. Of course, there isn't any elasticity in demand when a person is addicted.

So for the poor people of America who have been smoking and are smoking, we are basically going to trap them, so that a poor person, even at the $1.10 level which is in the bill now—Senator KENNEDY wants to move it to $1.50 per pack—at $1.10, that is two packs a day at $800 a year. Poor people cannot afford to take that out of the family budget. You sit around the kitchen table and say: What are we going to be able to do this year? Can we get the new refrigerator? We need this, that, or the other.

If we walk in and say, the first thing we have to do is take $803 out of your budget, it restricts the capacities of families to operate. So not only are we threatening to do something that could hurt governments but we will undermine the capacities of families to support themselves.

I think it is tragic when resources are consumed in smoking. I have never smoked cigarettes. I don't believe it is a good investment. But people are free to do that. I am not here to tell them what their life is and how they can operate. But for us to simply say we will hit the low-income people of America with $400 if they are one-pack-a-day, $800 in new taxes if they are two-packs-a-day people, or if we are talking about what the Kennedy proposal is, to give yourself basically a 40-percent increase on that, it is an amazing bite that we will ask to take out of the disposable income of people.

Mr. ENZI. Let me ask another question that deals with this, particularly with the kids smoking, because we have been trying to get at this problem of kids smoking for some time now.

I know the Senator is as distressed as I am that 3,000 kids a day are starting this life-threatening addiction. Although I wonder if you know more about where those estimates come from, because as far as I can tell, they are estimates, as is the percentage, that this will drop. We are talking about a 60-percent drop in youth smoking, and I think that is based on Larry Summers, Deputy Treasury Summers, when he said a 10-percent increase in the pack of cigarettes would produce a 7-percent reduction in the number of children who smoke. We seem to be going with the theory that if you raise it high enough, it will get to zero. That doesn't seem to equate with anything else that is happening.

I ask the Senator if he has seen—probably not—the latest issue of the George Washington University magazine.

Mr. ASHCROFT. I have not.

Mr. ENZI. A magazine put out by a university. I am a graduate of that, so I think it is the premier university of the District.

Mr. ASHCROFT. I will not respond to that question with an affirmative, but I will respect the institution.

Mr. ENZI. The feature of this month's magazine is actually called "Smoke Signals," and it is about the terrible rise in smoking on university campuses. Now we are above the teenage level. We are talking about a group who are more educated than other people. It would seem that they ought to know more about smoking than the others. Obviously they don't, because even though the rules of the university are increasing, the amount of smoking is also increasing.

They have done a fairly extensive interview session with students from the university to find out what the causes are, why it is going up. It ranges from rebelliousness to all-out addiction, to a number of other things.

I ask if the Senator would be willing to have the article from the magazine printed in the RECORD.

Mr. ASHCROFT. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From GW Magazine, Spring 1998]

SMOKE SIGNALS

(By Jared Sher)

When it comes to smoking, America's colleges and universities have come a long way since 1877—the year Dartmouth forced its scholarship students to sign a pledge not to spend any money on liquor, tobacco, dancing or billiards.

Today, college students have the freedom to indulge in all of those. Increasingly, they're doing just that, especially when it comes to cigarettes and cigars. The recent rise in the number of students who say they light up has some educators and medical professionals fuming.

According to an annual survey of college freshmen conducted by researchers at UCLA, more than 16 percent of the nation's first-year students said they had smoked in the past year. While that's not quite an epidemic, there's concern because the 1998 mark is the highest in nearly 30 years. That 16 percent is a significant surge after the mid-1980s, when the percentage dipped into single digits for 4 straight years.

Not only are the numbers rising; they are doing so after decades of clear medical evidence that smoking can kill. Despite all the warning signs, America's youth are picking up the habit with little regard for the potential long-term health hazards.

Such is the case at GW as well. Although no studies have been conducted to determine the exact number of smokers, campus watchdogs believe the figure to be close to—and perhaps higher than—the national average.

Smokers remain a fixture in Foggy Bottom. Even though smoking is banned in all University buildings except residence halls, cigarettes are readily available from street vendors as well as the Marvin Center convenience store. And students—as well as faculty and staff members—can often be seen puffing away on the front steps of Gelman Library, or just while walking down the street.

So why do GW students continue a habit they know is dangerous? The reasons range from rebelliousness to an all-out addiction that is extremely difficult to overcome, especially in a high-stress academic environment. Most students acknowledge the dangers of smoking, but many say they can and will quit before the health risks become a long-term threat to them.

"It's the immortality issue. Young people don't think they're mortal," says Matthew Sokolowski, BA '97, education coordinator at the Jewish Historical Society of Greater Washington. Sokolowski started smoking when he was 10 or 11, having picked up the habit in the Boy Scouts. He thinks younger smokers often are ignorant of the risks. "It's only people who are 45 or 50 getting sick, so you think, 'Oh, I can smoke as much as I want.' " Now he admits he is addicted, and trying to quit is extremely difficult. Sokolowski has devised his own program for quitting, whereby he steadily decreases the number of cigarettes he allows himself to buy. "I knew I wasn't going to be able to quit in college," he says, because the stress levels were simply too high.

That's been a problem for a number of GW smokers, many of whom say they started smoking simply to socialize, but now are stuck with the habit. While they all recognized the health hazards that are all-too-apparent these days, "the addiction outweighs it," according to Zeid Sabella, a senior from Jordan.

"I'VE GOT TO QUIT"

"Every day you say, 'I want to quit, I've got to quit,' " he says, "but you never do." He says smoking has taken its toll on him physically already, a problem he notices every time he tries to climb a flight of stairs and has trouble breathing. "I can't even jog a mile anymore."

Some students began smoking in high school or junior high just to fit in. Federal data show that the number of high school smokers is growing dramatically.

Other GW undergraduates, like sophomore Molly Bell, from Highland, Mich., picked up the habit almost by accident. "I think it had to do with my mom. She said, 'You want to smoke, let's go get some cigarettes.' " Bell recalls. "Then I just started after that, even though her point was to get me not to smoke, like I'd smoke so much I'd puke or something. It didn't work." She was 15 at the time; she has now been smoking for four years.

Once her parents realized their plan had backfired, they tried to get her to quit. They even put her on a nicotine patch. "But every time I'd leave the house, I'd rip it off and put it on my dashboard," she says. Ultimately, she says, no physical remedy will work until the smoker is mentally ready to quit.

Still, Bell remains confident that she'll quit once she leaves school. "I'm going to stop when I'm trying to conceive. At that point I'll be able to because I won't want to screw up my kids." One motivating factor: Her aunt smoked while she was pregnant, and when the baby was born, it had to be placed on a respirator.

"I can't imagine quitting, and I don't know if I ever will," laments 21-year-old junior Danielle Marcelli from Philadelphia. Marcelli first tried a cigarette when she was 15 and hanging out with friends. Now, she too is addicted and smokes one-and-a-half packs a day. "I didn't think it was bad because my whole family did it."

Tobacco companies and Congress are discussing legislation through which the companies would pay more than $300 billion to help gain protection from lawsuits. Speculating on the price hike that could accompany such legislation, Marcelli says, "Sometimes I say that if they really do raise it to $4 a pack, then I'll quit." But she reflects for a moment and changes her mind. "I would probably get a job if I had to support it, if it came down to it."

Her roommate, Angel Fischer, tried her first cigarette when she was just seven years old. She says that she is not addicted, but she smokes anyway. She doesn't worry about health risks, especially since she says she can quit at any time. "I think about it with my father, I don't think about it with myself, because he's older and he's got that horrible cough," Fischer says. "I don't think I'll ever get to that stage. I just have them when I'm out late."

Fischer adds that the stress of a school environment helps explain why so many students smoke. "You can ask the same questions about drinking or drugs or sex. Especially in college with all the stress. Around midterms, it's like give me cigarettes now!" she says.

Senior Anne Henderson, 21, says she is "surprised how many young people do smoke, considering they know the dangers." Nonetheless, she has been smoking on and off for five years. "It has to do with lifestyle. I do it on a social level. A lot of social activity revolves around smoking. It does calm my nerves, especially when I'm stressed out."

She too is confident that she'll be able to quit when she graduates. "I'm not worried about when I'm 80," she says.

A SURPRISING INCREASE

"We feel like we've been seeing a lot of smoking on campus," says Susan Haney, outreach coordinator for the Student Health Service. "It's alarming to see an increase."

Experts agree that it's surprising to see increasing numbers of people taking up a habit that any doctor will tell you has a good chance of killing you. They also agree that two factors impede efforts to stop smoking before it starts among teenagers in America's junior high and high schools.

First of all, "young people see themselves as impenetrable fortresses, believing that they will live long and prosper," according to LeNorman Strong, GW's assistant vice president for Student and Academic Support Services' Special Services. "Their sense of being invulnerable is a major challenge to educating them to make safe and healthy choices of lifestyle."

Secondly, *messages regarding the dangers of smoking are not reaching enough children*. Too often, the content of a message is aimed at getting people to stop smoking once they have already started. Not enough attention is being paid to preventing people from taking up the habit in the first place.

"*A lot of the education has been geared toward adults, not youngsters*," says Strong, who until last August was GW's executive director of campus life.

Moreover, children continue to see *television and movie personalities smoking on the screen*, an activity that does not go unnoticed when children decide to take up the habit Dr. Gigi El-Gayoumi, an associate professor of internal medicine at the GW Medical Center, cited a recent study that showed teen-icon Winona Ryder to be the actress who smokes the most on-screen, for example.

"These are very powerful images," she says, adding that the proposed tobacco deal between tobacco companies and the U.S. government has as one of its major focuses "reducing teenage smoking and the targeting of advertising on teenagers."

THE BANZHAF WAY: SUE THE BASTARDS!

These images may have contributed to the recent increase in smoking among teenagers. That, in turn, may mean more smoking on campus. "We know that smoking had previously gone down considerably among older teens, but has been rising dramatically over the past two or three years," says John Banzhaf, a GW Law School professor who founded ASH (*Action on Smoking and Health*), a public interest legal action group. "These are the people who are about to get into GW."

Banzhaf, who has long been a thorn in the side of the tobacco industry, has used legal action, instead of persuasion and lobbying techniques, to win his battles against smoking. His motto, he says, is "Sue the bastards." His actions are widely credited with leading to the ban on tobacco advertising on television and the ban on smoking on domestic airline flights.

He also was instrumental in the effort that ultimately banned smoking in every GW academic and administrative building in 1995.

At GW, Banzhaf has never hesitated to speak out. Once, he interrupted a student-sponsored movie in the Marvin Center because people in the audience were smoking in violation of law. Another time, he remembers eating lunch in the University Club, when he came across two fellow faculty members smoking in an area that did not have a sign permitting smoking. "I almost had them arrested," he says. They left the club just before the police arrived.

Each time he fought for further restrictions, he met heavy resistance. "And yet each time we've taken a step toward eliminating this thing, it's worked," he says. When the University decided to ban smoking in the vending machine area on the ground level of the Marvin Center, "people said there'd be a riot if we did it." Suffice it to say there was no riot, and for that matter very little controversy, which only reinforces Banzhaf's argument.

"Suddenly people began to realize there isn't a requirement that you have to permit smoking," he says.

BAN SMOKING IN RESIDENCE HALLS?

Most GW student smokers support the smoking ban in buildings, claiming the health hazards are too well known to justify putting non-smokers at risk. Some, however, think the ban has gone a little too far.

"It's ridiculous," says Rany Al-Baghdadi, a senior from Syria. "There's a lot of smokers. What would it hurt non-smokers to have a smoking lounge in the library or the Marvin Center? Someone that's complaining about second-hand smoke when he's 50 meters away from me—you know, get a life."

Al-Baghadadi says that because it is so difficult to quit, GW should make some accommodation for smokers. "If it were easy to quit, there wouldn't be any smokers."

His friend Zeid Sabella, the senior from Jordan, disagrees. "One thing I am for is choice. A lot of people don't like smoking. For example, I don't like smoking in my bedroom. It stinks up the place." Sabella thinks it is entirely justified to keep smoking out of campus buildings.

Sandra Falus, a sophomore from Hungary, thinks so too. "I know people who used to work in the Marvin Center Newsstand when that area was the smoking section." She says her friends had to quit their jobs because they suffered from exposure to second-hand smoke. She adds that since most smokers know what they are doing is unhealthy, they don't feel discriminated against when they have to smoke outdoors.

Molly Bell says: "As long as they don't ban it in the dorms, there won't be an outcry."

In fact, the last bastions for GW smokers have been the residence halls, which remain islands of smokers' rights amid a sea of restrictions. GW officials say the rationale behind keeping the housing smoker-friendly is privacy, and the differing rights of people in their homes versus their workplaces.

"There is regular discussion about banning smoking in residential rooms, and it is often generated by students," says GW administrator LeNorman Strong, but "that's private space. While the University does have some rights as a landlord, we work hard to protect the privacy of students."

Banzhaf is not certain that's enough of a reason to allow the behavior to continue. "I'm sure if someone wanted to clean his bicycle with benzine in his dorm room, he wouldn't be allowed," he says.

As for the legality of a smoking ban in residence halls, Linda J. Schutjer, GW's assistant general counsel, is not confident it would survive a challenge by current residents. "It's an issue of workplace versus where you live," she says, adding that a ban in the dorms would likely do nothing to stem the tide of smoking. "It seems to me smoking is not against the law, and if people want to come here and smoke, there should be some accommodation made for that."

Student Health Service's Haney, who is also a family nurse practitioner, agrees. "I'm not really sure a ban is going to help. I don't think anybody's going to quit to come into a residence hall," she says, suggesting that students would sooner seek out off-campus housing than quit smoking.

Another area of concern to smoking opponents on campus is the Marvin Center convenience store, which sells cigarettes. Students are allowed to purchase products from the store using their meal cards. Although Schutjer says it is against policy to sell cigarettes on the meal card, it happens anyway.

Despite all the controversy, smoking has not gone away. Even in areas where it's banned, says Schutjer, "I'm not saying people aren't smoking. They're not supposed to be. We still get occasional complaints." The University takes steps to stop violators that may range from suspension to dismissal. Recently, one employee of the GW Medical Center was dismissed when he refused to stop his workplace habit in the basement of the GW Hospital.

Smoking education lags significantly behind other areas, such as AIDS and alcohol-abuse education. Nevertheless, both educators and medical professionals at GW have committed themselves to renewed vigilance in helping smokers quit. Haney says that clinicians at the Student Health Service always make a point of asking about smoking when they take patient histories. If they come across a smoker, the clinicians make it clear that there are readily available resources—such as the patch—that can facilitate quitting.

"We try to make people aware that we're there for them. We don't want to badger them, but we don't want, by not saying anything, to let someone think we condone smoking or don't think it's a health issue," says Haney.

It's important for smokers to figure out for themselves why they smoke, Haney says. Only then can they find a successful method for quitting. She adds that Student Health is looking into reviving smoking-cessation programs here in a joint effort with the American Lung Association. Last Nov. 20, as part of the American Cancer Society's Great American Smokeout, Student Health offered "Butts for Bubbles"—an exchange of cigarette packs for bubble liquid—at a table outside J Street.

Ultimately, Haney would like to conduct a thorough survey to find how many smokers GW has and what their demographics are—in other words, "whom we should be targeting," she says.

"Smoking is something that needs to take priority."

Mr. ENZI. I was fascinated to note that one of the people interviewed in this, one of the professors at GW is the person who founded ASH, the Action on Smoking and Health group, that I know from my days as mayor of Gillette has been very active in discouraging smoking, and their advocacy has been on antismoking ads.

I ask the Senator if he reflects a little bit on what the effect of the antismoking ads might be. They went to ads; they went to billboards. I have a plastic sign in my office that thanks visitors for not smoking. They also had a number of very clever slogans. I am not sure whether the Senator might have heard them. Some of them were very disgusting and had people in disgusting situations that were smoking, all to curb, particularly, teen smoking. I think that has had some effect. It had some effect on members of my family. I think that it did help to cut down some of the teen smoking. But I would like to ask you what you think the effects on doing the antismoking would—how well those would work on particularly teenagers as opposed to, or in conjunction with—whichever way you would care to answer it—a rise in price of tobacco?

Mr. ASHCROFT. Well, I think there are ways to discourage smoking. I think the most effective discouragement is when parents work with their children, just like with drugs. I think that is the best way for parents to make sure their children don't smoke. Obviously, there are things that we can do in government to help. A number of States and local governments have literally made it illegal for youngsters to be in possession of tobacco, just like they have made it illegal for youngsters to be in possession of alcohol in certain settings. I think those are the options.

One of the things I say in response to your question—because the Senator addresses the issue of 3,000 a day—is that the 3,000-a-day figure, in my judgment, underestimates the number of kids who try cigarettes a day. I have heard estimates as high as 6,000.

What is interesting to me is that the drug czar, Gen. McCaffrey, indicates that 8,000 youngsters a day try illegal drugs. We are here with an administration that wants to impose a tax of $868 billion on basically low-income people in the United States to work on smoking, but there is a notable absence in this administration in terms of what it wants to do about drugs. The most eloquent thing this administration has been able to utter about drugs is, "I didn't inhale." The second most eloquent thing was on MTV where the President said, "If I had to do it over again, I would inhale."

Now, when you have the President of the United States talking about inhaling drugs, I don't think that goes very far toward stopping people from smoking cigarettes. We have to be careful that we don't get our priorities out of whack so that we drive the price of cigarettes up or drive cigarettes into a black-market situation where they will be offered as part of a menu of illegal drugs, where students and young people in the culture might not only become acclimated and accustomed to dealing with black-market figures, which would be a very bad lesson to teach, but it would also, perhaps, introduce people to drug use as much as it does with cigarette use.

I firmly believe that cigarette use is deleterious, bad for your health. Frankly, everybody knows that. King James, the guy who directed the translation of the Bible hundreds of years ago, admonished the people of England that this stuff is bad for you, that it is not good for you, it is bad for your health. We have known it, and there are a lot of things that are true about cigarette ads. I don't approve of them and I don't like them appealing to our children. But let's also understand that most young people who start with cigarettes know it is not good for their health.

Mr. ENZI. Will the Senator yield for another question?

Mr. ASHCROFT. I would be pleased to yield.

Mr. ENZI. Mr. President, I am kind of fascinated that on our desks, every day throughout the session, we get a copy of whatever bill is being debated, even if it is the same one being debated the day before; and if we take it back to our office, another one miraculously appears the next day, in spite of the amount of paper involved with that and, as a plug for a computer, don't you think it would cut down on the amount of paper if we could utilize a computer on the floor? That is not really my question. This is a 753-page bill that is appearing on our desks. I know that you are aware that this isn't even the bill we are debating.

Mr. ASHCROFT. I am aware of the fact that this is constantly in flux. As a matter of fact, we talk about the absence of dry ink on so many things that we consider here. When you are talking about a $868 billion tax increase, I think we ought to at least see dry ink before we vote.

Mr. ENZI. Yes, I have to agree. I want to ask, since this is 753 pages, and there is another newer version that is 482 pages—

Mr. ASHCROFT. This is the newer version. This one isn't bound. I don't know how many pages we have here, but it would be a real task, and to rush through something like that would be a disservice to the American people, particularly those who would pay the huge increases in taxes.

Mr. ENZI. The bill we are debating is the 753-page one, which miraculously appears on our desks, even though the 482-page bill, which has significant revisions in it, isn't available to us without a special request, and this appears to be the official version. But whether it is 753 pages or 482 pages, it is a great deal for us to cover, even with all of the help of our staffs.

So I am curious as to whether the Senator feels that there is an adequate coverage of all types of tobacco done in this? We keep talking about cigarettes. When I was growing up, there was a period of time when my dad thought cigarettes were pretty high, so he rolled his own. It is kind of a western tradition. You get a little pack of Bull Durham and some cigarette papers. Today, people would probably think you were using illegal drugs if they saw you doing that. We are phrasing this in that form, anyway. People might go back to rolling their own. But they take this thin piece of paper and put a little dip in it—I watched him do this so many times, but I have not smoked—and then he put the tobacco in there and he had to lick the piece of paper and fold it over, and that thin paper would then stick, and it would have the semblance of a somewhat cruddy cigarette. I suspect that even though cigarettes are not healthy, they were probably more unhealthy. The advantage was that we saved the little canvas bag that it came in, filled it with sand, and used that as a sinker on our fishing lines in the canyon near our home and fished for trout. The tobacco bag worked well for catching trout.

It was years later that I learned what it was probably doing to his lungs and eventually did to him. I wonder if you feel that this adequately covers all of the types of tobacco and places an equivalent tax on them. We talk about the black market, but what we are talking about here is a shift from one type of tobacco to another to get a lower price, and even some exclusions, apparently, for small manufacturing companies.

So is this just going to force people to "unbundle" their companies—that is one of the words we use around here—and form a whole bunch of small companies that manufacture this to avoid the tax? I watched people work loopholes on tax bills when I was the chairman of the Senate revenue committee in Wyoming. I knew when we were holding hearings that there was someone out there who, at the moment we were debating the bill, already knew the loophole and they were anxious to go out and benefit from that. They weren't going to share that with us.

So do you feel there is going to be some kind of a shift done on this to the other kinds of tobacco as well as to the black market?

Mr. ASHCROFT. The Senator from Wyoming asks a very, very important question. Frankly, it is a question to which I do not know the answer. We are still dealing with a bill that is in the process and, obviously, if you run the price up on one kind of smoking, you may be encouraging another kind of smoking—whether you are encouraging cigarettes bought on the black market, or whether you are encouraging a roll-your-own variety. I remember those slogans that used to be used, like "save your roll and roll your own." But you wouldn't make a real savings in your roll if there was a disparity in the price here. My main concern has been that this is not a bill that has much promise to be effective.

You know, the administration, as late as 1996, said they were going to cut tobacco smoking in youngsters by 50 percent in 6 years, and they weren't going to require any price increase. So they were going to be able to cut it in half. Now they don't expect to cut it in half, but they are going to get $868 billion over the next quarter century out of Americans' pockets. I think that is particularly onerous.

You mentioned the relationship of cigarettes and the construction of them with one's own hands, and that obviously makes people think of the marijuana cigarettes that people roll on their own. Frankly, the drug problem is one that bothers me because I think we are inordinately, and perhaps inappropriately, focused, at least to a degree not warranted, on cigarettes rather than on drugs.

As I indicated, General McCaffrey indicated that there are at least, according to his numbers—and the numbers have been tossed around—more kids are trying drugs than they are trying tobacco. I think we ought to be careful that we don't aggravate that problem.

Mr. ENZI. Mr. President, will the Senator yield for another question?

Mr. ASHCROFT. Yes.

Mr. ENZI. Mr. President, I am anxious to know and hope that the Senator from Missouri has the answer to how this 753-page bill or 482-page bill that we haven't had time to complete the review of yet—I realize the Senator may not have the answer to this and what kind of emphasis it places on the family as playing a role in reducing tobacco use. I have seen the statistics. Whether it is drugs or tobacco, the biggest influence on whether kids use them are the parents and the attitudes that the parents have to them. And the parents, even if they smoke, have a good influence on reducing teen smoking or youth smoking by saying that even though they do it, it hurts them; that it is not right, it seems to me.

The bill that is really trying to get at the heart of the problem, and if the statistics all point to the family emphasis, the family attitude, the family direction being the way to reduce smoking, it seems like this bill ought to have something in there that strengthens the family and strengthens their role in doing this. It provides a mechanism for almost everything else in the world, including things that are not health related. So it seems to me like there ought to be something in here that says something to families, "You can make a difference. How do we get you involved?" I can't find that. I want to know if the Senator from Missouri is able to find it.

Mr. ASHCROFT. Frankly, I haven't found it. I thank the Senator from Wyoming for asking the question. The impact on families here is pretty serious. But it is financial.

Basically, it is to say that for a three-pack-a-day family there is a minimum of $100 a month that goes out of their expendable income, in addition to the taxes. That is not just the cost for smoking cigarettes. That is additional taxes, $100 a month for three packs a day; that is, if you take the committee's $1.10 range.

My amendment would strip that $1.10 rate out because I don't think it is appropriate to punish people the way the tobacco companies have done. If you go with Senator KENNEDY's proposal, it is a $1.50-a-pack rate. You get to the point of about $1,600 a year for three packs in the family at $1.50. I think that really makes it not only tough for the families to do something about smoking, it makes it really tough for the family to do things about all kinds of other things, like clothing the family, feeding the family, providing shelter and transportation, health care, and other things.

Mr. KERRY. Will the Senator from Missouri yield for a question without losing his right to the floor?

Mr. ASHCROFT. I do.

Mr. KERRY. Mr. President, as the Senator knows, we have been trying to move this along in a fair-minded way. Three and a half hours ago I asked the Senator how long he thought he might be, and we were talking in terms of an hour or so. I know there have been a series of fascinating and very important questions posed in a spontaneous manner. But that said, I wonder if the Senator might be able to share with his colleagues what opportunities other people might have to debate this issue.

Mr. ASHCROFT. I thank the Senator for his question. I feel like I should be able to finish by 2 o'clock, providing I don't spend a lot of time responding to the questions of others. Most of my time on the floor has not been accorded to me to make speeches. It has been in responding to questions. I have to say it is probably better than had I been speaking because I find the questions to be very satisfying and very enlightening.

Mr. KERRY. Will the Senator further yield without losing his right to the floor?

Mr. ASHCROFT. Yes.

Mr. KERRY. Mr. President, I appreciate full well that questions, in a way, have educated the Senate, and all we are trying to do is find a way. Obviously, some other colleagues planned their day, since we tried to do this outside sort of the rigorous assertion of the rules, if you will. That said, would we be able to rely on and could we perhaps enter into an agreement now that the Senator would finish at 2 o'clock at which point we would have an opportunity on our side to be able to allow a number of people to speak for a little period of time to try to balance it out a bit?

Mr. ASHCROFT. If the Senator is talking about the opportunity to curtail debate and schedule a motion to table, that is one of the reasons I felt like I had to move to provide the kind of debate which I have provided, because without consultation, at least with me, about a timeframe for the debate suggested, there would be a motion to table. And that happened in the last issue I was seeking to discuss in the Senate. I purposely wouldn't allow individuals to cut off debate. There is a lot of interest in this measure. I will personally do what I can to wrap up my participation. I will limit the amount of questions to which I will respond and make time available for others.

Mr. KERRY. I thank the Senator. Mr. President, that is exactly what we are trying to find out. I will accept the Senator's word, obviously, that he is going to try to wrap up around 2 o'clock and allow other people to debate. So we will afford that.

I thank the Senator from Missouri.

Mr. ASHCROFT. Mr. President, I might add that I was a part of the committee that considered this bill. The committee was interested in getting the bill out. It is no secret that I was the only member of the committee that voted against sending the bill to the floor. But I was asked not to have these kinds of discussions. The idea was that we wanted to get a bill to the floor where we could have discussion. That is what I want to have. I want to have that kind of discussion. There was an effort not to have too much happen in committee. I understand that much. My own view is if they would prefer to have the discussion of these issues on the floor, that is fine with me. But if you say you don't want a lot of discussion in committee, and you say you don't want a lot of discussion on the floor, you are trying to truncate the debate. You want this thing to go through before we actually have the complete documents on what is in it. It is a $868 billion tax increase. It finally dawned on me that I had better stand up and speak, and I had better try to accommodate the other individuals who want to speak.

I am pleased to have the assurance that there is not an idea about a motion to table right away, that there is going to be time for other debate on this.

I will try to conclude my remarks.

Mr. ENZI. Mr. President, will the Senator yield for a couple more questions? I understand the time deadline. I understand how those motions work that lead to this kind of a need for the format for debate.

Will the Senator yield?

Mr. ASHCROFT. I will yield.

The PRESIDING OFFICER. The Chair reminds all Senators that the Senator retains the floor only for yielding for the purpose of a question, not for the purpose of a statement. And I want all Senators to understand that the Senator could lose the floor if the individual who he yields to chooses to make a statement rather than ask a question.

Does the Senator yield for that purpose?

Mr. ASHCROFT. I yield for the purpose of a question, and I would request the person to whom I am yielding to please preface your remarks. Does the Senator agree or not agree, if there is going to be a very strict approach, which, frankly, there has never been in my understanding of the Senate to that kind of question. I ask that he start his question that way. I don't want to yield the floor based on technical failure, if the Senator will begin with words of an interrogatory nature.

Mr. ENZI. Yes. Does the Senator feel that the $1.10 or $1.50, as it is $1.50 right now, would have the amount of money the FDA needs to do the kind of enforcement we have been putting on them? Does the Senator think that when we talked about in the Labor Committee, which I am on, the $34 million amount for the FDA and all of the things that would do, and that this bill has considerably more money in it than that for the FDA, does the Senator think that we are doing overkill, perhaps, with the FDA? Will they be able to adequately use the amount of money that we are talking about in this bill for that agency alone? It is a considerable expansion of that agency. Do you think that our agencies are set up in a manner that they can escalate the amount of spending that they are very good at, but can they escalate the amount of spending they are doing to meet these new amounts that are coming in, particularly with the FDA, which is critical to this?

Mr. ASHCROFT. I think that is an appropriate question. There is almost a 50-percent increase in funding for the FDA. Or did the Senator say more than that? Frankly, I have every confidence that Federal agencies will spend the money you give them.

I believe that he calls into very serious question the idea that price alone is a major factor, or a controlling factor. And he does so effectively by citing the kinds of information that the Senator has mentioned.

Mr. CRAIG. I have sat for well over an hour now this morning, listening to the colloquies, the questions, and the debates between the Senator from Missouri and the others who engaged him, concerned as we all are about teenage smoking, and concerned as we all are about what appears to have been a targeted effort on the part of some tobacco companies to increase teenage smoking. But the Senator from Missouri also cited a poll, as did the Senator from Texas, that indicates that amongst Americans the No. 1 issue with their teenage children is not smoking but drugs. Would the Senator from Missouri agree with that?

Mr. ASHCROFT. I am aware of the poll and I am aware of the concern. And I believe that is correct. I believe Americans are far more fearful that their children will be involved with illicit drugs than they are that their children might experiment with smoking.

Mr. CRAIG. That same poll said that only 3 percent of Americans recognize the use of tobacco products as a concern for their teenagers. I think their greatest concern was that the most damaging would be drugs and other activities. Would the Senator from Missouri agree with that?

Mr. ASHCROFT. I think the poll was very clear about that: 39 percent cared about drugs; 3 percent said they were worried about smoking.

Mr. CRAIG. Does the bill that the Senator from Arizona brings forward deal with the issue of drugs or the misuse of drugs by our teenage populations in this country?

Mr. ASHCROFT. Not to my knowledge.

Mr. CRAIG. A great deal of assumptions suggest that teenagers would slow their smoking, or discontinue smoking, or not start smoking as a result of this bill. Yet, all of the other studies indicate that is probably not the case. The Senator from Missouri cites a concern for elevated activities in black-market sales; is that not true?

Mr. ASHCROFT. Yes. I have pointed out that not only would elevated activities in black-market sales result in perhaps even lower prices for cigarettes, but it could, as a matter of fact, be a way in which individuals are introduced to drug use.

Mr. CRAIG. Is it not so that countries that have increased the price per pack of cigarettes dramatically, and found that those cigarettes then moved into a black market, backed away from those taxes to bring those products back into the market and away from the illicit activity of the black market?

Mr. ASHCROFT. I think that has been a very clear experience. This precipitous increase in the rates of taxes on cigarettes has been a very sad experience by promoting black markets. Great Britain, or England, is said to have a black market of about 50 percent of all of its consumption. That is obviously something we don't want to teach or institute in this country. And other countries—Canada had a serious, very, very serious, bad experience with its precipitous rise in the increase of taxes on these kinds of products.

Mr. CRAIG. This Senator from Idaho is concerned that those who would sell black-market cigarettes are also now selling marijuana and cocaine to our young people. Does the Senator from Missouri have the same fear?

Mr. ASHCROFT. Obviously, if we were to take cigarette smuggling, which is now a commercial activity—the cigarettes are largely delivered to stores and are sold in the ordinary course of business. If we were to take that out of the commercial activity arena and put it into the retail activity, so that they would be sold on street corners by drug dealers or others who would sell contraband in a retail fashion, I think we threaten substantially the young people of this country with the introduction in an array of things that would be sold. Someone might offer: Now, you can either have cigarettes here or the marijuana here or these pills here, or like that.

So, putting cigarettes into that setting may be a very evil sort of introduction of those individuals to the drug culture in a way that they would not otherwise be exposed.

Mr. CRAIG. Let me thank the Senator from Missouri for yielding. I know he said he would like to conclude by 2.

I also appreciate his stressing the need for an expanded debate of this issue. I hope the leadership, and obviously the managers of the bill, recognize that and are now recognizing the importance that we debate this fully. I appreciate the responses of the Senator from Missouri to my questions.

Mr. ASHCROFT. I thank the Senator from Idaho for his valuable questions. I will now conclude. I have given my word to fellow colleagues in the Senate that I would try to be out by 2 o'clock, and I will. I thank the Senate for its accommodation.

Frankly, I appreciate this institution because it does provide a way for individuals who really feel strongly about this measure to be able to talk about it.

We have a bill. The Senator from Wyoming pointed out that it was not the one laid on the desk, because we have changed so rapidly. But here is the bill. There it is. This bill represents a $868 billion tax increase on the backs of America's poorest working families: 60 percent—59.4 percent. Let me not exaggerate. The estimate is 59.4 percent of the $868 billion—59.4 percent of the $868 billion from this measure is to be paid for by people earning less than $30,000 a year.

I believe we should reject it. This is a massive tax increase. This is a massive expansion of Government. This is an affront to the effort of families to provide for themselves. And I believe it is something that will be counterproductive. It invites all kinds of pernicious activity, including the black market, including the potential for increased drug utilization, including the loss of revenue to States when the black market emerges and no longer do those selling cigarettes pay even State taxes.

But at the very bottom of it all, this is a $868 billion tax to be shouldered by the hard-working families who earn less than $30,000 a year. That is inappropriate and to me it is unacceptable. I do not believe any of the lofty pie-in-the-sky—supposedly supported by studies—objectives really justify it. We should pursue those objectives in ways that are more likely to be successful and less likely to be destructive of the capacity of hard-working families to survive.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that this side now be permitted to consume, it is 2 o'clock, maybe 1 hour 15 minutes, to be divided among Members on our side in order to have an opportunity to debate the bill.

The PRESIDING OFFICER. Is there objection to the request?

Mr. McCAIN. Reserving the right—I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts will be recognized to control the time for 1 hour 15 minutes under his control.

Mr. McCAIN. Will the Senator yield to me?

Mr. KERRY. I will be happy to yield to my friend from Arizona for his purpose.

Mr. McCAIN. I just say to my colleagues that after the 1 hour 15 minutes that has just been agreed to on the other side of the aisle, I intend to offer a tabling motion at that time. No matter what happens to that motion, then we would like to proceed to an amendment on this side which would be that of Senator GREGG. And then, following disposition of that, whether that is agreed to or not, we would then go to the Senator's side, back and forth, as we have.

Also, if my friend from Massachusetts will indulge me, I ask unanimous consent that a letter from the National Association of Convenience Stores be printed in the RECORD, part of which says:

> NACS, the National Association of Convenience Stores, is very pleased that we have reached an agreement with your committee and others involved in the process and NACS will not object to the Senate's passage of S. 1415.

So, obviously, the National Association of Convenience Stores have a different view of this legislation than the Senator from Missouri.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NACS,
Alexandria, VA, May 18, 1998.

Hon. JOHN McCAIN, Chairman,
Hon. ERNEST F. HOLLINGS, Ranking Member,
Committee on Commerce, Science, and Transportation, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS McCAIN AND HOLLINGS: The National Association of Convenience Stores (NACS) is writing to express our thanks and appreciation for addressing our primary concerns surrounding the "National Tobacco Policy Youth Smoking Reduction Act," (S. 1415) which is being considered this week.

As you know, NACS first expressed opposition to S. 1415 because it would have given FDA expansive authority to prohibit tobacco sales by specific categories of stores. This authority was so broad, that many small businesses, who have themselves had no record or history of unlawful sales to minors, could lose the ability to sell a legal product. Our second concern was that the legislation would exempt certain tobacco retailers from all point-of-sale restrictions thereby placing traditional retailers, such as convenience stores, at a serious competitive disadvantage.

Over the last several weeks we have had an opportunity to meet with your respective staffs and discuss alternatives to these issues while also ensuring that we reach our common goal—reducing underage consumption of tobacco by minors. NACS is very pleased that we have reached an agreement with your committee and others involved in the process and NACS will not object to the Senate's passage of S. 1415. NACS will also communicate this message to all our members as well as allied trade associations that have expressed similar concerns.

Thank you again for your willingness to work with our industry on these very critical issues.

Sincerely,

MARC KATZ,
Vice President, Government Relations.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 2422

Mr. KERRY. Mr. President, we have now been listening for a number of hours to the fundamental arguments in opposition to the amendment by the senior Senator from Massachusetts. Before yielding to colleagues who are not at this moment here, let me take a moment to say a few words about it.

I think any individuals listening to this debate, if they are not aware of some of the history of the Senate or the history of how issues fall on either side here, might say, gee, that is a pretty good point.

The Senator from Missouri suggested that this is a big price increase, and it is going to hurt the poor. I simply ask those listening to this debate who measure these things to think about the history of who has defended the poor people and who has defended the interests of the working families of this country.

It would be absurd to suggest that the senior Senator from Massachusetts, who has been the champion of the minimum wage, the champion of health care for children, the champion of education for people who don't have access to it, who has consistently fought to protect the interests of working families and of the poor, is somehow now doing something that is totally contrary to those years of commitment and record.

Yesterday evening, the Senator from Missouri held up a chart of all of the tax increases that have passed in recent years in the Senate. It is interesting, because if you look at every one of those tax increases, there was an enormous difference, like night and day, between who was protected by Senator KENNEDY and the Democrats on this side of the aisle and who was protected by the Republicans.

That is not the debate today. I don't want to go back through that entirely, except to say that the record is absolutely clear that in every one of the tax proposals of our friends on the other side of the aisle, people at the upper-income level made out better, and it was Senator KENNEDY and Democrats and others who fought to protect the working American. It was only after our efforts in the major budget agreement of last year that a single mother earning $40,000 managed to get even some tax benefit, and that tax benefit went from zero to $1,000 because we stood up and fought for that person.

That is not the fight today, except, Mr. President, to the degree that we are talking about where some people are coming from. We are talking about the lives of children. That has been lost in all of the debate over the last 3½ hours. We are talking about the lives of America's children. We know to a certainty that 6,000 kids will try cigarettes every single day, 3,000 of those kids will continue to smoke, and 1,000 of those children will die early as a consequence of a tobacco-related disease. That is what we are talking about on the floor of the U.S. Senate.

It is an insult to suggest that the parents of working families or the parents of the poorest people in America don't care as much about their kids having access to tobacco as other families. It is an insult to suggest that they are happy with the charts that show over the last years, there has been an 80-percent increase among black and Hispanic, people of color, an 80.2-percent increase in their use of cigarettes in 1991, and in non-Hispanic and nonblack, it has only been 22 percent. Why is that? I will tell you one of the reasons why, because the tobacco companies specifically targeted low-income communities. They went after them.

It is a sad part of the history of this entire effort that we now know, as a result of courageous attorneys general around the country who have sued the tobacco companies, who have gotten documents from the tobacco companies, we now know specifically about this targeting. We know that they targeted young people. They specifically set out to create addicts. What this debate is about is how you stop that. How do you get kids to stop smoking? How do you keep them away from cigarettes?

Again and again, in the last 3½ hours, we have heard Senators say, "Oh, all it is going to do is raise the price. Why aren't they doing" this; "Why aren't they doing" that; "No cessation programs, no research." That is not true. That is just not true, Mr. President.

The fact is that in this legislation, there are a number of things that take place—cessation, research, counter-advertisements, penalties, licensing to restrict youth access. It is unlawful for kids to buy the cigarettes, to possess the cigarettes. There is a lot of the strengthening of the law with respect to those things that will make a difference in kids' lives.

One other thing also makes a difference, Mr. President—how much it costs. Sure, kids spend 100 bucks, 150 bucks sometimes on a pair of sneakers, whatever, but it is usually not a cash transaction. It is usually a very specific transaction where parents have helped them to be able to do that. It is the cash they have in their pocket. It is the pocket change, pocket money, whatever they can scrounge up that they spend on something like a cigarette that they are not allowed to buy, and most of their parents don't want them buying. If the price goes up, their disposable income is less available to buy cigarettes.

We know this. This is not conjecture, as has been alleged. This is known as a matter of a number of studies, all of which show that for every 10-percent increase in the price of a pack of cigarettes, youth smoking will drop by about 7 percent.

So the 40-cent difference that we are talking about in Senator KENNEDY's amendment is not just 40 cents. It is not just money. It means that 2.7 million fewer kids will become regular smokers, and that about 800,000 or so over a period of years will not die as a result of that. That is what we are talking about. We are talking about lives here.

It is a matter of fact, also, that Dr. Koop and the Koop-Kessler commission and the Institute of Medicine have actually recommended an immediate $2 increase. I just ask anybody in America: Who do you believe? Do you believe Dr. Koop, the former Surgeon General of the United States, who had the courage to talk about these issues to the Nation, or do you believe the advertisements of people who have an interest of making millions and millions of dollars in the same way they have over the years, people who were willing to lie and lie and lie to the American people about what the impact was, even when they knew what the impact was: people who are willing to target our children and say, "This is the next generation of smokers. We have got to suck them in. We have got to get them addicted."

That is the fight on the floor of the U.S. Senate—who is going to protect our children and who is willing to let the companies off the hook?

The fact is the studies show that if you raise the price—now, is raising that price a little bit tough on some working folks who buy the cigarettes? The answer is yes. I am going to be honest about that. But you know, it is a lot tougher when their kid gets cancer, and it is a lot tougher when the country has to pick up the costs of 400,000 people a year dying as a result of this addictive substance.

It is a known fact that 86 percent of all of the people who smoke started when they were young, they started as kids. So if you want to reduce the cost of our pulmonary sections of our hospitals, if you want to reduce the cost of kidney-related tobacco diseases, or heart diseases, emphysema, cancer, the way you reduce the cost is by reducing the number of people who have access to it.

Now, isn't it strange, in Europe, even after we raise the price, it will still cost more for a pack of cigarettes in European countries than here? What do they know that we do not know? It seems to me that we ought to be responsible in this effort.

I know my colleagues are here now and want to speak. There is more to say. But I will reserve that time. I want to give them ample opportunity to be able to speak.

I yield 10 minutes to the Senator from Rhode Island and after that, portion it out.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Rhode Island.

Mr. REED. Thank you, Mr. President.

I thank the Senator from Massachusetts for yielding me time.

Yesterday, I had the privilege of attending a meeting, along with my colleagues, Senator KENNEDY, Senator CONRAD and Senator LAUTENBERG, with C. Everett Koop. And Dr. Koop had the right prescription for this aspect of the legislation. His prescription was quite simple: raise the price per pack by $1.50. As the preeminent public health official in this country, indeed in some respects America's family doctor, I believe his advice should be taken to heart by this body and we should move to support this amendment by Senator KENNEDY.

I am a very proud cosponsor of this amendment. Indeed, this is not a radical departure. Two committees of the Senate have already passed this amendment—the Senate Finance Committee and the Senate Budget Committee. They have done so on a bipartisan basis.

So what is at stake here is reaffirming and confirming what has been done already, what has been advocated by public health officials; and that is to raise the price per pack by $1.50.

Study after study has confirmed the fact that this will make an important impact on the rate of teenage smoking. But these studies are less dramatic than the words of people who probably know best the effect of price and consumption with respect to tobacco products—the wards of the industry itself.

In 1981, a Philip Morris internal document stated, and I quote:

> In any event, and for whatever reason, it is clear that price has a pronounced effect on the smoking prevalence of teenagers, and that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the Federal excise tax on cigarettes.

That is not Dr. Koop. That is not the proponents of this amendment. That is the tobacco industry, coolly, carefully assessing what price does to teenage smoking. And it reduces it.

In 1987, another Philip Morris internal document lamented a decline in youth smoking caused by price increases, their price increases. The document stated:

> We don't need to have that happen again. So if the industry understands what will be affected by a price increase, we should understand also. But as I have indicated, research findings from various sources confirm the fact that a price increase will affect dramatically, decisively, and positively the decline of teenage smoking.

In listening to this debate, one is struck by the different approaches one could take to the goal of reducing teenage smoking. I think there are just two basic ways you can do that. First, if we are really sincere about reducing teenage smoking, we can create an elaborate regulatory bureaucratic structure with agents in every community who would monitor teen smoking, with reports that would go back and forth about teen smoking, with supervision of the distribution network, and all sorts of ways to do it. Or we could use the market—the most efficient device created by humanity to allocate goods and services—we could use the market.

That is what this amendment proposes to do. It simply says, if we raise the price of cigarettes, we will cause a decline in teenage smoking—efficiently, dramatically, and effectively.

So I argue, if anyone is a believer in the affect of the market on behavior, if anyone believes that price makes a difference—and I think that is the credo of both parties, but certainly the Republican Party—you would be in favor of a market-oriented approach like this to curtail teen smoking.

The only other alternative is that we are really not talking about curtailing teen smoking on the floor today; we are talking about something else. But if you believe that we are here to reduce teenage smoking, and you believe that the market can work wonders in terms of allocated goods and services, you should be supporting this amendment.

Now, as I indicated, the evidence is replete from many different sources of this effect. Reports from the Institute of Medicine's National Academy of Sciences, the National Cancer Institute, the Department of the Treasury, the Surgeon General—all these indicate the correlation between price increases and reduced teenage smoking.

A National Bureau of Economic Research study in 1996 found that young people were three times as sensitive to cigarette prices as older smokers.

A 1997 study in Tobacco Control found a strong relationship between cigarette prices and youth smoking, with each 10-percent increase in price resulting in a 9-percent reduction in youth smoking.

In its 1998 report, "Taking Action to Reduce Tobacco Use," the Institute of Medicine of the National Academy of Sciences concluded that:

> * * * the single most direct and reliable method for reducing consumption is to increase the price of tobacco products, thus encouraging the cessation and reducing the level of initiation of tobacco use.

A National Cancer Institute expert panel in 1993 reported that "a substantial increase in tobacco excise taxes may be the single most effective measure for decreasing tobacco consumption," and they also concluded that "an excise tax reduces consumption by children and teenagers at least as much as it reduces consumption by adults."

The 1994 Surgeon General's report, likewise, indicated a real price increase would significantly reduce cigarette smoking.

All of this data, all of these studies, come to the same conclusion: If we want to reduce teenage smoking, if we want to use the efficient allocation mechanism of the market, we should raise the price to a significant level—$1.50 per pack.

Now, all of these experiences are academic. We can have a battle of reports and analysis back and forth here. But we have a real-life example:

In Canada, between 1979 and 1991, when real prices increased from $2.09 to $5.42, smoking rates among young people 15 to 19 years old fell from 42 percent to 16 percent while overall consumption of tobacco products also declined—a huge decrease.

Now, this was a big sample, the country of Canada. Real price increases and real dramatic results in decreasing teenage smoking. And we have to do this because we all know and we all recite repeatedly the statistics: 50 million Americans addicted to tobacco; 1 out of every 3 of these individuals will die prematurely from tobacco-related diseases; three-quarters of them want to quit smoking, but they cannot because it is an addictive substance.

The conclusion they have come to and we should is it is better that they never start. It is better that we take steps to curtail teenage smoking when there is a chance to divert a young person away from this addiction. We know that over 90 percent of smokers started before they were 18—again, a clarion call to us to take action to protect the youth of this country.

Each year, 1 million children become regular smokers. And, as I said, one-third of them will die prematurely. There are 5 million kids under 18 currently alive today who will die from tobacco-related diseases across the country.

It is disturbing, in my home State of Rhode Island, while smoking levels have flattened out with respect to the overall population, high school students seem to be smoking 25 percent more than they were just a few years ago.

We have to act now. We have to use the most decisive tool we have, and that is price increases, to affect the behavior of young people so that we will not see them needlessly die from tobacco-related diseases.

I support wholeheartedly and enthusiastically the effort by my colleagues to ensure that we have an increase that will do the job, that will have an effective way to curtail teen smoking.

With that, I yield back my time to the Senator from Massachusetts.

Mr. KERRY. How much time did the Senator from Rhode Island consume?

The PRESIDING OFFICER. There is a total time of 54 minutes 20 seconds remaining.

Mr. KERRY. I yield 10 minutes to the Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent Miss Susan Goodman of my staff be accorded floor privileges during the consideration of S. 1415.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, we have just been subjected in the U.S. Senate to what I think could appropriately be described as a filibuster—4 hours of wandering discussion on an amendment that is now before the Senate.

During those 4 hours of that filibuster, 500 American youth under the age of 18 commenced their first use of tobacco products. One-third of those 500 American youth during that 4-hour filibuster who started to use tobacco will die, die prematurely of a tobacco-related affliction.

I have heard as I walked through the Chamber during this 4 hours mocking comments: Does anybody believe that we are really here to try to reduce teenage smoking? Does anybody really feel we are here to reduce teenage smoking? The answer is yes, we are here to reduce teenage smoking. That is the only legitimate reason that we can be here. Anyone who does not start their debate by a clear statement of their commitment to that objective has debased this national debate about the future of tobacco and the youth of America.

In 4 hours, 500 American youth have taken up smoking. Since May 20 of 1997, 1 year ago, the number is 1,095,000 American youth under the age of 18 have taken up the use of tobacco, and 365,000 of those American youth who have taken up tobacco in the last 1 year will die prematurely of a tobacco-related affliction. It is to them that this debate is directed.

Mr. President, the best public health advisers available to us have recommended that we set as a goal a 65-percent reduction in teenage smoking over the next 10 years. That is a challenging goal, but it is an attainable goal. It is a goal which is going to stretch us in the political community. It is going to stretch those in the health, the education, and especially the families of America to their best in terms of beginning to attack this scourge which, as my colleague from Rhode Island has just indicated, is a growing scourge of teenage smoking.

I believe that an important part of achieving that goal of a 65-percent reduction is to raise the price of cigarettes to as high a level as can be achieved without inducing other negative consequences, and to do that as quickly as possible. For that reason, I am a cosponsor of this amendment which would raise the price to what has been recommended by the public health community, $1.50 per pack, and to do so in 3 years. This is consistent with legislation which I have cosponsored with Senators CHAFEE and HARKIN.

It is not the only thing we need to do. We also need to have a comprehensive attack against teenage smoking. That comprehensive attack needs to include weapons such as restrictions on marketing and promotion—no more Marlboro Man, no more Joe Camel, appealing to our young people. It needs to include effective cessation efforts in the schools through public methods of communication. It needs to include look-back provisions which will surcharge the industry and individual companies if they fail to meet the nationally established goals for reduction of teenage smoking. All of those are important.

But the reality is that the single most important part of achieving the goal of a 65-percent reduction in teenage smoking is to get the price to as high a level as reasonable as quickly as possible. The best estimates are that 85 percent of the effectiveness in terms of reducing teenage smoking will come through monetary means. The other 15 percent will be the softer, more psychological efforts at education and restraint on promotion and advertising.

It is appropriate that we should be using the monetary means as the principal force to achieve the goal of a 65-percent reduction. Some of those who have spoken, either spoken directly or spoken through the form of very elongated questions, have inferred that there is something wrong with inserting the economic component into this debate. The fact is, there already is a substantial economic component.

As Members know, four States, including my own, have reached very significant settlements with the tobacco industry, in which the industry essentially admitted that their costs in terms of cost to treat people with addictions related to their use of tobacco are in the billions of dollars. This is not a cost-free decision if we do nothing. If we do nothing, we accept the fact that we will continue having the American taxpayers pay these enormous annual costs to treat the illnesses of people who have been induced to smoke tobacco.

It is also appropriate in this era of free-market economies, where we are looking to laws such as supply and demand rather than laws of regulation as a mean of affecting human behavior, that we insert as the cornerstone of this legislation a significant economic disincentive for people to utilize tobacco products, a disincentive which we know will have its primary effect on younger smokers, smokers to whom discretionary income is more limited, smokers who are less physically addicted to the use of tobacco.

Mr. President, for those who will oppose this amendment, I issue this challenge. If you are not prepared to accept the goal of a 65-percent reduction in teenage smoking, then what is your goal and why are you prepared to support a lessened goal, recognizing that every percentage point below 65 percent means that you are consigning thousands of American young people each year to the scourge, the cost, the social issues related to the use of tobacco, and one-third of those who start the process will end up dying prematurely because of a tobacco-related affliction?

If you are not prepared to accept the 65-percent goal, defend an alternative. If you accept the 65-percent goal but are unwilling to accept those things which are necessary to achieve it, then what is your alternative? What will be the additional items that you will substitute for what the best experts in the public health community say is required to achieve that 65-percent goal?

We know that some of those noneconomic factors are already under assault, such as the promotion in advertising. So it becomes even more important that we adopt the amendment, as offered by Senator KENNEDY and others, which will raise the price to the $1.50 level.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAHAM. Also having expired during that 10 minutes I have been speaking, have been 41 American youth who have taken up smoking during the time I have been speaking; 14 of those will expire prematurely because of tobacco-related affliction. It is to them that this debate and this issue is dedicated.

Mr. KERRY. Mr. President, I yield 7 minutes to the Senator from North Dakota.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I have heard a lot of misinformation on the floor of the Senate this morning. I heard the Senator from Texas talk about an opinion piece in the Washington Post this morning saying that if this $1.50 a pack were passed, we would have a massive black market. The Senator failed to point out who wrote the opinion piece. That opinion piece, which I cited as being written by a Mr. Nick Brookes, was in fact written by Mr. Nick Brookes. But who is he? He is the chairman and chief executive officer of the Brown & Williamson Tobacco Corporation. Well, there is a credible source on this issue.

It didn't end there. I heard another of my colleagues suggest this morning that what has happened here is going to lead to a $3 increase in the price of a pack of cigarettes, even though the proposal is to add $1.50. How does that turn into $3? It is magical. They don't really explain it, but they say that the $1.50 that would be imposed by this Chamber all of a sudden turns into $3. Do you know whom they cite as an expert? It is fascinating whom they cite as an expert. They cite Salomon SMITH Barney. They cite their analyst.

It is very interesting to check the records on Salomon Smith Barney and see what they might have in the way of tobacco holdings. Do you know what you would find out? Salomon Smith Barney and the other source they have talked about this morning, Sanford Bernstein, together, own over 50 million shares of stock in the two top tobacco firms. Salomon Smith Barney owns 16 million shares of Philip Morris, 3 million shares of RJR. Sanford Bernstein, the other analyst quoted here, owns 30 million shares of Philip Morris, and they own 13 million shares of RJR. Do you think they are an objective observer here? I don't think so. I think they have a lot at stake financially in the outcome of this debate, and they are trying to influence that debate with this hocus pocus analysis—hocus pocus that turns a $1.50 price increase magically into a $3 price increase. It is nonsense.

The Treasury Department says that a $1.50 price increase translates into—surprise of all surprises—a $1.50 price increase. The FTC says a $1.50 price increase translates into a $1.50 price increase. Dr. Harris at MIT, perhaps the most objective independent observer—out of Government, out of industry—says that a $1.50 price increase translates into a $1.50 price increase.

Mr. President, the question of whether or not raising prices will reduce consumption is a very simple matter. There isn't an economist in America who would tell you that if you raise the price of something, the consumption won't fall. Every economist understands that basic rule of economics. The experts all agree that youth smoking will decline as prices increase. Dr. Chaloupka, who has done perhaps the most thorough study of all of the studies, concluded that a $1.10 price increase would lead to a 32-percent reduction. Dr. Chaloupka's work says that it will lead to a 33-percent decline in usage, and the $1.50 will lead to a 51-percent decline in usage. Those are estimates by economists.

We don't need to just look to economists, we can look to the public health community. Here I have a letter from Dr. Koop and Dr. Kessler, perhaps the two most credible sources on these questions. Dr. Koop, of course, is a former Surgeon General of the United States who served under a Republican administration, and Dr. Kessler is a former head of the FDA who served under a Republican administration and a Democratic administration. They say $1.50 a pack. The American Lung Association says $1.50 a pack. The American Heart Association says $1.50 a pack. The American College of Cardiology says $1.50 a pack. The American Academy of Pediatrics say $1.50 a pack. Those are the public health groups. They have weighed in and they have made clear that is what we ought to do.

But if you don't believe the economists, if you don't believe the public health community, maybe you ought to listen to the New York Times, what they have said. They have said in an editorial this morning that you ought to go to $1.50 a pack. It is right here. The New York Times of this morning:

> The bill, drafted by Senator McCain and approved by the Senate Commerce Committee, would raise cigarette prices by $1.10 * * * That amount should be increased to at least $1.50 per pack, which public health experts estimate is needed to cut youth smoking * * *

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CONRAD. I ask for an additional 2 minutes.

Mr. KERRY. I ask unanimous consent to add 5 minutes total time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. I yield 2 more minutes to the Senator from North Dakota.

Mr. CONRAD. Mr. President, if you don't want to listen to any of those folks, how about listening to the industry itself. This, I think, is dispositive on the debate. This is exhibit 11591 from the Minnesota trial. Myron Johnston, Philip Morris. Subject: Handling and excise tax. These are the industry's own words:

> The 1982–83 round of price increases prevented 500,000 teenagers from starting to smoke * * * those teenagers are now 18 to 21 years old. This means that 420,000 of the nonstarters would have been Philip Morris smokers. We were hit hard. We don't need that to happen again.

Mr. President, if there is any question in any Senator's mind as to whether or not increasing prices will reduce youth smoking, here is what the industry says, based on history. They say in 1982–83 when excise taxes were increased, 500,000 teenagers were prevented from starting to smoke. Those are the industry's own words. If you don't believe any of that, Mr. President, here is the experience in Canada. The price went up, youth smoking went down. The relationship is as clear as a bell.

So the question before this body is, Whom are we going to protect? Are we going to protect the lives of kids, or are we going to protect the profits of the industry? This analysis shows that if we go to $1.50, 2.7 million kids are going to be prevented from smoking. That means 800,000 lives will be extended and perhaps saved.

The industry says, well, it will bankrupt them. Here are the facts. If we go to a $1.10-per-pack price increase, their profits in 2003 will be $5 billion, according to the Treasury Department. If, instead, we go to a $1.50, their profits will be $4.3 billion. So the choice is clear—800,000 lives or $700 million in industry profits. That is the question before this Chamber. Do we save 800,000 lives of kids, or do we protect $700 million of industry profits?

Mr. KERRY. Mr. President, I thank the Senator from North Dakota. I particularly thank him for his leadership on this issue.

I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I am delighted to be here today to support this important amendment offered by Senators KENNEDY, GRAHAM, HARKIN, and others. I have worked closely with Senators BOB GRAHAM and TOM HARKIN for the past several months on the issue of a comprehensive tobacco bill. We came to one inescapable conclusion, which has been voiced by the Senator from North Dakota and a host of others this afternoon: A steep increase in the price of tobacco products over a short time is the single most important thing we can do to reduce tobacco use among children, or to deter them from taking up smoking.

How did we come to this conclusion? Well, Mr. President, we listened to the experts. Who are the experts? They are economists, public health researchers, and even tobacco industry officials. They have all concluded that price increases dramatically reduce smoking among children.

When I say experts, who am I talking about? Mr. President, there are plenty to choose from. The Institute of Medicine, the National Academy of Sciences, the National Cancer Institute, U.S. Department of Treasury, and U.S. Surgeon General have all documented the fact that increases in tobacco prices have been shown to decrease tobacco use among children.

Furthermore, Mr. President, economists from the Massachusetts Institute of Technology, University of Illinois at Chicago, University of Michigan, among others, have found a strong relationship between cigarette prices and youth smoking. Cigarette prices go up, youth smoking declines; cigarette prices go down, youth smoking increases. These institutions that I ticked off are hardly fly-by-night institutions.

If we doubt the expertise of these groups, why don't we take a look and see what the tobacco industry has said. I know the Senator from North Dakota has some quotes from the tobacco industry. I would like to supplement those with others.

In 1981, the Philip Morris documents show that company officials said the following:

"Since youth and young adult price elasticity are much larger than adult price elasticity"—in other words, the relationship between price going up, consumption down; price down, consumption up; those are what we call elasticities—"while adult smokers account for the bulk of cigarette sales, a substantial excise increase would substantially reduce smoking participation by young new smokers, but leave industry sales largely unchanged."

In other words, it is the young people who decline. The old people, it does not affect them. That is a Philip Morris official saying that.

Mr. President, the evidence is clear. The most effective thing we can do to prevent our children from taking that first deadly cigarette is to increase the price quickly and steeply.

I urge my colleagues to join me in supporting the Kennedy amendment.

I thank the Chair. I thank the floor managers.

Mr. KERRY. Mr. President, I thank the Senator from Rhode Island. He has worked on these issues for a long time. I think his voice is one of both reason and enormous credibility.

I yield 6 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President. I thank our friend for yielding this time. I thank the Senator from Massachusetts for his leadership on this, and the senior Senator from Massachusetts for offering this important amendment.

For those of you following this debate who are wondering what is happened here, we are 4 hours behind where we were supposed to be. There was a minifilibuster on the floor here when the Senator from Missouri took the floor and slowed us down. So we will have a backlog of amendments with the Memorial Day weekend coming in the hopes that we will not finish this bill. This is a time-honored Senate tradition. You have seen it earlier on the floor. We are now 4 hours late.

I have an important amendment to offer, and I hope to offer it today. And others want to do the same. I say to those who are joining in the minifilibusters that the clock may be on their side but history is not. They are on the wrong side of history in supporting the positions of the tobacco companies.

Pick up the morning paper and take a look at what the tobacco companies are telling Americans about why they oppose the McCain bill, and why they believe the legislation we are considering on this floor, which would increase the cost of a pack of cigarettes to reduce the number of children smoking, the tobacco companies say that is wrong. Are the tobacco companies credible?

Exhibit A, photograph A, eight tobacco company executives, 4 years ago standing before a House committee, under oath swearing that tobacco is not addictive. I rest my case about their credibility.

There are three issues for us to consider here in this debate.

The first, will price increase reduce teen smoking? It has been shown and needs to be shown again. We have a living example in Canada. As the price of the product went up, children smoking went down. We know that kids have less disposable income. You raise the price of the product, a few of them will say, "I don't think I can afford this habit."

That is what we are driving at. The experts come along and tell us that is right.

We have a statement from Frank Chaloupka, Associate Professor of Economics at the University of Illinois at Chicago who says: "Based on this research, I estimate that a $1.50 increase in the federal cigarette tax"—Senator KENNEDY's bill, which I support—"implemented over 3 years and maintained in real, inflation-adjusted terms, will cut the prevalence of youth smoking in half."

Will price increases reduce teen smoking? Clearly they will.

Second is a $1.50 price increase better than $1.10? It is a reasonable question to ask. I think we can see what happens when we deal with an increase of $1.50 over $1.10.

Take a look at this chart. If we had no change in the cigarette tax, this is basically what would occur. We would expect the same prevalence of smoking. If we had a change of a $1.10 increase in the cost of cigarettes, we can see a 34-percent reduction in the number of young people who are smoking. Now, take a look at $1.50. The conclusion is obvious; a 56-percent reduction.

So as we increase the price of the product, children stop using it, not only in economic models, but in our historical experience in Canada.

The third question is this taxpayer. That is a legitimate question.

I will concede that the opponents of this tobacco legislation say that this tax will necessarily hit lower-income Americans the hardest because they smoke the most. There are a lot of explanations for that, not the least of which is the tobacco industry, which over the years has really targeted those folks. Go into any inner-city area in America and take a look at the billboards and you will see block after block of alcohol and tobacco advertising. They believe that these folks and that income category are more vulnerable to become addicted to tobacco products. They have been successful in luring them.

So we can tax the product and it will necessarily hit those in the lower-income category. Is it fair for us to tax it? We generally asked Americans what they thought of this idea. I think you might be interested in the results. When a poll was done, this poll was done by a national organization paid for by the American Cancer Society and released a few days ago. The results are that a majority, 59 percent of Americans, favor a $1.50-per-pack increase, Senator KENNEDY's proposed increase, while only 39 percent oppose.

When they were asked what would you do with the money that is raised, what do you think is a reasonable thing to do with these new tobacco revenues, they said additional health research on cancer, heart disease, and other tobacco-related illness.

That is in this bill. That is exactly what we are setting out to do: 82 percent to fund antitobacco education programs—they think that is a good idea—81 percent, programs that are directed toward children to get them to stop smoking.

So you see what we have here is an attempt to slow down the debate on an important piece of legislation that is literally historic.

Eleven years ago, the Senator from New Jersey, FRANK LAUTENBERG, and I embarked on a little project. I was a Member of the House at the time and he was here in the Senate. The two of us introduced and successfully passed legislation to ban smoking on airplanes. It was the first time the tobacco lobby lost on the floor of the House and the Senate in history. I was proud to be a part of that partnership with Senator LAUTENBERG, and am happy to serve with him today and to be part of this debate as well.

How far we have come. Let us not miss this historic opportunity to pass the Kennedy amendment to make certain that the $1.50 increase will truly reduce the number of kids smoking to make certain that the goal of this legislation to protect our children is one that is served. The tobacco companies have spent billions of dollars to lure and addict these children. Do we have the courage on the floor of the Senate to beat back the filibuster and to muster the votes to protect those children and their families? I think we do.

I rise in strong support of this legislation. I hope my colleagues will join me in voting for it.

I yield the remainder of my time.

Mr. KERRY. Mr. President, I thank the Senator from Illinois for his extremely articulate and compacted comments. I think it is the House training that permits him to come over and do that.

Mr. President, I yield 8 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Thank you, Mr. President. I thank the distinguished Senator from Massachusetts for allowing me part of the time in the remaining minutes for the debate on this amendment.

Mr. President, I want to say, first, just a quick note to my colleague now in the Senate, formerly in the House, Senator RICHARD DURBIN from Illinois, that at the time we worked on the smoking ban in airplanes, it looked like a hopeless quest. Everyone said, "You will never get it by." We worked, we pleaded, we cajoled, and we tried everything that we knew.

But the odds on the other side were formidable against us. And finally we were able, through consensus, to develop a bill that took a 2-hour ban on smoking in airplanes with the promise that after a study of about 18 months we would reconsider and look at what the consequences were.

Well, it was overwhelmingly popular across the country. People began to demand that we stop smoking in airplanes altogether. Some said, "How can you suggest that a 2-hour ban is all right but a 4-hour plane ride is full of smoke?"

And so it was by popular demand that we were able to get that kind of a ban in place. And I remind my friend and colleague, Senator DURBIN, in April, the month just closed, we had the 10th anniversary of the implementation of the smoking ban in airplanes. I can tell you, if there is one thing that gets you an applause line when you are doing a town meeting or meet in front of a group, when you say you were part of the authorship of the smoke ban in airplanes, people say thank you, thank you, thank you, and tell you tales about not being able to fly before, having respiratory problems, asthma, you name it, could not get in an airplane, and today they feel as if they have been freed.

Well, it is the same thing here. This debate, frankly, I must tell you, Mr. President, borders at times on the silly. We have to make a decision here about what we are going to do about protecting the health of our people from the ills caused by tobacco and nicotine. And we have come to a conclusion, a sad conclusion, that we cannot change the course of action. I say this, and I say it with terrible regret. We cannot change the habits of some 40 million-plus Americans who are addicted to tobacco and nicotine.

How they got started is a debate of and by itself, whether it was like it was with me in the Army when they used to give us in our emergency rations, in case we got separated from our units or had to depend on that for our sustenance—you always had a four-cigarette pack that you could call on in the event of an emergency when you needed a smoke. People were always waiting for the smoking lamp to go on so that they could smoke. It was encouraged. It was part of our psyche.

I can tell you also, as one who smoked for 20-some years, that stopping was no easy chore. It is not easy for the 40-plus million Americans who are hooked, stuck, can't get out of the tobacco habit. I haven't yet met anyone who smokes who hasn't said to me: You know, I stopped a dozen times. I once stopped for 3 weeks. I once stopped for 4 weeks. And then my brother had the car accident. Or, my team lost on the baseball diamond and we all started smoking and sitting around and moaning—here we are, can't get away.

But we can get away from it if we help our children not to start smoking in the first place, if we can stop them before they take the first puff, the second puff, or the 20th puff on a cigarette, because we know that the hook takes like that, like a fish after bait. And that is what the tobacco companies are doing. They are trolling. They are fishing with bait for more smokers.

They now have a campaign on, a campaign to deceive the American people, a campaign to say that they are just another business and that all these jobs of the people who work in the tobacco industry will be lost and the taxes will be lost. And meanwhile, what they do we wouldn't accept from anybody offshore who wanted to attack our America, kill 400,000 people a year, maim lots of others, render them at times unable to conduct their normal activities, lost productivity from their jobs, et cetera, and get a tax deduction besides—besides all other things, to be able to deduct the cost of addicting people, seducing children. It is an outrage.

Part of the campaign now is very interesting. I get mail, as we all do, from constituents. I have a letter here from a fellow named Jack McDonnell, Rutherford, NJ, which, by the way, is also the home of Tom Pickering, Deputy Secretary of State, a great diplomat.

Mr. McDonnell writes:

> My family received a letter today from the RJ Reynolds Tobacco Company. The letter was addressed to my mother, and requested that she write to you protesting the proposed tobacco legislation . . . Unfortunately, she could not respond herself. She died this February after a long and horrible struggle against emphysema. My father, another ex-smoker, has been diagnosed with terminal lung cancer. My family understands the real costs involved here, and the cost of smoking far exceeds the costs of this legislation.

Now, what happened is the tobacco companies—and the companies I will read off here include Brown & Williamson Tobacco Company, Lorillard, Philip Morris, Inc., RJ Reynolds Tobacco Company, United States Tobacco Company. They send a letter out to people and they write:

> Dear Mr.—

In this case, Robert Martin—

> Since you registered your support for the proposed resolution reached last year between the tobacco industry and Government

officials, private plaintiffs' lawyers, and members of the public health community, Washington has decided to press an agenda based on politics.

Politics, not reason.

Washington has been overtaken by politicians' insatiable desire to tax and spend.

Not by the insatiable desire of a mother and father to save the well-being of their child, not in terms of families who want to keep the family together and do not want to see grandpa with emphysema when he gets to be an age when he could still be functioning normally. No; they describe the insatiable appetite of the politician.

Well, Mr. Martin writes to me. They gave him a postcard to which he could affix a signature and send it to my office. And it says:

DEAR SENATOR LAUTENBERG: I strongly urge you to oppose any tobacco legislation that raises taxes, produces a black market in cigarettes, threatens nearly 2 million American jobs and expands the Federal bureaucracy.

Reject these things. And it is signed with his name. He wrote underneath that postcard. He sent me a sample of the postcard.

DEAR SENATOR LAUTENBERG: I received this item in the mail. As you can see, I was polled over the telephone by a machine. The material given over the phone was very misleading the way that it was presented. I am against smoking and like to see it abolished. I am a lung cancer survivor. Keep up the good work.

And it carries the signature of Bob Martin. He says:

If there is anything that I can do to be of help, please call.

And he lists his phone number.

So that is the kind of campaign that is going on with these tobacco companies, designed to deceive the public that this is a major kind of public interest campaign that the citizens are rising up against. Let them tell the real story. Let them talk about the 400,000 deaths. Let them talk about the lung disease.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LAUTENBERG. If I could have 1 more minute, please.

Mr. KERRY. Mr. President, I yield to the Senator an additional minute.

Mr. LAUTENBERG. We have to get on with the task of passing the $1.50-per-pack fee. I point out to you, Mr. President, and those who can see it, that the price of cigarettes in major industrial nations is quite a bit different than we have here in the United States: Norway, $6.82 a pack; Denmark, $5.10 a pack; United Kingdom, $4.40. Down we get to the U.S.A., with a current price of about $1.94.

We know one thing, Mr. President. We have heard it in testimony and statements given by colleagues in the Chamber that the way to stop teen smoking most abruptly, to give them a jolt so that they will bolt, is to raise that price and raise it quickly and sufficiently. And $1.50 a pack will do it. With the $1.50 a pack, we can see substantial reductions in the number of those who start smoking. And I hope that when the votes are counted here, people will look and see how their Senators voted to see whether or not they are going to stay with the tobacco companies or whether they are going to stay with the families and protect the children who will be dependent upon tobacco in the future.

The PRESIDING OFFICER (Ms. COLLINS). The Senator's time has expired.

Mr. LAUTENBERG. I yield the floor.

Mr. KERRY. Madam President, I believe I have about 20 minutes left; is that correct?

The PRESIDING OFFICER. There are 18 minutes 16 seconds remaining.

Mr. KERRY. I appreciate that. I yield 5 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. CONRAD. Madam President, one of the key issues before this Chamber is the credibility of the industry. The industry has a long history here of telling us things that just aren't so. I think we can all remember when the industry executives came before Congress, and, under oath, told the U.S. Congress a series of things. One of the things they told us is: "Tobacco has no ill health effects."

This is from the industry's own documents, which is a reflection on that claim. This is a 1950s Hill & Knowlton memo quoting an unnamed tobacco company research director who said:

Boy, won't it be wonderful if our company was the first to produce a cancer-free cigarette. What we could do to the competition.

The second claim by the industry has been that nicotine is not addictive. Again, looking at their own documents, this is a 1992 memo from Barbara Heuter, director of Portfolio Management for Philip Morris' domestic tobacco business.

Different people smoke cigarettes for different reasons. But, the primary reason is to deliver nicotine into their bodies. . . . Similar organic chemicals include nicotine, quinine, cocaine, atropine, and morphine.

These are not my words. These are not the words of the public health community. These are the industry's words. And it doesn't stop there.

Tall tale No 3: "Tobacco companies don't market to children."

This is from a 1978 memo from a Lorillard tobacco executive. He said, "The base of our business are high school students."

High school students are the base of their business. Is there any wonder why we are here on the floor, talking about trying to raise prices to deter teen smoking to save lives? We have the evidence from the industry itself. And it doesn't stop there.

Tall tale No. 4 in this presentation: "Tobacco companies don't market to children."

This is from a 1975 report from Philip Morris researcher, Myron Johnston:

Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers . . . 15 to 19 years old . . . my own data . . . shows even higher Marlboro market penetration among 15–17 year olds.

In this morning's New York Times we got more confirmation of where this industry stands:

Last year they estimated that the price increase in the June plan would cause sales to drop by nearly 43 percent among all smokers over a decade. But now that Congress is considering raising prices by twice that much, producers have turned around and said that higher prices would undermine, rather than help, efforts to reduce youth smoking.

This is a question of lives versus profits—lives versus profits. That is what the evidence shows. Madam President, 800,000 children will not suffer premature death if we go to $1.50-a-pack price increase. The question is, lives, 800,000 lives, versus profits of the industry, $700 million of profits. Because that is what the experts at Treasury tell us is the difference between $1.10 and $1.50-a-pack price increase. If it is $1.10, their profits in 2003 will be $5 billion. If it is $1.50, their profits are $4.3 billion—a difference of $700 million in profits to the tobacco industry in 2003 versus the question of the lives of 800,000 kids. This is the question before the Chamber, the lives of kids or the profits of the tobacco industry. I hope and expect my colleagues will vote to protect the lives of the kids over the profits of the tobacco industry.

I yield the floor and yield the remainder of my time.

Mr. KERRY. I thank the Senator from North Dakota again. How much time remains?

The PRESIDING OFFICER. The Senator has 13 minutes 9 seconds.

Mr. KERRY. I yield myself 3 minutes and then I will yield the rest to my colleague from Massachusetts.

We heard an argument here today that the price is too high and that we should not have this increase on the price of cigarettes because it is unfair to working people. I talked earlier about the impact on working people of not having this increase. But we heard quoted during the course of the monolog this morning a statement by the CBO. I would like to put in the RECORD the "Congressional Budget Office Proposed Tobacco Settlement," a statement of April 1998, in which they say:

Based on a review of the empirical evidence, CBO concludes that price increases would have a significant negative effect on consumers' demand for cigarettes and, depending on the ultimate increase in price, could be a highly effective way of reducing smoking in the United States.

That is the Congressional Budget Office. Every single independent analysis—and I am talking independent analysis, not hidden analyses that are really one of the tobacco companies under some pseudonym. We are talking about the health experts of America, the people who do these under peer-reviewed and appropriate methods of independent study. They all suggest if you raise that price you will reduce teen smoking. I think every parent in America understands it. Every kid in America understands it. It is fundamental common sense as well as economics. If the price of something goes up and you have only so much money in your pocket, you decide differently how you are going to spend it. That is why we need to heed the advice of Dr. Koop, Dr. Kessler, all of these experts, and do this.

In addition to that, we have heard if you raise the price it will, in fact, increase smuggling. But the truth here again is something different. The Deputy Secretary Treasury, who is responsible for Customs and much of our antismuggling effort, said:

> The creation of a sound regulatory system, one that will close the distribution chain for tobacco products, will ensure that the diversion and smuggling of tobacco can be effectively controlled, and will not defeat the purposes of comprehensive tobacco legislation.

Madam President, that is precisely what the Senator from Arizona and the others who have worked on this bill have done. There is an effective regime in here for antismuggling. There is additional money for enforcement. There are additional requirements of markings on cigarette boxes. There is a licensing of company requirements throughout the distribution chain. There is accountability in the system. And there is the ability to enforce.

Moreover, most of the problem of smuggling recently has been American cigarettes going to Europe, because they have the higher price and we have the lower price. So this will, in effect, reduce that and create an equilibrium. I think most of those arguments have, frankly, been misplaced.

In the final analysis, this is a vote about our children. We all know the realities. The statistics have been thrown out again and again. We know how many kids start smoking every day. We know how many will die. We know to a certainty how many Americans are dying every year as a result of the habit they gained when they were kids.

If people want a tax cut, the greatest tax cut you could get is to reduce the burden of their health insurance, the burden—I yield myself 1 additional minute—the burden of all of the costs of our society as a consequence of this addiction, of this narcotic substance. It is incomprehensible that we should not make it fit into a comprehensive plan of control, which is precisely what is in this legislation.

So the vote here is very simple. You can vote to try to save the lives of children or you can vote on the side of all the money that is being spent in those advertisements to protect tobacco companies and keep their profits at the rate they are now at the expense of our children. That is exactly what the vote is on the Senate floor. Every expert says: Raise the price, you reduce smoking of kids. If you don't do that, then you wind up allowing those kids to continue to smoke, to continue to die, to continue to be addicted.

I think the choice is very, very clear. I yield the remainder of my time to the sponsor of this amendment, the senior Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I thank my friend. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 8 minutes 20 seconds.

Mr. KENNEDY. I yield myself 7½ minutes, if I could, please.

Madam President, I, first of all, thank our leader, Senator DASCHLE, who has been a strong supporter of this particular amendment, a strong defender of the health of the young people of this country and their families, and my colleagues who have all spoken here, and spoken very eloquently and compellingly.

I thank my friend from Massachusetts, our floor manager, JOHN KERRY, KENT CONRAD, the chairman of our task force, and FRANK LAUTENBERG, who is one of the great leaders on the issue of tobacco.

I am enormously grateful for Senator DURBIN's comments as a leader not only in the Senate now but also in the House of Representatives. And the eloquence of BOB GRAHAM earlier today and the compelling arguments that he made, I thought, were enormously convincing.

JACK REED of Rhode Island has been a strong member of our task force and a strong defender of public health.

TOM HARKIN, who has been in and out and has spoken frequently on this issue at different times, and many others, I can go down the list of so many in our caucus. I also thank our friend and colleague from Rhode Island, Senator CHAFEE, for his very strong support on this issue. I commend him for making his statement. He is someone who has been strongly committed to children on different health matters over the years. I thank him for his leadership, and I thank others of our Republican friends who voted for this in the Budget Committee, as well as in the Finance Committee.

We are very hopeful that in just about 20 minutes or so, when the roll is called, that a majority of the Members on both sides of the aisle, Republicans and Democrats alike, are going to vote with the American people, with the families of America and for the children of America.

There will not be a single vote in the U.S. Senate this year that will be more important to 275,000 children than the vote that we are going to have 20 minutes from now. We have the opportunity to make a major difference, a lifesaving difference for those 275,000 children.

The overwhelming, uncontroverted evidence that has been demonstrated during the afternoon of yesterday, last night and in the course of today is the fact that this kind of amendment that we are offering today that will have bipartisan support can make the greatest difference in the public health of the people of this Nation than any other action that we will take in the course of this year. That is a fact, Madam President. It is the most important vote that we will have this year on public health for the families of this country, and we will have it in just a few moments.

We don't have to go over the facts. We know what will happen if this amendment is successful. More than 750,000 young people will not involve themselves in smoking; 250,000 will not develop cancer of the lungs; 250,000 will not develop heart disease because of smoking; 250,000 of them will not develop emphysema, and the list goes on with diseases that result from smoking in this country.

Who are we talking about? We talk about children in this country, but let's be very clear about who those children are. We are talking about children who are as young as 12 years of age. Sixteen percent get started at 12 years of age; 37 percent are 14 and younger; 62 percent are 16 years of age and younger.

These are the individuals who are targeted by the tobacco industry. I listened to those crocodile tears of our colleagues on the other side of the aisle about how distressed they are about what is happening to working families. I give them reassurance, they will have a nice chance to vote for an increase in the minimum wage later on, and we will see how distressed they are about all those working families that they are agonizing about and so distressed about because this is a regressive tax.

The reason it is a regressive tax is because it is the tobacco industry that has targeted the needy and the poor and the working families of this country. It is the tobacco industry that is to blame. It isn't these families. How elite and arrogant it is for those on the other side of the aisle to cry these crocodile tears for working families and their children who are going to get cancer and they don't want to pay those taxes. Those working families care about their children. They care about them no less than those who come from a different socioeconomic background. How arrogant can you be? How insulting can you be to make that argument on the floor of the U.S. Senate.

Finally, Madam President, there can be no argument about what has happened over recent times, the explosion—the explosion—of use of tobacco by teenagers. It is a national disgrace. It is a national disgrace, and we are faced with these facts.

You can talk about smuggling all you want. You can talk about it all you want. These are the facts. This is the issue. Public health is the issue, the fact that it is an 80-percent increase among the black youths in this country, 35 percent by Hispanic youths, 28 percent of the white youths of this country, 32 percent year after year after year after year because of the policies of the tobacco industry. And we can do something about it on the floor of the U.S. Senate. The question is, Will we do so?

The question comes back, If we have to defend ourselves again, all you have to do is—there is one simple chart. We all had our statements and our charts. This one says it all. What this chart says very simply and is expressed very clearly by Philip Morris in a memo of 1987—listen to this:

> The 1982–1983 round of price increases prevented 500,000 teenagers from starting to smoke. This means that 420,000 of the nonstarters would have been Philip Morris smokers. We were hit hard. We don't need that to happen again.

There it is on the chart. There it is in 1982. This is the spike in the increase of price, and that is the drop in terms of teenage smoking.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I will take 1 more minute.

I say this is demonstrated right here as clear as can be. What we have seen is, as the price has gone up over a period of years, teenage smoking has gone down, except in 1982 when we had the wars, then we had the drop, and we see that incredible spike and the leveling years with $5 billion a year in tobacco advertising, getting those children, holding those children, addicting those children in this country.

Madam President, now is the time. Now is the time to speak up for the children of this country. Now is the time to speak out about public health. We have not heard all morning long, all last night, all yesterday, we have not heard the opposition give the name of one notable, credible public health official who denies what we have stated hour after hour about the dangers for the children of this country—not one. They can't answer it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. That is why this amendment should be accepted.

Mr. ROBB. Madam President, I rise in opposition to the amendment offered by the Senator from Massachusetts. I do so fully supporting what the authors of the amendment seek to achieve—a reduction in teen smoking.

I, too, want to keep tobacco out of the hands of children. And I'm convinced that the best way to achieve that goal is to pass a reasonable, comprehensive tobacco bill. I have not abandoned hope that such a reasonable bill can still be achieved. But I am convinced that this amendment will make it more difficult to pass comprehensive legislation, and I therefore will vote against it.

For over a year, I have been saying that I believe a resolution of these issues that have dogged the tobacco industry are in the best interests of all concerned, including children, public health advocates, tobacco farmers, workers and their communities, the states and yes, the companies. To achieve the delicate balance that is a prerequisite to enacting such a complex bill, however, we need to remain centered. If the bill becomes too punitive in the one direction, or too protective in the other, we will fail ultimately to take advantage of this historic opportunity to resolve these issues.

In that same spirit, I intend to oppose other amendments which would, if adopted, make final passage of a reasonable bill much less likely.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2427

Mr. KERRY. Madam President, I move to table the Ashcroft second-degree amendment No. 2427, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GRAMM. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. To ascertain the presence of a quorum, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Madam President, I ask unanimous consent that at the conclusion of the vote on the tabling of the Ashcroft amendment, the Senator from Texas be afforded 10 minutes to speak, at which point the vote on whatever might occur.

Mr. KENNEDY. Reserving the right to object, will the Senator restate that please?

Mr. KERRY. Madam President, the request is that we would vote on the tabling of the Ashcroft amendment now, at the conclusion of that there would be 10 minutes for the Senator from Texas to speak, at which point the manager for the majority, Senator McCain, would be recognized. That is my request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KERRY. I thank the Chair.

Mr. McCAIN. The yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question now occurs on agreeing to the motion to lay on the table the amendment offered by the Senator from Missouri, Senator Ashcroft. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. Smith) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 26, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—72

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Byrd
Campbell
Chafee
Cleland
Collins
Conrad
D'Amato
Daschle
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Grassley
Gregg
Harkin
Hatch
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McCain
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Smith (OR)
Snowe
Specter
Stevens
Thurmond
Torricelli
Wellstone
Wyden

NAYS—26

Allard
Ashcroft
Burns
Coats
Cochran
Coverdell
Craig
Domenici
Enzi
Faircloth
Gramm
Grams
Hagel
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
McConnell
Nickles
Sessions
Shelby
Thomas
Thompson
Warner

ANSWERED "PRESENT"—1

Lott

NOT VOTING—1

Smith (NH)

The motion to lay on the table the amendment (No. 2427) was agreed to.

Mr. KERRY. Madam President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized to speak for 10 minutes.

AMENDMENT NO. 2422

Mr. GRAMM. Madam President, we have had over a dozen Senators who have stood up and said that while the Kennedy amendment raises the effective tax on a pack of cigarettes to $1.50 per pack, it has absolutely nothing to do with money. Over and over, our colleagues have said this is not about money, it is about children. They say they don't want the money, they want the impact of higher cigarette prices to discourage children from smoking.

It seems to me, Madam President, that if that is in fact what they want, that there is a simple way to give it to them, and that is, we should attach to the Kennedy amendment a tax cut aimed at the very people who are paying this increase in the price of cigarettes. In doing that—may I have order?

Mr. KERRY. Madam President, I make a point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. We will not proceed until the Senate is in order. The Senator from Texas is entitled to be heard. The Senator's time will not begin until there is order.

The Senator from Texas.

Mr. GRAMM. Madam President, I thank the Presiding Officer.

Madam President, we have a dilemma in that our colleagues assure us that while this amendment raises hundreds of billions of dollars, that it is not about money. They say they don't want the money, they want the impact of higher cigarette prices. But yet the cold reality is, those prices are going to be paid in higher out-of-pocket costs by blue-collar workers all over America. Thirty-four percent of the cost of this tax increase that is now pending as an amendment here in the Senate will be borne by Americans who make less than $15,000 a year, Forty-seven percent of it will be borne by Americans who make less than $22,000 a year. And 60 percent of it will be borne by Americans who make less than $30,000 a year. None of this tax increase will be paid for by tobacco companies. Sixty percent of the tax increase will be paid for by Americans who make less than $30,000 a year.

So if the motion to table the Kennedy amendment fails and the Kennedy amendment remains pending, it would be my objective to offer, along with Senator DOMENICI, a second-degree amendment that will repeal the marriage penalty for working Americans in families that earn less than $50,000 a year. In doing so, Senator KENNEDY would have the higher cost of tobacco, but the same people who are paying that tax, while seeing the cost of cigarettes rise would, by having the marriage penalty eliminated, where Americans who fall in love and work at the same time and get married now end up paying higher taxes for the privilege of being married, have that penalty eliminated, so that we would still get the impact of a higher price on inducing children not to smoke.

But blue-collar working Americans, a waitress and a truck driver who are married and who both smoke, under this bill will pay an estimated $712 in new taxes, new excise taxes. We should give that money back to them in a tax cut so that we don't dramatically lower the living standards of blue-collar workers.

I want to remind my colleagues of the incredible fact that the amendment before us, the Kennedy amendment, will mean that Americans who make less than $10,000 a year will see their Federal taxes rise by 53 percent.

So I urge my colleagues, in this rush to tax tobacco companies, to remember that the Kennedy amendment does not tax tobacco companies, it taxes Americans who basically make less than $30,000 a year. It will drive up the Federal tax burden of those who make less than $10,000 a year by over 50 percent.

So I hope my colleagues will table the amendment. But if they don't table the amendment, Senator DOMENICI and I will offer an amendment which lets the tax increase stand but simply takes the money and gives it back to blue-collar working families who are, I have to remind my colleagues, the victims in this debate.

There is a terrible paradox that, instead of taxing the tobacco companies, we are taxing the very people who have been induced to smoke, and therefore the victims are being punished with an excruciating, bone-crushing tax increase so that a working couple will pay $712 in taxes a year as a result of the Kennedy amendment.

If, in fact, our colleagues are only interested in the impact on teenage smoking, then they won't object to the amendment that Senator DOMENICI and I are offering because we don't take the tax off, we simply say take that money, eliminate a discrimination in the Tax Code against married, working people, blue-collar families making less than $50,000 a year, and give them the money back. Also under our provision, we would adjust for the marriage penalty before you calculate the earned income tax credit so that the substantial amount of the benefits would go directly to those Americans who are making less than $10,000 a year who are going to see their Federal tax burden grow by over 50 percent under this bill.

I would like to first ask my colleagues to remember, this is not Joe Camel that this bullet is getting ready to hit. This is not a big tobacco company. This is Joe and Sara Brown, two hard-working Americans who have been induced to smoke. They are the victims in this whole process. And, yet, we are getting ready to take $712 a year out of their pockets. If we don't table this amendment—and I hope we do table it—Senator DOMENICI and I will offer an amendment that will take the money that is raised from this tax increase and we will give it back to the very people who are going to pay these higher taxes. But we will give it back to them by eliminating the marriage penalty, so that they will have to pay more for tobacco, and hopefully they will stop smoking. But they won't be poorer. They won't see their Federal tax burden go up by 50 percent. They won't be crushed by an oppressive and very, very punitive and regressive tax.

Let's remember, it is the victim of the process who is being assaulted by this amendment. I hope my colleagues will vote for the McCain motion to table it. But if they don't, Senator DOMENICI and I will try to give our colleagues what they claim they want. That is, they want the tax; they don't want the money. Well, let's give the money back to blue-collar working families in West Virginia, in Texas, in New Mexico and across the country who make less than $50,000 a year and who need every penny they get. They are the people who are outraged about the fact that they have been exploited by being induced to smoke and in many cases have become addicted to nicotine. They are the ones who are being harmed by the amendment we have before us.

I think the issue is clear. I hope my colleagues will not impose this massive tax increase of $712 on a blue-collar working family where both the husband and the wife smoke. I hope they will not crush them with this tax. But if they decide to, if they decide to do it, then Senator DOMENICI and I will have an amendment to give the money back to married taxpayers by eliminating the marriage penalty for American families that earn less than $50,000 a year, and we will make the adjustment above the line so that those who receive the earned income tax credit, the poorest people in America who work, will receive the benefit of our tax cut.

I yield the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I am going to make a motion to table the Kennedy amendment. Before I do, I would like to, for the benefit of my colleagues who would like to know what is going on here, say our intention is—and none of this is by unanimous consent—but our intention is to move to the Senator from New Hampshire, Senator GREGG, who has an amendment concerning immunity.

In our custom of going back and forth, since Senator GRAMM was the last speaker, I would like to have Senator KERREY of Nebraska be able to speak for about 15 minutes. Then we would move to Senator GREGG.

I would like to have a vote on that tonight. But I also urge my colleagues to come and talk on the bill as well as its amendment, because I have been told by Members on both sides of the aisle that there is great frustration that they have not been able to address the entire bill, much less amendments.

I intend to stay tonight as long as is necessary. I will force the Senator from Massachusetts to do the same thing, and we will try to get as much debate and discussion of this very important bill before we leave tonight.

Madam President, at this time I move to table the Kennedy amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT (When his name was called). Present.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—58

Abraham
Allard
Ashcroft
Bennett
Bond
Breaux
Brownback
Burns
Byrd
Campbell
Cleland
Coats
Cochran
Collins
Coverdell
Craig
DeWine
Domenici
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Kempthorne
Kerrey
Kyl
Mack
McCain
McConnell
Mikulski
Murkowski
Nickles
Reid
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner

NAYS—40

Akaka
Baucus
Biden
Bingaman
Boxer
Bryan
Bumpers
Chafee
Conrad
D'Amato
Daschle
Dodd
Dorgan
Durbin
Glenn
Graham
Grassley
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Moseley-Braun
Moynihan
Murray
Reed
Rockefeller
Sarbanes
Smith (OR)
Snowe
Specter
Wellstone
Wyden

ANSWERED "PRESENT"—1

Lott

NOT VOTING—1

Smith (NH)

Mr. McCAIN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS CONSENT AGREEMENT—VETO MESSAGE ON S. 1502

Mr. LOTT. Mr. President, we have cleared this with all concerned parties, including the Democratic leadership.

I ask unanimous consent that the veto message to accompany S. 1502 be considered as read, printed in the RECORD, and spread in full upon the Journal, and further, that it be set aside to be called up by the majority leader after consultation with the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I am returning herewith without my approval S. 1502, the "District of Columbia Student Opportunity Scholarship Act of 1998."

If we are to prepare our children for the 21st Century by providing them with the best education in the world, we must strengthen our public schools, not abandon them. My agenda for accomplishing this includes raising academic standards; strengthening accountability; providing more public school choice, including public charter schools; and providing additional help to students who need it through tutors, mentors, and after-school programs. My education agenda also calls for reducing class size, modernizing our schools and linking them to the Internet, making our schools safe by removing guns and drugs, and instilling greater discipline.

This bill would create a program of federally funded vouchers that would divert critical Federal resources to private schools instead of investing in fundamental improvements in public schools. The voucher program established by S. 1502 would pay for a few selected students to attend private schools, with little or no public accountability for how those funds are used, and would draw resources and attention away from the essential work of reforming the public schools that serve the overwhelming majority of the District's students. In short, S. 1502 would do nothing to improve public education in the District of Columbia. The bill won't hire one new teacher, purchase one more computer, or open one after-school program.

Although I appreciate the interest of the Congress in the educational needs of the children in our Nation's Capital, this bill is fundamentally misguided and a disservice to those children.

The way to improve education for all our children is to increase standards, accountability, and choice within the public schools. I urge the Congress to send me legislation I have proposed to reduce class size, modernize our schools, end social promotions, raise academic standards for all students, and hold school systems, schools, and staff accountable for results.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 20, 1998.*

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, we have had a good bit of discussion today and two very important votes. I hope that we can move on now to some other amendments that really are important and will determine how this legislation is eventually written.

I thank Senators again for keeping calm and working through this. The managers are working very diligently. I emphasize again to my colleagues, while I think every Senator obviously needs to have the time and will have the time he or she needs to make a statement, I do think it would be wise if you can say what you have to say and we can move on. To go for an extended period of time on an amendment 2, 3, 4, 5 hours is going to make it very difficult to ever get a satisfactory result.

I hope Senators will agree to some reasonable time limits. I am not going to ask for a unanimous consent agreement now. I don't think it is necessary, but I will suggest the form that we might take in a consent agreement as to how to proceed.

It is my hope that Senator GREGG from New Hampshire will be recognized next to offer his amendment, with Senator LEAHY, regarding immunity. Senator GREGG and Senator LEAHY have been circling the area since we started. They are ready to go. The debate should last the rest of this session today. It is my hope that the vote on, or in relation to, that amendment can be scheduled to occur first thing on Thursday morning—I mean early—so we can move to the next amendment, which will come from the Democratic side. Senator DASCHLE and Senator KERRY will have to decide what amendment that will be.

Following the disposition of that amendment offered by the Democrats, then I hope the Senate will consider the farmers' protection issue and debate it, have a vote on that issue or issues in a way, hopefully, that is agreeable and as fair as possible to both sides of that issue. Then we will really have a feel for where we are and can make an assessment about time and where to go from there.

I hope that Senators are comfortable with that. I think that it is a fair way to proceed alternating back and forth. We are not ducking the tough issues. This last amendment was a key amendment. This next amendment is a key amendment. The farmers' amendment is critical to all concerned. So I hope this will be acceptable and we can move in this way. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, that is, I think, a superb way to proceed. It is the way we have been trying to proceed. I thank the majority leader for trying to structure it that way.

There was an understanding prior to that that the Senator from Nebraska will proceed for 15 minutes, at which point Senators GREGG and LEAHY will be recognized for their amendment.

Mr. LEAHY. Mr. President, I have no objection to that.

Mr. KERRY. I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I thank both the Senator from Arizona and the Senator from Massachusetts for allowing me to speak.

I have come to the floor to speak about the tobacco bill. I began several months ago to have conversations with Nebraskans about this legislation. The first question I was asked is, Why do we need it? What has happened here? All of a sudden we have a $368 billion to a $516 billion piece of legislation being introduced and people want to know how we got to where we are today.

I would like to describe, at least as I see it, how we got to where we are today in May of 1998, from a point just as recently as 2 years ago when there was no piece of legislation on the floor even remotely approaching something like this. "Why all of a sudden is Congress taking on something like this," is the question I get asked. I will try to give Nebraskans an answer.

The second question I get asked is, "What are we going to do? What is the purpose here?" On behalf of 1,600,000 Nebraskans, I will describe what this law is attempting to do, what is the piece of legislation which Senator McCAIN and Senator KERRY have brought before this body all about.

The short answer to the question "How did we get to this point?" is that there was a potential lawsuit. There was litigation that was being proposed by States' attorneys general against tobacco companies. There was an attempt through the discovery process to get internal tobacco industry documents, and one of the tobacco companies said, "We'll provide you the information you need to proceed with your case because we are concerned that what we know is going to be discovered anyway, that there was an effort to withhold information from the American people."

What happened, in addition to some changes in State law, is that on the 20th of June, 1997, there was an agreement—it was not even a year ago—with 40 attorneys general in the United States and the tobacco industry.

What they agreed to, Mr. President, on the 20th of June 1997, is very important, especially now that the tobacco companies have broken off from the settlement and are now advertising against this legislation in our States.

Again, I emphasize that the reason we are debating this tobacco bill today is not because the tobacco industry is afraid of Congress, and what we may do to them. Rather, they are afraid of 12 faceless men and women of a jury. They are worried about the evidence being introduced and now stipulated in court, showing that the tobacco industry knew nicotine was addictive and lied about it. They were, and still are worried about what a jury would do with this evidence. They were, and still are scared that a jury will end up costing them a whole lot of money. That was the power that produced this offer to settle at $368 billion.

That begs a question that Nebraskans need to try to answer. What was in that initial offer to settle? What were the tobacco companies willing to do back on the 20th of June 1997?

First of all, they agreed to pay $368 billion over 25 years. They said they would make annual payments starting at $10 billion, going up to $15 billion by year 5, and every year thereafter.

Although they do not spell it out in terms of a per-pack price increase like you hear them advertising against today, to make the $15 billion-per-year payment, the tobacco industry would have raised the price of cigarettes by approximately 62 cents a pack. Less than a year ago, they, not Congress, were going to raise the price of cigarettes by 62 cents a pack. Yet now, less than a year later, they have launched this huge advertising campaign trying to convince you that Congress is the bad guy trying to raise your taxes. They did this to settle lawsuits that they were afraid of.

Indeed, the next amendment that we are going to talk about is their liability. They were concerned about future liability, and they were willing to pay out $15 billion a year, costing smokers about 62 cents a pack, so they would not have to worry about it anymore.

They also agreed to pay $50 billion up front in punitive damages, meaning for all their past wrongs that they knew they were guilty of about misleading the American people, about nicotine's addictiveness, and marketing to our children.

Next, they agreed to let the FDA regulate nicotine as a drug. Next, they agreed to pay huge fines if goals of reducing teen smoking were not met. And, finally, they agreed to restrict their advertising and marketing to youth.

I say, Mr. President, that almost all of what I have just described is in this tobacco bill. That is what the Commerce Committee has voted out of Committee, and that is what we are debating on the floor today. Yet, less than a year after the tobacco settlement, the tobacco industry is spending millions of dollars trying to convince the American people that they had nothing to do with any of this and that Congress is the bad guy. This is the message they have paid lots of money to convince the people of. I have seen it in their television ads, on postcards that are being mailed in to my office, and from the thousands of phone calls that I have received. Everything that they are objecting to, and convincing others to object to, they agreed to back on the 20th of June 1997.

A lot has happened since that settlement, Mr. President, that has caused significant change to this legislation. First, the tobacco industry settled a suit in Florida for $11 billion, they settled a suit in Texas for $15.3 billion—but the settlement that really changed the level of the playing field that we are on today was the one that happened 12 days ago in Minnesota on the 8th of May. After 3 months of a closely watched trial, just hours before the jury was going to get the case, Attorney General Hubert Humphrey III and the tobacco industry settled the case for $6.5 billion.

There were lots of firsts in this settlement. This was the first settlement with a health insurance provider, in this case Blue Cross and Blue Shield, getting $469 million of the $6.5 billion.

This was the first settlement where the tobacco industry signed a consent promising not to misrepresent the health hazards of smoking.

And perhaps most significantly, this was the first settlement where the State received more money than it would have collected under the $368 billion settlement last June.

The $6.1 billion they settled on 12 days ago is 50 percent more than the $4 billion they would have received under last summer's settlement. This is significant. This is the justification for going from 62 cents to $1.10 per pack. This is the justification for increasing the total amount that we are asking the tobacco industry to pay into the tobacco trust.

Already, the tobacco industries have said they will raise prices to help defray some of their legal expenses. Indeed, in the past 9 months cigarette prices have been raised about 20 percent to help offset the tobacco industry's legal bills.

Again, Mr. President, I tell you the history of this bill because it is important to understand how we got to where we are today. A single tobacco company broke away from the rest and disclosed information that enabled us to get a settlement on the 20th of June 1997. There has been additional settlements in Texas, in Florida, and most significantly in Minnesota that increased the dollar amounts from the base level agreement that was formed on the 20th of June 1997.

Mr. President, the next issue to discuss, this bill and the goals of this bill, is a bit more difficult because things are changing at such a rapid pace. The way I see it, from talking to Nebraskans about this, is that the goal of this legislation is clear. We need to prevent teenagers from starting to smoke and to help those Americans who do smoke and want to quit.

Why, Mr. President? Well, there are a couple of reasons why. The most important one of which is that we now know, stipulated in court documents, that nicotine is addictive. It is not habit forming, Mr. President. It is addictive. And the qualities of the addictive property of nicotine, taken together with the toxins that are contained in the tobacco itself, create a tremendous public health problem.

I have 352,000 Nebraskans who smoke. I do not just want to raise the prices on those Nebraskans to try to decrease the amount of consumption, along with FDA regulation and advertising and other sorts of things. I want to make certain that the money in this bill helps them stop smoking.

Now, that should be our crusade. That should be our cause. Tobacco kills prematurely nearly 400,000 people every year. Approximately 2,700 of these are Nebraskans.

Tobacco consumption produces tremendous health problems for the 352,000 Nebraskans who smoke. And the best way for me to mitigate the problem associated with an increased price is to give them a tax cut by helping them stop smoking so their medical costs and lost wages from missed work will be lower. My belief is, as we examine not only what this legislation does in terms of regulation, in terms of advertising, in terms of restrictions on smoking in public places to make sure that we reduce the number of people who become involuntary smokers as a result of inhaling secondhand smoke, is that we pay attention to how the money is spent. This is so we have some confidence that in our individual States those citizens out there who are currently smoking, who are addicted to nicotine as a consequence, that those individuals have a chance to get off this addiction that is reducing the quality of their health and decreasing their life spans.

Mr. President, I examined the numbers in Nebraska. And 25 percent of the men in Nebraska smoke; 19 percent of women smoke; 39 percent of all my teenagers smoke. Nebraskans without a college degree are nearly twice as likely to smoke as those with a college degree. A third of Nebraskans with an income of $15,000 or less smoke compared to only 15 percent of those who earn $50,000 or more.

Again, Mr. President, tobacco is killing my people. And 2,700 of the people who prematurely die every single year in the United States of America are Nebraskans. It is addictive. It causes a physical compulsion, a physical need. Taken in small doses, nicotine produces pleasurable feelings that make the smoker want to smoke more. A majority of smokers who become dependent on nicotine will suffer both physical and psychological withdrawal symptoms when they stop smoking.

Their symptoms are going to include nervousness, headaches, irritability and difficulty in sleeping, among other things.

Mr. President, a couple of weeks ago I met with 10 or 12 high school students in Burke High School in Omaha, NE. And I talked to them about this problem of addiction. I think about 7 of the 12 were smokers. One of the students explained to me that "A cigarette," she said, "is my friend." She is 16 years old. "A cigarette," she said, "is my friend . . . it is always there for me: When I'm driving in my car, when I'm stressed out, when I'm going through a crisis . . . cigarettes don't go out of town, I can count on them no matter what."

I asked about 100 students to fill out a questionnaire about tobacco. And one of the more disturbing results in their answers was that the overwhelming majority of the current smokers said that although they smoked today at age 16, and though some may continue smoking until they are 18, the overwhelming majority of these students said. "We're going to quit."

Well, Mr. President, because unbeknownst to them—and until recently the tobacco companies were not stipulating that nicotine is addictive; now it is universally recognized that it is—unbeknownst to these students, they are addicted. They have a physical craving for something and it is going to be very difficult for them to stop. Unbeknownst to them, 90 percent of the 352,000 Nebraskans who smoke started smoking when they were teenagers. That is when it began.

So unbeknownst to them, they may think they are going to quit, but unless we intervene, and unless we help them—and hopefully through this legislation we can help them—they are going to have a heck of a time kicking this addiction.

Mr. President, cigarette smoking is harmful. Cigarette smoking, we now know, is not only addictive, but taken as directed it is likely to decrease your life span, likely to shorten not only your ability to work, but shorten your time on Earth as well.

Mr. President, I intend during the course of the debate on this legislation to focus my attention on a number of things.

One, this legislation must prevent teen smoking. It must reduce the amount of teen smoking. I think perhaps one of the most important things we are doing is giving FDA the authority to regulate.

I was practicing pharmacy back when dinosaurs roamed the Earth in 1965, when Congress was debating whether or not to regulate Dexedrine, 15 milligrams. This was a weight loss pill. It was the most rapidly moving pharmaceutical in my drugstore in 1965. You could get a prescription from a doctor and refill it every other day if you wanted to for 500 Dexedrine. And the pharmaceutical industry was saying, "No. It is habit forming; it is not addictive." Today, through FDA regulation, Dexedrine 15 milligrams is available only for narcolepsy, and only small amounts are sold. I think the most likely reduction of teen smoking is going to occur not through the price increase, but through FDA regulation.

In addition, Mr. President, I intend to bring amendments to the floor to say that we have to make certain that we have community-based efforts in our States to reduce smoking of the adults out there who are also addicted. It has to do that. It cannot be a top-down effort. It has to be a community-based effort. The citizens are more likely to know what needs to be done. I believe every single State needs to have some kind of a research scholar connected to NIH to lead us in this effort.

This is a tremendous public health problem. It has come upon us, the history of the bill and the seriousness of this problem, relatively quickly. I am hopeful we can make certain this legislation gives us a fighting chance in my State, at least not just of increasing prices and increasing the regulatory action, but of engaging the citizens themselves and the smokers themselves in a serious challenge of trying to break themselves from this habit.

Finally, I know we are going to be debating on this floor the provisions relating to the tobacco farmers. I am of the opinion that tobacco farmers need some assistance. It was not in the original settlement. I praise Senator FORD and Senator HOLLINGS for their work in trying to get provisions in there, but I believe these provisions are too generous and we need to scale them back. It is difficult for me in a State that grows corn, soybeans, wheat, barley, and lots of other products—under the Freedom to Farm Act they are getting substantially less than what tobacco farmers will be getting out of the program. I can make a case tobacco farmers ought to get more, but I cannot make a case they ought to be given all that is in this bill.

It is my hope that during the course of this constructive debate we are able to pass a piece of legislation that will increase regulation, that will increase the price, will increase our involvement in our community and decrease the consumption and the addiction to a substance which is killing our people.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 2433 TO MODIFIED COMMITTEE SUBSTITUTE

(Purpose: To modify provisions relating to civil liability for tobacco manufacturers)

Mr. GREGG. Mr. President, I send an amendment to the desk on behalf of myself and Senator LEAHY.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself and Mr. LEAHY, proposes an amendment numbered 2433 to the modified committee substitute.

Mr. GREGG. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In title XIV, strike section 1406 and all that follows through section 1412 and insert the following:

SEC. 1406. RESOLUTION OF AND LIMITATIONS ON CIVIL ACTIONS.

(a) STATE ATTORNEY GENERAL ACTIONS.—

(1) PENDING CLAIMS.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall resolve any civil action seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions that have been commenced by the State against a tobacco product manufacturer, distributor, or retailer that is pending on the date of enactment of this Act.

(2) FUTURE ACTIONS BASED ON PRIOR CONDUCT.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall agree that the State will not commence any new tobacco claim after the date of enactment of this Act (other than to enforce the terms of a previous judgment) that is based on the conduct of a participating tobacco product manufacturer, distributor, or retailer that occurred prior to the date of enactment of this Act, seeking recovery for expenditures attributable to the treatment of tobacco induced illnesses and conditions against such a participating tobacco product manufacturer, distributor, or retailer.

(3) APPLICATION TO LOCAL GOVERNMENTAL ENTITIES.—The requirements described in paragraphs (1) and (2) shall apply to civil actions commenced by or on behalf of local governmental entities for the recovery of costs attributable to tobacco-related illnesses if such localities are within a State whose attorney general has elected to resolve claims under paragraph (1) and enter into the agreement described in paragraph (2). Such provisions shall not apply to those local governmental entities that are within a State whose attorney general has not resolved such claims or entered into such agreements.

(b) STATE AND LOCAL OPTION FOR ONE-TIME OPT OUT.—

(1) IN GENERAL.—The Secretary shall establish procedures under which the attorney general of a State may, not later than 1 year after the date of enactment of this Act, elect not to resolve an action described in subsection (a)(1) or not to enter into an agreement under subsection (a)(2). A State whose attorney general makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a State to make such an election on a one-time basis.

(2) EXTENSION.—In the case of a State that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in an action described in subsection (a)(1) prior to or during the period described in paragraph (1), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary.

(3) APPLICATION TO CERTAIN STATES.—A State that has resolved a tobacco claim described in subsection (a)(1) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in paragraph (1) if, as part of the resolution of such claim, the State agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(4) LOCAL GOVERNMENTAL ENTITY OPTION FOR ONE-TIME OPT OUT.—

(A) IN GENERAL.—The Secretary shall establish procedures under which the attorney for a local governmental entity which commenced a civil action prior to June 20, 1997, against a participating tobacco product manufacturer, distributor, or retailer seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions, not later that 1 year after the date of enactment of this Act, may elect not to resolve any action described in subsection (a)(3). A local governmental entity whose attorney makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a local governmental entity to make such an election on a one-time basis.

(B) EXTENSION.—In the case of a local governmental entity that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in a claim described in subsection (a)(3) prior to or during the period described in subparagraph (A), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary.

(C) APPLICATION TO CERTAIN LOCAL GOVERNMENTAL ENTITIES.—A local governmental entity that has resolved a claim described in subsection (a)(3) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in subparagraph (A) if, as part of the resolution of such claim, the local governmental entity agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(c) ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.—

(1) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(2) CASTANO CIVIL ACTIONS.—

(A) IN GENERAL.—The rights and benefits afforded in section 221 of this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute a remedy for the purpose of determining civil liability as to those addiction or dependence claims asserted in the Castano Civil Actions. The Castano Civil Actions shall be dismissed to the extent that they seek relief in the nature of public programs to assist addicted smokers to overcome their addiction or other publicly available health programs with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions in accordance with this Act.

(B) ARBITRATION.—For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(C) PAYMENT OF AWARDS.—The participating tobacco product manufacturers shall pay the arbitration award.

(d) RULES OF CONSTRUCTION.—

(1) POST ENACTMENT CLAIMS.—Nothing in this title shall be construed to limit the ability of a government or person to commence an action against a participating tobacco product manufacturer, distributor, or retailer with respect to a claim that is based on the conduct of such manufacturer, distributor, or retailer that occurred after the date of enactment of this Act.

(2) NO LIMITATION ON PERSON.—Nothing in this title shall be construed to limit the right of a government (other than a State or local government as provided for under subsection (a) and (b)) or person to commence any civil claim for past, present, or future conduct by participating tobacco product manufacturers, distributors, or retailers.

(3) CRIMINAL LIABILITY.—Nothing in this title shall be construed to limit the criminal liability of a participating tobacco product manufacturer, distributor or retailer or its officers, directors, employees, successors, or assigns.

(e) DEFINITIONS.—In this section:

(1) PERSON.—The term "person" means an individual, partnership, corporation, parent corporation or any other business or legal entity or successor in interest of any such person.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

Mr. GREGG. Mr. President, this amendment has received a fair amount of attention and I believe is fairly well understood by most of the membership, but it is important that we have a substantive discussion of it and an open debate of it over the next couple of hours. As I understand, Senator MCCAIN has allotted that type of a time window. I very much appreciate that.

I want to thank Senator MCCAIN for his courtesy in allowing us to put this amendment in order at this time, and certainly I appreciate the manner in which he has managed this bill in such a fair way.

The immunity issue is really at the essence of this bill and the public policy which this bill addresses. What we have here is an industry which produced a product which it knew killed people. It is an industry that produced a product which it knew addicted people. In fact, it created additives to that product so it would addict people at a higher rate than were the product sold in its natural state. Then, knowing that it had a product that killed people, and knowing that it had a product that addicted people, it then targeted the sales of that product on our kids.

That is an industry which deserves very little in the way of courtesy or support or protection—and that is what this amendment is about, "or protection"—from the U.S. Congress. Yet, within this bill there is proposed language which would give a historic, unprecedented protection to the tobacco industry from liability on their lawsuits.

Now, we have addressed this issue before in this body. In fact, not too long ago there was a sense of the Senate which said there shall be no immunity for the tobacco industry. That sense of the Senate passed the Senate by a 79 to 19 vote. This amendment is the real thing. It is calling to account that sense of the Senate.

Now, the question here goes to the manner in which we, as a country, sell products. We are inherently the most capitalist, market-oriented economy in the world. As a result, we have been the most prosperous society in the world economically. What this amendment is about is maintaining a capitalist marketplace approach to the issue of the sale of a product in our society.

What this bill does in its present form is institute an antimarket, anticapitalist approach into the process of producing and selling a product in this society. It gives an artificial, inappropriate, legislative protection to an industry from what has been the traditional way in which consumers have a right of redress against that industry.

Remember, in our society when a consumer, when John and Mary Jones from Epping, NH, are sold a product that doesn't work, they have a variety of different avenues to address the failure of that product. Should that product harm them, one of their most appropriate avenues is to go to court to bring an action against the producer of that product and to get a recovery. That has been basically one of the essential elements for disciplining the marketplace in our capitalist society. We have not, as has been pursued in other nations, especially those that use a Socialist form of management of their marketplace, we have not had the Federal Government or any government come in and tell a consumer what they can and cannot buy, except in very limited instances. And we have certainly not limited that consumer's ability to recover should they be sold a product that doesn't work or that harms them.

The right of redress in the court system, the right of redress for a consumer, is at the essence of having a competitive marketplace and a disciplined marketplace. When you eliminate that right of redress, which this bill does, when you take away the ability of the consumer, of the person who has been damaged, of John and Mary Jones of Epping, NH, to get a recovery for an injury they have received, you have artificially preserved the marketplace. But more importantly, you have given a unique, historic, and totally inappropriate protection to an industry.

Now, let's think about this for a minute. Why would the Federal Government at any point in its history want to step in and bar the ability of the consumer to use the judicial method of protecting themselves in the marketplace? There might be instances where that would happen—national defenses might be an example. Under our law, once we did that in the area of people working at nuclear weapons factories. There was a national defense issue.

Or it might occur if a product was deemed so beneficial that it was important to protect it. In those instances, of course, we have a situation where the Government raises the visibility of the need to protect the society as a whole over the individual. That has never happened. We have never found a product that was so beneficial. Or if we have, it has only occurred in the rarest of instances, so beneficial that we give that sort of protection. So that is a very unusual protection, to say the least.

But what we have here is the granting of a significant, unusual protection of immunity to an industry that produces tobacco, which, as I mentioned in my opening statement, is a product that kills people, that addicts kids, and addicts people and is targeted at kids. It is very strange that we should pick that industry for which to give this sort of protection.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2434 TO AMENDMENT NO. 2433

(Purpose: To modify provisions relating to civil liability for tobacco manufacturers)

Mr. GREGG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 2434 to amendment No. 2433.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

In title XIV, strike section 1406 and all that follows through section 1412 and insert the following:

SEC. 1406. RESOLUTION OF AND LIMITATIONS ON CIVIL ACTIONS.

(a) STATE ATTORNEY GENERAL ACTIONS.—

(1) PENDING CLAIMS.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall resolve any civil action seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions that have been commenced by the State against a tobacco product manufacturer, distributor, or retailer that is pending on the date of enactment of this Act.

(2) FUTURE ACTIONS BASED ON PRIOR CONDUCT.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall agree that the State will not commence any new tobacco claim after the date of enactment of this Act (other than to enforce the terms of a previous judgment) that is based on the conduct of a participating tobacco product manufacturer, distributor, or retailer that occurred prior to the date of enactment of this Act, seeking recovery for expenditures attributable to the treatment of tobacco induced illnesses and conditions against such a participating tobacco product manufacturer, distributor, or retailer.

(3) APPLICATION TO LOCAL GOVERNMENTAL ENTITIES.—The requirements described in paragraphs (1) and (2) shall apply to civil actions commenced by or on behalf of local governmental entities for the recovery of costs attributable to tobacco-related illnesses if such localities are within a State whose attorney general has elected to resolve claims under paragraph (1) and enter into the agreement described in paragraph (2). Such provisions shall not apply to those local governmental entities that are within a State whose attorney general has not resolved such claims or entered into such agreements.

(b) STATE AND LOCAL OPTION FOR ONE-TIME OPT OUT.—

(1) IN GENERAL.—The Secretary shall establish procedures under which the attorney general of a State may, not later than 1 year after the date of enactment of this Act, elect not to resolve an action described in subsection (a)(1) or not to enter into an agreement under subsection (a)(2). A State whose attorney general makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a State to make such an election on a one-time basis.

(2) EXTENSION.—In the case of a State that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in an action described in subsection (a)(1) prior to or during the period described in paragraph (1), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(3) Application to certain states.—A State that has resolved a tobacco claim described in subsection (a)(1) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in paragraph (1) if, as part of the resolution of such claim, the State agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(4) Local governmental entity option for one-time opt out.—

(A) In general.—The Secretary shall establish procedures under which the attorney for a local governmental entity which commenced a civil action prior to June 20, 1997, against a participating tobacco product manufacturer, distributor, or retailer seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions, not later that 1 year after the date of enactment of this Act, may elect not to resolve any action described in subsection (a)(3). A local governmental entity whose attorney makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a local governmental entity to make such an election on a one-time basis.

(B) Extension.—In the case of a local governmental entity that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in a claim described in subsection (a)(3) prior to or during the period described in subparagraph (A), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(C) Application to certain local governmental entities.—A local governmental entity that has resolved a claim described in subsection (a)(3) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in subparagraph (A) if, as part of the resolution of such claim, the local governmental entity agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(c) Addiction and Dependency Claims; Castano Civil Actions.—

(1) Addiction and dependence claims barred.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(2) Castano civil actions.—

(A) In general.—The rights and benefits afforded in section 221 of this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute a remedy for the purpose of determining civil liability as to those addiction or dependence claims asserted in the Castano Civil Actions. The Castano Civil Actions shall be dismissed to the extent that they seek relief in the nature of public programs to assist addicted smokers to overcome their addiction or other publicly available health programs with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions in accordance with this Act.

(B) Arbitration.—For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(C) Payment of awards.—The participating tobacco product manufacturers shall pay the arbitration award.

(d) Rules of Construction.—

(1) Post enactment claims.—Nothing in this title shall be construed to limit the ability of a government or person to commence an action against a participating tobacco product manufacturer, distributor, or retailer with respect to a claim that is based on the conduct of such manufacturer, distributor, or retailer that occurred after the date of enactment of this Act.

(2) No limitation on person.—Nothing in this title shall be construed to limit the right of a government (other than a State or local government as provided for under subsection (a) and (b)) or person to commence any civil claim for past, present, or future conduct by participating tobacco product manufacturers, distributors, or retailers.

(3) Criminal liability.—Nothing in this title shall be construed to limit the criminal liability of a participating tobacco product manufacturer, distributor or retailer or its officers, directors, employees, successors, or assigns.

(e) Definitions.—In this section:

(1) Person.—The term "person" means an individual, partnership, corporation, parent corporation or any other business or legal entity or successor in interest of any such person.

(2) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

Mr. GREGG. Mr. President, the amendment is a second-degree amendment, which simply perfects the amendment I offered, the underlying amendment. I will give a copy of the changes to the other side. I don't think they will find that they change the basic thrust of the original amendment.

As I was discussing, the amendment goes to the question of immunity and why we would choose, for the first time in the history of this country, to grant immunity to an industry from lawsuits, which basically changes the whole concept of the marketplace system in our country—why we would choose the tobacco industry to which to give that immunity. It is just beyond comprehension that an industry that produces a product that kills people, which they designed to addict kids, would be chosen as the industry to which we are going to give immunity protection. It makes absolutely no sense. It skews the marketplace. I simply point out to those who might be of a conservative philosophy and may be following this argument that to have done this is an absolute affront to the concept of capitalism and a free market society.

Now, there is an attempt in the bill to address the liability that tobacco companies generate as a result of their action—an $8 billion cap. Some will tell us that is a lot of money and that should satisfy everyone as a manner in which to redress the concerns of the consumer, of the individuals, of the kids, of the parents, the mom and pops, who have been damaged by the tobacco companies. And $8 billion is a huge amount of money on an annual cap for recovery on the loss. But it obviously isn't what the market sees as the potential liability here. Otherwise, there would not be a cap in the first place. So by its very definition it is an affront to the concept of a market-type approach to the selling of products in this country.

Equally important is the way this cap works. It gives a disproportionate amount of power to the tobacco companies to decide who the winners and losers are, because it is essentially a race to the courthouse. The tobacco companies, under the proposal in this bill, would control who gets to the courthouse first. If they decided the XYZ lawsuit was more amenable to them to settle than the ABC lawsuit, or Mary Smith's lawsuit was less desirable to them, for some reason, than Hank Jones', they can settle the ABC lawsuit, the XYZ lawsuit, and the Mary Smith lawsuit, but they cannot settle the Hank Jones lawsuit, they can make him litigate. And, by the time he is finished, they have settled these other ones and, poof, the $8 billion is gone. So not only does it have the total irony of perverting the marketplace, it has the irony of giving the tobacco industry the capacity to choose who the winners and losers are in the process of determining people who are suing them for being caused physical damage.

Can you think of anything more ironic? You have been damaged, your health has been destroyed, or maybe someone in your family has died as a result of the tobacco industry's actions, or some child was addicted and that child dies and the tobacco company gets to choose whether or not that person is going to be a winner under the lawsuit process. How unbelievably ironic and absurd that is. But that is the way this cap works. This is just one of the many, many technical problems with the concept of a cap, because what I think it reflects is the idea that when you put an artificial cap into a huge, dynamic economy like the United States', you are basically creating all sorts of unintended consequences that don't flow naturally in a capitalist system. Much more appropriate is that you allow the capitalist system to proceed in its usual and orderly course.

Now, others will say, well, if you don't have immunity, then you inevitably drive these companies into bankruptcy. To begin with, we don't have any idea that that is true. What we know is that these industries are extraordinarily profitable. We know that, right now, they are pursuing major buy-backs. Philip Morris, an $8 million buy-back; RJR, a buy-back of its stock. When you start buying back your stock as a corporate leader, you are saying your stock is undervalued. If your stock is undervalued, it is the ultimate test that in the future you have a better chance of progressive sales and a strong market force for your industry.

So the concept that if they don't have immunity, they are going to end up going bankrupt, I think the marketplace has discounted and rejected that and said that is not going to happen. In fact, there is a tremendous earning capacity out there, and we already know there is a tremendous capacity to pass on to the consumer, because that is the theme of this bill—to pass on to the consumer a significant part of the cost. As long as they can pass through that cost, it doesn't impact them at all, doesn't impact their capacity at all.

So from a substantive standpoint, bankruptcy doesn't make any sense as a defensive argument to this. But just from a purely logical standpoint, it even makes less sense. Think about it this way. We are saying that to save the industry from bankruptcy we have to put on this cap. But at the same time, we have to tax it. The reason we are taxing it is to discourage people from consuming the product. And the logical extension of that is that if you are successful in taxing people and managing to discourage them from using the product, you are going to reduce utilization, which one presumes would inevitably lead to the collapse of the industry and potentially bankruptcy.

So the bill, by its very nature, is inherently saying that the options of bankruptcy are there, but they are going to do it on a different system—through the tax system. Yet, they won't allow the marketplace to make that decision. They won't allow the marketplace to decide whether or not this industry survives, which is the way, traditionally, we have done it in this country. We don't traditionally say to an industry, well, you are about to go bankrupt, which is something that this industry can't say, certainly in light of what it is doing with stock values—so we, the Federal Government, are going to step in and give you unique protection; we are going to give you liability protection. And we certainly don't say it to an industry that has produced a product that kills people and has addicted them.

For those people who don't believe this industry knew their product was addictive, I will cite a few quotes. We have here quotes from the Brown & Williamson documents, disclosed as a result of the Minnesota case, and from documents of RJR. Brown & Williamson in 1978—that is a long time ago; this wasn't just yesterday:

> Very few consumers are aware of the effects of nicotine, i.e., its addictive nature, and that nicotine is a poison.

These folks knew a long time ago that they were selling an addictive product that killed people. This is a quote from RJR:

> Tobacco companies are basically in the nicotine business. . .Effective control of nicotine in our products should equate to a significant product performance and cost advantages.

That is a pretty cynical statement. It reflects the fact that the tobacco industry knew they were selling an addictive product.

> Nicotine is the addicting agent in cigarettes.

The evidence is beyond question. They knew that it was a poison, that it killed people, and they knew it was addictive.

Second, there are some who may say, "Well, they don't really target kids." That is very hard to defend also because the facts speak for themselves from their own documentation. They look on kids as their source of future revenues.

This is from the RJR documents of 1974:

> Let's look at the growing importance of the young adult in the cigarette market. In 1960, this young adult market, the 14-24 group, represented 21 percent of the population . . . they will represent 27 percent of the population in 1975. They are tomorrow's cigarette business.

How cynical could you be? Let's first produce a product that kills you, let's make it addictive, and then let's target it at kids.

Mr. KERRY. Will the Senator be willing to yield for a question?

Mr. GREGG. I would like to complete my statement, and then I will yield.

In 1974, "Marlboro dominates in the 17 and younger age category, capturing over 50 percent of the market."

Obviously, Philip Morris knew that Marlboro was making money in that area.

I will not read the next statement, but it has the same context. Kids were the target.

So we have here, as I mentioned earlier, the concept that we are going to be giving immunity, for the first time in our history, to an industry. What industry do we pick? Do we pick the people who are making heart valves so you can live longer? Do we pick an industry that makes hip joints to make you live longer? Do we pick the industry that is making a drug that will maybe make your life easier? Do we pick an industry that makes cars so you can get places faster? No. We pick an industry which targets kids with a poisonous product that they made addictive. And they knew it all along.

The last argument that we hear is, we can't do this bill unless we have the tobacco companies cooperate, and we can't have cooperation unless we have some sort of immunity for the tobacco companies, unless we give them this historic new authority and protection.

First off, that is not true. The vast majority of the advertising controls that we think are needed can be done without the tobacco companies' participation. Yes, there are some issues of the first amendment that we can't step over. But for the most part, we can do a great deal to limit their access, especially to kids.

Second, we can compete with them. We can produce our own advertising programs, which compete much more aggressively than they can in the marketplace. Of course, that is the traditional American way: Make the point, make it effectively, that tobacco kills.

But, most importantly, I think it ought to be pointed out here that we are making a deal with the Devil and the Devil walked away from the table. There is no tobacco company participation in this process any longer. Here we are offering them the most significant legal protection probably in the history of the country in exchange for them being willing to give us some limited ability to limit their advertising activities, and they are not even at the table to accept the offer. In fact, they have walked away from the table. They said they don't want to have anything more to do with this process.

The quote from the head of RJR is:

> The extraordinary settlement, reached on June 20th last year, that could have set the Nation on a dramatically new and constructive direction regarding tobacco, is dead. And there is no process which is even more remotely likely to lead to an acceptable comprehensive solution this year.

With that statement, he walked out. He said, I am not going to participate in this and tobacco is not participating in this anymore.

So you have this almost pathetic situation where the U.S. Congress is passing immunity and giving this outrageous new authority to the tobacco companies to protect them from lawsuits. The tobacco companies have walked away, and the U.S. Congress is sort of chasing after them on bended knee, saying, "Please, tobacco companies, please, tobacco companies, please take our offer."

My goodness. First, we make a deal with the Devil, and then we chase after him asking for him to take our deal. I mean it is just ridiculous, it is inappropriate, it is not becoming of the Congress, and it is wrong.

The language which Senator LEAHY and I have proposed here is essentially the same language which was in the original HEALTHY Kids bill, which was endorsed by the White House. I regret that we have not received White House support for reinserting this language. I regret that the leadership within this Congress has not supported the insertion, although on the House side I note, I believe that the Speaker supports no immunity language, although I don't want to speak for him. I have read reports to that effect.

But the point is that this is not dramatic language, it is not outrageous language, it is the language that was in the original HEALTHY Kids bill, and it essentially says no immunity. It says what this Senate said back when we passed the sense of the Senate 79 to 19: No immunity for the tobacco industry, because they don't deserve it, it is wrong, and it is inconsistent with the capitalist system.

Mr. LEAHY. Will the Senator yield for a question?

Mr. KERRY. Will the Senator yield for a question?

Mr. GREGG. I yield to the Senator for a question. The Senator from Massachusetts had a question. And then I will yield to the Senator from Vermont.

Mr. KERRY. I thank the Senator. I know the Senator from Vermont has to go somewhere.

I want to ask the Senator if he is aware that there is a real distinction between the notion that he has been using called "immunity" and a limit on the exposure of liability. In fact, in this bill there is no immunity. They are liable for up to $8 billion on an annual basis. So that is not immunity.

Will the Senator not agree that the use of the word "immunity" is, in fact, an exaggeration?

Mr. GREGG. No, I would not. I happen to think the use of the word "immunity" is correct. The fact is that we are setting up a new structure here where, for the first time, we are giving product liability protection to an industry which clearly doesn't deserve it. The term "immunity" has become a term of art relative to that discussion. From my standpoint, the term of "immunity" properly defines that. If the Senator from Massachusetts wishes to define it in a more narrow sense and say, "We are giving them product liability protection but we are not giving them immunity," that is the Senator from Massachusetts's definitional approach, and that is fine. But the point is the same. We are creating a unique, unusual, significant action which changes the jurisprudence that has dominated the marketplace in this country for 200 years.

Mr. KERRY. Will the Senator yield for a further question?

Mr. GREGG. Certainly.

Mr. KERRY. The Senator is aware, obviously, that Minnesota settled a lawsuit. Minnesota settled a lawsuit, and other States have settled lawsuits, and in those settlements there is, in fact, the same kind of structure contemplated in this bill. That is part of the system of jurisprudence, is it not? It is a normal part of how you arrive at a settlement of a dispute?

Mr. GREGG. First off, there is no lawsuit against the Federal Government. So that I don't think is applicable. I don't serve in the legislature of Minnesota. If I did, I certainly would not have agreed, and I would change the law of Minnesota to not allow that settlement to have gone forward should that decision be found to be constitutional, which I don't know whether it will be or not.

At this time, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Arizona.

Mr. McCAIN. I will be brief. I want to say to the Senator that I will be very brief.

Mr. President, I yield the floor.

Mr. SESSIONS. Mr. President, is there an order of procedure, informal or otherwise?

Mr. LEAHY. Mr. President, I note that my good friend from Arizona, who is managing the bill, sought recognition, and I will be perfectly willing to yield to him for that.

Mr. McCAIN. I thank my friend.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I rise in strong support of this amendment of my friend and my neighbor from New Hampshire. I was thinking about this. I thought to myself, why should we give big tobacco any special legal protections? My friend from New Hampshire said that we are not doing this for a medical company because they build some new kind of heart valve, and to get it out, we will give them special protection; or somebody else comes up with a new cancer drug and we want to give them special protection. We are being asked to give this special protection to tobacco. I have to tell you, Mr. President, I don't have a whole lot of people in Vermont rushing up to me and saying, "Oh, please, please, please, give immunity to the tobacco companies. This is our No. 1 priority."

In fact, this is whom they are asking to give immunity to. Mr. President, look at this stellar group standing, raising their hand, swearing to tell the truth, the whole truth, nothing but the truth, and then they sat down and lied. I remember my days as a prosecutor. We used to see lineups like that, but they were usually a different type of lineup and you had numbers across the front.

These are not the people I want to give immunity to. These are not the people I want to go back home to Vermont and say, "I voted to give them immunity." In fact, yesterday the former Surgeon General, Everett Koop, and the former FDA Commissioner, Dr. Kessler, endorsed the Gregg-Leahy amendment because they know Congress can protect the public health without having to protect big tobacco.

This really comes down to the issue of, Do you have to protect big tobacco in order to protect public health? I say no. What we should be doing is protecting public health, that is it, not protecting big tobacco.

Now, the Senator from Arizona, Mr. McCAIN, the Senator from South Carolina, Mr. HOLLINGS, and the White House have done a great job in narrowing the list of special legal protections in the managers' amendment, and I compliment Senator McCAIN, Senator HOLLINGS, and the White House for what they have done. But now that the Senate begins floor debate on this revised bill, we have to go beyond that. We have to take the great work that my neighbor from Massachusetts, Senator KERRY, and the others I have named have done. Then we have to say, once and for all, we are rejecting the tobacco industry's siren song for unprecedented legal protections.

I applaud Senator KERRY and Senator McCAIN and Senator HOLLINGS and the White House for going as far as they did, but I want to now go further, lock the door, close the door once and for all, and allow us all to go back home to our States and say we stood up to big tobacco, we voted against immunity. It is time for Congress, and especially the Senate, to scrap the last remnants of the original sweetheart deal of immunity for the tobacco industry. That was the sweetheart deal that was in the proposed national settlement.

In theory, the tobacco industry will restrict its future advertising in exchange for legal protections from past punitive damages and other past and future damages. I reject this mirage of a deal because it will evaporate in a court of law. Any affected industry that is or is not part of the deal, such as a retailer or distributor or even a tobacco company, might sue to block these restrictions as being in violation of the first amendment.

Many advertising experts, including the head of the Federal Trade Commission, predict such a suit will succeed in throwing out the advertising restrictions as unconstitutional. In the end, Congress will have been duped again by the tobacco industry. They will have given unprecedented legal protections in exchange for empty promises. They will have said, "You guys fooled us before when you testified under oath, but we know you have now found religion and you are going to be fined this time and you haven't fooled us again." It reminds me of Charlie Brown and the football: "Don't worry, Charlie Brown, I won't pull the ball out this time." And we see that, of course, every year. Out goes the football, and flat on his back goes Charlie Brown.

Well, let's not do that to the people of this country. We have learned a lot more about the industry's schemes. We have seen what Attorney General Skip Humphrey in Minnesota has pried loose from the hundreds of thousands of internal tobacco documents. Let's take a look at some of this.

Let's look at some of these things that came out of Minnesota, the released tobacco documents. Now, this is just marketing that is aimed at children. Look at this one:

> To ensure increased and longer-term growth of Camel Filter, the brand must increase its share penetration among the 14-24 age group which represents tomorrow's cigarette business.

Mr. President, this is not a typographical error. They are talking about how they will increase—not just to start people at 14 years old but how they will increase the market among 14-year-olds.

Philip Morris starts off being a little bit more responsible by saying:

> Marlboro dominates in the 17—

But then we see—

> and younger age category.

RJR "Product Research Report":

> Salem King shows encouraging growth by posting a four point gain in the 14-17 market.

You wonder if whoever wrote this about encouraging growth, do they have children of their own? Do they have children of their own that they would brag about that?

Or look at Brown & Williamson:

> At the present rate a smoker in the 16-25 year age group will soon be three times as important to Kool as a prospect in any other broad age category.

Again, Mr. President, as a parent, I find this reprehensible. To them this was just marketing, and is that the kind of conduct that we should reward with unprecedented legal protection, that we should reward people who target 14-year-olds? To use the language of the same 14-year-olds, get real. We can't do it. If we grant immunity to this special rogue industry, we have lost all our common sense.

But if we go with the bill as now written, we will establish an $8 billion annual cap on damages for tobacco claims. That is about $20,000 per family for the 400,000 Americans who die from tobacco-related diseases each year. These are special provisions. They are unnecessary. Why should the industry stop marketing to children? Why should they stop manipulating nicotine? Why should they stop cutting health research when they know this liability cannot exceed a certain amount? If they know the liability is capped, then it just becomes a marketing ploy.

Some might say, "Well, they would not do that because they promised us." This is like saying the check is in the mail, I gave at the office, or a few other versions of that. Why should anybody trust them? I do not. A liability cap eliminates the incentive for the tobacco industry to change its corporate culture. It is kind of like having two warehouses side by side and one has got locks on the doors and one doesn't. And you have somebody who is inclined toward burglarizing a place, and they say, "Oh, I promised not to burgle those places." Well, they are not telling us the truth. We know which one they are going to go into. They are going to go into the warehouse without the lock. Let's put some locks on it.

I think, if you don't have the incentive of real liability facing them, the promises they make to get the Congress off their backs today are the promises that will be forgotten tomorrow. If big tobacco could turn its liability exposure to fixed costs which they could pass on to consumers and taxpayers, then they can keep on doing business as usual without the risk of litigation.

How will the liability cap work? Will it reward today's plaintiffs at the expense of future injured parties? Because most lawsuits settle, I believe the tobacco industry will have a unique negotiating edge if they have a liability cap. The industry will have every incentive to do sweetheart deals with favorite plaintiffs—do that first, then use the prospect of delayed payments in the future to force smaller settlements. A payment delayed will result in justice denied for thousands of tobacco victims.

I said earlier, each week, when I go back home, I don't have a lot of my fellow Vermonters coming up to me and saying, "Hey, PAT, give immunity to the tobacco industry." We Vermonters are known for our common sense. My fellow Vermonters are telling me that immunity for big tobacco makes no sense. In fact, the Vermont legislature overwhelmingly, Republicans and Democrats alike, passed a resolution condemning any immunity for the tobacco industry in Federal legislation. I think that is because the American people outside the beltway understand that big tobacco does not deserve any special legal protections.

I take seriously the admonition of Mississippi Attorney General Michael Moore, whom I respect greatly, who told the Senate Judiciary Committee last year that the proposed settlement offers Congress a historic opportunity to seize the moment and protect the health of future generations. But I believe that we can seize this historic opportunity to curb teenage smoking without giving big tobacco any special legal protection. Under our amendment, a State may resolve its attorney general's suit or take on the tobacco industry in court, as Minnesota did. It is up to the people of that State, instead of Washington. That is the same approach used in the Conrad bill that has, I think, 32 cosponsors.

I am confident in my State of Vermont, Attorney General William Sorrell knows the facts in his lawsuit against big tobacco. He is going to weigh the interest of Vermonters in deciding to opt out of the bill's settlement provisions. As one Vermonter, I am perfectly willing to put that decision in the hands of our elected officials in our State.

Our approach puts the interests of the children ahead of the interests of the tobacco lobby. The public health community agrees that immunity for the tobacco industry makes no sense. The Advisory Committee on Tobacco Policy and Public Health, headed by Drs. Koop and Kessler, wrote to Congress:

> We oppose granting the tobacco industry immunity against liability for past, present or future misdeeds. Congress should focus its efforts on public health, not on the concessions the tobacco industry seeks.

I agree. I agree. Dr. Koop called a liability cap a huge corporate giveaway. He is right. I agree. After all, the only reason we are here—and it is really a credit to it—is our civil justice system. In fact, without the use of class actions, without the likelihood of punitive damage recoveries, we all know tobacco companies never would have come to the negotiating table. So let's not change our successful State-based tort system as it involves tobacco legislation. It has served us well. After all, the same people who were in the picture I showed earlier, raising their hands, swearing they will tell the truth, the whole truth, nothing but the truth so help me—and I think they were swearing on a tobacco leaf because now the Department of Justice is currently investigating them for criminal conspiracy and perjury. I would say, if I can move that metaphor a little bit further, strip away the tobacco leaf and see what is hidden behind it. I am not going to give legal immunity to the same people who appeared here and lied to Congress while under oath.

Why in the world do we want to give big tobacco such legal protections? Rely on common sense. Rely on the things I hear from my fellow Vermonters as I am in the grocery stores back home. Rely on what I hear, as I am walking down the street, from Vermonters of all political persuasions. Rely on the common sense I hear from my neighbors and friends of a lifetime back home. Then we will reject the unprecedented legal protections for the tobacco industry, and we will vote for the Gregg-Leahy amendment.

I believe it makes sense. I certainly find myself in total agreement with what the distinguished Senator from New Hampshire, Mr. GREGG, said. That is the way I feel about it.

I understand from earlier discussions with the distinguished leader we may not vote on this today; we may vote on it tomorrow. But whenever we do, think what is in the best interests of the country. Think what is in the best interests of the people. And think, every Senator, how you would answer this question when you go home if you are asked: Are you willing to give immunity, even limited immunity, to the tobacco companies or not? If you are not, then you vote for this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I have listened very carefully to both of the proponents of this measure, for both of whom I have respect. But I must say this amendment is really not connected to the reality of what is in this bill or the reality of what we are trying to achieve with this bill. And I say that respectfully.

You might dub this amendment the "kick the tobacco companies hard no matter what the consequences" amendment. This is the amendment if all you want to do is hate the tobacco companies, all you want to do is come here and show photographs of children or show us how terrible the companies have been. Nobody is going to argue. We all know that. We know the companies have lied. We know they have been egregious in their behavior. We know they targeted young people in this country. We know they have come to the Congress, raised their hands, and not told the truth. We understand all of that.

The question is, What are we going to be able to achieve here in the U.S. Senate in terms of conditioning their behavior, within the limits of our Constitution, within the limits of our ability to do so. We have heard the words said that the tobacco companies "do not deserve immunity." That is correct. They do not deserve immunity. And they are not receiving immunity under this bill. There is no immunity. They are liable. There are simply two choices as to how they are liable.

They can be liable by paying the annual payments that will now come from the $1.10 that appears to be at least settled for the time being. They will pay from that. And they will, in addition to that, have very, very rigorous so-called look-back assessments. They will have to live up to those look-back assessments. Where, if they do not achieve a specific level of reducing smoking among teenagers, then they get hit harder. They pay more. They pay more as an industry, up to $4 billion on any year, and they pay more per child that is deemed not to be meeting that level of reduction—$1,000.

That is a pretty steep penalty, $4 billion plus the assessment per child if they don't meet the reduction levels; that is, if the companies do not decide to be part of the solution. If all they do is get assessed the $1.10 assessment, and all they do is meet the standards of the look-back, they are subject to suit forever—forever. There is no immunity. They are liable. They are liable—not even under the cap. There is no cap under those circumstances. I ask my colleagues to focus on that in this bill. This is a two-part bill. One part offers the companies the opportunity to be part of the solution. Only if they become part of the solution does there then apply a so-called cap on annual payments.

Even if there is a cap on annual payments, there is no immunity; there is no avoidance of liability. We heard my colleagues stand here and say—let me quote it: "The liability cap permits them to avoid changing the corporate structure."

Not true, Mr. President. The liability cap does not permit them to change to avoid it. In fact, they only get a liability cap if they agree to change the corporate structure. That is the way it works now. The incentive of the cap is the commitment to change the corporate structure. If they change the corporate structure by agreeing to live by the FDA rules, by agreeing to live by the advertising restrictions, by agreeing to a whole set of requirements, that is the only way they qualify for the so-called cap.

The cap is annual. That is not immunity. That means they can be charged up to $8 billion in the industry for every year on into the future, and it is indexed, incidentally, for inflation. That is immunity? That is why so many people are on the floor saying, "Hey, wait a minute, what are you folks doing in the U.S. Senate?" because there are some people here who think that is too tough.

The fact is, and I emphasize this again and again, there are two choices for the companies: They can either take the assessment, be assessed the $1.10 and have the look-back provisions hanging over their heads and be sued and sued and sued by a State or an individual on into the future, or they can decide they are going to sign up.

What are they going to sign up to? Each company will sign up to a whole set of restrictions—FDA advertising restrictions, they would make a substantial up-front payment, they would abide by the far broader advertising restrictions that were in the June 1997 settlement, they would create a document depository, and they would agree not to challenge provisions in the bill and to abide by these provisions, notwithstanding any future decision from the court on constitutionality.

That is really critical, Mr. President. We are asking these companies to do a whole bunch of things that we can't get them to do unless they agree. We can't mandate that they give up their constitutional rights. No matter what we pass here, these companies have constitutional rights under the first amendment. They have to come in and sign a consent decree and sign an agreement, and they have to agree, among other things, that there will be no billboards within 1,000 feet of a school; that all advertising will be black and white text unless in adult-only stores; that all advertising in the text must be in black and white, unless in magazines with 15 percent or less youth readership; it prohibits the sale or give-away of any products with tobacco logos; it prohibits brand name sponsorship of sporting and entertainment events.

We can't do those things, unless the tobacco companies agree. What they agree to is that they will do that. Even if the court decided later that it is unconstitutional, they will abide by it. How are we going to get them to do that? How are we possibly going to get these tobacco companies to become part of the solution of keeping our kids from doing things unless they agree to do it, and the fastest way to keep them from agreeing to do it is to say to them, "We're just going to kick you around forever and forever, be subject to lawsuits forever and forever" and not offer some incentive to come on board.

I reiterate, that is not immunity, it is a deal. It is a deal just like the attorney general of Minnesota made, the attorney general of Mississippi and the attorney general of Florida. That is what happens in the courtrooms of our country every single day. If you bring a lawsuit, as 44 attorneys general have done, then you go to court. But many of these cases come to some kind of settlement before they ultimately go to a jury verdict.

I remind my colleagues, the Senator from New Hampshire and the Senator from Vermont, in all of the years of bashing tobacco, in all of the years of hating tobacco, in all of the years of summoning up these speeches that whack them apart and say what they have done, not one lawsuit has been won in a courtroom. Not one.

What my colleagues are suggesting is that somehow the country is going to be better off by allowing that status quo to continue; that all we are going to do is have a bunch of lawsuits rather than trying to bring the companies into the process of helping to resolve this issue.

Again I say, if you want to have a document depository which, incidentally, helps people continue to sue and they are able to continue to sue up to the level of the $8 billion per year, that is not immunity. The best of my judgment is that is a limitation on the exposure of immunity. It is a limitation on the degree to which you are going to have to pay out in a given year, and that is precisely the kind of certainty that the tobacco companies and the attorneys general were trying to achieve in the agreement they came to last year.

Here we have in front of the U.S. Senate the opportunity to raise the price and the opportunity to have very stiff look-back provisions that will hang over the heads of the company. Let me just cite what those are, Mr.

President, if you don't think those aren't tough. There are two look-back assessments. There is an industry-wide assessment and there is an individual assessment.

Under the industry-wide assessment, the industry is going to have to reduce youth smoking 15 percent in years 3 and 4, 30 percent in years 5 and 6, 50 percent in years 7 and 9, and 60 percent in years 10 and beyond.

If the industry fails to meet these targets, then there will be a graduated industry-wide assessment of the following amounts: $80 million per point for missing the goals by 1 to 5 percentage points, $160 million per point for missing the goals by 6 to 9 percentage points, and $240 million per point for missing the goals by 10 or more percentage points.

The total industry assessment will be capped at $4 billion per year, which is about 22 percentage points, and this will not be tax deductible. If the industry fails to meet the youth smoking targets, they will have to pay about 27 percent per pack. In addition to that, there will be a company-specific amount of an assessment annually—$1,000 for each child who uses tobacco beyond the youth smoking reduction targets.

Mr. President, there is no way to suggest that that is immunity. You can't be required to engage in that if you, in fact, have immunity. If you have immunity, you walk away free. Immunity means you are not going to be prosecuted. Immunity means you don't pay. Immunity means there is no price. There is clear liability here and the liability, I think, is serious.

A final comment I will make is that participating manufacturers—and this is very important—must agree to comply with all of the provisions in the act, including the provisions in look-back and in the annual assessments. They must also agree not to bring any court challenges to any provision in the act.

I ask the Senator from New Hampshire rhetorically, we can't get them to agree not to go to court. They are already challenging the FDA rule. They are clearly going to challenge the constitutionality of the look-back provision. The only way we can get them to participate is by offering something, and the something is that you are going to settle the lawsuits and you are going to have the ability to give them certainty as to how much their liability is on an annual basis.

Also, they will agree to abide by the provisions in the act, including the annual payment in the look-back provision, even if a third party challenges that provision and it is declared void by a court.

I emphasize that. Even if a third party challenges it, the tobacco companies that sign the protocol and agree to get the $8 billion limitation on their annual liability will still have to agree to live by it. If any of them break any component of this act, they have no cap at all. They are subject to exactly what the Senator wants.

Here is the choice for the U.S. Senate: It is a choice of whether we are going to have a piece of legislation that makes sense, that is built on common sense, that tries to bring the companies into the fold, that tries to create a solution for this problem, or you just come out here and feel happier bashing the companies.

And I think the choice is very, very clear for the Senate. I think the Senator from Arizona, and Senator HOLLINGS, and the others who have worked on this particular effort to create this structure have struck a balance of that common sense and of a way of achieving the goals of the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I will be brief, because I do not want to take the time from the Senator from Alabama who is going to speak next.

So I just mention administratively that, after discussion with the Senator from Massachusetts and with the majority leader, it would be our intention to have either a tabling motion or an up-or-down vote on this amendment and the second-degree amendment around 10 o'clock tomorrow. It is my understanding that we will be in at about 9:30, and that would give a half-hour tomorrow morning. So whether we have the unanimous consent agreement or not, that would be the intention of the Senator from Massachusetts and myself.

Second, the majority leader has asked me to announce that there will be no further rollcall votes tonight.

I would like to say, and point out to my colleagues, that I have heard all day today that some of my colleagues have felt that they have not been able to speak on the bill. There are others who want to speak on the amendment. I encourage you to come over. As I mentioned earlier, the Senator from Massachusetts and I will remain here until such time as everyone is heard both on the bill and on the amendment.

So finally, Mr. President, I just received a letter from the President addressed to Senator LOTT expressing President Clinton's opposition to the Gregg-Leahy amendment. I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, May 20, 1998.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: I applaud the Senate for taking up comprehensive, bipartisan legislation to dramatically reduce teen smoking. Every day, 3000 teenagers start smoking regularly, and 1000 will die prematurely of smoking-related diseases as a result. I urge the Senate to move swiftly to pass comprehensive legislation that could save those children's lives.

Last September, and in my budget plan, I set forth five principles for comprehensive tobacco legislation: Raising the price of cigarettes by $1.10 a pack over 5 years with additional surcharges on companies that continue to sell to kids; affirming the FDA's full authority to regulate tobacco products; getting companies out of the business of marketing and selling tobacco to minors; promoting public health research and public health goals; and protecting our tobacco farmers and their communities.

I have made protecting tobacco farmers and farming communities a top priority for this legislation, and I believe Senator Ford's LEAF Act fully meets this standard. I am deeply troubled by the Senate Leadership's recent attempt to undermine protection for tobacco farmers and their communities. I urge the Senate to work through this impasse and ensure that small, family farmers are protected.

If that issue can be resolved to my satisfaction, the bill before the Senate, as amended by Senator McCain's Manager's Amendment, is a good, strong bill that will make a real dent in teen smoking. Congress should pass it without delay.

I applaud Senator McCain and others in both parties who have worked hard to strengthen this legislation. I am particularly pleased that the bill contains significant improvements which will help reduce youth smoking and protect the public health:

Tough industry-wide and company-specific lookback surcharges that will finally make reducing youth smoking the tobacco companies' bottom line;

Protection for all Americans from the health hazards of secondhand smoke;

No antitrust exemption for the tobacco industry;

Strong licensing and anti-smuggling provisions to prevent the emergence of contraband markets and to prosecute violators;

A dedicated fund to provide for a substantial increase in health research funding, a demonstration to test promising new cancer treatments, a nationwide counteradvertising campaign to reduce youth smoking, effective state and local programs in tobacco education, prevention, and cessation, law enforcement efforts to prevent smuggling and crackdown on retailers who sell tobacco products to children, assistance for tobacco farmers and their communities, and funds for the states to make additional efforts to promote public health and protect children; and

The elimination of immunity for parent companies of tobacco manufacturers, an increase in the cap on legal damages to $8 billion per year, and changes to ensure that the cap will be available only to tobacco companies that change the way they do business, by agreeing to accept sweeping restrictions on advertising, continue making annual payments and lookback surcharges even if those provisions are struck down, make substantial progress toward meeting the youth smoking reduction targets, prevent their top management from taking part in any scheme to promote smuggling, and abide by the terms of the legislation rather than challenging it in court. Because the First Amendment limits what we can do to stop the tobacco companies' harmful advertising practices—which lure so many young people to start smoking—we can do far more to achieve our goal of reducing youth smoking if the companies cooperate instead of tying us up in court for decades. If a cap that doesn't prevent anybody from suing the companies and getting whatever damages a jury awards will get tobacco companies to stop marketing cigarettes to kids, it is well worth it for the American people. I, therefore, oppose the Gregg Amendment to strike the liability cap.

I strongly support these improvements, and I urge the Senate to pass this legislation without delay.

Sincerely,

BILL CLINTON.

Mr. MCCAIN. Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I know the Senator from Alabama has been waiting. I just misspoke on one thing, and I want to, if I may, correct it, take 2 minutes, and then I will yield the floor.

When I talked about the things that the advertising is going to require, that was the components of the FDA rule itself. I want to just share with my colleagues how, by bringing the companies in, it goes way beyond the FDA rule, because they would then be agreeing to have a ban on human images, animal images, and cartoon characters. They would agree to a ban on outdoor advertising, including stadia and mass transit, they would agree to a ban on Internet ads accessible to minors, and they would agree to severe restrictions on point-of-sale advertising of tobacco products. All of those things are what you get for having the companies agree to be part of the process.

The final comments I would make is, I began the process very much feeling that there should not be sort of a restraint liability, in a sense. When we sent this bill out of committee, there was a great deal more restraint with respect to liability. And since the Commerce Committee effort in putting the managers' amendment together, we have taken out an extraordinary number of those restraints. I will not go into detail now, but all of them were taken away, so that there was considerable increased exposure of the companies, which is one of the reasons why the companies are spending so much money now advertising and trying to refocus America on what this bill is not. And I think that is a critical thing for us to keep in mind.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. KERRY. I thank my colleague for his courtesy.

Mr. SESSIONS. I thank the Senator from Massachusetts for summarizing many of the very significant restrictions that will be placed on the tobacco companies if they participate in the settlement.

But I really do believe, and can say with great confidence, that we are not dealing with a question of immunity when an industry agrees to pay $750—$70 billion in payments to subject itself to many other controls and limitations. That is not immunity. And in fact, they have agreed, in addition, to pay $8 billion into a fund that would be available for individual liability lawsuits—each year, $8 billion. It goes up according to the cost of living index.

So I just say, this is a remarkable settlement. And it reminds me of the case in which the client sues and gets everything he wants but he still wants to keep suing because he wants to get a drop of blood.

Now, let me say this. I am not a defender of tobacco. I do not take any money from the tobacco industry. I believe it is a very damaging product to people's health. I know that as certainty as I am able to know anything. I oppose its use. I believe anything we can do particularly to keep youngsters from getting involved in tobacco is good, because it is more difficult for them to quit once they start, and they become addicted quicker at a younger age. It is a very insidious product, and we ought not to do anything that would undermine our effort, that I think has bipartisan support, to deal with smoking in America.

Let me talk about this subject on a broader basis. And I think our Members ought to consider this on both sides of the aisle. It is above partisan politics. In my view, the law is too much with us late and soon. We have too much litigation. Courts are clogged all over America with more and more lawsuits every day. People cannot get speedy justice. Cases are backed up. Costs have increased. And it is not a pretty sight.

As policy-setting Members of this Government of the United States, it ought to be our goal to reduce that litigation, to do what we can to obtain justice in ways that do not require citizens of this country to expend extraordinary sums of money over long periods of time for only modest gain at the end of it. That is a principle in which I believe deeply.

I have been a practicing lawyer all my career. I served as a U.S. attorney for almost 12 years, and I practiced law in private practice.

Let me just mention the asbestos litigation situation. Asbestos caused a number of different diseases that have resulted in large payments by the asbestos companies. This was handled, in the normal litigation of America, in the torts lawsuits that have been filed. Over 200,000 of those lawsuits have been filed and concluded, 200,000 more are pending, and it is estimated there may be another 200,000 filed.

Now think about that. That is 600,000 lawsuits, perhaps more, having to wind their way through the court system, with lawyers, and fees, and costs, and expenses. According to testimony we had before the Judiciary Committee by one expert who studied this matter, less than 40 percent of the money paid by these asbestos companies actually got to the victims, the people who were suffering disease because of their exposure to asbestos. Just think about that. Less than 40 percent of the money they paid actually got to the victims of asbestos disease.

I think that is unacceptable. That is an unjustifiable event. It does not reflect credit on the legal system, and it does not, even more so, reflect credit on the Congress and the Senate of the United States, because we should have legislation that can deal with that in a more efficient way.

So I just say, I am troubled by the prospect that we will allow litigation to spring up all over America, that we can have a fund there to pay it, that we will have not 200,000 smoking suits, as they had in asbestos, but perhaps 500,000, 800,000, a million, several million lawsuits filed—tens of hundreds, maybe thousands in every community in America, large and small, where lawsuits will be filed, clogging the dockets of the courts, taking up weeks to try, and incurring great expense. It seems to me we can do better than that. I am certain that we can do better than that.

What happens when a lawsuit of this nature is filed? And I have to agree with Senator GREGG from New Hampshire: This bill is not effective in what it intends to do. It needs to be amended. And Senator JEFFORDS from Vermont and I will be introducing legislation on this bill, an amendment, that will distribute moneys that are paid in a fair and equitable manner, with the minimum of cost and the quickest possible turnaround time, so the people who are ill can receive compensation which they deserve, receive it quickly, without even having a lawyer.

Under the court system approach, just turning over tobacco lawsuits to litigation throughout America, we are talking about individuals having to hire attorneys. The Wall Street Journal has already noted that attorneys—I believe, in Detroit or Chicago—are advertising for tobacco clients now. They are already advertising for clients so they can file lawsuits. Traditionally, they will charge at least one-third, probably more of them will charge 40 percent of the recovery on a contingent fee basis. That means 40 percent of the money paid out by the tobacco company won't go to the victim, but will go to the attorneys. In addition to that, there will have to be trials, court costs, jury costs, deposition costs, medical costs, expert witness costs, and great delays.

Before you can get any money out of this bill, you have to have a final judgment. Normally that would mean a judgment by the supreme court of the State, which may be 2 years or more in the offing. The result of that, I suggest, for people who are suffering from lung cancer is that many of them, unfortunately, would not live to see any recovery.

The Senator from New Hampshire is also correct that it appears under this bill the tobacco companies decide who gets paid. I don't know how that came about, but it indicates they pay whoever they want to pay and that counts toward their payment into this fund. That is not a rational way to see that injured people get paid. They should not be required to do that. It will also cause a race to the courthouse because you don't get any money until you have a final affirmance of your judgment, and only then can you come to the tobacco company and get your payment.

We should not be put in a situation in which two equally deserving claimants have filed a lawsuit and one wins and he has a fast court system and he gets into the fund and gets his money first and another one takes a long time before he ever gets his final judgment, before he gets money. We are creating a system that will be aberrational.

It will be aberrational in a number of other ways. Some States will be favorable to these kind of lawsuits. Some States will not. Maryland has already changed its law to make lawsuits against tobacco companies easier to file. Other States may do that. Traditional defenses such as assumption of the risk and contributory negligence may be vitiated by legislation or court rulings, and lawsuits will move faster and more successfully in one State, whereas another State that adheres to traditional rules of law may not allow cases to move forward at all. It may be unsuccessful wholly in one State. Indeed, we could have one or more States virtually bankrupting the tobacco industry themselves if they were to have unfettered litigation cases of this kind.

As a person who has practiced law for a long time, who has been in court on a consistent basis, I can tell you that the prospect of hundreds of thousands, maybe a million tobacco lawsuits being filed, burdening the judges and courts to a degree they have never known before is not a good thing. The taxpayers pay for that. Some will say it is a free-market deal. Just let people file their lawsuits and the government is not involved in it. The courts are the government. Courts are the government. The taxpayers are paying for the judges, the jurors, the clerks, the court reporters and everybody that manages a courtroom, and the courtrooms in which these cases are tried. The taxpayers are intimately involved in that.

We can do a lot better than this. I just say we cannot allow a repeat of the asbestos litigation situation. We cannot, as Members of this body, allow a situation to occur in which less than 40 percent of the money paid out actually gets to the people who are victims of the crime. They will say, well, in this bill they have arbitration over attorney's fees. I have heard that. So I have gone back and read the legislation. This is the arbitration: If you are unhappy with the agreement you have with your attorney, you can go to an arbitrator. The attorney gets to name one member of the panel, you get to name one, and those two select a third. But if you have a standard agreement with them on a one-third or 40 percent contingent fee basis, 40 percent of what you recover goes to the lawyer if you have that kind of an agreement. That is what the arbitrators are going to affirm. They are not going to undercut written contracts between attorneys and clients the way this thing is written.

So there is no protection here to substantial fees being paid to attorneys in all of these cases. We know it will take years for them to be concluded. There will be a race to the courthouse to get judgment. Some States will allow suits to proceed. Others will not. Some people will draw a favorable jury, win a big verdict, $100 million; somebody else will have a jury that is more conservative and renders no verdict, zero verdict. This is not the way we ought to do it.

On this legislation, we begin the process of establishing a sane and rational method of distributing the funds that ought to go to those who have been injured by tobacco. However, the problem with it is it does not go nearly far enough. This is a classic mass tort situation. The greatest mass tort situation, perhaps, in the history of mankind in which millions of Americans have smoked for a long time and they have hurt and damaged their health because of it, and as a result of that they now want to seek compensation.

First, let me say something. I have to be very frank. No individual person has succeeded in a lawsuit against a tobacco company, primarily because of the traditional rules of law that say if you undertake a dangerous activity and you are injured in that, you cannot sue somebody and ask for compensation because of it. The way this bill is written, I believe the likelihood is we will have more States like Maryland amending their law, more pressure on judges and juries to get around the traditional defenses to these kind of activities, which is somewhat dangerous, because what about the liquor companies and cirrhosis of the liver or other kinds of diseases that come from other kinds of products. Is there no barrier to that anymore?

I will say we have a major mass tort situation. We ought to deal with it in a comprehensive manner. We should not allow an unfettered lawsuit flood to dominate the American court system, resulting in some people winning large verdicts, others getting nothing, delay, people dying before they have any recovery.

Senator JEFFORDS and I will be introducing a bill that will say if you have a serious disease and have been disabled because of your smoking, you can file a claim and within 90 days you can be paid. You will not even have to have an attorney. We will limit the cost to 10 percent and we will dispense the moneys based on the seriousness of your disease, the seriousness of your disability and whether or not it is connected to smoking. That is the kind of thing we can do. We can use this money that the tobacco companies in this litigation demand that they pay—$8 billion a year—and we can use that to compensate in a prompt and fair way those who have been injured. To do otherwise is just not a good way to do business. It will enrich lawyers, it will burden the courts, and it will guarantee an irrational distribution of funds to those who have been injured and minimize the amount of money actually getting to those who deserve to be compensated.

I will say that I do believe that this amendment should not be passed, that the payment of $755 billion, the agreement to give up certain constitutional rights such as free speech and advertising is the kind of settlement that is justifiable and proper under the circumstances. We would make a historic step forward for America if we can develop a way to ensure that those who are injured in a mass injury-type situation such as this are compensated in a realistic and prompt way. I believe we can do that. For these reasons, I must ask my fellow Senators to vote no on the Gregg amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I come to the floor to make a general statement about the legislation.

Let me say this to begin with: I am very concerned by the speed with which this bill has come to the floor. It has really foreclosed any real financial analysis—no joint tax figures that are adequate, no CRS analysis, no CBO study.

For me, who represents California, there is a certain irony in passing a bill under these conditions. That irony is what we do that we believe is right for people may turn out to be very harmful for those very people. And I want to say what I mean by this. I want us to pass a good bill. What is a good bill? It is one that deters smoking; it doesn't create a huge black market; it is constitutional; it would give the FDA full authority to regulate the contents of nicotine; it would prohibit all advertising, which to me is very important, not the kind of crimped regulations, but a prohibition on all advertising;

and it would have some strong antismuggling provisions, both domestic and international.

We have heard Senators state the facts. Forty million Americans smoke today. Most of them are addicted. I don't think we have heard the California facts. Earlier, I was listening to the distinguished Senator from Nebraska say he was speaking on behalf of 1.6 million Nebraskans. My goodness, in California alone, three times the population of the State of Nebraska smokes. We have 4.6 million smokers in California who are adults; that is, 19 percent of the population of the State of California smokes. You can figure how many of those people you believe are truly addicted, who would like to quit but can't.

Ten percent of our youngsters smoke; that is, 890,000 young people in California smoke. Let me give you a really chilling figure. One out of every four high school senior is addicted to nicotine. One out of every four high school senior in the largest State in the Union is addicted to nicotine. That is why I say an express prohibition on all advertising is important to the success of any antismoking effort.

Mr. President, 1.8 billion packs of cigarettes are sold in California each year. On a per capita basis, 54 packs of cigarettes are consumed in California each year by every man, woman, and child in the State. And there are more than 32 million of us in that State. We already have a 37-cent State tax. We have a 24-cent Federal tax. And on the ballot in November is an initiative placed there by Rob Reiner, which would put on 50 cents additional. So we will be over a dollar in tobacco taxes in the State of California before this body and the other body do anything at all.

In California, 300 young people under the age of 18 begin smoking daily. We all know the health consequences. Just yesterday, my closest and oldest friend called. She had just been diagnosed with lung cancer. She quit smoking 30 years ago. Just the day before, I learned of the husband of a very close friend of mine who just had a tumor, stage 4, the size of a softball diagnosed in his lungs. So we all see this happening to us every day. A good friend of mine just died from lung cancer —a lifetime smoker.

The hard part is not that we don't want to do something, but whether what we do is right. What really will turn around the teenage trap of smoking and addiction? What is the right balance of penalties, pressures, regulations, and health research for the next 25 years? If the goal of this legislation is to reduce and limit youth smoking, and not just creating a spending bill, we must address the link between price of cigarette packs, the ratcheting down of nicotine, if the FDA has full regulatory authority, a black market, and the availability of cigarettes to children. We need to make certain that we don't increase the price of cigarettes so high that it becomes lucrative for smugglers and for organized crime to become involved in cigarette smuggling so that, like cocaine, cheap black-market cigarettes will be available on street corners in cities all over our country.

Mr. President, there is already a black market in California. It is a substantial black market, and it is based on just the taxes I have mentioned so far—a 37-cent State tax and a 24-cent Federal tax. The State estimates they lose between $20 million and $50 million a year in revenues.

We have all heard in the Judiciary Committee commentary that when the per-pack price increases beyond $3.60 to $4 a pack—this takes into consideration what the public health people said could be added to a pack—about $2—and what the industry analysts said, anything over $3 to $3.50—at that point we would create a black market in this country, unmatched by what happened in Canada in the 1980s.

I believe that, as I understand the McCain bill, within 5 years in the State of California, with the item on the ballot, you will have a black market in cigarettes unmatched by anything in history. According to an independent industry analyst, the price per pack in 1997 dollar terms, under the Commerce bill, would be $4.61. In California, with what is on the ballot in June, that will make it $5 a pack. If you include inflation, the McCain legislation would be $4.61, and that becomes $5.11 if you add the 50 cents that is on the ballot in my State in November. That is above anything that anyone has said would be the trigger point to create a black market in the State. This is a 25-year prospect, so the numbers only go up from there.

At the Judiciary Committee hearing 2 weeks ago, John Hugh, the senior assistant attorney general of the State of Washington stated:

> As tax rates have risen generally across the United States, a new trend is emerging. Increasingly, tobacco products manufactured outside the United States are being smuggled into the United States and are sold on the contraband market. In 1988, California increased its tobacco tax from 18 percent to 35 percent per pack. Today, the contraband market is estimated to be between 17 and 23 percent of the cigarettes sold.

The impact of cigarette smuggling is enormous for this country and most particularly for my State. First, there is, obviously, the loss of State excise tax revenues, which I said were $20 million to $50 million annually now.

Second, we have no control over the safety of cigarettes that are smuggled in from overseas. For example, tobacco from China is much harsher, and the cigarettes are much more carcinogenic. And that is a very likely contraband potential black market today. Even though all 50 States have laws prohibiting the sale of tobacco to people under 18, Federal sting operations show that four in ten teen smokers nationwide today succeed in evading such laws.

Individuals, including teens, find ways to buy available cheaper cigarettes. In Canada, when they increased tobacco prices by 150 percent in the 1980s, it is estimated that 40 percent of the cigarettes in Canada may have been contraband U.S. cigarettes, where a carton of Canadian cigarettes was $37 compared to $14 for U.S. cigarettes.

We also heard testimony about how a smugglers' ally developed in an area between Cornwall, ON, and Messina, NY, the epicenter of the Canadian contraband cigarette crisis.

It goes on and on and on with testimony.

There is a very real probability that within 5 years in California there will be a major black market, if the McCain per pack tax plus what happens on the ballot in California in June all go into law.

With almost 890,000 youngsters smoking, with one out of every four high school seniors addicted to nicotine, what prospects do we have, then, of really reducing teenage smoking unless we can get full regulatory FDA authority, and unless we can prohibit all advertising, which I don't believe we will be able to constitutionally do unless the tobacco companies will agree to ban all advertising. To me, a ban of all advertising is really going to be important if we want to help youngsters to not smoke.

Let me tell you two things about the McCain bill that I cannot live with.

I will shortly be introducing an amendment, along with Senators Boxer and Durbin, to cure an injustice in the McCain bill's treatment of local government. As presently drafted, the bill would wipe out the suits that several local governments have filed against the tobacco industry without providing a dime of compensation. That is simply unfair. The McCain bill currently would prevent local governments from sharing in any of the settlement funds now being provided for in the United States. San Francisco was the first local government to sue. It sued in June of 1996. The suit was joined in by 17 other California cities and counties representing over half of the population of the State of California. Local governments in three other States have also sued the tobacco industry. New York City; Erie County, NY; Cook County, IL; the City of Birmingham, AL; and Los Angeles County brought their own suits. These local governments have been litigating against the tobacco industry for 2 years. As a matter of fact, it was the California cities and counties which resolved the Joe Camel case in California. And as a result of that case R.J. Reynolds agreed to pull the infamous

Joe Camel campaign. R.J. Reynolds was required to disclose its confidential marketing documents. The release of those documents was front-page news across the country.

The California county lawsuit is set for trial early next year. In the absence of Federal legislation, the California counties and other local governments would expect to recover appropriate compensation as a result of the trial or the settlement of these cases. The legislation coming out of the Commerce Committee jettisoned all of these suits.

That is my first major point of a grievance with the McCain legislation, in addition to it moving so fast and the cost such that I believe it creates a major black market.

The second objection is that the formula for distribution in the State disadvantages 26 States because it is based on an agreement among the Attorney Generals and not on general population census figures. For example, in California, if you use the population percentage as a formula mix, what happens is California's share of revenues is increased 4 percent. And that is 9 percent to 12 percent, and that is a third net additional cost for 26 other States to which we have sent a Dear Colleague letter out today letting them know about this.

It is no secret that I have been working with the distinguished chairman of the Senate Judiciary Committee, the distinguished Senator from Utah, on a bill that might well avoid some of these problems—avoid the black market for California, cover local suits and county suits, provide a formula which is really based on what we are trying to do, which is to stop youth smoking, and it makes sense in many other ways.

Particularly, let me stress again that unless whatever we do here has some encouragement for the tobacco industry to agree not to advertise, the only prohibition we can probably impose, or perhaps—I say perhaps—some of those in the FDA rules, and even that will be litigated and even that will hold up the legislation probably for 5 to 10 years.

I notice the distinguished Senator from Utah is on the floor. I wonder if I might ask him this question. I have had the privilege of serving with him on the Judiciary Committee for 5½ years now. I regard him as a strong and positive constitutional expert.

Based on what the Senator from Utah knows of the Commerce Committee bill, does the Senator believe it will be contested in court, and does he believe that it will withstand a constitutional test?

Mr. HATCH. I thank the distinguished Senator for her kind remarks. I have listened very carefully to her.

There is no question in my mind—not only from my own personal evaluation and study of these issues, but also from conferring with the top constitutional experts in the country, that both the original Commerce bill and the managers' amendment we are now discussing, are unconstitutional in scope and intent. This is especially true with regard to the FDA provisions where it would appear that the advertising restrictions are too broadly conceived to be enforced. Both Larry Tribe, a constitutional expert on the left, and Robert Bork a renowned scholar on the right, have concluded these provisions are problematic and raise constitutional concerns.

With regard to any other advertising ban, as embodied in the new title XIV of this managers' amendment, the only way they can go into effect will be if the tobacco companies actually voluntarily consent to these restrictions on advertising. As the distinguished Senator knows, they have not voluntarily consented. Far from it.

The companies have said they will fight this bill. This means that if the McCain bill passes in its current form, and thus there is no voluntary consent to the advertising provisions, we will have up to at least 10 years of litigation. During that time, we face the possibility of having no money for our stated purpose of helping reduce youth smoking, no money for smoking cessation, nor for any of the other stated purposes such as biomedical research, settling the state suits, and farmer transition payments.

And at the end of 10 years, it will be entirely likely that the tobacco companies will have won their suits because of the constitutional infirmities within this bill.

I am just talking about advertising.

Then we go to the look-back provisions. There are at least two major constitutional problems with the look-back provisions as written in this bill.

One is that they are going to punish these companies even though they don't show fault on the part of the companies when the projected youth smoking reduction targets are not attained.

The constitutional experts have said that may constitute a bill of attainder which is expressly prohibited by the Constitution.

There are other constitutional infirmities with regard to the look-back provisions. So it doesn't take anybody on the side of tobacco companies 3 minutes to know that if they face the Commerce bill, in which they had no part in drafting, during which they were not even allowed to provide input, for which they gave no consent to waive their constitutional rights, then it is a lot cheaper for them to litigate the matter with a good prospect of winning than to pay over $800 billion in the next 25 years.

I might add just parenthetically that by some estimates there could be 1 million young children whose lives will be cut short prematurely because Congress has failed to write a constitutionally sound bill.

So the Senator raises very important issues; she raises very important considerations here and very important criticisms of this particular piece of legislation.

It really bothers me that many in this body are rushing to "pile on" this legislation without trying to bring the tobacco companies onboard, albeit screaming and kicking.

Let me state for the record. I have no respect whatsoever for the tobacco companies.

I think that their record shows clearly they have lied to the American people for decades. They knew their products were addictive. They knew they caused cancer. They deliberately marketed their products to young children, and then denied it.

I would like nothing more than for them to pay a trillion dollars a year.

But what I would like even more is for us to endorse a workable, constitutionally-sound new War on Tobacco, and we are not going to do it by writing a bill which fails the constitutional test. Such an approach is destined for failure.

I remember clearly when Mississippi Attorney General Mike Moore testified before our committee, not once, but twice. He related that the attorneys general knew all these evil things about the tobacco companies when they were negotiating the settlement last year, they waded through all the relevant documents, and they concluded that the far greater goal was to help a generation of youth from becoming addicted to tobacco than to continue to focus on the companies misdeeds.

If the companies broke the law, if anyone in the companies broke any law, they should be punished to the fullest extent possible. Nothing here would preclude that. Nor should it.

But I get upset when some suggest that we can help children by thinking up literally every measure we can to punish the tobacco companies and then loading them into one constitutionally-infirm bill.

It seems to me it is possible to punish the companies, but at the same time compel them to underwrite financially a new public health program that can do future generations more good than anything we have ever envisioned. We simply can't develop that comprehensive public health approach without the industry's consent, again, however reluctant.

I can go on and on. Tomorrow, I plan to go into greater detail on the constitutional infirmities of both the original Commerce Committee bill, which everybody knew was just a vehicle for amendment, and the bill as now amended with the managers' amendment, which is just as bad as the original Commerce bill with regard to constitutional concerns.

So I thank the distinguished Senator from California for bringing this out. I also appreciate her working with me to try to resolve these difficulties. And, as my dear friend from California knows, the original settlement on June 20 of last year was for $368.5 billion.

All of us gasped for breath when we heard that. We thought, "Why in the world would the tobacco companies agree to pay $368.5 billion?"

The reason is because they want some limits of liability, even though they will still have abundant liability; they want some finality to the litigation that they face, a predictability that will allow them to make the large payments we envision to underwrite the new public health program we are trying to develop.

And so, if we take away even the few aspects of limited liability that are there, there is no chance at all of ever getting the tobacco companies to come on even a modest bill.

I thank the distinguished Senator from California for being willing to help cosponsor the bill that we are working on that would require $428.5 billion in payments over 25 years, or $60 billion more than the June 20, 1997 settlement.

I believe that if we can limit it to somewhere between $400 billion and $430 billion, and if we can include reasonable limited liability provisions for the companies—limited liability provisions that restrict class actions but do not stop individuals from suing—than I am hopeful we can get the companies to come back on board.

I am not sure if this is possible, but I think we ought to try, or the whole program will be lost. And if we get them back on, then this whole matter can work and work to the best interests of children and society as a whole.

So I thank my colleague for being willing to work together on this and, of course, for bringing up the points she is raising here today. I hope that at least cursorily answers her questions, and I will be glad to go into much greater detail later.

Mrs. FEINSTEIN. I thank the Senator for that excellent answer and the discussion of the constitutional infirmities and what is apt to happen in the litigation which would really hold up a remedy for smokers, probably for 10 years.

I would like to ask another question. Is it not correct, I ask the Senator, that you also are a member of the Finance Committee in addition to being chairman of the Judiciary Committee?

Mr. HATCH. In response to my colleague from California, it is correct. I am a member of the Finance Committee and, of course, on that committee voted against the $1.50 increase at the manufacturers level, not because I would not like to punish the tobacco companies, but because that amount is excessive and in the process will not lead to a bill which can stop youth tobacco use.

Mrs. FEINSTEIN. I have been troubled by the absence of sound analytical data. I just sent my staff to the Joint Tax Committee, and as of May 18, there is a small report which shows the distributional effects of S. 1415 as reported by the Senate committee, but that is just the distribution of how the taxes would fall on the income groups.

To the Senator's knowledge, is there any sound analysis by a governmental entity such as CRS, CBO, or Joint Tax on the actual per-pack costs of this bill out 25 years?

Mr. HATCH. As the Senator knows, we held extensive hearings on this issue in the Judiciary Committee. The Treasury Department sent up Deputy Secretary Larry Summers, who gave us a five-line piece of paper as the basis for their analysis. When we asked him about whether they had a model, he wasn't able to respond very carefully.

There is apparently not much of a model backing up the Treasury Department's assertions in this area. But, on the other hand, we had three of the top analysts from Wall Street who spend all of their time working on tobacco-related issues trying to be able to be accurate in informing their customers, and they had extensive economic modeling done that showed the retail cost per pack of tobacco under the $1.10 bill that we have before us would be somewhere between, as I recall, $4.50 and $5.50 per pack. And if that is so, then the distinguished Senator's concerns about the black market are certainly legitimate and justified.

I might add that the Finance Committee last week did not view it as a precedent for the future. But I cannot believe that it is good for the Finance Committee, good for the full Senate, and good for the American people to consider what one Wall Street analyst has projected to be an $861 billion program without the Finance Committee having a meaningful opportunity to study the Treasury Department's estimates of the costs of the program.

As chairman of the Judiciary Committee, I tried to get a full explanation of the Treasury model before a hearing that we held on April 30.

But, the administration failed to provide us with their model together with a full explanation of their assumptions. And what I can only conclude from that is they did not have a model; perhaps they were just hypothesizing. I hope this is not so.

Late the night before the hearing, I succeeded in getting only a one-page summary table that some Treasury and White House staff insisted on calling a model.

Let me just say that I hope we could all agree we should not launch a huge new, multi-billion Federal program, with such far-ranging implications, on the strength of a one-page chart.

It is also important for me to note that many Wall Street analysts have been calling for a full explanation of the Treasury projections for a few months. Several Wall Street experts have participated in meetings with administration officials and Commerce Committee staff and explained their own models and their own assumptions so this should have been a very open process.

In fairness to the Treasury Department, I must say that finally, late on May 12, but only after our hearing that same day where two financial analysts testified—and this was 2 weeks after our hearing in which Deputy Secretary Summers testified—Treasury did provide our Committee with an additional 11 pages of information.

For the record, I must note that this still is not everything I have asked them for. For example, Treasury s one-page summary table that they insist on calling a model assumes a 23 percent reduction in cigarette sales from 1998 to 2003, based upon a semilogarithmic demand function with an initial elasticity of minus 0.45.

I might not know the difference between a semilogarithmic function and a hole in the ground, but there are experts who know how to assess this information. These experts deserve a chance to analyze this data on something this important. And the fact is, on the evening of April 28, Treasury and the White House staff said they would send over the formula for this function, that they would send it right over.

At this meeting, it was explained to my staff that this function gradually reduced the price elasticity as the price climbed. Frankly, this makes sense, because you would expect that as price goes up, there would be fewer and fewer people left who are willing to pay the higher and higher prices.

But the administration officials also said that in year 5, for some statistical reason, the Treasury elasticity function would actually increase, under the Commerce bill assumptions.

So, while they are saying that as a general matter the elasticity would get slightly lower as price climbed, they were also saying that in year 5, at least, this elasticity would actually grow higher.

You can see why anyone would want to study the underlying assumptions for these conclusions very carefully, since elasticity of demand—that is, the responsiveness of individual consumption due to an increase in price—is so important to the writing of this law.

Our debate on the floor over the Kennedy amendment calling for a price increase of $1.50 per pack centered on this price elasticity issue. But the formula that was going to come right over from the Treasury never came on April 28, as they said it would.

At the April 30 hearing, I renewed this request by asking Deputy Secretary Summers to provide this information with the details of the so-called Treasury model. And, as I said earlier, the Treasury Department did finally send us additional information after our hearing on May 12, but we are still waiting for their semilogarithmic demand function.

I have no reason to believe there is anything magical about this information and cannot imagine why it has not been provided. Certainly, it is not like I am asking for some sensitive top-secret security information.

We are asking for information to help us understand how to write properly a bill that is being touted as having a $516 billion revenue impact, but in reality which is probably $861 billion, according to those who have developed full, detailed models with assumptions which they are willing to make public in at least two open hearings.

So, I have to say the testimony we heard from these financial analysts just completely blows away the Treasury Department testimony that was given, and certainly the 1-page so-called model that they presented to the Committee, and even the 11 additional pages that they gave us which really weren't very helpful.

And I have to say I take exception about remarks made hear earlier today suggesting that these financial analysts had a vested interest in killing the McCain legislation because it would help their investors. We did, in fact, discuss this issue with the analysts at our recent hearing. They advised the Committee, and I believe they had no reason to mislead us, that their only vested interest was in providing accurate information to their clients. They have both recommended buying and selling tobacco stocks, depending on the company and the time.

The companies they represent do not own tobacco stocks, as was alleged here earlier, at least not in the traditional sense. It is clear that they may hold tobacco stocks for their clients who have purchased them, just as they hold stocks in a myriad of publicly-traded companies, but it is hard to argue that this is ownership of those stocks.

That was a little lengthy, but I don't know how else to explain it.

Mrs. FEINSTEIN. I thank the Senator. I think that was an excellent explanation, if we all understood it. I don't know a lot about logarithms. I do know about per-pack cost. And I do know we have 5 million smokers, and almost a million juvenile smokers, in the State of California. And I do know that by all the testimony we had in the Judiciary Committee, Senator HATCH, that if the price in 5 years is over $5 a pack, we have a whopping black market on our hands.

Would you agree with that?

Mr. HATCH. There is no question in my mind about it. If we pass this legislation the way it is currently written, we are going to have a black market like you have never seen before.

When Canada raised its taxes so dramatically, they found this to be the case. Remember the mayor of Cornwall, Canada——

Mrs. FEINSTEIN. Yes.

Mr. HATCH. Who came in and testified about how they threatened him, his life, his family's life, how the city become inundated in organized crime, until they finally had to reduce the size of the excise tax in order to prevent further black marketeering?

Remember how he told us his family had to be removed to a safe house? How ordinary citizens could not even go out at night because they were afraid of random gunfire?

The distinguished Senator from Massachusetts also showed a chart here today——

Mr. McCAIN. Mr. President, regular order here.

Mr. HATCH. That only went up to 1991.

Mrs. FEINSTEIN. Mr. President, I believe I asked——

The PRESIDING OFFICER. Regular order is the Senator from California has the floor. She has yielded for a question to Senator HATCH.

Mr. HATCH. I am trying to answer that question.

Mrs. FEINSTEIN. Yes, I am asking the chairman——

Mr. McCAIN. Further parliamentary inquiry. Will the Parliamentarian describe the procedures here in the Senate called for as a result of a question, and that the Senate is not supposed to be abused by long, lengthy discussion of a question. This is clearly what is going on. It is not in keeping with the spirit of the Senate. There is another speaker waiting to speak, and that is why I am concerned about it. Otherwise, I would not care.

I ask a parliamentary inquiry, to describe the procedures of the Senate in this case.

The PRESIDING OFFICER. The Senator who has the floor may yield for a question. And the precedent prohibits statements in the guise of a question.

Mr. McCAIN. Would the Chair repeat that, please?

The PRESIDING OFFICER. Under the precedents, statements in the guise of a question are not permitted.

Mr. McCAIN. Statements in the guise of a question are not permitted. I thank the President. I made my point. If the Senators want to continue to abuse it, that is fine.

Mrs. FEINSTEIN. And I would make my point to the Senator in return. I have asked no question in the guise of a statement. I believe, if you read the RECORD, the RECORD will reflect that. I have asked a question.

Mr. McCAIN. It is very clear what is going on.

Mr. HATCH. Mr. President, could I ask the distinguished Senator from California a question? Do I have the right to do that, under the parliamentary rules here today? If she will——

The PRESIDING OFFICER. The Senator from California has the floor——

Mr. HATCH. May I ask her a question?

The PRESIDING OFFICER. And the Senator from Utah may ask her a question if she permits it.

Mr. HATCH. I think that is what I will do, because it seems to me that some of the people around here are afraid to get the facts on this matter.

And I have to say that it is highly offensive to have someone come here and suggest that the distinguished Senator from California and I are not trying to get to the bottom of the facts, especially since the facts are so complex here.

So I will ask the distinguished Senator from California, isn't it true that you are trying to get to the facts of this matter? Is that right?

Mrs. FEINSTEIN. Yes. It is true.

Mr. HATCH. May I also ask the Senator from California, are you aware of the fact that we have had extensive testimony on this very issue before our Judiciary Committee? I hope this question is fair. I hope that I will be permitted to ask it, under the Senate rules. I surely hope that the manager of the bill will recognize we are going to abide by the rules, if he wants to be a stickler on them. Is it not true that we have had literally hours of testimony on this very issue?

Mrs. FEINSTEIN. Yes, it is true. And I believe I was present at most of the hearings on this subject in the Judiciary Committee.

Mr. HATCH. And I would like to ask, isn't it true that the distinguished Senator from California heard the testimony of witnesses saying that if the per-pack price under the Commerce bill goes to $4.50 to $5.50 per pack, there is going to be an extensive black market? Isn't that true?

Mrs. FEINSTEIN. That is true. The independent Wall Street analysts said they believed it would happen at $3 to $3.50 a pack. Mr. Myers, representing Tobacco-Free-Kids, testified before our committee that he believed you could take an additional $2 on a pack before it would develop a black market. But the figures for California really, if the tax passes in June, indicate that the tax in this bill, plus that tax, would be substantially above $5 within 5 years.

Mr. HATCH. Is the Senator aware of this comment by CBO in April 1998—and I hope this is in the form of a question that is acceptable to the manager of the bill—about black-market cigarettes:

> Any legislation that would rapidly raise the price of a product by a third or more would almost certainly spawn a black market as people attempted to evade the high prices. Tobacco is no exception.

Is the Senator aware of that?

Mrs. FEINSTEIN. That is correct.

Mr. HATCH. Is the Senator concerned about that?

Mrs. FEINSTEIN. I am very concerned about it, because, again, we have 40 million smokers in the United States, 5 million of them in California. There is a huge market. There is a huge number of people already addicted, and as the price per pack, plus reduction of smokers, comes into play, the opportunity for a black market increases, and particularly if you begin to ratchet down the addicting chemical which is nicotine.

It is a serious question. I am surprised, frankly, that people really don't want to know more about it. I, frankly, am surprised that there is a rush to judgment. It seems to me that because of what we are doing is for 25 years, we better be right. I don't want to see in my State a huge black market in 5 years and know that I voted to help make that market possible.

Mr. HATCH. Can I ask the Senator from California another question that I think is relevant to her concerns?

Mrs. FEINSTEIN. Absolutely.

Mr. HATCH. The Senator comes from California, the largest populated State in our Nation. How many people live in California?

Mrs. FEINSTEIN. Oh, probably around 33 million today.

Mr. HATCH. Almost 34 million people, I understand.

Mrs. FEINSTEIN. Nineteen percent of whom smoke.

Mr. HATCH. Nineteen percent of whom smoke. Is the Senator aware that one out of five packs of cigarettes sold in California happens to be contraband?

Mrs. FEINSTEIN. I believe that is correct. Law enforcement has said there is now a substantial black market in California. With the franchise tax, port authorities advise that the State loses about $20 million to $50 million a year in revenue now from that market.

Mr. HATCH. And that jumped up when the State raised its tax by a few pennies from, I think, was it 17 cents to 34 cents or something like that.

Mrs. FEINSTEIN. That is correct. There was a proposition on the ballot that did do that. That generated the market. They have made some major arrests with large numbers of confiscated goods to go on the black market.

Mr. HATCH. What do you think is going to happen in California and other States if that price is raised per pack from $2 to $4.50 or $5.50?

Mrs. FEINSTEIN. I think if it goes from $2 to $4.50 in California, with the number of people addicted and the fact that most are low income, that it creates a black market. One of the concerns I have is that it becomes a real pawn for organized criminal elements that also brings on other serious repercussions. But I don't want the Senator from Utah, or anybody else, to mistake me. I want to see us have a bill. I want to see us have a bill that is going to be able to do the job, rather than have adverse, unintended consequences.

Mr. HATCH. I have to agree with the Senator. And I have to say, is the Senator aware that on May 4, 1998, testimony before the Senate Democratic Task Force on Tobacco, Robert A. Robinson, Director of Food and Drug, Agriculture Issues, Resources, Community and Economic Division of the General Accounting Office—who should surely win an award for one of the longest titles in Government—said:

> Smuggling cigarettes from low- to high-tax States or interstate smuggling prominent in the 1970s may be a reemerging problem. Such activity is likely to occur when the differences in cigarette taxes across the States are significant enough to make it profitable. Recently, many States have opted to sharply increase their cigarette taxes, yet most low-tax States have not. As a result, recent studies suggest that the level of interstate smuggling activity may now be increasing. In fact, recent estimates suggest that smuggling is responsible for States collectively losing hundreds of millions of dollars in annual tax revenues.

Is the Senator aware of that?

Mrs. FEINSTEIN. Yes, I am aware of it. I am also glad that the Senator from Utah is mentioning this, because one of the most discouraging things here has been the rush to judgment, has been the feeling of many people, very well-meaning, very much wanting to see legislation in place, that if you pause to consider these impacts, somehow you are un-American, somehow you are pro-tobacco. And yet, as we know, the devil is in the details with all of these things. It really is the long-term effect of a bill that we need to consider carefully.

That is one of the reasons I have been, frankly, opposed to the speed with which this bill is being pushed, and I think it is being pushed so that we don't have this information in front of us, so that we don't understand the repercussions, so that a bill gets passed and everybody can pound their chests and say what a wonderful job we have done and then, boom, in 4 years, there can be a cataclysmic event like a big black-market operation.

Mr. HATCH. Let me just ask one other question of the distinguished Senator, because there has been some indication here that there is some sort of a game being played in this colloquy between the Senator and myself. It is anything but a game being played.

We have seriously looked at these matters in 10 Judiciary Committee hearings, at which the Senator from California was in attendance. And these are important issues.

I just ask the distinguished Senator, what are we going to do if we go through all of this piling on mentality, as is embodied in this managers' agreement and many of the proposed amendments thereto, and, after we get to the end of this, the bill is still constitutionally unsound? What happens if we have 10 years of litigation and the program falls apart? Isn't that some justification for finding out the facts now in order to either amend this bill or have a substitute amendment or other correctional measure? Shouldn't we really get to the heart of how to develop a constitutionally-sound bill that will help reduce teen smoking and solve some of these other problems in society? Does the Senator agree with me?

Mrs. FEINSTEIN. That is absolutely correct, I say to the Senator. Not only are we not playing a game, certainly no one in this body has asked me, representing the State, what would be the impact of a bill on the largest State in the Union with the most smokers by far in California, with the most young people.

I came to this body to use my brain, to try to work for my State and try to see that whatever it is that I vote for doesn't have unintended consequences.

I think all the purpose of this colloquy is to say that there may very well be serious, unintended consequences, heightened by the fact that we are moving so fast without any major governmental analysis of the long-term, per-pack costs and what those costs might do when you measure elasticity, diminished market demand and a diminution of nicotine in a regulatory order by the FDA.

These are very serious things. I think they deserve consideration, and I thank you very much.

Mr. HATCH. May I ask the distinguished Senator one more question? It is this: I have sought to facilitate a thorough examination of public discussion of the Treasury model so policymakers can better understand why there is so much disparity between Wall Street and 1600 Pennsylvania Avenue on critical items like the estimates of the retail price per pack of cigarettes under the Commerce Committee bill.

Is the Senator aware that we have heard the official estimate is that the Commerce Committee bill will increase the cost of a pack of cigarettes by $1.10 per pack over 5 years? Many in the press simply report that the price, not cost, will go up by just $1.10 a pack.

As I understand it, and I ask the Senator to help me to know if she understands it the same way I do, the Treasury Department and the proponents of the Commerce Committee bill believe that when you take into account all other factors, you arrive at a real price in year 5 of $3.19 per pack. Although it is not a number that many of the bill's proponents seem anxious to get into public discussion, and the press is not widely reporting it in nominal terms, this is how much money you actually have to pull out of your wallet. This $3.19 per pack figure translates at the cash register price of $3.57 in the year 2003 under the White House and Treasury Department's estimates.

Now, again, I ask the Senator, is the Senator aware of those facts?

Mrs. FEINSTEIN. Actually, Senator, those are not the facts—they may be the facts coming out of the White House.

Mr. HATCH. That is right.

Mrs. FEINSTEIN. But the facts in committee.

Mr. HATCH. That is the White House's spin here.

Mrs. FEINSTEIN. Yes.

Mr. HATCH. Let me ask the Senator this. Does the Senator recall that in September the President called for, and the White House repeated again in February, bipartisan legislation that raises the price of cigarettes by up to —and that is up to —$1.50 per pack over 10 years? Does the Senator remember the President calling for that?

Mrs. FEINSTEIN. I do.

Mr. HATCH. Given that the price of cigarettes is about $1.95 per pack today, it looks like the Commerce Committee bill or this managers' amendment will achieve the $1.50 price hike 5 years ahead of schedule by the Treasury's own estimates. Is the Senator aware of that?

Mrs. FEINSTEIN. That is correct; yes.

Mr. HATCH. All right. Now, Wall Street analysts tell us the Treasury numbers are off—way off, they say. They say that the actual price increases under the Commerce Committee bill will be much higher than what Treasury is telling us. They say the price in real dollars will climb to between $4.50 and $5 per pack in 5 years; and at least one indicated higher than $5 per pack, up to over $5.50. Is the Senator aware of that?

Mrs. FEINSTEIN. I am.

Mr. HATCH. Martin Feldman of Salomon Smith Barney projects in the year 2003, the Commerce Committee bill, the old bill—but the revised one is the same on the facts—will result in a real price of $4.61 per pack. In nominal terms, this means that cigarettes will cost $5.11 per pack. That is over $50 per carton. Does the Senator remember that testimony?

Mrs. FEINSTEIN. I believe you are accurately reflecting the testimony.

Mr. HATCH. David Adelman of Morgan Stanley Dean Witter testified on April 30 that the 2003 average retail price will reach at least $4.53 per pack if the Commerce Committee bill is adopted. His analysis also indicates that the price under this bill that is on the floor right now could actually grow to $5.66 per pack or higher within 5 years. Is the Senator aware over that?

Mrs. FEINSTEIN. Yes.

Mr. HATCH. Now, similarly, Gary Black of Sanford C. Bernstein & Company, told the Judiciary Committee on May 12, 1998, that under the Commerce Committee bill the real price of cigarettes will exceed $5 per pack in 2003. Is the Senator aware of that?

Mrs. FEINSTEIN. Absolutely. And the point that you are making is really reflective of the point that I am trying to make in a less erudite way. That point is, let us take the time to have a CRS analysis, a CBO analysis, a joint tax force on some of the figures that we are putting forward, because these are figures that have been presented to us in a formal way.

Mr. HATCH. I would ask the Senator if she is aware—let me emphasize the $4.50 to $5-per-pack prices that these leading Wall Street analysts projected in testimony to the Judiciary Committee, those prices are much higher than what the Treasury estimated and far higher than the widely cited and widely reported $1.10-per-pack figure. Isn't that correct?

Mrs. FEINSTEIN. That is correct—one of the reasons I do not know who to believe.

Mr. HATCH. So it is far higher than the up to $1.50-per-pack increase that the President called for over a 10-year period; is that correct?

Mrs. FEINSTEIN. That is correct.

Mr. HATCH. If these Wall Street analysts are correct, and the Treasury estimates are off in year 5, under the Commerce Committee bill, we may reach a price increase that is twice as high as what the President has called for; that is, a $3-per-pack price increase rather than a $1.50 price increase. That is certainly a far cry from the $1.10 we hear so much about; isn't that so?

Mrs. FEINSTEIN. That is correct.

Mr. HATCH. Let me just finish this. What is more, according to these experts, we will reach this twice as high level twice as fast as called for by the President. I guess we should ask whether the American public understands that what we may actually be talking about under the Commerce Committee bill is a $50-per-carton price for cigarettes.

Now, if you are like me, and do not, and will not, ever smoke, this may not seem so bad, literally; but I just hope that the public health lobby does not next focus its attention on the problem of obesity, or we may have chocolate ice cream at $20 a gallon, a $10 package of potato chips, or a $5 slice of apple pie, sold by prescription no doubt, if we continue to follow this type of bureaucratic reasoning. Is the Senator in disagreement with me on this? And I didn't even talk about cheeseburgers!

Mrs. FEINSTEIN. My point is, Senator, I do not really know whom to believe. And that is why I am where I am with respect to this bill. Different committees have had different testimony. I do not know whether the Finance and the Commerce Committees actually had this testimony. We had it in the Judiciary Committee.

Mr. HATCH. The Finance Committee did not hear any testimony on the tobacco issue; the Commerce Committee heard from Secretary Summers as well as Mr. Feldman.

Is the Senator aware that the $1.10 price that is so widely reported in the media as the add-on to the current $1.95 or the $2-per-pack price at the manufacturer's level does not include a whole wide variety of factors, like the wholesale markups, the retail costs, the additional excise taxes added on by the States, litigations costs, the lookback, all factors that could be add-ons to the retail price under this bill?

So it is pretty clear that it is a lot higher than what the media are reporting is $1.10. It is a lot higher, isn't it, than what the White House has indicated?

And I would just ask the Senator this other question: Isn't it plausible to believe these Wall Street analysts, whose very livelihoods depend on trying to arrive at correct economic projections in order to advise clients about whether or not to invest money, who have used extensive models to make those projections rather than just a 5-line sheet of paper?

Mrs. FEINSTEIN. I think that is right. I think what has happened is that we have seen a net figure applied as a gross figure when in fact it is just a beginning figure. It becomes an arbitrary cost added, and then there are all these other costs that come on top that are not factored in.

I think that is why we need a very thorough, objective report on what actual street prices of cigarettes will be, what you get them for in your 7-11, what you buy them for in your supermarket, what it will be with inflated dollars in 5 years.

If we know that with specificity, then I think we can make some informed judgments as to whether, in each of our respective States, this is apt to create a black market or not apt to create a black market. We then can relate this data to the distribution table that Joint Tax has done so you know what portion of this falls on the lowest-income people versus the highest-income people.

Mr. HATCH. Is it not true—this will be my last question—is it not true that under the substitute that the distinguished Senator from California and I are working on, that we do not base this on a price per pack of cigarettes, our $428.5 billion, we base it on payments that have to be made over 25 years?

Mrs. FEINSTEIN. That is correct.

Mr. HATCH. Whether the companies—whether they sell a lot of cigarettes or not, they are going to have to make those payments; isn't that correct?

Mrs. FEINSTEIN. That is correct. You see, the thing that bothers me is, in this rush to judgment, everything is evaluated based on the per-pack numbers that are thrown around, based on what is a net addition that will not be the real street addition. So there is no way, with the speed this bill is moving, to know exactly what we are going to be doing down the line. The beauty of our bill, if people should be interested, is that we have tried to avoid that problem.

Mr. HATCH. Mr. President, I thank the distinguished Senator from California for answering my questions.

Parliamentary inquiry. Have these questions been in order under the rules of the Senate?

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. HATCH. I am asking the Parliamentarian if these questions have been in order under the rules?

The PRESIDING OFFICER. I believe they are, Senator.

Mr. HATCH. Well, my goodness, I am so happy to find that out.

Thank you so much, Senator.

Mrs. FEINSTEIN. I thank the Senator. It has been a pleasure for me to work with him.

Let me once again sum up, because I know the distinguished Senator from Maine is waiting, and I do want to thank the Senator from Utah for his leadership not only of the Judiciary Committee but in what we have been working on. I hope if people might be interested they would let us know.

In the meantime, I am really not prepared, based on the analytical data—and we have tried to get every single piece we could—to cast a vote which has repercussions for a quarter of a century and which would have repercussions on a State where 5 million people smoke and almost a million youngsters and one out of every four high school seniors is addicted to nicotine. Until I have some of these answers and we know what the impact on the streets in Los Angeles, in San Francisco, in Fresno, in San Diego, is going to be 5 years, 10 years, 15 years, 20 years, and 25 years hence—then we can cast an informed vote, and then we can go home and say we really have done something good for the people we represent.

I thank the Chair. I apologize and I thank the Senator from Maine for her forbearance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, this week the Senate is debating far-reaching landmark legislation which gives us a historic opportunity to combat teen smoking and in the process save millions of lives.

Tobacco use is the No. 1 preventable cause of death in the United States, accounting for almost half a million deaths a year and billions of dollars in health care costs. More people die each year in the United States from smoking than from AIDS, suicide, alcohol and drug abuse, car accidents, and fires combined. Tobacco use in this country carries a price tag of almost $100 billion a year in direct health costs and in lost productivity.

Clearly, the single most effective thing we can do to improve our Nation's health is to stop smoking. However, smoking rates are actually increasing, particularly, and most tragically, among our young people. Tragically, tobacco addiction is increasingly a teen onset disease. Ninety percent of all smokers start before age 21. What is especially disturbing is that children, especially girls, are smoking at younger and younger ages. Smoking is at a 19-year high among high school seniors and has increased by over 35 percent among 8th graders over the past 7 years.

The statistics for my own State of Maine are particularly alarming. Maine has the dubious distinction of having the highest smoking rate among young adults in the country. Thirty-two percent of our 18- to 30-year-olds are regular smokers. Almost 40 percent of Maine's high school seniors smoke. If current trends continue, one in nine children will die prematurely of tobacco-related illnesses.

Tobacco is the leading preventable cause of death in Maine, responsible for almost 2,500 deaths a year. Direct medical costs of treating tobacco-related illnesses in Maine are about $200 million. Indirect costs—the costs associated with lost work time, higher insurance premiums and so forth—are also estimated to be about $200 million.

These numbers speak for themselves. The status quo is simply unacceptable. If we are to put an end to this tragic and preventable epidemic, we must accelerate our efforts not only to help more smokers quit but also to discourage young people from ever lighting up in the first place.

I found one fact in a recent Maine survey of smoking habits to be particularly disturbing. The smoking rate among young girls in my State has increased by 30 percent since 1993. I think that this advertisement gives us a good clue why. It is a blatant and shameless attempt by the tobacco industry to entice young girls, to entice teenagers to smoke. With more than 1,000 of the tobacco industries' best customers dying every day and another 3,000 to 5,000 quitting because of health concerns, smokers are literally a dying breed. As a consequence, the tobacco industry must hook thousands of new customers each day just to break even, and is now spending over $5 billion a year on advertising and promotional campaigns.

The tobacco industry actually claims that it does not target image-conscious young people with its advertisements featuring rugged Marlboro men and fresh-faced, model thin, "You can do it" young women. But, Mr. President, the evidence clearly proves otherwise. Just look again at this magazine ad. It is very typical, very typical of cigarette advertising. This ad is not aimed at people my age. It certainly is not aimed at people my parent's age. There can be no doubt it is not aimed at adults at all. It is aimed at teenagers.

Moreover, internal industry documents indicate that tobacco companies have long known that tobacco use leads to addiction, serious illness, and death. Yet, they nevertheless continue to pursue children, to target teens through ads and promotional campaigns, and have even gone so far as to consider marketing Coca-Cola-flavored cigarettes.

A landmark 1991 study published in the Journal of American Medical Association showed that cigarette-smoking "Smooth Joe" Camel was as recognizable to 6-year-olds as Mickey Mouse. Let me repeat that. Joe Camel was as recognizable to 6-year-olds as Mickey Mouse. The tobacco industry claimed the ads were, in fact, directed at adults. A second study found that 98 percent of the 12- to 19-year-olds recognized Joe Camel, compared to just 72 percent of adults. As a result, Camel's market share among underage consumers rose from less than 1 percent when the Joe Camel campaign first began, to 33 percent when he was finally put out to pasture.

More recent studies published in JAMA and elsewhere add further weight to the mounting evidence that advertising and marketing are the linchpins of the tobacco industry's efforts to hook children on nicotine. A February 1998 JAMA study found that the effect of tobacco advertising and promotional activities is "strong and specific," with at least 34 percent of all experimentation with cigarettes by teenagers attributable to those activities.

Moreover, a 1995 article in the Journal of the National Cancer Institute found that tobacco marketing has a greater influence over a teen's decision to smoke than whether or not their parents smoke or their peers smoke.

Other studies have shown that the cigarette brands most popular with teenagers are the ones most likely to advertise in magazines with the highest youth readership. Moreover, unlike adults, the vast majority of young smokers prefer the most heavily advertised brands of cigarettes.

It is also far too easy for children and teens in the United States to purchase cigarettes. During hearings in the Labor Committee, we heard testimony that children living in 99 percent of our cities and towns have very little trouble walking into a store and buying a pack of cigarettes, despite the fact that it is against the law in all 50 States to sell tobacco products to minors.

Mr. President, during this debate, we have focused a great deal of attention on the $1.10-a-pack fee that the McCain bill imposes on cigarettes. Some have argued today that is simply too low and that an increase to $1.50 or more a pack is necessary if we are going to curb underage smoking. Others—and I include myself in this group—are concerned that the evidence linking teen usage and price is not conclusive. Moreover, I am very concerned that a price increase of this magnitude is highly regressive and will fall mainly on adult smokers earning less than $30,000 a year. If we were to increase the cost by the $1.50 that was proposed, it would have meant that the average couple who smoke would be paying $712 more a year in taxes. That is a very hefty tax increase on low-income Americans.

Mr. President, at some point, raising the tax on cigarettes ceases to contribute to the reduction of smoking and becomes little more than an act of financial cruelty. Tobacco is highly addictive and there are people, perhaps many people, who will not be able to quit smoking even with an additional tax of $1.50 or more.

There is a point at which the tendency of the U.S. Senate to play God in the lives of the American people becomes dangerous. The notion that we can cure addictions by creating enough deprivation for those who are addicted is a very arrogant one. If we are wrong, we do nothing more than inflict suffering on those who do not deserve it.

While I respect the motives of its supporters, I could not, and did not, back an amendment that carries such a risk and that is not truly needed to fund the antismoking programs included in this bill. Those of us who legislate must draw lines, and recognizing that I am far from infallible, I believe that a tax of $1.50 per pack crosses that line. If our purpose is to inflict pain, it should be on those who profit from the addiction and not on those who suffer from it. That is why I shall vote to support the amendment offered by my friend and colleague from New Hampshire to eliminate the immunity protections afforded to the tobacco industry by this bill.

My view on the $1.50-a-pack tax proposal has been strongly reinforced by conversations I have had in recent weeks with young people in my State in an attempt to find out what the true experts—our teenagers—believe would be most effective in stopping teens from smoking in the first place. I have asked this question to, among others, a seventh grader from Portland, a Boy Scout troop in Dover-Foxcroft, high school students in Aroostook, and a teen smoker in Bangor. Significantly, none of these teens felt that a price increase would be the most effective means of discouraging teens from smoking.

As the addicted Bangor teen told me, "I can't quit, so what I'll do is cut back on going to the movies or going to McDonald's in order to pay for cigarettes."

Another teen told me that many students get their cigarettes by stealing them from their parents, so unless their parents stopped smoking, their access to cigarettes will be unaffected.

Alex Pringle, a seventh grader from Portland, suggested that having smokers who are suffering from lung cancer or other smoking-related diseases come to schools would be the most effective means of discouraging kids from smoking. It would effectively make the link between smoking and illness, a link that is too often unrecognizable to teens who believe themselves to be invulnerable.

Teens throughout the State told me that they smoked simply because it was "cool" or because it helped them feel more accepted by their friends. From their comments, I have no doubt that the tobacco industry's ads, such as the one I have displayed today, have sent a clear message to teens that teens who smoke are cool. I also have no doubt that when teens see movie idols such as Leonardo DeCaprio smoke, that message is, unfortunately, reinforced.

That is why the educational, counteradvertising, and research programs funded by this legislation, as well as the advertising restrictions, are so critical to our efforts to sever the deadly connection between teens and tobacco.

Earlier this year, I joined Senators JIM JEFFORDS and MIKE ENZI in introducing the Preventing Addiction to Smoking Among Teens, or the PAST Act, which adopts a comprehensive approach to preventing teens from smoking. The bill gave clear and comprehensive authority to the FDA to regulate tobacco products and incorporated the FDA's recommendations on combating teen smoking, such as strong warning labels, a ban on vending machine sales, a ban on outdoor advertising and brand name sponsorship of sporting events, and prohibition on the use of images like Joe Camel and the Marlboro man. The legislation also held tobacco companies accountable by imposing stiff financial penalties if the smoking rate among children does not decline.

Moreover, the legislation incorporates strong measures to ensure that restrictions on youth access to tobacco products are tough and enforceable, and it promoted the development of State and local community action programs designed not only to educate the public on the hazards of tobacco and addiction, but also to promote the prevention and cessation of the use of tobacco products. We need to focus on cessation programs. They are an important part of this bill.

It also called for a comprehensive, tobacco-related research program to study the nature of addiction, the effects of nicotine on the body, and ways to change behavior, particularly that of children and teens. We don't know enough about addiction yet.

And finally, and very important, it called for a national public education campaign to deglamorize the use of tobacco products to discourage teens from smoking.

Mr. President, we have made tremendous progress in recent years in making our streets safer from alcohol-impaired drivers. This was accomplished not only through tough drunk-driving laws, but also through a very effective national advertising campaign waged by Mothers Against Drunk Driving and others that has resulted in a change in our Nation's attitudes toward drinking and driving. This is the approach that we need to take to curb teen smoking.

The legislation we are considering this week contains many of the public health provisions that were included in the PAST Act. While the legislation before us tonight is not perfect and will undoubtedly face many more amendments during Senate consideration, it does give us a critical opportunity to address the teen smoking epidemic in a strong and comprehensive way.

I yield the floor.

Mr. FAIRCLOTH. Mr. President, while we may all agree that teenagers should not be smoking, this bill goes well beyond reaching that goal.

We should all be deeply concerned about the "tax and spend" approach that the bill takes to resolving a social problem. The bill reaches right into the pockets of hard-working low- and middle-income adults who, even tobacco's most staunch critics acknowledge, have every right to smoke if they so choose.

And, it takes their hard-earned dollars to create yet more federal programs and to pay trial lawyers billions of dollars. We're literally grabbing money from the poorest Americans to buy trial lawyers more Learjets.

To what end? There appears to be uncertainty as to whether price increases really have the effect of getting kids to stop smoking or to never start in the first place.

And what is the real motivation here? If it were really to cut smoking, we wouldn't phase it in, we would drop it right at once. But we're not doing that because the tax-and-spenders want the revenues. I know they're not doing it for the tobacco companies.

We all know that this isn't about smoking—it's about money.

What unpopular product or industry is next—now that we, our nation's lawmakers, have decided that "and justice for all" really doesn't mean what it says.

First, let's discuss the taxes imposed by the bill. Lots of people are jubilant at the prospect of this legislation passing. The plaintiffs' lawyers would become fabulously wealthy; the public health community would get all of its favorite projects generously funded; and, of course, the bureaucrats will get write volumes of new rules.

The ones who won't be so happy are the working class families who have been targeted to pay for it all.

In short, the McCain bill, through its highly regressive tax provisions, inflicts enormous costs on lower- and middle-income families. Let me put this regressivity problem in concrete terms. The increased excise tax payments under the McCain bill are projected to exceed $690 billion over the next 25 years.

Based on analyses by the Joint Committee on Taxation, families with incomes less than $30,000 a year will wind up paying roughly 43 percent of these taxes. In other words, under the bill, families earning less than $30,000 a year will have to pay roughly $300 billion in new taxes over the next 25 years.

This amounts to more than the total income taxes that these families are expected to pay over the same period of time.

The numbers are even more striking if we look at families earning less than $75,000 a year. Other experts have estimated that families in this category will pay more than 83 percent of all the tobacco excise taxes, which means that families earning less than $75,000 a year will, as a group, pay more than $570 billion in new excise taxes as a result of the McCain bill.

Where are the cries about regressive taxes? We're all so used to the long speeches about taxes on the poor. Or is that argument just used for convenience? This is the largest tax increase on the poor in years—if not in all time!

It gets even worse. The numbers I just cited only take into account the excise taxes imposed by the bill. The reality is that the increases in the prices of tobacco products resulting from this bill will be substantially greater in magnitude. This is because of the look-back payments and the increased sales taxes as well as wholesaler and retailer margins that will be tacked on to any excise taxes.

It is estimated that, based on projections of the actual increases in the prices of tobacco products, the true cost over the next 25 years will be more in the range of $380 billion for families earning less than $30,000 a year. it will be more than $735 billion for families earning less than $75,000 a year.

These are truly staggering numbers. To put them in perspective, it is projected that once the new excise taxes under the McCain bill are fully phased in, the annual cost to the family of a smoker earning less than $30,000 a year will be $875.

For a smoker's family earning less than $75,000 a year, the cost on average will be more than $950 each year. Now, a figure of $875 or $950 a year may not sound like much to these plaintiffs' lawyers who are expecting to get hundreds of millions of dollars. But I can assure you that this money means a lot to families trying to get by on $30,000 a year, or even on $75,000 a year.

If this doesn't persuade you, let's hear from the experts on Wall Street. As noted by Morgan Stanley analyst, David Adelman: "98.5 percent of cigarettes are legally purchased by adult smokers, and therefore higher excise taxes will unfairly (and regressively) penalize adult consumers who choose to smoke."

So, we're talking about hundreds of billions of dollars in new taxes to try to stop 1.5 percent of tobacco users from illegally buying tobacco. Why not just impose penalties on children who try to purchase tobacco? Well, I suppose, because it wouldn't be a jackpot for trial lawyers and Washington bureaucrats. The fact that it might help the children is irrelevant.

Mr. President, I, for one, was not elected to sock the American taxpayer with more taxes. If teens are really our target, we owe it to the taxpayer to first explore other non-price measures to combat youth smoking.

At a minimum, we need to explore whether there are ways to rebate these increased taxes back to the adult smokers who paid them—rather than using these regressive taxes to fund huge new government programs.

Turning to the bill's disturbing reliance on new government programs, I find it highly ironic that we are here debating a bill that will increase the size of the federal bureaucracy when this is the Congress that is supposedly committed to reducing federal government bloat.

The bill takes over half a trillion dollars in tobacco funds to fund new social programs or enlarge existing programs.

We also need to think long and hard about the bill's Orwellian approach—giving the federal government more power to look over our shoulders regarding the personal choices we make.

I'd like to take this opportunity to read into the RECORD a few excerpts from recent articles, articulating these concerns:

> Most Americans may not like smoking, but that doesn't necessarily mean they favor a big-spending nanny state. Yet if President Clinton and his supporters are allowed to succeed with this tobacco pact, the same extortionist tactics will undoubtedly be applied to other "sins." Just imagine how much government could "do" by slapping a health tax on Big Macs and Budweiser.

That's from the Detroit News, on April 24, 1998.

I urge my colleagues to learn from experience. Too many times in the past, Washington has raised taxes in the name of one feel-good social program or another. The American people have consistently indicated that they are tired of that practice.

We on the Republican side of the aisle were supposedly sent here to see to it that the tax and spend era of big government ceases to exist. I'm not so sure we're holding up our end of the bargain when we propose to pass legislation along the lines of the bill we're debating today.

As I raised earlier in my remarks, we appear to be forging blindly into a tax and spend approach to combating youth smoking, even though it is highly speculative that higher prices will even have this desired effect.

This legislation is going to result in a massive price increase for the entire smoking population, including the 98 percent of legal adult smokers. I think it is important that my colleagues are aware of all the facts before they vote on it.

A Cornell University study found that there is no significant correlation between price levels and the youth smoking rate.

This study, conducted by researchers at the Department of Policy Analysis and Management of Cornell University over a period of four years, reexamined the relationship between price increases on tobacco products and the likelihood that children will smoke.

It analyzed the smoking habits of over 14,000 children in grades 8 through 12. To quote the study's conclusion: "the level and changes in cigarette taxes [is] not strongly related to smoking onset" for children between 8th and 12th grades.

In addition, this study casts doubts on the results of previous studies which have directly linked smoking rates among children to price, noting that "* * * youth who face different tax rates also face different anti-smoking sentiment * * *."

The study suggests that previous research on youth smoking failed to take into account differing public perceptions that smokers face across the country. The Cornell study attempted to eliminate such extraneous information from their results.

Removing the effect of other factors, such as different State smoking-related legislation, allowed researchers "to directly examine the impact of changes in tax rates on youth smoking behavior, and our results indicate this impact is small or nonexistent."

This view is also supported by statistical evidence from other countries. As Martin Feldman of Salomon Smith Barney has noted:

> But we all know that kids don't stop smoking because of the price of cigarettes. Let me give you an example. In England, between 1988 and 1994, cigarette prices rose in real terms, by 20 percent. In '88, 8 percent of them 11 to 16-year-olds smoked. By '94, 13 percent of them smoked, after the price increase. The White House will not take this into account. And I don't understand why.

And, it's not just academia that questions whether increased prices will deter kids from smoking. It is the kids themselves. Just ask the four bright, young citizens who recently testified before the House Commerce Subcommittee on Health and Environment on March 19, 1998.

Of the four who testified about the effects of price increases on youth smoking, three clearly stated that price increases would have no effect on the number of youth smokers, and the fourth didn't know what the result would be.

As one teenager testified, "[I]f money were a huge issue, then kids wouldn't be buying marijuana as much.

Another teenager testified:

> [I]f you look, it's kind of weird how, people would be willing to pay $150, $200, for shoes. And it's completely outrageous; but people will complain about it. They'll moan and groan; but they'll still pay. And, when it comes to cigarettes—how much is it? Two dollars a pack?

We've heard it from the horse's mouth.

I closing, I know that the tobacco companies have become so unpopular that nothing seems out of bounds. But, whatever our views are about how much pain to inflict upon the industry, let us not forget that Congress also has an institutional responsibility.

We should be concerned that the McCain bill will set a terrible precedent that will haunt us for years to come. If we begin to use the tax code as a coercive means of social engineering, then I submit that there is no end in sight.

Today, smokers will be asked to pay a huge share of their income to the federal government and tomorrow, who will be next?

> I fear the precedent of the anti-smoking remedies now before Congress. What will they be used for next? Perhaps fat. Excuse me, Big Fat. As I understand it, fat, when used as intended, causes heart disease, which actually kills more people each year than smoking. And have you seen any of those chocolate ads, the ones targeting children, or the adult versions, where a beautiful woman caresses a nougat bar with her moist alluring lips? Consider that there are no warnings on boxes of high-fat cake about the hazards to our health, no restrictions on purchases of bacon by people under 26 and, to my knowledge, no lawsuits. How about a fax tax?

That's from Fred Barbash in the Washington Post, April 19, 1998.

Mr. President, I believe that passage of the McCain legislation is going to have a dramatic impact on the lives of millions of adult smokers across the country who are going to have to bear a significant price increase to purchase legal tobacco products.

It also perpetuates a tax and spend mentality that our constituents have rejected, as well as sets us sliding down the slippery slope. And, not only do we have no hard data that this is going to achieve the goal of preventing kids from smoking, we have evidence suggesting that it won't.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I rise tonight to take this opportunity to discuss why I believe it is so important that the U.S. Senate pass strong legislation to protect our children from the tobacco companies that are preying on them.

I got my real start in public service in Eugene, OR, right after I got out of law school in my twenties in Lane County in Oregon. I started a senior citizens legal clinic. I was able to get almost all of the attorneys in town to volunteer their time, coming to the senior citizens center to help the older people with the varied legal problems that seniors have.

At the legal clinic when I was in my twenties I saw firsthand the extraordinary health consequences that smoking has for our citizens. I saw older people come to that legal clinic in Lane County in Oregon racked with emphysema. They were struggling for every breath.

I found myself, having organized this legal clinic to help older people, having to console the widows and widowers of cancer victims, families that lost loved ones years and years before their time. I saw then when I set up that senior citizens legal clinic exactly what cigarettes can do to the health and well-being of our citizens and the toll that they take on American families.

So when I decided to seek elected office I said that I would put a special focus on my service in the U.S. Senate in trying to improve the health care of our citizens. I said that I wanted to focus on health care issues in a meaningful way, because I came to feel that if a person doesn't have their health care, doesn't have well-being, then they can't really focus on much of anything else. If they and their loved ones can't get access to decent medical care and they are suffering, there really aren't many other issues that a person and a family can focus on.

When I came to the U.S. Congress, I said I am going to remember all those seniors that I met at the legal clinic when I got out of law school, and I said if we really are going to take strong steps to improve the health of our citizens, we had to take on these tobacco companies, and that we will take them on even if it was a tough fight in order to make the lives of our citizens better when they got older. And it was just that simple.

The older people that I saw in that legal program didn't get started smoking when they were 48 or 55. They got started in their teens. They got started as kids when they were the age of Adam Wyden and his sister Lilly.

So I felt then that all other issues revolved around whether our citizens had their health. I remember those older people who came to the legal clinic in Oregon. I said we are going to take steps to make their lives better, and I am going to make that a special focus of my service in the Congress.

So when I was elected to the House of Representatives in 1980, I was able to win a position on the House Health Care Subcommittee, a committee that, in my view, turned out some of the most important public health legislation in our country's history under the extraordinary leadership of HENRY WAXMAN. I got to serve with one of the most courageous public officials who has ever served in the U.S. Congress, the late Mike Synar.

Against all odds, against all odds when he faced tremendous resistance in his home district, the late Mike Synar was willing to stand up for kids, and, in fact, wrote one of the first and the most important public health statutes to protect kids against the tobacco companies that prey on them, the statute known as the Synar amendment. Of course, the tobacco companies worked very hard to try to get around that because the Synar amendment stood for the proposition that we were going to enforce tough laws to protect our minors at the State level. That was too much for the tobacco companies, just as they sought hard to get around the early advertising restrictions on the electronic news, just as they sought to get around the early warning labels, they sought to evade the mission and the specific requirements of the Synar legislation.

So Mike Synar, HENRY WAXMAN, I, and others worked through the 1980s to try to rein in these tobacco companies and improve the lives of our children.

A little over 4 years ago we were at the now well-recognized hearing with the tobacco CEOs who under oath addressed for the first time before the U.S. Congress these major public health questions that the Senate has been occupied with over the last couple of days.

Mr. President, it was an extraordinary hearing. It went on for more than 7 hours. The executives said, for example, that cigarettes were sort of like Hostess Twinkies. They said that, of course, they never ever would target young people. And for more than 7 hours they said under oath that cigarettes essentially were not something that the U.S. Congress should be focusing on. They said it is just like any other health concern a person might have with sugar or with fat. Why is the U.S. Congress singling out tobacco, was essentially their message over a hearing that lasted more than 7 hours.

Chairman WAXMAN, Mike Synar, and others did, in my view, a superlative job trying to put the key issues on the record. When it came to my initial turn I felt that it was especially important to get the executives' position on whether nicotine was addictive. We had them all in front of the U.S. House of Representatives, the Subcommittee on Health. They were under oath. So I simply said I am going to go down the row. I am going to go down the row and ask each one of these executives one after another whether nicotine is addictive. So I began.

The first executive said nicotine was not an addictive substance. The second executive said that nicotine was not addictive. The third one raised questions again about why anyone would possibly have reservations about this issue, specifically why we would be asking whether nicotine was addictive. And all of the executives then under oath said for the first time that nicotine was not an addictive substance.

They contradicted the Surgeon General, who has come before health committees in the Congress for more than 20 years, and perhaps even more importantly, they contradicted what their own executives were saying for more than 30 years. That, of course, came out after the hearing took place. But what has been especially telling is that, after that historic hearing in 1994 when the executives said nicotine wasn't addictive and didn't target kids, a voluminous record has been made by various committees in the Congress which documents and makes very clear that these executives, in fact, knew all along that nicotine was addictive. There was not any question in their minds about whether it was addictive. Their own documents had proved that. But yet they told the U.S. House of Representatives, the Subcommittee on Health, and myself specifically under oath that nicotine was not addictive.

I think that moment contributed in a significant way to our achieving a chance now to pass important legislation to protect our children. But there were a number of other important issues that were brought up that day before the Health Subcommittee that have implications even this evening as the Senate considers this historic legislation. And I would like to just touch on one of those.

At that hearing, it came to light that one tobacco company, Brown & Williamson, was in fact genetically altering nicotine in order to give it an extra punch, in order to make it more addictive to children and others who used the product. The Food and Drug Administration under the leadership of David Kessler had essentially brought this to light. The committee confronted the Brown & Williamson Company, and they were under oath and said that they would cease utilizing this high-nicotine tobacco called 1Y. So this was more than 4 years ago. It came to light as a result of the investigative work done by the Food and Drug Administration.

After the Brown & Williamson Company was caught using 1Y, this genetically altered, high-nicotine tobacco, they said they would not do it anymore.

A number of things happened over the last 4 years. One of them was that I had the honor of being chosen by the people of Oregon to serve in the Senate, and I was chosen to serve in the Senate January 30 of 1996. Having had the additional privilege of being named to serve on the Senate Commerce Committee under the outstanding leadership of JOHN MCCAIN, and our ranking Democrat, FRITZ HOLLINGS, I had a chance to participate in the next round of important tobacco hearings under JOHN MCCAIN's leadership. We held a number of them prior to the committee's consideration of the legislation that is now before us. And when Senator MCCAIN asked the executives—and a number of them, of course, are new—to come before the Senate Commerce Committee, I asked Brown & Williamson what was the current status of the use of 1Y genetically altered, high-nicotine tobacco.

The reason I asked the question is that I had read news reports that this special, genetically altered, high-nicotine tobacco was in fact still being used by the Brown & Williamson Company even though the company had said under oath that it would no longer use this genetically altered, high-nicotine tobacco. And in fact at that important hearing chaired by our leader on the committee, JOHN MCCAIN, Brown & Williamson said in fact that they are now working off a small stockpile of genetically altered nicotine. There is already a criminal investigation underway.

The reason that I bring this to the attention of the Senate tonight is for just one reason. If this company is so brazen as to engage in this conduct, having promised the American people that they would no longer do it again, and now being watched under the scrutiny of the Congress, what will it be like, Mr. President and colleagues, when in fact the hot spotlight is turned away from tobacco? This company has engaged in activity that they pledged to the American people they no longer would engage in, and they told the McCain committee that they are now working off a small stockpile of genetically altered, high-nicotine tobacco and that this product is being used in our country and overseas.

The other reason that I bring this to the attention of the Senate, Mr. President and colleagues, is this goes right to the heart of the industry's argument that it is a new day and that they are pursuing a new standard with respect to corporate citizenship. Before the McCain committee, the executives came and said: We realize that what happened in yesteryear was no longer acceptable. We are going to clean up our act. We are going to make sure that young people are not targeted.

I think it is the impulse of all of us to say, new executives, new day; let's look at this anew. But when it came to light that Brown & Williamson was again using genetically altered, high-nicotine tobacco after promising the American people and the Congress that they would no longer engage in the practice, that is a pretty blatant contradiction of the claim that things really are different, that it is a new day, and that tobacco companies want to clean up their act.

As we consider this legislation on the floor of the Senate, Mr. President and colleagues, the Justice Department continues its inquiry into the use of this genetically altered nicotine, and there have already been criminal pleas that have been entered into.

Now, having said that, and noting some of the great challenges, let me also talk about what I think is a significant success, and I am particularly pleased to have an opportunity to do it while Chairman MCCAIN is here and on the floor of the Senate.

Mr. President and Chairman MCCAIN, I will tell you that when I left the Waxman hearings in 1994, walking out of that hearing room with the late Mike Synar, I told him that I was not convinced that we would make real headway in this fight to protect our children in our lifetime. I said to Mike Synar, "We are going to be up against all of the odds. We are going to be up against a lobbyist tidal wave. I am not sure we are ever going to do it in our lifetime."

We lost the late Mike Synar years before his time, but a lot of us said that we are going to continue that work. And we have the opportunity to do it because Chairman MCCAIN was courageous enough to take on this issue, come to Members of the Senate like myself, come to the public health groups, and say that we are going to focus on this issue until we get it done.

He did not minimize how tough a job it was. All he has to do is look down the row of his committee members. He has our good friend, WENDELL FORD, sitting a few places away from me. It is going to be a challenge to get WENDELL FORD and RON WYDEN to support a bill. We both did in the Senate Commerce Committee.

I commend Chairman MCCAIN at this time because we would not be on this floor, we would not have made as much progress, had he not been willing to take this issue on. I say to you, Mr. President, and to the country, we have come a long way. If you had told me 4 years ago, when I walked out of the Waxman hearings, that we would now be debating whether to impose fines of billions of dollars on companies that do not meet tough targets in reducing youth smoking, if you had told me 4 years ago that we would be having a debate on how to do that and impose those penalties, I would have asked you, "What are you smoking?" Because I thought there would never ever be an opportunity like that in my lifetime.

We have that opportunity because JOHN MCCAIN has focused on this issue and brought together a group in the

Senate that certainly does not agree on every single issue—that has been very clear—but does agree on how important it is to focus on this and get the job done.

Now, I do want to touch for just a few additional moments on several of the specific issues that have been important to me, and talk for a bit about why that is the case.

First, I am certain that many Members of the Senate have not heard about the accountability requirements that are in the legislation that we take up this week. And the word "accountability," for me and most public health specialists, is probably the single most important word in the discussion of this whole subject, because in the past it has not been possible to hold the tobacco companies accountable. For all of the past legislative efforts designed to rein them in—the Synar amendment, the early warning labels, the restrictions on electronic advertising—the industry would use their marketing and entrepreneurial talent and would find a way around them. So when we focused on enforcement issues in the committee, I began to discuss with Chairman MCCAIN and the bipartisan leadership of the Senate Commerce Committee how we could assure our children and future generations that there would be an ongoing watchdog who would scrutinize the practices of the tobacco companies when they inevitably try to get around the new law that I hope this Congress passes and that I know President Clinton will sign.

The tobacco companies, once again, when we get a new law, will put their entrepreneurial and marketing talent to the task of getting around it. They will have scores of slick strategies to employ to try to get around these protections. With the accountability requirements in this legislation, we will have an ongoing watchdog who will be in a position to let us know when the tobacco companies start trying to evade an important new public health law, as they have done every single time for decades.

With the accountability requirements, public health officials, the Surgeon General, the Director of the Centers for Disease Control, and the Office of Minority Health, will be involved in looking at company-specific behavior to determine whether a company is trying to evade the requirements of this law. They will be able to recommend at any time that a company that seeks to evade the strictures of this statute ought to have any liability protection they have pulled. Tobacco companies clearly have not been straight with the Congress. All their documents that came out after the 1994 hearings that contradicted what the executive said under oath in 1994 have made it very clear to me the single most important word in this debate—the single most intellectually honest word in this debate—is "accountability." I, again, thank Chairman MCCAIN and his staff. They were under a lot of pressure from powerful interests to essentially strip out these accountability requirements. Once again, Chairman MCCAIN hung in there for the public health, and I want to tell him how much I appreciate that.

There are two other issues I would like to touch on briefly, with the first being the issue of the health care of our minority citizens and those in communities inhabited by many minority Americans. For years, again as has come out in documents since the 1994 hearings, the tobacco companies have shamelessly targeted these minority youngsters and minority communities to sell their products. I think it is critically important now that in this legislation there be resources specifically targeted to these minority communities and to minority youngsters who are preyed upon by the tobacco industry. This legislation provides a first step toward addressing the health concerns of minorities by assuring that all of the State efforts for smoking cessation and prevention include minority populations, and that services can be made available through community-based organizations.

In the Congressional Black Caucus, for example, Congressman BENNIE THOMPSON has done a yeoman's job in terms of trying to focus both the other body and the U.S. Senate on this issue. I know they have talked about this with Chairman MCCAIN. This issue is not one that we are going to allow to be swept under the rug. It is not right to see so many minority youngsters get involved with tobacco at an early age, and it is unconscionable the way these tobacco companies have targeted our minority communities. In addition to the support for the State plans for smoking cessation and prevention, the Office of Minority Health will be represented on the accountability panel. In my view, this is a significant win for the cause of minority health.

We are going to have much to do as we consider these questions through the rest of the debate in the U.S. Senate and in the House. I am particularly troubled about the prospect that some of the focus on improving the health of our minority citizens, and specifically seeing a reduction in smoking among minority youngsters, will get lost if the final judgment by the Congress on this issue is to create a State block grant approach. I don't want to see this issue, which has been neglected for so long, lost in some sort of amorphous block grant where, once again, the health needs of minority youngsters and minority communities get lost. So there are going to be a number of Members of the U.S. Senate who care about this issue, particularly Senators JEFFORDS and HARKIN, and I am looking forward to working with them to strengthen the minority provisions, minority health provisions of this legislation. I know that Congressman BENNIE THOMPSON is going to bring his talents and energy to doing that as the House considers the bill as well.

Finally, there is one last issue I would like to raise. I have been talking tonight about the needs of youngsters in the United States. I represent the people of Oregon. I have the privilege of representing them, serving with my colleague, Senator GORDON SMITH who, in my view, has been a very strong voice for protecting youngsters in this debate. I appreciate that very much. We are both very proud to represent Oregon, and to work to improve the health of youngsters all across this country.

But I come tonight, as well, to talk about an issue that I think ought to strike at our moral conscience, and that is, as I have said, to say that it is critically important that we protect kids in Bend, OR, across the country, in Bangor, ME, and communities in between. But it is also critically important to protect kids in Bangladesh and Bangkok, because a child is a child is a child. And I hope—it is my fervent hope—that when this bill heads to the President of the United States, that we will have put in place extremely strong health protections for youngsters across the world.

Let us not say on our watch that to pay for a settlement, a tobacco settlement in the United States, the children around the world lost their health. Let us not sacrifice the lungs of youngsters around the world to pay for a settlement here. Let's protect kids in the United States. That is what we have a sworn obligation to do. But let us not forget youngsters around the world who don't have lobbyists, who don't have lawyers and the great array of talent that so many powerful interest groups have.

I will say that if we don't speak for those children all over the world on our watch—the Presiding Officer of the Senate and I are about the same age, I am a little older, I resent that, but a little older—but on our watch, millions of youngsters around the world will get sick during our lifetime and die needlessly. I know that the Presiding Officer and all our colleagues don't want to see that. That is why I think it is so important that we pass the provisions in this legislation that will protect youngsters around the world when the tobacco companies target them.

Make no mistake about it, that is the game plan. The game plan for the tobacco companies is consumption is going down here—it is well documented—and it is going up at a staggeringly high level around the world. The evidence shows, for example, that for every smoker who quits in the United States, two start in China.

There are countries around the world that actually are in support of companies that sponsor contests to see how many cigarettes a youngster can smoke at one time. If we don't take the steps to protect these youngsters around the world who are envisaged in the McCain legislation before us, we will have the bizarre situation where a tobacco company in the United States won't be able to slap a decal on some car or something that is utilized at a sporting event, but that same company will be able to participate in these contests around the world to see how many cigarettes a youngster can smoke.

I don't think we ought to have that kind of double standard where we say we are going to protect kids here but we are really not much interested around the world. I know that this is an issue that a lot of Members are not familiar with, but we are going to take the time over the next few days and, in the days ahead, to make sure that they are, because I think those kids count too.

The legislation before us today is not all that I would want, and it is not all that Senator DURBIN and Senator WELLSTONE and Senator HARKIN and many others who have been interested in this issue would want either. We really had our ideal plan and consideration in the Senate Commerce Committee. Chairman MCCAIN was straight and realistic with us. We knew that we couldn't win that kind of package on the floor of the U.S. Senate, so we vowed that we were going to lay a foundation to protect the health of youngsters around the world, as well as youngsters here, and that is what we have done in this legislation.

It wouldn't be my first choice, but to tell you the truth, Senator HOLLINGS, who very graciously worked with us essentially nonstop over the weekend, wouldn't think it is his first choice either. But that is what the legislative process is all about. What this legislation does with respect to kids around the world is very, very important.

Make no mistake about it, it is a strong beginning at laying out a global policy to protect kids around the world. It essentially does three things.

First, for all time—for all time—it gets the Federal Government out of the business, through the U.S. Trade Representative and other agencies, of promoting the sale of tobacco overseas. For the first time, the U.S. Trade Representative will be directed to consult with the Department of Health and Human Services concerning any trade actions related to tobacco. The U.S. Trade Representative will not be acting in a vacuum. They are required to let the Congress of the United States know when tobacco companies approach them on these matters. I think it is fair to say that with respect to the role of the U.S. Trade Representative and the Federal agencies that are charged with leading the international trade effort, that never again, as a matter of Federal law, will we have them promoting the sale of tobacco overseas.

Second, for the first time, we will require that U.S. health warnings on cigarette packs for exports are carried in a specific way. In effect, we are making it clear that the kind of warning labels, health-specific, that we have in the United States have to apply overseas. If the other governments around the world choose to put another warning on, it has to be substantially similar—substantially similar—in terms of the warning provided to our citizens.

It would not be right, as our colleague DICK DURBIN has said, to let them off by putting on a warning, "Well, cigarettes may cause bad breath," or, as some have seen in other parts of the world, "Cigarette smoking may be inconvenient to your neighbor." That won't do.

Around the world, as a result of the legislation incorporated into the McCain bill that we are considering now on the floor of the U.S. Senate, the warning that is health specific used in our country will have to be used around the world by regulation unless it is substantially similar. Those labels will make it clear that smoking is harmful, and they will be scientifically based.

The administration is charged with finding the most effective compliance mechanism and assuring that the labels are in the language of the country of destination. That is extremely important and something long sought by the public health groups.

Finally—I guess our colleague from Missouri, Senator ASHCROFT, took particular issue with this—this for the first time puts resources into the effort to work in an educational fashion around the globe. Several hundred million dollars is devoted to our participation in these global kinds of health efforts which are critically important, because if, for example, we learn about an important educational innovation that really does reach kids—for example, some of the counteradvertising that is already showing real promise in deterring youth smoking—we want to make sure that this kind of information is easily shared with the global network of public health specialists.

This isn't going to be sort of sock the Government. This is to make sure that kids around the world don't get sick. If we can prevent those illnesses, those countries will be able to avoid some of the much larger medical bills which often, as our colleagues know—particularly the Presiding Officer of the Senate because of his role in foreign affairs—and avoid coming to our Government to ask for support to deal with it.

So again, if we can prevent these illnesses among young people, particularly as it relates to tobacco, my sense is that the Presiding Officer of the Senate will see fewer demands for help with much greater medical bills which will come about as youngsters get hooked and addicted to tobacco.

Finally, the bill sets up a system to combat smuggling, and in much the same way the Federal Government today enforces the law against the smuggling of alcohol. And in regard to the smuggling provisions, I particularly want to commend the Senator from New Jersey, Senator LAUTENBERG, who has long been involved in this issue.

The tobacco companies, as a number of our colleagues already noted to me, do not want these provisions in this legislation. They do not want these provisions to ruin their business plans to target kids overseas. That is what the game plan is all about, Mr. President, and colleagues. It is about recognizing that consumption is going down in our country and skyrocketing around the world. With the export provisions, through removing the U.S. Trade Representative and Federal officials from the business of promoting tobacco permanently, through the warning labels, through the funds to participate in educational efforts, we make a very strong start to protect kids around the world. And I again thank Chairman MCCAIN for his help.

Mr. President, I want to wrap up with one last point.

I think I am the only Member of the U.S. Congress on either side who had the privilege in the last few years to participate in historic hearings in both of the Commerce Committees. I had the honor of serving on HENRY WAXMAN's subcommittee as a Member of the other body and I am now honored to have the chance to serve with JOHN MCCAIN, who has done so much to bring this bill to the floor tonight.

I will say that I think we have a once-in-a-lifetime opportunity to protect kids. That is what this is all about. At the end of the day, it is not about all these arcane and technical questions that we are debating on the floor of the Senate. That is not to say those questions are unimportant. They are. They are very important.

I will tell you, all of our colleagues who I have heard have been asking important questions. But as we ask those important questions, let us not lose sight of the end game here, which is to protect kids.

We have a President who is willing to take on the tobacco lobbies. That is a major reason we have come thus far. We have a chairman of the Senate Commerce Committee who has reached across both sides of the aisle to try to fashion a strong bill. We have public health groups all over this country who have made the case with their volunteers, with their physicians, with their nurses, with all of the individuals who participate in these superb organizations that now is the time, now is the time to act. And that means passing a bill in this Senate.

It is not going to be the perfect bill. It is not going to be what any of us would like in an ideal world. That is why I said there are a number of aspects of the export provisions that I was very bothered to see disappear. Senator HOLLINGS has concerns about what is in there—that is the process of fashioning legislation—but we were able to make a strong start at protecting our kids. And if the Senate passes this bill, and does it in a timely way, we can make a difference for kids here and around the world.

But I say, Mr. President, and colleagues—and I will conclude with this—the clock is ticking. It is not exactly an atomic secret that there are not many days left in the session. And delay is the best friend that the advocates of the status quo could possibly have. Delay is the very best friend of the tobacco lobbies that want to engage in business as usual. Delay is a perfect opportunity for all of those who say, "Tobacco company profits ought to come before the health of kids, that, well, we just have to study this longer. We don't know all the facts."

I say, Mr. President, and colleagues, that we will have a chance all the way through this process, through the amendments on the floor, and the House considers its legislation and passes it, as we go to conference, we will have a chance to learn more, to refine this legislation and to improve it. That is what we did through the many hearings that were held in the Senate Commerce Committee. That is what has happened through the work done by the Labor Committee, the Judiciary Committee, with so many of our colleagues on both sides of the aisle. But let us not miss this opportunity to pass this legislation. We have to do it soon. The clock is ticking.

Mr. President, this bill will be good for our children. More importantly, it will be good for our children's children. It is my fervent hope that this Senate passes this legislation, and does so in an expeditious way.

Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from the great State of Arizona.

Mr. MCCAIN. Before my colleague from Oregon leaves the floor, I express to him, first of all, my appreciation for his kind remarks, which I do not deserve. Second of all, I thank him for all the work that he has done on this legislation. Without him and his incredibly active participation in this effort, we would not have been able to reach the goal of getting a bill through the Commerce Committee and now to the floor of the Senate.

But most importantly, I thank the Senator from Oregon because he was involved in this issue very long before I or most of the Members of this body were involved. He and former Congressman Synar embarked on this effort long ago. And sometimes we have a reputation, which is well deserved as politicians, of butterflying from one issue to the other and forgetting the one of yesterday for the one of today and tomorrow.

Senator WYDEN does not take that approach on any issue, but on this issue he has been steadfast. He has been courageous. And, very frankly, he has been criticized from time to time, when the mood of the country was not as it is today. There was a time when we did not know all of the details about the tobacco companies having deceived the American people. There was a time when the tobacco lobby, we all know, had a much greater influence on both sides of the Capitol than today. It was during those times that Senator WYDEN carried the torch for the children of America.

I will always be grateful to him. And history will record that Senator WYDEN was a key and vital player in that effort. So I extend my gratitude to Senator WYDEN and remind him that we have a great deal yet to do. I know I can count on him to do it.

EXPLANATION OF VOTE

Mrs. BOXER. Mr. President, I wish to inform the Senate of the reason I voted "present" on the Faircloth amendment related to attorneys' fees in tobacco litigation.

I abstained on this vote because my husband's law firm is co-counsel in several lawsuits against tobacco companies filed in California state court by health and welfare trust funds.

The Ethics Committee has advised me that voting on an amendment such as this "would not pose an actual conflict of interest" under the Senate Code of Conduct.

However, I decided that this vote could create the appearance of a conflict of interest and therefore I abstained by voting "present."

MORNING BUSINESS

Mr. MCCAIN. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF STUART BALDERSON

Mr. LOTT. Mr. President, this evening, a number of us will be gathering together to honor Stuart Balderson who recently retired from the United States Senate after nearly four decades of exemplary service. I would like to take just a few moments to thank Stuart and to wish him well as he begins the next chapter of his life.

On May 23, 1960, Stuart Balderson, a twenty-two year old fresh out of the Navy, came to work in the United States Senate. At that time, Lyndon Johnson was the Majority Leader and Dwight D. Eisenhower was in the White House. Stuart was brought on board by Secretary of the Senate "Skeeter" Johnston and assigned a position in the Senate Finance Office. Over the course of the next 38 years, Stuart worked in every department of that office, including payroll, accounting, retirement and benefits, and legislative budgeting. In 1980, he assumed its top position, Financial Clerk of the United States Senate, and served in that capacity for the next 18 years.

Over the past 38 years, Stuart has seen a lot of history on Capitol Hill. To give you an idea of how much things have changed, when Stuart began working in the Senate, the Capitol Building was still using direct current from its own generators. You needed to use an AC adaptor if you wanted to plug in any electrical equipment, but there wasn't much electrical equipment to plug in. In those days, "computers" referred to the people who calculated the numbers rather than to any machines they used. Stuart's predecessor, Bill Ridgely, used to call those the "Bob Cratchitt" days of the Disbursing Office, when the Senate's bookkeepers, like Bob Cratchitt in Dickens' A Christmas Carol, wore green visors and armbands and sat on high stools.

A lot has changed since then. The number of Senate employees relying on the Senate Finance Office to handle their paychecks has more than doubled. Total Senate expenditures have risen from $25.9 million in 1960 to $583.3 million in 1997. In many ways, Stuart grew with the Senate, but the two things that always remained constant were his dedication to this institution and the financial integrity he brought to the job.

I know I speak for many other members and staff, past and present, when I say that we will miss Stuart. We commend him for his long and outstanding service and we wish him well as he retires.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 19, 1998, the federal debt stood at $5,501,436,319,981.88 (Five trillion, five hundred one billion, four hundred thirty-six million, three hundred nineteen thousand, nine hundred eighty-one dollars and eighty-eight cents).

One year ago, May 19, 1997, the federal debt stood at $5,344,451,000,000 (Five trillion, three hundred forty-four billion, four hundred fifty-one million).

Five years ago, May 19, 1993, the federal debt stood at $4,285,943,000,000 (Four trillion, two hundred eighty-five billion, nine hundred forty-three million).

Ten years ago, May 19, 1988, the federal debt stood at $2,523,047,000,000 (Two trillion, five hundred twenty-three billion, forty-seven million).

Fifteen years ago, May 19, 1983, the federal debt stood at $1,265,692,000,000 (One trillion, two hundred sixty-five billion, six hundred ninety-two million) which reflects a debt increase of more than $4 trillion—$4,235,744,319,981.88 (Four trillion, two hundred thirty-five billion, seven hundred forty-four million, three hundred nineteen thousand, nine hundred eighty-one dollars and eighty-eight cents) during the past 15 years.

JIMMY STEWART—AND WHY HE'S REMEMBERED BY SO MANY

Mr. HELMS. Mr. President, when Jimmy Stewart died last July, less than a year shy of his 90th birthday, which would have been today, millions of Americans of all ages felt they had lost a dear friend. They had grown up with great films such as "It's a Wonderful Life," "Harvey," "The Philadelphia Story," and the one that's probably many Americans' personal favorite, "Mr. Smith Goes to Washington."

I was fortunate to get to work with Mr. Stewart during the 1970s when we were on the campaign trail across North Carolina. Dot and I will never forget travelling with him introducing him to the citizens who felt that they already knew him.

Perhaps what I like most about "Mr. Smith Goes to Washington" is the manner in which Jimmy Stewart and director Frank Capra captured the timeless principles outlined in the Declaration of Independence. In describing the theme of the picture, Capra said: "The more uncertain are the people of the world, the more their hard-won freedoms are scattered and lost in the winds of change, the more they need a ringing statement of America's democratic ideals."

Jimmy Stewart, Mr. President, in a sense was playing a character modeled after Abe Lincoln. According to Capra, Jefferson Smith was "tailored to the rail-splitter's simplicity, compassion, ideals, humor and unswerving moral courage under pressure."

A year ago, on the occasion of Jimmy Stewart's eighty-ninth birthday, John Meroney of Advance, N.C., wrote a Wall Street Journal essay, "A Hero Larger Than Those He Portrayed," celebrating Jimmy Stewart's life and career. I learned about John Meroney when he was a student at Wake Forest University. I am persuaded the reason Jimmy Stewart appeals to John and other young people isn't simply because Mr. Stewart made some of the greatest pictures of all-time. I believe, Mr. President, that it's the contrast between Jimmy Stewart and so many of those who live and work in Hollywood today. It's hard to imagine anyone out there capturing America's heart the way Jimmy Stewart did, and via his countless films, still does. It's as John Meroney put it, it isn't because Jimmy played great characters. It's because of the way Jimmy Stewart lived his life.

So, Mr. President, in commemoration of the birthday of an American original, James Maitland Stewart, I ask unanimous consent that the text of Mr. Meroney's column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 20, 1997]

A HERO LARGER THAN THOSE HE PORTRAYED

(By John Meroney)

Beverly Hills, Calif.—James Stewart turns 89 today, and he will mark his birthday in a fitting manner—quietly at home, without the trappings of celebrity that he has avoided his entire life. It's also fitting that a man whose movies celebrate middle American values has lived in the same, rather plain Tudor-style house on a block absent the typical L.A. glitz for almost 50 years.

Mr. Stewart is not just one of the greatest American movie actors of all time, he's also probably the last cultural icon from his generation. Although it helps, working with directors like Ford, Wilder, DeMille and Hitchcock doesn't necessarily bring such exalted status. Nor does having your face projected 50 feet tall on movie screens for four decades. Many others have been that fortunate, yet are now forgotten. The parts you play, the message you carry, the life you live—that's what gives audiences what Mr. Stewart calls the "little tiny pieces of time that they never forget."

It was the director Frank Capra, an Italian immigrant who had a love affair with America, who gave Mr. Stewart the roles that stand out as eloquent and intelligent celebrations of American ideals and principles. Perhaps the best of these was found in Capra's 1939 feature "Mr. Smith Goes to Washington," in which Mr. Stewart played Jefferson Smith, an idealistic young man who becomes a U.S. senator only to have his hopes shattered when he discovers that his political heroes are dishonest. In a town where politics is a serious game, he's told, players have to check their ideals at the door. When he challenges this orthodoxy, Smith learns lessons the likes of which Robert Bork and Clarence Thomas could appreciate. But in the end, Smith triumphs, justice prevails, and a political machine is destroyed.

The establishment wasn't amused. Halfway through the Constitution Hall premiere, senators and congressmen began walking out. Members of the press corps, portrayed as elite snobs with their own agendas, were outraged. The Senate majority leader, Alben W. Barkley, called the movie a "grotesque distortion, as grotesque as anything I have ever seen." Ambassador Joe Kennedy wired Columbia Pictures President Harry Cohn from London and pleaded with him to block the European distribution, fearful it would be used as propaganda by the Axis powers.

Moviegoers in America and abroad saw "Mr. Smith" differently. In France, it was the last English-language film to be shown before the Nazi ban in 1942. Audiences there spontaneously erupted with standing ovations during Stewart's scene at the Lincoln Memorial. Observed one reporter: "It was as though the joys, suffering, love and hatred, the hopes and wishes of an entire people who value freedom above everything, found expression for the very last time."

Like some of his roles, Jimmy Stewart's life also symbolizes the American dream. Born near the Allegheny mountains in the coal mining town of Indiana, Pa., he was raised by parents who instilled in him values Hollywood couldn't corrupt. His father ran the local hardware store, which was, for Mr. Stewart, "the center of the universe." When he won the Best Actor Oscar for "The Philadelphia Story" in 1941, he remembers, "It was 3:45 [a.m.] when I got home and the phone rang. It was my father: 'I hear on the radio they gave you a prize or something. What is it, a plaque or a statue?' I told him it was a sort of a statue. He said, 'Well, send it home to me and I'll put in the hardware store window.' So the next day, I got it, packed it up, and sent it. It was there for 20 years."

Drafted in 1941—"I keep saying that's the only lottery I ever won"—Mr. Stewart became the commander of an Eighth Air Force squadron, and a genuine war hero. After flying some 25 missions over enemy territory with a copy of Psalm 91 that his father gave him in his pocket, he returned to Hollywood in 1945 as Col. Stewart, and was promptly decorated with the Air Medal and Distinguished Flying Cross. Active in the reserves until 1968, Jimmy Stewart retired with the rank of brigadier general. Of his combat experience, and the horrors of war, Gen. Stewart once said, "Everybody was scared. You just had to handle that. I prayed a lot."

During the 1940s and 1950s, while making such popular films as "It's a Wonderful Life," "Rear Window" and "Harvey," Mr. Stewart found that his traditional conservative political beliefs were becoming increasingly unpopular among his colleagues. Hearings by the House Un-American Activities Committee and its foray into Hollywood proved troublesome for Mr. Stewart because of his staunch anticommunism. It tested his long friendship with Henry Fonda, an outspoken liberal critical of HUAC. But Mr. Fonda couldn't resist his friend's intrinsic decency, and they agreed not to discuss politics to preserve their friendship. Mr. Fonda also understood that Mr. Stewart's beliefs had not come cheap. Unlike many families here who have escaped making the sacrifices that freedom often demands, the Stewarts lost a son in Vietnam when their oldest was killed in 1969.

The authenticity in Jimmy Stewart's personal life, so evident in his film career, seems to be a rarity in Hollywood. "There was something so totally real in his own way," Kim Novak, his co-star in "Vertigo," told me. "How often can you find somebody who's spent his whole life in Hollywood but represents so much of America?"

Director Ron Howard acted with Mr. Stewart in "The Shootist," a 1976 film that teamed them with the Duke. "John Wayne was sort of a mythological figure," says Mr. Howard. "Stewart wasn't aspiring to that. He was a character for us to relate to."

The way Jimmy Stewart has lived his 89 years is an example today's celebrities—and every American, for that matter—would do well to emulate. When asked in a documentary on his life how he wanted to be remembered, Mr. Stewart answered: "A guy who believed in hard work, and decent values, love of country, love of family, love of community, love of God."

George C. Scott, Mr. Stewart's co-star in "Anatomy of a Murder," and now one of his neighbors here, summed it up best, albeit sadly, when he told me: "They don't make them like that anymore. Hollywood misses them already, I'll tell you that."

REPORT OF THE DISAPPROVAL OF THE DISTRICT OF COLUMBIA STUDENT OPPORTUNITY SCHOLARSHIP ACT OF 1998—MESSAGE FROM THE PRESIDENT—PM 128

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was ordered to lie on the table:

To the Senate of the United States:

I am returning herewith without my approval S. 1502, the "District of Columbia Student Opportunity Scholarship Act of 1998."

If we are to prepare our children for the 21st Century by providing them with the best education in the world, we must strengthen our public schools, not abandon them. My agenda for accomplishing this includes raising academic standards; strengthening accountability; providing more public school choice, including public charter schools; and providing additional help to students who need it through tutors, mentors, and after-school programs. My education agenda also calls for reducing class size, modernizing our schools and linking them to the Internet, making our schools safe by removing guns, drugs, and instilling greater discipline.

This bill would create a program of federally funded vouchers that would divert critical Federal resources to private schools instead of investing in fundamental improvements in public schools. The voucher program established by S. 1502 would pay for a few selected students to attend private schools, with little or no public accountability for how those funds are used, and would draw resources and attention away from the essential work of reforming the public schools that serve the overwhelming majority of the District's students. In short, S. 1502 would do nothing to improve public education in the District of Columbia. The bill won't hire one new teacher, purchase one more computer, or open one after-school program.

Although I appreciate the interest of the Congress in the educational needs of the children in our Nation's Capital, this bill is fundamentally misguided and a disservice to those children.

The way to improve education for all our children is to increase standards, accountability, and choice within the public schools. I urge the Congress to send me legislation I have proposed to reduce class size, modernize our schools, end social promotions, raise academic standards for all students, and hold school systems, schools, and staff accountable for results.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 20, 1998.*

MESSAGES FROM THE HOUSE

At 12:23 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the Senate amendment to House amendment to Senate amendment to the bill (H.R. 2472) to extend certain programs under the Energy Policy and Conservation Act.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 171. Concurrent resolution declaring the city of Roanoke, Virginia, to be the official site of the National Emergency Medical Services Memorial Service.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 512. An act to establish requirements relating to the designation of new units of the National Wildlife Refuge System.

H.R. 1023. An act to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

H.R. 1522. An act to extend the authorization for the National Historic Preservation Fund, and for other purposes.

H.R. 2202. An act to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes.

H.R. 2556. An act to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

H.R. 2652. An act to amend title 17, United States Code, to prevent the misappropriation of collections of information.

H.R. 3039. An act to amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to guarantee loans to provide multifamily transitional housing for homeless veterans, and for other purposes.

H.R. 3534. An act to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

H.R. 3603. An act to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 1999, and for other purposes.

H.R. 3718. An act to limit the jurisdiction of the Federal courts with respect to prison release orders.

H.R. 3809. An act to authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 512. An act to establish requirements relating to the designation of new units of the National Wildlife Refuge System; to the Committee on Environment and Public Works.

H.R. 1023. An act to provide for compassionate payments whit regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 1522. An act to extend the authorization for the National Historic Preservation Fund, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2202. An act to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 2556. An act to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act; to the Committee on Environment and Public Works.

H.R. 2652. An act to amend title 17, United States Code, to prevent the misappropriation of collections of information; to the Committee on the Judiciary.

H.R. 3039. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to guarantee loans to provide multifamily transitional housing for homeless veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 3603. An act to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 1999, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 3718. An act to limit the jurisdiction of the Federal courts with respect to prison release orders; to the Committee on the Judiciary.

H.R. 3809. An act to authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes; to the Committee on Finance.

Pursuant to the order of August 4, 1977, with instructions that if one committee reports the other committee have thirty days to report or be discharged, the following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 3534. An act to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following report of committee was submitted:

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 30. A concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruct and Development.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance:

Patrick A. Mulloy, of Virginia, to be an Assistant Secretary of Commerce.

Thelma J. Askey, of Tennessee, to be a Member of the United States International Trade Commission for the remainder of the term expiring December 16, 2000.

Jennifer Anne Hillman, of Indiana, to be a Member of the United States International Trade Commission for the term expiring December 16, 2006.

Stephen Koplan, of Virginia, to be a Member of the United States International Trade Commission for the term expiring June 16, 2005.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ALLARD (for himself and Mr. CHAFEE):

S. 2094. A bill to amend the Fish and Wildlife Improvement Act of 1978 to enable the Secretary of the Interior to more effectively use the proceeds of sales of certain items; to the Committee on Environment and Public Works.

By Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. LOTT, Mr. DASCHLE, Mr. BAUCUS, Mr. BREAUX, Mr. GRAHAM, Mr. WYDEN, Mr. SMITH of New Hampshire, Mr. SARBANES, Mr. WARNER, Mr. STEVENS, Ms. SNOWE, Ms. COLLINS, Mr. BOND, Mrs. MURRAY, and Mr. DOMENICI):

S. 2095. A bill to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act; to the Committee on Environment and Public Works.

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 2096. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel FOILCAT; to the Committee on Commerce, Science, and Transportation.

By Mr. CAMPBELL:

S. 2097. A bill to encourage and facilitate the resolution of conflicts involving Indian tribes, and for other purposes; to the Committee on Indian Affairs.

S. 2098. A bill to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surroundings those public lands and acquired lands; to the Committee on Energy and Natural Resources.

S. 2099. A bill to provide for enhanced Federal sentencing guidelines for counterfeiting offenses, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. MACK, and Mr. FAIRCLOTH):

S. 2100. A bill to amend the Higher Education Act of 1965 to increase public awareness concerning crime on college and university campuses; to the Committee on Labor and Human Resources.

By Mr. BENNETT (for himself, Ms. MOSELEY-BRAUN, and Mr. SHELBY):

S. 2101. A bill to amend the Public Health Service Act to provide for research and services with respect to lupus; to the Committee on Labor and Human Resources.

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, Mr. LEAHY, and Mr. WELLSTONE):

S. 2102. A bill to promote democracy and good governance in Nigeria, and for other purposes; to the Committee on Foreign Relations.

By Mrs. FEINSTEIN (for herself, Mr. HATCH, and Mrs. BOXER):

S. 2103. A bill to provide protection from personal intrusion for commercial purposes; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mr. ABRAHAM):

S. 2104. A bill to authorize the Automobile National Heritage Area; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLARD (for himself and Mr. CHAFEE):

S. 2094. A bill to amend the Fish and Wildlife Improvement Act of 1978 to enable the Secretary of the Interior to more effectively use the proceeds of sales of certain items; to the Committee on Environment and Public Works.

FISH AND WILDLIFE REVENUE ENHANCEMENT ACT OF 1998

Mr. ALLARD. Mr. President, I am introducing a bill today to amend the Fish and Wildlife Improvement Act of 1978.

This bill will allow the Secretary of the Interior and the Secretary of Commerce to more effectively use proceeds from the sale of forfeited and abandoned wildlife items.

Mr. President, there is a warehouse in Commerce City, Colorado, operated by the U.S. Fish and Wildlife Service, which is filled with wildlife parts and products.

It is the National Repository for items that have been forfeited or abandoned to the U.S. Government and are being held for disposition by the Service.

Some of these items are quite unusual: mounted rhinoceros, coral jewelry, stuffed alligators, elephant foot footstools.

Some of these items are endangered or otherwise protected by law, and it is illegal to import them into the United States.

Those companies or individuals who were caught trying to do so either abandoned the items or they were forfeited to the U.S. Government through a legal process.

The Service distributes these wildlife items to museums and to schools for conservation education programs around the country.

Anyone who flew through Denver's old Stapleton Airport, for instance, might have seen a display in the main terminal reminding travelers about various laws regulating importation of wildlife and wildlife products.

A similar display is being erected at Denver International Airport.

In addition to the unusual wildlife specimens stored at the Service's Colorado Repository are some more familiar items such as leather boots, jackets, purses, watchbands, and sea shells.

These are in the possession of the Service because, in many cases, the required foreign export permits were not obtained or the items were falsely identified.

Although it is legal to possess and sell many of these wildlife items, there is, of course, a procedure for importing them. This includes obtaining the required foreign export permits prior to importation and properly declaring the items.

If these procedures are not followed correctly, then the items can be seized.

Abandonment or forfeiture actions are then initiated with title being transferred to the Government.

Many times, however, the people who try to bring them in will just abandon them to the Service.

These items are retained by the Service at the Commerce City facility until an appropriate disposition can be made.

I want to take just a moment here to point out that the Repository in question is located on the Rocky Mountain Arsenal northeast of Denver.

This inactive military facility is in the middle of a transformation from a Superfund site to the largest urban wildlife refuge in the country.

The Arsenal, which once produced nerve agents and chemical weapons, is now a haven for eagles, migratory birds, deer, and other wildlife.

I've been told that there is hope to one day introduce bison back into the 27 square mile facility.

The old Arsenal will become a new gem in the National Wildlife Refuge System, and an excellent resource for the people of Colorado.

A Service priority for disposing of these wildlife items is to utilize them in scientific and educational programs.

There are, however, many items in the Repository inventory excess to the needs of these scientific and educational programs.

Those excess items which are not given a high level of protection—those that are not endangered, or marine mammals, or migratory birds—can legally be sold on the open market.

If these surplus items were sold by the Service at an auction, they would generate proceeds which could be used to offset operational costs of the Repository, thereby allowing for a more efficient use of appropriated funds by the Service and a saving of money for the tax payers.

But there is a hitch. Current law mandates proceeds from the sale except for those that can be used for rewards, must be returned to the General Treasury.

This sounds fine, until you consider the mechanics of holding an auction.

An auctioneer charges a commission which is usually a percentage of the proceeds from a sale.

Since the Service estimates that they have about one million-dollars worth of surplus wildlife items on hand, which is a 10 year backlog, they can expect to pay the auctioneer a commission of around 15 percent or about $150,000.

Now, the budget for the Repository in Fiscal Year 1998 is $310,000 with salaries alone costing 80 percent of that number. They simply cannot pay about half of their funding towards an auctioneer's commission, and that is what they would have to do under current law.

Although a sale would bring in money, the majority of the proceeds would go to the General Treasury, and the Service would have to use money already in their operational budget to pay for the sale.

Needless to say, there are not enough funds to pay the auctioneer's commission, so the auction does not take place and the wildlife property sits and decays.

What this bill would do is allow the Fish and Wildlife Service, and the National Marine Fisheries Service under the Commerce Department, to keep the proceeds from the selling of wildlife products at an auction.

The money would be used for very specific purposes.

These purposes, except for one, are all related to the task of storing, shipping and disposing of the forfeited and abandoned items located around the country.

The other uses of the funds I will explain in just a minute.

This bill specifically says that the Services can use the proceeds of the sale for:

(1) Shipping items from one location to another;

(2) Storage and security of the items;

(3) Appraisal of the items;

(4) Sale of the items—this is necessary to pay an auctioneer's commission; and

(5) Payment of any valid liens against the objects.

As you can see, this will not allow the Services to establish a slush fund for their use.

The bill requires the money may be used only to continue paying for rewards, storage and shipping of the property, and to facilitate the disposal of the items, thereby making them available for the people of the United States.

The other use for the proceeds is very special.

The U.S. Fish and Wildlife Service administers a program that provides for the distribution of dead eagles to Native Americans so they may be used for religious and cultural purposes.

As you probably know, bald and golden eagles are highly protected and it is illegal for anyone to kill an eagle or possess an eagle carcass or its feathers.

The way the program is set up, dead eagles are sent to the National Eagle Repository, which is also located on Rocky Mountain Arsenal in Commerce City, Colorado.

There they are cataloged, processed, and shipped to Native Americans.

Even though the Repository distributes about 1,000 eagles to Native Americans each year, there is currently about a three year wait to receive an eagle carcass. This is because of the limited number of eagles being received at the Repository.

Most have been trapped, or electrocuted, or have collided with power lines and cars—they are not in very good shape.

When an eagle is received by the Repository, attempts are made to match the type of eagle with that being requested, i.e. bald or golden, immature or mature.

Requests for individual feathers are also filled.

The Repository is so concerned about customer service that they will replace any broken or missing feathers with whole ones from another bird.

The cost to box and ship an eagle is about $50. This cost is absorbed by the Service rather than being passed on to the Native Americans.

This bill will allow the Fish and Wildlife Service to use the proceeds from an auction to assist the eagle program by paying for boxes, dry ice, and other costs associated with shipping the eagles.

For instance, some of the proceeds could also be used to purchase chest freezers to be placed in regional collection points.

This would be for short term storage of the eagles near where they are initially found.

This would hopefully increase the number of eagles being sent to the Repository and subsequently increase the number being shipped to the Native Americans, thereby reducing the waiting period to receive an eagle.

Before I close here, let me stress—the auctions will only be selling wildlife items that are legal to possess and sell in the U.S., items like boots, belts, wallets, purses, shell products, etc.

These items have a valid place on the U.S. market.

Items that have a higher scientific or educational value will be distributed to museums and schools.

No products from endangered species, eagles, marine mammals, or migratory birds will be sold.

The Fish and Wildlife Improvement Act already gives the authority to sell those items that are surplus for scientific and educational needs.

The Act is silent, however, as to what happens to the proceeds from the sale of abandoned items, so by default they go to the General Treasury.

The Services are therefore precluded from being able to utilize these funds.

If this bill is enacted, the proceeds from the sale of forfeited and abandoned items will aid in the shipping, storing, and disposing of wildlife products to scientific and educational programs and the distribution of eagles to Native Americans for religious and ceremonial purposes.

I hope this bill can be moved quickly in the Senate.

Mr. CHAFEE. Mr. President, I am pleased to cosponsor this bill with my colleague Senator ALLARD. This bill represents a move towards efficient use of government funds, and support for the valuable programs carried out with those scarce funds. The bill would initially generate approximately $1 million for the Service through the sale of items derived from fish and wildlife that are currently stored by the Service. This money would be used to cover the costs of disposing of these items—which is now a financial drain on the Service—and to fund programs that loan these items to schools and Native American groups for educational and religious purposes.

Each year, the Fish and Wildlife Service (Service) receives hundreds of thousands of items derived from fish, wildlife and plants, such as skins, furs, feathers, jewelry, etc. These items can be seized, forfeited or abandoned during enforcement of Federal wildlife laws, and they are eventually shipped to the National Wildlife Property Repository in Colorado. The Repository currently has about 150,000 items, with about 50,000 items stored elsewhere.

Under current law, the Service may dispose of fish, wildlife or other items forfeited or abandoned to the U.S. government, either by loan, gift, sale or destruction. There are certain restrictions on disposal of those items. For example, items made from threatened or endangered species, marine mammals and migratory birds cannot be sold according to the laws that apply to those particular species.

Revenue from the sale of forfeited items go to the Service for certain program operations; however, revenue from the sale of abandoned items go to the General Treasury, and are not available to the Service. More than 90 percent of the fish and wildlife items are abandoned, so that the Service would receive very little revenue from sales of these items. Indeed, under current law, the costs of selling these items would outweigh any revenue, so that the Service has no incentive to sell them.

The Service must further expend funds for the shipment, storage and disposal of the items that it acquires. In addition, the Service will make many of these items—those that cannot be sold under law—available for Native American religious and ceremonial purposes, educational purposes, and research, but must expend its own funds to do so. The Repository was appropriated $310,000 for operations last year. After overhead, only $61,000 was available for disposal of these items.

Disposal includes two programs in particular. The first, known as Cargo for Conservation, provides wildlife specimens to schools for educational programs. Under this program, the Service has distributed almost 400 educational kits to various organizations. The second program provides eagle carcasses and parts to Native Americans for religious and ceremonial purposes. Under this program, the Service has filled almost 1,500 requests for eagles, eagle parts and other raptors in 1997 alone, although there is currently a two year backlog in filling orders for some eagle carcasses.

The bill would specifically amend the Fish and Wildlife Improvement Act in two ways. First, it would authorize the deposit of proceeds from the sale of forfeited and abandoned items into Service accounts rather than into the general treasury. Second, it would expand the use of funds received through these sales to include costs incurred by shipping, storage and disposal of these items, as well as payment of any liens on these items.

I would like to note that this bill does not change existing authority with respect to items that may be sold by the Service. It does not allow the sale of items derived from threatened and endangered species, marine mammals, or migratory birds. The Service already has authority to sell certain items for which it is lawful to do so. This bill merely allows the Service to keep revenues derived from any items it sells, and to use those revenues for certain programs. This is a bill representing efficient use of government funds.

At the same time, this bill is not intended to imply that the Service should sell everything that it lawfully can in order to maximize profits. It is my understanding that the Service has no intention to sell items derived from sensitive species, including those that are candidates for listing as endangered or threatened. It is also my expectation that, in considering which items to sell, the Service would take into account the biological status of any species used for that item, and any implications that the sale may have for conservation efforts relating to that species. For example, any sale by the Service should not encourage new markets that may undermine protections elsewhere. Lastly, the Service should ensure that the sale of these items does not undermine enforcement efforts within the U.S.

In summary, I am pleased to cosponsor this bill with Senator ALLARD. Our staffs have worked closely with each other and with the Administration in drafting this legislation, and I look forward to working on this bill in the future.

By Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. LOTT, Mr. DASCHLE, Mr. BAUCUS, Mr. BREAUX, Mr. GRAHAM, Mr. WYDEN, Mr. SMITH of New Hampshire, Mr. SARBANES, Mr. WARNER, Mr. STEVENS, Ms. SNOWE, Ms. COLLINS, Mr. BOND, Mrs. MURRAY, and Mr. DOMENICI):

S. 2095. A bill to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act; to the Committee on Environment and Public Works.

NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT AMENDMENTS OF 1998

Mr. CHAFEE. Mr. President, today I introduce legislation to reauthorize the National Fish and Wildlife Foundation Establishment Act of 1984. This legislation makes important changes in the Foundation's charter, changes that I believe will allow the Foundation to build on its fine record of providing funding for conservation of our nation's fish, wildlife, and plant resources.

The National Fish and Wildlife Foundation was established in 1984, to bring together diverse groups to engage in conservation projects across America and, in some cases, around the world. Since its inception, the Foundation has made more than 2,300 grants totaling over $270 million. This is an impressive record of accomplishment. The Foundation has pioneered some notable conservation programs, including implementing the North American Waterfowl Management plan, Partners in Flight for neotropical birds, Bring Back the Natives Program, the Exxon Save the Tiger Fund, and the establishment of the Conservation Plan for Sterling Forest in New York and New Jersey, to name just a few.

Mr. President, the Foundation has funded these programs by raising private funds to match federal appropriations on at least a 2 to 1 basis. During this time of fiscal constraint this is an impressive record of leveraging federal dollars. Moreover, all of the Foundation's operating costs are raised privately, which means that federal and private dollars given for conservation is spent only on conservation projects.

I am proud to count myself as one of the "Founding Fathers" of the National Fish and Wildlife Foundation. In 1984, I, along with my colleagues Senators Howard Baker, George Mitchell, and JOHN BREAUX, saw the need to create a private, nonprofit group that could build public-private partnerships and consensus, where previously there had only been acrimony and, many times, contentious litigation.

The National Fish and Wildlife Foundation has more than fulfilled the hopes of its original sponsors. It has helped to bring solutions to some difficult natural resource problems and is becoming widely recognized for its innovative approach to solving environmental problems. For example, when Atlantic salmon neared extinction in the U.S. due to overharvest in Greenland, the Foundation and its partners bought Greenland salmon quotas. I and many others in Congress want the Foundation to continue its important conservation efforts. So, today I am introducing amendments to the Foundation's charter that will allow it to do just that.

Mr. President, this legislation is quite simple. It makes three key changes to current law. First, the bill would expand the Foundation's governing Board of Directors from 15 members to 25 members. This will allow a greater number of those with a strong interest in conservation to actively participate in, and contribute to, the Foundation's activities.

The bill's second key feature authorizes the Foundation to work with other agencies within the Department of the Interior and the Department of Commerce, in addition to the Fish and Wildlife Service and the National Oceanic and Atmospheric Administration. Mr. President, it is my view that the Foundation should continue to provide valuable assistance to government agencies within the Departments of the Interior and Commerce that may be faced with conservation issues. Finally, it would reauthorize appropriations to the Department of the Interior and the Department of Commerce through 2003.

Mr. President, I believe that this legislation I introduce today will produce real conservation benefits and I strongly urge my colleagues to give the bill their support.

Mr. KEMPTHORNE. Mr. President, nearly fourteen years ago President Reagan signed P.L. 98–244, an act to establish the National Fish and Wildlife Foundation as a charitable, nonprofit corporation of the United States specifically to further the conservation and management of the Nation's fish, wildlife, and plant resources. Since that time, the Foundation has funded more than 2,200 conservation projects through their partnership and challenge grant program.

In the State of Idaho alone, the Foundation has funded nearly 100 projects worth over $19,000,000. The good news is that they have done this work with only $5M of federal money. That is nearly a four to one contribution from the private sector. In addition, there have been many projects in adjacent States that benefit the Stat of Idaho.

But the Foundation has had its share of controversy. A Foundation grant to the Pacific Rivers Council may have allowed the Pacific Rivers Council to use other resources to nearly shut down the economy of several counties in the State of Idaho. A federal judge shut down all permitted activities in our national forests when the Pacific Rivers Council brought suit against the United States Forest Service and the National Marine Fisheries Service for failure to consider cumulative impacts of permitted activities under the Endangered Species Act. The two agencies could not agree on the extent and nature of the consultations, so the Federal judge shut down all activities in our national forests until they were in compliance. Even the plaintiffs in the suit were surprised by the effect of their suit. They quickly joined the effort to reverse the injunction and to have the two Federal agencies agree on a solution.

Since then the Foundation has implemented procedures into its grant contracts to prevent a recurrence of the devastating injunction triggered by the Pacific Rivers Council. The Foundation has repeatedly stated that "it does not engage in lobbying or litigation and does not allow its grants to be used for those activities."

And, I recognize that the Foundation has provided grant monies to support studies of grizzly bears and wolves in the Pacific Northwest. However, in my review of those grants I am pleased to say that the grants have been used to discover basic biological information about these predators. The Foundation has produced educational materials, backed research on the impacts of human activities, improved sanitation and safety will bear-proof dumpsters, supported GIS mapping of bear habitats, and brought in non-federal partners.

During the years I have been acquainted with the Foundation, I have found that they work with the entire spectrum of interests to leverage through private partners a limited amount of federal funding into significant monies for conservation.

Mr. LOTT. Mr. President, today Senator CHAFEE, chairman of the Senate Environment and Public Works Committee, has introduced legislation to reauthorize the National Fish and Wildlife Foundation. I support the Foundation and the activities it undertakes to further conservation and management of our nation's fish and wildlife resources.

Created by Congress in 1984, the Foundation has forged a strong relationship between government and corporate stakeholders, fostering cooperation and coordination. It has been successful in bringing private sector involvement, initiative and technology to bear in solving conservation problems. With this reauthorization, the Foundation's record of providing real on-the-ground conservation will continue.

Mr. President, all federal money appropriated to the National Fish and Wildlife Foundation must be matched by contributions from non-federal sources: corporations, State and local government agencies, foundations and individuals. The Foundation's operating policy is to raise a match of at least 2 to 1, to maximize leverage for our federal funds. With the financial assistance of the private sector and the technical knowledge of the States, the Foundation can be both effective and responsive to conservation needs.

All of the Foundation's projects are peer reviewed by agency staff, state resource officials, and other professionals in the natural resource field. No project is undertaken without the input and support of the local community and state interests. The Foundation has also initiated a process to solicit comments from members of Congress concerning grants in a member's district or state.

Mr. President, one of the things that distinguishes the Foundation from other conservation groups is its results in the field. The Foundation has worked with over 700 agencies, universities, businesses and conservation groups, both large and small, over the last decade. These relationships have helped the Foundation become one of the most effective conservation organizations in the nation.

In Mississippi, for example, the Foundation has supported local habitat restoration projects to help private landowners install water control structures to provide wintering habitat for migratory waterfowl. Our farmers have learned that it also benefits weed control, seed-bed preparation, prevention of erosion—all at a lower cost. The Foundation has provided grants to assist private landowners in restoring bottomland hardwood habitats critical to migrating neotropical songbirds and other water-dependant wildlife species. These efforts are helping to maintain the state's original wetlands habitats.

Activities of the Foundation do produce real on-the-ground conservation benefits for the resources of our nation. I ask that my colleagues join me in supporting this legislation.

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 2096. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Foilcat*; to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION FOR THE VESSEL "FOILCAT"

• Mr. INOUYE. Mr. President, I am introducing a bill today to direct that the vessel *Foilcat*, Official Number 1063892, be accorded coastwise trading privileges for a fixed duration and be issued a certificate of documentation under section 12103 of title 46, U.S. Code.

The *Foilcat* was originally constructed in Norway, in 1992, and is a hydrofoil vessel presently under renovation in a U.S. shipyard. It is 84.2 feet in length and is expected to be less than 100 U.S.C.G. registered tons.

The vessel is owned by Steven Loui of Honolulu, Hawaii. Mr. Loui would like to utilize his vessel to evaluate the use of hydrofoil technology in the establishment of a high speed ferry demonstration project. However, because the vessel was built in Norway, it did not meet the requirements for coastwise license endorsement in the United States.

The Hawaiian islands are exposed to high and rough surf and it is incumbent that we utilize high speed technologies in order to overcome the impediments of high surf and transportation distance requirements. *Foilcat* utilizes advanced hydrofoil technologies enabling the vessel to travel at high speeds while also providing safe and comfortable passenger ferry service. Should this technology as applied in passenger ferry service, prove successful, a series of these types of vessels will be built in the U.S.—using U.S. workers. Mr. Loui is planning to invest almost three times the amount of the vessel's purchase price in repairs and upgrades in a U.S. shipyard. My reflagging request would be for a limited time period, which would provide adequate time to evaluate the use of this technology in the establishment of inter and intra-island passenger ferry service.

The owner of the *Foilcat* is seeking a waiver of the existing law because he wishes to use the vessel to evaluate high speed technology in passenger ferry service. His desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If he is granted this waiver, it is his intention to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow the *Foilcat* to engage in the coastwise trade and the fisheries of the United States.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITED DURATION WAIVER OF COASTWISE TRADE LAWS.

(a) IN GENERAL.—Notwithstanding sections 12106 and 12108 of title 46, United States Code, section 8 of the Passenger Vessel Act (46 U.S.C. App. 289), and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Foilcat*, (United States Official Number 1063892).

(b) TERMINATION.—The certificate issued under subsection (a) shall be in effect for the vessel *Foilcat* for the period—

(1) beginning on the date on which the vessel is placed in service to initiate a high-speed marine ferry demonstration project; and

(2) ending on the last day of the 36th month beginning after the date on which it became effective under paragraph (1).●

By Mr. CAMPBELL:

S. 2097. A bill to encourage and facilitate the resolution of conflicts involving Indian tribes, and for other purposes; to the Committee on Indian Affairs.

INDIAN TRIBAL CONFLICT RESOLUTION, TORT CLAIMS, AND RISK MANAGEMENT ACT OF 1998

Mr. CAMPBELL. Mr. President, today I introduce the Indian Tribal Conflict Resolution, Tort Claims and Risk Management Act of 1998 to continue the discourse on matters involving Indian tribal governments such as providing a mechanism for the collection of legitimate state retail sales taxes and affording a remedy to those persons injured by the acts of tribal governments, or those acting on their behalf.

By introducing this legislation, I am hopeful that tribal leaders, concerned parties, and those affected by the actions of tribal governments can find some common ground and craft innovative solutions to these issues which I believe will continue to hamper Indian tribes unless dealt with appropriately.

It has been said that because of Indian tribal immunity from lawsuits, states have no enforcement mechanism to collect state retail taxes on transactions made to non-members. Similarly, opponents of tribal immunity charge that tribal immunity prevents injured persons from seeking legal recourse for their injuries.

The Supreme Court has held that on retail sales made to non-members, Indian tribes are under a duty to collect and remit such state taxes. The Court made it clear that there are numerous remedies available to the states in such situations including suits against tribal officials; levying the tax at the wholesale level before goods enter reservation commerce; negotiating agreements with the tribes involved; and if these prove unworkable, then seeking congressional action.

At least 18 states and numerous tribes have chosen the negotiations route to settling their differences short of litigation and acrimony. Testimony presented to the committee on March 11, 1998, revealed that there are approximately 200 intergovernmental agreements between Indian tribes and states providing for the collection and remittance by the tribes of state sales taxes on sales made to non-members.

Rather than waive the immunity of all tribes—those who have chosen to deal with the issue of taxation through agreement and those who have not—the legislation I introduce today declares the policy of the United States to be the reaffirmation of the federal obligation to protect Indian tribes, people, and trust resources and property of Indian tribes. In fulfilling that obligation, the United States should make available the framework and machinery for the amicable settlement and resolution of disputes, including tax matters, involving states and Indian tribes.

The achievement of mutual agreements is the major objective of this bill, and in addition to encouraging such agreements, this legislation provides for the creation of an "Intergovernmental Alternative Dispute Resolution Panel" to consider and render decisions on tax matters that cannot be resolved through negotiation.

The panel will be composed of a five member team including representatives of the Departments of Interior, Justice, and Treasury; one representative of state governments; and one representative of tribal governments. Rather than create a "new" mediation framework, this bill relies on the existing Federal Mediation and Conciliation Service to provide mediation services for such situations.

Title II of the bill is intended to provide a remedy in tort situations for those tribes that are not covered by the Federal Tort Claims Act, or covered by private secured liability insurance.

This title would require the Secretary of Interior to obtain or provide tort liability insurance or equivalent coverage for each Indian tribe that receives tribal priority allocations from the Bureau of Indian Affairs (BIA).

Because many, if not most, Indian tribes maintain some type of insurance coverage, the Secretary is obligated to determine the type and adequacy of coverage already provided in order to avoid duplicative or redundant coverage.

Significantly, and as is the case with insurance policies now in place for many tribal governments, the policy of insurance must contain a provision prohibiting the carrier from raising the defense of sovereign immunity with respect to any tort action filed involving the tribe. In this way, injured persons would be afforded a remedy. Such policies would also contain a provision precluding any waiver for pre-judgment interest or punitive damages.

The Secretary would prescribe regulations governing the amount and nature of claims covered by such insurance policy, and would also set a schedule of premiums payable by any tribe that is provided insurance under this bill.

Lastly, as Indian tribes have begun to re-develop their economies and are beginning to assert their influence, issues and matters have developed that should receive the attention of a full-time, intergovernmental body to review and analyze such situations.

This legislation creates the "Joint Tribal-Federal-State Commission on Intergovernmental Affairs" to thoughtfully and deliberately consider matters such as law enforcement, civil and criminal jurisdiction, taxation, transportation, economic development, and related issues. Two years after enactment, the commission is required to submit a report of its findings and recommendations to the President, the Committee on Indian Affairs in the Senate, and the Committee on Resources in the House of Representatives.

Finally, let me say that I do not agree with those who suggest that the doctrine of tribal sovereign immunity is an anachronism and one no longer deserving of protection. Several of the states, as well as the federal government, have chosen to waive their immunity from suit in very limited circumstances and under strict conditions.

It is simply inaccurate to suggest that tribal governments are the last repository of immunity. Whether by limiting damage awards as some states have done, or eliminating entire classes of activities that will not trigger immunity waivers as the federal government has done in the Federal Tort Claims Act, the doctrine of immunity is alive and well in the United States.

That there are issues that need to be dealt with I agree; that the way to address these issues is through involuntary, broad-based waivers of immunity, I disagree heartily. I call on the quiet, thoughtful, and reasonable people on both sides of these issues to craft solutions that respects Indian tribal governments and yet provides reasonable solutions for legitimate problems that do exist.

Mr. President, I ask that the contents of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Tribal Conflict Resolution and Tort Claims and Risk Management Act of 1998".

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Indian tribal sovereignty predates the formation of the United States and the United States Constitution;

(2) a unique legal and political relationship exists between the United States and Indian tribes;

(3) through treaties, statutes, Executive orders, and course of dealing, the United States has recognized tribal sovereignty and the unique relationship that the United States has with Indian tribes;

(4) Indian tribal governments exercise governmental authority and powers over persons and activities within the territory and lands under the jurisdiction of those governments;

(5) conflicts involving Indian tribal governments may necessitate the active involvement of the United States in the role of the trustee for Indian tribes;

(6) litigation involving Indian tribes, that often requires the United States to intervene as a litigant, is costly, lengthy, and contentious;

(7) for many years, alternative dispute resolution has been used successfully to resolve disputes in the private sector, and in the public sector;

(8) alternative dispute resolution—

(A) results in expedited decisionmaking; and

(B) is less costly, and less contentious than litigation;

(9) it is necessary to facilitate intergovernmental agreements between Indian tribes and States and political subdivisions thereof;

(10) Indian tribes have made significant achievements toward developing a foundation for economic self-sufficiency and self-determination, and that economic self-sufficiency and self-determination have increased opportunities for the Indian tribes and other entities and persons to interact more frequently in commerce and intergovernmental relationships;

(11) although Indian tribes have sought and secured liability insurance coverage to meet their needs, many Indian tribes are faced with significant barriers to obtaining liability insurance because of the high cost or unavailability of such coverage in the private market;

(12) as a result, Congress has extended liability coverage provided to Indian tribes to organizations to carry out activities under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); and

(13) there is an emergent need for comprehensive and cost-efficient insurance that allows the economy of Indian tribes to continue to grow and provides compensation to persons that may suffer personal injury or loss of property.

(b) PURPOSES.—The purposes of this Act are to enable Indian tribes, tribal organizations, States and political subdivisions thereof, through viable intergovernmental agreements to—

(1) achieve intergovernmental harmony; and

(2) enhance intergovernmental commerce.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEDERAL AGENCY.—The term "Federal agency" has the meaning given the term "Executive agency" in section 105 of title 5, United States Code.

(2) INDIAN COUNTRY.—The term "Indian country" has the meaning given that term in section 1151 of title 18, United States Code.

(3) INDIAN TRIBE.—The term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(4) PANEL.—The term "Panel" means the Intergovernmental Alternative Dispute Panel established under section 103.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Department of the Interior.

(6) STATE.—The term "State" means each of the 50 States and the District of Columbia.

(7) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given that term in section 4(*l*) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(*l*)).

SEC. 4. DECLARED POLICY OF THE UNITED STATES.

It is the policy of the United States—

(1) to continue to preserve and protect Indian tribes, Indian people, and trust resources and property of Indian tribes; and

(2) that the settlement of issues and disputes involving Indian tribes and States or political subdivisions thereof, through negotiation and accommodation, may be advanced by making available full and adequate governmental facilities for fact finding, conciliation, mediation, and voluntary arbitration to aid and encourage Indian tribes, States, and political subdivisions thereof—

(A) to reach and maintain agreements; and

(B) to make reasonable efforts to settle differences by mutual agreement reached by such methods as may be provided for in any applicable agreement for the settlement of disputes.

TITLE I—INTERGOVERNMENTAL AGREEMENTS

SEC. 101. INTERGOVERNMENTAL COMPACT AUTHORIZATION.

(a) IN GENERAL.—The consent of the United States is granted to States and Indian tribes to enter into compacts and agreements in accordance with this title.

(b) COLLECTION OF TAXES.—Consistent with the United States Constitution, treaties, and principles of tribal and State sovereignty, and consistent with Supreme Court decisions regarding the collection and payment of certain retail taxes of a State or political subdivision thereof, the consent of the United States is hereby given to Indian tribes, tribal organizations, and States and States and Indian tribes may to enter into compacts and agreements relating to the collection and payment of certain retail taxes.

(c) FILING.—Not later than 30 days after entering into an agreement or compact under this section, a State or Indian tribe shall submit a copy of the compact or agreement to the Secretary. Upon receipt of the compact or agreement, the Secretary shall publish the compact or agreement in the Federal Register.

(d) LIMITATIONS.—

(1) IN GENERAL.—An agreement or compact under this section shall not affect any action or proceeding over which a court has assumed jurisdiction at the time that the agreement or compact is executed.

(2) PROHIBITION.—No action or proceeding described in paragraph (1) shall abate by reason of that agreement or compact unless specifically agreed upon by all parties—

(A) to the action or proceedings; and

(B) to the agreement or compact.

(e) REVOCATION.—An agreement or compact entered into under this section shall be subject to revocation by any party to that agreement or compact. That revocation shall take effect on the earlier of—

(1) the date that is 180 days after the date on which notice of revocation is provided to each party to that agreement or compact; or

(2) any date that is agreed to by all parties to that agreement or compact.

(f) REVISION OR RENEWAL.—Upon the expiration or revocation of an agreement or compact under this section, the parties to such agreement or compact may enter into a revised agreement or compact, or may renew that agreement or compact.

(g) EFFECT OF RENEWAL.—For purposes of this title, the renewal of an agreement or compact entered into under this title shall be treated as a separate agreement or compact and shall be subject to the limitations and requirements applicable to an initial agreement or compact.

(h) STATUTORY CONSTRUCTION.—Nothing in this title shall be construed to—

(1) except as expressly provided in this title, expand or diminish the jurisdiction over civil or criminal matters that may be exercised by a State or the governing body of an Indian tribe; or

(2) authorize or empower a State or tribal government, either separately or pursuant to agreement, to expand or diminish the jurisdiction exercised by the Government of the United States to—

(A) make criminal, civil, or regulatory laws; or

(B) enforce those laws in Indian country.

SEC. 102. INTERGOVERNMENTAL NEGOTIATIONS PROCEDURES.

(a) GOOD FAITH NEGOTIATIONS.—In negotiating a claim, the parties shall conduct full and fair good faith negotiations pursuant to this title, with the objective of achieving a intergovernmental agreement or compact that meets the requirement of this title.

(b) REQUEST FOR NEGOTIATIONS.—

(1) IN GENERAL.—An Indian tribe or a State may request the Secretary to initiate negotiations to address a claim covered under this title.

(2) NOTIFICATION.—The Secretary shall notify the parties of any request made under paragraph (1).

(3) REQUESTS.—Any request made to the Secretary under this subsection shall be in writing.

(4) PARTICIPATION AS A PREREQUISITE TO INVOKE PROCEDURES UNDER SECTION 103.—

(A) IN GENERAL.—A party may not file a claim under section 103 unless that party is available for, agrees to, and participates in, negotiations under this section.

(B) NOTICE.—Upon receipt of any request made pursuant to paragraph (1), the Secretary shall, not later than 30 days after such receipt, send a notice by registered mail, return receipt requested, advising the parties that are subject to a request made under paragraph (1), that no party may file a claim under section 103 without having participated in negotiations under this section.

(c) NEGOTIATIONS.—

(1) IN GENERAL.—The Secretary shall, in a manner consistent with section 103, cause to occur and facilitate negotiations that are subject to a request under subsection (a).

(2) NON-BINDING NATURE OF NEGOTIATIONS.—Consistent with the purposes of this title, the negotiations referred to in paragraph (1) shall—

(A) be nonbinding; and

(B) be facilitated by a mediator selected in accordance with section 103.

(3) SELECTION OF MEDIATOR.—

(A) IN GENERAL.—The Secretary shall select 3 mediators from a list supplied by the Federal Mediation and Conciliation Service and submit a list of these mediators to the parties.

(B) CHALLENGES.—Each party may challenge the selection of 1 of the mediators listed by the Secretary under subparagraph (A).

(C) SELECTION.—After each party has had an opportunity to challenge the list made by the Administrator under subparagraph (B), the Secretary shall select a mediator from the list who is not subject to such a challenge.

(4) PAYMENT.—The expenses and fees of the mediator selected under paragraph (3) in facilitating negotiations under paragraph (1) shall be paid by the Secretary.

(5) Reimbursement.—If a party that files a claim under section 103 and that party is not the prevailing party in that claim, that party shall reimburse the Secretary for any fees and expenses incurred by the Secretary pursuant to paragraph (4).

(d) Procedures.—Negotiations conducted under this title shall be subject to the following procedures:

(1) Commencement.—Negotiations conducted under this section shall commence as soon as practicable after the party that receives notice under subsection (b)(4)(B) responds to the Secretary.

(2) Additional investigation, research, or negotiation.—

(A) In general.—Each party that enters into negotiation under this section and the Secretary may agree to additional investigation, research, or analysis to facilitate a negotiated settlement.

(B) Payments.—The cost of the additional investigation, research, or analysis referred to in subparagraph (A) shall be borne by the party that undertakes that investigation, research, or analysis, or causes that investigation, research, and analysis.

(3) Exchange of records and documentation.—Each party that enters into negotiations under this section shall exchange, and make available to the Secretary, any records, documents, or other information that the party may have with regard to transactions within the scope of the claims alleged that—

(A) may be relevant to resolving the negotiations; and

(B) are not privileged information under applicable law, or otherwise subject to restrictions on disclosure under applicable law.

(4) Termination.—

(A) In general.—

(i) Termination.—Except as provided in clause (i) and subparagraph (B), negotiations conducted under this section shall terminate on the date that is 1 year after the date of the first meeting of the parties to conduct negotiations under this section.

(ii) Mutual agreement.—The period for negotiations under clause (i) may be extended if the parties and the Secretary agree that there is a reasonable likelihood that the extension may result in a negotiated settlement.

(B) Mutual agreement.—At any time during negotiations under this section, the parties may mutually agree to terminate the negotiations.

(C) Fulfillment of certain requirements.—A party shall be considered to have met the requirements described in subsection (b)(4) in any case in which negotiations are terminated by mutual agreement of the parties under subparagraph (B).

(e) Negotiated Settlements.—

(1) In general.—A negotiated settlement of a claim covered by this title reached by the parties under this section shall constitute the final, complete, and conclusive resolution of that claim.

(2) Alternative dispute resolution.—Any claim, setoff, or counterclaim (including any claim, setoff, or counterclaim described in section 103(c)) that is not subject to a negotiated settlement under this section may be pursued by the parties or the Secretary pursuant to section 103.

SEC. 103. INTERGOVERNMENTAL ALTERNATIVE DISPUTE RESOLUTION PANEL-ESTABLISHMENT.

(a) In General.—If negotiations conducted under section 103 do not result in a settlement, the Secretary may refer the State and Indian tribe involved to the Panel established under subsection (b).

(b) Authority of Panel.—To the extent allowable by law, the Panel may consider and render a decision on a referred to the Panel under this section.

(c) Taxation.—Any claim involving the legitimacy of a claim for the collection or payment of certain retail taxes owed by an Indian tribe to a State or political subdivision thereof and shall include or admit of counterclaims, setoffs, or related claims submitted or filed by the tribe in question regarding the original claim.

(d) Membership of the Panel.—

(1) In general.—The Panel shall consist of—

(A) 1 representative from the Department of the Interior;

(B) 1 representative from the Department of Justice;

(C) 1 representative from the Department of the Treasury;

(D) 1 representative of State governments; and

(E) 1 representative of tribal governments of Indian tribes.

(2) Chairperson.—The members of the Panel shall select a Chairperson from among the members of the Panel.

(e) Federal Mediation Conciliation Service.—

(1) In general.—In a manner consistent with this title, the Panel shall consult with the Federal Mediation Conciliation Service (referred to in this subsection as the "Service") established under section 202 of the National Labor Relations Act (29 U.S.C. 172).

(2) Duties of service.—The Service shall, upon request of the Panel and in a manner consistent with applicable law—

(A) provide services to the Panel to aid in resolving disputes brought before the Panel;

(B) furnish employees to act as neutrals (as that term is defined in section 571(9) of title 5, United States Code) in resolving the disputes brought before the Panel; and

(C) consult with the Administrative Conference of the United States to maintain a roster of neutrals and arbitrators.

SEC. 104. JUDICIAL ENFORCEMENT.

(a) Intergovernmental Agreements.—

(1) In general.—

(A) Jurisdiction.—Except as provided in subparagraph (B), the district courts of the United States shall have original jurisdiction with respect to—

(i) any civil action, claim, counterclaim, or setoff, brought by any party to an agreement or compact entered into in accordance with this title to secure equitable relief, including injunctive and declaratory relief; and

(ii) the enforcement of any agreement or compact.

(B) Damages.—No action to recover damages arising out of or in connection with an agreement or compact entered into under this section may be brought, except as specifically provided for in that agreement or compact.

(2) Consent to suit.—Each compact or agreement entered into under this title shall specify that the partner consent to litigation to enforce the agreement, and to the extent necessary to enforce that agreement, each party waives any defense of sovereign immunity.

SEC. 105. JOINT TRIBAL-FEDERAL-STATE COMMISSION ON INTERGOVERNMENTAL AFFAIRS.

(a) In General.—The Secretary shall establish a tribal, Federal, and State commission (to be known as the "Tribal-Federal-State Commission") (referred to in this section as the "Commission").

(b) Members.—

(1) In general.—The Commission shall be comprised of representatives of Indian tribes, the States, and the Federal Government.

(2) Duties of the commission.—The Commission shall advise the Secretary concerning issues of intergovernmental concern with respect to Indian tribes, States, and the Federal Government, including—

(A) law enforcement;

(B) civil and criminal jurisdiction;

(C) taxation;

(D) transportation;

(E) economy development; and

(F) other matters related to a matter described in subparagraph (A), (B), (C), (D), or (E).

(3) Period of appointment.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) Initial meeting.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(5) Meetings.—The Commission shall meet at the call of the Chairman.

(6) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(7) Chairman and vice chairman.—The Commission shall select a Chairman and Vice Chairman from among its members.

(8) Powers.—

(A) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(B) Information from federal agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(C) Postal services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(D) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(9) Commission personnel matters.—

(A) Compensation of members.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(B) Travel expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Commission shall prepare and submit to the President, the Committee on Indian Affairs of the Senate, and the Committee on Resources of the House of Representatives a report on the implementation of this title that includes any recommendations that the Commission determines to be appropriate.

SEC. 106. FUNDING AND IMPLEMENTATION.

(a) IN GENERAL.—With respect to any agreement or compact between an Indian tribe and a State, the United States, upon agreement of the parties and the Secretary, may provide financial assistance to such parties for costs of personnel or administrative expenses in an amount not to exceed 100 percent of the costs incurred by the parties as a consequence of that agreement or compact, including any indirect costs of administration that are attributable to the services performed under the agreement or compact.

(b) ASSISTANCE.—The head of each Federal agency may, to the extent allowable by law and subject to the availability of appropriations, provide technical assistance, material support, and personnel to assist States and Indian tribes in the implementation of the agreements or compacts entered into under this title.

TITLE II—TORT LIABILITY INSURANCE

SEC. 201. LIABILITY INSURANCE, WAIVER OF DEFENSE.

(a) TRIBAL PRIORITY ALLOCATION DEFINED.—The term "tribal priority allocation" means an allocation to a tribal priority account of an Indian tribe by the Bureau of Indian Affairs to allow that Indian tribe to establish program priorities and funding levels.

(b) INSURANCE.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 2 years after the date of enactment of this Act, the Secretary shall obtain or provide tort liability insurance or equivalent coverage for each Indian tribe that receives a tribal priority allocation from amounts made available to the Bureau of Indian Affairs for the operation of Indian programs.

(2) COST-EFFECTIVENESS.—In carrying out paragraph (1), the Secretary shall—

(A) ensure that the insurance or equivalent coverage is provided in the most cost-effective manner available; and

(B) for each Indian tribe referred to in paragraph (1), take into consideration the extent to which the tort liability is covered—

(i) by privately secured liability insurance; or

(ii) chapter 171 of title 28, United States Code (commonly referred to as the "Federal Tort Claims Act") by reason of an activity of the Indian tribe in which the Indian tribe is acting in the same capacity as an agency of the United States.

(3) LIMITATION.—If the Secretary determines that an Indian tribe, described in paragraph (1), has obtained liability insurance in an amount and of the type that the Secretary determines to be appropriate by the date specified in paragraph (1), the Secretary shall not be required to provide additional coverage for that Indian tribe.

(c) REQUIREMENTS.—A policy of insurance or a document for equivalent coverage under subsection (a)(1) shall—

(1) contain a provision that the insurance carrier shall waive any right to raise as a defense the sovereign immunity of an Indian tribe with respect to an action involving tort liability of that Indian tribe, but only with respect to tort liability claims of an amount and nature covered under the insurance policy or equivalent coverage offered by the insurance carrier; and

(2) not waive or otherwise limit the sovereign immunity of the Indian tribe outside or beyond the coverage or limits of the policy of insurance or equivalent coverage.

(d) PROHIBITION.—No waiver of the sovereign immunity of a Indian tribe under this section shall include a waiver of any potential liability for—

(1) interest that may be payable before judgment; or

(2) exemplary or punitive damages.

(e) PREFERENCE.—In obtaining or providing tort liability insurance coverage for Indian tribes under this section, the Secretary shall, to the greatest extent practicable, give preference to coverage underwritten by Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452), except that for the purposes of this subsection, those enterprises may include non-profit corporations.

(f) REGULATIONS.—To carry out this title, the Secretary shall promulgate regulations that—

(1) provide for the amount and nature of claims to be covered by an insurance policy or equivalent coverage provided to an Indian tribe under this title; and

(2) establish a schedule of premiums that may be assessed against any Indian tribe that is provided liability insurance under this title.

SEC. 202. STUDY AND REPORT TO CONGRESS

(a) IN GENERAL.—

(1) STUDY.—In order to minimize and, if possible, eliminate redundant or duplicative liability insurance coverage and to ensure that the provision of insurance of equivalent coverage under this title is cost-effective, before carrying out the requirements of section 201, the Secretary shall conduct a comprehensive survey of the degree, type, and adequacy of liability insurance coverage of Indian tribes at the time of the study.

(2) CONTENTS OF STUDY.—The study conducted under this subsection shall include—

(A) an analysis of loss data;

(B) risk assessments;

(C) projected exposure to liability, and related matters; and

(D) the category of risk and coverage involved which may include—

(i) general liability;

(ii) automobile liability;

(iii) the liability of officials of the Indian tribe;

(iv) law enforcement liability;

(v) workers' compensation; and

(vi) other types of liability contingencies.

(3) ASSESSMENT OF COVERAGE BY CATEGORIES OF RISK.—For each Indian tribe described in section 201(a)(1), for each category of risk identified under paragraph (2), the Secretary, in conducting the study, shall determine whether insurance coverage other than coverage to be provided under this title or coverage under chapter 171 of title 28, United States Code, applies to that Indian tribe for that activity.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress concerning the implementation of this title, that contains any legislative recommendations that the Secretary determines to be appropriate to improve the provision of insurance of equivalent coverage to Indian tribes under this title, or otherwise achieves the goals and objectives of this title.

By Mr. CAMPBELL:

S. 2098. A bill to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands; to the Committee on Energy and Natural Resources.

AMERICAN LAND SOVEREIGNTY PROTECTION ACT

Mr. CAMPBELL. Mr. President, as a strong supporter of American public lands and private property rights, I am concerned about the setting aside of public lands by the federal government for international agreements and oversight. The absence of congressional oversight in such programs as the United Nations Biosphere Reserve is of special concern to me. The United Nations has designated 47 "Biosphere Reserves" in the United States which contain a total area greater than the size of my home state of Colorado. That is why today I introduce companion legislation to H.R. 901, the American Land Sovereignty Protection Act, introduced by Representative DON YOUNG, to preserve American sovereignty and halt the extension of the executive branch into congressional constitutional authority.

We are facing a threat to our sovereignty by the creation of these land reserves in our public lands. I also believe the rights of private landowners must be protected if these international land designations are made. Even more disturbing is the fact the executive branch elected to be a party to this "Biosphere Reserve" program without the approval of Congress or the American people. The absence of congressional oversight in this area is a serious concern.

In fact most of these international land reserves have been created with minimal, if any, congressional input or oversight or public consultation. Congress must protect individual property owners, local communities, and State sovereignty which may be adversely impacted economically by any such international agreements.

The current system for implementing international land reserves diminishes the power and sovereignty of the Congress to exercise its constitutional power to make laws that govern lands belonging to the United States. The executive branch may be indirectly agreeing to terms of international treaties, such as the Convention of Biodiversity, to which the United States is not a party, and one which our country has refused to ratify.

A "Biosphere Reserve" is a federally-zoned and coordinated region that could prohibit certain uses of private lands outside of the designated international area. The executive branch is agreeing to manage the designated area in accordance with an underlying agreement which may have implications on non-federal land outside the affected area. When residents of Arkansas discovered a plan by the United Nations and the administration to advance a proposed "Ozark Highland Man and Biosphere Reserve" without public input, the plan was withdrawn in the face of public pressure. This type of stealth tactic to accommodate international interests does not serve the needs and desires of the American people. Rather, it is an encroachment by the Executive branch on congressional authority.

As policymaking authority is further centralized at the executive branch level, the role of ordinary citizens in the making of this policy through their elected representatives is diminished. The administration has allowed some of America's most symbolic monuments of freedom, such as the Statue of Liberty and Independence Hall to be listed as World Heritage Sites. Furthermore the United Nations has listed national parks including Yellowstone National Park—our nation's first national park.

Federal legislation is needed to require the specific approval of Congress before any area within the borders of United States is made part of an international land reserve. My bill reasserts Congress' constitutional role in the creation of rules and regulations governing lands belonging to the United States and its people.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2098

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Land Sovereignty Protection Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The power to dispose of and make all needful rules and regulations governing lands belonging to the United States is vested in the Congress under article IV, section 3, of the Constitution.

(2) Some Federal land designations made pursuant to international agreements concern land use policies and regulations for lands belonging to the United States which under article IV, section 3, of the Constitution can only be implemented through laws enacted by the Congress.

(3) Some international land designations, such as those under the United States Biosphere Reserve Program and the Man and Biosphere Program of the United Nations Scientific, Educational, and Cultural Organization, operate under independent national committees, such as the United States National Man and Biosphere Committee, which have no legislative directives or authorization from the Congress.

(4) Actions by the United States in making such designations may affect the use and value of nearby or intermixed non-Federal lands.

(5) The sovereignty of the States is a critical component of our Federal system of government and a bulwark against the unwise concentration of power.

(6) Private property rights are essential for the protection of freedom.

(7) Actions by the United States to designate lands belonging to the United States pursuant to international agreements in some cases conflict with congressional constitutional responsibilities and State sovereign capabilities.

(8) Actions by the President in applying certain international agreements to lands owned by the United States diminishes the authority of the Congress to make rules and regulations respecting these lands.

(b) PURPOSE.—The purposes of this Act are the following:

(1) To reaffirm the power of the Congress under article IV, section 3, of the Constitution over international agreements which concern disposal, management, and use of lands belonging to the United States.

(2) To protect State powers not reserved to the Federal Government under the Constitution from Federal actions designating lands pursuant to international agreements.

(3) To ensure that no United States citizen suffers any diminishment or loss of individual rights as a result of Federal actions designating lands pursuant to international agreements for purposes of imposing restrictions on use of those lands.

(4) To protect private interests in real property from diminishment as a result of Federal actions designating lands pursuant to international agreements.

(5) To provide a process under which the United States may, when desirable, designate lands pursuant to international agreements.

SEC. 3. CLARIFICATION OF CONGRESSIONAL ROLE IN WORLD HERITAGE SITE LISTING.

Section 401 of the National Historic Preservation Act Amendments of 1980 (Public Law 96–515; 94 Stat. 2987) is amended—

(1) in subsection (a) in the first sentence, by—

(A) striking "The Secretary" and inserting "Subject to subsections (b), (c), (d), and (e), the Secretary"; and

(B) inserting "(in this section referred to as the 'Convention')" after "1973"; and

(2) by adding at the end the following new subsections:

"(d)(1) The Secretary of the Interior may not nominate any lands owned by the United States for inclusion on the World Heritage List pursuant to the Convention, unless—

"(A) the Secretary finds with reasonable basis that commercially viable uses of the nominated lands, and commercially viable uses of other lands located within 10 miles of the nominated lands, in existence on the date of the nomination will not be adversely affected by inclusion of the lands on the World Heritage List, and publishes that finding;

"(B) the Secretary has submitted to the Congress a report describing—

"(i) natural resources associated with the lands referred to in subparagraph (A); and

"(ii) the impacts that inclusion of the nominated lands on the World Heritage List would have on existing and future uses of the nominated lands or other lands located within 10 miles of the nominated lands; and

"(C) the nomination is specifically authorized by a law enacted after the date of enactment of the American Land Sovereignty Protection Act and after the date of publication of a finding under subparagraph (A) for the nomination.

"(2) The President may submit to the Speaker of the House of Representatives and the President of the Senate a proposal for legislation authorizing such a nomination after publication of a finding under paragraph (1)(A) for the nomination.

"(e) The Secretary of the Interior shall object to the inclusion of any property in the United States on the list of World Heritage in Danger established under Article 11.4 of the Convention, unless—

"(1) the Secretary has submitted to the Speaker of the House of Representatives and the President of the Senate a report describing—

"(A) the necessity for including that property on the list;

"(B) the natural resources associated with the property; and

"(C) the impacts that inclusion of the property on the list would have on existing and future uses of the property and other property located within 10 miles of the property proposed for inclusion; and

"(2) the Secretary is specifically authorized to assent to the inclusion of the property on the list, by a joint resolution of the Congress after the date of submittal of the report required by paragraph (1).".

"(f) The Secretary of the Interior shall submit an annual report on each World Heritage Site within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and of the Committee on Energy and Natural Resources of the Senate, that contains for the year covered by the report the following information for the site:

"(1) An accounting of all money expended to manage the site.

"(2) A summary of Federal full time equivalent hours related to management of the site.

"(3) A list and explanation of all nongovernmental organizations that contributed to the management of the site.

"(4) A summary and account of the disposition of complaints received by the Secretary related to management of the site.".

SEC. 4. PROHIBITION AND TERMINATION OF UNAUTHORIZED UNITED NATIONS BIOSPHERE RESERVES.

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a–1 et seq.) is amended by adding at the end the following new section:

"SEC. 403. (a) No Federal official may nominate any lands in the United States for designation as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization.

"(b) Any designation on or before the date of enactment of the American Land Sovereignty Protection Act of an area in the United States as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization shall not have, and shall not be given, any force or effect, unless the Biosphere Reserve—

"(1) is specifically authorized by a law enacted after that date of enactment and before December 31, 2000;

"(2) consists solely of lands that on that date of enactment are owned by the United States; and

"(3) is subject to a management plan that specifically ensures that the use of intermixed or adjacent non-Federal property is not limited or restricted as a result of that designation.

"(c) The Secretary of State shall submit an annual report on each Biosphere Reserve within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, that contains for the year covered by the report the following information for the reserve:

"(1) An accounting of all money expended to manage the reserve.

"(2) A summary of Federal full time equivalent hours related to management of the reserve.

"(3) A list and explanation of all nongovernmental organizations that contributed to the management of the reserve.

"(4) A summary and account of the disposition of the complaints received by the Secretary related to management of the reserve.".

SEC. 5. INTERNATIONAL AGREEMENTS IN GENERAL.

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a-1 et seq.) is further amended by adding at the end the following new section:

"SEC. 404. (a) No Federal official may nominate, classify, or designate any lands owned by the United States and located within the United States for a special, including commercial, or restricted use under any international agreement unless such nomination, classification, or designation is specifically authorized by law. The President may from time to time submit to the Speaker of the House of Representatives and the President of the Senate proposals for legislation authorizing such a nomination, classification, or designation.

"(b) A nomination, classification, or designation, under any international agreement, of lands owned by a State or local government shall have no force or effect unless the nomination, classification, or designation is specifically authorized by a law enacted by the State or local government, respectively.

"(c) A nomination, classification, or designation, under any international agreement, of privately owned lands shall have no force or effect without the written consent of the owner of the lands.

"(d) This section shall not apply to—

"(1) agreements established under section 16(a) of the North American Wetlands Conservation Act (16 U.S.C. 4413); and

"(2) conventions referred to in section 3(h)(3) of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712(2)).

"(e) In this section, the term 'international agreement' means any treaty, compact, executive agreement, convention, bilateral agreement, or multilateral agreement between the United States or any agency of the United States and any foreign entity or agency of any foreign entity, having a primary purpose of conserving, preserving, or protecting the terrestrial or marine environment, flora, or fauna.".

SEC. 6. CLERICAL AMENDMENT.

Section 401(b) of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a-1(b)) is amended by striking "Committee on Natural Resources" and inserting "Committee on Resources".

By Mr. CAMPBELL:

S. 2099. A bill to provide for enhanced Federal sentencing guidelines for counterfeiting offenses, and for other purposes; to the Committee on the Judiciary.

COUNTERFEITING SENTENCING ENHANCEMENT ACT OF 1998

Mr. CAMPBELL. Mr. President, today I introduce the Counterfeiting Sentencing Enhancement Act of 1998. My bill would tighten the sentencing guidelines' base offense level in recognition of the fact that advances in computer and printing technology have fundamentally changed the nature of counterfeiting. This bill would bring our nation's counterfeiting laws out of Gutenberg's printing press era and into the modern computer age.

Counterfeiting of our nation's currency is a serious and growing problem. Incidents of computer generated counterfeiting have increased dramatically over the last three years. In 1995 only one half of one percent of counterfeit U.S. currency passed were computer generated.

Today, just three short years later, computer generated counterfeits account for approximately 43 percent of the counterfeits passed.

Traditional counterfeiters use offset printing production methods that require specialized equipment including printing presses, engraved printing press plates and green ink. These counterfeiters encounter a cumbersome process that is messy, is harder to conceal, and requires them to produce in large batches.

However, a rapidly growing number of today's counterfeiters are using personal computers, scanners, digital imaging software, full color copiers, and laser and inkjet printers. They can also use the Internet to instantaneously transmit the computer images needed for counterfeiting. This technology, which is readily available and increasingly affordable, enables criminals to produce high-quality counterfeit currency in small batches and at a low cost. It is this ability for counterfeiters to easily produce in small batches that has rendered our sentencing guidelines outdated and less effective as a deterrent.

Our sentencing guidelines under current law are based in a world where the realities of offset printing required counterfeiters to produce in rather large batches. That reality no longer exists. Basically, the more counterfeit currency a counterfeiter got caught with, the stiffer the sentence. Using computer technology, today's counterfeiters can simply print out smaller batches of counterfeit currency whenever they want to. This allows these criminals to effectively fly just under the radar of our sentencing guideline thresholds.

The administration recently acknowledged the extent of the problem. In a March 5, 1998, letter to the U.S. Sentencing Commission, Treasury Secretary Robert E. Rubin wrote that "increases in computer counterfeiting cases represent not only a threat to our law enforcement interests, but also seriously threaten the integrity of our U.S. currency. Maintaining the stability and integrity of U.S. currency is essential to preserving the benefits derived from the dollar's status as a world currency."

In response to these enhanced counterfeiting techniques, the Department of Treasury has been redesigning our nation's currency to make it harder to counterfeit. In addition the Secret Service has stepped up its battle against counterfeiters, both at home and abroad. But more needs to be done. This bill is another important step to toughen the penalties for counterfeiting.

Specifically, my bill strengthens the sentencing guidelines so that increases are based on offense levels determined by the amount of counterfeit bills produced and a point system based on the offender's prior criminal history. Under current law, the base offense begins with level 9 for convictions involving $2,000 in counterfeit currency or less. Increases in this level occur according to the amount of counterfeit bills over $2,000. Thus a defendant's guideline range in counterfeiting cases depends largely on the amount of counterfeit inventory seized when the operation is shut down.

Increases in sentencing are also determined by the prior criminal history of the offender. Points are added for such things as: prior imprisonment; offenses committed while on probation, parole, or supervised release; offenses committed less than two years from prior release; and other misdemeanor and petty offenses.

Under current law at base offense level 9, seven points are needed for the imposition of a prison sentence of 12 to 18 months. Without these points for prior criminal history many offenders simply are being released on probation. I believe these sentencing guidelines are too lenient and fail to address the growing problem of counterfeiting.

Therefore, my bill increases the base offense level in section 2B5.1 of the Federal Sentencing Guidelines by not less than two levels to level 11. Under my bill, an offender would need only four points to receive the same 12 to 18 month sentence which previously required seven points. This relates to all counterfeiting offenses to address the overall harm counterfeiting can have on the integrity of U.S. currency.

Second, my bill adds a sentencing enhancement of not less than two levels for counterfeiting offenses that involve the use of computer printer or a color photocopying machine. This would place this new class of computer counterfeiters at an offense level of 13. Here, an offender would need zero points to receive the same 12 to 18 month sentence. The increase in my bill would provide for actual prison sentences in many of the cases where previous offenders were only receiving probation. I believe this legislation clearly addresses our growing problem with counterfeiters by imposing stricter sentencing penalties.

Mr. President, counterfeiting threatens the very underpinnings of our economy, the American people's confidence in the integrity and value of our nation's currency, the U.S. dollar. The "Counterfeiting Sentencing Enhancement Act of 1998" will send a clear message to criminals who are even thinking about counterfeiting. I urge my colleagues to join in support of this legislation.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SENTENCING GUIDELINES FOR COUNTERFEITING OFFENSES.

The United States Sentencing Commission shall amend the Federal sentencing guidelines to provide—

(1) a sentencing enhancement of not less than 2 levels, with respect to the base level for offenses involving counterfeit bearer obligations of the United States, as described in section 2B5.1 of the Federal sentencing guidelines; and

(2) an additional sentencing enhancement of not less than 2 levels, with respect to any offense described in paragraph (1) that involves the use of a computer printer or a color photocopying machine.

By Mr. SPECTER (for himself, Mr. MACK, and Mr. FAIRCLOTH):

S. 2100. A bill to amend the Higher Education Act of 1965 to increase public awareness concerning crime on college and university campuses; to the Committee on Labor and Human Resources.

CAMPUS CRIME DISCLOSURE ACT OF 1998

Mr. SPECTER. Mr. President, today I introduce the Campus Crime Disclosure Act of 1998. My legislation amends the Crime Awareness and Campus Security Act of 1990.

Educational institutions were once safe havens where we sent our children. Unfortunately, today we are all aware of the increase in violence that has reached as far down as our elementary schools to our youngest and most innocent victims. I would note that just recently, in the rural Pennsylvania community of Edinboro, a young teenager lamentably shot a teacher to death at an 8th grade graduation dance and wounded other students. While there is much that Congress can do to reduce violence in our society and across all levels of educational institutions, my legislation is focused on our national commitment to improving public safety on college and university campuses, where young adults are often away from their homes for the first time and living in unfamiliar surroundings.

The legislation I am introducing today builds upon the fine work of my distinguished colleagues, Representative GOODLING of Pennsylvania and Senator JEFFORDS of Vermont, who as chairmen of the authorizing committees having jurisdiction over higher education, have included campus crime amendments in the legislation reauthorizing the Higher Education Act. However, I believe that their amendments to the 1990 Campus Security Act do not go far enough. Accordingly, my legislation includes provisions which are not included in the reauthorization bill and are necessary to bring schools into full compliance with the law, such as a more detailed definition of "campus" and new civil penalties.

Based on my experience as District Attorney of Philadelphia, and my frequent involvement with educators and college students, I know that safety on campuses is a very serious issue. I want to recognize one family in particular for helping keep me and my colleagues informed on the important issue of campus crime, Howard and Connie Clery, and their son Ben, of King of Prussia, Pennsylvania for their continued work on campus security policy. As my colleagues may know, in 1988, the Clerys' daughter, Jeanne, was beaten, raped and murdered by a fellow student in her campus dormitory room at Lehigh University. Soon after the tragedy, Howard and Connie began to work on getting campus safety laws passed in the States and the U.S. Congress. In fact, the campus security law enacted in 1990 is often referred to as the "Clery Bill." The Clerys founded Security on Campus, Inc., which serves as a watchdog of campus crime policies and procedures administered by our nation's colleges and universities.

Based on continued conversations with the Clerys, it became apparent to me that there was a critical need for Congressional oversight of how the Department of Education has implemented the 1990 Act and whether the Department's financial resources are adequate for enforcement of the reporting requirements. On the fifth of March of this year, I held a hearing on security on campus as chairman of the Senate Labor, Health and Human Services and Education Appropriations Subcommittee, to examine the Department of Education's enforcement of campus crime reporting requirements. The Assistant Secretary for Postsecondary Education for the U.S. Department of Education, David Longanecker, testified that: "Generally the issue of campus is one of the foremost difficult areas that we have found campuses are having a difficult time with, and it is a particular issue for an urban institution." Secretary Longanecker went on to say that sidewalks and public lands are excluded from the Department's current definition of campus. Further, testimony at the hearing showed that buildings which are used for commercial purposes where other parts are used for educational purposes do not fall within the Department's interpretation of "campus," which, my own personal view, is an incorrect one. As one of the authors of the 1990 law, I believe that the omission of such information violates the spirit of the law and is a disservice to parents and students, especially for parents who send their children to college in urban settings, where commercial property such as food shops and retail stores and city streets thread through the entire campus. I believe it is preposterous to suggest that if a student fell victim to a crime say on a sidewalk which he or she was using to get to class would go unreported.

The Campus Crime Disclosure Act of 1998 clarifies the law as to what constitutes a college or university campus. From now on, institutions would have to report to parents, students, and other members of the general public a more precise assessment of the criminal activity on campus. Specifically, a campus will be interpreted to mean: any building or property owned and controlled by the institution or owned by a student organization recognized by the institution, any public property such as sidewalks, streets, parking facilities, and other thoroughfares that provide access to the facilities of the institution, and any property owned or controlled by the institution that is not in close proximity to the campus must still be reported on. The bill also makes clear that all dormitories and residential facilities, whether on or off-campus, which are owned or operated by the institution, fall under the definition of campus.

My legislation gives the Secretary of Education stronger enforcement authority. Should an institution fail to report crime data, the Department of Education can fine that institution up to $25,000. According to a study conducted by the General Accounting Office, 63 institutions of higher education were in violation of the Crime Awareness and Campus Security Act of 1990. Yet, the Department of Education did not take any punitive action against these institutions. The inclusion of fines will provide the Department with the necessary tool to ensure that all schools fulfill the intention of the law.

I encourage my colleagues to join me in support of the Campus Crime Disclosure Act of 1998 to enhance security on campus. The bill is urgently needed to steer the U.S. Department of Education in the right direction as it monitors crime on America's college campuses. Quite simply, everyone benefits from clear and accurate reporting of the risks facing college students.

Mr. President, I ask unanimous consent that a copy of the text of the bill be printed in the RECORD as well as a section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Campus Crime Disclosure Act of 1998".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the General Accounting Office, 63 institutions of higher education were in violation of the amendments made by the Crime Awareness and Campus Security Act of 1990 since the enactment of such Act in 1990. The Department of Education has not taken punitive action against these institutions.

(2) The Department of Education's interpretation of the statutory definition of campus has enabled institutions of higher education to underreport the instances of crimes committed against students.

(3) In order to improve public awareness of crimes committed on college and university campuses, it is essential that Congress act to clarify existing law and to discourage underreporting of offenses covered by the amendments made by the Crime Awareness and Campus Security Act of 1990.

SEC. 3. ADDITIONAL CRIME CATEGORIES.

(a) IN GENERAL.—Section 485(f)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(1)) is amended—

(1) by amending subparagraph (F) to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of criminal offenses reported to campus security authorities or local police agencies, and of referrals of persons for campus disciplinary action, for the following:

"(i) Murder.

"(ii) Sex offenses, forcible or nonforcible.

"(iii) Robbery.

"(iv) Aggravated assault.

"(v) Burglary.

"(vi) Motor vehicle theft.

"(vii) Manslaughter.

"(viii) Larceny.

"(ix) Arson.

"(x) Liquor law violations, drug-related violations, and weapons violations.";

(2) by striking subparagraph (H); and

(3) by redesignating subparagraph (I) as subparagraph (H).

(b) CONFORMING AMENDMENTS.—Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (4), by striking "paragraphs (1)(F) and (1)(H)" and inserting "paragraph (1)(F)"; and

(2) in paragraph (6), by striking "paragraphs (1)(F) and (1)(H)" and inserting "paragraph (1)(F)".

SEC. 4. TIMELY MANNER.

Section 485(f)(3) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(3)) is amended by adding at the end the following: "Such reports shall be readily available to students and employees through various mediums such as resident advisors, electronic mail, school newspapers, and announcement postings throughout the campus.".

SEC. 5. DEFINITION OF CAMPUS.

Subparagraph (A) of section 485(f)(5) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(5)) is amended to read as follows: "(A) For purposes of this section the term 'campus' means—

"(i) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution, including a building or property owned by the institution, but controlled by another person, such as a food or other retail vendor;

"(ii) any building or property owned or controlled by a student organization recognized by the institution;

"(iii) all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, that provides immediate access to facilities owned or controlled by the institution;

"(iv) any building or property owned, controlled, or used by an institution of higher education in direct support of, or related to the institution's educational purposes, that is used by students, and that is not within the same reasonably contiguous geographic area of the institution; and

"(v) all dormitories or other student residential facilities owned or controlled by the institution.".

SEC. 6. REPORTING REQUIREMENTS.

Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended further by adding at the end the following:

"(8)(A) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

"(B) The Secretary shall provide to an institution of higher education that the Secretary determines is having difficulty, or is not in compliance, with the reporting requirements of this subsection—

"(i) data and analysis regarding successful practices employed by institutions of higher education to reduce campus crime; and

"(ii) technical assistance.

"(9) For purposes of reporting the statistics described in paragraph (1)(F), an institution of higher education shall distinguish, by means of a separate category, any criminal offenses, and any referrals for campus disciplinary actions, that occur—

"(A) on publicly owned sidewalks, streets, or other thoroughfares, or in parking facilities, that provide immediate access to facilities owned by the institution and are within the same reasonably contiguous geographic area of the institution; and

"(B) in dormitories or other residential facilities for students, or in other facilities affiliated with the institution.".

SEC. 7. FINES.

Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)) is amended further by adding after paragraph (9) (as added by section 6) the following:

"(10)(A) Upon determination, after reasonable notice and opportunity for a hearing, that an institution of higher education—

"(i) has violated or failed to carry out any provision of this subsection or any regulation prescribed under this subsection; or

"(ii) has engaged in substantial misrepresentation of the nature of the institution's activities under this subsection,

the Secretary shall impose a civil penalty upon the institution of not to exceed $25,000 for each violation, failure, or misrepresentation.

"(B) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.".

THE CAMPUS CRIME DISCLOSURE ACT OF 1998—SUMMARY

The Campus Crime Disclosure Act of 1998 amends the Higher Education Act of 1965 to increase public awareness concerning crime on college and university campuses.

Section 1. Title: "Campus Crime Disclosure Act of 1998."

Section 2. Findings.

Section 3. Additional Crime Categories.

Adds reporting requirements for offenses such as manslaughter, larceny, arson, and for arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons violations.

Section 4. Definition of Campus.

This section responds to the Department of Education's interpretation of the 1990 campus crime reporting law by modifying the definition of campus to include: any building or property owned and controlled by the institution or by a student organization recognized by the institution within the contiguous area of the institution, any public property such as sidewalks, streets, parking facilities, and other thoroughfares that provide access to the facilities of the institution, any building or property owned or controlled by the institution that is not within the contiguous area but used for educational purposes. The bill also makes clear that all dormitories and residential facilities (on or off-campus) which are owned or operated by the institution, fall under the definition of campus.

Section 5. Reporting Requirements.

Adds three additional reporting requirements: (1) the Secretary of Education must report back to Congress when schools are found in noncompliance, (2) the Secretary shall provide technical assistance to schools concerning compliance with reporting requirements and the implementation of campus security procedures, and (3) requires institutions to include in their reported statistics: crimes committed on public property such as streets and sidewalks and student residences.

Section 6. Fines.

Mandates for the first time that the Secretary of Education shall impose civil penalties of up to $25,000 on institutions which fail to comply with the Act's reporting requirements.

By Mr. BENNETT (for himself, Ms. MOSELEY-BRAUN, and Mr. SHELBY):

S. 2101. A bill to amend the Public Health Service Act to provide for research and services with respect to lupus; to the Committee on Labor and Human Resources.

THE LUPUS RESEARCH AND CARE AMENDMENTS OF 1998

• Mr. BENNETT. Mr. President, I rise today to introduce the Lupus Research and Care Amendments of 1998. This legislation would authorize additional funds for lupus research and grants for state and local governments to support the delivery of essential services to low-income individuals with lupus and their families. The National Institute of Health (NIH) spent about $33 million on lupus research last year. I believe that we need to increase the funds that are available for research of this debilitating disease.

Lupus is not a well-known disease, nor is it well understood, yet at least 1,400,000 Americans have been diagnosed with lupus and many more are either misdiagnosed or not diagnosed at all. More Americans have lupus than AIDS, cerebral palsy, multiple sclerosis, sickle-cell anemia or cystic fibrosis. Lupus is a disease that attacks and weakens the immune system and is often life threatening. Lupus is nine times more likely to affect women than men. African-American women are diagnosed with lupus two to three times more often than Caucasian women. Lupus is also more prevalent among certain minority groups including Latinos, Native Americans and Asians.

Because lupus is not well understood, it is difficult to diagnose, leading to uncertainty on the actual number of patients suffering from lupus. The symptoms of lupus make diagnosis difficult because they are sporadic and imitate the symptoms of many other illnesses. If diagnosed and with proper treatment, the majority of lupus cases can be controlled. Unfortunately, because of the difficulties in diagnosing lupus and inadequate research, many lupus patients suffer debilitating pain and fatigue. The resulting effects make it difficult, if not impossible, for individuals suffering from lupus to carry on normal everyday activities including work. Thousands of these debilitating cases needlessly end in death each year.

Title I of the Lupus Research and Care Amendments of 1998 authorizes $45 million in grants starting in fiscal year 1999 to be earmarked for lupus research at NIH. This new authorization would amount to less than one-half of 1 percent of NIH's total budget but would greatly enhance NIH's research.

Title II of the Lupus Research and Care Amendments of 1998 authorizes $40 million in grants to state and local governments as well as to nonprofit organizations starting in fiscal year 1999. These grants would support the delivery of essential services to low-income individuals with lupus and their families.

I would urge all my colleagues, Mr. President, to join Senator MOSELEY-BRAUN, Senator SHELBY, and myself in sponsoring this legislation to increase funding available to fight lupus.●

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, Mr. LEAHY, and Mr. WELLSTONE):

S. 2102. A bill to promote democracy and good governance in Nigeria, and for other purposes; to the Committee on Foreign Relations.

NIGERIA DEMOCRACY AND CIVIL SOCIETY EMPOWERMENT ACT

● Mr. FEINGOLD. Mr. President, I introduce a sorely needed piece of foreign policy legislation, the Nigeria Democracy and Civil Society Empowerment Act of 1998. As the Ranking Democrat of the Senate Subcommittee on Africa, I have long been concerned about the collapsing economic and political situation in Nigeria. Nigeria, with its rich history, abundant natural resources and wonderful cultural diversity, has the potential to be an important regional leader. But, sadly, it has squandered that potential and the good will of the world with repressive policies, human rights abuses and corruption.

The legislation I am introducing today provides a clear framework for U.S. policy toward that troubled West African nation. The Nigeria Democracy and Civil Society Empowerment Act declares that the United States should encourage the political, economic and legal reforms necessary to ensure the rule of law and respect for human rights in Nigeria and should aggressively support a timely and effective transition to democratic, civilian government for the people of Nigeria. I am pleased to have Senators JEFFORDS, LEAHY and WELLSTONE join me as cosponsors of this legislation.

This bill draws heavily from legislation introduced in the 104th Congress by the former chair of the Senate Subcommittee on Africa, Senator Kassebaum. I joined 21 other Senators as a proud co-sponsor of that bill. A companion measure to my bill was introduced earlier this week in the House by the distinguished chair of the House International Relations Committee, Mr. GILMAN of New York, and a distinguished member of that Committee and of the Congressional Black Caucus, Mr. PAYNE of New Jersey. I commend both of my House colleagues for their strong leadership on this important issue and I appreciate the opportunity to work with them toward passage of this legislation and the broader goal of a freer Nigeria.

Mr. President, the Nigeria Democracy and Civil Society Empowerment Act provides by law for many of the sanctions that the United States has had in place against Nigeria for a number of years. It includes a ban on most foreign direct assistance, a ban on the sale of military goods and military assistance to Nigeria, and a ban on visas for top Nigerian officials. It would allow the President to lift any of these sanctions if he is able to certify to the Congress that specific conditions, which I will call "benchmarks," regarding the transition to democracy have taken place in Nigeria. These benchmarks include free and fair democratic elections, the release of political prisoners, freedom of the press, the establishment of a functioning independent electoral commission, access for international human rights monitors and the repeal of the many repressive decrees the Abacha regime has pressed upon the Nigerian people.

This legislation also provides for $37 million in development assistance over three years to support democracy and governance programs and the activities of the U.S. Information Agency, and mandates a larger presence for the U.S. Agency for International Development. I want to emphasize that this bill authorizes no new money. All of these funds would come out of existing USAID and USIA appropriations. At the same time, the bill prohibits any U.S. resources from being used to support an electoral process in Nigeria until it is clear that any planned election will be free and legitimate.

Importantly, my bill requires the President to impose additional sanctions at the beginning of 1999 if he cannot certify that a free and fair election has taken place by the end of 1998. These new sanctions, will include a ban on Nigerian participation in major international sporting events, an expansion of visa restrictions on Nigerian officials and the submission of a report that lists the senior officials that fall under such restrictions.

Finally, the bill requires the Secretary of State to submit a report on corruption in Nigeria, including the evidence of corruption by government officials in Nigeria and the impact of corruption on the delivery of government services in Nigeria, on U.s. business interests in Nigeria, and on Nigeria's foreign policy. It would also require that the Secretary's report include information on the impact on U.S. citizens of advance fee fraud and other fraudulent business schemes originating in Nigeria.

The intent of this legislation is twofold. First, it will send an unequivocal message to the ruling military junta in Nigeria that it's continued disregard for democracy, human rights and the institutions of civil society in Nigeria is simply unacceptable. Second, the bill is a call to action to the Clinton Administration which has yet to articulate a coherent policy on Nigeria that reflects the brutal political realities there.

Nigeria has suffered under military rule for most of its nearly 40 years as an independent nation. By virtue of its size, geographic location, and resource base, it is economically and strategically important both in regional and international terms. Nigeria is critical to American interests. But Nigeria's future is being squandered by the military government of General Sani Abacha. Abacha presides over a Nigeria stunted by rampant corruption, economic mismanagement and the brutal subjugation of its people.

The abiding calamity in Nigeria occurs in the context of economic and political collapse. Nigeria has the potential to be the economic powerhouse on the African continent, a key regional political leader, and an important American trading partner, but it is none of these things. Despite its wealth, economic activity in Nigeria continues to stagnate. Even oil revenues are not what they might be, but they remain the only reliable source of economic growth, with the United States purchasing an estimated 41 percent of the output.

Corruption and criminal activity in this military-controlled economic and political system have become common, including reports of drug trafficking and consumer fraud schemes that have originated in Nigeria and reached into the United States, including my home state of Wisconsin.

After the military annulled the 1993 election of Moshood Abiola as Nigeria's president—through what was considered by many observers to be a free and fair election—Chief Abiola was thrown into prison, where he remains, as far as we know, on the pretext of awaiting trial. Reliable information about his situation and condition is difficult to obtain. Chief Abiola's wife, Kudirat, was detained by authorities last year and was later found murdered by the side of a road under circumstances that suggest the military may have been responsible.

On October 1, 1995, General Abacha announced a so-called "transition" program whose goal was the return of an elected civilian government in Nigeria by October 1998. But virtually none of the institutions essential to a free and fair election—an independent electoral commission, an open registration process, or open procedures for the participation of independent political parties, for example—has been put into place in Nigeria. Repression continues; political prisoners remain in jail; the press remains muzzled; and the fruits of Nigeria's abundant natural resources remain in the hands of Abacha's supporters and cronies.

Even this flawed transition process—which in its best days moved at a snail's pace—has now been completely destroyed by the recent announcement that the fifth of the five officially sanctioned parties has endorsed Gen. Abacha as their candidate. Now, what was to have been a competitive presidential election has become a circus referendum on Abacha himself. The general will allow an election so long as his name is the only one on the ballot. This is little more than a sorry joke on the premise of democracy!

Any criticism of this so-called transition process is punishable by five years in a Nigerian prison. Reports from many international human rights organizations and our own State Department document years of similar brutality. Nigerian human rights activists and government critics are commonly whisked away to secret trials before military courts and imprisoned; independent media outlets are silenced; workers' rights to organize are restricted; and the infamous State Security [Detention of Persons] Decree #2, giving the military sweeping powers of arrest and detention, remains in force.

Perhaps the most horrific example of repression by the Abacha government was the execution of human rights and environmental activist Ken Saro-Wiwa and eight others in November 1995 on trumped-up charges. Since that barbaric spectacle, it appears the Abacha government has been working even harder to tighten its grip on the country, wasting no opportunity to subjugate the people of Nigeria.

Late last year, retired Major General Musa Yar'Adua, a former Nigerian vice president and a prominent opponent of General Abacha, died in state custody under circumstances that remain shrouded in mystery. General Yar'Adua was one of 40 people arrested in 1995 during a government sweep and sentenced to 25 years in prison for an alleged coup plot widely believed to have been a pretext to silence government critics. Just a few weeks ago, we received the disturbing news that five Nigerians had been sentenced to death by a military tribunal amid other unproven accusations of coup-plotting.

The Clinton Administration response to these events has been an earnest muddle at best, and rudderless at worst. I welcome recent efforts to complete the policy review process; in fact, I have been pushing for its completion for quite some time, because I feel the perceived "lack" of a policy with respect to Nigeria, for the past two years or so, has been dangerous.

But, unfortunately, the long-awaited and oft-postponed principals' meeting on this issue, which finally took place in April, has not yielded any firm recommendations to the President. I have long urged the Administration to take the toughest stance possible in support of democracy in Nigeria, including a clear unequivocal statement that an electoral victory for Abacha would be totally illegitimate and unacceptable. The regime in Nigeria must know that anything less than a transparent transition to civilian rule will be met with severe consequences, including new sanctions as is mandated in this bill.

So I was particularly disappointed to hear the President remark during his recent trip to Africa that General Abacha would be considered acceptable by the United States if he chose to run in the upcoming election as a civilian. My shock at that remark was tempered somewhat by the efforts of numerous administration officials who struggled to clarify the President's remarks. They insist that the U.S. objective is to support a viable transition to civilian rule in Nigeria, but my worst fears about that ominous remark by the President have now come true. Abacha and his cronies seem to believe that the United States would consider an Abacha victory in the upcoming elections to be a viable, sustainable outcome. Why else would the plan once touted as the basis for a democratic competitive presidential election be downgraded into a rigged referendum on Abacha himself? As planned now, the referendum will be one in which Abacha cannot lose and the people of Nigeria cannot win.

Mr. President, the legislation I am introducing today represents an effort to demonstrate our horror at the continued repression in Nigeria, to encourage the ruling regime to take meaningful steps at reform, to support those Nigerians who have worked tirelessly and fearlessly for democracy and civilian rule and to move our own government toward a Nigeria policy that vigorously reflects the best American values.

I urge my colleagues to support this legislation, and I hope that we will be able to consider it soon in the Committee on Foreign Relations.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nigerian Democracy and Civil Society Empowerment Act".

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The continued rule of the Nigerian military government, in power since a 1993 coup, harms the lives of the people of Nigeria, undermines confidence in the Nigerian economy, damages relations between Nigeria and the United States, and threatens the political and economic stability of West Africa.

(2) The transition plan announced by the Government of Nigeria on October 1, 1995, which includes a commitment to hold free and fair elections, has precluded the development of an environment in which such elections would be considered free and fair, nor was the transition plan itself developed in a free and open manner or with the participation of the Nigerian people.

(3) The United States Government would consider a free and fair election in Nigeria one that involves a genuinely independent electoral commission and an open and fair process for the registration of political parties and the fielding of candidates and an environment that allows the full unrestricted participation by all sectors of the Nigerian population.

(4) In particular, the process of registering voters and political parties has been significantly flawed and subject to such extreme pressure by the military so as to guarantee the uncontested election of the incumbent or his designee to the presidency.

(5) The tenure of the ruling military government in Nigeria has been marked by egregious human rights abuses, devastating economic decline, and rampant corruption.

(6) Previous and current military regimes have turned Nigeria into a haven for international drug trafficking rings and other criminal organizations.

(7) On September 18, 1997, a social function in honor of then-United States Ambassador Walter Carrington was disrupted by Nigerian state security forces. This culminated a campaign of political intimidation and personal harassment against Ambassador Carrington by the ruling regime.

(8) Since 1993, the United States and other members of the international community have imposed limited sanctions against Nigeria in response to human rights violations and political repression.

(9) According to international and Nigerian human rights groups, at least several hundred democracy and human rights activists and journalists have been arbitrarily detained or imprisoned, without appropriate due process of law.

(10)(A) The widely recognized winner of the annulled June 6, 1993, presidential election, Chief Moshood K. O. Abiola, remains in detention on charges of treason.

(B) General Olusegun Obassanjo (rt.), who is a former head of state and the only military leader to turn over power to a democratically elected civilian government and who has played a prominent role on the international stage as an advocate of peace and reconciliation, remains in prison serving a life sentence following a secret trial that failed to meet international standards of due process over an alleged coup plot that has never been proven to exist.

(C) Internationally renowned writer, Ken Saro-Wiwa, and 8 other Ogoni activists were arrested in May 1994 and executed on November 10, 1995, despite the pleas to spare their lives from around the world.

(D) Frank O. Kokori, Secretary General of the National Union of Petroleum and Natural Gas Workers (NUPENG), who was arrested in August 1994, and has been held incommunicado since, Chief Milton G. Dabibi, Secretary General of Staff Consultative Association of Nigeria (SESCAN) and former Secretary General of the Petroleum and Natural Gas Senior Staff Association (PENGASSAN), who was arrested in January 1996, remains in detention without charge, for leading demonstrations against the canceled elections and against government efforts to control the labor unions.

(E) Among those individuals who have been detained under similar circumstances and who remain in prison are Christine Anyanwu, Editor-in-Chief and publisher of The Sunday Magazine (TSM), Kunle Ajibade and George Mbah, editor and assistant editor of the News, Ben Charles Obi, a journalist who was tried, convicted, and jailed by the infamous special military tribunal during the reason trials over the alleged 1995 coup plot, the "Ogoni 21" who were arrested on the same charges used to convict and execute the "Ogoni 9" and Dr. Beko Ransome-Kuti, a respected human rights activist and leader of the pro-democracy movement and Shehu Sani, the Vice-Chairman of the Campaign for Democracy.

(11) Numerous decrees issued by the military government in Nigeria suspend the constitutional protection of fundamental human rights, allow indefinite detention without charge, revoke the jurisdiction of civilian courts, and criminalize peaceful criticism of the transition program.

(12) As a party to the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights, and a signatory to the Harare Commonwealth Declaration, Nigeria is obligated to grant its citizens the right to fairly conduct elections that guarantee the free expression of the will of the electors.

(13) Nigeria has played a major role in restoring elected, civilian governments in Liberia and Sierra Leone as the leading military force within the Economic Community of West African States (ECOWAS) peacekeeping force, yet the military regime has refused to allow the unfettered return of elected, civilian government in Nigeria.

(14) Despite organizing and managing the June 12, 1993, elections, successive Nigerian military regimes nullified that election, imprisoned the winner a year later, and continue to fail to provide a coherent explanation for their actions.

(15) Nigeria has used its military and economic strength to threaten the land and maritime borders and sovereignty of neighboring countries, which is contrary to numerous international treaties to which it is a signatory.

(b) DECLARATION OF POLICY.—Congress declares that the United States should encourage political, economic, and legal reforms necessary to ensure rule of law and respect for human rights in Nigeria and support a timely and effective transition to democratic, civilian government in Nigeria.

SEC. 3. SENSE OF CONGRESS.

(a) INTERNATIONAL COOPERATION.—It is the sense of Congress that the President should actively seek the cooperation of other countries as part of the United States policy of isolating the military government of Nigeria.

(b) UNITED NATIONS HUMAN RIGHTS COMMISSION.—It is the sense of Congress that the President should instruct the United States Representative to the United Nations Commission on Human Rights (UNCHR) to use the voice and vote of the United States at the annual meeting of the Commission—

(1) to condemn human rights abuses in Nigeria; and

(2) to press for the continued renewal of the mandate of, and continued access to Nigeria for, the special rapporteur on Nigeria, as called for in Commission Resolution 1997/53.

(c) SPECIAL ENVOY FOR NIGERIA.—It is the sense of Congress that, because the United States Ambassador to Nigeria, a resident of both Lagos and Abuja, Nigeria, is the President's representative to the Government of Nigeria, serves at the pleasure of the President, and was appointed by and with the advice and consent of the Senate, the President should not send any other envoy to Nigeria without prior notification of Congress and should not designate a special envoy to Nigeria without consulting Congress.

SEC. 4. ASSISTANCE TO PROMOTE DEMOCRACY AND CIVIL SOCIETY IN NIGERIA.

(a) DEVELOPMENT ASSISTANCE.—

(1) IN GENERAL.—Of the amounts made available for fiscal years 1999, 2000, and 2001 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), not less than $10,000,000 for fiscal year 1999, not less than $12,000,000 for fiscal year 2000, and not less than $15,000,000 for fiscal year 2001 should be available for assistance described in paragraph (2) for Nigeria.

(2) ASSISTANCE DESCRIBED.—

(A) IN GENERAL.—The assistance described in this paragraph is assistance provided to nongovernmental organizations for the purpose of promoting democracy, good governance, and the rule of law in Nigeria.

(B) ADDITIONAL REQUIREMENT.—In providing assistance under this subsection, the Administrator of the United States Agency for International Development shall ensure that nongovernmental organizations receiving such assistance represent a broad cross-section of society in Nigeria and seek to promote democracy, human rights, and accountable government.

(3) GRANTS FOR PROMOTION OF HUMAN RIGHTS.—Of the amounts made available for fiscal years 1999, 2000, and 2001 under paragraph (1), not less than $500,000 for each such fiscal year should be available to the United States Agency for International Development for the purpose of providing grants of not more than $25,000 each to support individuals or nongovernmental organizations that seek to promote, directly or indirectly, the advancement of human rights in Nigeria.

(b) USIA INFORMATION ASSISTANCE.—Of the amounts made available for fiscal years 1999, 2000, and 2001 under subsection (a)(1), not less than $1,000,000 for fiscal year 1999, $1,500,000 for fiscal year 2000, and $2,000,000 for fiscal year 2001 should be made available to the United States Information Agency for the purpose of supporting its activities in Nigeria, including the promotion of greater awareness among Nigerians of constitutional democracy, the rule of law, and respect for human rights.

(c) STAFF LEVELS AND ASSIGNMENTS OF UNITED STATES PERSONNEL IN NIGERIA.—

(1) FINDING.—Congress finds that staff levels at the office of the United States Agency for International Development in Lagos, Nigeria, are inadequate.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator of the United States Agency for International Development should—

(A) increase the number of United States personnel at such Agency's office in Lagos, Nigeria, from within the current, overall staff resources of such Agency in order for such office to be sufficiently staffed to carry out subsection (a); and

(B) consider placement of personnel elsewhere in Nigeria.

SEC. 5. PROHIBITION ON ECONOMIC ASSISTANCE TO THE GOVERNMENT OF NIGERIA; PROHIBITION ON MILITARY ASSISTANCE FOR NIGERIA; REQUIREMENT TO OPPOSE MULTILATERAL ASSISTANCE FOR NIGERIA.

(a) PROHIBITION ON ECONOMIC ASSISTANCE.—

(1) IN GENERAL.—Economic assistance (including funds previously appropriated for economic assistance) shall not be provided to the Government of Nigeria.

(2) ECONOMIC ASSISTANCE DEFINED.—As used in this subsection, the term "economic assistance"—

(A) means—

(i) any assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and any assistance under chapter 4 of part II of such Act (22 U.S.C. 2346 et seq.) (relating to economic support fund); and

(ii) any financing by the Export-Import Bank of the United States, financing and assistance by the Overseas Private Investment Corporation, and assistance by the Trade and Development Agency; and

(B) does not include disaster relief assistance, refugee assistance, or narcotics control assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.).

(b) PROHIBITION ON MILITARY ASSISTANCE OR ARMS TRANSFERS.—

(1) IN GENERAL.—Military assistance (including funds previously appropriated for military assistance) or arms transfers shall not be provided to Nigeria.

(2) MILITARY ASSISTANCE OR ARMS TRANSFERS.—The term "military assistance or arms transfers" means—

(A) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) (relating to military assistance), including the transfer of excess defense articles under section 516 of that Act (22 U.S.C. 2321j);

(B) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) (relating to international military education and training);

(C) assistance under the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act (22 U.S.C. 2763); or

(D) the transfer of defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).

(c) REQUIREMENT TO OPPOSE MULTILATERAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in paragraph (2) to use the voice and vote of the United States to oppose any assistance to the Government of Nigeria.

(2) INTERNATIONAL FINANCIAL INSTITUTIONS DESCRIBED.—The international financial institutions described in this paragraph are the African Development Bank, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the International Monetary Fund.

SEC. 6. EXCLUSION FROM ADMISSION INTO THE UNITED STATES OF CERTAIN NIGERIAN NATIONALS.

Notwithstanding any other provision of law, the Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States, any alien who is—

(1) a current member of the Provisional Ruling Council of Nigeria;

(2) a current civilian minister of Nigeria not on the Provisional Ruling Council;

(3) a military officer currently in the armed forces of Nigeria;

(4) a person in the Foreign Ministry of Nigeria who holds Ambassadorial rank, whether in Nigeria or abroad;

(5) a current civilian head of any agency of the Nigerian government with a rank comparable to the Senior Executive Service in the United States;

(6) a current civilian advisor or financial backer of the head of state of Nigeria;

(7) a high-ranking member of the inner circle of the Babangida regime of Nigeria on June 12, 1993;

(8) a high-ranking member of the inner circle of the Shonekan interim national government of Nigeria;

(9) a civilian who there is reason to believe is traveling to the United States for the purpose of promoting the policies of the military government of Nigeria;

(10) a current head of a parastatal organization in Nigeria; or

(11) a spouse or minor child of any person described in any of the paragraphs (1) through (10).

SEC. 7. ADDITIONAL MEASURES.

(a) IN GENERAL.—Unless the President determines and certifies to the appropriate congressional committees by December 31, 1998, that a free and fair presidential election has occurred in Nigeria during 1998 and so certifies to the appropriate committees of Congress, the President, effective January 1, 1999—

(1) shall exercise his authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) to prohibit any financial transaction involving the participation by a Nigerian national as a representative of the Federal Republic of Nigeria in a sporting event in the United States;

(2) shall expand the restrictions in section 6 to include a prohibition on entry into the United States of any employee or military officer of the Nigerian government and their immediate families;

(3) shall submit a report to the appropriate congressional committees listing, by name, senior Nigerian government officials and military officers who are suspended from entry into the United States under section 6; and

(4) shall consider additional economic sanctions against Nigeria.

(b) ACTIONS OF INTERNATIONAL SPORTS ORGANIZATIONS.—It is the sense of Congress that any international sports organization in which the United States is represented should refuse to invite the participation of any national of Nigeria in any sporting event in the United States sponsored by that organization.

SEC. 8. WAIVER OF PROHIBITIONS AGAINST NIGERIA IF CERTAIN REQUIREMENTS MET.

(a) IN GENERAL.—The President may waive any of the prohibitions contained in section 5, 6, or 7 for any fiscal year if the President makes a determination under subsection (b) for that fiscal year and transmits a notification to Congress of that determination under subsection (c).

(b) PRESIDENTIAL DETERMINATION REQUIRED.—A determination under this subsection is a determination that—

(1) the Government of Nigeria—

(A) is not harassing or imprisoning human rights and democracy advocates and individuals who criticize the government's transition program;

(B) has established a new transition process developed in consultation with the prodemocracy forces, including the establishment of a genuinely independent electoral commission and the development of an open and fair process for registration of political parties, candidates, and voters;

(C) is providing increased protection for freedom of speech, assembly, and the media, including cessation of harassment of journalists;

(D) has released individuals who have been imprisoned without due process or for political reasons;

(E) is providing access for independent international human rights monitors;

(F) has repealed all decrees and laws that—

(i) grant undue powers to the military;

(ii) suspend the constitutional protection of fundamental human rights;

(iii) allow indefinite detention without charge, including the State of Security (Detention of Persons) Decree No. 2 of 1984; or

(iv) suspend the right of the courts to rule on the lawfulness of executive action; and

(G) has unconditionally withdrawn the Rivers State internal security task force and other paramilitary units with police functions from regions in which the Ogoni ethnic group lives and from other oil-producing areas where violence has been excessive; or

(2) it is in the national interests of the United States to waive the prohibition in section 5, 6, or 7, as the case may be.

(c) CONGRESSIONAL NOTIFICATION.—Notification under this subsection is written notification of the determination of the President under subsection (b) provided to the appropriate congressional committees not less than 15 days in advance of any waiver of any prohibition in section 5, 6, or 7, subject to the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

SEC. 9. PROHIBITION ON UNITED STATES ASSISTANCE OR CONTRIBUTIONS TO SUPPORT OR INFLUENCE ELECTION ACTIVITIES IN NIGERIA.

(a) PROHIBITION.—

(1) IN GENERAL.—No department, agency, or other entity of the United States Government shall provide any assistance or other contribution to any political party, group, organization, or person if the assistance or contribution would have the purpose or effect of supporting or influencing any election or campaign for election in Nigeria.

(2) PERSON DEFINED.—As used in paragraph (1), the term "person" means any natural person, any corporation, partnership, or other juridical entity.

(b) WAIVER.—The President may waive the prohibition contained in subsection (a) if the President—

(1) determines that—

(A) the climate exists in Nigeria for a free and fair democratic election that will lead to civilian rule; or

(B) it is in the national interests of the United States to do so; and

(2) notifies the appropriate congressional committees not less than 15 days in advance of the determination under paragraph (1), subject to the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

SEC. 10. REPORT ON CORRUPTION IN NIGERIA.

Not later than 3 months after the date of the enactment of this Act, and annually for the next 5 years thereafter, the Secretary of State shall prepare and submit to the appropriate congressional committees, and make available to the public, a report on governmental corruption in Nigeria. This report shall include—

(1) evidence of corruption by government officials in Nigeria;

(2) the impact of corruption on the delivery of government services in Nigeria;

(3) the impact of corruption on United States business interests in Nigeria;

(4) the impact of advance fee fraud, and other fraudulent business schemes originating in Nigeria, on United States citizens; and

(5) the impact of corruption on Nigeria's foreign policy.

SEC. 11. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

Except as provided in section 6, in this Act, the term "appropriate congressional committees" means—

(1) the Committee on International Relations of the House of Representatives;

(2) the Committee on Foreign Relations of the Senate; and

(3) the Committees on Appropriations of the House of Representatives and the Senate.●

By Mrs. FEINSTEIN (for herself, Mr. HATCH, and Mrs. BOXER):

S. 2103. A bill to provide protection from personal intrusion for commercial purposes; to the Committee on the Judiciary.

PERSONAL PRIVACY PROTECTION ACT

Mrs. FEINSTEIN. Mr. President, today, along with the Chairman of the Judiciary Committee, Senator HATCH, and Senator BOXER, I am introducing the Personal Privacy Protection Act. This legislation narrowly targets threatening and endangering harassment and privacy abuses undertaken by the stalker press.

Freedom of the press is the bedrock of American Democracy. But there is something wrong when a person cannot visit a loved one in the hospital, walk their child to school, or be secure in the privacy of their own home without being dangerously chased, provoked, or trespassed upon by photographers trying to capture pictures of them to sell to the tabloids.

When people find themselves in the public eye due to a personal tragedy or circumstances beyond their control, they should not be put into personal fear of bodily injury by tabloid media persistently chasing them. And just because a person makes their living on television or in the movies should not mean they forfeit all rights to personal privacy. There is a line between legitimate news gathering and invasion of privacy; between snapping a picture of someone in a public place and chasing them to the point where they fear for their safety; between reporting the news and trespassing on private property. Unfortunately, today that line is crossed more and more frequently by an increasingly aggressive cadre of fortune-seekers with cameras.

I began the process of developing this legislation together with Senator BOXER more than a year ago, after meeting with members of the Screen Actors Guild and hearing about the abuses people suffer every day at the hands of the stalker press—photographers using telephoto lenses to peer into private homes, cars chasing them off the road, having their children stalked and harassed. The tragic death of Princess Diana last August brought the seriousness of the problem home with a blunt force that stunned the world.

This legislation is narrowly drafted. It is not aimed at, nor would it affect, the overwhelming majority of those in the media, but is specifically aimed at abusive, threatening tactics employed by some who do not respect where the line is between what is public and what is private.

The Personal Privacy Protection Act would do two basic things. First, it would make it a crime, punishable by a fine and up to a year in prison, to persistently follow or chase someone in order to photograph, film, or record them for commercial purposes, in a manner that causes a reasonable fear of bodily injury. Cases in which the persistent following or chasing actually caused serious bodily injury would be punishable by up to 5 years in prison, and where the actions caused death, by up to 20 years in prison. The legislation would also allow victims of such actions to bring a civil suit to recover compensatory and punitive damages and for injunctive and declaratory relief.

Second, the legislation would allow civil actions to be brought against those who trespass on private property in order to photograph, film, or record someone for commercial purposes. In such cases, the bill would allow victims to bring suit in Federal court to recover compensatory and punitive damages and to obtain injunctive and declaratory relief.

Furthermore, in certain specified circumstances, the bill would prevent "technological trespass." Specifically, the legislation would allow a civil action where a visual or auditory enhancement device is used to capture images or recordings that could not otherwise have been captured without trespassing. This provision would apply only to images or recordings of a personal or familial activity, captured for commercial purposes, and only where the subject had a reasonable expectation of privacy. In such cases, the victim would be allowed to bring suit in Federal court to recover compensatory and punitive damages and to obtain injunctive and declaratory relief. In the case of trespass or technological trespass, only a civil suit by the victim would be allowed; no criminal penalty would be prescribed.

This legislation is needed because existing laws fail to protect against dangerous and abusive tactics. Although existing laws may cover some instances of abusive harassment or trespass by the stalker press, victims cannot be certain of protection. Existing state laws form at best a patchwork of protection, and courts often make an exception for activity undertaken ostensibly for "news gathering" purposes.

For example, state and local harassment law are often not codified and may require exhaustive litigation to enforce. These vary from state to state and from jurisdiction to jurisdiction, and often do not apply in cases involving the media. Some statutes require proof of an intent to harass; and courts in some jurisdictions may allow a broad "news gathering" exception.

Similarly, reckless endangerment statutes in some states prohibit recklessly engaging in conduct which creates a substantial risk of serious physical injury to another person. However, these laws are not uniform and their application is very spotty when it comes to dealing with abusive media practices.

Federal, state, and local anti-stalking ordinances often contain loopholes and generally do not apply to activities undertaken for commercial purposes. The Federal anti-stalking ordinance and 28 of the 49 state anti-stalking ordinances—including California's—require proof of the criminal intent to cause fear in order to prosecute.

Existing state trespass laws may be insufficient to protect an owner from an invasion of privacy. For example, an Oregon Court of Appeals upheld a jury verdict for a TV news crew that filmed a police raid in executing a warrant to search the owner's home, despite the fact that the TV crew had entered the property without permission, because the jury found that the intrusion was not "highly offensive" so as to invade the owner's privacy.

Furthermore, existing trespass laws fail to protect against technological trespass using intrusive technology such as telephoto lenses and parabolic microphones aimed at bedrooms, living rooms, and fenced backyards in which people ought to have an expectation of privacy. Because trespass law requires actual physical invasion, it does not protect against such invasive tactics.

In crafting this legislation, we worked with some of the most renowned Constitutional scholars and First Amendment advocates in the nation, including Erwin Chemerinsky of the University of Southern California Law School, Cass Sunstein of the Chicago School of Law, and Lawrence Lessig of Harvard Law School. At their recommendation, we took the approach of plugging loopholes in existing, long-recognized laws prohibiting harassment and trespassing, rather than creating new provisions out of whole cloth, in order to craft a constitutional bill that fully respects First Amendment and other constitutional rights. This bill does so. The Constitutional scholars concurred unanimously that this legislation is narrowly drafted to withstand constitutional challenge on First Amendment, federalism, or any other grounds.

Mr. President, finally, I should mention that we worked closely with Representative Sonny Bono on this legislation prior to his untimely death, and it was Representative Bono's intention to introduce companion legislation in the House of Representatives. I am deeply saddened that he is not alive today to do so.

I urge my colleagues to support this legislation in order to protect against invasive, harassing, and endangering behavior that can threaten any one of us who, for whatever reason, finds him or herself in the public spotlight. I ask unanimous consent that the text of the bill be included in the RECORD, along with the letters mentioned previously.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Personal Privacy Protection Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Individuals and their families have been harassed and endangered by being persistently followed or chased in a manner that puts them in reasonable fear of bodily injury, and in danger of serious bodily injury or even death, by photographers, videographers, and audio recorders attempting to capture images or other reproductions of their private lives for commercial purposes.

(2) The legitimate privacy interests of individuals and their families have been violated by photographers, videographers, and audio recorders who physically trespass in order to capture images or other reproductions of their private lives for commercial purposes, or who do so constructively through intrusive modern visual or auditory enhancement devices, such as powerful telephoto lenses and hyperbolic microphones that enable invasion of private areas that would otherwise be impossible without trespassing.

(3) Such harassment and trespass threatens not only professional public persons and their families, but also private persons and their families for whom personal tragedies or circumstances beyond their control create media interest.

(4) Federal legislation is necessary to protect individuals and their families from persistent following or chasing for commercial purposes that causes reasonable fear of bodily injury, because such harassment is not directly regulated by applicable Federal, State, and local statutory or common laws, because those laws provide an uneven patchwork of coverage, and because those laws may not cover such activities when undertaken for commercial purposes.

(5) Federal legislation is necessary to prohibit and provide proper redress in Federal courts for trespass and constructive trespass using intrusive visual or auditory enhancement devices for commercial purposes, because technological advances such as telephoto lenses and hyperbolic microphones render inadequate existing common law and State and local regulation of such trespass and invasion of privacy.

(6) There is no right, under the first amendment to the Constitution of the United States, to persistently follow or chase another in a manner that creates a reasonable fear of bodily injury, to trespass, or to constructively trespass through the use of intrusive visual or auditory enhancement devices.

(7) This Act, and the amendments made by this Act, do not in any way regulate, prohibit, or create liability for publication or broadcast of any image or information, but rather use narrowly tailored means to prohibit and create liability for specific dangerous and intrusive activities that the Federal Government has an important interest in preventing, and ensure a safe and secure private realm for individuals against intrusion, which the Federal Government has an important interest in ensuring.

(8) This Act protects against unwarranted harassment, endangerment, invasion of privacy, and trespass in an appropriately narrowly tailored manner without abridging the exercise of any rights guaranteed under the first amendment to the Constitution of the United States, or any other provision of law.

(9) Congress has the affirmative power under section 8 of article I of the Constitution of the United States to enact this Act.

(10) Because this Act regulates only conduct undertaken in order to create products intended to be and routinely transmitted, bought, or sold in interstate or foreign commerce, or persons who travel in interstate or foreign commerce in order to engage in regulated conduct, the Act is limited properly to regulation of interstate or foreign commerce.

(11) Photographs and other reproductions of the private activities of persons obtained through activities regulated by this Act, and the amendments made by this Act, are routinely reproduced and broadcast in interstate and international commerce.

(12) Photographers, videographers, and audio recorders routinely travel in interstate commerce in order to engage in the activities regulated by this Act, and the amendments made by this Act, with the intent, expectation, and routine result of gaining material that is bought and sold in interstate commerce.

(13) The activities regulated by this Act, and the amendments made by this Act, occur routinely in the channels of interstate commerce, such as the persistent following or chasing of subjects in an inappropriate manner on public streets and thoroughfares or in airports, and the use of public streets and thoroughfares, interstate and international airports, and travel in interstate and international waters in order to physically or constructively trespass for commercial purposes.

(14) The activities regulated by this Act, and the amendments made by this Act, substantially affect interstate commerce by threatening the careers, livelihoods, and rights to publicity of professional public persons in the national and international media, and by thrusting private persons into the national and international media.

(15) The activities regulated by this Act, and the amendments made by this Act, substantially affect interstate commerce by restricting the movement of persons who are targeted by such activities and their families, often forcing them to curtail travel or appearances in public spaces, or, conversely, forcing them to travel in interstate commerce in order to escape from abuses regulated by this Act, and the amendments made by this Act.

(b) PURPOSES.—The purposes of this Act are—

(1) to protect individuals and their families against reasonable fear of bodily injury, endangerment, trespass, and intrusions on their privacy due to activities undertaken in connection with interstate and international commerce in reproduction and broadcast of their private activities;

(2) to protect interstate commerce affected by such activities, including the interstate commerce of individuals who are the subject of such activities; and

(3) to establish the right of private parties injured by such activities, as well as the Attorney General of the United States and State attorneys general in appropriate cases, to bring actions for appropriate relief.

SEC. 3. CRIMINAL OFFENSE.

(a) IN GENERAL.—Chapter 89 of title 18, United States Code, is amended by adding at the end the following:

"§ 1822. Harassment for commercial purposes

"(a) DEFINITIONS.—In this section:

"(1) FOR COMMERCIAL PURPOSES.—

"(A) IN GENERAL.—The term 'for commercial purposes' means with the expectation of sale, financial gain, or other consideration.

"(B) RULE OF CONSTRUCTION.—For purposes of this section, a visual image, sound recording, or other physical impression shall not be found to have been, or intended to have been, captured for commercial purposes unless it was intended to be, or was in fact, sold, published, or transmitted in interstate or foreign commerce, or unless the person attempting to capture such image, recording, or impression moved in interstate or foreign commerce in order to capture such image, recording, or impression.

"(2) HARASSES.—The term 'harasses' means persistently physically follows or chases a person in a manner that causes the person to have a reasonable fear of bodily injury, in order to capture by a visual or auditory recording instrument any type of visual image, sound recording, or other physical impression of the person for commercial purposes.

"(b) PROHIBITION AND PENALTIES.—Whoever harasses any person within the United States or the special maritime and territorial jurisdiction of the United States—

"(1) if death is proximately caused by such harassment, shall be imprisoned not less than 20 years and fined under this title;

"(2) if serious bodily injury is proximately caused by such harassment, shall be imprisoned not less than 5 years and fined under this title; and

"(3) if neither death nor serious bodily injury is proximately caused by such harassment, shall be imprisoned not more than 1 year, fined under this title, or both.

"(c) CAUSE OF ACTION.—Any person who is legally present in the United States and who is subjected to a violation of this section may, in a civil action against the person engaging in the violation, obtain any appropriate relief, including compensatory damages, punitive damages, and injunctive and declaratory relief. In any civil action or proceeding to enforce a provision of this section, the court shall allow the prevailing party reasonable attorney's fees as part of the costs. In awarding attorney's fees, the court shall include expert fees as part of the attorney's fees.

"(d) LIMITATION ON DEFENSES.—It is not a defense to a prosecution or civil action under this section that—

"(1) no image or recording was captured; or

"(2) no image or recording was sold.

"(e) USE OF IMAGES.—Nothing in this section may be construed to make the sale, transmission, publication, broadcast, or use of any image or recording of the type or under the circumstances described in this section in any otherwise lawful manner by any person subject to criminal charge or civil liability.

"(f) LIMITATION.—Only a person physically present at the time of, and engaging or assisting another in engaging in, a violation of this section is subject to criminal charge or civil liability under this section. A person shall not be subject to such charge or liability by reason of the conduct of an agent, employee, or contractor of that person or because images or recordings captured in violation of this section were solicited, bought, used, or sold by that person.

"(g) LAW ENFORCEMENT EXEMPTION.—The prohibitions of this section do not apply with respect to official law enforcement activities.

"(h) SAVINGS.—Nothing in this section shall be taken to preempt any right or remedy otherwise available under Federal, State or local law.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 89 of title 18, United States Code, is amended by adding at the end the following:

"1822. Harassment for commercial purposes.".

SEC. 4. PERSONAL INTRUSION FOR COMMERCIAL PURPOSES.

(a) DEFINITION OF FOR COMMERCIAL PURPOSES.—

(1) IN GENERAL.—In this section, the term 'for commercial purposes' means with the expectation of sale, financial gain, or other consideration.

(2) RULE OF CONSTRUCTION.—For purposes of this section, a visual image, sound recording, or other physical impression shall not be found to have been, or intended to have been, captured for commercial purposes unless it was intended to be, or was in fact, sold, published, or transmitted in interstate or foreign commerce, or unless the person attempting to capture such image, recording, or impression moved in interstate or foreign commerce in order to capture such image, recording, or impression.

(b) TRESPASS FOR COMMERCIAL PURPOSES AND INVASION OF LEGITIMATE INTEREST IN PRIVACY FOR COMMERCIAL PURPOSES.—

(1) TRESPASS FOR COMMERCIAL PURPOSES.—It shall be unlawful to trespass on private property in order to capture any type of visual image, sound recording, or other physical impression of any person for commercial purposes.

(2) INVASION OF LEGITIMATE INTEREST IN PRIVACY FOR COMMERCIAL PURPOSES.—It shall be unlawful to capture any type of visual image, sound recording, or other physical impression for commercial purposes of a personal or familial activity through the use of a visual or auditory enhancement device, even if no physical trespass has occurred, if—

(A) the subject of the image, sound recording, or other physical impression has a reasonable expectation of privacy with respect to the personal or familial activity captured; and

(B) the image, sound recording, or other physical impression could not have been captured without a trespass if not produced by the use of the enhancement device.

(c) CAUSE OF ACTION.—Any person who is legally present in the United States who is subjected to a violation of this section may, in a civil action against the person engaging in the violation, obtain any appropriate relief, including compensatory damages, punitive damages and injunctive and declaratory relief. A person obtaining relief may be either or both the owner of the property or the person whose visual or auditory impression has been captured. In any civil action or proceeding to enforce a provision of this section, the court shall allow the prevailing party reasonable attorney's fees as part of the costs. In awarding attorney's fees, the court shall include expert fees as part of the attorney's fees.

(d) LIMITATION ON DEFENSES.—It is not a defense to an action under this section that—

(1) no image or recording was captured; or

(2) no image or recording was sold.

(e) USE OF IMAGES.—Nothing in this section may be construed to make the sale, transmission, publication, broadcast, or use of any image or recording of the type or under the circumstances described herein in any otherwise lawful manner by any person subject to criminal charge or civil liability.

(f) LIMITATION.—Only a person physically present at the time of, and engaging or assisting another in engaging in, a violation of this section is subject to civil liability under this section. A person shall not be subject to such liability by reason of the conduct of an agent, employee, or contractor of that person, or because images or recordings captured in violation of this section were solicited, bought, used, or sold by that person.

(g) LAW ENFORCEMENT EXEMPTION.—The prohibitions of this section do not apply with respect to official law enforcement activities.

(h) SAVINGS.—Nothing in this section shall be taken to preempt any right or remedy otherwise available under Federal, State, or local law.

SEC. 5. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

UNIVERSITY OF CHICAGO LAW SCHOOL,
Chicago, IL, April 30, 1998.

Hon. DIANNE FEINSTEIN,
Senate Judiciary Committee, Technology, Terrorism, and Government Information Subcommittee, Washington, DC.

DEAR SENATOR FEINSTEIN: This is in response to a request for my views on issues of federalism raised by the current effort to prevent harassment and invasion of privacy by certain photographers and journalists. In brief: From the standpoint of the constitutional structure, I believe that these efforts reflect an entirely legitimate exercise of national power. I spell out those reasons in short compass here.

There can be no doubt that in its current form, the proposal is constitutional under the commerce clause. Each of the provisions is carefully drafted to apply if and only if there is a clear nexus with interstate commerce. Thus under existing law, the constitutional question is a simple one, and there is no plausible basis for legal objection.

The more plausible objection is not about technical law but about the spirit of the federal structure. A critic might claim that state law already protects against certain harassing and invasive behavior, and that state law, statutory or common, can easily be adapted to provide stronger protections. Since the several states are generally in the business of preventing against trespass and threatening behavior, why should the federal government intervene? Isn't this the kind of problem best handled at the state level?

These questions would be good ones if they are taken to suggest that state law could, in theory, take care of many of the underlying problems. But the questions are not good ones if they are taken to suggest that in practice, state law does, or will do, all that should be done. There are three important points here.

First, state law is both highly variable and in many places ill-defined—a complex mixture of statutory and common law, a mixture that does not, in many places, give a clear signal against the kind of conduct that the proposed legislation would ban. For example, the standards for reckless endangerment are extremely variable. Nor is it at all clear that most state trespass law prohibits the use of high-technology methods to get access to people's private enclaves. In state court, the common law of trespass is in a notorious and continuing state of flux. So long as the commerce clause is satisfied, there is an entirely legitimate national interest in giving a clear signal that certain behavior is not to be tolerated amidst uncertain and divergent state practices.

Second, the national government often supplements or builds on state law in order to give stronger deterrence. In many states, for example, there are special laws protecting against racial discrimination, environmental harm, or uncompensated invasions of private property. But by itself, this is not an argument that the national government should not provide such measures as well. Congress often acts in order to provide the kind of deterrence that national law—with the availability of federal prosecutors and federal courts—is uniquely in a position to provide. The simple truth is that harassing and invasive practices have not been adequately deterred by state law and the national government can provide further protection. So long as the commerce clause is satisfied, this is a perfectly ordinary and entirely acceptable exercise of national power.

Third, it is important to see that the commercial incentives for engaging in harassing or invasive behavior are emphatically national incentives. If a photographer employed by the National Enquirer chases a movie star or an ordinary person in California, the potential profits are national, and it is the national nature of the profits that makes such behavior so likely. In addition, the nature of the harm tends to involve interstate activity, with movement of people and products across state lines to procure the relevant photograph (when a photograph is involved). If both profits and harms were limited to a single state, it might make more sense to say that each state can handle the problem on its own. But since both profits and harms are national in character, it is far less likely that states are able to do so, as actual practice has tended to show.

I conclude that there is no legal objection to the bill from the standpoint of federalism. I also conclude that the bill fits well within proper practice from the standpoint of maintaining Congress' limited place in the federal structure. In short, this is a national problem calling for a national response.

Sincerely,

CASS R. SUNSTEIN.

HARVARD LAW SCHOOL,
Cambridge, MA, December 7, 1997.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: I have reviewed the draft legislation entitled "The Protection From Personal Intrusion for Commercial Purposes Act," and wanted to write to express my support for legislation. In my view, the legislation represents a balanced and constitutional approach to an increasingly important problem. It has been drafted, I believe, to avoid jeopardizing First Amendment values, and has a firm constitutional foundation in the Commerce Power, and also, in my view, in Congress' Section Five power under the Fourteenth Amendment.

The draft bill proposes three changes to strengthen privacy protections nationally. First, the statute establishes a criminal penalty for harassing conduct engaged in for commercial purposes. Second, the statute establishes a civil penalty for trespass for commercial purposes. And third, the statute establishes a civil penalty for invasions of legitimate interests in privacy for commercial purposes. I consider each provision briefly below.

1. Harassment for commercial purposes

The aim of this provision is to target the repeated and intentional chasing or following of a person in order to record impressions of that person for commercial purpose. The statute would make such conduct criminal, and prescribes enhanced penalties if death or serious bodily harm is proximately caused by such conduct.

A number of points about this provision are important to consider.

(1) The statute is targeting traditionally prohibited conduct, though more narrowly than might ordinarily be expected. The statute is more narrow first because it addresses conduct engaged in for commercial purposes only, and second because it targets chasing or following only for purposes of recording visual and auditory impressions. Both limitations might be said to raise problems of underinclusiveness. In both cases, however, no constitutional problem is presented.

The first narrowing (to commercial purposes) is jurisdictionally required, as the conduct aimed at here is only that affecting interstate commerce. Even if Congress could regulate more broadly, the choice to narrow the scope of its regulation does not reveal any illegitimate content based purpose in selectively proscribing speech conduct. See generally Elena Kagan, The Changing Faces of First Amendment Neutrality: *R.A.V.* v. *St. Paul*, *Rust* v. *Sullivan*, and the Problem of Content-Based Underinclusion, 1992 Sup. Ct. Rev. 29. For the same reason, I do not believe the second narrowing (to visual and auditory impressions) raises any significant First Amendment concern.

(2) This is a criminal statute, so one should expect the courts to read the scope of proscribed conduct narrowly. That means that the statute is likely to be applied only to people who intentionally engage in this form of conduct. I believe the statute makes that clear, since in the definition of "harasses," "persistently" modifies "follows or chases." That modifier will give courts adequate room to narrow the statute to conduct that is properly within its scope.

(3) Finally, because the statute only punishes conduct which proximately causes serious harm, the statute will not penalize conduct which results in serious harm, but is actually, or legally, "caused" by something else. By using the term "proximately," the statute again invites courts to narrow the application of the statute to cases where the legally relevant cause of the harm is the conduct being regulated.

2. Trespass for commercial purposes

The second protection for privacy added by this bill is a protection against trespass for commercial purposes. While the protection of property has traditionally been a function for state regulation, the proposed statute limits the protection to trespasses engaged in for commercial purposes, and by definition, commercial purposes affecting interstate commerce.

There is a long history of support for a provision such as this, especially in the context of civil rights statutes. Congress can well take note of a weakness in the patchwork of state protection against trespass, and supplement such protections with a federal statute. In my view, this statute would fit that form.

3. Invasions of legitimate interests in privacy for commercial purposes

The final section of this proposed bill protects against the invasion of "legitimate interests in privacy" for commercial purposes. While I believe this provision is constitutional, it is the most innovative of the three, and deserves special attention.

The interesting aspect of this statute is its method for specifying the type of invasion that is not permitted. The baseline for the statute's protection is the common law protection against trespass. Historically, trespass law was the foundation of our privacy jurisprudence, and this statute is faithful to that tradition.

The innovation in the statute is to extend trespass law to protect interests that are invaded simply because of technological advances—advances that make it possible to capture visual and auditory impressions that would not have been capturable with older technologies. The statute protects traditional interests against these new technologies.

In a sense, the statute aims at translating our traditional protections of privacy into a context where technology has given eavesdroppers a power that they would not originally have had.

In my view, such an effort by Congress is important, and laudable. It is important because we should not allow constitutional rights to be hostage to technology. If technology advances, jeopardizing our constitutional protections, then it is appropriate to adjust rights to compensate for changes in technology. See Lawrence Lessig, Reading the Constitution in Cyberspace, 45 Emory L. J. 869, 871–75 (1996).

More importantly, it is laudable that Congress take the lead in this process. Of course historically, the Supreme Court has also taken part in keeping the constitution up to date, translating old provisions to take account of current problems. But it has always done so with hesitation, since the act of updating often requires political judgments that it doesn't feel well positioned to make.

Far better if those judgments are made by Congress. And in my view, this proposed statute does just that. It represents an effort by Congress to take the lead in the protection of privacy against the threats that changing technology presents. Whatever one's view about the Court doing the same, it is emphatically the role of Congress to support this tradition of translation.

If there are other questions, I can answer, please don't hesitate to contact me.

With kind regards,

LAWRENCE LESSIG.

USC,
THE LAW SCHOOL,
Los Angeles, CA, Nov. 26, 1997.

Senator DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: At the request of Mr. Richard Pfohl of your staff, I have reviewed the proposed bill to prohibit harassment for commercial purposes and to create a cause of action for personal intrusion for commercial purposes. The bill is narrowly written and does not violate the First Amendment. Moreover, even in light of the Supreme Court's decisions restricting the scope of Congress' commerce power, the bill is likely to be upheld as within the scope of congressional authority.

At the outset, it is important to note that the bill does not prohibit anything from being published or broadcast. Nor does it create any liability for the publication or broadcast of any image or information. Both parts of the bill expressly state: "Nothing in this section may be construed to make the sale, transmission, publication, broadcast, or use of any image or recording of the type or under the circumstances described in this section in any otherwise lawful manner by any person subject to criminal charge or civil liability."

These provisions are reinforced by sections in both parts of the bill that limit liability to those "physically present at the time of, and engaging or assisting another in engaging in violation of this section." No liability is allowed "because images or recordings captured in violation of this section were solicited, bought, used, or sold by that person."

I emphasize these provisions because they make it clear that the bill does not restrict speech or create liability for any publication or broadcast. Rather, the bill prohibits and creates liability for specific dangerous and intrusive activity. At most, the effect on the press is indirect in limiting certain conduct in the gathering of information.

In general, the Supreme Court has held that content-neutral laws that have the effect of restricting speech must meet intermediate scrutiny; that is, they must be shown to be substantially related to an important government purpose. *Turner Broadcast System* v. *Federal Communication Commission*, 114 S.Ct. 2445, 2458 (1994). Although I think that there is a strong argument that the bill does not restrict speech at all, even if a court found that it did, intermediate scrutiny would be met. The government has an important interest in stopping persistently physically following or chasing a person "in a manner that causes the person to have a reasonable fear of bodily injury." This is simply an extension of the prohibition of assaults; there is no First Amendment right for the media to engage in an assault in gathering information. Similarly, there is an important interest in preventing trespass or intrusion on to private property, physically or with technology. There is no First Amendment right for the media to trespass in gathering information.

Although the Supreme Court has recognized that "without some protection for seeking out the news, freedom of the press could be eviscerated," *Branzburg* v. *Hayes*, 408 U.S. 665, 681 (1972), the Court also consistently has refused to find that the First Amendment provides the press any right to violate the law in gathering information. The Court has explained that "the First Amendment does not guarantee the press a constitutional right of special access to information not available to the public generally." Id. at 684. No member of the public has a right to commit an assault or a trespass; nor can the press in gathering information. As the Court declared in *Associated Press* v. *NLRB*, 301 U.S. 103, 132–33 (1937): "The business of the Associated Press is not immune from regulation because it is an agency of the press. The publisher of a newspaper has no special immunity from the application of general laws. He has no special privilege to invade the rights and liberties of others. He must answer for libel. He may be punished for contempt of court. He is subject to the anti-trust laws. Like others he must pay equitable and nondiscriminatory taxes on his business. The regulation here in question has no relation whatever to the impartial distribution of news."

The Supreme Court expressly held that the press is not exempt from general laws in *Cohen* v. *Cowles Media Co.*, 501 U.S. 663 (1991). A newspaper published the identity of a source who had been promised that his name would not be disclosed. The Court rejected the argument that holding the newspaper liable for breach of contract would violate the First Amendment. The Court stressed that the case involved the application of a general law that in no way was motivated by a desire to interfere with the press. The Court said: "Generally applicable laws do not offend the First Amendment simply because their enforcement against the press has incidental effects on its ability to gather and report the news. [E]nforcement of such general laws against the press is not subject to stricter scrutiny than would be applied to enforcement against other persons or organizations." Id. at 669–70.

The bill prohibits anyone from persistently following another in a manner that reasonably creates fear of bodily injury or committing a trespass for purposes of capturing a visual or auditory recording. There is no First Amendment right to engage in such activity and no First Amendment basis for an exemption to such a narrowly tailored law.

The other possible constitutional challenge to the bill would be on the ground that it exceeds the scope of Congress' commerce clause authority. From 1936 until April 26, 1995, the Supreme Court did not find one federal law unconstitutional as exceeding the scope of Congress' commerce power. Then in *United States* v. *Lopez*, 115 S.Ct. 1624 (1995), the Supreme Court declared unconstitutional the Gun-Free School Zones Act of 1990 which made it a federal crime to have a gun within 1,000 feet of a school. After reviewing the history of decisions under the commerce clause, the Court identified three types of activities that Congress can regulate under this power. First, Congress can "regulate the use of the channels of interstate commerce." *Id.* at 1629. Second, the Court said that Congress may regulate persons or things in interstate commerce and "to protect the instrumentalities of interstate commerce." 115 S.Ct. at 1629. Finally, the Court said that Congress may "regulate those activities having a substantial relation to interstate commerce." Id. at 1629–30.

The bill is limiting to regulating commercial activity in that it prohibits and creates liability for "harrassment for commercial purposes" and "trespass and invasion of legitimate interest in privacy for commercial purposes." Commercial purposes is defined as activity "with the expectation of sale, financial gain, or other consideration." In *Lopez*, the Court emphasized the absence of commercial activity in the law or its application.

Moreover, the bill fits within the categories articulated in *Lopez*. Through fact-finding, Congress should be able to document that those who engaged in such activity are engaged in interstate commerce. This, too, is different from *Lopez*, where the Court stress the lack of any evidence linking the prohibited conduct to interstate commerce.

Please let me know if I can be of further assistance.

Sincerely,

ERWIN CHEMERINSKY.

UNIVERSITY OF CHICAGO LAW SCHOOL,
Chicago, IL, Nov. 24, 1997.

Senator DIANNE FEINSTEIN,
Senate Judiciary Committee,
Technology, Terrorism, and Government Information Subcommittee, Washington, DC.

DEAR SENATOR FEINSTEIN: This letter is in response to your request for my views on the constitutionality of the proposed statute designed to protect against harassment and invasion of privacy by exploitative photographers, sound recorders, and film crews. The bill would create a new federal criminal and civil offense and two additional grounds for federal civil liability. I believe that the bill is constitutional as drafted. Here is a brief analysis of the legal issues.

The first question is whether the federal government has the authority to enact a measure of this kind. The most likely candidate is the commerce clause. Under the commerce clause, the federal government does have this authority, especially in light of the fact that the bill, as written, requires a clear connection between the interstate commerce and the harassing and invasive action. See the rules of construction in sections 2 and 4. In fact this connection is stronger than that in several of the cases in which the Court has upheld congressional action under the commerce clause. See Wickard v. Filburn, 317 U.S. 111 (1942); United States v. Darby, 312 U.S. 100 (1941). United States v. Lopez, 115 S. Ct. 1624 (1995), is not to the contrary, for in that case, Congress did not require any connection between interstate commerce and the prohibited possession of firearms on or near school property. It is conceivable that the bill might be challenged in some cases in which a photographer did not move in interstate commerce and did not sell anything in interstate commerce but intended to do so (see the rules of construction). But under the cases cited above, it's probably constitutional even under such circumstances, because the photographer would be part of a "class" of participants in interstate commerce.

The second question is whether the bill violates the first amendment. Here it is important to distinguish between a constitutional challenge to the bill "on its face" and a challenge to the bill "as applied." I believe that a facial challenge would fail. The bill is content neutral, see Turner Broadcasting Inc. v. FCC, 114 S. Ct. 2445 (1994); its prohibitions apply regardless of the particular content of the underlying material. This is especially important, since the Court treats content-neutral restrictions more hospitably than content-based restrictions. See id. Moreover, the bill is directed at action, not at speech itself; speech itself is left unregulated by the bill. In a way the constitutional attack on the bill amounts to a claimed first amendment right of access to private arenas and to information—a right that the Court has generally denied. See Pell v. Procunier, 417 U.S. 817 (1974); Houchins v. KQED, 438 U.S. 1 (1978); Pruneyard Shopping Center v. Robins, 447 U.S. 74 (1980).

To be sure, this is not the end of the matter: A content-neutral restriction on action may create constitutional problems if the action would result in restrictions on the production of speech, as this bill would undoubtedly do. Imagine, for example, a law that defined "trespass" to include any effort to take photographs near the White House or the Supreme Court. Cf. United States v. Kokinda, 497 U.S. 720 (1990). In assessing the validity of such a restriction, some relevant questions are whether the restriction is justified by sufficient government interests, whether there are less restrictive alternatives for protecting those interests, and whether the restriction on the production of speech is small or large. See id. In most cases covered by the bill, the restriction would be amply justified. If a photographer has chased someone in such a way as to produce a reasonable fear of bodily injury, the government has a strong reason to provide protection, and the bill is a narrow tailored means of doing so. Thus section 2, adding the new criminal offense, seems on firm ground.

Section 4 is designed to ensure that photographers do not engage in trespasses, or the equivalent of trespasses, in order to invade people's privacy without their consent. This section is also supported by the strong government interest in ensuring that people have a secure private realm, one into which those using the channels of interstate commerce do not enter without consent. In most of its applications, section 4 is also likely to be constitutional. Assume, for example, that a photographer has trespassed into the private property of a movie star in order to take pictures of a dinner or a romantic encounter. Since the images are themselves unregulated (see section 4(d)), the government almost certainly has sufficient grounds to forbid this kind of behavior, a trespass at common law. Although the Supreme Court has subjected some common law rules to first amendment limitations, it has never held that the law of trespass, even though it restricts activity that would produce speech, generally raises constitutional questions. Thus I conclude that section 4 is constitutional in most of its likely applications.

There are some contexts in which harder questions might be raised. Assume, for example, that a presidential candidate is engaged in unlawful activity on private property, and that a journalist and a photographer have used technological devices in order to obtain a record of that activity. Under section 4(b)(2), there has been a kind of federal tort, giving rise to compensatory and punitive damages. It is possible that the special first amendment liability in such cases. Cf. New York Times v. Sullivan, 376 U.S. 254 (1964). Thus a series of cases might be imagined in which section 4, and conceivably even section 2, would give rise to a reasonable constitutional challenge as applied. This is true, however, of a large range of generally permissible statutes; the question for present purposes is whether the bill would be constitutional on its face. I conclude that it would be.

I hope that these brief remarks are helpful.

Sincerely,

CASS R. SUNSTEIN.

ADDITIONAL COSPONSORS

S. 249

At the request of Mr. D'AMATO, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Oregon [Mr. SMITH] were added as cosponsors of S. 249, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.

S. 472

At the request of Mr. CRAIG, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 472, a bill to provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes.

S. 882

At the request of Mrs. BOXER, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 882, a bill to improve academic and social outcomes for students by providing productive activities during after school hours.

S. 1021

At the request of Mr. HAGEL, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 1021, a bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

S. 1194

At the request of Mr. D'AMATO, his name was withdrawn as a cosponsor of S. 1194, a bill to amend title XVIII of the Social Security Act to clarify the right of medicare beneficiaries to enter into private contracts with physicians and other health care professionals for the provision of health services for which no payment is sought under the medicare program.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1298

At the request of Mr. SHELBY, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 1298, a bill to designate a Federal building located in Florence, Alabama, as the "Justice John McKinley Federal Building."

S. 1459

At the request of Mr. GRASSLEY, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 1459, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind and closed-loop biomass.

S. 1677

At the request of Mr. CHAFEE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1864

At the request of Ms. MIKULSKI, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 1864, a bill to amend title XVIII of the Social Security Act to exclude clinical social worker services from coverage under the medicare skilled nursing facility prospective payment system.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1890

At the request of Mr. DASCHLE, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1890, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 1891

At the request of Mr. DASCHLE, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1891, a bill to amend the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

S. 1924

At the request of Mr. MACK, the names of the Senator from New Hampshire [Mr. SMITH], the Senator from Indiana [Mr. LUGAR], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1957

At the request of Mr. BURNS, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 1957, a bill to provide regulatory assistance to small business concerns, and for other purposes.

S. 2007

At the request of Mr. COCHRAN, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 2007, a bill to amend the false claims provisions of chapter 37 of title 31, United States Code.

S. 2078

At the request of Mr. GRASSLEY, the names of the Senator from Montana [Mr. BURNS], the Senator from California [Mrs. FEINSTEIN], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. ABRAHAM, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of Senate Concurrent Resolution 94, A concurrent resolution supporting the religious tolerance toward Muslims.

SENATE RESOLUTION 210

At the request of Mr. WARNER, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of Senate Resolution 210, a resolution designating the week of June 22, 1998 through June 28, 1998 as "National Mosquito Control Awareness Week."

AMENDMENT NO. 2393

At the request of Mr. BROWNBACK the names of the Senator from Missouri [Mr. ASHCROFT], the Senator from Wyoming [Mr. ENZI], the Senator from North Carolina [Mr. HELMS], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Oklahoma [Mr. INHOFE], and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of amendment No. 2393 intended to be proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

THOMAS AMENDMENTS NOS. 2431–2432

(Ordered to lie on the table.)

Mr. THOMAS submitted two amendments intended to be proposed by him to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

AMENDMENT NO. 2431

At the appropriate place, insert the following:

SEC. . AMENDMENT TO THE SOCIAL SECURITY ACT.

(A) IN GENERAL.—The table set forth in section 1923(f)(2) of the Social Security Act (42 U.S.C. 1396r—4(f)(2)) is amended in the item relating to Wyoming, in the case of fiscal years 2000, 2001, and 2002, by striking "0" each place in appears with respect to those fiscal years and inserting "0.191".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 4721 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 511).

AMENDMENT NO. 2432

At the appropriate place, insert the following:

SEC. . CERTAIN HEALTH CLINICS PERMITTED TO PARTICIPATE IN A MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) IN GENERAL.—Section 1820(c)(2) of the Social Security Act (42 U.S.C. 1395i—4(c)(2)) (as amended by section 4201(a) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 370)) is amended—

(1) in subparagraph (B)(i), by striking "public hospital" and inserting "public hospital, or a health clinic described in subparagraph (C),"; and

(2) by adding at the end the following:

"(C) HEALTH CLINIC DESCRIBED.—A health clinic described in this subparagraph is a health clinic that—

"(i) operated as a hospital prior to 1993; and

"(ii) is located in a State that promugated rules for medical assistance facilities on July 15, 1997.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 251).

GREGG (AND LEAHY) AMENDMENT NO. 2433

Mr. GREGG (for himself and Mr. LEAHY) proposed an amendment to the bill, S. 1415, supra; as follows:

In title XIV, strike section 1406 and all that follows through section 1412 and insert the following:

SEC. 1406. RESOLUTION OF AND LIMITATIONS ON CIVIL ACTIONS.

(a) STATE ATTORNEY GENERAL ACTIONS.—

(1) PENDING CLAIMS.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall resolve any civil action seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions that have been commenced by the State against a tobacco product manufacturer, distributor, or retailer that is pending on the date of enactment of this Act.

(2) FUTURE ACTIONS BASED ON PRIOR CONDUCT.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall agree that the State will not commence any new tobacco claim after the date of enactment of this Act (other than to enforce the terms of a previous judgment) that is based on the conduct of a participating tobacco product manufacturer, distributor, or retailer that occurred prior to the date of enactment of this Act, seeking recovery for expenditures attributable to the treatment of tobacco induced illnesses and conditions against such a participating tobacco product manufacturer, distributor, or retailer.

(3) APPLICATION TO LOCAL GOVERNMENTAL ENTITIES.—The requirements described in paragraphs (1) and (2) shall apply to civil actions commenced by or on behalf of local governmental entities for the recovery of costs attributable to tobacco-related illnesses if such localities are within a State whose attorney general has elected to resolve claims under paragraph (1) and enter into the agreement described in paragraph (2). Such provisions shall not apply to those local governmental entities that are within a State whose attorney general has not resolved such claims or entered into such agreements.

(b) STATE AND LOCAL OPTION FOR ONE-TIME OPT OUT.—

(1) IN GENERAL.—The Secretary shall establish procedures under which the attorney general of a State may, not later than 1 year after the date of enactment of this Act, elect not to resolve an action described in subsection (a)(1) or not to enter into an agreement under subsection (a)(2). A State whose attorney general makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a State to make such an election on a one-time basis.

(2) EXTENSION.—In the case of a State that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in an action described in subsection (a)(1) prior to or during the period described in paragraph (1), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary.

(3) APPLICATION TO CERTAIN STATES.—A State that has resolved a tobacco claim described in subsection (a)(1) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in paragraph (1) if, as part of the resolution of such claim, the State agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(4) LOCAL GOVERNMENTAL ENTITY OPTION FOR ONE-TIME OPT OUT.—

(A) IN GENERAL.—The Secretary shall establish procedures under which the attorney for a local governmental entity which commenced a civil action prior to June 20, 1997, against a participating tobacco product manufacturer, distributor, or retailer seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions, not later that 1 year after the date of enactment of this Act, may elect not to resolve any action described in subsection (a)(3). A local governmental entity whose attorney makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a local governmental entity to make such an election on a one-time basis.

(B) EXTENSION.—In the case of a local governmental entity that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in a claim described in subsection (a)(3) prior to or during the period described in subparagraph (A), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary.

(C) APPLICATION TO CERTAIN LOCAL GOVERNMENTAL ENTITIES.—A local governmental entity that has resolved a claim described in subsection (a)(3) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in subparagraph (A) if, as part of the resolution of such claim, the local governmental entity agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(c) ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.—

(1) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(2) CASTANO CIVIL ACTIONS.—

(A) IN GENERAL.—The rights and benefits afforded in section 221 of this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute a remedy for the purpose of determining civil liability as to those addiction or dependence claims asserted in the Castano Civil Actions. The Castano Civil Actions shall be dismissed to the extent that they seek relief in the nature of public programs to assist addicted smokers to overcome their addiction or other publicly available health programs with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions in accordance with this Act.

(B) ARBITRATION.—For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(C) PAYMENT OF AWARDS.—The participating tobacco product manufacturers shall pay the arbitration award.

(d) RULES OF CONSTRUCTION.—

(1) POST ENACTMENT CLAIMS.—Nothing in this title shall be construed to limit the ability of a government or person to commence an action against a participating tobacco product manufacturer, distributor, or retailer with respect to a claim that is based on the conduct of such manufacturer, distributor, or retailer that occurred after the date of enactment of this Act.

(2) NO LIMITATION ON PERSON.—Nothing in this title shall be construed to limit the right of a government (other than a State or local government as provided for under subsection (a) and (b)) or person to commence any civil claim for past, present, or future conduct by participating tobacco product manufacturers, distributors, or retailers.

(3) CRIMINAL LIABILITY.—Nothing in this title shall be construed to limit the criminal liability of a participating tobacco product manufacturer, distributor or retailer or its officers, directors, employees, successors, or assigns.

(e) DEFINITIONS.—In this section:

(1) PERSON.—The term "person" means an individual, partnership, corporation, parent corporation or any other business or legal entity or successor in interest of any such person.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

GREGG AMENDMENT NO. 2434

Mr. GREGG proposed an amendment to the bill, S. 1415, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

In title XIV, strike section 1406 and all that follows through section 1412 and insert the following:

SEC. 1406. RESOLUTION OF AND LIMITATIONS ON CIVIL ACTIONS.

(a) STATE ATTORNEY GENERAL ACTIONS.—

(1) PENDING CLAIMS.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall resolve any civil action seeking recovery for expenditures attributable to the

treatment of tobacco related illnesses and conditions that have been commenced by the State against a tobacco product manufacturer, distributor, or retailer that is pending on the date of enactment of this Act.

(2) Future actions based on prior conduct.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall agree that the State will not commence any new tobacco claim after the date of enactment of this Act (other than to enforce the terms of a previous judgment) that is based on the conduct of a participating tobacco product manufacturer, distributor, or retailer that occurred prior to the date of enactment of this Act, seeking recovery for expenditures attributable to the treatment of tobacco induced illnesses and conditions against such a participating tobacco product manufacturer, distributor, or retailer.

(3) Application to local governmental entities.—The requirements described in paragraphs (1) and (2) shall apply to civil actions commenced by or on behalf of local governmental entities for the recovery of costs attributable to tobacco-related illnesses if such localities are within a State whose attorney general has elected to resolve claims under paragraph (1) and enter into the agreement described in paragraph (2). Such provisions shall not apply to those local governmental entities that are within a State whose attorney general has not resolved such claims or entered into such agreements.

(b) State and Local Option for One-Time Opt Out.—

(1) In general.—The Secretary shall establish procedures under which the attorney general of a State may, not later than 1 year after the date of enactment of this Act, elect not to resolve an action described in subsection (a)(1) or not to enter into an agreement under subsection (a)(2). A State whose attorney general makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a State to make such an election on a one-time basis.

(2) Extension.—In the case of a State that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in an action described in subsection (a)(1) prior to or during the period described in paragraph (1), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(3) Application to certain States.—A State that has resolved a tobacco claim described in subsection (a)(1) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in paragraph (1) if, as part of the resolution of such claim, the State agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(4) Local governmental entity option for one-time opt out.—

(A) In general.—The Secretary shall establish procedures under which the attorney for a local governmental entity which commenced a civil action prior to June 20, 1997, against a participating tobacco product manufacturer, distributor, or retailer seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions, not later that 1 year after the date of enactment of this Act, may elect not to resolve any action described in subsection (a)(3). A local governmental entity whose attorney makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a local governmental entity to make such an election on a one-time basis.

(B) Extension.—In the case of a local governmental entity that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in a claim described in subsection (a)(3) prior to or during the period described in subparagraph (A), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(C) Application to certain local governmental entities.—A local governmental entity that has resolved a claim described in subsection (a)(3) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in subparagraph (A) if, as part of the resolution of such claim, the local governmental entity agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(c) Addiction and Dependency Claims; Castano Civil Actions.—

(1) Addiction and dependence claims barred.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(2) Castano civil actions.—

(A) In general.—The rights and benefits afforded in section 221 of this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute a remedy for the purpose of determining civil liability as to those addiction or dependence claims asserted in the Castano Civil Actions. The Castano Civil Actions shall be dismissed to the extent that they seek relief in the nature of public programs to assist addicted smokers to overcome their addiction or other publicly available health programs with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions in accordance with this Act.

(B) Arbitration.—For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(C) Payment of awards.—The participating tobacco product manufacturers shall pay the arbitration award.

(d) Rules of Construction.—

(1) Post enactment claims.—Nothing in this title shall be construed to limit the ability of a government or person to commence an action against a participating tobacco product manufacturer, distributor, or retailer with respect to a claim that is based on the conduct of such manufacturer, distributor, or retailer that occurred after the date of enactment of this Act.

(2) No limitation on person.—Nothing in this title shall be construed to limit the right of a government (other than a State or local government as provided for under subsection (a) and (b)) or person to commence any civil claim for past, present, or future conduct by participating tobacco product manufacturers, distributors, or retailers.

(3) Criminal liability.—Nothing in this title shall be construed to limit the criminal liability of a participating tobacco product manufacturer, distributor or retailer or its officers, directors, employees, successors, or assigns.

(e) Definitions.—In this section:

(1) Person.—The term "person" means an individual, partnership, corporation, parent corporation or any other business or legal entity or successor in interest of any such person.

(2) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KERRY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 20, for purposes of conducting a Full Committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. KERRY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 20, 1998 at 10:00 a.m. and 4:15 p.m. to hold two hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, May 20, 1998 at 10:00 a.m. to mark up the following: S. 1691, the American Indian Equal Justice Act; and S. 2069, a bill to permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation. The Committee will meet in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. KERRY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, May 20, 1998 at 10:00 a.m. in room 226 on the Senate Dirksen Office Building to hold a hearing on "S. 1845, the Child Custody Protection Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. KERRY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 20, 1998 at 2:30 p.m. to hold a nomination hearing on Joan A. Dempsey to be Deputy Director of Central Intelligence for Community Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. KERRY. Mr. President, I ask unanimous consent that the Special Committee on Aging be permitted to meet on May 20, 1998 at 9:30 a.m. in Dirksen 628 for the purpose of conducting a forum.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OCEANS AND FISHERIES

Mr. KERRY. Mr. President, I ask unanimous consent that the Oceans and Fisheries Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 20, 1998, at 9:30 am on harmful algal blooms.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND GOVERNMENT INFORMATION

Mr. KERRY. Mr. President, I ask unanimous consent that the Subcommittee on Technology, Terrorism, and Government Information, of the Senate Judiciary Committee be authorized to hold a hearing during the session of the Senate on Wednesday, May 20, 1998 at 2:30 p.m. in room 226, Senate Dirksen Office Building, on: "S. 512, Identity Theft."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RELIGIOUS GROUPS CHALLENGE GROWING INTOLERANCE IN EUROPE

• Mr. D'AMATO. Mr. President, I rise today to comment on an issue that concerns many Americans, religious intolerance in Europe. As Chairman of the Commission on Security and Cooperation in Europe, I chaired a hearing on September 18, 1997, on "Religious Intolerance in Europe Today." We heard compelling testimony on the rise of religious intolerance in Europe from representatives of the Muslim and Jewish faiths, Orthodox Church, Roman Catholic Church, an evangelical Protestant church, the Church of the Latter Day Saints, Jehovah's Witness, and the Church of Scientology.

The testimony indicated the following:

Muslims in Europe have been subjected to genocide, mass killings, forced migration and torture, including rape, in the former Yugoslavia; harassment, including police brutality and attacks and other hate crimes by extremist groups against Muslims have been reported throughout Europe, particularly in Germany, France and the United Kingdom; Muslims have been denied permits to build or repair mosques in the Czech Republic, Bulgaria, and elsewhere in Europe; Muslim women are frequently the subject of attacks, discrimination and other forms of abuse and harassment because they choose to wear a head covering;

Struggling Jewish communities in Eastern Europe are often made the scapegoats for the pain of the transition from centrally planned economies to market capitalism; the desecration of Jewish cemeteries and memorials has been on the rise; and anti-Semitic publications, such as The Protocols of Zion, and neo-Nazi computer games have received wider distribution accompanied by the rise of skinhead gangs and hatemongers throughout Europe;

The Greek Orthodox Ecumenical Patriarchate has been subject to recurring acts of violence, and faces serious obstacles imposed by the Government of Turkey, including the closing of the Theological School of Halki, which have a detrimental impact on the activities of the Patriarchate and Orthodox believers in Turkey;

Catholic believers face harassment and violence in parts of Bosnia-Herzegovina and Croatia as well as Northern Ireland, and they face serious impediments to the practice of their faith elsewhere in Europe, including in Belarus, Russia, Greece, Turkey, and Romania;

Some evangelical and charismatic Christian churches have been denied registration by the Governments of Bulgaria, Uzbekistan, Azerbaijan, and Greece and have been harassed, as well as have reportedly had religious materials confiscated; at least one charismatic church in Germany has come under intense scrutiny by the local officials and the German Bundestag's Commission of Inquiry on So-called Sects and Psycho-Groups, faced other forms of harassment, and been the target of vandalism and threats of violence;

Jehovah's Witnesses have been denied registration in a number of OSCE participating States, including Armenia, Austria, Bulgaria, Greece, and Latvia; have been subjected to various forms of harassment, including the prohibition on importation of religious literature and denial of the freedom to assemble for worship services; France's Parliamentary Commission on Sects has categorized Jehovah's Witnesses as a "criminal sect" for its prohibition against blood transfusions; Germany's Federal Administrative Court has denied legal status to the Jehovah's Witnesses;

Mormons have been subjected to continued acts of harassment, including confiscation of religious materials, and assault, in Bulgaria; and are prevented from freely sharing their beliefs in several OSCE participating States, including Greece and Turkey; and

Scientologists, including U.S. citizens, have been subjected to pervasive civil, political and economic discrimination, harassment, surveillance, and orchestrated boycotts in Germany.

In the months following this hearing, the Helsinki Commission has noted a chilling effect on religious liberty from actions taken by national parliaments. A law passed on December 10, 1997 by the Austrian Parliament requires that a religious group prove a 20-year existence, have a creed distinct from previously registered groups, and have a membership of at least 0.02% of the population or 16,000 members before they are granted full rights under law. Concerns over this law were raised in Vienna by a Helsinki Commission delegation this past January. A similar law was passed in 1997 in Macedonia. In January 1998, a Helsinki Commission delegation, lead by Co-Chairman CHRISTOPHER SMITH, traveled to Moscow to discuss concerns with the 1997 Russian religion law with Russian government officials, minority religious groups, and the Russian Orthodox Church.

Some governments have passed laws creating government information centers to alert the public to "dangerous" groups. The Austrian and Belgian governments have set up hotlines for the public and, through government sponsored advisory centers, distribute information on groups deemed "dangerous." In official Austrian literature, Jehovah's Witnesses are labeled "dangerous" and members of this group report that the stigma associated with this government label is difficult to overcome in Austrian society. These information centers directly violate the commitments that Austria and Belgium have made as participating States of the OSCE to "foster a climate of mutual tolerance and respect," in paragraph 16 of the Vienna Concluding Document, and represent excessive governmental intrusion into the public discussion on religious matters.

Several Western European Parliaments have or are currently investigating and reporting on the activities of minority religious groups. These parliamentary investigations have also had a chilling effect on religious liberty and appear to cause a public backlash against groups being investigated or labeled "dangerous." For instance, the German Parliament is currently conducting its investigation into "dangerous sects" and "psycho-groups" and issued an interim report in January 1998. At the Helsinki Commission's September 18 hearing, at least one independent evangelical church reported a direct correlation between the harassment, vandalism and threats of violence they experience and the investigation by the German Parliament's commission. The French Parliament's report contained a list of "dangerous" groups in order to warn the public against them and the Belgian Parliament's report had an informal appendix which was widely circulated, which included allegations against many mainline Catholic groups, Quakers, Hasidic Jews, Buddhists, and the YWCA (although not the YMCA).

On Wednesday, May 20, 1998, a coalition of religious groups, including Hasidic Jews, Hindu, Bahia, Seventh Day Adventist, evangelical Protestant and charismatic Catholic communities, plan to hold a press conference in Brussels to announce that they are about to launch a court challenge to the Belgian Parliamentary Report and the Belgian Government's Advice and Information Center. The premise of the legal challenge is that these actions by the Belgian government violate Belgium's international commitments to religious liberty. I am pleased to see these and other groups such as Human Rights Without Frontiers standing up for this fundamental freedom, and acting to highlight and challenge the actions by European governments that violate the Helsinki Accords and other international commitments on religious liberty.

Mr. President, the recent action by the House adopting the Freedom From Religious Persecution Act, and pending consideration of that bill and parallel measures in the Senate, clearly show that this issue is one that concerns Americans. Many Americans have family or friends who are citizens in countries that have solemnly promised to protect religious liberty, but then restrict it or deny it. Many Americans, through their own religious affiliations, make donations to support the work of their denominations outside this country, or take part in that work themselves as a personal expression of their beliefs. Actions taken by foreign governments that have promised to protect religious liberty and then violate these promises can and do directly affect American citizens during their travels for business or pleasure, when they support the overseas religious efforts of their faiths by donations or personal participation, or through negative effects on their relatives and friends who reside in these countries.

Accordingly, I call upon my colleagues to remain vigilant on this subject, and assure them and all Americans that the Commission will remain active and engaged as we seek to document violations and protect the rights of affected persons.•

TRIBUTE TO RABBI MOSHE SHERER

• Mr. LIEBERMAN. Mr. President, I regret to inform my colleagues in the Senate of the death on Sunday, May 17 of Rabbi Moshe Sherer, President of Agudath Israel of America, a vibrant organization of Orthodox Jews in our country.

I was privileged to have known Rabbi Sherer for many years and to benefit from his wise counsel. He lived an extraordinarily righteous and productive life, and was a kindly but driving force in the unprecedented growth of his organization and its perspective within America. Rabbi Sherer was also a very successful bridgebuilder to other faith communities in his effort to spread the light of religious truth throughout our country.

I shall miss Rabbi Sherer, and wish to extend to his wife, Deborah, and his children, grandchildren, and great-grandchildren my condolences and best wishes.

Mr. President, I ask that the full text of two articles from the New York Times of May 19, 1998 be printed in the Record. The first describes Rabbi Sherer's remarkable life, and the second the effect of his death on the more than 20,000 people who came to his funeral in New York two days ago.

The articles follow:

[From the New York Times, May 19, 1998]

Rabbi Moshe Sherer, 76, Who Contributed to Rise of Orthodoxy's Right Wing in U.S.

(By Gustav Niebuhr)

Rabbi Moshe Sherer, who built a relatively small Orthodox Jewish organization, Agudath Israel of America, into a politically and religiously influential force among American Jewish groups, died Sunday afternoon in Manhattan. He was 76 and lived in Brooklyn.

He died after an illness of several months, a spokesman for the group said.

Rabbi Sherer had served since 1963 as president of Agudath Israel of America, an educational and social service organization that also represents hundreds of Orthodox religious schools, or yeshivas in the United States and Canada.

Through his work at Agudath Israel, Rabbi Sherer played a leading role in the rise of Orthodox Judaism's right wing, which has gained in influence and self-confidence since the 1960's, at the expense of Orthodoxy's more moderate wing.

That shift seemed unlikely when Rabbi Sherer joined Agudath Israel as its executive vice president in 1941, when it was a small group with few employees. In an interview last year, he said some people warned him that Agudath Israel's rigorously traditional Orthodox approach had little future in America. But, he said, "it's a growth stock today."

Sociologists say that Orthodoxy's strict traditionalists have benefited from charismatic leadership, a high birthrate and anxiety among many Orthodox Jews over signs of moral turmoil in society.

Today, Agudath Israel, with headquarters at 84 William St., Manhattan, has branches throughout the country and a Washington office that lobbies the government on religious issues. It belongs to the Agudath Israel World Organization, of which Rabbi Sherer was appointed chairman in 1980. In Israel, it is associated with the strictly Orthodox United Torah Judaism Party, a member of the governing coalition.

Among Agudath Israel's earliest projects under Rabbi Sherer's leadership was sending food shipments to Jews in Nazi-dominated Eastern Europe and producing affidavits to help refugees immigrate to the United States. After World War II, the organization shipped food and religious articles to Jews in displaced persons camps and assisted those who wanted to immigrate.

With Agudath Israel's constituency of religious schools, Rabbi Sherer served a world that prizes scholarship. Born in Brooklyn on June 8, 1921, he was educated at Torah Vodath, a Brooklyn yeshiva, and Ner Israel rabbinical college in Baltimore. He told associates that his main mentor was the late Rabbi Aharon Kotler, who founded a highly regarded yeshiva in Lakewood, N.J.

Yet Rabbi Sherer was known as an organizer rather than an intellectual, with diplomatic and political skills that enabled him to forge coalitions within the decentralized and contentious world of Orthodox Judaism, and with other religious groups.

"He was able to take disparate groups, bring them together and get them to cooperate in the areas where they would agree," said Rabbi Nosson Scherman, general editor of Artscroll, a major publisher of Jewish texts.

Rabbi Steven M. Dworken, executive vice president of the Rabbinical Council of America, which represents about 1,000 Orthodox rabbis, said Rabbi Sherer "was responsible in many, many ways for placing Agudath Israel on the map."

As the most strictly observant of the Orthodox community became more visible and organized politicians took note. In January 1994, Rabbi Sherer delivered the invocation at the first inauguration of Mayor Rudolph W. Giuilani of New York. Vice President Al Gore was the speaker at the organization's 76th annual dinner, held in New York the day Rabbi Sherer died.

But the organization was also considered important earlier. When The New York Times described the growing influence of local religious groups in a 1974 article, it quoted Rabbi Sherer as saying about Agudath Israel, "There is hardly a legislator from any Jewish neighborhood in the city who does not know how we stand on issues that concern us and how thorough we are about informing our constituents about positions the legislators take on these issues."

Still, he did not have the visibility of some of his counterparts at other Jewish organizations. "He wasn't a headline-maker," said Samuel C. Heilman, professor of Jewish studies and sociology at the Graduate School of the City University of New York. Instead, Professor Heilman said, Rabbi Sherer worked quietly "to keep the channels of communication open" between Agudath Israel and other Jewish organizations.

What helped is that Agudath Israel reached out to the entire Jewish community with its programs promoting Jewish identity and learning. Last September, for example, the organization sponsored a celebration for men who had completed a seven-year program of reading the entire Talmud, the Jewish civil and religious law, at the rate of a page a day. An estimated 70,000 people participated, filling Madison Square Garden and other arenas.

Rabbi Sherer sometimes took positions at odds with non-Orthodox organizations. He supported aid by Federal and state governments to religious schools, a stand that placed his organization on the same side of that issue as the Roman Catholic Church but nettled some Jewish groups that supported a strict separation of church and state.

Testifying before Congress on this issue in 1961, he said, "Classical Judaism has, from the very inception of the Jewish people, placed religious education in sharp focus as the centrality of life itself."

More recently, he helped lead an effort to counter attempts by Reform and Conservative Jews to gain official recognition of non-Orthodox rabbis in Israel. Last November, he announced that Agudath Israel would spend $2 million for newspaper advertisements to promote the view that within Israel, conversions and other rites should remain under Orthodox control.

Agudath Israel's spokesman, Rabbi Avi Shafran, said Rabbi Sherer's stand stemmed from the conviction that "the only unifying force for the Jewish people is the Jewish religious heritage."

Rabbi Sherer is survived by his wife, the former Deborah Portman; two daughters, Rochel Langer of Monsey, N.Y., and Elky Goldschmidt of Brooklyn; a son, Rabbi Shimshon Sherer of Brooklyn, and many grandchildren and great-grandchildren.

Borough Park Mourns Jewish Luminary

(By Garry Pierre-Pierre)

The armada of yellow buses that usually clog the narrow streets of Borough Park, Brooklyn, shuttling students from yeshivas to their homes, was nowhere in sight yesterday. Instead, the streets were filled with thousands of people mourning the death of Rabbi Moshe Sherer, whom many considered the elder statesman of the American Orthodox Jewish community.

The mourners crowded the streets, stood on rooftops and sat in their living rooms to listen to eulogies, broadcast throughout the neighborhood by loudspeaker, for a man known for his tireless efforts to unite Jewish sects and to reach out to the secular world.

Within hours of his death on Sunday afternoon, his followers had begun gathering on the streets around the modest brick building of Congregation Agudath Israel of Borough Park. By late yesterday, more than 20,000 had lined up to pay their respects.

When Rabbi Sherer's white coffin, draped with a black velvet cloth, was carried from the hearse into a sun-soaked street, a huge cry of grief rose from the crowd. The coffin was supported by about 20 men and seemed in danger of toppling as the men jostled for position.

"He had the power and charisma to bring the secular and religious groups together," said Joseph Rappaport, an officer with Congregation Agudath Israel. "He was able to create bridges."

Rabbi Sherer, who died at age 78, had for more than 30 years headed Agudath Israel of America, an advocacy organization that he helped transform from a small group into a formidable movement that claims 100,000 members and has branches around the country.

Among those paying respects yesterday were Gov. George E. Pataki, Mayor Rudolph W. Guiliani and other politicians and dignitaries. The crowds grew so big that the police blocked car traffic from 13th through 16th Avenues and 43d through 50th Streets.

One mourner, Morton M. Avigdor, leaned against a police barricade in front of the congregation building and explained how Rabbi Sherer had fought for government benefits and services for children in nonpublic schools by allying himself with Catholic school advocates.

"He felt that people of all faith should be entitled to education," said Mr. Avigdor, a lawyer. "It is truly a great loss."●

TRIBUTE TO NICHOLAS "NICK" LEIST

● Mr. BOND. Mr. President, across our great nation there are thousands of teachers dedicated to the development of young minds. In Missouri, as a former Governor and U.S. Senator, I have had the opportunity to meet many educators and have a great deal of admiration for their commitment to our youth.

I have found, however, some teachers are special and go beyond the call of duty to lead their students toward a rewarding and productive life. Today, I rise to speak about one such teacher who is retiring this year, Nicholas "Nick" Leist.

For thirty-six years Mr. Leist has dedicated his life teaching music to young people in Missouri. Mr. Leist has not only been an educator, he has been a friend and inspiration to literally thousands of students. Over the last thirty years, he has taught more than 9,000 students at Jackson High School, and his musicians have had a phenomenal record, having achieved twenty-seven consecutive number one ratings at district music contests. More than eight dozen students have gone on to become teachers themselves, following in the steps of their mentor.

On May 5, 1998, Mr. Leist conducted his last Jackson High School band concert which brought tears to the eyes of students and their Mr. Leist. They will miss Nick Leist at Jackson High School next year; however, the impact he had on students will live on for generations through the people he inspired to greater personal heights. I join the many who wish Mr. Leist happiness in the years to come.●

HONORING TIMOTHY CORDES

● Mr. HARKIN. Mr. President, I would like to bring to the attention of Members of Congress and the country a young constituent of mine.

Some of you may have read about Timothy Cordes in Monday's Washington Post. For those of you who didn't, Tim—who is from Eldridge, Iowa—just received a bachelor's degree in biochemistry from Notre Dame, with a 3.99 grade point average. Tim was the valedictorian of his class and will begin medical school at the University of Wisconsin this summer. These would be outstanding accomplishments for any young person. They are especially remarkable in this case, because Tim is blind—only the second blind person ever admitted to a U.S. medical school.

Tim has a genetic condition that gradually diminished his vision until he was blind when he was 14. Doctors diagnosed him with the disease when he was two. They talked about how blindness would limit Tim's life. But his parents wouldn't accept that for their son. His mother said that after talking with the doctors, "I went home and just ignored everything they said." Thank goodness for that!

I have spent much of my time in the Senate working toward a society in which all Americans, those with disabilities and those without, have the same opportunities to succeed.That's what all people with disabilities want—an equal opportunity to succeed. Some will succeed and some won't, but it will be because of their abilities, not their disabilities. Tim personifies the fact that when society accommodates people with disabilities to allow them to reach their full potential, we all benefit.

At Notre Dame, Tim overcame his blindness by asking fellow students to describe the molecular structures they were studying and by using his computer to re-create the images in three-dimensional forms on a special monitor he could touch. In addition to his academic achievements, Tim earned a black belt in tae kwon do and jujitsu, went to football games and debated with this friends whether the old or new "Star Trek" is better.

Tim's biochemistry professor called him a remarkable young man and the most brilliant student he's ever had. One of Tim's roommates said that he was "simply amazing to be around."

Tim doesn't mind being an inspiration to others, but he doesn't think of himself that way. In his words, "[i]t was just hard work." Well, that's for sure!

For my part, I am honored to represent Tim and his parents and to be able to take this time to congratulate him and his parents for all their great work. Congratulations!

Mr. President, I ask that the full text of the Washington Post article be printed in the RECORD.

The article follows:

[From the Washington Post, May 18, 1998]

Blind Valedictorian Is Headed to Med School; Notre Dame Student Credits "Just Hard Work" for His Success

(By Jon Jeter)

SOUTH BEND, IN.—Sure but sightless, Timothy Cordes arrived on the University of Notre Dame' campus four years ago, an 18-year-old freshman from Eldridge, Iowa, who wanted to enroll in the biochemistry program. Faculty members tried, politely, to dissuade him. Just how, they wondered aloud, could a blind student keep up with the rigorous courses and demanding laboratory work of biochemistry?

Cordes graduated today from Notre Dame with a degree in biochemistry and a 3.991 grade-point average. He was the last of Notre Dame's 2,000 seniors to enter the crowded auditorium for commencement. His German shepherd, Electra, led him to the lectern to deliver the valedictory speech as his classmates rose, cheered, applauded and yelled his name affectionately.

Cordes starts medical school in two months, only the second blind person ever admitted to a U.S. medical school. He does not plan to practice medicine. His interest is in research, he said: "I've just always loved science."

His life has been both an act of open, mannerly defiance and unshakable faith. And this unassuming, slightly built young man with a choirboy's face awes acquaintances and friends.

Armed with Electra, a high-powered personal computer and a quick wit, Cordes managed a near-perfect academic record, an A-minus in a Spanish class the only blemish. Two weeks ago, he earned a black belt in the martial arts tae kwon do and jujitsu.

"He is really a remarkable young man," said Paul Helquist, a Notre Dame biochemistry professor. Helquist at first had doubts but ultimately recommended Cordes for medical school. "He is by far the most brilliant student I've ever come across in my 24 years of teaching," the professor said.

If others find some noble lessons in this life, Cordes perceives it more prosaically: He's merely shown up for life and done what was necessary to reach his goals.

"If people are inspired by what I've done, that's great, but the truth is that I did it all for me. It was just hard work. It's like getting the black belt. It's not like I just took one long lesson. It was showing up every day, and sweating and learning and practicing. You have your bad days and you just keep going."

Despite his academic accomplishments, Cordes led a fairly ordinary life in college, debating, for example, the merits of the old and new "Star Trek" series with Patrick Murowsky, a 22-year-old psychology major from Cleveland who roomed with Cordes their sophomore year.

"The thing about Tim is that he's fearless and he just seems to have this faith. Once we were late for a football game and we had to run to the stadium. He had no qualms about running at top speed while I yelled 'jump,' or I would yell 'duck' and he would duck. And we made it. He is simply amazing to be around sometimes," said Murowsky.

Cordes has Leber's disease, a genetic condition that gradually diminished his vision until he was blind at age 14.

When doctors at the University of Iowa first diagnosed the disease when he was 2, "it was the saddest moment of my life," said his mother, Therese, 50.

"The doctors . . . told us: 'He won't be able to do this, and don't expect him to be able to do this,'" Therese Hordes recalled. "So I went home and just ignored everything they said."

The ability to conceptualize images has greatly helped Hordes in his studies, Helquist said. The study of biochemistry relies heavily on graphics and diagrams to illustrate complicated molecular structures. Hordes compensated for his inability to see by asking other students to describe the visual sides or by using his computer to re-create the images in three-dimensional forms on a special screen he could touch.

Cordes applied to eight medical schools. Only the University of Wisconsin accepted him. (The first blind medical student was David Hartman, who graduated from Temple University in 1976 and is a psychiatrist in Roanoke, Va.)

"Tim has always exceeded people's expectations of him," said Teresa Cordes, who, with her husband, Tom, watched Tim graduate. "He really does inspire me."●

TRIBUTE TO DR. JOHN H. MOORE JR.

● Mr. SANTORUM. Mr. President, I rise today to honor Dr. John H. Moore Jr. for his humanitarian efforts on behalf of Operation Smile, an organization that provides free medical care to children around the world.

Dr. Moore distinguished himself when he started the Philadelphia Chapter of Operation Smile in 1988. Since then he has expanded this group to provide annual missions to Nicaragua, the Philippines, Vietnam, Liberia, Kenya and other third world countries. Locally, Operation Smile provides free care for school children in the Philadelphia area. Working with philanthropic organizations, the group brings physicians from other countries to Philadelphia for advanced training in techniques used to reconstruct child deformities.

Operation Smile consists of reconstructive surgeons, professional nurses and concerned citizens who have dedicated themselves to providing relief for children suffering from congenital and acquired deformities.

Through a spirit of selflessness, Dr. Moore has given both this heart and time to Operation Smile. He has served as the President of the chapter's local board and is currently its medical director.

Mr. President, Dr. Moore's dedication is a great source of pride, not only for Pennsylvania, but for the United States. I hope my colleagues will join with me in honoring Dr. Moore for his spirit of community and faithful service.●

AMTRAK BOARD OF DIRECTORS

● Mr. DURBIN. Mr. President, I rise as a strong supporter of Amtrak, recognizing the tremendous potential that advanced rail-passenger technology can play in developing our nation's 21st Century economy.

Amtrak has a distinct and important relationship with the state of Illinois. Chicago is the headquarters of one of Amtrak's three Strategic Business Units and the Intercity Business Unit, which manages all passenger trains in America with the exception of the Northeast Corridor and West Coast services. Downtown Chicago is also home to one of the three nationwide Reservation Call Centers. Amtrak also operates over forty trains per day in Illinois, with a total ridership in excess of 2.5 million passengers. Illinois has first-hand experience with Amtrak's current services and recognizes its future potential.

The Congress has also understood Amtrak's potential. In last year's Taxpayer Relief Act, the Senate and House provided $2.3 billion in Amtrak capital investment to make our federally owned rail passenger carrier a strong contributor to our nation's mobility. Congress also worked diligently to enact the Amtrak Reform and Accountability Act of 1997. With the authority conferred on it by this legislation, Amtrak now has the ability to undertake the organizational restructuring and operational fine-tuning necessary to realize the full benefits promised by the $2.3 billion in capital funding.

An integral component of the reform envisioned by this legislation was the timely selection and seating of an "Amtrak Reform Board" comprised of directors with fresh ideas and experience in dealing with the business world. We must ensure that the Administration moves swiftly enough to avoid the consequences of failing to appoint a new Amtrak Reform Board by the statutory deadline, July 1, 1998. Quick action on this matter will allow Amtrak to maintain the authorization mandated in the law signed last December.

I am hopeful that the President will move quickly to appoint the seven directors required under the new law. These appointments should include professionals experienced in the leasing and financing of hundreds of millions of dollars worth of equipment and people familiar with debt rescheduling and refinancing, which are among tasks tailored to Amtrak's business needs.

I would also encourage the Administration to make certain that these appointments fairly represent the various regions of the country, and Illinois is certainly deserving of such representation. Amtrak provides service to over thirty cities in Illinois. In addition, Amtrak employs some 2,200 Illinois residents, with earnings totaling over $50 million per year. Regional representation will also ensure that the diverse interests of our regional economies can be brought to the table for equitable decision making in the Amtrak Boardroom.

Mr. President, I hope my colleagues who support Amtrak will join me in encouraging the Administration to submit qualified candidates, women and men with the knowledge and experience required to strengthen our national system of passenger transportation, to the Senate as soon as possible.●

RECOGNITION OF THE LEADERSHIP TRAINING INSTITUTE FOR YOUTH

● Mr. BOND. Mr. President, I rise to pay tribute to an exemplary program in Missouri, the Leadership Training Institute for Youth (LTI). Every year at Southwest Baptist University in Bolivar, Missouri this leadership camp is held for youth from all over America. This camp inspires youth to work toward their goals and to achieve personal excellence.

With the leadership of Dr. Pat Briney, the attendees learn leadership skills through Christian values. LTI helps to guide youth through their most confusing years and teaches them coping mechanisms for future problems.

LTI represents the kind of spirit, honor and integrity that belong with today's youth leaders. I commend LTI staff and participants for their energy and faith to Christian values and hope they continue their important mission for years to come.•

TRIBUTE TO THE HONORABLE FRANK CAPRIO

• Mr. REED. Mr. President, I rise to pay tribute to Frank Caprio of Providence, Rhode Island, who will be honored at the 37th Annual Verrazzano Day Banquet this Saturday.

A respected and admired Rhode Islander, Frank Caprio was born in Providence in 1936, the son of immigrants. His father peddled produce and delivered milk in the Federal Hill neighborhood, while his beloved mother cared for Frank, his two brothers, Antonio Jr. and Joseph, and dedicated herself to her Church and community.

Frank Caprio epitomizes the American dream. From his humble beginnings, he is today a respected lawyer, successful businessman, and Chief Judge of the Providence Municipal Court. At Central High School he was an all-state wrestler who was encouraged to learn a trade, but he aspired to attain a college education. And he did. He worked his way through Providence College, earning his Bachelor of Arts. He later earned his education certificate from Rhode Island College.

Frank taught American government by day and attended Suffolk Law School at night. Inspired by President Kennedy, he ran for Providence City Council in 1962 and served for eight years. He was a delegate to the Rhode Island Constitutional Convention in 1973, and he has been elected a delegate to the Democratic National Convention five times.

Frank Caprio has practiced law for more than 30 years and has a remarkably diverse practice. He has served as special counsel to Cookson America, a fortune 500 corporation, and as legal counsel to the Providence Redevelopment Agency and the Rhode Island Department of Transportation. But perhaps Frank's most revered clients are neighbors and friends, many of humble means, who seek out Frank as their defender, advocate, and voice. They cherish his friendship and offer trust in return, which is a wonderful tribute to Frank and a testament to the way he has led his life.

Through initiative, hard work and tireless energy, Frank has attained much success in business. He is a principal owner of the Coast Guard House, a historic waterfront restaurant in Narragansett and another popular restaurant, Casey's, in Wakefield. In addition to his success as a restaurateur, Frank is a principal owner of Cherry Hill Housing in Johnston.

Despite all of his success in law, government, and business, Frank has always understood the importance of community and public service. He serves on the board of Federal Hill House and as a volunteer at Nickerson House. He is a fellow of the Rhode Island Community Food Bank, and is a member of both the Bishop's Council and the State Board of Governors for Higher Education.

In honor of his own father, he established the Antonio "Tup" Caprio Scholarship at Suffolk University, and is the 1997–1998 Chairman of the Providence College Alumni Fund. He holds an Honorary Doctor of Law Degree from Suffolk and has been recognized by countless organizations for his spirit of community and his humanitarian efforts.

Mr. President, I am pleased today to salute Frank Caprio on receiving the prestigious Annual Verrazzano Day award, and I extend best wishes to Frank, his wife, Joyce, and their wonderful family on this momentous occasion.•

CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998

Mr. McCAIN. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives to accompany H.R. 3130.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 3130) entitled "An Act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible and ineligible for naturalization, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. McCAIN. I ask unanimous consent that the Senate insist on its amendments, agree to the request for a conference, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding Officer appointed from the Committee on Finance, Senators ROTH, CHAFEE, GRASSLEY, MOYNIHAN and BAUCUS and from the Committee on Labor and Human Resources, Senators JEFFORDS, COATS and KENNEDY conferees on the part of the Senate.

ORDERS FOR THURSDAY, MAY 21, 1998

Mr. McCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, May 21. I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of the pending amendments to the tobacco legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCAIN. Mr. President, for the information of all Senators, tomorrow morning at 9:30 the Senate will resume consideration of the Gregg-Leahy amendment pending to the tobacco legislation. It is the chairman's intention to move to table the Gregg-Leahy amendment at approximately 11 a.m. I add at this point, it could be later than that because we have had numerous requests to speak on this amendment. So it could be later than that.

Following that vote, it is hoped that the Democrats would be prepared to offer an amendment under a short time agreement. Following disposition of the Democrat amendment, it is hoped the Senate could then consider the farmers' protection issue. At the conclusion of debate on the protection issue, the Senate would proceed to a vote on a motion to strike the Ford language, followed by a vote to strike the McConnell-Lugar language. Therefore, the first vote of Thursday's session is expected at approximately 11 a.m. or later, and Members should expect rollcall votes throughout Thursday's session in order to make good progress on this important tobacco legislation.

Once again, the cooperation of all Senators would be necessary for the Senate to complete its work prior to the Memorial Day recess.

ORDER FOR ADJOURNMENT

Mr. McCAIN. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator LAUTENBERG.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

Mr. LAUTENBERG. Mr. President, I thank the distinguished Senator from Arizona for allowing time for me to make a few concluding remarks here, because I want to discuss an amendment that is one of those offered and pending. It is the Gregg-Leahy amendment. I want to express my opinion on this because I think this is a cornerstone issue in terms of this piece of legislation, the tobacco bill altogether. I simply do not believe that we should provide special legal protection to the tobacco industry.

This isn't a vote about holding together a coalition, as is often described, or some other purpose other than determination as to how this country conducts itself vis-a-vis its tobacco policy. This is going to be a straight vote, up or down, about providing this industry with unprecedented legal protections.

Now, I described it before as kind of a cornerstone issue, because if these special protections that are being talked about in this bill, eliminating immunity for this industry that certainly doesn't deserve immunities in my eyes, tobacco companies, if the bill stands unmodified, unamended, tobacco companies will get special legal protection for having such things as arsenic in its products. But another industry that might use arsenic in its products would not enjoy such protection. They would have to list their product, be very specific, get permission to use it, et cetera. Why in the world would we want to do that—because arsenic is a very dangerous material among the many materials, 500 items, that are included typically in a cigarette.

Why, of all the industries that we have in the United States, would we want to provide special legal protection to the tobacco industry? We are talking about an industry that has continuously lied to Congress, lied to the American people, deceived them about what might happen if they picked up, started smoking cigarettes. The average person wouldn't have the foggiest idea—warnings could be dangerous to health. It doesn't say it is almost guaranteed to make you an addict. It doesn't say if you took these ingredients apart, there are many that are quite toxic. If the labels on the package said you might die if you do this, you might die early, you might die at a prime time in your life when you would like to be with your family and your friends, when you would like to be able to enjoy life, be able to do the things that you do athletically or functionally or vocationally, it doesn't say on there, hey, listen, if you start this, first of all, you will be spending thousands of dollars a year to support this habit.

Having been a smoker, I am somewhat of an expert on the subject. I am not a zealot. I don't say that just because I took the cure, so to speak, that other people have to take it. But I know what it is that got me around to ceasing my smoking habit, and it was the love of a child. It was when my youngest daughter of three children, who was about 7 or 8 years old, came up to me one night when I lit a cigarette after a meal and said "Daddy, why do you smoke?" And I said, "Well, I enjoy it. It is restful, makes me feel good." And she said—this is a child in first or second grade—and she said, "Today we learned if you smoke you get a black box in your throat." She said, "Daddy, I love you. I don't want you to have a black box in your throat." This is after I had been smoking some 20 years.

I smoked before I went in the Army and I made sure I smoked when I was in the Army. When I was overseas during the war, I was used to trading butts with my friends. I would take a puff, they would take a puff. Smoking was part of your life—not only part of your life, it was part of your resources. It was a currency. You could trade it for some fresh fruit. You could trade it for a bottle of water—we didn't drink much bottled water in those days, but whatever you chose to have. It was currency. It was more valuable than the French franc or the Dutch guilder—places I was stationed—or the Belgium franc, or the mark, for sure.

So here I smoked and this child brought me to my senses, my daughter. I tried to stop, I would say at least a dozen times. She convinced me in that little message—"I love you. I don't want you to have a black box in your throat." All I could think about were those beautiful big eyes looking at me the next couple of days and that was the end of my smoking. Thank goodness that child did me an enormous favor.

But the industry didn't let me know that. The industry didn't let me know at the time that I might develop an illness, emphysema, some other respiratory problem, maybe a fatal heart attack that couldn't be predicted because of smoking. They never told me anything about those things. They said life is more beautiful, life is glamorous. You could be a cowboy on a horse or a great skier. I happen to be, it has nothing to do with my smoking, but the fact of the matter is that all of those things give you images that are deceitful, dishonest, and shouldn't be allowed to be out there with impunity, because if someone falls for that story, someone falls for that image, they wind up in deep, deep trouble, killing 400,000 people a year in this country. That is not a very credible industry, I must tell you. They don't tell you that.

So this industry knew that its products caused cancer. They wouldn't acknowledge it. I sat at hearings galore. I was part of one hearing where we had the scientist in front of us from one of the tobacco companies, a man with incredible credentials if you looked at his curriculum vitae. He had gone to great schools and he had done wonderful things. I asked him what happened when they tested the products on humans, and he said, "We didn't do human research." I almost fell off the chair. I said, "You didn't?" All of these studies, by then 60,000 reports on the dangers of smoking had come out. But this company, one of the biggest, said scientists representing him said, "Oh, no, we didn't." I said, "What did you do in your research?" He said, "We did some research on animals." I didn't pursue that because I am sure those animals didn't fare very well.

This is an industry that deliberately targeted our children, not for a good purpose, not for better health, for worse health, to try to addict them. If it was an illegal drug, we would be after these guys and they would be thrown in jail for long, long sentences. But they targeted our kids. They went to your children and my children and said: "Smoke and you are going to be a hero among your peers. Smoke and you will be beautiful. Smoke and you will be desirable." All deceit, all lies, all determined, at no matter what cost, to grab that child, get him or her smoking. They knew they could put money in the bank. They could probably take it to the bank as collateral for loans very easily, because that person, with rare exception, was hooked.

That is why we have over 45 million people today who can't quit. I say they can't quit because I never met a smoker yet of any duration—not once—and I meet people all the time, but not once have I met a smoker who didn't say they would like to quit smoking. They tried. They have gone to clinics, wore patches, and they have done this and that. But every time they stop for a while, something else comes up, some situation comes up, and they start all over again.

That is what they want our kids to do. They want our children to be their marker. In all kinds of testimony given—some of it willingly and some unwillingly—by edict of the courts, especially in Minnesota, information has come out that they new bloody well they were targeting kids, and they new doggone well that they alter the nicotine content and make that addiction even firmer. They knew very well that people got cancer and they knew very well that people got sick. They didn't give a darn. They had one thing in their eyes: Cash. And they went after it, and they were willing to seduce children to do it.

In many other cases, if anybody touches a hair on a child's head, they go off to jail. If they dare say something improper to a child, they get punished. These guys wanted to seduce 3,000 kids a day, a million a year, to start smoking because they knew that they made that cash register ring. This industry, that purposely pushed its product on to all American children, focused often on African Americans, or minority children, who seemed to be a little susceptible. Now they find out it is not just the minority children, it is all children that are susceptible.

This industry is being investigated by the Justice Department. What kind of precedent does that set? Because what we are talking about in this bill is immunity from lawsuits for damage created by the smoking habit which they were fooled into beginning. So with all of that, and being investigated by the Justice Department, we say we want to protect them in the event of a lawsuit? We don't want to protect anybody else, like car manufacturers, food manufacturers, or house builders. Food manufacturers have to list everything. They are all subject to redress of their rights through the courts. That is the way it ought to be.

But here we want to do something different. So if this is a condition, why shouldn't we give all white-collar criminals special protection? We could extend it to drug dealers as well.

The Gregg-Leahy amendment will keep the legal system right side up. It will prevent Congress from rewarding the corporate outlaws who are the tobacco industry. Unless we pass this amendment, we are going to undermine the rights of Americans who have been harmed by the tobacco industry's deliberate conduct. These people are dying of lung cancer, heart disease, and they are often debilitated in wheelchairs or in hospitals. They become sick because they were nicotine addicts, which has the same pharmacological qualities as cocaine and heroin. Mr. President, these people should not have their rights abridged, and the tobacco industry should not get unprecedented legal protection.

I ask my colleagues to support the Gregg-Leahy amendment. Don't let the tobacco industry get away with this, because, again, I think this talks about the value of having this legislation. If they are free of their appropriate responsibility under the law, if they are free by virtue of a limitation on immunity, they are going to have a bonanza here, and we ought not to permit it. This amendment is not a deal-breaker, but it breaks a sweetheart deal for the tobacco industry. I hope that when the votes are counted here, the American people will be watching to see what the favorite industry of this body is.

With that, Mr. President, I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m. on May 21.

Thereupon, the Senate, at 8:25 p.m., adjourned until Thursday, May 21, 1998, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, May 20, 1998*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SHAW).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 20, 1998.

I hereby designate the Honorable E. CLAY SHAW, Jr. to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

Reverend Scott Rambo, First Baptist Church, Sugar Land, Texas, offered the following prayer:

Let us pray together. Father, we come before You this morning, thanking You so much for all the blessings that You give us in life. I thank You for the privilege of being an American citizen and for the honor of being able to pray for the men and women who lead our country. I pray Your blessings and Your wisdom upon them as they lead us.

Father, as I reflect on the images of the great lawgivers whose faces are all around the walls of this Chamber, Father, my attention is focused on Moses, the only lawgiver whose full face is shown. Father, when I think about that and know that his full face is shown because he is the only lawgiver who received his law directly from You and not from man, I am reminded that our ultimate authority for all of life is You.

Lord, I pray Your success formula for our Nation today. Father, You tell us in Your word that if we will humble ourselves and pray and seek Your face and turn from our wicked ways, then You will hear our prayers, You will forgive our sins, and You will heal our land.

Father, I ask that You help us to humble ourselves before You and turn from any wickedness that may be in our lives. Father, I pray as we do that, You will hear our prayers and heal our land. Grant us the strength and courage to follow You every day.

Again, I thank You so much for the blessings and the grace and mercy that You give us every day. I pray Your blessings on this day and all that takes place in this House. I pray this in Jesus' name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. TRAFICANT) come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

> H.R. 3301. An act to amend chapter 51 of title 31, United States Code, to allow the Secretary of the Treasury greater discretion with regard to the placement of the required inscriptions on quarter dollars issued under the 50 States Commemorative Coin Program.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will receive 15 1-minutes on each side, following the gentleman from Texas (Mr. DELAY).

REVEREND SCOTT RAMBO

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, our opening prayer this morning was offered by my good friend and pastor of my church, Reverend Scott Rambo.

Reverend Rambo has ministered to the spiritual needs of many of my constituents since 1995, when he became the pastor of the First Baptist Church of Sugar Land, Texas.

Since becoming pastor of the first Baptist Church, Reverend Rambo has brought excitement and a sense of mission to our community. His message of faith and family has inspired many, as witnessed by the astronomic growth of the First Baptist Church of Sugar Land.

Reverend Rambo is a graduate of the University of South Alabama and of the Southwestern Baptist Theological Seminary. He started his career as the Minister of Evangelism at the Retta Baptist Church in Burleson, Texas. He became the youth minister at the Hillcrest Park Baptist Church in Arlington, Texas, then moved to Dallas to take the job of Associate Youth Minister at the First Baptist Church of Dallas.

He then left Texas for 3 years, serving as the Associate Pastor of the First Baptist Church in Bossier City, Louisiana. But, like all Texans, he could not leave Texas, he had to come home, so he returned back to Texas and started his current ministry in Sugar Land, Texas.

Reverend Rambo, in my opinion, is a man that truly has a heart and a love for the Lord, and I want to thank Reverend Rambo for his inspirational words today and thank him for the inspirational work that he does in Sugar Land, Texas.

So I want to welcome him to the House, and thank him for all his good work.

NATIONAL SECURITY TOO IMPORTANT TO BE AUCTIONED OFF TO HIGHEST BIDDER

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, Americans awoke this morning with a number of new questions on their minds, beginning with why would the Clinton administration switch the responsibility for satellites from the Department of State to the Commerce Department?

Both the State Department and Defense Department were against this move. They knew these communication satellites were one of America's most sensitive military and intelligence gathering technologies. Even the former Secretary of State, Warren Christopher, wrote to the President that these sophisticated communication satellites held technology secrets that could jeopardize, and I quote, "significant military and intelligence interests of America."

Was Secretary Christopher reluctant because he understood the importance of the built-in encryption equipment that interprets the ground controller's instructions; or was it because he knew that similar encryption systems were

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

used to communicate with America's spy satellites?

Did the Commerce Department in any way understand that anyone who could crack these codes could take control of these satellites themselves? Did anyone care? Was there some other issue driving this change?

America deserves to know the answers to these questions, Mr. Speaker.

SUPPORT H.R. 692 TO APPOINT INDEPENDENT COUNSEL TO INVESTIGATE GOVERNMENT WRONGDOING

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Federal agents killed his dog, they killed his 14-year-old son, and they killed his wife. Federal agents said they did not like his politics.

Randy Weaver is a white separatist. My colleagues do not like his politics, I do not like Weaver's politics either, but that is no reason for the government to gun down his family.

Let me tell my colleagues something. This does not sound like the FBI of Efrem Zimbalist, Jr. This sounds like the KGB of Joseph Stalin.

To make matters worse, a Federal judge dropped all charges against the FBI agent who shot Vicky Weaver right between the eyes while clutching her infant son. Shame, my colleagues. Congress, the Justice Department investigates themselves and then they cover their assets every time.

We are a bunch of fools. It is time to put our government in order. Support H.R. 692 and put an independent counsel on these types of cases. Shame, Congress. No American family should be gunned down.

SUPPORT H.R. 2183, FRESHMEN CAMPAIGN FINANCE REFORM BILL

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, Congress has spent millions of dollars to investigate soft money abuses, but there are many Members in this Chamber who will rail against certain big money contributions and then vote against campaign finance reform.

The freshmen took a different tact. We put together a bill that would ban soft money, improve candidate reporting and require some disclosure of the outside group advertising. H.R. 2183 closes the soft money loophole, it gets elected officials, candidates, and party officials out of the business of raising money from corporations and unions and the wealthiest contributors.

Later this week the long delayed debate on real campaign finance reform will begin. Now we must watch out for poison pills and red herrings. Poison pills are amendments that sound great but are designed to kill campaign finance reform; and red herrings are arguments about suppression of free speech that are designed for simply the same purpose.

Support the freshmen bill, support campaign finance reform, let us get on with the business of reforming our campaign finance system.

NATIONAL SECURITY IS MOST IMPORTANT IN INVESTIGATING MISSILE TECHNOLOGY TRANSFER TO CHINA

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I am sure my Democrat colleagues will exhibit the same zeal and passion to get to the truth about the allegations of missile technology to Communist China as they are about finding answers to the question of who hired Craig Livingstone, or about how the White House ended up with 900 FBI files on Republicans, or about 92 witnesses that have either fled the country or taken the Fifth Amendment to avoid testifying, and about why Mrs. Hubbell is afraid, very afraid, of losing her job if Webster Hubbell cooperates with Judge Starr.

If the past is any guide, I am sure the Democrats will leave no stone unturned in seeking the truth about these stunning revelations about illegal campaign contributions in return for missile technology to Communist China.

That said, I urge my colleagues to investigate this matter with their minds focused on one thing and one thing only: National security. National security is not a partisan issue. It is about protecting our values and our way of life from those whose entire political system is hostile to our belief in freedom, the rule of law, individual rights, and the right to worship God as we see fit.

HOUSE SHOULD MAKE DECISION ON DRUG TESTING OF DOD EMPLOYEES

(Mr. TAYLOR of Mississippi asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAYLOR of Mississippi. Mr. Speaker, our Nation this year is going to spend $18 billion on the war on drugs. As we speak, there are Americans flying counter drug missions in places like Colombia and Peru, and they are being shot at, and pretty often they get killed.

Mr. Speaker, imagine my surprise then when, just yesterday in the Committee on Rules, an amendment to require all Department of Defense employees to be drug tested was voted down along straight party lines. Every single Republican voted against requiring our Department of Defense employees to be drug tested. I think that is a decision the full House should make.

Mr. Speaker, I wanted to tell my colleagues that if they had plans for this weekend, they should cancel them, because I am going to keep us here until we have a vote on that amendment.

I want to tell the gentleman from New York (Mr. SOLOMON) and the gentleman from Georgia (Mr. GINGRICH) that we can have a half-hour of debate on that issue and an up or down vote, or we can spend a Memorial Day weekend here in Washington.

SHOCKING REVELATION THAT WHITE HOUSE IS HELPING COMMUNIST CHINA WITH ITS MISSILE PROGRAM

(Mr. NEUMANN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEUMANN. Mr. Speaker, of all the scandals coming out of the White House, this scandal is perhaps the most disturbing of all. I am talking about the shocking revelation that the White House is helping the Communist government develop its missile system.

Do we, as a nation, understand that what we are doing is sending them the technology to allow them to aim missiles at the United States of America, while when we here in our Nation do not even have the ability to shoot down one of these missiles should China decide to launch them at us?

We do not know if the administration gave this waiver to the Loral Company because the chairman of the board, Bernard Schwartz, was the Democrats' top donor in 1996 or not. But whether the administration did it for money, the scandal is still beyond comprehension.

If this administration actively helped the Communist government to launch and to develop its "Long March" missile, we deserve an explanation and we deserve the explanation right now.

LIFT EMBARGO ON FOOD, MEDICINE AND MEDICAL EQUIPMENT TO PEOPLE OF CUBA

(Mr. TORRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRES. Mr. Speaker, for 39 years the United States has maintained an economic embargo on the Republic of Cuba, all with the intent of toppling Fidel Castro. Thirty-nine years. Nine U.S. Presidents. And nothing has happened. He is still there.

My colleagues, Helms-Burton has increased tightening the noose on those people. We are punishing the people of Cuba. We have effectively perpetuated malnutrition and disease because they cannot get food and medicines, contrary to the arguments that we hear that they can. Senior citizens, children, women, men are slowly starving to death.

We cannot do this to another Nation, as great a republic as we are. H.R. 1951, a bill that I have introduced, would lift the embargo on food and medicine and medical equipment to the people of Cuba, and I ask my colleagues on both sides to join with me in cosponsoring this legislation. No less than the Pope has said that this is a monstrous act that we perpetuate upon the people of Cuba.

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WHY WOULD CLINTON ADMINISTRATION HELP COMMUNIST CHINESE GOVERNMENT?

(Mrs. KELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KELLY. Mr. Speaker, just what is it about the Democrats and foreign policy? Why on earth would the Clinton administration help the Communist Chinese Government develop their Long March missile?

The facts are pretty clear. The Chinese Long March missile was made by Loral Corporation. In missile tests, the early Long March missile kept crashing and the Communist Chinese desperately needed high technology that only the United States possessed. They wanted to improve missile guidance systems, but the U.S. had a policy that stood in the way.

In fact, a criminal investigation was already underway about missile technology to China when the White House overrode the Justice Department and the Defense Department, granting Loral a waiver to give China a missile system.

Again, the question that must be answered, why would the Clinton administration try to help the Communist Chinese government with their missile program? We need an answer to this question. Clintonism is Carterism without virtue.

TRIBUTE TO TAMPA BAY POLICE OFFICERS

(Mr. DAVIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Florida. Mr. Speaker, James Brad Crooks, a brand new highway patrol trooper in Florida engaged to be married; Randy Bell, a Tampa police detective, a 20-year veteran of the force described as a hard worker with quiet ambition; Rick Childers, a Tampa Police Department detective, another 20-year veteran, who in 1990 bravely went into a creek and saved a young girl who was drowning in a car. These law enforcement officers have solved hundreds of cases, saved many lives in the Tampa Bay area that I represent.

Yesterday, each of them died in the line of duty at the hands of a gunman who later took his own life and also at a time when his 4-year-old stepson died under questionable circumstances.

I stand here on the floor of the House today to express our sorrow to the families of these 3 slain law enforcement officers, to express gratitude for their lifetime commitment they made to protect our community and to salute them for their efforts, and to say that we will try to learn from the terrible lessons of this terrific tragedy that struck the Tampa Bay area yesterday. Our thoughts and prayers are with their families and with all of their colleagues who are grieving.

END UNITED STATES SUPPORT FOR SUHARTO DICTATORSHIP IN INDONESIA

(Mr. SANDERS asked and was given permission to address the House for 1 minute.)

Mr. SANDERS. Mr. Speaker, I am happy to announce that 2 Members of the House have now signed a letter to President Clinton which calls for an end to U.S. support for the Suharto dictatorship in Indonesia. I hope that more of my colleagues will sign it in the coming days.

While the transition to democracy in Indonesia will not be easy, the United States should play an active role in helping to develop a process by which Suharto's political prisoners are released, free speech is guaranteed to all, and an approach is created for free and fair elections.

Most importantly, we must let the Indonesian people know that we will not continue in any way to support the corrupt Suharto dictatorship, a regime which over the last 32 years has not only killed hundreds of thousands of people, but which has enabled the Suharto family to accumulate over $40 billion in personal wealth in a country where the average income is $20 a week.

Mr. Speaker, tens of thousands of Indonesian students have put their lives on the line for freedom. We must listen to their cries.

REPEAL MARRIAGE PENALTY TAX

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, marriage, the very foundation of American social structure, is currently undermined by our American Federal Tax Code.

That is right. Our current Tax Code, instead of being friendly to a husband and wife who both work full-time, places a tax penalty on them solely for the fact that they are married. Under the Tax Code, had this man and woman chosen to live together and file separately, they would not be punished with higher taxes. Mr. Speaker, this is just plain wrong. Our tax policy should encourage family formation in marriage, not discourage it.

As our budget negotiations begin and as we seek tax relief for the American people, a repeal of the marriage tax penalty should be a part of the mix. This penalty hidden within the Tax Code harms the very institution on which we have built our society, our family. Let us repeal the marriage tax penalty once and for all.

CAMPAIGN FINANCE REFORM

(Mr. KIND asked and was given permission to address the House for 1 minute.)

Mr. KIND. Mr. Speaker, tomorrow we are going to start a debate about the biggest issue confronting this United States Congress, and that is campaign finance reform.

There has been a lot of allegations about technology transfer to China in recent days and a lot of attention given to it, as it should. But the Speaker indicates that this is a national security issue and not a campaign finance reform issue. How wrong he is. This has everything to do with campaign finance reform.

We have been promised over and over again by the leadership in this House to have an open and fair and honest debate on campaign finance reform. The American people get this. They understand there is too much money in the political system and too much influence of money in the political system.

This body, in the coming days, will have the ability to start cleaning up the process and restoring some integrity to this democracy of ours. And I hope the American people hold us individuals accountable on where we stand on this. Do we stand for reform or do we stand for big money? I hope it is for reform.

TECHNOLOGY TRANSFER TO CHINESE BAD FOR U.S. NATIONAL SECURITY

(Mr. RILEY asked and was given permission to address the House for 1 minute.)

Mr. RILEY. Mr. Speaker, our Commander-in-Chief and our President's national security doctrine seems to be "anything for a buck."

A 1997 Pentagon report revealed that a defense contractor had given highly technical information regarding a failed space launch to the Great Wall Industry. Great Wall also produces key components to China's strategic nuclear missiles. The Pentagon concluded that this transfer of information damaged our United States national security, and the Department of Justice has been conducting a criminal investigation into the transfer.

That is until the President got involved. The President, however, approved a waiver for the export of that same technology, effectively killing the criminal investigation. Conveniently, the chairman of the aerospace firm being investigated was the largest donor to the Democratic Party last year.

The Clinton Administration continues to follow a policy of helping its friends at the expense of national security. It does not take a Pentagon report or a rocket scientist to figure out that the transfer of missile technology to the Communist Chinese is bad for the United States national security.

MARRIAGE TAX PENALTY

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, no sane individual, if asked to start from scratch, would come up with the current tax code in a million years. A tax code that is baffling even to the experts is indefensible.

One of the aspects of the tax code that is particularly obnoxious is the marriage tax penalty. Many people do not learn about the marriage tax penalty until they get married. Then they discover all of a sudden that the Government wants to make sure that couples just starting out have a little bit tougher time than they had planned.

Perhaps most surprising of all is the fact that the marriage penalty can be stiffest for those who can afford it least, the working poor. Those who benefit from the earned income tax credit can face a marriage penalty that can only be described as destructive.

This tax code monstrosity should have been done away with years ago. It will take a Republican Congress to do away with it now. I urge my colleagues to pass H.R. 3734.

GLOBAL WARMING TREATY

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, on December 11, 1997, the United States became a signatory to the Kyoto Protocol, or so-called global warming treaty. They did this despite the fact that the treaty went against the unanimous advice of the Senate.

In Kyoto, the administration completely ignored the Senate position and did exactly the opposite. Now there is wide concern that the administration is working proactively to implement the Kyoto targets through the back door. Part of this stems from the EPA indicating its plan to draft new clean air rules enacting portions of the Kyoto Protocol.

That is why I introduced the American Economy Protection Act, H.R. 3807, which will ensure that the Kyoto Protocol is not implemented through the regulatory process. H.R. 3807 would prevent the administration from implementing this dangerous treaty in the absence of Senate ratification by requiring that Federal funds cannot be used for rules, regulations, or programs designed to execute the Kyoto Protocol.

This bill maintains the integrity of the United States Constitution and supports continued economic growth in this country. I urge support of this bill.

IMMIGRATION REFORM AND IMPROVEMENT ACT OF 1998

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, are my colleagues tired of hearing about thousands of felons being naturalized as American citizens by an agency out of control? Are my colleagues tired of having lost control of our borders? Are they tired of a bureaucracy that allows millions of illegal aliens simply because they overstayed while on a legal visa?

Mr. Speaker, today I am introducing legislation to overhaul and dramatically improve the Nation's immigration system. The bill would enact the reforms proposed by the bipartisan Commission on Immigration Reform, headed by the late Barbara Jordan.

These reforms, received by Congress last year, are based on the most comprehensive bipartisan study of our immigration system to date and they offer a common-sense approach to fixing a system that is broken, failing the citizens it is supposed to protect and the immigrants it is supposed to serve.

Since 1984, the Congress has increased the budget of the INS by over 600 percent, yet illegal immigration is at an all-time high and service for illegal immigrants is at an all-time low. Money is no longer an excuse. By implementing these changes, we can end the 3-year backlogs in benefits processing, end the granting of citizenship to criminals and other undeserving individuals, and end the mismanagement of our entire immigration system.

HIGH TECHNOLOGY TRANSFERS TO COMMUNIST CHINA

(Mr. COOKSEY asked and was given permission to address the House for 1 minute.)

Mr. COOKSEY. Mr. Speaker, it might very well be impossible to prove the quid pro quo which seems obvious to all observers, Chinese money to the Democrats in exchange for high technology to the Chinese.

But whether the Clinton administration changed the policy to give high technology to the Chinese because they were taking millions of dollars in illegal campaign donations or not, the scandal is still the same.

Why did the Clinton administration go against its own Defense Department and the Department of State in giving sensitive technology to Communist China? I would like to insist on this point. Taking campaign money from Communist China is a crime, a serious crime. Crimes have been committed. But giving high technology to Communist China and endangering national security is an even more serious crime.

The first subverts democracy and is evidence of political corruption. But the second puts the lives of 265 million Americans at risk; and that, Mr. Speaker, is the biggest crime of all.

□ 1030

QUESTIONS REMAIN UNANSWERED BY LORAL SPACE AND COMMUNICATIONS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, I have here in my hand a copy of a two-page statement released by the Loral Space and Communications Group in response to recent allegations that, after large contributions to the Democrat party, Loral aided the communist Chinese government with the development of the "Long March" missile, jeopardizing the security of the United States.

As always, the scandal is not what is in the statement but what is left out, what Loral is not telling us. If Loral is correct that no sensitive information and no significant technology was conveyed to the Chinese, why then did the State Department and the Defense Department oppose the administration's granting of a waiver?

Did Loral violate its own policy by providing a report to the Communist Chinese before consulting with the State Department? Was not Loral specifically advised by the U.S. Government not to go forward with their review of the Chinese investigation of the "Long March" missile failure?

I assume Loral's claim of innocence is correct, but questions remain unanswered. That is why I ask all Members of Congress who care about our national security to join in an effort to find out the answers to these questions.

TRANSFERRING MISSILE TECHNOLOGY TO CHINA IS WRONG

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Mr. Speaker, the national security of the United States has been damaged, in my opinion, by the action of Hughes Electronic Corporation and Loral Space and Communications. They have transferred sensitive missile technology to the Chinese in violation of our laws.

The President of the United States is supposed to protect and defend the interests of the United States. But it seems that when it comes to our foreign policies and trade policies, this administration's attitude is that it has been elected to defend the interests of multinational companies who promise big campaign contributions.

Instead of pursuing legal actions against these companies, our President has, instead, tried to help them cover their tracks on this issue. He needs to be more concerned about the national security of the United States than he is with the security of a friend who happens to raise a lot of campaign contributions for the President's party.

I do not know if there is a quid pro quo. I do not care. I do not know if $100,000 is involved or not, but it is wrong to transfer missile technology to China.

HOPING REPUBLICANS STAND FIRM FOR CAMPAIGN FINANCE REFORM

(Mr. FORD asked and was given permission to address the House for 1 minute.)

Mr. FORD. Mr. Speaker, many of my colleagues this morning have raised very serious issues regarding the transfer of technology to China as well as Chinese donations. I would simply say the President as well as this administration is welcoming an investigation into whether or not any of these donations were improper and whether or not the transfer of this technology was improper.

But I would say to my colleagues who were so indignant and filled with horror this morning that as we prepare to debate campaign finance, I hope that they bring the same degree of passion and the same degree of integrity and certainly, the same degree of energy to that discussion.

We have an opportunity to ban soft money which, in many ways, would help us correct many of the ills and the pariahs that affect this great system, this great democracy of ours. Twenty States in this Nation have already done so.

If Shays-Meehan comes to the floor, I would hope that my dear friend the majority whip, the gentleman from Texas (Mr. DELAY), despite what Roll Call and all of the other newspapers in town have said, that he, in fact, will refrain.

I hope that the leadership on the Republican side as well as those on the Democratic side will stand firm for reform, will stand firm against the gentleman from Texas (Mr. DELAY) and those in the Republican leadership who seem adamantly opposed to campaign finance.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 441 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 441

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for further consideration of the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes. No further general debate shall be in order. The bill shall be considered for amendment under the five-minute rule.

SEC. 2. (a) It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on National Security now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived.

(b) No amendment to the committee amendment in the nature of a substitute shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution and amendments en bloc described in section 3 of this resolution.

(c) Except as specified in section 5 of this resolution, each amendment printed in the report of the Committee on Rules shall be considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Unless otherwise specified in the report, each amendment printed in the report shall be debatable for 10 minutes equally divided and controlled by the proponent and an opponent and shall not be subject to amendment (except that the chairman and ranking minority member of the Committee on National Security each may offer one pro forma amendment for the purpose of further debate on any pending amendment).

(d) All points of order against amendments printed in the report of the Committee on Rules or amendments en bloc described in section 3 of this resolution are waived.

(e)(1) Consideration of the amendments in part A of the report of the Committee on Rules shall begin with an additional period of general debate, which shall be confined to the subject of the policy of the United States with respect to the People's Republic of China and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on National Security.

(2) Consideration of the amendments in part C of the report of the Committee on Rules shall begin with an additional period of general debate, which shall be confined to the subject of the assignment of members of the armed forces to assist in border control and shall not exceed 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on National Security.

SEC. 3. It shall be in order at any time for the chairman of the Committee on National Security or his designee to offer amendments en bloc consisting of amendments printed in part D of the report of the Committee on Rules not earlier disposed of germane modifications of any such amendment. Amendments en bloc offered pursuant to this section shall be considered as read (except that modifications shall be reported), shall be debatable for 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on National Security or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. For the purpose of inclusion in such amendments en bloc, an amendment printed in the form of a motion to strike may be modified to the form of a germane perfecting amendment to the text originally proposed to be stricken. The original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

SEC. 4. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendments; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes.

SEC. 5. The chairman of the Committee of the Whole may recognize for consideration of any amendment printed in the report of the Committee on Rules out of the order printed, but not sooner than one hour after the chairman of the Committee on National Security or a designee announces from the floor a request to that effect.

SEC. 6. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SHAW). The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Texas (Mr. FROST), a very strong supporter of our military, pending which I would yield myself such time as I might consume.

Mr. Speaker, during consideration of this resolution, all time yielded is for debate purposes only.

Mr. Speaker, this resolution provides for further consideration of H.R. 3616, the National Defense Authorization Act For Fiscal Year 1999, under a structured rule. It is one of the most important bills that comes before this House every year because it provides for funding for our military and for our national defense and our strategic interests around the world.

The rule provides that no further general debate shall be in order since we completed that last night.

As you know, Mr. Speaker, this rule provides for consideration of the committee amendment in the nature of a substitute now printed in the bill and as an original bill for the purposes of amendment which shall be considered as read.

The rule waives all points of order against the amendment in the nature of a substitute. Mr. Speaker, as is typical for this bill, the rule makes in order only those amendments printed in the Committee on Rules report and the amendments en bloc described in section 3 of this resolution, which Members all have on their tables before them.

The rule provides that, except as specified in section 5 of this resolution, amendments will be considered only in the order specified in the report. They may be offered only by a Member designated in the report, shall be considered as read, and shall not be subject to a demand for division of the question.

Except as otherwise provided in the report, amendments shall be debatable for 10 minutes equally divided between a proponent and an opponent. Amendments are not amendable. All points of order against the amendments are waived.

The rule also provides for an additional 2 hours of general debate on United States policy toward communist China, which shall precede consideration of the four amendments in part A of the Committee on Rules report that deal with missile technology.

The rule also provides for an additional 30 minutes of general debate on the subject of placing our armed forces on the border, which shall precede the amendment offered by the gentleman from Ohio (Mr. TRAFICANT) and the gentleman from Texas (Mr. REYES) printed in part C of the report.

In addition, this rule allows for extensive debate time on several important and controversial issues. We have set aside special times for these issues, such as abortion at military installations overseas; the global warming treaty; the prospect of a U.N. standing army, which we should oppose with every bit of strength we have; and medical benefits for our military retirees.

The rule authorizes the Chairman of the Committee on National Security or his designee to offer amendments en bloc consisting of amendments in part D of this report. En bloc amendments shall be debatable for 20 minutes each and shall not be subject to amendment.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, this kind of structured rule is typical for the defense authorization bill, as Members well know.

The Committee on Rules has gone to great lengths to ensure this rule has met the concerns of as many Members as possible. Exactly 100 amendments were filed with the committee, and we have made half of them in order. Of the amendments ruled in order, the ratio of amendments by the majority is nearly exactly the same as the ratio of minority amendments filed with the committee.

Thus, I believe this is a fair rule and a rule that deserves the support of all Members of this body so we can get on to the consideration of the important bill.

Mr. Speaker, I want to commend two Members of this body. One is the chairman of the Committee on National Security. He is the gentleman from South Carolina (Mr. SPENCE). Mr. Speaker, the gentleman from South Carolina (Mr. SPENCE) has been here even longer than I have. I have been here for 20 years. But the gentleman is one of the truly outstanding and respected Members of this body. What the gentleman has done for our military preparedness over all those years deserves special commendation.

The gentleman from South Carolina has a counterpart on the Democrat side in the minority, the gentleman from Missouri (Mr. SKELTON). He, too, has been an outstanding and respected Member of the Committee on National Security. I just want to commend both of them for having brought this bill to the floor.

We have increased the dollar request of the President of the United States so that we can at least try to maintain an adequate military. I do not have to tell most of you that we, today, because of the reduced spending on military, we are beginning to go back to the 1970s when our military was in deplorable condition; when, just to dramatize that, if you recall back in 1979 our hostages had been held. American hostages had been held in Teheran and Haran.

President Carter at the time had ordered our military to try to undertake a rescue mission. We had to cannibalize 10 helicopter gunships just to get five that would work. That is how bad our military was in, the condition of it at that time. Do you know that four out of the five of those helicopters, even after we did cannibalize the others to get them to work, failed, and so did that rescue mission. It was a disgrace what was happening to our ability to defend our interests around the world.

□ 1045

In those days as well, because the military personnel who had enlisted and wanted an honorable career in the military, they knew that because of the reduced funding that they did not have a career, that they could not stay in the military, and, consequently they were leaving in droves. This was not only noncommissioned officers that were needed with their technical ability, but commissioned officers as well.

Mr. Speaker, I would say to Members, go to your recruiters back in your districts, and I want you to talk to the Air Force, the Navy, the Army, the Marine Corps, and they will tell you that they are no longer getting the interest of a cross-section of America to serve in our military today, because they are worried they could not have a career there if they were to enlist.

If you look at your applicants to your military academies, I know in my district we used to have over 100 that would apply for the four appointments that I have each year, and today that has drooped from over 100 down to about 25 or 30. That is because they know that they cannot depend on a career in the military.

That is what is happening, and that is why we need to vote on this bill today, because it is certainly a step in the right direction for providing adequate procurement, adequate research and development and adequate pay and benefits and housing for our military personnel.

Again, I want to thank both the gentleman from Missouri (Mr. SKELTON), the ranking member. I was just praising the gentleman before he came on the floor, along with my good friend, the gentleman from South Carolina (Chairman SPENCE).

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today our Nation is strong and free. We owe much of our strength and freedom to the men and women in uniform who have throughout the history of our great country been willing to stand ready to defend our country and our way of life. We should be proud of our military services and the difficult tasks we as a country have asked them to perform for us.

In asking so much of them, the Congress must in turn assure each and every soldier, sailor, airman and marine, from the four-star general to the newest recruit, that the Congress will provide them with the means to carry out their difficult mission.

It is our responsibility, our duty really, to examine the state of our national defenses each year. In doing so, we often find shortcomings in our ability, to adequately fund the programs, missions and operations of the military. But it is important to remember that in today's world. Federal dollars are finite, and, given the fiscal restraints that the Congress has imposed upon itself in the budget agreement that has led us to a balanced budget, the Committee on National Security has done an admirable job in balancing the needs and imperatives of our far-flung security forces.

H.R. 3616 keeps the promise of our budget agreement, and, in doing so, strives to fulfill our responsibilities to the armed services. To be sure, there is not enough money to do everything we should, but this bill balances the hardware needs of all branches of the military, while, at the same time, trying to assure that the human needs of our military and their families are addressed.

Mr. Speaker, I support H.R. 3616. I am pleased that the Committee on National Security has continued its commitment to the development of the next generation of tactical fighter by providing $1.6 billion in research and development funding for the F–22 Raptor. As we approach the 21st Century, the development of this next-generation fighter will be an increasingly important component in our ability to defend our borders and our troops, no matter where they may be deployed. In addition, the bill contains $595 million for two test F–22s and $190 million for advanced procurement of six low-rate initial production aircraft in fiscal year 2000.

The Committee on National Security has continued to show its strong commitment to the production of the V–22 Osprey tiltroter aircraft, a medium lift capability aircraft specifically designed for Marine Corps and Special Operations Forces assaults.

H.R. 3616 provides $735 million for the production of eight aircraft in fiscal year 1999, and an additional $54 million for advanced procurement. The committee has also endorsed an increase of production to 30 aircraft per year by the year 2004, which is also supported by the findings of the recent Quadrennial Defense Review.

In addition, Mr. Speaker, the Committee on National Security has signalled its ongoing support for the B–2 Stealth Bomber program by providing $276 million for B–2 post-production support. These funds will enhance the operational effectiveness of the current B–2 fleet, while both the Defense Department and the Congress examine the needs of the Air Force in a long-term bomber force structure plan. The Committee on National Security has wisely included a provision in this bill which directs the Secretary of the Air Force to prepare such a long-range plan and submit it to Congress by next March 1st.

Mr. Speaker, the Committee on Rules has reported a rule which makes in order a wide variety of amendments to this vital legislation. Those amendments range from transfers of missile-related technologies to foreign governments, including China, to using military forces to patrol our borders, to capping U.S. contributions to NATO expansion.

However, the committee chose not to make in order a very significant amendment to a controversial section of the reported Committee on National Security bill. As Members know, last year's defense authorization created a Federal advisory committee on gender integrated training, now commonly known as the Kassebaum-Baker panel.

In March, former Senator Kassebaum-Baker's panel reported recommendations that all basic training and housing be segregated by gender. The committee bill adopts this recommendation by requiring each of the military services to assign male and female recruits to separate units during basic training, and further requires each of the services to house male and female recruits in separate buildings beginning on April 15th of next year.

While the bill does provide for some waiver of this last requirement because of facility limitations at certain installations, this requirement sets in motion a procedure which will drastically change basic training for all recruits in the Army, Navy and Air Force. The Marine Corps, of course, is currently the only branch of the service which currently separates male and female recruits during basic training.

Mr. Speaker, the branch chiefs of the Army, Navy and Air Force have indicated they do not support the recommendations of the Kassebaum-Baker panel. In spite of their opposition to these recommendations, the Committee on Rules did not provide the opportunity to fully debate this issue. An amendment was proposed by the gentlewoman from New York (Mrs. MALONEY) which would have stricken these provisions from the bill, but, because the Committee on Rules did not make it in order, the House has been denied the opportunity to examine this issue. This is a major shortcoming of this rule, Mr. Speaker.

The committee did not make in order several other worthy amendments offered by Democratic Members. But in spite of the fact the House will not be able to debate these worthy issues, I will support the rule. I support it because it is necessary to move this authorization through the legislative process.

We may do little else of great value in the 105th Congress, but, at the very least, we should assure the passage of legislation which serves the needs of our military and the interests of our national security.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. SPENCE), the gentleman I was heaping praise on a few minutes ago, the chairman of the Committee on National Security.

Mr. SPENCE. Mr. Speaker, I take this time really to return the compliment. The gentleman from New York (Mr. SOLOMON) has been one of the biggest defenders of our military in this Congress.

Mr. Speaker, I have been here for 28 years. I have seen a lot of people come and go. In the administrations over the years and in Congress, we have never had a person who is a bigger defender of our military than the gentleman from New York (JERRY SOLOMON). He has made it possible for us to do a lot of things we could not have done otherwise in trying to revitalize our military, which needs very badly to be revitalized.

I want to personally thank the gentleman for all the help he has been to me and our committee as chairman of the Committee on Rules in helping us over all these years.

Mr. FROST. Mr. Speaker, I yield five minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, I am going to ask my colleagues to defeat the previous question so that this body may vote on something I think is very important, and that is a measure that would require all Department of Defense employees to be subject to random drug testing.

Mr. Speaker, I have been to Latin America on a number of occasion. Most recently in February I went to Colombia, to towns like Neiva, to San Jose, where American special forces are training Colombian Lanceros in what is a very real war on drugs.

The unit that we visited one week was annihilated the next. Out of 125 Colombian soldiers that went out, 18 returned. The rest were killed or captured.

When you go to Colombia, you do not drive around, you have to fly. The reason you have to fly from place to place is that the guerrillas control the countryside. So everywhere we went was either on a Colombian National Police Huey, or a Drug Enforcement Agency plane. That is how real the war on drugs is.

But we have a tremendous disconnect in our country. You see, we are asking American soldiers as we speak to get shot at. We are asking the Americans who fly the crop dusters that are trying to eradicate the coca fields and the poppy fields that are being shot at, and they are shot down periodically. We have American soldiers in Iquitos, Peru, and American sailors, American Seals, training the Peruvians in riverine operations, mostly on drugs coming out of Colombia by way of the Amazon.

But this body will not even ask the technicians and the people who work for our Department of Defense, who are paid by our tax dollars, to take a drug test to see if they are on our team or on their team.

I offered this amendment for two years in a row. Last year the Committee on Rules, in what I thought was a particularly cowardly action, did not even vote on it. This year they voted it down in a straight party line vote.

So every Republican who goes home and tells you he is tough on drugs, privately we know, in looking at that room in the Committee on Rules, voted against it.

All I am asking for is 15 minutes worth of debate on each side and a vote, up or down. Until I get it, I will continue to ask for motions to adjourn before this House.

So I think the Committee on Rules and my fellow Members can make a choice: We can vote on it today, or we can vote on it Sunday, but we will vote on this. Because I do not think people who work for our Nation ought to take their Federal paycheck and buy drugs with it. I think we ought to have the confidence that those people who are working on our war on drugs are on our team.

I do not think it is asking a lot for the ranking Democrat on the Subcommittee on Personnel of the House Committee on National Security to have an amendment made in order that deals with the personnel who work for our Department of Defense.

So, Mr. Speaker, at the proper time I would hope that our ranking member, the gentleman from Texas (Mr. FROST) would recognize me for a motion to defeat the previous question. But also I want to assure my colleagues that if the previous question is not defeated and if this amendment is not made in order, we in all probability will be here Saturday or Sunday. I have already canceled my plans. So the question for my fellow Members is, do you want to cancel yours?

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I sort of hesitate to get up to respond to my good friend, the gentleman from Mississippi (Mr. TAYLOR). I guess I have a reputation of having a short temper sometimes, and I do not want to do that because he is a respected Member of this body.

I just want, first of all, to let it be known that in my 20 years here in this body I have offered literally dozens of amendments dealing with the war on drugs, including random drug testing and mandatory drug testing of Federal employees throughout this government.

When Ronald Reagan took office, he was somewhat of a libertarian, and he was not sold on the idea of random drug testing in our military. But we did a study at that time and we found out that back in the mid-eighties, the early eighties, that 25 percent of our military personnel admitted to using drugs of some kind. Twenty-five percent. When you look at that, you said how could they be effective if, God forbid, they had to go into battle and jeopardize the other 75 percent? So Ronald Reagan agreed by executive order to implement random drug testing of every single one of our military. That meant every buck private, right up to every general.

Do you know what happened over the succeeding four years? Just the threat of the random drug testing dropped the use of drugs by our military personnel from 25 percent down to 4 percent. Four percent. Can you imagine that? And they became much more effective.

Would it not be great if we could implement that throughout the entire Federal Government, as the gentleman from Mississippi (Mr. TAYLOR) wants to do with the civilian personnel in the military? Would it not be great if we could do it with all the Department of Transportation and the IRS and everybody else? Then would it not be great if we could do it with State governments, if State governments would implement the same kind of random drug testing, and if local governments, the counties and towns and cities and villages would do the same thing?

□ 1100

Then, would it not be great if our Fortune 500 companies, most of which now do random drug tests on their employees as a condition of employment, would that not be great? Think what would happen if we reduced the use of drugs by 80 percent of the American people. That would knock the price right out from under it, but we would have no more problem with drugs coming into this country, because there would not be any value to them because there would be so few users.

When we look at the Rand study not too many years ago, there were 2 startling things in there that I just was shocked to see, and one was that 75 percent of all of the crime against women and children in America today is drug-related. Think what that would do if we reduced the use of drugs by 80 percent throughout this country by American citizens.

Then, what was even more shocking was, and I represent an area of middle class America in the Hudson Valley, the Catskills on one end, the Adirondacks on the other, but I was shocked to find out that some of my constituents, 75 percent of the illegal drug use in America today, was used by recreational weekend drug users; in other words, people, middle class or upper middle class who were driving into the cities, buying marijuana, buying cocaine and then using it recreationally on the weekend thinking that it was not going to be any problem. I said, my God, if we could drug test all of those people, the threat of losing their jobs, they would stop using these recreational drugs on the weekend.

So I would say to the gentleman, I support his amendment. We were going to wait until mid-June, when the gentleman from Texas (Mr. BARTON) and myself would bring to this floor a resolution that would change the Rules of the House and it would then begin to random drug test every single Member of this body; that means me and every other Member. Then, in addition, we would drug test all employees as a condition of employment.

Now, of course, I am told that that is probably unconstitutional and so is the testing of Members. Nevertheless, the resolution we will bring to this floor will random drug test every Member, it will random drug test every employee of the House. There are thousands of them, when we take into consideration all of the branches of our House of Representatives. We would then test all new hires, in other words, who had suspicion, in other words, of drugs. We would then random drug test all of the security and public safety, and then finally, we would test any House employee who has access to the floor of this body.

Now, if my colleagues notice, I have gone from the severest to the least, and in this bill we will have a separation clause that says that any one of these, if testing Members is unconstitutional, then the other 5 classes stand. If testing all employees as a condition of employment, if that is found unconstitutional, then the other 3 stand.

Now, that is what we are going to bring on the floor along with a lot of other legislation.

Mr. TAYLOR of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Speaker, I would say to the gentleman, I am going to vote for what the gentleman is trying to do later, but this is today. I am sure when we left last fall, Sonny Bono thought he would be here this spring, but he is not, and I regret that.

We are given an opportunity today on a bill that we know the Senate has to vote on. This is the defense authorization bill for the Nation, and without it, no ships, no planes, no helicopters, the troops do not get a pay raise, nothing happens in the Department of Defense unless this bill becomes law.

On the contrary, what the gentleman from New York is talking about the Senate never has to vote on, and anyone who follows Washington knows that more often than not, anything controversial, they simply choose not to vote on it.

So I would say to the gentleman, I would hope, if he is gentleman enough to listen, I would hope since the gentleman is in agreement with what I am trying to do for this portion of the government that he would accept my efforts along the lines of the previous question, and we will know for certainty, for at least this portion, for the most important thing our Nation does, which is to defend the Nation, that we will have random drug testing for all Department of Defense employees.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I am not exactly clear. A moment ago I heard the gentleman from New York (Mr. SOLOMON) say he would support the gentleman's amendment. By country interpretation, from a country lawyer in Missouri, that means that it will be made in order; is that correct?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would say to the gentleman that he is one of the men that I most respect in this body, and the gentleman is not just a country lawyer, the gentleman is one of the most astute Members of this body.

If the gentleman would like to have the Taylor amendment made in order.

Mr. SKELTON. I would, Mr. Speaker.

Mr. SOLOMON. Mr. Speaker, we have a very delicate balance of the number of Republican and Democrat amendments that were made in order; we tried to maintain that balance.

At the appropriate time, if the gentleman is asking me to make an exception and make the Taylor amendment in order.

Mr. SKELTON. Yes, Mr. Speaker.

Mr. SOLOMON. I would, during this debate, I would ask unanimous consent at the appropriate time to make the Taylor amendment in order, and also to make then a Terry Everett of Alabama amendment in order, modified, and that will sort of keep, I guess, our balance in shape. Would that be all right with the gentleman?

Mr. SKELTON. Yes, Mr. Speaker. I thank the gentleman so much for his courtesy.

Mr. SOLOMON. Mr. Speaker, at the appropriate time, I would make the unanimous consent statement. .

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, Members should not think that there will not be a vote now on the previous question, because I have no choice but to emulate my colleague, the gentleman from Mississippi (Mr. TAYLOR). The gentleman threatened to vote on the previous question and he got his amendment made in order. I have some amendments I would like made in order and I do not want to be open to the inference that I am less committed to mine than he to his, so I now will announce that I will be moving for a rollcall on the previous question.

The rule is a disgrace. I understand the desire of the Republican leadership to make something out of the China issue. It ought to be fully debated, but it should not come at the expense of this House debating some of the most important public policy questions we face. Bosnia, and I did not know that the principle was equal Democrat and Republican amendments. That seems to be rather an odd way to make public policy, but I do not threaten that, because the amendments I want made in order are totally bipartisan.

I have an amendment sponsored by myself and the gentleman from Connecticut (Mr. SHAYS) to put a freeze on defense spending. That was not made in order. Let us be very clear. Defense spending represents a large chunk of what we have said we will spend. Not a single amendment is made in order that would reduce the budget.

This House will not be given a chance to vote on whether or not the budget ought to be reduced. That is simply a degradation of the democratic process and inappropriate. Members may want to vote to keep this spending level up, particularly since we are in a zero sub situation, and Members who have talked about how committed they are to spending for the elderly and for the environment and for housing and for crime control will be diminishing our ability to do that if they vote for this bill. Not to allow even a chance to vote on a freeze seems to me wholly disrespectful of the democratic process.

Similarly, Bosnia. I do not know how often I have heard Members on the other side complain about Bosnia and the troops in Bosnia. Why, then, does the Republican leadership refuse to allow this House to vote on an amendment sponsored by 3 Democrats and 3 Republicans to compel withdrawal of the troops from Bosnia by December 31?

According to the administration, it costs us $2 billion a year incrementally to keep the troops in Bosnia. These amendments go together. We could cut out the troops in Bosnia and save money. We could cut out the American troops and let the Europeans do what they ought to do and use that money for other purposes. It simply does not wash for Members on the other side to say, the President has unilaterally overcommitted us. The President has overextended us; we wish the troops were not in Bosnia, and then frustrate an effort to let the membership vote. What possible justification can there be for not letting this membership vote on a bipartisan amendment as to whether or not the troops stay in Bosnia?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, the gentleman was critical of my trying to have a fair balance of amendments, and let me just say to my good friend, and he is a good friend, that I served for 16 years in the minority. For many years we felt that we were being discriminated against by the majority, and the gentleman knows I have done everything in my power as the chairman of the Committee on Rules to try to be as fair as possible.

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, I understand that; the gentleman has done what was in his power and my criticism is not aimed at the gentleman, but at the Republican leadership, which has somehow decided that, I don't know, it may be that they do not want to detract attention from the China issue, and the China issue deserves full debate, but how can the Republican leadership justify not letting this House vote on whether or not the troops stay in Bosnia?

I will say this: If we vote for the previous question on the rollcall I will ask for and my colleagues vote for this rule and they vote for this bill, they will have refused the option to vote on Bosnia. So I will ask Members, have the intellectual consistency, if they vote down the line to keep us from debating Bosnia, not to complain about the troops being in Bosnia. There ought to be a basic rule that Members are enjoined from complaining about circumstances which they brought about.

So let us now face the choice. A vote for the previous question, a vote for the rule, a vote for the bill, my colleagues will have given their okay to the troops staying in Bosnia ad infinitum. They are going to be pulled out shortly after the dome comes off this building as long as the current policy of the administration is in effect, and I think Europeans ought to be made to step up to the plate.

I will give Members a chance, if they will take it, to vote on whether or not we ought to keep the troops in Bosnia at a $2 billion a year cost. I think that is bad public policy. That is debatable. What is not debatable is that the United States House of Representatives, where many Members have complained about the troops being in Bosnia, cannot even vote on the subject. That ought not to happen. Neither should we have a situation where Members are not allowed even to vote on whether or not we ought to reduce military spending.

So, Mr. Speaker, I hope that Members, particularly those who have talked about the troops in Bosnia being a problem, who vote against the previous question, I will then offer that balanced bipartisan amendment, and we can go forward with our business.

Mr. SOLOMON. Mr. Speaker, could I inquire as to the time remaining on both sides of the aisle.

The SPEAKER pro tempore (Mr. SHAW). Each side has 14 minutes remaining.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

For the record, there were 50 amendments made in order, 15 of those are Democratic amendments, and 35 of those are Republican amendments, not exactly a balance. The chairman of the committee was trying to suggest that there was some sort of an equal division; there was not an equal division of amendments, Mr. Chairman. There were 15 Democratic amendments out of the 50 made in order, if we want to discuss the merits of the individual amendments as to whether they should have been made in order.

Mr. Speaker, I yield 4 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, first I would like to thank the gentleman from South Carolina (Mr. SPENCE), the chairman of the committee, and the gentleman from Missouri (Mr. SKELTON), the ranking member, for allowing one of my amendments to be in order.

This legislation will tighten a loophole in the law regarding military retirement pensions. I was very disappointed to see a soldier who was recently convicted of a felony go unpunished. Certainly, any soldier who has served honorably deserves a full pension, but any soldier who has been demoted due to the commission of a crime should not be entitled to retire based upon the highest rank served.

Unfortunately, this defense authorization bill also includes a provision that no one wants. I am very disappointed in the Committee on Rules for not allowing a vote on gender segregation during basic training in all branches of the Armed Services.

My amendment to strike this language was dismissed by the Committee on Rules. The Army, the Navy, the Air Force have all come out against gender segregation, because they know men and women must train as they fight. Separating them creates an atmosphere of distrust and may affect military readiness. Just as soldiers from diverse ethnic and social backgrounds must learn to become a cohesive group, so must men and women.

Separate and secure quarters are achieved without placing unit members in different buildings. Segregating the sexes will cost the Army $159 million, according to the Department of Defense. Why should we spend this kind of money to create a situation that no one wants?

□ 1115

Secretary Cohen, former chairman of the Joint Chiefs, General Shalikashvili, all came out against separating the sexes.

Sexual misconduct issues are not a result of training policy, but a manifestation of poor leadership. We cannot cure a social problem with a logistical solution. Further isolating women will not solve the problem. If nothing else, it will make the problem worse. It is not an issue of segregation or separation, it is about respect and leadership.

Mr. Speaker, as we speak here on the floor today, men and women are defending our country in all parts of the world. They are fighting together. In some parts of Bosnia they are living together in the same tents. It is being done with respect and leadership.

Segregating men and women in the military amounts to giving women their marching orders back into the dark ages. Women are defending this country. We should defend their right to be treated equally in the military. I urge a vote against the rule on this issue alone, and on the issues raised by the gentleman from Massachusetts (Mr. BARNEY FRANK).

MODIFICATION TO RESOLUTION OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that notwithstanding any other provision of the pending resolution, that the Taylor and the Everett amendments that I have placed at the desk shall be deemed to have been included as the last amendments printed in part D of the report of the Committee on Rules accompanying the resolution.

The SPEAKER pro tempore (Mr. SHAW). The Clerk will report the amendments.

The Clerk read as follows:

Amendment to be offered by Mr. TAYLOR of Mississippi:

At the end of subtitle C of title X (page 227, after line 14), insert the following new section:

SEC. 1023. RANDOM DRUG TESTING OF DEPARTMENT OF DEFENSE EMPLOYEES.

(a) EXPANSION OF EXISTING PROGRAM.—(1) Chapter 81 of title 10, United States Code, is amended by inserting after section 1581 the following new section:

"§ 1582. Random testing of employees for use of illegal drugs

"(a) PROGRAM REQUIRED.—The Secretary of Defense shall expand the drug testing program required for civilian employees of the Department of Defense by Executive Order 12564 (51 Fed. Reg. 32889; September 15, 1986) to include the random testing on a controlled and monitored basis of all such employees for the use of illegal drugs.

"(b) TESTING PROCEDURES AND PERSONNEL ACTIONS.—The requirements of Executive Order 12564 regarding drug testing procedures and the personnel actions to be taken with respect to any employee who is found to use illegal drugs shall apply to the expanded drug testing program required by this section.

"(c) NOTIFICATION TO NEW EMPLOYEES.—The Secretary of Defense shall notify persons employed after the date of the enactment of this section that, as a condition of employment by the Department of Defense, the person may be required to submit to mandatory random drug testing under the expanded drug testing program required by this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1581 the following new item:

"1582. Random testing of employees for use of illegal drugs.".

(b) FUNDING.—No additional funds are authorized to be appropriated on account of the amendment made by subsection (a). The Secretary of Defense shall carry out the expanded drug testing program for civilian employees of the Department of Defense under section 383 of title 10, United States Code, as added by subsection (a), using amounts otherwise provided for the program.

Amendment to be offered by Mr. EVERETT:

At the end of title XII (page   , after line   ), insert the following:

SEC.   . TRANSFER OF EXCESS UH–1 HUEY HELICOPTERS AND AH–1 COBRA HELICOPTERS TO FOREIGN COUNTRIES.

(a) IN GENERAL.—(1) Chapter 153 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2581. Transfer of excess uh–1 huey helicopters and ah–1 cobra helicopters to foreign countries

"(a) REQUIREMENTS.—The Secretary of Defense shall make all reasonable efforts to ensure that any excess UH–1 Huey helicopter or AH–1 Cobra helicopter that is to be transferred on a grant or sales basis to a foreign country for the purpose of flight operations for such country shall meet the following requirements:

"(1) Prior to such transfer, the helicopter receives, to the extent necessary, maintenance and repair equivalent to the depot-level maintenance and repair, as defined in section 2460 of this title, that such helicopter would need were the helicopter to remain in operational use with the armed forces of the United States.

"(2) Maintenance and repair described in paragraph (1) is performed in the United States.

"(b) EXCEPTION.—The requirements of subsection (a) shall not apply with respect to salvage helicopters provided to the foreign country solely as a source for spare parts.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2581. Transfer of excess uh–1 huey helicopters and ah–1 cobra helicopters to foreign countries.".

(b) EFFECTIVE DATE.—Section 2581 of title 10, United States Code, as added by subsection (a), shall apply with respect to the transfer of a UH–1 Huey helicopter or AH–1 Cobra helicopter on or after the date of the enactment of this Act.

Mr. SOLOMON (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Sanibel, Florida (Mr. PORTER GOSS), a very important member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the gentleman from Glens Falls, New York, for yielding me the time.

Mr. Speaker, there is a lot I would like to say about this rule. It is a good rule and deserves Member support. It was carefully crafted. There were many amendments. It is balanced, it is fair, and I urge everybody's support.

The reason I am here with what is left of my voice today is to pay some testimony to the very fine work of the gentleman from South Carolina (Chairman SPENCE) and ranking member, the gentleman from Missouri (Mr. IKE SKELTON).

The gentleman from Missouri (Mr. SKELTON) is the crossover Member on the Permanent Select Committee on Intelligence, and we have, as everybody knows, on defense authorization close cooperation and coordination with the Committee on National Security.

Things would not work as smoothly as they have without the gentleman from Missouri (Mr. SKELTON), and I personally and publicly wanted to thank him, the gentleman from South Carolina (Chairman SPENCE), and the staffs of both committees that who have worked so hard to make sure we have come up with a good product.

I, too, think we have underfunded, but we are doing the best with what we have. I urge support for the rule.

Mr. Speaker, I rise in strong support of H.R. 3616, the Department of Defense Authorization Bill for 1999.

Mr. Speaker, I wish to congratulate my friends Chairman SPENCE and the Ranking Member Mr. SKELTON on delivering the House a sound, bipartisan defense bill that I think all the Members of this body can, and should, vote for. After 14 years of steady decline in the defense budget, they were again handed a request by the Administration that clearly asks our men and women in the Armed Forces to do "more with less." Mr. SPENCE and Mr. SKELTON's efforts, and indeed the outstanding efforts by all members of the National Security Committee, have allowed for the careful crafting of a bill that manages increasing world-wide risk in an era of shrinking forces and budgets. This is no easy task.

Mr. Speaker, as the Members of this body know, the dollars for the Intelligence Budget Authorization that we here in the House passed on the 7th of May—on a voice vote—are contained in this defense authorization. I can tell you that the close coordination between the National Security Committee and the Permanent Select Committee on Intelligence—on which, I might add, the distinguished Member from Missouri, Mr. SKELTON, plays a tremendously valuable role as a crossover member—allowed us to put together a prudent defense intelligence input to this authorization bill. Together, this bill and the intelligence bill focus on the needs of our Nation. H.R. 3616 increases spending on equipment modernization, it increases the funding for National Guard and Reserve modernization not funded in the President's request, it addresses a balanced quality of life investment for our military personnel, and it improves readiness.

But, Mr. Speaker, this does not mean we are looking at a "fat" bill. While the funding in this bill is consistent with the Balanced Budget Act of 1997, it should be pointed out that the President's defense request—according to the military service chiefs—is under-funded by more than 10 billion dollars. I wish we were spending more on our national security—on our military and our intelligence services. Not seeing the will at this point in the Administration to make this critically important—even if politically difficult—call, I believe H.R. 3616 does what can be done to limit the further "hollowing" out of our defenses. I urge my colleagues to vote yes on H.R. 3616.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentlewoman from the District of Columbia (Ms. Norton).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I come to the floor, at the very least in disbelief, and at most with a sense of outrage, because this bill contains a provision that is so serious and such a departure that at the very least, any responsible legislative body would have wanted it debated.

The gentlewoman from New York (Mrs. CAROLYN MALONEY) and I went to the Committee on Rules yesterday to ask that an amendment to remove a provision of the bill and at least postpone the resegregation of basic training throughout the armed services be made in order. Our amendment would simply have stopped congressional action to segregate the armed services pending the receipt of the report of the Commission on Military Training and Gender-Related Issues, whose members were just appointed in February. This commission has been authorized by this body to study the very issues this body is due to vote on as part of this bill today.

The gentlewoman from Florida (Mrs. FOWLER) and the gentlewoman from California (Ms. HARMAN) asked for a similar amendment. The resegregation now in the bill represents a major structural setback for the services and for women that the Department of Defense and the services strongly oppose.

Yet, we learned this morning that neither the Fowler-Harman nor the Maloney-Norton amendment has been made in order. I am here this morning to announce that the Bipartisan Women's Caucus of this House is not going to take the failure to allow us to even debate this bill sitting down or standing up.

The position I am articulating is the position of the Republican and the Democratic Members who are women of the House of Representatives. It is the position of 55 women strong in this House. I am going to leave this floor and go with the gentlewoman from New York (Mrs. MALONEY) and other women and men of this body to the tarmac in just a moment, where we will be holding a press conference.

Among the participants will be Evelyn Foote, the Brigadier General, U.S. Army Retired, who is Vice-Chair of the Secretary of the Army Senior Review Panel Report on Sexual Harassment. Also with us will be Holly Hempfield, the 1996 chair of the Department of Defense Advisory Committee on Women in the Services. Both of these women who carry the views of the armed services are with the 55 women of the House of Representatives, saying if you want to set us back, at least hear us out first, do not silence us.

Moreover, we speak for the women of the military, and we are sure that we speak for the women and the men of the military. The Department of Defense Advisory Committee on Women in the Services, appointed by the Secretary of Defense, met with 1,200 trainees and trainers in a random sample to find what the troops believe about men and women serving together in basic training.

They found the overwhelming sentiment of our troops to be that men and women who fight together must train together. This train-as-you-fight strategy ensures combat readiness goals are met. We are here to make clear that the women of the Congress will never retreat on this issue.

Mr. FROST. Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, the gentlewoman from the District of Columbia (Ms. NORTON), who is a woman I deeply respect, and she always speaks her mind, and she does so eloquently, but I would just say to her that for those of us who have served in the military, we have to remember that most of the basic training, the men and women that go through basic training today, are identical to those who went through 10 years ago, 20 years ago, 30 or 40 years ago. They are of ages of 18, 19, 20 years old.

When we look at some of the situations that have occurred in other branches of the service besides the Marine Corps, when we mix young men and women together at that age, many of whom have gone away from home for the first time, we are going to have severe problems.

In the Marine Corps we have managed to train them separately and we have not had any instances that have taken place, and I just hope the gentlewoman understands and respects others' views on this. It is a question of trying to make sure that the young men and women that are going to be serving in our military have adequate training, and later on after they are out of boot camp, they are out of basic training, certainly they can work together, as long as it is not in a combat situation.

There are those of us that are absolutely opposed to women serving in combat. It is just a matter of principle with us. God forbid that women are taken prisoner of war. Situations occur that would not occur to a male, and I just could not do that to my daughters or my granddaughters, so I just hope she understands that there is sincerity on both sides of the aisle on the issue.

Ms. NORTON. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentlewoman from the District of Columbia.

Ms. NORTON. Mr. Speaker, I do understand, and I have the most profound respect for the gentleman from New York (Mr. SOLOMON). I understand the feelings of the gentleman from New York, for whom I have the most profound respect. He served in the armed services when integrated services was unthinkable.

I do want to say only to the gentleman that I know he did not mean to say that the kinds of abuses and sexual harassment which have in fact come forward are anything like representative situations. I do not believe we should step back a giant step because of a few instances of abuse.

I think, on the contrary, that we ought to congratulate the troops for the way in which gender integration has succeeded, and may I say to the gentleman, I was surprised, particularly because I believe he has the votes, that we were not granted the right even to debate this matter for a limited period of time. That is all we asked.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SISISKY).

Mr. SISISKY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I would tell my good friend, the chairman of the Committee on Rules, I was surprised that the Fowler amendment was not in there today. We had a very close vote in the committee. Also, I further want to advise, the problem that we first had in the sexual problems was not in basic training. Aberdeen was advanced training.

Let me just tell the Members this. My problem, and I said it right in the committee, I do not know enough what is right and wrong now. It should not be up to me to decide. I called every chief of the service the morning of the vote, and every one of them, every one of them, said we want to integrate the training in basic training, with the exception of the Marine Corps.

I said fine. If the Marine Corps wants to do it differently, let them do it differently. If the Navy wants to do it differently, let them do it. We should not impose ourselves on that. This is a very important issue, I would tell the chairman. I am going to vote for the rule, because I am anxious to get this thing going, but I must say, I am very disappointed that this amendment was not in there.

Mr. SOLOMON. Mr. Speaker, I am glad to yield 3 minutes to the very distinguished gentlewoman from Jacksonville, Florida (Mrs. FOWLER), a member of the committee.

Mrs. FOWLER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise to express my appreciation to the Committee on Rules, first for making one of my amendments in order, and my disappointment that the other was not. I believe, as I walked in, I think the gentleman from Virginia (Mr. SISISKY) must have been talking to this issue, also.

But with my colleague, the gentlewoman from California (Ms. JANE HARMAN), I have put forward an amendment in the committee to retain current policies regarding integration of male and female soldiers, sailors and airmen at the unit level during basic training. Unfortunately, this amendment was not made in order under this rule.

Our amendment would have stricken section 521 of the bill, which requires gender segregation at the small unit level throughout basic training, and the housing of male and female recruits in separate barracks.

Instead, our amendment would have required the Congressional Commission on Military Training and Gender-Related Issues, which this Congress established only last year at a cost of $2.2 million, to specifically study the recommendations of the Kassebaum-Baker Commission before any action on this matter could proceed.

While I have the highest regard for my good friends, Senators Kassebaum and Baker, the methodology that was employed by that panel has been criticized by the GAO. The Fowler-Harman amendment also would have promoted privacy by gender in living spaces to the maximum extent practicable, without a specific requirement to separate by barracks.

□ 1130

I would note that the Army, Navy and Air Force chiefs oppose section 521 on the grounds that it removes their discretion for training as they fight. I would note that according to General Lezy, the Deputy Assistant Secretary of Defense for Military Personnel Policy, section 521 would require the Army to spend $159 million in fiscal year 2000 to build new barracks to segregate its recruits. The Army has not budgeted for this requirement. When 64 percent of the Department of Defense family housing is unsuitable, I believe there are better ways to spend this money.

Mr. Speaker, the commission appointed by Congress will use objective standards to evaluate the value of gender-integrated or segregated basic training and report to us. We ought not prejudge their findings. I will be working in conference to eliminate section 521, and would appreciate the support of many of my colleagues in this regard.

I do support the rule on this bill. This is an extremely important bill to the defense of our country. There are many other issues than this one in this bill. This is a good rule overall. It is a good bill. It is greatly needed for our young men and women that are serving in the armed services of our country. I urge all of my colleagues to support the rule and then to support the bill later today.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the very distinguished gentleman from San Diego, California (Mr. HUNTER), a stalwart advocate of our Nation's military.

Mr. HUNTER. Mr. Speaker, I thank the chairman of the Committee on Rules for yielding this time.

Mr. Speaker, let me say he has gotten beaten up a little bit over this rule. Let me tell Members something that the chairman did insist on that was very important from a national security standpoint. That is that he has allowed and the committee has allowed, and should be commended for letting us put in four amendments that have to do with the transfer of satellite technology, which is at this point a very critical issue for national security.

Most people now know that China has been launching American satellites with their Long March rockets, which are essentially the same rockets that are aimed with nuclear-tipped warheads at cities in the United States. We have an interest, obviously, in not accuratizing those missiles or making them more reliable. Unfortunately, after a failed launch in 1996, it has been alleged that Loral and Hughes, two of our satellite companies, engaged with the Chinese scientists after one of the satellites had gone down, and it was a $200 million package, engaged with the Chinese scientists and engineers and showed them what they were doing wrong with respect to these Long March rockets, which have nuclear-tipped missiles which are aimed at the United States.

The Department of Defense issued a statement that said American security interests have been harmed. That is the Department of Defense for the Clinton administration, very serious statement. It is clear that our policy with respect to transferring satellite technology to China has been detrimental to the United States. There may have been criminal activities, and we need to further explore this issue. But today we have several amendments that have been allowed.

The gentleman from South Carolina (Mr. SPENCE) and the gentleman from New York (Mr. GILMAN) have an amendment that expresses the sense of Congress that business interests must not be placed over United States security interests and that the United States should not agree to a variety of initiatives at the upcoming presidential summit in China, including support for Chinese membership in the missile technology control regime, a blanket waiver of Tiananmen Square sanctions, an increase in space launches from China, agreeing to unverifiable arms control initiatives, increasing the level of military to military contacts, and entering any new agreements involving space or missile related technology.

Essentially we are saying, you fouled this thing up, you have given away American security interests. We are putting the brakes on until we can sort this thing out. It is an excellent amendment by the gentleman from South Carolina (Mr. SPENCE) and the gentleman from New York (Mr. GILMAN).

The gentleman from Nebraska (Mr. BEREUTER) has an amendment that would prohibit U.S. participation in any post-launch failure investigation involving the launch of a U.S. satellite from China. Somebody mentioned that Loral and Hughes were kind of like the engineer who was sentenced to the guillotine by Khomeini, and after the guillotine had failed to work on several other people who would have been executed and they were allowed to go free, the engineer, the American engineer laid under the guillotine and said, I think I see your problem.

At any rate, the Bereuter amendment would prohibit U.S. participation in any post-launch failure investigation involving the launch of an U.S. satellite. We have the Hefley amendment that would prohibit the export or reexport of any missile equipment or technology to the People's Republic of China. And finally, I have an amendment that would prohibit the export or reexport of U.S. satellites, including commercial satellites and satellite components, to the People's Republic of China.

These are very important amendments. I thank the committee and the chairman for allowing them.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an important rule. This is an important piece of legislation. I support the rule. I would advise the Chair at this point that there will be a Member on our side who will seek a vote on the previous question. I would ask the Chair to recognize that Member at the appropriate time.

Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I came to the floor because I want to ensure that the Members that come to vote on this rule understand what happened in the Committee on National Security with regard to the Kassebaum-Baker panel's recommendations. There are no distortions that are out there.

On Nancy Kassebaum's panel were 10 individuals of highly diverse backgrounds who made a unanimous decision that was overwhelmingly received favorably across the country. Why? Because it gave common sense solutions. It said, separate by gender in the barracks and at the small unit level, that is flights in the Air Force, divisions in the Navy and by platoon in the Army, but then when they go train, it is integrated training.

There are those that are trying to distort this by calling it segregated training. That is completely false. I want Members to understand this is only separating by barracks. Basically we are saying we do not necessarily think that young men and women ought to be sleeping together and we recognize that we have some collateral problems when that occurs. So when Members come to the floor, I want them to be very clear in understanding what exactly this is.

It is the Nancy Kassebaum language on those two issues. And to make sure that the services across the river do not spin this with regard to the Air Force, this takes the Air Force back to the way they were doing it for over 20 years. They used to separate by flight, by gender, until July of last year. So do not let anybody distort this. I want to be very clear with Members. If they have any questions, contact me and I will be very pleased to explain it to them.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

In closing the debate, let me just say that the statement by the gentleman from Indiana (Mr. BUYER) is the exact reason why I took full responsibility for not allowing the Maloney amendment, because if it had come on this floor it would have been a totally political issue and would not have dealt with the merits. I did so after consulting with the administration; this is the Clinton administration. The Clinton administration did not want this issue to come on the floor, nor did they want the Bosnia issue to come on the floor.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I will not yield at this time, Mr. Speaker.

They did not want the Iraq issue to come on to the floor.

Mrs. MALONEY of New York. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Mr. Speaker, we do not interrupt somebody who is closing. They know better than that.

I just wanted to say one last thing, that I also take full responsibility for not allowing any cutting amendments. I have done this for the last several years because I am absolutely outraged to what is happening with our military. We have Members that will come on this floor, they will want to cut a little bit here and a little bit there. Pretty soon we are right back to where we were in 1979.

Mr. Speaker, we cannot allow that to happen. If Members do not like the funding level, if they think it is too much, come over here and vote "no." But if they want to stand up for the young men and women that are serving in our military today, we want to give them the best procurement in weapons we can give them. We want to give them the best training. We want to give them the best benefits in order to let them undertake an honorable career in the military. It is more honorable than any other career in this country, yet many Members in this House do not seem to give a damn anymore.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I will not yield.

I hope that Members will come over to this body and vote for this rule. We have been as fair as we possibly can. We have made a percentage of Democrat amendments in order compared to what they had asked for. The same thing with the Republicans, we shut out many Republicans in order to try to be fair. That is why everyone should come over here and vote for this rule today.

Mr. EVANS. Mr. Speaker, today's rule on the FY99 DOD Authorization Act does not include my amendment which would have barred U.S. special forces training of the Indonesian Military in FY99. I am gravely disappointed that the Rules Committee did not see fit to allow the House to consider this issue at such an important juncture in our nation's policy toward Indonesia.

Today, Indonesia is entrenched in an unprecedented political and economic crisis. Recent reports of student deaths at the hands of Indonesian police opening fire on demonstrations is just one example of the violence and terror that have become routine within the Suharto regime.

This type of repression is just the latest chapter in the Suharto regime's transgressions against its own people. No where is that more apparent than in the conduct of the Indonesian military. The use of the Indonesian military in the intimidation, torture and murder of both Indonesians and the citizens of East Timor is widespread, documented and undisputed. The brutal massacre of over 270 peaceful demonstrators in an East Timor cemetery by the Indonesian Military at the beginning of this decade led Congress to ban U.S. taxpayer funded IMET training in 1992.

Despite this strong indication by Congress to stop assistance to the Indonesian Military, the Department of Defense continues to provide assistance through the Joint Combined Exchange and Training program. Last September, I wrote Secretary of Defense Cohen requesting detailed information on the training of members of the Kopassus, the elite special forces division of the Indonesian military. The Kopassus is famous for its role as the ruthless "enforcer" of Indonesia's occupation of East Timor.

Several months later, I received a response from Deputy Secretary John Hamre, describing the United States' continued training of the Indonesian military under another program—the JCET. While I recognize that Indonesia's participation in the JCET program is in compliance with U.S. law, I do not support any training of the Indonesian military by U.S. armed services. It is clear to me and several of my colleagues that the JCET program is the Pentagon's loophole to the ban on IMET.

The amendment, which I was to offer with Representatives NITA LOWEY, PATRICK KENNEDY and CHRIS SMITH, would have sent a direct message to President Suharto that the flagrant abuse of power, unmitigated repression and complete disregard for fundamental human rights will not be tolerated. Because the moratorium would have lasted only for the fiscal year, it would have allowed Congress to reassess the merits of providing military training to Indonesia next year.

I hope that we can address this problem later in the session, but I still believe it was an opportunity that this Congress should not have missed. This rule abrogates our responsibility to ensure that our national security policy embodies the very democratic principles it seeks to defend. I believe it is unfortunate and does not reflect well on this institution.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. SHAW). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRANK of Massachusetts. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 281, nays 134, not voting 17, as follows:

[Roll No. 165]

YEAS—281

Abercrombie
Aderholt
Allen
Archer
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kennelly
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Sabo
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Young (AK)
Young (FL)

NAYS—134

Ackerman
Baesler
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blumenauer
Bonior
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Clayton
Condit
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Dixon
Doggett
Dooley
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hamilton
Hastings (FL)
Hilliard
Hinojosa
Hooley
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Matsui
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Poshard
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Serrano
Skaggs
Slaughter
Stark
Stokes
Strickland
Stupak
Tauscher
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn
Yates

NOT VOTING—17

Andrews
Armey
Bateman
Carson
Clay
Crane
Ewing
Gonzalez
Goodling
Greenwood
Harman
Hinchey
Meeks (NY)
Ney
Northup
Paxon
Stabenow

☐ 1200

Messrs. RODRIGUEZ, RANGEL, BLUMENAUER, and SKAGGS, and Ms. SANCHEZ, MS. MCKINNEY and Ms. KAPTUR changed their vote from "yea" to "nay."

Mrs. KENNELLY of Connecticut and Mr. REYES changed their vote from "nay" to "yea."

☐ 1201

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. PETRI). The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRANK of Massachusetts. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 304, noes 108, not voting 20, as follows:

[Roll No. 166]

AYES—304

Abercrombie
Aderholt
Allen
Archer
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Brady
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp

Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Farr
Fawell
Fazio
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Reyes
Riggs
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Sabo
Salmon
Sánchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Tiahrt
Towns
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—108

Ackerman
Baesler
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blumenauer
Bonior
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Condit
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Frank (MA)
Furse
Gallegly
Gejdenson
Gephardt
Green
Gutierrez
Hamilton
Hastings (FL)
Hilliard
Hinojosa
Hooley
Jackson (IL)
Jackson-Lee (TX)
Johnson (WI)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kind (WI)
Kleczka
Kucinich
LaFalce
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Matsui
McDermott
McGovern
McKinney
McNulty
Meehan
Miller (CA)
Minge
Moakley
Nadler
Neal
Oberstar
Obey
Olver
Owens
Poshard
Rahall
Rangel
Rivers
Rodriguez
Roybal-Allard
Rush
Sanders
Sawyer
Schumer
Serrano
Shays
Skaggs
Stokes
Strickland
Stupak
Thompson
Thurman
Tierney
Torres
Velázquez
Vento
Watt (NC)
Waxman
Wexler
Woolsey
Yates

NOT VOTING—20

Andrews
Armey
Bateman
Burr
Carson
Clay
Crane
Ewing
Gonzalez
Goodling
Harman
Hinchey
Manton
McCrery
Meeks (NY)
Paxon
Payne
Riley
Stabenow
Thomas

□ 1212

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RILEY. Mr. Speaker, due to unavoidable circumstances, I was not present for rollcall vote No. 166. Had I been present, I would have voted "aye" in favor of the rule.

The SPEAKER pro tempore (Mr. PETRI). Pursuant to House Resolution 441 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3616.

□ 1214

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes, with Mr. CAMP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, May 19, 1998 pursuant to House Resolution 435, all time for general debate had expired. Pursuant to House Resolution 441, no further general debate is in order.

The committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1999".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Reserve components.
Sec. 106. Defense Inspector General.
Sec. 107. Chemical Demilitarization Program.
Sec. 108. Defense health programs.
Sec. 109. Defense Export Loan Guarantee Program.

Subtitle B—Army Programs

Sec. 111. Multiyear procurement authority for Longbow Hellfire missile program.
Sec. 112. M1A2 System Enhancement Program Step 1 Program.

Subtitle C—Navy Programs

Sec. 121. Multiyear procurement authority for the Department of the Navy.

Subtitle D—Other Matters

Sec. 141. Funding, transfer, and management of the Assembled Chemical Weapons Assessment Program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic and applied research.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Management responsibility for Navy mine countermeasures programs.
Sec. 212. Future aircraft carrier transition technologies.
Sec. 213. Manufacturing technology program.

Subtitle C—Ballistic Missile Defense

Sec. 231. National Missile Defense policy.
Sec. 232. Limitation on funding for the Medium Extended Air Defense System.
Sec. 233. Limitation on funding for cooperative ballistic missile defense programs.
Sec. 234. Limitation on funding for counterproliferation support.

Sec. 235. Ballistic Missile Defense program elements.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Transfer from National Defense Stockpile Transaction Fund.
Sec. 305. Refurbishment of M1-A1 tanks.
Sec. 306. Operation of prepositioned fleet, National Training Center, Fort Irwin, California.
Sec. 307. Relocation of USS WISCONSIN.
Sec. 308. Fisher House Trust Funds.

Subtitle B—Information Technology Issues

Sec. 311. Additional information technology responsibilities of Chief Information Officers.
Sec. 312. Defense-wide electronic mall system for supply purchases.
Sec. 313. Protection of funding provided for certain information technology and national security programs.
Sec. 314. Priority funding to ensure year 2000 compliance of mission critical information technology and national security systems.
Sec. 315. Evaluation of year 2000 compliance as part of training exercises programs.

Subtitle C—Environmental Provisions

Sec. 321. Authorization to pay negotiated settlement for environmental cleanup at former Department of Defense sites in Canada.
Sec. 322. Removal of underground storage tanks.

Subtitle D—Defense Infrastructure Support Improvement

Sec. 331. Reporting and study requirements before change of commercial and industrial type functions to contractor performance.
Sec. 332. Clarification of requirement to maintain Government-owned and Government-operated core logistics capability.
Sec. 333. Oversight of development and implementation of automated identification technology.
Sec. 334. Conditions on expansion of functions performed under prime vendor contracts.
Sec. 335. Clarification of definition of depot-level maintenance and repair.
Sec. 336. Clarification of commercial item exception to requirements regarding core logistics capabilities.
Sec. 337. Development of plan for establishment of core logistics capabilities for maintenance and repair of C-17 aircraft.
Sec. 338. Contractor-operated civil engineering supply stores program.
Sec. 339. Report on savings and effect of personnel reductions in Army Materiel Command.

Subtitle E—Commissaries and Nonappropriated Fund Instrumentalities

Sec. 341. Continuation of management and funding of Defense Commissary Agency through the Office of the Secretary of Defense.
Sec. 342. Expansion of current eligibility of Reserves for commissary benefits.
Sec. 343. Repeal of requirement for Air Force to sell tobacco products to enlisted personnel.
Sec. 344. Restrictions on patron access to, and purchases in, overseas commissaries and exchange stores.
Sec. 345. Extension of demonstration project for uniform funding of morale, welfare, and recreation activities.
Sec. 346. Prohibition on consolidation or other organizational changes of Department of Defense retail systems.
Sec. 347. Authorized use of appropriated funds for relocation of Navy Exchange Service Command.
Sec. 348. Evaluation of merit of selling malt beverages and wine in commissary stores as exchange system merchandise.

Subtitle F—Other Matters

Sec. 361. Eligibility requirements for attendance at Department of Defense domestic dependent elementary and secondary schools.
Sec. 362. Specific emphasis of program to investigate fraud, waste, and abuse within Department of Defense.
Sec. 363. Revision of inspection requirements relating to Armed Forces Retirement Home.
Sec. 364. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 365. Strategic plan for expansion of distance learning initiatives.
Sec. 366. Public availability of operating agreements between military installations and financial institutions.
Sec. 367. Department of Defense readiness reporting system.
Sec. 368. Travel by Reservists on carriers under contract with General Services Administration.

Subtitle G—Demonstration of Commercial-Type Practices To Improve Quality of Personal Property Shipments

Sec. 381. Demonstration program required.
Sec. 382. Goals of demonstration program.
Sec. 383. Program participants.
Sec. 384. Test plan.
Sec. 385. Other methods of personal property shipping.
Sec. 386. Duration of demonstration program.
Sec. 387. Evaluation of demonstration program.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent end strength levels.
Sec. 403. Date for submission of annual manpower requirements report.
Sec. 404. Extension of authority for Chairman of the Joint Chiefs of Staff to designate up to 12 general and flag officer positions to be excluded from general and flag officer grade limitations.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the Reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Increase in number of members in certain grades authorized to serve on active duty in support of the Reserves.

Subtitle C—Authorization of Appropriations

Sec. 421. Authorization of appropriations for military personnel.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Codification of eligibility of retired officers and former officers for consideration by special selection boards.
Sec. 502. Communication to promotion boards by officers under consideration.
Sec. 503. Procedures for separation of regular officers for substandard performance of duty or certain other reasons.
Sec. 504. Posthumous commissions and warrants.
Sec. 505. Tenure of Chief of the Air Force Nurse Corps.

Subtitle B—Reserve Component Matters

Sec. 511. Composition of selective early retirement boards of Reserve general and flag officers of the Navy and Marine Corps.
Sec. 512. Active status service requirement for promotion consideration for Army and Air Force Reserve component brigadier generals.
Sec. 513. Revision to educational requirement for promotion of Reserve officers.

Subtitle C—Military Education and Training

Sec. 521. Requirements relating to recruit basic training.
Sec. 522. After-hours privacy for recruits during basic training.
Sec. 523. Extension of reporting dates for Commission on Military Training and Gender Related Issues.
Sec. 524. Improved oversight of innovative readiness training.

Subtitle D—Decorations, Awards, and Commendations

Sec. 531. Study of new decorations for injury or death in line of duty.
Sec. 532. Waiver of time limitations for award of certain decorations to specified persons.
Sec. 533. Commendation of the Navy and Marine Corps personnel who served in the United States Navy Asiatic Fleet from 1910–1942.
Sec. 534. Appreciation for service during World War I and World War II by members of the Navy assigned on board merchant ships as the Naval Armed Guard Service.
Sec. 535. Sense of Congress regarding the heroism, sacrifice, and service of the military forces of South Vietnam and other nations in connection with the United States Armed Forces during the Vietnam conflict.
Sec. 536. Sense of Congress regarding the heroism, sacrifice, and service of former South Vietnamese commandos in connection with United States Armed Forces during the Vietnam conflict.

Subtitle E—Administration of Agencies Responsible for Review and Correction of Military Records

Sec. 541. Personnel freeze.
Sec. 542. Professional staff.
Sec. 543. Ex parte communications.
Sec. 544. Timeliness standards.

Subtitle F—Other Matters

Sec. 551. One-year extension of certain force drawdown transition authorities relating to personnel management and benefits.
Sec. 552. Leave without pay for academy cadets and midshipmen.
Sec. 553. Provision for recovery, care, and disposition of the remains of all medically retired members.
Sec. 554. Continued eligibility under Voluntary Separation Incentive program for members who involuntarily lose membership in a reserve component.

Sec. 555. Definition of financial institution for direct deposit of pay.
Sec. 556. Increase in maximum amount for College Fund program.
Sec. 557. Central Identification Laboratory, Hawaii.
Sec. 558. Honor guard details at funerals of veterans.
Sec. 559. Applicability to all persons in chain of command of policy requiring exemplary conduct by commanding officers and others in authority in the Armed Forces.
Sec. 560. Report on prisoners transferred from United States Disciplinary Barracks, Fort Leavenworth, Kansas, to Federal Bureau of Prisons.
Sec. 561. Report on process for selection of members for service on courts-martial.
Sec. 562. Study of revising the term of service of members of the United States Court of Appeals for the Armed Forces.
Sec. 563. Status of cadets at the Merchant Marine Academy.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 1999.
Sec. 602. Basic allowance for housing outside the United States.
Sec. 603. Basic allowance for subsistence for Reserves.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. One-year extension of certain bonuses and special pay authorities for reserve forces.
Sec. 612. One-year extension of certain bonuses and special pay authorities for nurse officer candidates, registered nurses, and nurse anesthetists.
Sec. 613. One-year extension of authorities relating to payment of other bonuses and special pays.
Sec. 614. Aviation career incentive pay and aviation officer retention bonus.
Sec. 615. Special pay for diving duty.
Sec. 616. Selective reenlistment bonus eligibility for Reserve members performing active Guard and Reserve duty.
Sec. 617. Removal of ten percent restriction on selective reenlistment bonuses.
Sec. 618. Increase in maximum amount of Army enlistment bonus.
Sec. 619. Equitable treatment of Reserves eligible for special pay for duty subject to hostile fire or imminent danger.

Subtitle C—Travel and Transportation Allowances

Sec. 631. Exception to maximum weight allowance for baggage and household effects.
Sec. 632. Travel and transportation allowances for travel performed by members in connection with rest and recuperative leave from overseas stations.
Sec. 633. Storage of baggage of certain dependents.

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

Sec. 641. Effective date of former spouse survivor benefit coverage.

Subtitle E—Other Matters

Sec. 651. Deletion of Canal Zone from definition of United States possessions for purposes of pay and allowances.
Sec. 652. Accounting of advance payments.
Sec. 653. Reimbursement of rental vehicle costs when motor vehicle transported at Government expense is late.
Sec. 654. Education loan repayment program for certain health profession officers serving in Selected Reserve.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Services

Sec. 701. Expansion of dependent eligibility under retiree dental program.
Sec. 702. Plan for provision of health care for military retirees and their dependents comparable to health care provided under TRICARE Prime.
Sec. 703. Plan for redesign of military pharmacy system.
Sec. 704. Transitional authority to provide continued health care coverage for certain persons unaware of loss of CHAMPUS eligibility.

Subtitle B—TRICARE Program

Sec. 711. Payment of claims for provision of health care under the TRICARE program for which a third party may be liable.
Sec. 712. Procedures regarding enrollment in TRICARE Prime.

Subtitle C—Other Matters

Sec. 721. Inflation adjustment of premium amounts for dependents dental program.
Sec. 722. System for tracking data and measuring performance in meeting TRICARE access standards.
Sec. 723. Air Force research, development, training, and education on exposure to chemical, biological, and radiological hazards.
Sec. 724. Authorization to establish a Level 1 Trauma Training Center.
Sec. 725. Report on implementation of enrollment-based capitation for funding for military medical treatment facilities.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Sec. 801. Limitation on procurement of ammunition and components.
Sec. 802. Acquisition Corps eligibility.
Sec. 803. Amendments relating to procurement from firms in industrial base for production of small arms.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Sec. 901. Further reductions in defense acquisition workforce.
Sec. 902. Limitation on operation and support funds for the Office of the Secretary of Defense.
Sec. 903. Revision to defense directive relating to management headquarters and headquarters support activities.
Sec. 904. Under Secretary of Defense for Policy to have responsibility with respect to export control activities of the Department of Defense.
Sec. 905. Independent task force on transformation and Department of Defense organization.
Sec. 906. Improved accounting for defense contract services.
Sec. 907. Repeal of requirement relating to assignment of tactical airlift mission to reserve components.
Sec. 908. Repeal of certain requirements relating to Inspector General investigations of reprisal complaints.
Sec. 909. Consultation with Commandant of the Marine Corps regarding Marine Corps aviation.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 1001. Transfer authority.
Sec. 1002. Incorporation of classified annex.
Sec. 1003. Outlay limitations.

Subtitle B—Naval Vessels and Shipyards

Sec. 1011. Revision to requirement for continued listing of two Iowa-class battleships on the Naval Vessel Register.
Sec. 1012. Transfer of USS NEW JERSEY.
Sec. 1013. Long-term charter of three vessels in support of submarine rescue, escort, and towing.
Sec. 1014. Transfer of obsolete Army tugboat.
Sec. 1015. Long-term charter contracts for acquisition of auxiliary vessels for the Department of Defense.

Subtitle C—Matters Relating to Counter Drug Activities

Sec. 1021. Department of Defense support for counter-drug activities.
Sec. 1022. Support for counter-drug operation Caper Focus.

Subtitle D—Miscellaneous Report Requirements and Repeals

Sec. 1031. Annual report on resources allocated to support and mission activities.

Subtitle E—Other Matters

Sec. 1041. Clarification of land conveyance authority, Armed Forces Retirement Home, District of Columbia.
Sec. 1042. Content of notice required to be provided garnishees before garnishment of pay or benefits.
Sec. 1043. Training of special operations forces with friendly foreign forces.

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

Sec. 1101. Authority for release to Coast Guard of drug test results of civil service mariners of the Military Sealift Command.
Sec. 1102. Limitations on back pay awards.
Sec. 1103. Restoration of annual leave accumulated by civilian employees at installations in the Republic of Panama to be closed pursuant to the Panama Canal Treaty of 1977.
Sec. 1104. Repeal of program providing preference for employment of military spouses in military child care facilities.
Sec. 1105. Elimination of retained pay as basis for determining locality-based adjustments.
Sec. 1106. Observance of certain holidays at duty posts outside the United States.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

Sec. 1201. Limitation on funds for peacekeeping in the Republic of Bosnia and Herzegovina.
Sec. 1202. Reports on the mission of United States forces in Republic of Bosnia and Herzegovina.
Sec. 1203. Report on military capabilities of an expanded NATO alliance.
Sec. 1204. One-year extension of counter-proliferation authorities for support of United Nations Special Commission on Iraq.
Sec. 1205. Repeal of landmine moratorium.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.

Sec. 1303. Prohibition on use of funds for specified purposes.

Sec. 1304. Limitation on use of funds for chemical weapons destruction facility.

Sec. 1305. Limitation on obligation of funds for a specified period.

Sec. 1306. Requirement to submit breakdown of amounts requested by project category.

Sec. 1307. Limitation on use of funds until completion of fiscal year 1998 requirements.

Sec. 1308. Report on biological weapons programs in Russia.

Sec. 1309. Limitation on use of funds for biological weapons proliferation prevention activities in Russia.

Sec. 1310. Limitation on use of certain funds for strategic arms elimination in Russia or Ukraine.

Sec. 1311. Availability of funds.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Sec. 2001. Short title.

TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.

Sec. 2102. Family housing.

Sec. 2103. Improvements to military family housing units.

Sec. 2104. Authorization of appropriations, Army.

Sec. 2105. Increase in fiscal year 1998 authorization for military construction projects at Fort Drum, New York, and Fort Sill, Oklahoma.

TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.

Sec. 2202. Family housing.

Sec. 2203. Improvements to military family housing units.

Sec. 2204. Authorization of appropriations, Navy.

Sec. 2205. Authorization to accept road construction project, Marine Corps Base, Camp Lejeune, North Carolina.

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.

Sec. 2302. Family housing.

Sec. 2303. Improvements to military family housing units.

Sec. 2304. Authorization of appropriations, Air Force.

TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.

Sec. 2402. Improvements to military family housing units.

Sec. 2403. Energy conservation projects.

Sec. 2404. Authorization of appropriations, Defense Agencies.

Sec. 2405. Increase in fiscal year 1995 authorization for military construction projects at Pine Bluff Arsenal, Arkansas, and Umatilla Army Depot, Oregon.

Sec. 2406. Increase in fiscal year 1990 authorization for military construction project at Portsmouth Naval Hospital, Virginia.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.

Sec. 2502. Authorization of appropriations, NATO.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

Sec. 2602. Army Reserve construction project, Salt Lake City, Utah.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.

Sec. 2702. Extension of authorizations of certain fiscal year 1996 projects.

Sec. 2703. Extension of authorization of fiscal year 1995 project.

Sec. 2704. Effective date.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Definition of ancillary supporting facilities under the alternative authority for acquisition and improvement of military housing.

Subtitle B—Real Property and Facilities Administration

Sec. 2811. Restoration of Department of Defense lands used by another Federal agency.

Sec. 2812. Outdoor recreation development on military installations for disabled veterans, military dependents with disabilities, and other persons with disabilities.

Sec. 2813. Report on use of utility system conveyance authority.

Subtitle C—Defense Base Closure and Realignment

Sec. 2821. Payment of stipulated penalties assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 in connection with McClellan Air Force Base, California.

Sec. 2822. Elimination of waiver authority regarding prohibition against certain conveyances of property at Naval Station, Long Beach, California.

Subtitle D—Land Conveyances

PART I—ARMY CONVEYANCES

Sec. 2831. Land conveyance, Army Reserve Center, Massena, New York.

Sec. 2832. Land conveyance, Army Reserve Center, Ogdensburg, New York.

Sec. 2833. Land conveyance, Army Reserve Center, Jamestown, Ohio.

Sec. 2834. Land conveyance, Stewart Army Sub-Post, New Windsor, New York.

Sec. 2835. Land conveyance, Indiana Army Ammunition Plant, Charlestown, Indiana.

Sec. 2836. Land conveyance, Volunteer Army Ammunition Plant, Chattanooga, Tennessee.

Sec. 2837. Release of reversionary interest of United States in former Redstone Army Arsenal property conveyed to Alabama Space Science Exhibit Commission.

PART II—NAVY CONVEYANCES

Sec. 2841. Easement, Marine Corps Base, Camp Pendleton, California.

Sec. 2842. Land conveyance, Naval Reserve Readiness Center, Portland, Maine.

PART III—AIR FORCE CONVEYANCES

Sec. 2851. Land conveyance, Lake Charles Air Force Station, Louisiana.

Sec. 2852. Land conveyance, Air Force housing facility, La Junta, Colorado.

Subtitle E—Other Matters

Sec. 2861. Repeal of prohibition on joint use of Gray Army Airfield, Fort Hood, Texas, with civil aviation.

Sec. 2862. Designation of building containing Navy and Marine Corps Reserve Center, Augusta, Georgia.

Sec. 2863. Expansion of Arlington National Cemetery.

Sec. 2864. Reporting requirements under demonstration project for purchase of fire, security, police, public works, and utility services from local government agencies.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. Weapons activities.

Sec. 3102. Defense environmental restoration and waste management.

Sec. 3103. Other defense activities.

Sec. 3104. Defense nuclear waste disposal.

Subtitle B—Recurring General Provisions

Sec. 3121. Reprogramming.

Sec. 3122. Limits on general plant projects.

Sec. 3123. Limits on construction projects.

Sec. 3124. Fund transfer authority.

Sec. 3125. Authority for conceptual and construction design.

Sec. 3126. Authority for emergency planning, design, and construction activities.

Sec. 3127. Funds available for all national security programs of the Department of Energy.

Sec. 3128. Availability of funds.

Sec. 3129. Transfers of defense environmental management funds.

Subtitle C—Program Authorizations, Restrictions, and Limitations

Sec. 3131. Prohibition on Federal loan guarantees for defense environmental management privatization projects.

Sec. 3132. Extension of funding prohibition relating to international cooperative stockpile stewardship.

Sec. 3133. Use of certain funds for missile defense technology development.

Sec. 3134. Selection of technology for tritium production.

Sec. 3135. Limitation on use of certain funds at Hanford Site.

Subtitle D—Other Matters

Sec. 3151. Termination of worker and community transition assistance.

Sec. 3152. Requirement for plan to modify employment system used by Department of Energy in defense environmental management programs.

Sec. 3153. Report on stockpile stewardship criteria.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Definitions.

Sec. 3302. Authorized uses of stockpile funds.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Definitions.

Sec. 3402. Authorization of appropriations.

Sec. 3403. Price requirement on sale of certain petroleum during fiscal year 1999.

Sec. 3404. Disposal of Naval Petroleum Reserve Numbered 2.

Sec. 3405. Disposal of Naval Petroleum Reserve Numbered 3.
Sec. 3406. Disposal of Oil Shale Reserve Numbered 2.
Sec. 3407. Administration.

TITLE XXXV—PANAMA CANAL COMMISSION

Sec. 3501. Short title; references to Panama Canal Act of 1979.
Sec. 3502. Authorization of expenditures.
Sec. 3503. Purchase of vehicles.
Sec. 3504. Expenditures only in accordance with treaties.
Sec. 3505. Donations to the Commission.
Sec. 3506. Sunset of United States overseas benefits just before transfer.
Sec. 3507. Central Examining Office.
Sec. 3508. Liability for vessel accidents.
Sec. 3509. Panama Canal Board of Contract Appeals.
Sec. 3510. Technical amendments.

TITLE XXXVI—MARITIME ADMINISTRATION

Sec. 3601. Authorization of appropriations for fiscal year 1999.
Sec. 3602. Conveyance of NDRF vessel M/V BAYAMON.
Sec. 3603. Conveyance of NDRF vessels BENJAMIN ISHERWOOD and HENRY ECKFORD.
Sec. 3604. Clearinghouse for maritime information.
Sec. 3605. Conveyance of NDRF vessel ex-USS LORAIN COUNTY.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Army as follows:

(1) For aircraft, $1,420,759,000.

(2) For missiles, $1,232,285,000.

(3) For weapons and tracked combat vehicles, $1,507,638,000.

(4) For ammunition, $1,053,455,000.

(5) For other procurement, $3,136,918,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Navy as follows:

(1) For aircraft, $7,420,847,000.

(2) For weapons, including missiles and torpedoes, $1,192,195,000.

(3) For shipbuilding and conversion, $5,992,361,000.

(4) For other procurement, $3,969,507,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Marine Corps in the amount of $691,868,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Navy and the Marine Corps in the amount of $451,968,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Air Force as follows:

(1) For aircraft, $8,219,077,000.

(2) For missiles, $2,234,668,000.

(3) For ammunition, $383,627,000.

(4) For other procurement, $7,046,372,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 1999 for Defense-wide procurement in the amount of $1,962,866,000.

SEC. 105. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $50,000,000.

(2) For the Air National Guard, $50,000,000.

(3) For the Army Reserve, $50,000,000.

(4) For the Naval Reserve, $50,000,000.

(5) For the Air Force Reserve, $50,000,000.

(6) For the Marine Corps Reserve, $50,000,000.

SEC. 106. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Inspector General of the Department of Defense in the amount of $1,300,000.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 1999 the amount of $834,000,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

SEC. 108. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $402,387,000.

SEC. 109. DEFENSE EXPORT LOAN GUARANTEE PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the Department of Defense for carrying out the Defense Export Loan Guarantee Program under section 2540 of title 10, United States Code, in the total amount of $1,250,000.

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR LONGBOW HELLFIRE MISSILE PROGRAM.

Beginning with the fiscal year 1999 program year, the Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract for procurement of the AGM–114 Longbow Hellfire missile.

SEC. 112. M1A2 SYSTEM ENHANCEMENT PROGRAM STEP 1 PROGRAM.

Of the funds authorized to be appropriated for the Army in section 101 for weapons and tracked combat vehicles, $20,300,000 shall be available only for the Step 1 program for the M1A2 System Enhancement Program.

Subtitle C—Navy Programs

SEC. 121. MULTIYEAR PROCUREMENT AUTHORITY FOR THE DEPARTMENT OF THE NAVY.

(a) AUTHORITY FOR SPECIFIED NAVY AIRCRAFT PROGRAMS.—Beginning with the fiscal year 1999 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract for procurement for the following programs:

(1) The AV–8B aircraft program.

(2) The T–45TS aircraft program.

(3) The E–2C aircraft program.

(b) AUTHORITY FOR MARINE CORPS MEDIUM TACTICAL VEHICLE REPLACEMENT.—Beginning with the fiscal year 1999 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract to procure the Marine Corps Medium Tactical Vehicle Replacement.

Subtitle D—Other Matters

SEC. 141. FUNDING, TRANSFER, AND MANAGEMENT OF THE ASSEMBLED CHEMICAL WEAPONS ASSESSMENT PROGRAM.

(a) FUNDING.—Of the amount authorized to be appropriated in section 107, $12,600,000 shall be available for the Assembled Chemical Weapons Assessment Program (in this section referred to as the "Program").

(b) TRANSFER OF PROGRAM RESPONSIBILITY.—(1) The Under Secretary of Defense for Acquisition and Technology and the Secretary of the Army shall jointly submit to Congress, not later than December 1, 1998, a plan for the transfer of oversight of the Program from the Under Secretary to the Secretary.

(2) Oversight of the Program shall be transferred pursuant to the plan submitted under paragraph (1) not later than 60 days after the date of the submission of the notice required under section 152(f)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521(f)(2)).

(c) PLAN FOR PILOT PROGRAM.—If the Secretary of Defense proceeds with a pilot program under section 152(f) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521(f)), the Secretary shall prepare a plan for the pilot program and shall submit to Congress a report on such plan (including information on the cost of, and schedule for, implementing the pilot program).

(d) MANAGEMENT OF PROGRAM.—The Program shall be managed independently of the baseline incineration program until the pilot program is completed.

(e) DEFINITION.—In this section, the term "Assembled Chemical Weapons Assessment Program" means the program established in section 152(e) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521), and section 8065 of the Department of Defense Appropriations Act, 1997 (as contained in section 101 of Public Law 104–208; 110 Stat. 3009–101), for identifying and demonstrating alternatives to the baseline incineration process for the demilitarization of assembled chemical munitions.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $4,791,997,000.

(2) For the Navy, $8,377,059,000.

(3) For the Air Force, $13,785,401,000.

(4) For Defense-wide activities, $9,283,515,000, of which—

(A) $251,106,000 is authorized for the activities of the Director, Test and Evaluation; and

(B) $29,245,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC AND APPLIED RESEARCH.

(a) FISCAL YEAR 1999.—Of the amounts authorized to be appropriated by section 201, $3,078,251,000 shall be available for basic research and applied research projects.

(b) BASIC RESEARCH AND APPLIED RESEARCH DEFINED.—For purposes of this section, the term "basic research and applied research" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. MANAGEMENT RESPONSIBILITY FOR NAVY MINE COUNTERMEASURES PROGRAMS.

Section 216(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1317, as amended) is amended by striking out "through 1999" and inserting in lieu thereof "through 2003".

SEC. 212. FUTURE AIRCRAFT CARRIER TRANSITION TECHNOLOGIES.

Of the funds authorized to be appropriated under section 201(2) for Carrier System Development (program element 0603512N), $50,000,000 shall be available for research, development, test, evaluation, and insertion into the CVN–77 nuclear aircraft carrier program of technologies designed to transition to, demonstrate enhanced capabilities for, or mitigate cost and technical risks of, the CV(X) aircraft carrier program.

SEC. 213. MANUFACTURING TECHNOLOGY PROGRAM.

(a) REQUIREMENTS RELATING TO COMPETITION.—Section 2525(d)(1) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) For each grant awarded and each contract, cooperative agreement, or other transaction entered into on a cost-share basis under the program, the ratio of contract recipient cost to Government cost shall be determined by competitive procedures. For a project for which the Government receives an offer from only one offeror, the contracting officer shall negotiate the ratio of contract recipient cost to Government cost that represents the best value to the Government.".

(b) REQUIREMENTS RELATING TO COST SHARE WAIVERS.—Section 2525(d)(2) of such title is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) by inserting "(A)" after "(2)"; and

(3) by adding at the end the following new subparagraphs:

"(B) For any grant awarded or contract, cooperative agreement, or other transaction entered into on a basis other than a cost-sharing basis because of a determination made under subparagraph (A), the transaction file for the project concerned must document the rationale for the determination.

"(C) The Secretary of Defense may delegate the authority to make determinations under subparagraph (A) only to the Under Secretary of Defense for Acquisition and Technology or a service acquisition executive, as appropriate.".

(c) COST SHARE GOAL.—Section 2525(d) of such title is amended—

(1) by striking out paragraph (4); and

(2) in paragraph (3)—

(A) by striking out "At least" and inserting in lieu thereof "As a goal, at least";

(B) by striking out "shall" and inserting in lieu thereof "should"; and

(C) by adding at the end the following: "The Secretary of Defense, in coordination with the Secretaries of the military departments and upon recommendation of the Under Secretary of Defense for Acquisition and Technology, shall establish annual objectives to meet such goal.".

(d) ADDITIONAL INFORMATION TO BE INCLUDED IN FIVE-YEAR PLAN.—Section 2525(e)(1) of such title is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by inserting at the end the following new subparagraph:

"(C) the extent of cost sharing in the manufacturing technology program by companies in the private sector, weapons system program offices and other defense program offices, Federal agencies other than the Department of Defense, nonprofit institutions and universities, and other sources.".

Subtitle C—Ballistic Missile Defense

SEC. 231. NATIONAL MISSILE DEFENSE POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Threats posed by ballistic missiles and weapons of mass destruction to the national territory of the United States continue to grow as the trend in ballistic missile proliferation and development is toward longer range and increasingly sophisticated missiles.

(2) Russian and Chinese sources continue to proliferate missile and other advanced technologies.

(3) North Korea is developing the Taepo-Dong 2 missile, which would have a range sufficient to strike Alaska and Hawaii, and other countries hostile to the United States, including Iran, Libya, and Iraq, have demonstrated an interest in acquiring or developing ballistic missiles capable of reaching the United States.

(4) Russia's increased reliance on nuclear forces to compensate for the decline of its conventional forces and uncertainty regarding command and control of those nuclear forces increase the possibility of an accidental or unauthorized launch of Russian ballistic missiles.

(5) The United States could be deterred from effectively promoting or protecting its national interests around the world if any State or territory of the United States is vulnerable to long-range ballistic missiles deployed by nations hostile to the United States.

(b) SENSE OF CONGRESS CONCERNING NATIONAL MISSILE DEFENSE POLICY.—It is the sense of Congress that—

(1) any national missile defense system deployed by the United States must provide effective defense against limited, accidental, or unauthorized ballistic missile attack for all 50 States; and

(2) the territories of the United States should be afforded effective protection against ballistic missile attack.

SEC. 232. LIMITATION ON FUNDING FOR THE MEDIUM EXTENDED AIR DEFENSE SYSTEM.

None of the funds appropriated for fiscal year 1999 for the Ballistic Missile Defense Organization may be obligated for the Medium Extended Air Defense System (MEADS) until the Secretary of Defense certifies to Congress that the future-years defense plan includes sufficient programmed funding for that system to complete the design and development phase. If the Secretary does not submit such a certification by January 1, 1999, then (effective as of that date) the funds appropriated for fiscal year 1999 for the Ballistic Missile Defense Organization that are allocated for the MEADS program shall be available to support modification of the Patriot Advanced Capability–3, Configuration 3, so as to support the requirement for mobile theater missile defense to be met by the MEADS system.

SEC. 233. LIMITATION ON FUNDING FOR COOPERATIVE BALLISTIC MISSILE DEFENSE PROGRAMS.

Of the funds appropriated for fiscal year 1999 for the Russian-American Observational Satellite (RAMOS) program, $5,000,000 may not be obligated until the Secretary of Defense certifies to Congress that the Department of Defense has received detailed information concerning the nature, extent, and military implications of the transfer of ballistic missile technology from Russian sources to Iran.

SEC. 234. LIMITATION ON FUNDING FOR COUNTERPROLIFERATION SUPPORT.

None of the funds appropriated for fiscal year 1999 for counterproliferation support in Program Element 63160BR may be obligated until the Secretary of Defense submits to Congress the report required by section 234 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1664; 50 U.S.C. 2367) to be submitted not later than January 30, 1998.

SEC. 235. BALLISTIC MISSILE DEFENSE PROGRAM ELEMENTS.

(a) BMD PROGRAM ELEMENTS.—(1) Chapter 9 of title 10, United States Code, is amended by inserting after section 222 the following new section:

"§223. Ballistic missile defense programs

"(a) PROGRAM ELEMENTS SPECIFIED.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the amount requested for activities of the Ballistic Missile Defense Organization shall be set forth in accordance with the following program elements:

"(1) The Patriot system.

"(2) The Navy Area system.

"(3) The Theater High-Altitude Area Defense system.

"(4) The Navy Theater Wide system.

"(5) The Medium Extended Air Defense System.

"(6) Joint Theater Missile Defense.

"(7) National Missile Defense.

"(8) Support Technologies.

"(9) Family of Systems Engineering and Integration.

"(10) Ballistic Missile Defense Technical Operations.

"(11) Threat and Countermeasures.

"(12) International Cooperative Programs.

"(b) TREATMENT OF MAJOR DEFENSE ACQUISITION PROGRAMS.—Amounts requested for Theater Missile Defense and National Missile Defense major defense acquisition programs shall be specified in individual, dedicated program elements, and amounts appropriated for those programs shall be available only for Ballistic Missile Defense activities.

"(c) MANAGEMENT AND SUPPORT.—The amount requested for each program element specified in subsection (a) shall include requests for the amounts necessary for the management and support of the programs, projects, and activities contained in that program element.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 222 the following new item:

"223. Ballistic missile defense programs.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 251 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 221 note) is repealed.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $16,339,700,000.

(2) For the Navy, $21,839,328,000.

(3) For the Marine Corps, $2,539,703,000.

(4) For the Air Force, $18,816,108,000.

(5) For Defense-wide activities, $10,354,216,000.

(6) For the Army Reserve, $1,197,622,000.

(7) For the Naval Reserve, $948,639,000.

(8) For the Marine Corps Reserve, $116,993,000.

(9) For the Air Force Reserve, $1,747,696,000.

(10) For the Army National Guard, $2,464,815,000.

(11) For the Air National Guard, $3,096,933,000.

(12) For the Defense Inspector General, $130,764,000.

(13) For the United States Court of Appeals for the Armed Forces, $7,324,000.

(14) For Environmental Restoration, Army, $377,640,000.

(15) For Environmental Restoration, Navy, $281,600,000.

(16) For Environmental Restoration, Air Force, $379,100,000.

(17) For Environmental Restoration, Defense-wide, $26,091,000.

(18) For Environmental Restoration, Formerly Used Defense Sites, $195,000,000.

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $47,311,000.

(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $727,582,000.

(21) For the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, $15,000,000.

(22) For Defense Health Program, $9,663,035,000.

(23) Former Soviet Union Threat Reduction programs, $417,400,000.

(24) For Overseas Contingency Operations Transfer Fund, $746,900,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $1,076,571,000.

(2) For the National Defense Sealift Fund, $669,566,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 1999 from the Armed Forces Retirement Home Trust Fund the sum of $70,745,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) Transfer Authority.—To the extent provided in appropriations Acts, not more than $150,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 1999 in amounts as follows:

(1) For the Army, $50,000,000.

(2) For the Navy, $50,000,000.

(3) For the Air Force, $50,000,000.

(b) Treatment of Transfers.—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) Relationship to Other Transfer Authority.—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

SEC. 305. REFURBISHMENT OF M1–A1 TANKS.

Of the amount authorized to be appropriated pursuant to section 301(1) for operation and maintenance for the Army, $31,000,000 shall be available only for the refurbishment of up to 70 M1–A1 tanks under the AIM-XXI program.

SEC. 306. OPERATION OF PREPOSITIONED FLEET, NATIONAL TRAINING CENTER, FORT IRWIN, CALIFORNIA.

Of the amount authorized to be appropriated pursuant to section 301(1) for operation and maintenance for the Army, $60,200,000 shall be available only to pay costs associated with the operation of the prepositioned fleet of equipment during training rotations at the National Training Center, Fort Irwin, California.

SEC. 307. RELOCATION OF USS WISCONSIN.

Of the amount authorized to be appropriated pursuant to section 301(2) for operation and maintenance for the Navy, $6,000,000 may be available for the purpose of relocating the USS WISCONSIN, which is currently in a reserve status at the Norfolk Naval Shipyard, Virginia, to a suitable location in order to increase available berthing space at the shipyard.

SEC. 308. FISHER HOUSE TRUST FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1999, out of funds in Fisher House Trust Funds not otherwise appropriated, for the operation of Fisher houses described in section 2221(d) of title 10, United States Code, as follows:

(1) From the Fisher House Trust Fund, Department of the Army, $250,000 for Fisher houses that are located in proximity to medical treatment facilities of the Army.

(2) From the Fisher House Trust Fund, Department of the Navy, $150,000 for Fisher houses that are located in proximity to medical treatment facilities of the Navy.

(3) From the Fisher House Trust Fund, Department of the Air Force, $150,000 for Fisher houses that are located in proximity to medical treatment facilities of the Air Force.

Subtitle B—Information Technology Issues

SEC. 311. ADDITIONAL INFORMATION TECHNOLOGY RESPONSIBILITIES OF CHIEF INFORMATION OFFICERS.

(a) In General.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§2223. Information technology: additional responsibilities of Chief Information Officers

"(b) Additional Responsibilities.—In addition to the responsibilities provided for in chapter 35 of title 44 and in section 5125 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1425)—

"(1) the Chief Information Officer of the Department of Defense, with respect to the elements of the Department of Defense other than the military departments, shall—

"(A) review and provide recommendations to the Secretary of Defense on Department of Defense budget requests for information technology and national security systems;

"(B) ensure the interoperability of information technology and national security systems throughout the Department of Defense; and

"(C) ensure that information technology and national security systems standards that will apply throughout the Department of Defense are prescribed; and

"(2) the Chief Information Officer of each military department, with respect to the military department concerned, shall—

"(A) review budget requests for all information technology and national security systems;

"(B) ensure that information technology and national security systems are in compliance with standards of the Government and the Department of Defense;

"(C) ensure that information technology and national security systems are interoperable with other relevant information technology and national security systems of the Government and the Department of Defense;

"(D) provide for the elimination of duplicate information technology and national security systems within and between the military departments and Defense Agencies; and

"(E) coordinate with the Joint Staff with respect to information technology and national security systems.

"(b) Definitions.—In this section:

"(1) The term 'Chief Information Officer' means the senior official designated by the Secretary of Defense or a Secretary of a military department pursuant to section 3506 of title 44.

"(2) The term 'information technology' has the meaning given that term by section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

"(3) The term 'national security system' has the meaning given that term by section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2223. Information technology: additional responsibilities of Chief Information Officers.".

(b) Effective Date.—Section 2223 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1998.

SEC. 312. DEFENSE-WIDE ELECTRONIC MALL SYSTEM FOR SUPPLY PURCHASES.

(a) Electronic Mall System.—In this section, the term "electronic mall system" means an electronic system for displaying, ordering, and purchasing supplies and materiel available from sources within the Department of Defense and from the private sector.

(b) Development and Management.—Using existing systems and technology available in the Department of Defense, the Defense Logistics Agency shall develop a single, defense-wide electronic mall system. The Defense Logistics Agency shall be responsible for the management of the resulting electronic mall system. The Secretary of each military department and the head of each Defense Agency shall provide to the Defense Logistics Agency the necessary and requested data to support the development and operation of the electronic mall system.

(c) Implementation Date.—The electronic mall system shall be operational and available throughout the Department of Defense not later than June 1, 1999. After that date, a military department or Defense Agency (other than the Defense Logistics Agency) may not develop or operate an electronic mall system.

SEC. 313. PROTECTION OF FUNDING PROVIDED FOR CERTAIN INFORMATION TECHNOLOGY AND NATIONAL SECURITY PROGRAMS.

(a) Use for Specified Purposes.—Of the amounts authorized to be appropriated to the Department of Defense for fiscal years 1999, 2000, and 2001 for information technology and national security programs of the Department of Defense, not less than the amount specified in subsection (b) shall be available for each such fiscal year for the purposes of the information technology and national security programs described in such subsection, unless an alternative use of the funds is specifically approved by a law enacted after the date of the enactment of the law originally authorizing the funds.

(b) Covered Programs and Amounts.—The information techrology and national security programs referred to in subsection (a), and the amounts to be available for each program, are the following:

(1) The Force XXI program of the Army, $360,000,000.

(2) The Information Technology for the 21st Century programs of the Navy, $472,000,000.

(3) The Communications Infrastructure programs of the Air Force, $228,500,000.

(4) The Telecom and Computing Infrastructure programs of the Marine Corps, $93,000,000.

(c) Definitions.—In this section:

(1) The term "information technology" has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(2) The term "national security system" has the meaning given that term in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

SEC. 314. PRIORITY FUNDING TO ENSURE YEAR 2000 COMPLIANCE OF MISSION CRITICAL INFORMATION TECHNOLOGY AND NATIONAL SECURITY SYSTEMS.

(a) FUNDS FOR COMPLETION OF YEAR 2000 CONVERSION.—(1) Of the amounts authorized to be appropriated pursuant to this Act for information technology and national security systems of the Department of Defense designated as mission critical, not more than 25 percent may be used to fund activities unrelated to ensuring that the awareness, assessment, and renovation phases of year 2000 conversion for such information technology and national security systems are completed.

(2) Of the amounts authorized to be appropriated pursuant to this Act for information technology and national security systems of the Department of Defense (other than information technology and national security systems covered by paragraph (1)), not less than $1,000,000,000 shall be available only for transfer to support activities to ensure that the awareness, assessment, renovation, and validation phases of year 2000 conversion for information technology and national security systems covered by paragraph (1) are completed.

(b) EXCEPTIONS.—(1) This section does not apply to or affect funding for information technology and national security programs identified in section 313(b).

(2) The Secretary of Defense may authorize expenditures in excess of the 25 percent limitation specified in subsection (a)(1) if the Secretary determines that additional expenditures are required to prevent the failure of the information technology or national security system and provides prior notice to Congress of the reasons for the additional expenditures.

(c) TERMINATION.—(1) On the date on which the Secretary of Defense determines that the year 2000 renovation phase has been completed for a particular information technology or national security system covered by paragraph (1) of subsection (a), such paragraph shall cease to apply to that information technology or national security system.

(2) Paragraph (2) of such subsection shall cease to apply on the date on which the Secretary of Defense determines that all of the information technology and national security systems covered by paragraph (1) of such subsection are fully funded through the validation phase of year 2000 conversion, have an established contingency plan, and have completed a point of origin to point of execution evaluation.

(d) COMPTROLLER GENERAL REVIEW.—Not later than January 30, 1999, the Comptroller General shall submit to Congress a briefing containing the following:

(1) Separate lists of each information technology and national security system of the Department of Defense covered by subsection (a)(1) for which the renovation phase of year 2000 conversion is not completed by December 30, 1998.

(2) A evaluation of the effect of subsection (a) on the year 2000 conversion success rate.

(3) A list of each information technology and national security system covered by subsection (a)(1) that will not achieve year 2000 compliance by September 30, 1999.

(4) An explanation of how the military departments, the Joint Chiefs of Staff, and Defense Agencies are applying the definition of mission critical.

(5) Recommendations regarding the manner in which funding could best be allocated to achieve year 2000 compliance for the greatest number of information technology and national security systems covered by subsection (a)(1).

(e) DEFINITIONS.—In this section:

(1) The term "information technology" has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(2) The term "national security system" has the meaning given that term in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

(3) The term "mission critical" means an information technology or national security system of the Department of Defense identified as mission critical in the table prepared by the Joint Chiefs of Staff entitled "Mission Critical Systems (All Services/Agencies)", dated March 20, 1998, or in the table printed by the Defense Integrated Support Tool entitled "Year 2000 Information on Mission Critical Systems", dated March 19, 1998.

(4) The terms "awareness", "assessment", "renovation", and "validation" have the meanings given the terms in the Department of Defense "Year 2000 Management Plan", version 1.0, released in April 1997.

SEC. 315. EVALUATION OF YEAR 2000 COMPLIANCE AS PART OF TRAINING EXERCISES PROGRAMS.

(a) REPORT ON EVALUATION PLAN.—Not later than December 15, 1998, the Secretary of Defense shall submit to Congress a report containing a plan to include a simulated year 2000 as part of the military exercises described in subsection (b) in order to evaluate, in an operational environment, the extent to which information technology and national security systems involved in the exercises will successfully operate, including the ability of the systems to access and transmit information from point of origin to point of termination, during the actual year 2000.

(b) COVERED MILITARY EXERCISES.—A military exercise referred to in subsection (a) is a military exercise conducted by the Department of Defense, during the period beginning on January 1, 1999, and ending on September 30, 1999—

(1) under the training exercises program known as the "CJCS Exercise Program";

(2) at the Naval Strike and Air Warfare Center, the Army National Training Center, or the Air Force Air Warfare Center; or

(3) as part of Naval Carrier Group fleet training or Marine Corps Expeditionary Unit training.

(c) ELEMENTS OF REPORT.—The report under subsection (a) shall include the following:

(1) A list of all military exercises described in subsection (b) to be conducted during the period specified in such subsection.

(2) A description of the manner in which the year 2000 will be simulated for information technology and national security systems involved in each military exercise.

(3) The duration of the year 2000 simulation in each military exercise.

(4) The methodology to be used in turning over the information technology and national security systems to the year 2000 in order to best identify those systems that fail to operate reliably during the military exercise.

(5) A list of the information technology and national security systems excluded from the plan under subsection (d)(1), including how the military exercise will utilize an excluded system's year 2000 contingency plan.

(6) A list of the exercises and information technology and national security systems excluded from the plan under subsection (d)(2), and a description of the effect that continued year 2000 noncompliance of the systems would have on military readiness.

(d) EXCLUSIONS.—(1) Subsection (a) shall not apply to an information technology or national security system if the Secretary of Defense determines that the system will be incapable of performing reliably during the year 2000 simulation portion of the military exercise. In the case of each excluded system, the system may not be used during the period of the year 2000 simulation. Instead, the excluded system shall be replaced by the year 2000 contingency plan for the system.

(2) If the mission of a military exercise will be seriously hampered by the number of information technology and national security systems covered by paragraph (1), the Secretary of Defense may exclude the entire exercise from the requirements of subsection (a).

(3) Subsection (a) shall not apply to an information technology or national security system with cryptological applications.

(4) If the decision to exclude a military exercise or information technology or national security system is made under paragraph (1) or (2) after the date of the submission of the report required by subsection (a), the Secretary of Defense shall notify Congress of the exclusion not later than two weeks before commencing the military exercise. The notification shall include the information required under paragraph (5) or (6) of subsection (c), depending on whether the exclusion covers the entire exercise or particular information technology and national security systems.

(e) COMPTROLLER GENERAL REVIEW.—Not later than January 30, 1999, the Comptroller General shall review the report and plan submitted under subsection (a) and submit to Congress a briefing evaluating the methodology to be used under the plan to simulate the year 2000, describing the potential information that will be collected as a result of implementation of the plan, and describing the impact that the plan will have on military readiness.

(f) DEFINITIONS.—In this section:

(1) The term "information technology" has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(2) The term "national security system" has the meaning given that term in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

Subtitle C—Environmental Provisions

SEC. 321. AUTHORIZATION TO PAY NEGOTIATED SETTLEMENT FOR ENVIRONMENTAL CLEANUP AT FORMER DEPARTMENT OF DEFENSE SITES IN CANADA.

(a) AUTHORIZATION.—To the extent provided in appropriations Acts, the Secretary of Defense may pay an amount to the Government of Canada of not more than $100,000,000 (in fiscal year 1996 constant dollars), for purposes of implementing the October 1996 negotiated settlement between the United States and Canada relating to environmental cleanup at various sites in Canada that were formerly used by the Department of Defense.

(b) METHOD OF PAYMENT.—The amount authorized by subsection (a) shall be paid in 10 annual payments, with the first payment made from amounts appropriated for fiscal year 1998.

(c) FISCAL YEAR 1998 PAYMENT.—The payment under this section for fiscal year 1998 shall be made from amounts appropriated pursuant to section 301(5) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1669).

(d) FISCAL YEAR 1999 PAYMENT.—The payment under this section for fiscal year 1999 shall be made from amounts appropriated pursuant to section 301(5).

(e) LIMITATION.—The authorization provided in this section shall not be construed as setting a precedent for payment under a treaty of an environmental claim made by another nation, unless the Senate has given its consent to the ratification of the treaty.

SEC. 322. REMOVAL OF UNDERGROUND STORAGE TANKS.

Of the amount authorized to be appropriated pursuant to section 301(18) (relating to environmental restoration of formerly used defense sites), the Secretary of the Army may use not more than $150,000 for the removal of underground storage tanks at the Authorities Allied Industrial Park, Macon, Georgia.

Subtitle D—Defense Infrastructure Support Improvement

SEC. 331. REPORTING AND STUDY REQUIREMENTS BEFORE CHANGE OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS TO CONTRACTOR PERFORMANCE.

(a) In General.—Section 2461 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (h) and transferring such subsection to appear after subsection (g); and

(2) by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

"(a) Reporting and Study Requirements as Precondition to Change in Performance.—A commercial or industrial type function of the Department of Defense that, as of October 1, 1980, was being performed by Department of Defense civilian employees may not be changed to performance by a private contractor or changed to procurement through a private contractor until the Secretary of Defense fully complies with the reporting and study requirements specified in subsections (b) and (c).

"(b) Notification and Elements of Study.—(1) Before commencing to study a commercial or industrial type function described in subsection (a) for possible change to performance by a private contractor or possible change to procurement through a private contractor, the Secretary of Defense shall submit to Congress a report containing the following:

"(A) The function to be studied for possible change.

"(B) The location at which the function is performed by Department of Defense civilian employees.

"(C) The number of civilian employee positions potentially affected.

"(D) The anticipated length and cost of the study.

"(E) A certification that the performance of the commercial or industrial type function by civilian employees of the Department of Defense is not precluded due to any constraint or limitation in terms of man years, end strengths, full-time equivalent positions, or maximum number of employees.

"(2) The responsibility of the Secretary of Defense to submit the report required under paragraph (1) may be delegated only to senior acquisition executives or higher officials for the military departments and the Defense Agencies.

"(3) The study of a commercial or industrial type function for possible change in performance shall include the following:

"(A) A comparison of the cost of performance of the function by Department of Defense civilian employees and by private contractor to demonstrate whether change to performance by a private contractor or change to procurement through a private contractor will result in savings to the Government over the life of the contract, including in the comparison—

"(i) the amount estimated by the Secretary of Defense (based on bids received) to be the amount of a contract for performance of the function by a private contractor;

"(ii) the cost to the Government of Department of Defense civilian employees performing the function; and

"(iii) the costs and expenditures which the Government would incur (in addition to the amount of the contract) because of the award of such a contract.

"(B) An examination of the potential economic effect of performance of the function by a private contractor—

"(i) on employees who would be affected by such a change in performance; and

"(ii) on the local community and the Government, if more than 75 employees perform the function.

"(C) An examination of the effect of performance of the function by a private contractor on the military mission of the function.

"(4) If the commercial or industrial type function at issue involves a working-capital fund in the Department of Defense and the study concerns the possible procurement by a requisitioning agency of services or supplies from a private contractor instead of the working-capital fund, in lieu of the comparison required by paragraph (3), the study shall include a comparison of the sources of the services or supplies to determine which source is more cost-effective for the requisitioning agency.

"(5) An individual or entity at a facility where a commercial or industrial type function is studied for possible change in performance may raise an objection to the study on the grounds that the report required under paragraph (1) as a precondition for the study does not contain the certification required by subparagraph (E) of such paragraph. The objection may be raised at any time during the course of the study, shall be in writing, and shall be submitted to the Secretary of Defense. If the Secretary determines that the certification was omitted, the commercial or industrial type function covered by the study may not be the subject of request for proposal or award of a contract until a certification is made that fully complies with paragraph (1)(E) and the other requirements of this section are satisfied.

"(c) Notification of Decision.—(1) If, as a result of the completion of a study under subsection (b)(3), a decision is made to change the commercial or industrial type function that was the subject of the study to performance by a private contractor or to procurement through a private contractor, the Secretary of Defense shall submit to Congress a report describing that decision. The report shall—

"(A) indicate that the study under subsection (b)(3) has been completed;

"(B) certify that the Government calculation for the cost of performance of the function by Department of Defense civilian employees is based on an estimate of the most efficient and cost effective organization for performance of the function by Department of Defense civilian employees;

"(C) certify that the comparison required by subsection (b)(3)(A) (or alternatively by subsection (b)(4)) as part of the study demonstrates that the performance of the function by a private contractor or procurement of the function through a private contractor will result in savings to the Government over the life of the contract;

"(D) certify that the entire comparison is available for examination; and

"(E) contain a timetable for completing change of the function to contractor performance.

"(2) The actual change of the function to contractor performance may not begin until after the submission of the report required by this subsection.".

(b) Conforming Amendments.—(1) Subsections (e)(2) and (f)(1) of such section are amended by striking out "converted" and inserting in lieu thereof "changed".

(2) Subsection (f)(2) of such section is amended by striking out "conversion" and inserting in lieu thereof "change".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply with respect to conversion of a function of the Department of Defense to performance by a private contractor concerning which the Secretary of Defense provided to Congress, before the date of the enactment of this Act, a notification under paragraph (1) of section 2461(a) of title 10, United States Code, as in effect on the day before the date of the enactment of this Act.

SEC. 332. CLARIFICATION OF REQUIREMENT TO MAINTAIN GOVERNMENT-OWNED AND GOVERNMENT-OPERATED CORE LOGISTICS CAPABILITY.

Section 2464 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Rule of Construction.—The requirement under subsection (a) that the Department of Defense maintain a core logistics capability that is Government-owned and Government-operated is not satisfied when a core logistics workload is converted to contractor performance even though the actual performance of the workload will be carried out in a Government-owned, Government-operated facility of the Department of Defense as a subcontractor of the private contractor. Nothing in section 2474 of this title or section 337 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2717) authorizes the use of subcontracts as a means to provide workloads to Government-owned, Government-operated facilities of the Department of Defense in order to satisfy paragraph (4) of subsection (a).".

SEC. 333. OVERSIGHT OF DEVELOPMENT AND IMPLEMENTATION OF AUTOMATED IDENTIFICATION TECHNOLOGY.

(a) Smartcard Program Defined.—In this section, the term "smartcard program" means an automated identification technology program, including any pilot program, employing one or more of the following technologies:

(1) Magnetic stripe.

(2) Bar codes, both linear and two-dimensional (including matrix symbologies).

(3) Smartcard.

(4) Optical memory.

(5) Personal computer memory card international association carriers.

(6) Other established or emerging automated identification technologies, including biometrics and radio frequency identification.

(b) Oversight Responsibility.—(1) The Smartcard Technology Office established in the Defense Human Resources Field Activity of the Department of Defense shall be responsible for—

(A) overseeing the development and implementation of all smartcard programs in the Department; and

(B) coordinating smartcard programs with the Joint Staff, the Secretaries of the military departments, and the directors of the Defense Agencies.

(2) After the date of the enactment of this Act, funds appropriated for the Department of Defense may not be obligated for a smartcard program unless the program is reviewed and approved by the Smartcard Technology Office. The review and approval before that date of a smartcard program by the Office is sufficient to satisfy the requirements of this paragraph.

(c) Types of Oversight.—As part of its oversight responsibilities, the Smartcard Technology Office shall establish standards designed—

(1) to ensure the compatibility and interoperability of smartcard programs in the Department of Defense; and

(2) to identify and terminate redundant, unfeasible, or uneconomical smartcard programs.

SEC. 334. CONDITIONS ON EXPANSION OF FUNCTIONS PERFORMED UNDER PRIME VENDOR CONTRACTS.

(a) Prime Vendor Contract Defined.—For purposes of this section, the term "prime vendor contract" means an innovative contract that gives a defense contractor the responsibility to manage, store, and distribute inventory, manage and provide services, or manage and perform research, on behalf of the Department of Defense on a frequent, regular basis, for users within the Department on request. The term includes contracts commonly referred to as prime vendor support contracts, flexible sustainment contracts, and direct vendor delivery contracts.

(b) Conditions on Expanded Use.—If the Secretary of Defense or the Secretary of a military department proposes to enter into a prime vendor contract for a hardware system, including the performance or management of depot-level maintenance and repair (as defined in section 2460 of title 10, United States Code) or logistics management responsibilities, the Secretary may not enter into the prime vendor contract until the end of the 60-day period beginning on the date on which the Secretary submits to Congress a report, specific to that proposal, that—

(1) describes the competitive procedures to be used to award the prime vendor contract;

(2) evaluates the effect of the prime vendor contract on working-capital funds in the Department of Defense; and

(3) contains a cost/benefit analysis that demonstrates that use of the prime vendor contract will result in savings to the Government over the life of the contract.

(c) Comptroller General Review.—During the waiting period provided in subsection (b) for a proposed prime vendor contract, the Comptroller General shall review the report submitted under subsection (b) with respect to that contract and submit to Congress a report regarding—

(1) whether the cost savings to the Government identified in the report submitted under subsection (b) are achievable; and

(2) whether use of a prime vendor contract will comply with the requirements of chapter 146 of title 10, United States Code, applicable to depot-level maintenance and repair.

(d) Relationship to Other Laws.—Nothing in this section shall be construed to exempt a prime vendor contract from the requirements of section 2461 of title 10, United States Code, or any other provision of chapter 146 of such title.

SEC. 335. CLARIFICATION OF DEFINITION OF DEPOT-LEVEL MAINTENANCE AND REPAIR.

Section 2460(a) of title 10, United States Code, is amended by inserting before the period at the end of the first sentence the following: "or the location at which the maintenance or repair is performed".

SEC. 336. CLARIFICATION OF COMMERCIAL ITEM EXCEPTION TO REQUIREMENTS REGARDING CORE LOGISTICS CAPABILITIES.

Section 2464(a)(5) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(5)";

(2) by adding at the end of subparagraph (A), as so designated, the following: "The determination of whether a modification is minor shall be based on a comparison of only the critical systems of the version sold in the commercial marketplace and the version purchased by the Government, and a modification may not be considered to be minor unless at least 90 percent of the total content by component value remains identical."; and

(3) by adding at the end the following new subparagraph:

"(B) In this paragraph, the term 'substantial quantities' means, with respect to determining whether an item is a commercial item, that purchases and leases of the item to the general public constitute the majority of all transactions involving the item at the time the exception under paragraph (3) is proposed to be exercised.".

SEC. 337. DEVELOPMENT OF PLAN FOR ESTABLISHMENT OF CORE LOGISTICS CAPABILITIES FOR MAINTENANCE AND REPAIR OF C–17 AIRCRAFT.

(a) Findings.—Congress finds the following:

(1) The C–17 aircraft, which is replacing the C–141 aircraft, will serve as the cornerstone of heavy airlift capability of the Armed Forces.

(2) The C–17 aircraft achieved initial operational capability in January 1995 and will complete the significant fourth year of its operational capability in January 1999.

(3) As provided in section 2464(a)(3) of title 10, United States Code, the C–17 aircraft is a weapon system that is "necessary to enable the armed forces to fulfill the strategic and contingency plans prepared by the Chairman of the Joint Chiefs of Staff".

(4) The depot-level maintenance and repair of such a weapon system must be performed at Government-owned, Government-operated facilities of the Department of Defense in order to maintain the core logistics capabilities of the Department of Defense, as required under such section 2464.

(5) The sole-source contract entered into in January 1998 regarding the depot-level maintenance and repair of C–17 aircraft and related tasks, known as the Interim Contract for the C–17 Flexible Sustainment Program, does not meet the requirements of law.

(b) Plan Required.—Not later than March 1, 1999, the Secretary of the Air Force shall submit to Congress a plan for the establishment of the core logistics capabilities for the C–17 aircraft consistent with the requirements of section 2464 of title 10, United States Code.

(c) Effect on Existing Contract.—After March 1, 1999, the Secretary of the Air Force may not extend the Interim Contract for the C–17 Flexible Sustainment Program until after the end of the 60-day period beginning on the date the plan required by subsection (b) is received by Congress.

(d) Comptroller General Review.—During the period specified in subsection (c), the Comptroller General shall review the plan required under subsection (b) and submit to Congress a report evaluating the merits of the plan.

SEC. 338. CONTRACTOR-OPERATED CIVIL ENGINEERING SUPPLY STORES PROGRAM.

(a) Definitions.—In this section:

(1) The term "contractor-operated civil engineering supply store" means a Government-owned facility that, as of the date of the enactment of this Act, is operated by a contractor under the contractor-operated civil engineering supply store (COCESS) program of the Department of the Air Force for the purpose of—

(A) maintaining inventories of civil engineering supplies on behalf of a military department; and

(B) furnishing such supplies to the department as needed.

(2) The term "civil engineering supplies" means parts and supplies needed for the repair and maintenance of military installations.

(b) Findings.—Congress finds the following:

(1) In 1970, the Strategic Air Command of the Air Force began to use contractor-operated civil engineering supply stores to improve the efficiency and effectiveness of materials management and relieve the Air Force from having to maintain large inventories of civil engineering supplies.

(2) Contractor-operated civil engineering supply stores are designed to support the civil engineering and public works efforts of the Armed Forces through the provision of quality civil engineering supplies at competitive prices and within a reasonable period of time.

(3) Through the use of a contractor-operated civil engineering supply store, a guaranteed inventory level of civil engineering supplies is maintained at a military installation, which ensures that urgently needed civil engineering supplies are available on site.

(4) The contractor operating the contractor-operated civil engineering supply store is an independent business organization whose customer is a military department and the Armed Forces and who is subject to all the rules of private business and the regulations of the Government.

(5) The use of contractor-operated civil engineering supply stores ensures the best price and best buy for the Government.

(6) Ninety-five percent of the cost savings realized through the use of contractor-operated civil engineering supply stores is due to savings in the cost of actually procuring supplies.

(7) In the past 30 years, private contractors have never lost a cost comparison conducted pursuant to the criteria set forth in Office of Management and Budget Circular A–76 for the provision of civil engineering supplies to the Government.

(c) Conditions on Multi-Function Contracts.—A civil engineering supplies function that is performed, as of the date of the enactment of this Act, by a contractor-operated civil engineering supply store may not be combined with another supply function or any service function, including any base operating support function, for purposes of competition or contracting, until—

(1) the Secretary of Defense submits to Congress a report—

(A) notifying Congress of the proposed combined competition or contract; and

(B) explaining why a combined competition or contract is the best method by which to achieve cost savings and efficiencies to the Government; and

(2) the Comptroller General reviews the report and submits to Congress a briefing regarding whether the cost savings and efficiencies identified in the report are achievable.

(d) Relationship to Other Laws.—If a civil engineering supplies function covered by subsection (c) is proposed for combination with a supply or service function that is subject to the study and reporting requirements of section 2461 of title 10, United States Code, the Secretary of Defense may include the report required under subsection (c) as part of the report under such section.

SEC. 339. REPORT ON SAVINGS AND EFFECT OF PERSONNEL REDUCTIONS IN ARMY MATERIEL COMMAND.

(a) Report Required.—Not later than March 31, 1999, the Comptroller General shall submit to the congressional defense committees a report concerning—

(1) the effect that the proposed personnel reductions in the Army Materiel Command will have on workload and readiness if implemented; and

(2) the likelihood that the cost savings projected to occur from such reductions will actually be achieved.

(b) Delay in Implementation of Reductions Pending Report.—During the period specified in subsection (c), the Secretary of Defense and the Secretary of the Army may not commence personnel reductions based on the guidelines contained in the May 1997 report of the Quadrennial Defense Review (including the National Defense Panel) prepared pursuant to subtitle B of title IX of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 10 U.S.C. 111 note) at any Army Material Command facility that provides depot-level maintenance and repair or at any Army Arsenal.

(c) Duration of Delay.—Subsection (b) applies only during the period beginning on the date of the enactment of this Act and ending on the earlier of the following:

(1) March 31, 1999.

(2) The date on which the report required by subsection (a) is submitted.

Subtitle E—Commissaries and Nonappropriated Fund Instrumentalities

SEC. 341. CONTINUATION OF MANAGEMENT AND FUNDING OF DEFENSE COMMISSARY AGENCY THROUGH THE OFFICE OF THE SECRETARY OF DEFENSE.

Section 192 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) SPECIAL RULE FOR DEFENSE COMMISSARY AGENCY.—Notwithstanding the results of the periodic review required under subsection (c) with regard to the Defense Commissary Agency, the Secretary of Defense may not transfer to the Secretary of a military department the responsibility to manage and fund the provision of services and supplies provided by the Defense Commissary Agency unless the transfer of the management and funding responsibility is specifically authorized by a law enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1999.".

SEC. 342. EXPANSION OF CURRENT ELIGIBILITY OF RESERVES FOR COMMISSARY BENEFITS.

(a) DAYS OF ELIGIBILITY FOR READY RESERVE MEMBERS WITH 50 CREDITABLE POINTS.—Section 1063 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) in subsection (a)—

(A) by striking out "(1)";

(B) by striking out "12 days of eligibility" and inserting in lieu thereof "24 days of eligibility"; and

(C) by striking out "(2) Paragraph (1)" and inserting in lieu thereof "(b) EFFECT OF COMPENSATION OR TYPE OF DUTY.—Subsection (a)".

(b) DAYS OF ELIGIBILITY FOR RESERVE RETIREES UNDER AGE 60.—Section 1064 of such title is amended by striking out "for 12 days each calendar year" and inserting in lieu thereof "for 24 days each calendar year".

(c) ELIGIBILITY OF MEMBERS OF NATIONAL GUARD SERVING IN FEDERALLY DECLARED DISASTER.—Chapter 54 of such title is amended by inserting after section 1063 the following new section:

"§1063a. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster

"(a) ELIGIBILITY OF MEMBERS.—A member of the National Guard who, although not in Federal service, is called or ordered to duty in response to a federally declared disaster shall be permitted to use commissary stores and MWR retail facilities during the period of such duty on the same basis as members of the armed forces on active duty.

"(b) ELIGIBILITY OF DEPENDENTS.—A dependent of a member of the National Guard who is permitted under subsection (a) to use commissary stores and MWR retail facilities shall be permitted to use such stores and facilities, during the same period as the member, on the same basis as dependents of members of the armed forces on active duty.

"(c) DEFINITIONS.—In this section:

"(1) FEDERALLY DECLARED DISASTER.—The term 'federally declared disaster' means a disaster or other situation for which a Presidential declaration of major disaster is issued under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

"(2) MWR RETAIL FACILITIES.—The term 'MWR retail facilities' means exchange stores and other revenue-generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.".

(d) SECTION HEADINGS.—(1) The heading of section 1063 of such title is amended to read as follows:

"§1063. Use of commissary stores: members of Ready Reserve with at least 50 creditable points".

(2) The heading of section 1064 of such title is amended to read as follows:

"§1064. Use of commissary stores: persons qualified for retired pay under chapter 1223 but under age 60".

(e) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 54 of such title is amended by striking out the items relating to sections 1063 and 1064 and inserting in lieu thereof the following items:

"1063. Use of commissary stores: members of Ready Reserve with at least 50 creditable points.
"1063a. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster.
"1064. Use of commissary stores: persons qualified for retired pay under chapter 1223 but under age 60.".

SEC. 343. REPEAL OF REQUIREMENT FOR AIR FORCE TO SELL TOBACCO PRODUCTS TO ENLISTED PERSONNEL.

(a) REPEAL.—Section 9623 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 939 of such title is amended by striking out the item relating to section 9623.

SEC. 344. RESTRICTIONS ON PATRON ACCESS TO, AND PURCHASES IN, OVERSEAS COMMISSARIES AND EXCHANGE STORES.

(a) AUTHORITY TO IMPOSE RESTRICTIONS; LIMITATIONS ON AUTHORITY.—Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§2491. Overseas commissary and exchange stores: access and purchase restrictions

"(a) GENERAL AUTHORITY.—The Secretary of Defense may establish restrictions on the ability of eligible patrons of commissary and exchange stores located outside of the United States to purchase certain merchandise items (or the quantity of certain merchandise items) otherwise included within an authorized merchandise category if the Secretary determines that such restrictions are necessary to prevent the resale of such merchandise in violation of host nation laws or treaty obligations of the United States. In establishing a quantity or other restriction, the Secretary shall ensure that the restriction is consistent with the purpose of the overseas commissary and exchange system to provide reasonable access for eligible patrons to purchase merchandise items made in the United States.

"(b) CONTROLLED ITEM LISTS.—For each location outside the United States that is served by the commissary system or the exchange system, the Secretary of Defense may maintain a list of controlled merchandise items, except that, after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1999, the Secretary may not change the list to add a merchandise item unless, before making the change, the Secretary submits to Congress a notice of the proposed addition and the reasons for the addition of the item.

"(c) SPECIAL RULES FOR KOREA.—(1) The Secretary of Defense may not prohibit a dependent who resides in Korea, is at least 21 years of age, and is otherwise eligible to use the commissary and exchange system, from purchasing alcoholic beverages through the commissary and exchange system. Quantity restrictions on the purchase of alcoholic beverages may be imposed, and any such restriction may be enforced through the use of an issued ration control device, but a dependent may not be required to sign for any purchase. A quantity restriction on malt beverages may not restrict purchases to fewer than eight cases, of 24-units per case, per month. Daily or weekly restrictions on malt beverage purchases may not be imposed. The purchase of malt beverages may be recorded on a ration control device, but eligible patrons may not be required to sign for any purchase.

"(2) A dependent residing in Korea who is at least 18 years of age and otherwise eligible to use the commissary and exchange system may purchase tobacco products on the same basis as other eligible patrons of the commissary and exchange system.

"(3) Eligible patrons of the commissary and exchange system who are traveling through a military air terminal in Korea shall be authorized to the purchase sundry items, including tobacco products, on a temporary basis during the normal operating hours of commissary and exchange stores operated in connection with the terminal.

"(4) In applying restrictions to dependents of members of the armed forces, the Secretary of Defense may not differentiate between a dependent whose movement to Korea was authorized at the expense of the United States under section 406 of title 37 and other dependents residing in Korea.

"(d) REPORTING REQUIREMENTS.—The Secretary of Defense shall submit to Congress an annual report describing the host nation laws and the treaty obligations of the United States, and the conditions within host nations, that necessitate the use of quantity or other restrictions on purchases in commissary and exchange stores located outside the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2491. Overseas commissary and exchange stores: access and purchase restrictions.".

SEC. 345. EXTENSION OF DEMONSTRATION PROJECT FOR UNIFORM FUNDING OF MORALE, WELFARE, AND RECREATION ACTIVITIES.

Section 335 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 2241 note) is amended—

(1) in subsection (c), by striking out "not later than September 30, 1998" and inserting in lieu thereof "on September 30, 1999"; and

(2) in subsection (e)(2), by striking out "a final report on the results" and inserting in lieu thereof "an additional report on the progress".

SEC. 346. PROHIBITION ON CONSOLIDATION OR OTHER ORGANIZATIONAL CHANGES OF DEPARTMENT OF DEFENSE RETAIL SYSTEMS.

(a) DEFENSE RETAIL SYSTEMS DEFINED.—For purposes of this section, the term "defense retail systems" means the defense commissary system and exchange stores and other revenue-generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the Armed Forces.

(b) PROHIBITION.—The operation and administration of the defense retail systems may not be consolidated or otherwise changed, and a study or review may not be commenced regarding the need for or merits of such a consolidation or change, unless the consolidation, change, study, or review is specifically authorized by a law enacted after the date of the enactment of this Act.

(c) EFFECT ON EXISTING STUDY.—Nothing in this section shall be construed to prohibit the study of defense retail systems, known as the "Joint Exchange Due Diligence Study", which is underway on the date of the enactment of this Act pursuant to a contract awarded by the Department of the Navy on April 21, 1998, except that any recommendation contained in the completed study regarding the operation or administration of the defense retail systems may not be implemented unless implementation of the recommendation is specifically authorized by a law enacted after the date of the enactment of this Act.

SEC. 347. AUTHORIZED USE OF APPROPRIATED FUNDS FOR RELOCATION OF NAVY EXCHANGE SERVICE COMMAND.

The Navy Exchange Service Command is not required to reimburse the United States for appropriated funds allotted to the Navy Exchange Service Command during fiscal years 1994, 1995, *and 1996 to cover costs incurred by the Navy Exchange Service Command to relocate to Virginia Beach, Virginia, and to lease headquarters space in Virginia Beach.*

SEC. 348. EVALUATION OF MERIT OF SELLING MALT BEVERAGES AND WINE IN COMMISSARY STORES AS EXCHANGE SYSTEM MERCHANDISE.

(a) PATRON SURVEY.—(1) The Secretary of Defense shall enter into a contract with a commercial survey firm to conduct a survey of eligible patrons of the commissary store system to determine patron interest in having commissary stores sell malt beverages and wine as exchange store merchandise.

(2) The survey shall be conducted at not less than three military installations in the United States of each of the Armed Forces (other than the Coast Guard).

(3) The survey shall be completed, and the results submitted to the Secretary of Defense, not later than November 30, 1998.

(b) DEMONSTRATION PROJECT.—(1) After consideration of the survey results, the Secretary of Defense may conduct a demonstration project at seven military installations in the United States (two Army installations, two Air Force installations, two Navy installations, and one Marine Corps installation) to evaluate the merit of selling malt beverages and wine in commissary stores as exchange store merchandise. Under the demonstration project, the Secretary may sell malt beverages and wine in commissary stores as exchange store merchandise notwithstanding the general requirement that merchandise sold in, at, or by commissary stores be commissary store inventory.

(2) The demonstration project may only be conducted in States where it is legal to sell malt beverages and wine in grocery stores.

(3) Not later than February 1, 1999, the Secretary of Defense shall determine whether to conduct the demonstration project. Any such demonstration project shall be completed not later than September 30, 2000.

(c) REPORT.—(1) If the Secretary of Defense conducts a demonstration project under subsection (b), the Secretary shall submit to Congress a report describing the results of the demonstration project. The report shall include a description of patron views, the impact on commissary sales, the impact on exchange sales, and the impact, if any, on dividends for morale, welfare, and recreation activities.

(2) The report shall be submitted not later than March 1, 2000.

(d) LIMITATION.—Nothing in this section shall be construed to authorize the sale of malt beverages and wine in commissary stores as commissary store inventory.

Subtitle F—Other Matters

SEC. 361. ELIGIBILITY REQUIREMENTS FOR ATTENDANCE AT DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS.

(a) DEPENDENTS OF MEMBERS RESIDING IN CERTAIN AREAS.—Subsection (a) of section 2164 of title 10, United States Code, is amended—

(1) by inserting "(1)" before "If";

(2) by designating the second sentence as paragraph (2); and

(3) by adding at the end of paragraph (2) (as so designated) the following new sentence: "If a member of the armed forces is assigned to a remote location or is assigned to an unaccompanied tour of duty, a dependent of the member who resides, on or off a military installation, in a territory, commonwealth, or possession of the United States, as authorized by the member's orders, may be enrolled in an educational program provided by the Secretary under this subsection.".

(b) WAIVER OF FIVE-YEAR ATTENDANCE LIMITATION.—Subsection (c)(2) of such section is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) At the discretion of the Secretary, a dependent referred to in subparagraph (A) may be enrolled in the program for more than five consecutive school years if the dependent is otherwise qualified for enrollment, space is available in the program, and the Secretary will be reimbursed for the services provided. Any such extension shall cover only one school year at a time.".

SEC. 362. SPECIFIC EMPHASIS OF PROGRAM TO INVESTIGATE FRAUD, WASTE, AND ABUSE WITHIN DEPARTMENT OF DEFENSE.

Section 392 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 113 note) is amended by inserting before the period the following: "and any fraud, waste, and abuse occurring in connection with overpayments made to vendors by the Department of Defense, including overpayments identified under section 354 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 2461 note)".

SEC. 363. REVISION OF INSPECTION REQUIREMENTS RELATING TO ARMED FORCES RETIREMENT HOME.

Section 1518 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 418) is amended to read as follows:

"SEC. 1518. INSPECTION OF RETIREMENT HOME.

"(a) PERIODIC INSPECTION.—The Inspector Generals of the military departments shall conduct, at three-year intervals, an inspection of the Retirement Home and the records of the Retirement Home. Each inspection under this subsection shall be performed by a single Inspector General on an alternating basis.

"(b) REPORT.—The Inspector General of a military department who performs an inspection of the Retirement Home under subsection (a) shall submit to the Retirement Home Board, the Secretary of Defense, and Congress a report describing the results of the inspection and containing such recommendations as the Inspector General considers appropriate.".

SEC. 364. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 1999.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities—

(1) $30,000,000 shall be available only for the purpose of providing educational agencies assistance (as defined in subsection (d)(1)) to local educational agencies; and

(2) $5,000,000 shall be available only for the purpose of making educational agencies payments (as defined in subsection (d)(2)) to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 1999, the Secretary of Defense shall—

(1) notify each local educational agency that is eligible for educational agencies assistance for fiscal year 1999 of that agency's eligibility for such assistance and the amount of such assistance for which that agency is eligible; and

(2) notify each local educational agency that is eligible for an educational agencies payment for fiscal year 1999 of that agency's eligibility for such payment and the amount of the payment for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under paragraphs (1) and (2) of subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term "educational agencies payments" means payments authorized under section 386(d) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(3) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 365. STRATEGIC PLAN FOR EXPANSION OF DISTANCE LEARNING INITIATIVES.

(a) DEVELOPMENT OF PLAN.—The Secretary of Defense shall develop a strategic plan for guiding and expanding distance learning initiatives in the Department of Defense. The strategic plan shall cover the five-year period beginning on October 1, 1999.

(b) ELEMENTS OF PLAN.—The strategic plan required by this section shall contain at a minimum the following elements:

(1) Measurable goals and objectives, including outcome-related performance indicators, for developing distance learning initiatives in the Department that would be consistent with the principles of the Government Performance and Results Act of 1993 (section 306 of title 5 and sections 1115 through 1119, 9703, and 9704 of title 31).

(2) A description of the manner in which distance learning initiatives will be developed and managed in the Department.

(3) An estimate of the costs and benefits associated with developing and maintaining an infrastructure in the Department to support distance learning initiatives and a statement of planned expenditures for investments necessary to build and maintain the infrastructure.

(4) A description of mechanisms that will be used to oversee the development and coordination of distance learning initiatives in the Department.

(c) CONSIDERATION OF CURRENT EFFORT.—In developing the strategic plan required by this section, the Secretary of Defense may recognize the collaborative distance learning effort of the Department of Defense and other Federal agencies and private industry (known as the Advanced Distribution Learning initiative), but the strategic plan shall be specific to the goals and objectives of the Department.

(d) SUBMISSION OF PLAN.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress the completed strategic plan required by this section.

SEC. 366. PUBLIC AVAILABILITY OF OPERATING AGREEMENTS BETWEEN MILITARY INSTALLATIONS AND FINANCIAL INSTITUTIONS.

With respect to an agreement between the commander of a military installation in the United States (or the designee of an installation commander) and a financial institution that permits, allows, or otherwise authorizes the provision of financial services by the financial institution on the military installation, nothing in the terms or nature of such an agreement shall be construed to exempt the agreement from the provisions of sections 552 and 552a of title 5, United States Code.

SEC. 367. DEPARTMENT OF DEFENSE READINESS REPORTING SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—(1) Chapter 2 of title 10, United States Code, is amended by inserting after section 116 the following new section:

"§ 117. Readiness reporting system: establishment; reporting to congressional committees

"(a) REQUIRED READINESS REPORTING SYSTEM.—The Secretary of Defense shall establish a

comprehensive readiness reporting system for the Department of Defense. The readiness reporting system shall measure in an objective, accurate, and timely manner the capability of the armed forces to carry out—

"(1) the National Security Strategy prescribed by the President in the most recent annual national security strategy report under section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

"(2) the defense planning guidance provided by the Secretary of Defense pursuant to section 113(g) of this title; and

"(3) the National Military Strategy prescribed by the Chairman of the Joint Chiefs of Staff.

"(b) READINESS REPORTING SYSTEM CHARACTERISTICS.—In establishing the readiness reporting system, the Secretary shall ensure—

"(1) that the readiness reporting system is applied uniformly throughout the Department of Defense;

"(2) that information in the readiness reporting system is continually updated, with any change in the overall readiness status of a unit, of an element of the training establishment, or an element of defense infrastructure that is required to be reported as part of the readiness reporting system shall be reported within 24 hours of the event necessitating the change in readiness status; and

"(3) that sufficient resources are provided to establish and maintain the system so as to allow reporting of changes in readiness status as required by this section.

"(c) CAPABILITIES.—The readiness reporting system shall have the capability to do the following:

"(1) Measure the capability of units (both as elements of their respective armed force and as elements of joint forces) to conduct their assigned wartime missions.

"(2) Measure the capability of training establishments to provide trained and ready forces for wartime missions.

"(3) Measure the capability of defense installations and facilities and other elements of Department of Defense infrastructure, both in the United States and abroad, to provide appropriate support to forces in the conduct of their wartime missions.

"(4) Measure critical warfighting deficiencies in unit capability, training establishments, and defense infrastructure.

"(5) Measure the level of current risk based upon the readiness reporting system relative to the capability of forces to carry out their wartime missions.

"(6) Measure such other factors relating to readiness as the Secretary prescribes.

"(d) PERIODIC JOINT READINESS REVIEW.—The Chairman of the Joint Chiefs of Staff shall periodically, and not less frequently than monthly, conduct a joint readiness review. The Chairman shall incorporate into each such review the current information derived from the readiness reporting system and shall assess the capability of the armed forces to execute their wartime missions based upon their posture at the time of the review. The Chairman shall submit to the Secretary of Defense the results of each review, including the deficiencies in readiness identified during that review.

"(e) SUBMISSION TO CONGRESSIONAL COMMITTEES.—The Secretary shall each month submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives a report in writing containing the complete results of each review under subsection (d) during the preceding month, including the current information derived from the readiness reporting system. Each such report shall be submitted in unclassified form and may, as the Secretary determines necessary, also be submitted in classified form.

"(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. In those regulations, the Secretary shall prescribe the units that are subject to reporting in the readiness reporting system, what type of equipment is subject to such reporting, and the elements of the training establishment and of defense infrastructure that are subject to such reporting.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 116 the following new item:

"117. Readiness reporting system: establishment; reporting to congressional committees.".

(b) IMPLEMENTATION.—The Secretary of Defense shall establish and implement the readiness reporting system required by section 117 of title 10, United States Code, as added by subsection (a), so as to ensure that the capabilities required by subsection (c) of that section are attained not later than July 1, 1999.

(c) IMPLEMENTATION PLAN.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a report setting forth the Secretary's plan for implementation of section 117 of title 10, United States Code, as added by subsection (a).

(d) REPEAL OF QUARTERLY READINESS REPORT REQUIREMENT.—Effective July 1, 1999, or the date on which the first report of the Secretary of Defense is submitted under section 117(d) of title 10, United States Code, as added by subsection (a), whichever is later—

(1) section 482 of title 10, United States Code, is repealed; and

(2) the table of sections at the beginning of chapter 23 of such title is amended by striking out the item relating to that section.

SEC. 368. TRAVEL BY RESERVISTS ON CARRIERS UNDER CONTRACT WITH GENERAL SERVICES ADMINISTRATION.

(a) RESERVE USE OF FEDERAL SUPPLY TRANSPORTATION.—Chapter 1217 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 12603. Travel: use of carriers under contract with General Services Administration

"A member of a reserve component who requires transportation in order to perform inactive duty training may use a carrier under contract with the General Services Administration to provide the transportation. The transportation shall be provided by the carrier in the same manner as transportation is provided to members of the armed forces and civilian employees who are traveling at Government expense, except that the Reserve is responsible for the cost of the travel at the contract rate. The Secretary concerned may require the Reserve to use a Government approved travel card to ensure that the transportation is procured for the purpose of performing inactive duty training.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following new item:

"12603. Travel: use of carriers under contract with General Services Administration.".

Subtitle G—Demonstration of Commercial-Type Practices To Improve Quality of Personal Property Shipments

SEC. 381. DEMONSTRATION PROGRAM REQUIRED.

(a) IN GENERAL.—The Secretary of Defense shall conduct a demonstration program, to be known as the "Commercial-Like Activities for Superior Quality Demonstration Program", pursuant to this subtitle to test commercial-style practices to improve the quality of personal property shipments within the Department of Defense.

(b) DEFINITIONS.—In this subtitle:

(1) The term "CLASS Demonstration Program" means the Commercial-Like Activities for Superior Quality Demonstration Program required by subsection (a).

(2) The term "affiliated" means an entity that is owned and controlled by another entity or an independently owned entity whose day-to-day business operations are controlled by another entity.

(3) The term "best value CLASS score" means a weighted score that reflects an eligible provider's past performance rating score and the schedules of charges for services provided.

(4) The term "broker" means an entity, described in section 13102(2) of title 49, United States Code, that conducts operations on behalf of the Military Traffic Management Command and possesses appropriate authority from the Department of Transportation or an appropriate State regulatory agency to arrange for the transportation of personal property in interstate, intrastate, or foreign commerce.

(5) The term "freight forwarder" means an entity that provides the services described in section 13102(8) of title 49, United States Code, in interstate, intrastate, or foreign commerce and possesses the authority to provide such services from the Department of Transportation or an appropriate State regulatory agency.

(6) The term "motor carrier" means an entity that uses motor vehicles to transport personal property in interstate, intrastate, or foreign commerce and possesses the authority to provide such services from the Department of Transportation or an appropriate State regulatory agency.

(7) The term "motor vehicles" has the meaning given such term in section 13102(14) of title 49, United States Code.

(8) The term "move management services provider" means an entity that provides certain services in connection with the shipment of the household goods of a member of the Armed Forces, such as arranging, coordinating, and monitoring the shipment.

(9) The term "test plan" means the plan prepared under section 384 for the conduct of the CLASS Demonstration Program.

SEC. 382. GOALS OF DEMONSTRATION PROGRAM.

The goals of the CLASS Demonstration Program are to—

(1) adopt commercial-style practices to improve the quality of Department of Defense personal property shipments within the United States and to foreign locations;

(2) adopt simplified acquisition procedures for the selection of contractors qualified to provide various types of personal property shipping services and for the award of individual orders to such contractors;

(3) assure ready access of the Department of Defense to a sufficient number of qualified providers of personal property shipping to permit timely shipments during periods of high demand for such services;

(4) assure maximum practicable opportunities for small business concerns to participate as prime contractors rather than subcontractors;

(5) empower Installation Transportation Officers to assure that the personal property shipping needs of individual members of the Armed Forces are met in a timely manner by quality contractors who minimize opportunities for damage; and

(6) provide for the expedited resolution of claims for damaged or lost property through direct settlement negotiations between the service provider and the member of the Armed Forces who sustains the loss, with commercial-like arbitration available to the member with the assistance of the military department concerned.

SEC. 383. PROGRAM PARTICIPANTS.

(a) Eligible Service Providers.—(1) Any motor carrier, freight forwarder, or broker regularly providing personal property shipping services that is approved by the Military Traffic Management Command to provide such services to the Department of Defense is eligible to participate in the CLASS Demonstration Program. A motor carrier providing domestic personal property shipping services shall not be precluded from providing such services to international destinations through an affiliated freight forwarder.

(2) If a motor carrier is affiliated with another motor carrier or freight forwarder that also seeks qualification to participate in the CLASS Demonstration Program, the affiliate must demonstrate that it also conducts independent regular motor carrier operations using motor vehicles or independent freight forwarding services described in subparagraph (A), (B), or (C) of section 13102(8) of title 49, United States Code. If a freight forwarder is affiliated with another freight forwarder or motor carrier that also seeks qualification to participate in the program, the affiliate must demonstrate that it also conducts regular independent operations.

(b) Move Management Services Providers.—The test plan may provide for the participation of a broker providing move management services. A move management service provider shall be compensated for providing such services solely by the Department of Defense. The test plan shall prohibit a move management services provider from obtaining a commission (or similar type of payment however denominated) from a motor carrier or freight forwarder providing the personal property shipping services.

(c) Demonstration Program Participants.—Eligible service providers shall be offered participation in the CLASS Demonstration Program on the basis of their best value CLASS score. Each eligible service provider's best value CLASS score shall be computed in a manner that assigns 70 percent of the weighted average to the provider's past performance rating and 30 percent to the provider's offered prices.

SEC. 384. TEST PLAN.

(a) In General.—The CLASS Demonstration Program shall be conducted pursuant to a test plan.

(b) Components of the Test Plan.—In addition to such other matters as the Secretary of Defense considers appropriate, the test plan shall include the following components:

(1) Rating past performance.—A past performance rating score shall be developed for each eligible service provider based on—

(A) evaluations from service members who have received personal property shipping services during a specified six-month rating period prior to the commencement of the CLASS Demonstration Program; or

(B) a rating of comparable personal property shipping services provided to non-Department of Defense customers during the same rating period, if an eligible provider did not make a sufficient number of military personal property shipments during the rating period to be assigned a rating pursuant to subparagraph (A).

(2) Participation by quality service providers.—A minimum best value CLASS score shall be established for participation in the CLASS Demonstration Program. In establishing the minimum score for participation, consideration shall be given to assuring access to sufficient numbers of service providers to meet the needs of members of the Armed Forces during periods of high demand for such personal property shipping services.

(3) Simplified acquisition procedures.—The CLASS Demonstration Program shall make use of simplified acquisition procedures similar to those provided in section 2304(g)(1)(A) of title 10, United States Code.

(4) Pricing.—The test plan shall specify pricing policies to be met by the CLASS Demonstration Program participants. The pricing policies shall reflect the following:

(A) Domestic pricing shall be based on the contemporary Household Goods Carriers Commercial Tariff 400–M, or subsequent reissues thereof, applicable to commercial domestic shipments with discounts and adjustments for States outside the continental United States.

(B) So-called single factor rates for international shipments.

(C) Full value protection for a shipment based on the actual cash value of the contents of the shipment with liability limited on a per pound basis as well as a total-value basis.

(5) Allocation of orders.—Orders to provide personal property shipping services shall be allocated by the appropriate Installation Transportation Officer taking into consideration—

(A) the service provider's best value CLASS score;

(B) maximum practicable utilization of small business service providers;

(C) exceptional performance of a CLASS Demonstration Program participant; and

(D) other criteria necessary to advance the goals of the CLASS Demonstration Program, except that carrier selection by a member of the Armed Forces using the CLASS Demonstration Program shall be honored if the selection does not conflict with subparagraph (A) or (B) and the need to maintain adequate capacity.

(6) Performance evaluation during the term of the demonstration program.—The CLASS Demonstration Program shall provide for procedures for evaluation of the Demonstration Program participants by the members of the Armed Forces furnished personal property shipping services and by Installation Transportation Officers. To the maximum extent practicable, such evaluations shall be objective and quantifiable. The program participant shall be accorded the opportunity to review and make comment on a performance evaluation provided by an individual in a manner that will not deter candid evaluations by the individual. The results of this evaluation may be used in developing future best value CLASS scores.

(7) Modern customer service techniques.—The CLASS Demonstration Program shall maximize the testing of modern customer service techniques, such as in-transit tracking of shipments and service member communication with the service provider by means of toll-free telephone numbers.

(8) Direct claims settlement techniques.—The CLASS Demonstration Program shall provide for settlement of claims for personal property lost or damaged directly with the firm providing the services. The procedures shall provide for—

(A) acknowledgment of a claim by the service provider within 30 days of receipt;

(B) provision of a settlement offer within 120 days;

(C) filing of a claim within nine months, with appropriate extensions for extenuating circumstances relating to war or national emergency that impair the ability of a member of the Armed Forces to file a timely claim; and

(D) referring of an unsettled claim by the member of the Armed Forces to a designated claims officer for assistance in resolving the claim or seeking commercial-like arbitration of the claim, or both, if considered appropriate by the claims officer.

(9) Criteria for evaluation of the overall demonstration program.—The CLASS Demonstration Program shall include the development of criteria to evaluate the overall performance and effectiveness of the CLASS demonstration program.

(c) Development in Collaboration With Industry.—In developing the test plan, the Secretary of Defense shall maximize collaboration with representatives of associations that represent all segments of the affected industries. Special efforts shall be made to actively involve those associations that represent small business providers of personal property shipping services.

(d) Opportunity for Public Comment on Proposed Test Plan.—Notice of the availability of the test plan shall be published in the Federal Register and given by other means likely to result in the notification of eligible service providers and associations that represent them. Copies of the proposed test plan may be made available in a printable electronic format. The public shall be afforded 60 days to comment on the proposed test plan.

SEC. 385. OTHER METHODS OF PERSONAL PROPERTY SHIPPING.

The CLASS Demonstration Program shall not impair the access of a member of the Armed Forces to the shipment of personal property through the programs known as the Do-It-Yourself Program or the Direct Procurement Method Program.

SEC. 386. DURATION OF DEMONSTRATION PROGRAM.

The CLASS Demonstration Program shall commence on the first day of the fiscal year quarter after the issuance of the test plan in final form and terminate on the last day of the fiscal year quarter after eight fiscal year quarters of operation. The CLASS Demonstration Program shall take the place of the re-engineering pilot solicitation of the Military Traffic Management Command identified as DAMTO1–97–R–3001.

SEC. 387. EVALUATION OF DEMONSTRATION PROGRAM.

(a) In General.—The Secretary of Defense shall provide for the evaluation the CLASS Demonstration Program throughout the term of the program pursuant to the evaluation criteria included in the test plan.

(b) Interim Reports.—The Secretary of Defense shall issue such interim reports relating to the implementation of the CLASS Demonstration Program as may be appropriate.

(c) Final Report.—The Secretary of Defense shall issue a final report on the CLASS Demonstration Program within 180 days before the termination date of the program. The report may include recommendations for further implementation of the CLASS Demonstration Program.

(d) Congressional Recipients.—The reports required by this section shall be furnished to the congressional defense committees and the Committee on Small Business of the Senate and the House of Representatives.

(e) Public Availability.—The Secretary of Defense shall provide public notice of the availability of copies of the reports submitted to the congressional recipients through a notice in the Federal Register and such other means as may be appropriate. Copies of the reports may be made available in a printable electronic format or in a printed form.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1999, as follows:

(1) The Army, 484,800.
(2) The Navy, 376,423.
(3) The Marine Corps, 173,922.
(4) The Air Force, 371,577.

SEC. 402. REVISION IN PERMANENT END STRENGTH LEVELS.

(a) Revised End Strength Floors.—Subsection (b) of section 691 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "495,000" and inserting in lieu thereof "484,800";

(1) in paragraph (2), by striking out "390,802" and inserting in lieu thereof "376,423"; and

(2) in paragraph (3), by striking out "174,000" and inserting in lieu thereof "173,922".

(b) REVISION TO FLEXIBILITY AUTHORITY FOR THE ARMY.—Subsection (e) of such section is amended by striking out "or, in the case of the Army, by not more than 1.5 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998.

SEC. 403. DATE FOR SUBMISSION OF ANNUAL MANPOWER REQUIREMENTS REPORT.

Section 115a(a) of title 10, United States Code, is amended—

(1) by striking out ", not later than February 15 of each fiscal year," in the first sentence; and

(2) by striking out "The report shall be in writing and" in the second sentence and inserting in lieu thereof "The report shall be submitted each year not later than 30 days after the date on which the budget for the next fiscal year is transmitted to Congress pursuant to section 1105 of title 31, shall be in writing, and".

SEC. 404. EXTENSION OF AUTHORITY FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF TO DESIGNATE UP TO 12 GENERAL AND FLAG OFFICER POSITIONS TO BE EXCLUDED FROM GENERAL AND FLAG OFFICER GRADE LIMITATIONS.

Section 526(b)(2) of title 10, United States Code, is amended by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2001".

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1999, as follows:

(1) The Army National Guard of the United States, 357,000.

(2) The Army Reserve, 209,000.

(3) The Naval Reserve, 90,843.

(4) The Marine Corps Reserve, 40,018.

(5) The Air National Guard of the United States, 106,991.

(6) The Air Force Reserve, 74,242.

(7) The Coast Guard Reserve, 8,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1999, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 21,763.

(2) The Army Reserve, 12,804.

(3) The Naval Reserve, 15,590.

(4) The Marine Corps Reserve, 2,362.

(5) The Air National Guard of the United States, 10,930.

(6) The Air Force Reserve, 991.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 1999 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 5,395.

(2) For the Army National Guard of the United States, 23,125.

(3) For the Air Force Reserve, 9,761.

(4) For the Air National Guard of the United States, 22,408.

SEC. 414. INCREASE IN NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO SERVE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

(a) OFFICERS.—The table in section 12011(a) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,219	1,071	776	140
Lieutenant Colonel or Commander	1,524	520	672	90
Colonel or Navy Captain	438	188	274	30".

(b) SENIOR ENLISTED MEMBERS.—The table in section 12012(a) of such title is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E–9	623	202	388	20
E–8	2,585	429	979	94".

(c) EFFECTIVE DATE.—The amendments made by this section shall take efffect on October 1, 1998.

Subtitle C—Authorization of Appropriations

SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1999 a total of $70,697,086,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1999.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. CODIFICATION OF ELIGIBILITY OF RETIRED OFFICERS AND FORMER OFFICERS FOR CONSIDERATION BY SPECIAL SELECTION BOARDS.

(a) PERSONS NOT CONSIDERED BY PROMOTION BOARDS DUE TO ADMINISTRATIVE ERROR.—Subsection (a) of section 628 of title 10, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(a) PERSONS NOT CONSIDERED BY PROMOTION BOARDS DUE TO ADMINISTRATIVE ERROR.—(1) If the Secretary of the military department concerned determines that because of administrative error a person who should have been considered for selection for promotion by a promotion board was not so considered, the Secretary shall convene a special selection board under this subsection to determine whether that person (whether or not then on active duty) should be recommended for promotion.";

(2) in paragraph (2), by striking out "the officer as his record" in the first sentence and inserting in lieu thereof "the person whose name was referred to it for consideration as that record"; and

(3) in paragraph (3), by striking out "an officer in a grade" and all that follows through "the officer" and inserting in lieu thereof "a person whose name was referred to it for consideration for selection for appointment to a grade other than a general officer or flag officer grade, the person".

(b) PERSONS CONSIDERED BY PROMOTION BOARDS IN UNFAIR MANNER.—Subsection (b) of such section is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(b) PERSONS CONSIDERED BY PROMOTION BOARDS IN UNFAIR MANNER.—(1) If the Secretary of the military department concerned determines, in the case of a person who was considered for selection for promotion by a promotion board but was not selected, that there was material unfairness with respect to that person, the Secretary may convene a special selection board under this subsection to determine whether that person (whether or not then on active duty) should be recommended for promotion. In order to determine that there was material unfairness, the Secretary must determine that—

"(A) the action of the promotion board that considered the person was contrary to law or involved material error of fact or material administrative error; or

"(B) the board did not have before it for its consideration material information.";

(2) in paragraph (2), by striking out "the officer as his record" in the first sentence and inserting in lieu thereof "the person whose name was referred to it for consideration as that record"; and

(3) in paragraph (3)—

(A) by striking out "an officer" and inserting in lieu thereof "a person"; and

(B) by striking out "the officer" and inserting in lieu thereof "the person".

(c) CONFORMING AMENDMENTS.—(1) Subsection (c) of such section is amended—

(A) by inserting "REPORTS OF BOARDS.—" after "(c)";

(B) by striking out "officer" both places it appears in paragraph (1) and inserting in lieu thereof "person"; and

(C) in paragraph (2), by adding the following new sentence at the end: "However, in the case of a board convened under this section to consider a warrant officer or former warrant officer, the provisions of sections 576(d) and 576(f) of this title (rather than the provisions of section 617(b) and 618 of this title) apply to the report and proceedings of the board in the same manner as they apply to the report and proceedings of a selection board convened under section 573 of this title.".

(2) Subsection (d)(1) of such section is amended—

(A) by inserting "APPOINTMENT OF PERSONS SELECTED BY BOARDS.—" after "(d)";

(B) by striking out "an officer" and inserting in lieu thereof "a person";

(C) by striking out "such officer" and inserting in lieu thereof "that person";

(D) by striking out "the next higher grade" the second place it appears and inserting in lieu thereof "that grade";

(E) by adding at the end the following: "However, in the case of a board convened under this section to consider a warrant officer or former warrant officer, if the report of that board, as approved by the Secretary concerned, recommends that warrant officer or former warrant officer for promotion to the next higher grade, that person shall, as soon as practicable, be appointed to the next higher grade in accordance with provisions of section 578(c) of this title (rather than subsections (b), (c), and (d) of section 624 of this title).".

(3) Subsection (d)(2) of such section is amended—

(A) by striking out "An officer who is promoted" and inserting in lieu thereof "A person who is appointed";

(B) by striking out "such promotion" and inserting in lieu thereof "that appointment"; and

(C) by adding at the end the following new sentence: "In the case of a person who is not on the active-duty list when appointed to the next higher grade, placement of that person on the active-duty list pursuant to the preceding sentence shall be only for purposes of determination of eligibility of that person for consideration for promotion by any subsequent special selection board under this section.".

(d) APPLICABILITY TO DECEASED PERSONS.—Subsection (e) of such section is amended to read as follows:

"(e) DECEASED PERSONS.—If a person whose name is being considered for referral to a special selection board under this section dies before the completion of proceedings under this section with respect to that person, this section shall be applied to that person posthumously.".

(e) RECODIFICATION OF ADMINISTRATIVE MATTERS.—Such section is further amended by adding at the end the following::

"(f) CONVENING OF BOARDS.—A board convened under this section—

"(1) shall be convened under regulations prescribed by the Secretary of Defense;

"(2) shall be composed in accordance with section 612 of this title or, in the case of board to consider a warrant officer or former warrant officer, in accordance with section 573 of this title and regulations prescribed by the Secretary of the military department concerned; and

"(3) shall be subject to the provisions of section 613 of this title.

"(g) PROMOTION BOARD DEFINED.—In this section, the term 'promotion board' means a selection board convened by the Secretary of a military department under section 573(a) or 611(a) of this title.".

(f) RATIFICATION OF CODIFIED PRACTICE.—The consideration by a special selection board convened under section 628 of title 10, United States Code, before the date of the enactment of this Act of a person who, at the time of consideration, was a retired officer or former officer of the Armed Forces (including a deceased retired or former officer) is hereby ratified.

SEC. 502. COMMUNICATION TO PROMOTION BOARDS BY OFFICERS UNDER CONSIDERATION.

Section 614(b) of title 10, United States Code, is amended by striking out "his case" and inserting in lieu thereof "enhancing his case for selection for promotion".

SEC. 503. PROCEDURES FOR SEPARATION OF REGULAR OFFICERS FOR SUBSTANDARD PERFORMANCE OF DUTY OR CERTAIN OTHER REASONS.

(a) ELIMINATION OF REQUIREMENT FOR A BOARD OF REVIEW.—Section 1182(c) of title 10, United States Code, is amended by striking out "it shall send the record of its proceedings to a board of review convened under section 1183 of this title" and inserting in lieu thereof "it shall report that determination to the Secretary concerned";

(b) REPEAL OF BOARD OF REVIEW.—(1) Section 1183 of such title is repealed.

(2) The table of sections at the beginning of chapter 60 of such title is amended by striking out the item relating to section 1183.

(c) CONFORMING AMENDMENTS.—(1) Section 1184 of such title is amended by striking out "board of review convened under section 1183 of this title" and inserting in lieu thereof "board of inquiry convened under section 1182 of this title".

(2) The heading of such section and the item relating to such section in the table of sections at the beginning of chapter 60 of such title are amended by striking out the last two words.

(d) ELIMINATION OF 30-DAY NOTICE REQUIREMENT.—Section 1185(a)(1) of such title is amended by striking out ", at least 30 days before the hearing of his case by a board of inquiry,".

SEC. 504. POSTHUMOUS COMMISSIONS AND WARRANTS.

Section 1521 of title 10, United States Code, is amended—

(1) by inserting "(whether before or after the member's death)" in subsection (a)(3) after "approved by the Secretary concerned"; and

(2) by adding at the end of subsection (b) the following new sentence: "In the case of a member to whom subsection (a)(3) applies who dies before approval by the Secretary concerned of the appointment or promotion, the commission shall issue as of the date of death.".

SEC. 505. TENURE OF CHIEF OF THE AIR FORCE NURSE CORPS.

Section 8069(b) of title 10, United States Code, is amended by striking out ", but not for more than three years, and may not be reappointed to the same position" in the last sentence.

Subtitle B—Reserve Component Matters

SEC. 511. COMPOSITION OF SELECTIVE EARLY RETIREMENT BOARDS OF RESERVE GENERAL AND FLAG OFFICERS OF THE NAVY AND MARINE CORPS.

Section 14705(b) of title 10, United States Code, is amended to read as follows:

"(b) BOARDS.—(1) If the Secretary of the Navy determines that consideration of officers for early retirement under this section is necessary, the Secretary shall convene a continuation board under section 14101(b) of this title to recommend an appropriate number of officers for early retirement.

"(2) In the case of such a board convened to consider officers in the grade of rear admiral or major general—

"(A) the Secretary may appoint the board without regard to section 14102(b) of this title; and

"(B) each member of the board must be serving in a grade higher than the grade of rear admiral or major general.".

SEC. 512. ACTIVE STATUS SERVICE REQUIREMENT FOR PROMOTION CONSIDERATION FOR ARMY AND AIR FORCE RESERVE COMPONENT BRIGADIER GENERALS.

Section 14301 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) A reserve component brigadier general of the Army or the Air Force who is in an inactive status is eligible (notwithstanding subsection (a)) for consideration for promotion to major general by a promotion board convened under section 14101(a) of this title if the officer—

"(1) has been in an inactive status for less than one year as of the date of the convening of the promotion board; and

"(2) had continuously served for at least one year on the reserve active status list or the active duty list (or a combination of both) immediately before the officer's most recent transfer to an inactive status.".

SEC. 513. REVISION TO EDUCATIONAL REQUIREMENT FOR PROMOTION OF RESERVE OFFICERS.

(a) EXTENSION FOR ARMY OCS GRADUATES.—Section 12205(b)(4) of title 10, United States Code, is amended by inserting after "October 1, 1995" the following: ", or in the case of an officer commissioned through the Army Officer Candidate School, October 1, 2000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of October 1, 1995.

Subtitle C—Military Education and Training

SEC. 521. REQUIREMENTS RELATING TO RECRUIT BASIC TRAINING.

(a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§4319. Recruit basic training: separate platoons and separate housing for male and female recruits

"(a) SEPARATE PLATOONS.—The Secretary of the Army shall require that during basic training—

"(1) male recruits shall be assigned to platoons consisting only of male recruits; and

"(2) female recruits shall be assigned to platoons consisting only of female recruits.

"(b) SEPARATE HOUSING FACILITIES.—The Secretary of the Army shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Army determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Army that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4319. Recruit basic training: separate platoons and separate housing for male and female recruits.".

(3) The Secretary of the Army shall implement section 4319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(b) NAVY AND MARINE CORPS.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

"CHAPTER 602—TRAINING GENERALLY

"Sec.

"6931. Recruit basic training: separate small units and separate housing for male and female recruits.

"§ 6931. Recruit basic training: separate small units and separate housing for male and female recruits

"(a) SEPARATE SMALL UNIT ORGANIZATION.—The Secretary of the Navy shall require that during basic training—

"(1) male recruits in the Navy shall be assigned to divisions, and male recruits in the Marine Corps shall be assigned to platoons, consisting only of male recruits; and

"(2) female recruits in the Navy shall be assigned to divisions, and female recruits in the Marine Corps shall be assigned to platoons, consisting only of female recruits.

"(b) SEPARATE HOUSING.—The Secretary of the Navy shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Navy determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for that purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.".

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

"602. Training Generally .... 6931".

(3) The Secretary of the Navy shall implement section 6931 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9319. Recruit basic training: separate flights and separate housing for male and female recruits

"(a) SEPARATE FLIGHTS.—The Secretary of the Air Force shall require that during basic training—

"(1) male recruits shall be assigned to flights consisting only of male recruits; and

"(2) female recruits shall be assigned to flights consisting only of female recruits.

"(b) SEPARATE HOUSING.—The Secretary of the Air Force shall require that during basic training male and female recruits be housed in separate dormitories or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Air Force determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a dormitory or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Air Force that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9319. Recruit basic training: separate flights and separate housing for male and female recruits.".

(3) The Secretary of the Air Force shall implement section 9319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

SEC. 522. AFTER-HOURS PRIVACY FOR RECRUITS DURING BASIC TRAINING.

(a) PURPOSE.—The purpose of this section is to ensure that military recruits are provided some degree of privacy during basic training when in their barracks after completion of the normal training day.

(b) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding after section 4319, as added by section 521(a)(1), the following new section:

"§ 4320. Recruit basic training: privacy

"The Secretary of the Army shall require that access by drill sergeants and other training personnel to a barracks floor on which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex as the recruits housed on that floor.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 4319, as added by section 521(a)(2), the following new item:

"4320. Recruit basic training: privacy.".

(3) The Secretary of the Army shall implement section 4320 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(c) NAVY.—(1) Chapter 602 of title 10, United States Code, as added by section 521(b)(1), is amended by adding at the end the following new section:

"§ 6932. Recruit basic training: privacy

"The Secretary of the Navy shall require that access by recruit division commanders and other training personnel to a barracks floor on which Navy recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to recruit division commanders and other training personnel who are of the same sex as the recruits housed on that floor.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6932. Recruit basic training: privacy.".

(3) The Secretary of the Navy shall implement section 6932 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(d) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding after section 9319, as added by section 521(c)(1), the following new section:

"§ 9320. Recruit basic training: privacy

"The Secretary of the Air Force shall require that access by drill sergeants and other training personnel to a dormitory floor on which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex as the recruits housed on that floor.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 9312, as added by section 521(c)(2), the following new item:

"9320. Recruit basic training: privacy.".

(3) The Secretary of the Air Force shall implement section 9320 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

SEC. 523. EXTENSION OF REPORTING DATES FOR COMMISSION ON MILITARY TRAINING AND GENDER-RELATED ISSUES.

(a) FIRST REPORT.—Subsection (e)(1) of section 562 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1754) is amended by striking out "April 15, 1998" and inserting in lieu thereof "October 15, 1998".

(b) FINAL REPORT.—Subsection (e)(2) of such section is amended by striking out "September 16, 1998" and inserting in lieu thereof "March 15, 1999".

SEC. 524. IMPROVED OVERSIGHT OF INNOVATIVE READINESS TRAINING.

(a) IN GENERAL.—Section 2012 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) OVERSIGHT AND COST ACCOUNTING.—The Secretary of Defense shall establish a program to improve the oversight and cost accounting of training projects conducted in accordance with

this section. The program shall include measures to accomplish the following:

"(1) Ensure that each project that is proposed to be conducted in accordance with this section (regardless of whether additional funding from the Secretary of Defense is sought) is requested in writing, reviewed for full compliance with this section, and approved in advance of initiation by the Secretary of the military department concerned and, in the case of a project that seeks additional funding from the Secretary of Defense, by the Secretary of Defense.

"(2) Ensure that each project that is conducted in accordance with this section is required to provide, within a specified period following completion of the project, an after-action report to the Secretary of Defense.

"(3) Require that each application for a project to be conducted in accordance with this section include an analysis and certification that the proposed project would not result in a significant increase in the cost of training (as determined in accordance with procedures prescribed by the Secretary of Defense).

"(4) Determine the total program cost for each project, including both those costs that are borne by the military departments from their own accounts and those costs that are borne by defense-wide accounts.

"(5) Provide for oversight of project execution to ensure that a training project under this section is carried out in accordance with the proposal for that project as approved.".

(b) IMPLEMENTATION.—The Secretary of Defense may not initiate any project under section 2012 of title 10, United States Code, after October 1, 1998, until the program required by subsection (i) of that section (as added by subsection (a)) has been established.

Subtitle D—Decorations, Awards, and Commendations

SEC. 531. STUDY OF NEW DECORATIONS FOR INJURY OR DEATH IN LINE OF DUTY.

(a) DETERMINATION OF CRITERIA FOR NEW DECORATION.—(1) The Secretary of Defense shall determine the appropriate name, policy, award criteria, and design for two possible new decorations.

(2) The first such decoration would, if implemented, be awarded to members of the Armed Forces who, while serving under competent authority in any capacity with the Armed Forces, are killed or injured in the line of duty as a result of noncombat circumstances occurring—

(A) as a result of an international terrorist attack against the United States or a foreign nation friendly to the United States;

(B) while engaged in, training for, or traveling to or from a peacetime or contingency operation; or

(C) while engaged in, training for, or traveling to or from service outside the territory of the United States as part of a peacekeeping force.

(3) The second such decoration would, if implemented, be awarded to civilian nationals of the United States who, while serving under competent authority in any capacity with the Armed Forces, are killed or injured in the line of duty under circumstances which, if they were members of the Armed Forces, would qualify them for award of the Purple Heart or the medal described in paragraph (2).

(b) LIMITATION ON IMPLEMENTATION.—Any such decoration may only be implemented as provided by a law enacted after the date of the enactment of this Act.

(c) RECOMMENDATION TO CONGRESS.—Not later than July 31, 1999, the Secretary shall submit to Congress a legislative proposal that would, if enacted, establish the new decorations developed pursuant to subsection (a). The Secretary shall include with that proposal the Secretary's recommendation concerning the need for, and propriety of, each of the decorations.

(d) COORDINATION.—The Secretary shall carry out this section in coordination with the Secretaries of the military departments and the Secretary of Transportation with regard to the Coast Guard.

SEC. 532. WAIVER OF TIME LIMITATIONS FOR AWARD OF CERTAIN DECORATIONS TO SPECIFIED PERSONS.

(a) WAIVER OF TIME LIMITATION.—Any limitation established by law or policy for the time within which a recommendation for the award of a military decoration or award must be submitted shall not apply in the case of awards of decorations described in subsection (b), the award of each such decoration having been determined by the Secretary of the military department concerned to be warranted in accordance with section 1130 of title 10, United States Code.

(b) DISTINGUISHED FLYING CROSS.—Subsection (a) applies to awards of the Distinguished Flying Cross for service during World War II or Korea (including multiple awards to the same individual) in the case of each individual concerning whom the Secretary of the Navy (or an officer of the Navy acting on behalf of the Secretary) submitted to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate, before the date of the enactment of this Act, a notice as provided in section 1130(b) of title 10, United States Code, that the award of the Distinguished Flying Cross to that individual is warranted and that a waiver of time restrictions prescribed by law for recommendation for such award is recommended.

SEC. 533. COMMENDATION OF THE NAVY AND MARINE CORPS PERSONNEL WHO SERVED IN THE UNITED STATES NAVY ASIATIC FLEET FROM 1910–1942.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States established the Asiatic Fleet of the Navy in 1910 to protect American nationals, policies, and possessions in the Far East.

(2) The sailors and Marines of the Asiatic Fleet ensured the safety of United States citizens and foreign nationals, and provided humanitarian assistance in that region during the Chinese civil war, the Yangtze Flood of 1931, and the outbreak of Sino-Japanese hostilities.

(3) In 1940, due to deteriorating political relations and increasing tensions between the United States and Japan, a reinforced Asiatic Fleet began concentrating on the defense of the Philippines and engaged in extensive training to ensure maximum operational readiness for any eventuality.

(4) Following the declaration of war against Japan in December 1941, the warships, submarines, and aircraft of the Asiatic Fleet singly or in task forces courageously fought many battles against a superior Japanese armada.

(5) The Asiatic Fleet directly suffered the loss of 22 vessels, 1,826 men killed or missing in action, and 518 men captured and imprisoned under the worst of conditions, with many of them dying while held as prisoners of war.

(b) CONGRESSIONAL COMMENDATION.—Congress—

(1) commends the Navy and Marine Corps personnel who served in the Asiatic Fleet of the United States Navy between 1910 and 1942; and

(2) honors those who gave their lives in the line of duty while serving in the Asiatic Fleet.

SEC. 534. APPRECIATION FOR SERVICE DURING WORLD WAR I AND WORLD WAR II BY MEMBERS OF THE NAVY ASSIGNED ON BOARD MERCHANT SHIPS AS THE NAVAL ARMED GUARD SERVICE.

(a) FINDINGS.—Congress makes the following findings:

(1) The Navy established a special force during both World War I and World War II, known as the Naval Armed Guard Service, to protect merchant ships of the United States from enemy attack by stationing members of the Navy and weapons on board those ships.

(2) Members of the Naval Armed Guard Service served on 6,236 merchant ships during World War II, of which 710 were sunk by enemy action.

(3) Over 144,900 members of the Navy served in the Naval Armed Guard Service during World War II as officers, gun crewmen, signalmen, and radiomen, of whom 1,810 were killed in action.

(4) The efforts of the members of the Naval Armed Guard Service played a significant role in the safe passage of United States merchant ships to their destinations in the Soviet Union and various locations in western Europe and the Pacific Theater.

(5) The efforts of the members of the Navy who served in the Naval Armed Guard Service have been largely overlooked due to the rapid disbanding of the service after World War II and lack of adequate records.

(6) Recognition of the service of the naval personnel who served in the Naval Armed Guard Service is highly warranted and long overdue.

(b) SENSE OF CONGRESS.—Congress expresses its appreciation, and the appreciation of the American people, for the dedicated service performed during World War I and World War II by members of the Navy assigned as gun crews on board merchant ships as part of the Naval Armed Guard Service.

SEC. 535. SENSE OF CONGRESS REGARDING THE HEROISM, SACRIFICE, AND SERVICE OF THE MILITARY FORCES OF SOUTH VIETNAM AND OTHER NATIONS IN CONNECTION WITH THE UNITED STATES ARMED FORCES DURING THE VIETNAM CONFLICT.

(a) FINDINGS.—Congress finds the following:

(1) South Vietnam, Australia, South Korea, Thailand, New Zealand, and the Philippines contributed military forces, together with the United States, during military operations conducted in Southeast Asia during the Vietnam conflict.

(2) The contributions of the combat forces from these nations continued through long years of armed conflict.

(3) As a result, in addition to the United States casualties exceeding 210,000, this willingness to participate in the Vietnam conflict resulted in the death, and wounding of more than 1,000,000 military personnel from South Vietnam and 16,000 from other allied nations.

(4) The service of the Vietnamese and other allied nations was repeatedly marked by exceptional heroism and sacrifice, with particularly noteworthy contributions being made by the Vietnamese airborne, commando, infantry and ranger units, the Republic of Korea marines, the Capital and White Horse divisions, the Royal Thai Army Black Panther Division, the Royal Australian Regiment, the New Zealand "V" force, and the 1st Philippine Civic Action Group.

(b) SENSE OF CONGRESS.—Congress recognizes and honors the members and former members of the military forces of South Vietnam, the Republic of Korea, Thailand, Australia, New Zealand, and the Philippines for their heroism, sacrifice and service in connection with United States Armed Forces during the Vietnam conflict.

SEC. 536. SENSE OF CONGRESS REGARDING THE HEROISM, SACRIFICE, AND SERVICE OF FORMER SOUTH VIETNAMESE COMMANDOS IN CONNECTION WITH UNITED STATES ARMED FORCES DURING THE VIETNAM CONFLICT.

(a) FINDINGS.—Congress finds the following:

(1) South Vietnamese commandos were recruited by the United States as part of OPLAN 34A or its predecessor or OPLAN 35 from 1961 to 1970.

(2) The commandos conducted covert operations in North Vietnam during the Vietnam conflict.

(3) Many of the commandos were captured and imprisoned by North Vietnamese forces, some for as long as 20 years.

(4) The commandos served and fought proudly during the Vietnam conflict.

(5) Many of the commandos lost their lives serving in operations conducted by the United States during the Vietnam conflict.

(6) Many of the Vietnamese commandos now reside in the United States.

(b) SENSE OF CONGRESS—Congress recognizes and honors the former South Vietnamese commandos for their heroism, sacrifice, and service in connection with United States armed forces during the Vietnam conflict.

Subtitle E—Administration of Agencies Responsible for Review and Correction of Military Records

SEC. 541. PERSONNEL FREEZE.

(a) LIMITATION.—During fiscal years 1999, 2000, and 2001, the Secretary of a military department may not carry out any reduction in the number of military and civilian personnel assigned to duty with the service review agency for that military department below the baseline number for that agency until—

(1) the Secretary submits to Congress a report that describes the reduction proposed to be made, provides the Secretary's rationale for that reduction, and specifies the number of such personnel that would be assigned to duty with that agency after the reduction; and

(2) a period of 90 days has elapsed after the date on which such report is submitted.

(b) BASELINE NUMBER.—The baseline number for a service review agency under this section is—

(1) for purposes of the first report with respect to a service review agency under this section, the number of military and civilian personnel assigned to duty with that agency as of October 1, 1997; and

(2) for purposes of any subsequent report with respect to a service review agency under this section, the number of such personnel specified in the most recent report with respect to that agency under this section.

(c) SERVICE REVIEW AGENCY DEFINED.—In this section, the term 'service review agency' means—

(1) with respect to the Department of the Army, the Army Review Boards Agency;

(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

(3) with respect to the Department of the Air Force, the Air Force Review Boards Agency.

SEC. 542. PROFESSIONAL STAFF.

(a) IN GENERAL.—(1) Chapter 79 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1555. Professional staff

"(a) The Secretary of each military department shall assign to the staff of the service review agency of that military department at least one attorney and at least one physician. Such assignments shall be made on a permanent, full-time basis and may be made from members of the armed forces or civilian employees.

"(b) Personnel assigned pursuant to subsection (a)—

"(1) shall work under the supervision of the director or executive director (as the case may be) of the service review agency; and

"(2) shall be assigned duties as advisers to the director or executive director or other staff members on legal and medical matters, respectively, that are being considered by the agency.

"(c) In this section, the term 'service review agency' means—

"(1) with respect to the Department of the Army, the Army Review Boards Agency;

"(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

"(3) with respect to the Department of the Air Force, the Air Force Review Boards Agency.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1555. Professional staff.".

(b) EFFECTIVE DATE.—Section 1555 of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act.

SEC. 543. EX PARTE COMMUNICATIONS.

(a) IN GENERAL.—(1) Chapter 79 of title 10, United States Code, is amended by adding after section 1555, as added by section 542(a)(1), the following new section:

"§ 1556. Ex parte communications prohibited

"(a) IN GENERAL.—The Secretary of each military department shall ensure that an applicant seeking corrective action by the Army Review Boards Agency, the Air Force Review Boards Agency, or the Board for Correction of Naval Records, as the case may be, is provided a copy of all correspondence and communications (including summaries of verbal communications) to or from the agency or board, or a member of the staff of the agency or board, with an entity or person outside the agency or board that pertain directly to the applicant's case or have a material effect on the applicant's case.

"(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

"(1) Classified information.

"(2) Information the release of which is otherwise prohibited by law or regulation.

"(3) Any record previously provided to the applicant or known to be possessed by the applicant.

"(4) Any correspondence that is purely administrative in nature.

"(5) Any military record that is (or may be) provided to the applicant by the Secretary of the military department or other source.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to 1555, as added by section 542(a)(2), the following new item:

"1556. Ex parte communications prohibited.".

(b) EFFECTIVE DATE.—Section 1556 of title 10, United States Code, as added by subsection (a), shall apply with respect to correspondence and communications made 60 days or more after the date of the enactment of this Act.

SEC. 544. TIMELINESS STANDARDS.

(a) IN GENERAL.—Chapter 79 of title 10, United States Code, is amended by adding after section 1556, as added by section 543(a)(1), the following new section:

"§ 1557. Timeliness standards for disposition of cases before Corrections Boards

"(a) TEN-MONTH CLEARANCE PERCENTAGE.—Of the cases accepted for consideration by a Corrections Board during a period specified in the following table, the percentage on which final action must be completed within 10 months of receipt (other than for those cases considered suitable for administrative correction) is as follows:

"For cases accepted during—	The percentage on which final action must be completed within 10 months of receipt is—
the period of fiscal years 2001 and 2002.	50
the period of fiscal years 2003 and 2004.	60
the period of fiscal years 2005, 2006, and 2007.	70
the period of fiscal years 2008, 2009, and 2010.	80
the period of any fiscal year after fiscal year 2010.	90.

"(b) CLEARANCE DEADLINE FOR ALL CASES.—Effective October 1, 2002, final action on all cases accepted for consideration by a Corrections Board (other than those cases considered suitable for administrative correction) shall be completed within 18 months of receipt.

"(c) WAIVER AUTHORITY.—The Secretary of the military department concerned may exclude an individual case from the timeliness standards prescribed in subsections (a) and (b) if the Secretary determines that the case warrants a longer period of consideration. The authority of the Secretary of a military department under this subsection may not be delegated.

"(d) REPORTS ON FAILURE TO MEET TIMELINESS STANDARDS.—The Secretary of the military department concerned shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report not later than June 1 following any fiscal year during which the Corrections Board of that Secretary's military department was unable to meet the timeliness standards in subsections (a) and (b). The report shall specify the reasons why the standard could not be met and the corrective actions initiated to ensure compliance in the future. The report shall also specify the number of waivers granted under subsection (c) during that fiscal year.

"(e) CORRECTIONS BOARD DEFINED.—In this section, the term 'Corrections Board' means—

"(1) with respect to the Department of the Army, the Army Board for Correction of Military Records;

"(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

"(3) with respect to the Department of the Air Force, the Air Force Board for Correction of Military Records.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1556, as added by section 543(a)(2), the following new item:

"1557. Timeliness standards for disposition of cases before Corrections Boards.".

Subtitle F—Other Matters

SEC. 551. ONE-YEAR EXTENSION OF CERTAIN FORCE DRAWDOWN TRANSITION AUTHORITIES RELATING TO PERSONNEL MANAGEMENT AND BENEFITS.

(a) EARLY RETIREMENT AUTHORITY FOR ACTIVE DUTY MEMBERS.—Section 4403(i) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 1293 note) is amended by striking out "October 1, 1999" and inserting in lieu thereof "October 1, 2000".

(b) SSB AND VSI.—Sections 1174a(h) and 1175(d)(3) of title 10, United States Code, are amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(c) SELECTIVE EARLY RETIREMENT BOARDS.—Section 638a(a) of such title is amended by striking out "during the nine-year period beginning on October 1, 1990" and inserting in lieu thereof "during the period beginning on October 1, 1990, and ending on September 30, 2000".

(d) TIME-IN-GRADE REQUIREMENT FOR RETENTION OF GRADE UPON VOLUNTARY RETIREMENT.—Section 1370(a)(2)(A) of such title is *amended by striking out "during the nine-year period beginning on October 1, 1990" and inserting in lieu thereof "during the period beginning on October 1, 1990, and ending on September 30, 2000".*

(e) Length of Commissioned Service for Voluntary Retirement as an Officer.—Sections 3911(b), 6323(a)(2), and 8911(b) of such title are amended by striking out "during the nine-year period beginning on October 1, 1990" and inserting in lieu thereof "during the period beginning on October 1, 1990, and ending on September 30, 2000".

(f) Retirement of Certain Limited Duty Officers of the Navy and Marine Corps.—(1) Sections 633 and 634 of such title are amended by striking out "October 1, 1999" in the last sentence and inserting in lieu thereof "October 1, 2000".

(2) Section 6383 of such title is amended—

(A) in subsection (a)(5), by striking out "October 1, 1999" and inserting in lieu thereof "October 1, 2000"; and

(B) in subsection (k), by striking out "October 1, 1999" in the last sentence and inserting in lieu thereof "October 1, 2000".

(g) Travel and Transportation Allowances and Storage of Baggage and Household Effects for Certain Members Being Involuntarily Separated.—Sections 404(c)(1)(C), 404(f)(2)(B)(v), 406(a)(2)(B)(v), and 406(g)(1)(C) of title 37, United States Code, and section 503(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 37 U.S.C. 406 note) are amended by striking out "during the nine-year period beginning on October 1, 1990" and inserting in lieu thereof "during the period beginning on October 1, 1990, and ending on September 30, 2000".

(h) Educational Leave Relating to Continuing Public and Community Service.—Section 4463(f) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 1143a note) is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(i) Transitional Health, Commissary, and Family Housing Benefits.—

(1) Health care.—Section 1145 of title 10, United States Code, is amended—

(A) in subsections (a)(1) and (c)(1), by striking out "during the nine-year period beginning on October 1, 1990" and inserting in lieu thereof "during the period beginning on October 1, 1990, and ending on September 30, 2000"; and

(B) in subsection (e), by striking out "during the five-year period beginning on October 1, 1994" and inserting in lieu thereof "during the period beginning on October 1, 1994, and ending on September 30, 2000".

(2) Commissary and exchange benefits.—Section 1146 of such title is amended—

(A) by striking out "during the nine-year period beginning on October 1, 1990" and inserting in lieu thereof "during the period beginning on October 1, 1990, and ending on September 30, 2000"; and

(B) by striking out "during the five-year period beginning on October 1, 1994" and inserting in lieu thereof "during the period beginning on October 1, 1994, and ending on September 30, 2000".

(3) Use of military housing.—Section 1147(a) of such title is amended—

(A) in paragraph (1), by striking out "during the nine-year period beginning on October 1, 1990" and inserting in lieu thereof "during the period beginning on October 1, 1990, and ending on September 30, 2000"; and

(B) in paragraph (2), by striking out "during the five-year period beginning on October 1, 1994" and inserting in lieu thereof "during the period beginning on October 1, 1994, and ending on September 30, 2000".

(j) Enrollment of Dependents in Defense Dependents' Education System.—Section 1407(c)(1) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(c)(1)) is amended by striking out "during the nine-year period beginning on October 1, 1990" and inserting in lieu thereof "during the period beginning on October 1, 1990, and ending on September 30, 2000".

(k) Force Reduction Transition Period Definition.—Section 4411 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 12681 note) is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(l) Temporary Special Authority for Force Reduction Period Retirements.—Section 4416(b)(1) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 12681 note) is amended by striking out "October 1, 1999" and inserting in lieu thereof "October 1, 2000".

(m) Retired Pay for Non-Regular Service.—(1) Section 12731(f) of title 10, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(2) Section 12731a of such title is amended in subsections (a)(1)(B) and (b), by striking out "October 1, 1999" and inserting in lieu thereof "October 1, 2000".

(n) Affiliation With Guard and Reserve Units; Waiver of Certain Limitations.—Section 1150(a) of such title is amended by striking out "during the nine-year period beginning on October 1, 1990" and inserting in lieu thereof "during the period beginning on October 1, 1990, and ending on September 30, 2000".

(o) Reserve Montgomery GI Bill.—Section 16133(b)(1)(B) of such title is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

SEC. 552. LEAVE WITHOUT PAY FOR ACADEMY CADETS AND MIDSHIPMEN.

(a) Authority for Leave Without Pay.—Section 702 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Secretary concerned may place an academy cadet or midshipman on involuntary leave without pay if, under regulations prescribed by the Secretary concerned, the Superintendent of the Academy at which the cadet or midshipman is admitted—

"(A) has recommended that the cadet or midshipman be dismissed or discharged;

"(B) has directed the cadet or midshipman return to the Academy to repeat an academic semester or year;

"(C) has otherwise recommended to the Secretary for good cause that the cadet or midshipman be placed on involuntary leave without pay.

"(2) In this subsection, the term 'academy cadet or midshipman' means—

"(A) a cadet of the United States Military Academy;

"(B) a midshipman of the United States Naval Academy;

"(C) a cadet of the United States Air Force Academy; or

"(D) a cadet of the United States Coast Guard Academy.".

(b) Effective Date.—Subsection (c) of section 702 of title 10, United States Code, as added by subsection (a), shall apply with respect to academy cadets and midshipmen (as defined in that subsection) who are placed on involuntary leave after the date of the enactment of this Act.

SEC. 553. PROVISION FOR RECOVERY, CARE, AND DISPOSITION OF THE REMAINS OF ALL MEDICALLY RETIRED MEMBERS.

(a) In General.—Section 1481(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out ", or member of an armed force without component,"; and

(2) in paragraph (7)—

(A) by striking out "United States"; and

(B) by striking out "for a period of more than 30 days,".

(b) Effective Date.—The amendments made by subsection (a)(2) apply with respect to persons dying on or after the date of the enactment of this Act.

SEC. 554. CONTINUED ELIGIBILITY UNDER VOLUNTARY SEPARATION INCENTIVE PROGRAM FOR MEMBERS WHO INVOLUNTARILY LOSE MEMBERSHIP IN A RESERVE COMPONENT.

(a) Continued Eligibility.—Section 1175(a) of title 10, United States Code, is amended by inserting before the period at the end ", or for the period described in section 1175(e)(1) of this section if the member becomes ineligible for retention in an active or inactive status in a reserve component because of age, years of service, failure to select for promotion, or medical disqualification, so long as such ineligibility does not result from deliberate action on the part of the member with the intent to avoid retention in an active or inactive status in a reserve component.".

(b) Effective Date.—The amendment made by subsection (a) applies with respect to any person provided a voluntary separation incentive under section 1175 of title 10, United States Code (whether before, on, or after the date of the enactment of this Act).

SEC. 555. DEFINITION OF FINANCIAL INSTITUTION FOR DIRECT DEPOSIT OF PAY.

(a) Servicemembers Reimbursement for Expenses Due to Government Error.—Paragraph (1) of section 1053(d) of title 10, United States Code, is amended to read as follows:

"(1) The term 'financial institution' means a bank, savings and loan association, or similar institution or a credit union chartered by the United States or a State.".

(b) Civilian Employees Reimbursement for Expenses Due to Government Error.—Paragraph (1) of section 1594(d) of such title is amended to read as follows:

"(1) The term 'financial institution' means a bank, savings and loan association, or similar institution or a credit union chartered by the United States or a State.".

SEC. 556. INCREASE IN MAXIMUM AMOUNT FOR COLLEGE FUND PROGRAM.

(a) Increase in Maximum Rate for Active Component Montgomery GI Bill Kicker.—Section 3015(d) of title 38, United States Code, is amended—

(1) by inserting ", at the time the individual first becomes a member of the Armed Forces," after "Secretary of Defense, may"; and

(2) by striking out "$400" and all that follows through "that date" and inserting in lieu thereof "$950 per month".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect to individuals who first become members of the Armed Forces on or after that date.

SEC. 557. CENTRAL IDENTIFICATION LABORATORY, HAWAII.

(a) Sense of Congress.—It is the sense of Congress that the Central Identification Laboratory, Hawaii, of the Department of the Army is an important element of the Department of Defense and is critical to the full accounting of members of the Armed Forces who have been classified as POW/MIAs or are otherwise unaccounted for.

(b) Required Staffing Level.—The Secretary of Defense shall provide sufficient personnel to fill all authorized personnel positions of the Central Identification Laboratory, Hawaii, Department of the Army. Those personnel shall be drawn from members of the Army, Navy, Air Force, and Marine Corps and from civilian personnel, as appropriate, considering the proportion of POW/MIAs from each service.

(c) JOINT MANNING PLAN.—The Secretary of Defense shall develop and implement, not later than March 31, 2000, a joint manning plan to ensure the appropriate participation of the four services in the staffing of the Central Identification Laboratory, Hawaii, as required by subsection (b).

(d) LIMITATION ON REDUCTIONS.—The Secretary of the Army may not carry out any personnel reductions (in authorized or assigned personnel) at the Central Identification Laboratory, Hawaii, until the joint manning plan required by subsection (c) is implemented.

SEC. 558. HONOR GUARD DETAILS AT FUNERALS OF VETERANS.

(a) IN GENERAL.—(1) Chapter 75 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1491. Honor guard details at funerals of veterans

"(a) AVAILABILITY.—The Secretary of a military department shall, upon request, provide an honor guard detail (or ensure that an honor guard detail is provided) for the funeral of any veteran.

"(b) COMPOSITION OF HONOR GUARD DETAILS.—The Secretary of each military department shall ensure that an honor guard detail for the funeral of a veteran consists of not less than three persons and (unless a bugler is part of the detail) has the capability to play a recorded version of Taps.

"(c) PERSONS FORMING HONOR GUARDS.—An honor guard detail may consist of members of the armed forces or members of veterans organizations or other organizations approved for purposes of this section under regulations prescribed by the Secretary of Defense. The Secretary of a military department may provide transportation, or reimbursement for transportation, and expenses for a person who participates in an honor guard detail under this section and is not a member of the armed forces or an employee of the United States.

"(d) REGULATIONS.—The Secretary of Defense shall by regulation establish a system for selection of units of the armed forces and other organizations to provide honor guard details. The system shall place an emphasis on balancing the funeral detail workload among the units and organizations providing honor guard details in an equitable manner as they are able to respond to requests for such details in terms of geographic proximity and available resources. The Secretary shall provide in such regulations that the armed force in which a veteran served shall not be considered to be a factor when selecting the military unit or other organization to provide an honor guard detail for the funeral of the veteran.

"(e) ANNUAL REPORT.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report not later than January 31 of each year beginning with 2001 and ending with 2005 on the experience of the Department of Defense under this section. Each such report shall provide data on the number of funerals supported under this section, cost for that support, shown by manpower and other cost factors, and the number and costs of funerals supported by each participating organization. The data in the report shall be presented in a standard format, regardless of military department or other organization.

"(f) VETERAN DEFINED.—In this section, the term 'veteran' has the meaning given that term in section 101(2) of title 38.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1491. Honor guard details at funerals of veterans.".

(b) TREATMENT OF PERFORMANCE OF HONOR GUARD FUNCTIONS BY RESERVES.—(1) Chapter 1215 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 12552. Funeral honor guard functions: prohibition of treatment as drill or training

"Performance by a Reserve of honor guard functions at the funeral of a veteran may not be considered to be a period of drill or training otherwise required.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"12552. Funeral honor guard functions: prohibition of treatment as drill or training.".

(c) REPEAL OF LIMITATION ON AVAILABILITY OF FUNDS FOR HONOR GUARD FUNCTIONS BY NATIONAL GUARD.—Section 114 of title 32, United States Code, is amended—

(1) by striking out "(a)"; and

(2) by striking out subsection (b).

(d) APPLICABILITY.—The amendments made by this section shall apply to burials of veterans that occur on or after October 1, 1999.

(e) STUDY.—The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall study alternative means for the provision of honor guard details at funerals of veterans. Not later than March 31, 1999, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth the results of the study and the Secretary's views and recommendations.

(f) CONSULTATION WITH VETERANS SERVICE ORGANIZATIONS.—Before prescribing the initial regulations under section 1491 of title 10, United States Code, as added by subsection (a), the Secretary of Defense shall consult with veterans service organizations to determine the views of those organizations regarding methods for providing honor guard details at funerals for veterans, suggestions for organizing the system to provide those details, and estimates of the resources that those organizations could provide for honor guard details for veterans.

SEC. 559. APPLICABILITY TO ALL PERSONS IN CHAIN OF COMMAND OF POLICY REQUIRING EXEMPLARY CONDUCT BY COMMANDING OFFICERS AND OTHERS IN AUTHORITY IN THE ARMED FORCES.

(a) IN GENERAL.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 121 the following new section:

"§ 121a. Requirement of exemplary conduct by civilians in chain of command

"The President, as Commander in Chief, and the Secretary of Defense are required (in the same manner that commanding officers and others in authority in the Armed Forces are required)—

"(1) to show in themselves a good example of virtue, honor, and patriotism and to subordinate themselves to those ideals;

"(2) to be vigilant in inspecting the conduct of all persons who are placed under their command;

"(3) to guard against and to put an end to all dissolute and immoral practices and to correct, according to the laws and regulations of the armed forces, all persons who are guilty of them; and

"(4) to take all necessary and proper measures, under the laws, regulations, and customs of the armed forces, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 121 the following new item:

"121a. Requirement of exemplary conduct by civilians in chain of command.".

SEC. 560. REPORT ON PRISONERS TRANSFERRED FROM UNITED STATES DISCIPLINARY BARRACKS, FORT LEAVENWORTH, KANSAS, TO FEDERAL BUREAU OF PRISONS.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report, to be prepared by the General Counsel of the Department of Defense, concerning the decision of the Secretary of the Army in 1994 to transfer approximately 500 prisoners from the United States Disciplinary Barracks, Fort Leavenworth, Kansas, to the Federal Bureau of Prisons.

(b) MATTERS TO BE INCLUDED.—The Secretary shall include in the report the following:

(1) A description of the basis for the selection of prisoners to be transferred, particularly in light of the fact that many of the prisoners transferred are minimum or medium security prisoners, who are considered to have the best chance for rehabilitation, and whether the transfer of those prisoners indicates a change in Department of Defense policy regarding the rehabilitation of military prisoners.

(2) A comparison of the historical recidivism rates of prisoners released from the United States Disciplinary Barracks and the Federal Bureau of Prisons, together with a description of any plans of the Army to track the parole and recidivism rates of prisoners transferred to the Federal Bureau of Prisons and whether it has tracked those factors for previous transferees.

(3) A description of the projected future flow of prisoners into the new United States Disciplinary Barracks being constructed at Fort Leavenworth, Kansas, and whether the Secretary of the Army plans to automatically send new prisoners to the Federal Bureau of Prisons without serving at the United States Disciplinary Barracks if that Barracks is at capacity and whether the Memorandum of Understanding between the Federal Bureau of Prisons and the Army covers that possibility.

(4) A description of the cost of incarcerating a prisoner in the Federal Bureau of Prisons compared to the United States Disciplinary Barracks and the assessment of the Secretary as to the extent to which the transfer of prisoners to the Federal Bureau of Prisons by the Secretary of the Army is made in order to shift a budgetary burden.

(c) MONITORING.—During fiscal years 1999 through 2003, the Secretary of the Army shall track the parole and recidivism rates of prisoners transferred from the United States Disciplinary Barracks, Fort Leavenworth, Kansas, to the Federal Bureau of Prisons.

SEC. 561. REPORT ON PROCESS FOR SELECTION OF MEMBERS FOR SERVICE ON COURTS-MARTIAL.

(a) REPORT REQUIRED.—Not later than April 15, 1999, the Secretary of Defense shall submit to Congress a report on the method of selection of members of the Armed Forces to serve on courts-martial.

(b) MATTERS TO BE CONSIDERED.—In preparing the report, the Secretary shall—

(1) direct the Secretaries of the military departments to develop a plan for random selection of members of courts-martial , subject to the provisions relating to service on courts-martial specified in section 825(d)(2) of title 10, United States Code (article 25(d)(2) of the Uniform Code of Military Justice), as a possible replacement for the current system of selection by the convening authority; and

(2) obtain the views of the members of the committee referred to in section 946 of such title (known as the "Code Committee").

SEC. 562. STUDY OF REVISING THE TERM OF SERVICE OF MEMBERS OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.

Not later than April 15, 1999, the Secretary of Defense shall submit to Congress a report on the desirability of revising the term of appointment of judges of the United States Court of Appeals for the Armed Forces so that the term of a judge on that court is for a period of 15 years or until the judge attains the age of 65, whichever is later. In preparing the report, the Secretary shall obtain the view of the members of the committee referred to in section 946 of title 10, United States Code, (known as the "Code Committee").

SEC. 563. STATUS OF CADETS AT THE MERCHANT MARINE ACADEMY.

(a) STATUS OF CADETS.—Any citizen of the United States appointed as a cadet at the United States Merchant Marine Academy shall be considered to be a member of the United States Naval Reserve.

(b) ELIGIBILITY.—The Secretary of Defense shall provide that cadets of the United States Merchant Marine Academy shall be issued an identification card (referred to as a "military ID card") and shall be entitled to all rights and privileges in accordance with the same eligibility criteria as apply to other members of the Ready Reserve of the reserve components of the Armed Forces.

(c) COORDINATION WITH SECRETARY OF TRANSPORTATION.—The Secretary of Defense shall carry out this section in coordination with the Secretary of Transportation.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 1999.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Except as provided in subsection (b), the adjustment, to become effective during fiscal year 1999, required by section 1009 of title 37, United States Code, in the rate of monthly basic pay authorized members of the uniformed services by section 203(a) of such title shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 1999, the rates of basic pay of members of the uniformed services shall be increased by the greater of—

(1) 3.6 percent; or

(2) the percentage increase determined under subsection (c) of section 1009 of title 37, United States Code, by which the monthly basic pay of members would be adjusted under subsection (a) of that section on that date in the absence of subsection (a) of this section.

SEC. 602. BASIC ALLOWANCE FOR HOUSING OUTSIDE THE UNITED STATES.

(a) PAYMENT OF CERTAIN EXPENSES RELATED TO OVERSEAS HOUSING.—Section 403(c) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) In the case of a member of the uniformed services authorized to receive an allowance under paragraph (1), the Secretary concerned may make a lump-sum payment to the member for required deposits and advance rent, and for expenses relating thereto, that are—

"(i) incurred by the member in occupying private housing outside of the United States; and

"(ii) authorized or approved under regulations prescribed by the Secretary concerned.

"(B) Expenses for which a member may be reimbursed under this paragraph may include losses relating to housing that are sustained by the member as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located.

"(C) The Secretary concerned shall recoup the full amount of any deposit or advance rent payments made by the Secretary under subparagraph (A), including any gain resulting from currency fluctuations between the time of payment and the time of recoupment.".

(b) CONFORMING AMENDMENT.—Section 405 of title 37, United States Code, is amended by striking out subsection (c).

(c) RETROACTIVE APPLICATION.—The reimbursement authority provided by section 403(c)(3)(B) of title 37, United States Code, as added by subsection (a), applies with respect to losses relating to housing that are sustained, on or after July 1, 1997, by a member of the uniformed services as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located.

SEC. 603. BASIC ALLOWANCE FOR SUBSISTENCE FOR RESERVES.

(a) IN GENERAL.—Section 402 of title 37, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN ENLISTED RESERVE MEMBERS.—Unless entitled to basic pay under section 204 of this title, an enlisted member of a reserve component may receive, at the discretion of the Secretary concerned, rations in kind, or a part thereof, when the member's instruction or duty periods, as described in section 206(a) of this title, total at least eight hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.".

(b) APPLICATION DURING TRANSITIONAL PERIOD.—Section 602(d)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 37 U.S.C. 402 note) is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULE FOR CERTAIN ENLISTED RESERVE MEMBERS.—Unless entitled to basic pay under section 204 of title 37, United States Code, an enlisted member of a reserve component (as defined in section 101(24) of such title) may receive, at the discretion of the Secretary concerned (as defined in section 101(5) of such title), rations in kind, or a part thereof, when the member's instruction or duty periods (as described in section 206(a) of such title) total at least eight hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.".

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SPECIAL PAY FOR HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(b) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(c) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(d) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(e) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(f) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(g) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(h) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of title 10, United States Code, is amended by striking out "October 1, 1999" and inserting in lieu thereof "October 1, 2000".

SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

SEC. 613. ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1999," and inserting in lieu thereof "September 30, 2000,".

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(c) ENLISTMENT BONUSES FOR MEMBERS WITH CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(d) SPECIAL PAY FOR NUCLEAR QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(e) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(f) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of title 37, United States Code, is amended by striking out "October 1, 1999" and inserting in lieu thereof "October 1, 2000".

SEC. 614. AVIATION CAREER INCENTIVE PAY AND AVIATION OFFICER RETENTION BONUS.

(a) DEFINITION OF AVIATION SERVICE.—(1) Section 301a(a)(6) of title 37, United States Code, is amended—

(A) by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D), respectively; and

(B) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) The term 'aviation service' means service performed by an officer (except a flight surgeon or other medical officer) while holding an aeronautical rating or designation or while in training to receive an aeronautical rating or designation.".

(2) Section 301b(j) of such title is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) The term 'aviation service' means service performed by an officer (except a flight surgeon or other medical officer) while holding an aeronautical rating or designation or while in training to receive an aeronautical rating or designation.".

(b) AMOUNT OF INCENTIVE PAY.—Subsection (b) of section 301a of such title is amended to read as follows:

"(b)(1) A member who satisfies the requirements described in subsection (a) is entitled to monthly incentive pay as follows:

"Years of aviation service (including flight training) as an officer:	Monthly rate
2 or less	$125
Over 2	$156
Over 3	$188
Over 4	$206
Over 6	$650
Over 14	$840
Over 22	$585
Over 23	$495
Over 24	$385
Over 25	$250

"(2) An officer in a pay grade above O–6 is entitled, until the officer completes 25 years of aviation service, to be paid at the rates set forth in the table in paragraph (1), except that—

"(A) an officer in pay grade O–7 may not be paid at a rate greater than $200 a month; and

"(B) an officer in pay grade O–8 or above may not be paid at a rate greater than $206 a month.

"(3) For a warrant officer with over 22, 23, 24, or 25 years of aviation service who is qualified under subsection (a), the rate prescribed in the table in paragraph (1) for officers with over 14 years of aviation service shall continue to apply to the warrant officer.".

(c) REFERENCES TO AVIATION SERVICE.—(1) Section 301a of such title is further amended—

(A) in subsection (a)(4)—

(i) by striking out "22 years of the officer's service as an officer" and inserting in lieu thereof "22 years of aviation service of the officer"; and

(ii) by striking out "25 years of service as an officer (as computed under section 205 of this title)" and inserting in lieu thereof "25 years of aviation service"; and

(B) in subsection (d), by striking out "subsection (b)(1) or (2), as the case may be, for the performance of that duty by a member of corresponding years of aviation or officer service, as appropriate," and inserting in lieu thereof "subsection (b) for the performance of that duty by a member with corresponding years of aviation service".

(2) Section 301b(b)(5) of such title is amended by striking out "active duty" and inserting in lieu thereof "aviation service".

(d) CONFORMING AMENDMENT.—Section 615 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1787) is repealed.

SEC. 615. SPECIAL PAY FOR DIVING DUTY.

Section 304(a) of title 37, United States Code, is amended—

(1) by inserting "or" at the end of paragraph (1);

(2) in paragraph (2), by striking out "by frequent and regular dives; and" and inserting in lieu thereof a period; and

(3) by striking out paragraph (3).

SEC. 616. SELECTIVE REENLISTMENT BONUS ELIGIBILITY FOR RESERVE MEMBERS PERFORMING ACTIVE GUARD AND RESERVE DUTY.

Section 308(a)(1)(D) of title 37, United States Code, is amended to read as follows:

"(D) reenlists or voluntarily extends the member's enlistment for a period of at least three years in a regular component, or in a reserve component if the member is performing active Guard and Reserve duty (as defined in section 101(d)(6) of title 10), of the service concerned;".

SEC. 617. REMOVAL OF TEN PERCENT RESTRICTION ON SELECTIVE REENLISTMENT BONUSES.

Section 308(b) of title 37, United States Code, is amended—

(1) by striking out "(1)" after "(b)"; and

(2) by striking out paragraph (2).

SEC. 618. INCREASE IN MAXIMUM AMOUNT OF ARMY ENLISTMENT BONUS.

Section 308f(a) of title 37, United States Code, is amended by striking out "$4,000" and inserting in lieu thereof "$6,000".

SEC. 619. EQUITABLE TREATMENT OF RESERVES ELIGIBLE FOR SPECIAL PAY FOR DUTY SUBJECT TO HOSTILE FIRE OR IMMINENT DANGER.

Section 310(b) of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) A member of a reserve component who is eligible for special pay under this section for a month shall receive the full amount authorized in subsection (a) for that month regardless of the number of days during that month on which the member satisfies the eligibility criteria specified in such subsection.".

Subtitle C—Travel and Transportation Allowances

SEC. 631. EXCEPTION TO MAXIMUM WEIGHT ALLOWANCE FOR BAGGAGE AND HOUSEHOLD EFFECTS.

Section 406(b)(1)(D) of title 37, United States Code, is amended in the second sentence by inserting before the period the following: ", unless the additional weight allowance in excess of such maximum is intended to permit the shipping of consumables that cannot be reasonably obtained at the new station of the member".

SEC. 632. TRAVEL AND TRANSPORTATION ALLOWANCES FOR TRAVEL PERFORMED BY MEMBERS IN CONNECTION WITH REST AND RECUPERATIVE LEAVE FROM OVERSEAS STATIONS.

(a) PROVISION OF TRANSPORTATION.—Section 411c of title 37, United States Code, is amended by striking out subsection (b) and inserting in lieu thereof the following new subsection:

"(b) When the transportation authorized by subsection (a) is provided by the Secretary concerned, the Secretary may use Government or commercial carriers. The Secretary concerned may limit the amount of payments made to members under subsection (a).".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§411c. Travel and transportation allowances: travel performed in connection with rest and recuperative leave from certain stations in foreign countries".

(2) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"411c. Travel and transportation allowances: travel performed in connection with rest and recuperative leave from certain stations in foreign countries.".

SEC. 633. STORAGE OF BAGGAGE OF CERTAIN DEPENDENTS.

Section 430(b) of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) At the option of the member, in lieu of the transportation of baggage of a dependent child under paragraph (1) from the dependent's school in the continental United States, the Secretary concerned may pay or reimburse the member for costs incurred to store the baggage at or in the vicinity of the school during the dependent's annual trip between the school and the member's duty station. The amount of the payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage.".

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

SEC. 641. EFFECTIVE DATE OF FORMER SPOUSE SURVIVOR BENEFIT COVERAGE.

(a) COORDINATION OF PROVISIONS.—Section 1448(b)(3)(C) of title 10, United States Code, is amended by inserting after "the Secretary concerned" in the second sentence the following: ", except that, in the case of an election made by a person described in section 1450(f)(3)(B) of this title, such an election is effective on the first day of the first month which begins after the date of the court order or filing involved (in the same manner as provided under section 1450(f)(3)(D) of this title)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to elections under section 1448(b)(3) of title 10, United States Code, that are received by the Secretary concerned on or after the date of the enactment of this Act.

Subtitle E—Other Matters

SEC. 651. DELETION OF CANAL ZONE FROM DEFINITION OF UNITED STATES POSSESSIONS FOR PURPOSES OF PAY AND ALLOWANCES.

Section 101(2) of title 37, United States Code, is amended by striking "the Canal Zone,".

SEC. 652. ACCOUNTING OF ADVANCE PAYMENTS.

Section 1006(e) of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following new paragraph:

"(2) Obligations and expenditures incurred for an advance payment under this section may not be included in any determination of amounts available for obligation or expenditure except in the fiscal year in which the advance payment is ultimately earned and such obligations and expenditures shall be accounted for only in such fiscal year.".

SEC. 653. REIMBURSEMENT OF RENTAL VEHICLE COSTS WHEN MOTOR VEHICLE TRANSPORTED AT GOVERNMENT EXPENSE IS LATE.

(a) TRANSPORTATION IN CONNECTION WITH CHANGE OF PERMANENT STATION.—Section 2634 of title 10, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection:

"(g) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this section does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the member's use, or for the use of the dependent for whom the delayed vehicle was transported. However, the amount reimbursed shall not exceed $30 per day, and the rental period for which reimbursement may be provided shall expire after seven days or *on the date on which the delayed vehicle finally arrives at the authorized destination (whichever occurs first).".*

(b) Transportation in Connection With Other Moves.—Section 406(h) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(3) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this subsection does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the dependent's use. However, the amount reimbursed shall not exceed $30 per day, and the rental period for which reimbursement may be provided shall expire after seven days or on the date on which the delayed vehicle finally arrives at the authorized destination (whichever occurs first).".

(c) Transportation in Connection With Departure Allowances for Dependents.—Section 405a(b) of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under paragraph (1) does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the dependent's use. However, the amount reimbursed shall not exceed $30 per day, and the rental period for which reimbursement may be provided shall expire after seven days or on the date on which the delayed vehicle finally arrives at the authorized destination (whichever occurs first).".

(d) Transportation in Connection With Effects of Missing Persons.—Section 554 of title 37, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

"(i) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this section does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the dependent for expenses incurred after that date to rent a motor vehicle for the dependent's use. However, the amount reimbursed shall not exceed $30 per day, and the rental period for which reimbursement may be provided shall expire after seven days or on the date on which the delayed vehicle finally arrives at the authorized destination (whichever occurs first).".

(e) Application of Amendments.—Reimbursement for motor vehicle rental expenses may not be provided under the amendments made by this section until after the date on which the Secretary of Defense submits to Congress a report certifying that the Department of Defense has in place and operational a system to recover the cost to the Department of providing such reimbursement from commercial carriers that are responsible for the delay in the delivery of the motor vehicles of members of the Armed Forces and their dependents. The amendments shall apply with respect to rental expenses described in such amendments that are incurred on or after the date of the submission of the report.

SEC. 654. EDUCATION LOAN REPAYMENT PROGRAM FOR CERTAIN HEALTH PROFESSION OFFICERS SERVING IN SELECTED RESERVE.

(a) Loan Repayment Amounts.—Section 16302(c) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking out "$3,000" and inserting in lieu thereof "$10,000"; and

(2) in paragraph (3), by striking out "$20,000" and inserting in lieu thereof "$50,000".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on October 1, 1998.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Services

SEC. 701. EXPANSION OF DEPENDENT ELIGIBILITY UNDER RETIREE DENTAL PROGRAM.

(a) In General.—Subsection (b) of section 1076c of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) Eligible dependents of a member described in paragraph (1) or (2) who is not enrolled in the plan and who—

"(A) is enrolled under section 1705 of title 38 to receive dental care from the Secretary of Veterans Affairs;

"(B) is enrolled in a dental plan that—

"(i) is available to the member as a result of employment by the member that is separate from the military service of the member; and

"(ii) is not available to dependents of the member as a result of such separate employment by the member; or

"(C) is prevented by a medical or dental condition from being able to obtain benefits under the plan.".

(b) Conforming Amendment.—Subsection (f)(3) of such section is amended by striking out "(b)(4)" and inserting in lieu thereof "(b)(5)".

SEC. 702. PLAN FOR PROVISION OF HEALTH CARE FOR MILITARY RETIREES AND THEIR DEPENDENTS COMPARABLE TO HEALTH CARE PROVIDED UNDER TRICARE PRIME.

(a) Requirement To Submit Plan.—(1) The Secretary of Defense shall submit to Congress—

(A) a plan under which the Secretary would guarantee access, for covered beneficiaries described in subsection (b), to health care that is comparable to the health care provided to covered beneficiaries under chapter 55 of title 10, United States Code, under TRICARE Prime (as defined in subsection (d) of section 1097a of such title (as added by section 712)); and

(B) a legislative proposal and cost estimate for implementing the plan.

(2) The plan required under paragraph (1)(A) shall provide for guaranteed access to such health care for such covered beneficiaries by October 1, 2001.

(b) Covered Beneficiaries.—A covered beneficiary under this subsection is an individual who is a covered beneficiary under chapter 55 of title 10, United States Code, who—

(1) is a member or former member of the Armed Forces entitled to retired pay under such title; or

(2) is a dependent (as that term is defined in section 1072(2) of such chapter) of such a member.

(c) Deadline for Submission.—The Secretary shall submit the plan required by subsection (a) not later than March 1, 1999.

SEC. 703. PLAN FOR REDESIGN OF MILITARY PHARMACY SYSTEM.

(a) Plan Required.—The Secretary of Defense shall submit to Congress a plan that would provide for a system-wide redesign of the military and contractor retail and mail-order pharmacy system of the Department of Defense by incorporating "best business practices" of the private sector. The Secretary shall work with contractors of TRICARE retail pharmacy and national mail-order pharmacy programs to develop a plan for the redesign of the pharmacy system that—

(1) may include a plan for an incentive-based formulary for military medical treatment facilities and contractors of TRICARE retail pharmacies and the national mail-order pharmacy; and

(2) shall include a plan for each of the following:

(A) A uniform formulary for such facilities and contractors.

(B) A centralized database that integrates the patient databases of pharmacies of military medical treatment facilities and contractor retail and mail-order programs to implement automated prospective drug utilization review systems.

(C) A system-wide drug benefit for covered beneficiaries under chapter 55 of title 10, United States Code, who are entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(b) Submission of Plan.—The Secretary shall submit the plan required under subsection (a) not later than March 1, 1999.

(c) Suspension of Implementation of Program.—The Secretary shall suspend any plan to establish a national retail pharmacy program for the Department of Defense until—

(1) the plan required under subsection (a) is submitted; and

(2) the Secretary implements cost-saving reforms with respect to the military and contractor retail and mail order pharmacy system.

SEC. 704. TRANSITIONAL AUTHORITY TO PROVIDE CONTINUED HEALTH CARE COVERAGE FOR CERTAIN PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY.

(a) Transitional Coverage.—The administering Secretaries may continue eligibility of a person described in subsection (b) for health care coverage under the Civilian Health and Medical Program of the Uniformed Services based on a determination that such continuation is appropriate to assure health care coverage for any such person who may have been unaware of the loss of eligibility to receive health benefits under that program.

(b) Persons Eligible.—A person shall be eligible for transitional health care coverage under subsection (a) if the person—

(1) is a person described in paragraph (1) of subsection (d) of section 1086 of title 10, United States Code;

(2) in the absence of such paragraph, would be eligible for health benefits under such section; and

(3) satisfies the criteria specified in subparagraphs (A) and (B) of paragraph (2) of such subsection.

(c) Extent of Transitional Authority.—The authority to continue eligibility under this section shall apply with respect to health care services provided between October 1, 1998, and July 1, 1999.

(d) Definition.—In this section, the term "administering Secretaries" has the meaning given that term in section 1072(3) of title 10, United States Code.

Subtitle B—TRICARE Program

SEC. 711. PAYMENT OF CLAIMS FOR PROVISION OF HEALTH CARE UNDER THE TRICARE PROGRAM FOR WHICH A THIRD PARTY MAY BE LIABLE.

(a) In General.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1095a the following new section:

"§ 1095b. TRICARE program: contractor payment of certain claims

"(a) Payment of Claims.—(1) The Secretary of Defense may authorize a contractor under the TRICARE program to pay a claim described in paragraph (2) before seeking to recover from a third-party payer the costs incurred by the

contractor to provide health care services that are the basis of the claim to a beneficiary under such program.

"(2) A claim under this paragraph is a claim—

"(A) that is submitted to the contractor by a provider under the TRICARE program for payment for services for health care provided to a covered beneficiary; and

"(B) that is identified by the contractor as a claim for which a third-party payer may be liable.

"(b) Recovery From Third-Party Payers.—A contractor for the provision of health care services under the TRICARE program that pays a claim described in subsection (a)(2) shall have the right to collect from the third-party payer the costs incurred by such contractor on behalf of the covered beneficiary. The contractor shall have the same right to collect such costs under this subsection as the right of the United States to collect costs under section 1095 of this title.

"(c) Definition of Third-Party Payer.—In this section, the term 'third-party payer' has the meaning given that term in section 1095(h) of this title, except that such term excludes primary medical insurers.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1095a the following new item:

"1095b. TRICARE program: contractor payment of certain claims.".

SEC. 712. PROCEDURES REGARDING ENROLLMENT IN TRICARE PRIME.

(a) In General.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1097 the following new section:

"§ 1097a. Enrollment in TRICARE Prime: procedures

"(a) Automatic Enrollment of Certain Dependents.—The Secretary of Defense shall establish procedures under which dependents of members of the armed forces on active duty who reside in the catchment area of a military medical treatment facility shall be automatically enrolled in TRICARE Prime at the military medical treatment facility. The Secretary shall provide notice in writing to the member regarding such enrollment.

"(b) Automatic Continuation of Enrollment.—The Secretary of Defense shall establish procedures under which enrollment of covered beneficiaries in TRICARE Prime shall automatically continue until such time as the covered beneficiary elects to disenroll or is no longer eligible for enrollment.

"(c) Option for Retirees To Deduct Fee From Pay.—The Secretary of Defense shall establish procedures under which a retired member of the armed forces may elect to have any fees payable by the member for enrollment in TRICARE Prime withheld from the retired pay of the member (if pay is available to the member).

"(d) Definition of TRICARE Prime.—In this section, the term 'TRICARE Prime' means the managed care option of the TRICARE program known as TRICARE Prime.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1097 the following new item:

"1097a. Enrollment in TRICARE Prime: procedures.".

(b) Deadline for Implementation.—The Secretary of Defense shall establish the procedures required under section 1097a of title 10, United States Code, as added by subsection (a), not later than April 1, 1999.

Subtitle C—Other Matters

SEC. 721. INFLATION ADJUSTMENT OF PREMIUM AMOUNTS FOR DEPENDENTS DENTAL PROGRAM.

Section 1076a(b)(2) of title 10, United States Code, is amended by inserting after "$20 per month" the following: "(in 1993 dollars, as adjusted for inflation in each year thereafter)".

SEC. 722. SYSTEM FOR TRACKING DATA AND MEASURING PERFORMANCE IN MEETING TRICARE ACCESS STANDARDS.

(a) Requirement To Establish System.—(1) The Secretary of Defense shall establish a system—

(A) to track data regarding access of covered beneficiaries under chapter 55 of title 10, United States Code, to primary health care under the TRICARE program; and

(B) to measure performance in increasing such access against the primary care access standards established by the Secretary under the TRICARE program.

(2) In implementing the system described in paragraph (1), the Secretary shall collect data on the timeliness of appointments and precise waiting times for appointments in order to measure performance in meeting the primary care access standards established under the TRICARE program.

(b) Deadline for Establishment.—The Secretary shall establish the system described in subsection (a) not later than April 1, 1999.

SEC. 723. AIR FORCE RESEARCH, DEVELOPMENT, TRAINING, AND EDUCATION ON EXPOSURE TO CHEMICAL, BIOLOGICAL, AND RADIOLOGICAL HAZARDS.

(a) In General.—The Secretary of the Air Force is hereby authorized to—

(1) conduct research on the health-related, environmental, and ecological effects of exposure to chemical, biological, and radiological hazards;

(2) develop new risk-assessment methods and instruments with respect to exposure to such hazards, including more accurate risk assessment tools to support the Air Force Enhanced Site Specific Risk Assessment; and

(3) educate and train researchers with respect to exposure to such hazards.

(b) Activities To Be Conducted.—Research and development conducted under subsection (a) includes—

(1) development of equipment to monitor soil and ground water contamination and the impact of such contamination on the biosystem chain;

(2) implementation of a cross-sectional epidemiological study of exposure to jet fuel; and

(3) implementation of a health-risk assessment regarding exposure to jet fuel.

SEC. 724. AUTHORIZATION TO ESTABLISH A LEVEL 1 TRAUMA TRAINING CENTER.

The Secretary of the Army is hereby authorized to establish a Level 1 Trauma Training Center (as designated by the American College of Surgeons) in order to provide the Army with a trauma center capable of training forward surgical teams.

SEC. 725. REPORT ON IMPLEMENTATION OF ENROLLMENT-BASED CAPITATION FOR FUNDING FOR MILITARY MEDICAL TREATMENT FACILITIES.

(a) Report Required.—The Secretary of Defense shall submit to Congress a report on the potential impact of using an enrollment-based capitation methodology to allocate funds for military medical treatment facilities. The report shall address the following:

(1) A description of the plans of the Secretary to implement an enrollment-based capitation methodology for military medical treatment facilities and with respect to contracts for the delivery of health care under the TRICARE program.

(2) The justifications for implementing an enrollment-based capitation methodology without first conducting a demonstration project for implementation of such methodology.

(3) The impact that implementation of an enrollment based capitation methodology would have on the provision of space-available care at military medical treatment facilities, particularly in the case of care for—

(A) military retirees entitled who are entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.); and

(B) covered beneficiaries under chapter 55 of title 10, United States Code, who reside outside the catchment area of a military medical treatment facility.

(4) The impact that implementation of an enrollment-based capitation methodology would have with respect to the pharmacy benefits provided at military medical treatment facilities, given that the enrollment-based capitation methodology would fund military medical treatment facilities based on the number of members at such facilities enrolled in TRICARE Prime, but all covered beneficiaries may fill prescriptions at military medical treatment facility pharmacies.

(5) An explanation of how additional funding will be provided for a military medical treatment facility if an enrollment-based capitation methodology is implemented to ensure that space-available care and pharmacy coverage can be provided to covered beneficiaries who are not enrolled at the military medical treatment facility, and the amount of funding that will be available.

(6) An explanation of how implementation of an enrollment-based capitation methodology would impact the provision of uniform benefits under TRICARE Prime, and how the Secretary would ensure, if such methodology were implemented, that the provision of health care under TRICARE Prime would not be bifurcated between the provision of such care at military medical treatment facilities and the provision of such care from civilian providers.

(b) Deadline for Submission.—The Secretary shall submit the report required by subsection (a) not later than March 1, 1999.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

SEC. 801. LIMITATION ON PROCUREMENT OF AMMUNITION AND COMPONENTS.

(a) Limitation.—Section 2534(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(6) Ammunition.—Ammunition or ammunition components.".

(b) Effective Date.—Paragraph (6) of section 2534(a) of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into after September 30, 1998.

SEC. 802. ACQUISITION CORPS ELIGIBILITY.

Section 1732(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The requirement of subsection (b)(1)(A) shall not apply to an employee who served in an Acquisition Corps in a position within grade GS–13 or above of the General Schedule and who is placed in another position which is in a grade lower than GS–13 of the General Schedule, or whose position is reduced in grade to a grade lower than GS–13 of the General Schedule, as a result of reduction-in-force procedures, the realignment or closure of a military installation, or another reason other than for cause.".

SEC. 803. AMENDMENTS RELATING TO PROCUREMENT FROM FIRMS IN INDUSTRIAL BASE FOR PRODUCTION OF SMALL ARMS.

(a) Requirement To Limit Procurements to Certain Sources.—Subsection (a) of section

2473 of title 10, United States Code, is amended—

(1) in the heading, by striking out the first word and inserting in lieu thereof "REQUIREMENT"; and

(2) by striking out "To the extent that the Secretary of Defense determines necessary to preserve the small arms production industrial base, the Secretary may" and inserting in lieu thereof "In order to preserve the small arms production industrial base, the Secretary of Defense shall".

(b) ADDITIONAL COVERED PROPERTY AND SERVICES.—Subsection (b) of such section is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) Small arms end items.";

(3) in paragraph (2), as so redesignated, by inserting before the period the following: ", if those parts are manufactured under a contract with the Department of Defense to produce the end item"; and

(4) by adding after paragraph (3) the following new paragraph:

"(4) Repair parts consisting of barrels, receivers, and bolts for small arms, whether or not the small arms are in production under a contract with the Department of Defense at the time of production of such repair parts.".

(c) RELATIONSHIP TO OTHER PROVISIONS OF LAW.—Such section is further amended by adding at the end the following new subsection:

"(d) RELATIONSHIP TO OTHER PROVISIONS.—(1) If a procurement under subsection (a) is a procurement of a commercial item, the Secretary may, notwithstanding section 2306(b)(1)(B) of this title, require the submission of certified cost or pricing data under section 2306(a) of this title.

"(2) Subsection (a) is a requirement for purposes of section 2304(c)(5) of this title.".

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

SEC. 901. FURTHER REDUCTIONS IN DEFENSE ACQUISITION WORKFORCE.

(a) REDUCTION IN DEFENSE ACQUISITION WORKFORCE.—Chapter 87 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1765. Limitation on number of personnel

"(a) LIMITATION.—Effective October 1, 2001, the number of defense acquisition personnel may not exceed the baseline number reduced by 70,000.

"(b) PHASED REDUCTION.—The number of defense acquisition personnel—

"(1) as of October 1, 1999, may not exceed the baseline number reduced by 25,000; and

"(2) as of October 1, 2000, may not exceed the baseline number reduced by 50,000.

"(c) BASELINE NUMBER.—For purposes of this section, the baseline number is the total number of defense acquisition personnel as of October 1, 1998.

"(d) DEFENSE ACQUISITION PERSONNEL DEFINED.—In this section, the term 'defense acquisition personnel' means military and civilian personnel (other than civilian personnel who are employed at a maintenance depot) who are assigned to, or employed in, acquisition organizations of the Department of Defense (as specified in Department of Defense Instruction numbered 5000.58 dated January 14, 1992).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter V of such chapter is amended by adding at the end the following new item:

"1765. Limitation on number of personnel.".

SEC. 902. LIMITATION ON OPERATION AND SUPPORT FUNDS FOR THE OFFICE OF THE SECRETARY OF DEFENSE.

Of the amount available for fiscal year 1999 for operation and support activities of the Office of the Secretary of Defense, not more than 90 percent may be obligated until each of the following reports has been submitted:

(1) The report required to be submitted to the congressional defense committees by section 904(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2619).

(2) The reports required to be submitted to Congress by sections 911(b) and 911(c) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1858, 1859).

SEC. 903. REVISION TO DEFENSE DIRECTIVE RELATING TO MANAGEMENT HEADQUARTERS AND HEADQUARTERS SUPPORT ACTIVITIES.

Not later than October 1, 1999, the Secretary of Defense shall issue a revision to Department of Defense Directive 5100.73, entitled "Department of Defense Management Headquarters and Headquarters Support Activities", so as to incorporate in that directive the following:

(1) A threshold specified by command (or other organizational element) such that any headquarters activity below the threshold is not considered for the purpose of the directive to be a management headquarters or headquarters support activity.

(2) A definition of the term "management headquarters and headquarters support activities" that (A) is based upon function (rather than organization), and (B) includes any activity (other than an operational activity) that reports directly to such an activity.

(3) Uniform application of those definitions throughout the Department of Defense.

SEC. 904. UNDER SECRETARY OF DEFENSE FOR POLICY TO HAVE RESPONSIBILITY WITH RESPECT TO EXPORT CONTROL ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) FUNCTIONS OF THE UNDER SECRETARY.—Section 134(b)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "The Under Secretary shall have responsibility for overall supervision of activities of the Department of Defense relating to export controls.".

(b) IMPLEMENTATION REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the plans of the Secretary for the implementation of the amendment made by subsection (a). The report shall include—

(1) a description of any organizational changes within the Department of Defense to be made in order to implement that amendment; and

(2) a description of the role of the Chairman of the Joint Chiefs of Staff with respect to export control activities of the Department following the implementation of the amendment made by subsection (a) and how that role compares to the practice in effect before such implementation.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall be implemented not later than 45 days after the date of the enactment of this Act.

SEC. 905. INDEPENDENT TASK FORCE ON TRANSFORMATION AND DEPARTMENT OF DEFENSE ORGANIZATION.

(a) FINDINGS.—Congress finds the following:

(1) The post-Cold War era is marked by geopolitical uncertainty and by accelerating technological change, particularly with regard to information technologies.

(2) The combination of that geopolitical uncertainty and accelerating technological change portends a transformation in the conduct of war, particularly in ways that are likely to increase the effectiveness of joint force operations.

(3) The Department of Defense must be organized appropriately in order to fully exploit the opportunities offered by, and to meet the challenges posed by, this anticipated transformation in the conduct of war.

(4) The basic organization of the Department of Defense was established by the National Security Act of 1947 and the 1949 amendments to that Act.

(5) The Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433) dramatically improved the capability of the Department of Defense to carry out operations involving joint forces, but did not address adequately issues pertaining to the development of joint forces.

(6) In the future, the ability to achieve improved operations of joint forces, particularly under rapidly changing technological conditions, will depend on improved force development for joint forces.

(b) INDEPENDENT TASK FORCE ON TRANSFORMATION AND DEPARTMENT OF DEFENSE ORGANIZATION.—The Secretary of Defense shall establish a task force of the Defense Science Board to examine the current organization of the Department of Defense with regard to the appropriateness of that organization for preparing for a transformation in the conduct of war. The task force shall be established not later than November 1, 1998.

(c) DUTIES OF THE TASK FORCE.—The task force shall assess, and shall make recommendations for the appropriate organization of, the Office of the Secretary of Defense, the Joint Chiefs of Staff, the individual Armed Forces, and the executive parts of the military departments for the purpose of preparing the Department of Defense for a transformation in the conduct of war. In making those assessments and developing those recommendations, the task force shall review the following:

(1) The general organization of the Department of Defense, including whether responsibility and authority for issues relating to a transformation in the conduct of war are appropriately allocated, especially among the Office of the Secretary of Defense, the Joint Chiefs of Staff, and the individual Armed Forces.

(2) The joint requirements process and the requirements processes for each of the Armed Forces, including the establishment of measures of effectiveness and methods for resource allocation.

(3) The process and organizations responsible for doctrinal development, including the appropriate relationship between joint force and service doctrine and doctrinal development organizations.

(4) The current programs and organizations under the Office of the Secretary of Defense, the Joint Chiefs of Staff and the Armed Forces devoted to innovation and experimentation related to a transformation in the conduct of war, including the appropriateness of—

(A) conducting joint field tests;

(B) establishing a separate unified command as a joint forces command to serve, as its sole function, as the trainer, provider, and developer of forces for joint operations;

(C) establishing a Joint Concept Development Center to monitor exercises and develop measures of effectiveness, analytical concepts, models, and simulations appropriate for understanding the transformation in the conduct of war;

(D) establishing a Joint Battle Laboratory headquarters to conduct joint experimentation and to integrate the similar efforts of the Armed Forces; and

(E) establishing an Assistant Secretary of Defense for transformation in the conduct of war.

(5) Joint training establishments and training establishments of the Armed Forces, including

those devoted to professional military education, and the appropriateness of establishing national training centers.

(6) Other issues relating to a transformation in the conduct of war that the Secretary considers appropriate.

(d) REPORT.—The task force shall submit to the Secretary of Defense a report containing its assessments and recommendations not later than February 1, 1999. The Secretary shall submit the report to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate not later than March 1, 1999, together with the recommendations and comments of the Secretary of Defense.

SEC. 906. IMPROVED ACCOUNTING FOR DEFENSE CONTRACT SERVICES.

(a) IN GENERAL.—(1) Chapter 131 of title 10, United States Code, is amended by inserting after section 2211 the following new section:

"§2212. Obligations for contract services: reporting in budget object classes

"(a) LIMITATION ON REPORTING IN MISCELLANEOUS SERVICES OBJECT CLASS.—The Secretary of Defense shall ensure that, in reporting to the Office of Management and Budget (pursuant to OMB Circular A–11 (relating to preparation and submission of budget estimates)) obligations of the Department of Defense for any period of time for contract services, no more than 15 percent of the total amount of obligations so reported is reported in the miscellaneous services object class.

"(b) DEFINITION OF REPORTING CATEGORIES FOR ADVISORY AND ASSISTANCE SERVICES.—In carrying out section 1105(g) of title 31 for the Department of Defense (and in determining what services are to be reported to the Office of Management and Budget in the advisory and assistance services object class), the Secretary of Defense shall apply to the terms used for the definition of 'advisory and assistance services' in paragraph (2)(A) of that section the following meanings:

"(1) MANAGEMENT AND PROFESSIONAL SUPPORT SERVICES.—The term 'management and professional support services' (used in clause (i) of section 1105(g)(2)(A) of title 31) means services that provide engineering or technical support, assistance, advice, or training for the efficient and effective management and operation of organizations, activities, or systems. Those services—

"(A) are closely related to the basic responsibilities and mission of the using organization; and

"(B) include efforts that support or contribute to improved organization or program management, logistics management, project monitoring and reporting, data collection, budgeting, accounting, auditing, and administrative or technical support for conferences and training programs.

"(2) STUDIES, ANALYSES, AND EVALUATIONS.—The term 'studies, analyses, and evaluations' (used in clause (ii) of section 1105(g)(2)(A) of title 31) means services that provide organized, analytic assessments to understand or evaluate complex issues to improve policy development, decisionmaking, management, or administration and that result in documents containing data or leading to conclusions or recommendations. Those services may include databases, models, methodologies, and related software created in support of a study, analysis, or evaluation.

"(3) ENGINEERING AND TECHNICAL SERVICES.—The term 'engineering and technical services' (used in clause (iii) of section 1105(g)(2)(A) of title 31) means services that take the form of advice, assistance, training, or hands-on training necessary to maintain and operate fielded weapon systems, equipment, and components (including software when applicable) at design or required levels of effectiveness.

"(c) PROPER CLASSIFICATION OF ADVISORY AND ASSISTANCE SERVICES.—Before the submission to the Office of Management and Budget of the proposed Department of Defense budget for inclusion in the President's budget for a fiscal year pursuant to section 1105 of title 31, the Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall review all Department of Defense services expected to be performed as contract services during the fiscal year for which that budget is to be submitted in order to ensure that those services that are advisory and assistance services (as defined in accordance with subsection (b)) are in fact properly classified, in accordance with that subsection, in the advisory and assistance services object class.

"(d) INFORMATION ON SERVICE CONTRACTS.—In carrying out the annual review under subsection (c) of Department of Defense services expected to be performed as contract services during the next fiscal year, the Secretary (acting through the Under Secretary (Comptroller)) shall conduct an assessment of the total non-Federal effort that resulted from the performance of all contracts for such services during the preceding fiscal year and the total non-Federal effort that resulted, or that is expected to result, from the performance of all contracts for such services during the current fiscal year and the next fiscal year. The assessment shall include determination of the following for each such year:

"(1) The amount expended or expected to be expended for non-Federal contract services, shown for the Department of Defense as a whole and displayed by contract services object class for each DOD organization.

"(2) The amount expended or expected to be expended for contract services competed under OMB Circular A–76 or a similar process, shown for the Department of Defense as a whole and displayed by contract services object class for each DOD organization.

"(3) The number of private sector workyears performed or expected to be performed in connection with the performance of non-Federal contract services, shown for the Department of Defense as a whole and displayed by contract services object class for each DOD organization.

"(4) Any other information that the Secretary (acting through the Under Secretary) determines to be relevant and of value.

"(e) REPORT TO CONGRESS.—The Secretary shall submit to Congress each year, not later than 30 days after the date on which the budget for the next fiscal year is submitted pursuant to section 1105 of title 31, a report containing the information derived from the assessment under subsection (d).

"(f) ASSESSMENT BY COMPTROLLER GENERAL.—(1) The Comptroller General shall conduct a review of the report of the Secretary of Defense under subsection (e) each year and shall—

"(A) assess the methodology used by the Secretary in obtaining the information submitted to Congress in that report; and

"(B) assess the information submitted to Congress in that report.

"(2) Not later than 120 days after the date on which the Secretary submits to Congress the report required under subsection (e) for any year, the Comptroller General shall submit to Congress the Comptroller General's report containing the results of the review for that year under paragraph (1).

"(g) DEFINITIONS.—In this section:

"(1) The term 'contract services' means all services that are reported to the Office of Management and Budget pursuant to OMB Circular A–11 (relating to preparation and submission of budget estimates) in budget object classes that are designated in the Object Class 25 series.

"(2) The term 'advisory and assistance services object class' means those contract services constituting the budget object class that is denominated 'Advisory and Assistance Service and designated (as the date of the enactment of this section) as Object Class 25.1 (or any similar object class established after the date of the enactment of this section for the reporting of obligations for advisory and assistance contract services).

"(3) The term 'miscellaneous services object class' means those contract services constituting the budget object class that is denominated 'Other Services (services not otherwise specified in the 25 series)' and designated (as the date of the enactment of this section) as Object Class 25.2 (or any similar object class established after the date of the enactment of this section for the reporting of obligations for miscellaneous or unspecified contract services).

"(4) The term 'DOD organization' means—

"(A) the Office of the Secretary of Defense;

"(B) each military department;

"(C) the Joint Chiefs of Staff and the unified and specified commands;

"(D) each Defense Agency; and

"(E) each Department of Defense Field Activity.

"(5) The term 'private sector workyear' means an amount of labor equivalent to the total number of hours of labor that an individual employed on a full-time equivalent basis by the Federal Government performs in a given year.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2211 the following new item:

"2212. Obligations for contract services: reporting in budget object classes.".

(b) TRANSITION.—For the budget for fiscal year 2000, and the reporting of information to the Office of Management and Budget in connection with the preparation of that budget, section 2212 of title 10, United States Code, as added by subsection (a), shall be applied by substituting "30 percent" in subsection (a) for "15 percent".

(c) INITIAL CLASSIFICATION OF ADVISORY AND ASSISTANCE SERVICES.—Not later than February 1, 1999, the Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall review all Department of Defense services performed or expected to be performed as contract services during fiscal year 1999 in order to ensure that those services that are advisory and assistance services (as defined in accordance with subsection (b) of section 2212 of title 10, United States Code, as added by subsection (a)) are in fact properly classified, in accordance with that subsection, in the advisory and assistance services object class (as defined in subsection (g)(2) of that section).

(d) FISCAL YEAR 1999 REDUCTION.—The total amount that may be obligated by the Secretary of Defense for contracted advisory and assistance services from amounts appropriated for fiscal year 1999 is the amount programmed for those services resulting from the review referred to in subsection (c) reduced by $500,000,000.

SEC. 907. REPEAL OF REQUIREMENT RELATING TO ASSIGNMENT OF TACTICAL AIRLIFT MISSION TO RESERVE COMPONENTS.

Section 1438 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1689), as amended by section 1023 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1460), is repealed.

SEC. 908. REPEAL OF CERTAIN REQUIREMENTS RELATING TO INSPECTOR GENERAL INVESTIGATIONS OF REPRISAL COMPLAINTS.

(a) REPEAL OF REQUIREMENT OF NOTICE THAT INVESTIGATION WILL TAKE MORE THAN 90

DAYS.—Subsection (e) of section 1034 of title 10, United States Code, is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraph (4) as paragraph (3).

(b) REPEAL OF REQUIREMENT FOR POST-DISPOSITION INTERVIEW WITH COMPLAINANT.—Such section is further amended by striking out subsection (h).

SEC. 909. CONSULTATION WITH COMMANDANT OF THE MARINE CORPS REGARDING MARINE CORPS AVIATION.

(a) IN GENERAL.—Chapter 503 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 5026. Consultation with Commandant of the Marine Corps regarding Marine Corps aviation

"The Secretary of the Navy shall require that the views of the Commandant of the Marine Corps be obtained before a milestone decision or other major decision is made by an element of the Department of the Navy outside the Marine Corps in a procurement matter, a research, development, test, and evaluation matter, or a depot-level maintenance matter that concerns Marine Corps aviation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5026. Consultation with Commandant of the Marine Corps regarding Marine Corps aviation.".

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1999 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. INCORPORATION OF CLASSIFIED ANNEX.

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the Committee on National Security of the House of Representatives to accompany H.R. 3616 of the One Hundred Fifth Congress and transmitted to the President is hereby incorporated into this Act.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

SEC. 1003. OUTLAY LIMITATIONS.

(a) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall ensure that outlays of the Department of Defense during fiscal year 1999 from amounts appropriated or otherwise available to the Department of Defense for military functions of the Department of Defense (including military construction and military family housing) do not exceed $252,650,000,000.

(b) DEPARTMENT OF ENERGY.—The Secretary of Energy shall ensure that outlays of the Department of Energy during fiscal year 1999 from amounts appropriated or otherwise made available to the Department of Energy for national security programs of that Department do not exceed $11,772,000,000.

Subtitle B—Naval Vessels and Shipyards

SEC. 1011. REVISION TO REQUIREMENT FOR CONTINUED LISTING OF TWO IOWA-CLASS BATTLESHIPS ON THE NAVAL VESSEL REGISTER.

In carrying out section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421), the Secretary of the Navy shall list on the Naval Vessel Register, and maintain on that register, the following two Iowa-class battleships: the USS IOWA (BB–61) and the USS WISCONSIN (BB–64).

SEC. 1012. TRANSFER OF USS NEW JERSEY.

The Secretary of the Navy shall strike the USS NEW JERSEY (BB–62) from the Naval Vessel Register and shall transfer that vessel to a non-for-profit entity in accordance with section 7306 of title 10, United States Code. The Secretary shall require as a condition of the transfer of that vessel that the transferee locate the vessel in the State of New Jersey.

SEC. 1013. LONG-TERM CHARTER OF THREE VESSELS IN SUPPORT OF SUBMARINE RESCUE, ESCORT, AND TOWING.

The Secretary of the Navy may enter into contracts in accordance with section 2401 of title 10, United States Code, for the charter through September 30, 2003, of the following vessels:

(1) The CAROLYN CHOUEST (United States official number D102057).

(2) The KELLIE CHOUEST (United States official number D1038519).

(3) The DOLORES CHOUEST (United States official number D600288).

SEC. 1014. TRANSFER OF OBSOLETE ARMY TUGBOAT.

In carrying out section 1023 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1876), the Secretary of the Army may substitute the obsolete, decommissioned tugboat Attleboro (LT–1977) for the tugboat Normandy (LT–1971) as one of the two obsolete tugboats authorized to be transferred by the Secretary under that section.

SEC. 1015. LONG-TERM CHARTER CONTRACTS FOR ACQUISITION OF AUXILIARY VESSELS FOR THE DEPARTMENT OF DEFENSE.

(a) PROGRAM AUTHORIZATION.—Chapter 631 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7233. Auxiliary vessels: authority for long-term charter contracts

"(a) AUTHORIZED CONTRACTS.—After September 30, 1998, the Secretary of the Navy, subject to subsection (b), may enter into a contract for the long-term lease or charter of a newly built surface vessel, under which the contractor agrees to provide a crew for the vessel for the term of the long-term lease or charter, for any of the following:

"(1) The combat logistics force of the Navy.

"(2) The strategic sealift program of the Navy.

"(3) Other auxiliary support vessels for the Department of Defense.

"(b) CONTRACTS REQUIRED TO BE AUTHORIZED BY LAW.—A contract may be entered into under this section with respect to specific vessels only if the Secretary is specifically authorized by law to enter into such a contract with respect to those vessels.

"(c) FUNDS FOR CONTRACT PAYMENTS.—The Secretary may make payments for contracts entered into under this section using funds available for obligation during the fiscal year for which the payments are required to be made. Any such contract shall provide that the United States will not be required to make a payment under the contract (other than a termination payment, if required) before October 1, 2000.

"(d) TERM OF CONTRACT.—In this section, the term 'long-term lease or charter' means a lease, charter, service contract, or conditional sale agreement with respect to a vessel the term of which (including any option period) is for a period of 20 years or more.

"(e) OPTION TO BUY.—A contract entered into under the authority of this section may contain options for the United States to purchase one or more of the vessels covered by the contract at any time during, or at the end of, the contract period (including any option period) upon payment of an amount not in excess of the unamortized portion of the cost of the vessels plus amounts incurred in connection with the termination of the financing arrangements associated with the vessels.

"(f) DOMESTIC CONSTRUCTION.—The Secretary shall require in any contract entered into under this section that each vessel to which the contract applies—

"(1) shall have been constructed in a shipyard within the United States; and

"(2) upon delivery, shall be documented under the laws of the United States.

"(g) VESSEL CREWING.—The Secretary shall require in any contract entered into under this section that the crew of any vessel to which the contract applies be comprised of private sector commercial mariners.

"(h) DOMESTIC CONSTRUCTION REQUIREMENT FOR CERTAIN LEASES OF VESSELS.—(1) Notwithstanding section 2400 or 2401a of this title or any other provision of law, the Secretary of Defense may not enter into a contract for the lease or charter of a vessel described in paragraph (2) for a contract period in excess of 17 months (inclusive of any option periods) unless the vessel is constructed in a shipyard in the United States.

"(2) Paragraph (1) applies to vessels of the following types:

"(A) Auxiliary support vessel.

"(B) Strategic sealift vessel.

"(C) Tank vessel.

"(D) Combat logistics force vessel.

"(i) CONTINGENT WAIVER OF OTHER PROVISIONS OF LAW.—A contract authorized by this section may be entered into without regard to section 2401 or 2401a of this title if the Secretary of Defense makes the following findings with respect to that contract:

"(1) The need for the vessels or services to be provided under the contract is expected to remain substantially unchanged during the contemplated contract or option period.

"(2) There is a reasonable expectation that throughout the contemplated contract or option period the Secretary of the Navy (or, if the contract is for services to be provided to, and funded by, another military department, the Secretary of that military department) will request

funding for the contract at the level required to avoid contract cancellation.

"(3) The use of such contract or the exercise of such option is in the interest of the national defense.

"(j) SOURCE OF FUNDS FOR TERMINATION LIABILITY.—If a contract entered into under this section is terminated, the costs of such termination may be paid from—

"(1) amounts originally made available for performance of the contract;

"(2) amounts currently available for operation and maintenance of the type of vessels or services concerned and not otherwise obligated; or

"(3) funds appropriated for those costs.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7233. Auxiliary vessels: authority for long-term charter contracts.".

Subtitle C—Matters Relating to Counter Drug Activities

SEC. 1021. DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES.

(a) CONTINUATION OF AUTHORITY.—Subsection (a) of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) is amended by striking out "through 1999" and inserting in lieu thereof "through 2000".

(b) TYPES OF SUPPORT.—Subsection (b)(4) of such section is amended by inserting before the period at the end the following: "conducted by the Department of Defense or a Federal, State, or local law enforcement agency, or a foreign law enforcement agency in the case of counter-drug activities outside the United States".

(c) UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.—Such section is further amended by adding at the end the following new section:

"(h) UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.—Section 2805 of title 10, United States Code, shall apply with respect to any unspecified minor military construction project carried out using the authority provided under this section.".

SEC. 1022. SUPPORT FOR COUNTER-DRUG OPERATION CAPER FOCUS.

(a) SUPPORT REQUIRED.—During fiscal year 1999, the Secretary of Defense shall make available such surface vessels of the Navy and maritime patrol aircraft and crews of the Navy as may be necessary to conduct the final phase of the counter-drug operation known as Caper Focus, which targets the maritime movement of cocaine on vessels in the eastern Pacific Ocean.

(b) FISCAL YEAR 1999 FUNDING.—Of the amount authorized to be appropriated pursuant to section 301(20) for drug interdiction and counter-drug activities, $24,400,000 shall be available only for the purpose of conducting the counter-drug operation known as Caper Focus.

Subtitle D—Miscellaneous Report Requirements and Repeals

SEC. 1031. ANNUAL REPORT ON RESOURCES ALLOCATED TO SUPPORT AND MISSION ACTIVITIES.

Section 113 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(l) The Secretary shall include in the annual report to Congress under subsection (c) the following:

"(1) A comparison of the amounts provided in the defense budget for support and for mission activities for each of the preceding five years.

"(2) A comparison of the number of military and civilian personnel, shown by major occupational category, assigned to support positions and to mission positions for each of the preceding five years.

"(3) An accounting, shown by service and by major occupational category, of the number of military and civilian personnel assigned to support positions during each of the preceding five years.

"(4) A listing of the number of military and civilian personnel assigned to management headquarters and headquarters support activities as a percentage of military end-strength for each of the preceding 10 years.".

Subtitle E—Other Matters

SEC. 1041. CLARIFICATION OF LAND CONVEYANCE AUTHORITY, ARMED FORCES RETIREMENT HOME, DISTRICT OF COLUMBIA.

(a) SALE REQUIRED.—Subsection (a) of section 1053 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2650) is amended—

(1) by striking out ", by sale or otherwise,"; and

(2) by adding at the end the following new sentence: "The conveyance of the real property shall be made by sale to the highest bidder, except that the purchase price may not be less than the fair market value of the parcel.".

(b) CONFORMING AMENDMENT.—Subsection (b)(1) of such section is amended by striking out "the disposal" and inserting in lieu thereof "the sale".

SEC. 1042. CONTENT OF NOTICE REQUIRED TO BE PROVIDED GARNISHEES BEFORE GARNISHMENT OF PAY OR BENEFITS.

(a) AUTHORIZATION OF ALTERNATIVE TO PROVIDING COPY OF NOTICE OR SERVICE RECEIVED BY THE SECRETARY.—(1) Whenever the Secretary of Defense (acting through the DOD section 459 agent) provides a section 459 notice to an individual, the Secretary may include as part of that notice the information specified in subsection (c) in lieu of sending with that notice a copy (otherwise required pursuant to the parenthetical phrase in section 459(c)(2)(A) of the Social Security Act) of the notice or service received by the DOD section 459 agent with respect to that individual's child support or alimony payment obligations.

(2) Whenever the Secretary of Defense (acting through the DOD section 5520a agent) provides a section 5520a notice to an individual, the Secretary may include as part of that notice the information specified in subsection (c) in lieu of sending with that notice a copy (otherwise required pursuant to the second parenthetical phrase in section 5520a(c) of the title 5, United States Code) of the legal process received by the DOD section 5520a agent with respect to that individual.

(b) DEFINITIONS.—For purposes of this section:

(1) DOD SECTION 459 AGENT.—The term "DOD section 459 agent" means the agent or agents designated by the Secretary of Defense under subsection (c)(1)(A) of section 459 of the Social Security Act (42 U.S.C. 659) to receive orders and accept service of process in matters related to child support or alimony.

(2) SECTION 459 NOTICE.—The term "section 459 notice" means, with respect to the Department of Defense, the notice required by subsection (c)(2)(A) of section 459 of the Social Security Act (42 U.S.C. 659) to be sent to an individual in writing upon the receipt by the DOD section 459 agent of notice or service with respect to the individual's child support or alimony payment obligations.

(3) DOD SECTION 5520A AGENT.—The term "DOD section 5520a agent" means a person who is designated by law or regulation to accept service of process to which the Department of Defense is subject under section 5520a of title 5, United States Code (including the regulations promulgated under subsection (k) of that section).

(4) SECTION 5520A NOTICE.—The term "section 5520a notice" means, with respect to the Department of Defense, the notice required by subsection (c) of section 5520a of title 5, United States Code, to be sent in writing to an employee (or, pursuant to the regulations promulgated under subsection (k) of that section, to a member of the Armed Forces) upon the receipt by the DOD section 5520a agent of legal process covered by that section.

(c) ALTERNATIVE REQUIREMENTS.—The information referred to in subsection (a) that is to be included as part of a section 459 notice or section 5520a notice sent to an individual (in lieu of sending with that notice a copy of the notice or service received by the DOD section 459 agent or the DOD section 5520a agent) is the following:

(1) A description of the pertinent court order, notice to withhold, or other order, process, or interrogatory received by the DOD section 459 agent or the DOD section 5520a agent.

(2) The identity of the court or judicial forum involved and (in the case of a notice or process concerning the ordering of a support or alimony obligation) the case number, the amount of the obligation, and the name of the beneficiary.

(3) Information on how the individual may obtain from the Department of Defense a copy of the notice, service, or legal process, including an address and telephone number that the individual may be contact for the purpose of obtaining such a copy.

(d) REPORT.—Not later than April 1, 2001, the Secretary shall submit to Congress a report describing the experience of the Department of Defense under the authority provided by this section. The report shall include the following:

(1) The number of section 459 notices provided by the DOD section 459 agent during the period the authority provided by this section was in effect.

(2) The number of individuals who requested the DOD section 459 agent to provide to them a copy of the actual notice or service.

(3) Any complaint the Secretary received by reason of not having provided the actual notice or service in the section 459 notice.

(4) The number of section 5520a notices provided by the DOD section 5520a agent during the period the authority provided by this section was in effect.

(5) The number of individuals who requested the DOD section 5520a agent to provide to them a copy of the actual legal process.

(6) Any complaint the Secretary received by reason of not having provided the actual legal process in the section 5520a notice.

SEC. 1043. TRAINING OF SPECIAL OPERATIONS FORCES WITH FRIENDLY FOREIGN FORCES.

(a) TRAINING EXPENSES FOR WHICH PAYMENT MAY BE MADE.—Subsection (a)(1) of section 2011 of title 10, United States Code, is amended by striking out "and other security forces".

(b) PURPOSE OF TRAINING.—Subsection (b) of such section is amended by striking out "primary".

(c) REGULATIONS.—Subsection (c) of such section is amended by inserting after the first sentence the following new sentence: "The regulations shall require that training activities may be carried out under this section only with the prior approval of the Secretary of Defense.".

(d) ELEMENTS OF ANNUAL REPORT.—Subsection (e) of such section is amended by adding at the end the following new paragraphs:

"(5) A summary of the expenditures under this section resulting from the training for which expenses were paid under this section.

"(6) A discussion of the unique military training benefit to United States special operations forces derived from the training activities for which expenses were paid under this section.".

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

SEC. 1101. AUTHORITY FOR RELEASE TO COAST GUARD OF DRUG TEST RESULTS OF CIVIL SERVICE MARINERS OF THE MILITARY SEALIFT COMMAND.

(a) In General.—Chapter 643 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7479. Civil service mariners of Military Sealift Command: release of drug test results to Coast Guard

"(a) Release of Drug Test Results to Coast Guard.—The Secretary of the Navy may release to the Commandant of the Coast Guard the results of a drug test of any employee of the Department of the Navy who is employed in any capacity on board a vessel of the Military Sealift Command. Any such release shall be in accordance with the standards and procedures applicable to the disclosure and reporting to the Coast Guard of drug tests results and drug test records of individuals employed on vessels documented under the laws of the United States.

"(b) Waiver.—The results of a drug test of an employee may be released under subsection (a) without the prior written consent of the employee that is otherwise required under section 503(e) of the Supplemental Appropriations Act, 1987 (5 U.S.C. 7301 note).".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7479. Civil service mariners of Military Sealift Command: release of drug test results to Coast Guard.".

SEC. 1102. LIMITATIONS ON BACK PAY AWARDS.

(a) In General.—Section 5596(b) of title 5, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) The pay, allowances, or differentials granted under this section for the period for which an unjustified or unwarranted personnel action was in effect shall not exceed that authorized by the applicable law, rule, regulations, or collective bargaining agreement under which the unjustified or unwarranted personnel action is found, except that in no case may pay, allowances, or differentials be granted under this section for a period beginning more than 6 years before the date of the filing of a timely appeal or, absent such filing, the date of the administrative determination.".

(b) Conforming Amendment.—Section 7121 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(h) Settlements and awards under this chapter shall be subject to the limitations in section 5596(b)(4) of this title.".

SEC. 1103. RESTORATION OF ANNUAL LEAVE ACCUMULATED BY CIVILIAN EMPLOYEES AT INSTALLATIONS IN THE REPUBLIC OF PANAMA TO BE CLOSED PURSUANT TO THE PANAMA CANAL TREATY OF 1977.

Section 6304(d)(3)(A) of title 5, United States Code, is amended by inserting "the closure of an installation of the Department of Defense in the Republic of Panama in accordance with the Panama Canal Treaty of 1977," after "2687 note) during any period,".

SEC. 1104. REPEAL OF PROGRAM PROVIDING PREFERENCE FOR EMPLOYMENT OF MILITARY SPOUSES IN MILITARY CHILD CARE FACILITIES.

Section 1792 of title 10, United States Code, is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

SEC. 1105. ELIMINATION OF RETAINED PAY AS BASIS FOR DETERMINING LOCALITY-BASED ADJUSTMENTS.

Section 5302(8)(B) of title 5, United States Code, is amended by inserting "(except a rate retained under subsection (a)(2) of that section)" after "section 5363".

SEC. 1106. OBSERVANCE OF CERTAIN HOLIDAYS AT DUTY POSTS OUTSIDE THE UNITED STATES.

Section 6103(b) of title 5, United States Code, is amended by inserting after paragraph (2) the following new paragraph:

"(3) Instead of a holiday that is designated under subsection (a) to occur on a Monday, for an employee at a duty post outside the United States whose basic workweek is other than Monday through Friday, and for whom Monday is a regularly scheduled workday, the legal public holiday is the first workday of the workweek in which the Monday designated for the observance of such holiday under subsection (a) occurs.".

TITLE XII—MATTERS RELATING TO OTHER NATIONS

SEC. 1201. LIMITATION ON FUNDS FOR PEACEKEEPING IN THE REPUBLIC OF BOSNIA AND HERZEGOVINA.

(a) Limitation.—The Secretary of Defense may not expend from funds appropriated to the Department of Defense for fiscal year 1999 more than $1,858,600,000 for the purpose of providing for United States participation in Bosnia peacekeeping operations.

(b) Emergency Exception.—The Secretary may increase the amount under subsection (a) by not more than $100,000,000 for the sole purpose of safeguarding United States forces in the event of hostilities, imminent hostilities, or other grave danger to their well-being. Such an increase may become effective only upon submission by the Secretary to Congress of a certification that such grave danger exists and that such additional funds are required to meet immediate security threats.

(c) Report.—Not later than April 1, 1999, the Secretary of Defense shall submit to Congress a report with respect to United States participation in Bosnia peacekeeping operations. The report shall provide a detailed projection of any additional funding that will be required by the Department of Defense to meet mission requirements for such operations for the remainder of fiscal year 1999.

(d) Presidential Authority.—Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

(e) Bosnia Peacekeeping Operations.—For purposes of subsection (a), the term "Bosnia peacekeeping operations" means the operation designated as Operation Joint Force, the operation designated as Operation Joint Endeavor, and any other operation under which United States military forces participate in peacekeeping or peace enforcement activities in the Republic of Bosnia and Herzegovina and any activity that is directly related to the support of any such operation.

SEC. 1202. REPORTS ON THE MISSION OF UNITED STATES FORCES IN REPUBLIC OF BOSNIA AND HERZEGOVINA.

(a) Findings.—Congress finds the following:

(1) In section 1202(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1929; approved November 18, 1997), it was stated to be the sense of Congress that United States ground combat forces should not participate in a follow-on force in the Republic of Bosnia and Herzegovina after June 1998.

(2) On December 16, 1997, the President announced his support for the continued deployment of United States ground combat forces in the Republic of Bosnia and Herzegovina after June 30, 1998, as part of a multinational peacekeeping force led by the North Atlantic Treaty Organization (NATO).

(3) The President's decision to extend the presence of United States ground combat forces in the Republic of Bosnia and Herzegovina has changed the mission of those forces in a fundamental manner.

(4) The President has in effect committed United States ground combat forces in the Republic of Bosnia and Herzegovina to providing a secure environment for complete implementation of the civilian provisions of the Dayton Accords.

(5) The Administration has not specified how long such an achievement will take and, therefore, the mission of United States ground combat forces in the Republic of Bosnia and Herzegovina is of indefinite duration.

(b) Annual Presidential Report.—(1) The President shall submit to Congress an annual report on the presence of United States ground combat forces in the Republic of Bosnia and Herzegovina. Each such report shall include the following:

(A) The President's assessment of progress toward the full implementation of the civilian goals of the Dayton Accord, as specified in subsection (c).

(B) The expected duration of the deployment of United States ground combat forces in the Republic of Bosnia and Herzegovina in support of implementation of those goals.

(C) The percentage of those goals that have been completed as of the date of the report, the percentage that are expected to be completed within the next reporting period, and the expected time for completion of the remaining tasks.

(2) The first report under this subsection shall be submitted not later than 90 days after the date of the enactment of this Act, and subsequent reports shall be submitted at yearly intervals thereafter. The requirement to submit an annual report under this subsection terminates upon the withdrawal of all United States ground combat forces from the Republic of Bosnia and Herzegovina.

(c) Basis for Assessment of Progress.—For purposes of subsection (b)(1)(A), the President shall assess whether progress is being made toward implementation of the civilian goals of the Dayton Accords based upon assessment of the following goals and associated matters:

(1) Accomplishment of military stability, as measured by—

(A) the maintenance of the cease-fire between the former warring parties;

(B) the continued cantonment of heavy weapons and the observance of arms limitations;

(C) the disbanding of special police;

(D) the termination of covert support to the Srpska Demokratska Stranka party by the Federal Republic of Yugoslavia; and

(E) similar measures.

(2) Police and judicial reform, as measured by—

(A) the restructuring and ethnic integration of local police;

(B) completion of human rights training by local police forces;

(C) the demonstrated ability of local police to deal effectively and impartially with civil disturbances and disorder;

(D) the implementation of an effective judicial reform program; and

(E) similar measures.

(3) Creation and implementation of effective national institutions untainted by ethnic separatism, as measured by—

(A) the dissolution of previously outlawed institutions;

(B) a functioning customs service with national control over customs revenues;

(C) transparency in national budgets and disbursements; and

(D) similar measures.

(4) Media reform, as measured by—

(A) the divestiture of control of broadcast networks from the control of political parties;

(B) opposition party access to media;

(C) the availability of alternative and independent media throughout the Republic of Bosnia and Herzegovina; and

(D) similar measures.

(5) Democratization and reform of the electoral process, as measured by—

(A) transparent functioning of local, entity, and national governments;

(B) acceptance of binding arbitration for the implementation of results in contested local elections;

(C) modification of electoral laws to meet international and Organization for Security and Cooperation in Europe (OSCE) standards;

(D) the free and fair conduct of the September 1998 national elections and subsequent elections; and

(E) similar measures.

(6) Return of refugees, as measured by—

(A) compliance of entity property laws with the Dayton Accords;

(B) participation by entity governments in orderly cross-ethnic returns;

(C) protection by local police of returnees;

(D) acceptance of substantial numbers of returned refugees in major cities; and

(E) similar measures.

(7) Resolution of the status of Brcko, as measured by—

(A) the implementation of local election results;

(B) the functioning of an ethnically integrated police force;

(C) ethnic reintegration of Brcko and the surrounding region; and

(D) similar measures.

(8) Compliance of persons indicted for war crimes by the International Tribunal for the Former Yugoslavia, as measured by—

(A) the termination of political, military, and media control by war criminals;

(B) the assistance of local authorities in apprehension of indictees;

(C) the cooperation of entity justice establishments in cooperating with the Tribunal; and

(D) similar measures.

(9) The ability of international organizations to carry out their functions within the Republic of Bosnia and Herzegovina without military support, as measured by—

(A) the ability of local authorities to carry out demining programs;

(B) the ability of the Office of the High Representative to enforce inter-entity agreements without accompanying military shows of force; and

(C) similar measures.

(10) Economic reconstruction and recovery, as measured by—

(A) local currency circulating freely and its use in official transactions;

(B) an agreement reached on a permanent national currency in use in all entities;

(C) the creation of privatization laws consistent with the Dayton Accords;

(D) government control over sources of revenue;

(E) substantial repair and functioning of major infrastructure elements;

(F) an in-place International Monetary Fund program; and

(G) similar measures.

(d) Secretary of Defense Report.—(1) Not later than December 15, 1998, the Secretary of Defense shall submit to the congressional defense committees a report on the effects of military operations in the Republic of Bosnia and Herzegovina and the Balkans region on the capabilities of United States military forces and, in particular, on the capability of United States military forces to conduct successfully two nearly simultaneous major theater wars as specified in current Defense Planning Guidance and in accordance with the deployment timelines called for in the war plans of the commanders of unified combatant commands.

(2) Whenever the number of United States ground combat forces in the Republic of Bosnia and Herzegovina increases or decreases by 10 percent or more compared to the number of such forces as of the most recent previous report under this subsection, the Secretary shall submit an additional report as specified in paragraph (1). Any such additional report shall be submitted within 30 days of the date on which the requirement to submit the report becomes effective under the preceding sentence.

(3) The Secretary shall include in each report under this subsection information with respect to the effects of military operations in the Republic of Bosnia and Herzegovina and the Balkans region on the capabilities of United States military forces to conduct successfully two nearly simultaneous major theater wars as specified in current Defense Planning Guidance and in accordance with the deployment timelines called for in the war plans of the commanders of unified combatant commands. Such information shall include information on the effects of those operations upon anticipated deployment plans for major theater wars in Southwest Asia or on the Korean peninsula including the following:

(A) Deficiencies or delays in deployment of strategic lift, logistics support and infrastructure, ammunition (including precision guided munitions) support forces, intelligence assets, follow-on forces used for planned counteroffensives, and similar forces.

(B) Additional planned reserve component mobilization, including specific units to be ordered to active duty and required dates for activation of presidential call-up authority.

(C) Specific plans and timelines for redeployment of United States forces from the Republic of Bosnia and Herzegovina, the Balkans region, or supporting forces in the region, to both the first and second major theater war.

(D) Preventative actions or deployments involving United States forces in the Republic of Bosnia and Herzegovina and the Balkans region that would be taken in the event of a single theater war to deter the outbreak of a second theater war.

(E) Specific plans and timelines to replace forces deployed to the Republic of Bosnia and Herzegovina, the Balkans region, or the surrounding region to maintain United States military presence.

(F) An assessment, undertaken in consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the unified combatant commands, of the level of increased risk to successful conduct of the major theater wars and the maintenance of security and stability in the Republic of Bosnia and Herzegovina and the Balkans region, by the requirement to redeploy forces from Bosnia and the Balkans in the event of a major theater war.

(e) Definition of Dayton Accords.—For purposes of this section, the term "Dayton Accords" means the General Framework Agreement for Peace in Bosnia and Herzegovina, initialed by the parties in Dayton, Ohio, on November 21, 1995, and signed in Paris on December 14, 1995.

SEC. 1203. REPORT ON MILITARY CAPABILITIES OF AN EXPANDED NATO ALLIANCE.

(a) Report.—The Secretary of Defense shall prepare a report, in both classified and unclassified form, on the planned future military capabilities of the North Atlantic Treaty Organization (NATO) in light of the proposed inclusion of Poland, the Czech Republic, and Hungary in the NATO alliance. The report shall set forth—

(1) the tactical, operational, and strategic issues that would be raised by the inclusion of Poland, the Czech Republic, and Hungary in the NATO alliance;

(2) the required improvements to common alliance military assets that would result from the inclusion of those nations in the alliance;

(3) the planned improvements to national capabilities of current NATO members that would be required by reason of the inclusion of those nations in the alliance;

(4) the planned improvements to national capabilities of the military forces of those candidate member nations; and

(5) the additional requirements that would be imposed on the United States by NATO expansion.

(b) Matters To Be Included.—The report shall include the following:

(1) An assessment of the tactical and operational capabilities of the military forces of each of the candidate member nations.

(2) An assessment of the capability of each candidate member nation to provide logistical, command and control, and other vital infrastructure required for alliance defense (as specified in Article V of the NATO Charter), including a description in general terms of alliance plans for reinforcing each candidate member nation during a crisis or war and detailing means for deploying both United States and other NATO forces from current member states and from the continental United States or other United States bases worldwide and, in particular, describing plans for ground reinforcement of Hungary.

(3) An assessment of the ability of current and candidate alliance members to deploy and sustain combat forces in alliance defense missions conducted in the territory of any of the candidate member nations, as specified in Article V of the NATO Charter.

(4) A description of projected defense programs through 2009 (shown on an annual basis and cumulatively) of each current and candidate alliance member nation, including planned investments in capabilities relevant to Article V alliance defense and potential alliance contingency operations and showing both planned national efforts as well as planned alliance common efforts and describing any disparities in investments by current or candidate alliance member nations.

(5) A detailed comparison and description of any disparities in scope, methodology, assessments of common alliance or national responsibilities, or any other factor related to alliance capabilities between (A) the report on alliance expansion costs prepared by the Department of Defense (in the report submitted to Congress in February 1998 entitled "Report to the Congress on the Military Requirements and Costs of NATO Enlargement"), and (B) the report on alliance expansion costs prepared by NATO collectively and referred to as the "NATO estimate", issued at Brussels in November 1997.

(6) Any other factor that, in the judgment of the Secretary of Defense, bears upon the strategic, operational, or tactical military capabilities of an expanded NATO alliance.

(c) Submission of Report.—The report shall be submitted to Congress not later than March 15, 1999.

SEC. 1204. ONE-YEAR EXTENSION OF COUNTERPROLIFERATION AUTHORITIES FOR SUPPORT OF UNITED NATIONS SPECIAL COMMISSION ON IRAQ.

(a) Amount Authorized for Fiscal Year 1999.—The total amount of assistance for fiscal year 1999 provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) that is provided in the form of funds, including funds used for activities of the Department of Defense in support of the United Nations Special Commission on Iraq, may not exceed $15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking out "1998" and inserting in lieu thereof "1999".

SEC. 1205. REPEAL OF LANDMINE MORATORIUM.

Section 580 of the Foreign Operations Appropriations Act, 1996 (Public Law 104–107; 110 Sat 751), is repealed.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in subsection (b) of section 406 of title 10, United States Code (as added by section 1305).

(b) FISCAL YEAR 1999 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 1999 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

SEC. 1302. FUNDING ALLOCATIONS.

(a) IN GENERAL.—Of the fiscal year 1999 Cooperative Threat Reduction funds, not more than the following amounts may be obligated for the purposes specified:

(1) Except as provided in paragraph (11), for strategic offensive arms elimination in Russia, $142,400,000.

(2) Except as provided in paragraph (11), for strategic nuclear arms elimination in Ukraine, $47,500,000.

(3) For activities to support warhead dismantlement processing in Russia, $9,400,000.

(4) For activities associated with chemical weapons destruction in Russia, $35,000,000.

(5) For weapons transportation security in Russia, $10,300,000.

(6) For planning, design, and construction of a storage facility for Russian fissile material, $60,900,000.

(7) For weapons storage security in Russia, $41,700,000.

(8) For development of a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, $29,800,000.

(9) For biological weapons proliferation prevention activities in Russia, $2,000,000.

(10) For activities designated as Other Assessments/Administrative Support $7,000,000.

(11) For strategic arms elimination in Russia or Ukraine, $31,400,000.

(b) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraphs (2) and (3), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts appropriated for the purposes stated in any of paragraphs (3) through (10) of subsection (a) in excess of 115 percent of the amount stated in those paragraphs.

SEC. 1303. PROHIBITION ON USE OF FUNDS FOR SPECIFIED PURPOSES.

(a) IN GENERAL.—No fiscal year 1999 Cooperative Threat Reduction funds, and no funds appropriated for Cooperative Threat Reduction programs for any prior fiscal year and remaining available for obligation, may be obligated or expended for any of the following purposes:

(1) Conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

(2) Provision of housing.

(3) Provision of assistance to promote environmental restoration.

(4) Provision of assistance to promote job retraining.

(5) Programs other than the programs specified in subsection (b) of section 406 of title 10, United States Code (as added by section 1305).

(b) LIMITATION WITH RESPECT TO DEFENSE CONVERSION ASSISTANCE.—None of the funds appropriated pursuant to this Act may be obligated or expended for the provision of assistance to Russia or any other state of the former Soviet Union to promote defense conversion.

SEC. 1304. LIMITATION ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION FACILITY.

No fiscal year 1999 Cooperative Threat Reduction funds authorized to be obligated in section 1302(a)(4) for activities associated with chemical weapons destruction in Russia, and no funds appropriated for Cooperative Threat Reduction programs for any prior fiscal year and remaining available for obligation, may be used for construction of a chemical weapons destruction facility.

SEC. 1305. LIMITATION ON OBLIGATION OF FUNDS FOR A SPECIFIED PERIOD.

(a) IN GENERAL.—(1) Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§406. Use of Cooperative Threat Reduction program funds: limitation

"(a) IN GENERAL.—In carrying out Cooperative Threat Reduction programs during any fiscal year, the Secretary of Defense may use funds appropriated for those programs only to the extent that those funds were appropriated for that fiscal year or for either of the 2 preceding fiscal years.

"(b) DEFINITION OF COOPERATIVE THREAT REDUCTION PROGRAMS.—In this section, the term 'Cooperative Threat Reduction programs' means the following programs with respect to states of the former Soviet Union:

"(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons of mass destruction and their delivery vehicles.

"(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

"(3) Programs to prevent the proliferation of weapons of mass destruction, components, and technology and expertise related to such weapons.

"(4) Programs to expand military-to-military and defense contacts.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"406. Use of Cooperative Threat Reduction program funds: limitation.".

(b) EFFECTIVE DATE.—The limitation described in section 406 of title 10, United States Code, as added by subsection (a), shall apply with respect to fiscal years beginning with fiscal year 1999.

SEC. 1306. REQUIREMENT TO SUBMIT BREAKDOWN OF AMOUNTS REQUESTED BY PROJECT CATEGORY.

The Secretary of Defense shall submit to Congress on an annual basis, not later than 30 days after the date that the President submits to Congress the budget of the United States Government for the following fiscal year—

(1) a breakdown, with respect to the appropriations requested for Cooperative Threat Reduction programs for the fiscal year after the fiscal year in which the breakdown is submitted, of the amounts requested for each project category under each Cooperative Threat Reduction program element; and

(2) a breakdown, with respect to appropriations for Cooperative Threat Reduction programs for the fiscal year in which the breakdown is submitted, of the amounts obligated or expended, or planned to be obligated or expended, for each project category under each Cooperative Threat Reduction program element.

SEC. 1307. LIMITATION ON USE OF FUNDS UNTIL COMPLETION OF FISCAL YEAR 1998 REQUIREMENTS.

(a) USE OF FUNDS FOR PROGRAMS RELATED TO START II TREATY.—No fiscal year 1999 Cooperative Threat Reduction funds may be obligated or expended for strategic offensive arms elimination projects in Russia related to the START II Treaty (as defined in section 1302(f) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1948)) until 30 days after the date on which the Secretary of Defense submits to Congress the certification described in section 1404 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1960).

(b) USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION FACILITY.—No fiscal year 1999 Cooperative Threat Reduction funds may be obligated or expended for activities relating to a chemical weapons destruction facility until 15 days after the date that is the later of the dates described in section 1405 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1960).

(c) USE OF FUNDS FOR DESTRUCTION OF CHEMICAL WEAPONS.—No funds authorized to be appropriated under this or any other Act for fiscal year 1999 for Cooperative Threat Reduction programs may be obligated or expended for chemical weapons destruction activities until the President submits to Congress the written certification described in section 1406(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1961).

(d) USE OF FUNDS FOR STORAGE FACILITY FOR RUSSIAN FISSILE MATERIAL.—No fiscal year 1999 Cooperative Threat Reduction funds may be obligated or expended for planning, design, or construction of a storage facility for Russian fissile material until 15 days after the date that is the later of the dates described in section 1407 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1962).

(e) USE OF FUNDS FOR WEAPONS STORAGE SECURITY.—No fiscal year 1999 Cooperative Threat Reduction funds intended for weapons storage security activities in Russia may be obligated or expended until 15 days after the date that the Secretary of Defense submits to Congress the report on the status of negotiations between the United States and Russia described in section 1408 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1962).

SEC. 1308. REPORT ON BIOLOGICAL WEAPONS PROGRAMS IN RUSSIA.

(a) REPORT.—Not later than December 31, 1998, the Secretary of Defense shall submit to the congressional defense committees a report, in classified and unclassified forms, containing—

(1) an assessment of the extent of compliance by Russia with international agreements relating to the control of biological weapons; and

(2) a detailed evaluation of the potential political and military costs and benefits of collaborative biological pathogen research efforts by the United States and Russia.

(b) CONTENT OF REPORT.—The report required under subsection (a) shall include the following:

(1) An evaluation of the extent of the control and oversight by the Government of Russia over the military and civilian-military biological warfare programs formerly controlled or overseen by states of the former Soviet Union.

(2) The extent and scope of continued biological warfare research, development, testing, and production in Russia, including the sites where such activity is occurring and the types of activity being conducted.

(3) An assessment of compliance by Russia with the terms of the Biological Weapons Convention.

(4) An identification and assessment of the measures taken by Russia to comply with the obligations assumed under the Joint Statement on Biological Weapons, agreed to by the United States, the United Kingdom, and Russia on September 14, 1992.

(5) A description of the extent to which Russia has permitted individuals from the United States or other countries to visit military and nonmilitary biological research, development, testing, and production sites in order to resolve ambiguities regarding activities at such sites.

(6) A description of the information provided by Russia about its biological weapons dismantlement efforts to date.

(7) An assessment of the accuracy and comprehensiveness of declarations by Russia regarding its biological weapons activities.

(8) An identification of collaborative biological research projects carried out by the United States and Russia for which Cooperative Threat Reduction funds have been used.

(9) An evaluation of the political and military utility of prior, existing, and prospective cooperative biological pathogen research programs carried out between the United States and Russia, and an assessment of the impact of such programs on increasing Russian military transparency with respect to biological weapons activities.

(10) An assessment of the political and military utility of the long-term collaborative program advocated by the National Academy of Sciences in its October 27, 1997 report, "Controlling Dangerous Pathogens: A Blueprint for U.S.-Russian Cooperation".

SEC. 1309. LIMITATION ON USE OF FUNDS FOR BIOLOGICAL WEAPONS PROLIFERATION PREVENTION ACTIVITIES IN RUSSIA.

No fiscal year 1999 Cooperative Threat Reduction funds may be obligated or expended for biological weapons proliferation prevention activities in Russia until 15 days after the date that is the later of the following:

(1) The date on which the Secretary of Defense submits to Congress a certification that no Cooperative Threat Reduction funds provided for cooperative research activities at biological research institutes in Russia have been used—

(A) to support activities that have resulted in the development of a new strain of anthrax; or

(B) for any purpose inconsistent with the objectives of providing such assistance.

(2) The date on which the Secretary submits to the congressional defense committees notification that the United States has examined and tested the new strain of anthrax reportedly developed at the State Research Center for Applied Microbiology in Obolensk, Russia.

SEC. 1310. LIMITATION ON USE OF CERTAIN FUNDS FOR STRATEGIC ARMS ELIMINATION IN RUSSIA OR UKRAINE.

No fiscal year 1999 Cooperative Threat Reduction funds authorized to be obligated in section 1302(a)(11) for strategic arms elimination in Russia or Ukraine may be obligated or expended until 30 days after the date that the Secretary of Defense submits to the congressional defense committees notification on how the Secretary plans to use such funds.

SEC. 1311. AVAILABILITY OF FUNDS.

Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1999".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Anniston Army Depot	$3,550,000
	Fort Rucker	$4,300,000
	Redstone Arsenal	$1,550,000
California	Fort Irwin	$14,800,000
Georgia	Fort Benning	$28,600,000
Hawaii	Schofield Barracks	$67,500,000
Illinois	Rock Island Arsenal	$5,300,000
Indiana	Crane Army Ammunition Activity	$7,100,000
Kansas	Fort Riley	$3,600,000
Kentucky	Blue Grass Army Depot	$5,300,000
	Fort Campbell	$41,000,000
	Fort Knox	$23,000,000
Louisiana	Fort Polk	$8,300,000
Maryland	Fort Detrick	$3,550,000
Missouri	Fort Leonard Wood	$28,200,000
New Jersey	Fort Monmouth	$7,600,000
	Picatinny Arsenal	$8,400,000
New York	Fort Drum	$4,650,000
	United States Military Academy, West Point	$85,000,000
North Carolina	Fort Bragg	$95,900,000
Oklahoma	Fort Sill	$13,800,000
	McAlester Army Ammunition Plant	$10,800,000
Texas	Fort Bliss	$4,100,000
	Fort Hood	$32,500,000
	Fort Sam Houston	$21,800,000
Utah	Tooele Army Depot	$3,900,000
Virginia	National Ground Intelligence Center, Charlottesville	$46,200,000
	Fort Eustis	$36,531,000
Washington	Fort Lewis	$18,200,000
CONUS Classified	Classified Location	$4,600,000
	Total	$639,631,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Belgium	80th Area Support Group	$6,300,000
Germany	Schweinfurt	$18,000,000
	Wurzburg	$4,250,000
Korea	Camp Casey	$13,400,000
	Camp Castle	$18,226,000
	Camp Humphreys	$8,500,000
	Camp Stanley	$5,800,000
Kwajalein	Kwajalein Atoll	$48,600,000
	Total	$123,076,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation or location	Purpose	Amount
Alabama	Redstone Arsenal	118 Units	$14,000,000
Hawaii	Schofield Barracks	64 Units	$14,700,000
North Carolina	Fort Bragg	170 Units	$19,800,000
Texas	Fort Hood	154 Units	$21,600,000
Virginia	Fort Lee	80 Units	$13,000,000
		Total	$83,100,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $6,350,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $37,429,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,010,036,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $535,631,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $87,076,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $5,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $63,792,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $126,879,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,097,697,000.

(6) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $7,500,000.

(7) For the construction of the missile software engineering annex, phase II, Redstone Arsenal, Alabama, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1966), $13,600,000.

(8) For the construction of a disciplinary barracks, phase II, Fort Leavenworth, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, $29,000,000.

(9) For the construction of the whole barracks complex renewal, Fort Sill, Oklahoma, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, $20,500,000.

(10) For rail yard expansion at Fort Carson, Colorado, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, $23,000,000.

(11) For the construction of an aerial gunnery range at Fort Drum, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, $9,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $16,000,000 (the balance of the amount authorized under section 2101(a) for the construction of a multipurpose digital training range at Fort Knox, Kentucky);

(3) $15,000,000 (the balance of the amount authorized under section 2101(a) for the construction of a railhead facility at Fort Hood, Texas);

(4) $73,000,000 (the balance of the amount authorized under section 2101(a) for the construction of a cadet development center at the United States Military Academy, West Point, New York); and

(5) $36,000,000 (the balance of the amount authorized under section 2101(b) for the construction of a powerplant on Roi Namur Island at Kwajalein Atoll, Kwajalein).

(c) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (11) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by—

(1) $2,639,000, which represents the combination of project savings in military family housing construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes; and

(2) $6,000,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

SEC. 2105. INCREASE IN FISCAL YEAR 1998 AUTHORIZATION FOR MILITARY CONSTRUCTION PROJECTS AT FORT DRUM, NEW YORK, AND FORT SILL, OKLAHOMA.

(a) INCREASE.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1967) is amended—

(1) in the item relating to Fort Drum, New York, by striking out "$24,400,000" in the amount column and inserting in lieu thereof "$24,900,000";

(2) in the item relating to Fort Sill, Oklahoma, by striking out "$25,000,000" in the amount column and inserting in lieu thereof "$28,500,000"; and

(3) by striking out the amount identified as the total in the amount column and inserting in lieu thereof "$602,750,000".

(b) CONFORMING AMENDMENT.—Section 2104 of that Act (111 Stat. 1968) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking out "$2,010,466,000" and inserting in lieu thereof "$2,013,966,000"; and

(B) in paragraph (1), by striking out "$435,350,000" and inserting in lieu thereof "$438,850,000"; and

(2) in subsection (b)(8), by striking out "$8,500,000" and inserting in lieu thereof "$9,000,000".

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Marine Corps Air Station, Yuma	$11,010,000
	Naval Observatory Detachment, Flagstaff	$990,000
California	Marine Corps Air Station, Miramar	$29,570,000
	Marine Corps Base, Camp Pendleton	$40,430,000
	Naval Air Station, Lemoore	$20,640,000
	Naval Air Warfare Center Weapons Division, China Lake	$10,140,000
	Naval Facility, San Clemente Island	$8,350,000
	Naval Submarine Base, San Diego	$11,400,000
District of Columbia	Naval District, Washington	$790,000
Florida	Naval Air Station, Key West	$3,730,000
	Naval Air Station, Jacksonville	$1,500,000
	Naval Air Station, Whiting Field	$1,400,000
	Naval Station, Mayport	$6,163,000
Georgia	Marine Corps Logistics Base, Albany	$2,800,000
	Naval Submarine Base, Kings Bay	$2,550,000
Hawaii	Fleet and Industrial Supply Center, Pearl Harbor	$9,730,000
	Marine Corps Air Station, Kaneohe Bay	$27,410,000
	Naval Communications & Telecommunications Area Master Station Eastern Pacific, Wahiawa	$1,970,000
	Naval Shipyard, Pearl Harbor	$11,400,000
	Naval Station, Pearl Harbor	$18,180,000
	Naval Submarine Base, Pearl Harbor	$8,060,000
	Navy Public Works Center, Pearl Harbor	$28,967,000
Illinois	Naval Training Center, Great Lakes	$20,280,000
Indiana	Naval Surface Warfare Center, Crane	$11,110,000
Maryland	Naval Surface Warfare Center, Indian Head Division, Indian Head	$13,270,000
Mississippi	Naval Air Station, Meridian	$3,280,000
	Naval Construction Battalion Center Gulfport	$10,670,000
North Carolina	Marine Corps Air Station, Cherry Point	$6,040,000
	Marine Corps Base, Camp LeJeune	$14,600,000
Pennsylvania	Naval Surface Warfare Center Ship Systems Engineering Station, Philadelphia	$2,410,000
Rhode Island	Naval Education and Training Center, Newport	$5,630,000
	Naval Undersea Warfare Center Division, Newport	$9,140,000
South Carolina	Marine Corps Air Station, Beaufort	$1,770,000
	Marine Corps Reserve Detachment, Parris Island	$15,990,000
	Naval Weapons Station, Charleston	$9,737,000
Texas	Naval Station, Ingleside	$12,200,000
Virginia	Fleet and Industrial Supply Center, Norfolk (Craney Island)	$1,770,000
	Fleet Training Center, Norfolk	$5,700,000
	Naval Air Station, Oceana	$6,400,000
	Naval Shipyard, Norfolk, Portsmouth	$6,180,000
	Naval Station, Norfolk	$45,530,000
	Naval Surface Warfare Center, Dahlgren	$15,680,000
	Tactical Training Group Atlantic, Dam Neck	$2,430,000
Washington	Naval Shipyard, Puget Sound	$4,300,000
	Strategic Weapons Facility Pacific, Bremerton	$2,750,000
	Total	$484,047,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Greece	Naval Support Activity, Souda Bay	$5,260,000
Guam	Naval Activities, Guam	$10,310,000
Italy	Naval Support Activity, Naples	$18,270,000
United Kingdom	Joint Maritime Communications Center, St. Mawgan	$2,010,000
	Total	$35,850,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State	Installation or location	Purpose	Amount
California	Naval Air Station, Lemoore	162 Units	$30,379,000
Hawaii	Navy Public Works Center, Pearl Harbor	150 Units	$29,125,000
		Total	$59,504,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $15,618,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $221,991,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,776,726,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $470,547,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $35,850,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $8,900,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $60,346,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $297,113,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $915,293,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $13,500,000 (the balance of the amount authorized under section 2202(a) for the construction of a berthing pier at Naval Station, Norfolk, Virginia.

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by—

(1) $6,323,000 which represents the combination of project savings in military family housing construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes; and

(2) $5,000,000 which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

SEC. 2205. AUTHORIZATION TO ACCEPT ROAD CONSTRUCTION PROJECT, MARINE CORPS BASE, CAMP LEJEUNE, NORTH CAROLINA.

The Secretary of the Navy may accept from the State of North Carolina, a road construction project valued at approximately $2,000,000, which is to be constructed at Marine Corps Base, Camp Lejeune, North Carolina, in accordance with plans and specifications acceptable to the Secretary of the Navy.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$19,398,000
Alaska	Eielson Air Force Base	$4,352,000
Arizona	Luke Air Force Base	$3,400,000
California	Edwards Air Force Base	$10,361,000
	Travis Air Force Base	$4,250,000
	Vandenberg Air Force Base	$18,709,000
Colorado	Falcon Air Force Station	$9,601,000
	United States Air Force Academy	$4,413,000
District of Columbia	Bolling Air Force Base	$2,948,000
Florida	Eglin Air Force Base	$20,437,000
	Eglin Auxiliary Field 9	$3,837,000
	MacDill Air Force Base	$9,808,000
	Tyndall Air Force Base	$3,600,000
Georgia	Robins Air Force Base	$11,894,000
Hawaii	Hickam Air Force Base	$5,890,000
Idaho	Mountain Home Air Force Base	$16,397,000
Kansas	McConnell Air Force Base	$4,450,000
Maryland	Andrews Air Force Base	$4,448,000
Mississippi	Keesler Air Force Base	$35,526,000
Nevada	Indian Springs Air Force Auxiliary Air Field	$15,013,000
	Nellis Air Force Base	$6,378,000
New Jersey	McGuire Air Force Base	$6,044,000
New Mexico	Holloman Air Force Base	$11,100,000
	Kirtland Air Force Base	$1,774,000
North Carolina	Seymour Johnson Air Force Base	$6,100,000
North Dakota	Grand Forks Air Force Base	$2,686,000
Ohio	Wright-Patterson Air Force Base	$22,000,000
Oklahoma	Altus Air Force Base	$5,300,000
	Tinker Air Force Base	$25,385,000
	Vance Air Force Base	$6,223,000
South Carolina	Charleston Air Force Base	$24,330,000
South Dakota	Ellsworth Air Force Base	$6,500,000

Air Force: Inside the United States—Continued

State	Installation or location	Amount
Tennessee	*Arnold Air Force Base*	*$11,600,000*
Texas	*Brooks Air Force Base*	*$7,000,000*
	Dyess Air Force Base	*$3,350,000*
	Lackland Air Force Base	*$14,930,000*
	Laughlin Air Force Base	*$7,315,000*
	Randolph Air Force Base	*$3,166,000*
Washington	*Fairchild Air Force Base*	*$13,820,000*
	McChord Air Force Base	*$51,847,000*
	Total	*$445,580,000*

(b) Outside the United States.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	*Spangdahlem Air Base*	*$13,967,000*
Korea	*Kunsan Air Base*	*$5,958,000*
	Osan Air Base	*$7,496,000*
Turkey	*Incirlik Air Base*	*$2,949,000*
United Kingdom	*Royal Air Force, Lakenheath*	*$15,838,000*
	Royal Air Force, Mildenhall	*$24,960,000*
	Total	*$71,168,000*

SEC. 2302. FAMILY HOUSING.

(a) Construction and Acquisition.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State	Installation or location	Purpose	Amount
Alabama	*Maxwell Air Force Base*	*143 Units*	*$16,300,000*
Alaska	*Eielson Air Force Base*	*46 Units*	*$12,932,000*
California	*Edwards Air Force Base*	*48 Units*	*$12,580,000*
	Vandenberg Air Force Base	*95 Units*	*$18,499,000*
Delaware	*Dover Air Force Base*	*55 Units*	*$8,998,000*
Florida	*MacDill Air Force Base*	*48 Units*	*$7,609,000*
	Patrick Air Force Base	*46 Units*	*$9,692,000*
	Tyndall Air Force Base	*122 Units*	*$14,500,000*
Nebraska	*Offutt Air Force Base*	*Ancillary Facility*	*$870,000*
	Offutt Air Force Base	*Ancillary Facility*	*$900,000*
	Offutt Air Force Base	*90 Units*	*$12,212,000*
Nevada	*Nellis Air Force Base*	*60 Units*	*$10,550,000*
New Mexico	*Kirtland Air Force Base*	*37 Units*	*$6,400,000*
Ohio	*Wright-Patterson Air Force Base*	*40 Units*	*$5,600,000*
Texas	*Dyess Air Force Base*	*64 Units*	*$9,415,000*
	Sheppard Air Force Base	*65 Units*	*$7,000,000*
Washington	*Fairchild Air Force Base*	*Ancillary Facility*	*$1,692,000*
	Fairchild Air Force Base	*14 Units*	*$2,300,000*
		Total	*$158,049,000*

(b) Planning and Design.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $11,342,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $81,778,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,577,264,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $445,580,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $71,168,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,135,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $37,592,000.

(5) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $251,169,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $785,204,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by—

(1) $9,584,000 which represents the combination of project savings in military family housing construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes; and

(2) $11,000,000 which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Demilitarization	Aberdeen Proving Ground, Maryland	$186,350,000
	Newport Army Depot, Indiana	$191,550,000
Defense Logistics Agency	Defense Fuel Support Point, Fort Sill, Oklahoma	$3,500,000
	Defense Fuel Support Point, Jacksonville Annex, Mayport, Florida	$11,020,000
	Defense Fuel Support Point, Jacksonville, Florida	$11,000,000
	Defense General Supply Center, Richmond (DLA), Virginia	$10,500,000
	Defense Fuels Supply Center, Camp Shelby, Mississippi	$5,300,000
	Defense Fuels Supply Center, Elmendorf Air Force Base, Alaska	$19,500,000
	Defense Fuels Supply Center, Pope Air Force Base, North Carolina	$4,100,000
	Various Locations	$1,300,000
Defense Medical Facilities Office	Barksdale Air Force Base, Louisiana	$3,450,000
	Beale Air Force Base, California	$3,500,000
	Carlisle Barracks, Pennsylvania	$4,678,000
	Cheatham Annex, Virginia	$11,300,000
	Edwards Air Force Base, California	$6,000,000
	Elgin Air Force Base, Florida	$9,200,000
	Fort Bragg, North Carolina	$6,500,000
	Fort Hood, Texas	$14,100,000
	Fort Stewart/Hunter Army Air Field, Georgia	$10,400,000
	Grand Forks Air Force Base, North Dakota	$5,600,000
	Holloman Air Force Base, New Mexico	$1,300,000
	Keesler Air Force Base, Mississippi	$700,000
	Marine Corps Air Station, Camp Pendleton, California..	$6,300,000
	McChord Air Force Base, Washington	$20,000,000
	Moody Air Force Base, Georgia	$11,000,000
	Naval Air Station, Pensacola, Florida	$25,400,000
	Naval Hospital, Bremerton, Washington	$28,000,000
	Naval Hospital, Great Lakes, Illinois	$7,100,000
	Naval Station, San Diego, California	$1,350,000
	Naval Submarine Base, Bangor, Washington	$5,700,000
	Travis Air Force Base, California	$1,700,000
Defense Education Activity	Marine Corps Base, Camp LeJeune, North Carolina	$16,900,000
	United States Military Academy, West Point, New York	$2,840,000
National Security Agency	Fort Meade, Maryland	$668,000
Special Operations Command	Elgin Auxiliary Field 3, Florida	$7,310,000
	Elgin Auxiliary Field 9, Florida	$2,400,000
	Fort Campbell, Kentucky	$15,000,000
	MacDill Air Force Base, Florida	$8,400,000
	Naval Amphibious Base, Coronado, California	$3,600,000
	Stennis Space Center, Mississippi	$5,500,000
	Total	$690,016,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Ballistic Missile Defense Organization	Kwajalein Atoll, Kwajalein	$4,600,000
Defense Logistics Agency	Lajes Field, Azores, Portugal	$7,700,000
Defense Medical Facilities Office	Naval Air Station, Sigonella, Italy	$5,300,000
	Royal Air Force, Lakenheath, United Kingdom	$10,800,000
Defense Education Activity	Fort Buchanan, Puerto Rico	$8,805,000
	Naval Activities, Guam	$13,100,000
Special Operations Command	Naval Station, Roosevelt Roads, Puerto Rico	$9,600,000
	Total	$59,905,000

SEC. 2402. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriation in section 2404(a)(11)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $345,000.

SEC. 2403. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(9), the Secretary of Defense may carry *out energy conservation projects under section 2865 of title 10, United States Code.*

SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $2,386,023,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $369,966,000.

(2) For military construction projects outside the United States authorized by section 2401(a), $59,905,000.

(3) For construction of the Ammunition Demilitarization Facility, Pine Bluff Arsenal, Arkansas authorized by section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 539), section 2408 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1982), and section 2405 of this Act, $16,500,000.

(4) For construction of the Ammunition Demilitarization Facility, Umatilla Army Depot, Oregon, authorized by section 2401 of the Military Construction Authorization Act for Fiscal Year 1995, as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996, section 2408 of the Military Construction Authorization Act for Fiscal Year 1998, and section 2405 of this Act, $50,950,000.

(5) For military construction projects at Portsmouth Naval Hospital, Virginia, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 106 Stat. 1640), as amended by section 2406 of this Act, $17,954,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,094,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $4,890,000.

(8) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $39,866,000.

(9) For energy conservation projects authorized by section 2404, $46,950,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $1,730,704,000.

(11) For military family housing functions:

(A) For improvement of military family housing and facilities, $345,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $36,899,000 of which not more than $31,139,000 may be obligated or expended for the leasing of military family housing units worldwide.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $7,000,000.

(b) Limitation of Total Cost of Construction Projects.—Notwithstanding the cost variation authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $162,050,000 (the balance of the amount authorized under section 2401(a) for the construction of the Ammunition Demilitarization Facility at Newport Army Depot, Indiana); and

(3) $158,000,000 (the balance of the amount authorized under section 2401(a) for the construction of the Ammunition Demilitarization Facility at Aberdeen Proving Ground, Maryland).

(c) Adjustment.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (11) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $12,000,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

SEC. 2405. INCREASE IN FISCAL YEAR 1995 AUTHORIZATION FOR MILITARY CONSTRUCTION PROJECTS AT PINE BLUFF ARSENAL, ARKANSAS, AND UMATILLA ARMY DEPOT, OREGON.

The table in section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 539) and section 2408 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1982), under the agency heading relating to Chemical Weapons and Munitions Destruction, is amended—

(1) in the item relating to Pine Bluff Arsenal, Arkansas, by striking out "$134,000,000" in the amount column and inserting in lieu thereof "$154,400,000"; and

(2) in the item relating to Umatilla Army Depot, Oregon, by striking out "$187,000,000" in the amount column and inserting in lieu thereof "$193,377,000".

SEC. 2406. INCREASE IN FISCAL YEAR 1990 AUTHORIZATION FOR MILITARY CONSTRUCTION PROJECT AT PORTSMOUTH NAVAL HOSPITAL, VIRGINIA.

(a) Increase.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 100–189; 103 Stat. 1640) is amended in the item relating to Portsmouth Naval Hospital, Virginia, by striking out "$330,000,000" and inserting in lieu thereof "$351,354,000".

(b) Conforming Amendment.—Section 2405(b)(2) of that Act (103 Stat. 1642) is amended by striking out "$321,500,000" and inserting in lieu thereof "$342,854,000".

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $169,000,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) Authorization of Appropriations.—There are authorized to be appropriated for fiscal years beginning after September 30, 1998, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $70,338,000; and

(B) for the Army Reserve, $84,608,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $33,721,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $97,701,000; and

(B) for the Air Force Reserve, $35,371,000.

(b) Adjustment.—(1) The amount authorized to be appropriated pursuant to subsection (a)(1)(A) is reduced by $2,000,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

(2) The amount authorized to be appropriated pursuant to subsection (a)(3)(A) is reduced by $4,000,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

SEC. 2602. ARMY RESERVE CONSTRUCTION PROJECT, SALT LAKE CITY, UTAH.

(a) Cost Share Requirement.—With regard to the military construction project for the Army Reserve concerning construction of a reserve center and organizational maintenance shop at an appropriate site in, or in the vicinity of, Salt Lake City, Utah, to be carried out using funds appropriated pursuant to the authorization of appropriations in section 2601(a)(1)(B), the Secretary of the Army shall enter into an agreement with the State of Utah under which the State agrees to provide financial or in-kind contributions in connection with the project.

(b) Repeal of Superseded Authority.—(1) Section 2603 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1983) is repealed.

(2) Section 2601(a)(1)(B) of such Act is amended by striking out "$66,267,000" and inserting in lieu thereof "$53,553,000".

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) Expiration of Authorizations After Three Years.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2001; or

(2) the date of enactment of an Act authorizing funds for military construction for fiscal year 2002.

(b) Exception.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2001; or

(2) the date of enactment of an Act authorizing funds for fiscal year 2002 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1996 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 541), authorizations for the projects set forth in the tables in subsection (b), as provided in sections 2201, 2302, or 2601 of that Act, shall remain in effect until October 1, 1999, or the date of enactment of an Act authorizing funds for military construction for fiscal year 2000, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Navy: Extension of 1996 Project Authorization

State	Installation or location	Project	Amount
Puerto Rico	Naval Station Roosevelt Roads	Housing Office	$710,000

Air Force: Extension of 1996 Project Authorization

State	Installation or location	Project	Amount
Texas	Lackland Air Force Base	Family Housing (67 units)	$6,200,000

Army National Guard: Extension of 1996 Project Authorization

State	Installation or location	Project	Amount
Mississippi	Camp Shelby	Multipurpose Range Complex (Phase I)	$5,000,000

SEC. 2703. EXTENSION OF AUTHORIZATION OF FISCAL YEAR 1995 PROJECT.

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3046), the authorization for the project set forth in the table in subsection (b), as provided in section 2201 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1985), shall remain in effect until October 1, 1999, or the date of enactment of an Act authorizing funds for military construction for fiscal year 2000, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

Navy: Extension of 1995 Project Authorization

State	Installation or location	Project	Amount
Maryland	Indian Head Naval Surface Warfare Center	Denitrification/ Acid Mixing Facility	$6,400,000

SEC. 2704. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. DEFINITION OF ANCILLARY SUPPORTING FACILITIES UNDER THE ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

Section 2871(1) of title 10, United States Code, is amended by inserting after "including" the following: "facilities to provide or support elementary or secondary education,".

Subtitle B—Real Property and Facilities Administration

SEC. 2811. RESTORATION OF DEPARTMENT OF DEFENSE LANDS USED BY ANOTHER FEDERAL AGENCY.

(a) INCLUSION OF RESTORATION AS CONTRACT TERM.—Section 2691 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) As a condition of any lease, permit, license, or other grant of access entered into by the Secretary of a military department with another Federal agency authorizing the other agency to use lands under the control of the Secretary, the Secretary may require the other agency to agree to remove any improvements and to take any other action necessary in the judgment of the Secretary to restore the land used by the agency to the condition the land was in before its use by the agency. In lieu of performing the work itself, the Federal agency may elect, with the consent of the Secretary, to reimburse the Secretary for the costs incurred by the military department to perform the removal and restoration work.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§2691. Restoration of land used by permit or lease".

(2) The table of sections at the beginning of chapter 159 of title 10, United States Code, is amended by striking the item relating to section 2691 and inserting in lieu thereof the following new item:

"2691. Restoration of land used by permit or lease.".

SEC. 2812. OUTDOOR RECREATION DEVELOPMENT ON MILITARY INSTALLATIONS FOR DISABLED VETERANS, MILITARY DEPENDENTS WITH DISABILITIES, AND OTHER PERSONS WITH DISABILITIES.

(a) ACCESS ENHANCEMENT.—Section 103 of the Sikes Act (16 U.S.C. 670c) is amended by adding at the end the following new subsections:

"(b) ACCESS FOR DISABLED VETERANS, MILITARY DEPENDENTS WITH DISABILITIES, AND OTHER PERSONS WITH DISABILITIES.—(1) In developing facilities and conducting programs for public outdoor recreation at military installations, consistent with the primary military mission of the installations, the Secretary of Defense shall ensure, to the maximum extent practicable, that outdoor recreation opportunities (including fishing, hunting, trapping, wildlife viewing, boating, and camping) made available to the public also provide equal access for persons described in paragraph (2) when topographic, vegetative, and water resources allow equal access without substantial modification to the natural environment.

"(2) Persons referred to in paragraph (1) are disabled veterans, military dependents with disabilities, and other persons with disabilities.

"(3) The Secretary of Defense shall carry out this subsection in consultation with the Secretary of Veterans Affairs, national service, military, and veterans organizations, and sporting organizations in the private sector that participate in outdoor recreation projects for persons described in paragraph (2).

"(c) ACCEPTANCE OF DONATIONS.—In connection with the facilities and programs for public outdoor recreation at military installations, in particular the requirement under subsection (b) to provide equal access for persons described in paragraph (2) of such subsection, the Secretary of Defense may accept—

"(1) the voluntary services of individuals and organizations; and

"(2) donations of money or property, whether real, personal, mixed, tangible, or intangible.

"(d) TREATMENT OF VOLUNTEERS.—A volunteer under subsection (c) shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except that—

"(1) for the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, the volunteer shall be considered to be a Federal employee; and

"(2) for the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, the volunteer shall be considered to be an employee, as defined in section 8101(1)(B) of title 5, United States Code, and the provisions of such subchapter shall apply.".

(b) CONFORMING AMENDMENT.—Such section is further amended by striking out "SEC. 103." and inserting in lieu thereof the following:

"SEC. 103. PROGRAM FOR PUBLIC OUTDOOR RECREATION.

"(a) PROGRAM AUTHORIZED.—".

SEC. 2813. REPORT ON USE OF UTILITY SYSTEM CONVEYANCE AUTHORITY.

(a) REPORT REQUIRED.—Not later than March 1, 1999, the Secretary of each military department shall submit to Congress a report containing—

(1) the criteria to be used by the Secretary to select utility systems, and related real property, under the jurisdiction of the Secretary for conveyance to a municipal, private, regional, district, or cooperative utility company or other entity under the authority of section 2688 of title 10, United States Code; and

(2) a description of the manner in which the Secretary will ensure that any such conveyance does not adversely affect the national security of the United States.

(b) LIST OF LIKELY SYSTEMS FOR CONVEYANCE.—The report submitted by the Secretary of a military department under subsection (a) shall also contain a list of the utility systems, including the locations of the utility systems, that, as of the date of the submission of the report, the Secretary considers are likely to be conveyed under the authority of section 2688 of title 10, United States Code.

Subtitle C—Defense Base Closure and Realignment

SEC. 2821. PAYMENT OF STIPULATED PENALTIES ASSESSED UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 IN CONNECTION WITH MCCLELLAN AIR FORCE BASE, CALIFORNIA.

(a) SOURCE OF PAYMENT.—Notwithstanding subsection (b) of section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of Title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), the Secretary of Defense may use amounts in the Department of Defense Base Closure Account 1990 established under subsection (a) of such section to pay stipulated penalties assessed under the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601 et seq.) against McClellan Air Force Base, California.

(b) AMOUNT OF PAYMENT.—The amount expended under the authority of subsection (a) may not exceed $15,000.

SEC. 2822. ELIMINATION OF WAIVER AUTHORITY REGARDING PROHIBITION AGAINST CERTAIN CONVEYANCES OF PROPERTY AT NAVAL STATION, LONG BEACH, CALIFORNIA.

Section 2826 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 2001) is amended by striking out subsection (e).

Subtitle D—Land Conveyances

PART I—ARMY CONVEYANCES

SEC. 2831. LAND CONVEYANCE, ARMY RESERVE CENTER, MASSENA, NEW YORK.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Village of Massena, New York (in this section referred to as the "Village"), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) consisting of the Army Reserve Center in Massena, New York, for the purpose of permitting the Village to develop the parcel for public benefit, including the development of municipal office space.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Village.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2832. LAND CONVEYANCE, ARMY RESERVE CENTER, OGDENSBURG, NEW YORK.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Ogdensburg, New York (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) consisting of the Army Reserve Center in Ogdensburg, New York, for the purpose of permitting the City to develop the parcel for public benefit, including the development of municipal office space.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2833. LAND CONVEYANCE, ARMY RESERVE CENTER, JAMESTOWN, OHIO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Greeneview Local School District of Jamestown, Ohio, all right, title, and interest of the United States in and to a parcel of excess Federal real property, including improvements thereon, that is located at 5693 Plymouth Road in Jamestown, Ohio, and contains an Army Reserve Center.

(b) PURPOSE OF CONVEYANCE.—The purpose of the conveyance under subsection (a) is to permit the Greeneview Local School District to retain and use the conveyed property for the benefit of the students of Greeneview schools.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Greeneview Local School District.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2834. LAND CONVEYANCE, STEWART ARMY SUB-POST, NEW WINDSOR, NEW YORK.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Town of New Windsor, New York (in this section referred to as the "Town"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 291 acres at the Stewart Army Sub-Post in New Windsor, New York.

(b) EXCLUSION.—The real property to be conveyed under subsection (a) does not include any portion of the approximately 89.2-acre parcel at Stewart Army Sub-Post that is proposed for transfer to the jurisdiction and control of the Marine Corps or the approximately 22-acre parcel at Stewart Army Sub-Post that is proposed for transfer to the jurisdiction and control of the Army Reserve.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2835. LAND CONVEYANCE, INDIANA ARMY AMMUNITION PLANT, CHARLESTOWN, INDIANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Indiana Army Ammunition Plant Reuse Authority (in this section referred to as the "Reuse Authority") all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 4660 acres located at the Indiana Army Ammunition Plant, Charlestown, Indiana, for the purpose of developing the parcel as an industrial park to replace all or part of the economic activity lost at the inactivated plant.

(b) CONSIDERATION.—Except as provided in subsection (d), as consideration for the conveyance under subsection (a), the Reuse Authority shall pay to the Secretary an amount equal to the fair market value of the conveyed property as of the time of the conveyance, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(c) TIME FOR PAYMENT.—The consideration required under subsection (b) shall be paid by the Reuse Authority at the end of the 10-year period beginning on the date on which the conveyance under subsection (a) is completed.

(d) EFFECT OF RECONVEYANCE OR LEASE.—(1) If, during the 10-year period specified in subsection (c), the Reuse Authority reconveys all or any part of the property conveyed under subsection (a), the Reuse Authority shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the Reuse Authority, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(2) The Secretary may treat a lease of the property within such 10-year period as a reconveyance if the Secretary determines that the lease is being used to avoid application of paragraph (1).

(e) DEPOSIT OF PROCEEDS.—The Secretary shall deposit any proceeds received under subsection (b) or (d) in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(f) ADMINISTRATIVE EXPENSES.—In connection with the conveyance under subsection (a), the Secretary may accept amounts provided by the Reuse Authority or other persons to cover administrative expenses incurred by the Secretary *in making the conveyance. Amounts received under this subsection for administrative expenses shall be credited to the appropriation, fund, or account from which the expenses were paid and shall be available, to the extent provided in appropriation Acts, for the same purposes and subject to the same limitations as other funds in such appropriation, fund, or account.*

(g) DESCRIPTION OF PROPERTY.—The property to be conveyed under subsection (a) includes the administrative area of the Indiana Army Ammunition Plant as well as open space in the southern end of the plant. The exact acreage and legal description of the property to be conveyed shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Reuse Authority.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(i) ADDITIONAL CONVEYANCE FOR RECREATIONAL PURPOSES.—Section 2858(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 571), as amended by section 2838 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2006), is further amended by adding at the end the following new paragraph:

"(3) The Secretary may also convey to the State, without consideration, another parcel of real property at the Indiana Army Ammunition Plant consisting of approximately 2,000 acres of additional riverfront property in order to connect the parcel conveyed under paragraph (2) with the parcels of Charlestown State Park conveyed to the State under paragraph (1) and title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).".

SEC. 2836. LAND CONVEYANCE, VOLUNTEER ARMY AMMUNITION PLANT, CHATTANOOGA, TENNESSEE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to Hamilton County, Tennessee (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 1033 acres located at the Volunteer Army Ammunition Plant, Chattanooga, Tennessee, for the purpose of developing the parcel as an industrial park to replace all or part of the economic activity lost at the inactivated plant.

(b) CONSIDERATION.—Except as provided in subsection (d), as consideration for the conveyance under subsection (a), the County shall pay to the Secretary an amount equal to the fair market value of the conveyed property as of the time of the conveyance, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(c) TIME FOR PAYMENT.—The consideration required under subsection (b) shall be paid by the County at the end of the 10-year period beginning on the date on which the conveyance under subsection (a) is completed.

(d) EFFECT OF RECONVEYANCE OR LEASE.—(1) If, during the 10-year period specified in subsection (c), the County reconveys all or any part of the property conveyed under subsection (a), the County shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the County, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(2) The Secretary may treat a lease of the property within such 10-year period as a reconveyance if the Secretary determines that the lease is being used to avoid application of paragraph (1).

(e) DEPOSIT OF PROCEEDS.—The Secretary shall deposit any proceeds received under subsection (b) or (d) in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(f) EFFECT ON EXISTING LEASES.—The conveyance of the real property under subsection (a) shall not affect the terms or length of any contract entered into by the Secretary before the date of the enactment of this Act with regard to the property to be conveyed.

(g) ADMINISTRATIVE EXPENSES.—In connection with the conveyance under subsection (a), the Secretary may accept amounts provided by the County or other persons to cover administrative expenses incurred by the Secretary in making the conveyance. Amounts received under this subsection for administrative expenses shall be credited to the appropriation, fund, or account from which the expenses were paid and shall be available, to the extent provided in appropriation Acts, for the same purposes and subject to the same limitations as other funds in such appropriation, fund, or account.

(h) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2837. RELEASE OF REVERSIONARY INTEREST OF UNITED STATES IN FORMER REDSTONE ARMY ARSENAL PROPERTY CONVEYED TO ALABAMA SPACE SCIENCE EXHIBIT COMMISSION.

(a) RELEASE AUTHORIZED.—The Secretary of the Army may release, without consideration and to such extent as the Secretary considers appropriate to protect the interests of the United States, the reversionary interests of the United States in the real property described in subsection (b), which were retained by the United States when the property was conveyed to the Alabama Space Science Exhibit Commission, an agency of the State of Alabama. The release shall be executed in the manner provided in this section.

(b) DESCRIPTION OF PROPERTY.—The real property referred to in this section is the real property conveyed to the Alabama Space Science Exhibit Commission under the authority of the following provisions of law:

(1) The first section of Public Law 90–276 (82 Stat. 68).

(2) Section 813 of the Military Construction Authorization Act, 1980 (Public Law 96–125; 93 Stat. 952).

(3) Section 813 of the Military Construction Authorization Act, 1984 (Public Law 98–115; 97 Stat. 790).

(c) RELEASE, WAIVER, OR CONVEYANCE OF OTHER RIGHTS, TERMS, AND CONDITIONS.—As part of the release under subsection (a), the Secretary may release, waive, or convey, without consideration and to such extent as the Secretary considers appropriate to protect the interests of the United States—

(1) any and all other rights retained by the United States in and to the real property described in subsection (b) when the property was conveyed to the Alabama Space Science Exhibit Commission; and

(2) any and all terms and conditions and restrictions on the use of the real property imposed as part of the conveyances described in subsection (b).

(d) CONDITIONS ON RELEASE, WAIVER, OR CONVEYANCE.—(1) The Secretary may execute the release under subsection (a) or a release, waiver, or conveyance under subsection (c) only after—

(A) the Secretary approves of the master plan prepared by the Alabama Space Science Exhibit Commission, as such plan may exist or be revised from time to time, for development of the real property described in subsection (b); and

(2) the installation commander at Redstone Arsenal, Alabama, certifies to the Secretary that the release, waiver, or conveyance is consistent with the master plan.

(2) A new facility or structure may not be constructed on the real property described in subsection (b) unless the facility or structure is included in the master plan, which has been approved and certified as provided in paragraph (1).

(e) INSTRUMENT OF RELEASE, WAIVER, OR CONVEYANCE.—In making a release, waiver, or conveyance authorized by this section, the Secretary shall execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release, waiver, or conveyance.

(f) EFFECT OF RELEASE.—Except as provided in subsection (g), upon release of any reversionary interest under this section, the right, title and interest of the Alabama Space Science Exhibit Commission in and to the real property described in subsection (b) shall, to the extent of the release, no longer be subject to the conditions prescribed in the provisions of law specified in such subsection. Except as provided in subsection (g), the Alabama Space Science Exhibit Commission may use the real property for any such purpose or purposes as it considers appropriate consistent with the master plan approved and certified as provided in subsection (d), and the real property may be conveyed by the Alabama Space Science Exhibit Commission without restriction and unencumbered by any claims or rights of the United States with respect to the property, subject to such rights, terms, and conditions of the United States previously imposed on the real property and not conveyed or released by the Secretary under subsection (c).

(g) EXCEPTIONS.—(1) Conveyance of the drainage and utility easement reserved to the United States pursuant to section 813(b)(3) of the Military Construction Authorization Act, 1984 (Public Law 98–115; 97 Stat. 791), is not authorized under this section.

(2) In no event may title to any portion of the real property described in subsection (b) be conveyed by the Alabama Space Science Exhibit Commission or any future deed holder of the real property to any person other than an agency, instrumentality, political subdivision, municipal corporation, or public corporation of the State of Alabama, and the land use of such conveyed property may not be changed without the approval of the Secretary.

PART II—NAVY CONVEYANCES

SEC. 2841. EASEMENT, MARINE CORPS BASE, CAMP PENDLETON, CALIFORNIA.

(a) EASEMENT AUTHORIZED.—The Secretary of the Navy may grant an easement, in perpetuity, to the Foothill/Eastern Transportation Corridor Agency (in this section referred to as the "Agency") over a parcel of real property at Marine Corps Base, Camp Pendleton, California, consisting of approximately 340 acres to permit the Recipient of the easement to construct, operate, and maintain a restricted access highway. The area covered by the easement shall include slopes and all necessary incidents thereto.

(b) CONSIDERATION.—As consideration for the conveyance of the easement under subsection (a), the Agency shall pay to the United States an amount equal to the fair market value of the

easement, as determined by an independent appraisal satisfactory to the Secretary and paid for by the Agency.

(c) Use of Proceeds.—In such amounts as are provided in advance in appropriation Acts, the Secretary shall use the funds paid by the Agency under subsection (b) to carry out one or more of the following programs at Camp Pendleton:

(1) Enhancement of access from Red, White, and Green Beach under the I–5 interstate highway and railroad crossings to inland areas.

(2) Improvement of roads and bridge structures in the range and training area.

(3) Realignment of Basilone Road.

(d) Description of Property.—The exact acreage and legal description of the easement to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Agency.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the easement under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2842. LAND CONVEYANCE, NAVAL RESERVE READINESS CENTER, PORTLAND, MAINE.

(a) Conveyance Authorized.—The Secretary of the Navy may convey to the Gulf of Maine Aquarium Development Corporation, Portland, Maine (in this section referred to as the "Corporation"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon and any appurtenant interest in submerged lands thereon, consisting of approximately 3.72 acres in Portland, Maine, which is the site of the Naval Reserve Readiness Center, Portland, Maine.

(b) Purpose.—The purpose of the conveyance under subsection (a) is to facilitate economic development in accordance with the plan of the Corporation for the construction of an aquarium and marine research facility in Portland, Maine.

(c) Consideration.—(1) As consideration for the conveyance authorized by subsection (a), the Corporation shall provide for such facilities as the Secretary determines appropriate for the Naval Reserve to replace the facilities conveyed under that subsection.

(2) To provide the replacement facilities, the Corporation may—

(A) convey to the United States a parcel of real property determined by the Secretary to be an appropriate location for the facilities and design and construct the facilities on the conveyed parcel; or

(B) design and construct the facilities on such parcel of real property under the jurisdiction of the Secretary as the Secretary shall specify.

(3) The Secretary shall select the form in which the consideration under paragraph (2) will be provided.

(d) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a), and of the real property, if any, to be conveyed under subsection (c), shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the Corporation.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

PART III—AIR FORCE CONVEYANCES

SEC. 2851. LAND CONVEYANCE, LAKE CHARLES AIR FORCE STATION, LOUISIANA.

(a) Conveyances Authorized.—The Secretary of the Air Force may convey, without consideration, to McNeese State University of Louisiana (in this section referred to as the "University") all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) consisting of approximately 4.38 at Lake Charles Air Force Station, Louisiana, for the purpose of permitting the University to use the parcel for educational purposes and agricultural research.

(b) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the University.

(c) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2852. LAND CONVEYANCE, AIR FORCE HOUSING FACILITY, LA JUNTA, COLORADO.

(a) Conveyance Required.—The Secretary of the Air Force may convey, without consideration, to the City of La Junta, Colorado (in this section referred to as the "City"), all right, title, and interest of the United States in and to the unused Air Force housing facility, consisting of approximately 28 acres and improvements thereon, located within the southern most boundary of the City.

(b) Purpose of Conveyance.—The purpose of the conveyance under subsection (a) is to permit the city to develop the conveyed property for housing and educational purposes.

(c) Description of Property.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Subtitle E—Other Matters

SEC. 2861. REPEAL OF PROHIBITION ON JOINT USE OF GRAY ARMY AIRFIELD, FORT HOOD, TEXAS, WITH CIVIL AVIATION.

Section 319 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3855) is repealed.

SEC. 2862. DESIGNATION OF BUILDING CONTAINING NAVY AND MARINE CORPS RESERVE CENTER, AUGUSTA, GEORGIA.

The building containing the Navy and Marine Corps Reserve Center located at 2869 Central Avenue in Augusta, Georgia, shall be known and designated as the "A. James Dyess Building".

SEC. 2863. EXPANSION OF ARLINGTON NATIONAL CEMETERY.

(a) Land Transfer, Navy Annex, Arlington, Virginia.—

(1) In general.—The Secretary of Defense shall provide for the transfer to the Secretary of the Army of administrative jurisdiction over the following parcels of land situated in Arlington, Virginia:

(A) Certain lands which comprise approximately 26 acres bounded by Columbia Pike to the south and east, Oak Street to the west, and the boundary wall of Arlington National Cemetery to the north including Southgate Road.

(B) Certain lands which comprise approximately 8 acres bounded by Shirley Memorial Boulevard (Interstate 395) to the south, property of the Virginia Department of Transportation to the west, Columbia Pike to the north, and Joyce Street to the east.

(C) Certain lands which comprise approximately 2.5 acres bounded by Shirley Memorial Boulevard (Interstate 395) to the south, Joyce Street to the west, Columbia Pike to the north, and the cloverleaf interchange of Route 100 and Columbia Pike to the east.

(2) Use of land.—The Secretary of the Army shall incorporate the parcels of land transferred under paragraph (1) into Arlington National Cemetery.

(3) Remediation of land for cemetery use.—Before the transfer of administrative jurisdiction over the parcels of land under paragraph (1), the Secretary of Defense shall provide for the removal of any improvements on the parcels of land and, in consultation with the Superintendent of Arlington National Cemetery, the preparation of the land for use for interment of remains of individuals in Arlington National Cemetery.

(4) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report explaining in detail the measures required to prepare the land for use as a part of Arlington National Cemetery.

(5) Deadline.—The Secretary of Defense shall complete the transfer of administrative jurisdiction over the parcels of land under this subsection not later than the earlier of—

(A) January 1, 2010; or

(B) the date when those parcels are no longer required (as determined by the Secretary) for use as temporary office space due to the renovation of the Pentagon.

(b) Modification of Boundary of Arlington National Cemetery.—.

(1) In general.—The Secretary of the Army shall modify the boundary of Arlington National Cemetery to include the following parcels of land situated in Fort Myer, Arlington, Virginia:

(A) Certain lands which comprise approximately 5 acres bounded by the Fort Myer Post Traditional Chapel to the southwest, McNair Road to the northwest, the Vehicle Maintenance Complex to the northeast, and the masonry wall of Arlington National Cemetery to the southeast.

(B) Certain lands which comprise approximately 3 acres bounded by the Vehicle Maintenance Complex to the southwest, Jackson Avenue to the northwest, the water pumping station to the northeast, and the masonry wall of Arlington National Cemetery to the southeast.

(2) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report describing additional parcels of land located in Fort Myer, Arlington, Virginia, that may be suitable for use to expand Arlington National Cemetery.

(3) Survey.—The Secretary of the Army may determine the exact acreage and legal description of the parcels of land described in paragraph (1) by a survey.

SEC. 2864. REPORTING REQUIREMENTS UNDER DEMONSTRATION PROJECT FOR PURCHASE OF FIRE, SECURITY, POLICE, PUBLIC WORKS, AND UTILITY SERVICES FROM LOCAL GOVERNMENT AGENCIES.

Section 816(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2820) is amended by striking out "and 1998" and inserting in lieu thereof "through 2000".

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for weapons activities in carrying out programs necessary for national security in the amount of $4,142,100,000, to be allocated as follows:

(1) STOCKPILE STEWARDSHIP.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for stockpile stewardship in carrying out weapons activities necessary for national security programs in the amount of $2,138,375,000, to be allocated as follows:

(A) For core stockpile stewardship, $1,591,375,000, to be allocated as follows:

(i) For operation and maintenance, $1,475,832,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $115,543,000, to be allocated as follows:

Project 99–D–102, rehabilitation of maintenance facility, Lawrence Livermore National Laboratory, Livermore, California, $6,500,000.

Project 99–D–103, isotope sciences facility, Lawrence Livermore National Laboratory, Livermore, California, $4,000,000.

Project 99–D–104, protection of real property (roof reconstruction, Phase II), Lawrence Livermore National Laboratory, Livermore, California, $7,300,000.

Project 99–D–105, central health physics calibration facility, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,900,000.

Project 99–D–106, model validation and system certification test center, Sandia National Laboratories, Albuquerque, New Mexico, $1,600,000.

Project 99–D–107, joint computational engineering laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $1,800,000.

Project 99–D–108, renovate existing roadways, Nevada Test Site, Nevada, $2,000,000.

Project 97–D–102, dual-axis radiographic hydrotest facility, Los Alamos National Laboratory, Los Alamos, New Mexico, $36,000,000.

Project 96–D–102, stockpile stewardship facilities revitalization, Phase VI, various locations, $20,423,000.

Project 96–D–103, ATLAS, Los Alamos National Laboratory, Los Alamos, New Mexico, $6,400,000.

Project 96–D–104, processing and environmental technology laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $18,920,000.

Project 96–D–105, contained firing facility addition, Lawrence Livermore National Laboratory, Livermore, California, $6,700,000.

(B) For inertial fusion, $498,000,000, to be allocated as follows:

(i) For operation and maintenance, $213,800,000.

(ii) For the following plant project (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and land acquisition related thereto), $284,200,000, to be allocated as follows:

Project 96–D–111, national ignition facility, Lawrence Livermore National Laboratory, Livermore, California, $284,200,000.

(C) For technology partnership and education, $49,000,000, to be allocated as follows:

(i) For technology partnership, $40,000,000.

(ii) For education, $9,000,000.

(2) STOCKPILE MANAGEMENT.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for stockpile management in carrying out weapons activities necessary for national security programs in the amount of $2,134,625,000, to be allocated as follows:

(A) For operation and maintenance, $2,019,303,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $115,322,000, to be allocated as follows:

Project 99–D–122, rapid reactivation, various locations, $11,200,000.

Project 99–D–123, replace mechanical utility systems Y–12, Oak Ridge, Tennessee, $1,900,000.

Project 99–D–125, replace boilers and controls, Kansas City Plant, Kansas City, Missouri, $1,000,000.

Project 99–D–127, stockpile management restructuring initiative, Kansas City Plant, Kansas City, Missouri, $13,700,000.

Project 99–D–128, stockpile management restructuring initiative, Pantex consolidation, Amarillo, Texas, $1,108,000.

Project 99–D–132, stockpile management restructuring initiative, nuclear material safeguards and security upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, $9,700,000.

Project 98–D–123, stockpile management restructuring initiative, tritium factory modernization and consolidation, Savannah River Site, Aiken, South Carolina, $27,500,000.

Project 98–D–124, stockpile management restructuring initiative, Y–12 Plant consolidation, Oak Ridge, Tennessee, $10,700,000.

Project 97–D–122, nuclear materials storage facility renovation, Los Alamos National Laboratory, Los Alamos, New Mexico, $9,164,000.

Project 97–D–123, structural upgrades, Kansas City Plant, Kansas City, Missouri, $6,400,000.

Project 96–D–122, sewage treatment quality upgrade (STQU), Pantex Plant, Amarillo, Texas, $3,700,000.

Project 95–D–102, chemistry and metallurgy research (CMR) upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, $16,000,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $3,250,000.

(3) PROGRAM DIRECTION.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for program direction in carrying out weapons activities necessary for national security programs in the amount of $240,000,000.

(b) ADJUSTMENTS.—

(1) CONSTRUCTION.—The total amount authorized to be appropriated pursuant to paragraphs (1)(A)(ii), (1)(B)(ii), and (2)(B) of subsection (a) is the sum of the amounts authorized to be appropriated in those paragraphs, reduced by the sum of $30,000,000.

(2) NON-CONSTRUCTION.—The total amount authorized to be appropriated pursuant to paragraphs (1)(A)(i), (1)(B)(i), (1)(C), (2)(A), and (3) of subsection (a) is the sum of the amounts authorized to be appropriated in those paragraphs, reduced by the sum of $340,900,000, to be derived from use of prior year balances.

SEC. 3102. DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for environmental restoration and waste management in carrying out programs necessary for national security in the amount of $5,706,650,000, to be allocated as follows:

(1) CLOSURE PROJECTS.—For closure projects carried out in accordance with section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2836; 42 U.S.C. 7274n) in the amount of $1,046,240,000.

(2) PRIVATIZATION.—For privatization projects in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $286,857,000.

(3) SITE PROJECT AND COMPLETION.—For site project and completion in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,085,253,000, to be allocated as follows:

(A) For operation and maintenance, $886,090,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $199,163,000, to be allocated as follows:

Project 99–D–402, tank farm support services, F&H areas, Savannah River Site, Aiken, South Carolina, $2,745,000.

Project 99–D–404, health physics instrumentation laboratory, Idaho National Engineering Laboratory, Idaho, $950,000.

Project 98–D–401, H-tank farm storm water systems upgrade, Savannah River Site, Aiken, South Carolina, $3,120,000.

Project 98–D–453, plutonium stabilization and handling system for plutonium finishing plant, Richland, Washington, $26,814,000.

Project 98–D–700, road rehabilitation, Idaho National Engineering Laboratory, Idaho, $7,710,000.

Project 97–D–450, Actinide packaging and storage facility, Savannah River Site, Aiken, South Carolina, $79,184,000.

Project 97–D–470, environmental monitoring laboratory, Savannah River Site, Aiken, South Carolina, $7,000,000.

Project 96–D–406, spent nuclear fuels canister storage and stabilization facility, Richland, Washington, $38,680,000.

Project 96–D–408, waste management upgrades, Kansas City Plant, Kansas City, Missouri, and Savannah River Site, Aiken, South Carolina, $4,512,000.

Project 96–D–464, electrical and utility systems upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $11,544,000.

Project 96–D–471, chlorofluorocarbon heating, ventilation, and air conditioning and chiller retrofit, Savannah River Site, Aiken, South Carolina, $8,000,000.

Project 95–D–456, security facilities consolidation, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $485,000.

Project 92–D–140, F&H canyon exhaust upgrades, Savannah River Site, Aiken, South Carolina, $3,667,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $4,752,000.

(4) POST-2006 COMPLETION.—For post-2006 project completion in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $2,765,451,000, to be allocated as follows:

(A) For operation and maintenance, $2,684,195,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $81,256,000, to be allocated as follows:

Project 99–D–403, privatization phase I infrastructure support, Richland, Washington, $14,800,000.

Project 97–D–402, tank farm restoration and safe operations, Richland, Washington, $22,723,000.

Project 96–D–408, waste management upgrades, Richland, Washington, $171,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $32,860,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River Site, Aiken, South Carolina, $10,702,000.

(5) SCIENCE AND TECHNOLOGY.—For science and technology in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $270,750,000.

(6) PROGRAM DIRECTION.—For program direction in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $346,199,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1), (3)(A), (4)(A), (5), and (6) of subsection (a) is the sum of the amounts authorized to be appropriated in those paragraphs, reduced by the sum of $94,100,000, to be derived from use of prior year balances.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for other defense activities in carrying out programs necessary for national security in the amount of $1,720,760,000, to be allocated as follows:

(1) NONPROLIFERATION AND NATIONAL SECURITY.—For nonproliferation and national security, $693,900,000, to be allocated as follows:

(A) For verification and control technology, $500,500,000, to be allocated as follows:

(i) For nonproliferation and verification research and development, $210,000,000.

(ii) For arms control, $256,900,000.

(iii) For intelligence, $33,600,000.

(B) For nuclear safeguards and security, $53,200,000.

(C) For security investigations, $30,000,000.

(D) For emergency management, $21,300,000.

(E) For program direction, $88,900,000.

(2) WORKER AND COMMUNITY TRANSITION ASSISTANCE.—For worker and community transition assistance, $45,000,000, to be allocated as follows:

(A) For worker and community transition, $41,000,000.

(B) For program direction, $4,000,000.

(3) FISSILE MATERIALS CONTROL AND DISPOSITION.—For fissile materials control and disposition, $168,960,000, to be allocated as follows:

(A) For operation and maintenance, $111,372,000.

(B) For program direction, $4,588,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $53,000,000, to be allocated as follows:

Project 99–D–141, pit disassembly and conversion facility, various locations, $25,000,000.

Project 99–D–143, mixed oxide fuel fabrication facility, various locations, $28,000,000.

(4) ENVIRONMENT, SAFETY, AND HEALTH.—For environment, safety, and health, defense, $94,000,000, to be allocated as follows:

(A) For the Office of Environment, Safety, and Health (Defense), $89,231,000.

(B) For program direction, $4,769,000.

(5) OFFICE OF HEARINGS AND APPEALS.—For the Office of Hearings and Appeals, $2,400,000.

(6) INTERNATIONAL NUCLEAR SAFETY.—For international nuclear safety, $35,000,000.

(7) NAVAL REACTORS.—For naval reactors, $681,500,000, to be allocated as follows:

(A) For naval reactors development, $661,400,000, to be allocated as follows:

(i) For operation and maintenance, $639,600,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $21,800,000, to be allocated as follows:

GPN–101 general plant projects, various locations, $9,000,000.

Project 98–D–200, site laboratory/facility upgrade, various locations, $7,000,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $5,800,000.

(B) For program direction, $20,100,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in paragraphs (1) through (7) of subsection (a) reduced by the sum of $20,000,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $190,000,000.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) IN GENERAL.—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and a period of 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year—

(A) 110 percent of the amount authorized for that program by this title; or

(B) $1,000,000 more than the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed $5,000,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $5,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) Not more than five percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than five percent by a transfer under such paragraph.

(c) LIMITATION.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide funds for items relating to activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(2) may not be used to provide funds for an item for which Congress has specifically denied funds.

(d) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of any transfer of funds to or from authorizations under this title.

SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds $3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than $5,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed $600,000.

(2) If the total estimated cost for construction design in connection with any construction project exceeds $600,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to an authorization in this title, including those funds authorized to be appropriated for advance planning and construction design under sections 3101, 3102, and 3103, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriations Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

(a) IN GENERAL.—Except as provided in subsection (b), when so specified in an appropriations Act, amounts appropriated for operation and maintenance or for plant projects may remain available until expended.

(b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—Amounts appropriated for program direction pursuant to an authorization of appropriations in subtitle A shall remain available to be expended only until the end of fiscal year 2000.

SEC. 3129. TRANSFERS OF DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.

(a) TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental management funds from a program or project under the jurisdiction of the office to another such program or project.

(b) LIMITATIONS.—(1) Only one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) The amount transferred to or from a program or project under subsection (a) may not exceed $5,000,000 in a fiscal year.

(3) A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer is necessary to address a risk to health, safety, or the environment or to assure the most efficient use of defense environmental management funds at the field office.

(4) Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 3121 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after 'such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term "program or project" means, with respect to a field office of the Department of Energy, any of the following:

(A) A project listed in paragraph (3) or (4) of section 3102.

(B) A program referred to in paragraph (3), (4), or (5) of section 3102.

(C) A project or program not described in subparagraph (A) or (B) that is for environmental restoration or waste management activities necessary for national security programs of the Department, that is being carried out by the office, and for which defense environmental management funds have been authorized and appropriated before the date of enactment of this Act.

(2) The term "defense environmental management funds" means funds appropriated to the Department of Energy pursuant to an authorization for carrying out environmental restoration and waste management activities necessary for national security programs.

(f) DURATION OF AUTHORITY.—The managers of the field offices of the Department may exercise the authority provided under subsection (a) during the period beginning on October 1, 1998, and ending on September 30, 1999.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. PROHIBITION ON FEDERAL LOAN GUARANTEES FOR DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION PROJECTS.

Section 3132 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2034) is amended by adding at the end the following new subsection:

"(g) PROHIBITION ON LOAN GUARANTEES.—The Secretary of Energy may not guarantee any loan made by a private sector entity to a contractor to pay for any costs (including costs described in subsection (a)(3)) borne by the contractor to carry out a contract entered into under this section.".

SEC. 3132. EXTENSION OF FUNDING PROHIBITION RELATING TO INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP.

Section 3133(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2036) is amended by striking out "for fiscal year 1998" and inserting in lieu thereof "for any fiscal year".

SEC. 3133. USE OF CERTAIN FUNDS FOR MISSILE DEFENSE TECHNOLOGY DEVELOPMENT.

Of the funds authorized to be appropriated pursuant to section 3101, the Secretary of Energy shall make available not less than $60,000,000 for the purpose of developing, demonstrating, and testing hit-to-kill interceptor vehicles for theater missile defense systems. The Secretary shall carry out this section in cooperation with the Ballistic Missile Defense Organization of the Department of Defense.

SEC. 3134. SELECTION OF TECHNOLOGY FOR TRITIUM PRODUCTION.

(a) SELECTION OF TECHNOLOGY.—(1) Subject to paragraph (2), the Secretary of Energy shall select a primary technology for the production of tritium not later than December 31, 1999.

(2) The Secretary may not select a primary technology for the production of tritium until the date that is the later of the following:

(A) The date occurring 30 days after the completion of the test program at the Watts Bar Nuclear Station, Tennessee.

(B) The date on which the report required by subsection (b) is submitted.

(b) REPORT.—The Secretary of Energy shall submit to Congress a report on the results of the test program at the Watts Bar Nuclear Station. The report shall include—

(1) data on any leakage of tritium from the test rods;

(2) the amount of tritium produced during the test; and

(3) any other technical findings resulting from the test.

SEC. 3135. LIMITATION ON USE OF CERTAIN FUNDS AT HANFORD SITE.

(a) LIMITATION.—(1) None of the funds described in subsection (b) may be used unless the Secretary of Energy certifies to Congress not later than 90 days after the date of the enactment of this Act that the Department of Energy does not intend to pay overhead costs that exceed more than 33 percent of total contract costs during fiscal year 1999 for the Project Hanford Management Contractors (at the Hanford Site, Richland, Washington), including the prime contractor and subcontractors at any tier (including Enterprise Company contractors).

(2) For purposes of paragraph (1), overhead costs include—

(A) indirect overhead costs, which include all activities whose costs are spread across other accounts of the contractor or site;

(B) support service overhead costs, which include activities or services for which programs pay per unit used;

(C) all fee, awards, and other profit on indirect and support service overhead costs, or fees that are not attributable to performance on a single project;

(D) any portion of Enterprise Company costs for which there is no competitive bid and which, under the prior contract, had been an indirect or service function; and

(E) all computer service and information management costs that had previously been reported in indirect overhead or service center pool accounts.

(b) FUNDS.—The funds referred to in subsection (a) are the following:

(1) $12,000,000 for reactor decontamination and decommissioning, as authorized to be appropriated by section 3102 and allocated under subsection (a)(4)(A).

(2) $18,000,000 for single-shell tank drainage, as authorized to be appropriated by section 3102 and allocated under subsection (a)(4)(A).

(c) USE OF SAVINGS.—The expected savings during fiscal year 1999 from compliance with subsection (a) shall be used at the Hanford Site for ensuring full compliance with the Hanford Federal Facility Agreement and Consent Order and recommendations of the Defense Nuclear Facilities Safety Board.

(d) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) overhead costs for contractors performing environmental cleanup work at defense nuclear facilities are out of control;

(2) some of the increase in overhead costs can be attributed to unnecessary regulation by the Department of Energy; and

(3) the Department of Energy should take whatever actions possible to minimize any increased costs of contractor overhead that are attributable to unnecessary regulation by the Department.

Subtitle D—Other Matters

SEC. 3151. TERMINATION OF WORKER AND COMMUNITY TRANSITION ASSISTANCE.

(a) PROHIBITION.—No funds may be used by the Secretary of Energy after September 30, 2000, to provide worker or community transition assistance with respect to defense nuclear facilities, including assistance provided under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h).

(b) REPEAL.—Effective October 1, 2000, section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h) is repealed.

(c) STUDY BY THE GENERAL ACCOUNTING OFFICE.—

(1) STUDY REQUIREMENT.—The Comptroller General shall conduct a study on the effects of workforce restructuring plans for defense nuclear facilities developed pursuant to section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h).

(2) MATTERS COVERED BY STUDY.—The study shall cover the four-year period preceding the date of the enactment of this Act and shall include the following:

(A) An analysis of the number of jobs created by any employee retraining, education, and reemployment assistance and any community impact assistance provided in each workforce restructuring plan developed pursuant to section 3161 of the National Defense Authorization Act for Fiscal Year 1993.

(B) An analysis of other benefits provided pursuant to such plans, including any assistance provided to community reuse organizations.

(C) A description of the funds expended, and the funds obligated but not expended, pursuant to such plans as of the date of the report.

(D) A description of the criteria used since October 23, 1992, in providing assistance pursuant to such plans.

(E) A comparison of any similar benefits provided—

(i) pursuant to such a plan to employees whose employment at the defense nuclear facility covered by the plan is terminated; and

(ii) to employees whose employment at a facility where more than 50 percent of the revenues are derived from contracts with the Department of Defense has been terminated as a result of cancellation, termination, or completion of contracts with the Department of Defense and the employees whose employment is terminated constitute more than 15 percent of the employees at that facility.

(F) A comparison of—

(i) involuntary separation benefits provided to employees of Department of Energy contractors and subcontractors under such plans; and

(ii) involuntary separation benefits provided to employees of the Federal Government.

(G) A comparison of costs to the Federal Government (including costs of involuntary separation benefits) for—

(i) involuntary separations of employees of Department of Energy contractors and subcontractors; and

(ii) involuntary separations of employees of contractors and subcontractors of other Federal Government departments and agencies.

(H) A description of the length of service and hiring dates of employees of Department of Energy contractors and subcontractors provided benefits under such plans in the two-year period preceding the date of the enactment of this Act.

(3) REPORT ON STUDY.—The Comptroller General shall submit a report to Congress on the results of the study not later than March 31, 1999.

(4) DEFINITION.—In this section, the term "defense nuclear facility" has the meaning provided the term "Department of Energy defense nuclear facility" in section 3163 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274j).

(d) EFFECT ON USEC PRIVATIZATION ACT.—(1) Section 3110(a)(5) of the USEC Privatization Act (Public Law 104–134; 110 Stat. 1321–341; 42 U.S.C. 2297h–8(a)(5)) is amended by adding at the end the following: "With respect to such section 3161, the Secretary shall, on and after the effective date of the repeal of such section, provide assistance to any such employee in accordance with the terms of such section as in effect on the day before the effective date of its repeal.".

(2) After the effective date of the repeal of section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h), no funds appropriated to the Department of Energy for atomic energy defense activities may be used to provide assistance under that section (by reason of the amendment made by paragraph (1)) to the adversely affected employees described in section 3110(a)(5) of the USEC Privatization Act (Public Law 104–134; 110 Stat. 1321–341; 42 U.S.C. 2297h–8(a)(5)).

SEC. 3152. REQUIREMENT FOR PLAN TO MODIFY EMPLOYMENT SYSTEM USED BY DEPARTMENT OF ENERGY IN DEFENSE ENVIRONMENTAL MANAGEMENT PROGRAMS.

(a) PLAN REQUIREMENT.—(1) The Secretary of Energy shall develop a plan to modify the Federal employment system used within the defense environmental management programs of the Department of Energy to allow for workforce restructuring in those programs.

(2) The plan shall address strategies to recruit and hire—

(A) individuals with a high degree of scientific and technical competence in the areas of nuclear and toxic waste remediation and environmental restoration; and

(B) individuals with the necessary skills to manage large construction and environmental remediation projects.

(3) The plan shall include an identification of the provisions of Federal law that would need to be changed to allow the Secretary of Energy to restructure the Department of Energy defense environmental management workforce to hire individuals described in paragraph (2), while staying within any numerical limitations required by law (including section 3161 of Public Law 103–337 (42 U.S.C. 7231 note)) on employment of such individuals.

(b) REPORT.—The Secretary shall submit to Congress a report on the plan developed under subsection (a).

(c) LIMITATION ON USE OF CERTAIN FUNDS.—The Secretary of Energy may not use more than 75 percent of the funds available to the Secretary pursuant to the authorization of appropriations in section 3102(a)(6) (relating to program direction) until the Secretary submits the report required by subsection (b).

SEC. 3153. REPORT ON STOCKPILE STEWARDSHIP CRITERIA.

(a) REQUIREMENT FOR CRITERIA.—The Secretary of Energy shall develop clear and specific criteria for judging whether the science-based tools being used by the Department of Energy for determining the safety and reliability of the nuclear weapons stockpile are performing in a manner that will provide an adequate degree of certainty that the stockpile is safe and reliable.

(b) REPORT.—Not later than March 1, 1999, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the efforts by the Department of Energy to develop the criteria required by subsection (a). The report shall include—

(1) a description of the information needed to determine that the nuclear weapons stockpile is safe and reliable and the relationship of the science-based tools to the collection of that information; and

(2) a description of the criteria required by subsection (a) to the extent they have been defined as of the date of the submission of the report.

TITLE XXXII–DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1999, $17,500,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. DEFINITIONS.

In this title:

(1) The term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term "National Defense Stockpile Transaction Fund" means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 1999, the National Defense Stockpile Manager may obligate up to $82,647,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

SEC. 3401. DEFINITIONS.

In this title:

(1) The term "naval petroleum reserves" has the meaning given the term in section 7420(2) of title 10, United States Code.

(2) The term "Naval Petroleum Reserve Numbered 2" means the naval petroleum reserve, commonly referred to as the Buena Vista unit, that is located in Kern County, California, and was established by Executive order of the President, dated December 13, 1912.

(3) The term "Naval Petroleum Reserve Numbered 3" means the naval petroleum reserve, commonly referred to as the Teapot Dome unit, that is located in the State of Wyoming and was established by Executive order of the President, dated April 30, 1915.

(4) The term "Oil Shale Reserve Numbered 2" means the naval petroleum reserve that is located in the State of Utah and was established by Executive order of the President, dated December 6, 1916.

(5) The term "antitrust laws" means has the meaning given the term in section 1(a) of the Clayton Act (15 U.S.C. 12(a)), except that the term also includes—

(A) the Act of June 19, 1936 (15 U.S.C. 13 et seq.; commonly known as the Robinson-Patman Act); and

(B) section 5 of the Federal Trade Commission Act (15 U.S.C. 45), to the extent that such section applies to unfair methods of competition.

(6) The term "general land laws" includes the Mineral Leasing Act (30 U.S.C. 181 et seq.) and the Materials Act of 1947 (30 U.S.C. 601 et seq.), but excludes the Mining Law of 1872 (30 U.S.C. 22 et seq.).

(7) The term "petroleum" has the meaning given the term in section 7420(3) of title 10, United States Code.

SEC. 3402. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary of Energy $22,500,000 for fiscal year 1999 for the purpose of carrying out—

(1) activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves;

(2) closeout activities at Naval Petroleum Reserve Numbered 1 upon the sale of that reserve under subtitle B of title XXXIV of the National Defense Authorization Act for fiscal year 1996 (Public Law 104–106; 10 U.S.C. 7420 note); and

(3) activities under this title relating to the disposition of Naval Petroleum Reserve Numbered 2, Naval Petroleum Reserve Numbered 3, and Oil Shale Reserve Numbered 2.

(b) AVAILABILITY OF APPROPRIATIONS.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

SEC. 3403. PRICE REQUIREMENT ON SALE OF CERTAIN PETROLEUM DURING FISCAL YEAR 1999.

Notwithstanding section 7430(b)(2) of title 10, United States Code, during fiscal year 1999, any sale of any part of the United States share of petroleum produced from Naval Petroleum Reserve Numbered 2 or Naval Petroleum Reserve Numbered 3, shall be made at a price not less than 90 percent of the current sales price, as estimated by the Secretary of Energy, of comparable petroleum in the same area.

SEC. 3404. DISPOSAL OF NAVAL PETROLEUM RESERVE NUMBERED 2.

(a) DISPOSAL OF FORD CITY LOTS.—(1) Subject to section 3407, the Secretary of Energy shall dispose of that portion of Naval Petroleum Reserve Numbered 2 located within the town lots in Ford City, California, as generally depicted on the map of Naval Petroleum Reserve Numbered 2 that accompanies the report of the Secretary entitled "Report and Recommendations on the Management and Disposition of the Naval Petroleum and Oil Shale Reserves (Excluding Elk Hills)", dated March 1997.

(2) The Secretary of Energy may carry out the disposal of that portion of Naval Petroleum Reserve Numbered 2 described in paragraph (1) by competitive sale or lease consistent with commercial practices, by transfer to another Federal agency or a public or private entity, or by any other means. Any competitive sale or lease under this subsection shall provide for the disposal of all right, title, and interest of the United States in the property to be conveyed. The Secretary of Energy may use the authority provided by the Act of June 14, 1926 (43 U.S.C. 869 et seq.; commonly known as the Recreation and Public Purposes Act), in the same manner and to the same extent as the Secretary of the Interior, to dispose of that portion of Naval Petroleum Reserve Numbered 2 described in paragraph (1).

(3) The Secretary of Energy may extend to a purchaser or other transferee of property under this subsection such indemnities and warranties as the Secretary considers reasonable and necessary to protect the purchaser or transferee from claims arising from the ownership of the property by the United States or the administration of the property by the Secretary of Energy.

(b) EVENTUAL TRANSFER OF ADMINISTRATIVE JURISDICTION.—(1) The Secretary of Energy shall continue to administer Naval Petroleum Reserve Numbered 2 (other than the portion of the reserve subject to disposal under subsection (a)) in accordance with chapter 641 of title 10, United States Code, until such time as the Secretary makes a determination to abandon oil and gas operations in Naval Petroleum Reserve Numbered 2 in accordance with commercial operating practices.

(2) After oil and gas operations are abandoned in Naval Petroleum Reserve Numbered 2 under paragraph (1), the Secretary of Energy shall transfer to the Secretary of the Interior administrative jurisdiction and control over all public domain lands included within Naval Petroleum Reserve Numbered 2 (other than the portion of the reserve subject to disposal under subsection (a)) for management in accordance with the general land laws.

(c) RELATIONSHIP TO ANTITRUST LAWS.—This section does not modify, impair, or supersede the operation of the antitrust laws.

SEC. 3405. DISPOSAL OF NAVAL PETROLEUM RESERVE NUMBERED 3.

(a) CONTINUED ADMINISTRATION PENDING TERMINATION OF OPERATIONS.—The Secretary of Energy shall continue to administer Naval Petroleum Reserve Numbered 3 in accordance with chapter 641 of title 10, United States Code, until such time as the Secretary makes a determination to abandon oil and gas operations in Naval Petroleum Reserve Numbered 3 in accordance with commercial operating practices.

(b) DISPOSAL AUTHORITY.—(1) After oil and gas operations are abandoned in Naval Petroleum Reserve Numbered 3, the Secretary of Energy may dispose of, subject to section 3407, the reserve by sale, lease, transfer, or other means. Any sale or lease shall provide for the disposal of all right, title, and interest of the United States in the property to be conveyed and shall be conducted in accordance with competitive procedures consistent with commercial practices, as established by the Secretary of Energy.

(2) The Secretary of Energy may extend to a purchaser or other transferee of property under this subsection such indemnities and warranties as the Secretary considers reasonable and necessary to protect the purchaser or transferee from claims arising from the ownership of the property by the United States or the administration of the property by the Secretary of Energy.

(c) RELATIONSHIP TO ANTITRUST LAWS.—This section does not modify, impair, or supersede the operation of the antitrust laws.

SEC. 3406. DISPOSAL OF OIL SHALE RESERVE NUMBERED 2.

(a) TRANSFER OF ADMINISTRATIVE JURISDICTION.—Subject to section 3407, effective September 30, 1999, the Secretary of Energy shall transfer to the Secretary of the Interior administrative jurisdiction and control over all public domain lands included within Oil Shale Reserve Numbered 2 for management in accordance with the general land laws.

(b) RELATIONSHIP TO INDIAN RESERVATION.—The transfer of administrative jurisdiction under this section does not affect any interest, right, or obligation respecting the Uintah and Ouray Indian Reservation located in Oil Shale Reserve Numbered 2.

SEC. 3407. ADMINISTRATION.

(a) CONTRACT AUTHORITY.—Using the authority provided by section 303(c)(7) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(7)), the Secretary of Energy and the Secretary of the Interior may separately enter into contracts for the acquisition of such services as the Secretary considers necessary to carry out the requirements of this title, except that the notification required under subparagraph (B) of such section for each such contract shall be submitted to Congress not less than seven days before the award of the contract.

(b) PROTECTION OF EXISTING RIGHTS.—At the discretion of the Secretary of Energy, the disposal of property under this title shall be subject to any contract related to the United States ownership interest in the property in effect at the time of disposal, including any lease agreement pertaining to the United States interest in Naval Petroleum Reserve Numbered 2.

(c) DEPOSIT OF RECEIPTS.—Notwithstanding any other law, all monies received by the United States from the disposal of property under this title or under section 7439 of title 10, United States Code, including monies received from a lease entered into under this title or such section, shall be deposited in the general fund of the Treasury.

(d) TREATMENT OF ROYALTIES.—Any petroleum accruing to the United States as royalty from any lease of lands transferred under this title or under section 7439 of title 10, United States Code, shall be delivered to the United States, or shall be paid for in money, as the Secretary of the Interior may elect.

(e) ELEMENTS OF LEASE.—A lease under this title may provide for the exploration for, and development and production of, petroleum, other than petroleum in the form of oil shale.

(f) RELATIONSHIP TO CURRENT LAW.—Except as otherwise provided in this title, chapter 641 of title 10, United States Code, does not apply to the disposal of property under this title and ceases to apply to property in Naval Petroleum Reserve Numbered 2, Naval Petroleum Reserve Numbered 3, and Oil Shale Reserve Numbered 2, upon the final disposal of the property.

TITLE XXXV—PANAMA CANAL COMMISSION

SEC. 3501. SHORT TITLE; REFERENCES TO PANAMA CANAL ACT OF 1979.

(a) SHORT TITLE.—This title may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1999".

(b) REFERENCES TO PANAMA CANAL ACT OF 1979.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.).

SEC. 3502. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—Subject to subsection (b), the Panama Canal Commission is authorized to use amounts in the Panama Canal Revolving Fund to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, improvement, and administration of the Panama Canal for fiscal year 1999.

(b) LIMITATIONS.—For fiscal year 1999, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $90,000 for official reception and representation expenses, of which—

(1) not more than $28,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) not more than $14,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) not more than $48,000 may be used for official reception and representation expenses of the Administrator of the Commission.

SEC. 3503. PURCHASE OF VEHICLES.

Notwithstanding any other provision of law, the funds available to the Commission shall be available for the purchase and transportation to the Republic of Panama of passenger motor vehicles built in the United States, the purchase price of which shall not exceed $23,000 per vehicle.

SEC. 3504. EXPENDITURES ONLY IN ACCORDANCE WITH TREATIES.

Expenditures authorized under this title may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

SEC. 3505. DONATIONS TO THE COMMISSION.

Section 1102b (22 U.S.C. 3612b) is amended by adding at the end the following new subsection:

"(f)(1) The Commission may seek and accept donations of funds, property, and services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out its promotional activities.

"(2) The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of funds, property, or services authorized by paragraph (1) would reflect unfavorably upon the ability of the Commission (or any employee of the Commission) to carry out its responsibilities or official duties in a fair and objective manner or would compromise the integrity or the appearance of the integrity of its programs or of any official in those programs.".

SEC. 3506. SUNSET OF UNITED STATES OVERSEAS BENEFITS JUST BEFORE TRANSFER.

(a) Repeals.—Effective 11:59 p.m. (Eastern Standard Time), December 30, 1999, the following provisions are repealed and any right or condition of employment provided for in, or arising from, those provisions is terminated: sections 1206 (22 U.S.C. 3646), 1207 (22 U.S.C. 3647), 1217(a) (22 U.S.C. 3657(a)), and 1224(11) (22 U.S.C. 3664(11)), subparagraphs (A), (B), (F), (G), and (H) of section 1231(a)(2) (22 U.S.C. 3671(a)(2)) and section 1321(e) (22 U.S.C. 3731(e)).

(b) Savings Provision for Basic Pay.—Notwithstanding subsection (a), benefits based on basic pay, as listed in paragraphs (1), (2), (3), (5), and (6) of section 1218 of the Panama Canal Act of 1979, shall be paid as if sections 1217(a) and 1231(a)(2) (A) and (B) of that Act had been repealed effective 12:00 p.m., December 31, 1999. The exception under the preceding sentence shall not apply to any pay for hours of work performed on December 31, 1999.

(c) Nonapplicability to Agencies in Panama Other Than Panama Canal Commission.—Section 1212(b)(3) (22 U.S.C. 3652(b)(3)) is amended by striking out "the Panama Canal Transition Facilitation Act of 1997" and inserting in lieu thereof "the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105–85; 110 Stat. 2062), or the Panama Canal Commission Authorization Act for Fiscal Year 1999".

SEC. 3507. CENTRAL EXAMINING OFFICE.

Section 1223 (22 U.S.C. 3663) is repealed.

SEC. 3508. LIABILITY FOR VESSEL ACCIDENTS.

(a) Commission Liability Subject to Claimant Insurance.—(1) Section 1411(a) (22 U.S.C. 3771(a)) is amended by inserting "to section 1419(b) of this Act and" after "Subject" in the first sentence.

(2) Section 1412 (22 U.S.C. 3772) is amended by striking out "The Commission" in the first sentence and inserting in lieu thereof "Subject to section 1419(b) of this Act, the Commission".

(3) Section 1416 (22 U.S.C. 3776) is amended by striking out "A claimant" in the first sentence and inserting in lieu thereof "Subject to section 1419(b) of this Act, a claimant".

(b) Limitation on Liability.—Section 1419 (22 U.S.C. 3779) is amended by designating the text as subsection (a) and by adding at the end the following:

"(b) The Commission may not consider or pay any claim under section 1411 or 1412 of this Act, nor may an action for damages lie thereon, unless the claimant is covered by one or more valid policies of insurance totalling at least $1,000,000 against the injuries specified in those sections. The Commission's liability on any such claim shall be limited to damages in excess of all amounts recovered or recoverable by the claimant from its insurers. The Commission may not consider or pay any claim by an insurer or subrogee of a claimant under section 1411 or 1412 of this Act.".

SEC. 3509. PANAMA CANAL BOARD OF CONTRACT APPEALS.

(a) Establishment and Pay of Board.—Section 3102(a) (22 U.S.C. 3862(a)) is amended—

(1) in paragraph (1), by striking out "shall" in the first sentence and inserting in lieu thereof "may"; and

(2) by adding at the end the following new paragraph:

"(3) Compensation for members of the Board of Contract Appeals shall be established by the Commission's supervisory board, except that such compensation may not be reduced during a member's term of office from the level established at the time of the appointment.".

(b) Deadline for Commencement of Board.—Section 3102(e) (22 U.S.C. 3862(e)) is amended by striking out ", but not later than January 1, 1999".

SEC. 3510. TECHNICAL AMENDMENTS.

(a) Panama Canal Act of 1979.—The Panama Canal Act of 1979 is amended as follows:

(1) Section 1202(c) (22 U.S.C. 3642(c)) is amended—

(A) by striking out "the day before the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserting in lieu thereof "November 17, 1997,";

(B) by striking out "on or after that date"; and

(C) by striking out "the day before the date of enactment" and inserting in lieu thereof "that date".

(2) Section 1212(b)(3) (22 U.S.C. 3652(b)(3)) is amended by inserting "the" after "by the head of".

(3) Section 1313 (22 U.S.C. 3723) is amended by striking out "subsection (d)" in each of subsections (a), (b), and (d) and inserting in lieu thereof "subsection (c)".

(4) Sections 1411(a) and 1412 (22 U.S.C. 3771(a), 3772) are amended by striking out "the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserting in lieu thereof "by November 18, 1998".

(b) Public Law 104–201.—Effective as of September 23, 1996, and as if included therein as enacted, section 3548(b)(3) of the Panama Canal Act Amendments of 1996 (subtitle B of title XXXV of Public Law 104–201; 110 Stat. 2869) is amended by striking out "section" in both items of quoted matter and inserting in lieu thereof "sections".

TITLE XXXVI—MARITIME ADMINISTRATION

SEC. 3601. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1999.

Funds are hereby authorized to be appropriated for fiscal year 1999, to be available without fiscal year limitation if so provided in appropriations Act, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, $70,553,000.

(2) For expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), $20,000,000 of which—

(A) $16,000,000 is for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees under the program; and

(B) $4,000,000 is for administrative expenses related to loan guarantee commitments under the program.

SEC. 3602. CONVEYANCE OF NDRF VESSEL M/V BAYAMON.

(a) Authority To Convey.—The Secretary of Transportation may convey all right, title, and interest of the United States Government in and to the vessel M/V BAYAMON (United States official number 530007) to the Trade Fair Ship Company, a corporation established under the laws of the State of Deleware and having its principal offices located in New York, New York (in this section referred to as the "recipient"), for use as floating trade exposition to showcase United States technology, industrial products, and services.

(b) Terms of Conveyance.—

(1) Delivery of vessel.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States Government.

(2) Required conditions.—The Secretary may not convey a vessel under this section unless—

(A) the recipient pays consideration equal to the domestic fair market value of the vessel as determined by the Secretary;

(B) the recipient agrees that any repair, restoration, or reconstruction work for the vessel will be performed in the United States;

(C) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(D) the recipient provides sufficient evidence to the Secretary that it has adequate financial resources in the form of cash, liquid assets, or a written loan commitment to complete the reconstruction of the vessel.

(3) Additional terms.—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) Proceeds.—Any amounts received by the United States as proceeds from the sale of the M/V BAYAMON shall be deposited in the Vessel Operations Revolving Fund established by the Act of June 2, 1951 (chapter 121; 46 App. U.S.C. 1241a).

SEC. 3603. CONVEYANCE OF NDRF VESSELS BENJAMIN ISHERWOOD AND HENRY ECKFORD.

(a) Authority To Convey.—The Secretary of Transportation may convey all right, title, and interest of the United States Government in and to the vessels BENJAMIN ISHERWOOD (TAO–191) and HENRY ECKFORD (TAO–192) to a purchaser for the purpose of reconstruction of those vessels for sale or charter.

(b) Terms of Conveyance.—

(1) Delivery of vessel.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of the conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States Government.

(2) Required conditions.—The Secretary may not convey a vessel under this section unless—

(A) the recipient pays consideration equal to the domestic fair market value of the vessel, as determined by the Secretary;

(B) the recipient agrees to sell or charter the vessel to a member nation of the North Atlantic Treaty Organization for use as an oiler;

(C) the recipient provides sufficient evidence to the Secretary that it has adequate financial *resources in the form of cash, liquid assets, or a written loan commitment to complete the reconstruction of the vessel;*

(D) the recipient agrees that any repair, restoration, or reconstruction work for the vessel will be performed in the United States; and

(E) the recipient agrees to hold the Government harmless for any claims arising from defects in the vessel or from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms in connection with a conveyance authorized by this section as the Secretary considers appropriate.

(c) PROCEEDS.—Any amounts received by the United States as proceeds from the sale of a vessel under this section shall be deposited in the Vessel Operations Revolving Fund established by the Act of June 2, 1951 (chapter 121; 46 App. U.S.C. 1241a).

(d) DURATION OF AUTHORITY.—The authority of the Secretary under this section may only be exercised during the one-year period beginning on the date of the enactment of this Act.

SEC. 3604. CLEARINGHOUSE FOR MARITIME INFORMATION.

Of the amount authorized to be appropriated pursuant to section 3601(1) for operations of the Maritime Administration, $75,000 shall be available for the establishment at a State Maritime Academy of a clearinghouse for maritime information that makes that information publicly available, including by use of the Internet.

SEC. 3605. CONVEYANCE OF NDRF VESSEL EX-USS LORAIN COUNTY.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey all right, title, and interest of the Federal Government in and to the vessel ex-USS LORAIN COUNTY (LST–1177) to the Ohio War Memorial, Inc., located in Sandusky, Ohio (in this section referred to as the "recipient"), for use as a memorial to Ohio veterans.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may convey to the recipient of the vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except amendments printed in House Report 105–544, or considered by order of the House to have been so printed, and amendments en bloc described in Section 3 of the resolution.

Except as specified in Section 5 of the resolution, each amendment printed in the report shall be considered only in the order specified, may be offered only by a Member designated in the report, shall be considered read, and shall not be subject to a demand for a division of the question.

Unless otherwise specified in the report or in the resolution, each amendment printed in the report shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent of the amendment, and shall not be subject to amendment, except that the chairman and ranking minority member of the Committee on National Security each may offer one pro forma amendment for the purpose of further debate on any pending amendment.

Consideration of amendments printed in part A of the report shall begin with an additional period of general debate, which shall be confined to the subject of the policy of the United States with respect to the People's Republic of China and shall not exceed 2 hours, equally divided and controlled by the chairman and ranking minority member.

□ 1215

Consideration of amendments printed in part C of the report shall begin with an additional period of general debate, which shall be confined to the subject of the assignment of members of the Armed Forces to assist in border control and shall not exceed 30 minutes, equally divided and controlled by the chairman and ranking minority member.

It shall be in order at any time for the chairman of the Committee on National Security or his designee to offer amendments en bloc consisting of amendments printed in part D of the report not earlier disposed of or germane modifications of any such amendment. The amendments en bloc shall be considered read, except that modifications shall be reported, shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the committee, or their designees, shall not be subject to amendment and shall not be subject to a demand for a division of the question.

The original proponent of an amendment included in the amendments en bloc may insert a statement in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

The Chairman of the Committee of the Whole may recognize for consideration of amendments printed in the report out of the order in which they are printed, but not sooner than 1 hour after the chairman of the Committee on National Security or a designee announces from the floor a request to that effect.

It is now in order to debate the subject of the policy of the United States with respect to the People's Republic of China.

The gentleman from Arizona (Mr. STUMP) and the gentleman from Missouri (Mr. SKELTON) each will control 1 hour.

The Chair recognizes the gentleman from Arizona (Mr. STUMP).

Mr. STUMP. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from North Carolina (Mrs. MYRICK).

Mrs. MYRICK. Mr. Chairman, perhaps it is just a coincidence. Perhaps it is just a coincidence that the President turned a blind eye as one of his wealthiest campaign contributors harmed our national security by helping the Chinese improve their ballistic warheads.

Maybe the President did not mean to accept campaign donations from the Chinese Red Army at the same time he changed U.S. policy to benefit China's missile program.

There may be an innocent explanation for the President's decision to ignore his Secretary of State, the Director of the CIA and the Pentagon and to allow his campaign donors to help China's military.

Finally, maybe it was just an accident when the President gutted the Justice Department's investigation into the matter. If there is an innocent explanation, though, the American people have not heard it yet.

The facts, as we know them, are deeply disturbing. What frightens, angers, and troubles me is that we do not know all the facts yet.

These are serious matters. China has 13 missiles aimed at U.S. cities, and it would be shocking if the President helped to make the missiles more accurate. Clearly, the American people deserve an explanation. Unless and until we get such an explanation, the President should postpone his scheduled trip to China.

After receiving campaign donations from the People's Liberation Army, after associating with Chinese agents and after changing U.S. policy to benefit the Chinese military, the President has no business jetting off to Tiananmen Square to attend ceremonies with China's Communist leaders. To do so would be an insult to the

American people and those Chinese who lost their lives in the fight for democracy.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Last week, the Committee on Rules received some 12 amendments dealing in one form or another with China. Those amendments were combined and fashioned into the four that we will address here today.

As a footnote question, however, I would be interested in knowing the source of the information that the gentlewoman just said regarding missiles being targeted toward us. I would appreciate that in a timely fashion.

The two broad targets of these amendments are, first, the administration policy of engagement with respect to China, and, second, the alleged improper flow of U.S. technology to China. These four amendments are either redundant, Mr. Chairman, or simply counterproductive.

Let me first discuss the administration policy of engagement with China. A quarter century ago, President Richard Nixon traveled to China initiating a new relationship with the world's largest country. It is a relationship that has evolved over the past quarter century through six administrations, Republican and Democratic.

Over that time, we have seen China make great strides economically as it adopted market reforms. The earlier policy under President Nixon shifted during the Bush administration as the Cold War came to an end. The strategic component that brought the two countries closer together in 1972, a mutual concern about the Soviet threat, ended upon the breakup of the Soviet Union.

President Bush, the Nixon administration's first Ambassador to China, understood the important role that China would play in world affairs as the 20th Century drew to a close and the 21st approached. He realized that a country with a quarter of the world's population, a country with nuclear weapons, a country having one of the five permanent seats at the United Nations, a country successfully adopting Western market reforms was a country that the United States had to engage.

The aim was to help China become a cooperative power in both Asia and the world, to have it become a responsible world power interested in promoting stability, not promoting revolution.

U.S. and China relations over the more than 25 years have had more than their share of controversies, over human rights, over trade imbalances, and over proliferation. The two countries will continue to have differences in the future. However, the overall effect should be to establish a relationship where those differences can be reduced and managed in such a fashion that China sees it to be in its own interest to promote a stable international order.

The Clinton administration has continued the Bush administration policy. Two years ago, relations between the two countries were at a low point, as symbolized by the Straits of Taiwan incident. Since then, the relationship has improved, with a new generation of leaders adopting policies more in keeping with those of a responsible world power.

Last year's October summit between President Clinton and President Jiang Zemin marked a turning point. Recent actions seem to bear out this positive development.

Last fall, for example, during Southeast Asia's economic crisis, China took measures to stabilize the situation. It provided Thailand a billion dollar loan and resisted the temptation to devalue its currency. In financial circles, China earned high marks for acting in a responsible fashion.

Let us look at a more recent crisis, the Indian detonation of five nuclear weapons last week. Under Mao, China was unconcerned about the spread of nuclear weapons.

One of the difficult issues that the Clinton administration sought to address over the past five years has concerned the Chinese nuclear technology relationship with Pakistan.

After the Indian explosions we see a China acting with great caution, assuming a role of responsibility on this difficult issue. It described the Indian action as showing brazen contempt for international efforts to halt the spread of nuclear weapons.

Recent newspaper accounts have the Chinese government trying to reassure the Pakistani government so that it does not feel compelled to meet the Indian actions with nuclear tests of its very own.

I say all this, Mr. Chairman, because I believe that the actions that we take here today rather than protect U.S. security interests may actually tend to harm them. The effort to coax China along, to help those responsible figures in this government to proceed in a positive direction, will probably suffer if we succeed in bashing China today in an attempt to criticize administration policy.

The tenor of the amendments is to make judgments about important policy issues before we have all the facts. We need to deal with these important matters with great care and great deliberation. I will listen to each of the amendments with great care along that line. I am afraid that we are not going to be doing a great deal positively through this debate. I hope that I am wrong.

Mr. STUMP. Mr. Chairman, I am happy to yield 10 minutes to the gentleman from San Diego, California (Mr. HUNTER), chairman of the Subcommittee on Military Procurement of the Committee on National Security.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding the time. I want to say how much I appreciate the gentleman from Missouri (Mr. SKELTON), the ranking member, for his comments in this area and for his stalwart support of what has been the policy of the Committee on National Security in that, even in times of marked partisanship in the House in recent years, one bipartisan effort has been the effort by the Committee on National Security often resulting in unanimous votes in the committee to halt the movement of American technology, militarily critical technology; that is, technology that could end up killing American men and women on battlefields or killing Americans in our cities, to keep that technology from moving to those who might use it against us. So, Republicans and Democrats, we have been together on this issue.

We have this very troublesome issue that the committee has battled with and now that the American people have to battle with; and it is the issues that are surrounding the transfer of satellite launching technology to Communist China.

It has now become clear, we all know this now, that, in fact, a number of Chinese missiles are aimed at American cities. Those Chinese missiles have nuclear tips. It is in our interest not to give those Chinese missiles more reliability. Because of our diplomatic efforts notwithstanding, we cannot predict the future, and we cannot say absolutely that those missiles will never be launched against the cities that they are presently aimed at. So we do not want those missiles to be reliable. We do not want them to be accurate. We would hope that, in a time of launch, they do not even have the capability to leave the ground. That would be the best thing.

Juxtaposed against that national security concern is a commercial concern of some American companies, and that is that they have satellites to launch and they want to launch them cheap.

The cheapest launchers in the world are the Communist Chinese; that is, they will send up an American satellite built by Hughes or another American company on a pretty inexpensive basis atop a Chinese missile. The so-called "Long March" missile is the missile of choice. That Chinese missile that sends up satellites also is the same missile that has nuclear warheads on top of it that is aimed at American cities.

So we have a problem. We want to make sure that American companies, in putting their satellite packages atop these Chinese Communist "Long March" missiles, do not inadvertently show them how to make the missiles more reliable, more accurate, and have a number of factors that would allow them to destroy American cities with nuclear warheads. We have this major problem.

I asked for these charts to be placed over here because I think the charts very effectively explain some of the things that we have inadvertently taught the Chinese rocket ministry; that is, the people in charge of destroying American cities in a time of war how to make their missiles more reliable.

Let me just describe a few of those. We talk about the launch of April 1990, taught the Chinese why and how to build clean rooms for satellite launch investigation and introduced them to the need to protect fragile complex payloads against significant thermal dynamic change.

□ 1230

In 1992 we confirmed the Chinese analysis that the launch problem was in engine control of the launcher's first stage rather than altitude control. In 1992 we gave them information relating to the design of payload fairings. In May of 1995 we validated China's solid rocket satellite kick motor. This motor was still in development and had only been tested once before with the attitude-altitude controlled defective launch of a Pakistani satellite. It was a new system; we validated that system. In 1996, 1997 and 1998 we validated the Chinese upper stage separating technology, and we shared vibration and load coupling analysis with them.

Now, another very troubling thing happened in 1996. That is, one of the Long March rockets went down. They are considered not to be the most dependable rockets. It went down. It was destroyed before it got very far off the ground, and it carried a Loral-Hughes payload, an American satellite payload, worth a couple hundred million dollars. So Loral and Hughes, to make their stockholders happier, had to figure out how to make these missiles that carry them up into space more reliable. So they then engaged with the Chinese scientists and engineers and showed them how to make these missiles more reliable. That is the information that we have right now.

Now, the problem is, it is very difficult to get more information from the administration. This committee, the Committee on National Security, under the leadership of the gentleman from South Carolina (Mr. SPENCE), and the Committee on International Relations under the leadership of the gentleman from New York (Mr. GILMAN), and I might say the ranking Democrats on both of those committees, has sought information as to exactly what happened with respect to this information sharing and this accuratizing of the Chinese missiles.

We do know this: The Department of Defense has issued a statement after analyzing that debriefing and that information sharing, and they said this, which should be of interest to every American mother and father. They said American national security has been damaged by this transfer of technology.

We are trying to find out exactly what was transferred, what happened, what reliability that is going to give to these nuclear systems that the Chinese have, and we are not getting any answers.

Against that backdrop, we are offering four amendments today. The gentleman from South Carolina (Mr. SPENCE) and the gentleman from New York (Mr. GILMAN) are offering an amendment that expresses the sense of the Congress that business interests must not be placed over U.S. national security interests, I think every American would agree with that, and that the United States should not agree to a variety of initiatives at the upcoming presidential summit in China, including, and these are some of the things we think our administration may be offering China, support for Chinese membership in the missile technology control regime; a blanket waiver of Tiananmen Square sanctions; an increase in space launches from China; agreeing to unverifiable arms control initiatives; increasing the level of military-to-military contacts; and entering any new agreements involving space or missile-related technology.

That amendment is being offered by the gentleman from South Carolina (Mr. SPENCE) and the gentleman from New York (Mr. GILMAN). I think every Member should vote for that.

We have the gentleman from Nebraska (Mr. BEREUTER) offering an amendment. This amendment would prohibit U.S. participation in any postlaunch failure investigation involving the launch of a U.S. satellite from China.

The gentleman from Nebraska (Mr. BEREUTER) very wisely is addressing the very occurrence that we just talked about. We had a big American payload of a $200 million satellite on top of a Chinese missile. The missile went down, so the $200 million satellite was destroyed, did not get launched. So Hughes stockholders and Loral stockholders said, "We need to get more money. We have just lost $200 million. We need to help the Chinese accuratize their missiles and make them more accurate," not thinking about the fact those were the same missiles that are aimed at American cities with nuclear warheads. So we debriefed the Chinese engineers and scientists on the problems their missile had and on how they could correct it. That is currently the subject of an ongoing investigation.

The gentleman from Nebraska (Mr. BEREUTER) is saying, wait a minute. Let us not agree to any more debriefings. We do not share technology. When the guillotine is over our head and sticking, we do not say we think we see your problem and we want to solve it for you.

The gentleman from Colorado (Mr. HEFLEY) has an amendment. The amendment would prohibit the export or reexport of any missile equipment or technology to the People's Republic of China.

This says listen, let us put the brakes on. We have made a major mistake. Our own Department of Defense under the Clinton Administration has said national security has been damaged. Let us stop everything and try to figure out exactly what has happened and what we can do to rectify it. An excellent amendment by the gentleman from Colorado (Mr. HEFLEY).

Finally, I have an amendment that prohibits the export or reexport of U.S. satellites, including commercial satellites and satellite components to the People's Republic of China. This says the lives of our children, the safety of our cities, are more important than the shareholders seeing their stock go up a few points because they have sent the capability to deliver weapons of mass destruction into our own American cities.

Now, the administration needs to be forthcoming. They need to send us information on exactly what happened when we had this Loral and Hughes debriefing of the Chinese engineers and scientists in 1996. They need to send us information on exactly what the situation is with respect to the new capability of the Chinese missiles as a result of that.

I think until they do that, they do not deserve to have us allowing them to move forward with American companies continuing to send American satellites and interacting with the very people in the launch program in communist China who work both with domestic satellites, sending those satellites into space, and who work with preparing nuclear-tipped missiles for launch at American cities. This says, let us hold everything up until we shake this thing out.

So we are offering those four amendments. I would hope that Democrats and Republicans all vote for those amendments. This should be a time of reorganization and reexamination.

Mr. SKELTON. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. WEXLER).

Mr. WEXLER. Mr. Chairman, almost a year and a half ago I received and began for me what was the proudest day of my professional life, being sworn in as a Member of the United States House of Representatives. I was elected as a Democrat from the State of Florida. But far more important than being elected as a Democrat, even far more important than being elected as a Floridian, I was an American, an American first and American only. And I came to this Congress with a devotion and a respect of the principles of the United States of America, for the basic freedoms that we enjoy in our Bill of Rights.

Then I listened to debate after debate in this House, where I disagreed vehemently with the Speaker with respect to his policies on Medicare, or Social Security, or education or the environment, and I disagreed vehemently at times with the direction that the Republican leadership of this Congress wishes to take this Nation.

But never would I dare, never would I dare question the patriotism and the devotion to this country of the Speaker or any Republican Member of the Congress. Never would I dare suggest that a Republican Member of this Congress has any less love for this country than I do, because I may differ with him on a policy, and I am confident that most Americans appreciate that those people who are elected to this Congress, regardless of their political beliefs, and those few individuals in our history that have been so privileged to lead our Nation as our President, have anything but a complete devotion to our country and our national security.

Yet, in the last months we have seen extraordinary allegations thrown at this President. Not simple allegations, but allegations that rise to the level of being involved in a murder plot, allegations rising to the level of being involved in a rape, allegations involving at one time or another almost every crime imaginable.

But the height was reached this week when Members of this House accused the President of the United States and the administration of acting in a treasonous fashion, of endangering the national security of the United States. And over what? What evidence is presented?

Taken in its most simplistic form, the allegation is the Chinese Government sent some money, a significant amount of money, $100,000, to the national Democratic Party, and then the President made a foreign policy decision where he said, "There is the money. Now we are going to send some missile technology to China that will endanger the United States, that will create a nuclear proliferation program."

Let us look at the specifics of the allegations. The money in question, the alleged money, did not wind up in the Democratic coffers until July and August of 1996. But what the accusers failed to say is the President issued the waiver in March of 1996. And what the accusers failed to say is that the money was then given back after it was given, and then after the money was given back, another waiver was issued.

If you listen to the accusers, you would think President Clinton dreamed up this idea of waivers. No, the first waivers were given by President Bush, and President Bush decided it was in our national interest to allow American companies to send off their communications satellites because there were not enough American rockets going up to do so.

These were communication satellites. And if you listen to the allegations, you would think we just handed them to the Chinese, when in fact it was American companies that handed them to our Department of Defense. It was the American Department of Defense that transported the satellite, the American Department of Defense that put the satellite in its proper place, and it was guarded the whole way by the American Department of Defense.

Let us get down right to the bottom line of the argument, that money was given and a political decision made. If that is in fact the case, then all of us in Washington need to be brave and stand up and admit that all of us are guilty then, because whenever there is a contribution given, we will act on the contribution and do what the contributor said. And yes, yes, then it happens every day. And then, yes, it would seem it would be legitimate to argue that because the tobacco companies have given millions to the Republican party, that is why they are giving them tax breaks.

But I would not dare suggest that nexus, because I would not have the audacity to suggest that another Member of Congress is corrupt or is corrupted. And for Members of this Congress to suggest that the President of the United States has in some way endangered our national security, without a single shred of evidence, is there a single shred of evidence that suggests that this President took the money, knew what he was doing, and then said, send the missile, send the satellite to be on the missile because of the money? Not a single shred of evidence. It is treasonous, they say, without a single shred of evidence.

Mr. STUMP. Mr. Chairman, I yield 7 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. I thank the gentleman for yielding me time.

Mr. Chairman, I am kind of surprised at the gentleman's tirade here, because this gentleman never mentioned money, never mentioned treason, rarely mentioned the President. And when I went over the litany or the chronology of missile launches, I started with the Bush Administration in 1990.

This is a Committee on National Security. We are not worried about where the money came from or what it did or whether there was influence. What we are concerned about, very simply, is this statement, this statement made by President Clinton's Department of Defense. Hopefully that is not part of a right wing conspiracy, I would say to my friend who just spoke.

"In May 1997 the administration was jolted by a classified Pentagon report concluding that scientists from Hughes and Loral Space and Communications had turned over expertise that 'significantly improved the reliability of China's nuclear missiles.'" That is the New York Times, April 13, 1998. Our Department of Defense said American security has been damaged. That is what we are concerned about.

I think what we are going to have to do, both Republicans and Democrats, is when we have colleagues that come in and start ranting about the money, is very firmly but quietly push them aside to get their part of the debate over, and then go into what really concerns the American people, and that is this: that we have two conflicting pressures here. We have the pressure of our domestic satellite industry, like Hughes and Loral, that wants to sell things and make money; and they make money by taking advantage of the cheap launch that the Chinese offer by putting their satellite packages on top of Chinese missiles. That is the one factor, the one pressure.

The second pressure, of course, and a concern of ours, is national security. Because those very same missiles that carry the domestic satellite launches that we make money on, and Loral and Hughes, also carry nuclear-tipped missiles that are presently aimed at the United States, and conceivably in a conflict the reliability of those missiles to carry its nuclear payload into American cities should be something of great concern to us.

□ 1245

That is what we are talking about here.

If I could have that second chart over here, let us talk about that for just a second. Incidentally, I have never heard of the New York Times being called part of a right-wing conspiracy. I hope they have not changed overnight. But I think this chart is pretty descriptive because it tells how, in working out commercial launches, in doing commercial launches in China, we are inadvertently increasing the capability of their nuclear strategic systems.

Payload dispersal technology. Payload dispersal technology allows single commercial rockets to deliver more than a single satellite into space per each launch. The same technology can be used to develop Multiple Independently-targetable Reentry Vehicles. We talked about those in the Cold War on this floor. Those are known as MIRVs. A MIRV is when we send one missile up, one missile, and when it gets to a certain altitude when it is over American cities or over another military target, it disperses 3 or 4 or 5 or as many, in the case of the Soviet Union, as many as 10 warheads to different targets, so it can usher in absolutely massive destruction with as many as 10 targets from one single rocket.

That MIRV capability is something that we were hoping that the Chinese would not obtain, because they do not have too many ICBMs, and we were hoping that they would not get the capability to have more than one nuclear warhead per missile, because it is very difficult to handle, if we ever do get defenses, to handle 10 warheads coming out of each missile. But they have gotten some of that technology from our commercial satellite application.

A second area where they desperately needed capability in their nuclear strategic arsenal and they got that as a result, or got some help as a result of their interaction with our satellite people, is kick motor technology. Kick motors are used to propel satellites precisely into their described orbits. This same technology can be applied to warhead delivery systems to enable them to evade ballistic missile defense systems.

Radiation-hardened electronics. These specialized chips are designed to resist electromagnetic interference in space as well as electromagnetic pulses in a nuclear combat environment.

Encryption devices. In both commercial and military applications, encryption devices allow only authorized users to control the system. Launcher altitude control, another vital area. Stage separation systems, a very critical area for launching successful, making successful missile launches, whether one is launching a satellite or launching a nuclear payload.

So let me just close by saying this. This committee, Democrats and Republicans, looked at this issue several years ago. We were asked to place this satellite launching technology, the licensing for this technology, to move it out of the control of the Department of Defense, the overview of the Department of Defense and the Department of State.

Typically, the Department of Defense has always been very tough on allowing this technology to go overseas. A lot of the users like Hughes and Loral wanted to move it into the Department of Commerce, where the object is to sell things and make money, where they thought they would be given a little more liberal license to transfer this technology to China. This committee fought that, and we had a vote in this committee, Democrats and Republicans. As I recall, and I could be wrong, it was unanimous, except for I think either 1 or 2 votes. It was almost unanimous, Democrats and Republicans, and in fact, one of the leaders on the Democrat side was Mr. Dellums, and the gentleman from South Carolina (Mr. SPENCE) was our leader on the Republican side.

So this is not a partisan issue, this is not about money, this is about security, and we need to pass these 4 amendments, put this whole transfer of satellite technology on hold until we have sorted this thing out, figured out how much damage has been done to the American people and go from there.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Let me add some facts. One can have one's own opinions, but one cannot have one's own facts. Let me add a few of the facts. It is my understanding that in response to a letter from the gentleman from South Carolina (Mr. SPENCE), the chairman, that was sent to various officials here in this city seeking the secret DOD report was responded to by 3 folks, one from DOD, one from the ACDA, and the other from Justice, that there is an ongoing criminal investigation by the District Attorney of the District of Columbia, and the turnover of any evidence on this matter might jeopardize the case.

Mr. Chairman, being a former prosecuting attorney in the State of Missouri, I fully understand that response. I think that the facts should be clear on that issue.

Mr. Chairman, I reserve the balance of my time.

Mr. STUMP. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina (Mr. SPENCE), the chairman of the Committee on National Security.

Mr. SPENCE. Mr. Chairman, later today the House will have an opportunity to vote on a series of amendments that address recent revelations concerning the possible illegal transfer of sophisticated American missile technology to China. I urge my colleagues to consider this issue carefully and to support these amendments.

Over the past few days and weeks, the American people have witnessed a flood of news articles about the decisions 2 years ago and again earlier this year by the Clinton administration to allow the transfer of sophisticated American satellite technology to China, technology that can be used to improve Chinese ballistic missiles targeted on the United States.

While many important aspects of these reports and allegations remain unclear, the administration is doing little to help clarify the situation, as repeated requests by the Congress for information continue to be ignored. Nevertheless, that which we do know is deeply troubling. Although sanctions imposed on China in 1990 at the Tiananmen massacre were intended to prevent the transfer of missile technology to China, those sanctions have repeatedly been waived to allow the export of United States satellites containing militarily-sensitive technology.

In 1996, 2 American companies participated in a review of a failed launch of a U.S. satellite on a Chinese rocket. As a result of this investigation, sensitive export control information was exchanged, information that could be used by China to improve its long-range nuclear ballistic missile capability. The necessary export license for this information was neither sought nor obtained by the American companies in question. The transfer of this sensitive information reportedly led the Department of Defense to conclude that "United States national security has been harmed," and resulted in the Justice Department initiating a criminal investigation.

Unfortunately, this investigation was undermined when the White House apparently, over the objections of the Justice Department earlier this year, approved the export to China of similar military-related technology. In light of a recently reported CIA study that concludes that China has targeted 13 long-range nuclear missiles on the United States, the danger of helping China perfect its missile capability with technology "Made in the USA" is apparently obvious to just about everyone except the White House.

Last month, the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations, and I jointly sent letters to the Departments of Defense, Commerce and State and the Arms Control and Disarmament Agency requesting documents relating to the 1996 transfer of technology and the White House's more recent 1998 decision to waive restrictions on the transfer of similar technology to China. The Committee on National Security is intensely interested in reviewing the Defense Technology Security Administration report on the 1996 transfer, which concluded that the transfer did harm United States' national security. Unfortunately, one month later, and not one document has been provided. The administration asserts that releasing these documents to Congress would compromise its ongoing criminal investigation. In reality, the administration appears to be hiding behind the veneer of a Justice Department investigation that the White House's own decision earlier this year is likely to have already compromised.

Mr. Chairman, the United States satellite industry has long supported a relaxation on restrictions on the export of satellites and satellite-related technology in the name of making money. Unfortunately, much of this technology is indistinguishable from the missile-related technology. The administration, nevertheless, liberalized the export of certain satellites in 1996 by removing them from the strictly controlled United States munitions list and placing them on the less restricted dual-use commodity control list administered by the Commerce Department. This decision was a fundamental reversal of the position articulated by Vice President Candidate Gore during the 1992 election campaign. He warned that allowing the launch of United States satellite by China would allow that country to "gain foreign aerospace technology that would be otherwise unavailable to it."

Mr. Chairman, the transfer of satellite and missile-related technologies in question is only one in a series of examples of this administration's easing of restrictions on the export of militarily sensitive United States technology to China.

Last year at this time, the House voted overwhelmingly and on a bipartisan basis to close a loophole in the administration's export control policy that allowed the transfer of supercomputers to, among others, Chinese institutes involved in the research and development of ballistic missiles. This year, Congress is once again faced with the need to close another loophole in current export law and we should act immediately.

While I recognize that much still remains to be learned about this latest controversy, the urgency of the export issue itself requires the Congress to act decisively and quickly in an attempt to ensure that no further damage is done to our national security. Moreover, I believe that Congress should be heard loud and clear before the President travels to China next month.

For this reason, I ask my colleagues to support the amendments offered.

Mr. SKELTON. Mr. Chairman, may I inquire of the Chair as to how much time each side has remaining?

The CHAIRMAN. The gentleman from Missouri (Mr. SKELTON), has 48 minutes remaining, and the gentleman from Arizona (Mr. STUMP), has 34 minutes remaining.

Mr. STUMP. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from California.

The CHAIRMAN. The gentleman from California (Mr. CUNNINGHAM) is recognized for 4 minutes.

Mr. CUNNINGHAM. Mr. Chairman, there is nobody in this House on the other side of the aisle that I respect more than my colleague, the gentleman from Missouri (Mr. SKELTON). He knows that that is true.

White House treason? No. But I would say to my colleague, I think that there has been some very poor decisions made, decisions that should concern every American family. It is not just in the China issue, it deals with foreign policy, it deals with national security that in my estimation, our defense forces are the worst off than I have seen them in 30 years that I have been associated with it.

□ 1300

That is both from taking money out of defense, and the deployments that take money like Haiti, Somalia, Bosnia, that take money out of the operation and maintenance, already out of a low budget. I think those kinds of decisions are made when you surround yourselves with very left-wing oriented members of your cabinet and staff, like Strobe Talbott. The decisions that you make, you need people there that have some kind of sense of what is good.

Let us face it, China is not the same China it was 20 years ago. There have been a lot of changes in China. I would tell the gentleman from Missouri (Mr. SKELTON), today China is still one of the biggest threats the United States faces. So is the former Soviet Union. They are not our friends. We have to keep working in that direction, but they are very, very dangerous.

It is like a pit bull that you put inside a fence to guard you at night. You would not let that pit bull out to play with your children. That is what we are doing by this technology transfer to China. China shipped chemical and biological weapons to Iran and Iraq.

That is one of the reasons we are in Iraq right now, because COSCO, the Chinese shipping company, is right out of China, owned by the PLA, the same company that the alleged allocations went forth with the money, but yet, we turn over Long Beach Naval Shipyard to them at the President's insistence. That is wrong, and that is a poor decision. That is letting them in our back door when they are dealing with chemical and biological weapons and then missile technology.

The second thing, the nuclear triggers to Iraq, right in San Diego, my own city, Iraq tried to steal out nuclear components. Yet, China is shipping to those countries. That is dangerous. Yet, we enhance their ability on missile technology? That is wrong.

I would tell my friend that both foreign policy decisions, and I would include the United States Marine Corps in Lebanon, I think that was very poor policy under a Republican President, trapping our marines there and not letting them fight back.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, all I want to point out is that in our committee there was an amendment that passed overwhelmingly against the COSCO Chinese company taking over Long Beach. I think that was important.

Mr. CUNNINGHAM. I am aware of that. I thank the gentleman for that. That was a good decision by the committee, but I think a very poor decision by the White House, as I am trying to point out.

Foreign policy, like the extension of Somalia, where we changed from going humanitarian to going after General Aideed, and then drawing down our forces, and our military asked for armor, we do not give it, and we lose people; Haiti could have sat there in my opinion for another 200 years. But all of those cost billions of dollars, and we are taking money out of defense to pay for them. We cannot even get an FEHBP bill for veterans, and we pay $16 billion for Haiti and Bosnia. Those kinds of decisions, is what I am telling my friend, I believe are wrong.

Russia is a threat. Under the Ural Mountains, the gentleman has seen the intelligence reports, they are building a first strike nuclear site the size of inside the beltway here. They have launched six Typhoon Red October class submarines. It is a very dangerous world. Yet, my colleagues on the other side say, well, the Cold War is over.

The Cold War is not over, and when we are giving potential enemies like China and Russia technology, that should be a concern of every Member in this body. I know it is for the gentleman. It is not an issue on treason, it is an issue on national security, and one that I think that both sides of the aisle ought to stress, and we ought to look forward to it.

Mr. STUMP. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Chairman, the point of all this is, was our national security jeopardized because of campaign contributions coming from Communist China? Was a technology transfer made that endangered the security of the people of this country by giving MIRVing technology, so they can hit several cities with one rocket, for campaign contributions?

Let us look at the facts. Johnny Chung has told investigators that he received $300,000 from Liu Chaoying. Who is Liu Chaoying? Liu Chaoying is a lieutenant colonel who is also an executive, an executive of China Aerospace. She is a lieutenant colonel in the Red Chinese army. Her father was the top military commander of the entire Red Chinese army. He is a senior member of the Communist party in China.

She gave $300,000 to Johnny Chung to give to the Democratic National Committee. They do not do that for their health. You do not give money to a foreign government or a foreign campaign for your health. There was a reason behind it.

We believe there were other contributions of this type that came into the Democratic National Committee, and other campaigns in the United States of America. In fact, I am sure of it. I am sure of it. What were these monies for? We know that this technology transfer took place. We know that the Justice Department was investigating it. We know that the President of the United States gave a waiver so this technology could go forth.

Was there a connection? Was our national security jeopardized because of these campaign contributions and because of this technology transfer? These are things the American people have a right to know, because every man, every woman, and every child in the future may be jeopardized because of these decisions.

Was it treason? I do not know. I hope not. I do not believe it was. I hope not.

Was it incompetence? Maybe. Was it because of greed for campaign contributions? Possibly, and maybe likely. But we need to have the answers. That is why a full-scale investigation needs to take place. That is why witnesses who want to talk need to be immunized.

My colleagues on the other side of the aisle need to be patriots first and politicians second, patriots first and politicians second, because the security of the United States is at risk and at stake. I urge them to vote with me for immunity, for the sake of this country.

Mr. STUMP. Mr. Chairman, I am happy to yield 3 minutes to the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I am pleased to rise in strong support of the legislation before us today, and the amendments we will shortly consider specifically relating to the curbs on the export of technology enabling China to improve the reliability of its nuclear weapons delivery systems.

In 1992, when then candidate Clinton attacked President Bush for coddling dictators, including those who ordered the massacre of pro-democracy demonstrators at Tiananmen Square, few could have imagined how President Clinton's administration would face charges of compromising our national security at the hands of the same Chinese leaders.

Yet, in May of 1997 a highly classified Pentagon report has reportedly concluded that scientists from two leading American satellite manufacturing firms, Loral Space and Communications and Hughes, provided expertise that significantly improved the guidance and reliability of China's nuclear weapons delivery systems.

I am concerned that in their desire to promote the commercial interests of key U.S. companies, that this administration might have compromised its own efforts to limit the spread of missile technology to China, which remains today as the leading exporter of the weapons of mass destruction around the world.

As the President prepares to go to China and to visit the very same square where protesters were killed some 9 years ago, he must be mindful that any efforts to permanently waive these sanctions could further undermine our national security, and clearly give the Chinese the message that our policies on the spread of weapons and human rights abuses could be reversed by commercial considerations.

As he prepares for his summit meeting with Chinese officials, President Clinton should leave the bag of carrots at home. There should be no concessions, no deals, no permanent waivers, no new technology or science agreements, and most importantly, no shoehorning of China into a missile technology control regime that they have been busy violating over the past decade.

In light of the fact that the President is unwilling to suspend the export of American satellites to China pending the outcome of the ongoing criminal investigation, Congress should appropriately consider amendments to the bill which will effectively curtail the export of these items. Accordingly, I urge our Members to support the amendments which will be before them today.

Mr. SISISKY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, it is very interesting, listening to this debate. I really was not going to get into it. But the previous speaker, not the gentleman from New York (Mr. GILMAN), but the previous speaker to that, just dropped a few words in there that kind of triggered me off to jump to my feet.

He did not accuse anybody, but he said, is it not treasonous? He dropped that word. Is it incompetence? He dropped that word. Is it greed? And then had the audacity to say, I would tell that side, be patriots first and politicians second.

This is what is wrong with this debate. I do not really understand. This is a political debate, this is not a debate about China. Everybody understands the investigation that is going on. It is funny, I have not seen anything. I have read it in the papers. Now, maybe our committee should be the one that investigates this, because it is national security.

But please, let us bring ourselves up to a higher debate. Do not question the other side's patriotism. That is the wrong thing to do.

Mr. STUMP. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Mrs. FOWLER), a member of the committee.

Mrs. FOWLER. Mr. Chairman, I rise to express my grave concern about these recent revelations concerning the transfer of missile and other technologies to the Peoples' Republic of China, and to express my support for the package of amendments we will be taking up shortly.

I have been tracking issues relating to the transfer of critical technologies to the Peoples' Republic for some time. I must tell my colleagues that allegations regarding missile technologies are only the latest in a long series of very questionable transfers.

Previously, U.S. firms have transferred supercomputers, production hardware that would enable the Chinese to build intercontinental bombers and missiles, gas turbine technology, and much more. Some of these sales have been explicitly authorized by this administration. Others have occurred because of gray areas in the law which need to be addressed.

Allegations that campaign contributions may have influenced policy raise deeply troubling questions. I believe Congress now needs to do two things: First, it needs to go on record in opposition to the kinds of technology transfers that have recently made headlines. We have that opportunity today. I hope all of my colleagues will support the amendments before us.

Second, Congress needs to look into these questions. Allegations have been made that the administration acted inappropriately. The administration has denied wrongdoing. Mr. Chairman, the American people should know the truth. The administration should have the opportunity to explain its actions.

I would hope, however, that any initiative to look into these issues will occur in an atmosphere devoid of the kind of partisan bickering that we have seen elsewhere in this Congress recently. There are very important national security issues involved here, not the least of which is the relationship between our Nation and the world's most populous state, which is also a nuclear power.

We need to consider these matters with sobriety and a judicious temperament. The right time to begin to sort out these issues is today. I urge my colleagues to support the amendments before us.

Mr. SISISKY. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. I thank the gentleman for yielding me the time, Mr. Chairman.

Mr. Chairman, really, only in a Republican-led Congress could we have women serving all over the world defending our country and have back here this Congress rolling back their rights of equality of treatment in the military.

I refer specifically to the segment of this bill that will roll back women to segregated training. I do not know anyone who supports this except the Republican leadership. Three of the four branches of the armed service do not want it, the trainees do not want it, all the experts have recommended against it, and I am honestly not sure why we are being forced to consider, in this legislation, legislation that would segregate the men and women of our Armed Forces.

□ 1315

Earlier today and last night in a bipartisan way, the Women's Caucus asked for a bipartisan amendment that would strike this language from the bill. Our amendment was not placed in order. I cannot understand why they would not even allow a floor debate on this or a vote on this issue. I guess they think that they know that we would win.

Another problem with it is that we allocated last year $2.2 million to set up a commission to study this and other things. We have not even gotten the results of this commission. The Army says that it will cost them $159 million to implement it, when absolutely no one wants it. Basic training is a time to build trust and camaraderie. It is a time to solve problems while there is ultimate control over them. Right now I do not see what the problem is.

The military is not having a woman problem. In my opinion, it is more of a man problem. It is no longer the men at the top of the Department of Defense. General Shalikashvili, Secretary Cohen, all of them have called for integrated training. The problem is with the men who are controlling this House, the Republican leadership.

Men and women must train as they fight. You cannot solve a social problem with a logistical maneuver. Right now, as I am speaking, men and women are fighting together in Bosnia defending freedom. I do not believe that divide and conquer, which they are trying to do with this maneuver, will work here. Separating the sexes during basic training would be a tremendous mistake, a rollback. It creates an atmosphere of distrust and may affect military readiness.

I hope that this Congress will refuse in the conference committee to accept this rollback to segregate women and men in the Armed Services.

Mr. STUMP. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, I rise in strong support of these four amendments. My colleague from Virginia a few moments ago asserted that this is, this has been turned into a debate that is a political debate rather than a debate about China. I hope that those who read this account in the CONGRESSIONAL RECORD will remember and take that remark and put it into perspective.

It seems that every time that alleged wrongdoing by this Democrat President is challenged or investigated, it becomes political. There is no person so pure or so consistent enough in his past behavior to investigate this President of the United States in charges that he may have done something that endangers the national security or was in some way corrupt. And given that reality to the Members on the other side of the aisle, they feel absolutely justified in obstructing and dragging out and confusing any type of investigation into this President's activities.

It is becoming clear to the American people that something has been done when it comes to our relations with China. Something terrible has happened. Every man, woman and child in this country may have been put in jeopardy because American technology could well have been transferred to the Communist Chinese in order to perfect their nuclear weapons delivery systems.

What does that mean to the American people? It means that all of us are going to be put at risk if we are ever to confront the Chinese when they commit aggression or become belligerent or do things that threaten our national security in the future. Now, perhaps because American technology has been transferred to these Communist Chinese that enable them to launch their nuclear weapons at us more effectively, all of us are going to be put in jeopardy. This is not a political issue. This is a national security issue, just as all of those other issues were legitimate in being investigated.

I will say this, those other investigations, if they would not have been obstructed, if they would not have, if there was not intentional efforts being made to confuse the issues in those investigations, the public would have understood the importance of those issues as well. But this is too important to let politics get in the way, and it is not politics coming from this side of the aisle. It is politics which is preventing the American people from learning the truth when eight members of the Democratic Party prevent witnesses from testifying in our investigation in one of our own committees.

I strongly support this and the American people deserve to know the truth, whether they have been betrayed or not.

Mr. SISISKY. Mr. Chairman, I yield myself such time as I may consume.

It is obvious that the gentleman does not know this gentleman very well, and we do not. But I can tell him this, those who know me know that I think this is a very serious problem, if it is true, an extremely serious problem. The thing that bothers me is painting everybody, to keep referring to this side. Why? We may have some liberals over here, we may have some moderates, we may have some conservatives, but I do believe one thing, we do have patriotism over here. We do care about our country, and I know this gentleman cares about his country.

The only reason that I mentioned those other facts are the words, the words out there. That is the only reason. Let us keep this debate on a high level. I can assure the gentleman from California that this gentleman would want to investigate anything that has to do with nuclear weapons.

Mr. STUMP. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Chairman, I would like to say to my friend the gentleman from Virginia (Mr. SISISKY) that he and I and the gentleman from California (Mr. ROHRABACHER) are on the same side. There is no question about it. We work closely together as members of the Committee on Armed Services, and I just want him to know that the gentleman from California (Mr. HUNTER), who is sitting here by me, and the gentleman from California (Mr. CUNNINGHAM) want to convey to the gentleman how much we appreciate having been able to work with him as Americans from two different parties on these issues. We appreciate that very much.

Mr. Chairman, I wanted to just address this issue of high tech transfer from perhaps a slightly different point of view. I offered an amendment or I asked that an amendment be made in order by the Committee on Rules which I am terribly disappointed was not. It has to do with Hong Kong and transfer through Hong Kong of technology to China. There are currently two separate sets of export laws that apply to China and Hong Kong. Everyone here knows that in 1997, Hong Kong came under the rule of China. And yet we continue to have these two separate sets of laws.

So this morning in a Joint Economic Committee hearing, we asked some very knowledgeable witnesses, who, frankly, are associated or have been associated with the CIA, whether our concerns are valid on this issue. I would say to the well meaning Members of the Committee on Rules who may be listening, I think they made a mistake on this issue because witness after witness has said that these concerns are valid. This came to my attention, Mr. Chairman, because of a contractor wanting to transfer a weapons system which, if it had not been for some of us here sitting here now, would have never been a reality, a modified version of a weapons system transferred to Hong Kong, presumably eventually to be transferred to China.

Our amendment was not made in order, and I am terribly disappointed by that. But we will have other days and other forums on which to make those points.

Mr. STUMP. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I just wanted to reiterate to my friend the gentleman from Virginia (Mr. SISISKY) that one of the great things about the Committee on National Security over the last couple of years has been that despite our strong debate, especially on strategic systems on the House floor, and I admit I am often a partisan in that debate with respect to the Strategic Defense Initiative and other initiatives that I think have been given short shrift, we have always been together on technology transfer. We have been very close on that, and we have kind of held the line against other interests, particularly against commercial interests, because there is that compelling interest in commercial operations to press the advantage, to make that last sale, even though it may be militarily critical technology that is involved that one day could harm our troops on the battlefield. We have always stuck together.

Interestingly, it has been not only Republicans and Democrats, it has been conservatives and liberals. Mr. Dellums was one of the foremost proponents of restricting technology transfer and many of the people who testified before us came from various political divisions of the left and right and center in America, experts who felt that we should not send military technology to potential adversaries.

Let us work this problem on that basis. Walk through this thing, find out how much damage was done to American security and how we can stop it from further eroding.

Mr. STUMP. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Chairman, I want to thank first of all my good friend, the gentleman from Arizona (Mr. STUMP) for his leadership and for my good friend, the gentleman from Missouri (Mr. SKELTON) for his leadership. This is truly a bipartisan committee, and this is truly a bipartisan bill. And this effort aimed at China and our concerns on proliferation is a bipartisan concern.

I, like my colleagues, will attest to the fact that Members on the other side have been equally aggressive to Members on our side in focusing on the proliferation problem. There has not been a division that is a political division. In fact, we have been very much united when it comes to proliferating activities, not just by China but also by Russia and other entities, North Korea and so forth.

I also rise to say that I have been one who has supported the President on China policy. I voted for MFN. In fact, in the last session of Congress, I took two delegations to China. I was the first policymaker from this country to be asked to address a group of mid-level officers in the PLA at the National Defense University in Beijing. Twice I interacted with them. Twice I discussed with them our concerns about proliferation and our concerns about our security relationship.

I plan to go back to China again this year. I believe in the policy of engagement with China. But I rise today to, in the strongest possible terms, relate to our colleagues in this body that we have a problem. The proliferation that has continually taken place by China and also by other nations, especially Russia, has got to be stopped.

Mr. Chairman, the problem is over the past several years, it actually was not just under this administration, to some extent it was done in previous administrations, in looking at our arms control agreements that are the basis of our bilateral relationships with Russia and in this case China, we have not enforced those agreements when we have caught proliferators selling off and transferring technologies to other nations.

Mr. Chairman, tomorrow there will be an op ed in the L.A. Times which will summarize my point in very great detail, as I did last Wednesday night on the floor of this body. Thirty-eight separate times in the past 7 years we have had documented cases of proliferating activities coming from two countries, coming from Russia and coming from China. Those proliferating activities have sent technology in the area of nuclear weapons, chemical and biological weapons and missile technology to Iran, Iraq, India and Pakistan.

Now we face the music. We face a crisis. India and Pakistan are saber rattling each other with technology that we could have stopped, if we would have taken aggressive action to stop that proliferation from occurring, which is a requirement of a number of arms control agreements, the missile technology control regime, the Arms Export Control Act and a whole host of other agreements. If we would have taken steps to impose sanctions in more than half of those 38 occasions, let alone just the three where sanctions were imposed, I would argue we would not be in the position we are in today.

It is absolutely imperative that this body and this committee support the leadership on both sides of the aisle, pass these four amendments and send a signal to China that we will not tolerate any future proliferation of technology, any missile technology, any nuclear technology to Pakistan or any other Nation.

□ 1330

Because that then causes us to have to spend more money to defeat that threat once it emerges in some other Nation's hands.

So I support my chairman, I support my ranking member, the gentleman from Arizona (Mr. STUMP), and my ranking Democrat, the gentleman from Missouri (Mr. SKELTON), on their leadership, and I urge all of our colleagues to vote "yes" on each of the amendments that will be brought before us shortly.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

Mr. STUMP. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. It is now in order to consider the amendments printed in part A of House Report 104–544, which shall be considered in the following order:

Amendment No. 1 by Representative SPENCE or GILMAN;

Amendment No. 2 by Representative BEREUTER;

Amendment No. 3 by Representative HEFLEY; and

Amendment No. 4 by Representative HUNTER.

It is now in order to consider amendment No. 1 printed in part A of House Report 105–544.

AMENDMENT NO. 1 OFFERED BY MR. SPENCE

Mr. SPENCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A amendment No. 1 printed in House Report 105–544 offered by Mr. SPENCE:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) United States business interests must not be placed above United States national security interests;

(2) at the Presidential summit meeting to be held in the People's Republic of China in June of 1998, the United States should not—

(A) support membership of the People's Republic of China in the Missile Technology Control Regime;

(B) agree to issue any blanket waiver of the suspensions contained in section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), regarding the export of satellites of United States origin intended for launch from a launch vehicle owned by the People's Republic of China;

(C) agree to increase the number of launches of satellites to geosynchronous orbit by the People's Republic of China above the number contained in Article II(B)(ii) of the 1995 Memorandum of Agreement Between the Government of the United States of America and the Government of the People's Republic of China Regarding International Trade in Commercial Launch Services;

(D) support any cooperative project with the People's Republic of China to design or manufacture satellites;

(E) enter into any new scientific, technical, or other agreements, or amend any existing scientific, technical, or other agreements, with the People's Republic of China involving space or missile-related technology;

(F) agree to any arms control initiative that cannot be effectively verified, including any initiative relating to detargeting of strategic offensive missiles; or

(G) support any increase in the number or frequency of military-to-military contacts between the United States and the People's Republic of China;

(3) the decision of the executive branch in 1998 to issue a waiver allowing the export of satellite technology to the People's Republic of China was not in the national interest of the United States, given the ongoing criminal investigation by the Justice Department of the transfer in 1996 of satellite technology to that country;

(4) the executive branch should ensure that United States law regarding the export of satellites to the Peoples Republic of China is enforced and that the criminal investigation described in paragraph (3) proceeds with all due dispatch; and

(5) the President should indefinitely suspend the export of satellites of United States origin to the People's Republic of China, including those satellites licensed in February 1998 as part of the Chinasat-8 program.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from South Carolina (Mr. SPENCE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise along with the gentleman from New York (Mr. GILMAN) to offer this amendment expressing the sense of Congress on the transfer of United States satellite missile technology to China.

As the events surrounding the Clinton administration's decision to transfer sensitive military-related technology to China continue to unfold, it is becoming increasingly clear that United States national security continues to take a back seat to trade with China. Our amendment would place the Congress clearly on record in opposition to any agreements that the President might negotiate at next month's summit in China that would make it easier for China to acquire our technology that can be used to improve its military capability, in particular its ballistic missile capability.

As has been reported in the press, the administration is reportedly considering issuing a blanket waiver of the so-called Tiananmen Square sanctions against China, approving the export of more United States satellites to China, and even allowing joint satellite production.

This amendment would also express the sense of Congress that the President's decision to allow the export of satellite technology to China earlier this year, despite the reported DOD assessment that "United States national security has been harmed" by a previous satellite transfer of technology, was not in the national interest.

The administration has reportedly developed plans in recent weeks to increase the level of space cooperation with China and to encourage the sharing of missile and space technology. In a memorandum reportedly prepared by the National Security Council and printed in full in the Washington Times, and I would like to submit that for the RECORD, it was suggested that additional space- and missile-related technology might be transferred to China as an incentive for China to join the Missile Technology Control Regime.

As a member of that regime, China would be eligible to acquire missile technology it cannot currently attain legally. However, while China has already said it would abide by the regime's restrictions, those pledges have repeatedly proven to be hollow. China's record of missile proliferation should give Members little comfort about Beijing's willingness to abide by its international nonproliferation obligation.

In simple terms, Congress must speak loudly and clearly today to ensure that the United States does not take any action that helps China to improve its military capability, especially its ballistic missile capabilities.

Mr. Chairman, China is clearly working overtime to improve its military might, and it views ballistic missiles as a quick and effective way to do so. The United States should refuse to be an accomplice to that effort, yet under the guise of constructive engagement and increasingly open trade, we are doing just that.

Mr. Chairman, I urge my colleagues to support the Spence-Gilman amendment and to send a clear message to the President before he travels to China next month that the Congress strongly opposes any policy that places business interests over the national security interest.

Mr. GILMAN. Mr. Chairman, I rise today as a coauthor of the amendment offered by my good friend, the gentleman from South Carolina, the distinguished Chairman of the Committee on National Security, Mr. SPENCE.

I hope that this amendment would be unanimously adopted by the House. It simply sets forth the sense of the Congress on an issue of vital importance to America's national security—the transfer of missile technology to China.

To that end, this amendment calls on the President to indefinitely suspend the export of U.S. satellites to China, including those satellites licensed in February of 1998 as part of the CHINA–SAT–8 program.

This amendment also expresses the sense of the Congress that during the Presidential summit meeting to be held in China next month, the United States should not support or enter into any agreements with China which would further expand cooperation with China.

I am particularly concerned about the Administration's stated intent to support China's membership in the Missile Technology control Regime.

China continues to provide missile technology and components to both Pakistan and Iran. Since 1991 the United States has sanctioned China twice for violations of U.S. missile proliferation laws.

I do not comprehend the logic, given China's record, of offering them MTCR membership. Perhaps it is for the reasons explicitly stated in a National Security Council memorandum. Regrettably these are precisely the wrong reasons.

That memorandum, which is dated March 12, 1998, states that the U.S. should support Chinese membership because [quote] this would provide China with political prestige, the ability to shape future MTCR decisions, substantial protection from future U.S. missile sanctions and would expedite somewhat the consideration of U.S. exports to China. [unquote]

I am concerned that in the mad rush to obtain better relations with the Chinese, we will enter into another deal with China to be delivered at the June summit, in which we throw our non-proliferation principles out the window.

In order to cut the nuclear deal at last year's summit, we sacrificed full scope safeguards. What will we sacrifice for a missile deal?

We all know this Administration was too eager to offer the Russian membership in the MTCR. The Russians have flouted every precept of the MTCR by transferring missile components and technology to Iran.

Moreover, let me point out that this amendment calls upon the Administration to ensure that U.S. laws regarding the export of satellites to China are enforced and that the criminal investigation of U.S. companies proceed with all due dispatch. This is a critical consideration which we must not overlook.

Accordingly, I urge all Members to fully support this amendment.

Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong support of this amendment that is offered by the gentleman from South Carolina (Mr. SPENCE) and the gentleman from New York (Mr. GILMAN).

The total umbrella of American issues with the Chinese, and there are lots of issues, most of them commercial issues, a lot of them technology transfer issues, is largely governed by the administration's policies that are brought about in these discussions with Chinese leaders.

There is going to be an upcoming presidential summit. That has been pointed out. A lot of the things that we are concerned about, like Chinese membership in the Missile Technology Control Regime, the waiver the gentleman from South Carolina mentioned of the Tiananmen Square sanctions, increases in space launches, a number of those critical issues are going to be discussed. I think it is very important for this House to lay down its marker right now and let the administration know that we are very concerned on a national security basis of what he is doing in this next meeting with Chinese leaders.

I think this is an absolutely appropriate amendment. I hope everybody would vote "yes".

Mr. SPENCE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. SPENCE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. SPENCE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentleman from South Carolina (Mr. SPENCE) will be postponed.

It is now in order to consider amendment No. 2 printed in part A of House Report 105–544.

AMENDMENT NO. 2 OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A amendment No. 2 offered by Mr. BEREUTER:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. INVESTIGATIONS OF SATELLITE LAUNCH FAILURES

(a) PARTICIPATION IN INVESTIGATIONS.—In the event of the failure of a launch from the People's Republic of China of a satellite of United States origin, no United States person may participate in any subsequent investigation of the failure.

(b) DEFINITION.—As used in this section, the term "United States person" has the meaning given that term in section 16 of the Export Administration Act of 1979, and includes any officer or employee of the Federal Government or of any other government.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from Nebraska (Mr. BEREUTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would prohibit United States participation in any post-launch failure investigations involving the launch of a U.S. satellite from the People's Republic of China.

On February 15, 1996, a Chinese rocket carrying a satellite built by the Loral Corporation crashed on liftoff from a launch facility in southern China. In the aftermath of that launch failure, the PRC established a review commission to investigate the failure and determine what went wrong. American technical experts from Loral and Hughes electronics participated in this investigation. On May 10th of that year, this commission completed a preliminary report finding that the cause of the accident was an electrical failure in the electronic flight control system. The report discussed very sensitive aspects of the rocket's guidance system and flight control system. Copies of this unredacted report, including much highly sensitive material, was promptly shared with the Chinese prior to its presentation to U.S. officials!

In the aftermath, the U.S. Air Force and the National Air Intelligence Center completed a damage assessment of the incident, and found that U.S. national security had been harmed. My colleagues will understand that providing technical information designed to address problems in Chinese rocket guidance and flight control systems also addressed the same problems in Chinese Intercontinental Ballistic Missiles (ICBMs). There is a real question as to whether Chinese ICBMs are more accurate and reliable because of the advice of American citizens, and ICBMs pose a very real risk to the United States.

Regrettably, and amazingly, Mr. Chairman, some of those Americans who participated in the Chinese rocket failure investigation argued that they were under no obligation to return the copies of this highly sensitive report.

Now, the background on this amendment is that it seeks to prevent the transfer of sensitive military-related information to China. In 1996, two companies, Loral and Hughes, participated in a launch failure investigation involving the failed launch from China of a U.S. satellite on a Chinese launch vehicle.

As a result of that investigation, information was passed to China that quite apparently could be used to improve the guidance accuracy and warhead delivery capability of China's missiles. The information was reportedly transferred illegally, without a license from the State Department, that is, and the incident is now the subject of a Justice Department criminal investigation.

Even asking questions, Mr. Chairman, of the Chinese during investigations can transmit technical information and assist China in improving its launch capabilities. Anybody that understands even a little bit about gaining intelligence knows this is a process for gaining intelligence, even though it would be the intention, perhaps, and certainly would be the intention, I would imagine, of these firms not to transfer classified and sensitive information.

Now, this amendment would make it clear that the Congress is opposed to assisting China in the development of its space launch and missile capabilities. Why? Because Chinese missiles are targeted at U.S. cities and, obviously, we do not want to make them more accurate and jeopardize American lives.

I can tell my colleagues that as unfortunate as the Indian nuclear explosions are, that is a related incident, because if Chinese missiles are more accurate, it creates instability not only in Asia but certainly in South Asian countries like India. This amendment would help prevent the transfer of militarily sensitive U.S. technology to China that could be used to improve that missile capability.

The amendment would relieve American industry from the burden of determining what information can and cannot be transmitted to China by preventing U.S. participation in launch failure investigations.

The amendment would also discourage U.S. satellite companies from seeking to launch satellites on Chinese launch vehicles. That is not the primary intent, but that is likely to be the result. If those launch vehicles are likely to be a failure or prone to failure, that would encourage alternative, more commercially viable launch options, including commercial American launch services.

The amendment, therefore, Mr. Chairman, would send what should be a very obvious and certainly important signal prior to President Clinton's upcoming summit trip to China that the United States should not agree to measures that would help China improve its space launch or missile launch capabilities. The guidance systems on these missiles are all-important in determining how vulnerable our population really is, and so it is in our best interest not to have this technology flowing to China or, for that matter, to any other country.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Missouri, the distinguished ranking Democrat member of the Armed Services Committee, now called the Committee on National Security.

Mr. SKELTON. Mr. Chairman, I thank my friend from Nebraska for yielding to me.

I take this opportunity, however, to point out that in our research the amendment, in part, simply repeats well-established legal requirements, and we are going to hammer that nail in, I guess, twice today.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I yield 30 seconds to the gentleman from Indiana (Mr. BUYER), and I apologize it is not more.

Mr. BUYER. Thirty seconds?

Well, in 30 seconds, let me just say, let us do the right thing.

I am a Member that is very disturbed about the transfers of technology. Just pause for a moment in this body. We serve a greater cause than corporations. Corporations serve the bottom line, called profit, and their responsibility is to their stockholders. Our responsibility is, in fact, to the taxpayers and the citizens of this country under the umbrella of national security.

So for the White House to sell out for other reasons, to corporations for profit, by pressure, we serve a greater cause here and there better be a deep appreciation of this.

The CHAIRMAN. The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

Mr. BUYER. Mr. Chairman, I ask unanimous consent that I be allowed to claim the opposition's time.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) may control the time otherwise reserved for the opposition.

Mr. BUYER. Mr. Chairman, I yield myself such time as I may consume.

What was very concerning to me was to learn that in 1996 Loral and Hughes had exported commercial satellites to China to launch the Chinese missile and then, in fact, it had exploded.

A Loral subsidiary provided technicians and a report on improving the reliability of the Long March Rocket without first consulting U.S. officials.

And then to learn that the Chinese military officer, in fact, had funneled

$100,000 to the Clinton campaign, allegedly through Johnny Chung.

We also have Mr. Schwartz, the chairman of Loral Space Communications, who was the leading soft money donor for the Democrat Party in 1996 in the amount of $366,000. Subsequently, there was a Justice Department investigation.

And then in February of 1998 the Justice Department criminal inquiry was dealt a very serious blow when President Clinton quietly approved the export to China of similar guidance technology by Loral. Basically, what that did was then defunct the Justice Department investigation.

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There are so many allegations that are happening in this town with regard to the administration and what is going on, I cannot even keep up with them. But what I can say when it comes to matters of national security, the proliferation issues, the transfers of technology, to think that the United States would transfer these technologies by redefining what a satellite is, is no longer under the munitions definition, somehow being slick in getting around definitions, believe me, other countries out there react to it.

So people in America, when they were surprised to learn about India's detonation and learning about their nuclear capacities, should not be surprised, because if the administration is doing such things like this, it will cause reactions.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. BUYER. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding. And I appreciate everything he has said, and I think it goes right to the heart of the Bereuter amendment, which prohibits the U.S. participation in what we call these post-launch failure investigations or debriefings involving the launch of a satellite from China.

The problem is that the Long March rockets, which are used in their strategic systems that are nuclear tipped, some of which are aimed at U.S. cities, are the same rockets that we launch these satellite payloads on. And the way that Loral and Hughes got into trouble here was after a launch went down and they lost a $200 million package, they realized it was in their economic self-interest to show the Chinese how the missile worked. Once again, it was like the guy laying under the guillotine saying, "I think I see your problem," when the guillotine sticks.

So by banning these post-launching debriefings after a failure, which is exactly what the very wise gentleman from Nebraska (Mr. BEREUTER) does here, we take away the temptation from American companies to not only show them how they messed up on this particular launch, but to give them a little more liability for future launches, because they know the profit margin of their stockholders are in part riding on the reliability of these Chinese missiles, which also carry nuclear warheads, which are sometimes aimed at U.S. cities.

So we have got this conflict between commercial interests and national security interests, and the Bereuter amendment is right on point.

Mr. BUYER. Mr. Chairman, reclaiming my time, this is not solely about rockets that may reach U.S. cities. We also have allies in the Pacific Rim for which we have responsibilities within that security of the world. And to think that China, when they had threatened Taiwan and the more we sophisticate their weaponry to inflict harm upon our own allies, how can we in fact count on them if we cannot stand with them in moments like this?

Mr. HUNTER. If the gentleman would continue to yield, he is absolutely right. We are going to be seeing a requirement for greater and greater American deterrent force to go to places like Taiwan as we see the strategic missile capability of the Communist Chinese increase. He is right on point.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Nebraska (Mr. BEREUTER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BEREUTER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentleman from Nebraska (Mr. BEREUTER) will be postponed.

It is now in order to consider Amendment No. 3 printed in part A of House Report 105–544.

AMENDMENT NO. 3 OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A amendment No. 3 offered by Mr. HEFLEY:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. PROHIBITION ON EXPORTS OF MISSILE EQUIPMENT AND TECHNOLOGY TO CHINA.

No missile equipment or technology (as defined in section 74 of the Arms Export Control Act (22 U.S.C. 2797c)) may be exported to the People's Republic of China.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from Colorado (Mr. HEFLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

Mr. SKELTON. Mr. Chairman, may I at this point, since no Member has risen in opposition, ask unanimous consent to be permitted to control the time normally allotted to the opposition?

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. The gentleman from Missouri may control time otherwise reserved for opposition.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is actually the Hefley-Ryun amendment, and I would like to speak just a few minutes on it. Mr. Chairman, it is a very simple amendment that would address what I think is a fatal flaw in the Administration's current policy on China. That amendment deals with not all the other things that have been talked about here today, this deals strictly and thoroughly with national security.

The amendment would simply prohibit the export or reexport of United States missile technology or equipment to the People's Republic of China. One would think common sense tells us that we should not send any of our defense-related technology or equipment to the only remaining communist country in the world that maintains a nuclear capability.

In 1996, the Clinton administration reportedly permitted the two U.S. firms to transfer technology which would improve the accuracy and capability of Chinese ballistic missile forces. Some may say trade involving space launch vehicles and satellite technology used for commercial purposes should not be impeded. But the commercial and military technology in this case are virtually identical, and it is a risk we simply cannot take.

If we launch a rocket which has the capability of launching more than one satellite, then we have the same technology that we do for multiple warheads on an intercontinental ballistic missile, same technology.

The Chinese had a problem. Their rockets tended to blow up and they tended not to get to where they were supposed to go. So we stepped in and we said, let us help you. Let us fix that. I think if every Member of this body were to ask their constituents back home if the current policy makes sense, they would hear a resounding "no."

This is a clear vote to make it harder for potential adversaries to threaten the American people, and I urge all Members to support this amendment.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

I would appreciate if the gentleman would tell me what this does that is not already applicable under the existing law.

Mr. HEFLEY. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Colorado.

Mr. HEFLEY. Mr. Chairman, what this does is it removes the waiver system under which what happened did happen so no missile-related technology could be transferred to the Chinese.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding.

The main point that I want to make really has less to do with this amendment than my concern about the bill in general. As Members of Congress, all of us want to do all kinds of things. One can make an argument that the military today needs $270 billion. But I think, given the growing gap between the rich and the poor in America, given the fact that millions of senior citizens in this country are unable to afford their prescription drugs, given the fact that there is an enormous crisis in child care in this country, given the fact that there has been a growth in recent years of people using emergency food shelters, people sleeping out on the streets, I think the time is now to get our priorities right.

I believe that this country needs a strong military, but I think that there are other needs out there that are not being adequately addressed as we put $270-some-odd billion into the military, more than is needed by the intelligence agencies. And we should also recognize that not only are we putting substantial sums of money into our military, we are also part of NATO, which is a major military alliance as well.

The bottom line for me is to say that now that the Cold War is over, is it appropriate to continue spending so much money on the military when there are so many other needs in this country? Is it appropriate to continue to build weapons systems that we do not need when this country continues to have by far the highest rate of childhood poverty in the industrialized world? Is it appropriate that we are spending money on the military with the end of the Cold War when our educational system is lacking in so many respects, when the weakest and most vulnerable people in this country are hurting and not getting the governmental support that they need?

So I want to just thank the gentleman from Missouri (Mr. SKELTON) for yielding me this brief time to suggest that I will be voting against the entire bill. Because I think it does not, now that the Cold War is over, indicate a rationale and sensible set of priorities for this country.

Mr. HEFLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. PAPPAS).

Mr. PAPPAS. Mr. Chairman, I stand in strong support of these amendments.

Mr. Chairman, I serve on the National Security Committee. I see where we are trying to keep many fires burning in all corners of the world. America is sending troops to Bosnia, sending carriers to places like the Persian Gulf, trying to prepare a missile defense system, modernize equipment, invent future technologies while cutting troops, stopping research, and extending the life of old systems.

Now we have to add a new need to the mix. And it is an urgent need. Communist China. Missiles aimed at America. How do we as a Congress respond?

Well, I think what we must do is to protect America first. Congress must provide for the national defense of our country. Business interests, as much as I support them in many areas, must be second to the protection of U.S. national security interests. We must stop the flow of sensitive technology that makes the Chinese Army and Navy stronger.

I am concerned about the politics involved but that can not be used by any party to distract from defending our country or as an excuse to point fingers and not do anything. This is our chance to plug these loopholes now! Partisanship can wait for another day.

We have seen the results of failure to stop the spread of this missile technology. India has recently tested nuclear devices. One of the reported main reasons for this test has been India's fear of China's ability to use nuclear technology against them. Rightly or wrongly, India perceives the advances in Chinese technology, with U.S. help as a threat. Now the world is facing a possible renewed nuclear arms race. Perhaps this could have been avoided if our country had the foresight to stop this.

As such, I would urge this Congress to support the four amendments dealing with Chinese technology today. We must empower this Congress and our Defense Department to make national security decisions, not business people solely concerned with the bottom line.

I also would draw this Congress' attention to an amendment that was offered by Mr. SAXTON that was not ruled in order that would close the loophole to China known as Hong Kong. Last time I checked, Hong Kong was now under Communist Chinese Control and the previous government has been replaced by PLA representation. However, we can send sensitive military technology to Hong Kong but not China. Although this amendment was not ruled in order, I hope this Congress will continue to pay attention to this loophole that will probably be the conduit to more threats against U.S. interests.

I would ask that this Congress support these four amendments. Each should send a bipartisan measure that this Congress does not want to arm potential adversaries with weapon systems for nuclear capabilities.

Mr. HEFLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. RYUN), the cosponsor of this amendment.

Mr. RYUN. Mr. Chairman, one thing that has been truly a pleasure in serving our national security is that when we come to an issue such as this that is really a national security issue for this country, I have seen this committee come together in such a way that they worked on policy and not on politics. So I hope today that it will be unanimous and strong support for this amendment, the Hefley-Ryun amendment, because I do believe there is a threat with communist nuclear missiles.

In 1996, after the failed launch of the Chinese Long March missile, engineers from the United States aerospace firms went to China to lend their expertise to Great Wall Industries, the manufacturer of these particular missiles.

A 1997 classified Department of Defense report concluded that at least one U.S. company gave sensitive missile guidance technology to the Chinese. The DOD report then concluded that that transfer damaged our national security. So that is why this is beyond politics and it is really into policy.

Next month, President Clinton will visit Beijing. He is expected to announce a new space cooperation agreement and possibly discuss lifting sanctions on the transfer of further military technology. As long as China remains a communist country and transfers technology to regimes such as Iran and Pakistan are possible through China, the United States should not share its commercial space technology that could be used against us for military purposes.

China has 13 long-range missiles aimed at the United States. The CIA just confirmed this a couple weeks ago. It also considers the United States its number one security threat. No agreement increasing technology transfers to Communist China should be pursued. It is irresponsible to advance the military capabilities of a communist country, even more so as the U.S. lacks missile defense programs that are necessary to combat these.

It is unfortunate that we need to offer this amendment today. The issue is clear. The United States should not provide missile technology to communist countries. And it is my hope that colleagues on the opposite side of the aisle will join us in supporting the Hefley-Ryun amendment.

Mr. HEFLEY. Mr. Chairman, may I inquire how much time is remaining?

The CHAIRMAN. The gentleman from Colorado (Mr. HEFLEY) has 30 seconds remaining. The gentleman from Missouri (Mr. SKELTON) has 2 minutes remaining.

Mr. SKELTON. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana (Mr. BUYER).

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Mr. BUYER. Mr. Chairman, I thank my friend for yielding to me. I just wanted to do a reminder to my colleagues.

If you recall, it was several years ago we had a debate in the Committee on National Security, and that was who should make these decisions on the transfers of these type of technologies. At the time, the administration wanted the Committee on Commerce to do that and to take the Pentagon out of that question. We made the decision in a very bipartisan manner in the Committee on National Security, that we felt matters such as this are so important to our Nation that the Pentagon needs to be in the loop.

When we force the Pentagon into the loop and when the Pentagon raises objections, they then get squashed, that is not a good thing.

I support the Hefley amendment to remove the waiver authority by the President.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

Mr. HEFLEY. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I just want to strongly endorse the Hefley amendment. This chart shows all of the aspects of missile technology that are manifest in a commercial satellite program. They include payload disbursal technology, kick motor technology, radiation hardened electronics, encryption devices, launcher attitude control.

So there are a lot of aspects of technology beyond the mere delivering of a package that can assist the Chinese rocket program. So the amendment of the gentleman from Colorado (Mr. HEFLEY) is right on target; I would recommend its approval.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in part A of House Report 104–544.

AMENDMENT NO. 4 OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A, amendment No. 4 offered by Mr. HUNTER:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. PROHIBITION ON EXPORTS AND REEXPORTS OF SATELLITES TO CHINA.

(a) IN GENERAL.—No satellites of United States origin (including commercial satellites and satellite components) may be exported or reexported to the People's Republic of China.

(b) PROHIBITION WITH RESPECT TO INFORMATION, EQUIPMENT, AND TECHNOLOGY.—No information, equipment, or technology that could be used in the acquisition, design, development (including codevelopment), or production (including coproduction) of any satellite or launch vehicle may be exported or reexported to the People's Republic of China.

(c) APPLICABILITY.—Subsections (a) and (b) apply to any satellite, information, equipment, or technology that as of the date of the enactment of this Act has not been exported or reexported to the People's Republic of China, whether or not an export license for such export or reexport has been approved as of such date.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from California (Mr. HUNTER) and a Member opposed each will control 5 minutes.

Mr. SKELTON. Mr. Chairman, since no Member has risen in opposition, I ask unanimous consent that I be permitted to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have spoken about this amendment for some time now during this debate. I think most of the folks that are listening to the debate understand the problem. The problem is that there is an inextricable link between the satellite technology that we have been transferring to China pursuant to our satellite launch partnership with them and their nuclear missile capability.

While we are trying to sort this problem out, Mr. Chairman, it makes sense for us to stop the train, to put on the brakes and say we are not going to make any transfers, no export or reexport of U.S. satellites, including commercial satellites and satellite components, to the People's Republic of China. That is what this amendment does.

Mr. Chairman, in this crash we saw another problem that we had not thought about, and that is that we have these packages which, in theory, are protected against Chinese scientists and engineers being able to examine the contents even while they are in China. I listened to the President of Hughes Electronics tell me very passionately how these packages are guarded and nobody is allowed to come close to them, so the engineers in this Communist country will have no ideas what is inside the packages.

The problem is, if you have an aborted launch like the one that we had or a disastrous launch where the Chinese missile with the satellite package atop it goes down in China, and the damage is then recovered and analyzed by the People's Liberation Army of China, they then have access to all of the contents of that satellite package.

Let me just say, Mr. Chairman, without having the most recent briefings, which the administration I think has been somewhat reluctant to give, on exactly what transpired after the crash, I am concerned and I am worried that some things were recovered by the People's Liberation Army that should not have been recovered.

So this amendment bans the export and reexport of U.S. satellites, including commercial satellites and satellite components into the People's Republic of China. I think it is a timely amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wish to point out that we are hammering the nail in that is already been flush to the board. Nevertheless, let me point this out: No controlled information relevant to ballistic missiles or warhead delivery technology has been authorized to be made available to Chinese authorities in connection with past space launches of commercial satellites.

The existing procedures, including the technical safeguards agreement negotiated under the Bush administration, that is the previous Republican administration, signed in February 1993, explicitly prohibit transfer of technology related to launch vehicles. Warhead delivery technology was also prohibited.

Mr. Chairman, I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, how much time do we have remaining?

The CHAIRMAN. The gentleman from California (Mr. HUNTER) has 2½ minutes remaining.

Mr. HUNTER. Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I have a question for the author of the amendment. Earlier I rose and discussed that this question came up several years ago in the Committee on National Security with regard to the jurisdiction question on commodity.

As I understand, on commodity jurisdiction, the transfer from the State Department with regard to satellites that used to be classified under the munitions has now been transferred to the Commerce Department, who would look at the satellite and say this is really dual-use technology. Am I understanding that correctly?

Mr. HUNTER. Mr. Chairman, if the gentleman will yield to me, that is right. Oversight or the primary review of the satellite transfers has now been taken away from the Department of Defense, who look at it from a national security standpoint, and given to the Department of Commerce, which arguably does not have the experts to understand exactly what is being transferred, and does not have probably the political will that the Department of Defense has to keep critical militarily strategic components from going to the hands of our potential adversaries. The Defense Department is tougher on these transfers.

Mr. BUYER. But the sensitivity about the duality of the purposes, saying that this is a rocket system that could only launch a satellite, in essence is the same rocket system that it would take to send a nuclear warhead anywhere in the world.

Mr. HUNTER. The gentleman is exactly right. In fact, it is exactly the same missile. The Chinese use the same missile both for the satellite launch and for the nuclear weapons launch. That is why it is so critical to really examine these packages.

Mr. BUYER. So earlier when the House adopted an amendment that said no to the President on waivers of munitions, this amendment is saying no to the waivers on the commodities?

Mr. HUNTER. That is right. This thing bans the export and reexport.

Mr. BUYER. Mr. Chairman, I support the amendment.

The CHAIRMAN. The gentleman from California (Mr. HUNTER) has 1 minute remaining.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just make this clear. This bans the export and reexport of U.S. satellites, including commercial satellites and satellite components, to the People's Republic of China. I think it is necessary at this time.

My friend the gentleman from Missouri pointed out that we have waived or we have allowed these transfers in the past under the Bush administration. That is true. I led off my debate by saying this has gone back a long way.

I think, in light of the activities that have taken place in recent years, 1996 through 1998, I personally have a problem in trusting the folks that are making the decision to go or no go on satellite transfer, to allow them to have the discretion at this time.

Mr. Chairman, I think this is a prudent thing for the House to put on the brakes at this point and to hold up all transfers until we sort out how much damage has been done, and damage has been done, according to the Department of Defense.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HUNTER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentleman from California (Mr. HUNTER) will be postponed.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 441, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. A-1 offered by the gentleman from South Carolina (Mr. SPENCE); amendment No. A-2 offered by the gentleman from Nebraska (Mr. BEREUTER); amendment No. A-3 offered by the gentleman from Colorado (Mr. HEFLEY); and amendment No. A-4 offered by the gentleman from California (Mr. HUNTER).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. A-1 OFFERED BY MR. SPENCE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from South Carolina (Mr. SPENCE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 417, noes 4, not voting 11, as follows:

[Roll No. 167]

AYES—417

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—4

Hamilton
Hastings (FL)
McDermott
Wexler

NOT VOTING—11

Bateman
Cannon
Carson
Clay
Ewing
Gonzalez
Harman
Meeks (NY)
Mollohan
Stabenow
Stark

☐ 1429

Mr. HASTINGS of Florida and Mr. McDERMOTT changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT A-2 OFFERED BY MR. BEREUTER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Nebraska (Mr. BEREUTER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 414, noes 7, not voting 11, as follows:

[Roll No. 168]

AYES—414

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—7

Campbell
Hamilton
Hastings (FL)
McDermott
Watt (NC)
Wexler
Yates

NOT VOTING—11

Bateman
Carson
Clay
Cox
Diaz-Balart
Ewing
Gonzalez
Harman
Meeks (NY)
Norwood
Stabenow

☐ 1439

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. DIAZ-BALART. Mr. Chairman, on rollcall No. 168, I was inadvertently detained. Had I been present, I would have voted "yes."

AMENDMENT A-3 OFFERED BY MR. HEFLEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 412, noes 6, not voting 14, as follows:

[Roll No. 169]

AYES—412

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon

Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—6

Campbell
Hamilton
Hastings (FL)
McDermott
Moran (VA)
Wexler

NOT VOTING—14

Bateman
Brady
Carson
Clay
Cox
Ewing
Fawell
Gonzalez
Harman
Hill
McIntosh
Meeks (NY)
Stabenow
Weldon (FL)

□ 1448

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WELDON of Florida. Mr. Chairman, on rollcall No. 169, I was inadvertently detained. Had I been present, I would have voted "yes."

AMENDMENT A-4 OFFERED BY MR. HUNTER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. Hunter) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a five-minute vote.

The vote was taken by electronic device, and there were—ayes 364, noes 54, not voting 14, as follows:

[Roll No. 170]

AYES—364

Abercrombie
Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Doggett
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Etheridge
Evans
Everett
Fawell
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Rush
Ryun
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—54

Ackerman
Allen
Barrett (WI)
Becerra
Berry
Brown (CA)
Campbell
Clayton
Conyers
Crane
Dicks
Dixon
Dooley
Dreier
Ehlers
Eshoo
Farr
Fattah
Fazio
Furse
Hamilton
Hastings (FL)
Houghton
Johnson (CT)
Kilpatrick
Kolbe
LaFalce
Lee
Lewis (GA)
Lofgren
Manzullo
Matsui
McCarthy (MO)
McDermott
Moran (VA)
Obey
Olver
Ortiz
Pickett
Reyes
Roybal-Allard
Sabo
Salmon
Sánchez
Sawyer
Serrano
Skaggs
Smith, Adam

Tauscher
Thomas
Waters
Watt (NC)
Wexler
Yates

NOT VOTING—14

Bass
Bateman
Carson
Clay
Cox
Ewing
Gonzalez
Harman
Kasich
Meeks (NY)
Owens
Souder
Spratt
Stabenow

□ 1457

Mr. DOOLEY of California changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in Part B of House Report 105–544.

AMENDMENT NO. 1 OFFERED BY MRS. LOWEY

Mrs. LOWEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows.

Part B amendment No. 1 offered by Mrs. LOWEY:

At the end of subtitle A of title VII (page 189, after line 5) insert the following new section:

SEC. 705. RESTORATION OF POLICY AFFORDING ACCESS TO CERTAIN HEALTH CARE PROCEDURES FOR FEMALE MEMBERS OF THE ARMED FORCES AND DEPENDENTS AT DEPARTMENT OF DEFENSE FACILITIES OVERSEAS.

Section 1093 of title 10 United States Code, is amended—

(1) in subsection (a), by striking out "(a) RESTRICTION ON USE OF FUNDS.—"; and

(2) by striking out subsection (b).

The CHAIRMAN. Pursuant to House Resolution 441, the gentlewoman from New York (Mrs. LOWEY) and a Member opposed each will control 20 minutes.

Mr. BUYER. Mr. Chairman, I rise in opposition to the amendment and claim the time.

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. LOWEY).

□ 1500

Mrs. LOWEY. Mr. Chairman, I yield myself such time as I may consume.

The gentlewoman from Maryland (Mrs. MORELLA) and I are pleased to offer an amendment today on behalf of the gentlewoman from California (Ms. HARMAN), who unfortunately cannot be here. The Lowey-Harman-Morella amendment would give military women access to the health care they need and deserve.

Our amendment will repeal a provision of law which prevents servicewomen and female dependents of servicemen from using their own funds to obtain legal abortion services in military hospitals. Women who volunteer to serve in the Armed Forces already give up many freedoms and risk their lives in defending our country. They should not also have to sacrifice their health, their safety and their basic constitutional rights to a policy with no valid military purpose.

I want to make sure that every Member of Congress knows that the Department of Defense itself is opposed to the current policy. Our amendment is first and foremost about protecting women's health. Local facilities and foreign nations are often not equipped to perform abortions safely and medical safety and medical standards are often far lower than those in the United States.

A woman forced to seek an abortion at local facilities or forced to wait to travel to acquire safe abortion services faces tremendous health risks. Do we really want American servicewomen overseas seeking back-alley abortions on their own in a foreign country?

This amendment does not allow taxpayer-funded abortions at military hospitals, nor does it compel any doctor who opposes abortion to perform an abortion. The amendment merely reinstates the policy that was in effect from 1973 to 1988, and again from 1993 to 1996, giving women in the military who are stationed overseas the same rights as military women in their own country: the right to purchase a safe and legal abortion with their own private money.

Servicewomen and military dependents stationed abroad do not expect special treatment, only the right to receive the same services guaranteed to American women under Roe v. Wade. This bill penalizes women who have volunteered to serve their country by prohibiting them from exercising their constitutionally protected right to choose.

I urge my colleagues, consider the irony of the United States military, the greatest and most powerful in the world, denying overseas servicewomen and servicemen and their families the rights and freedoms we are so justifiably proud of at home.

I urge support for the Lowey-Harman-Morella amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BUYER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, over the past three decades, the availability of abortion services at military medical facilities has been the subject of numerous changes and interpretations over the years. In January of 1993, President Clinton signed an executive order directing the Department of Defense to permit privately funded abortions be performed in military treatment facilities.

The changes ordered by the President, however, did not have the effect of greatly increasing access to abortion services. Few abortions were performed at military treatment facilities overseas for two principle reasons:

First, the United States military follows the prevailing laws and rules of foreign countries regarding abortions and, secondly, the military had a difficult time finding health care professionals in uniform willing to perform the abortions.

The current law is consistent with the Hyde language. It allows military women and dependents to receive abortions in military treatment facilities in cases of rape, incest or when necessary to save the life of the mother. This is the same policy that has been in effect from June 1988, until President Clinton signed the executive order. The House has voted several times to ban abortions at overseas military hospitals. Last year this amendment was offered and defeated at full committee markup and during floor consideration.

In 1996, between the defense authorization bill and the defense appropriations bill, this House voted 8 times in favor of the ban on abortions at military treatment facilities. In those overseas areas, where female beneficiaries do not have access to safe, legal abortions, beneficiaries have the option of using space-available travel for returning to the United States or traveling to another overseas location for the purpose of obtaining an abortion.

Mr. Chairman, I reserve the balance of my time.

Mrs. LOWEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentlewoman for yielding me the time.

This amendment does not fund abortions with tax dollars. Let us get that very clear. Tax dollars under current law may not pay for abortions. Tax dollars under this amendment will not pay for abortions. This amendment merely assures that soldiers, sailors, Marines do not become second class citizens when they don the uniform of our great Nation to defend freedom.

This amendment merely assures that our servicemen and servicewomen and their spouses do not have less freedom than the people they defend. All this amendment guarantees is that a servicewoman or a serviceman's wife has the same right any other American woman has to terminate a pregnancy in, for example, the first trimester, in a safe, clean health care facility. Any serviceman's wife or servicewoman who would want to would have to pay for the procedure themselves. This does not provide tax dollars for the procedure. In fact, this amendment only does three things:

It provides equal rights to our military servicemen and servicewomen to legal medical care. It provides equal protection against care in substandard hospitals by substandard physicians. And thirdly, it provides equal protection under the law. Remember, the way the current policy is written, if you are a colonel, a major, and you are well paid, yes, you can fly back to the States to have care. If you are an enlisted man, frankly, you cannot. So this prevents discrimination on an economic basis and merely guarantees to servicemen's wives and to servicewomen exactly the same rights to access to medical care that all other Americans enjoy.

Mr. BUYER. Mr. Chairman, I yield myself 15 seconds to respond and say that space-available travel is at no cost to the service member so there is no discrimination between rank of officers and enlisted.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. BUYER. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Remember, space available, I have a lot of family in the military, is hard to get, and there is timeliness involved in this issue.

Mr. BUYER. Mr. Chairman, reclaiming my time, there is no difference in treatment between the officer corps and the NCO corps, the enlisted corps on this measure.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding me the time.

I rise again in opposition to this amendment. We have debated this amendment now every year since I was first elected to the Congress. Prior to coming to the Congress, I was a practicing physician in Florida and, prior to going into private practice, I spent 6 years in the U.S. Army Medical Corps. Indeed, I was in the medical corps when this policy was first established under the Reagan administration. I can tell my colleagues that the policy was well received by the people within the medical corps, the men and women.

The reason it was so well received is the same reason that it is very controversial here. There are lots of Members who feel that killing the unborn child in the womb is morally wrong and that we should not be doing that. To use a military treatment facility and to ask our men and women in uniform, many of whom have very, very strong objections to this procedure, they do not consider it a medical procedure, they consider it killing, is just wrong.

I can tell my colleagues that when I was on active duty, when this ban went into effect, it was very, very well received by the nurses, by the physicians. They did not like doing it, and today, still, they do not like doing it. I would encourage all of my colleagues to vote no on this amendment. Those who would claim that no taxpayer dollars are being used, I disagree with that. They are using the facility. They are using the materials. They are using the infrastructure, the electricity that is there. I say, do not use in any way tax dollars for this kind of purpose.

The reason people do not like this is the same reason they could not find any doctors to do it in the first place, and that is because it is ending a human life. People will try to dehumanize this whole procedure and call it something else, but in reality it is taking a living human being in the womb and abruptly ending its life. I think it is wrong, and I urge all my colleagues to vote no on this.

Mrs. LOWEY. Mr. Chairman, I yield myself 15 seconds just to remark to the gentleman that the military does have a conscience clause. No doctor has to perform this procedure if it is against their own views.

Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Chairman, I rise in strong support of the Lowey-Harman-Morella amendment.

This amendment is simply about restoring the basic rights that have been denied to women simply because they serve in the military. Every woman in America has a constitutional right to reproductive choice. Yet the anti-choice movement in Congress has been relentless to overturn this constitutional right.

Poor women, women who live in the Nation's capital, women in the military are just the first victims of a deliberate attempt to outlaw access to comprehensive reproductive services to all American women. This amendment ensures that women in the military can exercise the same rights that all women of America were guaranteed 25 years ago.

The amendment does not require the Department of Defense to pay for abortions. It simply allows military women to seek and pay for a full range of health care services. If that includes electricity, I am sure they can pay for the electricity as well.

If this amendment fails, Congress will jeopardize the health of all women who serve in the military overseas. I urge my colleagues to think about the message they are sending and to vote aye on this amendment.

Mr. BUYER. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Chairman, for many years before it was law, no abortions were done in our military hospitals. The reason was that military doctors will not do abortions. The present policy and its law is that if the life of the mother is at risk, those abortions are permitted. As a matter of fact, they are fully funded. In cases of rape and incest, the abortion is permitted.

When American people are polled, fully 80 percent of them oppose abortion for birth control. If you exclude life of the mother, rape and incest, essentially all that remains is abortion for birth control. A lot has been said about the health of the mother. Killing babies when the mother's life is not at risk is not a woman's health issue.

Let me close by saying that you do not have a right to do what is wrong, and killing the preborn baby is wrong.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentlewoman from New York for yielding me the time.

I would simply say that, here we go again, on an argument that argues against the law of the land. Our military personnel deserve to be under the law of the land. So all we are simply asking is that the laws of this land regarding choice and the right to an abortion be applied to the women in the United States military. Prohibiting women from using their own funds to obtain abortion services at overseas military facilities actually endangers the woman's health. Women stationed overseas depend on their base hospitals for medical care and are often situated in areas where local facilities are inadequate or unavailable. This policy may cause a woman facing a crisis pregnancy to seek out an illegal and potentially unsafe abortion.

The issue of as space available, I think it is very well known that even in circumstances of a death at home it becomes very difficult for our servicemen and women sometimes to be able to get back home. Certainly space available is going to argue against a crisis situation when there is the necessity to protect the life and health of the mother. We need to comply with the law of the land for all of our U.S. military women. Let us be fair and treat them as they should be.

I strongly support amendment No. 45 which will restore regulations permitting abortions for service members and their dependents at overseas Defense Department Medical facilities.

Without this amendment women who have volunteered to serve their country will continue to be discriminated against by prohibiting them from exercising their legally protected right to choose abortion simply because they are stationed overseas.

While the Department of Defense policy respects the laws of host nations regarding abortions, service women stationed overseas should be entitled to the same services as do women stationed in the U.S.

Prohibiting women from using their own funds to obtain abortion services at overseas military facilities endangers women's health. Women stationed overseas depend on their base hospitals for medical care, and are often situated in areas where local facilities are inadequate or unavailable. This policy may cause a woman facing a crisis pregnancy to seek out an illegal and potentially unsafe abortion.

Since 1985, the ban on DOD abortions was made permanent by the DOD authorization bill. This amendment does not require the Department of Defense to pay for abortions, it simply repeals the current ban on privately funded abortions at U.S. military facilities overseas. Absolutely no Federal funds will be used for abortion services.

In addition, all three branches of the military have a "conscience clause" provision which will permit medical personnel who have moral, religious or ethical objections to abortion or family planning services not to participate in the procedure. These provisions will remain intact as well.

Access to abortion is a crucial right for American women, whether or not they are stationed abroad. This amendment must be supported as women who serve our country must be able to exercise their choice whether or not they are on American soil.

Mr. BUYER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. Mr. Chairman, I rise in strong opposition to this amendment. Indeed the law of the land was passed on February 10, 1996. It was with regard to this issue. It is entitled the National Defense Authorization Act for Fiscal Year 1996 and was signed into law by President Clinton.

This act contained a provision to prevent DOD medical treatment facilities from being used to perform abortions except where the life of the mother is endangered or in the case of rape or incest. Quite simply, should this amendment be adopted, not only would taxpayer-funded facilities be used to support abortion on demand, but resources would also be used to search for, to hire and to transport new personnel so that abortions could be performed.

□ 1515

Mr. Chairman, this is unacceptable and disturbing. Military treatment centers must remain dedicated to healing and nurturing life. As such, they should not be forced to facilitate the taking of the most innocent human life, the child in the womb.

I urge my colleagues to protect the sanctity of life and vote "no" on this amendment.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I rise today in support of the Lowey-Harman amendment to the defense authorization bill because it is fair and it is right.

Women serving our Nation overseas should have access to constitutionally protected health care procedures. The United States military should provide for all the health needs of all its members. Health needs are health needs.

Women who are proudly serving and protecting the security of our Nation overseas should be able to depend on their base hospitals for all of their medical services. Therefore, women should have access to reproductive health care just as they have access to treatment for the flu.

I urge my colleagues to support this amendment.

Mr. BUYER. Mr. Chairman, I yield myself 1 minute to make a couple of observations.

One is that, in fact, the amendment before us is striking language. So with regard to the last speaker, when he said we only want to provide constitutionally protected abortion access, then what we do is we set forth the scenario of having also late-term abortions. Partial-birth abortions could also then be performed at military treatment facilities. I do not think that is what we want at military treatment facilities.

We also have the scenario where it was argued this would not have anything to do with taxpayer funds. Well, if in fact our problem is we cannot find a military doctor willing to perform an abortion, then are we going to have to contract out to have that abortion performed? And if it is contracted out, who pays for that? So I think we are talking about some taxpayer funding.

Also, I am paying attention to the language here, and I think everyone should. I guess what we are calling abortions here on the House floor, the proponents of this amendment do not want to call it abortion. They call it women's health and comprehensive reproductive health services. But let us call it what it is. This is taking the life of another.

Mrs. LOWEY. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland (Mrs. MORELLA), my former co-chair of the Congressional Caucus on Women's Issues.

Mrs. MORELLA. Mr. Chairman, I thank the gentlewoman for yielding me this time.

I am pleased to be a cosponsor of this amendment offered by my friend, the gentlewoman from New York (Mrs. LOWEY) and also the gentlewoman from California (Ms. HARMAN). As we know, this amendment is simply going to give our U.S. servicewomen stationed overseas access to the Department of Defense health facilities by repealing a provision of law which bars them from using their own funds, and I emphasize that, to obtain legal abortion services in military hospitals.

Base hospitals are sometimes the only facilities for medical care, and in countries like Bosnia, usually there is no other resort because local health facilities are frequently inadequate. They just do not meet our standards of health. And so, without having the amendment that we offer, in order to resolve the problem of not having adequate medical facilities, illegal procedures perhaps might be the result of it, or unsafe operations.

And abortion is a constitutional right. We ask many sacrifices of our service people. Let us not compel them to sacrifice basic health rights, the rights of privacy and the constitutional rights that others do have.

Also, this amendment is about fairness. Our servicewomen and military dependents stationed abroad are not asking for any special treatment, they are only asking for the ability to have the very same rights that all Americans have under the Constitution.

And, also, there is a matter of looking economically at it. Yes, there might be those who say, well, members can go home for those services. Well, maybe those who are highly paid can, but there are a certain group of officers who have served us so very well, where the expense would be prohibitive and so, therefore, they are stuck. So there is an economic inequity in that.

I want to reiterate that we are not asking that every doctor perform the abortion, even though it is constitutional. We are not asking for taxpayers to fund it at military hospitals. Any doctor who opposes it on principle or a matter of conscience would not have to perform the abortion, even if it is legal.

And this does not mean that we have the expense of having to pay for it at another facility. The amendment merely reinstates the policy that was in effect from 1973 until 1988 and then it was again in effect from 1993 to 1996.

Let me finally just point out the strong support from health care providers, those groups that know and do work with health care organizations like the American Nurses Association, the American Public Health Association, the American Medical Women's Association, the American College of Obstetricians and Gynecologists, Planned Parenthood Federation of America. Those among many others have expressed their strong support for this amendment.

It is also supported by the Department of Defense, I would like to emphasize. So I hope that Members would join us in supporting this amendment.

Mr. BUYER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM), a member of the committee.

Mr. CUNNINGHAM. Mr. Chairman, I spent 20 years in the military and not once, not one time did I ever see a woman's right to choose denied. If there was a need for that individual to come back and do it and get the procedure, they were allowed. Whether we are for or against abortion, it should not be in this body, and that includes funding for it.

But in the military, if a woman is overseas and they are in a unit, they are in a combat backup unit, they do not want somebody there that has gone through an abortion. They want them out of the country. They want them out of that unit until they can recover and then come back.

I have heard that it denies the basic rights. It does not. The statute says that they have the right, especially in the case of rape, incest or life of the mother. And any other case, the military will bring them back.

Those folks that are for this very amendment are the same folks that are cutting defense and cutting defense and cutting defense. In the case of the gentlewoman from California (Ms. HARMAN), her biggest contributor is Loral, the one that sold the technology to the Chinese. If my colleagues want to worry about men and women in the military, then take care of the military and quit bringing these kinds of amendments up.

Mrs. LOWEY. Mr. Chairman, I yield 2½ minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentlewoman from New York for yielding me this time and congratulate her on this important amendment. I rise in strong support of the Lowey-Harman amendment.

Do we hear what we are saying in this debate to the women of our armed services? Make the choice to serve your country in the armed services of the United States and lose your choice over your own body. Join the armed services, sisters, and lose your constitutional rights.

All the red herrings in the world will not make this palatable to young women in this country today. The notion about whether their own money or taxpayers' money is involved, for example. Women would agree to paying the full cost, including the electricity, for the Member who was concerned there. Include the full cost of the abortion. The gentleman wants to know about contracting out. The last time I heard, we contract out for the full cost of the service.

Show some respect for women serving their country. Imagine the position we put them in in Haiti or in Bosnia, having to find a safe place for an abortion. Suppose it is a crisis pregnancy but not one resulting from rape or incest. Why would any Member of this body want to put any woman serving in the armed forces at risk? Why? Why even would we want to put her at any inconvenience? She has signed up to serve her country. I think she deserves all the respect we can muster.

And let me be clear. The armed services today needs its women more than its men, because it is the women whose percentages are rising. It is the percentage of men that is going down. Women are indispensable in the armed services today. They are very young; they may have a different life-style from many Members of this body, but we had better understand this: the services will have to close up shop without them.

This is the wrong message at the wrong time to send to the young women the services are trying to recruit today. The women's numbers are going up. They are at 14 percent. In 1990 they were at 11 percent. They keep rising. They are the cream of the crop. They are listening to this debate, and I believe I speak for them and for the women now serving when I say eliminate discrimination against women in the armed forces, stand with the women serving their country.

Mr. BUYER. Mr. Chairman, I yield myself 1 minute to respond.

This is not a question of those in the military versus women who serve in the military, and I think that is an insulting argument for anybody to use and it is a red herring in this argument.

If my colleague wants to talk about respect, I have respect for the sanctity of human life. That is what this is about. My colleague is a little uncomfortable about that, is she not? That is what this is about. It is about human life.

Think about our military. The purpose we have in the military is to protect our freedoms and our liberties, and when that is laid out in the Constitution, we believe, we, those of us who believe in the sanctity of life, believe, and I am just as happy that the gentlewoman's parents decided to have her, just as I am glad my parents decided to have me, and I am appalled that someone would come to the floor and say this is something about women's rights.

Ms. NORTON. Mr. Chairman, will the gentleman yield?

Mr. BUYER. I yield to the gentlewoman from the District of Columbia.

Ms. NORTON. Mr. Chairman, the gentleman is appalled because the message strikes home. The gentleman is appalled because this Member is calling for respect. And as the gentleman respects human life on his set of values, there are no set of values on which the gentleman should not be respectful of women in the armed forces.

Mr. BUYER. Mr. Chairman, I reclaim my time to say I respect human life, yes, on my set of values, on the set of values that is the proponent of life as opposed to killing a human being.

Mrs. LOWEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentlewoman for yielding me this time, and I rise in support of the Lowey-Harman-Morella amendment.

DACOWITS, the Defense Advisory Committee on Women in the Services, found that women soldiers had difficulty getting access to medical care overseas, particularly in the Pacific. This unequal ban exacerbates this problem.

Last time I checked, an American woman still had the right to choose, that is if she is living in the United States. When she decides to defend our country, she loses that constitutional right. When a female soldier is defending the rights and privileges of this country, she is denied some of the same rights and privileges.

If a male member of the armed services needs medical attention overseas, he receives the best. If a female member of the armed services needs a specific medical procedure, she is forced to either wait until she can travel to the United States, at extreme inconvenience and expense, or go to a foreign hospital which may be unsanitary and dangerous.

This bill will cost the American taxpayer absolutely nothing. Each woman will pick up her own tab. All she wants is the constitutional right that she has in this country to also be provided when she is serving overseas in American bases; to be able to go to American hospitals and receive the same rights.

□ 1530

Women have waited long enough to receive equal treatment in the military. I hope that my colleagues on both sides of the aisle will vote for this amendment and give these most-deserving soldiers back what is rightfully theirs.

I might add, only in a Republican Congress would constitutional rights that are given to our citizens over here be denied to them when they are overseas defending probably many men that did not even serve in the military.

Mr. BUYER. Mr. Chairman, I yield myself 15 seconds to respond.

I believe the remarks of the gentlewoman from New York (Mrs. MALONEY) are probably very insulting to conservative Democrats.

Mrs. LOWEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, I rise in strong support of the Lowey-Harman amendment.

This amendment restores, this is essentially what it does, it restores equal access to safe medical treatment for U.S. military servicewomen, military dependents who are stationed overseas. It reinstates a policy that would allow these women to use their own private funds to obtain a legal abortion or abortion services in military hospitals overseas. Women who joined the military to protect our rights should not have to check their constitutional rights at the border.

Let me emphasize several points about the amendment. First, the amendment would not allow Federal funds to be used to pay for abortions. It simply allows women to use their own funds. It is worth repeating because we can never say it often enough, it does not get understood. Their own funds. Women use their own funds to pay for services in military hospitals overseas.

Second, the amendment would not force doctors to perform abortions due to the conscience clause that exists in the military services. No medical personnel would be forced to participate in or perform these services.

Third, this in not a new policy. Privately funded abortions were allowed overseas at military facilities from 1973 to 1988, including all but a few months of the Reagan administration. And then they were permitted again under an executive order between 1993 and 1996.

The current ban is an exception. It is not the rule. The ban is a direct attack on the rights of American women who valiantly served their country. They put their lives on the line every single day.

I urge my colleagues to please ensure that female military personnel and military dependents have access to safe and legal medical care that the men in our Armed Forces do and which they deserve. Vote "yes" on the Lowey-Harman amendment.

Mr. BUYER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. PAPPAS).

Mr. PAPPAS. Mr. Chairman, I thank the gentleman from Indiana for yielding me the time.

Mr. Chairman, we are again embarking on another battle to export America's disrespect for the value of human life. Not only do we kill our unborn children here, we are going to vote today to allow abortions, yes, even partial birth abortions in our medical facilities overseas.

I do not think our defense hospitals, needed to treat our war fighters, should be turned into abortion clinics. When the 1993 policy permitting abortions was first promulgated, all military physicians, as well as many nurses and supporting personnel, refused to perform or assist in elective abortions. In response, the Clinton administration sought to hire a civilian doctor to conduct abortions.

Therefore, if the Harman amendment were adopted, not only would taxpayer funded facilities be used to support abortion on demand, but resources would be used to search for, hire, and transport new personnel simply so that abortions could be performed.

Rather, let us use this defense budget to make our military stronger and not use it to help us establish abortion clinics. Military treatment centers, which are dedicated to healing and nurturing human life, should not be forced to facilitate the taking of the most innocent human life, the child in the womb.

I urge my colleagues to maintain the current law and vote against this amendment.

Mr. Chairman, I include for the RECORD a copy of the letter from the Archbishop for Military Services, Edwin F. O'Brien, sent to Members of Congress:

ARCHDIOCESE FOR THE
MILITARY SERVICES, USA,
Washington, DC, May 20, 1998.

DEAR MEMBER OF CONGRESS: As one concerned with the moral well being of our Armed Services I write to urge you to oppose the Harman Amendment to the FY 99 National Defense Authorization Act (H.R. 3616).

This amendment would compel taxpayer funded military hospitals and personnel to provide elective abortions and seeks to equate abortion with ordinary health care.

The life-destroying act of abortion is radically different from other medical procedures. Military medical personnel themselves have refused to take part of this procedure or even to work where it takes place. Military hospitals have an outstanding record of saving life, even in the most challenging times and conditions.

Please do not place this very heavy burden upon our wonderful men and women of America's Armed Services.

Thank you for your kind consideration of this message.

Sincerely,

EDWIN F. O'BRIEN,
Archbishop for the Military Services.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. SÁNCHEZ).

Ms. SANCHEZ. Mr. Chairman, this amendment would give U.S. servicewomen stationed overseas access to Department of Defense health facilities by repealing a provision of the law which bars these women from using their own funds to obtain medical treatment in military hospitals.

Women serving in the military overseas depend on these base hospitals for medical care and they may be stationed in areas where local health care facilities are inadequate. The ban may cause a woman who needs medical care to delay treatment while she looks for a safe provider, or it may force a woman to seek an illegal, unsafe procedure locally.

Women who volunteer to serve in our Armed Forces already give up many freedoms and risk their lives to defend our country. They should not have to sacrifice their privacy, their health, or their basic constitutional rights to a policy with no valid military purpose.

This amendment is about women's health. Local facilities in foreign nations are often not equipped to handle a procedure, and medical standards may be far lower than those in the United States. We are putting our own defenders at risk by forcing them to seek local facilities from medical procedures.

This amendment is also supported by the Department of Defense.

Mr. BUYER. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman, I thank my good friend the gentleman from Indiana (Mr. BUYER) for yielding and for his excellent work on this and other provisions in this important bill.

Mr. Chairman, the national debate on partial birth abortion has proven beyond any reasonable doubt that abortion is violence against children. Most Americans and I believe most Members of Congress on both sides of the aisle, Democrats, Republican, liberals, conservatives and moderates, were shocked and dismayed and frankly very saddened to learn that partial birth abortions were routine and commonplace and that it was completely legal to partially deliver a baby, shove a scissors into the back of that baby's head, and then hook up a hose to suction out that baby's brain. That is the reality of what choice is all about.

I think it is about time, Mr. Chairman, we connected the dots about the violence of abortion. The other methods are no less heinous. They kill children. They are no less violent. This is child abuse. And that collective denial that we as a country have engaged in for so many years needs to be put away.

Mr. Chairman, abortion methods dismember children. Razor blade tipped suction devices 20 to 30 times more powerful than the average household vacuum cleaner, after the child's arms and legs and torso and head has been decapitated, turn on the suction machine and the baby is literally turned into a bloody pulp. This is the uncensored reality of what choice is all about. Abortion methods also include injecting various deadly poisons, including high concentrated salt solutions.

I chair the Committee on International Operations on Human Rights, Mr. Chairman. I have had in excess of 70 hearings, many of them on torture in overseas prisons by dictatorships. And I can tell my colleagues, when I look at the badly burned, chemically burned bodies of unborn children who have been killed with salioamniocentesis abortions, they are no different at all to those others who have been tortured because of their faith, or because of their beliefs in democracy or their human rights advocacy.

They have been killed. A high concentrated salt injection usually takes 2 hours for the baby to die. And we know that a child feels pain. And when that child is born dead, if we open up the fist that is usually tightly collapsed, we can see that all the scalding and corrosive effects of that salt fails to get on the palm because the child is in pain. That is the reality, Mr. Chairman, of this so-called choice rhetoric.

The Lowey amendment if enacted, Mr. Chairman, will turn DOD medical facilities into abortion mills where this kind of violence, including, as my good friend the gentleman from Indiana (Mr. BUYER) pointed out earlier, where this kind of violence, including partial birth, would be sanctioned.

The Lowey amendment makes a false distinction based not on what happens to a baby in an abortion, in other words a violent death, but on who provides some of the cash. It also completely overlooks the costs that are borne by the taxpayers to facilitate that abortion, like the provision of operating rooms, the hiring of abortionists.

Thank God that when Mr. Clinton's executive order was in effect not a single overseas military doctor would engage in this violence against children. They have had to go out with Planned Parenthood's help and look and seek to find abortionists. Well, that takes taxpayers' dollars. The nominal fee that a woman might pay to procure that abortion would in no way cover that.

This amendment, Mr. Chairman, says in effect, it is okay to tear up an unborn child, to rip that child to pieces. Mr. Chairman, I have been in the pro-life movement for 26 years. I am amazed at how so many good and decent people sanitize the unthinkable. We did it on this floor when we talked about partial birth, Members that I deeply respect and work arm in arm on human rights with.

Let me conclude, Mr. Chairman, and let me say that good and decent people have defended the unthinkable, that which is not defensible, in terms of partial births in these other methods. And now we are being called upon to use overseas military facilities for abortion. It facilitates abortion.

One of our colleagues said earlier that we do not want to treat women as second-class citizens. Nobody does. But providing the means to kill their babies, we would welcome the unborn being treated as second-class citizens.

Unfortunately, this amendment and our zeitgeist, our law decreed by the U.S. Supreme Court in 1973, treats the unborn child as a throwaway, as garbage, as so much junk. And God did not make junk. And every child is precious regardless of race or color or gender. Every one of those kids should matter.

Medicine, Mr. Chairman, is all about caring and curing and mitigating diseases. Unless my colleagues think pregnancy is a disease to be vanquished, those kids should be nurtured. We should be talking about maternal health care, how do we beef that up. Prenatal care, that is what it is about, not simultaneously saying, if we do not want the child, the child could be injected with salt or dismembered.

Vote no on the Lowey amendment.

Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I thank the gentlewoman for yielding to me.

I want to say, it is really unbelievable to me that we are really on this floor discussing this issue. This is not an issue of Row v. Wade. That issue has been decided.

Women in this country have a constitutional right to have a safe, legal abortion. This country made a decision to do that because it did not like the public health impacts of having abortion illegal. Like it or not, women were being killed in back-alley abortions; and the fact is we changed the law and the Constitution of the United States reflects that a woman has a right to a legal, safe abortion so her health is not in jeopardy. That is a public health issue.

Now what we are talking about is, these Constitutional rights are not selective. We cannot just say, "I want free speech just in Rhode Island and I do not want free speech in California. I want free speech here and not there." This is a constitutional right that applies to every single American. And for us to say it will not apply to the Americans, our soldiers, our women in uniform who are defending our rights overseas to me is unconscionable.

The story here, Mr. Chairman, is that these are United States servicewomen and their lives are going to be put in jeopardy if we do not pass this amendment and make this bill protect a woman's right to have a legal and safe abortion.

Mr. BUYER. Mr. Chairman, I yield myself 30 seconds just to remind the Members, with regard to national security issues, the Supreme Court permits the Congress of the United States to establish the laws. And in particular, we do set out rules and policies that end up discriminating against people and we have rules and procedures that are unequal when we compare sometimes what we do compared to what happens in the civilian sector.

We get to discriminate whether someone is too tall, overweight, whether they are diabetic. Those discriminations are permitted as we make many different decisions on building unit cohesions. So we get to make these decisions within this body, so I wanted to share that with everyone.

Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. HOSTETTLER), a member of the committee.

□ 1545

Mr. HOSTETTLER. Mr. Chairman, I rise in strong opposition to this amendment. The Supreme Court has told us that we have to allow the killing of preborn children. It has not, however, told us that government has an obligation to provide this service. This amendment would do just that.

This amendment obligates the United States to make sure abortion services and facilities are available at U.S. military bases. It is this obligation that I believe the Committee on National Security and the House soundly rejected in recent years on so many occasions and should again reject.

Abortion remains a very divisive practice in America and, indeed, the world. Allowing abortions to be performed on military installations would bring that discord and dissension right onto our military bases complete with pickets and the like.

The core principle at issue here is whether the government has the obligation to provide for what is merely a right is a serious issue with serious ramifications.

Does the freedom of the press guaranteed by the First Amendment obligate the Federal Government to provide every interested American with a printing press? Does the Federal Government have to provide a U.S. flag and a set of matches to anyone who wants to burn our flag just because the Supreme Court has said that flag burning is a right protected under the First Amendment.

Does the right to distribute pornography, which also has been upheld by the court, obligate the military to distribute it to the troops? And because prostitution is legal in one State, does this obligate that State government to provide prostitution services to its employees? Of course the answer to these absurd questions is a resounding no.

Congress has the clear responsibility under the Constitution to provide for the rules and regulations of the military. We must not make it the policy of the United States to use its military institutions to facilitate destructive behaviors such as killing innocent preborn life. I urge a no vote on this amendment.

Mr. BUYER. Mr. Chairman, as I understand, the gentlewoman from New York (Mrs. LOWEY) has the right to close?

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) has the right to close.

Mr. BUYER. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) has ¾ minute remaining, and the gentlewoman from New York (Mrs. LOWEY) has ¾ minute remaining.

Mrs. LOWEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to close by thanking my colleagues on both sides of the aisle who have spoken and supported the Lowey-Harman-Morella amendment.

Let me reiterate, this amendment is not an issue of taxpayer-funded abortions. Under the amendment, the patient, not the government, would pay for the procedure. I close the debate by reminding Members that our American servicewomen take very seriously their duty to protect the constitutional rights of all United States citizens. Yet, we deny them time and time again the rights we extend to women on U.S. soil.

It is time to stop the hypocrisy. The right to choose gives women the right to make this personal decision. Vote for the Lowey-Harman-Morella amendment.

Mr. BUYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I guess I would share with some of the speakers, the proponents of this amendment, they should bring the amendment to be the proponents for those who are diabetic and fight for the diabetes or fight for someone that is overweight or that is too tall or too short. There are many rules and regulations that are out there that I want to share with the body.

On this issue, we also have the issue of military medical readiness. We train all of our nurses and doctors how to do proper triage for saving of life from the battlefield. One of the things that is not on there is the performing of an abortion service to take life. Mr. Chairman, I urge everyone to oppose the amendment.

Mr. STARK. Mr. Chairman, the Lowey-Harman amendment will restore the ability of our female service members and female dependents stationed overseas to exercise their constitutional right to choose safe abortion services, using their own funds to obtain services in military hospitals.

This is an important access-to-health-care amendment. Military women depend on their base hospitals for all of their medical services. This amendment gives them access to the same range and quality of health care that they could obtain in the United States.

This amendment has the strong support of organizations like the American Nurses Association, the American Public Health Association, the American Women's Association, the American College of Obstetricians and Gynecologists, and the Planned Parenthood Federation of America.

This amendment also has the support of the Department of Defense. No surprise here, as the policy of denying women access to safe health care serves no military purpose.

Still, anti-choice Members of Congress would endanger the lives of women in foreign countries where local health care facilities are inadequate—where quality care is not available. They would force women into the hands of untrained medical professionals, or into unsterilized facilities—increasing the danger and the risk to the health of these women.

Make no mistake about it—their objective is the same as always: to make abortion services difficult to obtain, prohibitively expensive, and physically risky for physicians and women alike.

True to form, the conservative majority have extended their reach to discriminate against women who have volunteered to serve their country by prohibiting them from exercising their legally protected right to choose.

Women serving this country have lost a legal right. Vote for the Lowey-Harman amendment to end this blatant disregard for the health, safety and constitutional rights of women.

Ms. PELOSI. Mr. Chairman, I rise in strong support of the Lowey-Harman amendment to repeal the provision in this bill prohibiting privately funded abortion services in U.S. military hospitals overseas. I commend my colleagues for their leadership on this important issue.

Women stationed overseas in service to their country and female military dependents rely on base hospitals for medical care. Access to comprehensive reproductive health is essential for all women, civilian or military. Under the bill, as it currently stands, however, these women who volunteer to protect and serve their country in the military are denied the same protections under Roe v. Wade as the Americans they are serving and protecting. This is not a request for special treatment—it is a need for equal treatment and equal access to health care.

This amendment does not permit taxpayer-funded abortions. No Federal funds are used for abortion—that will not change. It simply repeals the current ban on privately funded abortions in military hospitals and restores equal access to reproductive health care for military women stationed overseas. And it preserves the conscience clause and would not coerce any doctor to perform abortions. It provides military women the right they already have as American women—to make a safe and legal choice with their own funds. I urge my colleagues to repeal this unfair ban and vote yes on the Lowey-Harman amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Mrs. LOWEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mrs. LOWEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentlewoman from New York (Mrs. LOWEY) will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in part B of House Report 105-544.

AMENDMENT NO. 2 OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B, amendment No. 2 offered by Mr. GILMAN:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. PROHIBITION ON RESTRICTION OF ARMED FORCES UNDER KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE.

(a) IN GENERAL.—Notwithstanding any other provision of law, no provision of the Kyoto Protocol to the United Nations Framework Convention on Climate Change, or any regulation issued pursuant to such protocol, shall restrict the procurement, training, or operation and maintenance of the United States Armed Forces.

(b) WAIVER.—A provision of law may not be construed as modifying or superseding the provisions of subsection (a) unless that provision of law—

(1) specifically refers to this section; and

(2) specifically states that such provision of law modifies or supersedes the provisions of this section.

The CHAIRMAN. The gentleman from New York (Mr. GILMAN) and a Member opposed each will control 20 minutes.

Mr. SKELTON. Mr. Chairman, since no Member has risen in opposition to this amendment, I ask unanimous consent to be permitted to control the time on this side.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer the Gillman-Danner-Spence-Sensenbrenner-Rohrabacher amendment. In short, this amendment will exempt U.S. Armed Forces from the restrictions of the U.N. Kyoto Climate Change Treaty.

Mr. Chairman, last December the Clinton administration approved a U.N. Climate Change Treaty that forces the United States to make drastic cuts in carbon emissions by the year 2010. The economic recesssions of the late 1970s and early 1980s caused our Nation to cut emissions by 2 percent of our total emission. The Kyoto treaty now imposes restrictions three times larger than the cuts made by the recessions in the 1970s.

In sum, U.S. Government laboratories, industry, and labor groups estimate that the treaty is going to cost hundreds of billions of dollars and could throw two million Americans out of work. While the treaty imposes restrictions on our Nation and 38 other countries, it exempts China, Brazil, South Korea, Mexico, India, and 125 other countries from its limitations.

Our Armed Forces are responsible for over 70 percent of the Federal Government's carbon emissions. The Department of Defense recently estimated that a 10 percent cut in its emissions could trigger the following cuts in the readiness of our Armed Forces. For example, armor training would be cut by 328,000 miles per year, naval steaming days could be cut by 2,000 days per year, and Air Force flying hours could be cut by some 210,000 hours.

Prior to Kyoto, the Defense Department requested a blanket waiver from carbon emissions restrictions. During the negotiations, Vice President GORE overrode the Defense Department's position and exempted only multilateral operations consistent with the U.N. charter. That left unilateral U.S. operations, like Panama or Grenada, and all domestic operations subject to the Kyoto restrictions. Over time, Mr. Chairman, the Kyoto Protocol would exert a strong pressure on future administrations to curtail our military training and readiness.

Recently, Undersecretary of Defense Goodman claimed that Kyoto will not impair or adversely affect military operations and training. This contradicts the direct language of the treaty that only exempts multilateral operations that are consistent with the U.N. charter.

Mr. Chairman, our amendment will lock into law the current administration's verbal promises to protect our

Armed Forces from U.N. restrictions. This amendment is necessary because the administration could retract its position on DOD emissions when climate change negotiators meet again this November in Buenos Aires, just after our congressional elections.

The amendment simply states that no provision in the Kyoto Protocol will restrict the procurement, the training, the operation, or maintenance of our U.S. Armed Forces, as just promised by the administration.

Mr. Chairman, this amendment was endorsed by the Veterans of Foreign Wars, the Navy League, and the Air Force Association. I have their letters here and will make them available to our colleagues. I also understand that, since this amendment implements current administration policy, the Department of Defense does not oppose its adoption.

Accordingly, Mr. Chairman, I urge Members to support this amendment. Our national security is much too important to risk on the U.N. treaty and the bureaucracy that would oppose it.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Mississippi (Mr. TAYLOR) is recognized.

Mr. TAYLOR of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to compliment the gentleman on his amendment. I know of no opposition to that amendment on this side, and we would also urge its passage.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 5 minutes to the distinguished gentleman from South Carolina (Mr. SPENCE), chairman of the Committee on National Security.

Mr. SPENCE. Mr. Chairman, I rise in strong support of the Gilman amendment that would exempt the United States Armed Forces from the restrictions of the United Nation Kyoto Climate Change Treaty.

My colleagues may be wondering what possible connection an environmental protection treaty has to do with the defense of the United States, and in particular, to the operation of the United States forces worldwide. The Kyoto treaty, if ratified by the Senate or if imposed by executive order or regulation, imposes substantial restrictions on the amount of United States carbon emissions.

In a highly industrialized society, these restrictions will have enormous economic impact. The United States Government laboratories, industry, and labor groups estimate that implementation of the Kyoto Protocol would result in hundreds of billions of dollars in lost economic growth and perhaps two million lost American jobs.

The restrictions called for in the Kyoto Protocol would, if implemented, obviously apply to the Federal Government. Because the operations and training of the United States military forces account for more than 70 percent of the Federal Government's carbon emissions, the impact of the Kyoto treaty on our Armed Forces would be tremendous.

Unless our military is given a blanket waiver from the Kyoto restriction, a waiver that was recommended by the Secretary of Defense, Mr. Cohen, everyday operations and training will be affected.

The Pentagon estimates, as the gentleman from New York (Mr. GILMAN) said, that even a requirement that emissions be reduced by 10 percent would result in tank training being cut by 328,000 miles per year, Naval steaming days being cut by 2,000 days per year, Air Force flying hours being cut to the tune of 210,000 hours per year.

As serious as the Kyoto treaty's restrictions would be on the military's peacetime training, the restrictions would dramatically affect the conduct of United States military operations.

The Pentagon estimates that the Kyoto treaty's restrictions would degrade the readiness of Army divisions and could add an additional 6 weeks to training and deployment in the event of war.

As a result, strategic deployment schedules would be missed and operations placed at risk. Should Saddam Hussein continue to threaten the stability of the Persian Gulf, the ability of the United States to operate military forces would be governed, and limited, by the provisions of the United Nations environmental treaty.

Ironically, the administration did agree to include one exemption in the Kyoto treaty for "multilateral operations consistent with the U.N. charter."

In other words, the administration believes U.N. peacekeeping operations like Bosnia and Somalia should be exempt from environmental treaties while unilateral American operations like the invasion of Grenada in 1983 or Panama in 1989 would have to be conducted, if at all, in an environmentally friendly fashion, as dictated by the United Nations.

As nonsensical as this may sound, it is an accurate assessment of the implications of the administration's posture on the Kyoto treaty. As I indicated, prior to the Kyoto environmental summit, the Department of Defense requested a blanket waiver from restrictions on carbon emission, but Vice President GORE apparently overrode the Department's request.

Although protecting the environment is something we all strive for and, as a Nation, need to improve on, we cannot afford for it to be a primary focus of our military's combat training or of their conduct of operations. Their job is to protect America, its citizens, and its security interest by operating around the globe in peacetime and prevailing during war.

War is a hard and violent business, and the effectiveness of the weapons is not measured by the level of carbon emissions. The 70-ton M1-A1 tank is the world's best, but it consumes a lot of gas. It measured its progress down the Euphrates River Valley in the Gulf War in gallons per mile, not miles per gallon. While the M1-A1 may not be environmentally friendly, it helped to decimate the Iraqi Republican Guard, shorten the war, and, in so doing, limit the loss of life.

In conclusion, let me cite the words of former Secretary of Defense Frank Carlucci, who wrote recently "Regardless of how the administration interprets the treaty, the Congress must demand a blanket exemption for all military operations."

That is what the Gilman amendment proposes, and I strongly urge my colleagues to support it. As Carlucci said "Our national security deserve no less."

□ 1600

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentlewoman from Missouri (Ms. DANNER).

Ms. DANNER. Mr. Chairman, I am pleased to be a sponsor of the Gilman-Danner-Spence-Sensenbrenner-Rohrabacher amendment. Numerous studies have shown that the Kyoto Protocol will not only harm the U.S. economy, but, in addition, it has the potential to threaten America's military preparedness.

Defense Secretary William Cohen has been quite clear with regard to the devastating effects Kyoto will have on American national security, stating in a recent article in the Washington Times: "We must not sacrifice our national security to achieve reductions in greenhouse gas emissions."

Basically, the treaty forces United States armed services to reduce greenhouse gas emissions while exempting "multinational operations consistent with the United Nations charter."

Our domestic military training will be damaged by the decisions made in Kyoto by subjecting our military to restrictions that the treaty does not impose upon countries such as China, India and Mexico, countries that we know have high levels of emissions. I think this is completely inequitable. Indeed, growing military powers such as China will not be required to adhere to the same standards to which our military will be held.

Reducing Army fuel use by 10 percent alone would downgrade readiness and require up to six additional weeks to prepare and deploy our troops, according to our Pentagon officials. Since the United States armed forces produce over 70 percent of the Federal Government's energy use, you may be very certain that it will be the United

States military that will be the most seriously affected as an aspect of our government if subjected to the Kyoto requirements. The Kyoto Protocol must not stand as a barrier to necessary United States military operations.

Furthermore, decisions that impact our armed forces should be made by our commanders, our generals and our admirals, and not be subject to an international environmental accord drafted by international bureaucrats.

Mr. Chairman, this amendment represents an opportunity to protect America's national security and hold the administration to its word, as it was presented to us before the Committee on International Relations just recently. Therefore, I urge all Members to support it.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on Science who also was the Chair of our delegation to the Kyoto conference.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman from New York for yielding me this time, and rise in support of this common sense amendment to prohibit any provision of law, any provision of the Kyoto Protocol, or any regulation issued pursuant to the protocol, from restricting the procurement, training or operation and maintenance of the United States armed forces.

As chairman of the Committee on Science, I spent a great deal of time analyzing this protocol, the U.N. treaty on climate change, including chairing three full Committee on Science hearings on the outcome and implication of the Kyoto climate change negotiations, and this past December I led the congressional delegation to the Kyoto conference.

Facts I have reviewed lead me to believe that the Kyoto Protocol is seriously flawed; so flawed, in fact, that it cannot be salvaged. The treaty is based upon science, costs too much, leaves too many procedural questions unanswered, is grossly unfair because developing nations such as China, India, Brazil and Mexico are not required to participate, and will do nothing to solve the speculative problem it is intended to solve. I have heard nothing today to persuade me otherwise.

The amendment addresses one of the protocol's many absurdities that the Clinton-Gore administration agreed to in Kyoto, namely the threat to our national security. Under the Protocol, the administration has committed the United States to reduce its greenhouse gas emissions by 7 percent below 1990 levels in the 2008 to 2012 time frame, or about the level that we were emitting 20 years ago in 1978.

Since the Federal Government is the Nation's largest energy user and greenhouse gas emitter, and the Department of Defense is the government's largest emitter, the administration essentially agreed to impose restrictions upon military operations, in spite of Pentagon analyses that showed that such restrictions would not only significantly downgrade the operational readiness of our armed forces, but also threaten their ability to meet the requirements of our national military strategy.

The text of the Kyoto Protocol is silent with respect to greenhouse gas emissions. However, the decision taken by the Framework Convention of the Climate Change's Conference of Parties exempts military operations "pursuant to the United Nations charter," but requires "that all other operations shall be included in the national emissions totals," with the effect of penalizing our armed forces for maintaining world peace.

The administration claims that this decision was one of its great triumphs in Kyoto, but I believe, however, it is one of the many mistakes made by Vice President Gore and his minions that guided the Kyoto negotiations.

As pointed out in a January 22, 1998 letter to the President by the Committee to Preserve American Security and Sovereignty, a concerned group of former U.S. national security and foreign policy officials that includes three past Secretaries of Defense and two past Secretaries of State, "The Kyoto treaty threatens to limit the exercise of military power by exempting only military exercises that are multinational and humanitarian. Unilateral military actions, as in Grenada, Panama and Libya, will become politically and diplomatically charged."

It is time too correct this Kyoto absurdity. Support this amendment and say "yes" to our national security and "no" to Kyoto.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I might say that I personally favor this amendment. I will not oppose it. It is also my understanding that the administration as well is in favor of it. So I compliment the gentleman from New York for bringing this to our attention.

Mr. Chairman, I yield back the balance of my time.

Mr. GILMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would note that this amendment prevents U.N. Climate Change Treaty restrictions from applying to our United States armed forces. It has been endorsed by our major veterans' groups, the Veterans of Foreign Wars, the Navy League and the Air Force Association. The Department of Defense does not oppose the amendment. It implements current administrative policy to prevent the Kyoto Climate Change Treaty from cutting our national defense.

Mr. Chairman, I urge my colleagues to support the amendment.

Mr. BONILLA. Mr. Chairman, I rise in support of the Gilman Amendment which insures the safety and security of Americans are not compromised to promote questionable scientific theories. The Kyoto Treaty may not succeed in combating the phantom threat of global warming, but it has sinister consequences for our military and our security.

Simply put the Kyoto Treaty will restrict military fuel consumption. This will cut armor training by 328,000 miles per year, cut naval steaming by 2,000 days per year and cut Air Force training by 210,000 hours per year while placing no restriction on the Chinese and other militaries. The Gilman Amendment will stop this onslaught on America's security. The Gilman amendment will safeguard our independence.

My colleagues, let's defend our sovereignty from real foes not phantom threats. Please join me in voting to safeguard our independence and vote for the Gilman Amendment.

Mr. PALLONE. Mr. Chairman, I rise to address this amendment offered by Mr. GILMAN (Prohibition on Restriction of Armed Forces under Kyoto Protocol to the UN Framework Convention on Climate Change). First, I want to clarify whether DoD's technical changes were made to this amendment. Of course I support protection of our national security interests and want to make sure that no provisions of U.S. law enacted to implement U.S. obligations under the Kyoto Protocol would jeopardize our military readiness. However, while I support the principle behind this amendment, this should not be used as an opportunity to undermine the Kyoto Protocol nor U.S. efforts, as one of 160 nations who were involved in negotiating this treaty, to protect our global climate. Undersecretary of State Eisenstat has emphasized repeatedly that the U.S. will not take steps that would require mandatory action at the macroeconomic level or with respect to specific sectors of our economy in order to reach the Kyoto target before the President has obtained the advice and consent of the Senate. Further, Undersecretary Eisenstat consulted with top national security and military officials and had their assurances that the Kyoto Protocol does in fact meet our national security needs and interests. We secured exemptions for bunker fuels and for other activities that are covered under other existing agreements. If this Protocol were ever signed or ratified by the Senate, our domestic legislation would ensure protection of our national interests. Nor would we trade emissions credits with any other nations that with whom we would not otherwise conduct transactions. Thus, I do not understand the purpose of, nor the need for, this amendment.

I also want to clarify that this amendment should not be interpreted to be able to prevent the U.S. Armed Forces from continuing to adopt practical energy efficient measures. More efficient heating and cooling systems for military buildings, energy saving engines, and other such technology applications would save money and could improve the readiness and capabilities of our Armed Forces. The Defense Department has stated this position, as well. To date, the Defense Department actually is on the forefront of implementing energy efficient measures that have saved substantial amounts of money and energy and increased our environmental protection.

Mr. WAXMAN. Mr. Chairman, I agree with the intent of Mr. GILMAN's amendment and support it. Indeed, the Kyoto Protocol will improve the national security of the United States by reducing the risk of catastrophic climate change, which would create upheaval and unrest throughout the world, including the potential for millions of environmental refugees.

Furthermore, measures to implement the Kyoto Protocol can improve our security by reducing our dependence on imported oil through improved energy efficiency and increased reliance on domestic renewable energy resources.

At the same time, the Administration has issued clear policy guidance assuring that implementation of the Kyoto Protocol will not impair or adversely affect the training or operation and maintenance of the United States Armed Forces.

I am concerned, however, that the Amendment as drafted could be ambiguous. The Department of Defense was a leader in reducing the use of ozone depleting substances and has received awards for its efforts from the Environmental Protection Agency. In recent years DoD has made great strides in increasing energy efficiency in military housing. it has also invested in technologies, such as fuel cells, that could improve military effectiveness and reduce greenhouse gas emissions. I am supporting the amendment because I do not believe it prevents DoD from pursuing these valuable goals. I urge the chairman to work with the Department of Defense to clarify this language in conference committee.

Mr. GILMAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. PEASE). The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. GILMAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentleman from New York (Mr. GILMAN) will be postponed.

The CHAIRMAN pro tempore. It is now in order to consider Amendment No. 3 printed in part B of House Report 105–544.

AMENDMENT NO. 3 OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 3 offered by Mr. HEFLEY:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. 1044. PROHIBITION ON ASSIGNMENT OF UNITED STATES FORCES TO UNITED NATIONS RAPIDLY DEPLOYABLE MISSION HEADQUARTERS.

No funds available to the Department of Defense may be used to assign or detail any member of the Armed Forces to duty with the United Nations Rapidly Deployable Mission Headquarters (or any similar United Nations military operations headquarters).

The CHAIRMAN pro tempore. Pursuant to House Resolution 441, the gentleman from Colorado (Mr. HEFLEY) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer an amendment which would prohibit the Department of Defense from spending U.S. taxpayer dollars on the assignment or detailing of any member of the U.S. military to duty with the United Nations Rapidly Deployable Missions Headquarters or any similar U.N. organization.

As many of you know, this proposed headquarters is intended by the Secretary General of the United Nations to form the core of a standing U.N. military force; now, let me repeat that, a standing U.N. military force. And the administration has already spent a limited amount of funds to help establish the headquarters operation.

Now, think about this for a moment. The United Nations wants to create a rapidly deployable standing military force, including United States soldiers, and the administration seems to be willing to go along.

I have a quote from the Washington Times that reads, "The U.N. wants standby forces that could be called up immediately to permit U.N. headquarters to tailor foreign military units to suit the countries or regions to which they are assigned."

The U.N. complains that under current conditions they must develop each mission from scratch after a vote by the Security Council, and in some cases this can take too long. I think they should have to start from scratch on each mission to ensure nations understand their commitments thoroughly.

Why should the committee support this amendment? The answer is the ambiguity of the current administration policy with regard to U.S. participation in U.N. peacekeeping and other military operations. Although the administration formally denies any intent to assist in the creation of a standing U.N. military force, and despite repeated congressional actions to limit or prohibit the involvement of U.S. forces in many U.N. operations and any such U.N. force, the U.S. State Department transferred $200,000 from its voluntary peacekeeping account in October 1997 to fund the establishment of the U.N. Rapidly Deployable Mission Headquarters, the standing U.N. army.

Time and time again this administration has supported peacekeeping operations around the world. They can continue to still do that. But most of those efforts have been controversial. Indeed, the operation in Bosnia is still problematic, and, of course, that is not a U.N. operation.

The simple fact is, Congress ought to be involved in any decision to commit U.S. forces to U.N. peacekeeping operations. It is these kinds of open-ended and at times back door operations that have led to this amendment, and I think all Members will agree we should cut off the funds for this organization until a clear statement is made that our troops will be accountable only to United States command and control.

What is also disturbing to me is that it is unclear what command arrangements would govern any forces assigned to the U.N. Rapidly Deployable Mission Headquarters. The key question of whether any U.S. troops assigned would be under the command of the U.N. Secretary General or their national command authorities has not been answered.

In addition, consider that these forces could be sent out over the objections of the United States Congress. Let me repeat, our forces could be sent into conflict that the Congress does not support or approve of.

The United Nations is a forum for international policy discussion, and should remain so. It is also not a sovereign territory. It has no citizens and no constitutional authority to send U.S. troops into harm's way. Member states should make their contributions to peacekeeping and other multilateral efforts involving military forces consistent with their constitutional requirements in each of those countries. We should not be locked into a conflict or a peacekeeping operation simply because we happen to have U.S. personnel in a standing U.N. army.

This is not an effort to undercut the U.N., and I would say to the gentleman from Missouri (Mr. SKELTON), I hope you believe this, that I am not here to bash the United Nations with what I am trying to do here. I am simply saying that we want to preserve this Congress' prerogatives in the commitment of United States military forces. In other words, for 50 years we have participated in U.N. operations around the world. We could continue to do that, even if this amendment passes, but we would not have a standing U.N. army under the command and control of the Secretary General of the United Nations.

Mr. Chairman, I ask Members to vote for this amendment and keep U.S. forces under U.S. control.

Mr. Chairman, I reserve the balance of my time.

□ 1615

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume to say that with sadness, I find that I must disagree and oppose this amendment. Mr. Chairman, I read it. Let me read it to the body. "No funds available to the Department of Defense may be used to assign or detail any member of the Armed Forces to duty with the United Nations Rapidly Deployable Mission Headquarters (or any similar United Nations military operations headquarters)." This amendment could lead to disaster.

First, Mr. Chairman, let me state unequivocally that I am against a standing union army. I will repeat that. I am against a United Nations standing army. That is not right. Also, thinking of the words of my friend from Colorado (Mr. HEFLEY), who is my good friend, he speaks of the commitment of the United States forces being kept with Congress, and if he will recall, not so long ago our colleague, the gentleman from Indiana (Mr. BUYER) and I, made that case very well, and successfully, on this floor through our debate, and I think the gentleman from Colorado agreed with us, that the forces at that time should not be deployed to Bosnia.

So on the very basics of which the gentleman from Colorado speaks, I agree, but that is not what we are passing into law.

What is being passed into law is the amendment that I just read. It could create some real problems for American soldiers. It could create some real problems for American leadership. For instance, it restricts the flexibility of the President's ability to detail or otherwise deploy U.S. military personnel in his capacity as Commander in Chief with the advice of his military advisors. That is very, very important. I speak not just for this President, I speak for those future Presidents regardless of what political party to which they belong.

I also mention the fact that it would undermine our efforts encouraging other nations to play a greater role in U.N. peacekeeping activities. If we are not helping plan something, and they know we are the best, and we are the best, whether it be at planning or in the field, it would undermine those nations' confidence, playing a role in those activities where we participate. But more than that, it concerns me a great deal that this amendment would prevent the best and the brightest of our Armed Forces to plan with other nations and to be a leading part of planning with those other nations in an operational situation.

Mr. Chairman, this would be similar to prohibiting the United States of America's military forces from planning NATO operations. This does not prevent them from being in the field; this does not prevent or interfere with the Commander in Chief's prerogatives. This prevents good military thinking, and we are the best.

I have spent a great deal of time, as my friend from Colorado (Mr. HEFLEY) will recall, with the military war colleges, both intermediate war colleges such as at Fort Leavenworth and the senior war colleges such as the National War College, and we put a lot of time, effort and money into making our captains and majors and lieutenant commanders the best and the brightest for planning things. We are good at it. We are going to say to the finest military planners, whether it be an operation that involves risk, or an operation that involves humanitarianism, or an operation that involves peacekeeping; this is going to say to the best and brightest planners in military uniform of the United States you cannot participate. You can send the troops out there, but you cannot participate in the planning.

That is an invitation for disaster for some fine young Americans. One of the problems that we had in Somalia, if the gentleman remembers, was that there was no central planning for that operation.

What this amendment will allow, for instance, it would allow the Bangladeshis, the Ethiopians, the Kazakhstanis, to do the planning for American forces to go out in the field. I am not about to let that happen. I am not about to let other people plan for the American troops. That is wrong. When American troops are involved, when their safety is involved, when their mission is involved, I cannot and I will not support that.

I must compliment the gentleman from Colorado (Mr. HEFLEY) in his attempt to stand, as I do, against a standing in our Nation's army. But as so often happens, this rifle shot, Mr. Chairman, sadly misses the mark.

In truth and fact, the U.S. forces in Korea would be affected because that was and is a United Nations operation. The troops that we have, and I visited them, and I am so proud of them, in Macedonia on peacekeeping, watchful duty, no American military personnel could plan what they do. Do we want those other folks to tell where they are going to be, what they are going to be doing and how they are going to be doing it? No. I want Americans planning this.

I would really hope that my friend from Colorado would take a good look at this and if he would like to have an amendment that would say that he stands against a standing by the United Nations army, I am with the gentleman. I think that is absolutely wrong. But let us not risk the lives of bright young Americans by not having bright, a little bit older Americans, plan what they are going to do in humanitarian or peacekeeping crisis situations.

So I find myself driven to the conclusion that I must oppose this.

Mr. Chairman, I reserve the balance of my time.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume before I yield to the chairman of the Committee on National Security.

I find it unusual that the gentleman from Missouri (Mr. SKELTON) and I are ever in disagreement on anything, and I think it illustrates that people of goodwill and with good reading ability can read the same thing and find very, very different meanings in it.

What this is meant to do is exactly what the gentleman said he would support, and that is not to have a standing U.N. army. As to the gentleman's explanation, I do not want all of those things either, I would say to the gentleman. I do not want to undermine our efforts to get others to participate, but for 50 years we have gotten others to participate without a standing U.N. army.

The gentleman talks about us letting others plan. That is the very idea. We do not want others to plan our command and control of our troops. They are not to be a standing army. If we are going to get involved with the U.N., we want it to function like it has over the last 50 years. We get involved. Generally we take the lead. Generally we do the planning. Generally the others join in with us as in the Persian Gulf War to accomplish a U.N. mission.

So I think the goal is the same. The gentleman is reading into this amendment things that I simply do not see there.

Mr. Chairman, I yield such time as he may consume to the gentleman from South Carolina (Mr. SPENCE), the chairman of the Committee on National Security.

Mr. SPENCE. Mr. Chairman, I rise in support of the Hefley amendment prohibiting the assignment of United States Armed Forces to the United Nations Rapidly Deployable Mission Headquarters.

Last October, the State Department approved $200,000 from its voluntary peacekeeping account to create a U.N. Rapidly Deployable Mission Headquarters. This was the first down payment in the United Nations $2.3 million plan for this organization. Officially, the purpose of this RDMH, or whatever we call it, is to set up a command and control center for U.N. forces anywhere in the world. The headquarters is to have 8 officers, apparently permanently detailed to the U.N., and already has a Canadian Army Lieutenant Colonel who is "on loan" to organize the headquarters and recruit other officers to join in.

Mr. Chairman, I have no doubt that such an arrangement could improve the performance and professionalism of U.N. peacekeeping forces, and they certainly need it. However, it is clear that the U.N. continues to pursue a broader agenda, and that is the key element we are talking about here today.

Choi Young-Jin, the Korean diplomat, who is the U.N.'s Assistant Secretary General for Peacekeeping, recently admitted that the U.N. remains committed to establishing a standing army. The U.N.'s official spokesman later tried to clarify that, and said that Rapidly Deployable Mission Headquarters is an interim step, an interim step. That is exactly what we are talking about, since a standing army is "too ambitious for the time being."

We are looking at the long haul in this legislation today.

There are also legitimate questions over whether Rapidly Deployable Mission Headquarters represents a first step toward U.N. military independence. It already promises to weaken the ability of the Congress to influence United States military action. The first mission of the headquarters is reported to be in the Central African Republic to replace the French army as it withdraws from that troubled Nation. But just this March, Congress blocked the administration's $9.5 million request to pay the U.S. share of that mission. Nonetheless, the administration has supported the mission in the Security Council, and now apparently the Rapidly Deployable Mission Headquarters will lead the way into the Central African Republic.

Confronted with the charge that this headquarters represents a first step toward a standing U.N. force, State Department officials do not simply deny the link between the two. Indeed, they go further, saying that they support the Rapidly Deployable Mission Headquarters because it does not support the standing army concept. That does not make sense. This makes no sense.

Let me review the facts. This headquarters unit will provide the core capability for a U.N. standing army. The nations which support a standing army concept welcome this development, and U.N. officials describe it as an interim step toward a standing army. Think of the implications of a standing U.N. army. Will they defend the United States of America against others? What part will our own Armed Forces play in it in such an event?

□ 1630

The lesson learned in recent years, especially in places like Bosnia and Somalia, is that the United Nations military operations are more likely to draw U.S. forces into a mess, rather than to keep them out. I wonder whether the eight soldiers who are supposed to form the U.N. Rapidly Deployable Mission Headquarters in the Central African Republic will once again prove to be an advance party for what becomes an American operation?

Time and time again the Congress has passed legislation to limit the participation of United States troops in U.N. missions. Only congressional vigilance, and where necessary, preemptive action such as the Hefley amendment, can prevent the further subcontracting of American foreign security policy to the United Nations. I strongly urge my colleagues to support the Hefley amendment.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say that if what we are really after is the same thing, why do we not amend this or rewrite it and say that the United States shall not participate in a standing United Nations army? That is not what this says.

I am very, very concerned that, after the fact, we may very well find some fine young Americans, as a result of not being able to plan ahead and not have people planning ahead who know what they are doing, and Americans who know what they are doing, injured or even killed. It is a deep concern of mine.

I know full well, Mr. Chairman, that on the very substance of this issue that the gentleman from Colorado (Mr. HEFLEY) and I agree, but the wording of this frankly causes me a great deal of concern. If we read this very carefully, we will see that it opens a door to Ukranians and Russians and Kazakhstanis and Bangladeshis for planning what our armed forces are going to do. I cannot, I cannot, stand by and let that happen.

Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Chairman, I want to approach this subject very carefully. First, I thank the gentleman from Missouri (Mr. SKELTON) for yielding time to me. The gentleman from Missouri (Mr. SKELTON) and the gentleman from Colorado (Mr. HEFLEY) are two people that I have the greatest respect for, as I do virtually all of the Members of this institution.

Mr. Chairman, this particular amendment, most respectfully, is attempting to solve a problem that does not exist. We have all, at some point, been critical of the United Nations. Many have criticized the United Nations for its failure to respond promptly to conflict overseas. Our colleagues on the Committee on National Security often criticize the U.N. for not having professional military capabilities.

However, this proposed U.N. Rapidly Deployable Mission Headquarters is a response to these criticisms. It would be a very small unit in New York, staffed by a handful of U.N. employees and personnel, on loan from member states which could deploy quickly to the field to establish communications links, make a survey of the ground situation, and other commonsense steps. This unit is not a stalking horse for a United Nations standing army.

I remember reading something in the Washington Times to that effect, and I think that that article in and of itself was ill-advised, to suggest that the military, or those of us here in Congress who pay attention to the defense and foreign policy matters, would not have the ability to understand that a standing army had been created at the United Nations without our knowledge.

If we want the United Nations to be more professional in its peacekeeping operations, and we do, I cannot understand why we would want to prohibit United States military personnel from participating in such a unit. We would all agree, I would hope, that the United States military is the finest in the world. Why would we not want, on a voluntary basis, to contribute, say, a communications specialist to this very small unit at the United Nations?

Mr. Chairman, I urge Members to oppose this amendment. In my view, and in the view of several of us that serve on the Committee on International Relations, it is unnecessary and it is harmful to our interests. It is patently obvious that the administration opposes it, but I call on all my colleagues in this body to oppose this amendment, as well.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I hope the gentleman who just spoke listened to the gentleman from South Carolina (Chairman SPENCE) when he read the statement from the Secretary General's office which says that this is an interim step, that we cannot get the standing army yet, but this is the interim step. So this is the start of their idea of a standing army.

I think most of us would agree we do not want a standing army. So where do we stop it? We stop it at the outset.

Mr. HASTINGS of Florida. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, does the gentleman think for one minute that the gentleman from Missouri (Mr. SKELTON) or any of the fine Members of the Committee on National Security or anyone else on the Committee on International Relations would stand idly by and allow that to develop?

This is not a step in that direction, I say to the gentleman from Colorado (Mr. HEFLEY). I honestly think we can stop it. The gentleman is asking for something that is just not a problem.

Mr. HEFLEY. Mr. Chairman, I would say to the gentleman, we have already put $200,000 into it, and we did not stop it.

Mr. Chairman, I yield 3½ minutes to the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. I thank the gentleman from Colorado for yielding time to me, Mr. Chairman.

Mr. Chairman, I rise in strong support of the Hefley amendment, which would, very simply, prohibit President Clinton from putting our troops under the command of a newly created

United Nations organization known as the Rapidly Deployable Mission Headquarters.

The U.N. Rapidly Deployable Mission Headquarters is designed to function as a worldwide command and control network for U.N. forces. This new organization, which is here, which is being funded, would create a worldwide standby army for peacekeeping operations which could mobilize at any time.

Most of my colleagues, most Members of Congress on both sides of the aisle, would be really disturbed to know that the Clinton administration, without authorization, has given the U.N. $200,000 as seed money to organize this army. That is the problem, Mr. Chairman, that is the problem.

This Rapidly Deployable Mission Headquarters would report to an eight-member command unit at the United Nations, which functions under the U.N. Security Council. In other words, this is a permanent military unit which functions directly under the control of the United Nations. It appears to be a backdoor way for creating a standing army when Congress has specifically prohibited U.S. support for a standing army.

Mr. Chairman, I want to remind my colleagues of the tragedy that occurred in Mogadishu, Somalia. We might recall watching in horror as the U.S. Army helicopter was attacked and our troops were dragged through the streets, held hostage, tortured, and killed.

Members might also recall that the multinational military unit created for the Somalia engagement functioned under the control of the U.N. An investigation revealed that the primary factor was not centralized planning, Mr. Chairman. The primary factor which led to this terrible incident was the inability of the various military commanders to communicate to one another because of the language barriers. They could not talk to one another.

If we allow another military engagement to function under the control of the U.N., similar types of tragedies are certain to happen. In fact, it happens the creation of the Rapidly Deployable Mission Headquarters could be the precursor to a deployment in highly unstable and dangerous Central African Republic. The first mission of the headquarters was reported to be in the Central African Republic, to replace the French army as it withdraws from that troubled Nation.

Just this March Congress blocked the administration's $9.5 million request to pay the U.S. share of that mission. However, by supporting the Rapidly Deployable Mission Headquarters, the Clinton administration has simply ignored the mandate by Congress not to get our troops involved in the Central African Republic. That is the problem. That is what this amendment is addressing, Mr. Chairman.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I find myself betwixt and between two very, very good members of this committee, two excellent Members of Congress.

If I listen to both of the Members, I find them saying almost the same thing. They are both saying we do not want a standing U.N. army, and I agree with that. The difference I see is in the point that the gentleman from Missouri (Mr. SKELTON) makes, which is why, when there will be a joint operation, do we prohibit the very best from participating?

Last October I had lunch with the head of the British forces, the head of the French forces, the head of the Italian forces over in Bosnia, very proud people who spent their whole lives getting to the top of their profession.

It must have been very difficult for them to say what they said, but what they said was that they could not do it without the Americans; that when they went in without the Americans, their peacekeepers were chained to the lightpost, and people were raped and murdered and tortured in front of them, to show them how helpless they were. All that changed when the American troops came in.

What I would like the gentleman from Colorado (Mr. HEFLEY) and the gentleman from Missouri (Mr. SKELTON) to do is I would like to see the amendment of the gentleman from Colorado (Mr. HEFLEY) move on, but I would hope that in the very long time we have between now and the conference committee, that the Members work this out so that we accomplish what I know to be the Members' mutual goals.

I would simply ask the author of this amendment if he would be willing to try to work with the gentleman from Missouri (Mr. SKELTON) on this, because I am hearing the Members saying way too many of the same things for us to get involved in a fight on the floor about this.

Mr. HEFLEY. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Colorado.

Mr. HEFLEY. Mr. Chairman, I think the gentleman from Missouri (Mr. TAYLOR) is absolutely right. I think the goals of the gentleman from Missouri (Mr. SKELTON) and me are the same as the gentleman's probably are. If we can work out a better way to word this so it takes care of the concerns of the gentleman from Mississippi (Mr. TAYLOR) and the gentleman from Missouri (Mr. SKELTON), I will be happy to do that.

We all do not want a standing army, that is what we are all trying to avoid. I would pledge to work with the gentleman from Missouri (Mr. SKELTON) to see if we cannot get this wording to all of our satisfaction.

Mr. TAYLOR of Mississippi. Mr. Chairman, I thank the gentleman.

Mr. HEFLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. PAUL)

Mr. PAUL. Mr. Chairman, I thank the gentleman for yielding time to me, and I would like to compliment the gentleman for bringing this amendment to the floor.

Mr. Chairman, I want to make a couple of points. One, the other side of the aisle has mentioned that this is only a small amount. We are just introducing this idea. We are only giving a couple of dollars now. It reminds me of the arguments in 1913, let us have an income tax, but it is only going to be a fraction of 1 percent. We know what happened. There are plans for what they are doing. This is the time to stop it.

I think another point that we ought to make is, how did they get any money already? They got it from the Defense Department. We did not even appropriate the money. They have already started it. They have used American taxpayers' money without a direct appropriation from this Congress, and it is about time we stopped that type of legislation. That is the point. Where did the money come from? The Defense Department. It goes over into the United Nations for meddling, meddling overseas. It is taken away, literally, from defense.

We have a problem in this country for national defense. We have Air Force people who do not get flying time. Our men are not trained. We do not have the right equipment. We continuously spend all our money overseas, endlessly getting involved in Bosnia and Somalia, and wherever.

I think it is policy that needs to be addressed. It is the policy that allows our administration to do this, because there is too much complicity in allowing the United Nations to assume our sovereignty.

☐ 1645

That is the point here. The American people deserve better protection. They deserve better protection of their money. They deserve better protection of their youngsters who may get drafted and may get sent overseas. There is a great deal of danger in the Bosnia and Kosovo area, yet here we are talking about starting a new U.N. organization that unfortunately dwells on the term and brags about rapidly deployable. That is the last thing we need from the United Nations. I would like to slow it up, but now they want to take away our sovereignty to go and get involved more easily than ever and more quickly than ever.

So this is absolutely the wrong direction that we are going in today. This is a further extension of the notion that our obligation is to police the world. We are supposed to make the world safe for democracy. Just think, since World War II, we have not had one declared war, but we sure have been fighting a lot. We have lost well over 100,000 men killed. We have lost, we have had hundreds of thousands of men injured because we have a policy that carelessly allows us to intervene in the affairs of other nations, and we allow the United Nations to assume too much control over our foreign policy.

It is up to the U.S. Congress to do something about that; that is, to take away the funding. This is a great amendment. I cannot conceive of anybody voting against this amendment and pretending that this is only a little bit.

Mr. HEFLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Chairman, our President may be a globalist. He may genuinely believe that if we support a U.N. army that is stronger than the military of any member state, that this will permit the United Nations to keep the peace in the world. This rapid response force could very easily be a first step in this direction.

Clearly, the President means it to be a step in whatever direction he intends to go because he has given them $200,000.

I have some problem understanding how he can do this because Article I, section 9 of the Constitution says, "No money shall be drawn from the Treasury but in consequence of appropriations made by law."

The Congress makes those appropriations. We made no such appropriation. I do not understand how the President can give our taxpayers' money to the U.N. without an act of Congress.

The citizens of our country do not support any such idea as a standing army or rapid response force in the United Nations. They support the Constitution, which says very clearly, in Article I, section 8, "The Congress shall have power to declare war."

The President cannot do this, and any time he sends troops in harm's way it is the equivalent of a declaration of war, and I submit that that is technically in violation of the Constitution.

Mr. Chairman, if we vote down this amendment, Americans will think that we have gone mad. If we are going to be involved in military activities, we need to do so as Americans and under the control of Americans.

The gentleman from Missouri made the argument that if we pass this amendment that we will limit the President's ability to send our troops hither and yon in the world. I should hope so. I think that when he uses taxpayers' money in sending our troops to faraway lands where they are in harm's way, that is the exact equivalent of a declaration of war. Except in a dire emergency, he has no right to do this. Americans do not want him to continue to do this. That is Congress's responsibility, as defined by the Constitution.

Americans in poll after poll support the spirit of this amendment by at least 4 to 1. This amendment does not say we cannot participate in planning or in execution. It simply says, our involvement will not be automatic because we are a member of some rapid response force. It says that we will decide each time what is in our best national interest.

The amendment does not prohibit joint operations. It simply says that when we are involved, we will decide and we will control.

Mr. Chairman, this is a very common sense amendment which Americans overwhelmingly support. We must support it here also.

Mr. HEFLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN. Mr. Chairman, I rise in strong support of the Hefley amendment to prohibit the assignment of U.S. Armed Forces to United Nations Rapidly Deployable Mission Headquarters.

It is no secret that the United Nations wants to establish a standing army. My concern is that we may be starting down a slippery slope toward the goal of placing our troops under the command of the United Nations. U.S. troops are already deployed around the world to U.N. peacekeeping operations, and this is very important, which have little to do with U.S. security issues, this is also important, which have questionable success rates.

These deployments are putting a strain on our defense budget, and they are also shrinking our military and they are putting our people, our military people in harm's way. Our defense budget continues to decline. Readiness shortfalls are common. No U.S. military resources should be made available to the U.N. Rapidly Deployable Missions Headquarters.

If the administration is able to find money, and it is my prayer that they can find money, but we can use it on national security, as opposed to contributing money to a new U.N. project. I know I have plenty of military housing quality-of-life problems back in my district which should be funded before we spend additional taxpayer dollars on new U.N. bureaucracies.

I urge my colleagues to protect our Armed Forces from any future U.N. infringements and vote yes on the Hefley amendment.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

I have made my thoughts clear, and I oppose a standing United Nations army. I oppose the United States military forces being part of a standing United Nations army. What I am concerned about is the wording in this amendment that may cause in the long run some injuries and casualties to wonderful United States troops.

I think that is our job in this body, to support the troops. And in my small way, in reading this amendment and the wording of this amendment, I am standing up for American troops.

Mr. Chairman, I yield back the balance of my time.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

In summary, again, I think the gentleman from Missouri (Mr. SKELTON) and I are on the same track. We interpret the wording of this amendment a little differently. I think we are on the same track as to what we want to do. I hope that we can work this out.

Let me just read again a brief paragraph that the gentleman from South Carolina (Mr. SPENCE) emphasized: Choi Young-Jin, the Korean diplomat who is the U.N.'s Assistant Secretary General for Peacekeeping, recently admitted that the U.N. remains committed to establishing a standing army. Now get that, the U.N. remains committed to establishing a standing army.

The U.N.'s official spokesman later tried to clarify what Mr. Choi meant to say, that this rapidly deployable headquarters is an interim step, he said, since a standing army is too ambitious for the time being. In other words, one of the leading diplomats, the Assistant Secretary General for Peacekeeping said that the U.N. is committed to a standing army and, of course, he went too far and so he tried to explain it and then he said, well, that is too ambitious a step for right now.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, he is absolutely wrong. I am not for that. I am not for that at all.

What bothers me is the wording of this amendment. I think this amendment, as worded, as I explained a few moments ago, should it become law, could very well invite some real disasters for our troops. I really think that it can be rewritten much, much better.

Mr. HEFLEY. Mr. Chairman, the gentleman may be absolutely right. It may be able to be worded much better, but if he and I believe the same thing, that we do not want a standing army, the way for us to assure that is to let this amendment go ahead and progress. I have committed to the gentleman that I will work with him as we go through this process and try to get the wording in a way that we can both agree on. But if we kill the amendment here today on the floor of the House, then there is no opportunity for us to do that.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. PEASE). The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 441, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. B-1 offered by the gentlewoman from New York (Mrs. LOWEY); amendment No. B-2 offered by the gentleman from New York (Mr. GILMAN); amendment No. B-3 offered by the gentleman from Colorado (Mr. HEFLEY).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. B-1 OFFERED BY MRS. LOWEY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from New York (Mrs. LOWEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 232, not voting 10, as follows:

[Roll No. 171]

AYES—190

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Castle
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Foley
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Gordon
Green
Greenwood
Gutierrez
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Kleczka
Kolbe
Lampson
Lantos
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moran (VA)
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Porter
Price (NC)
Pryce (OH)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stark
Stokes
Strickland
Tanner
Tauscher
Thomas
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
White
Woolsey
Wynn
Yates

NOES—232

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Borski
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Ensign
Everett
Forbes
Fossella
Fox
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kildee
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Moakley
Mollohan
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Portman
Poshard
Quinn
Radanovich
Rahall
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Bateman
Carson
Clay
Ewing
Gonzalez
Harman
Meeks (NY)
Murtha
Stabenow
Wise

□ 1716

The Clerk announced the following pair:

On this vote:

Ms. Stabenow for, with Mr. Ewing against.

Mr. GEKAS and Mr. LAZIO of New York changed their vote from "aye" to "no."

Mr. KIND and Mrs. CLAYTON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. PEASE). Pursuant to House Resolution 441, the Chair announces that it will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. GILMAN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. GILMAN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 420, noes 1, not voting 11, as follows:

[Roll No. 172]

AYES—420

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger

Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich

Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)

Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri

Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton

Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner

Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

PRESENT—1

Frank (MA)

NOT VOTING—11

Bateman
Carson
Clay
Ewing

Gonzalez
Harman
McDade
Meeks (NY)

Murtha
Stabenow
Wise

□ 1725

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT B-3 OFFERED BY MR. HEFLEY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 3 offered by the gentleman from Colorado (Mr. HEFLEY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 172, not voting 10, as follows:

[Roll No. 173]

AYES—250

Aderholt
Andrews
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett

Barton
Bass
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner

Bonilla
Bono
Boswell
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert

Camp
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger

Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jenkins
Johnson (WI)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Portman
Poshard

Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—172

Abercrombie
Ackerman
Allen
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin

Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers

Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Greenwood
Hall (OH)
Hamilton
Hastings (FL)
Hilliard
Hinchey
Hinojosa

Holden
Hooley
Houghton
Hoyer
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Porter
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Spratt
Stark
Stokes
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn
Yates

NOT VOTING—10

Bateman
Carson
Clay
Ewing
Gonzalez
Harman
Meeks (NY)
Murtha
Stabenow
Wise

□ 1733

Ms. HOOLEY of Oregon changed her vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. EVERETT. Mr. Chairman, the legislation before us today represents our best efforts to fashion a defense authorization bill that meets the national security requirements of the country within a constrained budget. This year marks the 14th consecutive year of real decline in defense spending; a fact that has led to the military being slashed by more than one-third. As a percentage of the Gross National Product, this defense budget represents only 3 percent; the lowest level since before World War II.

I raise these points as a warning. As a Nation who has invested dearly to amass the greatest military in the world, we cannot continue the erosion of our national security capabilities without assuming greater risk in our ability to meet the many and varied challenges of America's security interests. The Joint Chiefs have all testified that we can still get the job done under this budget, but the associated risk factor to meet the national threat assessment continues to increase. The unfunded requirements also continue to grow, amounting to $54 billion over the next 5 years according to the Chiefs. These unfunded requirements range from the modernization of key weapon systems, to real property maintenance backlogs, to quality of life issues affecting the dedicated military personnel and their families. In addition to these massive unmet requirements, the Congressional Budget Office has indicated that Clinton's 5-year defense budget will not even keep pace with today's mild rate of inflation. This fact broadens the defense budget problems by another $54.4 billion shortfall between now and fiscal 2003.

These sobering realities of the defense budget are important to note, because this administration continues to task the military with countless forward deployments while failing to provide the resources necessary to conduct these missions. The Op Tempo rate of our military personnel is at the breaking point. The Bosnia peacekeeping mission and Operation Southern Watch in Iraq continue to sap the readiness accounts of the services, requiring Congress to approve last-minute emergency supplemental appropriations bills to pay for critical training accounts depleted by these foreign policy forays. These trends are an indication of poor management of the country's national defense.

With that said, I must commend Chairman SPENCE and the subcommittee chairman for their work in crafting this bill under these difficult circumstances. We have been able to provide additional funds for key weapon systems procurement like the UH–60 Black Hawk helicopters and Javelin precision guided missiles and speed up the testing and development of the RAH–66 Comanche, while also adding critical funds to help improve and maintain the infrastructure on our military installations. I urge all members to support the bill.

Mr. UNDERWOOD. Mr. Chairman, I join my colleagues today in support of H.R. 3616, the FY 1999 Defense Authorization Bill. This bipartisan effort has been well received and will do much to ensure that the security of the United States and its territories will be preserved.

Mr. Chairman, these are dangerous times. Today, the United States is faced with multifaceted threats from all corners of the globe. The list is enormous: illicit Ballistic Missile technology transfers from Russia and China, North Korean and Iranian ballistic missile development, a potential nuclear arms race in South Asia, continuing strife in Bosnia, Iraq's failure to completely comply with U.N. weapons inspectors, rioting, oppression, and a secession crisis in Indonesia, a seemingly insurmountable international narcotrafficking problem and the specter of global and domestic terrorism. Our military forces are being stretched to the limit, being forced to do more with less. These threats matched against our Nation's shrinking defense budget all create a tense security environment that our Nation must contend with.

But, Mr. Chairman, H.R. 3616 is not just about outfitting our military with the best equipment and training to meet these challenges, it is also about doing more for our uniformed men and women. H.R. 3616 includes several measures that I introduced that enhances the lives of our service personnel. I was able to obtain language that would allow National Guardsmen to have equal PX/BX and Commissary privileges as the active duty servicemen when called up for duty during a federally declared disaster. We learned of this inequity only too well when Typhoon Paka struck Guam last December. Additionally, I reintroduced an amendment that will authorize the reimbursement for the cost of a rental car, after a permanent change of station transfer to a new duty station overseas under the travel automobile rental allowance authorized to service members. This provision would apply only to service members whose motor vehicle has not arrived by the promised shipping date. This initiative, suggested to me by Colonel Adolf Sgambelluri of Guam, became a reality after working closely with Congressman STEVE BUYER and Congressman GENE TAYLOR.

Mr. Chairman, the House National Security Committee also manages a vital oversight function over the Department of Defense. My colleagues and I treat this responsibility very seriously. Two oversight initiatives that I had included in this bill are (1) to secure directive report language that requires the Department of Defense to report to Congress on the reasons that led to the establishment of Department of Defense Dependents School (DoDDS), their plan of reintegration between the DoDDS and the public school system on Guam, and report on the specific plans to construct any structure on Guam for the expressed purpose of housing DoDDS facilities on Guam; and (2) to require the Department of Defense to report to Congress their proposed plan for privatization of public (departmental and military) owned electric and water utilities and the real property that these utilities are located on. The report also requires that DoD describe the criterion where such a conveyance will not be made on the grounds of national security. I worked closely with Chairman JOEL HEFLEY on this initiative and would like to thank him for his foresight in including this important initiative.

Mr. Chairman, one note of dissent, I am not in support of this bill's provision that will mandate gender-separate training and barracks for all services of the armed forces during basic training. I have often commented on the growing rift in military/civilian relations. I believe that for 50 years the armed forces has been the most successful institution that promotes inclusion of both race and gender. To reverse that noble history, which this measure will certainly do, is to run the risk of dangerously turning our military into an organization that will be further separated from the society that it is charged to defend.

Finally, Mr. Chairman, I am deeply concerned with the Department of Defense's continuing utilization of the A–76 process in its quest to mete out savings and increase productivity. While I recognize that the Department can no longer conduct business the way it had during the Cold War, it seems shortsighted and thankless to potentially lay off thousands of government employees who have served for so long. Despite that the A–76 process, at a minimum, provides a chance for Government employees to compete, we must recognize that this is an inglorious method to show our gratitude for all their years of public service. I believe that the Department of Defense is relying too heavily on A–76, privatization and other outsourcing initiatives to provide sorely needed savings for their programs. I remain skeptical over the estimates that DoD claims they will reap from these processes.

Essentially, I am concerned that the retirement benefit packages of Federal employees is penalized severely for early retirement. Currently, there is no provision to protect the full receipt of benefits if the employee is displaced by a private sector worker as a result of A–76. The devastating inequity of A–76 is that a federal worker who is 2 to 3 years away from retirement will lose out on a full pension through no fault of their own. In conclusion, it is my hope that the Department will seriously review the process to protect its loyal employees and the retirement benefits that they were promised.

Mrs. FOWLER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GIBBONS) having assumed the chair, Mr. PEASE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes, had come to no resolution thereon.

NOTICE OF INTENT TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

Mr. MINGE. Mr. Speaker, pursuant to clause 1(c) of House Rule XXVIII, I hereby notify the House of my intention tomorrow to offer the following motion to instruct House conferees on H.R. 2400, Building Efficient Surface Transportation and Equity Act of 1998:

I move the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2400, be instructed to ensure that spending for highways and transit programs authorized in the conference agreement on H.R. 2400 is fully paid for using estimates of the Congressional Budget Office, to reject the use of estimates from any other source, to reject any method of budgeting that departs from the budget enforcement principles currently in effect, or the use of the budget surplus to pay for spending on highways or transit programs.

MOTION TO INSTRUCT CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

Mr. OBEY. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2400, be instructed to insist that no provisions to prohibit or reduce service-connected disability compensation to veterans for smoking-related illnesses be included in the conference report on H.R. 2400 to offset spending for highway or transit programs.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) and the gentleman from Wisconsin (Mr. PETRI) each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this motion to instruct conferees is very simple. It instructs the House conferees to protect veterans' health care by rejecting any reduction in service-connected disability compensation to veterans for tobacco-related illnesses and then using those cuts to pay for increased highway and transit spending.

Mr. Speaker, we all know that when the transportation bill passed, it was a bloated budget-busting bill that staked a claim on more than $217 billion in Federal resources for roads, bridges, and mass transit over the next 6 years, 40 percent more than the levels provided in the previous legislation.

The bill, as it left the House, is not paid for at all. So it is no surprise that BESTEA conferees have been struggling for weeks to find the ways to pay the check now that it has to be paid.

Mr. Speaker, even though conferees have apparently trimmed the total tab on the bill to somewhere around $200 billion, it is clear that they are having trouble finding the funds they need to pay for the bill.

We know that BESTEA conferees evidently planned to use a combination of directed scorekeeping provisions, smoke and mirrors, and what is the unkindest cut of all, a reduction in veterans' compensation for smoking-related illnesses.

Mr. Speaker, the Minge amendment which has just been noticed will be offered tomorrow because, as you know, the Office of Management and Budget has estimated that savings of $17 billion over 6 years could be achieved by eliminating existing smoking-related disability benefits to veterans who became addicted to nicotine during military service but whose disability occurred only after they left military service.

The Congressional Budget Office has disputed the OMB estimates. Their savings estimates are only about $10.5 billion, and many people believe that, based on VA's current claims, that even the CBO estimate may be too high.

Nonetheless, the Senate budget resolution counted the OMB savings as an offset for the increased highway and transit spending, and the conferees on the final version of the highway bill are apparently about to adopt this overblown savings estimate, even though neither the House nor the Senate-passed highway bills included any provision to cut veterans' compensation.

What that directed scorekeeping means in plain English is that the Congress would be able to bust the budget by billions of dollars and hide the fact from the general public. That is why the gentleman from Minnesota (Mr. MINGE) wants to offer the motion tomorrow in order to try to prevent that.

Meanwhile, we are trying today in this motion to deal with the parallel problem. Apparently, the conferees on the transportation bill have decided to spend $9 billion on over 1,500 pork barrel projects included in the House bill and a nondetermined number of Senate pork projects, and would pay for that pork by cutting health care benefits for veterans.

In short, Mr. Speaker, apparently the conferees would produce a product which would commit highway robbery on veterans' health care.

Mr. Speaker, over 50 veterans groups and other groups oppose these cuts in disability benefits to sick and disabled veterans, or to sick and disabled veterans who have legitimate service-connected claims. The organizations that oppose this action are the Veterans of the Vietnam War; Vietnam Era Veterans Association; Vietnam Veterans of America; the Air Force Sergeants Association; American Ex-Prisoners Of War; American Paraplegia Society; Association of the U.S. Army; Blinded Veterans Association; Brotherhood Rally of all Veterans Organization; Catholic War Veterans, U.S.A.; The Enlisted Association of the National Guard of the United States; Jewish War Veterans of the U.S.A.; Legion of Valor of the U.S.A.; Military Chaplains Association of the U.S.A.; Military Order of the Purple Heart; National Amputation Foundation; National Association for Uniformed Services; National Association of County Veterans Service Officers; National Association Of Military Widows; National Coalition For Homeless Veterans; Noncommissioned Officers Association; Nurses Organization of Veterans Affairs; Polish Legion of American Veterans; The Retired Officers Association; Society Of Military Widows; U.S. Merchant Marine Veterans of World War II, and so on, and so on.

☐ 1745

Also I have received a number of letters today from organizations that I did not mention, including the American Legion. I would quote briefly from some of these letters.

The letter from the American Legion says:

> Simply put, Members who support rescinding future veterans benefits to pay for highways and mass transit projects should be ashamed of their actions.

The Disabled Americans Veterans letter reads in part as follows:

> Your effort to introduce a motion to instruct the House conferees on H.R. 2400 not to use so-called "savings" from disability compensation for the highway fund is greatly appreciated."

AMVETS, they say as follows:

> AMVETS strongly supports your motion to instruct conferees on H.R. 2400 not to use veterans' money to pay for these highway projects.

Vietnam Veterans of America:

> We feel very strongly that this anti-veteran provision must be stricken from the ISTEA conference report. The fact that Congress is considering taking $16 billion away from veterans compensation in order to increase spending in the Intermodal Surface Transportation and Efficiency Act is an affront to every American who served in the military.

The VFW says as follows:

> All Members of the House and Senate must certainly be aware by now of the VFW's outrage regarding the initiative to deprive veterans of the VA compensation to which they are now entitled. This callous assault on veterans in need is made all the more egregious by the fact that the resulting savings are being used to pay for pork-barrel spending in the budget-busting transportation bill.

I have a number of other letters which I will submit for the RECORD.

I would simply ask the House, Mr. Speaker, to vote for this amendment, and I would ask those who vote for it not to do so if they then intend to allow the conferees to come back and, through indirection, accomplish indirectly what we are trying to prohibit directly here today.

Mr. Speaker, this highway bill should not be paid for by cutting back veterans' compensation or veterans' health care benefits. The House originally said when it passed this bill it would not do that. The chairman of the committee put out a press release indicating that he was strongly opposed to doing that. I would hope, therefore, that the committee would stick to their original promise and not in fact allow it to happen, what we have been told from a number of sources they intend to let happen without this motion.

Mr. Speaker, I include for the RECORD the letters from veterans groups referred to earlier:

THE AMERICAN LEGION,
OFFICE OF THE NATIONAL COMMANDER,
Washington, DC, May 20, 1998.

DAVID R. OBEY,
Ranking Minority Member, House Committee on Appropriations, Washington, DC.

DEAR REPRESENTATIVE OBEY: The American Legion fully supports your motion to instruct House Conferees on H.R. 2400, Building Efficient Surface Transportation and Equity Act (BESTEA) of 1998, that insist no provisions to prohibit or reduce service-connected disability compensation to veterans for tobacco-related illnesses be included in the conference report on H.R. 2400 to offset spending for highway or transit programs.

Your motion would uphold Congress' moral, ethical and legal responsibilities with regard to veterans service-connected injuries or illnesses that resulted from addiction to tobacco while serving in the armed forces. Furthermore, your motion would uphold the Sense of the Congress language, contained in section 1001 in the House passed BESTEA legislation, "to not include any provision making a change in programs or benefits administered by the Secretary of Veterans Affairs."

Simply put, members who support rescinding future veterans benefits to pay for highways and mass transit projects should be ashamed of their actions. The American Legion appreciates your leadership, commitment and dedication to ensure Congress remains the protector and guardian of veterans benefits and not reckless financial raiders.

Sincerely,

ANTHONY G. JORDAN,
National Commander.

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, DC, May 20, 1998.

Hon. DAVID OBEY,
U.S. House of Representatives, Washington, DC.

DEAR MR. OBEY: All members of the House and Senate must certainly be aware by now of the VFW's outrage regarding the initiative to deprive veterans of the VA compensation to which they are now entitled for their smoking-related disabilities. It is for this reason that we strongly support and applaud your motion to instruct the Conferees to the Transportation Bill that no savings realized by prohibiting or reducing veterans service-connected disability compensation be used to offset spending for highway or transit programs.

This callous assault on veterans in need is made all the more egregious by the fact that the resulting savings are used to pay for pork barrel spending' in the budget busting Transportation Bill. We emphasize our amazement and chagrin that the language to change the law and deny such VA compensation as contained in the Transportation Conference Report is in clear violation of House Rules. It clearly usurps the authority and jurisdiction of the Veterans' Affairs Committee. This action further violates House rules in that neither the House nor State version of this bill contains such a provision.

We are both incredulous and outraged that certain lawmakers would so distort and violate House rules for the sole purpose of denying veterans earned compensation. That the resultant savings are to be used to pay for excessive spending brought about by their own vote-buying pork is scandalous. The VFW salutes you for your courage in resisting this anti-veteran assault and pledge to work together with you in seeing its defeat.

Sincerely,

JOHN E. MOON,
Commander-in-Chief.

DISABLED AMERICAN VETERANS,
Washington, DC, May 20, 1998.

Hon. DAVID OBEY,
Ranking Democratic Member, House Appropriations Committee, Washington, DC.

DEAR REPRESENTATIVE OBEY: Veterans across this Nation are outraged that Congress would consider robbing veterans' disability compensation programs to fund an already bloated transportation program. Your effort to introduce a Motion to Instruct the House Conferees on H.R. 2400 not to use so-called "savings" from disability compensation for the highway fund is greatly appreciated.

On behalf of the more than one million members of the Disabled American Veterans (DAV), I commend you for your efforts to protect veterans and their dependents and survivors.

We will be calling upon all DAV and Auxiliary members to contact their elected officials to encourage their Representative to support your motion.

Thank you for your efforts on behalf of America's sick and disabled veterans.

Sincerely,

HARRY R. MCDONALD, Jr.,
National Commander.

VIETNAM VETERANS OF AMERICA, INC.,
Washington, DC, May 20, 1998.

Hon. DAVID OBEY,
Ranking Democratic Member, House Committee on Appropriations, Washington, DC.

DEAR REPRESENTATIVE OBEY: On behalf of the membership of Vietnam Veterans of America (VVA), I write to strongly support your motion to instruct the House conferees on H.R. 2400, related to the provision which would prohibit service-connected disability compensation for veterans with tobacco-related illnesses. VVA feels very strongly that this anti-veteran provision MUST be stricken from the ISTEA conference report.

The fact that Congress is considering taking $16 billion away from veterans compensation programs in order to increase spending in the Intermodal Surface Transportation and Efficiency Act (ISTEA) is an affront to every American who served in the military. And the fact that Congress may cut veterans disability compensation only days before the national celebration of Memorial Day is an outrage. This is outright disregard of the service and sacrifice made by these veterans and their families.

Holding a vote on your motion to instruct conferees is the only way we can put House members on record for making this choice—pork-barrel transportation projects versus veterans disability and health care programs. VVA strongly urges every member of the House of Representatives to vote for your motion, Mr. OBEY. Our members will look to this vote as a definitive indication of each elected House member's support for veterans—or lack of support.

VVA greatly appreciates your initiative and support on behalf of our nation's 25 million veterans and their families. We are very hopeful that you will prevail in this effort to insist that no provisions are included in the ISTEA conference report to prohibit or reduce service-connected veterans disability benefits.

Sincerely,

GEORGE C. DUGGINS,
National President.

AMVETS,
NATIONAL HEADQUARTERS,
Lanham, MD, May 20, 1998.

Hon. DAVID OBEY,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE OBEY: As you are already aware, there is an outrageous proposal to terminate benefits for service-connected disabled veterans to increase spending on pork barrel highway projects. We ask you to vigorously oppose this scheme.

AMVETS strongly supports your motion to instruct conferees on H.R. 2400 not to use veterans' money to pay for these highway projects. The Senate Budget Resolution and some members of the conference committee on Intermodal Surface Transportation Efficiency Act (ISTEA) want to create $10.5 billion in savings by eliminating compensation and resulting priority VA health care for veterans with illnesses associated with addiction to nicotine which occurred during military service.

Denying these benefits is an unprecedented move. But worse, many in the House and Senate want to use the $10.5 billion as offsets to increase highway spending above levels set last year in the Balanced Budget Act.

Supporters of this "grab" for veterans dollars have spread many false and misleading facts about the impact of terminating these service-connected benefits. This is not a new benefit and it will affect more veterans than just those suffering from smoking related illnesses. We see this as a way for the Department of Veterans Affairs to begin disallowing claims of other veterans like Atomic veterans, Agent Orange exposure and Persian Gulf illnesses. Think about it, if someone has lung cancer and the VA can show that he or she smoked, they can deny the claim because they believe the cancer was caused from smoking.

We ask you to strongly object to this proposal and we thank you for your support on this issue.

Sincerely,

JOSEPHUS C. VANDENGOORBERGH,
AMVETS National Commander.

NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA,
Alexandria, VA, May 20, 1998.

Hon. DAVID OBEY,
Ranking Member, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. OBEY: The Non Commissioned Officers Association of the USA (NCOA) is writing to state its strong support for your Motion to Instruct House Conferees on H.R. 2400 to insist that no provisions to prohibit or reduce service-connected disability compensation to veterans for smoking-related illnesses be included to offset spending for highway or transit programs.

This Association is outraged that a veteran entitlement is proposed to be summarily taken away in order to offset a bill that is undeniably loaded with waste and election year politics. It is NCOA's understanding that veteran's disability compensation is not the only offset, and now estimated at $16 billion, that is under consideration. It is painfully clear that veterans have been once again, unfairly singled out and targeted.

NCOA salutes your leadership on the Motion to Instruct and this Association is dedicated to ensuring that the veteran offset is not a part of the conference report on H.R. 2400.

Sincerely,

LARRY D. RHEA,
Deputy Director of Legislative Affairs.

BLINDED VETERANS ASSOCIATION,
Washington, DC, May 20, 1998.

Hon. DAVID R. OBEY,
Rayburn House Office Building,
Washington, DC.

DEAR MR. OBEY: The Blinded Veterans Association (BVA), strongly supports your motion to instruct the House Conferees on H.R. 2400. This motion, to insist that no provisions to prohibit or reduce service-connected disability compensation to veterans for smoking-related illnesses, has our full backing. BVA deeply appreciates your efforts to protect Veteran's programs and services from the egregious offset contained in the conference report. It is outrageous that Veteran's programs are targeted at all for offsets for transportation. It is even more unconscionable to learn veterans are the only offset contained in the Report.

Again we applaud your motion and will do all we can to assure its adoption.

Very sincerely,

THOMAS H. MILLER,
Executive Director.

Mr. Speaker, I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield 1½ minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank both my colleagues from Wisconsin, because a bit of recent history may be in order here.

Mr. Speaker, I appreciate the efforts of my friend on the other side of the aisle, the gentleman from Wisconsin (Mr. OBEY), to restate what essentially we have done.

I would remind the House, Mr. Speaker, that in passing the rule for the authorization bill there was a self-executing amendment sponsored by myself, by the chairman of the Committee on Veterans' Affairs, the gentleman from Arizona (Mr. STUMP), and my colleague the gentleman from Washington (Mr. REDMOND) celebrating his one year anniversary of service in this House today.

Perhaps this will afford other Members who perhaps failed to vote for the rule an opportunity to join with us to stand firm to protect veterans' programs, as we stated in the rule. So, in that spirit of bipartisanship, if this would afford Members who avoided voting for the rule on authorization, if they want a second bite at the apple, well, that is fine, because it also restates the intent of a majority of us who have gone on record in this House with a vote to say absolutely, keep veterans' programs intact; do not even contemplate spending any of that money.

So, in that sense I am very grateful if Members from the other side want to join with us, and perhaps some of those Members have reconsidered their notion with the rule. So I say thank you, and I look forward to having so many other Members stand with us.

Mr. OBEY. Mr. Speaker, I yield myself one minute.

Mr. Speaker, I would simply say that despite that interesting rewrite of history on the rule, the fact is a good many of us, you bet, did vote against the rule on the highway bill because that rule provided for the consideration of a bill which spent over $200 billion without telling the country in the slightest where they were going to get the money to pay for the excess in that bill.

So the fact is, Mr. Speaker, that because that rule was self-executing, Members never had a chance to vote specifically on that provision. We are certainly giving them one now.

But do not kid yourself, the vote on the rule was cast against that rule by most Members of the House who voted against it because of our objection to the sleight-of-hand approach by which the committee was going to be able to bring a bill to the House floor without saying how its budget-busting was going to be paid for.

I make no apology whatsoever for the Members who voted against that rule. It was the right thing to do from the standpoint of protecting the taxpayers.

Mr. Speaker, I yield 30 seconds to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I want to state for the record that I am pleased so many want to join us again in restating our intent to say that veterans' funds are off limits. I have no quarrel with that with the gentleman, but, again, we may differ on our interpretations of history. I came to the well of this House and offered this amendment specifically for this reason. To the extent my friend wants to join me now and restate it in a motion to instruct conferees, I welcome that.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, again, I find that to be an irrelevancy. The fact is that my only concern with the gentleman's remarks relates not to his position on veterans' health care. It did relate to the gentleman's description of the vote against the rule, which was, in my view, a very large misdescription.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois, (Mr. EVANS) the ranking Democrat on the Committee on Veterans' Affairs.

Mr. EVANS. Mr. Speaker, I rise in support of the motion offered by the gentleman from Wisconsin (Mr. OBEY).

Mr. Speaker, there are many reasons for my support for the motion to instruct the conferees on H.R. 2400, offered by the gentleman from Wisconsin, Mr. OBEY, the ranking Democratic member of the House Committee on Appropriations. These reasons include the following:

As approved by the House, H.R. 2400 contained a provision to prevent a reduction in or the elimination of any current veterans benefit to provide "savings" needed to pay for or offset an increase in spending for highways and transit programs authorized by H.R. 2400. The language of H.R. 2400 as approved by the House and the intent of the House on this issue is not in doubt.

Recently, the chairman of the House Veterans Affairs Committee, the gentleman from Arizona, BOB STUMP, and I sent a letter to Speaker GINGRICH, Minority Leader GEPHARDT and every House member of the Conference Committee on H.R. 2400. Twenty-two of our colleagues who are Members of the House Committee on Veterans Affairs joined us in sending those letters. I ask that the text of these letters be included in the RECORD as part of my statement.

Our letters to Speaker GINGRICH, Minority Leader GEPHARDT and every House member of the Conference Committee reaffirmed the provisions in H.R. 2400 as approved by the House which prevents a reduction in or the elimination of any current veterans benefit to provide "savings" needed to pay for highways and transit programs authorized by H.R. 2400.

Additionally, as our letters note, measures relating to veterans benefits under the rules of the House are, generally, within the jurisdiction of the Committee on Veterans' Affairs, not the Committee on Transportation and Infrastructure. I am sure the chairman of the Committee on Transportation and Infrastructure understands that the jurisdiction of that committee does not include veterans' matters.

Our country is the most wealthy nation on the face of the planet. We enjoy liberties and freedoms enjoyed by few others and envied by most. It is our Nation's veterans to whom we are all indebted for the freedoms we enjoy and too often take for granted. While I strongly support the reauthorization of the Intermodal Surface Transportation Efficiency Act of 1998, our Nation can pay for new roads without committing highway robbery of veterans benefits.

In recent weeks, an aggressive print and radio advertising campaign by leading veterans groups has pleaded with Congress to not "rob our veterans again!" to offset major spending increases for highway and transportation programs.

The concerns expressed by these veterans advocates are unfortunately all too real.

The Congressional Budget Office [CBO] has estimated that spending for veterans benefits will be reduced by $10.5 billion over the next 5 fiscal years by eliminating existing smoking-related disability benefits to veterans able to show they became addicted to nicotine while in the military. Terminating this benefit and using these "savings" to offset nonveteran major spending increases is, in plain terms, a money grab at the expense of veterans. And it stands a good chance of succeeding unless the Republican leadership takes action during negotiations over the long overdue highway bill in the coming days to prevent this daylight robbery.

Congress should reject a transportation funding approach which effectively ends an existing veterans benefit. With the Congressional Budget Office [CBO] projecting a surplus of as much as $63 billion for this fiscal year—instead of the $15 billion projected when the House approved its version of the highway bill—it's simply not necessary to eliminate a veterans' benefits to provide much-needed funds for roads and bridges.

If this daylight robbery is permitted to happen, sick and disabled veterans—unlike recipients of Social Security disability benefits—would no longer be eligible for compensation benefits for nicotine addiction and resulting illnesses. This, despite the undeniable role our Government and tobacco companies have played facilitating—if not encouraging—veterans to smoke during their military service.

Total cigarette sales soared in the 1940's. During what a 1949 Fortune magazine article called "the war boom in cigarette demand," tobacco giant Philip Morris recorded record sales in the fiscal year ending March 31, 1945. Nearly one-third of its sales went to our Nation's Armed Forces.

As many as 75 percent of our World War II veterans began smoking during their military service, a number perhaps not surprising given that cigarettes were routinely distributed free of charge to members of the Armed Forces as part of their "C-rations." Military exchanges sold cigarettes at dramatically reduced prices. From the time of the Civil War until 1956, the Army was required by law to provide a cheap and nearly endless supply of tobacco to its enlisted men.

During my own service as an enlisted Marine in the Vietnam-era, smoke breaks and "smoke 'em if you got 'em" was the way of military life.

Given this backdrop, it's not hard to understand how many veterans began smoking and developed an addiction to nicotine during their military service. In my view, and in the view of many who served, they did so in large part because our Government and tobacco companies made cigarettes so accessible and easy to smoke.

But while common sense and the current public debate over tobacco would suggest that our Government should own up to its responsibilities to American veterans on this issue, Washington politics has unnecessarily clouded this issue for some Members of Congress.

In an era where most people are now willing to concede that the tobacco industry is at least partly to blame for marketing to vulnerable populations and for concealing the dangers of smoking from the public at large, some in Congress apparently believe America's veterans singularly had a unique ability to accurately foresee the consequences of their tobacco use. At a time when documents uncovered during recent tobacco litigation confirm long-held suspicions that for years big tobacco knowingly concealed the dangers of smoking from the public, the administration and some in Congress appear poised to take the hypocritical view that veterans—unlike other Americans—should have known better than to become addicted to nicotine during their military service.

Veterans deserve the benefit of the doubt, not the short end of the stick, on this issue. The conferees on the highway bill should stick to House language which, as Transportation Committee Chairman BUD SHUSTER (R-PA) says, "does not touch veterans benefits." Veterans programs or benefits should not be used to offset spending increases in the highway bill. There are better ways to pave roads than to break the promises we as a nation have made to America's veterans.

Mr. PETRI. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, it is always interesting, those that say they want to save taxpayer dollars, for 40 years big government, higher taxes, more spending. I even remember a $16 billion pork-barrel package when the Democrats were in power for parking garages in Puerto Rico and sickle fin fishes in dictionaries.

But that is not the issue at hand. The issue is veterans' health care. The FEHBP is a far bigger issue than to pay for smoking for our veterans. Right now, civilians have the right to a wrap-around program when they come under Medicare and they can take up FEHBP. The same person in an office in the Pentagon, a secretary gets that but someone in the military does not get FEHBP.

There is going to be a bill on the floor that really helps, instead of a Band-Aid, fix FEHBP. Many of us under the Watts-Moran bill want the $100 million the first year and then to be escalated. That takes away a Band-Aid fix.

If you are really interested in helping the military, let us not only vote for the manager's amendment, let us support it and let us increase it. That will add to TRICARE, it will help subvention, it will help Medicare for the military, and it will give them FEHBP which they should have gotten a long time ago. It is far more important than this in the transportation bill which some are demagoging.

Mr. OBEY. Mr. Speaker, I yield four minutes to the distinguished gentleman from Texas (Mr. EDWARDS), the former ranking member of the Subcommittee on Veterans' Health Care.

Mr. EDWARDS. Mr. Speaker, it is not good enough for Members of Congress to just honor veterans on Veterans Day and Memorial Day. We should honor them today, now, with this vote. Veterans may appreciate our speeches next week on Memorial Day, but today veterans need and they deserve our vote.

Today we have a choice. It is a clear choice. We can choose to defend veterans' health care programs or we can vote in a few moments to allow millions, if not billions of health care dollars going to veterans to be spent on our highway program. Personally, I think it would be a sad day if less than one week before Memorial Day this House votes to allow veterans' health benefits to be cut.

But, Mr. Speaker, the voice that needs to be heard today on the floor of this House is not my voice. The voice that deserves to be heard is the voice of our Nation's veterans.

Let me turn to several of the letters, some of which were referred to by the gentleman from Wisconsin (Mr. OBEY) in his comments.

First, the Vietnam Veterans of America said this: "On behalf of the membership of Vietnam Veterans of America, I write to strongly support your motion to instruct the House conferees on H.R. 2400. The fact that Congress may cut veterans disability compensation only days before the national celebration of Memorial Day is an outrage. This is outright disregard of the service and sacrifice made by these veterans and their families."

Signed by George Duggins, National President of Vietnam Veterans of America.

The Veterans of Foreign Wars of the United States, signed by Mr. John Moon, Commander-in-chief, said this: "We are both incredulous and outraged that certain lawmakers would so distort and violate House rules for the sole purpose of denying veterans earned compensation."

Mr. Speaker, let us listen to the voice of Disabled American Veterans, veterans who have continued to pay the price of war long after the ceasefire was concluded. Harry McDonald, National Commander of DAV, said this: "We will be calling upon all DAV and

Auxiliary members to contact their elected officials to encourage their Representative to support your motion," the Obey motion.

Mr. Speaker, let us listen to the Members of the American Legion, Anthony Jordan, National Commander: "The American Legion fully supports," Mr. Obey, "your motion to instruct House conferees on H.R. 2400. Your motion would uphold Congress' moral, ethical and legal responsibilities with regard to veterans service-connected injuries or illnesses that resulted from addiction to tobacco while serving in the armed forces."

Let us listen to the voice, Mr. Speaker, of America's AMVETS. "This is not a new benefit and it will affect more veterans than just those suffering from smoking-related illnesses." They go on in their letter to support Mr. Obey's motion.

Finally, let us hear from the voice of blinded Americans, the Blinded Veterans Association. Its director, Thomas Miller, said this: "The Blinded Veterans Association strongly supports," Mr. Obey, "your motion to instruct the House conferees on H.R. 2400.

□ 1800

"It is outrageous that veterans' programs are targeted at all for offsets for transportation. It is even more unconscionable to learn veterans are the only offset contained in the report."

Mr. Speaker, I hope in a few moments the Members of this House, most of whom will go home to speak with veterans on Memorial Day, will listen now to the voices of our veterans who have served our country.

Mr. PETRI. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, do I have the right to close?

The SPEAKER pro tempore (Mr. GIBBONS). The gentleman from Wisconsin (Mr. OBEY) has the right to close.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Let me be very brief, and perhaps those speakers will not be back by the time I finish and we can wrap it up with concluding remarks.

Mr. Speaker, I want to report that the bipartisan leadership of our committee, the gentleman from Wisconsin (Mr. OBERSTAR) and the gentleman from West Virginia (Mr. RAHALL), as well as myself and the gentleman from Pennsylvania (Mr. SHUSTER), our chairman, have been working hard in a number of conference meetings, not of the full conference, but of the leadership of the full committee in the House and the other body. As the dean of my delegation knows, conferences are a very difficult thing involving a lot of give and take, and we appreciate the advice of our colleagues as we attempt to work things out. We certainly are very aware of the concern that we all share that we are fair to the veterans of our country.

The bill is close to being concluded, but not there. The amendment that has been offered, or the motion to instruct that has been offered before us is one that is helpful in that the structure of any offset has not been determined. There are negotiations going on with OMB and the other body and a variety of people to try to see if we cannot be sure that there are some improvements for our veterans in this bill if they are dealt with at all.

We were under instructions to try to stick within the budget agreement, not use any offsets that could not be defended, and to minimize, to the extent we possibly can, offsets that the administration had indicated they were going to come forward with through their budget process for other programs.

In that spirit, we have cut back significantly on the size of this bill. When it passed the House it was at $217 billion, it is currently being contemplated and scored at about $200 billion over 6 years, all of which would come in gas tax revenue, paid at the pump for transportation by the American motorists. The actual scoring effort should mean that we would be within that figure, but still keep the principle that new money coming in in user fee revenues be used to try to make our highways more safe, save lives and improve our Nation's competitiveness.

Again, these motions can be offered to conferences. They have been offered in the past by members of my party when the roles were reversed, and we appreciate the concern that the motion represents, and it is a give and take process. We are going to do the best we can, but we are going to try to come back with a product at the end of the day that is an improvement over current law and that all Members will be proud to support.

Mr. Speaker, I yield back the balance of my time.

Mr. OBEY. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) has 16 minutes remaining.

Mr. OBEY. Mr. Speaker, I do not intend to use all the time, but let me yield myself such time as I may consume to simply recount what is happening here.

When this bill first came to the floor, a number of us warned at the time that if the rule was adopted for the consideration of the bill, and if the bill was passed, we would set in motion a series of events that would be totally unpredictable. The bill did not tell us how the overage, above the amount allowed in the budget that this Congress so vociferously adopted last year, the bill did not tell us how that overage would be paid for; it left it silent. We warned at the time the bill was being considered that there were rumors that it would be paid for by reductions in veterans' health care; we warned that there were also rumors that it might be paid for, in part, by eliminating the President's education initiatives, and we urged Members not to vote for a bill until they knew where the money was coming from to pay for it. The House disregarded those warnings and they voted for the bill.

Now, we are being told by many sources that the conferees in fact do intend to pay for the excess above the amount allowed in last year's budget agreement by in fact directing scoring on this veterans' health care item, and therefore, they intend to pay for approximately $16 billion in highway funds by the same long-term cutbacks in veterans' health care. We are told that that is virtually the only item at this point that has been tentatively agreed to by the conferees.

Now, that is why we are bringing this motion, because we have moved from the general concern to the specific.

I would ask every Member of this House who cares about our commitment to veterans to vote for this motion, but I would ask the committee not to accept this motion if they intend to accept it, pat the House on the head, simply give Members a vote to cover their tails on veterans' health care issues, and then proceed to come back to the House with a bill that does something similar to what we are trying to prohibit in this motion.

If we intend to in fact reduce benefits for veterans, then do not, I would say to the committee, encourage Members to vote for this motion today. Let us play it on the square. This motion should be passed and the conferees should not, in fact, bring a bill back to the House which does violence to the instruction contained therein.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Speaker, if I could just ask the distinguished gentleman one question. In my 8 years in the House, I do not think there has been anything close to a proposed $15 billion cut in veterans' programs. I know the gentleman has been here a number of years longer than I have, and my question to the gentleman would be, in all of the years he has been in this body, has there ever been a proposal passed that would have cut as much as $15 billion out of veterans' health care programs?

To my knowledge, that has never occurred, and if that is true, what the gentleman is basically trying to stop today and what Members are going to vote on in just a minute is whether or not they want to allow the largest single cut in our time for veterans' health care benefits.

Mr. OBEY. Mr. Speaker, reclaiming my time, I would simply say to the gentleman from Texas, I certainly do not know of any time in the time that I have been in this Congress when we have even contemplated reducing veterans' benefits by such a large amount, and I would hope that we see nothing like that in the bill that is being reported by the committee, or that will be reported by the committee very shortly.

Mr. EDWARDS. Mr. Speaker, if the gentleman would further yield, I appreciate the gentleman's comments and his leadership in defending veterans programs.

Mr. OBEY. Mr. Speaker, if I could continue, I would simply say that I believe strongly in additional funds for highway construction. I have led the fight early and often, both in the legislature and in the Congress, for a greater commitment to transportation infrastructure development and certainly to highways. I take a back seat to no one in placing highways as a high priority on my scale, but they are not my only priority, and I certainly would not rank them above veterans' health care. I find it especially disturbing that these veterans' health care cuts apparently are being contemplated in order to pay for a record number of special projects for Members and their districts.

NOTICE OF INTENTION TO OFFER MOTION TO INSTRUCT ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

Mr. OBEY. Mr. Speaker, before I yield back the remainder of my time, pursuant to clause 1(c) of House rule XXVIII, I hereby notify the House of my intention tomorrow to offer the following motion to instruct House conferees on H.R. 2400, Building Efficient Surface Transportation and Equity Act of 1998.

To wit: I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2400, be instructed to limit the aggregate number of earmarked highway demonstration projects included in the conference report on H.R. 2400 to a number that does not exceed the aggregate number of such highway demonstration projects earmarked during the 42 years since the enactment of the Highway Trust Fund in 1956.

In other words, I do not believe that veterans' health care should be cut back in order to provide funding for the amount of highway projects which exceeds the total of all special projects provided in that bill in the 42 years since the enactment of the Highway Trust Fund.

Having given that notice, I would urge an "aye" vote on this motion.

Mr. RODRIGUEZ. Mr. Speaker, I rise in strong support for the Motion to Instruct Conferees offered by the gentleman from Wisconsin, Mr. OBEY.

This motion instructs BESTEA conferees not to cut benefits for veterans to pay for the transportation bill.

The House already agreed with this position last month when we passed H.R. 2400. Our version of BESTEA included language that called for any increased spending by conferees not change any veterans programs.

I believe in BESTEA. I voted for BESTEA. I think a strong transportation system is vital to our continued economic development and our national security.

However, we owe a debt to our veterans. We cannot let them down by denying currently available benefits to fund even the worthiest projects.

The transportation bill is not the place to modify veterans benefits. That is an issue under the jurisdiction of the Veterans' Affairs Committee. Any changes should be for the benefit of the veterans.

Over the last several months, the DAV, the VFW, the American Legion, and all of the major veterans' service organizations, have urged Congress to reject the VA's proposal to deny service-connected disability compensation for disabilities related to tobacco use.

They want to know why service-connected disability compensation should be taken away from seriously ill veterans or their survivors. They want to know why these benefits are seen as a waste.

After all, these benefits are not just given to each and every veteran that smoked. Veterans must undergo a rigorous claims process to establish their entitlement to these benefits. So far, only 299 veterans even qualify for this benefit.

It is unfair to ask those who have already served to keep making sacrifices time and time again.

Veterans are already being asked to forego long overdue increases for veterans programs: increases in Montgomery GI funding to keep up with the rising costs of education; certain survivors' benefits; improved disability benefits.

What are we going to tell our veterans?

I urge passage of the motion.

Mr. ABERCROMBIE. Mr. Speaker, I rise in support of the Obey motion to instruct the highway authorization conferees not to allocate veteran program benefits to offset part of the cost of the highway bill.

We must recognize for the first time in 50 years the United States has realized a budget surplus. Although funding for the Social Security must be the highest priority, there should be sufficient funds for other important programs, such as the highway bill.

I am deeply concerned this provision is an attempt to make the benefits of those who have served us so well in our fight for the preservation of freedom a repository to be tapped. The military encouraged the tobacco habit by issuing cigarettes to its members as part of their rations. The Services encouraged the smoking habit before they knew the consequences of this action. This provision as written could deny veterans medical health care. So how can we, as a nation which cherishes its democracy, not take responsibility for our action. We must also recognize that the Veterans Administration is being deliberate in granting service connected compensation for tobacco related illnesses. Veterans must prove that the addiction to nicotine in these cases occurred prior to separation from the service. To date there have been approximately 9,000 claims for tobacco related illness and of those 9,000, 4,000 have been denied; and a maximum of 299 allowed.

We, as a nation owe a great debt of thanks to those who have served in our military and in return promised to provide for their medical needs for life. Let us not renege on our promise. Veterans did not question when they were asked to go into combat and risk their lives to defend this great nation and the value it still stands for. Veterans met the challenge laid before them and continue to contribute to the betterment of their communities. It is an egregious act to offset the BESTEA reauthorization bill on the backs of our faithful veterans who have defended us in our time of need. I support the Obey motion to instruct the BESTEA conferees to refrain in the use of the veteran compensation provision as an offset. To deny veterans compensation for tobacco related illness to pay for the transportation bill is an insult to those who stood in the gap; placing their lives on the line to preserve the freedom, this democracy, we so cherish.

Let us search for a solution that keeps promises we made to veterans.

Mr. OBEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 10, as follows:

[Roll No. 174]

YEAS—422

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings

Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—10

Bateman
Carson
Clay
Gonzalez
Harman
Meeks (NY)
Pelosi
Pryce (OH)
Schumer
Stabenow

☐ 1831

Messrs. GILCHREST, COBURN, GANSKE, and RIGGS changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNICATION FROM STAFF MEMBER OF HON. STENY H. HOYER, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. GIBBONS) laid before the House the following communication from Cory B. Alexander, staff member of Hon. STENY H. HOYER, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 19, 1998.

Hon. NEWT GINGRICH,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena ad testificandum issued by the Superior Court of the District of Columbia, in the case of *Pointe Properties, Inc., et al.* v. *Michael J. Bevenour, et al.*, Case No. 96–CA–009720.

After consultation with the Office of General Counsel, I have determined that the subpoena relates to my official duties, and that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,
CORY B. ALEXANDER.

TRIBUTE TO BILLY G. TURNER, PRESIDENT, GEORGIA WATER WORKS BOARD

(Mr. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS. Mr. Speaker, 4 years ago the Columbus, Georgia Water Works Board established the goal of having the best water system in the Nation by the year 2000. With the guidance and experience of its president, Billy G. Turner, that goal has been achieved.

On June 8, the EPA Regional Administrator will present Mr. Turner with the award for having the best large water treatment plant in the Southeast. In all, he has received seven other prestigious national, State and regional awards in 1998, including top national honors for design.

As recognized by the Columbus Ledger-Enquirer, they are doing more with less. Employees have been reduced without layoffs, and with a budget of $1 million less than last year. But most importantly, water rates have been kept at a lower rate than most comparable cities.

Due to Mr. Turner's work, dedication and innovation, he was appointed President of the International Water Environment Federation. I would like to commend Mr. Turner for his efforts. The City of Columbus and the State of Georgia are fortunate to have him.

Mr. Speaker, I also provide for the CONGRESSIONAL RECORD two recent articles from the Columbus Ledger-Enquirer about Mr. Turner and his outstanding work.

Mr. Speaker, just four years ago, the Columbus Water Works Board in the Third District of Georgia set out to have the best water system in the country by the year 2000. With the guidance and experience of its President, William Turner, that goal is being achieved. It takes many people to achieve the successes which have been reached by Columbus Water Works. But I rise today to single out and commend Mr. Turner for his outstanding leadership, vision, and commitment to water quality.

On June 8, Region IV Administrator for the Environmental Protection Agency John Hankinson will present Mr. Turner with the award for having the best large water treatment plant in the 10-state Southeast region. With seven prestigious national, state-wide, and regional awards in 1998, this is yet another honor for him in the water quality field.

Already, the Columbus combined sewer treatment and Riverwalk project earned top national honors for design from the American Academy of Environmental Engineers. Mr. Turner spearheaded the development of this new technology demonstration project which EPA estimated will save over $42 billion for small cities across the country.

In addition, Columbus has received the first ever award for wastewater collection and water distribution from the Georgia Water and Pollution Control Association. It was honored with a Gold award for being in 100 percent compliance with all regulations from the Association of Metropolitan Sewer Agencies. And, the Water Works was presented with a certificate of excellence by the Government Finance Officers Association.

And if that weren't enough, they are doing more with less. Currently, water works employees have been reduced without layoffs and are operating with a budget $1 million less than last year. In addition, water rates have been kept at a lower rate than most comparable cities. Most importantly though, the quality of water in the Columbus area has been greatly enhanced, something which has immeasurable value and importance not only to Columbus but to cities nationwide.

Mr. Turner's work has also garnered the respect of his peers and colleagues. His dedication and innovation also led to his appointment as President of the International Water Environment Federation, a term which he just completed.

I would like to extend my deepest thanks and congratulations to Mr. Turner, his wife Judee, his sons Rodney, Chris, and Jeff, and his two new granddaughters. The City of Columbus and the State of Georgia are fortunate to have him.

Mr. Speaker, I am submitting for the CONGRESSIONAL RECORD two articles from The Columbus Ledger which were recently written about Mr. Turner and his outstanding work.

[From the Columbus Ledger, May 13, 1998]

DOING MORE FOR LESS

Much of our frustration with Atlanta's failure to get its water treatment act together comes from our own success. Fact is, the examples of innovativeness, effectiveness and efficiency set by the Columbus Water Works is a mixed blessing: On one hand, we can be proud of what has been recognized as one of the finest systems in the state and even the country; on the other, our familiarity with how it's done right makes us even less patient with seeing it done wrong.

The Water Works has received no fewer than seven national and regional awards this year, including the American Academy of Environmental Engineers' top honor for the CSO/Riverwalk project, the first of its kind in the country, and an EPA award for the best large water treatment plant in the 10-state Southeast region.

What makes the Water Works' success even more impressive is that a leaner operation is doing more. President Billy Turner notes that the budget is down by $1 million over the previous year, the staff is smaller and the rates still lower than those in comparable cities.

Turner and all the employees of the Columbus Water Works have a right to feel proud of what they've accomplished in the past couple of years. Here's hoping they keep up the good work.

[From the Columbus Ledger, May 12, 1998]

COLUMBUS WATER WORKS REAPS BENEFIT OF HARD WORK—NATIONAL, STATEWIDE, REGIONAL AWARDS PROVE COLUMBUS IS CLOSER TO REACHING GOAL

(By Amy Wolfford)

Four years ago, the Columbus Water Works board set out to have the best system in the country by the year 2000.

With seven national, statewide and regional awards this year, President Bill Turner said they are hitting that goal.

"These things are hard to come by," Turner told the board Monday. "Most people go through their life and don't get this kind of recognition."

Columbus' combined sewer treatment/Riverwalk project earned top national honors for design from the American Academy of Environmental Engineers.

The system, designed by Jodan, Jones & Goulding Inc. and completed in 1995, is the first of its kind in the United States and includes pipeline laid behind a retaining wall along the Chattahoochee River.

The board also learned it will get a U.S. Environmental Protection Agency award for having the best large water plant in a 10-state region in the Southeast.

Other awards include the following:

The Georgia Water and Pollution Control Association gave Columbus its first awards for wastewater collection and water distribution for large cities.

The South Columbus Water Resources facility was recognized with a Gold Award from the Association of Metropolitan Sewer Agencies for being in 100 percent compliance with all regulations.

The Government Finance Officers Association presented Columbus with its certificate of excellence.

MARRIAGE TAX ELIMINATION ACT

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, the question is pretty basic: Why should we pass the marriage tax elimination act. And I think the best way to answer that question is with a series of questions.

Do Americans feel that it is fair that the average married working couple pays more in taxes just because they are married?

Do Americans feel that it is fair that 21 million married working couples with two incomes pay more in taxes than an identical working couple that lives together outside of marriage, in fact, on average $1,400 more?

Is it right that our Tax Code actually provides an incentive to get divorced? That is the only way that you can avoid the marriage tax penalty today.

It is not fair, it is not right, it is absolutely wrong that our Tax Code punishes 21 million married working couples just because they are married.

Now $1,400 in the south suburbs of Chicago, that is real money. That is 1 year's tuition at Joliet Junior College. That is 3 months of day-care at a local day-care center. That is real money for real people in Illinois in the south suburbs.

There is no more unfair provision in the Tax Code. Let us eliminate the marriage tax penalty. Let us eliminate it now.

Mr. Speaker, I rise today to highlight what is arguably the most unfair provision in the U.S. Tax code: the marriage tax penalty. I want to thank you for your long term interest in bringing parity to the tax burden imposed on working married couples compared to a couple living together outside of marriage.

In January, President Clinton gave his State of the Union Address outlining many of the things he wants to do with the budget surplus.

A surplus provided by the bipartisan budget agreement which: cut waste, put America's fiscal house in order; and held Washington's feet to the fire to balance the budget.

While President Clinton paraded a long list of new spending totaling at least $46–$48 billion in new programs—we believe that a top priority should be returning the budget surplus to America's families as additional middle-class tax relief.

This Congress has given more tax relief to the middle class and working poor than any Congress of the last half century.

I think the issue of the marriage penalty can best be framed by asking these questions: Do Americans feel it's fair that our tax code imposes a higher tax penalty on marriage? Do Americans feel it's fair that the average married working couple pays almost $1,400 more in taxes than a couple with almost identical income living together outside of marriage? Is it right that our tax code provides an incentive to get divorced?

In fact, today the only form one can file to avoid the marriage tax penalty is paperwork for divorce. And that is just wrong!

Since 1969, our tax laws have punished married couples when both spouses work. For no other reason that the decision to be joined in holy matrimony, more than 21 million a year are penalized. They pay more in taxes than they would if they were single. Not only is the marriage penalty unfair, it's wrong that our tax code punishes society's most basic institution. The marriage tax penalty exacts a disproportionate toll on working women and lower income couples with children. In many cases it is working women's issue.

Let me give you an example of how the marriage tax penalty unfairly affects middle class married working couples.

For example, a machinist, at a Caterpillar manufacturing plant in my home district of Joliet, makes $30,500 a year in salary. His wife is a tenured elementary school teacher, also brings home $30,500 a year in salary. If they would both file their taxes as singles, as individuals they would pay 15%.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

	Machinist	School Teacher	Couple	Weller/McIntosh II
Adjusted Gross Income	$30,500	$30,500	$61,000	$61,000
Less Personal Exemption and Standard Deduction	$6,550	$6,550	$11,800	13,100 (Singles x 2)
Taxable Income	$23,950	$23,950	$49,200	$47,900
	(x .15)	(x .15)	(Partial x .28)	(x .15)
Tax Liability	$3592.5	$3592.5	$8563	$7,185
Marriage Penalty	$1378	Relief $1378		

Weller-McIntosh II Eliminates the Marriage Tax Penalty

But if they chose to live their lives in holy matrimony, and now file jointly, their combined income of $61,000 pushes them into a higher tax bracket of 28 percent, producing a tax penalty of $1,400 in higher taxes.

On average, America's married working couples pay $1,400 more a year in taxes than individuals with the same incomes. That's serious money. Millions of married couples are still stinging from April 15th's tax bite and more married couples are realizing that they are suffering the marriage tax penalty.

Particularly if you think of it in terms of: a down payment on a house or a car, one year's tuition at a local community college, or several months worth of quality child care at a local day care center.

To that end, Congressman DAVID MCINTOSH and I have authored the Marriage Tax Penalty Elimination Act.

The Marriage Tax Penalty Elimination Act will increase the tax brackets (currently at 15% for the first $24,650 for singles, whereas married couples filing jointly pay 15% on the first $41,200 of their taxable income) to twice that enjoyed by singles; the Weller-McIntosh proposal would extend a married couple's 15% tax bracket to $49,300. Thus, married couples would enjoy an additional $8,100 in taxable income subject to the low 15% tax rate as opposed to the current 28% tax rate and would result in up to $1,053 in tax relief.

Additionally the bill will increase the standard deduction for married couples (currently $6,900) to twice that of singles (currently at $4,150). Under the Weller-McIntosh legislation the standard deduction for married couples filing jointly would be increased to $8,300.

Our new legislation builds on the momentum of their popular H.R. 2456 which enjoyed the support of 238 cosponsors and numerous family, women and tax advocacy organizations. Current law punishes many married couples who file jointly by pushing them into higher tax brackets. It taxes the income of the families' second wage earner—often the woman's salary—at a much higher rate than if that salary was taxed only as an individual. Our bill already has broad bipartisan cosponsorship by Members of the House and a similar bill in the Senate also enjoys widespread support.

It isn't enough for President Clinton to suggest tax breaks for child care. The President's child care proposal would help a working couple afford, on average, three weeks of day care. Elimination of the marriage tax penalty would give the same couple the choice of paying for three months of child care—or addressing other family priorities. After all, parents know better than Washington what their family needs.

We fondly remember the 1996 State of the Union address when the President declared emphatically that, quote "the era of big government is over."

We must stick to our guns, and stay the course.

There never was an American appetite for big government.

But there certainly is for reforming the existing way government does business.

And what better way to show the American people that our government will continue along the path to reform and prosperity than by eliminating the marriage tax penalty.

Ladies and Gentlemen, we are on the verge of running a surplus. It's basic math.

It means Americans are already paying more than is needed for government to do the job we expect of it.

What better way to give back than to begin with mom and dad and the American family—the backbone of our society.

We ask that President Clinton join with Congress and make elimination of the marriage tax penalty . . . a bipartisan priority.

Of all the challenges married couples face in providing home and hearth to America's children, the U.S. tax code should not be one of them.

Let's eliminate The Marriage Tax Penalty and do it now!

WHICH IS BETTER?

Note: The President's proposal to expand the child care tax credit will pay for only 2 to 3 weeks of child care. The Weller-McIntosh Marriage Tax Elimination Act, H.R. 2456, will allow married couples to pay for 3 months of child care.

WHICH IS BETTER, 3 WEEKS OR 3 MONTHS?

CHILD CARE OPTIONS UNDER THE MARRIAGE TAX ELIMINATION ACT

	Average Tax Relief	Average Weekly Day Care Cost	Weeks Day Care
Marriage Tax Elimination Act	$1,400	$127	11
President's Child Care Tax Credit	358	127	2.8

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

QUESTIONS ABOUT THE ISTOOK AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS. Mr. Speaker, probably not many Members are aware of this but perhaps the first day after our return from Memorial Day recess, the gentleman from Oklahoma (Mr. ISTOOK) will make an effort to do something that has never been done in the history of the United States. On that Wednesday when we return he will move that we vote on a constitutional amendment, for the first time in the history of our country, to amend the Bill of Rights, not only the Bill of Rights but the first 16 words of the First Amendment of the Bill of Rights designed to defend religion against intrusion by the Federal Government.

Mr. Speaker, I have spoken previously from the well of this House outlining that the arguments in favor of this constitutional amendment are really based on false premises. The premise that there is no religion in school, that somehow government and liberal Federal judges have taken religion out of our schools when, in fact, Time Magazine recently documented that there are thousands of public schools all over America that have bible worship groups and religion prayer groups both before and after school. The fact is that prayer is allowed in America's public schools, as long as that prayer is not prescribed by government officials or forced upon students involuntarily.

I have talked about all of these issues and I have talked about the downside of some of the things that could happen under the Istook amendment. What I would like to do with just several days left before we have this historic vote on the floor of the House is to raise some questions that I hope the gentleman from Oklahoma (Mr. ISTOOK) and supporters of this effort to amend our Nation's Bill of Rights would be willing to answer before we have this vote. Let me just list some of these kinds of questions that, as of the debate so far, have been left unanswered.

First, under the Istook amendment, who will decide which religious prayers are heard in a public forum? Who will determine what prayers are said in the classroom? Second, will 9-year-old students in public classes be deciding which prayers are heard? Third, would the determination of which prayers are said be based on the percentage of students in that religion at a particular school in that community or that State? Or would that decision be made by a committee of students, perhaps 9-year-olds, perhaps 10-year-olds to select prayers. Fourth, who would ensure that minorities are not excluded from offering their public prayers in school and over the PA system? What if a committee, for example, of students decides that a Jewish prayer or another prayer simply will not be allowed? Who will protect the rights of minorities in such a majority rule situation? Will it be first graders and second graders and third graders in our public school classrooms that will be forced to defend the constitutional rights as outlined in our First Amendment by our Founding Fathers? If not, the alternative is to allow government officials, teachers, administrators to make that decision of which prayers will be allowed and which rules will be used.

Next I would ask this question: Would a Satanic prayer be allowed in the public school classrooms under the Istook amendment? Would the Santerias, defined by our courts as a religion in America, be allowed to participate in their prayer ritual in our schools, part of which concerns or part of which includes animal sacrifices? Will that be allowed in the third grade classrooms of America's schools? If not, will it be the teachers or school administrators or government officials deciding which prayer ritual is okay and which is not?

The next question I would raise is, would this amendment prevent a teacher from proselytizing his or her students? Additionally, I do not see anything in the Istook amendment that would prohibit outside religious groups from proselytizing young children, including first graders, on public school grounds. It seems to me that under the Istook amendment, the experience that many of us have in our Nation's airports, being accosted by religious groups and sometimes religious cults, is going to be replicated on thousands of public school grounds all over America.

That is the question that the gentleman from Oklahoma (Mr. ISTOOK) and the proponents of this effort to, in my opinion, massacre the Bill of Rights and the First Amendment thereof have an obligation to answer before we cast this historic vote in a couple of weeks.

Next question, will a wiccan be able to hold a ceremony in a public school cafeteria? It appears from the language of the Istook amendment the answer to that would be yes. Next question, will students be able to read Satanic prayers over the PA system in our public schools every morning? Next, will judges be allowed to lead juries in prayer before consideration of a court case? If so, would a judge be allowed to recite the bible and the verse that talks about an eye for an eye or a tooth for a tooth before the jury makes its decision?

All of these unanswered questions ought to be answered by the supporters of the Istook amendment before we vote to amend the Bill of Rights.

HALTING THE NUCLEAR ARMS RACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa (Mr. FALEOMAVAEGA) is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, last week India, the world's largest democracy, conducted five nuclear weapons tests setting off a barrage of international criticism led by our own Nation. It is feared that a South Asian nuclear arms raise with Pakistan shall have global implications, encouraging North Korea, Iran, Iraq, Libya and others to pursue nuclear ambitions.

Days ago, former President Jimmy Carter addressed the issue of India's nuclear tests in commencement speeches he delivered at Trinity College at the University of Pennsylvania. I found President Carter's remarks, as reported by the news wires, to be very enlightening and wanted to share them with my colleagues.

President Carter, the last American President to visit India, noted that the United States, a country that possesses thousands of nuclear weapons, fails to ratify a comprehensive test ban treaty and continues to deploy land mines is hardly one that has the right to demand the opposite from other nations such as India.

Pointing out the hypocrisy of U.S. nuclear policy, Mr. Carter stated, "It is hard for us to tell India you cannot have a nuclear device, while maintaining we will keep our nuclear weapons, 8,000 or more nuclear bombs, and we are not ready to reduce them yet."

Mr. Carter continued, "We claim we are for a comprehensive test ban to prevent all testing of nuclear weapons, but we still have not ratified the treaty. We claim we want to reduce nuclear arsenals," said Mr. Carter, "but many years later the START II treaty is still not in effect with Russia."

In expressing concern about India's nuclear tests, Mr. Speaker, President Carter further states, "People look to the United States with great admiration but also for guidance. We have not been fair in trying to keep people from developing nuclear weapons."

President Carter concluded, "If the United States wishes to halt the global arms race, they must lead by example and not by condemnation."

Mr. Speaker, President Carter's points are well taken. Many around the world are starting to conclude India's nuclear tests are in great part a direct result of the failure of the United States and the other four members of the nuclear club to seriously move forward towards nuclear disarmament.

□ 1845

Yesterday, at the United Nations, Secretary General Kofi Annan stated that, "Our senses have been lulled a little bit with regard to the nuclear danger, but I think what has happened in India has woken everybody up." In discussing India and Pakistan, Annan said the five self-declared nuclear powers, the United States, Britain, France, Russia, and China, must take stock of their positions because, and I quote, "You cannot have an exclusive club who have nuclear weapons and are refusing to disband it and tell them now not to have it. The nuclear powers need to set an example for other nations."

Mr. Dan Plesch, the director of the British-American Security Information Council, an arms control group, has asked, "How much longer can we hang on to our own nuclear weapons while trying to prevent others from getting them? Either we say nuclear deterrence is goods for all, or we carry out a realistic program to ban nuclear weapons."

Mr. Speaker, in a world discriminating between nuclear haves and have-nots, there will always be the temptation for nuclear proliferation. Clearly, global nuclear disarmament is the only real solution to this madness.

In 1975, the international community, including the nuclear powers, outlawed the development, production, stockpiling and the use of biological agents for warfare through the Biological and Toxin Weapons Convention. In 1977, the international community supported the coming into force of the Chemical Weapons Convention, which likewise prohibited the development, production and use of chemical weapons throughout the world.

Mr. Speaker, because of their horrific and destructive nature, biological and chemical weapons have been declared immoral and illegitimate, and are not to be tolerated. However, Mr. Speaker, there is no weapon of mass destruction that is more horrific, more destructive or more deadly than nuclear weapons. The argument for the elimination of this incomprehensibly monstrous force that threatens the world's inhabitants and our very planet is self-evident.

It is time, Mr. Speaker, that the nuclear powers negotiate a nuclear weapons convention that requires the phased elimination of all nuclear weapons within a time frame incorporating verification and enforcement provisions. We cannot afford to squander the dangerous wake-up call sent by India's recent nuclear tests.

Mr. Speaker, I submit for the RECORD two news articles regarding this topic:

[The Wall Street Journal, May 19, 1998]

HYPOCRISY IS THE HALLMARK OF THE NUCLEAR FLAP

(By George Melloan)

At the wind-up of the G–8 summit in Birmingham Sunday, French President Jacques Chirac issued a stern warning to Pakistan: If you dare to test a nuclear weapon, the G–8 will use a communiqué "exactly identical to the one we put out on India."

By "exactly identical," which probably sounds less redundant in French, he meant that the G–8 would "express our grave concern." That's what the G–8 lashed India with, so Pakistan had better watch out. No doubt the Paks reacted privately with the same degree of amusement that the Indians were unable to suppress over the posturing by the leaders of "the world's eight leading nations" in response to India's tests.

There is of course nothing funny about nuclear weapons, but the grandstanding in Birmingham had elements of comedy. The assemblage—relying no doubt on the same superb intelligence that had keep them all in the dark about India's testing plans—at one point was led to believe that even during their debate Pakistan had exploded a bomb somewhere. Had someone not set them straight, they might have fired that exactly identical "grave concern" communiqué at Karachi prematurely. The Paks were doing their best, with differing statements from different officials, to confuse the world about whether they in fact will match the tests by their neighboring archenemy.

Russian President Boris Yeltsin was among the summiteers expressing "grave concern." He has been allowed to join the Group of Seven (G–7) leading member nations of the International Monetary Fund, so it now is routinely called the G–8. He can't mix in economic deliberations because Russia is on the IMF dole, but his country still is taken seriously as a military power. That may be because it has 877 nuclear ICMBs, able to strike anywhere in the world. That statistic is from that latest "Military Balance" published by London's International Institute for Strategic Studies (IISS) and doesn't begin to cover Russia's total capability. Many of its missiles have multiple warheads and it also has 452 submarine-based nukes. Mr. Yeltsin's grave concern apparently doesn't extend to preventing Russian nuclear and missile technology from leaking to would-be nuclear states, if U.S. suspicions are correct.

The world's most populous nation, China, has more than 17 intercontinental and more than 38 intermediate-range nukes, according to the IISS estimate. It also has been accused by the U.S. of selling missile technology to Pakistan among others. And it also has tested its nukes when it pleased, thumbing its nose at the world at large. But Bill Clinton is so friendly with the Chinese that in 1996 he was willing to overrule State Department objections to letting them launch U.S.-made space satellites despite the danger of giving them valuable missile technology, according to reports in the New York Times over the weekend. He also seems to have been less than assiduous about preventing the Chinese from insinuating themselves into the U.S. political process through violations of the U.S. campaign finance laws, judging from testimony by erstwhile go-between and frequent White House visitor Johnny Chung made public last week.

Given the way the American president treats the two big non-NATO nuclear powers, should it be any surprise that Indian Prime Minister Atal Behari Vajpayee decided to go public with India's nukes? His BJP Hindu nationalist party leads a shaky new governing coalition and he smelled added popularity from showing that Indians can "stand up," as Mao would have put it. He may have been right. TV footage showed Indians dancing in the streets on hearing the news. Beware of TV scenes, which often are staged, but it is not unbelievable that Indians might think that becoming the world's sixth declared nuclear nation will finally win them some respect.

It hasn't so far, of course. Mr. Clinton's reaction was to slap on sanctions, cutting off U.S. direct aid and threatening to veto further help from the IMF and the World Bank. But it's early times, and Mr. Vajpayee is smart enough to know that a cutoff of outside aid might be just the thing to help him with the politics of installing policies, such as opening the country up to more foreign investment, that will allow India to develop on its own. Just being noticed by those big-time guys in Birmingham, and the folks next door in China, he might figure, is almost worth the cost of losing handouts from the U.S., Japan, Canada, Australia and Germany, the countries that have applied sanctions.

What truly upset the folks in Birmingham, and Mr. Clinton especially, was not the fear that India will now shoot nuclear missiles at its neighbors. Two of those neighbors, China and Russia, could annihilate India in response and Pakistan, probably, could at least retaliate in kind. What troubles the leaders, and much of the global intellectual community, is this further evidence that arms control treaties do not control the spread of modern arms. The two Strategic Arms Limitation Treaties of the Cold War were full of holes and the Russian parliament has not ratified the successor, START II. In the CFE deal limiting conventional weapons in Europe, the U.S.S.R. got a loophole excluding "naval" troops, of which it turned out to have had quite a number who had never set foot on a ship. Iraq has not been at all inhibited by chemical and biological weapons limitations.

Attempting to apply nuclear controls internationally has run afoul of realities. We live in a world of nation states. Those states that do not feel threatened, do not want the expense of nukes and want to enjoy a pretense of virtue, have readily signed onto the antiproliferation and test-ban treaties. India and Pakistan, living in a rough neighborhood unprotected by NATO or other alliances, have put national security ahead of niceties. It's too bad, but that's the way it is.

Bill Clinton had every right to be shocked at this latest mugging by reality. He heads what some choose to call the world's most powerful nation. But it has no defense against nuclear missiles. In the harsh equation of war, the U.S.'s very wealth works against it should it ever be threatened by a poor country with nuclear missiles. It would have a lot more to lose, and even if it suffered a limited attack it would be reluctant to use its vast might against the impoverished masses of the attacking country. Maybe Mr. Clinton should think more about U.S. security.

[From the New York Times, May 19, 1998]

KEEPING NUCLEAR ARMS IN CHECK

India's nuclear weapons test threaten to undo 35 years worth of work by the United States and other countries to limit the spread of nuclear arms. Instead of abandoning those efforts and improvising new approaches, a course recommended by some arms control experts, Washington and its allies should redouble their commitment to make the international control system work effectively.

As difficult as it may be, India and Pakistan must be persuaded to sign and abide by the 1996 test ban treaty that has now been signed by 149 nations. By joining the treaty, India and Pakistan would bind themselves to refrain from any future testing. Their inclusion would also make it easier to detect violations by permitting the installation of monitoring equipment at their nuclear test sites.

Enlisting India and Pakistan would be easier if the Senate ratified the test ban treaty, now irresponsibly held up by Senator Jesse Helms. Once again, the capricious chairman of the Foreign Relations Committee is holding the nation's interest hostage to his ideological whims. Ratification would allow Washington to participate in a review conference next year that will develop diplomatic strategies for bringing holdout nations into the treaty. Without American leadership, the treaty itself and the conference will be empty exercises.

The performance of American intelligence agencies should also be improved so that future test preparations by any country can be spotted in advance, giving diplomats the chance to intervene. The White House was given no warning about the Indian underground explosions. Some of the $400 million a year the Energy Department now spends on nuclear weapons detection research ought to be used to develop sensitive seismic measuring devices that can monitor low-yield tests from afar.

Non-nuclear countries are more easily dissuaded from developing atomic weapons when nuclear states restrain their own arsenals. Progress in this area has been slowed in recent years. Russia's parliament should long ago have ratified the nuclear missile cuts negotiated more than five years ago by George Bush and Boris Yeltsin.

If Bill Clinton does not want nuclear anarchy to be his foreign policy legacy, he must galvanize the Senate to act on the test ban treaty and use American influence to strengthen the world's arms control mechanisms. Without them, this planet would be a far more dangerous place.

U.S. SECURITY FOR SALE

The SPEAKER pro tempore (Mr. GIBBONS). Under a previous order of the House, the gentleman from Colorado (Mr. MCINNIS) is recognized for 5 minutes.

Mr. MCINNIS. Mr. Speaker, as we know, India is one of the largest democracies in the world. China is the largest communist country in the world. President Clinton has taken the time to condemn the largest democracy, one of the largest democracies in the world, India, for developing or testing nuclear weapons to defend themselves against the largest communist country in the world, China.

While the President condemns India, what does the President do with China? Let me quote from a couple of articles here:

"Clinton made a decision to overrule his own Secretary of State and ease the exportation of satellite technology to China in 1996. The Justice Department also is investigating whether two satellite companies, Loral and Hughes Electronics, violated the national security laws in 1996 by giving satellite technology to China that could be used for nuclear missiles."

Remember, China, the largest communist country in the world. This is our President in his negotiations with that country.

Both firms are big Democrat donors. Loral chief, Mr. Schwartz, was the Democrats' biggest single donor in 1995–96, giving more than $600,000.

Let me quote from U.S. Security for Sale. That is the article. It is an essay by William Safire. U.S. Security for Sale. Essay. Washington:

"A President hungry for money to finance his reelection overruled the Pentagon; he sold to a Chinese military intelligence front the technology that defense experts argued would give Beijing the capacity to blind our spy satellites and launch a sneak attack. How soon we have forgotten Pearl Harbor.

"October 1996 must have been some tense months for the Democratic fundraisers. The New York Times, Wall Street Journal and the Los Angeles Times had begun to expose the Asian connection of John Huang and Indonesia's Riady family to the Clinton campaign.

"The fix was already in to sell the satellite technology to China. Clinton had switched the licensing over to Ron Brown's anything-goes Commerce Department. Johnny Chung had paid up. Commerce's Huang had delivered money big time (though one of his illegal foreign sources had already been spotted). The boss of the satellite's builder had come through as Clinton's largest contributor.

"But public outrage was absent. The FBI didn't read the papers and Reno Justice did not want to embarrass the President. And television news found no pictorial values in the Asian connection. Stealthily, the Clinton administration held back the implementation of the corrupt policy until November 5, the day the campaign ended.

"Now the reporting of Jeff Gerth and the Times' investigative team is putting the spotlight of pitiless publicity on the sellout of American security.

"We begin to see how the daughter of China's top military commander steered at least $300,000 through the Chung channel to the Democratic National Committee. (Apparently Mr. Chung skimmed off a chunk and may be spilling his guts lest he have to face his Beijing friends.)

"We begin to learn more of the February 8, 1996, visit of the arms dealer Wang Jun to the Commerce office of Ron Brown, and Wang's 'coffee' meeting that day with the President, the very day that Clinton approved four Chinese launches, even as China was terrorizing Taiwan with missile tests.

"Clinton's explanation, which used to slyly suggest that China policy was not changed 'solely' by contributors, has now switched to total ignorance; shucks, we didn't know the source of the money. But this President's Democratic National Committee did not know because it wanted not to know; procedures long in place to prevent the unlawful flow of foreign funds were uprooted by the money-hungry Clintonites.

"Today, 2 years after this sale of our security, comes the unforeseen chain reaction; as China strengthens its satellite missile technology, a new Indian Government reacts to the growing threat from its longtime Asian rival and joins the nuclear club. In turn, China feels pressed to supply its threatened ally, Pakistan, with weaponry Beijing promised us not to transfer. This makes Clinton the proliferation President.

"Who has helped keep this sellout of security under wraps?"

Let me just conclude by saying this. India is one of the largest democracies in the world. China is the largest communist country. And I hope every citizen of this country takes the time to read about the technology that was transferred to China through this administration. It is a critical security issue.

Mr. Speaker, the remainder of the article by William Safire, is as follows:

"In the Senate, John Glenn was rewarded with a space flight by Clinton for derogating the leads to China of the Thompson committee. Fred Thompson's warnings about China's plan to penetrate this White House were then scorned by Democratic partisans; his Government Operations Committee should now swarm all over this.

The House's aggressive agent of the Clinton cover-up, Henry Waxman of California, is finally "troubled" by the prospect of damning evidence he prevented the Burton committee from finding. At least three Democratic partisans who foolishly followed Waxman in blocking the testimony of Asian witnesses may have difficulty explaining their cover-up vote to even more troubled voters in their districts.

The Gerth revelations lead to more questions: Where were the chiefs of the C.I.A. and the National Security Agency, their intelligence so dependent on satellites, on the satellite technology sale to China?

Is anybody at Reno Justice reexamining testimony taken by independent counsel investigating corruption at Commerce before Ron Brown's death? Does Brown's former lawyer claim "dead man's privilege" on notes? Did N.S.A. tape overseas calls of suspect Commerce officials? Who induced Commerce to lobby Clinton for control of satellite technology?

And the most immediate: Will homesick prosecutor Charles LaBella, beholden to Janet Reno for his political appointment in San Diego, dare to offend his patron by calling for independent counsel?"

VETERANS TRANSITIONAL HOUSING OPPORTUNITIES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FOX) is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight to address my colleagues on two important veterans issues.

There is a national veterans problem. According to the Department of Veterans Affairs, approximately one in three homeless Americans are military veterans, an estimated 250,000 men and women.

According to VA reports, homeless veterans overwhelmingly suffer from serious psychiatric or substance abuse disorders. Numerous studies have shown that destructive, addictive behavior and homelessness are inexorably linked. Chemical dependency, post-traumatic stress disorder and chronic physical problems affect a high percentage of homeless veterans. Approximately 75 percent of homeless veterans have a problem with alcohol and drugs, a rate of abuse higher than their nonvet counterparts, according to providers of services to homeless veterans.

A shortfall of transitional housing for homeless veterans exists because Federal programs targeted specifically at these veterans currently serve only a fraction of those in need. To accommodate an estimated 250,000 homeless veterans, the VA has fewer than 5,000 transitional-type beds under contract or as part of its domiciliary program for homeless veterans.

Our House Committee on Veterans' Affairs believes the most effective method of reducing the revolving door syndrome plaguing the VA health care system is to ensure that veterans are being discharged to residences offering a highly structured, long-term housing program that requires sobriety, accountability and assistance in finding employment.

The solution, Mr. Speaker, can be found in the Veterans Transitional Housing Opportunities Act, which I am proud to say that the House overwhelmingly voted for yesterday. This bill establishes a pilot program at the Department of Veterans Affairs to guarantee loans to community-based organizations that serve homeless veterans.

The intent of the bill is to expand the supply of transitional housing for homeless veterans by authorizing the Veterans Affairs Secretary to guarantee loans for long-term transitional housing projects. I urge the U.S. Senate to take quick action to approve this important bill, and I thank the chairman, the gentleman from Arizona (Mr. STUMP), for his hard work in bringing this bill to the floor and authoring same.

I also bring to the attention of my House colleagues, Mr. Speaker, the fact that we have approved wisely the Obey motion to make sure that we reject any cuts in veterans' benefits, including protection, tonight, of service-connected disability compensation to veterans for tobacco-related illnesses. We stand tonight by voting overwhelmingly, almost unanimously, for this amendment, which will make sure we do protect our veterans. And it has been recognized with favor by the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, AMVETS, Paralyzed Veterans of America, Vietnam Veterans of America, and other service-related organizations.

I know this takes a step in the right direction for our veterans, and I congratulate the House again in taking two steps forward this week for our veterans, the men and women who have served our country so gallantly.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. FOX of Pennsylvania. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding. There is going to be a special order on behalf of my very good friend, Terry Sanford, led by the gentleman from North Carolina. Unfortunately, I cannot stay, but I appreciate the gentleman from Pennsylvania giving me this opportunity to ask unanimous consent that my remarks be included in the record immediately following the remarks of the gentleman from North Carolina.

Mr. Sanford, Governor Sanford, was a very close friend of mine. I was one of those young people that came into politics when he was one of our most significant leaders. He was the governor of North Carolina.

He was a courageous governor of North Carolina at a difficult time and brought great credit to his State and great credit to our Nation. And I am pleased to join my friends from North Carolina in honoring this courageous, committed American who, as I said, brought great credit to North Carolina, brought great credit to his country, and was a human being who represented the very best that America had to offer.

I thank my friend from Pennsylvania for giving me that opportunity.

NEW APPROACH NEEDED IN NAGORNO KARABAGH PEACE PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise this evening to talk about a continuing concern for our Nation's foreign policy, and that is maintaining our close ties with the Republic of Armenia and the need for a negotiated settlement in Nagorno Karabagh. I am afraid the U.S. negotiating position in this conflict has gotten seriously off track, and I am hoping that recent events will create momentum to get us in the right direction.

As I have mentioned in this House on several occasions, the people of Nagorno Karabagh fought and won a war of independence against Azerbaijan. A cease-fire has been in place since 1994, but it has been shaky at best.

The U.S. has been involved in a major way in the negotiations intended to produce a just and lasting peace. Our country is a co-chair of the international negotiating group formed to seek a solution to the Nagorno Karabagh conflict along with France and Russia. But, unfortunately, the U.S. position has sided with Azerbaijan's claim of so-called "territorial integrity", despite the fact that this land has been Armenian land for centuries, and the borders which gave the land to Azerbaijan were imposed by Soviet dictator Joseph Stalin.

□ 1900

Last week, international mediators from the Organization for Security and Cooperation in Europe, OSCE, traveled to Armenia's capital of Yerevan to discuss the new Armenian government's position on the Nagorno Karabagh conflict. The American, Russian and French Armenia's negotiators heard Armenia's new foreign minister, Vartan Oskanian, reiterate Armenia's opposition to the OSCE peace plan, which calls for a phased solution to the dispute. Foreign Minister Oksanian called for a resumption of face-to-face talks between the parties to the conflict, Karabagh and Azerbaijan, without preconditions.

Mr. Speaker, in late March, the people of Armenia elected Robert Kocharian as their president. Mr. Kocharian, who actually hails from Karabagh, has insisted that the OSCE plan is essentially a non-starter since it fails to guarantee Karabagh's security and self-determination. In fact, Mr. Speaker, the previous Armenian government of President Levon Ter-Petrosian fell largely because the former President had publicly come out in support of the highly unpopular and unworkable OSCE plan, after considerable pressure from the United States I might add.

Unfortunately, it appears that we have not learned our lesson. The U.S. is still sticking to the original, unworkable plan. Worse still, I am afraid we may be trying to pressure Armenian and Karabagh into going along with this plan, suggesting that there could be repercussions from the U.S. This is clearly the wrong way to deal with the government of a friendly country like Armenia, particularly when that government is merely standing up for the legitimate security concerns of its people.

The recent change of government in Armenia affords an excellent opportunity for us to offer a new approach to the Karabagh conflict, one that recognizes the need for long-term, ironclad security arrangements and full self-determination for the people of Karabagh. I am concerned that the U.S. and our OSCE partners are taking their cue from the government of Azerbaijan, which has refused to budge. But the bottom line is that Azerbaijan will not budge until the United States and the international community force it to negotiate in good faith.

Mr. Speaker, I am also concerned about the failure thus far to deliver the U.S. aid to Nagorno Karabagh that has been promised and appropriated. In 1998, the Foreign Operations appropriation bill provided for the first time direct aid to Karabagh in the amount of $12.5 million for humanitarian needs. The humanitarian infrastructure needs in Karabagh are severe, as I have witnessed firsthand.

Unfortunately, Mr. Speaker, it is not clear that any aid has yet been provided to Karabagh. At a hearing two weeks ago of the House Committee on International Relations, officials testified that aid would soon be provided to Karabagh but would be disbursed by a non-governmental organization that would have broad discretion over how the aid was spent. Furthermore, it appears that the State Department does not intend to spend the entire $12.5 million in Karabagh itself, although that is what was intended by Congress. Several of my colleagues are also pressing for the aid to be spent in Karabagh, as Congress intended, and we plan to keep up that pressure.

While working to get the aid that has already been appropriated to its intended recipients in Karabagh, I am also urging the Foreign Ops Subcommittee to build upon its historic achievement in the FY 1998 bill to earmark assistance to Nagorno Karabagh at $20 million and make it even more clear that the aid is intended for disbursement within that Nagorno Karabagh. I also urge that aid to Armenia be increased and not decreased, as the Administration has proposed.

Armenia is making great progress in terms of democracy in free markets. We should not back out of that commitment now that our investment in democracy in this former Soviet Republic is bearing fruit and particularly not if the intent is to use the aid as a form of leverage against Armenia and Karabagh in the stalled peace talks.

Finally, Mr. Speaker, I want to again stress the importance of maintaining the current ban on direct government aid to Azerbaijan until this country lifts its blockade of Armenia and Karabagh. This ban was enacted as part of the Freedom Support Act of 1992, it is good law. Now, Congress is reexamining the issue of the prohibition on aid to Azerbaijan.

The Senate Foreign Relations Committee yesterday postponed a markup on legislation known as the Silk Road Strategy Act. I think that that legislation should not be passed, because we do not want to see a repeal of section 907.

The House International Relations Committee is soon expected to consider similar legislation. While ostensibly an effort to enhance U.S. engagement in the region, the purpose of the bill seems now more than ever to be an attempt to repeal Section 907.

Mr. Speaker, for the ban on aid to be lifted, Azerbaijan need only lift its blockades of Armenia and Karabagh. Until then, there should be no consideration of asking U.S. taxpayers to support the dictatorship in Baku.

DEFENSE AUTHORIZATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, as we prepare for a load of speeches that most of us will be giving on Monday, it is important to think about the debate which has taken place today on the Defense Authorization Act.

The issues raised during the debate on amendments to the Defense Authorization Act, as I said, which involve the relationship between the United States and China, are some of the most deeply troubling that I have witnessed since I have had the privilege of serving here in the Congress. And make no mistake about it, the long-term bilateral relationship between the United States of America and China is very serious business.

We are talking about the world's leading democracy and only superpower and the world's fastest growing and most populous nation. This may be the most important bilateral relationship in the world. We have a responsibility to make every effort to craft a strong and stable bilateral relationship that is built on positive economic and political reforms in China.

Mr. Speaker, success is critical to our future. Now, our Constitution places in the executive branch, in the presidency, the responsibility to first and foremost protect our Nation's security. As the Commander in Chief and executor of foreign relations, there is no substitute for the President on foreign policy.

During the past two administrations, I have worked long and hard on a bipartisan basis to help craft policies toward China which promote more stable relations based on free market reforms and the seedlings of democratic progress in that country.

What is so troubling today is that very serious, Mr. Speaker, disturbingly serious charges are being leveled at the current administration which cut to the very heart of the fitness of the administration to carry out a sound China policy. The first and foremost responsibility of the executive branch of the President is to protect national security. Nobody else can do that, Mr. Speaker, not American businesses and not other foreign entities.

The key events in question do not seem to be in dispute. We know that for years a number of American firms that construct and use satellites have desired to use Chinese launch vehicles, Chinese rockets. They have used them because they are cheaper and more available. The big problem has been that they are very unreliable. Those rockets blow up too often, destroying their expensive satellite cargo. This, obviously, can be a big problem.

In the spring of 1996, a Chinese rocket blew up that was carrying such a satellite. It is reported that the insurance companies responsible for the $200 million satellite destroyed by the rocket failure essentially told their American satellite customers to either improve the reliability of Chinese launch vehicles or find new launch sources. It is reported that the U.S. companies proceeded to help improve the launch vehicles.

Mr. Speaker, this assistance raised very, very serious red flags at the Department of Defense and the Department of State about the prospect that this assistance would likely help improve Chinese ballistic missiles, a clear national security concern.

The key fact is that over the course of 2 years, an internal debate raged within the administration between the economic benefits to a few companies being able to use better Chinese launch vehicles and clear national security warnings from within the Defense and State Departments. Added to the mix are a blizzard of campaign contributions to the President's campaign from the corporate interests involved.

Mr. Speaker, while no pun is intended, it does not take a rocket scientist to recognize that better Chinese satellite launch vehicles will result in better Chinese ballistic missiles. The fact that it appears that the administration chose the financial benefits of some companies over a clear national security concern is very troubling. The fact that such large campaign sums may have had an impact on the decision is even more disturbing.

Finally, the fact that the Administration would devastate their own ability to carry out our Nation's foreign policy towards China with some degree of respect and moral authority is staggering.

The administration had better recognize the signal that was sent to them by the House with the passage of the amendments today. The relationship with China is too important to be foolishly squandered. It is time for the administration to immediately provide the Congress with all information related to these events.

While we have a responsibility, Mr. Speaker, to continue to try to foster a sound relationship with China, we must ensure that the administration holds national security as the bedrock upon which our foreign relations stand.

TRIBUTE TO SENATOR TERRY SANFORD

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from North Carolina (Mr. HEFNER) is recognized for 60 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to provide extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. KINGSTON). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. HEFNER. Mr. Speaker, as the dean of the North Carolina Delegation, I would take this time to pay tribute to what I consider one of the greatest politicians and public servants that has ever served this country, former Governor Terry Sanford; Duke President Terry Sanford; and as of late, the Senator Terry Sanford.

At this time, some of my colleagues from North Carolina have remarks that they would like to make, and I yield to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, I thank my colleague for organizing this special order and for giving us the opportunity tonight to pay tribute to an extraordinary citizen and a visionary leader, Terry Sanford, a son of North Carolina of whom we are exceedingly proud.

Terry Sanford died on April 18. When we look back on the broad sweep of his life, in addition to being governor and senator, he was an FBI agent at one time; a World War II paratrooper; a state legislator; a lawyer; an author; a university president. We see a life committed to the greatest movements and deeply involved in the greatest accomplishments in this American century.

Terry Sanford was a mentor and an inspiration to many of my generation who came of age politically during his governorship in the early 1960s. He was the first political figure with whom I seriously identified. He became governor at a time of extraordinary challenge as the movement for racial justice swept across the South. The South, in fact, was a racial powder keg, with the sit-in movement, the Freedom Riders, a resurgence of the Ku Klux Klan, mob violence, and federal troops occupying college campuses.

Governor Sanford rejected the politics of demagoguery and defiance and thus set a standard for the New South on the most important and explosive issue of the day.

While massive resistance was embraced by some, during his 1961 inaugural address, Terry Sanford called for a "new day" in which "no group of our citizens can be denied the right to participate in the opportunities of first-class citizenship."

It made a world of difference to me and my generation to have Terry Sanford as a counter-example to the Wallaces and Faubuses and Barnetts, as an example of decency and dignity and a willingness to change.

Governor Sanford also in the space of a short, single term made major contributions to the improvement of public education in North Carolina, to the development of North Carolina's community college system, and to the growth of Research Triangle Park. A Harvard study designated him as one of the Nation's top 10 governors in this century.

Most importantly, Terry Sanford taught my generation what democratic politics at its best could be. He was a model of energetic and innovative leadership, full of ideas, refusing to be bound by the shackles of the past, possessing a vision of future possibility that inspired and empowered others.

When I returned to North Carolina in 1973 to teach at Duke University, it was again under Terry Sanford's inspiration as we launched what is now called the Terry Sanford Institute of Public Policy. President Sanford's idea was to bring disparate disciplines together, from economics to political science to history, to the arts, to ethics, to bring these disciplines together to enrich one another and to address the major challenges facing our society. As a young faculty member, I could not have asked for a more worthwhile mission or a more congenial atmosphere than what he fostered at Duke University.

Under President Sanford's leadership, the world-renowned Duke Medical Center doubled its capacity, the Fuqua School of Business was constructed, the University's endowment tripled. In short, under President Sanford, Duke reached its current status as a national leader in education, while also strengthening its ties to North Carolina and its contribution to our region of the country.

Along the way, Terry Sanford chaired a major national Democratic Party commission, he wrote a book, and organized a national forum on our flawed system of presidential nomination, and he ran for President himself, standing up to George Wallace in the 1972 primaries.

☐ 1915

Finally, Terry Sanford served North Carolina and the Nation as a United States Senator. He was a reluctant candidate in 1986, but he saw the need, and he responded to the call. I will forever treasure the memory of running on the ticket with him in my first campaign and serving with him here. He was the best at delivering a political stump speech that I have ever seen, speaking without notes in perfect one-sentence paragraphs, each one of them a perfectly crafted applause line. He was very, very good.

Senator Sanford's diverse policy interests were expressed in his service on the Committee on the Budget, Committee on Banking, and the Committee on Foreign Relations, and in initiatives that ranged from promotion of a stable peace in Central America to the cause of truth-in-budgeting. As always, he combined a gift for national policy innovation with faithful stewardship of North Carolina's needs and interests.

Terry Sanford had multiple careers, any one of which would be a credit to most people. I do not expect we will see another Terry Sanford in our lifetimes. But we can pick up parts of his legacy, and we can move that legacy forward.

We can all draw strength and wisdom from our memories of the example that he set, the courage that he displayed, the diligence and patience he showed in mentoring the younger generation, the good humor that infused everything that he did, the confidence he had in the capacities of ordinary men and women and in the ultimate judgment of history, even when he was undergoing temporary disappointments or setbacks. We will remember the confidence he had in us, willing to believe the best about each of us and thus enabling us to be our best.

Terry Sanford empowered and enabled many, many people. The ultimate impact of his influence and his inspiration will be limited only by the energy and creativity and the passion for realizing social justice that each of us can muster.

Mr. Speaker, I include for the RECORD the tributes to former Governor and Senator Sanford from the magnificent memorial service at the Duke Chapel: the remembrances by Governor James B. Hunt, President Nan Keohone of Duke University, former North Carolina House Speaker Dan Blue, Duke Endowment Chairwoman Mary Semans, Judge Dickson Phillips, and former Sanford Institute Director Joel Fleishman.

In addition, I include in the RECORD the eulogy from that service by Provost Emeritus Tom Langford of Duke University. I would also like to include a tribute by Z. Smith Reynolds Foundation Director Tom Lambeth, delivered on another occasion, and then two columns by national journalists who knew Terry Sanford well and admired him greatly, Albert Hunt of the Wall Street Journal and David Gergen of U.S. News and World Report.

REMEMBRANCE AT THE TERRY SANFORD FUNERAL

(By North Carolina Governor Jim Hunt)

In the words of a great Methodist hymn: "Oh, for a thousand tongues to sing our Great Redeemer's praise."

Indeed, 1,000 tongues are here today to praise our Redeemer and one of His most magnificent gifts to the people of our state and our nation. I know that I speak for many of you when I say very simply: Terry Sanford was my hero. He was my hero because of what he did, but also because of the way he did it. His approach, his style, his ideas. He was constantly looking for ways to improve things. Calling people together to study issues, to prepare proposals for action. In fact, I suspect by now he has almost certainly had his orientation session with the Lord. And it was NOT a one-way conversation. I expect he has given the Lord a few good ideas for improving Heaven. Some of which should be done in the next 30 days. And almost certainly, if he has found any poverty, any discrimination, any poor schools, any worthy arts ideas there are projects underway, even now.

At a time when we struggle about whether government should act, let us remember the words of this uncommon man, Terry Sanford, who could think great thoughts and make them a reality. In one of his books, Terry wrote:

"Indeed, if government is not for the express purpose of lifting the level of civilization by broadening the opportunities in life for its people, what IS its purpose?"

And he added: "Government is not something passive, not our kind of government. It has built into it the spirit of outreach, the concern for every individual. Look at the verbs in the Preamble to the Constitution—establish, insure, provide, promote, secure. All these connote action, and all suggest that we must constantly be striving to improve the opportunities of our people."

And ACT Terry Sanford did. Strive to improve opportunities for our people he did.

Imagine what North Carolina would be like if we had not had Terry Sanford striving for us all these many years.

Imagine what North Carolina would have been like in the 1960s if we had not had a governor who believed in bringing people of all races together. If we'd had a governor, like other states, who appealed to the worst rather than the best in us. Imagine no Terry Sanford.

Imagine what North Carolina would be like without the Research Triangle Park. Imagine no Terry Sanford.

Imagine what North Carolina would be like without the community college system or the School of the Arts. Imagine no Terry Sanford.

Imagine what North Carolina would be like had he not set national excellence as the goal for this great university—and all of our other universities. Imagine no Terry Sanford.

Imagine what North Carolina public schools would be like if a great governor had not had the courage to pass a tax for school improvements—an act of courage that cost his own political ambitions deeply. Imagine no Terry Sanford.

It is truly unimaginable. You cannot imagine North Carolina without Terry Sanford.

Forty years ago, no one could have imagined what North Carolina would become.

No one, that is, but Terry Sanford.

He once wrote: "The governor, by his very office, embodies his state. He stands alone at his inauguration as the spokesman for all the people. His presence at the peak of the system is unique, for he must represent the slum and the suburb, his concerns must span rural poverty and urban blight. The responsibility for initiative in statewide programs falls upon the governor. He must energize his administration, search out the experts, formulate the programs, mobilize the support and carry new ideas into action."

Terry, you set the goals and our sights very high. So high that we often wonder if we can meet your standard. But your good works, your words and your spirit tell us every day, in every way, that the goal can be ours. That the struggle is worth it.

When we leave today, we will leave the body of our hero in this chapel. We will leave it here because no other structure is sufficiently magnificent to serve as the final resting place for a life as magnificent as his.

But while we leave his body here to rest, the evidence of his good works is and will be around us everywhere—in the institutions he led, in the innovations he championed, in the individuals he touched and, most of all, in the spirit of everyone here today and everyone in this state. And so it will be for every generation to come.

For all that North Carolina has become and will be, Terry, we thank you.

God bless this place. God bless this family. And thank God for the magnificent blessing of giving North Carolina Terry Sanford.

TERRY SANFORD REMEMBRANCE

(By Nannerl O. Keohane, President of Duke University)

Of the many eloquent tributes that have been paid to Terry Sanford this week, the one in our student newspaper on Monday would have been especially dear to him. It was written by Devin Gordon, the editor of the Chronicle, and it begins as follows: "Surely there is a place in heaven for Terry Sanford. For eight decades, Duke's patron saint found his way into the soul of this university and into the hearts of North Carolinians. The highlights of his storied career read like the resume of a dozen men combined: four decorations as a paratrooper during World War II, two years as a state senator, four years as N.C. governor, 15 years as university president, two runs for the United States presidency and six years as a United States Senator. On Saturday morning at 11:30 a.m., however, he finally stopped to rest."

Terry Sanford took office at Duke in 1970, at a time when one might have thought that only a madman would take a university presidency. It was the very height of the protest against the war on campuses everywhere; presidents were being thrown out of the office right and left, and those who kept their jobs were harried and beleaguered. In those tumultuous times leadership was scorned and often ineffective. But Terry took the job with zest, and from the very first, performed it with panache, sincerity, serenity and purpose.

We've relished the story of how he met with protesting students during the first few weeks and, when they told him that they planned to occupy our administration building, he said, "Great, take me with you. I've been trying to occupy it for weeks." But it's less well known that after delivering that memorable quip, Terry neither departed nor called in reinforcements. He took a chair and sat down on the stage behind the student leaders. This quiet but brilliant gesture immediately established his authority, demonstrated that he intended to be part of the solution, and forced the student leaders to redirect their attention, both literally and metaphorically, to the president as well as to the audience in front.

Even more remarkable, Terry aspired then not just to keep Duke University roughly on course, not just to create space for dialogue, not just to keep the peace. He took the presidency of a fine university with a distinguished history in its state and its region, and determined to make it one of the nation's truly great institutions. And he succeeded, beyond what any observer could have predicted or foreseen.

Now Terry would be the first to say that he did not do that all by himself. Many others, many gathered here today, were important in this endeavor, but his leadership was crucial.

Terry had extraordinary political skills—political in the best sense of the word—which he used in the state, in the university, in the senate: the power to persuade, the ability to bring people together to accomplish shared goals, an uncanny sense of strategy, and patience coupled with determination and leavened by humor.'

At a time when politics is held in less than good repute by many in our country, it is worth celebrating a man for whom politics was a true vocation, who excelled at it. There's an essay by that name, "Politics as a Vocation," which was written in the dark aftermath of World WAr I in Germany by Max Weber, who was himself a statesman and a teacher. And he said: "Politics is a strong and slow boring of hard boards. It takes both passion and perspective. Certainly all historical experience confirms the truth that man would not have attained the possible unless time and again he had reached out for the impossible. But to do that a man must be a leader, and not only a leader but a hero as well, in a very sober sense of the world.

Terry Sanford was, in truth, a leader-hero. That word re-echos around this Chapel today. As one of his successors in this office, I have learned more than I could possible describe from Terry's example and from his wise counsel. From the very first time we met for breakfast soon after I came to Duke, when he looked me over with that piercing but kindly glint in his eye and gave me some extraordinarily sage perspectives on my new university and my new state, to the last time I saw him, just a few weeks ago when I went to his house to ask his advice about the great bonfire controversy that raged at Duke this spring, he was an unfailing source of staunch support, friendly advice, and regular inspiration.

As President, "Uncle Terry" was especially close to the students. He felt, and he said, that the students were the whole point of the institution. At breakfasts, at parties at his house, just by walking around the campus, he drew his strength as president from the exuberance and the freshness of the undergraduates. He did so remembering the importance in his own life of a great leader of his alma mater in his student days—Frank Porter Graham. One of Terry's legendary moments, Herculean in its implications, came when he swayed the Cameron Crazies, at a time when their cheers had become especially obscene and ruthless. He wrote to them as Uncle Terry, and appealed to them to be more clever and less gross, to be "devastating but decent." And they responded, with greetings of exaggerated courtesy to our friends from Chapel Hill, with loyal halos, and with respectful jibes at the referees saying, "we beg to differ."

He believed in giving students a great deal of power within the university. He put them, for example, on Trustee committees, and he asked of them in turn a high degree of responsibility; and they responded affectionately and admiringly. The list of Terry's accomplishments as president of Duke is long and very impressive—the buildings he built, the programs he instituted, the Fuqua School of Business, the Institute of the Arts, the Talent Identification Program, the Mary Lou Williams Center, the Institute of Policy Sciences, which now bears his name, and many more. But he was especially proud of the Bryan Center, the student center, which he called the "living room of the university." He wanted all students at Duke to have a good experience, to make friends, to enjoy their time. When two of his administrative colleagues came to tell him that Duke could not afford to build the student center, and that it was time to tell the board this news, Sanford said: "then you'll also have to explain to them why I'm no longer president." Needless to say, a way was found to build it.

Terry Sanford also cared deeply about employees. He wrote a policy statement shortly before he left office in which he emphasized that "Every person who works at Duke is vitally important to Duke. We are all Duke University people. Our employees' welfare and creative contributions are intertwined with Duke's excellence and success. Working at Duke, in whatever capacity, must be a satisfying way of life. We are each an individual part of one of the great institutions of America."

Leaders who care deeply about individual human beings sometimes find it hard to focus on institution-building, and leaders who have built institutions have sometimes worked in abstractions and knew little of the people who were part of those institutions. But Terry was amazingly able to bring those two aspects of leadership together. He understood that institutions are made up of individual human beings. They are not bloodless abstractions. He also understood that individual human beings need good institutions in which to live and to work and to flourish. He cared about the state of North Carolina, the government of his country, the United States Senate, the School of the Arts, the School of Science and Math, and Duke University. We are all better, and stronger, and more optimistic about the future, because of the lasting legacies of Terry Sanford's life and leadership.

REMEMBRANCE AT THE FUNERAL OF TERRY SANFORD

(By Daniel P. Blue, Trustee of Duke University and Former Speaker of the N.C. House of Representatives)

To the wonderful Sanford family and the extended Sanford family, I come to remember and commemorate the single most important North Carolinian in my lifetime and perhaps the single most important North Carolinian of this century.

When I was 24 years old with a wife and young son and two weeks experience practicing law, Terry Sanford came to visit me in my office. He walked in, closed the door, sat down. He could tell I was nervous. After all, who wouldn't be if you had a former governor, the president of the university from which you had just gotten your law degree and the single partner in a law firm that had just blazed a new path in this state by being among the first to hire an African-American lawyer, come in the office.

Well, after giving me a little fatherly advice on the practice of law, Terry told me, he said, "I came over here to check on you, see how you're doing. These fellows will treat you all right. If they don't, let me know. And let me know if there is ever anything I can do for you." It was his law firm of course—Sanford, Cannon, Adams and McCullough, at the time. And I later learned that Terry had placed a call to the senior partners in that firm and told them that he had observed this Duke law student and he wanted them to interview me, which was tantamount to telling them "come hire me." So, after we had talked a while, Terry also did the greatest tribute, I guess, to a young lawyer. He assigned me to one of the major cases in the firm, directly answerable to him and two of the other main partners in the firm.

Later, as time went on, not only with me but other people in the firm, Terry consistently urged us to be politically active and he urged me to run for the North Carolina House of Representatives, and I did. Later on, as a U.S. senator, Terry learned that I was interested in being speaker of the House of Representatives and he called and he said, "You know, people will call you and they'll tell you why you can't do it for various reasons. Some of them will be obvious to you. Some won't. You ought to listen, be courteous to them, acknowledge their interest and concern, then go on about tying down those who are going to support you and do it." And you know, with his help.

The fact that I stand before you today, as a farm boy from Robeson County, one who embodies all of those things that Terry Sanford did and meant for North Carolina, and as I stand to help remember one who is considered one of the 10 greatest governors in America during this century, it's a clear measure of how far we have come and how far Terry Sanford has led us. You know, the amazing, almost mystical thing about Terry Sanford, as one of his former law partners told me, was his ability, the rare knack, to get ordinary people to do unordinary and extraordinary things.

We reflect a little bit, those of us who grew up in North Carolina in the Sixties, on a different climate, but we also wonder whether our brethren in North Carolina were much different than our brethren throughout the region during those turbulent times, or were we blessed in the Sixties with the kind of the leader who did not reflect a lot of the sentimentalities and the sensibilities of the people as much as he shaped them and elevated those sensibilities?

Thirty-five years ago, in neighboring states in the South, Ross Barnett in Mississippi closed gates, shut doors to prevent James Meredith from entering the University of Mississippi. At about the same time Gov. Faubus from Arkansas closed gates, shut doors, to keep students from integrating the public schools in Little Rock. At about the same time, Gov. Wallace from Alabama stood in the schoolhouse door to block entrance, to close the gates. In Virginia, schools closed, people were denied, gates came down.

And at about the same time, Gov. Terry Sanford in North Carolina boldly generated the resources to improve public education for my generation, helped establish our statewide system of community colleges for my generation, created the North Carolina School of the Arts, created the Governor's School in Winston Salem, created the Learning Institute of North Carolina, increased teacher pay, started the North Carolina Fund, and established the Good Neighbor Council to discuss racial issues in the state during those tense times.

He had a vision to see across the landscape of hopelessness, hate, distrust and despair: to look through the hills, that existed at the time, or racism, of economic deprivation and all of those things that he clearly could see across, and see a gate of opportunity for all North Carolinians, for all Southerners, for all Americans.

In fairness, I will say this, one quarter of a century later, Gov. Wallace repented and we know, those of us who are believers, that the Lord has said there will be more rejoicing in heaven over one sinner who repents than over 99 righteous person who do not need to repent. But with due respect to heavenly custom, Lord, I would say that down here in North Carolina there is more rejoicing over one righteous person, a righteous man, who need not repent for any position that he took in times of trial or in rough decision.

If I have known any man who has made a difference in my life and in the lives of so many North Carolinians, who believed in people and who was impervious to the pressure of other people's prejudice, it was Terry Sanford. I'm speaking as just one of the people who own him a tremendous debt of freedom and gratitude. I told my children as they asked me many years ago when they were looking at Duke, that Terry Sanford was reason enough to look because he was a man who was at least two generations ahead of his contemporaries. The older I get, my friends, the more I know I need to revise that. Terry Sanford was a man who was at least three generations ahead in his vision of my generation.

So, let me say, if you will permit me to use this opportunity, offered by the power of this pulpit and the honor of this occasion, to discharge a personal duty to Terry Sanford, to do for him in his afterlife what he did for us as lawyers who had the privilege of practicing with him, what he did for us as North Carolinians and as Americans—offer a short, persuasive recommendation for admission. And I would start it by saying, Dear Lord, open your gate wide for Terry Sanford. He opened gates for me. Dear Lord, open your gate wide for Terry Sanford, he opened gates for all of us here on earth. Oh Lord, open wide your gate for Terry Sanford, he never closed a gate on anyone. He never kept the gate closed on anyone. God bless him.

Remembrance at the Funeral of Terry Sanford

(By Mary Duke Biddle Trent Semans, Chair of The Duke Endowment)

A man from Durham County called me and asked, "Do you think we could come to Terry Sanford's services. He was my friend." I'm sure he's here today because all of us know that we are all his friends. That man knew that all of Terry's friends were real, they were forever and they were sincere.

And as a citizen of Durham, I have to express gratitude for what he meant to this community. This became his home. He recognized Durham's egalitarianism, and he enhanced its peoples reaching out for each other. As a result of his historic achievements, Terry Sanford changed the face of North Carolina. For those of us who worked with him through the years, Terry Sanford was our hero. We referred to ourselves as being part of the family. He made us feel that we were on his magic carpet and that he expected us to do things we never dreamed we were capable of.

The image of North Carolina as that special state, which stands out in the South as its most progressive and inventive, was created by Terry Sanford. He had golden aspirations for it and he made them come true. He was convinced that there was no fence which could be built that North Carolina could not reach and climb. So he established the goals and led the state to its place of honor.

Just think of some of the institutions—some which have been mentioned already, but I have to say again—we watched him build: Governor's School for academic achievers; the North Carolina Fund, one of the nation's first poverty programs; the community college system; a public policy institute at this university; the establishment of the American Dance Festival that he brought to this state; and of all audacious achievements, the North Carolina School of the Arts, a conservatory for talented professional aspiring young people unique in the South, and in many ways unique in the nation, which is already graduating Oscar nominees and winners.

As president here, Terry Sanford threw open the windows of Duke University—open to the state, the nation and the world. He reminded this institution of its great North Carolina history as Trinity College and brought its alumni back into the fold. He sensed the founders' dreams and carried them out. He emphasized Mr. Duke's vision. Known by many students as "Uncle Terry," he listened to students and challenged them with new opportunities. When he was here at Duke as president, Terry Sanford said, very wisely, "there is never an end to building an institution."

He never stopped building and he never stopped dreaming and even in the last few months, he was planning an institute for the arts in the Triangle. Looking back, we realize that almost every one of his great achievements was concerned with youth, as well as with the disabled, minorities, the under served and under privileged—not only helping them in groups, but caring about them and reaching out to them as individuals. He cherished the teachings of his parents and he lived a life based on his Sunday school lessons. There was a particular sweetness about his love of the Methodist Church and of this state and always there was Margaret Rose by his side. Thank Good for Margaret Rose.

As we face the days ahead with a lost feeling, we know that in addition to being an icon, he was a comfort. Just knowing he was nearby gave us a sense of security. Steven Sender wrote that the truly great are those who in their lives fought for life and who wore, at their hearts, the fire's center. Terry's fire will never go out, but we must vow to carry on his fight to make the world better for everyone—for all the people. We must never let him down. So call out the trumpets and celebrate the life of this great man who was our great friend.

Terry Sanford Remembrance

(By Judge J. Dickson Phillips, Jr., Senior Judge, U.S. Court of Appeals for the 4th Circuit)

Margaret Rose, Terry, Betsee, Helen, Mary Glenn, friends all. I last saw him in the hospital just before he left and he wanted to go home. He greeted me then, both feebly and with effort, as he had a thousand times during our intertwined lives—the raised hand and twinkly smile, the same song, Dixon. From there my memories of him run back at least 65 years, give or take a few either way, the boyhood days in Laurinburg. Our mothers were both Virginia-born school teachers. They had been lured to Laurinburg, so one of our Virginians once suggested, for the dual purpose of bringing some Virginian intelligence and learning to the N.C. backwoods, and perhaps, God willing, improving the Scotland County gene pool. Both of them, faithful to their missions, married good young men of the town, raised their families there and lived long lives as friends until Miss Betsy died at 99, a few years before my mother died last year at 98.

Both of them almost to the long end of their widowhoods in the houses in which Terry and I were raised lived before going separately off to college and away in the mid-30's. So, I look back and down the long road of his life and accomplishments as recounted by Jim and Mary and Dan, some portions of which it was my good fortune to share—in the close knit airborne units of World War II and law practice, and political battles. In moments too few, in retrospect, of simple fun and foolishness. I look back to the beginnings long ago.

In looking back it all seems very simple to me. Why he was what he was, and did what he did and persevered to the end. He did it because he took an oath when he was 12 years old and kept it. It started out, "On my honor I will do my best to do my duty to God and my country," and then included such things as help people at all times. It's hard to believe, but he believed it. He was the eternal Boy Scout, it is just that simple. He was a true believer, not a heavy breathing true believer but a true believer in the Frank Graham mold—that it's better to light a candle than to curse the darkness—That you should not take counsel of your fears, that the fundamental requirement is to do justice, to love mercy and remember that you are mere mortal in the eternal presence, that on the earth's last day if you should happen to be there, the thing to do would be to plant a tree or write a book or start building something worthwhile.

Of course, he was more complicated than that. Of course, he didn't always succeed. Of course, he was capable of occasional miscalculations and errors of judgment in public and private affairs. Of course, he was prey for the usual human failures. But on the essentials, for the long run, in good times and bad, he kept the oath about as well as can be kept by one in the heavy engagements of an active, uncloistered life. The simple compass held him true on course until the end. That is why in the world he liked to quote about his great personal and political friend, Kerr Scott, "He plowed to the end of the road, his furrow was deep." Airborne all the way.

Excerpts From the Terry Sanford Remembrance

(By Joel L. Fleishman, Professor of Law and Public Policy at Duke)

Terry Sanford was a great-spirited, great-souled man, a man of passion, a man with a conscience that had real bite, a man of loyalty. But most of all, Terry Sanford was a creative genius, but a thoroughly practical one, who transformed everything he touched into something finer, better, worthier and more useful to the world. If I had to call him by any single phrase, it would be "the great transformer."

At a time when most Southern governors were engaged in shameless, vicious race-baiting, Terry Sanford staked his political career on achieving equality of opportunity without regard to race, and thereby transformed, really transformed, public discourse in North Carolina.

The great transformer, what was his secret? What were the qualities of mind and character that enabled him to achieve those feats? First off, he genuinely cared about people. Secondly, he never let things get to him. Over 47 years, I never saw him get angry but once. That was when a state trooper on duty at the Governor's Mansion inadvertently let it be known to a reporter that, get this, alcohol was being served upstairs at the mansion, and Terry was furious that his mother might discover that he took an occasional drink.

He stuck to his word. Unlike so many persons who occupy political roles, Terry Sanford did not change his mind or his tune depending on what those with whom he was talking wanted to hear or according to the views of those with whom he had talked most recently. If he made a decision and committed himself to you, you could count on the fact that he would stick to it and not be persuaded out of it.

How could he do that? Because he had real values, bedrock values; he believed in things. He acted on those beliefs. And he served those values with the most amazing energy I've ever encountered in anyone. He was literally indefatigable. It was not only boundless, but it was never-ending, showing itself even as he fought the last battle of his life against cancer.

One is forced to ask, why? Why did Terry Sanford pour so much of himself into his quest for a better society, in his efforts for others? One time, Terry and Bert Bennett, who's sitting here on the front row, were out on the road campaigning with Margaret Rose, and they were all being subjected to the same old, cold green peas and chicken and equally tasty rhetoric from some of the local politicians. Margaret Rose was complaining to Bert that Terry was gone from home all the time, little Terry and Betsee were moaning about missing their father. Bert slipped a note to Terry which said, Why do you continue to stay in this business anyway? Terry fired back a note with the following words: to keep the SOBs out!

It was the ideals which drove him. I know of no public figure who has demonstrated such consistent fidelity in his ideals over a lifetime than Terry Sanford did. Most of us change as we grow older, get a little more radical sometimes, more often we get a little more conservative. But his devotion to his ideals didn't waver one whit over those 47 years.

In another extraordinary respect, Terry was unique among all those of my acquaintance. He had an unquenchable thirst for ideas from everyone, which led him to seek out persons of all stations and conditions of life with whom to consult. Indeed, his life was a never-ending pursuit of the best ideas from as wide a circle as possible about how to solve the problems of concern to him or indeed them. He was resolutely determined to resist becoming the captive of his long-time friends, his campaign workers, his kitchen cabinet. It goes without saying that he was always loyal to them and they had access to him, but that inner circle was perpetually refreshed over the years by hundreds of others whom he sought out and drew in on a continuing basis. He had the most remarkable thirst for new ideas of any man of action I've ever known, and that had to be the key to many of those innovations for which he is so justly credited.

Eulogy Delivered at the Funeral of Terry Sanford

(By the Rev. Thomas Langford, Provost Emeritus at Duke University and Former Dean of Duke Divinity School)

Everyone here possesses his or her own memories of Terry Sanford; each of us has our own sense of friendship and achievement; each has a story to tell. And we were reminded of this as we heard these moving and delightful stories of those who knew him well.

Terry stood at the intersection of the local community and an expanding world. He always began at home—a dutiful son, a family man, a proud Methodist, and a committed North Carolinian. His loyalty was intense and generous.

He asked that his commitment to the Methodist Church be especially mentioned. He was, he said, an active Methodist (this description, of course, is redundant. Anything Terry did, he did actively). He reminded us that from his local church he had also participated in the regional and national life of his denomination, and that he thought that was significant.

Our commitments express who we are, and so with Terry. From roots deep driven, new growth came forth, limbs extended and spread. Not leaves alone, but fruit was borne and passed life to others. We respected Terry Sanford.

Here, O Lord, is one of your special treasures whom we return for your safe keeping.

Terry's achievements have been immense. You've heard them recounted: a loyal son of the state, a loyal son of his own university, and a loyal president of Duke, a loyal citizen of the nation, and a loyal friend.

In his retirement, he kept doing what he had always done, and conceived an institute for the arts, which would bring to this state activities that were nationally important in both dance and drama.

In all the things that we have heard, Terry Sanford added quality to our lives. We followed him with gladness.

Here, O Lord, is one of our special treasures whom we now return to thee for your safe keeping.

Terry possessed confidence, and he recognized the competence of others. His own reach was extended through others exercising their abilities.

How many of us owe some aspect of our life or hope or ambition to Terry's encouragement? He was always with people. He enjoyed people, he enjoyed the relationships, he enjoyed organizing people around a purpose. He was a people person. And we enjoyed his company.

Here, O Lord, is one of your special treasures whom we now return for your safe keeping.

To recall Terry is to recall Margaret Rose, Terry, Jr., Betsee, their family. You really cannot think of one without the other. Margaret Rose. What words are adequate? Helpmate, faithful, patient, supportive, creator of relationships, sharer of hopes, constructive critic, companion. All of these and more.

But the family was not small. It has extended and been extending so that many of you think of yourselves as part of the extended family. All of us share this loss. We were drawn into his companionship.

Here, O Lord, is one of your special treasures whom we now return to your special keeping.

Grace, at times, comes in human form. Remember God's own best gift was in human form. Terry has walked among us, and we have relearned that human life can express love and loyalty, justice and hope; that humanity can possess passion and compassion, friendship and challenge, and, now, death and resurrection.

We are thankful for Terry Sanford. We remember him with gratitude, with admiration, and with joy.

Here, O Lord, is one of your special treasures whom we now return for your safe keeping.

Tribute to Terry Sanford Delivered at the N.C. Democratic Party's Jefferson-Jackson Dinner, April 25, 1998, By Thomas Lambeth, Executive Director, Z. Smith Reynolds Foundation

Let me begin by saying that while this is a time of sadness, Terry would not want that sense to prevail tonight. He would have found joy in the presence of all of you, old friends and new friends, and special satisfaction in the presence of the great lady who is our speaker [former Governor Ann Richards of Texas] and whose politics were his politics and he would have sat here with admiration and pride for our governor whose political roots were his roots.

We have been reminded often in recent days of the sense of humor which was always with him. Those of us who visited with him in recent weeks know that it was there as long as consciousness remained. When asked once why he stayed in politics given all of its travails, he said "I stay in to keep the SOBs out." He would want us reminded of that high calling once again.

The essence of Terry Sanford's leadership is found in one compelling strength of his character as a leader: he paid to us his fellow citizens the ultimate compliment—he asked us for our best.

He asked that because he believed we are capable of giving our best and because he knew that North Carolina was worthy of no less.

This is an event tonight which pays tribute to him in a special moment against a long tradition of paying tribute to two great leaders of the Democratic Party. Terry would agree with Jefferson that the "whole art of government is being honest; simply strive to do your duty and know that history will give you credit where you fail;" and his career reflects that great strength which North Carolina's own Gerald Johnson found in Andrew Jackson—"he knew the people's problems and he made them his own." Terry's own Democratic roots went back to childhood. He remembered well walking in a torchlight parade in Laurinburg when he was eleven, holding high a banner which said "Me and Ma Is For Al Smith."

Yet, to fully understand his political commitment as to fully understand the man, one has to see him as what he was first and foremost: a North Carolinian. He would be comfortable with the words of Jefferson and Jackson but you know him best in the words of Aycock and Vance. He believed with Aycock that the role of the Tar Heel leader was "to speak the rightful word and do the generous act" and his politics of a lifetime demonstrated his conviction that Vance was right when he said that North Carolinians are "a people of sober second thought."

His ambitions for North Carolina were in the minds of some outrageous but in the mirror of history courageous and sound. He knew a secret about this place that Aycock knew and Vance knew: that there is an audacious bent to our character that drives us to achieve greatness against all the odds. So there they are: a School of the Arts, a Governors School, a statewide Community College System, an Institute of Policy Studies, a Museum of Art, a state symphony, a Council on the Status of Women and private and public colleges and universities that are secure among the best in the nation—there they are for everyone, for every child, for every mind and for every heart.

He said to us that we will create here a tradition that says we can set our goals by how bold we are in our dreaming and how strong we are in our doing and excellence is the aim of all our endeavors.

If at times North Carolina was not with him, he was always with North Carolina and, in the spirit of Aycock and Vance and his own mentor Frank Graham, he never doubted that in the course of time he and North Carolina would be together. It was not so much an act of faith as a statement of the depth of his understanding of his fellow Tar Heels—an understanding grounded in more than half a century of going to them where they were.

All of Terry's statewide campaigns—as several drivers here tonight remember well—had to involve a 100 county tour. He lived most of his adult life in urban centers and he was excited by them but he was formed by a small town and in a time when very wise men and women could explain North Carolina as a collection of media markets, he never forgot that it was also Burgaw and Burnsville, Mann's Harbor and Mooresville, Southport and Sparta. His politics were people. "But What About the People" was not only the title of a book he wrote, it was the theme of his public service and it was always important to him to be with people in those places where they live—where the richness that is North Carolina abides.

It is rare to find a public figure with such a lifetime of achievement, FBI agent, combat paratrooper, state senator, governor, University President and US Senator. To all those he brought not just a rich and creative intellect but a mighty heart and the kind of courage of which greatness is born.

And always there was the belief in his fellow citizens. Nothing is more characteristic of that belief that his choice of the title to give the network created by him to deal with the challenges of desegregation in the 1960s—he called them good neighbor councils. If people could just see issues of race as a matter of living together as neighbors even that challenging a time could be made good.

Terry Sanford helped to give us our sense of our own greatness. What he led us to believe about him is not really so important. What is important is what he led us to believe about ourselves.

So if we are truly to pay tribute to him tonight we will help others, especially young people, to understand that politics can be a noble ambition, that the people's business is a blessed career and that it has never been the politics in people that was wrong, only sometimes the people in politics. He would want young people to believe that service to their fellow citizens demands courage and intelligence and faith in each other and that such service is worth a lifetime of devotion.

His own life of public service is a powerful answer to those who doubt the capacity of free men and women to undertake difficult tasks, to preserve their freedom, to find harmony and respect amid diversity.

To those whose pursuit of selfish ends left poverty and despair in their wake as they argued about limited resources he said, but what about the people.

To those who ignore or squander the talents of that majority of our population which is female, he said but what about the women?

To those who stumbled at the price tag of progress, he said but what about our children?

To those who cast fear in front of reconciliation, he said but what about our dreams?

And if he were here to speak to us tonight, as we mourn his loss and share the bittersweet memories of our time with him, he would say . . . but what about tomorrow?

Terry was a fascinating combination of scholar, practical politician, combat paratrooper, and Boy Scout. All of that is captured for me in the memory of that day thirty eight years ago when he filed for Governor. He was armed with all the practical tools of a good candidate: county organizations, major endorsements, and an understanding of how far he could go without leaving the people behind him. Yet he made certain that his young aide knew as he went out that morning that in his pocket to pay his filing fee was a check written by his crippled and dying friend O. Max Gardner, Jr., . . . on his finger was a paratrooper ring . . . and up under his lapel was a Frank Graham for Senate button.

But what about tomorrow? In the days and years to come men and women, young and not so young, will answer that question in their own ways in countless endeavors strengthened by his memory and enriched by his inspiration for service and if you look closely you will see, under their lapels, another button.

It will say Terry Sanford, still at work.

God bless Terry Sanford. God bless North Carolina.

[From The Wall Street Journal Thurs, Apr. 23, 1998]

TERRY SANFORD MADE A REAL DIFFERENCE

(By Albert R. Hunt)

Last weekend, the phone call came from Duke University—my wife is an alumna and trustee—to say that Terry Sanford had died. It brought back many powerful recollections and thoughts about politics and government.

Back in the early 1960s, when I was a young college student at Wake Forest, there used to be raging debates over whether the "Negro" had basic rights. Terry Sanford gave an address calling for equal opportunities and an end to segregation in public accommodations. This was a Southern governor speaking, before Selma. Lyndon Johnson and the great national debates over public accommodations and voting rights had broken the ground for him.

Terry Sanford then became one of my heroes. When he died last Saturday at the age of 80, he still was.

A few years ago a Harvard survey named him one of the 10 top governors of the 20th century. As president, he turned Duke into one of America's greatest universities. "Terry Sanford was a creative genius," his dear friend Joel Fleishman said in an eulogy yesterday, "who transformed everything he touched into something finer, worthier and more useful to the world."

He deeply believed in the power of government, properly channeled, to do good. Politicians interested in leadership should study the life of Terry Sanford.

Shaped by the Great Depression, this native North Carolinian was awarded a bronze star as a paratrooper in World War II, fighting in the Battle of the Bulge. Bill Friday, a Sanford friend and occasional rival as the president of the University of North Carolina, remembers those postwar times at Carolina Law School: "When our generation came back from World War II, there was a noticeable sense of commitment that we were going to change things and make things better for North Carolina. Terry was our leader."

Inspired by Frank Graham, the legendary president of the University of North Carolina. Terry Sanford and his allies became the apostles for change. In 1960, after endorsing John F. Kennedy, a Catholic, for the Democratic presidential nomination and battling segregationists in the Tar Heel State, he was elected governor. The battle cry throughout most of the South those days was states' rights, a code phrase for racism. Terry Sanford instead preached and passionately practiced states' responsibilities.

On race, he never bowed to the racial demagoguery. He hired blacks, pushed for more job opportunities, launched a model antipoverty program, and integrated the state parks with his secretary of commerce, Skipper Bowles, father of the current White House chief of staff, Erskine Bowles. North Carolina avoided much of the racial animosity that afflicted neighboring states.

It would be a generation before he could win a statewide race again, but he left a much deeper legacy. "Southern politicians (like Terry Sanford and former Florida governor Leroy Collins) paid a great price for their courage," remembers Eugene Patterson, a former newspaper editor and Duke professor. "But I don't know what the South would be today without them." Remember, this was a decade before New South governors like Jimmy Carter and two decades before Bill Clinton's governorship.

Rather than closing schools or standing in schoolhouse doors, he became the nation's "education governor," creatively working with foundations and the private sector to bridge gaps and build an asset base for the future. He started a school for the arts and the Governor's School for gifted students. He significantly improved higher education and, perhaps most importantly, built a community college system; there were only five community colleges when he took office, but he led a more than tenfold expansion.

This has been indispensable to the prosperous North Carolina of today, from the fabled Research Triangle to the megalopolis of Charlotte, one of the nation's financial centers. "Without the community college and his other educational reforms we wouldn't have had the people with the skills to attract these businesses to North Carolina," notes the younger Mr. Bowles. "He really led our state into the 20th century."

He remained an activist when he took over the presidency of Duke in 1969 during the turmoil of the antiwar years on campus. When students threatened to take over the administration building, President Sanford replied: "Go ahead. I've been trying to occupy it for a month."

Back then Duke was one of the best Southern universities. When Terry Sanford departed as president 16 years later, it was well on its way to becoming one of the half dozen top-ranked schools in America. "Terry believed that Duke should have 'outrageous ambitions,'" noted its current leader, Nannerl Keohane—and then he achieved them.

Among his many accomplishments—expanding the world-class medical school, starting a top-flight business school, more than doubling undergraduate applications and attracting a higher-quality and more diverse student body—Terry Sanford again was a racial trailblazer, hiring African-American faculty members. Vernon Jordan recalls that the first commencement speech he gave at a non-black Southern institution was in 1973 at Duke, at Terry Sanford's behest. The day he became president, a quota on Jewish admissions was terminated.

During that period, Terry Sanford made two ill-fated and mercifully short attempts at running for president. If only he had known how to win, he would have been a great president. In 1986, he was elected to the U.S. Senate, but he was defeated six years later.

In his last years, he remained a powerful proponent of the importance of government in improving people's lives. Many of the innovative state governors over the past 30 years drew from the Terry Sanford experience. On the federal level, government bashing is a favorite pastime, but Terry Sanford surely would remind us to think about Head Start, or the Internet, or cutting the poverty rate among the elderly by two-thirds over the past three decades, or the world's greatest military or the best national parks or the Centers for Disease Control and Prevention, or the 20 American Nobel prize winners in the past three years who were funded by the National Science Foundation. That's government.

Those are lessons that young scholars at Duke's Terry Sanford Institute of Public Policy will learn for years. When thousands said goodbye yesterday, there was a powerful symbolic aspect, appreciated by those who know of the intense academic, social and athletic rivalry between the University of North Carolina and Duke, only 11 miles apart. Terry Sanford became the first son of Chapel Hill to be buried in the Duke chapel.

'A CONSCIENCE WITH BITE'—

TERRY SANFORD SHOWED THAT ONE FEARLESS LEADER CAN MAKE MILLIONS BRAVE

(By David Gergen)

When doctors at Duke University discovered in December of last year that Terry Sanford had inoperable cancer, they told him he had 90 to 120 days to live. "I'm not giving up," he replied, "because I learned how to live with much worse odds during the war. Now, I don't want you to give up, either."

Ever gallant, ever hopeful, the former governor and university president entered his last struggle. On April 18, he finally lost, but as thousands of mourners gathered at the Duke chapel last week, they remembered with joy the many other battles he had taken up and won on their behalf. They knew his journey had a significance far beyond his own beloved state: He taught us once again—at a time we need reminding—how much a single, fearless leader can do to release the energies of a democratic people.

Over coffee at his home shortly before he died, Sanford returned time and again to his youth and war experience. He talked of his roots in a rural town and his continuing pride in having become an Eagle Scout. "That probably saved my life in the war," he said. "Boys who had been scouts or had been in the CCC [the Civilian Conservation Corps of Franklin Roosevelt] knew how to look after themselves in the woods."

Learning courage. As with many of this century's leaders—Harry Truman was one, George Bush another—Sanford discovered his own personal bravery in combat. He had to talk his way into uniform ("they rejected me the first time because of flat feet") and wound up a paratrooper. He jumped into France just after D–Day, survived that horrendous winter of 1944–45, fought in the Battle of the Bulge, and came home a decorated hero.

"We become brave by doing brave acts," Aristotle wrote, and so it was with Sanford. Elected governor of North Carolina in 1960 and limited by law to a single term of four years, he was so effective that later on, a Harvard survey recognized him as one of the 10 best American governors of the century. Long before other governors, especially in the South, he invigorated public schools, built community colleges, attracted research investments, and created centers of artistic excellence. But above all, he stood up courageously for civil rights.

In Mississippi, Gov. Ross Barnett shut out blacks; in Arkansas, Gov. Orval Faubus; in Alabama, Gov. George Wallace. Only in North Carolina and Georgia did governors insist that blacks had rights, too. With the Klan on the move, Sanford created Good Neighbor Councils across the state, asking prominent blacks and whites to work together in pursuit of better schools and jobs. His popularity was damaged, but he defused the crisis and helped liberate the state from the shackles of racism.

Sanford himself was the first to credit valorous black leaders like Martin Luther King Jr., John Lewis, and Rosa Parks for the civil rights revolution. Yet progress would have been even bloodier and more painful had it not been for a few white leaders who also put themselves at risk by embracing the cause.

Terry Sanford didn't live by the polls, as nearly every "leader" in Washington now so slavishly does; he lived by his own sense of right and wrong, learned back in a little town. And he stuck to it, regardless of personal risk. In his funeral service last week, where his long years as president of Duke and as a U.S. senator were also celebrated, his friend Joel Fleishman said he had "a conscience with bite." Exactly.

Sanford, like Lyndon Johnson, believed that racism was not only dividing blacks from whites but also dividing the South from the rest of the nation. By freeing people from its scourge, everyone in the region would have a better chance to grow. Indeed, that captured much of his political philosophy: A leader's role is to raise people's aspirations for what they can become and to release their energies so they will try to get there.

When Sanford became governor, as Fleishman pointed out, his state was 49th among the 50 states in per capita income; today it is 32nd and rising. More than that—as so many natives will attest—hate is giving way to decency, pessimism to hope. A single leader, brave and idealistic, liberated the best in his people.

Mr. HEFNER. Mr. Speaker, I yield to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding to me and also thank him for his leadership in arranging for this special order honoring a great American.

Kahlil Gibran asked this question: Are you a politician who says to himself I will use my country for my own benefit, or are you a devoted patriot who whispers in the ear of his inner self, I love to serve my country as a faithful servant?

With regard to Terry Sanford, his accomplishments speak for themselves. He served North Carolina and the Nation at large in a variety of roles: FBI agent, Army paratrooper, Democratic Party Convention delegate, governor, Duke University president, presidential candidate, and U.S. Senator with distinction and honor. He sincerely loved to serve his country.

This truly faithful servant weathered some of the most turbulent storms of the century, his moral accomplish never wavering. Terry Sanford faced crisis and adversity head-on, never afraid of doing what was right and just, even though those actions had high personal as well as political costs.

Terry Sanford was gifted with a unique combination of virtues: caring, courage, and vision. He cared deeply about all of North Carolina's citizens and was courageous enough to buck tradition and ignore conventional wisdom in order to seek out what he knew was best for the Old North State, North Carolina.

Terry Sanford was progressive before it was popular to be progressive, especially in the South. North Carolina was at a crossroad, with monumental opportunity for progress or peril.

Terry Sanford had a vision, one which he made a reality during his tenure of Governor from 1961 to 1965. This vision is clearly articulated in his Inaugural Address. He said "Today, we stand at the head of the South, but that is not enough. I want North Carolina to move into the mainstream of America and to strive to become the leading State of the Nation. I call on all citizens to join with me in the audacious adventure of making North Carolina all it can and ought to be."

Keeping true to this vision, he fought poverty, illiteracy, and segregation in creative and innovative ways.

Terry Sanford created a statewide anti-poverty initiative known as the Carolina Fund, which President Lyndon Baines Johnson used as a model for his War on Poverty.

He took a great risk and pushed through a politically unpopular, but very necessary, very practical legislation through the North Carolina State General Assembly expanding the 3-cent sales tax to include food in the name of education.

He conceived and implemented the first statewide system of community colleges, as well as establishing the North Carolina School for the Arts, the first residential, State-supported college devoted solely to fine arts.

He established the Good Neighbors Council, later known as the Human Relations Council, to provide a public forum for racial issues during a time of significant unrest.

His vision extended to projects like the Research Triangle Park, which is now one of the premier high-tech areas in the country. He worked diligently to attract companies to that area with IBM being the first to establish there.

He was ever the eternal optimist, seeing only the best in North Carolina and seeing the best in all human beings. He continued to push the State to new heights and challenge the individuals to be all that they could be and should be.

John Fitzgerald Kennedy remarked "A man does what he must, in spite of personal consequences, in spite of obstacles and dangers and pressures."

Terry Sanford did what he had to do as a Bronze-Star winning member of the 82nd Airborne, as Governor, as Duke University president, as a U.S. Senator. No matter what he did, he did his duty. He always fought to do that which is right. And he always fought the good fight.

Confucius said, "He who exercises government by means of his virtue may be compared to the north polar star, which keeps its place and all the stars turn towards it. Terry Sanford was Polaris, the bright North Star, shining in the darkness of the sky, like a beacon. He blazed trails, on which many of us now follow, his unwavering virtue as a testament of his caring for people and his commitment to his State.

All of us who knew Terry Sanford thought of him as our friend as well as our mentor. Therefore, it is our challenge to keep his vision alive as we, indeed, respond to new opportunities and revisit old opportunities and challenges. Let us celebrate his life and his accomplishments through our present and future actions, to be as Terry Sanford was, to fight the good fight.

Mr. HEFNER. Mr. Speaker, I yield to the gentleman from Cumberland County, North Carolina (Mr. MCINTYRE).

Mr. MCINTYRE. Mr. Speaker, I am happy to represent Cumberland and Robinson and seven other counties that are in our home area, particularly because, as I thank my distinguished dean of our delegation, the gentleman from North Carolina (Mr. HEFNER), and distinguished colleague, and join these other distinguished colleagues from the Tarheel State, because Terry Sanford did spend much of his time in our congressional district that I represent currently, in Fayetteville and Fort Bragg, and grew up in the town not far west of my hometown of Lumberton in the neighboring district of the gentleman from Laurinburg, North Carolina (Mr. HEFNER).

When we think about Terry Sanford, we think about the influence, I would dare say, from another angle of an educator, knowing that his influence was, indeed, infinite; that a great educator knows how to pass on his ideals from generation to generation; that he can improve and uplift the lives of scores of other folks long after the original teacher has moved on or passed on. Terry Sanford was the consummate educator and, fortunately, for us, his influence is, indeed, infinite.

A few weeks ago, when I joined my distinguished colleagues, not only from North Carolina, but other colleagues who serve in government and education and civic activities and church activities and in the military and from so many other spheres of influence back home in North Carolina and also here in Washington, we had 2,000 people gathered in Duke Chapel to honor a man whose power and influence was not only while he was sitting in the offices that he held, and we have heard the laundry list of those great offices tonight, but also by his influence personally.

When we think about those who were touched by him, we cannot help but think about the students at his beloved Duke University, where he was affectionately known as Uncle Terry. As an educator, they love nothing more than to see his boundless energy and exuberance that comes with youth.

He was blessed throughout his life to influence folks of all ages but especially the young in my generation, to empower scores and scores of young people, to be involved, yes, in politics, but beyond politics, to be involved in their communities, to be involved in serving their State and their country and whatever their calling might be.

When Terry Sanford entered into the North Carolina Governor's mansion in 1961, North Carolina ranked next to last in national per-capita income and was mired in the social and racial morass that plagued all other southern States. At a time when other governors across the South resigned themselves to the moment and were closing the door to all but a selected few in society, Terry Sanford opened the door.

He saw through the fog of hatred and repression and put North Carolina on a course where it is today, a leading center for technology development in the South, and now a State that ranks among the top 30 in the Nation for per-capita income.

The resources that he helped generate to improve public education were for all North Carolina students and established a statewide system of community colleges so that every student in the North Carolina public schools would have that opportunity to attend an institution of higher learning.

I dare say that the HOPE Scholarship passed by this body just last year in North Carolina would have not been anywhere nearly as meaningful if it were not for the fact that this crowning jewel in Terry Sanford's tenure as Governor came to being during his watch, our great community college system.

Indeed, Sanford's commitment to education led to his moniker as the original education Governor. It also led to the creation of the North Carolina School of the Arts, the Governor's School in Winston-Salem, the Learning Institute of North Carolina, the North Carolina Fund, and also higher teacher salaries for men and women who play such an integral role in the lives of our children. When we think about the opportunity for education, for economic development, we think about Terry Sanford.

Terry Sanford loved challenges. He loved also to issue them because he was a master at challenging people in a manner that would ultimately result from those around him realizing greatness themselves or at least recognizing that the things that they sought to achieve were, indeed, obtainable.

Terry Sanford taught us that democracy is not a spectator sport. He spoke often of the Declaration of Independence and the Constitution, two documents that serve as both the cornerstone and foundation of our Nation and government. These two documents are filled with words such as ensure, promote, establish, provide, and secure, words that, as Terry Sanford himself pointed out in his own writings, and I quote, connote action and all suggest, he said, that we must constantly be striving to improve the opportunities of all people.

□ 1930

Terry Sanford set a high bar in that effort. While some politicians see political office as an end to a means, the fulfillment of a desire for their own fame or power, Terry Sanford viewed it purely as a means to an end. He viewed public office for what it should be, as the most effective means to fix what was wrong, to serve the public, to improve the lives of citizens of North Carolina and the South, and, indeed, the United States. His unfaltering belief in people, his rock-solid fidelity to his ideals and values, his boundless energy in fighting for those ideals and values, proved to be the right mix for nearly half a century of public service that has left so many positive marks on our State and, indeed, our Nation.

Yes, Terry Sanford set a high bar, but he never did appreciate easy challenges, and nothing would please him more than for us to pick up that challenge and to aim for that bar, no matter how high it may be set, so that we ourselves can attain those things which seem unattainable, for it is in that quest that we will undoubtedly recognize achievements that we may have thought were impossible; it is in that quest that we will provide a better life and improved opportunities for the people we represent; and it is in that quest that we will ensure that the legacy of a man instrumental in the history and future, not only of our great State of North Carolina, but, indeed, of our great Nation, lives on forever, just as the teachings of a true educator should.

I thank the gentleman from North Carolina (Mr. HEFNER) for yielding to me.

Mr. HEFNER. Mr. Speaker, I yield to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I thank my colleague for yielding time and for taking out the time to honor our friend and colleague Terry Sanford.

Before I do that, I want to pay special tribute to the dean of our delegation, who, much to the consternation of all of our Members, has decided that he is stepping down after this term in Congress. We are going to miss him immensely for the wonderful contributions that he has made to the State of North Carolina and to our country.

But, of course, tonight is not about the dean of the delegation. We are going to take out a special order for him and roast him when the appropriate time comes.

I want to spend a few minutes this evening talking about my friend, Governor-Senator-President Terry Sanford. It is really hard to know where to focus your attention when you talk about Terry Sanford because there are so many wonderful contributions that he made to the State of North Carolina and to our country.

You could take any one of these contributions and devote long, long periods of time, much more time than we have this evening, to talk about them, whether you were talking about his role as a war hero; or his role as the champion of public education, who initiated numerous programs to support public education in North Carolina and was instrumental in having the budget for education, public education, grow in North Carolina by leaps and bounds during his tenure as Governor; as the person who originated the idea of community colleges in North Carolina and nurtured them; or as the person who established the Nation's first Governor's School, to provide free educational and enrichment to gifted and talented high school juniors and seniors, which 100 other programs now exist in 28 States copying that program; or as a champion and great supporter of the arts and arts education, and the person who conceived the idea and nurtured the idea of a North Carolina School of the Arts which has turned out so many wonderful artistic people, professionals, outstanding artists, performing artists and dancers and the whole range of artists in our Nation; or as the Governor who was ranked as the 20th Century's Most Creative Governor by Harvard University; or as president of Duke University; or as a member of the United States Senate.

You could select any one of those things and talk for hours on end about the contributions that Terry Sanford made to North Carolina. But, having put those things in the record and heard my colleagues talk about some of them, I want to focus on one thing that I think for me personally is the mark of this man.

Imagine yourself in the early 1960s in the South, governors standing in the doors of schools to keep black students from integrating those schools; governors saying we are not going to allow our higher educational institutions to accept black students; demonstrations taking place throughout North Carolina and throughout the South for the opportunity for black people to sit at lunch counters and sit in restaurants and eat; and all throughout the South, governors were taking the position that "We are going to take the course of maximum resistance."

But in North Carolina, Governor Terry Sanford was serving from the years 1961 to 1965, and Governor Terry Sanford stood up as one of the only southern governors at that time and said, "Black people are Americans, and they deserve rights that are guaranteed to American citizens under our Constitution." He took a leadership role on that front, and North Carolina is a different State today, the perception and reality of North Carolina are different today as a result of that stand.

During his term as Governor of the State, he appointed more minorities to government posts in his administration than any of his predecessors had ever done before.

There was a time in 1963 that I enrolled at the University of North Carolina. It seems so long ago when I showed up on that campus, and I had three white roommates assigned to room with me in a four person room. And by the end of the day, every single one of them had moved. That is the atmosphere that we were operating in in North Carolina and in the South at that time.

Terry Sanford stood up and said, "We will abide by the law. Minorities are citizens. They deserve the protections of the law. They deserve the protections of the Constitution," and North Carolina is a different place as a result of that.

So among all of these things that I could focus on about Terry Sanford, for me as a member of the minority race in North Carolina, for others who are minorities in North Carolina, for others who like to brag about the progressive image that North Carolina has, for others who understand that all of us are created equal, Terry Sanford is our hero. Terry Sanford stood up when other people were sitting down on the job.

For that reason, I want to thank my colleague, the senior member of our delegation, for giving us the opportunity to say these few words about our deceased friend, Terry Sanford. I hope that we will remember those impassioned positions that Terry Sanford took, and remember that not long before he died, in an interview he said, "We almost have the same problems we had then. Race is far from solved, despite what people say. Children are still neglected. The working man is somewhat improved, but he still puts in more than he gets out."

That is what Terry Sanford stood for, making sure that working people, minorities and every single citizen in North Carolina got what he deserved, and the benefits of being an American citizen and a North Carolinian.

I yield back to my good friend, the dean of our delegation.

Mr. HEFNER. Mr. Speaker, I now yield to the former Superintendent of Education in North Carolina, now the Congressman from North Carolina (BOB ETHERIDGE).

Mr. ETHERIDGE. Mr. Speaker, I thank my friend, the dean of our delegation. As my colleague from the 12th District said, we are going to miss you greatly, but we will talk about you later.

I am honored this evening to have a few moments to speak about my good friend and a friend of many, Terry Sanford.

The first time I remember hearing Terry Sanford speak was at my commencement exercise as I graduated from college. I had heard of Terry Sanford, the man of vision, but he had a special way of letting you feel special, and challenging individuals to really get involved in their State and their Nation.

But tonight I would say that Terry Sanford was not simply a great and admired politician. He was one of the most accomplished Americans of the 20th century. I remember listening to his eulogies at the funeral several weeks ago, and I could not help but think that those eulogies coming about an individual who served four years as Governor, not four terms, four years, serving one term in the United States Senate, serving as a college president, could have been for five or six people for the things that he had accomplished, because Terry Sanford served his State and his Nation with enthusiasm, with bravery, and with distinction in so many ways.

He fought for his country as a paratrooper in World War II and was decorated any number of times, and he was proud all of his life of the time he served his Nation in Normandy and all across Europe. He served as an agent with distinction in the Federal Bureau of Investigation. During those times he could have been exempted from serving in the military, but he did not. He wanted to serve.

As you have heard this evening, he served as a statesman in the North Carolina General Assembly, and there he laid the foundations of many of the things he would do later as Governor and as Senator to improve our State.

As Governor of North Carolina for only four short years, he laid out a record of improving public education that is unparalleled anywhere in this country. He expanded educational opportunities, as you have just heard, for all North Carolinians, no matter what a person's race, creed or economic opportunities might happen to have been. Maybe that came because Terry Sanford's mother was a teacher, and she encouraged him and she really instilled in him the great need for public education, for which he gave her much credit throughout his life.

Terry Sanford was a guiding force in building one of the finest community college systems, in my opinion, in this country, and you have heard about that this evening.

I think Terry Sanford deserves a great deal of credit for creating the first State-sponsored residential training school for the performing arts in the United States, at a time when no one would have thought it would have been created in the South. The North Carolina School of the Arts, which can now say they have in their list of graduates individuals who have received the Oscar in acting, who have received many Emmys, and they came through the School of the Arts created during his administration.

Governor Sanford had a distinct and heavy responsibility, and was one of the people who helped create the Research Triangle Park that is one of the leading parks in this country, that employs thousands of people in North Carolina every day.

□ 1945

He created the Governor's School, as my colleagues have heard, that I had the real privilege as superintendent to oversee during my term there, and it provided opportunity for over 400 bright and creative young people every year at two sites to get an educational opportunity, and it has been modeled across the country. He created the Education Commission of the States that now helps educators, governors and chief State school officers work together to improve education in this country, a legacy that is so important.

Governor Sanford, as my colleagues have heard, was one of the southern governors of his day, I would have to say, that was rated as one of the top 10 governors in America by Harvard. But as the gentleman from North Carolina (Mr. WATT) said, one of his great legacies was that he was one of the, maybe the only, there may have been others, but the only southern governor who was the first to stand up and look in the ugly face of racism and say, no more, and it will not happen on my watch in my State. And he deserves a great deal of credit for that.

Mr. Chairman, as President of Duke University for 15 years, he transformed a regionally known, small southern university into a world leader in medicine, law, religious studies, education, and the arts. Today, Durham, North Carolina is known as the City of Medicine, and they are known for that in my opinion because Terry Sanford provided that engine in Duke University in that great medical school.

As a United States Senator from 1986 to 1992, Terry Sanford fought tirelessly and selflessly to improve the lives of his fellow citizens through fighting to improve again public education, promoting racial healing, and fighting to eradicate poverty as he had at the local level.

After he left the Senate, he did not go home and start collecting his coupons or rest on his laurels, he started two law firms. My goodness, that would be a lifetime for anyone. He did it in the short years after leaving the Senate. He lectured on public policy issues at Duke University in the public policy institute building that currently bears his name. And most recently, he led a $100 million fund-raising campaign to create a world class performing arts center, an institute in North Carolina.

Terry Sanford exemplified the best qualities mankind has to offer, and we owe a debt of gratitude for his undying service to his native State and to his fellow Americans. Terry Sanford provided a guiding light for a whole generation of educators, public servants, and other State and national leaders. He was and will remain a beacon for all good things about humanity and about being an American. God bless Terry Sanford, his family, his State, his Nation, and all of those who, like me and my colleagues on this floor tonight, who have stood on his broad shoulders.

Mr. Speaker, I thank the gentleman from the eighth district, the dean of our delegation, for organizing this hour. I thank him for this opportunity to say a good word about our good friend, Terry Sanford.

Mr. HEFNER. Mr. Speaker, as dean of the North Carolina delegation, I would like to say a few words on behalf of a man whose friendship and professional generosity has meant a great deal to me.

Terry Sanford was at different points in his life a practicing attorney, State Senator, governor of North Carolina, President of a major university, a United States Senator, a civic leader, novelist, father and husband, and a true entertainer. In fact, one could live one's whole life without meeting a man that had his range of talent.

But then, Terry was no ordinary man, he was really a bit of a legend; and there were a lot of stories that circulated about Terry Sanford and some of them were funny and some of them were sad, but there was one story that was told to me about when Terry was campaigning for governor. He went up into the Blue Ridge Mountains of North Carolina, and there was a bunch of mountain folks sitting around an old country store and he went in and he introduced himself, and this one fellow said Terry, he said, I would like to know how you feel about some subject, and Terry said, why, you know how I feel about that. I have told the people across this State, I bet I have told them 100 times how I feel about that. And the guy said, well, we just wanted to hear you say it.

Neither one of them actually knew what the question was, but Terry Sanford had the capacity to laugh at himself and to be serious and get the job done, doing things what he called the North Carolina way. He once asked the people in our State to join him in an audacious adventure of making North Carolina all it can and ought to be, and then, true to his word, he spent the next 40 years showing us how. I want to emphasize that last statement: Showing us how. Because the ability to lead by doing was not only the mark of this man's career, it was the bedrock of his character.

When he was governor of North Carolina in the 1960s, Terry played a risky card by taking the race issue head-on, as my colleague so mentioned. It did not matter to him whether it was popular or not and he did not look at all the polls and the focus groups and what have you, he just felt a moral responsibility to it. Where a lot of men go soft, he drew a line in the sand. He took the issue of racism above politics, even though the politics of a lot of southern governors at that time was fear, and he challenged us not to just know better, but to stand up and do better, and that challenge did not end with just race.

He once said that North Carolina could only be as great as the poorest among us. He believed he did not have to have power or money to get an education, and he pushed for increased funding of public schools. In fact, he funded the State's first community college system. This was a saying that stuck with me: Develop the mind, he said. Develop the mind, and the job will follow.

At that time the North Carolina Constitution barred the governor from succeeding himself, so Terry left to take a job running Duke University, and for 10 years he used his touch to make the school famous across the world. He started a school of public policy and doubled the size of the medical program, and at a time when a lot of presidents of colleges were under attack and did not have the respect, but the students loved him, they loved Terry Sanford. And at his urging, even the student section at Duke University, which was famous for its colorful language, they even toned it down a notch because Terry was such an influence, and they could be heard shouting, we beg to differ, we beg to differ when the referees made a decision that they did not agree with.

In 1987 he was elected to the United States Senate, and I remember it very well. We stood at the mill gates and we went all across my district and we met with a lot of people and there was a commercial that came out, and this lady, and of course Terry was then 70 years old, and this lady came on and she was berating Terry Sanford, "Terrible Terry Sanford," for raising the food tax. And he kind of turned it around and made a joke out of it and he referred to it as that commercial with that whiney old woman on it. And he did not mean any disrespect, but he wanted to point out how ridiculous it was for all of the things that was accomplished in his administration, and he got the name, right or wrongfully, I think wrongfully, of "Terrible Terry," and it went with him to his grave.

In 1993 he went back to private life and took his work ethic with him. He wrote books on policy, started a novel, opened a second law firm, as my colleague alluded to, served on a dozen corporate boards, and became director of the Outward Bound program, as well as a participant. In fact, at 63 years old, he broke a bone in his back during a hiking trip in Oregon when he jumped off a 40-foot cliff into the river, which he admitted that was bad judgment at the time.

When the doctors told him that he had cancer and gave him 2 months to live, he told his family, do not worry, I will beat it. If anybody could have beaten it, it would be Terry. We have a motto in North Carolina that is on the State seal. It is a simple one, but I like it best because it cuts right to the point, and it means, "to be rather than to seem."

Terry Sanford followed that motto for his State, he followed it for his country, for his friends and his family, and he made it a goal the rest of us could not only shoot for, but believe was possible. For that, Terry, for your guidance, for never turning back, and for asking us to be brave, we are eternally in your debt. I think I speak for every person in the State when I say that as much as your achievements have changed our lives, we will remember them forever in our heart.

There is a great old verse from a gospel song that I think just fits Terry Sanford and it goes something like this:

> I'll meet you in the morning with a how-do-you-do, and we'll sit down by the river, and with rapture our acquaintance renew. And you're going to know me in the morning by the smile that I wear, when I meet you in the morning in that city that is built four square.

Enjoy your rest, Terry. You will be dearly missed, and you have been a great influence on so many people in this great country, and your being on this Earth for these years, you have truly, truly made a difference.

Mr. Speaker, I yield to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank my colleague for calling this special order about a very special person, Terry Sanford. I am very moved to hear the words of my colleague, and as our other colleagues from North Carolina as they extend condolences and pay tribute to Terry Sanford.

The gentleman from North Carolina (Mr. HEFNER) is right. Terry Sanford was a very, very special, unique person. We were blessed, those of us who had the privilege to know him and the people of North Carolina were indeed blessed to have him as their governor and their United States Senator. As we all know, he loved North Carolina, and he loved the people that he served there. He loved them so much he wanted the best for them, and that meant an end to racism and support for education for all children. Of course, that was his political lifelong endeavor.

Terry Sanford, one of the reports of his passing said that he died as he had lived, surrounded by new projects to be involved in, but we all know that he had died as he had lived also being surrounded by his magnificent family and so many friends, and my condolences on behalf of my constituents to Margaret Rose and to Terry's wonderful family, his children and his grandchildren on his passing.

□ 2000

He has made a significant difference in the lives of people across the country, not only in North Carolina, because he served as a model, a real model as a southern Governor. He transformed the southern governorship. He, more than anybody, brought the South into a modern era in terms of education and fighting to end racism.

I first got to know Terry well, although I admired him from afar, when we were both running for chair of the Democratic National Committee. Neither of us won. I ended up throwing my support behind Terry, and still neither of us won, but he ended up being a United States Senator and I ended up being a Congresswoman from California, so we do not think we did too poorly, as it all turned out. But I was very, very proud of our friendship, and was the beneficiary of much of his political wisdom and advice in the course of that race, and subsequent to that.

Of course, after that he went back to become the head of Duke University, of which he was very proud. He said, "Of all of the things that I have done, the fulfillment of my professional life was Duke. I went there with a concept and I think with a mandate. I went out to make it a nationally recognized school," and of course, he did. The institute there, the Sanford Institute, is named for him, the Institute of Policy Science, Political Science Affairs, as the gentleman mentioned.

Terry first started getting involved in politics when he was 11 years old. His first taste of it came when he was marching in a torchlight parade for presidential candidate Al Smith in 1928 in Laurinburg, North Carolina. He carried a sign that read, "Me and Ma is for Al." So he had it in his system, that fever in the blood, early on about it being very appealing, and also wanting to be a public servant.

Ironically, when I said that we became friends running for chair of the National Committee against each other, but became very fast friends after that, ironically, Hubert Humphrey had offered Terry the job of Democratic National Chairman in 1969, but Terry turned it down at that point. It was probably not to be.

At any event, he had bigger things in mind, and that was really the education of the children of North Carolina at every level, including higher education, and in the Senate, to be a fighter, and he was a peacemaker, bringing peace in Central America; again, fighting for education for all of America's children, and an end to racism.

We could probably all go on for a long time talking about him, because he was a very special person. In the course of our lives in politics we work with many people whom we respect and we admire, but we all have to admit, as wonderful as we think each other is, that there are some people who are very special, and Terry was one of those. One of the sad things, I think, is that he never became President of the United States. I always thought he would be such a great President.

Instead, he brought his leadership, his scholarship, his dignity, his grace, his kindness, his love for people to the wonderful challenges that he had, which were not inconsiderable: Governor of the State, a United States Senator, and as he said, a president of Duke being his crowning glory.

In some of the obituaries, his family has to take great pride and satisfaction in the obituaries that were written about him. But throughout his life I think he was held in such high esteem and respect that everybody knew when you worked with Terry Sanford you were working with somebody that was a true leader.

It has been said that Terry Sanford set forth a standard for leadership as a Governor, university president, and United States Senator that few could equal. He leaves a progressive legacy to North Carolina, one of courage and one of hope.

He demonstrated his courage by being one of the first Southerners to endorse John F. Kennedy for President, one of the first Senators to endorse a Catholic for President; and we all know the hope and courage many times over, but that is just one example. His legacy will long be felt among the young people of North Carolina, and for future generations to come. I consider it a privilege to have known him.

Again, I express the condolences of my constituents, because in California he is well known and well respected. I extend their condolences, as well as those of my own family, to the Sanford family, and thank the gentleman from North Carolina (Mr. HEFNER) for allowing me to be part of this special order for our special friend, Terry Sanford.

Mr. HEFNER. I thank the gentlewoman from California, Mr. Speaker. I would also like to thank all the people that participated tonight in these remarks about Terry Sanford, and for those that will enter remarks for the RECORD, it will be open for 5 days.

Truly, this has been a time when people thought back to the things that Terry Sanford stood for, and we will always remember that Terry Sanford was a real remarkable man, and he will be a legend, as he should be, in North Carolina and in America.

Mr. HOYER. Mr. Speaker, on April 18, 1998 Senator Terry Sanford died at the age of eighty after a long battle with cancer.

He was a Governor, a Senator, a two-time Presidential candidate, a lawyer, an author and a president of Duke University.

Growing up in the segregated south, the town of Laurinburg, North Carolina, young Terry learned the value of hard work and money from the abject poverty his family lived in after his father's hardware store went bankrupt.

After a stint as a paratrooper in Europe during World War II, Terry Sanford returned to his native North Carolina to attend the University of North Carolina law school and to become the progressive voice of the Democratic Party in North Carolina.

In 1960, Terry Sanford ran for Governor of North Carolina and faced a spirited campaign against an avowed segregationist.

He was forced into a run-off but won with 56% of the vote and went on to become Governor of the State of North Carolina.

Terry Sanford assumed the governorship at a very turbulent time in the history of North Carolina and the South.

The historic sit-in at the lunch counter at Woolworth's began just weeks after he assumed his office.

While some southern Governors were calling for resistance to this nascent civil rights movement and defended segregation, Terry Sanford called for moderation.

In his 1961 inaugural address, Terry Sanford called for a "new day" in which "no group of our citizens can be denied the right to participate in the opportunities of first-class citizenship."

Along with civil rights and integration, Terry Sanford also stood for education since his earliest days.

He created the community college system in North Carolina and the North Carolina School for the Arts in Winston-Salem and the Governor's School, a summer program for the most talented students in the State. He was recognized in a 1981 Harvard University study which ranked him as one of the Nation's top 10 Governors of the 20th Century.

Constitutionally prohibited from seeking a second term, Terry Sanford looked for a new challenge. He started a law firm and turned down quite a few excellent opportunities such as becoming United States Ambassador to France, before he assumed the presidency of Duke University in 1970.

At Duke University Terry Sanford doubled the Duke Medical Center's capacity making it a nationally recognized medical center and school and created the J.B. Fuqua School of Business.

Continuing his dedication to Democratic politics, in 1972 Terry Sanford campaigned in the Democratic Presidential primary.

Although he withdrew from the primary, Terry Sanford's ideas and ideals made an impact both in 1972 and during his second campaign for the nomination in 1976.

In 1973, Terry Sanford was elected chairman of the 100 member Democratic Party Charter Commission which rewrote the party's Presidential nominating rules.

He remained active in politics both in North Carolina and nationally.

In 1985, Terry Sanford retired from the presidency of Duke University.

In 1986, Terry Sanford ran for the United States Senate and defeated Republican Jim Broyhill.

During his term in the Senate, Terry Sanford was remembered as a thoughtful legislator who took an interest in international affairs and education.

He was a strong supporter of personal freedom and peace.

In 1992, Terry Sanford lost his re-election for a second term to a former Democratic ally of his, now a Republican.

One can only imagine what Terry Sanford would have accomplished in the United States Senate if he had been elected to a second term.

After his loss, Terry returned to North Carolina, advising political candidates and spending time with his family.

Mr. Speaker, Terry Sanford was a remarkable American.

One who understood the challenges of his time and rose to the occasion. While all too often public servants run from the pressing issues of the day, trying to avoid difficult decisions and choices, Terry Sanford did not.

His heroic stand against the status quo throughout his entire life, and his belief that he could make North Carolina and the United States a better place is what we stand here today to remember.

Mr. BURR of North Carolina. Mr. Speaker, tonight we have gathered to thank God for the life, the influence, the attitude, the service and the blessed spirit of Terry Sanford.

He served as FBI Special Agent, Paratrooper, Governor, Senator, University President, Husband, Father and Grandfather in his life of service to his family, community, state and country. Terry Sanford left a great legacy of good work.

Terry Sanford was a man dedicated to making the world a better place for those who were in need. He understood that by bringing people together much could be accomplished. Whether it was visionary goals for education or the advancement of the arts, I think it was his love of his country, his state and his family that drove him to succeed with every initiative he tackled. Terry Sanford was a very special person, willing and determined to do whatever he could to positively affect the lives of others.

When the history of North Carolina is finally written, a prominent place will be given to this man who will be missed, but forever loved by so many.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. J. RES. 119, PROPOSING AMENDMENT TO CONSTITUTION TO LIMIT CAMPAIGN SPENDING, AND H.R. 2183, BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

Mr. SOLOMON (during special order of the gentleman from Colorado, Mr. BOB SCHAFFER) submitted a privileged report (Rept. No. 105–545) on the resolution (H. Res. 442) providing for consideration of the joint resolution (H. J. Res. 119) proposing an amendment to the Constitution of the United States to limit campaign spending, and for consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE PAYCHECK PROTECTION ACT

The SPEAKER pro tempore (Mr. KINGSTON). Under the Speaker's announced policy of January 7, 1997, the gentleman from Colorado (Mr. BOB SCHAFFER) is recognized for 60 minutes as the designee of the majority leader.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, tonight is one of those opportunities for the Members of the Republican freshman class to address the House, to use this special order as an opportunity to discuss many of the topics that come to our minds as new Members of the 105th Congress.

I want to use the occasion to discuss an issue that is very important to me and to members of the constituency that I represent out in the Fourth District of Colorado, and others perhaps may be here to join me tonight, as well. That issue is the Paycheck Protection Act.

The Paycheck Protection Act is a measure this House has considered previously this year, and it will come up again within the next few weeks. In fact, as campaign finance reform legislation makes its way to the floor, the Paycheck Protection Act is expected to be an integral part of the overall discussions. I myself intend to see to it that that becomes the case, and to fight vigorously, certainly as vigorously as I possibly can, to bring up the issue.

Let me describe the need for it, and what the Paycheck Protection Act is all about. The Paycheck Protection Act is a measure that was inspired by a certain level of abuse that takes place with respect to campaign fundraising.

Let me step back one moment and say that this House has spent considerable time discussing how we spend money as candidates, and in political parties, and in the political arena. It has spent time discussing different strategies to get us toward full disclosure, and how we disclose the kinds of campaign finances that candidates and politicians need to raise in order to put together campaigns.

This House has spent considerable time talking about how that information is accounted for through the Federal Elections Commission, and the rules that surround the Federal Election Commission's responsibilities, but rarely have we spent time talking about how the cash is actually raised, and who works to raise the money for political purposes.

In America, elections are a very important time in our Republic in maintaining a democratic republican form of government. It is a critically important time because it is the one time when the people are actually in charge and assert their authority in deciding which representatives will speak for them on the floor of the House, on the floor of the Senate, and as President. Americans have every right to participate fully and openly and voluntarily in that electoral process.

That last statement that I mentioned, that last word, "voluntarily", is the operative word here. It really is the basis for the Paycheck Protection Act. Because in America today, it is possible, in fact, it is very likely, that if you belong to a labor union or if you belong to any other political association that raises funds for political causes, and if you allow your membership dues to be collected through automatic wage withholding, it is likely, I say again, that a certain portion of your wages are siphoned off for political causes that you may or may not support. In fact, you may not even know that that is occurring.

So to those who find themselves members of these various organizations, the first thing I would do is ask you to doublecheck your paycheck, to look again and see if the money that you are sending to your union is really going toward collective bargaining, toward agency representation, or whether there are associated fees that necessitate spending a certain portion of your paycheck on various political causes.

These political causes may be campaigns for candidates like myself or any other Member of the House that runs for office every 2 years. It may be a campaign for a local race in your State, for State legislature, Governor, State Treasurer, county commissioner, city council member, whatever the case may be. It may be a ballot initiative or a ballot issue, one that perhaps is sponsored by a labor organization or a group sympathetic to labor unions, or it might be some kind of political education initiative, where the goal and motivation is to persuade voters to one degree or another to behave at the polls in a certain way.

All of these are legitimate functions of our government. They are essential portions of electing representatives at election time. But what should not occur in America is a condition where anyone is forced to contribute to a political cause either against their will or without their knowledge. Political participation in the United States of America must and should be voluntary, 100 percent voluntary.

The Paycheck Protection Act is a bill that is designed to ensure that political participation throughout the country is voluntary, and it does so by addressing the issue of automatic wage withholding and skimming off a certain portion of one's wages for political causes without their consent.

It is an issue that many, many Americans are concerned about. In fact, it is a topic that the Committee on Education and the Work Force has spent considerable time investigating, through various hearings at different subcommittee levels throughout the country. It is a topic that the Committee on Government Reform and Oversight has considered. It is one that the American people have considered as well.

Mr. Speaker, I would direct the attention of my colleagues to this chart here. When we went out in the field with a poll that we had commissioned, those who are working on trying to find a solution to this problem, back in October of 1997, we asked voters in general, and these are voters, I might add, from throughout the country, and in fact, this sample oversamples union households, we asked whether individuals approve or disapprove of a new Federal law that would protect workers' paychecks.

As Members can see, the results are pretty overwhelming. In the universe of all voters, 80 percent of them tell us that they support a change in the Federal law that would protect workers' paychecks. Only 16 percent of America's voters oppose such a law. The rest would have no opinion, of course.

When we ask members of a union household where their preferences lie in this regard, we find again that the results of union households are no different than the results of voters in general. Eighty percent of union households tell us that they support a Federal law that would protect workers' paychecks.

When we ask members of the teachers' union, the National Education Association being the largest teachers' union, and there is one other large one and some other smaller ones, but when we ask members of teachers' unions, 84 percent say they would support a Federal law that would protect workers' paychecks.

When we ask non-union households in general, once again, the numbers are not surprising, there, given what we have already learned from the other responses, 80 percent of nonunion households approve of a Federal law that would protect workers' paychecks, and 16 percent would oppose such a measure.

Let me talk about the 16, 16, 13, and 16 percent in these four different samples that, for one reason or another, support a law that allows the current state of affairs today, that allows a labor organization or any other political entity to siphon cash out of somebody's paycheck without their knowledge.

It is hard to believe that there would be anybody in America who supports such a thing, but apparently, when asked, there are about 16 percent of the American public that believes that this is somehow a good idea.

There are a number of reasons for that. Labor unions play a very powerful role here in Washington, lobbying in the halls of Congress. We see them all the time, whatever the bill may be. Sometimes it is trade measures, sometimes it is tax issues. Other times it might be matters of environmental regulation. It might be efforts to try to improve public education throughout the country. Sometimes it is work force-related issues. It could be a variety of topics.

There are labor union lobbyists all over this Capitol, and if you are a member of a labor union and oppose many of the initiatives that have taken place to clean the air, to improve schools, to improve workplace safety and to try to create more jobs and wealth and to improve foreign trade and so on, if you oppose those efforts, as labor unions typically do, as represented here in Washington, then you might want other people who are your co-workers to pay for the message that you agree with here in Washington. But again, it is a very small minority of people who believe that taking cash from an unsuspecting wage earner's paycheck is a good idea.

Once again, let me restate that. There are a handful of people here in

Washington who believe that they have some kind of right to take your cash, or an unsuspecting wage earner's cash, and use it to promote the political objectives of their minority opinions. So that is why we have 16 percent of the American public, when surveyed, who agree with that sort of thing.

The vast majority of Americans, however, understand fairness when they are looking at fairness, they understand unfairness when they are looking at such a travesty as involuntary campaign contributions. I would use a different term, and that would be "theft."

□ 2015

Union members are fed up with the practice, frankly, of forced union dues and forced union dues being used for political purposes. Multiple national surveys of American workers have revealed widespread support for ending this practice.

One of the other questions we asked, and it is very closely related to the previous one that I went through, but this question does not even reference any existing law. It just merely says, should we change or keep the current Federal election laws that allow unions to make political contributions with money deducted from a union member's paycheck. Well, 78 percent of the American people think that the current law needs to be changed; 72 percent of union households believe that the current law needs to be changed; 78 percent of teacher union households believe that the current law needs to be changed. And once again, reflected in the previous chart, 80 percent of all nonunion households in America believe that the current law needs to be changed, that something needs to be done to address this issue of political contributions with money deducted from a union member's paycheck.

Despite the widespread support, even the Democrat Congressional Campaign Committee is in the effort, has joined in the effort of trying to prevent paycheck protection from going forward. At the request of AFL-CIO's John Sweeney, the Democrat Congressional Campaign Committee is considering cutting off campaign funds to any Democrat who supports the Paycheck Protection Act.

I would refer the body, in fact I will go through in more detail in a minute or two, the news article from which I take that position. Federal and State paycheck protection efforts will force union bosses to play by the same rules that everyone else plays by. It is about time that labor bosses understand that the Constitution applies to them, too.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, what an opportunity to yield on something that is very important. I was speaking about the campaign finance reform efforts that are coming to the floor very shortly; the rule that was just read across the desk is certainly the vehicle that will allow that to occur.

My intent is for the Paycheck Protection Act to play, to certainly be considered within the context of that overall debate. There are several reasons why the country needs the Paycheck Protection Act. According to the Center for Responsive Politics, in the 1995–96 election cycle, labor unions flexed their political muscles by spending $119 million on Federal political activity. That figure includes $35 million on issue ads that the AFL–CIO says it spent, nearly 66 million in campaign contributions and $18.5 million on Federal lobbying expenses.

While unions are required to file financial reports under the Labor Management Reporting and Disclosure Act of 1959, these reports are arranged by type of expenditure; for example, salaries or administrative costs and so on, rather than by the functional category that the American public would understand, such as contract negotiations and administration and political activities. So you have to be able to apply a certain level of political sophistication just to understand the reports that are filed, since they are filed through the Labor Management Reporting and Disclosure Act.

The reality is that labor bosses did not fund political activities through legitimate voluntary contributions. Instead they plundered the paychecks of hard working union members. Many of these members were not even aware that their money was being used for political activity. The hearings that the Subcommittee on Employer-Employee Relations conducted revealed quite shocking testimony.

A woman named Jane Gansmann of West Chicago, Illinois who works for TWA, a member of the IAM union, said, "The union never mentioned that my dues could be used for things other than collective bargaining. In other words, I was given only half-truths. I now realize the union was and is operating by misinformation." She submitted that through written testimony. She went on, I quote, "I wanted to see a breakdown of where my union dues were going." She grudgingly said she could not, the local union official, in her notation here, when she went to a local union official, she grudgingly said "She could not help me and stated that I could try contacting the IAM President. I then approached the union shop steward who advised me that if I demanded an audit, it would be very expensive and would cause increases in our union dues. She stated that if that happened, she would let everyone in our office know that I was responsible." Again, that was submitted in her written testimony.

She went on, "I fear repercussions of harassment. The IAM recently listed the names of all current union dues objectors in the January 1997 issue of their Airwaves publication."

This quote was given in written testimony to the Committee on Education and the Workforce Subcommittee on Employer-Employee Relations. I want to go on as to what the Paycheck Protection Act would do and how it would help in the case of Ms. Gansmann.

First, let me say that the use of compulsory union dues for political purposes violates a basic principle of voluntary political participation which is embodied in our Nation's Constitution. In 1994, 40 percent of union members voted for Republicans, for example, yet in 1996, less than 10 percent of labor PAC dollars went to Republican candidates. In Washington State, where 72 percent of the voters approved a paycheck protection initiative in 1992, over 40,000 union workers had the shackles of involuntary political participation broken. Originally 48,000 members of the Washington Education Association, again this is the teachers union in the State of Washington, 48,000 of them were forced to fund political activities against their will. Once the Paycheck Protection Act passed in the State of Washington, only 8,000 voluntarily succumbed to the union's political activities. That is a pretty remarkable statistic for the State of Washington. 48,000 union members had contributed to political activities knowingly or unknowingly against their will, sometimes with full compliance, yet after the Paycheck Protection Act passed and the law required that there be a checkoff, that you actually approve on an annual basis your willingness to voluntarily participate in union political activities, the number dropped from 48,000 in the State of Washington down to 8,000 contributors.

Well, today, very, very soon here in Congress, we can send a message to the labor bosses reminiscent of the message sent by colonists to King George. No taxation without representation.

In August of 1997, Kerry Gipe, who is a union member, testified to the House Subcommittee on Employer-Employee Relations. He said, "I was told that joining the union was a mandatory part of working for the company and that absolutely no money was allowed to be used from our union dues for political purposes." Well, unfortunately for Mr. Gipe and millions of other American workers, labor bosses continue to use compulsory dues for political purposes. According to some estimates, the unions spent as much as $200 million in 1996, that after you calculate many of the other expenditures that are reported far after and in different formats than are required at election time.

What the Paycheck Protection Act does is empower the individual worker. Employees will decide whether and to whom they contribute their hard-earned wages and they can revoke their authorization at any time. The labor bosses are so opposed to giving union members control over their own money that they have raised dues $1 per member to fund efforts to oppose paycheck protection nationwide. That was reported in the Morning Times March 20, 1998.

In the State of Oregon, labor unions are assessing their Members $60 each to fight the Oregon initiative equivalent to the Paycheck Protection Act. Are they labor bosses looking out for workers or union bosses trying to protect their six-figure salaries and potential, their political income?

We heard more riveting testimony in the subcommittee. John Masiello of Mooresville, North Carolina is an aircraft mechanic. He said.

> I had been a member of the IAM for 13 years. I do believe that collective bargaining for a work force that performs a common service is a proper and efficient way to be represented for contractual matters. I also believe I am a client paying an association for service. The IAM does not see it that way. Instead, they assume the role of dictator and I am their subject.

Mr. Masiello went on, he said that,

> The local lodge president immediately started a campaign to descredit him and all the other members who exercised their rights.

Let me stop there and digress for a moment about what those rights might be. In 1988, the Supreme Court, in a decision known as the Beck decision, ruled that any labor member, union member who pays dues can go back retroactively and get their cash back for those portions of their wages that have been withheld for political purposes. In other words, if you object, you go back to your union boss, under the Beck decision, and ask for your money back. Well, many people in the union will tell you that your rights are somehow protected because of the Beck decision. But Mr. Masiello's testimony explains how workplace harassment really prevents individuals in some occasions from exercising their workplace rights.

He said, I will read that portion again, that

> The local lodge president of the IAM immediately started a campaign to discredit me and all the other members who exercised their rights. He did this with slanderous lies and character assassination. Letters were hung all over the workplace claiming we objected to paying any dues, we were against unions and equated with scabs. They stripped me of my membership. Told me that I was in bad standing with the union and disallowed me of any and all voting rights, including voting on contractual matters and strike votes. Months had gone by and the harassment had not let up one bit. To make matters worse, I was still paying what they had considered a full due. Not one penny of the overpayment was refunded to me. I was forced to take the local lodge president to small claims court. The union has no concept of individual freedom. They seem to operate in their own little world with no regard for an individual's unalienable rights or the Constitution of the United States.

Again, this was submitted in written testimony by John Masiello, Mooresville, North Carolina. He submitted this testimony January 21 of this year. And the record from that hearing and other hearings like them are replete with example after example after example of union members who join unions for legitimate purposes yet do not want their hard-earned dollars to go to a separate political purpose which they do not consent to, which they do not support, many times supporting candidates that the individual may actually oppose.

It is important at this point, I think, Mr. Speaker, for me to say that the Paycheck Protection Act, when introduced as House Resolution 2608, enjoys the support of about, if I remember right, 163 Members of the House of Representatives. When that bill came up for a vote on the floor, it enjoyed bipartisan support on both sides of the aisle. Yes, that is right, Democrats joining Republicans in supporting the Paycheck Protection Act, in supporting the rank and file hard-working Americans who deserve the right to direct their own hard-earned dollars to the political causes that they choose to associate with, or to avoid participating in the political process altogether. Within that context, the Paycheck Protection Act can almost be viewed as a pay raise without a tax increase, an added benefit that allows cash to stay in the hands of the individual who earned it rather than the union boss who will squander it.

All that the bill requires is that a corporation, any other corporation, national bank, any organization collect the written and voluntary consent from an employee or union member before using any portion of their dues or fees for the organization's political activity. This does not ban participation in political, in union political activities. In fact, it actually encourages it because it causes unions to ask their members to participate at least on an annual basis.

□ 2030

They may ask more than that, if they would like. But it asks every individual to be confronted with the simple question of whether or not they want their cash to go to a political cause or not.

Now, I tend to have faith in the hard-working members of the labor force throughout the country. I think, when confronted with such a question, they will probably participate in their political system. They love America. They work hard for everything our great country stands for.

In fact, I would submit that they are at the very center of what it means to be real Americans, encompassing the age-old principle of honest hard work and strong families. And when given the choice, I think that they will participate. They will participate in the political process. They will vote. They may run for office themselves.

But the reason labor union bosses, as opposed to labor union members, oppose the Paycheck Protection Act is because it takes power away from a privileged few, who have found a way to manipulate the rules here in Washington over the years to create a situation where hard-earned wages can be siphoned away from the wage earner and spent on the political causes that a few labor bosses select, and to direct somebody else's cash to achieve their own selfish objectives. The Paycheck Protection Act restores fairness. It empowers rank-and-file labor union members.

Once again, Mr. Speaker, the campaign finance bill will be coming to the floor very shortly. The Committee on Rules, as we just received the report just moments ago, has indicated that it is moving forward to bring a bill to this floor to deal with the issue of campaign finance.

There will be several amendments that will be offered, several different aspects of campaign finance that will be considered, many of them good, many of them bad, many of them are certainly at the very least worthy of consideration by the House. But I will make the pledge tonight that I will do everything I can on behalf of hard-working union members throughout the country, the hard-working laborers who are currently having, in many cases, portions of their wages siphoned off for political causes they do not support. I will be working for them and bringing the Paycheck Protection Act for consideration over and over and over again.

The political stakes are high, and I know it will be another emotional issue, but I urge all Americans, I urge every Member of this Congress to consider very carefully the importance, again within the context of campaign finance, of how the money is raised. Once we deal with that, then it is legitimate and right and just to consider all the other issues with reporting, with campaign amounts, with how money is spent, how it is reported and so on.

The gentleman from Arkansas (Mr. HUTCHINSON) is here to join us this evening, who also plays an integral role in the campaign finance debate and has been a real leader among the freshman class, and I yield the floor to him.

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman and I want to express my appreciation to the gentleman for his leadership to the freshman class, as president of our class, but also on the issue that the gentleman has been talking about, which is paycheck protection. The gentleman has devoted an enormous amount of energy and time to this issue and I congratulate him for that.

As the gentleman indicated, there is going to be an opportunity to vote on paycheck protection as well as other campaign reform amendments and ideas on the floor, starting, hopefully, tomorrow. And as the gentleman indicated, the Committee on Rules is preparing for that event, and I am delighted that the base bill that will be considered, whenever we debate campaign finance reform, will be the bipartisan Campaign Integrity Act, which again is called "the freshman bill".

This bill is fairly limited in scope as to all that it does, but it accomplishes very significant and substantial reform. And if the gentleman will continue to yield for a few moments, I would like to be able to talk about this particular bill that will be considered on the House floor.

This bill started out with a working group, six Democrats and six Republicans meeting together, building a trust relationship and saying what can we agree upon; how can we address the most severe abuses in our campaign system. This was 15 months ago. For over 5 months we have worked together and crafted a bipartisan bill that avoided the extremes. It stayed away from public funding of our campaigns, where we have taxpayers' money paying for the campaigns; it stayed away from free TV; it stayed away from the extremes that both sides might think would be ideal; and it concentrated on the middle ground, the ground that we could agree upon. And, yes, the American public can probably zero in on that very quickly, and that is a ban on soft money.

Now today in The Washington Post, David Broder, long time Washington journalist, wrote a column and talked about what is going to be happening on this House floor. He titled his article "Campaign Reformers at War", because there are going to be a number of significant reform bills. And I think it is important that we do not get in disagreement, recognizing there are going to be different bills and alternatives that we can vote upon.

I just want to present that the bill that has been crafted in a bipartisan fashion is a good vehicle to send over to the Senate because it is bipartisan, because it is constitutional, and because it is substantial in nature and addresses the most significant abuse, which is soft money.

David Broder, in his article, referred to soft money as, "The huge donations to the political parties from corporations, unions and wealthy individuals that figured most in the 1996 campaign scandals." And that is important, because not just in 1996, but as we even come into the present with the latest revelations about the possibility of technology going to the People's Republic of China and the question arising in the public's mind, did that decision have anything to do with the huge soft money contributions that were made here in Washington.

What the Supreme Court is concerned about is that we protect the first amendment and the rights of free speech, but they have recognized in the Buckley v. Valeo decision that there is an appropriate role that Congress can play in restricting the amount of contributions. They upheld the $1,000 individual contribution limit, and there is a ban on corporate contributions and labor union contributions directly to a candidate. Soft money is a way to get around all that, and that is what needs to be shut down, and that is simply what the freshman bill does.

Michael Malbin of the State University of New York-Albany, an expert in the arena of campaign finance reform, said "The freshman bill would do everything that a soft money ban should do, put a lid on the behavior of Federal officials and candidates." And that is what we are trying to do.

But, in addition, it helps the individuals in our society because it empowers them by indexing their contributions to the rate of inflation. Where a $1,000 contribution limit back in 1970 has eroded to $300, this again indexes that to inflation so we do not lose that value, the contribution of an individual.

And then we increase information to the public so the public will know who is trying to influence the campaigns; requiring candidates to provide more frequent disclosure as to who is sending them money so the public will have that information.

But, also, we have all of the third-party groups that are out there that engage, many times, in issue advocacy, and we simply say that they should have to say who they are so there is not a cloak as to the public wondering who is trying to influence the campaign. They must say who they are and how much they are spending, and that is it. That is reasonable information the public is entitled to have.

So it is a good bill. It is straightforward. It empowers individuals. It stops the greatest abuse. And that is what I hope that the public will see as strong reform that we can send over to the Senate, addressing the greatest abuses in our campaign system.

And yes, it is going to be a long process. A lot of amendments have to go through there. There are some that might improve the bill, but there are some that might be harmful. So we need to move through this process in a democratic fashion, and I believe in the end we will do something good for the American public.

I am delighted with the Republican leadership that has opened up this opportunity and for the bipartisan fashion in which we have addressed this.

I want to thank again the gentleman from Colorado for his excellent leadership on paycheck protection, his devotion to that issue, as well as his willingness to yield me time tonight.

Mr. BOB SCHAFFER of Colorado. Before the gentleman goes, I know he has been back in his district over the breaks talking about campaign finance reform and various issues that we are dealing with here to try to improve the integrity of the political process, so perhaps the gentleman will tell us a little about what his constituents are telling him with respect to campaign finance reform.

Mr. HUTCHINSON. It is interesting because the constituents are talking more about it. I have learned that it is a subject that they do not automatically bring up themselves, but whenever I have been out front and taken a leadership position on it, I have them coming up to me time and time again and thanking me for what I am doing on campaign finance reform.

I think what they are saying is, and someone articulated it this way, their $20 contribution, their $50 contribution is drowned out in the sea of big money in Washington, D.C., and that is the message that I consistently get.

I talk to grass root organizations, whether it is the AARP, the Reserve Officers, or a political action committee group or a labor union, I talk to these grass roots organizations and they are struggling to have their small contributions sent to Washington, and their voice is being minimized because of the flood of big money in Washington, and they understand that.

So I am hearing good things about it; support for it. They do not understand necessarily all the ins-and-outs and the difficulties of campaign finance reform and issue advocacy, express advocacy, independent expenditures, but they are saying there is a problem out there that is clear to everyone and Congress needs to address it.

Mr. BOB SCHAFFER of Colorado. We are also joined here tonight, Mr. Speaker, by the gentleman from South Dakota (Mr. THUNE), who I know is one who has been very helpful and thoughtful with respect to political participation and campaign finance reform, and I will yield the floor to him.

Mr. THUNE. Mr. Speaker, I want to thank my colleague from Colorado for yielding and for the great work he has done in spearheading this effort to liberate the paychecks of working men and women in this country from being robbed for a purpose with which they do not agree. And the gentleman from Arkansas (Mr. HUTCHINSON) as well has been a leader on campaign finance reform.

I suspect when it is all said and done we are probably not going to all agree on every issue of this, because I think we all bring a different perspective on what constitutes campaign finance reform. We have been trying to balance the constitutional rights of free speech, freedom of expression and so forth, and at the same time bring some common sense to what has become a proliferation of big money, special interest money actually running this political process. As a consequence of that, many of the voters in this country, the citizens who would like to participate, feel disenfranchised simply because they feel their voice is not heard.

So I think our freshman class has been very much at the forefront of leading this debate, discussing these issues in a very meaningful way and coming up with what I think are solutions. Again, solutions in some cases that are going to have to go through this process that maybe we are not all going to agree with every aspect of, but when it is all said and done, at the end of the day, hopefully, something will emerge that will be an improvement over where we are today, that will help restore the trust and confidence people have in the political system in this country.

So I want to thank my distinguished colleagues of the freshman class, the gentleman from Colorado (Mr. BOB SCHAFFER) and the gentleman from Arkansas (Mr. HUTCHINSON) for the good work they are doing on this subject and continuing to keep the faith and keeping the process moving forward. We are going to have, I think, what will be a rather vigorous debate in the days ahead on this subject.

I would simply say as well that, in discussing the whole issue of allowing the hard working men and women in this country to be an active part of the political process, that this majority in this Congress has taken our agenda forward in a way that I think is consistent with the priorities and the values that a lot of the people who work hard in this country really share, when it comes right down to it.

And the gentleman talks about paycheck protection and seeing that we do not pick the pockets of hard-working men and women in this country and force them to participate in a way that they do not want to. Political participation as a basic premise ought to be voluntary. And that is essentially what the gentleman's legislation says, and I would hope that that will be incorporated in a final product that emerges from this Congress.

At the same time, we want to say to those hard-working men and women in America that we want them to participate voluntarily, we want to give them more freedom, more liberation from the shackles of big government, not only as it pertains to political participation but also in the way that we approach the whole issue of taxes, the role of government in our culture and what that means for people in this country who are trying to pay the bills, trying to educate their kids, trying to make a living, trying to put a little aside for retirement, trying to take care of child care and health care and working in a very systematic way to roll back the burden of government in their lives so that they have the freedom, as families, to make the choices that affect their every day lives.

I think, again, that is a philosophy and approach that is embodied in everything that we do; that these things ought to be voluntary; that it ought to be a matter of personal freedom. And I think the thing that gets lost in this debate a lot of times, people who are members of unions in this country use that representation to negotiate, to bargain on issues like health care, on pensions and wages. Those are very good things, but sometimes I think their leadership loses sight because their agenda, I believe, is more about consolidation of power in Washington.

And that is very much at odds, I think, with what I think is in the best interest of the people they purport to represent, and that is the hard-working men and women who, day in and day out, are trying to make a living and trying to pay the bills. We are saying to them, in effect, in the agenda we have laid out, that we want to make government smaller and make the Federal budget smaller so that their budget, their family budget, can be bigger, and that we want to allow them to keep more of what they earn.

□ 2045

And in doing so, liberate them from the burden of government in a way that will enable them to meet the needs that they have for their families and the challenges and difficulties that are out there for all of us who are trying to raise kids in this day and age.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, reclaiming my time, my colleague has made an important distinction that I think is important for this Congress to keep in mind; and that is that many people think that this debate is about whether we support labor unions or not, and it really is not that at all.

There is a huge division among people associated with labor unions on paycheck protection. There are those who are the rank and file hard-working union members who join labor unions because they desire collective bargaining, they want agency representation, they want the many benefits associated with labor unions, but they want to have some say in how their wages are used when it comes to politics. That is one subset of the overall union organization that has a position on this issue that agrees with my colleague and I.

The other half of the equation, though, is the union bosses, those who work their way up the union hierarchy and become the managers, in fact the players, on a political level of distributing political cash for their advantages. There are many political bosses I am sure, and I have met some of them, who are genuine in their desire to represent their union to back political causes that are in the best interest of creating jobs and workplace security for their members.

But when we start reading headlines about Teamster Union members indited, the president of the Teamsters Union being disqualified from carrying on his job. That was Teamster President Ron Carey and James Hoffa, Jr. And now I guess there is going to be another election and Hoffa is clear to run. This is just in the Teamsters Union.

In this article, this was in the Washington Times not long ago, there is an individual who was an accountant or the comptroller of union funds was charged with embezzlement, conspiracy, wire fraud, mail fraud, perjury, making false statements to a Federal election officer. If convicted, he faces up to 30 years in prison and $1.5 million in fines.

This is a different group of people that we are talking about who oppose the Paycheck Protection Act. And this is the reason why, they have a tremendous amount of cash at their disposal and it buys them certain favors with Members of Congress. It buys them easy access to meetings that go on here in Washington. It buys them friendship with those who are inclined to listen to these particular individuals.

But again, these kinds of people who are at the union boss level, the ones who are in the business of being political insiders are very, very different from the people that my colleague will and I represent, the ones that we care about and the ones that we fight for and speak for here on the House floor, those individuals who are actually doing the hard work of driving the American economy, the ones who work 40 hours or more per week, who are very skilled and very dedicated to economic prosperity in our country, who have families, who go to church, who enjoy their constitutional rights, who enjoy full participation in our community as real leaders and friends and neighbors. But the last thing they want from this Congress or from anyone else is to allow a set of laws to continue on our books that allows union bosses to steal cash from the paychecks of hard-working Americans.

I am really looking forward to this debate coming up here in the next few days so that the American people can see whether this Congress is really going to stand with the rank and file hard-working Americans or whether it is going to choose the few union bosses.

I regret to say that the last time this question came up the political stakes were very, very high here. And those lobbyists running around the hallway representing the union bosses, they were very persuasive with a large number of Members of our Congress.

So I am hopeful that the American people will put their collective foot down this week and just say enough is enough. Politics in America should be voluntary. It is the one time when everyday rank and file citizens are in charge of their government. It is when they elect somebody to go to Washington and when they put their dollars behind their candidacy. People want to know that their dollars matter, that their political participation really counts, that their candidates, their elected officials listen to them.

But they do not want to hear, as we do today, and I will going through those graphs again perhaps, they do not want to hear that their message is getting confused and distorted by a handful of political insiders who use hard-earned cash as though it were monopoly money.

Mr. THUNE. Mr. Speaker, if the gentleman will continue to yield, I guess I would simply say that my guess is that perhaps like the district that my colleague represents, Colorado, people that I represent, the State of South Dakota, the people that I serve, whether they are union members or not, are very much just hard-working people, who, as a basic premise of life, think that these matters can best be resolved at the local level, that the decisionmaking, the control, and the power ought to be there, and that they ought to have the freedom to determine how best to use the hard-earned dollars, those dollars that they work very, very hard for week in and week out, to the purpose for which they intend, rather than having someone say to them that this is not a prerogative that they ought to have.

I think again what we are really talking about here very simply is saying that this ought to be a voluntary process and clearly the people who are forced to participate against their will and political process that that is wrong.

I have heard the argument, as perhaps my colleague has, that other organizations out there that are active politically, gun organizations, whether they are pro-life organizations or whatever, that these organizations do essentially the same thing.

There is a very fundamental difference here. People who participate in those organizations do it of their own volition, they do it of their own free will. It is a voluntary thing. Again, this is the only place that I am aware of where folks are forced as a matter of practice, if they want to participate in union activities, the other things, that the benefits that they get, legitimate activities from union participation and involvement, but beyond that have their dollars taken out of their hand and put into a political process into an agenda which in many cases they might agree with.

Now, if they agree with that agenda, that is fine. It does not deprive them of the opportunity to contribute. Because very clearly, that is an option they still have. Under my colleague's legislation, if they choose to do that, it is, it is a voluntary thing.

All we are simply saying is that when we look at these issues, we want to look at what is in the best interest of the working people, the people out there who are just doing their very, very best to get by and to survive and to do all the things, that the expectations, the responsibilities to live up to those responsibilities.

Frankly, people who work hard for a living I think are very much of a notion that there ought to be a leveler degree of personal responsibility that goes along with freedoms that we enjoy in this country. And frankly, again, I think that is a value that we share in much of the legislation that has been passed since this majority has been in power here in Washington, from welfare reform, to balanced budget, to lower taxes. All those things I think again are consistent with the values that people who work hard in this country share.

And so, as we look down the road in the future on the agenda we want to bring, the things that we want to see happen, the goals for the next generation, things like winning the war on drugs, things like coming up with a system of education and learning that is the very best in the world that utilizes information-age technology and allows the children, our children, to learn at the very fastest rate, issues like solving for the long-term the retirement issues of Social Security and Medicare and doing it in a way that protects and preserves the safety net for those who are currently dependent upon those programs, but at the same time says to those people who are paying in and again contributing to this process that we want them to have the very best retirement possible in a way that would dramatically increase their retirement earnings so that when that time comes they have got a nest egg there, and solutions that again say to the American people that we want them to have the security, the retirement security that Social Security provides and Medicare provides, but we also want them to have better than that. We want to improve upon that because we think that we can do better.

And in this era where we are going to see we hope, knock on wood, some surpluses coming into the Treasury and some revenues that will give us an opportunity to give something back to the American people, I would hope that is the direction in which we will go. And finally, again to say that the other goal, objective, that we have is to reduce the tax burden in this country by about a third of what it is today collectively, state, local, Federal tax burden, about 38 percent, and get it down to 25 percent, so that no hard-working family in America is spending more than a quarter of their income to pay for the cost of government.

And when we are living in a time where we are at peace and we have got an economy that is in an expansionary phase, the question, the debate that is going to rage in this city has to do with control, it has to do with whether or not we are going to continue to centralize, consolidate and move power and control into Washington or whether we are going to distribute it back home and put it back in the hands of individuals and families and states and localities and let people do in this country what they do best, and that is continue to move this economy forward, to contribute out of their productivity and their hard work and their effort and their just day-to-day diligence in getting up every day and again continuing to go build and make this country great.

But the best way that we can do that is to continue to move power out of this city, out of Washington, back home to individuals and to take less of the dollars that they work hard for here and then figure out how we can give them back in some way that Washington comes up with by some form that they devise in accordance with what their priorities are, as opposed to allowing people who work hard to keep those dollars at home and to spend them in the very best way that they see fit and to meet the needs of their families and communities and to become more actively involved in their communities and churches and private organizations out there that are really getting the job done and in which I think can unleash a tremendous work in this country toward addressing those very real needs, the needs again to win the war on drugs, to lessen the crime that goes on across America and to restore values to our families to our workplace.

If parents had more time to stay at home, to spend with their children, we would have a lot less of the problems that we are facing out there. Frankly, one of the reasons they cannot do that is because we ask them to work 2 and 3 jobs to pay for the cost of government so that we can decide for them what is in their best interest. And clearly, I think that is something that when it comes to again people who work hard in this country, it is just a matter of a statement of values. We want to work systematically toward the end of moving power back toward home and allowing them to have more input in the things that affect their lives.

So, again, when it comes to the whole area of political participation, I think the value, the philosophy that my colleague's legislation brings is consistent with that overall philosophy which we all share.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, my colleague has hit on two key themes that really separate us from our friends and opponents on a partisan level on the other side of the aisle, the Democrat Party; and those two themes are that, one, when it comes to the power and the importance of individuals, we consistently try to side on the Republican side with individuals. That is a clear distinction in how we organize ourselves as a society and how we believe political authority ought to be placed, the overall question of whether authority ought to reside in Washington, D.C., or in every single house, in every single city, in every single community and with individuals back home.

And that value we see played out on this floor every single day, whether it is tax policy. And the debate frequently is leaders of the Democrat Party have come to the floor and said that the fact of the matter is very simple that they do not support tax cuts, period, stated as emphatically as it possibly can be.

And that is fine. That is a fine position to represent and to have if they happen to go in for that sort of thing and believe that. But we, on the other hand, happen to believe that taxes ought to be lower, that more authority, in this case wealth, should be in the hands of individuals that earn it.

The second value that my colleague mentioned or touched on deals with families, that we acknowledge the power and importance of families and recognize families as the most central and essential social unit in America. And we see that being played out every single day, a huge difference of opinion that we have where we believe families ought to be strong and be empowered wherever we can and that responsibility ought to reside with families, rather than, as our friends on the other side of the aisle again, the Democrats, tend to have a record that would suggest that our government does a better job of organizing our communities and our schools and our neighborhoods and so on. A huge difference of opinion.

And this issue of campaign finance is no different. It is just one other issue that comes up where the differences between our values on individuals is exposed. Those who will oppose paycheck protection clearly believe that it is fine for somebody else to take cash out our paycheck and spend it on the political cause of their choice.

□ 2100

Versus us who believe that every individual ought to voluntarily agree whether they want to participate in a political activity or not.

When it comes to families as well, I fundamentally believe that the Paycheck Protection Act is essentially a pay raise without a tax increase. It gives folks more disposable income, more wealth in their own hands, the hands of the people who earn it.

They can decide whether they want to spend it on politics, or maybe they want it put toward their pension fund, or maybe they want to buy new shoes for their kids, or maybe they want to put it aside and invest in some things at home to make their lives a little bit more comfortable and more convenient. A huge distinction in values, where we stand as a country. Again, we are going to see where this Congress stands later this week as we deal with the whole issue of the Paycheck Protection Act.

Let me also state that the political stakes on this are very high. The two political parties have very divergent opinions on this.

I am going to read from a report called Inside The New Congress. It is a report that is published every Friday by Inside Washington Publishers, is the name of their organization. The managing editor is John Brushnehand. He reported just a few months ago, the headline says "House Democrats may retaliate against Members who support the Paycheck Protection Act."

The article goes on, it says "Some high-ranking Democrat law makers suggested retaliating against any party members who vote in favor of legislation placing new limits on union political activities, say Hill sources." It says "The suggested retaliation would be to cut off Democrats from financial support from the Democrat Congressional Campaign Committee this election cycle." It says "While few Democrats are thought to be in favor of the legislation known as the Paycheck Protection Act, some conservative Democrats could face trouble in November if their GOP opponents are able to attack them on the issue, say the sources." It says the issue was raised during a meeting of the House Democrat leadership held this week, and this issue was published at the end of February of this year, so this meeting was held, presumably, at the end of February "with AFL/CIO president John Sweeney, say several sources who attended the gathering. A representative from Wisconsin, among others, recommended during the meeting that Democrats who vote in favor of the legislation should not be backed by the Democrat Congressional Campaign Committee. Democratic sources say they did not get much further than the talking stage on the issue during the meeting." The issue basically goes on.

This is a live-or-die issue for Democrat operatives here in the Congress. They have formed a very close coalition with a small number of union bosses predicated on the notion that they are going to be able to continue taking cash out of wage earners' paychecks and diverting it toward their political activities without the concept of wage earners.

The Paycheck Protection Act, while I agree it may threaten the flow of cash to Democrat coffers, is still a matter of fairness that, even when we voted on this floor, a handful of courageous Democrats were willing to join with the majority of us Republicans in voting for it. We just needed a few more of them in order to put it over the top and to score a real victory for hard-working Americans that day. We are going to get a chance to do that again.

The debate is not limited to Congress. The State of California has this very question on their ballot which will come up in June. The State of Nevada has put this on their ballot which will come up in November.

The State of Colorado, my home State, is leading an effort, and I am chairman of that effort to try to get this issue on the ballot. The State of Oregon is moving forward.

Several State legislatures are referring a similar measure to the ballots within their States. Across this country, Americans will have an opportunity to participate in a fundamental question on campaign finance reform of whether individuals will be guaranteed the right to participate in the political process on voluntary terms and have their paychecks protected from those who believe they have some kind of right, some kind of clear path of access to the hard-earned wages of somebody who works hard to make ends meet.

Mr. THUNE. Mr. Speaker, if the gentleman would yield, and really it does come down, when I listened to the debate when this debate was held on the floor previously, and I listened to the other side get up and talk, they did not address this issue because they cannot. There is no answer to this. This is a very, very simple issue. We cannot get any simpler.

This is a question of whether or not political participation ought to be mandatory; in other words, we ought to be required to take something out of our paycheck and give it to a political cause even if we do not agree with it, versus whether it ought to be optional. It is that simple.

This concept cannot get lost in the complexity, although it has been tried. They tried to disguise and delude and distract and divert and everything possible during the course of the last debate. But the fact of the matter is that on its surface this is a very simple issue.

People who work hard, who join unions, can still contribute to political processes. There is nothing to deprive them or prevent them from doing that. All this simply says is it has got to be optional. All we have to do if we want to do it is we have that option every year. I think, again, that is consistent with the way the political process ought to operate.

It states as a matter of value and I think a political, again, principle that has been held dearly by this country for so many years, and that is that anybody who participates in this process ought to be able to do it on a voluntary basis.

To the extent, again, that we can bring that back in this country, the legislation takes us in that direction. I certainly hope as we have this debate that there will be those who will step forward and demonstrate the courage and the boldness to go against the tide, no matter what the forces and the special interests might be saying, and do the right thing; and that is, again, give people who work hard for a paycheck in this country the opportunity to participate voluntarily.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I see that our time is about to expire, and I appreciate the Speaker for recognizing the freshman class tonight. We will be back one week from tonight with another special order.

COMMONSENSE MANDATE FOR ACTION ON EDUCATION BEING IGNORED

The SPEAKER pro tempore (Mr. LUCAS of Oklahoma). Under the Speaker's announced policy of January 7, 1997, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, I want to talk about the fact that the commonsense mandate for action on education is being ignored here in Washington. We have an attempt to divert the attention of the American people from what is one of our most important issues.

In discussing this very important issue of education and the fact that there is an attempt to make us forget how important it is and forget that there is nothing but inaction being proposed about it here in Washington, I think we ought to discuss a few seemingly unrelated issues.

The fact that India has just exploded a nuclear device is important to today's topic. The fact that the CIA failed to detect the test preparation is important. The fact that the Senate passed today something called the American Competitiveness Act, which calls for making America competitive by bringing in foreigners, foreign professionals in the information technology industry.

The American Competitiveness Act is an example of outrageous language being used here in Washington, ridiculous language. It is called the American Competitiveness Act, and yet at the heart of the act is the provision which requires an increase in the quotas for visas for information technology professionals from foreign countries, so they can come in and meet our needs in this critical area of information technology workers.

American Competitiveness Act for that kind of piece of legislation is about as ridiculous as the Paycheck Protection Act which my colleagues were talking about before.

The Paycheck Protection Act is an act whereby they are going to try to censor unions in this country. Unions represent maybe 15 to 16 million people. They should be censored in terms of their voice in the political arena. Yet, the people who give the most money to the political process, corporations, millions of Americans have their stock in corporations, there is nothing in the legislation, no discussion at all about how corporate stockholders, people who own shares in corporations should be able to also have protection.

I do not think protection is warranted in either case. It is an attempt to curb the debate and silence one segment of the American electorate.

But how does this relate to education? Let us go back to India. India exploded a nuclear device. The CIA failed to detect a test. We had a discussion just a few days ago on the floor of this House about the CIA's budget. We are not sure what it is, because it is secret, but we have a good idea. We proposed to cut the CIA budget by 5 percent. We have begun to compromise. In previous years we have asked for 10 percent, but this year we went down to 5 percent.

We calculated a 5 percent cut would be about $1.3 billion. We calculated that with $1.3 billion we can build a junior high school or high school which costs about $10 million to build. They may cost a little more in New York, but most parts of the country, you can build a substantial school. For $10 million, we calculated 130 schools.

We are talking about cutting the waste out of the CIA budget in order to build schools. So there was a link we made to education. But we had an overwhelming vote against our amendment to cut the CIA in order to use the money for better purposes.

I agree with the gentlemen over here before. The gentlemen were talking about the bigness of American government. The government spends too much money. The taxes are too high. The taxes are certainly much too high for people at the lower end of the scale, and we should move to try to cut taxes.

You cannot cut taxes if you are going to continue to insist that the CIA operate at a budget between $27 billion and $30 billion. But the CIA had to be funded at the same level because the people on the floor who were members of the Permanent Select Committee on Intelligence said they need this money, and one of the reasons they need this money is because they must fight nuclear proliferation.

As the last superpower in the world, we are the only power that has the capability of detecting nuclear tests or preparation for nuclear tests. We can monitor nuclear tests throughout the world.

One of the great dangers throughout this world is nuclear proliferation. I agree, nuclear proliferation is one of the great dangers of this world. It is an international matter. It is of international concern. I am proud of the fact that the CIA says they have the capability to monitor nuclear proliferation. That is one of their major priorities, one of the highest priorities.

If that is the highest priority, and if the overwhelming majority of the Members of the House voted, as they have in previous years, to maintain the CIA budget at the same level it was during the Cold War, and to do that because of its vital function in detecting nuclear proliferation, why did they fail to detect the test preparation in India?

Why did we hear it on CNN? CNN told the American people that India had exploded a nuclear device, nuclear weapon, whatever; a nuclear explosion had taken place. We got it on CNN. Would it be cheaper to contract part of the function of the CIA to CNN and save that money that we were talking about, $1.3 billion, to build 130 schools?

The explanation of the CIA is that India did not play fair, you know. We are monitoring nuclear activity all over the globe, but India did not play fair. The people in India made preparations, a highly visible amount of activity at another site where they launched rockets. So the CIA thought India was prepared to launch a rocket, so that they focused their cameras, their monitoring, whatever, on that site, and they overlooked the Indian preparation for a nuclear test.

The CIA, which has almost $30 billion for a budget, and part of this money is for the satellites, reconnaissance satellites that we maintain in the sky, why did they miss it? Because the Indians did not play fair. The explanation we get is they did not play fair. They sneaked and exploded their device, prepared while we were looking somewhere else, at another possible explosion.

Why is our sophisticated CIA, absorbing almost $30 billion, unable to play the game that we used to play when we were kids? We played cops and robbers and cowboys and Indians or played war. You take a big rock and throw it over there. The guys looking for you will go over there, while you can come in behind them and attack them. This is the oldest game in the world, a diversionary tactic, the kind the Indians used on the CIA.

Why am I talking about that if I want to alert the American people to the fact that education, one of our highest priorities, is being ignored? Because our money is being wasted in this direction.

There is another linkage, also. India now is proud of the fact that they are reasserting their nuclear power status. The people of India danced in the street to celebrate the nuclear explosion.

□ 2115

Overwhelmingly the party in power has received approval from the people, and some political pundits are estimating that this party will finally consolidate power in India. India has had a lot of turmoil politically, and now this party now in power, because of their nuclear explosion, will consolidate their power and remain in power for a long time. You have another set of demagogues using something like war or something close to war and the preparation for war to unite the nation behind them.

What is the impact going to be across the world? If India is going to show their nuclear muscle, then right next to it is Pakistan. They want to do their test. How can you argue morally that Iran should not go ahead and do their testing and have nuclear weapons? Saddam Hussein is waiting for us to get tired of monitoring his country so he can go back to building his nuclear capacity.

There are many other nations in the world that would like to buy technology and get into the game. So nuclear proliferation, which, by the way, the dangers of it might have nothing to do with war. Maybe they will not start a war, but the fact that the bombs or devices are exploding means that the radioactive debris is being thrown into the atmosphere, being thrown into the oceans. And if El Nino taught us anything, it taught us that the world is very small, and ocean currents in one part of the world, when they get out of whack, they are affecting other parts of the world. They throw off the weather patterns.

The volcanoes recently have taught us how volcanoes in one part of the world darken the sky for long periods of time, as if we did not know it from studies of ancient catastrophes, in the last four or five years they have changed the weather patterns.

So nuclear tests, which produce radioactivity, are a concern to all of us. We lived under the threat of a bomb for a long time, that one nuclear power, the Soviet Union, might attack the United States, or vice versa, and we would be thrown into a nuclear holocaust. We did not want that, and it affected the psychology of a whole lot of people of my generation and a lot of people for a long time. We were happy to see that come to an end, the threat of the two great superpowers going to war and what that would do in terms of the devastation of the earth.

Now we are going to have slow poisoning by nuclear proliferation, as one nation after another joins the club. India, the home of Gandhi. If India, the home of Gandhi, passive resistance, the place where Martin Luther King got his inspiration, and numerous other leaders of the world, including Nelson Mandela, if India now is going to beat its chest as a nuclear power and the people of India are going to dance in the streets to celebrate the politicians who have made them a nuclear power, then where can we look to in the world for hope? China will certainly increase their explosions, and on and on it goes.

India is important for another reason. I just mentioned the passage of the American Competitiveness Act by the Senate, that outrageous name they used, "American Competitiveness Act."

What is it? It is to increase the quota of foreign workers, professionals in information technology, who can come into the country and get us out of a jam because we have inadequate education. Our educational system has not produced enough information technology workers. We now have a crisis. So American competitiveness is all tied up with foreign professionals who are coming in.

By the way, as they increase the quotas for foreign professionals to come in, they are going to decrease the quota in other areas, so people who are waiting for their families, to reunite families, and other areas of immigration are going to be hurt.

But this great act of improving American competitiveness is going to benefit India primarily. The largest number of information technology workers now in this country from a foreign country are from India, and the largest number who will come in under this new increase in the number who can come in, I think 30,000, the quota is being increased by 30,000, and over the next few years it will be brought down back to 20,000, but for a long period of time you can have 20,000 per year. To jump it off you are going to have 30,000 more than already. Most of them come from India, and it is likely that, in the future, that same ratio is going to be there.

India is the place which has seen fit, wisely so, to educate a large segment of their population for the age of computers. Computer science, all of the things related to computers and information technology, India has seen fit, they saw the need, and they have a large body of human capital to spread throughout the world, certainly the English-speaking world.

Indians speak English, and that gives them an edge over the information technology professionals that might come from the former Soviet Union or from other parts of central Europe. They speak English. We need English-speaking professionals in the information technology sector. So India will send to America more and more information technology workers.

Do you discern a circle here? They will be in our top industries. They will acquire more know-how. They will be able to take that know-how back to India. If India's nuclear capability is rather primitive now in comparison to the United States' nuclear capability or the Soviet Union's nuclear capability, then certainly when we get through importing Indian information technology workers, high-tech workers, when we finish with that process, then we will have trained all that they need.

So the Indian government now in power, which wants to stay in power as a major militaristic nuclear power and is going to consolidate its hold on the government, is following a pattern not too dissimilar from the pattern of Saddam Hussein. Saddam Hussein made a dramatic attempt, in a very short period of time, to acquire the most modern kinds of weapons available, and now India is staking its future politically on being able to say it is a great military power. And we are going to help train them. We are going to call the training process the American Competitiveness Act, that was passed by the Senate today, and they expect it to pass the House of Representatives also.

Why not, instead of importing workers for information technology, why not train them here in this country? Why not improve our own school system here in this country so that we are able to first allow young people coming out of our schools to be able to get very good jobs, that are also beneficial for the overall American economy, and also beneficial for any national security items that we are concerned with? Why not do that instead?

The common sense mandate for action on education is being ignored. The American people think it makes a lot of sense to have more attention paid to our education system. The American people repeatedly show in the polls, in the focus groups, that they are concerned about education.

Why are the leaders of the Republican majority, who are in control of the Congress, why are they ignoring the mandate of the people? Why are they failing to honor the results of the polls? They read the same polls that the Democrats read. Republicans and Democrats both know that education is very high on the agenda of the American people. Why are we ignoring it?

Why are we turning away from a great window of opportunity at this point in history? Not only are the American people concerned about education and clearly show this is a popular concern, but we now have the resources, we now have the revenue, to address some of these critical problems in education.

Why do we not address the problem of school construction that the President has proposed we address? He proposed a very meager program, $22 billion, but it is not going to come from the Treasury. All of it, in fact, the $22 billion construction program, is a program where the private sector would provide the money and the government would provide tax credits to compensate the private sector for the interest.

So it is not a great amount of money that is going to be taken out of the Treasury immediately; it is over a long period of time, paying back the interest as the local education groups, agencies and the States borrow from this pool, where they pay no interest. They get the money with no interest. The interest will be paid through a tax credit vehicle.

Very clever, Mr. President. I would like to see more money directly appropriated for education, so the whole question of borrowing by the local school districts and the states will not have to be an obstacle to action. But in this atmosphere, we will take your $22 billion borrowing program. The Republican majority says no; they refuse to consider it. They turned away from this window of opportunity.

We could go further and not have to borrow the money because we have a surplus. Yes, Mr. Speaker, I want to talk about another secret that nobody wants to discuss here. They do not want to discuss the CIA's failure to detect the Indian nuclear tests. Also they do not want to discuss the fact that we have a budget surplus, more revenue than expenditures anticipated of between $50 and $60 billion in the coming budget year.

No less than $50 billion will be available because it is not needed in the current budget scheme. There will be a surplus, revenue greater than expenditure, of at least $50 billion.

Why can we not at this point address the compelling problems of our schools with some of that money? Nobody wants to talk about it here. It is amazing how quiet the Members of my party are about it.

The President in his State of the Union address said any surplus should be dedicated, first of all, to Social Security. I agree with the President. He was anticipating a $8 billion surplus at that time. That was what the budget office was telling us, $8 billion.

Whether it is $8 billion or more, I think Social Security should get a high priority. But since you have a window of opportunity to do something about the critical problems of education with some of this money, I would like to offer a concrete proposal to both parties, my party and the Republican majority.

The budget surplus is a golden opportunity. The common sense mandate for use of this surplus should be one-fourth for Social Security, one-fourth for our Social Security contingency fund. That is what I think the President and other leaders have in mind. Social Security does not need any help for a long time to come. We are talking about 20 to 30 years before the calculations show that Social Security may be in trouble.

Well, let us start getting ready for the trouble. Let us set aside a contingency fund, or whatever else they have in mind, to guarantee that Social Security never has a problem. Let us take one-fourth of the surplus for Social Security.

Let us take one-fourth of the surplus for a tax cut for families earning less than $30,000. You want a tax cut? Give the tax cut where it is needed most. Families earning less than $30,000 should be given priority. If you are going to give tax cuts to others, start at $30,000 and come on up.

I think we would all agree that the American people deserve some type of tax cut. You could even have a tax cut without the surplus, because most of our income taxes come from what you call earned income, the earned income of families that are working families.

We have a whole pot of money that is not taxed very much, and that is the unearned income. These are not my terms. "Earned income," "unearned income" were invented many years ago. It is not a socialist term or the term of a New York liberal. It is a general economic term.

Earned income is what you receive as a result of working for wages, what you get in a paycheck and what you get as a consultant fee. I even think that the millions of dollars that a boxer earned in the ring is earned income. The millions of dollars that the sports figures on the football, baseball or basketball field earn, that is earned income. They sweat for it. I guess it goes back to the Bible and the mandate that we earn our living by the sweat of our brow. That is a certain category of money.

Unearned income, and I think the term originally had some kind of undesirable feature, unearned income is what people get through investments and various other machinations that produce money. Not machinations, various other devices that produce money without them working for it on a daily basis, a weekly basis, out there on the ball field, et cetera.

So unearned income on investments, primarily the money earned on the stock market is the best example of unearned income, the stock market, bonds, it is well-known where unearned income comes from.

If you start looking closely at unearned income, you will find only a tiny portion of unearned income is taxed. Most of it escapes taxes. So if you really want to look for a place to give a tax cut to families earning $50,000 or less, $30,000, then increase the amount of taxes on the unearned income and greatly decrease the amount on the earned income.

But I am not here to discuss that tonight. I just want to make the point we could have a tax cut. We could satisfy the top agenda items of both parties. Social Security, a tax cut, one-fourth to Social Security, one-fourth for a tax cut, and the final two-fourths, there are four fourths, you know, the final two-fourths for education initiatives, such as the construction initiative of the President, such as smaller class sizes than that have been proposed by the President, such as the reading initiative proposed by the President, such as an increase for increasing funds for technology in the schools, wiring the schools.

□ 2130

School construction is vital. There is a lot of discussion about improving education and the Republicans are locked in on their own approach with vouchers, and other people talk about phonics versus other methods of teaching reading. The Committee on Appropriations passed a bill that called for the whole school approach a couple of years ago, and there are a lot of approaches, initiatives, innovations, and most of them might have merit, but at the heart of providing an education for young people should be the provision of a safe place to sit and study, a safe place for the teacher and student to get together, a safe place for students to look forward to when they leave home in the morning, and certainly in the poorest areas, the school ought to be a great improvement over the home environment of the poorest youngsters.

We should not go to school and find we are crowded into rooms unreasonably. We should not have 45, 50 children in one room. We should not have to go to school and find that there are no rooms for some classes, and classes have to be conducted in the hallway or in the portion of the bathroom, the restroom. We should not go to school and find ourselves being put in a situation where one has to eat lunch at 10 o'clock in the morning.

There are a large number of schools in New York City where the students have to eat lunch at 10 o'clock in the morning because the lunch room was not built to accommodate the large numbers of children in that school, a school built for 500 has 1,000 pupils. The lunch room can only accommodate a certain number, so they have to go in shifts, and in order to get them all in, the shift process has to start at 10 o'clock in the morning. That is child abuse, to make a child eat lunch at 10 o'clock in the morning. I think that should directly affect the physiology and the health of a child. They had breakfast at home or at school and they have to eat their lunch at 10 o'clock in the morning. I think the children on the other end, if we have to spread that over cycles, so that the last group is eating at 1:30 or 2 o'clock, they are being abused. They are hungry, starving by the time they get to 1:30 or 2 o'clock.

We are doing these kinds of things, we are sending children to schools that have asbestos problems, we are sending children to schools that have lead pipe problems, we are sending children to schools that are 100 years old in New York, we are sending children to schools that have leaky roofs, we are sending children to schools in New York and other places that have coal-burning furnaces, coal-burning furnaces, still. Mr. Speaker, if a school has a coal-burning furnace, it is probably a very old school.

I brought this subject up with the head of the Environmental Protection Agency here in Washington and she was appalled that there are still coal-burning furnaces in schools. Well, we only have about 285 coal-burning schools in New York, out of the 1,100 about 285 are still burning coal in furnaces, which means that the lungs of the children are directly affected, because if one has ever been in a place that is burning coal, when I first bought my first house it had a coal burning furnace, I had to go down and stoke up the fire, we put in all kinds of filters to keep the thing clean, filters at the furnace level and filters at the level of the register, but the coal dust gets through anyhow.

If a child sits in a school all year long during the winter season while the furnace is burning coal, they are going to get coal dust in their lungs. If a child has to spend 6 years in school from the 1st grade to the 6th grade, or the 6th grade to the 12th grade, they are going to get plenty of coal dust in their lungs and they are going to have difficulties with health later on that nobody is going to quite understand. The child does not smoke, but the coal dust is going to be there creating a problem.

We have concrete evidence of what is happening right now, because the high asthma rate in New York City is unparalleled to other big cities who have problems I am sure with coal burning schools also.

The other pollution in the air now, as it grows greater, the coal-burning furnaces and that kind of pollution has an even greater effect, concentrated at places where children are gathered. So construction, if we do not do anything about a safe place to study, if we do not get rid of dangerous situations, then do not talk about the phonics method versus some other method of teaching reading. Do not think that we are going to solve the problem if we come in with a mandate that there will be no more social promotion if we mandate testing nationally or locally.

The problem will not be solved with these kinds of actions, although some of them may be highly desirable. First, we have to make a commitment to have every child in America in a safe place to study, a place conducive to study, and then we have to move to a place which is enhanced with technology, with equipment for a science lab, with books that are not 30, 40 years old. These basic needs are still not being met.

Now, in 1996, 1994 to 1996, the Republican majority argued that if we have the government take some initiatives to help education in some meaningful way, then we are going to bankrupt the country or we are going to put our grandchildren and our great grandchildren into debt. They made it appear that any actions by the Department of Education were an immediate threat to the economy of the United States.

Mr. Speaker, with a $50 billion surplus, we cannot tell that lie anymore. With a $50 billion surplus, we cannot say that money is the problem. With a $50 billion surplus, the question is, why do we not want all the children of America to have a decent place to study, a decent place to have teachers teach them? Why do we not want all the children of America to have the opportunity to learn? We may talk about increasing the testing, but that is putting the burden on the backs of the students. We may talk about standardized curriculums and more challenging curriculums, but again, that is putting the burden on the students, and those are challenges that students ought to meet.

They ought to meet the more challenging curriculum standards and they ought to be able to pass the tests. I am not against national testing forever. Somewhere down the line I would support national testing if we first deal with opportunity to learn standards. If we first say to every State and every local school board, every child should have these opportunities to learn. First, they should have a facility, a school which is safe, which is conducive to study, which has the necessary equipment and books, which has modern technology which really prepares them for the world they are going to be living in in the 21st century; all of these things are doable. It does not require magic. The money is there. All we need is two-fourths: One-fourth for education initiatives such as smaller class sizes, education for technology, et cetera, and another fourth for school construction. This is assuming we are going to have $50 billion or more.

Mr. Speaker, if it were only $8 billion, as the President anticipated when he made the State of the Union address, then I would say let us give it all to Social Security, but it is far more than $8 billion, so here is a concrete proposal. The mandate for the surplus is to meet the needs as reflected by the polls and the focus groups, and Americans think Social Security is very important, they are worried about it. We have made them worry even more because we have made statements about the need to change things and privatize Social Security and do things which would erode the credibility of Social Security for the future. Let us address one-fourth of whatever the surplus is to Social Security, one-fourth to a tax cut on the earned income of families earning less than $30,000, start with them and go up; one-fourth for education initiatives such as smaller class sizes and education technology, and one-fourth for school construction.

Voters of America, do not let this session of Congress end without some action on education in this direction. There is no reason why we should not have decent schools for all children in America.

For us to have the revenue available, to have the resources and refuse to use them is a savage act. It is savage behavior for the responsible leaders who make decisions about how the resources of this country are going to be used for them to turn away from the needs of these students and children in America who are attending coal-burning schools, 100-year-old schools, schools that are not safe, schools that are not conducive to learning, schools that have no decent science labs, et cetera. It is a savage act.

Jonathan Kozol wrote a book some time ago called Savage Inequalities. It is a book about the inequalities of the school systems in New York City. Savage Inequalities. In the same city, a public school in one part of the city had all of the modern conveniences, decent facilities, et cetera, et cetera. Not too far away, in the same borough, there were schools and in some other cities around the country the schools actually had to be closed down because when it rained. East Saint Louis was one of the examples he gave. When it rained, they literally had the rain pouring into the schools, a flood of rain pouring into the schools, and these kinds of conditions still exist, not only in rural schools and in inner city schools, but there are some suburban schools that are grossly in need of improvement and repair, and in some cases, they need to build new ones.

It would be savage for the American power structure, Members of Congress, the executive branch, the private sector leaders, to allow this to continue at a time when we have the revenue, we have the resources. Instead of looking at the obvious needs for more school construction and more resources for smaller class sizes, the Republican majority is locked into an irrational, illogical, dogmatic policy related to vouchers and privatization. They are dogmatic about it. It is like a superstition that one cannot touch. They refuse to deal with reality. They are swimming against public opinion. They are swimming against the tide of public opinion in their own district.

I have often approached my Republican colleagues on the Committee on Education and the Workforce and said, look, you are advocating vouchers as the only solution to the improvement of the American public schools. You want to make the public schools not public anymore; you want to make the people of America not focus their attention on improving their public schools, but you want to use vouchers and take them somewhere else. Why do you not propose that for your district? And I make the challenge here. Every Republican who proposes vouchers, why do you not propose that in your district where you run for office? Why do you not push vouchers there?

□ 2145

What I have learned is that in the majority of the districts represented by the members of the Committee on Education and the Workforce, their constituents have said to them, we are not interested in vouchers. We were not interested in vouchers. We have good public schools, or we have schools that need improvement, and we are willing to work to improve our public schools.

Some of them confess to me, I have good schools in my district, they say. I do not need vouchers. My answer to that, my response to that, is if you have good schools and you do not need vouchers, then let me have good schools in my district. Let us have good schools everywhere so nobody will need vouchers. Let us take the steps necessary to create opportunities to learn for all children everywhere. Let us improve the public schools and stop the voucher dogma.

I think the Republican majority suffers from something similar to what Lysenko pushed in the Soviet Union. Lysenko was a biologist who insisted that the environment is almost totally the determining factor of what happens to living organisms. Lysenko was a geneticist, an agronomist from the Ukraine. He developed a doctrine compounded of Darwinism and the work of Michurin, that heredity can be changed by good husbandry.

As director of the Institute of Genetics of the Soviet Academy of Sciences, he declared the accepted Mendelian theory was erroneous, and he ruthlessly silenced any Soviet geneticist who opposed him. He endured on the Soviet science scene and was a major dictator of science theory until Nikita Krushchev came to power in 1965.

In the whole Stalinist era, they wrecked the agriculture of the Soviet Union by insisting that Lysenko was right and everybody had to follow Lysenko. The rest of the world's scientists were giving due consideration to heredity as a factor in the way living organisms developed so they could improve the plants and the animal stocks. And agriculture prospered, of course, in this country, because science was free and they followed where science went. But Lysenko said no, and they had scientists who were put in jail for challenging Lysenko.

The Republican Party is suffering from Lysenkoism when it comes to the public schools. When it comes to improving schools in America, they will not look to the right or to the left. They insist vouchers and privatization are the only answer.

They have forced vouchers down the throats of the citizens of the District of Columbia. People here in Washington, in the District of Columbia, they took a vote. They had a referendum on the question of whether they wanted vouchers or not. They overwhelmingly voted no, they did not want vouchers. They were willing to entertain another experiment to make the public schools more competitive and to get some innovation into the bureaucratic structure.

They wanted to challenge the structure by having charter schools, some public schools that would be run by a group of individuals who would make policy for the school and determine how the school is run, in accordance with certain principles and standards that the District of Columbia sets.

That is a movement that is in effect across the country in at least 25 States. New York does not have it yet, but charter schools were accepted by the people of Washington as a way to experiment and to encourage improvement of our public schools.

Ninety-five percent of the children of America will go to public schools in the next 10 years. No matter what is done, even if you had an implementation of the voucher program on a large scale, you could not do it in the next 10 to 20 years to any great degree, so 90 to 95 percent of our children are going to go to public schools. Let us improve the public schools.

My colleague in the Congress who now has retired, Floyd Flake, is an advocate for vouchers all over the country. He will tell us that polls show that large numbers of African American parents favor vouchers. Why do they favor vouchers? Because they are fed up, overwhelmed, they do not think they can improve public schools, and they are the ones who say, I will take anything, I will try anything.

Let us lay aside my problem with vouchers and say, okay, what if you decided to implement vouchers tomorrow in Floyd Flake's school district? Congressman Flake is a minister, has a big cathedral, does a very good job of taking care of his parishioners. They have a school. The school already has a long waiting list.

If we give him vouchers, if we give students in that area vouchers and say, go to Congressman Flake, go to his school, he cannot take any more. Or suppose we give him the authority to expand outside of his school, all the vouchers you need. You have a system that the parents believe in. Whatever you are doing is working. Go to it. What would happen? Pastor Flake would have to create a bureaucracy. He would have to set up a personnel system. He would have to set up a custodian system. He would have to do all the things that a local education agency does. He would run into the same problems. He would have to recruit large numbers of teachers. He could not personally interview them all. He could not get the same quality that he gets in his church school.

There are a number of problems that have to be solved by public policy action, and if we turn the system over to the private sector, to the church, whoever, they are going to have the same problems. What they do now is skim across the top and get the best students, in many cases, but certainly a select number of students. That cannot solve the problem.

I have said these things many times here. I hate to go on and on. But I think it would be savage for this Congress to go on doing the outrageous kinds of things we have been doing. We have just passed a bill where we are going to make America competitive by going outside. Instead of developing the brain power here, we want to go outside.

It is not just the public schools, but we are attacking our own higher education institutions. We passed the Higher Education Assistance Act 2 weeks ago, and it had no new initiatives in it to deal with the problem that America needs more and more people who are college-educated. Instead, we are playing with affirmative action, trying to destroy diversity in the universities. For some kind of irrational reasons, we are attacking the higher education system to make it smaller instead of larger.

In New York City, they are not attacking affirmative action, they do not use the term "affirmative action," but there is a broad-scale attack on the country's oldest public university, City University of New York. It is the oldest public university, and there is a sustained attack to try to downsize and gut that institution. That is what the board of trustees is being forced to do right now. Massive political intervention has taken place, and people on the board of trustees are carrying out orders from above. In the interests of saving money, they say, they want to greatly downsize the City University of New York.

How are they going to do it? Set new standards for all the senior colleges. You cannot get in if you need remediation. You can get into Yale, Harvard, and a few other colleges across the country if you need some remediation. Remediation, 80 percent of the schools in the United States have some form of remediation, because by now we know in this world that people do not come packaged perfectly. They do not have an excellent student in science and math, an excellent student in verbal reasoning, an excellent student in languages. Lots of students have some deficiencies, or they cannot excel in all three of those. That is recognized.

In this kind of high-tech economy, we do not want to cut off our nose to spite our face. Why get rid of talented people because they have one thing missing? We need the creativity of students, no matter what their forte may be, no matter how strong they are in one area versus another, if they are creative. What makes the American economy go, what makes the high-tech industry go, is creativity.

Bill Gates and his fellow entrepreneurs were not people who would pass all the tests for assessment as they went into college. They were not people who necessarily would score highest on the highest tests. They were people who had imagination, and the Bill Gates of today is not using his math and science skills to build one of the world's largest businesses, or probably the largest, most profitable business in the world. He is now not using algebra, trigonometry, calculus, differential equations. That has nothing to do with his ability to maneuver this system, to organize large numbers of people and focus them on various tasks, that has now led to him being accused of monopolizing and threatening certain segments of the economy.

These are creative people from many walks of life. That is what makes America go. We do not score as high across the world on a lot of these tests that are given. I think we should not take that lightly. Our students should score higher on math and science, and they should compete with other students throughout the rest of the world, but what they cannot measure is creativity, creativity. Our students are probably the most creative in the world. That is how our economy, with its flexibility, is able to keep growing when other economies are having great difficulty.

So City College, City University of New York, the trustees are also going to be guilty of savage behavior. It will be a savage policy to shut out large numbers of students by saying that they cannot enter any one of the senior colleges if they need remediation.

They have gone further to say the 2-year colleges, you can only have remediation for a little while, or the proposal is being pushed by the mayor that says the colleges should not have remediation programs at all. There should be institutes that provide remediation. They should be summer institutes. You have a young person who comes out of high school who may be creative, have talent, which is what the City University has shown.

Eighty percent of the students do graduate. A large number have deficiencies when they come in as freshmen, but the new atmosphere of the college campus is a new beginning for the student. Their latent talents, creativity, energy, is changed by being there on a college campus.

If you say to the student when he comes out of high school, you cannot get into college, you cannot set foot on the campus until you spend the summer in an institute to make certain that you pass the assessment tests in math, writing, languages, whatever, reading, you will turn off large numbers.

The California policy of anti-affirmative action, anti-diversity, has cut away large numbers of minority students, Hispanic and African American students. City University will chop off the head of opportunity for even more with this remediation policy.

I spoke to the Board of Trustees of City University on April 20. I am a Congressman. I have been on the Committee on Education and the Work Force for 16 years. I thought they might give me a little more than 3 minutes, especially since I chided them for not bothering to come to Washington all during the time when we were considering the Higher Education Assistance Act.

In previous years, and we consider the Higher Education Assistance Act every 5 years, in the previous 2 times we have reauthorized the Act, we have had representatives from the City University of New York, the State University of New York. New York was very much absent this time in the consideration of the most important piece of higher education legislation. They were not there.

I chided them for not coming to us, but here I was in front of them. I hoped they would give me more than 3 minutes, but they did not. I think the chairman did give me an extra minute, so I had 4 minutes to speak. The bureaucratic secretary sat there and nearly had a heart attack because the chairman was allowing the Congressman who sits on the Education Committee in Washington to speak for 1 more minute. Just one more piece of ridiculous behavior.

At any rate, I am going to read some portions of the statement, because I want to sum up tonight my concern that the commonsense mandate for action on education is being ignored here in Washington, education at every level. We are ignoring education at the elementary and secondary level. We are not providing the kind of national assistance.

This garbage about local control is garbage. With local control, we were almost unprepared to fight World War II. Local control meant no programs for health for the masses of the population. We had unhealthy, emaciated bodies reporting to the draft. Local control is probably some of the worst government in the country at the local level. I hear the majority keep glorifying local control, State control. Some of the greatest amount of corruption, ineptness, and mismanagement is at the local level in our government and at the State level.

□ 2200

So there is no magic here. Local control of education has led us to where we are now. We are in trouble.

The Federal Government is only responsible for about 8 percent, between 7 and 8 percent of the budget for education in this country. With all the money spent on education, the Federal Government is responsible for only 7 or 8 percent. Most of that goes to higher education so a very tiny amount of the Federal budget goes to elementary and secondary education.

We have very little voice. They keep saying that mandates from the Federal Government do this. It really is a very small amount of policy interference that takes place as a result of requiring local governments to meet certain conditions in order to receive Federal money. This is all garbage. If we gave the schools of America, the local education agencies in the States 25 percent of the funding instead of 8 percent, we could only have 25 percent of the controls still. I mean, we could increase the amount of resources from the Federal Government from 8 to 25 percent and still the local governments and the States would have 75 percent control, 75 percent of the responsibility for funding, 75 percent of the control.

We ought to move toward the goal of 25 percent Federal funding for our education system. Education is the primary ingredient and component of national security. The greatness of the Nation, the economy of the Nation, it all is dependent on an educated populace. It all falls back on this American competitiveness. To have our competitiveness now linked to foreign professionals coming in to take care of our needs is ridiculous. We are going in just the wrong direction. We are making some stupid decisions and certainly making some savage decisions.

In the case of City University, instead of exploring the vulnerabilities of City University, the board of trustees and all the leaders of the city should be approaching the weaknesses creatively and try to transform the shortcomings of City University into opportunities. All over the world, the education of masses of youth emerging from educationally-deprived backgrounds is a vital challenge to the process of building a new global society with abundant supplies of indigenous leadership.

Mr. Speaker, I will submit my entire statement of testimony to the board of trustees of the City University of New York on April 30, 1998. I want the entire statement to be included in the RECORD so that those who did not have a chance to hear it will be able to read it.

I want to conclude by saying that City University is the oldest public university in the country. The bulk of the students, great majority of the students, now more than ever, 80 to 90 percent come out of the public schools of New York City. So the public schools of New York City, for all that they have had to go through all these many years, have produced products that were able to go through the higher education process and emerge.

There are numerous Nobel Prize winners that have come out of City University. Some people say, well, that was a long time ago. No. There are people who graduated very recently who also are Nobel Prize winners. Nobel Prizes for medicine, Nobel Prizes for physics, Nobel Prizes for economics, Nobel Prizes for a whole range of items that have come out of City University. Their graduates are teaching and have higher positions in universities all across the country. They have been sort of missionaries to the higher education community throughout the whole country.

Why now are leaders without vision attempting to wipe out the effective City University? Two hundred thousand students go to City University on a regular basis and more than 100,000 go in the evening. It is a massive educational undertaking. It would be savage, stupid and savage to destroy that institution.

It would be stupid and savage for the Congress of the United States to ignore education this year, not to fund a construction initiative, not to fund an initiative which would bring down class sizes, not to fund an initiative which would meet the information technology needs of this country with students in this country, with workers that come from the families in this country.

Why go outside to India or any other place to bring in information technology workers and say that they are necessary to save America? Why define American competitiveness by the use of foreign brainpower? Why not develop our own brainpower? Why continue down this absurd road of Lysenkoism, of superstition, of dogma which says that only vouchers and only privatization is important and ignore the fact that the President has put before us a sensible agenda, $22 billion program for school construction, a program to lower class sizes, a program to increase reading readiness, a program to improve schools by increasing the amount of funds available for technology in the schools?

All of this is relevant, and it all relates to where we are in the world today. Our national security and our economy is directly dependent on our education system. The American people know this. Common sense tells them this. That is why education is a high priority. We should not let this session end without responding to the common sense mandate for action on education.

Mr. Speaker, I include for the RECORD the testimony to which I referred:

TESTIMONY TO BE PRESENTED TO THE BOARD OF TRUSTEES OF THE CITY UNIVERSITY OF NEW YORK BY CONGRESSMAN MAJOR OWENS, APRIL 20, 1998

Instead of exploiting the vulnerabilities of CUNY, we should approach the weaknesses creatively and we must transform shortcomings into opportunities.

All over the world the education of masses of youth emerging from educationally deprived backgrounds is a vital challenge to the process of building a new global society with abundant supplies of indigenous leadership. If we meet this challenge of educating those who arrive in our college classrooms with inadequate preparation here in New York, in CUNY; if we can take freshmen from impoverished backgrounds with enormous skills deficits but who have normal brains and great potential; if we can take this kind of raw material and create productive and independent citizens able to take care of themselves and also serve as leaders; if we can seize the situation which presently confronts us; then we will have a system that produces a priceless global product. Using New York's great and enormously diverse population we will have developed a blueprint, a model for higher education which would be applicable anywhere in the world. The world market for such a service is almost unlimited; it would be a product of the highest value.

What is happening here in New York at CUNY is a tragedy. At a pivotal point in the life of this city, as we approach the dawn of the 21st century, there are confused but powerful forces in this city which are turning a time for triumph into a time for tears.

President Clinton has rightfully referred to America as the indispensable nation. It is not exaggerating to state that in this indispensable nation, New York is the indispensable City. In order for this City to maintain its rightful place and fully realize its destiny an open, thriving, creative CUNY is an indispensable institution. CUNY is the jewel in the crown of our unique urban civilization.

This is the moment at which we must rally our better instincts, our common sense; we must rally our cultivated logic and receptivity to the evidence provided by well-known studies. Such studies show that the record of CUNY is a laudable one. Consider the fact that the cost to educate a single student at Harvard is about $30,000 per year; the cost at taxpayer supported West Point is more than $120,000 per year. Despite its shoestring budgets and repeated fiscal harassments, CUNY has endured over many years, CUNY still stands in the ranks of the greatest in its production of outstanding scholars, scientists and international prize winners.

Oh what a tragedy indeed it would be if the enterprising citizens of New York would stand idly by and allow the destruction of this great monument to the genius of ordinary people. As silent intimidated sheep we can not allow the mutilation of this oldest and most magnificent system for the promotion of maximum educational opportunity for the greatest number. What a tragedy it would be if those with blurred visions and tiny spirits are allowed to oppress this greatest vehicle for insuring progress and economic justice in our city.

Open enrollment is not our enemy. Remediation is not a terrorist tactic. If education is the way out of welfare then why are powerful forces rushing to close the doors of educational opportunity. The trumpet has sounded for leadership from within CUNY. Board of trustees; faculty senates; presidents, and full-time and adjunct faculties; student governments; student bodies; all together you comprise an aggregate more than 215,000 strong. You collectively represent the best educated and most aspiring among us. You have the capacity to utilize an Athenian style democracy not driven by the uninformed and the philistines. CUNY must refined its own mission; CUNY must confront its pockets of internal corruption; CUNY must arouse itself from snugness and complacency; CUNY must accept the continuing challenge that the founders envisioned.

Following the principle that education adds value to each individual, we must seek ways to provide more and better education for all of our citizens. As our society grows more complex higher education becomes not a luxury but an obvious necessity. We should not shrink from the obligation to educate and add value to students at the lowest possible cost. Education at CUNY is still a bargain for our taxpayers; it is far cheaper than incarceration and still cheaper than welfare dependency. New York City alone will need thousands of new teachers over the next 10 years. The nation will need more than a million new Information Technology workers over this same decade. Let's educate and claim our rightful share of these new positions. CUNY enrollments should not be restricted. CUNY enrollments must be expanded.

In closing let me summarize my recommendations as follows.

1. To address the problem of excessive student remediation time and to make reasonable adjustments in admissions procedures, the campus presidents and faculty senates as well as other relevant higher education policy-making entities must be given no less than 6 months to prepare and present a comprehensive plan to the CUNY Board of Trustees.

2. To allow CUNY to appropriately address the problems of remediation and the maintenance of standards of excellence as well as the problems of gross infrastructure inadequacies and student-teacher ratios. The Board of Trustees must unite with the presidents; faculties and students, and the elected officials to present a full assessment of CUNY's needs as compared to similar public institutions in other states. This assessment shall serve as a blueprint for an immediate infusion of federal, state and city capital and operating funds to achieve the overhaul necessary for the building of a greater CUNY.

3. The CUNY Board of Trustees shall assume the responsibility for the issuance of an annual CUNY Report to the Citizens of New York detailing its progress on overcoming weaknesses and its short-term and long-term plans for the future. Open public hearing fully covered by the CUNY Cable Television Channel 75 must be held following the issuance of this annual report.

4. That the CUNY Board of Trustees immediately order that a minimum of two regularly scheduled hours of time be set aside each week on the CUNY Channel 75 for the presentation of a cross-section of viewpoints on the present CUNY restructuring discussions and on CUNY policies in general.

5. That the CUNY Board of Trustees also support the following two initiatives presented in attachments to this statement.

A. An amendment to the Higher Education Assistance Act which proposes the establishment of partnerships between higher education institutions and community based organizations to sponsor store front computer and telecommunications training centers.

B. A proposal for greater CUNY involvement in promoting the immediate and long-term fiscal stability and prosperity of New York City.

CUNY must not allow itself to be invaded and oppressed by barbarians. Outsiders of any kind should not be allowed to stampede CUNY into destructive restructuring. CUNY must be held accountable by citizens and public officials but CUNY should never be invaded; it should never be conquered and it should never be occupied by political and philistine forces.

At CUNY we need scholarly expertise combined with the wisdom of the best and most experienced leadership in this city to correct, redesign, and refine that which exists already. At CUNY we need giant minds and extraordinary spirits to usher and lift a good university to a new level of greatness in the 21st century. New York is the nation's indispensable city. In this indispensable city, the institution that is most clearly indispensable for a prosperous future is CUNY.

FISCAL FUTURE CHALLENGES FOR NEW YORK CITY INSTITUTIONS FOR COLLEGES AND UNIVERSITIES

Economic Development and Revenue.

Each institution should have a tourism promotion program to facilitate bringing in visitors for conferences, conventions, seminars, etc.

Each should forge linkages with "sister colleges" throughout the Nation and the world.

Each institution should have one or several in-depth cultural and language institutes and/or collections related to a nationality, ethnic, or religious group. It should declare itself a "world center" for that group.

Each institution should be related to the development of some museum or annual exhibition or festival with linkages to some recurring tourism events.

Each institution should organize and support an enhanced sports and game program in recognition of the rapidly expanding dollar value of all aspects of the sports and game industries.

Each institution should develop an organized program for promoting on-campus student entrepreneurs and industries located in the vicinity of the campus which employ students. Industries utilizing faculty knowledge and expertise should share profits with the colleges.

Each institution should have an organized and highly visible volunteer corps available to assist with city emergencies and special projects showing the taxpayers that students are an integral part of the life of the city while enhancing the compassion image of the city.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CRANE (at the request of Mr. ARMEY) for today until 12:30 p.m. on account of illness.

Ms. CARSON (at the request of Mr. GEPHARDT) for today on account of attending a family funeral.

Mr. ANDREWS (at the request of Mr. GEPHARDT) for today before 2:00 p.m. on account of attending a funeral.

Ms. STABENOW (at the request of Mr. GEPHARDT) for today on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. OBEY) to revise and extend their remarks and include extraneous material:)

Mr. EDWARDS, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

Mr. COYNE, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. MCINNIS) to revise and extend their remarks and include extraneous material:)

Mr. ISTOOK, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

Mr. DREIER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. OBEY) and to include extraneous matter:)

Mr. KIND.
Mr. HAMILTON.
Mr. STOKES.
Mr. SKELTON.
Ms. STABENOW.
Ms. DEGETTE.
Mr. MARKEY.
Mr. BERRY.
Ms. PELOSI.
Mr. EVANS.
Mr. POSHARD.
Mr. COYNE.
Mr. ROEMER.
Mr. MCDERMOTT.
Mr. SCHUMER.
Mr. SHERMAN.
Mr. WAXMAN.
Mr. LANTOS.
Ms.VELÁZQUEZ.
Mr. GEJDENSON.
Mr. BENTSEN.
Mr. FARR of California.
Mr. TORRES.
Ms. NORTON.

(The following Members (at the request of Mr. MCINNIS) and to include extraneous matter:)

Mr. SHIMKUS.
Mr. BLILEY.
Mr. RYUN.
Mr. GILMAN.
Mr. ROGAN.
Mr. NETHERCUTT.
Mr. BARRETT of Nebraska.
Mr. RADANOVICH.
Mr. CALLAHAN.
Mr. PORTMAN.
Mr. RILEY.
Mr. FRELINGHUYSEN.
Mr. RIGGS.

(The following Members (at the request of Mr. OWENS) and to include extraneous matter:)

Mr. HOYER.
Mr. RODRIGUEZ.
Mr. SAM JOHNSON of Texas.
Mr. METCALF.
Mr. BALLENGER.
Mr. PACKARD.
Mr. SKEEN.
Mr. KENNEDY of Rhode Island.
Mr. YOUNG of Florida.
Mr. ARMEY.
Mr. CLYBURN.
Mr. LAMPSON.
Ms. ESHOO.
Mrs. TAUSCHER.
Mr. FROST.
Mr. STRICKLAND.
Mr. SNOWBARGER.
Mr. ABERCROMBIE.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 6 minutes p.m.), the House adjourned until Thursday, May 21, 1998, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9197. A communication from the President of the United States, transmitting his requests for FY 1999 budget amendments for the Departments of Agriculture, Commerce, Defense, and Transportation; the Environmental Protection Agency; International Assistance Programs; the District of Columbia; and, the Postal Service, pursuant to 31 U.S.C. 1107; (H. Doc. No. 105—255); to the Committee on Appropriations and ordered to be printed.

9198. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–344, "TANF and TANF-Related Medicare Managed Care Program Temporary Amendment Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9199. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–337, "Uniform Controlled Substances Amendment Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9200. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–336, "Parking Meter Fee Moratorium Amendment Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9201. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–330, "Uniform Interstate Family Support Amendment Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9202. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-329, "Public Assistance Temporary Amendment Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9203. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-332, "District of Columbia Unemployment Compensation Federal Conformity Amendment Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9204. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-333, "Eastern Market Open Air Retailing Temporary Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9205. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-338, "Georgetown Business Improvement District Temporary Amendment Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9206. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-335, "Correctional Treatment Facility Temporary Amendment Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9207. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-340, "Residency Requirement Reinstatement Amendment Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9208. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-342, "Advisory Neighborhood Commissions Act of 1975 Financial Reporting Amendment Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9209. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-341, "Definition of Optometry Amendment Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9210. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-343, "Truth in Sentencing Amendment Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9211. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-328, "Children's Defense Fund Equitable Real Property Tax Relief Temporary Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9212. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-334, "Motor Vehicle Excessive Idling Fine Increase Temporary Amendment Act of 1998" received May 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and references to the proper calendar, as follows:

Mr. LINDER: Committee on Rules. House Resolution 442. Resolution providing for the consideration of the joint resolution (H. J. Res. 119) proposing an amendment to the Constitution of the United States to limit campaign spending, and for consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes (Rept. 105-545). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ROGERS:

H.R. 3904. A bill to amend the Immigration and Nationality Act to improve the administrative structure for carrying out the immigration laws in accordance with the recommendations of the United States Commission on Immigration Reform; to the Committee on the Judiciary.

By Mr. HYDE:

H.R. 3905. A bill to establish legal standards and procedures for the fair, prompt, inexpensive and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes; to the Committee on the Judiciary.

By Mr. BRYANT:

H.R. 3906. A bill to amend title 10, United States Code, to provide that a person sentenced by a court-martial to confinement for life may not be granted parole until the person has been confined for at least 30 years; to the Committee on National Security.

By Mr. BRYANT:

H.R. 3907. A bill to amend the Internal Revenue Code of 1986 to provide for a 95 percent income tax rate on attorneys' fees paid in connection with the settlement (as part of the tobacco settlement agreement dated June 20, 1997) of any action maintained by a State; to the Committee on Ways and Means.

By Mr. BRYANT:

H.R. 3908. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the dividends paid by tobacco companies which meet youth smoking reduction targets; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CANNON:

H.R. 3909. A bill to make technical corrections and minor adjustments to the boundaries of the Grand Staircase-Escalante National Monument in the State of Utah; to the Committee on Resources.

By Mr. DINGELL (for himself, Mr. Knollenberg, Mr. Bonior, Mr. Upton, Mr. Kildee, Mr. Ehlers, Mr. Levin, Ms. Kilpatrick, Mr. Camp, Mr. Conyers, Ms. Stabenow, Ms. Rivers, Mr. Stupak, and Mr. Barcia):

H.R. 3910. A bill to authorize the Automobile National Heritage Area; to the Committee on Resources.

By Mr. FARR of California (for himself, Mr. Gallegly, and Mr. Bilbray):

H.R. 3911. A bill to designate all unreserved and unappropriated California coastal rocks and islands currently administered by the Bureau of Land Management as a component of the National Wilderness Preservation System; to the Committee on Resources.

By Mr. Sam JOHNSON of Texas (for himself and Mr. Bonilla):

H.R. 3912. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Ways and Means.

By Mr. Sam JOHNSON of Texas:

H.R. 3913. A bill to amend the Internal Revenue Code of 1986 to clarify that natural gas gathering lines are 7-year property for purposes of depreciation; to the Committee on Ways and Means.

By Ms. KAPTUR:

H.R. 3914. A bill to amend title XVIII of the Social Security Act to continue Medicare direct graduate medical education payment rates for certain training programs in osteopathy after their operation is assumed by another hospital; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KENNEDY of Rhode Island:

H.R. 3915. A bill to adjust the immigration status of certain Liberian nationals who were provided refuge in the United States; to the Committee on the Judiciary.

By Mr. MARKEY (for himself, Mr. Royce, Mr. Payne, Mr. Campbell, Mr. Menendez, Mr. McDade, Ms. McKinney, Mr. Barrett of Nebraska, Mr. Schumer, Mr. LaTourette, Mr. McGovern, Mr. Metcalf, Mr. Stark, Ms. Rivers, Mr. Holden, and Ms. Furse):

H.R. 3916. A bill expressing the sense of the Congress regarding the need to address Nigerian advance fee fraud, and for other purposes; to the Committee on International Relations.

By Mr. MCCRERY (for himself, Mr. Watkins, Mr. Sam Johnson of Texas, Mr. Jefferson, Mr. Tauzin, Mr. Cooksey, Mr. John, Mr. Livingston, Mr. Baker, and Mr. Watts of Oklahoma):

H.R. 3917. A bill to amend the Internal Revenue Code of 1986 to change the determination of the 50,000-barrel refinery limitation on oil depletion deduction from a daily basis to an annual average daily basis; to the Committee on Ways and Means.

By Ms. MCKINNEY (for herself, Mr. Smith of New Jersey, Mrs. Lowey, Mr. Hall of Ohio, Mr. Evans, Mr. Sanders, Mr. Olver, Mr. DeFazio, Ms. Lee, Mr. Frank of Massachusetts, and Mr. Farr of California):

H.R. 3918. A bill to prohibit the transfer of lethal military equipment, helicopters, replacement structural components and ammunition for that equipment and helicopters, and other related assistance to the Government of Indonesia unless the President certifies that the Government of Indonesia has been elected in free and fair elections, does not repress civilian political expression, and has made substantial improvement in human rights conditions in Indonesia, East Timor, and Irian Jaya (West Papua); to the Committee on International Relations.

By Mr. NETHERCUTT (for himself, Mr. LIVINGSTON, Ms. DUNN, Mr. HAYWORTH, Mrs. MYRICK, Mrs. EMERSON, Mr. LATHAM, Mr. GILMAN, Mr. SAM JOHNSON of Texas , Mr. HASTERT, Mr. WICKER, Mr. HUTCHINSON, Mr. BARR of Georgia, Mr. MCCOLLUM, Mr. SOUDER, Mr. HASTINGS of Washington, Mr. METCALF, Mr. MICA, Mr. SESSIONS, and Ms. GRANGER):

H.R. 3919. A bill to direct the United States Sentencing Commission to provide penalty enhancements for drug offenses committed in the presense of children; to the Committee on the Judiciary.

By Ms. NORTON:

H.R. 3920. A bill to amend the District of Columbia Home Rule Act to eliminate Congressional review of newly-passed District laws, to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PORTMAN (for himself, Mr. HOYER, Mr. HORN, Mr. MORAN of Virginia, Mr. SESSIONS, Mr. CONDIT, Mr. DAVIS of Virginia, Mr. KUCINICH, Mr. SHAYS, Mr. MCGOVERN, Mr. TALENT, Mr. SANFORD, Ms. DELAURO, Mr. SUNUNU, Ms. KILPATRICK, and Mr. WEYGAND):

H.R. 3921. A bill to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public; to the Committee on Government Reform and Oversight.

By Mr. SKEEN:

H.R. 3922. A bill to eliminate the regional system of organizing the National Forest System and to replace the regional offices of the Forest Service with State offices; to the Committee on Agriculture.

By Mr. STRICKLAND (for himself and Mr. WHITFIELD):

H.R. 3923. A bill to authorize the Worker and Community Transition Office of the Department of Energy to manage a fund to assist workers at, and communities surrounding, the Piketon, Ohio and Paducah, Kentucky uranium enrichment plants; to the Committee on Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII,

Mr. RIGGS introduced A bill (H.R. 3924) to authorize conveyance of 2 decommissioned Coast Guard vessels to Canvasback Mission, Inc., for use for provision of medical services; which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. REYES.

H.R. 95: Mr. PAUL.

H.R. 135: Mr. LUTHER.

H.R. 165: Mrs. CAPPS.

H.R. 339: Mr. SHADEGG.

H.R. 530: Mr. HOSTETTLER, Mr. HALL of Texas, and Mr. EVANS.

H.R. 598: Mr. NORWOOD.

H.R. 678: Mr. BALDACCI, Mr. DEFAZIO, Mr. DELAHUNT, Ms. MCCARTHY of Missouri, Mr. MATSUI, and Mr. SNYDER.

H.R. 687: Mr. STARK Mr. BECERRA, and Mr. COYNE.

H.R. 693: Mr. MCCOLLUM.

H.R. 978: Mr. BARCIA.

H.R. 1037: Mr. SHAW and Mr. TANNER.

H.R. 1126: Mr. ROMERO-BARCELÓ, Mr. BARTON of Texas, Ms. DANNER, Mr. JONES, Mr. KOLBE, Mr. SPENCE, Mr. NEAL of Massachusetts, Mr. BAKER, Mr. NETHERCUTT, Mr. MCHUGH, Mr. TAYLOR of North Carolina, Mr. DIAZ-BALART, Mr. CONYERS, Mr. CUMMINGS, and Ms. SÁNCHEZ.

H.R. 1134: Mr. GILCHREST, Mr. JENKINS, Mr. KILDEE, and Ms. PRYCE of Ohio.

H.R. 1334: Mr. FAZIO of California and Mr. MANTON.

H.R. 1383: Mr. BARRETT of Wisconsin and Mr. BARCIA.

H.R. 1450: Ms. RIVERS.

H.R. 1507: Ms. LEE.

H.R. 1521: Mr. ANDREWS and Ms. SÁNCHEZ.

H.R. 1524: Mr. RAMSTAD.

H.R. 1577: Mr. BUYER.

H.R. 1628: Mr. GILCHREST, Mrs. MEEK of Florida, Mr. HAYWORTH, Mrs. ROUKEMA, and Mrs. THURMAN.

H.R. 1995: Ms. KILPATRICK, Mr. LAFALCE, Mr. WYNN, Mr. HINOJOSA, Ms. CARSON , Mr. MOLLOHAN, Ms. SLAUGHTER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TAYLOR of Mississippi, Mrs. JOHNSON of Connecticut, Mr. COYNE, Mr. NEAL of Massachusetts, Mr. MENENDEZ, and Mr. SKELTON.

H.R. 2004: Mr. SNYDER.

H.R. 2019: Mr. ENGEL.

H.R. 2023: Mr. HILLIARD, Mr. DICKS, and Ms. WATERS.

H.R. 2077: Mr. CAMPBELL and Mrs. MINK of Hawaii.

H.R. 2174: Mr. PASTOR, Mr. GILMAN, Mr. ENGEL, Mr. CUMMINGS, Mr. LAMPSON, Mr. LEACH, Mr. MORAN of Virginia, Mr. VENTO, and Mr. DICKS.

H.R. 2450: Mr. SERRANO.

H.R. 2537: Mr. NORWOOD.

H.R. 2549: Mr. BAESLER and Mr. KUCINICH.

H.R. 2568: Mrs. THURMAN.

H.R. 2579: Mr. BARRETT of Nebraska.

H.R. 2733: Mr. PORTMAN, Mr. CHABOT, Mr. WOLF, Mr. LARGENT, Mr. PASCRELL, Mr. DAVIS of Virginia, Mr. LAFALCE, Mr. VISCLOSKY, Mr. BENTSEN, Mr. GREENWOOD, Mr. MCGOVERN, and Mr. REDMOND.

H.R. 2760: Mr. MANZULLO and Mr. MCINNIS.

H.R. 2761: Mr. OWENS.

H.R. 2828: Mr. LATOURETTE.

H.R. 2869: Mr. PICKERING.

H.R. 2888: Mrs. FOWLER.

H.R. 2923: Mr. SERRANO, Mr. YOUNG of Alaska, Mr. LEACH, and Mr. MARKEY.

H.R. 2941: Mr. WELDON of Florida and Mr. BLUNT.

H.R. 2951: Mr. DICKS, Mr. BUNNING, Mr. GREENWOOD, and Mr. SERRANO.

H.R. 2990: Mr. CASTLE and Mr. FORBES.

H.R. 2995: Mr. BECERRA.

H.R. 3008: Mr. SESSIONS.

H.R. 3156: Mr. KANJORSKI, Ms. KAPTUR, Mr. LAMPSON, Ms. DUNN, and Mrs. THURMAN.

H.R. 3205: Mr. HALL of Texas, Mr. TOWNS, Mr. BAESLER, Mr. BONILLA, and Mr. HILLEARY.

H.R. 3248: Mr. PAPPAS.

H.R. 3297: Mr. HOEKSTRA.

H.R. 3320: Mr. PALLONE, Mr. REYES, Mr. DELAHUNT, Mr. MOAKLEY, Mr. KUCINICH, Mr. GUTIERREZ, Mr. FORD, Mr. SANDLIN, Mr. ENGEL, Mr. SERRANO, Mr. BLUMENAUER, and Mr. LEACH.

H.R. 3396: Mr. NORWOOD, Mr. ISTOOK, Mr. HANSEN, Mr. HOUGHTON, Mr. HASTINGS of Washington, and Mr. DELAY.

H.R. 3470: Mr. ROMERO-BARCELÓ, and Mr. HILLIARD.

H.R. 3499: Mr. HASTINGS of Florida, Mr. PAYNE, Mr. FORD, Mr. CLAY, Ms. KILPATRICK, and Mr. HILLIARD.

H.R. 3500: Mr. LEWIS of Georgia.

H.R. 3514: Mr. OWENS.

H.R. 3524: Mr. BALDACCI.

H.R. 3531: Mr. MCGOVERN, Mr. COYNE, and Mr. SERRANO.

H.R. 3566: Mr. CASTLE.

H.R. 3605: Mr. VISCLOSKY, Mr. FATTAH, Mr. MASCARA, and Mr. STOKES.

H.R. 3610: Mr. KANJORSKI, Ms. PRYCE of Ohio, Mr. LATOURETTE, Mr. PALLONE, and Mr. PORTMAN.

H.R. 3624: Mr. DEUTSCH, Mr. KILDEE, Mr. BONIOR, Mr. RAHALL, Mr. LAMPSON, Mrs. MINK of Hawaii, Mr. OLVER, and Mr. LEWIS of Georgia.

H.R. 3629: Mr. ROTHMAN and Mr. SAM JOHNSON of Texas.

H.R. 3632: Mr. LEWIS of California, Mr. SMITH of New Jersey, and Mr. LEACH.

H.R. 3652: Mr. PAYNE, Mr. WAXMAN, Mr. GREEN, Mr. OLVER, Mr. EVANS, Mr. SANDLIN, Ms. CHRISTIAN-GREEN, Mrs. CAPPS, Mr. ACKERMAN, Mr. CONYERS, Mr. CLEMENT, and Mr. STARK.

H.R. 3707: Mr. ROHRABACHER, Mr. MCCRERY, Mr. CUNNINGHAM, Mr. WATTS of Oklahoma, Mr. SPENCE, Mr. HILLEARY, Mr. ISTOOK, and Mr. HALL of Texas.

H.R. 3734: Mr. BURR of North Carolina, Mr. SCARBOROUGH, Mr. BASS, Mr. Ehrlich, and Mr. ADERHOLT.

H.R. 3744: Mr. HASTINGS of Washington.

H.R. 3749: Mr. LIPINSKI.

H.R. 3758: Mr. LEWIS of Georgia, Mr. SANDLIN, and Mrs. THURMAN.

H.R. 3767: Ms. FURSE, Mrs. THURMAN, and Mr. STUMP.

H.R. 3783: Mr. PAXON and Mrs. JOHNSON of Connecticut.

H.R. 3792: Mr. PICKETT.

H.R. 3814: Ms. FURSE, Mr. NETHERCUTT, Mr. LIPINSKI, Mr. WATKINS, Mr. FROST, Mr. LANTOS, Mr. GEJDENSON, Mr. SANDLIN, Mr. MATSUI, Mr. BENTSEN, Mr. JENKINS, and Ms. KILPATRICK.

H.R. 3815: Mr. KIND, Mr. SNYDER, Mr. BECERRA, Mr. LUTHER, Mr. GREEN, Mr. BRADY, and Mr. ADAM SMITH of Washington.

H.R. 3828: Mr. NUSSLE, Mr. WELLER, Mr. RAMSTAD, Mr. PETERSON of Pennsylvania, Mr. BUNNING, and Mr. GUTKNECHT.

H.R. 3829: Mr. HYDE.

H.R. 3858: Mr. WAMP.

H.R. 3877: Ms. STABENOW.

H.R. 3879: Mr. CLEMENT, Mr. GIBBONS, Mr. HASTINGS of Washington, and Mr. LARGENT.

H.R. 3886: Mr. TAYLOR of Mississippi, Mrs. CUBIN, Mr. HILLEARY, Mr. WATTS of Oklahoma, Mr. DOOLITTLE, Mrs. MYRICK, Mr. MCGOVERN, and Mr. CAMPBELL.

H.R. 3888: Mr PETERSON of Pennsylvania, Mr. ALLEN, Mrs. EMERSON, Mr. METCALF, Mr. LATOURETTE, Mr. ENGLISH of Pennsylvania, Mr. HUTCHINSON, Mr. SAXTON, and Mr. WHITFIELD.

H.J. Res. 100: Mr. MANTON, Mr. MILLER of California, and Mr. DOYLE.

H. Con. Res. 203: Mr. BARRETT of Wisconsin, Mr. HASTINGS of Florida, Mr. GOODE, Mr. BOYD, Mr. CLEMENT, Mr. DIXON, Mr. SHERMAN, Mr. CUMMINGS, Mr. BRADY, Mr. MEEKS of New York, Mrs. KENNELLY of Connecticut, Mr. PETERSON of Minnesota, Mr. REDMOND, Mr. LOBIONDO, and Mr. BISHOP.

H. Con. Res. 229: Mr. BAESLER, Mr. BEREUTER, Mr. GRAHAM, and Mr. SHUSTER.

H. Con. Res. 233: Mr. SNYDER.

H. Con. Res. 266: Ms. KAPTUR, Mr. PORTER, and Mr. FRANK of Massachusetts.

H. Con. Res. 267: Mr. HILLIARD and Ms. JACKSON-LEE of Texas.

H. Con. Res. 268: Mr. BROWN of Ohio.

H. Res. 37: Mr. METCALF, Mr. BOYD, Mr. BECERRA, Mrs. MINK of Hawaii, Mr. DELAHUNT, Mr. STUPAK, Mr. BARCIA , Mrs. MCCARTHY of New York, Mr. MCHALE, Mr. DOYLE, Mr. MOLLOHAN, Mr. RAHALL, and Mr. KIND .

H. Res. 418: Mr. VISCLOSKY and Ms. STABENOW.

H. Res. 438: Mr. TAYLOR of Mississippi, Mr. MCKEON, Mr. WATTS of Oklahoma, Mr. DOOLITTLE, Mrs. MYRICK, Mr. MCGOVERN, and Mr. CAMPBELL.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

OFFERED BY: MR. HORN

(To the Amendment in the Nature of a Substitute No. 8 Offered By: Mr. Hutchinson)

AMENDMENT NO. 17: Strike section 301 and insert the following:

SEC. 301. DISCLOSURE OF CERTAIN COMMUNICATIONS.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d)(1) In addition to any other information required to be reported under this Act, any person who makes payments described in paragraph (2) in an aggregate amount or value in excess of $250 during a calendar year shall report such payments and the source of the funds used to make such payments to the Commission in the same manner and under the same terms and conditions as a political committee reporting expenditures and contributions to the Commission under this section, except that if such person makes such payments in an aggregate amount or value of $1,000 or more after the 20th day, but more than 24 hours, before any election, such person shall report such information within 24 hours after such payments are made.

"(2) A payment described in this paragraph is a payment for any communication which is made during the 90-day period ending on the date of an election and which mentions a clearly identified candidate for election for Federal office or the political party of such a candidate, or which contains the likeness of such a candidate, other than a payment which would be described in clause (i), (iii), or (v) of section 301(9)(B) if the payment were an expenditure under such section.".

H.R. 3150

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 1: Page 137, after line 23, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 444. REPORT ON IMPACT ON EMPLOYMENT.

Not later than February 1, 2000, and annually thereafter, the Administrative Office of the United States Courts shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report describing the specific impact that the amendments made by this Act have on employment in the United States.

EXTENSION OF REMARKS

INTRODUCTION OF THE 1998 U.S. FOREST SERVICE ORGANIZATION REFORM LEGISLATION

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SKEEN. Mr. Speaker, I rise today to introduce legislation that is long overdue and desperately needed. My legislation, the 1998 U.S. Forest Service Organization Reform bill is simple legislation. Under this proposal the current Regional Offices of the U.S. Forest Service (USFS) would be eliminated. In the terms of organization structure they would be replaced by state USFS offices. Each state would have a state director, just as several other agencies within the U.S. Department of Agriculture operate. The Bureau of Land Management (BLM), in the Department of the Interior also is organized in this manner.

Authority would be granted for the establishment of up to six technical support centers as well as allowing the USFS to have multi-state directors where the Federal presence is minor. The Forest Service office for a state would be responsible for the administration of National Forest System lands within the state.

I have come to the conclusion that I can no longer wait for the USFS to do the right thing. I can no longer wait for them to solve their management problems. I can no longer wait to see our Forests suffer from neglect, mismanagement and misuse. This administration's record on addressing the major issues facing our Forest on these issues is dismal. Reinventing government in the USFS today means that nobody is in charge. It means forest plans that nobody can understand. It means lawsuits and court decisions that destroy people's livelihoods and damages their families irreparably.

USFS state offices will be the first step in bringing accountability into this agency of government. This office will be closer to the people in the state. The Director will interface directly and often with state officials, local government and concerned citizens. The Director will be accountable for what happens in the forest of the respective states. No longer would the USFS be able to hide in their regional offices. No longer would they be able to ignore problems in the respective states. The BLM manages more land than the USFS. The BLM planning program has been a model of unbridled success when compared to the disastrous Forest Service process. Part of the reason for this success is having a more responsive State office.

I would add at this point I have met numerous excellent USFS employees and I have been continually puzzled as to why these good people cannot make this agency work? Why, year after year, do we have study after study that talks abut the mismanagement? I have finally decided that it is the structure of the USFS that is smothering the abilities of the individual employees and stopping them from solving the problems on our Forest Service lands. Today, we have "teams" and "team leaders" in government but not supervisors. Let me repeat, we have teams and team leaders, but not supervisors. Our forests deserve attention not unsupervised teams. We need people who will be responsive to the needs of our natural heritage—not to the faceless bureaucracy that currently exists. in the Forest Service.

There is no doubt that the USFS will say the cost of implementing this legislation is too expensive. It will not be too expensive or more expensive. Not if they do it right. They need to stop trying to protect their sacred regional office turf. If USDA agencies can do it and BLM can do it, then so can the USFS.

THE 50TH ANNIVERSARY OF THE GREYSTONE PARK ASSOCIATION GREYSTONE PARK, NJ

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to commemorate the 50th anniversary of the Greystone Park Association. Founded in 1948, the Greystone Park Association is an auxiliary to the Greystone Park Psychiatric Hospital. The association was formed to augment the services provided by the state and is dedicated to working for the welfare of the patients.

The Greystone Park Association was founded through the efforts of Mrs. Eads Johnson of Morristown, New Jersey. The main focus of the organization was to interest the public in the needs of mental hospitals, particularly Greystone Park Psychiatric Hospital and to interest people in volunteering for service either in the hospital proper or in the association.

Since its establishment in 1948, the association has been dedicated to serving the needs of patients at Greystone Park Psychiatric Hospital. The Greystone Park Association is directly affiliated with the State Hospital. The association's membership is drawn from Morris, Passaic, Hudson and Bergen counties, which the hospital serves.

Many people have benefited from the 50 years of tireless work of the members of the Greystone Park Association. The members continue to operate shops containing clothing, jewelry, antique treasures, etc. two days a week on a year round basis. Also, they hold an Annual Fall Festival, which is the most ambitious fund-raising project and reflects the combined efforts of the hospital, community and the Greystone Park Association.

The Greystone Park Association provides admission packets, clothing, good grooming items, games and books to patients throughout the year, and each patient receives a personal gift during the Holiday season. The Greystone Park Association is committed to improving the quality of life of the patients at the Greystone Park Psychiatric Hospital.

Mr. Speaker, my fellow colleagues, please join me in congratulating the Greystone Park Association for providing 50 years of important service to the community at Greystone Park Psychiatric Hospital.

NATIONAL POLICE WEEK

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. NETHERCUTT. Mr. Speaker, I rise today in honor of National Police Week to recognize the service of all the law enforcement officers in the 5th Congressional District of Washington who have answered the call to public service.

Society places large responsibilities on our law enforcement officers and they perform tasks well beyond the call of duty. They are often the first contact individuals have with government. They should be commended for the great wisdom and compassion they show when assisting individuals during times of great personal sorrow.

By nature of their profession, law enforcement officers encounter individuals every day who reject every moral and ethical code of conduct. In some cases, police risk their lives, emotional well-being and future happiness to ensure that our laws our enforced. They should be commended for their samaritan service.

Mr. Speaker, law enforcement is not a profession for everyone, but it is a worthwhile calling. I encourage my colleagues and all Americans to take some time this week to thank a law enforcement officer in their community for all the hard work and dedication they give us all.

MICHAEL J. BURKE: BOYS HOPE/GIRLS HOPE HEART OF GOLD AWARD RECIPIENT

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. PORTMAN. Mr. Speaker, I rise to recognize the contributions of Michael J. Burke, a constituent and community leader who will receive Cincinnati's Boys Hope/Girls Hope's highest honor, the Heart of Gold Award, on May 26, 1998.

Mike Burke's personal commitment to numerous charities in our region reflects his philosophy of giving back to our community. For

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

over 10 years, Boys Hope/Girls Hope has been blessed by Mike's tireless energy, talent and dedication. Boys Hope provides talented, underprivileged grade and high school children and young men with a safe, wholesome living environment from which they can pursue their studies and prepare for college. The goal of Boys Hope/Girls Hope is to overcome the obstacles of poverty, abuse and neglect and provide a structured, caring educational experience for students through high school and college.

Through Mike's leadership, Boys Hope is concluding a successful effort to bring Girls Hope to Cincinnati. Girls Hope will permit the expansion of services to include young women in Greater Cincinnati.

Mike's vision has provided so many young people in our area with an exceptional opportunity to succeed. All of us in Greater Cincinnati owe Mike a debt of gratitude and congratulate him on receiving the Heart of Gold Award.

RECOGNIZING THE GOVERNOR'S SCHOOL FOR GOVERNMENT AND INTERNATIONAL STUDIES

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. BLILEY. Mr. Speaker, I rise today to commend the outstanding performance of the Governor's School for Government and International Studies in Richmond, Virginia in the "We the People * * * the Citizen and the Constitution" national finals held in Washington, DC, over May 2–4.

After beating other school teams on the State level, these talented, hard-working students went on to compete against 49 other classes from across the nation. The performance demonstrated their remarkable understanding of the fundamental ideals and values embodied in the Constitution and the United States government.

I commend students Anne Carpenter, Tiffanie Chan, Amy Depcrynski, Beky Dohogne, Chris Farrell, Melanie Forbes, Shannon Goodwyn, Jennifer Gunter, Lauren Hamilton, Mason Hedgecoth, Zoe Heiberger, Serena Homes, Chris Kessler, Mat Reynolds, Takeisa Rowlett, Derick Russell, Sada Smith, Anne Sommers, Amol Tripathi, Mei Hwa Yeh and their teacher Philip Sorrentino on this achievement.

TRIBUTE TO SERGEANT HARVEY TOMLINSON

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Sergeant Harvey Tomlinson for providing 30 years of meritious law enforcement service to the community. Sergeant Harvey Tomlinson is retiring May 27, 1998. Sergeant Tomlinson has saved 15 lives in his career and is respectfully deserving of this honor.

Sergeant Tomlinson started his career by volunteering for the Mariposa County Sheriff's Posse in 1968. He was hired as a deputy by Mariposa County in 1969 and later attained the position of undersheriff before leaving the department in 1975. He then joined the Madera County Sheriff's Department where he became promoted to sergeant in 1981. Sergeant Tomlinson served as the coordinator for both the Search & Rescue and the Posse, and has served in these departments up until his retirement.

During his career, Mr. Tomlinson worked in the Madera County Jail, served as a patrolman, served as a detective, served as a detective sergeant, and for all but two summers, was in charge of boating operations on Bass Lake.

The highlights of his career are his Search & Rescue accomplishments. He directed and executed over 500 missions, directly saving 15 lives by his actions. Additionally, he has located and helped more than 900 people who have been lost or injured.

Mr. Speaker, it is with great honor that I pay tribute to Sergeant Harvey Tomlinson. Sergeant Tomlinson's accomplishments in law enforcement and devotion to saving lives should serve as a model for anyone interested in a career in law enforcement. I ask my colleagues to join me in wishing Sergeant Harvey Tomlinson continued success with any future endeavors.

GREENFIELD ELEMENTARY SCHOOL HONORED BY DEPARTMENT OF EDUCATION

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. COYNE. Mr. Speaker, I rise to commend the students, faculty, and administration of Greenfield Elementary School, whose outstanding performance was recently honored by the Department of Education and the National Association of State Coordinators of Compensatory Education. Greenfield Elementary is one of only 109 schools nationwide to be recognized by the Title I Recognition Program. The Title I Recognition Program honors schools that have set and reached high student achievement goals, fostered professional development, and built partnerships with parents and the community.

Greenfield Elementary School is a great example of what our public schools can accomplish with a lot of effort and some additional resources. Eighty percent of Greenfield's students are eligible for free or reduced price lunches. Their ethnically diverse student body is 65% African-American and 20% foreign-born. 95% of the students are bused to school. Title I has allowed the school to reduce its first-grade class size to 18 students and provide instructional assistants to all grade levels. The people there believe this lower adult-to-child ration, which increases the interactions children have with caring and sensitive adults, is critical to creating a productive learning environment.

The results at Greenfield are impressive. The children are in school 91% of the time. They are ranked among the top five schools in the district in communications and mathematics. They have used the diversity of their student body as a teaching resource, which allows students to learn about other countries, places, and customs.

I applaud Greenfield Elementary School for its accomplishments. I know their success is a result of a great deal of hard work by teachers, students, administrators, parents, and the Pittsburgh community.

TRIBUTE TO GENE CAPLINGER, RALPH CARTER, BOBBY G. MILLS AND RAYBURN SMITH

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. BERRY. Mr. Speaker, I rise today to honor four great Americans.

Gene Caplinger, Ralph Carter, Bobby G. Mills and Rayburn Smith are veterans of World War II and have been members of the American Legion post in Harrisburg, Arkansas, for 50 years.

As members of the American Legion, these men have been tremendous supporters of the community. The contributions they have made to future generations are immeasurable. Arkansas Boys State, the American Legion baseball program, and countless scholarship funds have flourished in Harrisburg due to the leadership of these four individuals.

Our nation is fortunate to have been represented in times of trial by men of character like Gene Caplinger, Ralph Carter, Bobby G. Mills, and Rayburn Smith. When their tours of duty ended, these men chose to return home and serve their hometown as they had served their country. Mr. Speaker, the people of Harrisburg could have asked for nothing more.

A TRIBUTE TO LT. COL. MARK A. SCHOENROCK

HON. BILL BARRETT

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. BARRETT of Nebraska. Mr. Speaker, Lt. Colonel Mark A. Schoenrock of Fairbury, Nebraska, completes 20 years of service in the United States Army this month. After being posted in Washington, DC, for the past 7 years, Lt. Col. Schoenrock and his family will be moving on next month to new challenges in Denver, Colorado, where Lt. Col. Schoenrock has received a new posting as the Inspector General of the Colorado National Guard. Having gotten to know Lt. Col. Schoenrock in his capacity as a legislative liaison with the Army, let me share with you some of Lt. Col. Schoenrock's career milestones.

He was commissioned an officer in the United States Army on May 13, 1978, in Lincoln, Nebraska, upon graduation from the University of Nebraska-Lincoln (UN–L) and the

Army Reserve Officers Training Corps (ROTC). He was a 4-year Army ROTC scholarship winner, graduated from UN–L with distinction, and was a Distinguished Military Graduate. He completed the Quartermaster Officer Basic Course at Fort Lee, Virginia, with honors and was assigned as an Assistant Brigade Logistics Officer, Platoon Leader, and Battalion Logistics Officer with the 25th Infantry Division (Tropic Lightning) at Schofield Barracks, Hawaii. While assigned to the Tropic Lightning Division, Lt. Col. Schoenrock deployed three times to the Republic of Korea. Following his three years in Hawaii, Lt. Col. Schoenrock completed the Quartermaster Officer Advanced Course at Fort Lee, Virginia, again graduating with honors. He was selected as the Outstanding Logistician for the course. He was subsequently assigned to Fort Riley, Kansas, and the First Infantry Division (Big Red One) where he served as a Company Commander and Maneuver Brigade Logistics Officer. In this agreement, he deployed twice to the Federal Republic of Germany. He was responsible for the entire logistical support of 2,500 soldiers for eight weeks and their safe and efficient transport from Kansas to Germany and back.

Upon the completion of his 4-year tour at Fort Riley, Lt. Col. Schoenrock was selected to represent the Army in the highly competitive Training With Industry (TWI) program. He served as the Army's first representative with the General Motors Corporation, Allison Gas Turbines Division. He played an instrumental role in the development of the T–800 engine, which is now the engine in the Army's Comanche helicopter.

Following TWI, Lt. Col. Schoenrock served as a Contracting Officer and Contracting Section Chief in St. Louis, Missouri, responsible for the development and acquisition of petroleum and water logistics. He was responsible for the acquisition of many end items that served our soldiers so well during Operation Desert Storm and that were vital to our ultimate victory in the deserts of southwest Asia. He then was selected to attend the Army Command and General Staff College (CGSC) at Fort Leavenworth, Kansas.

Following CGSC graduation, Lt. Col. Schoenrock was selected to be the principal acquisition advisor to the Inspector General of the Army in Washington. In this role, he advised and assisted the Inspector General with some of the Army's most sensitive acquisition programs and other matters. He then was selected to serve as an executive officer in the Office of the Assistant Secretary of the Army (Research, Development and Acquisition). He served as a key facilitator in preparing the Army leadership for senior level Secretary of Defense and Congressional reviews for programs that were valued in excess of $30 billion.

He then was selected to serve as an Army liaison officer with Congress. Lt. Col. Schoenrock has worked directly with the Army leadership and with Members of Congress and their staffs in resolving matter of the utmost sensitivity and urgency.

Through the programs he has worked these past seven years in our nation's capital, Lt. Col. Schoenrock has made a difference in the lives of thousands of people. He has worked to ensure programs totaling billions of dollars are wisely and prudently executed to provide maximum benefit to the Army and to the communities that are so clearly related to the Army.

Lt. Col. Schoenrock was recently selected as the next Inspector General for the State of Colorado's National Guard. In this position, he will advise and assist the State Adjutant General and Governor regarding military matters within their area of responsibility, I'm confident Lt. Col. Schoenrock will do his utmost to continue his outstanding record of achievement and service to our nation in this new duties.

Mr. Speaker, as a career Army officer, as a husband and father, and dedicated churchman, I wish Mark Schoenrock well as he and his family depart Washington for Colorado.

TRIBUTE TO DR. WILLIAM LLOYD BIRCH

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Dr. William Lloyd Birch of the Sixth Congressional District of South Carolina. Dr. Birch has taught at Francis Marion University in Florence, South Carolina, since he moved to the Palmetto State in 1971. It is on the occasion of his retirement that I pay tribute to his 27 years of tireless involvement in the community surrounding the Pee Dee area of South Carolina.

A native of Louisville, Kentucky, Dr. Birch received his B.A. at Georgetown College in Georgetown, Kentucky. He received a Th.B. from Southern Baptist Theological Seminary in 1955. From 1949–1960 Dr. Birch conducted summer youth revivals throughout the state for the Kentucky Baptist Convention. He was a Mission Pastor and served as Interim Pastor for First Baptist Church in Prestonsburg, Kentucky. From there, he was pastor at Shakertown Baptist in Harrodsburg, Visalia Baptist in Covington, Wildwood Baptist in Ashland, and Chevy Chase Baptist in Lexington. He served on the Board of Directors for The Western Recorder, the Kentucky Baptist state paper, and was an Executive Board Member of the Kentucky Baptist Convention from 1964–1967. He was also on the Board of Directors of the Christian Life Committee.

In 1969, Dr. Birch received an M.A. in Sociology from the University of Kentucky. He received his Ph.D. in 1971. Dr. Birch began his distinguished teaching career at Georgetown College in Georgetown, Kentucky as a part-time instructor and then Assistant Professor.

Dr. Birch moved to the Sixth Congressional District of South Carolina in 1971 and began as an Associate Professor of Sociology at FMU. In 1972, he established the Sociology major and Department of Sociology. He served as Chairman of the department for 23 years. From his leadership during the founding of the Sociology department, the Sociology major was the third most popular major on campus for many years. Through 1994, it remained in the top 5 largest majors of bachelor level graduates. Since the University opened, 35% of all graduates have taken Dr. Birch's Courtship and Marriage course, a course not required by any major. During his stint at FMU, Dr. Birch has also made professional presentations and published articles or book reviews a total of 45 times. In addition, he has made an average of one presentation per month during his tenure to workshops, civic clubs, hospitals, hospices and Family Life Conferences for a total of 297 presentations.

Dr. Birch has received numerous awards during his tenure at FMU. He was awarded the Distinguished Professor Award in 1977–1978 and held the Joan and Garry Gladstone Chair in Sociology since 1989. He is also a member of the Alpha Kappa Delta Honorary Society and the Pi Gamma Mu Honorary Society. Among his professional affiliations are the American Sociological Association, Southern Sociological Society, Association for the Sociology of Religion, and the Society for the Scientific Study of Religion. He was a charter member and served as Vice President of the South Carolina Sociological Society and is a Legacy Council member of the National Council on Family Relations. He also served on the Board of Directors and was Chairman of the Legislative Action Committee of the Southeastern Council on Family Relations. He was President and served on the Executive Committee of the South Carolina Council on Family Relations, is a Clinical Member of the American Association of Marriage and Family Therapy, and served as Vice President of the South Carolina Association Marriage and Family Therapy.

Aside from his professional organizations related to Sociology, Dr. Birch is a licensed Marriage and Family Therapist. He remains in private practice at Family Therapy Associates in Florence where he has practiced since 1974. Dr. Birch has been a therapist at the Pastoral Counseling Service in Florence, a Consultant to the S.C. Department of Youth Services, and a Consultant on Human Sexuality for the National Council of Churches Task Force on Developmental Disabilities. He has also served as a member of the Ethics Committee of McLeod Regional Medical Center.

Dr. Birch's first professional appointment came from Governor West in 1973. He was appointed to the S.C. Council for the Developmentally Disabled and served as the Chairman of the Committee on Deinstitutionalization and Institutionalization Reform. He also co-authored South Carolina's first plan for deinstitutionalization. Governor Campbell next appointed Dr. Birch to the S.C. Board of Examiners for Licensure of Professional Counselors, Associate Counselors, and Marital and Family Therapists. He was re-appointed to the S.C. Board by Governor Beasley and will serve as Vice President through 2001. He is also Chairman of the Marriage and Family Therapy Standards Committee that reviews the credentials of all applicants seeking licensing as marriage and family therapist in South Carolina. Dr. Birch has also been a recent S.C. delegate to the Annual Meeting of the Association of Marital and Family Therapy Regulatory Boards.

Although he is retiring from FMU, Dr. Birch will continue to impact the lives of many of my constituents through his service as interim pastor at South Carolina's Southern Baptist

Churches. During the past 27 years, he has served as interim pastor 31 times, delivered 2,275 sermons. For seven of 27 years, he has filled a pulpit every Sunday. Dr. Birch has also conducted over 100 Family Life Conferences for Baptist, Methodist, Presbyterian, Episcopal and Catholic churches.

Throughout his 27 years in South Carolina, Dr. Birch has served, and continues to serve, his State and community tirelessly. Mr. Speaker, I ask that you join me in extending best wishes to him for a fulfilling retirement.

COMMEMORATING THE 125TH ANNIVERSARY OF LEVI'S JEANS

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Ms. PELOSI. Mr. Speaker, I would like to ask members of the House of Representatives to join me in celebrating the 125th Anniversary of an American legend: blue jeans. Or more specifically, Levi's jeans.

On this day, the 20th of May, 1873, a California businessman named Levi Strauss patented the process of putting rivets in blue denim pants for greater strength. He did so with the help of his business partner, Jacob Davis, a tailor from Nevada. From that moment on, Levi's jeans have been a part of daily life in America and around the world.

Initially, the jeans gained popularity for their superior quality and durability, but the invention was destined to become an international phenomenon because of what they came to represent: the spirit of personal freedom and originality.

For more than a century, Levi's jeans have been part of the cultural experience in the United States and overseas. From frontier independence to the fall of the Berlin Wall; from Woodstock to the White House; from the assembly line to casual Friday, blue jeans have been the uniform of individuality allowing the wearer to express his or her essential self.

It's remarkable to think that what was conceived as a garment for California gold miners has evolved into a global icon for independence. But then again, good ideas have a way of making themselves well-known to everyone. The familiarity we all share with blue jeans is proof of that.

On this, the 125th anniversary of the invention of Levi's, please join me in acknowledging the spirit of freedom and limitless possibilities that they symbolize.

H.R. 1872—SATELLITE REFORM LEGISLATION

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. BLILEY. Mr. Speaker, two weeks ago the House overwhelmingly approved legislation to procompetitively privatize the intergovernmental satellite organizations—INTELSAT and Inmarsat—that dominate international satellite communications today. This legislation, H.R. 1872, garnered near unanimous support of the House, which demonstrates the bipartisan commitment of this body to enact this form of satellite reform legislation this Congress.

During the debate on the bill, there was considerable discussion on whether the bill could be ruled a "taking" of COMSAT's property. The House soundly rejected this notion. Absent from that debate, however, was an important commentary done by Mr. George L. Priest, former member of President Reagan's Commission on Privatization and now the Olin Professor of Law and Economics at Yale Law School. Mr. Priest conducted an analysis of the takings issue regarding H.R. 1872 which he reflected in a lengthy monograph. This monograph was circulated to Members prior to the debate on the bill and a similar version has been subsequently published in the May 11, 1998, issue of Space News in an article entitled "Breaking Comsat's Hold." In summary, Mr. Priest concluded that COMSAT's takings argument "will not hold legal water."

I think the House would benefit from Mr. Priest's viewpoint on this important matter and I ask that it, along with a letter from the Washington Legal Foundation and a letter from United States Trade Representative Ambassador Charlene Barshefsky relating to a World Trade Organization issue discussed in the debate, be included in the Congressional Record at this point.

[From Space News, May 11, 1998]

BREAKING COMSAT'S HOLD

(By George L. Priest)

In recent weeks, several commentators including Comsat and supporters such as Nancie G. Marzulla in an op-ed piece entitled "Deregulation or Plain Old Theft," Washington Times, April 27, have argued that legislation introducing competition in the international telecommunications satellite industry constitutes a taking under the U.S. Constitution's 5th Amendment, which would require the government to compensate Comsat for all its losses if Congress has the nerve to pass the bill.

In principle, I applaud the defense of private property rights against government intrusion. But Comsat and Ms. Marzulla mistake protection of property rights with the protection of monopoly and confuse the defense of investor expectations with the deregulation of a telecommunications monopoly to expand services and enhance consumer welfare.

Comsat was created by the Satellite Act of 1962, which, like much activist legislation of that era, derived from the view that government-controlled investment buttressed by heavy regulation was superior to private-market initiative in developing industries. Indeed, the Satellite Act took this thinking to the next level: If heavy regulation by the U.S. government was needed for U.S. satellite investment, then heavier, worldwide intergovernmental regulation was needed for international satellite investment.

Thus, the Satellite Act tackled the problem of "too few satellite communications facilities" by establishing Comsat as the U.S. participant in an international satellite venture known as Intelsat.

Intelsat, in turn, is owned mostly by government-owned or protected telephone monopolies. In essence, Intelsat controls satellite facilities that possess dominant positions over much of the world to which Comsat has exclusive—which is to say, monopoly—access in the United States.

Comsat and Intelsat, in fact, are among the last vestiges of exclusive governmental monopolies, at least in the United States. They have retained their near-monopoly position despite the general deregulation of industry that began in the late 1970s and 1980s in the United States, not to mention the vast privatization of government enterprise proceeding worldwide.

Intelsat operates the world's largest satellite fleet, comprising 24 satellites in prime geostationary orbital locations. Moreover, Intelsat and Comsat enjoy a host of competitive advantages because of their intergovernmental or quasi-governmental status.

Intelsat is completely immune from U.S. antitrust laws. It has preferential access to new orbital locations, and is exempt from myriad U.S. Federal Communications Commission regulatory requirements that apply to private satellite competitors.

In addition, Intelsat and Comsat have competitive advantages by virtue of Intelsat's ownership structure. Intelsat's owners have a financial stake in denying overseas access to competitors. Each use of a private, international satellite to access a foreign country reduces the financial dividend from satellite services that would otherwise flow to that country's Intelsat signatory. Private U.S. satellite companies, as a consequence, continue to be shut out of many foreign markets.

Within the last decade and a half, most American consumers have received direct and dramatic benefits from the breakup of the AT&T monopoly, a breakup which gave rise to an extraordinary flowering of new telecommunications services. Unleashing competition in the international telecommunications satellite industry holds similar promise.

The neglect of satellite competition, however, appears to have ended. The U.S. House of Representatives May 6 passed legislation sponsored by Rep. Thomas J. Bliley (R-Va), chairman of the House Commerce Committee and Rep. Edward J. Markey (D-Mass.), ranking minority member of the committee, that would require Comsat to compete in the satellite market stripped of its government-conferred privileges and immunities.

Comsat has battled these efforts, claiming that the legislation constitutes a breach of the 1962 Satellite Act contract, an unfair disappointment of reasonable investor expectations and, most dramatically, a compensable taking under the 5th Amendment. In rhetoric, these appear to be good conservative positions: All conservatives believe in protecting investor expectations and compensating victims of breach of contract or of governmental takings. These principles, however, are horribly misapplied with respect to Comsat and Intelsat.

Every monopoly in history has complained about damage from competition.

Indeed, Comsat's complaints could be taken verbatim from the 1602 Case of Monopolies in which the person to whom Queen Elizabeth had granted a monopoly over the sale of playing cards protested when the English Parliament introduced competition.

Standard Oil back in 1911 complained about impairment of contracts and disappointment of expectations when the Justice Department sought to break it up. The courts in 1602 and in 1911 rejected those arguments, establishing and encouraging the competitive economy we enjoy today.

It is not conservative policy to protect the property rights of a monopolist. From Adam Smith to the Chicago School more recently, true conservatives know the benefits of the maximum competitive order, compelling the break-up of monopolies or cartels to engender the most vigorous competition possible.

The Bliley-Markey legislation may not go far enough in this regard.

Although the legislation appropriately encourages the break-up of Intelsat, it does not specify the number of competing entities to result (three or four are a minimum to establish long-term competition), and the deadline it sets for the break-up—January 2002—is unnecessarily protracted.

Once agreement is reached, Intelsat could be broken up within short months, unleashing competitive energies immediately. Nevertheless, the bill's reduction of Comsat's governmental privileges and the opening-up of potential entry are surely important first steps.

The notion that this legislation violates the 5th Amendment will not hold legal water. The 1962 Satellite Act contains a provision that reserves the right of Congress to repeal, alter or amend the act. Even without this provision, this case is far different from the recent decision—loudly invoked by Comsat—in which the Supreme Court held that various savings and loan associations could sue the government for breach of contract when Congress enacted the Federal Institutions Reform, Recovery, Enforcement Act of 1989.

In the savings and loan cases, in order to induce a solvent savings and loan to take over one that had failed, the Federal Home Loan Bank Board promised a favorable accounting treatment that made the acquisition profitable. Congress later renounced the accounting treatment. The Supreme Court held that, in the earlier contract, the government had expressly assumed the risk of the regulatory change that Congress subsequently enacted.

There is no parallel with respect to international satellites. One cannot construe the 1962 Satellite Act as a governmental assumption of all risks of subsequent regulatory changes with regard to international satellites. This is particularly obvious when Congress incorporates into a law as it did in the Satellite Act a provision reserving the right to repeal, alter or amend the law.

It is an interesting but unanswerable historical question whether the international telecommunications satellite industry would be more advanced and developed today if Congress had kept out of the business in 1962 and allowed the private market to develop on its own. I believe it would, though that is largely beside the point now.

The conservative (as well as liberal) agenda here, as in all other areas of economic life, is for the U.S. government and governments around the world to reduce their regulatory role, especially where that role is to protect an entrenched monopoly.

Congress must withdraw the deadening hand of the 1962 Satellite Act and introduces maximum competition in the international telecommunications satellite industry to the benefit of all consumers.

WASHINGTON LEGAL FOUNDATION,
Washington, DC, May 5, 1998.

Hon. TOM BLILEY,
Chairman, Committee on Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BLILEY: This is in response to your letter requesting a clarification of WLF's views regarding the "Communications Satellite Competition and Privatization Act" in light of concerns that WLF's views have been mischaracterized.

I want to make it very clear that the Washington Legal Foundation does not in any way oppose your bill or in any manner support amendments to your bill.

WLF does not engage or participate in any lobbying activity whatsoever. In fact, some members of WLF's own Advisory Boards disagree with WLF's legal analysis of the Takings Clause in connection with this legislation.

Unfortunately, when we sent our analysis to the Members who requested it, we did not anticipate that it would be used as the basis for any legislative tactics or strategy which would oppose your satellite reform bill. We take no legislative position whatsoever.

We are grateful for your leadership on free enterprise issues and appreciate the opportunity to clarify this matter with you.

Sincerely,

DANIEL J. POPEO,
General Counsel.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE,
Washington, DC, February 12, 1997.

Mr. FREDERICK A. LANDMAN,
President and Chief Executive Officer, PanAmSat Corporation, Greenwich CT.

DEAR MR. LANDMAN: I am writing in reply to a letter of January 31, 1997, from your legal counsel, regarding the negotiations on basic telecommunications services at the World Trade Organization. The U.S. goal in these negotiations is to strengthen the ability of the U.S. satellite services industry to compete globally, and on a level playing field, with the inter-governmental satellite services organizations and with satellite service providers of other countries.

The United States has taken a number of steps to make certain that our key trade partners provide market access for satellite-based delivery of basic telecom services. Based on a note issued by the chairman of the negotiations in November, 1996, which has become part of the formal record of the proceedings, we have clarified the scheduling approach with regard to satellites. As a result, close to forty countries have made offers that would provide full market access for satellite-based delivery of all scheduled services, on an immediate or phased-in basis.

WTO members that make specific commitments on satellites will be subject to allocating and assigning frequencies in accordance with the principles of most-favored-nation and national treatment, as well as in accordance with the requirement for domestic regulations in the General Agreement on Trade in Services. Almost all of the countries making full satellite commitments have also adopted the reference paper on pro-competitive regulatory commitments. As a result, they will be obligated to provide additional regulatory safeguards with respect to allocation and use of radio frequencies.

A successful agreement on basic telecom services would also obligate those countries which have not made satellite commitments to provide treatment no less favorable to satellite service providers of the United States than the treatment provided to service suppliers of other countries. This would apply, for example, to how WTO members reach decisions regarding new market access arrangements involving service suppliers of other countries.

I share your deep concern regarding the possible distortive impact on competition in the U.S. satellite services market of certain proposals for restructuring INTELSAT. The United States has proposed a restructuring of INTELSAT that would lead to the creation of an independent commercial affiliate, INTELSAT New Corporation (INC). If made independent, the United States believes that the creation of INC will enhance competition and help ensure the continuation States believes that the creation of INC will enhance competition and help ensure the continuation of INTELSAT's mission of global connectivity for core services. As you are aware, however, many INTELSAT members are resisting the idea of independence for INC and we believe that a failure to achieve independence could adversely affect competition in the U.S. satellite services market. In the WTO negotiations we have taken pains to preserve our ability to protect competition in the U.S. market.

Our legal conclusion, for which there is a consensus among participants in the WTO negotiations, is that the ISOs do not derive any benefits from a GBT agreement because of their status as treaty-based organizations. The status of ISOs was discussed in detail in the GBT multilateral sessions. No delegation in the GBT negotiations has contested this conclusion.

We have also concluded that the United States cannot be forced to grant a license to a privatized ISO (should the ISO change its treaty status and incorporate in a country) or to a future privatized affiliate, subsidiary or other form of spin-off from the ISO. Existing U.S. communications and antitrust law, regulation, policy and practice will continue to apply to license applicants if a GBT deal goes into effect. Both Department of Justice and FCC precedent evidence long-standing concerns about competition in the U.S. market and actions to protect that competition. We have made it clear to all our negotiating partners in the WTO that the United States will not grant market access to a future privatized affiliate, subsidiary or other form of spin-off from the ISOs, that would likely lead to anti-competitive results.

It has always been U.S. practice to defend vigorously any challenge in the WTO to allegations that U.S. measures are inconsistent with our WTO obligations. There is no question that we would do the same for any FCC decision to deny or condition a license to access an ISO or a future privatized affiliate, subsidiary or other form of spin-off from the ISO. For your information, Section 102(c) of the Uruguay Round Agreements Act, specifically denies a private right of action in U.S. courts on the basis of a WTO agreement. Therefore, a FCC decision is not subject to judicial review in U.S. courts based upon a WTO agreement, such as the General Agreement on Trade in Services.

The United States is confident that it would win if a U.S. decision went to WTO dispute settlement. If the United States did not prevail, however, we would not allow trade retaliation measures to deter us from protecting the integrity of U.S. competition policy.

I appreciate the support your firms' representatives have expressed for our objectives in the WTO negotiations.

Sincerely,

CHARLENE BARSHEFSKY,
United States Trade Representative—Designate.

CONGRATULATIONS TO THE WINNERS OF THE EXCELLENCE IN BUSINESS AWARDS

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Kuckenbecker Tractor of Madera, Boys and Girls Clubs of Fresno County, Bank of the Sierra of Porterville, Community Health System of Fresno, Duncan Enterprises of Fresno, Valley Public Television of Fresno, Denham Personnel Services of Fresno, Sherwood Lehman Massucco, Inc., Pearson Reality of Fresno, Gottschalks Inc. of Fresno, and Hall of Fame winner, Marilyn Hamilton of Fresno for being honored by the Fresno Bee with the Excellence in Business Award.

For the third year now, The Fresno Bee is recognizing some of the most respected names in business in the San Joaquin Valley. The businesses selected were chosen because of setting trends and serving customers unlike any other business. The winners were also recognized for success, growth, and setting high ethical and community standards. The judges for this event include Fresno Business people, a retired school principle, a member of the Kings County Board of Supervisors and other selected community leaders.

Kuckenbecker Tractor of Madera is a family owned business that started in 1945. Richard Kuckenbecker took the small company that employed six people in Madera in 1961 and expanded it into a two-store operation in both Fresno and Madera that employs 40 people and generates $8 million in revenue.

The Boys and Girls Clubs of Fresno County is a charitable organization that has a staff and volunteers who work with thousands of children each year. The organization is instrumental in providing educational, social and cultural reinforcement for children.

In 1977, Bank of the Sierra, Porterville was started with a single branch in Porterville by 17 Tulare County residents. It hosted 11 employees and garnered $1.5 million in assets. Today, it has grown into the largest Valley-based bank with nearly $387 million in assets and more than 230 employees with nine branches and eight specialty credit centers.

Community Health Systems of Fresno is a $400 million-a-year organization that employs more than 4,700 people and has a medical staff of more than 1,100 physicians. Its chief executive officer is Dr. J. Philip Hinton.

Duncan Enterprises of Fresno makes paint and other items for hobbyists. The company expects a 37 percent growth in sales this fiscal year. Duncan Enterprises has been a fixture in Fresno for many years. The company brought the assets of a Massachusetts company and planned to move its operations to Fresno over six months. It worked with the production employees of the company to allow them to stay employed during the phase-out of the operation, while also coordinating training for them in resume writing and interviewing skills.

Valley Public Television of Fresno has operated the San Joaquin Valley's only public television station from its Fresno studios since 1977. It has continued over the years to provide services and programs to meet the diverse demands of the changing community. Colin Dougherty serves as the general manager and executive director of the station.

Denham Personnel Services of Fresno was founded 28 years ago by B.G. "Bud" and Jean Denham. It started off as a single office and has grown to include offices in Madera and Selma and a full-time staff of 14. On every working day of the year, an estimated 200–300 people in the Valley get up and go to work because they have been placed in jobs by Denham Personnel Services.

Sherwood Lehman Massucco, Inc. of Fresno is an executive search firm that has been finding top management talent for companies located in Central California since 1978. The firm believes in recruiting locally if possible, but has extensive experience in nationwide searches when the best candidate is not available in the Valley.

Pearson Realty of Fresno was founded in 1919 and has become one of the largest independently owned commercial real estate firms in the Valley. Its farm division is the largest in California and possibly the nation. The company pays a portion of net profit back to employees in the form of bonuses.

Gottschalks, Inc. of Fresno was founded in 1903 in downtown Fresno by Emil Gottschalk. The regional retailer has grown to 37 department stores and 22 specialty stores employing more than 5,500 people at sites in California, Nevada, Washington and Oregon. It is the only Central Valley-based company traded on the New York Stock Exchange, going public in 1986.

Hall of Fame winner, Marilyn Hamilton of Fresno had a sudden turn of events in her life almost 20 years ago when she became paralyzed in a hang-gliding accident. Frustrated by the clunky design of her wheelchair, Hamilton and two hangglider friends built their own lightweight chairs. They formed Motion Designs, which was bought by Sunrise Medical in 1986. Hamilton is now vice president of consumer development at Sunrise, and the Quickie wheelchair she designed has become an industry leader.

Mr. Speaker, it is with great honor that I congratulate these fine businesses and business leaders in the community. These exceptional businesses and business leaders were honored for their unique contributions to the business community and exemplary business skills. I ask my colleagues to join me in wishing Kuckenbecker Tractor of Madera, Boys and Girls Clubs of Fresno County, Bank of the Sierra of Porterville, Community Health System of Fresno, Duncan Enterprises of Fresno, Valley Public Television of Fresno, Denham Personnel Services of Fresno, Sherwood Lehman Massucco, Inc., Pearson Reality of Fresno, Gottschalks Inc. of Fresno, and Hall of Fame winner, Marilyn Hamilton of Fresno many more years of continued success.

CLASSIFICATION OF NATURAL GAS GATHERING LINES

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SAM JOHNSON of Texas. Mr. Speaker, today I have introduced legislation, H.R.—to provide much needed certainty with respect to the proper depreciation classification of natural gas gathering lines. Natural gas gathering lines play an integral role in the production and processing of natural gas as they are used to carry gas from the wellhead to a gas processing unit or interconnection with a transmission pipeline. In many instances, the gathering network for a single gas field can consist of hundreds of miles and represents a substantial investment for natural gas processors.

The proper depreciation classification for specific assets is determined by reference to the asset guideline class that describes the property. Asset class 13.2, subject to a 7-year cost recovery period, clearly includes:

> . . . assets used by petroleum and natural gas producers for drilling wells and production of petroleum and natural gas, including gathering pipelines and related production facilities.

Not only are gathering lines specifically referenced in asset class 13.2, but gathering lines are integral to the extraction and production process. Nonetheless, it has come to my attention that some Internal Revenue Service auditors now seek to categorize natural gas gathering lines as assets subject to a 15-year cost recovery period under asset class 46.0, titled "Pipeline Transportation."

Over the past several years, I have corresponded and met with officials of the Department of Treasury seeking clarification of Internal Revenue Service policy and the issuance of guidance to taxpayers as to the proper treatment of these assets for depreciation purposes. These efforts have been to no avail. In the meantime, the continued controversy over this issue has imposed significant costs on the gas processing industry on audit and in litigation, and has resulted in a division of authority among the lower courts as to the proper depreciation of these assets. While it is not my intent to interfere with ongoing litigation, I do believe that legislation is needed to clarify the treatment of these assets under the Internal Revenue Code in order to provide certainty to the industry for tax planning purposes, and to avoid costly and protracted audits or litigation.

Accordingly, I have introduced legislation that would amend the Internal Revenue Code to specifically provide that natural gas gathering lines are subject to a 7-year cost recovery period. While I believe that this result should be axiomatic under existing law, this bill would eliminate any uncertainty surrounding the proper treatment of these assets. The bill also includes a proper definition of "natural gas gathering lines" to distinguished these assets from pipeline transportation for purposes of depreciation.

I urge my colleagues to support this important legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) any natural gas gathering line, and".

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168 of such Code is amended by adding at the end the following new paragraph:

"(15) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead to the point at which such gas first reaches—

"(A) a gas processing plant,

"(B) an interconnection with an interstate natural-gas company (as defined in section 2(6) of the Natural Gas Act), or

"(C) an interconnection with an intrastate transmission pipeline."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service before, on, or after the date of the enactment of this Act.

ON THE SPEAKER'S VISION FOR HEALTH IN THE 21ST CENTURY

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. ARMEY. Mr. Speaker, I would like to insert in the RECORD a transcript of a recent speech on the subject of health in the 21st century by the Speaker of the House, the gentleman from Georgia, Mr. GINGRICH.

As is so often the case, this speech by the gentleman, given to the American Association of Health Plans in mid-February, is full of insight.

At a time when the liberals and some doctors' associations are pressing for new government mandates on health insurance companies, and President Clinton is trying to achieve socialized medicine incrementally, it is important that we step back, as the Speaker wisely observes, and rethink the whole question of how to improve health and not just health care or health insurance.

In the coming health-care revolution, which promises to be an age of highly informed consumers and entrepreneurial doctors and insurers coming together to provide ever greater quality for customers at ever lower cost—in such an age the old prescriptions of regulation and mandates will be shown for the anachronisms they really are.

America's health-care system, for all its many faults, is still the best system in the world when it comes to the quality of our doctors, our drugs, our devices, our treatments, our techniques, and our technologies.

But all of that progress would be threatened by the Democrats' "Patients' Bill of Rights Act," H.R. 3605. This bill puts me in mind of medieval barbers applying leeches. It is one of the more misguided, irresponsible, and politically inspired bills I have seen. It is a breathtaking collection of costly mandates and grants of bureaucratic power. It would regulate the health insurance industry in every imaginable way. It would eliminate all but the most restrictive HMOs. It would enable nurses and doctors to go on strike. It would divert scarce health resources to lawyers and bureaucrats. It would make insurance unaffordable for millions of working Americans. It would swell the ranks of the uninsured. And it would impose innovation-stifling restrictions on the practice of medicine, just to name a few of its likely effects.

Happily, I have confidence that this Congress is not going to pass this backward bill, or anything like it. Members are increasingly aware of the dangers of such politically inspired legislation, and will, I think, warmly embrace the happier, freer vision for health in America outlined in the address of the gentleman from Georgia. I commend that address to the attention of all of my colleagues.

"HEALTH CARE REFORM IN 1998: WHAT CAN WE EXPECT FROM THE 105TH CONGRESS?"—KEYNOTE ADDRESS BY NEWT GINGRICH, AAHP 1998 POLICY CONFERENCE, FEBRUARY 22, 1998

Let me tell you where I think we are on health, and I want to start with a very simple planning model of eight words. I want to share this model with you because I think it's the heart of our current challenge in health. It's four words that are a hierarchy and then four words that are a straight line. The top word is "vision," and I think this is the place we most have failed. What is our vision of America's future in health? And notice, I didn't say "health care." I think when you say "health care," you've already come down a layer of detail.

Our interests ought to be health and then, secondarily, health care. Take the example of diabetes. We know there are Indian tribes that have 50 percent diabetes rates. If we could save 45 of that 50 percent from needing kidney dialysis, we would lower the cost of health care because we would increase health. So it's very important at the vision level what words do you use, what do they mean, because that then defines all the other layers.

The second layer is strategies. What are your strategies for getting something done? For example, I am passionate about preventive care and wellness, and one of our strategies in Medicare reform was to begin to move towards more early screening, more preventive care, which we believe will ultimately save money, but is scored in this city as a cost. The Centers for Disease Control estimates if you had really effective screening and education on diabetes, it would save $14 billion a year. Yet you cannot get the Congressional Budget Office or the Office of Management and Budget to score that.

The third level is a project, and a project in this model is the real building block of management, but it's an entrepreneurial model, so I want to give you a definition. A project is a definable, delegatable achievement. That's a very important distinction.

The bottom line is tactics. What do you do every day? And tactics relate directly back to the top. For example, if you're interested in preventive care and wellness, one of the things you do every day to remind people that they have an obligation to check at least once a year to see how they are doing. One of the things you try to figure out is to remind diabetics they have an obligation every day, several times a day, to check their blood sugar, so that it's a very different model than the model we've traditionally had.

Now, coming off of tactics, I put four words in a straight line because they are a process; that is, they are not a hierarchy. They are all equally important, but they occur in a sequence, the words which we use for what we think is the essence of leadership, and they are very simple, but I think they apply directly to the challenge you all face: listen, learn, help, and lead. Now, we figured out in a democracy in the Information Age, the first job of leadership is to listen.

Now, we put "learn" second because we discovered two interesting phenomena about Americans. Americans will spend a lot of time with their eyes glazed over standing next to somebody at a cocktail party while that person babbles. That is not listening; that's patience. We also discovered that most Americans have a habit of paying very careful attention to their own arguments. If you get in an argument, you really listen to yourself when you argue. When it's the other person's turn, you pretend to listen, but you're actually restructuring your own argument. That's not listening; that's cheating.

What we are trying to do is what consultants describe as appreciative understanding. You have to understand what the other person is saying and appreciate why it is true for them. You don't have to agree with them. You don't have to sympathize, but you have to understand what they are saying. So you haven't finished your listening/learning phase until you know what they are saying and why they think it makes sense, even if you don't.

Now, in a rational world, as a general principle, if somebody will listen to you and learn from you, you help them. First of all, because they ventilate. You help them, second, because you put them in that position where you might ask them good questions, so they think thoughts they never had before; you open them up. You might have ideas they didn't have. You may have information to empower them that they didn't have. You may actually have authority or resources you can give to them.

In a rational world, if somebody knows you will listen to them, learn from them, and help them, they will ask you to lead. Now, what I usually do is I draw a line, then, from the word "lead" back up to "vision." You then say: Here is my vision, here are my strategies, here are my projects, here are my tactics, and you immediately go back to listen and say, what do you think of them? Now I think that model applies exactly to where we are in health in America today.

Now, let me tell you the mistake I think we all make. When the Clinton administration came in, they saw a charge, which is very real, which is that we need to rediscuss health in America. Notice, I didn't say "health care." This is going to be one of my first real efforts at redefining this dialogue. We should not talk about health care in America until we first finish talking about health in America, because they are not the same topic. And the minute you get into health care, you're already in a narrower and smaller future than if you start by discussing health, a subset of which is health care.

And I think the president was right in 1993 to say we need a dialogue. I think he was wrong in offering a solution that was a failed, centralized, bureaucratic model of control. And the country, after it thought about it for a year, decided that was the wrong answer. But I think where we all collectively failed is that at that point what we should have said is, okay, now can we go back to the original dialogue? And instead, what happened was all the folks were very busy. Everybody went back to their own game, most of which are at the level of a tactic or a project. So there is almost no vision-level discussion in America about health. And yet the most objective fact about health in America is that it is an obsolete model of delivery based on, first, you have to get really sick.

We need to return to the overall dialogue on health. Let me give you a very simple premise for that dialogue. The National War Labor Board, in 1943, for totally wartime-related, wage-and-price-control reasons, created the tax incentive and the way we now structure third-party payments. And this is entirely an artificial artifact. It makes no sense. If you were to actually sit down and say, let's design health for America, you would not say, if you pay all your own health costs, you get no tax deduction until seven percent of your income has been spent, but if you will go and work for a company, you can get a 100 percent. By the way, if you're self-employed, you won't get the 100 percent. It is all a historical anachronism.

In this national dialogue on health, we need to start with basic health research. We need to look at things like the National Institutes of Health database MEDLINE and the ability to create a computer-based system where any patient anywhere in the country can get access to any information, which is, frankly, going to drive doctors nuts because it's going to mean they are going to have patients with specialized diseases who know more about the state of the art than they do, and you're going to have a patient-led information system.

And the real reason we are having a fight over HMOs has nothing to do with quality of care; it has to do with power. This is a country which hates concentrations of power, and in a very real sense HMOs are suffering from the same challenge that any other concentration of power suffers from. Americans hate to be controlled. Remember, we did have a flag in the Revolutionary War on which was a snake, and which said: "Don't tread on me." It's very close to the American model.

There is a wonderful new history by Paul Johnson called "A History of the American People," which I recommended to all of you; he really captured the heart of American civilization. One of his lines is that in 1775, we were possibly the lowest taxed people in the history of the world, and we hated every penny. There was no sense of gratitude.

Now, the reason I'm suggesting this is, we are trying to design a health system for Americans. Americans believe it is their natural right, that they are endowed by their creator with the right to have total access, with the right to question any authority figure, with the right that if they don't like the first diagnosis, they get a second one. They need a ventilation point that is an authority figure that they can go to beat up the other authority figure that they are mad at. We need to ask: What are the patients' rights? What are their responsibilities? Do they agree those are their rights and their responsibilities? What's their ventilation point?

There is a power struggle between medical professionals and administrators, and that's a big part of what's happening with the HMOs because every time the medical doctor is mad, he or she explains to the patient that it's the HMO's fault. Or every time they can't do something the patient wants, they say, "I would, but they won't let me." And so you have a real power struggle.

If you look, for example, at the PARCA bill, it is largely a design of all the professionals who now want their share of the pie, and it's their version of how they would redesign it if health care was a pork-barrel project. But what you need to understand is, that is a natural partner of historic evolution once you politicize these decisions.

I'm not up here today to say anybody is right. I'm up here today saying let's look at the whole country. The M.D. is going to be threatened because the truth is we can begin to turn into expert systems. We can begin to have more preventive care. We can begin to have more patient responsibility. We can begin to have more information to the patient.

All of that is going to threaten the medical doctor. But their problem now is going to be science and the Information Age, not the HMO administrator. The HMO administrator must recognize that if you don't have a very high-quality response, if you're not very customer oriented, and if you haven't built a very good response system for your customer so that they have a ventilation point where they can get a second opinion, where they can appeal to a higher authority against the authority that's made them mad, you're guaranteed to get political action; that the only way to avoid political action is to have a self-fine-tuning, a self-responding, and a self-evolving system that is customer-friendly and consumer oriented.

In addition, I would argue that if we are really at the vision level talking about the future of health in America, it's likely to be a different system than anything we've seen, that the ideal model is one that goes back to dramatically strengthening the patient, that the patient ought to have a lot more choices and more responsibilities.

I've always like the International Paper model where they list every doctor in the area and every hospital in the area, and they say, here is how much they cost, and here is their background, and, by the way, we'll pay 100 percent of the median price. Go to anybody you want to. Now, if you want to go to a more expensive doctor, fine, you pay the additional costs. But it begins to dramatically transfer knowledge and power and responsibility.

Dr. Tom Coburn, who serves as a Member of Congress for Oklahoma, came up to me at our retreat in Williamsburg, and he said, I think we ought to reapply free-markets principles to health care; and being a conservative, I promptly said, yes, what do you mean? I know it's right theoretically. I know Adam Smith is right theoretically, but what does it mean in the middle of this 1943 tax code, third-party payment, highly convoluted, big structure, HMO, provider-sponsored network, hospital-based, doctor-based, secondary professions—in this mess, this huge, complex ecosystem of health, what does "free market" mean?

He said, I'll tell you a true story. He said, during the break, I had a couple who were between jobs and they had lost their health coverage, but they had savings. She needed an operation. I gave her five surgeons and three hospitals to call. They negotiated. They got an $11,000 procedure for $5,000, but they paid in cash without paper work.

Now, that's a fairly astonishing number. My guess is all of you could find similar stories or already know similar stories. From my standpoint, what I want to do is say, so how do we maximize the rate of change? Because what the human genome projects is telling you and what lasers are telling you and what all the other breakthroughs are telling you is you're going to see a rate of change in health capabilities. And, again, I don't want to talk about health care yet. You're going to see a rate of change in health capabilities that is stunning.

So how do we maximize that rate of change? How do we maximize the citizens' access to knowledge, including their knowledge about their own responsibilities and knowledge about their own characteristics and knowledge about how to stay well rather than get sick? How do we maximize the ability to connect the citizen to the professional at the minimum cost with the maximum choice? How do we create feedback loops, both so that we know it's the right professional, and so if something goes wrong, we can check on it?

And if you could tomorrow morning take your HMO or take your health organization and find a way to have 100-percent deductibility for health, so that a person who paid out of their own pocket had exactly the same deductibility as a big corporation and said to all of your members, "Here is basically a cafeteria plan. Which of these nine things do you like better?" you would lose some of your mass purchasing power, but you would put back on their shoulders their responsibility. So you like the HMO? Fine. Come in and join one. You would rather go and buy it all on your own? Fine. Go buy it all on your own.

And what I'm suggesting is that where we need your help is not only doing better, and a lot of you represent some of the most enlightened and most aggressive and most patient-oriented and also most health-research-oriented people in the country. But I'm also asking you to take a little extra time, go back up to the vision level. Help us solve the big issues. Help us think about what do we mean in the 21st century by health in America. What should a citizen have access to? How do we maximize the rate of change?

And I'll just close with this thought. Health is not a problem. Health is an opportunity. Health will be the largest, foreign-exchange, income earner in the 21st century. If we have the best system of health on the planet, if we have the best research on the planet, if we provide the best care on the planet, as people get wealthier worldwide, they will come to America, either personally, or by electronic means, in order to have access to the finest health in the world.

We will earn far more money out of providing the best health capabilities on the planet than we will earn out of the motion picture industry, jet airplanes or computers, and we ought to see health as that opportunity—the opportunity to provide the best health for our own citizens and to provide the highest-paying jobs on the planet in a growth industry of enormous potential if we maximize the rate of change and innovation and bring to bear the best science we can as rapidly as we can.

And if we then educate our citizens into a knowledge-based model of caring for themselves, we will maximize their health and minimize their costs, and we will do so in a way that I think will be profoundly different than the current debate between more bureaucracy-less bureaucracy, more trial lawyers-fewer trial lawyers, and I think we need this much larger level dialogue in order to define where we want to go over the next 15 or 20 years.

DRUG-FREE AMERICA TASK FORCE AWARENESS

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. NETHERCUTT. Mr. Speaker, as a Member of the Drug-Free America Task Force, I have had the opportunity to meet with numerous organizations and individuals interested in finding ways to reduce drug use. One of the studies that caught my attention was a study by the Center on Addiction and Substance Abuse. It stated that a 12-year-old who smokes marijuana is roughly 80 times more likely to use cocaine than one who does not, adults who as adolescents smoked marijuana are 17 more times likely to use cocaine regularly, and 60 percent of adolescents who use marijuana before age 15 will later use cocaine.

It seems to me, Mr. Speaker, that the key to reduce overall drug use is to find ways to curtail the number of our children who use drugs. As a parent, I realize that the lifestyle decisions my wife and I make will impact our children. Our children are fortunate that they have had a good example set for them, but there are many kids whose parents or other role models send them the wrong message that drugs are acceptable by their own drug use. I believe the government has an obligation to punish more severely those who influence the children of America by using or possessing drugs in their presence.

Mr. Speaker, the Save Our Children Act, which I am introducing today, sends a strong message that drug use or possession of drugs around children will not be tolerated. Under current law, there are enhanced penalties for the distribution of a controlled substance to persons under age 21 by persons over age 18 (21 U.S.C. 859); employment of persons under age 18 for violation of the Controlled Substance Act or unauthorized distribution to a pregnant individual (21 U.S.C. 861) and distribution or manufacturing of a controlled substance in or near schools, colleges or youth-centered recreational facilities (21 U.S.C. 860).

The Save Our Children Act, Mr. Speaker, fills a gap in our Sentencing Guidelines by directing the U.S. Sentencing Commission to enhance the sentences for the commission of a drug offense in the presence of a minor. While the Sentencing Commission is given discretion to amend the Sentencing Guidelines, the Save Our Children Act sets a minimum of two offense levels greater or 1 year whichever is greater for the first offense, and 4 offense levels greater or 2 years for a second offense.

I urge all my colleagues to consider becoming a cosponsor of my legislation.

WEST LIBERTY CLASSICAL ACADEMY HONORED BY DEPARTMENT OF EDUCATION

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. COYNE. Mr. Speaker, I rise to commend the students, faculty, and administration of West Liberty Classical Academy, whose outstanding performance was recently honored by the Department of Education and the National Association of State Coordinators of Compensatory Education. West Liberty is one of only 109 schools nationwide to be recognized by the Title I Recognition Program. The Title I Recognition Program honors schools that have set and reached high student achievement goals, fostered professional development, and built partnerships with parents and the community.

West Liberty Classical Academy is a magnet middle school located on the South side of Pittsburgh. Using a team approach, the staff plans interdisciplinary lessons like Classical Studies, African-American history, and Contemporary Crafts. They also created an 8th period every Wednesday so that students could participate in the band and orchestra ensemble, or choose among a journalism program, the science club, the garden club, the hiking club, creative writing lessons, or the drama club. The students also participate in School-to-Work activities in which they visit senior citizen centers, a neighborhood school for handicapped children, several area elementary schools.

Parents are an integral part of the learning experience at West Liberty. A "Computer Night Live" gives parents and students the opportunity to learn to use computers. Parents and children can also work on their math skills during "Family Math Night."

Thanks to the effort of teachers, students, administrator, and parents, West Liberty provides a quality learning experience while living up to its school motto, "Safe and Secure." I commend West Liberty Classical Academy and the Pittsburgh Public School System for their accomplishments.

THE FEDERAL FINANCIAL ASSISTANCE MANAGEMENT IMPROVEMENT ACT OF 1998

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. PORTMAN. Mr. Speaker, I rise today to introduce The Federal Financial Assistance Management Improvement Act of 1998, legislation to streamline and improve the federal grant process.

I'm sure all of us have heard from state and local governments or non-profit organizations in our districts who have grown frustrated with the federal grant application process. Most recently, I have heard concerns expressed from around the country about the implementation of the Drug-Free Communities Act, legislation I sponsored that was enacted last year. Anyone who has attempted to apply for a federal grant has grown frustrated by the miles of red tape, regulations and duplicative procedures they encounter. Applying for the grant is just the beginning of the problem—the administrative and reporting requirements attached to certain grants often make potential recipients wonder whether to apply for funding in the first place.

The legislation we have introduced addresses these concerns. It requires relevant Federal agencies, with oversight from OMB, to develop plans within 18 months that do the following: streamline application, administrative, and reporting requirements; develop a uniform application (or set of applications) for related programs; develop and expand the use of electronic applications and reporting via the Internet; demonstrate interagency coordination in simplifying requirements for cross-cutting programs; and set annual goals to further the purposes of the Act.

Agencies would consult with outside parties in the development of the plans. Plans and follow-up annual reports would be submitted to Congress and the Director of OMB and could be included as part of other management reports required under law.

In addition to overseeing and coordinating agency activities, OMB would be responsible for developing common rules that cut across program and agency lines by creating a release form that allows grant information to be shared by programs. The Act sunsets in five years and the National Academy for Public Administrators (NAPA) would submit an evaluation of the Act's effectiveness just prior to its sunsetting.

The bill builds on past efforts to improve program performance through the Government Performance Results Act and to reduce federal burdens through the Paperwork Reduction Act and Unfunded Mandates Reform Act. It has been endorsed by state and local organizations such as the National Governors Association, the National Conference of State Legislators, the National Association of Counties, and the National League of Cities. Identical legislation, sponsored by Senators GLENN and THOMPSON, was recently reported out of the Senate Government Affairs Committee.

This is a good government measure that will make it easier to interact with our federal government, and result in cost savings for grant applicants and federal agencies.

I want to thank the gentleman from Maryland, Mr. HOYER, and the other original cosponsors for joining me in this bipartisan effort and I encourage my colleagues to support the bill.

THE 100TH ANNIVERSARY OF THE NEW JERSEY FIREMEN'S HOME, BOONTON, MORRIS COUNTY, NEW JERSEY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to commemorate the New Jersey Firemen's Home located in Boonton, New Jersey on the occasion of their 100th anniversary. This anniversary marks the culmination of a long, proud history of providing housing for retired, disabled and indigent firefighters of all ages in the State of New Jersey.

The firefighter's home was the vision of Bird Spencer, President of the New Jersey Firemen's Association. A couple of years before the turn of the century, at the nineteenth annual New Jersey State Firemen's Association convention, President Bird Spencer addressed the need of suitable housing for the state's firemen. He promised that he would make an effort to obtain legislation for the purchase and building of such a place.

Early records indicate that on April 2, 1898 the New Jersey Firemen's Home was incorporated by the New Jersey Senate and General Assembly and on June 27, 1898 the Firemen's Home was purchased.

On June 23, 1900, President Bird Spencer's promise was realized as the doors of the New Jersey Firemen's Home were officially opened during a dedication ceremony attended by Governor Voorhees. On September 22, 1900, the first two New Jersey firemen from Paterson, New Jersey entered the home as the first residents.

For over a century the Firemen's Home has offered housing for any paid or volunteer firefighter who has served at least one year on a department, or who was injured while on duty. Since its inception, the New Jersey Firemen's Home has housed approximately 1,775 men. Some have been guests others have been long-time residents. Today the home is operated by a twenty-three member board and the staff is made up of one or two firefighters from each county in the State of New Jersey.

Mr. Speaker, throughout its long history, the New Jersey Firemen's Home has provided a place to live for retired and injured firefighters from across the state. I ask you, Mr. Speaker, and my colleagues, to please join me in commemorating the 100th anniversary of the New Jersey Firemen's Home.

CENTENNIAL ANNIVERSARY OF THE CITY OF PORT ARTHUR, TEXAS

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. LAMPSON. Mr. Speaker, I rise to recognize the Centennial Anniversary of the City of Port Arthur, Texas and request that the following Proclamation be made a part of the CONGRESSIONAL RECORD.

PROCLAMATION

Whereas Arthur E. Stilwell of Rochester, New York founded the City of Port Arthur on the western shoreline of Lake Sabine in 1898, and

Whereas the City of Port Arthur has grown and developed into a major center of petrochemical manufacturing, shipping, and offshore oil exploration, and

Whereas the City of Port Arthur has been home to such industrial giants of the 20th Century such as Texaco, Inc., the Gulf Oil Company, Chevron Companies, Fina Oil and Chemical Corporation, Clark Manufacturing Corporation, Star Enterprise, Huntsman Corporation, Equistar Corporation, and

Whereas the City of Port Arthur has served not only the industrial and consumer needs of the United States and the world, it has also contributed significantly to the defense of the nation in World Wars I and II and other international conflicts by providing men and women as well as ship construction, merchant marine services, and a sea of petroleum products necessary to win those wars, and

Whereas the City of Port Arthur has been home to some of the most colorful people of the 20th Century including former Texas Governor Allan Shivers, Oscar award winner Leach Rhodes, former President of the American Medical Association Daniel "Stormy" Johnson, NFL Coach Jimmy Johnson, rock icon Janis Joplin, abstract expressionist Robert Rauschenberg, motion picture actress from Hollywood's Golden Era Evelyn Keyes, Congressional Medal of Honor recipient Lucian Adams, Texas businessman and Presidential appointee Mach Hannah, rhythm and blues great Ivory Joe Hunter, and hundreds more who have contributed not only to life in this community, but persons whose contributions are recognized not only to life in this community, but persons whose contributions are recognized throughout Texas, the nation and around the world.

Now therefore be it resolved that the City of Port Arthur, a progressive community proud of its multi-cultural heritage of 60,000 citizens, is hereby recognized on the occasion of its 100th anniversary.

NATIONAL BONE MARROW REGISTRY REAUTHORIZATION ACT OF 1998

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. YOUNG. of Florida. Mr. Speaker, I submit for the RECORD, this statement which should have followed my remarks in the House yesterday during Consideration of H.R. 2202, to Reauthorize the National Bone Marrow Donor Registry.

Mr. Speaker, I rise in support of this measure and thank the Chairman of the Commerce Committee, Mr. BLILEY, and the Health Subcommittee Chairman, Mr. BILIRAKIS, for their efforts to help bring this legislation reauthorizing the lifesaving work of the National Marrow Donor Program to the floor for consideration.

H.R. 2202 will guide the National Marrow Donor Program into the next century by reauthorizing the program's core function of maintaining a bone marrow donor registry, strengthening efforts to increase minority recruitment, and improving patient and donor advocacy.

Mr. Speaker, with 218 cosponsors this bill enjoys the broad bipartisan support of our colleagues, as well as the support of the National Marrow Donor Program, the American Red Cross, the American Association of Blood Banks, the National Heart Lung and Blood Institute, and the Department of Health and Human Services.

The National Bone Marrow Donor Registry is an outstanding program that was created by the Congress to give hope to families where none would have otherwise existed. Since its establishment a little more than 10 years ago, this program has given life to thousands of people here and around the world.

It was on April 2, 1987 that I first testified before the House Commerce Committee on this issue. That was very early in my search for a home for a national bone marrow registry. In fact, that was very early in my education on the many issues that surrounded bone marrow transplantation. What I knew at the time, though, was that without a national registry, men, women, and children with leukemia and other fatal blood disorders would continue to die because there was no way to find unrelated marrow donors for them.

What I remember from that hearing 11 years ago was that there was nowhere within the Department of Health and Human Services to call home for a national registry. In fact, the Director of the National Institutes of Health testified after me that day saying there was no way that a national registry of unrelated volunteer donors would ever succeed. He told the Committee we would never find more than 50,000 people willing to take the simple blood test required to enter such a registry.

Mr. Speaker, while I already felt personally challenged to do something about creating a national registry, those remarks that day gave me the final incentive I needed to do all within my power to make this program a success.

A little over six months after that hearing, with a small appropriation I requested for the United States Navy, we activated National Marrow Donor Program. And on my birthday, December 16, 1987, an airplane took off from a snowy airfield in Milwaukee to deliver the first bone marrow to a dying child from North Carolina.

Today, Mr. Speaker, I proudly report to you that we proved those skeptics wrong. We now have a national registry of 3,134,601 people willing to donate their bone marrow to save a life. In addition, our national registry is linked with 14 other similar registries around the world to allow us to ship bone marrow across the oceans to save lives.

There are so many heroes that have made this program such a success that my time today does not allow me to name them all. There are my colleagues in the House and Senate who were willing to take a chance and support this program when the so-called experts said it couldn't be done. A number of our colleagues have been personally touched by the success of this program when they were called to donate bone marrow or when one or family members received the tragic news that they would die without a bone marrow transplantation.

There are many other heroes, some such as Admiral Bud Zumwalt. It was Admiral Zumwalt that I bumped into in the early months of 1987 when he was working the halls of Congress searching for the same thing as I was, a home for this national registry. Together we joined as a team with Dr. Bob Graves, a cattle rancher from Colorado, Dr. John Hansen, a rising young physician and researcher from Seattle, and Captain Bob Hartzman, a Navy doctor from Bethesda. Together we found a willing partner in the United States Navy whose Surgeon General said he would give us a federal home for this great national program.

Then Mr. Speaker, there are the countless heroes around our nation who are the volunteers willing to be a part of the national registry and the patients who have undergone bone marrow transplants and have helped us learn and improve the process with each and every procedure. There are the families who have given us the support and the energy to push ahead. And there are those who have sponsored the thousands upon thousands of recruiting drives all around our nation to help us build such a large and diverse registry.

The result of our work is a program that saves lives every day by matching patients and donors. Few federal programs have been as successful in such a short period of time and it is the involvement of the federal government that has been the key to this success. Prior to our establishment of a national registry, there was only a piecemeal network of independent local registries of all sizes, with very little intercommunication. With the support of Congress, we activated a national registry in September 1987 that now links together more than 98 donor centers, through which donors are recruited and entered into the registry, and 112 transplant centers, which work with the patients to complete the transplants. From a small, fragmented system of individual donor centers was born a true national and international treasure that is the National Marrow Donor Program and links the United States with eight foreign donor centers, 23 foreign transplant centers, and 14 national registries in foreign nations.

With the support of Congress, the United States Navy, and the Department of Health and Human Services, we have come a long way these past 11 years, but there is still a ways to go. With the number of bone marrow transplants using unrelated donors still increasing dramatically from year to year, it is obvious that we must continue to grow the size of the registry to save lives and give the largest number of children and adults the best possible opportunity to find a matched donor. While the likelihood of a patient identifying a fully matched unrelated donor has increased dramatically from 30 percent in 1989, to nearly 80 percent today, our continued commitment can help bring that figure closer and closer to 100 percent.

Much of the federal support we provide each year is for donor recruitment and education activities. With this federal support, we are maintaining the registry's remarkable rate of growth. Last year the donor rolls increased 17 percent by a total of more than 450,000.

Still, despite all of our good work, we have a ways to go to ensure that all ethnic groups have the best possible chance of finding a matched donor. The federal resources we began earmarking for minority recruitment beginning in 1991 have made a tremendous difference in the rate at which we have been able to increase minority participation in the program. In fact, the number of minority donors in the national registry have increased by 140 percent in the past four years, a rate far greater than the growth of the overall registry. As a result, there has been a corresponding 140 percent increase in the number of minority patients receiving life-saving transplants over the past four years. More minority patients received transplants last year then in the program's first seven years combined.

Mr. Speaker, as I have said time and time again, the key to the success of the National Marrow Donor Program is people—people who are willing to save a life by donating a small amount of their bone marrow. Unfortunately, people alone have not made this program the success that it is today. Without the federal support Congress has provided the National Marrow Donor Program over the past 11 years, we would still have a fragmented network of donor centers each sponsoring bake sales and other fund raising drives to pay for the testing of donors. Without federal support, it would be virtually impossible to maintain, let alone continue to increase the donor rolls of the national registry. With an attrition rate of just 5 percent, the national program will have to recruit more than 150,000 donors per year just to maintain the current size of the national registry.

Suffering the greatest from any reduction in our federal support for this program, would be the minority groups that we are working so hard to recruit and continue to be underrepresented in the national registry.

Our efforts here and now must build on our success, taking what we have learned since the program's establishment and applying this to improve our future. Likewise, we must recognize that we have learned of ways in which the program could do a better job. This is the goal of H.R. 2202.

The program's success is grounded in the more than 3 million donors who have volunteered to donate their bone marrow, in the coordinated system of donor, transplant and recruiting centers that has grown around the registry, and in the increased awareness of bone marrow transplantation. My legislation will continue this by supporting further recruitment, coordination and educational activities.

However, if there is one thing we can agree on above all else, it is the fact that without continuing to increase the numbers of minority donors on the Registry, patients of these groups will continue to face a greater difficulty in finding a matched unrelated donor. For this reason, H.R. 2202 places a special emphasis on the need to increase potential donors of racial and ethnic minority heritage and makes this the priority of the program's recruitment efforts.

We have also learned a lot about the needs of patients and their families as they face the challenge of finding an unrelated donor match for their loved one. H.R. 2202 formally establishes an Office of Patient Advocacy and Case Management within the program to provide individualized services for patients requesting assistance. The office will provide information and coordinate all aspects of the search and transplantation process to ensure the needs of the patient are being met. While much of this work is already being done by an office within the program, H.R. 2202 builds on these efforts by codifying the office and granting it additional authority recommended by the Senate in legislation approved by that body in 1996.

My wife Beverly and I have met with and befriended hundreds of donors, patients, and their families from all over our nation. To each of these patients, I promise that I will continue to do all that I can to ensure that they have the best possible chance to find a donor. Unfortunately, some of these families never found a donor before it was too late. Many others, however, found their miracle match and they are alive and doing well today because of the living medical miracle that is this national registry.

There is nothing I have done in public service that I am more proud of than establishing the National Marrow Donor Program. Every member of Congress should share that pride as they are a part of a great federal program that works. The measure of this program's value is the lives it saves throughout our nation and throughout our world. As we continue to increase the number of life-saving transplants that take place each year, we know that our work is not yet finished and that there are more lives to save. In making tough budgetary decisions, Congress must measure the value of each and every program to the American taxpayer. With that as our test, their can be no disputing the success of the National Marrow Donor Program because there is no higher priority then giving someone back their life.

Mr. Speaker, I appreciate the Congress' strong support for this program and for my legislation that will enable us to continue on with our life-saving work for the next five years. That commitment to this program is evident from the special joint House-Senate hearing recently held and by the willingness to work together, House and Senate, to expedite the passage and enactment of H.R. 2202. On behalf of all those donors and patients still awaiting their opportunity to unite in the most special of ways, I say thank you to all my colleagues. And on behalf of those families who will experience the second chance to enjoy their life with a child, with a husband or wife, or with a brother or sister, I say thank you for being one of the countless heroes throughout the short history of this program. Together, day after day, we will continue to give the most precious gift of all, here and abroad, the living gift of life.

THE SENIOR CITIZENS' FREEDOM TO WORK BILL

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today to introduce legislation that will eliminate the so-called "Social Security Earnings Test." Under current law, our senior citizens aged 65–69 can earn only $14,500 before they lose $1 in Social Security benefits for each additional $3 of earnings. This test is unfair, discriminatory, and adversely affects our country's economy. The Social Security Earnings Test must be eliminated.

The Social Security Earnings Test is unfair and inappropriate because it imposes a form of a "means" test for a retirement benefit. As we all know, Social Security benefits have been earned by a lifetime of contributions to the program. American workers have been led to regard Social Security as a government-run savings plan. Indeed, their acceptance of the 12.4 percent Social Security payroll tax has been predicated on the belief that they will get their money back at retirement age. Thus, most Americans do not accept the rationale that the return of their money should be decreased just because they continue to work.

Additionally, the Social Security Earnings Test discriminates against senior citizens who must work in order to supplement their benefits. Currently, income from investments does not affect the amount of Social Security benefits that a senior citizen receives. It simply does not make any sense to treat less favorably income from work than income from investments. Clearly, the Social Security Earnings Test is inequitable to our nation's senior citizens who are in the greatest need of additional income.

The Social Security Earnings Test also negatively affects work incentives. The disincentive effect is magnified when viewed on an after-tax basis. Senior citizens who work lose a large percentage of their Social Security benefits due to the Social Security Earnings Test, but they must also continue to pay Social Security taxes, and probably federal and state income taxes as well. The Social Security Earnings Test forces senior citizens to avoid work, to seek lower paying or part-time work or to seek payment "under the table."

In addition to being complicated and difficult for the individual senior citizen to understand, the Social Security Earnings Test is complex and costly for the Government to administer. For example, the test is responsible for more than one-half of retirement and survivor program overpayments. Elimination of the Earnings Test would help minimize administration expenses, and recipients would be less confused and less tempted to cheat on reporting their earnings.

Finally, repealing the Social Security Earnings Test would greatly aid our country's economy. Our senior citizens would be likely to work more and the American economy would benefit from their experience and skills. The combined increase in the amounts that they would pay in Social Security and other taxes, as well as the additional contribution to our Gross National Product, would largely offset the increase in benefit payments. For decades, our senior citizens worked and dutifully paid their Social Security taxes, it is only fair that they fully receive their Social Security benefits when they are at the retirement age.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Citizens' Freedom to Work Act of 1998".

SEC. 2. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in subsection (c)(1), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(l))";

(2) in paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" each place it appears and inserting "retirement age (as defined in section 216(l))";

(3) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(l))";

(4) in subsection (f)(3)—

(A) by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8),"; and

(B) by striking "age 70" and inserting "retirement age (as defined in section 216(l))";

(5) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(l))"; and

(6) in subsection (j)—

(A) in the heading, by striking "Age Seventy" and inserting "Retirement Age"; and

(B) by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(l))".

SEC. 3. CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act (42 U.S.C. 403(f)(8)(A)) is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of the Social Security Act (42 U.S.C. 403(f)(8)(B)) is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clauses (i) and (ii), by striking "corresponding" each place it appears; and

(3) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. (f)(8)(D)) is repealed.

SEC. 4. ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in subsection (c), in the last sentence, by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60,".

(b) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of the Social Security Act (42 U.S.C. 402(w)(2)(B)(ii)) is amended—

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(c) PROVISIONS RELATING TO EARNINGS TAKEN INTO ACCOUNT IN DETERMINING SUBSTANTIAL GAINFUL ACTIVITY OF BLIND INDIVIDUALS.—The second sentence of section 223(d)(4) of such Act (42 U.S.C. 423(d)(4)) is amended by striking "if section 102 of the Senior Citizens' Right to Work Act of 1996 had not been enacted" and inserting the following: "if the amendments to section 203 made by section 102 of the Senior Citizens' Right to Work Act of 1996 and by the Senior Citizens' Freedom to Work Act of 1998 had not been enacted".

SEC. 5. EFFECTIVE DATE.

The amendments and repeals made by this Act shall apply with respect to taxable years ending after December 31, 1997.

THE 75TH ANNIVERSARY OF THE TOWNSHIP OF MINE HILL, MORRIS COUNTY, NEW JERSEY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. FRELINGHUYSEN Mr. Speaker, I rise today to congratulate the people of the Township of Mine Hill, New Jersey as they commemorate the 75th anniversary of the incorporation of their community.

In the early years, Mine Hill centered around a diverse history of rich iron ore veins and active mining operations. The Delaware Indians, known as the Lenni Lenape were aware of the iron outcroppings and named the area Succasunny meaning "black stone". The settlers realized the potential and developed the "black stone" into a profitable commodity. Some of the mines date back to the Revolutionary War when iron ore was provided to nearby forges.

Because the iron ore was one of the finest quality and in such great abundance, mining, not farming became the primary industry in the area. This led to the development of the Village of Mine Hill. Mine Hill is also known for the Dickerson Mine, named after Governor Mahlon Dickerson, a resident of Mine Hill and Governor of New Jersey from 1815 to 1817. The Dickerson Mine was the first and oldest iron mine in the state.

The Township of Mine Hill is a small community of approximately 2.95 square miles, located in central Morris County. In 1993, this quiet community was recognized by the Federal government as having one of the best elementary schools in the country. The Canfield Avenue School was named a Blue Ribbon School which means that it placed in the top 200 schools in the Untied States in quality of education.

Once a prominent iron mining community, Mine Hill has kept its small town American identity. The 75th anniversary of Mine Hill's incorporation is a great achievement. It is a time for celebration and reflection for the residents.

Mr. Speaker, my fellow colleagues, please join me in congratulating the Township of Mine Hill Township on this important milestone.

IN OPPOSITION TO RIGGS AMENDMENT TO H.R. 6

HON. VINCE SNOWBARGER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SNOWBARGER. Mr. Chairman, I rise to explain my opposition to the Riggs Amendment to H.R. 6, the Higher Education Amendments of 1998.

The principal purpose of our important civil rights reforms, now more than thirty years old, was to help eradicate systematic and structural racism. Our hope was to keep the government and its agents from treating people differently because of their race or ethnicity. As Martin Luther King, Jr. said the law cannot make us love one another. We can, however, work together to ensure that, at the very least, our government sees its citizens as individuals. Each one is unique and worthy of respect.

Affirmative action, which originally meant ensuring that all should have the opportunity to compete on their merits, has now become a persistent challenge to these principles of fairness. If our government, through quotas and set-asides, continues to treat Americans differently because of their race or ethnicity, it becomes even harder to eliminate racism wherever it festers.

The amendment to the Higher Education Act Reauthorization offered by Representative FRANK RIGGS was mostly consistent with these principles of fairness and equal opportunity for all. Representative RIGGS' amendment would have prohibited preferential admissions treatment based in whole or in part on the race, sex, color, ethnicity, or national origin of applicants by institutions of higher education. A special exemption was included in the amendment to exempt preferential treatment on the basis of affiliation with an Indian tribe by any tribally controlled college.

I opposed the amendment because I was concerned that Haskell Indian Nations University, which is located in my district, would be adversely affected by the amendment. Haskell Indian Nations University is the only federally owned and operated four-year institution for Native Americans in the country. Because the University is controlled by the Bureau of Indian Affairs and not by a tribe, I felt that it would not qualify for the exemption included in the Riggs amendment.

Additionally, I opposed this amendment because I believe that we must seek to end policies that discriminate. This cannot be done in a piecemeal fashion. We must reach out to all groups to ensure that all Americans have equal access to opportunities. Quotas and set-asides undermine our effort to secure this for everyone.

For these reasons, I opposed the amendment.

NORMAN THOMAS ELEMENTARY SCHOOL

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. RODRIGUEZ. Mr. Speaker, I rise today to celebrate the generous efforts of 560 Norman Thomas Elementary School students and staff in Freer, Texas, to collect thousands of cans and boxes of food for the Freer Food Bank. The school's venture helped stock the pantries of 70 neighbors in desperate need of food.

This good deed is especially remarkable because about two-thirds of the Norman Thomas Elementary School students qualify for free or reduced school lunches. Despite the personal challenges many of these students face they saw a need to help those less fortunate than themselves and learned a very valuable lesson while volunteering in their community.

For their efforts the school was recognized with a community award by the USA Weekend magazine sponsored by Make a Difference Day. The students and staff at Norman Thomas Elementary School have made a difference which will help feed people in their community. Volunteering in one's community sets a high standard for better living. And such a young group of individuals accomplishing community goals means Freer, Texas, will look forward to a fruitful future.

"MY VOICE IN OUR DEMOCRACY"

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. ABERCROMBIE. Mr. Speaker, I rise to commend Zachary Hicks, a student at Hawaii Baptist Academy in Honolulu, who recently won the 1998 Voice of Democracy broadcast scriptwriting contest for Hawaii.

Each year, the Veterans of Foreign Wars and its Ladies Auxiliary sponsor the Voice of Democracy contest to recognize writing and oratorical skills of students. Zachary Hicks related the democracy demonstrations of Tianamen Square in the People's Republic of China to the freedoms to enjoy and the need to exercise freedom of speech.

I would like to share the script with the House and America, Mr. Speaker, which I am submitting. I am certain Leon and Brenda Hicks, Zac's parents, as well as his teachers and fellow students at Hawaii Baptist Academy, have great pride in Zac and his accomplishment.

"MY VOICE IN OUR DEMOCRACY"

(By Zachary Hicks)

Not long ago, a number of young men and women broke out in protest of a government they did not believe in. With fear overpowered by conviction, these students stared communism in the face and said, "We will no longer be shut up, pushed down, and unheard." That night in Tianamen Square, the cries for a democracy rang out loud and clear, yet they soon would be replaced by different cries. With hearts of fire, the students would not back down to words of warning. The air of freedom was faintly tangible but soon dissipated as the piercing crack of gunfire drove fear back into the hearts of the young people. Shot down . . . beaten . . . imprisoned . . . in one way or another they were all silenced. And the freedom, once so close, was now ripped from their hands.

This tragedy can conjure up a lot of emotions. For me, all I can do is feel grateful. Surely I have taken for granted the freedom of a democracy. I have the privilege to stand up and not be pushed down. I don't have to look over my shoulder in fear every time I speak up about the government. I have a voice. But what is so beautiful about America's democracy is that this voice is just as important, just as valid as the next man's. Though led by presidents, governors, senators, and representatives, I have just as much power to speak out as they do. My voice matters.

Our forefathers designed the United States Constitution to keep the government from ever becoming so powerful, so tyrannical, that I no longer have the freedom to speak my mind. At the same time, the constitution keeps me in line and helps remind me of what is important to our democracy, so that I fight for ideas that are true, right, and noble.

Personally, I've only recently begun to see how powerful my voice is, even though it is just one. A project was assigned in my political science class in which I needed to interview various state representative and senators. I was surprised at how easy it was to schedule an appointment with an elected official. When I was sitting in the office of my representative, my eyes were opened to the power of my own voice. I used to believe that my voice meant nothing because I wasn't old enough to vote. But what is amazing to me now is that I'm able to walk straight into our state's capital building, climb a few stairs, enter right into an office of a senator or representative, and explain to them exactly what I believe and why I believe it. Not only that, our government allows what I say to be taken into consideration. I can persuade others to take up my passion, believe what I believe, and push for a change. Though funded in basic principles, democracy is not set in stone. If I don't agree with something. I have the ability to work to change it. America, the world's largest democracy, will take time to listen to what I have to say.

Because my voice in our democracy matters so much, I hold a tremendous respect for the United States of America. I see the value in a peaceful transition of leadership. I see the value of a "majority rules" policy. I see the value of my voice. Therefore, I will not sit back when I have such freedom in my grasp. I will use my voice to make our democracy a better place to be. In the words of Edward Everett Hale, "I am only one, but still I am one . . I cannot do everything, but I can do something. . . and what I can do, I should do . . . and, with the help of God, I will do."

INTRODUCTION OF THE "NIGERIAN ADVANCE FEE FRAUD PREVENTION ACT OF 1998"

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. MARKEY. Mr. Speaker, today, I am joining with a bipartisan group of colleagues in introducing legislation to prevent further growth of the international crime, Nigerian Advance Fee Fraud.

Every day, thousands of Americans fall subject to get rich quick schemes. Unfortunately, Nigerian Advance Fee Fraud is a whole new era of scamming money out of innocent people. Known internationally as "4-1-9" fraud after the section in the Nigerian Penal Code which addresses fraud schemes, these scams have reached epidemic proportions.

As a personal target of such scams, I am introducing the Nigerian Advance Fee Fraud Prevention Act of 1998 to bring this swindle and its perpetrators into the forefront of the American public, and focus the Government on implementing a national and international strategy to combat these shams.

This form of bilk is widespread, targeting over 60 countries worldwide. The perpetrators of these hoax's don't discriminate when choosing their targets, everyone from small to large corporations, religious organizations, and individuals are all fair game to these criminals.

I myself have been targeted four times by these flimflams in just over 7 months.

The perpetrators of this swindle will send letters to unknowing victims, mostly senior citizens, claiming that the Nigerian Government overpaid the Nigerian National Petroleum Corporation on a contract. Instead of giving the money back to the government, the scammer indicates they need a foreign bank account to deposit $50 million, of which 30% would remain in the victims' bank account for them to keep.

So, what is the actual scam? The scam does not actually require the transmission of a bank account number (although many victims obligingly provide it). The victim supplies a letterhead, which is used to forge letters of recommendation to the American Embassy for travel visas and it is also used to persuade other prospective victims.

They way they get money from the victims is much craftier. Victims are pressured into sending money for unforeseen taxes, fees to the Nigerian Government, and attorney fees. These fees can reach hundreds of thousands of dollars. The perpetrators of these scams often allege that the victim must travel to Nigeria in order to complete the transaction. If the victim is unable to travel to Nigeria, they proceed to demand more money from them for power of attorney fees and other associated taxes. Often when a victim does travel to Nigeria, the scammer explains to them that there is no need for a visa. In fact, a visa is required by the Nigerian Government. The perpetrators then bribe airport officials to bypass immigration, and use this illegal entry as leverage to coerce the traveler into releasing more money.

Violence and threats of physical harm may also occur. To date, 15 foreign businessmen and two United States citizens have been murdered in Nigeria in connection with a "4-1-9" scam. Perpetrators of these scams are rarely prosecuted or jailed by the Nigerian government, which is also suspected of playing a role in these schemes.

Money garnered from these schemes is used to fund other illegal activities, including drug trafficking or violent crimes. This is a growing concern to the international community, and among the thousands of Americans who fall victim to these scams.

The Nigerian Advance Fee Fraud Prevention Act of 1998 will direct the Secretary of State and the Secretary of the Treasury to jointly report on actions taken by the Nigerian Government in apprehending the perpetrators of 4-1-9 scams, efforts taken by the United States to inform American about such schemes, and other such actions which are or should be undertaken to end of these schemes, including the imposition of sanctions on the Nigerian Government.

50TH ANNIVERSARY OF THE WORLD HEALTH ORGANIZATION

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. GEJDENSON. Mr. Speaker, this year marks the Fiftieth Anniversary of the World Health Organization. I want to congratulate them, and everyone else who has joined in the fight against infectious disease around the world. I also congratulate Dr. Gro Harlem Brundtland, the recently-elected Director-General of the World Health Organization, who has announced her commitment to improving the lives and health of children around the world.

In the last five decades, human longevity worldwide has increased by more than 40% and the average life expectancy at birth rose from 46 years in the early 1950s to almost 65 years by 1996. These great strides forward in health would not have been possible without the efforts of WHO and their many local and international partners in the private, public and non-profit sectors.

In 1967, WHO started an ambitious effort to eliminate smallpox worldwide. At the time, no one believed that a disease which afflicted up to 15 million people annually could be eradicated in just thirteen years—but that's exactly what happened. According to WHO, if smallpox had not been eliminated in 1980, the past twenty years would have witnessed some 350 million new victims—roughly the combined population of the USA and Mexico—and an estimated 40 million deaths—a figure equal to the entire population of Spain or South Africa.

Today, close to 90% of children in the world are being reached by immunization services—a dramatic increase from the 5% vaccinated only twenty-five years ago. Two million deaths from measles alone are prevented worldwide every year by current immunization efforts. WHO, its Member States and international partners are conducting extensive immunization, treatment and prevention campaigns to end polio, malaria, tuberculosis, cholera, dracunculiasis, Chagas disease, and HIV/AIDS around the globe.

Unfortunately, this story is not entirely filled with happy tidings. Today, malnutrition is implicated in the deaths of seven million of the twelve million children who die of preventable causes each year. Many households around the world still lack access to safe drinking water and often use the same water supply for cooking and sanitation. Deaths from easily preventable, waterborne illnesses and the more elusive but equally deadly diseases like Ebola make the battle against infectious disease a war with many fronts.

To further complicate the picture, non-communicable diseases like cancer and heart disease—the leading causes of death in the United States and Europe—are making inroads into Africa, Asia and South America. WHO projects that deaths related to tobacco use over the next 30 years will rise from 4 million to 10 million by the year 2030, with 70 percent of these deaths occurring in developing countries.

The unfettered globalization of the tobacco market—which is dominated by U.S. companies—will cause untold devastation on the health of every citizen on the planet over the next few decades. We cannot stand idly by when we have the tools to stop such practices.

I am proud to be an original co-sponsor of the Bipartisan NO Tobacco for Children Act of 1998 which will establish an international "code of conduct" for U.S. tobacco companies selling their products abroad. If tobacco companies cannot market in a particular way to American children, they should also be prohibited from using those methods on children in other parts of the world.

HONORING THE GRACE BAPTIST CHURCH OF NANUET

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. GILMAN. Mr. Speaker, a great Baptist Church located within Rockland County of the 20th Congressional District of New York, will observe its bicentennial, as this County celebrates its 200th birthday.

In 1798 a small gathering of Baptists in Rockland County formally established what is today the Grace Baptist Church of Nanuet. This Church was instrumental in starting six new Baptist congregations in Rockland County and subsequently established the first Sunday School there in 1828.

A far-sighted and courageous action that this Church took on April 12, 1817, fifty years before President Abraham Lincoln's Emancipation Proclamation, was its declaration that members who owned slaves could no longer remain fellows of the Church.

The growth of the Grace Baptist Church over the past 200 years has kept pace with the growth of Rockland County. The current congregation is multi-ethnic with Caucasian, Afro-American, Hispanic, Asian, Korean, Haitian and Philippine congregation members. All these reflect the current cultural and ethnic composition of Rockland County.

This Church has been an important factor for the development of the Rockland community. Throughout the years it has been an invaluable community presence, making certain that it responds to the special needs of the population. It has been a social and religious institution that always acts in the best interests of the community.

I am certain that the Grace Baptist Church of Nanuet will keep up its good works, not only in spreading out its religious traditions and observances, but also promoting its religious teachings and morality in Rockland's community.

TRIBUTE TO "BUCK" LONG

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. CALLAHAN. Mr. Speaker, on June 1, 1998, D.H. "Buck" Long will retire from his long-time service as President and General Manager of WKRG–TV, Inc., the CBS affiliate in my hometown of Mobile, Alabama.

For over 30 years, Buck has been an innovator in the broadcasting industry, always keeping his station on the cutting edge of technology. Furthermore, he has set an example for his peers and employees alike by giving much back to his community. Quite frankly, Buck's service to the Mobile area has been unrivaled in many ways.

Buck Long was born on April 9, 1929 in Spartanburg, S.C., where he attended Spartanburg High School. Soon after graduation, he moved to Mobile to attend Springhill College in 1947. As a student at Springhill, Buck worked part-time as a record librarian, station-break announcer and disc-jockey at WMOB Radio, which marked his first job in the broadcasting field to which his father had introduced him years before as a young child.

In 1950, Buck became the nighttime announcer and disc-jockey at WABB Radio where he became known as the host of "Buck Back Room." With his ingenious business style and optimistic attitude, Buck sold his show to the listeners of Mobile who grew to appreciate and admire not only the show but also the announcer. In return for his hard work and success with the show, WABB promoted Buck to the position of full-time sales associate the following year and by 1955, he was named local sales manager at WABB.

After his initial success in radio, Buck left the station in 1957 and became an account executive with Jack Lewis Advertising. Two years later, in 1959, he joined the sales department at WKRG–TV. That year marked the beginning of what would turn into a long and dedicated relationship with the WKRG corporate family.

In 1967, Buck Long was promoted to local sales manager as a reward for his hard work. A few years later, he was elected Vice President, and later Senior Vice President, of WKRG. In 1982, Buck was once again elevated, this time to Executive Vice President and Station Manager. Finally, on January 1, 1986, the Board of Directors of AM–FM radio stations.

Throughout his distinguished career, Buck has always demonstrated his genuine concern for the Mobile community through his commitment to quality family programming. In addition, Buck has also believed the public deserves to be kept informed with a top notch news department and a public affairs division that is second to none. Along these lines, I would be remiss if I didn't mention one such program, *The Gulf Coast Congressional Report,* which has been a mainstay on WKRG for more than 20 years. In fact, with Buck's strong support, several of my colleagues and I, most notably former Congressman Earl Hutto and the Senate Majority Leader, TRENT LOTT, have been able to appear on WKRG on a regular basis keeping the viewing audience in Northwest Florida, Southwest Alabama and the Mississippi Gulf Coast informed on the latest news coming out of Washington.

As you can imagine, Buck Long has received numerous awards over the years but three in particular stand out. Not long ago, the Alabama Broadcasting Association named Buck Alabama Broadcaster of the Year. In addition, he has also been named a Paul Harris Fellow from the Mobile Rotary Club and an Honorary Fellow to the University of Mobile.

Buck resides in Mobile with his wife, the former Sara Kerr. Their daughter, Karen St. Clair, also lives in Mobile with her husband Jeffrey Miles St. Clair, and their children, Sara, Katherine and Andrew.

Mr. Speaker, Buck Long is a good friend but more than that, he is a good citizen. His leadership in our community and at WKRG serves as an inspiration to young and old alike, and it is indeed a pleasure for me, as his congressman, to enter this recognition in the CONGRESSIONAL RECORD, so that on behalf of his viewing audience and my constituents, a proper "thank you" for his many efforts to make Mobile and South Alabama a better place can be duly noted. And to Buck and Sara, here's for many more years of success, good health and happiness in all your future endeavors.

SANDIA NATIONAL LABORATORIES FIRST FEMALE ENGINEER RETIRES

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mrs. TAUSCHER. Mr. Speaker, I rise today to recognize Betty Carrell, a constituent from Livermore, California and one of science's true female pioneers.

While at Oregon State University in the 1950s, Betty Carrell was the only female student enrolled in the university's engineering program. In fact, because of her welding classes, Mrs. Carrell was the only woman allowed to wear pants on campus.

In 1959, Mrs. Carrell graduated and was quickly hired by Sandia National Laboratories in Livermore, California where she became their first female engineer. After five ground breaking years, where she was the only woman among the 350 engineers at Sandia, Betty left just prior to the birth of her first child.

While raising her two children, who it should be noted are now both mechanical engineers, Betty somehow found time to serve on the Livermore School Board, including two terms as its president. Among her other civic activities, she also sat on the Chabot Community College Foundation and the Livermore Chamber of Commerce.

In 1984, she returned to Sandia where she worked on a number of projects including solar thermal technology, warhead dismantling programs and toxic waste reduction. Betty is most proud of the environmental management work she did in Washington, D.C. for two years while on loan to the Department of Energy. Earlier this year at the age of 60 and after 20 fulfilling years at Sandia, Betty Carrell retired from the working world.

Betty Carrell is truly an inspiration to young woman everywhere who dream of entering the workplace as scientists and engineers. At an early age, she shared her parent's love of math and science so it was a natural for her to want to become an engineer.

Betty can be delighted with the progress women have made in the sciences. Of the 630 technical engineers at Sandia today, 107, 17 percent of them, are women. Betty Carrell should take great pride in the trail she blazed for women everywhere in engineering and in the sciences. We in the 10th Congressional District are extremely fortunate to have someone as special and as courageous as Betty Carrell living in our community. I applaud her for her efforts on behalf of women everywhere and I wish her the best in her well-deserved retirement.

TRIBUTE TO ROY TOWERS

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. RIGGS. Mr. Speaker, one of my best friends left this world for a better one last week. His name was Roy Towers. He had one mission in life, to help make his country, his state and Del Norte County a better place to live, work and raise a family.

Some people sit on the sidelines and say why bother. Not Roy Towers. He was the type of person to get involved and make a difference. And make a difference he did. In the political arena there was no one better at organizing to elect the candidate he felt would do the best job for the people. Where some people just give money, and others only give their time, Roy Towers gave both.

Most people will remember him as a political activist, but he was so much more than that. Few people will recall that it was Roy Towers who was one of the prime movers of the effort to get quality care in Del Norte County. Yes, as a member of the Local Hospital Board of Directors, he convinced Sutter Health Systems to invest millions of their dollars to build a new hospital in Crescent City. He made sure that poor people were guaranteed access to good health care by convincing the board to bring in a medical clinic to serve those who could not afford medical and dental care.

Roy was also a dependable friend. I often sought his advice and counsel, and he was always forthright with his thoughts and ideas.

He was a person who was active right up to the end, fighting for his beliefs.

[From the Daily Triplicate, Tuesday, May 19, 1998]

ROY TOWERS, 1920–1998

A MAN OF INFLUENCE AND DILIGENCE, ROY TOWERS WORKED HARD TO LEAVE HIS LITTLE CORNER OF THE WORLD A BETTER PLACE

If someone met Roy Towers walking down the street, at least in the 1990s, most people would not see the clout the gentleman held in the area. They would have seen a tall, orderly man with quiet eyes and reserved demeanor. Flashy was not part of his wardrobe or his lifestyle.

Yet Towers was far different than some others with power. First, Towers' influence wasn't because of his money, although he did have a dime or two. No, it was built on respect. It was anchored in hard work. He was willing to fight his own battles. For example, he saw a need for leadership on what is now the Del Norte Healthcare District's board of directors, and for 17 years he provided that in a determined, yet civilized, manner.

Towers was also a man who understood principles and accepted the fact that other people had principles that didn't always match his goals. As long as an opponent had a good reason for disagreeing with him, Towers understood.

Roy Towers died last week. He took with him a wealth of knowledge about many subjects, such as making friends and making Del Norte County a better place to be. He will be missed.

"MIRACLE AT MIDNIGHT:" AN EXTRAORDINARY FILM AND A VALUABLE LESSON FROM THE PEOPLE OF DENMARK

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. LANTOS. Mr. Speaker, I am pleased to honor today an outstanding film, "Miracle at Midnight," that appeared on ABC television's "The Wonderful World of Disney" on Sunday night, May 17. This moving drama, which was created by ABC, the Disney Company, and the United States Holocaust Memorial Museum, is a stirring description of the story of Danish courage during World War II.

Other European nations, subdued by Nazi might, cowered at the feet of their conquerors and, in some cases, collaborated with them in their most despicable genocidal plans. The Danes stood firm against this affront to humanity, fighting back doggedly and bravely against German efforts to arrest Denmark's Jewish citizens. In a matter of hours, Danes of all religions and persuasions joined together to organize a rescue of miraculous success and unbelievable fortitude.

The swiftness and daring of the rescue illustrated in "Miracle at Midnight" is so monumental that it is difficult to believe. In fact, the entire account is based on the true experience of the Danish people.

On April 9, 1940, German tanks crossed the border into Denmark in an unprovoked attack upon a defenseless nation. As Nazi tanks rolled unhindered across the flat Jutland, the Danish government recognized the impossibility of resistance and surrendered within hours. As a reward for their initial passivity, the German occupiers allowed the Danes a modicum of freedom and a measure of civil life unparalleled under the Nazi yoke. Few untermenschen—"subhuman" individuals of "degenerate" races—were molested by Gestapo thugs, and, for three years, life for most Danish citizens remained relatively unchanged.

In 1943, however, this changed. Ambitious SS officers in Copenhagen, perversely envious of their mass-murdering colleagues in Eastern Europe, ordered the arrest of the city's Jewish population to coincide with Erev Rosh Hashanah, the night before the start of the Jewish New Year. Word leaked quickly to the Jewish community, and men and women who arrived for celebratory synagogue services were immediately sent home to hide their families from the Nazi onslaught. Non-Jewish families, among them Dr. and Mrs. Karl Koster (skillfully portrayed by Sam Waterston and Mia Farrow) and their two teenage children, risked their lives by opening their homes to Jewish friends and neighbors. Dr. Koster, a leading Copenhagen surgeon, courageously converted the hospital which he directed into a refuge. Similar acts of principled, silent bravery dotted the historic city, making the "surprise" Nazi roundup an unmitigated failure.

Koster and his fellow protagonists soon realized that the Nazi thugs could not be evaded indefinitely, and they devised a plan to ferry their Jewish friends to neutral Sweden. Against seemingly hopeless odds, their efforts were rewarded. Through sheer good fortune and the wit, wisdom, and valor of the many Danish heroes, 7,000 Jews escaped to Sweden. Only a few fell into Nazi hands.

Mr. Speaker, I cannot overemphasize the importance of studying the horrible illustrations of human brutality that mark the history of the Holocaust. I feel equally passionate about the need to study the causes of the widespread popular indifference to the Nazi crimes. But another type of example from these awful years must also be highlighted: the instances of uncompromising bravery that saved many men, women, and children from the gas chambers. The fortitude of Oskar Schindler was brilliantly recorded on film by Steven Spielberg in the epic "Schindler's List." The moral fight of the outnumbered and outgunned Jews of the Warsaw Ghetto tied down pivotal German forces for six weeks and, more importantly, served notice to Hitler's henchmen that the Jewish people would fight the tyranny forced upon them. For me and my wife, the lesson of Raoul Wallenberg, the Swedish humanitarian who saved our lives and the lives of 100,000 Budapest Jews, is one that we never fail to teach our grandchildren. The sacrifices of the Danes must also never be forgotten, and the brilliantly constructed "Miracle at Midnight" helps to fulfill this vital mission.

Mr. Speaker, the extraordinary film would not exist without the luminous talents and firm backing of many important participants. "Miracle at Midnight" is produced by Davis Entertainment in association with Walt Disney Television. John Davis and Merrill Karpf are the executive producers, with Morgan O'Sullivan as producer. Ken Cameron directed from a script by Chris Bryant and Monte Merrick. Waterston, the acclaimed star of "The Killing Fields" and television's "Law and Order," joins Ms. Farrow, Justin Whalin, and numerous other brilliant artists in their magnificent acting performances.

"Miracle at Midnight" displays for us all the beauty and justice of a people comparatively unburdened by the racial and religious hatreds that indelibly stamped the Holocaust. Preben Munch-Nielsen, then a teenager, took part in that historic rescue: "We didn't recognize Jews as Jews, but as Danes. . . . The Jews . . . were victims of an insane movement created by lunatics. If you wanted to maintain your self-respect, you did what you could." This film is a wonderful lesson of tolerance, dignity, and selflessness. Mr. Speaker, I ask my colleagues to join me in commending "Miracle at Midnight" and all those who contributed to its valuable historical lesson.

STATEMENT ON DEFENSE AUTHORIZATION BILL—MOFFETT FEDERAL AIRFIELD, COMPOSITE MAINTENANCE HANGAR

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Ms. ESHOO. Mr. Speaker, I'm disappointed that the National Security Committee was unable to include funding for the construction of a new composite hangar for the Air National Guard 129th Rescue Wing stationed at Moffett Federal Airfield in California.

I understand the fiscal restraints placed on the Committee, especially in the area of construction and infrastructure. That is why I am urging the Administration to give careful consideration to including the project in the FY 2000 budget currently being developed.

Currently, the hangar and maintenance facilities for the 129th Rescue Wing at MFA are inadequate and unsafe for personnel and aircraft. The existing hangar (Hangar 3), built before World War II, was designed to house dirigibles and is much too large and in need of costly renovations and repairs. A newly constructed Composite Maintenance Hangar would greatly enhance the operational effectiveness and readiness of the California Air National Guard and the 129th Rescue Wing.

NASA was designated as the host agency to accommodate federal assets at Moffett as a result of the 1993 Base Realignment and Closure Commission recommendations. Subsequently, all tenants at Moffett were required to relocate to contiguous areas, using available facilities to house their activities. As a result, there are no aircraft hangar facilities available to house the nearly 200 maintenance personnel performing repairs to the HC–130P and HH–60G aircraft in the Air National Guard area. Hangar and related aircraft maintenance activities are currently being performed in a World War II hangar designed for dirigibles. The hangar is almost seven times the size of what is needed by the Air National Guard, and is located a substantial distance from the identified Air National Guard area. This building is constructed of wood with a metal roof and has no fire protection or state-of-the-art safety features.

The current facility has inefficient and obsolete utility and environmental systems. The building also requires extensive code upgrades to ensure seismic safety, and the alarm systems are inadequate. Because of the age and condition of the existing hangar, critical and substantial operation and maintenance (O&M) funds are being expended annually to keep the hangar marginally useful. A Life Cycle Cost Report done by the Air Force shows that there is a one year payback involved in the construction of this new composite maintenance hangar, and design of the project has been completed.

I urge the administration to include this project in next year's budget, and hope that at this time next year I can thank the Committee for its work in protecting and assisting the members of the Guard that serve California.

HONORING VINCE'S BRIDGE IN PASADENA, TX

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. BENTSEN. Mr. Speaker, I rise to recognize the site of Vince's Bridge in Pasadena, Texas, as it is rededicated on May 24, 1998, to the memory of the men and women who participated in the struggle for Texas Independence. In addition, this rededication is a tribute to Pasadena's Our Neighborhood Association and its President, Nona Phillips, who not only spearheaded this rededication, but also conducted painstaking historical research in an effort to document the bridge's role in the Battle of San Jacinto.

At the Battle of San Jacinto, Texas Army General Sam Houston made a surprise attack on the Mexican Army near the mouth of the San Jacinto River, defeating the Mexican Army under General Santa Anna. This battle ended the war, and Texas earned its independence from Mexico. According to the research conducted by Nona Phillips and her neighbors, as well as other historians, Vince's Bridge played a critical role in this victory.

General Sam Houston and the meager Texas Army retreated eastward after the fall of the Alamo in the spring of 1836. The troops were increasingly impatient and demoralized by the time they reached Buffalo Bayou, a few miles southeast of present day Houston.

On April 19, the Texans crossed over and marched down the right bank of Buffalo Bayou to within half a mile of its confluence with the San Jacinto River. Here, the Texas Army prepared their defenses on the edge of a grove of trees. Their rear was protected by timber and the bayou, while before them was an open prairie.

The main forces of the Texas Army totaled about 750 men. They faced a force of 1,500 of the Mexican Army, confident because of their recent successes against the Texans.

Early in the morning of April 21, 1836, Sam Houston sent Erasmus "Deaf" Smith, the celebrated Texas scout, along with John Coker, Denmore Reves, John Garner, John Rainwater, Moses Lapham, and Y.P. Alsbury, to destroy Vince's Bridge over which the Mexican Army had passed, thus cutting off their only available escape. The stage set for battle, General Houston gave his long-awaited order to fight, and after only 18 minutes and shouts of "Remember the Alamo," the Texans were victorious. Santa Anna, who was taken prisoner, signed a treaty that granted Texans their independence and ended the war. The battle for Texas was won.

Vince's Bridge was, by most historical accounts, a relatively small wooden bridge spanning one of the many estuaries of Buffalo Bayou. While the San Jacinto Monument, which today is a museum housing artifacts of the battle, attests to the Texan victory, only a small granite marker along Texas 225, a seldom-travelled, two-lane road, denotes the location of Vince's Bridge. The marker, laid in the early 1900s by the Daughters of the Republic of Texas, has almost been forgotten, the message nearly illegible from time and salt.

Longtime residents and members of Pasadena's Our Neighborhood Association believe the site deserves more recognition since the bridge was instrumental in the Texans' victory. So on May 24, 1998 they will rededicate the marker at the site of Vince's Bridge.

Mr. Speaker, I commend Nona Phillips and Our Neighborhood Association for their unrelenting efforts to carry out this project. Over the years, the bridge has maintained its own identity and symbolism. In the Association's words, "it was built with love and hope and dreams. It was destroyed to protect those dreams. It comes back to life at a time when our children are sorely in need of dreams and example." It is fitting that we rededicate the Vince's Bridge marker to the women and men who participated in the struggle for Texas independence and helped the dreams survive.

THE CALIFORNIA COASTAL ROCKS AND ISLANDS WILDERNESS ACT OF 1998

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. FARR of California. Mr. Speaker, I rise today to introduce the California Coastal Rocks and Islands Wilderness Act of 1998. I am pleased to be able to offer this bill with the support of my colleague, Representative ELTON GALLEGLY.

The purpose of this bill is to recognize the ecological significance of the tens of thousands of small rocks, islands and pinnacles off the California coast, by designating them as part of the National Wilderness Preservation System. These small islands and rocks provide important resting sites for California sea lions, Steller's sea lions, elephant seals and harbor seals, as well as providing a narrow flight lane in the Pacific Flyway. An estimated 200,000 breeding seabirds of 13 different species use these rocks and islands for feeding, perching, nesting and shelter. Birds that use these areas include three threatened and endangered species: the brown pelican, the least tern and the peregrine falcon.

The Wilderness designation afforded by this act would apply to all rocks, islands and pinnacles off the California coast from the Oregon border to the U.S. Mexico border, which are currently under the jurisdiction of the Bureau of Land Management (BLM). This includes nearly all of the federally-owned lands above the mean high tide and within three geographical miles off the coast.

The designation would afford the highest protected status and highlight the ecological importance of all of the small rocks, islands and pinnacles off the California coast, which together comprise approximately 7,000 square acres. Adding these areas would also further the Wilderness Act's goal of including unique, ecologically representative areas to the System.

Rocks and islands which are already patented or reserved for marine navigational aids, National Monuments, or state parks will not be affected by the legislation.

I am pleased to be able to introduce this bill and look forward to its swift passage, so that these unique areas of California's ecosystem can be preserved and protected for generations to come.

INTRODUCING DISTRICT OF COLUMBIA LEGISLATIVE AND BUDGET AUTONOMY ACT OF 1998, THE FIRST BILL IN A SERIES OF DEMOCRACY TRANSITION BILLS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Ms. NORTON. Mr. Speaker, today I introduce the District of Columbia Legislative and Budget Autonomy Act of 1998, the first in a series of bills that I will introduce this session to ensure a process of transition to democracy and self-government for the residents of the District of Columbia.

The National Capital Revitalization and Self-Government Improvement Act passed last summer eliminated the city's traditional stagnant Federal payment and replaced it with Federal assumption of escalating State costs including prisons, courts and Medicaid, as well as federally created pension liability. Federal funding of these State costs involve the jurisdiction of other appropriations subcommittees. The DC Subcommittee is put in the position largely of appropriating the District's own locally-raised revenue from its own taxpayers money! Any new federal money for the District will come on a targeted basis covered by other subcommittees. My bill corrects an untenable position in a democracy that operates under principles of federalism, namely a national legislature appropriating in whole the budget of a local city jurisdiction. The budget autonomy component of the bill would allow the District government to pass its own budget without congressional approval.

Congress has put in place two safeguards that duplicate the function of the appropriation subcommittees—the Chief Financial Officer and the District of Columbia Financial Responsibility and Management Assistance Authority (Financial Authority). Moreover, the District has already begun to demonstrate that it is capable of exercising prudent authority over its own budget. This year, an independent accounting firm certified the District's first year (FY 1997) of a balanced budget and surplus, and the District is scheduled to continue to run balanced budgets and surpluses into the future. Under the Financial Responsibility and Management Assistance Authority Act (FRMAA), the Financial Authority will remain in place for two more fiscal years (FY 1999, FY 2000) in any case, allowing the necessary monitoring and affording a period for the city to exercise the new authority while being monitored.

Budget autonomy will also serve to encourage more rapid and effective action by the District government and the Financial Authority to return the District to permanent solvency and to reform its budgetary governmental procedures. Budget autonomy facilitates the two indispensable goals of (1) streamlining the District's needlessly lengthy and expensive budget process in keeping with the congressional intent of the FRMAA to reform and simplify D.C. government procedures, and (2) facilitating more accurate budgetary forecasting. This bill inserts into the DC reform process a carrot where there have been only sticks. Incentives will help to hasten reform.

This bill would return the city's budget process to the simple approach proposed in the Senate and the District of Columbia Committee during the 1973 consideration of the Home Rule Act. The Senate version, as well as the bill reported by the District of Columbia Committee, provided a simple procedure for enacting the city's budget into law. Under this procedure, the Mayor would submit a balanced budget for review by the City Council with only the federal payment subjected to congressional approval. A conference compromise, however, vitiated this approach treating the DC government as a federal agency (hence the 1996 very harmful shutdown of the DC government for a full week when the federal government was shut down). The Home Rule Act of 1973, as passed, requires the Mayor to submit a balanced budget for review by the City Council and then subsequently to Congress as part of the President's annual budget as if a jurisdiction of 540,000 residents were an agency of the federal government.

The D.C. budget process takes 18–22 months from start to finish. The usual time for comparable cities is six months. The necessity for a Financial Authority significantly extended an already uniquely lengthy budget process. Even without the addition of the Authority, the current budget process requires the city to navigate its way through a complex bureaucratic morass imposed upon it by the Congress. Under the current process, the Mayor is required to submit a financial plan and budget to the City Council and the Authority. The Authority reviews the Mayor's budget and determines whether it is approved or rejected. Following this determination, the Mayor and the City Council (which also hold hearings on the budget) each have two opportunities to gain Authority approval of the financial plan and budget. The Authority provides recommendations throughout this process. If the Authority does not approve the Council's financial plan and budget on second review, if forwards the Council's revised financial plan and budget (containing the Authority's recommendations to bring the plan and budget into compliance) to the District government and to the President. If the Authority does approve the budget, that budget is then sent to the President without recommendations. The District budget includes proposed expenditures of locally raised revenues as well as a proposed federal payment. The proposed District budget is then included in the federal budget, which the President forwards to Congress for consideration. The DC subcommittee in both the House and Senate review the budget and present a Chairman's mark for consideration. Following markup and passage by both Houses, the DC appropriations bill is sent to the President for his signature. Throughout this process the bill is not only subject to considerations of fiscal soundness but individual and political considerations.

This procedure made a bad budgetary process much worse causing me to write a consensus budget amendment that allows the parties to sit at the same table and write one budget. Even so, instead of that budget becoming law now, the District is likely to be without a budget until close to the adjournment of Congress this year.

Under the legislation I introduce today, the District of Columbia still remains subject to the full appropriations process in the House and Senate for any federal funds. Nothing in this bill diminishes the power of the Congress to "exercise exclusive legislation in all cases whatsoever" over the District of Columbia under Article I, section 8, clause 17 of the U.S. Constitution should it choose to revise what the District has done concerning locally raised revenue. Nothing in this legislation prevents any member of Congress from introducing a bill that addresses her specific concerns regarding the District. Once the District receives budget autonomy, the Financial Authority Act still mandates that the Authority review the District's budget. Granting the District the power to propose and enact its own budget containing its own revenue free from Congressional control during the period when the Authority is still the monitoring mechanism eliminates all risk in granting this power and provides an important incentive to help the District reach budget balance and ultimately meaningful Home Rule.

My bill also contains another important section. It eliminates the congressional review period of 30 days and 60 days respectively, for civil and criminal acts passed by the DC City Council. Under the current system, all acts of the council are subjected to this Congressional layover period. This unnecessary, unprecedented and undemocratic step adds yet another unnecessary layer of bureaucracy to an already overburdened city government.

My bill would eliminate the need for the District to engage in the byzantine process of enacting emergency and temporary legislation concurrently with permanent legislation. The Home Rule charter contemplates that if the District needs to pass legislation while Congress is out of session, it may do so if two-thirds of the Council determines that an emergency exists, a majority of the Council approves the law and the Mayor signs it. Emergency legislation, however, lasts for only 90 days, which would (in theory) force the Council to pass permanent legislation by undergoing the usual congressional review process when Congress returns. Similarly, the Home Rule Charter contemplates that the Council may pass temporary legislation lasting 120 days without being subjected to the congressional review process, but must endure the congressional layover period for that legislation to become law.

In actual practice, however, most legislation approved by the City Council is passed concurrently on an emergency, temporary and permanent basis to ensure that a large, rapidly changing city like the District remains running. This process is cumbersome and inefficient, and would be eliminated by my bill.

It is important to emphasize that my bill does not prevent review of District laws by Congress. The DC Subcommittee would continue to scrutinize every piece of legislation passed by the City Council if it wishes and to change or strike that legislation under the plenary authority over the District that the Constitution affords to the Congress. My bill merely eliminates the automatic hold placed on local legislation and the need to pass emergency and temporary legislation to keep the District functioning.

Since the adoption of the Home Rule Act in 1973, over 2000 acts have been passed by the council and signed into law by the Mayor. Of that number, only thirty-nine acts have been challenged by a congressional disapproval resolution. Only three of those resolutions have ever passed Congress—two of which involved a distinct federal interest. Two bills, rather than a hold on 2000 bills, would have served the purpose and saved considerable time and money for the District and the Congress.

I ask my colleagues who are urging the District government to pursue greater efficiency and savings to do your part in giving the city the tools to cut through the bureaucratic maze the Congress has imposed upon the District. Congress has been clear it wants to see the DC government taken apart and put back together again in an effort to eliminate redundancy and inefficiency. Congress should therefore eliminate the bureaucracy in DC that Congress is solely responsible for by granting the city budgetary and legislative authority.

Only through true budgetary and legislative autonomy can the District realize meaningful self-government and Home Rule. The President and the Congress took the first step in relieving the District of costly escalating state functions in the President's Plan. This bill takes the next logical step by granting the District control over its own budgetary and legislative affairs. I urge my colleagues to pass this important measure.

THE FEDERAL FINANCIAL ASSISTANCE MANAGEMENT IMPROVEMENT ACT OF 1998

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. HOYER. Mr. Speaker, today Congressman Portman and I have introduced The Federal Financial Assistance Management Improvement Act of 1998. This legislation eliminates duplicative paperwork for those individuals and groups attempting to get federal assistance. The bill also removes federal road blocks to coordinating service delivery for families receiving federal assistance. The Federal Financial Assistance Management Improvement Act of 1998 establishes the framework by which federal, state and local agencies can more efficiently deliver services to those in need.

We have asked families to get back on their feet so they can take care of themselves and their children but our maze of federal regulations makes it more difficult for community programs to assist families in doing this. We must help these families to help themselves. The Federal Financial Assistance Management Improvement Act of 1998 coordinates federal service programs to better serve our Nation's children and families and I am pleased to introduce it today with my colleagues Rob Portman, Jim Moran, Chris Shays, Tom Davis, Steve Horn, Gary Condit, Dennis Kucinich, Bob Weygand, Rosa DeLauro, Jim McGovern, Carolyn Kilpatrick, Jim Talent, Mark Sanford, and John Sununu.

IN TRIBUTE TO BOB CRANDALL

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. FROST. Mr. Speaker, today marks the retirement of one of the most prominent figures in American aviation. After twenty five years, the last thirteen as Chairman and CEO, Bob Crandall is leaving American Airlines. His legacy is immense.

A vehement opponent of deregulation in the 1970s, Bob Crandall guided American and, in turn, other airlines through the tumultuous 1980s. Bob Crandall's innovations—computer reservations systems, frequent flier programs, super saver fares and the hub and spoke system, to name a few—have become industry standards. American Airlines has tripled in size since moving its headquarters to Dallas-Fort Worth, which has grown with American to become one of the busiest airports in the United States.

We congratulate him as he leaves American and thank him for his visionary leadership both in the aviation community and in the Metroplex. We do not know exactly what his future holds, but we hope we have not heard the last of Bob Crandall.

INTRODUCTION OF THE "COMMUNITY EMPOWERMENT AND EMPLOYEE PROTECTION ACT"

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. STRICKLAND. Mr. Speaker, I rise today to introduce legislation, along with my colleague Mr. ED WHITFIELD of Kentucky, which would guarantee that an amount equal to the tax windfall the federal government receives from the privatized United States Enrichment Corporation (USEC) would help to assist job creation and stimulate economic development in southern Ohio and western Kentucky. In the Energy Policy Act of 1992, the government-owned corporation USEC was created to assume responsibility for the Department of Energy's (DOE) uranium enrichment program. The 1992 Energy Policy Act not only transferred the Department's uranium enrichment program to USEC, but it also included a requirement that USEC prepare a strategic plan to privatize the corporation. On June 30, 1995, USEC issued its privatization plan. Today, that privatization plan is near completion and the transfer of this public asset will take place as soon as this summer.

Back in the 1950's the Department of Energy's gaseous diffusion plants in Piketon, Ohio and Paducah, Kentucky operated to supply enriched uranium for U.S. nuclear weapons and later for reactor fuel for nuclear submarines. Today, the Piketon and Paducah facilities provide an essential service in the production of fuel for commercial nuclear power plants operated by electric utilities. Unfortunately, the changes in DOE's mission have led to significant workforce reductions at the plant in southern Ohio, and this downsizing dramatically affects a region which has not experienced the unparalleled economic recovery so many other communities throughout the country have enjoyed. Under privatization, USEC intends to restructure its operation and there is a growing uncertainty about the security of existing jobs at the plant. Therefore, I believe the bill we are introducing today provides a reasonable approach to addressing the needs of the workers, their families and the communities of Ohio and Kentucky that supported our efforts during the Cold War.

Specifically, the bill directs the Department of Energy's Worker and Community Transition Office to set up and manage a fund dedicated to improve economic security of the communities which depend on and support the operation of the two uranium enrichment plants located in Piketon, Ohio and Paducah, Kentucky. The appropriation to this fund would be authorized at a level equal to the tax windfall received by the federal government from the privatized USEC. Under the management of DOE's Worker and Community Transition Office, the allocation of funds to the regions would be directly related to the economic distress factors in the local communities surrounding the facilities and could provide the resources necessary to improve the economic health in these regions. Those counties experiencing the highest unemployment rates would receive larger allocations than counties with unemployment rates closer to the state average unemployment rate. These financial resources would be used to help train displaced employees and market the region for future business opportunities. This dedicated fund would dissolve when the local unemployment rates of the affected counties reach the average unemployment rate of the respective states for a period equal to at least one year.

While I recognize that downsizing at DOE facilities adversely affects local communities across the country, I doubt whether many of these communities have the pressing need that exists near the Piketon, Ohio plant. Recent unemployment statistics indicate that the average unemployment rate of the four counties surrounding the Piketon, Ohio plant is greater than 10%. The average unemployment rate in the state of Ohio is 4.3%, seasonally adjusted, and the national adjusted average unemployment rate is 4.7%. This bill is designed to address this unacceptable disparity and help to ensure that southern Ohio has an equal opportunity to contribute to this nation's economic recovery.

HONORING LOU BOOKER ON THE OCCASION OF 20 YEARS OF EXEMPLARY SERVICE TO THE SANTA FE SPRINGS CHAMBER OF COMMERCE AND INDUSTRIAL LEAGUE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. TORRES. Mr. Speaker, I rise today to recognize Lou Booker for 20 years of outstanding service as Executive Director of the Santa Fe Springs Chamber of Commerce & Industrial League. Lou was recognized last week in Santa Fe Springs, California.

Lou Booker and her husband Vern have two children Steve and Lynn and six grandchildren. They reside in La Palma, California.

Lou began her career with the Santa Fe Springs Chamber of Commerce & Industrial League in 1978. Throughout her 20 years of service, she has implemented and maintained programs that have placed Santa Fe Springs Chamber of Commerce & Industrial League at the forefront of area chambers. One of the programs that Lou supports is the Rotary Club of Santa Fe Springs. Lou has also worked to expand the City of Santa Fe Springs' annual business and residential "Citizen of the Year" Award Ceremony and the biannual "Salute of Merit Award," to recognizing fire, police and highway patrol service personnel.

Lou has earned a state-wide reputation for developing a chamber that consistently has been on the "cutting-edge" of innovation. She is the editor of a highly acclaimed monthly newspaper—The Business & Industry News; the Business & Industry News Directory and a nationally recognized and awarded Business Emergency Preparedness Network. She has also assisted in the development and publication of the Legislative Action Guide for the Gateway Chambers Alliance. These publications keep constituents informed on local and national business issues.

In addition to her service to our local business community, Lou has also provided leadership and inspiration to the youth of Santa Fe Springs. She has assisted in the implementation of community Chamber/League committees and activities that have development school programs and projects focusing on drug awareness and career development. She is a strong supporter of the CHOICES Program and the DESTINY FUND, a school Mentor program.

Mr. Speaker, this afternoon, members and leaders of our community gathered to recognize Lou for her 20 years of exemplary service to the community of Santa Fe Springs. I ask my colleagues to join me in honoring Lou Booker's 20 years of selfless dedication to the Santa Fe Springs Chamber of Commerce & Industrial League.

CAMPAIGN FINANCE

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SHIMKUS. Mr. Speaker, I rise today to ask my colleagues to support provisions in our upcoming campaign finance debate which require full disclosure of all campaign contributions and expenditures.

In the past several years, we have too often seen abuses of the campaign financing system, where money is pouring into elections from foreign and other unknown sources with little consequence. I find it disturbing that campaigns are sometimes run behind the scenes, behind the backs of voters, so that the campaign finance process generates fear and distrust among voters, instead of honesty and openness.

Although the popular opinion polls may show an indifference or apathy toward campaign finance, I feel that many Americans see these questionable escapades as an inherent part of the campaign finance system, and they feel the situation may never improve.

As a Member of Congress who has no extravagant personal wealth, and no means to independently finance my own campaign, I believe in letting the system work. I believe that candidates young or old, rich or poor, black or white, can and must continue to be able to serve their community and country as a Representative in Congress. The opportunity to serve in Congress must not be limited to only those who have personal wealth, which is the effect that many of the campaign reform bills would have on candidates.

In order to preserve this opportunity for future Congressional aspirants, I believe we must focus our campaign finance reform efforts on getting the truth to the American people—because that is what they want. And finding the truth means opening up our books, all of our campaign finance documents, and letting the light shine brightly on who is giving money to our candidates, who is spending special interest money on their elections, and how much they are spending on these races.

Because too often, people inherently fear that which they do not know. The American people have been kept in the dark about who is getting what money, how much is coming in and from where it comes. Only then will the people be able to decide who best represents them.

Congress must support full disclosure of all campaign related financing, and full publication of campaign documents, and let the sun shine in on how candidates finance their campaigns.

SOUTH BEND TRIBUNE 125TH ANNIVERSARY CELEBRATION DAY

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. ROEMER. Mr. Speaker, Thomas Jefferson once said of newspapers: "The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter."

Next Thursday, on May 28th, one of the great papers in the State of Indiana, the South Bend Tribune, will mark 125 years of continuous publication as a daily newspaper. Since its inception in 1873, the Tribune has compiled an outstanding record of professionalism and public service that continues today. South Bend, the State of Indiana, and portions of Michigan are all fortunate to have a newspaper that sets such a high standard for community service and journalistic competence.

The Tribune is an exceptional newspaper in a variety of ways. Allow me to mention a few examples. First, the Tribune has been recognized on many occasions by local, state, and national newspaper organizations for its outstanding coverage and service to its readers. Year after year the paper wins awards in a wide variety of categories: from photography, to deadline reporting, to editorial writing.

Second, the dedicated and devoted staff of the Tribune produce a newspaper that is consistent in the high quality of its content. Readers all over Indiana have learned that they can depend on the Tribune to produce an excellent newspaper every day.

Third, the Tribune continues to be devoted to its community. In an era of cookie-cutter national newspaper chains that lack local flair or public concerns, the Tribune remains a locally owned and managed newspaper that is dedicated to promoting the health and civic discourse of its community.

When Joseph Pulitzer retired, he outlined a standard for newspapers that exemplifies the history of the Tribune: "That it will always fight for progress and reform, never tolerate injustice or corruption, always fight demagogues of all parties, never belong to any party, always oppose privileged classes and public plunderers, never lack sympathy with the poor, always be drastically independent, never be afraid to attack wrong, whether by predatory plutocracy or predatory poverty."

The residents of the Tribune will mark May 28th with the hope and assurance that the newspaper will continue to have a similar impact for many years into the future.

RETIREMENT OF REAR ADMIRAL KENDELL PEASE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SKELTON. Mr. Speaker, I rise today to recognize the distinguished service of Rear Admiral Kendell Pease, who recently retired from the United States Navy as Chief of Information after 34 years of exemplary service.

After a brief period as an enlisted man and four years at the Naval Academy, Admiral Pease joined the fleet as a public affairs officer in 1968. He served his country in Vietnam, with subsequent assignments in Naples, Italy; Charleston, South Carolina; Washington, DC; and Norfolk, Virginia. He was public affairs officer at the Naval Academy, served on the staff of the Assistant Secretary of Defense for Public Affairs at the Pentagon, and was also public affairs officer at the Bureau of Naval Personnel.

It was at the Navy Office of Information in the Pentagon where Rear Admiral Pease really made his mark as a spokesman for Navy-wide operations and policy. He served in the Office of Information three different times, the final time in his position as Chief of Information, where he was the principal public affairs advisor to and spokesman for both the Secretary of the Navy and the Chief of Naval Operations for nearly six years, the longest term ever held by a Chief of Information. Admiral Pease's tenure spanned some of the most dramatic changes the sea service has experienced in more than 200 years. He saw the aftermath of Tailhook and the integration of women into combat roles in the Navy; he saw the challenges of personnel drawdowns following the collapse of the Iron Curtain; he helped the Navy mold and then iterate a drastic change in mission philosophy, from a blue water fighting force designed to counter the Soviet threat to a brown water force capable of fighting in the littorals and projecting power from the sea. He was always engaged with the media, discussing necessary new acquisition programs like the F/A–18E/F Super Hornet; the *Seawolf* and the New Attack Submarines; the next generation aircraft carrier CVX and CVN–77, the transition ship to CVX; and DD21, the Navy's land attack destroyer for the 21st century. Over and over and over again, Rear Admiral Pease communicated the Navy's role of Forward Presence—operating ships, submarines and aircraft anywhere in the world, unencumbered by host country sensitivities.

Admiral Pease was the Navy's chief spokesman during numerous naval deployments to protect American interests in global hotspots like the Persian Gulf, Taiwan Straits, Somalia, and the Adriatic Sea off Bosnia. And on occasion, when force was the final resort as we have seen several times in the past few years in Iraq and Bosnia, Rear Admiral Pease was there, telling the story of the heroic American Sailor and his or her efforts in the face of adversity. Admiral Pease placed particular emphasis on the Sailor, because he realized that they were the backbone of the fleet—the ingenuity of the individual American Sailor is what make our Navy the greatest one in the world.

Rear Admiral Pease was a master of presenting the Navy's role in world events to the American public. He personally mentored hundreds of junior officers who were members of the Navy public affairs community; he was demanding, but mostly of himself, often arriving at the Pentagon before six a.m. and routinely working until nine or ten at night. His untiring commitment led to a remarkable increase in America's understanding of the Navy and its people. He clearly played a significant role in the shaping of public opinion and the future of the sea service.

Admiral Pease was an innovative communicator. He was at the forefront of promoting digital photography to tell a story half a world away; he also used video teleconferencing at sea and the internet to carry the Navy's message. And his tenure as the Chief of Information saw incredible evolution not only in the way the Navy communicates with the public, but also with Sailors. He refined the Navy's internal publications, reorganized and enhanced the Navy's weekly news program "Navy and Marine Corps News", and pioneered Direct to Sailor television aboard ships at sea—satellite technology destined to bring live television programming to all Navy ships in the next decade.

Perhaps most of all, Rear Admiral Pease was valued not only for his ability as a communicator, but more importantly as a strategic, big picture thinker, advisor and the voice of reason. He served three Secretaries of the Navy and three Chiefs of Naval Operations during his six years as the Chief of Information. A man of unparalleled vision, his opinion weighed significantly more than the two stars he wore on his collar would indicate. He is a man who served his country loyally and truly epitomizes the Navy core values of honor, courage and commitment.

I know the Members join me in this tribute to Rear Admiral Kendell Pease, who has truly given his all to the United States Navy for the last 34 years.

ROSAS COMMUNITY AWARDS

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SCHUMER. Mr. Speaker, one of my greatest pleasures in serving in this Congress is the opportunity to recognize outstanding people for their accomplishments. Former Councilwoman Joan Griffin McCabe, Captain James L. Luongo, and Edmundo Quinones are people who have dedicated their lives to the public good. In recognition of their service, they will be receiving the Revitalization of the Southern Area of the Slope community service awards this Thursday evening.

Former Councilwoman Joan Griffin McCabe has distinguished herself through her lifelong career as an education activist. Starting in 1991, Ms. McCabe spent six years as the representative of the 38th District in the New York City Council. During her two terms, Ms. McCabe produced many tangible benefits for the community, including protection of the environmental integrity of the Brooklyn Waterfront and $120 million dollars from the city government for school textbooks. Her work on behalf of students in New York city has earned her wide recognition.

Captain James L. Luongo has earned recognition as a result of his nearly twenty years of service in the NYC Police Department. Captain Luongo is the commanding officer of the 78th Precinct and a member of the Honor Legion. He has previous experience in Patrol, Narcotics, and Detective work. Captain Luongo's work in the NYC has made the city a safer place in which to live.

Edmundo Quinones is the Deputy Director of Social Services at Project Reach Youth in Park Slope. Mr. Quinones has spent his life work for the public good with children and families. He has worked for a myriad of goals, leading support groups for parents and teens, organizing parent advocacy groups for school reform, and helping teen parents and runaways. Edmundo Quinones has earned this recognition as the result of his lifetime of service to the families of Park Slope.

I hope that all of my colleagues will join me today in honoring these three, their lives spent working for the public weal are an inspiration to us all.

PORTSMOUTH MIDDLE SCHOOL VISITS WASHINGTON, DC

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. KENNEDY of Rhode Island. Mr. Speaker, I want to take this opportunity to praise the hard work of those who organized the Portsmouth Middle School Annual Field Trip to Washington, DC. Every year a group of students from the school are taken to the Capitol to have a tour. A number of people put a great deal of time and effort into organizing this trip. In fact these same dedicated individuals have been making this trip for over twenty years. I would like to acknowledge these people for the work they have done. Richard Munch, Beverly Tavares, Paul Fuller, Andrew Schlachter, Harold Weymouth, Beverly Mankofsky, Jackie Shearman, Heather Baker. Without their constant help and support the trip would not take place.

The trip enables young students to see the Capitol up close and they learn a great deal of how the government works. It is important that our young people get to see for themselves the legislative process. The get a tour of the Capitol which goes through all aspects of the legislature. They are able to learn the procedures of Congress and they get a taste of how the process functions. This is a very educational tour as these students are able to hear the history of the nation and the capital. They go to Congressional offices, are shown through the Capitol and see the House in action.

I believe that it is an important aspect of our democracy that people can come and see the political process themselves. Many members of the populace never get a chance to do this. Often the legislative process seems far removed from the average persons everyday life. It is often seen as a process that they cannot have any part in. We need to educate people in what we do. to show them that we are here to serve them and that we are answerable to them. This is how our democracy works and young people should be aware of these principles.

The Capitol tour gives a taste of the history of the United States. I believe that these young people need to learn about their history and the work that our great leaders have put into creating the nation we have today. It is the people that I mentioned above from Portsmouth Middle School who make this trip possible. They have over the years acted beyond the call of duty to make these trips work. I would like to acknowledge their efforts and note that I appreciate the work they do to show a new generation of young people our democratic process.

SALUTING THE EARTHLINK NETWORK

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. ROGAN. Mr. Speaker, the truest test of a company's service is the satisfaction of its customers. As a testament to its high level of customer commitment, one company in my district has been recognized recently for rising to the top in the Internet Service Provider market: the Earthlink Network.

In mid-1994, an enterprising young businessman, Sky Dayton, founded a local Internet access provider to take advantage of a void where larger national companies had lapsed. Mr. Dayton quickly capitalized on his local niche, and fostered the development of Earthlink Network into what is today the world's largest independent Internet access firm.

While achieving success was by no means a smooth journey, word of Earthlink's dedication to service quickly spread, winning them accolades from newspapers and magazines across the country. Among their achievements in the professional realm, none is more significant than the news last month that the Earthlink Network had surpassed the 500,000-customer mark.

By ensuring that its services were operational over 99 percent of the time, and by providing consistent quality customer service, Earthlink Network is demonstrating that true entrepreneurial spirit thrives in the 27th Congressional District. One man's idea for a new start-up business has steadily grown into a trendsetter in the industry. Just last year, the Los Angeles Times reported: "[Earthlink] has combined good marketing, good service, good capital-raising ability and good attention to strategic detail to grow from nothing to almost 400,000 subscribers in just three years."

Mr. Speaker, I echo these same sentiments. In just a few years the Internet has grown from the brainchild of a few computer experts to the modus operandi of school children, businesses, and industries around the world. Earthlink Network has developed a loyal following by harnessing the power of the Internet, and presenting it to consumers in an understandable and user-friendly format. For their dedication to quality and their innovations in the access provider industry, I ask my colleagues here today to join me in saluting the excellence of Earthlink Network, and in congratulating them on their 500,000th customer.

DRUG FREE BORDERS ACT

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. PACKARD. Mr. Speaker, today I would like to salute all of my colleagues who joined me last night in supporting the Drug Free Borders Act. I would especially like to commend Congressman PHILIP CRANE (R–IL) for his leadership in introducing this legislation and following through with its rapid progression.

The Drug Free Borders Act plays an important role in our renewed efforts to win the War on Drugs by authorizing an additional $233 million for the U.S. Customs Service. This legislation also calls for 1,745 more Customs inspectors and special agents, as well as new drug-screening technologies to assist in existing interdiction efforts.

As a resident of the Southern California region bordering Mexico, I am well aware of the issues that surround the importation of narcotics. As the Congressional Representative for the 48th District of California, I know that our efforts are best directed at strengthening the security at our ports of entry in order to curb this disturbing practice.

Mr. Speaker, yesterday's passage of the Drug Free Borders Act is one more sign of this Congress' commitment to winning the War on Drugs. I applaud my colleagues and urge them to persist with this battle.

CONGRESSIONAL TRAVEL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, May 20, 1998 into the CONGRESSIONAL RECORD.

REFORMING CONGRESSIONAL TRAVEL

One of the biggest changes I have seen during my years in Congress is an explosion in the number of complex issues Members of Congress are called upon to consider. Fortunately, Members have a host of resources on which they can rely for information, but these are no substitute for a Member's personal observations and experience. To get the broadest possible exposure to issues before Congress, Members must sometimes travel.

Congressional travel is frequently viewed with skepticism by the public, who worry that Members travel too often at too great an expense, with more emphasis on recreation than substance. They also voice concern about trips paid for by special-interest groups who are trying to influence the legislative process. Congress has in recent years placed greater restrictions on travel, but occasional reports of abuses continue to raise the public's ire, with the unfortunate effect of discouraging some legitimate and useful congressional travel. Many Members do not travel at all because they fear the political consequences from being accused of taking a junket. I recently introduced a travel reform package which seeks to address some of the problems with congressional travel while enhancing its benefits to Congress and the public.

Reasons for travel: Domestic and foreign travel can greatly enhance a Member's knowledge, improving the quality of legislation and congressional oversight. In our system of government, Congress has the power of the purse. With this power to spend money comes the equally important responsibility to ensure that it is well-spent; and direct, personal oversight by Members of Congress is essential. Some congressional trips save taxpayer dollars by exposing wasteful programs both at home and abroad. Travel can improve a Member's understanding of the impact government policies have on a particular region or group of citizens and can also increase the public's knowledge of issues before Congress.

Foreign travel increases the expertise of Members on programs and issues that commit significant United States resources abroad, from programs to promote U.S. exports to overseas military deployments to food aid for developing nations. Travel also alerts Members to foreign trade opportunities which can directly benefit constituents in their home districts. Moreover, Members can advance our national interests: because they do not represent the President directly, sometimes they can say things that U.S. diplomats cannot. It is ironic that there are strong pressures against foreign congressional travel at the very time that America's security and economic interests are broader and more complex than ever.

Problems: The purpose of some congressional travel, however, is dubious. Particularly troublesome is travel paid for by groups who have a direct interest in legislation before Congress. Some groups, for example, will invite Members and staff to attend seminars or conferences at resorts or other appealing locations. Though these meetings are ostensibly to explore important issues, most are really aimed at advancing a specific point of view and gaining access for lobbyists to key Members and staff. These sorts of trips create at the very least the perception that Members of Congress are accepting nice trips in exchange for their votes. While I think this sort of gross exchange of votes for favors is rare, these trips do allow special interests to have greater access to Members of Congress, and with access often comes influence.

There are also questions about whether Members travel too lavishly and at too great an expense. Many congressional trips involve the use of military aircraft, which is sometimes justified. In addition, Members' spouses sometimes accompany them on trips, even though there may not be in all cases a legitimate reason for them to do so.

Reforms needed: Congress can do a better job of ensuring that travel serves legitimate purposes. Recent reforms have been helpful. In 1995, for example, the House enacted a gift ban which required Members and staff to disclose any travel paid for by private funds and emphasized that trips must relate to the official business of the House. But loopholes remain in the rules. In an effort to improve accountability in congressional travel, I recently introduced a travel reform resolution which would:

Improve reporting requirements: The House currently requires Members and staff to file reports for certain types of travel. These reports often include the source of funds paying for travel, and an estimate of the cost of transportation, food, lodging, and other expenses. My proposal would require reports to also include a detailed itinerary and policy findings and recommendations; more information on private sources who fund trips; estimates of the costs of travel provided by a foreign government; and, if transportation is provided by the Department of Defense, an estimate of the cost equivalent commercial transportation.

Make travel records more accessible to the public: Currently, only reports for government-funded foreign travel are made widely available to the public. My proposal would require the House to publish in the CONGRESSIONAL RECORD and on the Internet a compilation of all travel reports for each calender quarter, as well as an annual summary of all House travel.

Ethics Committee approval for privately-funded trips: Under my proposal, travel funded by private sources would require advance authorization from the House Ethics Committee. The Ethics Committee would have to examine whether the person or group paying for the trip has a direct interest in legislation before Congress, and whether acceptance of the trip would have an adverse impact on the integrity of the legislative process.

Restrict perks: My proposal would prohibit Members and staff from accepting first-class airfare. Meals and lodging in excess of the federal employee per-diem rate would also be prohibited unless previously authorized by the House Ethnics Committee. Moreover, travel by spouses or family members would be limited.

Conclusion: I firmly believe that when congressional travel is done right, it can greatly benefit Members of Congress and the citizens they represent. The question is not whether to abolish congressional travel, but how to get rid of frivolous travel while maintaining the worthwhile. My hope is that by putting in place stronger safeguards against travel abuses, good, substantive congressional travel will enjoy the support of Members and the public.

CONGRESSIONAL SENIOR CITIZEN INTERN PROGRAM

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. STOKES. Mr. Speaker, each year during the month of May our nation celebrates National Senior Citizen Month. All throughout May, various communities around the nation celebrate the diverse contributions of their senior citizens. In recognition and in conjunction with National Senior Citizen month, senior citizens from across the United States are gathering on Capitol Hill to participate in the annual Congressional Senior Citizen Intern Program.

The annual senior intern program provides our nation's senior citizens with a firsthand look at their government in action. While participating as interns in Washington, D.C., they attend meetings, issue forums, and workshops on topics which impact the elderly community in particular. The Senior Citizen Intern Program also allows its participants a chance to engage their congressional leaders, members of the presidential cabinet, and other policymakers in extensive dialogue about the legislative process. I am extremely honored to salute Mrs. Gussie Jones, who has been selected as my Congressional Senior Citizen Intern. Mrs. Jones was born and raised in Cleveland, Ohio. A graduate of Case Western Reserve University, she is the type of person that my district is proud to have produced. Not only has Mrs. Jones handled the responsibilities associated with being a mother, grandmother and most recently being a great grandmother, but she is also a political activist and public speaker whose words of wisdom are well sought after in the Cleveland area. She has on many occasions represented me at various functions.

Mr. Speaker, for 32 years Mrs. Jones dedicated her career to being an assistant manager in the General Services Department and a member of the Ohio Bell Speakers Bureau. Her affiliations include the Inner Church Council, the Executive Board #1 of the Eliza Bryant Home for the Aged, the League of Women Voters, and the National Council of Negro Women. She also shares an affiliation with the Tau Gamma Delta Sorority Iota Chapter.

In particular Mr. Speaker, Mrs. Jones is very involved in the church environment. She is a very active member of both African Methodist Episcopalian Zion Church and St. Paul A.M.E. Zion Church. In addition to serving as administrative assistant to her Pastor and Presiding Elder, Mrs. Jones is the Director of Home Mission of A.M.E. Zion Church Conference, Secretary for the Cleveland District Connection, Executive Secretary of the Connectional

Claims Committee, Member of the Home Mission Board, and the Stewardess Board #2. She is also the Chairperson of the Life Members Council for the Missionary Society, Chairperson of the Scholarship Fund Committee, and an honorary member and narrator of the Chancel Choir.

Mr. Speaker, I take great pride in honoring Mrs. Gussie Jones. She is an exceptional Christian woman who serves her community well. I am certain that Mrs. Jones will do an outstanding job as a Congressional Senior Citizen Intern. I want to congratulate her and express my appreciation for her participation in this very important program.

HONORING HOWELL CARNEGIE LIBRARY

HON. DEBBIE STABENOW

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mrs. STABENOW. Mr. Speaker, I am honored to celebrate the Howell Carnegie Library, which will receive a Michigan Historical Marker on May 17, 1998.

The Howell library originated as the Ladies Library Association in 1875. That year, the ladies began offering books for lending. In 1902, this service grew to such lengths that a need developed for a town library. With the financial help of steel entrepreneur Andrew Carnegie, Detroit architect Elijah E. Meyers, who in previous years designed Michigan's Capital, designed the Neoclassical library with fieldstones collected throughout the country on land donated by the four sons of Howell pioneer William McPherson.

Reading is one of life's greatest pleasures and the knowledge gained through libraries is critical to maintaining our great democracy. With this dedication, we need to honor not only this important structure but the people who were so committed to this important community service many years ago. From A.G. Kuehnle, a Howell native who hand built the library; to Andrew Carnegie, who funded over 2,500 free public libraries throughout the English-speaking world; to the people of Howell who established and supported the library throughout the years, this is an example of what can happen when dedicated people come together to meet the needs of the community. The Howell Carnegie Library is an important landmark and I am pleased it is getting the recognition it deserves.

COMMEMORATION OF SECOND ANNIVERSARY OF THE BROOKLYN CHINESE-AMERICAN ASSOCIATION

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Ms. VELÁZQUEZ. Mr. Speaker, I rise today to pay tribute to the Brooklyn Chinese-American Association on their second anniversary. This celebration is due to two years of community outreach. This organization began as a group of concerned citizens who wanted to better their community. Despite lack of funding and resources, the group managed to become an organized entity providing an array of vital services to the community.

The Brooklyn Chinese-American Association provides essential services in the areas of health, service, and education. They conduct a variety of health related workshops and provide medical check-ups, free eye-exams, blood pressure monitoring, and yearly flu shots. The organization also renders services to people of all ages from providing day care to supporting youth and senior-citizen cultural activities. Educational programs such as citizenship classes, language skills, and music and dancing classes are also included in this multi-human service center. Enough cannot be said of the many services this organization provides to the community.

Despite the lack of government funding and manpower, the organization has already enrolled more than 1,600 members and serves more than 150 people per day. In its efforts to improve the overall quality of life, the Brooklyn Chinese-American Association has maintained ties with their local elected and public officials. Through town meetings and voter registration drives, the center has made efforts to increase the political participation of the community.

This organization has truly evolved in a short period of time to become integral to the community. Mr. Speaker, distinguished colleagues, please join me in commemorating the efforts of the many who have struggled to make the Brooklyn Chinese-American Association what it is today. Let this organization be held as a prime example of how much can be accomplished when citizens care enough to make a change in their community.

TRIBUTE TO MRS. VALENTINA UMANETS

HON. JACK METCALF

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. METCALF. Mr. Speaker, I rise today to pay tribute to a constituent of mine, Mrs. Valentina Umanets of Bellingham, Washington. Valentina passed away at her home on Friday, May 15th 1998. Valentina was instrumental to the Sister Cities agreement between Bellingham, Washington in my district and Nakhodka in eastern Russia.

In 1989, long before Perestroika allowed for the openness that is now sweeping across Russia, Valentina worked to bring about the Sister City agreement. She worked as the central staff member for the City of Nakhodka on this agreement. In 1993, Valentina immigrated to the United States at the request of Western Washington University and the City of Bellingham to enhance the Sister City program. Because of Valentina's hard work on this project, Bellingham and Nakhodka now have a vibrant Sister City agreement that has flourished in recent years with many valuable exchanges between the local governments, businesses and the citizens of these two communities.

Valentina worked as a Professor of Russian at Western Washington University, and had recently completed work on a new text book for teaching the Russian language. She was loved by her students, and her home always had visitors from either the University or the many Russian immigrants that call Bellingham and Whatcom County home. She was always willing to help those in the community that were in need of assistance with a government agency, a school or those that just needed something translated.

She also held events at the University and parties at her home to celebrate the rich Russian culture. Most recently, Valentina organized "An Evening of Russian Romance" at the University which featured Russian dance and music. The food for the evening was carefully prepared in Valentina's kitchen by her students and friends, but always under her watchful eye. Her home would be open each New Years Eve for a Russian celebration of one of the big holidays in Russia. On March 8th of each year, Valentina would again play host to a party in celebration of Womens Day, again an event of great importance in Russia.

Several American men in the Bellingham area, including a member of my staff, have married Russian women, and Valentina was often of great help for these couples as they worked to overcome cultural differences. She became a "den mother" of sorts to these women that were so far from home and their own mothers. Valentina was a very happy, caring person.

Mr. Speaker, the citizens of both Bellingham and Nakhodka have suffered a great loss with the passing of Valentina. She has started a wonderful program between these two cities, and has kept it going to the point that it will continue to prosper without her. But to those that have already made friends across the vast Pacific or to those that will in the future, a great deal of thanks is owed to Valentina Umanets.

Mr. Speaker, Valentina is survived by her husband Eugene of Bellingham; her daughter Erika of Sumas; her son Stanislav of Nakhodka and two grandchildren. Mr. Speaker, I wish to extend my condolences as well as that of my staff to her family. She was loved by many and will be missed by all.

PERSONAL EXPLANATION

HON. JIM RYUN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. RYUN. Mr. Speaker, I was unavoidably detained for several roll call votes yesterday. Had I been present, I would have voted no on roll call votes 156, 157, 158, 159 and yes on roll call vote 160.

HEROES

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. BALLENGER. Mr. Speaker, I come to the floor today to honor and thank the residents of Bakersville, NC for their participation in a rescue that saved the life of a neighbor and defined a true community. On Wednesday, January 7, 1998, Joe Snyder, a resident of the 10th district of North Carolina, suffered a severe heart attack in his home. Meanwhile, the small town of Bakersville was experiencing severe flooding caused by torrential rains, which closed roads and stranded residents. Despite the harsh weather, once neighbors and friends heard of Mr. Snyder's condition, they worked together and successfully transported him to a medical clinic to get the attention he so desperately needed. Not just one neighbor or two friends, but many members of the community united to offer CPR, transportation, and other support.

To the people who were present that day, who volunteered their support and aid, and who helped to turn a tragedy into triumph, I salute your determination and selflessness. As flood waters rose, conditions became extremely perilous, and a friend was in need of a miracle, the community of Bakersville, NC, came together as neighbors to save a life.

TRIBUTE TO THE ISRAEL'S 50TH GALA HONOREES

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding collection of individuals for their unwavering commitment to the Jewish community in Los Angeles and their support of Israel throughout its 50 years. I would like to take this opportunity to acknowledge Mr. and Mrs. Eric Alon, Ms. Lily Artenstein, Mr. and Mrs. Mike Davidov, Mr. and Mrs. Shimon Erem, Mr. and Mrs. Jona Goldrich, Mr. Jonathan Mitchel and Ms. Gal Haas, Mr. and Mrs. Dan Sandel, Mr. and Mrs. Yehochai Schneider, Mr. and Mrs. Mike Shapow, Mr. and Mrs. Isaac Shepher, Dr. and Mrs. Jose Spiwak and Mr. and Mrs. Ike Starkman for their innovative leadership of the years.

The Talmud states "He who does charity and justice is as if he had filled the whole world with kindness." In the spirit of these words, these leaders have infused Israel and Los Angeles with a sense of purpose and pride. Through their work, they have upheld the Judaic tradition of generosity and concern for others. Their exceptional leadership has been instrumental in laying the foundation for a strong and cohesive Jewish community in the City of Los Angeles.

In August of 1897, over a century ago, the first Zionist Congress affirmed its aspiration to form a Jewish homeland in the historic State of Israel. After the horrors of the Holocaust, in which one-third of the Jewish population of the world lost their lives, the Jewish people returned to their ancient homeland and established the State of Israel.

Since the Nation's founding, over a million Jews from throughout the world have sought refuge in Israel. Over the last 50 years, Israel has rebuilt a nation, maintained a pluralist democracy—the only one in the Middle East—and based that democracy on freedoms and the rule of law. It has developed a thriving economy and society, transforming the desert into a land of milk and honey.

The State of Israel was formed in the face of tremendous adversity. Its survival has depended upon the support and involvement of people such as these special leaders. I rise today to congratulate these leaders along with the people of Israel on the 50th anniversary of their rebirth and independence.

CONGRATULATING JAMES MOSEMAN AND FINALISTS OF THE 19TH CONGRESSIONAL DISTRICT ARTS COMPETITION

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. POSHARD. Mr. Speaker, I rise today to congratulate my constituent, James Moseman, who attends Marion High School and has won first place in the 19th Congressional District Arts Competition. James was also the winner of the People's Choice Award, along with Trenton Kessler of Stewardson-Strasburg High School.

I was very proud to be honorary chairman of this distinguished event, which was held at Eastwood's Art and Teacher Supply Store in Marion. We had many outstanding contributions from high school students throughout the district. All the entries displayed so much beauty and potential, including finalists Sarah Thompson and Jill Zerrusen, both of Teutopolis High School; Kristin Jankowicz of MacArthur High School in Decatur; Shannon Gonzalez of Neoga High School; Ginnie Gesell of Benton High School; and Gabe McClellan and Candace Taylor, both of Marion High School.

I would like to thank the steering committee members for organizing the district competition. Mary Jo Trimble of the Little Egypt Arts Association and Cary Knoop, a retired Eastern Illinois University arts instructor, were instrumental in helping plan this special event. The judges for the contest, art educators Robert Maguire, Marie Samuel and Rebecca Spoon, also deserve special recognition.

As you know Mr. Speaker, this contest is held every year, after which the winner's paintings are proudly displayed in the United States Capitol building. James' excellent work will be exhibited along with other paints from around the country, and I am honored to represent James and the other participants in the House of Representatives.

It is wonderful to not only see the incredible talents our youth possess, but also to be a part of the exciting events which showcase these talents. Mr. Speaker, please joint me in recognizing James and the finalists from the 19th Congressional District Arts Competition.

HIV/AIDS VACCINE AWARENESS DAY

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. McDERMOTT. Mr. Speaker, we are at an important crossroad in the history of the AIDS epidemic. Although dramatic new treatments and improvements in care for people living with HIV, the virus that causes AIDS, have offered new hope in the AIDS fight, the number of new infections continues to rise among adolescents, women, and minority communities. In fact, about half of new HIV infections occur in young people age 15–24—our future generation. It is clear that the only way to halt the continued spread of this disease is by developing an AIDS vaccine.

"Only a truly effective, preventive HIV vaccine can limit and eventually eliminate the threat of AIDS . . . let us commit ourselves to developing an AIDS vaccine within the next decade," President Clinton stated one year ago today. We are closer now than ever before to developing a vaccine that prevents people from becoming infected with HIV. Recent scientific advances coupled with the dedication of thousands of volunteers suggests that the development of a vaccine is feasible. The anniversary of President Clinton's commitment to this goal will be marked by the first HIV/AIDS Vaccine Awareness Day, a national day dedicated to informing people about the vaccine initiative and its role in the fight against the AIDS epidemic in our communities. Enormous challenges remain in our effort to develop a safe and effective HIV/AIDS vaccine, and we, as a community must seize this opportunity to meet these challenges.

Seattle has played an integral role in the development of an AIDS vaccine. The AIDS Vaccine Evaluation Unit (AVEU) at the University of Washington is one of only six centers in the U.S. funded by the National Institutes of Health (NIH) to conduct AIDS vaccine testing. Established 10 years ago, the AIDS Vaccine Evaluation Unit has benefited immeasurably from the dedicated participation of more than 650 community volunteers.

The AVEU volunteers are critical to the pursuit of an AIDS vaccine for many reasons, most notably the scientific and social challenges this vaccine presents. Volunteers are between the ages of 18 and 60, HIV-negative, and in good health. These community volunteers have made a very personal commitment to the pursuit of the AIDS vaccine by donating a great deal more than just their time. Although the vaccine does not infect the volunteers with HIV, there is some risk. We are grateful to them, for they test the vaccine to determine whether or not it is safe for you and me.

The community participants in AVEU have volunteered despite adverse social forces and scientific obstacles. Vaccine development has been influenced by the expectations of the public, media attention, and the interests of pharmaceutical companies. With the publicity surrounding the new treatments available for HIV, such as the triple drug combination, attention to HIV infection has waned. Such drugs are indeed promising for people living with the AIDS virus, but a vaccine is the only effective way to prevent new cases of HIV/AIDS.

Thankfully, last year, the National Institute of Health's AIDS vaccine research budget was increased by 17.5 percent, to a total of $153 million. This year, the President has asked Congress for another 17.5 percent increase to $180 million. That means there has been an 80 percent increase in AIDS vaccine funding since 1995. According to the National Infectious and Allergy Disease Institute, there are currently 23 vaccine candidates and 49 clinical trials in the works. Nationwide, nearly 3,000 volunteers already have participated in studies.

An AIDS vaccine is possible in our lifetime. What we truly need is aggressive pursuit by federal, state, and local governments with the committed support of the public. President Clinton's AIDS vaccine initiative proclamation was a good first step, but much more is needed. We must make the development of an AIDS vaccine a national and an international priority.

Making the AIDS vaccine a reality will take the continued commitment of the dedicated volunteers, researchers, government, and the public. The President said it best when, on this day a year ago, he pledged, "If America commits to find an AIDS vaccine and we enlist others in our cause, we will do it." I would like to join Governor Locke, Mayor Schell, and the Seattle City Council in dedicating this day to the numerous vaccine volunteers in our community, and thank them for what they have allowed us to accomplish thus far.

Let us mobilize here in the community, as well as in the government, to push for what is on the horizon—an end to AIDS as we know it.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 21, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 3

9:30 a.m.
Indian Affairs
To hold oversight hearings on tribal justice programs, focusing on the Department of Justice's and Department of the Interior's Indian Country Law Enforcement Initiative and other related tribal justice issues.
SR–485

JUNE 4

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.
SD–366

JUNE 10

9:30 a.m.
Indian Affairs
To hold oversight hearings on Bureau of Indian Affairs school construction.
SR–485

JUNE 11

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.
SD–366

JUNE 12

9:30 a.m.
Special on SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM
To hold hearings to examine how the Year 2000 computer conversion will affect utilities and the national power grid.
SD–192

JUNE 16

10:00 a.m.
Judiciary
To hold hearings to examine mergers and corporate consolidation.
SD–226

JUNE 18

2:00 p.m.
United States Senate Caucus on International Narcotics Control
To hold hearings to examine United States efforts to combat drugs, focusing on international demand reduction programs.
Room to be announced

JUNE 24

9:30 a.m.
Indian Affairs
To hold hearings on S. 1771, to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and S. 1899, "Chippewa Cree Tribe of the Rocky boy's Reservation Indian Reserved Water Rights Settlement Act of 1998".
SR–485

JULY 21

10:00 a.m.
Judiciary
To hold oversight hearings to examine the Department of Justice's implementation of the Violence Against Women Act.
SD–226

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.
345 Cannon Building

CANCELLATIONS

MAY 21

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the content of certain music lyrics.
SR–25

SENATE—*Thursday, May 21, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

Almighty God, we commit ourselves to cherish each unfolding moment of this day You have given us, to enjoy You and the precious hours filled with opportunities to serve You.

Thank You for Your presence. Guide our thinking, so that we may know Your will. Abide in our hearts, so that we may be filled with love and sensitivity for the people around us; bless our conversations, so that we may glorify You; linger on our lips, so that we may speak truth in love; and rest on our countenances, so that no grimness may hide the grace You have given us so lavishly.

Grant that, all through this day, everyone with whom we work and everyone we meet may see the reflection of Your joy in us. Make us a blessing for those laden with burdens, a lift for those bogged down with worries, and a source of hope for those who don't know where to turn. Lord, help us to care as You have cared for us. Through our Lord and Saviour, Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator McCAIN, is recognized.

Mr. McCAIN. Mr. President, thank you.

THE PRESIDENT PRO TEMPORE

Mr. McCAIN. Mr. President, may I say the President looks very well this morning, and we are certainly glad that he is with us to open the Senate, as he is on every day that the Senate is in session.

SCHEDULE

Mr. McCAIN. Mr. President, for the information of all Senators, this morning the Senate will resume consideration of the Gregg-Leahy amendment pending to the tobacco legislation. It is the chairman's intention to move to table the Gregg-Leahy amendment at approximately 11 a.m.

I want to point out that that vote may be a little later, because I had a large number of Senators who have asked to speak before that vote. So that may be delayed past 11 a.m. All Senators will be notified when that vote occurs.

Following that vote, it is believed that the Democrats will be prepared to offer an amendment under a short time agreement. Following disposition of the Democrat amendment, it is hoped that the Senate could then consider the farmers protection issue.

Therefore, the first vote of today's session is expected sometime after 11 a.m., and Members should expect rollcall votes throughout today's session in order to make good progress on this important tobacco legislation.

Also at the end of this week, it is hoped that the Senate will be able to complete action on the ISTEA conference report, if available, and the Iran sanctions bill under a previous consent agreement.

Once again, the cooperation of all Senators will be necessary for the Senate to complete its work prior to the Memorial Day recess.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. THOMAS). Under the previous order, leadership time is now reserved.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to S. 1415, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg/Leahy amendment No. 2433 (to amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to amendment No. 2420), in the nature of a substitute.

Mr. McCAIN. Mr. President, I note the presence of the Senator from Massachusetts who wishes to speak. I will yield the floor in just a minute, because I don't want to have him delayed, because I know he has a schedule. Of course, I note the presence on the floor of the sponsor of the pending amendment, Senator GREGG of New Hampshire.

Mr. President, I thought yesterday we made good progress. We have addressed the issue of attorneys' fees, although I don't believe that will be the final consideration of that issue since there are some very strongly held views on it. But we did have good and vigorous debate on that issue.

Yesterday, also, I think the parameters of this legislation were determined to a significant degree when the Ashcroft amendment was tabled. Then the majority of the Senate decided that we would not remove these fees that will be imposed on the tobacco industry as part of this legislation and settlement.

On the other side, when the Kennedy amendment was rejected, also the majority of the Senate declared its position at $1.10, which was approximately where the price of a pack of cigarettes would be.

Today, we will address the Gregg amendment, which will have to do with another important part of the bill. And that is the cap on the amount of payments that the tobacco companies would make on an annual basis, which I intend to discuss at more length, because I am not sure that this Senate understands, one, the exact meaning of that and the implications of removing it, because, very frankly, the implications of removing it will mean much higher costs to the taxpayers and to the consumers at the end of the day.

Finally, after that issue is resolved, we intend to take up one of the other major portions of this proposed legislation. And that is the agriculture portions of the bill, and, of course, there are extremely strongly held views on that particular issue.

Mr. President, I believe at the end of today we would have addressed—the Senate—admittedly from time to time in somewhat prolonged fashion, the major issues pertaining to this legislation.

I am pleased with the progress we have made so far. Apparently, we may not be able to complete action on this legislation before going into recess. But hopefully the realization will set in that we have addressed by the end of the day the major portions of this bill. And we could then conclude consideration of this legislation upon return.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, did my friend and colleague want to make a statement? I know the floor manager is on his feet.

Mr. KERRY. No. I thank our colleague. I will reserve my comments.

AMENDMENT NO. 2433

Mr. KENNEDY. Mr. President, the Gregg-Leahy amendment raises very fundamental questions:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Why would we consider giving a group of the worst corporate villains in America special protection?

Why would we want to make it more difficult for those who have been injured by the tobacco industry's wrongdoing to collect damages?

Why should Congress impose a liability cap which will have the effect of redirecting dollars away from smoking victims and into industry coffers?

I have heard no convincing answers to these questions from the bill's proponents.

More than one year ago, when news of the settlement negotiations between the state attorneys general and the tobacco industry first became public, I expressed my opposition to restricting the liability of tobacco companies. On April 25, 1997, I came to this floor and spoke out against giving the tobacco industry any special protection:

> It would be unconscionable to deny people poisoned by tobacco their day in court. Each year, millions of Americans learn that they have a disease caused by smoking. In too many cases, it is beyond our power to restore their health. We must never permit the tobacco industry to extinguish their right to justice as well.

We have come a long way in the last year. The deal with the industry that was announced on June 20th would have given tobacco companies de facto immunity from suit. In fact, its provisions were designed by the industry to erect enormous barriers in the path of smoking victims seeking compensation. It would have banned all class action suits, which are often the only effective way individuals can litigate against corporate giants. In fact, it prohibited any aggregation of claims. It would have also banned all punitive damages. If ever we have seen an industry against which punitive damages are warranted, it is the tobacco industry. It would have prohibited all litigation by health insurers, such as Blue Cross and Employee Health and Welfare Funds, which incur enormous costs treating tobacco induced illnesses. It would have prevented the introduction of crucial evidence by tobacco victims suing the industry. It would have given absolute immunity to the parent companies of cigarette manufacturers even though those companies are where most of the profits go and the real decisions are made. It would have extinguished all future governmental suits against the industry. And, it would have imposed an annual ceiling on the liability of the tobacco industry. It was truly a draconian litany.

Fortunately, these liability restrictions were so extreme that they produced a great public outcry. Public health experts and victims' rights advocates expressed their outrage at this enormous injustice.

During the past year, there has truly been a national awakening on this issue. The American people focused on what the tobacco industry has done as never before. The dramatic revelations of corporate misconduct which have emerged from the industry's own files have truly shocked the national conscience. The harshest indictments of the tobacco companies are written in their won words, long kept secret, but now revealed for all to hear. From a 1981 Phillip Morris strategic planning document:

> Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while still in their teens . . . Because of our high share of the market among the youngest smokers, Phillip Morris will suffer more than the other companies from the decline in the number of teenage smokers.

From an R.J. Reynolds Tobacco Company document entitled "Planning Assumptions for the Period 1978 to 1987".

> Evidence is now available to indicate that the 14 to 18 year old group is an increasing segment of the smoking population. RJR–T must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long term.

Company records also detail elaborate efforts to chemically treat the nicotine in cigarettes to make it even more addictive than it naturally would be. All the while, these same companies were telling the American people that smoking is just a matter of free choice.

All of the special industry protections contained in the settlement were included in the Commerce Committee bill when it was first introduced. To the Committee's credit, in the final days before the markup, the prohibitions on class actions and punitive damages were removed. In the negotiations which produced the Manager's Amendment, the provisions granting immunity to corporate parents and affiliates was finally deleted and many of the evidentiary restrictions were removed. It is now time for the Senate to strip this legislation of the remaining vestiges of these special protections for Big Tobacco. While the remaining special protections may be less extreme, the principle is the same. This industry should not in any way be shielded from the long overdue rendezvous with accountability which awaits it in courthouses across America.

Title XIV of the Manager's Amendment provides the industry with an $8 billion per year liability cap limiting the companies financial exposure for both past and future misconduct. I object to any special protection for the industry. I believe the tobacco industry is not entitled to any liability cap. But, I especially object to this particular cap which applies to liability for future as well as past wrongdoing. One of the most important purposes of the civil law is to deter misconduct.

Capping liability for future wrongdoing reduces that deterrent and encourages tobacco companies to continue their misconduct. This industry of all industries, based upon its unparalleled record of corporate irresponsibility, should be subject to tougher standards, certainly not more lenient standards, than other companies. Yet, a more lenient standard is exactly what Title XIV will provide for the tobacco industry.

Consider the significance of the protection which a liability cap will give the tobacco companies. It provides them with an absolute ceiling on the amount of money they will have to spend each year to compensate their victims. This industry which conspired for decades to conceal the enormous health damages inherent in smoking. This industry which manipulated the nicotine in its products to make them even more addictive. This industry which targeted generations of our children for a lifetime of addiction and early death. There can be no justification for sheltering this industry from the legitimate claims of those who have been injured by its deadly product.

To the extent that the proposed liability ceiling is ever reached, it will have the effect of transferring dollars which rightfully belong to victims into the industry's corporate coffers. We are giving preference to CEOs and shareholders above the victims of tobacco induced illness. That cannot be justified. It is ironic to hear some proponents argue that the ceiling is so high it will never be reached. If that is true, it is unnecessary. If it is reached, it will inflict a second injury on those already injured by this industry's gross misconduct.

There is another serious problem created by the current Title XIV. The language it uses to settle the state cases is far too broad. It does for more than resolve current claims arising from state expenditures for the treatment of citizens suffering from tobacco induced illness. As written, it could prohibit state and local government from bringing future actions to enforce public health standards and consumer protection laws. It could prevent state and local government from effectively policing future tobacco industry conduct. If this provision is not revised, it will tie the hands of state and local government, and allow the tobacco industry to escape effective regulation.

The Gregg-Leahy amendment will remove all of these special limits on industry liability from pending legislation. Congress does not need the consent of the tobacco industry to legislate meaningful protection for America's children. Our sole concern must be what the public health requires, not what the industry desires. The deal with the industry which Title XIV contemplates would set an appalling precedent. It will undermine the moral authority of the federal government as protector of the public health. Today the Senate should declare that it will not allow the tobacco industry to escape its long overdue rendezvous with accountability.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I will speak at greater length at a later time, but let me just say with respect to two of the concerns that were expressed by my colleague from Massachusetts, the Senator expressed the notion that the managers' amendment has left an ambiguity with respect to preserving addiction claims and also preserving the ability of States to bring future enforcement actions against the tobacco companies.

I would assure the Senator that it is neither the intention of the Senator from Arizona nor myself that that be the case. It is our understanding that the language in the managers' amendment is clear with respect to the fact that we do preserve addiction claims, and we also preserve the right of the States to bring future enforcement actions. If there is any ambiguity about that, I know the Senator from Arizona and I would be only too happy to accept an amendment of clarification to make it clear that neither of those are in fact the intent. So I think that that is an issue that can be dealt with exceedingly easily. The larger issue, sort of the question of whether there is a shield or not, is something that I will address a little bit later.

At this moment I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, let me say, for the benefit of colleagues who were anxious to speak on this issue, that this is a good time. There is nobody here at this time seeking recognition, so we invite Senators who were particularly anxious to try to address this question to come to the floor and do so.

I want to try to clarify, if I can, what this amendment does and what it doesn't do, because I think there is a misunderstanding here. I think it is absolutely vital that when the Senate votes on this, we vote with clarity as to what the impact will be.

Some people have come to the floor suggesting that this is a shield for tobacco companies and that it is an unwarranted shield for tobacco companies. I think the Senator from Arizona and I would stress, as strongly as either of us knows how, that there is no shield here for tobacco companies. Tobacco companies will be liable. They will be liable under any circumstances under this bill. There is only one circumstance in this bill by which they might be limited in the amount of a 1-year payment. That is not a limit on liability. That is a limit on how much of their liability they would pay in any 1 year. But if the liability were more than that payment for 1 year, the payment carries over into the next year. So, in effect, there is no limit on liability. There is simply a rollover process by which a fixed amount, on an annual basis, is arrived at.

Why does that component of the bill exist?

Let me emphasize, there are two parts of this bill. If the opponents of the so-called cap, of an annual cap, if they were to prevail here today, what they would succeed in doing is stripping this bill of the one invitation that it offers to tobacco companies to come into the tent, if you will, and be part of the solution of how we are going to reduce smoking among teenagers. If you strip out that cap, what will happen is we will return to the status quo. We stay in the position where tobacco companies are merely being sued. We get no cooperation with respect to any of the advertising restrictions, any of the document depository, any of the health programs that will help our kids reduce smoking. We get none of that cooperation, and we guarantee that there will be a challenge on the look-back provisions. We guarantee it.

If people think stripping that out creates a stronger bill, to leave us in a situation that we have been in for all the last years—which is simply endless lawsuits that produce no cooperative effort and ultimately result, at least to this date, in no winnings in court—I would have a hard time understanding how that is a better situation. The fact is that all of the concerns that people expressed about immunity have been addressed between the time of the tobacco company settlements and the time the Commerce Committee brought a bill out of committee.

Let me clear up that understanding as strongly as I can. When the settlement was agreed to, back in June of 1997, it contained sweeping immunities for the tobacco companies. Those are gone. There is no longer any elimination of class actions. Tobacco companies will continue to be subject to class actions. There is no longer an elimination of punitive damages. Tobacco companies will be subject to punitive damages. There are no longer any restrictions on the aggregation of claims, which means different individuals could come together, one lawyer representing them—you can aggregate the claims and come in with a larger claim. That is now permitted. And there are no restrictions on third party claims. They are now permitted.

So, as reported by the Commerce Committee, the bill contained certain other immunities. Those are gone, too. Parent companies and affiliates are no longer shielded from liability. Advertisers, attorneys, and PR firms are no longer shielded from liability. Addiction and dependency claims against the tobacco industry are preserved, including claims where addiction is the only injury alleged and claims where addiction is the basis of a broader claim relating to the manifestation of a tobacco-related disease.

There are no longer any restrictions on the type of evidence that is discoverable or admissible, and all limits on the industry's obligations to produce documents have been removed. The ability of plaintiffs to maintain actions in State courts and grounded in State law is preserved. And, finally, there is no longer any exemption for tobacco companies from the Nation's antitrust laws.

All of that is gone, Mr. President—gone. They have been totally exposed. And that is one of the reasons, I might add—you know, when you look at the price of $1.10, and you look at the settlement in Minnesota, if you extrapolate the settlement in Minnesota and the settlement in Mississippi, if you add up the potential of all the settlements in the country, you come out with an amount of money that is exactly or almost exactly where we are with respect to the $1.10. The fact is the tobacco companies are settling cases now at a rate that basically accepts the $1.10. They are not fighting about price because they know ultimately that is a price they can bear. What they are fighting about is the liability. That is the reason these millions of dollars are really being spent. That is the real bone of contention here.

The fact is, they are offered two choices in this bill. They don't have to participate, in which case the situation the Senator from New Hampshire wants is exactly what will exist. They will be subject to suits, endless suits. That can happen. But, if they choose to try to come into the tent, as we have said—and we have no way to force them into the tent. There is no way we can do that. So my fellow Senators have a choice. You can either leave them out there subject to lawsuits, subject to all of this litigation without any cooperation. Or you can decide maybe there is something sufficiently good that we, the Government, can get in exchange for their participation, for which we are willing to tell them only one thing: You are not going to pay more than $8 billion in any 1 year. It doesn't let them off the hook. It doesn't say they don't have to pay. It doesn't say they are not liable. It doesn't give them immunity. It simply restricts the amount of money in any 1 year.

What is it worth getting for that restriction for not having any more money in 1 year? We settle the State actions and we give them that $8 billion cap. That cap is importantly indexed to inflation, so there is not some sort of reduction in the purchasing power or in the value of that. It will rise with inflation and it will increase according to—at least 3 percent we have had each year and perhaps more, if the CPI is higher than 3 percent.

I think it is important to make it clear—there is no concession in this bill unless the tobacco companies decide to be involved. And that is a critical component. The tobacco companies would have to come in and sign a protocol, sign a consent decree, and they would agree to abide by the provision of the payments. Most important, they would agree to abide by the look-back assessments.

I would like to just run through the look-back assessments, because I heard the Senator from Utah yesterday on the floor—the Senator from Utah was pointing out to everybody how unconstitutional are the look-back assessments. The look-back assessments are a dramatic way of engaging the tobacco industry into compliance with the things we want them to do.

The tobacco industry accepted, they are the ones who helped come up with the look-back agreement. The look-back agreement was in the original settlement with the attorneys general. So they have accepted it once already. They have shown their willingness to come in and live by the standard of the look-back agreement.

What the look-back agreement says is that they must meet a target for the reduction of underage tobacco use. These targets are the same as those they agreed to in the June 20 agreement.

The targets are as follows: In 3 years, there must be a 15-percent reduction. In 5 years, there must be a 30-percent reduction. That is for cigarettes. For smokeless tobacco, it is 25 percent. There is a 50 percent reduction over 7 years and 35 percent for smokeless.

Over 10 years, the tobacco companies are agreeing that they must reduce teenage smoking by 60 percent. That is what this bill is about. This bill is an effort to reduce teenage smoking, and here we are trying to get the tobacco industry to specifically accept responsibility to be part of the process of doing that. You can't order them to do it. They are certainly not going to do it if all we do is leave them out there subject to endless lawsuits.

There ought to be some incentive that says to those companies, "Come on in and be part of the solution," and the look-back provisions are that. But the look-back provisions also say that if the industry doesn't meet the target, they will pay $80 million for each percentage point missed between 1 and 5. They will pay $160 million for each percentage point missed between 6 and 10 percent, and $240 million for each percentage point missed above 10 percent. That is not a bad penalty. That is not a bad assessment. That is an assessment based on a target that they agree to meet, and if they don't meet the target, they pay a regulatory fee accordingly.

Mr. President, you can't get them to do that unless they agree. If you don't want them to challenge it and to tie us up for years in a court challenge that would not do what we want to do to reduce smoking, then, Mr. President, you have to find some way to bring them in.

I say to all of my colleagues, yesterday on the floor of the U.S. Senate, there was a lot of hue and cry about how kids are going to lose out per 10 cents that we didn't raise the price, and if we had raised the price by 40 cents, we were going to save another 240,000 lives and people were deeply concerned about that and are deeply concerned about that.

Those people who were concerned about that should not come in and vote to leave the tobacco companies in a position where all they are going to do is litigate lawsuits over the next 10 or 15 years, because during those intervening years, those numbers of kids are the kids who are going to be the victims. It is much more intelligent, it seems to me, to get the tobacco companies to be part of the solution in a way that reduces the level of smoking so those kids are, in fact, saved. I think that is a critical choice here.

What we do in this bill is ask the tobacco companies to come in and do things that we have absolutely no right to get them to do without their cooperation. Let me be specific.

A participating company, if they consented, would come in and make a significant up-front payment. They would abide by far broader advertising restrictions than those that were contained in the 1997 settlement. They would be required to create a document depository, where all those people who are going to sue in the future would have access to the documents that have come out of all of the tobacco litigation or out of their existing files. And they would agree—and this is the most important thing, Mr. President—they would agree not to challenge the provisions in the bill. They would agree to abide by these provisions, notwithstanding any future court decision on their constitutionality.

I ask my colleagues to, again, measure that. If the tobacco companies sign an agreement not to sue in the future, not to challenge any of the advertising restrictions that we can't achieve unless they agree, that is an enormous step forward.

Those advertising restrictions are as follows: There would be a complete ban on human images, on animal images and cartoon characters. There would be a ban on outdoor advertising, including stadia and mass transit. There would be a ban on advertising over the Internet. And there would be a ban on payments to glamorize tobacco use in media when such use would be appealing to minors.

There would be a ban on payments for tobacco products placement in movies, TV programs and video games, and there would be severe restrictions on point of sale advertising of tobacco products.

All of those things—all of those things—none of which could be achieved without the consent of the tobacco companies, we would gain as a result of just one thing: allowing them to know the level of their exposure and liability on an annual basis. It seems to me that is an enormous gain for the children, it is a gain for us putting together a responsible approach to reduction of smoking, and it is certainly a gain for the Congress, which would then have constructed a piece of legislation that had a chance of passing.

It seems to me what we have here is a fundamental choice: If we want to put together a piece of legislation that can pass or whether we are going to come out here and put ourselves in the position of simply bashing tobacco because that is the feel-good position.

I might add that in addition to the advertising restrictions, they would also abide by the look-back provisions. The look-back provisions will almost certainly be challenged. They won't be challenged, and even if they were challenged by someone else yet found unconstitutional, if the tobacco companies come in and sign a consent decree and a protocol, they must abide by that. If the tobacco companies at any time in the future were to violate that protocol, violate any component of this act, they would lose the cap on the annual liability payment. They would suffer the full exposure, just as they would if they don't participate.

The final comment I make to my colleagues is very simple. This is a clear, clear choice. Under the managers' amendment, no tobacco company gets any liability restriction, any cap, any restraint whatsoever unless they decide to give up their rights on the first amendment, unless they give up their rights to challenge, unless they agree to abide by every component of the act.

We have a fundamental choice here, whether we are going to be reasonable in the approach to try to bring them into the tent, or whether we are going to try to abide by something I think most people would feel would be destructive to this legislation as a whole.

I reserve the remainder of my time. I know others want to speak at this time.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I note the presence of the Senator from Washington, as well as the Senator from Oklahoma, who have very strong and important views—especially the Senator from Oklahoma has very strong views on this issue. I will not, then, make my remarks in order that they may be heard. I, again, encourage other Senators who would like to speak on this amendment and the bill to come over. I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, perhaps a brief review of history as to how and why we find ourselves in the position we are in in this debate is an appropriate point at which to begin.

Over the years, the Congress has delicately paced around the outer edges of the controversy over tobacco, encouraging certain voluntary limitations on advertising, particularly by television, requiring certain warnings to be included on packages of cigarettes and on advertising, but never getting to the heart of the issue of the desirability or the lack of a desirability of tobacco.

Those limitations can be looked at as either a glass partly full or one largely empty. It is clear the major tobacco companies have attempted to remain profitable by creating, through advertising and peer pressure and in any other method that they could, a constantly increasing supply of new smokers, almost all of whom have begun smoking with the conscious knowledge of its adverse impact on their life expectancy and on their health, although when they began young this was not something that was at the forefront of the thoughts of youth.

Nevertheless, in the United States of America, over the course of the last 20 or 30 years, we have seen a dramatic reduction in the number of men and women who smoke. We, as Americans, probably smoke less than almost any other country in the world.

Various individuals and groups have sued tobacco companies as a result of the adverse impacts of smoking on health. Almost without exception, those individuals have lost those in connection with that litigation.

All of this had us in a situation that was almost stable until a group of State attorneys general and private lawyers came along with a new theory, that damage was caused not just to individual smokers but to the treasuries of our States and, by extension, to our own Treasury, through Medicaid primarily, through Medicare, and through the expenses of taking care of tobacco-related health problems, that these damages totaled in the billions of dollars. And, as a consequence, most of the States of the United States brought actions against tobacco companies to recover those losses to their States.

Some, as you know, Mr. President, acting independently, have already won that litigation by settlement or otherwise. The bulk of them, almost a year ago, reached an agreement with the tobacco companies for what is almost certainly the most massive judgment or change in practices that has ever taken place in this country—close to $400 billion in payments, dramatic and voluntary restrictions not only on advertising but on various other forms of promotion, a set of goals for lessened teen smoking, and a myriad of other ideas.

A part of that settlement is involved in the amendment before us right now, because that settlement purported to protect the tobacco companies against some forms of litigation, although not all forms of litigation. Those protections have been abandoned or rejected by this bill in return for certain other, less significant limitations on the annual liability of tobacco companies to individual litigation.

But, Mr. President, the centerpiece of the agreement with the State attorneys general, without whose work we clearly would not be debating this issue here today any more than we have for the last 10 or 20 years, the centerpiece of that agreement was its voluntary nature. As the eloquent Senator from Massachusetts, who is managing this bill on the other side of the aisle, pointed out, advertising restrictions, upfront payments, document collections, and probably the look-back provisions, are all provisions of that agreement that cannot constitutionally be imposed on the tobacco companies by law.

As a consequence, we are faced with a delicious challenge. We can make all the heroic antitobacco statements and speeches that we wish, we can pile on to a greater extent than even the most radical bills that have been introduced into this body, but we cannot force tobacco companies, as long as they are engaged in a legal business—so far, we do not have a bill that would absolutely prohibit the use of tobacco—we can pass whatever legislation we wish, but we cannot force them to abandon their first amendment rights; we cannot violate the Constitution of the United States.

So in the ultimate analysis, we are either going to pass a bill that, however reluctantly, with however much grumbling, the basic tobacco-product manufacturers will accept and follow, or we are simply going to create another bonanza for lawyers in challenging some of the basic provisions of this legislation, in challenges that, by and large, are almost certain to be successful. We may have voted "antitobacco," but we will not have succeeded in a truly antitobacco result.

At this point, the tobacco companies have rejected the acceptance of the so-called McCain bill. Perhaps more narrowly, they have rejected the McCain bill as it was reported from the Commerce Committee. Many of the changes that have been made in the bill that is before us are designed, it might well be, as a result of gaining their acquiescence. This amendment, if it is passed, will clearly and necessarily result in their rejection of the entire package.

Personally, Mr. President, I believe what we ought to do is in effect to ratify, with some toughening, the agreement that the attorneys general of the various States made after long and careful negotiation and litigation. And we will have the opportunity to do that, or come as close as we can to doing that, when we deal with the amendment that will be proposed by my colleague from Utah, Senator HATCH.

But this bill, the McCain bill in its present form, is, in my opinion, a responsible approach toward this problem. I believe that we must deal with the agricultural elements of it, the payments to tobacco farmers, payments that I think are infinitely too high, with the total preservation of the present tobacco program that is included in the Ford provisions, but we will be dealing with that next.

I believe a significant portion of the money that the Federal Treasury is going to get from this ought to go to tax relief for the American people rather than into other Government-run programs.

But these are elements of this bill that we will debate at some point in the future. They are not elements that will result in the rejection of the bill by those at whom it is aimed on the grounds of the Constitution. This amendment is. Personally, as I say, I would prefer the provisions on litigation that are contained in the attorneys general bill. It may be that at some point or other we will move back in that direction.

I am convinced, however, that the amendment that is before us now will destroy any chance of our passing successful antitobacco legislation. Legislation that balances the constitutional rights of those organizations with which we disagree must significantly increase the cost of a pack of cigarettes but not beyond the point where we create a huge black market of contraband cigarettes, a point that I believe would have been passed, exceeded, by the Kennedy amendment yesterday, and a package that can result in something ultimately acceptable to the American people, to the courts, to those who manufacture cigarettes, with the net result that we will reduce, though we will never eliminate, cigarette smoking.

I believe that the Senator from Arizona, Senator MCCAIN, who did not seek but was given this assignment, has carried it on in a highly credible fashion with a far greater degree of success than I would have predicted when he started. I think he deserves the thanks, the gratitude of all Members of this body, and to a large extent, at least, our support. I am convinced that he deserves our support on this amendment because this amendment will destroy any chance of being truly successful in getting antitobacco legislation through the Congress, and through the President's signature, in a way that will meet the goals that all of us share.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am going to make fairly lengthy remarks dealing with the contents of the bill. First, let me just state my respect and admiration for Chairman McCAIN. He is a very good friend of mine in the Senate. One of the things we have a pleasure of doing in the Senate—we are not a very big body—so we get a chance to know each other sometimes pretty well. I have had the pleasure of working and knowing Senator McCAIN since he came to the Senate. He is a very good friend of mine. He will still be a good friend of mine.

I don't like his bill. I don't like the procedure by which the bill is being considered, and I was involved in the procedure. Senator LOTT asked me to head up the task force to try to put this bill together. Senator McCAIN, and the Commerce Committee, had a lot of jurisdiction over the bill, probably more than any other committee. Also, he had to deal with the issue of whether or not we are going to have a limitation on liability for tobacco companies.

Probably the most important issue is whether the attorneys general package will either pass or not pass, it is very pertinent to the amendment that the Senator from New Hampshire has pending before the Senate today. Are we going to give a limitation on liability to tobacco companies? We don't do it for other companies, with very, very few exceptions. I think we did it for the airline industry for a small, targeted area, but, by and large, we don't do this for any industry in America. We don't do it for pharmaceuticals. We don't do it for people who make heart valves, and so on. A liability limitation was in the attorneys general's package that they dumped on Congress, that they signed off with the administration. The administration agreed with that package, the so-called $368 billion 25-year package. That was handed to Congress and they said, "Here, go pass it."

I told some of my colleagues from the outset I don't think we will pass legislation—nor do I think we should—that will put a total limitation on class action lawsuits. If you are using tobacco, you can't have a class action lawsuit against tobacco companies? That is what the attorneys general's package was going to do. In exchange for that, tobacco companies were going to pay about $15 billion a year. That was the so-called deal.

They didn't consult very many people in Congress, and I thought at the time they are going to have a hard time passing that restriction on liability. If they don't have that, they don't have a deal. Frankly, as this process evolved and the Commerce Committee marked up the bill, they struck some of the liability protections on exemption from class action suits, and instead came up with a cap—which is kind of a back end way of trying to do somewhat the same thing. The tobacco companies said, wait a minute, you have increased the price, you have increased the penalties, you have increased everything, and you gave us very little legal protection—this cap. Anyway, the tobacco companies said that is not good enough, there is no deal, we are not going to abide by it.

The only way this could conceivably be in the Commerce Committee instead of the Finance Committee is we say there will be payments of fees in lieu of protection for liability. But it didn't work out that way. So then we had a referral to the Finance Committee. The Finance Committee struck out this fee structure, which I think is a disaster. I see my friend and colleague from Nebraska here is also on the Finance Committee. I will go through, and it will take some time, but I will go through how the tax is computed or the fees are computed in this bill, and just say that it won't work very well.

I also want to say I concur with the objectives of trying to reduce teen smoking. I don't want teenagers to smoke. I have four kids. One out of my four smokes, and he happens to be 28 years old. He started when he was in high school. I really wish that he didn't smoke. I grew up in a family—both my parents and all my brothers and sisters—all of them smoked. My mother has had lung cancer and emphysema, very critical. She still is a survivor, but it is a very serious problem. A couple of my brothers and sisters had a hard time quitting. They did quit. They were able to do it. One in my family didn't have that hard of a time of quitting. I am trying to get my son to quit and I have not been successful. I wish that he would. I really wish that he would.

When you look at the use of tobacco products, you can see that it is pretty significant. This chart shows anybody who has ever used cigarettes in their lifetime, kind of an unusual statistic. I guess I would fall into it because I know I smoked one or two cigarettes when I was in junior high—probably never a full pack. But I guess, if somebody said, did you ever smoke a cigarette, I would have to say, yes, sometime in the 8th grade. So I would be in the 70 percent category—you might notice from this chart that usage went down a little bit in the last few years. Frankly, under the Clinton administration it started going up.

Marijuana use has also gone up—and I am more concerned about drugs than I am smoking. I will make that evident in a moment. But marijuana use, which was up to 60 percent and has fallen down to about 33 percent, fell almost every year through the 1980s until, frankly, President Clinton was elected. Then it has gone up and it has gone up in a skyrocketing fashion. As a matter of fact, I will insert in the RECORD this chart. I tell my friend and colleague from Nebraska that marijuana use in 1992 among 12th graders was 11.9 percent. Last year, it was 23.78 percent—100 percent increase of marijuana use among high school seniors. That is a staggering statistic.

This is marijuana use by people categorized as "frequent users" who have used it in the last 30 days. You can see on the chart that this has jumped up. You also see tobacco use has gone up. Cigarette use has gone up. In 1992, cigarette consumption among seniors in high schools was 27.8 percent. In 1997, it was 36.5 percent, an increase of about a third. That is a big increase. You could go all the way back to the 1960s as to who uses cigarettes on a frequent basis or in the last 30 days, and it was very constant for decades, until frankly, the Clinton administration. And during these 5 or 6 years, it has gone up a third, the biggest increase that we have seen.

You might also note, and this is more troubling to me, that marijuana use had gone down for frequent users, down to only about 11 or 12 percent in the early 1990s. And now it is more than double and is up to about 24 percent. Now, that bothers me. And I cannot help but think a lot of people, when they are just going after tobacco and how terrible it is, are fairly silent about drug use, drug use that is habitual, drug use that is illegal, drug use that is deadly, drug use that leads to lots of other crimes, lots of other problems.

Why only the attention on cigarettes? Why only the attention on cigarettes? We are going to have some amendments which will have significant attention on drugs. I had a town meeting during the Easter break in Oklahoma—I had several—but I had one in Shawnee, OK, a middle-class town. This town meeting happened to have a lot of high school students, a lot. I told them we were debating the cigarette tax issue and I just asked how many smoked, and hardly any hands went up.

I said, "Well, let me ask you a question. Congress is contemplating raising tobacco prices by $1.10, maybe $1.50. Would that make any difference for those of you that raised your hands?" The answer was, "No, we don't smoke that much." Maybe they would smoke on a weekend or at a party. They said it would make no difference. That is an informal survey; it is not scientific. But some claim that scientists say if we raise this tax, we are going to reduce teen smoking. I am not sure that is the case. I think when you ask the question if somebody smoked in the last 30 days, that means one cigarette or two cigarettes. I am not sure you are going to have an appreciable reduction because you raise prices a dollar. Maybe there would be some. Maybe it would be a component in reducing teen smoking, but some people are acting like it is the whole battle. I disagree with that. I don't think it would work.

As a matter of fact, I am kind of amused because now we hear everybody say our objective is that if we raise these prices, these taxes, spend all this money and run this massive campaign, we will be successful and we can reduce teen smoking by 60 percent. If you are against this, you are for tobacco companies and you are against kids. I reject that outright. I don't like smoking. I don't like teen smoking, especially. I don't like to see kids smoke. But that doesn't mean you have to sign onto a program that spends hundreds of billions of dollars.

I looked at a statement of Secretary Shalala when she announced new FDA regulations with David Kessler in August of 1995. They came up with a lot of new regulations. I don't agree with a lot of them. I think they are overly intrusive. But whether I agree with them or not, they stated in those regulations they thought they could reduce children and adolescent smoking by 50 percent within 7 years. Wait a minute. We are talking about spending hundreds of billions of dollars in addition to these FDA regulations to it to 60 percent? So these massive price and tax increases might decrease smoking another 10 percent in addition to what they are already doing in FDA? I am not so sure.

That tells me that people are sometimes pretty loose with statistics. Maybe these surveys don't mean as much as some people think. Maybe this question of, "Did you smoke in the last 30 days?"—maybe that is one cigarette. I am not sure. That is one of the questions.

My point is that I don't want kids to get addicted to smoking. We want to do some things to discourage that. I am concerned when I see that drug use has doubled; marijuana use has doubled under this administration amongst high school seniors. That bothers me a whole lot more than the 33 percent increase in teen consumption tobacco. I happen to be a parent; I have four kids. If you tell me that maybe they smoked a cigarette once, or if they were using marijuana on a regular basis, I would be a lot more concerned about the marijuana. I don't want them to do either, and we should discourage both. But to have a campaign and have this massive effort to attack tobacco and be silent on drugs, I think, is absurd and it should not happen.

We should have a campaign against teen smoking, but we should not raid taxpayers in the process. We should not spend hundreds of billions of dollars. If you ask people, "Do you want to reduce teen smoking?" you are going to get a favorable poll that says 90 percent say yes. If you say, "We are going to reduce teen smoking, and we are going to spend hundreds of billions of dollars and pass the largest tax increase in years. Do you still think we should do it?" They are going to say, "What?"

I think there was a poll that said 70 percent of the people thought Congress is doing this more to spend money than to help kids. They know this is more about a money grab, a big "cookie jar," than about reducing teen smoking. Look at the costs. I happen to be kind of a numbers cruncher. I am on the Budget Committee and the Finance Committee and I think numbers are important.

I am going to talk about this bill quite a lot this morning. I looked through this bill, and in this bill there is no mention anywhere of a $1.10 tax increase. I am going to tell the press there is no mention of a $1.10 per pack tax increase in this bill. They mention it in the committee report, but the committee report is not the law. So how much does this bill cost? I stated repeatedly that it costs more than a $1.10; and it does cost a lot more than $1.10. People will say, wait a minute, where did you get the figures? I got the figures from the bill, not from Senators' statements or from reading The Washington Post or The New York Times, where the headline was "Senate to Stay With $1.10 Tax Increase." There is not a $1.10 tax increase in this bill; there is a lot more. It is going to cost consumers a lot more. Is it going to cost tobacco companies a lot more? I don't think so.

As a matter of fact, I put on this chart the gross tax increase on consumers in billions of nominal dollars. These new taxes cost consumers, but do they cost tobacco companies? Not a dime. Let me go through a couple of the provisions, Mr. President. Before I do, I will submit the chart I have already discussed about the increase in use of marijuana and also cigarettes into the RECORD.

I ask unanimous consent to have the chart printed in the RECORD at this point, along with another chart regarding the national tobacco settlement trust fund.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

12TH GRADERS USE OVER 30 DAYS

Class of	Marijuana	Cigarettes
1980	33.7	30.5
1981	31.6	29.4
1982	28.5	30
1983	27	30.3
1984	25.2	29.3
1985	25.7	30.1
1986	23.4	29.6
1987	21	29.4
1988	18	28.7
1989	16.7	28.6
1990	14	29.4
1991	13.8	28.3
1992	11.9	27.8
1993	15.5	29.9
1994	19	31.2
1995	21.2	33.5
1996	21.9	34
1997	23.7	36.5

NATIONAL TOBACCO SETTLEMENT TRUST FUND

[Gross tax increase on consumers in billions of nominal dollars]

Year	Initial payment	Annual industry payments	Maximum potential lookback assessments	Grand total
1999	10.00	14.40		24.40
2000		15.40		15.40
2001		17.70		17.70
2002		21.40	4.40	25.80
2003		23.60	4.52	28.12
2004		24.31	4.64	28.95
2005		25.04	4.77	29.80
2006		25.79	4.89	30.68
2007		26.56	5.03	31.59
2008		27.36	5.16	32.52
2009		28.18	5.30	33.48
2010		29.03	5.45	34.47
2011		29.90	5.59	35.49
2012		30.79	5.74	36.54
2013		31.72	5.90	37.61
2014		32.67	6.06	38.73
2015		33.65	6.22	39.87
2016		34.66	6.39	41.05
2017		35.70	6.56	42.26
2018		36.77	6.74	43.51
2019		37.87	6.92	44.79
2020		39.01	7.11	46.11
2021		40.18	7.30	47.48
2022		41.38	7.50	48.88
2023		42.62	7.70	50.32
Total, 25 years	10.00	745.67	129.88	885.55
Total, 5 years	10.00	92.50	8.92	111.42
Total, 10 years	10.00	221.55	33.41	264.96

Annual industry payments are adjusted for the greater of 3% or CPI-U beginning in year 6. This estimate does not include potential increases or reductions in industry payments resulting from changes in the volume of tobacco sales.

Lookback assessments would be initiated after year 3 if underage tobacco use is not reduced by specified percentages. The maximum lookback assessment of $4.4 billion is adjusted for inflation. Does not include an estimate for brand-specific lookback assessment.

Source: S. 1415 as modified on the Senate floor.

Mr. NICKLES. Mr. President, I am also going to insert a table that shows new tax assessments and penalties that are in this bill. The national tobacco settlement trust fund is what I am going to talk about now. This is the trust fund, the big kahuna. There are a lot of other taxes, penalties, but this is the bulk of the money. If a person was interested, they could look at this provision in the bill. If you go to page 179, it talks about the trust fund. You can see on page 181 that it says tobacco companies, in the first year, pay $10 billion. Then on page 182, it says—in the first year, you also pay $14.4 billion. That is the reason why the first year payments are $24.4 billion on my chart. It doesn't say anything about a $1.10 tax, or any other tax. It says, industry, you pay $24.4 billion. I have heard some people say, well, we are going to raise the tax gradually to $1.10. It starts out at 65 cents. The only mention of a per pack tax is in the committee report. It starts at 65 cents and ends with $1.10.

I am just telling you that those numbers don't add up. I have told this to my colleague from North Dakota, and maybe he will believe me by the time I finish this presentation. The bill doesn't mention $1.10. We are passing a bill, not a committee report. We are passing a bill. The bill says in the second year the companies will pay $15.4 billion. The third year is $17.7 billion, then $21.4 billion, and then $23.6 the fifth year. Thereafter, it is adjusted for inflation. That is where these numbers come from. These numbers are adjusted for inflation. At a minimum of 3 percent, regardless of whether there is any inflation or CPI, whichever is greater. The bill says a minimum, so I put in the 3 percent.

Now, some of my colleagues and the administration said this bill raised $516 billion. That number is in the committee report. The committee report embarrasses me. I am embarrassed by the work that the Commerce Committee put together, but frankly I shouldn't really blame them. I want to blame the administration because, frankly, they wrote the bill. It wasn't the Commerce Committee; it was the administration. The administration-drafted report even has a section that says payments will be no greater than $516 billion. That is hogwash. As a matter of fact, I have a letter from OMB that says you only compute $516 billion if you deflate the industry payments to constant 1999 dollars. That is where they get $516 billion. Those are constant 1999 dollars. They make it look a lot smaller than it is.

Frankly, that is not the way we do accounting in the Senate. The bill says, here are the payments and they are adjusted for inflation, and, frankly, these are conservative because I will tell you that sometime in the next 25 years, you are going to have more than a 3 percent inflation rate. We know that. So I am going to tell you that the $755 billion in industry payments over the next 25 years is conservative. It is much more conservative than what will actually happen. I will also mention that I didn't add look-back assessments. The administration, when they said $516 billion also didn't add the look-back. Then, they increased the look-back to $4.4 billion when they rewrote the bill over the weekend. The administration rewrote the bill over the weekend, not the Commerce Committee or the Finance Committee. The Finance Committee reported out a bill and some amendments and said, let's scrap this industry payment nonsense and come up with a tax increase. I didn't support it—a $1.50 tax increase—but at least it was honest.

This bill is very misleading. These industry payments are very deceiving. We ought to be ashamed of ourselves. I will talk about the look-back provisions in a minute. I didn't even add the look-back, yet, but if you add the look-back at another $130 billion the total tax increase is $885 billion. These are just the facts. These are the facts that you get if you read the bill—if you read the bill on page 182, page 183 and page 184.

Then you find out that they did a lot of other silly things in this bill. I guess silly things maybe to protect certain constituents or certain parts of the industry. But, if you think you are passing a $1.10 tax on all tobacco, you will find out that they exempted some companies. They exempted some companies. I thought excise taxes were excise taxes, like excise taxes on gasoline—the Federal excise tax is on all gasoline, made in North Dakota and Oklahoma. Except perhaps for gasohol. I don't think we should exempt gasohol. But we do. But this bill exempts certain companies from the tax. If their sales are less than 1 percent, they pay no tax. What does that mean? You already have a 24-cent Federal excise tax on cigarettes. Everybody pays it. There is no exemption on that. Congress has already increased that in the future to go up to another 15 cents. That is going to be 39 cents. Everybody pays that. But this committee said for this additional tax or fee some companies need not pay. Think about that.

Everybody else is going to have to pay this. Let's say the tax is $1.10. I think it is much more than that. But most companies will have $1.10 additional cost put on their products, and some companies won't. That makes sense, doesn't it?

I also looked at the tax increases on other products. I would love to have a sponsor of the bill explain to me how they did this. Take a product like snuff. I calculated the tax increase on snuff, that little round package, you know, you put a pinch between your check and your gum. The tax increase on snuff is over 3,000 percent. That is a significant tax increase. Right now it is 2.7 cents per little can, and it goes up to 85 cents. That is a pretty good increase. Maybe 85 cents is the right amount. But I will venture to say nobody in here knows that. That little can costs about $3 and something. That is a pretty good hit.

We at least ought to know what we are doing. I don't think anybody here knows what they are doing.

Then we find in the bill that some smokeless tobacco companies, small manufacturers, are getting a smaller tax increase, 60 cents. For most of the snuff people, the people who make these little round things, we are going to increase their tax by 82.5 cents. But for some people we are only going to increase it 60 cents, because they are small, or maybe because their Senator said, "Hey, they are not part of the problem, they are not very big. They sell less than 150 million units." I thought we were interested in children's addiction. So we are going to give this company a 20-some-cent advantage over other companies? That is in the bill. That is on page 185, if anybody cares to look at it. I wonder how many of us really looked at this bill.

Excise taxes, if they are going to be on snuff, should apply to everybody. But we didn't do that in this bill. I say "we," the Commerce Committee. The Finance Committee did tax everyone, and in proportion to the tax on cigarettes. Finance said, "Let's scrap all this industry payment nonsense and have an excise tax."

I am going to show you that this tax is a lot more than one dollar and a dime. And I don't think there is any question it is more than a dollar and a dime. Yet, people are still under the facade that this is $1.10. Why? Because OMB said it is, and Treasury said it is. I don't think that is the truth. The bill says, here is the amount of the industry payment, pay it. Not everybody has to pay. One company made a deal, and said, "Hey, we have already settled. So we are not part of the problem. So we don't have to pay the excise tax." They have a much better deal. It is worth hundreds of millions of dollars. We are getting ready to pass it. I don't think that makes sense. I think we ought to be ashamed of ourselves the way we are legislating.

There is a reason why we have committees of jurisdiction. And we violated it grossly. I thought maybe we fixed it when the Finance Committee took this bill. But, obviously, the Commerce Committee and the administration said, "No, we don't want to do that. We like what we have." I will tell you why. Because they are going to get more money, in my opinion, than they would get at $1.50.

I was halfway tempted to vote for the amendment of the Senator from Massachusetts amendment to raise the tax to $1.50. If you had a real tax at $1.50, I think it raises less money than the figures we are talking about. Maybe I am wrong. The press is going to report $1.10 and $1.50. That is what the press reports. I think this payment scheme equates to more than $1.50. This chart shows $40 billion or $50 billion per year in the future. Guess how many packs are sold a year? About 24 billion packs a year. If you have a $1 tax, assuming you had no reduction in consumption, you are talking about $24 billion. This bill is in that neighborhood already in the first year—not just the fifth year. We are talking about the first year. That is going to be about a $1 tax paid for 1999. You have the $10 billion initial payment. That equates to about $1 a pack. The tax on snuff and smokeless, and so on, doesn't raise a lot of money cumulatively, but it is a huge tax increase.

On chewing tobacco, the tax goes from a very small two-and-a-quarter cents per 3 ounce pack of chewing tobacco to over 40 cents—almost 41 cents. That is a 1,711-percent increase in one fell swoop. That is a big hit. I think it is a nasty habit. If you want to tax it and eliminate it, maybe that is what some people are trying to do. But we at least ought to know what we are doing. I would venture to say that maybe a lot of people in the Senate don't.

I want to talk a little bit about the look-back provisions. I think I heard Senator HATCH, and others, say that the look-back is unconstitutional. I think he is right. I will tell you, I am not a constitutional scholar. I will not enter that debate. I will tell you, it is unworkable. I heard somebody say the industry has signed off on the look-back provisions. I have not been talking to the industry, but I am pretty sure they are planning on contesting them on constitutional grounds. And they are pretty confident—at least that is what my staff tells me—that they would win.

What does the look-back do? It could raise a lot of money. And evidently the administration thinks this is real money and it is going to happen because they increased the amount to $4.4 billion over the weekend. The look-back grew by over 10 percent over the weekend. It is much higher now than when it passed out of the Commerce Committee.

That is interesting. How does it work? If a person was interested, they could look on page 106 of the bill and find the look-back section. This is kind of interesting. How does this work? Is this going to be a real incentive for companies to curtail smoking? I found out these provisions are very interesting. They start on page 103 of the bill and go through to page 109. I will just talk about this for a second.

The look-back says the Secretary—talking about the Secretary of the Treasury—shall conduct a survey to determine methodology and the percentage of all young people who use a type of tobacco product within the last 30 days. It says "a type of tobacco product within 30 days." He is going to take a survey, a poll.

A lot of us are in the political business. All of us in the Senate take polls. The Secretary of the Treasury is going to take a poll. Keep in mind that of all tobacco consumption, only 3 percent of it is done by teenagers. Keep in mind that it is against the law for teenagers to smoke in every State. It is against the law to smoke if you are less than 18 years old. He is going to take a poll and find out how many are trying tobacco. These numbers are going up. Maybe they did it once, or more. They are going to take a poll. The poll is going to also specify: "Did you use tobacco?" and "What brand did you use?"

Then there is a complicated formula. But if a tobacco company's numbers don't come down, then we are going to be subject to special assessments.

I should mention more about the poll—this is interesting. Every poll that I have ever seen has pluses and minuses. There is a range of plus or minus 4 percent. This cannot be entirely accurate, because they are not going to ask every teenager age 11 through 17, "Did you smoke?" That wouldn't be too cost effective. They might do it maybe for that reason.

On page 106, it says, the survey is deemed conclusively to be proper, correct, and accurate for purposes of this act. They deem their poll whenever they happen to take it to be accurate.

That is interesting. I just think of the games that could be played with that.

Let's see, if they took their poll around the Fourth of July, there may be a greater instance of tobacco use on the 4th of July, or maybe the Memorial Day weekend, or maybe the Labor Day weekend when people are going to the beach. If they want to jack the penalties up, "Let's take the poll then."

I just fail to see that this is a good way to do business. If the company doesn't meet the underage tobacco use goals as outlined by this bill, then there would be significant penalties—very significant penalties, up to about $4.4 billion, and indexed for inflation. So on my chart the totals increase rather significantly to $130 billion. Those aren't tax deductible.

Is that really workable?

Then there is another section.

There is an additional look-back assessment on brand-specific underage tobacco problems. If you look on page 112, which talks about if they miss their percentage share, tobacco companies could have an additional surcharge of $1,000 per teenager.

The amount of the manufacturer-specific surcharge for a type of tobacco product for a year under this paragraph is $1,000 multiplied by the number of individuals for which such firm is in noncompliance with respect to its target level reduction.

So we have target-level reductions. It starts out at 15 percent. It gradually increases to 60 percent. They are going to take a survey and find out what brand of cigarettes this youngster is smoking. So in this random survey, if a bunch of kids say, "Yes, I had a Marlboro," mark them down, and for every child they determine smoked that brand of cigarette, they are going to assess the company another $1,000.

Now, I find that to be ludicrous. There are hundreds of brands of cigarettes—hundreds, and so we are going to have the Department of the Treasury conducting this poll asking teenagers did you smoke. And if you did, what brand? And it may be they can remember the brand, maybe they can't. Maybe they smoked one cigarette; maybe they bummed a cigarette; maybe they don't tell the truth; maybe they don't respond; or maybe whatever. We are going to be assessing penalties to the tune of $1,000 for every teenager deemed by this poll to have used this particular product.

That is ludicrous. I want to warn my colleagues. I may not have the votes, but I am going to probably try and strike that. If we don't strike that, it is going to come back to haunt you. You are going to be embarrassed because we put language in here that says this poll was deemed to be accurate and therefore whatever the Secretary says is law and as a result here is your penalty. We have determined that there are 10,000 youngsters in the age category who are using your brand and they are age 17 or less, and therefore we are going to sock it to you.

This doesn't make sense. If you want to figure out ways to punish tobacco, to fine tobacco, do it. But this is not the right way. This is not workable. You should trash this whole thing and say, if you want to increase tobacco tax $1.10, do it. Do it tomorrow. This thing phases it in over five years.

My point being, if you are going to try to reduce consumption, you want to have a sticker price shock. You don't phase it in over 5 years. They will never see it. They won't know it. It won't make the reduction in use. It won't get consumption down. It won't be effective.

Wow, what did we do. We raised hundreds of billions of dollars, but did we achieve our objective? I don't think so. What did we do? Maybe the objective was to raise billions of dollars so we would have a lot of money to spend. Maybe that's the case. I don't know. I hope not.

Mr. CONRAD. Will the Senator yield for a question?

Mr. NICKLES. I have a lot to say.

Mr. CONRAD. I understand. I don't want to interrupt the Senator. I just want, if I could for the purposes of the RECORD, if nothing else, and maybe for the education of both of us, to ask just one question.

Has the Senator, in the numbers that he has displayed on the chart, made any volume adjustment?

Mr. NICKLES. Let me go to that, and I appreciate the Senator's comments because I knew the bill's proponents would say my numbers don't assume a volume adjustment.

The administration, when they did their projection to come up with a $516 billion price tag for this bill, they did no volume adjustment. When the AGs came up with their price tag for the settlement, they didn't do a volume adjustment. And finally, we discovered that the White House changed the volume adjustment threshold in this legislation over the weekend. That bothers me a lot. That was changed Sunday or Monday night. And that bothers me a lot.

Let me conclude. I know what my colleague is going to say. Let me take you through this a little bit further.

The volume adjustments, the formula that passed out of the Commerce Committee says the industry payments will be reduced by the volume. If there is a reduction in sales, we will reduce the tax. Again, in calculating the costs of their own bills, both the $516 billion current dollar estimate and the $755 billion nominal dollar estimate, they didn't calculate the volume adjustment.

Now, what happened Sunday and Monday night was a humongous tax increase that nobody knows about because the volume adjustment was triggered not when sales dropped below 100 percent of 1997; it is triggered when sales drop below 80 percent of 1997. So you get no volume reduction unless you reduce total consumption to below 80 percent where we are today. So I am not sure there will be a volume adjustment ever.

Now, I do not know if my colleague caught that. In the original Commerce bill, it says we will take these figures on my chart and we will reduce them, if there is a reduction in volume of sales. We will have a CPI increase, and we will have a volume decrease, and so maybe the figure will stay close to $23 billion. If volume went down 3 percent and CPI went up 3 percent, maybe you could take this figure, $23 billion, for all future years.

Well, what they did in the stealth of the night of Sunday or Monday, they said, oh, we are going to change that. We are not going to give a volume adjustment unless they reduce total consumption to below 80 percent of where it was in 1997. Wow.

Now, this is getting too complicated. Most of our colleagues aren't going to follow it, and I don't want to get too bogged down in the minutia, but that is a big tax increase. That means you are not going to have reductions. You may never have a reduction.

My point being, that the way you do volume adjustment, the real way is to have a direct excise tax on the product—very clean, very simple. You don't have to argue about whether or not you are talking about constant dollars, inflated dollars, whether you are talking about volume adjusted. If you have an excise tax per pack, if you sell less packs, so what. You have accomplished your objective. You have done it.

This is the worst method to tax we have ever imposed in the Federal Government that I can find. This is so convoluted, so distorted, so deceptive, so contrived say we are raising taxes $1.10 and not do it. If our colleagues want to be honest, they would say let's scrap all this and let's make the tax $1.10, and then you have an automatic volume adjustment. You have an automatic volume adjustment. Because if you purchase less, then that will happen.

Let me just mention, too, the volume adjustment section, just for my colleagues'——

Mr. CONRAD. Will the Senator——

Mr. NICKLES. I really don't want to. I have a lot to go through and I want to finish this. I am this far and I have a lot more to go. So I will be happy to talk to you in just a minute. But I want to run through several things, and I don't want to get too bogged down on that one particular thing.

Mr. President, let me just touch on a few other things. And I mention that, Mr. President, and I will guarantee you that not one Member, maybe not any Member, certainly not more than two members of the Commerce Committee or the Finance Committee knew anything about that change in the volume adjustment, and it is a big change. It is different than the committee reported bill. And, again, I am troubled by these games. I am troubled by people saying, oh, here is what the bill says and then to play games maybe late at night, Sunday night, Monday night, and have this bill written by the administration. This is not a Commerce Committee bill. This is an administration bill.

I think it cries out for change, and the change should be this, I tell my colleagues. The change should be to call a tax a tax. Senator LAUTENBERG introduced a bill that said let's have a $1.50 tax. That is what the Finance Committee passed. Whatever the tax is, whether it is a $1.10 or $1.50, whatever, we should pass the tax increase per pack plain, simple, clean, and not play this game of, industry, you pay in all these hundreds of billions of dollars, and maybe we will give you some reductions if consumption comes down, but we are going to have penalties if X, Y, Z brand doesn't go down as much as we think it should go down among certain people. That is absurd, and that is what we have, all based on polling that they deem to be accurate. That makes no sense, no sense whatsoever.

Let me go on through a few other points. I am going to try to speed the pace up. There are tobacco distributor licensing fees, brand new; there are nonpayment penalties, there are document good-faith payment penalties; there are antismuggling penalties; and then we get into new spending. So all this is on the revenue side. This is on the tax side. This humongous tax bill, I don't care what period you are looking at, this is a bigger tax bill—gross, net, any figure you want to use—a bigger tax increase than the tax cut we passed last year. Maybe that will help put it in perspective.

Last year, in a bipartisan manner, we passed $500 tax credit per child. This year, for 1997 it is $400. We passed that. We reduced capital gains from 28 percent to 20 percent. That is one of the reasons you have seen Federal revenues grow by over 10 percent this year. It is because we cut capital gains. People like that. People have more financial transactions, and you are not taxing those transactions so much. It raised a lot of money for the Government. We reduced estate taxes by increasing the exemption. We provided IRAs. We did a lot of good things in the tax bill, a lot of good things.

Guess what, this tax increase overshadows it. This tax increase overshadows it, and it is paid for, the strong majority of this is paid for, by individuals making less than $30,000, $40,000 a year. This is a tax increase on low-income people. It is a humongous tax increase. It is bigger than all the tax cuts we gave last year, than all the tax cuts. So that should concern people.

My colleague, Senator GORTON of Washington, said we should have some tax relief. We are going to have a humongous tax increase; we should have some relief.

We are getting to the spending side now. This is one of the problems that bothered me. I told my colleagues from the outset, I will work to pass a good bill to reduce teenage consumption of drugs and tobacco. I will. I will not support passing a bill that spends hundreds of billions of dollars so government can grow. We grow government in this bill like there is no tomorrow. This bill has government growing from the State level, government growing from the Federal level, government growing at almost any excuse. And the administration wrote every bit of it.

Did they consult the Appropriations Committee? Did they consult the Budget Committee? No way. We made a little improvement. In the bill that passed the Commerce Committee, this was all off budget and it wasn't subject to an appropriation. All of that was an entitlement. We changed it. Now, only half of it is entitlement. The States are entitled to 40 percent. That is an entitlement. We can't touch that. And then the farmers are entitled—under the bill from the administration and Commerce Committee, farmers are entitled to $28 billion.

I know Senator LUGAR is going to have an amendment to reduce that, but in both cases those are entitlements. In both cases we are spending billions of dollars. I have a problem with that. I don't know how I can go to my farmers and say those tobacco farmers are going to be entitled to get maybe $18,000 an acre on this buy-out, and of course they can continue producing tobacco after we buy them out. We will buy their quota, but, yes, they can continue producing tobacco forever. I have trouble with that.

I have trouble with, Who is going to get most of this money? Let's see; let's figure out who is going to get the money. I mentioned my mother had emphysema and lung cancer. Does she get any money? No. Do victims get any money? No. Government gets money. Who gets money? Do victims of cancer and smoking-related disease and problems get money out of this? No. Who gets the money? States get the money. The Government gets the money.

Where are they going to use the money? The bill says the States get 40 percent of the money, and they are going to get at least $196 billion so they don't sue the tobacco companies. Four have done it and settled. More power to them. Congratulations.

Who is going to benefit from that? I guess the States do. They get some money. In the State of Florida, out of an $11.3 billion, the trial attorneys get $2.8 billion. That is 24.7 percent. In Texas, they had a $15.3 billion deal; the trial attorneys get $2.2 billion.

We had an amendment the other day to limit it. Maybe it was too low. I am going to tell my colleagues, you are going to have another chance. But we are going to give a few individuals, maybe 50 individuals or something, we are going to make them multimillionaires, maybe billionaires? We have had some of these people working the halls of Congress. These guys, some of them have chances to become billionaires, with a "b."

And I am all for people making money, I think that is great, but we should not do it raising taxes on consumers making under $25,000. We are getting ready to do it, and I will tell my colleagues, if we pass this and if somehow you are successful—and I don't think you will be—but if some forsaken way you are successful getting this through conference the way you have it set up right now, you will be more than embarrassed. You will be reading about individuals making hundreds of millions of dollars, trial attorneys making hundreds of millions of dollars off this deal. And you had your hands on it? I would be embarrassed, and I think that you would. I think we are going to fix it.

I noticed the Senator from North Carolina was here, and he tried to fix it with one amendment. It didn't pass, but my guess is we have some other ideas. I think we will fix it before it leaves the Senate. If we don't fix it before it leaves the Senate, we will fix it in conference. If we don't fix it in conference, I hope we don't have a bill. I hope we don't have a bill anything like this. And, again, I reiterate my position, I think we can come up with a bill that will be good to curb teenage smoking and consumption of drugs and tobacco. But I do not think we have to come up with a scheme that spends either $500 billion or $755 billion or $885 billion. I don't think we have to do it. I know we don't have to do it.

Some people are saying, "I am reading a poll and"—I don't care what the poll says. Let's do what is right. Let us try to curb teen smoking. You don't have to do all of this.

The FDA came up with their regulations 2 years ago, and they said their regs alone were going to reduce consumption by 50 percent. There is not a lot of difference between 50 percent and 60 percent, except I see hundreds of billions of dollars being spent in the process. So, let me talk about that. I talked a little bit about the money going in. I am telling you, there is a lot more money going in than people have mentioned. If they say there is only a dollar and a dime, let's pass an amendment and say here's a dollar and a dime, and I guarantee these figures will shrink. They will shrink.

Mr. CONRAD. Will the Senator just yield on that point?

Mr. NICKLES. No, I won't yield. I am going to continue or I will never get done, and then I will be happy to yield for a question.

The spending side of this equation, I mentioned it has a couple of entitlements. The States get 40 percent of revenues. We tell the States: You have to spend half of it as the Clinton administration decreed. You have to spend half as they said. It must be on children's health, child care, child welfare, substance abuse, education, children's health insurance—any of their little social programs that they like. Granted, the Clinton administration wants to expand the welfare state. So they say, here, States, we know that you initiated these lawsuits and you were winning some of them, but, since now we are going to take this over and federalize it, you have to spend the money the way we want.

So the bill restricts half of the state money and says: States, you spend it in a welfare-acceptable or child-acceptable manner as the Clinton administration dictates that it be spent. And then they say: States, you can spend the other half any way you want to. So that is the way we are going to increase government in the States. States, congratulations, here's your money. In exchange for that, we are going to limit your ability to sue the tobacco companies.

I can see why the companies walked away from this deal. They made a deal with the Clinton administration and the administration broke it, and they can still be sued in lots of areas. Oh, well, there is an $8 billion cap. I can see a race to the courthouse.

I am going to support the amendment of the Senator from New Hampshire to strike protections for the tobacco companies. Some people say, if you are opposed to this bill, Senator NICKLES, you must be in favor of the tobacco companies. This bill does the tobacco companies a big favor by limiting their liability to $8 billion a year. The tobacco companies are saying they are not even part of it. Why should we give them an $8 billion limit of liability? Why?

I don't see any reason to do that. I agree with the Senator from New Hampshire. So I am not going to give the tobacco companies the protection they really want. Why give it to them? It is the proponents of the bill who are trying to do the tobacco companies a big favor, not some of the opponents.

(Mr. FAIRCLOTH assumed the Chair.)

Mr. NICKLES. Mr. President, what about the money? Now we are talking about money. The States are going to get 40 percent of this amount, and they can spend half as they want, and the other half is spent as the Clinton administration wants.

They can spend it on public health—and we are all for public health. That is going to get 22 percent. So we are going to grow a lot of government in that area. Health-related research, we are all for that. Farmers' assistance, we are going to make farmers millionaires. Maybe these farmers were thinking about selling their property last week. Now, they hear Congress is getting ready to pass a bill and they say, "I might get 4, 5, 10 times what the property is worth if I hang around." It would be interesting to see what is happening on tobacco farm prices right now in North Carolina, Kentucky, Virginia and other places, because Congress is going to pay them billions of dollars.

We are going to pay them so much—not per acre—per pound of quota, and we are going to make a lot of them a lot wealthier than they have ever been.

Guess what? When we are done paying them they can still grow tobacco. We can buy their farms cheaper than what will be paid under these two proposals right now. We can buy the land, have the Government take over the land and turn it into a park. I shouldn't say that out loud, because somebody is going to propose it.

We are going to make people very, very wealthy because they hold a document called an allotment. It goes back to the New Deal. If you believe in free markets, it is just totally wrong. Yet, we are going to compensate them; we are going to buy them out.

Let me go through some other new spending provisions.

There is a Medicare preservation account. Frankly, that is important, but I tell my colleagues, it wasn't in the Commerce Committee bill. It wasn't in the Finance Committee bill. It appeared Sunday or Monday night, and I object to that. I object to the administration coming in and saying, "Oh, we have some new ideas here," as they did with their volume adjustment.

We have child care development block grants. This is very interesting. This was put in the Commerce Committee bill, and I objected to it. One, they don't have jurisdiction over child care development block grants, but they were putting it in anyway. They are not the committee of jurisdiction on that. I don't know if they know anything about it. They put the money in. The Finance Committee took it out.

Guess what? The Clinton administration put it back in. I am troubled by that.

Then, I find they did some other things. They changed formulas for child care programs. I wonder if my colleague from North Dakota knows that. They changed the formula. We have a State match formula for Medicaid. The match in most States is 50–50. In some States, it is 70–30. This bill now reduces that State match for child care to 20 percent, because they want more child care money spent and more individuals to qualify for it. The States actually have more money now in this program than they know what to do with. People were not taking advantage of it, so they reduced the State participation down to 20 percent.

The Federal Government for child care, with this increase, is going to pay four times as much as the State pays for it. That is an entitlement. That is a change, and the Commerce Committee has no jurisdiction over that. They did it. They also have report language that says, "Hey, let's spend about $4 billion per year on this program." This is a 25-year bill. That is $100 billion. It was just added. Does anybody know it? Like I said, it was in, it was out, now it is back in.

They changed the Medicaid provision, which is wrong. They put in a brand new children's health care provision, which basically reopened the welfare bill. The bill would add $25 billion for States to do Medicaid outreach on children's care. We debated welfare. We passed the welfare reform bill. Now, the administration is coming through the backdoor on the tobacco bill saying, "Let's expand the welfare bill."

They did it in the middle of the night. It did not pass the Commerce Committee. They didn't ask anybody in the Finance Committee who worked on welfare reform—not one person, not staff, not anybody. They just put it in.

They also put in a provision that allows for presumptive eligibility outside the cap funding for children's health care. Last year, we passed children's health care, a $24 billion. We increased cigarette taxes to do it. I thought it was too much. I didn't support it, but we passed it. It is now the law of the land.

Guess what they did in this bill? They just put in this new language. It was not in the Commerce Committee bill. It was not in the Finance Committee bill. The administration put it in. It sickens me to know that the administration thinks they have the ability to rewrite this bill. It may have Senator MCCAIN's name on it, but it is the administration's bill. Now, they are opening up the welfare bill, and they are opening up the kid care bill we passed last year for a massive expansion. These new provisions are estimated to cost $400 million per year. They open up the balanced budget agreement. That was part of our balanced budget agreement package that we negotiated and fought so hard for. Again, they cannot find enough people to qualify for the money under the language that we already have, so they are trying to figure out new ways to spend more money.

We have new programs for cessation and other treatments, Indian Health Service, education prevention, counterads, which incidentally, I will support. This paltry bill is spending hundreds of billions of dollars. Do you know what it spends for countereducational ads to discourage the consumption of tobacco? Mr. President, $500 million a year. Big deal.

Everybody says, "Hey, we need to pass this bill so we can reduce teen consumption of tobacco." So $500 million out of a total of about $20 billion dollars almost every year. All the rest is for other Government spending; in some cases, any Government spending.

The national educational effort to convince people that smoking can bring about cancer is pretty small out of this total package.

It has an Institute of Medicine study, National Institutes of Health—all of these are getting pro rata shares of money that would be authorized—Centers for Disease Control, National Science Foundation, National Cancer Clinical Trials. That program wasn't in anybody's bill. The administration put that in either Sunday or Monday. They have money in here for a State retail licensing program, State grants, of $200 million a year. It is on page 118 of the bill.

I will just tell my colleagues what this does. I am embarrassed that we would put language in that allows this to happen. But I want my colleagues at least to know it so that maybe they will agree with me. I will have an amendment at some point to strike some of this language.

The State retail licensing program codifies that portion of the FDA regulations. It provides for $200 million a year and, basically, it codifies the FDA regulations dealing with selling tobacco. That is on page 119. It says:

> Shall prohibit retailers from selling or otherwise distributing tobacco products to individuals under 18 years of age, in accordance with the Youth Access Restrictions regulations promulgated by the Secretary.

Let me mention what that one little paragraph does. That paragraph says we are going to set up a whole mechanism to find out whether or not retail establishments are selling tobacco to teenagers. Maybe you say, "Hey, I don't want retail establishments selling to teenagers." So how are they going to do it? There is $200 million which they give to the States in block grants. The States have to contract to set up inspection teams to do random inspections across the country to find out whether or not they are complying. What if they don't comply? The fines and penalties are very, very significant. I looked it up. The fifth noncompliance the penalty is $10,000. For the sixth there is an even greater penalty; it is not just monetary.

So the Federal Government is going to train these inspectors. They are going to go out and do random audits. And I just have to think, what are we doing? How far are we going in this Government police business? In the committee reported bill there would have been so many inspections per State. Each individual State had a list of how many inspections. I will talk about this later, because I plan on having an amendment on it. But I say on the floor today, I believe, there have to be 4,000 inspections—smaller States less, bigger States more.

The bill was mandating thousands of inspections where these people would be going by and seeing if somebody is purchasing cigarettes. Guess what? It is not just purchasing under age 18; they are checking to see if the establishment is checking IDs for people up to age 27. So you are in noncompliance if you are a gas station and you sell cigarettes to somebody who is 26 years old. That is a violation if you do not check their ID. You are in violation of these Federal regulations if you do not check their ID.

Now, I am going to have a different speech talking about FDA regulations. But my point is, this bill sets up a $200 million new program to give money to the States. The States monitor this as we deem appropriate on the Federal level. I find that to be absurd. And the Federal Government, with its wisdom, says, "We believe you should check everybody aged 27 or less. If you don't check them, you are subject to fines of up to $10,000."

Wow. Now, think of that. You have some burly Marine who is 25 years old from the Marine camp in North Carolina who comes in, and he says he wants a pack of cigarettes, and you can tell he is more than 18 years old. And you are going to ask this guy, "Oh, I can tell you're a sergeant major, but we want to check your ID"? I don't want to ask him to do that. But you could be fined up to $10,000. That is in the FDA reg.

We are getting ready to codify the FDA regs. We are getting ready to deem the FDA regs as law, which is a very bad idea. The FDA can come up with regs. They cannot write law. They cannot write law. Their regs, in my opinion, are unconstitutional. We just cannot deem something unconstitutional as law, as this bill would propose to do, whether it be in advertising or otherwise. Just to give you an example, the FDA regs said it was unlawful for tobacco companies to develop advertising gimmicks such as a hat. I have a staff member who has a hat that says "Marlboro" on it. Heaven forbid, what outlandish behavior. We have the Federal Government saying, "You can't have a hat that has 'Marlboro' on it or 'Winston'"? Give me a break. And there are penalties for noncompliance with that.

The FDA came up with some outlandish regulations. We are just going to deem those regulations as law? We are the legislative body. I think we should clarify what FDA can do. I don't mind regulating nicotine. I do not mind giving FDA some additional authority if we clearly define it, but Congress should define it. We should not just take their regs and say, "Here. Whatever you've said is fine. It's law, no matter what court cases are already decided." Wait a minute. If they went too far, they breached the Constitution, we are just going to deem it as law? That is not good legislation. That is just doing whatever FDA wants.

Again, this administration wrote the bill. But we should not adopt those provisions. We are the legislative branch. We are the equal branch of the administration. Why let them write this bill? Why help them pass a bill which has no tax relief, spends hundreds of billions of dollars, and its impact on smoking is very questionable?

Mr. President, there is a lot of new spending. I am going to submit for the RECORD several specific references. I have heard people say this bill has 17 new agencies. It has a lot more than that.

Mr. President, I think I have mentioned all these. I will run through this other list in a minute. It has Indian tribe enforcement grants, Indian tribe public health grants, tobacco farmer quota payments, tobacco community grants, farmer opportunity grants, tobacco worker transition program, USDA operation of tobacco program, international tobacco control awareness effort—brand new; it was not in either bill, was not in the Commerce Committee, and was put in by the administration Sunday or Monday.

Compensation to tobacco vending owners: That was in the Commerce Committee bill. Let me just touch on that for a second. Everybody knows the FDA regs say we are going to ban vending machines. Well, if Congress wants to ban vending machines, Congress should do it. And then you say, "Well, wait a minute. Shouldn't we compensate the vending machine owner?" It is logical. As a matter of fact, the Constitution says you should not confiscate somebody's property without just compensation.

What do we do in this bill? We set up a corporation. And the corporation is to deem what is just compensation. I have had people come in and lobby me—some of them are very good friends —and say, "Boy, we need this in there." I say, "What kind of compensation are you talking about? How much do those machines cost?" "Well, they might cost $1,500, $2,000, $2,500, something like that." "How much do you envision taxpayers paying you for that machine?" "Well, we're kind of thinking maybe $8,000 or $10,000, something along those lines."

That troubles me. "Well, we were going to make money off that machine for the next several years, and we would like to have the present value of the future earnings of that machine since you're taking it away from us." Maybe they have a legitimate argument, but that bothers me. It is the same argument that we are going to be making on tobacco farmers. Are we going to be giving them the future value of the earnings potential of that farm for a long number of years? I do not want to do it. And I love my friends from the tobacco States, but I do not want to do that. I do not want to do it on vending machines either. I just think that is a mistake.

We are getting ready to pay—if we allow this legislation to go forward, "such sums as necessary." We are going to be spending lots and lots of money.

This bill has a section in it, Mr. President, called "asbestos trust fund." Now, I raised this with my colleague, the Senator from Arizona. The bill that was reported out of the Commerce Committee contained a $21.5 billion asbestos trust fund, originally funded separately by the tobacco companies. I objected to that, and so they agreed to fund it out of the larger trust fund. Then the Finance Committee struck it altogether and said if we are going to set up a new compensation program, we should look at it more closely. And if we do it for asbestos, shouldn't we also do it for black lung? Shouldn't we do it for brown lung? And shouldn't we do it for textile mills? Shouldn't we do it for any other number of lung diseases related to occupation?

I do not think you can stop just with asbestos. I think you have to look at black lung, you have to look at brown lung, you have to look at all of them. So the cost of this, the $21 billion, could grow like cancer, and would. I made these points in the Finance Committee. We struck it in the Finance Committee. This was never a request by the administration, and never a request by the Commerce Committee. Then it was put back in by the Commerce Committee anyway; it is back in.

They delete the authorization language and so on, but they authorize Congress to spend tobacco money whenever Congress passes an asbestos bill. You can tap into the fund an unlimited amount of money. It does not say $21.5 billion, it just opens the door. I think that is grossly irresponsible.

Does that mean I am not sympathetic to somebody who had asbestos problems and also is a smoker and had lung cancer and has a problem? No. I am very sympathetic. But I am also looking at what we are doing here. And we are in the process of expanding a program greatly out of control.

It has money in it for the Veterans Affairs' tobacco recovery fund—not specified; wide open; no limit to how much it could cost.

It has an attorney fee arbitration panel. I touched on this before. This arbitration panel is a three-member panel, with no limit as to how much this would cost. I heard some people say, "We can't do that." Now, wait a minute. Everything else has limits. I am going to submit this list of programs for the RECORD, but we have about 30-some-odd guidelines on how this money should be spent.

But are we going to leave a blank check in here for attorney fees? Now, give me a break. Congress is in the process of raising these taxes, putting this money in the fund. Congress is also responsible for spending the money: "Here, States, here is how you spend it. Here is how you must spend it. Here is how we're going to spend it. And we can place restrictions on what attorney fees should be."

Right now if we pass this bill, the clear winners are trial attorneys. The clear losers are consumers, low-income smokers. They are the losers. The trial attorneys are the victors. They are the winners. They win big time. They become millionaires—billionaires, maybe in some instances. And the losers are the people who see their total Federal tax liability increase by 44 percent if they make less than $10,000. They are the losers. They are big-time losers. Are we going to fix it? I hope we will fix it.

Mr. President, I ask unanimous consent to print in the RECORD attorney fees from the States of Mississippi, Florida, Texas, and Minnesota.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE SETTLEMENT TOTALS/ATTORNEY FEES

State	Total (dollars in billions)	Fees
Mississippi	$3.4	$250 million (7.3%)
Florida	11.3	2.8 billion (24.7%)
Texas	15.3	2.2 (14.4%)
Minnesota	6.6	450 million (6.8%)

Mr. NICKLES. There is a Scientific Advisory Committee, there is a National Tobacco Free Education Advisory Board. That concludes this list. And we haven't found them all yet. Since we also added the Lugar amendment, there are several provisions, some of which are similar but not near as extensive or as expensive as that provided in the Commerce Committee bill. It adds a tobacco community's revitalization trust fund, it adds a tobacco quota buyout, block grants, tobacco farmer assessment, and so on.

I want to be fair on both sides of the tobacco argument. You add all that together, you have 30-some new programs funded in this bill. You have hundreds of billions of dollars funded in this bill. You have trial attorneys who, in all likelihood, will make over $100 billion out of this bill—$100 billion out of this bill.

I ask unanimous consent to have printed in the RECORD new taxes, assessments, penalties, and new spending authorizations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

What's New in the White House tobacco bill

NEW TAXES, ASSESSMENTS, & PENALTIES

National Tobacco Settlement Trust Fund	Funded by the net revenue from $102 billion in deductible industry payments over 5 years, ($885 billion over 25 years), increased for inflation, increased/decreased for volume, subject to appropriation except state share and farmer money, Section 401, 402, and 403, page 179.
Lookback assessments—industry wide	Up to $4.4 billion per year beginning in 3rd year, increased for inflation, not deductible, Section 204(e), page 106.
Lookback assessments—brand specific	$1,000 per underage user above specified reduction targets beginning in 3rd year, increased for inflation, not deductible, Section 204(f), page 109.
Tobacco distributor licensing fees	Secretary may set fee level to cover costs of registering tobacco manufacturers and distributors, Section 1139, page 384.
Non-payment penalties	Prime interest rate plus 10% of unpaid balance after 60 days late, Section 406, page 190.
Document good faith penalties	$50,000 per violation, Section 908, page 258.
Anti-smuggling penalties	$10,000 per violation, Section 1137, page 377.

NEW SPENDING AUTHORIZATIONS—GENERAL ALLOCATION OF FUNDS

State Litigation Settlement Account	40% of net revenues, adjusted after 10 years to equal $196.5 billion over 25 years, sent to states without appropriation, distribution formula to be determined by states, 50% may be spent on anything, 50% must be spent on children's health, child care, child welfare, substance abuse, education, and children's health insurance, Section 451(a), page 192 and Section 452(b), page 200.
Public Health Account	22% of net revenues plus all of lookback assessments, subject to appropriation, Section 451(b), page 194.
Health & Health-Related Research Account	22% of net revenues, subject to appropriation, Section 451(c), page 197.
Farmer Assistance Account	16% of net revenues for 10 years, then 4% until $28.5 billion cap, Section 451(d), page 198.
Medicare Preservation Account	Excess industry payments for 10 years, then 12% of net revenues, Section 451(e), page 199.

NEW SPENDING AUTHORIZATIONS—SPECIFIC PROGRAMS

Child Care Development Block Grants	Such sums as may be necessary, committee report recommends $4 billion per year, state-match reduced to 20%, Section 1161, page 385, and Section 452(d) page 202.
Children's health care	$25 million for states to do Medicaid outreach for children's health care, and allows funding for presumptive eligibility outside of capped funding for children's health care, Section 452(f), page 203.
Cessation and other treatments	25%–35% of the public health account, 90% of which is block granted to the states, Section 451(b)(2)(A), page 194 and Section 221, page 129.
Indian Health Service	3%–7% of the public health account, Section 451(b)(2)(B), page 194.
Education, prevention, counter-ads, international.	50%–65% of the public health account, Section 451(b)(2)(C), page 195.
FDA enforcement, state licensing, smuggling.	17.5%–22.5% of the public health account. Of that amount, FDA receives 15% in 1st year, 35% in 2nd year, and 50% in 3rd year, Section 451(b)(2)(D), page 195.
Institute of Medicine study	$750,000, Section 451(c)(2)(A), page 197.
National Institutes of Health	75%–80% of health research account, Section 451(c)(2)(B), page 197.
Centers for Disease Control	12%–18% of health research account, Section 451(c)(2)(C), page 198.
National Science Foundation	1% of health research account, Section 451(c)(2)(D), page 198.
Medicare Cancer Clinical Trials	$750 million over 3 years from health research account, Section 451(c)(2)(E), page 198.
State retail licensing program—state grants.	$200 million each year, Section 231, page 118.
Compliance Bonuses for States/Retailers	$100 million each year, Section 232, page 128.
National Medal of Science	CDC funding to be used to establish a National Medal of Science, Section 454, page 207.
Indian tribe enforcement grants	Amount not specified, Section 603(d)(3), page 222.
Indian tribe public health grants	Amount not specified, Section 603(e), page 223.
Tobacco farmer quota payments	$1.65 billion entitlement per year for 25 years, Section 1011(d)(1), page 491.
Tobacco community grants	$10.5 billion entitlement over 25 years, Section 1011(d)(3), page 491.
Farmer opportunity grants	$1.44 billion entitlement over 25 years, Section 1011(d)(5), page 491.
Tobacco worker transition program	$25 million entitlement per year, Section 1011(d)(4), page 491.
USDA operation of tobacco program	Such sums as may be necessary, Section 1011(d)(2), page 491.
International tobacco control awareness effort.	$350 million through 2004 and such sums as necessary thereafter for grants to individuals, corporations, or other entities, Section 1107, page 361.
Compensation to tobacco vending owners	Such sums as may be necessary from general fund or tobacco fund, Section 1162, page 386.
Tobacco vending reimbursable corporation	Section 1162(b)(2), page 387.
Asbestos trust fund	Authorizes such sums as necessary for future enactment of an asbestos trust fund, Section 1201, page 402.
Veterans affairs tobacco recovery fund	Not specified, Section 1301, page 403.
Attorney fee arbitration panel	Section 1403, page 438.
Scientific advisory committee	Section 906(e)(2)(B), page 49.
National Tobacco Free Education Advisory Board.	Section 221 of the bill, new section 1982(b), page 148.

ADDITIONAL ITEMS IN THE LUGAR AMENDMENT

Tobacco Community Revitalization Trust Fund.	Funded with such sums as necessary from the National Tobacco Settlement Trust Fund, Section 1511, page 450.
Tobacco quota buy-out	Payments of $8 per pound of quota owned, or $4 per pound of quota leased for production, paid over 3 years, Section 1515 & 1515, page 452.
Rural economic assistance block grants	$200 million per year for 4 years in block grants to states, Section 1521(a), page 454.
Tobacco farmer assessment	Marketing assessment set by the Secretary to cover the annual costs for federal administration of extension, inspection, and crop insurance related to tobacco.

Source: S. 1416 as modified in the Senate (5/18/98).

Mr. NICKLES. Now, are we going to pass that? I know I saw an ad by Dr. Koop saying we need to. I love Dr. Koop. I know he is very sincere. But I don't think you have to spend hundreds of billions of dollars to go after teenage consumption of tobacco or of drugs. And I think we should go after both. I think we would be grossly irresponsible if we don't go after both.

I am concerned about the cost of this bill. I told my friend and colleague from Arizona that I have the greatest respect for him but I don't have great respect for this bill. I think this bill is one of the worst pieces of legislation that Congress has considered since the health care dictates of the President and Mrs. Clinton several years ago. That bothers me. I don't think we should pass it in the Senate. I told my colleagues I am not going to just stand back and throw rocks at it. I will try to make some improvements.

I read a list of the sections, and I don't think there should be an asbestos section. I may have an amendment to delete it. I don't think we should have the massive industry payment system. I am going to try to talk my colleagues into replacing it with a simple excise tax. Raise it $1.10, so you know exactly the amount. I am not comfortable with the fact that some people are saying it is $1.10, but it raises more money than that, so maybe they will have more money to spend. There is no doubt in my mind that these payments, and you divide that out by the number of cigarettes sold, if you are selling 24 billion cigarettes, you realize this will raise a lot more money than $1.10. We are talking about big money. We are talking about it every year.

The tobacco settlement was originally, when fully implemented, about $15 billion a year. This bill starts at $24 billion, and by the year 2002, assuming the kickback comes in, $30 billion. That is a lot of money—3,000 percent increase in the tax on smokeless tobacco and so on.

Maybe people don't care. I care. I care about the procedure. I think some of my colleagues from the tobacco areas were upset about the procedure. I think when you are dealing with the agriculture section, that should have come out of the Agriculture Committee. Commerce Committee is not supposed to write the agriculture section. And Commerce Committee is not supposed to write the tax section. And they did both and they did a crummy job on the tax section. This is the worst tax law I've seen. If we pass it, it would be the worst tax bill Congress has passed. With all due respect, it wasn't even done by the Commerce Committee. It was done by the administration. President Clinton didn't want to use the word "tax" so he thinks they hide it by using the word "fee," but it is not a voluntary fee.

If tobacco companies were in agreement with this, this would be voluntary, it would be a fee, and in return they get some liability protection, and that is what they negotiated with the attorneys general. Maybe that would work. This is not voluntary. There is no provision that says if the tobacco companies don't like the fee, they don't have to pay it. There is no provision like that. So it is a tax. Congress has the power to tax, but if we are going to tax, let's tax right.

The cigarette excise tax right now is 24 cents per pack. It is going to 39 cents by 2002. This bill purports to raise it another $1.10, so that goes to $1.49.

So for my colleagues who are trying to push the tax to $1.50, it will be $1.10 by the year 2002 under this bill, plus indexed for inflation. So maybe you have a lot more than you really realized.

Let me take you through the numbers again. The tax on cigarettes today is 24 cents per pack. Congress, last year, I believe, increased that tax 15 cents—24 and 15 is 39 cents. That is already law. This bill adds to that, purportedly, another $1.10. A $1.10 on top of the 39 cents is $1.49. So the Federal excise tax on tobacco, at a minimum, will be $1.49 in the year 2002, plus it is indexed for inflation forever. This is indexed at inflation, or 3 percent—whichever is greater. Never had an index that I know like that. I don't know that that makes sense, but we have it in there. Why do we have it in there? So we put more money in the pot so we have more money to spend. I don't think we should do that.

What should we do? We should work together to come up with a responsible package. I am willing to do that. I think this bill goes way too far.

I haven't touched the regulatory side of the bill. I will save that for another speech, and hopefully maybe the FDA section will have some common sense come into it. We don't want to give this unbridled authority to the administration. Don't we want to preserve for ourselves, the legislative branch, the authority to write law? Or are we going to take a massive menu of FDA regs and say they are deemed to be law, although a court said part of them is unconstitutional. I don't think we should do that. I will save the FDA section for another comment and another time.

Now I am talking primarily about the financial impact of this bill. Let's work on a bill that will do a couple of things. Let s work on a bill that will try to educate youngsters that using drugs or using tobacco is a very serious problem. Let's try to reverse this trend that happened, frankly, in the last 6 years, during the Clinton administration, where marijuana use doubled among high school seniors, where tobacco use is up 35 percent among high school seniors. Let's try to reverse that through some public education. Let's try to get some workable restrictions that are constitutional. Let's try to put some responsibility back on young people. Let's try to maybe give the States the encouragement to enforce the law.

It is against the law in every State in the Nation for people under the age of 18 to smoke. So if they enforce the law, we don't have this problem. Now, maybe they are not enforcing the law. But certainly this little operation we have here where we are going to have the Federal Government spend $200 million a year to go around and have all these people inspecting to see if the convenience stores are checking IDs up to people age 27 is absurd. That is not going to work. It will build resentment. We need to say, States, what can you do to enforce the law? Maybe all the enforcement should go not to just the person selling the tobacco product. I am all for the States, if they find somebody selling tobacco or alcohol, frankly, to that minor, there should be significant penalties. That is the reason the laws are on the book. They should enforce the law. The penalties should not be just on the person selling but on the person buying or the person consuming. There are laws if you are driving under the influence, you get a DUI, they can take your license away. Maybe we should have restrictions and penalties on the consumer if they are breaking the tobacco consumption laws. Maybe it would be a financial penalty, maybe it would be that they have to do community service. Maybe they have to clean up a park. Give the States some flexibility to put some penalties on the consumer.

One of the reasons I didn't smoke is because I had a football coach who said, you smoke, you are out of here. Everybody else in our group understood that there was a penalty, there would be a price to be paid. So let's put it back on the individual. Let's turn it around. We can do some things like that.

What I see here is a massive effort to conceal, disguise, slide in under the radar screen, a very big tax price increase. And the way it is done is going to have minimal impact on reducing consumption among teenagers because we slide it in stealthily. It starts at 65 cents and over 5 years it is $1.10, according to this nonsense. Are we going to do it so gradually there is no sticker shock, so there won't be any impact anyway? The Finance Committee said, if you are going to increase the tax, put it up front, that, to me, is at least more honest. Do a tax, do away with the nonsense of hundreds of billions of dollars in industry payments. The tax is 24 cents now, so it's going to 39 cents. If Congress has the votes to do it, make it another dollar, add it on, vote on it. I probably won't vote for it. But do it honestly. The way we have here is so misleading and deceptive.

Instead we are going to talk about volume reductions, and we are going to talk about inflation adjustment and about these payments, and I am going to bring up the point that some companies don't have to pay. If smokeless companies produce less than 1 percent, they are exempt. So what are we going to do? We are going to put penalties, big assessments on some companies; but a new startup company doesn't have to pay this $1.10 assessment. That is a big advantage. I have a feeling that this bill is going to cause new companies to crop up all over the place.

I think the arguments made by the Senator from Utah and others about having a black market are very real. These commodities aren't that hard to smuggle or hide. I think if you put in this kind of incentive, you will have the same thing happen as it did in Canada and in other countries in Europe. You are going to find a lot of contraband, a lot of hidden stuff, and people smuggling tobacco like they used to be smuggling liquor. There is a lot of money to be made in the process. If they are smuggling tobacco tax free, there is money to be made. And there is money to be made in drugs. Smuggling under this bill is illegal. But the financial rewards will be very lucrative. If a person figures out the value of a truckload of cigarettes, you will realize that there is a real incentive if a person can get around the law and paying these taxes. The taxes are going to be greater, certainly, than the product.

I stopped in a gas station last weekend just to see what tobacco prices were. I didn't know; I don't buy tobacco. There were some cigarettes selling for $1.24 a pack, and another for $1.84, and another for $2.02. People say most of them are about $2. The more popular brands were the higher-priced ones, closer to $2. That is with the tobacco tax of 24 cents. If it goes up another 15 cents—this bill purports to take it up to $1.10, and that is without the look-back penalties. If you add that back in, you are looking at probably close to a $2-per-pack tax that is in this bill. So taking a product right now that sells from $1.24 to $2, you are going to add $1.50 to $2 in taxes very shortly on consumers. Is that going to be an incentive for people to smuggle cigarettes and get around the law? I believe it is. Certainly, there is incentive. I hope they won't be successful. I don't want to set up a black market or encourage that type of activity, but I am afraid we will be doing it.

Finally, Mr. President, let me just say that I am disgusted about the procedure. I don't say that very often. I am part of the leadership, but I am disgusted by the fact that you have one committee, the Commerce Committee, writing the finance portion, writing the agriculture portion, and they didn't do a very good job. I am disgusted by the fact that the bill changed and the administration rewrote the bill over the weekend. They didn't consult the Commerce Committee, or the Finance Committee, or the committees of jurisdiction dealing with welfare, child care, the committees that wrote those laws, people that had the staff and the experts who knew what they were talking about. The administration put in a lot of their wish lists. I am disgusted by the fact that we would set up a whole new trust fund and say it is limited to $1.10 tax, when it is not.

Let's be honest with people. This is not the way to pass legislation. The Commerce Committee is not a tax-writing committee. They did a crummy job. I am disgusted. The tax on one can of Skoal will be one level, and on a competitor it would be 30 percent less. I am disgusted by the fact that one cigarette company is not going to have the excise tax that another cigarette company is going to have. Wait a minute, this is a national excise tax, but some companies don't have to pay it and some companies do. That is not the way you do business. I don't care if you are small or large. Excise taxes are supposed to be across the board. They didn't do that.

I am also disgusted by the fact that we would end up passing a bill to allow trial attorneys to make $100 billion over the life of this bill—probably $4 billion a year over the course of this bill. That bothers me a lot. That reminds me of what motivates this bill and it reminds me of the movie "Jerry McGuire," where someone is screaming. "Show me the money." That is what is driving this thing. It is not just about curbing teenage smoking. That is a great public relations campaign, and I will stand with anybody to try to curb teenage smoking and drug use. I emphasize "drug use," because there is silence in this bill about that. We are not going to pass a bill, if I have anything to do with it, unless we have a significant effort to combat not just cigarettes but also marijuana and other illegal drugs that are much more hazardous, dangerous, and deadly.

I think this bill needs a lot of work. My guess is that it is probably not fixable with just a few amendments. I don't think we should be in a real rush to pass it. I have spent the last three nights staying up past 1 o'clock reading this bill, trying to understand how it works. I still have a lot to learn about this bill. Before we pass the biggest tax increase, the biggest spending program considered by Congress in years, I think we ought to know a little bit more about it. So I urge colleagues to do their homework, consider serious amendments, not frivolous amendments to string this bill out for a long time, but to make it better.

We are legislators. We are trying to pass law. My opinion is that this is a bad bill that needs to be improved significantly before we let it become law. I will reiterate my statement that I will work with any colleague, Democrat or Republican, to try to fashion a bill that will reduce teenage consumption of drugs and tobacco. But I don't think we have to spend hundreds of billions of dollars to do it. I don't think we have to turn over massive amounts of power to bureaucrats to do it. So I look forward to working with my colleagues to try to make that happen in the next few weeks as we consider this legislation.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I was seeking to ask the Senator from Oklahoma some questions about the numbers he was displaying about the revenue generated by this bill, because the numbers he was displaying are not the official forecasts by the Joint Tax Committee of what this bill will raise. His numbers that he was displaying here are much higher than the numbers that are in the official forecast. Generally, when we debate a bill on the floor of the Senate, we debate based on common numbers. We debate based on the official forecasts. The Senator from Oklahoma has chosen not to do that. He has chosen to take other numbers that are much higher and different. The major difference between those numbers is that the bill calls for a volume adjustment that is not contained in the Senator's figures.

The volume adjustment appears very clearly in the bill at page 189, No. 2, "Volume Adjustment." I will not go through the technical details. But the volume adjustment provides for, if volumes of cigarettes consumed declined because of an increase in price, the price increase will be adjusted downward. The numbers of the Senator from Oklahoma do not contain that volume adjustment. The fact is both Joint Tax and the Congressional Budget Office assume there will be a reduction in volume of about one-third, and any volume reduction beyond a 40-percent volume reduction will result in a lowering of the price increase.

Again, the Senator's numbers did not include those figures. The numbers he was using are not the official forecasts for this bill. They are at great variance from what has been provided by the Senator and are the official forecasts of what this bill will raise made by the Joint Tax Committee.

I want to point that out because I think it is important to set the Record straight.

At this point in the record, I ask unanimous consent to have printed in the RECORD the Joint Tax Committee's estimates of what this bill will raise.

I also would like to enter into the RECORD at this point page 189 from the bill that points out the volume adjustment provisions which the Senator from Oklahoma neglected to advise the Senate are not contained in the numbers which he displayed for our colleagues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, May 19, 1998.
Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: This letter is in response to your request for a revenue estimate of the manager's amendment to S. 1415 offered May 18, 1998.

In order to complete the estimate of the manager's amendment to S. 1415, we assumed that the base payment for years beginning in 2003 and thereafter is $23.6 billion before the volume and inflation adjustments.

Our estimate presents the net revenue effects of the manager's amendment to S. 1415. These net amounts differ from the gross payments required under the manager's amendment for several reasons. First, the general tobacco industry payments are converted to fiscal year payments. Second, the general tobacco industry payments are reduced by an income and payroll tax offset in the same way that net receipts from an excise tax are calculated. Third, the higher price for tobacco products resulting from the proposal reduces net receipts generated from present-law tobacco excise taxes because of reduced tobacco consumption. Finally, because the proposal is expected to supercede most of the State-by-State settlements that are implicit in the Congressional Budget Office baseline receipts forecast, much of the negative indirect effect of the anticipated State-by-State settlements on receipts is reversed.

We estimate that the manager's amendment to S. 1415 will have the following effects on Federal fiscal year budget receipts:

[In billions of dollars]

	Fiscal year—										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	1999–02	2003–07
1. General industry payments	15.4	11.0	12.5	12.7	13.2	13.8	14.3	14.8	15.4	51.5	71.5
2. Look-back assessment [1]	....	....	....	....	....	1.0	0.6	4.0	3.1	....	8.7
3. Total of S. 1415 as amended	15.4	11.0	12.5	12.7	13.2	14.8	14.9	18.8	18.5	51.5	80.2
General industry payments per pack [2]	$0.76	$0.89	$1.06	$1.11	$1.24	$1.28	$1.32	$1.36	$1.40	....	....

[1] This net revenue reflects the effect of reduced excise tax receipts because of the assumption that the penalty excise tax payments are passed through in the price of tobacco products.

[2] Presented on a calendar year basis and without regard to look-back assessments.

Note: Details may not add to totals due to rounding.

I hope this information is helpful to you. If we can be of further assistance, please let me know.

Sincerely,

LINDY L. PAULL.

VOLUME ADJUSTMENT PROVISION

(2) VOLUME ADJUSTMENT.—Beginning with calendar year 2002, the applicable base amount (as adjusted for inflation under paragraph (1)) shall be adjusted for changes in volume of domestic sales by multiplying the applicable base amount by the ratio of the actual volume for the calendar year to the base volume. For purposes of this paragraph, the term "base volume" means 80 percent of the number of units of taxable domestic removals and taxed imports of cigarettes in calendar year 1997, as reported to the Secretary of the Treasury. For purposes of this subsection, the term "actual volume" means the number of adjusted units as defined in section 402(d)(3)(A).

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, my colleague is making my argument for me.

In the first place, I am consistent. The administration, and Senator MCCAIN, said this bill would only cost $516 billion. Guess what? They don't make a volume adjustment on that estimate. Instead, they used constant 1999 dollars.

I have a letter from OMB that was trying to refute my argument, but basically they made it for me. OMB says inflated nominal dollar industry payments would equal $755 billion over 25 years. That is without the look-back penalty. By way of comparison, the equivalent estimate which the State attorneys general are proposing is $539 billion in nominal dollars. Like the private analysis, these estimates do not included volume adjustments. There is a reason they do not include volume adjustments. It is because it is hard to figure.

My point is that everybody here has heard the attorneys general group discussing the $368 billion figure that the administration signed off on. When they use the $368 billion, they do not take into account any volume adjustment. No one knows what the volume adjustment is going to be.

I will show my colleague a table from the Joint Tax Committee. I have been trying to figure out what these industry payments really are. How much of a tax increase is it? I have hounded Joint Tax for an estimate, and we have a letter and report from them dated yesterday. If this is not the one the Senator printed in the RECORD, I will insert it in the RECORD at the conclusion of my statement.

In the first place, they show the total revenues on the top line which, frankly, are consistent with the revenues that I showed on my chart. It is shown in calendar years, according to the bill on certain pages which provided for a payment of $24.4 billion, $15.4 billion, $17.7 billion, and so on.

Mr. MCCAIN. Mr. President, will the Senator yield for an administrative question, not a substantive one?

Mr. NICKLES. The Senator is throwing me off track.

Mr. MCCAIN. About the schedule.

Mr. NICKLES. I will be finished shortly.

Mr. MCCAIN. I thank the Senator.

Mr. NICKLES. I want to make sure people understand. I am not sure my colleague from Arizona knows what was done.

Mr. MCCAIN. I was not trying to interfere.

Mr. NICKLES. I understand; no problem. I bragged on the Senator before.

But I want to talk a little bit about the volume adjustment. I am very familiar with the volume adjustment because I have been trying to figure out what they are doing with it.

Also the Senator from North Dakota tried to repudiate my number of $755 billion. I am telling you that is the same number OMB came up with, and they didn't volume adjust it, and they didn't volume adjust the $368 billion.

I want people to know that I am consistent with what was done before.

In addition to inflation, the bill that was reported out of the Commerce Committee was to have a volume adjustment. If you sell less, there would be less tax. So you have some reduction. But they do not know exactly what that would be.

What was rewritten by the administration on Sunday or Monday is that there will be a volume adjustment if and when volume gets less than 80 percent of last year's level. That is a big change.

Under the bill as originally written, the volume adjustments don't kick in until the sixth year. Then you would have some reduction. They say you will get a reduction if and when you reduce consumption below 80 percent down here.

My point is there is no volume reduction for the first several years, and after that you are guessing. But the volume reduction must be lower than 80 percent. To get any volume reduction whatsoever, you must reduce consumption total by more than 20 percent. It used to be that you only had to reduce it 1 percent to get a 1-percent reduction. Now, you have to reduce 21 percent to get a 1-percent reduction. It may be that they will never get a volume reduction as a result of that change. I don't know.

But my point being is that, one, we are being consistent in our analysis of the cost of the bill, as it pertains to OMB, as it pertains to the Attorney General.

I want people to know what the facts are. The fact is the bill says it has a CPI adjustment. The facts are that OMB said they used constant 1999 dollars to get $516 billion. I read it in the committee report. This is absurd. It said total payments shall not exceed $516 billion. That is not in the bill. It doesn't fit. It doesn't work.

If you use nominal dollars, as we use in every other budget projection, and you put a 3-percent kicker in, that is how you get up to $755 billion.

Then you can add the look-back assessment. One could say there will not be a look-back. Why was all this effort to add a look-back. I heard colleagues say on the floor that look-back is almost maybe 50 cents. I will tell you the look-back is a disaster. If anybody wants to raise tobacco prices another 50 cents, do it honestly. The look-back rests on the Secretary of Treasury taking a poll and saying, "Did we meet our objectives? We want to reduce consumption by teenagers by a certain percentage. Did we make it? If we didn't make it, what happens then?" If they miss it by a certain percent, there is a fine. If they miss it by a bigger percent, there is a bigger fine. That raises about $4 billion.

Then, they go to brand specific look-back assessments. This is absurd. They say they are going to, in the same poll, find out whether these youngsters buy X, Y, or Z brand. And if they smoke that brand, and that brand does not meet that target, there is a $1,000 penalty. For every teenager they identify that smoked more cigarettes in that particular percentage, then there is a $1,000 fine.

That is not really workable, and it needs to be fixed. It needs to be cleaned up. It needs to be deleted and then raise the tax whatever you want to raise it. Be honest. Tell people we want to raise taxes. The first year it is going to a dollar a pack. Just raise it a dollar a pack. Say next year, instead of 24 cents, it is going to be $1.24. Just do it. That would be the honest way. This thing is more than deceptive and, in my opinion, probably won't work.

Mr. President, I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I am just going to repeat the point. I am sorry to have set off my colleague from Oklahoma.

The simple fact is the numbers he has displayed here are not the official forecast for what this bill will raise. They just are not. They are dramatically higher than the official forecast before this body by the Joint Tax Committee, which is the forecasting service we all use. And so the numbers that he has presented to our colleagues, to anybody else who is listening, are numbers that are not the official forecast of what this bill is going to raise.

Mr. NICKLES. Will the Senator yield?

Mr. CONRAD. No. I asked repeatedly for the Senator to yield to me. He repeatedly refused, so I refuse.

The point is very simple. The reason his numbers are at dramatic variance with the official estimate of what this bill that is before this body will raise is because he takes no account of the volume adjustment that is contained clearly in the bill. And that volume adjustment calls for lower payments from the companies as the use of the product falls. Now, any economist and anybody with common sense understands that as you increase the price of something, you sell less of it. That is just basic. And so the legislation acknowledges that economic fact of life.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. I ask unanimous consent to have printed in the RECORD a Joint Tax report.

Now, first I want to reply to my colleague. This joint tax report, which I have been asking for every day, is dated May 20, yesterday. They didn't have this information before. No one has had a chart on what they thought the industry adjustment would be, but let me just give the facts according to Joint Tax if you worship at that altar.

In the first place, they say the figures I have on the gross industry payments, are accurate. They have the exact same figures that I have. They happen to be accurate. They estimate these for the first time. We don't have a CBO study. We don't have a GAO study. We don't have anything from the administration showing what they think the volume adjustment would be. No one has had volume adjustments in any of their charts, because it is a guess. But let me just repeat what the Joint Tax Committee has said. They say the gross figures that I have are identical. They say the total tax on consumers over the first 5 years is $102 billion. They say volume adjustment is $8.7 billion. So the net over the 5 years is $93.4 billion.

So this massive change in numbers that you are talking about is not that massive. The total amount of tax on tobacco consumers, according to joint tax, over five years is $93.4 billion. That is pretty significant.

So, Mr. President, I just got this yesterday, or maybe we got it today. We got it today. And I am happy to have it submitted for the RECORD. I am happy to debate facts all day long, and I want to debate facts.

I see my colleague from Vermont who supports, I believe, a straight excise tax. I just think you ought to do a tax. I think this scheme of having industry payments and having look-backs and surveys and polls, and those polls are deemed to be accurate—that is absurd, but that is what is in this bill.

You have an automatic volume reduction if you have an honest excise tax. Isn't that the truth? If you have an honest excise tax of $1.10 and there is less cigarettes sold, there will be less money going in to the trust fund. It is self-fulfilling if you do it right.

This bill does it wrong. This bill says we are going to have this formula for this money to go in, and it is indexed and there is additional formulas if we determine a certain number of people are using the wrong product. And so we will put that in. And then, oh, yes, we will reduce it by volume if we determine that.

Why not just have a tax per pack, and if there is less volume, there will be less money going into the pot. And no one will have to argue about volume adjustment that will be determined by the Secretary to send to these various companies, and, oh, he is going to forget to send that assessment to some companies.

That doesn't make sense. If somebody makes a different size of Skoal or a different size of snuff, he has a little different tax. You should put the same tax on every pack of cigarettes, the same tax on every brand of moist tobacco or every brand of smokeless tobacco and just do it. And then you have an automatic volume adjustment.

Mr. LEAHY. Mr. President, will the Senator from Oklahoma yield?

Mr. NICKLES. Sure.

Mr. LEAHY. I won't take but a couple minutes.

Mr. NICKLES. I did ask unanimous consent to print this chart in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

RECONCILIATION OF GENERAL TOBACCO INDUSTRY PAYMENTS UNDER S. 1415, AS AMENDED, AND NET FEDERAL REVENUE EFFECT OF SUCH PAYMENTS ESTIMATED BY THE JOINT COMMITTEE ON TAXATION ON MAY 19, 1998, BEFORE THE LOOK-BACK PROVISIONS

[In billions of dollars]

Provision	Fiscal year—											
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2003	1998–2007
I. Calendar Years:												
1. Federal revenues from S. 1415 general tobacco industry payments as adjusted for inflation (by calendar years as in S. 1415)	10.0	14.4	15.4	17.7	21.0	23.6	24.3	25.0	25.8	26.6	102.1	203.8
2. Calendar year volume adjustment	....	....	....	....	−3.6	−5.0	−5.4	−5.8	−6.2	−6.6	−8.7	−32.7
3. Calendar year payments	10.0	14.4	15.4	17.7	17.4	18.6	18.9	19.2	19.6	20.0	93.4	171.1
II. Fiscal years:												
1. Adjustments:												
a. Convert Federal revenues from S. 1415 general tobacco industry payments to Federal fiscal years	....	20.8	15.2	17.1	17.5	18.3	18.8	19.1	19.5	19.9	88.9	166.2
b. Change in net revenues from Federal income and payroll taxes (because of the impact of S. 1415 general tobacco industry payments on aggregate taxable income)	....	−5.2	−3.8	−4.3	−4.4	−4.6	−4.7	−4.8	−4.9	−5.0	−22.3	−41.7
c. Change in net revenues from present-law Federal tobacco excise taxes (because of price increases from S. 1415 general tobacco industry payments)	....	−0.8	−1.2	−1.5	−1.9	−2.1	−2.2	−2.2	−2.2	−2.2	−7.5	−16.3
d. Net revenue effect of replacing State by State tobacco settlements with S. 1415 payments	....	0.5	0.9	1.1	1.4	1.6	1.9	2.2	2.4	2.7	5.5	14.7
2. Net Federal revenues from S. 1415 general tobacco industry payments (JCT May 19, 1998 estimate)	....	15.4	11.0	12.5	12.7	13.2	13.8	14.3	14.8	15.4	64.6	122.9

Note: Details may not add to totals due to rounding.

Mr. LEAHY. Mr. President, I am sure my friend from Oklahoma will allow me to describe what my position will be on it, and I appreciate him stating it. And I do not want to get into the debate he and the Senator from North Dakota have been having. I was here to support, as I have, the amendment of the distinguished Senator from New Hampshire, Mr. GREGG. And what I have before me is an amendment that I think makes a great deal of sense.

I said yesterday that nobody is running up to me in the streets of Vermont and saying, "Oh, please, whatever you do, be sure and give a lot of immunity to the poor tobacco companies." Nobody in Vermont is saying, "Whatever you do, make sure first and foremost you protect the tobacco companies."

They have made it very clear that they are concerned with protecting teenagers, concerned with protecting their children, concerned with getting back some of the costs that we in Vermont have spent on health care for those who have suffered from addiction to cigarettes.

But I ask, Mr. President, at the conclusion of my statement that I be allowed to put in the RECORD a letter from C. Everett Koop and David Kessler to Senator GREGG and myself dated May 20, 1998.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. LEAHY. I just mention this about it. The letter very forcefully, very eloquently makes the case why the interests of public health are not served by giving big tobacco further special legal protection. They write:

> Special legal protections for tobacco are unfair to patients and their families.

They write further:

> Special legal protections for tobacco are bad for public health, especially children's health.

They write:

> Special legal protections for tobacco are undeserved.

And they write:

> If passed, the special legal protections in the Commerce Committee bill would be the biggest corporate giveaway in history.

And then they say:

> For the sake of public health and children's health, for the sake of the people who are already sick and for those who will become sick, and for the sake of holding the industry accountable for its actions, we urge you to strip the special legal protections from the bill.

I agree with Dr. Koop. I agree with Dr. Kessler. I agree that first and foremost we should protect the people of this country. We should protect the health of the people of this country. We should protect the children of this country. And we should not be giving special limits on legal liability to big tobacco.

I disagree with the position of the White House in trying to allow special legal protection and special immunity for the tobacco companies.

Yesterday, the President wrote to the Senate leaders that:

> If a cap that doesn't prevent anybody from suing the companies and getting whatever damages a jury awards will get tobacco companies to stop marketing cigarettes to kids, then it is well worth it for the American people.

Everybody agrees with that. What doesn't come out in the President's letter is this bill does have provisions that will prevent some parties from suing the tobacco industry. It does cap the total annual payments for the tobacco industry. The liability cap may very well affect the payment of future jury awards to tobacco victims.

So, I disagree with the White House and I disagree with those on both sides of the aisle who would limit some of the liability of the tobacco companies. If the tobacco companies hadn't faced unlimited liability for their actions, we would not even be here today. If the tobacco companies hadn't known that they could be sued, and sued successfully, they never would have admitted some of the things that have now come out. If the tobacco companies had not faced this, we never would have found out the years that they had lied. We never would have found out the internal memos where they were targeting 14-year-olds. We never would have found out even such things as their efforts to make cigarette placements in all kinds of movies, including, of all things, the "Muppet Movie." These are things that we have found out only because they face that liability.

I concur with the distinguished Senator from New Hampshire. I am opposed to limiting liability. With that, I yield the floor.

EXHIBIT 1

ADVISORY COMMITTEE ON TOBACCO
POLICY AND PUBLIC HEALTH,
May 20, 1998.

DEAR SENATOR GREGG AND SENATOR LEAHY: We are writing to endorse and support the Gregg-Leahy amendment to S. 1415 to eliminate all special liability protections for tobacco companies. We wish you success and would urge your colleagues to join with you in this effort.

Special legal protections for tobacco are unfair to patients and their families.

Millions of Americans are now sick with tobacco-related illnesses. Millions more will become sick in the future. These are people who started to smoke at a time when the tobacco industry lied about its products, hid scientific studies, and shredded documents. Most of these people started to smoke when they were children whom the industry targeted for special marketing. To protect the industry now would leave many of these patients, their families, and their survivors without remedy.

Special legal protections for tobacco are bad for public health, especially children's health.

Court oversight in the historic Minnesota suit led to the disclosure of thousands of documents about the addictiveness of nicotine and about the industry's plans to market to children. Other legal actions have resulted in consent decrees that will cut back on Big Tobacco's seduction of new young smokers. Under the Commerce Committee bill, these state and local suits would be impossible.

Special legal protections for tobacco are undeserved.

The tobacco industry has proven itself to be an irresponsible corporate citizen. Extending protection to this industry would be to subsidize and condone these activities. No other industry, no matter how valuable to the Nation, has such protections. We should not extend them to an industry whose product that serves only to kill Americans prematurely.

The Senate should not provide special legal protections for tobacco.

If an American jury finds tobacco companies owe damages, the Senate should not overturn that verdict.

If the most skilled lawyers that money can buy cannot get the tobacco industry out of court, the Senate should not become its defenders.

If passed, the special protections contained in the Commerce Committee bill would be the biggest corporate giveaway in history.

For the sake of public health and children's health, for the sake of the people who are already sick and those who will become sick, and for the sake of holding the industry accountable for its actions, we urge you to strip the special legal protections from the bill.

Sincerely,

C. EVERETT KOOP, M.D.
DAVID A. KESSLER, M.D.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I had printed in the RECORD this Joint Tax table. I also want to clarify a statement. I said, all of this money would be going into the trust fund. That was the way it was designed as it passed the Commerce Committee initially. The Commerce Committee now says the net revenues from this large payment goes into the trust fund. This chart says "Industry Payments." That is not correct. It is consumers' payments. Consumers are going to be paying every dime of this tax.

Granted, they have a section in here that says industry, companies, you pay this amount. But they also have a section in here, on page 189, that says the tobacco companies must pass the cost on to consumers.

> . . . an amount sufficient to pass through to each purchaser on a per-unit basis an equal share of the annual payments to be made by such tobacco product manufacturer. . . .

In other words, consumers, you have to pay every dime of this, every single dime. This is not paid for by tobacco companies. This is not a tax on tobacco companies. This is a tax on consumers. The way to solve this ambiguity on volume adjustments is just say: "Here is the tax per pack, or per can or whatever it is. And then, if volume goes down, there is less money." We do not do that in this bill.

I just mention, too, there is something really phony going on here. Joint Tax—and maybe I am not being as respectful to Joint Tax as I should be. But the way they scored this thing, as I know my colleague knows, they take 25 percent of the revenue from excise taxes and assume that is lost in transmission. So, if you raise $1 in tax, they assume only 75 cents gets to where you are trying to send it. That would usually be correct. If you were going to increase excise taxes on a farmer, he is going to have less money to spend on other products, it is going to slow the economy, so there would be some decline.

This assumption, I don't think, is applicable to these tobacco payments. Maybe the government would lose some percentage, but I don't think it would be as much as 25 percent. And the reason is the companies, by this language, are forced, mandated, to pass on every dime of this payment. I cannot think of any other business—if Nickles Machine Corporation I used to run, if we had an increase in excise tax, granted that might be in our cost of manufacturer. I might try to pass it on in higher prices to consumers and so on. Maybe I would be successful and maybe I wouldn't. Maybe I'd have to eat part of it.

We have language in here saying we don't want tobacco companies to pay a dime of this. We want consumers to pay every single dime of this part. Not the look-back. The look-back, they say, is not deductible, so maybe they are supposed to chew on part of that. But the big part of it is passed on to consumers.

So I want to make sure I was accurate. I think I said this money goes into the trust fund. That was not the case. The language now says the net revenues go into the trust fund. And the net amount is really determined by the Secretary of the Treasury. He has a great deal of flexibility, I am afraid, to say, "Oh, well, we think, since this is all passed through, the gross amount could be the net amount." He could say that this since it is all passed through.

Maybe I am getting too technical. I just want people to know, when you see estimates from Joint Tax that they agree that this is a $102 billion tax increase over the first 5 years. The look-backs are a question mark. Who knows? But evidently somebody thinks it is real money or they wouldn't be trying to jack up the look-back penalties.

And then the other variable is the volume adjustment, and no one has had scoring on volume adjustments until today. These are purely assumptions. I put those into the RECORD. So, if they were accurate, consumers will pay $102 billion, adjusted by 8.7, so $93.4 billion over the 5 years. So it reduces it somewhat.

For that to happen, you have to assume you are going to have volume less than 80 percent of 1997 over that period of time. Who knows? I don't know. But I always want to be factually correct. I may disagree with the colleagues on substance or philosophy or motives or whatever, but I want to be factually correct. And these numbers, I believe, are factually correct. The volume adjustment is speculative and now Joint Tax says it is minus $8 billion. Great. I do not agree with them that there would be such a large loss of revenue from gross to net, because of the language that says 100 percent of it shall be passed on to consumers. This figure, this payment by consumers, is accurate. Consumers, not tobacco companies, will pay the cost of this bill. I think it is too high.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The distinguished Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Oklahoma for a thorough exposition of the bill. He obviously has spent a great deal of time studying it. I, obviously, am not in agreement with a number of his conclusions, but this kind of exposition has been very educational and helpful to the entire Senate. I thank the Senator from Oklahoma, not only for his in-depth knowledge of the legislation but also the comity which has accompanied his and my relationship and difference of opinion on this issue.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

Mr. KERRY. Mr. President, I was not able to be here at the exact moment that the Senator from Vermont was speaking. But I do understand that the Senator suggested that a rationale for his cosponsorship of the Gregg amendment is that he opposes "a lot of immunity for the tobacco companies," and opposes the "protections" that are contained in the Commerce Committee.

I will try to emphasize again, because I think we are really either talking past each other here or there is just not an awareness of what is in the bill—there are no protections for the tobacco companies. There is no protection. None. Zero protection. There is no such thing as a lot of immunity in this bill. There is no immunity in this bill. None. Zero immunity.

The tobacco companies will be liable to lawsuits under any circumstances. Whether they play in the tent or they are out of the tent, they are liable for lawsuits. The only distinction here is, if those lawsuits are successful, how much will they be required to pay out in 1 year? That is the only thing that is contained here that is some kind of a limitation.

Instead of being required conceivably to pay out $20 billion in 1 year and go bankrupt so you have no payments to kids, there is a limitation of $8 billion. So you can choose between the system that allows you to conceivably make them go bankrupt in the court system as, I might add, 70-plus percent of the asbestos companies did. We have lines of people who are suing today on asbestos who will never collect because the companies went bankrupt. In fact, there are people who want them to be able to collect under the tobacco settlement because there is a lot of confusion between those diseases that are asbestos-induced versus tobacco-related.

Let's get the terms of this debate correct. We are not talking about immunity; we are talking about whether or not, in exchange for companies giving up their constitutional rights to advertise, in exchange for companies abiding by the look-back provisions, in exchange for companies agreeing not to sue in court, in exchange for companies agreeing to be part of the document depository, in exchange for companies being part of the effort to get our kids not to smoke, we are going to tell them in any one year, "You're liability is only going to be $8 billion."

If the court finds that you are liable for $20 billion and there is no finding of liability next year in the court, they are going to have to pay the difference. The $8 billion from the $20 billion means they are still going to have to come in and pay an additional $12 billion, and they will pay up to $8 billion in the next year.

This is rational, in my judgment, Mr. President, because if you don't do this, then you are voting for the status quo, which is a system that is not a system. You would be voting to say, "OK, we've got this one little option here that invites the companies to come in and be part of the process, but we're going to strip that option away because we want to show how tough we are on the tobacco companies and we're just going to let the lawyers go sue for the next"—whatever, recognizing that, for the last 20 years, not one lawsuit has yet produced a dime for a plaintiff.

Obviously, circumstances have changed. We now have evidence that no plaintiff had in those past years. I understand that. As a lawyer, I would love to go to court with the current level of documentation, and clearly, with the document depository, it will be a lot easier for a plaintiff to go into court and get a judgment. But you are not going to get that judgment in any sense of order. You are going to have what we call a rush to the bar: First lawyers come, first served. The first people to get the biggest judgments will be the first people paid off.

All these people coming in here and talking about the kids and talking about how they want to have some kind of system to get the kids to stop smoking will have abandoned those kids, because those kids are not going to benefit during those years of litigation. That is what we are talking about here. We are talking about whether or not we are going to have a rational approach to this or whether we are all going to feel good and say no liability.

I respect Dr. Koop and Dr. Kessler enormously. We wouldn't be where we are without them. There is no question about that. But I regret enormously that it is somehow their judgment that it is better off for the children to be in that position where we are just going to have these open-ended lawsuits without any incentive whatsoever to try to get the companies to become part of the process.

There is no guarantee they will. There is no guarantee that they will. We may well pass this legislation in its current form, and a lot of those companies will say, "We still think it is too punitive. We don't want the look-back provisions. We're still going to challenge." This bill does not disadvantage us one iota with respect to that choice, because we have a two-part structure where, if they don't agree to participate in giving up their constitutional rights, in setting up the document depository, in being part of the look-back provision, then they can be sued under this bill in the very form that the Senator from New Hampshire is seeking. No loss, no setback, nothing.

The choice here is between whether you are going to go with the status quo or you are going to hold out some hope that you are going to invite the tobacco companies to be part of a process of giving up what nobody will suggest under the law they could give up otherwise.

The Senator from Utah is one of our strongest experts on the law in the Senate, and he knows full well how the look-back provisions may be challenged. He knows full well how these constitutional rights cannot be given up except by consent. You can't restrict some of the advertising we seek to restrict unless the tobacco companies sign the protocol. Unless you are willing to say to them something that invites them in, they are not going to sign a protocol, and there is no guarantee they will sign it even if you say that.

So I think the choice for the U.S. Senate is very, very clear, and I hope colleagues will vote for common sense and not for the sense that the status quo is somehow going to serve the interests of the country.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Utah is recognized.

Mr. HATCH. Mr. President, I thank you. I rise to oppose this amendment. This amendment strikes the so-called "immunity" provisions of the floor vehicle.

First, let me say that there are no immunity provisions in the underlying bill. The traditional definition of the word "immunity" is: Being in a state "free or exempt" from disease or taxes or civil liability or the like. Under this definition, there is no immunity in the Commerce Committee bill or in the amendment that Senator FEINSTEIN and I have developed.

The tobacco companies are not exempt from anything. They will be and are accountable for their actions.

There are, however, in these bills limitations on liability procedures, but these should not be confused with immunity. Under the underlying bill, suits may still be brought. The tobacco companies could still face a multiplicity of suits for civil liability and possible criminal proceedings. This is not immunity by any stretch of the imagination. Indeed, when you are required to fork over a staggering $516 billion as the floor vehicle requires—which is really over $860 billion according to some estimates—you are not getting a free ride.

If this is really immunity, do you think a bipartisan group of 40 States' attorneys general and some of the leading plaintiffs' attorneys in this country who have been suing the tobacco industry for several years would have backed the June 20 settlement? Of course they wouldn't. It contained, justifiably, in my mind, limited liability provisions broader than the Commerce Committee bill, including a limitation on punitive damages for past bad behavior by the tobacco companies.

I am talking about some of the leading plaintiffs' lawyers in the country—men like Wendell Gauthier, Stan Chesley, John Climaco, Jim Parkinson, Ken Carter, John Coale, Bob Redfearn, and Don Hildry —I hate to leave any names out because there are literally dozens of them. I am talking about people who have pursued to the full limits of the law the asbestos industry, the Dow Chemical Bhopal disaster, the Dalkon Shield, and the breast implant manufacturers, and virtually every other plaintiffs' litigation that has taken place over the last 25 years.

And where would we be had these plaintiffs' lawyers not brought these suits? The States themselves are represented by very capable attorneys, attorneys general like Gail Norton of Colorado, Christine Gregoire of Washington, Jan Graham from my own home State of Utah, and Mike Moore of Mississippi, all of whom have worked very closely with me on this matter.

We are talking about top people here, tough-minded public servants. And the States also met the armies of litigators employed by the tobacco industry by contracting with their own legal experts on the part of the States.

Dick Scruggs from Mississippi has been in this from the start on behalf of Mississippi and other States. Professor Lawrence Tribe of Harvard has been hired by Massachusetts and other States.

So we are not talking about a bunch of pushovers here who will lay down in front of the big tobacco bulldozer. These top lawyers all knew they were fighting an uphill battle. And to date, there has never been a penny paid to a litigant in this country due to a jury award. In fact, there has only been one jury award to plaintiffs in the history of the country, I believe for $750,000, and it will be 10 years before that is paid, if it is paid at all.

I have been following tobacco litigation since my early days as a trial lawyer in Pittsburgh, PA, when I watched one of the greatest trial lawyers in the country, Jimmy McCardle of the law firm of McArdle, Harrington, Feeney, and McLaughlin on Prichard v. Liggett & Myers. It was a terrific battle publicized all over the world, as a matter of fact. And they lost because it is so difficult to win in these battles.

But nevertheless, once we establish this document repository, it should be easier to prove cases that can go to jury and, I think, increase the chances of jury awards. These top lawyers all knew that this is uphill. I have to say, from the time that Jimmy McArdle, that great attorney, lost, everybody else has lost since him, except for the one Florida case that is on appeal.

Why are these cases lost? Many legal observers have noted that American juries are very reluctant to award damages in situations where the complaining parties can be viewed as assuming a known risk. So we all have to recognize that the prevailing legal landscape has favored the companies for a long time.

The 40 State attorneys general and dozens of expert lawyers, like the Castano group, did what rational people do every day in litigation in this country. They proposed to resolve their claims through a settlement. And they did achieve a resolution. But they have to have a bill passed through this Congress that is similar to what they negotiated and brings the tobacco companies back on board, albeit screaming, kicking, and shouting all the way.

They brought us a proposal that settled the suits and involved massive payments and a brand new regulatory regime in return for some limited liability restrictions. These restrictions will provide an orderly mechanism for compensation payoffs and will provide the companies with financial certainty.

That is exactly what this legislation should do. The bill we adopt should help resolve these claims and do so in a manner that is in the best interests of the health of the American people.

So not only do I oppose amendments like these, but I think the most effective way to go about this legislation is to devise liability provisions that address the concerns of plaintiffs in a reasonable fashion.

When we consider this legislation, let us keep in mind that some 40 State attorneys general and some of the leading plaintiffs' lawyers in this country have already reached judgment that a fair and rational way to proceed, the best way to proceed, is to effectuate a national settlement of these claims.

Every day in our country lawsuits are settled by negotiating mutually agreeable resolutions that usually involve payments of money and with agreements to change certain behaviors. And that is exactly the theory behind the June 20 proposal and, I might add, the Hatch-Feinstein substitute amendment that we probably will bring up before this is over. So in one sense the June 20 proposal and our substitute amendment are typical.

Of course, what makes this June 20 proposal and our bill atypical is this approach represents the largest settlement proposal in the history of the world; requires the largest payment of punitive damages in the history of the world; contains unprecedented regulatory authority over tobacco products; and, provides for a broad array of public health programs, including public education, tobacco cessation, and counter advertising, that is, if the tobacco companies come back on board.

If they do not come back on board, many important restrictions are not going to happen and we will be immersed and mired in litigation for a long time, maybe 10 years. And then the bill on the floor, if that is the way it comes out, will likely fail dramatically as an unconstitutional piece of legislation.

But if we adopt this settlement approach and can drag the companies back on board, we can achieve advertising and look-back penalties far beyond what the Constitution would allow because we would have a consent decrees and protocol contracts where the companies would voluntarily agree to waive certain rights. But to get them to do that, there has to be some incentive for them to do that, and that is some reasonable limited liability provisions.

Immunity has nothing to do with it. It is limited liability we are talking about here.

To just give one example, we currently have an FDA rule that is tied up in the courts. This rule bans tobacco billboard advertising within 1,000 feet from public schools.

The Judiciary Committee heard first amendment experts like Floyd Abrams tell us this rule cannot withstand constitutional scrutiny. But if we adopt a bill that contains liability provisions based on the June 20th settlement model that can bring back the companies, kicking and screaming all the way, we can achieve a total ban on all outdoor billboards.

This bill on the floor will not do that. But I believe before this battle is finished the final bill will accomplish that, or we just will not achieve as much public health protections as we can here.

So while the FDA rule wends its way through courts—and I think there is good reason to believe it will fail—today in Florida and Mississippi, through the settlement limited liability approach, there are no tobacco billboards in those States; and soon there will be no billboards in Minnesota because the companies have agreed to stop this advertising. Without reasonable liability limitations, there is no reason for them to just cave in and agree on these matters.

So there are good public policy reasons to oppose this so-called immunity amendment and favor legislation that, like mine, contains the liability limits modeled on the June 20 agreement.

Now, while I respect Drs. Koop and Kessler—I had a lot to do with both of them obtaining their Federal appointments that vaulted them to such prominence—I respect them to a large degree when they are commenting on public health matters within their expertise, when it comes to matters touching on the civil litigation system, I have to rely on the judgment of experts in the field, including 40 State attorneys general and the leading plaintiffs' lawyers in this country. As you would not go to a doctor to fix your car, so you would not go to a doctor for a legal opinion.

I might also add that I have tried some of these cases, too, in the past, not tobacco cases but difficult, contentious litigation. And I think I do know what I am talking about. And I do believe that I would like to see Drs. Koop and Kessler limit themselves to their expertise and not try to intrude into matters that literally they do not fully understand. As a matter of fact, in many respects they are gumming up any possibility of getting all these public health moneys that will help us solve some of these problems.

To be fair, although I do not favor the underlying bill, I have to oppose this amendment. I appreciate our distinguished friend, the Senator from New Hampshire. There is no question he is thoughtful, very decent and a good Senator. I have a tremendous amount of respect for him. I just happen to disagree with him on this matter.

And to be fair, although I do not favor the underlying bill, I have to oppose this amendment as well. There is simply nothing in the bill that would prohibit an individual from bringing suit against tobacco companies. There is nothing in this bill that would even reduce the amount litigants can be awarded.

All that is in the bill is an $8 billion yearly cap on the amount of damages that have been awarded. If the awards amount to over $8 billion, the amount will be paid in succeeding years. So there is really no limitation on liability other than that $8 billion cap. And I have to tell you, that is not enough to get the companies back to the table or to get the companies back to voluntarily agreeing to have advertising restrictions and look-back provisions that work.

In testimony before the Judiciary Committee, while defending the liability provisions of the June 20 settlement—which were even justifiably broader than the cap in the floor vehicle—Laurence H. Tribe, Tyler Professor of Law, Harvard Law School, demonstrated that liability limitations provisions are legal, constitutional, and not unique. As to his constitutional argument, he correctly asserts that the 1978 Duke Power Supreme Court case, allows Congress to alter common law rights such as the granting of punitive damages, and the capping of damages.

He also pointed out that there are a slew of federal statutes that grant limited liability to different industries and entities. The proponents of this amendment who say that no industry has ever received some liability limitations are just wrong. One example of a federal liability limitation is contained in the Price Anderson Act, which places a $560 million cap on compensatory damages in suits against the nuclear industry. The purpose of this cap is to create an incentive for the development of nuclear energy.

Another example is the Federal Credit Union Act, which limits damages for lost profits and pain and suffering for losses resulting in the liquidation of federal credit unions. Other examples include the Black Lung benefits program, the National Swine Flu Immunization program, the National Vaccine program, and certain provisions of both the Federal Employers Liability Act and the Jones Act. That is just mentioning a few.

I wish that the liability provisions in the underlying bill mirrored the liability provisions in my bill—which is modeled on those in the freely-bargained for June 20 settlement. Without those liability provisions which were gained through tough negotiations between 40 state attorney generals and the leading trial lawyers and agreed to by the industry, the industry will not participate to the fullest extent possible in any tobacco bill program.

So I must oppose both this amendment and the underlying bill because I think that the bi-partisan group of 40 state attorneys general and the leading trial lawyers in this country got it right the first time.

I urge my colleagues to reject this amendment and reject the Commerce Committee bill.

What we should do is pass legislation that closely models the settlement proposal brought to us last year by the 40 state attorney generals and the leading plaintiffs' lawyers in this country.

Having said all that, let me just conclude with these thoughts: There is no doubt in my mind the only way this is ever going to work without 10 years of litigation—and 10 million more kids unnecessarily put at greater risk—and a decision by the courts that the bill that is currently being argued on the floor is unconstitutional, is to get back to as close to the attorneys general agreement as we can. Yes, we can add some money to that agreement. It can be higher than the $368.5 billion, but it should be a reasonable amount that gets the companies back on board.

There is no guarantee by anybody that the companies are going to come back on board, but I think there is a pretty good guarantee they won't come back on board under the financial and other requirements of this particular bill, or without the incentive of having some reasonable form of limited liability.

If we can't do these things in a fair and reasonable manner, then why in the world should the tobacco companies come back and voluntarily agree to pay what really involves hundreds of billions of dollars, and without some protections for them with regard to future class action suits?

The industry has agreed that individual suits can be brought and brought with the aid of a document repository. With all the documents, it seems to me it would be easier to bring those individual suits. It would be easier to recover, and in my opinion, you don't need the punitive damages, because you will have a right to compensatory damages which is everything that you can possibly argue before a jury except punitive damages.

I have to say, as a former trial lawyer, I never needed punitive damages to get high verdicts in the cases I tried, and I don't think these plaintiffs' lawyers that we know today who will handle the bulk of the cases in the future will have any difficulties handling compensatory damages and getting very adequate awards for their clients from here on in. Unlike Jimmy McArdle, who had the world to fight as the first litigant attorney in Prichard v. Liggett & Myers in the early 1960s, attorneys today will have everything going for them because of the tobacco settlement.

This law will work if we do this right. That will be a tremendous change from what poor Jimmy McArdle had to go through in the early days of Prichard v. Liggett & Myers. I remember that case. I was watching it closely. I was hoping he would win. I felt there was little likelihood he would win in Pennsylvania at that particular time because we didn't know then what we know today about the tobacco companies, about this industry and about what this industry has done to entice children to use their products.

I just have to tell you, if we keep doing what we are doing here on the floor, we will have millions more children exposed to a greater risk than they should and be exposed to during the course of the new litigation which could last for 10 years or so. Some of these children will ultimately die prematurely because of this increased risk as this litigation proceeds.

What is really unfortunate is that at the end of that litigation you will find that if this bill passes—the managers' amendment in its current form—the tobacco companies will likely prevail on a number of important matters. Then, where are we?

That means we would have let the American people down by passing legislation that will not work. And in the end, we would have done a lot of unnecessary harm to millions of children, and we will only have to start all over again, and we may not have a group of tobacco companies willing to deal at that time as they have with the attorneys general and plaintiffs' lawyers as we had under the June 20th proposal.

I yield the floor.

Mr. GREGG. It would be my intention to respond to a number of points made by the Senator from Utah and the Senator from Massachusetts. I see the Senators from Nebraska and Minnesota are here. I know they have been waiting, so I will wait for my response.

EXECUTIVE SESSION

NOMINATION OF DAVID R. OLIVER TO BE UNDER SECRETARY OF DEFENSE FOR ACQUISITION

Mr. GREGG. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nomination on the Executive Calendar, Calendar 562, David R. Oliver of Idaho, to be Deputy Under Secretary of Defense for Acquisition and Technology; I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and any statements relating to the nomination appear at this point in the RECORD, the President be immediately notified of the Senate's action, and the Senate immediately proceed to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed as follows:

DEPARTMENT OF DEFENSE

David R. Oliver, of Idaho, to be Deputy Under Secretary of Defense for Acquisition and Technology.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The distinguished Senator from Minnesota.

AMENDMENT NO. 2433

Mr. WELLSTONE. I will speak for a couple of minutes on this amendment. I ask unanimous consent after I speak on this amendment that I have 2 minutes to speak as in morning business, and following that, that Senator KERREY be allowed to have the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

Mr. President, let me join with my colleagues from Vermont and New Hampshire in supporting their amendment. I shall be very, very brief—uncharacteristically brief. I see the Presiding Officer smiling.

Minnesota is a State that has played a very central role in this debate about tobacco. I think if there is one thing that has come out of the litigation, the whole case against tobacco with Minnesota leading the way, Attorney General Humphrey and others, it is this: Minnesota unearthed a lot of documents, around 36,000 documents, and many of the documents have been referred to in the debates on the floor of the Senate. The one thing that you see over and over again is a pattern of lying. It is just a pattern of outright lying on the part of this industry. Mr. President, I don't believe that an industry that has walked away from an agreement, which has really willfully targeted our children, has really caused a tremendous amount of pain among children and their families, has really brought about the addiction of children and too many citizens dying an early death, deserves any immunity at all.

We should not give this industry any special deal. We don't in other cases. I don't think this industry should get immunity. I fully support this amendment. It is as simple as that. I see nothing in what this industry has done over many, many years—the way in which this industry has conducted itself, the way in which this industry has blatantly lied to people in this country, or, for that matter, the way this industry has related to what is going on here in the Senate—that would lead me to the conclusion that they deserve a special deal. I don't think people in the country think they deserve any special deal.

Therefore, this amendment is extremely important. I hope colleagues will support it.

NOMINATION OF JAMES C. HORMEL

Mr. WELLSTONE. Mr. President, I rise to speak one more time—and I have done this from time to time on the floor of the Senate—on behalf of the nomination of James C. Hormel to be U.S. Ambassador to Luxembourg. I have talked about Mr. Hormel's qualifications before, so I need not repeat that.

We are talking about someone who is a loving and devoted father and grandfather, an accomplished businessman, dean of students at the University of Chicago Law School, on the board of directors of all sorts of organizations, from the San Francisco Chamber of Commerce to Swarthmore College—you name it.

One of my colleagues—and I think it is extremely unfortunate—has compared Mr. Hormel, a highly qualified public servant and nominee, to Mr. David Duke who, among other credentials, is a former grand wizard of the Ku Klux Klan, founded the National Association for the Advancement of White People, and claimed that the "Holocaust is primarily a historical hoax and not against Jews but perpetuated on Christians by Jews."

Mr. James Hormel has been compared with this man, David Duke. I want to say to my colleagues that, given this kind of statement made publicly by a U.S. Senator, this kind of character assassination, it is more important now than ever that this man, Mr. Hormel, be allowed to have his day in the court of the U.S. Senate. There is overwhelming support for his nomination. He should be brought to the floor of the Senate, and we should have an up-or-down vote.

I want to just announce my intention to colleagues that when we come back, I will have sense-of-the-Senate amendments that the majority leader should bring this nomination to the floor of the U.S. Senate. When colleagues start making comparisons to David Duke to someone who has been such a sensitive, good public servant, that man or that woman—in this particular case, Mr. James Hormel—deserves, out of a sense of decency and fairness, to have his case brought before the U.S. Senate. I am going to be pushing very, very hard on this when we get back.

I thank my colleague from Nebraska for his courtesy.

I yield the floor.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

AMENDMENT NO. 2434

Mr. KERREY. Mr. President, there are an awful lot of us who are now, as we head through the deliberation of this bill and the various amendments being offered—and, to be clear, I voted, on the budget resolution, in favor of the amendment being offered now by the Senator from New Hampshire. I will disclose, though, that I do not know how I am going to vote on the same amendment because I want to get a bill. I want the fine work that Senator MCCAIN and the Commerce Committee have done to yield a piece of legislation that the President can sign. I think it is terribly important. There are parts of this bill, on the other hand, that give me a considerable amount of concern.

First of all, I hope that at some point I can have this discussion in the presence of the chairman of the Judiciary Committee, who understands these issues very, very well.

First of all, I would like to talk about how we got to where we are today. The whole thing began back in 1996. There were a lot of discussions between the attorneys general, led by Michael Moore from the State of Mississippi. A settlement ensued as a result of one company, Liggett, disclosing information. This accelerated rapidly, and on the June 20, 1997, an agreement was reached. An agreement was reached between the tobacco companies and 40 States' attorneys general, and the settlement reached is very important for this debate because a number of things were in that settlement.

First of all, there was a stipulation. The tobacco industry has said that nicotine is addictive. I know a bit about addiction. I was a University of Nebraska graduate of the College of Pharmacy. I practiced pharmacy for a while. I remember in 1965 waiting in a Lincoln pharmacy for the opportunity to have my character molded by the U.S. Navy, having passed a physical examination provided by my Government. I was practicing pharmacy.

Remember, there was a great debate going on at that time in this country not just about Medicare but the regulation of drugs. At that time, in 1965, the most rapidly moving pharmaceutical in our store was a drug called Dexadrine, among other amphetamines. It is a very highly potent stimulant. At the time, the industry was saying it was habit forming, not addictive.

In 1965, prior to the enactment of changes in the law that increased the power of the FDA—and I point out to colleagues that I believe perhaps the most important section of this bill is title I, which gives the FDA increased authority to regulate tobacco and tobacco products. The tobacco industry stipulated and agreed that nicotine is addictive on June 27, 1997. That should not be in dispute today.

In 1965, Dexadrine was moving very rapidly with a powerful capacity to addict, and it was addicting a lot of people. We had to fill prescriptions for Seconal and phenobarbital just so people could get to sleep at night after taking this stuff. After this regulation went into effect, we saw a dramatic change in the accessibility to this particular drug. It went from being a very highly used medication to where, today, you would be lucky to see, even in a high-volume store, 100 Dexadrine a year. Today, it is only allowed to be used for narcolepsy.

Mr. President, a couple of weeks ago I had a meeting with some high school students at Burke High. I talked as well to other young people who are smoking. About 7 to 12 of these young people were smoking. What is quite apparent to me, Mr. President—and my suspicions are, though I have not polled it and I don't have accurate information—my guess is that most people in Nebraska, or a large percentage of people, don't understand that the landscape changed last June 20 with the tobacco industry saying yes, nicotine is addictive. They don't understand what being addicted means. They don't understand that there is a physical need and withdrawal symptoms associated with individuals who try to stop. Certainly, these young people did not understand what it means to be addicted. Indeed, when I asked them if they expected to be smoking when they reached adulthood, the majority of them said no, they did not expect to be—even though we now know that 90 percent of the people who smoke today started smoking when they were young.

The fact that we now know that nicotine is addictive and the tobacco industry is stipulating in their settlement that it is, it is an important and relevant fact, because what happens now is that we are transformed from dealing with an issue that has to do with personal freedom; we are now dealing with an issue that has to do with this question: Are we going to make an effort to save lives? In addition to being addicted, they are addicted to a substance that contains toxins, including carbon monoxide and other chemicals, which, if taken as directed, will result in the premature death of 1 out 36 people who start smoking, as well as all kinds of other health problems associated with tobacco.

So I want to begin, as I evaluate—and all colleagues should—whether to vote for the McCain bill, to understand that the industry agreed to the FDA regulation on June 27, 1997, as a consequence of the effort of Michael Moore and 39 other State attorneys general, and a settlement was reached. What the Commerce Committee has done is report out almost everything that was in that settlement. The tobacco industry agreed to pay $15 billion a year. Indeed, they agreed to pay $50 billion in punitive damages.

At the time, I remember in the aftermath of the settlement—and it seems like a hundred years ago, but it was less than a year ago—the big debate was: Would that $50 billion be tax deductible? Would the companies be able to deduct it from their income? Or would it have to be a post-tax payment? But it is $50 billion in punitive damages. They agreed to pay $15 billion more. What Senator MCCAIN and the Commerce Committee have done is say, since that time, a number of things have happened. We had a settlement in Texas, a settlement in Florida, and, most important, a settlement in Minnesota, which has the tobacco industry not only stipulating everything they did before, but releasing some 36,000 documents, most of which are still unread, my guess is, by most Members of Congress—certainly me. But just reinforcing for our citizens the idea, yes, I knew it was addictive; and, yes, I've been targeting your kids; and, yes, I've been doing some other things to try to increase sales, even though I understand that it is a terribly big public health problem.

The Commerce Committee has said we now have them agreeing to a 10-percent increase in Minnesota, and, instead of $15 billion, we are going to ramp it up to $23 billion a year. When we talk to citizens at home, please don't leave a citizen in your State with the illusion that somehow Congress or the Commerce Committee on their own came up with this number. This was agreed to by the tobacco industry on June 20, 1997. And, after the settlement in Minnesota, it seems to me the Commerce Committee is well within reason to say that instead of $15 billion it ought to be $23 billion. That is where we are.

Mr. President, the next thing I have to ask is, What are we going to do with it? What is the purpose? Where are we going? What is the idea that is most important with this legislation? For me, the most important idea—it may be different for others—is I want to save lives. I think that is what we are talking about. One out of three who start smoking dies prematurely. In Nebraska, $250 million is spent just on cigarettes; 100 million packs of cigarettes are sold every single year in Nebraska. I want to decrease the number of people who are buying cigarettes. If I can get 50,000 of the 350,000 Nebraskans who smoke, if I can help them stop smoking, not only do I save the lives, I save the money.

All of this conversation about a tax increase and being concerned about low-income Americans and the taxes they are going to be paying, if they would do this bill right, we would help people stop smoking and reduce their out-of-pocket spending for tobacco, not to mention the out-of-pocket spending for health care, the out-of-pocket spending that occurs as a result of not being able to go to work, and the out-of-pocket spending for some other things.

I ask Members: Have you ever talked to anybody who has been able, after a long period of time, to quit smoking how they feel? Are they happy? Are they glad? The answer is always yes. They can do more. They and their kids are enjoying life better. They feel healthier. They have more money in their pocket as a consequence of not having the addiction as a part of their life. They do not say, "Gee, I am mad at you because you helped me stop smoking." They are glad.

This piece of legislation, as far as I see it, that we are debating right now is an opportunity for me to go home and say, "We are going to try to save lives, not just to try to prevent young people from smoking"—we have about 30,000 people in Nebraska who are underage who are smoking cigarettes—but also to go to the adults, the 350,000 adults who are buying 100 million packs of cigarettes a year, and help them stop smoking, to save their lives, to decrease their out-of-pocket spending for tobacco, and to give them a shot at the American dream—at least connected with tobacco—and able to say, "I am healthier and, as a consequence of being healthier, happier as well."

There are two provisions of this bill—I don't know if the Senator from Arizona wants to respond to any of them or not—that concern me. The first is the provision for the tobacco farmers. I will wait until my friend from Kentucky comes down to the floor. I will have a chance. The Senator from Indiana has an amendment down there.

First of all, I want to say that without the Senator from Kentucky and the Senator from South Carolina, there would be no provisions in here for tobacco farmers. I agree with them; there need to be some provisions for tobacco farmers to help them as we move from the old era, when we were neutral as to the health impact of this naturally grown product, to a point where we now say we want to help people stop smoking because it is killing them, it is ruining their lives and ruining their health. As we go from that point, it seems to me reasonable that we ought to have some transition payments for Americans who earn their living by growing tobacco.

There are about 740,000 acres of tobacco acreage nationwide. To put that in perspective, one of the reasons I am concerned about it is, in Nebraska we have about 22.5 million acres for other crops, and 1.5 billion nationwide; 740,000 acres of tobacco quota against about 1.5 billion acres for all other agricultural products. Freedom to Farm, which I think we ought to pattern the tobacco language after, Freedom to Farm was about $36 billion total for 1.5 billion acres.

It seems to me we ought to be looking for some way to pattern the tobacco farmer portion on what we have done for other farmers in this country as we transition into an era where we say, "You are going to have the freedom to make your own decisions, plus the market will allow you to decide how you are going to plant and what you are going to plant." I have a very difficult time voting for something that has $28 billion for tobacco farmers when I did $36 billion for all farmers, including mine in Nebraska. We paid out at that time about 10 percent of the value of the crop. Ten percent of the value of the crop was one of the bases to come up to use for the payment.

I hope again I am able to work with the Senator from Kentucky, because I applaud his work, the work of the Senator from South Carolina, and the work of the Senators from Virginia and North Carolina. Lots of people have had input into this to make certain we do something to help the tobacco farmer. The question is, How much are we going to help?

I am troubled by that provision, I say to my friend, the chairman of the committee, who is trying to figure out how to manage this across the line. I hope to be constructive in getting that done. I voted against putting another 40 cents on. I will probably vote against the amendment of the Senator from New Hampshire, even though I voted for it before when it was on the budget resolution, because it seems to me that you have increased the cap on liability. I think it was 6.5 in the first bill. It is now $8 billion a year. That is a lot of money. We are not giving the tobacco companies—I think people said we don't want to give tobacco companies special treatment. They will be required under this legislation to pay $23 billion a year into a tobacco trust fund. That is not my idea of giving somebody in the private sector special treatment. It seems to me that it is a reasonable tradeoff in order to be able to fight this battle.

To me, the most exciting thing about this legislation, now that we have the full truth about what tobacco can do, is I will be able to go home and say this legislation will enable us to organize community-based efforts to help not just our children keep from starting to smoke but also help in my State 350,000 adults who currently smoke whose lives, in all likelihood, are going to be shorter and they will be less healthy as a consequence.

That leads me to the second concern I have. Again, I have an amendment on the tobacco farmer portion, depending on the disposition of the Lugar amendment, that will place a greater emphasis on prevention and smoking cessation. I really have come to a point now where I say what makes it work for me is to be able to go home to Nebraska and say this bill helps save lives. That is what we are doing. If I can get that done, if it enables me to save lives, it seems to me I have something that I can make work at home.

To that end, the amendment that I have prepared—and I am not going to lay it down right now because we have one that we are debating—would take the money and, instead of ramping up from I think $15 billion initially up to $23 billion a year, the breakdown is, 40 percent of that money goes to the States, 22 percent of that money goes to NIH, 22 percent of that money goes for smoking cessation, education, and international trafficking—to stop international trafficking—and, as I understand it, 16 percent I think is left that goes for tobacco farmers. As I said, I think that 16 percent is too high. We have prepared an amendment, depending upon the disposition of the Lugar amendment and depending upon my ability to be able to negotiate about the Senators who worked hard on this provision.

But I believe what would also increase the likelihood of being able to save lives at home, being able to make this thing not just a situation where, as a result of increased Federal regulation through FDA, as a result of the tobacco industry raising the price because of the fees they will be paying into this national trust fund, another way to do it would be to take that 40 percent that is allocated to the States and add the 6 percent that ends up being estimated for prevention in the third area, and consolidating all that into a block grant that would go for smoking prevention and cessation, insist in the language of the law that the Governors put together a community-based organization to come up with a plan to help people stop smoking and have HHS approve that plan. I think it would allow us to have a steady stream of money that would come into each one of our States.

I am uncomfortable about having anybody but Members of Congress deciding how money is going to be spent. I love my Governor. I love all Governors. They are all great Americans. But as far as I am concerned, the Constitution gives me the authority to vote to raise taxes and vote to spend money, and I think that is what we ought to be doing.

As concerned as I am about getting more money into Medicaid, the thing that I have to do in order to make this successful is I have to have those people out there who are smoking stop smoking.

So I would at some point come to the floor and offer an amendment. I hope to have some conversations with the chairman and the ranking member on this, because I think we could improve the bill substantially if our goal is to save lives and reduce the number of people who are smoking, not just stopping young people from becoming smokers but helping those who are already smoking stop in order to be able to save their lives. It seems to me we ought to consider that the funding language in here needs to be altered and a much greater emphasis placed—indeed, it ought to be the most important emphasis—on smoking cessation programs.

Let the Governors write a community-based plan. Make them engage the community. It is much more likely at the local level that real answers are going to be found for this problem. It is not as easy as it sounds not just because of addiction but because of other reasons to stop smoking. I think it is much more likely they will come up with plans that work.

Let us, as a consequence of our concern for public health, work with those community groups to make certain that the money is going in that direction.

I discussed as well with the managers creating a tobacco scholar through NIH funding for every State. I don't know about other Senators, but I need a lot of help with numbers, with what the research is saying. Not only do we put more money into research, but it is likely that all of us are going to see State-based efforts to reduce smoking, and if we have to scramble around and try to figure out what the data is, to try to figure out what the facts are, it gets difficult to do it.

So I am here. I say to my friend from Arizona, I like what you have done. You have a good bill, it seems to me, in the Chamber, one that if we can get it passed, get beyond all the problems of price increases and concern for the poor, and so forth, I say to my friend from Arizona, will enable you to say you have saved millions of lives as a consequence of this law.

That will be my hope. And, indeed, I believe it is reasonable to assume, as I look at the language of this law, that we will as a result of helping people not smoke to begin with and stop smoking if they have made that decision and became addicted to nicotine, their lives will be happier and longer and healthier as a consequence of this legislation. Thus, there is an urgency to do it, an urgency to make sure we don't make the perfect the enemy of the good. There are lots of good amendments coming up. I have some ideas. All of them are not going to be incorporated. We still have the House to get through and the conference to get through. So I praise very highly the fine work the chairman has done on this thing, and I hope the wishes of the majority leader will be heard and that we are able to get this thing done before we get out of here for the Memorial Day recess.

Mr. President, I yield the floor.

Mr. McCAIN. Mr. President, I thank the Senator from Nebraska for his thoughtful and measured remarks, and I appreciate his willingness to compromise, which has been a trademark of the Senator from Nebraska for a long time.

I would not ask him if he felt the same way about our relations, congressional relations with Governors when he was Governor of the State of Nebraska. I will leave that question unanswered at this time. But I do again thank him for his thoughtful approach. Obviously, he has studied this very complex issue and a number of his recommendations, I believe, are important and may be adopted either by agreement or in amendment form. I thank the Senator from Nebraska.

Mr. President, because of the schedules of Senators, it is now my intention to move to table the amendment sometime around 2 o'clock. A number of Senators are off the Hill and will not be back until that time. Also, I understand the distinguished Democratic leader would like to make some remarks before the vote.

Mr. President, I know that the Senator from California and the Senator from Illinois and my friend from Texas all want to make remarks. But I will just take about 2 or 3 minutes to say I paid attention to the remarks of the Senator from Oklahoma. I appreciate them. Many of them were constructive. Many of them I profoundly disagree with and cannot and will not at this time respond to over an hour of comments and an in-depth discussion of the bill.

But the criticisms of the Senator from Oklahoma basically boil down to four fundamentals: One is a tax increase; second is big spending; the third is big government; and the fourth is the argument that it will not stop kids from smoking.

I will briefly address that in general terms and at a later time I will give more specific responses to the Senator's very strong and, by the way, well-meaning criticisms of the Senator from Oklahoma.

The argument that this is nothing but a tax increase would have some validity if it were not for the fact that there will be an increase in the price of cigarettes even if this body and the Congress of the United States do nothing.

Two weeks ago, there was another settlement, the fourth made between the industry and a State. It was between the industry and the State of Minnesota. What was the agreement? It was a $6.5 billion agreement, the largest yet on a per capita basis. And guess what is the result of that agreement? An increase in the price of a pack of cigarettes in Minnesota in order to pay for the settlement.

I might point out that settlement was double the settlement that was achieved by the attorneys general with the tobacco industry last June 20. As we see settlement after settlement after settlement, we will see an increase and an increase and an increase in the price of a pack of cigarettes. So we will either enact an increase in the price of the pack of cigarettes, earmark it to the worthy causes, the four that we have laid out, the States, public health, research, and the farmers, or we will watch as State after State goes to court, achieves a settlement or a jury verdict, and we see the same result.

What is the problem with that? The only problem with that is 3,000 teens start smoking every day and 1,000 will die early as a result of health-related illness. So, Mr. President, if you want to call this a price increase, that is fine. But if anybody in America believes there is not going to be a dramatic increase in the price of a pack of cigarettes as a result of negotiations or litigation, they simply have not observed what has happened in the case of the four previous States in the past several months. And 36 more States, at least, are lined up to go to court.

Now, this also does touch to some degree the argument my friends have about attorney's fees. The last I saw—and I don't keep close track of what happens in Florida—the plaintiff lawyers were going to get $2 billion out of the settlement. I think we need to address the issue of lawyer's fees, but if you are worried about it, I would think you would then support a comprehensive settlement as opposed to watching this go on. It isn't just the lawyer's fees that will cost the taxpayers. It is the cost of litigation, which we know is serious.

So if you want to call it a tax increase and quote the biggest in history, blah, blah, blah, then that is your right. But I think in all fairness, in all fairness, you ought to understand the consequences of failure to act, which will be larger increases in the cost of a pack of cigarettes, larger litigation and more delay and, finally, of course, the problem that we need to address and that is the issue of kids smoking.

The second argument is that it is big spending. Let me point out that 40 percent, the biggest chunk of this settlement, goes to States that have incurred costs associated with Medicaid. That is where 40 percent of the money goes. And we also know that we don't know—that we don't know—exactly what it is that causes kids to smoke. We have some pretty good ideas. And, by the way, every single expert, including—including the chief executive of Philip Morris, who, while they were negotiating with the attorneys general, said, "We all know that price rates are more sensitive to kids smoking than adults." That makes sense, obviously, since kids generally don't have as much money as adults do.

But if you want to call it a big spending bill, let's look at where the money is going to, and that is for research, and it is to go to health care, and it is also to go to farmers who are going to be dislocated by this. Remember also that much of the smoking prevention and cessation is in block grants so that the States will be able to do what they think is best with it.

Big government? This may be a big government solution. This may not be the solution that I would have had envisioned nor that the Senator from Massachusetts would have envisioned. This is as a direct result of the agreement which was reached between the attorneys general, 40 of them, and the tobacco industry, which set the stage for the fact that the U.S. Congress needs to act—or at least address the issue. We may not act. We may not act. We may decide, as my friend, the Senator from Texas, will so eloquently argue, that we can't do this. But when the stage was set with that agreement last June 20, and we were going to have to act it out, what we did in the Commerce Committee by a 19-to-1 vote was put our imprint on it, and the benefit of our wisdom, our knowledge, and, frankly, that of every public health group in America, as well as many other organizations.

Finally, and I apologize to the Senator from California for taking this much time, but the other is that it will not stop kids from smoking. You know, I challenge anyone who says this bill will not reduce teenage smoking to find a single public health organization in America, that is legitimate, that is not on the payroll of the tobacco companies, that will say that an increase in the cost of a pack of cigarettes, plus youth cessation programs, will not have a beneficial effect on this terrible problem.

There was a chart, the Senator from Massachusetts saw it the other day, of the deaths in America. The bar graph was dramatically higher, tobacco-related illnesses death, as opposed to drunk driving, as opposed to many other causes of death in America.

If it will not work, then are we satisfied with the status quo? Are we satisfied that in America today this problem is not only real but growing? We had a Centers for Disease Control study just recently, teenage smoking is on the rise. Minorities in America, those teenagers are starting to resort more and more and more to the use of cigarettes.

So maybe it will not—maybe it will not stop kids from smoking. Maybe this will not work. But to accept the status quo, in my view, and think that just by passing a tax increase on cigarettes we will address that issue, will not do it. I challenge my friend from Texas, who is waiting to speak, I think, very soon. If the Senator from Texas can find a single public health organization in America—the American Cancer Society, the American Lung Association, the Coalition for Tobacco-Free Kids, any living—any living Surgeon General of the United States of America, who will say to you and this body: OK, just pass a tax increase, fund some tobacco cessation programs and that will do the job—then I think that should be an important part of this debate.

But the reality is, not a single one of those organizations will say that anything less than a comprehensive approach to this problem will do the job.

So I just wanted to take a few minutes to respond to the very well thought out and very studied and scholarly, in many cases, objections that were raised by the Senator from Oklahoma. That is what this process is supposed to be all about. I appreciate his input, as I do that of my dearest friend, the Senator from Texas, who has promised me, and I have promised him, we will remain smiling throughout this debate.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the distinguished chairman for his excellent comments. I would not say anything more substantively except to say I think both the Senator from Arizona and I, and others involved in this, believe that there are a number of good suggestions that have been made. I think we laid this down with the statement this is not perfect in the way that no piece of legislation that comes here is perfect. I am confident that in the process, if we are not seeking to kill it, we can find a way to meld some of the good suggestions that are being made into both acceptable amendments and amendments which can pass by their own weight. I hope we will do that.

Mr. President, I ask unanimous consent the Senator from California be recognized for 10 minutes. Following the Senator from California, the Senator from Texas, Senator GRAMM, will be recognized—not for a specific period of time—and following the Senator, the Senator from Illinois, Senator CAROL MOSELEY-BRAUN, would be recognized for 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KERRY. I amend that by asking if Senator HAGEL, the Senator from Nebraska, could be recognized after Senator CAROL MOSELEY-BRAUN?

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senator KERRY very much for his leadership on this issue. Senator KERRY, Senator MCCAIN and many other colleagues, including Senator CONRAD and Senator DASCHLE, our Democratic leader, have put in so much time and effort on this important issue. I extend my thanks to them.

Mr. President, I have not spoken yet on the floor on the subject of tobacco legislation. I am going to be concise. Let me tell you why. I am going to be concise because this not is a difficult call for me. I am going to support the strongest possible tobacco legislation we can put together. I am going to support not the weakest, but the strongest tobacco legislation we can put together. There are two reasons for this. First, Smoking kills our people. Second, kids are the targets of the tobacco companies, which is a crime against them and against all of us. For these two critical reasons we must act now to pass the strongest tobacco legislation possible.

I have a couple of charts that I am going to share which I think tell the story. This one says, "Tobacco Kills and Smokers Get Hooked as Teenagers." Approximately 90 percent of adult smokers started smoking at or before the age of 18. When they are older, 66 percent of them say, "Oh, my God, I wish I could quit." We need to do something to help young people so that they are not faced with this painful, horrible addiction later in life.

How do you do that? You don't do that by siding with the tobacco companies. You do that by siding with the public health experts in this country.

This chart very clearly shows how people die from tobacco. We will start off with stroke deaths, 23,281. I am not going to round off these figures, because each one represents a real person, your father, your mother, my grandmother, my grandfather, et cetera. It is all of us represented in these numbers.

Lung cancer, 116,920 deaths from lung cancer. 134,253 deaths from heart disease. Bronchitis/emphysema deaths, 14,865.

This many deaths occur every single year. Every single year Americans have these painful, awful deaths.

Pneumonia, 19,173 deaths. Hypertension, 5,450 deaths. All of these deaths are related to smoking. Secondhand smoke cancer deaths—how is this one? These individuals don't even smoke, but they breathe it because someone they work or live with smokes and 3,000 people die every year. Absolutely proven fact, secondhand smoke kills 3,000 innocent people every year.

Other cancer deaths related, 31,402. Other cardiovascular diseases, 16,854. Other respiratory diseases, 1,455. And how about infant diseases; 1,711 infants are dying. Burn deaths, 1,362. Chronic airway obstructions, 48,982.

It adds up to 400,000 dead Americans every single year. In spite of this terrible fact, some of my colleagues are standing with the tobacco companies. I am sorry—count me out of that crowd.

Who am I going to stand with? RJR Tobacco? Philip Morris? No. I am going to stand with Dr. Everett Koop. I am going to stand with Dr. David Kessler. I am going to stand with the medical community. I am not going to stand with the tobacco companies. I am going to stand with the American Association of Public Health Physicians, the American Lung Association, the American Medical Student Association, the American Medical Women's Association, the American Patient Association, the Americans For Nonsmokers' Rights, the Association of Military Surgeons of the United States, the Association of Black Cardiologists, the Center for Women Policy Studies, the Child Welfare League of America, Chinese American Antismoking Alliance, Citizens for a Tobacco-Free Society, Interreligious Coalition on Smoking and Health, National Asian Women's Coalition—the list goes on and on and on.

I am going to stand with the public health community. If my colleagues want to stand with the tobacco companies, that is their free choice; they are free to do it, and they are also free to explain it to their constituents.

One of the things I heard yesterday from one of our colleagues, Senator ASHCROFT, is how horrible it is to increase the cost of a pack of cigarettes; isn't that terrible for poor people. The very people on this floor who are complaining that we are hurting poor people were never there when we passed the earned income tax credit that helped lift Americans out of poverty. They were never there when we raised the minimum wage. Now, suddenly, they are concerned. It is my opinion what they are really concerned about is the tobacco companies.

I don't hear these same people saying, "Well, America, if you really want to put money in your pocket, you can give up smoking and pocket the money from the two packs or three packs you smoke a day." That is what they could be saying. When they talk about the tax on cigarettes, I don't think they are really concerned about poor people. I think they are concerned about the tobacco industry.

What I am concerned about is not just the cost of cigarettes, not only in dollars but in lives. 400,000 lives every year and 80 percent of them are hooked as teenagers. I am going to show you another chart.

This chart must look very dizzying on TV. Let me tell you what it is. It is 3,000 stick figures of children. That is how many kids become new smokers every single day.

Today, 3,000 children will start to smoke. Every third one will die from a smoking-related illness. These children are shown in the darker shade. Every third one will die.

I have seen colleagues come to the floor with charts about how with tobacco legislation there is going to be bureaucracy, and it is going to be terrible. You want to take a look at this —3,000 teenagers starting to smoke every day and every third one of them will die. That is what is truly terrible. What is terrible is that children are smoking and these children will die.

That is why I am standing here today. I urge my colleagues to listen to the arguments on the floor and remember that it all comes back to two issues: One is that every day 1,000 kids put themselves at certainty of death from smoking, and in every year, 400,000 Americans die and almost 90 percent of them started just like this when they were kids.

I have to tell you, passing strong tobacco legislation isn't even a close call for me.

Under oath the tobacco companies said, "We do not market to children." They said, "Our advertising is not designed to attract young smokers."

But when the lawsuits were filed against the tobacco industry, they came up with all these smoking guns, if you will.

We have to compliment the efforts of dedicated government attorneys who worked on this. I would like to extend a special thanks to Louise Renne, the City Attorney for the City and County of San Francisco. It was due to her tireless efforts of that we have many of the documents that show how the tobacco industry targeted our children.

From a Philip Morris memo in 1981:

> It is important to know as much as possible about teenage smoking patterns and attitudes. Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while still in their teens . . . it is during the teenage years that initial brand choice is made.

This is from a private, internal memo. And how about this:

> . . . Because of our high share of market among the youngest smokers, Philip Morris will suffer more than the other companies from the decline in the number of teenage smokers.

Philip Morris is going to suffer? Philip Morris is going to suffer if kids stop smoking? It is in black and white. I ask them about the suffering of people who die from these diseases. Have you ever seen someone die of lung cancer? Have you ever seen someone sit near you on a plane with oxygen going up their nose because they can't breathe? Philip Morris is going to suffer? Smoking is what causes real suffering.

I am going to stand with the public health officials. I am going to stand with them, and I am going to stand with them proudly. People can come on this floor, and I welcome their debate, but when you cut to the chase, the arguments against strong tobacco legislation are same arguments Philip Morris is making, they are the same arguments RJR is making, they are the same arguments that tobacco companies and their sophisticated lawyers are making. Their arguments have nothing to do with the hard, cold facts that they are trying to hook our kids.

As Senator McCAIN said today, we know, we can do something about it and at least we know we cannot tolerate the status quo. That is what this tobacco legislation is all about.

A draft report from RJR said:

> . . . The brands which these beginning smokers accept and use will become the dominant brands in [the] future. Evidence is now available to indicate that the 14- to 18-year-old group is an increasing segment of the smoking population. RJR [tobacco] must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long term.

It is time that we expose this danger these companies pose to our children. It is time to end the horrific costs to our society of losing a wife, a mother, a grandma too soon because when they were young, they got hooked on tobacco; they got hooked by companies who swore to God in front of this Congress that they never went after kids.

Why should we stand with the tobacco companies? Why should we? We shouldn't. We should stand with C. Everett Koop. We should stand with the American Lung Association. We should stand with the people who care about our children.

Brown and Williamson in 1973, another tobacco company said:

> Kool has shown little or no growth in share of users in the 26 [plus] age group. Growth is from 16 to 25-year-olds . . . at the present rate, a smoker in the 16 to 25-year-old age group will soon be three times as important to Kool as a prospect in any other broad age category.

There it is. For anyone to think that we should stand with those companies who went after our children—for anyone who thinks that is the right thing to do—I guess I just don't understand their position.

It comes down to two things: Smoking kills and they grab our kids, and they grab 3,000 kids every single day, and every third one will die of smoking-related illness.

These cigarette companies even discussed adding honey to cigarettes so they could grab the youngsters. Here is that quote. A 1972 Brown and Williamson document states:

> It's a well-known fact that teenagers like sweet products. Honey might be considered.

We have to do something. We should pass the strongest possible tobacco bill.

One successful way to reach the children is through education, and one proven success is to make sure that in after-school programs, our kids are taught about the dangers of drugs, alcohol and smoking. It works.

I am working on an amendment to make sure that when we support tobacco cessation programs, we do not disqualify after school programs. I am excited to say that it looks like that amendment will be accepted.

Mr. President, I see that my colleague is ready to attack on his point of view, and I am going to yield. If I might have 20 seconds?

Mr. GRAMM. If the distinguished Senator from California needs a couple more minutes, I have no objection.

Mrs. BOXER. I thank the Senator. If I could finish in about 60 seconds.

Mr. GRAMM. I ask unanimous consent the Senator from California have 5 additional minutes.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

Mrs. BOXER. Thank you very much. I will not be using that much time, I say to my friend. So I urge him to just stay on the floor.

I do not have complicated reasons for supporting the strongest possible legislation. It is simply about life and death. And it is very obvious to me that by passing comprehensive, tough legislation, we have a chance to stop kids from smoking and to stop the deaths and turn these awful statistics around. We have what may be a once-in-a-lifetime opportunity to do it. I hope we are going to do it.

Not every amendment that I vote for is going to be in the final package. I understand that. But I am going to support the toughest bill possible. I am going to offer an amendment to make sure that we support after school programs to educate our children against the problems of smoking. There are many effective after school programs that teach kids about tobacco in a very straightforward, good way so that they resist the temptation and peer pressure to smoke.

So I am glad to stand with my friends in the Senate who look at this as an opportunity to stop deaths, to stop the targeting of our children. And I am very hopeful, Mr. President, that we will, in fact, end up with a strong piece of anti-tobacco legislation.

Thank you very much, I say to my colleague from Texas, for his generous spirit. I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me first say if we pass this bill I hope that we will be successful in inducing not only teenagers but other Americans to come to their senses and to stop smoking.

Once in my life I was an economist. And any economist will tell you, other things being the same, at a higher price people will consume less of a given product. The problem, of course, in the real world is generally other things are not the same.

A concern I have raised that has not been dealt with is that no country in the history of the world, so far as I am aware, has ever imposed a tax at the level we are debating here and not had a black market for cigarettes develop.

In Britain, 50 percent of cigarettes are sold on the black market. In Italy it is 20 percent. Canada raised cigarette taxes to try to induce teenagers to stop smoking, but then their country was inundated with illegal cigarettes. The effect was to actually lower the price of cigarettes bought on the black market. Canada, in an extraordinary action, actually repealed the tax increase. And the minister of health said that by repealing the tax increase, and thereby forcing teenagers to attempt to buy cigarettes through legal channels they would reduce teen smoking. By limiting the economic foundation of the black market, they might be more successful in reducing teen smoking.

I am hopeful that, if in fact we raise taxes to the degree we are talking about, something good will come from it. Obviously, inducing teenagers to smoke less would certainly be a good thing.

The issue I want to address today, and the issue that I hope we will vote on before we go home for the recess, is the issue of what we are going to do with this money. We can debate endlessly what the tax increase is going to do and what it is not going to do. I am still very much troubled by the impact of this tax increase on real people.

In listening to many of the strongest proponents of this bill, you get the idea they are taxing tobacco companies. That somehow we are getting revenues from companies that have conspired to deceive the public, that have conspired to induce teenagers to smoke. Therefore, not only are we getting the good of higher prices and the impact that might have on consumption, but in fact there is almost a retribution quality to it.

I guess I have to temper that with a cold recognition that in this bill we are not taxing tobacco companies. In fact, we have an extraordinary provision in this bill that makes it illegal for tobacco companies not to pass the cost increase through to consumers.

So except for a look-back provision, where we are actually going to poll teenagers, and if we find that teenage smoking has not declined, we will have a look-back tax on tobacco companies and target those who we find, through the poll, are the preferred brand names.

It is interesting, because article I of the Constitution gives Congress the power to impose taxes. Nowhere has it ever been contemplated we would allocate that power to a pollster. And it is clear to anyone that provision is unconstitutional. But beyond that provision every penny of taxes we impose in this bill will be paid for by people who consume cigarettes.

Now, we might wish that were not the case. I wish it were not the case. But, unfortunately, that is the way the bill is written. In fact, as I said a moment ago, the bill is actually structured so that tobacco companies could not pay the tax if they wanted to. They are forced, by law, to pass it through to the consumer.

One of the things that troubles me is who this consumer is. I mentioned these numbers the other day, but they are relevant to the amendment I want to talk about today. Thirty-four percent of the new tobacco taxes in this bill will be paid for by Americans who make less than $15,000 a year. They do not own Philip Morris or any other tobacco company.

These people are, by the logic of this bill, victims. They have been induced to smoke. They have, in the logic of this bill, become addicted to nicotine. And if you had to classify them into a category, it would be the category of "victim." And yet for people who make less than $15,000 a year, they are going to pay 34 percent of these taxes.

This is not a trivial amount of money. When you add up all the tax provisions in the bill, most of the estimates tend to indicate that a pack of cigarettes, which in my State sells for about $2, will rise in price to about $4.50 to $4.75 a pack. These prices are for a $1.50 per pack increase, which is substantially less than this bill will produce when you add up all its provisions.

An individual who smokes an average amount would pay $356 a year in new tobacco taxes. And for a couple making less than $15,000 a year, they will pay a whopping $712 in tobacco taxes from an effective increase in price of $1.50 per pack. To someone making less than $15,000 a year, $712 a year is a lot of money.

So what concerns me, and obviously does not concern many of my colleagues, is the impact of this tax on blue-collar workers. When I listen to the proponents of the bill, they make two things very clear. They care about driving up the price of cigarettes, and they don't care about the money. In trying to respond to the fact that 70 percent of Americans believe this bill is about taxes and not about smoking, over and over again they say, "We want the higher tax because we want to discourage smoking, not because we want the $700 billion."

Senator **GREGG** has an amendment pending which I do not believe will be tabled. I intend to vote against tabling the Gregg amendment. The Gregg amendment says that we shouldn't be granting immunity to tobacco companies for future suits. Basically the Gregg amendment strikes the provision that caps liability. I intend to vote with Senator **GREGG**. I don't believe his amendment will be tabled.

When his amendment is acted on, I intend to offer an amendment that addresses what to do with the money. I hope my amendment will have very broad-based support. I thought I would take the time now to explain it so that if the Gregg amendment is not tabled, and I can offer the amendment at that point, people will know what is in dispute, and those who want to come and speak on it can do so. I will offer the amendment for myself and for Senator **DOMENICI**. I know he will want to come over at that point and speak, and I am sure many others will want to speak for and against it.

The issue here is the following: If we pass this bill, blue-collar Americans making $15,000 a year or less will pay 34 percent of the taxes the bill will impose. Individuals making less than $22,000 a year will pay 47 percent of the taxes that will be imposed by raising the price of cigarettes. Those making less than $30,000 a year will pay a whopping 59.1 cents out of every dollar of taxes collected under this bill. In other words, this is not a tax that is randomly distributed among the general population of the country. The plain truth is, with a few exceptions, smoking in America today is a blue-collar phenomenon. The vast majority of people in America who smoke, and therefore who will pay this tax, are blue-collar workers. Almost 60 percent of this tax will be paid for by Americans who make less than $30,000 a year.

Now, this produces some extraordinary results. Were the following numbers not from our own Joint Tax Committee, they would be difficult to believe. Let me give you just two numbers. For Americans who make less than $10,000 a year, the taxes embodied in this bill will raise their Federal taxes by 41.2 percent in 1999. In the year 2003, when this bill is fully implemented and the tax is fully phased in, Americans who make less than $10,000 a year will see their burden of Federal taxes rise by 44.6 percent.

If our objective is not the money but to get people not to smoke by raising the price of cigarettes, shouldn't we take some of the money we are taking from very moderate-income Americans and give it back to them by cutting other taxes? Couldn't we find a tax cut that would apply to moderate-income Americans so that we wouldn't be lowering the real standard of living for people who are the victims of cigarettes by having become addicted to smoking and to nicotine?

If a motion to table the Gregg amendment fails, I will offer an amendment with Senator **DOMENICI**. This amendment aims to take roughly $1 out of every $3 collected in these cigarette taxes and give it back to Americans with family incomes of less than $50,000 a year. We do it by repealing a provision of the Tax Code that is generally known as the marriage penalty. Let me basically explain how the marriage penalty works, what our amendment will do, and then wrap up. I see other colleagues are here to speak.

Under the existing Tax Code, we have an incredibly destructive provision that actually says when two young people meet, fall in love and get married, if they both work outside the home, they actually have to pay more taxes as a married couple than they would have to pay if they were single. Under our Tax Code, that average marriage penalty is about $1,400 a year. Now, I think I speak for many people who are married in saying that my wife is easily worth $1,400 a year. I would gladly pay that price and more for the privilege of being married, but I don't think the Federal Government should get that money. Maybe my wife should get that money. Also, I don't understand discouraging the creation of families when families are the most powerful instruments for human happiness and progress that have ever been created.

Let me remind my colleagues, if anyone has followed this debate, they know that everyone who has spoken in favor of this bill has said the money is incidental; that this is not about the money, they just want to raise the price of cigarettes. I will offer this amendment with Senator DOMENICI to help them fulfill that commitment and prove that is what they want. So our amendment is a very targeted tax cut that takes roughly $1 out of every $3 raised by this tax and gives it back to Americans with family incomes of less than $50,000 a year.

Here is how our bill will work. It will target families that make less than $50,000 a year. Right now, a married couple filing a joint return can earn $6,900 before they have to start paying Federal income taxes. If they filed separately and they weren't married, they could jointly earn $10,200 a year. If you wanted to state it dramatically, you could say that if they live in sin they can earn $10,200 without having to pay any income taxes, but if they get married they have to start paying income taxes after they earn $6,900. Now, almost everyone realizes this is a destructive tax policy, but we haven't been able to fix it.

What the amendment that I will offer for myself and for Senator DOMENICI will do is: for those who make less than $50,000 a year as a family income, we will give them an additional deduction of $3,300 a year. They will pay the same taxes whether they get married or whether they don't. The net result is a substantial tax cut for moderate-income working families. We will adjust this for inflation to assure that we preserve the real value of this deduction.

Finally, we apply it to the earned-income tax credit. As almost everybody here knows, if you work and you make modest incomes, you can get an earned-income tax credit. What we will do in our amendment is allow the marriage penalty in tax terms to apply above the line so that a working couple, a very-modest-income working couple, can deduct this correction for the marriage penalty before they calculate their eligibility for the earned-income tax credit.

Among the largest beneficiaries of the amendment that Senator DOMENICI and I will offer will be very modest income, blue-collar workers earning very low wages. What we will do is allow this deduction to apply to the earned-income tax credit.

If our amendment is adopted, roughly one-third of the tax that is collected on cigarettes would be given back to the very blue-collar families that will bear the largest burden of taxation as a result of taxing cigarettes. Some couples will pay $712 a year in new cigarette taxes under this bill.

Under our amendment, the price of cigarettes would still go up as mandated by the underlying bill. To the degree that people respond to the higher price, we will have the impact of that rise in the price of cigarettes, but we will not be making modest-income workers poorer by the amount of the tax because we will take $1 out of every $3 of the tax and give it back to the very same families by repealing the marriage penalty for middle and moderate income couples.

Now, why is that important? It is important because the very people who are going to be hurt the most by this tax are moderate income people who have been victimized by tobacco companies. I am sure my colleagues are having their offices flooded with letters and postcards, as I am, from people who are basically saying, "I have a very modest income and I smoke, don't raise my taxes; tax the cigarette companies."

Well, what we are doing here in our amendment is allowing the increase in the price of cigarettes therefore discouraging smoking, but we are giving at least part of the money back to middle-income and moderate-income families.

So I hope my colleagues will support this amendment. I think it is very important that we vote on a tax cut as part of this bill before we adjourn. If we don't do this, we are going to have done something extraordinary in this bill, and I can't help but be struck by the paradox of it. In this bill, we are saying that people who smoke have been victimized by the tobacco companies; yet, we are turning around and taxing the people who smoke because the bill prohibits tobacco companies from not passing the tax through to the people who smoke.

So while many people view this bill as firing a shot with a tax at the tobacco companies, in reality, the tax is hitting very moderate-income, working Americans. It is hitting the very people who have been victimized by the tobacco companies. The amendment that Senator DOMENICI and I will offer after the motion to table the Gregg amendment fails says, since the proponents of the tax pledge that this is not about the money, that it is not the money they want, it's the higher price of cigarettes, go ahead and take the tax, but, as a modest down payment, let's take $1 out of every $3 we collect in cigarette taxes and give it back to moderate- and modest-income families. Let's make it subject to the earned-income tax credit so that very low-income, working Americans will not be hurt as badly. If both members of the married couple smoke, they will be paying $712 a year in Federal taxes under this bill. Let's eliminate the marriage penalty under the Tax Code for middle- and moderate-income families so that while the price of cigarettes goes up, they don't find themselves economically crushed by it. They will have an incentive to quit smoking, but at least a third of the money would come back to them by eliminating a discriminatory provision in the Tax Code.

I would like to go further than this amendment, and we will have an opportunity to do that. But this is a first installment. I think it is very important that we vote on this amendment before we recess, since it is clear that we will not finish the bill this week. I hope that my colleagues will support this amendment when Senator DOMENICI and I offer it to the Gregg amendment, hopefully, immediately following the motion to table the Gregg amendment.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized for 15 minutes, to be followed by the Senator from Nebraska.

Mr. CHAFEE. Mr. President, may I make a unanimous consent request? I ask unanimous consent that I might follow Senator HAGEL?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that I be privileged to follow the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I would like to take a moment to share some general thoughts with regard to S. 1415, the National Tobacco Policy and Youth Smoking Reduction Act.

It has been said on the floor before that the fundamental goal of the legislation is to significantly reduce smoking among the Nation's youth. That, of course, is a goal that I think everyone can support. I certainly support it.

I am going to take a slightly different tack, Mr. President, because I am a reformed cigarette smoker. I say to the Senator from Kentucky, I recently stopped smoking—successfully. And this time, for real. I developed the habit when I was a teenager, at a time when the tobacco companies were still marketing their products as being "safe." In fact, I am old enough to remember television commercials portraying a "doctor" with the white coat on, with a stethoscope around his neck, talking about how one cigarette brand was "healthier" for you than another brand. Well, of course, we all know now that they were lying to us, frankly. The tobacco industry knew at the time that cigarettes are not healthy, they are not safe, and that they are all addictive. Cigarettes lead directly to a variety of cancers, emphysema, heart disease, premature death and, I point out to the ladies, wrinkles on your face. That is something tobacco companies have known for a long time; they just did not tell us, and they were not very candid about it.

I very much wish that the measures we are discussing today had been in place when I was a teenager, because those measures might well have prevented me from starting to smoke in the first place. Since they were not, I started smoking many years ago and I have struggled since to quit smoking. I am now winning the battle. I haven't smoked in months. But I can tell you firsthand just how difficult it is to quit and stay off of cigarettes. It is a fact that cigarettes are addictive.

We all know, again, that the tobacco industry knew full well that once young people started smoking, it would be very difficult for them to ever break the habit. Eighty-nine percent of all smokers begin smoking by the time they are age 18. People tend to start young. And eager to maintain its market, based on its own research—because they had a lot of money to put into research, population studies, and the like—the industry came along and specifically targeted children and young people in the hopes of creating lifelong addicts.

Its efforts have paid off handsomely. Today, more than 4 million American children and teenagers, including over 180,000 Illinois children and teens, smoke cigarettes. Seventy percent of Illinois high school students have tried cigarette smoking and about 35 per cent are current smokers. Teen smoking has risen for five years in a row. And if nothing is done, 5 million Americans who are now children, including over 260,000 Illinois children, will die prematurely from tobacco-related diseases. Illinois children and teenagers currently illegally purchase over 12.9 million packs of cigarettes each year, resulting in almost $25 million in cigarette sales.

This is a lot of money. That is one of the reasons this bill is so contentious, because there is an awful lot of money involved in this debate.

But tobacco products are responsible for enormous damage to all of our citizens, not just children. Twenty-three percent of Illinois adults are smokers. Smoking accounts for nearly one in five deaths in the United States. It is related to over 419,000 U.S. deaths each year and over 19,000 deaths in Illinois—more than alcohol, car accidents, fires, suicides, drugs, and AIDS combined. Approximately half of all continuing smokers die prematurely from smoking. Of these, 50 percent die in middle age, losing, on average, 20 to 25 years of life.

That is probably one of the reasons my teenage son, who is not a smoker, badgered me about smoking. I mean he was just relentless. He would take cigarettes and put them in the toilet so they would get wet. He would hide them. He would send me pictures of diseased lungs. He even started sending me pictures from National Geographic of spectrographic outlines of nicotine, the chemical component of nicotine. When it is put on the spectrograph, it looks like cigarette smoke. He thought this was hilarious. He was continuing to put pressure on me, and he succeeded. In addition to the fact that he would come up with all of the evidence, probably the most profound thing that he did was to say to me, "Mom, I want you to live, because I love you." Of course, no dollar amount can you put on that kind of motivation. In part, I tried to stop. I have at this point stopped because of those motivations.

But, in addition to the terrible human costs, the American affair with tobacco—as some have said on this floor, our country was built with tobacco from our earliest years—has exacted an immense economic toll.

Tobacco-related illnesses cost the United States more than $144 billion a year in health care costs and lost productivity. Even though smokers die younger than the average American, over the course of their lives, current and former smokers generate an estimated $501 billion in excess health care costs.

So the smokers account for a large part of the tremendous cost of health care in this country as well.

On average, each cigarette pack sold costs Americans more than $3.90 in smoking-related expenses. Whatever the cost is of the cigarette that you buy, the taxpayers of this great country all have to chip in to try to take care of people like me who got addicted by these cigarette when they were teenagers.

We now have proof that the tobacco companies knew precisely what the impact of their products would be. According to their own internal documents, these companies hid the truth regarding both the dangers associated with smoking and the addictiveness of their products. They even went so far as to testify falsely to the Congress when questioned on these issues for years, failing to disclose and hiding at all levels of industrial espionage associated with keeping the truth from the American people. But it is out now. Everybody knows the facts pertaining to the impact of smoking and the addictive nicotine and cigarettes. It is not even a debate anymore. These are true facts. They are indisputable facts. So the question becomes, What is it that we policymakers are going to do about it?

It is time for the tobacco industry not only to be held accountable for marketing a product it knew to be unsafe but to assist in the effort to drastically cut the number of children who become addicted to cigarettes. While the bill now before us is far from perfect, on balance, I believe it offers us the only real chance we have to accomplish that goal.

The original Commerce-reported bill, in my view, offered too much liability protection for tobacco companies, and too little penalties for failing to meet the legislation's targets for reducing smoking among our children and teenagers. I am pleased, therefore, that the yearly cap on surcharges for the tobacco industry for not meeting underage user reduction targets has been raised to $4 billion. I also strongly support the new uncapped, company-specific surcharge of $1,000 per underage user in excess of the yearly reduction target.

I particularly want to commend the negotiators for removing the grant of total immunity to the parent companies and affiliates of cigarette manufacturers. Parent companies are where some of the most significant—and reprehensive—decisions have been made, and they are where the profits from the sales of cigarettes ultimately go. Those companies must be held accountable and under this new version of S. 1415, they are.

I also think the bill's treatment of the liability cap issued has improved. I remain very uncomfortable, frankly, with the provision currently in the legislation which may get amended, that caps the amount that the industry must pay out in any given year for past, present, and future damages resulting from the use of its products at $8 billion annually. I recognize that this cap was raised over the weekend from $6.5 billion, but I do not believe that the tobacco industry is entitled to any cap at all. That is why I will vote in favor of an amendment that will remove the that cap, because I just think that people who have been harmed ought to be able to sue and to be compensated. It is just that kind of basic. I don't think putting a cap on liability and a shield like this is good policy in this situation.

I am very much in favor of the decision to establish a Public Health Account within the unified trust fund. I believe that it is critical to target the money that the government will receive from this settlement, and strongly support the negotiators' decision to allocate 22 percent of the government's annual receipts to smoking education, prevention, and cessation programs as well as to counter-advertising initiatives. Nothing can beat education. I think the fact that we have true facts and we have educated so many people is one of the reasons there has been a change in the climate of opinion around the propriety and the acceptability, not to mention the dangers, of smoking.

I am also concerned, however, about the fact that this new $1.10 fee that consumers will have to pay every time they buy a pack of cigarettes will fall mostly on moderate- and low-income Americans. That argument has been raised here on the floor, and it is true. Almost half of the tax increase—whether you call it a fee or a tax it is still money on top of the price of cigarettes. Almost half of that increased burden will fall on Americans who smoke and who make less than $30,000 annually, and 70 percent of it will fall on American smokers who make less than $50,000 annually. That means that smokers making $10,000 or less—which is really poverty in this country—annually will see their Federal tax burden rise by an astonishing 44 percent.

The sad truth is that smoking behavior, the actual cigarette smoking, is disproportionately concentrated among moderate- and low-income Americans, and they are the ones being asked, frankly, to make the greatest financial sacrifice on behalf of our children and the public health. This fact gives me real pause. Frankly, I didn't think I would ever want to support—as a matter of fact, I tend to take a position against regressive taxes of this kind. Everything that I know about hardworking Americans who are of marginal incomes tells me that this tax will be tough for them to swallow. But at the same time, the truth is that smoking is voluntary behavior. So it is a tax you can choose not to pay—a fee you can choose not to pay—and it is precisely that decision that we are trying to inspire.

It is also true that we do not have hard evidence that the reductions that are called for in the bill, the reductions in smoking behavior by our children, will be guaranteed. We do not have guarantees about that. We do not know for certain that price increases, advertising limitations, and the other provisions of this bill will ensure without any doubt that children and teenagers will not smoke. Smoking rates among the young dropped during the 1980s, and they have climbed up again during the 1990s. Frankly, there is no real explanation for these trends except that it is a matter of popular behavior and kids doing as they see their friends and their pals doing and role models in their own lives. I am hopeful that this new fee will help make smoking less glamorous, less appealing, and will encourage young people not to waste that money on something that is ultimately hurtful to them as well as the community as a whole.

I have used the word "hope." It is used a lot in this debate. Those of us who support the legislation are hoping that this bill will mitigate and reduce teen smoking. We are hoping that it will improve the public health. We are hoping it will help reduce the amount spent on health care. And these hopes, I think, are well founded and well represented in this legislation.

This bill represents a huge gamble that we should and must take. Given what we know about the risks and consequences of smoking, we cannot just sit by and do nothing; we have to act. We have to do everything we possibly can to discourage our young people from taking up this habit. We have a duty to our children, to all of our Nation's children, to do everything we can to help them stay away from the addictive effects of nicotine.

Mr. President, a strong coalition of health, public interest, and governmental organizations agrees and shares those hopes. A coalition of at least 48 major organizations including the American Cancer Society, the American Academy of Pediatrics, the American Medical Association, the Campaign for Tobacco-Free Kids, the Association of American Medical Colleges, and the National Association of County and City Health Officials, all of these organizations support comprehensive, effective tobacco control legislation.

Moreover, while it is impossible to be certain that maybe price increases will achieve the kind of reductions in smoking by children this bill sets out, the best experts in this area in terms of the relationship between price and behavior, including economists from the University of Chicago in my hometown and others in the administration, tell us that a quick, dramatic increase in the price of cigarettes will likely result in major reductions in teen smoking. So I am hopeful that despite my real concerns about the inadequacies of this bill in the liability area, my real concerns about the regressive nature of the tax involved, and my real concern that this bill does not ask the tobacco companies to endure the same kind of sacrifice that it imposes on their adult customers, I do intend to support the legislation.

It seems to me there is no other choice. As someone said to me—and I don't know whether it has been mentioned in the debate—if it is a tossup between death and taxes, I will take taxes. This is a situation where the choice is pretty clear, that we have an obligation to the public health and we have an obligation to our children to at least try to do what we can to erect barriers to the kind of destructive behavior cigarette smoking represents.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Nebraska is recognized.

Mr. HAGEL. I thank the Chair.

Mr. President, I rise this afternoon to reflect on some of the dynamics of the debate on the tobacco bill. I think it is important we as a body step back and focus on some of the various dynamics and the consequences of what we may or may not do as this debate goes forward. And it should go forward. Nobody disagrees with trying to reduce teen smoking. That is not an issue. We are all here to try to do the right thing. The focus on teen smoking, after all, was the core issue that really began this debate more than just a year ago.

I do not question the motives of my colleagues on either side of this debate. My colleagues on both sides of this debate are trying to do the right thing, trying to focus on making this a better world. I should also say, in the interest of full disclosure, I do not smoke, never have smoked, don't care about smoking. I think it is an unhealthy, bad habit, but at the same time I think we owe this country a good, honest debate about the issue from many of the dynamics, and certainly the constitutional dynamic of what we are about to do or may do is important.

I also think it is important for us to look at some of the societal and cultural consequences of this debate and of what action we may bring in the Senate over the tobacco bill, because if we do do something, it will have an impact on society, and it will have an impact far beyond just raising taxes and making government bigger, with more unaccountable regulations. This will have a very significant impact on our society.

I do fear, as I believe many of my colleagues fear, the great law of unintended consequences when we do not think things through very clearly. As we frame the debate, as we frame this issue, I fear that we are not including all that needs to be framed and debated here. As I have listened to and observed a number of presentations, all using statistics, information, and numbers, we pull them from everywhere. But the fact is, we do not have good, accurate information on this issue. I look at the number that is being used by almost everyone here, that this bill would reduce teen smoking by 60 percent. But where do we get the number? Where are we pulling our assumptions from?

I have here a copy of the New York Times story yesterday headlined "Politics of Youth Smoking Fueled by Unproven Data." It has some interesting points. This New York Times article says, for example:

> But with the Senate having begun debate on Monday on tobacco legislation, many experts warn that such predictions are little more than wild estimates that are raising what may be unreasonable expectations for change in rates of youth smoking.

Another point in this article I think is pretty important.

> Politicians and policy makers have tossed out dozens of estimates about the impact of various strategies on youth smoking, figures that turn out to be based on projections rather than fact.
>
> "I think this whole business of trying to prevent kids from smoking being the impetus behind legislation is great politics," said Richard Kluger, the author of "Ashes to Ashes," a history of the United States' battle over smoking and health.

He goes on to say:

> It is nonsense in terms of anything you can put numbers next to.

This certainly does not minimize the seriousness of what we are about. It does not minimize the seriousness of teenage smoking, again, if that is the focus, if that is the reason in fact we are debating this.

Other assumptions that get thrown into this as well are somewhat faulty. We know that we are today debating a massive tax and regulatory bill, and we tend to glide over that. I will give you some statistics that actually are accurate from my State, from Illinois, Hawaii, and Massachusetts, four States that have raised—raised—cigarette taxes in recent years, and they have all seen teen smoking increase. In 1993, Nebraska raised the cigarette tax to 34 cents. The number of Nebraska teenagers who smoke increased by about 20 percent over a 3-year period.

Now, some might say, well, 34 cents is not enough; you have to raise it to where it really hurts. But I think we can understand and get some sense of focus that increasing taxes at least predominantly as the great dissuader of teenage smoking is far, far from being proven. USA Today had a very interesting front-page survey a couple of weeks ago in its newspaper, and it reported such things as, "Only 14 percent of teenage smokers said higher cigarette prices would make them quit." The same survey in the USA Today said only 12 percent believed requiring a photo ID to prove they are adults when buying cigarettes would make them quit.

Another dynamic of this debate, which again seems to get very little attention, is, How would this change the power of the Federal Government? Would it increase unaccountable, essential unaccountable Federal regulation through the Food and Drug administration? Yes. Considerably. It would give the Food and Drug Administration unprecedented authority to regulate as yet still a legal product. Now, if this body really is as concerned about tobacco as we are representing, why don't we have the guts to just step up and ban tobacco as an illegal drug? Why don't we do that? Why don't we be honest enough about this issue to bring it down here and debate it and say we are going to ban tobacco and say it is an illegal drug? Or let's nationalize the tobacco companies?

The point is that we are not being totally honest with what we are doing. Where will the money go? The numbers float around. Is it a $565 billion bill? Is it a $750 billion tax bill? Where is this? We do know it is in the hundreds of billions of dollars. We do know that. Where is this money going to go? Where is the money going to go? Because we also know that all that money, whether it is $500 billion, $600 billion, $800 billion, can't possibly be used for teen smoking programs. So, does that give us some impetus to tax more and to do more and, therefore, find, at the end of the rainbow, a pot of gold? More Government programs, more Government, more bureaucracy, more regulation. I think that is an important dynamic of this debate. Higher taxes, obviously. Nobody has yet denied that. Nobody has denied, yet, that we are, in fact, increasing taxes. Not just increasing taxes but we are really increasing taxes by a new dimension here.

Where does that money go? For example, we do know somewhere, in all these bills out there, there is a figure we can get pretty close to focusing on, that, over the next 8 years, at a minimum, we would be raising about $130 billion in new taxes.

There are some constitutional issues, believe it or not. Again, let's face the facts here. What we are doing here, we are expropriating a legal industry. We are expropriating a legal industry for the first time in the history of America. I said at the beginning of my remarks that I don't smoke. No one can come to the floor of the Senate and defend the tobacco companies' conduct, their behavior. It has been outrageous. That is not what this debate is about. Let's not get ensnared in the underbrush of that debate. Let's be careful here how we frame the debate.

Nobody that I know of is on the floor of the Senate defending the tobacco companies. That is not the issue. We are defending some constitutional rights here. We are defending the honesty of how we are getting at this issue. Again, if we wish to take tobacco and criminalize it, that is certainly an option. If we go forward and do what some in this body intend to do, and want to do, essentially expropriating a legal industry, then what kind of precedent does that set? I think, first of all, constitutionally it would be out, but what kind of precedent does that set? Who is next? Caffeine? Diesel fuel? Who is next? That is another consequence, another dynamic of this debate on which we should reflect.

Just one example of a constitutional question is—I think we all understand it does raise some very serious constitutional questions. For example, the Federal district court in North Carolina ruled that the FDA cannot restrict advertising and promotion of tobacco products. We have a legal system for this. We have a legal system that works pretty well in this country. It has worked over 200 years.

Again, this is not a matter of defending the tobacco companies. That is not what this is about. This debate, parts of it, remind me of other debates we have been engaged in about the environment or religious persecution. I do not know one Senator who wants dirty air and dirty water and a dirty environment. Nor do I know one Senator who supports religious persecution. It is always a matter of how you improve it, not either/or. This is a good example of that kind of debate.

Black market—my friend from Texas talked a little bit about that an hour ago. It is a very, very real concern, a very real issue. For example, after increasing its cigarette taxes in the late 1980s, Canada saw a huge increase in the black market for cigarettes. By 1994, one-third of the Canadian cigarette market was contraband. Is that where we are headed here? We need to talk about that. It isn't just Canada. How about Sweden? Recently, Sweden lowered its cigarette tax by 27 percent to reduce smuggling from Denmark. England estimates it loses over $1 billion in tax revenue every year because of smuggled cigarettes.

My friend from Montana, Senator BURNS, tells me the biggest export in Montana is—wheat? No, it is contraband going to Canada, illegal cigarettes—another dimension of this that we need to be very seriously looking at, the consequences of a well-intentioned action.

The State of Washington estimates that 27 percent of its cigarette market is now contraband—that is now. The State legislature moved the enforcement power of the cigarette tax from the State revenue department to its liquor control board, "whose agents carry guns and have complete police powers." Is that a consequence we want from this?

Personal responsibility—my goodness, my goodness. The very foundation of this Nation is rooted in personal responsibility. Where has been the debate on this issue about personal responsibility? There was a lot of debate about blaming everybody for one's actions. It is the Army's fault. It is the Army's fault that I started smoking. It is the Government's fault. It is the tobacco company's fault. It is everybody's fault, except mine.

What does that say to our young people? Why have I not heard any connecting issue or debate in all the debate that has raged on so far about personal responsibility—consequences for one's actions? Our young people need to understand that actions have consequences. They need to understand that. Yes, we need to help them. Yes, we need to protect them. But that should be part of the debate, talking about personal responsibility—not that it is everybody else's fault. That is a dynamic of this.

Mr. HARKIN. Will the Senator yield on that point?

Mr. HAGEL. I will be very happy to yield when I finish. I thank the Senator.

The Federal Government, no government, can tax or regulate young people's behavior. That is silly. That is complete folly. Come on. How many parents do we have in this body? How many people in this body have dealt with young people? I suppose everybody in this body remembers when they were 16, 17, 18—and you believe that the Government is going to regulate behavior and change behavior? We are going to make everybody's lifestyle healthier? That is another dynamic that has not been debated in this.

Ignoring other problems—isn't it interesting that the real problems in this country for young people, far more severe and far more immediate, are with illegal drugs and underage alcohol use, but, yet, we are not talking too much about those issues today. Why aren't we? Because we are losing the illegal drug debate and war. More young people today are on illegal drugs than before. It is a tougher issue. It is everybody's concern. But we beat our breasts down here and say, aren't we doing something great because we are going to take care of underage cigarette smoking.

By the way, you can look at numbers and polls on this. I know they all have them, and I have one done by Citizens for a Sound Economy, May 13 to 15 of this year, asking 1,200 Americans, as parents, what their biggest concern for teenagers is. No. 1, illegal drug use, 39 percent; gangs, 16 percent; alcohol, 9 percent; tobacco use, 3 percent. Again, does this diminish the importance of this issue? No, of course not, but let's have some perspective in this debate. And there are other problems that young people face. We have numbers from polls and from very conclusive studies that show what I am talking about.

Let me conclude, Mr. President, with a couple of final observations.

There is an interesting thread of arrogance that has run through this debate: Government is smarter; we can tell you what to do; you really don't understand the seriousness of tobacco use; you are not smart enough to sort it out yourself; but you see, we are in the Congress, we will tell you when something is dangerous and when it isn't; you can't read; you don't understand, I am sorry.

We can have that kind of society. We can have that kind of a world. Some countries do. But if that is what you opt for, you will opt for also giving up some personal freedom, some personal responsibility, and it might be a better world that way. But that is another part of this debate we haven't heard enough about, and it should be part of it.

As I said in my earlier remarks, all my colleagues mean well. They are well motivated, they want to make the world better, they want to do the right thing. There is no question about that. But I hope they will think for a few moments about some of the issues I have raised as we step back for a moment and try to put in perspective what we are doing. Are we really making the world better and accomplishing what we want to accomplish, focusing on teenage smoking, underage smoking, which, by the way, there are now laws on the books to deal with? Are we making it better by putting hundreds of billions of dollars of new taxes on our people, building a bigger Government and more programs and more regulations, and then on top of that, having to deal with the unintended consequences of our action that will affect culture and it will affect society? Those are all part of the total debate, Mr. President, that should be brought into focus.

I will vote against this bill, because I think it is not the right way to deal with some very serious problems.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, there are two unanimous consent requests to be made. Senator HARKIN briefly has one.

Mr. HARKIN. I thank the Senator for yielding. Mr. President, parliamentary inquiry, I understand the Senator from Rhode Island is speaking next under a unanimous consent agreement, and after that is Senator HATCH?

The PRESIDING OFFICER. Senator HATCH.

Mr. HARKIN. I ask unanimous consent that after Senator HATCH, the Senator from Iowa be recognized to speak.

Mr. MCCAIN. I object. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Rhode Island still has the floor.

Mr. CHAFEE. The Senator from New Hampshire has a unanimous consent request to make.

PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF BOTH HOUSES OF CONGRESS

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Con. Res. 98, the adjournment resolution. I further ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 98) was agreed to, as follows:

S. CON. RES. 98

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, May 21, 1998, Friday, May 22, 1998, Saturday, May 23, 1998, or Sunday, May 24, 1998, pursuant to a motion made by the Majority Leader or his designee in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, June 1, 1998, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, May 22, 1998, or Saturday, May 23, 1998, pursuant to a motion made by the Majority Leader or his designee in accordance with this concurrent resolution, it stand adjourned until 2:00 p.m. on Wednesday, June 3, 1998, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

AMENDMENT NO. 2433

Mr. CHAFEE. Mr. President, let me offer a few thoughts on why I believe the amendment authored by my good friend from New Hampshire, Senator GREGG, should be rejected.

Senators TOM HARKIN, BOB GRAHAM and I struggled with the liability issue when we were developing our own antitobacco bill, the so-called KIDS Act. We began our deliberations with a review of the global settlement that was reached by the 40 attorneys general from the various States. In summary, we concluded that we could not support some of the provisions of that legislation; namely, the prohibition on class action suits.

The attorneys general agreed that no class action suits would be permitted and there would be a ban on punitive damages against the industry. That is what the industry got out of the negotiation with the attorneys general, amongst other things.

Given the tobacco industry's behavior, how could we, the three of us working on that legislation, possibly accede to tort protections that would nullify entire categories of lawsuits, leaving injured parties high and dry?

But there were balancing factors which also had to be weighed, Mr. President. The industry's consent is terribly important to the implementation of a comprehensive national tobacco policy. It is far better to have the industry at the table and agreeing.

Certainly, endless litigation serves no one's interests but the lawyers. Thus, something had to be done to create a more certain environment, both for the plaintiffs and for the tobacco companies. Hence, we decided to include an annual liability cap in our bill of $8 billion: $8 billion would be paid out each year and that was it. If there were subsequent suits and judgments had been brought and earned previous thereto or subsequent, they would fall in line and collect in the ensuing years.

While the structure of the cap in Senator McCain's bill is somewhat different than the cap we had in our bill, nonetheless the intent is the same. The cap in the McCain bill does not stop a single lawsuit. It doesn't prevent a single lawsuit from being brought. It doesn't stop one injured party from being able to collect. Moreover, only those tobacco companies that accept and abide by the terms of this bill will be able to obtain the financial predictability that is provided by this liability cap. In other words, the company doesn't get the cap unless it agrees to a series of requirements upon the companies or company that we believe are very important to reach a fine settlement.

What are some of these? What do the tobacco companies have to do to be eligible for a so-called cap? It must sign a national protocol, a binding consent decree to assure it will abide by all terms of the McCain bill. It must agree not to delay its implementation through endless court challenges. These terms they must agree to, amongst other things, are: They must make very steep annual payments to the Federal Government. They must meet tough annual youth smoking reduction targets. In other words, there are percentages that youth smoking must go down each year. The companies have to meet those requirements. It obviously encourages them to come forward with ingenious stop-smoking efforts or cease from smoking or decline from taking up smoking. They must pay large fines if they fail to meet these goals.

What they also agree to is to fundamentally alter the way the tobacco products are manufactured and distributed, and they accept the regulation of tobacco products by the U.S. Food and Drug Administration, so-called FDA.

If tobacco companies fail to abide by the terms of this bill, they are not going to be eligible for the liability cap. The liability cap is something that helps the companies reach some certitude of what their payments are going to have to be. But if they don't meet these terms, they lose the rights under the cap. If they fail to meet the annual youth smoking reduction targets by more than 20 percent in any given year, they lose the protection of the cap. If they are caught evading the antismoking provisions, they lose the protection of the cap. So this isn't some giveaway to the tobacco industry. It is a necessary trade-off to obtain a strong national tobacco control policy.

At the end of the day, when all is said and done, we hope the tobacco industry will return to the table and sign the consent decrees which will accompany this bill. If the Gregg amendment is adopted, it reduces, obviously, the chances for that occurring.

What is the incentive for a tobacco company to come to the table if they lose even this cap protection? If we all are for obtaining the strongest possible antitobacco policy, then we ought to vote to table this amendment; that is, the amendment of the distinguished Senator from New Hampshire.

President Clinton supports the cap, as do many others who want a tough national policy to discourage youth smoking. Giving some predictability to tobacco companies who are willing to change the way they do business, it seems to me, is a small price to pay to get them at the table and participating in implementing these tough policies—indeed, the advertising policies to cease certain types of advertisements and to enter into other kinds of advertisement directed toward encouraging young people to give up smoking or to deter them from taking it up in the beginning.

So, Mr. President, I believe that the cap is a very worthwhile part of this McCain bill. And I urge my colleagues to reject the proposed amendment.

I thank the Chair.

Mr. MACK. Mr. President, there are few industries I consider more vile than the cigarette manufacturers. I believe they lied to the American people and knowingly addicted millions to their harmful product. It is with this disgust and anger in mind that I encourage my colleagues to vote against the Gregg Amendment.

Although at first blush it may seem the "right" thing to strike the liability cap if we want to punish the tobacco manufacturers, in effect we will have done exactly what they want us to do: Kill the bill. We should first ask ourselves what we are trying to accomplish with this legislation: Reduce teen smoking, fund worthy tobacco-related programs while holding harmless innocent parties such as farmers. Would the Gregg Amendment further any of those goals? No.

The provision stricken by this amendment does not grant immunity to anyone, rather it sets a yearly cap on what they will pay and allows us to charge fees, put in place advertising restrictions and conduct strict oversight. In essence, it keeps the companies out of bankruptcy thereby allowing us to keep a close eye on them and force them to undo some of the damage they have done. The liability cap of $8 billion per year cuts off no one's rights or payments, other than for those who want to settle their claims. Taking it away would likely result in many aggrieved parties going unpaid because the companies would file for bankruptcy protection, effectively shutting out meritorious plaintiffs from recovery.

For those of my colleagues worried about the tax burden imposed by tobacco legislation, I would think they would all vote against this amendment as well. If the Gregg Amendment is passed and the liability cap stricken, the fee would then become a pure tax and the overall tax burden on the American public would likely double. Here's why: The current bill would then not settle any state lawsuits, but rather simply impose a tax of at least $1.10. Because those state suites would continue, and likely be successful or settled, we should expect that the states will begin to impose their own taxes on tobacco. That means we see a $2–3.00 per pack increase in taxes—which is outrageous. In short, if you want to do nothing but tax and spend, vote for the Gregg Amendment. If you actually want to try and solve some of the problem of reducing teen smoking you should vote against it.

Mr. HARKIN. Mr. President, we are engaged in a historic debate and action on a plant that brought death and disease to millions of people in this country for 300 years. The outcome of our work will determine whether this nation moves to a sensible tobacco policy that will prevent the premature death of millions of our children or continues on the path of death and disease.

This is truly a historic, once in a lifetime opportunity to save lives and protect children. When else have we had legislation before us that truly could save millions of American lives? It is an opportunity I've been working towards since 1977 when I first introduced legislation to end taxpayer subsidies to tobacco advertising.

The need for bold action couldn't be clearer. Today, as in any other day, 3,000 children in America will take up a deadly habit that will cut 1,000 of their lives unnecessarily short. That's more than 3 jumbo jets full of children crashing every day. And the problem is getting worse. Smoking among high school seniors is at a 17-year high.

It is not reflected in this chart, but the CDC just reported that the percentage of high school students who smoke has increased from 27.5 percent in 1991 to 36.4 percent in 1997. They further found that a shocking 42.7 percent of students—and these are kids generally between 14 and 17—used cigarettes, smokeless tobacco or cigars in the past 30 days. We also know that the vast majority—fully 90 percent—of adult and lifelong smokers begin at or before their 18th birthday.

We can change all that. We know the key ingredients to reducing teen smoking. We know that a comprehensive set of reforms is needed. We need solid authority and resources for the FDA to oversee tobacco products. We need an aggressive education and counter advertising effort. We need community-based prevention. We need to expand our research. We need to have strong financial incentives for tobacco companies to take every action to cut teen smoking. And, most importantly, we need to price cigarettes out of the range of children.

Every major public health expert agrees that the single most important component of a comprehensive strategy to cut child smoking is a sudden and significant price increase. This is the centerpiece of S. 1889, the KIDS Act, I introduced with Senator JOHN CHAFEE and Senator BOB GRAHAM. Our bipartisan legislation provides for a $1.50 increase in the per pack price of cigarettes—$1.00 the first year and another 50 cents the next.

As Dr. C. Everett Koop and Dr. David Kessler said, this proposal is "tough medicine for a tough problem."

Our approach, according to the CDC and other experts, would cut smoking by children in half, over the next three years. That's the sharpest and fastest reduction achieved by any bill proposed to date.

The bill before us, as reported out of the Commerce Committee, has a number of commendable features. In many ways it is very similar to the Harkin-Chafee-Graham KIDS Act. It has strong FDA provisions, strong public health provisions and its look-back and liability provisions have been substantially improved. We are very pleased that much of our work is reflected in the bill and we commend Senator MCCAIN for his good efforts.

However, on the crucial question of price, the bill is inadequate. The bill would increase the price of a pack of cigarettes by $1.10 over 5 years. To have the greatest impact on teen smoking the price should be increased by at least $1.50 a pack over a very short period of time.

I will be doing everything, working with my colleagues, on a bipartisan basis, to correct this fundamental shortcoming of the pending measure.

While I'll have a lot more to say about many aspects of this legislation, I want to focus the remainder of my remarks today on this critical issue of price. I do this not only because it is the most important feature of the legislation, but because it has been the focus of an onslaught of misleading television, radio and print ads as well as statements and mailings by the tobacco industry in my state of Iowa and around the nation.

The tobacco companies have been making a number of false arguments about the impact of increasing the price to cut down on teen smoking. Most disturbing have been their statements that teens don't respond to price increases—that increasing the price won't have an effect on the rates of underage smoking.

These accusations are not only run counter to the finding of every major public health organization and countless economists and studies, they contradict the industry's own internal documents and analyses that they tried to hide from the American people for so long.

Many studies published in respected journals have clearly documented the impact of price increases on teen smoking. The most recent estimates from the CDC is that for every 10 percent increase in the real price of cigarettes, the prevalence of teen smoking is cut by 7%.

In its report this year, Taking Action to Reduce Tobacco Use, the Institute of Medicine of the National Academy of Sciences concluded that "the single most direct and reliable method for reducing consumption is to increase the price of tobacco products. . . ."

In 1994, the Surgeon General's report Preventing Tobacco Use Among Young People concluded that increases in the real price of cigarettes significantly reduces cigarette smoking and that young people are at least as price sensitive as adults.

And we have to look no further than our neighbors to the north—Canada—to find a real world example of the impact of price increases on teen smoking. As this table shows (attached) when real prices in Canada increased from $2.09 to $5.42, the number of 15–19 year olds smoking fell from 42 percent to 16 percent—a drop of 62 percent. However, when tobacco taxes were reduced, youth smoking began increasing after 15 years of decline.

As I said earlier, in addition to the abundant evidence on youth smoking and price, the tobacco industry themselves have admitted this in a number of their internal documents. For example, a 1981 Philip Morris document said, "In any event, and for whatever reason, it is clear that price has a pronounced effect on the smoking prevalence of teenagers. . . ."

A 1987 Philip Morris document further details their knowledge and concern about the relationship to price and hooking kids as the next generation of smokers. The document says:

> You may recall from the article I sent you that Jeffrey Harris at MIT calculated, on the basis of Lewit and Coate data, that the 1982–83 round of price increases caused two million adults to quit smoking and prevented 600,000 teenagers from starting to smoke. Those teenagers are now 18–21 year olds . . ., 420,000 of the non-starters would have been PM smokers. Thus, if Harris is right, we were hit disproportionately hard. We don't need to have that happen again.

A 1982 RJR Reynolds document—that I ask unanimous consent to have included in the RECORD at this point—states clearly that an increase in the price of cigarettes will result in "thousands of new smokers lost." This document says that a 15.1 percent increase in the real price will result in the loss of 93,000 "new smokers" aged 13 to 17 years old.

So when the tobacco companies now argue that increasing the price of tobacco products won't impact youth smoking—they are once again blowing smoke. They are once again trying to deceive the American people.

So, Mr. President, we have important work to do this week. We have the opportunity to do a lot of good and strike a blow for our children and for public health. I look forward to working with my colleagues, on a bipartisan basis, to seize this opportunity.

Tobacco reform is the issue of 1998. It is the crown jewel of this Congress. And passing a strong comprehensive tobacco bill is an opportunity we simply can't let pass by.

Unfortunately, victories in the tobacco wars have come few and far between. In 1988, we finally changed Federal law on smoking in airplanes. It was a full ten years later, and after failing one time, the Senate took its next step last September by passing the Harkin-Chafee plan to fully fund enforcement of the FDA youth ID check.

But I am more hopeful now than ever that we can pass a comprehensive plan that would once and for all change how this nation deals with tobacco and dramatically cut the number of our kids addicted to this deadly product. Mr. President, our goal is to be on the Senate Floor three years from now announcing that indeed, child smoking has been cut in half. We should all put our energies into making that happen.

Mr. FRIST. Mr. President, I rise to speak about the pending tobacco legislation. I am concerned that we have gotten off track in our consideration of comprehensive tobacco legislation and the importance of preventing children smoking.

Our focus must be youth smoking.

In an earlier speech on this floor, I reminded my colleagues of some of the alarming statistics about youth smoking. I will not dwell on all of those statistics; however, it is important to remember that 3,000 kids will start smoking today, and 1,000 of those children who start smoking over these 24 hours will die prematurely. Our purpose is to prevent these deaths.

I urge my colleagues to focus on the health of our children, and their children—to keep in mind youngsters traveling that tricky path from childhood to adulthood, surrounded by temptations and convinced of their own invincibility. What can we do to make it more likely that these children will arrive at adulthood without crippling addictions?

Mr. President, before answering that question and discussing the pending legislation, I want to pause and recall some recent history that helps explain how we have reached this point in the legislative process.

For many years, individuals were not successful in suing the tobacco industry because of the "assumption of risk" doctrine. No jury would side with the plaintiff because the smoker assumed the risks associated with smoking. However, a group of State attorneys general got together and started suing the industry to recover Medicaid cost for smoking related illness, thus avoiding the "assumption of risk" doctrine.

In the course of these lawsuits, internal industry documents were made public. From these documents, we learned that the Industry knew a lot more about the addictive nature of nicotine and the destructive effects of smoking tobacco than was previously thought.

Some states began to settle for huge sums from the tobacco industry. Mississippi settled in 1996 for $3 billion. Florida and Texas were the next to settle, for $11.5 billion and $15.3 billion respectively. And, as we have all read in the last week, Minnesota is the most recent to settle—at $6.6 billion.

In the spring of 1997, everyone came to the bargaining table—40 attorneys general, the industry, members of the plaintiffs' bar, and public health groups. They all sat down and worked out an historic tobacco settlement on June 20, 1997. The basic elements of the June 20th settlement included:

Industry payments of $368.5 billion over 25 years—to be funded by raising the price of cigarettes by $.70 per pack over 10 years;

Advertising restrictions—the industry voluntarily limited its First Amendment rights;

Youth access provisions and tough licensing for retailers who sell tobacco;

$2.5 billion per year for smoking cessation programs, public education campaigns and state enforcement;

FDA authority to regulate tobacco and smoking;

No class action suits or suits by any government entity;

Immunity for the industry from all punitive damages for past actions; and

Individuals were allowed to bring suits to recover compensatory damages for past conduct and compensatory and punitive damages for future conduct.

Because the settlement required the enactment of federal law, it came before Congress. We are here because the June 20th settlement requires us to be here. Implementing the provisions of that settlement, or provisions similar to it, requires federal legislation.

As we all know, several committees had jurisdiction over different provisions in the June 20th Agreement. Judiciary obviously had its role; the Labor Committee had its expertise in the public health programs and the FDA authority; Finance had jurisdiction over international trade aspects; Commerce, the liability and interstate commerce expertise; and the Agriculture Committee had a keen interest in the effects this type of unprecedented legislation will have on farmers—the one group not invited to the bargaining table during settlement negotiations.

After months of work, it became clear that it was impossible for all of these committees to put together their respective pieces of a comprehensive package in a vacuum. The Majority Leader asked Chairman MCCAIN to take on the herculean task of crafting comprehensive legislation to address underage smoking through the Commerce Committee.

The bipartisan bill produced by Senator MCCAIN and the Commerce Committee is by no means perfect. Even Senator MCCAIN admits that. But it is important that we not lose sight of the Commerce bill's virtue: it is a comprehensive approach. It is vital that the United States Senate address children smoking in a timely, thoughtful manner—the Commerce bill gives us the structure for doing this.

I return, then, to our central legislative focus: preventing youth smoking. After 6 hearings in the Labor Committee, 11 hearings in the Commerce Committee, and chairing a hearing on October 27, 1997 in my subcommittee on Public Health and Safety, I am convinced that the goal of cutting underage smoking in half over the next 10 years can be achieved only by a three-component comprehensive strategy. All three parts are necessary. No single part will accomplish this goal.

1. First, we must address advertising targeted to children. An article in the Journal of the American Medical Association reported on February 17 that advertising is more influential than peer pressure in enticing our children to try smoking, and it estimated approximately 700,000 kids a year are affected by advertising. The industry cannot continue to target kids, our society must stop glamorizing smoking on television and in the movies, and we must restrict advertising at sporting events and near our schools.

We tell our kids not to smoke, but then we look the other way when retailers sell to kids. We tell our kids that tobacco will shorten their lives, but clever advertising drowns out our message. So, we must restrict tobacco marketing that appeals to kids, but I know that the industry, like all industries marketing legal products, has substantial First Amendments rights that must be respected.

2. The second element of a comprehensive program is that there must be strong, effective public health initiatives, including tobacco-related research, treatment and surveillance. A bold effort is necessary to keep people from starting to smoke and to help people stop smoking. A strong commitment to basic science and behavioral research is critical. We need the very best scientific research on the physiology of nicotine addiction.

Such focused research made possible by this bill might even uncover a pill that eliminates the addictive nature of nicotine. Such a discovery alone would solve the destructive aspects of youth (and adult) smoking. This type of research might have benefits beyond tobacco; it also could be vital in our fight against substance abuse more generally.

3. Access is the third element. We must attack how easy it is for kids to get their hands on tobacco products. States must enforce the laws against youth smoking. Retail outlets must be a partner in our efforts to stop youth smoking. We must make vending machines far less accessible to kids. The price of cigarettes must go up—enough to discourage a teenager from purchasing, but not enough to create a black market—and there must be consequences for the underage teenagers who are caught with tobacco products.

As Chairman of the Public Health and Safety Subcommittee, I heard chilling testimony from teens about how easily they purchased tobacco products. Nickita from Baltimore, now 18 years old, started smoking when she was 14. She testified that she would normally get her cigarettes from the store. She testified that she never had a problem buying cigarettes in the store, in fact, "people in my community as young as 9 years old go to the store and get cigarettes. They do not ask for I.D.s."

The lesson I learned from this testimony: We must enforce youth access laws. We must make it impossible for children to buy cigarettes in any neighborhood in this country. It is shameful that in America in 1998, a teenager can purchase tobacco in any of our neighborhoods.

Price is also a factor in access. While it is obviously only one of many factors, price does affect the level of a product's consumption. Consumption had been decreasing in the 1970s; however, between 1980–1993 the downward trend accelerated, with consumption falling by 3% a year at the same time that the inflation adjusted price of cigarettes increased by 80%. In addition, the early 1990s saw price cuts, and consumption leveled off with only modest decreases in price until 1996. Then, in 1997, prices rose by 2.3%, and consumption fell again by 3%.

Expert testimony, based on data from this country and others, clearly demonstrates that the price of cigarettes affects consumption. But a higher price alone won't solve this problem; a comprehensive solution is necessary.

Mr. President, I believe the Commerce Committee's bill is a good start toward addressing all three aspects of a comprehensive package: advertising, public health, and access. It also addresses an issue ignored by the June 20th settlement: tobacco farmers. These farmers were not at the table during the negotiation of the June 20th agreement. The industry ignored them.

The attorneys general ignored them. Yet these hardworking men and women bear absolutely no responsibility for ads targeting kids or for underage sales. These men and women work hard for modest incomes, and we cannot ignore the impact that this legislation will have on their circumstances. The Commerce bill tries to rectify this oversight.

So, the Commerce bill addresses the three areas a comprehensive approach must include, and it protects tobacco farmers. That does not make the bill ideal. It is by no means perfect; however, it is not necessarily guilty of all the charges lodged against it.

Some urge that the bill is merely an attempt to destroy an industry that is producing a legal product, by raising the price too much. This is a legitimate concern. Are the numbers in the Commerce bill too high? We have had countless numbers of financial experts come before several of the committees of jurisdiction, and no one agrees on the answer to this question. Wall Street, the Treasury Department, and public health groups all have different levels.

We do know one thing: the industry agreed to $368.5 billion in exchange for some assurances that they were immune from future cost of unpredictable lawsuits. Maybe the Commerce bill's figure of $516 billion is too high without similar assurances of protection. The industry obviously feels it is. But we know we cannot always trust the industry. I hope that, through our debate here, we can find common ground on the issue of the tobacco industry's payments.

I do not believe that those who support a comprehensive solution to teen smoking are trying to destroy the industry. Tobacco products are legal to manufacture and consume. We are engaged, however, in the tricky exercise of finding a price level that will help diminish teen consumption without bankrupting the industry or creating a black market. I am confident that we can work together in good faith to find that price.

I am gratified that the Senate rejected Senator KENNEDY's amendment, which would have treated industry payments as an excise tax of $1.50 per pack. This $1.50 tax was too much. The proponents were no longer as concerned with a comprehensive program targeted at preventing children from smoking as they were with enacting an excessively punitive excise tax, which would have punished smokers—who we need to be helping—and hit the working poor the hardest.

There is a temptation, especially among those who are always searching for revenue streams, to seize upon the opportunity of an excise tax to raise vast amounts of funds for other initiatives. We should be guided by health objectives and not by the search for revenue streams. The funds generated by the agreement should be used for tobacco related and health related activities—not the creation of new entitlements.

Mr. President, let me also address a related issue the tobacco industry is raising: Is the Commerce bill just a big tax bill? I find the industry's complaint that it is somewhat ironic. As I already noted, the industry volunteered to make over $368 billion in payments—all passed on to the consumer—as part of the July 20th payment. The industry called that payment a "voluntary payment." That level was simply not enough; for one thing, it did nothing for the tobacco farmer, who was abandoned by the industry. Something more than $368 billion was necessary.

Yet now the industry complains that the entire amount of the payments included in the Commerce bill is a "tax." Maybe, as I said, the Commerce bill's payments are too much. But it is disingenuous for the tobacco industry to now contend that the payments are all a tax; they came to us and sought our legislation, and they volunteered over $368 billion. We upped the ante a bit—in large part to protect farmers—and now it's suddenly a giant tax. We cannot treat this argument too seriously.

I want to emphasize how much more effective we can be with a settlement. We must have an industry that doesn't market to kids—a settlement gets us that—a price increase alone does not. Without the cooperation of the industry, there is no doubt that this bill will be held up in the courts—putting us years behind in our effort to reduce smoking. The industry does have First Amendment rights, and it can exercise them.

I invite the industry to come back to us and provide us with credible information about the level of payments they can afford. The industry can work with us to prevent youth smoking—or it can distort the record and continue to be vilified in the public eye. For the sake of stopping children smoking, I prefer that the industry rise above causing the problem of youth smoking and be part of the solution.

Some have charged that the Commerce bill is too bureaucratic. I believe that our families, communities and states should be empowered to fight teen smoking in the manner most suitable for the concerns of that state or community. We don't need big federal government structures to achieve our goal. The Manager's Amendment to the Commerce bill has done a good job of streamlining the bureaucracy it originally created. I am especially supportive of the increased empowerment and flexibility given to the States for the use of funds and for control over the public health initiatives.

Having said that, a comprehensive approach to prevent youth smoking isn't a simple undertaking. If we are after results, there must be a structure in place. I believe that we can effectively and efficiently use existing structures, in conjunction with the States, to have a comprehensive approach. Indeed, I played a crucial role in helping draft those portions of the Commerce bill dealing with the Food & Drug Administration. These provisions have earned widespread support, and I spoke on the floor Monday to explain them. They prove that we can use an existing agency to implement commonsense regulations to reduce youth smoking.

Another criticism of the Commerce bill concerns the possibility that it may create a black market. We should be realistic about the possibility of a black market. If we create a black market by raising the price too high—as was done in Canada—then we will lose all control over youth access. Again, this is one reason I voted against Senator KENNEDY's $1.50 per pack tax. Instinctively, and based on testimony to the Commerce Committee, I believe that price level is too high.

In short, Mr. President, I do have concerns with some parts of the Commerce bill. For this reason, I will be open-minded in considering amendments to it. The Commerce bill is a good starting point, but it is only a starting point. We can and should improve on it—as long as we do not lose sight of our ultimate objective: a comprehensive approach to prevent teen smoking.

The single criterion I will employ in assessing the amendments that come before the Senate is this: Is the amendment likely to complement a comprehensive strategy to prevent teen smoking? In other words, does it help restrict advertising targeted at children, promote public health, and address access to tobacco? If so, I will consider it; if not, I will reject it.

I respectfully suggest, Mr. President, that my colleagues keep the same focus. Rather than attempting to treat the tobacco bill as a new revenue stream—like my colleagues who want a $1.50 per pack excise tax—and rather than treating the bill as a chance to create many new federal programs, I urge my colleagues to focus on the children who will start to smoke during this debate. One-third of those children will die prematurely because they started to smoke. We must focus on stopping them from smoking.

Four years ago, I was saving lives as a heart and lung surgeon. I saw the ravages of tobacco in the operating room. The people of Tennessee elected me to use common sense to advance the public good. I submit that crafting a comprehensive approach to keep children from smoking is a chance for the Senate to save lives through the exercise of common sense. I urge my colleagues not to stray from that goal.

Mrs. MURRAY. Mr. President, we are engaging in one of the most important public health debates of this generation. We have a historic opportunity to enact a comprehensive, national antitobacco strategy to end the plague of death caused by smoking. As I listen to the debate here in the Senate I am discouraged by much of what I hear. This is not about taxes, or tax cuts. This is not about what the tobacco companies get or don't get in the deal. This is not about First Amendment rights or increased litigation. This is about one thing and one thing only. Will we stand up to the tobacco companies for our children?

Will the U.S. Senate say enough is enough. Will we fight to prevent the deaths of five million children under age 18 who will eventually die from smoking-related disease? Or will we allow the tobacco companies to shape the debate and beat back our efforts to protect children. Today, 4.1 million children age 12 to 17 are current smokers. Isn't this enough for the tobacco industry? Are we going to sacrifice more of our children?

I have listened very carefully to all sides on these issues. I have been told that a tax that is too high will bankrupt the industry. I have been lobbied by many claiming that without special deals, the tobacco companies will not agree to restrict advertising or will litigate this legislation to death. But, I have also heard from pediatricians; public health officials; former Surgeon General C. Everett Koop; and many Washington State members of the American Cancer Society, who have expressed their concerns by illustrating the human costs of the lies and deceit utilized by the tobacco companies.

Tobacco kills more than 400,000 Americans every year. More people die in this country from smoking related illness than from AIDS, alcohol, car accidents, murders, suicides, drugs and fires. Twenty seven percent of Americans who die between the ages of 35 and 64 die from tobacco-related diseases. Isn't this enough? Why has it taken us so long to get to this point of the debate? 400,000 Americans die each year while we do nothing.

We owe our children more. I owe the children of Washington State more. I have an obligation to push for the toughest tobacco bill possible. I can promise you that on my watch the tobacco companies get no special deal and that protecting our children is what controls the debate. It is not what can the tobacco companies live with, but is right for our children.

The tobacco bill that I support will have economic sanctions that will force corporate culture changes by the industry. I will support efforts that penalize the companies if they continue to prey on our children. And I will not support anything that forgives an industry that sold a product that could potentially kill five million children alive today.

I have made some difficult decisions and votes throughout this process. But, I am proud of my votes to increase economic barriers to prevent children from purchasing cigarettes. I know the tobacco companies hate these kind of barriers. As we discovered in an internal Philip Morris document from 1981, "In any event, and for whatever reason, it is clear that price has a pronounced effect on the smoking prevalence of teenagers." There is no dispute on the sensitiveness of children to price increases. Both public health advocates and the tobacco companies agree. The public health community supports these barriers and the tobacco industry fears them. But some in the U.S. Senate disagree that price matters. I stood up and said no you will not addict 3,000 children a day with cheap cigarettes.

Some of us argue on the floor that without special immunity protection or predictability, the tobacco companies will never accept tough advertising restrictions or consent to FDA regulation. To this I would respond simply by saying if we make the look-back surcharges so tough that without major cultural changes companies will see profits evaporate, we will get our advertising restrictions. If we show that these advertising strategies are aimed at our children we will get these restrictions. We do not need to give special deals that allow tobacco companies to walk away from their responsibilities.

The tobacco companies have lied to Congress and the American people now they want to negotiate in good faith. In the 1980's, there was legislation in the House of Representatives regarding safe cigarettes. There is technology that would allow tobacco companies to manufacture a cigarette that was almost fire safe. The Safe Cigarette Act, introduced by Representative MOAKLEY was fought at every level by the industry. They claimed that it was not cost effective to make a cigarette that would prevent the tragic death of children in fires caused by a carelessly discarded cigarette. Saving children from a horrific death from fire was not enough of an incentive for the manufacturers to sacrifice some of their billions of dollars in profits. Instead they sacrificed children.

Now the industry wants immunity. We are supposed to give them caps on their liability and responsibility in exchange they will become responsible corporate citizens. This claim simply has no merit. They do not deserve any special deals.

Will the tobacco companies challenge these provisions in court? It is hard to imagine an industry that has patented their own brand of litigation and used legal maneuvers to hide their deceit and lies, walking away from another opportunity to challenge restrictions in court. If this industry wants to tie this up in court for years to come, I would say we need to make the look-back surcharges so tough that their own stock holders will not allow this kind of irresponsible behavior. I caution the tobacco industry—if you want to spend the next few years litigating instead of cleaning up your practices you may very well become extinct in the next Century. What would the world be like without the plague of tobacco? Maybe this is what the industry should ask the American people?

I urge my Colleagues to think long and hard about this debate. We will never get another chance like this one to really make the world a safer and healthier place for our children. Let's side with our children today instead of the tobacco companies.

Mr. WYDEN. Mr. President, the international provisions of the tobacco legislation have been the subject of many hours of discussion and negotiation. The current provisions serve as a strong platform that I hope this body will continue to build upon in the years to come as we seek to protect all children from the diseases and the economic costs brought about by tobacco use. I received letters which demonstrate the breadth of support and the importance the public health community places on maintaining the international tobacco control provisions in the tobacco legislation.

I ask unanimous consent to have these letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

EFFECTIVE NATIONAL ACTION
TO CONTROL TOBACCO
May 20, 1998.

Hon. RON WYDEN,
Hart Senate Office Building,
U.S. Senate, Washington, DC.

SENATOR WYDEN: Last summer's agreement between the tobacco industry and the Attorneys General was flawed because of its failure to consider international tobacco and health issues. We commend you for your strong leadership on this issue and support your efforts to ensure the greatest level of protection possible from tobacco for all children.

The international provisions in S. 1415 represent a good start. It is vital, however, that they not be weakened at all and that serious consideration be given to strengthening them.

Thank you for your tremendous leadership in protecting people from tobacco. We look forward to working with you on this issue.

Sincerely,

American Association of Physicians of Indian Origin; American Cancer Society; American College of Preventive Medicine; American Heart Association; Association of Teachers of Preventive Medicine; Campaign for Tobacco-Free Kids; Interreligious Coalition on Smoking OR Health; Latino Council on Alcohol and Tobacco; National Association of County and City Officials; Partnership for Prevention; Summit Health Coalition.

LATINO COUNCIL ON
ALCOHOL AND TOBACCO,
Washington, DC, May 19, 1998.
Hon. RON WYDEN,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR WYDEN: The Latino Council on Alcohol and Tobacco (LCAT), members of the Hispanic Health and Education Working Group and other Latino professionals want to thank you and your staff for your hard work in supporting international provisions for tobacco control. You and your colleagues are putting forth a signal, a good beginning, a starting point for assuring that the children of the world will be protected from the unacceptable practices of the tobacco giants.

Latino parents, educators and public health experts believe that US standards should be upheld worldwide. Federal workers should not support tobacco companies or their subsidiaries abroad. International agencies such as the World Health Organization and the Pan American Health Organizations and non-profit organization should receive funding for their efforts to prevent, treat and stop the spread of smoking related diseases. Anti-smuggling provisions should be strengthened. The US should be a leader in the fight against the spread of tobacco related diseases. You have made it clear through your efforts that public health has no boundaries.

We trust that you will continue to work on international tobacco control. We thank you for your leadership and commitment to these issues.

Sincerely,

JEANNETTE NOLTENIUS.

AMERICAN LUNG ASSOCIATION,
May 19, 1998.
Hon. RON WYDEN,
U.S. Senate, Washington, DC.

DEAR SENATOR WYDEN: Thank you for your commitment to protect the world's children from tobacco. The American Lung Association shares your concern that children around the world are prime targets for the tobacco industry. The international provisions of S. 1415, as amended, represent a strong first step toward curbing the worldwide tobacco problem that the World Health Organization calls a global epidemic.

The result of tobacco legislation should not be to redirect the tobacco industry's focus from America's children to children elsewhere around the world. Because of your efforts, the bill's international measures will fund a public health effort around the world, require cigarette labeling and permanently stop the U.S. government from marketing and promoting the export of cigarettes. We cannot allow this progress to be rolled back by weakening amendments on the Senate floor.

Strong international tobacco control measures are part of the sound tobacco control policy outlined by the public health community and leaders like Dr. Koop and Dr. Kessler. This approach also includes a significant increase in the cigarette excise tax, full authority for the Food and Drug Administration, complete document disclosure, strict penalties on the industry for marketing to children, protection from environmental tobacco smoke, potent public health programs and, of course, no special protections, like immunity or caps, for the tobacco industry.

Sincerely,

JOHN R. GARRISON,
CEO and Managing Director.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah is recognized at this time.

Mr. KERRY. If I could just ask a parliamentary, procedural question.

Mr. HATCH. I will be happy to yield without losing my right to the floor.

Mr. KERRY. Mr. President, with the agreement of the Senator from Arizona, we want to try to structure the order for the next three speakers, if we could. I ask unanimous consent that after the Senator from Utah speaks——

Mr. MCCAIN. Senator DASCHLE.

Mr. KERRY. The minority leader be recognized; and after the minority leader, the Senator from New Hampshire be recognized——

Mr. MCCAIN. Then do a tabling motion.

Mr. KERRY. At which point, Senator MCCAIN will move to table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KERRY. I thank the Chair. And I thank the Senator from Utah.

Mr. HATCH. You are welcome.

A critical component of our debate must be the issue of this bill's constitutionality. This is a matter of extreme seriousness.

We are considering a bill that is fundamentally flawed with respect to its constitutionality. And that is despite the fact that each one of us swore to uphold the Constitution of the United States of America when we were elected and sworn into this office.

Many skeptics, particularly in the media, contend that Congress will pass for political reasons any measure that gains any sort of consensus, even if it violates the Constitution.

I reject that. I certainly hope they are wrong. I believe that the most important job that members of Congress have is to protect, preserve, and defend the Constitution of the United States. And, as Judiciary Committee chairman, I take this job very seriously.

Why? The answer is, for over 2 centuries the Constitution has been the genesis of our liberty and a source of America's amazing growth and prosperity.

The Constitution fosters liberty and prosperity by circumscribing Government's ability to interfere in the lives of the people. Thus, our Government is termed one of limited powers.

In fact, I believe that the structure of the Constitution—the separation of powers, checks and balances, and federalism—and not the system of courts, is the best protection of our liberties.

The salient fact is that the Constitution itself was designed to be, in the words of Alexander Hamilton in the Federalist No. 84, "in every rational sense, and to every useful purpose, a bill of rights."

One such constitutional mechanism to protect liberty is limiting Congress' legislative authority to only those laws that are reasonably derived from its enumerated powers contained in Article I of the Constitution, which in practice means that such laws must be consistent with the meaning of the Constitution's provisions and the Bill of Rights. As such, Congress has a special role in defending the Constitution and safeguarding our liberty by policing itself and by controlling its own appetites.

I wholeheartedly agree with the sentiment of Justice Oliver Wendell Holmes, who in 1904 gave the opinion that, "It must be remembered that legislatures are the ultimate guardians of the liberties and welfare of the people in quite as great degree as the court[s]."

So this is why we are having this debate—to exercise our authority to ensure that any legislation that is passed is, in fact, constitutional. Let us confound the cynics by doing the right thing.

I pray that the Senate will consider the constitutionality of the floor vehicle and any other bill offered as a substitute. To skirt this issue would be to violate our very oaths of office.

I believe that the bill now being considered in this chamber suffers from a number of serious constitutional problems.

These problems permeate the bill.

Besides jurisprudential concerns, there are significant practical considerations, because passage of the bill could result in constitutional challenges that, if successful, will nullify the key sections of the bill. This is true for the bill as reported, the bill as rewritten over the weekend, and the bill as modified on the floor on Monday. Removal of many "consensual" items to a new title XIV has not addressed these concerns.

Mr. President, if key provisions in the bill are nullified, the efforts of Congress to enact an effective and truly comprehensive antismoking, antisnuff, plan will be severely impaired and virtually nothing will have been done to effectively reduce youth smoking.

I want to stress that the constitutional problems primarily arise because the Commerce version and several other major bills have moved from being a codification of the June 20, 1997, proposed agreement—which contemplated voluntary participation of the tobacco companies—to tax-and-spend and command-and-control legislation.

Without the voluntary participation of the tobacco companies—and the State attorneys general—both the so-called "look-back" provisions and advertising restrictions contained in this Commerce bill become constitutionally problematic. These and other constitutional problems raise first amendment, bill of attainder, takings clause, and due process clause issues.

More specifically, without the voluntary cooperation of the parties, the advertising ban contained in S. 1415 as amended will probably fall. This is a shame, because almost all health experts believe that restricting advertising is necessary in order to reduce teen smoking. The advertising restrictions in the Commerce bill are contained in both the protocol and in a section that codifies an FDA rule that also restricts otherwise lawful tobacco advertising.

The Supreme Court, in the 1996 decision 44 Liquormart, Inc. v. Rhode Island, emphasized that any restrictions on truthful advertising must receive the highest scrutiny, and be narrowly tailored to meet the statutory goal. They required that other less restrictive alternatives be employed to resolve problems before speech is censored.

The majority of scholars and lawyers who have looked at the issue agree that unless the tobacco companies voluntarily waive their constitutional rights, which is what they did in the June 20, 1997, agreement, most restrictions on the advertising of a lawful product, such as tobacco, would run afoul of the first amendment.

Indeed, most conclude that the restrictions contained in the protocol and FDA rule are not narrowly tailored and that other alternatives exist to reduce teen smoking.

Experts from the left to the right agree. Professor Laurence Tribe of Harvard Law School; Judge Robert Bork; Floyd Abrams, one of the most notable first amendment lawyers; the liberal ACLU and the conservative Washington Legal Foundation, all oppose these advertising restrictions as unconstitutional. It does not matter whether the restrictions arise from the codified FDA rule or in the settlement itself, both are unconstitutional. Let me just read to you some of their views.

Let us take the testimony of Floyd Abrams before the Senate Judiciary Committee on February 10, 1998:

> Any legislation of Congress which would purport to do by law what the proposed settlement would do by agreement in terms of restricting constitutionally protected commercial speech, is, in my estimation, destined to be held unconstitutional. . . . It is unlikely that, at the end of the day, the FDA's proposed regulations could survive First Amendment scrutiny.

That was given before the Senate Judiciary Committee on February 10, 1998.

Let me go to the next chart here. These are quotes by the American Civil Liberties Union to the Senate Judiciary Committee on February 20, 1998.

> Both the legislation and proposed regulation by the Food and Drug Administration. . . are wholly unprecedented and, if enacted, will most likely fail to withstand constitutional challenges.

There are solid arguments.

Let us go to the next one.

The next chart is of Judge Robert Bork, dated January 16, 1996, when he said:

> The recent proposal of the FDA to restrict severely the First Amendment rights of American companies and individuals who, in one way or another, have any connection with tobacco products [is]. . . patently unconstitutional under the Supreme Court's current doctrine concerning commercial speech as well as under the original understanding of the First Amendment.

Those are very strong arguments from well-established constitutional authorities.

I also have a letter, dated March 17, 1998, from Floyd Abrams, to Senator MCCAIN, concluding that the FDA restrictions are as violative of the first amendment as the somewhat broader advertising restrictions contained in the protocol of the Commerce bill. I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CAHILL GORDON & REINDEL,
NEW YORK, NY, MARCH 17, 1998.

Re proposed restrictions on cigarette advertising.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I take the liberty of writing to you with respect to the questions you posed to the Clinton Administration concerning its views about and general support of S. 1415. In my view, your questions were particularly well taken given that any ban on truthful advertising of products that may lawfully be sold to adults—whether of cigarettes or any other product—raises very serious First Amendment issues. Regrettably, the same cannot be said of the Administration's response to you by letter dated February 27, 1998. In that letter and its attachment, the Administration claims that the "significant constitutional concerns" and "difficulties" it believes are raised by S. 1415 are not presented by the proposed FDA regulations on tobacco product advertisements. That is not the case, not in my view nor that of many others who have studied the FDA rule and opined on its constitutionality.

The expansive sweep of the proposed FDA rule makes it no less constitutionally infirm than the advertising restrictions in S. 1415. The scope of the rule tells the story. All cigarette advertising would be banned in any media other than "permissible outlets" such as newspapers, magazines, periodicals and billboards. Those outlets would, in turn, be liable to criminal prosecution and the entry of civil injunctions if they published any cigarette advertisements other than ones in black and white text containing a second warning statement in addition to the current Surgeon General's warning. The only exception to the text-only requirement would be for certain "adult" publications, a category that apparently would exclude such mass-circulation magazines as Better Homes and Gardens, Life, National Enquirer, Newsweek, People, Popular Science, Sports Illustrated, and TV Guide. Adults, of course, comprise the vast majority of the readers of these publications.

That the proposed FDA rule's extreme breadth and rigidity would serve to all but ban cigarette advertising to adults should be indisputable. What else can be said of a proposed regulation which would ban all outdoor advertising within 1,000 feet—over three football fields in every direction—from any playground or school anywhere in the nation? The 1,000-foot rule seems particularly gratuitous in view of the fact that it would ban advertising that FDA, by virtue of its proposed text-only requirement, already has sought to strip of the features FDA claims make it appealing to young people. The unbridled sweep of these restrictions is in no manner tailored to their supposed aim. This is particularly true given the availability of far less speech-restrictive alternatives to an ad ban, including stricter enforcement of existing underage sales restrictions and enactment of tougher new laws against sales of cigarettes to minors.

The Administration cannot seriously quarrel with the reality that by so severely limiting the placement and the nature of "informational messages" that advertise tobacco products to adults, those messages will no longer reach them. That result, the Supreme Court repeatedly has held, is unconstitutional—the government may not "reduce the population . . . to reading only what is fit for children." *Butler* v. *Michigan*, 352 U.S. 380, 383 (1957), *see also Reno* v. *American Civil Liberties Union*, 117 S. Ct. 2329, 2346 (1997); *Sable Communications Inc.* v. *FCC*, 492, U.S. 115 (1989); *Bolgar* v. *Youngs Drug Products Corp.*, 463 U.S. 60, 71–72 (1983). In short, the FDA rule is no constitutional panacea. It, too, suffers the same fatal flaws evident in any scheme seeking broadly to ban truthful, nondeceptive advertising for a legal product.

In sum, I respectfully submit that the proposed FDA regulation could not withstand judicial scrutiny under the First Amendment.

Sincerely,

FLOYD ABRAMS.

Mr. HATCH. There are other provisions of the bill that are constitutionally infirm.

The look-back penalties in the Commerce bill, which are imposed on the tobacco companies if teen smoking does not meet certain goals for reduction, are subject to constitutional challenge unless they are voluntarily agreed to by the tobacco companies.

I must add that the Commerce bill now terms the penalties "surcharges," but this simply is an attempt to elevate form over substance. No matter how it is termed, these payments are the functional equivalent of fines.

Chief among the grounds for challenging this provision is due process.

The Supreme Court has held that imposed penalties must be related to the objective of the legislation. Penalties should not be imposed without a showing of fault. I refer you to the Vlandis v. Kline case (412 U.S. 441) in 1973 which held that penalties without fault create an "irrebuttable presumption."

Given what we know—or do not know—about how teens react to advertising, it is possible that even if the tobacco industry does all that it can to prevent teen smoking, the target will not be met.

Moreover, besides the look-back penalties, the Commerce bill contains an additional provision that companies lose their liability cap protection if underage smoking exceeds the targets by a set amount. This is also done without a showing of fault.

Thus, it is clear that a court would interpret the Commerce bill's penalties as punitive. It is possible, then, that the look-back provisions could fall under the provision in the Constitution that prohibits Congress from passing a bill of attainder.

I refer my colleagues to the Cummings v. Missouri case (71 U.S. 277) in 1867. George III and the Parliament had used bills of attainder to punish their political enemies, and the framers of the Constitution wisely forbade Congress from doing the same.

Certain payments made by the industry raise fifth amendment takings clause issues. For instance, it could be argued that some of the payments made by the industry constitute a forced seizure of money. The initial $10 billion up-front payment and the first six annual payments are owed regardless of whether there are any tobacco-related incomes and regardless of whether there are any tobacco sales.

I might also direct my colleagues attention to a new provision which extends liability to the parent companies of tobacco subsidiaries, such as R.J. Reynolds and Philip Morris, just to mention two. The effect of that provision would be to extend the penalties to the conglomerates' food business, for example, even though they have independent operations and no fault on their part has been shown.

These payments can neither be characterized as a tax or a licensing fee and would constitute uncompensated takings under the fifth amendment. I refer, for example, to *Webb's Fabulous Pharmacies, Inc.* v. *Beckwith* (499 U.S. 155, 162–163), a 1980 case where cash and bank account seizures were held to be uncompensated takings under the fifth amendment.

The current version of the Commerce bill requires all tobacco manufacturers to release attorney-client and work product documents to the FDA and establish, finance, and run a document depository. Now, while this is a worthwhile goal,

I believe that the wrongdoings of the tobacco companies have been hidden for far too long and this information should be brought to the light of day to help the FDA in regulating tobacco and assuring the public health.

What some of my colleagues fail to appreciate is that it must be done in a constitutional manner, or it is all for naught.

We must remember that the June 20 settlement agreement presupposed voluntarily participation by the tobacco companies in releasing proprietary documents and in establishing and financing the document depository. While litigation documents already made public can be forwarded to the FDA, it is problematic that the industry could be required to release additional documents, especially work product, confidential, or privileged documents. Such documents are properly defined by the fifth amendment. I refer you, for example, to the Nika Corp. v. City of Kansas City (582 F.Supp. 343 (W.D.Mo.)), a 1983 case, where the corporation's documents were held to constitute property under the fifth amendment.

Moreover, pursuant to the same theory, the forced funding by the industry of the depository—the leasing of the building, the salaries of the personnel—indeed as for any confiscation of cash or other valuable assets, would constitute a taking under the fifth amendment requiring compensation. I refer you to Webb's Fabulous Pharmacies, Inc.

Let me conclude my remarks by saying unless we have the voluntarily participation of the tobacco industry, I doubt that a comprehensive bill like the present Commerce bill could be implemented. Such a bill will undoubtedly be successfully challenged in the courts, and I believe the litigation and the inevitable appeals could take years to resolve.

In other words, I make the case that if this bill passes in its current form, without the cooperation of the tobacco companies, which will be the case, then it will be litigated for at least 10 years.

And in the end, I believe, it is likely to be overturned because it will be found unconstitutional. If that is so, then we are risking the lives of 10 million more kids who will become addicted to tobacco and die prematurely as a result of our failure to do the right thing, right now, on the floor of the Senate and in the House of Representatives.

It is important that these constitutional issues be addressed. It is important we not ignore the Constitution. It is important that we uphold the Constitution.

I know that the health of our children is of paramount concern to all of my colleagues. So let us at least do the right thing and pass a bill that is constitutional. The protection of the Constitution and the promotion of public health are not inconsistent goals. The American people demand both and we should give it to them.

I hope all who are here today will pause a moment to consider this.

The total cost of this bill has been estimated by some to be $516 billion, although I believe it is far higher.

It is estimated that the bill will result in a price per pack cost increase of $1.10 per pack, although this is at the manufacturers' level and I believe it will go higher.

There are a whole raft of other add-on costs not included in the $1.10 figure: the wholesaler and retailer markups; the impact of growing contraband sales which divert revenues; possible triggering of the look-back provisions; and new state excise taxes. That is why several analysts who have done detailed economic models have concluded that the cost will be over $5 per pack, or over $50 per carton, of cigarettes.

These are important considerations.

If we do not rectify the situation and approve a constitutional measure, then I think everybody who votes for this bill would deserve a great deal of criticism for what has happened. What really bothers me, to be honest with you, is how some who represent the public health community choose to ignore these issues. Their motives seem to be directed more at punishing the tobacco companies than at securing a tough, workable bill.

Nobody dislikes the tobacco companies more than I do, and nobody has fought harder to try to get the tobacco companies put in line.

But frankly, unless they come on board, unless we can bring them to the table, this whole thing could amount to an exercise in futility. The constitutionality issue is key here, and I just don't see how we can continue to ignore it.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Democratic leader.

Mr. DASCHLE. Mr. President, I know we are about to come to a vote on this amendment. I begin simply by complimenting the sponsors of the amendment for what I know is a well-intended effort to address one of the most consequential of all the issues we must face. I certainly don't deny a very strong case can be made for following through with what is described as the intent of this amendment. I happen to come down on the other side, and I am going to try to explain the reasons why I believe this amendment ought to be defeated. But it is not without high regard for the sponsors, both Senator GREGG and Senator LEAHY, and the effort they are making.

Let me just say, as to the question of immunity, one thing that I think needs to be said is that there is no immunity in this bill, period. There is none. No one should be misled. There is no immunity in this legislation. There are ways with which we deal with the tobacco companies and their legal standing, but no one should say that the bill provides immunity for the tobacco companies. On the issue of immunity, I think the managers of the bill have made great progress over the course of the last week. Working with the administration, they have improved dramatically what was done initially in the Commerce Committee. What the Commerce Committee itself did, in my view, is raise serious concerns that I, frankly, felt had to be addressed if, indeed, we were going to resolve the overall issue of how we approach tobacco policy in the future.

There were special protections for the tobacco industry that were written into the committee bill originally, which I believe were very, very seriously in error as a matter of public policy. For example, allowing parent companies of tobacco companies total immunity would have been wrong. To say that we are going to ban all claims based on addiction would have been wrong. To say that we were going to prevent State courts from hearing all claims would have been wrong.

Mr. President, I want to make sure that all of our colleagues understand that every one of those special provisions has now been eliminated. All of those special provisions no longer exist. The managers' amendment, which is now part of the bill, has eliminated all of them. The only remaining provision is a cap on yearly payments, and that cap has been raised from $6.5 billion to $8 billion. So before any Senator is called upon to make their vote, I hope they understand that simple fact—perhaps I should say those simple facts. There is no immunity in this bill; there are no special protections, unlike what was reported out of the Commerce Committee. What is left is a cap that has been raised by $1.5 billion annually.

Let me emphasize something else about that cap. The cap is available only to those companies that agree to additional advertising restrictions beyond what is contained in the FDA rule. They have to commit never to challenge the entire bill to be eligible to come under that cap. They can't advertise and they can't challenge the provisions of this legislation just to be eligible. And then there is one more thing. Everybody needs to understand that in order just to be able to do that, they have to pay out an upfront payment of $10 billion. So here is what we are offering the tobacco companies: You pay the country $10 billion; you agree to limit your advertising way beyond what the FDA rule will provide. You also agree not to challenge the provisions within this bill, and then we will fit you under an $8 billion liability cap. And only those companies which make those commitments are eligible. Only those companies that make those commitments will have State suits settled.

Any company that says, "Wait a minute, that is too high a price. You are asking me to limit my advertising way beyond what FDA is going to tell me. You are telling me that I have to accept every provision in this legislation. You are telling me I have to pay forth $10 billion, and if I don't do that, you are saying I still have to face all those court suits in the States"—well, companies that refuse to sign the provisions under this bill get absolutely nothing. So a tobacco company is faced with the prospect of coming under an $8 billion liability cap by agreeing to all these additional provisions or getting nothing, under this legislation. They will continue to face lawsuits in the States if they don't sign onto the provisions that we have laid out in this legislation.

But it even gets more complicated for tobacco companies. We are not giving anything away by putting in an $8 billion cap. We are getting something we can't get through our own legislation. We can't legislate the advertising restrictions that go beyond the FDA rule without raising first amendment questions. And we could not prevent the tobacco industry from challenging other provisions of the bill. That is a problem. The cap is our way of addressing that particular, very serious problem.

Let me remind my colleagues of what the tobacco companies have to do to come under that $8 billion yearly cap, beyond what I have already mentioned. Of course, I have mentioned the advertising restrictions. I have mentioned the upfront payment. I have mentioned that they have to agree not to challenge the terms of the legislation, not to challenge the FDA authority. They cannot challenge the look-back surcharges. That is, they can't challenge the provisions that hold them accountable for reducing youth and teenage smoking. They can't challenge those look-back provisions or any of the payments, for if they challenge any of that, it is all over and they are back right where they started. They fall outside the cap and they are subject to every single state lawsuit and the unlimited liability that they are facing right now.

Let me also remind my colleagues that the tobacco companies will lose the protection of the cap if they fail to comply with any one of the terms—not all of them; all they have to do is miss on one of them.

So, Mr. President, I don't know how you get any tougher than that. Even if the companies comply with all of those provisions, they could lose the cap for other reasons: If they miss the youth smoking targets by 20 percent or more, if they are caught smuggling or aiding and abetting smuggling, and if they fail to make an annual payment within the year that it is owed. All of those additional criteria are locked in with this bill.

So I don't know, Mr. President. It sounds to me like that is about as tough as it gets. First of all, they have more restrictions than they have ever had in any other set of circumstances. They are required to pay more money. They are subject to discipline each and every year with regard to an array of very tight provisions. And what they get in return is an $8 billion cap on liability.

Mr. President, I will oppose the Gregg amendment because I believe the managers' amendment approaches the issue in the right way.

It gives protection only to those tobacco companies that go further than we legislate, that acknowledge the need to limit advertising in a way that we can't legislate in this bill. The other tobacco companies, those that do not sign up, will have no cap and will continue to fight it out in the courts in all of the States where these cases are being contested.

I think we have to do all we can to reduce teen smoking. Additional advertising restrictions and a commitment made by tobacco companies not to challenge the law will increase our likelihood of success—not decrease it, increase it.

Mr. President, for all those reasons, as well-intended as this amendment is, I hope my colleagues will think very carefully and very conscientiously about how important this question before the Senate truly is. We must do what we can to ensure passage of this legislation, to ensure that we stay tough on these companies, that we make them to do what we know they must do to reduce teen smoking, and to comply with the intent and the spirit of our objectives in this law.

I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I understand the regular order is that I am recognized, and then the Senator from Arizona is to be recognized for a tabling motion.

The PRESIDING OFFICER. The Senator is correct.

Mr. GREGG. Mr. President, a lot of folks have spoken today, and I reserved commenting on each speech until this time. I recognize that we want to get on with a vote—I don't want to delay that process—but I believe a few points need to be made to clarify the ground, to blow the smoke away, if I may use that metaphor, from the issue.

Let's begin with the question of immunity and whether or not immunity is granted in this bill.

Immunity for the purposes of this debate has become a term of art. Like so many terms that we use here in the Senate, it may not be the most precise term but it is the term that accurately from the political standpoint defines the event here.

The fact is that under this bill the tobacco industry is going to be given a special preferential position in the order of American commerce, a position which no other industry will have, a position which is totally outside of the traditional manner in which we have managed our marketplace under our capitalist system.

The limitations in this bill on the ability of individuals who have been harmed by the tobacco companies are considerable. They are significant and they will impact people. Pure logic tells you this, because, obviously, if the argument is being made that the only way you can get the tobacco company to come back to the table is if you give them these protections, there must be something pretty darned substantive to these protections.

So very obviously the limitations which are being placed on the capacity of the American consumer to recover for the damage that has been caused to him or her by the tobacco companies are significant, if this bill passes. Let me list a few of them.

There will be limitations on the amount of recovery on punitive damages because there is a cap. There will be limitations on the amount of damages recovered from compensation damages because there is a cap. There will be a preemption of actions by States, municipalities, and counties for future claims. There will be immunity for wholesalers, retailers, insurers, and the ingredient suppliers for past and future claims. There will be, most importantly, a structure set up where the tobacco companies will pick who is going to be the winner and who is going to be the loser on the issue of lawsuits brought against them.

What an ironic situation, as I have said before on this floor.

The way this cap works, it is the first person to the courthouse to get a settlement who gets the money. And the tobacco companies, since they are the ones being sued, can pick who is going to win. If they are sued by three different groups—a group of schoolteachers from New Hampshire, a group of kids from Pennsylvania, a group of friends from Ohio, and another group of friends from Illinois—they can settle with the friend from Ohio, and the friends from Illinois. If the cap is used up, the schoolteachers and the kids are out of it. They are out of it for that year, and they well may be out of it forever depending on how much the cap is used up, and in the next year, also.

So the people who are injured who have brought the lawsuit find themselves in the impossible position, or the ironic position, at a minimum, of having to go to the tobacco companies on bent knees and say, "Please settle with me first so I can get into the fund before somebody else," which means that you inevitably create not an adversarial relationship but a supplicant relationship between those who are suing and those who are being sued, which is not in the tradition of the American jurisprudence system, to say the least.

Equally important, the concept that an industry will have protection from lawsuits in the marketplace is antithetic to the American concept of a free market. The protection that consumers have today, no matter what product they buy, is they can go into the courtroom, if they are harmed by that product, and get redress. There are a lot of other ways they can get redress, too. But the primary redress is that they can go into that courtroom or one of the primary redresses, if they have been physically damaged, or if somebody in their family has been killed, and they can get a recovery, if they can make their case. That is called the free market system. It is called the capitalist system. Under this proposal, that doesn't work.

Mr. KERRY. Mr. President, will the Senator yield for a question?

Mr. GREGG. No, I am going to make my statement. I know the Senator from Massachusetts has made his on a series of occasions, and then we are going to go to a vote. I am not going back and forth carrying this on any further. I am going to make my statement. I have maintained a fair amount of reservation. So I didn't extend this debate for a lengthy period. I would like to get us to a vote.

Mr. KERRY. Fair enough. Might I ask, Mr. President, if the Senator would give me some idea of the length of time he expects to speak?

Mr. GREGG. I expect to speak for about another 10 minutes.

Mr. KERRY. I thank the Senator.

Mr. GREGG. So the marketplace is being fundamentally changed for one industry alone, the tobacco industry. That, in my opinion, is obviously a mistake.

Why is this being done? Representation as to why it is being done was made by a number of Senators, and I think they are accurate to their theories as to why it is being done. It is being done, to quote the Senator from Rhode Island, because they hope to bring the tobacco companies back to the table by putting in this significant benefit, which is protection from liability, immunity, or a form of immunity at a minimum.

It was interesting that the Senator from Utah, who is very familiar with this issue, said that even the caps, as it is presently structured, aren't strong enough to bring—they aren't enough protection to the tobacco industries to bring them back to the table, that they don't do enough, that they don't go far enough. That is an interesting comment, because what we do know is that the tobacco companies are not at the table right now. In fact, we know from the statement of the chairman of one of the tobacco companies that they have walked away from the table, and to quote him, "There is no process which is even remotely likely to lead to an acceptable comprehensive solution this year."

So they are not planning to come back to the table. Yet, here we have this deal which has been made, as I mentioned earlier, a deal with the devil, the producers of this product, which kills people and addicts people, and the devil walked away from the table. And now we have the unseemly situation of the U.S. Congress chasing after the devil saying, "Please take my plan. Please take it. Take it, please. Please, please take this protection that we are offering." It really is unseemly. It is inappropriate. More importantly, it doesn't make any sense.

Why, if they are no longer participants in this process, would we want to give them a protection which no other industry in this country has today—it makes no sense—on the wish and the prayer that they are going to come back to the table someday in the future? I don't think so. I think it makes absolutely no sense that we should be making such a fundamental change in the way we manage our market, such a fundamental way in the way we manage our jurisprudence system, on a wish and a hope and a prayer that an industry, which has shown itself to be so endemically irresponsible, will for some reason suddenly become responsible and return to the table. I find that to be a concept which holds very little validity.

But the most substantive reason to support the amendment which has been offered by myself and the Senator from Vermont and to change the language in this bill—remember the language which we are offering here was the original language of the healthy kid amendment, which was supported by the President. I must say somebody should ask the President why he has changed his position on this because he did support this language initially. He formally and bluntly supported it.

But the primary concern here for supporting this language is this. We have an industry which produced a product that they knew killed people, and the evidence is conclusive on that. We have an industry which produced a product that they knew was addictive. Not only did they know it was addictive, but they increased the contents of that addictive part of the process, the nicotine, in order to increase the addictiveness of the product. They produced a product that was addictive, and they knew it was addictive. And then they took this product which killed people, which they knew killed people, which was addictive and which they knew was addictive, and they targeted the sales of it on our kids.

This is not an industry which deserves special protection from the U.S. Congress. Call it immunity, call it limited liability, use whatever term of art you want to use, but the fact is, this is an extraordinary step of special protection for an industry which has produced a product which is fundamentally bad, which they knew was bad, and which they targeted on kids.

While this Congress refuses to give that type of protection to other industries which are producing products which save lives—we do not give protection to medical devices which save lives; we do not give protections to automobile manufacturers that improve the style of life; we do not give protections to the computer manufacturer that improves the style of life; we don't give protections to the drug manufacturers that improve the style of life—we are going to give protection to the cigarette manufacturer, the tobacco producer that produced a product that kills you, that is addictive, and that was targeted on kids.

The choice I think here is pretty clear. We can stick with a system that has worked for 200 years, called the marketplace, where the consumer has the right to go into the court system and defend themselves and get a reasonable recovery, or we can structure a brand new system to protect an industry which has proven itself beyond any test to be a dishonorable industry, which has tried to destroy the lives of many Americans in order to sell its product.

From my standpoint, the choice should be simple. I hope the Members of the Senate will join with me and a fair number of other folks and Senator LEAHY, who has been a strong advocate—and I very much appreciate his participation as a cosponsor of this amendment—in passing our amendment to eliminate this liability limitation by defeating the motion to table which is going to be made by the Senator from Arizona.

I would like to say at this point before we go to the motion, I thank the Senator from Arizona for his courtesy and the Senator from Massachusetts for his courtesy in moving this amendment to a vote. I appreciate their courtesy. They have been more than fair in allowing us the opportunity to bring this forward and do it in a timely manner. I thank them for that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I move to table the Gregg amendment.

Mr. KERRY. Mr. President, before the Senator so moves, I would just ask him if he might answer one question.

Mr. McCAIN. I will be glad to yield for a question from the Senator from Massachusetts.

Mr. KERRY. Mr. President, without prolonging this, I would ask the Senator from Arizona if he would agree—since there is no immunity and no liability limitation but only a cap on how much liability—that voting to sustain the cap and against the Gregg amendment is, in fact, completely consistent with the budget amendment vote?

Mr. McCAIN. That is a very articulate and enlightening question. The answer is, the Senator is exactly right. Actually, it is a very important point.

I move to table the Gregg amendment and ask for the yeas and nays on amendment No. 2433.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the underlying Gregg amendment No. 2433. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT (when his name was called). Present.

Mrs. BOXER (when her name was called). Present.

The result was announced—yeas 37, nays 61, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—37

Akaka
Bennett
Biden
Breaux
Byrd
Chafee
Daschle
DeWine
Dodd
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Harkin
Hatch
Helms
Hollings
Hutchison
Inouye
Jeffords
Kerry
Kohl
Landrieu
Levin
Lieberman
Mack
McCain
McConnell
Murkowski
Robb
Rockefeller
Sessions
Stevens
Thurmond

NAYS—61

Abraham
Allard
Ashcroft
Baucus
Bingaman
Bond
Brownback
Bryan
Bumpers
Burns
Campbell
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Domenici
Dorgan
Durbin
Enzi
Feingold
Gramm
Grams
Grassley
Gregg
Hagel
Hutchinson
Inhofe
Johnson
Kempthorne
Kennedy
Kerrey
Kyl
Lautenberg
Leahy
Lugar
Mikulski
Moseley-Braun
Moynihan
Murray
Nickles
Reed
Reid
Roberts
Roth
Santorum
Sarbanes
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Thomas
Thompson
Torricelli
Warner
Wellstone
Wyden

ANSWERED "PRESENT"—2

Lott
Boxer

The motion to lay on the table the amendment (No. 2433) was rejected.

Mrs. BOXER. Mr. President, I wish to inform the Senate of the reason I voted "present" on the Gregg amendment related to liability limits for tobacco companies.

I abstained on this vote because my husband's law firm is co-counsel in several lawsuits against tobacco companies filed in California state court by health and welfare trust funds.

The Ethics Committee has advised me that voting on an amendment such as this "would not pose an actual conflict of interest" under the Senate Code of Conduct.

However, I decided that this vote could create the appearance of a conflict of interest and therefore I abstained by voting "present."

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GRAMM. Could we have order, Mr. President? I can't hear.

The PRESIDING OFFICER. The Senate will come to order.

Mr. McCAIN addressed the Chair.

Mr. LEAHY. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. The Senator from Massachusetts seeks recognition.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I send an amendment to the desk.

Mr. GRAMM. Parliamentary inquiry, Mr. President.

No amendment is in order.

The PRESIDING OFFICER. An amendment to the bill is in order. Is this an amendment to the bill?

Mr. McCAIN. It is a second degree amendment.

Mr. LEAHY. I suggest the absence of a quorum. Mr. President, I suggest the absence of a quorum.

Mr. McCAIN. Mr. President, I am recognized, I believe.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. No one else can suggest the absence of a quorum.

Mr. President, is it in order to send a second-degree amendment?

The PRESIDING OFFICER. A second-degree amendment is already pending.

Mr. McCAIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate is not in order.

The Senator from Arizona.

Mr. McCAIN. Mr. President, I know of no further debate on the Gregg second-degree amendment.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

MOTION TO RECOMMIT WITH AMENDMENT NO. 2436

Mr. GRAMM. I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Texas, [Mr. GRAMM] moves——

Mr. McCAIN. I ask unanimous consent that reading of the amendment be dispensed with.

Mr. LEAHY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] moves to recommit the bill, S. 1415, to the Committee on Finance with instructions to report back forthwith with all amendments agreed to in status quo and with the following amendment No. 2436 for [Mr. GRAMM], for himself and Mr. DOMENICI.

SEC. 1406. RESOLUTION OF AND LIMITATIONS ON CIVIL ACTIONS.

(a) STATE ATTORNEY GENERAL ACTIONS.—

(1) PENDING CLAIMS.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall resolve any civil action seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions that have been commenced by the State against a tobacco product manufacturer, distributor, or retailer that is pending on the date of enactment of this Act.

(2) FUTURE ACTIONS BASED ON PRIOR CONDUCT.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall agree that the State will not commence any new tobacco claim after the date of enactment of this Act (other than to enforce the terms of a previous judgment) that is based on the conduct of a participating tobacco product manufacturer, distributor, or retailer that occurred prior to the date of enactment of this Act, seeking recovery for expenditures attributable to the treatment of tobacco induced illnesses and conditions against such a participating tobacco product manufacturer, distributor, or retailer.

(3) APPLICATION TO LOCAL GOVERNMENTAL ENTITIES.—The requirements described in paragraphs (1) and (2) shall apply to civil actions commenced by or on behalf of local governmental entities for the recovery of costs attributable to tobacco-related illnesses if such localities are within a State whose attorney general has elected to resolve claims under paragraph (1) and enter into the agreement described in paragraph (2). Such provisions shall not apply to those local governmental entities that are within a State whose attorney general has not resolved such claims or entered into such agreements.

(b) STATE AND LOCAL OPTION FOR ONE-TIME OPT OUT.—

(1) IN GENERAL.—The Secretary shall establish procedures under which the attorney general of a State may, not later than 1 year after the date of enactment of this Act, elect not to resolve an action described in subsection (a)(1) or not to enter into an agreement under subsection (a)(2). A State whose attorney general makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a State to make such an election on a one-time basis.

(2) EXTENSION.—In the case of a State that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in an action described in subsection (a)(1) prior to or during the period described in paragraph (1), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(3) APPLICATION TO CERTAIN STATES.—A State that has resolved a tobacco claim described in subsection (a)(1) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in paragraph (1) if, as part of the resolution of such claim, the State agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(4) LOCAL GOVERNMENTAL ENTITY OPTION FOR ONE-TIME OPT OUT.—

(A) IN GENERAL.—The Secretary shall establish procedures under which the attorney for a local governmental entity which commenced a civil action prior to June 20, 1997, against a participating tobacco product manufacturer, distributor, or retailer seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions, not later that 1 year after the date of enactment of this Act, may elect not to resolve any action described in subsection (a)(3). A local governmental entity whose attorney makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a local governmental entity to make such an election on a one-time basis.

(B) EXTENSION.—In the case of a local governmental entity that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in a claim described in subsection (a)(3) prior to or during the period described in subparagraph (A), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(C) APPLICATION TO CERTAIN LOCAL GOVERNMENTAL ENTITIES.—A local governmental entity that has resolved a claim described in subsection (a)(3) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in subparagraph (A) if, as part of the resolution of such claim, the local governmental entity agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(c) ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.—

(1) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(2) CASTANO CIVIL ACTIONS.—

(A) IN GENERAL.—The rights and benefits afforded in section 221 of this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute a remedy for the purpose of determining civil liability as to those addiction or dependence claims asserted in the Castano Civil Actions. The Castano Civil Actions shall be dismissed to the extent that they seek relief in the nature of public programs to assist addicted smokers to overcome their addiction or other publicly available health programs with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions in accordance with this Act.

(B) ARBITRATION.—For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(C) PAYMENT OF AWARDS.—The participating tobacco product manufacturers shall pay the arbitration award.

(d) RULES OF CONSTRUCTION.—

(1) POST ENACTMENT CLAIMS.—Nothing in this title shall be construed to limit the ability of a government or person to commence an action against a participating tobacco product manufacturer, distributor, or retailer with respect to a claim that is based on the conduct of such manufacturer, distributor, or retailer that occurred after the date of enactment of this Act.

(2) NO LIMITATION ON PERSON.—Nothing in this title shall be construed to limit the right of a government (other than a State or local government as provided for under subsection (a) and (b)) or person to commence any civil claim for past, present, or future conduct by participating tobacco product manufacturers, distributors, or retailers.

(3) CRIMINAL LIABILITY.—Nothing in this title shall be construed to limit the criminal liability of a participating tobacco product manufacturer, distributor or retailer or its officers, directors, employees, successors, or assigns.

(e) DEFINITIONS.—In this section:

(1) PERSON.—The term "person" means an individual, partnership, corporation, parent corporation or any other business or legal entity or successor in interest of any such person.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. . ELIMINATION OF MARRIAGE PENALTY.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

"(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the excess (if any) of—

"(1) the sum of the amounts determined under subparagraphs (B) and (C) of section 63(c)(2) for such taxable year (relating to the basic standard deduction for a head of a household and a single individual, respectively), over

"(2) the amount determined under section 63(c)(2)(A) for such taxable year (relating to the basic standard deduction for a joint return).

"(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) if the modified adjusted gross income of the taxpayer for the taxable year exceeds $50,000.

"(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

"(A) after application of sections 86, 219, and 469, and

"(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

"(3) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1999, the $50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 1998' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.''

(b) Deduction To Be Above-the-Line.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

''(18) Deduction for married couples.—The deduction allowed by section 222.''

(c) Earned Income Credit Phaseout To Reflect Deduction.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

''(C) Marriage penalty reduction.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222.''

(d) Clerical Amendment.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

''Sec. 222. Deduction for married couples to eliminate the marriage penalty.

''Sec. 223. Cross reference.''

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Gorton). Without objection, it is so ordered.

Mr. DASCHLE. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue calling the roll.

The assistant legislative clerk continued calling the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2437 TO AMENDMENT NO. 2436

(Purpose: To provide a substitute for provisions relating to reductions in underage tobacco usage)

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. Daschle], for Mr. Durbin, for himself, Mr. DeWine, Mr. Wyden, Mr. Chafee, Mr. Harkin, Ms. Collins, Mr. Kennedy, Ms. Snowe, Mr. Daschle, Mr. Conrad, and Mr. Reed proposes an amendment numbered 2437 to amendment No. 2436.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's Record under ''Amendments Submitted.'')

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2438 TO AMENDMENT NO. 2437

(Purpose: To provide a substitute for provisions relating to reductions in underage tobacco usage)

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. Daschle] for Mr. Durbin, for himself, Mr. DeWine, Mr. Wyden, Mr. Chaffee, Mr. Harkin, Ms. Collins, Mr. Kennedy, Ms. Snowe, Mr. Daschle, Mr. Conrad, and Mr. Reed proposes an amendment numbered 2438 to amendment No. 2437.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's Record under ''Amendments Submitted.'')

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank my colleagues for a very enlightening and informative debate. It has been an important discussion, not on the amendment just voted on, but on the bill itself. Obviously, we attempted to table the Gregg amendment, and it is something that is unfortunate, in my view, for the entire bill. At the same time, just like with the attorneys' fees and other aspects of this issue, we will revisit this issue again. I believe it is important for us to continue to work through the bill and get it through the U.S. Senate.

I think the American people expect us to do that, and I think it is important that we continue to work on the many amendments of significant importance to the bill. I believe this aspect of it not only will be revisited, but it is another chapter in a very long saga. Yesterday, we had two very significant victories. Today, we had a defeat. There will be more victories and more defeats as we go through this very difficult process.

But at the end of the day, I am totally confident that this body and the Congress will act in a responsible manner and adopt a comprehensive piece of legislation that will attack the nationwide problem of 3,000 children beginning to smoke every day and 1,000 of them being caused to die early as a result of tobacco-related illnesses. I thank all those who voted in favor of the amendment. And for those who opposed it, I respect the opposition. But I believe we will move forward with a comprehensive piece of legislation.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I will be very brief. I join my colleague in saying that I think what Senator McCain and I and others hoped for was the opportunity to be able to come to the floor and fight these tough issues. That is what we did. We just had a tough vote. Clearly, some of us had hoped that the outcome would be different, because we had a different view of where the bill might travel. But this by no means prevents us in any way from continuing forward in the process of molding this legislation. This is precisely what the Senate ought to be doing. It ought to be fighting hard over these votes. We ought to be able to come to an understanding of where the 51 votes lie. And then, ultimately, we all know that hopefully we can come together with a piece of legislation that finds a conference committee and, ultimately, both Houses of Congress.

So I thank my colleagues for this spirited debate and for the fact that we have voted on two of the most critical issues with respect to this legislation. I thank Senator Durbin for now bringing to the floor, through the leadership, an amendment on the issues of the lookback, one of the other very important issues that needs to be resolved. I am confident that we will have another healthy round of debate on that. I look forward to continuing to proceed.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I think we have had a defining moment in this debate. Throughout this debate, our colleagues, who have brought to the floor of the Senate a bill that will raise $700 billion in taxes, have said that they are not interested in the money, that the money is incidental, that what they want to do is raise the price of cigarettes.

We have made the point that this increase in the price of cigarettes, this tax, will fall very heavily on blue-collar workers. Those making $15,000 or less will pay 34 percent of the cost, the taxes that are built into this bill. Those making $22,000 or less will pay 47 percent of the cost. Those making $30,000 or less will pay 59.1 percent of the cost of the taxes embodied in this bill.

Even if this bill only raised the price of a pack of cigarettes by $1.50—and most estimates are that it will raise it by $2.50 at a minimum—it would mean that an average smoker in America would pay $356 of additional taxes as a result of this bill, and a blue-collar family where both the husband and wife smoke, would pay $712 a year more in Federal taxes. In fact, the table put out by the Joint Committee on Taxation shows something that, over and over, those who support the bill have tried to deny or neglect, which is that for those Americans who make $10,000 or less, their Federal taxes will rise by 41.2 percent as a result of the taxes embodied in this bill.

Now, what Senator DOMENICI and I did earlier was send an amendment to the desk that tried to give some of this money back to blue-collar workers in the form of a tax cut. Our colleagues say, it is not the money we want; they say, we just want to raise the price of cigarettes. So Senator DOMENICI and I took them at their word, sent an amendment to the desk that said raise the price of cigarettes; but since this is going to impose a bone-crushing tax on moderate-income Americans, let's take at least $1 out of every $3 that will be collected in this tax increase and let's give it back to working families by repealing the marriage penalty for families that make $50,000 or less. In other words, it gets the impact on smoking that may come from a higher price as a result of the taxes in this bill but with our tax cut we avoid lowering the real income or living standards of blue-collar Americans who, after all, are the victims here. The whole objective of the bill is to basically say people who smoke have been induced to smoke by the tobacco companies, and yet, paradoxically, the tax we are imposing is being imposed on the very people who have been exploited. In fact, the bill before us has an incredible provision which says every penny of the tax has to be passed through, and it is illegal if a tobacco company absorbs any of this tax increase. Every penny of it, 59.1 percent of the tax increase, is on families that make less than $30,000 a year. The victims of the smoking campaign by the tobacco companies are the people who are paying the taxes.

What Senator DOMENICI, Senator FAIRCLOTH, and I have said in our amendment is this: Raise the tax, but give a third of the money back to working families by repealing the marriage penalty for couples who make less than $50,000 a year. So you get the price impact on smoking, but you don't end up brutalizing economically moderate-income people.

I think it is very instructive that after 3 days of debate where our colleagues have said don't accuse us of wanting this money, we just want to raise the price of cigarettes, that we sent an amendment to the desk asking that $1 out of every $3 we are collecting in taxes be given back to moderate-income working families, and the Senate reacts in a convulsion, and the leadership uses right of privileged recognition to amend our amendment and to deny us the ability to offer a tax cut for the very people who are going to find themselves crippled economically as a result of this tax.

So let me just suggest two points:

No. 1, I think this is further evidence this bill is about money. Our amendment is hardly a far reaching amendment. We are just simply asking that roughly one out of every three dollars of the tax be given back.

Second, it also suggests, it seems to me, the objective here is to prevent us from having an opportunity to vote on a tax cut.

I want to assure my colleagues—and I know Senator DOMENICI feels exactly the same way—that there is no way we are going to be denied the right to offer this amendment. This won't be the last tax cut amendment that we are going to have. Quite frankly, I don't understand if those who are for the bill are saying what they really mean, why there isn't overwhelming support in both parties for giving a third of this tax increase back to working families.

Let me say very briefly what the amendment does and then yield the floor so that Senator DOMENICI, the cosponsor of the amendment, will have an opportunity to speak.

Under current law if two individuals, a man and a woman, both of whom are working in the economy outside of the home, fall in love and get married, under current law they pay on average an additional $1,400 a year in income taxes. So that, for example, if you had two single people, and they didn't get married, and they filed an income tax return jointly, they don't pay taxes on any income of less than $10,200 a year. But if they fall in love and get married, even if they file separately, they have to pay taxes on income of above $6,900 a year. So we have an incredible provision of law that, in terms of deductions, penalizes working people who fall in love and get married by taking away $3,300 of deductions from them.

Mr. President, I think it would be a general bipartisan consensus that the family is the most powerful institution for progress and human happiness in history. Yet our Tax Code penalizes people who get married. If you want to state it in a dramatic way, you can say that the tax code provides an additional $3,300 of deduction by simply living in sin rather than getting married.

This has been much discussed. There is a strong basis of support for repealing it.

What we could do is simply this: Eliminate the marriage penalty imposed by the tax code for all families that make less than $50,000 a year—and those families will pay about 75 percent of this tobacco tax. Smoking is primarily a blue-collar, moderate-income phenomenon in America today. What we will do for couples that earn less than $50,000 a year is give them the additional $3,300 deduction so that there will be no economic penalty for people getting married. We will also allow those who get an earned income tax credit to take the deduction before they figure their eligibility for the earned income tax credit. So that even people who make very modest incomes will benefit from this tax cut.

This tax cut will take roughly $1 out of every $3 raised in taxes by the tobacco tax and give it back to working families. So those who want the higher price for tobacco to discourage consumption will get it, but we will not crush economically moderate income people who have become addicted to nicotine and who smoke. We will not have the terrible paradox that while talking about firing bullets at these big tobacco companies our bullets are actually hitting the victims who have become addicted to nicotine.

So on that basis, Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have not but for a few minutes spoken about the issue before the Senate.

I want to make it very clear that I understand the difficulty in managing a bill of this size. It is an enormous and contentious issue, and Senator MCCAIN should be commended for taking on such a difficult task. I have nothing but admiration for those who are attempting to develop this legislation.

But I can say to the Senate that I cannot imagine that the rules of this Senate are going to preclude Senators like GRAMM and DOMENICI from offering amendments to this bill. We want to vote on whether we want to have a tax cut as part of this new tax increase. Sooner or later we will vote. I don't know what the two amendments offered by Senator DASCHLE are. Whatever they are, in due course we will vote on them. If by chance one of them wipes out ours, we will be back to offer other amendments.

Let me talk about the history of imposing taxes on cigarette and related tobacco products. I am sure that I am not as good of a historian as my friend from Texas is, but is he aware the first reported effort to put a tax on tobacco was done by King James I in 1604.

King James just didn't like the odor of tobacco. He wasn't a U.S. Senator and he wasn't part of a democracy. He simply issued a proclamation. "Smoking is a custom loathsome to the eye, hateful to the nose, harmful to the brain, and dangerous to the lungs."

In 1604, King James said that. Now I used to be a smoker and I enjoyed it. I am just reporting on what King James said so I don't want the smokers listening to this debate to get mad at me.

Then he proceeded to put a 4,000 percent increase on imported tobacco.

He didn't pretend that he wanted to accomplish some worthy public purpose. He just wanted to raise revenue—and a lot of it. He was a dictator, king, benevolent, whatever they call them. But he didn't have to worry about what we have to worry about. And that is the impact on our citizens of this huge tax and the size of government. Frankly, there is not a word in history about this which said he was concerned about kids. He just said what I had described to you, and put the tax on and spent the money.

Frankly, people were no better off in those days. Even with a 4,000-percent increase people continued to smoke.

It is most interesting that without all of our science—I really think our science is great to find cures for cancer—King James I said that smoking was harmful to the brain and dangerous to the lungs. Having said that, he wasn't concerned about teenagers or about cancer because he didn't know about cancer.

But as we proceed to work on this bill, I want to ask myself and ask those who are working on this bill:

What do we really want to accomplish?

First, we contend that too many young people are starting to smoke. And we want to stop that. Make no bones about it. When we offer our substitute bill, we have done the best we can with a reasonable amount of money to try to stop teenagers from smoking. Too many young people are using drugs, and we want to try to stop that. And we want more research on serious illnesses, including cancer, so that someday we will stop them in their tracks.

Now, that is the kind of substitute amendment we are going to offer. But nowhere can anybody tell the Senate or the people of the United States that you need over the next 25 years $868 billion in new revenue from cigarette-related products.

Where do I get that number?

I don't think it has been said this way, but I want to make it simple.

The current Federal excise tax on tobacco is 24 cents a pack. It is scheduled to go to 39 cents a pack under current law. This bill includes an increase equal to $1.10 cents. That is 1.49 in straight arithmetic. And then the $1.10 is indexed for inflation or 3 percent, whichever is greater.

Frankly, we are not really sure how much this bill raises, but an acceptable number is $868 billion, I say to my friend from Texas.

Now, I want to try to put that in perspective. The biggest program we have taking care of the most people committed to monthly checks is the Social Security Program. $868 billion would pay for Social Security for 2 full years. $868 billion would pay for the entire Defense Department of America for 3 years.

This proposed tax increase in the McCain bill is bigger—when you put it into one basket, it is bigger than the gross domestic product of any of the following countries: Belgium, Austria, Canada, Denmark, Finland, Switzerland, et cetera.

Now, where did anybody come up with the idea that we needed every single penny of that to be spent on programs related to reimbursement to the States, to research, or to whatever? Where did the miraculous relationship of $868 billion, the total receipts, to the need for programs come from? There is no reason to it. There is no magic. I can assure you of that, if you only had a $300 billion tax increase, everyone would get by with $300 billion for this anti-smoking program.

But now we have gotten so grandiose about it that it is going to raise, over 25 years, over $868 billion under this bill.

Now, frankly, I believe it is only reasonable that part of this tax increase be given back to the American people, and I am going to have a lot more to say about that.

But a tax is a tax. This tax has a good motive: to stop kids from smoking. It may work—raise the price of cigarettes, and certain parts of the population may not buy them as much or may stop buying them. There is not conclusive evidence as to what price point you have to raise the price to, to have the most effect. But I can tell you, in our substitute we are going to propose 75 cents, period—no increases, just 75 cents. We believe that will keep the black market from going rampant and has as good a chance as any other number, by way of a tax, of deterring young people from starting smoking or encouraging them to quit smoking from the economic standpoint.

Having said that, I want to tell you that there is nothing more onerous in the United States than the marriage penalty. Every once in a while, you will hear about a couple—it is not very frequent, but it gives you the dimension of this penalty—who will go to Mexico and get divorced the day before Christmas, and then they will go to Las Vegas and get married after New Year's. And guess what. They don't have to pay the marriage tax penalty. I am not sure if 500 do that, but we know some used to. I am not sure if it is 5,000. But imagine that you have a law on the books of America that invites that kind of conduct.

In the extreme, the marriage penalty is punitive. And it is just wonderful to hear Senators and political leaders say, "We are for the family." I assume that when you say, "We are for the family," without regard to one's philosophy, I guess you would have to say marriage is pretty important, too, because I think in some way it is related to the families. It used to be 100 percent related, but it is still very important.

Now, why would you impose a tax that would say to those two people who are married, "You pay more if you are both working than if you are both working and living together and not married"? Frankly, I will tell you that I have heard, personally, in my own ear somebody say, "We are not getting married because, after all, we love each other, but we would have to pay $2,800 more in taxes, and it is just crazy, so we are not going to get married."

Now, I don't like to say that, but that is the case. And there are worse examples because they are much broader in terms of impact. The average marriage penalty in this country is $1,400. In some cases, it is much higher; in other cases, it is somewhat lower.

In fact, if you look at comparable countries, Mr. President, 27 of the OECD countries—they are tied together in terms of economic evaluations and assumptions and the like—19 countries tax husbands and wives separately, so there is no marriage penalty. What keeps the United States from doing that? Frankly, what has kept us in the past is that we had too big a deficit, and if we cut taxes, then we figured we were losing money and we would take it easy and careful and not fix everything in the Tax Code.

We have balanced the budget. Senator GRAMM and I do not intend to change a bit that approach to more and more surpluses. But when you impose a brand new tax—and it is inconceivable that you would need every penny of that tax for a program that deals with tobacco—frankly, there are organizations running around that have never seen so much money. I have stopped some in the hall with buttons saying, "Cigarette Tax Now," and have asked them, "Which one?" Well, they said, "We like Senator McCAIN's improved." I said, "Oh, but what's the goal?" "Well, the goal is the highest tax we can get and the biggest program we can get to spend money on teenagers and all kinds of health programs."

Growing a big government is not why we are raising the cigarette tax. I thought our big goal was to try to stop our young people from smoking. Increasing the price of cigarettes plus a pro-active advertising campaign against smoking and drugs could be effective. We also need an attitude change at the cigarette companies. We also need a little more research. We need new penalties against those who sell to teenagers when they should not, and even to teenagers who smoke three or four times and they should not and know they are wrong. That is provided for in the Gramm-Domenici substitute. We would like to increase the budget DEA, FBI, Customs, and DOD drug interdiction programs.

But beyond that, what do we need all this money for? It is absolutely logical—I have been here a long time. I have worked on appropriations. Every year the chairman of the appropriations subcommittee comes to the floor. I will say, "You can't imagine, fellow Senators, how many requests I had for money from my bill that I could not comply with." In fact, I have seen some where you take out a batch of letters and say, "This is what I was asked to do that I can't do." But there is no relationship between the country prospering and being a great country and that pack of letters.

But now, look, here we have concluded—some have—that we would be remiss if we didn't dream up an expenditure for every penny of these tax dollars. Right? Now, why is that rational? Why should those of us say, how about one-third of it going back to the taxpayers and going back to fix the most onerous, discriminatory tax against an institution that we cherish and respect, one-third of the money.

I have not heard anybody say—and I hope, when we finally vote on the marriage penalty, and that is not going to be the only tax cut amendment offered, because if this one does not pass, there will be an amendment to cut 1 percent from the lower brackets. There will be a tax cut amendment to expand child care credits. There will be a number of tax cut amendments that should be considered.

But how can anybody stand up in the Senate and say, if you take a third of this huge tax increase the tobacco program for kids is not going to work?

I defy anybody to come up here and say, out of this pot of money and all these programs, if you don't keep them all, if you take one-third of the money and say, look, let's give it back to the taxpayers so we begin to get rid of this marriage penalty, at least for those families with $50,000 of income and under, I cannot imagine somebody will stand up and say:

"But we won't be doing what we must do for our kids." I mean, if it is $868 billion, and you have $650 billion instead of $868 billion, can you not put an effective anti-smoking and anti-drug program together?

Mr. FORD. Mr. President, will the Senator yield for a question, and I am on your side. I am on your side.

Mr. DOMENICI. I am just about finished and then I will be glad to yield.

Mr. FORD. I apologize.

Mr. DOMENICI. So, from my standpoint, as I told some of my friends to whom I said I was not in a hurry to pass this legislation, I said, why don't we continue to work on this bill until we get back. I said that because it is very contentious and Senators ought to have a chance to vent their positions and let the American people try to understand.

I have not been able to come to the floor because I have been trying to help finish the ISTEA bill. I have noticed that the Senate floor time has been filled with Senators talking about this bill. There have been no long quorum calls. I do not think there has been anything dilatory.

But, frankly, I have a number of amendments that I believe should be offered. This is our best opportunity to consider tax cuts. I intend to talk about this bill.

I have dedicated 20 years of my career in the Senate getting our Government's size under control. I have had Senators congratulate me, saying we are finally getting Government down to a reasonable size; it is not going to be so big. And then all of a sudden I see this bill that will supersize Government—and I will gather more information for you so I can do more comparisons—but this bill will add probably as much in new programs to this Government as we have been able to cut from this Government in our deficit reduction programs of the last 4 or 5 years combined.

Government is government. Taxes are taxes. And, in our system, there is a relationship between the two. The higher the taxes, the bigger the government. And the higher the taxes, the less free are people.

I will commit that we ought to tax cigarettes to discourage kids from buying and smoking cigarettes. Senator GRAMM and I will propose taxing cigarettes at 75 cents a pack in our substitute. But I do not believe there is any magic formula as to how much you have to spend to try to dissuade kids from smoking.

If $600 billion is not enough, and we need $886 billion over 25 years, then you cannot give anything back to the taxpayers.

But what if $500 billion is enough?

Or $400 billion is enough?

Then I believe that some of the money should be given back to the people? That is essentially the issue.

It is as big an issue as any issue before us, because we do not need all the money called for in the McCain bill I have just told you about—a dollar and a dime plus 49 cents plus 3 percent added on every year. We do not need all that money for a cigarette program so we ought to not use it all.

Senator GRAMM and I are going to offer the Senate an opportunity to give some of the money back to people in the form of a tax cut.

I will be glad to yield for a question.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I appreciate the Senator from New Mexico yielding to me. I have a piece of legislation in to eliminate the marriage penalty, already having been introduced. I found, to my surprise, that 52 percent of married couples get a marriage bonus. Not many people know that. There is a marriage bonus for 52 percent. I forget how many million couples get a marriage bonus of about $1,300-plus. The marriage penalty is about $1,400-plus. If you wipe out the penalty and the bonus, we have a surplus of about $4 billion. If you take the marriage bonus away and wipe out the marriage penalty, it is almost a $4 billion surplus.

In the Senator's proposal here, what does the Senator propose, to make up the difference in the marriage penalty and you leave the marriage bonus in place?

Mr. DOMENICI. I am not aware. Maybe Senator GRAMM can help me. I am not aware we changed the marriage bonus if there is one on this.

Mr. BRYAN. Parliamentary inquiry, who has the floor?

Mrs. HUTCHISON. I have the answer to that question.

Mr. GRAMM. No, we did not change the marriage bonus.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. FORD. What was the answer?

Mr. GRAMM. The answer was "no."

Mr. DOMENICI. We don't change the marriage bonus.

Mr. FORD. The marriage bonus still stays there at $32 billion? The bonus is $32 billion?

Several Senators addressed the Chair.

Mrs. HUTCHISON. If the Senator will yield, the marriage bonus was put in place for single-income-earning families years ago. At that time, under 50 percent of the families in this country had two incomes. But today, 69 percent of the families in this country have two incomes. So the bonus became a penalty, because people were not able to get married remain in the same tax bracket as two singles earning the same combined amount. My colleague from Texas and the Senator from New Mexico are doing here what I have done in another bill, which I introduced with Senator FAIRCLOTH of North Carolina. Our bill allows married persons to choose to file as they do now or to file as single persons. That way, marriage versus single status will not have any tax consequences whatsoever. What we want in this country is fairness and equity in our Tax Code.

Mr. FORD. I am trying to find out an answer here. I understand the marriage penalty. I am opposed to it, and I am trying to find an answer to it and the unfairness of it.

In 1986, we repealed the two-earner deduction, but increased the standard deduction for married couples, and reduced the number of tax brackets from 15 to 2. The combination of these changes reduced the marriage penalty considerably.

Now it appears the EITC gets involved here, and I understand the distinguished senior Senator from Texas is eliminating that, or is he keeping that in?

Mr. GRAMM. Will the Senator yield?

Mr. DOMENICI. I will be glad to yield.

Mr. GRAMM. First of all, I want to make it clear—and I assume both the Senator from Texas and the Senator from New Mexico agree with me—I am sure not ashamed of trying to let working families, moderate-income families, keep more of what they earn. What we are doing here on the EITC is saying—let's say that you have two very low-income people, both of whom work. They fall in love. They get married. What we are saying is, to see whether they are eligible for the earned-income tax credit, which they will be. In another example, a single mother with two children——

Mr. BRYAN. Mr. President, parliamentary inquiry, who has the floor? As I understand the rules, no Senator can yield to another Senator.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAMM. Will the Senator yield for a question?

Mr. DOMENICI. I still have the floor, Mr. President. I yield for a question.

Mr. GRAMM. Is the Senator aware that a waitress who had three children, and made $9,000 a year, and her prayers were answered and she met a janitor who made $12,000 a year and his prayers were answered and they got married, not only would she lose a $3,000 tax deduction, but she would lose her earned-income tax credit?

Mr. DOMENICI. That is correct. I understand that.

Mr. GRAMM. Is the Senator aware that under the amendment that we have offered, that same couple would be able to lower their income by $3,300, before they measured whether they qualified for the earned-income tax credit, so that the net result would be that moderate—people who make such a low income that they don't pay any income taxes, potentially, would still benefit from the provision in our amendment, so that people who are paying as much as $712 as a couple in these tobacco taxes would get some of that money back through lower income taxes?

Mr. DOMENICI. That is exactly right. I yield the floor.

The PRESIDING OFFICER (Mr. COATS). The Senator from Nevada.

Mr. BRYAN. Mr. President, I ask unanimous consent that upon my yielding the floor—it is my understanding the junior Senator from Texas requests 10 minutes, and I request that she be recognized. Following that, the junior Senator from Illinois? I propound that in the form of a unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. I thank the Chair for his courtesy, as well as his parliamentary ruling.

Mr. President, as we debate this historic tobacco legislation today, 3,000 children across the country will try smoking for the first time. Of those 3,000 children, one-third, or 1,000, will become addicted is the only way to describe it, addicted to nicotine and will face a future of diminished health. The health consequences of the use of tobacco products is our country's most preventable public health problem, and our goal in this legislation is to stop underage smoking.

Our debate on this tobacco legislation is, indeed, a historic event. Less than a year ago, with the announcement of the June 1997 settlement reached between the States' attorneys general and the tobacco industry, few would have foreseen that we would have comprehensive legislation to address the national problem of underage use of tobacco products on the floor of the U.S. Senate. I give particular commendation to the Nation's attorneys general who deserve much credit for putting this issue in the forefront of public debate.

A year ago, the conventional wisdom may very well have been that the Senate would be incapable of debating comprehensive tobacco legislation. It was then said the tobacco industry was too strong, its grip upon the Congress too powerful. Mr. President, a different force arose.

The sustained efforts of the public health community, and in particular the former Surgeon General of the United States, Dr. C. Everett Koop, and the former FDA Commissioner, Dr. David Kessler, these two, as well as other public health advocates, have kept the focus on a common goal: a major reduction and hopefully the eventual elimination of underage smoking.

This legislation may not be perfect, but it does represent an extraordinary accomplishment. The initial Commerce Committee bill offered by Senator MCCAIN was a crucial step in ensuring that the tobacco industry would not be allowed to stop the effort to protect our Nation's children. After the Commerce Committee reported out its bill—and I am proud to say as a member of that committee I joined with a great majority of my colleagues in voting to report that bill out of committee—the tobacco industry walked away from the legislative process and then began an orchestration by the industry to end our efforts to protect our children.

The tobacco industry badly miscalculated again. Instead, our resolve to protect our children's future has been strengthened. This effort is of vital importance for the children of our Nation and for their future health.

In the 11 months since the proposed 1997 settlement, 990,000 underage children have become smokers. One-third, or approximately 330,000, of those children will eventually die prematurely because of tobacco-related illnesses. This is a tragic statistic. This undermining of our children's future health must end.

If a child begins smoking before he or she reaches the age of their 18th birthday, there is an 80 percent likelihood that child will continue to smoke into adulthood. For these young children, the decision to try smoking has ramifications far beyond their understanding at such a tender age. These young people view themselves as I suppose all generations of young people have—as being indestructible. They do not realize, nor fully comprehend, the significance of their decision. That is a condemnation to a possible future of lifetime addiction to tobacco and a possible lifetime threatening health condition.

I keep using that word "addiction" because that is what we are talking about, Mr. President, addiction. How urgent our efforts are to reinforce these efforts have been highlighted by the recent report from the Centers for Disease Control, a report which indicates that the increase of tobacco usage by underage youth has increased by alarming proportions.

Just 7 years ago, 27.5 percent of all high school students in America smoked. In 1997, that number had risen to 36.4 percent. At the same time, the number of adult smoking was declining. Young African-Americans historically have been able to resist the tobacco industry's advertising reach and had relatively low levels of underage tobacco use. Unfortunately, that is no longer the case. Smoking by African-American students has almost doubled in the past 7 years, the fastest growth rate of any youth group over the past 6 years. White youth smoking has increased by 28 percent, and Hispanics have increased by 34 percent over the same time period.

Overall, 5.5 million of our Nation's 15 million high-school-age children are smokers. This report's findings are most distressing. Rather than gaining, we are losing ground in our effort to protect our children's health.

The decision to smoke or not to smoke is, we are told, an adult choice, and I share that perspective. But we have learned that the tobacco industry has systematically focused its marketing strategies on underage smokers and then lied about it. They lied to the American people. They lied to the Congress.

To get middle-school-age children—these are youngsters who are not yet in high school—to try smoking and then to get them hooked on nicotine is the key to the tobacco industry's future markets and profits. To hook these children at this early age means these young people will have been smoking for 3 to 5 years before they have reached the legal age to make that decision, the age of majority or adulthood at 18. What the tobacco industry has done is tantamount to a crime.

Let me be clear I strongly believe underage children also bear responsibility when they attempt to use, purchase or possess tobacco products, and they need to be held accountable for their illegal activity. I am pleased that at my request this legislation includes provisions to require States to have penalties so that underage youth who do try to purchase a tobacco product will know it is illegal and that it carries consequences. These penalties can include community service, fines and suspension of driver's license privileges. But holding young people responsible for illegal smoking or possessing tobacco products in no way excuses the tobacco industry for its shameless efforts to encourage underage smoking.

Our underage children have been the premeditated focus of the tobacco industry's effort to ensure there is a future, and I use their terminology, "replacement market" for their products. This industry has for years strategized as to the methodology to entice our youngest children to identify tobacco product brands with the sole purpose of getting them to try smoking as early as possible. This industry knew the earlier a child tries smoking, the greater the likelihood will be that child will continue to smoke and become addicted to nicotine. Once addicted to nicotine, that child will very likely continue smoking into adulthood, and then the industry will have accomplished its goal: the creation of a future replacement market for its products.

In the tobacco industry documents recently made public, this is manifestly clear. An R.J. Reynolds document states:

> This young adult market, the 14 to 24 group. . . represent[s] tomorrow's cigarette business. As this 14 to 24 age group matures, they will account for a key share of the total cigarette volume—for at least the next 25 years.

Yesterday, Mr. President, I was privileged to attend the White House Campaign for Tobacco-Free Kids. I was impressed with the more than 1,400 youngsters who gathered, representing America's youth, who made a determination not to be fooled by the tobacco industry. These young people have already made a choice, and that choice is to say "no" to the tobacco industry's attempt to take their future health away from them.

The tobacco industry has tried to manipulate the legislative process by intimidation. But the industry's saber rattling about its ability to win trials has been seriously undermined by its own actions.

The tobacco industry, among other criticisms of this bill, has consistently maintained that any legislation not limited to the $386.5 billion originally negotiated amount by the attorneys general and the tobacco industry in their June 1997 settlement would result in the bankruptcy of the industry.

The legislation we debate today is estimated to cost over $516 billion over 25 years, and the tobacco industry is asserting that such an amount would result in their bankruptcy.

However, I think it is noteworthy to point out that during the course of the congressional deliberations on the attorneys general-industry settlement, the tobacco industry itself has settled that it has voluntarily entered into an agreement with the State of Mississippi for $3.4 billion, the State of Florida for $11.3 billion, the State of Texas for $15.3 billion, and, most recently, the State of Minnesota for $6.6 billion.

Now, the tobacco industry's willingness to pay these multibillion-dollar judgments in just 4 of the 41 States makes two very important points. First, the industry's contention with respect to bankruptcy has been proven to be specious. These four settlements extrapolated to the remaining State lawsuits would cost the industry approximately $500 billion, nearly the same amount as the cost of the McCain legislation.

A further note. This industry was prepared, as a consequence of the June 1997 settlement that it voluntarily entered into, to decrease youth smoking by approximately 40 percent. The industry did not seem too concerned in June of 1997 that a loss of 40 percent of their market would bring about bankruptcy. And it does seem logical to believe that the industry would not have voluntarily negotiated a settlement if they believed that settlement would put them out of business.

A second point, if I may, Mr. President. The magnitude of these settlements only served to verify the industry's determination not to allow any lawsuit to go to a jury because they are fearful of the outcome—just what a jury might do once a jury fully understands the egregious misconduct of this industry and the impact it has had upon our Nation's children.

So the tobacco industry has also pulled out another old scare tactic, that this legislation creates a monster, convoluted, massive new bureaucracy. Quite to the contrary, this legislation does not. All administrative efforts need to assure that the proper implementation of this historic legislation will be done by currently existing agencies.

This legislation does provide for a very strong Food and Drug Administration role in the efforts to stop underage tobacco use and to assure the public of our Nation that its safety and the safety of our young people will be its paramount concern.

Now, I have consistently supported the FDA's efforts to reduce underage smoking. I am pleased that this bill will reinforce and, indeed, strengthen the ability of the FDA to continue to protect the public health of our citizens. The legitimate concerns raised by convenience store retailers who had feared they could, as a retail group or class, be prevented from selling tobacco products under the proposed FDA regulations have been addressed. These retailers have now expressed their support for the proposed State licensing of business entities selling tobacco products as a means of further controlling access of these products to underage children. Under the revised FDA regulation section, the FDA will be able to revoke a retailer's license, on an individual basis, to control those retailers who do not abide by sale restrictions. This will protect those responsible retailers who are committed to preventing underage access to tobacco products, and to punish those who irresponsibly do not do all they can to prevent young people from illegally purchasing tobacco products.

Mr. President, equally ridiculous to the bureaucracy "scare" is the assertion that a massive black market will emerge. On the floor, we have heard over and over again the black-market warnings of Jim Pasco, the executive director of the Fraternal Order of Police. What tobacco supporters fail to tell us is that this same gentleman is on the payroll of Philip Morris, this country's largest tobacco company.

So I conclude, Mr. President, by observing that the arguments made by the opponents of this legislation are pure smokescreens. The issue is really simple: Will Congress have the courage to vote on the side of America's youngsters and to protect our youngsters from the possible lifetime health-crippling afflictions that are attributed to the use of tobacco that cause the premature death of hundreds of thousands of people each year or will it support the tobacco industry?

I hope my colleagues will take the courageous and historic step to vote for this legislation and to protect the young people in America.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized to speak for 10 minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. DEWINE. Will the Senator yield?

Mr. President, I ask unanimous consent that I be allowed to speak after Senator DURBIN. We have an amendment that we are offering together, and I would like to be able to speak right after his speech.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAMM. Would the Senator yield before she starts for a unanimous consent request?

Mr. President, I ask unanimous consent that the Senator might yield to me for 1 minute.

Mr. FORD. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. HUTCHISON. Mr. President, everyone agrees that children should not smoke. They do not have the maturity or judgment to understand the risks of their decision.

Mr. FORD. May we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mrs. HUTCHISON. Where we differ is, how do we achieve this result? Forty States have now filed lawsuits to engage the tobacco industry in accepting the responsibility for its actions. Recent evidence demonstrates tobacco companies targeted children in their advertising, and the industry may have manipulated scientific research in its favor. This, obviously, is outrageous.

We have a historic opportunity to limit youth smoking and to disclose all the information concerning the health risks of adult tobacco use.

Four States have moved forward and reached settlements. My State is one of those. As a member of the Commerce Committee, which drafted the first version of the legislation before us, my principal concern was to ensure that nothing we did at the Federal level would undermine the agreements that have been reached by the individual States.

I appreciate Senator McCAIN for his support of my amendments in the committee, most of which are in the bill before us, that would hold those States harmless.

In my view, the most critical aspect of the Texas settlement and of the State attorneys general agreement that was reached with the industry was the restrictions on advertising and marketing that the industry accepted. These restrictions were tacit admission by the industry that its practice of marketing to teens was unacceptable.

These restrictions are critical to our cause of reducing teen smoking. According to the Congressional Budget Office, if the tobacco industry did reduce its advertising, the greatest effect would probably be among teens. This report notes that studies show that teens are more sensitive than adults to brand-specific advertising.

I voted for the original version of this bill in the Commerce Committee in large part because of the testimony of the attorneys general. They said the industry acquiescence in a ban on advertising, combined with a limit on industry liability, was the critical policy mix needed to attack the problem of teen smoking. That is why I voted against the Gregg amendment that was just before the Senate. That amendment will remove the liability limits.

The reason a limit on liability was deemed important by the attorneys general was that the tobacco companies are the source of funds for the smoking cessation programs in this bill. If tobacco companies are sued out of business, new ones that aren t held to the standards of this bill will replace them and we will have the worst of all worlds. We will have new tobacco companies that do not have liabilities because they haven't advertised to teens and committed the other misdeeds of the present ones. They will not be bound by the restrictions on advertising. I am afraid we will do more damage if we pass a bill that has no limitations on liability and no restrictions on advertising. This balance between advertising restrictions and liability limitations is what the attorneys general put forward, and I think we must recapture it.

In the Texas agreement and in the State attorneys general agreement, the tobacco companies are partners in the effort to stop teen smoking. Largely through the voluntary advertising and marketing restrictions in the legislation that was before the Commerce Committee, we would be able to achieve our result to stop teen smoking. The tobacco companies have now walked, and I am afraid this is not a good development. I hope we can restore the balance and, in our zeal to punish the tobacco companies, that we do not destroy the very companies we expect to pay for the programs in our bill that can end teen smoking.

Without the advertising restrictions, I believe what we have before the Senate is a tax bill. We have to decide if raising the price of cigarettes would have the effect of stopping teens from buying them.

Now, most parents would be experts in answering the question: Will the demand for cigarettes by teenagers go down if we raise the price? They know, for example, that a $200 pair of tennis shoes or a $75 pair of sunglasses sound perfectly reasonable to a teenager. To those teens, there probably isn't much difference between a pack of cigarettes that costs $2.25 or $3.75. Unfortunately, the Congressional Budget Office study tends to support this common sense observation. According to the CBO study that said teens are sensitive to advertising, teens are not very responsive to tobacco price changes. In fact, studies show that, under some circumstances, there is no impact on teen demand when cigarette prices rise.

I have spoken to teens about this. I have asked them, Will raising the price from $2.25 to $3.75 make a difference? What I have found is that teens do think this is a pocketbook issue. But it is not the one you think. It is not the money in their pocketbooks that will make the difference to teens; it is their driver's license. Teens say that what will really deter them from smoking is the threat of losing their driving privileges. In fact, a study by the Texas Department of Health found that 64 percent of teenagers said they would not smoke if they thought they would lose their driver's licenses. This was compared to 48 percent who said a $250 fine would deter them. My State legislature passed legislation that imposed tough penalties on tobacco use for underage Texans, including suspension of their driver's licenses.

I am very concerned about what I consider to be essentially a tax bill, because we have lost the balance that we had in the attorneys general agreement. If it is going to be a tax bill, let's be honest; it is a tax bill on lower- and middle-income people. It may also lead to a black market problem.

Before I came to the U.S. Senate, I was the treasurer of the State of Texas. In Texas, the treasurer was the tobacco tax collector. I have dealt with the black market. I have seen how differences in tobacco taxes between states affect the black market. My agency did raids on flea markets and roadside sales of illegal cigarettes that didn't have stamps on them, and I can tell you something: We stopped truckloads coming from Louisiana into Texas and into the flea markets because there was a significant difference in taxes between Louisiana and Texas—it's a 21-cent a pack difference today. In fact, the estimates of the nonpartisan Tax Foundation show that my State of Texas loses $172 million in revenue annually due to the black market in tobacco. That is because we live next to a State that has a 21-cent lower tax and next to a country, Mexico, where cheaper cigarettes are available.

In Canada, they had the exact same experience when they increased the cigarette tax in 1991. Smuggling became such a problem that many provinces cut their own taxes to make it less lucrative. What did that lead to? Instead of smuggling, there was a black market between the Provinces. The government of British Columbia estimates losses of as much as $100 million a year.

This is the reason that the National Association of Police Organizations has asked us to be very cautious with the legislation before the Senate. According to the executive director, Mr. Robert Scully, this bill could lead to an increase in cigarette smuggling beyond the control of organized law enforcement.

All of us are struggling to try to do the right thing. I believe that I can truthfully say every Member of the U.S. Senate has the same goal: To stop teen smoking. However, how we get there is the question, and I don't think we are close to agreement on what is the right path to that goal.

I am not going to vote for taxes that will run out of business the tobacco companies that can pay for the health and smoking cessation programs. This would result in the emergence into the market of new companies not bound by our restrictions because they would have no history of wrong-doing. Then we would have no funding for the health programs, no voluntary restriction on the advertising, and we will never reach the goal of stopping teen smoking.

I am not going to vote for a tax increase that is so high that it causes a black market in my State of Texas as well as Arizona, New Mexico, and California, that borders Mexico, or where the price of cigarettes is very cheap. I am not going to vote for a bill that does not have a reasonable chance of a balance that will achieve the goal of stopping teen smoking.

We are going to have a lot of votes. I hope we can come up with a bill that I believe will reach that reasonable balance. I have not seen it yet. I hope that in the end we will not pass a bill that will create a black market, that will create more crime, that will take away the source of revenue that could help us pay for ads to stop teen smoking. And I hope we will not, in our zeal to punish the tobacco companies, have them walk away from the restrictions on advertising which they can only do voluntarily because it is their first amendment right to do so.

I hope I can vote for a responsible bill, Mr. President. I hope everyone in the Senate will come together to try to achieve an agreement that will produce the result of stopping teen smoking.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I believe the Senator from Oregon has a unanimous consent request. Would he be able to make that request without jeopardizing my time?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent at this time—I have offered an important look-back amendment in the Commerce Committee and worked with Senators DURBIN and DEWINE—that I be allowed to address this amendment after Senators DURBIN and DEWINE this afternoon.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President.

Mr. President, for those who are following this debate, I hope they will understand that we are genuinely trying to move this bill to final passage. This bipartisan bill is the product of the Commerce Committee, crafted by Senators MCCAIN, KERRY, HOLLINGS, and others in an effort to do something historic to reduce the number of teenagers and children in America who are lured into the addiction of smoking.

We have tried to establish a procedure on the floor, which occasionally we have been able to hold to, and occasionally we fail. But that procedure was to allow each side to offer an amendment. Of course, Senator GREGG had offered his amendment, and, after some motions, then Senator GRAMM of Texas offered his amendment. At that point, I was supposed to have been next. But as it stands, now I am coming up with this look-back amendment in this fashion. It is an amendment which I am happy to sponsor with Senator DEWINE of Ohio, as well as Senator WYDEN of Oregon, Senator CHAFEE of Rhode Island, Senators HARKIN, COLLINS, KENNEDY, SNOWE, DASCHLE, CONRAD, and REED. This is truly a bipartisan amendment. I hope that those who are following this debate will understand the significance of this amendment.

The look-back provisions in the bill are really important in terms of enforcement. This term look-back is a relatively new term. It is not one created by the Congress. It is, in fact, a term of art which came about as a result of negotiation after the State attorneys general sat down with the tobacco companies. This is really an effort to make certain that the tobacco companies keep their word and reduce the number of young people in America who are smoking.

We have talked about imposing a new tax, or fee, on tobacco products with the belief that it will reduce teen smoking. But we are not certain. We don't know how much we will be able to achieve by increasing the tobacco fee by $1.10 a pack. We believe it could be significant. But it may not be enough.

That is why we have what is called a look-back provision. This is how it works. In years to come, we will do a survey of teenagers across America, and we will take a look particularly at children who are smoking. We will try to determine how many are smoking. We will also be able to determine what brands of tobacco they are using. With that information, we will be able to measure the effectiveness of the goal of this bill. We will look back on a periodic basis to determine how many children have been taken from the ranks of smokers or have not been recruited in the first place, and we will take a look at what they are smoking.

The look-back provisions are an important part of the agreement with the States' attorneys general. The tobacco companies knew this had to be part of the bargain. They couldn't walk away from the table with all of the things they hoped for, walk away from liability in a State suit, for example, without some assurance that they were in fact going to be genuine in their efforts to reduce teen smoking. The look-back language that is included in the McCain bill which came from the Commerce Committee is a very good start, but only a start.

That is the reason I am offering this amendment with Senator DEWINE and others. We want to construct an effective look-back provision that will change companies' behavior and give them incentives to stop marketing to children.

Our look-back amendment does two very important things. First, it shifts the emphasis on any look-back assessment so that it will fall primarily onto tobacco companies that are the worst offenders rather than primarily on the industry as a whole. That is a major element in this debate.

If you were to ask what is the difference between the Durbin and DeWine amendment as opposed to the Commerce Committee bill, it is the fact that when we look back and determine whether or not the tobacco companies are keeping their word, whether in fact they are no longer marketing and selling to children, we believe at least in this amendment that we should hold individual companies responsible. The McCain bill, the Commerce bill, as good as it is—I think it is a good bill—looks at it primarily from an industry viewpoint. I will try to spell out here in more detail why I think that is not the way to go.

The second thing we do that is very important is, we restore the smoking reduction targets that were originally agreed to by the tobacco industry in their proposed settlement with the States' attorneys general last June. On both scores, this amendment is about accountability. Will these companies change their behavior? Will they stop their insidious marketing practices? Will they get honest in terms of the retailing of their product? We can find out. We can measure it. We can hold them accountable. If they don't live up to the reduction levels proposed in the legislation, they will face financial incentives to create the right climate and the right results.

Why do we need look-backs? Effective look-back provisions can help achieve the goal of reducing youth tobacco use and change the current incentives that drive tobacco companies to market to children. Make no mistake. We have gone through this debate over and over. You will recall that for years the tobacco companies used to say, "This isn't fair. We are not trying to sell to kids." Then, of course, lawsuits were filed across the Nation. We required them to disclose the documents they were using. Along come these documents. It turns out that these tobacco company executives were not as honest as they should have been.

You all may recall this great scene that occurred about 4 years ago in the U.S. House of Representatives when the eight tobacco company executives came before the Commerce Committee in the House of Representatives. This "gang of eight" raised their hands and solemnly said under oath that nicotine is not addictive. America laughed, because they knew that once again the tobacco companies had made an incredible statement, literally one that had no credence whatsoever. When the tobacco companies told us nicotine wasn't addictive, that they were not adding nicotine or manipulating it in cigarettes, that they were not trying to sell to kids, it turns out they were wrong on all counts. So much for the credibility of the "gang of eight." Incidentally, they are no longer the managers of these companies. But, nevertheless, their successors still have to be held accountable.

Today, each new child who starts to smoke represents a new profit opportunity for tobacco companies. Tobacco companies have a tough go of it. Think about it. If you were running their business—every year they lose 2 million of their best customers. But a half a million people will die from tobacco-related diseases. Another 1.5 million will finally be able to quit and break the habit, or will die of other causes.

If you are running a company losing 2 million customers a year, you need new ones. Where will you turn? You know adults are not your most likely market. They are usually smarter, a little more mature, and they know the danger of tobacco. They are not easily lured into the addiction. You have to go after the kids, and get the kids in their rebellious youth when they are willing to try anything and think they are going to live forever, and get them started on tobacco. If you can get a kid to start smoking cigarettes or chewing tobacco, it will develop into an addiction. The drug in that tobacco will go into that child's system and create a craving for this product that is very tough to stop. For those children who think that it is an easy thing to quit this addiction, it is not. The earlier they try to stop, the better. But the tobacco companies know that.

Since most smokers start as children, children are the only available replacement smokers to take the place of these 2 million lost customers. In addition, we know that smokers are generally very loyal to the first brand that they smoke. We all know people who will only smoke certain brands—Marlboros, the cancer cowboy's cigarette, or Kools, Camels, whatever it happens to be. Many people who started with the brand when they were kids stay with it for a lifetime, albeit a shortened lifetime.

These facts and the desire to give their shareholders steady profits lead the tobacco companies to market to children to ensure their future markets. The strong look-back provisions will totally reverse the economic incentives for marketing to children. It will say to the industry and to each company that they have an incentive to prevent their products from appealing to children. Manufacturers will start using what they have learned about teenage tobacco use to avoid having children use their products because every new child who picks up a cigarette or pockets a can of snuff will be an economic loss to the company.

Our goal is not to punish the companies or gain revenues. If this never generates a cent, that would be fine. But basically what we are trying to do is meet the smoking reduction targets. Our goal is to create the incentives which help achieve actual reductions in underage tobacco use so companies might never have to pay a penny of these look-back assessments. We are going to do our part. We are going to have youth access restrictions, counteradvertising, public education, and other governmental efforts to reduce youth smoking. We expect the tobacco manufacturers to do their part as well. And that is what this amendment is all about—accountability.

Why focus on company-specific assessments? In the bill that is pending, a much greater share of the look-back assessments are imposed on the whole industry rather than on specific companies. There is a $4 billion annual cap on industry-wide payments that is much greater than the company-specific assessment. Although the company-specific charges could be as much as $3 to $4 billion in extreme cases, it is more likely they are going to be a lot smaller. If all the companies miss their target by 10 percentage points, the company-specific surcharges would only equal $640 million. If they miss by 20 percent, it would be $1.3 billion compared to nearly $4 billion for the industry as a whole.

Let me show a chart here which gives you an idea of the difference between the look-back provisions that we are discussing.

Consider the fact that we are setting these targets to reduce youth smoking, and these targets say that over a 10-year period of time we are going to bring down smoking among kids by a certain percentage.

What happens, let's say, in the fifth year after this legislation passes when the tobacco companies as an industry are supposed to reduce the number of kids smoking by 40 percent? What happens if the largest company misses it by 20 percent, if instead of having a 40-percent reduction, they only have a 20-percent reduction?

Look at what occurs. Under this comparison of the Commerce Committee bill, and this amendment by Senator DEWINE and myself, the industry as a whole would face a penalty of 10 cents a pack and the individual company 9 cents a pack if they miss it by 20 percent under the Commerce Committee bill.

But look at the other side now if our amendment prevails—6 cents for the industry per pack, but 29 cents for the offending company. Doesn't that make more sense? If we know as a result of our surveys that the kids are smoking Camels, for example, shouldn't R.J. Reynolds be held accountable? They are the company that makes the brand. They market the brand. They retail the brand. They have an obligation under this law to reduce teen usage of their brand of cigarettes.

If you don't do that, think of the perverse situation where one company is trying its best to reduce teen usage and youth usage and another company ignores it. Under this bill, the penalty is spread across the industry by and large, and there is not that much of a forfeiture of funds for the individual company as would occur under the DeWine and Durbin amendment. We want to make this more company-specific.

This approach, which currently is in the bill, risks creating incentives for some company to keep building future market share. There is money to be made here. As long as these kids are smoking, these companies are making money. We want to make sure the profit is taken out of this. Our amendment increases the company-specific payments, reduces the industry-wide payments.

This amendment will not necessarily increase the price of cigarettes. I want to really pause for a moment on this point because I think it is so important. We have had a lengthy debate over the last several days about whether or not we are imposing, at least indirectly, new taxes on lower income individuals, whether by raising the price of a package of cigarettes we are passing along to lower income and middle-income individuals more of a tax burden.

Think about this for a moment. Assume we have two companies and the Durbin-DeWine amendment is enacted. One of the companies is doing a good job; it is reducing its sales to minors—very happy with the results. The other company has made a calculation. The other company says we are not going to be so tough or restrictive. We will, frankly, look the other way. We are going to continue to do some marketing that we know appeals to kids. We are going to kind of tell our retailers we are not going to enforce the law that stringently, and so look what happens. If that occurs under the existing bill, they are both going to be treated equally in the industry-wide assessments; both will be facing these additional costs per pack equally.

Under our approach, it will be significantly different and the company that is a bad actor, the company that is not trying to reduce sales to kids is a company that will face a much, much larger charge per pack. Now, what do you do? If you are the company that has been selling to kids, it turns out kids are smoking your brand, you are facing this kind of payment. You can't add this price to the package of cigarettes because your competitor isn't doing the same. You have to absorb this cost in your bottom line. So the consumers are protected from the price increase, and basically the company really pays a price for what they have done.

This bill presently before us also reduces youth smoking reduction targets relative to what the industry agreed to last year. This second and very important element in the bill is one I would like us to pause and reflect on. Just last year, these tobacco companies came together, and with the State attorneys general said we agree to the following targets to reduce the number of smokers each year.

Well, a year has passed. The issue has come to Capitol Hill. We debated it back and forth and now we have a chance to enact this legislation. What has happened during the course of that year? The tobacco companies have done very well. They have done very well in luring more children into this addiction. In fact, since 1991, we have seen a dramatic increase in the percentage of kids who are smoking. That is a sad commentary. It is a sad fact of life.

What Senator DEWINE and I are doing in our amendment is going back to the original targets the tobacco companies set in their agreement with the attorneys general. So instead of the McCain or Commerce Committee bill reducing smoking by 60 percent of kids over 10 years, we hit a target of 67 percent in the equivalent course of time, getting them to quit or sparing more kids from the possibility of becoming smokers and of facing disease and premature death. Four-hundred and fifty thousand more children will be protected with the Durbin-DeWine amendment by the year 2008 than in the underlying bill. There will be 450,000 fewer smokers if the tobacco companies continue to meet their reduction targets of 67 percent instead of 60 percent; 150,000 fewer premature deaths—we know that about a third of smokers are going to die young as a result of this habit; $2.8 billion in lifetime social costs are avoided; and we have the same real target as the original proposed settlement. I think that makes sense.

The next question is the constitutionality question. The tobacco companies claim that these look-back provisions are unconstitutional. But both the Department of Justice and the Congressional Research Service have studied the issue and concluded they are wrong. Just as we hold companies responsible for clean air attainment standards, we can hold them responsible to help reduce youth smoking rates.

The courts have required that there be a rational basis for this type of program, and this amendment is based on a very rational consideration. If companies' assessments or surcharges raise their cost of doing business as usual, they will consider it an incentive to change their behavior and use the knowledge they have gained over the years in terms of selling to kids, to stop selling to kids.

With regard to the argument that this might violate due process, the purpose of the look-back assessments is to supplement the other measures in the bill designed to reduce youth smoking rates, including the bill's price increases, and to encourage the industry, which is uniquely able to develop innovative strategies, to take the action to minimize youth smoking.

The look-back provisions don't violate the Constitution's bill of attainder. All of us who studied the Constitution over the years wondered if we would ever run into a case where somebody would start talking about a bill of attainder. I didn't think I would ever face that in my life on Earth, and here we are on the floor of the Senate talking about a bill of attainder.

The bill of attainder in the Constitution prohibits singling out particular individuals or entities for legislatively mandated punishments. The tobacco companies have said: Oh, this look-back provision is a bill of attainder. The Department of Justice states the look-back provisions apply to all manufacturers of tobacco products, not a single company, and would operate as one component of a comprehensive industry-wide reform. Additionally, look-back provisions are not penalties for industry misconduct so much as an affirmative step to reduce youth smoking.

I think the tobacco industry's constitutional argument is a weak one, designed to shift away the attention from their marketing to kids.

Let me respond quickly to a few other items, and then I will be happy to defer to my colleague and cosponsor, Senator DEWINE.

Mr. FORD. Will the Senator yield for a question?

Mr. DURBIN. I will be happy to yield for a question.

Mr. FORD. I understand where you are going with this, and it is beginning to take hold. But in this piece of legislation, does HHS have the ability to put on the educational programs that would reduce youth smoking and the tobacco industry would have no control over that?

Mr. DURBIN. Yes. I thank the Senator for raising that.

Mr. FORD. But the point here, then, is that I am putting out all this information, and it doesn't work; then you get fined. I am a little bit concerned about that. I understand where the Senator is coming from. But I think we need to cover one more base, that if the tobacco industry is going to be responsible for the percentage reduction, and, if it isn't, then they pay, they ought to be able to be charged with advertising, or something, rather than letting HHS do it. And if it doesn't work, they get penalized.

As we say down home, "Something about that ain't right," and I hope the Senator, with all his knowledge of this area, would look somehow to be sure that, if you are going to be charged with a penalty here, somehow you ought to have some input on how it is completed. You might be able to clear me up on that.

Mr. DURBIN. The Senator from Kentucky raises a dilemma, and that is: How much could we trust the tobacco industry coming up with the goal?

Mr. FORD. They can't.

Mr. DURBIN. I think it is more likely a public health agency will try to reduce those numbers. I can recall a few years ago the tobacco companies said, "We are going to stop marketing to kids, and we are going to tell these kids we don't want their business." And they delivered their message by buying full-page ads in the Wall Street Journal. There may be some kids who read the Wall Street Journal, but not a lot of them. It is far better to take that information and message and put it on a television show the kids are likely to watch.

Mr. FORD. I say to my friend, I take this as if they were doing it to me as an individual and saying that you are going to be penalized—I am going to be penalized if your program doesn't work. And some companies, a brand only has about 1 percent of youth. They don't like it, and they don't use it. But if you reduce it down, if it is 1 percent, which one brand is, then you have to reduce that to six-tenths of 1 percent. That becomes very difficult when it is all adults.

I agree with what you are trying to do. I hope somehow or another we can make it fair rather than unfair.

Mr. DURBIN. I thank the Senator for his question, and I hope what we are doing is a coordinated effort. It is an effort which increases the fee on a package of cigarettes, which we have been told by economists, in and of itself, will reduce youth usage. It is an effort to change the advertising so that, by and large, children are not affected by the lure of that advertising. It is an effort by the Government—and the Senator is right—through HHS and others, to deliver this message effectively. But finally it comes down to the tobacco companies themselves who make the product and market the product and sell the product. And they bear a responsibility, too, a responsibility which, if they don't live up to it, is going to result in a charge against each package of cigarettes.

Let me just conclude with two or three points before deferring to the Senator from Ohio. Some say the 67 percent reduction figure over 10 years is too high. I don't believe it is. Marijuana use by 12- to 17-year-olds declined 76 percent from the late 1970s to the early 1990s. The smoking rate among black 12th graders in the late 1970s was the same as the rate for all teenagers today. It declined by 76 percent from the late 1970s to the early

1990s, without advertising restrictions, education, and counteradvertising envisioned in the current legislation.

Mr. President, 80 percent of adult smokers and 70 percent of adolescent smokers regret ever starting to smoke. I think we have a situation here where 67 percent is a figure that can be reached, and the actual number of young people who would then stop smoking is one that was agreed to by the tobacco companies when they met with the attorneys general just last year.

Why do we want to strengthen this bill? Because, frankly, we believe that unless the industry is held to this standard on a specific company basis, the results will not be what we hope they will be. Some people say the amount of the payment here is more than the lifetime profit from each new young smoker.

First, let's not get caught up in the debate of what is a lifetime profit from a new smoker. Is it only $500 or $1,000 or $1,500? I am not sure we accept these claims.

Second, these companies are not just profit maximizers; they want volume. Why? Why would the tobacco industry want volume over profit? Because they are dealing with people who are addicted to nicotine, who will have to follow them up the track as the price increases. So they do not focus just on profits but also on volume. And we have to find a way to reduce the volume when it comes to children.

Third, even this calculation does not get to the true cost of addicting a child on tobacco. The American Medical Association has estimated we would have to increase the surcharges to $400 million per percentage point—more than 6 times what the bill does in its company-specific look-back—to cover the societal cost of each additional smoker. It is about more than tobacco company profits; it is about the cost to America and American families as a result.

I think what we are setting out to do here is create a payment structure that is reasonable. Under the bill, companies will pay an industry-wide payment of $80 million for each of the first 5 percentage points by which they missed the targets, $160 million for each of the next 5 points, $240 million for the next 12, maxing out at $4 billion. Each company that misses the target will pay a company-specific surcharge of $1,000 multiplied by the number of children by which a company falls short of in its target. There is no maximum for the company-specific surcharge, which could reach as much as 3 to 4 billion dollars in an extreme case.

Under our agreement, companies will pay an industry-wide payment of $40 million for each of the first 5 percentage points by which the industry as a whole misses the targets, plus $120 million for each of the next 15 points, with a maximum of $2 billion. Each company that misses the targets will also pay a company-specific surcharge equal to the company's share of youth smokers multiplied by $80 million for each of the first 5 percentage points, $240 million for each of the next 19 points, with a maximum of $5 billion.

The potential maximum surcharges are similar in the aggregate. Ours is weighted towards companies as opposed to towards the industry as a whole.

Let me close by saying that I am happy that this is, in fact, a bipartisan amendment. For those who have argued on the floor over the last 2 days that they want to make certain that we don't increase the price of the product too much for lower-income groups, the Durbin-DeWine amendment addresses that directly. When you go company-specific, the money comes off the bottom line. For those who say that the targets that the State attorneys general agreed on to reduce the number of kids smoking were reasonable, as those tobacco companies said then, this bill returns to those targets. We think this is sensible. Let us reward those companies which are engaged in good conduct, reducing youth usage. Let us make those pay who do not engage in good conduct.

I am happy to have this amendment offered today in the Senate, and I am proud to have as my cosponsor the Senator who will be speaking next, my friend who served in the other body with me and now is the Senator from Ohio, Senator MIKE DEWINE.

At this point, I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio is recognized.

Mr. DEWINE. I thank the Chair.

Mr. President, I am pleased to join with my friend and colleague from Illinois, Senator DURBIN, to offer this amendment, an amendment to make the tobacco companies more accountable in our collective effort to reduce youth smoking.

Specifically, our amendment would make a few improvements—a few improvements, but significant ones—to the so-called look-back provisions of this current legislation. The look-back provision in the current bill sets targets for the reduction of teen tobacco use. And, then, it imposes assessments, or surcharges, on individual tobacco companies and the entire tobacco industry if these reduction targets are not met.

Our amendment would make two simple modifications to Chairman MCCAIN's look-back provision.

No. 1, our amendment, like the McCain bill, would impose a surcharge on specific companies as well as the entire industry, if reduction targets are not met. Both our amendment and the McCain amendment are blends of those two formulas. They are different, a different blend, as I will talk about in a moment.

Our amendment puts a larger emphasis, though, on the company-specific surcharge. We do this because we believe the threat of a surcharge against specific companies will give them a much stronger incentive to limit teen tobacco use. In a sense, it is sort of the American way. We hold people accountable. We hold them accountable—we give them the benefit of what they do as well as the detriment if they do something wrong.

(Mr. BENNETT assumed the Chair.)

Mr. DEWINE. Second, Mr. President, our amendment will increase the targets for reduction of youth tobacco use over what is in the McCain bill. But actually with our amendment, we are restoring, as Senator DURBIN has pointed out, the original reduction targets that were agreed to by the industry last year in the global settlement. The net effect of our amendment is to restore what the tobacco companies said and agreed to last year and said that they could do.

Let me repeat, we are not increasing the final reduction targets. Rather, we are simply restoring the original targets that were agreed to in last year's settlement.

Before getting into the specifics of this amendment, I first congratulate my good friend, JOHN MCCAIN, who has put together a very credible, a comprehensive, a good bill. He has faced a very difficult challenge and has crafted an excellent piece of legislation. This is a comprehensive package that attacks teen smoking in a variety of ways. I believe this thorough approach, when all the pieces of the puzzle are finally put together, will significantly reduce teen smoking. Let's make no mistake about it, that is our objective—to reduce teen smoking; to reduce the number of young people every day in this country who start smoking.

I have followed the policy evolution of the look-back provisions since they were first proposed in that global tobacco settlement announced last June, announced by the attorneys general and by the leading tobacco companies' executives. That settlement contained a look-back provision. That settlement contained this brand new and innovative idea—the idea that we could enlist the tobacco industry in our fight to reduce teen smoking by simply giving them a disincentive to hook young people on tobacco.

The look-back provision in the original settlement called on the companies to work with us to reduce youth smoking by 60 percent after the passage of 10 years. That 60 percent was to be phased in at several intermediate levels. The settlement negotiators, including the tobacco industry, all agreed to these reduction targets. They obviously believed that they were achievable.

The settlement then gave the tobacco industry a big shove, a big shove to meet these targets by calling for an industry-wide surcharge in any year the targets were missed. The amount of the surcharge was to be based on how much the industry missed the reduction targets, up to a maximum or limit, a cap of $2 billion.

While I look at this, I recognize really from the beginning, the look-back could be a tremendously useful tool in reducing youth smoking. The tobacco industry, driven by a profit motive, has been incredibly effective in convincing our children to start smoking. If the financial disincentive was strong enough, we would have a way to put the industry's expertise to prevent youth smoking and to turn this whole thing around.

After studying the settlement's look-back proposal, I have two basic concerns: First, I was concerned that the proposed surcharges were not high enough to work as a significant deterrent to the tobacco companies. Second, I had some concerns about the settlement's way of distributing the surcharges across the entire industry; in other words, how they determined who was going to pay what. This was an issue I explored in several committee hearings, both in the Judiciary Committee and in our Labor and Human Resources Committee.

This approach, frankly, if I can use the term, seems almost socialistic to me, the provision that was originally agreed to. The provision calls for looking back first at the end of 3 years and periodically after that to see how well the tobacco industry had done in reducing youth smoking, and then once we found that out, irrespective of how an individual brand did or individual company did in reducing youth smoking, to then say, "OK, we're going to spread it out in the industry; in fact, we are going to spread it out, not based on the percentage of youth who were smoking a particular brand, we are going to take that penalty and spread it out among adult users."

So if a particular company had 20 percent, for example, of the youth market, but 60 percent of the adult market, then, in fact, that company would end up taking 60 percent of the burden of the look-back penalty. It is, in effect, socialism. It is something I think that should offend every Member of the Senate. It is not right, it is not fair, and that is why we are changing it in this amendment. Frankly, that is why Senator McCAIN put together an amendment, a compromise, that did, in fact, begin to go down this road. Our amendment simply goes a little further.

Any company under the original settlement that did its job in reducing youth tobacco use would have to share the benefit of this good behavior with its fellow tobacco companies. Likewise, a company that failed to reduce youth smoking would not bear the brunt of the resulting surcharges because the payments would be spread across the industry.

This approach would have the effect really of diluting the incentive for individual companies to work as hard as they can to prevent teens from using their products. After all, why would a company try to prevent kids from smoking its cigarettes, perhaps creating a competitive disadvantage for itself in the larger adult market when other companies would share in the reward for whatever success they had in reducing teen smoking? It just doesn't make sense.

The way the payments are allocated to the specific companies in an industry-wide approach on the basis, as I pointed out, of the adult market share, would also dilute the incentive for companies to do a good job. Let's take a quick look at the example of Philip Morris, the maker of Marlboro.

This company, through the use of the Marlboro Man and other marketing campaigns, has been unbelievably successful in selling cigarettes to our underage smokers, to our kids, to our children. In 1993, 60 percent—60 percent—of all teen smokers used Marlboro, when in the overall market for adults, Marlboro only had 23.5 percent of the market share.

Let's look at how the industry-wide look-back approach would affect Philip Morris. After all, Philip Morris is responsible for a majority of youth smoking. This is the main company at which look-back incentives should be aimed.

Industry-wide look-backs allocate the industry-wide assessments to each company based on its adult market share. So if the company misses its reduction targets and is then required to pay, Philip Morris is only responsible for 23 percent of that total, because that is the total market they have, even though Philip Morris is responsible for 60 percent of youth smoking.

In the case of Philip Morris, under these statistics, if in a year the tobacco industry did not meet its targets and there was a penalty that had to be assessed under the law, the division clearly would not be equitable. Philip Morris is responsible for 60 percent of the problem, 60 percent of the kids smoking, and yet they would only pay 23 percent under this straight provision.

Let me again point out that Senator McCAIN has changed this and moved it in the right direction. Our amendment moves it even further towards more emphasis on company-specific penalties.

Mr. President, what do we think Philip Morris will do under this industry-wide look-back? Will the look-back do what it is supposed to do, get Philip Morris to try to reduce the number of children who it sells to? Mr. President, to me it is pretty obvious what would happen. Because this industry-wide look-back forces other companies to pay for the sins of Philip Morris, I would expect Philip Morris would simply ignore the look-back. The industry-wide look-back in this particular case would fail to do what it is supposed to do. In the case of Philip Morris, it would fail to give the proper incentive to the very company with the most responsibility for stopping kids from using its products.

That is why, Mr. President, I started calling for a tougher look-back than the original settlement and for one that would be imposed on individual companies that fail to reach the targets rather than on the entire industry. In other words, an effective look-back proposal is one that would commit each company, each tobacco company to feel the impact—whether good or bad—of its own behavior.

And let us not kid ourselves, Mr. President. The tobacco companies will be able to, through marketing techniques, through their dealings with their dealers, through what advertising they will still be able to do, they will be able to have a substantial impact on youth smoking.

Yes, the Government is going to come in under this bill and we will have some anticigarette campaigns. The Government will be involved in other things. This will not be brand specific. This will be across the industry. It will, we hope, have the effect we intend it to have. But the fate of each company will still remain in each company's hands. And they should be accountable for what they do. They should be given—sort of the American way, Mr. President—they should be given an incentive to do what is right and they should be, if I can use the term, "punished" if they do not do what is right. It is the right way to approach the problem.

Mr. President, I worked with the chairman of the Labor and Human Resources Committee, Senator JEFFORDS, to include a tough company-specific look-back in this legislation. Prior to the Commerce Committee's markup of S. 1415, I wrote to Chairman McCAIN to request that his legislation's look-back surcharges be higher than the original settlement, and that they be assessed against individual companies.

Mr. President, by the time this legislation reached the Senate floor, Chairman McCAIN and the Commerce Committee had improved the bill's look-back provisions, and they had done it in two very significant ways. I commend them for it. In the version of this bill that came out of the Commerce Committee, Senator McCAIN increased the level of the industry-wide surcharge and the overall cap in the look-back. This served to provide a stronger incentive for tobacco companies not to target youth.

Further, the Senator from Arizona went even further in this regard in the managers' amendment he offered this week. Specifically, Senator McCAIN added a company-specific look-back surcharge in addition to the industry-wide surcharge.

Mr. President, by including both a company-specific look-back and surcharges stronger than those in the settlement, Senator McCAIN's look-back provision represents a clear improvement from last year's settlement. It will be more effective. It will be fair.

What the Senator from Illinois, Senator DURBIN, and I are doing as we offer this amendment is to simply refine and improve the McCain look-back provisions. And we do this in two fundamental but necessary ways.

Mr. President, the most important modification included in the Durbin-DeWine amendment is a stronger company-specific look-back. The argument for this is simple. The higher the company-specific surcharge is, the more powerful an incentive each company has to prevent children from using its products. By putting more of the burden on individual companies, we can provide a much more powerful incentive for tobacco companies——

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate is not in order.

The Senator from Ohio.

Mr. DeWINE. I thank the Chair and my colleague from West Virginia.

By putting more of the burden on individual companies, Mr. President, we can provide a more powerful incentive for tobacco companies to meet these reduction targets, especially among those companies that have gained the most from the youth market.

Basically, the Durbin-DeWine amendment would direct more of the surcharge amounts to be paid on a company-specific basis. The initial assessments—ones that are charged if a company misses its reduction target by a few percentage points—in our amendment would be higher than in the McCain amendment. In addition, unlike the McCain bill, our amendment would also bump up the surcharge once a company misses its reduction target by more than 5 percentage points.

Let us look at one specific example to demonstrate the differences of the two approaches. Suppose we had two cigarette manufacturers—company A and company B. Each controls, let us assume, half the market, including half of the youth market. Let us say company A has succeeded in meeting its reduction goals for reducing youth use, but company B failed to reduce its targets and failed, in fact, by 10 percentage points.

Company A has done the job. Company B has not. Here is how the total surcharges, to take a specific example—including both the company-specific and the industry-wide assessments—would break down under the McCain bill and the Durbin-DeWine amendment.

Under McCain, company A, the good actor, the good company, is responsible to pay $200 million, but would only pay $100 million under the Durbin-DeWine amendment.

Company B, on the other hand, the company that saw the increase, caused the increase in youth smoking, would be charged $750 million under McCain, but would pay $900 million under Durbin-DeWine. That is a 20 percent higher payment under the Durbin-DeWine amendment for the company that failed. More equitable.

So, as you can see, our amendment would shift the financial burden toward the company or companies that are responsible for the continued youth smoking, but also away from companies that do the right thing. Because companies will know that they are on the hook for how well they do, they have that much more incentive to prevent children from using their products.

Another way to demonstrate this, Mr. President, and to demonstrate the shift we are asking for in our amendment is to look at the overall bottom line. The McCain bill would impose an industry-wide cap, a potential maximum of $4 billion. This cap represents the maximum amount which would be assessed against the entire industry under these provisions.

Although there is no cap in McCain for company-specific surcharges, let us assume each and every company missed its target by, say, 25 percentage points. In that case, the surcharges would all add to about $1.6 billion. So that is the bottom line for McCain—$4 billion imposed across the entire industry, shared among all the companies, and about $1.6 billion for the individual companies that had not met its goals.

The Durbin-DeWine bottom line is as follows: The industry-wide cap is $2 billion, and the total amount of company-specific surcharges, under similar circumstances, would be $5 billion. That is only for that specific example.

Mr. President, the real story I am trying to convey with these numbers is simple: Our amendment has a greater focus on the company-specific look-back and thus provides a stronger incentive for tobacco companies to prevent children from using their products.

Mr. President, our amendment makes one other fundamental change to the McCain bill. Our ultimate reduction target—10 years hence—is a 67-percent drop in the number of teens who smoke. In the McCain bill, the end goal or target is 60 percent. On the surface, the McCain target appears to be the same as the 60-percent target in the original settlement the attorneys general reached last June.

Again, I remind my colleagues, this is a settlement that everyone agreed to. And the tobacco companies said, "Yes, we will be held accountable. And, yes, we can get these targets." So it seems as if it is the same under the current McCain language.

But actually, on closer examination, the McCain target falls a little short of that original target in real terms. The reason why it falls short is the McCain and settlement reduction goals—although the same on the surface; appear the same—each use different starting points or different baselines.

The McCain bill calls for a 60-percent reduction from a higher baseline figure than was used in last year's settlement. Because of this, the McCain youth reduction targets are easier to meet than the original settlement. Again, not a great deal of difference. But all our amendment does, very simply, is take us back effectively to that original settlement, which I think was our original intent of what we should do.

What the Senator from Illinois and I are doing is restoring the original reduction goals from youth tobacco use from the settlement. The Durbin-DeWine amendment sets a reduction target of 67 percent, but after accounting for the different baselines—our reduction goal is equivalent to what is in the settlement. It is exactly what the tobacco industry last year agreed was reasonable and that they said they could reach.

Again, I want to thank my friend from the land of Lincoln, Senator DURBIN, and his staff for their work in putting this proposal together. Let me also thank Senator WYDEN, who will speak in a moment, Senators CHAFEE, WYDEN, DASCHLE, SNOWE, and COLLINS for joining us as original cosponsors of this amendment. This is truly a bipartisan amendment. I also appreciate the work of the Campaign for Tobacco-Free Kids and others in the public health community for their assistance and support. This amendment also has had the active support of former Surgeon General C. Everett Koop—and I certainly appreciate that. Finally, I am pleased that the New York Times has expressed its support for the amendment in an editorial in yesterday's edition.

Mr. President, the choice before us is simple—we have the opportunity here to vote on an amendment that will improve the one basic purpose of this legislation: to reduce youth smoking. By holding individual tobacco companies more accountable for failing to reduce youth smoking, and by restoring the original targets set by the tobacco companies themselves, the Durbin-DeWine amendment will make a real difference in young lives. I urge my colleagues to join us on behalf of our young people and support the Durbin-DeWine lookback amendment. It is the right thing to do.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Thank you, Mr. President.

Mr. President, I offered the amendment in the Senate Commerce Committee to toughen the look-back penalties for one reason. I believe that stronger look-back penalties provide a powerful tool to actually change the course of history and hold the tobacco companies accountable when they pursue youthful customers.

A brief review of the history indicates that the tobacco companies won't change on their own. For example, if you look at every previous effort, every single previous effort on the part of the Congress to hold the tobacco companies accountable, the tobacco companies, in fact, have found a way to get around those efforts. That is what happened when the Congress sought to go forward with restrictions on advertising. That is what happened when the Congress legislated warning labels. And that is what happened when the Synar amendment was enacted.

Many will remember our colleague who served in the other body. Mike Synar wrote very tough legislation that would, in effect, require that the States carry out the laws to protect our kids when they were targeted. The tobacco companies found a way around that.

So the tobacco companies have found a way around every single previous legislative effort on the part of the Congress to hold them accountable. Those who would like to know more about this history can learn about it simply from the documents that have come out since the 1994 hearings in the Health Subcommittee on the other side of the Capitol.

Now, the tobacco companies would like us to believe that they will change the course of history and their behavior on their own. Many of the Senators will remember after the original attorneys general settlement the tobacco companies took out very large advertisements in both the Nation's newspapers and in the electronic media. The basic message of those ads that were taken out by the tobacco industry when they were encouraging support for the original settlement, was their message that it was a new day. Tobacco companies said it is a new day. There will be improved corporate citizenship on the part of the tobacco industry, and that the sordid history that came out after 1994 in those various documents was a part of the past.

I think the inclination of every Member of the U.S. Senate is to say industry can change. Our colleague, Senator DURBIN, made mention of the fact that many of the executives who testified in 1994 aren't alive today. So a number of us were very hopeful that it would be a new day in terms of tobacco industry behavior. But when the Senate Commerce Committee held hearings earlier this year under the leadership of Chairman McCAIN, we received powerful evidence that things really had not changed.

I will cite one example in which I was personally involved. In 1994, when I was a member of the Health Subcommittee on the other side of the Capitol, HENRY WAXMAN brought the Nation's tobacco executives before the Health Subcommittee. It came to light that the Brown & Williamson company at that time was genetically altering nicotine, genetically altering nicotine to give it a special punch and to hook their customers. This was, of course, a flagrant example of subverting the public interest. It was documented by the Food and Drug Administration. At that time, the Brown & Williamson company assured the country that they would not engage in that conduct again.

During the course of our preparation for the hearings in the Senate Commerce Committee 4 years later, I and other members of the committee learned from news reports and others that there was evidence that, in fact, Brown & Williamson was again genetically altering nicotine and again engaging in this detrimental conduct that they pledged to the country they would never engage in again in 1994.

So when the CEO of the Brown & Williamson company came to the Senate Commerce Committee with the other executives, I asked specifically about what kinds of practices the company was engaged in with respect to genetically altered nicotine. The CEO of that company said, in fact, that they were again selling this product, and in their words, in response to a question I asked that day, they admitted that they were working off "a small stockpile of genetically altered nicotine," engaging in conduct that they pledged the country in 1994 that they would never engage in again.

The reason I bring this example up is that if a tobacco company will engage in that kind of brazen conduct, in that kind of conduct when they are under the hot spotlight of the U.S. Congress, as they have been for many months, what are they going to do when the attention of the Congress and the country turns elsewhere? This isn't about conduct of 20, 30, 40 years ago. We know that took place in the past. A number of us were very interested in knowing whether the companies really did want to change of their own accord. Many of those who have opposed tough look-back penalties have used this argument in the past. Companies are changing. These kind of tools of big government are certainly unnecessary, at best.

The Brown & Williamson example where they are working off a small stockpile of genetically altered nicotine at this time is certainly strong evidence that these companies have not really changed and it is not the new day that the Congress and the country were told about after the original settlement from the attorneys general.

Given that past history, over 20, 30, 40 years, and the most current history, the Brown & Williamson example which, by the way, the Justice Department is now conducting a criminal inquiry into, there have already been pleas in this regard—given that past history and the history present, many of us are not willing to say that it is actually a new day in the tobacco industry.

Mr. President, I want the Senate to know why I am particularly skeptical. I was a member of the Health Subcommittee of the other body in 1994, Chairman WAXMAN, the late Mike Synar, and others, did an extraordinarily good job of questioning the executives. But when it came to my turn during those hearings, I recognized that it had not yet been put on the public record whether these executives believed that nicotine was addictive.

So, in 1994, at those hearings, I went down the row with each of the executives, one by one by one, each of them, and asked them whether nicotine was addictive. And each of them under oath at that time said that nicotine was not addictive.

I like to think that moment contributed in some way to the important legislation we have before us, contributed to our positions for enacting strong legislation. But it seems to me that set of hearings and the documents that have come to light will only make a real difference over time if we now follow up on those early efforts and pass the strongest possible look-back legislation. That is why I offered a very tough set of additional penalties when companies don't meet their specific targets for reducing youth smoking under the Commerce Committee bill. That is why I am pleased to be able to join Senators DURBIN, DEWINE, CHAFEE, and others this afternoon.

The bottom line, with respect to our amendment—many of the details have been addressed—but the bottom line is if you do not have aggressive look-back penalties, look-back penalties that really zero in on aggressively the companies in a specific way, you effectively penalize the companies that try to change their behavior twice. You penalize them once through the industry assessment and second through the loss of market while other companies continue to market to children and a future market share.

This amendment represents a fairer approach. It does not allow the Congress, in effect, through loopholes in this look-back set of provisions, to place a company that does try to clean up its act, does try to change history, we make sure under our amendment that company wouldn't be placed at a competitive disadvantage when they said, now we are going to change and not seek out children.

Let me also say that because the number of teen smokers has actually grown since the original settlement was announced last summer, the changes that we offer today will essentially hold the industry to a reduction level to which they have already agreed. So, in fact, this amendment is stronger than what came out of the Senate Commerce Committee on the 19-to-1 basis. But given what we have seen with, again, the number of teen smokers actually increasing, this, in effect, simply ensures that the industry is held to a reduction level to which they have already agreed.

Mr. President, and colleagues, Senators DURBIN and DEWINE went into a number of the details with respect to how the look-back legislation works. I don't think all of that needs to be belabored at this time. But I would like to say that to me what this amendment is all about is reversing the course of history. History shows that in the past when we would write these laws, the tobacco companies would bring their entrepreneurial and advertising talents to the task then of getting around them. And the tobacco companies have more of that kind of advertising and entrepreneurial talent than anybody else around. They would always find a way to evade the law.

Learning from past history with respect to the warning labels, with respect to electronic ads, with respect to the way in which the industry got around the Synar amendment, we are making it clear that we are going to have the tools to rein in the scoff-law companies, those that do not clean up their acts as they have pledged to do. We do so in a realistic way. We do so in a fashion that makes sure that companies that really have changed won't be put at a competitive disadvantage.

I would say, finally, Mr. President, and colleagues, to those of you who have talked to me personally about those 1994 hearings, and what happened during the course of those 7 hours where the executives said that cigarettes were like Hostess Twinkies, cigarettes weren't addictive, and they never preyed on children, if you really want to reverse the course of history, if you really want to hold the companies accountable, if you really want to rein in the conduct that we saw demonstrated again in the Senate Commerce Committee when Brown & Williamson admitted that they are now using genetically altered nicotine, if you want to change that behavior, vote for this bipartisan amendment, because this is something that is going to change the course of history and make sure that these companies don't prey on our youngsters in the years ahead.

Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I want to respond to my colleagues who are proposing this amendment. But, first, I would like to make some general comments about the bill to complement some of the comments I made earlier today, some of which were related to a statement from the Joint Tax Committee which I inserted into the RECORD, the chart that they put together on the net cost of the bill. They have now added a line to their estimate. I want to include that in the RECORD as well. This is the price per pack of cigarettes under this bill with all these new taxes and surcharges and look-backs.

I will tell my colleagues that for 1998, the year that we are in right now, before this bill goes into effect, Joint Tax assumes the price of cigarettes is $1.98. They assume for 1999—I want our colleagues to hear this—Joint Tax says the cost of a pack of cigarettes goes up to $2.88, a 90-cent increase. The next year, $3.24; the next year, $3.41; the next year, $3.66; the next year, $3.83; by the year 2004, it is over $4, $4.06 per pack. The next year it is $4.12; the next year, $4.78; by the year 2007, 9 years from now, the price per pack, $4.48. The price today is less than $2.

This isn't coming from Don NICKLES. This came from Joint Tax. I haven't agreed with everything that Joint Tax has done in estimating this bill. But in this estimate, they have added some of the other aspects of the bill, including the look-back.

I ask unanimous consent to have this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RECONCILIATION OF GENERAL TOBACCO INDUSTRY PAYMENTS UNDER S. 1415, AS AMENDED, AND NET FEDERAL REVENUE EFFECT OF SUCH PAYMENTS ESTIMATED BY THE JOINT COMMITTEE ON TAXATION ON MAY 19, 1998, BEFORE THE LOOK-BACK PROVISIONS

[In billions of dollars]

Provision	Fiscal year—											
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2003	1998–2007
I. Calendar Years:												
1. Federal revenues from S. 1415 general tobacco indusry payments as adjusted for inflation (by calendar years as in S. 1415)	$10.0	$14.4	$15.4	$17.7	$21.0	$23.6	$24.3	$25.0	$25.8	$26.6	$102.1	$203.8
2. Calendar year volume adjustment	....	....	....	....	–3.6	–5.0	–5.4	–5.8	–6.2	–606	–8.7	–32.7
3. Calendar year payments	10.0	14.4	15.4	17.7	17.4	18.6	18.9	19.2	19.6	20.0	93.4	117.1
II Fiscal Years:												
1. Adjustments:												
a. Convert Federal revenues from S. 1415 general tobacco industry payments to Federal fiscal years	....	–20.8	15.2	17.1	17.5	18.3	18.8	19.1	19.5	19.9	88.9	166.2
b. Change in the net revenues from Fedeal income and payroll taxes (because of the impact of S. 1415 general tobacco industry payments on aggregate taxable income	–	–5.2	–3.8	–4.3	–4.4	–4.6	–4.7	–4.8	–4.9	–5.0	–22.3	–41.7
c. Change in net revenues from present-law Federal tobacco excise taxes (because of price increases from S.1415 general tobacco industry payments)	–	–0.8	–1.2	–1.5	–1.9	–2.1	–2.2	–2.2	–2.2	–2.2	–7.5	–16.3
d. Net revenue effect of replacing State by State tobacco settlements with S. 1415 payments	–	0.5	0.9	1.1	1.4	1.6	1.9	2.2	2.4	2.7	5.5	14.7
2. Net Federal revenues from S. 1415 general tobacco industry payments (JCT May 19, 1998 estimate)	–	15.4	18.0	12.5	12.7	13.2	13.8	14.3	14.8	15.4	64.6	122.9
Nominal Calendar Year Price Per Pack With Youth Look Back	$1.98	$2.88	$3.24	$3.41	$3.66	$3.83	$4.06	$4.12	$4.78	$4.84	....	....

Note: Details may not add to totals due to rounding.

Mr. NICKLES. Mr. President, I wish to address the amendment by my friends and colleagues from Illinois, Ohio, and Oregon dealing with increasing the look-back penalties.

I made a statement earlier today that I think the look-back provision in this bill is one of the most unworkable provisions that anybody could dream up. I say "unworkable." I don't think it will work. But I would like to maybe bring to my colleagues' attention how they propose that it should work.

To make the look-back penalties work, they say we are going to empower the Secretary of the Treasury to do a poll. It says to conduct a survey. The survey is on a national basis. They are going to measure the type of tobacco product used in the last 30 days. They are going to conduct this survey with methodology that he determines is appropriate. They are going to identify the name brand that the youngsters use. They are going to be surveying kids. They are going to be surveying people from ages 11 to 17. And they are going to ask them a question: "Did you smoke, and what brand did you use?" Then they are going to put all this information together. I don't think they are going to ask this of every teenager in America. So it is going to be a random survey.

Then they are going to compare the results of this survey to the mandates in the bill. If we don't meet the targets, or if the consumption of tobacco by teenagers is higher than what this bill says they should be, the tobacco companies are going to be assessed penalties. And the penalties are very large. The penalties in the look-back provision under the negotiated settlement with the attorneys general went up to $2 billion. The penalties that came out of the Commerce Committee were $4 billion—$3.96 billion.

And then the penalties which were rewritten by the administration and introduced on Monday came out $4.4 billion maximum, and now the amendment that we have in the Chamber says take that to $7.7 billion, and also increase the target rate to 67 percent.

Why do rates make a difference? Well, for every point you are out of compliance, you are assessed a penalty, and the penalty is large. The penalty for not making the target under the attorneys general negotiated agreement was $80 million per point missed.

Well, the penalty under this bill is $240 million per point missed. It is three times as large as that proposed under the original settlement. That is just the industry-wide look-back. There is also a segment that applies to the product, and it has a penalty that is $200 million per point missed.

If this sounds confusing, it is because it is, and it is in this bill. My point is it is not going to work very well. You are telling the Secretary of Treasury to take a poll, and then we are going to deem that this poll is correct.

Now, all of us have used surveys. We have all had polls. But this bill has language that I guess people want to become law which says the survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for the purposes of this act.

So we are saying, whatever the Secretary says, it is accurate. It is a done deal. And then they are going to and ask the kids, did you smoke? Now, they don't ask them, did you smoke 10 times? Did you smoke a pack a day? They can smoke one cigarette during that 30-day period and they are counted. And if this thing worked just right, a tobacco company would have to pay $1,000 because a youngster smoked one cigarette. I find that to be pretty high. And I might mention, this is really supposed to go after young people who are smoking illegally. They are smoking illegally. Let's put the penalty on the young person for breaking the law. Instead, we are going to do a random survey, a random survey that has to determine every single percentage for every single tobacco product. There is a de minimis level. We are not going to hit the smallest companies, I guess. I don't know how many different tobacco products there are. I don't know them very well. I don't smoke. I can only think of three or four cigarette brands. I don't smoke. And my guess is there is probably a lot of teenagers who don't either, but they can remember maybe the biggest name brands. I can remember Marlboro and Winston and maybe Virginia Slims. So if somebody said, do you smoke? I might be able to remember those name brands.

Mr. FORD. Mr. President, could I help the Senator with the names of some packs of cigarettes?

Mr. NICKLES. In a minute. That youngster taking the survey, if they mention a name brand, whether that was the brand they smoked or not, it comes out in the calculation of this data which is deemed accurate, proper, and correct. Then, that company can be subjected to enormous fines.

In the proposal, in the amendment that we have pending, the fines that are brand specific go up to $5 billion. They are also indexed for inflation. That is a pretty big penalty.

Then there is a $2.2 billion look-back that applies industry-wide. The Secretary of Treasury takes this survey and tries to determine what percentage of young people are smoking each brand in the country, and if each one of them by brand product missed this target, then they are assessed penalties that can go up to $7.7 billion and even higher in the outyears.

This is not a good plan. This is not a workable plan. I tell my colleagues, if you want to do something to reduce teenage smoking, come up with something else. If you want to come up with higher taxes, just increase the tax. I have heard some people say you don't need $1.50 because we have a big look-back and it's really $1.50 anyway. If you want to make it a $1.50, make it a $1.50, but call it a tax. Make it clear. Make it honest. This is a scheme. We are going to deem a poll to be accurate, and authorize the Secretary to assess enormous penalties, in the billions of dollars.

That doesn't make sense. Now, if you really want to reduce teen smoking, do something else. Say to teenagers, if you are caught smoking, we are going to slap your wrist. The second time we are going to make you clean up a park, the third time maybe a financial penalty. We don't have that in this bill. And I don't want the Federal Government to do it because I don't want to federalize these actions, but instead we should encourage the States to enforce the law.

It is against the law for teenagers below the age of 18 to smoke in any State. If you don't want anybody to smoke that is 18 years old, try and increase the age to 20 or 21. You have that right. But to come in——

Mr. FORD. Mr. President, may I correct the Senator?

Mr. NICKLES. Yes.

Mr. FORD. I don't believe it is unlawful to smoke. It is unlawful to purchase.

Mr. NICKLES. I appreciate the correction. Let me make the comment, Mr. President. In every State in the Nation it is unlawful to purchase cigarettes.

Mr. FORD. Now.

Mr. NICKLES. And if we want to decrease teenage consumption, maybe we should encourage the States to pass laws it is against the law to consume and put some responsibility back on the individual. Instead, we are allowing this massive growth of government.

It doesn't make sense. It is not workable. It is not fair. And I don't think it will be effective. I also don't think parts of it will be constitutional, and I don't think we have willing participants by the tobacco companies. So it is just not a good deal. For people who want to raise taxes, raise taxes. Be up front, be honest. If you want to do something else, do something else to get teen consumption down. But this bill is not going to work. It is just not a workable plan. Frankly, if it wouldn't work at $4.4 billion, it won't work at $7.7 billion.

I urge my colleagues examine this look-back provision, see how complicated it is, see how confusing it is to give the Secretary this power, and to decide this is not the right way to legislate. It is not the right way to tax, and let's come up with something better. I hope something better would include some personal responsibility and accountability for people who are breaking the law. If a teenager purchases, it is against the law if they are under the age of 18. And if you really don't want them to smoke, maybe we should encourage the States to have laws against the consumption as well.

I appreciate my——

Mr. DOMENICI. Will the Senator yield?

Mr. NICKLES. I will be happy to yield.

Mr. DOMENICI. I have a question. Is the Senator saying that tobacco companies do everything they are supposed to do and yet when we take the survey, we are not as successful as we hoped to be and so we are going to impose a fee on them?

Mr. NICKLES. The Senator is exactly right. You know, I am sure if this survey was taken during the Fourth of July break, it would have a little higher incidence of teen smoking than it would at some other time in the year. But if they smoke a cigarette, they are counted in the affirmative and the penalty would be $1,000.

Mr. McCAIN. Will the Senator yield for one more question?

Mr. NICKLES. I will be happy to yield.

Mr. McCAIN. Is the Senator aware that as part of the original agreement between the industry and the attorneys general, the industry itself was the one that agreed to this? All they are doing here is increasing it. Is the Senator aware of that? And is the Senator aware that this puts him in a position which is far different even from the industry by attacking a proposal that was agreed to by the tobacco industry itself, who would——

Mr. NICKLES. I will be happy to answer the question.

Mr. McCAIN. Have experienced these penalties, who would have been subject to them and obviously must have had some confidence in the survey the Senator is deriding; otherwise they never would have entered into the agreement because the penalties would have accrued to them. Is the Senator aware of that?

Mr. NICKLES. I will be happy to tell my colleague from Arizona that he makes a good point but he is absolutely wrong. What the industry agreed to, according to the settlement, is that they would pay $80 million per point of noncompliance, up to a total of $2 billion. What we have before us is two surveys, penalties up to $4.4 billion, and an amendment to go to $7.7 billion.

Does my colleague from Arizona realize there is a difference between $7.7 billion and $2 billion? and that $5.5 of this new penalty is product-specific? and the industry did not agree to a product-specific penalty? These provisions were not in the industry settlement, as I am reading it right now.

Mr. GRAMM. Will the Senator yield?

Mr. McCAIN. Did you ask me a question?

Mr. NICKLES. No.

Mr. McCAIN. You didn't.

Mr. GRAMM. Will the Senator not agree with me that whether the tobacco companies agreed to it or not, that article I of the Constitution gives the Congress the power to tax? and that we ought not to be delegating that power to a poll?

Mr. NICKLES. I agree totally. And I also tell my colleague and friend from Texas, I wasn't part of the tobacco companies' deal. I am part of the Finance Committee. And I think if we are going to legislate on taxes, we ought to do it right. This is not the right way to tax.

I will also tell my colleague from Texas, I have heard people say the tobacco industry is confident they can challenge these look-back assessments and win in court and have it thrown out as unconstitutional. Regardless of the constitutional argument, I say this is a crummy way to tax. I don't want to give the Secretary of the Treasury the authority to conduct a poll and then determine that the poll is accurate, proper, correct for purposes of this act, and be able to make assessments. Under the agreement the tobacco companies agreed to, it was up to $2 billion. Under the bill that came out of the Commerce Committee, it was $3.96 billion. Under the bill the administration wrote and introduced on Monday, it came up to $4.4 billion. And on the amendment we have pending now, it is $7.7 billion, also indexed for inflation.

The industry did not sign off on any $7.7 billion look-back.

Mr. GRAMM. Will the Senator yield further?

Mr. NICKLES. Yes.

Mr. GRAMM. Just two questions. No. 1, you are not here to represent the industry, are you?

Mr. NICKLES. No, sir. I could care less——

Mr. GRAMM. Second, when you put your hand on the Bible and you swore to uphold the Constitution of the United States against all enemies, foreign and domestic, you were not saying, well, I'll uphold the Constitution and article I, the power of Congress to tax, only in those cases where the tobacco companies didn't agree to let a pollster raise taxes, did you?

Mr. NICKLES. The Senator is absolutely right.

Mr. McCAIN. A "pollster"?

Mr. NICKLES. I got on the Finance Committee because I did not like the way our tax system was structured. I want to work with our colleagues from Mississippi and Texas, to take the Tax Code and rewrite it and come up with something that is fair, flat, and simple. This is tobacco bill just the opposite. This is a mess. We could clean this bill up a lot if we went through the conventional process, if we had the Finance Committee mark up this bill on the tax side and call a tax a tax.

Instead, we have this unbelievably complicated system, and the look-back is maybe the most complicated. Delegating to the Secretary of the Treasury to take a poll, and then, if they don't meet the targets that we set, we are going to assess them billions of dollars, up to $7 billion or $8 billion, I find to be ludicrous. It doesn't make sense. It is not a good way to legislate.

That is the reason that the Commerce Committee doesn't have taxation power, in the Senate. In the Senate, the Finance Committee has the power to raise taxes.

Mr. McCAIN. Will the Senator yield for a question?

Mr. NICKLES. And not the attorneys general and not the Commerce Committee.

I will be happy to yield.

Mr. McCAIN. I thought the Finance Committee did take up this issue and ended up raising taxes, and doing all kinds of other havoc to it in 24 hours. I wonder what they would have done in 72.

Mr. NICKLES. I will tell my friend and colleague, the Finance Committee did consider this bill for 24 hours. I didn't support their $1.50 tax increase, but I think their $1.50 tax increase is a lot more honest, is a lot more plain, a lot more doable. We have excise taxes on tobacco today of 24 cents. Congress last year, when we passed the kid-care bill, increased that another 15 cents. So, tobacco taxes are going to 39 cents already in present law.

People say that the Commerce Committee bill, the administration bill, increases that another dollar and a dime. That takes the tax to $1.49. But they do not call it a tax, they call it a fee. So we are telling everybody who is in this industry—and we have wholesalers and distributors and so on—that the tax is $1.49 and it is increasing. But that bill, the bill that we have before us, doesn't saying anything about a dollar and a dime. It says put all these billions of dollars into a fund. That is not very workable. It is not very legitimate. I think we should have the committees of jurisdiction take this bill.

The Finance Committee did take the bill, but unfortunately the Commerce Committee and the administration looked at our changes, and they just ignored them. They dropped the changes that the Finance Committee made.

I resent having the Commerce Committee write the tax portions of this bill as well as I resent the Commerce Committee writing the ag portions of the bill. And I think those are two of the more contentious and two of the more difficult things that we have to deal with. The committee that marked it up didn't have, in my opinion, the taxation expertise, they didn't follow the same taxation procedures that we have on every other excise tax in history. And, frankly, I think the Agriculture Committee should have written that instead of the Commerce Committee as well.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Is the Senator—has the Senator from Oklahoma completed his remarks? Were you through with your remarks?

Mr. NICKLES. Yes.

MORNING BUSINESS

Mr. LOTT. Mr. President, I know we are having a lot of fun here, but for the information of all Senators, there will be no further votes this evening. The Senate has tried to work out an agreement that would resolve the impasse that we have right now parliamentary, and with regard to the substance of those amendments, but we have not been able to get that worked out yet. There are very strong feelings on both sides of the amendments that are pending, so I can understand that. So, since we haven't worked out an agreement, I now ask there be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

Mr. GRAMM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Texas reserves the right to object.

Mr. GRAMM. Would it be possible for us to just have a short final statement on this issue? Or would you prefer we do it——

Mr. LOTT. I would prefer you do it in morning business, because if you had a short final statement, there would need to be a short final reaction. I see the Senator from Massachusetts is anxious to get recognition.

Mr. GRAMM. In that case, it is not worth it.

Mr. LOTT. You can continue in morning business.

Mr. GRAMM. Thank you.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, tomorrow we will convene at 9:30, and there will be 1 hour for morning business, and then we will begin consideration of two items tomorrow, calendar No. 299, H.R. 2709, relative to Iran sanctions, with a total of 3 hours for debate. We already entered into an agreement back before the Easter recess as to how this issue would be considered, on or before May 22. So we will have this issue up tomorrow. There could be an amendment offered by Senator LEVIN. But we hope to get that up tomorrow.

I won't even announce at this moment exactly which one of these two bills will come first, because we will need to see, for instance, if the ISTEA highway and infrastructure bill is ready to go. As soon as we get it, we want to take that up. But it will be the Iran sanctions issue, and then we will consider and dispose of the ISTEA conference report. So, votes will occur tomorrow, probably at least one, maybe two or three. It will depend on how these issues develop.

Some people are saying, Will the ISTEA conference be completed? I am told by the leaders that they will be able to complete it tonight. They may need a little extra time in the morning to make sure that Senators who are affected one way or the other have been briefed as to exactly what is in it, but they know that we need to complete this legislation before we go home for Memorial Day recess, and we should be committed to get that done.

With that, I yield the floor and the morning business would be in order.

Mr. FORD. Will the majority leader yield?

Mr. LOTT. I am happy to.

Mr. FORD. I approve of what you have been doing. I think you have a hard job and you have done well. One thing that bothers me—you come to Kentucky to see friends and family one of these days. There are a lot of holds here and a lot of people are caught up in holds that have nothing to do with the disagreement among Senators. Next week, the Uranium Enrichment Corporation will make a final decision on whether they go public or whether they go sell to an individual. And we have one member who needs to be on that. She has been held up 4 months now, and that vote and that expertise, for 4 years, needs to be on that board. I hope that somewhere—it is on our side as well—but when I get our side worked out, then it comes back on that side.

Mr. LOTT. If I can say to the Senator from Kentucky, I know he is interested in this nominee. Over a week ago, I believe, we had it cleared.

Mr. FORD. We did until we got problems on this side.

Mr. LOTT. Then I thought we worked it out again, and another problem popped up.

Mr. FORD. Oh, yes.

Mr. LOTT. But I think we will take another run at it tomorrow and see if we can maybe work it out.

Mr. FORD. The only reason I am asking is, we have the budget process. The Senator from New Mexico, Senator DOMENICI, has worked hard on this. It should not be jammed up because of a hold on the Senate floor for an individual who has nothing to do with it, and it is jeopardizing the budget process, because funds are in there as it relates to the sale of this item.

So I just—I plead with you, if you can, and I will do the best on my side, and if somehow, tomorrow, we will not be back, able to do it—and I do not want a recess appointment. It will all be over before the year expires. I don't like to do recess appointments.

Mr. LOTT. I will say to the Senator from Kentucky, I realize Margaret Greene——

Mr. FORD. Yes.

Mr. LOTT. Needs to be released. We also have worked out, I believe, an agreement that involves releasing Mr. Barry for the Department of the Interior and Mary Anne Sullivan to be counsel at the Department of Energy. We would like to move all three of those.

Mr. FORD. I agree with that, and I will try to help. My pleadings have fallen on hard times.

Mr. LOTT. We will work on it tonight and tomorrow. Keep working on it.

Mr. FORD. I appreciate it. I want you to know—I want everybody to know—we are trying to operate in an efficient manner, and other things are jeopardizing the ability to do it in an efficient manner.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank the Presiding Officer. I will proceed in morning business.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

Mr. McCAIN. Mr. President, I need to respond, of course, to the Senator from Oklahoma who somehow now regrets or complains about the fact that this legislation went through the Commerce Committee. My understanding is, unless I am having some mental lapse, that the decision was made by the leadership to move the bill through the Commerce Committee.

My understanding is that was the instruction of the distinguished assistant majority leader and the other members of the leadership, to move it through the Commerce Committee, because it was clear it was not going to go through the other committees. Now the Senator from Oklahoma seems terribly distraught that it didn't go through the other committees when he was the major person to move it through the Commerce Committee.

Mr. NICKLES. May I answer to that?

Mr. McCAIN. I will be glad to yield, if the Senator from Oklahoma has a short question, because we are operating——

Mr. NICKLES. I don't have a question. I want to respond.

Mr. McCAIN. If you don't have a question, then I suggest you wait until the expiration of my time.

The second point is that the Finance Committee did insist, insist, insist and got this bill, and they came up with a result that the Senator from Oklahoma didn't like. There were amendments pending, that is my understanding, in the Finance Committee—I was watching on C-SPAN—that would have done even more damage to the legislation, at least from the viewpoint of the Senator from Oklahoma, who thinks that the bill is too encompassing, too large a tax increase, et cetera, which he has spoken at length about on this floor today. I am curious about what would have happened if the Finance Committee had kept the bill even longer.

As far as the Agriculture Committee is concerned, the Agriculture Committee bill is in the bill as a result of the majority leader inserting it. The Senate will have its way on that.

But I want to come back to the fundamental issue of the look-back provision. Mr. President, I didn't invent the look-back provision. It wasn't my idea. I have very talented staff and advisers and friends. The look-back provision came from the agreement that was entered into by the attorneys general of the 40 States and the industry.

Have they changed? Yes, the look-back provisions have changed. Should they be changed back? Should I support the Durbin amendment? No, because I think it makes it worse. But the look-back provision concept was generated by the belief of every public health group in America that you can't trust the tobacco companies.

Perhaps the Senator from Oklahoma and the Senator from New Mexico and others trust the tobacco companies and believe that they will really try to reduce teen smoking. They may do that, but most observers believe that after commitment after commitment and promise after promise and lying to Congress about the fact of whether they enticed kids to smoke or not, the fact is we found out they did. So the look-back provision, I inform my colleagues, does not mean you have any connection with the tobacco industry, but you ignore the fact that the tobacco industry can't be trusted, and unless there are penalties involved, then the industry will not do what they say they will do, because they have already said they would try not to entice kids to smoke, and they did. That is the reason for the look-back provision.

Philosophically, that may not be something that is acceptable to the Senator from Oklahoma, the Senator from Texas, or the Senator from New Mexico. But the reality is that is the view of every public health organization in America. Every living—every living—Surgeon General in America today has said you have to have these provisions in the legislation if you want to attack the issue of kids smoking.

That is the view—and we have the letter, I have the letter from the Surgeons General, every Surgeon General since 1973. Perhaps those who oppose this know more than they do. I don't know, I don't know more than they do.

With startling candor, Dr. Claude Teague set forth the plain facts about the addictive nature of nicotine in his chilling 1972 internal memorandum discussing the crucial role of nicotine. He said:

> Happily for the tobacco industry, nicotine is both habituating and unique in its variety of physiological actions. Realistically, if our company is to survive and prosper over the long term, we must get our share of the youth market.

"We must get our share of the youth market."

I commend this to the reading of the Senator from Texas and the Senator from Oklahoma. It is clear that the tobacco companies attempted to entice youths to smoke. So, therefore, in the agreement made by the tobacco companies, freely entered into by the tobacco companies, there were look-back provisions. Perhaps the Senator from Oklahoma doesn't like the size of them, but it is hard for me to understand how he can argue against the rationale behind it.

Another slip occurred——

Mr. NICKLES. I will be happy to answer it.

Mr. MCCAIN. In 1987, just months before the national launch of the Joe Camel campaign, on October 15, 1987, a memorandum stamped "RJ secret" from a file that, incredibly, bears the name "youth target":

> Project LF is a wider circumference nonmenthol cigarette targeted at younger adult male smokers, primarily 14- to 24-year-old male smokers.

I can go through document after document for the Senator from Oklahoma. What I am asking him to understand is why these look-back provisions are there, because the tobacco companies tried to entice young people to smoke, and here are the documents. In the agreement of June 20, 1997, the tobacco industry admitted that they had enticed kids to smoke. Therefore, since they could not be trusted, then there should be provisions that penalize the tobacco companies if, indeed, youth smoking went up, which they are committed not to do. That is something in which they freely engaged.

I can understand if the Senator from Oklahoma has a problem with the size of those look-back provisions. I cannot understand why the Senator from Oklahoma would not understand why the look-back provisions are there. When we talk about all the adjectives that the Senator from Oklahoma has described these look-back provisions, the facts are, according to every living Surgeon General, according to every public health organization in America, according to Dr. Koop, according to Dr. Kessler, according to every health expert in America, the fact is there has to be provisions that will punish the tobacco companies, as well as incentivize them to stop and reduce teenage smoking.

Now that, I suggest, is reality. Again, I am not speaking from my knowledge and expertise. I am not speaking from my background. I have to go, when I don't know about issues, to the experts. It is rarely that I find experts who are completely in agreement on an issue, and every expert in America is unanimous in saying we have to have some provisions that punish the tobacco companies if they don't do what they say they are going to do.

When the tobacco industry entered into the agreement, they promised to do everything they could to reduce teen smoking. That was part of the agreement they entered into. So how in the world somebody would say that when you swear to defend the Constitution of the United States that you would totally disagree with every health expert in America, frankly, is something I don't understand.

These proposals have been pummeled pretty heavily for the last couple of days, including from the Senator from Texas who has been here quite awhile, and including others.

I want to say, I am coming to respond to this because this legislation is based on an agreement the tobacco industry voluntarily entered into. It seems to me the Senator from Oklahoma's and the Senator from Texas' problem is not with this legislation, it is with the original agreement. And, frankly, they have every right to disagree with it.

But the reason why many of the provisions were put in that legislation and were entered into was because the best minds in America on this issue said, "You need look-back provisions, you need to restrict advertising, you need to have programs that have to do with youth cessation, you need to have research, you need to have funding for the NIH and the Centers for Disease Control. This is what you need in order to stop kids from smoking."

Mr. NICKLES. Will the Senator yield?

Mr. MCCAIN. Now, if you want—for a question, I would be glad to respond, which is the normal——

Mr. NICKLES. The Senator used my name about 14 times. I would like to respond, because you made a couple allegations I resent and I would like to respond. But I would like to make a statement, not a question. I would like to make a statement. It would only take me about 4 minutes. But I would like to respond since my name has personally been mentioned, I think, 14 times. I am counting.

Mr. MCCAIN. Of course the Senator from Oklahoma's name has been mentioned, because I am trying to respond to the Senator's statements about the legislation. If he would prefer I not mention the Senator from Oklahoma or saying a certain Senator, but I listened very carefully as a certain Senator attacked this legislation very strongly, in all candor and sincerity.

Mr. GRAMM. Will the Senator yield?

Mr. MCCAIN. I am trying to respond to those comments that were made about the legislation. I think that is the normal give-and-take of debate here on the floor. I am saying that——

The PRESIDING OFFICER (Mr. SESSIONS). The Senator's time has expired.

Several Senators addressed the Chair.

Mr. NICKLES. Mr. President, I will be brief. I know my colleague from Texas has been waiting to speak on the amendment. But there were a few things implied by my colleague's statements, the chairman of the Commerce Committee. He said, "The Senator from Oklahoma doesn't agree with the look-back assessments that were part of the attorney general's agreement. And if the tobacco companies agree to it, why would he be opposed to look-back?"

I was not part of that agreement. I think my colleague from Arizona once said, "Why don't you introduce the tobacco settlement so we can mark up from that bill?" I did not do it. The chairman of the Commerce Committee did. I did not do it because I was not comfortable with it. I did not do it because I do not want to introduce a bill that says tobacco companies will be exempt from class action suits.

I did not do it because I looked at look-back assessments and said, "That's no way to tax." I think there is a right way to tax and a wrong way to tax. This is the wrong way to tax. And so to attack me and say that if I am against look-back penalties I am also against every health professional or expert is ridiculous.

I think this is a crummy way to tax. I have told my colleagues, you want a tax? Tax. Call it a tax. Don't hide behind saying, "It's a fee. It's an assessment."

I just read the attorneys general's deal with the tobacco companies. They did not say anything about having a survey and deeming it "proper and correct" and so on. My point being, I am not part of the deal that the attorneys general negotiated. They did not ask me. I am part of the Finance Committee, which is responsible for raising taxes. This Congress has already raised tobacco taxes. And if Senators want to increase them again, they have the right.

We raised the tobacco tax last year. I did not vote for it. I do not know if my friend and colleague from Arizona did or not. But we increased tobacco taxes last year 15 cents. The increases have not gone into effect yet, but they will. They are on the books. And that is the way we should do it. That is the way the system works. This convoluted system of industry payments going up to $1.10, plus look-back penalty is wrong. Originally the look-back was $2 billion in the settlement, and then the Commerce Committee bill was $3.96 billion, and then the bill that was introduced on Monday that we have before us is $4.4 billion. And then the amendment that was offered this afternoon goes to $7.7 billion.

I am just saying this is not a workable tax. And I did not agree to the tobacco settlement. So my colleague from Arizona, I believe insinuated that I support the tobacco companies. I do not support the tobacco companies. I just think this is a crummy way to tax, and I resent this idea that whoever opposes look-back is supportive of the tobacco industry.

Mr. McCAIN. Could I——

Mr. NICKLES. That is not true.

Mr. McCAIN. If I could comment, I in no way intended that——

Mr. NICKLES. I appreciate it.

Mr. McCAIN. In any way, that implication, I say to my friend from Oklahoma. I said on numerous occasions that his views on this are sincere and heartfelt. I hope the Senator understands that. And I say, I understand that my colleague from Oklahoma knows that I have been here for a number of days now, and there have been assaults not only on the bill itself but on the committee.

You made some remarks about it, et cetera, and I just felt I would defend it. But at the same time, the Senator from Oklahoma is sincere in his beliefs, and they are held with integrity. And I do not in any way imply that there is any relationship there. I wanted to clear that up.

Mr. NICKLES. I appreciate that.

I am going to make two other very quick remarks. One, the negotiated look-back with the attorney generals was not product specific. And the amendment that we have before us goes to $5.5 billion in penalties on a product specific basis, which means we are going to do a survey on every tobacco product used by teenagers and assess penalties on every single product. Now, isn't that bureaucratic, isn't that a mess.

I hope people will understand this is a big expense. And some people think it is a move in the right direction. I think it is a move in the wrong direction.

Before my colleague from Arizona leaves, he said, "Didn't Senator LOTT ask Senator NICKLES to head this tobacco effort up and pull all the committee Chairs together," and we then assigned the responsibilities to the Commerce Committee chairman?

I say that when I was involved in this particular phase of it, that the linchpin of granting immunity—and I see that as a linchpin in this legislation fell to the Commerce Committee. If there was going to be a deal—and that is what the attorneys general's settlement was predicated on—the fact that if you grant tobacco companies limited immunity from class action suits, they will pay so many billions of dollars, about $15 billion.

Now, conceivably, that could be put in the Commerce Committee. But I really believe that the Finance Committee should have jurisdiction over the tax. I have been upset about it ever since. I do think that if we are going to have a tax, we ought to call it a tax. We should not hide behind fees and we should not have look-backs assessments. I think these issues are the responsibility of the Finance Committee. And I think if we did that, we would tax tobacco just like we always taxed tobacco.

I think the Commerce Committee, with all due respect, did a crummy job. Its bill has different prices for different brands of snuff. It exempts some tobacco companies from a tax. It hits other tobacco companies hard. I find that to be inequitable. I think the tax should be so much per product, and let us just say how much a pack it is, how much a can it is and how much a pouch, so people will know. I believe that very, very strongly. And so I communicate that to my friend and colleague.

I appreciate the fact that my friend from Texas has been so patient. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, we have debated this thing all week. We are in morning business and we are carrying on the debate, so I guess it shows people feel strongly about it.

I want to make it very clear what the issue is on this look-back provision. The Senator from Arizona acts as if by the tobacco companies agreeing to the procedure that somehow that sanctifies this procedure. The Senator from Arizona acts as if by the public health experts believing we should have a penalty that somehow that sanctions this look-back provision.

My concern with the look-back provision is not that it is a penalty; my objection to the look-back provision is that it is clearly patently unconstitutional. And it is unconstitutional on two bases. No. 1, the Constitution, in article I, says it shall be the power of Congress to lay taxes. The most fundamental power of Congress is to tax. This bill delegates the power to tax to a public opinion poll and to the Secretary of the Treasury —clearly unconstitutional.

Secondly, this bill puts a company in a position that if they have no control over the decision of a 14-year-old, and the 14-year-old makes a decision, that company can be punished for the decision of the 14-year-old, even though there is no evidence whatsoever that they have had any impact on that decision. Clearly, that violates British common law and it violates the Constitution of the United States.

So the point I am making is not that public experts don't have a position, not that tobacco companies don't have a position, not that the Senator from Arizona doesn't have a position, but there is a Constitution. When we all stood right down there below that first step and put our hand on the Bible and swore to uphold the Constitution against all enemies, foreign and domestic, we made a commitment, one I take very seriously.

So the problem with this provision besides it being absolutely comical—who would have ever thought we would have a bill where you would do a public opinion poll, and based on what 12- and 13-year-olds say in a public opinion poll, you would have a pollster, in essence, empowered to raise taxes? Who ever heard of such a thing? Not only does this not pass the Constitution test, this doesn't pass the laugh test. This is one of the most absurd provisions I have ever seen.

Now, granted, if our only defense of it is, well, the tobacco companies supported it, I didn't know that we had turned the writing of law over to the tobacco companies or the health experts or the public choice advocates.

My point is, this provision is embarrassingly silly and unconstitutional. I would be ashamed to vote for a bill that had a provision in it where you let a pollster's finding trigger tax increases, rather than an act of Congress, where Congress, in general session, assembled, passes a tax bill that is signed by the President. That is the issue we have raised here—not who cut what deal and who signed off on what, but, basically, two very relevant tests: No. 1, the Constitution test; and, No. 2, the laugh test. I think this provision fails both of those tests.

I think the more people know about these provisions, the less support there is going to be for this bill. To the extent that we draw public attention to this, perhaps we will come to our senses, and if we want to make taxes higher, make them higher. But don't empower some pollster to take over the constitutional powers of the Congress. It won't stand constitutional muster for a minute, and it makes us potentially the laughingstock of the public. That is what the issue was about—not that all of these so-called advocates for the public interest support the provision, not that the tobacco companies have endorsed it. The question is: Is it constitutional, and is it laughable? The answer is: No, and yes.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, the Senator from Texas has indicated that the bill is unconstitutional with respect to the look-back provisions. We have an opinion from the Congressional Research Service on the look-back provisions, and this is what they say: "We conclude that the bill which may be refined further in the amendment process does not appear to pose serious constitutional concerns and would seem to satisfy a showing of rationality and legitimate government action."

So while the Senator from Texas has determined this bill unconstitutional, the Congressional Research Service says otherwise. They say this bill is constitutional. They say that it will satisfy a showing of rationality and legitimate government action.

We have heard a lot of arguments out on the floor today. We have had a number of Senators dominate the discussion, and, frankly, I had begun to wonder if they were afraid to debate and afraid to vote. That is what is going on here. We are in the "stall," because some are afraid to debate and they are afraid to vote. They won't even allow a debate to occur out here on the floor. They reject any interchange, any discussion. Instead, they just want to give speeches to stall and delay.

So, maybe it is time for us to have a debate. I don't know why they won't come out here and debate. Let's have a debate, and let's see what the American people conclude after that.

Now, we have heard all day that this is disproportionately affecting the lowest-income people. This is a levy on them. The first thing I point out is, people choose what they do. Nobody is going to pay a penny of tax if they don't go to the store and buy the cigarettes. They don't have to do that. There is no requirement to do that. This is no levy on their income; this is their choice.

Our friends on the other side of the aisle talk about personal responsibility. This is a question of personal responsibility. It goes beyond that. Nobody is talking about the taxes imposed on all the rest of us who are expected to pick up the tab because this industry imposes costs on society that aren't being covered by them. Mr. President, the rest of us are being expected to pay taxes, to pay the Medicare bill estimated at $22 billion a year imposed by this industry. The Medicaid Program has over $11 billion a year of cost imposed on them because of this industry. That is not covered.

How did we get here? We got here because State attorneys general sued the tobacco companies—sued them. And the basis for the lawsuit was, the tobacco industry was imposing costs on State Medicaid Programs. Of course, part of State Medicaid Programs is financed not only by State taxpayers but by Federal taxpayers. Federal taxpayers have had costs imposed on them because of the use of tobacco products. It is only fair to the vast majority of people who don't smoke that they have some of these costs relieved from them. Three-quarters of the people in this country do not smoke, and they are being expected to pick up the tab for the industry's actions, for what this industry has done. That is not fair. It is time to redress some of this balance. The three-quarters of the people who get stuck with the bill each and every year say, "Wait just a minute now. It is time for this industry to pay a fuller share of the costs it imposes in this society."

The best estimates we have are that the use of tobacco products costs this society $130 billion a year. Those are the costs being imposed by this industry. People smoke 24 billion packs of cigarettes a year. So the costs per pack being imposed on this society are $5 a pack. Those are the costs being imposed by this industry on all the rest of us. Who is paying that tab? Every other taxpayer, every single one that doesn't smoke, is being stuck with that bill.

We are saying it is time for the industry to start paying a fair share of the costs that it imposes on this society and all the rest of us. That is just a matter of fairness.

Now, why do we have look-back provisions? Senator MCCAIN is precisely right: The reason there are look-back penalties imposed is because this industry has a history of going after young people. They try to addict them because they know they become lifetime smokers, and they know if they don't get them young and early, they don't get them.

If there is any question about what this industry has done, let me go back to my top 10 tobacco tall tales. No. 7 was, "Tobacco companies don't market to children." Here is their own document, a 1978 memo from a Lorillard tobacco executive. These are not words, these are the words from a tobacco company executive: "The base of our business are high school students." That is the base of their business. They know what the base of it is. That is why they have been going after kids with their marketing and advertising campaigns for years.

Tall Tale No. 8: Again, the claim, "Tobacco companies don't market to children." Their own documents, a 1976 R.J. Reynolds research department forecast: "Evidence is now available to indicate that the 14 to 18-year-old-year-old age group is an increasing segment of the smoking population. RJR must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long term."

What could be more clear?

They are going after kids with advertising, with marketing, because they understand they are the base of their business.

Tall tale No. 9: Again, the claim that the tobacco companies don't market to children.

From their own documents, a 1975 report from Philip Morris researcher, Myron Johnston:

> Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers . . . 15 to 19 years old . . . my own data . . . shows even higher Marlboro market penetration among 15–17-year-olds.

This is why it is necessary to have a look-back provision. This is why it is necessary to say, if you do not achieve the goals for reduction of youth smoking, you are going to pay an economic penalty, because nobody knows more about marketing to kids and how to successfully hook them than the tobacco industry. They spend hundreds of millions of dollars learning how to effectively get across to them. And they are the only ones that have the best information, or I should say they are the ones who have the best information on what might work to allow youth smoking to decline. The best way to get an effect of what we are serious about here, reducing youth smoking, is to give the companies an economic incentive to achieve those goals.

Unfortunately, in the McCain bill most of the penalty is given on an industry-wide basis. The Durbin amendment is seeking to shift that so most of the penalty is on a company-specific basis. Why? First, if you punish everybody equally you punish the good with the bad. Unfortunately, that is what the McCain bill does because they put most of the penalty industry-wide. It doesn't matter if you are a good company and you really achieve the goals for reducing youth smoking, or you are a bad company. You still pay the penalty. That is not individual responsibility. Frankly, that is socialism. That has everybody in the pot together, good or bad.

Second, having a penalty that is largely based, industry-wide, creates a perverse incentive. With an industrywide penalty, if a company does the right thing and reduces youth smoking, it still pays the penalty. In fact, it pays twice. It pays the penalty, and it suffers the loss of market share from not addicting young kids. What a perverse incentive that is.

Mr. President, the third point that needs to be made is that because all the companies will pay the same surcharge, they can just treat this as a cost of doing business and pass that surcharge along to the customers.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CONRAD. Mr. President, I ask for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, it all boils down to the question at the bottom, which is, What are we going to do to reduce smoking in this country? Why is that the goal? Because we have 400,000 of our fellow citizens dying every year from smoking-related diseases. It is the No. 1 health challenge in the country that is avoidable. It is No. 1. There is nothing else that kills this number of our fellow citizens. The estimate is for every three that are smoking, one will die of smoking-related diseases.

I have held hearings now all across America. Everywhere we have gone people have come forward and described the agony and the tragedy caused in American families by the use of this product. This is the only legal product in America when used as intended by the manufacturers that addicts and kills its customers. There is no other product that fits that bill. The only one, the only legal product, when used as intended by the manufacturer that addicts and kills its customers.

People in this country are asking us to stand up and do something to help them—to help them keep their kids from using this drug, and a drug it is—to help them avoid the disability and death that attends the use of tobacco products. We are not going to prohibit the use of tobacco because we have 45 million people in this country that smoke. We don't have a very good history with prohibition.

We can do something to help American families deal with the agony caused by the use of these products. We should not avoid the opportunity to act.

I thank the Chair. I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are in morning business with Senators to speak for up to 10 minutes each.

Mr. BIDEN. Mr. President, I thank the Chair.

(The remarks of Mr. BIDEN pertaining to the introduction of S. 2110 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BIDEN. I thank the Chair.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, we are ready to close down the Senate tonight, and we are about ready to end, really, the debate on the tobacco bill for this week. This bill will be back in the Chamber. We will be debating it in the future. I think we got off to a very good start. No one ever said that this was going to be an easy bill. This is a very complicated bill. Congress is doing something we have never done before. It is very complex. So we knew going in it was not going to be easy.

Nothing important ever is easy. It is important that we continue to push on because there is a lot at stake. I would submit what is at stake, really, is the future of tens of thousands of our young people. We all know the statistics. We all know what the facts are. We all know how important it is we stop young people from starting to smoke. We know the reality that if the child does not start tobacco use at 19 or 20, hasn't smoked, the odds are the child isn't going to smoke. We also know most people start when they are young, start when they are way underage and it is illegal to smoke, cannot smoke if they do, and we know that is when they get started.

We have heard the statistics. We know the statistics about the 3,000 children starting to smoke every day. We know the statistics that roughly a third of them will die premature deaths, some horrible deaths, because of smoking. So I think we all know what is at stake.

I think it is important as we complete this week to remind ourselves that, yes, it is tough. This is a tough bill. This is a tough world. This is contentious. But that is what we get paid to do. That is why people send us here—to make tough decisions. I think we need to remind ourselves that this really is a historic opportunity. It is a historic opportunity that has been presented the country, and has been presented this Senate, and has been literally put in our laps. We can either take up this opportunity and do what is right and do something very constructive, or we can pass it by. This is a historic opportunity. It was really given to us because of the settlement that was announced last June by tobacco companies and by the attorneys general, an unprecedented settlement, a settlement that cannot go into effect without a comprehensive bill passing the Senate, passing the House, and ultimately being signed into law by the President.

Let me commend Chairman JOHN MCCAIN for the work he has done in bringing this bill to the floor. Let me commend him for the work he has done this week, keeping this process moving forward. It is clear that, if we are going to reduce teenage smoking, there has to be a comprehensive approach. It is like most things in life, there are no simple answers. If there were simple answers, we would have found them a long, long time ago.

Raising the price of cigarettes, raising the price of tobacco, is an important element to reduce teenage smoking. There is an inverse relationship, clearly, between the cost and the use. But we also know, based on every study that we have seen, everything that we have looked at, I think most of us have come to the conclusion that raising the price of cigarettes alone will not do it, that we have to do other things. We have to stop the advertising for cigarettes that appeal directly to children—get rid of the Joe Camels, or those who will follow Joe Camel; get rid of the Marlboro Man; get rid of the cartoon figures; get rid of the advertising that any parent looks at for 1 second and knows this is clearly targeted at children or, if it is not targeted at children, at least has a tremendous appeal for children. That has to be stopped.

We have to have counteradvertising. We have to take all the ingenuity of Madison Avenue and use it, instead of killing people, use that ingenuity and use that talent to save kids. It is available, and it is out there, and we can do it.

We have to worry about law enforcement. Again, it is no different than dealing with drugs in that respect. You have to have education, you have to have advertising, but you also have to have law enforcement. We risk, as we increase the price of cigarettes and tobacco, expanding the black market that already does exist in this country. We have to worry about that. We have to worry about the enforcement of the laws that every State has about underage smoking. We have to figure out better ways to enforce that law.

So, we have to do all of these things. And as we proceed in the weeks ahead on this bill, and as we talk about it and we debate it and argue this point and argue that point, let's keep our eye on the ball. Let's keep our eye on the objective. For this Senator from Ohio, at least, there is only one objective, and that is to reduce the number of our kids who start smoking. If we can do that, if we can do it in significant numbers, we will have accomplished a great deal.

That is what this bill that Senator MCCAIN has brought to the floor is all about, and that is what we have to get accomplished. This is a historic opportunity. It is a unique opportunity.

Let me talk for a moment, if I could, about the amendment that Senator

DURBIN and I have brought to the floor this evening. It is an amendment that we believe will make a difference. It is an amendment that will bring about more accountability, hold the tobacco companies responsible, make them liable for their actions, make them more accountable, and we think will make them do the right thing.

Our amendment deals with what we call look-back. I think we have to keep in mind—I have had the opportunity to listen to a portion of the debate from some of my colleagues who followed Senator DURBIN and myself, Senator WYDEN—who spoke in favor of the amendment. I have listened to what some of my colleagues who have raised some questions about the amendment have had to say.

In response, let me make a couple of comments. First of all, the people this is targeted at, the people we are targeting, are the tobacco companies. And the tobacco companies agreed to a look-back provision. They agreed to a very, very significant look-back provision. That was the provision which was included in the settlement that was announced last June. So they agreed to it. They are the ones who thought they could meet the 60-percent reduction target in 10 years, and that is a significant target. But they said, "We can do it." So this isn't something that we dreamt up here in the Senate: this is something that the parties looked at, and all of them said, "We can do it." And it is clear that they can.

It makes sense, I think, what we have done in the Durbin-DeWine amendment. That is, we have taken JOHN MCCAIN's very good look-back provision, and I think we have improved it. We have made it more company-specific. What do you mean, company-specific? The original look-back provision was an interesting provision, really, in the sense that it was socialism. I don't know any other word to describe it.

It basically said: Look, here are the targets. The tobacco companies agree on these targets. We are going to look back, after 3 years, and then after a few more, and ultimately after 10 years. And every few years, we are going to look back and see if the tobacco companies are hitting their targets in reducing teenage smoking. They said: We can get to 60 percent reduction in 10 years. And we phase that in—they phased it in, in their agreement, over that period of time.

Every so often, we are going to look to see how we are doing. And if we determine that the reduction is not taking place, or the targets are not being hit, then the tobacco companies agreed—let me emphasize again—agreed that they would pay a penalty.

The interesting thing is, when this was put together, however, how the penalty was calculated. The agreement was that it would be calculated industry-wide. So you would look to see what the total reduction in teenage smoking was. And then, each company—you figure out what that total penalty was. It is the penalty the tobacco companies agreed to. You take that pot of money, that penalty pot, and you divide it up among the tobacco companies, based on their total market share. So if one tobacco company had 30 percent of the market, they would get 30 percent of the cost of the penalty, irrespective of whether or not they were a leader in the sale of cigarettes to young people or whether they didn't sell a cigarette to a young person; it didn't make any difference.

We looked at this and came to the conclusion that it really didn't make a lot of sense to base it entirely on that procedure. We came to the conclusion that the tobacco companies should be held accountable for what they did specifically. So we came up with this amendment with a variation of what Senator MCCAIN had done, where he blended the penalties, basically making part of the penalties being applied industry-wide—that form of socialism we talked about—part of the penalties being applied case by case, company by company.

We have kept a blend in the Durbin-DeWine amendment, but we put more emphasis on company-specific. We think it makes sense to hold the individual tobacco companies accountable for the reduction in their product that is being sold to kids. Now, some of my friends have come to the floor and said, "Well, look, that's not really fair. Tobacco companies can't control what they sell to kids."

With all due respect, that doesn't make any sense. They control it today. They control it by their advertising. They control it by whom they target. They control it by how they market the product. There is a reason that Marlboro has 62 percent of the market. There is a reason they beat everybody else out in getting the kids market, the illegal sales market, the kids-under-18 market. They have been darned good at it. So we have seen, decade after decade, these companies being very good at this and being able to figure out how they can target a niche market and how they can get into kids who are just starting to smoke.

To say that, now, if we give them an incentive not to do it, give them a disincentive and charge them not to do it and they agree not to do it, to say they can't control what they are doing makes absolutely no sense.

My colleague from Kentucky came to the floor and asked, I think, a very legitimate question—Senator FORD. He said—I will paraphrase what he said, but, basically: Look, you are holding the tobacco companies liable. But the Government is going to be the one who is going to be doing the counteradvertising. And the Government is going to be doing other things to reduce teenage smoking.

I think the answer to what Senator FORD said is, yes, that is correct, the Government is going to be involved in countermeasures. The Government is going to be involved in trying to reduce teenage smoking. But that doesn't mean the cigarette companies will still not be players and still will not have things that they can control.

Make no mistake about it, under this bill or any of the different versions of this McCain bill, tobacco companies still are going to be able to impact how teenagers smoke, and whether or not their product is marketed to teenagers, and whether their product is sold to teenagers, and whether they target teenagers. How can they do it? Well, they can do it in many ways. They can do it by advertising. The bill has restrictions on advertising.

Yet, advertising is still going to be permitted. So how they target that advertising and what kind of advertising they place and where they place it is going to clearly impact on whether or not young kids underage buy cigarettes.

Tobacco companies will control that. They will control advertising. They will control how they market the product as they do today. They will control how they target the product as they do today. They can run, if they want to—and this is clearly within their control—their own antismoking campaigns aimed at kids. They clearly can do that.

We hope the more money they spend on that, the more emphasis they will put on that, it will reduce the consumption of their own product. Clearly, how the tobacco companies market and advertise will impact youth smoking. They have some responsibility. We have to hold them accountable.

My friends, particularly on this side of the aisle, always talk about accountability. We are in an age of accountability, whether we are talking about welfare or whatever we are talking about. We are in an age of accountability where people need to be accountable for their own actions. What the Durbin-DeWine amendment says is the tobacco companies ought to be responsible for their own actions; the tobacco companies ought to be judged not by what they say but by what they do. The tobacco companies ought to be charged and looked at and judged by what the results are. That is all we are saying.

I find that to be a pretty conservative point of view, and a point of view that most of my colleagues on this side of the aisle always talk about and, I think, support. If we look at it in this way, this is, in effect, a very conservative amendment.

Mr. President, the Durbin-DeWine amendment changes the incentives. We get rid of the profit motive. We give the incentive to prevent kids from smoking. We give that incentive to the tobacco companies.

Another issue that was raised a few moments ago in regard to the general look-back provision which our amendment contains and the McCain bill does, of course, is whether or not these surveys are accurate. The statement was made or the assertion was made, "How in the world can you hold tobacco companies liable for surveys?"

First of all, they agreed to it. They agreed to it. They agreed to the broad survey of looking at the industry and looking at how much teenage smoking was occurring. They agreed to that.

Second, these same tobacco companies rely on surveys to do advertising. They rely on surveys to do everything in regard to marketing. Mr. President, I don't think there is one of us in this Senate who has not come to the floor when we talk about illicit drugs in this country, not a one of us has not come to this floor and cited statistics based on surveys about whether the consumption of drugs among our young people is going up or going down. We take them at face value, we rely on them, we make policy based on them and we make decisions based on them.

We have had a debate ongoing for the last 6 to 9 months in this Senate in which I have been involved on several different occasions where we have lamented the fact that among the very youngest of our children who are starting to use drugs, the consumption is going up at the same time the fear factor is going down. And we picked that up from the national surveys being done. Drug-Free Youth Group, we rely on that in our decisions.

I think it is clear that surveys scientifically done, correctly done, clearly can tell us what percentage of the youth market is smoking and what percentage of the youth market is smoking Marlboros. There is no doubt about it. We can come within a very, very close percentage, a fraction of a percentage of getting that figure.

Mr. President, let me conclude by again congratulating Senator McCAIN for bringing this bill to the floor. It is a comprehensive approach. At the end of the day, when all the days are over and this finally made its way through the Senate, if we are going to have something worthwhile, it has to be a comprehensive approach.

We have to be concerned about driving up the cost, the price, because we know that will have an impact. We have to counter advertising. We have to have some control of the advertising and the cigarette companies ultimately need to agree to that.

As this process goes through, it is sometimes not a pretty process, it is certainly not an easy process, but it is our process, a democratic process, and I remain optimistic that we will end up with a comprehensive bill that will reduce teenage smoking significantly, that will save lives and that will be a bill of which we can all be proud.

TRIBUTE TO FORMER SENATOR GEORGE MITCHELL

Mr. LEAHY. Mr. President, April 10, 1998 was not only Good Friday and Passover for millions of people around the world. It was a day that marked a beginning for the people of Northern Ireland. A beginning on a path toward peace after 30 long years of civil conflict that claimed over 3000 lives. Although a great deal of work lies ahead to ensure that the peace agreement signed in Belfast is adopted by all parties and faithfully implemented, the agreement is an achievement of immense historic significance.

Over the years, like so many Americans who are proud of their Irish heritage, I have wondered if I would live to see this day. Some years ago, not long after the first cease-fire began, I traveled to Northern Ireland and met with both Catholics and Protestants. Both longed for peace. Both asked me to urge President Clinton, who had taken a chance for peace when he granted a visa to Gerry Adams, to stay the course. We all knew there would be setbacks. We knew more innocent blood would be lost. But while some longed for a past that was gone and others for a future that could never be, most knew that violence could not bring peace and that the only way to a better life was through compromise.

The April 10 agreement represents the culmination of a tremendous amount of effort, and a great deal of courage, by many people. As party leaders, John Hume, whom I consider it a great privilege to call a friend, Gerry Adams, and David Trimble brought their constituents' longing for peace to the negotiating table and understood the responsibility history had thrust upon them and the need to find the middle ground. British Prime Minister Tony Blair and his Irish counterpart, Bertie Ahern, deserve enormous praise for putting the full weight of their offices and their personal reputations behind the negotiations.

Several other people I want to pay tribute to are former Irish Prime Ministers Albert Reynolds and John Bruton, and former Foreign Minister Dick Spring, who put the peace process in motion and labored day and night to keep it moving forward despite setbacks. Throughout this period former Irish Ambassador Dermot Gallagher and his successor Sean O'Huiginn played a critical role keeping us informed here in Washington as they worked to further the peace process.

But I want to make particular mention of our former Senate colleague, George Mitchell, whose wisdom, steady perseverance and total dedication to the cause of peace enabled the parties to find a way to put the years of hatred behind them and look to a new day.

Senator Mitchell came from humble beginnings. Born to Lebanese and Irish immigrants in rural Maine, he worked his way through Bowdoin College and Georgetown Law School. As a Federal judge and from the time he joined the Senate in 1982, he demonstrated patience, even-handedness and commitment to the public good. As majority leader, he served as an articulate national spokesman, a trusted colleague and a good friend.

As the first serving U.S. President to visit Northern Ireland, President Clinton made a commitment to the peace process early on, courageously put his prestige on the line by granting a visa to Gerry Adams, and showed great foresight in his appointment of Senator Mitchell as chairman of the negotiations. As I said at that time, I could not have imagined a person better suited to bring the sides together and forge a common path to the future. George Mitchell managed to do what many in the foreign policy establishment said was impossible. As the crafter of the agreement, he has given hope to millions of Irish citizens, and in doing so he has shown the world that even the most seemingly intractable conflicts, even the most bitter hatred, can be overcome.

Mr. President, an April 18, 1998 article by Mark Shields in the Washington Post gives a good description of Senator George Mitchell and his latest achievement. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 18, 1998]

THE POLITICS OF PEACE

(By Mark Shields)

After hearing the happy news from Ireland that peace could actually break out there, I found my notes from a campaign speech given in 1993 by an American politician. This is what he said then about his earlier career as a federal judge:

"In that position, I had great power. The one I enjoyed exercising most was when I presided over what are called naturalization ceremonies.

"They're citizenship ceremonies. People who come from all over the world who had gone through the required procedures now gathered before me in a federal courtroom, and in that final act I administered to them the oath of allegiance to the United States. And then, by the power invested in me under the Constitution, I made them Americans.

"It was always a very emotional and moving ceremony for me because my mother was a Lebanese immigrant and my father was the orphan son of Irish immigrants.

"My parents had no education. My mother could not read or write English. And they worked—my mother in a textile mill, and my father as a janitor—all of their lives, to see that their children had the education and the opportunity they did not have. . . .

"And after every one of those ceremonies, I spoke personally with each of the new citizens. I asked them where they came from, how they came, why they came. Their answers were as different as their countries of origin. But through those answers ran a common theme best summarized by a young Asian man who, when I asked him why he came here, responded in slow and halting English.

"'I came here,' he said, 'because here in America everybody has a chance.' A young man who had been an American for five minutes summed up the meaning of our country in a single sentence.

"Many of us, most of us in this room, derive great benefits from our citizenship. And most of us are citizens by an accident of birth, not by an act of free will.

"With those benefits come responsibility, and foremost among those responsibilities is our obligation to see to it that those who follow us, the generations yet unborn, have opportunity, have hope, have the right to a good, decent life, a good job, a good-paying job, the opportunity to feed, clothe, house and educate one's children in the best way possible."

Much, too much, has been written in recent years about the politics of values. That 1993 speech expressed straightforwardly the values of an American politician—George Mitchell, Democrat from Maine, former Senate majority leader—who, over the past 22 months, through a combination of heroic patience, consummate prudence and a near-unique ability to publicly submerge his own ego, has crafted the peace plan for Northern Ireland.

Politics is the peaceable resolution of conflict among legitimate competing interests. That is what Mitchell brought to Belfast from Waterville, Maine, after working his way through Bowdoin College and night law school at Georgetown University. A committed partisan, he helped run the two losing national campaigns of his mentor, Sen. Edmund Muskie of Maine.

Neither a plaster saint nor politically invincible, Mitchell himself ran in 1972 for the chairmanship of the Democratic National Committee and lost to Robert Strauss of Texas. In the Watergate election of 1974, when Democrats swept nearly everything, Mitchell still lost the governorship of Maine to an independent. When Muskie left the Senate in 1980 to become secretary of state, Mitchell was chosen to succeed him.

At the 1987 Iran-contra hearings, Mitchell gave a civics lesson to the nation, as he bluntly advised the grandstanding Marine Lt. Col. Oliver North to "recognize that it is possible for an American to disagree with you on aid to the contras and still love God and still love this country as much as you do.

"Although He is regularly asked to do so, God does not take sides in American politics. And in America, disagreement with the policies of the government is not evidence of lack of patriotism."

British Prime Minister Tony Blair was indispensable to the peace agreement. So, too, was Irish Prime Minister Bertie Ahern. And the courageous Protestant and Catholic leaders in the North. President Clinton, against the jaded opposition of the foreign policy establishment and over the objections of his own State and Justice Departments, took the bold risks for peace. He has been a leader.

But it was the son of George and Mary Saad Mitchell of Waterville who was to grow up and remind us in Easter week 1998 that politicians can also be peacemakers.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, May 20, 1998, the Federal debt stood at $5,502,138,799,604.60 (Five trillion, five hundred two billion, one hundred thirty-eight million, seven hundred ninety-nine thousand, six hundred four dollars and sixty cents).

One year ago, May 20, 1997, the Federal debt stood at $5,346,368,000,000 (Five trillion, three hundred forty-six billion, three hundred sixty-eight million).

Five years ago, May 20, 1993, the Federal debt stood at $4,287,296,000,000 (Four trillion, two hundred eighty-seven billion, two hundred ninety-six million).

Ten years ago, May 20, 1988, the Federal debt stood at $2,523,014,000,000 (Two trillion, five hundred twenty-three billion, fourteen million).

Fifteen years ago, May 20, 1983, the Federal debt stood at $1,288,467,000,000 (One trillion, two hundred eighty-eight billion, four hundred sixty-seven million) which reflects a debt increase of more than $4 trillion—$4,213,671,799,604.60 (Four trillion, two hundred thirteen billion, six hundred seventy-one million, seven hundred ninety-nine thousand, six hundred four dollars and sixty cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING MAY 15

Mr. HELMS. Mr. President, the American Petroleum Institute's report for the week ending May 15, that the U.S. imported 8,562,000 barrels of oil each day, an increase of 728,000 barrels over the 7,834,000 imported each day during the same week a year ago.

Americans relied on foreign oil for 57.3 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Politicians had better give consideration to the economic calamity sure to occur in America if and when foreign producers shut off supply—or double the already enormous cost of imported oil flowing into the U.S.—now 8,562,000 barrels a day.

RESPONSE TO VACANCY CLAIMS

Mr. HATCH. Mr. President, I rise today to respond to a floor speech my good friend and colleague Senator LEAHY recently delivered. In that address, Senator LEAHY once again brought attention to the so-called vacancy crisis that is facing our Federal Judiciary. Now, I don't blame Senator LEAHY for that. After all, that is his job. He needs to press us a bit to move judges for the Clinton administration. And indeed, we had some disconnects in the past that prevented us from holding hearings on perhaps as many judges as we would have liked.

That having been said, I am pleased that Senator LEAHY and I have worked out some of the kinks in the process and have worked together to ensure that qualified nominees are confirmed. Similarly, I am happy to report that I have worked over the last few months with White House Counsel Chuck Ruff to ensure that the nomination and confirmation process is a collaborative one between the White House and Members of the Senate. I think it's fair to say that after a few bumpy months in which the process suffered due to inadequate consultation between the White House and some Senators, the process is now working rather smoothly. I think the progress is due to the White House's renewed commitment to good faith consultation with Senators of both parties. I also want to compliment Senator LEAHY for his willingness to work with me to get hearings scheduled for nominees. Let me take a moment, however, to correct some of the pernicious myths that persist on the subject of the confirmation process.

Quite simply, contrary to what you may have read in the popular press, there is no general vacancy crisis. So far this year, the Senate has confirmed 26 of President Clinton's nominees. We have confirmed a total of 62 Judges this Congress, in addition to a number of executive branch nominees. In fact, 266 active Federal Judges, or roughly 35 percent of all sitting article III judges, were appointed by this administration. As of today there are 768 active Federal judges. What does that number mean? It means that there are currently more sitting federal judges hearing cases than in any previous administration. In fact, since becoming chairman, I have yet to cast a vote against a single Clinton judicial nominee.

Just as a matter of comparison, at this point in the 101st and 102d Congress when George Bush was President and Democrats controlled the Senate, there were only 711 and 716 active judges, respectively. Thus, we have 50 more sitting Federal judges today than we did in 1992, yet some would have us believe that our Federal courts are being overwhelmed by a tidal wave of cases.

Keep in mind that the Clinton administration is on record as having stated that 63 vacancies is virtual full employment of the Federal judiciary. The Administrative Office of the U.S. Courts lists the current number of Federal judicial vacancies as 76, a far cry from the "nearly 100" I have heard some claim. In fact, by the administration's own admission we are 13 judges away from a fully employed Federal judiciary. Which begs the question: if we are only 13 judges away from full employment how can we be mired in a vacancy crisis? Only 13 judges out of 843 authorized—I think it is time to put the vacancy crisis argument to rest.

Moreover, let's compare today's vacancy level of 76, with those that existed during the early 1990's when the Democratic and Republican Parties' fortunes were reversed. In May of 1991, there were 148 federal judicial vacancies. One year later, in May of 1992, there were 117 federal judicial vacancies. I remember those years. I don't, however, remember one comment about it in the media. I don't recall one television show mentioning it. I don't recall one writer writing about it. Nobody seemed to care. Nobody, that is, except the Chief Justice of the United States, William Rehnquist. Back then, in his year-end report, he called upon the Democratically controlled Senate to confirm more judges, much like he did this past year. Yet no one seemed too concerned about the Chief Justice's comments back then. Now, when we have a Democrat in the White House, all of a sudden it has become a crisis when we have virtually half the vacancies today that we had in 1991. And it becomes a crisis even though the Chief Justice's message is virtually the same now as it was back then.

I also think it important to note that at the end of the Bush administration, there were 115 vacancies, for which 55 nominees were pending before the Judiciary Committee. None of those 55 nominees even received the courtesy of a hearing, however. Compare this to the 65 vacancies remaining at the end of President Clinton's first term. I think there is quite a difference.

Some have mentioned a deliberate effort among Republican Members of the Senate to unduly delay the confirmation of judicial nominees. Nothing could be further from the truth. The Judiciary Committee has in fact processed nominees at a remarkably fast pace this session. Of the 25 nominees currently pending in the Judiciary Committee without a hearing, 10 were received since April. Today, there are only 5 nominees pending on the Senate floor, and I expect that we will vote on their confirmations before the session ends.

A good deal has been said by critics with regard to the vacancies on the second and ninth circuits. It is true that these two circuits have had unusual difficulties. It should be mentioned, however, that nominations to the ninth circuit were held up to decide whether the circuit should be split or not. Now that a Commission is in place to study that issue, we have been able to move a number of ninth circuit nominations. In fact, we have confirmed more judges to the ninth circuit —three—than to any other circuit. Of the five ninth circuit judges still pending in the Senate, two have had hearings and one is pending on the floor. We received two of the other nominees only this session. And there are still vacancies remaining on that circuit—two vacancies of which have not even received a nominees. And one of those vacancies has been open since December of 1996.

This represents a failure not on the part of the Judiciary Committee but on the Clinton administration. President Clinton's failure to nominate judges expeditiously has in fact slowed the process, as the committee is left with an increasingly smaller base of qualified nominees to hold hearings on. In fact, fewer than half of the current vacancies have nominees pending, with many of those having incomplete paperwork. Rather than succumbing to the petulance of finger pointing, we all would be better served by an administration committed to sending us qualified nominees as expeditiously as possible.

Now, we also acknowledge that there have been problems with confirming nominees to the Second Circuit, but we have made a strong effort to ameliorate them. Unfortunately an unexpected illnesses have taken their toll on the Second Circuit, but we have done our part in committee. Two of the four nominees to that court are pending on the Senate floor, the other two recently had a hearing, and I expect will be voted out of Committee on Thursday.

Apparently, President Clinton has not shared this sense of urgency with regard to the Second Circuit. In fact, of the five current vacancies on that court, one sat without a nominee for almost two years, another did not receive a nominee for over ten months, and the other waited just over eight months to receive a nominee. Most disturbing of all is the seat vacated by Senior Judge Jon Newman, vacant since July 1, 1997, which is yet to receive a nominee. As I have stated so often before, I'm a pretty good chairman of the Judiciary Committee, but I can't get judges confirmed that have not been nominated.

Now, while the debate about vacancy rates on our federal courts is not unimportant, it remains more important that the Senate perform its advice and consent function thoroughly and responsibly. Federal judges serve for life and perform an important constitutional function, without direct political accountability to the people. Accordingly, the Senate should never move too quickly on nominations before it. Just this past year we saw two examples of what can happen when we try to move nominations along perhaps too quickly. In one instance, a nominee for a federal district court was reported out of the Judiciary Committee before all the details of her record as a state trial judge were known. As it happens, the District Attorney in the nominee's city, who happened to be of her party, and the district attorneys' association in her home state all publicly opposed the nomination, setting forth facts demonstrating a very serious anti-prosecution bias in her judicial record. It's cases like these that underscore the importance of proceeding very deliberately with nominations for these most important life-tenured positions.

Let me make an important point here: federal judges should not be confirmed simply as part of a numbers game to reduce the vacancy rate to a particular level. While I plan to continue to oversee a fair and principled confirmation process, as I always have, I want to emphasize that the primary criteria in this process is not how many vacancies need to be filled, but whether President Clinton's nominees are qualified to serve on the bench, and will not, upon receiving their judicial commission, spend a lifetime career rendering politically motivated, activist decisions. The Senate has an obligation to the American people thoroughly to review the records of the nominees it receives to ensure that they are capable and qualified to serve as federal judges, and as part of that assessment of qualification, to ensure that nominees properly understand the limitations of the judicial role.

Clearly, I believe the Committee has done its part. I hope to continue to work with the Administration and with Senator LEAHY to ensure that qualified individuals will serve on the federal bench.

MEMORIAL DAY 1998

Mr. HATCH. Mr. President, since the Civil War, more than 1.1 million American veterans have lost their lives in service to our Nation. I am humbled by their sacrifice.

I am grateful for the price they have paid for our liberty, the terrible price of individual lives, of men and women who were part of families. As we approach this Memorial Day, I want to pause a moment during this debate to remember their gift.

I am especially proud of Utah's proud tradition of honorable service. The story of the Mormon pioneers who made the grueling trek across the plains and over the Great Divide to escape persecution, in search of religious freedom is well known. Perhaps less well known is the story of the Mormon battalion.

Mr. President, in 1846, while there was an active order in effect in the state of Missouri for the extermination of Mormons, these Americans who had been driven from their homes in Nauvoo, Illinois, were asked to assemble a battalion of 500 men. With their ranks and strength already significantly depleted by disease, hardship, and persecution, most would have understood if the story had ended with an indignant refusal to respond to the request.

Instead, led by Brigham Young, these fathers, brothers, and sons who had seen their rights as Americans trampled, stepped forward to answer their country's call. I might mention that among them was a young man named Orrin Hatch.

This same, passionate willingness to serve one's country still thrives throughout my state. I remember today and honor the 147,000 veterans throughout the state of Utah who have honorably served. But, on Memorial Day, we especially remember those who left in service to our country but who did not return. They have preserved freedom for all generations who followed.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one treaty and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE RATIFICATION OF THE PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC—MESSAGE FROM THE PRESIDENT—PM 129

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Senate of the United States:

I am gratified that the United States Senate has given its advice and consent to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic.

The Senate's decisive vote was a milestone on the road to an undivided, democratic and peaceful Europe. The message this vote sends is clear: American support for NATO is firm, our leadership on both sides of the Atlantic is strong, and there is a solid bipartisan foundation for an active U.S. role in transatlantic security.

I thank Majority Leader Lott, Minority Leader Daschle, Senators Helms and Biden, Senator Roth and the members of the NATO Observer Group, and the many others who have devoted so much time and energy to this historic effort. The continuous dialogue and consultation between the Administration and the Congress on this issue was a model of bipartisan partnership. I am committed to ensuring that this partnership continues and deepens as we proceed toward NATO'S 50th anniversary summit next year in Washington.

The resolution of ratification that the Senate has adopted contains provisions addressing a broad range of issues of interest and concern, and I will implement the conditions it contains. As I have indicated following approval of earlier treaties, I will of course do so without prejudice to my authorities as President under the Constitution, including my authorities with respect to the conduct of foreign policy. I note in this connection that conditions in a resolution of advice and consent cannot alter the allocations of authority and responsibility under the Constitution.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1998*.

REPORT CONCERNING THE RATIFICATION OF THE PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC—MESSAGE FROM THE PRESIDENT—PM 130

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Senate of the United States:

In accordance with the resolution of advice and consent to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic, adopted by the Senate of the United States on April 30, 1998, I hereby certify to the Senate that:

In connection with Condition (2), (i) the inclusion of Poland, Hungary, and the Czech Republic in NATO will not have the effect of increasing the overall percentage share of the United States in the common budgets of NATO; (ii) the United States is under no commitment to subsidize the national expenses necessary for Poland, Hungary, or the Czech Republic to meet its NATO commitments; and (iii) the inclusion of Poland, Hungary, and the Czech Republic in NATO does not detract from the ability of the United States to meet or to fund its military requirements outside the North Atlantic area; and

In connection with Condition (3), (A) the NATO-Russia Founding Act and the Permanent Joint Council do not provide the Russian Federation with a veto over NATO policy; (B) the NATO-Russia Founding Act and the Permanent Joint Council do not provide the Russian Federation any role in the North Atlantic Council or NATO decision-making including (i) any decision NATO makes on an internal matter; or (ii) the manner in which NATO organizes itself, conducts its business, or plans, prepares for, or conducts any mission that affects one or more of its members, such as collective defense, as stated under Article V of the North Atlantic Treaty; and (C) in discussions in the Permanent Joint Council (i) the Permanent Joint Council will not be a forum in which NATO's basic strategy, doctrine, or readiness is negotiated with the Russian Federation, and NATO will not use the Permanent Joint Council as a substitute for formal arms control negotiations such as the adaptation of the Treaty on Conventional Armed Forces in Europe, done at Paris on November 19, 1990; (ii) any discussion with the Russian Federation of NATO doctrine will be for explanatory, not decision-making purposes; (iii) any explanation described in the preceding clause will not extend to a level of detail that could in any way compromise the effectiveness of NATO's military forces, and any such explanation will be offered only after NATO has first set its policies on issues affecting internal matters; (iv) NATO will not discuss any agenda item with the Russian Federation prior to agreeing to a NATO position within the North Atlantic Council on that agenda item; and (v) the Permanent Joint Council will not be used to make any decision on NATO doctrine, strategy, or readiness.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1998*.

REPORT CONCERNING THE RATIFICATION OF THE PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC—MESSAGE FROM THE PRESIDENT—PM 131

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

In accordance with the resolution of advice and consent to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic, adopted by the Senate of the United States on April 30, 1998, I hereby certify to the Congress that, in connection with Condition (5), each of the governments of Poland, Hungary, and the Czech Republic are fully cooperating with United States efforts to obtain the fullest possible accounting of captured and missing U.S. personnel from past military conflicts or Cold War incidents, to include (A) facilitating full access to relevant archival material, and (B) identifying individuals who may possess knowledge relative to captured and missing U.S. personnel, and encouraging such individuals to speak with United States Government officials.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1998.*

REPORT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES FOR CALENDAR YEAR 1997—MESSAGE FROM THE PRESIDENT—PM 132

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

I am pleased to present to you the 32nd annual report of the National Endowment for the Humanities (NEH), the Federal agency charged with advancing scholarship and knowledge in the humanities. The NEH supports an impressive range of humanities projects advancing American scholarship and reaching millions of Americans each year.

The public has been enriched by many innovative NEH projects. These included a traveling exhibit, companion book, and public programming examining the history and legacy of the California Gold Rush on the occasion of its Sesquicentennial. Other initiatives promoted humanities radio programming and major funding for the critically acclaimed PBS series, "Liberty! The American Revolution."

The NEH is also utilizing computer technologies in new and exciting ways. Answering the call for quality humanities content on the Internet, NEH partnered with MCI to provide EDSITEment, a website that offers scholars, teachers, students, and parents a link to the Internet's most promising humanities sites. The NEH's "Teaching with Technology" grants have made possible such innovations as a CD-ROM on art and life in Africa and a digital archive of community life during the Civil War. In its special report to the Congress, "NEH and the Digital Age," the agency examined its past, present, and future use of technology as a tool to further the humanities and make them more accessible to the American public.

This past year saw a change in leadership at the Endowment. Dr. Sheldon Hackney completed his term as Chairman and I appointed Dr. William R. Ferris to succeed him. Dr. Ferris will continue the NEH's tradition of quality research and public programming.

The important projects funded by the NEH provide for us the knowledge and wisdom imparted by history, philosophy, literature, and other humanities disciplines, and cannot be underestimated as we meet the challenges of the new millennium.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1998.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:07 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2472. An act to extend certain programs under the Energy Policy and Conservation Act.

H.R. 3301. An act to amend chapter 51 of title 31, United States Code, to allow the Secretary of the Treasury greater discretion with regard to the placement of the required inscriptions on quarter dollars issued under the 50 States Commemorative Coin Program.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bill, previously received from the House of Representative for the concurrence of the State, was read the first and second times by unanimous consent and referred as indicated:

H.R. 2807. An act to amend the Rhinoceros and Tiger Conservation Act of 1994 to prohibit the sale, importation, and exportation of products labeled as containing substances derived from rhinoceros or tiger; to the Committee on Environment and Public Works.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4954. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Raytheon Aircraft Company 90, 100, 200, and 300 Series Airplanes" (Docket 97-CE-05-AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4955. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) (Eurocopter Deutschland) Model MBB-BK 117 A-1, A-3, A-4, B-1, B-2, and C-1 Helicopters" (Docket 97-SW-45) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4956. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes" (Docket 97-NM-199-AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4957. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model MD-11 Series Airplanes" (Docket 98-NM-131-AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4958. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bombardier Model CL-215-1A10 and CL-215-6B11 Series Airplanes" (Docket 98-NM-05-AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4959. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Rolls-Royce, plc RB211 Trent 768 and 772 Series Turbofan Engines" (Docket 98-ANE-09-AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4960. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747-400 Series Airplanes" (Docket 97-NM-138-AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4961. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A330-301 Series Airplanes" (Docket 97-NM-300-AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4962. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; General Electric Company Model GE90-76B Turbofan Engines" (Docket 97-ANE-28-AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4963. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Short Brothers Model SD3-30 and SD3-60 Series Airplanes Equipped with Fire Fighting Enterprises (U.K.) Ltd. Fire Extinguishers" (Docket 96-NM-175-AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4964. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class D Airspace, Twin Falls, ID" (Docket 97-ANM-24) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4965. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Osceola, AR" (Docket 92-ASW-35) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4966. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D Airspace; Mountain View, CA" (Docket 98-AWP-9) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4967. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Borrego Springs, CA" (Docket 96-AWP-4) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4968. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Commercial Passenger-Carrying Operations in Single-Engine Aircraft under Instrument Flight Rules" (Docket 28743) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4969. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: M/V KURE, Entrance to Humbolt Bay, CA (COTP San Francisco Bay; 98-007)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4970. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Southern Solano County and West Sacramento-San Joaquin Delta, CA (COTP San Francisco Bay; 98-006)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4971. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Sacramento-San Joaquin Delta, CA (COTP San Francisco Bay; 98-004)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4972. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Sacramento-San Joaquin Delta, CA (COTP San Francisco Bay; 98-003)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4973. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Sacramento-San Joaquin Delta, CA (COTP San Francisco Bay; 98-001)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4974. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Tampa Bay, Tampa, Florida" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4975. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Sunshine Skyway Bridge, Tampa Bay, Tampa, Florida" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4976. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: San Juan, Puerto Rico (COTP San Juan 98-011)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4977. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: San Juan, Puerto Rico (COTP San Juan 98-008)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4978. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: San Francisco Bay, San Francisco, CA" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4979. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Moving Safety Zone: San Diego Bay and Adjacent Waters, San Diego, CA" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4980. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Mission Bay, San Diego, CA; Oceanside Harbor, Oceanside, CA" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4981. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: San Diego Harbor, San Diego, CA" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4982. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone Regulation: Training exercise: USNS BELLATRIX" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4983. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone Regulation: M/V KAPITAN SOKOLOV, Neches River Closure" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4984. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone Regulations; Mile 94.0 to Mile 95.0, Lower Mississippi River, Above Head of Passes (COTP New Orleans, LA 98-002)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4985. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone Regulations; Mile 94.0 to Mile 96.0, Lower Mississippi River, Above Head of Passes (COTP New Orleans, LA 98-001)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4986. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Ohio River, Maysville, KY" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4987. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone Regulations; Galveston Bay Entrance 'GB' Buoy, Galveston Ship Channel, Galveston, TX" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4988. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone Regulations; Galveston Ship Channel, Inner Bar Channel, Outer Bar Channel, Galveston Bay Entrance Lighted 'GB' Buoy, TX" (RIN2115-AA98) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4989. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Houston Ship Channel, Houston, TX (COTP Houston-Galveston 98-004)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4990. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Houston Ship Channel, Houston, TX (COTP Houston-Galveston 98-003)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4991. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Upper Trinity Bay, Houston, TX" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4992. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Houston Ship Channel, Houston, TX (COTP Houston-Galveston 98-001)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4993. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Matagorda Bay, Intracoastal Waterway" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4994. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Security/Safety Zone Regulations; Hanford Site Emergency Incident on the Columbia River, Richland, WA" received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4995. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Lake Erie; Toussaint River Channel, Ohio" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4996. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Calumet River" received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4997. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; McDonalds All American Basketball Classic Mayor's Reception Fireworks Display, Elizabeth River, Norfolk, VA" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4998. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Port Norfolk Reach, Norfolk, VA" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4999. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Hampton Roads, Willoughby Bay, VA" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5000. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Outer Banks, Duck, NC and Vicinity" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5001. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Security Zone; Albemarle Sound, Harvey Point, and Vicinity" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5002. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; James River, Newport News, VA" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5003. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Security Zone; Vice Presidential Visit, Boston, MA" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5004. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Fore River Shipping Channel Closure, Portland, ME (CGD1-98-011)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5005. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Vessel Launching, Kennebec River, Bath, Maine" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5006. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations; El Nuevo Dia Offshore Cup, Bahia De Mayaguez, Puerto Rico" (RIN2115-AE46) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5007. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zones, Security Zones, and Special Local Regulations" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5008. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Security Zone: Presidential Visit, East River, New York (CGD01-98-001)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5009. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Security Zone: Presidential Visit, East River, New York (CGD01-98-003)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5010. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Explosive Load, Bath Iron Works, Bath, ME" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5011. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Fore River Shipping Channel Closure, Portland, ME (CGD1-98-010)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5012. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Fore River Shipping Channel Closure, Portland, ME (CGD1-98-004)" (RIN2115-AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5013. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Determination of Functional Equivalency on Harmonization" (RIN2127-AG62) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5014. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding the relocation of digital electronic message service from the 18 GHz Band to the 24 GHz band and to allocate the 24GHz band for fixed service (Docket 97-99) received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5015. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding the redesignation of frequency bands and the establishment of rules and policies for local multipoint distribution service and for fixed satellite services (Docket 92-297) received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5016. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of the Commission's Rules Concerning the Inspection of Radio Installations on Large Cargo and Small Passenger Ships" (Docket 95-55) received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5017. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding radiofrequency radiation, review of regulations, and cellular telecommunications (Docket 97-192, 93-62 and RM-8577) received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5018. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding regulations on Atlantic coast weakfish fishery (RIN0648-AJ15) received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5019. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding management of West Coast salmon fisheries (RIN0648-AK25) received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5020. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the retention of undersized halibut in Pacific fisheries (RIN0648-AK58) received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5021. A communication from the Acting Director of the Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding shallow-water species fishery off Alaska (Docket 971208297-8054-02) received on May 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5022. A communication from the Assistant Administrator for Satellite and Information Services, National Environmental Satellite, Data, and Information Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Policies and Procedures Regarding Use of the NOAA Space-Based Data Collection Systems" (RIN0648-AK04) received on May 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5023. A communication from the National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Tuna Fisheries; Fishery Closure" received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5024. A communication from the Chairman of the Federal Communications Commission, transmitting, a report concerning the implementation of the federal universal service support mechanisms; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

H.R. 1151. A bill to amend the Federal Credit Union Act to clarify existing law and ratify the longstanding policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions (Rept. No. 105-193).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 824. A bill to redesignate the Federal building located at 717 Madison Place, NW., in the District of Columbia, as the "Howard T. Markey National Courts Building."

S. 1296. A bill to designate a Federal building located in Florence, Alabama, as the "Justice John McKinley Federal Building."

S. 1355. A bill to designate the United States courthouse located in New Haven, Connecticut, as the "Richard C. Lee United States Courthouse."

S. 1800. A bill to designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the "Joseph P. Kinneary United States Courthouse."

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1892. A bill to provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court, and for other purposes.

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1898. A bill to designate the Federal building located at 1301 Clay Street in Oakland, California, as the "Ronald V. Dellums Federal Building."

By Mr. HATCH, from the Committee on the Judiciary, with an amendment:

S. 2022. A bill to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 2032. A bill to designate the Federal building in Juneau, Alaska, as the "Hurff A. Saunders Federal Building."

By Mr. HATCH, from the Committee on the Judiciary, with an amendment:

S. 2073. A bill to authorize appropriations for the National Center for Missing and Exploited Children.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

William A. Fletcher, of California, to be United States Circuit Judge for the Ninth Circuit.

Ronnie L. White, of Missouri, to be United States District Judge for the Eastern District of Missouri.

Victoria A. Roberts, of Michigan, to be United States District Judge for the Eastern District of Michigan.

Rosemary S. Pooler, of New York, to be United States Circuit Judge for the Second Circuit.

Robert D. Sack, of New York, to be United States Circuit Judge for the Second Circuit.

Richard W. Roberts, of the District of Columbia, to be United States District Judge for the District of Columbia.

Q. Todd Dickinson, of Pennsylvania, to be Deputy Commissioner of Patents and Trademarks.

(The above nominations were reported with the recommendation that they be confirmed.)

By Mr. THURMOND, from the Committee on Armed Services:

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Robert F. Raggio, 7255

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., Section 601:

To be lieutenant general

Maj. Gen. Donald L. Peterson, 2830

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Daniel James, III, 8248

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Lee P. Rodgers, 4461

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Archie J. Berberian, II, 4968

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Roger C. Schultz, 5293

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Daniel C. Balough, 0228
Brig. Gen. Roger L. Brautigan, 1521
Brig. Gen. Thomas A. Wessels, 5197

To be brigadier general

Col. Bruce A. Adams, 4063
Col. Michael B. Barrett, 8071
Col. Lowell C. Detamore, Jr., 9811
Col. Kenneth D. Herbst, 3103
Col. Kenneth L. Penttila, 0067

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Frederick McCorkle, 7324

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Jack W. Klimp, 5723

The following named officer for appointment as Assistant Commandant of the Marine Corps and for appointment to the grade indicated under title 10, U.S.C., section 5044:

To be general

Lt. Gen. Terrence R. Dake, 6646

The following named officers for appointment in the Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (lh) Martin E. Janczak, 9028
Rear Adm. (lh) Pierce J. Johnson, 1625
Rear Adm. (lh) Lary L. Poe, 6491
Rear Adm. (lh) Michael R. Scott, 2697

The following named officer for appointment in the Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (lh) Robert F. Birtcil, 3384

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Michael W. Shelton, 2431

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Vice Adm. Charles S. Abbot, 8270

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Jeffrey A. Cook, 2672

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

George P. Nanos, Jr., 1992

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 11 nomination lists in the Air Force, Army, Marine Corps, and Navy which were printed in full in the RECORDS of April 21 and 29, 1998, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of April 21 and April 29, 1998, at the end of the Senate proceedings.)

In the Air Force nominations beginning Phillip M. Armstrong, and ending *Rex A. Williams, which nominations were received by the Senate and appeared in the RECORD of April 21, 1998.

In the Army nomination of Gary W. Krahn, which was received by the Senate and appeared in the RECORD of April 21, 1998.

In the Marine Corps nominations beginning Richard D. Coulter, and ending Karim Shihata, which nominations were received by the Senate and appeared in the RECORD of April 21, 1998.

In the Navy nominations beginning Michale D. Cobb, and ending Raymond B. Roll, which nominations were received by the Senate and appeared in the RECORD of April 21, 1998.

In the Navy nomination of Daniel D. Thompson, which was received by the Senate and appeared in the RECORD of April 21, 1998.

In the Army nominations beginning Eugene N. Acosta, and ending Curtis L. Yeager, which nominations were received by the Senate and appeared in the RECORD of April 29, 1998.

In the Marine Corps nomination of Gary F. Baumann, which was received by the Senate and appeared in the RECORD of April 29, 1998.

In the Marine Corps nominations beginning Michael L. Andrews, and ending Robert C. Wittenberg, which nominations were received by the Senate and appeared in the RECORD of April 29, 1998.

In the Marine Corps nominations beginning James N. Adams, and ending Thomas J. Zohlen, which nominations were received by the Senate and appeared in the RECORD of April 29, 1998.

In the Marine Corps nominations beginning Louis P. Abraham, and ending Mark G. Zimmerman, which nominations were received by the Senate and appeared in the RECORD of April 29, 1998.

In the Marine Corps nominations beginning Ruben Bernal, and ending James

Werdann, which nominations were received by the Senate and appeared in the RECORD of April 29, 1998.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2105. A bill to require the Secretary of the Army to conduct a study of the Niobrara River watershed and the operations of Fort Randall Dam and Gavins Point Dam on the Missouri River to determine the feasibility of alleviating certain bank erosion and sedimentation problems; to the Committee on Environment and Public Works.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 2106. A bill to expand the boundaries of Arches National Park, Utah, to include portions of certain drainages that are under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Seep Draw owned by the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM (for himself, Mr. WYDEN, Mr. MCCAIN, and Mr. REED):

S. 2107. A bill to enhance electronic commerce by promoting the reliability and integrity of commercial transactions through establishing authentication standards for electronic communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER (by request):

S. 2108. A bill to amend chapter 19, of title 38, United States Code, to provide that Service-members' Group Life Insurance and Veterans' Group Life Insurance under such chapter may, upon application, be paid to an insured person who is terminally ill; to the Committee on Veterans Affairs.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2109. A bill to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BIDEN (for himself, Mr. SPECTER, Mrs. BOXER, Ms. SNOWE, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. WELLSTONE, Mr. DODD, Mr. KENNEDY, and Mr. DURBIN):

S. 2110. A bill to authorize the Federal programs to prevent violence against women, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of Oregon:

S. 2111. A bill to establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, to direct the Secretary of the Interior to appoint an advisory committee to make recommendations regarding activities under the memorandum of understanding, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 233. A resolution to authorize the testimony and document production and representation of Senate employees in People v. James Eugene Arenas; considered and agreed to.

By Mr. STEVENS (for himself, Mr. LOTT, Mr. DASCHLE, Mr. BYRD, and Mr. WARNER):

S. Res. 234. A resolution to honor Stuart Balderson; considered and agreed to.

By Mr. GREGG (for Mr. LOTT):

S. Con. Res. 98. A concurrent resolution providing for a conditional adjournment or recess of the Senate and the House of Representatives; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2105. A bill to require the Secretary of the Army to conduct a study of the Niobrara River watershed and the operations of Fort Randall Dam and Gavins Point Dam on the Missouri River to determine the feasibility of alleviating certain bank erosion and sedimentation problems; to the Committee on Environment and Public Works.

NIOBRARA RIVER AND MISSOURI RIVER LEGISLATION

Mr. DASCHLE. Mr. President, earlier this year I introduced S. 1672, the Missouri River Erosion Control Act of 1998. It will create an important new program to provide homeowners on the Missouri River with the assistance they need to protect their homes from shoreline erosion.

Today, my colleague Senator JOHNSON and I are introducing a second bill that I hope will help to preserve the character of the Missouri River for generations to come. Up and down the Missouri River, South Dakotans can tell you that the river is slowly changing as a result of the dams built under the authority of the Pick-Sloan Act. While the dams undoubtedly have made positive contributions to South Dakota by controlling floodwaters and making affordable electricity available to promote rural development, they also ended the Big Muddy's ability to carry a full sediment load for long distances. Sediments are now being deposited into shallow areas of the river, causing the water table to rise, flooding shoreline lands and worsening erosion. In addition, the sediment build-up has made navigation nearly impossible in some areas.

These problems have grown particularly severe near the city of Springfield, where a delta is forming downstream from the confluence of the Missouri and Niobrara Rivers. In order to better understand the causes of the sediment build-up and to develop solutions to address it, I am introducing legislation today to direct the Corps of Engineers to conduct a study of the lower Missouri and Niobrara River watershed. It is my hope that this study will provide the blueprint necessary to alleviate the sediment build-up, reduce future sedimentation, and preserve the character of the rivers for years to come. I hope my colleagues will give this legislation their full support.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NIOBRARA RIVER AND MISSOURI RIVER SEDIMENTATION STUDY.

The Secretary of the Army shall conduct a study of the Niobrara River watershed and the operations of Fort Randall Dam and Gavins Point Dam on the Missouri River to determine the feasibility of alleviating the bank erosion, sedimentation, and related problems in the lower Niobrara River and the Missouri River below Fort Randall Dam.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 2106. A bill to expand the boundaries of Arches National Park, Utah, to include portions of certain drainages that are under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Seep Draw owned by the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

THE ARCHES NATIONAL PARK EXPANSION ACT OF 1998

Mr. BENNETT. Mr. President, I am pleased to introduce legislation to expand the boundaries of Arches National Park. I appreciate my colleague Senator HATCH for joining me in this effort. The House version of this bill, H.R. 2283 sponsored by Mr. CANNON, was passed late last year.

Most Americans recognize the familiar landscape of Arches National Park. It encompasses some of the most unique lands in the Southwest. Delicate sandstone arches, stunning vistas, contrasting colors, sweeping desert valleys, maze-like rock formations, and rugged gorges characterize the panorama in the park. In 1929, when the park was created, knowledge of ecosystem management was almost nonexistent. Park designation preserved these unique geological treasures but also relied on fairly rigid park boundaries which has resulted in some fragmentation of ecological areas within the park. This bill authorizes a 3,140 acre expansion to include the beautiful and unique Lost Spring Canyon parcel contiguous with the eastern boundary of the Arches. This addition will enhance the ecological protection of Arches.

The Arches National Park Expansion includes portions of the following drainages: Salt Wash, Lost Spring Canyon, Fish Seep Draw, Clover Canyon, Cordova Canyon, Mine Draw, and Cottonwood Wash. These areas are currently under the jurisdiction of either the Bureau of Land Management or the State of Utah. Once the expansion is complete, the Park Service will continue to protect the wilderness values of these lands. No road or campground construction will occur in the new addition. Lost Spring Canyon will continue primarily to be used for back-country hiking. It is not in danger of being overrun by thousands of park visitors simply by the nature of the rugged terrain and the distances involved. But it makes good management sense to bring these areas under park management.

Public lands debates are far too contentious in the West, particularly in Utah. While it is unfortunate that we have not been able to reach consensus on issues like wilderness, I am pleased that the expansion of Arches National Park is an issue which a diverse group of interests do agree. Local officials, the Grand Canyon Trust, the National Parks and Conservation Association, environmental groups, the State of Utah, the Utah Congressional delegation, and the Administration all support this bill.

This legislation is good for Arches National Park and is a great example of how it is possible to reach consensus among public lands interests. The expansion will enhance the visitor experience of Arches by expanding back-country opportunities. It makes good management sense for both BLM and the Park Service. I hope my colleagues will join me in moving this legislation quickly.

Mr. HATCH. Mr. President, I am pleased to rise today along with my good friend and colleague, Senator BENNETT, as a cosponsor of the Arches National Park Expansion Act of 1998. This is an inexpensive, practical, common-sense proposal that has gathered widespread support.

Arches National Park is known world-wide for its spectacular canyons and rock formations. When Arches National Park was created 25 years ago, the park boundaries were set with little regard to naturally occurring borders. Specifically, Lost Springs Canyon, located in the northeast corner of the park, was divided in half by the park boundaries.

Mr. President, this worthwhile legislation would expand the boundaries of the park by approximately 3,140 acres, incorporating the Lost Spring Canyon. The new, expanded boundary would better follow the natural borders dictated by the position of the canyon rim rather than the section lines and man-made features. Adding Lost Spring Canyon to the 73,400 acres already included in Arches National Park would bring a variety of new arches, balanced rocks, spires, and other geologic features under park protection and management. The addition of Lost Spring Canyon would also include the option of a "back-country" experience in Arches National Park.

The widespread support this bill enjoys is the result of careful efforts to balance competing interests. The Utah School Trust, the Grand Canyon Trust, the National Parks and Conservation Association, and the National Park Services have voiced support for the proposed bill. Local officials, interest groups, and a majority of the residents of Grand County have been consulted for input and are also supportive of the boundary change.

Again, I am pleased to cosponsor the Arches National Park Expansion Act of 1998. I urge my colleagues to support this important legislation.

By Mr. ABRAHAM (for himself, Mr. WYDEN, Mr. MCCAIN, and Mr. REED):

S. 2107. A bill to enhance electronic commerce by promoting the reliability and integrity of commercial transactions through establishing authentication standards for electronic communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ELECTRONIC COMMERCE ENHANCEMENT ACT

• Mr. ABRAHAM. Mr. President, today with Senators WYDEN, MCCAIN, and REED I introduce the Electronic Commerce Enhancement Act. This legislation will bring the federal government into the electronic age, in the process saving American individuals and companies millions of dollars and hundreds of hours currently wasted on government paperwork.

Mr. President, the Electronic Commerce Enhancement Act would require federal agencies to make versions of their forms available online and allow people to submit these forms with digital signatures instead of handwritten ones. It also sets up a process by which commercially developed digital signatures can be used in submitting forms to the government and permits the digital storage of federal documents.

Each and every year, Mr. President, Americans spend in excess of $600 billion simply filling out, documenting and handling government paperwork. This huge loss of time and money constitutes a significant drain on our economy and we must bring it under control. That is why we need this legislation.

By providing individuals and companies with the option of electronic filing and storage, this bill will reduce the paperwork burden imposed by government on the American people and the American economy. It will allow people to move from printed forms they must fill out using typewriters or handwriting to digitally-based forms that can be filled out using a word processor. The savings in time, storage and postage will be enormous. One company, computer maker Hewlett-Packard, estimates that the section of this bill permitting companies to download copies of regulatory forms to be filed and stored digitally rather than physically will, by itself, save that company $1–2 billion per year.

Other companies will experience similar savings, and the results for the overall economy will be enormous. Mr. President, the results for America's small businesses, which bear a disproportionate portion of the paperwork burden, will be enormous and may in some cases spell the difference between business success and failure.

Mr. President, the easier and more convenient we make it for American businesses to comply with paperwork and reporting requirements, the better job they will do of meeting these requirements, and the better job they will do of creating jobs and wealth for our country. This legislation will help businesses and small businesses in particular as they struggle to satisfy Washington bureaucrats while retaining sufficient resources to satisfy their customers and meet their payrolls.

The most important benefit of this legislation, however, lies in the area of electronic innovation. Currently, digital encryption is in a relatively undeveloped state. One reason for that is the lack of opportunity for many individuals and companies to make use of the technology. Another is the lack of a set industry standard. By allowing use of this technology in the filling out of government paperwork, and by establishing a standard for digital encryption, the federal government can open the gates to quick, efficient development of this technology, as well as its more application throughout the economy. The benefits to American businesses as they struggle to establish paper-free workplaces that will lower administrative costs, will be significant, and will further spur our national economy.

Efficiency in the federal government itself will also be enhanced by this legislation. By forcing government bureaucracies to enter the digital information age we will force them to streamline their procedures and enhance their ability to maintain accurate, accessible records. This should result in significant cost savings for the federal government as well as increased efficiency and enhanced customer service.

The information age is no longer new, Mr. President. We are in the midst of a revolution in the way people do business and maintain records. This legislation will force Washington to catch up with these developments, and release our businesses from the drag of an obsolete bureaucracy as they pursue further innovations. The result will be a nation and a people that is more prosperous, more free and more able to spend time on more rewarding pursuits.

I urge my colleagues to support this important legislation.●

By Mr. SPECTER (by request):

S. 2108. A bill to amend chapter 19, of title 38, United States Code, to provide that Service-members' Group Life Insurance and Veterans' Group Life Insurance under such chapter may, upon application, be paid to an insured person who is terminally ill; to the Committee on Veterans' Affairs.

SERVICEMEMBERS AND VETERANS' GROUP LIFE INSURANCE ACCELERATED DEATH BENEFITS ACT

● Mr. SPECTER. Mr. President, as Chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 2108, the proposed "Servicemembers' and Veterans' Group Life Insurance Accelerated Death Benefits Act." The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated February 10, 1998.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all Administration-proposed draft legislation referred to the Committee on Veterans' Affairs. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Servicemembers' and Veterans' Group Life Insurance Accelerated Death Benefits Act".

SEC. 2. OPTION TO RECEIVE ACCELERATED DEATH BENEFITS.

(a) IN GENERAL.—Chapter 19 of title 38, United States Code, is amended by adding at the end of subchapter III the following new section:

"§1980. Option to receive accelerated death benefits

"(a) For the purpose of this section, a person shall be considered to be 'terminally ill' if such person has a medical prognosis that such person's life expectancy is less than a period prescribed by regulation by the Secretary of Veterans Affairs. The maximum time period prescribed in regulation shall not exceed 12 months.

"(b) The Department of Veterans Affairs shall prescribe regulations under which any terminally ill person insured under Servicemenbers' Group Life Insurance or Veterans' Group Life Insurance may elect to receive in a lump-sum payment a portion of the face value of the insurance as an accelerated death benefit reduced by an amount necessary to assure that there is no increase in the actuarial value of the benefit paid, as determined in regulations issued by the Secretary. The Secretary may prescribe by regulation the maximum amount of the accelerated death benefit available under this section that the Secretary finds to be administratively practicable and actuarially sound, but in no instance shall the benefit exceed 50 percent of the face value of the person's insurance in force on the date the election is approved. The insured may elect to receive an amount that is less than the maximum prescribed by the Secretary. The Secretary shall prescribe in regulation increments in which the partial benefit can be elected.

"(c) The portion of the face amount of the insurance which was not paid in a lump sum as accelerated death benefits shall remain payable in accordance with the provisions of this chapter.

"(d) Deductions under section 1969 and premiums under section 1977(c) shall be reduced, in a manner consistent with the percentage reduction in the face amount of the insurance as a result of payment of accelerated death benefits, effective with respect to any amounts which would otherwise become due on or after the date of payment under this subsection.

"(e) The regulations shall include provisions regarding the form and manner in which an application under this subsection shall be made and the procedures in accordance with which any such application shall be considered.

"(f) An election to receive benefits under this section shall be irrevocable, and not more than one such election may be made by any individual, even if the individual elects to receive less than the maximum amount of accelerated benefits prescribed by regulation.

"(g) If a person insured under Servicemembers' Group Life Insurance elects to receive accelerated death benefits under this section, and the insured's Servicemembers' Group Life Insurance is thereafter converted to Veterans' Group Life Insurance as provided in section 1968(b) of this title, the amount of accelerated benefits paid under this section shall reduce the amount of Veterans' Group Life Insurance available to the insured under section 1977(a) of this title.".

(b) Section 1970(g) of title 38, United States Code, is amended by—

(1) striking "of benefits" in the first sentence and inserting "Any" at the beginning of that sentence;

(2) adding "an insured or" following "or on account of,"; and

(3) adding the following at the end of the subsection: "Neither the amount of any payments made under this subchapter nor the name and address of the recipient of such payments shall be reported under subpart B of chapter 61 of the Internal Revenue Code of 1986.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19, title 38, United States Code, is amended by adding the following new item after the item relating to section 1979:

"1980. Option to receive accelerated death benefits.".

(d) EFFECTIVE DATE.—The amendments made by section 2 shall take effect 90 days after the date of the enactment of this Act.

(e) All regulations necessary to implement these amendments shall be promulgated through notice and comment rulemaking in accordance with 5 U.S.C. §553.

DEPARTMENT OF VETERANS AFFAIRS,
Washington, DC, February 10, 1998.

Hon. ALBERT GORE, Jr.,
President of the U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill entitled the "Servicemembers' and Veterans Group Life Insurance Accelerated Death Benefits Act." I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

This draft bill would amend title 38, United States Code, by adding a new section which would provide that group life insurance benefits may, upon application, be paid to a terminally ill person insured under Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI). Traditionally, individuals have purchased life insurance in order to protect their dependents against financial loss due to their death. The proceeds have served to replace the lost income of the insureds and to cover their final expense. However, commercial life insurance companies have more recently included accelerated-benefit provisions in policies, which permit policyholders to receive payment of all or part of their life insurance policy's face amount prior to their death to provide for their needs during their final days. This draft bill would allow terminally ill SGLI and VGLI insureds to have access to a portion of the death benefits of the insurance proceeds provided under SGLI or VGLI coverage before they die in order to meet the financial burdens of medical and living expenses, but also would preserve a portion of the benefits for their dependents.

Section 2 of this draft bill would provide that benefits would be payable to insured persons with a medical prognosis of a life expectancy of less than a period prescribed by the Secretary of Veterans Affairs, but the maximum period prescribed by the Secretary would not exceed 12 months. The Secretary would be authorized to promulgate regulations prescribing the maximum amount of the accelerated death benefit available under section 2, but in no event would the maximum amount exceed 50 percent of the face value of the person's insurance in force on the date the election is approved. The insured would be able to choose to receive less than the maximum amount prescribed by the Secretary, as prescribed by regulation. Payment of benefits under this bill would be reduced by an amount necessary to assure that there is no increase in the actuarial value of the benefits paid. The benefits would be exempt from taxation, *see also* 26 U.S.C.A. §101(g)(1)(A), and creditors' claims, and would not be subject to attachment, levy, or seizure before or after receipt by the insured. In return for this election, the insured would sever all rights that any beneficiary might have had in the portion of the proceeds which are paid as accelerated death benefits. The accelerated death benefits election would be irrevocable and monthly deductions for SGLI and premiums for VGLI would be reduced in accordance with the percentage reduction in the face amount of the insured's policy as a result of the election. If a SGLI insured elects to receive accelerated death benefits under section 2 of this proposed legislation and the SGLI policy is then converted to VGLI as provided in 38 U.S.C. §1968(b), the amount of the accelerated benefits paid would be subtracted from the amount of the VGLI available under 38 U.S.C. §1977(a). The Department of Veterans Affairs would be required to issue regulations regarding the form and manner in which an application for accelerated death benefits must be made.

This legislative proposal would reduce receipts annually by a negligible amount; therefore, it is subject to the pay-as-you-go (paygo) requirement of the Omnibus Budget Reconciliation Act of 1990 (OBRA). This proposal should be considered in conjunction with other proposals in the President's FY 1999 Budget that together meet the paygo requirement.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

TOGO D. WEST, Jr.,
Acting Secretary.●

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2109. A bill to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

GLACIER BAY NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 1998

Mr. MURKOWSKI. Mr. President, I rise today for the purpose of introducing legislation, that when enacted, will provide for a cleaner electrical system for Glacier National Park and Preserve in Alaska.

Vice President Al Gore in his opening remarks to the President's Council on Sustainable Development on January 13, 1994 said "Our objective is results that are cleaner for the environment and cheaper for the economy." My objective for Glacier Bay National Park and the nearby Gustavus community mirrors that of the Vice President—to produce electricity that will be cleaner for the environment and cheaper for the economy.

Glacier Bay National Park currently generates its own electrical power using diesel generators. The electrical generation equipment now in place is expensive to maintain and is unreliable. It is my understanding that over the years there have been at least two oil spills into the waters of Glacier Bay, the tank farm is leaking, and the current electrical system is in need of major repair. In short, the diesel system at Glacier Bay is unacceptable in environmental terms

Before we spend tax payers dollars to add band-aids to this antiquated system, we ought to consider an environmentally sound and cheaper option for the production of electrical power.

Fortunately, there is a viable option. Enactment of this legislation would allow the placement and installation of a small water powered electrical system in the Fall Creek area on the southeast corner of Glacier Bay National Park and Preserve.

Before park advocates take out their swords and start drawing lines in the sand, I want to make it very clear that I am not suggesting that we allow for the construction of a Hoover Dam in a National Park. I am suggesting that a "run of stream" small diversion weir be placed along Fall Creek within the boundaries of the Park.

Since the Fall Creek area of this proposed hydro power system is in a Wilderness area designated by Congress, any redrawing of boundaries of Glacier Bay National Park or other procedure to permit the system requires Congressional approval. As envisioned, the site required will amount to approximately 78 acres. If only the "footprint" is considered, as little as 5 acres would be utilized.

I believe there are considerable environmental benefits and economic advantages to be gained by eliminating dependence upon diesel fossil fuel and converting to a small water powered electrical system to provide power to the community of Gustavus and the National Park Service in Glacier Bay. In addition to providing clean, cheaper, stable priced, hydro electricity, substantial savings will occur to the State of Alaska, the National Park Service and to consumers. Significant economic savings from appropriations and increasing operational expenses for the existing systems, along with the environmental enhancements will have continuing long term benefits that more than compensate for a loss of some 5 acres for the Fall Creek System. These multiple benefits should be sufficient merit alone to justify a restructuring of Park boundaries to accommodate the new electrical generating system.

I realize that however meritorious the proposal may be, taking Wilderness out of a system or lands out of a park will be unacceptable to some. Under the provisions of this legislation lands removed from the boundaries of the Park will be replaced with State lands in another park. In other words, there will be no net loss of Wilderness.

We need to clean and protect the environment at Glacier Bay and Gustavus, this legislation is the beginning. The completed project will serve as a conservation model to other communities—an example of significant environmental advantages coupled with substantial economic savings to the public and government which could be realized elsewhere, particularly in the rural communities of Alaska.

I ask unanimous consent that the entire text of the bill be printed in the RECORD.

There being no objection, the bill was order to be printed in the RECORD, as follows:

S. 2109

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Glacier Bay National Park Boundary Adjustment Act of 1998."

SEC. 2. LAND EXCHANGE AND WILDERNESS DESIGNATION.

(a) IN GENERAL.—(1) Subject to conditions set forth in subsection (c), if the State of Alaska, in a manner consistent with this Act, offers to transfer to the United States the lands identified in paragraph (2) in exchange for the lands identified in paragraph (3), selected from the area described in Section 3(b)(1), the Secretary of the Interior (in this Act referred to as the "Secretary") shall complete such exchange no later than 6 months after the issuance of a license to Gustavus Electric Company by the Federal Energy Regulatory Commission (FERC), in accordance with this Act. This land exchange shall be subject to the laws applicable to exchanges involving lands managed by the Secretary as part of the National Park System in Alaska and the appropriate process for the exchange of state lands required by state law.

(2) The lands to be conveyed to the United States by the State of Alaska shall be determined by mutual agreement of the Secretary and the State of Alaska. Lands which will be considered for conveyance to the United States pursuant to the process required by State law are: (1) lands owned by the State of Alaska in the Long Lake area within Wrangell-St. Elias National Park and Preserve; or (2) other lands owned by the State of Alaska.

(3) If the Secretary and the State of Alaska have not agreed on which lands the State of Alaska will convey by a date not later than six months after a license is issued pursuant to this Act, the State of Alaska shall convey (subject to the approval of the appropriate official of the State of Alaska), and the United States shall accept, within one year after a license is issued, title to land having a sufficiently equal value to satisfy state and federal law, subject to clear title and valid existing rights, and absence of environmental contamination, and as provided by the laws applicable to exchanges involving lands managed by the Secretary as part of the National Park System in Alaska and the appropriate process for the exchange of state lands required by state law. Such land shall be conveyed to the United States from among the following State lands in the priority listed:

COPPER RIVER MERIDIAN

1. T.6., R. 11 E., partially surveyed,
Sec. 11, lots 1 and 2, NE¼, S½NW¼, SW¼, and N½SE¼;
Sec. 12, NW¼;
Sec. 14, lots 1 and 2, NW¼NW¼,
Containing 838.66 acres, as shown on the plat of survey accepted June 9, 1922.
2. T. 5 S., R. 11 E., partially surveyed,
T. 6 S., R. 11 E., partially surveyed,
Sec. 2, NW¼ NE¼ and NW¼,
Containing 200.00 acres, as shown on the plat of survey accepted June 9, 1922,
3. T. 6 S., R. 12 E., partially surveyed,
Sec. 6, lots 1 through 10, E½SW¼, and SE¼
Containing approximately 529.94 acres, as shown on the plat of survey accepted June 9, 1922.

(4) The lands to be conveyed to the State of Alaska by the United States under paragraph (1) are lands to be designated by the Secretary and the State of Alaska, consistent with sound land management principles, based on those lands determined by the FERC with the concurrence of the Secretary and the State of Alaska, in accordance with section 3(b), to be the minimum amount of land necessary for the construction and operation of a hydroelectric project.

(5) The time periods set forth for the completion of the land exchanged described in this Act may be extended as necessary by the Secretary should the processes of state law or federal law delay completion of an exchange.

(6) For purposes of this Act, "land" means lands, waters and interests therein.

(b) Wilderness.—(1) To ensure that this transaction maintains, within the National Wilderness Preservation System, approximately the same amount of area of designated wilderness as currently exists, the following lands in Alaska shall be designated as wilderness in the priority listed, upon consummation of the land exchange authorized by this Act and shall be administered according to the laws governing national wilderness areas in Alaska.

(A) An unnamed island in Glacier Bay National Park lying southeasterly of Blue Mouse Cove in sections 5, 6, 7, and 8, T. 36 S., R 54 E., CRM, and shown on United States Geological Survey quadrangle Mt. Fairweather (D–2), Alaska, containing approximately 789 acres.

(B) Cenotaph Island of Glacier Bay National Park lying within Lituya Bay in sections 23, 24, 25, and 26, T. 37 S., R. 47 E., CRM, and shown on United States Geological Survey quadrangle Mt. Fairweather (C–5), Alaska, containing approximately 280 acres.

(C) An area of Glacier Bay National Park lying in T. 31. S., R. 43 E and T.32 S., R, 43 E., CRM, that is not currently designated wilderness, containing approximately 2270 acres.

(2) The specific boundaries and acreage of these wilderness designations may be reasonably adjusted by the Secretary, consistent with sound land management principles, to approximately equal, in sum, the total wilderness acreage deleted from Glacier Bay National Park and Preserve pursuant to the land exchange authorized by this act.

(c) Conditions.—Any exchange of lands under this Act may occur only if—

(1) following the submission of an acceptable license application, the FERC has conducted economic and environmental analyzes under the Federal Power Act (16 U.S.C. 791–828) (notwithstanding provisions of that Act and the Federal regulations that otherwise exempt this project from economic analyzes), the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370), and the Fish and Wildlife Coordination Act (16 U.S.C., 661–666), that conclude, with the concurrence of the Secretary of the Interior with respect to (A) and (B) below, that the construction and operation of a hydroelectric power project on the lands described in section 3(b)—

(A) will not adversely impact the purposes and values of Glacier Bay National Park and Preserve (as constituted after the consummation of the land exchange authorized by this section);

(B) will comply with the requirements of the National Historic Preservation Act (16 U.S.C. 470–470w); and

(C) can be accomplished in an economically feasible manner;

(2) The FERC held at least one public meeting in Gustavus, Alaska, allowing the citizens of Gustavus to express their views on the proposed project;

(3) The FERC has determined, with the concurrence of the Secretary and the State of Alaska, the minimum amount of land necessary to construct and operate this hydroelectric power project;

(4) Gustavus Electric Company has been granted a license by FERC that requires Gustavus Electric Company to submit an acceptable financing plan to FERC before project construction may commence, and FERC has approved such plan.

SEC. 3. ROLE OF FEDERAL ENERGY REGULATORY COMMISSION.

(a) License Application.—(1) The FERC licensing process shall apply to any application submitted by Gustavus Electric Company to FERC for the right to construct and operate a hydro power project on the lands described in subsection (b).

(2) The FERC is authorized to accept and consider an application filed by Gustavus Electric Company for the construction and operation of a hydro power plant to be located on lands within the area described in subsection (b), notwithstanding section 3(2) of the Federal Power Act (16 U.S.C. 796(2)). Such application must be submitted within 3 years from the date of the enactment of this Act.

(3) The FERC will retain jurisdiction over any hydropower project constructed on this site.

(b) Analyzes.—(1) The lands referred to in subsection (a) of this section are lands in the State of Alaska described as follows:

COPPER RIVER MERIDIAN

Township 39 South, Range 59 East, partially surveyed, Section 36 (unsurveyed) SE¼SW¼, S½SW¼SW¼, NE¼SW¼, W½W½NW¼SE¼, and S½SE¼NW¼. Containing approximately 130 acres.

Township 40 South Range 59 East, partially surveyed, Section 1 (unsurveyed). NW¼, SW¼, W½SE¼, and SW¼SW¼NE¼, excluding U.S. Survey 944 and Native allotment A–442; Section 2 (unsurveyed), fractional, that portion lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944 and U.S. Survey 945; Section 11 (unsurveyed), fractional, that portion lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944; Section 12 (unsurveyed), fractional, NW¼NE¼, W½NW¼SW¼NE¼, and those portions of NW¼ and SW¼ lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944 and Native allotment A–442. Containing approximately 1015 acres.

(2) Additional lands and acreage will be included as needed in the study area described in paragraph (1) to account for accretion to these lands from natural forces;

(3) With the concurrence of the Secretary and the State of Alaska, the FERC shall determine the minimum amount of lands necessary for construction and operation of such project;

(4) The National Park Service shall participate as a joint land agency in the development of any environmental document under the National Environmental Policy Act of 1969 in the licensing of such project. Such environmental document shall consider both the impacts resulting from licensing and any land exchange necessary to authorize such project.

(c) Issuance of License.—(1) A condition of the license to construct and operate any portion of the hydroelectric power project shall be the FERC's approval, prior to any commencement of construction, of a finance plan submitted by Gustavus Electric Company.

(2) The National Park Service, as the existing supervisor of potential project lands ultimately to be deleted from the Federal reservation in accordance with this Act, waives its right to impose mandatory conditions on such project lands pursuant to section 4(e) of the Federal Power Act (16 U.S.C. 797(e)).

(3) The FERC shall not license, re-license the project, or amend the project license unless it determines, with the Secretary's concurrence, that the project will not adversely impact the purposes and values of Glacier Bay National Park and Preserve (as constituted after the consummation of the land exchange authorized by this Act). Additionally, a condition of the license, or any succeeding license, to construct and operate any portion of the hydroelectric power project shall require the license to mitigate any adverse effects of the project on the purposes and values of Glacier Bay National Park and Preserve identified by the Secretary after the initial licensing.

(4) A condition of the license to construct and operate any portion of the hydroelectric power project shall be the completion, prior to any commencement of construction, of the land exchange described in this Act.

SEC. 4. ROLE OF SECRETARY OF INTERIOR.

(a) Special Use Permit.—Notwithstanding the provisions of the Wilderness Act (16 U.S.C. 1133–1136), the Secretary shall issue a Special Use Permit to Gustavus Electric Company to ensure the completion of the analyzes referred to in Section 3. The Secretary shall impose conditions in the permit as needed to protect the purposes and values of Glacier Bay National Park and Preserve.

(b) Park System.—The lands acquired from the State of Alaska under this Act shall be added to and administered as part of the National Park System, subject to valid existing rights. Upon completion of the exchange of lands under this Act, the Secretary shall adjust, as necessary, the boundaries of the affected National Park System unit(s) to include the lands acquired from the State of Alaska; and adjust the boundary of Glacier Bay National Park and Preserve to exclude the lands transferred to the State of Alaska under this Act. Any such adjustments to the boundaries of National Park System units shall have no effect upon acreage determinations under section 103(b) of the Public Law 96–487.

(c) Wilderness Area Boundaries.—The Secretary shall make any necessary modifications or adjustments of boundaries of wilderness areas as a result of the additions and deletions caused by the land exchange referred in Section 2. Any such adjustments to the boundaries of wilderness area shall have no effect upon acreage determination under section 103(b) of Public Law 96–487.

(d) Payments.—Gustavus Electric Company shall not required to make Federal land payments under section 10(e) of the Federal Power Act (16 U.S.C. 803(c)) with respect to the lands to be exchanged under this Act.

(e) Concurrence of the Secretary.—Whenever in this Act the concurrence of the Secretary is required, it shall not be unlawfully withheld or unreasonably delayed.

By Mr. BIDEN (for himself, Mr. Specter, Mrs. Boxer, Ms. Snowe, Mrs. Murray, Ms. Moseley-Braun, Ms. Mikulski, Mr. Lautenberg, Mr. Wellstone, Mr. Dodd, Mr. Kennedy, and Mr. Durbin)

S. 2110. A bill to authorize the Federal program to prevent violence against women, and for other purposes; to the Committee on the Judiciary.

VIOLENCE AGAINST WOMEN ACT II

Mr. BIDEN. Mr. President, I rise to introduce the "Violence Against Women Act—II." I am pleased to be joined by several Senators who are cosponsoring this legislation—including Senators Specter, Boxer, Snowe, Murray, Moseley-Braun, Mikulski, Dodd, Lautenburg, Wellstone, Kennedy, and Durbin.

Mr. President, when I introduced the Violence Against Women Act eight years ago—in June, 1990—it was not clear that the Senate would ever even consider this legislation. The fundamental reason—just eight years ago, few thought it either appropriate or necessary for national legislation to confront the problem of domestic violence.

From 1990 to 1993, as chairman of the Judiciary Committee, I convened six hearings on the bill, released six reports on the problems of violence against women, convinced the Judiciary Committee to favorably report the bill to the full Senate on three times and had to reintroduce the bill twice.

But, it was not until November, 1993—nearly 3 and ½ years after introduction—that the full Senate even considered the Violence Against Women Act. In September, 1994, the Violence Against Women Act became law.

But, even passage of the act into law did not end the significant debate on the issue of whether the problem of violence against women merited a national response. As my colleagues will recall, throughout the summer of 1995, the Congress debated whether or not we should actually fund the Violence Against Women Act.

Fortunately, by the fall of 1995, the Congress finally reached a consensus—the Federal Government can and should provide resources and leadership in a national effort to end the violence women suffer at the hands of men who profess to love them.

That consensus has held to this day.

And, at the most practical levels, that consensus has been rewarded:

The murder rate for wives, ex-wives and girlfriends at the hands of their "intimates" fell to an 19-year low in both 1995 and 1996.

Thousands of trained police officers are on the streets arresting abusers before they can victimize again; police officers are working as never before to guide victims toward help; prosecutors have been added to the front-lines to put these abusers where they belong—behind bars; tens of thousands of women have been provided the shelters necessary to protect themselves and their children; battered women are being provided a whole range of support services—counseling, legal help for such matters as getting a "protection from abuse" orders; and a new national domestic violence hotline has already answered nearly 200,000 calls for help.

Mr. President, our consensus in the Congress reflects a fundamental consensus in our Nation—the time when a woman has to suffer in silence because the criminal who is victimizing her happens to be her husband or boyfriend is over.

Today, we must build on this consensus and deliver on its promise—because for all the strides we have made, there remain far too many women who will go home this evening knowing in the nervous pit of their stomach that there is a better than even chance that they will get the hell beat out of them.

I don't know that any of us who have not been in this situation can truly understand what it must be like—an understanding which would, in turn, also help us recognize the tremendous need to take action.

Perhaps we can gain a glimmer of such an understanding if we recall our school-boy memory—and every man in this Chamber I know has at least one of these—a memory of sitting in class, dreading the time when the recess bell would ring, because the school bully told you that he was going to beat the daylights out of you on the playground. Imagine feeling that dread every day. Imagine feeling that twist in your guts as an adult.

That is what every man in this Senate, this Congress and this Nation must remember as we continue to debate what we can—and what we should—do to combat violence against women.

Mr. President, the legislation I am introducing today—the Violence Against Women Act II—has one simple goal: make more women safe.

This legislation seeks this goal by building on the original Violence Against Women Act—continuing what is working; seeking improvements to fix those efforts which could work better; and expanding the national fight into those areas where the need is clear, but our efforts have neglected.

Beyond describing some of the specifics of the legislation being introduced, I want to make it clear, there are many other ideas and proposals that should be considered before the full Senate debates this legislation. Also, I am sure there are several refinements to improve what is currently in this bill.

There are several Senators who are developing these other proposals and refinements—for there are many Senators who are deeply committed to combating violence against women. And, I hope that my colleagues will review this legislation, offer their insights and lend their names as co-sponsors and leaders in the fight against domestic violence.

Still, as my colleagues review this legislation, I believe they will find that it offers comprehensive and sensible responses to violence against women.

To highlight just some of the specific aspects of this legislation, let me start with what I believe to be the central component of the Violence Against Women Act II—the money, continuing, the dollars for cops, prosecutors, judges, shelters, and all the elements which are working.

This requires one simple step—continue the violent crime reduction trust fund which the Biden crime bill set up several years ago. This trust fund is due to expire in the year 2000.

Let me remind everybody how it is funded. We agreed that we would reduce the number of Federal workers by over 200,000. We reduced them by 271,000. We agreed that the paychecks that were being paid to those Federal workers would be taken and put in the trust fund, and that trust fund would only be used to fight crime, a part of which is to fight domestic violence. That fund, that trust fund, that separate entity's authorization expires in the year 2000. This legislation first and foremost extends it, extends it to the year 2002. And it does not relitigate the balanced budget agreement upon which we agreed last year. It is accommodated within that balanced budget agreement.

Beyond this fundamental step, there are four key policy areas addressed in my new legislation.

1. Strengthening law enforcement's tools.
2. Improving services for the victims of violence.
3. Reducing violence against children, not only the frequent and horrible side effects of violence against women but also the wellspring of future generations of abusers because all of the data shows that those who witness abuse, ironically and tragically, tend to become abusers.
4. To bolster the antidomestic violence training and education programs to enlist many more professionals in our fight to deal with violence.

STRENGTHENING LAW ENFORCEMENT

On the law enforcement front, the bill introduced today, starts with needed improvements to bolster the interstate enforcement of "stay-away" or protection orders.

To give a practical example, let's say a woman from my home State of Delaware gets one of these protection orders against and old boyfriend who has been stalking and beating the heck out of her. Let's also say she works in Pennsylvania.

This is the scenario which led the original Violence Against Women Act to call on states to honor the protection orders of other states. We did so because the cops recognize the simple reality—they know what will happen sooner or later if the old boyfriend keeps showing up at the woman's work. And, the cops in Pennsylvania don't want to wait for the worst to happen—they want to nail the guy for violating the protection order, stopping violence before it happens—in other words, community policing.

The problem—the cops in Pennsylvania may not know about that there is a valid protection order issued by the State of Delaware. We propose today a few simple fixes: Permitting state and local cops to use their "pro-arrest" grants for this information sharing; encouraging states to enter into the cooperative agreements necessary to help interstate enforcement; and calling on the Justice Department to help develop new protocols and disseminate the "best practices" of state and local cops.

Pretty simple, but all are extremely necessary—and I hope we can all support such common sense measures.

I won't go into nearly as much detail in describing the law enforcement initiatives proposed in this bill, but just to "tick" some of these off—we propose to: Bolster the resources available for courts to handle domestic violence and sexual assault cases; target the "date-rape" drug with the maximum federal penalties; continue funding for police, prosecutors, law enforcement efforts in rural communities, and for anti-stalking initiatives; extend the support of local police "pro-arrest" efforts—a program expiring this year; and provide new laws to protect our military support personnel stationed, as well as our female military personnel who may be assaulted off-base—where, too often, lax foreign laws give a "free-pass" to their victimizer.

ASSISTING THE VICTIMS OF VIOLENCE

Of course, a comprehensive effort to reduce violence against women and lessen its damages must do more than just arrest, convict and imprison abusers—we must also help the victims of violence. This legislation proposes to assist these crime victims in three fundamental ways:

Immediate protections from their abuser—such as battered women's shelters; help so that they can have access to the courts and legal assistance necessary to keep their abuser away from them; and removing the "catch-22s" that may literally often force women to stay with their abuser—such as the discriminatory insurance policies which could force a mother to choose: turn-in the man who is beating me or keep health insurance for her children.

Those are the three general policy goals, but to be more specific, let me outline just how our legislation proposes to boost the protections for the victims of violence:

First and foremost, we must build on our successful effort to provide more shelter space for battered women and their children. Senator Specter and the appropriations committee has done tremendous work to boost annual funding for shelters to $78 million—enough for about 200,000 battered women and their children.

Unfortunately, the unmet need for shelter remains significant. For example, data from six states, which together have about 16% of the Nation's population had to turn away more than 45,000 battered women who were seeking shelter because they simply did not have the space. Extrapolating these figures to the entire nation suggests that about 300,000 battered women and their children are turned away from shelters every year.

As I said, the current appropriations for shelter space stands at about $78 million. This legislation boosts this amount to $175 million over the next four years. The additional $100 million over current services will close the "shelter-gap"—of roughly 300,000 battered women and their children. This will bring us closer to the day when all battered women will have a safe, secure place when they need it most.

Of course, we phase in this increase—but, it is clear to us that we must take the basic, fundamental step if we are to protect these victims of violence.

As I said, we must also provide women with the assistance necessary so that they can get access to help from our justice system. We do so, in some clear and common sense ways, such as:

Reauthorizing the expiring program to provide about $1 million per year for victim/witness counselors in federal court; as Senators WELLSTONE and MOSELEY-BRAUN have recognized, women should not have to chose between showing up at court to make sure her abuser is punished and losing her job—so, this legislation includes their proposal to extend the protections of the Family & Medical Leave Act to the victims of domestic violence;

Continuing the national Domestic Violence Hotline (at a cost of about $2 million per year); and

Developing a national network of trained, volunteer attorneys who will help each of the nearly 100,000 women who, each year, call the national hotline for help.

The other component of our plan to aid the victims of domestic violence is to target what I refer to as the "catch-22" problems.

Senator MURRAY has identified one source of just such a "Catch-22"—the fact that some insurance companies and plans deny women health, disability, property or life insurance protections because the woman is a victim of domestic violence.

In starkest terms, this forces a woman to chose between reporting—and trying to end—the violence she is suffering or her children's health care.

This must end—we must pass Senator MURRAY's proposal, included in this legislation, to protect the victims from abuse from insurance discrimination.

Let me also remind my colleagues that in the original Violence Against Women Act we took bi-partisan action to end another such insidious "choice." In 1994, we worked out provisions so battered immigrant women—whose ability to stay in the country was dependent on their husbands—would not have to chose: stay in America and continue to get beaten or leave their husbands, end the abuse, but have to leave America (perhaps even without their children.)

While we had fixed some aspects of this problem in 1994, there remain other aspects of immigration law which leave a woman with just such a horrible, unfair and immoral choice. With Senator KENNEDY, we have worked to include in this legislation several of these corrections.

I urge my colleagues to support—and even build upon—our efforts to put an end to these real problems.

REDUCING VIOLENCE AGAINST CHILDREN

A third area where this legislation seeks action is on reducing violence against children. As my colleagues know, households where the wife is beaten are much more likely to also be home to child abuse and neglect. In addition, the research findings are clear—children who witness violence are much more likely to repeat the cycle when they are adults and they have a wife and children.

Here, our legislation proposes to continue two long-standing programs—

Resources to serve runaway and homeless youth who are victims of sexual abuse; and

The resources provided for Court-Appointed Special Advocates and special child abuse training for court personnel through the Victims of Child Abuse Act (originally co-sponsored by Senator THURMOND and myself in 1990.)

The current appropriations for all these programs total about $25 million—we propose to increase that annual amount by about $10 million.

IMPROVING RESEARCH AND TRAINING

The remaining area targeted by the Violence Against Women Act—two include several efforts to help train and educate those already on the frontlines of the battle against violence against women.

Senator BOXER has recognized that one of the leading reasons why women enter hospital emergency rooms is because they were beaten at the hands of a man. So, this bill, includes her proposal to increase the number of health professionals who are trained in the identification, treatment and referral of victims of domestic violence and sexual assault.

Over the past few years, I have worked with several corporations (including, DuPont, Polaroid, Liz Claiborne, and The Body Shop) who have begun their own workplace initiatives—everything from 24-hour assistance hotlines for their employees, training to help managers better recognize domestic violence, and even comprehensive employee assistance efforts.

Helping other companies start or improve—again, on their own initiative—such anti-violence efforts is the reason this legislation includes a national workplace clearinghouse on violence against women.

The clearinghouse will provide technical assistance and help circulate "best practices" to companies interested in combating violence against women.

Another practical problem out in the field relates to the complex nature of criminal investigations into sexual assault cases. To assist the cops in the field who face these investigations, this legislation calls on the Attorney General to evaluate and recommend standards of training and practice of forensic examinations following sexual assaults.

I want to make clear, this legislation does not allow any Federal dictates—but only some assistance to those in the field.

Finally, this legislation continues the authorization for rape prevention and education programs. These programs provide public awareness and education efforts to both teach young women how to protect themselves from rape and attack, as well as to help build their self-esteem.

Mr. President, I have just offered the most general outline of the contents of the Violence Against Women Act—Two. I urge my colleagues to review this legislation. I am confident they will find this bill a comprehensive and practical response which will help us meet a goal I believe is shared by every member of this Senate—making more women safer.

Mr. SPECTER. Mr. President, I am pleased to join my colleagues from both sides of the aisle in introducing the Biden-Specter "Violence Against Women Act II" (VAWA II), a bipartisan effort to continue and strengthen the many vital Federal programs which work to combat violence against women. I thank Senator BIDEN in particular for his leadership in crafting this important legislation.

Clearly, violence against women knows no social, economic, or geographic bounds. It affects rich and poor, young and old. Women are assaulted in their homes, on the streets, in the workplace, and on campuses. In 1992, I cosponsored the original "Violence Against Women Act" (VAWA), which amended other anti-violence legislation to include acts of violence against women as crimes. Although it did not pass that year, we worked hard to include this vital legislation in the 1994 omnibus anti-crime legislation. Since enactment of the Violence Against Women Act, as a member of the Appropriations Committee, I have worked to ensure that programs under this law are funded adequately.

Domestic violence in particular is an epidemic which VAWA programs seek to address. Within the last year, 3.9 million American women were victims of physical abuse and another 20.7 million were verbally or emotionally abused by their spouse or partner. A recent study found that the medical costs associated with these attacks amount to over $857.3 million. In my State of Pennsylvania, more than 500,000 citizens will be victims of domestic violence each year, and the estimated medical cost exceeds $326 million. In 1995 and 1996, I held hearings in Pennsylvania on the issue of domestic violence and violence against women in general, and have visited battered women's shelters in Pittsburgh and Harrisburg to see first-hand the kind of physical and emotional suffering so many women endure.

Within the Appropriations Subcommittee on Labor, Health and Human Services, and Education, which I chair, Violence Against Women Act programs received $128.7 million for fiscal year 1998. I have also supported Violence Against Women Act programs funded within the Department of Justice, which totaled $270.7 million for fiscal year 1998.

The Biden-Specter VAWA II legislation extends and expands the vital VAWA programs supported by my Subcommittee. Currently funded at $76.5 million, Shelters for Battered Women and Their Children would double its authorization in four years. The National Domestic Violence Hotline, which has received over 120,000 calls since February 1996, is another successful resource which would receive a substantial increase in its authorization. The VAWA II proposal would authorize an additional $15 million over four years for the Rape Prevention and Education Program, currently at $45 million, and would institute new coordination between the Attorney General and the Secretary of Health and Human Services to administer the CDC Prevention and Intervention Research to Combat Violence Against Women.

The Biden-Specter VAWA II legislation also includes provisions to address the issue of violence against women on college campuses across the country. Recognizing the grave importance of battling this problem in a targeted manner, I introduced the "Campus Crime Disclosure Act of 1998" (S. 2100) on May 20, 1998. Sexual assaults throughout the United States, including sexual assaults on campuses, are on the rise. Independent research and studies show that 20 percent of college-aged women will be victims of sexual crimes at some point in their postsecondary academic career. Studies also show that rape remains the most underreported violent crime in America, with approximately one in every six rapes reported to police. The Campus Crime Disclosure Act, tightens existing campus security law to discourage higher educational institutions from the underreporting of offenses covered by the 1990 Campus Security Act.

I have also continuously worked to ensure that women receive the benefit of the Federal investment into public health programs. I helped establish the Public Health Service's Office of Women's Health in 1991, which develops, coordinates, and stimulates women's health programs and activities across all Federal agencies. Funding for this program has increased from $450,000 in fiscal year 1991 to $12.5 million in fiscal year 1998. Even in an era of constrained spending, these expenditures are well worthwhile on this important subject.

I believe that by the passage of legislation such as the Biden-Specter Violence Against Women Act II, we are on the right track to helping women to combat the incidence of domestic violence, and victimization in general. I urge my colleagues to join in cosponsoring this important legislation, and I urge its swift adoption.

• Mrs. MURRAY. Mr. President, when I came to the Senate in 1993, violence against women had reached a crisis point. The epidemic had spread through every community, across every ethnic group, and did not discriminate based on income, or age.

In 1994, Congress responded to this crisis. The enactment of the Violence Against Women Act in 1994 established a national strategy for dealing with this crisis. No longer would this kind of violence be tolerated. Congress made violence against women a federal crime and threw the weight of the federal government behind efforts to end this violence.

Senator BIDEN was instrumental in drafting the original VAWA. I am grateful for his efforts in the past and have always appreciated his work on behalf of this issue. I also want to thank Senator SPECTER for his efforts to funding these important programs. I have worked with him on the Appropriations Committee and have experienced first hand the benefits of having him on my side on an important family violence issue in the 1998 Labor, HHS Appropriations bill.

Enactment of VAWA in 1994 for me is one of my top legislative accomplishments. I know that we made a difference. I know that providing the resources to help women who are victims of violence seek safety and justice has saved hundreds of lives. I have visited battered women's shelters and talked to many advocates who tell me how important VAWA is. Reauthorization of this historic act must be a priority of this Congress. We can build on the success of VAWA and work to end violence against women.

I want to thank Senator BIDEN for working with me to include a prohibition against insurance discrimination in this legislation. I find this practice of discriminating against victims of domestic violence offensive and outrageous. To victimize a woman twice is inexcusable. Insurance policies that deny women health insurance or homeowners insurance simply because they have been victims of domestic violence can no longer be tolerated. To say that a victim of domestic violence engages in high risk behavior similar to a sky diver or race car driver is beyond comprehension. Enactment of VAWA reauthorization legislation will end this practice.

Believe me, insurance discrimination is a reality. I know of several cases, including one in my own state of Washington, where an insurance company refused to honor its obligation because the loss was the result of a domestic violence situation. There are many more documented cases of discrimination. Insurance companies should be ashamed of this kind of practice. Today we have a means to end it.

Enactment of this reauthorization legislation is an important step. But, it is only part of the solution. We must do more. We can help ensure that services are available to protect women and resources to local law enforcement to deal with the epidemic. However, the only real solution to ending domestic violence is economic security and stability for the woman. VAWA offers temporary solutions, but long term solutions require tearing down economic barriers for these women. Work place discrimination, lack of affordable child care, housing shortages, punitive welfare requirements, inability to change a Social Security number are all examples of these barriers.

Removing the economic barriers for victims of domestic violence is our next great challenge. I have been working with advocates in the State of Washington on legislation that would serve to end the economic sanctions many victims face.

But, first we do need to ensure the immediate safety of these women and their children. We need to provide resources to law enforcement to protect women and we need to guarantee that the courts treat offenders as violent criminals. The legislation that we will be introducing today accomplishes these goals.

This is one piece of legislation that will make a difference.•

• Mrs. BOXER. Mr. President, today I call upon my colleagues to support the Violence Against Women Act of 1998 which we introduce today.

Domestic violence is the number one cause of injury to women in the United States. Every 9 seconds, a woman is physically abused by her husband or boyfriend. 42 percent of all murdered women are killed by current or ex-partners. Approximately 95 percent of the victims of domestic violence are women. More than 3 million children witness acts of domestic violence every year.

In 1994, Congress passed the bipartisan Violence Against Women Act (VAWA). Under VAWA, the Department of Justice awarded over $483 million under to the states for domestic violence programs. The largest portion of the money goes toward "STOP" grants, which bring together police, prosecutors, counselors, shelter providers and other organizations to develop coordinated services for women dealing with domestic violence.

These funds make a difference in women's lives. My home State of California has received more than $46 million under VAWA, plus an additional $19 million for battered women's shelters and services.

With VAWA funds, Los Angeles County increased the number of shelters from 18 in 1994 to 25 shelters today, adding 200 additional shelter beds for women and children. One organization, the 1736 Family Crisis center, opened a new shelter in large part due to VAWA funds. The Valley Oasis shelter in the high dessert expanded its number of beds significantly, again due in large part to VAWA. Throughout California, VAWA helped fund more than 77 domestic violence shelters.

In California, in fiscal year 1998 alone, VAWA provided: $875,000 to fund domestic violence and children's services such as counseling, shelters, and safety planning; $1.8 million for specialized domestic violence units in local law enforcement agencies; $2.7 million to fund prosecution units that specifically handle domestic violence cases; and $1.2 million for its multi-disciplinary sexual assault response team victim advocate project, which brings together police officers, doctors, nurses, advocates, and counselors to respond to victim's needs within hours of a sexual assault.

VAWA funds sheriffs in San Diego, San Francisco and Los Angeles to conduct domestic violence training for thousands of law enforcement officers and for individuals involved in community-oriented policing (the COPS program) throughout the State. This legislation will help continue and expand these and other programs across the country.

VAWA II includes important improvements. It encourages training for health care providers to help them identify the signs of domestic violence and refer patients to appropriate services. It protects women from the horrors of "date-rape" drugs by placing the drug Rohypnol in Federal Schedule 1—the strictest level of federal drug penalties and controls. It improves protections for older women, women with disabilities, and women on college campuses.

With VAWA II, we are taking the next crucial steps to help keep American women and children safe. I commend NOW Legal Defense and Education Fund for its leadership on this issue, and the many organizations that have fought to protect and to provide services for battered women and their children. I urge my colleagues to support this important legislation.•

• Ms. MIKULSKI. Mr. President, I am honored to rise today as an original cosponsor of the Violence Against Women Act II. I commend Senator BIDEN for his hard work on this continuing effort to combat violence against women. I believe we are making great progress as a nation to make our streets and our world safer by cracking down on violent crime. This new law represents the continuing Federal effort to deal with these crucial issues. I am encouraged by the bipartisan support for this bill. Protecting the lives of women and children should not be a partisan issue. Both Democrat and Republican members of the United States Senate are taking a solid stand against the disgraceful and cowardly crime of domestic violence.

Mr. President, I strongly support this important legislation for three reasons. First, this bill continues the fight for a safer world by providing new and continuing grants to improve the criminal justice system's protections for women and children. Second, it provides important training for those involved in the response to citizens abused by domestic violence. Third it expands and strengthens the services available to victims of violence.

The Violence Against Women Act II is a big step forward in the effort to keep women, children and communities safe. One of the most critical components of this bill is the reauthorization of the STOP Grant funds for vital programs in our states. This allows the states to obtain the money they need to create and mobilize effective strategies against violence. In my state of Maryland, the Lieutenant Governor and Attorney General of Maryland created the Family Violence Council to find ways to reduce and prevent family violence. With the STOP Grant funds Maryland received through the 1994 Violence Against Crime Act, the Council has been able to effectively assist a statewide initiative against crime. This money has been used to help Maryland develop policies and procedures against domestic violence. It has been used to ensure the development of the best possible laws to protect victims and hold abusers accountable. We have coordinated community programs that protect victims. We have made efforts to break the cycle of violence between generations. And we have stood together as citizens of Maryland and said that violence against women is something we cannot and will not tolerate.

Second, this legislation provides the authorization for money to train people to respond to domestic abuse. It amends the STOP and Pro-Arrest grants and makes states and local courts specifically eligible for funding. These are the same programs that brought police and prosecutors into the loop of personnel who combat violence toward women. The bill we are introducing today takes the next vital step. It expressly targets funds to the courts and helps engage them in the fight against domestic violence. By educating judicial staff and officers of the court about the special issues raised by violence against women, we completed the circle of people who must work in partnerships to end these crimes.

Judges and officers are often the first people a victim will meet in the criminal system when seeking legal intervention. The judicial staff are the ones who can set the stage for whether or not a victim will proceed with her claim. This legislation ensures that all personnel in the criminal justice system are educated and trained to handle cases of domestic violence. This ensures that the proper support, services and protection are available to those who need it most.

Finally, I support this bill because of the services it provides for the victims of these destructive crimes. In 1992, we witnessed a national travesty. In 1992 the National Domestic Violence Hotline went out of business. Not because there was no domestic violence. At that time, the hotline averaged 7.5 calls an hour, 180 calls a day and 65,520 calls a year. The hotline went out of business because it had no funding. That means lives were lost because our citizens had an emergency hotline number that no longer worked. That means more children were beaten and murdered every day who might have been able to get the help they needed. That means the federal government was not meeting its duty to stop the deadly cycle of violent crime.

We cannot and must not allow this to happen again. That is why in 1994 we included a new provision in the law to authorize grants to revive the national hotline. That is why today we are now increasing and extending authorizations to meet the growing demands on the Hotline. Today any woman or child with access to a telephone can dial 1-800-799-SAFE and get the help they urgently need from a qualified and informed professional.

Domestic violence in this country was ignored for far too long before we passed the first Violence Against Women Act. Annually, at least 2 million children and 2 to 4 million women are abused by the people closest to them. These statistics truly send home a very strong message: The most vulnerable members of our society have historically not been served by our government. These alarming crime rates resound loudly and should be heard by every legislator elected to Congress.

We must remain keenly aware of the fact that four women a day are killed at the hands of their batterer. That fifty-seven percent of children under 12 who are murdered are killed by a parent. That every fifteen seconds a woman is beaten by her husband or boyfriend. The Violence Against Women Act II will continue the effort to combat this violence toward women. The time is now to act and to continue our fight. No woman should live in fear that any person will get away with hurting her or her children. I have stated in the past that if you intend to harm a woman that you better stay out of my state of Maryland. I strongly encourage every single member of the Senate to not only vote for, but to actively support this crucial legislation.•

• Mr. WELLSTONE. Mr. President, I rise today as a proud co-sponsor of this Violence Against Women Act. I was a co-sponsor of the original Violence Against Women Act of 1994 and will work hard to see this Violence Against Women Act pass as well. As you well know my wife Sheila and I do a lot of work trying to reduce violence in homes. That is a big priority for us. And the passage of the 1994 Violence Against Women Act was a first big step and an historical occasion.

It was the culmination of over twenty-five years of hard work by local and national organizations. It was an acknowledgment that this kind of violence within families is everybody's business. It was the public recognition that for all too many women the home, rather than being a safe place is a very dangerous place. And finally it sent a clear message that violence against women was a crime that would not be tolerated. It sent a clear message that we as a nation were committed to ending violence against women. At that time we thought we were introducing a comprehensive bill to end violence against women. We have learned a great deal since the passage of the first Act and with that knowledge we know we can and must do better. We have also learned that violence against women is multi-faceted problem that must be addressed in many ways. While the first Act provided important funding to improve services to abused women and improve the criminal justice system, the statistics show we must do more. In my own state of Minnesota, at least 17 women were killed in 1997 by their intimate partners. In that same year, over 4,000 women and over 5,000 children used domestic violence shelters in my state. I am sure that the provisions provided in VAWA allowed so many women to be served. I am sure that the provision in WAVA allowed law enforcement, in my state and across the country, to better address cases of domestic abuse. But now we must broaden our approach to this critical problem.

And so today we introduce the Violence Against Women Act II. This legislation not only reauthorizes and improves the initial commitment set forth in VAWA, but also addresses the impact of violence against women in areas of child visitation, sexual assault prevention, insurance discrimination, as well as violence in the workplace and on campuses. The initiatives in this bill, as I'm sure my colleague JOE BIDEN will attest, were developed as part of a collaborative effort with researchers, advocates and service providers alike. Seeing the problems that victims face on a daily basis, they have helped us to develop legislation that will assist women who have been victims of violence.

I have worked hard at addressing the severe economic consequences of domestic abuse on working women and am proud to say that VAWA II includes provisions to ensure access to family and medical leave coverage. With the passage of this Act women will be allowed to be absent from work so that they can deal with the domestic violence in their lives. Under this legislation victims of abuse could use family and medical leave to attend court hearings and go to appointments with health care providers. In addition this legislation specifies that unemployment compensation should be provided if employment is terminated due to domestic abuse. If a woman loses her job because of the abuse she is experiencing in her home then she will be assured access to unemployment compensation. In other words, this legislation addresses the fact that the cycle of violence will not be interrupted unless victims of abuse are assured of economic security and independence.

Another facet of domestic violence that has been recognized since the passage of the 1994 Violence Against Women Act is the discrimination that victims of abuse face. I have worked hard at ending discrimination by insurance companies against victims of abuse and am proud to be able to say that this issue is well addressed in VAWA II. After years of work by advocates, encouraging women to come forward and report their abuse, we now find that they are being discriminated against based on their status as victims of that abuse. We all know that denying women access to insurance they need to foster their mobility out of an abusive situation must be stopped. Under this legislation insurance companies could no longer discriminate against victims of abuse in any line of insurance.

And finally, I would just like to mention the provision to provide safe havens for children. It is time we address the danger that children and victims of abuse are subjected to during visitation sessions with former partners. Let us stop further violence from occurring by providing safe centers for children who are members of families in which violence is a problem. These centers will provide a safe environment in which children can visit with their parents without risk of being exposed to violence in the context of their family relationships. These centers will also save the lives of mothers by providing secure and supervised environments where they can drop off their children to visit with their abusers. Stopping the cycle of violence means providing safe places for women and children inside and outside the home.

While we worked hard in the first Violence Against Women Act to make streets and homes safer for women by investing in law enforcement initiatives, we have learned that a woman's safety is dependent on her ability to achieve economic as well as physical security. The measures that I have mentioned are only some of the pieces that show the comprehensive nature of this bill. It is a reflection of what we have learned and the acknowledgment that we can and must do better. The Violence Against Women Act II is an impressive piece of legislation that deserves serious attention in this Congress. I look forward to the hearings and debates on this bill and look forward to working on and seeing it pass.●

By Mr. SMITH of Oregon:

S. 2111. A bill to establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, to direct the Secretary of the Interior to appoint an advisory committee to make recommendations regarding activities under memorandum of understanding, and for other purposes; to the Committee on Energy and Natural Resources.

COLUMBIA RIVER AND SNAKE RIVER LEGISLATION

● Mr. SMITH of Oregon. Mr. President, today I am introducing legislation to establish the conditions under which certain Federal agencies may enter into a memorandum of agreement with non-federal entities concerning management of the Columbia River and Snake River Basin in the States of Idaho, Montana, Oregon, and Washington.

This bill is not an endorsement of the draft Three Sovereigns agreement, but arises from ongoing concerns I have about the proposal. The livelihoods of many Northwest residents are at stake in upcoming decisions about Columbia River operations, and they deserve a voice in this process.

The bill formalizes public input to federal agencies involved in the proposed "Three Sovereigns" agreement, or any similar agreement, by creating an advisory committee representing: local governments; customers of the Bonneville Power Administration; upstream ports; fishing interests; shippers; irrigators; environmentalists; forest land owners and grazers. This committee will advise the federal agencies on matters to be addressed under the agreement, including the economic and social impacts of any proposed recommendations.

Currently, two significantly different drafts of a "Memorandum of Agreement for Three Sovereigns' Governance of the Columbia River Basin Ecosystem" are out for public comment. However, the public comment process was so ill-defined initially that I had to write one of the chief proponents of the agreement to request that this process be better defined. Further, it has been reported to me that at the public meeting held in Pendleton, Oregon, on the draft agreement, there was no clerk reporter to record people's comments in detail. This has not given those who depend on the river system much confidence in their ability to provide input into any forum established under a Three Sovereigns' agreement.

Developing a successful regional solution to management of the Columbia/Snake River system will involve a broad range of stakeholders. While not a perfect model, the 1994 Bay-Delta Accord in California has been successful, in large part, because the water users and environmental groups were parties to the Accord. The bill would not, however, require changes in the draft memorandum of agreement itself, or impose conditions on the states or the tribes. But it is appropriate for the Congress to establish certain conditions for federal participation in any such agreement.

In addition to establishing this advisory committee, the bill requires each federal agency that is a signatory to the Three Sovereigns' agreement to publish and make available to the public, including over the Internet, all scientific data used to formulate recommendations and all methodologies used to prepare cost-benefit analyses.

The bill also provides a mechanism to resolve disputes among federal agencies involved in the Three Sovereigns' agreement. The Director of the Office of Management and Budget will designate an official who, at the request of a non-federal party to the agreement, will have the authority to reconcile differences between the federal agencies on any issue before the Three Sovereigns. In this manner, the non-federal signatories are not caught between differing federal agencies.

The Three Sovereigns' agreement, if signed, would establish a process that is very similar to the statutory obligations of the Northwest Power Planning Council with respect to fish and wildlife recommendations. Therefore, the bill requires the Council to report to the Congress annually on how the recommendations on fish and wildlife activities under any agreement would be coordinated and reconciled with the Council's statutory responsibilities.

Finally, to enhance budget coordination among federal agencies regardless of whether an agreement is entered into, the bill requires that the President's annual budget proposal include a cross-cut budget showing proposed spending for activities in the basin by the federal agencies.

I urge my colleagues to support this legislation, and to support stakeholder involvement in the development of a regional solution to Columbia and Snake River issues.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

In this Act:

(1) ADVISORY COMMITTEE.—The term "advisory committee" means the advisory committee established by the Secretary under section 2(b).

(2) COLUMBIA/SNAKE RIVER BASIN.—The term "Columbia/Snake River Basin" means the basin of the Columbia River and Snake River in the States of Idaho, Montana, Oregon, and Washington.

(3) COUNCIL.—The term "Council" means the Pacific Northwest Electric Power and Conservation Planning Council established under the Pacific Northwest Electric Power and Conservation Planning Act (16 U.S.C. 839 et seq.).

(4) FEDERAL AGENCY.—The term "Federal agency" means—

(A) the Bonneville Power Administration in the Department of Energy;

(B) the Bureau of Land Management, Bureau of Reclamation, United States Fish and Wildlife Service, and the Bureau of Indian Affairs in the Department of the Interior;

(C) the National Marine Fisheries Service in the Department of Commerce;

(D) the Army Corps of Engineers in the department of the Army;

(E) the Forest Service and the Natural Resource Conservation Service in the Department of Agriculture; and

(F) the Environmental Protection Agency.

(5) MEMORANDUM OF UNDERSTANDING.—The term "memorandum of understanding" means any written or unwritten agreement between or among 1 or more of the Federal agencies and 1 or more State or local government agencies, 1 or more Indian tribes, or 1 or more private persons or entities—

(A) concerning the manner in which any authority of a Federal agency under any law is to be exercised within the Columbia/Snake River Basin; or

(B) for the purpose of formulating recommendations concerning the manner in which any such authority should be exercised.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 2. CONDITIONS ON MEMORANDUM OF UNDERSTANDING.

(a) IN GENERAL.—The Bonneville Power Administration or any other Federal agency, acting individually or with 1 or more of the other Federal agencies, shall not enter into or implement a memorandum of understanding unless all of the conditions stated in this section are met.

(b) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.) to advise the Federal agencies with respect to matters to be addressed under any memorandum of understanding, including the economic and social impacts of proposed activities or recommendations.

(2) MEMBERSHIP.—The advisory committee shall be composed of—

(A) 1 representative of the large industrial customers served directly by the Bonneville Power Administration;

(B) 1 representative of the preference power customers that purchase power from the Bonneville Power Administration;

(C) 1 representative of non-Federal utilities that have hydropower generation on the Columbia River or Snake River;

(D) 1 irrigator that receives water diverted from a Federal water project on the Snake River;

(E) 1 irrigator that receives water diverted from a Federal water project on the Columbia River or a tributary of the Columbia River (other than a tributary that is also a tributary of the Snake River);

(F) 1 private forest land owner;

(G) 1 representative of the commercial fishing industry;

(H) 1 representative of the sport fishing industry;

(I) 1 representative of the environmental community;

(J) 1 representative of a river port upstream of Bonneville Dam;

(K) 1 representative of shippers that ship from places upstream of any lock on the Columbia River;

(L) 1 representative of persons that hold Federal grazing permits; and

(M) 1 representative of county governments from each of the States of Oregon, Washington, Idaho, and Montana.

(3) MANNER OF APPOINTMENT.—The members of the advisory committee shall be appointed by the Secretary of the Interior from among persons nominated by the Governors of the States of Idaho, Montana, Oregon, and Washington.

(4) CHAIRPERSON.—At the first meeting of the advisory committee, the members shall select 1 of the members to serve as chairperson, on a simple majority vote.

(5) COMPENSATION.—A member of the advisory committee shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties of the advisory committee.

(6) SUPPORT.—The Secretary shall—

(A) provide such office space, furnishings and equipment as may be required to enable the advisory committee to perform its functions; and

(B) furnish the advisory committee with such staff, including clerical support, as the advisory committee may require.

(7) OPPORTUNITY TO FORMULATE AND PRESENT VIEWS.—The advisory committee shall be afforded a reasonable opportunity to—

(A) attend each meeting convened under the memorandum of understanding; and

(B) formulate and present its views on each matter addressed at the meeting.

(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the activities of the advisory committee a total of $1,000,000 during the period in which the advisory committee is in existence.

(9) TERMINATION.—The advisory committee shall terminate on termination of the memorandum of understanding.

(c) RECONCILIATION OF DIFFERENCES.—The Director of the Office of Management and Budget shall designate an official who, at the request of a non-Federal party to any memorandum of understanding, shall have authority to reconcile differences between the Federal agencies on any issue relating to activities addressed under the memorandum of understanding.

(d) PUBLIC AVAILABILITY OF DATA AND METHODOLOGIES.—Each Federal agency shall publish and make available to the public, through use of the Internet and by other means—

(1) all scientific data that are prepared by or made available to the Federal agency for use for the purpose of formulating recommendations regarding any matter addressed under any memorandum of understanding; and

(2) all methodologies that are prepared by or made available to the Federal agency for the purpose of assessing the cost or benefit of any activity addressed under any memorandum of understanding.

(e) REPORTING BY THE COUNCIL.—

(1) IN GENERAL.—Not later than 30 days before the beginning of each fiscal year, the Council shall submit to Congress a report that describes how the recommendations on fish and wildlife activities under any memorandum of understanding during the fiscal year will be reconciled and coordinated with activities of the Council under the Pacific Northwest Electric Power and Conservation Planning Act (16 U.S.C. 839 et seq.).

(2) COOPERATION.—Each Federal agency that is a party to a memorandum of understanding shall provide the Council such information and cooperation as the Council may request to enable the Council to make determinations necessary to prepare a report under paragraph (1).

SEC. 3. BUDGET INFORMATION.

(a) IN GENERAL.—The President shall include in each budget of the United States Government for a fiscal year submitted under section 1105 of title 31, United States Code, a separate section that states for each Federal agency the amount of budget authority and outlays proposed to be expended in the Columbia/Snake River Basin (including a pro rata share of overhead expenses) for the fiscal year.

(b) ITEMIZATION.—The statement of budget authority and outlays for the Columbia/Snake River Basin under subsection (a) for each Federal agency shall be stated in the same degree of specificity for each category of expense as in the statement of budget authority and outlays for the entire Federal agency elsewhere in the budget.●

ADDITIONAL COSPONSORS

S. 249

At the request of Mr. D'AMATO, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 249, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.

S. 442

At the request of Mr. WYDEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 442, a bill to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes.

S. 766

At the request of Ms. SNOWE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 831

At the request of Mr. SHELBY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 971

At the request of Mr. LAUTENBERG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 971, a bill to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes.

S. 1037

At the request of Mr. DODD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1037, a bill to amend the Internal Revenue Code of 1986 to establish incentives to increase the demand for and supply of quality child care, to provide incentives to States that improve the quality of child care, to expand clearing-house and electronic networks for the distribution of child care information, to improve the quality of child care provided through Federal facilities and programs, and for other purposes.

S. 1334

At the request of Mr. BOND, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1351

At the request of Mr. BURNS, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 1351, a bill to amend the Sikes Act to establish a mechanism by which outdoor recreation programs on military installations will be accessible to disabled veterans, military dependents with disabilities, and other persons with disabilities.

S. 1529

At the request of Mr. KENNEDY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1645

At the request of Mr. ABRAHAM, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1645, a bill to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions.

S. 1727

At the request of Mr. LEAHY, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 1727, a bill authorize the comprehensive independent study of the effects on trademark and intellectual property rights holders of adding new a generic top-level domains and related dispute resolution procedures.

S. 1759

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1759, a bill to grant a Federal charter to the American GI Forum of the United States.

S. 1862

At the request of Mr. DEWINE, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1862, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 2001

At the request of Mr. MURKOWSKI, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2001, a bill to amend the Indian Health Care Improvement Act to make permanent the demonstration program that allows for direct billing of medicare, medicaid, and other third party payors, and to expand the eligibility under such program to other tribes and tribal organizations.

S. 2007

At the request of Mr. COCHRAN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2007, a bill to amend the false claims provisions of chapter 37 of title 31, United States Code.

S. 2022

At the request of Mr. DEWINE, the names of the Senator from Ohio (Mr. GLENN), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2022, a bill to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

S. 2044

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2044, a bill to assist urban and rural local education agencies in raising the academic achievement of all of their students.

S. 2070

At the request of Mr. DEWINE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2070, a bill to provide for an Underground Railroad Educational and Cultural Program.

S. 2077

At the request of Mr. FORD, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2077, a bill to maximize the national security of the United States and minimize the cost by providing for increased use of the capabilities of the National Guard and other reserve components of the United States; to improve the readiness of the reserve components; to ensure that adequate resources are provided for the reserve components; and for other purposes.

SENATE CONCURRENT RESOLUTION 80

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of Senate Concurrent Resolution 80, a concurrent resolution urging that the railroad industry, including rail labor, management and retiree organization, open discussions for adequately funding an amendment to the Railroad Retirement Act of 1974 to modify the guaranteed minimum benefit for widows and widowers whose annuities are converted from a spouse to a widow or widower annuity.

SENATE CONCURRENT RESOLUTION 82

At the request of Mrs. MURRAY, her name was added as a cosponsor of Senate Concurrent Resolution 82, a concurrent resolution expressing the sense of Congress concerning the worldwide trafficking of persons, that has a disproportionate impact on women and girls, and is condemned by the international community as a violation of fundamental human rights.

SENATE CONCURRENT RESOLUTION 97

At the request of Mrs. MURRAY, her name was added as a cosponsor of Senate Concurrent Resolution 97, a concurrent resolution expressing the sense of Congress concerning the human rights and humanitarian situation facing the women and girls of Afghanistan.

SENATE RESOLUTION 188

At the request of Mr. MOYNIHAN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of Senate Resolution 188, a resolution expressing the sense of the Senate regarding Israeli membership in a United Nations regional group.

SENATE RESOLUTION 192

At the request of Mr. BIDEN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of Senate Resolution 192, a resolution expressing the sense of the Senate that institutions of higher education should carry out activities to change the culture of alcohol consumption on college campuses.

SENATE CONCURRENT RESOLUTION 98—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND HOUSE OF REPRESENTATIVES

Mr. GREGG (for Mr. LOTT) submitted the following concurrent resolution; which was considered and agreed to:

S. CON RES. 98

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, May 21, 1998, Friday, May 22, 1998, Saturday, May 23, 1998, or Sunday, May 24, 1998, pursuant to a motion made by the Majority Leader or his designee in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, June 1, 1998, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, May 22, 1998, or Saturday, May 23, 1998, pursuant to a motion made by the Majority Leader or his designee in accordance with this concurrent resolution, it stand adjourned until 2:00 p.m. on Wednesday, June 3, 1998, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SENATE RESOLUTION 233—TO AUTHORIZE TESTIMONY AND DOCUMENT PRODUCTION AND REPRESENTATION OF SENATE EMPLOYEES

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. Res. 233

Whereas, in the case of *People* v. *James Eugene Arenas*, Case No. 98F2403, pending in the Municipal Court for Fresno, California, testimony and document production have been requested from Kelly Gill, an employee on the staff of Senator Barbara Boxer;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony or the production of documents relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United Stats and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Revolved, That Kelly Gill, and any other employee from whom testimony or document production may be required, are authorized to testify and produce documents in the case of *People* v. *James Eugene Arenas*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Kelly Gill, and any other employee from whom testimony or document production may be required, in connection with *People* v. *James Eugene Arenas.*

SENATE RESOLUTION 234—TO HONOR STUART BALDERSON

Mr. STEVENS (for himself, Mr. LOTT, Mr. DASCHLE, Mr. BYRD, and Mr. WARNER): submitted the following resolution; which was considered and agreed to:

S. RES. 234

Resolved, That Stuart Balderson is named Financial Clerk Emeritus of the United States Senate.

SEC. 2. That Rule XXIII is amended by adding after "Parliamentarian Emeritus:; the following "and the Financial Clerk Emeritus."

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

SMITH AMENDMENT NO. 2435

(Ordered to lie on the table.)

Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to the bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

On page 182, strike lines 11 through 23, and insert the following:

(b) ANNUAL PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3) the participating tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in paragraph (4) and section 403:

(1) For year 1—$14,400,000,000;

(2) For year 2, an amount equal to the product of $1.00 and the total number of units of tobacco products that were sold in the United States in the previous year.

(3) For year 3, an amount equal to the product of $1.50 and the total number of units of tobacco products that were sold in the United States in the previous year.

(4) For year 4, and each subsequent year, an amount equal to the amount paid in the prior year, multiplied by a ratio in which the numerator is the number of units of tobacco products sold in the prior year and the denominator is the number of units of tobacco products sold in the year before the prior year, adjusted in accordance with section 403.

Beginning on page 192, strike line 6 and all that follows through line 23 on page 199, and insert the following:

SEC. 451. ALLOCATION ACCOUNTS.

(a) STATE LITIGATION SETTLEMENT ACCOUNT.—

(1) IN GENERAL.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 10 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury.

(2) APPROPRIATION.—Amounts so calculated are hereby appropriated and available until expended and shall be available to States for grants authorized under this Act.

(3) DISTRIBUTION FORMULA.—The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

(4) USE OF FUNDS.—A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act including smoking cessation and related public health programs.

(5) FUNDS NOT AVAILABLE AS MEDICAID REIMBURSEMENT.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) HEALTH AND HEALTH-RELATED RESEARCH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited to the trust fund under section 401(b)(1), 10 percent shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) For the Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, of the total amounts allocated to this account, not more than 5 percent shall be used for this purpose.

(B) For the National Institutes of Health under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not more than 5 percent shall be used for this purpose.

(c) FARMERS ASSISTANCE ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year 10 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act.

(2) APPROPRIATION.—Amounts allocated to this account are hereby appropriated and shall be available until expended for the purposes of section 1012.

(d) MEDICARE PRESERVATION ACCOUNT.—There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year 70 percent, and all of the revenues credited to the trust fund under section 401(b)(3), shall be allocated to this account for the first 10 years after the date of enactment of this Act. Funds credited to this account shall be transferred to the Medicare Hospital Insurance Trust Fund.

GRAMM (AND OTHERS) AMENDMENT NO. 2436

Mr. GRAMM (for himself, Mr. DOMENICI, and Mr. FAIRCLOTH) proposed an amendment to the motion to recommit proposed by Mr. GRAMM to the bill, S. 1415, supra; as follows:

SEC. 1406. RESOLUTION OF AND LIMITATIONS ON CIVIL ACTIONS.

(a) STATE ATTORNEY GENERAL ACTIONS.—

(1) PENDING CLAIMS.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall resolve any civil action seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions that have been commenced by the State against a tobacco product manufacturer, distributor, or retailer that is pending on the date of enactment of this Act.

(2) FUTURE ACTIONS BASED ON PRIOR CONDUCT.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall agree that the State will not commence any new tobacco claim after the date of enactment of this Act (other than to enforce the terms of a previous judgment) that is based on the conduct of a participating tobacco product manufacturer, distributor, or retailer that occurred prior to the date of enactment of this Act, seeking recovery for expenditures attributable to the treatment of tobacco induced illnesses and conditions against such a participating tobacco product manufacturer, distributor, or retailer.

(3) APPLICATION TO LOCAL GOVERNMENTAL ENTITIES.—The requirements described in paragraphs (1) and (2) shall apply to civil actions commenced by or on behalf of local governmental entities for the recovery of costs attributable to tobacco-related illnesses if such localities are within a State whose attorney general has elected to resolve claims under paragraph (1) and enter into the agreement described in paragraph (2). Such provisions shall not apply to those local governmental entities that are within a State whose attorney general has not resolved such claims or entered into such agreements.

(b) STATE AND LOCAL OPTION FOR ONE-TIME OPT OUT.—

(1) IN GENERAL.—The Secretary shall establish procedures under which the attorney general of a State may, not later than 1 year after the date of enactment of this Act, elect not to resolve an action described in subsection (a)(1) or not to enter into an agreement under subsection (a)(2). A State whose attorney general makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a State to make such an election on a one-time basis.

(2) EXTENSION.—In the case of a State that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in an action described in subsection (a)(1) prior to or during the period

described in paragraph (1), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(3) APPLICATION TO CERTAIN STATES.—A State that has resolved a tobacco claim described in subsection (a)(1) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in paragraph (1) if, as part of the resolution of such claim, the State agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(4) LOCAL GOVERNMENTAL ENTITY OPTION FOR ONE-TIME OPT OUT.—

(A) IN GENERAL.—The Secretary shall establish procedures under which the attorney for a local governmental entity which commenced a civil action prior to June 20, 1997, against a participating tobacco product manufacturer, distributor, or retailer seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions, not later that 1 year after the date of enactment of this Act, may elect not to resolve any action described in subsection (a)(3). A local governmental entity whose attorney makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a local governmental entity to make such an election on a one-time basis.

(B) EXTENSION.—In the case of a local governmental entity that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in a claim described in subsection (a)(3) prior to or during the period described in subparagraph (A), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(C) APPLICATION TO CERTAIN LOCAL GOVERNMENTAL ENTITIES.—A local governmental entity that has resolved a claim described in subsection (a)(3) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in subparagraph (A) if, as part of the resolution of such claim, the local governmental entity agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(c) ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.—

(1) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(2) CASTANO CIVIL ACTIONS.—

(A) IN GENERAL.—The rights and benefits afforded in section 221 of this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute a remedy for the purpose of determining civil liability as to those addiction or dependence claims asserted in the Castano Civil Actions. The Castano Civil Actions shall be dismissed to the extent that they seek relief in the nature of public programs to assist addicted smokers to overcome their addiction or other publicly available health programs with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions in accordance with this Act.

(B) ARBITRATION.—For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(C) PAYMENT OF AWARDS.—The participating tobacco product manufacturers shall pay the arbitration award.

(d) RULES OF CONSTRUCTION.—

(1) POST ENACTMENT CLAIMS.—Nothing in this title shall be construed to limit the ability of a government or person to commence an action against a participating tobacco product manufacturer, distributor, or retailer with respect to a claim that is based on the conduct of such manufacturer, distributor, or retailer that occurred after the date of enactment of this Act.

(2) NO LIMITATION ON PERSON.—Nothing in this title shall be construed to limit the right of a government (other than a State or local government as provided for under subsection (a) and (b)) or person to commence any civil claim for past, present, or future conduct by participating tobacco product manufacturers, distributors, or retailers.

(3) CRIMINAL LIABILITY.—Nothing in this title shall be construed to limit the criminal liability of a participating tobacco product manufacturer, distributor or retailer or its officers, directors, employees, successors, or assigns.

(e) DEFINITIONS.—In this section:

(1) PERSON.—The term "person" means an individual, partnership, corporation, parent corporation or any other business or legal entity or successor in interest of any such person.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

At the appropriate place, insert:

SEC. . ELIMINATION OF MARRIAGE PENALTY.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

"(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the excess (if any) of—

"(1) the sum of the amounts determined under subparagraphs (B) and (C) of section 63(c)(2) for such taxable year (relating to the basic standard deduction for a head of a household and a single individual, respectively), over

"(2) the amount determined under section 63(c)(2)(A) for such taxable year (relating to the basic standard deduction for a joint return).

"(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) if the modified adjusted gross income of the taxpayer for the taxable year exceeds $50,000.

"(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

"(A) after application of sections 86, 219, and 469, and

"(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

"(3) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1999, the $50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 1998' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000."

(b) DEDUCTION TO BE ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

"(18) DEDUCTION FOR MARRIED COUPLES.—The deduction allowed by section 222."

(c) EARNED INCOME CREDIT PHASEOUT TO REFLECT DEDUCTION.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

"(C) MARRIAGE PENALTY REDUCTION.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222."

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

"Sec. 222. Deduction for married couples to eliminate the marriage penalty.

"Sec. 223. Cross reference."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

DURBIN (AND OTHERS) AMENDMENT NO. 2437

Mr. DASCHLE (for Mr. DURBIN, for himself, Mr. DEWINE, Mr. WYDEN, Mr. CHAFEE, Mr. HARKIN, Ms. COLLINS, Mr. KENNEDY, Ms. SNOWE, Mr. DASCHLE, Mr. CONRAD, and Mr. REED) proposed an amendment to amendment No. 2436 proposed by Mr. GRAMM to the bill, S. 1415, supra; as follows:

In the amendment strike pages 10 through 13 and insert the following:

Subtitle A—Performance Objectives to Reduce Underage Use

SEC. 201. FINDINGS.

Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and insure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSES AND GOALS.

(a) PURPOSE.—It is the purpose of this subtitle to create incentives to achieve reductions in the percentage of children who use tobacco products and to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways, including by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and by providing support for further reduction efforts.

(b) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required performance objectives for percentage reductions in underage use of tobacco products set forth in this title are achieved.

SEC. 203. ANNUAL PERFORMANCE SURVEYS.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning not later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (e)(1), to determine for each type of tobacco product—

(1) the percentage of all children who used such type of tobacco product within the past 30 days; and

(2) the percentage of children who identify each brand of each type of tobacco product as the usual brand of the type smoked or used within the past 30 days.

(b) USE OF PRODUCT.—A child shall be considered to have used a manufacturer's tobacco product if the child identifies the manufacturer's tobacco product as the usual brand of tobacco product smoked or used by the child within the past 30 days.

(c) SEPARATE TYPES OF PRODUCTS.—For purposes of this subtitle (except as provided in subsection 205(h)), cigarettes and smokeless tobacco shall be considered separate types of tobacco products.

(d) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information, or described in the information, being identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purposes. The information may not be published or released in any other form if the individual supplying the information, or described in the information, is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(e) METHODOLOGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) measure use of each type of tobacco product within the past 30 days;

(C) identify the usual brand of each type of tobacco product used within the past 30 days; and

(D) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(D) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of children reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) is such that the 95 percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(f) ADDITIONAL MEASURES.—In order to increase the understanding of youth tobacco product use, the Secretary may, for informational purposes only, add additional measures to the survey under subsection (a), conduct periodic or occasional surveys at other times, and conduct surveys of other populations such as young adults. The results of such surveys shall be made available to manufacturers and the public to assist in efforts to reduce youth tobacco use.

(g) TECHNICAL ADJUSTMENTS.—The Secretary may make technical changes in the manner in which surveys are conducted under this section so long as adjustments are made to ensure that the results of such surveys are comparable from year to year.

SEC. 204. PERFORMANCE OBJECTIVES.

(a) BASELINE LEVEL.—The baseline level for each type of tobacco product, and for each manufacturer with respect to each type of tobacco product, is the percentage of children determined to have used such tobacco product in the first annual performance survey (in 1999).

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—For the purpose of determining industry-wide non-attainment assessments, the performance objective for the reduction of the percentage of children determined to have used each type of tobacco product is the percentage in subsection (d) as measured from the baseline level for such type of tobacco product.

(c) PERFORMANCE OBJECTIVES FOR EXISTING MANUFACTURERS.—Each existing manufacturer shall have as a performance objective the reduction of the percentage of children determined to have used each type of such manufacturer's tobacco products by at least the percentage specified in subsection (d) as measured from the baseline level for such manufacturer for such product.

(d) REQUIRED PERCENTAGE REDUCTIONS.—The reductions required in this subsection are as follows:

(1) In the case of cigarettes—

(A) with respect to the third and fourth annual performance surveys, 20 percent;

(B) with respect to the fifth and sixth annual performance surveys, 40 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 55 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 67 percent.

(2) In the case of smokeless tobacco—

(A) with respect to the third and fourth annual performance surveys, 12.5 percent;

(B) with respect to the fifth and sixth annual performance surveys, 25 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 35 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 45 percent.

(e) REPORT ON FURTHER REDUCTIONS.—The Secretary shall report to Congress by the end of 2006 on the feasibility of further reduction in underage tobacco use.

(f) PERFORMANCE OBJECTIVE RELATIVE TO THE DE MINIMIS LEVEL.—If the percentage of children determined to have used a type of the tobacco products of an existing manufacturer in an annual performance survey is equal to or less than the de minimis level, the manufacturer shall be considered to have achieved the applicable performance objective.

(g) PERFORMANCE OBJECTIVES FOR NEW MANUFACTURERS.—Each new manufacturer shall have as its performance objective maintaining the percentage of children determined to have used each type of such manufacturer's tobacco products in each annual performance survey at a level equal to or less than the de minimis level for that year.

(h) DE MINIMIS LEVEL.—The de minimis level shall be 1 percent of children for the applicable year.

SEC. 205. MEASURES TO HELP ACHIEVE THE PERFORMANCE OBJECTIVES.

(a) ANNUAL DETERMINATION.—Beginning in 2001, and annually thereafter, the Secretary shall, based on the annual performance surveys conducted under section 203, determine if the performance objectives for each type of tobacco product under section 204 has been achieved and if each manufacturer has achieved the applicable performance objective under section 204. The Secretary shall publish in the Federal Register such determinations and any appropriate additional information regarding actions taken under this section.

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—

(1) INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage, if any, for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT ASSESSMENT FOR CIGARETTES.—For each calendar year in which the performance objective under section

204(b) is not attained for cigarettes, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$40,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$200,000,000, plus $120,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$2,000,000,000

(3) NON-ATTAINMENT ASSESSMENT FOR SMOKELESS TOBACCO.—For each year in which the performance objective under section 204(b) is not attained for smokeless tobacco, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$4,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$20,000,000, plus $12,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$200,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under this subsection shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under paragraph (2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under paragraph (3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall allocate the assessments under this subsection according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(c) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by a manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(2) CIGARETTES.—For each calendar year in which a cigarette manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for cigarettes multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$80,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$400,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$5,000,000,000

(3) SMOKELESS TOBACCO.—For each calendar year in which a smokeless tobacco product manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for smokeless tobacco products multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$8,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$40,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$500,000,000

(4) MANUFACTURER'S SHARE OF YOUTH INCIDENCE.—For purposes of this subsection, the term "manufacturer's share of youth incidence" means—

(A) for cigarettes, the percentage of all youth smokers determined to have used that manufacturer's cigarettes; and

(B) for smokeless tobacco products, the percentage of all youth users of smokeless tobacco products determined to have used that manufacturer's smokeless tobacco products.

(5) DE MINIMIS LEVELS.—If a manufacturer is a new manufacturer or the manufacturer's baseline level for a type of tobacco product is less than the de minimis level, the non-attainment percentage (for purposes of paragraph (2) or (3)) shall be equal to the number of percentage points by which the percentage of children who used the manufacturer's tobacco products of the applicable type exceeds the de minimis level.

(d) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (b)(2), (b)(3), (c)(2), and (c)(3) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year; exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(e) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(f) BUSINESS EXPENSE DEDUCTION.—In order to maximize the financial deterrent effect of the assessments and surcharges established in this section, any such payment shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(g) PROCEDURES.—In assessing price increase assessments and enforcing other measures under this section, the Secretary shall have in place procedures to take into account the effect that the margin of error of the annual performance survey may have on the amounts assessed to or measures required of such manufacturers.

(h) OTHER PRODUCTS.—The Secretary shall promulgate regulations establishing performance objectives for the reduction of the use by children of other products made or derived from tobacco and intended for human consumption if significant percentages of children use or begin to use such products and the inclusion of such products as types of tobacco products under this subtitle would help protect the public health. Such regulations shall contain provisions, consistent with the provisions in this subtitle applicable to cigarettes and smokeless tobacco, for the application of assessments and surcharges to achieve reductions in the percentage of children who use such products.

(i) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(j) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 206. DEFINITIONS.

In this subtitle:

(1) CHILDREN.—The term "children" means individuals who are 12 years of age or older and under the age of 18.

(2) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(3) EXISTING MANUFACTURER.—The term "existing manufacturer" means a manufacturer which manufactured a tobacco product on or before the date of the enactment of this title.

(4) NEW MANUFACTURER.—The term "new manufacturer" means a manufacturer which begins to manufacture a type of tobacco product after the date of the enactment of this title.

(5) NON-ATTAINMENT PERCENTAGE.—The term "non-attainment percentage" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is less than the baseline level, by subtracting—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is less than the baseline level, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is greater than the baseline level, adding—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is greater than the baseline level; and

(ii) the required percentage reduction applicable in that year.

(6) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

DURBIN (AND OTHERS) AMENDMENT NO. 2438

Mr. DASCHLE (for Mr. DURBIN, for himself, Mr. DEWINE, Mr. WYDEN, Mr. CHAFEE, Mr. HARKIN, Ms. COLLINS, Mr. KENNEDY, Ms. SNOWE, Mr. DASCHLE, Mr. CONRAD, and Mr. REED) proposed an amendment to amendment No. 2437 proposed by Mr. DURBIN to the bill, S. 1415, supra; as follows:

In the Amendment strike all after "Subtitle" and insert the following:

In title II, strike subtitle A and insert the following:

Subtitle A—Performance Objectives to Reduce Underage Use

SEC. 201. FINDINGS.

Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and insure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSES AND GOALS.

(a) PURPOSE.—It is the purpose of this subtitle to create incentives to achieve reductions in the percentage of children who use tobacco products and to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways, including by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and by providing support for further reduction efforts.

(b) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required performance objectives for percentage reductions in underage use of tobacco products set forth in this title are achieved.

SEC. 203. ANNUAL PERFORMANCE SURVEYS.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning not later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (e)(1), to determine for each type of tobacco product—

(1) the percentage of all children who used such type of tobacco product within the past 30 days; and

(2) the percentage of children who identify each brand of each type of tobacco product as the usual brand of the type smoked or used within the past 30 days.

(b) USE OF PRODUCT.—A child shall be considered to have used a manufacturer's tobacco product if the child identifies the manufacturer's tobacco product as the usual brand of tobacco product smoked or used by the child within the past 30 days.

(c) SEPARATE TYPES OF PRODUCTS.—For purposes of this subtitle (except as provided in subsection 205(h)), cigarettes and smokeless tobacco shall be considered separate types of tobacco products.

(d) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information, or described in the information, being identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purposes. The information may not be published or released in any other form if the individual supplying the information, or described in the information, is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(e) METHODOLOGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) measure use of each type of tobacco product within the past 30 days;

(C) identify the usual brand of each type of tobacco product used within the past 30 days; and

(D) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(D) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of children reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) is such that the 95 percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(f) ADDITIONAL MEASURES.—In order to increase the understanding of youth tobacco product use, the Secretary may, for informational purposes only, add additional measures to the survey under subsection (a), conduct periodic or occasional surveys at other times, and conduct surveys of other populations such as young adults. The results of such surveys shall be made available to manufacturers and the public to assist in efforts to reduce youth tobacco use.

(g) TECHNICAL ADJUSTMENTS.—The Secretary may make technical changes in the manner in which surveys are conducted under this section so long as adjustments are made to ensure that the results of such surveys are comparable from year to year.

SEC. 204. PERFORMANCE OBJECTIVES.

(a) BASELINE LEVEL.—The baseline level for each type of tobacco product, and for each manufacturer with respect to each type of tobacco product, is the percentage of children determined to have used such tobacco product in the first annual performance survey (in 1999).

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—For the purpose of determining industry-wide non-attainment assessments, the performance objective for the reduction of the percentage of children determined to have used each type of tobacco product is the percentage in subsection (d) as measured from the baseline level for such type of tobacco product.

(c) PERFORMANCE OBJECTIVES FOR EXISTING MANUFACTURERS.—Each existing manufacturer shall have as a performance objective the reduction of the percentage of children determined to have used each type of such manufacturer's tobacco products by at least the percentage specified in subsection (d) as measured from the baseline level for such manufacturer for such product.

(d) REQUIRED PERCENTAGE REDUCTIONS.—The reductions required in this subsection are as follows:

(1) In the case of cigarettes—

(A) with respect to the third and fourth annual performance surveys, 20 percent;

(B) with respect to the fifth and sixth annual performance surveys, 40 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 55 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 67 percent.

(2) In the case of smokeless tobacco—

(A) with respect to the third and fourth annual performance surveys, 12.5 percent;

(B) with respect to the fifth and sixth annual performance surveys, 25 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 35 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 45 percent.

(e) Report on Further Reductions.—The Secretary shall report to Congress by the end of 2006 on the feasibility of further reduction in underage tobacco use.

(f) Performance Objective Relative to the De Minimis Level.—If the percentage of children determined to have used a type of the tobacco products of an existing manufacturer in an annual performance survey is equal to or less than the de minimis level, the manufacturer shall be considered to have achieved the applicable performance objective.

(g) Performance Objectives for New Manufacturers.—Each new manufacturer shall have as its performance objective maintaining the percentage of children determined to have used each type of such manufacturer's tobacco products in each annual performance survey at a level equal to or less than the de minimis level for that year.

(h) De Minimis Level.—The de minimis level shall be 1 percent of children for the applicable year.

SEC. 205. MEASURES TO HELP ACHIEVE THE PERFORMANCE OBJECTIVES.

(a) Annual Determination.—Beginning in 2001, and annually thereafter, the Secretary shall, based on the annual performance surveys conducted under section 203, determine if the performance objectives for each type of tobacco product under section 204 has been achieved and if each manufacturer has achieved the applicable performance objective under section 204. The Secretary shall publish in the Federal Register such determinations and any appropriate additional information regarding actions taken under this section.

(b) Industry-Wide Non-Attainment Assessments.—

(1) Industry-wide non-attainment percentage.—The Secretary shall determine the industry-wide non-attainment percentage, if any, for cigarettes and for smokeless tobacco for each calendar year.

(2) Non-attainment assessment for cigarettes.—For each calendar year in which the performance objective under section 204(b) is not attained for cigarettes, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$40,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$200,000,000, plus $120,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$2,000,000,000

(3) Non-attainment assessment for smokeless tobacco.—For each year in which the performance objective under section 204(b) is not attained for smokeless tobacco, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$4,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$20,000,000, plus $12,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$200,000,000

(4) Strict liability; joint and several liability.—Liability for any surcharge imposed under this subsection shall be—

(A) strict liability: and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under paragraph (2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under paragraph (3).

(5) Surcharge liability among manufacturers.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) Exemptions for small manufacturers.—

(A) Allocation by market share.—The Secretary shall allocate the assessments under this subsection according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) Exemption.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(c) Manufacturer-Specific Surcharges.—

(1) In general.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by a manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(2) Cigarettes.—For each calendar year in which a cigarette manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for cigarettes multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$80,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$400,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$5,000,000,000

(3) Smokeless tobacco.—For each calendar year in which a smokeless tobacco product manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for smokeless tobacco products multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$8,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$40,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$500,000,000

(4) Manufacturer's share of youth incidence.—For purposes of this subsection, the term "manufacturer's share of youth incidence" means—

(A) for cigarettes, the percentage of all youth smokers determined to have used that manufacturer's cigarettes; and

(B) for smokeless tobacco products, the percentage of all youth users of smokeless tobacco products determined to have used that manufacturer's smokeless tobacco products.

(5) De minimis levels.—If a manufacturer is a new manufacturer or the manufacturer's baseline level for a type of tobacco product is less than the de minimis level, the non-attainment percentage (for purposes of paragraph (2) or (3)) shall be equal to the number of percentage points by which the percentage of children who used the manufacturer's tobacco products of the applicable type exceeds the de minimis level.

(d) Surcharges To Be Adjusted for Inflation.—

(1) In general.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (b)(2), (b)(3), (c)(2), and (c)(3) shall be increased by the inflation adjustment.

(2) Inflation adjustment.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year; exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) Rounding.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(e) Method of Surcharge Assessment.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(f) Business Expense Deduction.—In order to maximize the financial deterrent effect of the assessments and surcharges established in this section, any such payment, shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(g) Procedures.—In assessing price increase assessments and enforcing other measures under this section, the Secretary shall have in place procedures to take into account the effect that the margin of error of the annual performance survey may have on the amounts assessed to or measures required of such manufacturers.

(h) Other Products.—The Secretary shall promulgate regulations establishing performance objectives for the reduction of the use by children of other products made or derived from tobacco and intended for human consumption if significant percentages of children use or begin to use such products and the inclusion of such products as types of tobacco products under this subtitle would help protect the public health. Such regulations shall contain provisions, consistent with the provisions in this subtitle applicable to cigarettes and smokeless tobacco, for the application of assessments and surcharges to achieve reductions in the percentage of children who use such products.

(i) Appeal Rights.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(j) Responsibility for Agents.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 206. DEFINITIONS.

In this subtitle:

(1) Children.—The term "children" means individuals who are 12 years of age or older and under the age of 18.

(2) Cigarette manufacturers.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(3) Existing manufacturer.—The term "existing manufacturer" means a manufacturer which manufactured a tobacco product on or before the date of the enactment of this title.

(4) New manufacturer.—The term "new manufacturer" means a manufacturer which begins to manufacture a type of tobacco product after the date of the enactment of this title.

(5) Non-attainment percentage.—The term "non-attainment percentage" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is less than the baseline level, by subtracting—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is less than the baseline level, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is greater than the baseline level, adding—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is greater than the baseline level; and

(ii) the required percentage reduction applicable in that year.

(6) Smokeless tobacco product manufacturers.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

This section takes effect one day after date of enactment.

CHAFEE AMENDMENT NO. 2439

(Ordered to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 216, between lines 18 and 19, insert the following:

SEC. 508. PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) In General.—Section 41706 of title 49, United States Code, is amended to read as follows:

"§ 41706. Prohibitions against smoking on scheduled flights

"(a) Smoking Prohibition in Intrastate and Interstate Air Transportation.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

"(b) Smoking Prohibition in Foreign Air Transportation.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit, on and after the 120th day following the date of the enactment of this section, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

"(c) Limitation on Applicability.—With respect to an aircraft operated by a foreign air carrier, the smoking prohibitions contained in subsections (a) and (b) shall apply only to the passenger cabin and lavatory of the aircraft.

"(d) Regulations.—The Secretary shall prescribe regulations necessary to carry out this section.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the 60th day following the date of the enactment of this Act.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

THOMAS (AND ENZI) AMENDMENT NO. 2440

(Ordered to lie on the table.)

Mr. THOMAS (for himself and Mr. Enzi) submitted an amendment intended to be proposed by them to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. PROHIBITION ON RETURN OF VETERANS MEMORIAL OBJECTS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

(a) Prohibition.—Notwithstanding any other provision of law, the President may not transfer a veterans memorial object to a foreign country or entity controlled by a foreign government, or otherwise transfer or convey such object to a person or entity for purposes of the ultimate transfer or conveyance of such object to a foreign country or entity controlled by a foreign government, unless specifically authorized by law.

(b) Definitions.—In this section:

(1) Entity controlled by a foreign government.—The term "entity controlled by a foreign government" has the meaning given that term in section 2536(c)(1) of title 10, United States Code.

(2) Veterans memorial object.—The term "veterans memorial object" means any object, including a physical structure or portion thereof, that—

(A) is located at a cemetery of the National Cemetery System, war memorial, or military installation in the United States;

(B) is dedicated to, or otherwise memorializes, the death in combat or combat-related duties of members of the United States Armed Forces; and

(C) was brought to the United States from abroad as a memorial of combat abroad.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

CRAIG AMENDMENT NO. 2441

(Ordered to lie on the table.)

Mr. CRAIG submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 210, line 19, insert the following:

Sec. 456—Black Lung Allocation Account.—There is hereby established within the trust fund a separate account, to be known as the Black Lung Allocation Account, which shall be eligible to receive funds made available under Sec. 401(a) to make transfers to the Black Lung Disability Trust Fund.

KERREY AMENDMENT NO. 2442

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

Title IV is amended by adding at the end the following:

SEC. 4 . SMOKING CESSATION AND PREVENTION BLOCK GRANT.

(a) Application of Provisions.—Notwithstanding any other provision of this Act—

(1) paragraphs (3) and (4) of section 451(a) and part D of title XIX of the Public Health Service Act, as added by title II of this Act, shall be null and void and shall not be given any effect; and

(2) section 451(b)(2)(A) shall be applied as if "a smoking cessation block grant made under section 4 " were substituted for "part D of title XIX of the Public Health Service Act, as added by title II of this Act".

(b) Funding of Grants.—The sum of the amounts made available under paragraphs (1) and (2) of section 451(a) and subsection (b)(2)(A) of that section (after application of subsection (a)(2) of this section) for a fiscal year shall be used to make grants under this section.

(c) State Plan.—

(1) In general.—In order to receive a grant under this section for a fiscal year, a State shall submit, in such form and such manner as the Secretary shall require, a plan that

sets forth how the State intends to use the funds provided under the grant for smoking cessation and prevention.

(2) COMMUNITY INVOLVEMENT.—The State shall consult with appropriate representatives of local communities in the development of the plan submitted under paragraph (1).

(d) DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Subject to paragraphs (3) and (4), each State with an approved plan under subsection (c) shall receive a payment for a fiscal year equal to the amount determined under paragraph (2).

(2) AMOUNT DETERMINED.—

(A) IN GENERAL.—The amount determined under this paragraph for a State for a fiscal year is the amount equal to average of the following 2 ratios:

(i) The ratio of—

(I) the total expenditures by the State under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for the fiscal years 1992 through 1996 that are attributable to the treatment of individuals with tobacco-related illnesses or conditions for the fiscal year involved; to

(II) the total of such expenditures for all States for such fiscal years.

(ii) The ratio of—

(I) the total expenditures incurred in the State for such fiscal years in providing directly, or reimbursing others for the provision of, treatment of individuals with tobacco-related illnesses or conditions that are not taken into account under clause (i); to

(II) the total of such expenditures for all States for such fiscal years.

(B) DETERMINATION OF EXPENDITURES.—The method used to determine the expenditures attributable to the treatment of individuals with tobacco-related illnesses or conditions for purposes of subparagraph (A) shall be the method used by the Attorneys General Allocation Subcommittee in its report dated September 16, 1997.

(3) MINIMUM PAYMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in no case shall a State receive a payment under this subsection that is less than—

(i) in the case of a State that would otherwise receive under paragraph (2) an amount that is equal to or exceeds 0.1 percent of such total amount but does not exceed 0.2 percent of such amount, 0.2 percent;

(ii) in the case of a State that would otherwise receive under paragraph (2) an amount that is equal to or exceeds 0.2 percent of such total amount but does not exceed 0.3 percent of such amount, 0.3 percent;

(iii) in the case of a State that would otherwise receive under paragraph (2) an amount that is equal to or exceeds 0.3 percent of such total amount but does not exceed 0.4 percent of such amount, 0.4 percent; and

(iv) in the case of a State that would otherwise receive under paragraph (2) an amount that is equal to or exceeds 0.4 percent of such total amount but does not exceed 0.5 percent of such amount, 0.5 percent.

(B) NONAPPLICATION TO TERRITORIES.—Subparagraph (A) shall not apply to Puerto Rico, Guam, the United States Virgin Islands, American Samoa, or the Northern Mariana Islands.

(4) MINIMUM PAYMENTS TO SETTLEMENT STATES.—In no case shall the States of Florida, Minnesota, Mississippi, and Texas, receive payments under this subsection for a fiscal year that are less than the following:

(A) In the case of Florida, 5.5 percent of the total amount made available under subsection (b) for payments to States under this section.

(B) In the case of Minnesota, 2.55 percent of such amount.

(C) In the case of Mississippi, 1.7 percent of such amount.

(D) In the case of Texas, 7.25 percent of such amount.

(5) REALLOCATION OF AMOUNTS FOR OTHER STATES.—If the amount determined under paragraphs (3) and (4) exceeds the amount otherwise determined under paragraph (2) for 1 or more States for any fiscal year, the amount of the payments under paragraph (2) to all States to which paragraphs (3) and (4) do not apply shall be ratably reduced by the aggregate amount of such excess.

(e) USE OF FUNDS.—A State may use funds received under a grant made under this section for any purpose, including any purpose described in section 452(b)(2), so long as the State demonstrates in the State plan required under subsection (c) that the use of funds for such purpose is consistent with promoting and achieving smoking cessation and prevention.

(f) ANNUAL REPORTS.—Each State that receives funds under this section shall report annually to the Secretary, in such manner and such form as the Secretary shall require, on the use of the funds received under this section and overall smoking trends within their State.

FEINSTEIN (AND OTHERS) AMENDMENT NO. 2443

(Ordered to lie on the table.)

Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. DURBIN, Mr. D'AMATO, and Ms. MOSELEY-BRAUN) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 193, between lines 16 and 17, insert the following:

(4) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to receive amounts under this subsection, a State shall, through agreements entered into with local government entities described in subparagraph (B), provide such entities with a portion of the amounts received by the State under this subsection as consideration for the resolution or termination of civil actions under title XIV.

(B) LOCAL GOVERNMENT ENTITIES.—A local government entity described in this subparagraph is a city or county that commenced a health or smoking-related civil action against one or more participating tobacco product manufacturers, distributors, or retailers on or before June 20, 1997 (including actions by the City and County of San Francisco and related cities and counties, Los Angeles County, New York City, Erie County, Cook County, and the City of Birmingham).

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 4, 1998, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive GAO's preliminary comments on its review of the Administration's Climate Change Proposal and to hear the Administration's response to GAO's comments.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Kristine Svinicki at (202) 224–7933.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will be held in Grand Junction, Colorado at the Avalon Theater on Saturday, June 6, 1998, at 8:30 a.m. The Avalon Theater is located at 645 Main Street, Grand Junction, Colorado.

The purpose of this hearing is to receive testimony on the Bureau of Land Management's ongoing wilderness review efforts within the State of Colorado.

The Subcommittee will invite witnesses representing a cross-section of views and organizations to testify at the hearing. Others who wish to testify may, as time permits, make a brief statement of no more than 2 minutes. Those wishing to testify should contact Senator ALLARD's office (202) 224–5941 or Kevin Studer of Senator CAMPBELL's office (202) 224–5852 or the Committee on Energy and Natural Resources in Washington, DC at (202) 224–6170. The deadline for signing up to testify is Friday, May 29, 1998. Every attempt will be made to accommodate as many witnesses as possible, while ensuring that all views are represented.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Mike Menge at (202) 224–6170.

SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT, PRODUCTION AND REGULATION

Mr. NICKLES. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Energy Research, Development, Production and Regulation of the Committee on Energy and Natural Resources.

The hearing will take place Thursday, June 11, 1998 at 10 a.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to conduct oversight on the federal oil valuation regulations of the Minerals Management Service.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Michael A. Poling at (202) 224–8276.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 11, 1998 at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this oversight hearing is to receive testimony on the Recreational Fee Demonstration Program.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Kelly Johnson at (202) 224–3329.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in Executive session during the session of the Senate on Thursday, May 21, 1998 at 2:30 p.m. to consider possible amendments relating to Bosnia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES AND THE COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources and the Committee on Foreign Relations be granted permission to meet during the session of the Senate on Thursday, May 21, for purposes of conducting a joint committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the subject of Iraq: Are Sanctions Collapsing?

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENTAL AND PUBLIC WORKS

Mr. GREGG. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a business meeting to consider pending business Thursday, May 21, 9:30 a.m., Hearing Room (SD–406).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS AND THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations and the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, May 21, 1998, at 10 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 21, 1998 at 2 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, May 21, 1998 at 1 p.m. to conduct an oversight hearing on the Unmet Health Care Needs in Indian Country. The Committee will meet in room 106 the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, May 21, 1998, at 10 a.m., in room 226, of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on "Genetic Information and Health Care" during the session of the Senate on Thursday, May 21, 1998, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GREGG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 21, 1998, at 11 a.m. to hold a hearing on the nomination of Joan A. Dempsey to be Deputy Director of Central Intelligence for Community Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT PRODUCTION, AND REGULATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research, Development, Production, and Regulation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, May 21, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to receive testimony on S. 1141, the Biodiesel Energy Development Act of 1997 and S. 1418, the Methane Hydrate Research and Development Act of 1997.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Thursday, May 21, 1998, at 10 a.m. for a hearing on "Benefits of Commercial Space Launch for Foreign Satellite and ICBM Programs".

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HONORING VETERANS ON MEMORIAL DAY

• Mr. BINGAMAN. Mr. President, this weekend, Americans from all walks of life turn their thoughts to those men and women who died in the service of our nation. From the early heroes of the Revolutionary War through those who fought and died in the Persian Gulf, about 1.1 million Americans have sacrificed their lives to preserve our precious freedom and to meet our commitments to allies around the globe. We are privileged to enjoy the benefits of the ultimate sacrifice that those men and women in our Armed Forces made on our behalf. We take this day to honor their memory and offer our deepest gratitude.

I remember when I was a young man, hearing those stirring words of President John Kennedy when he said, "Ask not what your country can do for you, but what you can do for your country." Those words rang loud and clear in the hearts and minds of my generation. They captured our spirit and renewed our commitment to serve America.

Perhaps the noblest heroes of my generation were those who, in the midst of the great debate over Vietnam, stepped forward to serve their country and paid the ultimate sacrifice. Those sacrifices were borne from the same spirit that John Kennedy urged upon all of us in 1961. Regardless of political persuasions, none could argue that those who died in Southeast Asia were not among America's finest men and women. We salute them today, and will always remember and be grateful for their patriotism and sacrifice.

Those brave men and women who died in Vietnam, however, were not unique in American history. The legacy of courage, sacrifice, and patriotism has a long history in this country. During this century some 33,651 Americans lost their lives in Korea, 417,316 died during World War II, and 117,708 perished during the First World War. Almost 500,000 Americans—both North and South—lost their lives fighting for the America they believed in during the Civil War. We owe each and every one of those veterans and their families a debt of gratitude.

I hope that every New Mexican and every American will take time this Memorial Day to find a quiet moment to consider the enormity of what our fallen friends and families have bequeathed us. This nation is blessed beyond all others—providing us with a political system that guarantees each of us life, liberty, and the pursuit of happiness. We are free to speak our minds. We are free to practice our faiths. We are free to travel this great land and be with whomever we choose. These precious gifts of freedom have not come free. They have endured through the blood of American heroes and heroines. We pause this day to say "thank you." We won't forget.•

TRIBUTE TO MISSOURI BROADCASTERS

• Mr. BOND. Mr. President, I rise to pay tribute to the Missouri radio and television stations for their contributions to public service. This year, in a survey conducted for the Missouri Broadcasting Association by Public Opinion Strategies, it was determined that Missouri Broadcasters aired $44 million worth of public service announcements (PSA) in 1997. This amount was fourth best among the thirty-eight states who participated.

The survey reported that Missouri television stations air an average of 175 PSAs each week and radio stations air an average of seventy-five per week. That comes to a total of 18,775 PSAs weekly. Every television station and 94 percent of radio stations in Missouri participated in fundraising efforts for charitable organizations last year. Those organizations received a total of $17.3 million in charitable donations because of the on-air PSAs made by Missouri's broadcasters.

The most frequent PSAs dealt with drug and alcohol prevention and abuse. Other common PSAs covered anti-crime efforts, hunger, poverty, the homeless, anti-violence and AIDS prevention. No other industry can make the impact that broadcasters can make. I am proud to say that the Missouri broadcasters are some of the best.

I commend the Missouri broadcasters for their untiring dedication in helping charitable causes in Missouri. It does make a difference and people are benefitting from these broadcasters' efforts. I join the many who thank the Missouri broadcasters for their support throughout the year. Whether it be charities, weather warnings or public health announcements, I know the Missouri broadcasters will be on-air to lead the cause.•

HONORING THE CONNECTICUT EDUCATION ASSOCIATION ON ITS 150TH ANNIVERSARY

• Mr. DODD. Mr. President, there are many things about my home state of Connecticut that are a source of great pride to its people, but few are greater than the overall quality of our state's public schools. Connecticut students are performing at the highest levels in the nation on federally sponsored standardized tests. Three out of four Connecticut public school students go on to pursue higher education. And our public school students have outperformed students from private and parochial schools in our state.

Many people have contributed to the quality of our public schools, in particular our parents and students. But the backbone of Connecticut's public schools is its teachers. In my view, they are the finest in the country, and there are numbers that back me up. More than 80 percent of Connecticut's public school teachers have advanced degrees, the highest percentage in the country. They are among the nation's most experienced teachers, with the average teacher having taught for more than 15 years. And the greatest testament to the quality of their teaching is the accomplishments of Connecticut's students.

One organization, more than any other, has worked to ensure that Connecticut's children are taught by the finest teachers in the country, and that organization is the Connecticut Education Association (CEA).

The CEA is a membership organization that represents nearly 30,000 elementary and secondary public school teachers in our state. Through the years, the CEA has consistently promoted the value of public education, encouraged public awareness of the resources needed to provide quality education, and emphasized the importance of the teacher in the education process.

This is a significant year for the CEA: it celebrates its 150th anniversary. Over the past century and a half, the Association has been a consistent champion of children, teachers, and public education, and today, its voice on education issues is as strong as ever. There is no job more important than teaching our children, and I would like to thank and congratulate the Connecticut Education Association for a job well done. I wish them all the best as they celebrate this anniversary and continued success in the future.•

FINANCIAL SERVICES ACT OF 1998

• Mr. D'AMATO. Mr. President, today Senator SARBANES, the distinguished Ranking Member on the Senate Banking Committee, and I have announced that we will hold hearings on June 17th to begin the process of Senate consideration of the Financial Services Act of 1998, recently passed by the House of Representatives.

America is the financial leader of the world, and New York is the capital. But we cannot remain complacent. We must recognize that the world is changing and global competition is tougher than ever. We must meet this change head on. If we are to remain competitive and maintain our preeminent position in the marketplace, we must provide a climate that allows our financial system to be as efficient, and competitive as possible.

Mr. President, simply put, financial modernization will provide consumers with more choices. Financial institutions will be able to provide even more diverse services. Insurance companies, securities firms, brokerage houses, local banks and other institutions will be allowed to compete fairly with one another. But we must remember that while expanding the freedom of every American to make their financial choices, we must not sacrifice the safety and soundness or place the taxpayers at risk.

The issues surrounding financial modernization have in the past proven to contentious. Our hearing next month will allow an open and frank dialogue with the Administration, industry groups and consumers.•

TRIBUTE TO WILLA CATHER

• Mr. KERREY. Mr. President, writer Willa Cather fashioned from her experiences uncommon stories of the character of Nebraska's people and landscapes. It is my pleasure to pay tribute to Cather because, like many Nebraskans, her writing continues to inspire me.

This year, we celebrate three major anniversaries in Cather's life. Seventy-five years ago, Cather won the Pulitzer Prize for "One of Ours." One of her best known novels, "My Antonia," will have its 80th anniversary on September 21st. Finally, December 7th marks the 125th anniversary of her birth.

Cather's writings illustrate a Nebraska of stark landscapes, epic frontiers, and mysterious grandeur. Her characters are often placed in a Nebraska panorama to which Cather gave breathtaking expression. Shortly after moving from the east to Nebraska at the age of nine, Cather realized that that shaggy grass country had gripped me with a passion I have never been able to shake. It has been the happiness and the curse of my life."

For Cather in "My Antonia," Nebraska is raw and vast, the material out of which countries are made. . . naked as the back of your hand." Out of the passion she felt for Nebraska's materials, Cather wrote with unparalleled sensitivity about the soil, trees, and wildflowers of the landscape. In The "Song of the Lark," the cottonwoods are the light-reflecting, wind-loving trees of the desert, whose roots are always seeking water and whose leaves are always talking about it, making the sound of rain."

The inhabitants of the land are connected to and determined by this landscape. Thus, in many of Cather's novels, the character is a pioneer, whether literally or as artist, one breaking new ground, finding his or her own path, creating his or her own landscape. In the hands of Cather's sparse and evocative prose, questions of the pioneering self shaped by experience and tested by difficulty indicate Cather's commitment through her characters to integrity.

Readers continue to feel the special relationship between the wonder of Nebraska and the dignity of its people through Cather's well known novels "O Pioneers, My Antonia, One Of Ours," and "Death Comes for the Archbishop," as well as her poetry and other stories. I invite you to join me in honoring Willa Cather on the 75th anniversary of her Pulitzer Prize, the 80th anniversary of "My Antonia," and in memory of her 125th birthday.

In "The Wild Land," Cather writes, The history of every country begins in the heart of a man or a woman." Thanks to Cather's artistry, we continue to be moved by the written recordings of Nebraska's history.•

SPACE DAY

• Mr. FRIST. Mr. President, I rise today in honor of "Space Day" to recognize the accomplishments and achievements we have made in the United States over the last quarter of the century in space-related activities.

The space industry has rapidly evolved from public sector dominance to private sector innovation. Throughout the industry's infancy, the Department of Defense's military operations and the National Aeronautics and Space Administration's activities dominated the emerging space frontier. These DOD and NASA initiatives served as catalysts in the commercialization of space. Many advances in technology have resulted, leading to new jobs, industries, and exciting new opportunities for uses of space that we cannot yet imagine.

The growth within the space industry, and the opportunities created have been dramatic. The space industry is a major contributor to our economy, and has spurred technological advances over the past 20 plus years. In 1996, total industry revenues from the commercial sector exceeded those from the government sector for the first time ever. Revenues from the space industry are currently running at approximately $85 billion annually, and are projected to increase to approximately $121 billion by the year 2000.

Although participation in space initiatives has been and continues to be capital intensive, this arena is fertile ground for smaller entrepreneurs and innovative startups. One of the key factors has been the huge market for satellite launches. The demand for telecommunications services and the distribution of television and cable programming caused the satellite capacity to expand. This industry is continuously evolving to include a host of new satellite-based services including worldwide mobile telephony, and infrastructure for the television industry. Through continued Federal investment in space ventures, we can also see other emerging applications such as distance learning, telemedicine, and the exploration of microgravity conditions of materials in a clean space environment on the International Space Station.

Transferrable technologies—"spinoffs"—from government space initiatives are now being used in various commercial applications. For example, as a result of tests aimed at improving the performance of NASA's Space Shuttle, the Boeing Company was able to hone its design of the Boeing 777 aircraft at NASA's facilities. Several NASA innovations were instrumental in the development of that aircraft, including wind tunnel tests to confirm the structural integrity, use of lightweight composite structures for increased fuel efficiency and range, and the use of computer modeling to conduct advanced computer-based aerodynamic analysis. The is the largest twin engine jet manufactured today. Other such spinoffs include fire retardant materials used in space flight suits now being used for fire fighters and automotive insulation for race car drivers, and various sensors that monitor radioactive materials and environmental control, to cite just a few.

The benefits to the taxpayer through the development of new industries, new products, new services, and improved quality of life represents a substantial return on the national investment in space-related initiatives.

Today, on Space Day, we recognize and honor those visionaries, entrepreneurs, and leaders who have made great accomplishments in the advancement of technology through space-related endeavors.•

TRIBUTE TO THE UNIVERSITY OF GEORGIA SCHOOL OF LAW AND GEORGIA GOV. CARL SANDERS

Mr. CLELAND. Mr. President, I rise today to recognize The University of Georgia School of Law's many years of accomplishments and achievements, and to honor former Governor of Georgia Carl Sanders, who graduated from UGA's Law School 50 years ago.

I would like to applaud the commitment and hard work of the entire law school community: the faculty, staff, students, and alumni. The reputation of the school continues to grow and prosper each year.

Over the years UGA has produced thousands of successful lawyers, including many leaders and policy makers. Since opening its doors in 1785, the law school has graduated five U.S. Senators, 30 Members of Congress, nine governors, including Gov. Carl Sanders, eight Speakers of the Georgia House of Representatives and 54 Appellate Judges.

I recently had the opportunity to deliver the commencement speech to the 1998 graduating class of The University of Georgia School of Law and was reminded of the impact and value of the law.

In order for the law to be respected, and for us to be respected as authorities on the law—whether as lawyers, law enforcement or lawmakers—there must be a sense of morality behind the law. It is a basic historical fact that people will not obey unjust law.

As I look around Washington I see many reminders of the importance of the law. The inscription on the Supreme Court building is: "Equal justice under law." There is an inscription over the 10th Street entrance of the U.S. Department of Justice Building in Washington which reads: "Justice in the life and conduct of the State is possible only as first it resides in the hearts and souls of its citizens." Justice comes before the law. All of us who touch the law are bound by this justice and honor.

With justice and morality behind the law, we strengthen it. Without it, the law is weakened. If all of us who touch the law do not abide by these terms, the law loses its credibility. Ultimately, those of us who touch the law have a responsibility to lead others to respect it.

The men and women who have graduated from The University of Georgia with law degrees over the past two hundred years have and will continue to strengthen and uphold the law of this nation. I ask my colleagues in the Senate today to join me in saluting and congratulating The University of Georgia School of Law for instructing and graduating men and women who have shaped our nation's history during the last two centuries, including Gov. Carl Sanders and other Georgia lawmakers.

PROVIDING FOR THE CONTINUATION OF SERVICE AND EXTENSION OF TERM OF SERVICE OF MEMBERS OF THE DISTRICT OF COLUMBIA FINANCE CONTROL AUTHORITY

• Mr. FAIRCLOTH. Mr. President, I ask that a bill that I intend to introduce be printed in the RECORD. I wish to alert my colleagues that I hope the Senate will be able to act on this legislation prior to the Memorial Day recess.

The text of the bill follows:

S. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTINUATION OF SERVICE AND EXTENSION OF THE TERM OF SERVICE OF MEMBERS OF THE DISTRICT OF COLUMBIA FINANCIAL CONTROL AUTHORITY.

Section 101(b)(5) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8; 109 Stat. 100) is amended by—

(1) striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—The term of each member of the Authority appointed initially under this Act shall expire on September 1, 1998. Except as provided in subparagraph (B), each Member of the Authority appointed after the initial appointments shall serve for 3 years."; and

(2) adding at the end the following:

"(D) CONTINUATION OF SERVICE UNTIL SUCCESSOR APPOINTED.—Upon the expiration of a term of office, a member of the Authority may continue to serve until a successor has been appointed.".•

TRIBUTE TO THOMAS P. MONDANI

• Mr. DODD. Mr. President, I rise today to pay tribute to one of the greatest leaders and supporters of public education that the State of Connecticut has ever known: Thomas P. Mondani. This past March, the State of Connecticut was saddened by his passing at the age of 63.

Tom Mondani served as executive director of the Connecticut Education Association (CEA), the State's largest teacher organization, for longer than any individual in the organization's 150-year history.

Mr. Mondani began his career in public education as a social studies and English teacher in Moodus, CT in 1959. He joined the CEA staff in 1963 as a research consultant and was promoted to director of research 2 years later. As director of research, he compiled and published numerous studies of statistical data related to educational expenditures in Connecticut.

When Tom Mondani was appointed executive director in 1971, his work in school finance made him a recognized authority on research and education legislation in the State.

Mr. Mondani also served in Connecticut's State legislature. In 1965, he was elected to the first of his two terms as a State representative, and in 1970, he moved from the House to the State Senate. As a State legislator, Tom Mondani worked diligently on education issues, and he authored legislation that provided maintenance of all accumulated tenure and sick leave rights for teachers who had been incorporated into recently formed regional school districts.

Tom Mondani left public office in 1971 when he accepted his appointment as CEA executive director, and he often utilized the political skills that he developed in the General Assembly during his 22-year tenure. He worked with teachers as well as political leaders to secure the passage of many laws to help Connecticut's teachers, including improvements in teacher freedom of residency and the establishment of binding arbitration for teacher-board of education negotiations. During his tenure from 1972 to 1994, he helped develop major advancements for students and teachers in the areas of teacher standards, public school finance, and collective bargaining.

Most recently, Tom Mondani served as vice chair of the State Board of Governors for Higher Education.

In 1994, the CEA Board of Directors voted unanimously to recognize Tom Mondani's contributions by bestowing him with the organization's most prestigious award: the CEA Friend of Education Award. And not only did CEA present him with the award, but they also renamed the award in his honor.

Upon his passing, countless people, including teachers, parents, and former Governors spoke out in praise of this remarkable man. They spoke of his commitment to the children of Connecticut. They remembered his leadership, wisdom, integrity, intellect and fairness. They said that he elevated the thinking in the State about children, teachers, and public education.

I would like to join the chorus of voices singing the praises of this honorable man. I knew Tom Mondani, and I saw first-hand his commitment and dedication to helping others and improving the quality of our public schools. The people of Connecticut will miss him dearly.•

TRIBUTE TO GENE E. HUCKSTEP

• Mr. BOND. Mr. President, a very popular Sunday night television show, entitled, "Touched by an Angel" focuses on stories where people's lives have been affected in a positive way by angels who are sent from Heaven to serve among us.

I rise today to pay tribute and honor a very dear friend who might just qualify as one of those angels that serves to minister to his fellow man.

This past week, a former Presiding Commissioner of Cape Girardeau County, Gene Huckstep, completed his successful service on Earth just before reaching his 70th birthday.

Gene Huckstep was widely loved and universally respected, but he was at first appearance not one you would figure to be an angel. Gene was a powerfully-built man who could be as rough as he needed to be. He laughingly told stories about his educational career, which at times bordered on juvenile delinquency. He was sent in the military to shape up.

Then, in a career fueled with brushes with death, by his calculation he used up about 39 lives. In the Army as a tank driver he once was badly burned when the tank caught fire when it was being refueled, and another time when his tank went into water 25 feet deep he barely escaped drowning.

After his service career he returned to his native Cape Girardeau and saw death and destruction first-hand when the May 21, 1949 tornado struck. After taking a baby from the hands of a dying man impaled on a two-by-four, he searched for other survivors and fell into a cellar fracturing three vertebrae and leaving him in a body cast from hip to neck.

His outstanding service to his fellow man began in 1965 when his family-owned body shop bought a gas-powered saw which led law enforcement agencies to begin to call on Gene to rescue victims in serious car accidents.

He faced many life and death situations cutting people out of burning automobiles to save their lives; in some cases losing the battle to flames before he could extricate them.

One time he was trying to retrieve a drowning victim when friends on the bank saw swarms of cottonmouth water moccasins coming toward him. They pulled him out with a grappling hook that saved him from potentially fatal snake bites.

Over his career in 22 years he personally extricated victims from 1,976 serious car accidents. For these victims and their families, Gene Huckstep truly was an angel.

His service to mankind continued well beyond his extrication business. In 1978 he was elected Presiding Commissioner of Cape Girardeau County with strong bipartisan support and led the way on many improvements in the county including a new jail, a veterans home, and many other worthwhile benefits.

In the private sector he led the drive for a new emergency room at St. Francis Hospital, and he served as Chairman of the Board of Cameron Mutual Insurance Company.

His specific charitable contributions are far too many to recount, but it is safe to say he left his community a far better place because he touched so many things for the good of the community and his fellow man.

As one who was blessed by his friendship as well as his political support, I shall always remember his generosity, his good humor, and his genuine concern for others. Our thoughts and prayers are with his lovely wife Betty, his family, and his many close friends. I shall always treasure his memory and the fact that he was spared from dangerous situations so many times to carry on his work among the people of southeast Missouri.•

TULARE, SOUTH DAKOTA HIGH SCHOOL BAND TRAVELS TO CANADA

• Mr. JOHNSON. Mr. President, I want to take this opportunity today to recognize the Tulare, South Dakota High

School concert band for their up-coming trip to Canada. The Tulare band will travel to Winkler, Manitoba, Canada on June 2, 1998 to perform concerts with the Canadian Garden Valley Collegiate School.

I want to express my appreciation to Paul Moen, band director and Karl Redekop, principal from Garden Valley Collegiate School. These two individuals have worked very hard to plan and organize this exciting trip. I also want to thank Tulare's band director, Sam Glantzow, for his countless hours of dedicated work to see that this great learning experience for the band members from Tulare High School is a success.

Mr. President, the band members from both schools will gain valuable knowledge about new cultures and will form international friendships. I am sure this will be an experience everyone will remember for a lifetime.•

RECOGNIZING THE 351ST MP COMPANY FOR ITS ROLE IN BOSNIA-HERZEGOVINA

• Mr. MACK. Mr. President, I would like to take a few minutes to welcome home the 351st MP Company who recently returned from Bosnia on April 3, 1998. The President sent our service men and women to Bosnia in an effort to bring peace to the region. I think it is appropriate to recognize the important and extensive contributions of our Reserve Forces without whom this extended mission probably would not have been possible.

The 351st, consisting of 182 personnel, primarily from the City of Ocala, FL, was mobilized on August 19, 1997 and ordered to Bosnia under the command of Captain Keith Holmes. Prior to their departure, the unit underwent extensive training at both Ft. Benning, GA and Ft. Polk, LA, before being sent to Bosnia-Herzegovina. In Bosnia, the unit was split between two base camps, Eagle Base and Bedrock, located in Tuzia valley.

While in Bosnia, the 351st participated in operation Joint Guard. The operation's major focus was to provide a stable environment for implementation of the General Framework Agreement for Peace (GFAP). The 351st conducted numerous peacekeeping missions, which included: area presence patrols, weapons storage site inspections, quick Reaction Force duties on Eagle Base, and protective services for numerous senior U.S. Army officers, culminating with the President of the United States during his visit to Bosnia.

In leaving their families and their jobs, the men and women of the 351st have endured personal sacrifice and demonstrated their deep sense of duty to their country. It is only through the recognition and use of reservists as an integral part of our total force structure that the United States has been able to demonstrate its commitment to peace and security in Bosnia. And, through this commitment, the United States has made possible the promise of safety and hope of reconciliation to the people of this troubled region.

In its role, the 351st has served as a shining example of the indispensable role of Reservists in our Armed Forces. Reservists who answered the call of duty when their country asked them to serve have my deepest respect and gratitude. Accordingly, it gives me great pleasure to welcome home the 351st MP Company and thank them for a job well done.•

TRIBUTE TO DOUGLAS C. HOLBROOK

• Mr. LEVIN. Mr. President, I rise today to pay tribute to Douglas C. Holbrook, who will be retiring from his position as Secretary-Treasurer of the American Postal Workers Union in November, 1998. Mr. Holbrook is being recognized for his service to the men and women of the American Postal Workers Union at their 14th Biennial National Convention, which will take place in my home town of Detroit, Michigan, from July 20–24, 1998.

Douglas Holbrook was born and attended high school in Virginia, and moved to Michigan to study labor relations and administration at Wayne State University in Detroit. While in Detroit, Mr. Holbrook began his career with the U.S. Postal Service as a part-time clerk. His abilities were quickly recognized by his fellow employees, and he began his distinguished career in labor relations with the Detroit District Area Local. After serving as Trustee, Editor of the Detroit Postal Worker and Vice President, he was elected President of the District Local in 1966. Mr. Holbrook served in this position until being chosen to fill the unexpired term of his predecessor as Secretary-Treasurer of the American Postal Workers Union.

The American Postal Workers Union is the largest union of postal workers in the world. Under the steady and determined leadership of Mr. Holbrook, APWU has truly been a powerful force for workers rights, fair pay and a safe workplace. I know that he will be missed by his colleagues and by postal workers from every corner of the country.

Mr. President, I know my colleagues join me in expressing appreciation to Douglas Holbrook for his distinguished service to our nation's postal workers, and in wishing him well in his upcoming retirement.•

CATHERINE KALINOWSKI, COLORADO STATE CHAMPION, THE CITIZENS FLAG ALLIANCE ESSAY CONTEST

• Mr. ALLARD. Mr. President, I rise today to pay tribute to Catherine Kalinowski who has been named the Colorado State champion in The Citizens Flag Alliance Essay Contest. This young lady was charged with the task of writing an essay on the theme, "The American Flag Protection Amendment: A Right of the People . . . the Right Thing to Do," and did a fine job of making the case for protecting the greatest of our national symbols.

As many in this Chamber know, I am a strong supporter of a constitutional amendment to prohibit the desecration of our flag. The American flag is a great symbol of our Nation, and it should be regarded with the highest of honors. It is a part of our national identity, representing the hopes, dreams, and honor of our country.

As I read this essay, one passage struck me as particularly insightful. I believe that Catherine sums up our beliefs best when she writes,

> The visage of the nation's flag has altered as it has aged, with modifications in the dimensions, design, and number of stars; yet changing appearance has not impeded the flag from becoming the principal image of American ideals.

I would like to submit the full text of Ms. Kalinowski's essay for inclusion in the CONGRESSIONAL RECORD at this time.

Mr. President, Catherine Kalinowski represents the best and brightest that America has to offer. Young people like her are our future, a future that is brighter because of her commitment and resolve. On behalf of all Coloradans, I would like to congratulate Catherine and wish her the best of luck in the upcoming national competition.

The essay follows:

THE AMERICAN FLAG PROTECTION AMENDMENT: A RIGHT OF THE PEOPLE . . . THE RIGHT THING TO DO

(By Catherine M. Kalinowski)

"Stars and Stripes Forever," a song by John Philip Sousa proclaims the American flag as "the flag of the free" and "the Banner of the Right." Sousa declares "May it wave as our standard forever," but may it? The flag of the United States of America is so loosely protected by state and federal laws that the molestation of the flag has become acceptable. America's flag has gone from being a symbol of freedom and righteousness to one of commercialism and insurrection.

As the Colonists fought for the rule of the land they considered their own, creation of a separate identity from England became important. Before a fleet of the Continental Congress set out to intercept British supply boats coming into Boston, Col. Joseph Reed wrote to his commander, General George Washington. "Please to fix upon Some particular Colour for a Flag—& a Signal, by which our vessels may know one another." Col. Reed's letter of request was lamentably late, forcing the ships to sail under their old flags. The flag issue was settled when on June 14, 1777, Congress, "Resolved, That the flag of the thirteen United States be thirteen stripes alternate red and white; that the union be thirteen stars, white in a blue field, representing a new constellation." And by November 1, 1777, Stars and Stripes were seen flying from a US ship under the command of Continental Navy Captain John Paul Jones. The flag on Jones' vessel was the first to represent the United States in a foreign port and to receive recognition as representing America as a nation, being given a nine-gun salute by the French at Quiberon Bay. Though originally needed for the practical objective of identification at sea, the creation of Old Glory became significant to the establishment of the nation.

The visage of the nation's flag has altered as it has aged, with modifications in the dimensions, design, and number of stars; yet changing appearance has not impeded the flag from becoming the principal image of American ideals. Life, liberty, and the pursuit of happiness is embodied in every stitch of the US flag. As United States Senator Paul Fannin wrote, "Those who tear down the flag reveal their hatred for everything good and great in our country, because the flag is a symbol of what we want America to be—a land of justice, opportunity, equality and compassion." New York Mayor John V. Lindsay viewed the flag as having individual stars and stripes to represent the individuality of the country's citizens; however, because the same flag flies over all Americans, the flag "binds us together in the common enterprise we call America." A representation of so much positive in American society, a representation of the United States itself, it is unfortunate that the flag is becoming insignificant.

During the beginning of this century, most states enacted laws to discourage flag desecration, outlawing placing any marks or pictures of the flag, forbade any flag usage for commercial purposes, and banned any physical destruction of flags or any" act or words' that publicly cast "contempt" on the flag. These standards have been obscured to the point of oblivion. The flag is pictured on everything from apparel and political paraphernalia to automobiles and boxes of cereal. Depicted on every corner, the flag no longer receives the veneration due to it. Penalization for defiling the flag through acts such as flag burning was practiced until what has been called the 1989–1990 Flag Burning Controversy. Gregory Lee Johnson was arrested in 1984 for burning a flag in Dallas, Texas. Under Texas' Venerated Objects law, Johnson had committed a crime and was sentenced to the maximum penalty of one year in prison and a fine of $2,000. An appeals court reversed Johnson's conviction by a 5–4 vote on April 20, 1988. Dallas County, in response to the Texas Court of Criminal Appeals, requested the ruling of the U.S. Supreme Court. The decision of the Supreme Court upheld through another 5–4 vote the conclusion of the Texas court, agreeing that flag burning is protected by the First Amendment. In response to the Johnson decision, there have been votes for an amendment protecting the flag, but none with enough majority to adopt the amendment.

Constitutionality of flag burning has been supported by the guarantee of free speech, including symbolic speech, in the First Amendment. However, the Supreme Court has ruled that freedom of speech has limits; restricted areas of speech include obscenity, defamation, speech that leads to illegal action, fighting words, and speech in public schools. Because obscenity is generally defined as anything that violates society's standards of decency, desecration of Old Glory could be considered indecent, thus unprotected by the Constitution. The consideration of actions protected as speech also allows for destruction of the flag to be viewed as fighting words, exceeding another limit of the First Amendment. In *Chaplinsky* v. *New Hampshire* (1942), the Supreme Court defined "fighting words" as words that, "have a direct tendency to cause acts of violence." Flag burning seems a fighting word as it often leads to acts of violence. When considering obscenity and fighting words, the flag does not appear to be protected by free speech. Therefore, it seems in order to go ahead and proceed with the next step, creating an American Flag Protection Amendment.

To propose such a protection amendment, two-thirds of the members of both houses of Congress or the same percentage of members of a national convention must vote for the proposal of the amendment. Once proposed, three-fourths of the states must ratify the amendment by a vote in each state's legislature or state convention. If enough citizens gave their support of an American Flag Protection Amendment, the representatives of the people would surely follow their will and obtain protection for the banner of the nation.

American's flag needs and deserves to be treated with dignity, and it is the right of the public to rally for Constitutional protection of the magnificent symbol of the United States. So much time as already elapsed—now is the time to act justly on the behalf of Old Glory. With swift action, Stars and Stripes will be able to, "wave as our standard forever."•

MORDECHAI STRIGLER

• Mr. MOYNIHAN. Mr. President, today is a bittersweet day at the Jewish Theological Seminary in New York City where the annual commencement ceremony will include an unprecedented presentation of a posthumous honorary doctorate to Mordechai Strigler, the talented editor of the Yiddish Forward who died last week at the age of 76.

I rose almost a year ago today to share with the Senate the news of the Forward's centenary. This remarkable newspaper, which once helped hundreds of thousands of new immigrants learn about their new homeland, now prints Yiddish, Russian and English weekly editions. The Yiddish edition has gone from a daily press run of 250,000 copies to a weekly run of 10,000, but has retained much of the literary excellence and social conscience that has so characterized the Forward during its storied history.

Mordechai Strigler was born in 1921 in Zamosc, Poland, and was sent to study in a yeshiva at age 11. In 1937 he began work as a rabbi and teacher in Warsaw.

When the Germans occupied Poland in 1939, he tried to escape to Russia, but was caught at the border. He spent a few months at the Zamosc ghetto with his parents and then five years in several concentration camps. In Buchenwald, he was a member of the Resistance and served as a covert teacher for the children incarcerated there. He was liberated on April 11, 1945.

After the war, he began writing furiously and prolifically for the next 53 years until his death. He chronicled the slave-labor camps and death factories in a six-volume Yiddish series called "Oysgebrente Likht", which means "Extinguished Candles".

In 1955, Strigler published two volumes called "Arm in Arm with the Wind," a historical novel about Jewish life in Poland in the 17th and 18th centuries.

His newspaper career began in Warsaw just before the war and flourished in Paris after the war. In France, he served as editor of Unzer Vort (Our world), a Yiddish daily.

While in New York, he was offered the editorship of the Kemfer, a position he held until 1995. He published such classic Yiddish writers as Abraham Reizen, H. Leivik, Chaim Grade, and Jacob Glatstein.

In 1978, Strigler was awarded the Itzak Manger Prize in Jewish Literature, one of the most distinguished prizes in the field.

He became editor of the Yiddish Forward in 1987, following the retirement of Simon Weber, and he remained at its helm until last month.

"The death of Strigler marks not only a sad transition for his colleagues in the Yiddish, Russian, and English editions of the Forward but also a milestone in the area of Yiddish-language journalism and the literature of the Holocaust," the English-language Forward said in an obituary.

I ask to have printed in the RECORD the English edition of the Forward's moving editorial tribute to this talented journalist.

MORDECHAI STRIGLER

Mordechai Strigler, the editor of the Yiddish Forward who died Sunday at the age of 76, was one of the giants. Born at Zamosc, Poland, he became famous at a young age as a genius of Talmud. He was apprenticed to the greatest sages of his time. He was at the barricades in Warsaw when the Germans invaded. He fled toward Russia, but was captured by the Nazis, who cast him into concentration camps. His parents and three of his seven sisters perished. He himself was in, among other camps, Maidenek, Skarhisko and Buchenwald, where he was a member of the Resistance and where on liberation he was spotted by Meyer Levin, who wrote about his heroism in his memoir "In Search". Levin told of Strigler gathering children secretly in the barracks and teaching them Yiddish and Hebrew. He had lost his pre-war manuscripts during the war. It is said that upon liberation he began writing furiously. He continued until weeks before he died. He turned out cycles of poetry and novels, as well as biblical commentaries and analysis of rabbinic responsa and thousands of items of journalism—editorials, dispatches, criticism and feuilletons. Moving to Paris immediately after the war, he became editor of Unzer Vort and joined the Labor Zionist movement. As editor of the Yiddisher

Kemfer and, later, the Yiddish Forward as well, he maintained a courteous and gentle exterior, but it belied an extraordinary toughness. No matter how others around him might fume, he would go on doing what he thought was right. His achievements are well known. He touched Jews the world over, inspired his colleagues and set a standard to which all the editors of the Forward, in Yiddish, Russian, and English, look up.

Yet for all these achievements, there was a dimension to Mordechai Strigler that remained a mystery, even to many of us who worked in the same editorial rooms with him for years. It had to do with his spiritual journey. Had history taken a different turn, it is as a Torah sage that he might be remembered today. But the Holocaust shook his faith and led him to quarrel with God. He emerged to write poetry and fiction. He entered the political fray for the labor faction. Hope came to him from the establishment of the Jewish state, which became, along with Jewish unity, his abiding passion. After he reached America, he began corresponding with a young woman in Jerusalem, Esther Bonni, a scientist. When they finally met in Israel, a romance developed and marriage followed. After the birth of their daughter, Leah, the glimmer of Strigler's spiritual life began to shine again. Leah talked at his funeral of Strigler's enduring attachment to text and of his powers as a teacher. He was obsessed with the accuracy of citations of Torah and Talmud, so that whenever she asked a question, he would insist on checking sources, even though he almost always knew the references by heart. In recent years, his intimates relate, he had occasion to lay tefillin. Even then it was said that he had not again become a believer but was merely observing a mitzvah. Yet as he lay dying at Roosevelt Hospital, his daughter read to him for days from the Bible, holding the text in one hand and here father's hand in the other. His daughter and wife sang prayers in Yiddish and Hebrew, which for precious moments brought him out of his coma. This is how this editor who had lived and chronicled and tragedies and triumphs of our century spent his last days—called back to consciousness, however fleetingly, by the languages of the Jews.●

THE SPALLATION NEUTRON SOURCE: A CRITICAL ELEMENT OF OUR VISION OF THE FUTURE

● Mr. FRIST. Mr. President, the Spallation Neutron Source currently being developed at Oak Ridge, Tennessee will be the most powerful spallation source of neutrons in the world. It will enable scientists to "see" and thus understand the physical, chemical, and biological properties of materials at the atomic level.

In nuclear physics, Mr. President, the study of neutrons led to the development of nuclear weapons, nuclear energy, medical isotopes, and our understanding of the energy and evolution of the stars and the origins of the solar system.

In condensed matter physics, neutrons are used—among other things—to study magnetic materials, magnetic resistance, and the dynamic aspects of glasses, liquids, amorphous solids, and phase behavior.

In materials science, neutrons are used to study diffusion, crystal structures, the spatial distribution of impurities, and the stress capacities of forgings, castings, and welds.

In chemistry, neutrons are used to determine molecular, crystal, and large-scale structure.

In biology, neutrons are used to determine the structure of protein and protein complexes in lipids and biological membranes, and to determine the molecular arrangements on biological surfaces to help us better understand the function of cell surface receptors.

The one common requirement in all of these research fields is an intense source of neutrons. And the only such source other than a large nuclear reactor is an energetic particle accelerator such as the Spallation Neutron Source.

Mr. President, as I've just pointed out with this by-no-means-complete list of examples, neutron scattering has now become an indispensable tool within a broad range of scientific disciplines: physics, chemistry, materials science, nuclear physics, biology, earth science, engineering and medicine—which is why the Spallation Neutron Source is a critical element of our vision of the future.

Far from a jobs program or a pie-in-the-sky experiment, Mr. President, spallation is the newest anchor of our national research effort. And it will contribute to America's economic and technological growth in thousands of ways.

By helping us understand the properties of materials at the atomic level, U.S. chemical companies will produce better fibers, plastics, and catalysts; U.S. pharmaceutical companies will produce better drugs—with higher potencies and fewer side effects; U.S. automobile manufacturers will build cars that run better and are safer to operate; and U.S. aircraft manufacturers will build planes that are stronger, lighter, faster, and safer—with fewer defects, lower stress levels, and greater fuel efficiency.

We'll create stronger magnets and magnetic materials—that will result in more efficient electric motors and generators, better magnetic recording tapes, computer hard drives, and medical magnetic resonance systems.

And all across America, U.S. industries will produce everything from better low-fat foods, credit cards, and cosmetics, to clothes that don't wrinkle and bags that don't break, to better airport detection equipment and bulletproof vests.

In the next century, the achievements will be even greater—especially in the field of medicine. We'll see drug delivery systems that release medicine precisely when and where the body needs it—without side effects; artificial blood that will eliminate the need to screen for viruses or procure exact blood types in times of emergency; corrosion-resistant medical implants that will last a lifetime and never have to be replaced; and smaller, faster electronic chips that will lower energy costs and increase convenience in hundreds of products.

In other words, Mr. President, spallation is not only essential to the advancement of important scientific research, it's absolutely critical to retaining our competitive edge in the global economy and the quality of life we have come to enjoy.

Completion of the Spallation Neutron Source—on time and on budget—must be a priority for another reason as well. Over the last 20 years, America has fallen alarmingly behind Europe in the availability of up-to-date neutron sources and instrumentation. The major research reactors in our inventory—the HFIR at Oak Ridge, Tennessee, and the High Flux Beam Reactor—were built more than 30 years ago. With the demise of the ANS (Advanced Neutron Source), and all it represented in terms of maintaining America's strength is neutron science, we cannot reasonably expect those aging facilities to sustain our entire neutron scattering effort.

Fortunately, unlike ANS—whose pricetag [$3B] and lack of public support caused the Administration to abandon the effort—Spallation is both affordable [$2B] and strongly endorsed by both the White House and the Congress.

Mr. President, the Spallation Neutron Source is a big part of that vision of our vision for the future. As with all of America's truly imaginative ventures—the space program, the Human Genome Project, the Hubble telescope—its benefits will be felt for years to come.

But there is another reason Spallation must be supported, Mr. President. It is, in my view, exactly the kind of project the federal effort was designed to produce and support: It's good science—that is both knowledge-driven and mission-driven; it will be fiscally accountable—if we in Congress do it right; it has a consistent approach; it will have measurable results; it will create a flow of technology, from research through commercialization; it will promote excellence throughout the American research infrastructure, and across a broad range of initiatives; and it will create partnerships among industry, academia, and the national labs.

And because of the way it was set-up as a cooperative partnership among the national labs—Lawrence Berkeley will be responsible for the ion source; Los Alamos, for the linear accelerator; Brookhaven, for the accumulator ring; Argonne, for the instrumentation and experiment facilities; and Oak Ridge for the conventional facilities, target apparatus, and overall project management—it will increase Congress' ability to focus on the importance of science and technology; decrease the likelihood that it will get side-tracked by politics; and ensure that spallation is consistent and effective.

In other words, Mr. President, the real effects of this project don't end with Spallation, they begin with it—and with us and our commitment to science and technology future.•

TRIBUTE TO PRESIDENT JIMMY CARTER ON THE NAMING OF THE U.S.S. JIMMY CARTER SUBMARINE

• Mr. CLELAND. Mr. President, I rise today to congratulate former President Jimmy Carter on the naming of the Navy's third and final *Seawolf*-class submarine, the U.S.S. *Jimmy Carter*.

After graduating from the U.S. Naval Academy in 1946, President Carter fulfilled a dream from his childhood in southwest Georgia by serving in both the Atlantic and Pacific fleets. As a submariner, he was selected by the late Adm. Hyman Rickover to help in the development of the fledgling U.S. nuclear submarine program, a program which has realized its full potential in the *Seawolf*-class attack submarines.

I had the privilege of attending the naming ceremony at the Pentagon on April 27 with President and Mrs. Rosalynn Carter. Navy Secretary John H. Dalton praised the U.S.S. *Jimmy Carter* as a bridge to the next generation of attack submarines. The newest *Seawolf* vessel, named after the only President to serve on a submarine, is currently being built and is due to join the U.S. fleet in December 2001.

I ask my colleagues in the Senate today to join me in saluting and congratulating President Carter on his years of service in this Nation's Navy, and later as Governor of my home State of Georgia and President of the United States. President Carter is respected by all Americans for his efforts on behalf of our country both during and after he held office. The naming of the U.S.S. *Jimmy Carter* is a wonderful tribute to honor a great American in a manner befitting his outstanding service to this nation.•

PAU-WA-LU MIDDLE SCHOOL

• Mr. BRYAN. Mr. President, I rise today to recognize the achievements of the Pau-Wa-Lu Middle School in Gardnerville, Nevada. Each year for the last four years, Pau-Wa-Lu Middle School has been involved in a major service project within its community.

In 1995/96, the school sponsored a cleanup project during which 250 students and adults cleared years of accumulated trash from green belts within their community.

In 1997, when a major flood devastated the homes and businesses of many of Northern Nevada's citizens, over 600 students and adults donated more than 4,000 man hours to helping flood victims recover their lives and property.

And in 1998, over 300 students and adults from Pau-Wa-Lu and Carson Valley Middle Schools have planted trees in Autumn Hills, an area that has been devastated by forest fire.

I am pleased to recognize Pau-Wa-Lu Middle School for its commitment to community and instilling this same spirit in its students.•

RULES FOR SPECIAL COMMITTEE ON YEAR 2000

• Mr. BENNETT. Mr. President, I rise today to submit for the RECORD, in accordance with Senate Rule 26.2, the Rules for the Special Committee on the Year 2000 Technology Problem which were adopted by a unanimous vote of the Committee on Wednesday, May 20, 1998.

Also, I want to express my gratitude to the leadership on both sides of the aisle for their support, without which we could not have created this very important Committee. I also want to take a moment to mention that the Sergeant at Arms' great help in assisting us in the set up of our offices. Finally, I would be remiss not to mention that the hard work and patience of the staff of the Rules Committee has also aided us in moving forward in a more expeditious fashion.

RULES OF PROCEDURE

I. CONVENING OF MEETINGS AND HEARINGS

1. Meetings. The Committee shall meet to conduct Committee business at the call of the Chairman.

2. Special Meetings. The Members of the Committee may call additional meetings as provided in Senate Rule XXVI(3).

3. Notice and Agenda:

(a) Hearings. The Committee shall make public announcement of the date, place, and subject matter of any hearing at least one week before its commencement.

(b) Meetings. The Chairman shall give the Members written notice of any Committee meeting, accompanied by an agenda enumerating the items of business to be considered, at least 5 days in advance of such meeting.

(c) Shortened Notice. A hearing or meeting may be called on not less than 24 hours notice if the Chairman, with the concurrence of the Vice Chairman, determines that there is good cause to begin the hearing or meeting on an expedited basis. An agenda will be furnished prior to such a meeting.

4. Presiding Officer. The Chairman shall preside when present. If the Chairman is not present at any meeting or hearing, the Ranking Majority Member present shall preside. Any Member of the Committee may preside over the conduct of a hearing.

II. CLOSED SESSIONS AND CONFIDENTIAL MATERIALS

1. Procedure. All meetings and hearings shall be open to the public unless closed pursuant to paragraph 3 of this section. To close a meeting or hearing or portion thereof, a motion shall be made and seconded to go into closed discussion of whether the meeting or hearing will concern the matters enumerated in Rule II.3. Immediately after such discussion, the meeting or hearing may be closed by a vote in open session of a majority of the Members of the Committee present.

2. Witness Request. Any witness called for a hearing may submit a written request to the Chairman no later than twenty-four hours in advance for his examination to be in closed or open session. The Chairman shall inform the Committee of any such request.

3. Closed Session Subjects. A meeting or hearing or portion thereof may be closed if the matters are consistent with Senate Rule XXVI(5)(b).

4. Confidential Matter. No record made of a closed session, or material declared confidential by the Chairman and Vice Chairman, or report of the proceedings of a closed session, shall be made public, in whole or in part or by way of summary, unless specifically authorized by the Chairman and Vice Chairman.

5. Radio, Television, and Photography. The Committee may permit the proceedings of hearings which are open to the public to be photographed and broadcast by radio, television, or both, subject to such conditions as the Committee may impose.

III. QUORUM AND VOTING

1. Reporting. A majority of voting members shall constitute a quorum for reporting a resolution, recommendation, or report to the Senate.

2. Committee Business. Three voting members shall constitute a quorum for the conduct of Committee business, other than a final vote on reporting, providing a minority Member is present. One Member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony at hearings.

3. Polling.

(a) Subjects. The Committee may poll (1) internal Committee matters including those concerning the Committee's staff, records, and budget; (2) authorizing subpoenas; and (3) other Committee business which has been designated for polling at a meeting.

(b) Procedure. The Chairman shall circulate polling sheets to each Member specifying the matter being polled and the time limit for completion of the poll. If any Member so requests in advance of the meeting, the matter shall be held for meeting rather than being polled. The clerk shall keep a record of polls. If the Chairman determines that the polled matter is one of the areas enumerated in Rule II.3, the record of the poll shall be confidential. Any Member may move at the Committee meeting following a poll for a vote on the polled decision.

IV. SUBPOENAS

1. Subpoenas. Subpoenas may be authorized by the Committee at a meeting of the Committee or pursuant to Rule III.3.a (above). Subpoenas authorized by the Committee may be issued over the signature of the Chairman after consultation with the Vice Chairman, or any member of the special committee designated by the Chairman after consultation with the Vice Chairman, and may be served by any person designated by the Chairman or the member signing the subpoena.

V. HEARINGS

1. Notice. Witnesses called before the Committee shall be given, absent extraordinary circumstances, at least forty-eight hours notice, and all witnesses called shall be furnished with a copy of these rules upon request.

2. Oath. All witnesses who testify to matters of fact shall be sworn. The Chairman or any Member may administer the oath.

3. Statement. Any witness desiring to make an introductory statement shall file 50 copies of such statement with the clerk of the Committee 24 hours in advance of his appearance, unless the Chairman and Vice

Chairman determine that there is good cause for a witness's failure to do so.

4. Counsel:

(a) A witness's counsel shall be permitted to be present during his testimony at any public or closed hearing, or staff interview to advise the witness of his rights, provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Chairman may rule that representation by counsel from the government, corporation, or association creates a conflict of interest, and that the witness shall be represented by personal counsel not associated with the government, corporation, or association.

(b) A witness who is unable for economic reasons to obtain counsel may inform the Committee of this circumstance at least 48 hours prior to his appearance, and the Committee will endeavor to obtain volunteer counsel for the witness. Such counsel shall be subject solely to the control of the witness and not the Committee. Failure to obtain counsel shall not excuse the witness from appearing and testifying.

5. Transcript. An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in closed and public hearings. Any witness shall be afforded, upon request, the right to review that portion of such record, and for this purpose, a copy of a witness's testimony in public or closed session shall be provided to the witness. Upon inspecting his transcript, within a time limit set by the committee clerk, a witness may request changes in testimony to correct errors of transcription, grammatical errors, and obvious errors in fact. The Chairman or a designated staff officer shall rule on such requests.

6. Minority Witnesses. Whenever any hearing is conducted by the Committee, the minority on the Committee shall be entitled, upon request made by a majority of the minority Members to the Chairman, to call witnesses selected by the minority to testify or produce documents with respect to the measure or matter under consideration during at least one day of the hearing. Such request must be made before the completion of the hearing.

7. Conduct of Witnesses, Counsel and Members of the Audience. If, during public or executive sessions, a witness, his counsel, or any spectator conducts himself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing, the Chairman or presiding Member of the Committee present during such hearing may request the Sergeant at Arms of the Senate, his representative, or any law enforcement official to eject said person from the hearing room.

VI. AMENDMENT OF RULES

The rules of the Committee may be amended or revised at any time, by a majority vote of the Committee, provided that no less than 3 days notice of the amendments or revisions proposed was provided to all members of the committee.●

TRIBUTE TO THE OUTSTANDING DISASTER ASSISTANCE PROVIDED BY THE GRAND FORKS AIR FORCE BASE AND ITS BRANCH OF THE AMERICAN RED CROSS

● Mr. CONRAD. Mr. President, I rise today to pay tribute to the extraordinary disaster assistance efforts of the Grand Forks Air Force Base (AFB) and its branch of the American Red Cross.

Twelve months have passed since my state suffered the worst winter and spring of its history. A record eight blizzards dropped more than eight feet of snow on North Dakota, and brought with them sub-zero temperatures well into the month of April. The worst and final storm, Blizzard Hannah, glazed the state in a thick coat of ice, knocked out power for much of North Dakota, and made the snowmelt that followed even more devastating. On the heels of these paralyzing storms came a "500-year" flood, driving thousands from their homes, many in the middle of the night.

The hasty evacuation of Grand Forks, North Dakota, was the single largest evacuation in recent American history. Roused from their beds by the wail of sirens, many citizens left their city with little more than the clothes on their backs. Homes inaccessible and loved ones far away, thousands lacked shelter.

I firmly believe that the evacuation of Grand Forks would have been impossible without the Grand Forks AFB providing for those in need of a safe place to sleep and something to eat. The Base opened the doors of its homes and cleared its hangars of aircraft to house neighbors in need. It is estimated that 4,500 residents of Grand Forks found shelter at the air base.

The assistance of the Grand Forks AFB Red Cross was also invaluable. Red Cross volunteers worked tirelessly over the period of the flood feeding the displaced, staffing the hospice center for the elderly, locating loved ones, and ably dealing with the daunting task of sheltering thousands. Then, when the waters receded, the Grand Forks AFB American Red Cross continued its efforts: cleaning flood-damaged homes, housing those whose homes remained unlivable, and working to meet the needs of its neighbors. Six hundred fifty volunteers recorded nearly 48,000 hours of service in the flood and flood-recovery effort.

Mr. President, these were volunteers in the best sense of the word. The men and women of the Grand Forks AFB Red Cross were not immune to the emotional upheaval of last year's disasters in the Red River Valley. These volunteers had families and jobs, and in many cases suffered disaster losses of their own, but they gave of their time freely. Though many of these men and women only enjoyed a brief stay at Grand Forks AFB, we North Dakotans will always consider them neighbors.

The dedicated and selfless service of Grand Forks AFB personnel made me tremendously proud of America's Air Force, and our base. I was particularly impressed that Air Force personnel labored to battle flood waters, even as their own homes were inundated. I felt it was the least I could do to author an amendment which ensured that all Grand Forks AFB personnel would have full access to an Air Force disaster relief program.

Together with all my fellow North Dakotans I would like to extend my sincerest thanks to Grand Forks AFB an the base's American Red Cross. The base commander at the time, Brigadier General Kenneth W. Hess, and the Station Manager of the American Red Cross at the time, Mary Martin, deserve special thanks. Additionally, I would like to thank the current base commander, Colonel James A. Hawkins, for his continued assistance in helping Grand forks get back on its feet. Under their leadership, the base and the Red Cross helped save a community, and made the state and the Nation proud.

Mr. President, I ask that my letter to Brigadier General Kenneth W. Hess be printed in the RECORD.

The letter follows:

U.S. SENATOR,
Washington, DC, May 6, 1997.

Brig. Gen. KENNETH W. HESS,
Commander, 319 Air Refueling Wing, Grand Forks Air Force Base, Grand Forks, ND.

DEAR GENERAL HESS: Working on the disaster has become all consuming, but I did want to take a moment to let you know how much I appreciate the courtesies you extended to me and my staff on our recent stay. Too, I shall be forever grateful to you for all you have done for the people of North Dakota.

The night-time evacuation of the city of Grand Forks would have been impossible without the availability of the Grand Forks Air Force Base facilities to those in need of shelter. Your quick response and leadership made a situation rife with danger manageable. This same helpful attitude was evident everywhere on the Base—encouragement, hope, and a warm smile went along with the uniform whether at the Emergency Operations Center of the Command Center. And, kindness did not hamper your efficiency—The Grand Forks Air Force Base was a gracious host to the President of the United States and six Cabinet Members in the midst of a disaster.

General Hess, you can be very proud of the men and women of the 319 Air Refueling Wing. One Airman mentioned to a member of my staff, "We're glad to help out. We are just one big Grand Forks family."

With deepest appreciation,
Sincerely

KENT CONRAD,
U.S. Senate.●

RECOGNITION OF ROSS P. MARINE

● Mr. BOND. Mr. President, On May 31, 1998, Ross P. Marine, DHL, MHA, Senior Vice President and Chief Operating Officer, Trinity Luthern Hospital, Kansas City, Missouri, and former Administrator, Truman Medical Center East (Truman East), and the Director of Public Health for the Jackson County Health Department (JCHD), is receiving the Citizen of the Year award from UNICO/Kansas City Chapter. As the recipient, he may select a charity of his choice to receive half the proceeds from the awards dinner. Mr. Marine has chosen to give his donation to the Truman Medical Center East Auxiliary's commitment to the renovation of the Obstetrics Unit into a new Labor, Delivery, Recovery and Postpartum wing at Truman East.

UNICO stands for Unity, Neighborliness, Integrity, Clarity and Opportunity and is a national organization made up of men and women of Italian descent who work for positive community service. A Board member or current officer nominates the candidate, for Citizen of the year. Candidates must have an interest in their community and working with others to make their community a better place.

Mr. Marine has continually shown that he not only has concern for the betterment of his community, but has also taken a leadership role. He made health care more accessible by starting five public health outreach facilities. Truman East received $38 million in renovation and expansion because of Mr. Marine's efforts. While embracing the credo of UNICO, "Service above Self," he has helped his community and therefore Missouri as a whole. He has been appointed to numerous Boards of Directors and received many awards for all his outstanding achievements.

Commending Mr. Marine for his many years of service to his community and the field of medicine, I am glad to say that the State of Missouri is enriched with his wisdom and leadership. I join the many who congratulate and thank him for his hard work and wish him continued success in future years.•

CELEBRATION OF INTERNATIONAL SPACE DAY

• Mr. GRAHAM. Mr. President, as the senior Senator from the state that launched the Mercury astronaut pioneers into space, sent Apollo astronauts to the moon, and has hosted numerous space shuttle launches since 1981, it is a tremendous privilege to lead the U.S. Senate in recognizing May 21 as "International Space Day."

Our nation's exciting adventure in space began just over forty years ago, with the launch of the Explorer I satellite on January 31, 1958. The celebration of this anniversary gave us cause to look back at America's four decades in space. "International Space Day" gives us a chance to look forward and assess how to seize the space opportunities of the future.

Mr. President, forty years after we launched our first satellite and nearly thirty years since Neil Armstrong took mankind's first steps on the lunar surface, Americans remain captivated by the exploration of space.

Students across the nation eagerly study past achievements and future adventures in space exploration. In Florida, tourists flock to the Kennedy Space Center on Cape Canaveral to see the famed launch pads and rockets that have boosted man into space. Right here in Washington, the National Air and Space Museum, National Space Society, and the aerospace industry have put space right on Congress' doorstep.

"International Space Day" is an appropriate occasion to reflect on how our exploration and utilization of space dramatically affects our day-to-day lives. It is especially timely this week, when the breakdown of the Galaxy Four satellite has wreaked havoc in our nation's telecommunications sector. Many of us have constituents who were unable to listen to National Public Radio's reports on this week's floor debate on comprehensive tobacco legislation. Thousands of Americans have been inconvenienced because their pagers do not work. Doctors, businesses, television viewers and radio listeners—virtually everyone in our society—have been affected.

Relatively few Americans have had the opportunity to escape the Earth's atmosphere and gravity, but space affects all of us. Galaxy Four is just one example of how critical the utilization of space is to our economy. We are on the brink of a new frontier in commercial space activity, with almost weekly launches of new communications satellites and the most competitive space launch market in decades.

In 1998, the Senate will have a unique opportunity to remove barriers that impede U.S. companies in the exploration of this new frontier. U.S. Senator CONNIE MACK and I introduced the Commercial Space Act in the Senate last fall and we hope to see it passed soon.

Mr. President, this is an exciting time to be discussing space issues in the U.S. Congress. At NASA's Kennedy Space Center—the nation's premiere launch base—the space shuttle continues to faithfully serve our manned space program. An international team of engineers and astronauts is assembling a new space station. In 1997 and early 1998, the Mars Pathfinder blazed a four-wheel drive trail on the Red Planet and the launch of the Lunar Prospector marked our return to the moon. In October, my colleague JOHN GLENN of Ohio will return to space after thirty-seven years on Earth. VentureStar is under development as our nation's space vehicle of the future. And space tourism—featuring space planes that operate from traditional airports—is becoming more and more of a likelihood.

I hope these developments inspire young Americans to develop the science, math, and engineering expertise that our nation needs to maintain its leadership in space. Congress should encourage efforts like that of the U.S. Space Foundation's Mission Home, a program that brings together space societies and aerospace companies to educate communities all over the nation about our exciting future in space.

Mr. President, Disneyland will rededicate its Tomorrowland on Friday—forty-three years after it first inspired young adventurers to aim beyond the stratosphere. I will depend on all 100 members of this legislative body to help make sure that the United States is actively preparing for its tommorowland by keeping our nation on the forefront of the exploration, utilization, and commercialization of space today. Working together, we can ensure that every day is space day in the U.S. Senate.•

50TH BIRTHDAY OF THE ISRAEL'S INDEPENDENCE

• Mr. SANTORUM. Mr. President, in 1948 when Israel was fighting its most costly war ever—the war for independence—Israel's future Prime Minister was told by the greatest military experts in the world that his newly created State of 600,000 had no chance of surviving. Now, in 1998, Israel is celebrating its 50th year of independence.

I commend the Jewish Federation of the Scranton-Lackawanna community for observing this historic occasion the weekend of May 1–3.

The State of Israel became a home for Jews after more than 6 million European Jews were massacred during the Holocaust. Over the past 50 years, Israel has acted as a refuge for thousands of Jews throughout the world and integrated them into their society, while rebuilding a nation and creating an active democratic political system.

On May 17, I joined Mayor Edward Rendell and Israeli Consul General Daniel Ashbel in Philadelphia to celebrate Israel's 50th Independence Day birthday party. During the opening ceremonies, I thought of how Israel is a land of wonderful contrast. It is both a nation of great history and a nation of great accomplishment. From the historical perspective, the events that have sprung forth from that land over the centuries are overwhelming to even consider. No matter what religious tradition one might follow, the basic laws that went on to frame many of the tenants of our democratic form of government, and the rules of conduct in a civil society, came out of the land we have always called Yis-ra-el.

Today, Israel has a growing economy, farms on land that were once claimed by the deserts, and high-tech companies producing cutting edge products for our global marketplace. No other society in the course of human history can claim such progress in 50 short years. No other nation can claim to have risen to these heights from the horrors of the Holocaust. That is why Israel is so unique, so special, and so deserving of our unyielding and unconditional support.

The United States has always maintained a relationship with Israel that is based on mutual respect. America's commitment to Israel's security undergirds the entire peace process and provides Israel the confidence it needs to take very real risks for peace. I encourage the United States to continue to act in a respectable manner by not imposing a settlement on Israel that is contrary to its national security interests.•

WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION COMPETITION

• Mr. CLELAND. Mr. President, I rise today to recognize the following students from Dunwoody High School in Dunwoody, Georgia and their teacher for their excellent performance in the We the People . . . The Citizen and the Constitution. I would like to congratulate the students who competed in this year's competition: Bakari Brock, Jennifer Campbell, Richard Cartwright, Michael Cayes, Carol Chandler, Melissa Chastney, Zack Cullens, Melissa Derrick, Kevin Franklin, Erin Green, Judy Hudgins, Rebecca Lamb, Dwayne O'Mard, Sandra Park, Andrea Pierce, Jennifer Price, Scot Prudhomme, Carlyn Sibler, Geren Stone, Dannon Taylor, David Weiner, David Yoo, and teacher Celeste Boemker. I would also like to recognize the efforts of the State Coordinator, Michele Collins and District Coordinator, John Carr, who helped these students make it to the finals.

This bright group of young students competed against 49 other classes from around the nation, testing their knowledge of the United States Constitution and our government. Administered by the Center for Civic Education, the program is the most extensive of its kind, reaching more than 26 million students in elementary, middle and high schools. The students spent hours in role playing and testing to prepare themselves for this competition. The three-day program simulates a Congressional hearing in which students' presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Mr. President, it is with great pride that I offer my congratulations to these students from Dunwoody High School for their outstanding performance at the We the People competition, and wish them continuing success with their future studies.•

CONTINUING JUDICIAL VACANCY CRISIS IN THE SECOND CIRCUIT

• Mr. LEAHY. Mr. President, the Senate's Republican leadership is refusing to take action to end the judicial emergency in the United States Court of Appeals for the Second Circuit.

On March 25, the five continuing vacancies on the 13-member court caused Chief Judge Ralph Winter to certify a Circuit emergency, to begin canceling hearings and to take the unprecedented step of having 3-judge panels convened that include only one Second Circuit judge. On April 23, Chief Judge Winter was forced to issue additional emergency orders. For two months and into the foreseeable future the Senate has neglected its responsibility to the people of the Second Circuit.

I have been urging favorable Senate action on the nomination of Judge Sonia Sotomayor to the Second Circuit to fill a longstanding vacancy for many months. That nomination remains stalled on the Senate calendar. Two weeks ago the nomination of Chester J. Straub to the Second Circuit was favorably reported by the Judiciary Committee. That nomination is now also on the Senate calendar awaiting action. Today, the Senate Judiciary Committee is favorably reporting two additional nominees to the Second Circuit, Judge Rosemary Pooler and Robert Sack. That makes four nominees to the Second Circuit awaiting confirmation, four nominees who can end the judicial vacancies crisis that plagues the Second Circuit. But for the inaction of the Majority Leader in calling for votes by the Senate on this qualified nominees, the crisis could end this week. I, again, urge that action.

Before the last recess I introduced legislation calling upon the Senate to address this kind of judicial emergency before it takes another extended recess. The Senate has pending before it four outstanding nominees to the Second Circuit whose confirmations would end this crisis.

Unfortunately Republican Senate leadership has not taken the judicial vacancies crisis seriously and has failed to take the concerted action needed to end it. They continue to perpetuate vacancies in almost one in 10 federal judgeships.

With 11 nominees on the Senate calendar and 32 pending in Committee, we could be making a difference if we would take our responsibilities to the federal courts seriously and devote the time necessary to consider these nominations and confirm them. Instead, we are having hearings at a rate on one a month, barely keeping up with attrition and hardly making a dent in the vacancies crisis that the Chief Justice of the United States has called the most serious problem confronting the judiciary.

By a vote of 16 to 2, the Judiciary Committee reported the nomination of Judge Sonia Sotomayor to the Senate. That was on March 5, 1998, over two months ago. No action has been taken or scheduled on that nomination and no explanation for the delay has been forthcoming. This is the oldest judicial nomination pending on the Senate Executive Calendar. In spite of an April 8 letter to the Senate Republican Leader signed by all six Senators from the three States forming the Second Circuit urging prompt action, this nomination continues to be stalled by anonymous objections. Our bipartisan letter to the Majority Leader asked that he call up for prompt consideration by the Senate the nomination of Judge Sonia Sotomayor. That was over one month ago.

Judge Sonia Sotomayor is a qualified nominee who was confirmed to the United States District Court for the Southern District of New York in 1992 after being nominated by President Bush. She attended Princeton University and Yale Law School. She worked for over four years in the New York District Attorney's Office as an Assistant District Attorney and was in private practice with Pavia & Harcourt in New York. She is strongly support by Senator MOYNIHAN and Senator D'AMATO.

She is a source of pride to Puerto Rican and other Hispanic supporters and to women. When confirmed she will be only the second woman and second judge of Puerto Rican descent to serve on the Second Circuit.

Judge Rosemary Pooler was nominated back on November 6, 1997, as was Robert Sack, a partner in the law firm of Gibson Dunn & Crutcher. They participated in a confirmation hearing on May 14 and were reported to the Senate by the Judiciary Committee today.

Since May 7 the fourth pending nomination to the Second Circuit, that of Chester J. Straub, has also been on the Senate calendar. Mr. Straub is a partner in the law firm of Willkie Farr & Gallagher.

Judge Sotomayor, Judge Pooler, Robert Sack and Chester Straub can and should all be confirmed to the Second Circuit before the Senate adjourns for its Memorial Day recess.

In his most recent Report on the Judiciary the Chief Justice of the United States Supreme Court warned that persisting vacancies would harm the administration of justice. The Chief Justice of the United States Supreme Court pointedly declared: "Vacancies cannot remain at such high levels indefinitely without eroding the quality of justice that traditionally has been associated with the federal judiciary."

The people and businesses in the Second Circuit need additional federal judges confirmed by the Senate. Indeed, the Judicial Conference of the United States recommends that in addition to the 5 vacancies, the Second Circuit be allocated an additional 2 judgeships to handle its workload. The Second Circuit is suffering harm from Senate inaction. That is why the Chief Judge of the Second Circuit had to declare the Circuit in a state of emergency.

Must we wait for the administration of justice to disintegrate further before the Senate will take this crisis seriously and act on the nominees pending before it? I pray not.•

CONGRATULATIONS TO EAST HIGH SCHOOL, FINALIST IN THE WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION

• Mr. ALLARD. Mr. President, I rise today to pay tribute to the students from East High School in Denver, CO who participated in the "We the People . . . the Citizen and the Constitution finals held here in our Nation's Capital, May 2–4, 1998. East High School competed against 49 other classes from across the Nation. Their hard work was rewarded with an Honorable mention as one of the top ten finalists in the competition.

I am always pleased when I have the opportunity to come to the Senate floor to praise students that have taken an interest in their government and their Constitution. By taking part in this competition, the students of East High School have served to strengthen the foundation of our democracy.

Mr. President, I would like to congratulate the participants, Daniel Berson, Lisa Bianco, Rosemary Blosser, Tristan Bridges, John Patrick Crum, Jessica Dismang, Belle Duggan, Sterling Ekwo, Heidi Gehret, Sarah Givens, Jamaal Harmon, Courtney Hopley, Scott Kronewitter, Melanie McRae, Jennifer Newman, Gavin Rember, Jennifer Roche, Sarah Showalter, Jessica Slenger, Lauren Strickland, Matthew Vellone, Feliz Ventura, Michaela Welch, and their teacher Ms. Deanna Morrison for doing such a fine job of representing Colorado.

I cannot overstate the achievements of these young people, they are some of the best and brightest that America has to offer. I am proud to say that I, along with all Coloradans, congratulate East High School on a job well done.•

UNIVERSITY OF MICHIGAN MEN'S ICE HOCKEY CHAMPIONSHIP

• Mr. LEVIN. Mr. President, I rise today to congratulate the University of Michigan hockey team on their 1998 NCAA Championship—The Wolverines' second hockey title in three years.

On Saturday, April 4th, the Michigan hockey team defeated Boston College (3–2) in overtime for the championship. This is a remarkable achievement for a team which lost nine senior players from last year's team, including the Hobey Baker trophy winner and 5 players who each scored 20 or more goals in the season. The 1997–98 Michigan team featured 10 freshmen, one of whom scored two goals in the final game, and another who scored the winning goal in overtime in the championship game.

When the 1997–98 season started, it was expected to be a rebuilding year for the Wolverines. The young team faced a difficult season against some of the toughest teams in the nation. Instead, the Michigan team earned a 34–11–1 record, seizing every chance to display their athleticism, sportsmanship, teamwork, and perseverance.

The University of Michigan ice hockey players have always been among the "leaders and best." As the Wolverines celebrate this year's victory, they also commemorate the anniversary of their first NCAA title fifty years ago, when the tournament began. In the last 50 years, the Wolverines have brought nine championship titles back to Ann Arbor, making them the winningest team in NCAA men's ice hockey history.

The "Victors" are indebted to the strong leadership they have from Head Coach Red Berenson and players, Captain Matt Herr and Assistant Captains Bill Muckalt and Marty Turco. These three seniors, along with Chris Fox and Gregg Malicke, advanced to the Final Four four seasons in a row. In addition, senior Bill Muckalt was named a Hobey Baker award candidate and All-American player, and senior goaltender Marty Turco finished his college career with one of the most impressive records in college hockey. The goalie's four years at Michigan gave him a record of 127 career victories and nine victories in NCAA elimination games, making him the winningest goaltender in NCAA tournament history. Turco was also selected most valuable player in the Final Four after stopping 28 shots in the championship game.

I extend my best wishes to the University of Michigan Men's Ice Hockey Team on a tremendous season and the 1998 NCAA Championship—Go Blue!•

LYMPHATIC FILARIASIS

• Mr. FAIRCLOTH. Mr. President, I rise today to speak on behalf of a charitable contribution worthy of note. Lymphatic filariasis is a terrible disease that our citizens are not likely to see here in the United States, but it is one of the World's most disabling and disfiguring diseases. It affects people in 73 countries, mainly in tropical and subtropical areas of India, Africa, Asia and South America.

The disease is caused by a parasite, carried by mosquitoes. Efforts to eliminate mosquitoes have not been successful in these regions, and the result is an endless cycle of infection for human hosts.

The World Health Organization has embarked on a campaign to stop this dread disease. Lymphatic filariasis infects 76 million people world wide. The parasitic worms, often only the size of a thread, live in humans by lodging in the lymphatic system. They live for up to six years, producing millions of microscopic larvae that circulate in the blood. When symptoms appear, they can be devastating. Kidney damage and painful swelling of the extremities are typical examples of the suffering endured by these victims.

The best previous defense against this disease was the administration of a single dose of two drugs, diethlycarbamazine of DEC and ivermectin. But when these drugs are administered at the same time with another drug, albendazole, the treatment is much more effective. Albendazole additionally kills hookworm, a very severe problem, especially in Africa.

Earlier this year, the World Health Organization's Division of Tropical Diseases announced a program to eliminate lymphatic filariasis. The cornerstone of this eradication program rests on the most generous charitable contribution in history. SmithKline Beecham, one of the world's leading healthcare companies, announced that they will provide their drug albendazole free of charge for the WHO effort. In addition to the drug donation, they are providing significant financial support to WHO to help implement the eradication program.

Yesterday, SmithKline Beecham testified before the House Committee on International Relations during a hearing on the Eradication and Elimination of Six Infectious Diseases. Dr. David Heymann, WHO's Director of Emerging and Communicable Diseases was also testifying. Dr. Heymann has been a great resource and help to me as I've learned about the growing problem of global viral and bacterial epidemics.

The hearing was worth noting, because it featured the contributions of many in the private sector to eradicate disease. Rotary International has made great progress in their effort to eliminate polio around the world. Merck & Co. has very generously, provided their drug Mectizan for the control of River Blindness, another filarial parasitic disease.

Another tireless worker on behalf of World Health, and someone who played a major role in both the Merck and SmithKline Beecham donations, is former President Jimmy Carter. He deserves our thanks and recognition for his efforts.

For the benefit of my colleagues who may not have been aware of yesterday's hearing, I'd like to submit for the RECORD the statement provided by Dr. Brian Bagnall, the Program Director for Lymphatic Filariasis for SmithKline Beecham. They are to be congratulated for their generosity and committment to world health.

The statement follows:

TESTIMONY OF BRIAN BAGNALL, PH.D, FOR SMITHKLINE BEECHAM

INTRODUCTION

My name is Dr. Brian Bagnall and I am thé Program Director for Lymphatic Filariasis at SmithKline Beecham. The company is one of the world's leading healthcare corporations. We market pharmaceuticals, vaccines, overt-the-counter medicines, and health-related consumer products. We have 54,000 employees worldwide, 22,000 of them in the U.S.

WHAT IS LYMPHATIC FILARIASIS?

The most eloquent answer I can provide is to show you the following two-minute videotape which includes some comments made by President Carter at a recent company meeting. (Shows video—see appendix for text).

DRAMATIC PROGRESS ACHIEVED ON LYMPHATIC FILARIASIS ERADICATION

The dreadful disease you just saw on the video is now entirely preventable. SmithKline Beecham is committed to doing whatever it takes to help rid the world of it.

SmithKline Beecham announced an agreement this past January with the World Health Organization, through its Division of Control of Tropical Diseases, to collaborate on a global program to eliminate lymphatic filariasis. This program was established after much of the GAO report was drafted. So I'm happy to be able to provide an update on our joint program. It's a massive undertaking to attack the world's most disabling and disfiguring tropical disease.

The necessary tools and strategies of diagnosing and treating this parasitic worm infection have been developed only recently. They have proven so effective that we can now envision worldwide eradication of lymphatic filariasis by the year 2020. Please note that this target date is ten years sooner than the previous estimated date of 2030 which was mentioned by WHO in March 1997 in their submission for the GAO report. There has obviously been exceptional progress. The aim is to treat people living in at-risk areas with two antiparasitic drugs just once a year for four to six years.

One of the drugs will be albendazole, donated free of charge by SmithKline Beecham. We are planning to produce about 5 billion treatments to be used in the 73 target countries over the next 15 of so years. In addition to the drug donation, we will support the WHO efforts with financial support, management expertise and education and training help.

Together with WHO, we are currently in the planning and organizing phase of the program. We hope to begin shipping the first drug donations in the next 6 months to national Ministries of Health which have submitted elimination plans to WHO.

BREAKING THE TRANSMISSION OF LYMPHATIC FILARIASIS

The treatment program I have described, devised by WHO with the scientific and tropical medicine community, has a special mission—breaking the transmission of lymphatic filariasis. It is a truly preventive public health program aimed particularly at children and young adults who are infected with the parasite but who have not yet developed the long-term effects of the disease.

The children usually show no symptoms whatsoever. I might add that there is an additional and important benefit of the program for children and women of childbearing age—the drugs used will significantly reduce concurrent intestinal worm infections, such as hookworm, which cause anemia, stunt growth and inhibit intellectual development.

This strategic drug treatment program does not itself reverse the clinical damage of elephantiasis which results from decades of infection. Such disabled individuals will, nonetheless, benefit from an effective parallel program being recommended by WHO which focuses on skin hygiene and wound prevention.

In some respects, lymphatic filariasis can be compared to AIDS and HIV. Both diseases have a long latent period with years of symptomless infection which can then be transmitted to others. Both are now being treated with multiple drug therapy.

PRIVATE SECTOR PARTNERSHIPS FOR THE FUTURE

I have said that SmithKline Beecham will do whatever it takes to help rid the world of this simply dreadful and now wholly preventable disease. But large organizations such as WHO and SmithKline Beecham, even with support from the likes of the World Bank, cannot do this alone. We are actively seeking to build a Coalition of Partners for Lymphatic Filariasis Elimination from the public, private and non-profit sectors which make up the worldwide community of public health resources for the developing world.

We also recognize the generous contribution Merck & Co. have made in the past 10 years with their Mectizan Donation Program for control of River Blindness, another filarial parasite disease. We are keeping in close touch with them and hope to work together in the future as part of a growing private sector coalition to fight tropical diseases.

Over the past few months we have been encouraged by the messages of support we have received since our program was announced, including many of your colleagues from the House and Senate. We, together with WHO, want to hear from anyone who wants to join the campaign. We particularly seek partners from other corporations who can help make a major difference by donating their expertise in transportation and shipping, information management, community treatment programs or the provision of other essential drugs. We will gladly speak with others from within the public and private sector about joining us in this cause. And we seek and encourage governments from the developed world to help as well.

Mr. Chairman, we applaud you and the Committee for holding this hearing because it will sound a clear call for action by both the public and private sectors to unite in eradication of these seven terrible diseases.

I would like to conclude by saying that the lymphatic filariasis elimination program complements SmithKline Beecham's much broader approach to improve health. It is our aim, through our products, services and community partnership programs, to enrich the health of everyone in the world. Our collaboration with the World Health Organization allows us to directly improve the health of at least one-fifth of the earth's population and this program will spearhead our healthcare focus within global communities into the new millennium.•

RANDOM HOUSE

• Mr. MOYNIHAN. Mr. President, some while ago it was announced that the German publishing firm of Bertelsmann had purchased Random House, the legendary New York publisher founded in the 1920s by Bennett Cerf and Donald Klopfer. The brilliance of the authors published over the years was exceeded only by that of the young editors that gave their works such superb attention. One of these was Jason Epstein. It was my great fortune to have him as an editor of three books which Random House published—"Coping: On the Practice of Government," "The Politics of A Guaranteed Income," and, with Frederick Mosteller, "On the Equality of Educational Opportunity." These were wonderfully produced, no less wonderfully edited—500 or more pages each. Thereafter, they were marketed with what I can only think of as loving care. The subjects were anything but reader friendly, as you might say, but Random House was author friendly and American letters are profoundly in its debt. Recently, in the April 6 issue of the New Yorker, The Talk of the Town began with a wonderful reminiscence by Jason Epstein of his early years at Random House. I ask that it be printed in the RECORD.

[From the New Yorker, Apr. 6, 1998]

(By Jason Epstein)

INK—CAN THE BERTELSMANN DEAL TAKE PUBLISHING BACK TO ITS ROOTS?

On the morning last week that the purchase of Random House by Bertelsmann was announced, I happened to pass the office of my colleague Bob Loomis and noticed the framed copy of the Random House interoffice phone directory for 1958 that Bob keeps on his bookshelf. The directory is about the size of a postal card and lists some ninety names, including Bob's and mine along with those of Bennett Cerf and his partner Donald Klopfer, the founders of Random House, whose offices were then on the parlor floor of the old Villard mansion, on Madison and Fiftieth. We occupied the north wing. The Archdiocese owned the central portion, which is now the entrance of the Palace Hotel, as well as the south wing, which now houses Le Cirque 2000.

Loomis and I joined Random House in the late nineteen-fifties. Though we took our publishing responsibilities seriously, we did not think of ourselves as businessmen but as caretakers of a tradition, like London tailors or collectors of Chinese porcelain. Bennett Cerf set the tone, and it was his habit to run from office to office sharing the jokes he had just heard over the phone from his Hollywood friends. Several times a day Bennett interrupted meetings between editors and authors in this fashion. Some authors were delighted. But I remember an afternoon when a baffled W.H. Auden asked if we could finish our conversation at Schrafft's across the street. This was, I believe, the last time he set foot in the Random House offices.

For me in those years, book publishing seemed more a sport than a business—a sport that required skill and strict attention to the rules, especially the rule that we had to make enough money to stay in the game. But if we wanted to make real money in a real business we knew that we should forget about afternoons with Auden, Faulkner, and Dr. Seuss and go down to Wall Street. But this was unthinkable. It was always a pleasure when one of our books became a best-seller, but what counted more was a book that promised to become a permanent part of the culture. Random House published many books that became both.

The editor's job was different then from what it is now. Now layer upon layer of marketing specialists, sales executives, and business managers separate the editor from the bookseller. At the Villard mansion, we made these publishing decisions ourselves. For years, I would begin my day in the mailroom opening orders from booksellers, so that I had the feel of the marketplace literally at my fingertips.

That time was magical and we never expected it to end, even after Bennett and Donald took the company public, acquired Knopf, and, in 1966, sold out to RCA. By the mid-seventies the publishing industry had changed profoundly. The old downtown neighborhoods where booksellers had once rented inexpensive space and knew their customers by name had largely vanished. Readers now bought their books in mall chain stores. The bookseller in Pittsburgh or Portland whom Loomis or I might once have called to recommend a first novel had been out of business for years. Publishers now spoke to their customers through marketing specialists doing their best to fit the increasingly undifferentiated product supplied by the editors into the still less differentiated slots provided by the retail chains. Many worthy titles couldn't be fitted to these new circumstances at all and disappeared. In recent years the mall shops specializing in best-sellers have been largely replaced by so-called superstores, with much larger inventories of books. But the link between writer and marketplace which had once been the editor's function has all but vanished.

The Random House phone book is now the size of a small city directory. Loomis and I are still listed, but after forty years nearly everything else about book publishing has changed. What had been a craft is now an irrational accretion of improvisational adjustments to historic accidents, a largely fossilized organism that can no longer be deconstructed. Its future depends on how well its remaining energies can be directed toward new technological possibilities.

I am delighted to say that these possibilities already exist. The widespread distribution of printed books via the Internet is a reality a mere two and a half years after the appearance of Amazon.com. The eventual shape of Internet bookselling is not yet fully evident, but it is evident enough to foreshadow a much more direct—and economical—link between writer and reader than has existed in modern times. The choice of a career in book publishing may seem bleak at the moment, but if I were starting out today I might give it a try. To publish a book that may make the world a little more intelligible or decent can be almost as satisfying as writing one. And soon it might just be possible to carry on this work with even greater confidence than Loomis and I shared forty years ago.•

HONORING JOHN E. CORRIGAN

• Mr. DODD. Mr. President, I rise today to honor a man who has worked tirelessly throughout his career to create economic opportunities in the northeastern region of this country: John E. Corrigan. Known by his friends as Jack, Mr. Corrigan has served for 23 years as Regional Director of the U.S. Commerce Department's Economic Development Administration. On Tuesday, May 26, 1998, in my home state of Connecticut, friends, family and admirers of this remarkable man will gather to celebrate his retirement after nearly three decades of service to his country as a public official. This celebration, sponsored by the Connecticut chapter of the Northeastern Economic Development Association, will be a fitting tribute to an outstanding public servant.

Jack Corrigan makes things happen. Throughout his career with the EDA, he worked to make dreams a reality. His success is evident across the Northeast where he contributed to the creation of thousands of jobs and economic opportunities during his career. Indeed, Mr. Corrigan brought new meaning to the term economic development. He looked not only at specific applications, but enjoyed the foresight and vision to appreciate the domino effect which federal assistance could have on entire towns, cities, and regions.

As Regional Director of the EDA, Jack Corrigan administered a multimillion dollar grant program. These resources were allocated throughout the region under his watchful eye, always ensuring that the money would provide an economic stimulus for many individuals and businesses. Jack's gentle style, measured approach, and good judgment helped many people to turn their dreams into reality.

In addition to his service as Regional Director, Jack spent three years as Director of the Office of Civil Rights for the EDA. In this position, he distinguished himself as an effective advocate for civil rights and received the silver medal of the Department of Commerce for his outstanding performance in this field.

From 1982 to 1985, Mr. Corrigan took a temporary reprieve from his Regional Director post to serve as Deputy Assistant Secretary for Operations of the EDA. In this position, he was responsible for the agency's grant program and for coordinating the related activities of the agency's six regional offices.

Jack Corrigan will be deeply missed at the Economic Development Administration and throughout the northeast. His legacy, however, will continue as his exemplary public service is remembered and revered for years to come. I applaud the lifetime achievements of a special man and wish him continued success in all of his future endeavors.•

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DEWINE. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Calendar Nos. 602, 604, 607, 608, 609, 611, 613, 614 and all nominations placed on the Secretary's desk in the Foreign Service. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Jeanne Hurley Simon, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2002. (Reappointment)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

William James Ivey, of Tennessee, to be Chairperson of the National Endowment for the Arts for a term of four years.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Robert H. Beatty, Jr., of West Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term expiring August 30, 2004. (Reappointment)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Thomas Ehrlich, of California, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of five years. (Reappointment)

Dorothy A. Johnson, of Michigan, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of five years, vice Walter H. Shorenstein, term expired.

SMALL BUSINESS ADMINISTRATION

Fred P. Hochberg, of New York, to be Deputy Administrator of the Small Business Administration.

DEPARTMENT OF STATE

William Joseph Burns, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Hashemite Kingdom of Jordan.

Ryan Clark Crocker, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic.

IN THE FOREIGN SERVICE

Foreign Service nominations beginning Alexander Almasov, and ending James Hammond Williams, which nominations were received by the Senate and appeared in the Congressional Record of March 26, 1998

Foreign Service nominations beginning Joan E. La Rosa, and ending Morton J. Holbrook, III, which nominations were received by the Senate and appeared in the Congressional Record of March 26, 1998

Foreign Service nominations beginning Michael Farbman, and ending Mary C. Pendleton, which nominations were received by the Senate and appeared in the Congressional Record of April 22, 1998

NOMINATION OF WILLIAM J. IVEY

Mr. FRIST. Mr. President, on May 13, 1998, the Senate Labor and Human Resources Committee unanimously supported Bill Ivey's nomination to be the Chairman of the National Endowment for the Arts (NEA). As a member of this committee, and as a Tennessean, I believe Bill Ivey will bring a much needed, new voice to this agency.

Many people in my home State have viewed the NEA as an elitist agency. Bill Ivey brings a new vision with a perspective of the real world. In fact, a newspaper in Tennessee noted that the "Country Music Foundation director would provide 'Heart of America' leadership."

Bill Ivey has been the Director of the Country Music Foundation in Nashville, Tennessee since 1971. He has played an integral role in the Nashville music community. He has taught at Vanderbilt University's Blair School of Music and has written a variety of essays on America's musical traditions.

The National Endowment for the Arts has come under increased scrutiny in recent years. Both the American people and Congress have questioned its stewardship of the taxpayers' dollar. Through committee work and the appropriations process, many innovative reform options have been considered, but few have been adopted. Bill Ivey offers the prospect of a fresh start for the National Endowment for the Arts so that all Americans will have pride and a stake in its activities.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

OFFICIAL SITE OF NATIONAL EMERGENCY MEDICAL SERVICES MEMORIAL SERVICE

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 171, which was received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 171) declaring the city of Roanoke, Virginia, to be the official site of the National Emergency Medical Services Memorial Service.

The Senate proceeded to consider the concurrent resolution.

Mr. DEWINE. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 171) was agreed to.

SENSE OF CONGRESS REGARDING EUROPEAN UNION

Mr. DEWINE. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. Con. Res. 73 and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 73) expressing the sense of Congress that the European Union is unfairly restricting the importation of United States agriculture products and the elimination of such restrictions should be a top priority in trade negotiations with the European Union.

The Senate proceeded to consider the concurrent resolution.

Mr. DEWINE. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements .relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 73) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 73

Whereas on a level playing field, United States producers are the most competitive suppliers of agricultural products in the world;

Whereas increased United States agricultural exports are critical to the future of the farm, rural, and overall economy of the United States;

Whereas the opportunities for increased agricultural exports are undermined by the unfair subsidies provided by trading partners of the United States, and by various tariff and nontariff trade barriers imposed on highly-competitive United States agricultural products;

Whereas United States agricultural exports reached a record-level $60,000,000,000 in 1996 compared to a total United States merchandise trade deficit of $170,000,000,000;

Whereas the United States is currently engaged in a number of outstanding trade disputes with the European Union regarding agriculture matters and the disputes involve the most intractable issues between the United States and the European Union;

Whereas the outstanding trade disputes include the failure to finalize a veterinary equivalency program, which jeopardizes an estimated $3,000,000,000 in trade in livestock products between the United States and the European Union;

Whereas the World Trade Organization has ruled that the European Union must allow the importation of beef with growth hormones produced in the United States;

Whereas the European Union has yet to fulfill its commitment under the Agreement on Application of Sanitary and Phytosanitary Measures reached as part of the General Agreement on Tariffs and Trade;

Whereas the European Union has promulgated regulations regarding the use of "specified risk materials" for livestock products which have a disputed scientific basis and which serve to impede the importation of United States livestock products despite the fact that no cases of bovine spongiform encephalopathy (mad cow disease) have been documented in the United States;

Whereas the European Union has hindered trade in products grown with the benefit of biogenetics based on claims that also have a disputed scientific basis;

Whereas these barriers to biogenetic trade could have a profound negative impact on agricultural trade in the long run; and

Whereas there are also continuing disputes regarding European Union subsidies for dairy, wheat gluten, and canned fruits: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the European Union unfairly restricts the importation of United States agricultural products;

(2) the restrictions imposed on United States agricultural exports to the European Union are the most vexing problems facing United States exporters in Europe;

(3) the elimination of restrictions imposed on United States agricultural exports should be a top priority of any current or future trade negotiations between the United States and the European Union; and

(4) the United States Trade Representative should not engage in any trade negotiations with the European Union that undermines the ability of the United States to achieve the elimination of unfair restrictions imposed upon United States agricultural exports to the European Union.

EXPRESSING SENSE OF SENATE REGARDING EUROPEAN UNION

Mr. DEWINE. Mr. President, I ask unanimous consent that the Finance Committee be discharged from consideration of S. Res. 232 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 232) to express the sense of the Senate that the European Union should waive the penalty for failure to use restitution subsidies for barley to the United States and ensure that restitution or other subsidies are not used for similar sales in the United States and that the President, the United States Trade Representative, and the Secretary of Agriculture should conduct an investigation of and report on the sale and subsidies.

The Senate proceeded to consider the resolution.

Mr. DEWINE. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 232) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 232

Whereas, in an unprecedented sale, the European Union entered into a contract with a United States buyer to sell heavily subsidized European barley to the United States;

Whereas the sale of almost 1,400,000 bushels (30,000 metric tons) of feed barley was shipped from Finland to Stockton, California;

Whereas news of the sale depressed feed barley prices in the California feed barley market;

Whereas, since the market sets national pricing patterns for both feed and malting barley, the sale would mean enormous market losses for barley producers throughout the United States, at a time when the United States barley producers are already suffering from low prices;

Whereas the European restitution subsidies for this barley amounts to $1.11 per bushel ($51 per metric ton);

Whereas the price-depressing effects of this one sale will continue to adversely affect market prices for at least a 9-month period as this grain moves through the United States marketing system;

Whereas this shipment is part of about 2.1 million metric tons of European feed barley that have been approved for restitution subsidies by the European Union this year;

Whereas the availability of the additional subsidized European barley in the international market not only artificially depressed market prices, but also threatens to open new import channels into the United States;

Whereas, as the world's largest feed grain producer and the world's largest exporter of feed grains, the United States does not require imported feed grains;

Whereas, at the same time that subsidized European barley is being imported into the United States, some United States feed grains are prevented from entering European markets under European Union food regulations;

Whereas United States barley growers continue to suffer the negative impacts of the sale, regardless of whether the subsidized European barley was originally targeted for sale into the United States and whether the subsidies comply with the letter of current World Trade Organization export subsidy rules; and

Whereas the sale not only undermines the intent and the spirit of free trade agreements and negotiations, it also moves away from the goals of level playing fields and fairness in trade relationships: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF SENATE ON EXPORT OF EUROPEAN BARLEY TO THE UNITED STATES.

It is sense of the Senate that—

(1) the European Union should—

(A) take immediate steps to waive the penalty for failure to use restitution subsidies for barley exported to the United States; and

(B) establish procedures to ensure that restitution and other subsidies are not used for sales of agricultural commodities to the United States or other countries of North America;

(2) the President of the United States, the United States Trade Representative, and the Secretary of Agriculture should immediately consult with the European Union regarding the sale of European feed barley to the United States in order to avoid any future sale of any European barley to the United States that is based on restitution or other subsidies; and

(3) not later than 60 days after approval of this resolution, the United States Trade Representative and the Secretary of Agriculture should report to Congress on—

(A) the terms and conditions of the sale of European barley to the United States;

(B) the results of the consultations under paragraph (2);

(C) other steps that are being taken or will be taken to address to such situations in the future; and

(D) any additional authorities that may be necessary to carry out subparagraphs (B) and (C).

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–46

Mr. DEWINE. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on May 21, 1998, by the President of the United States: Protocol to Extradition Treaty with Mexico (Treaty Document No. 105–46).

I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol to the Extradition Treaty Between the United States of America and the United Mexican States of May 4, 1978, signed at Washington on November 13, 1997.

In addition, I transmit, for the information of the Senate, the report of the Department of State with respect to the Protocol. As the report explains, the Protocol will not require implementing legislation.

This Protocol will, upon entry into force, enhance cooperation between the law enforcement communities of both countries. The Protocol incorporates into the 1978 Extradition Treaty with Mexico a provision on temporary surrender of persons that is a standard provision in more recent U.S. bilateral extradition treaties.

I recommend that the Senate give early and favorable consideration to the Protocol and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1998.*

AUTHORIZING TESTIMONY AND DOCUMENT PRODUCTION AND REPRESENTATION OF SENATE EMPLOYEES.

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 233, submitted earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 233) to authorize testimony and document production and representation of Senate employees in People v. James Eugene Arenas.

The Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, the case of People versus James Eugene Arenas is a criminal case pending in the Municipal Court for Fresno, California. The defendant has been charged with threatening to kill a state official and to blow up a county courthouse.

The California Attorney General, who is prosecuting the case, has subpoenaed an employee on Senator BARBARA BOXER's staff to testify at a preliminary hearing in this case. The remarks underlying these charges were made by the defendant in a conversation with the Senate staffer following a referral from the Senator's office to state authorities of a casework request from the defendant.

This resolution would authorize Senator BOXER's staff to testify and produce relevant documents, with representation from the Senate Legal Counsel.

Mr. DEWINE. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that a statement of explanation appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 233) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 233

Whereas, in the case of *People* v. *James Eugene Arenas*, Case No. 98F2403, pending in the Municipal Court for Fresno, California, testimony and document production have been requested from Kelly Gill, an employee on the staff of Senator Barbara Boxer;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony or the production of documents relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Kelly Gill, and any other employee from whom testimony or document production may be required, are authorized to testify and produce documents in the case of *People* v. *James Eugene Arenas*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Kelly Gill, and any other employee from whom testimony or document production may be required, in connection with *People* v. *James Eugene Arenas*.

HONORING STUART BALDERSON

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 234 submitted earlier today by Senator STEVENS and Senator LOTT and others.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 234) to honor Stuart Balderson.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DEWINE. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 234) was agreed to as follows:

S. RES. 234

Resolved, That Stuart Balderson is named Financial Clerk Emeritus of the United States Senate.

SEC. 2. That Rule XXIII is amended by adding after "Parliamentarian Emeritus" the following: "and the Financial Clerk Emeritus."

ORDERS FOR FRIDAY, MAY 22, 1998

Mr. DEWINE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, May 22. I further ask unanimous consent that on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin 1 hour for routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DEWINE. Mr. President, for the information of all Senators, tomorrow morning at 9:30, the Senate will begin 1 hour for morning business. At 10:30, the Senate will begin the Iran sanctions bill, under a total time of 3 hours. Also, the Senate will consider the ISTEA conference report. Therefore, votes could occur during Friday's session in an effort to conclude several other items prior to the Memorial Day recess.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DEWINE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:10 p.m., adjourned until Friday, May 22, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 21, 1998:

THE JUDICIARY

RICHARD M. BERMAN, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK VICE KEVIN THOMAS DUFFY, RETIRED.

DONOVAN W. FRANK, OF MINNESOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA VICE DAVID S. DOTY, RETIRED.

COLLEEN MCMAHON, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK VICE JOHN F. KEENAN, RETIRED.

WILLIAM H. PAULEY III, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK VICE PETER K. LEISURE, RETIRED.

REFORM BOARD (AMTRAK)

MICHAEL S. DUKAKIS, OF MASSACHUSETTS, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. (NEW POSITION)

SYLVIA DE LEON, OF TEXAS, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. (NEW POSITION)

LINWOOD HOLTON, OF VIRGINIA, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. (NEW POSITION)

AMY M. ROSEN, OF NEW JERSEY, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. (NEW POSITION)

JOHN ROBERT SMITH, OF MISSISSIPPI, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. (NEW POSITION)

TOMMY G. THOMPSON, OF WISCONSIN, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. (NEW POSITION)

CONFIRMATIONS

Executive Nominations Confirmed by the Senate May 21, 1998:

DEPARTMENT OF DEFENSE

DAVID R. OLIVER, OF IDAHO, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JEANNE HURLEY SIMON, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2002.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

WILLIAM JAMES IVEY, OF TENNESSEE, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE ARTS FOR A TERM OF FOUR YEARS.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

ROBERT H. BEATTY, JR., OF WEST VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING AUGUST 30, 2004.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

THOMAS EHRLICH, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF FIVE YEARS.

DOROTHY A. JOHNSON, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF FIVE YEARS.

SMALL BUSINESS ADMINISTRATION

FRED P. HOCHBERG, OF NEW YORK, TO BE DEPUTY ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION.

DEPARTMENT OF STATE

WILLIAM JOSEPH BURNS, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE HASHEMITE KINGDOM OF JORDAN.

RYAN CLARK CROCKER, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SYRIAN ARAB REPUBLIC.

(THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.)

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING ALEXANDER ALMASOV, AND ENDING JAMES HAMMOND WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 26, 1998.

FOREIGN SERVICE NOMINATIONS BEGINNING JOAN E. LA ROSA, AND ENDING MORTON J. HOLBROOK, III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 26, 1998.

FOREIGN SERVICE NOMINATIONS BEGINNING MICHAEL FARBMAN, AND ENDING MARY C. PENDLETON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 22, 1998.

HOUSE OF REPRESENTATIVES—*Thursday, May 21, 1998*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. BONILLA).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 21, 1998.

I hereby designate the Honorable HENRY BONILLA to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

Rabbi Moshe E. Bomzer, Congregation Beth Abraham-Jacob, Albany, New York, offered the following prayer:

Blessed is He, oh, Lord our God, King of the universe, Who has given wisdom to all of mankind.

I offer this prayer on the last days of the congressional session prior to our national Memorial Day weekend. It was exactly 130 years ago almost to the day that Congress resolved that a day be set aside to recognize and memorialize those who had given their lives to defend our country in times of war and in times of peace.

President Abraham Lincoln expressed it best when he stated: "That we here highly resolve that these dead shall not have died in vain. We can do them no greater honor than to keep alive that which they gave their lives to preserve; love of country, duty, honor and defense of the right as it is given to us to see the right."

Let us keep their memories alive in our hearts and deeds throughout this period of the year. May their memories be a blessing.

On behalf of all assembled here, I pray. May God Who grants salvation to kings and dominion to princes, Whose kingdom is one that spans all eternities, bless and protect, help and exhalt the President and the Vice President of the United States of America.

May God bless the leaders of our great Nation; the Members of this House of Representatives, their families and their staffs. May God bless all who help guide our Nation with honor, dignity and pride, increase their strength of soul to resist the pressure to shade truth or compromise integrity, increase their ability to advocate on behalf of a just and honest society, caring and concern for the welfare of all citizens and friends, regardless of race, creed, color, religion, gender or age. Help them welcome all the marvelous, colorful, contentious diversity of our Nation's people. Grant them the wisdom, kindness, patience and understanding to differentiate between right and wrong, good and evil, and between sanctity and impurity. Enable our leaders to bring peace among all mankind everywhere in the world.

As we celebrate this weekend, let us also realize this coming Sunday, May 24th, marks the 31st anniversary of the reunification of the City of Jerusalem, eternal capital of the state of Israel. King David wrote of the city, "Our feet would stand in the gateways of Jerusalem. Jerusalem rebuilt, as a city reunited together. Seek the peace of Jerusalem, may those who love you be at ease. May there be peace between your walls and tranquility in your palace. For the sake of my brothers and friends I shall speak with you of peace."

Bless us dear God with the light of Your countenance, shower your providence and influence for good throughout the world, uniting all mankind in peace and freedom. He who makes peace in the heavens above, may He make peace here on earth, as we say, amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. HOLDEN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HOLDEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 339, nays 58, answered "present" 2, not voting 33, as follows:

[Roll No. 175]

YEAS—339

Abercrombie
Ackerman
Allen
Andrews
Archer
Armey
Bachus
Baesler
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Coyne
Cramer
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Greenwood
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Linder
Lipinski
Livingston
Lofgren
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Olver
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Petri
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Towns
Traficant
Upton
Walsh
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weygand
White
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NAYS—58

Aderholt
Baldacci
Becerra
Bonior
Borski
Brown (CA)
Clay
Costello
DeFazio
English
Ensign
Fazio
Filner
Fox
Gephardt
Gibbons
Green
Gutierrez
Gutknecht
Hastings (FL)
Hefley
Hilleary
Hilliard
Hinchey
Johnson, E. B.
Kucinich
Lewis (GA)
LoBiondo
Lowey
Markey
McDermott
Menendez
Moran (KS)
Nussle
Oberstar
Obey
Pallone
Pastor
Pickett
Poshard
Ramstad
Sabo
Schaffer, Bob
Scott
Slaughter
Stupak
Taylor (MS)
Thompson
Thurman
Velázquez
Vento
Visclosky
Wamp
Waters
Weller
Wexler
Whitfield
Wicker

ANSWERED "PRESENT"—2

Carson
Goodling

NOT VOTING—33

Baker
Barr
Barton
Bass
Bateman
Bono
Burr
Buyer
Chambliss
Cox
Crane
Crapo
Dixon
Frelinghuysen
Gonzalez
Granger
Hall (OH)
Harman
Hyde
Johnson (WI)
Johnson, Sam
Kolbe
Lewis (KY)
McCollum
Meeks (NY)
Owens
Pomeroy
Schumer
Skaggs
Tierney
Torres
Turner
Young (AK)

☐ 1032

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Kansas (Mr. TIAHRT) come forward and lead the House in the Pledge of Allegiance.

Mr. TIAHRT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate insists upon its amendments to the bill (H.R. 3130) "An Act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible and ineligible for naturalization, and for other purposes," disagreed to by the House and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints from the Committee on Finance: Mr. ROTH, Mr. CHAFEE, Mr. GRASSLEY, Mr. MOYNIHAN, and Mr. BAUCUS; and from the Committee on Labor and Human Resources: Mr. JEFFORDS, Mr. COATS, and Mr. KENNEDY, to be the conferees on the part of the Senate.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The Speaker laid before the House the following communication from the Clerk of the House of Representatives:

> OFFICE OF THE CLERK,
> U.S. HOUSE OF REPRESENTATIVES,
> *Washington, DC, May 20, 1998.*
>
> Hon. NEWT GINGRICH,
> *The Speaker, U.S. House of Representatives, Washington, D.C.*
>
> DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the unofficial results received from Dick Filling, Commissioner, Bureau of Commissions, Elections and Legislation, Commonwealth of Pennsylvania, indicating that, according to the unofficial returns of the Special Election held on May 19, 1998, the Honorable Robert A. Brady was elected to the Office of Representative in Congress, from the First Congressional District, Commonwealth of Pennsylvania.
>
> With warm regards,
> ROBIN H. CARLE,
> *Clerk.*

SWEARING IN OF THE HONORABLE ROBERT A. BRADY, OF PENNSYLVANIA, AS A MEMBER OF THE HOUSE

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania, Mr. Robert A. Brady, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the gentleman from Missouri?

There was no objection.

The SPEAKER. The Chair requests the newly elected Member and the Pennsylvania delegation to come to the well.

Mr. Brady of Pennsylvania appeared at the bar of the House and took the oath of office, as follows:

> Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office in which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are a Member of the United States House of Representatives.

INTRODUCTION OF THE HONORABLE ROBERT A. BRADY

(Mr. BORSKI asked and was given permission to address the House for 1 minute.)

Mr. BORSKI. Mr. Speaker, it is my great honor today to introduce to my colleagues the newest Member from Pennsylvania's first district, BOB BRADY. On last Tuesday's special election, he is replacing our former colleague, the Ambassador to Italy, Tom Foglietta.

The minority leader mentioned there was no contest. Mr. BRADY won with an overwhelming 77 percent of the vote in his special.

He is a carpenter by trade. He is a builder, a consensus builder. For the past 12 years, he has been the Democratic Party chairman in the City of Philadelphia and has done an exceptionally good job. In my view, he is the best chairman the city has ever had. His ability to build consensus is what makes him such a great chairman and I believe will make him such a great Member of this body.

When the special was called, Mr. Speaker, and when BOB BRADY announced his intentions to seek this seat, and I believe most of my colleagues understand that the First Congressional District of Pennsylvania is a majority-minority district, more African-Americans than there are white, but when BOB BRADY announced his intentions, the support that he received from the district was overwhelming from all sides, corners, races, religions, and an absolute true testament to the kind of a person he is.

He has demonstrated through his tenure as a chairman the ability to work across the aisle and certainly among the races. It is my great honor to be able to introduce him here today.

Mr. Speaker, I would first like to yield to my colleague, the gentleman from Philadelphia (Mr. FATTAH).

Mr. FATTAH. Mr. Speaker, let me thank the gentleman from Pennsylvania (Mr. BORSKI), the senior congressman from our city, for yielding. I also would like to welcome and add in part to this introduction of Robert Brady to the United States Congress.

This body is made up of Members who come here from all walks of life and who have a desire to serve the public. Bob Brady is going to fit in extraordinarily well, because he has walked through all of the shoes of the lives of millions of people in the southeastern area of Philadelphia region. He has worked with people to help constructively engage them in the political process.

He is someone I have known for at least 2 decades now who has worked with me and worked with others in Philadelphia to help us as we strive to serve in public life. I want to welcome him, acknowledge his family who I know very, very well, his wife and his mother and others who are here. But I just wanted to say to my friend, welcome to the United States Congress.

Mr. BORSKI. Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. Weldon).

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank my colleague for yielding to me, and let me join in this side of the aisle in welcoming our newest Member to Congress.

Bob, you represent the American dream. You are here today with your family and your friends and all those carpenters and those building trade workers around Pennsylvania and the region are here with you because they understand the fight that you have taken, the fight for jobs and better working conditions for people throughout our region.

As you know, I represented at one point in time or another probably a third to a half of the district that you now have. I had southwest Philadelphia and the Delaware County waterfront area that is now a part of your district. They are all good people. They are just like you.

The reason why Bob Brady is going to be such a great Member of Congress is he has never forgotten his roots. He understands that this job in the end is really about helping those people that you have walked the streets with, that you have actually helped in constructing our city and our region. We are all very happy and pleased to have you here.

As a Republican with the great State of Pennsylvania, we join with you as what is a tradition in our State, bipartisan cooperation on behalf of our people. Congratulations and best wishes.

Mr. BORSKI. Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. Fox).

Mr. FOX of Pennsylvania. Mr. Speaker, I am proud to also rise to salute our newest congressman, Congressman Bob Brady from Pennsylvania, who, as discussed earlier by prior speakers, has always been someone who has been a consensus builder, but he is also a coalition builder, someone to bring disparate groups together for a common good.

He has always been a great listener. To be a great congressman, you have to be a good listener. As a people person, he will work to make sure that, not only make sure the First District is represented, but he also has a regional view to not only what is good for Philadelphia, but what is good for Pennsylvania and what is good for the Nation.

Knowing of his principles and his core beliefs, we will have a great congressman come forward to help make this Nation stronger and help make this House stronger.

Congratulations to Bob Brady and his family, and we are looking forward to serving with him.

Mr. BORSKI. Mr. Speaker, it is my great pleasure to introduce to you a man of the people to the people's House, Congressman Bob Brady.

REMARKS OF HON. ROBERT A. BRADY, NEW MEMBER OF THE HOUSE

(Mr. BRADY of Pennsylvania asked and was given permission to address the House for 1 minute.)

Mr. BRADY of Pennsylvania. Thank you, Mr. Speaker. To my dean from Pennsylvania, Congressman Murtha, I always will respect the fact that you will be my dean and I will follow you, along with my leader.

I thank you, Bobby Borski and Chaka Fattah. I thank the other Congressmen Fox and Weldon from the other side of the aisle for those kind remarks.

After all you have said, I should not say anything else because I probably will just louse it up, but I need to thank a few people.

I am not here by myself. I am here with a lot of people that I brought, my family and my friends. But I am not standing here because of myself. I am standing here because of a lot of people had the faith to vote for me in this past reelection. Without labor, organized labor, which I am a part of, it would not have been able to be happening.

I am also a city chairman. So with my fellow ward leaders and all my committee people that shared the faith and came out and voted for me, I need to thank them, and I need to thank a whole lot of people that helped me get here through the tough times.

We had a couple of campaign trail buddies running, as you know, from Congress, running throughout the district. It is a long and tedious thing to do. I just appreciate the Joel Johnsons, the Bobby Rebstocks, I do not want to get in trouble, but the Jimmy Harritys, the Steve Kaplans, the Phil Espositos, who was my motor guy. We had all kinds of vehicles running around. I want to thank him. He is our navigator, also.

I want to thank my staff down in City Committee in the City of Philadelphia, Linda Matthews and Charlie Bernard, the Elmers, all the staff down there, special people, a fellow that you may know by the name of Buddy Cianfrani, who was a mentor and pushed me right on through in some bad times, and a young lady who is the chairperson of the African-American Ward Leaders by the name of Carol Campbell that I would be absolutely wrong and remiss if I did not thank her personally for all the things she has done for me through many, many years helping me get here.

□ 1045

There is an another gentleman, our City Comptroller by the name of Jonathan Saidel. He is the gentleman that keeps us loose. He is also my finance chairman, who put a whole lot of money there. He is sitting up there. Jonathan, I love you for all you have done. There have been some tough times, and he has been by my side many times. I just hope that I can continue to be here and be by your side.

A lot was said about my candidacy. I had the fortune to bring a whole lot of people together from all different walks of life, different races and different creeds, the black clergy, the NAACP, the Jerry Mondessaires, the Senator Fumos.

It was written in the press that it was remarkable that I could have people standing next to me at an announcement and standing next to me at a victory party that will probably never stand next to each other again. But I am going to work to try to make that happen.

Without question, my family. My mother, I have to apologize for how I put her through three elections in the last six months. Between my younger brother becoming a judge, me winning a primary and the special election. Mom, I guess you are going to have to get used to it, because it is going to have to happen a couple more times. I hope to be here awhile.

My wife Debra, who again, was the one that when you come home, as anybody knows, to your spouse, there is somebody there that is going to help you, that is going to ask you how your day was and get you out in the morning to start another day. So, Debra, I thank you and love you.

To my children, Bobby and his wife, my daughter-in-law Maria, who stands behind me, as your children and your family stand behind me, they stood behind me.

My lovely daughter, Kimberly, my little kindergarten teacher, I can never forget my Kimberly who says, "Geez, dad, I am taking off Monday and Tuesday. I hope you can get sworn in on Wednesday," but it happened on Thursday, so she got a whole week off. So she is happy.

For my mother-in-law and father-in-law for putting up with me, and my brother-in-law Rick, my brother Frankie, his wife and little Taylor. My sister-in-law, Roseann, and my brother Frankie. I hope I don't miss anybody, but they are family, they will understand.

And I have two jewels. I have two jewels in my life. I have a little 18 month old granddaughter by the name of Serena and a little four year old granddaughter by the name of Alexandra. They are my two jewels. She is up there laughing now. Hi, baby.

They are interest on an investment, the grandchildren, and I love them dearly. When I look at them, I see my father, because my father fought a war for us to be here, got wounded a couple times for us to be here, and he cannot physically be here, but he is up there being here right now today.

I know that I am honored to be here. I did not think I would be this humbled. It is hard to humble me in the city that I come from. They tried 10, 15 years ago, and it has not worked and I am pretty callous to it. But I am humble today because of what has happened.

I thank all my colleagues, I thank all my old friends, I thank hopefully all my new friends, and I appreciate all the kind words, and I look forward to working with you. Sometimes you lead, sometimes you follow. It is a lot easier to follow. I do not care. I am a team player. I do not care if I have to pitch, catch, batboy, I just want to be on the team. As far as I am concerned, the team that I am on is the team of the United States of America.

So thank you all, and I appreciate that.

RABBI MOSHE BOMZER

(Mr. McNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McNULTY. Mr. Speaker, I join with all of my colleagues in congratulating BOB, and look forward to working with him here in the House of Representatives.

Mr. Speaker, I am honored to introduce to the Members of the House my good friend Rabbi Moshe Bomzer, the spiritual leader of Congregation Beth Abraham-Jacob of Albany, New York. Rabbi Bomzer delivered the opening prayer today, and, incidentally, for those who have been around here for a while, he also delivered the opening prayer 20 years ago this month.

Following in the footsteps of his father, who has led Brooklyn congregations for the past 45 years, Rabbi Bomzer is now celebrating the 13th year, his "Bar Mitzvah year," Mazeltov, as the spiritual leader of the largest Orthodox Jewish Congregation in our State's Capital District.

In addition to his congregational duties, Mr. Speaker, Rabbi Bomzer is also the Chairman of the Chaplaincy Committee of the Capital District Board of Rabbis, serving as Chaplain at the Albany Correctional Facility, St. Peter's Hospital, and Teresian House.

In 1996, Governor George Pataki appointed him to the Kosher Law Enforcement Advisory Board. Last year he was appointed a National Vice President of the Rabbinical Council of America.

Mr. Speaker, he has won the respect and admiration of his congregation and of our community as a whole, for his tireless dedication to the preservation of Judaism and the Jewish heritage. We are honored to have him here today, along with his wife, Rachael, and a large delegation from the Hebrew Academy of the Capital District.

Finally, Mr. Speaker, let me just say a word of special thanks to my friend Moshe for the part of his prayer that dealt with saluting the men and women who wore the uniform of the United States military through the years. Had it not been for their service, we would not have the privilege of bragging about how we live in the freest and most open democracy on the face of the earth.

Freedom is not free. On behalf of my brother Bill, who made the supreme sacrifice, and all of those who made the supreme sacrifice, and all of those who served in our Armed Forces through the years, like the late Pete D'Alessandro from Watervliet, New York, Congressional Medal of Honor winner, Moshe, I thank you.

PERSONAL EXPLANATION

Ms. CARSON. Mr. Speaker, I was unavoidably absent on Wednesday, May 20, attending a family funeral. As a result, I missed rollcall votes 165 through 174. Had I been present, I would have voted "no" on rollcall 165, "no" on 166, "yes" on 167, "yes" on 168, "yes" on 169, "yes" on 170, "yes" on 171, "yes" on 172, "no" on 173 and "yes" on 174.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONILLA). The Chair will entertain 10 one-minute speeches on each side.

GIVE ME LIBERTY

(Mr. DeLAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DeLAY. Mr. Speaker, the First Amendment of the Constitution is the most famous and most effective campaign reform proposal in history. It has effectively protected the political freedoms of American citizens for over 200 years. If we leave it alone, it will protect the freedom of our citizens for the next 200 years.

So why are some Members of this House so desperate to change the First Amendment? They want the government to have a greater role in determining how elections are financed and how campaigns are run. They want a bigger government bureaucracy, they want to sharply limit campaign contributions, and they want the taxpayers to finance political campaigns.

Mr. Speaker, this kind of government intrusion into the election process would make Thomas Paine turn over in his grave. Now is the time for all good men to stand firm against Big Brother. Vote for free speech, and against amendments that take away free speech from our citizens.

SILENCING AMERICA'S WORKING FAMILIES

(Ms. ROYBAL-ALLARD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, my California colleagues join me in bringing attention to an orchestrated campaign to silence America's working families.

Proposition 226, on California's June ballot, will undermine unions' efforts to advocate on behalf of our Nation's workers. By subjecting union members to a cumbersome annual verification of their dues, Proposition 226 will cripple organized labor's ability to promote fair wages, health care, retirement security and worker safety.

This initiative is harmful and unnecessary. The U.S. Supreme Court has already ruled that workers have the right to refuse to contribute to their union's political activities. This anti-worker movement is not about paycheck protection for workers, it is about the systematic disenfranchisement of American workers, such as our teachers, nurses, police officers and factory workers.

Californians and Americans across this Nation must band together to stop this calculated attempt to stifle the voices of working people in our country.

NUCLEAR UTILITY INDUSTRY AND NUCLEAR WASTE

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, America's favorite pastime, baseball, is upon us here in our Nation's Capital. However, the nuclear utility industry is striking out, and it seems they are becoming a backstop, rather than a leader for common sense.

Recently Secretary Pena pitched a proposal of up to $5 billion for financial relief to utilities to cover on-site nuclear waste storage costs. Unfortunately, and yet to no one's surprise, the nuclear industry balked at the idea, even though the U.S. Court of Appeals denied the utility request ordering and directing the Energy Department to immediately begin accepting their nuclear waste.

Here was a chance for all Americans to hit that home run by keeping this deadly waste on-site, rather than endangering the lives and health of citizens across this Nation, transporting it through their communities. But, once again, the nuclear industry is holding out for a bigger contract, just so they can pad their pockets.

Mr. Speaker, the nuclear industry is trying to build an expensive taxpayer-paid expansion team, but Americans are not going to accept the unsafe and ridiculous curve balls this industry is throwing at America.

OPPOSE PROPOSITION 226

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, I rise today to express my opposition to California's Proposition 226, aimed at curtailing labor union political influence, but which is written so broadly it would apply to a variety of organizations that are not labor unions. These could include employee associations of every kind, such as those representing nurses, social workers, law enforcement officers and physicians.

This initiative is so broad that it will keep labor unions and their members from expressing their point of view, not only on political matters, but on issues such as education, health care and retirement security. It imposes costly bureaucratic regulations on unions, which would make it more difficult for union members to come together and make their voices heard on government decisions that affect working families.

It is no coincidence that this initiative comes before California's voters after the AFL-CIO's aggressive education and mobilization efforts in 1996.

As a labor union member and former union organizer, I oppose this attempt to undermine workers' rights.

DEFENDING THE FIRST AMENDMENT

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, the First Amendment to the Constitution reads, "Congress shall make no law abridging the freedom of speech."

The First Amendment is America's most important political reform. As Americans, it is our most precious and sacred guarantee. That is why the founders put it at the very top of the list.

Mr. Speaker, it was political speech that the founders deemed most vital. Why? Because it was political speech that the British government tried to stifle when it was in power.

The Founding Fathers tried to prevent government suppression of political speech from ever happening again, by adopting the First Amendment to the United States Constitution. The framers of the Constitution did not explicitly or implicitly create a campaign speech exception to the First Amendment, as some Members of Congress now wish to do.

Mr. Speaker, under the First Amendment, Congress does not have the authority to regulate political speech. As long as we have any shred of a Constitution left, we are going to have the ability to act as individuals or as groups to engage in political expression, free of government intrusion.

□ 1100

DEFEAT PROPOSITION 226

(Mrs. TAUSCHER asked and was given permission to address the House for 1 minute.)

Mrs. TAUSCHER. Mr. Speaker, on June 2, my fellow Californians will be voting on Proposition 226, a proposal to handicap the efforts of labor unions by limiting their ability to spend the dues they collect from their members.

While Prop 226 is designed to sound attractive to working families, its real purpose is to put an undue burden on union members. Prop 226 would force unions into the unworkable position of seeking written approval from their members each year before spending any of the money for political purposes.

Currently, union members who choose to restrict the use of their union dues for political purposes may do so. Prop 226 instead places the onerous burden of unnecessary paperwork requirements on the vast majority of union members who want their unions to act on their behalf. This requirement would limit the free speech of union workers and impose burdensome red tape on the unions.

This House recognized the folly of Prop 226 when it rejected similar legislation known as the Paycheck Protection Act most recently. I hope Californians will follow the House's lead by defeating Proposition 226.

CLINTON WHITE HOUSE AIDS IN CHINA'S MISSILE DEFENSE PROGRAM

(Mr. NEUMANN asked and was given permission to address the House for 1 minute.)

Mr. NEUMANN. Mr. Speaker, it seems to have taken 5 nuclear blasts in India, combined with stunning revelations about campaign contributions from Communist China into the Democrat Party to send America a wake-up call.

With each passing day, the China scandal gets bigger, more worrisome and more baffling. It is time the White House explains why it granted a waiver to the Loral Corporation and others who are helping China develop its missile and rocket programs.

Instead of trying to block high technology transfers to Communist China, this administration seems to be encouraging it. Instead of embarking on a national missile defense program for our country, for America, this administration is allowing the transfer of technology to help China develop missiles that may be aimed at the United States of America. Instead of making nuclear war less likely, this administration appears to be cooperating in making China a nuclear power.

The result? Well, India runs 5 nuclear bomb tests; Pakistan will likely follow; even Japan may inevitably reassess its own nuclear policy.

It is not a question if this technology will make the world a more dangerous place, it already has.

WAR ON DRUGS REQUIRES MORE THAN "NEIGHBORHOOD CRIME WATCH" MENTALITY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, today the House will cast the key vote on the war on drugs. The House will vote to either maintain the status quo and do nothing, or begin to fight.

Some of the misconceptions and untruths about the Traficant amendment: It will not mandate the use of troops; it will only allow it if the administration requests it, and if so, they must be specially trained, and they can only be deployed with civilian officers, and they cannot make arrests; local officials must be notified.

The substitute kills it. The substitute says, surveillance in intelligence only.

I say to my colleagues, neighborhood crime watches perform surveillance. We will never win the war on drugs with a neighborhood crime watch.

Defeat the substitute. Give the Traficant amendment an opportunity for an up/down vote.

AMERICAN PEOPLE DESERVE IMMEDIATE EXPLANATION FROM WHITE HOUSE ON AID TO CHINA'S MISSILE DEFENSE TECHNOLOGY

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, why would the United States share some of its most sensitive missile technology with Communist China? Did America really fight a Cold War and reduce the nuclear threat only to have the threat return from a Communist regime that recently threatened to launch a nuclear strike on Los Angeles over the Taiwan issue?

This administration's policy to grant waivers to high technology companies that are working to improve China's missile and rocket capability is dangerous, reckless, and indefensible.

The press now reports that 13 of China's 18 long-range strategic missiles have nuclear warheads aimed at American cities. And how does the Clinton administration respond? It actively works to help China's missile and rocket program.

The American people deserve an explanation of this administration's conduct relating to transfers of missile technology to China; and Mr. Speaker, they deserve it today.

U.S. NEEDS MANAGED CARE REFORM NOW

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, hidden in today's Washington Post is an article that Speaker GINGRICH sent the Republican Health Care Reform Task Force of the Republican Conference back to the drawing board. It is another attempt of the Republicans to destroy-by-delay health care improvements which are needed by the American people.

We should not forget that our first priority is to help the patient. We owe it to the American people to provide top quality medical care. We need an anti-gag rule where physicians can talk to their patients. We need an appeals process, both internal and external, for the patients' benefits. We need to give employees the choice, other than going to the HMO that somebody else chooses for them. We need to make decision-makers responsible. If a doctor is responsible for one's health care, then somebody who tells that doctor no should also be responsible.

This decision stops a bipartisan effort to provide health care reform, and I hope that the American people think it is such a shame, just like I do. We need managed care reform now, Mr. Speaker.

AMERICAN ECONOMY PROTECTION ACT

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, yesterday's vote on the Gilman amendment is good news for the opponents of the Kyoto treaty.

By a vote of 420 to 0, 420 to 0, the House voted to protect the quality of our national defense by exempting the U.S. military operations from the Kyoto treaty's stringent requirements.

I applaud the gentleman from New York (Mr. GILMAN) for his leadership on this issue and I urge my colleagues to continue fighting against this treaty, because it is not just bad for the military. This overreaching agreement would have a negative effect on virtually every sector of our economy and result in fewer jobs, higher prices, and a lower standard of living for the American people.

Along with my colleagues, the gentlewoman from Missouri (Mrs. EMERSON) and the gentleman from Pennsylvania (Mr. KLINK), I have introduced a bill, the American Economy Protection Act, that would prevent even $1 of taxpayer money from being spent to implement the provisions of the Kyoto treaty until it has been ratified by the Senate.

With the President attempting to circumvent the Constitution by implementing the Kyoto treaty through regulatory actions, I urge my colleagues to support this bill. It ensures that the Kyoto agreement is debated in the light of day and not rammed through the back door.

REAGAN ADMINISTRATION ALLOWED MILITARY TECHNOLOGY TO BE SOLD TO ROGUE NATION

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute.)

Mr. GUTIERREZ. Mr. Speaker, I rise with a sad duty today. I rise to present documents showing a direct link between campaign contributions and administration decisions that allowed military technology to be sold to a rogue nation.

Yes, the Departments of Commerce and State took a series of steps allowing military sales to international pariahs. When was this? In the 1980s, during the Reagan administration. And one country buying the equipment, Iraq, would later turn those weapons on us.

But why would Ronald Reagan do such a thing? Well, using the same tactics that other Members have used this week, I checked to see who benefited from those sales. Guess who? The same defense contractors who contributed millions and millions of dollars to the Republicans during the 1980s.

Today we are hearing accusations of treason, of aiding Communist dictators. Well, according to the 1983 Washington Post article, the Commerce Department, then under Ronald Reagan, was found to have made decisions that "enabled the Soviet Union to improve the accuracy of its nuclear missiles."

We want to investigate sales of military technology? We want to tie campaign contributions to administration waivers or accuse the White House of aiding Communists?

Let us investigate the President. President Ronald Reagan.

WHITE HOUSE TO BE HELD ACCOUNTABLE FOR TRANSFER OF TECHNOLOGY TO CHINA

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, the shift of the responsibility by the Clinton administration for licensing the export of advanced technology has created dangerous foreign policy and potentially jeopardized our Nation's security.

The administration is stripping the State Department and the Department of Defense from overseeing the export of advanced technology. The result of this questionable policy is the export of advanced satellite technology which can be used to perfect the targeting of nuclear weapons to a hostile country like Communist China.

This raises serious questions, as was pointed out in a column by Mark LEVIN in today's Washington Times. Questions like, what national security interest was served when President Clinton personally intervened, overruling objections from the Pentagon and the State Department, to approve further technology transfers to the Communist Chinese? Which Clinton administration officials were involved in this decision?

After the Justice Department opened a criminal investigation into the unauthorized technology transfer to the Communist Chinese in February of 1996, why were the companies involved not suspended, at least temporarily, from exporting further?

Mr. Speaker, potentially this could be a stunning betrayal of American interests and national security. I urge my colleagues to join me in holding the administration accountable for this dangerous transfer of technology.

PROPOSITION 226 BAD FOR WORKING FAMILIES

(Mr. SHERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHERMAN. Mr. Speaker, I spent over 20 years working for genuine campaign finance reform. Nothing does that effort more harm than the mutant and perverted effort at campaign finance reform symbolized by Proposition 226.

In California we spend too much money on campaigns, but at least often, that money is balanced, and often, the interests of corporations are well represented, but the interests of working men and women are represented by organized labor. We need to hear from both sides in California campaigns.

Unfortunately, Proposition 226 is intellectually dishonest. It says that the money of labor union members cannot be spent by labor leaders on political efforts, but at the same time, it welcomes corporate money, money that belongs to shareholders, to be spent on politics by corporate management. What it does is it gives us a lopsided input into California politics.

Mr. Speaker, in the last election we in California raised the minimum wage. We did so because of the input of organized labor and working men and women. I urge Californians to join with the Sierra Club and the League of Women Voters in opposing Proposition 226.

CELEBRATING ISRAEL'S 50 YEARS OF EXISTENCE

(Mr. PAPPAS asked and was given permission to address the House for 1 minute.)

Mr. PAPPAS. Mr. Speaker, we around the world, including many Americans, are celebrating the 50th year of the existence of the State of Israel. In fact, a delegation from this House will be traveling to Israel during the Memorial Day recess to celebrate with the Israeli people, yet I am disappointed by many signals that the administration is sending to our ally, Israel, that is one of our staunchest allies among the community of nations.

The Secretary of State was reported to have made ultimatums regarding withdrawal of territory by the Israeli government and people. The First Lady was recently quoted as supporting the establishment of a Palestinian state. The Israeli people are our friends. We should not only celebrate with them, we should demonstrate we are their friend and support their existence.

OPPOSE CALIFORNIA'S PROPOSITION 226

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, I rise today to denounce the anti-worker initiative on California's June 2 ballot.

Proposition 226 is not a grassroot effort to reform campaign finance and protect the paychecks of California's workers, as its proponents would have us believe. It is a national right-wing effort funded by national organizations to set their agenda: To silence working families, first in our State, and then throughout the Nation.

The primary backers of the California initiative do not even reside in our State. National business, conservative and anti-union organizations, and individuals, in a quest to set a national agenda State-by-State, have contributed more than 60 percent of the funding to the Prop 226 campaign.

Backers include conservative, anti-union groups and individuals such as Americans For Tax Reform and J. Patrick Rooney, an Indianapolis millionaire who chairs the Golden Rule Insurance Company and is a significant GOPAC contributor.

In the past 2 years, working families who participated in the political process won a minimum wage increase, protected medicare from cuts, and saved Federal job safety protections. So now this initiative's proponents are looking for payback.

Please join the League of Women Voters, the Sierra Club, and working families in opposing this anti-worker initiative.

U.S. NEEDS FULL ACCOUNTING OF DAMAGE DONE TO NATIONAL SECURITY

(Mr. ADERHOLT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ADERHOLT. Mr. Speaker, on the policy of launching U.S. satellites with Chinese missiles, National Security Adviser Sandy Berger says, "The telecommunications industry has a tremendous need to put satellites up into the air, and that exceeds the launch capacity of the United States."

It is shameful that this administration's answer to the problem was a transfer of dangerous missile technology to a Communist government which has 13 nuclear missiles aimed at us.

I encourage the President to review his budget and that he work with Congress to increase funding for U.S. missile and space launch research. Defense is not an option. The space program is not a luxury.

The United States is the greatest technological and manufacturing nation in the world. Let us build U.S. rockets to launch U.S. satellites and spend what is necessary to maintain our Nation's defense.

Finally, all Americans need to see this administration cooperate fully with the committee of the gentleman from California (Mr. COX) so that we can have a full accounting of the damage already done to our national security.

□ 1115

CAMPAIGN FINANCE REFORM IS CRITICALLY IMPORTANT

(Mr. HINCHEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HINCHEY. Mr. Speaker, the principal issue still facing this Congress is the issue of campaign finance reform. Campaign finance reform is so critically important because it influences so much else of what we do in this House and the other one, as well.

In the summer of 1995, the Speaker of this House, the gentleman from Georgia (Mr. NEWT GINGRICH), shook hands in New Hampshire with President Clinton. He promised then that we would resolve the issue of campaign finance reform. Now it is almost 3 years later, and the issue has still not been resolved. Not only that, but we have not been assured that we will have a simple up-or-down vote on the principal bill that seeks to reform the way we finance campaigns, the Meehan-Shays bill.

We need to bring that bill out to the floor. That bill needs to be fully debated. This House needs to have the opportunity to vote yes or no on Meehan-Shays. Let us have that vote as soon as possible, this week, next week, or the week after. Let us have that vote up-or-down on Meehan-Shays.

TOBACCO AND IMMUNITY FOR WITNESSES

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, I am here to talk about tobacco. Think about this one minute, those who are cigarette smokers. They may be familiar with the Pagoda Red Mountain cigarette. The Pagoda brand, as Members may know, is the third largest cigarette selling in the world. It is the number one cigarette in China. It is owned by the Communist Chinese government.

The Pagoda Mountain cigarette company has an operative named Ted Sioeng. He gave $400,000 to the Democrat National Party. His associate, Mr. Kent La, personally gave $50,000 of the money. He is willing to testify before the Burton committee and just say why a Communist cigarette company was interested in giving the $400,000 to the Democrats. No big deal. Something we all should want to know. Maybe it is that they just like good cigarette smokers, and recognize the Democrats as such.

But the reality is, 19 Democrats on the committee will not let him speak. They will not let the guy testify. The Democrat Justice Department, the Department of Justice, said they have no problem with immunity and will let Mr. Kent La speak and have immunity, but 19 Democrats say no.

What do the Democrats want to do instead? We heard it this morning. They want to investigate Ronald Reagan. I suggest they have been smoking more than Pagoda Red Mountain cigarettes or whatever it is.

TIME FOR REPUBLICAN PARTY TO STOP DELAYING ON CAMPAIGN FINANCE REFORM

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the Republicans are up to their old tricks again, "Doolittle" and "DeLay." Despite his famous handshake with President Clinton in the summer of 1995, Speaker GINGRICH has done little to pass real campaign finance reform. In fact, what he has said is that we need more money in our political system. He supports the bill of the gentleman from California (Mr. DOOLITTLE) to remove what limits there already are in place on campaign contributions.

Meanwhile, the Republican leadership has delayed a vote on real reform in this House. They initially promised a full and fair vote in March. It is now May, and we are still waiting. Meanwhile, the Republican Whip, the gentleman from Texas (Mr. TOM DELAY), third ranking member in this body, he is leading the effort to kill real reform.

I think it is time for the Republican party to stop delaying and to please do something about campaign finance reform. Stop listening to the wealthy and to the special interests. Start listening to average working Americans in this country. Vote for real campaign finance reform. Vote for the bipartisan Meehan-Shays bill.

ANNOUNCEMENT OF PROCEDURES AND DEADLINE FOR PRINTING OF AMENDMENTS ON BUDGET RESOLUTION FOR FISCAL YEAR 1999

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, the Committee on Rules is planning to meet the week of June 1 to grant a rule which will limit the amendment process for consideration of the budget resolution for fiscal year 1999. The Committee on the Budget ordered the budget resolution reported last night and is expected to file its committee report sometime over the next few days.

Any Member wishing to offer an amendment should submit 55 copies and a brief explanation of the amendment by 2 o'clock on Tuesday, June 2, to the Committee on Rules in Room 312 of the Capitol.

As has been the common practice in recent years, the Committee on Rules strongly suggests that the Members wishing to offer amendments, that they offer those amendments as complete substitute amendments that keep the Federal budget in balance. I do not intend to put out a rule that is going to put on the floor a budget that is not in balance.

Members should also use the Office of Legislative Counsel and the Congressional Budget Office to ensure that their amendments are properly drafted and scored and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, it is my understanding that we are not going to have any votes until Wednesday at 5, and there will be very few Members back in the Chamber Tuesday. Could the gentleman from New York (Mr. SOLOMON) make that at 2 o'clock Wednesday instead of 2 o'clock Tuesday, because we do have an extra day, then?

Mr. SOLOMON. Mr. Speaker, the gentleman makes a point, but it is going to be difficult to make sure that the full Members of the House and the media and the public are going to be able to see those substitutes.

As the gentleman knows, because there is a Memorial Day recess and work period back home, there are no scheduled votes until 5 o'clock on Wednesday. It is just imperative that the gentleman and I, and the gentleman is the ranking member of that committee, that the gentleman and I be able to see those amendments for at least 24 hours.

Let me make a concession and move it up to, instead of 2 o'clock, to 5 o'clock on Tuesday. Our staffers are going to be here working all during next week.

Mr. MOAKLEY. Mr. Chairman, if the gentleman will yield further, as the gentleman well knows, most of the Members will not be back until Wednesday, because it is the Memorial Day weekend and they have other things in their district. So I would hope that just one more day would not make much difference as far as the media goes, or the gentleman's ability to look over the amendments, or my ability to look over the amendments. I think it would be fairer to those who will be spending all the time back in their districts.

Mr. SOLOMON. As the gentleman from Massachusetts (Mr. MOAKLEY) knows, when the gentleman was the chairman of the committee and I was the ranking member, I used to complain that we were not given enough notice to be able to look at what we were going to act on.

It is imperative that we put out the rule on Wednesday because of the timeliness of the budget, as the gentleman knows. It is important that the gentleman and I and our committee act on it Wednesday night, and to give them that extra day, the gentleman and I would not even have a chance to look through these voluminous budgets. So I am just doing what the gentleman has done in the past.

Mr. MOAKLEY. If the gentleman will continue to yield, Mr. Speaker, it is just as recent as few days ago he has given us amendments 10 minutes before we are going to vote on them. If we have the capacity to digest them in that short period of time, I am sure the gentleman would have the same opportunity.

Mr. SOLOMON. The gentleman knows that the gentleman from New York (Mr. JERRY SOLOMON) has pledged to be more fair than the Democrats ever were to us, and I have lived up to that for 4 years now. We are going to continue to do that.

Mr. MOAKLEY. Is the gentleman saying that the Committee on Rules is going to meet on Wednesday to discuss the budget amendments?

Mr. SOLOMON. Yes. That is right.

Mr. MOAKLEY. We are going to meet on Wednesday?

Mr. SOLOMON. Yes, sir. We have to.

Mr. MOAKLEY. In that case, I withdraw my request.

Mr. SOLOMON. The gentleman now understands why he should have at least 24 hours to be prepared.

Mr. MOAKLEY. I am sorry, I thought we were not going to meet on this until Thursday. But if we are going to meet on it Wednesday, then we should do that.

Mr. SOLOMON. We have to meet on Wednesday because the bill has to be on the floor on Thursday, and it is the most important legislation to come before the body.

Mr. MOAKLEY. I understand. I thought the gentleman was not going to take it up until Thursday.

Mr. SOLOMON. The gentleman has always been so understanding, and he has not changed a bit.

Mr. MOAKLEY. Sometimes.

Mr. SOLOMON. I thank the gentleman.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 432, SENSE OF HOUSE CONCERNING PRESIDENT'S ASSERTION OF EXECUTIVE PRIVILEGE, AND HOUSE RESOLUTION 433, CALLING UPON THE PRESIDENT TO URGE FULL COOPERATION BY FORMER POLITICAL APPOINTEES, FRIENDS, AND THEIR ASSOCIATES WITH CONGRESSIONAL INVESTIGATIONS

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 436 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 436

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the resolution (H. Res. 432) expressing the sense of the House of Representatives concerning the President's assertions of executive privilege. The resolution shall be considered as read for amendment. The resolution shall be debatable for one hour equally divided and controlled by the Majority Leader or his designee and a Member opposed to the resolution. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

SEC. 2. After disposition of or postponement of further proceedings on House Resolution 432, it shall be in order to consider in the House the resolution (H. Res. 433) calling upon the President of the United States to urge full cooperation by his former political appointees and friends and their associates with congressional investigations. The resolution shall be considered as read for amendment. The resolution shall be debatable for one hour equally divided and controlled by the Majority Leader or his designee and a Member opposed to the resolution. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield half our time to my good friend, the gentleman from Massachusetts (Mr. MOAKLEY), pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 436 is a rule providing for consideration of two House resolutions. The first of these is House Resolution 432, expressing the sense of the House of Representatives concerning the President's assertion of executive privilege introduced by the gentleman from Texas (Mr. DELAY), the Majority Whip.

Second is House Resolution 433, calling upon the President of the United States to urge full cooperation by his former political appointees and friends and their associates with congressional investigations. That resolution is introduced by myself.

Mr. Speaker, the rules provide that House Resolution 432 concerning executive privilege shall be debatable in the House for 1 hour, equally divided and controlled by the majority leader and his designee, and an opponent.

The rule further provides that House Resolution 433 relating to the cooperation of witnesses before congressional investigations shall be debatable in the House for 1 hour, equally divided and controlled by the majority leader and his designee and an opponent.

Mr. Speaker, over the last several days this House has undertaken an effort to broaden the discussions of ethics in the Nation's Capital from one of internal House committee procedures to criminal procedures generally, and the rule of law. Members on both sides of the aisle have been troubled by personal attacks, as I have.

We can take the personalities away and the efforts to engage in personalities on the floor, but the questions that trouble our constitutional system of government are not going to go away. Every day we are seeing more of it in the papers across the country.

Tuesday, we voted overwhelmingly, 402 to zero, to express that the House should immunize and should hear testimony from four witnesses whose testimony has been blocked by the minority of the Committee on Government Reform and Oversight. We have had several hours of debate yesterday and votes on a number of amendments to the defense authorization bill expressing the House's position on transfers of sophisticated satellite technology in China.

Those votes passed 417 to 7, 414 to 4, 412 to 6, and 364 to 54, that was overwhelming bipartisan support, opposing the President's actions of turning over missile technology to a potential enemy of the United States that will, in the near future, have their weapons of mass destruction trained on the children of this Nation.

Mr. Speaker, the House should proceed to consider these two resolutions and fulfill our constitutional obligations to press for answers to the severe questions raised by this technology transfer to Communist China.

Mr. Speaker, the first resolution this rule allows the House to debate concerns the President's assertion of executive privilege.

□ 1130

We should all pay attention. Many of us have been here for a long time, my good friend the gentleman from Massachusetts (Mr. MOAKLEY) even longer than I, and I have been here for two decades.

Mr. Speaker, the President has invoked executive privileges in three congressional inquiries and two court proceedings prior to his current assertions before a Washington, D.C. grand jury in a criminal investigation. Executive privilege, as Members are aware, is rarely invoked by Presidents, if ever invoked at all. It has only happened twice in the history of this Nation, once by a President named Nixon and now by a President named Clinton.

President Reagan's counsel has recently written that President Reagan insisted the White House would not assert executive privilege over any materials even in the controversial Iran Contra investigation. The Reagan White House staff honored that pledge. That information was turned over to this Congress. President Clinton's own counsel has advised a similar approach to executive privilege, but it would seem that the Clintons have not followed that advice. Mr. Speaker, something is wrong.

Former White House counsel Lloyd Cutler, if Members are back in their offices, I want them to listen to this, former White House counsel Lloyd Cutler, a very respected gentleman, wrote a special memorandum to the executive departments and agencies in 1994, stating that in circumstances involving communications relating to investigations of personal wrongdoing by government officials, it is our practice not to assert executive privilege, either in judicial proceedings or in congressional investigations and hearings.

Mr. Speaker, the case law is strongest in favor of a President's claim of executive privilege over matters relating to national security and diplomatic issues, but the law is skeptical of a general claim of executive privilege. Courts typically must balance the assertion of executive privilege by a President with the public's right to know.

Mr. Speaker, press accounts have indicated that the President has asserted executive privilege before the independent counsel in regard to conversations with staff and with the First Lady over the appropriate political response to allegations of perjury and obstruction of justice in the White House. The media has further reported that a Federal judge has rejected this claim and an appeal is being contemplated by the White House. The decision itself is under seal. In addition, many prominent news organizations have filed briefs to make the proceedings regarding executive privilege public so that the American people can see for themselves.

Mr. Speaker, I think it is eminently reasonable to protect grand jury testimony and presume the innocence of the individuals impacted by this investigation. However, an assertion of executive privilege which has no relation to national security whatsoever, and which is the subject of a great debate in law schools and on the editorial pages around this country right today, should be discussed on the floor of this House.

Mr. Speaker, the second resolution this rule will allow the House to consider, my legislation, relates to the President's former political appointees and friends who have failed to cooperate with congressional investigations. Over 90 witnesses, Mr. Speaker, 90 witnesses in the campaign finance investigation have fled this country or have taken the Fifth Amendment privilege before the committee.

Mr. Speaker, this is a level of noncompliance that the highly regarded director of the FBI, Louis Freeh, who we all have great respect for, has compared to an organized crime case.

Mr. Speaker, that is just terrible.

Mr. Speaker, last year the House voted to empower the Committee on Government Reform and Oversight with additional procedural tools to enhance its ability to gather evidence at home and overseas. I put that out of the Committee on Rules. The House has spoken on one occasion and endorsed the importance of this inquiry by granting authorities beyond what is available in the House rules today.

Mr. Speaker, all Members should support the mechanisms needed to allow the truth to be aired in this scandal. We are talking about breaches of national security that affect the strategic interests and the future of this great democracy of ours.

The minority on the Committee on Government Reform and Oversight has opposed on two occasions the granting of immunity to four witnesses, which the Department of Justice has approved before the committee. Perhaps the minority will come to regret their two votes against immunity in the coming weeks, especially when we see what has been taking place now on the front pages and in the editorials of this Nation across this country, when it looks like that we have literally sold this country down the drain by giving away the kind of missile technology, again, which is going to allow a potential enemy of the United States to train long range missiles of mass destruction against this country.

Press accounts on a daily basis are reporting that the Justice Department is investigating whether the White House decision to export commercial satellite technology to China was based on campaign contributions. We need to know, Mr. Speaker. If that is true, that is truly, truly outrageous.

Johnny Chung, we have all heard his name mentioned all across the headlines now for months, a Democrat fundraiser who pled guilty in the campaign finance probe in March, has reportedly told the Justice Department that he received $300,000 from a senior executive in a State-run Chinese aerospace firm to give to the Democrat party. Chung then contributed approximately $366,000 to the Democratic National Committee for the 1996 election cycle.

Mr. Speaker, two of the witnesses whom the Democrats have blocked immunity for in the Committee on Government Reform and Oversight were coworkers of Johnny Chung. Think about that. They were coworkers of Johnny Chung.

Consideration, Mr. Speaker, of House Resolution 433 will give the House an opportunity to express its support for returning these individuals to the United States and obtaining the necessary testimony so that Americans can have some confidence that the United States foreign policy and security interests were not sold to the highest bidder. We need to debate that on the floor of this House.

When the number of unavailable witnesses in a legitimate congressional inquiry into the executive branch reaches the level of an organized crime probe, which is what Louis Freeh said, something is terribly wrong in the Nation's Capital and we need to get to the bottom of it.

Mr. Speaker, it is troubling that the highest level officials at the White House refuse to even confirm if a sweeping, precedent-setting assertion of executive privilege has been made. I believe that a conspiracy of silence has descended over this town, and it is time for the House to debate this issue. If Members believe that they have a right to know as constitutional officers of this body and the public has a right to know, then they should vote for this rule. If they want to have a discussion on the House floor of how personal ethics, the rule of law and the public interest intersect in this town, come over here and vote for this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my dear friend, my chairman, the gentleman from New York (Mr. SOLOMON), for yielding me the customary half hour.

Mr. Speaker, both of the resolutions we are considering here today were created as nothing more than an unfortunate form of political retaliation. Last Thursday the gentleman from New York (Mr. SOLOMON) announced we would be considering these resolutions because of the action of the Democratic House leadership. In case that statement was ambiguous, this Monday's Roll Call newspaper quoted a Republican leader as saying, "This is retaliation, this is war."

I do not think it could be any clearer, Mr. Speaker. These resolutions are intended to punish House Democrats for asserting their rights on the House floor. They are to attack the President because of the perceived refusal of his friends and employees to cooperate with the many congressional allegations and investigations.

Mr. Speaker, I do not think I need to remind anybody that retaliation is really not a very good reason for legislation. Improving our Nation's schools is a great reason for legislation. Cleaning up our air, cleaning up our water is a great reason for legislation. Creating jobs for American workers is a great reason for legislation. Punishing political opponents is not a good reason for legislation.

Mr. Speaker, that is exactly what my Republican colleagues are doing here today, under their own admission. Mr. Speaker, they are not doing it very well. Last Thursday the Committee on Rules was scheduled to meet at 3:00 for the defense authorization bill. At 3 minutes before 3:00 I got a call saying the Committee on Rules would be adding an emergency matter to the defense meeting.

Given the subject matter, Mr. Speaker, I think it is a stretch to call these partisan resolutions emergencies. I hope that last-minute additions of this nature do not become a regular practice of the committee. Up until now we have got great notice, we have got ample notice so that we are adequately prepared when we go into that committee room, but 3 minutes before the meeting we were given these resolutions.

And lest anyone gets too serious about these resolutions, I would remind my colleagues that they are simply resolutions expressing the opinion of the majority of the House. They carry no legislative weight, and I think at this time they are just a waste of time.

Given the enormous number of partisan investigations taking place in the House these days, and if anybody has to be reminded, there are over 40 investigations going on currently in the House of Representatives, taking up the time of 12 of the 20 standing committees. Given the hundreds of people who have been subpoenaed, it is no wonder a few of them have declined to cooperate. I do not remember the victims of the Salem witchcraft trials running to be burned at the stake. The last time I looked, they had not changed the Fifth Amendment protection which grants a person the right to refuse to testify.

The other resolution dealing with executive privilege is so poorly written, I am not sure exactly what they are after. The resolution calls for all documents relating to the claims of executive privilege. Now, does that mean legal documents asserting the right to executive privilege, which are currently sealed in the courts, or does that mean documents dealing with the subject matter the President is privileged to keep to himself?

Mr. Speaker, as my Republican colleagues know, it does not matter because as legally binding documents, these resolutions are not worth the paper they are written on. To make matters worse, they are being brought up under a closed rule which not even allows the Democrats a motion to recommit.

Now, if we had brought such a rule 3 minutes before the committee scheduled to meet, my Republican colleague, my able Republican colleague would be 8 feet off the floor screaming and hollering, what has happened to our democratic process? But now, Mr. Speaker, they are in the majority so they are somewhat less indignant at the loss of minority rights than they were just a few years ago.

So I urge my colleagues to oppose this rule and these partisan resolutions. I feel the American people are just sick and tired of their representatives using the power of the Congress to attack Members of the other party.

Mr. Speaker, my dear friend and colleague said that President Reagan never invoked executive privilege. I will include in the RECORD the CRS study on the history of executive privilege where it shows President Reagan used the executive privilege three times and President Bush also used it one time.

Mr. Speaker, I include for the RECORD the following:

FACT SHEET ON PRESIDENTIAL CLAIMS OF EXECUTIVE PRIVILEGE: BACKGROUND, HISTORY, CASE LAW, RECENT INVOCATIONS, AND PROCESS FOR CLAIMS—MARCH 27, 1998

I. INTRODUCTION

Within the last year the Supreme Court and federal appeals courts have ruled upon presidential claims of the executive privilege (In re Sealed Case) attorney-client and work product privileges (In re Grand Jury Subpoena, In re Sealed Case), and temporary immunity from civil suit for unofficial acts (Clinton v. Jones). While none of the rulings directly involved congressional demands for testimony or documents, their rationales potentially impact the conduct of current and future committee investigations. This fact sheet outlines the background of the development of presidential executive privilege, including the nature of the conflicting interests of Congress and the Executive, the role of the courts and the existing case law, and the history of recent presidential invocations of the privilege and the process of such invocations.

II. CONGRESSIONAL CHALLENGES TO PRESIDENTIAL CLAIMS OF EXECUTIVE PRIVILEGE

A. Understanding the nature of interbranch conflict

Congressional challenges to presidential claims of executive privilege do not represent a breakdown in our scheme of separated powers but rather are part of the dynamic of conflict built into the constitutional scheme to achieve workable accommodations which will preclude the exercise of arbitrary power. The framers, rather than attempting to define and allocate all governmental power in minute detail, relied on the expectation that were conflicts in scope of authority arose between the political branches, a spirit of a mutual accommodation would promote resolution of the dispute in the manner most likely to result in efficient and effective functioning of our governmental system. Thus, the coordinate branches are not to be seen as existing in an exclusively adversarial relationship to one another when a conflict in authority arises. Instead, each branch is enjoined to take cognizance of the implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular fact situation. The essence of that dynamic was captured by Mr. Justice Jackson in the Steel Seizure Case:

"While the Constitution diffuses power the better to secure liberty, it also contemplates that the practices will integrate the dispersed powers into a workable government. It enjoins upon its branches separateness but independence, autonomy but reciprocity."

Despite the notoriety of Watergate and more recent clashes over invocation of the privilege, history indicates that such confrontations are rare and that the implicit constitutional injunction to accommodate has been honored in almost all instances of notoriety.

B. Conflicting interests of Congress and the President and their supporting constitutional powers

(1) Congress needs information—

(a) for the formulation and enactment of legislation;

(b) to ensure executive compliance with legislative intent;

(c) to inform the public;

(d) to evaluate program performance;

(e) to protect the integrity, dignity, reputation and prerogatives of the institutions;

(f) to investigate alleged instances of poor administration, arbitrary and capricious behavior, abuse, waste, fraud, corruption and unethical conduct; and

(g) to protect individual rights and liberties.

(2) The President needs to withhold information—

(a) to meet the challenges and requirements of modern national security, military and diplomatic policy decisionmaking which often demand rapid, decisive and secret decisions and responses to protect the integrity of the decisional process;

(b) to secure accurate, frank and robust advice and information from subordinates, particularly from close advisors, in order to perform his constitutional functions;

(c) to protect the integrity of its law enforcement function which would be undermined by revelation of prosecution strategies, legal analysis, potential witnesses, and settlement considerations; and

(d) to protect presidential privacy.

(3) To gain access to information congressional committees may—

(a) initiate formal investigations;

(b) issue subpoenas to compel production of documents and testimony;

(c) find an executive officer in contempt and seek a criminal indictment of the official;

(d) threaten and withhold appropriations for executive programs;

(e) fail to act on presidential legislative initiatives and on nominations;

(f) call for the appointment of an independent counsel;

(g) file a civil suit to enforce compliance with subpoenas; and

(h) threaten and seek impeachment of the official refusing to comply.

(4) The President may resist by—

(a) delaying compliance until the congressional need is ended;

(b) order subpoenaed officers to claim privilege;

(c) direct the United States attorney not to bring a contempt before a grand jury;

(d) challenge an indictment on appropriate privilege grounds;

(e) negotiate a disclosure that does the least damage to executive interests; and

(f) utilize the "bully pulpit" of the presidency to convince the public that Congress is overreaching.

C. The role of the courts

The courts have been exceedingly reluctant to become involved in resolving the merits of presidential privilege claims against information demands of the coordinate branches. The Supreme Court has recognized the constitutional basis for a qualified claim of privilege for presidential communications but in that instance held that the privilege was outweighed by the need of the judiciary for the information in a criminal prosecution. Most recently, a federal appeals court made the most extensive examination to date of the nature, scope and operation of the privilege, determining how far down the line of command from the President the presidential privilege extends, and what kind of demonstration of need must be shown to justify release of materials that qualify for such a privilege.

(1) *United States* v. *Reynolds*, 345 U.S. 1 (1952) (recognition of absolute privilege to withhold national security matters from a private party in a civil case).

(2) *Nixon* v. *Sirica*, 487 F.2d 700 (D.C. Cir. 1973) (presumptive privilege for confidential presidential conversations overcome by showing a need for evidence by grand jury).

(3) *Senate Select Committee* v. *Nixon*, 498 F.2d 725 (D.C. Cir. 1974) (upholding presidential claim of privilege because committee had failed to demonstrate that sought-after information was "critical" to its function, emphasizing that the committee's investigation substantially overlapped that of the House impeachment committee which already has access to the subject tapes).

(4) *United States* v. *Nixon*, 418 U.S. 683 (1974) (recognizing constitutional basis of a qualified claim of privilege but holding that it was outweighed by need of judiciary for the information in a criminal prosecution).

(5) *United States* v. *AT&T*, 551 F.2d 384 (D.C. Cir. 1976); 567 F.2d 121 (D.C. Cir. 1977 (court twice declines to decide merits, ordering further attempts at resolution by the parties).

(6) *United States* v. *House of Representatives*, 556 F. Supp. 150 (D.D.C. 1983) (dismissing suit to enjoin certification to U.S. Attorney of contempt of Congress citation).

(7) *In re Sealed Case*, 116 F.3d 550 (D.C. Cir. 1997) (holding that presidential communications privilege extended to communications authored by or solicited and received by presidential advisers which involved information regarding governmental operations that ultimately call for direct decisionmaking by the President, but that the independent counsel had overcome the privilege by a demonstration that each discrete group of subpoenaed materials likely contained important evidence, and that the evidence was not available with due diligence elsewhere).

D. History of and process for Presidential invocations of privilege

(1) Early Confrontations

(a) Washington

(b) Adams

(c) Jefferson

(d) Jackson

(2) Expansion of the Privilege

(a) Truman

(b) Eisenhower

(3) Watergate and Post-Watergate Confrontations

(a) Nixon

i. Assertion of privilege at direction of President by Attorney General Mitchell to withhold FBI reports (1970)

ii. Assertion of privileges by Secretary of State Roger at direction of President to withhold information on military assistance programs (1971)

iii. Claim of privilege asserted to prevent White House advisor from testifying on IT&T settlement during consideration of Kleindienst nomination for Attorney General (1972)

iv. Claim of privilege as Watergate tapes (1973)

(b) Ford and Carter

i. President Ford directed Secretary of State Kissinger to withhold documents relating to State Department recommendations to National Security Council to conduct covert activities (1975)

ii. President Carter directed Energy Secretary Duncan to claim privilege for documents relating to development and implementation of a policy to impose a petroleum import fees (1980)

(c) Reagan

i. James Watt/Canadian Land Leases (1981–1982)

ii. Ann Burford/EPA Superfund Enforcement (1982–1983)

William Rehnquist nomination/OLC Memos (1986)

(d) Bush

i. President Bush ordered Defense Secretary Cheney not to comply with a subpoena for a document related to a subcommittee's investigation of cost overruns in a Navy aircraft program (1991)

(e) Clinton

i. Kennedy Notes (1995) (executive privilege initially raised but never formally asserted)

ii. White House Counsel Jack Quinn/Travelgate (1996)

iii. FBI-DEA Drug Enforcement Memo (1996)

iv. Haiti/Political Assassinations Documents (1996)

v. *In re grand Jury Subpoena Duces Tecum*, 112 F.3d 910 (8th Cir. 1997), *cert denied*, 117 S.Ct. 2482 (1997) (executive privilege claimed and then withdrawn at district court. Appeal court rejected applicability of common interest doctrine to communications with White House counsel's office attorneys and private attorneys for the First Lady)

vi. *In re Sealed Case*, 121 F.3d 729 (D.C. Cir. 1997) (Espy case) (executive privilege asserted but overcome with respect to documents revealing false statements)

(4) The Process for Presidential Invocations of Privilege

(a) Eisenhower—Broad authority given to Executive Branch officers and employees to claim presidential privilege in the face of congressional information demands.

(b) Kennedy and Johnson—Informal agreements with Congress that privilege would only be invoked by the President himself.

(c) Nixon—Established first formal procedure for invocation of privilege: agency head advises Attorney General of potential claim. If both agree on need to invoke privilege, the Counsel to the President is informed. If President approves, the agency head informs Congress.

(d) Reagan—Memorandum to all department and agency heads of November 4, 1982. No invocation without presidential authorization. Pinpoints national security, deliberative communications that form part of the decisionmaking process, and other information important to discharge of Executive Branch constitutional responsibilities, as subject to privilege. If the head of an agency, with the advise of agency counsel, decides that a substantial question is raised by a congressional demand, the Attorney General, through the Office of Legal Counsel, and the White House Counsel's Office, to be promptly notified and consulted. If one or more of the presidential advisors deemed the issue substantial, the President is informed and decides and the decision is communicated to by the agency head to the Congress.

(e) Clinton—Memorandum of September 28, 1994, from White House Counsel Lloyd Cutler to all department and agency general counsels modified the Reagan policy by requiring the agency head to directly notify the White House Counsel of any congressional request for "any document created in the White House . . . or in a department or agency, that contains deliberations of, or advice to or from, the White House" which may raise privilege issues. The White House Counsel is to seek an accommodation and if that does not succeed, he is to consult of the Attorney General to determine whether to recommend invocation of privilege to the President. The President than determines whether to claim privilege, which is then communicated to the Congress by the White House Counsel.

III. IMPLICATIONS OF IN RE SEALED CASE FOR CONGRESSIONAL INVESTIGATIONS

A. The court distinguished between a "presidential communications privilege" which is constitutionally based and applies only to direct presidential decisionmaking and which may be overcome by a substantial showing that the subpoenaed materials contain important evidence, and that the evidence is not available elsewhere; and "the deliberative process privilege," which is a common law privilege that applies to executive officials generally and whose negation by courts or congressional committees is subject to less demanding scrutiny, and "disappears altogether when there is any reason to believe government misconduct occurred."

(1) Court's limitation of communications privilege to "direct presidential decision making," and utilizing President's need for information to exercise his appointment and removal power as its example in the decision, may indicated that only core presidential powers are within the protection of the privilege, thus decisions vested in an agency by Congress, such as rulemaking, environmental policy, or procurement, which do not implicate foreign affairs, military or national security functions would not be covered.

(2) Court's recognition of the deliberative process privilege as a common law privilege when claimed by executive department and agency official's, which is easily overcome, and which "disappears" upon the reasonable belief by an investigating body that government misconduct has occurred, may severely limit the common law claims of agencies against congressional investigative demands. A demonstration of need of a jurisdictional committee would appear to be sufficient, and a plausible showing of fraud waste, abuse or maladministration would be conclusive. Moreover, the diminished status of common law claims would certainly apply to others, such as the attorney-client and work product privileges.

(3) The *In re Sealed Case* Court's intent was to limit how afar down the chain of command the cloak of the President's communication privilege could extend. However, the case involved only White House officers and employees tasked (or sub-tasked) to advise the President about the Espy matter. It did not involve department or agency officers or employees. The question left open is whether, and how far, the privilege would extend if the President seeks the advice of a cabinet member. If the rationale of the court is in fact to limit the breath of the privilege, then much will depend on how future courts construe the term "direct presidential decisionmaking." If it is limited to so-called "core" presidential prerogatives decisions which Congress has committed by law solely to the President, it will not serve to cloak the assistance an agency head gets from his subordinates if it involves a non-core function. Example: communications between the Environmental Protection Agency (EPA) and the White House with respect to the final shape of its Clear Air Act rule. Environmental rulemaking is committed by law to the Administrator of EPA and thus there is no "direct" decisionmaking required by the President.

(4) The *In re Sealed Case* court expressly reserved the question whether the same balancing test (substantial showing that materials contain important evidence and evidence is not available with due diligence elsewhere) applied to determine if a grand jury subpoena overcame privilege claim would also apply to congressional compulsory process. It is significant, however, that the court found that independent counsel had met his burden and ordered production of all withheld documents that contained evidence of false statements.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

The gentleman has just brought up President Reagan. Of course, everyone knows he was my hero and what a great President he was, and we can all be so proud of what he accomplished on a bipartisan basis, working with a Democrat-controlled Congress and vetoing fewer bills than any other President I remember, because he taught me and others the art of compromise, the fact you could not have it all your own way and that to accomplish something you had to work together. That was Ronald Reagan.

Here is a letter that appeared on May 4, 1998 in the Washington Post, a letter to the editor.

President Reagan Did Not Invoke Executive Privilege

In the April 5 Outlook section, Stephen E. Ambrose wrote that in the Iran-contra case the Reagan administration "dared" to withhold evidence from congressional committees and/or a special prosecutor and to invoke the doctrine of executive privilege. His statement is wrong.

In November 1986, when the Reagan White House voluntarily disclosed the so-called diversion of funds from the Iranian arms sales to support the Nicaraguan Democratic Resistance, President Reagan called for the appointment of an independent counsel, pledged cooperation with the independent counsel and congressional committees, and stated that he would not assert the attorney-client privilege and executive privilege with respect to the Iran-contra matter. The Reagan White House honored that pledge.

The only controversy I recall, as White House counsel from March 1987 through the end of the Reagan administration, was that the White House initially rejected suggestions that the select committees be provided a "computer dump" of all electronic mail generated by certain former senior National Security Council officials, whether or not the electronic messages were relevant to the investigation. The committees' computer consultant believed that such a "dump" might retrieve electronic mail previously deleted. That controversy was resolved by the Reagan White House's directing its computer consultant to create a program to retrieve any deleted electronic mail generated by those NSC officials. The relevant material produced by that search was produced to Congress and to the independent counsel.

I also am unaware of any serious suggestion that the Reagan White House "dared" to withhold evidence from congressional committees or the independent counsel. When, during the 1989 criminal trial of Oliver North, seven documents were introduced that allegedly had not been produced in 1987 to the congressional committees, this matter was investigated by both Congress and the independent counsel. The simple explanations were human error (one NSC file with three relevant documents inadvertently was not searched in 1987, and three other documents apparently were overlooked by FBI agents working for the independent counsel who searched hundreds of sensitive NSC files), confusion (the White House had a signed receipt for one document that Congress could not find two years later) and new searches had yielded new material (Mr.

North obtained discovery of executive branch documents broader in scope than that agreed to by Congress and the independent counsel which required White House files to be searched yet again after the congressional investigation had ended).

The far more important points are (1) that the Reagan White House never asserted executive privilege and voluntarily produced to Congress and to the independent counsel many documents that were far more interesting and potentially damaging to President Reagan than the seven documents introduced at the North trial and (2) that none of those seven documents challenged the president's repeated assertion that he was unaware of the diversion of funds from the Iranian arms sales to the Nicaraguan Democratic Resistance.

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Alexandria.

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"President Reagan did not invoke executive privilege." Goes on to site that, "In November of 1986, when the Reagan White House voluntarily disclosed the so-called diversions of funds from the Iranian arms sales to support the Nicaraguan democratic resistance," which by the way we should have been supporting because we stopped communism dead in its tracks in this hemisphere, "to support the Nicaraguan democratic resistance, President Reagan called for the appointment of an independent counsel himself, pledged cooperation with the independent counsel and congressional committees, and stated that he would not assert the attorney-client privilege and executive privilege with respect to the Iran Contra," and I will supply that, Mr. Speaker, for the RECORD.

The gentleman has gone on at length to say that he does not know what we are after. Well, let me tell the gentleman that what we are after, and first of all, let us say who we are, we are the American people, the American people want the truth. The bill he is referring to, the executive privilege bill, let me just go back and repeat something I said in my opening remarks.

Lloyd N. Cutler, who was special counsel to President Carter, and one of the most respected lawyers in this town, in a memorandum to the general counsels in 1994 of all executive departments and agencies wrote, "In circumstances involving communications relating to investigations of personal wrongdoing by government officials, it is our practice not to assert executive privilege either in judicial proceedings or in congressional investigations and hearings."

Now, that is one of the whereas's. Look at the next whereas. It says, "Whereas President Clinton is the first President since President Nixon and the second in the history of the United States to withhold information under claims of executive privilege," and it goes on.

Now, the gentleman has said he is not sure what we are after. Let me just read what we are after in the resolve of this legislation. It says: "Resolved, that it is the sense of this Congress." And the gentleman is right, it is only a sense of Congress. Perhaps we should bring something that has more teeth to it, but this is a sense of Congress, meaning this is how this Congress feels.

"It is the sense of the House of Representatives that in the interest of full disclosure, consistent with principles of openness in government operations, all records or documents, including legal memoranda, briefs and motions relating to any claims of executive privilege asserted by the President, should be immediately made publicly available."

Now, my good friend the gentleman from Massachusetts (Mr. MOAKLEY) is saying we cannot do that, that the President has the right to keep that closed. Yes, he does. But is he not the President of the United States of America? What has he to hide? Why can he not just come out here, come into this well, as a matter of fact, and tell the American people? Instead, all he says is, well, there is no evidence. He did not say he did not do this or he did not do that. He simply says there is no evidence that I did this or that.

So I do not know if we should get into this until we really get into the debate on the resolution, but the truth of the matter is we should bring this to the floor, and we should have an intelligent, honest and sincere debate, without getting upset with each other about getting the truth out on this issue.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Texas, the majority whip and sponsor of the executive privilege legislation.

Mr. DELAY. Mr. Speaker, I appreciate the chairman yielding, and I ran up here to answer the question why we are doing this.

In my mind, and from my perspective, because I have one of the resolutions in this rule, the reason we are doing this is this has been 4½, almost 5 years; 4½, almost 5 years of the American people not being able to get to the truth. And the reason they have not been able to get to the truth is that the President of the United States has used executive privilege. He has hidden behind his lawyers, he has hidden behind the courts, he has hidden behind hiding documents, documents are slow to come, they are redacted when they come, time and time again.

We know what the strategy here is, and the strategy is to get past the next election. And now we find, if we look at what has happened in the other body and what has happened in this body, some in the party on the other side of the aisle are participating in this process of dragging their feet, using procedures to hide behind, to make sure that the American people do not get to the truth.

It is time. It is about time that this House starts debating and looking at what has been going on for 4½ years, and that is the reason that we brought this rule to the floor, and that is the reason that I want to present my resolution to the body.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume, and I thank my dear friend, the majority whip, for the explanation, but all I am doing is restating what appeared in Roll Call that said the Republicans said this was retaliation for the House Democrats' action on the floor and this is war.

Now, my dear friend from New York, and he is my dear friend, brought up President Reagan first. I did not bring him up. And he may quote from the Washington Post saying that President Reagan never exerted executive privilege, but I think the Congressional Research Service, who did the study on it, is much more authority than The Washington Post, and it cites three separate and distinct times that the President exerted executive privilege.

And I say this because I know the gentleman from New York reveres President Reagan as an idol. And I just wanted to show him that if President Reagan thought it was proper to use executive privilege, then other Presidents probably followed his role.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise to congratulate my Republican colleagues on the speed with which they have brought these two resolutions to the floor of the House. Clearly, investigations of wrongdoing are serious matters and ones which this House ought to consider, to be very serious about, to debate thoroughly, and no one questions that. No one questions that in this body because it, in fact, is our responsibility as public officials.

Let me just mention to my colleagues that there are a number of issues, serious issues, which the Republican leadership in this House has stalled on, refused to bring to this floor. Now, as we are prepared to recess, to go off for the Memorial Day holiday, and we will leave here tomorrow afternoon, I join with the American people, with Americans across this country in wondering and conjecturing why this House has not addressed and voted on the critical issue of campaign finance reform.

The chairman of the Committee on Rules has cited various transgressions of campaign financing. If that is the case, why does this body not have the time to vote to fix up a broken-down campaign finance system? If we are genuine about wanting to reform that system and to prevent transgressions, then we would be voting on that issue today.

Why does the Republican leadership not bring up the Patient Bill of Rights to this floor with equal speed? Millions of Americans are crying out for protection from unscrupulous health insurance companies, and every single day patients are denied, they are denied, the information and the health care that they have paid their insurance companies to give out to them.

What the American people support is congressional action to protect the doctor's ability to make medical decisions along with patients without interference from insurance companies, bureaucrats and accountants. Why has that bill not been brought to this House when there is tremendous bipartisan support for that legislation in this body? That is what we should be voting on today.

We have other health issues to debate. My Breast Cancer Patient Protection Act has 218 votes, enough to pass this House. This would say that women cannot be treated as outpatients for a mastectomy. Women today in this country are going home less than 24 hours after a mastectomy, with drainage tubes, groggy from anesthesia. We have the votes in this House to pass that bill, and they refuse to allow it to be brought to the floor. That is what we should be passing today in this body.

Why are we not doing something about child care legislation so that working families today will have the opportunity to go to work but to feel that they have affordable, safe child care in which their kids can thrive and be ready for the future?

Why have we not done anything about education and passing a modernization bill that says that what we are going to do is to make class sizes smaller; have better and tougher standards? Why can we not have education legislation in this House that, in fact, says let us reduce the size of our classes? Let us make it a better atmosphere, with tougher standards for more opportunity and a better environment for our kids to learn? That is what we should be debating in this House today. That is what we should be passing on. That is what parents are concerned about, and rightly so.

And, in fact, why are we not debating in this House tobacco legislation? They are doing that in the other body today. Why do we not want to prevent underage kids from being able to smoke and a tobacco industry that has targeted 12 years old? An R. J. Reynolds report in 1984 says that 12 years old are replacement smokers. They are the new revenue stream.

Three thousand of our kids take up smoking every single day; 1,000 of them will die from a tobacco-related illness. That is what this body ought to be debating, is how we prevent our children from smoking and how we prevent the tobacco industry from targeting our young people. That is what our obligation is. That is what our responsibility is.

But this House is too busy. This House is too busy to consider all of this legislation. Let me just say that these resolutions have been brought up in an instant. That is the prerogative of the majority in this body, to bring up legislation, to schedule it, to get it passed. The majority in this body has decided to bring up an investigation.

And we should investigate. Again, I said at the outset no one questions our need to investigate. But the American people are crying out for a Congress, for a House of Representatives that says do something about my living standard, do something about my ability to get my kids to school, do something about my health insurance and my retirement security, do something about preventing my kids from using tobacco and illness and potentially death. That is what our obligation is here today. We should take it seriously and be true public servants.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume, and I will try to expedite matters, because I know there are some church services that are going to be starting soon.

Before yielding time to the majority whip, I would like to say that I wish the same people who come to this floor and criticize tobacco would at the same time take this floor in outrage, in outrage, over the illegal use of marijuana and other drugs that are literally killing, killing our young children today. Think about that, folks, because that is ten times more important than tobacco.

The gentlewoman from Connecticut just spoke about campaign finance transgressions that we are bringing up, and, yes, we are bringing it up. We will be debating today campaign finance reform on this floor and for several days to come, and it will be the fairest and most comprehensive debate ever held on this floor on campaign finance reform or probably anything else. But before we start debating on campaign finance reform, we want to find out why existing campaign laws have been criminally broken.

Should we not wonder why these existing laws have been broken? That is what this debate is all about today.

Mr. Speaker, I yield what time he may consume to the gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Speaker, let me just say, in evaluating what we just witnessed from the gentlewoman from Connecticut, that I appreciate her passion for the issues that she thinks are important that we should bring to the floor.

□ 1200

And we will carry out our obligations. Our committees are working. They are putting out legislation. We marked up a budget just this week. We will have the budget on the floor in a couple of weeks. Our appropriations process is working. The House is doing the people's business.

But what we are seeing by what we just witnessed was an effort, a concerted effort, by Democrats of this House to change the subject. They do not want to talk about this subject. They will do anything to change the subject. They are very upset that we are bringing this to the floor and saying, what is the reason for bringing this to the floor?

I say to my good friend, and I do have the utmost respect for the ranking member of the Committee on Rules, that when he cited that President Reagan invoked executive privilege three times, he is right, but mostly for national security reasons. But what he did not invoke executive privilege for was to withhold information under claims of executive privilege from a grand jury investigating allegations of personal wrongdoing and possible crimes in the White House. That is what we are talking about here.

Another reason we want to bring this resolution to the floor, and I hope Members will vote for the rule, is that the President is hiding behind the courts, as I said earlier, and he knows very well that the courts are not going to uphold his claim of executive privilege to withhold information of personal wrongdoing. But if he engages in enough appeals process, we might get past November's election and he will think he will be home free because he will have only 2 years left of his term.

But we want the next court that hears the appeal of the President's executive privilege claim to know how the people's House feel about executive privilege, and that is the reason I am bringing my resolution.

The next court could be the Court of Appeals or the Supreme Court. But they ought to know how the people's House feels about a President that invokes executive privilege for himself, the First Lady and his staff in order to withhold information from a grand jury investigating allegations of personal wrongdoing and possible crimes in the White House.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

I would say to my good friend, there are church services starting. We need to determine whether or not there is going to be a vote. So I will not entertain any other speakers besides myself to briefly close, if the gentleman would like to yield back his time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume to make one statement.

My dear friend, the Majority Whip, said that President Reagan used executive privilege because of national defense things. Well, the three occasions I have, and maybe the gentleman from Texas (Mr. DELAY) has others, but one time he used it because of James Watts' connection with the Canadian land leases, which is not national defense. Another one was with superfund enforcement, which was not national security. And the other one was with the William Rehnquist nomination.

Maybe he did use some other national security, but these were the three I was referring to.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of the time.

Let me again just say that the rule we are debating here will bring to the floor in a few minutes the DeLay resolution, which urges the President to immediately make public any claims of executive privilege and documentation or records pertaining to them so that the American people can know.

My own resolution will follow that, which urges the President that he should use all legal means to compel all people who left the country or have taken the fifth, many of them are his associates or friends or friends of friends, to return to this country and to honestly come forth and let the American people know what is going on.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF HOUSE CONCERNING PRESIDENT'S ASSERTIONS OF EXECUTIVE PRIVILEGE

Mr. ARMEY. Mr. Speaker, pursuant to House resolution 436, I call up the resolution (H. Res. 432) expressing the sense of the House of Representatives concerning the President's assertions of executive order, and I ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 432 is as follows:

H. RES 432

Whereas a unanimous Supreme Court held in United States v. Nixon that "[a]bsent a claim of need to protect military, diplomatic, or sensitive national security secrets, we find it difficult to accept the argument that even the very important interest in confidentiality of Presidential communications is significantly diminished by production of such material" that is essential to the enforcement of criminal statutes (418 U.S. 683, 706 (1974));

Whereas during the Watergate investigation, the Supreme Court unanimously held in United States v. Nixon that the judicial need for the tapes of President Nixon "shown by a demonstrated, specific need for evidence in a pending criminal trial" outweighed the President's "generalized interest in confidentiality . . ." (418 U.S. 683, 713 (1974));

Whereas the Supreme Court further held in United States v. Nixon that "neither the doctrine of separation of powers, nor the need for confidentiality of high-level communications, without more, can sustain an absolute, unqualified Presidential privilege of immunity from judicial process under all circumstances" (418 U.S. 683, 706 (1974));

Whereas executive privilege is qualified, not absolute, and should "never serve as a means of shielding information regarding governmental operations that do not call ultimately for direct decisionmaking by the President" (In re Sealed Case, 116 F.3d 550 (D.C. Cir. 1997), reissued in unredacted form, 121 F.3d 729, 752 (D.C. Cir. 1997));

Whereas on September 28, 1994, Special Counsel to the President Lloyd N. Cutler, in a memorandum to the general counsels of all executive departments and agencies, wrote, "[i]n circumstances involving communications relating to investigations of personal wrongdoing by Government officials, it is our practice not to assert executive privilege, either in judicial proceedings or in congressional investigations and hearings";

Whereas President Clinton is the first President since President Nixon (and the second in the history of the United States) to withhold information, under claims of executive privilege, from a grand jury investigating allegations of personal wrongdoing and possible crimes in the White House;

Whereas the President's assertions of executive privilege have recently been denied by a United States district court;

Whereas in January 1998, President Clinton said that the "American people have a right to get answers" regarding certain matters being investigated by the Office of the Independent Counsel;

Whereas President Clinton has promised to give "as many answers as we can, as soon as we can, at the appropriate time, consistent with our obligation to also cooperate with the investigations"; and

Whereas the people of the United States and their duly elected representatives have a right to judge for themselves the merits or demerits of the President's claim of executive privilege: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that, in the interests of full disclosure consistent with principles of openness in governmental operations, all records or documents (including legal memoranda, briefs, and motions) relating to any claims of executive privilege asserted by the President should be immediately made publicly available.

The SPEAKER pro tempore. Pursuant to House Resolution 436, the gentleman from Texas (Mr. ARMEY) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to personally thank the gentleman from Texas (Mr. DELAY) for introducing this resolution. The resolution is very simple. It simply says that all documentation related to the White House claims of executive privilege should be made public.

Mr. Speaker, this is a serious debate. It is a serious discussion. And really what we are trying to sort out here needs to be focused on for just one moment.

There is, despite all of the stonewalling, despite all of the tardiness, slowness, failed memories, inability to find people, secrecy, there is ample evidence that one can read in the Nation's press, and there has been for some time ample evidence, even as it relates to millions of dollars of returned campaign contributions after the last election that were admittedly returned because they were subsequent to the elections discovered to have been illegal contributions.

So that everybody in America must deal with a very serious question. And really we have two questions, one coming mostly from this side of the aisle, one coming from the other side of the aisle. We are saying that, given that people in highly elected office and positions of public trust must be honest and honorable beyond any shadow of a doubt and the interest of the security, national and domestic, of this Nation, that it is the Congress' responsibility to find out the truth about illegal activities, violations of law by people that are, in fact, in these highest positions of trust.

The other side of the aisle, as we just heard just a moment ago, is arguing that there is some possibility that the system might have corrupted some people and, therefore, we must change the system and they are arguing that the more important and more immediate business is to get on with changing the system.

I want to make a point here, Mr. Speaker, and I want to make it as emphatically as I can. When dealing with the choice of how do we prioritize the actions by the Congress of the United States relative to, one, the question of discerning the truth about the honesty, honor and integrity of people in highly elected offices, especially with respect to the manner in which they have acquired those offices; or, two, changing the rules of protocol and law that govern the financing of campaigns, that the latter must be clearly understood to be the matter of lesser priority.

Stated another way, if this Congress is incapable of recognizing, if the press is incapable of recognizing, if the American people are incapable of recognizing, and if the White House is incapable of recognizing that all matters of doubt regarding the honesty, the integrity, the legality of people in the highest elected offices of this land is a matter of crucial and utmost concern that must be given priority over the manners in which the laws are written, that they will therefore then, having not addressed, as my colleagues equally feel, to continue violating as they violated the previous laws, then surely we are lost.

There are serious questions related to the movement of money in campaigns, and no doubt we will address those in due time. But there can be no question of money that can be allowed to take precedence over questions of honesty, integrity, fidelity, duty and honor in those people that we would trust with dominion over the lives of our children's future.

Mr. Speaker, I yield the remainder of the time to the gentleman from Texas (Mr. DELAY); and I ask unanimous consent that he be able to yield time as he sees fit.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Does the gentleman from Michigan (Mr. CONYERS) claim the 30 minutes in opposition?

Mr. CONYERS. Yes, Mr Speaker, I do.

Mr. Speaker, this is a bit of an amazing short-sightedness on the part of Republican leadership in advancing the incredibly partisan resolutions like the one being sponsored by the gentleman from Texas (Mr. DELAY) which, if actually passed, might do lasting damage to the institution of the presidency.

This resolution, if I read it correctly, seeks to have the President divulge all records and documents relating to any assertion of executive privilege to where? The Congress? To the press? To the public?

The administration has already joined with news organizations in seeking to make public both the legal papers filed by his lawyers and the judge's decisions concerning executive privilege. Questions about sealing such proceedings and preventing public access is, my colleagues, a question for the courts. It is one that our judicial system decides by hearings and carefully balancing the competing interests.

Never in the history of the Congress has the Congress said we ought to take that over and ask you, Mr. President, to just cooperate with us.

This is a meaningless resolution. The administration cannot do anything about this. These questions are court questions, questions already residing in the judiciary for determination. And if the gentleman from Texas (Mr. DELAY) were concerned about this issue, instead of attempting to politicize it, this resolution would be directed to the courts, not to ourselves or to the President of the United States.

But in reading it, it goes further and demands that all documents concerning the invocations of executive privilege now be made public. Why, this goes beyond Kenneth Starr and the independent counsel.

Just who do we think we are? If the demands are to be taken seriously, that would include confidential recommendations from the President's closest advisors. There is no question that these kinds of recommendations deserve confidential treatment.

The supporters of this resolution, like my friend the chairman, the gentleman from Indiana (Mr. BURTON), have a hard time recognizing what should and what should not be released to the public.

□ 1215

Any President of either party is entitled to confidential advice concerning the invocation of executive privilege. Elementary. The Reagan administration invoked executive privilege quite frequently. The Bush administration withheld documents and witnesses from congressional committees on numerous occasions based on concerns about executive privilege.

Republicans have never sought to pierce the confidentiality of the advice given to those Presidents, and I am afraid that they only seek to do so now because of their partisan intent to discredit the President of the United States.

Mr. Speaker, I reserve the balance of my time.

Mr. DELAY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, this is very serious business. As I said weeks ago, and I wish my voice was clearer so that the American people would hear from me in a very clear way, I think this is very serious business. This is not partisan politics.

The gentleman says, Mr. Speaker, that we are attempting to inflict lasting damage to the institution of the Presidency. We think this President has already inflicted that damage on the office of the Presidency by claiming executive privilege to cover up information of a personal wrongdoing or possible crimes in the White House, by stonewalling the American people when, on the one hand, months ago, the President said, "I will tell the American people the truth in a very expeditious manner, in a timely manner", and yet has hid behind lawyers and courts and attack dogs.

I think this is very serious. I rise today because I believe the American people have a right to know the truth. That is what this is all about. The American people have a right to know the truth.

Mr. Speaker, the list is very long and far from distinguished: Whitewater; the Travel Office Affair; the collection of classified FBI files; foreign campaign contributions to the DNC, the Democratic National Committee; Webster Hubbell; the appointment of numerous Independent Counsels to investigate Cabinet members; the transfer of sensitive missile technology to the Communist Chinese.

Do the American people know the full truth about what happened in even one of these scandals after 4½ years? The answer, as we all too well know, is a resounding no.

The lengths to which this administration has gone to hide from the light of day are breathtaking. Sadly, congressional Democrats have lent the administration a helping hand every misguided step of the way. They have made sure that every hearing, every investigation is met with a coordinated campaign of misinformation and stonewalling.

The gentleman from Indiana (Mr. BURTON), chairman; the gentleman from Iowa (Mr. LEACH), chairman; the gentleman from Pennsylvania (Mr. CLINGER), chairman; Chairman Senator THOMPSON, Chairman Senator D'AMATO, Special Counsel Starr, FBI Director Freeh, each has been the victim of relentless personal attacks and slander from this administration, the administration's hit men and Democrats from Congress.

Why? Because the one thing the Democrats fear the most is that the American people will find out the truth. They will go to any length to stop that from happening. The only strategy left to them is to draw these investigations out as long as possible so that they will never have to answer these questions or any questions. The only people President Clinton and the Democrats have to blame for these investigations are themselves.

The Democrats have chosen a new tool, executive privilege. Mr. Speaker, executive privilege is an essential constitutional safeguard in my mind. It is vital to the protection of our national security. Almost every President since George Washington has made use of executive privilege in one way or another.

But this administration is the first since President Nixon and only the second in the history of our country, only the second presidency in the history of our country to withhold information under claims of executive privilege from a Grand Jury investigating allegations of personal wrongdoing and possible crimes in the White House.

President Clinton is obliged to claim executive privilege if he is doing so to protect national security. But President Clinton has repeatedly claimed executive privilege to shield himself, the First Lady, and some of his aides from testifying in a criminal investigation.

Nearly 25 years ago, in the United States versus Nixon, the Supreme Court wrote about President Nixon's use of executive privilege under similar circumstances. I quote:

> To read the constitutional powers of the President as providing an absolute privilege against subpoena essential to enforcement of criminal statutes on no more than a generalized claim of the public interests and confidentiality of nonmilitary and nondiplomatic discussions would upset the constitutional balance of a workable government.

The Supreme Court. The Supreme Court could not have been more clear. Executive privilege may be used only to protect national security, not to shield information in a criminal proceeding.

Less than 4 years ago, the President's own special counsel, Lloyd Cutler, had this to say, and I quote:

> In circumstances involving communications relating to investigations of personal wrongdoing by government officials, it is our practice not to assert executive privilege, either in judicial proceedings or in congressional investigations and hearings.

That is President Clinton's own Special Counsel that wrote that.

The New York Times, a surprising new member of the right-wing partisan conspiracy, had this to say about the President's use of executive privilege:

> To invoke that privilege in a broad and self-serving way, as the Clinton White House has done to shield itself from Kenneth Starr's inquiry, is to abuse it.
>
> But this White House is not easily embarrassed. It has tried to invoke the hallowed attorney/client privilege even when attorneys are servants of the public, not the President's private lawyers.
>
> All this legal inventiveness carries the implicit assertion that Mr. Clinton is somehow above the law and thus raises the kind of constitutional questions that ought to be exposed to public debate.

The New York Times.

Mr. Speaker, that is all we are asking here today, that the President be honest with the American people about his use of executive privilege. Like the American people, I want to believe President Clinton. But what are reasonable people to believe when the President will not even level with them?

We are not asking that the President tell us the substance of private conversations with his lawyers, although that would be nice. No, we are simply asking the President to be honest with the American people, with the people of the United States. Just be honest. Just be honest.

Mr. Speaker, I urge my friends and colleagues on the other side of the aisle to support this resolution and send a message to the Appeals Court. I urge you to go to the President and tell him, tell the American people what you are doing. It is so simple. If you have nothing to hide, come clean.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 4 minutes to the gentleman from Colorado (Mr. SKAGGS).

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for the time.

Mr. Speaker, I do not question the sincerity of the motives of the gentleman who just spoke and the reasons behind his drafting and offering of this resolution.

If I could have the gentleman's attention, I would appreciate it.

I just wanted to engage the gentleman in a discussion of what seems to me to be a troubling set of implications from the way the "Resolved" clause in the gentleman's resolution has been prepared.

I do not want to misread it; and if I am, I would like to be corrected. If I am not, I think we have a very serious problem on our hands. The "Resolved" clause speaks to "all records or documents relating to any claims of executive privilege" and that they should be immediately made public.

I do not know the full scope of documents and materials that would be covered by this language. It seems to me entirely possible that they would extend to matters that had legitimate national security or classification constraints imposed upon them.

I understand the gentleman's concern that we do not want that to be used as a way of manipulating information, but let us stipulate for the moment that we could be embracing with this language some real national security information that is at least tangentially implicated in these assertions of executive privilege.

I hope it is not the gentleman's intention to suggest that that, willy-nilly, should be made public, but that is what that language implies.

Mr. Speaker, I yield to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding. It is a very good question, and I appreciate the gentleman asking it.

First, let me answer it by saying this is a sense of Congress. This is not a binding law. This is expressing how the House feels about what the President has done in the executive privilege. That is number one.

Number two is, of course, we are not saying, reveal all documents, especially those documents that may undermine the national security of this country. There is precedent that would allow the President to claim executive privilege based upon national security. But we all know what the intent is here. We are not stopping the President from revealing the truth to the American people.

Mr. SKAGGS. Mr. Speaker, reclaiming my time, I appreciate the gentleman's answer. Whether this is sense of Congress or law, it seems to me we should be careful in its drafting and in its consequences.

I am afraid that the gentleman, in his sweeping desire to get at everything, has made no provision for what needs to be dealt with here in the eventuality that real national security information is covered by this language.

Mr. DELAY. Mr. Speaker, would the gentleman yield?

Mr. SKAGGS. Members have imposed a rule that prohibits amendments. We might be able to address this were it not for that constraint.

Mr. Speaker, I am glad to yield again.

Mr. DELAY. Mr. Speaker, the courts would not allow us to impose upon the President, even if this was a statute, impose upon the President the revealing of documents that would undermine national security. The gentleman is trying to change the subject. The subject is that, if the President wanted to reveal the truth to the American people, he could do so, and we want to send a message to the courts that are taking his appeal.

I am not trying to change the subject at all. I believe that when we are dealing with something as nuanced and delicate and as important as this interrelationship between the executive branch and the legitimate investigative responsibilities of the legislative branch, we ought to proceed with due care.

This seems to me to be, in its expansiveness, a little bit glib in the way it deals with a very, very important matter, and I think that the Members should take that seriously and not just dispense with it, because we know, of course, what this is really about.

Mr. DELAY. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, the previous speaker is a very close friend of mine. He is going to be retiring. He is a former Marine. So, naturally, I have great respect for him.

But he has a real disadvantage standing up here today because he is a lawyer. Sometimes lawyers get tied up in nitpicking things, and they do not look at it from a sincere point of view; not that he is not sincere, because he is, but sometimes because of their education in law, he is sort of misled.

I am glad to say I am not a lawyer. Having said that, I want the gentleman to look at it the way Joe Six-pack, the way my American constituents look at it from the Hudson Valley.

□ 1230

I think I do not want to know about all this nitpicking stuff. They wanted to know this. Read page 3 of the bill. It says, "Whereas, in January 1998, President Clinton said," and this is a quote now of the President, "the American people have a right to get answers" regarding matters being investigated. That is the end of his quote.

Mr. Speaker, instead of openly answering the questions to Members of Congress, but more than that, to members of the press, who are out there trying to get the information for the public, he simply says time and time again, there is no evidence of that. He does not deny it, he says there is no evidence of that.

Well, we do not have to worry about that part of the resolve clause, about whether there are documents there dealing with national security. The gentleman knows, nobody stands up here more for national security than I do. I am blocking an encryption bill that would expose our ability to track terrorism, communists and people that would bring down this government. So do not come over here and say we have a question about national security. There is no evidence of that. We want the President to come forward and give the answers. I salute the gentleman.

Mr. SKAGGS. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Speaker, I am not questioning the gentleman's sincerity about taking national security issues seriously. Far be it from that. Contrary to what the gentleman is suggesting, I think we should adhere to and aspire to a particularly high standard of precision in the work of this body and not just say hey, "Joe sixpack knows what we are talking about, don't not sweat the small stuff." I think we are here to pick some nits and make sure we are doing careful work.

Mr. SOLOMON. Mr. Speaker, reclaiming my time, I thank the gentleman, and I would say the American people want the answers. Mr. President, come forth and give them to them. He is capable of doing that. He can do that.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I would like to begin by telling the distinguished chairman of the Committee on Rules that I am very glad he is not a lawyer too, so we are in total agreement on that; but not being a lawyer, he may have some handicap in reading the decisions of the United States Supreme Court. Some of them you do not have to be a lawyer to understand.

The Supreme Court has said in the Nixon case, and I underline the "Nixon" case, how executive privilege should be asserted. It would be important for the proponents of this resolution to have studied that case. The proponent is proudly, I presume, not a lawyer as well.

It said in that decision that the courts, not the Congress, determine the question of whether an executive privilege can be asserted. So the gentleman from Texas either does not appreciate the decision that exists as current guidance on the subject, or perhaps it has not been brought to his attention that we cannot tell the court how it should handle itself.

I guess we can advise the President that he should release all records or documents, including legal memoranda, briefs and motions relating to any claims of executive privilege asserted by the President, and it should be made publicly available. Well, this is already in the courts.

There is not one word, with all respect to the patriotism of the gentlemen on that side of the aisle, about documents dealing with national security matters being excluded. Not a word.

I think what the gentleman from Colorado was pointing out was that if you really mean this, and, as the gentleman from Texas has said twice, this is a serious matter, you had better change this to make everyone understand that, of course, defense matters, secret matters, secrecy of documents, are not included. We should just understand that.

Well, I do not think we can just understand that, I would say to the gentlemen from the other side, whether you are lawyers or not lawyers, or whatever it is you might be. This is a flawed resolution, assuming you want to do what you said. You want to give the President some free advice. "Give us everything you have got on executive privilege," which is already in the courts.

I do not think that the system is ready to work that way. Never in the history of the Congress have we ever had such a resolution put forward with reference to the President of the United States.

Mr. Speaker, I reserve the balance of my time.

Mr. DeLAY. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. BOEHNER), the distinguished Chairman of the Republican Conference.

Mr. BOEHNER. Mr. Speaker, I thank the gentleman from Texas for yielding me time.

Mr. Speaker, the American people have entrusted the President of the United States with many exclusive privileges not available to the average person. Because of the travel demands that he bears as the leader of the free world, he has got the privilege of traveling across the world on Air Force One; because of his need for constant security as the leader of our government, he has the privilege of round-the-clock protection from the Secret Service, even after he leaves office; and because of the need for national security, he is entrusted with a special privilege, probably more sacred than any of these, and that is executive privilege.

Let us be perfectly clear, Mr. Speaker. The President has the right to claim executive privilege in matters of national security. But no one has the privilege of being above the law: not Members of this House, not Members of the other body, not even the Chief Executive of the United States of America. But it seems that this important privilege is being used to block the people's right to know on a much broader range of issues.

Mr. Speaker, I think there is a pattern developing in the Executive Branch. While reassuring the public that they are anxious to get to the truth, certain officials have consistently stood in the way of legitimate legal inquiries into activities of our government at the White House.

Just yesterday, in fact, a White House spokesman bluntly claimed that the administration has fully cooperated with Congressional questions about these very troubling technology transfers to China. It was a reassuring thing to hear, but it just was not true.

Congressional leaders from the Committee on National Security and from the Committee on International Relations have written the Secretary of Defense, the Secretary of State and the Director of the U.S. Arms Control Agency, and the chairman of the Committee on Intelligence wrote to the Secretary of Defense as well. Our Committee on Science, both Democrats and Republicans, have raised the issue of China with NASA. Even a letter sent to the President by the Speaker and the Majority Leader of the Senate has fallen on defense ears. To date, all of these requests have been met with either silence or reassurance. But all requests for information have been denied.

Mr. Speaker, it is time for the stonewall tactics to end and the cooperating to begin. Whether it is stalling on basic requests for information or invoking executive privilege, the result is the same; the American people are denied the right to know what is going on inside their White House. In the end, Mr. Speaker, this is what this fight is about, the American people's right to know what happens in their government.

This government does not belong to politicians in Washington, D.C. This government belongs to the American people, and they have a right to know what happens in Washington, D.C. They have a right to know what is going on in their White House.

I think the stonewalling should end, and the cooperating and the truth needs to be discovered.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to bring to the attention of the gentleman from Texas, who has brought forth this resolution, a little bit of history about executive privilege and how it has operated.

In 1992, the White House refused to permit White House Counsel C. Boydon Gray and C. Nicholas Rostow of the National Security Council to testify before the House Committee on Banking and Financial Services concerning the allegations that the Bush Administration had attempted to conceal from Congress the extent of its assistance to Iraq prior to the Gulf War. That was an assertion of executive privilege.

In 1991, President Bush ordered Defense Secretary Cheney not to comply with a subpoena for a document related to a subcommittee's investigation of cost overruns in a Navy aircraft program. It came to the Committee on Government Operations.

During the administration of President Bush, in response to requests from the Committee on Government Operations, Vice President Quayle's Council on Competitiveness cited executive privilege in refusing to make public its contacts with companies affected by proposed regulations that it was charged with reviewing.

President Bush invoked executive privilege in refusing to respond to a subpoena issued by the House Committee on the Judiciary seeking an opinion written by the Department of Justice Office of Legal Counsel authorizing the FBI to snatch fugitives on foreign soil.

Again during the Bush Administration, Attorney General Thornburgh cited exclusive executive privilege in withholding hundreds of documents from the Committee on the Judiciary concerning the Justice Department's controversial purchase of a $180 million computer system.

In 1986, the Bush Administration even supported former President Nixon's claim of executive privilege which he asserted to prevent the National Archives from releasing the Nixon White House papers.

Again, President Reagan invoked executive privilege with respect to the controversies concerning Mr. James Watt and certain Canadian land leases, Anne Burford and the EPA Superfund enforcement in 1982, and Department of Justice memos concerning the nomination of Chief Justice William Rehnquist in 1986. So those were three other instances in 1981, 1982 and 1986 where there have been presidential assertions of executive privilege.

Now, there is a process in which we can go into court, but never before in my memory and my research have we ever put a special resolution on the floor asking the President to go far beyond specific material, but asking him that in the interest of full disclosure, consistent with the principles of openness in government, all records or documents, including legal memoranda, briefs and motions relating to any claims of executive privilege asserted by the President, should be immediately made publicly available.

That was never done in the numerous examples of the assertion of executive privilege under Republicans.

But, more than that, would you really want the President to do what you are asking for in the resolved clause? Would you really want all of these materials released to the public? I do not really think you mean what you are saying here. I think maybe you would like to get to some more arguments on executive privilege, which, by the way, are being handled in the court. But would you want this much information?

This goes far beyond anything that would ever be brought up in a court. It goes far beyond anything necessary for us to understand why the assertion of executive privilege is being made, and it is a matter being debated and resolved in the courts as we stand here in the well.

□ 1245

So I would just say in mustering the most benefit I can to explain the reason for House Resolution 432 is that perhaps the author went beyond what it is he really wanted to know and forgot that everything means everything, that all means all, that any means any, no exceptions, none.

I do not think anybody really would want that to happen. Therefore, it is my position that this resolution is fatally flawed.

Mr. Speaker, I reserve the balance of my time.

Mr. DELAY. Mr. Speaker, I reserve the right to close, and I have no other speakers, and I am working with the gentleman from Colorado on an amendment, so if the gentleman has no more speakers, I will close.

Mr. CONYERS. Mr. Speaker, I do have more speakers, so if the gentleman does not mind, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DELAHUNT), a distinguished member of the Committee on the Judiciary.

Mr. DELAHUNT. Mr. Speaker, I thank my friend and colleague, the gentleman from Michigan (Mr. CONYERS) for yielding me this time.

I think it is important to note, because we have heard the refrain today about the President setting himself above the law. Well, there is nowhere that I have heard or read or observed where this President is suggesting that he is above the law.

Mr. Speaker, to me and to I think most Americans, it is clear that the President feels he has a constitutional obligation to assert executive privilege where he feels it is necessary to secure the independence of the executive branch.

Now, some may or may not like that particular assertion, but it has been and will be tested, by the third branch of government, our courts, our judiciary. I believe that the American people have great confidence in our constitutional democracy, whether they be lawyers or whether they be Joe Six-pack, because ultimately, the Constitution of the United States is a document above viable democracy. It is about the separation of powers, and it is a document that has worked well for this Nation since its birth back in the late 1700s.

So the President is working within the confines of the Constitution, that great American document, that document that so many have fought for and died for and served in this Nation's military, including the Marine Corps. This is all about the United States Constitution and about constitutional democracy and about respect for each branch of government.

Mr. CONYERS. Mr. Speaker, I have no other speakers, and I reserve the balance of my time.

Mr. DELAY. Mr. Speaker, I have no other speakers, and I reserve the right to close.

REQUEST TO AMEND HOUSE RESOLUTION 432 OFFERED BY MR. DELAY

Mr. DELAY. Mr. Speaker, I ask unanimous consent to add at the end of the resolving clause an amendment prepared by the gentleman from Colorado that states, "Such public disclosure shall not extend to legitimate national security information."

The SPEAKER pro tempore (Mr. LATOURETTE). The Clerk will report the amendment.

The Clerk read as follows:

Add at the end of the resolved clause: "Such public disclosure shall not extend to legitimate national security information."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. CONYERS. Mr. Speaker, reserving the right to object, I have not seen this amendment and I have no inclination to support it without having seen it, and so I object.

The SPEAKER pro tempore. Objection is heard.

Does the gentleman from Michigan wish to use additional time before the gentleman closes?

Mr. CONYERS. Mr. Speaker, I yield back the balance of my time.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

This is amazing, it is just amazing. The display of objections to the people's right to know the truth and the President's right to claim executive privilege that has been interpreted by the courts and not revealed any documents. But so be it.

The real intent of my resolution is to try to get the President of the United States to reveal information that has been withheld for all of these 4½ years in some cases, and information that the President is claiming executive privilege for.

The gentleman cited all of these claims by other Presidents. Not one of those cites that the gentleman listed has anything to do with claims of executive privilege involving allegations and information given to a grand jury on information of personal wrongdoing and possible crimes in the White House, not one of them. This President is only the second President after Nixon in the entire history of the country that has made those kinds of claims, and yet the gentleman still supports the President.

The gentleman says that the House of Representatives has no responsibility or authority to tell the courts what to do. Well, the gentleman and I have a very strong difference of opinion as to what the House of Representatives and the Congress of the United States is, its standing in the country, and particularly, its standing relative to the judiciary branch. We are not a sub-branch of the judiciary.

Now, for years, almost 40 years, the majority of this House has allowed the judiciary to rule law across this country and this body has not asserted itself. But now, under a new majority, we think we hold an equal standing with the judiciary that the Constitution gives us every opportunity to send messages to the judiciary and indeed, this week, this House overwhelmingly voted to limit the jurisdiction of the judiciary when it came to early release of convicts for the reason of prison overcrowding.

Now, the gentleman must believe that we are subservient to the judiciary, but I do not, and this resolution is the sense of Congress that says such, and we are sending a message to the appeals courts that are hearing the case of this President of the United States bringing executive privilege.

Congress, under the Constitution, has about as much right and duty to address the issues of constitutional import as any other branch. Congress considers issues every day that implicate the Constitution. The courts are the final decisionmakers, as we learned in Marbury v. Madison. However, the court considers the views of coordinate branches, equal branches of government.

This resolution merely says that the President's reasons for asserting executive privilege should be made public. If the President wanted to talk, he should not hide behind the courts. That is the truth of what is going on here.

The D.C. Circuit Court of Appeals and the Supreme Court should know that this House believes that court proceedings regarding executive privilege should be open to the public, and we are going to take a vote in a moment to express ourselves to those courts.

But the bottom line here, Mr. Speaker, is we should not participate in strategies of stonewalling or keeping the American people away from the truth. The bottom line of what we are trying to do here is the fact that the American people have the right to know the truth and we are calling on the President of the United States to tell the American people the truth, and I urge adoption of my resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I stand in opposition to the adoption of House Resolution 432.

First, I would like to express my dismay at the way the Republican leadership brought this resolution to the floor. When the agenda was set for this week, the Rules Committee minority leaders were only given approximately five minutes notice to prepare for consideration of this proposed resolution. Furthermore, the Judiciary Committee, which also has probable jurisdiction on this matter, was not even given the opportunity to review its text. If House majority leadership wants to maintain any semblance of impartiality, I suggest that they resist the temptation to take political "potholes" at every opportunity.

Fellow colleagues, this resolution does nothing more than embroil Congress in a dispute that is more properly before an Article III Court.

I believe that almost every member of Congress agrees that an executive privilege exists. In its purest manifestation, it protects us from the divulgence of information which threatens our national security. The scope of this privilege is still somewhat of an unknown quantity. The Bush Administration invoked the privilege on several occasions, many of which did not involve national security.

Colleagues, we are not the Supreme Court. It is not our task to divine the meaning of the Constitution. A rejection of this resolution is a clear signal to the American people that this Congress still recognizes the concept of separation of powers.

I also object to this resolution because it does nothing but make a recommendation that the President, that he waive his executive privilege. This is a right to be asserted by the President, under advisement of his lawyer only. In a legislative body, how can we fail to recognize the impropriety of stepping on the toes of the attorney-client relationship. Remember all of us under the law are innocent until proven otherwise.

I ask my colleagues to oppose this resolution, in order to send a clear message to the American people that we understand and respect the role of the legislature in our democratic system.

Mr. DELAY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

The resolution is considered read for amendment.

Pursuant to House Resolution 436, the previous question is ordered.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DELAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 259, nays 157, answered "present" 6, not voting 11, as follows:

[Roll No. 176]

YEAS—259

Abercrombie
Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kildee
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Metcalf
Mica
Miller (FL)
Mink
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—157

Ackerman
Allen
Andrews
Baldacci
Becerra
Bentsen
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Fattah

Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E.B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stark
Stokes
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

ANSWERED "PRESENT"—6

Barrett (WI)
Berman
Johnson (WI)
Kind (WI)
Obey
Rivers

NOT VOTING—11

Bateman
Crapo
Farr
Gonzalez
Gutierrez
Harman
Kaptur
McDermott
Meeks (NY)
Schumer
Torres

☐ 1318

Mr. CUMMINGS, and Mr. DAVIS of Florida changed their vote from "yea" to "nay."

Messrs. PASCRELL, ABERCROMBIE, and STRICKLAND changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman, one of his secretaries.

CALLING UPON PRESIDENT TO URGE FULL COOPERATION WITH CONGRESSIONAL INVESTIGATIONS

Mr. ARMEY. Mr. Speaker, pursuant to House Resolution 436, I call up the resolution (H. Res. 433) calling upon the President of the United States to urge full cooperation by his former political appointees and friends and their associates with congressional investigations, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 433 is as follows:

Whereas approximately 90 witnesses in the campaign finance investigation have either asserted a fifth amendment privilege or fled the country to avoid testifying in congressional investigations;

Whereas prominent among those who have asserted the fifth amendment privilege or fled the country to avoid testifying are former political appointees and friends of the President of the United States, such as former Associate Attorney General Webster Hubbell; former Department of Commerce political appointee John Huang; former Presidential trade commission appointee Charlie Trie; former senior Presidential aide Mark Middleton; longtime Presidential friends James and Mochtar Riady, as well as family, friends, and associates of some of these individuals;

Whereas when the Director of the Federal Bureau of Investigation Louis Freeh testified before the House Government Reform and Oversight Committee on December 9, 1997, he had the following exchange with the Chairman of the Committee:

Mr. Burton: Mr. Freeh, over 65 (at that time) people have invoked the Fifth Amendment or fled the country in the course of the committee's investigation. Have you ever experienced so many unavailable witnesses in any matter in which you have prosecuted or in which you have been involved?

Mr. Freeh: Actually, I have.

Mr. Burton: You have. Give me a run-down on that real quickly.

Mr. Freeh: I spent about 16 years doing organized crime cases in New York City, and many people were frequently unavailable.

Whereas never in the recent history of congressional investigations has Congress been faced with so many witnesses who have asserted fifth amendment privileges or fled the country to avoid testifying in a congressional investigation; and

Whereas the unavailability of witnesses has severely limited the public's right to know about campaign finance violations which occurred over the past several years and related matters: Now, therefore, be it

Resolved, That—

(1) the House of Representatives urges the President of the United States to immediately call upon his friends, former associates and appointees, and the associates of those individuals, who have asserted fifth amendment privileges or fled the country to avoid testifying in congressional investigations, to come forward and testify fully and truthfully before the relevant committees of Congress; and

(2) that the President of the United States should use all legal means at his disposal to compel people who have left the country to return and cooperate with the investigation.

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to House Resolution 436, the gentleman from Texas (Mr. ARMEY) and a Member opposed, each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. Mr. Speaker, I yield myself such time as I may consume.

This is just a simple and sincere resolution to resolve that the President of the United States should use all legal means at his disposal to compel people who have left the country or taken the Fifth Amendment to return and cooperate with the investigation.

Mr. Speaker, I would like to indulge myself in a quick reminiscence about one of my favorite situation comedies I saw on TV. Some of my colleagues may remember Archie Bunker. Archie Bunker was a conservative. He had a son-in-law that he affectionately called the "meathead" that was a liberal.

I remember in one of my favorite episodes of the show, Archie Bunker's son-in-law discovered that he had sneaked a few parts, spare parts home from work in his lunch box. And the son-in-law gave him a stern lecture on integrity and honesty and personal standards of conduct, and how he had to in fact rue and regret and apologize and atone for this grievous affront to all the principles we hold sacred.

And then just a few minutes later, Archie's daughter came in and exposed that the son-in-law had taken materials home from his office. The son-in-law, when confronted with this by Archie, responded with horror that even he, with all his virtue, could be corrupted by the institution.

It was, in fact, one of the greatest laugh lines of the evening, precisely because we all sat there and thought, pity the poor liberal, the more they feign moral outrage, the more they set themselves up to get stuck on their own stick.

Well, last year we were entertained all year long with all kind of expressions of piety and fidelity to the principles of individual integrity, openness, honesty, as the liberals in this body railed against the Speaker that he must step forward, reveal all documents, answer all questions and, in a word, come clean, because the Speaker of the House must be, beyond all shadow of doubt, a man of integrity.

Today, when we say to the President of the United States and all with whom he associates, come forward, come clean, present yourself, tell the truth, be open, release the documents, their response is, the system is corrupt. And before we ask any of these questions regarding who in the White House may or may not have violated the laws of the United States in their own shortsighted self-interest, what we hear from the other side is that it is we who are being irresponsible because we are not changing the system.

Let me say once more, the Nation will not forgive a Congress that believes that it is correct to change the rules and laws of finance, campaign finance, rather than to first discern who is or who is not obeying the law and bring to account those who do not obey the law. It does not take a great deal of understanding to know that matters of personal compliance, personal integrity, honesty and respect for the law are, in the longer run, more important than the law itself.

Mr. Speaker, again we must come to the floor of the House of Representatives with a resolution that simply says, let us get everybody together, present yourself and tell the truth. Certainly it is not beyond the normal expectation that we should expect the President of the United States to encourage by all means possible any persons with whom he has an association to do just that.

Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. SOLOMON), and I ask unanimous consent that he be able to yield the time as he sees fit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since October 2 years ago I have been extremely concerned with allegations swirling around the White House, and I am not talking about personal or domestic scandals. Rather, I am talking about the compromising of America's national security and potential economic espionage.

Both of us on both sides of this aisle should be concerned about political/economic espionage because it costs thousands and thousands, if not hundreds of thousands of jobs in Members' districts and mine and all across America, political/economic espionage and national security breaches.

That is why I have brought this bill to the floor. If Members do not understand that, I would ask them to get a Central Intelligence Agency document which is unclassified, which states, "Applicability of Space Launch Vehicle Technology to Ballistic Missiles." Take a look at it, because the technology we have been giving to China today can be so easily converted to intercontinental ballistic missiles. That is not me saying it; is our Central Intelligence Agency. Read it. That is how important this debate is on this issue right here today.

Dating back to my first letter trying to find out about John Huang, and Members all know who he is, and his connections to the President and senior members of his administration, we have faced nothing but contempt for legitimate congressional oversight which is our constitutional authority, duty in this Congress.

All told, I have written over 50 letters and made dozens of inquiries to over 8 departments, as chairman of the Committee on Rules that has legislation pending before it on this matter, and agencies of the Clinton administration, including the President himself numerous times, trying to get the truth out.

□ 1330

For just one example, in my very first letter, on October 21, 1996, coming up to 2 years now, I asked for all information from Secretary Kantor, do my colleagues remember him, Secretary Kantor at the Commerce Department, concerning his department's connection with John Huang to the Riady and the Lippo Group.

Do those names ring a bell, my colleagues? It took numerous letters and words like "obstruction of justice" to acquire the briefing book of the late Commerce Secretary Ron Brown that identified his early connections with John Huang, which dated all the way back to April of 1993.

The consistent pressure was also necessary to force Secretary Kantor to begin to come clean on John Huang's access, and my colleagues should listen to this because this is so important, on John Huang's access to highly classified briefings from a CIA official in the government regarding Communist China, an area of the world that this same John Huang was prohibited from having anything to do with.

But lo and behold, and this is a matter now of public record because we have been able to obtain this information and make it public, lo and behold, the information was still dribbled out over a period of not just months, but months and months and months, which ultimately showed that it was not just 12 or 37 or even 109 classified briefings or meetings, but it was more like 150. And who knows if even that is accurate. It could have been a lot more that this man John Huang was receiving classified information that could deal with national security breaches and political espionage. In addition, over 400 to 500 pieces of classified information were passed on to this particular man. Five hundred.

My colleagues, today, despite all of this and more, John Huang remains silent and untouched by justice. He refuses to come forward. In other words, and this is what my colleagues should pay attention to, in other words, a friend of President Clinton, a frequent White House guest, a senior political appointee of the President, one of his chief fund-raisers and vice chairman of the Democratic National Committee, is still hiding behind the Fifth Amendment.

The American people want to know why. What is he hiding; who is he protecting? Congress wants to find the truth and so do the American people. Why can President Clinton not help us with his friend?

And that is really what this resolution is all about. And again I will just read the last section of the resolve clause.

> We resolve that the President of the United States should use all legal means at his disposal to compel people who have left the country, taken the Fifth Amendment, to return and cooperate with this investigation.

It ties in with the President's statement back on January of 1998, which said, "The American people have a right to get the answers." That is what the President said and that is what we are urging in this resolution.

My colleagues, today, despite all of this and more, John Huang remains silent and untouched by this justice. But perhaps even more dangerous are 20 witnesses that have fled the country and 17 other foreign nationals who have refused to testify. Foreign nationals, my colleagues, who were in this country.

For example, one of those is a man named Ted Sieong. Do my colleagues remember that name? Have any of my colleagues read the papers in their districts back home? Mr. Sieong, now, listen to this, reportedly an agent for the PRC, that is the People's Republic of China, and a guest of both the President and Vice President, has recently been spotted in Phnom Penh, Cambodia, with his business partner Thung Bun Ma, who has been identified as the leading heroin smuggler in Cambodia, heroin that is reaching into this country and being shot into the arms of our children.

Imagine that, Mr. Speaker, a potential spy and drug kingpin sitting down with the leaders of the free world. What in the world have we come to?

I wrote to Secretary Albright in the beginning of this year, almost 5 months ago now, to find out more about Mr. Sieong and Mr. Bun Ma's visit to America. I have yet to hear back from the State Department. Do they not take this seriously? Why are they stonewalling? Is this obstruction of justice or what? We need to know these answers.

This delay is running to ground individuals who have compromised our national security, and I am sorry to say is not uncommon in this administration, and is entirely unacceptable.

Mr. Speaker, I could go on and on talking about the Riadys, who refuse to cooperate, the largest donors to President Clinton's 1992 campaign and close friends and guests of his. This is one of the largest international conglomerates in the world, my colleagues. Sure, they are rich and, sure, they have all the money to continue hiding, but why can the President not urge them to come forward and tell the truth?

Or what about Wang Jun, who, while having coffee with the President, was the chairman of an outfit preparing to smuggle automatic weapons into America and lobbying to reverse protection on the transfer of American satellite technology to China. In other words, my colleagues, and this is not just me standing up here and saying this, according to recent New York Times reports, this Chinese government arms dealer, sitting for coffee with the President of the United States, made billions of dollars for China upon reversal of those protections while we Americans pay the consequences in potentially deadly breaches of our national security.

Again, get the CIA report, unclassified, and see what I am talking about here today. Mr. Speaker, it is that serious. The stability of the world is in serious jeopardy for the first time since the Cold War.

The President's moral and ethical obligation as Commander-in-Chief, my colleagues, is to insist with the full power, with the full majesty of his office that information is made available, and individuals are compelled to come forward to tell the truth. He ought to be using the power of that office to get them to come forward, to let the American people know the truth and to judge for themselves the damage done to our national security and, consequently, to the future of this great democracy of ours.

Are we going to have these ballistic missiles once again pointed at the United States of America? The immense powers and reach of his executive branch should be commissioned to tell the American people the truth and to identify just how serious our security and foreign policy has been compromised.

I fought for a long time frustrating battles trying to impress upon the administration the severity of this matter, and I have done it in a nonpolitical way, because we were out after the national security breaches and out after the economic espionage, not about this sex scandal. We want to know the truth about how this country has been jeopardized.

Despite all these frustrations, not all was for naught. We found out some information, but more often than not that information was even more disturbing and begged additional questions. Through all of this, I found some good people in the administration, some very good people, willing to help get to the bottom of these breaches of our security. And make no mistake, our national security has been compromised.

But what we need and what the American people deserve, my colleagues, is cooperation from the very top, from the President of the United States himself, in answering our questions and bringing his associates to justice. That is all that we are asking for, is the truth, the truth, the truth.

This resolution stands for all of those things and will put the Congress on record strongly behind the effort to get to the truth and let the American public find out just what has happened to our national security because of many of these shady associations. And I will talk a little bit later about some of those shady associations to try to dramatize just what we are talking about here.

I hope my colleagues across the aisle will join us in a bipartisan appeal to the President. National security is too important for partisan politics. It should stop at the water's edge. We should rally together. We should rally together with the President of this country to try to get to the bottom of this so that we do not have this situation facing the future of our country.

So please vote for this resolution. It is reasonable and deserves my colleagues' support.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. LATOURETTE). Does the gentleman from Michigan (Mr. CONYERS) claim the time in opposition to the resolution?

Mr. CONYERS. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) is recognized for 30 minutes.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK), a senior member of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, the gap between reality and the description we have just heard is very, very wide. The suggestion that the national security of this country has been endangered or is in danger because of the People's Republic of China, with its relatively weak military capacity, is an absolutely unjustified denigration of the military strength of this country. But it also raises an important question in my mind.

Now, the gentleman from New York was complaining of the President's failure to listen to him regarding apparently the terrible menace of the People's Republic of China. But the President is not the only one to whom he should be addressing his words. It was the leadership of his party that brought forward recently a bill to grant the People's Republic of China Most Favored Nation treatment.

Indeed, Mr. Speaker, I had to check the record. I heard a lot of this denunciation of the threat that China poses to the United States, and I had this vague recollection that the Republican leadership had given the Chinese the single thing they most wanted from this government: Most Favored Nation treatment. Indeed, if we look at the trade practices, if there could be one thing the American government could do that would make the People's Republic of China happier than anything else, it would be to give them Most Favored Nation treatment.

Now I know my friend from New York was against it, and so was I, but it was the Speaker of the House, of his party, who put it through. Has the gentleman been so focused on the President that he has forgotten to share his wisdom with the Speaker? The staffer who sits next to him, who so carefully hands him that paper every 4 minutes when he forgets where he put it, can the gentleman not have him with him the next time he meets with the Speaker? The gentleman should bring that staffer along, because the gentleman will have to show that paper to the Speaker.

If the gentleman asked the Chinese what they wanted, some missile technology or the right to sell us $50 billion a year worth of goods, I think the $50 billion would come first.

Now, I disapprove strenuously of the way in which the Chinese government runs its people. I think they are oppressing Tibet. I think they are a threat to some of their neighbors. I was supportive of our going to the defense of Taiwan. I do not believe they are a threat to this great strong country. But if I thought they were trying to become a threat to this country, the last thing I would begin to do is to fund them, and that is what Most Favored Nation treatment does.

The Chinese government makes far more money because of Most Favored Nation treatment than anything else. And the gentleman's party put the bill through. The gentleman's party controls the House.

Now, on the other hand, maybe there is good news, Mr. Speaker. Maybe the Speaker has seen the light. Because my understanding, until recently, was that the Republican Party, the leadership of the House, planned once again to bring a Most Favored Nation bill for the People's Republic of China before us. Now, I know I would vote against it and my friend from New York would vote against it, but given the organizational power of that coalition of President Clinton and Speaker GINGRICH, the People's Republic of China would probably get it.

And, apparently, there is a breach in the coalition, because I certainly would find it hard to believe that the Republican leadership, who so excoriated China and so warned us of the danger China presents to our very national security, surely they are not prepared to give the Chinese Most Favored Nation treatment.

The gentleman said it is the Cold War again. During the height of the Cold War, in fact, during the low parts of the Cold War and the medium parts of the Cold War we never gave Russia Most Favored Nation treatment. So I guess those of us who voted against Most Favored Nation treatment for China should take heart: Allies are apparently coming. Because I am sure that the passionate nonpartisan eloquence of the gentleman from New York will not spare his Speaker if he were to err and provide Most Favored Nation treatment for that threatening nation of China.

The other thing I wanted to talk about briefly was the resolution. The facts on this are that the President has, I think, been doing everything he can. I hope no one is suggesting the President has the right to order people not to plead their constitutional rights. But, in fact, the suggestion that the President is not doing what he can is clearly contradicted by the facts.

One of the things the gentleman mentioned were the people who have fled the country. They fled the country because the Justice Department is after them. But the Justice Department works, of course, under President Clinton. We have heard these arguments that said, oh, we must have an independent counsel. And what is the basis recently for demanding an independent counsel? Well, the Justice Department cannot investigate that. How do we know that? Well, we just got facts that show the Justice Department cannot investigate it. Where did we get the facts? From the Justice Department's investigation.

The latest revelations which came from Johnny Chung came from the Justice Department's investigation. The people that have fled the country, in all honesty, I do not think they fear the gentleman from Indiana, who chairs the Committee on Government Reform and Oversight, as much as they fear the Attorney General and her prosecutors.

□ 1345

They are the ones who are threatening them. So what we have here are people have fled the country because the Justice Department is engaging in a tough, honest investigation. And so, what do we say? We say, "Mr. President, bring them back." The only way the President could bring them back would be to order the Attorney General to stop the investigation. It is the Justice Department that is involving them in this investigation.

The gentleman says he wants to pursue this in a nonpartisan way, and I am glad to hear. I look forward to being here the day he chooses to do that. Apparently, today was not the day. Because this is a resolution that is accompanied by rhetoric denouncing the President for following a policy towards the People's Republic of China, which in substantial ways is the same as the Speaker of the House and the people in the other body, because both Houses passed Most Favored Nation.

It is the Administration through the Justice Department which is investigating these people. And that is what they are taking the fifth amendment from. They are refusing to testify before the Justice Department, they are fleeing the Justice Department, and they are saying, well, what are you doing about it? Well, the President is in fact, by the toughness of the investigation under the Attorney General, ultimately the cause of precisely these things.

Now, of course, we want an investigation. And there do appear to be people who abuse the campaign finance system on both parties. We had high-ranking fund-raisers in both the Clinton and Dole campaign in 1996 who behaved badly, who appeared to have violated the law. They should be prosecuted, and we should do it in a nonpartisan way.

But just in summary, first of all, let us not grossly exaggerate the physical threat that the People's Republic of China poses to the United States. Yes, they threatened Taiwan. And when the United States sent military force, they backed down. There is a disparity, fortunately, between the United States and the People's Republic of China military that means we are not in any danger from them. Others might be.

Secondly, if they do believe that the People's Republic of China is such a threat, then how do they put through the House a bill that continues their Most Favored Nation treatment which does as much to fuel their economy as any other single thing, is something they greatly want?

The gentleman from New York (Mr. SOLOMON) is not guilty of inconsistency here. Because he and I agree; we voted against Most Favored Nation treatment. What happened was, and I know the gentleman is very busy, he is busy keeping amendments off the floor, the defense bill, and doing other things, he forgot that the Speaker was for Most Favored Nation treatment. I understand that. He cannot always remember everything.

But now that I have reminded the gentleman that it is his Speaker who was bringing forward Most Favored Nation treatment, I will be glad to go with him. I will even hand him the document and show him if he misplaces it to remind him how terrible it is and how he should not even have it.

Finally, let us note that the investigation from which these people are hiding, in which they are pleading the fifth amendment, is the investigation being conducted by the Attorney General and her aides. And that is, of course, proof that these allegations of cover-up are pretty silly.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Well, as Ronald Reagan used to say, we could go to vote right now. Because the gentleman has made my case, and we won, and we could just go to vote. But let me comment a little bit.

I do not know how we got into the Most Favored Nation debate here. The gentleman and I happen to agree with it. But we are talking about bringing fugitives back to the United States.

The gentleman has tried to make the point that maybe it was the Republicans that initiated Most Favored Nation treatment. Everybody knows if they have been here for a while, and the gentleman has been here for a while, same as I have, I see my colleagues all smiling, but it has to be the President of the United States that has to initiate a request for Most Favored Nation. Congress cannot do it. I cannot do it. In other words, it is the President.

The President initiates, and then the gentleman from New York (Mr. SOLOMON) the day after, which I will do on June 3, the day we get back here, because that is probably the day my spies over at the White House tell me the President is going to ask for Most Favored Nation treatment for China again. Although he may not have the nerve to do it after all of the votes that we have had here just in the recent couple of days.

But let me just say to him that he wonders had I not been talking to the gentleman from Georgia (Mr. GINGRICH). Oh, I have been talking to the gentleman from Georgia for many, many years about this issue. I have been talking to TRENT LOTT, who is the Majority Leader, the leader of the Senate. Guess what? I made a lot of inroads with the Majority Leader of the Senate. He is now on our side. And now I have got to work on the gentleman from Georgia (Mr. GINGRICH) a little more. We might get there.

The gentleman from Massachusetts (Mr. FRANK) also was being a little miscourteous I believe, I do not know whether it was intentional or not, when he was referring to the gentleman sitting next to me handing me papers. It ought to be, for the RECORD, that the gentleman sitting next to me is a former Marine fighter pilot in Vietnam. Everybody ought to know that. That is the kind of people I associate with.

I associate with someone just as important in the next speaker. He is a former fighter pilot in Vietnam as well, one of the most decorated heroes of our country. He is the gentleman from California (Mr. CUNNINGHAM). I will let him respond to what I would call an outrageous statement, without being disrespectful, about the weaknesses of the People's Republic of China military. What?

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, most of the time the gentleman from Massachusetts (Mr. FRANK) is very eloquent. People listen to him. He has got a lot to say. But I would say that the gentleman is grasping at straws and his last comments are unbelievable, that I do not believe in my lifetime there will be peace in the Middle East or in Bosnia, not even northern Ireland. And I strongly believe that China and Russia today are our biggest enemies today.

The gentleman would like to say the Cold War is over so he can cut defense more, but that is just not the fact. And to engage in trade with Bosnia, with China, with the Middle East, we need to engage not only in dialogue, diplomatic relations, but also trade.

If we look at China, it is a lot different than it was 20 years ago because we have had an influence in there. But to suggest that trade equates to giving away military and technological secrets that would benefit a country in striking other countries and this one is ludicrous, and that is why I say the gentleman is grasping at straws.

Another thing is that the threat is very evident from China and Russia today. I have gone through that several times on the floor of what their threats actually are. And for someone to propose himself as an expert of military strategy and technology that has never dealt with it, never donned a uniform, never planned strategic strikes is amazing, a self-proclaimed expert.

They are a threat, Mr. Speaker. China is a very serious threat. And to give them the technology that could destroy this country is very, very serious.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

My thanks to the Majority Leader for his fond recollections of the television production "All In The Family." It was produced by none other than Norman Lear, with whom I am sure the gentleman from Texas (Mr. ARMEY) shares many common interests and beliefs.

The President is now being asked in this resolution that everyone who may have invoked the fifth amendment consider abandoning it. Well, why? Well, because, as the Chairman of the Committee on Rules said, why are they hiding behind the fifth amendment? This is technical constitutional lawyer stuff, but the fifth amendment is for all people. The fifth amendment is not used for people to necessarily hide behind it and then have to explain why they invoke the fifth amendment.

I do not think we did that when Lieutenant Colonel Oliver North, during his crisis, invoked the fifth amendment. People use the fifth amendment who are totally innocent and have reasons for not wanting to bring forward information. So I do not think that the test of whether someone is telling the truth or not or is guilty or innocent can be arrived at by whether or not they invoke the fifth amendment. I hope everybody in the Congress will agree on this elementary point of constitutional understanding.

Now, there have been a lot of names of people who are involved, and we said over 90 in the resolution. But may I remind my colleagues that the Senate Banking Committee held exhaustive hearings on some of these subjects, the House Committee on Banking and Financial Services held exhaustive hearings on other parts of the people referred to and the incidents referred to, the Senate Governmental Affairs Committee held incredibly lengthy hearings. And the House Committee on Government Reform and Oversight not only has held lengthy committee hearings but are continuing to hold committee hearings.

So what are we asking the President to do? We are asking him to state that he hopes everyone will cooperate with the investigators and tell the truth. Does anybody on the other side recognize that the President of the United States, Bill Clinton, has already publicly stated that he hopes everyone will cooperate with investigators and tell the truth?

Now, it is both bizarre and unprecedented for us to request one party in an investigation to advise the other party as to how they should conduct themselves and whether they should, in effect, ignore the advice of their lawyers.

Again, as raised in the other resolution, do my colleagues on the other side really mean that that is what they want the President to tell other people that are being investigated? Again, on their behalf, I do not think so.

So I will ask the Members considering this resolution, for what it is worth, I can tell them that I am not favorably disposed toward it and I feel that it is a totally frivolous amendment that is consuming a lot of important time.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would advise that the gentleman from Michigan (Mr. CONYERS) has 17 minutes remaining, and the gentleman from New York (Mr. SOLOMON) has 8½ minutes remaining.

Mr. CONYERS. Mr. Speaker, I yield 6 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), my colleague on the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me the time.

I think it is important that as we finish this discussion that we try to step away from the allegations that would create hysteria that caused my telephone to ring feverishly last night when Americans from around the Nation considered that we were under immediate attack by Chinese missiles.

I think the important point is what are we discussing here on the floor of the House. I take great aversion to anyone being challenged who has taken an oath of office that they are un-American, that they would do something to endanger the lives of so many millions of Americans. I believe this Nation will not forgive a Congress that itself violates the law.

□ 1400

We need to have the facts why H.R. 433 and 432 have even been brought to the floor of the House. I will tell you why they are on the floor of the House today. One, asking the President to give up his rights to executive privilege, and, two, asking him gratuitously to tell people to testify.

The reason, because Democrats thought that someone presiding over an oversight committee that would call publicly the President a scumbag and then offer to distort tapes and present them to the American public as truth needed to step aside from that investigation.

Our position was not that he needed to step aside from being chairperson of that committee, but during the time of this investigation, the Committee on Government Reform and Oversight needed someone else who would not have characterized his bias such that he would have called the highest officer of this Nation a scumbag.

We always ask for a certain decorum. So the reason why we are on the floor today is because this is a punitive measure against Democrats and a punitive measure against the President of the United States.

Members brought a resolution. We will bring a resolution. Interestingly enough, the resolution that had facts attributable to it was tabled. Yet, many Democrats voted just last week or this week to direct that committee to immunize witnesses so that we could get to the facts.

Democrats are not afraid of an investigation. Democrats are not afraid of campaign finance reform. We have been arguing for such reform time after time after time.

These resolutions are what they are. They are political. They are partisan. Why do I say that? As a Member of the House Committee on the Judiciary, neither one of these resolutions found their way to the committee of jurisdiction.

The Committee on Rules, which is the gatekeeper for this particular body in order to create orderliness, did not get notice of these resolutions but for 5 minutes before they had to review them.

In fact, the law is clear. Someone taking the Fifth Amendment cannot, if they were to testify, attribute their allegations and Fifth Amendment rights to someone who is outside of the realm. So, in fact, why would the President be fearful of someone coming to testify or why would the President in any way be impacted by someone taking advantage of their constitutional rights, the Fifth Amendment?

Why would the President of the United States or anyone other than your religious leader, your spouse, your family member have any authority to tell someone that is not part of his immediate family, to engage them in any discussion about what they do with their constitutional rights? I ask every American to consider moving aside the fairness of what we are asking here.

Then the last resolution that passed was about executive privilege. Executive privilege has been characterized as a sinister tool. Let me tell you that President Reagan claimed it. President Bush claimed it a number of times.

Executive privilege is what it is. It is a recognition of a distinction of three branches of government, the Executive, the Judiciary, and the Legislative Branch. In fact, John Dean, the counsel to Nixon, someone who well knew what executive privilege can bring about, declared just a couple of weeks ago that the President should appeal determinations made on his use of executive privilege.

If you want to talk about national security, the tampering with executive privilege will truly tamper with our national security.

What is this about China? I want the facts about China. I absolutely do not want to see our people in jeopardy. But I would say to the men and women of this country, I believe you are a fair and honest people. If you come to the table making allegations of treason, which one of the Members of our colleagues on the other side of the aisle has already done, then how can you have a fair and unbiased process when the Members who are asking for such resolutions have already committed themselves that the President of the United States has committed treason? We do ourselves an international disservice.

If we are to presume that we want a fair and unbiased hearing on what has happened in China, do we need to then make representations, before we have even heard a single fact, that the President is guilty of treason?

These resolutions are not what they seem to be. I want those who have absconded from the law to return and to acknowledge their constitutional rights, if that is what they so choose, but to respond to the laws of this land. All of us do.

If the executive privilege is used improperly or illegally, then we must address that question. But it is an executive privilege that is a constitutional or a legal provision.

I think we are well to recognize that all is not right just because it happens to be the law of the land, for the Independent Counsel statute has already showed us the abuse that can occur, the millions of dollars that can be spent.

Mr. Speaker, I would simply say that if these resolutions had come through the legitimate processes of this House, if they had been debated in committee, if they had been fairly brought, I would say that we should go forward. Otherwise, I think these are partisan and unfair, and I ask for their defeat.

Mr. Speaker, this Nation will not forgive a Congress that violates the law of equity and the rule of fairness. I must rise today in opposition to H. Res. 433, a resolution which urges the President to compel his associates to cooperate with any and all pending Congressional investigations, for several key reasons. First of all, this issue is moot. The President has consistently asked all of his associates and/or friends involved with any investigation pending in this Congress or elsewhere, to cooperate to the fullest extent of the law. So with that in mind, what unique kind of petition do the authors of this resolution honestly expect the President to make, that he has not made already?

Secondly, the language of this resolution notes that approximately ninety (90) witnesses connected to the campaign finance investigation in the House Governmental Affairs Committee have asserted a Fifth Amendment privilege or have left the country. Do the authors of this resolution actually intend to imply that the President is somehow responsible for the actions of these ninety (90) individuals in choosing to leave the country and/or exert their Constitutionally-protected rights? As we all know, the Fifth Amendment privilege exists only for those individuals that may incriminate themselves with their testimony, not those that may incriminate an outside party like the President. So what possible relationship does the exercise of this individualized Constitutional liberty by the President's so-called "associates" have to do with the conduct of the President himself?

And finally, I must take exception with the implicit presumption of Presidential guilt carefully weaved into the language of this resolution. Why is it necessary to include a statement from a December hearing with the Director of the Federal Bureau of Investigation that seems to imply that the President is a part of a grand conspiracy to conceal evidence from this body? If our intentions truly are to simply compel the President to continue to encourage his friends, colleagues and associates to cooperate with this investigation, so be it. But I do not see what the kind of inference made by the FBI Director (that the only other time he has ever seen such an unavailability of witnesses was in a organized crime case he handled over 16 years ago) has to do with the effort to achieve full cooperation by all parties involved in this campaign finance investigation?

In any investigatory proceeding, the key is always process. If we are after the truth, why does the language of this resolution imply Presidential complicity? I need not remind this body that the cornerstone of the American democratic process is the presumption of innocence, yet somehow, the United States Congress seems unwilling to extend that same presumption to the President. I sincerely hope that we can get to the bottom of the campaign finance investigation in the Governmental Affairs Committee, but I just do not see how this resolution is helping to serve that purpose. For all of these reasons, I urge all of my colleagues to ignore partisan differences and please vote down H. Res. 433.

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair will advise that the gentleman from Michigan (Mr. CONYERS) has 11 minutes remaining and the gentleman from New York (Mr. SOLOMON) has 8½ minutes remaining.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Colorado (Mr. SKAGGS) who heads up the Constitutional Caucus in the House.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for the time. I understand there is some frustration on the other side about all of this. This resolution has been cleverly drafted to appear, at first reading, perhaps, even to be innocuous.

But let me just suggest to my colleagues that we ought not to rush to judgment in this matter. It has much larger constitutional consequences then may be first apparent.

The gist of the resolution is to exert the power and the authority of this House to have people waive their constitutional rights, and we need to examine the significance of that proposition very carefully.

First, let us acknowledge that confrontations and disputes in which the Bill of Rights are invoked often come up under difficult and unseemly circumstances. That is simply because the Bill of Rights was designed to protect minority and unsavory points of view, the less powerful, those out of step with the majority, to protect such people from the potentially overzealous power of government.

When a criminal asserts a Fifth Amendment privilege against self-incrimination, it is easy to condemn it and even easier to forget that that privilege exists to protect us all from an overzealous government. Is that not what this recent to-do over IRS reform is all about, for example?

When a miscreant like Khalid Muhammed gives a vitriolic antisemitic hate speech, it is easy to condemn it and finesse its protection under the First Amendment, as this House, unfortunately, did a few years ago. And easier still to forget the First Amendment's guarantee of free speech exists to protect all of us against government-imposed orthodoxy, even those, especially those, with views offensive to the majority.

When a drug dealer asserts a Fourth Amendment privilege against unreasonable search and seizure, it is easy to speak grandly about people who hide behind technicalities, and still easier to forget that those Fourth Amendment protections exist to protect all innocent Americans against abuse by government power.

So while, as here, these issues typically come up in a way that appears to work to the benefit of some questionable behavior, the intended and enduring beneficiaries of the Bill of Rights are all of us. We forget that at our great peril.

But this resolution, boiled down to its essence, is an effort to force Americans to waive their rights. In this case, it happens to be the Fifth Amendment that would be waived. The point resolution, and the danger in this is that its reach is much broader, and the precedent is chilling. If it is the Fifth Amendment today, why not the Fourth Amendment protection against unfounded searches tomorrow, and the Sixth Amendment's guarantee of a speedy and public trial the day after.

If it is the Fifth Amendment today, what about the First Amendment protection against peaceable assembly, or the Fifth Amendment's guarantee against double jeopardy?

We can all think of many cases in which we wish these protections did not apply. They are inconvenient. But that is not the issue.

The point is that in order to have these protections for the vast majority of innocent American citizens, we must also extend those protections to bad actors.

As a matter of simple logic, if we are willing to compromise those fundamental principles as they apply to those whom we hold in low regard, as in this resolution, then we compromise the same principles as they apply to everyone.

That is a danger and a cost that far exceeds whatever satisfaction we may derive from this resolution's attack on the rights of individuals subjected to the delicate and tender ministrations of the investigation by the gentleman from Indiana.

Some will attempt to characterize a "no" vote on this resolution as if it were endorsing stonewalling. That is just plain silly.

Unfortunately, in order to support the Bill of Rights and its protections, we have to endorse it, as here, even for cases of people whose behavior we do not and cannot defend, but whose rights are held in common with our own.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) has 6 minutes remaining, and the gentleman from New York (Mr. SOLOMON) has 8½ minutes remaining.

Mr. CONYERS. Mr. Speaker, I am happy to yield 5 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Speaker, I thank the gentleman from Michigan for yielding to me.

Mr. Speaker, the House is currently debating a series of three nonbinding resolutions that are heavy in their political content and very light in their substantive content. They also contain within them a very substantial degree of vindictiveness.

The resolutions in themselves probably would not be harmful except that they are in their intention and in their wording and, also, secondly, because they take away from the House valuable time which it would be better advised dealing with more substantive issues.

This resolution, first of all, suggests that the Congress urge the President of the United States to urge other people to waive their constitutional rights. It says, in effect, that the President of the United States should behave as some kind of a sultan or dictator and have people dragged before a congressional committee and submit to that congressional committee, ignoring completely their rights under the Constitution and ignoring completely the separation of powers which is the hallmark of this government.

This resolution in that regard is enormously dangerous. This comes from the party that asserts itself as being the party of small government, the party of a weaker, less intrusive government. Yet, in this very resolution, all of that is denied. All of that is put aside.

This resolution says that this particular party that advocates this resolution is the party of strong dictatorial government that would force people to behave in ways that are contrary to their own best interests and contrary to the basic protections of the Constitution.

It is very difficult to understand the reasoning behind this resolution, very difficult to understand the reasoning behind its author who stands for different kinds of things, or at least gives voice to different perspectives and different viewpoints than are expressed in this particular resolution.

This resolution says that people should be forced before a particular congressional committee, even though they do not want to appear before that congressional committee.

Why might people be reluctant to appear before this particular committee headed by this particular chairman, the gentleman from Indiana (Mr. BURTON)? It is quite clear. In doing so, they are simply being sensible. They are using good common sense.

They have seen the way that this particular chairman behaves. They have seen that this particular chairman falsifies evidence and information that comes to his attention and is in his hands. They have seen that this particular Chairman will take a person's statements and falsify those statements. He will falsify those statements by extracting from them words, whole sentences, and whole paragraphs.

PARLIAMENTARY INQUIRY

Mr. BUYER. Mr. Speaker, I would like to make a point of order. When someone is on the floor and makes a statement against another Member by saying "falsifying evidence," whether those words would really be in order on the House floor when, in fact, they are not even proven?

The SPEAKER pro tempore. Is the gentleman from Indiana (Mr. BUYER) requesting that the words of the gentleman from New York (Mr. HINCHEY) be taken down?

Mr. BUYER. I so request. Actually, I ask it by my parliamentary inquiry, when he makes such allegation that a Member is actually falsifying evidence, whether those such words would be insulting to the House?

The SPEAKER pro tempore. In response to the gentleman's parliamentary inquiry, Members are reminded to not make personal observations about other Members of the House.

The gentleman from New York (Mr. HINCHEY) may proceed.

□ 1415

Mr. HINCHEY. Mr. Speaker, I would direct the attention of the House to the recorded dialogues and the way in which those dialogues were handled by this particular committee, and ask the Members of the House to make judgments for themselves with regard to the way that those conversations were transcribed, and observe that in those transcriptions, certain words and sentences were omitted and observe in those transcriptions that words in fact were inserted into those transcriptions, which gave entirely different meanings to the sentence and paragraphs allegedly therein transcribed. I think if people will look at that, they will be able to judge for themselves exactly what was taking place there.

Now, with regard to these three nonbinding resolutions and all the time that these three nonbinding resolutions have taken from the House, it would be one thing if we had all the time in the world to dwell on these political issues. But the fact of the matter is that languishing in committees in this House are important measures that are critical to the health, safety and well-being of millions of Americans.

Languishing in committees in this House is legislation dealing with the safety of patients in hospitals; languishing in committees in this House is legislation dealing with the regulation of HMOs. Languishing in committees in this House is legislation dealing with the reauthorization of the Federal Superfund. We need to bring that legislation to the floor and have it voted on.

Mr. SOLOMON. Mr. Speaker, I yield 2½ minutes to the gentleman from Indiana (Mr. BUYER), a very great American from Monticello, Indiana, and a chairman of the Subcommittee on Personnel of the Committee on National Security.

Mr. BUYER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, one of my former Democrat colleagues came to the floor and said he recognizes that there is a general level of frustration in the House, and I think he is accurate and correct. The level of frustration is there because I believe that the correct body to conduct such a vast investigation should be an independent counsel.

We have asked for an independent counsel for a very long time from the Justice Department, and that is who I think the proper body is. Even the Speaker of the House has an idea to have a select committee, and different people are trying to grope with it. My preference is to have the Attorney General appoint the Independent Counsel, and the momentum of the evidence is building.

I can recall how disturbed I was when I learned that the Attorney General in the fall of 1995 had been warned by our security sources that China was attempting to influence our elections, and then that she thought enough about that concern to pick up the phone and call the National Security Adviser, Sandy Berger, but he was not in and she never bothered to call back personally again.

That really bothered me. I asked her if she ever had a peculiar feeling about not having exercised her due diligence, and she said no, it did not bother her at all. See, that kind of bothers me. It bothers me because if I had a friend whom I knew was about to be shot or killed, I would want to warn them. When the attorneys general find themselves in that position of having such information, they should have in fact warned the President that there are individuals who were going to seek to have monies come into this country to influence the process.

We find out now it was influenced from so many different angles, there are different allegations. Whether the debates are in this House with Loral and whether or not they have transferred, whether it is satellite, to dual use technologies in the ballistic missile category, it is very, very concerning.

Mr. Speaker, I just wanted to come to the House just to share this. I am very bothered that over 90 witnesses would come forward and take the Fifth Amendment. That is their constitutional right. The gentleman from Michigan (Mr. CONYERS) is absolutely correct, and so is the gentleman from Massachusetts (Mr. FRANK). That is their constitutional right. But how do you get around that Fifth Amendment? You have the Independent Counsel, or Justice, you take them before the grand jury. Then they give them that immunity, and if they do not testify, then they end up going to jail. But there is a proper mechanism for us to get here. I understand the general level of frustration by the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I yield 30 seconds to a very distinguished gentleman from Alabama (Mr. EVERETT).

Mr. EVERETT. Mr. Speaker, as part of the discussion on this administration's lack of cooperation with the Congressional investigations, as well as the continuous assertion of executive privilege, I thought my colleagues would be interested and surprised to learn of another stonewalling situation and another assertion of executive privilege by President Clinton's White House. It involves the waiver granted by this administration for the burial of Ambassador Larry Lawrence at Arlington National Cemetery.

I would ask, why on the Earth would the President of the United States not want to reveal to the Congress what happened in the White House in decisions involving matters not even remotely connected to national security? It is stonewalling, Mr. Speaker.

Mr. Speaker, as part of this discussion on this Administration's lack of cooperation with Congressional investigations, as well as on assertions of executive privilege, I thought my colleagues would be interested and perhaps quite surprised to learn of another stonewalling situation and another assertion of executive privilege by President Clinton's White House counsel. It involves the waiver granted by President Clinton to the former surgeon general, Dr. C. Everett Koop, for burial at Arlington National Cemetery, and the waiver granted by the Secretary of Army for the burial of Ambassador Larry Lawrence at Arlington.

As Chairman of the Veterans' Affairs Subcommittee on Oversight and Investigations, I asked the White House for information and documents regarding the White House role in the waivers for Dr. Koop and Ambassador Lawrence. My colleagues will certainly recall the Subcommittee's discoveries that Dr. Koop is the only living person with a waiver, a violation of Arlington's regulations and that Ambassador Lawrence had falsely claimed heroic wartime service in the U.S. Merchant Marine.

The White House has declined to provide responsive answers to the Subcommittee's questions about Dr. Koop's waiver, which was subsequently withdrawn after its existence became public knowledge. That's the long and the short of it.

And, Mr. Speaker, I was totally surprised and amazed, when the President's counsel, Mr. Charles F.C. Ruff, not only did not provide responsive answers to the Subcommittee's questions about Ambassador Lawrence, he asserted executive privilege with respect to certain documents that the privilege log enclosed with his letter of January 23, 1998, described as a "Memorandum to President from Deputy Counsel to the President and Deputy Assistant for Intergovernmental Affairs regarding Ambassador Lawrence's burial at Arlington Cemetery" and "Cover memorandum to President from Assistant to the President and Staff Secretary attaching a copy of document ANC 0000018 described above and a list of persons buried at Arlington Cemetery."

Mr. Speaker, I ask, why on Earth would the President of the United States not want to reveal to Congress what happened at the White House in decisions involving matters not even remotely related to national security. I don't have the answer to my question, and I don't know if the White House is hiding anything, but I am going to keep on trying to find out.

I do believe this is the first time the Veterans Affairs Committee has ever been confronted with an assertion of executive privilege as it attempts to fulfill its constitutional oversight responsibilities, and I want America's veterans to know what the White House is doing, because I think it is the wrong way to conduct the people's business, particularly when it comes to veterans. I hope veterans will let the President know how they feel about it. I can't imagine any good public policy reason to be hiding away information and documents under these circumstances, and I hope the White House will reconsider its position.

Mr. CONYERS. Mr. Speaker, I yield one minute the to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I appreciate the gentleman from Alabama helping draw it all together in a logical way.

Mr. Speaker, I would first say to the gentleman from Indiana, the Justice Department is doing the investigation. He said the way to get around their invocation of the Fifth Amendment is to get them before a grand jury. It is the fact that the Justice Department, or Attorney General Reno, is trying to bring them before the grand jury, that has led them to do this. That investigation is going on.

Finally, I do want to say apparently something I said was misinterpreted as in some way reflecting on the very able staff, and I regret that, because we are very well served here by our staff.

I did mean to call attention to what I thought was the uncharacteristically repetitive argument of my good friend from New York. In no way did I mean to reflect on the first-rate staff work he depends on. This was between Members, and I apologize, because apparently something I said may have had that inference.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I just have to call attention to the fact that no one has criticized a particular sentence or particular paragraph in my bill.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry. I thought the time had expired.

The SPEAKER pro tempore. Does the gentleman from New York (Mr. SOLOMON) yield for a parliamentary inquiry?

Mr. SOLOMON. No, we have 5 minutes to close.

Mr. FRANK of Massachusetts. I thought the gentleman was yielding to me to close.

Mr. SOLOMON. To close for your time.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) controls the time, and has 5½ minutes remaining.

Mr. SOLOMON. Mr. Speaker, may I please start over again.

Mr. Speaker, I just have to call attention that no one has criticized a particular sentence or paragraph in the bill. Let me just again refer to the very last section, paragraph in the bill. It says that the President of the United States should use all legal means.

Now, you have heard the lawyers on that side stand up and say oh, they are infringing on the Constitution. But all I am saying is to use all legal means at his disposal to compel people who left the country to return and cooperate with the investigation.

Who are those people, Mr. Speaker? If you look at this fellow with the mutton chops right here, I do not know if you can see it from here, but his name is Ted Sieong. The media has identified him as a PRC, People's Republic of China, communist agent. He gave hundreds of thousands of dollars to the Clinton-Gore campaign and the Democratic National Committee. He had dinner with the President. He appeared at the temple, the famous temple with Al Gore.

Ted Sieong, whose business is cigarettes, and you have heard that referred to here, bought and then changed a Chinese newspaper in Los Angeles to support the People's Republic of China communist viewpoint against Taiwan. Even worse, this Ted Sieong guy you are looking at right here, is in business with Thung Bun Ma, the other man identified in the picture, over here, people who have been at the White House.

Thung Bun Ma is the leading Cambodian heroin kingpin that is exporting heroin into this country, into the arms of our children. He sponsored the coup, and I want you to listen to this now, these are the people we are trying to get to come here and testify, he sponsored the coup in Phnom Penh in Cambodia that brought Hun Sen, you know who he is, they brought him to power, reinstating the deadly Khmer Rouge influence. Do you remember the Killing Fields? Have any of you seen that? That murdered over 2 million people.

These are the kind of thugs we are talking about, trying to get the President to cooperate with you and I to bring here. I wrote to Secretary Albright in January, 5 months ago, to learn more about these thugs. I requested again in February, asking the Secretary of State to accelerate the process, and my committee has yet to hear back one word.

Mr. Speaker, here are about 50 news accounts. This is not just me saying it. It is not just people on our side of the aisle. This is the news media from across the country and the world that speaks to the proxy have just mentioned. These are the people we want to come back here and to testify. I will include these articles for the Record.

Mr. Speaker, let me say just one more time, on a bipartisan basis, we are urging, we are pleading with the President of the United States to use his legal means, legal means, to get these people to come forward and tell the truth about the national security breaches and the economic espionage that is costing thousands of Johns in this country, but, more than that, is jeopardizing the future of this democracy. Let that is all we are asking for.

Mr. Speaker, I include the articles referred to earlier for the Record.

[From the Los Angeles Times, Oct. 30, 1996]

FUND-RAISER HUANG SURFACES, TESTIFIES

(By Robert L. Jackson)

WASHINGTON.—Democratic fund-raiser John Huang emerged from hiding Tuesday and insisted that his evasion of a subpoena in recent days did not mean he wanted "to run away from the issue" of his past activities as a Commerce Department official or a Democratic Party fund-raiser.

Huang, who is at the center of a controversy over illegal campaign contributions, testified for more than four hours behind closed doors in a freedom-of-information civil suit brought by a conservative legal organization seeking to show that Commerce Department trade missions overseas solicited money for the Democrats.

A videotape of his testimony released later showed he took the position that he never acted illegally or improperly. He denied that there were any fund-raising aspects to overseas trade missions in which he participated.

Even as Huang surfaced for questioning. Republicans stepped up their assault on the issue of Democratic fund-raising. Sen. John McCain of Arizona and four Republican House committee chairmen asked Atty. Gen. Janet Reno to apply for the appointment of an independent counsel to investigate not only Huang's activities, but also a variety of other alleged improprieties by Democrats in raising funds from foreign sources.

The Republicans accused Huang of "the apparent deliberate flaunting of federal election law . . . with the apparent cooperation of President Clinton and Vice President [Al] Gore and the Democratic National Committee."

McCain and the four House chairmen—Bill Thomas of Bakersfield, William F. Clinger Jr. of Pennsylvania, Benjamin A. Gilman of New York and Gerald B.H. Solomon of New York—told Reno that the Justice Department could not be counted on to carry out an inquiry that will be considered fair and free of outside influence.

For that reason, they called on Reno to ask a special federal court to name an independent counsel. Reno gave no immediate reply.

Huang, of Los Angeles, resigned from the Commerce Department in December to join the staff of the Democratic National Committee—where his fund-raising activities led to questions that forced him into hiding earlier this month. At the DNC. Huang solicited more than $800,000 from Asian interests that violated or may have skirted the prohibition on foreign contributions to American political campaigns.

He was not asked about his DNC Activities Tuesday because the Judicial Watch civil suit is limited to Huang's work at Commerce, and his lawyers raised objections to questions they felt went beyond that.

On the subject of his work at Commerce, Huang said he had "played a very passive role" in the trade missions at issue in the law-suit. "The whole Commerce Department objective was to try to help American business overseas."

* * * * *

Judicial Watch attorney Larry Klayman said he may have more questions today if a federal judge permits them.

Huang said he never traveled on any of the foreign trade missions, which were led by the late Commerce Secretary Ronald H. Brown. And described his only role as participating in "preparation meetings" at the department before some overseas trips.

While at Commerce. Huang said, he also never had sought to advance the interests of the world-wide Lippo Group, in which he had been an executive before joining the government. Lippo Group is an Indonesian conglomerate founded by the wealthy Riady family, who have been longtime Clinton supporters.

Huang did acknowledge that over the years he had met "quite a few times" at the White House with the president and First Lady Hillary Rodham Clinton and members of the Riady family. He did not describe the purpose of those meetings or say what had been discussed.

While hiding from public view. Huang said, he felt encouraged when Asian American friends told him that Mrs. Clinton had said: "John's a friend of mine. We all support him."

Huang insisted that he had not been dodging federal marshals who last week tried to serve him with a subpoena in the Judicial Watch suit, but rather was avoiding "harassment" by news media representation seeking to question him about his fund-raising.

"I didn't think it was the proper time to show up," he said, adding that he spoke by phone from time to time with Democratic committee officials who did not press him as to his whereabouts.

Huang, who was a high-ranking official with Lippo Group banking enterprises for nine years, said he accepted the Commerce Department position in 1994 because "as a member of the Asian American community, we have so few working for the government."

He charged that press reports about his fund-raising "have tainted the reputation of anyone in our Asian American community."

In calling for the appointment of an independent counsel, the Republicans cited a number of questionable contributions, including:

$450,000 from Arief and Soroya Wiriadinata, an Indonesian couple who lived in Washington's Virginia suburbs before returning to Indonesia at the end of last year.

$325,000 from Yogesh Gandhi, a great-grandnephew of Mahatma Gandhi.

$250,000 from a South Korean company called Cheong Am America.

$140,000 from individuals at a fund-raiser in April at a Buddhist temple in Hacienda Heights.

In a related development, the Democratic committee continued to delay filing a preelection report that would disclose contributions or expenditures made during the first * * *.

However, the DNC did file with the Federal Election Commission what party representatives said was a comparable set of "raw data." Ann McBride, president of Common Cause, the nonpartisan citizens lobby, termed illegal and "outrageous" the Democrats failure to file a formal preelection disclosure report.

[From the Washington Times, Oct. 30, 1996]

5 GOP LAWMAKERS ASK RENO FOR OUTSIDE PROBE OF FUNDING

(By Jerry Seper)

The chairmen of four House committees and a senator yesterday formally called on Attorney General Janet Reno to seek the appointment of an independent counsel to investigate suspected illegal campaign activities by the Clinton administration and the Democratic National Committee.

In a letter prompted by ongoing probes into the campaign activities of the Lippo Group, a $6 billion Indonesian real estate and investment conglomerate, the Republican lawmakers cited "eight specific instances" in which the administration and the DNC may have violated federal campaign laws.

They asked that a decision in the request be made by Miss Reno no later than Friday. Justice Department officials had no comment yesterday.

"The magnitude of the funds involved, the high rank of the officials involved and the potential knowing and willful violations committed make it impossible for any officials of this administration's Justice Department to carry out an investigation that will be considered fair and free of outside influence," they said.

* * * Bill Thomas of California, chairman of the House Oversight Committee; William F.

Clinger of Pennsylvania, chairman of the House Government Reform and Oversight Committee; Benjamin A. Gilman of New York, chairman of the House International Relations Committee; Gerald B.H. Solomon of New York, chairman of the House Rules Committee; and Sen. John McCain of Arizona.

Mr. McCain, who has questioned whether "foreign influence" altered U.S. foreign policy on Indonesia, was the first to ask Miss Reno to appoint an independent counsel. He has said Congress needs to know whether President Clinton arranged a "quid pro quo" to soften human rights policy on Indonesia in exchange for the contributions.

The eight areas cited were:

The involvement of Mr. Clinton, Vice President Al Gore and the DNC in questionable campaign contributions from Cheong Am America, a South Korean electronics firm whose illegal $250,000 donation was returned, and Arief and Soraya Wiriadinata, Indonesian landscapers who gave $452,000 to the DNC while living in Arlington.

* * * * *

The acceptance of questionable contributions from Yogesh Gandhi, from individuals at the Hsi Lai Buddhist Temple in Los Angeles, from individuals at the Hay-Adams Hotel in Washington and from the Wiriadinatas.

The fund-raising activities of DNC executive and former Commerce Department official John Huang.

The possible improper influence of official government decisions as a result of campaign contributions to the DNC by associates and allies of Mochtar Riady, who controlled Lippo.

The DNC's use of tax-exempt facilities at the Hsi Lai Temple for fund-raising purposes.

The possible attempt by Mr. Huang, with either the knowledge or approval of the DNC, to obstruct an investigation of his activities by evading a subpoena.

The DNC's September FEC report listing the DNC's address as the home address of at least 31 contributors.

At the center of GOP concerns are the millions of dollars in contributions to the DNC solicited by Mr. Huang, the group's vice chairman for finance.

[From the Washington Times, Nov. 1996]

FOREIGN-MONEY SCANDAL GROWS AS $15 MILLION OFFER IS REVEALED

(By Jerry Seper)

A local businessman told two of Taiwan's leading newspapers this week he was present when the chief financial manager of the ruling Nationalist Party offered to donate $15 million to President Clinton's re-election campaign.

The businessman said the offer was made to Mark E. Middleton, an Arkansas lawyer and former top aide to White House senior adviser Thomas F. "Mack" McLarty. Federal election laws forbid such a contribution from foreign residents, and there is no record the donation was ever made.

News of the offer capped a day in which:

The White House said there are two John Huangs—one a fund-raiser embroiled in a scandal over contributions to the Democratic National Committee, the other, a former IRS employee working on Vice President Al Gore's "reinventing government" initiative. A John Huang visited the White House 78 times in the last 15 months. The White House says the visits weren't all by the DNC fund-raiser—but it doesn't know how many were.

The DNC filed its overdue financial report, which revealed it returned a $10,000 contribution on Oct. 16 to Kyung Hoon Lee, chairman of Cheong Am America Inc., the South Korean electronics company that illegally donated $250,000 to the Democrats earlier this year.

In the Taiwanese connection, Mr. Middleton, who left the White House in February 1995 to work in Washington as an international business consultant, arranged a controversial meeting in September 1995 between Mr. Clinton and the Nationalist Party financial officer, Liu Tai-ying, during a critical moment in U.S.-Taiwan relations, said businessman Chen Chao-ping.

The Los Angeles Times said Mr. Middleton escorted Mr. Liu to the Clinton meeting after telling the Taiwanese party chief he had "a direct channel" to the White House.

At the time, relations with China had plummeted to the lowest point in years after Mr. Clinton allowed Taiwan's president, Lee Teng-hui, to visit Cornell University in June 1995, breaking a pattern of barring Taiwan's leaders from U.S. visits. China responded with missile tests at sea near Taiwan, causing Taiwan's stock market to plunge and international airlines to reroute flights.

Mr. Middleton denied, in a statement, ever soliciting funds for the DNC or Mr. Clinton during several business trips to Taiwan, or arranging for "any contributions to the DNC or any candidate from any foreign source." He said, "Any statements to the contrary are completely false."

Congressional investigators are looking into Mr. Middleton's Taiwanese contacts, along with those of James C. Wood, another Arkansas lawyer and friend of Democratic fund-raiser John Huang, to determine if they used their White House ties to solicit contributions from Taiwanese businessmen and government officials.

Both Mr. Middleton and Mr. Wood are friends and confidants of Mr. McLarty's.

Meanwhile, the Justice Department is reviewing accusations of illegal campaign activities by the White House and the Democratic National Committee to determined if calls by Republican lawmakers for the appointment of an independent counsel is warranted.

The review, required under the Independent Counsel Statute, will include a 30-day preliminary inquiry to determine if suspicions that campaign funds were illegally sought and delivered to the DNC and the Clinton administration are credible and if a formal, 90-day criminal probe is warranted.

That criminal probe would determine whether Attorney General Janet Reno should ask a federal appeals court panel to appoint an independent counsel.

Earlier this week, the chairmen of four House committees and a senator called on Miss Reno to seek the appointment of an outside counsel to investigate suspected illegal campaign activities. Targeting the Lippo Group, a $6 billion Indonesian real estate and investment conglomerate, the lawmakers cites "eight specific instances" in which the White House and the DNC may have violated federal campaign laws.

They said the "magnitude of the funds involved, the high rank of the officials involved and the potential knowing and willful violations committed" made it impossible for the Clinton Justice Department to carry out an investigation "that will be considered fair and free of outside influence."

The letter was signed by Reps. Bill Thomas of California, chairman of the House Oversight Committee; William F. Clinger of Pennsylvania, chairman of the House Government Reform and Oversight Committee; Benjamin A. Gilman of New York, chairman of the House International Relations Committee; Gerald B.H. Solomon of New York, chairman of the House Rules Committee; and Sen. John McCain of Arizona.

Mr. McCain has questioned whether "foreign influence" altered U.S. foreign policy on Indonesia and has said Congress needs to know if Mr. Clinton arranged a "quid pro quo" to soften human rights policy on Indonesia in exchange for the contributions.

During a press briefing on Thursday, Miss Reno acknowledged she had received the request, saying, "We are looking at it in the context of the Independent Counsel Statute." She said the act "prescribes certain deadlines, and we will operate under that and do everything we can based on the evidence and the law."

Miss Reno said the matter had been referred to the department's public integrity section, which is staffed by career lawyers who investigate and prosecute corruption cases involving public officials and the electoral system.

Mr. Wood, who has been unavailable for comment, was named in 1995 to head the American Institute in Taiwan (AIT), a private foundation on contract to the State Department to maintain unofficial ties with Taiwan. As head of the AIT, he effectively served as U.S. ambassador to Taiwan.

Published reports said senior officials in Taiwan complained that Mr. Wood pressured businessmen for donations, suggesting Mr. Clinton should be rewarded for his pro-Taiwan policies. On a visit to Taiwan this year, Mr. Wood was accompanied by Mr. Huang in what the DNC said was a fund-raising trip.

Mr. Wood practices international-trade law in Washington and has clients with economic interests in China and Taiwan.

Mr. Middleton helped raise $4 million in the 1992 Clinton presidential campaign.

[From the Washington Times, Nov. 27, 1996]

COMMERCE DEPT. QUERIED ON LIPPO, VIETNAM POLICY

(By Jerry Seper)

The chairman of a House committee probing foreign-linked campaign gifts to the Democratic Party asked Commerce Secretary Mickey Kantor yesterday to explain the role three Lippo executives played in President Clinton's 1994 decision to end a 30-year trade embargo with Vietnam.

Rep. Gerald B.H. Solomon, the chairman of the House International Relations Committee, demanded "all information" concerning contacts, agreements or "other dealings" involving the Lippo Group; Mochtar Riady, the company's founder; his son. James, a Lippo executive; and John Huang, a former Lippo and Commerce Department official, in "any influence of U.S. policy and the normalization of relations with the Socialist Republic of Vietnam."

In a letter, the New York Republican said he wants clarification on Vietnam policy meetings called and attended by Mr. Huang while he was deputy assistant secretary of international economic policy at Commerce and on efforts by Lippo to end the Vietnam embargo.

In a handwritten note on the bottom of the two-page letter. Mr. Solomon said: "This is important, I ask you."

Mr. Huang is at the center of a controversy over foreign-linked campaign donations to Mr. Clinton and the Democratic National Committee.

After the embargo was lifted, talks began within the administration on formulating trade policies toward Vietnam. Mr. Huang moved from Lippo to the Commerce Department during this process and began a vigorous campaign to open Vietnam to U.S. trade.

Mr. Solomon wants to know whether Lippo sought to influence U.S. policy toward Vietnam while the company was making trade overtures to that country. He asked Mr. Kantor for similar documents in October. Mr. Kantor responded with some but did not include Vietnam-related files.

Commerce spokeswoman Maria Cardona said yesterday Mr. Kantor had not seen the letter and therefore had no comment.

The panel's interest in Lippo's role in the end of the embargo surfaced in October When it got Mr. Huang's appointment calendars and found that he began an aggressive campaign for a new trade policy toward Vietnam a day after his July 1994 appointment. He pushed that policy for the next 17 months while Lippo, his former employer, sought to expand its investment empire into Vietnam.

Mr. Huang's Commerce Department calendars show that immediately after he left Lippo with a $780,000 bonus, he began a series of meetings with White House officials, key associates, international bankers and corporate executives to discuss an expansion of trade with Vietnam.

Republicans have suggested his activities on Vietnam represented a conflict of interest, and they have called for congressional hearings and the appointment of an independent counsel to investigate the matter.

The Justice Department is reviewing a request by Mr. Solomon and the chairmen of three other House committees for the appointment of an independent counsel. Assistant Attorney General Andrew Fois has said the case is being examined by the department's public integrity section.

Mr. Huang's first involvement in Vietnam policy as a deputy assistant secretary came on his first day on the job, July 19, 1994, when he scheduled a 9 a.m. meeting on "U.S.-Vietnam policy."

Mr. Clinton lifted the Vietnam embargo on Feb. 4, 1994, reneging on a 1992 campaign pledge to first get a "full accounting" of Americans missing from the Vietnam War.

Mr. Solomon, in his letter, asked Mr. Kantor to explain meetings Mr. Huang had in July and October 1994 and in January, February and August 1995 that are listed as Vietnam-related.

Mr. Solomon also asked for information on an April 1993 meeting involving Commerce Secretary Ronald H. Brown and 40 Asian community leaders in Los Angeles to discuss most-favored-nation trade status for China and the normalization of relations with Vietnam.

Mr. Huang, then an official at Lippo Bank in Los Angeles, attended that session, congressional investigators said.

At least 11 House panels, including Mr. Solomon's, are probing foreign contributions to the DNC, looking at Mr. Huang's ties to Vietnam policy, and examining his appointment calendars to determine with whom he met, what was said and what agreements were reached, particularly those that could directly benefit Lippo.

While Mr. Huang was at the Commerce Department, the Lippo Group, based in Indonesia, sought to expand its $6.9 billion investment empire into Vietnam.

Mochtar Riady led a trade mission of Asian bankers to Vietnam in September 1993. Lippo opened trade offices in Ho Chi Minh City and Hanoi after Mr. Riady's visit.

James Riady, Lippo's deputy chairman, has said Mr. Huang was "my man in the American government."

[From the New York Times, Dec. 3, 1996]

LETTERS SHOW HOW INDONESIAN DONOR FAMILY LOBBIED CLINTON

(By Alison Mitchell)

WASHINGTON, Dec. 2.—Mochtar Riady, an Indonesian businessman with longstanding ties to President Clinton, recommends to the President that the United States normalize ties to Vietnam and pursue economic engagement with China.

Mark Grobmyer, an Arkansas businessman, lets Mr. Clinton know that Indonesia's President Suharto would like to address the Group of Seven industrial nations.

And an Alabama insurance executive asks Vice President Al Gore for a letter congratulating his company for a venture with a Riady company.

These letters—details of which were made available today by White House officials—are among more than a dozen pieces of correspondence to and from the White House concerning the Riady family. White House officials are preparing to turn over the documents to Congressional committees looking into questionable fund-raising practices by the Democratic National Committee.

White House officials said they were still culling records and could not yet say whether more letters would be found or when the materials would be delivered to Congress.

Representative Gerald B. Solomon, the chairman of the House Rules Committee, wrote a letter to the White House asking why he had not been told of the correspondence in October when he asked for information about the Riadys from Commerce Secretary Mickey Kantor.

"I would appreciate convincing assurances that it was not an attempt to cover up embarrassing information before the election," Mr. Solomon, Republican of New York, said.

As described by White House officials, the letters cast little light on the questions Republicans are most interested in: whether the Riady and their associates affected American policy toward Asia or benefited from helping raise millions in donations for the Democratic committee.

Replies to the Riadys and their associates from the President and Vice President, also described by the White House, often seemed little more than form letters. Some of the correspondence was social. Mr. Clinton sent a brief birthday note to Mr. Riady on May 7, 1993, for instance.

But the letters do help paint a fuller picture of the relationship between the Clinton White House and the Riady family, which became a focus of Republican attacks after the Democratic National Committee suspended John Huang, a fund-raiser who had been a top executive in the United States for the American interests of the Riady family.

In a four-page letter to Mr. Clinton on March 9, 1993, Mochtar Riady thanked the President for seeing him briefly during Inaugural festivities and then offered detailed advice about how the United States should approach trade relations with Asia.

He argued that the Administration should normalize relations with Vietnam, saying in passing that he had two managers there looking for investment opportunities. Mr. Riady said Suharto, the Indonesian ruler, wanted to attend the G–7 summit. And he urged that the Administration allow economic engagement with China as the best way to bring about reform. Mr. Clinton in 1992 had assailed President George Bush for seeking to use economic engagement to change China. But once in office, he followed essentially the same policy.

Mr. Clinton has acknowledged discussing policy with Mr. Riady's son James, once an Arkansas businessman, but said Mr. Riady never influenced policy decisions. Speaking to reporters today, Mr. Clinton the March 1993 letter was "a letter like tens of thousands of other letters I get." He called it "a straightforward policy letter, the kind of thing that I think people ought to feel free to write the President about."

Michael D. McCurry, the White House press secretary, said that the President had been interested in input from business executives regarding economic policy in Asia. And while the Administration decided in 1994 to lift the United States embargo against Vietnam, Mr. McCurry said that "to suggest that any particular individual's views, whether it be a financial contributor or not, would have a disproportionate thinking on the work of the Administration is a little bit less than credible."

In another letter to Mr. Clinton in March 1993, Mr. Grobmyer a Little Rock lawyer who has been active with the Riadys and others in Asian business dealings, wrote to Mr. Clinton about a recent trip he took to Asia. He too said that Mr. Suharto wanted to address a meeting of the Group of Seven in Tokyo.

Mr. Grobmyer said he had already spoken to Thomas F. McLarty 3d, then the White House chief of staff, and Nancy Soderberg, an official at the National Security Council, about his trip. He said the Riadys had helped him in his travels and attached a draft thank you note that he said the President might consider sending to them, with suggestions on increasing American competitiveness in Asia. There is no sign among the correspondence that Mr. Clinton sent such a letter to the Riadys and the United States did not back Mr. Suharto's attendance at the meeting. Instead, Mr. Clinton met Mr. Suharto in Tokyo during the summit.

Vice President Gore also got a letter in 1994 about the Riadys. The White House has found the second page of a letter to the Vice President from W. Blount of the Protective Life Corporation saying that his company was forming a joint venture with one of the Riady companies, the Lippo Group. He asked for a letter of congratulations, noting that it would help with the Riadys if the letter affirmed that his company was known to the Administration. Several months later the Vice President wrote to James Riady expressing congratulations on the joint venture.

[From the Washington Times, Dec. 1996]

WHILE LIPPO EYED VIETNAM, HUANG PUSHED AT COMMERCE

(By Jerry Seper)

John Huang began aggressively arguing for a new U.S. trade policy toward Vietnam only one day after his July 1994 appointment as a top Commerce Department official—and pushed the idea for the next 17 months while his former employer, the Lippo Group, sought to expand its investment empire into Vietnam.

Republican legislators believe Mr. Huang's efforts to open Vietnamese markets after his former company paid him a $780,000 bonus is a conflict of interest, and they have called for congressional hearings and the appointment of an independent counsel to investigate the matter.

"Mr. Huang's prior involvement with Lippo and his activities at Commerce with regard to Vietnam is an absolute conflict of interest," says Rep. Gerald B. H. Solomon, New York Republican and chairman of the House Rules Committee. "It's just outrageous that these kinds of things can happen, these kinds of things can happen, and we're going to insist that we get to the bottom of it.

"If this was Wall Street or the New York Stock Exchange, this kind of insider information would result in people going to jail."

The Justice Department is now reviewing a request by Mr. Solomon and the chairmen of three other House committees, along with Sen. John McCain, Arizona Republican, for the appointment of an independent counsel. Assistant Attorney General Andrew Fois says the case is being examined by the department's Public Integrity Section.

Mr. Huang's attorney, John C. Keeney Jr., says he and his client "were not in a position to respond" to questions concerning the Vietnam accusations.

Now at the center of a growing controversy over foreign-linked campaign donations to President Clinton and the Democratic National Committee, Mr. Huang met several times with White House officials, key friends and associates of Mr. Clinton, international bankers, and corporate executives to discuss an expansion of trade ties with Vietnam, according to his personal appointment calendars.

In fact, his first involvement in the topic as a deputy assistant secretary for international trade came during his first full day on the job, July 19, 1994, when he scheduled a 9 a.m. meeting on "U.S.-Vietnam policy." Several other meetings are listed in his personal calendars as Vietnam-related.

Mr. Clinton, discarding a 1992 campaign pledge for a "full accounting" of Americans missing in action during the Vietnam War, ended a 30-year trade embargo against Vietnam in February 1994. Several companies, including the Lippo Group and its U.S. affiliates, were scrambling to take advantage of new market potential.

Five months after the embargo was listed, while talks continued on formulating new trade policies with Vietnam, Mr. Huang moved to Commerce with his $780,000 Lippo bonus and immediately began a vigorous campaign to open up that country to U.S. trade.

Three House committees probing suspected illegal foreign contributions to Mr. Clinton and the DNC are looking into Mr. Huang's ties to Vietnam trade agreements and have begun to examine his appointment calendars to determine with whom he met, what was said and what agreements were reached—particularly those that might have benefited the Lippo Group directly.

Investigators also have focused on assertions by James Riady, deputy chairman at Lippo and son of Lippo's owner, Mochtar Riady, that Mr. Huang was "my man in the American government."

Mr. Solomon says preliminary inquiries have shown that "extremely large contributions" were made during the 1996 presidential campaign but it is not clear what concerns the Lippo Group had in giving the money or what the company received in return.

The request for an independent counsel is backed by Mr. Solomon; Mr. McCain; and Reps. Bill Thomas of California, chairman of the House Oversight Committee, William F. Clinger of Pennsylvania, chairman of the House Government Reform and Oversight Committee, and Benjamin A. Gilman of New York, chairman of the House International Relations Committee.

Eight specific areas of concern, including "the fund-raising activities of DNC executive and former Commerce Department official John Huang," were cited.

According to Mr. Huang's calendars, copies of which have been obtained by the committees, he scheduled several Vietnam-related meetings with government and corporate officials between his 1994 appointment and his December 1995 resignation to join the DNC as a fund-raiser.

At the time, the Jakarta-based Lippo Group, where Mr. Huang was a banking executive and vice chairman, was seeking White House and Commerce Department help in expanding its $6.9 billion real estate and investment holdings into Vietnam, where the firm had huge financial interests.

Mochtar Riady had led a trade mission of Asian bankers to Vietnam in September 1993 to appraise business opportunities there—five months before Mr. Clinton's decision to lift the embargo. By early 1995, the firm had put together a joint marketing venture with First Union Corp. of North Carolina to finance trade efforts in Southeast Asia.

James Riady and Mr. Huang are longtime friends of Mr. Clinton and were officers at Worthen National Bank in Little Rock (which has become Boatmen's Bank of Little Rock, a subsidiary of Boatmen's Bank of St. Louis) when Mr. Clinton was the governor of Arkansas. In 1992, they approved a $3.5 million loan to the Clinton presidential campaign just before the New York primary.

Mr. Huang also raised $250,000 in contributions for the 1992 race and was responsible for raising $4 million to $5 million in donations for Democrats in 1996.

Most actively involved in the Vietnam venture was Lippo Ltd., a privately held finance and real estate subsidiary of the Lippo Group. the firm reported $3.6 billion in assets, with 143 subsidiaries in 11 countries. The Riady family controls 54 percent of Lippo Ltd. stock and oversees it subsidiaries, one of which was Worthen.

Also involved was Lippo Bank, publicly held and based in Jakarta. With assets of $3.3 billion, it has more than 260 branches in 90 cities in Indonesia, as well as offices in Vietnam and California.

[From the Washington Times, Dec. 1996]

SECRECY ON RIADY LETTERS RIPPED

SOLOMON WARNS OF MORE SCRUTINY

(By Jerry Seper and Paul Bedard)

A House committee chairman probing campaign contributions to the Democratic Party yesterday accused the White House of balking at Congress' request for letters detailing the controversy while it conducts a public-relations campaign through the press.

"I found it offensive that instead of paying me the courtesy of faxing the March 1993 letter from Mochtar Riady, the White House prefers to let the press view the Clinton-Riady correspondence under controlled conditions and with its own self-serving spin," said House Rules Committee Chairman Gerald B.H. Solomon, New York Republican.

"For four years, this has been the standard White House reaction to exposure of its own actions. The White House is now in no position to complain of increased congressional scrutiny," he said. "In fact, they can count on it."

The complaint came as the White House released new details on the letters between the president and Indonesian billionaire Mochtar Riady and his son, James, but continued to put off congressional demands for the documents.

Mr. Solomon, who Monday denounced the White House's refusal to release documents, said a March 9, 1993, letter from Mochtar Riady calling for an end to a 30-year trade embargo on communist Vietnam was critical in determining the scope of pending hearings and whether they should be conducted by a special or standing committee.

He said the hearings are necessary because of Attorney General Janet Reno's decision last week to reject his request for the appointment of an independent counsel to look into accusations of campaign-finance irregularities.

The White House letters suggest a strong friendship between the Riady family, which runs the Lippo Group, and the president and his aides, as well as a reliance by Mr. Clinton on the Riadys' advice on Asia policy. A key to this relationship is the March 1993 letter calling on Mr. Clinton to lift the embargo. The president did so in February 1994.

In that letter, Mr. Riady thanked Mr. Clinton for meeting with him on Inauguration Day in 1993 and suggested that normalizing business relations would snowball into political reforms in the communist country. He also urged Mr. Clinton to continue U.S. engagement in China and suggested he let Indonesian President Suharto attend the 1993 Group of Seven economic summit in Tokyo.

The White House said Mr. Clinton responded by referring Mr. Riady's letter to Robert E. Rubin, who at the time was Mr. Clinton's top economic-policy adviser and now is Treasury secretary.

The letters detailing the president's links to Mochtar Riady also indicate that former Democratic National Committee fund-raiser John Huang wielded influence over the president. For example, after the White House delayed nearly two months in writing a letter congratulating Mr. Riady for receiving an award from Golden Gate University in San Francisco, Mr. Huang weighed in.

In April this year, he wrote Nancy Hernreich, deputy assistant to the president and director of Oval Office operations, seeking a Clinton letter. Seven days later, Mr. Clinton wrote a congratulatory note to Mr. Riady.

The White House said it will release the texts of the letters once it completes its search for all records of the Clinton-Riady relationship.

Many of the letters also detail the relationship between the president and his aides and James Riady, the chairman of Lippo and a longtime Clinton friend.

A Clinton associate, Little Rock businessman Mark Grobmyer, wrote the president about his May 1993 trip to Indonesia and Asia and asked him to write James Riady a thank-you note for aiding in the trip. In May 1993, the president wrote to Mr. Riady, applauding his efforts to strengthen U.S. business ties to Asia. He also thanked Mr. Riady for giving him a specially made nameplate.

The White House also detailed a letter from William E. Blount of Protective Life Corp., whose firm joined in a venture with Lippo in Asia. In January 1994, Mr. Blount asked Vice President Al Gore for a letter congratulating the firms on the venture. That April, Mr. Gore wrote Mr. Riady to express the administration's satisfaction with the venture.

[From the Washington Times, Dec. 1996]

CLINTON SAYS LIPPO LETTER DIDN'T SWAY HANOI POLICY

(By Jerry Seper and Paul Bedard)

President Clinton acknowledged yesterday that he received a letter from the head of the Indonesia-based Lippo Group seeking normalization of trade relations with Vietnam, but he denied the 1993 letter influenced his decision to end a 30-year trade embargo on that country.

The chairman of a House committee probing the role of three Lippo executives in the decision to end the embargo angrily denounced what he called a possible "cover-up" in Mr. Clinton's failure to release the letter from Mochtar Riady, Rep. Gerald B.H. Solomon, New York Republican, demanded that the president immediately make it public to avoid the perception of an "obstruction of justice."

Mr. Solomon, chairman of the House Rules Committee, had asked the White House and the Commerce Department in October for all communications, correspondence or "any other dealings" involving Lippo; Mr. Riady; his son, James, a Lippo executive; and John Huang, former Lippo and Commerce official, regarding efforts to "influence" U.S. trade policy with Vietnam.

The committee chairman also sought clarification on Vietnam policy meetings called by Mr. Huang while a deputy assistant secretary for international economic policy at Commerce and on Lippo efforts to end the embargo at a time when it was moving its $6.9 billion real estate and investment empire into Vietnam.

"Failure to do so could only be construed . . . as a continuation of the pattern of stonewalling begun before the recent elections," Mr. Solomon said. "There could be no other possible explanation of your failure to produce the letter. Such an invitation would also invite suspicions of obstruction of justice, whether such suspicions are warranted or not."

Mr. Clinton promised to make the letter available, but not before he first delivers it to congressional oversight committees—probably sometime next week. Its existence was first reported yesterday by the Wall Street Journal.

"It's a letter like tens of thousands of other letters I get, people suggesting every day . . . what our policy ought to be in various areas," Mr. Clinton told reporters at a ceremony to honor spaceshuttle astronaut Shannon Lucid. "You will see it's a straightforward policy letter, the kind of thing that I think people ought to feel free to write the president about."

Mr. Clinton also dismissed threats of hearings. "They'll have to do their business. They can do whatever they think is right. I'm going to spend my time working on what I can do," he said.

His spokesman, Michael McCurry, tried to say there was nothing new in the Journal's story. He said that the letter's existence was "largely known" to other reporters and that Mr. Riady's representative had made reference to the letter's having been sent.

"I think we never formally disputed the notion that there was such a piece of correspondence from Mr. Mochtar Riady," Mr. McCurry said.

The letter was not released, he said, because the administration wanted first to answer congressional inquiries about the affair.

Mr. McCurry also rejected suggestions that Mr. Riady influenced policy toward Vietnam: "To suggest that any particular individual's views, whether it be a financial contributor or not, would have a disproportionate thinking on the work of the administration is a little bit less than credible," he said.

The March 9, 1993, letter called on Mr. Clinton to normalize relations with Vietnam, noting that two Lippo executives were scouting investment opportunities there. The president responded on April 5, 1993, saying the letter had been sent to Robert E. Rubin, then chairman of the White House National Economic Council and now Treasury secretary.

Mr. Huang and the Riadys are at the center of a growing criticism over foreign-linked campaign donations to Mr. Clinton and the Democratic National Committee, with as many as 11 House committees looking into the matter.

James Riady and Mr. Huang were among 14 donors of $100,000 or more to the 1993 Clinton inaugural festivities—a contribution coming at a time when the administration was considering a change in U.S.-Vietnam relations.

The rules panel has targeted Lippo's role in the president's Feb. 4, 1994, decision to end the Vietnam embargo despite a 1992 campaign pledge to first get a "full accounting" of Americans missing from the Vietnam War.

After the embargo was lifted, talks began within the administration on formulating trade policies toward Vietnam. Mr. Huang then moved from Lippo to Commerce and began a campaign to trade with Vietnam, where his former employer had opened offices in Hanoi and Ho Chi Minh City.

The administration fully normalized relations with Vietnam in July 1995.

Mr. Solomon wants to know whether Lippo sought to influence U.S. policy toward Vietnam while the company was making trade overtures to that country, and he asked Commerce Secretary Mickey Kantor for similar documents in October. Mr. Kantor responded with some documents but did not include Vietnam-related files.

The panel's interest in Lippo's role in the embargo surfaced in October when investigators obtained Mr. Huang's Commerce appointment calendars and found he began an aggressive campaign for a new Vietnam trade policy a day after his July 18, 1994, appointment. He pushed that policy for the next 17 months while Lippo sought to expand into Vietnam.

Mr. Huang's calendars show that immediately after he left Lippo with a $780,000 bonus he began a series of meetings with White House officials, key associates, international bankers and corporate executives to discuss an expansion of trade with Vietnam.

Republicans have suggested his role in the matter was a conflict of interest and have called for hearings to investigate the matter.

[From the Washington Times, Dec. 14, 1996]

Clinton Ties to Russian Visitor Questioned

(By Jerry Seper)

The chairman of the House Rules Committee has asked the White House for records of all meetings and correspondence between President Clinton and Grigori Loutchansky, a White House visitor and head of a firm identified as being tied to Russian criminal activity.

Rep. Gerald B.H. Solomon, New York Republican, this week also sought records on Sam Domb, a New York real estate executive who brought Mr. Loutchansky as guest to a White House dinner in October 1993 and donated $160,000 to the Democratic National Committee over 12 months after the dinner.

I do not take pleasure in noting that the selective and carefully controlled release of information by the White House has obliged Congress to make repeated following inquiries about possible fund-raising irregularities and conflicts of interest." Mr. Solomon said in a letter to the president.

"Public accounts have placed you, Mr. President, and Vice President Gore with both Mr. Loutchansky and Mr. Domb at least once," Mr. Solomon said in his request for the records.

Mr. Loutchansky, head of an Austrian-based commodities trading firm known as Nordex, got a private two-minute meeting with Mr. Clinton and his picture taken with the president. He also was invited by the DNC to a fund-raising dinner with the president at the Hay-Adams Hotel in July 1995 but did not attend.

A Russian who now lives in Israel, Mr. Loutchansky was not available for comment yesterday. Mr. Domb also was unavailable but has said he took Mr. Loutchansky to the dinner as part of a business venture that "didn't work out."

"Any DNC invitation to Loutchansky in 1995 would show a severe lack of scrutiny and appalling bad judgment. It would be unwise in the extreme for there to be any ties between the U.S. government and Loutchansky or Loutchansky's company, Nordex," R. James Woolsey, who headed the CIA from 1993 to 1995 and is a partner at the Washington law firm of Shea and Gardner, has said.

"At a congressional hearing in April, the current director of central intelligence, John Deutch, identified Grigori Loutchansky's company, Nordex, as an 'organization associated with Russian criminal activity'. Next to Loutchansky, the Lippo syndicate looks like the Better Business Bureau."

The Indonesian-based Lippo Group is at the center of a growing scandal over foreign-linked campaign donations to Mr. Clinton and the DNC. The real estate and investment firm was founded by Mochtar Riady, a long-time Clinton supporter and campaign contributor.

In a four-page report in July, Time magazine said Mr. Loutchansky's firm was linked with nuclear smuggling, drug trafficking and money laundering and that Nordex was established to "earn hard currency for the KGB."

The magazine reported that, during the past three years, the National Security Agency "found indications that Nordex was engaged in nuclear smuggling." It also said Mr. Loutchansky was the sole subject of a two-day Interpol meeting involving 11 nations in 1995.

More than a year before Mr. Loutchansky was invited to the 1995 White House dinner; Canada blocked him from entering that country because he failed a background check.

Questions this year about Mr. Loutchansky's visit to the White House—and that of convicted drug dealer Jorge "Gordito" Cabrera—prompted a review by the Justice Department into procedures used for screening guests.

In November 1995, Cabrera gave $20,000 to the DNC. He accepted invitations a month later to a White House Christmas party and a Miami fund-raiser.

[From the Stars and Stripes, Dec. 9–15, 1996]

'93 Lippo Letter Renews Hill Scrutiny of Move To End Viet Embargo

(By Mark Allen Peterson)

President Clinton's 1994 decision to end the U.S. embargo with Vietnam has come under renewed scrutiny in the light of correspondence on the issue received by the White House from Indonesian businessman Mochtar Riady.

The Wall Street Journal last week revealed that the White House had received a letter dated 9 March, 1993, filled with policy advice from Riady, who gave hundreds of thousands of dollars to the Democratic National Committee. Among other thing, the letter urged the president to normalize relations with Vietnam.

President Clinton 2 Dec. described the letter as being "like tens of thousands of letters I get of people suggesting what our policy ought to be in various areas."

SOLOMON DISTURBED

White House press secretary Mike McCurry denied Riady's suggestions played any part in the president's decision to lift the long-standing embargo.

But the Journal story created a furor on Capitol Hill, where several committees have expressed interest in probing the gifts by Riady's Lippo Group to the Democrats. One of those most disturbed was Rep. Gerald Solomon (R–NY), head of the Government Rules Committee, which is planning hearings on the issue.

In October, and again last month, Solomon requested from Secretary of Commerce Mickey Kantor "all information" involving contacts, agreements or "other dealings" with the Lippo Group, its founder Mochtar Riady, his son, Lippo executive James, and former Lippo executive and Commerce official James Huang and "any influence of U.S. policy and the normalization of relations with the Socialist Republic of Vietnam."

MORE INFORMATION

In particular, Solomon said, he wanted more information on Vietnam policy meetings called by Huang while he was deputy assistant secretary of international economic policy at Commerce and on efforts by Lippo to end the Vietnam embargo.

After reading the Journal story, Solomon fired off a letter to Clinton, asking why he had not been given a copy of the letter after his request for information, and requesting the White House to fax the letter to the Rules Committee.

The White House 4 Dec. faxed the letter to the House Committee on International Relations, which subsequently made it available to Solomon and other interested lawmakers and reporters.

Sources in Congress said the Rules Committee's investigation would be asking two key questions: First, was Clinton's decision to lift the U.S. trade embargo with Vietnam influenced by the Lippo Group's six-figure contributions and, second, did the administration leak advance information to Riady that the embargo was going to be lifted.

TRADE INITIATIVES

"The media has overplayed the idea that the president was influenced to lift the embargo and downplayed the second scenario," said a source close to the investigation. "But we really think the second scenario is the more likely."

The committee is particularly interested in whether advance information about the decision played a part in Vietnam "trade initiatives" hatched between Hong Kong-based Lippo, Ltd. and North Carolina's First Union Corp., sources said.

The lifting of the trade embargo was a difficult move for the president because of the emotional issue of POWs and MIAs still unaccounted for in Southeast Asia.

In 1992, Clinton said he did not think lifting the Vietnam embargo was a good idea.

REVERSAL

"I don't think we should normalize and then get an accounting [of American POWs and MIAs]," he told The Washington Times. "I think we ought to know where our people are. That's putting the cart before the horse."

But after several visits to Vietnam by presidential advisors and lobbying by several visits to Vietnam by presidential advisors and lobbying by several congressmen, including former POW Sen. John McCain (R–AZ), Clinton reversed his position, saying, "I am lifting the trade embargo against Vietnam because I am absolutely convinced that it offers us the best way to resolve the fate of those who remain missing and about whom we are not sure."

SOLOMON STAFFERS WIDENING HUANG PROBE

WASHINGTON.—John Huang, a central figure in the investigation into Asian donations to Democrats, had more access to government secrets during his short tenure at the Commerce Department than previously disclosed, documents show.

The Commerce Department has identified 109 meetings in 1994 and 1994 attended by Huang and at which classified information "might have been discussed," according to information released Tuesday.

Previously, the department disclosed 37 intelligence briefings Huang had attended while a deputy assistant secretary.

Investigators for House Rules Committee Chairman Gerald Solomon, R–Glens Falls, say they also have tracked other dates in which Huang received "secret" documents, then called the Los Angeles office of his former employer, the Indonesian-based Lippo Group.

Solomon has been investigating whether Huang, who later became a vice chairman of the Democratic National Committee, passed any secrets to Chinese government and business interests or to Lippo, a financial conglomerate with substantial interests in China.

In addition, the Justice Department is investigating whether the Chinese government plotted to influence U.S. elections last year by funneling illegal contributions to candidates and parties.

Huang, who had a top-secret security clearance while at the Commerce Department, has broadly denied wrongdoing. But he has refused to cooperate with congressional investigators, citing his Fifth Amendment right against self-incrimination. His lawyers did not immediately return calls to their offices Tuesday.

One week in May 1995 has stood out to investigators looking at Huang's activities at Commerce.

According to a summary prepared by Solomon's office, Huang received a document classified "secret" at 10 a.m. on May 4, 1995. Four hours later, Huang had a 10-minute call with Lippo's office in Los Angeles.

On May 9, 1995, Huang had a meeting scheduled with other senior Commerce officials on the "status of Dragongate," a multi-billion-dollar Taiwanese power plant project. That afternoon, he made two short calls to Lippo. Taiwan was one area of interest for Huang.

The next day, Huang received additional secret documents and made two short calls to Lippo's office in Los Angeles.

[From the Washington Times, May 1997]

SOLOMON: IS COSCO "STRATEGIC THREAT"?

(By Rowan Scarborough)

A senior House Republican yesterday asked Navy Secretary John H. Dalton to report whether the Chinese Ocean Shipping Co. (Cosco) represents a "global tactical or strategic threat" to the Navy.

The effort by Rep. Gerald B.H. Solomon, chairman of the House Rules Committee, to force the Navy to make an assessment is the latest development in a campaign to block Cosco from taking over the abandoned Long Beach Naval Station in California.

"In order to understand the magnitude of the growing threat of the PRC [People's Republic of China], I would like you to state the U.S. Navy's position on [Cosco]," Mr. Solomon, New York Republican, wrote in a one-page letter to Mr. Dalton.

"Considering their potential world-wide information gathering capabilities, a history as the delivery system of weapons of mass destruction to terrorist countries and the size of this fleet under direct control of the communist regime—does Cosco pose a potential global tactical or strategic threat against the U.S. Navy?"

The Solomon letter represents a more specific question for the Navy. Before, congressional inquiries have centered on whether Cosco at Long Beach would be a regional threat. The congressman wants to know if Cosco, and its 600-ship fleet, poses a danger to the Navy itself.

Mr. Solomon was one of the first in Congress to speak out against the Chinese-Long Beach connection.

"This is almost a caricature of Lenin's prediction that the West will hand the rope to its Communist executioners," he said March 10. "The Clinton administration seems to be going out of its way to help the most serious threat to American security, the so-called People's Republic of China."

Cosco plans to lease 144 acres to operate a large container terminal, giving Beijing an important beachhead in making Cosco one of the world's largest carriers.

Lawmakers in recent weeks have emerged from closed-door intelligence briefings with conflicting interpretations.

Conservatives who oppose the deal say the intelligence shows Cosco is a tool of the Chinese People's Liberation Army, trafficking in weapons of mass destruction to known terrorist states such as Iran.

But local Long Beach legislators say the briefings show Cosco is not a threat.

President Clinton personally backed the city of Long Beach's overture to Cosco, after a commission had targeted the station for closure as part of armed forces downsizing.

The negotiations occurred at a time China is suspected of funneling millions of dollars in illegal campaign contributions into the United States in a government-sponsored operation to influence the 1996 election.

Some Republicans wonder if there is a connection between Cosco's expansion plans and the Democratic fund-raising scandal.

Reps. Duncan Hunter and Randy "Duke" Cunningham, both California Republicans, want to stop the Cosco-Long Beach marriage through legislation attached to the 1998 defense authorization bill. The House National Security Committee is schedule to write the bill next month.

However, the Cosco transaction may die before the Navy officially transfers the property to the city's Harbor Commission.

A coalition of conservationists and history buffs have filed suit to stop the project, which calls for leveling every naval station building.

A judge in Los Angeles has ordered the city to terminate the Cosco lease and re-evaluate the plan's environmental impact.

The New York Times reported yesterday that a Clinton appointee, Dorothy Robyn, in November urged the preservationists to abandon their effort to save any buildings.

Miss Robyn, who serves on the National Economic Council, told the paper she made the calls as a favor to Long Beach's mayor. She said she had no contacts with Cosco officials.

Meanwhile, Sen. John McCain, Arizona Republican, has asked the Federal Maritime Commission to report whether Cosco is guilty of predatory pricing.

[From the Washington Times, May 1997]

SOLOMON SEEKS DETAILS AS NUMBER OF HUANG BRIEFINGS RISES

(By Jerry Seper)

The chairman of a House committee asked Commerce Secretary William M. Daley yesterday to explain briefings in which former Democratic fund-raiser John Huang may have receive classified information at 146 separate meetings instead of the 37 originally claimed or the 109 later acknowledged.

In a letter, Rep. Gerald B.H. Solomon, New York Republican and chairman of the House Rules Committee, also asked whether President Clinton or Vice President Al Gore attended some of those briefings, which the Commerce Department now says may have taken place at the White House.

Mr. Solomon's concerns were raised by a May 9 letter from Mr. Daley, who sought to explain published reports last month that Mr. Huang, now at the center of the growing campaign-finance scandal, received 109 classified intelligence briefings during his 18 months at Commerce, not the 37 previously acknowledged.

Mr. Daley said a recheck of the records showed that Mr. Huang received 37 "intelligence briefings" and may have attended 109 other meetings, including, some at the White House, "at which classified material might have been discussed." He said 70 of those meetings were in 1994, and 39 were in 1995.

"These 109 meetings were not intelligence briefings," Mr. Daley wrote, although he acknowledged that classified information might have been made available.

Mr. Solomon, who first questioned Mr. Huang's possible ties to national-security violations and economic espionage and urged the FBI to investigate, told Mr. Daley his letter "begged more questions than it answered."

"With great concern and no little irritation, I now discover that John Huang received secret and top-secret information not merely 37 times, as the Commerce Department originally wanted Congress and the American people to believe, but possibly as many as 146 times," he said, adding that the questions surrounding Mr. Huang "have long since gone beyond campaign financing to include possible espionage."

"Until such time as Mr. Huang, who pled the Fifth Amendment, agrees to return to Washington and cooperate with Congress, the information I'm requesting would be helpful," he said. "What's more, some of those meetings taking place at the White House may have included the president and vice president."

He told Mr. Daley he wants a list of the 109 meetings at which classified material may have been discussed.

Last month, Mr. Solomon asked Mr. Clinton for a list of all meetings he had with Mr. Huang, and explanation for Mr. Huang's 1994 appointment as deputy assistant commerce secretary for international economic policy and a list of "all meetings" Mr. Huang had with other White House officials.

Sources close to the Rules Committee said Mr. Solomon is concerned about briefings in which Mr. Huang received classified information including documents stamped "secret," after which telephone logs show he made calls to his previous employer, the Lippo Group.

Phone logs show 70 calls by Mr. Huang to Lippo Bank in Los Angeles and other calls to prominent Arkansas businessmen and lawyers with financial ties to Asia. The bank is controlled by the Lippo Group, a $6.9 billion conglomerate based in Indonesia. Mr. Huang was vice chairman of the bank until his Commerce appointment.

House investigators want to know how Mr. Huang received a top-secret security clearance five months before he reported to Commerce. Such a clearance was explained in a January 1994 memo as necessary "due to the critical need for his expertise in the new administration" of Commerce Secretary Ronald H. Brown.

He also was issued a "consultant top-secret" security clearance after he resigned at Commerce to become a fund-raiser at the Democratic National Committee. That clearance, issued in December 1995, remained in effect until December 1996, although it is not clear how he used it as a Democratic fundraiser.

Mr. Huang, who became a U.S. citizen in 1976, has not been available for comment but previously denied any wrongdoing. He is believed to have returned to California.

SOLOMON QUESTIONS SECURITY AT FORMER BASE

WASHINGTON.—A high-ranking Republican lawmaker wants the Secretary of the Navy to determine if a Chinese shipping company seeking to lease a former naval base in Southern California poses a national security threat.

Rep. Gerald Solomon, R-Queensbury, wrote to Secretary of the Navy John H. Dalton Friday, asking if the Chinese Ocean Shipping Co., known as COSCO, poses "a potential global tactical or strategic threat against the U.S. Navy."

Dan Amon, a spokesman for Solomon, said the injury by the House Rules Committee chairman is simply an attempt to resolve controversy over COSCO's proposed lease of a $200 million shipping terminal to be build at the former Long Beach Naval Station.

The Clinton administration supported the city of Long Beach when it contacted the Chinese government-owned COSCO about leasing the naval base, which was a victim of military downsizing. But two California Republicans, Reps. Duncan Hunter and Randy Cunningham, want to stop the deal with an amendment to next year's defense spending bill. They say the lease will allow China to spy and smuggle weapons.

The controversy comes as the Justice Department investigates whether the Chinese government tried to influence 1996 elections with illegal campaign contributions

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[From MSNBC, June 10, 1997]

HUANG MAY HAVE PASSED TRADE SECRETS

(By Robert Windrem)

WASHINGTON.—U.S. intelligence agencies told the Senate Intelligence Committee last month that they have found there is evidence that former Assistant Commerce Secretary John Huang "collected" and "passed" U.S. trade secrets on to his former bosses at the multibillion-dollar Lippo Group of Indonesia, NBC News has learned.

According to a congressional staffer familiar with intelligence matters, the evidence was picked up at a U.S. electronic eavesdropping site targeted on trans-Pacific communications. The United States maintains an extensive network of eavesdropping sites around the Pacific Rim, from Yakima, Wash., to Pine Gap, Australia.

Huang raised millions of dollars for the Democratic National Committee from the Asian-American community after he left the Commerce Department in December 1995 to work as a Democratic fund-raiser. He is the focus of both congressional and Justice Department investigations.

By all accounts, Huang was an instant success, bringing in more cash from Asian-Americans than had been given to any previous president. But on Oct. 18, 1996, Huang was suspended from his job at the DNC after news surfaced that he had solicited a $250,000 South Korean donation in violation of U.S. laws against foreign political contributions. More questions were raised by Huang's dozens of visits to the White House in 1996. It could create a bad impression to have a fund-raiser spending so much time in the White House.

The congressional source said the focus of U.S. intelligence efforts now is what Huang did in the last few months of 1995 just before leaving for the DNC. Congressional critics, in particular Rep. Gerry Solomon, R-N.Y., have noted various meetings and phone calls in which Huang dealt with Lippo officials just before or just after a Commerce Department briefing.

One typical incident: According to phone records and logs, Huang called Lippo's Los Angeles office on Sept. 19, 1995, at 2:45 p.m., just 15 minutes before a classified briefing. After the briefing, at 5:34 p.m., he called Lippo back.

[From the San Diego Union-Tribune, May 11, 1997]

NAVY ASKED TO RULE ON THREAT OF CHINESE USING OLD BASE

(By Alice Ann Love)

WASHINGTON.—A high-ranking Republican lawmaker wants the secretary of the Navy to determine whether a Chinese shipping company seeking to lease a former naval base in Southern California poses a national security threat.

Rep. Gerald Solomon, R-N.Y., wrote to Secretary of the Navy John Dalton on Friday, asking whether the Chinese Ocean Shipping Co., known as COSCO, poses "a potential global tactical or strategic threat against the U.S. Navy."

Dan Amon, a spokesman for Solomon, said the inquiry by the House Rules Committee chairman is an attempt to resolve controversy over COSCO's proposed lease of a $200 million shipping terminal to be built at the former Long Beach Naval Station.

President Clinton's administration supported the city of Long Beach when the city contacted the Chinese government-owned COSCO about leasing the base, which was a victim of military downsizing.

But two California Republicans, Reps. Duncan Hunter of El Cajon and Randy Cunningham of Escondido, want to stop the deal with an amendment to next fiscal year's defense spending bill. They say the lease would allow China to spy and smuggle weapons.

The controversy comes as the Justice Department investigates whether the Chinese government tried to influence 1996 U.S. elections with illegal campaign contributions.

The Long Beach Harbor Commission says the new lease to COSCO, which has had a presence in the port for 16 years, would create 1,600 construction jobs over 1½ years, 600 permanent shipping jobs once completed and several hundred jobs elsewhere in the city.

The port would receive about $20 million a year in rent, while the city stands to reap about $1 million in taxes annually.

Local resistance has also stalled the lease. A group of Long Beach environmentalists and preservationists opposes the deal, saying historic buildings would be torn down.

Harbor commissioners face a hearing Tuesday before a Los Angeles Superior Court judge to prove that the project would comply with state environmental laws.

[From the Los Angeles Times, June 13, 1997]

HUANG ACCUSED OF ESPIONAGE—SOLOMON SAYS FUND RAISER SHARED CLASSIFIED INFORMATION TO LIPPO GROUP

WASHINGTON—John Huang, the former Clinton administration appointee and star Democratic fundraiser, conveyed "classified information" to the Indonesia-based Lippo Group, Rep. Gerald Solomon alleged Thursday.

Solomon, R-Queensbury, chairman of the House Rules Committee, said he is aware of electronically gathered evidence—presumably telephone calls monitored by a U.S. intelligence agency—verifying that Huang relayed the information.

"I have received reports from government sources that say there are electronic intercepts which provide evidence confirming what I suspected all along, that John Huang committed economic espionage and breached our national security by passing classified information to his former employer, the Lippo Group," Solomon said.

The congressman and his aides declined to elaborate. They would not say, for instance, whether Solomon based his allegation on information provided directly by intelligence or law enforcement officials. The congressman does not serve on either the House Intelligence Committee or a separate panel that has jurisdiction to investigate Huang's activities.

FBI Director Louis J. Freeh, in recent weeks, has briefed members of the Senate and House Intelligence committees about the bureau's ongoing investigation of Huang and others. An FBI spokesman declined Thursday to comment on any aspect of the inquiry.

If Solomon's allegation proves credible, it would magnify the significance of the fund-raising scandal that already besets both President Clinton and Vice President Al Gore.

Documents disclosed earlier by the Commerce Department show that Huang made scores of calls on government phones to Lippo offices in Los Angeles. Some of those calls were made close to times when Huang was scheduled to attend classified briefings convened by the Commerce Department's Office of Intelligence Liaison.

The possibility that Huang passed classified data to Lippo is especially sensitive because the conglomerate is closely aligned with China.

[From the Wall Street Journal, July 1997]

CHINA, AFTER REQUEST FROM U.S., SEARCHES FOR CAMPAIGN DONOR

(By a Wall Street Journal Staff Reporter)

SHANGHAI, China—Responding to a request from Secretary of State Madeleine Albright, Chinese authorities are looking for Charlie Trie, an Arkansas-based restaurateur involved in the U.S. campaign fund-raising controversy.

Agents of China's State Security Ministry have made inquiries with people who may have been in touch with Mr. Trie since he came to this country, possibly to avoid questioning in the U.S. Some of those who were contacted say the authorities didn't appear to know his location.

Mr. Trie, a Taiwan-born entrepreneur who became close to Bill Clinton when they both lived in Little Rock, Ark., owns a restaurant in Beijing and has been involved in property projects in Shanghai and other Chinese cities. He contributed heavily to Mr. Clinton's reelection campaign, and tried to give $600,000 to the president's legal defense fund. (That money was rejected because of questions about the money's origins.)

In June, Mr. Trie came to Shanghai for an off-camera interview with NBC News, but acquaintances say he isn't living here.

Yesterday, Rep. Gerald Solomon (R., N.Y.) disclosed that Mrs. Albright last week asked the Chinese government to help find Mr. Trie. The State Department instructed the U.S. Embassy in Beijing to underscore that request, Barbara Larkin, assistant secretary of state for legislative affairs, wrote in a letter to Mr. Solomon.

[From the New York Times, July 23, 1997]

STATE DEPARTMENT ASKS CHINA TO HELP FIND FORMER FUND-RAISER

(By Leslie Wayne)

WASHINGTON, July 23—Under pressure from House campaign-finance investigators, the State Department has asked the Chinese Government to help locate Yah Lin Trie, a central figure in the Democratic fund-raising controversy, according to a State Department letter released today.

The letter was made public by Representative Gerald B. H. Solomon, the New York republican who heads the house Rules Committee and who is an outspoken critic of Democratic campaign fund-raising practices.

"I am pleased to inform you that, on July 14, the department communicated to the Chinese Government your interest in determining Mr. Trie's location," said the letter, which Mr. Solomon received earlier this week.

It continued: "We informed the Chinese Government that this is a high priority in which Secretary Albright is personally interested. In order to emphasize the importance we attach to this matter, we have also instructed our embassy in Beijing to communicate your request to the Chinese Government there."

Mr. Trie, a onetime Little Rock restaurateur and longtime friend of Mr. Clinton, raised more than $645,000 in donations that have been returned because of their questionable origin. In addition, investigators are looking at $470,000 in money transfers to Mr. Trie from an account in Macao. They were made about the time he brought cash donations to the Democratic Party or money from donors who cannot be found.

Mr. Trie, a naturalized American citizen, returned to China after the campaign finance investigations began. He has refused to testify before Congressional investigators. In an interview in Shanghai with NBC News in June, Mr. Trie said he had no plans to return to the United States.

"They'll never find me," he told NBC.

Three weeks ago the Clinton Administration said it preferred not to ask China for help finding Mr. Trie, citing questions of conflict of interest between the White House and the Congressional investigation.

[From the Washington Times, July 23, 1997]

STATE DEPARTMENT ASKS CHINA TO HELP LOCATE ELUSIVE TRIE

(By Jerry Seper)

The State Department has asked China for help in finding Democratic fund-raiser Charles Yah Lin Trie, a key figure in congressional and Justice Department investigations into accusations that foreign governments sought to influence the 1996 elections.

Barbara Larkin, assistant secretary of state for legislative affairs, said in a letter yesterday to Rep. Gerald B. H. Solomon, chairman of the House Rules Committee, that a request was made of the Chinese government on July 14, and that the U.S. Embassy in Beijing would make a follow-up request in person.

"Secretary [Madeleine K.] Albright has repeatedly made clear her commitment to do everything within her authority to assist Congress in its investigations regarding alleged violations of federal campaign financing laws," Mrs. Larkin wrote. "We informed the Chinese government this is a high priority in which Secretary Albright is personally interested."

Mr. Trie disappeared in China after surfacing in the campaign-finance probes of Congress and the Justice Department. Mr. Solomon asked the White House on July 3 for help in finding him.

The New York Republican, who described Mr. Trie as a key figure in Congress' inquiries, wants the department to assist congressional investigators in locating and obtaining evidence from the Arkansas businessman. He has questioned Mr. Trie's ties to the fund-raising scandal and his relationships with John Huang and Chinese arms dealer Wang Jun, both White House visitors.

Mr. Trie, who was interviewed in Shanghai by NBC's "Nightly News" but who has eluded congressional and federal investigators, has boasted he could hid in Asia for 10 years and has said he had no plans to return to the United States to answer questions by congressional investigators.

A subpoena was issued for him in February by the House Government Reform and Oversight Committee.

Mr. Trie, who ran a Chinese restaurant in Little Rock near the Arkansas State House where he first met Bill Clinton, then governor, came to public notice after the President's Legal Defense Fund announced it was returning $640,000 in donations he collected.

The cash, delivered in two envelopes, was returned when fund executives said they did not know its source. The donations included checks with signatures that matched those on other checks and money orders numbered sequentially but from different cities.

In a statement, Mr. Solomon said it was "refreshing to see a Cabinet secretary in this administration willing to take a strong personal interest in helping us get to the bottom of such serious matters."

Besides the Legal Defense Fund donations, House investigators want to know what role Mr. Trie played in getting Mr. Wang, chairman of China's Poly Technologies Ltd., to a White House meeting in February with Mr. Clinton. Two months later, Poly Technologies, which makes weapons for the Chinese military, was identified by U.S. Customs Service agents as a target in a sting operation to deliver 2,000 AK-47s to the United States.

White House records show Mr. Wang, as Mr. Trie's guest, met with Mr. Clinton at a reception with several Democratic campaign contributors. Mr. Huang arranged for Mr. Trie to attend a White House coffee with Mr. Clinton.

Mr. Solomon said that China could "easily return Mr. Trie . . . if it had a will to do so."

[From the New York Times, July 27, 1997]

SAVING FACEPOWDER

(By William Safire)

WASHINGTON—It was mid-October, the final month of the 1996 Presidential campaign. A column in this space titled "The Asian Connection" had just appeared, followed the next day by a front-page article about John

Huang's fund-raising in The Wall Street Journal. Though TV lagged, The L.A. Times and New York Times were advancing the story of illegal Asian money flowing into the Democratic campaign.

But silence from the Republicans. Not only were they not the original source of the story, they offered little newsworthy reaction. I ran into Haley Barbour, then chairman of the Republican National Committee, campaigning in Birmingham, Ala., and put it to him: Did he have a statement?

His reply: "This is something for Ross Perot to hit hard." That struck me as curious; why Perot, the third-party candidate—why not Dole and Barbour? I put it down to the Republican inability to react swiftly to news.

Now it comes clear. Haley must have been worried that the Asian connection would boomerang.

The Republican think tank he headed—an adjunct to the R.N.C.—had in 1994 borrowed $2 million on the collateral of Ambrous Tung Young, a citizen of Taiwan.

Haley made the deal aboard a yacht in Hong Kong and was reluctant at first to blast Clinton for foreign fund-raising.

At the Thompson hearings, that G.O.P. fund-raising chicken has come home to roost. As usual, most media coverage of the Barbour appearance centered on the witness's performance—"spirited," "well-prepared," "combative"—and less on the evidence of wrongdoing developed. We cover the show but ignore the case.

The case is that a top Republican official solicited a huge loan from a foreign national. The millions traveled through an affiliated think tank to the National Committee and—because money is fungible—materially helped G.O.P. political campaigns.

Barbour insists this shell game was legal; if so, the law needs tightening. He borrowed from a foreigner on the anticipation of a favorable I.R.S. ruling on a think tank's status; that was foolish and—most damaging to his reputation—politically debilitating. His Republicans stiffed Mr. Young for half his loan and now the R.N.C. must make him whole.

The Asian lender used a colorful expression to explain his loan: not just to gain influence and access, but "to put powder on my face." That usually derisive Chinese phrase—tu zhi mo fen, "rouge and powder"—means "to hide blemishes with makeup," its extended meaning "to improve one's image with superiors."

That's behind some foreign giving. But to equate the one-time ethical lapse of a G.O.P. campaign chief with the sustained, widespread, and probably espionage-ridden marriage of Asian money to the Clinton-Gore White House is to fall for the "everybody does it" excuse.

"Everybody doesn't do it," said Barbour (meaning, "Not everybody does it"). He's right; the scale of the Clinton-Gore Great Asian Access Sale is unprecedented, its pattern of cover-up unique.

The White House-Commerce cover-up has spread to the Justice Department. Lest credible evidence be developed by the Senate implicating a "covered person" (Vice President Gore), Janet Reno resisted allowing victimized nuns to testify publicly. Not even Democratic senators could swallow that insult.

In the same way, when the House's Burton committee subpoenaed Justice Department records of $700,000 in wire transfers from Vietnam to an account in the Bank Indo-Suez supposedly controlled by Ron Brown, Justice responded three days later with a subpoena for all Chairman Burton's election records.

Dan Burton is undeterred. His committee will hire a D.C. superlawyer or former U.S. Attorney as counsel this week.

Its staff is quietly taking depositions from aides to White House chiefs of staff and now-unprivileged counsel.

The vital power to depose witnesses under oath was voted at the behest of House Rules Chairman Gerry Solomon, who last week induced Secretary of State Albright to help bring Charlie Trie back from his Chinese hideout. Solomon, first in Congress to blow the whistle on espionage, gets few headlines but gets results.

Republicans who make mistakes and try to brazen their way out will get roughed up in the investigations; that's healthy.

But let us keep our eye on the main arena: the Clinton-Gore sale of influence to agents of Beijing.

To Avoid Such a Disgrace

(By William Safire)

If by the first week in October Attorney General Janet Reno does not seek appointment of Independent Counsel, she may well be the first Cabinet member since William Belknap in 1876 to be impeached.

That is the clear import of three coordinated letters, all dated Sept. 3 and delivered to the Justice Department last week.

One is a 23-page missive signed by every member of the majority of the House Judiciary Committee, delineating evidence that Federal crimes may have been committed by officials covered by the Independent Counsel Act. The crimes include bribery, use of the White House for political purposes, misuse of tax-exempt organizations and extortion of campaign contributions.

The second letter, from every member of the majority of the House Rules Committee, notes that the weak excuse given by Ms. Reno for refusing to trigger the act—that Vice President Gore's solicitations from the White House were only for "soft money"—had been shattered by the revelation that the Democratic National Committee allocated funds raised by Gore from Federal property as "hard money" for the Clinton-Gore campaign.

Because Congressional committees do not issue threats, a third letter came from an individual member, House Rules Chairman Gerald Solomon, to inform her of the serious consequences of her continued stone-walling

"With credible evidence reported by Mr. Robert Woodward in today's Washington Post that Vice President Gore . . . may have committed a felony," wrote Solomon. "I can not conceive you can so willfully neglect your duty . . . I should inform you that the mood in Congress to remove you grows daily.

If it should ever come to that. Ms. Reno's best defense would be to blame the egregious ineptitude of the vaunted "career professionals" in what Justice laughably calls its Public Integrity Section.

It is now 11 months since the Asian Connection story broke. In all that time, it never occurred to those humbling Justice bureaucrats to travel a few blocks over to the D.N.C. to find out if money raised from inside the White House was used to buy Clinton-Gore commercials. They waited to read about the crime in the Washington Post. Their lame excuse: "The focus of our energies was elsewhere."

But those conflicted, slow-walking "energies" have not been focused on tracking down and bringing back Little Rock's Charlie Trie, a suspected dirty-money conduit now lying low in Beijing. We rightly criticize Whitewater Independent Counsel Ken Starr for being slow; Clinton's in-house Dependent Counsel are hip-deep in Democratic molasses.

The sad part of all this is that Reno and Gore are paying the price for the political fund-raising strategy set not by them but by Bill Clinton in his infamous Sept. 13, 1995, Oval Office sellout to Rlady, Huang and company.

Gore is a serious person, solid on foreign affairs except for some global warming nuttiness, and I confess to liking and often admiring him. But Clinton's anything-goes political morality reduced Gore to describing 86 wrongful calls as "a few occasions." John Huang, D.N.C. fund-raising vice chairman, brought a Buddhist leader into Gore's office to arrange a temple event; the event illegally raised $100,000; now Gore professes to never have known it was a fund raiser.

But here's a campaign memo from Gore's scheduler asking him to choose: give a speech to a long Island Jewish group or "do the two fundraisers in San Joe and LA." Gore replies, "if we have already booked the fundraisers then we have to decline." To call that Buddhist fundraiser "community outreach" takes a long reach.

Gore's followers, who see him as a Clinton with integrity, are circling the wagons, expecting two years of assault by Independent Counsel when Reno chooses honor over impeachment. Martin Peretz, owner of the New Republic, has just fired his editor-columnist, the gutsily gifted Michael Kelly, for taking too strong a stand against Clinton-Gore campaign crimes.

But John Huang and Johnny Chung will be flipped; Web Hubbell will be re-indicted and Jim Guy Tucker convicted; House committees will surprise: the F.B.I. will shake its shackles; media momentum will build; and justice, despite the Department of Justice, will be done.

[From the Washington Times, May 1997]

No MFN Without Trie, Solomon Hints—Urges Clinton To Pressure China

(By Jerry Seper)

The chairman of a House committee yesterday asked President Clinton to help find Arkansas businessman Charles Yah Lin Trie, who disappeared in China after surfacing in Congress' campaign finance probe, and he suggested that China's most-favored-nation status could be in jeopardy if the president refuses.

Rep. Gerald B.H. Solomon, New York Republican and chairman of the House Rules Committee, said that because of Mr. Trie's ties to the growing fund-raising scandal and his relationships with John Huang and Chinese arms dealer Wang Jun, Mr. Clinton should direct Secretary of State Madeleine K. Albright to determine his whereabouts.

"If Mr. Trie is indeed in China, it is vital he be returned before any renewal of the most-favored-nation trading status even be considered," Mr. Solomon said. "That is not to say the return of Mr. Trie would convince me and a number of other members that renewing China's MFN status is advisable, considering that nation's performance in other areas.

"But Congress also has the duty to investigate any undue influence on U.S.-China policy, and Mr. Trie would be helpful in that regard," said Mr. Solomon, an outspoken opponent of giving China MFN status.

Congress is scheduled to begin debate next month on Mr. Clinton's expected decision to extend China's most-favored-nation trading status for another year. MFN status gives China's products low-tariff access to U.S.

markets, similar to those enjoyed by most other U.S. trading partners. Revoking it would price most Chinese products out of the market.

White House Special Associate Counsel Lanny J. Davis declined comment on the letter, but said, "I can state as a general matter, the president is fully committed to cooperating with the congressional committees and encourages others to do so."

House investigators want to talk with Mr. Trie, former Little Rock restaurateur and Democratic National Committee fund-raiser, about his delivery of $640,000 in questionable contributions to Mr. Clinton's legal-defense fund. The contributions were later returned when legal-defense fund investigators found they could not establish the source of the money, which included checks with signatures that matched those on some other checks, and money orders that were sequentially numbered but purportedly came from people in different cities.

They also want to know what role Mr. Trie played in getting Mr. Wang, chairman of China's Poly Technologies Ltd., into a White House reception last February with Mr. Clinton. Two months after that reception, Poly Technologies, which makes weapons for the Chinese military, was identified by U.S. Customs Service agents as a target in a sting operation that had been about to deliver 2,000 AK-47s to U.S. criminals.

Mr. Wang, according to White House records, met with Mr. Clinton at a reception with several Democratic campaign contributors. The records show he was Mr. Trie's guest at the event.

Mr. Trie and Mr. Huang have been described as longtime Arkansas friends of the president. It was Mr. Huang who arranged for Mr. Trie to attend a White House coffee with Mr. Clinton. Both men are now at the center of investigations by a Justice Department-FBI task force and Congress into irregularities involving money that was raised for Mr. Clinton's reelection and his legal-defense fund.

Mr. Clinton, who appointed Mr. Trie to the Commission on U.S. Pacific Trade and Investment Policy in April 1996, has said he did not know his longtime friend was collecting money for his legal-defense fund until after the fact.

Mr. Solomon said the Chinese government could "easily return Mr. Trie to the United States if it had a will to do so," and that refusing a request by Mr. Clinton—through Miss Albright—"would certainly raise even more questions about any nation wanting good relations with the United States."

Mr. Solomon also asked Mr. Clinton to turn over any background reports or investigations the White House possesses regarding Mr. Trie's appointment to the Commission on U.S. Pacific Trade and Investment Policy.

[From the Washington Post, July 17, 1997]

WAS JOHN HUANG DEBRIEFED?

(By Robert D. Novak)

A previously missing government form that should have indicated whether John Huang was debriefed by a security officer before the left the Commerce Department two years ago turned up last Friday. But the place where the now infamous Democratic fund-raiser was supposed to have signed is blank.

Any government official with top-secret access—Deputy Assistant Secretary of Commerce Huang included—must attest to the return of all classified information when debriefed as he leaves the government. But Huang's unsigned debriefing document underlines questions about what he did with government secrets and how well they were protected.

Complete answers can come only from investigators with subpoena powers. Contrary to the White House mantra, current Senate hearings concern much more than campaign finance reform—such as Huang's security clearance, dubious on its face. Immediately following CIA briefings, Huang would regularly contact the Chinese Embassy. Yet, even after resigning from the government and going to the Democratic National Committee (DNC), he received another security clearance. The CIA, which had given him documents, was not alerted to Huang's change of status.

Under the Freedom of Information Act, the conservative weekly Human Events several weeks ago obtained from the Commerce Department Huang's "Separation Clearance Certificate," noting that his "effective date of separation" was Jan. 17, 1995 (though he actually went to the DNC in December). Commerce officials signed the document on Jan. 22, noting Huang's return of government charge cards, his parking permit and his diplomatic passport. "Security debriefing and credentials" was noted and signed by a Commerce Department security officer named Robert W. Mack.

At that debriefing, Huang should have signed a Standard Form 312 acknowledging return of classified material. But an official Commerce spokesman told Human Events editor Terrence Jeffrey two weeks ago: "The recollection of our security personnel is that he [Huang] was debriefed but that a Standard Form 312 has not been located."

What's more, there are indications it was never given to congressional investigating committees. On July 3, Rep. Jerry Solomon (R-N.Y.), chairman of the House Rules Committee, wrote Commerce Secretary William Daley demanding the Form 312 by July 9.

That deadlines came and went, but late on Friday, July 11, the pieces of paper was dispatched to Solomon. It showed that on July 18, 1994, Huang signed for his security briefing. But Huang never signed the debriefing acknowledgement that "I have returned all classified information in my custody."

If security officer Mack signed off for the debriefing, why didn't Huang? "For reasons that we have not determined," Commerce press officer Maria Cardona told me. I called Mack himself, but he said he could not reply. "When you're as low on the totem pole as I am . . ." he said, trailing off.

However, an unsigned Commerce document of Dec. 9, 1996, supplied to Solomon earlier this year, quotes Mack as saying that "he personally briefed Huang and had him sign a SF-312" in July 1994 but adds: "Mack has no recall of the debriefing" the following January. The memorandum continues that "he does recall" a call from a high-ranking official "tc make sure that Huang did not lose his top-secret clearance" but kept it as a "consultant."

"Mack said to the best of his knowledge, Huang never worked as a consultant, but DISCO [Defense Industrial Security Clearance Office] did issue a top-secret clearance to Huang. . . . DISCO has never been notified to cancel the clearance," the memo continued. The memo writer said the clearance, issued on Dec. 14, 1995, was still valid on Dec. 9, 1996.

Yet another mysterious document: Commerce security officer Richard Duncan—Mack's colleague—on Feb. 13, 1995, wrote an internal memo listing Huang among other officials as signing SF-312s. Was this an attempt to create a paper trail?

This is the curious conclusion of John Huang's access to secret information. It began with the official request Jan. 31, 1994 that the required background investigation for Huang be waived because of "the critical need for his expertise . . . by Secretary [Ron] Brown." When Huang resigned a year later, Assistant Secretary Charles Meissner proposed the consultant's role, in order for Huang to retain access to classified documents. Brown and Meissner both perished in the tragic plane crash in Croatia, but their patronage of John Huang remains a fit subject for scrutiny.

[From Time Warner Pathfinder, Nov. 4, 1997]

INQUIRY SOUGHT INTO CHINA STOCKS

(By Marcy Gordon, AP Business Writer)

WASHINGTON (AP).—A senior congressman wants an investigation of the possibility that China may be skirting U.S. disclosure laws in sales of stock in its big government-owned companies.

Rep. Gerald Solomon, R-N.Y., who heads the House Rules Committee, recently told the chairman of the Securities and Exchange Commission, Arthur Levitt Jr., that the Chinese actions represent "a potential threat to our country."

He urged Levitt to take appropriate action, possibly including an investigation.

At issue is the sale to U.S. investors a chunk of giant state-owned China Telecom. Its special New York shares began trading on the New York Stock Exchange on Oct. 22.

In an Oct. 20 letter to Levitt, Solomon cited a Bloomberg News story that quoted China's communications minister as saying the government would ease accounting rules to boost China Telecom's profits.

The statement by Wu Jichuan came in mid-October as shares of companies backed by China plunged on the Hong Kong stock market.

Solomon called Wu's reported statement "cynical, manipulative and direct evidence of fraud."

"The highest priority of American securities law is to provide accurate information to the American investor, and (China's) actions flout that objective," he wrote Levitt.

The lawmaker expressed similar concerns about two other government-owned companies, China Southern Airlines and Beijing Enterprises, which also are expected to sell special shares in the United States.

At the same time, Solomon and Sen. Lauch Faircloth, R-N.C., are pushing House and Senate bills that would establish a new Office of National Security within the SEC to monitor foreign involvement in U.S. securities markets, financial institutions and pension funds. The legislation doesn't name any countries specifically.

Solomon is to testify Wednesday at a hearing on the issue by the Senate Banking subcommittee on financial institutions.

SEC spokesman Christopher Ullman declined comment on Solomon's letters to Levitt and the proposed legislation. Spokesmen at the Chinese Embassy didn't immediately return a telephone call seeking comment.

[From the Washington Times, November 1997]

17 IN HOUSE WANT CLINTON IMPEACHED—BARR LEADS CHARGE TO FORCE HYDE TO BEGIN INQUIRY

(By Mary Ann Akers)

The House Rules Committee yesterday took the first step toward initiating impeachment proceedings against President

Clinton after 17 House conservatives raised the issue in a formal resolution.

Talk of impeachment, which was laughed off by the White House and dismissed as incredible even by most Republicans, was sparked by Rep. Bob Barr, Georgia Republican. His resolution calls for an "inquiry of impeachment" on everything from the 1996 campaign fund-raising scandal to the FBI files and White House travel office issues.

"I believe William Jefferson Clinton . . . has violated the rule of law, and however difficult it may be to go down the dark tunnel of impeachment, at the end of the tunnel there is light," Mr. Barr said.

Although the resolution has little chance of passing the House or making its way to the House Judiciary Committee for a formal review of impeachment, it is still likely to spark yet another line of investigation of the White House—this time by the Rules Committee.

Rep. Gerald B.H. Solomon, New York Republican and chairman of the panel, indicated he would hold hearings soon relating to "the matter of the president and others in their potential illegal activities as custodians of the executive branch of the United States." He did not set a date.

This investigation would be parallel to the one being conducted by the House Government Reform and Oversight Committee under Rep. Dan Burton, Indiana Republican.

Mr. Barr's plan was to have his resolution go to the Rules Committee first, then to the Judiciary Committee, which has jurisdiction over impeachment proceedings, and finally to the House floor.

But House Judiciary Chairman Henry J. Hyde, Illinois Republican, made it clear yesterday that he wants no part of the impeachment inquiry and disagreed with Mr. Barr's assessment that the current fund-raising scandal is as serious as Watergate.

"The state of play is quite different now than it was then," Mr. Hyde said.

Among the differences Mr. Hyde noted: President Nixon's approval ratings were very low; two former attorneys general, John Mitchell and Richard Kleindienst, along with Mr. Nixon's general counsel, John Dean, had been convicted of felonies; Mr. Nixon himself had been named an unindicted co-conspirator; and a rash of other administration officials had either pleaded guilty to crimes or been forced to resign.

By contrast, Mr. Clinton has been enjoying unusually high approval ratings lately, no one in his administration has been indicted for anything relating to fund raising and the ongoing Justice Department or congressional probes have not yet demonstrated that crimes were committed by anyone in the Clinton administration.

"Impeachment is a very political act. It is a Draconian act, and ultimately it must be a bipartisan act," Mr. Hyde said.

Only one president in U.S. history has ever been impeached—Andrew Johnson in 1868 for firing his secretary of war without cause and without consent of the Senate.

House Republican leaders, meanwhile, indicated they were not as actively behind the impeachment inquiry resolution as Mr. Barr had implied to reporters.

"The speaker is aware of what we're doing here today, is supportive of it," Mr. Barr said. But a spokeswoman for House Speaker Newt Gingrich, Georgia Republican, said only, "Speaker Gingrich is aware of Mr. Barr's resolution and feels it quite sobering that 17 members find this appropriate."

At the White House, Mr. Clinton said of Mr. Barr, "He's always had a rather extreme view of these things."

White House Press Secretary Michael McCurry added: "In any body of 535 people, there will always be a denominator that's lowest. And we've seen this from Barr before. . . . Every time things get a little quiet on the [scandal] inquiry front, he pops off about impeachment to get you all excited."

White Water—China Hawks Warn of Beijing's Bonds

(By Timothy W. Maier)

The China hawks are armed with a get-tough-on-China bill that could limit Beijing's access to the U.S. capital market. The bill, called the U.S. Market Securities Act, sailed through a Senate Banking subcommittee last month and now is traveling full-speed ahead for a possible vote next year in the House and Senate.

Supporters say the measure takes the first step in providing both national-security protection and a safeguard for taxpayers by creating a screening process at the Securities Exchange Commission, or SEC, to monitor fund-raising activities of companies with ties to Beijing. Opponents say it will be an expensive federal regulatory nightmare that won't work.

But to Wall Street's dismay, the legislation is gathering strong support on Capitol Hill. The China hawks claim Beijing fails to disclose its business dealings with military enterprises. They fear that of the funds being raised by the Chinese communist regime, close to $7 billion from bonds, may be finding their way into the arms of the People's Liberation Army, or PLA—the same army that rolled tanks into Tiananmen Square to crush a pro-democracy demonstration in 1989.

The U.S. Treasury Department does not restrict foreign countries from the bond market unless they are subject to embargo or trade sanctions, even if a national-security concern exists. The legislation doesn't sit too well with Wall Street. Economists warn that the day the bill is passed the Hong Kong flu that rocked the American stock market two days before the subcommittee held hearings on it will return with a vengeance.

A temporary market setback, however unlikely, is a small price to pay to ensure national security, says Roger Robinson, a senior director of international economic affairs at the National Security Council under President Reagan and one of the principal architects of the bill. "If China is not doing the wrong thing, it has nothing to worry about," he insists. "All we want is a list of names. The American people have inquiring minds and they want to know. What we want to know is who were the funders and suppliers that paid for weapons of mass destruction now held by Iraq. We can't answer that because we don't know."

Charles Wolf, dean of the Rand Institute's graduate school of political studies, doesn't buy the story that the money is supporting missiles for the PLA. Wolf says, "The hawks start the premise by saying China is doing as much as they can get away with, but that's like asking, How many angels can sit on the head of a pin? There is some indirect borrowing or some indirect leakage to the military, but it is not all that big a deal. What is a big deal is pursuing military modernization, especially the Russians. But that's something the intelligence agencies and military should do. I don't think that is the purview of the SEC."

But Robinson points to China International Trust and Investment Corp., or CITIC, which is run by kaffeeklatsch guest and PLA arms dealer Wang Jun, to show it's not the amount of money but the potentially devastating quality of some of these weapons. For example, CITIC received $800 million from 15 bonds, and some of those funds may have drifted into Wang's weapons company, Poly Technologies—which last year was caught smuggling 2,000 AK–47 assault rifles to California street gangs and which tried to sell rockets capable of bringing down jetliners.

"How would we feel if a street gang shot down a national airliner?" Robinson asks. "When you have the wrong management with the wrong reporting structure and not a true corporate identity, you have the ingredients in today's information and technology age for world-class incidents and national-security challenges."

Leading the charge that is gaining considerable support on Capitol Hill are Senate Banking subcommittee on Financial Institutions and Regulatory Relief chairman Lauch Faircloth of North Carolina and House Rules Chairman Gerald Solomon of New York. The bill these conservative Republicans introduced in the Senate and House also asks the Pension Benefit Guaranty Corp., a federal agency, to issue annual reports on communist China's securities that are held in the portfolios of pension funds—a protection for the American taxpayer.

On Nov. 5, Solomon spelled out the significance of the bill be predicting economic warfare soon will supersede more-traditional forms of conflict. "With the emergence of the new global economy creating megamergers involving many foreign conglomerates, some of which are reported to involve international Mafia connections and drug-cartel monies, this Office of National Security within the SEC is an absolute must. In other words, we need a special watchdog agency specifically committed to making sure no entity can engineer fluctuations that could bring our markets down."

And Faircloth tells Insight the bill simply is trying to protect the hard-earned savings of the American taxpayer. "We must take steps to ensure that the average American investor enjoys the same market protection abroad that he does here stateside," Faircloth says. "In other words, the American investment must be alerted to the insider trading, adulterated disclosure and manipulated accounting standards commonly practiced in the debt and equity markets of countries such as China. Further, the American people need to be aware that through their pension and mutual-fund investments they may be unwittingly supporting the modernization of the Chinese military."

The bill has bipartisan support from the left-wing, Berkeley-based environmental watchdog group International Rivers Network, or IRN. The group last month launched an advertising blitz calling on American investors to order their fund managers to dump all investments tied with China's State Development Bank, which is behind the huge Three Gorges Dam project. IRN Executive Director Owen Lammers calls it one of the "largest and most environmentally and socially destructive projects on Earth," claiming it will not improve flood control or provide the electrical power needed but instead will displace 1.9 million people. "We're asking investors to tell their fund managers to get out of those bonds supporting this," Lammers tells Insight.

Investors probably have very little idea about how the money is spent based on the perspectives the Beijing banks provide. The State Development Bank supplies a list of 10 projects under development and less than 200 words about the Three Gorges Dam. "They technically disguise this project claiming it will cost $30 billion but unofficially will likely cost $75 billion because they are building a dam that would stretch from Boston to New York," Lammers says.

Insight also obtained hundreds of pages of SEC documents involving other Chinese companies, and what is apparent is what is not present. Red Chinese entities are short on specifics and background information, especially regarding Wang Jun and his ties to the military. The lack of detailed prospectuses is one of the reasons why Randolph Shih Shung Quon, a Chinese-American financial consultant who worked in Hong Kong as an adviser to the Chinese Central Bank from 1993 to 1995, is demanding that the SEC investigate Beijing's offerings underwritten by some leading investment firms such as Goldman Sachs & Co. and Morgan Stanley, Dean Witter, Discover & Co. The SEC is not commenting.

Quon wants to know why foreign countries such as the People's Republic of China are not held to the same threshold of disclosure as American companies. Now based in Washington at the Free Congress Foundation, a conservative think tank, Quon claims he fled to the United States after reporting fraudulent activities among the Beijing princelings' children. "Whether the Chinese government can be trusted to play by the rules, I have serious doubts," Quon tells Insight. "This is the time to lay down the law in Asia. There is no level playing field. They are like 19th-century barons."

Quon, who testified at the subcommittee hearings, called for SEC investigations into several high-profile stock and bond deals claiming disclosure violations. For example, he says that just before the $4.2 billion China Telecom offering Wu Jichuan, communist China's minister of posts and telecommunications, stated the government soon would hand over valuable assets to the new company. Wu also declared he would allow China Telecom to book certain networks that normally would go through state companies. In addition, Quon notes the China Telecom prospectus filed with the SEC failed to disclose Hong Kong billionaire Li Kashing had been found to be involved in an insider-trading scheme and that Li controlled companies that in turn controlled 10 percent of China Telecom.

Michael J. Evans, managing director of Goldman Sachs, the firm that handled the offering, did not return repeated phone messages left at his offices in Hong Kong, London and New York. However, Evans has claimed in other interviews that his firm followed the letter and spirit of U.S. securities law, that Wu only repeated points made in the China Telecom prospectus and that any fee adjustments would have to be reviewed by SEC.

Some economists and Wall Street watchers warn that the legislative proposal creates a costly layer of bureaucracy and is impossible to enforce because, they argue, once funds go to a state-owned company, Beijing still could covertly divert the money to the PLA. "This is a chapter out of Alice in Wonderland," says Steve Hanke, a professor of economics at Johns Hopkins and former Reagan economic adviser. "I can't conceive how you would make certain the money would stay in state-owned enterprises. Even if it could be done, would it make any difference? The answer is no."

Hanke says the money just would be funneled from another source and there is no possible way to monitor every single dollar. "This is a full-employment bill for bureaucratic parasites that want to be doing something. It's jobs for the boys—for the bureaucrats in Washington who want to regulate something that is over China. The effect of this bill in China? You couldn't find it on the radar screen. You won't have any effect in what's going on in China. The administrative expense will cost us and it will cost them. It's going to raise the cost of Chinese doing business. It will be more difficult to make these bond issues." v. . . . Intelligence specialists including Robinson strongly disagree with Hanke's evaluation, claiming this simply could be done with one person plugging names into a computer and sending information to Congress for intelligence reviews.

"The idea that it is some costly process is rubbish," insists Robinson, who President Reagan credited as being "the architect of a security-minded and cohesive U.S. East-West economic policy." If it is done, Robinson predicts huge defaults that ultimately would be paid by U.S. taxpayers.

To understand the seriousness of the situation, one must look no further than Beijing's major banks, which effectively are bankrupt because of $90 billion in nonperforming loans, says Robinson. Beijing acknowledges that 20 percent of all the bank loans have turned sour, although most analysts say that is an underestimate. Consider the recent bank failure in Japan—triggered by 8 percent nonperforming loans. The People's Republic of China has a banking crisis, with U.S. taxpayers potentially picking up the bill, Robinson says.

The Economist refers to these banks as "unstable and mired in debt," because the "banks' senior executives rarely are given reliable information by their loan officers." Peter Schweizer, a scholar at the Hoover Institution, says investing in bonds issued by these banks could be a disaster waiting to happen. "U.S. pension funds and individuals who have invested in these bonds could end up holding worthless paper," he says.

Is Red China's debt really cause for concern? Tom Byrne, vice president and senior analyst at Moodys' Investors Service in New York, tells Insight he thinks the debt is manageable. "It is a major problem, but unlike other countries external borrowing is fairly well-controlled," Byrne says. "Long-term borrowing is fairly tight and the short-term debt is at a reasonable level. They have controlled it, and they have sent out signals that they will continue to control it."

Robinson counters, "I received the same assurances about the Soviet Union that Moscow's debt was entirely manageable. They said I was overreacting then. Well, what was the epilogue? Very simply, roughly $100 billion in Soviet debt to Western governments was lost in a 25-year rescheduling."

What did the Soviet Union do with all that U.S. cash? They made their attack submarines quieter and enhanced their range so that now "they can threaten every American city with no advance warning sign," Robinson says.

But there is a significant difference between Russia and China in these matters because, unlike bank loans, the bonds cannot be rescheduled. Instead, if it can't pay the debt, Beijing simply will default—forcing U.S. taxpayers to bail it out.

The whole Asian picture is cause for alarm in light of recent events with more than $100 billion in bailouts already expected. South Korea leads the pack with $50 billion; Indonesia is at $37 billion; Thailand, $17 billion; and Malaysia at $10 billion. The United States is responsible for bailing out 25 percent of it. Now throw Beijing into that picture and the result 10 years from now could be another $100 billion bailout.

And disclosure may be imperfect, Robinson admits. But he says a do-nothing approach could bankrupt the future of American children even as our money and credits, aid and trade, are used to finance building Red China into a military superpower. "Taken alone, the widespread proliferation of weapons of mass destruction and ballistic-missile delivery systems constitutes a sufficient argument for the establishment of an Office of National Security at the SEC," Robinson says. "After all, foreign governments are by far the largest category of proliferators—but you may be certain the American people will not want to discover in the future that their leaders bankrupted them to fund enemies in an epic global tragedy."

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

The resolution is considered read for amendment.

Pursuant to House Resolution 436, the previous question is ordered.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 69, answered "present" 12, not voting 10, as follows:

[Roll No. 177]

YEAS—342

Abercrombie
Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons

Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson (WI)
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Morella
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Oxley
Packard
Pallone
Pappas
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Sabo
Salmon
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Young (AK)
Young (FL)

NAYS—69

Ackerman
Andrews
Becerra
Bonior
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Carson
Clay
Clyburn
Conyers
Cummings
DeGette
Delahunt
Deutsch
Dicks
Engel
Fattah
Fazio
Filner
Furse
Hastings (FL)
Hilliard
Hinchey
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kennedy (MA)
Lee
Levin
Lewis (GA)
Markey
Martinez
Matsui
McDermott
McKinney
Meek (FL)
Millender-McDonald
Miller (CA)
Moran (VA)
Murtha
Nadler
Oberstar
Olver
Owens
Pastor
Payne
Pickett
Rangel
Rodriguez
Roybal-Allard
Rush
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Thompson
Towns
Velázquez
Vento
Visclosky
Waters
Wexler
Wynn
Yates

ANSWERED "PRESENT"—12

Berman
Bishop
Clayton
DeFazio
Frank (MA)
Kind (WI)
Maloney (NY)
McGovern
Sanchez
Tauscher
Watt (NC)
Woolsey

NOT VOTING—10

Bateman
Franks (NJ)
Gonzalez
Harman
Johnson, Sam
McDade
Meeks (NY)
Parker
Pelosi
Torres

□ 1447

Messrs. THOMPSON, CUMMINGS, MORAN of Virginia and OBERSTAR and Ms. McKINNEY changed their vote from "aye" to "no."

Mrs. KENNELLY of Connecticut, Ms. McCARTHY of Missouri, and Messrs. HINOJOSA, ROTHMAN, COSTELLO and MANTON changed their vote from "no" to "aye."

Mr. WATT of North Carolina and Mrs. CLAYTON changed their vote from "no" to "present."

Mrs. MALONEY of New York and Ms. WOOLSEY changed their vote from "aye" to "present."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CERTIFICATION OF COOPERATION BY POLAND, HUNGARY, AND THE CZECH REPUBLIC WITH U.S. EFFORTS REGARDING OBTAINING ACCOUNTING OF CAPTURED AND MISSING U.S. PERSONNEL—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–256)

The SPEAKER pro tempore (Mr. LaTOURETTE) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

In accordance with the resolution of advice and consent to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic, adopted by the Senate of the United States on April 30, 1998, I hereby certify to the Congress that, in connection with Condition (5), each of the governments of Poland, Hungary, and the Czech Republic are fully cooperating with United States efforts to obtain the fullest possible accounting of captured and missing U.S. personnel from past military conflicts or Cold War incidents, to include (A) facilitating full access to relevant archival material, and (B) identifying individuals who may possess knowledge relative to captured and missing U.S. personnel, and encouraging such individuals to speak with United States Government officials.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1998.*

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 94

Mrs. CLAYTON. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor for H.R. 94, the Volunteer Firefighter and Rescue Squad Worker Protect Act.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

DEEMING THOMAS AMENDMENT NO. 41 TO HAVE BEEN INCLUDED AS LAST AMENDMENT IN PART D OF HOUSE REPORT 105–544 DURING FURTHER CONSIDERATION OF H.R. 3616, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 3616, pursuant to House Resolution 441, that the Thomas amendment presently at the desk be deemed to have been included as the last amendment printed in Part D of House Report 105–544.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Part D Amendment No. 41 offered by Mr. THOMAS:

At the end of title XXXIV (page 373, after line 2), insert the following new section:

SEC. 3408. TREATMENT OF STATE OF CALIFORNIA CLAIM REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.

Section 3415(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 7420 note) is amended by striking out the first sentence and inserting in lieu thereof the following: "Amounts in the contingent fund shall be available for paying a claim described in subsection (a) in accordance with the terms of, and the payment schedule contained in, the Settlement Agreement entered into between the State of California and the Department of Energy, dated October 11, 1996, and supplemented on December 10, 1997. The Secretary shall modify the Settlement Agreement to negate the requirements of the Settlement Agreement with respect to the request for and appropriation of funds.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The SPEAKER pro tempore. Pursuant to House Resolution 441 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3616.

□ 1452

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes, with Mr. PEASE (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Wednesday, May 20, 1998, amendment No. 3 printed in Part B of House report 105-544 had been disposed of.

PART D AMENDMENTS EN BLOC, AS MODIFIED, OFFERED BY MR. SPENCE

Mr. SPENCE. Mr. Chairman, I offer amendments en bloc, as modified.

The CHAIRMAN. The Clerk will designate the amendments en bloc and report the modifications.

The text of the amendments en bloc is as follows:

Part D amendments en bloc offered by Mr. SPENCE:

Part D amendment No. 1 offered by Mr. BRYANT:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. 1044. CLARIFICATION OF STATE AUTHORITY TO TAX COMPENSATION PAID TO CERTAIN EMPLOYEES.

(a) LIMITATION ON STATE AUTHORITY TO TAX COMPENSATION PAID TO INDIVIDUALS PERFORMING SERVICES AT FORT CAMPBELL, KENTUCKY.—

(1) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"§ 115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky

"Pay and compensation paid to an individual for personal services at Fort Campbell, Kentucky, shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to pay and compensation paid after the date of the enactment of this Act.

(b) CLARIFICATION OF STATE AUTHORITY TO TAX COMPENSATION PAID TO CERTAIN FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Section 111 of title 4, United States Code, is amended—

(A) by inserting "(a) GENERAL RULE.—" before "The United States" the first place it appears, and

(B) by adding at the end the following:

"(b) TREATMENT OF CERTAIN FEDERAL EMPLOYEES EMPLOYED AT FEDERAL HYDROELECTRIC FACILITIES LOCATED ON THE COLUMBIA RIVER.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

"(1) which is owned by the United States,

"(2) which is located on the Columbia River, and

"(3) portions of which are within the States of Oregon and Washington,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.

"(c) TREATMENT OF CERTAIN FEDERAL EMPLOYEES EMPLOYED AT FEDERAL HYDROELECTRIC FACILITIES LOCATED ON THE MISSOURI RIVER.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

"(1) which is owned by the United States,

"(2) which is located on the Missouri River, and

"(3) portions of which are within the States of South Dakota and Nebraska,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to pay and compensation paid after the date of the enactment of this Act.

Part D amendment No. 2 offered by Mr. CUNNINGHAM:

Strike out section 2812 (page 299, beginning line 1), and insert the following new section:

SEC. 2812. OUTDOOR RECREATION DEVELOPMENT ON MILITARY INSTALLATIONS FOR DISABLED VETERANS, MILITARY DEPENDENTS WITH DISABILITIES, AND OTHER PERSONS WITH DISABILITIES.

(a) ACCESS ENHANCEMENT.—Section 103 of the Sikes Act (16 U.S.C. 670c) is amended by adding at the end the following new subsections:

"(b) ACCESS FOR DISABLED VETERANS, MILITARY DEPENDENTS WITH DISABILITIES, AND OTHER PERSONS WITH DISABILITIES.—(1) In developing facilities and conducting programs for public outdoor recreation at military installations, consistent with the primary military mission of the installations, the Secretary of Defense shall ensure, to the extent reasonably practicable, that outdoor recreation opportunities (including fishing, hunting, trapping, wildlife viewing, boating, and camping) made available to the public also provide access for persons described in paragraph (2) when topographic, vegetative, and water resources allow access for such persons without substantial modification to the natural environment.

"(2) Persons referred to in paragraph (1) are the following:

"(A) Disabled veterans.

"(B) Military dependents with disabilities.

"(C) Other persons with disabilities, when access to a military installation for such persons and other civilians is not otherwise restricted.

"(3) The Secretary of Defense shall carry out this subsection in consultation with the Secretary of Veterans Affairs, national service, military, and veterans organizations, and sporting organizations in the private sector that participate in outdoor recreation projects for persons described in paragraph (2).

"(c) ACCEPTANCE OF DONATIONS.—In connection with the facilities and programs for public outdoor recreation at military installations, in particular the requirement under subsection (b) to provide access for persons described in paragraph (2) of such subsection, the Secretary of Defense may accept—

"(1) the voluntary services of individuals and organizations; and

"(2) donations of money or property, whether real, personal, mixed, tangible, or intangible.

"(d) TREATMENT OF VOLUNTEERS.—A volunteer under subsection (c) shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except that—

"(1) for the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, the volunteer shall be considered to be a Federal employee; and

"(2) for the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, the volunteer shall be considered to be an employee, as defined in section 8101(1)(B) of title 5, United States Code, and the provisions of such subchapter shall apply.".

(b) CONFORMING AMENDMENT.—Such section is further amended by striking out "SEC. 103." and inserting in lieu thereof the following:

"SEC. 103. PROGRAM FOR PUBLIC OUTDOOR RECREATION.

"(a) PROGRAM AUTHORIZED.—".

Part D amendment No. 3 offered by Mr. UNDERWOOD:

At the end of section 653(e) (page 183, line 7), insert the following: "The report shall be submitted not later than six months after the date of the enactment of this Act and shall include, in addition to the certification, a description of the system used to recover from commercial carriers the costs incurred by the Department under such amendments.".

Part D amendment No. 4 offered by Mr. TRAFICANT:

At the end of title VIII (page 199, after line 25), insert the following new section:

SEC. 804. TIME FOR SUBMISSION OF ANNUAL REPORT RELATING TO BUY AMERICAN ACT.

Section 827 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2611; 41 U.S.C. 10b-3) is amended by striking out "90 days" and inserting in lieu thereof "60 days".

Part D amendment No. 5 offered by Mr. TRAFICANT:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. 1044. REQUIREMENT TO PROVIDE BURIAL FLAGS WHOLLY PRODUCED IN THE UNITED STATES.

(a) REQUIREMENT.—Section 2301 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) Any flag furnished pursuant to this section shall be wholly produced in the United States.

"(2) For the purpose of paragraph (1), the term 'wholly produced' means—

"(A) the materials and components of the flag are entirely grown, manufactured, or created in the United States;

"(B) the processing (including spinning, weaving, dyeing, and finishing) of such materials and components is entirely performed in the United States; and

"(C) the manufacture and assembling of such materials and components into the flag is entirely performed in the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to flags furnished by the Secretary of Veterans Affairs under section 2301 of title 38, United States Code, after September 30, 1998.

Part D amendment No. 6 offered by Mr. TRAFICANT:

At the end of part II of subtitle D of title XXVIII (page 320, after line 11), insert the following new section:

SEC. 2843. LAND CONVEYANCE, NAVAL AND MARINE CORPS RESERVE FACILITY, YOUNGSTOWN, OHIO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without consideration, to the City of Youngstown, Ohio (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, that is located at 315 East Laclede Avenue in Youngstown, Ohio, and is the location of a Naval and Marine Corps Reserve facility.

(b) PURPOSE.—The purpose of the conveyance under subsection (a) is to permit the City to use the parcel for educational purposes.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Part D amendment No. 7 offered by Mr. BARTLETT of Maryland and Mr. SOLOMON:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. . INVESTIGATION OF ACTIONS RELATING TO 174TH FIGHTER WING OF NEW YORK AIR NATIONAL GUARD.

(a) INVESTIGATION.—The Inspector General of the Department of Defense shall investigate the grounding of the 174th Fighter Wing of the New York Air National Guard and the subsequent dismissal, demotion, or reassignment of 12 decorated combat pilots of that wing.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Inspector General shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report describing the results of the investigation under subsection (a).

Part D amendment No. 8 offered by Mr. FRANK of Massachusetts and Mr. SISISKY:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. LIMITATION ON PAYMENTS FOR COST OF NATO EXPANSION.

(a) The amount spent by the United States as its share of the total cost to North Atlantic Treaty Organization member nations of the admission of new member nations to the North American Treaty Organization may not exceed 10 percent of the cost of expansion or a total of $2,000,000,000, whichever is less, for fiscal years 1999 through 2011.

(b) If at any time during the period specified in subsection (a), the United States' share of the total cost of expanding the North Atlantic Treaty Organization exceeds 10 percent, no further United States funds may be expended for the costs of such expansion until that percentage is reduced to below 10 percent.

Part D amendment No. 9 offered by Mr. HOBSON:

At the end of title VII (page 197, after line 5) insert the following new sections:

SEC. 726. REQUIREMENT THAT MILITARY PHYSICIANS POSSESS UNRESTRICTED LICENSES.

(a) IN GENERAL.—Section 1094(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) In the case of a physician under the jurisdiction of the Secretary of a military department, such physician may not provide health care as a physician under this chapter unless the current license of the physician is an unrestricted license which is not subject to limitation on the scope of practice ordinarily granted to other physicians for a similar specialty by the jurisdiction that granted the license.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 727. ESTABLISHMENT OF MECHANISM FOR ENSURING COMPLETION BY MILITARY PHYSICIANS OF CONTINUING MEDICAL EDUCATION REQUIREMENTS.

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1094 the following new section:

"§ 1094a. Mechanism for monitoring of completion of Continuing Medical Education requirements

"The Secretary of Defense shall establish a mechanism for the purpose of ensuring that each person under the jurisdiction of the Secretary of a military department who provides health care under this chapter as a physician completes the Continuing Medical Education requirements applicable to the physician.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1094a. Mechanism for monitoring of completion of Continuing Medical Education requirements.".

(b) EFFECTIVE DATE.—Section 1094a of title 10, United States Code, as added by subsection (a), shall take effect on the date that is three years after the date of the enactment of this Act.

Part D amendment No. 10 offered by Mrs. MALONEY of New York:

At the end of subtitle D of title VI (page 178, after line 20), insert the following new section:

SEC. 642. REVISION TO COMPUTATION OF RETIRED PAY FOR ENLISTED MEMBERS WHO ARE REDUCED IN GRADE BEFORE RETIREMENT.

(a) PRE-SEPTEMBER 8, 1980 MEMBERS.—Section 1406(i) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) EXCEPTION FOR MEMBERS REDUCED IN GRADE.—Paragraph (1) does not apply in the case of a member who after serving as the senior enlisted member of an armed force is reduced in grade as the result of a court-martial sentence, nonjudicial punishment, or other administrative process, as determined by the Secretary concerned.".

(b) POST-SEPTEMBER 7, 1980 MEMBERS.—Section 1407 of such title is amended by adding at the end the following new subsection:

"(f) LIMITATION FOR ENLISTED MEMBERS REDUCED IN GRADE.—

"(1) BASIC PAY DISREGARDED FOR GRADES ABOVE GRADE TO WHICH REDUCTION IN GRADE IS MADE.—In computing the high-three average of a retired enlisted member who has been reduced in grade, the amount of basic pay to which the member was entitled for any covered pre-reduction month (or to which the member would have been entitled if serving on active duty during that month, in the case of a member entitled to retired under pay under section 12731 of this title) shall (for the purposes of such computation) be deemed to be the rate of basic pay to which the member would have been entitled for that month if the member had served on active duty during that month in the grade to which the reduction in grade was made.

"(2) DEFINITIONS.—In this subsection:

"(A) RETIRED ENLISTED MEMBER WHO HAS BEEN REDUCED IN GRADE.—The term 'retired enlisted member who has been reduced in grade' means a member or former member who—

"(i) retires in an enlisted grade, transfers to the Fleet Reserve or Fleet Marine Corps Reserve, or becomes entitled to retired pay under chapter 12731 after last serving in an enlisted grade; and

"(ii) had at any time previously been reduced in grade as the result of a court-martial sentence, nonjudicial punishment, or other administrative process, as determined by the Secretary concerned.

"(B) COVERED PRE-REDUCTION MONTH DEFINED.—The term 'covered pre-reduction month' means, in the case of a retired enlisted member who has been reduced in grade, a month of service of the member before the reduction in grade of the member during which the member served in a grade higher than the grade to which the reduction in grade was made.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of a member who is reduced in grade by sentence of a court-martial only in the case of a court-martial conviction on or after the date of the enactment of this Act. Subsection (f) of section 1407 of title 10, United States Code, as added by the amendment made by subsection (b), shall not apply to the retired or retainer pay of any person who becomes entitled to that pay before the date of the enactment of this Act.

(d) TECHNICAL AMENDMENT.—Subsection (e) of section 1407 of title 10, United States Code, is amended by striking out "high-36 average shall be computed" and inserting in lieu thereof "high-three average shall be computed under subsection (c)(1)".

Part D amendment No. 11 offered by Mr. MARKEY:

At the end of title XXXI (page 363, after line 5), insert the following new section:

SEC. 3154. PROHIBITION ON USE OF TRITIUM PRODUCED IN FACILITIES LICENSED UNDER THE ATOMIC ENERGY ACT FOR NUCLEAR EXPLOSIVE PURPOSES.

(A) PROHIBITION.—Section 57(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(e)) is amended by inserting after "section 11," the following: "or tritium".

(b) CONFORMING AMENDMENT.—Section 108 of such Act (42 U.S.C. 2138) is amended by inserting "or tritium" after "special nuclear material" in the second and third sentences each place it appears.

Part D amendment No. 12 offered by Mr. STENHOLM and Mr. THUNE:

At the end of title VII of the bill (page 197, after line 5), insert the following new section:

SECTION 726. PROPOSAL ON ESTABLISHMENT OF APPEALS PROCESS FOR CLAIMCHECK DENIALS AND REVIEW OF CLAIMCHECK SYSTEM.

Not later than November 1, 1998, the Secretary of Defense shall submit to Congress a proposal to establish an appeals process in cases of denials through the ClaimCheck computer software system of claims by civilian providers for payment for health care services provided under the TRICARE program.

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Part D amendment No. 14 offered by Mr. McKEON:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. 1044. FACILITATION OF OPERATIONS AT EDWARDS AIR FORCE BASE, CALIFORNIA.

(a) FACILITATION OF OPERATIONS.—The Secretary of the Air Force may, in order to facilitate implementation of the Edwards Air Force Base Alliance Agreement, authorize equipment, facilities, personnel, and other resources available to the Air Force at Edwards Air Force Base to be used in such manner as the Secretary considers appropriate for the efficient operation and support of either or both of the organizations that are parties to that agreement without regard to the provisions of section 1535 of title 31, United States Code (and any regulations of the Department of Defense prescribed under that section).

(b) PRESERVATION OF FINANCIAL INTEGRITY OF FUNDS.—The Secretary shall carry out subsection (a) so as to preserve the financial integrity of funds appropriated to the Department of the Air Force and the National Aeronautics and Space Administration.

(c) EDWARDS AIR FORCE BASE ALLIANCE AGREEMENT.—For purposes of this section, the term "Edwards Air Force Base Alliance Agreement" means the agreement entered into in May 1995, between the commander of the Air Force Flight Test Center and the director of the Dryden Flight Research Center of the National Aeronautics and Space Administration, both of which are located at Edwards Air Force Base, California, to develop and sustain a working relationship between the two organizations to improve the efficiency of the operations of both organizations while preserving the unique missions of both organizations.

(d) DELEGATION.—The authority of the Secretary under this section may be delegated, at the Secretary's discretion, to the commander of the Air Force Flight Test Center, Edwards Air Force Base, California.

(e) REPORT.—Not later than May 1, 1999, the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall submit to Congress a joint report on the implementation of this section.

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Part D amendment No. 15 offered by Mr. HUNTER:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. COMMODITY JURISDICTION FOR SATELLITE EXPORTS.

(a) CONTROL ON MUNITIONS LIST.—All satellites of United States origin, including commercial satellites and satellite components, shall be placed on the United States Munitions List, and the export of such satellites shall be controlled under the Arms Export Control Act, effective 60 days after the date of the enactment of this Act.

(b) REGULATIONS.—Regulations to carry out subsection (a) shall be issued within 60 days after the date of the enactment of this Act.

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Part D amendment No. 16 offered by Mr. SPENCE:

At the end of subtitle D of title X (page 228, after line 13), insert the following new section:

SEC. . TRANSMISSION OF EXECUTIVE BRANCH REPORTS PROVIDING CONGRESS WITH CLASSIFIED SUMMARIES OF ARMS CONTROL DEVELOPMENTS.

(a) REPORTING REQUIREMENT.—The Director of the Arms Control and Disarmament Agency (or the Secretary of State, if the Arms Control and Disarmament Agency becomes an element of the Department of State) shall transmit to Congress on a periodic basis reports containing classified summaries of arms control developments.

(b) CONTENTS OF REPORTS.—The reports required by subsection (a) shall include information reflecting the activities of forums established to consider issues relating to treaty implementation and treaty compliance, including the Joint Compliance and Inspection Commission, the Joint Verification Commission, the Open Skies Consultative Commission, the Standing Consultative Commission, and the Joint Consultative Group.

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Part D amendment No. 17 offered by Mr. SESSIONS:

At the end of subtitle D of title III (page 67, after line 3), insert the following new section:

SEC. 340. BEST COMMERCIAL INVENTORY PRACTICES FOR MANAGEMENT OF SECONDARY SUPPLY ITEMS.

(a) DEVELOPMENT AND SUBMISSION OF SCHEDULE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of each military department shall develop and submit to Congress a schedule for implementing within the military department, for secondary supply items managed by that military department, inventory practices identified by the Secretary as being the best commercial inventory practices for the acquisition and distribution of such supply items consistent with military requirements. The schedule shall provide for the implementation of such practices to be completed not later than five years after the date of the enactment of this Act.

(b) DEFINITION.—For purposes of this section, the term "best commercial inventory practice" includes cellular repair processes, use of third-party logistics providers, and any other practice that the Secretary of the military department determines will enable the military department to reduce inventory levels and holding costs while improving the responsiveness of the supply system to user needs.

(c) GAO REPORTS ON MILITARY DEPARTMENT AND DEFENSE LOGISTICS AGENCY SCHEDULES.—(1) Not later than 240 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report evaluating the extent to which the Secretary of each military department has complied with the requirements of this section.

(2) Not later than 18 months after the date on which the Director of the Defense Logistics Agency submits to Congress a schedule for implementing best commercial inventory practices under section 395 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1718; 10 U.S.C. 2458 note), the Comptroller General shall submit to Congress an evaluation of the extent to which best commercial inventory practices are being implemented in the Defense Logistics Agency in accordance with that schedule.

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Part D amendment No. 18 offered by Mr. GIBBONS:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. RELEASE OF EXPORT INFORMATION HELD BY THE DEPARTMENT OF COMMERCE FOR PURPOSE OF NATIONAL SECURITY ASSESSMENTS.

(a) RELEASE OF EXPORT INFORMATION.—The Secretary of Commerce shall transmit any information relating to exports that is held by the Department of Commerce and is requested by the officials designated in subsection (b) for the purpose of assessing national security risks. The Secretary of Commerce shall transmit such information within 5 days after receiving a written request for such information. Information referred to in this section includes—

(1) export licenses, and information on exports that were carried out under an export license issued by the Department of Commerce; and

(2) information collected by the Department of Commerce on exports from the United States that were carried out without an export license.

(b) REQUESTING OFFICIALS.—The officials referred to in subsection (a) are the Director of Central Intelligence, the Secretary of Defense, and the Secretary of Energy. The Director of Central Intelligence, the Secretary of Defense, and the Secretary of Energy may delegate to other officials within their respective agency and departments the authority to request information under subsection (b).

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Part D amendment No. 21 offered by Mr. HUNTER and Mr. JONES:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. . SENSE OF CONGRESS CONCERNING TAX TREATMENT OF PRINCIPAL RESIDENCE OF MEMBERS OF ARMED FORCES WHILE AWAY FROM HOME ON ACTIVE DUTY.

It is the sense of Congress that a member of the Armed Forces should be treated as using property as a principal residence during any period that the member (or the member's spouse) is serving on extended active duty with the Armed Forces, but only if the member used the property as a principal residence for any period during or before the period of extended active duty.

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Part D amendment No. 23 offered by Mr. WELDON of Florida:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. . OPERATION, MAINTENANCE, AND UPGRADE OF AIR FORCE SPACE LAUNCH FACILITIES.

Funds appropriated pursuant to the authorizations of appropriations in this Act for the operation, maintenance, or upgrade of the Western Space Launch Facilities of the Department of the Air Force (Program Element 35181F) and the Eastern Space Launch Facilities of the Department of the Air Force (Program Element 351821F) may not be obligated for any other purpose.

—

Part D amendment No. 24 offered by Mr. BARR of Georgia:

At the end of subtitle C of title X (page 227, after line 14), insert the following new section:

SEC. 1023. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF COUNTER-DRUG CENTER IN PANAMA.

In anticipation of the closure of all United States military installations in Panama by December 31, 1999, it is the sense of Congress that the Secretary of Defense, in consultation with the Secretary of State, should continue negotiations with the Government of Panama for the establishment in Panama of a counter-drug center to be used by the Armed Forces of the United States in cooperation with Panamanian forces and military personnel of other friendly nations.

Part D amendment No. 25 offered by Mr. HASTINGS of Washington:

At the end of subtitle C of title XXXI (page 356, after line 14), insert the following new section:

SEC. 3136. HANFORD TANK CLEANUP PROGRAM REFORMS.

(a) ESTABLISHMENT OF OFFICE OF RIVER PROTECTION.—The Secretary of Energy shall establish an office at the Hanford Reservation, Richland, Washington, to be known as the "Office of River Protection".

(b) MANAGEMENT.—The Office shall be headed by a senior official of the Department of Energy, who shall be responsible for managing all aspects of the Tank Waste Remediation System (also referred to as the Hanford Tank Farm operations), including those portions under privatization contracts, of the Department of Energy at the Hanford Reservation. The Office shall be responsible for developing the integrated management plan under subsection (d).

(c) DEPARTMENT OF ENERGY RESPONSIBILITIES.—The Secretary of Energy shall—

(1) provide the manager of the Office of River Protection with the resources and personnel necessary to manage the tank waste privatization program in an efficient and streamlined manner; and

(2) establish a five-member advisory committee, including the manager of the Richland operations office and a representative of the Office of Privatization and Contract Reform, to advise the Office.

(d) INTEGRATED MANAGEMENT PLAN.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives an integrated management plan for all aspects of the Hanford Tank Farm operations, including the roles, responsibilities, and reporting relationships of the Office of River Protection. In developing the plan, the Secretary shall consider the extent to which the Office should be physically and administratively separate from the Richland operations office.

(e) REPORT.—After the Office of River Protection has been in operation for two years, the Secretary of Energy shall submit to Congress a report on the success of the Tank Waste Remediation System and the Office in improving the management structure of the Department of Energy.

(f) TERMINATION.—The Office of River Protection shall terminate after it has been in operation for five years, unless the Secretary of Energy determines that such termination would disrupt effective management of Hanford Tank Farm operations. The Secretary shall inform the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of this determination in writing.

Part D amendment No. 26 offered by Mr. HASTINGS of Washington:

At the end of title XXXI (page 363, after line 5), insert the following new section:

SEC. 3154. HAZARDOUS MATERIALS MANAGEMENT AND EMERGENCY RESPONSE TRAINING PROGRAM.

The Secretary of Energy may enter into partnership arrangements with Federal and non-Federal entities to share the costs of operating the hazardous materials management and hazardous materials emergency response training program authorized under section 3140(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3088). Such arrangements may include the exchange of equipment and services, in lieu of payment for the training program.

Part D amendment No. 27 offered by Mrs. FOWLER:

At the end of title IX (page 217, before line 20), insert the following new section:

SEC. 910. ANNUAL REPORT ON INDIVIDUALS EMPLOYED IN PRIVATE SECTOR WHO PROVIDE SERVICES UNDER CONTRACT FOR THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2222. Information system to track quantity and value of non-Federal services

"(a) IMPLEMENTATION OF SYSTEM.—The Secretary of Defense shall implement an information system for the collection and reporting of information by the Secretaries of the military departments, Directors of the Defense Agencies, and heads of other DOD organizations concerning the quantity and value of non-Federal services they acquired. The system shall be designed to provide information, for the Department of Defense as a whole and for each DOD organization, concerning the following:

"(1) The number of workyears performed by individuals employed by non-Federal entities providing goods and services under contracts of the Department of Defense.

"(2) The labor costs to the Department of Defense under the contracts associated with the performance of those workyears.

"(3) The value of the goods and services procured by the Department of Defense from non-Federal entities.

"(4) The appropriations associated with the contracts for those goods and services.

"(5) The Federal supply class or service code associated with those contracts.

"(6) The major organization element contracting for the goods and services.

"(b) ANNUAL REPORTS TO SECRETARY OF DEFENSE.—Not later than February 1 of each year, the head of each DOD organization shall submit to the Secretary of Defense a report detailing the quantity and value of non-Federal services obtained by that organization. The report shall be developed from the system under subsection (a) and shall contain the following:

"(1) The total amount paid during the preceding fiscal year to obtain goods and services provided under contracts, expressed in dollars and as a percentage of the total budget of that organization, and shown by appropriation account or revolving fund, by Federal supply class or service code, and by any major organizational element under the authority of the head of that organization.

"(2) The total number of workyears performed during the preceding fiscal year by employees of non-Federal entities providing goods and services under contract, shown by appropriation account or revolving fund, by Federal supply class or service code, and by any major organizational element under the authority of the head of that organization.

"(3) A detailed discussion of the methodology used under the system to derive the data provided in the report.

"(c) ANNUAL REPORT TO CONGRESS.—Not later than February 15 of each year, the Secretary of Defense shall submit to Congress a report containing all of the information concerning the quantity and value of non-Federal services obtained by the Department of Defense as shown in the reports submitted to the Secretary for that year under subsection (b). The Secretary shall include in that report the information provided by each DOD organization under subsection (b) without revision from the manner in which it is submitted to the Secretary by the head of that organization.

"(d) DEVELOPMENT OF INFORMATION.—(1) The Secretary of Defense may prescribe regulations to require contractors providing goods and services to the Department of Defense to include on invoices submitted to the Secretary or head of a DOD organization responsible for such contracts the number of hours of labor attributable to the contract for which the invoice is submitted.

"(2) The Secretary shall require that each DOD organization provide information for the information system under subsection (a) and the annual report under subsection (b) in as uniform manner as practicable.

"(e) ASSESSMENT BY COMPTROLLER GENERAL.—(1) The Comptroller General shall conduct a review of the report of the Secretary of Defense under subsection (c) each year and shall—

"(A) assess the appropriateness of the methodology used by the Secretary and the DOD organizations in deriving the information provided to Congress in the report; and

"(B) assess the accuracy of the information provided to Congress in the report.

"(2) Not later than 90 days after the date on which the Secretary submits to Congress the report required under subsection (e) for any year, the Comptroller General shall submit to Congress the Comptroller General's report containing the results of the review for that year under paragraph (1).

"(e) DEFINITIONS.—In this section:

"(1) The term 'DOD organization' means—

"(A) the Office of the Secretary of Defense;

"(B) each military department;

"(C) the Joint Chiefs of Staff and the unified and specified commands;

"(D) each Defense Agency; and

"(E) each Department of Defense Field Activity.

"(2) The term 'workyear' means the private sector equivalent to the total number of hours of labor that an individual employed on a full-time equivalent basis by the Federal Government performs in a given year.

"(3) The term 'contract' has the meaning given such term in parts 34, 35, 36, and 37 of title 48, Code of Federal Regulations.

"(4) The term 'labor costs' means all compensation costs for personal services as defined in part 31 of title 48, Code of Federal Regulations.

"(5) The term 'major organizational element' means an organization within a Defense Agency or military department that is headed by a Senior Executive Service official (or military equivalent) and that contains a contract administration office (as defined in part 2 of title 48, Code of Federal Regulations).

"(6) The term 'Federal supply class or service code' is the functional code prescribed by section 253.204–70 of the Department of Defense Federal Acquisition Regulation Supplement, as determined by the first character of such code.

"(f) CONSTRUCTION OF SECTION.—The Secretary of Defense shall ensure that the provisions of this section are construed broadly so as enable accurate and full accounting for the volume and costs associated with contractor support of the Department of Defense.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2222. Information system to track quantity and value of non-Federal services.".

(b) EFFECTIVE DATE.—The system required by subsection (a) of section 2222 of title 10, United States Code, as added by subsection (a), shall be implemented not later than one year after the date of the enactment of this Act.

Part D amendment No. 28 offered Mr. BISHOP:

At the end of subtitle B of title VI (page 176, after line 2), insert the following new section:

SEC. . HARDSHIP DUTY PAY.

(a) DUTY FOR WHICH PAY AUTHORIZED.—Subsection (a) of section 305 of title 37, United States Code, is amended by striking out "on duty at a location" and all that follows and inserting in lieu thereof "performing duty in the United States or outside the United States that is designated by the Secretary of Defense as hardship duty.".

(b) REPEAL OF EXCEPTION FOR MEMBERS RECEIVING CAREER SEA PAY.—Subsection (c) of such section is repealed.

(c) CONFORMING AMENDMENTS.—(1) Subsections (b) and (d) of such section are amended by striking out "hardship duty location pay" and inserting in lieu thereof "hardship duty pay".

(2) Subsection (d) of such section is redesignated as subsection (c).

(3) The heading for such section is amended by striking out **"location"**.

(4) Section 907(d) of title 37, United States Code, is amended by striking out "duty at a hardship duty location" and inserting in lieu thereof "hardship duty".

(d) CLERICAL AMENDMENT.—The item relating to section 305 in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"305. Special pay: hardship duty pay.".

Part D amendment No. 29 offered by Mr. BILBRAY:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. . SENSE OF CONGRESS CONCERNING NEW PARENT SUPPORT PROGRAM AND MILITARY FAMILIES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the New Parent Support Program that was begun as a pilot program of the Marine Corps at Camp Pendleton, California, has been an effective tool in curbing family violence within the military community;

(2) such program is a model for future programs throughout the Marine Corps, the Navy, and the Army; and

(3) in light of the pressures and strains placed upon military families and the benefits of the New Parent Support Program in helping these high "at-risk" families, the Department of Defense should seek ways to ensure that in future fiscal years funds are made available for those programs for each of the Armed Forces in amounts sufficient to meet requirements for those programs.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the New Parent Support Program of the Department of Defense. The Secretary shall include in the report the following:

(1) A description of how the Army, Navy, Air Force, and Marine Corps are each implementing a New Parent Support Program and how each such program is organized.

(2) A description of how the implementation of programs for the Army, Navy, and Air Force compare to the fully implemented Marine Corps program.

(3) The number of installations that each service has scheduled to receive support for the New Parent Support Program.

(4) The number of installations delayed in providing the program.

(5) The number of programs terminated.

(6) The number of programs with reduced support.

(7) The funding provided for those programs for each of the four services for each of fiscal years 1994 through 1998 and the amount projected to be provided for those programs for fiscal year 1999 and, if the amount provided for any of those programs for any such year is less than the amount needed to fully fund for that program for that year, an explanation of the reasons for the shortfall.

Part D amendment No. 30 offered by Mr. WELDON of Pennsylvania:

At the end of subtitle B of title II (page 24, after line 25), insert the following new section:

SEC. 214. NEXT GENERATION INTERNET PROGRAM.

(a) FUNDING.—Of the funds authorized to be appropriated under section 201(4), $53,000,000 shall be available for the Next Generation Internet program.

(b) LIMITATION.—Notwithstanding the enactment of any other provision of law after the date of the enactment of this Act, amounts may be appropriated for fiscal year 1999 for research, development, test, and evaluation by the Department of Defense for the Next Generation Internet program only pursuant to the authorization of appropriations under section 201(4).

Part D amendment No. 31 offered by Mr. WELDON of Pennsylvania and Mr. SKELTON:

At the end of Division A of the bill (page 265, after line 8) insert the following new title:

TITLE XIV—DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION

SEC. 1401. SHORT TITLE.

This title may be cited as the "Defense Against Weapons of Mass Destruction Act of 1998".

SEC. 1402. FINDINGS.

The Congress finds the following:

(1) Many nations currently possess weapons of mass destruction and related materials and technologies, and such weapons are increasingly available to a variety of sources through legitimate and illegitimate means.

(2) The proliferation of weapons of mass destruction is growing, and will likely continue despite the best efforts of the international community to limit their flow.

(3) The increased availability, relative affordability, and ease of use of weapons of mass destruction may make the use of such weapons an increasingly attractive option to potential adversaries who are not otherwise capable of countering United States military superiority.

(4) On November 12, 1997, President Clinton issued an Executive Order stating that "the proliferation of nuclear, biological, and chemical weapons ("weapons of mass destruction") and the means of delivering such weapons constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States" and declaring a national emergency to deal with that threat.

(5) The Quadrennial Defense Review concluded that the threat or use of weapons of mass destruction is a likely condition of future warfare and poses a potential threat to the United States.

(6) The United States lacks adequate preparedness at the Federal, State, and local levels to respond to a potential attack on the United States involving weapons of mass destruction.

(7) The United States has initiated an effort to enhance the capability of Federal, State, and local governments as well as local emergency response personnel to prevent and respond to a domestic terrorist incident involving weapons of mass destruction.

(8) More than 40 Federal departments, agencies, and bureaus are involved in combating terrorism, and many, including the Department of Defense, the Department of Justice, the Department of Energy, the Department of Health and Human Services, and the Federal Emergency Management Agency, are executing programs to provide civilian personnel at the Federal, State, and local levels with training and assistance to prevent and respond to incidents involving weapons of mass destruction.

(9) The Department of Energy has established a Nuclear Emergency Response Team which is available to respond to incidents involving nuclear or radiological emergencies.

(10) The Department of Defense has begun to implement a program to train local emergency responders in major cities throughout the United States to prevent and respond to incidents involving weapons of mass destruction.

(11) The Department of Justice has established a National Center for Domestic Preparedness at Fort McClellan, Alabama, to conduct nuclear, biological, and chemical preparedness training for Federal, State, and local officials to enhance emergency response to incidents involving weapons of mass destruction.

(12) Despite these activities, Federal agency initiatives to enhance domestic preparedness to respond to an incident involving weapons of mass destruction are hampered by incomplete interagency coordination and overlapping jurisdiction of agency missions, for example:

(A) The Secretary of Defense has proposed the establishment of 10 Rapid Assessment and Initial Detection elements, composed of 22 National Guard personnel, to provide timely regional assistance to local emergency responders during an incident involving chemical or biological weapons of mass destruction. However, the precise working relationship between these National Guard elements, the Federal Emergency Management Agency regional offices, and State and local emergency response agencies has not yet been determined.

(B) The Federal Emergency Management Agency, the lead Federal agency for consequence management in response to a terrorist incident involving weapons of mass destruction, has withdrawn from the role of chair of the Senior Interagency Coordination Group for domestic emergency preparedness, and a successor agency to chair the Senior Interagency Coordinator has not yet been determined.

(C) In order to ensure effective local response capabilities to incidents involving weapons of mass destruction, the Federal Government, in addition to providing training, must concurrently address the need for—

(i) compatible communications capabilities for all Federal, State, and local emergency responders, which often use different radio systems and operate on different radio frequencies;

(ii) adequate equipment necessary for response to an incident involving weapons of mass destruction, and a means to ensure that financially lacking localities have access to such equipment;

(iii) local and regional planning efforts to ensure the effective execution of emergency response in the event of an incident involving a weapon of mass destruction; and

(iii) increased planning and training to prepare for emergency response capabilities in port areas and littoral waters.

(D) The Congress is aware that Presidential Decision Directives relating to domestic emergency preparedness for response to terrorist incidents involving weapons of mass destruction are being considered, but agreement has not been reached within the executive branch.

Subtitle A—Domestic Preparedness

SEC. 1411. DOMESTIC PREPAREDNESS FOR RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.

(a) ENHANCED RESPONSE CAPABILITY.—In light of the continuing potential for terrorist use of weapons of mass destruction against the United States and the need to develop a more fully coordinated response to that threat on the part of Federal, State, and local agencies, the President shall act to increase the effectiveness at the Federal, State, and local level of the domestic emergency preparedness program for response to terrorist incidents involving weapons of mass destruction by developing an integrated program that builds upon the program established under title XIV of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2714).

(b) REPORT.—Not later than January 31, 1999, the President shall submit to Congress a report containing information on the actions taken at the Federal, State, and local level to develop an integrated program to prevent and respond to terrorist incidents involving weapons of mass destruction.

SEC. 1412. REPORT ON DOMESTIC EMERGENCY PREPAREDNESS.

Section 1051 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1889) is amended by adding at the end the following new subsection:

"(c) ANNEX ON DOMESTIC EMERGENCY PREPAREDNESS PROGRAM.—As part of the report submitted to Congress under subsection (b), the President shall include an annex which provides the following information on the domestic emergency preparedness program for response to terrorist incidents involving weapons of mass destruction (as established under title XIV and section 1411 of the National Defense Authorization Act for Fiscal Year 1999):

"(1) information on program responsibilities for each participating Federal department, agency, and bureau;

"(2) a summary of program activities performed during the preceding fiscal year for each participating Federal department, agency, and bureau;

"(3) a summary of program obligations and expenditures during the preceding fiscal year for each participating Federal department, agency, and bureau;

"(4) a summary of the program plan and budget for the current fiscal year for each participating Federal department, agency, and bureau;

"(5) the program budget request for the following fiscal year for each participating Federal department, agency, and bureau;

"(6) recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction that have been made by the Advisory Commission on Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction (as established under section 1421 of the National Defense Authorization Act for Fiscal Year 1999), and actions taken as a result of such recommendations; and

"(7) requirements regarding additional program measures and legislative authority for which congressional action may be recommended.".

SEC. 1413. PERFORMANCE OF THREAT AND RISK ASSESSMENTS.

(a) THREAT AND RISK ASSESSMENTS.—(1) Assistance to Federal, State, and local agencies provided under the program under section 1411 shall include the performance of assessments of the threat and risk of terrorist employment of weapons of mass destruction against cities and other local areas. Such assessments shall be used by Federal, State, and local agencies to determine the training and equipment requirements under this program and shall be performed as a collaborative effort with State and local agencies.

(2) The Department of Justice, as lead Federal agency for crisis management in response to terrorism involving weapons of mass destruction, shall, through the Federal Bureau of Investigation, conduct any threat and risk assessment performed under paragraph (1) in coordination with appropriate Federal, State, and local agencies, and shall develop procedures and guidance for conduct of the threat and risk assessment in consultation with officials from the intelligence community.

(3) The President shall identify and make available the funds necessary to carry out this section.

(b) PILOT TEST.—(1) Before prescribing final procedures and guidance for the performance of threat and risk assessments under this section, the Attorney General, through the Federal Bureau of Investigation may, in coordination with appropriate Federal, State, and local agencies, conduct a pilot test of any proposed method or model by which such assessments are to be performed.

(2) The pilot test shall be performed in cities or local areas selected by the Department of Justice, through the Federal Bureau of Investigation, in consultation with appropriate Federal, State, and local agencies.

(3) The pilot test shall be completed not later than 4 months after the date of the enactment of this Act.

Subtitle B—Advisory Commission to Assess Domestic Response Capabilities For Terrorism Involving Weapons of Mass Destruction

SEC. 1421. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Advisory Commission on Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction" (hereinafter referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed of 15 members, appointed as follows:

(1) 4 members appointed by the Speaker of the House of Representatives;

(2) 4 members appointed by the majority leader of the Senate;

(3) 2 members appointed by the minority leader of the House of Representatives;

(4) 2 members appointed by the minority leader of the Senate;

(5) 3 members appointed by the President.

(c) QUALIFICATIONS.—Members shall be appointed from among individuals with knowledge and expertise in emergency response matters.

(d) DEADLINE FOR APPOINTMENTS.—Appointments shall be made not later than the date that is 30 days after the date of the enactment of this Act.

(e) INITIAL MEETING.—The Commission shall conduct its first meeting not later than the date that is 30 days after the date that appointments to the Commission have been made.

(f) CHAIRMAN.—A Chairman of the Commission shall be elected by a majority of the members.

SEC. 1422. DUTIES OF COMMISSION.

The Commission shall—

(1) assess Federal agency efforts to enhance domestic preparedness for incidents involving weapons of mass destruction;

(2) assess the progress of Federal training programs for local emergency responses to incidents involving weapons of mass destruction;

(3) assess deficiencies in training programs for responses to incidents involving weapons of mass destruction, including a review of unfunded communications, equipment, and planning and maritime region needs;

(4) recommend strategies for ensuring effective coordination with respect to Federal agency weapons of mass destruction response efforts, and for ensuring fully effective local response capabilities for weapons of mass destruction incidents; and

(5) assess the appropriate role of State and local governments in funding effective local response capabilities.

SEC. 1423. REPORT.

Not later than the date that is 6 months after the date of the first meeting of the Commission, the Commission shall submit a report to the President and to Congress on its findings under section 1422 and recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction.

SEC. 1424. POWERS.

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out this Act, hold such hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel member considers advisable.

(b) INFORMATION.—The Commission may secure directly from any department or agency of the United States information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this Act.

SEC. 1425. COMMISSION PROCEDURES.

(a) MEETINGS.—The Commission shall meet at the call of a majority of the members.

(b) QUORUM.—Eight members of the Commission shall constitute a quorum other than for the purpose of holding hearings.

(c) COMMISSION.—The Commission may establish panels composed of less than full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(d) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this Act.

SEC. 1426. PERSONNEL MATTERS.

(a) PAY OF MEMBERS.—Members of the Commission shall serve without pay by reason of their work on the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—(1) The Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties.

(2) The Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS–15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of pay payable for level V of the Executive Schedule under section 5316 of such title.

SEC. 1427. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

(a) POSTAL AND PRINTING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the United States.

(b) MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its duties under this title.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

SEC. 1428. TERMINATION OF COMMISSION.

The Commission shall terminate not later than 60 days after the date that the Commission submits its report under section 1423.

SEC. 1429. FUNDING.

Funds for activities of the Commission shall be provided from amounts appropriated for the Department of Defense for operation and maintenance for Defense-wide activities for fiscal year 1999.

Part D amendment No. 32 offered by Mr. WELDON of Pennsylvania:

At the end of title XXXI (page 363, after line 5), insert the following new section:

SEC. 3154. ADVANCED TECHNOLOGY RESEARCH PROJECT.

(a) FINDINGS.—Congress finds the following:

(1) Currently in the post-cold war world, there are new opportunities to facilitate international political and scientific cooperation on cost-effective, advanced, and innovative nuclear management technologies.

(2) There is increasing public interest in monitoring and remediation of nuclear waste.

(3) It is in the best interest of the United States to explore and develop options with the international community to facilitate the exchange of evolving advanced nuclear wastes technologies.

(4) The Advanced Technology Research Project facilitates an international clearinghouse and marketplace for advanced nuclear technologies.

(b) SENSE OF THE CONGRESS.—It is the sense of Congress that the President should instruct the Secretary of Energy, in consultation with the Secretary of State, the Secretary of Defense, the Administrator of the Environmental Protection Agency, and other officials as appropriate, to consider the Advanced Technology Research Project and submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report containing the following:

(1) An assessment of whether the United States should encourage the establishment of an international project to facilitate the international exchange of information (including costs data) relating to advanced nuclear waste technologies, including technologies for solid and liquid radioactive wastes and contaminated soils and sediments.

(2) An assessment of whether such a project could be funded privately through industry, public interest, and scientific organizations and administered by an international nongovernmental organization, with operations in the United States, Russia, and other countries that have an interest in developing such technologies.

(3) Recommendations for any legislation that the Secretary of Energy believes would be required to enable such a project to be undertaken.

Part D amendment No. 33 offered by Mr. WELDON of Pennsylvania and Mr. SPRATT:

At the end of subtitle C of title II (page 29, after line 21), insert the following new section:

SEC. 236. RESTRUCTURING OF THEATER HIGH-ALTITUDE AREA DEFENSE SYSTEM ACQUISITION STRATEGY.

(a) ESTABLISHMENT OF ALTERNATIVE CONTRACTOR.—(1) The Secretary of Defense shall select an alternative contractor as a potential source for the development and production of the interceptor missile for the Theater High-Altitude Area Defense (THAAD) system within a "leader-follower" acquisition strategy.

(2) The Secretary shall take such steps as necessary to ensure that the prime contractor for that system prepares the selected alternative contractor so as to enable the alternative contractor to be able (if necessary) to assume the responsibilities for development or production of an interceptor missile for that system.

(3) The Secretary shall select the alternative contractor as expeditiously as possible and shall use the authority provided in section 2304(c)(2) of title 10, United States Code, to expedite that selection.

(4) Of the amount authorized under section 201(4) for the Theater High-Altitude Area Defense system, the amount provided for the Demonstration/Validation phase for that system is hereby increased by $142,700,000, of which $30,000,000 shall be available for the purposes of this subsection, and the amount provided for the Engineering and Manufacturing Development phase for that system is hereby reduced by $142,700,000.

(b) COST SHARING ARRANGEMENT.—The Secretary of Defense shall contractually establish an appropriate cost sharing arrangement with the prime contractor as of May 14, 1998, for the interceptor missile for the Theater High-Altitude Area Defense system for flight test failures of that missile beginning with flight test nine.

(c) ENGINEERING AND MANUFACTURING DEVELOPMENT PHASE FOR OTHER ELEMENTS OF THE THAAD SYSTEM.—The Secretary of Defense shall proceed as expeditiously as possible with the milestone approval process for the Engineering and Manufacturing Development phase for the Battle Management and Command, Control, and Communications (BM/C^{3}) element of the Theater High-Altitude Area Defense system and for the Ground-Based Radar (GBR) element for that system. That milestone approval process for those elements shall proceed without regard to the stage of development of the missile interceptor for that system.

(d) REQUIREMENT BEFORE PROCUREMENT OF UOES MISSILES.—The Secretary of Defense may not obligate any funds for acquisition of User Operational Evaluation System (UOES) missiles for the Theater High-Altitude Area Defense system until there have been two successful tests of the interceptor missile for that system.

(e) LIMITATION ON ENTERING ENGINEERING AND MANUFACTURING DEVELOPMENT PHASE.—The Secretary of Defense may not approve the commencement of the Engineering and Manufacturing Development phase for the interceptor missile for the Theater High-Altitude Area Defense system until there have been three successful tests of that missile.

(f) SUCCESSFUL TEST DEFINED.—For purposes of this section, a successful test of the interceptor missile of the Theater High-Altitude Area Defense system is a body-to-body intercept by that missile of a ballistic missile target.

Part D amendment No. 34 offered by Mr. SPENCE:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. EXECUTION OF OBJECTION AUTHORITY WITHIN THE DEPARTMENT OF DEFENSE.

Section 1211 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1932) is amended by adding at the end the following new subsection:

"(g) DELEGATION OF OBJECTION AUTHORITY WITHIN THE DEPARTMENT OF DEFENSE.—For the purposes of the Department of Defense, the authority to issue an objection referred to in subsection (a) shall be executed for the Secretary of Defense by an individual at the Assistant Secretary level within the office of the Under Secretary of Defense for Policy. In implementing subsection (a), the Secretary of Defense shall ensure that Department of Defense procedures maximize the ability of the Department of Defense to be able to issue an objection within the 10-day period specified in subsection (c).".

Part D amendment No. 35 offered by Mr. WELDON of Pennsylvania and Mr. PICKETT:

Page 21, line 12, strike out "$3,078,251,000" and insert in lieu thereof "$4,208,978,000".

Part D amendment No. 36 offered by Mr. RILEY:

Page 19, strike line 2 and all that follows through page 20, line 16 and insert the following:

SEC. 141. ALTERNATIVE TECHNOLOGIES FOR DESTRUCTION OF ASSEMBLED CHEMICAL WEAPONS.

(a) Program Management.—(1) The program manager for the Assembled Chemical Weapons Assessment program shall continue to manage the development and testing (including demonstration and pilot-scale facility testing) of technologies for the destruction of lethal chemical munitions that are potential or demonstrated alternatives to the baseline incineration program. In performing such management, the program manager shall act independently of the program manager for Chemical Demilitarization and shall report to the Secretary of the Army, or his designee.

(2) The Under Secretary of Defense for Acquisition and Technology and the Secretary of the Army shall jointly submit to Congress, not later than December 1, 1998, a plan for the transfer of oversight of the Assembled Chemical Weapons Assessment program from the Under Secretary to the Secretary.

(3) Oversight of the Assembled Chemical Weapons Assessment program shall be transferred pursuant to the plan submitted under paragraph (2) not later than 60 days after the date of the submission of the notice required under section 152(f)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521(f)(2)).

(b) Post-Demonstration Activities.—(1) The program manager for the Assembled Chemical Weapons Assessment program may carry out those activities necessary to ensure that an alternative technology for the destruction of lethal chemical munitions may be implemented immediately after—

(A) the technology has been demonstrated to be successful;

(B) the Under Secretary of Defense for Acquisition and Technology has submitted to Congress a report on the demonstration; and

(C) a decision has been made to proceed with the pilot-scale facility phase for an alternative technology.

(2) To prepare for the immediate implementation of any such technology, the program manager may, during fiscal years 1998 and 1999, take the following actions:

(A) Establish program requirements.

(B) Prepare procurement documentation.

(C) Develop environmental documentation.

(D) Identify and prepare to meet public outreach and public participation requirements.

(E) Prepare to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than December, 1999.

(c) Plan for Pilot Program.—If the Secretary of Defense proceeds with a pilot program under section 152(f) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521(f)), the Secretary shall prepare a plan for the pilot program and shall submit to Congress a report on such plan (including information on the cost of, and schedule for, implementing the pilot program).

(d) Funding.—Of the amount authorized to be appropriated in section 107, $12,600,000 shall be available for the Assembled Chemical Weapons Assessment program for the following:

(1) Demonstration of alternative technologies under the Assembled Chemical Weapons Assessment program.

(2) Planning and preparation to proceed immediately from demonstration of an alternative technology to the development of a pilot-scale facility for the technology, including planning and preparation for—

(A) continued development of the technology leading to deployment of the technology;

(B) satisfaction of requirements for environmental permits;

(C) demonstration, testing, and evaluation;

(D) initiation of actions to design a pilot program;

(E) provision of support at the field office or depot level for deployment of the technology; and

(F) educational outreach to the public to engender support for the development.

(3) An independent cost and schedule evaluation of the Assembled Chemical Weapons Assembled program, to be completed not later than December 30, 1999.

(e) Assembled Chemical Weapons Assessment Program Defined.—In this section, the term "Assembled Chemical Weapons Assessment program" means the program established in section 152(e) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521), and section 8065 of the Department of Defense Appropriations Act, 1997 (as contained in section 101 of Public Law 104–208; 110 Stat. 3009–101), for identifying and demonstrating alternatives to the baseline incineration process for the demilitarization of assembled chemical munitions.

Part D amendment No. 37 offered by Mr. PORTER:

At the end of part I of subtitle D of title XXVIII (page 317, after line 3), insert the following new section:

SEC. —. LAND CONVEYANCE, FORT SHERIDAN, ILLINOIS.

(a) Conveyance Authorized.—The Secretary of the Army may convey to the City of Lake Forest, Illinois (in this section referred to as the "City"), all right, title, and interest, of the United States in and to all or some portion of the parcel of real property, including improvements thereon, at the former Fort Sheridan, Illinois, consisting of approximately 14 acres and known as the northern Army Reserve enclave area.

(b) Consideration.—As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to not less than the fair market value of the real property to be conveyed, as determined by the Secretary.

(c) Use of Proceeds.—In such amounts as are provided in advance in appropriations Acts, the Secretary may use the funds paid by the City under subsection (b) to provide for the construction of replacement facilities and for the relocation costs for Reserve units and activities affected by the conveyance.

(d) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Part D amendment No. 38 offered by Mr. DOOLITTLE:

At the end of subtitle D of title X (page 228, after line 13), insert the following new section:

SEC. 1032. REPORT ON PERSONNEL RETENTION.

(a) Report Required.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing information on the retention of members of the Armed Forces on active duty in the combat, combat support, and combat service support forces of the Army, Navy, Air Force, and Marine Corps.

(b) Required Information.—The Secretary shall include in the report information on retention of members with military occupational specialties (or the equivalent) in combat, combat support, or combat service support positions in each of the Army, Navy, Air Force, and Marine Corps. Such information shall be shown by pay grade and shall be aggregated by enlisted grades and officers grades and shall be shown by military occupational specialty (or the equivalent). The report shall set forth separately (in numbers and as a percentage) the number of members separated during each such fiscal year who terminate service in the Armed Forces completely and the number who separate from active duty by transferring into a reserve component.

(c) Years Covered by Report.—The report shall provide the information required in the report, shown on a fiscal year basis, for each of fiscal years 1989 through 1998.

The CHAIRMAN. The Clerk will report the modifications.

The Clerk read as follows:

Part D amendment No. 13, as modified, offered by Mr. HALL of Ohio:

The amendment as modified is as follows:

At the end of subtitle B of title II (page 24, after line 25), insert the following new section:

SEC. 214. SCIENCE AND TECHNOLOGY FUNCTIONS OF THE DEPARTMENT OF DEFENSE.

(a) Sense of Congress.—It is the sense of Congress that—

(1) to ensure sufficient financial resources are devoted to emerging technologies, a goal of at least 10 percent of funds available under title II for each of the Army, Navy, and Air Force should be dedicated to science and technology in each military department;

(2) management and funding for science and technology for each military department should receive a level of priority and leadership attention equal to the level received by program acquisition, and the Secretary of each military department should ensure that a senior member of the department holds the appropriate title and responsibility to ensure effective oversight and emphasis on science and technology;

(3) to ensure an appropriate long-term focus for investments, a sufficient percentage of science and technology funds should be directed toward new technology areas, and annual reviews should be conducted for ongoing research areas to ensure that those

funded initiatives are either integrated into acquisition programs or discontinued;

(4) the military departments should take appropriate steps to ensure that sufficient numbers of officers and civilian employees in each department hold advanced degrees in technical fields; and

(5) of particular concern, the Secretary of the Air Force should take appropriate measures to ensure that sufficient numbers of scientists and engineers are maintained to address the technological challenges faced in the areas of air, space, and information technology.

(b) STUDY.—

(1) REQUIREMENT.—The Secretary of Defense, in cooperation with the National Research Council of the National Academy of Sciences, shall conduct a study on the technology base of the Department of Defense.

(2) MATTERS COVERED.—The study shall—

(A) recommend the minimum requirements to maintain a technology base that is sufficient, based on both historical developments and future projections, to project superiority in air and space weapons systems, and information technology;

(B) address the effects on national defense and civilian aerospace industries and information technology by reducing funding below the goal described in paragraph (1) of subsection (a); and

(C) recommend the appropriate level of staff holding baccalaureate, masters, and doctorate degrees, and the optimal ratio of civilian and military staff holding such degrees, to ensure that science and technology functions of the Department of Defense remain vital.

(3) REPORT.—Not later than 120 days after the date on which the study required under paragraph (1) is completed, the Secretary shall submit to Congress a report on the results of the study.

Part D amendment No. 22, as modified, offered by Mr. KENNEDY of Rhode Island:

The amendment as modified is as follows:

Page 135, beginning on line 7, strike out "**AND OTHER NATIONS**" and insert in lieu thereof "**OTHER NATIONS, AND INDIGENOUS GROUPS**".

Page 135, after line 16, insert the following (and redesignate the succeeding paragraphs accordingly):

(2) Indigenous groups, such as the Hmong, Nung, Montagnard, Kahmer, Hoa Hao, and Cao Dai contributed military forces, together with the United States, during military operations conducted in Southeast Asia during the Vietnam conflict.

Page 135, beginning on line 17, strike out "the combat forces from these nations" and insert in lieu thereof "these combat forces".

Page 136, line 1, insert ", indigenous groups," after "Vietnamese".

Page 136, line 13, insert ", as well as members of the Hmong, Nung, Montagnard, Kahmer, Hoa Hao, and Cao Dai," after "the Philippines".

Amendment deemed printed in part D of the report by order of the House of May 20, 1998, as modified, offered by Mr. EVERETT:

The amendment as modified is as follows:

At the end of title XII (page 253, after line 3), insert the following:

SEC. 1206. TRANSFER OF EXCESS UH-1 HUEY HELICOPTERS AND AH-1 COBRA HELICOPTERS TO FOREIGN COUNTRIES.

(a) IN GENERAL.—(1) Chapter 153 of title 10, United States Code, is amended by adding at the end the following new section:

"**§ 2581. Transfer of excess UH-1 Huey helicopters and AH-1 Cobra helicopters to foreign countries**

"(a) REQUIREMENTS.—The Secretary of Defense shall make all reasonable efforts to ensure that any excess UH-1 Huey helicopter or AH-1 Cobra helicopter that is to be transferred on a grant or sales basis to a foreign country for the purpose of flight operations for such country shall meet the following requirements:

"(1) Prior to such transfer, the helicopter receives, to the extent necessary, maintenance and repair equivalent to the depot-level maintenance and repair, as defined in section 2460 of this title, that such helicopter would need were the helicopter to remain in operational use with the armed forces of the United States.

"(2) Maintenance and repair described in paragraph (1) is performed in the United States.

"(b) EXCEPTION.—The requirements of subsection (a) shall not apply with respect to salvage helicopters provided to the foreign country solely as a source for spare parts.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2581. Transfer of excess UH-1 Huey helicopters and AH-1 Cobra helicopters to foreign countries.".

(b) EFFECTIVE DATE.—Section 2581 of title 10, United States Code, as added by subsection (a), shall apply with respect to the transfer of a UH-1 Huey helicopter or AH-1 Cobra helicopter on or after the date of the enactment of this Act.

Mr. SPENCE (during the reading). Mr. Chairman, I ask unanimous consent that the modifications be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The CHAIRMAN pro tempore. Pursuant to House Resolution 441, the gentleman from South Carolina (Mr. SPENCE) and the gentleman from Missouri (Mr. SKELTON) each will control 10 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Chairman, I rise in strong support of the en bloc amendment, and thank the chairman of the committee for including the Bartlett-Solomon amendment in this package. I believe that a picture is worth a thousand words, and this picture shows a scene which should grab the attention of every Member of Congress.

Last Thursday, on the East Front of the Capitol, 12 members of the New York Air National Guard, all of whom were combat-decorated veterans, surrendered their combat medals and decorations on the steps of the Capitol in protest.

These men, who are some of our Nation's best and brightest, were protesting the actions of the New York Air National Guard, who, with reckless abandon and complete disregard for combat capability, bowed at the altar of political correctness and rushed an unqualified female pilot into the combat unit at the expense of military readiness.

When the members of the Air Guard brought their allegations to their chain of command, their unit was grounded, and the pilots who brought the allegations forward were transferred, demoted, or dismissed.

These brave men, in whom our country has invested over $20 million, have shown that the New York Air Guard investigation into these allegations was fraught with charges of coverup, withholding of evidence, and perjury.

We cannot allow political correctness to ruin the lives and careers of members of the military who have sacrificed their lives for this country. The Bartlett-Solomon amendment will require a DOD inspector general to investigate the grounding of the Air National Guard. I urge support of the en bloc amendment.

Mr. SPENCE. Mr. Chairman, I ask unanimous consent that the debate time for consideration of amendments en bloc be expanded by 30 minutes, and that such time be equally divided and controlled by the gentleman from Missouri (Mr. SKELTON) and myself.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

Mr. SKELTON. Reserving the right to object, Mr. Chairman, that gives each side how much time total?

Mr. SPENCE. If the gentleman will yield, Mr. Chairman, that is 25 minutes.

Mr. SKELTON. 25 minutes each? All right.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

Mr. WAMP. Reserving the right to object, Mr. Chairman, is there any way we could designate that extended time, 10 minutes on the Markey amendment, divided 5 minutes per side, on this critical issue of tritium production in the United States of America?

Mr. SPENCE. If the gentleman will yield, Mr. Chairman, we have about 30 people who want to speak now. That just about takes that up.

Mr. WAMP. I understand that, sir. This is a $4.5 billion issue. I think it deserves at least 10 minutes on the floor of the U.S. House of Representatives at this critical time in history, please.

Mr. SPENCE. If the gentleman will continue to yield, Mr. Chairman, I suggest to the gentleman he might get 10 people to say that much, and that would be 10 minutes.

Mr. WAMP. Mr. Chairman, I withdraw my reservation, and ask the ranking member and the chairman to please make sure we get our due time on the floor.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, it is my honor today to rise as a proud sponsor of the Kennedy amendment in the en bloc amendments. This amendment would recognize the services of the military forces of South Vietnam, other nations, as well as indigenous groups in connection with the United States Armed Forces during the Vietnam conflict.

From 1965 to 1971, these indigenous groups, such as the Kahmer, Nung, Hmong, Lao, Montagnard, Hao Hao, and Cao Dai, were the spearhead in the struggle for freedom in Southeast Asia. They fought against both the North Vietnamese army and the South Vietnamese insurgents.

They rescued downed American pilots and protected American air bases, bases from which thousands of missions were flown against North Vietnam. They were armed, equipped, fed, paid, and often transported into and out of conflict by the United States military. They all provided an invaluable service to the American military and to their own people.

By supporting this amendment, we will be giving these veterans the respect and recognition that they deserve. If we support this amendment, no one will ever again say that America and the world does not recognize the valor and courage demonstrated by these veterans in the struggle for freedom in Southeast Asia.

□ 1500

They can take pride in the fact that they will live on in American history as part of a long line of soldiers who fought to make the world a safer place.

In particular, Mr. Chairman, I would like to acknowledge and recognize the contributions of the Hmong and Lau veterans who comprise such a vital segment of the population in my own State of Rhode Island and with whom I have had a good personal working relationship.

On behalf of every one of the 86 Hmong and Lau veterans in my State of Rhode Island and on behalf of the 14,000 Hmong and Lau veterans in this country, I would like to ask my colleagues to show their support for this cause that they fought alongside our American service people with and show that America does not forget them.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Chairman, following up on the Bartlett-Solomon amendment, it is under very grave circumstances that we come to the floor today to ask the Inspector General of the Department of Defense to undertake an impartial investigation into a very disturbing and controversial case involving the 174th Fighter Wing of the Air National Guard in my home State of New York.

We cannot explain it all in one minute, but let me just say the members of the 174th, often referred to as the "Boys from Syracuse," have had their names besmirched and their careers destroyed. They should not be kept in the dark any longer. They have turned in their medals from 15 heroes in the Vietnam War because of their protesting of the treatment they got because of politics in the New York State Air National Guard. I hope that we accept the amendment. Let us get on with this investigation.

Mr. Chairman, I rise in support of the amendment I have co-authored with my good friend and member of the National Security Committee, ROSCOE BARTLETT of Maryland.

Unfortunately, it is under very grave circumstances that we come to the floor today to force the Inspector General of the Department of Defense to undertake an impartial investigation into a very disturbing and controversial case involving the 174th Fighter Wing of the Air National Guard in my home state of New York.

Particularly, we are asking the IG to examine what seem to be retaliatory tactics taken against a number of members of that unit after they came forward to report what they believed to be serious wrong-doing by a trainee and superiors in their midst.

The worst part is that this stemmed from another social experiment in the military gone wrong when former Governor Cuomo's administration forced the acceptance of a female pilot into the wing who proved to be incapable of flying in a fighter wing and a constant source of controversy.

Even though this situation dates back several years to 1993, the fallout has been tragic and continues today.

Just last week, I had two of my own constituents turn in all of the medals they had earned from the Air Force as decorated members of the 174th Fighter Wing.

All tolled 15 pilots from the unit turned in their medals and Air Force Wings, many of whom are combat decorated veterans of the Persian Gulf War.

The question is why would so many members of one distinguished unit feel compelled to take such a dramatic step?

Why would the members of a wing who flew 1600 missions in the Persian Gulf War suddenly renounce their allegiance to the Air Force and the New York Air Guard they once so proudly and expertly represented?

Well, Mr. Chairman, the answer is simple to anyone who takes a minute to listen to their story.

These men were forced to retire, had their mental stability placed in question, accused of discrimination, reassigned to jobs copying papers, after being trained to fly fighters at a cost of $20 million to we taxpayers I might add, and otherwise humiliated.

In short, their distinguished military careers were destroyed and their future employment as private pilots jeopardized.

And for what? Because they had the guts to come forward and report wrongdoing in their unit and because they questioned the capability of the high-profile female trainee who couldn't pass muster as a fighter pilot.

Mr. Chairman, the military is not intended to be a social lab.

The American military has to be founded on a warrior culture that strives for uncompromising excellence because their mission is to fight wars and protect our way of life.

This case highlights just how much we place our national security and military preparedness at risk by continuing to press these politically correct experiments.

These principal pilots and officers were concerned for their units combat readiness yet their calls were ignored and they were punished.

That's exactly why we want the IG to examine this case now, Mr. Chairman.

We want to know what rules were violated and by whom, regardless of rank.

We want to know who did or did not perjure themselves during subsequent investigations, one by the military, the other by New York State's Inspector General.

We want to know if there was retaliation by superiors in the military against six pilots who made whistle-blower complaints and expected to be protected by whistle-blower laws.

We want to know if combat readiness was jeopardized.

And most importantly, we want all of this to be made public in full once and for all.

The members of the 174th, often referred to as the 'Boys from Syracuse', have had their names besmirched and their careers destroyed.

They shouldn't be kept in the dark any longer and they deserve to have an investigation into this mess that is open and fair.

Requiring this investigation and a report to Congress will provide that and is a positive step toward their complete vindication.

Please support the Bartlett/Solomon amendment.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, I appreciate the ranking minority member yielding me the time. I appreciate the support on this I am getting, not just from the chairman and the ranking minority member, but from the gentleman from Virginia who has been an active proponent.

Last year we passed overwhelmingly, unanimously, an amendment that said the United States will not spend more than $200 million per year for our share of the cost of NATO expansion. NATO expansion is one thing. But an American subsidy of France and Germany and England and Italy and Scandinavia and the Benelux countries is quite another. We have a continuing problem.

Our wealthy, powerful European allies, who do not themselves face serious threats, have gotten so used to the American taxpayer picking up the tab for the common defense that they do not make a contribution. Part of the objection to NATO was an objection over an excessive contribution from Americans. We in this amendment take what the State Department and Defense Department told us it would cost and we say that will be the maximum.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I would say the gentleman is absolutely correct. It is a good amendment. We all should support it.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman because this may become a dispute between this body and the Senate, and I hope we will have our conferees standing firm for the American taxpayer if the Senate tries to kill it.

Mr. SPENCE. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I would like to thank Members on both sides of the aisle for their overwhelming support which enables disabled veterans and their disabled family members to participate in outdoor activities. For example, if they go fishing, they want a rail with a wheelchair or a sub. All funds are paid for by private funds. It has had overwhelming support from the Sportsmen's Caucus with over 200 members.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP. Mr. Chairman, I would like to thank the gentleman from South Carolina (Mr. SPENCE) and the gentleman from Missouri (Mr. SKELTON) and other members of the Committee on National Security for accommodating my amendment as part of the manager's en bloc amendment. The amendment that I offered allows service personnel who serve on the Joint Task Force for Full Accounting in Southeast Asia and who are working to seek a full accounting of our MIAs, it will allow them to receive hardship duty pay. There are about 155 members of the task force at any given time and hardship duty pay is up to $300 per month per person.

The men and women on these teams have volunteered for this tour of duty. They are dedicated to recovering and repatriating the remains of their colleagues, but must often work in areas that are littered with unexploded cluster bomb units and Sidewinder missiles. Add to that the malaria and snake infested, poisonous snake infested areas.

They provide great service to our Nation by giving the families of our lost service personnel hope and closure. They fully deserve our support. This small measure will demonstrate our commitment and show that we appreciate the danger that they encounter while on the job.

I had the opportunity to travel there and to see them at work and to experience firsthand the arduous ordeal that they go through in discharging this very, very sacred duty of returning the remains of our lost servicemen and women.

I appreciate this, Mr. Chairman. I appreciate the accommodation and certainly this is, I think, in the best interest of our service personnel and certainly in the best interest of the families of our lost servicemen who have not yet been repatriated.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I thank our chairman for yielding me the time. I want to yield to the gentlewoman from Washington and to the gentleman from North Carolina to explain a very important provision which will give the same tax breaks to our uniformed folks that we have given to the rest of the country with respect to a home sale.

I yield to the gentlewoman from Washington (Mrs. Linda SMITH).

Mrs. LINDA SMITH of Washington. Mr. Chairman, this provision expresses Congress's resolve to fix something that we did not do quite right last year in the Taxpayer Relief Act. Under the Taxpayer Relief Act, we allow people who sell their residence to exclude the first $250,000 of profit or $500,000 for a married couple. To qualify, though, the couple has to live in the home two of the last five years. In military States like mine and the two gentlemen standing with me, that does not always work with the deployment practices of this administration. So we just ask that we change this to say that if they are actively deployed, that also is considered as living in the home. It is only fair and they deserve it.

Mr. HUNTER. Mr. Chairman, I yield to the gentleman from North Carolina (Mr. JONES).

Mr. JONES. Mr. Chairman, I join the gentleman from California (Mr. HUNTER) and the gentlewoman from Washington (Mrs. LINDA SMITH) in offering this amendment today to urge the House to address this issue quickly.

The truth is Congress never intended to change the longstanding policy, that is, to understand the unique nature of homeownership for the American taxpayer serving in the military, when we drafted the Taxpayer Relief Act of 1997. It was an oversight. Clearly, it is unfair to deny men, women in the military the same tax relief as their civilian counterparts. That is exactly what is happening. I urge my colleagues to support this resolution and the legislation to correct this unfairness.

Mr. HUNTER. Mr. Chairman, this just says if you are stationed around the world and you may have been renting your home out for two of the last five years because of the extraordinary demands on uniformed service people, you can designate that home as your place of residence even though you may be deployed in a different place. I thank both the authors of this legislation. They have done a lot to help our uniformed folks.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Chairman, I thank my good friend from Missouri for yielding me this time.

I rise to commend the bipartisan support for this bill and the leadership.

However, I am concerned that the level of modernization funding for our aging tactical trucks, specifically the HMMWV and the 2½ ton truck extended service program, may be inadequate. The Army and Marine Corps have placed HMMWV near the top of their unfunded requirements priority list, but the fiscal year 1999 HMMWV budget request level would result in a gap in HMMWV production.

The Army would require an increase to the budget of $65.7 million to meet existing requirements and avoid a production gap. The Marine Corps would require an increase of $37 million to accelerate replacement of aging HMMWVs with corrosion problems. In addition, the 2½ ton truck ESP program is critical to our Army Guard and Reserve forces which have large fleets of overage trucks. To meet existing requirements and to avoid a production gap, the 2½ ton truck ESP request needs to be increased by $93 million. The Senate version does this, and I would encourage the conferees to support the Senate authorization levels for these programs.

Mr. Chairman, I yield to the gentleman from Virginia (Mr. SISISKY).

Mr. SISISKY. Mr. Chairman, I understand the concerns of the distinguished gentleman from Indiana. The committee recognizes the importance of HMMWV and 2½ ton truck ESP and their unique roles in meeting defense requirements. I would like to assure the gentleman that I will ensure your concerns are carefully considered as this bill moves through the conference process.

Mr. ROEMER. I thank the gentleman from Virginia and the gentleman from Missouri and our Republican leadership on this bill.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. HANSEN) for the purpose of a colloquy.

Mr. HANSEN. Mr. Chairman, I rise to engage the chairman of the Committee on National Security regarding the development of fiber optic sensor technology in the Navy's anti-submarine warfare program.

Mr. Chairman, for several years the Committee on National Security has recommended additional funds for research and development of fiber optic technology for the Navy's anti-submarine warfare program. This effort has been highly successful.

Fiber optic technology is playing a major role in the development of advanced sonar centers and arrays for submarines, including the new attack submarine, surface ships, and the advanced deployable system.

This year, however, I am particularly concerned that funding for the advanced deployable system did not specifically address fiber optics and may inadvertently preclude the Navy from accelerating this technology, even though the Navy program office views fiber optics as a high priority.

Mr. SPENCE. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from South Carolina.

Mr. SPENCE. Mr. Chairman, I am pleased to report to the gentleman that despite the severe constraints on the budget, the committee fully funded the Navy's budget request for the development of fiber optic technology, including $11.3 million to complete the development of the All Optical Deployable System. The Navy's request represents an increased emphasis on the use of fiber optic technology, and I understand that the Navy's anti-submarine warfare plan emphasizes the exploitation of this technology in the future.

Mr. HANSEN. Mr. Chairman, I thank the gentleman from South Carolina for the information and trust that he will continue to work with me to accelerate the development of these important naval technologies.

Mr. SKELTON. Mr. Chairman, I reserve the balance of my time.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. RILEY).

Mr. RILEY. Mr. Chairman, the fiscal year 1997 National Defense Authorization Act directed the Department of Defense to conduct an assessment of alternative technologies for the disposal of assembled chemical munitions. Congress allocated $40 million for the Assembled Chemical Weapons Assessment program in the past year, better known as the ACWA program. ACWA is expected to deliver its recommendations to Congress this December.

My amendment, which has been drafted in consultation with the House Committee on National Security staff, will allow the Department of Defense to continue the ACWA program beyond the demonstration phase. The Riley amendment transfers oversight of the alternative technology program from the Under Secretary of Defense for acquisition and technology to the Secretary of the Army. In addition, it provides $12.6 million for a full pilot demonstration of an alternative to high temperature incineration.

Mr. Chairman, I believe we must continue the progress that we have made in the development of alternative chemical demilitarization technologies. I thank the chairman and the staff for working with me on this amendment and urge my colleagues to support the en bloc amendment.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Chairman, I want to thank the chairman, the distinguished ranking member for putting my amendments en bloc. One is a Buy American amendment with a compliance report which must be submitted in 60 days. The other would be a simple transfer, some task keeping in my district. I appreciate their help on the transfer of that property.

The third one was an unusual request from the veterans of America to me on my issue of Buy American. It states that when a veteran passes, that flag that is placed in that coffin shall be 100 percent made in America. That is what they wanted.

□ 1515

An unusual request. They did not want the flag to be made somewhere else. And that is in here, and I thank the gentleman because we did not get into any big debate about it.

But there is a fourth very important issue that I ask the chairman and the ranking member to consider. Nearly every major aviation tragedy has been due to bad weather, where the runway was absolutely missed with the existing technology. I am asking that report language, if necessary, or the conference, take up the position that would allow for and authorize a limited testing of laser-guided systems that work second to none in bad weather.

The gentleman from California (Mr. DUKE CUNNINGHAM) knows this; that when a pilot gets down into that cloud cover, they do not have a whole lot of time to react. And most of these aviation tragedies, including Ron Brown's, is they misjudged that landing strip.

So, now, this is not in there. And all I am asking, and I am not even asking that we put money into it, just get the Air Force, with whatever money they can find, if they can find it, to retrofit one air base and try it; where the pilot locks in and lands in the same spot on that runway every time.

Mr. SPENCE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from South Carolina.

Mr. SPENCE. Mr. Chairman, I appreciate the gentleman's position. As he knows, we have been talking about this thing before, and I will do all I can as we go through the process to make this happen.

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentleman's efforts.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Chairman, I first of all thank my distinguished chairman for yielding me this time, and thank again our ranking member for his cooperation.

I will speak briefly. I have four amendments, all of which are in the en bloc, or five amendments, actually. One is a noncontroversial amendment I have cosponsored with the gentleman from Virginia (Mr. PICKETT) clarifying our R&D section of the bill.

A second clarifies our jurisdiction over next generation internet, to make sure that all the funding for next generation internet paid for by the Department of Defense is, in fact, authorized by the defense authorization bill.

The third amendment, Mr. Chairman, deals with the issue of a nuclear race cooperative program with Russia, a very severe problem. It allows our military, where they desire, to in fact exchange cooperative assistance to the Russians in cleaning up what is, in fact, a very real problem with their spent nuclear fuel and with their deactivated nuclear submarines.

The two major amendments I wanted to focus on, first of all is the THAAD amendment. We had, unfortunately, the fifth unsuccessful test of the THAAD program. Working with my colleague, the gentleman from South Carolina (Mr. SPRATT), we have gone in and we have tweaked the contractor. We are giving the Department of Defense the authorization to impose liability on any further failures of the test of THAAD. We break off the missile program to allow the radar and the BMC cube to move forward. They are both very successful. And we say to the Pentagon, bring in a second contractor team to help oversee the THAAD program.

And, finally, the last amendment I do with a distinguished Member, who is the ranking member, the gentleman from Missouri (Mr. SKELTON), and that is to look at the whole issue of how we respond to terrorist incidents. The gentleman from Missouri has been a leader in the body. He has, in fact, requested four consecutive GAO reports on the problems associated with response to planning for weapons of mass destruction and terrorist activities in this country.

My subcommittee has held five hearings on this issue. There are severe problems. James Lee Witt, the head of FEMA, just recently pulled FEMA out of the directorate role because of confusion. What we say to the administration is, it is time to step back and look at reorganizing this process to be more efficient and effective in responding to terrorist incidents.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

It gives me great pleasure to jointly offer this amendment with the gentleman from Pennsylvania (Mr. WELDON). I take this opportunity to commend him for his leadership and his effort, and I certainly enjoy working with him on this very, very important issue for our country, and I thank him for that.

The amendment contains several promising provisions. I am particularly pleased with section 1413, which contains language authorizing a domestic preparedness pilot program. The pilot, aimed at improving the Defense Against Weapons of Mass Destruction Act of 1996, allows the FBI to assist Federal, State and local agencies with threat and risk assessments in order to determine training and equipment requirements. This is something we need. I believe this is a step in the right direction.

Mr. Speaker, addressing the threat of terrorism presents great challenges for our Nation. At present, at least 43 Federal departments, agencies and bureaus are involved. At times, uneven and nearly incompatible levels of expertise exist, and duplication and poor communication may also complicate our effort.

Furthermore, GAO, at my request, as the gentleman from Pennsylvania (Mr. WELDON) pointed out, recently concluded a series of terrorism studies with these observations: That no regular governmentwide collection and review of funding data exists; that no apparent governmentwide set of priorities has been established; that no assessment process exists to coordinate and focus government efforts; and that no government office or entity maintains the authority to enforce coordination.

It is, therefore, within this context that I ask the House to consider this amendment. This language offers the potential to better prioritize training and assistance to American cities. It is also a timely and complementary amendment, in that, as I understand, the President will soon announce recommended improvements to our response program.

Together, these two efforts, this language and the President's proposal, should bring us one step closer to attaining adequate coordination throughout all aspects of government. With an eye aimed toward this goal, I look forward to working with both the majority and the administration over the next several weeks.

I again compliment the gentleman from Pennsylvania and thank him for his coordination and cooperation with me.

Mr. Chairman, I reserve the balance of my time.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I commend the gentleman from South Carolina (Mr. SPENCE) and the committee for their attempt to bring objectivity and honesty to the readiness reporting system.

When I visit with military people in the field, I often hear about the lack of ammunition, spare parts, fuel and other essential equipment that is degrading their training for combat.

I thank the chairman also for incorporating my amendment in the en bloc amendments. This amendment would require the Secretary of Defense to report to Congress on the vital issue of retention. Air Force and Navy pilots, perhaps the most intensely and expensively trained members of the military, are leaving in droves, and other highly trained members of our Armed Forces are also leaving.

Why? Because over the past 5 years they have been asked repeatedly to do more with less. That means more missions of marginal value to the security of the United States, executed with fewer people, older equipment and, most vitally, less combat training.

This amendment will take a look at this. And I want to urge my colleagues to support the amendment and to support the bill.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of the en bloc amendment, and I am very happy that the committee has agreed to accept the amendments sponsored by the gentleman from South Carolina (Mr. GRAHAM) and myself for inclusion in the en bloc amendment.

This amendment, quite briefly, continues to make this distinction between nuclear power plants, which are used to generate electricity that have light bulbs and toast made for civilians in their homes, and nuclear power plants or linear accelerators which are used to construct nuclear bombs.

For 50 years in America we have kept these two facilities separate. When people have their lights go on at home, they know they are not making any material that could be used in the construction of a nuclear weapon.

Now, the Congress realized this, and back in 1982, Senator Hart and Senator Simpson were able to pass an amendment which memorialized this. Kept them separate. But there is a little bit of a loophole. They did not mention the word "tritium." And what the gentleman from South Carolina (Mr. GRAHAM) and I are seeking to do is add that word, this critical ingredient for nuclear bombs as well.

Otherwise, the TVA, civilian electricity generator for use in homes, will be able to qualify as a nuclear weapons material bomb making factory. And that is not good, especially when we are trying to convince the Indians that they should not use their civilian reactors for nuclear material; the Pakistanis that they should not use their civilian reactors for nuclear materials; that only military facilities should be used.

The facility that we are talking about here is a civilian facility that is overseen by the Nuclear Regulatory Commission. This is a policy which has served America well for 50 years. I urge the committee to adopt the en bloc amendment.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, the Reuse Technology Adoption Program, RTAP, assists the military services and defense agencies through the reuse of computer software, originally developed for older defense systems, in the development of new defense systems.

For fiscal year 1998, Congress provided $2.5 million to continue RTAP as a part of the Defense Advanced Research Projects Agency's Computing Systems and Communications Technology program. Advanced software engineering techniques and training developed under the RTAP program have contributed to the reuse of software and programs such as the Joint Strike Fighter, the F-22, the EF-111 aircraft, the small ICBM, the global positioning system, and the Comanche helicopter. Other RTAP products have also been used in the software technology for Adaptable Reliable Systems programs and by the Institute for Defense Analysis.

Mr. Chairman, I believe the Reuse Technology Adoption Program will result in lower software development and acquisition costs, increase the quality and productivity of software intensive systems, and assist the Department of Defense in developing more efficient and cost effective systems for our Armed Forces.

Mr. SPENCE. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Virginia. I yield to the gentleman from South Carolina.

Mr. SPENCE. Mr. Chairman, I share the gentleman's views on the results of the programs, such as Reuse Technology Adoption Program, and the contribution such programs can make towards stretching the increasingly limited research and development funds available to DOD.

Mr. DAVIS of Virginia. Mr. Chairman, I thank the distinguished chairman of the committee.

Mr. SKELTON. Mr. Chairman, may I inquire how much time is remaining on each side?

The CHAIRMAN. The gentleman from Missouri (Mr. SKELTON) has 11 minutes remaining, and the gentleman from South Carolina (Mr. SPENCE) has 13 minutes remaining.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. CRAMER).

Mr. CRAMER. Mr. Chairman, I thank the ranking member for yielding me this time.

I rise reluctantly in opposition to the en bloc amendments. Our colleague from Massachusetts just spoke about the tritium issue. The Markey-Graham amendment is a dangerous amendment, and I hope my colleagues will listen to me.

The issue is tritium. We will be interrupting, if we adopt this amendment in the en bloc amendments, we will be interrupting an already mandated process by DOE to evaluate how we produce tritium.

This country must have tritium for bombs. But tritium is not a substance that we are not already seeing commercial use of. It is used on airport runways. It is used in exit signs. There have been opportunities before for us to use this very important substance.

Back in 1988, we decided we had enough tritium. In 1993, we decided that we needed more tritium; that we needed to advance the production of it. So we mandated that DOE begin a process of evaluating how we would do that. If we adopt this amendment today, we are eliminating one of the two options for producing tritium that are under consideration by DOE.

So the Members need to be aware this is a very controversial amendment. This is a very controversial process that we will be getting into. And if Members are confused, they should vote against the en bloc amendments in order to allow DOE and the administration to complete a process that we started.

So please pay attention to this amendment. It should not be in the en bloc amendments. There has been no hearing over this particular issue at all, and here we are on the floor, within a matter of a few minutes that we can squeeze out, trying to decide an issue that is extremely important to this country.

Please vote against the en bloc amendments because of the Markey-Graham amendment.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. SESSIONS).

Mr. SESSIONS. Mr. Chairman, I thank the gentleman for yielding me this time.

My amendment would require the secretaries of each military department to draft a plan and set a schedule for implementing best inventory practices for secondary inventory items.

This may sound rather innocuous, Mr. Chairman, but this tiny amendment would reap substantial savings for the Department of Defense, the American people and, perhaps more importantly, the fighting men and women of this great country.

The General Accounting Office recently reported that 62 percent of the hardware items purchased by DOD went unused for an entire year, and that an additional 21 percent of these items had enough inventory to last for more than 2 years.

□ 1530

That means that 77 percent of the Department of Defense's $5.7 billion hardware inventory is wasting away in some warehouse.

With innovative solutions throughout the Department of Defense, our fighting men and women will have more reliable logistic systems at a lower cost, and that is what this amendment is about.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, first of all, I would like to thank the chairman, the gentleman from South Carolina (Mr. SPENCE), and the gentleman from Missouri (Mr. SKELTON), the ranking member, for accepting one of my amendments regarding soldiers' pensions en bloc.

While I understand this sort of protection is necessary for those who have served honorably, I was most disappointed to see it used as a loophole for enlisted men who have a felony conviction to avoid punishment. My amendment closes this loophole, and I thank them for accepting.

I also rise in support of the Session amendment requiring the Department of Defense to begin using modern, best-business practices, common-sense business practices for its inventory control. I am happy to see that he, as well as members of the Committee on National Security, are finally taking up an issue on which I have been working for many years.

The Department of Defense controls some of the most advanced technology in the world, but its inventory management practices are stuck in the stone ages. Last year, the General Accounting Office reported that DOD was holding a secondary inventory worth $67 billion, and they further reported that $41 billion of which was not needed. They reported there was a hundred-year supply of some items that were totally unnecessary and that it cost taxpayers $90 million a year just to house it.

This amendment will require the Department of Defense to order supplies on an as-needed basis. It will save taxpayers billions of dollars in useless parts and supplies.

I compliment my colleague, and I am glad that he has brought this to the floor, and I hope that it passes.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GILCHREST) for the purpose of a colloquy.

Mr. GILCHREST. I thank the chairman for yielding.

Mr. Chairman, I would like to engage the gentleman from Florida (Mr. SCARBOROUGH) in a colloquy on the issue of ship scrapping.

Mr. SCARBOROUGH, as we know, the government's program for scrapping obsolete ships of the Department of Defense and the Maritime Administration has recently come under scrutiny because of environmental, health and safety violations that have occurred at some domestic ship breakers and concerns about the conditions under which ships are scrapped overseas.

As chairman of the Coast Guard and Maritime Transportation Subcommittee of the Committee on Transportation and Infrastructure, I held a hearing on the problems of this program in March and will hold a follow-up hearing on June 4, 1998.

Based upon testimony at the March hearing and the recently published report of an interagency panel studying the issue, I continue to have concerns about the ability of DOD and MARAD to develop a satisfactory plan to dispose of obsolete vessels.

I intend to aggressively pursue the ship scrapping issue with a goal of developing legislation to address this problem next year. I hope to work closely with the Merchant Marine Panel of the Committee on National Security to pursue the goal of establishing a viable and environmentally responsible ship scrapping program.

Mr. SCARBOROUGH. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Florida.

Mr. SCARBOROUGH. Mr. Chairman, I understand the concerns of my colleague and want to work with him to examine this issue and work with him for a solution for the ship disposal problem that does not impose additional regulatory or financial burdens upon the Department of Defense or the Maritime Administration.

Mr. GILCHREST. Mr. Chairman, I thank the gentleman from Florida (Mr. SCARBOROUGH) and the Chairman for their cooperation in this matter.

Mr. SKELTON. Mr. Chairman, I reserve the balance of my time.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Chairman, I am coming back to this tritium issue, the Markey amendment. We need to focus on this as part of this en bloc amendment.

Tritium is a gas. It is necessary to maintain our nuclear weapons capability in the United States of America. Just look around the world and we know that we need to do that. So we have to produce a tritium source again by a date certain. The Department of Energy was given a mandate, as the gentleman from Alabama (Mr. CRAMER) said, by Congress to pursue these legitimate options. And we must produce tritium.

Two options exist. One is an accelerator-based project, which would be built in the State of South Carolina, at an estimated cost of more than $4 billion with a pretty high annual operation cost. The accelerator has not been built, so the technology is really unproven and untested.

The other option, which has been tested, is to use a commercial reactor.

TVA, the Tennessee Valley Authority, which has a defense mission in its charter, was given the Department of Energy project to test tritium. It has been enormously successful. We have tested the production of tritium in a commercial reactor. It is safe and reliable, and the operational costs are lower. And the initial capital cost, the total cost, is $2½ billion less than the accelerator.

But the Markey amendment, working with the leadership of this committee, is eliminating the cheaper option completely. The Senate will not revive it, I am afraid. This may be the last chance to save the taxpayers $2½ billion and do the right thing.

The National Taxpayers Union is against it. Citizens Against Government Waste is against it. The gentleman from Massachusetts (Mr. MARKEY) speaks eloquently. But, frankly, there is fear tactics being implemented about the safety of testing tritium or producing tritium at a commercial reactor.

This is a political power play that is going to cost the American taxpayers big time over time. This is arbitrary. Please vote and reluctantly vote against the en bloc amendment.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. GRAHAM).

Mr. GRAHAM. Mr. Chairman, now the rest of the story about tritium.

The good news is that when we are talking about tritium, something we ought to be talking about, my good friend the gentleman from Tennessee (Mr. WAMP) is absolutely right, it is an essential component to keep a nuclear deterrent force operational.

I speak about it from representing a district that has made tritium for the United States military for about 50 years. There is parochial interests involved. If they do not have a dog in this tritium, they make a decision they think is good for the country. But let me point a couple things out to my colleagues.

The reactor they are talking about that TVA owns is 85 percent complete. They do not have the money to complete it. Nobody will buy it, and they are trying to dump it on the Department of Energy. Let me tell my colleagues what would be so dangerous to let this happen.

The gentleman from Massachusetts (Mr. MARKEY) is right. Seldom do we agree on anything. And this is an historic agreement in Congress when the gentleman from Alabama (Mr. GRAHAM) and the gentleman from Massachusetts (Mr. MARKEY) can agree on something.

But if we allow a commercial reactor to make a nuclear weapons product, we are taking 50 years of American public policy and turning it on its head at a time the world is in the most danger it has been in recent times. And what are we going to tell the Indians when they use their commercial power plants to make nuclear weapons? "Do not do that like us"? That is not what we want to tell them.

Let us talk about money. I will take my position as a fiscal conservative against anybody in this body. The $4 billion price tag we hear about the accelerator, the other way of making tritium, is too much. $4 billion is too much to spend.

A modular design is being had right now to reduce the cost of the accelerator to $2.6 billion. If they use the TVA numbers to complete this reactor, which is 85 percent complete, they say $2½ billion. A utility that looked at buying the thing said it cost over $4 billion to complete.

If they go down this road, they will be in court forever. Because every group in this country will sue them to keep them from using a commercial reactor to make a military product, and they ought to sue them. It will never happen. Do not take a bad reactor off TVA's hands and mess up American military policy.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Chairman, tritium production is necessary for our national defense; and it is certainly reasonable to select the safest, most economical source of production.

The Markey amendment which we have discussed today would force the Department of Energy to select an unproven accelerator option that is three times the cost of proven commercial lot water reactor technology.

The Council for Citizens Against Government Waste opposes the Markey amendment, and with good reason. Should the accelerator option not perform well or suffer delays in development, the government could be forced to purchase a light-water reactor in addition to the accelerator in order not to hamper our national security.

We can safely spend $1.8 to $2 billion on a commercial light-water reactor or risk $4 billion to $6 billion on the accelerator option. Unless the Markey amendment is removed, I must vote against the en bloc amendments and strongly encourage my colleagues to do the same.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. BARR) for a unanimous consent request.

MODIFICATION TO AMENDMENT NO. 24 OFFERED BY MR. BARR OF GEORGIA

Mr. BARR of Georgia. Mr. Chairman, I ask unanimous consent that the amendment at the desk in place of amendment D–24 be inserted in this en bloc amendment.

Chairman. The Clerk will report the modification.

The Clerk read as follows:

Amendment, as modified, offered by Mr. BARR of Georgia:

The amendment as modified is as follows:

At the end of subtitle C of title X (page 227, after line 14), insert the following new section:

SEC. 1023. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF COUNTER-DRUG CENTER IN PANAMA.

In anticipation of the closure of all United States military installations in Panama by December 31, 1999, it is the sense of Congress that the Secretary of Defense, in consultation with the Secretary of State, should continue negotiations with the Government of Panama for the establishment in Panama of a counter-drug center to be used by military and civilian personnel of the United States, Panama, and other friendly nations.

Mr. BARR of Georgia (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BARR of Georgia. Mr. Chairman, I appreciate the opportunity to have this amendment in the en bloc amendment, and particularly as amended.

This amendment puts the Congress of the United States firmly on record as encouraging and supporting and urging the administration of this country and the administration in Panama to do everything possible to move forward the negotiations for the development of a multinational counter-drug center to be located in Panama after the date of December 31, 1999, which is when all U.S. military and civilian presence in control of the canal ceases.

This is a very important set of negotiations that are moving forward. They have not been moving forward with the dispatch that is necessary. And I think it is important in our joint effort with Panama and our colleagues in Latin America to go on record as encouraging, supporting and proactively moving forward with these very important negotiations for the development of a multinational counter-drug center to be located in Panama with military and civilian personnel from Panama, the United States and other friendly nations to fight the war against drugs.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the Chairman of the Committee for yielding me the time, and I thank the ranking member for supporting my amendment, which is included in the en bloc amendment. And I encourage all my colleagues to vote for the en bloc amendment.

My amendment is an amendment to fence off the funds for the modernization of the eastern test range located in Cape Canaveral in my district in Florida, as well as the western test range in California.

For years now, DOD, because of multiple demands from all of these overseas deployments, has been raiding various accounts, to include the account for modernizing our test ranges. The result is that the range modernization programs are falling way behind.

I recently witnessed a launch of a probe to Mars being scrubbed at Cape Canaveral because of the failure of a tube. Yes, a tube. We are relying on antiquated technology to keep our launch ranges operational. This is a disgrace. Support the modernization of our ranges. This is a critical issue to our national security. I encourage a yes vote on the en bloc amendment.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DOOLITTLE) for the purpose of a colloquy.

Mr. DOOLITTLE. Mr. Chairman, I want to commend the gentleman from South Carolina (Mr. SPENCE) for his commitment to force readiness. He knows well how the cuts in training have put our national security at risk.

But I would like to ask for his commitment that when this bill is in conference that he will fight to maintain the House readiness reporting language and will work to keep my amendment on retention in the conference report.

Mr. SPENCE. Mr. Chairman, if the gentleman will yield, he can depend on it. We realize the importance of readiness is one of the important problems we have, and we will do our best to keep it in there.

Mr. DOOLITTLE. Mr. Chairman, I appreciate it.

Mr. EVERETT. Mr. Chairman, I rise in support of this en bloc amendment package, which includes my amendment to require that all excess military helicopters meet certain safety and operational requirements before they can be transferred to foreign governments. Any work required to meet these standards must be done by a qualified U.S. company in the United States. The amendment has been modified to meet the concerns of the International Relations Committee.

The purpose of this amendment is two-fold. First, to ensure that when we transfer these helicopters (primarily UH–1 Huey's) to our allies for counter drug missions or other purposes, that the aircraft are actually operational, and at least, meet minimum safety standards. The current "where is, as is" standard often means these aircraft are not airworthy when they are transferred. Mexico has a large fleet of our excess Huey's rotting in a field, because they haven't been overhauled and can't fly.

Secondly, to help maintain the aviation industrial base, any work necessary to bring these aircraft up to these minimum standards ought to be done in the United States, by American workers. This would be consistent with the standard that we currently use for the transfer of naval vessels.

In the near term, most of these excess aircraft are destined for Columbia and other South American countries to help them fight the war on drugs. If America is serious about stemming the tide of the illegal drugs that are infiltrating our borders, we ought to send our allies overhauled Huey's with a five to ten year life extension, rather then an "as is" Huey that may last two months.

This policy change makes sense and I urge all members to support this amendment.

Mr. SHUSTER. Mr. Chairman, the amendment pending before the House, offered by Mr. WELDON of Pennsylvania and Mr. SKELTON of Missouri addresses matters relating to domestic terrorism involving weapons of mass destruction. Such matters fall within the jurisdiction of the Committee on Transportation and Infrastructure through our jurisdiction in Rule X, clause (1)(q) over "Federal management of emergencies and natural disasters," including activities of the Federal Emergency Management Agency (FEMA), the lead federal agency for domestic emergency preparedness and response.

While I have some concerns about how broadly this amendment has been drafted, I fully support the intent of this Weldon/Skelton amendment to provide for proper coordination of Federal, State, and local efforts to prepare for and respond to domestic terrorism. Accordingly, I look forward to working with members of the National Security Committee in a House-Senate conference on this bill to provide some additional direction to the President to ensure that the authorizations provided by this amendment will not be used to undertake activities beyond the intent of Congress.

Mr. HALL of Ohio. Mr. Chairman, I rise in support of the Hall-Boehlert Amendment which contains a series of sense-of-the Congress expressions directing the Department of Defense to focus more attention to long-term scientific research. It also requires the Secretary of Defense to initiate a study and recommend minimum requirements to maintain a defense technology base that is sufficient to project superiority in air and space weapons systems and information technology.

The amendment urges that the Defense Department give science and technology attention equal to the level received by program acquisition; that the secretary of each military department ensure that a senior member of the department holds the appropriate title and responsibility to ensure effective oversight and emphasis on science and technology; and that annual reviews should be conducted to ensure a sufficient percentage of science and technology funds are directed toward new technology areas.

In the past, establishing science and technology as a priority for our military has effectively contributed to our National defense and it will be even more important in the future. Once, in an era of simpler technology, America's superior brain power could over take the enemy's technology through sudden spurts of scientific development. But now, with longer lead times for technology development, the Nation no longer has the luxury of ramping up scientific research only during the time of crises. Only a vital, invigorated, and ongoing science and technology program will provide our military with the technology required to maintain air, space, and information superiority.

Recent budget requests by the services, especially the Air Force, do not reflect the need for basic scientific research to maintain future military supremacy. My hope is that this amendment will instill the longer term view needed in the services to create quantum leaps in capability in the next century.

I thank Mr. BOEHLERT, the cosponsor of the amendment for his support on this issue. I urge the adoption of the amendment.

Mrs. CAPPS. Mr. Chairman, I rise in support of the en bloc amendment, which includes the Weldon-Capps provision. I want to commend my colleague from Florida, Dr. WELDON, for his hard work and leadership on this issue and I am pleased that the Committee has agreed to accept this important amendment.

This bill continues the commitment that we must make to ensure that our national defenses are strong enough to keep our country safe. It also continues the commitment that we have to the men and women of our armed services to ensure that they are provided with the equipment, facilities and support necessary to do their jobs safely and efficiently. They deserve nothing less.

The Weldon-Capps amendment does one simple thing: It protects funds in the Air Force Budget that are supposed to go to modernize our two launch ranges at Vandenberg AFB and Cape Canaveral. The upgrading of these facilities is crucial for our national defense and to support our growing commercial space industry.

The Air Force is currently undertaking a multi-year, $1.3 billion range modernization program for these two sites. Originally, it was to be completed in 2003. However, this modernization program for our launch ranges is now running three years behind schedule, and is now not expected to be completed until at least 2006.

This delay has arisen because over the last five years funds have been continually siphoned off and used for other Air Force projects. This has needlessly delayed the much needed upgrade of the launch ranges at Vandenberg and at Cape Canaveral.

These are the primary launch facilities in the continental United States and their role is crucial in all of our space activities. However, a lack of modern infrastructure has seriously hindered U.S. space launch capabilities and it costs the Air Force money to maintain outdated facilities.

Unless we act to ensure that these funds are dedicated to this critical project, we will continue to hinder our military, NASA and commercial launches.

I am grateful that the Committee has recognized the value of this amendment to our national security and will support its addition to the bill.

Mr. SPRATT. Mr. Chairman, I rise in opposition to the Gilman amendment although I agree with many of the concerns about nuclear proliferation which he expresses.

I oppose the Gilman amendment because it is unnecessary, and it runs counter to our efforts to discourage nuclear proliferation. Non-OECD countries like Taiwan, Thailand, and others, are planning the construction of several nuclear power facilities over the next decade. U.S. companies are on the cutting edge of these technologies having recently developed and licensed advanced light water reactors which are strong competitors for this business. Business which could run into the billions of dollars.

But our interests here are not just commercial. Unlike their counterparts designed in Russia and elsewhere, U.S. light water reactors are at very little risk for nuclear proliferation. Our reactor designs are not conducive to the production of highly enriched uranium, plutonium, or other weapons materials. U.S. citizens can rest easier knowing that reactors built in these non-OECD countries are not producing weapons materials.

Sometimes the United States must sacrifice its commercial interests for the sake of national security, and I have supported that. But in the area of nuclear power technology, encouraging the use of U.S. designs significantly enhances our nonproliferation efforts, and enhances nuclear safety. And these sales will produce significant revenues for the U.S. treasury. The treasury will receive royalties as a result of our contribution to the Advanced Light Water Reactor program.

Current law already requires licenses and an opportunity for public comment in the export of these technologies. Adding a layer of complexity to this process is unnecessary. I urge a no vote on the Gilman amendment.

Mr. Chairman, I rise in strong support of the Weldon-Spratt amendment.

On May 12 the U.S. Army performed its eighth test of the THAAD anti-ballistic missile system. The test was a failure, and this failure comes despite almost a year of preparation following a string of 3 earlier unsuccessful intercept tests.

The Weldon-Spratt amendment addresses this problem in an aggressive manner. The amendment directs the Department to identify and contract with a company capable of producing the THAAD system in a leader-follower contract arrangement. In other words, we are telling Lockheed Martin that if they cannot fix the THAAD interceptor, the contract may be taken away from them. The amendment also directs DOD to modify its contract to ensure that THAAD's primary contractor shares in the cost of future test failures. Both steps are needed to bring necessary accountability to this program. Both steps are taken in the sincerest desire that they help the program succeed.

We take steps for the simple reason that THAAD is too important to fail. The THAAD system is the archetype upon which we are patterning our family of systems for missile defense. It is the mother of all missile defense systems, if you will.

THAAD is not the first system to experience difficulties in testing, and the Weldon-Spratt amendment builds on past experience in utilizing the prospect of competition to encourage improved program performance. Many members will remember the numerous problems experienced with the C–17, where the prospect of competition was used effectively by the Congress to bring focus back to the program. And the C–17 is now a success.

It is important to recognize that large portions of the THAAD system are and have been working well. The THAAD radar and its battle management command, control, and communications systems are working well. The Weldon-Spratt amendment allows these components of THAAD to proceed to the Engineering Manufacturing and Development (EMD) phase when they are ready.

Finally, the Weldon-Spratt amendment clarifies the criteria for allowing the program to proceed with the procurement of 40 UOES test missiles. We mandate two successful kinetic kill intercepts before any funding is committed for UOES procurement.

Mr. Chairman, these steps are necessary and prudent and I urge all members to support the Weldon-Spratt amendment.

Mr. CLEMENT. Mr. Chairman, today, I rise in strong opposition to the Markey-Graham amendment which would prohibit the production of tritium at Commercial Light Water Reactors (CLWR) for defense purposes. But I also want to raise the fact that this amendment is being considered in Mr. SPENCE's "en bloc" amendment with a group of amendments that are non-controversial in nature. And, for the most part I support the en bloc amendments.

However, the Markey-Graham amendment deserves an up or down vote on its own. This is a controversial issue and a major policy decision. This should not be buried in the en bloc amendment. Because, if we were to vote on this amendment alone—Members would have to vote against Markey-Graham. From a budgetary and fiscal standpoint, the Markey-Graham amendment eliminates choice of a more economic and scientifically proven method for tritium production—use of an existing commercial light water reactor.

Tritium gas is an essential component for nuclear weapons. In fact, tritium gas is used in every U.S. nuclear weapon to enhance its explosive yield. The last time the U.S. production tritium was in 1988 at a test reactor at Savannah River. That facility was shut down and the U.S. has not produced tritium since then.

In 1993, both the Department of Energy and the Department of Defense determined that the production of tritium must be resumed to enable the U.S. to maintain its weapons stockpile. Under current law, DOE will make a decision on tritium production by December of this year.

DOE has been engaged in a lengthy, thorough examination of the technology, environmental impact, cost, reliability, and nonproliferation concerns of each option. It is imperative to allow DOE to finish their review of the options an make an informed decision, selecting the option that best serves the national interest. This amendment would short circuit that important process and arbitrarily force DOE to select the accelerator option.

The accelerator option—by any standard—costs at least two times as much as the commercial reactor option. That's right, estimates from DOE and CBO show that the commercial reactor projected costs range from $1.8–$2.0 billion while the costs for the accelerator are in the $3.9–$6.72 billion range. Plus, approximately $150 million in federal funds for annual operating expenses would be required at the accelerator, whether it manufactures tritium or not. Do the math. It defies fiscal responsibility to eliminate the commercial reactor option from consideration.

And, it is important to remember that tritium production in a commercial reactor is NOT a proliferation issue. Let me repeat that—according to the Nuclear Non-Proliferation Treaty the production of tritium in a commercial reactor is not a proliferation issue. Tritium is not considered to be special nuclear material. And, it can be produced for commercial use—it is used to illuminate objects such as airport runway lights and non-electrical signs.

There is no question in my mind that my constituents and yours—and all American taxpayers—deserve an informed decision that has considered the cost and technological advantages, as well as the proliferation concerns of each option.

That is why I am voting "no" on the Markey amendment and urge my colleagues to vote "no" on the Markey amendment, as well.

Mr. STENHOLM. Mr. Chairman, I rise today in support of an amendment which will improve TRICARE, the military managed health care program. I have the privilege of representing the 17th District of Texas which includes Abilene, TX. Abilene is located in one of the first regions in which TRICARE was implemented. There were many problems with the start up of the TRICARE Program in our area, and although many of the initial bugs have been worked out of the system, there are still several areas of improvements to the program which are needed—improvements which will help to maintain and to improve access to quality health care for our Nation's military, their dependents, and retirees.

One of the issues my constituents have identified is claim processing and the hassle associated with the TRICARE system. TRICARE requires that its regional contractors use a computer software program known as ClaimCheck. ClaimCheck is a bundling system similar to the Correct Coding Initiative used by the Medicare Program which "bundles" claims for multiple services performed during a single visit to a health care provider. When claims are bundled, services considered to be incidental to the primary service are reimbursed at a lower rate.

Currently there is no provision for appeals from ClaimCheck denials even though the Department of Defense has acknowledged that ClaimCheck software in some cases contradicts Department policy. The Department of Defense has indicated an interest in establishing a formal appeal process; however, no concrete steps toward establishing such a process have been taken. The amendment Congressman THUNE and I have proposed would simply require the Department to prepare and submit a proposal to establish an appeal process which could simply mean incorporating ClaimCheck denials into the existing appeals process. The amendment does not dictate the nature of the process.

Although this is a small step to decrease the hassle-factor for both military patients and civilian doctors, I believe it is an important step in the right direction to improve the military health care system and the quality of life of those who serve and have served our nation.

I urge my colleagues to support this amendment by voting for the en bloc amendment in which it is included.

Mr. GIBBONS. Mr. Chairman, the amendment that I am offering before the House today will compel the Secretary of Commerce to transmit any information that is requested by the Director of Central Intelligence, Secretary of Defense, Secretary of Energy, and Designees of these three officials in a timely manner (defined as within 5 days of request) upon receiving a written request for such material. The information that these officials could request includes: export licenses and information on exports that were carried out under an export license by the Department of Commerce and information collected by the Department of Commerce on exports from the United States that were carried out without an export license.

The amendment doesn't ask them to produce new data or collect additional information. It simply requires the Secretary of Commerce to provide the information that he maintains—as a part of his department's day-to-day mission—to these selected Executive Branch Secretaries to enable them to do their jobs of producing intelligence and protecting our nation.

Mr. Chairman, until recently, I would not have believed that this body would have to mandate timely cooperation between Executive branch departments. However, when the defense of this nation and it's citizens is challenged or compromised—the time has come.

The current situation with China and the transfer of satellite technology is in the news right now, but similar situations inside the administration are proliferating almost as quickly weapons of mass destruction are around the world.

Let me share the example that focuses on the seriousness of the issue.

In last year's defense bill, the National Security Committee recommended a study to assess the extent and the impact of the distribution of U.S. and allied supercomputers to China, the former Soviet Union, Iran, Iraq, Syria and Libya.

The National Security Committee has been increasingly concerned about technology transfers of this type in recent years.

The study would have assessed the effect of the technology transfers on the design, development, manufacturing, performance and testing of nuclear, chemical and biological weapons; weapons platforms; command and control communications; and financial, commercial, government and military communications.

The Defense Intelligence Agency and the Department of Energy were assigned the task of conducting the analysis.

However, they were unable to get any assistance from the Department of Commerce.

They needed assistance from Commerce since Commerce is charged with the responsibility to control the export of sensitive technologies that have both military and civil applications.

The Department of Commerce refused to cooperate for the entire period of the study. Only after pointed communications from the Chairman and Ranking Member of the National Security Committee, did they provide "derivative" data that was not usable for the analysis that had been requested.

Mr. Chairman, it is not uncommon for our intelligence entities to have to go to other Executive Branch departments to collect "raw" information that they process into usable intelligence. It is a common requirement that has not presented a problem in the past.

This "stonewalling" behavior by Commerce was unprecedented. While it was unprecedented, it was no less excusable!

This was one Executive Branch department refusing to provide information to another Executive Branch department.

I am at a loss to explain the difference between Commerce's response and the responses of the other Executive Branch departments. Did Commerce have something to hide or was there something else at play in this incident?

Commerce's intransigence had national security implications and it is incumbent on us to ensure that our decisions are not affected by faulty information and analysis in the future!

Our national security demands that the Congress and the President make decisions based on timely, accurate and truthful intelligence.

I urge my colleagues to support my amendment and ensure that our national security is not compromised in the future.

FISCAL YEAR 1998 NDAA—IMPLICATIONS OF TECHNOLOGY TRANSFER: "A CASE STUDY OF THE STALL"

July 15, 1997—The HNSC recommended a study be conducted by the Defense Intelligence Agency (DIA) to study the distribution of United States and allied supercomputers to China, the former Soviet Union, Iran, Iraq, Syria and Libya to Assess the impact of Technology Transfers on:

Nuclear weapons design, development, manufacturing, performance and testing chemical and biological weapon design, development, manufacturing, performance and testing;

Design, development, manufacturing, performance and testing of major weapons platforms (tactical aircraft, cruise/ballistic missiles, submarines);

Anti-submarine warfare; command and control communications; intelligence collection, processing and dissemination; financial, commercial, government and military communications.

December 10, 1997—Chariman SPENCE and ranking minority member DELLUMS requested the study of DIA and asked for a report by 2 March 1998. Chairman SPENCE and Mr. DELLUMS also asked the Department of Energy to conduct a review concentrating on the impact of high performance computer exports on the design, development, manufacturing, performance and testing of nuclear weapons and associated delivery systems.

Early December 1997—The staffs of DIA and DOE submit oral requests for information from the Department of Commerce for all the info they have on supercomputers to the study target countries. The Department of Commerce is the executive agency with responsibility to control the export of sensitive technologies that have both military and civil applications. These oral requests were denied.

December 22, 1997—The Director, DIA, LTG Patrick Hughes wrote to the Deputy Secretary of Commerce and requested that the Commerce Department supply the information on supercomputer exports. The Commerce Department finally responded on 3 February 1998.

January 7, 1998—Chairman SPENCE and Mr. DELLUMS wrote to William Daley, Secretary of Commerce asking that the Department of Commerce provide the requested information to the DIA and DOE.

February 3, 1998—Under Secretary of Commerce William Reinsch responded to the December 22 letter from DIA.

Under Secretary Reinsch stated that Commerce would defer to the DCI on who should conduct the study that had been tasked to DIA and DOE. The CIA later attempted to transfer the requested information to the DIA and DOE but the Department of Commerce refused to allow such a transfer.

March 3, 1998—The Director, DIA wrote the HNSC that he could not complete the study because he was not able to obtain the necessary information from the Department of Commerce.

March 3, 1998—Chairman FLOYD SPENCE of the House National Security Committee wrote to William Daley, Secretary of Commerce.

Chairman SPENCE stated his understanding that the Department of Commerce had declined the DIA and DOE requests for information on supercomputer exports.

Chairman SPENCE stated that, "I find the prospect that information is being denied to intelligence agencies that are attempting to determine the effect of illicit exports on U.S. national security highly disturbing and believe such dilatory tactics are indicative of a cavalier attitude by your department on matters of national security."

Chairman SPENCE again requested the personal assurance of the Secretary of Commerce that Commerce would cooperate fully with the requested intelligence review.

March 3, 1998—the Secretary of Commerce responded to the January 7, 1998 letter from Chairman SPENCE and Ranking Minority Member DELLUMS.

Secretary Daley's letter stated, "the Department of Commerce has been in contact with the Director of Central Intelligence regarding this matter, and we intend to defer to his judgment on how to best proceed with respect to the conduct of the study." (See the entry for February 3, above.)

March 9, 1998—the DIA and the DOE received "derivative" supercomputer export information from the Department of Commerce.

April 30, 1998—the Director of the DIA wrote to Under Secretary of Commerce Reinsch thanking him for the "derivative report" on the export of high performance computers but stating that the information provided by Commerce "does not provide the requisite data necessary to complete a comprehensive review."

General Hughes asked Commerce to provide DIA with the raw export data obtained from U.S. supercomputer manufacturers so that DIA could conduct its own independent analysis.

May 19, 1998—as of this morning, Commerce has not provided any additional information to DIA to enable them to complete the study.

Mr. Chairman, I offered this amendment today to address a vital national security issue. That issue is the failure of the Department of Commerce to provide complete and accurate information to our organizations that are charged with assessing threats around the globe.

The need for analysis to have a flow of raw data to produce intelligence is as old as war itself. Skilled analysts sift through the bits and pieces of everyday trivia and find patterns that allows them to formulate an adversary's likely intentions.

The Congress relies on the technical analysis of national intelligence resources. Last year, this Congress was concerned with the threat that was posed by the transfer of technology around the world.

The National Security Committee requested a study addressing the impacts of past transfers. Mr. Speaker, I find it inexcusable that the study could not be completed because the Department of Commerce refused to work with the Departments of Defense and Energy on the study.

The responsibility for controlling much of this technology was transferred by the administration to the Commerce Department last year, over the objections of both the Department of State and the Department of Defense.

The recent nuclear tests in India; Pakistan's threats to conduct its own tests and the improper transfers of technology to the Chinese underscore the dangerous nature of our world today.

We cannot allow ourselves to be forced to make decisions with anything less than the best information and intelligence. We cannot allow executive branch departments to determine what information is important and what isn't.

This amendment ensures that our intelligence community has access to vital information. Let's allow our analysts do their jobs!

Vote yes on the Gibbons amendment.

Mr. HILLEARY. Mr. Chairman, I rise today in strong opposition to the Markey tritium amendment within this en bloc package. It is unfortunate that such a contentious issue is being included in what is historically a noncontentious package.

The Markey amendment would change the Atomic Energy Act by prohibiting tritium production in commercial nuclear reactors. This amendment is bad public policy and reckless economic policy. The American taxpayer deserves better than to be forced to pay for a project three times as expensive as the competition.

Tritium is an isotope of hydrogen that is required by all U.S. nuclear weapons in order to function as designed. Because tritium decays at a rate of about 5.5% per year, it must be replaced periodically to maintain our nuclear weapon stockpile.

The U.S. has not produced tritium since 1988, when the last tritium production reactor was shut down. By Presidential Directive, the Department of Energy must have a new supply of tritium available by 2005.

The Tennessee Valley Authority's (TVA), Watts Bar Nuclear Plant 1, has been selected by the Department of Energy (DOE) to conduct a one-time of components, to produce tritium in commercial light water reactors. If awarded the contract to produce tritium, the Bellefonte nuclear plant would assume the primary role, with Watts Bar as the backup. Total cost to the taxpayer for the TVA contract; about $1.8 billion. However, the competing "accelerator" proposal is going to sock the American taxpayers with a price tag around $7 billion.

For reasons ranging from unfair competition to wasteful government spending, it is only appropriate that Citizens Against Government Waste is also OPPOSED to the Markey amendment.

Again, the tritium program is a key element in DOE's Stockpile Stewardship and Management Program to ensure safety and reliability of the nuclear weapons stockpile without testing. We have to produce it and we should encourage fair competition.

The purpose of the Watts Bar test is to confirm excellent results from prior testing. This will provide added confidence to utilities, the public, and the Nuclear Regulatory Commission which regulates commercial reactors, of which tritium can be produced to meet national security requirements in a technically straightforward, safe and cost-effective manner.

The bottom line is this; TVA's professional experience, infrastructure and smart economic proposal exceed DOE's criteria. We should not legislatively hinder the Department of Energy's ability to choose which facility produces tritium.

By allowing the Markey amendment to pass, the federal government and the American taxpayer lose. We will lose the ability of fair competition, and we lose the opportunity to save money. The commercial reactor proposal allows money to be paid back to the Treasury from the sale of energy from the commercial reactor, thus we will recoup costs. The "accelerator" proposal has NO cost recoupment.

We must promote competition, and the Markey amendment does not. It would force the Department of Energy to choose one proposal for tritium production by default, and by doing so, sinks upwards of $8 billion into a new special facility.

I strongly encourage my colleagues to oppose the Markey amendment. Let the Department of Energy and their experts determine the most cost effective, safe, and professional tritium facility, not Congress.

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of the Hall/Boehlert amendment which is included in the en bloc amendment, our amendment expresses the Sense of Congress that adequate resources—funding and personnel—be applied to the science and technology activities of the Army, Navy, and Air Force. The amendment will require the Secretary of Defense to initiate a study and recommend minimum requirements to maintain a defense technology base that is sufficient to project superiority in air and space weapons systems, and information technology.

A robust science and technology investment is critical if our Armed Forces are to move into the 21st Century and operate at the cutting edge of technology. The future of American defense rests on our ability to improve our technology and maintain our military superiority.

We must ensure that our Armed Forces continue to apply the necessary attention and resources to science and technology development if we are to safeguard our future national security. The investments we make today will make the difference tomorrow. I thank my colleague and co-sponsor, Mr. HALL of Ohio, for his work on this amendment and urge my colleagues to vote in favor of it.

Mr. SKELTON. Mr. Chairman, we have no further requests for time. Thus, I yield back the balance of my time.

Mr. SPENCE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendments en bloc offered by the gentleman from South Carolina (Mr. SPENCE).

The amendments en bloc were agreed to.

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The CHAIRMAN pro tempore (Mr. PEASE). It is now in order to consider amendment No. 4 printed in part B of the House Report 105–544.

AMENDMENT NO. 4 OFFERED BY MR. THORNBERRY

Mr. THORNBERRY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B. amendment No. 4 printed in House Report 105–544 offered from Mr. THORNBERRY:

At the end of title VII (page 197, after line 5), add the following new section:

SEC. 726. DEMONSTRATION PROJECT TO INCLUDE CERTAIN COVERED BENEFICIARIES WITHIN FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) DEMONSTRATION PROJECT.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

"§1108. Health care coverage through Federal Employees Health Benefits program: demonstration project

"(a) FEHBP OPTION DEMONSTRATION.—The Secretary of Defense, after consulting with the other administering Secretaries, shall enter into an agreement with the Office of Personnel Management to conduct a demonstration project under which not more than 70,000 eligible covered beneficiaries described in subsection (b) and residing within one of the areas covered by the demonstration project may be enrolled in health benefits plans offered through the Federal Employees Health Benefits program under chapter 89 of title 5.

"(b) ELIGIBLE COVERED BENEFICIARIES.—(1) An eligible covered beneficiary under this subsection is—

"(A) a member or former member of the uniformed services described in section 1074(b) of this title who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

"(B) a dependent of such a member described in section 1076(b) or 1076(a)(2)(B) of this title;

"(C) a dependent of a member of the uniformed services who died while on active duty for a period of more than 30 days; or

"(D) a dependent described in section 1076(b) or 1076(a)(2)(B) of this title who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act, regardless of the member's or former member's eligibility for such hospital insurance benefits.

"(2) A covered beneficiary described in paragraph (1) shall not be required to satisfy any eligibility criteria specified in chapter 89 of title 5 as a condition for enrollment in health benefits plans offered through the Federal Employee Health Benefits program under the demonstration project.

"(3) Covered beneficiaries who are eligible to enroll in the Federal Employment Health Benefits program under chapter 89 of title 5 as a result of civil service employment with the United States Government shall not be eligible to enroll in a Federal Employees Health Benefits plan under this section.

"(c) AREA OF DEMONSTRATION PROJECT.—The Secretary of Defense and the Director of the Office of Personnel Management shall jointly identify and select the geographic areas in which the demonstration project will be conducted. The Secretary and the Director shall establish at least six, but not more than ten, such demonstration areas. In establishing the areas, the Secretary and Director shall include—

"(1) a site that includes the catchment area of one or more military medical treatment facilities;

"(2) a site that is not located in the catchment area of a military medical treatment facility;

"(3) a site at which there is a military medical treatment facility that is a Medicare Subvention Demonstration project site under section 1896 of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

"(4) not more than one site for each TRICARE region.

"(d) TIME FOR DEMONSTRATION PROJECT.—(1) The Secretary of Defense shall conduct the demonstration project during three contract years under the Federal Employees Health Benefits program.

"(2) Eligible covered beneficiaries shall, as provided under the agreement pursuant to subsection (a), be permitted to enroll in the demonstration project during the open season for the year 2000 (conducted in the fall of 1999). The demonstration project shall terminate on December 31, 2002.

"(e) PROHIBITION AGAINST USE OF MTFS.—Eligible covered beneficiaries who participate in the demonstration project shall not be eligible to receive care at a military medical treatment facility.

"(f) TERM OF ENROLLMENT.—(1) The minimum period of enrollment in a Federal Employees Health Benefits plan under this section shall be three years.

"(2) A beneficiary who elects to enroll in such a plan, and who subsequently discontinues enrollment in the plan before the end of the period described in paragraph (1), shall not be eligible to reenroll in the plan.

"(3) An eligible beneficiary enrolled in a Federal Employees Health Benefits plan under this section may change plans during the open enrollment period in the same manner as any other Federal Employees Health Benefits program beneficiary may change plans.

"(g) SEPARATE RISK POOLS; CHARGES.—(1) The Office of Personnel Management shall require health benefits plans under chapter 89 of title 5 that participate in the demonstration project to maintain a separate risk pool for purposes of establishing premium rates for covered beneficiaries who enroll in such a plan in accordance with this section.

"(2) The Office shall determine total subscription charges for self only or for family coverage for covered beneficiaries who enroll in a health benefits plan under chapter 89 of title 5 in accordance with this section, which shall include premium charges paid to the plan and amounts described in section 8906(c) of title 5 for administrative expenses and contingency reserves.

"(h) GOVERNMENT CONTRIBUTIONS.—The Secretary of Defense shall be responsible for the Government contribution for an eligible covered beneficiary who enrolls in a health benefits plan under chapter 89 of title 5 in accordance with this section, except that the amount of the contribution may not exceed the amount of the Government contribution which would be payable if the electing individual were an employee enrolled in the same health benefits plan and level of benefits.

"(i) EFFECT OF CANCELLATION.—The cancellation by a covered beneficiary of coverage under the Federal Employee Health Benefits program shall be irrevocable during the term of the demonstration project.

"(j) REPORT REQUIREMENTS.—(1) The Secretary of Defense and the Director of the Office of Personnel Management shall jointly submit to Congress a report containing the information described in paragraph (2)—

"(A) not later than the date that is 15 months after the date that the Secretary begins to implement the demonstration project; and

"(B) not later than the date that is 39 months after the date that the Secretary begins to implement the demonstration project.

"(2) The reports required by paragraph (1) shall include—

"(A) information on the number of eligible covered beneficiaries who opt to participate in the demonstration project;

"(B) an analysis of the percentage of eligible covered beneficiaries who participate in the demonstration project as compared to usage rates for similarly situated Federal retirees;

"(C) information on eligible covered beneficiaries who opt to participate in the demonstration project who did not have Medicare Part B coverage before opting to participate in the project;

"(D) an analysis of the enrollment rates and cost of health services provided to eligible covered beneficiaries who opt to participate in the demonstration project as compared with other enrollees in the Federal Employees Health Benefits Program under title 5, United States Code;

"(E) an analysis of how the demonstration project affects the accessibility of health care in military medical treatment facilities, and a description of any unintended effects on the treatment priorities in those facilities in the demonstration area;

"(F) an analysis of any problems experienced by the Department of Defense in managing the demonstration project;

"(G) a description of the effects of the demonstration project on medical readiness and training at military medical treatment facilities located in the demonstration area, and a description of the probable effects that making the project permanent would have on medical readiness and training;

"(H) an examination of the effects that the demonstration project, if made permanent, would be expected to have on the overall budget of the Department of Defense, the budget of the Office of Personnel and Management, and the budgets of individual military medical treatment facilities;

"(I) an analysis of whether the demonstration project affects the cost to the Department of Defense of prescription drugs or the accessibility, availability, and cost of such drugs to covered beneficiaries;

"(J) a description of any additional information that the Secretary of Defense or the Director of the Office of Personnel Management deem appropriate and that would assist Congress in determining the viability of expanding the project to all Medicare-eligible members of the uniformed services and their dependents; and

"(K) recommendations on whether covered beneficiaries—

"(i) should be given more than one chance to enroll in a Federal Employees Health Benefits plan under this section;

"(ii) should be eligible to enroll in such a plan only during the first year following the date that the covered beneficiary becomes eligible to receive hospital insurance benefits under title XVIII of the Social Security Act; or

"(iii) should be eligible to enroll in the plan only during the two-year period following the date on which the beneficiary first becomes eligible to enroll in a Federal Employees Health Benefits plan under this section.

"(k) COMPTROLLER GENERAL REPORT.—Not later than 39 months after the Secretary begins to implement the demonstration project, the Comptroller General shall submit to Congress a report examining the same criteria required to be examined under subsection (j)(2).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1108. Health care coverage through Federal Employees Health Benefits program: demonstration project.".

(b) CONFORMING AMENDMENTS.—Chapter 89 of title 5, United States Code, is amended—

(1) in section 8905—

(A) by redesignating subsections (d) through (f) as subsections (e) through (g), respectively; and

(B) by inserting after subsection (c) the following new subsection:

"(d) An individual whom the Secretary of Defense determines is an eligible covered beneficiary under subsection (b) of section 1108 of title 10 may enroll, as part of the demonstration project under such section, in a health benefits plan under this chapter in accordance with the agreement under subsection (a) of such section between the Secretary and the Office and applicable regulations under this chapter.";

(2) in section 8906(b)—

(A) in paragraph (1), by striking "paragraphs (2) and (3)" and inserting in lieu thereof "paragraphs (2), (3), and (4)"; and

(B) by adding at the end the following new paragraph:

"(4) In the case of individuals who enroll, as part of the demonstration project under section 1108 of title 10, in a health benefits plan in accordance with section 8905(d) of this title, the Government contribution shall be determined in accordance with section 1108(h) of title 10."; and

(3) in section 8906(g)—

(A) in paragraph (1), by striking "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)"; and

(B) by adding at the end the following new paragraph:

"(3) The Government contribution described in subsection (b)(4) for beneficiaries who enroll, as part of the demonstration project under section 1108 of title 10, in accordance with section 8905(d) of this title shall be paid as provided in section 1108(h) of title 10.".

(c) DISPOSAL OF NATIONAL DEFENSE STOCKPILE MATERIALS TO OFFSET COSTS.—

(1) DISPOSAL REQUIRED.—Subject to paragraphs (2) and (3), the President shall dispose of materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in amounts equal to—

(A) $89,000,000 during fiscal year 1999;

(B) $104,000,000 during fiscal year 2000;

(C) $95,000,000 during fiscal year 2001; and

(D) $72,000,000 during fiscal year 2002.

(2) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under paragraph (1) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Chromium Ferroally Low Carbons	92,000 short tons
Diamond Stones	3,000,000 carats
Palladium	1,227,831 troy ounces
Platinum	439,887 troy ounces

(3) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under paragraph (1) to the extent that the disposal will result in—

(A) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(B) avoidable loss to the United States.

(4) TREATMENT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under paragraph (1) shall be—

(A) deposited into the general fund of the Treasury; and

(B) used to offset the revenues that will be lost as a result of the implementation of the demonstration project under section 1108 of title 10, United States Code (as added by subsection (a)).

(5) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in paragraph (1) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding materials specified in the table in paragraph (2).

The CHAIRMAN pro tempore. Pursuant to House Resolution 441, the gentleman from Texas (Mr. THORNBERRY) and a Member opposed, the gentleman from California (Mr. THOMAS), each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. THORNBERRY).

Mr. THORNBERRY. Mr. Chairman, I ask unanimous consent that 10 minutes of my time be yielded to the gentleman from Virginia (Mr. MORAN) and that he may be entitled to yield time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. THORNBERRY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this amendment is sponsored by the gentleman from Oklahoma (Mr. WATTS), the gentleman from Virginia (Mr. MORAN), and myself. I greatly appreciate their efforts as well as the efforts of the gentleman from South Carolina (Mr. SPENCE), the gentleman from Indiana (Mr. BUYER), the gentleman from Missouri (Mr. SKELTON), the gentleman from New York (Mr. SOLOMON), the gentleman from Florida (Mr. MICA) and the gentleman from Indiana (Mr. BURTON) of the Committee on Government Reform and Oversight, the gentleman from California (Mr. CUNNINGHAM), as well as others who have worked on this issue.

The problem is we promised free lifetime medical care to military retirees if they serve the country 20 years. The problem is, we cannot keep that promise. Particularly with base closings, with the declining military budgets, we are not providing that health care.

We have got situations in this country where bases are closing. We have got other situations where there are military treatment facilities that are too crowded and other situations where people are a long way from any sort of care.

This amendment takes us a step toward keeping our commitments. We already have a pilot for Medicare subvention, which is under way. This sets up a demonstration project to allow over-65-year-old military retirees to participate in FEHBP.

The bottom line to the amendment, Mr. Chairman, is that this program would allow military retirees the same respect as civilian Federal retirees get now. It would treat them the same way. Now they are treated worse.

The pilot project is limited in cost. It is limited as far as the number of people who can participate. It is limited in the number of sites that can participate. But I think the key thing is that it is most important for us to take some action today to show the military retirees that we are serious about keeping our commitments, but, equally important, to show those young active duty folks that we are serious about respecting their service to their country, risking their lives for our freedom, and that we intend to keep our commitments to them, because that is in serious doubt at this point.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise reluctantly in opposition because, quite frankly, I am sympathetic with the concern, but I wish the gentleman who is the cosponsor of the amendment would appreciate the fact that this is an attempt to tap directly into the health insurance trust fund of Medicare.

The jurisdiction for the HI trust fund lies wholly within the Committee on Ways and Means. That is why, over the last several years, as chairman of the Subcommittee on Health from the Committee on Ways and Means, I have worked tirelessly to perfect a Department of Defense subvention program, which attempts to utilize military hospitals to provide the service for military retirees in conjunction with the Medicare trust fund. There are a number of safeguards that are contained in the Department of Defense subvention program that are missing from this program.

Shortly, perhaps immediately, the week that we come back, a bill will be on the floor providing a Veterans Administration subvention program. It will be a program for both the part A low-income service disabled veterans and for the so-called category C veterans who are not low income, nor do they have a service-related disability. That particular program has more than a dozen safeguards for the health insurance trust fund.

I am sorry that the subcommittee of jurisdiction was not involved in the crafting of this particular program, because, frankly, there are just a number of flaws in the bill. They do not just extend to a clear protection of the taxpayers in the HI trust fund, although, clearly, that is of some concern.

I would refer Members to a letter which was written in favor of this particular amendment by a group called The Military Coalition. Their concern is over the funding mechanism and the argument that the Congressional Budget Office believes that there will be an increased consumption of Medicare usage by these individuals.

This is not a new argument that we have had with the Congressional Budget Office. We had it over the DoD subvention program, the VA subvention program. Frankly, I tend to support the argument that, if they are already a Medicare eligible user, that they will not necessarily increase their Medicare usage.

The concern comes in the argument that says, "Roughly 30 percent of all Medicare eligible military retirees have Medigap coverage right now. These are people that will switch to the FEHBP because it provides better coverage," that is the Federal Employees Health Benefit Program, "at a lower cost than Medigap."

This is a 3-year program. It is designed to terminate after 3 years. These people will give up their Medigap and take private dollars and substitute them for taxpayer dollars 75 cents out of every dollar.

In a moment, I will speak to the problems in the bill because these military retirees are not treated like any other Federal employee under the Federal Employee Health Benefit Program. They are treated entirely differently.

But let us take a look at this person who decides to get into this program, give up their Medigap, go under the

FEHBP, and, in 3 years, the program ends. They now will be forced to go back into the Medigap market, and they may, in fact, face that concern that all of us face in terms of trying to go back and buy insurance after you released it, and the potential of not being able to get the kind of insurance that they had prior to going into this program.

I would caution any military retiree who has Medigap insurance that I would be very, very careful of giving up my Medigap insurance to go into a program that has no guarantee that it would continue.

Let us take a look in an attempt, I assume, to control costs what this particular amendment actually does. It says military retirees will go into the Federal Employees Health Benefit Program, but they will not go in like every other Federal employee, including the retiree program. They have to create a separate risk pool for these people.

It means that, if they are in the separate risk pool, they are already Medicare eligible. They are above 65. They have gone through rigorous military duty. Their per-capita cost could be considerably higher.

But it says in another section of the amendment that the government's amount has to stay at the appropriate amount; that is the statistical average of 72 percent.

The argument that the amount for the Federal Employees Health Benefit Program will be exactly the same or lower than the Medigap, which is used as an argument in the letter in favor of it, is not necessarily true, because the amendment requires a separate risk pool to be developed for these individuals.

It is not clear what the complete role of the HI trust fund is. The argument is that it will be completely compensated.

Remember, the health insurance trust fund is a payroll tax fund paid into by individuals. The funding mechanism in this bill is selling assets of the Department of Defense, principally precious metals that are stored for strategic use. The selling off of those assets go into the general fund.

But the HI is a dedicated trust fund out of the payroll tax. There has to be a clear guarantee of transfer of funds to make sure that the HI trust fund is held harmless.

I can go on and on in terms of a series of flaws that are contained in this amendment which, as I said, I am sorry no one ever involved the committee of jurisdiction to make sure, one, that the HI trust fund was protected; two, that it was integrated properly and appropriately in the two other defense measures that we are working on in terms of people who serve their country, the Department of Defense TriCare subvention program and the Veterans Vision subvention program.

I would have to tell Members that this particular amendment is so fundamentally flawed that I am going to have to ask for a "no" vote on this amendment. I would very much like to sit down and see if there is not some way that we could correct these fundamental flaws.

But absent that, you may be exposing the HI trust fund; probably more insidious, you may be exposing these military retirees to a test program which will not allow them to get the Medigap coverage they had in the first place that they are giving up to go into this test program. It just does not make sense the way it is written.

Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this amendment. At the outset of this debate, I first wanted to express my gratitude to the gentleman from South Carolina (Mr. SPENCE), chairman, and to the gentleman from Missouri (Mr. SKELTON), the ranking minority member, for their leadership on this issue and to Donna Hoffmeier, Mieke Eoyang of the Committee on National Security staff, and especially to Mike Brown of my staff for all the work that they have done to enable us to bring this amendment to the floor today.

This amendment establishes a demonstration project through which Medicare eligible military retirees will be able to join the Federal Employees Health Benefits Program.

We have taken the basic text of H.R. 1766, which is cosponsored by 284 Members of this body, and we have added one refinement after another until we have ensured that every concern has been addressed. As of this morning, every concern had been addressed that we have been told about.

Mr. THOMAS. Mr. Chairman, will the gentleman yield on my time?

Mr. MORAN of Virginia. Shortly.

Mr. THOMAS. On my time.

Mr. MORAN of Virginia. Sure.

Mr. THOMAS. I would not want to take the gentleman's time.

Mr. MORAN of Virginia. On his time, I yield to the gentleman from California.

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, what is the provision that protects those military retirees who choose to give up their Medigap program to go into this 3-year test that they can go back to their original Medigap program without risk? Where is that guarantee in the amendment?

Mr. MORAN of Virginia. Mr. Chairman, if the gentleman will yield, I will tell the gentleman from California that the gentleman from California (Mr. STARK), who has also worked on this bill for some time and, as you know, serves with you on the Committee on Ways and Means, is going to address those issues.

Mr. THOMAS. Mr. Chairman, reclaiming my time briefly, I will tell you that the gentleman from California, to my knowledge, and of course he can speak for himself has not worked on this bill; that the Committee on Ways and Means and the Subcommittee on Health has not been involved in this bill at all.

Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, again, I yield myself such time as I may consume and tell the gentleman from California that CBO has looked at this, has determined that it would cost a maximum of $50 million. That assumes that military retirees will avail themselves of this opportunity and, in fact, will use Medicare to a somewhat greater extent than they do now.

Mr. Chairman, even though every enlisted service member was promised free quality lifetime health care as partial compensation for their service to their country, Medicare eligible military retirees are not provided adequate access to health care.

Free quality lifetime health care is no longer available to people once they become 65 years of age. They are precluded from participating in TriCare, they are prohibited from using Champus, and they are placed last on the priority list at military medical treatment facilities.

That is why we have this amendment. Federal civilian retirees and former Members of Congress in comparison have excellent health care. Civilian retirees are able to participate in the same health insurance program they enjoyed when they were active employees.

The Federal Government does not kick them out of their insurance program once they become eligible for Medicare. In fact, many of the plans provided for civilian employees provide greater coverage and more benefits to those who are Medicare eligible, because that is when they need health care the most, when they retire at 65.

We should correct this inequity in treatment between Federal retirees and military retirees by providing Medicare eligible military retirees the same options and the same insurance program as we provide Medicare eligible Federal retirees.

That is what this amendment does. It begins this process. It establishes a limited demonstration program that will allow 70,000 Medicare eligible military retirees the option to join the Federal Employee Health Benefits Program for 3 years. During that time, they have the same rights and benefits as their Federal civilian counterparts.

The amendment establishes separate risk pools to ensure that military retirees and Federal civilian beneficiaries do not cross-subsidize one another. Then it requires that DoD, the

Office of Personnel Management, and GAO fully analyze the impact of this FEHBP option after the demonstration has ended.

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So we can then decide whether or not we want full national implementation based on complete factual information.

This is a bipartisan amendment. It is strongly supported by the Military Coalition, the National Military Veterans Alliance, the Retired Officers Association. Every major military association endorses this amendment.

I know the gentleman from California (Mr. THOMAS) is concerned about it. I am disappointed the gentleman is opposed to it. It is going to have some minor impact on Medicare, $50 million, but that means in addition to the $700 billion Medicare program that Medicare will spend over that 3 year period, $50 million might be spent by military retirees who are eligible for Medicare? We could save 10 times this amount annually if we change HCFA's billing system, for example.

The gentleman from Texas (Mr. THORNBERRY) and I will enter into a colloquy with the gentleman from California (Mr. STARK) promising to work with him to address the concerns of the gentleman from California (Mr. THOMAS). It is unfortunate the gentleman from California (Mr. THOMAS) cannot join us to work out these problems.

I urge my colleagues to vote in favor of this amendment and support military retirees health care when they need it the most.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, I am inclined to support the Watts-Moran-Thornberry amendment. I am a cosponsor of the legislation of the gentleman from Virginia (Mr. MORAN), which does roughly the same thing.

The amendment is revenue neutral. It does have an accounting problem as currently drafted. As drafted, the amendment would increase Medicare utilization undoubtedly as the retirees find it less expensive to seek medical care there.

As we all know, we have a long-term financing problem in the Medicare Trust Fund, and if we increase Medicare spending, it is essential that we keep the trust fund neutral.

This amendment needs an accounting fix to make sure that that money that the DOD raises gets into the Medicare Trust Fund and not into general revenues. It is my understanding that staff has not yet had time to work out the details of the language, and I am wondering if the gentleman from Texas (Mr. THORNBERRY) could give us a commitment to address this problem in conference?

Mr. THORNBERRY. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Texas.

Mr. THORNBERRY. I thank the gentleman, and I thank the gentleman from California (Mr. STARK) for raising this concern.

Mr. Chairman, we have discussed this issue and completely agree it is appropriate to make sure that the Medicare trust funds are not negatively impacted by the amendment. The offsets included in this amendment do include CBO's estimated Medicare costs, and I assure the gentleman I will certainly work with the gentleman from South Carolina (Mr. SPENCE), the gentleman from Missouri (Mr. SKELTON), the gentleman from Indiana (Mr. BUYER) and others in the weeks ahead to clarify that the legislative language addresses those concerns and that there are appropriate offsets, in addition to the protections that are needed on the concern that the gentleman from California (Mr. THOMAS) has raised.

Mr. MORAN of Virginia. Mr. Chairman, reclaiming my time, we look forward to it addressing this concern in conference.

Mr. STARK. Mr. Chairman, if the gentleman will yield further, I thank the authors of the amendment. I think you have a winner. I would suggest that if anybody is concerned, that you do not extend it at the end of three years. In the balanced budget amendment we made it the law that people had to be able to get the Medigap policy back. So if in the third year we decide the experiment will not work, we can write that into law and see that no one is disadvantaged by losing the Medigap policy.

Mr. MORAN of Virginia. It sounds like a good solution.

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may concern.

Mr. Chairman, notwithstanding the attempted agreement that was just made, which is clearly a concern in terms of the trust funds, but what I just heard was that the military retirees who give up their Medigap program and who may not in fact be able to get insurance, we will worry about them three years later when the demonstration program ends.

I would tell the gentleman, if that is the way you are going to treat military retirees, then I can fully understand why you have some concern about the DOD program which we are now working on. You may have some concern about the VA program. But in every one of those programs that we worked with, that we sat down and made sure were done correctly, the military retirees were protected from day one.

What you just heard, Mr. Chairman, was the hope that three years later, if this demonstration program does not work, those military retirees who gave up their Medigap insurance, we will see if we can pass a piece of legislation that will fix that problem. I cannot believe that the dialogue that just took place was concerned about the HI trust fund alone and showed no concern whatsoever for the military retirees that are the guinea pigs in this program.

Had you sat down with the committee of jurisdiction, we would have worked that out to make sure that the military retirees were protected. This is just another example of what the gentleman from Virginia said was a well-crafted amendment, which leaves every one of those up to 70,000 military retirees who are asked to participate in this program at risk on their Medigap program. I do not believe the House is willing to vote on that kind of a risk for our military retirees.

Mr. MORAN of Virginia. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Let me just tell the gentleman, we have been working on this for four years. I can verify to you that I introduced this five years ago. Now, we have 284 cosponsors. We want to work with the gentleman. We did everything we could to work it out in conference.

Mr. THOMAS. Reclaiming my time, did the gentleman or the gentleman's staff ever call the Subcommittee on Health of the Committee on Ways and Means? The answer is if you did everything you could to work it out, it seems to me the subcommittee of jurisdiction, which has worked on the balanced budget amendment for the DOD subvention, which has worked with the Committee on Veterans Affairs on the VA subvention program, and which is currently working in the Medicare Commission to make sure that those individuals who served time in the military, and especially were in theaters of combat, are taken care of.

The gentleman continues to give this blanket assurance that everything has been done. I simply continue to repeat, you never once worked with the subcommittee of jurisdiction. I believe that is one of the reasons that all these flaws are in the amendment.

We have taken care of it in every other area that we have worked with combining Department of Defense and veterans interests with Medicare. They are not in this amendment. It is flawed.

If someone would indicate that we could sit down and resolve the flaws in the amendment, then I am far more interested in going forward. What I heard as a resolution for those individuals who are going to give up their Medigap is that three years from now, when this demonstration ends, maybe we can pass a law that will give them a chance to get their Medigap back.

I do not think that is a very comfortable assurance for military retirees. I certainly would not want to gamble my program to go into a program that may end on the assurance that this Congress, three or four years down the road, is going to be able to make sure I get back the insurance I lost when I started this experiment. That is not a solid guarantee, and that is what this amendment says, and that is what was just discussed on the floor.

Mr. MORAN of Virginia. Mr. Chairman, if the gentleman will yield further, we have invited the Committee on Ways and Means staff to meetings. Let me say, the Parliamentarian did not refer this to the Committee on Ways and Means as the committee of jurisdiction. So we worked with the Subcommittee on Civil Service within the Committee on Government Operations, and we worked with the Committee on National Security, because they were referred to us as the committee of jurisdiction.

We are only talking about one line in this bill among many lines, and I think we can work that out in conference.

Mr. THOMAS. Mr. Chairman, reclaiming my time, perhaps the gentleman did not hear me. The one line you continue to refer to is the transfer of funds from the endangered HI trust fund, which is scheduled to go bankrupt in a short number of years. That is why we have the Medicare Commission, to protect those funds.

What I have continued to refer to is the requirement and in fact the argument that is made by the military coalition, that these military retirees are going to give up their Medigap insurance to get into the program. Because certainly they are not going to pay out of pocket their own private dollars for a Medigap program, when in fact the taxpayers are going to pay 75 cents out of every dollar to put them into the FEHBP program.

So you have the HI trust fund paying for the Medicare, and 75 cents out of every dollar of taxpayers money, the employer, to the retired military being paid in the FEHBP. They are giving up their private sector dollars, the Medigap dollars, to get this.

But it is a demonstration program. It is only for three years. Why could you not write into the program a protection for these military retirees? It is not the one line you are talking about, which is the HI trust fund. It is the guarantee that you do not lose any more than the insurance that you had when you went into the program. That is one of the fundamental flaws of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. THORNBERRY. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, there are two important points in response to the concerns of the gentleman from California (Mr. THOMAS). Number one is I think all of us admire the protections that he has worked on in the Medicare subvention pilot program and want to work with him to see appropriate protections are included in this bill.

Secondly, before the Subcommittee on Personnel marked up, we were aware that the Committee Ways and Means were interested in this issue, and I have been informed as a matter of fact that the Committee on Ways and Means staff was invited to a meeting on Monday, May 4, 1998, at 11:30 a.m., and they did not show up. Included in that meeting were representatives of the Committee on Government Reform and Oversight, CBO and others.

Mr. Chairman, I yield two minutes to the sponsor of the amendment, the gentleman from Oklahoma (Mr. WATTS).

Mr. WATTS of Oklahoma. Mr. Chairman, I thank the gentleman from Texas for yielding me this time.

Mr. Chairman, I rise in support of the Watts-Thornberry-Moran amendment to H.R. 3616 that the Parliamentarian has cleared and that the Committee on Rules has ruled in order. This amendment is to the defense authorization bill for fiscal year 1999.

Just for the record, I have got a long list of support letters here from the American Military Retirees Association, the American Retirees, Korean War Veterans Association, the National Association of Uniform Services, the Veterans of Foreign Wars, and the list goes on and on.

This amendment is an important key to improving the delivery of high quality health care to our military retirees and their dependents. No one deserves the option of enrolling in the Federal Employees Health Benefits Program more than these good Americans.

For decades our government promised millions of people who served in the Armed Forces free lifetime health care for themselves and their dependents if they served for 20 or more years. They earned that benefit, yet we all know that the promise was broken and never fixed.

As a result, we face a situation wherein thousands of military retirees are forced to scramble for adequate health care for themselves and their dependents. Many must make do with the TriCare system or space available care in a rapidly diminishing number of military hospitals.

If they are 65 years old or older, they must use the Medicare system. Those who live far from military treatment facilities or hospitals except TriCare often purchase private medical insurance or simply remain uncovered.

The Watts-Thornberry-Moran amendment, again, is an optional program that would begin to restore that promise of health care for this group by enrolling a limited number of Medicare eligible military retirees in the FEHBP program at a number of sights around the country.

Mr. Chairman, the Watts-Thornberry-Moran amendment is but a small optional step, and I encourage Members to support it.

Mr. MORAN of Virginia. Mr. Chairman, I yield one minute to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the Watts-Moran-Thornberry amendment. For almost three years now, I have worked with the gentleman from Virginia (Mr. MORAN) and others on this critical issue of providing quality lifetime health care to military retirees.

I want to thank the gentlemen from Virginia, Oklahoma and Texas for the opportunity to urge all of our Members to support this amendment, which will demonstrate a way to give the Medicare eligible retirees the option of participating in the Federal Employee Health Benefit Program. I am assured that the gentleman from California (Mr. THOMAS) is going to find a way to make this acceptable in the Committee on Ways and Means as well.

On the eve of Memorial Day, it seems not only the appropriate time, but it also is the honorable time to keep our promise to the military retirees that we would provide them health care.

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Medigap is a wraparound insurance program. There are ten standardized Medigap programs that are made available by HCFA. The argument is that these military retirees will be giving up their Medigap insurance.

Now, I know as you begin to talk about how this program is supposed to fit together, some eyes begin to glaze over, and all you are supposed to do is just say, it ought to be done, and therefore it is done.

Well, I will tell you, in trying to work with the DOD subvention program, and now successfully with the VA, if you are really interested in looking out after the interests of these military retirees, you had better have in writing exactly what is going to occur. The Federal Employees Health Benefit Program does not match up to any of the Medigap programs.

What are the policies? What are the premiums? You are creating a structure which creates a separate risk pool. The premiums may be outrageous. You have no protections for the military retirees in that regard.

On page 4 of the amendment, line 11 through 14, if you agree to go into this program, what do you agree to do? You agree eligible covered beneficiaries who participate in the demonstration project shall not be eligible to receive care at a military medical treatment facility.

Under the DOD subvention program, we try to blend the military medical facilities with the HI program. What you do in this is you are a military retiree, you are used to going to a military facility, and, now, if you enter into this program, you become an FEHBP member, not knowing what your premium is going to be, because you are going to be in a separate risk pool, not knowing what the benefits are going to be in terms of an augmentation, and you get your Medicare money, which you also have been utilizing perhaps in conjunction with the military medical facility, but you are denied going to the military medical facility if you become part of this program.

□ 1615

You have to find an entirely different health care delivery structure, maybe somewhere else if you live by a military reservation which you have been going to.

These are the kinds of things in reading this bill and in analyzing it as we did with the DOD subvention and with the VA subvention that simply jump out at us. There are very many flaws in this bill. Why are we trying to rush this forward without putting it together in a way the military retiree has some comfort? Is it absolutely necessary to tell them that if you enter this program for your own benefit, you have to give up military medical facilities completely, you can never go back?

A lot of times in today's health care system people are saying, I want to be able to choose my own doctor. What this demonstration program says is you have to give up the doctor you had or you cannot get in the program. That makes no sense. But after all, you have X number of cosponsors, you have X number of people whose heart is certainly in it, and my heart is in it, and the reason I am up here today is to tell my colleagues we have to put our heads in it as well as our hearts, and it is not impossible to work these out, but if we are going to move forward and simply say all of these are going to be resolved, unfortunately the end result will be a 3-year program which will fail. If we want a successful program, we ought to sit down and work out these difficulties, we will have a higher chance of succeeding, and perhaps my admonitions will go unheeded, and I am sorry, because it will be the military retirees who will have suffered.

Mr. MORAN of Virginia. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Chairman, I was waiting for the gentleman to catch his breath.

Mr. THOMAS. Mr. Chairman, reclaiming my time, when I feel strongly about an issue and I believe that folks are not being treated fairly, I do get impassioned.

Mr. MORAN of Virginia. Mr. Chairman, I am very much impressed, and I appreciate the gentleman bringing up these issues.

What I wanted to say to the gentleman, though, we have talked with the insurance companies. The fact is that with a separate risk pool, given the fact that these people are eligible for Medicare, Medicare is a payer of first resort, the insurance premiums are not going to be exorbitant as the gentleman has suggested, they are going to be quite affordable.

Mr. THOMAS. Mr. Chairman, reclaiming my time, I would inquire of the gentleman, under the current program with military retirees, is Medicare A the first payer?

Mr. MORAN of Virginia. Mr. Chairman, if the gentleman will yield further, if one goes to a military treatment facility, it is not the first payer, but for many, there is about 70 percent of military retirees.

Mr. THOMAS. Mr. Chairman, again reclaiming my time, so for the military retirees who use a military facility, that currently is the first payer, but they are denied the ability to go there; if they enter into this demonstration program, they are forced to find medical services elsewhere if they want to go in the program.

Mr. Chairman, I reserve the balance of my time.

Mr. THORNBERRY. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, the rush is that World War II veterans, the average age is 72 years of age. They are not going to be around. The Thomas-Stump bill I applaud for what they are trying to do. We are both trying to do the same thing to help veterans.

But the Moran bill, the original Moran-Bond bill was limited, it only had two sites. The Thornberry-Watts-Cunningham bill put in $1.5 billion to a full program. That is what we need to do. This is a compromise between the 2 bills. Subvention does not give them enough care; it is a Band-Aid. They do not have access to TriCare. But I ask my colleagues to support this, and I look forward to working with the gentleman from California (Mr. THOMAS) because he is trying to do the same thing we are.

The CHAIRMAN pro tempore (Mr. PEASE). The Committee will rise informally.

The SPEAKER pro tempore (Mr. MICA) assumed the chair.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate passed a concurrent resolution of the following title, in which concurrence of the House is requested:

S. Con. Res. 98. Concurrent resolution providing for a conditional adjournment or recess of the Senate and the House of Representatives.

The SPEAKER pro tempore. The Committee will resume its sitting.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Committee resumed its sitting.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1 minute to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong support of the Moran-Thornberry amendment.

I sat on the Subcommittee on Civil Service, and I have a full appreciation, because I heard the quagmire of technical problems associated with ensuring medical care for Medicare-eligible veterans. There are risks associated with being a part of any control group. I do not for a moment believe that this body is going to leave any veterans who decide to go into this program in a lurch at the end of the period.

I do think it is unthinkable to let this gap in health care for these veterans to go on any longer. I do think this is Congress at its best. We did not know what to do after we heard this testimony. We said let us do a demonstration project and learn from it; that will allow us to know whether we spread it or change it or fix it.

Moreover, these are the first people to be allowed into the FEHBP program other than the traditional clients programs. I think we will learn something about FEHBP as well, and I think the people to learn it from are veterans who have been left out of their full right to medical care.

Mr. THORNBERRY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Indiana (Mr. BUYER), chairman of the Subcommittee on Military Personnel.

Mr. BUYER. Mr. Chairman, I would like everyone to recognize, this has been one of the consequences of base closures. Many of the retirees, they located next to these military treatment facilities and now that the bases have closed, they are unwilling to move, and they do not want to move. They are stationed where they are. So we are dealing with some cleanup work to do from base closures, and that is what this is about.

I want to recognize the gentleman from California (Mr. THOMAS) on the Subcommittee on Military Personnel whose letter we received, we made it a part of the RECORD; not only the gentleman from California (Mr. THOMAS), but the gentleman from Texas (Mr. ARCHER), so we are well aware of their objections.

We recognize that the Committee on Commerce and the Committee on Ways and Means were not committees of jurisdiction on this, but what I want to say to the gentleman is that invitations were sent out, there were meetings with CBO and the Committee on the Budget and the Committee on Government Reform and Oversight, and the Committee on National Security on this. The gentleman has raised some very interesting points here today, and what I would like to do between now and conference is for us to work together on this as we move toward a demonstration.

I also want to compliment the gentleman from Virginia (Mr. MORAN) and the gentleman from Oklahoma (Mr. WATTS) and the gentleman from Texas (Mr. THORNBERRY). I appreciate them accepting that one of these sites should also be one of the Medicare subvention sites so we completely understand what we are doing, and I am glad we are not moving to the total phase-in, but only a limited pilot.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Chairman, I rise in strong support of this amendment and would like to commend my colleagues, the gentleman from Oklahoma (Mr. WATTS) and the gentleman from Virginia (Mr. MORAN) for their leadership in this area.

As a Member of the House Committee on Veterans' Affairs and a representative from Florida, I am very concerned with the state of military health care, particularly since so many Floridians are being affected. I have received the letters and the personal visits by military retirees who are concerned about their health care options.

The health care industry is in change and we in Congress need to take some leadership. I support this pilot program 100 percent, and I urge a "yes" on this amendment.

As Memorial Day approaches, let us show our military personnel that we do care and that we as Members of the United States Congress do keep our promises to the veterans.

The CHAIRMAN pro tempore. All time of the gentleman from Virginia (Mr. MORAN) has expired.

Mr. THORNBERRY. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I rise in support of the Thornberry-Watts-Cunningham amendment.

Mr. Chairman. Because the need for expanded health care for military retirees is so important, I am pleased to join with my colleagues, Representatives WATTS, THORNBERRY and MORAN in their efforts to permit Medicare-eligible retired members of the Armed Forces and their Medicare-eligible dependents to enroll in the Federal Employees Health Benefits Program (FEHBP).

This amendment proposes a three-year demonstration project at six to ten sites in the United States. The cost is offset by the sale of national defense stockpile materials.

We made a commitment to those who chose to serve in defense of our country. Military retirees were promised health care for life. However, there is a Catch–22 situation for Medicare-eligible retired military because once they either turn age 65 or qualify for disability treatment, they lose their CHAMPUS benefits. Unfortunately, they are placed last on the priority for treatment at Military Treatment Facilities, and they are prevented from participating in the new TRICARE program.

Of the 1.2 million military beneficiaries 65 or older who are Medicare eligible, approximately 324,000 receive "space available" care in military treatment facilities.

I want to address the FEHBP Program as a complement to military health care. The FEHBP has been successfully operating over the past thirty years at about one-third of the cost incurred in other private health insurance programs.

Under the FEHBP, a consumer could opt to buy coverage that would include fee-for-service, HMO, PPO, or a union sponsored plan similar to the postal workers, etc.

In order to ensure that our military have the same choice of plans now available to U.S. Senators and Representatives, the President and Vice President, and over ten million federal workers, I urge passage of this amendment that would offer our nation's military and veterans the same basic benefits that we here in Congress have available to us.

This amendment has been endorsed by The Retired Enlisted Association (TREA) and the National Association for Uniformed Services (NAUS). I agree with these groups and believe we must fulfill our commitment to our nation's military retirees and veterans.

Mr. THORNBERRY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Florida (Mr. MICA), the chairman of the Subcommittee on Civil Service who has also been a leader in this effort.

Mr. MICA. Mr. Chairman, as chairman of the House Subcommittee on Civil Service, I have worked with the amendment sponsors to make our military retirees eligible for our Federal Employees Health Benefit Program.

While this amendment does not cover dependents and active military and retirees under age 65, which I have advocated, I strongly support this amendment.

This is a reasonable start with a 3-year demonstration project limited to 70,000 individuals. With base closures and military downsizing, our health care system for our military and our retirees has broken down. TriCare has been described to me as try-to-get-care.

As we approach Memorial Day, as we have heard said on the other side, we must remember those who have died in service to our country. How sad it would be if we abandon those who survived and those who have served us on this occasion. This amendment, my colleagues, only allows military retirees over 65 and surviving dependents and those who died in active duty to be eligible for the same benefits as Members of Congress.

Mr. SKELTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment. I would like to commend the sponsors for their efforts to fulfill the promise made to military personnel. Since the Second World War, recruits were offered "free health care for life" at a military hospital if they served a 20-year career in the military. These promises were made when the ratio of active duty personnel to military retirees was much greater. However, as we have drawn down the force, base closures, reductions in medical personnel and budget cuts have diminished this health care for retirees, forcing them to rely on Medicare. This amendment will test the FEHBP option for those with the greatest need to improve the viability of the program.

Many of us are worried about the potential costs of this legislation, both to the Defense Department and to the beneficiaries. The Department had predicted that the costs of implementing this program would further reduce the space of available care. I am pleased to note that this proposal would not harm Defense health care program's budget, and it is funded by stockpile sales.

I take this moment to commend the gentleman from Virginia and the other cosponsors for their dedication to this issue.

Mr. Chairman, at this time I wish to make an inquiry of the gentlewoman from Texas (Ms. JACKSON-LEE).

I would like to ask if the gentlewoman supports this amendment, and if so, why?

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member for his leadership. I thank the gentleman from Virginia (Mr. MORAN) and the gentleman from Oklahoma (Mr. WATTS) for their amendment.

I absolutely do support this amendment. I think just a few days away from celebrating our veterans and our men and women in the military that we need to honor our military veterans. This amendment will not impact military readiness and it will not be offset by cuts in discretionary defense funds, but this amendment would ensure that every Medicare-eligible retiree is covered and provided health insurance and would allow Medicare eligible military retirees the option to join the Federal Employees Health Benefits Program through a 3-year demonstration project.

I would simply say that what this does is it answers the questions of all of my veterans, when I go home to my district, asking me about their medical program and how they cannot be in this retiree program.

So I simply say that this is a good amendment supported by the National Military and Veterans Alliance and every major military association. We must also show our support for our military retirees. It is a good amendment, a strong amendment, and the right thing to do.

I strongly support my colleagues' amendment concerning enrolling military retirees in the Federal Employees Health Benefits program.

Currently America's military men and women are denied free accessible and quality health care after they have retired from their dedicated service in the U.S. military.

We should honor our military veterans and we should be committed to ensure that the men and women who fight for and protect our country receive adequate health care. However, in our country, retirees from the military do not receive the same benefits as Federal employees.

This amendment would not impact military readiness and will not be offset by cuts in discretionary defense programs. But, this amendment would ensure that every Medicare eligible retiree is covered and provided health insurance, and will allow Medicare eligible military retirees the option to join the Federal Employees Health Benefits program through a limited 3 year demonstration project.

This amendment is supported by the national military and veterans alliance and every major military association. We must also show our support for our military retirees.

Mr. SKELTON. Mr. Chairman, I thank the gentlewoman for her answer to my inquiry.

I think it is very important that we do follow through on this program to see how it works, because we must do our very best in our committee and in this Congress to fulfill that promise made to military personnel, not just for those who it will affect directly, but to those future soldiers and retirees that we wish to keep the faith with.

□ 1630

Mr. THORNBERRY. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Florida (Mrs. FOWLER), a member of the committee.

Mrs. FOWLER. Mr. Chairman, I rise in support of this amendment.

It is common knowledge that many military retirees were promised access to free health care for life. All this amendment does is give military retirees a chance to participate in the same plan that every Federal employee has.

By providing more choices, the FEHBP uses market forces to control costs and ensure high quality. Military retirees should have these choices. This amendment merely provides for a demonstration project. Coupled with the subvention demonstration project that we passed in the Balanced Budget Act, this will provide some insights on how we can correct the current system.

This amendment does not fulfill the promise of free health care for life, but it is a step in the right direction. I urge my colleagues to support this amendment.

Mr. THORNBERRY. Mr. Chairman, I yield 1 minute to the gentleman from Kansas (Mr. RYUN), a member of the subcommittee.

Mr. RYUN. Mr. Chairman, I rise in strong support of this particular amendment.

I know that some of my colleagues oppose this amendment. However, as a member of the subcommittee, I have heard the testimony and I have met with retirees who face a real medical problem. As military installations are closed and downsized, our military retirees are being shut out.

This amendment is a small step forward, keeping the promises that we have made to our military many years ago.

Mr. THORNBERRY. Mr. Chairman, I yield 30 seconds to the gentlewoman from Washington (Mrs. LINDA SMITH).

Mrs. LINDA SMITH of Washington. Mr. Chairman, this is simply about keeping our word. I have no answer when retirees ask me, why when I reenlisted and they promised me lifetime health care, can I not get it? There is no excuse for not keeping our word; and this is a beginning, just a beginning, to do that.

Mr. THORNBERRY. Mr. Chairman, I yield 30 seconds to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Chairman, I thank the gentleman for yielding me the time.

I rise in strong support of this amendment, Mr. Chairman. I think, as exactly as the gentlewoman from Washington (Mrs. SMITH) said, it is about keeping our word. This amendment does not keep our word, but it is a step in the right direction. It is a step in doing what we ought to do. We need to look harder for the resources necessary to do exactly what we told veterans we were going to do.

Mr. Chairman, I urge strong support of this amendment.

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, obviously, what is at debate here is whether or not this program, the way it is currently constructed, is one which has a maximum chance of retaining viability.

One of our colleagues, I believe, got a little carried away in her eloquence and indicated that this was going to be available for every eligible retiree. It is not. It is a very limited program, 70,000. The gentleman from Virginia said it really exposed the trust fund to $50 million. That is correct. But it is a $327 million CBO estimate cost over 3 years, 70,000 retirees, $327 million. It also has no permanent transition.

One of the things we tried to do in the DOD subvention and that Members will see we are doing in the VA subvention is to say that if it is, in fact, successful, this is what occurs as a follow-up.

What we have here is an amendment that started out at more than $3 billion. In an attempt to get costs under control, although we were not able to work, and I would like to make one brief allusion to the May 4 meeting. That was the one meeting that was held. It was a late Friday night phone call, and my staff was unable to work because they were working on the VA subvention. They did a follow-up on Monday, and that was their only opportunity to try to have some input.

All of us want to help our military retirees and our veterans. We have two solid subvention programs going forward with all kinds of guarantees for the retirees and, if the program is a success, its ability to continue forward.

What we have here, I am sorry to say, is kind of a jerry-rigged program funded out of asset sales for 3 years in which there are a number of questions in terms of the way in which the program blends for the retirees, and it almost guarantees its failure.

What I have been trying to do is to get people to understand that, if we make certain changes in this, if we can sit down and get it to conform more to the kinds of underlying structures we had in the subvention bill, what all of us seem to want, which myself, the gentleman from California wants, is a successful program.

This program as it is currently constructed is doomed to fail. That is not the way we should go forward in terms of our military retirees. We should make the kinds of changes that enhance the chance of this program succeeding. It has fundamental flaws. Obviously, with the number of people who feel the pressure nearing Memorial Day, this measure is going to pass. I hope someone sits down and corrects the flaws. The military retirees deserve better than this amendment.

Mr. SPENCE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the Watts-Moran-Thornberry amendment. Our government is not doing an adequate job of fulfilling the promise of lifetime health care that was made to those who have made a career in our military.

With budget cuts, reductions in military medical personnel, and base closures, access to quality care within the military health care system has become especially difficult for military retirees who are eligible for Medicare.

While Medicare-eligible retirees and their families remain eligible for space-available care in military hospitals, they are not eligible to participate in the Department of Defense Tricare program, and Tricare is reducing the amount of space-available care accessible to those beneficiaries.

As a result, many of these retirees are discovering that the health care benefit they earned through their dedicated service in the military may not be available when they need it most. We need to find a cost-effective way to meet the health care needs of these military retirees, and to fulfill the promise of lifetime health care that was made to them. This amendment is a step in that right direction.

The amendment would allow up to 70,000 Medicare-eligible military retirees in several sites across the country to enroll in the Federal Employees Health Benefits Program, and to receive the same health care benefits as Federal employees and Federal retirees. It has been carefully designed to establish a demonstration program that is large enough to provide for a valid test of this concept, yet keeps annual costs to a reasonable level over the course of the 3-year demonstration. The costs have been offset in full.

I want to commend my colleagues on the Committee on National Security, the gentleman from Texas (Mr. THORNBERRY), the gentleman from Oklahoma (Mr. WATTS), as well as the gentleman from Virginia (Mr. MORAN) for their dedicated efforts on behalf of our military retirees, on behalf of this amendment. They have worked tirelessly to develop a good demonstration program that will help us to begin to restore faith, not only with those who served in the military as a career, but those who will continue to serve to date.

I also want to commend the gentleman from Florida (Mr. MICA) for his longstanding support of improving health care for our military retirees, and the gentleman from California (Mr. THOMAS) for his contribution.

Mr. Chairman, I urge support for this bipartisan amendment.

Mr. WELDON of Florida. Mr. Chairman, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from Florida.

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding me the time. I want to just share with my colleagues here, Mr. Chairman, when I was in the Army Medical Corps, every month at the end of the month my Secretary would bring me a stack of patients who were unable to get in to see me for an appointment, because we were too busy. We did not have enough doctors in the clinic.

I would go through that stack and I would be able to see which ones were going to end up in the emergency room. I did not like it. I did not like it at all, but at least I knew the emergency room was there when they got sick.

Now, today, we have closed the emergency room to them, or we have closed the whole facility. We have turned our back on these people, Mr. Chairman. I encourage everybody to vote in support of this amendment. If this is a flawed amendment, I say vote for it and let us fix it in conference, and let us move the process along.

When people say, we were not promised medical care when we retired, do not believe that. Everybody said that. I spent 6 years on active duty. We heard it all the time, do your 20 and you will get health care when you retire. We have turned our backs on these people.

I commend all my colleagues for bringing this to the floor, and I encourage everybody to vote in support of this.

Mr. INGLIS of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from South Carolina.

Mr. INGLIS of South Carolina. Mr. Chairman, I thank the gentleman for yielding to me.

I rise in support of this amendment, Mr. Chairman, and thank all those the gentleman has just mentioned for their good work on this.

I believe it is important for us to realize it is not just a matter of keeping faith with our military retirees, it is also a matter of military readiness, because what I am hearing all around my State is that people who are on active duty now are telling their family members, do not re-up, do not reenlist. The military, the United States government, will not honor its commitments.

So it becomes not just a matter of keeping faith with those who have gone before, but rather, with the military readiness of this Nation. So it is essential, I believe, that we in this Congress rise to the occasion of backing up our commitments to those retirees, not just so we can keep faith with them, but so we can keep faith with this Nation in providing for military readiness.

Mr. FARR of California. Mr. Chairman, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from California.

Mr. FARR of California. Mr. Chairman, as the largest base closure in the United States, we need this bill.

(Mr. FARR of California asked and was given permission to revise and extend his remarks.)

Mr. FARR of California. Mr. Chairman, I rise today to express my strong support for the Moran-Watts-Thornberry amendment to the Fiscal Year 1999 Defense Authorization Act, which would create a demonstration project for military retirees to enroll in the Federal Employees Health Benefits Program (FEHBP).

Guaranteeing health care for our nation's military retirees should be one of our nation's top priorities. Yet millions of military retirees are prohibited from receiving Department of Defense health care because they have passed the age of 65 and are eligible for Medicare. As a result, Americans who served in our nation's defense are denied the health care they have more than earned as a result of their sacrifices to our nation.

In my own district, thousands of these retirees—individuals who dedicated many years of their lives to the military—are now without military health care. Denied CHAMPUS or TRICARE, and put last on priority lists for care at Military Treatment Facilities, these brave men and women have an increasingly difficult time obtaining the health care they need. This, Mr. Chairman, is simply unfair.

The amendment before us provides a solution to the problem. It establishes a three-year demonstration project in which up to 70,000 Medicare-eligible military retirees would be permitted to enroll in FEHBP at six test sites. The amendment would also allow dependents of these retirees to be eligible for FEHBP, as well as widows of those who died while on active duty for more than thirty days.

Passage of this amendment will allow military retirees and their immediate families to continue to obtain cost-effective health care from the federal government after the age of 65. It is a fair and flexible solution that will help ensure that these brave and dedicated Americans will not have to worry about obtaining the health care they need and deserve.

Mr. Chairman, next week we celebrate Memorial Day. I cannot think of a more appropriate time in which to act on behalf of our nation's military retirees. Let's pass this amendment today.

Mr. THORNBERRY. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. THORNBERRY) is recognized for 30 seconds.

Mr. THORNBERRY. Mr. Chairman, I appreciate the gentleman from California (Chairman THOMAS) and his willingness to work with us to make sure that the protections that need to be in this provision are there as we move toward the conference. I think he is right, and I think that is important.

I also believe that it is morally wrong, not to mention detrimental to our country's security, not to treat military retirees at least as well as we treat civilian Federal retirees.

This amendment starts to fix that, and regardless of the other difficulties that have to be overcome, it is the right thing to do. This House ought to pass it.

Mr. NORWOOD. Mr. Chairman, I rise in support of the Watts amendment because I feel it is imperative that Congress do its best to rectify the injustice done to military retirees who were promised, but have not received, the guarantee of lifetime medical care.

Uncle Sam misled America's finest when he recruited them to the military. Therefore, while this amendment does not restore the entire promise, it does provide military retirees over the age of 65 with affordable, accessible, high-quality health care by allowing them to join the Federal Employees Health Benefits Program. Congress has access to FEHBP, Mr. Chairman, so why shouldn't our nation's military retirees?

The Watts amendment is a step in the right direction—a move toward partially restoring the quality of healthcare at an affordable price that these retirees were promised upon entering the military. We owe them no less!

Mr. ACKERMAN. Mr. Chairman, I rise to express my strong support for the Watts, Moran, Thornberry Amendment to the Defense Authorization Bill. For too long, our nation's military retirees have been denied access to the Federal Employees Health Benefits Program (FEHBP) even though they have devoted their entire lives to the defense and security of our nation. Most of these individuals entered the military on the premise that they would be entitled to comprehensive, quality health care for the rest of their lives. Unfortunately, our nation has not lived up to this important commitment.

This amendment would create a demonstration program that would enroll 70,000 Medicare eligible members or former members of the armed forces into the FEHBP. The program would be available in six sites around the country. At the end of the project, the Secretary of Defense, and the Director of the Office of Personnel Management will analyze whether or not the demonstration yielded its intended results.

Throughout my tenure is Congress, I have often spoken out in behalf of using the FEHBP to cover the underinsured and the uninsured. The FEHBP is financially sound and in most states, the program provides at least three quality benefit plans for its members. This is the least we can do for our armed forces who have stood up to protect the rights and freedoms that we all cherish today. After a long fight, we have taken the first step toward providing comprehensive coverage for such brave and selfless individuals. It is my hope that this provision will remain in the conference report and will be signed into law by the President in the most timely manner possible. Our armed forces deserve nothing less.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in support of the amendment offered by Congressmen WATTS, MORAN and THORNBERRY to allow military retirees who are eligible to join Medicare to enroll in the Federal Employees Health Benefits Program (FEHBP).

Mr. Chairman, under this amendment, the Department of Defense would be allowed, on a trial basis, to give 70,000 military retirees, their eligible dependents, and certain "Gold Star Widows" the option of enrolling in the FEHBP program.

For too long, the men and women who have served our nation in the armed forces have not been afforded access to the same health care programs that other federal retirees are eligible to join. For the first time, under the provisions of this amendment, they will be offered the choice of enrolling in the FEHBP program for their health care services. These are individuals who are not eligible for TRICARE, which serves active duty and under-65 military retirees.

Our military retirees should have the same quality of health care coverage as other federal retirees, and should pay equitable premiums for that coverage.

Mr. Chairman, this amendment is supported by numerous veterans organizations, including the Veterans of Foreign Wars, and I want to add my support for the Watts/Moran/Thornberry Amendment. It is a first step toward providing our military retirees with needed, affordable health care coverage.

Mr. DAVIS of Virginia. Mr. Chairman, I rise today in support of this amendment offered by my colleagues, Representatives J.C. WATTS (R–OK), JIM MORAN (D–VA), and WILLIAM "MAC" THORNBERRY (R–TX) that will help provide a portion of the military retiree community with affordable, accessible, high-quality health care by allowing them to join the Federal Employees Health Benefits Program (FEHBP). This amendment authorizes the Department of Defense (DoD) to conduct a demonstration program to enroll Medicare-eligible military retirees in the (FEHBP). The cost of the demonstration program is offset by the sale of the National Defense Stockpile materials. Furthermore, this demonstration project features a three-year program located at 6 to 10 sites around the nation. It will provide coverage for Medicare eligible military retirees (age 65 and above). This amendment will also cap costs at $100 million per year.

Mr. Chairman, although adoption of this amendment falls far short of our original commitments to our veterans. I believe that the passage of this amendment will bring a step closer the promise of lifetime health care made to career military and retirees is kept and I urge all of my colleagues to support the passage of this amendment.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Texas (Mr. THORNBERRY).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MORAN of Virginia. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 420, noes 1, answered "present" 1, not voting 11, as follows:

[Roll No. 178]

AYES—420

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—1

Thomas

ANSWERED "PRESENT"—1

Ganske

NOT VOTING—11

Bateman
Gonzalez
Harman
Johnson, Sam
McGovern
Meeks (NY)
Parker
Pickett
Skaggs
Torres
Wicker

☐ 1702

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. LAHOOD) assumed the chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman William, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Committee resumed its sitting.

PREFERENTIAL MOTION OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I move that the Committee do now rise and report the bill back to the whole House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Chairman, I have offered the motion to strike the enacting clause to have a chance to protest against the outrageous denial of democratic procedures.

Along with the gentleman from California (Mr. CAMPBELL), the gentleman from Ohio, who chairs the Committee on the Budget, the gentleman from Tennessee (Mr. HILLEARY), the gentleman from California (Mr. CONDIT), and the gentleman from New York (Mr. SERRANO), I offered an amendment to the Committee on Rules to require that American ground troops leave Bosnia by December 31 of this year.

We recently had a supplemental in which we were asked and voted, I did not but the majority did, an additional $162 million per month for the American ground troops in Bosnia. I believe, and others do, that it is time for the Europeans to step up.

We believe, at the very least, this House ought to vote on whether or not there should be a continuation of American ground troops in Bosnia. I have heard a number of Members complain about this. We have heard the people on the committee complain that we do not have enough funds to fund Defense. Some of us feel Defense is taking too much money from other programs. What justification is there for bringing a bill and having the Committee on Rules refuse to let this House even vote on whether or not we ought to have the ground troops in Bosnia?

Another amendment was offered by the gentleman from California and the gentleman from Colorado to reaffirm the role of this House in dealing with troops in Iraq. Let us be very clear. Many of us disagree with what the President is doing. It is the leadership of the House that has decided that the House will not be able to speak on Bosnia or Iraq.

And I will say this: If Members voted for the rule and are going to vote for the bill, at least have the consistency not to complain about American troops being in Bosnia and Iraq, because we are trying to give those Members a chance to deal with it. As to Iraq, most of us would probably vote to authorize that, but it ought to be voted on by the House. As to Bosnia, a majority of the House might say it is time for Europe to defend Europe and pull out. But, again, the House is not being given a chance to vote on it.

This is a very grave error and we have to protest. If we were able to defeat this bill, it could come back very soon after we came back and those amendments could be made in order. And we just want Members to be on record that if they vote for the bill in this form, they have waived their right, by any reasonable standards, to complain about the troops in Bosnia or to complain about executive branch excesses not listened to by the Congress.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, I thank my colleague for yielding.

The gentleman is quite right, the Constitution gives the Congress the responsibility to declare war. It gives it to no other part of our government. No other part of our government. Politically, sometimes it is difficult to go on record on a question of war, but it is our responsibility to do so.

When I brought a privileged motion under the War Powers Resolution concerning Bosnia to the House floor, I was proud to be able to say that the American Legion had endorsed my effort. The American Legion agreed that we should not send soldiers and sailors and air personnel overseas, potentially to die, in service of their country, without the request of the people's representatives in Congress. Regrettably, that particular motion failed by a few votes. That motion failed, I think at least in part, because it was under the War Powers Resolution.

So with my colleague from Massachusetts, I attempted to get in the rule the chance to vote on whether we should have troops in Bosnia or troops in the Persian Gulf without having to rely on the War Powers Resolution. But we were denied that chance.

Mr. FRANK of Massachusetts. Reclaiming my time, Mr. Chairman, we ought to be very clear. If Members are going to go ahead and vote for this bill, let us at least change the title.

We asked for a vote on troops in Bosnia. We asked for a declaration of a congressional role in Iraq. Let us call it, if we are going to ratify a rule which says these things cannot even come up, the Congressional Abdication of Constitutional Responsibility Act of 1998, because that is what we will be doing.

We will be saying we in Congress will take our shots, we will make our political points, but tough decisions about the Middle East or Bosnia, let somebody else do them because we find them inconvenient or difficult.

I was told by the chairman of the Committee on Rules that he kept them off the floor to accommodate the President. I must say that it came as sort of a surprise to me that this bill was being constructed to accommodate the President. And it is not the sort of accommodation of a President we ought to engage in. We could save $2 billion a year by telling the Europeans it is their turn to do Bosnia. And we could serve the Constitution of the United States by the elected representatives debating it.

The leadership of this House has apparently decided, in cooperation with the President, not to speak out and to abdicate its constitutional responsibilities. That is a very grave error that does not serve well the traditions we profess to care about.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California once again.

Mr. CAMPBELL. Just to add, Mr. Chairman, one additional point of praise to our colleague from Colorado (Mr. SKAGGS), who offered an amendment in the supplemental that we not go to war in the Persian Gulf without the approval of this House. That was stricken in conference. This is our last chance to do our constitutional duty.

Mr. BUYER. Mr. Chairman, I rise in opposition to the motion.

The motion before us is a motion to strike the enacting clause. This is a preferential motion that is debatable only by 5 minutes on each side. If it is withdrawn before the vote, the motion may be repeated as soon as there is any intervening business, like further debate. If the motion is agreed to, the Committee will rise and there is a vote on the motion before the House. If that motion is agreed to, the defense bill is dead.

So I want everybody to completely understand what is before the House.

Secondly, let me address the comments on Bosnia. What I said of the President is, I would become not his critic but his constructive critic. And what I mean by that is that I want to work with the administration on an end state in Bosnia.

What we hope to do, and what I have been working on with the gentleman from Nebraska (Mr. BEREUTER) of the Committee on International Relations, along with the administration, is that when the President said he would set benchmarks of success in Bosnia on the civil implementation of the Dayton Accords, that in fact these are benchmarks that are realistic and achievable; ones that are pragmatic and ones that I believe are realistic.

We are in the course of drafting that resolution so it can be brought to this House floor so we can have the type of vote that the two Members that just previously spoke can actually have. Hopefully, we can do that in the next month.

I urge Members, if in fact a vote is called, to vote against the motion.

The CHAIRMAN. The question is on the motion offered by the gentleman from Massachusetts (Mr. FRANK).

The motion was rejected.

□ 1715

The CHAIRMAN. It is now in order to debate the subject of the assignment of members of the Armed Forces to assist in border patrol.

Pursuant to House Resolution 441, the gentleman from Indiana (Mr. BUYER) and the gentleman from Missouri (Mr. SKELTON) each will control 15 minutes.

The Chair recognizes the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Chairman, after consultation with the gentleman from Texas (Mr. REYES) and the gentleman from Ohio (Mr. TRAFICANT), the sponsor of the first amendment in order, I ask unanimous consent that the 30 minutes of general debate time be divided three ways between myself, the gentleman from Texas (Mr. REYES) and the gentleman from Ohio (Mr. TRAFICANT) each controlling 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BUYER. Mr. Chairman, I would ask that the sponsor of the amendment please proceed, and I reserve the balance of time.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment is straightforward. It does not mandate the use of troops on our border. What it does, though, is it says that if the Administration, through the Attorney General, the Secretary of the Treasury, decides to use the military, which I believe they should to stop this narcotics madness, there are certain requirements.

Number one, they must be adequately trained. Number two, they could never be on patrol without the presence of a law enforcement entity, and they could not make arrests, and the local governor and communities shall be notified of their presence.

Now, we have a number of substitutes presented here, and the last one attempts to almost replicate my original amendment, supposedly. But the difference is mine would provide for patrols without question. The substitute provides for reconnaissance missions. And under the dictionary of "reconnaissance," it is in fact to gather information and to scout but do not engage.

Let there be no mistake, the difference is, if we decide that we are going to do something about these broad shipments of narcotics, the Traficant amendment would allow our troops to be adequately trained, never to be without the presence of a law enforcement entity. But, by God, they can engage and they can take issue.

Mr. Chairman, I reserve the balance of my time.

Mr. REYES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to troops on the border.

As everyone knows, my background is one of having spent 26½ years patrolling this Nation's border as a border patrol agent and as a chief. I think it is a bad idea. I believe that we have to understand that the only way we are going to ensure the integrity of our borders is through trained, professional, Federal agents.

Mr. Chairman, I reserve the balance of my time.

Mr. BUYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I reluctantly rise in opposition to the Traficant amendment. I know this body passed the amendment in the last Congress. I believe that the President, as the chief executive officer of the land, has the inherent ability if in fact there is an emergency or a threat to the borders of our Nation, I believe it is inherent to, not only as the chief security officer but also as the Commander-in-Chief, that if in fact our law enforcement agencies are inadequate to protect the ports of entry or the borders of our Nation, the military in fact should be there to do that. I believe that is inherent as the President, and we would expect the President to do that.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. BUYER. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, that is all my amendment says. But it then codifies how those troops shall be used so there are no more accidental shootings, there is adequate training, they are never without the presence of a law enforcement entity. And it does exactly what the Chairman now is discussing.

Mr. BUYER. Mr. Chairman, reclaiming my time, what makes me uncomfortable is the fact that we are going to set forth a process that when the Attorney General notifies the Department of Defense, then they have to provide, and it becomes very bothersome to me.

Mr. REYES. Mr. Chairman, will the gentleman yield?

Mr. BUYER. I yield to the gentleman from Texas.

Mr. REYES. Mr. Chairman, I just want to clarify that today, in the Immigration Naturalization Act that the government has already passed that is in effect, it provides that kind of authority. There is a section that provides the authority to the President to declare an emergency and do exactly what the gentleman is talking about.

Mr. BUYER. Mr. Chairman, reclaiming my time, what we all have to recognize is that, in 1993, as we had a larger military force than we have today, that there were people that were looking for other jobs for the military to do in civil military affairs and other things. This idea also came about around that same time period.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. BUYER) has expired.

Mr. BUYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, what we have to recognize right now with the United States Army is we are left with 10 divisions and of those 10 divisions, we have the five follow-on divisions that are being hollowed out; and we have to be very careful if we are going to be taking our troops and assigning them into collateral duties. Let us be very careful.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Chairman, I would like to commend my colleague, the gentleman from Ohio (Mr. TRAFICANT), and I think even my colleague, the gentleman from Texas (Mr. REYES), who recognizes just how much the gentleman from Ohio has tried to moderate this issue and all he is trying to do is send a very clear message not just to the administration, not just to the American people, but to everyone that America will do for itself what it does for everyone else in the world and that it would defend its children and its neighborhoods with whatever resources are available.

We are just talking about allowing the people who pay the bills to have this military available, to have their neighborhoods protected just as much as the people in Bosnia or the people in Europe or the people in Africa. Is it too much to ask, Mr. Chairman, that we just recognize the people paying the bills should have the same peacekeeping capabilities that the rest of the world does?

Mr. Chairman, if we do not care about the drugs that are coming across the border, and we all know that, and illegal immigration and the related crime, let me remind my colleagues that this is a human issue, too.

More people die every year trying to cross the border illegally than were killed in the Oklahoma explosion. Let me say that again. Every year, more people die on the border trying to cross illegally. And many of those people that are dying are young juveniles who are being dragged across the border by people who think that it is safe to come across our borders.

I ask my colleagues that we send a clear message that America will do everything possible to secure its national frontiers, that the United States Congress expects the Federal Government to treat the boundaries of America as sacred and as secure as the boundaries in Bosnia or anywhere else in the world. We are asking that the commonsense approach of enforcing and using all the resources are available.

Let me just close with the gentleman from Texas (Mr. REYES) saying we want to secure the borders. The problem with not securing the borders, Mr. Chairman, is that we have refused to do everything humanly possible in the United States. Let us do as much here on our own soil as we do on everyone else's soil.

Mr. BUYER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I thank the gentleman from Indiana (Mr. BUYER) for yielding me time.

Mr. Chairman, I rise in strong support of the Traficant amendment. I think everyone here, particularly those Members from border states such as my State of Florida, recognize the simple truth. We are losing our war against drugs, and we are nowhere near winning our battle against illegal immigration.

I have a great deal of respect for efforts of the border patrol, the INS, the DEA and others who have been waging these wars for years. They have been valiant in their attempts, and they deserve our thanks and credit. But given the ease in which smugglers seem to be importing illegal drugs into our country and the steady stream of illegal aliens that keep crossing our borders, we obviously have not been able to equip them with the resources and tools they need to really stop these activities. And both these activities threaten our Nation by aiding and abetting crime and by weakening the fabric of our society.

The Traficant amendment is not radical. It simply allows those who are fighting these wars against illegal drugs and aliens to ask the military for help. It is not mandatory. It is not required. It simply allows the Pentagon to lend its resources where needed and when available.

I do not know about my colleagues, but I am growing tired of the term and hearing it "the war on drugs." I want to end the war. I want to win the war. But we cannot do that as long as the resources of our drug lords outstrip those who we have asked to fight.

I would hope that all my colleagues who have talked tough about fighting drugs and talked tough about terrorism and talked tough about illegal immigration will put their votes where their rhetoric have been and support the Traficant amendment as offered today.

Mr. REYES. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Chairman, as a member of the Committee on National Security, I oppose the amendment by the gentleman from Ohio (Mr. TRAFICANT).

An increase of U.S. troops on the border with Mexico is a dangerous proposal that will put the border residents in danger. Our military is the world's best trained fighting forces, and they are not the police officers, and they are not the border patrol agents. They are trained to fight, and we put our own citizens in danger.

I would like to remind my colleagues, exactly 1 year ago an 18-year-old high school student, American citizen, was shot to death by the Marine on patrol in west Texas. This tragic incident highlights the complexities of placing soldiers on the border and the potential harm to many residents.

I represent the border, and I recognize the importance of fighting drugs. And border residents also, just like everyone else, want to stop the influx of illegal drugs, and they believe in stopping the flow of undocumented immigrants. But the solution they support is more border patrol and Customs Service agents. The Customs Service agents are the ones that are directly involved in assuring when products come across that those things are well checked out.

It is no wonder that the Department of Defense and Justice and the Immigration and Naturalization Service all oppose this proposal. The border patrol has nearly 8,000 agents patrolling our national borders, and the Congress has authorized an additional 1,000 agents every year up to the year 2001.

Last year, the San Antonio Express and News pointed out that the incident in west Texas is an isolated incident. Yet it is one that puts everyone in danger. We need to be concerned about the possibility of future incidents such as those when we put people that are untrained on the border that are U.S. citizens.

Mr. Chairman, I serve on the Committee on National Security Subcommittee on Military Readiness. At a time when readiness concerns are at their highest and with the troops sent for extended periods of time to Bosnia and elsewhere, we cannot afford to pull additional men.

I would ask that my colleagues vote no on the amendment.

Mr. RODRIGUEZ. Mr. Chairman, as a member of the House National Security Committee, I oppose the amendment offered by the gentlemen from Ohio. An increase of U.S. troops on the border with Mexico is a dangerous proposal that will put border residents in danger and reduce military readiness. Our military is the world's best trained fighting force; they are not police officers and they are not border patrol agents. They are trained to fight, and we put our own citizens at grave risk by deploying them on American soil.

I represent two counties along the border with Mexico. In my town hall meetings, almost everyone I spoke with opposed putting troops on our border. Many of them had served in our military, and I respect their opinion. Border residents, just like everyone else, want to stop the influx of illegal drugs, and they believe in stopping the flow of undocumented immigrants. But the solution they support is more Border Patrol and Customs Service agents who are well trained to deal with the challenges of patrolling the border.

Exactly one year ago, an 18 year old American citizen was shot to death by a Marine on patrol near Redford, Texas. This tragic incident highlights the complexities of placing soldiers on the border and the potential harm to border residents. It is no wonder that the Departments of Defense and Justice and the Immigration and Naturalization Service all oppose this proposal. The Border Patrol has nearly 8,000 agents patrolling our nation's borders, and Congress has authorized an additional 1,000 agents every year until 2001. Last year, the San Antonio Express-News pointed out that the Redford incident may be isolated but warned against deploying soldiers into an area lawfully and peacefully used by private citizens.

Mr. Chairman, I serve on the House National Security Readiness Subcommittee. At a time when readiness concerns are at their highest and with troops sent for extended periods of time to Bosnia and elsewhere, we cannot afford to pull additional men and women away from their posts to do the work of Border Patrol agents. It is unfair to our fighting men and women, and it does harm to our national security. The military can provide assistance in numerous ways without this unwarranted diversion of troops.

All of our budgets are tight. Putting troops on our border is extremely costly; it is a bad use of scarce resources. The drain on our defense budget puts our readiness at risk. The Department of Defense has warned that the troops' work along the border are of minimal value to military readiness and detract from training with warfighting equipment for warfighting missions. This lack of training would directly reduce unit readiness levels; it could require troops to spend more time overseas with less time to train between deployments. These funds could be better used training our Armed Forces for their warfighting missions or ensuring Border Patrol agents are properly trained and have the resources needed to enforce our nation's laws and to protect themselves.

The substitute offered by Congressman REYES seeks to partially address these concerns by requiring data from the Department of Defense on the costs, military value, effects on readiness, training, and preparedness of deploying military personnel to our borders.

Mr. Chairman, I, and the tens of thousands of residents I represent along the border, urge my colleagues to vote against this misguided proposal and for the substitute offered by Congressman REYES. Hopefully, in conference, this entire provision will be removed. The placement of additional soldiers on our borders is a dangerous proposal that could have deadly consequences for border residents. We must remember who we are protecting.

Mr. BUYER. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. COLLINS).

Mr. COLLINS. Mr. Chairman, I appreciate the gentleman yielding 2 minutes. But it might take me a little longer. Will the gentleman from Ohio (Mr. TRAFICANT) yield me 1 minute?

Mr. TRAFICANT. Mr. Chairman, I yield the gentleman from Georgia (Mr. COLLINS) 1 minute.

Mr. COLLINS. Mr. Chairman, in the Third District of Georgia, illegal immigration and drug trafficking are major concerns. I congratulate my colleague from Ohio (Mr. TRAFICANT) for offering his amendment, which helps to address both of these difficult challenges.

I strongly support the amendment, which will allow our military forces to participate in the most basic national defense function there is, that of the defense of our own borders.

General Charles Wilhelm of the U.S. Southern Command recently referred to the international drug trade as the greatest chemical weapons threat to our national security.

□ 1730

Congress should act today to allow the U.S. military to pursue its mission to protect our national security.

It is high time for Congress to set its own priorities. The administration and some Members have shown great willingness to sacrifice American service members around the world to protect the borders of other nations. Today, we must act to protect our own borders, our own hometowns, and our own children and grandchildren from the hardships and suffering caused by illegal immigration and drug trafficking.

Members have a clear choice to make today. We can support the amendment of the gentleman from Ohio (Mr. TRAFICANT) and represent the interests of our constituents by addressing the flow of illegal immigrants and drugs across our southern border, or we can choose to represent the interests of illegal aliens and drug smugglers by supporting and maintaining the current failed policies.

If you believe there is not an illegal immigration problem, you should support the Reyes substitute. If you believe the drugs are not flowing from the nations of the Andean Ridge to the streets and schools of your hometown, you should support the Reyes substitute.

If, however, you know, as I do, that illegal immigration and drug trade are destroying the fabric of our communities, you should oppose the Reyes substitute and stand in strong support of the Traficant amendment.

I urge my colleagues to support the amendment of the gentleman from Ohio (Mr. TRAFICANT) and to provide the INS and the Customs Service the assistance they need to defend our American borders.

Mr. REYES. Mr. Chairman, can I ask the time remaining?

The CHAIRMAN. The gentleman from Texas (Mr. REYES) has 7½ minutes remaining. The gentleman from Ohio (Mr. TRAFICANT) has 8 minutes remaining. The gentleman from Indiana (Mr. BUYER) has 1½ minutes remaining.

Mr. BUYER. Mr. Chairman, I reserve the balance of my time.

Mr. REYES. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, here we go again. Everybody that is soft on drugs supports this amendment. If you are really tough for getting drugs, then you support the other amendment. Real simple, right? Wrong again.

I know my friend from Ohio is a big antidrug, anticrime, antillegal activist; but understand this, most of the drugs come through the port of entry, not from the points in between. So you are putting troops out on the highways and byways, and that is not where the problem is. What am I saying is that this will not work. Even if we did it, it would not work. We would have another failure. What happened?

Number two, we are only asking some requirements that would at least let us know what in the devil is going on beside this mindless running the military and the antidrug activity and everything else.

Three, have you ever heard of Posse Comitatus at all? Anybody? Is this strange? Think about what you are doing and think about the simple fact that it will not work.

Let us give everybody real high points for being against drug proliferation, but let us use our senses about this. The Committee on National Security mostly and the Armed Services is against this, not because they do not want more jurisdiction, because they know it will not work; and you should, too.

Mr. BUYER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Indiana.

Mr. BUYER. Mr. Chairman, I think the gentleman brings up a very good point that the Members should understand about the Posse Comitatus Act. When we have many different agencies out there, whether it is the Customs agency on the Border or any agencies, then if it is such a threat, then we should be beefing up those agencies, not our military getting involved in civil affairs.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Traficant amendment covers ports of entries as well, and it specifically states they cannot make arrests, and it has been determined by the Parliamentarian that it does not infringe with Posse Comitatus laws at all.

We have got young people overdosing in cities all over this country, and we are going through this same type of constitutional jargon.

Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I strongly rise to support the amendment of the gentleman from Ohio (Mr. TRAFICANT). I think the gentleman is precisely right. It is time this country did something about drugs. If we think the border patrol is doing it, then let us ask ourselves why do we have 20,000 young people a year dying from drug overdoses?

It is time to use our best, but any method we need to stop drugs in this country. I cannot tell the gentleman how strongly I feel that he is exactly right.

Put the 82nd Airborne on maneuvers down there if you want to stop drugs. You have the safeguards in the bill to take care of the terrible tragedy we had before, but the tragedy is you cannot stop it in my hometown, and you cannot stop it in the State. We have got to stop it on the borders, and our military can do the job.

Mr. REYES. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) has 1½ minutes remaining. The gentleman from Ohio (Mr. TRAFICANT) has 6½ minutes remaining. The gentleman from Texas (Mr. REYES) has 5½ minutes remaining.

Mr. TRAFICANT. Mr. Chairman, parliamentary inquiry. Who has the right to close this debate?

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) has the right to close.

Mr. TRAFICANT. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. HASTERT).

Mr. BUYER. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois (Mr. HASTERT).

The CHAIRMAN. The gentleman from Illinois is recognized for 1½ minutes.

Mr. HASTERT. Mr. Chairman, I thank the gentleman from Ohio (Mr. TRAFICANT) and the gentleman from Indiana (Mr. BUYER) for yielding me the time.

Mr. Chairman, as you know, the national security of this country is threatened. It is not city to city. It is not State to State. But it is country to country.

We have 400 tons of cocaine, we have hundreds and hundreds of tons of marijuana, we have multiple tens of tons of heroin coming across our border every year. We lose 20,000 kids a year either to drugs or drug violence. If that is not national security, I do not know what it is.

If we lost 20,000 kids today in Bosnia or the Middle East, this country would be up in arms. We darn well better do everything we can, including putting our troops with civil authorities along the borders to stop the scourge of drugs.

We have to stand up. It is a matter of national will. It is a matter of national understanding and desire to solve a problem. I salute the gentleman from Ohio for his amendment. We need to stand behind him and make sure it becomes law.

Mr. REYES. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding to me.

I have a great deal of respect for the gentleman from Ohio (Mr. TRAFICANT). It seems to me both amendments seek the same objective, and that is to ensure that we successfully confront the scourge of drugs in America. I am for that. But, unlike the formulation of the gentleman from Georgia, I do not accept the premise that I, therefore, have to be against Reyes and for Traficant.

I am for Reyes because I think it is a more thoughtful way of accomplishing the objective. The President of the United States has put General McCaffrey in charge of our drug control effort. I do not think he is a wimp. I think he understands military security needs. I think he understands how to utilize the military. He is the former Commander in Chief of SOUTHCOM, as so many of you on this floor know. His advice is that we do not move in this direction at this time. I think we ought to respect that.

I would also say, on a different front, that I am concerned, as all of you are, about conserving the resources we have available to keep this Nation secure. This bill does not have enough money in it for the military. I know some of my colleagues think that is not the case. I would be for spending more money in this bill.

I agree with the gentleman from Missouri (Mr. SKELTON), and I congratulate him for his leadership, and I agree with the chairman of this committee who have joined together in a bipartisan way to say, America, this is not a time to pretend that our security interests have been secured. This is not a time to retreat from our commitment and our responsibilities. We may not like being the sole superpower in the world, but that which we are, we are; and we have responsibilities.

I am supportive of deployment in Bosnia. We have saved hundreds of thousands of lives, and we have saved millions of people from being dispossessed from their homes. That is not only a moral good, it is a strategic good.

I say to my friends that, although I am going to support the Reyes amendment, I, too, agree that we ought to make every effort possible to secure our borders from the scourge of drugs.

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) has 1¼ minutes remaining. The gentleman from Ohio (Mr. TRAFICANT) has 5½ minutes remaining. The gentleman from Texas (Mr. REYES) has 3½ minutes remaining.

Mr. REYES. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. EDWARDS), my good friend.

Mr. EDWARDS. Mr. Chairman, I live in Texas; frankly, much closer to the Mexican border than the gentleman from Ohio. While I have great respect for the gentleman's interest in fighting drugs, as a father of two small sons who will be raised in Texas near the Mexican border I will absolutely take a back seat to no one in this House in my interest in fighting drugs.

Let us be fair in this debate. This is not about who wants to fight drugs and who does not. This is about the best way to do it. There is a right way and a wrong way to accomplish our Nation's goals. The wrong way is to put thousands of U.S. soldiers on the Texas/Mexican border to make our State look like east Berlin during the Cold War.

The Army does not want this. Those of us who represent major Army installations, and I represent the largest populated Army installation in the world, Fort Hood, I can speak for thousands of Army soldiers in saying that they came into the Army to fight for our Nation's defense and wars, not to stand on the borders of our States in the fight against drugs, a noble cause, perhaps, but one that is inappropriate because of the Posse Comitatus.

What is the next step? I agree that fighting drunk driving fatalities is terribly important. Do we want to station thousands of soldiers on American roads and highways to fight drunk driving? Certainly not. For the same reason, we should not put thousands of Army soldiers on the border of Texas.

The fact is that it takes three soldiers for every one deployed, those to be trained, those deployed, and those who just recently deployed. We simply cannot afford in our national security interest to allow thousands of soldiers to be diverted to the Texas or any other border in our States.

Mr. REYES. Mr. Chairman, I only have one speaker remaining.

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) has the right to close.

Mr. TRAFICANT. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Ohio (Mr. TRAFICANT) has 5½ minutes remaining.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in order to vote on the Traficant amendment, you must defeat the Reyes amendment. Mr. REYES admitted when he started he opposes troops on the border. The buzzword in here is reconnaissance. Reconnaissance means to gather information, to scout, but do not engage. That is the difference.

I do not mandate anything. No one is doing anything. Someday maybe we will get a President that may want to. The gentleman from Texas (Mr. EDWARDS) does not want it. The gentleman from Texas (Mr. REYES) does not want it. Maybe the Pentagon does not want it.

The American people not only want it, they need it. How many more overdoses in cities across America? Well, 100 percent of all heroin and cocaine comes from overseas. All the Traficant amendment says, and this disguise of an amendment which parallels it, even though he does not want it, with the reconnaissance language, no engagement is just that.

We are not engaged in a war around here. This is a joke. I do not mandate it. But, by God, if there is an emergency and we are to do it, here is what the Traficant language says: They can be deployed. They must be trained. They can never be out unless it is a joint participatory law enforcement envoy with them who would make the arrest. But if they see a narcotic trafficker, they can tackle them. They can engage.

How much more are we going to protect? You said we have done a good job in Bosnia. We save lives. We have.

□ 1745

We saved lives in Korea. This is a national security issue. This is a national security bill. Is the border between Mexico and Canada the same as the border between Ohio and Pennsylvania? The border is a national security issue, and, by God, the Congress of the United States better start securing our borders.

Now, I know the business and the politics of this place, but I have got kids dying of overdose, and we are not doing a damn thing about it.

This is camouflaged language, and the only way you are going to have this vote, and maybe it will not become law this time; it took 14 years to change the burden of proof in a tax case, and it might take another 10. But you answer this question: How many more overdoses have we had? How many more kids getting shot and ripped? If we do not protect our borders, who is going to do it? Japan? How about China now?

I want a "no" vote on Reyes, and I want to send a message to everybody, the American people want the Congress of the United States to treat our borders as a national security checkpoint, and I want an admission from this Congress. We have had a lot of rhetoric and talk. We have failed. We do not even engage. The substitute does not even engage. This is about our war on drugs.

Now, I am not the most well-liked guy around here. I do not come with easy things. But, damn it, I am going to present the engagement of a debate on this, because we have been wrong. And if we need more money, appropriate it. I think we are real low in the military. And if they decide they want to have an emergency and send troops, they should come in here and ask for the money, and we should give them the money.

That is exactly what I stand for, very simple. This substitute, the man says he opposes deployment of troops, and he puts the buzz word "reconnaissance, do not engage." Well, if we are not going to engage, then why do not we just throw out the ball, give the needles, and keep jacking the arms of kids all over America.

I want the Committee on National Security not only to vote for this, I want you to fight like a junkyard dog to keep it in the final bill. And I hope to God we get some day a President that is going to utilize the option that the Congress of the United States would make available to him. I do not mandate it. I will just ensure if they do it, we do not have another shooting we had in Redford, Texas. And that is why we had it. The Congress was not engaged, and the Congress let a slipshod, throw-out-the-ball program end up taking a life. We did not throw out the FBI for Ruby Ridge, and we should not throw out the military presence on the border because of an accidental shooting.

My major concern is not immigration, which some people are demeaning me with; it is tons and tons of heroin and cocaine. For those who represent cities overrun with narcotics, you are talking about the source. Not treatment now, you are talking about the drugs coming in. And if we do not intercept them, folks, we do not have a program.

So I am going to ask in closing here, because I cannot come back now, to defeat the amendment of a substitute that does not engage. And if we are going to do this, allow us to engage under restricted parameters that meet Posse Comitatus and could also get us into all ports of entries to get at this madness. We can do that, we should do that. This is a national security issue.

Mr. REYES. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Texas is recognized for 2 minutes.

Mr. REYES. Mr. Chairman, we have heard a lot this afternoon about being proactive, being engaged, being pro-law enforcement. I would like to begin by clearing up a misconception on this issue.

Voting to send armed military personnel to the border and patrolling our Nation's borders is not a pro-enforcement vote. It does not mean that you are tough on crime; it does not mean that you are tough on drug traffickers or tough on illegal aliens.

If anyone wants to be tough on crime, wants to be tough on drug traffickers, then you need to come spend some time on the border. Come spend some time with me working with the Border Patrol. Come spend some time with me working with Customs, with DEA.

If you want to be tough on crime and you want to understand how tough it is to patrol the Nation's borders, come with me and see it for more than a couple of hours. Do not stand here in this House and talk about how tough we can be and how tough we should be and the kinds of things that we are or are not doing.

The truth is, all across the border, both on the southern and the northern border, we have got Border Patrol officers, we have got Customs officers, we have got Inspectors, we have got DEA, they are all engaged in enforcing this Nation's laws against both illegal immigration and narcotics trafficking.

The gentleman from Ohio, whom I respect, is concerned about drugs. I have repeatedly explained to him, 90 percent of the drugs coming into this country come through ports of entry, ports of entry that today are utilizing National Guard to help Customs inspect the trucks.

Now, let me give you a statistic. Out of every 100 trucks coming in from Mexico, only three get fully inspected by Customs. So I would ask the question, if you were a drug trafficker and you had those kinds of odds, would you send drugs through the river, or would you send them through the ports of entry in that way?

Mr. Chairman, I ask that Members not support sending military to the border, and I ask that you support my amendment.

Mr. BUYER. Mr. Chairman, I yield one minute to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Chairman, the gentleman from Ohio spoke about the war on drugs, and nobody can deny that that is happening in America today. But the front line of the war on drugs is just as much in Youngstown, Ohio, as it is in Nogales, Arizona; and I do not think any of us believe that the 82nd Airborne should be patrolling the streets of Youngstown, Ohio.

The fact is, we are already using military forces in a substantial way along the border. We have JTF–6 located in El Paso that coordinates all of the intelligence work that we are doing on the war on drugs. We have the Air Force operating the aerostats that look for the planes that would be crossing the border. We have Reserve engineering companies that are on active duty along the border building roads and fences every single day. We have the National Guard that is helping to load and unload trucks so they can be inspected along the border.

Mr. Chairman, I serve on two of the appropriations subcommittees that between them fund almost 100 percent of Federal law enforcement. We are struggling in those subcommittees to make sure that we have adequate resources to provide the Customs agents, the Border Patrol, the INF inspectors, the DEA people that we need. But we need specialized people trained to do the work. We do not need paratroopers, we do not need Abraham tanks, we do not need B–2 bombers. We need to have the kind of people that can do the work of interdicting drugs and protecting our borders. I urge Members to vote "no" on the Traficant amendment.

Mr. BUYER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to compliment the gentleman from Ohio for his passion and years of work on this measure. I just want to say to the gentleman that we have in place the DEA, Customs and Border Patrol. This is an issue of who are the proper agencies out there and whether they have the sufficient funds.

I respectfully disagree with the gentleman. I would urge the Members to vote for the Reyes amendment and against the gentleman's measure, respectfully.

The CHAIRMAN. It is now in order to consider the amendments printed in part C of House Report 105–544, which shall be considered in the following order:

Amendment No. 1, by the gentleman from Ohio (Mr. TRAFICANT); and Amendment No. 2, by the gentleman from Texas (Mr. REYES).

It is now in order to consider Amendment No. 1 printed in part C of House Report 105–544.

AMENDMENT NO. 1 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part C Amendment No. 1 offered by Mr. TRAFICANT:

At the end of subtitle C of title X (page 227, after line 14), insert the following new section:

SEC. 1023. ASSIGNMENT OF MEMBERS OF THE ARMED FORCES TO ASSIST IMMIGRATION AND NATURALIZATION SERVICE AND CUSTOMS SERVICE.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—Chapter 18 of title 10, United States Code, is amended by inserting after section 374 the following new section:

"§ 374a. Assignment of members to assist border patrol and control

"(a) ASSIGNMENT AUTHORIZED.—The Secretary of Defense may assign members of the armed forces to assist—

"(1) the Immigration and Naturalization Service in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States; and

"(2) the United States Customs Service in the inspection of cargo, vehicles, and aircraft at points of entry into the United States.

"(b) REQUEST FOR ASSIGNMENT.—The assignment of members of the armed forces under subsection (a) may only occur—

"(1) at the request of the Attorney General, in the case of an assignment to the Immigration and Naturalization Service; and

"(2) at the request of the Secretary of the Treasury, in the case of an assignment to the United States Customs Service.

"(c) TRAINING PROGRAM.—If the assignment of members of the armed forces is requested by the Attorney General or the Secretary of the Treasury, the Attorney General or the Secretary of the Treasury (as the case may be), together with the Secretary of Defense, shall establish a training program to ensure that members to be assigned receive general instruction regarding issues affecting law enforcement in the border areas in which the members will perform duties under the assignment. A member may not be deployed at a border location pursuant to an assignment under subsection (a) until the member has successfully completed the training program.

"(d) CONDITIONS ON USE.—(1) Whenever a member of the armed forces who is assigned under subsection (a) to assist the Immigration and Naturalization Service or the United States Customs Service is performing duties at a border location pursuant to the assignment, a civilian law enforcement officer from the agency concerned shall accompany the member.

"(2) Nothing in this section shall be construed to—

"(A) authorize a member assigned under subsection (a) to conduct a search, seizure, or other similar law enforcement activity or to make an arrest; and

"(B) supersede section 1385 of title 18 (popularly known as the 'Posse Comitatus Act').

"(e) NOTIFICATION REQUIREMENTS.—The Attorney General or the Secretary of the Treasury (as the case may be) shall notify the Governor of the State in which members of the armed forces are to be deployed pursuant to an assignment under subsection (a), and local governments in the deployment area, of the deployment of the members to assist the Immigration and Naturalization Service or the United States Customs Service (as the case may be) and the types of tasks to be performed by the members.

"(f) REIMBURSEMENT REQUIREMENT.—Section 377 of this title shall apply in the case of members of the armed forces assigned under subsection (a).

"(g) TERMINATION OF AUTHORITY.—No assignment may be made or continued under subsection (a) after September 30, 2001.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 374 the following new item:

"374a. Assignment of members to assist border patrol and control.".

Mr. REYES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from Ohio (Mr. TRAFICANT) and the gentleman from Texas (Mr. REYES) each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Chairman, I yield myself one minute.

To the distinguished chairman, you are advising this Congress to support troops on the border that cannot engage. You are telling them to vote for a substitute that does not engage, but puts troops on the border.

Mr. Chairman, the only difference with these two amendments is he says you can put them on the border, but they cannot engage. The Traficant amendment says, I do not limit them. They can tackle them, they can detain them, but they can only be there if the administration wants them, and they must be out there with a civilian law enforcement entity, and they cannot make the arrests, and it specifically states and cites the Posse Comitatus laws.

How many more overdoses will we have? Why does not the Congress just deploy troops to the border and then tell them, "Don't engage."

Beam me up, really. That states it. That is the drug policy of the United States of America.

Mr. REYES. Mr. Chairman, I yield 1½ minute to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, the Department of Defense does not support this, the Department of Justice does not support the Traficant amendment, the people who live along the border in Texas and parts of California do not support this amendment. And if you do not believe that, talk to the folks in Redford, Texas. When the military was deployed in Texas last year for that brief time they were out there, while we all talk here, talk about reducing drugs and the number of people who die in this country as a result of drug overdoses, the deaths that were occurring were not because of drug use so much as Ezequiel Hernandez, a U.S. citizen, dying at the hands of our own military. The first time since 1970 that someone who was an American citizen on American soil has perished at the hands of his own compatriot.

That is what happens when you put a force that is trained to kill on a border to do work that is not necessarily to kill, but to interdict.

If I were a Border Patrol agent watching this debate, I would say, "Thanks a lot. I go out every day and I try to stop drugs from coming into this country, and you are telling me I do not do a good job. And you are telling me my fellow companions that go out there every day, they do not do a good job, and we have to have now someone else not trained to do my job, do my job."

We have got to stop talking and give the resources, so the folks who do the work have the chance to do it. That is what we have to do. A lot of talk here, a lot of action on the border. Let us support the folks who do the action and stop the drugs from coming in, rather than just saying we are going to stop the drugs. That is what we need to do.

Mr. REYES. Mr. Chairman, I yield one minute to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I had not intended to become involved in this debate, but as ranking member of this committee, I must. I must look out for the military that we have, knowing the various missions that we have and, frankly, the lack of young men and young women that we have presently on duty.

Mr. Chairman, first we should look at the specialists, those that are involved in Border Patrol, the Customs, the National Guard. We already have military people of all services, including the Navy, working against the drug traffic.

This evidently involves brute force. The 82nd Airborne, my goodness, they are the first line of our defense. We have today too few young men and young women to cover the necessary missions that they have. We need more. We need more resources for the right specialists, and even to consider this, we need more resources for those in uniform.

PARLIAMENTARY INQUIRY

Mr. REYES. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. REYES. Mr. Chairman, who has the right to close?

The CHAIRMAN. The gentleman from Texas (Mr. REYES) has the right to close.

Mr. REYES. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Chairman, I was born and raised on the border, and I stand and I speak in favor of the Reyes substitute amendment and against the Traficant proposal.

I find it incredibly ironic that exactly one year ago today a Marine assisting the INS on our border shot and killed Ezequiel Hernandez, an 18-year-old U.S. citizen from Redford, Texas. Zeke, as he was called, had the misfortune of living on our southern border in an area known for drug trafficking, and he paid the price with his life.

□ 1800

I have to ask all of my colleagues here if they believe that that is fair. Ezequiel became a casualty of America's drug wars, the victim of an upsurge of violence along the 2,000-mile United States and Mexican border that has put residents and law enforcement officials on edge. Zeke is dead and there is nothing we can do to bring him back.

It is unfair to our fighting men and women, and it does harm to our national security. The military can provide assistance in numerous ways without this unwarranted diversion of troops. All of our budgets are tight. Putting troops on our borders is extremely costly, and it is a bad use of resources.

These funds could be better used training our Armed Forces for better war-fighting missions or ensuring Border Patrol agents are properly trained and have the resources needed to enforce our Nation's laws and to protect themselves.

Mr. Chairman, I urge each and every colleague to vote against the Traficant amendment and to support the Reyes amendment.

Mr. TRAFICANT. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from Ohio (Mr. TRAFICANT) has 4 minutes remaining, and the gentleman from Texas (Mr. REYES) has 1 minute remaining.

Mr. TRAFICANT. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. YOUNG), the distinguished chairman of the Appropriations Subcommittee on National Security.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding me the time. I am going to support with enthusiasm the Traficant amendment.

To lose the war against drugs is tragic, but to surrender to the war on drugs without even launching a fight is just inexcusable. I think that while it might be different than the policies that we have used in the past, I think that the gentleman's approach to this could certainly be one of the major efforts in stopping the terrible influx of drugs into the Nation and into the bodies of Americans.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume. I am proud to have the support of the distinguished chairman of the Appropriations Subcommittee on National Security.

Our military is underfunded. We have taken a meat ax to it. We have sent our military all over the world to protect the borders all over the world. We come down to very sophisticated, legalized types of debates when we talk about our own border.

Today's debate is not just about a nonengagement, status quo alternative that is not really even wanted; today's debate is not about Ezequiel Hernandes. Zeke is dead because Congress did not put in safeguards to the madness that exists.

Today's debate is about national security in our border. There was, in fact, a report issued by the National Defense Panel, and I want to share this with the gentleman from Florida (Mr. YOUNG), because I do not believe I have, and I want to quote: "The apparent ease of infiltration of our borders by drug smugglers illustrates a potentially significant problem. It suggests that terrorist cells armed with even nuclear, chemical and biological weapons, could also infiltrate our borders."

I have nothing against the Border Patrol. They need 25,000 more of them. When I call over there, if we had 25,000 more Border Patrol, they say we would have to hire anywhere between 6,000 and 9,500 support personnel to accommodate another 25,000.

I think it is time to reassess the issue of national security. I am not talking about New York and New Jersey, New Mexico and Texas, I am talking about every port of entry and I am talking about the border of our Nation, and if that is not a national security checkpoint, then we do not know what we are doing here.

Now, if, in fact, we are saying we are going to lose readiness, I do not mandate this, and we should not have to lose readiness protecting our borders, Congress. That is an insult. If we need money and the President would decide to do it, there is an appropriation process, there is a Committee on Appropriations.

Let me say one last thing. What I do is codify how this would happen if that Commander in Chief would so decide, and maybe this one may never do it, and maybe there are people in the House that might never want it. But how many more tragedies and deaths and tons of cocaine and heroin do we keep reading about before we act?

I offer a process. It is very imperative that we defeat the Reyes amendment. It does not engage and he does not even want troops. I am saddened that the gentleman from Indiana (Mr. BUYER), the authorizing chairman, would support a nonengagement deployment that costs the same amount of money, but would leave them handcuffed. I would ask that my colleagues support my amendment.

Mr. REYES. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from Texas (Mr. REYES) has 1 minute remaining.

Mr. REYES. Mr. Chairman, I yield myself the remainder of my time. Again, I rise in opposition to troops on the border, and in reference to the comments from my colleague from Ohio, I doubt that we in this body want troops at O'Hare, at JFK, LaGuardia, LAX, those are all ports of entry, and when we are talking about terrorism, I have been there. I have done it. Terrorists do not come in a specific profile, they come dressed like the gentleman from Ohio (Mr. TRAFICANT), they come dressed like me. Most importantly, they come through the ports of entry. They have nothing to do with the troops being out patrolling between those ports of entry.

Drug smugglers, border bandits. The last time I was in a gun fight was in March of 1995 with border bandits and drug smugglers. I know the issues, I know what is important, and I can tell my colleagues, military on the border is a bad idea.

If my colleagues doubt that, let me give an example. I was in Bosnia in January. Of about 28 soldiers that we had a town hall meeting with, 3 of them had told me that they had been on a drug mission in Texas and part of the problem that I see here is that when we are involving our troops doing police work, it is completely different from combat. I think it is a disservice to have them on the southern border of Texas today and 6 months from now have them in Bosnia, in real danger, and having to decide, is this combat or is this law enforcement?

The CHAIRMAN. The gentleman's time has expired. All time has expired.

It is now in order to consider the substitute amendment to the Traficant amendment, numbered 2 in part C of House Report 105–544.

AMENDMENT NO. 2 OFFERED BY MR. REYES AS A SUBSTITUTE FOR AMENDMENT NO. 1 OFFERED BY MR. TRAFICANT

Mr. REYES. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment offered as a substitute for the amendment is as follows:

Part C amendment No. 2 offered by Mr. Reyes as a substitute for amendment No. 1 offered by Mr. Traficant:

At the end of subtitle C of title X (page 227, after line 14), insert the following new section:

SEC. 1023. ASSIGNMENT OF MEMBERS OF THE ARMED FORCES TO ASSIST IMMIGRATION AND NATURALIZATION SERVICE AND CUSTOMS SERVICE.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—Chapter 18 of title 10, United States Code, is amended by inserting after section 374 the following new section:

"§ 374a. Assignment of members to assist border patrol and control

"(a) ASSIGNMENT AUTHORIZED.—The Secretary of Defense may assign members of the armed forces to conduct reconnaissance missions to assist—

"(1) the Immigration and Naturalization Service in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States; and

"(2) the United States Customs Service in the inspection of cargo, vehicles, and aircraft at points of entry into the United States.

"(b) WRITTEN REQUEST FOR ASSIGNMENT; ELEMENTS.—(1) The assignment of members of the armed forces under subsection (a) may only occur at the written request of the Attorney General, in the case of an assignment to the Immigration and Naturalization Service, and at the request of the Secretary of the Treasury, in the case of an assignment to the United States Customs Service.

"(2) The written request from the Attorney General or the Secretary of the Treasury (as the case may be) shall include—

"(A) a precise definition of which activities the members of the armed forces are to participate in, the duration of their mission, and the liability to be assumed by the Department of Defense upon assignment of armed forces personnel;

"(B) an examination of the beneficial and detrimental effect of these assignments on the military training, readiness levels, military preparedness, and overall combat effectiveness of the armed forces;

"(C) the estimated cost of such assignments to the Immigration and Naturalization Service or the United States Customs Service (as the case may be), as required under subsection (f); and

"(D) an examination of the possibility that members of the armed forces may inadvertently participate in law enforcement activities in violation of section 375 of this title and 1385 of title 18 (popularly known as the 'Posse Comitatus Act'), both of which prohibit direct participation of military personnel in civilian law enforcement activities.

"(c) TRAINING PROGRAM.—(1) If the assignment of members of the armed forces is requested by the Attorney General or the Secretary of the Treasury, the Attorney General or the Secretary of the Treasury (as the case may be), together with the Secretary of Defense, shall establish a training program to ensure that the members to be assigned are properly trained to deal with the unique and diverse situations that the members may face in performing their assignment along the international borders of the United States and major ports of entry.

"(2) A member may not be deployed at a border location pursuant to an assignment under subsection (a) until the member has successfully completed the training program.

"(d) CONDITIONS ON USE.—(1) Whenever a member of the armed forces who is assigned under subsection (a) to assist the Immigration and Naturalization Service or the United States Customs Service is performing duties at a border location pursuant to the assignment, a civilian law enforcement officer from the agency concerned shall accompany the member.

"(2) Nothing in this section shall be construed to—

"(A) authorize a member assigned under subsection (a) to conduct a search, seizure, or other similar law enforcement activity or to make an arrest; and

"(B) supersede section 1385 of title 18 (popularly known as the 'Posse Comitatus Act').

"(e) NOTIFICATION REQUIREMENTS.—The Attorney General or the Secretary of the Treasury (as the case may be) shall notify the Governor of the State in which members of the armed forces are to be deployed pursuant to an assignment under subsection (a), and local governments and local law enforcement agencies in the deployment area, of the deployment of the members to assist the Immigration and Naturalization Service or the United States Customs Service (as the case may be) and the types of reconnaissance missions to be performed by the members.

"(f) REIMBURSEMENT REQUIREMENT.—Section 377 of this title shall apply in the case of members of the armed forces assigned under subsection (a).

"(g) REPORTING REQUIREMENTS.—Upon the completion of each assignment of members of the armed forces under subsection (a), the Secretary of Defense shall submit to Congress a report containing—

"(1) an examination of the beneficial and detrimental effect of such assignments on the military training, readiness levels, military preparedness, and overall combat effectiveness of the armed forces;

"(2) an assessment of the value of this section; and

"(3) recommendations on the continued use of the authority provided under subsection (a).

"(h) TERMINATION OF AUTHORITY.—No assignment may be made or continued under subsection (a) after September 30, 2001.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 374 the following new item:

"374a. Assignment of members to assist border patrol and control.".

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from Texas (Mr. REYES), and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Chairman, I rise in support of the Reyes amendment and in opposition to the Traficant amendment, and I thank my friend from Ohio for raising this issue.

I live in the district that has the busiest border crossing in the world. We need the attention to this issue. We need the help of this Congress to fight those drugs. But I tell my colleagues, this is the wrong way to do it.

We should ask ourselves, I say to the gentleman (Mr. TRAFICANT) and those who spoke from Georgia and Illinois, why is it that the Members of this body who represent the 2 cities that are the biggest on the border, that have the busiest crossings on the border, and many other of the border Congress people oppose the Traficant amendment? We know something about the border. We know that this fight has to be increased. But we have constituents who we are bound to protect.

We believe, and we have evidence, and my colleagues have heard it today, that those who are trained in the best equipped, best disciplined, most efficient fighting machine in the world are not equipped or trained to fight this fight.

Our constituents are at risk with American troops at the border, and may I remind my colleagues, this is a friendly country. Nobody has said that yet. The last invasion I recall was maybe the Alamo, but this could do serious damage to that relationship. It could do serious damage to our constituents.

Yes, I say to the gentleman from Ohio, (Mr. TRAFICANT), let us fight this war, but let us not limit ourselves to the old and easy ideas of ending the scourge; let us go beyond the conventional solutions of this greater force, move toward more innovative proposals.

We who represent the places where the gentleman is concerned about are against the gentleman's amendment. I urge my colleagues to join us in defeating the Traficant amendment.

Mr. TRAFICANT. Mr. Chairman, I claim the time in opposition, and I yield myself 30 seconds.

The gentleman opposes the deployment of troops under the Traficant amendment, but supports the deployment of troops under the Reyes amendment, and they cannot engage. That is what the gentleman just said.

My constituents do not live on the border either, but 80 percent of the heroin and cocaine going into their arms and up their nose comes across that border.

Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we just heard it said that if we have our American armed services personnel on the border that it will harm American constituents. It is not the Army, Navy, Marines that I know of. They are not going to turn their guns and use their weapons on American constituents, and I probably misunderstood what I heard, but I did hear that it was going to harm our constituents. That is not the point.

The point is to keep drugs away from our constituents who are being harmed by drugs that are getting in.

Mr. Chairman, if one is in a burning building and one has to jump 5 stories, one does not say wait a minute to the fireman below with the safety net, are you from the right fire jurisdiction? I do not want to jump just to anybody.

Our school kids are being flooded with illegal drugs, and this is not about which uniform is going to protect our border; this is about protecting the children in the schoolyard, it is not about a turf war between the DEA or the INS or the Marines. It is about protecting children.

I am a member of the drug task force. We have been studying the problem for a long time. We cannot effectively fight drugs without a strong interdiction program, and much of that has to be done at our border. This is not about telling the INS they are not doing a good job, this is about saying, send in the cavalry, the war is a lot bigger than we thought it was, and we need to have everybody on deck, helping out to try and stop this, because it is killing our children. Forget which government agency is going to get the credit. Let us save our children and put kids first.

Mr. REYES. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in support of the Reyes amendment. Let us think about this for a minute. We have 2 borders in this country, one with Mexico and one with Canada. The shortest of the 2 is Mexico. We are suggesting here that that is the border we need to put troops on in a country that has been a great ally to the United States, and frankly, the border between California and Mexico and Texas and Mexico is the busiest commercial border in the world.

We are going to try to now slow down that border and put people that are untrained on that border, and it just does not make sense. Essentially it sends out a message that our country just wants to be fortress America. Most of America is surrounded by water. What about all the coastlines? Are we going to put the troops in my district in Pebble Beach in Florida and in West Palm Beach? People would not stand for that.

Besides that, the gentleman from Ohio (Mr. TRAFICANT) comes up here and says his amendment allows him to engage and yet we read in the amendment, here it says, "Nothing in this section shall be construed to authorize a member assigned under subsection (a) to conduct search, seizure or similar law enforcement activity or to make an arrest."

The Reyes amendment is a better one, please support it.

□ 1815

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say to the gentleman, the Traficant amendment lets them engage, to tackle and detain them for the law enforcement entity to arrest them.

Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Chairman, I will take 30 seconds, since I have to go get a BESTEA bill out on the floor so Members can go home tomorrow.

I ask Members, defeat the Reyes amendment, because it is status quo. Support the Traficant amendment because then we will do something about the drugs crossing these borders that are killing our children. Please defeat the amendment of my good friend, the gentleman from Texas (Mr. REYES). He is a great guy but the amendment is wrong. The amendment offered by the gentleman from Ohio (Mr. TRAFICANT) is right. It is a good amendment, vote for it.

Mr. TRAFICANT. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Chairman, I ask for opposition to the Reyes amendment. Let us not be so darned politically correct when it comes to the defense of this Nation.

Mr. Chairman, the drug importers and sellers are watching us today, and they will say, either we vote for the Reyes amendment, which maintains the status quo, or we vote for the Traficant, which will say we will do what we can at the border within the resources of this country to defend this country.

Those who are saying that Mexico might get upset, and let me challenge them, Mexico has been willing to do at the border what we have not. Everyone who votes against Mexico's certification ought to look at that vote. They have put the troops on the border, not because it is anti-American, but because it is antidrug.

Let us have the guts to be pro American and antidrug, and if Members want to vote against Mexico, they had better vote for this bill.

Mr. TRAFICANT. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in support of the Traficant amendment and oppose the Reyes amendment. The basic reason, in 1968 I was in the Marine Corps stationed in Quantico, Virginia. We came up here when there were D.C. riots after Martin Luther King, Junior, was assassinated.

We as the U.S. Marine Corps patrolled the streets, made sure people were not out looting and things like that. Whenever we came across a problem, we called the District of Columbia police. They were the ones that made the arrest. The point is, we operated with them in a very fluid manner. I think this is a possibility for the Southwest. Support the Traficant amendment.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, if Members support the Reyes amendment, they say we can put troops on the border, but they cannot be engaged. The gentleman from Texas (Mr. REYES) admitted when he started the debate he does not even want troops on the border. They are just trying to kill the Traficant amendment. We know that.

The Traficant amendment says they must be trained, they must be requested by the Attorney General, the Secretary of the Treasury, and the President; let us face it, specifically trained. They can never go out on a patrol by themselves. And yes, they cannot make the arrest. That is the protection constitutionally, the posse comitatus law. They can tackle that guy, they can return fire.

Narco terrorists have been shooting across the border at our people for quite a while. We have border patrol agents in hospitals being shot by narco terrorists, Mr. Chairman.

In order to have a vote on the Traficant amendment, Members must defeat the substitute. I am asking Members to do that, and give this House a chance to up-or-down vote on an amendment that we can fight for in that conference. Maybe right now there is not enough steam with it, but we are engaging in the debate for our constituents. I am asking Members to defeat the Reyes substitute and vote for the Traficant amendment.

Mr. REYES. Mr. Chairman, first, I would like to thank the gentleman from Ohio (Mr. TRAFICANT). I have spent some time today discussing this issue with him, and I appreciate the fact that this year I believe that the debate has been on a very high level, and about the real issues. I respect the fact that he is concerned about the amount of narcotics in this country. We are all concerned about that.

But where we disagree is where we think that in support for the Traficant amendment, where we think that we can stand here or vote for a proposal that could conceivably cost the lives of, yes, constituents.

Somebody made mention of questioning whether we are harming constituents. Ironically enough, one year ago today a young man in Redford, Texas, was shot and killed in a very unfortunate incident by a United States marine deployed on one of these patrols. If that is not harming a constituent, I do not know what is.

We talk about being members of the drug task force, we talk about drug strategy. There is only one way to defeat drugs. That is on three different levels. I know, because I spent 26½ years doing that, not being a member of a drug task force, or not being a part of this or a part of that, but doing the job, working with other Federal agencies, local and State agencies.

There are three ways we need to approach this problem. That is through education, that is through treatment, and yes, that is through enforcement. But enforcement does not include deploying the military into our communities along the border. The price is too high. The death of one young man in Redford, Texas, is too high. Stop and think, as parents, what Members would be feeling today one year ago, when that young man was shot and killed. It pours salt in a wound that has not even healed yet.

The gentleman from Ohio (Mr. TRAFICANT) makes mention of my opposition to troops on the border. Yes, I am opposed to troops on the border, but I think I am opposed to the troops on the border for the right reasons. I do not have to sound tough on drugs, I have been there. I have done that. I ask that Members support the Reyes amendment, and that they ultimately understand why we are opposed to sending troops to our borders.

Mr. ORTIZ. Mr. Chairman, I rise today to register my opposition to the Traficant amendment, by my friend from Ohio; and in support of the Reyes substitute which would better organize the scope of the military's role on the border.

As a veteran and a former law enforcement officer, I understand the unique perspectives of those who strive to keep the peace on the border, and the views of those in this Congress who believe we should put military resources we already have in a place they are needed. However, putting our soldiers on the border is a very bad idea.

For 50 years, the United States spent our money and our energy fighting a war against communism. In 1989, we saw the Berlin Wall finally come down.

It would be a mistake of enormous proportions if we erected our own wall, in the form of our military, along our southern border.

At a time when Mexico is our neighbor, friend and economic partner, it would be folly to station troops WHO ARE TRAINED TO KILL on the international border.

There is a huge difference between law enforcement officers trained to police the civilian population and the military troops who are trained to kill the enemy.

We are painfully aware that illegal immigrants and drugs are coming across the border. But the answer to that problem is to increase the Border Patrol staff along the border, not reinforce it with troops trained to shoot to kill.

Already there have been two incidents along the border in which the military engaged. As a result, one young U.S. citizen has died at the hands of another in pursuit of an ambiguous mission. We cannot change that; but what we do here today may well prevent it from happening again.

The reason I support trade treaties like NAFTA and GATT is that they address the economic foundations of this region by expanding economic and job opportunities.

We are better served as a nation if we address the economic motivation behind the movement of illegal immigrants and drugs, as opposed to positioning U.S. troops to be our cops at a friendly international border.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman from Ohio (Mr. TRAFICANT) will state his parliamentary inquiry.

Mr. TRAFICANT. Mr. Chairman, the first vote that will be taken will be taken on the Reyes substitute, am I correct?

The CHAIRMAN. The gentleman is correct.

The question is on the amendment offered by the gentleman from Texas (Mr. REYES) as a substitute for the amendment offered by the gentleman from Ohio (Mr. TRAFICANT).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. REYES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2(c) of rule XXIII, the Chair may reduce to not less than 5 minutes the time for any recorded vote that may be ordered on the Traficant amendment, without intervening business or debate.

The vote was taken by electronic device, and there were—ayes 179, noes 243, not voting 11, as follows:

[Roll No. 179]

AYES—179

Abercrombie
Ackerman
Allen
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonilla
Bonior
Borski
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Cannon
Capps
Cardin
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kolbe
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pastor
Paul
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Towns
Velázquez
Vento
Waxman
Weygand
Whitfield
Wise
Woolsey
Wynn

NOES—243

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bono
Boswell
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kucinich
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moakley
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Owens
Oxley
Packard
Pappas
Pascrell
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Wolf
Yates
Young (AK)
Young (FL)

NOT VOTING—11

Bateman
Foley
Gonzalez
Harman
Johnson, Sam
McDade
Meeks (NY)
Parker
Quinn
Torres
Wicker

☐ 1841

Mr. RIGGS, Mr. DAVIS of Virginia, Ms. RIVERS, Mr. DEUTSCH, and Mr. EHRLICH changed their vote from "aye" to "no."

Mr. JOHN, Ms. BROWN of Florida, and Mr. CANNON changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. TRAFICANT).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. TRAFICANT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 288, noes 132, not voting 13, as follows:

[Roll No. 180]

AYES—288

Aderholt
Andrews
Archer
Bachus
Baesler
Baker

Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Everett
Ewing
Fawell
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Jones
Kaptur
Kasich
Kelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Metcalf
Mica
Miller (CA)
Miller (FL)
Moakley
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanchez
Sandlin
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Strickland
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Wolf
Young (AK)
Young (FL)

NOES—132

Abercrombie
Ackerman
Allen
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonilla
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Buyer
Capps
Cardin
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Ehlers
Ehrlich
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Furse
Green
Gutierrez
Hamilton
Hastings (FL)
Hayworth
Hilliard
Hinchey
Hinojosa
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (WI)
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kolbe
Lampson
Lee
Lewis (GA)
Linder
Lofgren
Markey
Martinez
Matsui
McDermott
McGovern
McHale
McKinney
Meek (FL)
Menendez
Millender-McDonald
Minge
Mink
Mollohan
Morella
Nadler
Neal
Oberstar
Olver
Ortiz
Pastor
Paul
Payne
Pelosi
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Rush
Ryun
Sabo
Sanders
Sanford
Sawyer
Scott
Serrano
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stark
Stokes
Stump
Stupak
Thompson
Tierney
Velázquez
Vento
Waters
Watt (NC)
Waxman
Weygand
Whitfield
Wise
Woolsey
Wynn
Yates

NOT VOTING—13

Armey
Barrett (NE)
Bateman
Foley
Gonzalez
Harman
Johnson, Sam
McDade
Meeks (NY)
Parker
Quinn
Torres
Wicker

□ 1850

Mr. TOWNS changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 19 printed in part D of House Report 105-544.

AMENDMENT NO. 19 OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part D amendment No. 19 offered by Mr. GILMAN:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. NUCLEAR EXPORT REPORTING REQUIREMENT.

The Arms Export Control Act (22 U.S.C.-2751 et seq.) is amended by adding at the end the following new chapter:

"CHAPTER 11—NUCLEAR EXPORT REPORTING

"SEC. 111. REPORTS ON EXPORTS.

"(a) ACTIONS REQUIRING REPORTING.—Unless and until the conditions set forth in subsection (b) are met—

"(1) no license may be issued for the export of—

"(A) any production facility or utilization facility,

"(B) any source material or special nuclear material, or

"(C) any component, substance, or item that has been determined under section 109b. of the Atomic Energy Act of 1954 to be especially relevant from the standpoint of export control because of its significance for nuclear explosive purposes;

"(2) the United States shall not approve the retransfer of any facility, material, item, technical data, component, or substance described in paragraph (1); and

"(3) no authorization may be given under section 57b.(2) of the Atomic Energy Act of 1954 for any person to engage, directly or indirectly, in the production of special nuclear material.

"(b) CONDITIONS.—

"(1) IN GENERAL.—The conditions referred to in subsection (a) are the following:

"(A) Before the export, retransfer, or activity is approved, the appropriate agency shall transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report describing such export, retransfer, or activity and the basis for any proposed approval thereof, and, in the case of an authorization described in subsection (a)(3), the appropriate agency shall transmit to the Committee on Commerce of the House of Representatives a report describing the activity for which authorization is sought and the basis for any proposed approval thereof. Each report under this subparagraph report shall contain—

"(i) a detailed description of the proposed export, retransfer, or activity, as the case may be, including a brief description of the quantity, value, and capabilities of the export, retransfer, or activity;

"(ii) the name of each contractor expected to provide the proposed export, retransfer, or activity;

"(iii) an estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel expected to be needed in the recipient country to carry out the proposed export, retransfer, or activity; and;

"(iv) a description, including estimated value, from each contractor described in clause (ii) of any offset agreements proposed to be entered into in connection with such proposed export, retransfer, or activity (if known on the date of transmittal of the report), and the projected delivery dates and end user of the proposed export, retransfer, or activity; and

"(v) the extent to which the recipient country is in compliance with the conditions specified in paragraph (2) of section 129 of the Atomic Energy Act of 1954.

The report transmitted under this subparagraph shall be unclassified, unless the public disclosure thereof would be clearly detrimental to the security of the United States.

"(B) Unless the President determines that an emergency exists which requires immediate approval of the proposed export, retransfer, or activity in the national security interests of the United States, no such approval shall be given until at least 30 calendar days after Congress receives the report described in subparagraph (A), and shall not be approved then if Congress, within that 30-day period, enacts a joint resolution prohibiting the proposed export, retransfer, or activity. If the President determines that an emergency exists that requires immediate approval of the proposed export, retransfer, or activity in the national security interests of the United States, thus waiving the requirements of this paragraph, he shall submit in writing to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a detailed justification for his determination, including a description of the emergency circumstances that necessitate the immediate approval of the export, retransfer, or activity, and a discussion of the national security interests involved.

"(2) CONSIDERATION OF JOINT RESOLUTIONS IN THE SENATE.—Any joint resolution under paragraph (1)(B) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(c) PUBLICATION OF UNCLASSIFIED TEXT OF REPORTS.—The appropriate agency shall cause to be published in the Federal Register, upon transmittal to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, the full unclassified text of each report submitted pursuant to subsection (b)(1)(A).

"(d) EXCEPTIONS.—The requirements of this section shall not apply to—

"(1) any export, retransfer, or activity for which a general license or general authorization is granted by the appropriate agency; or

"(2) any export or retransfer to, or activity in, a country that is a member of the Organization for Economic Cooperation and Development.

"(e) DEFINITIONS.—As used in this section, the terms 'production facility', 'utilization facility', 'source material', and 'special nuclear material', have the meanings given those terms in section 11 of the Atomic Energy Act of 1954.".

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from New York (Mr. GILMAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this amendment which enhances the oversight role of Congress in the licensing of nuclear exports.

There is currently little to no congressional review of United States nuclear exports. Export licenses granted by the Nuclear Regulatory Commission are subject to advanced publication and the possibility for public comment, including a formal hearing. But there is no public transparency involved in these licenses granted by the Department of Energy.

More to the point, there is no role for congressional review of licensing decisions with regard to either agency except for subsequent arrangements for retransfers of nuclear fuel as outlined in section 131 of the Atomic Energy Act.

Accordingly, Mr. Chairman, this amendment establishes a process in law which is similar to that in existing law for the export of conventional arms. If the Congress has the right to review and potentially disapprove the sale of a grenade, then it should have the right to review and potentially disapprove the sale of a nuclear reactor.

Under this amendment, Mr. Chairman, the administration must submit a report to the Congress on proposed nuclear exports to certain countries. Those proposed exports include nuclear reactors or components, nuclear fuel or nuclear fuel components, or retransfer of such items in any technology transfer.

Once the appropriate committees in the Congress receive notice of the proposed export, they would have 30 calendar days to review the proposed sales and, if applicable, introduce and move through the Congress a resolution to disapprove the proposed sale.

Mr. Chairman, I would note that under the Arms Export Control Act, the Congress has never successfully enacted a resolution of disapproval over a President's objection to ban an arms sale. More importantly, however, is that under the AECA, and now under the procedures established by this amendment for nuclear exports, the Congress will have a mechanism to hold the appropriate executive branch agencies accountable for what exports are being approved. Such a formal mechanism would allow the Congress the ability to hold hearings and to gain information on proposed nuclear sales.

This amendment, Mr. Chairman, is purposely drawn to exclude nuclear exports to our Western European allies as well as other allied and friendly countries, including Japan, Australia and New Zealand. This amendment is also purposely drawn to exclude certain types of nuclear exports, including those requiring general licenses or general authorizations.

The purpose of narrowing the list of countries and the type of licenses that are captured under the amendment is to make certain that the Congress does not create an undue administrative burden on the executive branch or adversely affect our Nation's nuclear industry's ability to compete in a world market.

I fully recognize that there is a fundamental difference between a weapon and a nuclear reactor provided for the purposes of a civilian nuclear energy program. But, Mr. Chairman, there are real world examples in which U.S. nuclear technology has been provided for purportedly civilian nuclear programs but then diverted to military programs. I am thinking, of course, of India.

Mr. Chairman, I believe that this amendment will give us the ability to hold both China and Russia's feet to the fire with respect to their nuclear nonproliferation policies.

In the case of China, we want to make certain they do not backtrack on their pledge to halt new nuclear assistance to Iran, and that they maintain their commitments made pursuant to the U.S. nuclear cooperation agreement.

And with regard to Russia, we want to make certain that they meet their commitments pursuant to their membership in the Nuclear Suppliers Group and we want to examine closely their continued assistance to the Iranian nuclear program.

Mr. Chairman, I would like to point out that, in my view, had there been any knowledge in the Congress of the possibility of a missile technology transfer to China as a result of satellite exports, those exports would have been denied. This amendment gives the Congress the ability to give the necessary congressional scrutiny to nuclear exports, particularly those which may be of a proliferation risk.

Accordingly, Mr. Chairman, I urge my colleagues to support this amendment. It is a vote for enhanced congressional review of U.S. nuclear exports.

Mr. PICKETT. Mr. Chairman, I rise in opposition to the gentleman's amendment.

I do agree with many of his concerns about nuclear proliferation. I think Congress does need sufficient information to be able to accomplish its oversight responsibilities, but I believe we already have that.

□ 1900

I am concerned about the unintended consequences of this amendment which will be contrary to our Nation's best interest. This amendment is unnecessary. Applications for licenses to export nuclear facilities, fuel and controlled nuclear technology are already required to be made public immediately upon filing with the Nuclear Regulatory Commission. We do not need to add another layer of bureaucracy and complexity to this process.

Non-OECD countries like Taiwan, Thailand and others are planning the construction of several nuclear power facilities over the next decade. U.S. companies are on the cutting edge of these technologies and would be strong competitors for this business. This is business that could run into billions of dollars during the next 25 years.

No other nation prohibits its nuclear equipment suppliers from selling to potential customers, including China. Unlike their counterparts designed in Russia, U.S. light-water reactors are at very little risk for nuclear proliferation, and our reactor designs are not conducive to the production of highly enriched uranium, plutonium and other weapons-grade materials. We as a nation can rest easier knowing that reactors built in these non-OECD countries are not producing weapons materials.

Mr. Chairman, I believe that that amendment is overkill, that it will add a layer of bureaucracy and unnecessary time-consuming requirements to our suppliers, and I would urge a vote in opposition to the Gilman amendment.

The CHAIRMAN. The time of gentleman from New York (Mr. GILMAN) has expired. The gentleman from Virginia (Mr. PICKETT) has 3 minutes remaining.

Mr. PICKETT. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I thank the gentleman for yielding me the time.

In studying this amendment, we find that, quite frankly, it is unnecessary and that under the Atomic Energy Act no export license can be granted unless the United States Government has already negotiated a nuclear cooperation agreement with the nation receiving the equipment or the technology.

These agreements are reviewed by the Congress before their implementation, thereby eliminating the need for further congressional review with each individual license. Changing licensing procedures would reward India, imposing new restrictions on peaceful nuclear trade, especially with China at this time. It would harm U.S. China relations and would perversely reward India for detonating its nuclear device and punish China for India's misdeeds.

New licensing procedures that institute greater delay and greater certainty will leave China and other potential markets like Brazil to view U.S. vendors as unreliable suppliers.

Mr. PICKETT. Mr. Chairman, we have no further speakers on this amendment, and I yield back the balance of our time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. GILMAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentleman from New York (Mr. GILMAN) will be postponed.

It is now in order to consider Amendment No. 20 printed in part D of House Report 105–544.

AMENDMENT NO. 20 OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Part D amendment No. 20 offered by Mr. HUNTER:

At the end of title VIII (page 199, after line 25), insert the following new sections:

SEC. 804. INCREASE IN MICRO-PURCHASE THRESHOLD.

(a) INCREASE IN THRESHOLD.—Subsection (f) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428(e)) is amended by striking out “$2,500” and inserting in lieu thereof “$10,000”.

(b) EXEMPTION OF MICRO-PURCHASES FROM PROCUREMENT LAWS.—Subsection (b) of such section (41 U.S.C. 428(b)) is amended by striking “to section 15(j)” and all that follows through the end of such subsection and inserting in lieu thereof the following: “any provision of law that sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except for a provision of law that provides for criminal or civil penalties.”.

(c) DOMESTICALLY PRODUCED GOODS AND SERVICES.—In the implementation of the amendments made by this section through the Federal Acquisition Regulation (as required by section 32(e) of such Act), the Federal Acquisition Regulation shall require the head of each executive agency to ensure that procuring activities of that agency, in awarding a contract with a price not greater than the micro-purchase threshold, make every effort to purchase domestically produced goods and services.

(d) CONFORMING AMENDMENTS.—(1) Subsections (c) and (d) of such section (41 U.S.C. 428(c) and (d)) are each amended by striking “$2,500” and inserting in lieu thereof “the micro-purchase threshold”.

(2) Section 15(j)(1) of the Small Business Act (15 U.S.C. 644(j)(1)) is amended by striking “$2,500” and inserting in lieu thereof “the micro-purchase threshold (as defined in section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f))”.

SEC. 805. AUTHORITY FOR STATISTICAL SAMPLING TO VERIFY RECEIPT OF GOODS AND SERVICES.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by inserting at the end the following new section:

“§2410n. Statistical sampling procedures in the payment for goods and services

“(a) VERIFICATION AFTER PAYMENT.—Notwithstanding section 3324 of title 31, in making payments for goods or services, the Secretary may prescribe regulations that authorize verification, after payment, of receipt and acceptance of goods and services. Any such regulations shall prescribe the use of statistical sampling procedures for such verification. Such procedures shall be commensurate with the risk of loss to the Government.

“(b) PROTECTION OF PAYMENT OFFICIALS.—A disbursing or certifying official who carries out proper collection actions and relies on the procedures established pursuant to this section is not liable for losses to the Government resulting from the payment or certification of a voucher not audited specifically because of the use of such procedures.”.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 141 is amended by adding at the end the following new item:

“2410n. Statistical sampling procedures in the payment for goods and services.”.

MODIFICATION TO AMENDMENT NO. 20 OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer a modification to my amendment at the desk, and I ask unanimous consent that my amendment be considered in accordance with this modification.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Amendment, as modified, offered by Mr. HUNTER:

The amendment as modified is as follows:

At the end of title VIII (page 199, after line 25), insert the following new section:

SEC. 804. STUDY ON INCREASE IN MICRO-PURCHASE THRESHOLD.

(a) STUDY REQUIREMENT.—The Comptroller General, in consultation with the Administrator for Federal Procurement Policy, the Administrator of the Small Business Administration, and the Secretary of Defense, shall conduct a study to assess the impact of the current micro-purchase program and the advisability of increasing the micro-purchase threshold under section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) to $10,000.

(b) MATTERS COVERED.—(1) The assessment of the impact of the current micro-purchase program shall be based on purchase activity under the micro-purchase threshold conducted during the two-year period beginning on February 10, 1996 (the date of the enactment of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106)). The assessment shall include, to the extent practicable—

(A) a general breakdown of the supplies, services, and construction purchased; and

(B) an evaluation of the rate of small business participation, economic concentration, and competition.

(2) The assessment of the advisability of increasing the micro-purchase threshold shall include a comparison of any adverse impact of an increased micro-purchase threshold (such as on small business participation) to benefits (such as cost savings, including administrative cost savings, savings from a reduced acquisition workforce and logistics structure, and reduction in acquisition lead time).

(c) REPORT.—Not later than 30 days after completion of the study, the Comptroller General shall submit a report on the results of the study to—

(1) the Committees on Armed Services and on Small Business of the Senate; and

(2) the Committees on National Security and on Small Business of the House of Representatives.

Mr. HUNTER (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from California (Mr. HUNTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is simply a request for a study, and it is a study in an area where we are trying to make some headway in bringing the Department of Defense up to speed with domestic civilian practices; and, particularly, we are now undertaking a program whereby we use credit cards instead of lengthy contract orders to purchase items up to $2,500.

The Department of Defense and the Administration would like to move ahead and increase that limit from $2,500 to $10,000. There are a number of people in the small business community who have concern about that. They feel that there may be problems. They want to know what the impact is.

And so, we now have a modification to this amendment, which, for practical purposes, simply requests the GAO to study the issue and to give us what it believes to be the impacts on small business and also on savings that could accrue to the Department of Defense should we move that threshold from $2,500 to $10,000. That is the essence of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I ask unanimous consent to claim the time in opposition, as there is no Member opposing the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Chairman, I yield 2½ minutes to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Chairman, I wonder if the gentleman from California (Mr. HUNTER) would be kind enough to engage in a bit of a dialogue with me.

I am sure that he would agree that the question of bundling contracts is of some concern to our small business constituents and friends, and I wonder if the gentleman could comment with respect to the study and the question of bundling contracts.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. ABERCROMBIE. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, there is concern. Because when we move to a credit card system, the government buyers are under an obligation to try to look at the entire market, the entire array of sellers to the best of their ability. They are required to try to be good purchasers, to get the best value. That means, in most cases, the lowest price. But not always.

And there is always a fear in the small business community that we are going to have a buyer who is going to choose their favorite seller, if you will, or their favorite company and simply move contracts that way. And so, small businesses are always concerned about this.

On the other side, sometimes we end up, because we have a very complicated system of contracting, we end up paying $500 for $100 desks after we have gone through all the competitions and all the things that attend that and, ultimately, write a fairly complicated contract.

So the idea is let us give our buyers for the small amounts for the small goods, let us assign them a certain element of discretion and presume that they are going to be honest and have good judgment, and that when they go down to buy office equipment and other things that come up under the $2,500 threshold, that they are going to use good judgment and that they are going to use the small business community in a practical way and they are going to spread these purchases around. And that means that we pay $100 for the $100 desk instead of $500.

So there is a certain fear on one side; and, on the other hand, there is a certain efficiency to be gained. So this simply asks the question and requires a study as to what the results will be.

Mr. ABERCROMBIE. Mr. Chairman, reclaiming my time, I appreciate that. But the intent here, and I guess I just want to make the intent clear for those who may be doing the study, the intent here is to also look at such questions of working something up so we get a series of $10,000 or 10,000 $100-contracts that could go to a fairly large corporation and cut out otherwise legitimate small business.

I know that is not the intent of the gentleman from California (Mr. HUNTER). But we do not want to have a study that ends up in that fashion.

Mr. HUNTER. Mr. Chairman, if the gentleman would further yield, first, this does not affect or change the ability of the government to bundle contracts. But we want the GAO to look at that also, the idea of loading up or bundling contracts.

Mr. SKELTON. Mr. Chairman, we have reviewed the amendment on this side, and we have no objection.

Mrs. MALONEY of New York. Mr. Chairman. I wish to commend the gentleman from California (Mr. HUNTER) for revising his amendment regarding the Micro-Purchase Threshold. I support his amendment to provide for a study of implementation of the Micro-Purchases procedures that were enacted as part of the Federal Acquisition Streamlining Act of 1994 (FASA).

During the consideration of FASA, the small business community had voiced deep concerns about the contracting procedures that applicable to Micro-Purchases, those purchases less than $2,500 in value. They could be awarded without any competition. Of even greater concern, Micro-Purchases were exempt from the long-established requirements of the Small Business Act that initially reserved small purchases for competition among small firms.

Purchases below the $2,500 Micro-Purchase Threshold also represented a very substantial pool of potential business highly suitable for small firms. Procurements below $2,500 are estimated to represent approximately 85% of the procurement actions each year, which totalled some $15 million in fiscal year 1997. In dollar terms, procurement opportunities below $2,500 total approximately $4 billion.

The Department of Defense has been advocating increasing the Micro-Purchase Threshold. Such action should not be taken until we know the impact of Micro-Purchase procedures at the current $2,500 threshold. To do otherwise would do a disservice to the small business community.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from California (Mr. HUNTER) has 4 minutes remaining.

Mr. HUNTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from California (Mr. HUNTER).

The amendment, as modified, was agreed to.

The CHAIRMAN. It is now in order to consider the amendment offered by the gentleman from Mississippi (Mr. TAYLOR) considered as Amendment No. 39 printed in part D of House Report 105–544.

AMENDMENT NO. 39 OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part D amendment No. 39 offered by Mr. TAYLOR of Mississippi:

At the end of subtitle C of title X (page 227, after line 14), insert the following new section:

SEC. 1023. RANDOM DRUG TESTING OF DEPARTMENT OF DEFENSE EMPLOYEES.

(a) EXPANSION OF EXISTING PROGRAM.—(1) Chapter 81 of title 10, United States Code, is amended by inserting after section 1581 the following new section:

“§ 1582. Random testing of employees for use of illegal drugs

“(a) PROGRAM REQUIRED.—The Secretary of Defense shall expand the drug testing program required for civilian employees of the Department of Defense by Executive Order 12564 (51 Fed. Reg. 32889; September 15, 1986) to include the random testing on a controlled and monitored basis of all such employees for the use of illegal drugs.

“(b) TESTING PROCEDURES AND PERSONNEL ACTIONS.—The requirements of Executive Order 12564 regarding drug testing procedures and the personnel actions to be taken with respect to any employee who is found to use illegal drugs shall apply to the expanded drug testing program required by this section.

“(c) NOTIFICATION TO NEW EMPLOYEES.—The Secretary of Defense shall notify persons employed after the date of the enactment of this section that, as a condition of employment by the Department of Defense, the person may be required to submit to mandatory random drug testing under the expanded drug testing program required by this section.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1581 the following new item:

“1582. Random testing of employees for use of illegal drugs.”.

(b) FUNDING.—No additional funds are authorized to be appropriated on account of the amendment made by subsection (a). The Secretary of Defense shall carry out the expanded drug testing program for civilian employees of the Department of Defense under section 383 of title 10, United States Code, as added by subsection (a), using amounts otherwise provided for the program.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from Mississippi (Mr. TAYLOR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as was pointed out in the recent dialogue with the gentleman from Ohio (Mr. TRAFICANT) and the gentleman from Texas (Mr. REYES), there is a war on drugs going on, and our Nation is losing.

Mr. Chairman, the point that would I like to make with this amendment and the law that I would like to change with this amendment would allow our Department of Defense to test all of its employees for drugs and, in the future, tell future hires that, as a requirement of working for the Department of Defense, that they will submit to random drug testing.

In February, I went to Colombia, went to places like Ibague, went to places likes San Jose, where American pilots are flying crop dusters and being shot at by Colombian guerillas and Colombian narco-traffickers.

We have American A-teams on the ground in Colombia training the Colombian Lance Arrows, their word for Ranger. We have American Seals training their navy. We have Americans in Iquitos, Peru, right across the Amazon River, training their riverine operations. It is a real war. It is a real war with real casualties.

The week after I left Colombia, the Lance Arrows that I had the privilege of visiting went out, 125 of them. Eighteen of them returned. The remainder were either killed or captured.

The point I am trying to make is it does not make much sense to tell our uniformed personnel that work for the Department of Defense that they are subject to drug testing but the civilian who does almost the same job as a mechanic, as a technician who is working right next to him, is not.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I applaud the gentleman from Mississippi (Mr. TAYLOR) and will concur, and I intend to vote for his amendment.

Mr. TAYLOR of Mississippi. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon (Mr. DEFAZIO).

□ 1915

(Mr. DEFAZIO asked and was given permission to speak out of order.)

TRAGEDY AT THURSTON HIGH SCHOOL IN SPRINGFIELD, OREGON

Mr. DEFAZIO. Mr. Chairman, a tragic event has occurred in my congressional district, in my hometown; and I am requesting a leave of absence for Friday and the balance of the week, as the eyes of the country turn toward my hometown of Springfield where, early this morning, a number of students at Thurston High School were shot by a fellow student.

Our hearts and prayers go out to the victims and their families. At this time, many, many questions remain about the circumstances of this horrible tragedy. But what we do know is that a terrible tragedy has occurred. I need to return to Oregon to be with my family and my community in this time of sorrow.

Mr. TAYLOR of Mississippi. Mr. Chairman, I ask unanimous consent to use the 5 minutes in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. The gentleman from Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have a drug problem. As a State Senator of Mississippi, I am real proud of the fact that I helped pass the toughest drug law in America. In Mississippi, if you sell two ounces of cocaine, two ounces of heroin, 100 pills, 10 pounds of marijuana, in one sale or intent or a series of sales over the period of 1 year, you are caught and convicted, you spend the rest of your life in the Mississippi State Penitentiary.

But it is not enough, because we have this disconnect in our country where we say, if you are a dealer, you are bad; but if you use it, it is okay.

I often wonder how many kids here on Capitol Hill use drugs. They work for our Nation. They should not. I would hope at some point during this Congress we will see to it that everyone who works for this Nation, as a requirement of working for this Nation, will subject themselves to drug tests.

But I cannot do that on this bill. I can, however, require that we take a step in that direction and say if you are going to work for our Nation's Department of Defense, if you are committing your life to defending our Nation or working to support those people who defend our Nation, you are not going to use drugs. You are not going to take your Federal paycheck and break the law and use illegal drugs. That is what we are asking to do.

I do not think there is any opposition to this. I want to thank the chairman for allowing this amendment to come to the floor. I want to thank our ranking member who went to bat with the Committee on Rules to see to it that this amendment was made in order.

I want to thank the Committee on Rules. I think they made a mistake when they voted not to bring it to the floor, but they admitted their mistake and saw to it that it could be voted on. It takes a big man to admit he made a mistake.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. TAYLOR).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider the amendment of the gentleman from California (Mr. THOMAS) considered as amendment number 41 printed in part D of House Report 105-544.

AMENDMENT NO. 41 OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part D amendment No. 41 made in order by an order of the House of May 21, 1998, offered by Mr. THOMAS:

At the end of title XXXIV (page 373, after line 2), insert the following new section:

SEC. 3408. TREATMENT OF STATE OF CALIFORNIA CLAIM REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.

Section 3415(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 10 U.S.C. 7420 note) is amended by striking out the first sentence and inserting in lieu thereof the following: "Amounts in the contingent fund shall be available for paying a claim described in subsection (a) in accordance with the terms of, and the payment schedule contained in, the Settlement Agreement entered into between the State of California and the Department of Energy, dated October 11, 1996, and supplemented on December 10, 1997. The Secretary shall modify the Settlement Agreement to negate the requirements of the Settlement Agreement with respect to the request for and appropriation of funds.".

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from California (Mr. THOMAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I certainly do want to thank the chairman of the Committee on National Security and the ranking member, respectively the gentleman from South Carolina (Mr. SPENCE) and the gentleman from Missouri (Mr. SKELTON), first of all for their courtesy in allowing me to discuss the amendment at this time. Actually, I have to go back. The original genesis of this amendment is once again thanking them; only at that time they were known as the Armed Services Committee and the subcommittee that consists of the gentleman from Virginia (Mr BATEMAN) and the gentleman from Virginia (Mr. SISISKY).

It involved the sale of the naval petroleum reserve known as Elk Hills. In 1974 President Ford ordered oil produced at this naval petroleum reserve at its maximum efficient rate. For more than two decades, oil was produced commercially, but it was a government-held property. We always wanted to try to sell it if it was going to be used to simply produce oil to sell. But as I was wont to say at one time, you can shear a sheep every year, and you can slaughter it only once.

It was producing more than $1 billion a year of revenue for more than a decade. But the gentleman from Virginia put together a sale and bidding procedure which not only succeeded in reaching the CBO's estimate of a $2.6 billion sale, but, in fact, sold for $3.65 billion.

One of the reasons we think it sold at that price was that a lien on land held by State teachers, given to the teachers during the land grant college period, and the tracts of land being incorporated in the Elk Hills area, they never received a penny off the land. It was a Federal Reserve. But when it was going to be released for sale, they certainly were going to claim a revenue stream from that land.

The solution put in the legislation in the then Armed Services bill was to take 9 percent of the sales price, whatever it was, and provide it to the State Teachers Retirement Fund. It was put in language that said pursuant to an appropriation.

Elk Hills has been sold, $3.65 billion. Almost $326 million is held in reserve to be doled out over the years. In the wisdom of a number of people around here, we came to the conclusion of why not just give it to them. The money is sitting there. There is no reason to dole it out. Certainly $1 billion more than was planned would cover the cost of moving these dollars.

So I am indebted, once again, to the now Committee on National Security for their willingness to accommodate the ability to pay the State teachers once out of a fund that is now reserved. That is the sum and substance of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, as there is no Member to claim the time in opposition, I ask unanimous consent to claim the time.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Chairman, I hereby yield back the balance of my time.

Mr. THOMAS. Mr. Chairman, after having once again thanked the Committee on National Security, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. THOMAS).

The amendment was agreed to.

AMENDMENT D–19 OFFERED BY MR. GILMAN.

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. GILMAN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 405, noes 9, not voting 19, as follows:

[Roll No. 181]

AYES—405

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Filner
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—9

Brown (CA)
Dooley
Fazio
Frank (MA)
McIntyre
Pickett
Sawyer
Skelton
Tauscher

NOT VOTING—19

Bateman
Blumenauer
Coyne
Dixon
Foley
Gonzalez
Harman
Johnson, Sam
McDade
Meeks (NY)
Oxley
Parker
Quinn
Skaggs
Spratt
Taylor (NC)
Torres
Wicker
Yates

□ 1942

Messrs. FAZIO of California, FRANK of Massachusetts and SAWYER changed their vote from "aye" to "no."

Messrs. SISISKY, ADAM SMITH of Washington and RANGEL and Mrs. CAPPS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Ms. DEGETTE. Mr. Chairman, I rise today in opposition to H.R. 3616, the Department of Defense Authorization Act for FY 99, because it contains two egregious provisions which adversely affect women in the military—allowing gender segregated training and housing facilities, and banning access to health care clinics overseas for a full range of health care services.

However, I am in support of the bill's authorization of $655 million to aid in the cleanup and closure of the Rocky Flats nuclear site near Denver. This total represents an additional $40 million to President Clinton's request, and I commend the Committee on National Security for its vision and leadership on this important project.

Yet the provisions which attacks on the rights of women in the military are needless poison pills to this very important and necessary authorization bill. Every woman in America has a constitutional right to have an abortion. The anti-choice movement in Congress has been relentless in its effort to overturn this constitutional right. Additionally, segregating women from men will not improve discipline, training, or effectiveness. In times of war, women and men fight together, not separately. In fact, our military opposes this initiative, yet the House of Representatives has approved this unprecedented initiative.

Consequently, I oppose this legislation in its current form and I urge my colleagues to think about the message they are sending to all American women when they take away these rights of military women. I hope that the conference report will return to the House without these two meanspirited and harmful provisions.

Mr. HOYER. Mr. Chairman, I rise in support of this bill and would like to commend the work of both the Chairman, Mr. SPENCE and the Ranking Member, Mr. SKELTON. I believe the priorities which they have established in this bill are good for both our Nation and for our Nation's defense.

We are preparing to enter the 14th consecutive year of real decline in defense spending. I am one of those who believe that we cannot continue to put the military at risk. The funding constraints imposed by the balanced budget agreement make our choices more difficult. However, we still must ensure that other priorities do not drive us away from one of the primary responsibilities the Congress has, and that is ensuring for the Nation's defense.

We all realize that the United States holds a unique position in the world. People all over the globe look to us for security and stability. It may not be fair, but it is the reality. While our Military Forces are shrinking, operations around the world are increasing. The increased pace of peacekeeping, humanitarian relief, and other contingency operations is forcing our Armed Forces to do more with less. However, doing more with less is not always conducive with ensuring the long term readiness of our Armed Services. Our troops serving today in Bosnia are just one of the recent examples of our global leadership and responsibility. I continue to support our deployment of troops in Bosnia and believe the work they are accomplishing there makes America a better place and the world a safer one.

I say to both the Chairman and the Ranking Member that their priorities are right for our Nation, we need to stand up for those priorities and pursue them.

I support this bill to authorize $270 billion for critical defense needs in fiscal year 1999 and want to commend the committee for what is in the bill before us: a 3.6% military pay raise; the $2.7 billion for procurement of 27 FA–18 E/F's; $36.2 billion for continued research and development, which includes $456 million for the joint strike fighter; the continued support for the important mission of the special operations command; the $2 billion to purchase the second new attack submarine. The $285 million for 30 Blackhawk helicopters, 18 of which are for the Army National Guard; and the procurement of 8 V–22 Ospreys for the Marine Corps.

I also want to commend Chairman HEFLEY and Ranking Member ORTIZ for their work on authorizing $8.2 billion for military construction.

I commend the Committee for funding these DOD and Navy priorities and for addressing the needs of our men and women in the Armed Services.

Mr. QUINN. Mr. Chairman, although I am unable to cast my vote for this legislation, I am pleased to take this opportunity to voice my support for H.R. 3616, the Fiscal Year 1999 National Defense Authorization Act.

For the fourth consecutive year, the Department of Defense's modernization budget fell far short of the $60 billion that former Chairman of the Joint Chiefs General Shalikashvili testified the military needs each year to update its aging force. Even more disturbing is the continuing trend of budget requests for modernization that are billions less than they were forecast to be during the previous year.

The research and development situation in the United States military looks very bleak as well. Spending for research and development accounts are forecasted to fall by at least fourteen percent.

This year's overall budget request represents the lowest real level of U.S. defense spending since before the Korean War. Clearly, the practice of the United States military increasing its number of missions while resources decline will continue unless the defense budget is increased.

H.R. 3616, while consistent with the Balanced Budget Act, continues the 14-year trend of real decline in defense spending. I commend the National Security Committee for working within these constraints to focus the limited resources available on addressing readiness, quality of life, and modernization shortfalls. This bill provides the Department of Defense with some of the tools necessary to better recruit and retain quality personnel, better train them to the highest possible standards, and better equip them with advanced military technology while trying to provide for an improved quality of life.

The high pace of operations continues unabated with attendant negative impacts on military quality of life. America's military forces are under severe stress.

H.R. 3616 takes proactive measures to directly reduce the stress and would provide military personnel a 3.6 percent pay raise—.5 percent more than that requested in the budget—to halt the growing pay gap. In addition, the bill limits the Department of Defense's ability to accelerate military personnel cuts and add $74 million to help the Army maintain adequate manpower levels.

Among many other important provisions, the bill also would mandate that burial honors for all veterans be provided on request after October 1999 and increase funding for the National Guard Youth Challenge Program to $50 million.

Mr. CHAMBLISS. Mr. Chairman, I rise to congratulate Chairman SPENCE and Ranking Member SKELTON for bringing forward a good bill in a tough year. At a time when we are asking our armed services to do more with less, this bill represents the most balanced approach to our military priorities.

I would like to take a few moments to highlight a few issues in this legislation that I have had the privilege to work on over the last several months.

F–22

I am very concerned about recent GAO recommendations that would have us further delay the F–22. This program has experienced too many delays and too many reductions in planned buy. Specifically, the GAO has expressed concern about lack of test hours conducted to date. The truth is this program is meeting or exceeding all performance targets set by the USAF, and the Air Force is fully satisfied with the quality of data derived from the test hours that have been conducted.

Furthermore, last year this Congress imposed a very restrictive, unprecedented cost cap on the contractor, a cap that set in stone the cost of this program over a planned buy of nearly 340 aircraft. I am pleased to report that the Air Force and contractor are meeting the terms of those caps while also meeting established performance requirements. Now is not the time to throw this program into further disarray.

I am also pleased to report that Raptor 01, our first test aircraft, flew again just two days ago at Edwards AFB. This fully successful flight lasted nearly two hours. The bottom line is that this bill provides for a fully funded program that is absolutely necessary to ensuring air dominance for our warfighters into the 21st century. I commend the Committee on its work in this area.

JSTARS

Over the last decade, DoD has well-established this nation's ground reconnaissance need. That need is translated into 19 fully operational JointSTARS aircraft. Today, DoD is ignoring that stated need for 19 aircraft, and it has stopped procurement at 13.

This bill makes a commitment for long-lead funding for 2 of the necessary 6 additional aircraft. In the area of intelligence, there is no room for compromise. There is no substitute. And the bottom line is that JSTARS is absolutely necessary to meeting our land reconnaissance needs in the 21st century.

MWR

Morale, Welfare and Recreation is an issue that does not receive much attention in such a massive bill, but one that is very important to our troops in the field—it relates to their quality of life.

I am proud of the good work in this bill, under the leadership of Chairman MCHUGH, work that will translate directly into a better standard of living for our men and women in the armed services.

Tough decisions were made, decisions that require we balance many interests, but decisions that ultimately must weigh heavily in favor of the military men and women who have committed themselves to us.

Specifically, the Panel authorized the expansion of commissary benefits to Reserves from 12 to 24 days. Today we are asking more and more of our guard and reserve forces. It is only fair that they are more integrated into our military community, which includes increased access to the "military benefit."

In addition, the Panel worked hard to protect the military resale system. Notwithstanding the hard work of DoD, the Panel remains concerned about unsupported initiatives that may do more harm than good to our resale system.

Finally, I am pleased to report that the Panel recommended a provision that will require that DoD privately contract for a survey of military resale consumers to determine their preferences on key issues facing the resale system. A key item to be surveyed is the desirability of the availability of beer and wine products in military commissary stores. The Panel authorized such sale by DoD. It is the opinion of many members of the Panel that convenience to the military consumer must come first. I look forward to the results of such a survey.

PAY RAISE

Last, but not least, I am proud to observe that this bill includes a 3.6 percent pay raise for our military members. We must invest in our military and continue to draw the most talented young people in our nation. Today we face very serious recruiting and retention issues in all of our services. It is my hope that this pay raise will begin to show our commitment to the hard work our military does every day.

MORE FUNDING

Mr. Chairman, we have done the best with what we have been given. However, it is not enough. The world continues to be a dangerous place, and recent developments in India and Pakistan bring this point home. As Chairman WELDON often notes, we are facing a train wreck around 2001 and 2002—a train wreck that will require tradeoffs that will not be in the national security interest of this nation. We must have more resources, as we must never grow complacent with our role as the world's superpower. I vow to work together with my colleagues to continue to press for adequate funding of our military priorities. Until that day, I am pleased to report that this bill is a fair balance of our priorities.

Mr. GREENWOOD. Mr. Chairman, I rise today in support of the FY 1999 Defense Authorization Act and in appreciation of the inclusion of a provision, brought to my attention by my constituent, Mr. James Biscardi of Quakertown, Pennsylvania. Without his continued dedication, the men of the Navy Armed Guard, who served with honor, dignity, and courage, would still be awaiting their deserved congressional recognition.

In the beginning of the 104th Congress, Mr. Biscardi, a true American Patriot, contacted my office seeking recognition for those who served in the Navy Armed Guard. By working with him, I drafted legislation, now part of the FY 1999 Defense Authorization Act, that recognizes the outstanding service of the members of the Armed Guard during World Wars I and II and thanks the surviving crewmen of the Armed Guard for their service.

The Armed Guard was created as a branch of the United States Navy during World War I to protect the merchant ships of the United States by maintaining weapons on 384 merchant ships. During World War II, the Armed Guard was reactivated as a response to the German strategy of attacking and sinking merchant ships, even those of neutral countries, which appeared to be bringing goods to the Allied Nations in Europe. Over 144,900 men served in the Armed Guard on 6,236 merchant ships during World War II. Nearly 2,000 of these men made the supreme sacrifice, and gave their lives in defense of their country.

The dedication of, and sacrifices made, by the men of the Armed Guard deserve the recognition and gratitude of the United States. Through the passage of the Defense Authorization bill, the United States Congress will be acknowledging the outstanding service of the 144,970 men who served in the Armed Guard during World War II, and the men who served in World War I. These men have earned a heartfelt thanks from the country that they so gallantly fought to protect.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. CAMP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes, pursuant to House Resolution 441, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1945

MOTION TO RECOMMIT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. LAHOOD). Is the gentleman opposed to the bill?

Mr. FRANK of Massachusetts. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FRANK of Massachusetts moves that the bill be recommitted to the Committee on National Security with instructions to report it back forthwith with the following amendment:

At the end of title XII (page , after line), insert the following new section:

SEC. . WITHDRAWAL OF UNITED STATES ARMED FORCES FROM THE REPUBLIC OF BOSNIA AND HERZEGOVINA.

(a) LIMITATION.—No funds appropriated or otherwise made available for the Department of Defense for fiscal year 1999 may be used for the deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina after December 31, 1998, unless a law has been enacted that explicitly authorizes the deployment of such Armed Forces.

(b) EXCEPTIONS.—The limitation contained in subsection (a) shall not apply with respect to—

(1) the deployment of United States Armed Forces for the express purpose of ensuring the safe withdrawal of such Armed Forces from the Republic of Bosnia and Herzegovina;

(2) a limited number of members of United States Armed Forces sufficient only to protect United States diplomatic facilities and citizens; or

(3) noncombatant personnel to advise the North Atlantic Treaty Organization (NATO) Commander in the Republic of Bosnia and Herzegovina.

Mr. SPENCE. Mr. Speaker, I reserve a point of order.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. SPENCE) reserves a point of order.

The gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I apologize to the House for intruding at this late date, but it did seem to me, having the elected representatives of the American people vote on whether or not American ground troops ought to stay in Bosnia until infinity was a reasonable use of about 20 minutes.

It is not ideal to do it this way, but the gentleman from California (Mr. CAMPBELL), the gentleman from California (Mr. CONDIT), the gentleman from Ohio (Mr. KASICH), the gentleman from Tennessee (Mr. HILLEARY), the gentleman from New York (Mr. SERRANO) and I submitted this germane amendment in a timely fashion to the Committee on Rules and we were told we could not debate it. My colleagues may not realize how important the issues have been that we have been dealing with, because they were so important, the ones we have been debating for the last couple of days, that we did not have a chance to vote on Bosnia.

We are told that we are spread too thin. A number of Members have complained of the President's dispensing the troops to Bosnia. Being heard here today is important, because a lot of Members here have been heard on the subject of Bosnia. I am delighted to give them a chance to put their voting cards where their mouths have been.

We are here faced with an amendment that says the troops have to leave by December 31. That is plenty of time. It does allow for troops afterwards, if they are needed, to pull out in an orderly fashion. This is a correctly drawn amendment by the gentleman from California. It even says, because we were told, well, later we will come in with the right conditions. This amendment says, if a subsequent bill comes forward, then that will cover it. All this says is, we will not by silence acquiesce in the indefinite extension of that mission.

This is not Mission Creep, this is Mission Rush. This is Mission Hurdle, and we are all allowing it to happen if we do not vote for this.

Now, I believe it was a good thing that the world, and the U.S. leading, stopped people from killing each other in Bosnia. The fight has been broken up; we have stopped the killing. We have a relatively easy military mission, I think. It is to keep the combatants apart.

Now, Bosnia is very close to the following countries: Germany, France, Italy, England, the Scandinavian countries, the Benelux countries. They are members of a vestigial organization known as NATO. We are giving NATO a chance to mean something. The U.S. carries the burden in South Korea; the U.S. carries the burden in Iraq. Is it never to be time for Europe to do something on their own? Can Europe never be expected by us to do this? It is a relatively small thing: Keep the troops in this police action to separate people.

Members just voted, I did not vote, but Members just voted to put American troops on the border. Well, where are they going to come from? Maybe we can take them from Bosnia. We are told we have to have troops in Europe because they are our allies. Well, if that is the case, if we show we are allies by having troops in each other's countries, are we sending for Dutch troops to control the Mexican border to deal with drugs? Can we expect some French troops to help us implement the Traficant amendment? We cannot keep voting for more and more and not sometimes say no. If we do not believe the European troops are capable of maintaining the peace in Bosnia on their own, then let us stop pretending that there is anything but a unilateral American presence.

This amendment is a chance for Members to vote to say, and we will save, by the way, $2 billion. In the supplemental we asked for $162 million a month, Pentagon calculation. That is the incremental cost of keeping the troops in Bosnia. So we can save $2 billion on the defense bill, we can inconvenience our European allies by asking them to increase their forces, and we can be consistent if we have said we are for pulling the troops out of Bosnia, and I have to say to my Republican colleagues, you have been fighting the President all over the place. You have been whacking him and hitting him and smacking him. This is something he cares about. They have the troops in Bosnia, you have been shadow boxing and dancing and creating and melting snowmen. You have been taking care of China and you have been taking care of this and that. Here it is.

The chairman of the Committee on Rules said he could not allow this amendment because the President told him not to. Well, the President cannot control the vote on a motion to recommit, so if you want to show that you believe in the constitutional function of Congress, you can vote for it.

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Speaker, I appreciate the gentleman yielding, and I will only take a moment to say that the gentleman in the well is expressing about the most important prerogative that a Member of the House of Representatives can express. The Constitution makes it imperative that we vote to go to war, that it not be done by a President, that it be done by the people's representatives. When we send soldiers and sailors and air personnel to die overseas, they must know it is with the approval of the people's representatives in this House.

I applaud the gentleman for his courage and I ask for an "aye" vote.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of the time, but I hope I do not yield back the prerogatives of this House.

Mr. SPENCE. Mr. Speaker, I withdraw my point of order, and I claim the time in opposition to the motion.

Mr. Speaker, I yield to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I thank the gentleman for yielding me this time.

Let us stop and pause for a moment in where we are. This is a motion to recommit saying we are going to tell the President of the United States that he has to bring the troops home and we have to do it now. I have been before this body and I have stood here and I have offered amendments in the past with the gentleman from Missouri (Mr. SKELTON) and the gentleman from Pennsylvania (Mr. MCHALE). I did not like how we went into the Dayton Accords, but let us stop and think about where we are right now.

Has the mission been successful? It has. Have we completely and always agreed? No, we have not. I gave a commitment to the President, I said I would no longer be your critic, I will be your constructive critic, and this is not about politics, because it could be in the year 2000 we could have a Republican President and we are going to inherit Bosnia and there are going to be troops that are going to be in Bosnia, because I firmly believe those troops are still going to be in Bosnia. The key is, how do we slowly bring those troops home so we then have a commitment to an enduring peace in Bosnia? That is what this is about, an enduring peace in Bosnia.

Do not get consumed by this by saying, oh, this has got to be about the troops, bringing the troops home. If we believe in the commitment toward peace, if we really believe in that, this is also about NATO and our relationship with our NATO allies. Oh, I also want NATO to carry; actually, I want our European allies to carry a greater burden in the peace and the stability of the continent of Europe.

But right now, where are we right now? This is not a wise thing to do. The gentleman from Nebraska (Mr. BEREUTER) of the Committee on International Relations and myself are working on a resolution, along with the administration. When the President of the United States said that what we are going to do is we are going to set very real benchmarks for success in the civil implementation of Bosnia, what is key is that we make sure that the benchmarks of success are realistic, they are viable, and that they are pragmatic.

What we are going to do is, and we put this into resolution form, we want to come here to this body so that everyone has a comfort level with regard to the benchmarks of success, because I do not want, nor do my colleagues want troops in Bosnia for a very long time, and what is unfortunate is they may be there because of the parameters that were set out in the predicate of the Dayton Accords that may require generation secure.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I rise in opposition to this.

We debated this fully this past March. With the gentleman in the well I had an amendment that opposed the initial placing of troops in Bosnia for the simple reason that there was army and training that should not have taken place. That has been a success. This is not the right message to send to the troops, it is not the right message to send to our allies who, by the way, furnish 75 percent of the troops there, and by the way, provide 85 percent of the reconstruction assistance. I think we should vote this down and pass this bill.

Mr. SPENCE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRANK of Massachusetts. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—ayes 167, noes 251, not voting 15, as follows:

[Roll No. 182]

AYES—167

Archer
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bilbray
Bilirakis
Blunt
Bonilla
Brady (TX)
Brown (CA)
Bryant
Bunning
Burton
Camp
Campbell
Canady
Cannon
Chabot
Chenoweth
Christensen
Coble
Coburn
Combest
Condit
Conyers
Cook
Costello
Crane
Crapo
Cubin
Danner
Davis (IL)
Deal
DeFazio
Doggett
Duncan
Emerson
English
Ensign
Ewing
Farr
Filner
Forbes
Fox
Frank (MA)
Franks (NJ)
Furse
Ganske
Gibbons
Gillmor
Goode
Goodlatte
Graham
Granger
Green
Greenwood
Gutierrez
Hall (TX)
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hooley
Hulshof
Hutchinson
Inglis
Istook
Jackson (IL)
Johnson (CT)
Kaptur
Kasich
Kelly
Kingston
Klug
LaHood
Largent
Latham
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas
Manzullo
McCollum
McInnis
McIntosh
McKeon
McKinney
Metcalf
Mica
Miller (FL)
Mink
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Owens
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Poshard
Pryce (OH)
Ramstad
Rangel
Regula
Roemer
Rogers
Rohrabacher
Roukema
Royce
Rush
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Serrano
Sessions
Shays
Shimkus
Smith (MI)
Smith (TX)
Snowbarger
Souder
Stark
Stearns
Stokes
Stump
Sununu
Talent
Thomas
Thornberry
Thune
Tiahrt
Tierney
Towns
Traficant
Upton
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (PA)
Weller
Whitfield
Woolsey
Young (AK)

NOES—251

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Bentsen
Bereuter
Berman
Berry
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Boehner
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Buyer
Callahan
Calvert
Capps
Cardin
Carson
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Collins
Cooksey
Cox
Coyne
Cramer
Cummings
Cunningham
Davis (FL)
Davis (VA)
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Engel
Eshoo
Etheridge
Evans
Everett
Fattah
Fawell
Fazio
Ford
Fossella
Fowler
Frelinghuysen
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Gilchrest
Gilman
Goodling
Gordon
Goss
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Livingston
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHale
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Northup
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Portman
Price (NC)
Radanovich
Rahall
Redmond
Reyes
Riggs
Riley
Rivers
Rodriguez
Rogan
Ros-Lehtinen
Rothman
Roybal-Allard
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Shadegg
Shaw
Sherman
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith, Adam
Smith, Linda
Snyder
Solomon
Spence
Stabenow
Stenholm
Strickland
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Thompson
Thurman
Turner
Velázquez
Vento
Visclosky
Walsh
Waxman
Weldon (FL)
Wexler
Weygand
White
Wise
Wolf
Wynn
Young (FL)

NOT VOTING—15

Bateman
Foley
Gonzalez
Harman
Johnson, Sam
McDade
Meeks (NY)
Parker
Quinn
Skaggs
Spratt
Taylor (NC)
Torres
Wicker
Yates

□ 2013

Mrs. EMERSON and Messrs. NETHERCUTT, SNOWBARGER, McKEON and HUTCHINSON changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SPENCE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a five-minute vote.

The vote was taken by electronic device, and there were—ayes 357, noes 60, not voting 16, as follows:

[Roll No. 183]

AYES—357

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Forbes
Ford
Fossella
Fowler
Fox
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mink
Moakley

Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Ryun
Sabo
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—60

Barrett (WI)
Becerra
Bonior
Brown (CA)
Brown (OH)
Campbell
Conyers
Cramer
Davis (IL)
DeFazio
DeGette
Delahunt
Doggett
Ehlers
Engel
Eshoo
Filner
Frank (MA)
Franks (NJ)
Furse
Gutierrez
Hinchey
Hoekstra
Hooley
Jackson (IL)
Kind (WI)
Kucinich
Lee
Lofgren
Lowey
Luther
Markey
McCarthy (MO)
McDermott
McGovern
McKinney
Miller (CA)
Minge
Morella
Nadler
Oberstar
Obey
Owens
Paul
Payne
Petri
Rahall
Rivers
Roybal-Allard
Royce
Rush
Sanders
Sensenbrenner
Serrano
Shays
Slaughter
Stark
Velázquez
Vento
Woolsey

NOT VOTING—16

Bateman
Foley
Gonzalez
Goodling
Harman
Johnson, Sam
McDade
Meeks (NY)
Parker
Quinn
Skaggs
Spratt
Taylor (NC)
Torres
Wicker
Yates

□ 2021

The Clerk announced the following pair:

On this vote:

Mr. Quinn for, with Mr. Yates against.

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read:

"A bill to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.".

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3616, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. SPENCE. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3616, the Clerk be authorized to correct section numbers, punctuation, cross-references, and the table of contents, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore (Mr. LaHood). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

GENERAL LEAVE

Mr. SPENCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3616, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

MOTION TO INSTRUCT ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998 OFFERED BY MR. MINGE

Mr. MINGE. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. Minge moves the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R 2400, be instructed to ensure that spending for highways and transit programs authorized in the conference agreement on H.R. 2400 is fully paid for using estimates of the Congressional Budget Office, to reject the use of estimates from any other source, to reject any method of budgeting that departs from the budget enforcement principles currently in effect, or the use of the budget surplus to pay for spending on highways or transit programs.

The SPEAKER pro tempore (Mr. Hansen). The gentleman from Minnesota (Mr. Minge) will be recognized for 30 minutes, and a Member in opposition will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. Minge).

Mr. MINGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the transportation bill that is pending before the conference committee exceeds what was in the balanced budget agreement of 1997. It exceeds what is in the Senate budget resolution. It exceeds what is in the pending House budget resolution. It is clear that we have a budget busting bill that is coming out of the conference committee.

Mr. Speaker, it is clear that the conferees have a very heavy burden of identifying offsets that would make this particular transportation bill fit within any type of reasonable budget process. In this context, it is becoming clear that the conferees are sorely tempted to use a process called directed scoring.

This body has established a tradition of referring to the Congressional Budget Office to determine the cost of programs that are proposed, to determine the cost of offsets that are proposed, to provide guidance to this body. The Congressional Budget Office, over the years, has earned the reputation of being bipartisan, actually of being nonpartisan. The Congressional Budget Office, if it had been listened to, 10, 15 years ago, would have provided us with the guidance that would have avoided the tremendous deficits that we incurred in the 1980's and the early 1990's. Tragically, we did not listen to the Congressional Budget Office.

The question that we now face is, should we depart from this honored principle, should we disregard the rules and the traditions of this body and simply pick and choose?

Mr. Speaker, the tradition that is so well established and the rules that are so well established are ones that we should continue to observe. If we are to allow the conferees to simply determine what particular scoring agency or entity provides the most favorable figure and then use that figure in a conference report, we will essentially have gutted the responsibility that we have to the American people to make sure that we comply with the budget principles that are so important in this country. We have come close to balancing the budget in 1998. All we are doing is using the Social Security Trust Fund that appears to keep us in the black.

□ 2030

At this point I almost feel like I need to start again. But the point that I am trying to make is that cherrypicking in scoring is an abhorrent practice and it is one that we should not allow to be established, and it is one that we should instruct the conferees to not use in connection with the transportation bill.

The precise way in which this appears to be unfolding here in mid-May is that the Veterans Administration, the Department of Veterans Affairs, has, by a ruling of an administrative law judge, an obligation to cover the cost of health care for veterans that have illnesses related to smoking or tobacco use. The Office of Management and Budget has apparently estimated that it will cost $17 billion to provide that health care. The Congressional

Budget Office has estimated it will cost $10 billion.

The question is should we allow the conferees to pick and choose what agency's scoring will be used in connection with the conference report. Seven billion dollars, in a sense, is hanging in the balance here. Seven billion dollars that may well be added to the deficit; or $7 billion that would be added to this Nation's debt; or $7 billion that we would not have available for Social Security reform; or, ultimately, $7 billion that might have to be sequestered from other programs.

It is not responsible, Mr. Speaker, for us, as a body, to engage in any picking and choosing of who is to be doing the scoring in connection with our offsets. We have an agency that we have established. Let us use that agency. That agency is the Congressional Budget Office.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Does the gentleman from Texas (Mr. DeLAY) seek the time in opposition for the majority party?

Mr. DeLAY. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Texas (Mr. DeLAY) is recognized for 30 minutes.

Mr. DeLAY. Mr. Speaker, I rise in opposition to this motion to instruct, and I am instructed that the conferees, who would like to be out here to debate against this motion to instruct, but they are hard at work in the conference in order to turn out an excellent highway bill, but I am instructed to tell the House that the Committee on Transportation and Infrastructure is against this motion to instruct.

Mr. Speaker, I yield back the balance of my time.

Mr. MINGE. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Speaker, 2 years ago this Chamber was filled with people, people fighting over whether we should be using Congressional Budget Office numbers or GAO numbers. And the people on the majority side of the aisle said we cannot trust those numbers. We cannot trust those numbers. We have to go with the Congressional Budget Office numbers. And that was the agreement that was reached. The administration agreed to that, the parties on this side agreed to that, because we felt that it continued the fiscal integrity that had been established by the Congressional Budget Office.

Today, the concern is cherrypicking. The concern today is whether the conferees are going to pick and choose which budget estimates they like the most. And this is a real world concern, as the gentleman from Minnesota indicated, because $7 billion hangs in the balance. If we use the GAO numbers, we are looking at $17 billion. If we use the Congressional Budget Office numbers, we are looking at $10 billion.

If we are going to be truthful with the American people, and if we are going to keep this process as pure as it should be, we have to use consistent numbers. It is wrong for us to shop around to try to find the best price and stick it in at that point.

So I am proud to stand with the gentleman from Minnesota, because I think he is basically trying to come forward with some truth in budgeting. And I think it is important for us to retain the integrity of the process. So I would urge all my colleagues to support the gentleman's motion.

Mr. MINGE. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I am somewhat surprised that the Republican leadership would want to take credit for cutting $17 billion out of veterans' health care programs rather than just cutting $10 billion. But I presume if they want to take credit for cutting those veterans' benefits, despite the opposition of every major national veterans organization, then they can have that credit.

Mr. Speaker, the principle behind the Minge motion is very simple. It says, first, if Congress is going to increase spending for new programs, it should pay for it with cuts in other programs. Second, the Minge motion says Congress should use honest numbers, honest numbers in budgeting.

I would hope that every Member of Congress who has claimed to be a fiscal conservative will vote for this motion. I would like to see bipartisan support for it.

The first point, paying for new spending with other budget cuts, is certainly not a new idea. Every Member who voted, Republican and Democrat alike, who voted for the 5-year Balanced Budget Act just 9 months ago in this body, in this Chamber, has already gone on record saying new spending should be paid for, not passed on to our children and grandchildren as an increase in the national debt.

The second point to the Minge motion, using honest budget numbers, is something my Republican colleagues have strongly embraced in the past. Specifically, Republican House Members up to now have argued that the Congressional Budget Office numbers should be used to ensure, in their terms, honest budgeting.

In light of numerous Republican floor speeches in 1995, when many House Republicans were even willing to shut down the Federal Government over the principle of using CBO numbers, it would be surprising today if that principle should now be abandoned in the name of cutting veterans' programs, health care programs, more deeply, or in the name of increasing Federal spending by $7 billion.

It seems to me, Mr. Speaker, if a principle is good enough to justify shutting down the Federal Government, with all the harm that caused just 3 years ago, then surely that same principle should be worth voting for today in the Minge motion.

Let me use not my words but the words of Republicans on the floor of this House just a few years ago about the important principle that the gentleman from Minnesota (Mr. MINGE) is showing today.

Speaker Gingrich said, "All the President has to do," and then went on to finish by saying, "is to commit to a 7-year balanced budget with honest numbers and an honest scoring system," referring to the CBO numbers.

The gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules, said, on November 20, 1995, in this House:

> There is no wiggle room there, ladies and gentlemen. We will do it with 7 years, as estimated by the Congressional Budget Office. There is no wiggle room there. No smoke and mirrors. We will do it with realistic figures.

Seems to me if smoke and mirrors were a bad habit in 1995 they are a bad habit in 1998.

Let us go on to see what other Republican Members of the House said about using CBO numbers.

The gentleman from Oklahoma (Mr. LARGENT), my friend and colleague, a strong fiscal conservative, said:

> I also rise in favor of the concurrent resolution that says we will balance the budget in 7 years, that we will use honest numbers.

The Congressional Budget Office numbers are what he was referring to.

And finally, let me just mention another Republican statement from December 20 of 1995 made in the well of this House. The gentleman from Michigan (Mr. UPTON) said:

> I believe a lot of Members on that side want a balanced budget, too. They want it honestly scored, and that means by the Congressional Budget Office. We are tired of smoke and mirrors and phony numbers.

Yet phony numbers are what this House will endorse if it votes against the Minge motion.

Mr. Speaker, quite frankly, from my political perspective as a Democrat, it would probably help me more if most Republicans vote against the Minge motion. Such a vote would show the increasingly restless core Republican voters that the Republican leadership in this House has turned its back on principles such as fiscal responsibility and using honest budget numbers that seemed so terribly important just 36 months ago. If these core principles were the Republican justification for shutting down the Federal Government in 1995, then surely those principles should be worth supporting in the few minutes ahead.

Because, though, I believe that the policy of fiscal responsibility in this highway bill is more important than its politics, frankly. I hope that Republicans will stick with their past principles and join Democrats in supporting the Minge motion.

Mr. Speaker, this highway bill is the first major test of the 5-year, 5-year, balanced budget agreement signed just 9 months ago. If we fail to be fiscally responsible in this, our first major test of the budget agreement, then the so-called 5-year Balanced Budget Act should be renamed the 9-Month Budget Act, or perhaps even the "We Really Didn't Mean It Budget Act".

Any Member who supported the Balanced Budget Act or has spoken of "honest budgeting" can show their constituents this evening they mean what they say by voting for the Minge motion.

Mr. MINGE. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Minnesota (Mr. MINGE) has 17 minutes remaining.

Mr. MINGE. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I thank the gentleman from Minnesota for yielding me this time. I wish there was a little more attention being paid to this motion to instruct.

As one that spent a good part of my congressional career striving for a balanced budget, I am rather happy to see that for the first time in years we have a surplus. Too many people, though, are ignoring that we have a surplus because of the Social Security trust fund surplus for this year.

Any dollars that we spend over and above the balanced budget agreement of last year are going to eventually come from Social Security. Let no one be deceived or deceive anyone with their vote on any bill that exceeds that which we agreed to in the balanced budget agreement.

We have spent a lot of time fussing over the last several years about whose scoring is going to be used. It is, well, I do not want to use the word amazing, it is rather alarming and disturbing that all of a sudden it seems that the majority that have spent a good part of their time criticizing OMB suddenly are willing to cherrypick a number that suits the current needs that will borrow an additional $7 billion from the Social Security trust fund to pass a highway construction bill. And I am not opposed to the highway construction bill, except that portion which busts the budget.

I think we are soon going to find, even though I hear that the budget is going to be submitted after we come back after Memorial Day, 2 months late, is not going to talk about specifics. Once again, Members of this body are going to get to vote for principles, numbers.

If we are really truly wanting to keep our country on a fiscally sound direction, this motion to instruct should not just pass here on the floor but our conferees, who are working, as the majority whip said, as we speak, they ought to be listening to this and they ought to be already doing that which we are asking them to do: Use CBO scoring.

If it was reason enough to shut the government down in a dispute with the President a couple of years ago, how can it be tonight that we suddenly say it does not matter anymore? If it was so much of a principle for us to stand on, and I disagreed with the tactic of shutting the government down, but I agreed with the principle that we should use CBO scoring. And now all of a sudden are we just going to wink and nod and convince the people that we are doing budget responsible things? I hope not.

We have a surplus this year. We are going to have a surplus next year. It is because the economy is performing. It is because somebody out there in the marketplace believes that something of what we have been doing over the last 5 years is working. We have 5 consecutive years of a deficit coming down. Five consecutive years. We are in the black this year.

But how long will we be in the black, particularly if we start going against the very principles that we have agreed unanimously, unanimously, last year, that when it comes to scoring various bills we are going to use CBO scoring?

□ 2045

If we cherry-pick $7 billion, and I have got my concerns about the utilization of veterans' funding for purposes of paying for this bill, very big concerns. And a lot of other Members are going to have their concerns. Because if we have $10 billion in the veterans area, we should spend that on improving veterans' health care, not on some other purpose. Because we have tremendous need, as we almost had a unanimous vote this afternoon on the defense authorization bill.

But I conclude by saying this: This motion will hold the conference committee to the standard that this Congress and the President unanimously agreed to as part of the budget agreement. If we could unanimously agree to this last year, how can we change our mind? For what convenient purpose can we do it tonight?

I urge an aye vote for the motion to instruct. But, more importantly than that, I encourage our conferees, who are meeting to do it without us instructing them to do it, to do it. Because that is what every one of my colleagues conferring on this bill agreed last year that they were going to do. Do it for that purpose, if for no other reason.

Mr. MINGE. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, the issue that the gentleman from Minnesota (Mr. MINGE) raises tonight is a very simple one. It is one with which many Members on both sides of the aisle are familiar. It is an issue that dominated American politics for most of the last decade. The issue is phoney numbers.

David Stockman, when he directed President Reagan's Office of Management and Budget, called it the "magic asterisk." It involves the ability of budget analysts to show that virtually any spending proposal is budget neutral if they are willing to make the right assumptions.

Now, the Congressional Budget Office is supposed to decide what proposals that are offered by various Members and various committees will actually cost or save. The game that is presently being played on the highway bill is to simply say that the Congressional Budget Office just does not understand that the savings that the Congress will get from disallowing certain veterans from receiving health benefits that they are now entitled to will be much greater than their analysts estimate. The committee is, in essence, saying that CBO has it all wrong and that we have to use another estimate.

At the same time, the conferees are trying to argue CBO just does not understand that the outlays that will occur from the highway bill are much lower than the CBO estimate, so they have got it all wrong; and, so, we are supposed to use another estimate.

Well, Mr. Speaker, I do not have any particular hang-up about whether CBO or OMB numbers are used. I think that the goal ought to be to determine who is the most accurate and what is the most real. It is clear that that is not what is happening in this case.

What is happening in this case is that the conferees, apparently, are looking for ways to spend almost an extra $10 billion without admitting that they are spending it. So they are simply rejiggering the estimates of the spending regs in order to make that happen.

Well, I would say that there is little question that these numerical manipulations have been cleared by the majority party leadership on both sides of the Capitol and that virtually any number that will help sell the highway bill is going to be deemed acceptable. This is the same leadership, as I understand it, that repeatedly shut down the Federal Government over the sanctity of CBO scoring just 2½ years ago.

On November 15, 1995, the gentleman from Georgia (Mr. GINGRICH) took the floor and said, "We do not ask you to agree to anything but two principles, that the budget will be balanced in 7 years and that the scoring will be honest numbers based on the Congressional Budget Office."

The gentleman from Pennsylvania (Mr. SHUSTER) himself told the Congress in 1971, "So we should support our Congressional Budget Office, a bipartisan office. We should not rely on OMB's figures. Because certainly in the past they have been very, very unreliable."

But that was before the Republican leadership had the opportunity to hand out $9 billion in special projects. So I guess, with that kind of opportunity, we may decide not to be quite so picky about their facts. And so, we have a new set of principles that apparently are going to be applied. We will always use the CBO unless using estimates from another source helps us to pass bills which we want to push through.

Well, Mr. Speaker, this is not a budget process. This is not discipline. There is no limit to how far that approach can take us in balancing revenues that outlays on paper even if they will not do it in the real world. We can buy anything we want as long as we can find a friendly estimator, and that is what is happening here tonight.

So if we are going to throw the budget process overboard, it seems to me we should not do so selectively and maintain the false pretense that we are still maintaining discipline. If we are going to do that, then perhaps we should plan to eliminate the $26 million we are planning to spend on the Congressional Budget Office, period. At least that would be a real offset to the billions of deficit spending contained in the present version of the highway bill.

So I would simply urge, Mr. Speaker, we adopt the Minge amendment in the interest of honesty and budgeting.

Mr. MINGE. Mr. Speaker, I yield myself the time remaining to summarize the position in the debate.

As has just been pointed out, Members of this body on both sides of the aisle have held the Congressional Budget Office in high esteem. It is particularly important to note that the Republicans in this body have said that it is virtually worth dying for as a political principle.

We have shut the Government down over the question of whether we would use the CBO scoring or use estimates from some other source. And now to say that that principle is no longer worth even participating in a debate is amazing.

The Honorable Chairman of the Committee on Transportation and Infrastructure himself has noted on a prior occasion in 1991 that, at that time, it was a fight between OMB downtown and the Congressional Budget Office, and I am quoting: "Now we must remember that OMB downtown is that same wonderful organization that gave us a $100 billion mistake, as I recall it, on their estimates of revenue with regard to the budget estimate. CBO estimates are based on actual, obligational experience. And if indeed they are wrong, this bill has in it a fail-safe provision."

Continuing on to say, "So we should support our Congressional Budget Office, a bipartisan office. We should not rely on OMB figures. Because certainly in the past they have been very, very unreliable and we should support the committee position."

Mr. Speaker, I submit that we should listen to the chairman of the Committee on Transportation and Infrastructure in this very important respect.

Mr. Speaker, I think that it is also very important to note that by taking the risk of using designated scoring that takes a much more expansive cost estimate of the values, so to speak, of this offset, that is assuming we are saving $17 billion and that we can therefore spend $17 billion places us in the very awkward position of going after Social Security.

We have to remember, Mr. Speaker, that the only reason we can talk about any type of a surplus these days is that we are borrowing $100 billion in 1998 from the Social Security Trust Fund. If it were not for this borrowing, we would be running a deficit of close to $50 billion. We do not have a surplus. We cannot afford to invade the Social Security Trust Fund year after year.

It is time for budget candor. It is time for those of us here in the House of Representatives to continue to observe the commitment that we have made to the American people that we are going to use solid budget scoring numbers; we are going to use the Congressional Budget Office.

Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CONDIT).

Mr. CONDIT. Mr. Speaker, I rise to support the amendment. I know that it has been said, but I wanted to say it again. We had this debate a couple years ago where we talked about who we should use in terms of doing a financial analysis, and I think all of us had a pretty lengthy debate and had an opinion about this. But, in the final analysis, we thought CBO was the appropriate agency to use.

All I am saying is that I think we ought to stick to that. That is what we agreed to. And we have gone through this. I think this is a good amendment, and I would call on Members on both sides of the aisle to do what we said we were going to do when we agreed to do this a few years ago. Use the CBO. That is the numbers that we all agreed upon. And let us not confuse the matter by using one set of numbers one time and another set of numbers another time. Let us keep some continuity to this and use CBO.

I would just ask all those people to come over here and support the amendment. It is a good amendment, and I congratulate the gentleman from Minnesota (Mr. MINGE) for offering it.

Mr. MINGE. Mr. Speaker, may I inquire of the time remaining?

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Minnesota (Mr. MINGE) has 2½ minutes remaining.

Mr. MINGE. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I am somewhat disappointed that so many Republican Members, colleagues who are willing to shut down the Federal Government, harming veterans, harming seniors on Social Security, putting many of our Federal employees at risk of losing their homes, not being able to pay their bills, did not think it was important enough to come back to the floor tonight to be here with less than half a dozen of our colleagues on the other side of the aisle.

But what I do hope is that hundreds of thousands, if not millions, of American that were directly harmed by the Government shutdown, such as our veterans in my district that did not receive compensation and pension checks, did not have their cases handled, I hope the hundreds of thousands of Federal employees that were put out of work because the Republicans said the principle of using the Congressional Budget Office numbers were so important we had to shut down the Government over that principle, I hope all those millions of people will notice this debate tonight and realize that the distinguished Majority Whip has now said this principle is no longer worth defending. Not only is it not worth defending, he said he is going to oppose the motion.

Mr. MINGE. Mr. Speaker, I yield myself such time as I may consume.

I certainly appreciate those observations by the gentleman from Texas (Mr. EDWARDS). It clearly is a sad day when we can blatantly run over this principle and proceed to pass legislation in disregard of what I think on a bipartisan basis we have over the years established as a very sound budgeting principle.

Mr. Speaker, I would simply like to close by saying that it is easy for us, in the euphoria of passing a highway bill or a transportation bill, to sort of give a wink and a nod at what we have thought was important on another day.

There is something in this highway bill for all Americans. It is important that we continue to invest in our infrastructure. I do not think there is any question about that. All of the speakers this evening agree with that principle. I would like to make sure that I am among those individuals.

But the real question that we face is our responsibility, the American people, as we proceed to pass this very important legislation. Let us make sure that we do not use this opportunity to invest in our infrastructure as an opportunity to slide back on our commitment to balancing the budget and giving the American people the fiscal responsibility that they deserve.

□ 2100

The SPEAKER pro tempore (Mr. HANSEN). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct conferees offered by the gentleman from Minnesota (Mr. MINGE).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MINGE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on the question of adoption of this motion to instruct conferees are postponed until after consideration of the motion to instruct to be offered by the gentleman from Wisconsin (Mr. OBEY).

The point of no quorum is considered withdrawn.

MOTION TO INSTRUCT CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998, OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to instruct House conferees on the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2400, be instructed to limit the aggregate number of earmarked highway demonstration projects included in the conference report on H.R. 2400 to a number that does not exceed the aggregate number of such highway demonstration projects earmarked during the 42 years since the enactment of the Highway Trust Fund in 1956.

The SPEAKER pro tempore. Under rule XXVIII, the gentleman from Wisconsin (Mr. OBEY) and the gentleman from Kentucky (Mr. WHITFIELD) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion to instruct the conferees on the highway bill now pending somewhere in this Capitol is an attempt to put some limits on the pork barrel spending in BESTEA by placing a ceiling on the total number of highway demonstration projects that can be included in the conference report.

It instructs the House conferees to make a great sacrifice and to limit the number of highway demonstration projects to the total number of highway demonstration projects that have been approved in all of the previous four years combined since the establishment of the Highway Trust Fund.

Mr. Speaker, the last time I checked, there were over 1,500 highway demonstration projects earmarked in the House version of BESTEA at a cost of about $9 billion, and the number is growing.

Apparently, the conferees intend to keep all of the House demonstration projects and add an undetermined number of Senate projects into the total pot of $9 billion for highway demonstration projects.

At 1,500 projects, that is nearly three times the number of projects included in the last surface transportation bill, and 10 times the number of projects in the 1987 reauthorization bill that President Reagan vetoed for going too far.

Mr. Speaker, in all of the years going back to the establishment of the Highway Trust Fund in 1956, Congress has earmarked some 1,022 highway demonstration projects, costing about $10 billion according to information supplied by the Federal Highway Administration.

If this highway bill passes, which the conferees are intending to wrap up tonight, they will have earmarked in one year 50 percent more pork projects than the Congress passed in the previous 42 years combined.

Let me make it clear. I do not object to all highway demonstration projects. Some are perfectly reasonable. I think that some of the projects in this bill will be reasonable, but it is a question of balance. This bill sets a new record of excess.

I would simply note that, when our good friends on the Republican side of the aisle were trying to win control of this House 3 years ago, they spoke repeatedly about 40 years of excess and mismanagement by the Democratic majority. Often that phrase was used to deride Democrats for using the legislative process to earmark individual projects that may have helped a small number of people or a particular region of the country but could not be justified in the broader context of what was good for the entire country.

But now, the Republican leadership is evidently proposing in a single piece of legislation to earmark more projects than were earmarked by Democratic Congresses during that entire 40-year period. That is enough to give excess a bad name.

Mr. Speaker, the bottom line is that my motion will merely trim about one-third of the demonstration projects included in BESTEA. I would observe that we know from previous experience with highway demonstration projects that, frequently, they languish in the pipeline and may never get built.

Just looking at the 538 demonstration projects approved in the 1991 ISTEA bill, we know that nearly 200 have not even begun construction; and that has tied up nearly $800 million in resources that cannot be reallocated to more pressing road and bridge projects. In all, over $1½ billion in ISTEA funds earmarked for highway demonstration projects remain unobligated today.

In my view, the pork barrel spending spree in this bill is going to make Congress the laughing stock of America. This is one of those bills that will probably pass tomorrow, and it will not receive very much attention. But I would predict to you that, over the next 5 or 6 months, the press is going to dig into this bill, and they are going to find incredible laughing items. You will see on network news on a weekly basis this outrage or that joke funded by the bill. A lot of Members who vote against this motion tonight or who vote for the bill tomorrow will wish that they had not.

This is the time when you have a chance to correct the problem. Frankly, the motion that I am offering is so modest that I am almost embarrassed by it. I want to repeat once more. All this says is that you should not appropriate in this one year, or you should not authorize in this one year more projects than were previously funded in the entire 42-year history of the highway program. I really think that that is the minimum that we should ask the conferees to consider cutting. I would urge Members to adopt the motion.

Mr. Speaker, I reserve the balance of my time.

Mr. MINGE. Mr. Speaker, will the gentleman from Wisconsin yield?

Mr. OBEY. I am happy to yield to the gentleman from Minnesota.

Mr. MINGE. Mr. Speaker, I would like to ask a question of the gentleman. I have heard that occasionally when bills are introduced, presented on the floor, and they contain a large number of projects for individual Members around the country, that this can affect the acceptability of the legislation and perhaps lead to the passage of legislation that otherwise would be very difficult to pass. Has this problem come to your attention, and could you comment on that?

Mr. OBEY. Mr. Speaker, reclaiming my time, I would certainly say that is true. Let me stipulate, I am not a "Percy Pureheart" on this issue. I think that there are times when it is just as legitimate for the Congress to specify that $5 million will go for a specific highway project as it is for the administration to determine that that is where the money ought to go.

But I do believe that, when you have this number of projects, there is only one reason you have this many projects in the bill; and that is to pass a budget busting monster.

I did not vote for the budget that passed last year, because, as the ranking Democrat on the Committee on Appropriations, I warned that this Congress would never live up to the cuts that they were promising in that proposal. I need go no further than this bill in order to demonstrate that that was the case.

I have had many a Member come up to me today and say, I would like to vote for you. In fact, I would like to speak for you. I had one Member say, do you see that? This is the chart that demonstrates the historical growth of the project. One Member said, you see this little item at the top of that red line? I am afraid that is my project.

So you are going to see a lot of folks vote for that bill tomorrow because they have gotten a tiny little bit for their district, and that will mean that they will vote for a product which will bust the budget and, as the gentleman from Texas (Mr. STENHOLM) says, wind up putting much more pressure on Social Security and other crucial problems that we have in this country.

So I would urge Members that this bill, in my view, cannot even pass the laugh test. If we still had the TV program Laugh-In, this would consume the entire show. I would hope that the Members would support the amendment and oppose the bill tomorrow if it does not comply with it.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITFIELD. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, in the discussion of the previous motion, our majority whip had yielded our time back, and we did not reply in any way to that discussion. But I would like to take this opportunity to just point out one thing.

There was expressed great consternation on the minority side that the majority was going to agree to use CBO numbers in the scoring in this conference on the ISTEA or BESTEA bill, and that we allegedly closed the government down last year because the CBO scoring was not used, and then they expressed great consternation that now we are going to use OMB scoring.

I would simply say that, while I am not a member of the conference, I have discussed with Members who are, and it is my understanding that they agreed to use OMB numbers because, in the negotiations with the administration, and the administration's concerns, that the administration insisted that the OMB numbers be used; and that was the reason that they were.

Then as far as the budget, I would just say this, that this side, obviously, we are as committed today as we have always been to making sure that we maintain the balanced budget, that we try to pay off part of the Federal debt, that we try to give the American taxpayer some tax reduction, that we save Social Security, that we put Medicare on a sound footing.

Then I would make one other comment. I think that Congress does have a right to specify how some money is spent for highway projects. The State that I am from, Kentucky, the money goes down to the State, and, usually, the Governor and the transportation cabinet in that State make all the decisions.

So I do not think that we should apologize for directing where a small amount of this money will go, because needs have been brought to our attention. We appropriate the money, so we should have some say in how the money is spent.

Mr. Speaker, I yield back the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 3 additional minutes.

Mr. Speaker, I wonder if the gentleman who just spoke approves of the grant to PBS that is in the highway bill? Let me simply say that I must say I find it hard not to chuckle at the observations made by my friend from Kentucky.

He indicates that the reason OMB scoring is used is because the administration wants it. If he is telling me that the reason that OMB scoring is being used is to accommodate the administration, I would say congratulations. This is the first time that side of the aisle has paid any deference to the administration this entire year. The rest of the time, they have been savaging them.

I would also simply say that I fully agree with the gentleman that the Congress has an absolute right to designate projects that it thinks are high priority.

My objection is not that there are projects in this bill. My objection is that there is such a gross number in the bill, that these projects are being used to drive a bill that otherwise would not pass, because this bill is a blatant budget buster.

This bill is going to spend at least $10 billion more than we are allowed to spend under the budget which passed this Congress last year. That means that Congress will have two choices. It will either have to take that money out of some other program and, evidently, the conferees have decided to take a good piece of it out of veterans health care, which I object to, or else the conferees are going to simply use a different set of numbers to wiggle their way out of the budget and wind up enabling themselves to spend at least $10 billion more than they will admit to spending publicly through their funny money estimates.

□ 2115

That is why I object to these projects.

I would also simply say that just because the administration supports or acquiesces in something, does not mean that I always will or that people on this side of the aisle always will. I do not care who engages in this process. In this instance it happens to be wrong.

The administration, it is clear to me, is acquiescing in this legislative outrage because they do not believe that they have the votes to sustain a veto, and that is because the bill has been structured so that virtually every State and every Member has a project that will drive them to support this bill.

This bill is not going to be a bill that is passed to meet the national interests of the country. It is going to be a bill that is passed to meet the political needs of the leadership in this House and Members individually in this House, and that is not the way we are supposed to deal with a major national responsibility.

I passionately support highway construction. I think we need more investment in it. But that is not my only priority. I do not put it ahead of veterans health care. I do not put highways ahead of education. I do not put highways ahead of health. Most of all, I do not put highways ahead of honest budgeting.

So that is the reason that I make this motion; not because I have a "Percy Pureheart" objection to Congress occasionally selecting a high priority project. It is because this is a blatant political power play to bust the budget, and Members ought not to swallow it.

Mr. Speaker, I yield three minutes to the distinguished gentleman from Texas [Mr. EDWARDS] .

Mr. EDWARDS. Mr. Speaker, I was wondering if my colleague from Kentucky would be willing to have a discussion. I appreciated his comments, trying to explain why Republicans might oppose the very principle tonight that they were willing to shut down the government for three years ago. I would be willing to hear from the gentleman from Kentucky once again.

Mr. Speaker, I have a lot of veterans in my district who did not get compensation and pension checks, service-connected veterans who did not have their cases processed because Republicans said in these statements I have before me, made on the floor of this House, that we are willing to shut down the government basically to stand up for this principle of using CBO numbers.

I would like to be able to go back and explain to them tomorrow why the principle that the Republican Party used to shut down the government and cut off veterans' checks, to basically lay off Federal employees, to put their financial health at risk, why the principle that was so important three years ago in fighting for is not worth fighting for, or even, frankly, coming to the floor of the House to even discuss tonight? I would be glad to yield some time to the gentleman to answer.

Mr. WHITFIELD. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS. I yield to the gentleman from Kentucky.

Mr. WHITFIELD. Mr. Speaker, I would just remind the gentleman that the President is the one that vetoed those bills, and because of that funding ran out. As I said earlier in these discussions, in the conference regarding this very complicated, complex bill, that was one of the areas that I understand our side gave in on, to use the OMB numbers, in an effort to be amicable in this situation.

Mr. EDWARDS. Mr. Speaker, reclaiming my time, in response I would say I think the American people made it very clear who they held responsible for shutting down the government, and it was not the President they held responsible, it was the Republican majority in this House. Criticism even came from Republican Members in another body in this town of that.

But I guess the answer that I still do not have this evening is why Republicans were willing to hurt veterans, willing to hurt people on Social Security, willing to lay off Federal employees to the tune of hurting millions of American families just three years ago over this principle of honesty in budgeting, and yet tonight we hear that there will be total acquiescence to the President. What happened to the commitment to principle?

Perhaps, frankly, I better understand now why the Republican core base in this country is beginning to have some second guesses about supporting the majority it thought it was electing, committed to certain principles that we find tonight it is very conveniently ignoring in the name of spending more money or cutting more funding out of veterans' health care, perhaps.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would simply say that I really find it incredible that the conferees are going to be bringing back a bill tomorrow which ignores virtually everything that has been promised to the country on this bill over the last month.

We had a motion last night, which this House adopted unanimously, asking the conferees not to cut veterans' health care in order to pay for highway projects. Yet the conferees will be reporting back a bill which ignores that instruction.

We will soon be leaving for our Memorial Day recess. I wonder how many Members of this House are going to go home and rub shoulders with their veterans and pose for political holy pictures with their veterans organizations, one day after they have voted "yes" to pork and "no" to veterans? And yet that is what is going to happen, I would predict.

I hope that the American people are watching, and I hope that they will understand what is being done. To me, it would be an act of consummate arrogance for the conferees to do that, but I expect that is exactly what they will do tomorrow.

The best we can do is to try to urge them through motions like this not to do it, which is why the gentleman from Minnesota (Mr. MINGE) and I are both here tonight.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HANSEN). The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Without objection, any electronic vote on the motion to instruct offered by the gentleman from Minnesota (Mr. MINGE) will be conducted as a 5 minute vote, if conducted immediately following this 15 minute vote.

There was no objection.

The vote was taken by electronic device, and there were—yeas 77, nays 332, answered "present" 1, not voting 23, as follows:

[Roll No. 184]

YEAS—77

Archer
Ballenger
Barrett (WI)
Barton
Bilbray
Brown (OH)
Campbell
Castle
Chabot
Christensen
Coburn
Condit
Cox
Crane
Cubin
Edwards
Eshoo
Gibbons
Goss
Graham
Hall (TX)
Hastings (FL)
Hayworth
Hill
Hilleary
Hobson
Hoekstra
Inglis
Istook
Johnson (CT)
Jones
Kaptur
Kasich
Kind (WI)
Kleczka
Klug
Kolbe
Largent
Leach
Lewis (GA)
Maloney (NY)
McCollum
Meehan
Meek (FL)
Miller (FL)
Minge
Morella
Myrick
Nethercutt
Neumann
Obey
Pastor
Porter
Portman
Rangel
Rohrabacher
Royce
Salmon
Sanford
Sawyer
Scarborough
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shays
Sisisky
Souder
Stearns
Stenholm
Stump
Thornberry
Vento
Waters
Wexler
Wolf

NAYS—332

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berry
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastert
Hastings (WA)
Hefley
Hefner
Herger
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Klink
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (KS)
Murtha
Nadler
Neal
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Sanchez
Sanders
Sandlin
Saxton
Schaefer, Dan
Scott
Serrano
Shaw
Sherman
Shimkus
Shuster
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thune
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Velázquez
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wise
Woolsey
Wynn
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Lofgren

NOT VOTING—23

Bateman
Berman
Deutsch
Foley
Gonzalez
Harman
Johnson, Sam
Manzullo
McCrery
McDade
Meeks (NY)
Moran (VA)
Ney
Parker
Quinn
Skaggs
Stark
Taylor (NC)
Torres
Towns
Waxman
Wicker
Yates

☐ 2143

Messrs. SKEEN, SMITH of New Jersey, SHAW, ROTHMAN, DOOLEY of California, HILLIARD, ANDREWS, BISHOP, POMEROY, RUSH, HEFNER, GEJDENSON, MILLER of California and PAYNE, and Ms. DANNER, Mrs. THURMAN and Ms. PRYCE of Ohio changed their vote from "yea" to "nay."

Messrs. SENSENBRENNER, JONES, KOLBE, STUMP, HILLEARY and GIBBONS changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 2145

MOTION TO INSTRUCT ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION ACT OF 1998, OFFERED BY MR. MINGE

The SPEAKER pro tempore (Mr. HANSEN). The pending business is the question de novo of agreeing to the motion to instruct on the bill (H.R. 2400) offered by the gentleman from Minnesota (Mr. MINGE).

The Clerk will designate the motion to instruct.

The Clerk designated the motion to instruct.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Minnesota (Mr. MINGE).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. MINGE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 156, noes 251, answered "present" 2, not voting 24, as follows:

[Roll No. 185]

AYES—156

Andrews
Archer
Baker
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bentsen
Bilbray
Boyd
Brady (TX)
Brown (OH)
Burr
Campbell
Canady
Cannon
Cardin
Carson
Castle
Chabot
Chenoweth
Christensen
Clayton
Coble
Coburn
Combest
Condit
Costello
Cox
Crane
Crapo
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeGette
Doggett
Dooley
Dreier
Edwards
Ehrlich
Emerson
Ensign
Eshoo
Etheridge
Evans
Everett
Farr
Fazio
Fox
Gephardt
Goodlatte
Goss
Graham
Hall (TX)
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Hooley
Hoyer
Hulshof
Hunter
Hutchinson
Inglis
Johnson (CT)
Jones
Kasich
Kennedy (RI)
Kennelly
Kind (WI)
Kingston
Kleczka
Klug
LaFalce
Lantos
Largent
LaTourette
Leach
Levin
Lewis (GA)
Lofgren
Lucas
Luther
Maloney (NY)
McCarthy (MO)
McCollum
McDermott
McIntosh
McIntyre
McKinney
Meehan
Mica
Miller (FL)
Minge
Morella
Myrick
Nethercutt
Neumann
Norwood
Nussle
Obey
Paul
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Radanovich
Rivers
Roemer
Rogan
Rohrabacher
Royce
Salmon
Sanchez
Sanford
Sawyer
Scarborough
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shays
Sherman
Smith (MI)
Smith, Adam
Snyder
Souder
Spratt
Stearns
Stenholm
Stump
Sununu
Tanner
Taylor (MS)
Thornberry
Thurman
Turner
Wamp
Watkins
Watts (OK)
Wexler
Weygand
Wolf

NOES—251

Abercrombie
Ackerman
Aderholt
Allen
Armey
Bachus
Baesler.
Baldacci
Barcia
Bass
Becerra
Bereuter
Berry
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Brady (PA)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Capps
Chambliss
Clay
Clement
Clyburn
Collins
Conyers
Cook
Cooksey
Coyne
Cramer
Cummings
Danner
Davis (IL)
DeFazio
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doolittle
Doyle
Duncan
Dunn
Ehlers
Engel
English
Ewing
Fattah
Fawell
Filner
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodling
Gordon
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastert
Hastings (FL)
Hefley
Hilliard
Hinchey
Hinojosa
Holden
Horn
Hostettler
Houghton
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kildee
Kilpatrick
Kim
King (NY)
Klink
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Latham
Lazio
Lee
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Maloney (CT)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McGovern
McHale
McHugh
McInnis
McKeon
McNulty
Meek (FL)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (KS)
Murtha
Nadler
Neal
Northup
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sanders
Sandlin
Saxton
Schaefer, Dan
Serrano
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stabenow
Stokes
Strickland
Stupak
Talent
Tauscher
Tauzin
Thomas
Thompson
Thune
Tiahrt
Tierney
Traficant
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Weldon (FL)
Weldon (PA)
Weller
White
Wise
Woolsey
Wynn
Young (AK)
Young (FL)

ANSWERED "PRESENT"—2

Peterson (MN)
Sabo

NOT VOTING—24

Bateman
Berman
Deutsch
Foley
Gonzalez
Harman
Johnson, Sam
Manzullo
McCrery
McDade
Meeks (NY)
Moran (VA)
Ney
Parker
Quinn
Skaggs
Stark
Taylor (NC)
Torres
Towns
Waxman
Whitfield
Wicker
Yates

☐ 2153

Ms. ROYBAL-ALLARD and Messrs. BISHOP, GEJDENSON, MILLER of California, and ROTHMAN changed their vote from "aye" to "no."

Messrs. ROGAN, SPRATT, FOX of Pennsylvania, and EVERETT changed their vote from "no" to "aye."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 119, PROPOSING AMENDMENT TO CONSTITUTION TO LIMIT CAMPAIGN SPENDING, AND H.R. 2183, BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 442 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 442

Resolved, That at any time after adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the joint resolution (H.J.

Res. 119) proposing an amendment to the Constitution of the United States to limit campaign spending. The first reading of the joint resolution shall be dispensed with. General debate shall be confined to the joint resolution and shall not exceed one hour equally divided and controlled by Representative DeLay of Texas or his designee and a Member in favor of the joint resolution. After general debate the joint resolution shall be considered for amendment under the five-minute rule. The joint resolution shall be considered as read. During consideration of the joint resolution for amendment, the Chairman of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 or rule XXIII. Amendments so printed shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the joint resolution for amendment the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. At any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on House Oversight. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. Before consideration of any other amendment it shall be in order to consider the amendments in the nature of a substitute specified in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order specified, may be offered only by the Member who caused it to be printed in the Congressional Record or his designee, shall be considered as read, and shall not be subject to a substitute amendment or to a perfecting amendment carrying a tax or tariff measure. During consideration of the bill in the Committee of the Whole, all points of order against each amendment in the nature of a substitute specified in the report are waived. Consideration of each amendment in the nature of a substitute specified in the report shall begin with an additional period of general debate, which shall be confined to the subject of the amendment and shall not exceed one hour equally divided and controlled by the Member who caused the amendment to be printed in the Congressional Record or his designee and an opponent. During consideration of amendments to an amendment in the nature of a substitute, or of other amendments to the bill, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. If more than one amendment in the nature of a substitute is adopted, then only the one receiving the greater number of affirmative votes shall be considered as finally adopted and reported to the House. In the case of a tie for the greater number of affirmative votes, then only the last amendment to receive that number of affirmative votes shall be considered as finally adopted and reported to the House. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that allows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment to the bill reported from the Committee of the Whole or to an amendment in the nature of a substitute finally adopted and reported to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 2200

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

I would like to begin by saying it is my understanding that the only debate tonight will be on the rule with a prospective vote perhaps on the rule, and all general debate will be tomorrow.

Mr. Speaker, House Resolution 442 provides for the consideration of H. J. Res. 119 under an open amending process with one hour of general debate equally divided between the gentleman from Texas (Mr. DELAY) and a Member in favor of the joint resolution. The rule authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD and allows the chairman to postpone votes and reduce the voting time to 5 minutes if the postponed vote follows a 15-minute vote.

On the joint resolution, the rule provides for one motion to recommit with or without instructions.

The rule also provides for consideration of H.R. 2183 under a modified open amendment process any time after the adoption of the rule.

H. Res. 442 provides for two hours of general debate equally divided between the chairman and ranking minority member of the Committee on House Oversight. Following the two hours of general debate, the rule provides for consideration of the 11 amendments in the nature of a substitute specified in the Committee on Rules report. In order to allow for consideration of as many alternatives as possible, the Committee on Rules has waived all points of order against each of the amendments in the nature of a substitute. Under this very fair, open rule, each amendment in the nature of a substitute may be offered only in the order specified, may be offered only by the Member who caused it to be printed in the CONGRESSIONAL RECORD or his designee, shall be considered as read, and shall not be subject to a substitute amendment or perfecting amendment carrying a tariff or tax provision.

Mr. Speaker, we have provided one hour of general debate at the beginning of consideration of each of the 11 substitutes, which shall be equally divided and controlled by the Member who caused the amendment to be printed in the RECORD or his designee and an opponent. The rule permits the Chair to accord priority in recognition to preprinted amendments and allows the Chair to postpone votes during the bill's consideration.

Mr. Speaker, we do not allow the King of the Hill rule that the Democrats instituted for 40 years in an effort to subvert popular legislation and undermine free and open debate. Under H. Res. 442, the substitute that receives the most votes will be reported to the House. If more than one amendment in the nature of a substitute is adopted, then only the one receiving the greater number of affirmative votes shall be considered as finally adopted and reported to the House.

I am certain that I did not see this kind of process on campaign finance reform when the Democrats controlled the House. In fact, in my first year in this House, former Speaker Foley and the Democrat Committee on Rules muzzled the minority and forced a closed rule upon us. Not only were we allowed to offer only one amendment to the entire bill, but the Democrats refused to allow us a basic right to offer a motion to recommit with instructions.

A quick glance back in history shows that this was not simply an isolated incident but a pattern of suppressed debate on this issue in Democrat Congresses.

In the 102nd Congress, for example, the Democrats again stifled open and free debate with a similarly closed gag rule. I expect that the calls today will again be for a return to the days of closed rules and limited debate. The opponents of this open debate want us to close down the process, allow consideration of only one bill, and foreclose all other opinions on this subject.

Mr. Speaker, it is only fair that we present the House with a wide open amending process that allows each Representative the ability to amend and perfect each of the 11 campaign finance reform bills. This rule will create the most open debate process in the history of campaign reform, as was promised by the Speaker.

Although I am not as cynical as some on the subject of campaign finance reform, I agree that the system can be improved. However, the first amendment guarantees our right to express ourselves, and that right extends to political expression as well. Therefore, the right of Americans to contribute to political campaigns should not be infringed. Clearly, it is important for voters to know which individuals and which groups are financing a candidate. I have cosponsored legislation that ensures that voters know where that money is coming from and can act accordingly.

On the subject of free speech, the rule allows for consideration of a constitutional amendment that was originally introduced by the minority leader, the gentleman from Missouri (Mr. GEPHARDT), that would give Congress new power to regulate campaign expenditures. The Member offering that amendment, the gentleman from Texas (Mr. DELAY), opposes it because it basically gives the Congress the authority to enact any legislation that may abridge an array of free speech and free association rights under the First Amendment. Nevertheless, under this open amendment process, the Committee on Rules wanted to allow a full debate on the measure.

I also think it should be noted that we need to deal with the problem of union money being funneled into races across the country. Despite their calls for reform, the $400 million in union money that was dumped into the 1996 elections has been protected by Democrats against the will of hard-working American union members. If we are truly going to talk about reform, then we need to address how unions are using, for partisan political purposes, the paychecks of the union workers.

While I do not believe that major changes are necessary to the existing campaign finance laws, I do, however, believe that these existing campaign finance laws have been under assault since early 1996.

We have now found that two major Democrat donors benefited from an administration policy change that improved the accuracy of missiles pointed at American cities. Even some in the administration believe that the decision to provide American technology to China has put American national security at risk. Personally, I believe it would be more useful if we could get some kind of assurance that the current laws we have on the books are going to be honored. Nonetheless, the administration is calling for new reforms.

However, it should be noted that it is already illegal to funnel millions of dollars in foreign money into the United States electoral system as the Chinese did. It is already illegal to make fund-raising calls from Federal property. It is already improper to use the Lincoln bedroom and Air Force One for fund-raising activities, and it is also already illegal under current law to go to a Buddhist temple and accept illegal campaign funds.

These actions are already against the law, and they were shamelessly violated in 1996. Mr. Speaker, nothing in this new campaign reform legislation will matter if one party or the other simply decides that the law does not apply to them.

That is why our focus today should be on how current campaign finance law was so flagrantly violated. Unfortunately, we cannot get to the bottom of the 1996 campaign finance scandal because 91 witnesses who know the truth about campaign violations have either fled the country, refused to testify, or have taken the Fifth Amendment.

Amidst this enormous left wing coverup come the artificial calls for campaign finance reform. Mr. Speaker, if we are going to consider campaign finance reform, this majority is committed to a process that allows for a full debate on the pertinent issues. This rule provides for that kind of open debate.

The rule for the campaign finance bill was favorably reported out of the Committee on Rules. I urge my colleagues to support the rule so that we may proceed with the general debate and consideration of each of the substitute campaign finance reform bills.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule proves once and for all that the Republican majority has no real interest in actually pursuing real campaign finance reform. Under the guise of full and free debate, the Republican majority has brought to the House a process which could in all probability take up weeks of the time we have left in this session of Congress and in the end might produce nothing.

Mr. Speaker, there are many points of view on this subject, but it does not serve the institution well, nor does it serve the American people well, to debate those views in a cynical process which is little more than a charade. The process the Republican majority has brought to the floor ensures that the House will not have the opportunity to have an up or down vote on either the bipartisan freshman proposal or the Shays-Meehan proposal.

This rule makes in order 11 substitutes to the freshman reform proposal, as well as the consideration of any germane amendment to each and every one of those substitutes. In essence, as each substitute is considered, the rule will allow multiple amendments to that substitute. In addition, it is anticipated that the Committee on Rules will meet again after the Memorial Day recess to report another rule which will make in order a number of nongermane amendments to the substitutes. Included in those nongermane amendments are a number of proposals which many Members in this House consider to be poison pill amendments.

After each substitute has been considered, whichever has received the most number of votes will be judged the winner. This may be an open process, Mr. Speaker, but I beg to differ with those who might characterize it as allowing the House to reach a decision when in fact it may be designed to do the very opposite.

To further compound the complication, the rule allows the House to bring up a constitutional amendment introduced but not supported by the majority whip, the gentleman from Texas (Mr. DELAY). The majority whip has called this proposal a "big brother" remedy, yet he came to the Committee on Rules yesterday to ask that it be made in order. Consideration of this constitutional amendment is just more of the same attempt to divert the attention of the House and the American public from the real question: Do we want real campaign finance reform or do we not?

The Shays-Meehan proposal is considered by many outside good government groups to be true campaign finance reform. The bill bans soft money at the Federal and State level if those funds are used to influence Federal elections. The bill redefines express advocacy to include radio and television communications that refer to a clearly defined Federal candidate within 60 days of an election or that include unambiguous support or opposition to a Federal candidate outside the 60-day period.

All ads falling under this definition could only be run by using legal hard dollars. The bill clarifies the Pendleton Act restrictions on fund-raising on Federal property and bars political parties from making coordinated expenditures on behalf of candidates who do not limit spending their own money to $50,000.

Finally, the Shays-Meehan proposal codifies the Beck decision that ensures that nonunion employees who pay union agency fees do not have to pay for union political activities.

Unfortunately, this bill does not contain a nonseverability clause. Should the Supreme Court find any essential part of this proposal to be unconstitutional, the remainder, however unbalanced or unwise because of the loss of that element, would remain the law of the land. Losing an essential element of Shays-Meehan would lead us right back to the situation in which we now find ourselves.

□ 2215

After the Supreme Court struck down one of the four essential pillars in Buckley v. Valeo in 1976, what was left was an unbalanced and unstable hodgepodge that gave us the quagmire we are trying to work our way out of today. If we are to consider amendments to these proposals, Mr. Speaker, I suggest that prominent among them should be one which provides for nonseverability.

The Shays-Meehan proposal represents a sea change in how Federal elections are conducted today, Mr. Speaker, and it deserves the opportunity to be fully and freely debated. Unfortunately, this rule does not provide that opportunity.

The freshman bipartisan bill, sponsored by the gentleman from Arkansas (Mr. HUTCHINSON) and the gentleman from Maine (Mr. ALLEN), is also a proposal which would make significant changes in the way Federal election campaigns are conducted. The freshman proposal also bans national parties from accepting or raising soft money on behalf of the national committee or on behalf of State political parties. However, the freshman proposal does permit State political parties to continue to raise and spend soft money and use those funds for activities intended to affect Federal elections. These are significant changes, Mr. Speaker, and deserve to be debated by this House.

The freshman proposal indexes for inflation the allowable amount of PAC and individual contributions into $100 increments beginning in 1999 and increases the aggregate annual contribution limit from $25,000 to $50,000 each year, instead of election cycle, with a maximum of $25,000 in donations to candidates and PACs, and a maximum of $25,000 to political parties. This bill also raises PAC contributions to national parties from $15,000 each election cycle to $20,000 each calendar year and removes party candidate coordination limits.

Finally, the bill requires third-party advocacy groups who run issue ads on either television or radio to report expenditures of more than $25,000 on a single candidate, or more than $100,000 on multiple candidates. Failure to comply with the requirements set out in the bill could result in fines up to $50,000. These changes, Mr. Speaker, are quite significant and do deserve to be fully and freely debated.

So, Mr. Speaker, some Democratic Members, in an effort to provide for debate on campaign finance reform that is not designed to derail the process, will vote against the previous question. They hope to amend this rule to provide for the kind of process that was set out in the discharge petition that came so close to reaching the requisite 218 signatures. They hope to allow the House to consider each substitute, and when the House has agreed to the substitute it wishes to work from, then consider amendments to that proposal. The Democratic rule is a much more reasonable process and one which will allow the House to choose within a reasonable period of time whether it wishes to pursue campaign finance or not.

Mr. Speaker, we just heard Mr. LINDER expound about things that are currently in the press related to China rather than talking about campaign finance reform. It is obvious that the Republicans do not want to deal with campaign finance reform. All they want to deal with is things that are in newspapers and on TV, whether they are substantiated or not.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I yield myself 30 seconds to point out that the reason I raise the issue of Chinese money is it was a precise violation of current finance laws with respect to campaigning, and if they are not going to obey the current laws, how can we expect them to obey any future ones?

Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the rule.

I thank the gentleman from Georgia for his excellent work on the Committee on Rules and his efforts in regard to this rule and this legislation. And I also want to express my appreciation to the gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules, for his commitment to a fair and open debate on campaign finance reform.

I am one of the lead sponsors of the bipartisan Campaign Integrity Act, also known as the freshman bill, and I just want to congratulate my cosponsor, the gentleman from Maine (Mr. TOM ALLEN), for his work, and the other Democrat freshmen that have worked so hard; as well as the gentleman from Missouri (Mr. KEN HULSHOF), the gentleman from Texas (Mr. KEVIN BRADY), the gentleman from Montana (Mr. RICK HILL), and so many other freshmen Republicans that have worked hard for over a year in developing a proposal that is bipartisan in formation and bipartisan in nature and it continues in a bipartisan fashion today. We have worked well together on this. So this is the base bill that is under consideration.

The rule before us allows for the consideration of 11 substitute amendments to the base bill. Those substitutes range from the commission bill, sponsored by the gentleman from Washington (Mr. RICK WHITE), to the Paycheck Protection bill, offered by the gentleman from Colorado (Mr. BOB SCHAFFER). It allows votes on the vast range of reform bills, even the extremes, from the Doolittle bill, which removes all limits on contributions, to the Shays-Meehan bill, which is massive in terms of its regulatory control over issue advocacy groups. In other words, the rule is fair to all and will provide ample opportunity for debate on this critical issue.

What will the result be? Certainly it is unknown, and the amendment process is still up in the air. But I am hopeful that we can go through this process in a bipartisan fashion; that we will not be slamming each other throughout this but that we work to get the job done.

I believe the freshmen who came here believe that we are here to accomplish something and not get sidetracked on a multitude of issues. We need to start this and we need to finish it. I ask colleagues to support this rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT), the Democratic leader.

Mr. GEPHARDT. Mr. Speaker, I rise to congratulate all of the Members who signed the discharge petition, which has brought about this rule tonight and brought about the consideration of campaign reform. And in particular I want to commend the gentleman from Massachusetts (Mr. MEEHAN) for all the work that he has done, and I want to commend the gentleman from Connecticut (Mr. SHAYS) for all of the work and effort that he has put forth.

I want to thank the members of our Blue Dog coalition here in the Democratic Caucus and all the work that they have done. And I want to commend the freshmen on both sides who have worked so hard to see that this issue comes up.

In truth, this issue should have come up some months ago, when we had this tortured procedure of having a suspension. It is time for campaign reform. The reason the discharge petition got signed by so many Members, and the reason that so many Members in this body are for campaign reform is that its time has come. The American people want us to enact campaign reform. The perception in the country, right or wrong, is that money is the dominant feature of America's campaigns. People are sick of that. They want to have a control on the money.

I would simply say to the Members that I hope all of the Members will vote for the Shays-Meehan bill. The Shays-Meehan bill is, in my view, of all the bills, and I have worked on many of the bills that are going to be up, is the best bill. It is the first step that we can take. It gets rid of soft money, the large contributions which have been so dominant in this system. We need to take this first step.

It does something about outside expenditures, of outside independent groups coming in and spending thousands and thousands of dollars at the end of campaigns.

It does not do everything that should be done in campaign reform, but it is a solid first step. And I hope that every Democratic Member on my side of the aisle will support this legislation with their vote, and I hope Republicans will support it as well.

We should be able to get 218 votes on the floor of this House next month and we will make a blow for what the American people want to clean up this system and move it in the right direction.

Vote for the rule, vote for Shays-Meehan when we get that chance.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Georgia for yielding me this time.

My colleagues, I too rise in support of this rule, and I listened with great interest to the minority leader decry the current state and the perception of running for political office and raising funds.

Mr. Speaker, I think there are three words that sum up the essence of what is transpiring in the body politic today, and that is: Obey existing laws. That is what should be done. Sadly, because of an association with foreigners and foreign money, we now have serious allegations.

Rather than changing the rules, although I think we are all happy to do so under an open fashion, in stark contrast to what went on for some 40 years here before the new majority took control, we will have a chance to openly debate this, but make no mistake, my colleagues, the most radical reform would be for my liberal friends and those at the other end of Pennsylvania Avenue to obey existing laws.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. BONIOR), the Democratic whip.

Mr. BONIOR. Mr. Speaker, every 2 years America's airwaves are flooded with political attack ads. These negative ads leave voters feeling cynical, disenchanted, and with little faith in politicians or in the political process.

These attack ads are also the main reason why we spend so much time fund-raising, defending ourselves against vicious 30-second spots, often now funded by outside groups, and have become more and more costly every single year and every single election. Free TV time for credible candidates could drastically lower the cost of campaigns and eliminate the need for excessive fund-raising.

The broadcasters and the radio folks and the TV folks and the cable folks, they do not own those airwaves. They belong to the American people, not the media corporations.

Under the current system, many people feel they have no political voice. No political voice at all unless they contribute $50,000 or $70,000 or $100,000 to the major parties. And many public officials feel they have no choice but to court such contributions. This ends up excluding all but the wealthiest Americans from the political process, spawns investigation after investigation, and really eats away at the very heart of our democracy.

One of the reasons we are seeing the decline of people participating at the polls is because of this very system that we are forced to operate under. Look at what is happening in California where millionaires are duking it out to be governor, and the poor man in the race is spending $8 million in the primary.

This Congress has the capacity to change that. We can dismantle the current system that, I daresay, very few of us like. We can restore the integrity of our elections. We can renew the faith of the voters. And the first important step on that path, the first important step in this process is passing a bipartisan bill, the Meehan-Shays bill.

This bill, as the leader said, would ban soft money, the huge contributions to political parties that really are just an end run around Federal contribution limits. This bill would require outside groups that run so-called issue advertisements to play by the same funding rules as the actual candidates. This bill would force timely disclosure of who is really funding campaigns so that the voters can make informed decisions about the information that they are getting.

□ 2230

Meehan/Shays will not solve our problems entirely, but it is a good first step. It will demonstrate that this Congress is committed to genuine reform; and that is no small commitment for the Speaker, who, as the leader has said, has blocked reform at every step, who said that the problem with our political system is that we spend too little money.

It does not have to be that way. Raising more money to clean up politics would be like using a bucket of kerosene to put out a fire. But we can work together this week, next month in fixing the system.

Mr. Speaker, schedule a full and a fair debate on campaign finance reform. Americans will not accept any more political games, any more false delays, any more poison pills, any more sham reforms, any more gaming of the system. Give the Members of this House, Democrats and Republicans alike, a clean up-or-down vote on Meehan/Shays. It is a fair, bipartisan approach; and it should be judged on its merits, nothing else.

The American people are watching. The Meehan/Shays is the one vote that will tell them everything. I urge my colleagues when we get to this debate to be vigilant and to stand with those who stand for reform.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Montana (Mr. HILL).

Mr. HILL. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, is soft money constitutionally protected? No, not exactly.

Are the political parties and others constitutionally protected to raise money in any amount from any sources? No, not exactly.

Many of those who will be arguing about soft money bans are going to claim that soft money is constitutionally protected, and they will be using an illusionist's sleight of tongue when they make that argument.

Some will refer to the Supreme Court decision in Colorado v. FEC. In that case, the Colorado Republican Party sued the FEC, saying that the Federal agency had no authority to regulate soft money issue advocacy campaigns.

Did the court sanction soft money in that decision? Well, no, not exactly. What it said was that the Federal Election Campaign Act permits unregulated soft money for some uses. It did not say it was a constitutional right. It simply said the Federal Election Campaign Act did not encompass soft money.

So what does the freshman bill do about soft money in Colorado? It says this. It says that the National Republican and Democratic Parties cannot give soft money to the Colorado State parties. It says that federal officeholders cannot raise soft money for those State parties. It says that Colorado cannot get soft money from another State party. And it ends money laundering.

But if the people of Colorado want the State parties to be able to raise and spend soft money, they can; and if they do not, they can stop it. That is what the tenth amendment is about, letting States make decisions that impact the States.

The Supreme Court has said that limits on spending have serious constitutional problems because they restrict free speech. This bill does not limit spending. It places limits on contributions, which the Supreme Court has ruled is constitutional.

This freshman bill limits contributions by saying "no more soft money" to our national parties. No more corporate money. No more big labor money. No more laundering of money. And no limits on free speech.

I say, support the rule; defend the freshman rule. It is fair to both political parties. It meets constitutional muster, and it will restore integrity to campaigns.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. FAZIO), the chairman of the Democratic Caucus.

Mr. FAZIO of California. Mr. Speaker, believe it or not, I would like to be here in the well tonight to congratulate the Republican leadership for finally relenting and allowing a fair debate on genuine campaign finance reform. Unfortunately, I cannot do it.

The Republican leadership want no part of campaign finance reform. The gentleman from Georgia (Mr. GINGRICH) repeatedly has said that not enough money is spent on political campaigns. He does not think that billions of dollars spent each year on 30-second negative TV spots is enough.

But this is the Speaker who made a promise in Claremont, New Hampshire, 3 years ago. He looked President Clinton straight in the eye, shook his hand, and promised to commit himself to campaign finance reform. We know the old phrase "a promise made, a promise broken."

Last winter, the Speaker made another promise. After the Senate began debate on campaign finance reform, he committed to have a vote on real campaign finance reform by the end of March. Well, instead, we got a rigged process and a phoney bill and a lot of bad press. Another promise made, another promise broken.

It brings us to today, after House Democrats from across the spectrum and a handful of Republicans forced the Speaker to promise a vote on real campaign reform by May 15. Well, check the calendar. It is May 21. And we are just beginning a debate 1 day before a 2-week recess, with no sign of a simple vote on campaign finance reform on the horizon. We are destined to be filler for the next several months. Another promise made, another promise broken.

What is the Republican leadership afraid of? Well, it is pretty obvious. They are afraid that campaign finance reform will pass. So they bottled it up, put it off and now, in their latest attempt to kill it, have made it complicated and cumbersome.

I think it is time we send the final message. Let us tell them that we want a straight up-or-down vote now on the Meehan/Shays campaign reform bill. No more delay. No more technical mumbo-jumbo. No more broken promises.

I want my colleagues to know that the gentleman from Missouri (Mr. GEPHARDT); our Whip, the gentleman from Michigan (Mr. BONIOR); all of those who have worked on our side are asking for a no vote on the previous question as a way of explaining our frustration with a process that has not served not only this body but the American people well. Then perhaps should we prevail. We could have that vote up or down, as the American people deserve it.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I would like to start by congratulating the gentleman from Georgia (Mr. LINDER) the representative of the Committee on Rules here, the gentleman who yielded to me. Because I think they did the right thing, and they have done something which I think all of us in this House should embrace who believe that we should have an open rule process for this in.

I have heard that there are supposed to be 500 amendments on this, and it is going to be a very difficult task to straighten out what we should be voting on and what we should not be voting on. But the bottom line is that the leadership and the Committee on Rules in particular heard the message here, and they have done a wonderful job, and I think they deserve the heartfelt thanks of all of us who have been campaigning for campaign finance reform in some way or another here in the last couple of years.

There are a lot of good bills which are here. I think the Freshman bill is a particularly good bill. I also happen to favor Meehan/Shays. I think the gentleman from California (Mr. THOMAS) has done a much more exceptional job on campaign finance reform than anyone has given him credit for.

But I would caution each and every one of us as we enter into this fray I guess after we come back from the Memorial Day break that it is going to be very difficult to hold intact the concept of a majority for a particular bill that will be campaign finance reform and perhaps even more difficult to hold together a majority for the particular bill that one cares about.

And yet, in my judgment, there have been enough abuses, some maybe perfectly legal, as a matter of fact, and some perhaps even illegal, that the time has come in the United States of America when we all should look in the mirror.

I have a hunch that there is enough blame to go around from one political party or the other and perhaps from one candidate to another as we look across America. And I must say that most candidates live well within the rules, but there have been a lot of abuses and the time has come for us in the Congress of the United States to really focus on this issue.

So it is my hope as we stand here tonight that, first of all, we do adopt this rule. That is, ultimately, very, very important. And I hope we adopt it by a large majority. And that, secondly, we pay attention to this debate. And then, hopefully, when it is all said and done, we will have campaign finance reform in America.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Speaker, they said pigs would fly before we got an open debate on campaign finance reform in the House. Well, Mr. Speaker, it is time to bring home the bacon because we are here at last. After 4 years of promises made and promises broken, we are finally going to get a vote on Shays-Meehan.

Or are we? It is not all clear to me that this rule will allow for a vote on the Shays/Meehan bill, especially in light of the commitment of the gentleman from Texas (Mr. DELAY) to essentially filibuster this bill by offering hundreds of amendments throughout the summer.

The Speaker's message is clear. He supports more money in campaigns, not less. He wants to enhance the role of wealthy special interests in congressional elections rather than diminish it. Well, the public clearly feels differently.

In a recent NBC Wall Street Journal poll, 92 percent of the American people felt that too much money was spent on campaigns. We are here today because the American voters demand that we fix a broken system.

Over the course of this debate, there will be many substitutes and many amendments. I urge all of my colleagues to remember that there is only one bill that is both bipartisan and bicameral and that will enact real campaign finance reform this year, there is only one bill that has the support of nearly every grassroots organization that is active on reform, and there is only one bill that has the support of editorial boards all across this country. That is the McCain/Feingold/Shays/Meehan bill.

Unlike the other substitutes and alternatives, only Shays-Meehan will conclusively ban soft money. Only Shays-Meehan will address the growing problem of third-party campaign advertisements and only Shays-Meehan will give the FEC the teeth it needs to prevent abuses in the current system.

Above all, our bill is a product of compromise. It will benefit neither party at the expense of the other. At the end of the day, Mr. Chairman, a vote for campaign finance reform is a vote for Shays-Meehan.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of the rule.

I guess I would like to say I guess it is better late than never. We should have had this debate last year. But at least now, with this rule, we are about to have this debate. But, again, better late than never.

I think we must thank the Committee on Rules. It was a hard job to structure this rule. Given the complexities of the issues and the controversies generated, and we have heard some of them here tonight, and the interest groups that have been working at cross purposes here, I think it is probably the best vehicle that we could have supported.

Well, whatever one would say about that, the point is the time is now to deal with this issue and we can finally get at our campaign system that is clearly out of control. We can at least have an intelligent debate of sorts on this.

I think there are many critically important issues that we can discuss and examine during the course of this debate, some of them mentioned tonight. We must support this rule and, hopefully, pass Shays-Meehan in the end.

Mr. FROST. Mr. Speaker, I yield 1½ minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me the time.

The freshmen Democrats and the freshmen Republicans came together as our major undertaking in this class, all of us were involved in targeted races in the 1996 election, and we decided we were going to work together. It does not always happen in this House, but we decided to work together, and we put together H.R. 2183, the bipartisan freshman bill.

We are proud that that bill is the base bill for a debate in this Congress. We respect everything that other reformers have done, including the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) to bring this cause forward.

Now, we could look at this rule and say, "We are proud of this rule. It is going to give us the complete, open debate that we asked for." But when we look back at the history over the last month or two, we see an enormous reluctance to bring up campaign reform. We remember that when the Republican leadership tried to bring up a bill they tried to bring up a bogus reform bill that took two-thirds in order to pass. That was not the way, and the people of this country said, "No, that is bogus reform. We need real reform."

Now we have a rule that allows 11 substitutes and many amendments; and the question is, can this process be managed so we have a fair debate here on the floor so we can give the American people what they want? And what they want in every poll in every time we go back to our districts, they say, "There is too much money in politics. We have got to contain the money. We need campaign finance reform."

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Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I heard a lot about people denouncing attack ads and independent expenditures and soft money, but it is interesting to me, not one person that has spoken has denied that money being spent in their district. They could very easily say, I do not want any of this money in my district, but none of these self-righteous people are doing that in their own districts.

We hear from many people too much is being spent. We also know that Americans spend about as much each year on yogurt and potato chips as we do on electing our officials. Are the proponents of limiting free speech and expenditures trying to tell the American people they spend too much money on yogurt?

They are going to come up next and say, you spend too much money on sports, because that money is more than campaigns. Are they going to say, you spend too much money on entertainment, because that is greater than the amount spent on campaigns.

We have a lot of concerns. My concerns are foreign money and campaigning on Federal property and illegal money. But, oh, my goodness, we have laws that prevent that. We have to keep this in mind, that you need to enforce existing laws.

Mr. FROST. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, having joined with the gentleman from Kentucky (Mr. BAESLER) and other members of the Blue Dog Caucus to initiate a discharge petition last October to force consideration of campaign finance reform under a fair and open process, I am very pleased to be here tonight debating a rule to bring up campaign finance reform under an open process.

The American people deserve to know where their representatives stand on the major proposals to reform our campaign finance laws. Although this rule meets the standard of openness that the Blue Dogs call for in our discharge petition, the process for considering campaign finance reform will fall far short of the standard of fairness unless we defeat the previous question and allow the gentleman from Massachusetts (Mr. MOAKLEY) to offer an amendment to allow the House to have clean votes on all the major proposals under a fair process.

Having worked with my Republican colleagues to use discharge petitions to force a fair debate on the balanced budget constitutional amendment and other issues, I am very disappointed that the majority did not listen to the advice of those of us who initiated the discharge petition that brought us to this point.

The Blue Dog discharge petition in the underlying rule, H. Res. 259, calls for extensive debate on leading reform legislation followed by votes on each offered substitute.

The guiding principle behind the Blue Dog discharge petition was that we should allow clean up-or-down votes on all major campaign finance plans: the freshman bill, who worked awfully hard on their bill; the Shays-Meehan bill; the Doolittle bill; any alternative either leadership wishes to offer and any other alternatives as substitutes at the beginning of the process.

Under the king-of-the-hill process in which the amendment receiving the largest number of votes becomes the base bill for the purpose of perfecting amendments, if more than one amendment receives a majority vote, the Blue Dog discharge rule would have allowed clean votes on all amendments in the form the authors of the amendment wanted by prohibiting second degree amendments.

Let me just sum up by saying what we must do to provide for a clean and open debate is to allow all the substitutes to be submitted as those authors wish them to be submitted and vote on them and allow the one that gets the most votes to become the base bill and then allow anyone that has an amendment to offer that amendment to the base bill ultimately getting to the final package of true campaign reform. To do less than that will make another sham. We have already been through one sham in this process. To do other than that will end up with another sham.

Mr. LINDER. Mr. Speaker, I find it interesting now that wide-open rules are considered shams when they are not getting their way.

Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Speaker, I thank the gentleman for the time, and I am going to overlook the specifics and the details for a moment and just say that I am grateful to our leadership for hearing the appeal of some of us and many from the other side to give us an opportunity over the coming days and weeks to debate this issue in an open process. I think, in all fairness, it will be an open process.

But just to say that our party, the majority party here, has possibly decided to change strategy and quit running and hiding from this issue and get on the offensive and be proactive. If we disagree with our friends on the other side on the specifics, let us debate the issue, and let us have a vote on each and every substitute, and let us let majority rule. Democracy still works in this country.

Back in 1974, when this current system was brought into place, the shoe was on the other foot, and the Democrats were in charge here. They used this floor to debate these issues and bring forth what they thought were their priorities. We should do the same thing. If we have a legitimate disagreement, we should be on the offensive to say this is the way things used to be.

I am most concerned about the corrupting influences of soft money in the

American political process. Mr. Speaker, alcohol, tobacco and gambling are not the influences that I want to drive this process. They are proliferating. Millions of dollars of unregulated, unlimited soft money from some of these influences that are not good for our country or good for our children or good for this process are now dominating this business. Pretty soon, we, as candidates, will not even control the messages in our own elections if we do not do something about it.

We can have an honest disagreement about whether we should fix the current system or even possibly go back to the way things used to be before Watergate. But, most of all, we should have the debate.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Georgia (Mr. LINDER) has 10½ minutes remaining. The gentleman from Texas (Mr. FROST) has 6½ minutes remaining.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I am struck by many different emotions. I do not intend to talk about the merits of the issue tonight. But I feel proud to look at Members on both sides of the aisle who, in the last 3 years, passed congressional accountability getting Congress under the same laws as the rest of the Nation. And I'm proud Republicans and Democrats working together passed gift ban and lobby disclosure legislation as well.

I am proud of the work of the Blue Dogs, and I see the gentlemen from California (Mr. FARR) and Mr. MILLER and the gentleman from Connecticut (Mr. GEJDENSON) who have worked hard on campaign finance reform legislators over many years.

I see other Members on the Democratic side of the aisle who helped forced this issue to come to the floor with a few Republicans. Ultimately, my leadership recognized that we did need to have a vote on campaign finance reform and I thank them for that.

It is going to be a dicey time because it is going to be truly an open debate. There is plenty of opportunity for mischief. Some can misuse the process. So reform minded Members on both sides of the aisle have got to make sure this does not happen.

I am proud also of the freshmen who made it a point to work together to find common ground. And I look forward to the next few weeks and the debate we will have.

I thank my colleagues who supported efforts to form debate and vote. And I thank my leadership for recognizing we need to have an open and honest debate. I hope and pray that, in the end, we can all be proud of the outcome.

Mr. FROST. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I rise in strong opposition to this Titanic Gingrich stall proceeding and the previous question as well as the rule.

Mr. Speaker, throughout the recent history of the Rules Committee, no other major issue has ever been subjected to such a convoluted process as campaign finance reform is being accorded;

By proposing no less than 11 substitutes, and currently considering nearly 600 amendments, a "doomsday" scenario is being presented to the American people;

Previously, the Republican leadership blocked reform efforts, made promises for floor action and reneged and delayed, brought up meaningless legislation on the suspension calendar and made a mockery of the House. Today, the effort now is to kill reform by overloading the process;

The Republican leadership is proposing an endless debate that will take us well into the summer, will result in no resolution, and will fail to bring about much needed reform;

As our colleague JOE MOAKLEY has said, "We'll just go through a lot of motion and not get any action."

[From the Washington Post, May 21, 1998]

RAFT OF CAMPAIGN FINANCE REFORM PLANS MAY MEAN LENGTHY HOUSE DEBATE

(By Helen Dewar)

Rival camps in the fight over campaign finance legislation got the official go-ahead yesterday for a free-for-all on the issue in the House that could last well into summer.

Under a procedure approved by the Rules Committee after a lengthy hearing, the House will begin debate today on a dozen plans, including alternative proposals to ban or sharply curtail the unregulated "soft money" donations to political parties at the heart of fund-raising abuses in the 1996 presidential campaign.

No votes are anticipated until after Congress returns from its Memorial Day recess, and still to be determined by the committee is the problem of how to deal with an extraordinary load of amendments, including 586 that have been filed so far.

Never in the history of the Rules Committee has it faced such a formidable load of amendments, said committee Chairman Gerald B.H. Solomon (R-N.Y.), who promised to prune the list to manageable proportions over the recess. He dismissed some lawmakers' complaints that the process could take all summer. "It could but it won't," he said. Without interruption, the bill could be wound up in four days, he added.

Only a couple of months ago, House Republican leaders resorted to extraordinary means to block votes on the leading proposals, including a total soft-money ban proposed by Reps. Christopher Shays (R-Conn.) and Martin T. Meehan (D-Mass.) and a somewhat less stringent alternative proposed by a bipartisan group of freshmen.

But their tactics created an uproar, and, in order to keep from losing control of the House on the issue, GOP leaders did a sudden about-face and opted for a wide-open process providing for votes on a multitude of plans and even more numerous amendments to them.

As a result, the reform groups, once united in opposition to the leaders' tactics, are competing against each other, raising the possibility that none of the plans would get enough votes for passage—or that all of them would get bogged down in a struggle over amendments.

Now it was Democratic leaders, as well as their Republican counterparts, who were getting caught in the squeeze. Minority Leader Richard A. Gephardt (D-Mo.), who has been pushing for the Shays-Meehan bill, raised some hackles at a Democratic caucus Tuesday night when, according to several observers, he acknowledged without apparent disapproval that some Democrats would also support the freshmen's bill.

At yesterday's hearing, several lawmakers expressed concern that the debate might be stretched out over weeks, with interruptions for other business, making it little more than "filler" to plug into open spaces in the schedule. Several also objected to allowing amendments to each of the plans as they come up for votes, instead of holding them in reserve for action on the final version, saying this could lead to lethal delays. "We'll just go through a lot of motion and not [get] any action," said Rep. Joe Moakley (Mass.), ranking the committee's ranking Democrat.

[From the Roll Call, May 21, 1998]

CONGRESS INSIDE OUT

(By Norman J. Ornstein)

MESSAGE TO MEMBERS: LOOK BEYOND RHETORIC BEFORE VOTING ON CFR

Campaign reform is back—for an extended debate in the House. The "strange bedfellows" coalition that Sen. Mitch McConnell (R-Ky) pulled together for the Senate debate on campaign reform is alive and well—from the National Right to Life Committee (NRLC) and the National Rifle Association to the ACLU.

Encouraged by House Majority Whip Tom DeLay (R-Texas) and McConnell crony Rep. Anne Northup (R-Ky), and led by the NRLC's Douglas Johnson, this coalition has used the guise of the First Amendment to fight bitterly and unrelentingly against any reform, and in particular against any proposal that changes the free-for-all jungle surrounding all electioneering communications that do not use "magic words" like "vote for" or "vote against," and thus call themselves issue advocacy.

The coalition opposes the Shays-Meehan plan in this area, which would treat electioneering communications in the period just before an election by the same rules that apply to independent expenditures—disclosure of donors and ad sponsors, and contribution limits for groups.

It opposes with equal fervor the freshman Hutchinson-Allen plan, which is a simple, watered-down disclosure provision for a narrow category of electioneering ads that covers only sponsors, not donors—not even very large donors.

It opposed unalterably the Snowe-Jeffords Amendment in the Senate, which covered disclosure of large donors only for electronic communications of $10,000 or more within 60 days of an election, tailored at influencing directly the election or defeat of a candidate, and banned direct electioneering contributions from labor unions and corporations.

This anti-reform coalition has already been hitting House Members hard. The NRLC has made each provision on sham issue advocacy a right-to-life test, telling Members that a vote for any reform will harm their pro-life record, a serious problem for many GOP lawmakers. The group ran harsh negative radio ads against staunchy pro-life Rep. Asa Hutchinson (R-Ark) for his temerity in supporting any disclosure for any political ads.

Using the umbrella aegis of the ACLU, the coalition will cloak itself in the First

Amendment, claiming it is just for free speech. Of course, the ACLU position is simply the position of the organization's current leadership; as Burt Neuborne, a former legal director of the ACLU has pointed out, virtually every previous leader in the ACLU has a sharply different view than the current elite in the organization on the constitutionality of campaign reform proposals.

But whatever the real civil liberties position on reform, Members of Congress should be more directly aware of what the members of this broad anti-reform coalition are for and against:

1. They are against disclosure. Some "reformers," like Rep. John Doolittle (R-Calif), claim they are for lifting all limits and stiffening disclosure, relying on the market and informed consumers to self-regulate the political and election process. This would be a worthy position for debate if it were accurate.

But Doolittle, along with the NRLC's Johnson and the ACLU's Laura Murphy and Ira Glasser, are not for full disclosure. In fact, they are opposed to any and all disclosure of sources or sponsors of any political ads except the very narrow class of those using the few magic words.

They oppose any disclosure for the more than $150 million in ads run in 1996 that were self-labeled "issue advocacy" but, as an analytical study by the Annenberg School of Communications has shown, were candidate-centered, more harshly negative than any other category of ads, and clearly designed to elect or defeat particular candidates.

2. They are for secrecy, obfuscation and misdirection. The Annenberg study and good investigative reporting around the country in 1996 and 1997 showed that sham issue-advocacy ads were often designed to blindside candidates and to obscure deliberately the origin of the attacks. Funds often were laundered through two or more organizations, with vague names like "Citizens for Reform," making it difficult to figure out the source of the campaign electioneering messages.

Attack campaigns were often run at the end of the campaign, leaving no time for the attacked candidate or the press to uncover the source. Very likely, some candidates and/or their party campaign committees colluded with outside groups to orchestrate "issue advocacy" attacks on their opponents, leaving the attacking candidate with his or her hands clean, able to disavow the vicious attack while reaping the benefit.

Absent any disclosure, we will see a whole lot more of this approach, aimed at confusing voters and blurring responsibility and accountability. Ask yourself if confusion, surreptitiousness, irresponsibility and unaccountability are the values of the First Amendment the Framers intended to put first.

3. They are for unlimited corporate and labor involvement in electioneering. Since 1907, corporations have been barred from using their funds to influence directly the outcome of elections. The same ban has existed for labor unions and their dues since the 1940s. Corporations and labor unions can use voluntary political action committees to mobilize their executives, employees and members to get involved in electing or defeating candidates for office.

But the so-called issue-advocacy campaigns have provided a gigantic loophole to allow corporations and unions to use unlimited (and undisclosed) amounts of corporate funds and union dues to target candidates, violating the intent of those existing laws.

Of course, some conservatives are trying to have it both ways, using the backdoor approach of "paycheck protection" to cripple labor unions while leaving corporations free to do what they want to shape election results. But the best way to stop labor unions and corporations from running these campaigns is to follow the legal traditions and ban their funds from use in electioneering—an approach opposed by this coalition.

4. They are for foreign involvement in American elections. Current laws ban the use of foreign money in American campaigns. But any source of funds, foreign or domestic, can be used for these so-called "issue advocacy" campaigns. And we will never know if foreign funds, including funds from the Chinese government, are used in ads that are clearly designed to elect or defeat candidates—there is no disclosure.

So here's a message for Members of Congress as you prepare to vote on reform plans and amendments that address this sham issue advocacy. Look beyond the threats and the mantra of the First Amendment offered by opponents of any reform in this area and consider the implications of the votes you cast:

Do you really want to vote against disclosure of the authors and funders of vicious attack ads?

Do you want to be on record voting for unlimited and undisclosed use of labor union dues and funds from corporate coffers to elect or defeat candidates?

Do you want to endorse a system allowing unlimited, unregulated and undisclosed use of foreign money to influence American elections?

Of course, there are reasonable and heavy-handed, constitutional and unconstitutional, ways to approach reforming this system. The freshman plan is frankly too week; it includes disclosure, but only of the groups sponsoring these ads, not the major sources of funds. The Shays-Meehan approach (which, in the interest of disclosure, I helped to craft) is a better one, although I fear that it will be hard to sell to the Supreme Court.

I am much more comfortable with the approach my colleagues and I subsequently devised that became the Snowe-Jeffords Amendment, which puts reasonable if broad limits on electioneering ads masquerading as "issue advocacy" by providing targeted disclosure of large contributors and keeping out corporate and labor funds.

Each of these approaches at least tries to apply the spirit and approach of the Buckley decision and a sensitivity to the First Amendment rights of issue advocates to a class of ads that are not issue advocacy and thus defy the intent of the Court. Whether too weak, too strong or just right, the zealots from the NRLC and the ACLU will be opposed.

Which side are you on?

Mr. FROST. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, it is 11 o'clock, 5 minutes of 11:00, and we are now finally getting to the debate on the rule on campaign finance reform, an interesting rule that brings 11 different viewpoints to the floor, allows an hour vote for each one, and unlimited amendments.

The question is whether this Congress is going to be serious about passing campaign reform. It was just mentioned that, when our party was in control, we and the 101st, 102d, and 103d did pass campaign reform, and it was substantive.

It was a bill that, first of all, had the premise of fairness, a bill that did not favor one party over another. Second, it reduced the influence of special interest. Third, it leveled the playing field. And, fourth, it made access to the system by nontraditional candidates.

One of the bills that is in order is a bill that does that. It caps spending. It reduces individual PAC contributions. It reforms the role of wealthy donors and people who use their own money. It reforms the role of soft money. It finally puts the brakes on massive expenditures of money in the political realm that are now unregulated, undisclosed and outside the law, those that are independent expenditures.

I hope Members of the party will take a look at this bill. There are 106 coauthors on this side. It is the only bill that is on the floor that is really comprehensive, the only bill that addresses all the issues that the 101st, 102d, 103d Congress did. If you adopt this rule, you will have a chance to do comprehensive campaign finance reform.

Mr. LINDER. Mr. Speaker, I yield myself 2½ minutes to point out to the gentleman that just spoke in the well that all of these wonderful bills and all of the previous approaches by the Democrats in previous Congresses left out one minor piece; that is, the special interests that spend more money in politics than all the rest combined, the labor unions, which spent, in the last cycle, in the last election, somewhere between $300 million and $500 million according to a Rutgers University study.

Are they at all impinged by any of these bills? Of course not. That is not soft money. You see, that is Democrat money. We will not abuse it at all.

I know the gentleman from Texas (Mr. FROST) said that the Shays-Meehan bill codifies the Beck decision. What the Beck decision says is that labor union members must approve their money being used for political activity.

This codification of the Beck decision says you may get your money back if it was used for political activity so long as you are no longer a union member, which is to say you have to leave the money to get your money back.

This is the sham. This is the game that is being played. Stop the union or stop the corporate soft money accounts. That is fine. We both get about $140 million a year. We both get $140 million over a 2-year cycle from three committees. But eliminate any opportunity from impinging on the labor unions which support the Democrats 100 percent.

The gentleman from Michigan (Mr. BONIOR) said that the airwaves are flooded with negative political attacks. Yes, of course they were, by unions. Of course they were. He was not there stopping them. In fact, he was welcoming them.

When the unions this year decided that occasionally they would support some friendly Republicans, the Democrat leadership wrote a whining letter to the union leadership and said, do not dare support Republicans. You are our guys.

The gentleman from Michigan (Mr. BONIOR) also said that, in this process, no political voice is heard unless they contribute up to $50,000. It is only a rich guy's game. He may be speaking from personal experience; but from my experience, and anyone that I know, we listen to all. We hear from everyone, whether or not they are contributors. If it is his experience only to listen to those who contribute $50,000, that is his problem, not the country's problem.

There is, indeed, an outside influence. If we are going to treat them fairly, we treat them all, including the labor union's money. But I will point out to the gentleman there is no controlling legal authority to do that.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, the gentleman from California (Mr. FAZIO) was going to point out that the facts of the gentleman from Georgia (Mr. LINDER) are wrong. We will get into that. But I take seriously your description of the issue. You say major changes are not needed to implement present law. I say implement present law and make major changes in the law. That is what you said.

Money is swamping the democratic process and you are standing up, defending the status quo. The present system demeans the contributor. It demeans the recipient. It increases polarization, and it deepens public cynicism.

Shays-Meehan addresses both soft money and issue ads. I say to the minority who usually are not such defenders of free speech, free speech is not the same as unlimited paid campaign ads. Vote for Shays-Meehan.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time for the last speaker.

Mr. FROST. Mr. Speaker, I would inquire of the remaining time.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) has 4 minutes remaining. The gentleman from Texas (Mr. FROST) has 6½ minutes remaining.

□ 2300

Mr. FROST. Mr. Speaker, I yield one minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of this rule, because it will eventually allow us to vote on campaign finance reform, though I must say that it should be called the heel-dragging rule. There is so much debate scheduled on this issue, that I am afraid it could go on for months.

While I object to this filibuster tactic, I am pleased that it will finally allow us to vote on Shays-Meehan. Shays-Meehan bans soft money, it regulates third party expenditures, it will help to level the playing field between challengers and incumbents and it encourages greater disclosure. It will help to turn the political process back to an election, instead of an auction that is going to the highest bidder, the person who spends the most money.

Mr. Speaker, we need to show the public that our elections are not for sale, our government is not for sale, and bring in real campaign finance reform. We need to vote on it before we go back and ask our constituents to vote for us.

Mr. FROST. Mr. Speaker, I yield one minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, the message the American people are sending us is clear: Reform our campaign finance system; reform it now. The Republican leadership does not get that message. They do not want to get that message.

There was a famous handshake three years ago with President Clinton. The Speaker said he was going to have a vote on campaign finance reform. Time and again that vote has been delayed. He promised a vote in March. It is May; we are still waiting.

Keep in mind the Speaker is in charge of this House. If he wanted a vote on campaign finance reform, we would have that vote tonight. That is what we ought to be doing, instead of delay and delay on this issue. And speaking of delay, the gentleman from Texas (Mr. DELAY), the Republican Majority Whip, is working vigorously to kill campaign finance reform. You should clap. We all know what you are doing.

The Republican leadership thinks we need more money in this political system. They would lift current limits on campaign contributions. They would increase the influence of the wealthiest in this country.

POINT OF ORDER

Mr. LEVIN. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman will state it.

Mr. LEVIN. Mr. Speaker, is hissing, and I mean this seriously if we are going to set precedent, is hissing from Members of this House in order?

The SPEAKER pro tempore. Hissing is not proper decorum in the House, under Jefferson's manual.

Mr. FROST. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. MILLER).

The SPEAKER pro tempore. The gentleman from California is recognized for 2 minutes.

Mr. MILLER of California. Mr. Speaker, I urge the people of America to pay close attention to this debate on campaign finance reform. Pay close attention, because you will hear so many different arguments, facts, figures and legal theories, not just today, but possibly for weeks to come. There will be so much that is said that it may be hard to follow what is really important in this debate.

There is only one thing that matters when all is said and done: Will your representative in Congress vote for the only meaningful campaign finance reform bill to be offered this year? Will your representative vote for the Shays-Meehan bill? That is all that matters.

The Shays-Meehan bill is the only bill that truly bans soft money and has the support of grassroots campaign finance reform organizations. Huge soft money contributions have become the leading corrupting influence in our political process today. Soft money contributions have caused politicians to do many things that they would not ordinarily do to abandon their constituents, to abandon the taxpayer, to abandon the public interest.

My friends, ask yourself this: With all of the evidence of the corrupting influence of campaign contributions on politics, why should it be so hard to reform this system? Why should it be so hard? The answer is because the Republican leaders who control this House are committed to blocking the successful passage of campaign finance reform.

The vast majority of Democrats are committed to real reform, and we have been joined by a small group of concerned Republicans. Together, hopefully, we represent a majority. But we do not control the action on the floor. That is why, ladies and gentleman across this country, you must pay attention.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. MILLER) has expired.

Mr. MILLER of California. Remember, there is only one way to determine whether or not your Representative truly believes and supports and is for campaign finance reform. That is, at the end of this debate, did they vote for the Shays-Meehan bill?

Mr. LINDER. Regular order.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. MILLER) has expired.

Mr. MILLER of California. * * *

The SPEAKER pro tempore. The time of the gentleman from California has expired.

POINT OF ORDER

Mr. LINDER. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. LINDER. Mr. Speaker, is it the regular order of the House for the gentleman to ignore the Speaker and to ignore the time limits and speak as long as he did?

Mr. MILLER of California. As did the gentleman when he just previously spoke. You were also told time expired, and you continued to speak.

The SPEAKER pro tempore. The rule of the House is the person speaking must cease speaking and his remarks are not transcribed when he is no longer under recognition. The gentleman is out of order.

Mr. LINDER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. DELAY) the Majority Whip of the House.

The SPEAKER pro tempore. The gentleman from Texas is recognized for 6½ minutes.

Mr. DELAY. Mr. Speaker, I think we just got——

POINT OF ORDER

Mr. LINDER. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LINDER. Mr. Speaker, we have jeering back here on this side. Can we get some order in the House?

The SPEAKER pro tempore. The House will be in order.

Mr. DELAY. Mr. Speaker, I hope the American people just saw that display, because what they saw is Big Brother on the prowl again, Big Brother government trying to stifle the American people once again, and they are not even satisfied with open and honest debate. They want the debate on their terms, voting up or down on their bills, and they do not want any amendments. Well, I look forward to having a vigorous and complete debate about the state of our campaign laws, the laws that the gentleman from California enacted around 1974.

Some believe that the laws that govern our elections are in such desperate shape that we should erect a huge government bureaucracy and sharply limit the ability of our citizens to participate through further spending limits; others believe that things are so serious that we need to scrap the First Amendment to the Constitution, the premier political reform in human history, and start all over with a new First Amendment that restrains the exuberance of the American electorate; and the president uses campaign finance reform as a way to distract the American people from his own campaign's shameless abuse of the campaign laws.

Well, Mr. Speaker, I do not think we need to throw the baby out with the bath water. We do not need to scrap the First Amendment simply because the Clinton campaign could not abide by our own current laws.

Some of my colleagues, with very good intentions in their hearts, have crafted legislation that would make our Founding Fathers turn in their graves. The Shays-Meehan approach is a direct assault upon the First Amendment. The Hutchinson bill is only slightly less offensive. I contend that these two bills will erect a Byzantine set of laws that will gag citizens' speech, and, as the ACLU has warned, not exactly one of my best supporters, but they have warned that this barrier would inevitably be analogous to barbed wire fences. No individual or group would try to scale it, unless they were willing to become ensnared in a complicated set of laws, whose penalties would inflict serious pain.

Now, attempts to regulate and to require disclosure of issue advocacy that has been talked about a lot here through statute and through FEC regulation have repeatedly been declared unconstitutional by the Supreme Court and other lower Federal courts.

□ 2310

The Court has always viewed issue advocacy as a form of speech that deserves the highest degree of protection, strict scrutiny under the First Amendment. And that Court has not only been supportive, has not only been supportive of issue advocacy, it has affirmatively stated that it is untroubled by the fact that issue advertisements may influence the outcome of an election. In fact, in Buckley v. Valeo the Justices stated, and I quote, and it is a wonderful quote, "The First Amendment denies government the power," denies big brother the power, "to determine that spending to promote one's political views is wasteful, excessive, or unwise. In a free society ordained by our Constitution, it is not the government, but the people, the people, individually, as citizens and candidates and collectively, the people as associations and political committees, they are the ones who must retain control over the quantity and the range of debate on public issues in a political campaign." Not this House, not some bureaucracy, not the FEC, not even you. The people, something we forget about in this Chamber a lot.

Freedom of speech is the issue. My friends who support Shays and other bills to restrict freedom of speech will deny that any First Amendment issue is at stake.

Well, Mr. Speaker, the First Amendment is not a loophole. Freedom and reform are not mutually exclusive principles. They go hand-in-hand.

The First Amendment is not an idea that should be tossed aside like a piece of garbage. It is our first freedom. It is our most critical freedom. It is the First Amendment in America's premier political reform. We should be expanding freedom. We should be encouraging participation in the political process.

Now, many campaign reform proposals go in the other direction. They clamp down on freedom, they gag citizens, they restrict freedom. I believe that there are things we can do to improve our campaign laws. We should have full disclosure so that the American people have quicker and better access to the information that they need to make informed decisions. And the proposal of the gentleman from California (Mr. DOOLITTLE) to require that all campaign contributions be posted on the Internet I think is an excellent way to get full disclosure.

We should cut out the bureaucracy and the paperwork so that more of our citizens feel more comfortable about running for office. We should lift up campaign limits so that middle America can solicit the support that they need to run for office, not only rich people.

We should oppose any effort to give welfare to politicians, and I urge my colleagues to stand for freedom and join with me in protecting the First Amendment from further attack.

Ms. ESHOO. Mr. Speaker, I rise today in support of the Meehan-Shays Bipartisan Campaign Reform Act of 1998. This legislation bans soft money and prevents this ban from being circumvented by loopholes and exceptions.

Campaign finance reform is essential to restoring public confidence in not only the political system but our legislative process, as evidenced by a Wall Street Journal/Hart poll in which 68% of the people questioned said they believed the American political system is more influenced by special interest money than it was 20 years ago. But we don't need polls to tell us that the American people distrust the way that soft money has infiltrated this institution. All of us in this body have heard from our constituents, and they are clamoring for reform.

Mr. Speaker, those opposed to this legislation would have us believe that the bill is unconstitutional, that it would erode our First Amendment rights to free speech. H.R. 3256 does not impinge on our constitutionally guaranteed rights to free speech. What it does do, however, is strengthen the definition of the term "campaign ad", so that groups who pay to produce and broadcast these ads must adhere to federal election laws. Specifically, under the Meehan-Shays Bipartisan Campaign Reform Act, any ad run within 60 days of an election that features a clearly identified federal candidate is considered "campaigning" and will have to be paid for according to FEC guidelines.

This provision ensures that the public is fully aware of who is paying for these so-called "issue advocacy" ads. It would be applied evenly, to Republicans and Democrats, corporations and unions, individuals and organizations. Mr. Speaker, we have a limited number of legislative days remaining in the 105th Congress. We are well into the 1998 election cycle. H.R. 3256 is a reasonable and well-crafted bipartisan approach to an issue that the American people want this Congress to address as soon as possible.

Let's do the right thing, let's pass real reforms to the Congressional Campaign System.

Mr. LINDER. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. HANSEN). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 208, nays 190, not voting 35, as follows:

[Roll No. 186]

YEAS—208

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Buyer
Callahan
Calvert
Camp
Campbell
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
McCollum
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Packard
Pappas
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wolf
Young (AK)
Young (FL)

NAYS—190

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—35

Bateman
Berman
Boehner
Burr
Burton
Canady
Clement
Coburn
DeFazio
Deutsch
Foley
Gonzalez
Harman
Hefley
Herger
Johnson, Sam
Manzullo
Martinez
McCrery
McDade
Meeks (NY)
Oxley
Parker
Paul
Quinn
Scarborough
Shaw
Skaggs
Stark
Taylor (NC)
Torres
Towns
Waxman
Wicker
Yates

□ 2333

Ms. HOOLEY of Oregon changed her vote from "yea" to "nay."

Mr. PICKERING and Mr. KNOLLENBERG changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HANSEN). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE HUMANITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. SESSIONS) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and the Workforce:

To the Congress of the United States:

I am pleased to present to you the 32nd annual report of the National Endowment for the Humanities (NEH), the Federal agency charged with advancing scholarship and knowledge in the humanities. The NEH supports an impressive range of humanities projects advancing American scholarship and reaching millions of Americans each year.

The public has been enriched by many innovative NEH projects. These included a traveling exhibit, companion book, and public programming examining the history and legacy of the California Gold Rush on the occasion of its Sesquicentennial. Other initiatives promoted humanities radio programming and major funding for the critically acclaimed PBS series, "Liberty! The American Revolution."

The NEH is also utilizing computer technologies in new and exciting ways. Answering the call for quality humanities content on the Internet, NEH partnered with MCI to provide EDSITEment, a website that offers scholars, teachers, students, and parents a link to the Internet's most promising humanities sites. The NEH's "Teaching with Technology" grants have made possible such innovations as a CD-ROM on art and life in Africa and a digital archive of community life during the Civil War. In its special report to the Congress, "NEH and the Digital Age," the agency examined its past, present, and future use of technology as a tool to further the humanities and make them more accessible to the American public.

This past year saw a change in leadership at the Endowment. Dr. Sheldon

Hackney completed his term as Chairman and I appointed Dr. William R. Ferris to succeed him. Dr. Ferris will continue the NEH's tradition of quality research and public programming.

The important projects funded by the NEH provide for us the knowledge and wisdom imparted by history, philosophy, literature, and other humanities disciplines, and cannot be underestimated as we meet the challenges of the new millennium.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1998*.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Before recognizing Members for 5-minute special orders, the Chair will recognize 1-minute requests, but not beyond midnight.

TOBACCO LEGISLATION

(Mr. GOODE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODE. Mr. Speaker, there is legislation pending before both Houses of Congress that would raise the excise tax on tobacco products by $1.50 per pack. As a practical matter, these proposals result in a total tax increase of at least $500 billion over 25 years. This tax increase of a half trillion dollars will fall most heavily on the American working men and women. Those who make $30,000 per year pay 43 percent of the Federal tobacco tax burden.

□ 2340

The median income in the Fifth District of Virginia, which I represent, is less than $28,000 per year. In fact, if this excise tax of $1.50 per pack goes in, the Federal tax burden on the Virginia family in the Fifth District would be more than $500 per year, and that is a staggering tax increase for a family that is struggling to make ends meet.

HONORING FORMER SOUTH VIETNAMESE ARMY COMMANDOS

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, 2 weeks ago the House Committee on National Security unanimously approved my amendment to honor and recognize the former South Vietnamese army commandos who were employees of the United States Government during the Vietnam War.

Today, the Members of this House had the opportunity to properly honor those brave men by supporting the Department of Defense authorization bill for fiscal year 1999.

Last year, the President signed into law legislation that I advocated to ensure that the United States Government honor a 30-year-old bad debt and pay these men who worked for the United States Government the wages they earned but were denied during the Vietnam War.

These individuals were trained by the Pentagon to infiltrate and destabilize communist North Vietnam.

Many of these commandos were captured and tortured while in prison for 15 to 20 years, and many never made it out.

Declassified DOD documents showed that U.S. officials wrote off the commandos as dead even though they knew from various sources that many were alive in Vietnamese prisons.

The documents also show that U.S. officials lied to the soldiers' wives, paid them tiny "Death Gratuities" and washed their hands of the matter.

For example, Mr. Ha Va Son was listed as dead by our Government in 1967, although he was known to be in a communist prison in North Vietnam. Today he is very much alive and well and living in Chamblee, GA. In my hand I hold the United States Government's official declaration of his death.

Because it was a secret covert operation, the U.S. Government thought they could easily ignore the commandos, their families, friends, and their previous contacts without anyone noticing.

As the Senior Senator from Pennsylvania said in a recent hearing, "This is a genuinely incredible story of callous, inhumane, and really barbaric treatment by the United States."

In the 104th Congress, this House approved legislation that required the Department of Defense to pay reparations to the commandos.

This bill would have provided $20 million to the commandos and their survivors, an average grant of about $40,000 per commando. It called them to be paid $2,000 a year for every year they were in prison, less than the wages they were due.

President Clinton signed this legislation into law (Public Law 104–201).

However, in April of 1997, the Department of Defense said that the statute was legislatively flawed and the Secretary could not legally make payments.

I then contacted Secretary Cohen requesting the administration's help to correct this error.

The administration responded by supporting inclusion of the funding in the Supplemental Appropriations Bill for fiscal year 1997 (Public Law 105–18)

Last year, I met at a public forum with 40 commandos from my district.

One individual shared with me his story of how he parachuted into enemy territory, was captured, convicted of treason, beaten, thrown into solitary confinement for 11 months, then moved among hard labor camps for the next seven years.

His story is not unlike countless others. I request unanimous consent to insert into the record one story of this abuse headlined "Uncommon Betrayal" as reported by an Atlanta newspaper recently.

Today, however, I am pleased to provide this Body with this update.

To date, the Commando Compensation Board has been established at the Pentagon; 266 claims have been processed; 142 Commandos have been paid.

All this was made possible because of the commitment of this House.

After years of torture by the North Vietnamese, the callousness of being declared dead by the United States Government, and years of anguish over not receiving their rightful compensation—these brave men now deserve recognition.

The South Vietnamese Lost Army Commandos are finally a step closer to having the United States Government honor their contracts for their years of service to the United States Army.

I am proud that the members of the House had an opportunity to properly honor these brave men.

We can not bring those who perished back, but we can give these individuals the dignity and respect that's been so long overdue.

Who supports this resolution?

The State of California American Legion strongly endorses this amendment and I would like to submit the letter from the Department Commander Frank Larson into the RECORD.

In Commander Larson's letter dated May 1, 1998, he states, "Ms. SÁNCHEZ: I'm sure if history were unfolded for all to see it would show that the South Vietnamese commandos, who aided the United States Government in covert actions against the North Vietnamese, were responsible for saving many American lives."

It goes on to say: "To that end, the same recognition due our soldiers, sailors, marines and airman involved in the Vietnamese Conflict should be afforded to the former South Vietnamese commandos, who so gallantly served and endured."

It is also supported by: The Air Commando Organization; The Special Forces Organization.

American veterans who fought side by side with the Commandos, come to their defense in letters of support.

I would like to share with you what our soldiers have to say about the commandos.

This letter comes from a special forces NCO:

"Dear Sir: I had the opportunity to work with these men in which they not only risked their lives, but continually put themselves in harms way. * * * We are aware of terrible trials and conditions these men endured for so long and we would like to help. * * *"

I would also like to take this opportunity to mention that last year, during POW/MIA recognition day, I had the opportunity to meet with several members of my veteran community.

I had the opportunity to speak with former POWs and family members whose loved ones were taken as prisoners or declared missing in action. Several of the veterans mentioned their support for the Commandos and urged that the Government honor its word.

Today, we gave these commandos what they really wanted, the distinction of honoring their service in the Vietnam War. And on behalf of the 40 commandos residing in the 46th Congressional District of California, I would like to thank the Members of this body for their commitment to honor and to recognize the former South Vietnamese army commandos.

Mr. Speaker, I submit for the RECORD a series of documents relating to these former South Vietnamese commandos.

UNCOMMON BETRAYAL

ABANDONED BY THE UNITED STATES, FORMER SOUTH VIETNAMESE COMMANDOS RISE FROM THE DEAD

On a moonlit night in May 1965, a large transport plane was flying low through the skies of northwestern North Vietnam on its way toward the town of Son La. Sitting nervously in the back of the plane was Team Horse, a group of five South Vietnamese commandos who were part of a covert CIA/Department of Defense (DOD) plan known as Operation Plan 34-Alpha (Oplan-34A). Team Horse was being parachuted in to reinforce the eight members of Team Easy, who had been deployed there in August 1963.

After making a first pass by the drop zone to release crates of supplies and a homing beacon, the plane circled around again and Team Horse parachuted out the back. Soon after hitting the ground the commandos knew their mission was a total bust. Soldiers from North Vietnam's Ministry of Public Security were waiting for them with rifles in hand. Even worse, Team Easy had been captured long ago, and the North Vietnamese had used that team's radio equipment to lure in Team Horse.

The five commandos were tried and convicted of treason, and sent to prison. Only one, team leader Quach Nhung, would survive incarceration. After more than 20 years of hard labor in a Vietnamese prison, Nhung was released and immigrated to the United States in 1994. He is one of about 30 former South Vietnamese commandos involved in Oplan-34A who now live in the Atlanta metro area.

Recently declassified documents have revealed Oplan-34A to be one of the most tragic and disturbing aspects of the Vietnam War. "When you read those documents, you want to cry," says Sedgwick Tourison, who used many of the papers to write Secret Army, Secret War—Washington's Tragic Spy Operation in North Vietnam. "It's disgusting. We sold [those commandos] down the river and walked away, and we did it with such clean hands. And as I put in the book, nobody thought this would ever surface."

Even Sen. Arlen Specter (R-Pa.), chairman of the Senate Select Committee on Intelligence, was shocked by the abuses. In a recent hearing on Capitol Hill, Specter said, "This is a genuinely incredible story of callous, inhumane, and really barbaric treatment by the United States."

A DOOMED OPERATION

From 1961 through the end of the decade, approximately 500 commandos separated into 52 small teams were sent into North Vietnam. Trained and funded first by the CIA, the operation was taken over by the DOD in 1964. At first, the teams were designed to gather intelligence, but their duties were later augmented to include psychological warfare and sabotage. Nearly all of the commandos were either killed or captured almost immediately by the North Vietnamese, who had heavily infiltrated the operation with moles on the South Vietnamese side.

The entire operation was a failure, and documents now show that the CIA and the DOD knew that it was. Still, they continued to send commandos to their almost certain doom.

The United States' betrayal of the South Vietnamese commandos did not end there.

Once they had been captured, their families were notified not that they were prisoners of war or missing in action, but that they were dead. "The Defense Department compounded that tragedy by simply writing off the lost commandos," Sen. John Kerry (D-Mass.) said during the recent Senate hearing. "Drawing a line through their names as dead apparently in order to avoid paying monthly salaries [to the families]."

Says Tourison, who is the former Chief of Analysis in the Defense Intelligence Agency's office of POW/MIA affairs. "It was money more than anything else. The bottom line was that we did not want to pay them any more. We were recruiting new guys and telling them that if anything happens we'll take care of you, and we never had any intention of doing that. And because of the moles the North Vietnamese had on the inside, they knew what we had done. And once they found out, that sent a message to Hanoi that we viewed the lives of those who serve for us as of no consequence."

But the betrayal of the South Vietnamese commandos still did not end there.

Even though the United States knew many of them were in prison, nothing was ever done to get them out. As Kerry, himself a Vietnam War veteran, said at the hearing, "After sending these brave men, on what by anyone's judgment were next to suicide missions, and after cutting off their pay, we then committed the most egregious error of all: We made no effort to obtain their release along with American POWs during the peace negotiations in Paris [in 1973]. As a result, many of these brave men who fought alongside us for the same cause spent years in prison, more than 20 years in some cases."

The U.S. government is now trying to make up for its treatment of the commandos. On June 19, the Senate unanimously passed a bill that will pay the former commandos or their survivors $40,000 each, which basically amounts to an average of $2,000 back pay per year for an average of 20 years spent in prison.

Even though the commandos need the money and say they are looking forward to it, money cannot erase the past. "Forty thousand dollars is nothing," says Nhung. "No money can pay for my life."

COMING TO AMERICA

Recently, three of the former South Vietnamese Oplan-34A commandos now living in the Atlanta area sit down to talk about their life during wartime and what moving to America has meant for them.

The site is the living room of a cramped apartment in an ersatz Colonial complex on a predominantly Asian stretch of Buford Highway just across the street from the Little Saigon strip mall. A group of happy, boisterous kids play on the landing. A strong odor of simmering soup rolls in from the kitchen.

Sitting around the table are Nhung, 52; Team Greco deputy commander Quash Rang, 58; and Team Pegasus leader Than Van Kinh, 67. Acting as interpreter is Ha Van Son, who had been part of a similar operation, Oplan-35. Son was imprisoned for 19 years and was also declared dead to his family by the United States. Members of his operation are also being considered for compensation in the Senate bill.

The men smoke almost constantly and emit a feeling of haggard world—weariness. They are all dressed similarly, in Oxford shirts and polyester slacks, and each has salt-and-pepper hair slicked down and parted to the side. When asked why they joined on with Oplan-34A, the answer comes quickly and not without some measure of incredulity.

"Because everybody wanted to fight against the communists," says Son, speaking for the group "Nobody fight with any other reason.

Tourison's book is filled with wrenching stories of commandos being starved and tortured while in prison, and the experiences of these men were equally brutal. "All of us were treated very, very badly," says Son. "All of us were shackled and put in a small cell for a long time. After that they take us to a big room where we concentrate with everybody. But they give us only a little of rice a day. Sometime no rice, but yellow corn. But the corn that's used for animals, not for man."

Even today, many of the commandos still suffer physically from their time spent in North Vietnamese prisons. "When we got tortured, everybody has a problem in their body," comments Son. "Like Than Van Kinh, all his teeth was broken out." With that cue, Kinh opens his mouth wide and taps his dentures with a finger. "And my leg sometimes is paralyzed. Everybody is like that in the winter. Sometimes we get pain and hurt in the knee and in the body. You see the outside is good [i.e., they look fine from the outside], but inside sometimes from the fall to winter, if the weather changes, everybody gets pain."

When they were released from prison, their lives improved little. Because they were branded as traitors in Vietnam, it was hard to get work. "It was very, very difficult because when we go to apply for a job in Vietnam, the Vietnamese communists check and they know that this was a spy commando," says Son. "So that everybody has to go to work as a farmer, and some drive a three-wheeled motorcycle in Saigon."

Tourison maintains that U.S. policy toward the commandos has ruined more than just their own lives. "In Vietnam, they are largely excluded from all legal forms of employment," he explains. "Because of that, the children normally have to cut their education short to engage in child labor to support their parents. We have visited the sins on three generations. The older couples, their children, and their grandchildren."

In Atlanta, some of the commandos are retired, but most are employed in various jobs. For example, Nhung works in a factory that manufacturers containers, Son is a sales and leasing consultant at an auto dealership, and Rang and his wife own a beauty salon in Duluth—aptly named American Nails.

Remarkably, the commandos harbor less anger toward the United States than one might expect. "My friend Quach Nhung say, everybody still have a little anger with the leaders who betrayed us, but we know that they are not the representatives of U.S. government right now, they are not the American people," says Son, speaking for his comrade. "Of course, everybody get angry, but we have to talk with the American people and the American government to [let them] know about the facts of history. We think we have to fight for justice."

Son has been informed that the commandos should receive their back pay from the United States in about 18 months. When they receive those funds, the commandos plan to pool their resources. "In Atlanta, we have about 30 commandos," explains Son. "[We] will establish a joint venture corporation and maybe we will do a business like a Vietnamese market and everybody will work for our company, every commando and their family. And we think that corporation may develop for the commandos' children's future and take care of the old."

By combining the money they will get from the U.S. government, the commandos will have a substantial amount to work with. However, Son admits that when Americans learn what happened to them and how much the government is planning on compensating the commandos, many of them are appalled. "American people, they say, you are worth $4 million, not $40,000," says Son. "That's very cheap. It's a little bit."

LET'S SCREW THEM AGAIN

Even though life seems to be on the upswing for the commandos, there are still a few snags. Some of the commandos, including Than Van Kinh, have had problems bringing their families to this country. His wife and son have been denied entrance.

"His wife was denied with no reason," says Son, translating Kinh's words. "We were very surprised because his wife was waiting for him from the time he was captured in North Vietnam."

Tourison also expresses exasperation that Kinh's wife was denied immigration. "Over the last 35 years, Than Van Kinh has spent maybe five or six years with his wife out of all of his adult life," he says. "This is a woman who worships the ground this guy walks on. They've been married since the 1950s, and these sons of bitches [in the Immigration and Naturalization Service], with a stroke of the pen say, 'Well we just don't believe she's your wife.' What are you going to do at that point? That's just so damn cruel."

There are also some 70 former still in Vietnam, some of whom have found getting less than easy.

"This is a relatively small community of people who paid a higher price than anyone who served us during the war," says Tourison. "Unfortunately, the State Department and the INS give them absolutely no priority. What that means is that when they submit papers to the embassy in Bangkok applying to depart Vietnam or they get a request for more documents, it can take six months to a year until someone acts on it. And you know what happens?

"They die. I have gotten letters from commandos, and then six months later while they are waiting for an answer from the embassy in Bangkok, they die. It tears me apart every damn time that happens because it is so fundamentally wrong and so fundamentally counter to our own values. They were first in prison, last out, and let's screw them again."

As the former commandos wait for their payment from the United States, as they wait for other comrades and stranded family members to join them, they say they are enjoying their lives in America but have not forgotten their homeland. "Of course we miss Vietnam," says Son. "And everybody, except Mr. Kinh, who is too old, every commando thinks if we get a start on an organization, if we have weapons and we have [money], we want to go back to Vietnam to fight with the communists again.

"My friend Quach Nhung, he say, of course now I like it in America, it is better than in Vietnam, but because we have sacrificed for our country and for freedom, we did not like to see the Vietnamese communists take over. We want Vietnam to be a country with freedom, human rights, and democracy."

THE AMERICAN LEGION,
DEPARTMENT OF CALIFORNIA,
San Francisco, CA, May 1, 1998.

Hon. LORETTA SÁNCHEZ,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE SÁNCHEZ: Be it war, police action or a conflict, everyone who participates puts certain things at risk. Mainly, their freedom, fortune and happiness—but for a cause. It is unfortunate that the turn of events which led to the culmination of the Vietnam Conflict are recorded as they are in history. But the cost of war does not necessarily stop with the signing of a peace agreement.

There are other residual costs that should be attended to. These costs are defined as recognition of those who served as our allies—those who believed in our causes, crossed the line and committed to the United States government. I'm sure if history were unfolded for all to see it would show that the South Vietnamese commandoes, who aided the United States government in covert actions against the North Vietnamese, were responsible for saving many American lives.

To that end, the same recognition due our soldiers, sailors, marines and airmen involved in the Vietnamese Conflict should be afforded to the former South Vietnam commandoes, who so gallantly served and endured.

Sincerely,

FRANK C. LARSON,
Department Commander.

DEATH GRATUITY

15 SEPT, 1967.

I, Ha Van Cau TD# 06935, received from Liaison Bureau the amount of 61,200 $VN for the death of Ha Van Son, son who was killed while on duty with FOB#1 Phu Bai. The above amount is paid as survivors death benefits.

This payment reflects full settlement of death gratuity and the United States Government is hereby released from any future claims arising from this incident.

Pay computation: 5,100 Monthly Pay x 12 Months = 61,200.

15 SEPT, 1967.

(Name of Employee) Ha Van Son.
(Pay Level and Step) EF–1.
(Number of Dependents) NONE.
(Date Employed) 30 May 1967.
(Date Separated) 2 Sept. 1967.
Reason for Separation: Deceased.

Period for which pay is computed: From 1 August to 2 September 1967.

Base pay: 169 (Daily) x 33 (Days Worked) = Base pay due: 5,677$.

Other: Operational mission pay. 150 × 3 Days = 450 $VN

Total pay due on separation: 6,027$.

I have received the amount of 6,027$ which represents the total of all pay and allowances due me upon the termination of my employment.

HA VAN CAU (F)
(Signature of Employee)

CAUTION REGARDING TOBACCO LEGISLATION IS URGED

(Mr. HEFNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFNER. Mr. Speaker, there is legislation in both bodies of this Congress that would place an excise tax which I think is very punitive and does not serve the purpose that I believe that we should be doing.

I do not believe that anyone wants to support children smoking. Certainly from the time I was a small child, my father always talked to me about how not to smoke; that it was not good for my health. I do not think there is any argument about that.

But we have farmers all over this country that depend upon tobacco for their livelihood, and they have made investments, they have borrowed money against the allotments on their farms. So any legislation that passes this House should take into consideration the hardships that it could put on the hundreds of thousands of farmers all over this country that depend on tobacco for their livelihood.

I would urge every Member of this House to be very cautious before we enter into any legislation that affects the tobacco farmer.

PUNITIVE PROPOSALS REGARDING TOBACCO LEGISLATION IS AFFRONT TO FAIRNESS

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I plead for sanity in this tobacco debate. The punitive proposals before Congress are an affront to fairness.

These proposed tax increases will devastate farmers who have done absolutely nothing wrong. Excise tax increases are regressive and fall hardest on the people who can least afford to pay. These tax increases could be as much as $900. They would wipe out the child tax credit that was passed last year and take two-thirds of the tax relief we have put in place for HOPE scholarships, and it is one of the largest tax increases ever. I was not elected to raise taxes on the 50 million people in America.

If we can protect farmers, and we certainly ought to stop children from smoking and provide the opportunity for that, and have a balanced agreement that reduces the litigation, protects farmers, and curbs teen smoking, I can support a responsible increase in prices. However, responsibility and balance has been abandoned. Tobacco litigation is no longer about responsibly reducing teen smoking, it is about punishment, and we must return to sanity and a fair debate on this bill and stop this shameful political posturing.

HEFTY AND REGRESSIVE TAX BILL BEING PUSHED

(Mr. McINTYRE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McINTYRE. Mr. Speaker, if any legislative body in the world should stand up for families, it is the United States Congress.

Suddenly, in a mad rush to pursue political agendas, this body has nearly forgotten a certain group of families who, since the very beginning days of this Nation, have known for generations tobacco production as a way of life; a way of life that pays their bills, that helps build their communities' schools and hospitals and roads, and provides a way for thousands of hard working farmers throughout the Southeast to support their families.

Just a short while ago those farmers left their fields, after a full day of tending their crops, and right now, at this moment, they are wondering if they have any future.

Suddenly a hefty and regressive tax is being pushed that will hit hardest those in low- and middle-income brackets. Will families be first or last in this tax-and-spend agenda that will destroy the livelihood of honest working people?

May God help this body if it turns its back on the farmers, their families and their communities.

THE CLINTON NOMINEE FOR AMBASSADOR TO LUXEMBOURG

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, James Hormel, President Clinton's nominee for the ambassadorship of Luxembourg, is a businessman, a diplomat, a former dean of the University of Chicago law school, a one-time delegate to the United Nations' Human Rights Commission and a philanthropist.

He has wide bipartisan support from Senators Joseph Biden to Orrin Hatch, as well as Secretary of State Madeleine Albright, and even Alice Turner, Hormel's ex-wife. The Senate Committee on Foreign Relations has also approved his nomination. But he has not been able to get through the other body in terms of confirmation. And the reason is, Mr. Speaker, Hormel is gay.

I say it is time now to treat Americans as Americans, to end the vicious discrimination against gays and lesbians in this Nation. That is why we must pass the Employment Nondiscrimination Act to eliminate discrimination against gays and lesbians in the workplace.

Mr. Speaker, no one is asking for any more benefits than any other citizen of the United States. We all are created equal. This is a shame and a travesty that this qualified gentleman cannot be approved and affirmed to be the ambassador of Luxembourg. We need to end discrimination now against gays and lesbians.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. Sessions). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each until midnight.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. Hutchinson) is recognized for 5 minutes.

VACATION OF SPECIAL ORDER AND GRANTING OF SPECIAL ORDER

Mr. FRANKS of New Jersey. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Arkansas.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

TRIBUTE TO CAPTAIN MICHAEL X. HARRINGTON

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today to pay tribute to an outstanding law enforcement official who the public could always count on. Port Authority Police Captain Michael X. Harrington holds a record that would make even Cal Ripken envious. While the Baltimore Orioles shortstop was honored for playing 16 years without calling in sick, he has a long way to go to match Captain Harrington.

On May 15, Captain Michael Harrington retired from the Port Authority of New York and New Jersey after 43 years of service without ever missing a day of work.

When Captain Harrington began walking a beat for the Port Authority, Cal Ripken was not even born, the Dodgers were in Brooklyn, and there were just 48 States.

During his career, Captain Harrington outlasted eight U.S. Presidents, the Soviet Union, the Cold War and numerous fads, from coonskin caps to mood rings.

Mr. Speaker, the fact that Captain Harrington never missed a day's work is even more remarkable when we consider some of the obstacles he had to overcome. He found his way to work through blizzards, floods, hurricanes, blackouts and even riots. He did not let colds, or fevers above 102, injuries he sustained on the job, or even a broken wrist prevent him from doing his duty.

Throughout his distinguished career, Michael Harrington rose from patrolman to the rank of captain. Along the way he received numerous awards and commendations.

Through the years, he was commanding officer of a number of Port Authority transportation facilities, including the Lincoln Tunnel, the Holland Tunnel, the George Washington Bridge, Newark International Airport, and PATH.

At one point, he was in the incredibly demanding role of serving as commander of the Lincoln and Holland Tunnels, as well as the George Washington Bridge, all at the same time.

□ 2350

When we ask Captain Harrington who instilled in him the importance of hard work, he will tell us it was his father. Cornelius Harrington worked for more than 40 years as an operating engineer for Standard Oil of New Jersey; and, like his son, he never missed a day of work.

There is far more behind Captain Harrington's exceptional career than just an example of his father's setting. His uncompromising devotion to his job is a tribute to his own sense of duty to the public and the unwavering support of his wife of more than 40 years, Illene.

Mr. Speaker, I am sure I speak for all Members of the House when I thank Captain Harrington for his 4 decades of service to the community and wish him all the best in his retirement years. I cannot think of anyone who is more deserving of a relaxing and an enjoyable retirement.

TEEN PREGNANCY PREVENTION MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the month of May is Teen Pregnancy Prevention Month.

Teen pregnancy is a condition that can be prevented. But prevention is difficult for most Americans.

Parents must stop thinking that we cannot talk about sexual topics until children are older because kids are too young or will be too embarrassed.

Conversations need to start early because teens start early, TV starts early, and society starts early.

It is easier to find televised debates on abortion, gun control or affirmative action than it is to find a discussion about teen pregnancy prevention.

Our society likes issues that can be squeezed into ideological formats between commercial breaks. For many years the teen pregnancy prevention debate fit nicely into that televised ideological format.

There is no easy answer. Abstinence only was held by some. Abstinence is indeed the first and the best position for teens. Others thought contraceptive education was the major answer.

While this debate went on, in the late 1980s and early 1990s, the pregnancy rates continued to rise and people on both sides of this debate grew weary.

Many thoughtful leaders engaged and developed new programs that combine strong emphasis on abstinence, especially for teen 16 and younger, with counseling on contraception.

Teens need the knowledge and skills to avoid sex if they are not ready . . . they need to know that it is okay to say no.

And teens who are sexually active need knowledge on how to use contraception to avoid pregnancy and sexually transmitted diseases.

Recent studies confirm that it is important for teens to hear both messages . . . abstinence and contraception . . . which is known as a dual message.

The idea is that teaching clear values is essential to helping teens avoid early sexual activity and pregnancy; but contraceptive advise is needed as a backup.

I agree with University of Maryland professor William Galston who said: "contraceptive technique without values gets you no where, but values without a safety net is a risky business."

According to the May 1, 1998 report just released, by the U.S. Department of Health and Human Services, teen birth rates declined substantially nationwide between 1991 and 1996.

These recent declines reverse the 24 percent rise in the teen birth rate from 1986 through 1991. The report, which focused sole on teenage childbearing, between 1991 and 1996, reveals that teen birth rates declined for white, black, American Indian, Asian or Pacific Islander and Hispanic women between ages 15 and 19.

The latest state by state data, from 1995 shows that teen birth rates have declined in all 50 states and the District of Columbia.

The preliminary U.S. teen birth rate for 1996 was down 4 percent from 1995 and 12 percent from 1991.

This shows that our concerted effort to reduce teen pregnancy is succeeding.

The federal government, the National Campaign to Prevent Teen pregnancy, the private sector, parents and caregivers are all helping send the same message:

Don't become a parent until you are truly ready to support a child.

However, teen birth rates are higher today than in the mid 1980s, when the rate was at its lowest point.

It is critical that our nation continue to take a clear stand against teen pregnancy.

We have to instill in the total population that this is a problem to be solved by the whole community.

Mr. Speaker, we must all be engaged in this effort.

TRIBUTE TO IRVING E. ROGERS, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MEEHAN) is recognized for 5 minutes.

Mr. MEEHAN. Mr. Speaker, I rise tonight to pay tribute to one of the Nation's great newspaper publishers, Irving E. Rogers, Jr., who passed away this morning at age 68. Mr. Rogers and his family have owned the Eagle-Tribune in Lawrence, Massachusetts, for 100 years, and it remains one of the last local family-owned newspapers in America.

Mr. Rogers was a successful businessman, a tireless advocate for his readers and his community, a generous philanthropist, a devoted friend and, above all, a dedicated family man. His passing will be mourned by all those who have benefited from his wisdom, good works, and adherence to the highest standards of journalism. The people of Greater Lawrence and the Merrimack Valley and the institutions that make it a great place to raise a family and run a business have lost a true champion and a giant of a man.

Born in Lawrence in 1929 and raised in North Andover, Mr. Rogers was educated at the Admiral Billard Academy in New London, Connecticut; Norwich University in Northfield, Vermont; and the Bently School of Accounting in Boston before joining the family newspaper business. He was the third generation of the Rogers family to run the Eagle-Tribune.

After 22 years as general manager of the newspaper, he was named publisher on August 29, 1982, by his late father Irving E. Rogers, Sr. This was 40 years to the day after the senior Rogers had been named publisher by his father, Scottish immigrant Alexander H. Rogers, who bought the two newspapers that became the Eagle-Tribune in 1898.

Today, Mr. Rogers' son, Irving E. "Chip" Rogers, III, carries on the family's proud tradition for a fourth generation of the newspaper's general manager. It is not an accident the Eagle-Tribune has been recognized as one of the best regional newspapers in the country. This is the result of Mr. Rogers' commitment to excellence in journalism and in maintaining the Eagle-Tribune as a family-owned newspaper that knows and cares about its community and covers it aggressively and fairly.

He received the highest honor in journalism when the Eagle-Tribune won in 1988 the Pulitzer Prize for general news reporting for its probe of the Massachusetts prison furlough program. Under his leadership, the newspaper was also a finalist for two other Pulitzer Prizes during this decade for an exposé on corruption by former hockey czar R. Alan Eagleson and coverage of the devastating fire that destroyed Malden Mills and the heroic effort to rebuild the plant in the heart of Lawrence's poorest neighborhood. The Eagle-Tribune has also been named New England Newspaper of the Year 13 times.

While winning awards every year for quality reporting and public service, Mr. Rogers was also making business decisions that allowed the Eagle-Tribune to remain in family hands at a time when publications across the country were being taken over by chains and corporations. He purchased the Andover Townsman, moved into New Hampshire when he bought the Derry News, and recently negotiated the purchase of the Haverhill Gazette.

When the Eagle-Tribune outgrew its original headquarters in downtown Lawrence, he opened a modern plant in North Andover and became a pioneer in the use of photos, color graphics, and bold newspaper design, while insisting that his newspaper maintain traditional standards of fairness and language.

He was devoted, generous, and always available to his 400 employees. When the newspapers of New England were hit by a brutal recession in the early 1990s, advertising revenues declined and newsprint costs soared. Mr. Rogers was a rarity. He never issued a layoff notice.

He also showed an unwavering commitment to his private charity. He was a generous benefactor to so many important institutions in the Merrimack Valley led by the Rogers Family Foundation: the Lawrence Boys and Girls Club, Merrimack College, the United Way, Holy Family Hospital, Lawrence General Hospital, St. Mary's Church, the American Cancer Society, St. Michael's Church, and countless other community organizations. Every year, the Eagle-Tribune Santa Fund provides hundreds of thousands of dollars for the needy at Christmas.

Mr. Rogers was a friend to presidents and governors and leaders of industry. Despite his great influence, he was an unassuming man. He walked his dog every morning, he lunched at the Lantern Brunch in Andover, and fished off Seabrook Beach and Gloucester. His priority was always his wife Jacqueline and children Chip, Debbie, Marty and Steve, along with his grandchildren, and the nieces and nephews left by his brother, Allan B. Rogers, a former Eagle-Tribune editor who died in 1962.

Mr. Speaker, I am proud to have known Irving Rogers as a friend and admired him as a leader in our community. My wife Ellen and I extend our deepest sympathies to him and his family.

1990 CENSUS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, last week the Subcommittee on the Census held a hearing on the 1990 census, and once again, the record is full of mistakes. Let me, once again, put the facts on the table so that Congress can make its decisions on what really happened.

Some of the errors at the hearing are because most of the members and staff on the Republican side are new to the issue, and get confused about which facts apply to 1990 and which to previous censuses. Some of the errors occurred because two of the three statisticians who testified had no previous experience with the census undercount issue. It is often useful to get fresh minds to think about a problem, but in this case it also resulted in people making statements when they did not have the facts to support their position.

At last week's hearing the statement was made that in 1990 50 percent of the undercount came from problems in the address list. That is wrong. The facts are that in

1990 70 percent of those missed were in households that were counted, and the address list was 97.5 percent accurate.

One of the witnesses criticized the Post Enumeration Survey because it put more people into the census than other methods said were missing. That too is wrong. The problem with the Post Enumeration Survey in 1990 was that despite the Census Bureau's best efforts, it will miss people. In 1990 the Post-Enumeration Survey showed that the census net undercount was 1.6 percent, while the Census Bureau's Demographic Analysis, which they have done since 1940, showed an undercount rate of 1.8 percent.

Finally, one witness said that after the 2000 census there would be no Demographic Analysis. That is just wrong.

These are not all of the mistakes made at that hearing, but they do illustrate the point that new-comers to this issue are having a hard time understanding the facts. What I find more troubling is the intentional misrepresentation of information.

At last weeks hearing the majority tried to suggest that the 1990 census was actually better than the 1980 census. To do that they took the measure of the undercount of Blacks from Demographic analysis in 1980 and compared it to the Post Enumeration Survey estimate of undercount for Blacks for 1990. I would hope that our Subcommittee Chairman is a good enough statistician to know that is wrong. In 1980, Demographic Analysis shows that the undercount of Blacks was 4.5 percent. In 1990 it was 5.7 percent. The Post Enumeration Survey shows a lower undercount for Blacks because even after the Census Bureau's best efforts, the survey still misses some people.

Unfortunately, it wasn't bad enough that the majority tried to minimize the fact that the census misses millions of poor and minorities. What they are really concerned about is that the Census Bureau may take out the millions of people who are counted twice. On the one hand they are saying that they don't care that millions of Blacks, and Hispanics and Asians and the poor are left out of the census. At the same time they are saying, don't you dare take out any of those white suburbanites who were counted twice in my district.

Following the 1990 census, there was a broad and bipartisan consensus that we had to find a better way to conduct the census—to improve the accuracy of the counts and to control the cost. For several years, while experts toiled over alternative methods and the Census Bureau threw its energies into research, Republicans in Congress paid little attention. In fact, the appropriators kept prodding the Census Bureau to move more quickly to develop a plan for a better census.

It was not until consultants working for the Republican National Committee decided that the use of sampling methods to help fix the problem of undercounting might hurt Republicans in the redistricting process that the party leaders stood up and took notice. All of a sudden, scientific methods that the National Academy of Sciences, the General Accounting Office, and the Commerce Department's Inspector General had recommended a few years earlier, were no good. They were "unscientific" according to a report pushed through by the majority of the Government Reform Committee. All of a sudden, the National Academy of Science was politically biased, and the Census Bureau incapable of conducting a census. Even the Speaker of the House changed his position on the issue. In 1991 he supported adjustment. In 1996 he did a 360 degree turn around.

Now, I ask you: Is there any basis for the strong and sudden opposition to the use of scientific sampling methods in the 2000 census among Republicans, other than their concern that a more accurate count of African Americans and Hispanics and Asian Americans and poor people might somehow work to their disadvantage when political district boundaries are drawn.

Let's not try to fool the American people with talk about the efficacy of choosing this post-stratification variable or that. All of this minutiae is meant to do one thing only: to confuse the American people, to make them think the Census Bureau isn't capable of honesty, to undermine public confidence in the entire census process. All because Republican leaders believe that their hold on political power will slip if the census more accurately reflects the true composition of our diverse population.

How utterly irresponsible! How utterly devoid of any shred of moral imperative. I ought to be angry or outraged. Instead I am genuinely saddened. Saddened because one of the most fundamental activities of our democratic system of governance is being belittled and diminished for partisan political advantage. The census and the Census Bureau may forever be tarnished by this organized effort to tear down the messenger because some people don't like the message.

This is a sad day and a low point for this Congress. I hope my Republican colleagues will look within themselves before they continue on their campaign of terror against science in general, and the Census Bureau in particular. I hope they will decide if they really want to live with the consequences of their plan to ensure that the 2000 census will continue to miss millions of people and that the Census Bureau will be diminished in the eyes of the public.

AGRICULTURAL TRADE MEASURES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for the remaining time until midnight.

Mr. MORAN of Kansas. Mr. Speaker, today I rise to support additional trade measures important to the agriculture community.

On Tuesday of this week, just several days ago, I outlined broad trade issues that need to be addressed for U.S. farmers and ranchers. These include opening new markets, using our existing trade tools, and removing damaging sanctions that penalize the American producer.

Tonight I would like to cite a specific example of where our trade tools and policy should be used. The U.S. wheat gluten industry has a long-standing battle with the European Union regarding the EU's excessive subsidies and market-distorting trade barriers.

After several devastating years after which European imports rose substantially, the gluten industry took their case to the International Trade Commission, claiming that there had been substantial damage to the industry as a result of subsidized imports.

Following the presentation of evidence from both sides, the ITC ruled unanimously in favor of the U.S. gluten producers and recommended specific remedies that the U.S. should implement. These recommendations are now before President Clinton, who ultimately must decide whether or not to fight this fight for U.S. agriculture.

The decision before the President regarding the implementation of these GATT legal remedies is important not only for the wheat gluten industry but for all of agriculture. When Members of Congress, when I am asked to decide how to vote on the fast track, on MFN, or other trade-related legislation, I need assurance, we need assurance that our current trade problems under existing agreements will be aggressively pursued by the administration.

Mr. Speaker, I urge the President of the United States to act on behalf of American agriculture and to enforce the recommendations of the ITC for the wheat gluten industry.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 12:15 a.m.

Accordingly (at 11 o'clock and 59 minutes p.m.), the House stood in recess until approximately 12:15 a.m.

□ 0015

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SESSIONS) at 12 o'clock and 15 minutes a.m.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI WITH RESPECT TO THE SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. McINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–547) on the resolution (H. Res. 445) waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION DISPOSING OF THE CONFERENCE REPORT ON S. 1150, AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–548) on the resolution (H. Res. 446) disposing of the conference report to accompany the bill (S. 1150) to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SAM JOHNSON of Texas (at the request of Mr. ARMEY) for today after 3:00 p.m. and for the balance of the week on account of attending the 25th National Reunion of American Prisoners of War.

Mr. WICKER (at the request of Mr. ARMEY) for Today after 3:30 p.m. and for the balance of the week on account of attending daughter's high school graduation.

Mr. YATES (at the request of Mr. GEPHARDT) for today after 7:30 p.m. on account of physical reasons.

Mr. DEUTSCH (at the request of Mr. GEPHARDT) for today after 8:30 p.m. And the balance of the week on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SERRANO) to revise and extend their remarks and include extraneous material:)

Mr. MEEHAN, for 5 minutes, today.
Mr. EDWARDS, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. MOLLOHAN, for 5 minutes, today.
Mr. FILNER, for 5 minutes, today.
Mr. COYNE, for 5 minutes, today.
Ms. SÁNCHEZ, for 5 minutes, today.
Mr. FALEOMAVAEGA, for 5 minutes, today.
Mrs. CAPPS, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Ms. WATERS, for 5 minutes, today.
Ms. JACKSON-LEE of Texas, for 5 minutes, today.

The following Members (at the request of Mr. MORAN of Kansas) to revise and extend their remarks and include extraneous material:

Mr. EHRLICH, for 5 minutes, today.
Mr. MORAN of Kansas, for 5 minutes, today.
Mr. ISTOOK, for 5 minutes, today.
Mr. BRADY of Texas, for 5 minutes, today.
Mr. METCALF, for 5 minutes, today.
Mrs. MORELLA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SERRANO) and to include extraneous matter:)

Mr. MENENDEZ.
Mr. PAYNE.
Mr. KIND.
Ms. NORTON.
Mr. HALL of Ohio.
Mr. MILLER of California in two instances.
Mr. NEAL.
Mrs. CAPPS.
Mr. MURTHA.
Ms. KAPTUR.
Mr. KANJORSKI.
Mr. MCGOVERN.
Mr. UNDERWOOD.
Mr. STARK.
Mr. THOMPSON.
Ms. BROWN of Florida.
Mr. CONDIT.
Ms. LOFGREN.
Mr. TOWNS.
Mr. DEFAZIO.
Ms. HARMAN.
Mr. KUCINICH.
Mr. ABERCROMBIE.
Ms. STABENOW.
Mr. SABO.
Mr. SHERMAN.

(The following Members (at the request of Mr. MORAN of Kansas) and to include extraneous matter:)

Mr. MCKEON.
Mr. BEREUTER.
Ms. DUNN.
Mr. SAM JOHNSON of Texas.
Mr. GOODLING.
Mr. CUNNINGHAM.
Mr. OXLEY.
Mr. MCKEON.
Mrs. ROUKEMA.
Mr. GALLEGLY.
Mrs. MORELLA.
Mr. EWING.
Mr. BRADY of Texas.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2472. An act to extend certain programs under the Energy Policy and Conservation Act.

H.R. 3301. An act to amend chapter 51 of title 31, United States Code, to allow the Secretary of the Treasury greater discretion with regard to the placement of the required inscriptions on quarter dollars issued under the 50 States Commemorative Coin Program.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 3301. An act to amend chapter 51 of title 31, United States Code, to allow the Secretary of the Treasury greater discretion with regard to the placement of the required inscriptions on quarter dollars issued under the 50 States Commemorative Coin Program.

H.R. 2472. An act to extend certain programs under the Energy Policy and Conservation Act.

ADJOURNMENT

Mr. MCINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 17 minutes a.m.), the House adjourned until today, Friday, May 28, 1998, at 9 a.m.

OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 State. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Members of the 105th Congress, pursuant to the provisions of 2 U.S.C. 25:

Honorable RICHARD A. BRADY, First Pennsylvania.

NOTICE OF DECISION TO TERMINATE RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, May 12, 1998.

Hon. NEWT GINGRICH,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 303 of the Congressional Accountability Act of 1995 ("CAA"), 2 U.S.C. §1383, I am issuing the enclosed Notice of Decision to Terminate Rulemaking. This Notice announces the termination of a proceeding commenced by a Notice of Proposed Rulemaking and a Supplementary Notice of Proposed Rulemaking published in the Congressional Record on October 1, 1997 and January 28, 1998, respectively.

I would appreciate it if you would have this enclosed Notice of Decision to Terminate Rulemaking published in the Congressional Record.

Sincerely yours,

RICKY SILBERMAN,
Executive Director.

Enclosure.

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Amendments to Procedural Rules

NOTICE OF DECISION TO TERMINATE RULEMAKING

Summary: On October 1, 1997, the Executive Director of the Office of Compliance published a notice in the Congressional Record proposing, among other things, to extend the Procedural Rules of the Office to cover the General Accounting Office and the Library of Congress and their employees with respect to alleged violations of sections 204–207 of the Congressional Accountability Act of 1995 ("CAA"). These sections apply the rights and protections of the Employee Polygraph Protection Act, the Worker Adjustment and Retraining Notification Act, and the Uniformed Services Employment and Reemployment Act, and prohibit retaliation and reprisal for exercising rights under the CAA. The notice invited public comment, and, on January 28, 1998, a supplementary notice was published inviting further comment. Having considered the comments received, the Executive Director has decided to terminate the rulemaking and, instead, to recommend that the Office's Board of Directors prepare and submit to Congress legislative proposals to resolve questions raised by the comments.

Availability of comments for public review: Copies of comments received by the Office with respect to the proposed amendments are available for public review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Executive Director, Officer of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999; telephone (202) 724–9250 (voice), (202) 426–1912 (TTY). This Notice will be made available in large print or braille or on computer disk upon request to the Office of Compliance.

Supplementary Information:

The Congressional Accountability Act of 1995 ("CAA"), 2 U.S.C. §1301 *et seq.*, applies the rights and protections of eleven labor, employment, and public access laws to the Legislative Branch. Sections 204–206 of the CAA explicitly cover the General Accounting Office ("GAO") and the Library of Congress ("Library"). These sections apply the rights and protections of the Employee Polygraph Protection Act of 1988 ("EPPA"), the Worker Adjustment and Retraining Notification Act ("WARN Act"), and section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA").

On October 1, 1997, the Executive Director of the Office of Compliance ("Office") published a Notice of Proposed Rulemaking ("NPRM") proposing to extend the Procedural Rules of the Office to cover GAO and the Library and their employees for purposes of proceedings involving alleged violations of sections 204–206, as well as proceeding involving alleged violations of section 207, which prohibits intimidation and retaliation for exercising rights under violations of section 207, which prohibits intimidation and retaliation for exercising rights under the CAA. 143 Cong. Rec. S10291 (daily ed. Oct. 1, 1997). The Library submitted comments in opposition to adoption of the proposed amendments and raising questions of statutory construction. On January 28, 1998, the Executive Director published a Supplementary Notice of Proposed Rulemaking ("Supplementary NPRM") requesting further comment on the issues raised by the Library. 144 Cong. Rec. S86 (daily ed. Jan. 28, 1998). Comments in response to the Supplementary NPRM were submitted by GAO, the Library, a union of Library employees, and a committee of the House of Representatives.

The comments expressed divergent views as to the meaning of the relevant statutory provisions. The CAA extends rights, protections, and procedures only to certain defined "employing offices" and "covered employees." The definitions of these terms in section 101 of the CAA, which apply throughout the CAA generally, omit GAO and the Library and their employees from coverage, but sections 204–206 of the CAA expressly include GAO and the Library and their employees within the definitions of "employing office" and "covered employee" for purposes of those sections. Two commenters argued that the provisions of sections 401–408, which establish the administrative and judicial procedures for remedying violations of sections 204–206, refer back to the definitions in section 101 "without linking to the very limited coverage" of the instrumentalities in sections 204–206, and therefore do not cover GAO and the Library and their employees. However, two other commenters argued to the contrary. One stated that, because employees of the instrumentalities were given the protections of sections 204–206, "the concomitant procedural rights" of sections 401–408 were also conferred on them; and the other commenter argued that construing the CAA to grant rights but not remedies would defeat the stated legislative purpose, "since a right without a remedy is often no right at all." The four commenters also expressed divergent views about whether GAO and the Library and their employees, who were not expressly referenced by section 207, are nevertheless covered by the prohibition in that section against retaliation and reprisal for exercising applicable CAA rights.

Having considered that the comments received express such opposing views of the statute, the Executive Director has decided to terminate the rulemaking without adopting the proposed amendments and, instead, to recommend that the Office's Board of Directors prepare and submit to Congress legislative proposals to resolve questions raised by the comments.

In light of the statutory questions raised, it remains uncertain whether employees of GAO and the Library have the statutory right to use the administrative and judicial procedures under the CAA, and whether GAO and the Library may be charged as respondent or defendant under those procedures, where violations of sections 204–207 of the CAA are alleged. The Office will continue to accept any request for counseling or mediation and any complaint filed by a GAO or Library employee and/or alleging a violation by GAO or the Library. Any objection to jurisdiction may be made to the hearing officer or the Board under sections 405–406 or to the court during proceedings under sections 407–408 of the CAA. Furthermore, the Office will counsel any employee who initiates such proceedings that a question has been raised as to the Office's and the courts' jurisdiction under the CAA and that the employee may wish to preserve rights under any other available procedural avenues.

The Executive Director's decision announced here does not affect the coverage of GAO and the Library and their employees with respect to proceedings under section 215 of the CAA (which applies the rights and protections of the OSHAct) or *ex parte* communications. On February 12, 1998, the Executive Director, with the approval of the Board, published a Notice of Adoption of Amendments amending the Procedural Rules to include such coverage. 144 Cong. Rec. S720 (daily ed. Feb. 12, 1998).

Signed at Washington, DC., on this 12th day of May, 1998.

RICKY SILBERMAN,
Executive Director,
Office of Compliance.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9213. A letter from the Deputy Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Chicago Board of Trade Futures Contracts in Corn and Soybeans; Order to Designate Contract Markets and Amending Order of November 7, 1997, as Applied to Such Contracts— received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9214. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Department's final rule—Bacillus Thuringiensis Subspecies tolworthi Cry9C Protein and the Genetic Material Necessary for its Production in Corn; Exemption from the Requirement of a Tolerance [OPP–300659; FRL–5790–3] (RIN–2070–AB78) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9215. A letter from the Director, Office of Regulatory Management Agency, Environmental Protection Agency, transmitting the Agency's final rule-Hydroxyethylidine Diphosphonic Acid; Exemption From the Requirement of a Tolerance [OPP–300658; FRL–5790–1] (RIN: 2070–AB78) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9216. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Section 8 Rental Voucher and Certificate Programs; Restrictions on Leasing to Relatives [Docket No. FR–4149–F–02] (RIN: 2577–AB73) received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9217. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Amendment of Affordable Housing Program Regulation [Docket No. 98–18] (RIN: 3069–AA73) received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9218. A letter from the Acting Assistant Secretary, Department of Labor, transmitting the Department's final rule—Prevailing Wage Policy for Researchers Employed by Colleges and Universities, College and University Operated Federally Funded Research and Development Centers, and Certain Federal Agencies—received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9219. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; Metric Conversion of Tire Standards [Docket No. NHTSA-98-3837, Notice 1] (RIN: 2127-AH07) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9220. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; Metric Conversion [NHTSA-98-3836] (RIN: 2127-AG55) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9221. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Control of Emissions of Air Pollution from New CI Marine Engines at or above 37 Kilowatts [FRL-6014-4] (RIN: 2060-AH65) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9222. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approval Number Under The Paperwork Reduction Act [FRL-6013-2] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9223. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Tolerance Processing Fees [Opp-30114; FRL-5775-4] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9224. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—a revision of the Enforcement Policy (NUREG-1600, Rev. 1) received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9225. A letter from the General Counsel, Arms Control and Disarmament Agency, transmitting copies of the English and Russian texts of the three joint statements negotiated by the Joint Compliance and Inspection Commission and concluded during JCIC-XVII; to the Committee on International Relations.

9226. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report, determination and certification on a chemical weapons proliferation sanctions matter, pursuant to section 81(b)(3) of the Arms Export Control Act, as amended, and section 11C(b)(3) of the Export Administration Act of 1979, as amended; to the Committee on International Relations.

9227. A letter from the Service Federal Register Liaison Officer, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants; Emergency Rule to Establish and Additional Manatee Sanctuary in Kings Bay, Crystal River, Florida (RIN: 1018-AE47) received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9228. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Wrightstown, NJ [Airspace Docket No. 98-AEA-01] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9229. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Downingtown, PA [Airspace Docket No. 98-AEA-04] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9230. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Approaches to Annapolis Harbor, Spa Creek, and Severn River, Annapolis, Maryland [CGD 05-98-031] (RIN: 2115-AE46) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9231. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Martin, SD [Airspace Docket No. 97-AGL-62] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9232. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Casey, IL [Airspace Docket No. 98-AGL-10] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9233. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; New Rochelle Harbor, New York [CGD1-95-002] (RIN: 2115-AE47) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9234. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Nauvoo, IL [Airspace Docket No. 98-AGL-12] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9235. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone; San Juan, Puerto Rico [COTP SAN JUAN 97-045] (RIN: 2115-AA97) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9236. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Lakeview, MI [Airspace Docket No. 98-AGL-14] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9237. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone; FLEET WEEK Air/Sea Demonstrations, Hudson River, New York [CGD01-98-041] (RIN: 2121-AA97) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9238. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Milwaukee, WI [Airspace Docket NO. 98-AGL-5] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9239. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Eastland Municipal, TX [98-ASW-20] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9240. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Gallup, NM [Airspace Docket No. 98-ASW-19] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9241. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Cleveland, OK [Airspace Docket No. 97-ASW-29] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9242. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Pawnee, OK [Airspace Docket No. 98-ASW-02] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9243. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Wagoner, OK [Airspace Docket No. 98-ASW-031] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9244. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Coalgate, OK [Airspace Docket No.98-ASW-01] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9245. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Bristow, OK [Airspace Docket No. 98-ASW-04] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9246. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Claremore, OK [Airspace Docket No. 98-ASW-05] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9247. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Shawnee, OK [Airspace Docket No. 98-ASW-06] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9248. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Wautoma, WI [Airspace Docket No. 98-AGL-7] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9249. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Muskogee, OK [Airspace Docket No. 98-ASW-12] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9250. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Portland, IN [Airspace Docket No. 98-AGL-8] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9251. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Poteau, OK [Airspace Docket No. 98–ASW–13] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9252. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Pryor, OK [Airspace Docket No. 98–ASW–14] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9253. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Stillwater, OK [Airspace Docket No. 98–ASW–15] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9254. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Millersburg, OH [Airspace Docket No. 98–AGL–9] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9255. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Tahlequah, OK [Airspace Docket No. 98–ASW–16] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9256. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Grove, OK [Airspace Docket No. 98–ASW–07] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9257. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Chicago, IL [Airspace Docket No. 98–AGL–11] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9258. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Henryetta, OK [Airspace Docket No. 98–ASW–08] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9259. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Watford City, ND, and modification of Class E Airspace; Williston, ND [Airspace Docket No. 98–AGL–15] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9260. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Idabel, OK [Airspace Docket No. 98–ASW–09] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9261. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; McAlester, OK [Airspace Docket No. 98–ASW–10] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9262. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Miami, OK [Airspace Docket No. 98–ASW–11] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9263. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company Models B200, B200C, and B200T Airplanes [Docket No. 97–CE–72–AD; Amendment 39–10516; AD 98–10–05] (RIN: 2120–AA64) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9264. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; CFM International CFM56–3, -3B, -3C, -5, -5B, and -5C Series Turbofan Engines [Docket No. 97–ANE–54–AD; Amendment 39–10523, AD 98–10–11] (RIN: 2120–AA64) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9265. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; REVO, Incorporated Models Colonial C–2, Lake LA–4, Lake LA–4A, Lake LA–4P, and Lake LA–4–200 Airplanes [Docket No. 98–CE–48–AD; Amendment 39–10524; AD 98–10–12] (RIN: 2120–AA64) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9266. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes [Docket No. 96–NM–257–AD; Amendment 39–10526; AD 98–10–14] (RIN: 2120–AA64) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9267. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property [Revenue Ruling 98–28] received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9268. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—the domestic asset/liability and investment yield percentages of taxable years beginning after December 31, 1996, for foreign companies conducting insurance businesses in the United States [Revenue Procedure 98–31] received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9269. A letter from the Executive Director, Office of Compliance, transmitting notice of decision to terminate rulemaking for publication in the Congressional Record, pursuant to Public Law 104—1, section 303(b) (109 Stat. 28); jointly to the Committees on House Oversight and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. COBLE: Committee on the Judiciary. H.R. 1690. A bill to amend title 28 of the United States Code regarding enforcement of child custody orders; with amendments (Rept. 105–546). Referred to the Committee of the Whole House on the State of the Union.

Mr. McInnis: Committee on Rules. House Resolution 445. Resolution waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, and for other purposes (Rept. 105–547). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 446. Resolution disposing of the conference report to accompany the bill (S. 1150) to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes (Rept. 105–548). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BERRY (for himself, Mr. Dingell, Mr. Stark, Mr. Clement, Mr. DeFazio, Mr. Lewis of Georgia, Ms. Furse, Mr. Boucher, and Mr. Allen):

H.R. 3925. A bill to establish the Prescription Drug Price Monitoring Commission; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DUNN of Washington:

H.R. 3926. A bill to provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court, and for other purposes; to the Committee on the Judiciary.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. Jefferson, and Mr. Crane):

H.R. 3927. A bill to amend the Internal Revenue Code of 1986 to restrict the use of tax-exempt financing by governmentally owned electric utilities and to subject certain activities of such utilities to income tax; to the Committee on Ways and Means.

By Mr. GILMAN:

H.R. 3928. A bill to authorize the Secretary of the Interior to construct and operate a visitor center for the Upper Delaware Scenic and Recreational River on land owned by the State of New York; to the Committee on Resources.

By Mr. GILMAN:

H.R. 3929. A bill to extend the authorization for the Upper Delaware Citizens Advisory Council; to the Committee on Resources.

By Mr. GRAHAM (for himself, Mr. Souder, Mrs. Myrick, Mr. Hayworth, Mr. Sessions, Mr. Blunt, Mr. Duncan, Mr. McIntosh, Mr. Norwood, and Mr. Shadegg):

H.R. 3930. A bill to ensure that the Federal Government adheres to its commitment to State and local governments to share in the expense of educating children with disabilities; to the Committee on Education and the Workforce.

By Mr. JOHNSON of Wisconsin:

H.R. 3931. A bill to provide for the appointment of 1 additional Federal district judge for the eastern district of Wisconsin, and for other purposes; to the Committee on the Judiciary.

By Mrs. MALONEY of New York (for herself, Mr. Miller of California, Mr. Menendez, Mr. Vento, Mr. Hinchey, Mr. Gutierrez, Mr. Luther, Mr. Kleczka, Mr. Sanders, and Mr. Schumer):

H.R. 3932. A bill to assure that the public receives the full amount of royalties owed on oil production from Federal public lands and the Outer Continental Shelf; to the Committee on Resources.

By Mr. MICA (for himself and Mr. Pickett):

H.R. 3933. A bill to amend titles 5 and 37 of the United States Code to allow members of the armed forces to participate in the Thrift Savings Plan; to the Committee on Government Reform and Oversight, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MILLER of California (for himself, Mr. Faleomavaega, Mr. Markey, Mr. Kennedy of Rhode Island, Mr. Olver, Mr. Frank of Massachusetts, Ms. Eshoo, Ms. Furse, Mr. Gejdenson, Mr. Stark, Mr. Lewis of Georgia, and Mr. Barrett of Wisconsin):

H.R. 3934. A bill to reform the concession programs of the National Park Service and to provide for the use of the revenues generated by such reforms to enhance resource protection and visitor use and enjoyment of the National Park System; to the Committee on Resources.

By Mr. MOAKLEY:

H.R. 3935. A bill to direct the Consumer Product Safety Commission to promulgate fire safety standards for cigarettes, and for other purposes; to the Committee on Commerce.

By Mr. REDMOND:

H.R. 3936. A bill to modify the boundaries of the Bandelier National Monument to include the lands within the headwaters of the Upper Alamo Watershed, which drain into the Monument and which are not currently within the jurisdiction of a Federal land management agency, to authorize acquisition of those lands, and for other purposes; to the Committee on Resources.

By Mr. RUSH:

H.R. 3937. A bill to amend title XVIII of the Social Security Act to bar hospital limitations on emergency room workers treating emergency cases in immediate vicinity of emergency room entrance; to the Committee on Ways and Means.

By Mr. SHAW (for himself, Mr. Christensen, Mr. Ramstad, Mrs. Johnson of Connecticut, Mr. Coburn, Mr. Romero-Barcelo, Mr. Hayworth, Mr. Neal of Massachusetts, Mr. Bunning of Kentucky, Mr. Burton of Indiana, and Mr. Hilliard):

H.R. 3938. A bill to permit the approval and administration of drugs and devices to patients who are terminally ill; to the Committee on Commerce.

By Mr. FATTAH:

H.R. 3939. A bill to designate the United States Postal Service building located at 658 63rd Street, Philadelphia, Pennsylvania, as the "Edgar C. Campbell, Sr., Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. STARK (for himself, Mrs. Thurman, Mr. Cummings, Mr. Hastings of Florida, Ms. Kaptur, and Ms. Brown of Florida):

H.R. 3940. A bill to amend title XVIII of the Social Security Act to provide for full payment rates under Medicare to hospitals for costs of direct graduate medical education of residents for residency training programs in specialties or subspecialties which the Secretary of Health and Human Services designates as critical need specialty or subspecialty training programs; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STRICKLAND (for himself and Mr. Whitfield):

H.R. 3941. A bill to amend the United States Enrichment Corporation Privatization Act; to the Committee on Commerce.

By Mrs. TAUSCHER (for herself, Ms. Lofgren, Mr. Frost, Mr. Fazio of California, Mr. Kennedy of Rhode Island, and Mr. Torres):

H.R. 3942. A bill to provide that for taxable years beginning before 1980 the Federal income tax deductibility of flight training expenses shall be determined without regard to whether such expenses were reimbursed through certain veterans educational assistance allowances; to the Committee on Ways and Means.

By Mr. BROWN of California (for himself and Mrs. Morella):

H. Con. Res. 279. Concurrent resolution to honor the ExploraVision Awards Program and to encourage more students to participate in this innovative national student science competition; to the Committee on Education and the Workforce.

By Mr. GUTIERREZ (for himself, Mr. Pallone, Mr. Evans, Ms. Furse, Mr. Olver, Mr. Skaggs, Mrs. Maloney of New York, Mr. Abercrombie, Mr. Blumenauer, Ms. Stabenow, Mr. Underwood, Mr. Waxman, and Mr. Lipinski):

H. Con. Res. 280. Concurrent resolution to provide for the development and implementation of a comprehensive energy conservation plan for the United States Congress; to the Committee on Transportation and Infrastructure.

By Mr. FOLEY (for himself and Mr. Lantos):

H. Res. 443. A resolution expressing the sense of the House of Representatives that the Secretary of State should seek certain commitments from the governments of Poland, Hungary, and the Czech Republic regarding the payment of insurance benefits owed to victims of the Nazis (and their beneficiaries and heirs) by those countries; to the Committee on International Relations.

By Mr. GEPHARDT (for himself, Mr. Miller of California, Mr. Boswell, Mr. Sanders, Mr. Visclosky, Mr. Neal of Massachusetts, Mr. Vento, Mr. Matsui, Mr. Levin, Ms. DeLauro, Mr. Lantos, Mr. Frank of Massachusetts, Mr. LaFalce, Mr. Kennedy of Rhode Island, Mr. Olver, Mr. Torres, Mr. Moran of Virginia, Mr. Romero-Barcelo, and Mr. Bonior):

H. Res. 444. A resolution supporting the Global March Against Child Labor; to the Committee on International Relations, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEUMANN (for himself, Mr. Horn, Mr. Armey, Mr. Fawell, Mr. Royce, Mr. Sessions, Mr. Barton of Texas, Mr. English of Pennsylvania, Mr. Hayworth, Mr. Calvert, and Mr. Burton of Indiana):

H. Res. 447. A resolution expressing the sense of the House of Representatives regarding financial management by Federal agencies; to the Committee on Government Reform and Oversight.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. REDMOND:

H.R. 3943. A bill for the relief of Hilario Armijo, Timothy W. Armijo, Josephine and Mike Baca, Vincent Chavez, David Chinana, Victor Chinana, Ivan T. Gachupin, Michael Gachupin, Frank Madalena, Jr., Dennis Magdalena, Mary Pecos, Lawrence Seonia, Roberta P. Toledo, Nathaniel Tosa, Allen L. Toya, Jr., Ethel Waquie, and Veronica Waquie; to the Committee on the Judiciary.

By Mr. REDMOND:

H.R. 3944. A bill for the relief of Akal Security, Incorporated; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Ms. Eshoo.

H.R. 107: Mr. McDade and Mr. Hostettler.

H.R. 158: Mr. Nussle, Mr. Weldon of Florida, Mr. Traficant, Mr. Collins, Mr. Hilleary, Mr. Canady of Florida, Mr. Foley, Mr. Barr of Georgia, Mr. Hunter, and Mr. Rodriguez.

H.R. 371: Mr. Kleczka, Mr. Gutierrez, Mr. Leach, and Mr. McDermott.

H.R. 465: Mr. Pappas.

H.R. 543: Mr. Romero-Barcelo, Mr. Metcalf, Mr. Pappas, and Mr. Hutchinson.

H.R. 619: Mr. Adam Smith of Washington, Mr. Mica, Mrs. Mink of Hawaii, Ms. Slaughter, and Mr. Calvert.

H.R. 814: Mr. Lipinski.

H.R. 864: Mr. Lewis of California, Ms. DeGette, Mrs. Kelly, Ms. Lee, and Mrs. Myrick.

H.R. 872: Mr. Andrews, Mr. LoBiondo, Mr. Menendez, and Mr. Adam Smith of Washington.

H.R. 900: Mr. Pappas.

H.R. 979: Mr. Hunter, Mr. Manton, Mr. Stokes, and Mr. Costello.

H.R. 1018: Mr. Etheridge.

H.R. 1100: Mr. Hall of Texas.

H.R. 1126: Mr. Ford, Mr. Blagojevich, Mr. Tauzin, and Mr. Wicker.

H.R. 1231: Mr. Strickland.

H.R. 1328: Mr. Torres.

H.R. 1375: Mr. Dooley of California.

H.R. 1401: Mr. Stearns and Mr. Hall of Texas.

H.R. 1441: Mr. Shuster and Mr. Rogers.

H.R. 1450: Mr. Markey.

H.R. 1505: Mr. Gillmor and Mr. Matsui.

H.R. 1586: Mr. Pallone and Ms. Furse.

H.R. 1592: Mr. Weller.

H.R. 1704: Mr. Bonilla and Mr. Royce.

H.R. 1995: Ms. Danner, Ms. Hooley of Oregon, Mr. Rangel, Mr. Costello, Mr. Jackson of Illinois, Mr. Thompson, Mr. Dicks, Mr. Cramer, Mr. Baesler, Mr. Hilliard, Mr. Stupak, Mr. Lipinski, Mr. Peterson of Minnesota, Mr. Dickey, Mr. Scarborough, Mr. Traficant, Mr. Davis of Florida, Mr. Roemer, Mr. Price of North Carolina, Mr. Bachus, Mr. Pascrell, Ms. Norton, Mr. Schumer, Mr. Conyers, and Mr. Tanner.

H.R. 2009: Mr. Schumer, Mr. English of Pennsylvania, and Ms. Danner.

H.R. 2130: Mr. Maloney of Connecticut, Mr. Kleczka, and Mr. Coyne.

H.R. 2174: Mr. Deutsch, Mr. Etheridge, and Mr. Hilliard.

H.R. 2488: Mr. Boswell.

H.R. 2524: Mr. Wynn.

H.R. 2538: Mr. Dixon and Mr. Burr of North Carolina.

H.R. 2545: Mr. Gilchrest.

H.R. 2639: Ms. Kilpatrick and Mr. Dingell.

H.R. 2701: Mr. Klink.

H.R. 2738: Mr. Clyburn and Mr. Thompson.

H.R. 2748: Mr. Stearns.

H.R. 2754: Mr. Romero-Barcelo.

H.R. 2804: Mr. Hall of Texas and Mrs. Clayton.

H.R. 2821: Mr. Thompson, Mr. Watkins, and Mr. Serrano.

H.R. 2888: Mr. Sessions, Mr. Cunningham, and Mr. Norwood.

H.R. 2923: Mr. Stupak.

H.R. 2942: Mr. Pastor and Mr. Hunter.

H.R. 2963: Mr. Jackson of Illinois and Mr. Snyder.

H.R. 2990: Mr. Serrano, Mr. Dingell, Mr. Leach, Mrs. Maloney of New York, Mr. McKeon, and Mr. Jackson of Illinois.

H.R. 3048: Mr. McHale.

H.R. 3050: Mr. Stark and Ms. Stabenow.

H.R. 3081: Mr. Torres, Mr. Rush, Mr. Luther, Ms. Pelosi, Mr. Greenwood, Mr. Cummings, Mr. Moran of Virginia, Mr. Jefferson, and Ms. Harman.

H.R. 3086: Mr. Menendez.

H.R. 3099: Mr. Serrano.

H.R. 3125: Mr. Burr of North Carolina.

H.R. 3127: Mr. Salmon, Mr. Dooley of California, and Mr. Hyde.

H.R. 3156: Mr. Kasich.

H.R. 3162: Mr. Lewis of Kentucky.

H.R. 3181: Mr. Vento and Mr. Deutsch.

H.R. 3229: Mr. Weller, Mr. English of Pennsylvania, Mr. Frost, Mr. Calvert, Mr. Blunt, and Mr. Metcalf.

H.R. 3230: Mr. English of Pennsylvania, Mr. Blunt, and Mr. Metcalf.

H.R. 3236: Mr. Skaggs, Ms. Slaughter, Mr. Ensign, Mrs. Lowey, Mrs. Meek of Florida, Ms. DeLauro, and Ms. Harman.

H.R. 3248: Mr. Smith of New Jersey.

H.R. 3251: Mr. Kennedy of Massachusetts, Mr. McDermott, Mr. Olver, Ms. DeLauro, Mr. Rush, Ms. Stabenow, Ms. Furse, Mr. Torres, and Mr. Hall of Ohio.

H.R. 3279: Ms. Waters.

H.R. 3396: Mr. Hilliard, Mr. Tauzin, and Mr. Kingston.

H.R. 3410: Mr. Pappas.

H.R. 3435: Mr. Baldacci, Mr. John, Mr. Upton, Mr. Abercrombie, Mr. Lewis of Kentucky, Mr. Thompson, Mr. Redmond, Ms. Furse, Mr. Dreier, Mr. Peterson of Pennsylvania, and Mr. Houghton.

H.R. 3466: Mr. Thompson.

H.R. 3470: Mr. Barrett of Wisconsin.

H.R. 3498: Mr. Adam Smith of Washington.

H.R. 3506: Mr. Bachus, Ms. Rivers, Mr. Davis of Virginia, Ms. Kilpatrick, Mr. Miller of Florida, Mr. Delahunt, Mr. Neal of Massachusetts, Mr. Mascara, Mr. Frank of Massachusetts, and Mr. Cannon.

H.R. 3523: Mr. Skelton, Mr. Goodling, Mr. Tauzin, Mr. Engel, Mr. Turner, Mr. Ensign, Mr. Weldon of Pennsylvania, Ms. Kaptur, Mr. Dicks, Mr. Kingston, Mr. Tiahrt, Mr. Dickey, Mr. Manton, Mr. McIntyre, and Mr. Sam Johnson of Texas.

H.R. 3539: Mr. Hayworth.

H.R. 3567: Mr. Peterson of Pennsylvania.

H.R. 3570: Mr. Bonior and Mr. Serrano.

H.R. 3571: Mr. Waxman.

H.R. 3572: Mr. Calvert, Mr. Wise, and Mr. Crapo.

H.R. 3605: Mr. Blagojevich, Mr. McDermott, Ms. Kilpatrick, Mr, Poshard, Mr. Barcia of Michigan, Mr. DeFazio, Mr. Adam Smith of Washington, Mrs. Tauscher, Mr. Hefner, Mr. Johnson of Wisconsin, Mr. Pastor, and Mrs. McCarthy of New York.

H.R. 3622: Ms. Millender-McDonald.

H.R. 3633: Mrs. Myrick and Mr. Coble.

H.R. 3648: Mr. McHugh.

H.R. 3659: Mr. Calvert, Mr. Nethercutt, Mr. Gutknecht, Mr. Tiahrt, Mr. Hyde, Mr. Pastor, Mr. Peterson of Pennsylvania, Mr. Everett, Mr. Pease, and Ms. Danner.

H.R. 3660: Ms. Slaughter and Mr. Ackerman.

H.R. 3682: Mr. Hill and Mr. Salmon.

H.R. 3688: Mr. Lucas of Oklahoma.

H.R. 3690: Mr. Rogers.

H.R. 3710: Ms. Eddie Bernice Johnson of Texas, Mrs. Clayton, Mr. Jefferson, Mr. Thompson, Mr. Clyburn, Mr. Hamilton, Mr. Roemer, Mr. Callahan, and Mr. Ney.

H.R. 3747: Mr. Hayworth and Mr. McKeon.

H.R. 3774: Mr. Redmond.

H.R. 3795: Mr. Wolf.

H.R. 3798: Mr. Watkins, Mr. McGovern, Mr. Stark, and Mr. Kanjorski.

H.R. 3807: Mr. Archer, Mr. Armey, Mr. Bartlett of Maryland, Mr. Bonilla, Mr. Camp, Mr. Coburn, Mr. Combest, Mr. Cunningham, Mr. Deal of Georgia, Mr. DeLay, Mr. Doolittle, Mr. Duncan, Mr. Gibbons, Mr. Hastings of Washington, Mr. Hayworth, Mr. Hostettler, Mr. Hunter, Mr. Jones, Mr. Latham, Mr. Lewis of California, Mr. Linder, Mr. Lucas of Oklahoma, Mr. McDade, Mr. Mica, Mrs. Myrick, Mrs. Northup, Mr. Packard, Mr. Pease, Mr. Pitts, Mr. Pombo, Ms. Pryce of Ohio, Mr. Radanovich, Mr. Regula, Mr. Riggs, Mr. Riley, Mr. Rogan, Mr. Rogers, Mr. Rohrabacher, Mr. Ryun, Mr. Scarborough, Mr. Sessions, Mr. Solomon, Mr. Souder, Mr. Spence, Mr. Stearns, Mr. Stump, Mr. Taylor of North Carolina, Mr. Thomas, Mr. Thune, Mr. Tiahrt, Mr. Wamp, Mr. Watkins, Mr. Watts of Oklahoma, Mr. Weldon of Florida, and Mr. Whitfield.

H.R. 3830: Mr. Faleomavaega.

H.R. 3833: Mrs. Morella, Mr. Schumer, Ms. DeGette, and Mr. Engel.

H.R. 3835: Mr. Traficant, Mr. Sawyer, and Ms. Kaptur.

H.R. 3855: Mr. Sawyer, Mr. Bachus, Mr. Neal of Massachusetts, Mr. Dooley of California, Ms. Pryce of Ohio, and Mr. Berry.

H.R. 3879: Mr. Blunt, Mr. Hayworth, Mr. Hulshof, Mr. Rahall, Mr. McIntyre, and Mrs. Chenoweth.

H.R. 3882: Mr. Hunter, Mr. Solomon, Mrs. Linda Smith of Washington, Mr. Traficant, Mr. Riley, Mr. Hansen, and Mr. Taylor of Mississippi.

H.R. 3884: Mr. Ackerman, Mr. Engel, and Mr. Meeks of New York.

H.R. 3897: Mr. Rangel and Ms. Eddie Bernice Johnson of Texas.

H.R. 3898: Mr. Aderholt, Mr. Largent, Mr. Cannon, and Mr. McCrery.

H.J. Res. 99: Mr. Abercrombie.

H.J. Res. 113: Mr. Lazio of New York.

H. Con. Res. 47: Ms. Carson.

H. Con. Res. 203: Mr. Brady of Pennsylvania, Mr. Kucinich, Mr. Lampson, Mr. Deutsch, Mr. McHale, Mr. Peterson of Pennsylvania, Mr. Aderholt, Mr. Shuster, Mr. Gibbons, Mr. Vento, Mr. King of New York, Mr. Abercrombie, Ms. Hooley of Oregon, Mr. Fossella, Mr. Calvert, Mr. Stearns, and Mr. Stump.

H. Con. Res. 214: Mr. Sisisky, Mr. Wolf, and Mr. Pickett.

H. Con. Res. 249: Mr. Kennedy of Rhode Island and Mrs. Mink of Hawaii.

H. Con. Res. 267: Mr. Barrett of Nebraska and Mr. Sherman.

H. Res. 37: Mr. Lantos, Mr. Kennedy of Massachusetts, Mr. Bentsen, Mr. Strickland, Mr. Dicks, Mr. Moran of Kansas, Mr. LaTourette, Mr. Costello, Ms. Sánchez, Ms. DeGette, Mr. Price of North Carolina, Mr. Pomeroy, Mr. Rodriguez, Mr. Sisisky, Mr. Brady of Pennsylvania, and Mr. Kasich.

H. Res. 171: Mr. Wamp.

H. Res. 312: Mr. Miller of California and Mr. Matsui.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 94: Mrs. Clayton.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

Offered By: Mr. Peterson of Pennsylvania

Amendment No. 18: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. 401. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) In General.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) Initial Response.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) Secondary Verification Process in Case of Tentative Nonconfirmation.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) Design and Operation of Pilot Program.—

(1) In general.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) Use of employment eligibility confirmation system.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-664).

(e) Responsibilities of the Commissioner of Social Security.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) Responsibilities of the Commissioner of the Immigration and Naturalization Service.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) Updating Information.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) Limitation on Use of the Pilot Program and Any Related Systems.—

(1) In general.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) No national identification card.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) No new data bases.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) Actions by Election Officials Unable to Confirm Citizenship.—

(1) In general.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) Registration applicants.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) Ineligible voter removal programs.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) Authority To Use Social Security Account Numbers.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) Termination and Report.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of

Social Security may determine to be relevant.

SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

OFFERED BY: MR. PETERSON OF PENNSYLVANIA

(To the Amendment Offered By: Mr. Bass)

AMENDMENT NO. 19: Add at the end the following new title:

TITLE —VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. 01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. 02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

OFFERED BY: MR. PETERSON OF PENNSYLVANIA

(To the Amendment Offered By: Mr. Campbell)

AMENDMENT NO. 20: Add at the end the following new title:

TITLE —VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. 01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. 02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

OFFERED BY: MR. PETERSON OF PENNSYLVANIA

(To the Amendments Numbered 3 and 4 Offered By: Mr. Obey)

AMENDMENT NO. 21: Add at the end the following new title:

TITLE —VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. 01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. 02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

OFFERED BY: MR. PETERSON OF PENNSYLVANIA

(To the Amendment Offered By: Mr. Farr of California

AMENDMENT NO. 22. Add at the end the following new title:

TITLE —VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. 01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. 02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

OFFERED BY: MR. PETERSON OF PENNSYLVANIA

(To the Amendment Offered By: Mr. Hutchinson)

AMENDMENT NO. 23: Add at the end the following new title:

TITLE —VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. 01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) Initial Response.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) Secondary Verification Process in Case of Tentative Nonconfirmation.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) Design and Operation of Pilot Program.—

(1) In general.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) Use of employment eligibility confirmation system.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) Responsibilities of the Commissioner of Social Security.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) Responsibilities of the Commissioner of the Immigration and Naturalization Service.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) Updating Information.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) Limitation on Use of the Pilot Program and Any Related Systems.—

(1) In general.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) No national identification card.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) No new data bases.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) Actions by Election Officials Unable to Confirm Citizenship.—

(1) In general.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) Registration applicants.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) Ineligible voter removal programs.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) Authority to Use Social Security Account Numbers.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) Termination and Report.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. 02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

OFFERED BY: MR. PETERSON OF PENNSYLVANIA

(To the Amendment Offered By: Mr. Peterson of Minnesota)

AMENDMENT NO. 24: Add at the end the following new title:

TITLE —VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. 01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove

the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) Authority to Use Social Security Account Numbers.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) Termination and Report.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. 02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

Offered By: Mr. Peterson of Pennsylvania

(To the Amendment Offered By: Mr. Shays)

Amendment No. 25: Add at the end the following new title:

TITLE —VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. 01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) In General.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) Initial Response.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) Secondary Verification Process in Case of Tentative Nonconfirmation.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) Design and Operation of Pilot Program.—

(1) In general.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) Use of employment eligibility confirmation system.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-664).

(e) Responsibilities of the Commissioner of Social Security.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) Responsibilities of the Commissioner of the Immigration and Naturalization Service.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) Updating Information.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) Limitation on Use of the Pilot Program and Any Related Systems.—

(1) In general.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) No national identification card.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) No new data bases.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) Actions by Election Officials Unable to Confirm Citizenship.—

(1) In general.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) Registration applicants.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) Ineligible voter removal programs.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) Authority to Use Social Security Account Numbers.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) Termination and Report.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. 02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

Offered By: Mr. Peterson of Pennsylvania

(To the Amendment Offered By: Mr. Tierney)

Amendment No. 26: Add at the end the following new title:

TITLE —VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. 01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) In General.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) Initial Response.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) Secondary Verification Process in Case of Tentative Nonconfirmation.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) Design and Operation of Pilot Program.—

(1) In general.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) Use of employment eligibility confirmation system.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) Responsibilities of the Commissioner of Social Security.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. 02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE FIRE SAFE CIGARETTE ACT OF 1998

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. MOAKLEY. Mr. Speaker. Today, I am introducing the Fire Safe Cigarette Act of 1998, which would direct the Consumer Product Safety Commission to promulgate a fire safety standard for cigarettes.

Each year thousands of innocent people are killed, maimed or permanently disfigured by carelessly discarded cigarettes. Under a typical cigarette fire scenario, the smoker falls asleep in a bed or sofa with a burning cigarette, the ash smolders for hours, then bursts into flames in the middle of the night—a time when everyone is least prepared.

Cigarette related fires are not rare or freak occurrences. In 1995, 1,122 individuals perished and 2,667 individuals were seriously injured from these fires. One third of the victims were innocent children. Furthermore, cigarette related fires caused more than $500 million in property damage in 1995.

I first became involved with this issue when a family of seven perished in a cigarette related fire in my Congressional District. Five children—all under the age of ten—were burned to death. This tragedy occurred on Memorial Day Weekend in 1979.

Now, almost twenty years later, I am still fighting to give the CPSC that authority to promulgate a fire safety standard for cigarettes. Two technical bills, the Cigarette Safety Act and the Fire Safe Cigarette Act, have been passed and enacted into law.

As a result of the legislation, we now know that a cigarette can be slightly altered to significantly reduce the number of cigarette related fires. The key characteristics of a fire safe cigarette are: a filter tip, a smaller diameter, less porous paper, more expandable tobacco, and no citrate additive. By simply modifying these characteristics, cigarette manufacturers could significantly reduce the number of cigarettes related fires each year.

All the technical work required to develop a fire safety standard is completed. The CPSC is ready and willing to do it. We just need to give the CPSC the authority to promulgate a fire safety standard and the Fire Safe Cigarette Act of 1998 does just that.

After twenty years of work on this issue, I am frustrated that the victims of cigarette related fires continue to be the innocent. Too often the victim is the child asleep in the upstairs bedroom, or the elderly neighbor in the apartment next door. Study after study has proven that it is technically and economically feasible to develop a fire safe cigarette, clearly Congress needs to weigh in and require cigarette manufacturers to develop fire safe cigarettes. No more children should fall victim to cigarette related fires that are preventable.

Let's pass the Fire Safe Cigarette Act of 1998 and save thousands of innocent children and elderly individuals from perishing in cigarette related fires.

A SPECIAL TRIBUTE TO MIKE AND JOELLA KERSCHNER ON THE OCCASION OF THEIR TWENTY-FIFTH WEDDING ANNIVERSARY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to an outstanding couple from Ohio's Fifth Congressional District, Mike and Joella Kerschner. I extend my best wishes to Mike and Joella, who will be celebrating their Twenty-Fifth Wedding Anniversary on Saturday, May 23, 1998.

Mr. Speaker, Mike and Joella exemplify what a loving, strong, healthy marriage should be. For as long as I have known them, Mike and Joella have been the best of friends and the closest of companions. Through their marriage vows, they have dedicated their lives to each other, to share in the joy of marriage. As we celebrate the Twenty-Fifth Wedding Anniversary of Mike and Joella's wedding, let us reflect on their lives, their love for one another, and wish them a happy and healthy marriage in the years to come.

Mr. Speaker, as Mike and Joella Kerschner celebrate this very special occasion, I wish them, their children, Karl, John, and Chris, and all of their families many years of love and happiness. I hope my colleagues will join me in congratulating Mike and Joella Kerschner on their Twenty-Fifth Wedding Anniversary, and in wishing them the very best in the future.

THANK YOU, EDWIN KORN, JR.

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. BARCIA. Mr. Speaker, our communities grow and succeed when there is strength in community and strong leaders. I rise today to pay tribute to one individual, Edwin Korn, Jr., who has been the backbone of Port Austin for almost 40 years, serving 36 of those years as the President of the Port Austin Village Council.

Edwin was born in Detroit and moved to Port Austin in 1950. He left Port Austin only twice; once to attend college and again to serve his country in the Army. Since then, he has been a strong presence in Port Austin and an important leader of the community.

Appointed clerk in 1962, he served one term as Trustee before becoming President. He has overseen some amazing changes in Port Austin including the switch from well water to lake water and the construction of a world-class waste waster facility. Port Austin now has the distinction of having the best tasting water in the state. It is no wonder that other surrounding communities would like to tie into the Port Austin system. Although he will not seek reelection, I am sure he will remain a strong influence and continue to support efforts to improve the lives of the citizens of Port Austin and Huron County.

Edwin is astutely optimistic that there will be strong development in the Port Austin area over the next ten years and he plans to continue to remain a key player. His leadership in brining a major breakwall and harbor development effort to Port Austin goes directly to the recognition that this is a leading fishing, boating, and recreation destination in Michigan.

He could not have had such a successful career and fulfilled life without the support of his wife, Doreen, and their four children, 11 grandchildren and 1 great grandchild. His loyalty and dedication is evident through his job at Mayes IGA Foodliner where he has worked for 40 years and is now manager.

Mr. Speaker, if we want to teach our citizens to be driven by the concept of community and family, we need only introduce them to individuals like Edwin Korn. I ask you and all of our colleagues to join me in wishing Edwin Korn the best of luck in all his future endeavors.

CONGRATULATING ALBERT COURNOYER ON 40 YEARS OF SERVICE AT THE PUBLICK HOUSE HISTORIC INN

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, I am privileged today to honor one of my constituents, Mr. Albert Cournoyer, as he celebrates his 40th year of hard work and dedicated service to the Publick House Historic Inn in Sturbridge, Massachusetts.

The Publick House has been successfully operating and thriving in Sturbridge for 227 years. I have to think that part of the reason for the Inn's long and prosperous presence in this area of Massachusetts is due to the work of fine employees such as Albert Cournoyer.

Mr. Cournoyer first began assuming responsibility at the Publick House in 1958, at the young age of 14. His work ethic and positive attitude were quickly manifested and noticed as he performed the duties of handyman and dishwasher. Mr. Cournoyer's commitment and skill allowed him to move on from these jobs

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

to other facets of the Inn's operations so that by age 21, he was promoted to Head Chef.

Albert Cournoyer's career in the culinary arena continued to grow until he was made Executive Chef and later to the point where he was entrusted with the duty of overseeing food service operations at Old Sturbridge Village.

One of Mr. Cournoyer's greatest achievements, the fruits of which we witness today, came when he served in the capacity of Director of Maintenance in the early 1980's. At this time he directed and supervised all renovations and construction to the Country Motor Lodge and adjoining restaurant.

In June of 1997, however, Albert Cournoyer's accomplishments, experience, consistent maintenance of the highest quality standards, and hospitable demeanor received their crowning recognition in an announcement which named him the newly appointed Innkeeper of the Publick House. Based on Mr. Cournoyer's record of excellence it came as no surprise that such a worthy candidate received the Innkeeper position.

The qualities that Albert Cournoyer has exhibited for 40 years and continues to reveal in his work at the Publick House are those that all citizens should strive to emulate. For the Publick House's frequent patrons, celebrants of special occasions, and travelers stopping off at this landmark, Albert Cournoyer, for 40 years, has been making their experiences both memorable and enjoyable. I am fortunate to serve such an outstanding citizen and I am proud and honored to congratulate him today.

THE MEDICARE CRITICAL NEED GME PROTECTION ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. STARK. Mr. Speaker, I rise today to introduce "The Medicare Critical Need GME Protection Act of 1998." This important legislation seeks to protect our nation against the depletion of health care professionals that are trained to appropriately treat costly and deadly illnesses.

Under current law, the Medicare program provides reimbursement to hospitals for the direct costs of graduate medical education training. That reimbursement is designed to cover the direct training costs of residents in their initial residency training period. However, if a resident decides to proceed with further training in a specialty or subspecialty, a hospital's reimbursement is cut to half (50%) for that additional training.

The rationale for this policy is strong. In general, we have an oversupply of specialty physicians in our country and a real need to increase the number of primary care providers. By reducing the reimbursement for specialty training, the Medicare program has promoted increases in primary care training rather than specialty positions.

I agree with this policy. However, as is often the case, there are always exceptions to the rule. We do not want to hinder training of particular specialties or subspecialties if there is strong evidence that there is a serious shortage of those particular physicians. That is why I am introducing The Medicare Critical Need GME Protection Act.

To provide an example of a current subspecialty facing serious shortages of professionals, we can look at nephrology. Between 1986–1995, the number of patients with End Stage Renal Disease (ESRD) has more than doubled. At present, more than 40 million Americans die from kidney failure or its complications each year. In 1998, the estimated cost to treat ESRD will exceed $12 billion. However, current data indicates that only 51.8% of today's nephrologists will still be in practice in the year 2010.

Most primary care physicians are not trained to treat the complex multi-symptom medical problems typically seen in ESRD and are unfamiliar with particular medications and technology prescribed for such patients. The decreasing supply of nephrologists, coupled with an expanding population of renal patients, puts the health of our nation at risk.

The Medicare Critical Need GME Protection Act provides a tool to help combat such shortages of qualified professionals. The bill would simply provide the Secretary of Health and Human Services with the flexibility to continue full-funding for a specialty or subspecialty training program if there is evidence that the program has a current shortage, or faces an imminent shortage, of physicians to meet the needs of our health care system. The Secretary would grant this exception only for a limited number of years. The Secretary would have complete control of the exception process. Programs would present evidence of the shortage and she could agree or disagree with the analysis. Nothing in this bill would require the Secretary to take any action whatsoever.

The bill also includes protections for budget neutrality. If the Secretary approves a specialty or subspecialty training program for full-funding under this bill, the Secretary must adjust direct GME payments to ensure that no additional funds are spent.

Again, The Medicare Critical Need GME Protection Act does nothing more than provide limited flexibility to the Secretary of Health and Human Services to ensure that we are training the health care professionals that meet our nation's needs.

I would encourage my colleagues to join me in support of this important legislation. By giving the Secretary the flexibility to allocate funds to attract and train professionals in certain "at risk" fields of medicine, we will significantly improve patient care and lower long term health care costs.

A BLUE RIBBON SCHOOL

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. WELLER. Mr. Speaker, I rise today to honor the selection of Warren P. Shepherd Junior High School as a Blue Ribbon School.

Located in Ottawa, Illinois, Shepherd is one of only 166 secondary schools in the nation presented with this prestigious award by the United States Department of Education. The Blue Ribbon Award is sought after by thousands of schools across the country.

Blue Ribbon status is bestowed upon schools with qualities including strong leadership, a clear vision and sense of mission, high quality teaching, challenging and up-to-date curriculum, and solid evidence of family involvement. These are the schools that best prepare children for the challenges they will face in the future. Blue Ribbon schools are also effective in meeting local state and national goals.

Led by Principal Michael Bannister, Shepherd Junior High School clearly has the characteristics of a Blue Ribbon school. As a seventh and eighth grade junior high school, Shepherd strives to maintain excellence, effectiveness and equity in the education of young people in the "middle grades." This school of 513 students serves both regular and special education students. Shepherd was recognized for its ability to combine these two populations through a successful peer partnering program.

As with other Blue Ribbon schools, Shepherd prepares our young people for tomorrow's challenges through active learning programs. Shepherd's hands-on learning philosophy is perhaps best evidenced by its science curriculum. After undergoing several major technology-related renovations last year, Shepherd has become a technology leader in north central Illinois. At least one new computer with multimedia capabilities and Internet access has been installed in each classroom. In addition, clusters of up to six new computers were placed in four locations of the building, and a Special Education computer lab was installed.

Among Shepherd's strong points are an integrated curriculum designed by cross-curricular grade level teams, a commitment to the development of skills in the area of language arts and exemplary students, faculty and administrators. These and many other accomplishments led qualified Shepherd for Blue Ribbon status.

Mr. Speaker, today I recognize and honor Shepherd Junior High School as a recipient of the prestigious Blue Ribbon Schools Award. Shepherd exemplifies the standard of excellence to which all junior high schools should be held. I am proud to represent a district that includes schools of Blue-Ribbon caliber.

CONGRATULATIONS TO JOHN KELLY

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Ms. DEGETTE. Mr. Speaker, I rise today to commend the career of one of the longest serving National Officers of the American Postal Workers Union (APWU), AFL–CIO, John Kelly, who has announced his retirement after a most distinguished career representing Union members.

John Kelly was a native of the Philadelphia, PA area, but came to the Denver area when he was four years old. He was a graduate of North High School and began his career with the United States Post Office on September

30, 1962, eight years before Congress created the U.S. Postal Service.

John's sterling union career began as a steward, later as secretary, and finally, as President of the Denver local. In 1971, five postal unions merged to form the APWU, and John became a full-time union officer. As the National Vice President for APWU, John served on the National Executive Board, the highest governing body of the Union. Today, he is the senior business agent for the APWU, an organization which has grown to include business agents nationwide.

During his tenure with APWU, John was well-known not only for his skills at arbitration but for his ability to help the members understand the very technical language of their contract with the Postal Service. His expertise was so thorough that the APWU used his services in national contract negotiations and numerous other special projects that affected the union. He has promoted union advocacy and educated colleagues on how to interpret the Collective Bargaining Agreement and the National Labor Relations Act.

For 28 years John has represented the APWU in the Denver Region, which includes the states of Colorado, Arizona, New Mexico, Utah, and Wyoming. John was one of the principal architects of the five-state Denver Regional Assembly, an entity that flourishes today. He is so highly respected that no one has run against him in the National Election in more than 20 years.

Again, I take this opportunity to thank John Kelly for his years of service to the APWU and want to wish him and his family the best in retirement.

HONORING BLUE RIBBON SCHOOLS IN SAN DIEGO COUNTY

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. CUNNINGHAM. Mr. Speaker, I rise today to honor three high schools in San Diego County which have now had their excellence recognized and proclaimed as National Blue Ribbon Schools.

Torrey Pines High School, in Encinitas, California, in my 51st Congressional District, part of the San Diego Union High School District, principal Marie Grey, and superintendent Dr. William Berrier.

Coronado High School, in Coronado, California, part of the Coronado Unified School District, principal Dr. Jeffrey David, and superintendent Dr. Rene Townsend.

University of San Diego High School, in Linda Vista, California, principal Dr. Richard Kelly.

Let the permanent RECORD of the Congress of the United States show that these Blue Ribbon Schools display the qualities of excellence that are necessary to prepare our young people for the 21st Century.

IN HONOR OF FATHER ALBERT JAMES EVANS, SS.CC.

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. KUCINICH. Mr. Speaker, I rise to honor Father Albert Evans who celebrates his Fiftieth Jubilee Mass at Our Lady of Good Counsel on May 31, 1998.

Father Al, as he is known to friends, was born and raised in Cleveland, Ohio. Graduating from James Ford Rhodes High School in 1932, Father Al joined the unemployed masses of the Great Depression. For the next ten years, he would hold a variety of odd jobs, working as an orderly in Cleveland City Hospital, a factory worker, a dock worker, and a truck driver.

In 1939, Father Al enrolled in Saint Mary's College in Kentucky. It was while studying at Saint Mary's that Father Al found his calling, applying for admission to the Congregation of the Sacred Hearts of Jesus and Mary. He began his studies for the priesthood three years later in Washington, DC and was ordained in 1948.

Upon his ordination, Father Al received an obedience in Japan. For the next twenty years, he presided over a little mission north of Tokyo. His work in Japan ended after he was diagnosed with lung cancer, resulting in the removal of a portion of his left lung. Father Albert recovered upon his return to the United States, dedicating himself to mission promotion.

My fellow colleagues, let us recognize Father Al's fifty years of service to the world's underprivileged and congratulate him as he celebrates his Fiftieth Jubilee Mass.

A SPECIAL TRIBUTE TO JESSICA L. CHAPMAN ON HER APPOINTMENT TO ATTEND THE U.S. MILITARY ACADEMY AT WEST POINT, NY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to a truly outstanding young lady from Ohio's Fifth Congressional District, Jessica L. Chapman. Jessica recently accepted her appointment to attend the United States Military Academy at West Point, New York, where she will join the incoming Cadet Class of 2002.

Jessica, who is from Bowling Green, Ohio, will soon be graduating from Bowling Green High School, and will begin preparing for one of the most challenging, rewarding, and educational experiences of her life: her four-year commitment at West Point.

While attending Bowling Green High School, Jessica has proven herself to be an exceptional student and an outstanding student-athlete. In the classroom, Jessica's accomplishments are unparalleled as she has attained a perfect 4.0 grade point average, placing her first in her class of 290 students.

In addition to her academic achievements, Jessica has performed very well on the fields of competition. Jessica was the Co-Captain of the Varsity Cross Country Team and the Varsity Volleyball Team. She was also a member of the Varsity Track and Varsity Basketball Teams. Jessica was active in the National Honor Society, German Club, and attended the United States Air Force Academy's Summer Science Seminar.

Mr. Speaker, each year, I have the opportunity to nominate outstanding young men and women to the nation's military academies. I am pleased that Jessica has accepted her appointment and will be joining West Point's Class of 2002. I would urge my colleagues to stand and join me in paying special tribute to Jessica Chapman. I am sure she will do very well at West Point, and in all of her future endeavors.

IN HONOR OF PRINCIPAL MARY S. MURPHY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. MENENDEZ. Mr. Speaker, I rise today to show my appreciation for one of our finest educators and administrators, Ms. Mary Murphy, who is moving on after sixteen years of invaluable service to Our Lady of Good Counsel High School. She served fourteen years as an English teacher and Senior advisor, and three years as principal.

Mary Murphy has inspired hundreds of her pupils to become outstanding students who went on to successful careers. But perhaps more importantly, she emphasized to her students the importance of being kind and considerate individuals.

Ms. Murphy is compassionate, caring, funny and a good listener. These qualities allowed her to capture students' attention and become an important influence in their lives.

I salute Principal Mary Murphy for being an excellent educator, leader, and role model. She will be leaving Our Lady of Good Counsel High School, but her work will always stay in her students' hearts and minds.

JASON ESPIRITU, GUAM'S NATIONAL GEOGRAPHY BEE FINALIST

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. UNDERWOOD. Mr. Speaker, for the last couple of days, Washington, D.C. played host to 57 state-level winners from all over America as they vie to win the 1998 National Geography Bee. Celebrating its 10th anniversary, the National Geography Bee was developed in response to concern about lack of geographic knowledge among young people in the United States. The finalists range from ages 11 to 15. Each rose above a field of about 5 million students in order to earn a place in the 10th annual national championships. The finals were held on May 19th and 20th hosted for the 10th consecutive year by Jeopardy's Alex Trebek.

The state level winners represent all 50 states, the District of Columbia, the five U.S. territories—American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands—and the Department of Defense Schools. Twelve of the 57 students are repeat state winners. Ten others competed in the 1997 finals. Among them, Jason Espiritu, is from my home Island of Guam and I am proud to announce that he finished in the top ten.

Jason, a seventh grade student at St. Anthony's School in Tamuning, is the son of Virgilio and Amelia Espiritu. As you may have guessed, his favorite subjects in school are Social Studies and Geography. To prepare for the competition he employed a number of reference materials such as atlases, almanacs, news magazines and National Geographic videos. His fine performance could be contributed to preparation and his every day habits of reading newspapers and keeping up with current events. The facts that he is hearing-impaired never prevented Jason from doing well and making Guam proud.

On behalf of the people of Guam, I congratulate Jason Espiritu on his very fine performance. We commend his efforts towards excellence and expect no less from him in the years to come.

LET'S HELP OUR NATIONAL PARKS AND THE AMERICAN TAXPAYER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. MILLER of California. Mr. Speaker, today I am introducing legislation, with the cosponsorship of several of my colleagues, to provide a fair return to the public for the commercial use of our national parks and to use those funds to maintain and enhance park resources and visitor services.

The National Park Service is being hamstrung in the changes it can make to its concessions policies by the provisions of the outdated 1965 Concessions Policy Act. At a time when families, senior citizens, and other recreational users visiting our parks are required to pay higher fees, the same is not being required of commercial operators who profit from our national parks. For far too long, the public has not received a fair return on the commercial revenues generated in our national parks. It's time to end this situation.

"The National Park Service Concession Policy Reform Act of 1998" is the successor of the NPS concessions reform legislation of the 103rd Congress, which, although it passed the House in 1994 by an overwhelming vote of 386 to 30 and the Senate by an equally overwhelming vote of 90 to 9, never was enacted into law. The provisions of my bill have been the subject of numerous hearings over the years and addresses problems identified in GAO and Inspector General reports. It is a proposal that has had the support of the Administration, environmental organizations, and taxpayer watchdog groups. Similar legislation has been introduced in the Senate by Senator Dale Bumpers.

The legislation provides meaningful competition for NPS contracts to provide goods and services to park visitors. The bill eliminates certain preferential rights of renewal and phases out possessory interest, both of which have been major barriers to competition. In addition, it provides that the funds generated from concession contracts will stay in the parks to benefit park resources and visitor services.

If we want to increase the return to the public and enhance park resources while still making available to visitors a quality concessions service, we need to install a competitive process instead of maintaining advantages for select commercial operators. The National Park Service Concession Policy Reform Act achieves these purposes. I hope Members will add their support to this legislation.

IN HONOR OF ANTHONY DIBIASIO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. KUCINICH. Mr. Speaker, I rise to honor Anthony "Tony" DiBiasio for his tireless efforts on behalf of the school children of Lakewood, Ohio for the past fifty years.

After serving his country in the U.S. Air Force during the Second World War, Tony went on to receive a B.S. and Masters from Ohio University and continued doctoral studies at Western Reserve University. For fifty years, "Mr. D." has demonstrated this love of learning as a teacher, administrator, coach, and currently, as Executive Director of the Lakewood Public Schools Foundation. He has also served as president of both the Lakewood Education Association and the Lakewood PTA.

In addition to his work with Lakewood schools, Tony has also served as Director of Project Read, conducting reading workshops at colleges and universities throughout the country. He has also sat on the Board of Directors of Keep America Beautiful and was a valued member of the Lakewood Kiwanis Club. Tony has been published in a number of professional journals.

Having made a significant contribution to his community, it comes as little surprise that Tony had made something of a "name" for himself. The street in front of Lakewood High School has been dubbed Tony DiBiasio Square. A scholarship fund at the high school and the Fitness Center at the Lakewood YMCA also bear his name. Tony's service towards others has been honored by the American Legion and the American Red Cross.

My fellow colleagues, let us join the entire Lakewood community in thanking Anthony DiBiasio for his commitment to the young people of Lakewood, Ohio. May his many years of service to community and country serve as an example to us all.

SALUTE TO MAJOR NED SWINNEY

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. THOMPSON. Mr. Speaker, I rise today to honor the late Major Ned Swinney, who was born January 13, 1938, in Jefferson County, MS to the late Jim and Leola Swinney.

Major Swinney departed this life on May 10, 1998, but he left a proud legacy as a husband, father, and law enforcement officer. He attended the Jackson public schools and received an associate degree from the Baptist Seminary of Mississippi.

Major Swinney began his career as a law enforcement officer in 1956 as a military police officer in the United States Army. He began his 25-year-long association with the Hinds County Sheriff's Department in July 1972 where he served as Deputy Sheriff, Staff Seargent, Lieutenant, Captain, and was promoted to Major in 1992.

Major Swinney exhibited thoughtfulness and compassion for people in the community he came in touch with. He reached out to those in trouble with a steady hand supported by his Christian belief of loving one's neighbor.

Mr. Speaker, I ask you to join me in saluting the family of Major Ned Swinney for the outstanding contributions he made to the world of law enforcement.

A SPECIAL TRIBUTE TO BRIAN C. VANVALKENBURG ON HIS APPOINTMENT TO ATTEND THE U.S. MILITARY ACADEMY AT WEST POINT, NY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to a truly outstanding young man from Ohio's Fifth Congressional District, Brian C. VanValkenburg. Brian has recently accepted his offer of appointment to the United States Military Academy at West Point, New York, and will be joining the incoming Cadet Class of 2002.

Very soon, Brian will be graduating from Vermilion High School, and will begin preparing for one of the most challenging, rewarding, and educational experiences of his life: his four years at West Point.

While attending Vermilion High School, Brian distinguished himself as an outstanding student and a very fine student-athlete. In the classroom, Brian's academic successes are outstanding, as he has attained a 3.77 grade point average, placing him tenth in his class of 194 students.

Brian has been active in the National Honor Society, and has participated in the National Latin Exam. In addition, Brian has shown himself to be a leader with his election to president of his class during his junior year. On the fields of competition, Brian was a member of the Vermilion Sailors Varsity Football Team.

Mr. Speaker, I am pleased to have the opportunity to nominate Brian for appointment to the United States Military Academy. I am certain he will do very well. I would ask my colleagues to stand and join me in paying special tribute to Brian VanValkenburg, and in wishing him well in all of his future endeavors.

TRIBUTE TO NAT BINGHAM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. MILLER of California. Mr. Speaker, I would like to pay tribute to Nat Bingham, an advocate for the fish and the fishermen on the West Coast, whose untimely death earlier this month has left a void so large, it will be difficult, if not impossible, to fill. His list of accomplishments on behalf of the fish and forests was long and varied, forging compromise between opposing groups for the good of the resource.

A commercial fisherman for over 30 years, his efforts in fisheries restoration began almost as long ago when, in his typical forward looking way, he headed projects in North Coast watersheds for salmon rearing and stream restoration. He initiated the Sacramento winter-run salmon broodstock program and the Sacramento spring-run chinook working group. He was a critical voice in the debate leading to the enactment of the Central Valley Project Improvement Act, rallying the fishing industry to support our efforts to provide water for fish and wildlife.

He was active in coho salmon recovery efforts, and was a member of the Ecosystem Roundtable dealing with funding proposals for the Bay-Delta. He was a long-time member of the Commercial Salmon Stamp Committee and the California Advisory Committee on Salmon and Steelhead Trout. He also served as president of the Pacific Coast Federation of Fishermen's Association (PCFFA) for 9 years. Through it all he fought tirelessly for the industry and the restoration of the fish they depend on.

Nat gave up fishing a few years ago to work full-time on fish and fish habitat conservation as the Habitat Director for PCFFA. In this role, he was instrumental in the developing and building support for new habitat protection measures that were included in the most recent reauthorization of the Magnuson Act. He was a current member of the Pacific Fishery Management Council, and prior to be appointed to the Council he served as chairman of their Salmon Advisory panel. A proponent for protecting marine areas, he was to be the Pacific Council's representative on the upcoming Year of the Ocean Conference in Monterey.

Nat Bingham was an independent thinker, a strong moral voice, and a great conservationist who looked at the long term, not just the present. He would take on large industry—whether it was oil, timber, or agribusiness—the government, the environmental community, or even his own fishing industry when he felt they were wrong. He approached these challenges as a consensus builder not an adversary, however, trying to build bridges between opposing interests for the good of the resources and the people that depend on them.

There are some people who have been so important and have been doing the work for so long in their community that their value to the people, the community and the resource is impossible to measure. At the same time, they have been fighting the fight for so long, you can't remember what it was like before they came along. Nat Bingham was one of those people. His contributions to the protection of the resource and our environment were immeasurable, and the thought of fighting the good fight without him is almost impossible to imagine. We will continue to fight however, to save the salmon and their habitat. Nat would expect no less, and it is an appropriate way to honor his memory.

TRIBUTE TO BEN WILLIAMS

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Ms. KAPTUR. Mr. Speaker, I rise today to recognize the outstanding career of an educator in our community. A lifelong educator with the Toledo Public School system, Ben Williams will be feted at a retirement event that will also serve as a scholarship dinner in his honor on May 23, 1998 in Toledo.

A product of the Toledo Public Schools himself, Ben began his career in 1968 at Woodward High School, where he taught general science and coached freshman boys basketball. Ben truly discovered his passion as a teacher and coach at Toledo's Scott High School in 1969, where he remained until retirement. While at Scott, he taught health education, became Chair of the Physical Education Department, and coached the junior varsity and varsity boys basketball teams. During his seventeen years as head coach, his teams have won an amazing ten City Championships, and last year, the Scott Bulldogs won the Ohio State Championship. No doubt, the Bulldogs with this victory expressed their appreciation to him for his lifelong dedication to them. Eight of the teams under his leadership have ranked among the top ten Ohio AAA teams. His accomplishments earned Ben the designation of AAA Boys Basketball Coach of the Year.

Ben's success as a basketball coach has not been simply about fostering technical skills and teamwork on the basketball court. States a noted local sportscaster, "While building the area's top basketball program at Scott, Ben has not let his players forget why they are in school. He not only insists on athletic achieyement but academic efforts as well." Indeed, 90 percent of his players have gone on to college! Truly a mentor to his players, Ben puts his philosophy into action, explaining "Most of our boys come from broken homes. I spend more time with them than the typical coach. I have a year-round relationship with them. We try to keep basketball in perspective. Academic achievement and personality improvement are the most important things."

Ben also founded the City of Toledo Recreation Department's Annual Early Bird Basketball Clinic, serving over 600 children in each of the 8 years he directed the program. He has directed various recreation and youth offices in both Toledo and Erie, Pennsylvania. Finally, he worked with the University of Toledo's Summer Sports Program for 13 years, from 1970 to 1983.

Ben Williams is a graduate of Bowling Green State University, where he earned both his undergraduate and graduate degrees. He has also worked toward his doctorate at Gannon College in Pennsylvania, George Washington University, and Sir George William's University in Montreal. He holds a teaching award from Phi Beta Kappa, and has received many other awards for his exemplary teaching and service to our community.

In addition to an extraordinarily successful teaching and coaching career, Ben is happily married to Arielle. They are the proud and earnest parents of Robert, Kristie, and Leah.

Perhaps Ben Williams' proudest professional moment came when Scott High School last year renamed its field house in his honor. In accepting the tribute, Ben spoke of his State Championship team. "This close unit has shown what discipline, hard work, and caring can do for all who wish to beat the odds." Indeed these stand as fitting words by which we all might live.

SUPPORTING H.R. 59

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today in support of H.R. 59, the National Right To Work Act. This bill would repeal those sections of Federal law which allow big labor to force hard-working Americans to pay union dues under the threat of losing their jobs.

This is un-American. Yet, it happens to thousands of men and women every single month of the year. Union bosses take the hard-earned money of workers who have no legal say in the matter.

Mr. Speaker, it was Congress who created this problem. We gave big labor the privilege and authority to take this money away, by taking away the worker's freedom to choose whether or not to pay union dues.

Congress must now give that freedom back to American workers.

H.R. 59 empowers Americans and gives them the choice that never should have been taken from them in the first place.

I urge my colleagues to support H.R. 59, the National Right To Work Act.

INTRODUCTION OF THE JUDICIAL ANTI-NEPOTISM ACT

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Ms. DUNN. Mr. Speaker, today I am introducing legislation to preserve the institutional integrity of the federal courts. This bill will clarify the 1922 anti-nepotism law (section 458 of Title 28 of the United States Code) which prohibits the appointment or employment in any court of individuals who are related within the degree of first cousin to any justice or judge of that court.

Currently, there is disagreement about whether this anti-nepotism law applies simply to judges' personnel decisions or whether it includes presidential appointments to judicial offices in federal courts.

I believe that the law must apply to both if courts are to remain unbiased. It is the duty of Congress to ensure that the credibility of our judicial branch is not compromised. That is why I am introducing the Judicial Anti-nepotism Act. This legislation clarifies the intent of the original law to preclude the appointment of a judge to a court if that person is related within the degree of first cousin to any judge, including a judge retired in senior status, of that same court.

If the law were not to apply to the familial relationship of judges, close family members would be able to serve concurrently on the same court, causing litigants to lose confidence in a system clearly designed to be objective and impartial. We simply cannot afford to let this happen. We must assure that federal judges are independent from any outside influence in order for their decisions to be completely impartial and based only on the laws and facts of the cases.

I encourage my colleagues to support this bill and help uphold the just character and composition of one of our most revered institutions.

CELEBRATION OF THE VALLEY BANK

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. THOMPSON. Mr. Speaker, I rise today to celebrate as well as acknowledge the 100th birthday of The Valley Bank in Greenwood, Mississippi. Originally founded in 1898 in Rosedale, Mississippi, The Valley Bank has persevered, persisted, prevailed and prospered into a system of community banks with eleven locations across the Mississippi Delta extending into the states' capital at Jackson, one of the fastest growing cities in Mississippi.

The Valley Bank was founded by David Reinach, W.B. Roberts, Saint Kohn, Isaac Kohn, Godfrey Frank, J.L. Wilson, and G.J. McGehee, Jr. It was the vision of these seven aspiring gentlemen to create a financial institution in the Mississippi Delta. With this vision, The Valley Bank has grown to become a well known bank throughout the country. In 1997, The Valley Bank ranked 78th out of 14,850 banks in the Nation on its return on assets and return on equity to stockholders. In addition to that, The Valley Bank ranked #1 out of 126 banks in Mississippi in both loan volume and dollar amount of loans made under the Farm Service Agency and in business and industry loans.

Mr. Speaker, in this day of mega-mergers where banks are being bought and sold, consolidated, and reaching across state lines, The Valley Bank remains one of the few banks that continues the tradition of personal service, customer satisfaction and community involvement. It is refreshing to know that The Valley Bank today is as old-fashioned as it was 100 years ago when it first opened its doors for business.

Mr. Speaker, please join me in celebrating the 100th birthday of The Valley Bank. May it prosper for an additional 100 years based on the principle of dedicated personal service.

CONGRATULATIONS TO SOUTHERN HIGH SCHOOL'S MOCK TRIAL TEAM

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. UNDERWOOD. Mr. Speaker, I would like to take this opportunity to congratulate the members of Southern High School's mock trial team for their outstanding performance in the Mock Trial National Championship held in Albuquerque, New Mexico from May 8–9. They placed second in a competitive program involving 45 state teams. Not only did Southern High School take second honors, Leslie Travis, a fourth year Southern High student, was also awarded the distinction of best attorney in the competition.

Mr. Speaker, the people of Guam are extremely proud of Ria Baldevia, Brian Biacan, Sharon Cadag, Leona Cruz, Vera Lynn Gozum, Leanna Libby, Charles McJohn, Denise Mendiola, John Moorhead, Pergrin Pervez, Teddy Salas, Michael San Nicolas, Aubrey Santos, Tricia Ann Santos, Leslie Travis, and Joshua Tyquiengco not only for their exceptional achievement, but also for their admirable performance as Guam's ambassadors in this national contest.

Mock trial is an arduous competition which calls on a team's creative intelligence, logical reasoning, and quick wit to outmatch the other competitors. Southern High School's performance illustrates what can be accomplished through hard work, dedication and teamwork. On behalf of the people of Guam, I congratulate Southern High School and the members of their mock trial team for their magnificent achievement.

IN HONOR OF THIRD FEDERAL SAVINGS ASSOCIATION

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. KUCINICH. Mr. Speaker, I rise to honor Third Federal Savings Association, which has served as a leader in Cleveland's banking community for sixty years.

Third Federal Savings continues to build upon its legacy as a strong civic institution by spearheading the Broadway Development Initiative, a group of 100 organizations dedicated to the revitalization of Cleveland's Broadway-Slavic Village area. The initiative includes a diverse assortment of community groups from the Catholic Diocese of Cleveland to government entities.

The crown jewel of the redevelopment area will be Third Federal's $17.3 million operations center, which will be completed in November 1999. In addition, the bank has pledged to invest $10 million in the community within the next ten years.

Third Federal will also ally with Greater Cleveland Habitat for Humanity in combating the problem of homelessness, donating $10 to the organization for every mortgage loan made by the bank. This partnership will finally make possible the development of the Worsted Woolen Mills site, the former location of a factory destroyed by fire in 1993. Prior to Third Federal's donation, Greater Cleveland Habitat had trouble finding financial backing.

My fellow colleagues, join me in recognizing Third Federal Savings Association's commitment to its surrounding community and in congratulating the bank of its 60th Anniversary.

IN HONOR OF THE 32ND ANNIVERSARY OF THE INDEPENDENCE OF GUYANA

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. MENENDEZ. Mr. Speaker, I rise today to honor the New Jersey Arya Samaj Mandir, Inc. for their efforts to commemorate the 32nd anniversary of the Independence of the Republic of Guyana. On Tuesday, May 26, they will be hosting their third annual commemorative flag-raising for the independence of Guyana in the Council Chambers at City Hall in Jersey City. New Jersey Arya Samaj Mandir, Inc. was incorporated in 1988 and aims to preserve and promote Arya/Hindu culture in New Jersey.

The history of Guyana parallels that of the United States in several ways. Similar to the U.S., Christopher Columbus was the first European to see the Guyana coast in 1498. Guyana is also a land of immigrants with citizens tracing their roots to India, Portugal, China, and Africa. Guyana is the only country on the mainland of South America with English as its official language.

Guyana also shares with the United States the experience of gaining independence from the colonial interests of Europe. The Dutch, the French, and the British have each occupied Guyana at various times between 1621 and 1966. In 1992, Guyana successfully instituted free and fair elections.

In closing, I would like to thank the New Jersey Arya Samaj Mandir, Inc. for their flag-raising ceremony and congratulate the Republic of Guyana for its 32nd year of independence.

SENATE—*Friday, May 22, 1998*

The Senate met at 9:32 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, our Father who has given us life, bless us this day as we accept the privilege of work. Thank You that the work You have given the Senators and those who work with and for them is crucial for the future of our Nation.

As this intense and busy week comes to a close, we express our gratitude for each Senator's staff, the officers of the Senate and their staffs, the reporters of debates, the media, the pages, the police guards and Secret Service, the elevator operators, the food service personnel, the landscape and maintenance people, and so many others who work so faithfully on hundreds of important tasks. May we take no one for granted and communicate our esteem and affirmation to everyone who works around us.

Today, we especially thank You for Stuart Balderson, Financial Clerk of the U.S. Senate, who has recently retired after faithfully serving this body for 38 years. Bless Stuart and his wife, Marie. May their retirement years continue to be joyful and purposeful. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. COVERDELL. Mr. President, for the information of all Senators, this morning the Senate will begin 1 hour of morning business. At 10:30 a.m., the Senate will begin the Iran sanctions bill under a time agreement of 3 hours. It is possible that some time may be yielded back on the sanctions bill, and therefore votes could occur before noon. The Senate will also consider the ISTEA conference report when it becomes available. Therefore, votes could occur throughout Friday's session, in an effort to conclude several important items prior to the Memorial Day recess.

Mr. President, it is my understanding, in conference with the other side, that they are comfortable with allowing two of our 10-minute sessions to occur back to back and to then go to the other side—and I will begin that, but before I do, for just a couple of minutes the Senator from Oregon will speak to express his grief over circumstances in his State.

Mr. WELLSTONE. Might I interrupt my colleague for a second. I know we will hear from the Senator from Oregon to speak about the tragedy in Oregon, and I think his remarks are perhaps the most important remarks of the day.

Might I ask, since we have some order, after the Senator from Oregon speaks, then two Republicans will speak?

The PRESIDING OFFICER (Mr. ALLARD). Correct.

ORDER OF PROCEDURE

Mr. WELLSTONE. Could I ask unanimous consent to have 10 minutes in the sequence after Senator DORGAN?

The PRESIDING OFFICER. The Senator is asking there be two 10-minute segments?

Mr. WELLSTONE. I would like to speak after Senator DORGAN for 10 minutes.

Mr. ENZI. Could I request permission before that happens to drop in a bill on behalf of myself and Senator BINGAMAN?

The PRESIDING OFFICER. Does the Senator concur with that?

Mr. WELLSTONE. Yes.

Mr. INHOFE. Could we extend that unanimous consent to give me 10 minutes after the Senator from Minnesota?

The PRESIDING OFFICER. Is there an objection to the time requests?

Without objection, it is so ordered.

Mr. COVERDELL. I yield 3 minutes of my time to the Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, and my colleagues who have allowed me to speak, I thank you for your courtesy.

TRAGEDY IN OREGON

Mr. SMITH of Oregon. Mr. President, I rise today with a very heavy heart. Yesterday, Senator WYDEN, my colleague from across the aisle, and I were confronted with news of a tragedy in our State that was, frankly, in my mind, quite unimaginable.

The Willamette Valley of Oregon is perhaps one of the most beautiful places in the world. It is surrounded by mountains with snowcaps and clear streams running through it. It is filled with farmers and loggers, college professors and students, people working in State government. It is truly an Eden on Earth.

But yesterday, a most mindless and senseless act was committed that leaves me, frankly, speechless. A young man, obviously very troubled, on the way to school killed his parents and then took three weapons into his school cafeteria at Thurston High School in Springfield, where he opened up and killed 1 student and injured nearly 30 others. This occurred before a wounded student tackled him and held him to the ground.

I don't have words to express the outrage I feel or the heartache that I feel for the families, for the victims, for this community, for my State, for my country, at this outrageous and despicable act.

Yesterday, Senator WYDEN and I were asked to be on program after program, and we declined, because it was not a day for pontificating about policy or political posturing. It was a day for grief and mourning. I reach out to my State. I cannot be there physically, but my heart is with you and I am in agony with you. It becomes all of us here and in any place in government not to pick a single issue and say that is why, but to look at the strings that run from Springfield to Jonesboro or in any other community in this State and to find out what is happening with the youth of America whereby they solve their problems by resorting to this kind of violence.

We must have the courage to face all of the possibilities. It isn't just the school. It isn't just the gun. It isn't just the family. It isn't any of these things in isolation, but it is all of them together.

I, for one, reach across to my colleague from Oregon, Senator WYDEN, and every other member of the Oregon delegation in this Congress, and to our Governor, and to school officials and to parents in Oregon and across this country and say, let's figure it out and let's try to prevent it from occurring again. This does not belong in America. The answers start with us.

The answers start in our hearts and in our homes, in our legislatures, in this Capitol building, but it starts with us as individuals to find out how to say no to this in the future and to prevent it. We are doing many things to punish, and those are appropriate things. It is time to do more to prevent.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. I thank the Chair.

As Senator SMITH has said, the people of Oregon are grieving this morning. Our hearts are out to them. This is a time when all of us from Springfield,

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

OR, to Springfield, MA, have to take a few moments out from our daily routine and reflect on what has happened in our home State. This is supposed to be a joyous time of year for kids in high school. They think about summer vacations and plans, time with family. Once again, however, our country has been rocked by unspeakable violence. I think all of us know that young people get upset and they do foolish things. But that is not what this is about.

In times past, when young people got angry, they might throw a rock, they might throw a fist, but there was not this pattern of deadly gun violence. And so now it is critically important as we grieve for the people of our home State—my staff has been trying to help, giving blood, assisting others in the community, but it is especially important now to get beyond the kind of finger pointing and the sort of blame game that inevitably takes place here and look to how these tragedies can be prevented in the future.

I share Senator SMITH's judgment that this is about what is in our heart. It is about taking every possible step in the schools, in the family, through the education and health programs and through law enforcement programs, to protect our citizens and to reach out to those young people in trouble. That way we have a chance to restore safety in our communities and peace of mind for parents who, right now across this country, because of Springfield and the previous tragedies, are going to get up in the morning saying to themselves: What is going to happen at my child's school today? We cannot have that. No Member of the Senate can abide by that. And that, to me, is our central challenge today.

Oregonians have come together in the last 24 hours to do what we always do best, and that is to help friends and neighbors in a time of great need. We have seen an extraordinary outpouring of concern in Springfield towards families. It is not possible to find any real comfort at a time like this, but if you can feel hopeful—we have got to get up every morning working to make this a better world and a safer world—we can take some comfort in knowing that communities like Springfield do work. They are getting up this morning and saying that they are going to try to reach out to everybody in that community, to try to do everything possible to heal in Springfield and our home State but, even more importantly, to do everything they can to make sure that tragedies like this do not happen again in Oregon or anywhere else.

That is what we need to work for in this Chamber. Government policies can help, and with the government being a better partner, and families and schools and communities rallying, as Springfield has, we can make a difference and we can stop this carnage in our schools.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

MOMENT OF SILENCE

Mr. COVERDELL. Mr. President, I now ask unanimous consent that the Senate have a minute of silence in the Chamber in deference to the remarks of the two Senators from Oregon, and then the Senate would proceed with the hour of morning business beginning at that point.

(There being no objection, the Senate observed a moment of silence.)

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to exceed 1 hour, with Senators permitted to speak therein for up to 10 minutes each.

ISTEA

Mr. McCAIN. Mr. President, later today, the Senate will vote on the conference report on H.R. 2400, the ISTEA reauthorization legislation. I regret that I am unable to be here to vote on this important piece of legislation, but I must depart momentarily to speak to the 25th Anniversary Reunion of Vietnam-Era Prisoners of War in Dallas, Texas.

If I were able to record my vote, however, I would vote against this conference agreement. This legislation is likely the most pork-laden legislation ever to be considered by Congress in the 20th Century. This conference report should be defeated, despite the inclusion of many important and commendable provisions.

I cannot support this conference report despite the fact that it does include significant motor carrier, highway and boating safety initiatives developed by the Committee on Commerce, Science, and Transportation. The Commerce Committee conferees, Senator HOLLINGS, Senator STEVENS, and I, worked diligently and responsibly to ensure that effective truck safety inspection and enforcement activities are continued, that safety initiatives on motor vehicle occupant protection are created, and that recreational boating activities are advanced.

The Committee on Commerce, Science, and Transportation portion of the conference report also requires the National Highway Traffic and Safety Administration (NHTSA) to change existing passenger car air bag standards so that the risks air bags pose to infants, children, and other individuals are minimized. I also want to take this opportunity to express my personal thanks to Senator KEMPTHORNE. Without his involvement, I doubt our efforts to improve passenger car air bags would have succeeded as they did.

Yet despite these notable achievements, I regret I cannot support the ISTEA reauthorization conference report. I object for several key reasons: the budgetary offsets, donor state inequity, and pork barrel spending.

On April 2nd, I reluctantly voted for an amendment sponsored by Senators DOMENICI, LOTT, and CRAIG on the Balanced Budget Act which proposed to transfer approximately $10.5 billion over five years from the Department of Veterans Affairs for veterans' tobacco-related diseases to pay for the transportation reauthorization legislation. In part, I did this because I believe that the tobacco companies, rather than the taxpayers, should bear the burden for veterans' tobacco-related diseases caused partially by smoking and using other tobacco products while they were in military service.

Military service did not force servicemembers to smoke, but I do acknowledge that for morale reasons, the services made cigarettes available for free or at inexpensive prices. The services also give servicemembers condoms and birth control pills at no cost to military personnel, but that does not mean that they want our men and women in uniform to be promiscuous.

As a conferee on this multi-year highway funding reauthorization bill, I have refused to support or sign the ISTEA conference report. As I mentioned earlier, of the three reasons for my opposition, the shifting of critical veterans funding to perpetuate donor state inequity and support the pork barrel spending in this massive highway bill is egregious.

Additionally, I will seek to ensure that any tobacco bill that passes the Senate includes money for the veterans health care system to help reimburse the costs of treating veterans with tobacco-related diseases. Our nation's veterans should not be excluded from payments by tobacco companies for health care costs associated with tobacco-related diseases. The failure to address the tobacco-related health care needs of our men and women who faithfully served their country in uniform would be wrong.

Congress cannot continue to rob from veterans, whose programs have been seriously underfunded for years, to pay for a bill that ranks as the largest pork-barrel spending bill ever written.

Two months ago during the debate on the McCain/Mack/Graham/Thurmond/Coats/Brownback/Kyl amendment, I discussed the history of highway bill demonstration projects. Those remarks are as relevant today as they were two months ago, because if we adopt this conference report as presently written, we will shatter all pork-barrel spending records.

In 1982, the highway bill had 10 demonstration projects, costing a total of

$362 million. In 1987, 152 demonstration projects were created, costing a total of $1.4 billion. In 1991, what was then felt to be the mother lode of all demo project bills, the Intermodal Surface Transportation and Efficiency Act (ISTEA), 538 location-specific projects totaling $6.23 billion were created.

Where are we today? H.R. 2400 doesn't just double the number of location-specific projects, but it more than triples the number of earmarked projects. The bill individually targets more than 1,850 projects. The costs have risen as well. H.R. 2400 sets aside more than $9 billion to pay for these 1,850 specified highway projects. That is $9 billion of highway funding that Congress is mandating the states allocate to carry out whimsical projects. That is $9 billion that states cannot allocate to those infrastructure projects they deem most appropriate. Scores of other projects are listed in other sections of the legislation.

A new name has even been created. We used to hear about "demonstration" projects and "innovative" projects. Under H.R. 2400, we now have "high priority projects." Just what is a "high priority" project? Let me mention just a few examples of the type of project that the conferees believe are definitive projects.

Funds are included to initiate "traffic calming projects" in West Palm Beach, Florida and Fauquier County, Virginia. Money is included to build a coal heritage trail in West Virginia. Millions of dollars are set aside in selected towns throughout the country to construct location-specific bike paths. If traffic calming activities and constructing boardwalks fail in some minds to qualify as a "high priority" project, there's always the funding set aside to produce a documentary film on infrastructure.

I fail to see how items like these can seriously be considered "high" transportation priorities.

Priorities are traditionally established after thorough review and discussion. While our colleagues in the other body maintain that their projects were selected after a review process, I do know that the process in the Senate was not.

At 5:30 last night, Senate transportation aides received an e-mail message announcing that a limited number of Senate high priority projects were about to be added to the conference report. Transportation aides were advised to inform the Environment and Public Works Committee if their members wanted any projects earmarked. Staff was advised that no more than half of the proposed State allocation amount should be earmarked. Explicit direction was provided on how a Member might make such a request, including that it must be in writing and the description of the project must not exceed 216 characters. In addition, a name and phone number was provided where staff could call to find out just how much extra money had been set aside for their state.

Mr. President, this borders on the absurd. What ever happened to funding projects based on legitimate needs?

Mr. President, this reauthorization would be comical if it weren't such an abrogation of our responsibilities to the American taxpayer.

I am not alone in my disdain for this raid on the highway trust fund. Public interest groups have strongly criticized projects like these. The Heritage Foundation recently called on Congress to eliminate the House earmarks and to "instead allow each state to use its share of the highway trust fund for projects that meet locally and state determined needs and priorities." Citizens Against Government Waste states that the House-passed legislation "guarantees that federal highway dollars will continue to be doled out to regions with political muscle, rather than to areas that truly need it."

Two of the originally-stated goals in ISTEA's reauthorization were to promote state highway funding flexibility and to utilize limited resources responsibly. Rather than perpetuate Congressional earmarks, we should place our confidence in our elected Governors' and Mayors' decision-making capabilities. Local- and state-elected officials should make the final decisions on local and state roads.

Lastly, I remain concerned over donor state equity. Currently, taxpayers living in donor states are forced to subsidize transportation projects in donee states. Arizona, for example, receives only about 85 cents for every gas-tax dollar it contributes to the highway trust fund. The 85-cent return ratio is reality despite the fact that the original ISTEA legislation "guaranteed," and I stress the word guaranteed, donor states a 90-cent return by 1997. The 1991 "guarantee" simply was never fulfilled.

Now donor states are being told the new funding formula will guarantee they'll receive 90.5 cents back for every gas tax dollar sent to Washington. That's a mere half-penny increase over the 1991 guarantee that was never realized.

Today, many of our colleagues will announce that the conference report provides critical funding to meet the transportation needs "for the 21st Century." The conferees have gone so far as to entitle the bill "the Transportation Equity Act" yet nothing could be further from the truth. We will be told the dramatic increase in highway spending—a portion of which I remind my colleagues comes at the expense of veterans programs and other domestic activities—will fill a critical gap in transportation spending. Yet I ask my colleagues, how can anyone realistically believe that a half-penny hike will meet the transportation needs for the fastest growing states in the nation. States like Arizona and Nevada are not being treated fairly or reasonably.

Mr. President, the only guarantee that donor states should expect from this legislation is that they will continue to subsidize road projects in other states for the next six years.

Mr. President, I also want to mention a purely procedural matter which deeply concerns me. When staff of the Senate conferees first met on the legislation, the Committee on Commerce, Science and Transportation was told specifically that several projects designated in the House-passed bill were squarely within our jurisdiction. The Environment and Public Works Committee in essence gave those projects over to the Commerce Committee. The Commerce Committee never resolved those issues, so I was quite surprised to see that the projects that EPW specifically gave over to Commerce Committee to handle quietly found their way into the conference report we debate today.

I also formally protest the Transportation and Infrastructure Committee and Environment and Public Works Committee conferees' inclusion of a provision which is squarely within the Commerce Committee's jurisdiction. Those conferees included language to exempt winter home heating oil delivery drivers from hours of service regulations for the next two years.

Let me be very clear. The Environment and Public Works Committee has no jurisdiction over federal motor carrier safety regulations governing hours of service. Federal hours of service regulations are the primary protection for the traveling public against truck drivers being forced to drive excessive hours in a fatigued condition. The Senate Commerce Committee has sole jurisdiction over hours of service and the Senate Environment and Public Works Committee not only didn't ask for our input in the issue, but surreptitiously snuck it into the bill.

As a conferee on the legislation I find this action reprehensible. As the Chairman of the Commerce Committee I find action inexcusable. And I assure my colleagues that this Senator will not let this action stand and I pledge that I will do all that I can to have this provision stripped from the legislation.

Mr. President, this conference report is a sham. The so-called Transportation Equity Act for the 21st Century is a fraud. We should not fool taxpayers into believing that this legislation is anything more than a raid on gasoline tax dollars at the expense of veterans benefits. I urge my colleagues to vote against the conference report.

DRUG ABUSE AND ADDICTION

Mr. COVERDELL. Mr. President, when we return a week from Monday, from the Memorial Day recess, we will revisit the tobacco debate, and at that point I, along with my colleague from Idaho, Mr. CRAIG, and my colleague from Michigan, Mr. ABRAHAM, will offer an amendment to the tobacco bill that would create a new section. The section we will be offering as suggested additional legislation for the tobacco bill will be a section on drug abuse and addiction.

Mr. President, to me it is illogical—and I have been puzzled throughout the debate—that we would be talking about teenage addiction in the context of tobacco only. It is not good policy to talk about teenage addiction and leave out the single, most important crisis that teenagers face today, which is drug addiction, drug abuse, and the swirling epidemic that has engulfed our Nation. If we are going to talk about addiction, we must include a component that deals with the Nation's No. 1 teenage problem.

Mr. President, in the last 7 years teenage drug abuse has increased by 135 percent—135 percent. Tobacco usage has increased as well—40 percent. That is significant, and we must attack that but not by being silent on a new drug epidemic in the United States. In 1979, 14.1 percent of the population age 12 to 17 were involved in drug use—that is 3.3 million. The Nation got serious and it said we cannot accept this. And by the year 1992, drug use had been driven down by two-thirds, from 14.1 percent down to 5.3 percent. This is important on a couple of points. First, it demonstrates to the Nation that you can do something about this. There are many in our community who would argue, well, we have just been fighting this forever and it doesn't do any good. That is totally wrong.

We have demonstrated as a Nation if we get focused on this problem, pay attention to it, and if we do the right things, we will keep people from being entrapped by drug use. We went from 14.1 percent down to 5.3 percent. In other words, instead of 3.3 million children getting caught up in this, we have taken it down to 1 million—a two-thirds reduction. And then we got lazy. We quit talking about it. We made light of it. The interdiction was reduced. The drug czar's office was closed, for all practical purposes. We mothballed Coast Guard ships in the Caribbean. We turned our back on this problem. And what happened? Well, we should not be surprised. We are moving right back to 1979. You quit talking about it, you reduce the effort on the border, you shrink up the resources, and our youngsters get the idea that it is not dangerous. In the meantime, the cartels have become ever more sophisticated, generating ever more resources. They have as good a distribution system in this country as some of our most famous brands.

At a hearing recently, we had representation from Customs, from the Justice Department, and from the FBI. I asked them at the end of the hearing, "How recently have you been to a school?" Well, none of them had been recently. I said, "You ought to do it." Mr. President, if you want to know what is going on, go into any school and 12-years-olds can tell you the whole story. They can tell you how few minutes it takes to buy them. They can tell you that they are prevalent everywhere. They can tell you the name brands of all of them. And when you ask them what the most serious problem is, a few will hold up their hands on various issues—alcohol, cigarettes—but they all hold up their hands in unison when you say, "Are drugs the most serious problem you face?" All the hands go up. I challenge anybody to do it. They will get the same answer.

Those kids, I think, are wondering what we are doing about it, what is this Nation doing about it? It is time for a bold response. And throughout this entire debate, there has been silence on this massive problem. One in four students in high school today in the United States is using drugs regularly. One in nine in junior high is using drugs regularly. Eight out of ten prisoners in any jail in America, anywhere in America, are there on a drug-related charge—direct or indirect. This is fueling crime in our country, with enormous cost consequences, and we are taking millions of casualties. If this evil force wore a uniform, we would have declared war on it.

What else would take down a million kids—a million, and it is increasing—that would produce 100,000 crack babies every year and thousands of deaths—14,000 a year?

The silence has been deafening, just deafening. We have been in a struggle with the administration over this, asking them to step forward. We are finally just moving on our own. The plan that they have given us says we are going to have an accountability period in the year 2006. The first measurement would occur in 2002. That is 2 years into the next Presidency. We need to be aggressive now. My colleague, in a moment, will describe in his 10-minute period the bold response.

I yield the floor to my colleague from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, why have we spent the last 3 days on the floor talking about tobacco? Nearly everyone who has come to the floor to talk about tobacco has said we have to get it out of the hands of teenagers. There are two reasons we are on the floor talking about tobacco. First of all, it is darn good politics, and, secondly, we are mad at the tobacco companies and we are going to act in a very punitive fashion because they lied to us. They withheld information as to the addictiveness of nicotine, and we are angry as a public, angry as a governing body. We are going to inflict upon them a very punitive action, and we are going to do it in the name of teenagers—thousands of young people every day picking up a cigarette.

I am not belittling it, I am recognizing it. We need to try to get tobacco and the substance within it, nicotine, out of the hands of our teenagers. But thousands of teenagers today who start smoking today will not die tomorrow. Let me repeat that. The thousands of teenagers that we are all talking about—and, boy, have we heard it on the floor in the last few days—who pick up a cigarette today will not die tomorrow.

Mr. President, young people who engage in the use of drugs can die tomorrow. As my colleague from Georgia said, thousands are dying each year in violent actions and crimes related to drug use and drug associations. Yet, we stand silently by. The administration dropped the ball and walked away, and, finally, my colleague from Georgia rose up and said, wait a moment here, what in the heck are we doing as a country and as a policymaking body? If we are going to do all these great things for kids to get the cigarette out of their hand, why in the heck don't we get crack cocaine, marijuana, and amphetamines out of their hands because it kills them—not 30 years down the road.

By the way, if you start smoking today, you have a chance to live, because you can quit down the road. But if you start crack cocaine today, you will probably die on the street in a month or two for one reason or another, because you are stealing the money to get the crap that is called crack, or you are shot in some transaction that went bad.

That is how teenagers in America are dying today. The statistics that were just given by my colleague from Georgia about seventh graders and eighth graders is real. I have done the same thing that PAUL COVERDELL has done. I have gone to the schools of Idaho. I go to them regularly anyway. I spend a lot of time talking with teenagers, kids, and when I ask the question, "What is your problem?" the hands go up with drugs. Most of the hands go up.

The Senator from Georgia is right. They know who sells it, and where you can get them. If they had a brand name on them, they would know the brand. Most importantly, if they had a brand name on them and they were being trafficked in the market today, we would be here going after the companies that were selling them because it would be killing our kids.

But today we are angry. We are mad. We are going to be vindictive. We are after the tobacco companies. We are after their big money to fuel big government. I am not going to vote for a big tobacco bill. I am going to vote to get cigarettes out of the hands of teenagers. It is the right thing to do.

But if we stand silently by and let what is described by my colleague from Georgia as the most significant epidemic amongst our youngsters go unspoken to and uncorrected, then we have erred grievously; we have erred grievously as policymakers.

New polls are out. When you ask parents what they are worried about, here is what they say: Thirty-nine percent, using illegal drugs. Thirty-nine percent of the American public say that is the No. 1 problem. Sixteen percent say joining a gang. Nine percent say drinking alcohol. Why? You get drunk, you get in the car, and you kill somebody, and you kill yourself.

Why then are we on the floor to spend weeks and millions of dollars trying to reach out and get billions of dollars out of tobacco? I will tell you why. Because it is good politics. Yet only 3 percent of the American people say they worry about it when they worry about their kids.

It is time we speak out. That is what my colleague from Georgia, my colleague from Michigan, and I are doing. We will have an amendment on the tobacco bill that will deal with this issue, or there will be no tobacco bill.

We must wake up the White House, wake up our Government, and wake up this policy body to what we are about to do. Here is what we want to do. We want to attach legislation that deals with this issue in a most significant way targeting three primary areas: Attacking the supply of drugs by strengthening our ability to stop them at the border; pull the mothballed Coast Guard fleet out and put it back in the water. Bill Clinton put it there. The heck with Bill Clinton. Put the money back in. Get them out in the water, and stop by interdiction. That is what our amendment does.

Second, we want to provide additional resources to fight drugs that reach our neighborhoods. Give the tools to the law enforcement communities and the schools and the communities at large to join together to block grant and create their own initiative along with our directed initiatives to get at the problem at the local level.

Then the third thing is to create disincentives for teen use of illegal drugs.

Those are the three major areas that will be involved in what we are about to do. We are going to spend a lot of time on the floor week after next until this proposal, this amendment, is part of the overall bill that will move, I believe, out of here.

So what do we have to do? When it comes to the supply side, we have to go straight at it. We have to deal with interdiction. We have to strengthen the borders. We have to stop slashing Coast Guard budgets and put some money back in it.

We talked about a 53-percent decline from 1992 to 1995 in the ability of the Coast Guard to reach out and interdict. That simply has to stop. Our amendment does exactly that.

Our amendment also includes the Border-Free Drug Act, which attacks 70 percent of the illegal drugs that enter the United States across the United States-Mexican border—70 percent of the drugs that are killing our kids on the street today, not 20 years down the road—today coming across the border from Mexico to the United States.

So why not put more people on the borders? I think we ought to. We ought to strengthen the Immigration and Naturalization Service to hire Border Patrol agents to deal with the trafficking and get at the business of going at it. For example, our amendment increases the resources available to DEA and the FBI.

An additional section of our amendment is the Money Laundering Prevention Act.

Finally, last week this administration announced a major break in drug laundering with Mexican banks. We have arrested a few people. And we are trying to get the cooperation of the Mexican Government now because the money is big. How big? We are trying to get $800 billion away from the tobacco companies to spend on big government and some advertising that we think will convince our teenagers to quit smoking. But $100 billion a year in the drug business kills thousands of teenagers. And we have not spoken to that. Why don't we go after that? I hope we can. We should. That is our goal.

While we deal with it in a national and an international way, we have to turn to our parents and we have to turn to our communities. The kids know who the drug dealers are. We ought to start asking them and involving them a little bit and recognizing the importance of that. We do that. We go after the demand side along with the supply side.

I think the Clinton administration's green light to subsidize needle exchange and programs like that doesn't make a lot of sense. That is an encouragement. We want to stop that.

Our legislation is comprehensive. The amendment that we will talk about over the recess and will offer as soon as we get back is going to be critical. Pieces of what we are doing have already passed the Congress in one way or another.

We want to bring them together to create the focus to do the same thing against drugs as we have done against alcohol. You get caught as a teenage drunk driver you lose your driver's license. You get caught using drugs as a teenager you drive on. We will encourage the States to take the driver's license away.

Let me say in closing, Mr. President, that if we are really worried about kids, yes. I agree. Let's get the cigarettes out of their hands. But let's stop them from their access to drugs of all forms. It kills them tomorrow. It killed thousands last year. It will kill thousands this year. As a policy-making body, we would be remiss not to deal with this issue now and force this administration to get out of their sleepwalk and deal with the issue in cooperation with us.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Wyoming, under the previous order, is recognized for 10 minutes.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield?

Mr. DORGAN. Will the Senator yield so I might ask a question?

Mr. ENZI. Yes.

Mr. DORGAN. Mr. President, my understanding of the unanimous consent request made by Senator COVERDELL was that he wants to get two on the majority side to use 10 minutes each. And we thought that was acceptable. Senator ENZI wanted to introduce a bill. I now understand that Senator ENZI wishes to consume up to 10 minutes. The difficulty with that is I must be somewhere downtown at 10:30. If I had understood that Senator COVERDELL was seeking 30 minutes on that side before anyone was recognized, I would have had a different view, although I recognize that Senator ENZI came, in fact, before the previous two speakers this morning. I understand that. But we did it as a matter of courtesy to say it was acceptable to us to have two Republican speakers to go for 10 minutes each provided we then be recognized. The Senator from Wyoming, I understand, wants to introduce a bill.

Does the Senator from Wyoming intend to consume up to 10 minutes?

Mr. ENZI. Mr. President, my request was both on behalf of myself and Senator BINGAMAN. I don't see Senator BINGAMAN. So we can do it in considerably less time than that providing, of course, that the unanimous consent is that all of our statements be in the RECORD. But I would like to make a few comments on something that is important to worker safety in this country. That is why I asked it to be in that order.

Mr. DORGAN. I think there has been a misunderstanding. I will, as matter of courtesy, not object. But I would have objected earlier if the request was that we had 30 minutes on the majority side uninterrupted, because Senator WELLSTONE is here and I was here. The Senator from Wyoming, I know, was here as well before the other speakers. As a matter of courtesy I will not object. I regret that there has been a misunderstanding.

Ms. SNOWE. Mr. President, will the Senator yield for the purpose of a unanimous consent?

Mr. ENZI. Yes.

Ms. SNOWE. I thank the Senator from Wyoming.

EXTENSION OF MORNING BUSINESS

Ms. SNOWE. Mr. President, I ask unanimous consent to extend morning business for 10 minutes following the current order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Morning business will be extended for 10 minutes. The Senator from Wyoming.

Mr. ENZI. I thank the Chair.

(The remarks of Mr. ENZI and Mr. KENNEDY pertaining to the introduction of S. 2112 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I thank the Senator from Wyoming for his courtesy. I appreciated his statement as well.

Mr. President, the Senator from Hawaii has asked that he be given unanimous consent to follow the presentation by Senator SNOWE.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHALLENGES FOR THIS COUNTRY: THE TRADE DEFICIT AND MERGERS

Mr. DORGAN. Mr. President, I have come to the floor to talk about two challenges as we begin a break, now, for the Memorial Day recess here in Congress. We are talking about a wide range of things: Iran, missile sanctions, tobacco, appropriations bills, and a wide range of subjects. There are two subjects on which there is deafening silence here in Washington, DC, and in the Congress, and I want to talk about both of them because I think both are challenges for this country. One is our worsening trade deficit and the announcement 2 days ago that, once again, our merchandise trade deficit for 1 month reached another record $20 billion in a month; and, second, the new wave of mergers in this country. I want to talk about both of them just briefly.

First, a chart. This chart shows in recent years the average monthly trade deficit in this country, the average monthly merchandise trade deficit. You can see what is happening—a month in 1991, $6 billion; it is now 1998, $20 billion, February through March, in a month. Some say the trade deficit doesn't matter much. If it doesn't matter much, they must be just ecstatic. If ignorance is bliss, those who think trade deficits don't matter have to be just ecstatic. Look at what is happening here. This red represents a flood of red ink in international trade.

Our all-stars in international trade are our farmers. Yet, farm imports into this country are going up and farm exports are going down. I think today there is a ship docking in California with a load of barley from the European Union. It is going to dock in Stockton, CA. It has feed barley being sent into this country with a $1.10-a-bushel subsidy. Shame on us for letting that ship dock. That is unfair trade no matter how you describe it, and it undercuts our producers, undercuts our farmers, takes money right out of American producers' pockets, and it doesn't seem to matter much to anyone. It just seems the trade deficits are OK, there are not problems, and nobody seems to want to do much about it.

That unfair trade on that boat is just one small example. The flood of grain coming in from Canada, unfairly subsidized grain, in my judgment, being illegally dumped in this country—nothing is done about that.

How about the closed markets, yes, in Japan and China? Take a look at the figures this week and see what is happening with China. There is a $12 billion trade deficit in the first 3 months, $12 billion the first 3 months with China. That is a $48 billion, nearly $50 billion yearly trade deficit with China. Mr. President, $15 billion the first 3 months with Japan, that is a $60 billion a year trade deficit with Japan. This doesn't make any sense. This hurts our country. Trade deficits must be repaid. It is not free money. And it must be repaid in the future by a lower standard of living in this country.

That is not a theory. That is real. These deficits must be repaid, and those who react with glee to this do not understand what this means. It means we are borrowing, and borrowing heavily, for a trade system that is out of balance.

With all due respect to all those who negotiate our trade agreements, I will say this: Will Rogers once said the United States has never lost a war and never won a conference.

Why do we send trade negotiators overseas to lose in 3 weeks? And they do. I can't think of a trade agreement negotiated recently that represented this country's national economic interest. We have incompetently negotiated trade agreements and trade agreements that are rarely enforced, and it is time for this country and this Congress to understand this is heading in the wrong direction.

I am not suggesting cutting off all imports. I am saying to our trading partners, as a country it is in our economic interest that when we take your goods, you be required to take ours. We need to get more wheat into China, more pork into China, more manufactured goods into China and Japan, more beef into Japan.

I can spend an hour talking about these problems. Nobody works much on them, because trade policy too often has become foreign policy, and the State Department has its mitts in all of this. It worries that if we get tough with Japan and say, "You can't run a $60 billion trade surplus with us every year," Japan will be miffed. Well, let Japan be miffed. Let's talk about this country's interests. Let's talk about our long-term interests.

Having gotten that off my chest, I hope the deafening silence on trade deficits will no longer continue. I hope this Congress, in the coming months, will consider the legislation that I, Senator BYRD, and Senator STEVENS have introduced which talks about the creation of a commission on an emergency basis to make recommendations to Congress to deal with this trade deficit, to focus on it and respond to it.

Mr. President, I have one final item, and that is the wave of mergers in this country. In the last century, there have been five merger waves. We are in the fifth. This is far, far in excess of any mergers in the past.

I want you to take a look at the line on this chart, going back to 1983, on the number of merger deals, and it goes up like this, as you can see. The projected dollar amount on mergers and acquisitions is up to $1.1 trillion for this year.

What does all this mean? Are mergers always bad? No. Can you get into a merger wave that strangles our marketplace? Of course you can, and that is what is happening in this country.

I want to go through some of the mergers. Some of these companies decided to get married, and we didn't even know they were dating. All these secret talks were going on, and two companies were so fond of each other that they decided to get married. We have Citicorp and Travelers Group at more than $70 billion. They were romancing for a couple of weeks and announced to all of us, a huge bank and a huge insurance company want to get hitched.

BankAmerica Corp., NationsBank, that is not surprising. We have banks throughout this list. The big banks are getting bigger. Down at the Federal Reserve Board, they have a list. It used to be a list of 11 banks. It is called "Too Big to Fail." It means these banks will not fail because we cannot let them fail; the consequences to our country and economy will be too significant.

That list now is not 11, it is now 21 banks and growing. Twenty-one banks are too big to fail. And that is what these mergers are giving us—bigger and bigger banks, too big to fail—while the little folks out there, the family farmers and Main Street business enterprises, are apparently too small to matter. These folks have their merger risks guaranteed by the taxpayer, and the rest of the folks find choked markets and higher prices.

Take a look at the banks. You are paying higher bank fees. Banks are getting bigger and merging all over the country, and customers are paying higher bank fees. Take a look at the meatpacking industry. Three or four companies control the neck of the bottle on meatpacking. It pushes down low prices on the backs of farmers and ranchers.

Take a look at the airlines. We deregulated the airlines. Now we have about six major airlines in America that have retreated into what are largely regional monopolies without regulation.

What about railroads? We've seen merger after merger after merger. Now we have just several major railroads left in America. What happens is the people on Main Street, the consumers, the farmers, and others are told by the railroads, "Here is the way we are going to serve you. We are going to bring our cars by here. You better have what you want put on there in time, or you lose out. We will tell you what you pay, and if you don't like it, tough luck."

That is what a merger is. Concentration of markets means you injure the marketplace. When you have two big companies merge and you have one behemoth company, this country has lost something by diminishing the marketplace because you have less competition.

Our marketplace works based on competition. When you have less competition and more concentration, it hurts our marketplace. I hope there is energy in the Congress to help the Justice Department and others who review these mergers to find out are they more than just good for the companies, are they good for the country.

This list of the 25 largest corporate mergers completed or pending through May 11 is a fascinating list. There are a lot of banks, as you might well know, and communications companies. This next list talks about mergers and acquisitions over $1 billion involving U.S. companies between 1983–1998. In 1983, we had 10 deals over $1 billion. This year, there were 143 separate merger deals over $1 billion each. Of course, the largest ones are just behemoth, setting all kinds of records.

I am not saying all mergers are bad all the time. I know of circumstances where two companies have merged and it was beneficial to everybody. I understand that. But we have an orgy of mega-mergers going on in this country today that I think does threaten the marketplace. I say to Joel Klein over in the Justice Department, and others, be active, be aggressive. He recently testified before the U.S. House of Representatives that he needs some more resources in antitrust to deal with these issues. I am somebody who says, let's give him the resources.

I want this marketplace to work. It works when we have robust, aggressive competition. It chokes and clogs when we have concentration at the top. So I bring to my colleagues' attention these charts just to say we have gone from 10 mergers over $1 billion in 1983 to 20, 26, 34, 35, 47—it goes on up. Now we have 143 different merger propositions over $1 billion each, something we ought to care about.

There has not been anybody around this Congress for a long, long while to care about it. Senator Phil Hart, a great Senator for whom the Hart Building was named, spent a lot of his career here worrying about the issue of mergers and concentration. I hope, once again, we will see some from this Justice Department and from some in this Congress who will take a close look at all of these. That is not to say they are all bad, some might make sense, but to say there is more than one interest involved in these issues. There is more than one interest.

One interest might be the two companies who want to make more money and grab some markets. The other interest must be the interest of the American people and a free-market system that will only remain free if we have competition and only remain free if we don't have concentration and monopoly that chokes down markets.

I hope, perhaps in the coming months, that I can stimulate some additional discussion about this issue with some of my colleagues on both sides of the aisle.

Mr. President, I see my time has expired. I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, out of courtesy, I defer to my colleague from Oklahoma, and I ask unanimous consent that I be able to follow him for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JAMES CATHERWOOD HORMEL

Mr. INHOFE. Mr. President, first of all, I thank the senior Senator from Minnesota for his courtesy. We discussed this a few minutes ago and decided it might be better if I go first, because he might want to respond to some things I might say.

Some statements were made on the floor yesterday concerning my hold that I have on James Hormel to be the Ambassador to Luxembourg. It is true that I do have a hold on Mr. Hormel.

To clarify what a hold is, it is a courtesy. It is not a procedural matter. It is something that is a courtesy to the leader so he will know there is opposition.

There very well may be a vote on this individual, but I will oppose his nomination, and I want to stand and tell you why.

The statement that was made on the floor was made by the senior Senator from Minnesota, Mr. WELLSTONE. I will read excerpts of it:

> Now, one of my colleagues, and I think it is extremely unfortunate, one of my colleagues has compared Mr. Hormel, a highly qualified public servant and nominee, to Mr. David Duke, who, among other credentials, is a former grand wizard of the Ku Klux Klan.

He goes on to say:

> I want to say to my colleagues, that given this kind of statement made publicly by a United States Senator, this kind of character assassination, it is more important now than ever that this man, Mr. Hormel, be voted on.

In defense, really, of the senior Senator from Minnesota, I say that if I had said what he thought I said, he was certainly entitled and justified to make the statements that were made. But I think it is important to know that I did not make those statements in the context that he believed I made them.

Let me, first of all, say that there probably are not two Members of the U.S. Senate who are further apart philosophically than the senior Senator from Minnesota and myself. I would probably, in my own mind, believe him to be an extreme left-wing radical liberal and he believes me to be an extreme right-wing radical conservative. And I think maybe we are both right.

But one thing I respect about Senator WELLSTONE is he is not a hypocrite. He is the same thing everywhere. He honestly, in his heart, believes the role of Government to be something different than I believe it to be. So we have these honest differences of opinion. One of the things I like about this body, the U.S. Senate, is that you can, in a spirit of love, talk about these things. And that is what we are doing right now.

Let me just real quickly say that I like activists. The Senator from Minnesota is an activist. I am an activist. In fact, this is the commencement season. I quite often give commencement talks. I talk to young people, and I say, "Whatever you are, don't be a mushy middle. Stand for something." I would far rather, even though I am a conservative, have one of these young people be a radical right-wing—or left-wing—either one—than just be in the mushy middle.

I quote Henry Ward Beecher now and then. He said,

> I don't like these cold, precise, perfect people. In order not to say wrong, say nothing; in order not to do wrong, do nothing.

And the Lord had something to say about this, too. He said,

> I know your works. You are neither hot nor cold. Because you are neither hot nor

> cold, you are lukewarm. And because you are lukewarm, I will spew thee out of my mouth.

He is saying the same thing I am saying. And I really believe this. And the young kids, they look at us as examples. In fact, when I was in the other body and was first elected, I would take interns down to the intersection of New Jersey and Independence, and I would say as they went across the street, I said, "There are three kinds of Members of Congress. There are extreme liberals, extreme conservatives, and then the mushy middle. And the goal of those in the mushy middle is to die in Washington, DC. And how do you die in Washington, DC? You take a poll, and you make statements that ingratiate yourself."

The senior Senator from Minnesota cannot be accused of that, nor can I. Unfortunately, we do have too many appeasers around.

Hiram Mann said, "No man survives when freedom fails. The best men rot in filthy jails. And those who cry 'appease' are hanged by those they try to please."

Let me tell you quickly what I did say so that it will be clarified for the RECORD.

I made the statement, when I was running for office—and I have been consistent with that—that if I get to the U.S. Senate, where I have the opportunity to participate in the confirmation process, that I will work to keep a nominee from being confirmed if that individual has his own personal agenda and has made statements to the effect that he believes stronger in his personal agenda and will use that office to advance his personal agenda more than he would the American agenda.

Now, in the case of James Hormel, he is a gay activist. He has made statements in the past, which I will read in a moment, that have led me to believe that his agenda, his personal agenda is above the agenda of the United States.

And I said the same thing would apply regardless of who the individual is. I made the statement that David Duke, if he were nominated, I would oppose him because he has made statements that his militia extremist agenda is more important than the agenda of America. I said in the way of Patricia Ireland, if she were nominated, I would feel the same way if she made statements saying that her feminist agenda was more important to her than the agenda of America.

And the same thing with one of my closest friends, Ralph Reed. I mean, Ralph Reed, who was the one who built the Christian Coalition, he is one with whom I agree. I agree with what he stands for. I spent the Easter recess in west Africa in the countries of Benin and Nigeria and Cote d'Ivoire talking about Jesus Christ. So I agree with him. However, if he were nominated, and he said, "I want this job so that I can advance my personal agenda over that of America, "I think it would be wrong and I would oppose it.

So let us just see real quickly. I am going to read a couple things, and then my time will expire, and I think I will be on the record as I want to be.

During the course of the nomination process—I will read, first of all, the San Francisco Chronicle. This is on October 9 of 1997.

> President Clinton's nomination of James Hormel . . . is the latest sign that he is making good on his post-election promise to reward gays and lesbians for their support, national gay leaders said today . . . "I think it's the result of very hard work behind the scenes of national gay and lesbian organizations that have been pushing and pushing for these appointments to be made". . . .

That was Kerry Lobel, the executive director of the National Gay and Lesbian Task Force.

I would also like to quote someone I think who is familiar to all of us—we hold her in very high esteem—Faith Whittlesey, former U.S. Ambassador to Switzerland. She was talking about this trend of trying to put people with their own personal agendas in the various Embassies. She made this statement. She said:

> The United States is more socially radicalized than any other country in the world on this issue (gay rights). Ambassadorships may no longer be essential foreign policy positions, but they are still symbolically important. Starting with small countries to set a precedent for bigger appointments, what they're trying to do is use the U.S. diplomatic service to open deeply held religious convictions and social mores in other countries. Ambassadorial appointments should not be used for the purposes of social engineering in the countries to which the ambassadors are assigned.

One of the many statements that had been made previous about James Hormel that led me to the conclusion that he wanted to use this position to advance his agenda was the following statement he made on June 16, 1996. He said:

> I specifically asked to be Ambassador to Norway because, at the time, they were about to pass legislation that would acknowledge same-sex relationships, and they had indicated their reception, their receptivity, to gay men and lesbians.

I think it is very difficult to put any interpretation on that other than the fact that individual wanted to be ambassador to that country because of pending legislation in that country.

So, Mr. President, I stand by the statements I have made. I certainly do not want anyone to say that I am comparing two individuals as individual personalities. But I will continue to oppose the confirmation of individuals who are nominated for various positions, if I believe, in my own heart, that that individual is not going to represent the best interests of America and has his own personal agenda in advance of Americans.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Might I ask the Chair to let me know when I have used 5 minutes, because I have another matter I want to discuss?

I thank the Chair.

The PRESIDING OFFICER. So ordered.

Mr. WELLSTONE. First of all, Mr. President, let me say to my colleague from Oklahoma, I appreciate his gracious personal remarks. I am proud to have his friendship. And the respect is mutual. The respect is mutual.

Second of all, let me say to my colleague that I am pleased to find out that he did not say it exactly as it seemed to be reported in Roll Call. And I think his clarification is terribly important. I might not agree with his analogy, but I understand exactly what he is saying. And I think he has clarified the record.

Third, let me just simply say to my colleague, and to other colleagues as well, that we have here a man, James Hormel, who has been nominated to serve as U.S. Ambassador to Luxembourg. Mr. Hormel comes to the U.S. Senate with enormous qualifications: dean of the students of the University of Chicago Law School, on the boards of such diverse groups as the San Francisco Chamber of Commerce, Swarthmore College, a generous giver, committed to community, a dedicated public servant. Frankly, the list goes on and on.

On May 23, 1997, a year ago, this very Senate unanimously confirmed him to serve as an alternative representative on the U.S. delegation to the 51st U.N. General Assembly. He has done a lot of marvelous work in human rights as well.

Mr. President, the fact that there is an article in the paper that says that the President nominated Mr. Hormel and believes that this was important to the gay community does not in any way, shape, or form suggest that Mr. Hormel has a personal agenda.

The fact that Mr. Hormel talked about a country that seems to have done a great job of moving away from discrimination against gays and lesbians as a very attractive country to him does not mean in any way, shape, or form that he would use this position to promote his own personal agenda.

In fact, Jim Hormel has clearly and publicly stated that he would "not use the Office of the Ambassador to advocate any personal views."

Mr. President, I simply have to say to my colleagues there is a personal part to this and a political part. For the personal part, here is a letter to Senator LOTT:

> I am writing to you to urge you to bring James C. Hormel's nomination as Ambassador to Luxembourg to a vote on the floor of the Senate. The stone-walling of this appointment reflects a flagrant disregard to all

that we hold precious in a democratic society. If he is voted down then so be it, but not to allow due process to take place is clearly an indictment of the branch of our government that seems at times to be inclined to exhibit its own peculiar form of despotism. The President has nominated him and the Senate Foreign Relations Committee has recommended him. Let the process take place.

I am a sixty three year old retired counseling psychologist. I am the mother of six children and the step-mother of three. I have 17 grandchildren. Thirteen of those grandchildren I share with James Hormel. I have known Jim for 46 years and for ten of those years I was married to him. During those ten years we had five children.

And she goes on to say,

For many of those years he tried his hardest to live what was a lie. Of course, you might say I was the "injured party," but I grew to understand the terrible prejudice and hatred that he knew he would have to face, that he has faced and is facing as he goes through the difficult process that this nomination and its opponents have put him through. James Hormel is my dear friend. I care deeply about him and have great admiration for his courage in being open about his homosexuality and his willingness to put himself on the line in accepting this nomination.

James Hormel's former wife.

Mr. President, let me simply say to my colleagues that this is really an outrage. I understand what my colleague from Oklahoma had to say, but I will have an amendment when we come back that I will put on the first bill I can after the tobacco bill, which will say that the Senate ought to bring this up. The majority leader, we owe it to him.

Now, my colleague from Oklahoma has been clear on his position. I accept that. But I say to my colleagues that this man is eminently qualified. That is crystal clear, I think, to many of us, the majority of us. This man should be able to serve. And if, in fact, the reason he is being stopped—and this is what I fear; and I am not speaking to my colleague from Oklahoma—but if he is being stopped because of discrimination, because of the fact that he is gay, then let that come out on the Senate floor. Let us have the debate. And let's have colleagues come out here, no more holds, and speak directly to this nomination.

If you oppose him, then oppose him on the floor of the Senate. My colleague from Oklahoma has been clear about his position, but let's have that debate. We owe James Hormel this. We owe the U.S. Senate this.

This institution is on trial. If we don't bring this forward, I say to the majority leader, then I think we have to look at ourselves in the mirror. We need to bring this nomination forward. We need to have this debate. And we need to vote up or down. I believe elementary decency dictates that we do that. I will start having amendments on bills that will call on the majority leader to bring this nomination to the floor.

ISTEA

Mr. WELLSTONE. Mr. President, we will vote on ISTEA today. I know a number of colleagues want a voice vote. I can feel the pressure building. We are about to leave. I say to colleagues, we are not going to voice vote the bill. We can't have a voice vote. This is an important piece of legislation, and a whole lot has happened in conference committee. Frankly, all of us should be on record voting nay or yea, yea or nay.

For my own part, I want to talk about this piece of legislation. There are two points I want to make. This is a very important piece of legislation. I thank Minnesotans for all of their guidance. There is much about this legislation that I believe in, especially the important investment in infrastructure. I think it is a balanced approach.

However, I will not vote for this bill, and I will not vote for this bill for two reasons. First of all, I won't vote for this bill because—we still don't know what the offsets are, but it looks like much of it comes from VA. I say that because I believe it is an outrage that the money that could have gone into veterans health care—and I could go on for hours about what the gaps are in veterans health care—will, instead, be used as an offset in this legislation. I also believe that too much of this spending will take the place of other discretionary, affecting the most vulnerable citizens in this country.

The second reason that I cannot vote for this piece of legislation, as much as I believe in much of it, is the process. I think at the very end of this process there were several decisions made, one having to do with a sensitive environmental land dispute issue in Minnesota, the Boundary Waters, and I respectfully disagree with the way this is being done.

I will not do any bashing on the floor of the Senate. I don't want to do that. But I will not support this piece of legislation, I want to go on record.

Mr. President, I ask unanimous consent to have a letter printed from the Paralyzed Veterans of America. They say, "Don't Rob America's Veterans Again."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS AND TOBACCO-RELATED ILLNESSES

VA compensation benefits should not be taken away for tobacco-related illnesses. Nicotine addiction is a medically recognized disability. DOD was culpable in veterans becoming addicted to cigarettes, and therefore these are bona fide service-connected disabilities. Smoking was not "willful misconduct."

Taking away tobacco-related VA compensation benefits because it is inconvenient for VA to process them, because they are costly, or because it is politically incorrect or unpopular, is a very dangerous precedent to set. What will be next, excluding benefits for bad diet or an unpopular war? There is no sound legal or moral basis to take this benefit away from veterans.

While some argue that veterans made the choice to smoke, no veteran chose to become addicted to nicotine and tobacco products. The tobacco companies, with the unwitting assistance of a military which encouraged and subsidized smoking, made the choice for veterans by getting them addicted to cigarettes.

This is not a new benefit that will be eliminated for the future. This is current law—benefits are already being granted—and what Congress is considering is taking away a veterans benefit.

Veterans are being singled out for unfair treatment. Other federal beneficiaries will continue to receive disability compensation for tobacco-related illnesses; no one is proposing to abolish SSDI benefits. If passed, this will create an inequitable, unjust and unconstitutional situation under the equal protection clause for one class of individuals—veterans.

Prohibiting compensation for tobacco-related illnesses will have adverse effects on veterans seeking other benefits—related compensation (such as cancer resulting from chemical exposure), and certainly access to health care.

VA's projected savings for prohibiting tobacco-related claims are highly exaggerated. Experience to date shows that it is very difficult for veterans to prove these claims; approximately 7,400 claims have been filed, of some 3,100 that have been adjudicated thus far, fewer than 300 have been granted.

Any effort to take the money away from veterans tobacco-related compensation, in order to pay for pork-barrel transportation projects is an absolute outrage. This is election-year politics at its worst.

Congress must not support this outrageous proposal; Don't Rob American's Veterans!

CONGRESS: DON'T ROB AMERICA'S VETERANS AGAIN!

Congress wants to take billions of dollars from veterans' disability compensation in a money grab to increase overblown spending for transportation and highways.

As a result, thousands of sick and disabled veterans will be denied earned disability compensation.

Congress wants to exploit a veteran's use of tobacco as a convenient excuse to stop paying benefits where tobacco use may have had any role in a disability—even though the Department of Defense encouraged, subsidized and promoted tobacco use among servicemen and women.

Yet, Congress is not penalizing other Americans for their use of tobacco. Social Security, for instance, will still pay for tobacco-related disabilities.

Congress has already slashed billions from veterans' health and benefits programs, only to spend the money elsewhere.

To those in Congress who support this outrageous proposal, here's our advice: Quit your own bad habit of continually robbing veterans' programs.

Don't Rob America's Veterans!

A message from: AMVETS; Blinded Veterans Association; Disabled American Veterans; Jewish War Veterans of the U.S.A., Inc.; Military Order of the Purple Heart of the U.S.A., Inc.; Non Commissioned Officers Association of the USA; Paralyzed Veterans of America; Veterans of Foreign Wars of the United States; and Vietnam Veterans of America, Inc.

Mr. WELLSTONE. Mr. President, I think they are right. There are too many veterans out on the streets that shouldn't be. There are too many veterans that are struggling with PTSD that are not treated. There are too many veterans that, as they get older, are not clear what care there will be.

We have a flat-line budget that is not going to work for veterans. I think it is a big mistake to have taken this money out of what should have been an investment in veterans health care.

I yield the floor.

FOOD STAMPS AND ISTEA

Mr. HARKIN. Mr. President, I was listening to the debate on the House floor. They are debating the agricultural bill which has the food stamp provision and the crop insurance in it. There is an amendment pending over there that would strip out the food stamps.

The reason I want to take this time on the floor is because I heard some comments made on the House floor that they could pass that by the conference report, strip out the food stamps, send it over to the Senate, and we would pass it today and they could send it down to the President.

I want Members to know right now we had a vote here, 92–8, on that bill to keep the food stamps for immigrants, to keep the crop insurance and the agriculture research altogether. In fact, there was a 77–23 vote on a Gramm of Texas motion to recommit—77–23.

Let me make another statement, Mr. President. If that action takes place in the House, I can see no way that ISTEA could ever be passed here this afternoon before we go home on break.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Thank you, Mr. President.

UNIVERSAL TOBACCO SETTLEMENT ACT

Ms. SNOWE. Mr. President, I want to address the Senate this morning with respect to the national tobacco policy legislation that has been on the floor this week. I hope in the final analysis we will be able to come to a common agreement and find common ground on this critical issue and legislation. Clearly, the significance of this issue and the promise of related legislation cannot be overstated with respect to the fact that it certainly could improve the health of our Nation's children.

As a Member of the Senate Commerce Committee, I had the opportunity to work on the original legislation that was reported out of the committee by a 19–1 vote. The committee voted overwhelmingly for the bill because we thought it was important and necessary to move the debate forward on this critical issue. There is no question that the bill which is now on the floor of the Senate is very different from the legislation that was considered in the Commerce Committee, where we began the process of defining and refining the issue, and knew full well that amendments would be offered on the floor to improve it and to reflect the interests and the desires of the Members of this body.

Unfortunately, what ultimately occurred is that we had a total rewrite of the bill through the White House.

It is not unusual to have the White House involved and be an integral part of the discussion in terms of shaping legislation. But, ultimately, the bill was significantly rewritten in most pieces. I can't say it wasn't improved in some places, but other areas raise significant questions. It is one thing to amend a bill and change it on the floor; it is quite another to have this issue altered in a way that is outside of the scope and purview of the committee, and which has now resulted in some of the problems that have contributed to the delay of this legislation and its passage.

But be that as it may, I hope in the final analysis we don't overlook the reason why this legislation is on the floor of the U.S. Senate, what brought us to this point, why this legislation was crafted, and what we hope to accomplish from the passage, ultimately, of this legislation.

First and foremost, we have to remember this legislation was the result of a settlement reached by the tobacco industry and 40 states attorneys general across the country more than 11 months ago. And the bottom line is that the proposed settlement would not have been reached if it weren't for one simple truth: tobacco products have been killing and continue to kill 420,000 Americans each and every year—and every day, 3,000 children become addicted to tobacco and one-third will eventually die as a result of tobacco-related disease.

If it weren't for this simple truth, the tobacco industry would not have been subjected to years and years of lawsuits and litigation, and this comprehensive settlement would not have been reached. And the fact is, if not for this simple truth, the industry would not have settled with States such as Minnesota recently to the tune of $6 billion, and three other States across this country. And that is why they were interested in reaching this agreement, because they knew what the truth was. And the most insidious aspect of this whole tobacco debate is the fact that this dangerous and addictive product was marketed to children.

In listening to the debate this past week and hearing the many arguments that have been put forward from divergent points of view, I believe that we cannot afford to forget, nor can we overlook the fact, that this product was deliberately, in a calculated fashion, targeted to young people and teens—even to children as young as 11-year-olds. This product was marketed to individuals who were not old enough to vote, not old enough to drink, not old enough to enlist in the military, not old enough to make any of the life-altering decisions that should be made by adults, and not old enough, ironically, to even purchase this product legally. By the way, these facts aren't just based on hypothetical views or assumptions or conjecture; these are based on more than 40,000 documents that have been unveiled during the course of recent litigation and in crafting the proposed settlement.

When you look at the documents, it provides a disturbing glimpse into the mindset and tactics of the tobacco industry. From this paper trail, we have learned of repeated efforts by the industry to manipulate scientific research, racially stereotype minorities in marketing plans, contrive the nicotine levels in cigarettes, and play down the risks of smoking. They even demonstrated the manner in which they studied the smoking habits of teenagers, to the extent that they would exploit the teen market so they would have the lifelong support of a group of Americans. They even considered ways to make cigarettes taste better for teens. So this was a very deliberate, calculated effort to hook kids on tobacco. The thousands and thousands of documents outline this effort.

That is the crux of this issue. This is not to say that Americans didn't know that smoking cigarettes was harmful; of course, they did. The question is, "Did the industry deliberately contrive the nicotine levels to make it addictive and then to attract young people so they would smoke throughout their lifetime?"

For the answer, listen to some of the industry's own documents. "The basis of our business is the high school students," said one memo. Another one said, "It is a well-known fact that teenagers like sweet products. Honey might be considered." Another one said, "If our company is to survive and prosper in the long run, we must get our share of the youth market." Another memo said, ". . . to ensure increased and longer-term growth . . . the brand must increase its share penetration among the 14–24 age group . . . which represents tomorrow's cigarette business." Another one said, "Today's teenager is tomorrow's potential regular customer."

So these are glaring demonstrations of unscrupulous and unethical conduct on the part of companies.

And that is what brings us to the floor of the Senate. The industry discovered and knew the truth, and they could not escape their past practices. And that is why they entered into a settlement with 40 attorneys general.

While last June's proposed settlement may have been the catalyst for comprehensive tobacco legislation, it did not mean that Congress could not change that settlement. We were not a party to those negotiations, but we have a right to make changes, and it had to come to Congress.

And what has been the result of these industry documents and their intent to market an addictive product to young people in America? This has been the result: More than 5 million children under the age of 18, alive today, will eventually die from smoking-related diseases unless current rates are reversed. Approximately 4.1 million kids age 12 to 17 are current smokers. Almost 90 percent of adult smokers began at or before age 18. Among high school seniors who have ever used smokeless tobacco, almost three-fourths began by the ninth grade. And 3,000 of our children will become addicted to this deadly product every day.

That is what this is all about. That is the debate. That is the heart of this issue, Mr. President.

In my State of Maine, we have one of the highest rates of teen smoking in America and we have the highest rate of smoking for individuals between the ages of 18 and 30. In fact, a full 38 percent of high school students in Maine currently smoke cigarettes, and 16 percent of high school boys use smokeless tobacco. That is what has happened. Smoking is habit-forming and 35 percent of males between the ages of 18 to 34 reported smoking cigarettes in 1996. That is the result of what we are talking about. That is why we are here in the U.S. Senate debating this comprehensive framework.

If this habit was harmless, we would not be here today. But tobacco is not harmless, and we know it. Furthermore, this harm has been spread by an industry that has marketed to young people, which has resulted in a senseless loss of life. Now, we have the responsibility to take action.

For those who oppose doing anything, regardless of what the content of this legislation is, I say to them: What is the alternative? What else will we do here in the U.S. Senate? The bottom line is that this is our only chance. We only have one opportunity and it is before the U.S. Senate. It is a historic opportunity to bring to an end these past practices and, more importantly, to help young people in America so they don't become addicted to this deadly tobacco product for the rest of their lives. That is what this debate is all about. I hope the essence of this issue doesn't get lost as we look at it from a variety of dimensions, because there is no possibility of ever dealing with this kind of framework ever again. This is our chance once and forever.

So I hope that once we get to the point of having gone through all of the amendments, the debate and discussion, it doesn't defeat the ultimate passage of comprehensive tobacco legislation. Those objections cannot override this one important national interest, which is to change the tobacco culture in America, and to hopefully stop young people from smoking, or help them never to start in the first place.

Thank you, Mr. President. I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

PRIVILEGE OF THE FLOOR

Mr. KYL. Mr. President, I ask unanimous consent that during the pendency of H.R. 2709, and actually beginning now, David Stephens and John Rood of my staff be permitted to be on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Hawaii is recognized.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the submission of S. Res. 235 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Mr. KYL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAN MISSILE PROLIFERATION SANCTIONS ACT OF 1997

Mr. LOTT. Mr. President, pursuant to the consent agreement of April 3, I now call up H.R. 2709, the Iran sanctions legislation.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> A bill (H.R. 2709) to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop or produce ballistic missiles, and to implement the obligations of the United States under the Chemical Weapons Convention.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. There is 90 minutes equally divided under the previous order.

Mr. LOTT. Mr. President, I just want to clarify the procedural situation. As the Chair just said, it is 90 minutes on the underlying measure, and then 90 minutes on the Levin amendment, if need be to use that time. It is the intent that we go forward to completion of this act and that we have a recorded vote at the end of that time.

I am really pleased the Senate is finally completing action on this very important piece of legislation. Senator LIEBERMAN and I introduced the Iran Missile Proliferation Sanctions Act on October 23, 1997. It has 84 cosponsors in the U.S. Senate. This is not really a complicated piece of legislation. It is designed to address one of the most pressing security issues we face in the world, Iran's determined drive to acquire ballistic missile production capability.

This legislation requires specific targeted sanctions against any foreign entities providing direct support to Iran's missile development efforts. The House passed companion legislation on November 12, 1997, without a single dissenting vote. House action modified certain provisions of the legislation to meet concerns of the administration, most notably—and I have made this point to the President in my discussions with him about this legislation—that he is granted a waiver, and that was requested by the administration, and that was included in the bill when the House passed it.

The House also passed legislation adding the Chemical Weapons Convention to the package. Our legislation addresses a clear and present danger. Iran is a terrorist state under U.S. law. Last year, a German court found Iranian intelligence directly responsible for murder committed on German soil. Earlier this very week, the Government of Argentina found Iran responsible for a terrorist bombing of a Jewish synagogue. The same Iranian Government responsible for terrorist murder around the world is engaged in efforts to acquire nuclear weapons and the means to deliver them. They already have chemical weapons. They are working on biological weapons. This is a very serious matter.

Much of the knowledge that Senators and administration officials have on this issue cannot be talked about here in the Senate because of their very sensitive intelligence issues. But every time I receive a briefing, I become more alarmed about what Iran has and what additional capability they are trying to acquire.

Their missile program has been advanced tremendously by the assistance from a wide range of Russian entities. The details, as I said, are classified, but it is comprehensive and it is ongoing. I urge every Senator to review the intelligence information. A summary is available right now in S-407 for Members' review. The intelligence community will brief any Senator on the extent and impact of Russian cooperation. I have had that briefing and continue to review intelligence information. Let me assure the Senate, Russian cooperation is deeply disturbing. It is widespread. It has made the day Iran is able to target American forces and American allies closer by years. If I went into the details of the capability they have acquired and how soon they could have the ability to use that, everybody in the Senate and the United States would be alarmed.

The basic facts are not in dispute. Iran wants ballistic missile production capability. Russian assistance has materially advanced Iranian efforts. American diplomatic efforts to halt assistance have not succeeded. That assistance continues today. That is why we have H.R. 2709 before us today in the Senate.

We have not rushed to judgment on this issue. Last November, we did not act after the House sent us the legislation, and I received specific calls from the President's National Security Adviser asking that we not act. In the last week we were in session, this legislation could have been passed, probably on a voice vote, immediately. But, in response to the administration's efforts and assurances that they were going to get some cooperation, we said all right, we will see if we get some results by waiting.

In January, the administration asked for a 3-week delay to compare assessments with Israel, our ally most directly threatened by Iranian weapons of mass destruction. In February, the administration asked for delay until Vice President GORE'S March meeting with then Russian Prime Minister Chernomyrdin. In March, the administration asked us to wait until April. In every instance, I consulted with Senators on both sides of the aisle, talked to Senator LIEBERMAN, checked the intelligence information, listened to the requests from the President's National Security Adviser and the Vice President, and continued to make an effort to give them time to see if we could get some results, get some action. It did not happen. It did not happen again and again and again.

In April, though, we said there had to be an end to this or the Senate's credibility would be in doubt, if we continued to just hold this out there and not act. And, also, if we do not act soon and this continues—the capabilities that they are acquiring are extremely dangerous, to say the least.

So we entered into the unanimous consent agreement in April, the middle of April, to consider this legislation today. We said we would do it by or on May 22. For 6 entire months, we have tried to give more time for this matter to be addressed, for there to be some indication that Russia was in fact able to deal with these companies and these individuals who were involved in this intelligence, scientific, and ballistic missile capability exchange. It did not stop. Again, I cannot go into details, but there were specific instances of things we were concerned about. The overwhelming majority of them did not stop, did not change.

We have had at least five delays that have been requested by the administration and granted by the Senate. President Clinton has had ample time to allow his diplomatic approach to work. I would point out, however, the administration has refused to make sanctions decisions which are required by law, and there clearly have been some instances where those sanctions could have and probably should have been implemented. A number of Russian actions supporting Iran's missile program require U.S. sanctions under the Missile Technology Control Act. In fact, if the administration had acted last year, as called for under that law, this legislation probably would not be necessary.

The administration often asks for bipartisanship regarding foreign policy, and I think that is as it should be. I have tried more than once to be cooperative and to make sure that we proceeded in a bipartisan way. We have done that. I have done it sometimes while coming under heavy criticism from the media or members of my own party. But I thought, and I think, it is the right thing to do. I try to accommodate whenever and however I can. This legislation, though, should not be delayed further. It could not be more bipartisan. I reiterate, 84 Senators on both sides of the aisle are cosponsors of this legislation.

I hope the administration will reconsider its opposition. I think it actually could be helpful. I think the fact we have had this legislation pending has been helpful. It has given the administration leverage. Unfortunately, the leverage has not produced results.

I fear that the Russian Government does not have sufficient capability to stop this exchange from occurring. They do not have the export control laws that we do. They do not have the ability to go to a company in Russia as easily as we do and say, "Do not be engaged in this very dangerous process." Or if they do, they haven't been able to carry it out so far.

There are those who are going to say, "Well, there have been some changes. We have a new government there. Chernomyrdin has been replaced by a new young Prime Minister. He is talking good."

They have made some recommendations, but some of the things we have been told have happened we do not have the evidence of yet. Again, we are being told that within the last 10 days greater assurances have been given by Russian officials. This has been going on for months, really years, and now all of a sudden they say, "Well, wait, there is a new leader on the block; he is going to make a difference."

If we go forward today and accept the amendment of Senator LEVIN from Michigan and pass this legislation, it still has to go back to the House. It will probably be 10 days or so before the House can act. There will be a little more time to see if, in fact, these new leaders in Russia can begin to make a difference. The President, I reiterate, has waiver authority, and he may decide that this is such a sensitive national security issue at this particular time that he needs to veto it. He can do that. But I think that the Senate should not delay any longer.

There is beginning to be a pattern around the world of some of our friends, supposedly, and allies, or countries that we are trying to work with, contributing to very dangerous weapons proliferation and nuclear activity. Think about it. Do we want Iran to have this ballistic missile capability? Not only chemical and biological weapons, but they would like to have nuclear weapons and the ability to deliver them in the region or in the world. I don't think so.

It is time the Senate delivered a clear message on this—a clear bipartisan message. I really think it will be helpful in getting this process, that Russia and others have been participating in, stopped now before it is too late.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. I yield the Senator from Kansas 10 minutes.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, thank you very much. I appreciate the Senator from Arizona recognizing me to speak on this very important act.

The Iran Missile Proliferation Sanctions Act is more important now than ever. I chair the subcommittee in the Foreign Relations Committee which deals with Iran. We have had a number of hearings on this particular issue. We just had a hearing last week on what all Iran is doing around the world.

It might be of interest for many people in this body to know that, according to the State Department's last report, Iran is operating in some 21 countries around the world with either terroristic actions taking place or building the base for further expansion of their activities and interests and terroristic actions to happen.

I am sure a number of people have already noted as well the recent finding by the Argentine Government of Iranian-backed terrorists involved with the horrendous bombings that took place in that country earlier this decade. The recent nuclear test by the Indians drives this point home even more. It is more urgent now than it was even 10 days ago to alert the world, and Iran in particular, that the United States will not tolerate an Iranian nuclear program, period.

The administration has already shown lack of resolve in its recent decisions to waive the sanctions on Total and Gazprom under the Iran-Libya Sanctions Act. This, in my estimation, was a grave mistake, as the world has now received the message that it is once again free to fill the Iranian coffers and help it pay for the development of its nuclear capability, as well as fund its terrorism activities overseas.

In the most recent State Department report that was out less than a month ago, Iran is the leading nation around the world sponsoring terrorism as a state. In the State Department's most recent report, Iran is the leader in this most ignoble category.

We need to make the world understand that Iranian development of an indigenous missile capability, combined with nuclear capability, is dangerous to everyone. While Iran has been quite open in its calls to annihilate Israel, a nuclear-capable Iran will threaten countries far beyond its borders. The very countries which are now planning to refill Iran's coffers are the countries which will be at risk in the future.

The Iran Missile Proliferation Sanctions Act is not a country-wide sanction. What we are proposing here is intended to sanction specific entities known to be providing Iran with missile technology. This bill is an effort to stem this dangerous flow to Iran and is designed to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles.

There is good intelligence about which Russian entities are involved. Some of them are involved in joint space cooperation with the United States. These companies should know that there will be costs if they engage in behavior which so obviously threatens our security interests, the security interests of the region, and the security interests of the entire world, from the leading sponsor of terrorism around the world, which is the Iranian regime.

The administration claims it is making progress with the Russian Government on this matter, that we need to give them time to implement the relatively new decree tightening the export of dual-use technology.

We keep hearing about the progress we are making with the Russians, but we do not see it. I might note as well, there were recent bills passed in the House of Representatives going at the administration in this country about the sharing of dual-use technology with China and saying that this was wrong what the administration has been supporting.

How can we believe them that they are going to be able to stop the Russians when they are providing some of this in a questionable dual-use area to the Chinese?

Mr. President, we do not undervalue what the Russian Government is trying to do. We are all encouraged by the progress that is being made. But the fact remains that the transfers continue.

Just 2 weeks ago—2 weeks ago—the Government of Azerbaijan intercepted a transfer of materials going from Russia to Iran which would have significantly enhanced Iran's ability to produce missiles indigenously.

If the Russians are working so diligently on this program, this bill poses no threats and in fact really would help them in these efforts. The bill would not sanction the Russian Government. That is a very important point to make. It does not sanction the Russian Government.

In fact, if the Russian Government is serious about stemming the flow of this technology, this bill only helps them. After all, it is going after companies which are now breaking Russian laws.

Mr. President, there is no reason why the U.S. taxpayer should be providing any taxpayer dollars to companies that are colluding with Iran to make that country an even greater danger to the United States, the leading country sponsoring terrorism around the world that is seeking to get this technology.

We cannot allow this river of technology and assistance without doing everything possible to stop it. This bill works towards that goal. I encourage my colleagues to vote for it. I encourage the administration to sign it and to help us stop the flow of this technology to the leading terrorist regime around the world that seeks to get these weapons that can strike at U.S. interests. This bill is clearly in the United States' best interests.

Thank you, Mr. President.

I thank the Senator from Arizona for yielding time to me.

The PRESIDING OFFICER. Who yields time?

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, if others do not wish to speak at this time, I will. And at any time that a Member of the minority would like to make a presentation, that will certainly be all right.

I ask unanimous consent to have printed in the RECORD two letters that pertain to the chemical weapons treaty implementation portion of this legislation, a letter from the Chemical Manufacturers Association and a letter from the American Forest & Paper Association.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CHEMICAL MANUFACTURERS
ASSOCIATION,
Arlington, VA, May 7, 1998.

Hon. JESSE HELMS,
Chairman, Senate Committee on Foreign Relations, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the Senate is scheduled to take up H.R. 2709 later this month. This legislation contains provisions necessary to assure full implementation of the Chemical Weapons Convention (CWC) in the United States. The Chemical Manufacturers Association (CMA) is committed to timely implementation of the CWC, and urges you and your colleagues to pass the CWC implementing provisions as quickly as possible.

CMA and its member companies strongly support the Convention. We have a long history of involvement in the CWC, from the early stages of negotiation, to Senate debate on ratification to international implementation. Throughout the CWC's history, we have held the view that it should be implemented as quickly and efficiently as possible.

The CWC imposes on the U.S. government an obligation to make a full declaration of affected government and commercial facilities. Absent the implementing legislation, however, there is no statutory basis to compel commercial facilities to declare their CWC-related activities. CMA believes that the CWC-related provisions of H.R. 2709 is the only route available for the orderly implementation of the Convention.

The CWC-related provisions of H.R. 2709 are identical to S. 610, which passed the Senate on May 23, 1997. Thus, both Houses of Congress have already approved these provisions. CMA supported S. 610 as a reasonable approach to meet U.S. obligations under the CWC and protect industry's interests. We continue to support the CWC implementing provisions contained in H.R. 2709.

If CMA can provide any additional information on its position regarding implementation of the Chemical Weapons Convention, please have your staff contact Claude Boudrias, CMA's Associate Director of Federal Legislative Affairs, at 703/741–5915, or Marybeth Kelliher, Senior Manager for International Trade, at 703/741–5923.

Sincerely,

FREDERICK L. WEBBER,
President and CEO.

AMERICAN FOREST &
PAPER ASSOCIATION,
Washington, DC, May 21, 1997.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: I am writing with regard to the upcoming mark-up of S. 610, the Chemical Weapons Convention Implementation Act of 1997. Upon review of bill, the American Forest & Paper Association (AF&PA) would like to offer its support, in general, of many of the bill's provisions. While we believe it is unfortunate that the scope of the Chemical Weapons Convention

("CWC" or "treaty") is overly broad, S. 610 contains a number of provisions that the forest products industry believes are crucial to ensuring that implementation of the CWC is reasonable and meets the stated purposes of the treaty.

Among some of the provisions of importance to the forest products industry are the following.

Section 403. We strongly support the prohibition of requirements under the treaty for chemical byproducts that are coincidently manufactured. Due to the broad nature of the category of "discrete organic chemicals," as defined by the treaty, it is critical to recognize that inclusion of coincidental byproducts of manufacturing processes that are not captured or isolated for use or sale would exceed the stated purposes of the CWC.

Section 3(11), (12) and (13). We strongly support the listing of covered "chemical agents" in the bill. It is our understanding that additions or deletions from the list would only be permitted by legislative amendment, and not through the administrative regulatory process. We believe maintaining congressional authority for any list modifications is necessary to ensure that any such modifications adhere strictly to the intent and purposes of the treaty, as ratified.

Section 303(b)(2)(B). We also support the provision prohibiting employees of the U.S. Environmental Protection Agency and the U.S. Occupational Safety and Health Administration from participating on inspections conducted under the treaty. The treaty should not be used as an omnibus vehicle for regulatory inspections unrelated to its intended purpose. We believe that it would be inappropriate to include such government officials on an international inspection team formed for the purposes set out in the CWC, and would merely serve to detract from the intent of the inspection.

I would be happy to discuss these points with you further, and appreciate the opportunity to provide this information on behalf of AF&PA's members.

Sincerely,

JOSEPHINE S. COOPER,
Vice President, Regulatory Affairs.

Mr. KYL. Mr. President, as I just noted, there are actually two parts of this legislation. One of them has to do with the implementation of the chemical weapons treaty which was ratified in the Senate last year.

The legislation passed about a year ago. It was finally dealt with by the House, and comes back to us. I do not know of any objection to it. And I will not take the time to summarize it except to say that in general terms it makes it a crime for Americans to produce or use or manufacture these chemical weapons.

It provides protections for American citizens and businesses in terms of search and seizure and takings, so that with respect to the inspection regime that is established under the treaty, there is protection of American citizens' constitutional rights, and if anyone has a question about that legislation, I am prepared to try to answer that today.

But by far and away the issue that is before us today of most interest to Members is, of course, the Russian missile assistance to Iran. The majority leader spoke eloquently on the patience that the Senate has exercised in withholding action on this important legislation until this time.

But there does come a time when, as the majority leader said, the Senate does have to finally act here. We believe that by passing this legislation, it will actually have a positive impact on the leadership of Russia which has had a very difficult time ensuring that the assistance provided to Iran is stopped.

Now, one might say, "Well, that doesn't make a lot of sense if it is the policy of the Russian Government that this assistance not be transferred to Iran." But the fact of the matter is, it is difficult for the Russian Government, as the majority leader said, to ensure that there is no transfer of technology or material to the Iranian missile program.

When confronted with evidence that this has occurred, in some cases the Russian Government appears to have tried to take action against it; in other cases, as the majority leader said, that has not happened. So this legislation should provide a basis not only for the United States to specifically direct attention to the matter, but also for the Russian Government to have a very specific basis for enforcing its laws and policies against the providing of such technology to Iran.

Mr. President, let me just outline in very brief terms some of the open-source information about the kind of technology and other assistance that has been provided by Russian firms, individuals, and other entities to the Iranian program.

One of the Russian ICBM missiles—or at least intermediate-range missile—is called an SS–4 in our terminology. And important missile components and instructions of how to build that missile have been sent to the Iranians.

This is important because this missile has a much greater capability than the one that is most likely to be produced soon. This missile, in the Iranian term, is called the Shahab-4. It would have the capability of reaching cities in Europe, Mr. President. So it is not just a regional weapon, but a weapon that will challenge countries in Europe as well as in the Middle East. That weapon, according to open-source material, could be deployable within as little as 3 years.

In addition to that, construction of a wind tunnel for missile design and manufacture of missile models, and even the sale of missile design software has occurred.

Moreover, missile guidance and propulsion components, as well as the necessary advice and equipment to produce these components in Iran has been provided. In that sense, Mr. President, let me note that it is not Russians who are actually building these missiles for the Iranians, it is Russians who are providing much of the material and the assistance and the technology for the Iranians to do it themselves. So they will have an indigenous capability.

In addition, more than one special metal alloy which Iran can shape into missile casings and even alloy foil in thin sheets used to shield guidance equipment had been provided, in one case, according to open-source material, was stopped in another country after it left Russia.

Training of Iranian technicians at Russian institutes and the recruitment of top Russian missile specialists to work with Iran has all occurred within the most recent months or years.

As I said, the Iranians are using this technology to produce two missiles: One we call the Shahab-3, the other the Shahab-4. The Shahab-3 has a 1,300-kilometer range roughly, depending upon what kind of warhead is included on it, and is capable of targeting Israel, as well as other targets in the Middle East. According to open-source material, development of this missile could be completed in 12 to 18 months.

I mentioned the Shahab-4, which is capable of reaching Central Europe, and the fact that development could be completed in 3 years.

Mr. President, since the Senator from Connecticut, I think, is preparing to speak, let me just summarize one other aspect of this assistance; that is the Russian nuclear assistance to Iran, not specifically the target of this legislation, but of equal concern to us.

Russia has assisted Iran in a number of ways, including a contract to construct a nuclear reactor and a deal to provide nuclear fuel for the reactor for 20 years, and to take back spent fuel for reprocessing. It has agreed to train Iranian nuclear technicians to operate the plant, to construct three additional reactors when the first contract is complete.

In 1995, in response to U.S. pressure, Russia agreed to limit the scope of nuclear cooperation with Iran and canceled plans to sell gas centrifuge enrichment technology, and heavy water moderated reactors.

However, Russia has exceeded the limits it agreed to place on its nuclear cooperation with Iran. According to an article in July 1997 by The Washington Post, the United States intelligence reports "document[ed] a series of high-level technical exchanges between Russia and Iranian engineers," which covered matters beyond the Bushehr reactor, including advice on how to mine and process uranium.

Finally, Mr. President, just this month, The Washington Times disclosed that U.S. intelligence reports indicate that Iranian nuclear officials were negotiating to purchase tritium from Russia and were slated to view a demonstration of gas centrifuge technology used to enrich uranium for nuclear weapons during a visit to Moscow later this month.

At a meeting just last week, we specifically asked the Russian Ambassador if he would try to see to it that that demonstration project was not held because its only purpose is to assist the uranium nuclear program. He indicated personally a desire not to see that meeting go forward, but we will see whether it does.

Tritium, which I mentioned, is, of course, important for the boosting of nuclear weapons and would be an important way for the Iranians to make a nuclear technology more robust than it might be otherwise. These are serious matters.

The Russian Government, whether complicity or simply negligence, has not been able to stop the transfer of these materials and this technology. The United States cannot simply sit by and hope for diplomatic actions to work. In the Senate and the House, we recently passed money for a supplemental appropriations bill which will be applied to both Israeli theater missile defense systems and the U.S. theater missile defense systems so we may at an earlier day be able to meet the threat that the Iranian missiles might pose.

There may be a window of vulnerability. That is why it is important for us to try to slow down and stop the assistance that Russia is providing to Iran. This is very important legislation. I hope our colleagues will support it strongly, sending a strong signal to Russia that it should not be providing or allowing to be provided this important technology to Iran.

I yield whatever time the Senator from Connecticut desires.

Mr. LIEBERMAN. I thank the Chair and I thank my friend and colleague from Arizona not only for yielding but for his principal support of this legislation and for his outstanding statement.

I rise to support the Iran Missile Proliferation Sanctions Act and to thank all of those in the Senate who have cosponsored it, principally the distinguished majority leader of the Senate for his strong leadership in this effort. It has been purposeful. It has been balanced. I think it has been quite realistic.

I think we have before the Senate a measured response to a real problem. The real problem is the development by Iran of ballistic missile capacity, longer-range ballistic missile capacity, which, when combined with attempts within Iran to develop weapons of mass destruction, holds the potential to change the balance of power within the Middle East.

It is destabilizing. It is threatening to our troops and forces on the waters within the Middle East region. It is threatening to our allies within the Arab world, moderate Arab nations. And it is threatening to our ally, Israel. That is in the short run.

In the longer run, the development of longer-range ballistic missile capacity by Iran could threaten our allies in Europe in a wider circle around Iran and, eventually, of course, could threaten us directly here in the United States of America. We are dealing here with a very, very serious and concrete challenge to world order and America's national security.

This measure has been introduced and principally led by the majority leader. I am privileged to have joined with him in that. It is cosponsored by more than 80 Members of the U.S. Senate—84 is the total, I believe. It is in that sense a profoundly bipartisan response to this genuine national security problem.

I think one of the reasons this measure has gained the broad support that it has is not only because the problem is real, the threat to security from Iran having long-range ballistic missile capacity being real, but because the approach taken in the bill is targeted.

I will go directly to the language of the bill. "Sanctions shall be applied to every foreign person with respect to whom there is credible information indicating that person"—and of course "person" is given a broad definition of a natural person—"is an alien or a corporation, business, association, partnership, society, trust, or any other nongovernmental entity, organization, or group that is organized under the laws of a foreign country or has its presence, people, or place of business, in a foreign country or any foreign governmental entity operating as a business enterprise in any successor or subsidiary of any entity."

So this applies to any entity that comes within that category, that first transferred items on the MTCR, the missile technology control regime annex, or items that the United States opposed for addition to that annex that contributed to Iran's efforts to acquire, develop, or produce ballistic missiles.

We are talking here about entities that are helping Iran gain the capacity that I have described, as the Senator from Arizona and the Senate majority leader have all described, "to develop ballistic missile capacity or provide technical assistance or facilities which the President deems to be of concern, because of their direct contribution to Iran's efforts." Again, to acquire or develop ballistic missiles or attempt to transfer such items or attempted to provide technical assistance or facilities.

That is very direct. Apply sanctions to entities that have actually done something wrong, done something wrong in the judgment of the President of the United States as reported to Congress every year regarding any credible information that occurrences by these entities have transpired to help Iran gain the capacity that we do not want them to gain.

That applies a series of sanctions in response to that evidence, and gives the President, incidentally, the authority to waive those sanctions if he either obtains additional information that diminishes the content of the original finding or the President determines that the waiver is required, is essential, to the national security of the United States.

So, it is very targeted and not the broad based, "don't do any business with this country or that country." But on a finding of credible evidence by the President of the United States that a person, a company, a governmental agency or institute has been assisting Iran in obtaining ballistic missile capacity, then these sanctions are applied and the President may use a waiver.

What are the sanctions? I will describe them generally: stopping arms sales under the Arms Export Control Act to these entities; stopping the transfer or sale of dual-use items under the Export Administration Act; and the cessation of any U.S. grants or loans or other benefits to these entities.

Why should we be helping companies or governmental agencies abroad that are contributing to the development of this Iranian ballistic missile capacity which will so threaten our security?

So it is a very measured approach which, again, I think is at the heart of why this bill before us has over 80 percent of the Senators supporting it, a truly bipartisan measure.

Mr. President, there are those who will say that things are changing in Iran. So why pass this legislation? Well, from the best that I can determine, there are the beginnings of some changes in Iran. The changes, certainly, have not gone far enough to alter the essential character of the center of that regime, which is still fundamentally hostile and threatening to the United States and threatening to our security. It is still the major sponsor, state sponsor of terrorism in the world which, to the best of our knowledge, has resulted in the deaths of many Americans and many citizens of other countries that are allies of America. Just the finding by the Argentinian security, law enforcement forces earlier this week announced—these are tough cases tc investigate—they have traced two attacks, two bombings on Jewish institutions in Argentina directly back, by their judgment, just repeating what I have read in the newspapers, back to Iran. And so it goes.

So the election of the new President, President Khatami, of Iran, who has been making statements that are more moderate, more open, both in terms of Iran's domestic policy and even international, who gave the important interview to CNN in which he suggested the possibility of opening informal contacts with the United States of America, he still made some statements that are extremely hostile and negative toward us and some of our allies. But, nonetheless, I take these to be encouraging signs. But what remains the fact, as best any of us can determine, is that the much more radical elements within the Iranian Government are still in control of the apparatus of that government—the military, the intelligence, the foreign policy—and, in fact, there is no indication that any of the sponsorship of terrorism has stopped.

In the meantime, the Senator from Arizona has suggested, as we have heard in classified briefings which cannot be discussed in detail here, the Iranians get ever closer to developing, in a headlong thrust, full force, full-throttle thrust, to developing long-range ballistic missiles. Maybe it is going to be hard to stop him from doing this. But the intention of this bill, it seems to me, is an exercise in common sense, the exercise of traditional principles of self-defense. This legislation will help us to delay the date on which Iran will achieve long-range ballistic missile capacity with which it can deliver weapons of mass destruction on those it chooses as enemies, as targets.

Let's think about it optimistically. Perhaps in that period of time, we will see a fruition of some of the obvious interests, obvious concerns of the people of Iran as expressed in the election of Mr. Khatami for a change. I hope so.

The people of Iran have no inherent reason—let me put it another way, Mr. President. There is no inherent conflict of interest, strategic interest between the people of Iran and the people of the United States. Unfortunately, since the revolution that occurred in Iran in the late 1970s, we have been set on a confrontational course which threatens the stability of the region and the world and does nothing good for the people of Iran—a gifted people with a proud history.

So I am hopeful about the changes that are possible within Iran, but, by any reasoned judgment, we have a long way to go yet. These missiles are being developed rapidly and they are going to be aimed at us and our allies. Therefore, this proposal still seems to me to be extremely important and, as I say, very measured and targeted.

Mr. President, there are those who say, well, OK, you are right, there is a threat from Iran. But this measure is really targeted at Russia. Not only is there hope of change within Iran, but there is even, of course, more substantial change that has occurred, and the hope of change, within the Russian Government, particularly on this issue. So why provoke the Russians? It is the threat of these sanctions from Congress that matters, not the realization of it.

Let me say first, Mr. President, that on the face of the bill, there is no mention of Russia. This is a piece of legislation that is targeted at any people, any entities, any government, anywhere on the globe that the President has reason to believe is contributing to Iran's development and acquisition of ballistic missile capacity. It could apply to, and might in the past have applied to, companies in allied countries of ours in Western Europe who, in one way or another, may have attempted to sell or sold items to the Iranians, which they have now used or are using in the development of a ballistic missile capacity, or even in the development of weapons of mass destruction.

Certainly, some evidence suggests that there may be entities within the People's Republic of China who have transferred items, sold items to the Iranians that are used in the development of these threatening programs. North Korea, our relations with them are much more limited; nonetheless, that is another possibility. But it is true, to the best of our knowledge today and in recent years—

The PRESIDING OFFICER. All time controlled by the Senator from Arizona has expired.

Mr. BIDEN. Mr. President, how much time do I have?

The PRESIDING OFFICER. Forty-five minutes remain to the Senator from Delaware and an additional 90 minutes on any amendment proposed by the Senator from Michigan.

Mr. BIDEN. Mr. President, how much time does my friend need?

Mr. LIEBERMAN. I thought we had more time available. I am glad to finish up within 5 minutes.

Mr. BIDEN. Mr. President, I will yield 5 minutes to the Senator, who disagrees with my position, as well as I will yield time at the appropriate time from our time to my friend from North Carolina as well.

The PRESIDING OFFICER. The Senator is recognized for 5 more minutes.

Mr. LIEBERMAN. I thank the Senator for his extraordinary graciousness, since we are in disagreement on this particular question. Let me summarize the remainder of my argument.

We know from intelligence sources, some of which had been reported in the press and referred to by the Senator from Arizona, that in recent years, as best we can determine, a number of companies, institutes, and subdivisions within Russia have been involved in transactions, usually for business purposes, with Iran, which are of material technical assistance to Iran, to help in their ballistic missile development program. So, yes, this legislation will apply to Russia.

We know this has been raised from the highest level of our Government—the Vice President, the National Security Adviser, and others, like Ambassador Frank Wisner and Mr. Gallucci, with the Russians to end this cooperation with Iran. Progress is being made.

On January 22, which I believe is the exact date, former Prime Minister Chernomyrdin issued an Executive order in which he stated the intention of the government to begin to set some policies for trying to control this activity. Within the last week, although I don't believe we have seen the details of it in this country, the Russian Government has promulgated a detailed series of regulations to carry out Chernomyrdin's order of January of this year. So there is a good-faith effort being made at the governmental level.

Yet, our intelligence sources—to speak as broadly as I must in these cases—tell us there is still evidence that there are entities within Russia that are continuing to cooperate with Iran in the development of ballistic missile capacity. That is why I think we have to go ahead with this legislation today. But why? I think it is very important to say that it is not directed at the Russian Government. In fact, unless there is clear evidence of complicity by the Russian Government in one of these transfers, sanctions will not go to the Russian Government. They will go to companies, institutes, or subdivisions. I hope our friends, in return—particularly the new government of Mr. Kiriyenko, the National Security Adviser—to give him a title he may not officially have—and the deputy defense minister, Mr. Kokoshin—will clearly understand that this is not directed at them. In fact, when we adopt the amendment to be offered by the Senator from Michigan, which will put the effective date of the gathering of relevant evidence to the date of the Chernomyrdin order in January, then, I think, we will have a law that basically says that America will sanction entities within Russia that are not complying with the clear policy of the Russian Government.

In that sense, I think this is a very important measure, one that will contribute to our security, one that should not affect our bilateral relations with Russia, and one that could be the basis, I hope in fact, for us going forward to build a bilateral policy with Russia that understands that the strategic reality of the world has changed after the cold war, and that we are no longer in a situation of a bipolar world where each of the great powers, the Soviet Union and United States, are facing each other with intercontinental ballistic missiles and nuclear warheads, and that we are working well together to build down in our weapons through the nuclear weapons, START I and START II; but that each of us, Russia and the United States, faces threats from the proliferation of the possession of weapons of mass destruction and the world-changing capacity to deliver those weapons with ballistic missiles.

So we ought to work together to try to limit the spread of that technology and the danger it will represent not only to the United States and their allies but to Russia and their allies.

I thank my colleagues for their support of this bill and for giving me the opportunity to speak to it today. I hope that we will adopt it unanimously. I look forward to seeing its implementation and the increase in our security in one of those areas that we know will represent the greatest threat in the generation ahead.

Mr. President, I ask unanimous consent that an article from the January 1998 Reader's Digest be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Reader's Digest, June 1998]

Missile Threat From Iran

(By Kenneth R. Timmerman)

Last August an American spy satellite spotted a scar of fire on the out-skirts of Iran's capital, Teheran. It was the unmistakable signature of a rocket-engine test. On the ground, engineers and technicians watched a powerful liquid-fueled missile engine bolted to a test stand shoot a plume of fire.

The engine firing, conducted at the secrecy-shrouded Shahid Hemat Industrial Group research facility, sent tremors through Western intelligence agencies:

First, the successful test marked an ominous advance for the anti-Western Islamic government of Iran. New-generation ballistic missiles could give the regime a decisive military edge in the Middle East and Central Asia.

Second, the new missile program bears the fingerprints of an old adversary that is now supposed to be an American ally—Russia. Iran's rocket engines, originally acquired from North Korea, were upgraded in Russia. Technicians at Iran's test facility included engineers from NP. Trud, a prestigious Russian rocket-motor plant that helped develop the missiles that targeted the West during the Cold War. And Iran's new missiles are based in part on Soviet SS–4 strategic rockets.

Iran, whose leaders have chanted "Death to America," is believed to be less than a year away from test-firing a ballistic missile, the Shahab–3, and is developing more powerful versions. "The deployment of these missiles, using just conventional warheads with modern guidance, adds a giant measure to Iran's ability to blackmail allies of the United States," says former CIA director R. James Woolsey.

But the threat goes even further. The CIA states that Iran is also developing chemical, biological and even nuclear weapons. This, from a regime that the State Department has labeled a terrorist threat.

A GROWING PARTNERSHIP

After Islamic radicals overthrew the Shah of Iran and seized the U.S. embassy in 1979, Washington slapped an arms embargo on Iran. Undaunted, Iran conducted an international campaign of assassinations and terrorism, pursued a clandestine nuclear-weapons program and waged a bitter war with neighboring Iraq (1980–88).

In that war, Iran launched missiles bought from North Korea or assembled from parts made in China. When the U.S.S.R. collapsed, Teheran began shopping in the huge arms supermarket of the fledgling Russian Federation.

In a confidential meeting in Germany, Reader's Digest interviewed an Iranian former intelligence officer who confirmed Western intelligence reports that Russians began working on Iran's long-range-missile projects in 1994. At that time, Russian technicians visited the top-secret Iranian Defense Technology and Science Research Center near Karaj, 50 miles northwest of Teheran. Iran subsequently began receiving assistance from Russia's state-run missile plants and technical universities. Russian advisers worked at Iran's missile plants in Esfahan and Semnan, as well as at design centers in Sultanatabad, Lavizan and Kuh-e Bagh-e-Melli on the outskirts of the capital.

"After that, Iran's missile program jelled," says Patrick Clawson, an Iran analyst at the National Defense University in Washington, D.C.

THE UNITED STATES IN RANGE

With Russian help, Iran is working to field two families of missiles in the near future. The Shahab-3 is the closest to deployment. It will carry 1,650 pounds of explosives at least 800 miles—allowing Iran, for the first time, to hit every major city in Israel, including Jerusalem. It would also reach vital Persian Gulf oil fields—and the bases in Saudi Arabia and Turkey where American forces are serving. A Shahab-3 carrying the anthrax germ could kill millions.

Intelligence sources say that a number of engine tests for the Shahab-3 have been observed, and that development will be completed in early 1999, with production soon after. A senior White House official told Reader's Digest that the United States now believes Iran has most of what it needs to mass-produce the Shahab-3. "It may already be too late to stop them," he said.

An even more powerful missile in development, the Shahab-4, will carry a one-ton warhead 1,250 miles—making it capable of devastating cities in countries as distance as Egypt. The Russians are also helping a solid-fuel design team at the Shahid Bagheri Industrial Group in Teheran develop a 2,800-mile missile, capable of reaching London and Paris, and a 6,300-mile missile that could strike cities in the eastern United States.

DIPLOMATIC STONEWALL

At high-level meetings with Russian officials, including President Yeltsin himself, the United States has repeatedly expressed concern over Russian arms sales to rogue nations such as Iran. But when Vice President Al Gore pressed Russian Premier Viktor Chernomyrdin on February 6, 1997, Gore received a categorical denial.

Two months later, in April, Iran tested a new missile engine. After analyzing the evidence, U.S. officials concluded that the Russians had transferred technology from SS–4 rockets to Iran—a clear violation of the Missile Technology Control Regime that Russia signed in 1995. It also violates the 1987 Intermediate-Range Nuclear Forces Treaty, in which the United States and the Soviet Union agreed to destroy all such missiles, including the SS–4.

Yet each time the United States presented new evidence of Russian assistance to Iran's long-range-missile program, Russian Foreign Minister Yevgeny Primakov and other officials denied that this was Russia's policy. "While we appreciate such assurances," State Department official Robert Einhorn told the Senate last June, "we remain disturbed by the discrepancy between them and what reportedly is occurring."

In fact, U.S. and Western intelligence sources have confirmed that several hundred Russian engineers and technicians travel regularly to missile facilities outside Teheran helping the Iranians draw up missile-production blueprints. Russia may have transferred to Iran a supercomputer made by a U.S. company to complete the work. And when the Iranians run into technical snags, they fly to top-secret military institutes in Russia to see how the Russians solved similar problems.

"This is not a private operation by some crazy engineers," an Israeli official told Reader's Digest in an interview in Tel Aviv. "The contracts [to assist Iran's missile program] have been signed by companies that are at least partially owned by the Russian government."

Last July President Clinton assigned veteran diplomat Frank Wisner to conduct a joint investigation with the Russians into the missile allegations. His Russian counterpart was Yuri Koptev, head of the Russian Space Agency, which intelligence sources say is aiding in Iran's missile program. (Koptev denies such involvement.)

Talks on Russian-technology transfers to Iran continue. Meanwhile, Russian technicians still travel to Iran, and shipments of missile components continue to reach Iran.

"It must be made clear that doing business with our enemies will cost them if they want to do business with us," former U.S. Under Secretary of Defense Paul Wolfowitz says of the Russians.

U.S. laws require the President to impose sanctions on countries that assist certain nations in building ballistic missiles and nuclear weapons. But the Administration has refused to invoke sanctions, including those in a law co-authored in 1992 by then-Senator Gore and Sen. John McCain (R., Ariz.). Now Sens. Joseph Lieberman (D., Conn.) and Trent Lott (R., Miss.) have introduced new legislation with sanctions that could involve:

Russia's space program. The United States is pumping $140 million a year and invaluable expertise into Russia's space program. This aid could be stopped.

U.S. contracts. Russian companies working in Iran have some $2.5 billion in contracts with the U.S. government and U.S. defense contractors. The United States could bar them from American business.

High-tech exports. Russian firms in Iran have been buying advanced U.S. technology. Such high-tech exports could be barred.

In addition to these sanctions, the United States could step up assistance to Israel's Arrow antimissile program to ensure that Israel will have adequate defenses by the time the Iranian missile go into production, possibly in 1999.

The United States could also increase pressure on Teheran. Instead, the Clinton Administration has been seeking to open a "dialogue" with the Iranians, a gesture interpreted by some of Teheran's ruling clerics as a sign of American weakness.

Some American leaders are determined to send a different, stronger message, not only to Teheran but to Moscow as well. "Russia's transfer of missile technology to Iran is an issue of enormous national security importance to the United States and its allies," warns Senator McCain. "It threatens to further destabilize the region—and risks undercutting U.S.-Russian relations."

Mr. LIEBERMAN. I thank the Chair. I yield the floor.

Mr. BIDEN. Mr. President, my friend from Michigan has 90 minutes on his amendment. I wonder, in order that we can—we have been able to allocate time and I want to make sure that everyone who speaks to our position gets a chance to—whether or not he would be willing to yield off the 90 minutes 4 minutes to our friend from North Carolina.

Mr. LEVIN. The Senator from North Carolina requested 6 minutes. I would be happy to yield 6 minutes to my friend from North Carolina.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. I thank the Chair. I thank the Senators from Michigan and Delaware. I will stay within the 6 minutes.

Madam President, I strongly support H.R. 2709. I come to the floor, however, rather worried about the administration's decision last week to waive sanctions against a French energy company that is doing a massive billion-dollar oil deal with Iran. The President's decision to waive imposed sanctions on the French energy company was done under the guise of national security. I have to wonder, and we all wonder, whose national security is he referring to when he chooses to waive the sanctions? Certainly, it is not the national security interests of the United States for Iran to improve its oil-exporting capability so that it can turn around and then use the same money to fund missile development. I certainly can't believe it is in the best interests of the State of Israel to have Iran improving its foreign cash reserves for the very same reasons.

Iran is improving its cash reserves, and they are improving their missile technology. Just in January of this year, the CIA told the Senate that Iran would be able to target ballistic missiles at Israel much sooner than the 10 years that we had previously been led to believe. So, therefore, I have to conclude that he made this decision in the national interest of France and Russia. I think that is a very poor reason to make a decision of this magnitude.

Here we go again. We are passing a good bill to impose sanctions on individuals who transfer missile technology to Iran. But section 105 of the bill permits a waiver based on the national security interests of the United States. The part that concerns me is the waiver. I am concerned about how the President has interpreted this in the other Iranian sanction bills. I think there should be no waiver. I do not trust the President's decision on waivers. Given that Israel was the only sovereign state, outside Kuwait, that was attacked by Iraq during the gulf war as they were attacked by missiles, I think there should be language in this bill and in the Iranian-Libyan section that mandates consultation with Israel before we choose to waive any sanctions for missile production or oil production. I think we owe it to our friends—the true friends in the Mideast—the Israelis.

I hope that such legislation wouldn't be necessary and that the President would be more frugal in his actions.

So I plan to introduce this as freestanding legislation. I hope we could consider this sometime in the very near future. We should be consulting with Israel before making decisions affecting their interests, just as much so, and more so, than we should be with Russia and France. Israel is a country that is most threatened by missile production by rogue states like Iran and Libya.

I know there are some who think the Iranian regime is moderating itself. I personally don't think they are. But even if they are, I don't think that we should be lulled into a sense that we have turned the corner in our relations with Iran. They only respect the United States for its power. They simply laugh at us when we are weak. They take the President's waiver as a sign of weakness—not as a gesture of improved relations.

The Mideast is still an extremely volatile area. The United States is at its best when we stand behind our true ally, the Israelis, as they have been our true ally. They have been our sea anchor in a turbulent part of the world. We should negotiate from a position of strength—not when we accommodate murderers and terrorists who pretend to be government figures. We should be supporting our true ally in the Mideast. Again, I strongly support the legislation.

I yield the remainder of the time, and I thank the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I yield myself such time as I may consume, up to the time I have allotted to me.

I was asked by someone yesterday after a meeting at the White House on this issue, What did I think about this sanctions act? And I said: "Good act, bad timing." Good act, bad timing.

The extent to which this act that we are about to vote on, this sanctions bill, is of value is a little like nuclear weapons: Their value is in their nonuse; their value is in their threat of use.

The administration has made significant progress over the 6 months we gave them with the threat of this bill in place. It has had the best of all worlds. It has allowed those in Russia who very desperately want to cut off this program and this relationship with Iran the ability to say, "we must do this or we will lose much more than we will gain," without having to put themselves in a position politically in their own country in which they appear to be publicly buckling to the pressure applied by the United States.

So, although I have no disagreement with the principle of H.R. 2709, the Iran Missile Proliferation Sanctions Act of 1997, and I have no doubt that it addresses an urgent concern we cannot ignore, I have a great deal of doubt about whether we should be voting for it now and sending it to the President now.

Madam President, to state the obvious, the cold war is over. One of the great wonders of it is that the world was spared any use of nuclear weapons during that cold war, and almost—almost—any use of chemical or biological weapons. The proliferation of weapons of mass destruction and the means to deliver them, however, could bring about the very holocaust that we have managed to avoid over the past 50 years.

So, everyone here is united in one objective: to stop, inhibit, curtail the proliferation of weapons or the means of delivering those weapons. How do we best do that? Is the best way to do that, relative to Iran's missile program, to impose these sanctions now? Will this bill, by its passage, finally turn off the last few drops of water coming out of that spigot? Or will it enhance the prospect that the cooperation with Iran—which began years ago and has continued in diminishing amounts up to now—will be increased, reversing the momentum of the last 6 months?

It seems to me, as rational persons—and we all are, obviously, on this—we have to examine that question. For me, the instinct to punish Russia for what they did in the past is overtaken by my fear that the proliferation will increase. To the extent that I have a disagreement with my friend from Connecticut or my friend from Arizona, two of the brightest people in this body, it relates to how I come down on that question.

One or another country may think it needs these weapons to protect it from its neighbors or gain the attention of the great powers. The fact is, however, that weapons of mass destruction threaten us all, especially when the countries that seek them are ruled by murderous despots or inflamed by ethnic or ideological causes.

Today, two sets of neighboring countries—India and Pakistan, and Iran and Iraq—pose the greatest threat that weapons of mass destruction might actually be used. India and Pakistan have to be restrained from using such weapons against each other. I was reminded by someone today, we are talking about a response time of 3 minutes—3 minutes; a pretty short leash, quite a hair trigger—when we are talking about Pakistan and India. The same would apply to Iraq and Iran, who have managed over the last decades to kill hundreds of thousands of each other's citizens. So these two sets of neighbors—India and Pakistan, Iran and Iraq—it seems to me, are most likely to get the world in trouble. Iran and Iraq have to be prevented from obtaining such weapons and from using them, not only against each other but also against the whole Middle East region, if not the world.

Some foreign entities, notably Russia, have continued to assist Iran's ballistic missile program intended to give Iran long-range ability to deliver weapons of mass destruction. This assistance must stop, and it must stop now.

Since early last year, U.S. officials from the Clinton administration, including the President and the Vice President, have raised the matter with their Russian counterparts, Yeltsin, Chernomyrdin, and Kiriyenko. They have all agreed it is hardly in Russia's interests to give Iran the capacity to fire long-range missiles with weapons of mass destruction. Special envoys Frank Wisner and Robert Gallucci have worked with Russian Space Agency Chief Yuri Koptev to help Russia determine what it must do to stem this assistance.

Let us get a little background here, because we all kind of mentioned it. Here you have a former empire that has crumbled around the ears of Russian leaders. They are left with a number of the old apparatchiks in charge of huge, bureaucratic entities, departments, who have, off and on for the last 9 years, been free agents to some degree or another.

The idea that Yeltsin has his finger on, and knowledge about, and the ability to control every one of his disparate agencies out there is, I think we would all acknowledge, not nearly, nearly a reality. So, since early last year, American officials have been working very hard, pressuring, cajoling, and educating the Russian leadership as to why this is against the Russian leaders' own interests and how to gain control, how to gain control of their own entities.

There is an irony here. If we said to our constituents that there is this outfit in Russia that doesn't control what is happening in a department in one of the six nuclear cities in Russia, or doesn't have control over a department in Moscow, they would say: "Wait a minute, isn't this the same outfit that ruled with the iron fist, so that they would be able to not only have a command economy, but to command everything?" But the fact is, the Russian leaders do not have that ability any more. And they do not know how to gain it.

So I start off with the proposition that this is a very different circumstance than if we were dealing with the U.S.S.R. and this program were going on. If I were to have turned to even Gorbachev, or any of his predecessors, and said, "you are transferring this technology to Iran," and had them say, "we didn't know that, or were unaware of the extent of it," having been here 25 years and dealt with them on that issue for 15 years, I would have said unequivocally on this floor, "that is flatout a lie; they cannot not know that."

But it is clear that, although much was known in some quarters, a lot was not known. So you actually have the Russian leadership saying, "How do we set up export controls? How do we gain control? You have been doing this. How do you all do it?" —we have not done it perfectly, by the way, but—"How do you do it?"

The fact is that troubling aspects of the Russian assistance to Iran program continue to this very day. I know that. All of us on this floor have gotten a briefing. We know that. And with each passing day, Iran comes closer to obtaining the ability to have long-range missiles that can rain down chemical or biological destruction on Israel, Saudi Arabia, and U.S. Armed Forces in the region, and, obviously, to understate it, that is a real problem.

So, what do you do about this? The executive branch, in my view, has made real progress, important progress, that this bill before us, I believe, will sacrifice. Let me give you a few examples.

Last year, Russia expelled an Iranian Embassy employee who was involved in seeking assistance for Iran's missile program. Russia's Federal Security Service, the FSB, says that Russia also deported a member of an Iranian military delegation.

The FSB adds, in a statement of May 15, that two officials at a Russian research center were arrested, convicted, and sentenced to prison for trying to "enter into an agreement with a foreign firm to design homing electronic devices for missiles."

They also foiled an effort by Iran's SANAM industry group, to get missile parts from a Russian firm, NPO Trud. The FSB statement also adds that, "All the activities of the SANAM group on the territory of Russia have been terminated and prohibited."

On January 22, Russia issued Order No. 57 establishing what are called "catch-all controls" over the export of any material or technology that might contribute to Iran's programs to develop weapons of mass destruction or long-range missiles.

Last week, Russia promulgated implementing directives for that order requiring that each entity involved in high-tech material or technology exports set up a review committee to screen proposals and specifying "red flags" that would require referral of proposals to high-level officials for approval. Those "red flags" are precisely the sort of criteria that we would want Russia to use. For example, they name certain Iranian entities that are automatically suspect no matter what they want to buy. That is a take-no-chances approach that suggests the seriousness on the part of Russia.

The pace of diplomacy is slow, Madam President, and so is the pace of Russian bureaucracy, and so is the pace of putting together a Russian Government that can control Russia. I understand and share the frustration that my colleagues feel in this regard. But, as the kids say, let's get real. When was the last time we turned Russian policy completely around, and how long did it take?

When we didn't like the Soviet Union deploying SS–20 intermediate-range missiles in the European theater, we had to build and deploy Pershing missiles in response before they would sign the Intermediate Nuclear Forces Treaty. The process took 10 years. It took a similar period of time for the Soviet Union, later Russia, to admit it was violating the ABM Treaty in building a large phased-array radar near Krasnoyarsk. And there are a lot of other examples of how long this takes.

My colleagues will say the assistance continues, that these institutions and firms are just looking for ways to get around Order No. 57, and that there are still bureaucracies that oppose Yeltsin and Kiriyenko on this issue; and I will reply, "Yup, you're right, that's exactly what has happened."

What on Earth does anybody expect? Do my colleagues expect Russian officials to be grateful when we catch them doing something stupid and call them on it? Do they expect the institutes, that cannot pay for their personnel, or their factories that pay their workers in goods to barter on the market, to be happy when we tell them that they have to turn down hard currency from Iran?

Look, we have a satellite industry that is apoplectic today—an American satellite industry that is apoplectic today—because the House took action and the Senate may take action curtailing their ability to launch these satellites into space from other launch systems around the world. Why? They are going to lose billions of dollars. Mark my word, you are going to start hearing from their employees saying, "What have you done to my job?" Right? We all know that. We shouldn't yield to the company or the employee if it is against the national interest, but we are going to hear it.

What would happen, do you think, if all of a sudden we were to say, "By the way, stop doing" such and such, which is the only thing that allows you to make any money at all, to even be given goods you can barter on the street to keep your apartment? I don't say this by way of justifying anything Russia is doing, but there is a report from an organization I have great respect for, the American Jewish Committee. The American Jewish Committee had a report written called "The Russian Connection: Russia, Iran, the Proliferation of Weapons of Mass Destruction." It is a very good report. I recommend it to everyone.

They point to an article that was written in Russia about missile specialists who worked in Iran during the past few years. It says that specialists were recruited by Iranians in collaboration with the Federal Security Service—which is now going to be part of stopping this.

Then the article goes on to say that the policy of assisting the missile program began in 1994, when the then-chief of Yeltsin's bodyguard service was involved in export policymaking, and that it was done—for what? For hard currency, for money.

Now we have convinced Yeltsin and a new government in Russia—which is probably the most pro-American government that has existed in the last 90 years in Russia, maybe in Russian history—we have them taking all these steps to cut this off. OK? So far, so good.

The American Jewish Committee report points out that the reason they did this was for money. Now we go ahead and we cut off any money that we are going to send these Russian entities in existing bilateral arrangements we have. What do we think Russian leaders are going to do? Are they going to say, "You know, we now lost the American support that we, the new Government in Russia, want, and we don't want to be selling this missile technology anyway because it is against our interest, so at least we could have told the folks in those departments that there was something coming, but the Americans are going to cut off that money, we're not going to get that, but, by the way, still don't follow through on this Iranian program?"

It is lose-lose. They not only lose the money that encouraged them to enter into these arrangements in 1994, because of our efforts to stop it and because they were not quick enough and thorough enough in stopping it, they have now lost any other aid they have.

Again, I am not approaching this from an ideological point of view. I am not approaching this from a point of view of who is right or who is wrong, whether they did the right thing or the wrong thing. I am trying to approach this from a practical point of view: How do we assure that what was going on doesn't continue? How do we stop proliferation?

This same report published by the American Jewish Committee makes a very, very important point in a section entitled "American Policy Options."

It says:

> The United States faces tough choices in addressing the issue of Russian-Iranian missile cooperation. Both the Clinton administration and its critics confront the fact that American leverage is probably limited.

Then it goes on to say:

> However, the threat of sanctions will not in itself be sufficient. The threat of missile proliferation is serious enough to warrant offering improved carrots.

Let's get this straight. Everybody has kind of figured this out—let's review the bidding.

The Russians were bad guys. They sold technologies to people who were even worse guys. The combination of that is against the interests of the United States, and particularly against the interests of Israel. We have to turn it around and stop it.

We went ahead, and after the last couple years—with great pressure during this year, thanks to congressional leadership having the sanctions sitting out on the table—convinced Yeltsin, and now the friendliest government that ever existed in Russian history toward the United States, the two new young guys in positions of power, not only that it is against their interests, but also that they better stop. And there is some evidence they are stopping it.

They are finding where at least some of the technology leaks are and they are turning them off. And now here we are after they had begun the process saying, "Aha, but you did do it." Of course they did it. And what we're going to do is to say, "we're going to cut your water off from this end of the spigot. We're going to cut it off."

And if the objective is America's interest and indirectly Israel's interest, which is an American interest, how does that make sense? Let me add one other dimension here.

I said: "This is a good act, bad timing." Let us review the bidding and what is going on in the Asian subcontinent right now. Regarding India and Pakistan, we are breaking our neck, some of us on this floor personally, the President, Democrats, Republicans, pleading, cajoling, doing everything we can with Pakistan not to up the ante. We are doing everything we can to take an Indian Government that has overstepped its bounds against its good judgment, in my view, and say, "Tone down what you're doing." We are trying to put a lid on this.

So what are we doing? Some of us, as well as the administration, are doing everything from picking up the phone and calling Sharif in Pakistan, to saying, through the administration, to Yeltsin, "You, Yeltsin, have a relationship with India. Call them. Tell them. Cooperate with us."

Every Republican and Democrat who has any contact in China is trying to get China to put pressure on Pakistan. And in the middle of this gigantic effort, that is literally worldwide, at a moment when every nation in the world, particularly the nuclear powers, fully understands the potential consequence of Pakistan's nuclear testing now and India's heated rhetoric—now, when all this is going on—what are we doing?

In fairness to the leader, this was under a unanimous consent agreement, and put off from back in November, but what are we doing? We are coming along invoking a sanction potentially that is going to make it more difficult by anybody's standard to get worldwide cooperation.

Who are the nations that can most influence Pakistan or most influence India right now, beyond the United States? I will bet that if we ask all the staff in the back who are experts on this—whether they are for these sanctions or against them—I bet that if we asked everybody in this Chamber, and I put a list on the board saying, "Which are the most likely countries to be able to influence Pakistan," and put Russia, France, Germany, England and China—I bet you would all pass the test and say, "China." And why would you say that? Because China has been selling them missile technology.

Now, I wonder who would have the most influence on India. The answer is Russia, for similar reasons. So thus it seems to me, Madam President, that this is a good idea at a very bad moment.

We also have a new government in Russia. We have two young people—and every analyst to whom I have spoken, conservative or liberal, Democrat or Republican, or who has testified before the committee or spoken to my staff has said, "These two new guys are keepers. They're the best shot we have." They are the best shot we have. Now they have gone out and put their new, fragile reputations on the line in that new government, and said, with regard to assistance to Iran's missile program, "Shut it down." And the first bit of reward we are going to give them is sanctions against entities in their country.

Now, look, some former President, whom I will not name, once said, "Life is not fair." I am not suggesting to anybody that it would not be fair to impose these sanctions. By any measure, it is fair, because they did not play by the rules. They broke the agreements. So it is fair; but is it smart? Is it in our interests? Is it a good idea? In my humble opinion, the answer is no, it is not smart, it is not a good idea, it is not in our interest. The sanctions we mandate will be resented and they will be resisted and, in my sincere view, they will fail where diplomacy is succeeding.

Some aspects of this bill seem calculated to anger Russia rather than to secure compliance. One is the "credible evidence" standard for sanctions. According to the report on this bill, the standard is meant to require sanctions when information is merely "sufficiently believable as to raise a serious question * * * as to whether a foreign person may have transferred or attempted to transfer" sanctionable items of technology.

This is kind of the "shoot first, ask questions later" approach to international relations. This is cold-war posturing in a warmer environment, with the friendliest government we have ever had an opportunity to work with, and it will likely fail.

Fortunately, our action today is not the end of the process. The President is very likely—very likely—to veto this bill. And if we have the amendment of the Senator from Michigan accepted, which I expect it to be, we will have to go back to conference.

And I say to you, Madam President, and to my colleagues, that I hope Russian officials and firms that follow this debate will hear the message my colleagues are sending. If Russian assistance to the Iranian missile program does not cease within a matter of weeks, I truly believe that this body will override the President's veto and set in stone this counterproductive sanctions bill.

I also say to my friends who believe that this sanctions bill is warranted on the merits, if you just do it based on weighing the scales, that you are giving up nothing by delaying here. Can anyone show me that there has not been real progress over the last 6 months?

So if in 2 weeks or 6 weeks or 8 weeks this progress has not continued, this sanctions bill can be brought back up. But to pass it now, I honestly believe, will be counterproductive.

Russia's legal and administrative actions so far, while insufficient, show their good intent. There is also a strong foundation on which to build. But the edifice of enforcement must be built quickly. Only speedy Russian action is likely to avert the sanctions regime mandated in this bill.

In closing, let me note my deep objection to the other body's insistence upon attaching the Chemical Weapons Convention Implementation Act to this measure. This is a practice that has to stop. It is irresponsible, absolutely irresponsible, in my view. Combining the two bills, the Chemical Weapons Convention Implementation Act and the Iran Missile Proliferation Sanctions Act, both of which should be sent over here—I am not suggesting that they shouldn't do that—to tie them together in the hope that it will force the President to sign the bill is holding hostages that relate to our national interest as Americans.

They did the same thing with the IMF. They did the same thing with the United Nations arrearages by attaching abortion language. Each of these issues warrants debate, but not tied to one another. Attaching the Chemical Weapons Convention Implementation Act to this bill serves merely to delay for many months and to put at risk a bill that is important to our national interests. That was an irresponsible action, in my view, that ill-befits a coequal branch of government, the House of Representatives.

CHEMICAL WEAPONS CONVENTION IMPLEMENTATION—AT LAST

Mr. President, title two of the measure that we are passing today—the Chemical Weapons Convention Implementation Act of 1997—deserves some attention. Final passage of this bill is long overdue. Its enactment, despite its flaws, will serve the national interest in very real ways.

U.S. ratification of the Chemical Weapons Convention last year was not easily achieved. In the end, however, all the Democrats in this body and most of our Republican colleagues joined to fashion a 74-26 majority for ratification. Nearly one year ago, this body passed the implementation bill that is once again before us.

Final passage of that act will serve our national interest in several ways. First, it will enable the U.S. Government to require industry to comply with the data declaration provisions of the convention. In addition, this law will provide protection to confidential business information that U.S. firms may be required to submit.

The filing of a complete national data declaration will finally put our country in compliance with this convention. That is no small matter. Until then, the United States cannot exercise effective leadership in the organization for the prevention of chemical weapons—the implementing body for the convention. And make no mistake: It will be U.S. leadership that guides the organization toward effective verification and enforcement of compliance with this convention.

The United States has a tremendous stake in enforcement of the Chemical Weapons Convention. Our interests are world-wide, and U.S. troops are often stationed in far-flung locations. Wherever U.S. forces go, they will be far safer if chemical weapons are removed as a military threat.

In its first half year since entering into force, the Chemical Weapons Convention has already had some successes. China, India, and several other countries have admitted for the first time to having chemical weapons programs. The weapons and weapons facilities that they declared have been inspected and will eventually be destroyed. The information that they have provided will enhance our ability, moreover, to monitor their chemical establishments and to search out any suspicious activities.

The Chemical Weapons Convention has also taken some important steps toward universality. Both India and Pakistan have joined; China has joined; Russia has joined; and even Iran has joined.

The Chemical Weapons Convention Implementation Act embodies compromises between treaty supporters and treaty opponents. I supported this compromise bill last year because it was important then—as it is now—to facilitate U.S. compliance with the convention. I support it today for that reason and because the administration has assured us that it is more important to enact this measure than to spend more time correcting the faults in it.

Let me make clear, however, that I still have very serious concerns about the impact of some of this bill's provisions on implementation of the convention.

In particular, I do not believe we should be granting the President discretionary authority to deny an inspection based on national security grounds, as would be done by section 237. By signing and ratifying this treaty, the United States—with the advice and consent of 74 members of this body—agreed to allow certain inspections, subject to our constitutional requirements. With few exceptions, denial of a duly authorized inspection would violate the convention.

Even if the President never exercises this authority, the mere inclusion of this provision in the legislation will encourage other countries to deny inspections on national security grounds. If we should enact the so-called "national security exception," we can be sure that China, Iran, and other countries will seize upon the precedent we set and use it to undermine the effectiveness of the verification regime.

I have similar concerns regarding section 253, which would exempt from reporting and routine inspection requirements unscheduled discrete organic chemicals that are coincidental byproducts and are not isolated or captured for use or sale. While waste streams are not, in themselves, a threat to the object and purpose of the chemical weapons convention regime, monitoring of such streams does afford one of the most convenient and non-intrusive means of determining whether a facility is worthy of concern in the first place.

I am also troubled by:

The broad compensation scheme in section 213 that does not even require a plaintiff to prove its case by a preponderance of the evidence in order to receive taxpayer funded compensation for the loss of trade secrets; and the limitation in sections 212 and 238 on the Government's power to require contractors to submit to inspections.

Finally, I regret that this legislation does not undo the damage to our national security that I fear will be caused by condition 18 to the resolution of ratification for the convention. That condition provides that no chemical sample taken by the international inspectors may be removed from the United States for analysis. While it may offer some further protection to U.S. manufacturers against possible industrial espionage, it also opens a huge loophole for countries that may violate this convention.

I firmly believe that the convention's provisions and the other conditions to our resolution of ratification provide sufficient protection for the confidential business information of U.S. firms. Indeed, insistence upon U.S.-based analysis of U.S. samples will actually make it easier for foreign spies to obtain that information, by effectively specifying the laboratories for them to target. And I dread the stain upon our collective conscience if a future violator of this treaty should ever make use of the exemption we are carving out, and then use those illegal chemical weapons against U.S. forces or innocent civilians.

Opponents of the convention insisted upon condition 18, arguing that no good would ever come from on-site inspections anyway. I hope and believe that they will come to realize the error of their ways and will accept the need to make this treaty as effective an instrument as possible. Strict verification is crucial to making sure that Iran, China, and other countries with undeclared or formerly undeclared chemical weapons programs are given as little an opportunity as possible to hide illegal weapons stocks or production.

That said, however, final passage of this act is still an important accomplishment. By facilitating U.S. compliance and leadership, it opens the door to further success in the campaign to rid the world of one of its most heinous inventions.

Mr. President, I now close with a statement that addresses the "carrots" that the American Jewish Committee report calls for and that sets forth some proposals in that area.

NON-PROLIFERATION: AN OUNCE OF PREVENTION IS NOT ENOUGH

As we near the end of the 1990's, there can be no doubt that future historians will highlight this time as the decade in which the Cold War was ended and the Soviet Union was dissolved. Even so far-reaching an action as the enlargement of NATO, to which this body recently gave its consent, will be seen largely as an outgrowth of the cataclysmic changes in Moscow that upended the bipolar structure of post-World War II international relations.

How else will historians characterize this decade? Will we be seen as having turned to peace? Or will historians say that we turned merely to further war in a new context?

The Good Friday Agreement offers hope for peace in Northern Ireland. The Oslo Agreement and related efforts in the Middle East offer hope for peace in that region as well, despite the many obstacles that still litter that path. The Dayton Accords offer similar hope for Bosnia and, indeed, for the Balkans as a whole.

The wars and massacres in Africa are another matter. We are trying to create new structures to prevent or control such conflict, but our failure to avert millions of deaths in central Africa will lead future generations to remark on how poorly we had learned the lessons of the first holocaust.

THE THREAT OF WEAPONS OF MASS DESTRUCTION

The final judgment on this decade may well hinge, however, on how we handle the threat of other holocausts—those made possible by weapons of mass destruction. The potential for such horrific acts may well have been increased by the end of the Cold War. And a failure to contain that risk could radically alter the judgment of history, assuming that anyone survives to write it.

Weapons of mass destruction pre-date the Cold War. In the 1760's, England used primitive biological warfare to kill American Indians in Pontiac's Rebellion. Chemical weapons were used in World War I. And the two atomic bombs that helped to end World War II demonstrated mankind's ability to bring about the apocalypse in the blink of an eye.

During the Cold War, the United States and the Soviet Union amassed by far the largest stockpiles of weapons of mass destruction ever seen. Experts will argue over whether the use of all those weapons would have caused a "nuclear winter" that would end all human existence. There is little doubt, however, that the resulting human, economic and environmental devastation would have destroyed our modern civilization.

The great irony of the Cold War, however, was that the tight leadership of two blocs by the United States and the Soviet Union kept nearly all of this Armageddon arsenal under their firm control. There were a few cases in which chemical weapons were used. By and large, however, the terror of "Mutually Assured Destruction" kept the nations of the world in line and prevented any descent into the abyss of all-out war.

The end of the Cold War has reduced dramatically the risk of a nuclear holocaust sparked by war between the United States and Russia. Strategic arms reductions under the START Treaty have begun the process of stepping back from the brink. Russia will eventually ratify START II, and I think we can look forward, in the coming years, at least to START III as well. The CFE Treaty continues to regulate conventional weapons in Europe, moreover, so as to limit the risk of hostilities that could spark a larger conflict.

There has also been progress on chemical and biological weapons. Russia has joined us as a State Party to the Chemical Weapons Convention and will destroy at least 40,000 metric tons of chemical agent. President Yeltsin admitted that Russia had violated the Biological Weapons Convention and ordered an end to Russia's offensive biological weapons program. We still lack confidence that Russia is not hiding some illegal chemical or biological weapons or weapons capabilities, but the trend is toward a day in which no massive capability of that sort will remain.

The greatest risk that is not yet contained is that some other country, or even a terrorist group, might use these horrendous weapons. While such countries and groups are unlikely to unleash a holocaust, the scale of destruction they could cause would still be astounding—and our own cities or bases could well be their targets.

Rogue states and criminals have tried to get Russian and former Soviet nuclear weapons material and technology during this decade, although with little success. Countries such as Iraq, Iran and Syria have had better success gaining Russian and/or Chinese chemical weapons technology and material (including equipment and precursor chemicals), biological weapons material (including production equipment), and ballistic missiles or missile technology.

These transfers of weapons and technology have taken a toll on regional stability. India and Pakistan now threaten each other with ballistic missiles, and India's recent nuclear tests could lead Pakistan to test as well. It was hard enough to maintain the "balance of terror" between the United States and the Soviet Union. Can India and Pakistan maintain that balance without descending into war, with their history of border wars and bloody terrorist incidents? I hope they can avoid a regional holocaust; but clearly, the risk of that is real.

Russia, China, North Korea, and various Western companies have contributed to India and Pakistan's missile and nuclear weapon programs. There has been a profit motive in those deals, as well as supposed security interests on the part of China and Russia.

But how valuable are company profits, or foreign exchange for North Korea, if the result is nuclear war? Where is the security for China if radioactive clouds should pass over its territory as its neighbors descend into chaos?

The same questions apply to those who would assist Iran or Iraq to develop weapons of mass destruction. Will the paltry profits in assisting Iran's ballistic missile programs really matter if Iran can attack Russia and its neighbors with chemical weapons? Do the Russians really think that Saddam Hussein can be trusted with fermenters that could be used to produce biological weapons? Will China really benefit if its assistance to Iran should put weapons of mass destruction in the hands of a regime that sympathizes less with Beijing than with Islamic ethnic groups in western China?

Russia and China are both great powers. But you have to wonder, sometimes, what they are thinking. And you really have to wonder when North Korea will realize that ballistic missile exports to unstable countries won't do much for a people already reduced to eating tree bark.

AN OUNCE OF PREVENTION IS NOT ENOUGH

What should the United States be doing to stop the spread of long-range missiles and weapons of mass destruction? The short answer is: a lot more than we're doing now.

I don t say that to denigrate current U.S. programs or the U.S. commitment to non-proliferation. No great power is as active as we in trying to prevent proliferation. Nobody has as many programs as we do to detect proliferation activities, to stop them, to pressure illegal buyers and sellers, to develop military weapons and tactics for operations against sites with weapons of mass destruction, and to assist the former Soviet states, in particular, in safeguarding and destroying dangerous material and in reorienting their military industry to the civilian economy. We spend over $600 million a year on the assistance programs alone.

But the fact is, my friends, that we are failing to do all that we can to stop proliferation. Some of our failures are understandable. No intelligence system can detect everything, and we risk the loss of sensitive sources whenever we démarche a supplier country or let classified information leak to the press. U.S. diplomacy cannot move every supplier to stop every unwise shipment, and economic sanctions are a tool that succeeds only occasionally. India's recent nuclear tests, in the face of U.S. law that forced the President to impose multiple sanctions, underscore the difficulty of stopping a state once it has substantial indigenous capabilities.

What ought to embarrass us, however, is that we are failing also to take actions that we know are workable. Thus, we combined the threat of sanctions with a promise of economic incentives to freeze North Korea's nuclear weapons program. Can we not offer similar multi-national incentives to North Korea to stop exporting ballistic missile equipment and technology? Won't that be cheaper than battling No Dong missiles around the world?

Similarly, we are failing to reach most of the highly-trained scientists and technicians who developed weapons of mass destruction and ballistic missiles for the former Soviet Union. And that is no small problem! There are well over a hundred thousand such skilled personnel who served the Soviet death machine at its peak. Anywhere from ten to fifty thousand personnel still have skills that a rogue state or terrorist group would like to obtain, and are underpaid or unemployed today. That is not just a problem for those personnel. That is a powderkeg just waiting to explode!

What should we be doing about this? We should plug the holes in our current non-proliferation assistance programs. We should endorse and build on the "nuclear cities" initiative that Vice President GORE and then-Prime Minister Chernomyrdin began in March. We should make a special effort to assist Russia's biological warfare specialists who want to cease working with dangerous pathogens. And we should consider outright subsidies to keep Russian arms experts busy on socially useful projects.

IMPROVING EXISTING PROGRAMS

What are the holes in our current non-proliferation assistance programs? Several non-proliferation assistance programs are managed by the Departments of State, Defense and Energy. They provide vital assistance to help safeguard Russian nuclear weapons material, to dismantle Ukrainian long-range bombers, to support projects that could provide commercial job opportunities for former weapons specialists, and occasionally for a one-time operation like purchasing Kazakhstan's nuclear material or Moldova's bombers.

One program that supports commercial initiatives in the former Soviet Union is the Department of Energy's Initiatives for Proliferation Prevention (or IPP). The President's proposed Fiscal Year 1999 budget would reduce that program's budget from $30 million to only $15 million. This is a short-sighted step at precisely the wrong time. Under its new program manager, IPP is finally bringing projects to the point of commercialization. Fifteen projects have achieved completely commercial funding and 77 now have major private co-funding.

If the IPP budget for FY 1999 is reduced by $15 million, IPP will have to cut back its new projects to find socially useful employment for Russian chemical and biological weapons experts. Those weapons are well within the reach of rogue states, as UNSCOM has documented in Iraq. Do we really want to leave hundreds or thousands of Russian experts underemployed, and thus vulnerable to offers from the likes of Iran, Iraq, or Libya?

We must not cut back one of the few programs to combat the risk that Russian experts will sell critical material or expertise to those states. Given its important objective and the increasing success of the IPP program, restoring the $15 million cut is truly the least we can do.

Another important non-proliferation tool is the Nonproliferation and Disarmament Fund, which is managed by the State Department. This fund has been used for several urgent and sensitive non-proliferation operations over the years, including the purchase of unsecured highly enriched uranium from Kazakhstan. The flexibility that it affords policy makers to take advantage of non-proliferation opportunities is a vital resource.

Recent operations have taken their toll, however, on the Nonproliferation and Disarmament Fund's reserve. The Fund had a $12 million reserve at the beginning of Fiscal Year 1997, but only about $4 million by the beginning of FY 1998. Annual appropriations of $15 million, while welcome, give the Fund insufficient flexibility to truly fulfill its mission.

We need to increase our investment in the Nonproliferation and Disarmament Fund, either by establishing a higher annual funding level or at least by replenishing the Fund's reserve. Our nation has received good value from the Fund in the past, and we should do what it takes to keep the Fund healthy.

A third important program is the Energy Department's Material Protection, Control and Accounting (or MPC & A) program, which has been upgrading security at Russia's nuclear sites. This program uses a lab-to-lab approach that builds trust and cooperation. It has forged ties with every single Russian nuclear facility of concern. This program not only improves security, but also encourages transparency regarding Russian operations and helps to build ties that can lead to projects under other non-proliferation assistance programs.

The time is ripe to apply the same lab-to-lab approach to Russia's chemical weapons sites. Russia has declared some 40,000 metric tons of chemical weapons stocks that must be destroyed under the Chemical Weapons Convention. Physical security for those toxic chemicals is only rudimentary: guards, fences, and single-key padlocks that are sometimes falling apart. While a rogue state might have to steal and transport a ton of this material to gain a militarily useful amount, a terrorist group could wreak havoc with much smaller quantities.

We should encourage the MPC & A program to help Russia slam the door on that risk. A $10 million start in Fiscal Year 1999 would be money well invested.

I have written to the Armed Services Committee and the relevant appropriations subcommittees regarding these programs, which I hope will be addressed in their bills. If they are not, I will work with other concerned colleagues to raise these issues on the floor.

WEANING RUSSIANS AWAY FROM BIOLOGICAL WEAPONS

Revelations regarding Iraq's biological weapons, along with defector accounts of Russia's massive biological weapons program, are making their mark on our psyche. We are beginning to accept that, whether U.S. military planners wanted biological weapons or not, other countries and terrorist groups might be all too happy to try them out. Thousands of Russian scientists and technicians have biological weapons experience, and a rogue state assisted by such personnel could cause unspeakable harm.

The National Academy of Sciences, using Nunn-Lugar money from the Department of Defense, is working with the International Science and Technology Center in Moscow—a multicountry program managed by the State Department—to support cooperative research projects with Russia's civilian biological weapons experts. This is an interesting program which encourages those experts to find socially useful outlets for their biological weapons expertise.

But the National Academy's program also keeps these experts working with dangerous pathogens, rather than applying their skills in less dangerous areas of work. So if you're a Russian biological weapons expert who wants to get out of that nasty business, you may find yourself unemployed—or recruited by rogues. But if you want to stay on the fringes of it, the United States will help you.

Does that make sense? I don't think so, although it's true that this program will give us useful windows into the work of these personnel—and perhaps some lines into Russia's Ministry of Defense labs that we fear may be engaged in illegal biological weapons work—for about $8 million per year.

Don't blame the National Academy of Sciences, however, or even the Department of Defense. The original 1996 contract between those organizations called for the Nunn-Lugar money to be used "to support the conversion of former Soviet BW research personnel to work on international public health issues."

But that changed after we passed a law to prevent Nunn-Lugar money from being used for defense conversion. That law is section 1503 of the National Defense Authorization Act for Fiscal Year 1997. I suppose it was adopted because defense conversion is difficult and costly. That's true. But here we are, with a law that lets us keep several hundred experts working with diseases that Russia developed as weapons. But it won't let us help those experts—or a few thousand others who used to work on those weapons—to move into really useful work on the many other diseases that afflict mankind.

We can understand why that law was adopted. But as Mr. Bumble says (in Charles Dickens's "The Pickwick Papers"), sometimes "the law is a ass, an idiot." That law needs to be changed, to allow the National Academy's original concept to go forward. We need a much larger program to encourage Russia's biological weapons experts to apply their knowledge in safer areas of research and development, as well as the small program for those Russian experts who continue to work with dangerous pathogens. I will introduce legislation to remove any legal roadblock and create that larger program.

THE "NUCLEAR CITIES" INITIATIVE

On April 27, the Russian Ministry of Atomic Energy announced plans to sharply reduce the number of institutions involved in nuclear weapons research and production. The cuts will begin this year, and in five to seven years Russia may close a dozen nuclear weapons research and production facilities.

This is big news. The Russian Federation is finally admitting—publicly—that its nuclear establishment is far too large. From the standpoint of our strategic arms relationship with Russia, downsizing of the "nuclear cities" is a welcome step.

But what will become of the scientists and technicians who do not stay in the downsized Russian nuclear establishment? There are over 100,000 personnel in those "nuclear cities." Let's say that 25,000 stay with the consolidated Russian labs, and that only a quarter of the rest have skills that a rogue state or terrorist group would like to buy. That would still leave 20,000 underpaid or unemployed experts on the market. What will be done to reduce the risks posed by that large pool of desperate people?

One answer is the Nuclear Cities Initiative. In March, Vice President GORE and then-Prime Minister Chernomyrdin agreed to develop a new initiative for Russia's vast complex of "nuclear cities," each the equivalent of our Los Alamos or Oak Ridge National Laboratories. Last month, Energy Secretary Peña and Russia's new Minister of Atomic Energy, Yevgeny Adamov, signed an agreement to begin this initiative.

The "Nuclear Cities Initiative" is a major step that deserves our wholehearted support. It would include business training for Russian personnel and a major effort to find commercially viable projects to provide jobs for former nuclear weapons experts. Fiscal Year 1999 funding of $30 million, say, would get that initiative off to a good start and might be matched by some of the money that Russia receives for its weapons-grade material sold to the United States.

But I doubt that even this initiative will be enough. For one thing, the obstacles to finding commercial funding for viable civilian projects are really substantial. Personnel in the "nuclear cities" were isolated for decades from even the Soviet Russian economy, to say nothing of market economics. Russian legal and political structures are still unresponsive, moreover, to the needs of foreign investors.

Russian officials often ask for an "investment conference" to put them directly in touch with prospective investors. I propose a more useful jumpstart of the commercialization process: a presidential commission with substantial representation from U.S. industry. Most U.S. firms will not yet risk real money on new technology from Russia's isolated laboratories. But 50 years ago, an automobile company president showed Western Europe how to recover from World War II. Our high-tech industrialists might best be able to get Russia to create an inviting business climate.

BEYOND COMMERCIALIZATION

Finally, we must ask ourselves whether our current non-proliferation programs are "penny wise and pound foolish." Does it really make sense to bar funding for defense conversion, except in programs that find commercial sponsors? Maybe there will never be enough commercial sponsors to employ Russia's experts in ballistic missiles or weapons of mass destruction. That is a real possibility. So, do we just walk away? Do we tell them to pack their bags and move to Iraq, Iran, or Libya?

The law also bars using Nunn-Lugar funds for environmental clean-up efforts in the former Soviet Union. Such funds should not be used simply for environmental objectives. But what if that's the safest way to use the talents of nuclear, chemical or biological arms experts? Why isn't any socially useful employment of those personnel worth subsidizing, in order to keep them inside their own countries and away from their original areas of expertise?

The key to this puzzle is the word "subsidizing." Is that what we want to do? Not ideally. But is it a reasonable approach when others do not suffice? Or is it our primary objective to make Russia's weapons experts adapt to a capitalist economy, even if the result is to leave some of them poverty-stricken and prey to offers from less squeamish countries?

I am not afraid to subsidize Russian arms experts, if that's what it takes to keep them out of their old trades. We spend billions of dollars on defense. We're already looking at over $700 million in non-proliferation assistance requested for next year. That may employ 10,000 or 12,000 people. (Much of the money goes for equipment used in weapons security or dismantlement.) Why not add another $250 million per year—with Russia putting up some funds as well—to employ another 20,000 or more Russian specialists on unrelated projects, so long as they help their country and stay away from weapons work?

Does that sound too much like welfare? Call it welfare, if you wish. But ten years of that welfare will purchase a lot of security for us. Those will be ten years of dramatically reduced risk that the fallout from the collapse of the Soviet Union will be radioactive. They will be ten years in which many

Russian experts will retire and no longer be of concern, ten years for the Russian economy to recover and employ the rest of its skilled scientists and technicians, ten years for diplomats to solve some of the conflicts that tempt countries to amass and use weapons of mass destruction.

Increased investment in non-proliferation assistance will not solve all our proliferation worries. But it will help—at a cost that we can afford. I plan to introduce legislation to do this.

Let me make clear that the deficiencies in our non-proliferation programs do not reflect a lack of vision on the part of Congress or the executive branch. Rather, they stem from the daunting and multi-faceted nature of the challenge we face.

Helping Russia to reduce and reorient its vast defense complex is an unprecedented activity. The task requires multiple efforts; what works for missile dismantlement under the START Treaty may not be appropriate to chemical weapons destruction or to offering new careers to biological weapons experts.

We have had to start with small steps, moreover, and for good reasons. First, each program can succeed only once it gains the trust and cooperation of former Soviet experts and bureaucracies. Second, a massive effort could become unbearably costly. And third, we must make sure that our programs support reorientation of defense facilities, rather than unwittingly underwriting the development or export of weapons of mass destruction. So we must see what works, adapt, and build upon the successes.

To truly succeed, however, we must not be afraid of building something big. We should seek international participation and financing. But even the most expensive programs, if well conceived and executed, will be bargains compared to the cost of even a single war in which weapons of mass destruction were used against our troops or our cities.

Let me return, then, to the question I posed at the beginning: How will historians characterize this decade? Indeed, how will historians characterize the efforts of this body? Will we be seen as having seized the opportunity of this decade? Or will historians say that we were still too enamored with weapons, too cheap to pay the price of peace? In the coming weeks and months, we will have a chance to put our money where our hopes are. I call on my colleagues to join together in taking at least the little steps, and perhaps some big ones as well, toward a more comprehensive program of non-proliferation assistance. We will not only feel good doing that, we will do some good, as well.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I have been authorized by the Senator from Michigan to use up to 8 minutes of the time that he still has reserved. I ask unanimous consent to speak for 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Madam President, I speak about the other part of this bill. The Senator from Delaware just made the point that this bill we are intending to vote on today contains two very different pieces of legislation in it. Title I is of the Iran missile proliferation sanctions. That goes on for twelve pages. Title II is the Chemical Weapons Convention Implementation Act. That goes on for 82 pages.

I will speak about the Chemical Weapons Convention Implementation Act for just a few minutes. Much of what I want to say is good news. Implementation of the treaty is making important and significant progress. It has been just over a year since the treaty entered into force. As of May 14, 1998, 168 nations signed this historic treaty; 108 nations have ratified the treaty.

This is a landmark treaty that provides us with the means to rid the planet of an entire type of lethal weapon that could threaten every one of our nations.

The threat has already been effective in identifying nations with chemical weapons capabilities. Among the Chemical Weapons Convention states possessing chemical weapons capabilities are some of the countries we have been talking about extensively here in the rest of this debate: Russia, China, India, Pakistan, Iran. I point out that China and India were among the states that previously denied having chemical weapons. So by opening their facilities to inspections required by this convention, those states were forced to demonstrate their ability to provide chemical weapons.

There is a lot of good news that I want to allude to here, but let me point out three concerns that I have that people need to be aware of as we go forward with this debate and the vote that is intended here.

The first of these concerns relates to the fact that the treaty requires an initial declaration of capabilities of both government and commercial entities for all states that are party to the treaty. So far, there are 28 countries, including Iran, that have failed to submit their initial declarations. The Technical Secretariat for this convention must ensure that those declarations are forthcoming, and other states' parties should take measures to ensure their compliance.

One of the unfortunate facts I want to point out is that the United States is one of the states that is not in compliance. The U.S. Government has declared government-owned facilities related to its chemical weapons program, but we have yet to declare commercial industrial facilities required for the treaty. This is an important matter to which I hope the administration is devoting priority attention. If the treaty is to be an effective vehicle as we intend it to be, our leadership in implementation efforts will be critical to its ultimate success.

There are two other matters I want to mention here. The first concerns section 234(f) of this treaty, of this implementing language in H.R. 2709 regarding the analysis of chemical samples that may be taken during an inspection. The provision contained in the legislation before the Senate, though perhaps desirable for our purposes, our limited purposes, could result in a circumstance that we would not want to see happen.

Let me explain. Provisions in the treaty regarding permissible equipment to be brought in by an inspector restrict their qualitative analytical capabilities. These restrictions could quite feasibly lead to ambiguities in analysis. It could require that a sample receive additional examination. Under the treaty's provisions, the analysis should be conducted at three laboratories designated by the Technical Secretariat. Only one of those laboratories is located in the United States and the other two lie outside our borders.

Section 234(f) in this implementing legislation would require that no sample taken in the United States is allowed to be examined out of our borders. So clearly we are putting in law here a provision which contravenes the terms of the treaty. It is evident to me this is a problem that needs to be addressed at some stage in some way.

The second matter that I want to bring to people's attention is the right to refuse challenge inspections. During the early days of negotiating the Chemical Weapons Convention, members of President Reagan's team insisted that all countries must allow challenge inspections to occur at any time in any place. They did so in order to ensure that this very difficult treaty could have some real teeth in it. Unfortunately, the legislation that we have before the Senate today would give the President the power to deny a request for a challenge inspection if he determines that the inspection could pose a threat to national security interests of the United States.

The problem with this provision is that assigning ourselves the right to refuse a challenge inspection obviously raises the prospect that others may also choose to refuse a challenge inspection, and that guts a key provision of the treaty that we intended to see enforced.

I hope that these are matters that can be corrected. I think it is unfortunate that this legislation has come to us on the floor with these particular two provisions in it. I hope very much that we can find some solution to this either in future legislation or in some action by the administration.

The Chemical Weapons Convention is a very important treaty that we have entered into. We have every reason to want to see it be effective. These two provisions that I have pointed to undermine the effectiveness of it and also undermine our credibility in trying to urge other states to comply with the treaty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Madam President, I ask unanimous consent to speak up to 8 minutes on the Iran Missile Proliferation Act and have that time charged to Senator LEVIN who will be offering an amendment. That is pursuant to Senator LEVIN's desire, as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Madam President, it is hard to imagine a greater threat to international stability than the rogue nation of Iran coming into possession of weapons of mass destruction.

There are three important reasons why the Iran missile proliferation act should be passed at this time.

First and foremost, the Iran missile proliferation act is, above all else, a nonproliferation measure. It is intended to halt the spread of missile technology to Iran. With the alarming news that India has tested nuclear weapons and, in reaction to this, Pakistan is now considering testing its own weapons, we see the prospect of a dangerous spread of nuclear technology that only underscores the need for further U.S. resolve in combating the proliferation of weapons of mass destruction.

The second reason this legislation is important now is because of the lack of cooperation on the part of the Russians. Generally, the United States and the Russians have a clear, common interest in halting the spread of advanced weapons technology, including missiles. Although there has been some movement within Russia to halt the spread of missile technology to Iran, there is clearly not enough being done. Coupled with reports that Iran may be actively acquiring biological, chemical, and even nuclear weapons, the case for this legislation is clear.

Finally, this legislation is needed to bolster our Iran policy and to send a clear signal that the United States will not tolerate the spread of missile technology to Iran. Earlier this week, President Clinton decided to grant a waiver from the Iran and Libya Sanctions Act to a huge energy project by a French firm and others. Many of my colleagues and I urged the President not to grant this waiver; yet, a decision was made to do so. I believe that this sends the wrong signal to the international community with respect to investment in Iran.

Foreign investment could enable Iran to rebuild its energy sector and vastly increase its economic strength, allowing it to acquire vast assets that it could use to re-arm and acquire terrible weapons of mass destruction. While I disagree with the President's decision to grant the waiver for the French and Russian energy project, I feel even more strongly about the transfer of missile technology to Iran.

Let us make no mistake about it, Iran has become the most serious threat to stability in the Middle East. Israeli and American intelligence have recently discovered that, due largely to technology obtained from Russia, Iran may soon have the capability to begin assembling and testing ballistic missiles capable of reaching Israel and other vital targets in the Middle East.

Russian companies are providing Iran with crucial technologies, including wind tunnels for the design of missiles, lasers, and special materials for missile construction. There are even reports of over 9,000 Russian advisers working in Iran on a variety of military projects, and Iran tested a Soviet-designed rocket engine last year.

Iran, one of America's foremost self-proclaimed enemies, has been linked to numerous terrorist attacks, ranging from taking hostages and hijacking airlines to carrying out assassinations and bombings.

Now is the time to send a clear signal to the world community that selling missile technology to Iran is totally unacceptable. I urge my colleagues to support this vital measure, which takes concrete steps to halt the spread of ballistic missile technology to Iran and will act to support the preservation of peace and stability in the Middle East.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KYL. Madam President, I am informed the yeas and nays have not been requested.

At this time, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KYL. Madam President, Senator LEVIN has time, and he is prepared to proceed.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. How much time do I have?

The PRESIDING OFFICER. The Senator has 25 minutes 40 seconds.

Mr. LEVIN. Madam President, the amendment that I will be sending to the desk will change the trigger date for sanctionable activity from August 8, 1995, which is currently in the bill, to January 22, 1998. I will explain why I am seeking to do that in the next few minutes.

The bill the Senate is debating requires the President to submit periodic reports on foreign persons who, on or after August 8, 1995, have provided or attempted to provide material, technology, technical assistance, or facilities that contributed to Iran's efforts to acquire, develop or produce ballistic missiles. Those who are identified as assisting Iran's ballistic missile effort will be subject to sanctions for at least two years, preventing them from buying military equipment and technology, and controlled dual-use goods and technology, and from receiving U.S. economic aid.

The bill includes two waiver provisions, one in case the President learns of new information that shows that a foreign person did not provide assistance initially included in one of the required reports, and one in case the President determines that imposing sanctions would not be in our national security interest.

I am a cosponsor of this legislation, and I strongly support the legislation's goal, Mr. President—to stop assistance to Iran's ballistic missile program by foreign entities.

I am concerned, however, about the bill's use of August 8, 1995 as the trigger date for determining behavior to be sanctioned.

My amendment would change the trigger date in the bill for determining behavior to be sanctioned from August 8, 1995 to January 22, 1998. This is the date on which the then-Prime Minister of Russia, Viktor Chernomyrdin, signed a government decree to strengthen Russian export controls on dual-use items that could be used either for weapons of mass destruction or for missiles to deliver such weapons.

Madam President, we need to strengthen the President's ability to apply sanctions to foreign entities—whether individuals, companies or educational institutions—that provide assistance of any kind to the current efforts of Iran to develop ballistic missiles that could threaten their neighbors.

But I believe that the more appropriate trigger date for the behavior subject to sanctions is January 22, 1998 rather than August 8, 1995 for the following reasons:

The United States Government has been working with the Russian Government intensely for the last few years to encourage them to stop all assistance by any entity in Russia to Iran's efforts to develop a ballistic missile. Our government has engaged the Russian Government at the highest levels—President Clinton directly to President Yeltsin—and at numerous levels below the Presidents. Vice President GORE made this a crucial and central issue in the Gore-Chernomyrdin Commission, and put this on then-Prime Minister Chernomyrdin's agenda for immediate attention. In addition, the Administration appointed Ambassador Frank Wisner to work with his specially appointed Russian counterpart, Yuri

Koptev, the head of the Russian Space Agency, to seek progress in stopping assistance from Russian entities to Iran's ballistic missile program.

Ambassador Wisner was recently succeeded by Ambassador Robert Gallucci, the diplomat who negotiated the North Korean Agreed Framework and led UNSCOM inspection teams in ferreting out Iraqi weapons of mass destruction after the Gulf War. So our government has been highly energized and motivated and they deserve credit for their efforts, which are continuing still.

These efforts have met with mixed success. In some cases, the activities have stopped. In other cases, the activities have continued. And in other cases, the information is inconclusive as to whether or not the activities that the Russian Government has said they are trying to stop and which we surely want stopped, and which the world needs stopped, in fact have stopped.

However, in January of this year, the Russian Government took an important step that we had been encouraging them to take for some time. On January 22, then-Prime Minister of Russia, Viktor Chernomyrdin, issued a broad decree, known as the "catch-all" decree, to strengthen export controls over all dual-use goods and services that could be used to proliferate either weapons of mass destruction or the missiles to deliver them.

This decree states that Russian entities engaged in foreign trade "shall refrain from export transactions involving any dual-use goods or services not subject to Russian Federation export control regulations should such entities be aware that such goods and services will be used to develop or employ nuclear, chemical or biological weapons or missile means of delivery . . .". The decree goes on to state that "Should Russian entities engaged in foreign trade have reason to believe that such goods and services may be used for the aforesaid purposes, they shall submit the pertinent application to the Russian Federation Governmental Commission on Export control."

Madam President, this Russian decree is a broad and sweeping prohibition on the export of any goods and services, if there is reason to believe that those goods or services could be used to develop or employ a weapon of mass destruction or the missiles to deliver them.

Our Government strongly encouraged the Russian Government to issue that decree.

And of great significance, the January 22 decree is broader and stronger than the Missile Technology Control Regime. The Missile Technology Control Regime deals only with the proliferation of missile technology for certain classes of missiles. The January 22 decree is an effort by the Russian Government to strengthen controls over the export of technology, goods, and services that can lead to the proliferation of all weapons of mass destruction as well as the missiles to deliver them.

So this decree covers the weapons of mass destruction and their components and the materials that go into them. It is much broader than the Missile Control Technology Regime, which just relates to missiles. The Missile Technology Control Regime, to state it more correctly, covers just missiles, whereas the Chernomyrdin decree of January 22 covers the weapons of mass destruction that we are trying to preserve and protect the world from, as well as the missiles that could deliver them.

This is an important step by the Russian Government. That decree, which we pleaded with them to adopt and to publish, deserves to be supported and deserves to be encouraged.

My amendment uses their decree as the basis for our action—their decree—and that reinforces its effectiveness instead of ignoring its issuance.

Madam President, it is not clear to me that all the activities of the Russian entities that have or could contribute to Iran's ballistic missile program would even be proscribed by the Missile Technology Control Regime that the Russians signed in August of 1995. But the January 22 decree, being much broader, would prohibit those activities because they fit under the decree's broad category of "export transactions involving any dual use goods or services" that "may" be used to develop or employ nuclear, chemical, or biological weapons or the missiles to deliver them.

So, summarizing the amendment, the amendment strengthens the original intent of the bill. It recognizes the efforts of the Russian Government to address the problem of assistance to Iran's ballistic missile program through the January 22, 1998, decree. By using that decree as the trigger date for behavior that is sanctioned, the bill reinforces that decree, both recognizing the action that the Russians took at our request and using the restrictions in that decree which are more comprehensive than those entailed by the Missile Technology Control Regime.

Our Nation shares a common goal with Russia of trying to stop all assistance from Russian entities to Iran's missile program. Russia has taken some steps, but more steps and more cooperation are needed. I believe that if we acknowledge the efforts they have taken and encourage them to continue, we can avoid a counterproductive result. That result could make it harder for Russia to succeed in its efforts to stop such assistance. And our goal should be just that—to do what works, to do what leads to a better result.

In all likelihood, if this legislation becomes law with my amendment, it will still require sanctions to be applied, because there is evidence that some Russian entities have provided assistance to Iran's ballistic missile program since January 22, 1998.

Finally, I note that the bill before the Senate contains two Presidential waivers. They are there for important reasons. The more significant of the two waivers is a national security waiver which the President can use to waive the imposition of sanctions if doing so "is essential to the national security of the United States."

This legislation is not intended to force the President to impose a sanction if doing so would harm U.S. national security. If the President determines that it is necessary for him to waive the imposition of sanctions in the interest of national security, then under this bill he may do so. That is in the bill itself. That is not touched by my amendment. But that is why the waiver is included in the bill before us.

Madam President, I believe that the sponsors of the bill have indicated support for my amendment. Senator KYL is on the floor. I will let him speak for himself in that regard.

I yield the floor. I appreciate their support.

Mr. KYL. Madam President, the amendment is acceptable to everyone on this side that I know of. Therefore, we can move the process along and have it accepted formally and conclude the debate. I think our colleagues would appreciate having the opportunity to vote.

AMENDMENT NO. 2444

(Purpose: To change the date of behavior subject to sanctions relating to Iran missile proliferation)

Mr. LEVIN. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an amendment numbered 2444.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

The amendment is as follows:

On page 2, beginning on line 15, strike out "August 8, 1995—", and insert in lieu thereof "January 22, 1998—".

On page 6, beginning on line 24, strike out "August 8, 1995—", and insert in lieu thereof "January 22, 1998—".

Mr. KYL. Mr. President, there is a reason why this bill picks August 8, 1995, as the date after which Russian companies should be sanctioned for their proliferation behavior. The reason for this is very simple: August 8, 1995, was the date upon which Russia joined the Missile Technology Control Regime (MTCR). In so doing, the Russian Government undertook an international obligation to curtail its proliferation behavior. Unfortunately, as we have seen, the Government has not lived up to that pledge.

At the time that the United States favored Russian membership in the MTCR, the Senate was assured by the Clinton Administration that Russia had all of the necessary, effective export controls in place. Well, we see just how accurate that claim proved to be. Two years later the United States began uncovering evidence of the degree to which Russian assistance has sped up Iran's missile program.

In retrospect, clearly the United States should have waited until an effective, Russian export control regime had been established before favoring Russian membership in the MTCR. As an aside, I hope the Clinton Administration will learn from this experience. There has been a great deal of talk lately about encouraging China to join the MTCR. I would hope that the United States would wait an appropriate period of time to see whether China's export controls are truly effective enough to warrant membership in the MTCR.

Finally, I have reservations about the Levin amendment, because it seeks—at a minimum—to "grandfather" Russian missile proliferation activities before January 22, 1998. But I will not oppose this amendment because, among other things, proliferation on the part of these companies has been so rampant even since January 22, 1998 that few companies in Russia, if any, will benefit from this shift in dates.

Mr. LEVIN. Mr. President, I yield the remainder of my time so we can, hopefully, adopt this amendment.

The PRESIDING OFFICER. All time is yielded. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 2444) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KYL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SHELBY. I rise in support of the Iran Missile Sanctions Act, H.R. 2709.

Mr. President, I would like to make three important points regarding this legislation.

First, the Administration's efforts to get Russia to stop assisting Iran's ballistic missile program have been an abysmal failure.

Second, there is a broader failure of United States proliferation policy—a failure of monumental and potentially deadly proportions.

Finally, the Senate must now take a greater role in addressing the proliferation crisis. Passage of the Iran Missile Sanctions Act is a first step.

Since the fall of the Soviet Union, many in the United States have been greatly concerned that Russian entities were providing assistance to other state's ballistic missile programs. As evidence mounted, the Clinton Administration responded with diplomatic efforts from the working level up through the high level Commission chaired by Vice President GORE. Diplomatic efforts were supplemented with economic incentives.

When additional reports of new and ongoing assistance emerged, including transfers to Iran in probable violation of the Missile Technology Control Regime, Congress waited for the Administration to impose the sanctions required. When sanctions were not imposed, some in Congress sought additional legislation to "encourage" the Administration to impose sanctions.

The Administration again urged the Congress to wait—to give the diplomatic process more time, to give the Russians time to get an enforcement mechanism in place. Administration officials have repeatedly assured us that they have the problem under control.

They are wrong.

The Congressional Research Service summarizes the situation aptly when it reports that:

> Despite official denials from Moscow through 1997, evidence is growing of a pattern of missile technology transfers to Iran by Russian enterprises, institutes, and individuals, with direct and indirect Russian Government involvement, in violation of Russian commitments under the Missile Technology Control Regime (MTCR). Russian assistance could significantly accelerate Iran's indigenous missile program . . .

There is ample intelligence information that supports this assessment, and I believe it is important for Senators to have the opportunity to review this information. Therefore, Senator KERREY and I directed the Select Committee on Intelligence staff to prepare a compendium of the classified intelligence reporting on this subject and it is available for Senators to review in S-407.

My second point is that the Administration's failure to stop Russia from providing assistance to Iran's missile program is only part of the broader failure of the Administration's nonproliferation policy.

There is an ongoing pattern of assistance by Russia, China, and North Korea to rogue states and to other states such as India and Pakistan. There is also a pattern of weak Clinton Administration response to this proliferation. There is a connection. The Indians cited the weak Clinton Administration response to China's proliferation of missiles and nuclear assistance to Pakistan as one of the reasons they decided to test nuclear weapons.

Some states seek weapons of mass destruction for prestige or in an attempt to enhance their global role. Countries like India and Pakistan justify their efforts by citing regional security concerns.

Others like Iraq, Iran, and North Korea seek these weapons to threaten and intimidate their neighbors, in particular U.S. friends and allies, to threaten forward-deployed U.S. forces, and ultimately to threaten the United States itself.

Such states do not wish to confront U.S. conventional military forces—the best in the world—with conventional weapons alone. They prefer to threaten our forces, or our cities, with asymmetric weapons of mass destruction to deter us from carrying out policies to protect our global interests.

If states believe they can change the calculation of risks and benefits, they have a strong strategic incentive to acquire these missiles. Our near-total vulnerability to the ballistic missile threat only furthers their incentives.

Without stronger disincentives, other states will continue to seek the financial, political, and strategic advantages that may be gained through proliferation, and through taking advantage of our patience and vulnerabilities.

They have repeatedly offered carrots without wielding or credibily threatening the stick.

Indeed, in many disturbing ways, the Administration's policies toward Russia and China may have enabled or even encouraged proliferation. By failing to respond to dangerous proliferation acdtivities to the maximum extent possible under domestic and international law, they have led others to question the will and ability of the United States to take strong measures to punish proliferators.

Unfortunately, the Executive Branch has not yet come to this realization.

It appears to be difficult to get this Administration to act with resolve, either by adding backbone to its proliferation policies or by responding to existing and future threats by developing additional means of deterrence and defense. It is difficult to persuade them to make diplomacy and arms control agreements tools of policy rather than policy objectives in-and-of themselves.

However, the Congress can not simply stand back and point our fingers at the White House. We must do all that we can do to demonstrate that America has the will and the ability to respond.

We must provide adequate funding to the Intelligence Community and to our military forces to detect and deter, and to prevail when deterrence fails. We must put in place the legislative mechanisms to enforce a robust counter-proliferation policy. We must continue to force the Administration to disclose dangerous proliferation activities. And we must make sanctions mandatory.

Challenging, deterring, and defending against proliferation won't be easy or cost free. But it is the right thing to do.

Mr. President, American lives are at stake.

The Senate must act. Mr. President, I urge the adoption of the bill before us.

Mr. DASCHLE. Mr. President, I come before the Senate today to indicate my support for H.R. 2709, the Iran Missile Proliferation Sanctions Act.

The message this bill sends to the international community is clear. The patience of the American people and their elected representatives is not infinite. If diplomacy fails to produce satisfactory results, the United States is prepared to take decisive action to protect our security and that of our allies by imposing sanctions on those who violate international agreements restricting the transfer of ballistic missile technology.

In my judgment, it is time for Congress to send this message. And it is long past time for those who violate international agreements to heed the message.

I appreciate that diplomacy has produced some positive results in this area and may ultimately yield more progress. Nonetheless, these efforts fall short of what is needed to halt the illegal transfers. In the absence of immediate and conclusive evidence of a dramatic reversal of Russian behavior, stronger measures are needed, and H.R. 2709 is an appropriate vehicle.

The end of the Cold War has affected our national security policies in many ways. It has reduced the likelihood of a large-scale conventional conflict on the European continent. It has made it much less likely that either the United States or Russia will intentionally use nuclear weapons against the other. And it has allowed us to meet the remaining threats to our security with slightly smaller defense budgets. These are obviously positive developments.

On the other hand, the post-Cold War period has been marked by the emergence of a new threat—the spread of weapons of mass destruction and the means to deliver them. Let me run down the current state of affairs with regard to weapons of mass destruction.

First, at the end of the Cold War, five countries—the United States, Russia, China, Great Britain, and France—had declared themselves nuclear weapons states. Unfortunately, as proven by India's actions just last week, the true number in the nuclear club is much larger.

Second, the Pentagon suspects that as many as 20 countries have chemical weapons programs, and that a slightly smaller number have biological weapons.

Third, the Defense Department believes that about 15 countries currently possess ballistic missiles, and that the number could grow to more than 20 by 2000.

It is these disturbing trends that the United States and many other nations in the international community are trying to combat.

Reversing these trends is a daunting challenge. If there is to be any chance of even slowing the spread of this threatening technology, the United States must act decisively and firmly when confronted with actions that violate existing agreements designed to proscribe this type of behavior. It is in this context that we must view efforts by several Russian entities and individuals to assist the Iranian ballistic missile program.

The status of the Iranian missile program should be of particular concern to U.S. security officials. Iran is located in a critical region of the world. Vital U.S. economic, political and military interests are at stake.

Tens of thousands of U.S. troops are within easy reach of the Iranian missiles speeding through their development stage.

The entire state of Israel, a staunch ally and friend, would be well within range of the Iranian missiles.

Concern about Iran's intentions are further heightened by the fact that many intelligence analysts believe the Iranian government has repeatedly supported and sponsored terrorist activities.

Both supporters and opponents of H.R. 2709 agree on one fact: Russian entities and individuals have played an important, if not crucial, role in the Iranian ballistic missile program. Even Russian officials acknowledge the involvement of Russian companies in these illegal activities. It has been publicly estimated that, largely as a result of this assistance, Iran could soon field missiles with sufficient range to threaten the entire Middle East.

Where people differ is over what to do about this assistance.

Opponents of H.R. 2709 argue the bill's sanctions are a blunt instrument that will not achieve the intended result of stopping Russian assistance. They prefer to allow more time for the Administration's diplomatic efforts to bear fruit.

Mr. President, I take a back seat to no one in my appreciation for the negotiations the President and his advisers have conducted with their Russian counterparts on this complex issue. These negotiations have produced positive tangible results. Russian cooperation with Iran has ended in a few specific cases. In addition, the Russian government has issued and agreed to enforce decrees intended to stop the missile trade.

Yet, despite the Administration's best efforts and the progress they have engendered, and notwithstanding a score of Russian promises, the fact remains that Russian assistance to the Iranian missile program continues. After months of negotiation, it appears that talk alone is not going to be sufficient to end Russia's involvement with Iran's ballistic missile program.

If we are to convince Russia and the world that we intend to protect ourselves and our allies, the time has come for more than talk. If we are to enforce international law prohibiting transfer of ballistic missile technology, it is time for action.

Mr. President, passage of H.R. 2709 is the appropriate action to take at this time. However, Senate passage of H.R. 2709 need not be the final word on this critical issue. If we adopt the Levin amendment, the bill will go back to conference with the House. There is still a very limited amount of time for the Russian Government to convince this Congress that it has heard our concerns and moved to end cooperation with the Iranian missile program. Failing an immediate and dramatic reversal in Russian behavior, it is time to redefine the playing field for those currently violating these laws and those contemplating future transgressions.

To those parties, enactment of the Iran Missile Proliferation Sanctions Act will underscore that the United States stands ready to defend its own security interests and those of our close allies; that the United States will do all it can to stem illegal efforts to spread ballistic missile technology; and that the United States will ensure that violations of international law will not go unpunished.

I ask my colleagues to join with me in voting for H.R. 2709.

Mr. ALLARD. Mr. President, I rise as a strong supporter and a cosponsor of the Iran Missile Proliferation Sanctions Act of 1997. This bill addresses the very serious concern of proliferation of ballistic missiles. While this bill is directed at Iran, the problem of proliferation is one of the United States' most serious problems. The problem must be addressed.

Iran has been actively pursuing better and more sophisticated ballistic missiles. If the Iranians acquire more long range missiles with a range of at least 1300 miles, then many of our troops and allies in the Gulf region will be seriously threatened. While we know that Iran has already received some of the missile components, we must stop them from receiving the critical support and know-how to move forward.

There have been many reports of technology transfers between Russia and Iran. Russia has been actively assisting the Iranians in their efforts in not only technology, but also in their research and development programs. While Russia has promised the Administration that they are not doing this, even the Administration states that there is a real disconnect between their words and their actions.

I believe that this bill is important to stop this disconnect and let the world know that this activity can and should not be tolerated. If we do nothing, then who will. I believe nobody will. And, if we do nothing, within a year Iran could be capable of being able to deploy missiles that could deliver nuclear or chemical warheads about 850 miles. These missiles could reach Tel Aviv Israel, Turkey, Saudi Arabia and many of the air bases where our Armed Forces are located.

But let me also address a problem that is not being discussed concerning serious military activity between Russia and Iran, with the assistance of the United States. Last year, the Overseas Private Investment Corporation became involved in an office complex project in St. Petersburg, Russia, the Nevsky 25. This project is jointly owned by a main U.S. investor in Golub & Company from Chicago with 10 percent ownership, the St. Petersburg Property Fund with 10 percent, European Bank for Reconstruction and Development with 40 percent, and the Rubin Central Design Bureau for Marine Engineering with 40 percent.

My concern is that the Rubin Central Design Bureau is a Russian state-controlled military company whose main product line is military submarines. Rubin is the builder of the Russian Kilo-class submarine and has sold 4 Kilo submarines to Iran, 4 Kilo submarines and 2 Project 636 Kilo submarines to China, and counts Algeria as one of its customers.

Rubin got involved in commercial activities to supplement their submarine production. They have become active in the field of oil and gas, high-speed rolling stock, power generation, and marine ecology.

Igor Spassky, the Rubin Bureau head, is quoted as saying,

> The main reason for these commercial ventures is to help us survive. There is a major responsibility for the company to preserve its intellectual potential and capability for the design and development of submarines. (Janes Navy International 11/1/96)

Even with these commercial interests, defense work still accounts for 60–65 percent of Rubin's work.

OPIC has tried to assure me that Rubin does not have access to assets of the property until the OPIC loan is paid in full and that they are monitoring the situation. The problem is even after the loan is paid, OPIC will have assisted in providing a flow of income for Rubin to continue to build its Kilo class and nuclear ballistic missile submarines. Also, knowing Russia's record in proliferation and this legislation addresses this problem, I am afraid that this project can only help Rubin in providing future funding for these submarines.

Also, OPIC has said that they are assured that only commercial activity is taking place in this office complex. Again, while this may be the case, the activity of concern is being used with the funds becoming available to the company to engage in their military activities.

OPIC did say that this is a concern and that they are monitoring it but that this is not a high priority. I believe if this bill to stop missile proliferation is important enough to vote on then sales of submarines which can deliver ballistic missiles, which may be assisted with U.S. funds is just as important.

Mr. President, before I end I want to encourage all my colleagues to vote in favor of the Iran Missile Proliferation Sanctions Act of 1997 and to take serious the problems of proliferation and the problems of being involved with state controlled military complexes who are engaging in commercial activity in order to supplement their military activity and sales.

Ms. MIKULSKI. Mr. President: I rise in strong support of the Iran Missile Proliferation Sanctions Act. I am proud to be a cosponsor of this legislation.

This legislation is very simple. It says you can have normal economic and political relations with the United States—or you can join America's enemies in building weapons of mass destruction. You cannot do both.

This bill applies sanctions to organizations that transfer missile hardware or technology to Iran. It would ban U.S. economic assistance and the export of technology to anyone who is helping Iran develop the means of using weapons of mass destruction.

Iran has a robust chemical and biological weapons program. As we debate this legislation, Iran is building the Shihab 3 missile. This ballistic missile could carry conventional, biological or chemical weapons to Israel, to the Gulf states or to American interests within 800 miles of Iran.

Imagine these weapons in the hands of a country that is our sworn enemy. A country that supports the most radical, anti-American terrorist organizations on earth. A country that does everything it can to derail the Middle East peace process.

These missiles could destroy Tel Aviv. They could reach our NATO allies. They could threaten the thousands of American troops in the Gulf.

Russia has played a central role in helping Iran to develop these weapons. Despite past assurances, Russian scientists and engineers are using their skills to threaten America's national security.

The United States has done a lot to help Russia build a prosperous democracy. Since 1991, we have given Russia over four billion dollars in assistance. We have done a great deal to build a cooperative partnership with Russia.

As the ranking member of the VA-HUD subcommittee that funds the space program, I have been a strong supporter of US-Russian cooperation with the space station.

I supported Russia's participation in the space program for three reasons:

1. Their technical expertise
2. To build stronger links between the United States and Russia
3. To ensure that Russian scientists and engineers had civilian work—so they would not sell their skills to rogue governments

Russia has failed to live up to their promises on the space station. I have no question of their technical competence. But I have strong concerns about their failure to meet their end of the bargain. They have not adequately funded their share of the space station, resulting in delays and a cloud of uncertainty that hovers over the entire program.

Even more troubling is Russia's role in the proliferation of weapons of mass destruction. Russia has exported technology, material and expertise to help Iran develop ballistic missiles. They can't do this—and expect to have business as usual with America on the space program.

Mr. President; our foreign policy must reflect our values. We cannot stand by while any country threatens our national security, or the very existence of our closest allies. I urge my colleagues to join me in supporting this legislation.

Ms. SNOWE. Mr. President, I rise in support of the Iran Missile Proliferation Sanctions Act of 1997.

Last week, our nation's intelligence apparatus was surprised by the Indian government's decision to test a hydrogen bomb. Pakistan may follow suit with a retaliatory test. The fact that last week's test caught our intelligence community by surprise raises serious questions about our ability to monitor such developments. However, while the prospect of a nuclear arms race on the Asian subcontinent could threaten our long-term security interests, the United States enjoys productive relations with the two regional adversaries.

Iran, however, is neither a democracy nor a friend. While the new President, Mohammed Khatemi, is seen by some as a "moderate," his government continues a twenty year tradition of bitter hostility towards the United States. Iran remains opposed to the peace process, its role in the bombing of the Khobar Towers in Saudi Arabia in 1996 is still not known, and it is still vigorously pursuing efforts to acquire weapons of mass destruction, including a nuclear capability. We must not be caught off guard with Iran as we have been with India and Pakistan.

When this measure was introduced last fall, I had hoped that events would prove it unnecessary. I furthermore remained optimistic that the meetings of the Vice President with then Russian Prime Minister Viktor Chernomyrdin would have convinced Russia of the seriousness of the issue of Iran's efforts to develop weapons of mass destruction.

I had hoped the Administration would have done a better job of convincing the Russians of the seriousness of this matter. I had hoped that the Russian government would have realized that whatever financial benefits they get from such help to Iran are far outweighed by the loss of investment from the United States. Even more importantly, I had hoped that Russia would realize that such assistance to Iran does not contribute to political stability in such a turbulent part of the world. Unfortunately, none of these developments have come to pass.

I was disturbed to learn that Iranian nuclear officials just visited Moscow to view a demonstration of gas centrifuge technology—which if successfully mastered will provide Iran the easiest type of material to use in a nuclear weapon. If such a sale occurs it would be a gross violation of a promise made by President Yeltsin to the President in May 1995 when the Russians agreed not to sell centrifuges to Iran. This follows the sale of a radioactive gas called tritium which can be used to increase the size of nuclear warheads and that a second sale is being discussed.

In addition to this development, I was disturbed to learn how close Iran came to obtaining some 22 tons of missile-grade stainless steel from Russia as reported in the April 25th edition of the New York Times. While I do not believe Russia supports the further development of weapons of mass destruction, I am concerned about the Yeltsin government's ability to stem the proliferation of dangerous weapons technology and equipment. When this shipment of steel can be halted by customs officers in Azerbaijan but not in Russia, we are entitled to ask serious questions about Russia's ability to cooperate in limiting the global spread of weapons components.

Mr. President, I understand that Iran has begun a program to build a missile called the Shahab 3 which has an 800 mile range. This range is double the capacity of a SCUD missile and is long enough to reach Israel and Saudi Arabia. This type of missile would give Iran more power with which to threaten the West's strategic interests in the Middle East only seven years after we fought a war with Iraq—another state that may still be trying to acquire weapons of mass destruction. We cannot allow Iran, just as President Bush did not allow Iraq, to assert control over the majority of the world's oil supply.

Mr. President, we should not view this bill as an anti-Russian statement. This bill does not detract from our support for Russian democracy or Moscow's efforts to build a strong free-market economy. However, it does reflect our concern over the actions of many firms in Russia that have an interest in trading with either rogue states or nations that are inclined to develop the ability to deploy weapons of mass destruction. Under this legislation, Russian firms will have to choose with whom they want to do business—the United States or an Iranian regime that has yet to show the moderation promised by the election of President Khatemi. Since persuasion and shared intelligence with Russia may not be sufficient to stop Iran from acquiring dangerous weaponry, this bill has become regrettable but necessary. I urge my colleagues to support it today before this menacing military threat from Iran grows even larger tomorrow.

Thank you and I yield the floor.

Mrs. BOXER. Mr. President, as an original cosponsor of the Iran Missile Proliferation Sanctions Act, I cannot stress enough the importance of this legislation and I am grateful that it is now being considered before the full Senate.

Iran's desire to obtain ballistic missiles is a direct threat to peace and security in the Middle East, and therefore, a clear threat to U.S. national security. Limiting the spread of weapons of mass destruction and ensuring stability in this strategic region must remain among the highest priorities for the U.S. and our allies.

Iran is a leading sponsor of international terrorism and has been linked to numerous bombings, hijackings, and assassinations. This rogue nation provides financial support and political training for terrorist groups such as the Islamic Jihad, Hamas, and Hezbollah. Just this week, the Argentine government announced they have proof that Iran was behind the 1992 bombing of the Israeli Embassy and the 1994 bombing of the Jewish Community Center in Buenos Aires.

According to news reports, Iran is months away from developing missiles that can reach Israel, Saudi Arabia, or the frontiers of the NATO alliance. Considering that Iran is already suspected of possessing chemical and biological weapons and is trying to acquire nuclear weapons capability, the threat of Iran possessing missiles capable of reaching U.S. forces in the Middle East is truly frightening.

This legislation would require the President to report periodically on individuals, companies, and research facilities who have provided material, technology, or technical assistance that could help Iran develop ballistic missiles. Once these suppliers have been identified, they would be subject to sanctions making them ineligible for export licenses and U.S. aid.

I believe this legislation will be a valuable tool in slowing Iran's program to develop ballistic missiles. I hope that the Senate overwhelmingly passes this legislation, and I want to thank the Majority Leader, Senator LOTT, for all his hard work on this important issue.

Mr. LAUTENBERG. Mr. President, I rise to support the Iran Missile Sanctions Act. I am a cosponsor of this legislation, and I hope the Senate will approve it without delay.

This legislation will impose sanctions against entities—individuals, companies, and research facilities—that have provided Iran with the technology and materials required to develop ballistic missiles. Those identified as assisting Iran —or as attempting to do so at least once—will be subject to sanctions for two years. These entities will be ineligible for export licenses for arms or controlled goods and technology. Additionally, they will not be eligible to receive U.S. assistance. The President would be authorized to waive sanctions if he determines that it would be in the U.S. national security interest to do so or if additional information which demonstrates that the alleged acts were not committed by the sanctioned person is available.

The need for this legislation is clear. There is growing evidence that Russian companies and research facilities continue to provide Iran with the technological assistance and the materials necessary to develop ballistic missiles capable of reaching U.S. forces in the Middle East and our stalwart ally Israel. According to public reports, with the help of Russian entities, U.S. officials estimate that Iran could deploy the medium range Shahab 3 missile within 12 to 18 months. That missile is capable of targeting Israel, other Arab countries in the Middle East, and U.S. troops in the region. According to public sources, Iran could also deploy the Shahab 4 missile within three years. That missile reportedly would be able to reach targets in Europe.

The Russians are not building these missiles for the Iranians. Rather, Mr. President, they are providing the material and training necessary for the Iranians to develop an indigenous capability. Make no mistake about it. The development of these Iranian missiles will be very destabilizing in the Middle East.

Mr. President, to its credit, the Administration has made the transfer of missile technology a very high priority in dealings with Russian officials, including the recent talks between Vice President GORE and former Prime Minister Viktor Chernomyrdin. Special Envoy Wisner has worked on this issue aggressively, and the State Department's Robert Galluci has been doing the same. I commend them for the attention they have focused on this very sensitive matter and the effort they have made to persuade Russia to clamp down on exporters.

Clearly, some progress has been made. On January 22, Prime Minister Chernomyrdin issued an Executive Order stating the Russian government's intention to set policies that will more effectively control the exports of technology to Iran. Nonetheless, public reports indicate that the cooperation is ongoing and that the transfers continue.

Because the stakes are so high, we don't have the luxury of time. And while I hope the Administration's efforts will succeed in persuading the Russians to clamp down on these technology transfers, this Senator believes time is running out. The missiles being developed by the Iranians are capable of delivering chemical weapons throughout the Middle East. They are lethal. They threaten U.S. troops. They threaten our ally Israel. And in the long run, they will threaten our European allies. America needs to use every appropriate tool in its arsenal to prevent the Iranians from developing these missiles which will threaten our interests in the region. And we need to use those tools now.

Mr. President, the sanctions in this legislation provide another tool. They are appropriately targeted against the entities—the companies, individuals, and institutes—that are cooperating with the Iranians. They are not targeted at the Russian government. If used effectively, these sanctions—or the threat of these sanctions—can help the Administration in its efforts to clamp down on those entities that are cooperating with the Iranian government.

For the stake of promoting stability in the Middle East, I urge my colleagues to approve this legislation.

Mr. DOMENICI. Mr. President, I rise in strong support of Iran Missile Proliferation Sanctions Act before us today. At the same time, I am uncomfortable about the implementing legislation for the Chemical Weapons Convention attached to it.

Proliferation of weapons of mass destruction poses the gravest risk to domestic and international security in the post-Cold War era. Based on this assessment of U.S. security concerns, it makes sense for the Senate to pass legislation designed to prevent or, at a minimum, curb proliferation threats in every possible instance.

The Iran Missile Proliferation Sanctions Act will help to attain our nonproliferation objectives. A very important national security objective is to prevent Iran from obtaining and improving its weapons of mass destruction. A critical concern is Iranian acquisition of ballistic missiles, especially those with a range of 1,300 kilometers or more. Such capability would pose an unacceptable threat to U.S. forces in that area, not to mention our allies throughout the region.

This Sanctions legislation is a careful and sound approach to non-proliferation. The legislation should offer the Administration additional leverage in curtailing Russian assistance to Iran's missile programs, and I applaud those objectives.

Ideally, the implementing legislation for the Chemical Weapons Convention would have similar objectives—stemming the threat of proliferation. The goal of the Chemical Weapons Convention is to create a sufficient web of deterrence and detection capabilities so as to minimize the potential threat that chemical weapons pose to U.S. and global security. In order to attain this objective, the CWC relies on the most stringent verification regime ever before codified in an international arms control instrument.

The verification measures set forth in the CWC were carefully crafted over many years to ensure that the attained transparency in no way impedes private industry's ability to protect proprietary information.

In addition, measures for "challenge inspections"—a verification measure initially proposed by the Reagan Administration in negotiations over a decade ago—allow for inspection at any time and in any place. Otherwise, the CWC is rendered incapable of ferreting out undeclared activities. I remind you that this was a weakness of the nuclear nonproliferation regime that Iraq successfully exploited to hide a covert weapons program.

The proposed CWC implementation legislation, attached to H.R. 2709 "Iran Missile Proliferation Sanctions Act of 1997," seriously weaken the Chemical Weapons Convention in such a manner as to pave the way for rogue nations to capitalize on U.S. short-sightedness.

There are several aspects of the proposed legislation that are problematic. First, however, the following is clear: if the U.S. Senate ratified an international ban on poisonous gases, it makes no sense for the Administration to have negotiated legislation that renders the Convention impotent. Secondly, the U.S. Senate cannot ratify a treaty and then renege on its own commitment to provide effective and reasonable measures for implementation.

Mr. President, this legislation includes three provisions that are of concern:

(1) First, there is a measure that allows for the President to refuse a challenge inspection on the grounds that it "may pose a threat" to U.S. security interests. Presumably, Hussein did not want UNSCOM in his Presidential palaces for similar reasons. Other countries would no doubt follow suit. The White House is claiming that this is "harmless," because they do not intend to invoke it. If there is no intention to use it, then including this provision merely opens the door for other nations to follow our lead and diminishes our capacity to catch cheaters.

The CWC provisions on challenge inspections preclude abuse of the challenge inspection option. The treaty incorporates stringent measures to ensure that confidential or classified information remains secure. Moreover, the CWC provides penalties for any state that might opt to invoke a frivolous challenge inspection.

(2) Another dangerous aspect of the legislation is found in the provisions on routine inspections and sampling. Again, the verification measures and procedures of the CWC were painstakingly crafted to ensure privacy and confidentiality. Also, the ability to detect cheating at both declared and undeclared facilities is critical to the viability of the regime.

The proposed implementing legislation before the Senate allows for only one inspection per year at industrial plants. The treaty allows for two. This is a critical point. Given the number of facilities worldwide that will require inspection by a relatively small, highly qualified cadre of inspectors, most facilities will only be inspected once a year. However, the treaty allows for two routine inspections in case something suspicious or inexplicable is unearthed in the results from the first inspection.

The persons drafting this legislation may have assumed that they would be sparing U.S. chemical facilities from the tedious drill of coping with more inspections than necessary. However, this view is short-sighted and will hinder the inspectorate's ability to identify cheaters. Again, other countries will follow the U.S. lead.

Should inspectors come across suspicious evidence in another country and desire more information to clarify the activities at a foreign facility, the only option at that point would be to wait a year OR invoke a challenge inspection. A lot of deadly chemicals can be produced in a year.

In addition, challenge inspections were thought to be necessary to unearth undeclared clandestine activities. In all likelihood, invoking a challenge inspection will be fraught with tension. Do we want to escalate every unclear circumstance at any facility in any country to the level of a challenge inspection, when the original provisions of the CWC provide the means necessary to avoid this?

(3) One last provision within this legislation requires adjustment. I remind you, once again, CWC was carefully crafted to provide measures for stringent and comprehensive verification. The redefinition found in the implementing legislation would undoubtedly narrow the number of U.S. facilities required to make declarations. Please bear in mind, the U.S. cannot hold other countries to standards that we ourselves are not willing to meet.

Most commercial products have a mixture of chemicals in them. For example, a ballpoint pen contains a chemical that could be extracted and used to make poison mustard gas. Under CWC provisions, chemical manufacturers are required to include in their initial and annual declarations the production of mixtures with a low concentration in so-called Schedule 3 chemicals. U.S. chemical industry representatives and U.S. government officials agreed that 30% or less of a Schedule 3 chemical in a mixture constitutes a low concentration.

The U.S. implementing legislation changes that figure to 80%. In other words, substantially fewer U.S. facilities will be subject to completing annual declarations or inspections. The same will hold true for other countries that follow our example of assuming that 80% is a low concentration. We thereby increase the likelihood that proliferators will use industrial facilities to mask chemical weapons activities, averting detection.

The Chemical Manufacturers Association was extensively involved in designing the CWC verification measures. Chemical Manufacturers in this country were a strong and vocal group in support of this treaty. They consistently urged that stringent and comprehensive verification provisions be included in the treaty. The U.S. chemical industry did not ask for these provisions to protect their interests so who, then, do these provisions protect? The answer is simple: The provisions in the U.S. implementing legislation protect those who want to cheat on this treaty.

These restrictions on routine and challenge inspections will inevitably backfire on U.S. security interests. Keeping in mind that the U.S. is setting an example with its implementation of the treaty's provisions, these restrictions provide a great deal more latitude within which a rogue nation can maneuver to hide a chemical weapons program.

Intelligence sources repeatedly identify over two dozen states that either already have or are attempting to attain chemical weapons capability. In its first year, the CWC has begun to reverse that trend. In view of our most recent experience in Iraq, there is little reason to assume that lax verification measures for detecting or deterring weapons of mass destruction designs or capabilities will serve U.S. interests.

At this time, the U.S. itself is already in violation of the CWC, because it has failed to pass implementing legislation and commence with declarations and inspections. The U.S. Administration has come under intense pressure from Japan, China, Australia and the European Union to proceed.

The U.S. chemical industry is confronting pressures from their trading partners overseas, because it has not yet been subject to inspection. States that are complying fully with the CWC's reporting and inspection requirements are threatening to stop inspections on their territory if the United States, which has the world's largest chemical industry, does not soon allow inspections of that industry to proceed.

Due to these pressures, the U.S. chemical industry and the Administration want action now. However, we cannot allow these pressures to distract us from the fundamental problems with this implementing legislation. Short-sightedness on issues of U.S. and international security can be very dangerous over the long haul.

Proliferation of weapons of mass destruction and the means to deliver them are the most serious threat to U.S. security today. The aims of the Iran Missile Proliferation Sanctions Act are laudable and I fully support them. I supported the Chemical Weapons Convention last year, and I would wholeheartedly support passage of reasonable and effective implementing legislation for that treaty. Due to the pressures that our chemical industry is confronting and our current violation of the Convention, I will also support this legislation.

However, I will not do so without pointing to the hypocrisy of sanctioning entities who proliferate missile technology to Iran, and, at the same time, passing implementing legislation that opens the door for chemical weapons proliferators.

It is essential that we impede the flow of missile technologies to Iran. It is also critical that we pass implementing legislation and join the international community in eliminating chemical weapons and detecting defectors. However, it is critical that we do it right. This CWC legislation is all wrong. I would like to work with my colleagues to improve this implementation regime in the near future. Otherwise, our overzealous desire to shield ourselves will ultimately be used by those we would like to protect ourselves against.

Mr. KYL. Mr. President, I inquire, if all time has been yielded back, the amendment has been accepted, are we not ready to proceed to the vote on final passage?

The PRESIDING OFFICER. If all time on the bill is also yielded back, we are prepared to do exactly that.

Mr. KYL. There is no time on this side. I do not know about the other side.

The PRESIDING OFFICER. The Chair will observe the Senator from Delaware has 8 minutes remaining on the bill.

Mr. BIDEN. Mr. President, I will, in a moment, yield back the time I have left.

Mr. President, I will conclude by suggesting, again, I think this is the wrong time to do this. I think it has its greatest value held in abeyance, as long as significant progress is being made. I am fearful if this is signed into law by the President, in the near term it is going to have the exact opposite impact. But in the interests of accommodating people's schedules—although I am not sure how much we are going to accommodate because I am told there will be insistence there be a vote on the highway bill, and if that is true, we are not being able to accommodate anybody's time. But I am delighted to yield the remainder of my time.

Actually, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I yield the remainder of my time. We are prepared to vote.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. McCain) and the Senator from Alaska (Mr. Murkowski) are necessarily absent.

Mr. BREAUX. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Kentucky (Mr. Ford), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy) are necessarily absent.

I further announce that, if present and voting the Senator from Massachusetts (Mr. Kennedy), would vote "yea."

The result was announced—yeas 90, nays 4, as follows:

[Rollcall Vote No. 146 Leg.]

YEAS—90

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Burns
Byrd
Campbell
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Nickles
Reed
Reid
Robb
Roberts
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—4

Biden
Chafee
Lugar
Rockefeller

NOT VOTING—6

Bumpers
Ford
Inouye
Kennedy
McCain
Murkowski

The bill, (H.R. 2709), as amended, was passed.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE HIGHWAY BILL

Mr. STEVENS. Mr. President, I want to announce that the Appropriations Committee will hold a meeting at 2 o'clock to discuss ISTEA, and until that meeting is over, I will object to any proceedings on ISTEA.

Mr. LOTT. Let me say, because I know everyone is interested in this, this is a critical moment on a very important bill. The managers of the ISTEA II legislation have labored late into the night and all morning trying to make sure Members are aware of what is in the bill. I think they have done a good job. It might not be perfect in anybody's eyes, but we need to get it done. We need to get it done this afternoon.

There will be an opportunity for Members to express themselves, but I believe for all concerned the wise thing to do is to go to this bill as soon as we can, have a limited debate, and vote. It won't be easier on Sunday afternoon at 4 o'clock. It won't be easier in a week or a month.

I think we need to complete this legislation. We will work on both sides, as we have all along, to make sure that Members are satisfied with what we try to do.

Mr. DASCHLE. Mr. President, I concur with the remarks just made by the majority leader. We have 20 or 25 Senators, all of whom have planes to catch this afternoon, who don't want to miss this vote. I certainly hope that we wouldn't inconvenience a third to half of the Senate as we get to this crucial time.

I hope everybody will cooperate and work with us. We have to get this legislation done. My hope is that we won't leave until we get it done. I hope we could seek cooperation on both sides.

Mr. STEVENS. Will the Senator yield?

Mr. LOTT. I am happy to yield.

Mr. STEVENS. Where is the report?

Mr. LOTT. Mr. President, we have the managers here on the floor that have worked on this legislation who are prepared to begin to discuss the legislation, to answer questions, and be prepared to go to a vote when the Senators are ready to do that.

I don't know the physical location. I presume that will be available.

Mr. STEVENS. As I understand, no one lives further from the Senate than I do and I have a wife waiting for me halfway home.

However, I am also a conferee. I have not seen the conference report. I was not given even the privilege of deciding whether I should sign the conference report. I do not know for sure what is in the bill as far as the jurisdiction of the committee I happened to chair at the time. I have not waited almost 30 years to be the chairman of this committee to see it emasculated in 5 minutes because people have to get a plane home.

Mr. LOTT. In response to the Senator from Alaska, I understand that he wants to see what is in it. I think he will like what he sees in it, both for him and his constituency and the country as a whole.

This is over a $200 billion bill that is needed in this country for safe, decent roads, bridges, and mass transit. We have drug it out for weeks and months and it is time to act.

Now, does every Senator deserve a right and an opportunity to see the formula and see how each State does and look at what it means for the Appropriations Committee and every committee? Yes, let's do it. Let's do it now. You will have an opportunity to look at this, and others should. But it is time that we get serious and get it done in a reasonable time in the best interest of America.

My father died on a narrow, two-lane road that wasn't safe and I am not going to stand any longer for us having inadequate roads and bridges in this country and for money to be sometimes spent in other places.

I am bending a little bit here, but I think everybody in this Chamber knows I tried to listen to everybody's needs, concerns on both sides, on tough legislation this week and this year. I am sympathetic. I wanted to look at the numbers. I have. I haven't seen the report. I don't know whether it is perfect. But it has been a laborious, tough, involvement and it is time that we bring it to a conclusion. Help me do that.

Mr. STEVENS. Mr. Leader, I regret deeply the death of your father. I have similar feelings when cancer comes before the Senate because my grandfather, father and brother all died from cancer. I understand those feelings.

However, I also understand that our committee has responsibility for the controllable expenses. This bill reduces controllable expenses, if I am told right, by at least 2½ to 3 percent. It further will require, if I am informed right, that if there is an increase in the highway tax revenues, we must spend them, even if it means changing the budgets for other subcommittees. If there is a decrease and the estimates are not met, I am told we will take the money from controllable accounts and put it in this account to pay for highways at the cost of all the other functions that are controllable.

Now, I think that is something that I have a right to look at and Senators have a right to debate if they want to do that. I regret deeply being in a position of apparently opposing my leader who I do support and am committed to, but I feel this process needs to be understood.

Again, I am only reporting what I have been told because I have not been privileged to have a copy of this yet, despite the fact that I am on that conference committee. Now, I have been here almost 30 years, and I have never seen this happen before. Never.

Mr. LOTT. If I could respond.

Mr. STEVENS. And it is not going to happen now without me seeing that report.

Mr. LOTT. I have been here 25 years as a Member of the House and Senate and 4 years before that as a staff member. I have never seen a highway bill that was done any differently than this. Maybe this one is even a little better.

I was getting calls at my home last night until 11:30. Senators were involved, Congressmen—negotiations going on right downstairs. There have been staff members and Senators and Congressmen coming in and out of there.

I know the Senator from Alaska, as chairman of the Appropriations Committee, has seen the computer runs previously.

Mr. STEVENS. Not one. You had my staff's estimate of that run. I asked repeatedly for a copy of it and the Senator from Rhode Island will tell you, he told me the other day they were not available yet. We had an estimate of the run, and it was run on our own computers.

Mr. LOTT. I would like you to meet Senator CHAFEE.

Mr. STEVENS. I met him at Harvard Law School in 1947.

Mr. LOTT. And Senator WARNER. We would like you to get together and look at the numbers and the language and I believe you will be happy.

Mr. STEVENS. Respectfully, Mr. Leader, there have been meetings all over this Congress for the last 2 weeks and I have tried to get into them and I was not allowed in. Now, we are going to have a meeting of our committee to find out how this affects the appropriations process. Until we know how it does, I hope you will understand, I respectfully object to proceeding with this bill until we have seen a copy of the report.

Mr. LOTT. I think the easiest thing to do to resolve this problem is for you all to go meet, stop talking about it, get what you need, and then we can go ahead.

Mr. STEVENS. Parliamentary inquiry. Is the report before the Senate yet?

The PRESIDING OFFICER. The report is not before the Senate.

Mr. CHAFEE. Will the majority leader yield?

Mr. LOTT. This applies to the Senator from Rhode Island. While the appropriators are meeting and having a chance to review the documents, I think this would be a good time for the managers to begin to talk about and explain what is in the bill, what the policies may be, answer questions of Senators. We can begin the process right now. I believe Senator DASCHLE thinks that would be a wise move. I believe that would be the thing to do at this point.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, we have charts here and we will make them available for anybody who wishes to see them. I know that most of the Senators' staffs have been briefed already today on this. Those Senators who have not, we certainly would be delighted to meet with them and go over this chart and give them a copy. I think that is the way to do business. It is true that the report is not yet before us, and that was understood when we commenced this discussion, with the idea to save as much time as we could. The report will be along. Certainly, it is a massive report. People are going to have difficulty absorbing it, but those are the time exigencies we are working under at this time.

Mr. President, pursuant to what the majority leader said, at this time I will discuss the philosophy behind this legislation and some of the difficulties that we encountered as we proceeded. The philosophy we had in this legislation was to repeat what took place, as far as the general philosophical approach in ISTEA I, which passed in 1991. Now, in 1991, the first time, we passed a measure that was truly a transportation bill rather than solely a highway bill. In other words, the philosophy in 1991 was to do the best we could to devise a system to move people and goods from point A to point B in the most efficient and safe manner. So, as I say, it was more than just a highway bill; it was a transportation bill.

Mr. President, so thus we have this legislation, which deals not solely with highways, as I said, it deals substantially with mass transit. Likewise, indeed, it encourages what they call "intermodalism," which is the blending of various methods of transportation. That is where the "I" comes from in Intermodal Surface Transportation Efficiency Act. That is where the original ISTEA acronym came from. We believe we followed out that philosophy in connection with this legislation, which sometimes we call ISTEA II.

Mr. President, we then came to the always-difficult part of determining how to divide up the funds. You have a limited amount of funds, and how do you divide them? So we have a formula that is worked out. In that formula, you take into account vehicle miles traveled, number of lanes, mile lanes in the State, you take into account bridge problems, and a host of other factors, and that becomes the formula.

When you run something like that, you frequently end up with difficulties. Not everything comes out just the way you want it. So we made adjustments to the best of our ability. One of the points that was cardinal in our approach on this legislation was that all the donor States—that is, the States putting in more than they get back—should at least receive— originally, we strived for 91 cents back on the dollar. In other words, every dollar a donor State put in, the effort was made to get 91 cents back because, in ISTEA I, we have a series of States who received back 88 cents, or even less than that in some instances.

Now, when you try to bring States up from below 90 cents or 88 cents, wherever it might be—for example, California, under ISTEA, was at 89 cents. You would think just bringing California up 3 cents for every dollar put in would be a simple thing. Well, mechanically, it is; but cost-wise, it is very expensive. So despite our sincere efforts to get everybody 91 cents back on the dollars contributed, the best we could do was 90.5 cents. Therefore, if you look down the list of those receiving moneys, you will find there is no State below the 90.5, and that is a very, very significant achievement. Now, do we have some States who are getting back more than a dollar? Of course, we do. Those are the donee States. But we believe that, taking into consideration all the factors, we ended up with a fair deal.

The average increase that was received across the country was 43 percent. That is the increase over ISTEA I. In some instances, States go to more than that. Alabama is at 60.6 cents in increase, for example. Some States were less. But that is what comes about when you strive to reach as much fairness as possible.

Let me say, there are frequently distorting factors that get into these equations. What would be an example of a distorting factor? A distorting factor would be a State that had received very, very significant additional amounts in a prior year—that is, when the formula was worked out under ISTEA I. Pursuant to that, that State received either a monstrous amount of projects, or very significant amounts of other moneys coming from various sources that distorted the picture of that State, so that you could not take that State with the very high additional amounts that it had received through projects, grants, project moneys, and expect to get a 40-percent increase on top of it. So that accounts, in some instances, for the fact that some States would be considerably lower than the 43-percent increase over ISTEA I.

So, Mr. President, I am prepared to talk with anybody about this. As I say, I think many staffs have been briefed. We have tried to keep certainly the conferees from the Environment and Public Works Committee briefed as we went along. We had a whole series of meetings to try to keep them briefed. It is true that when you do negotiations like this, you don't have 65 people from each side in the room. There has to be a limited number of negotiators in order to get moving along. We were fortunate in our negotiations. We always included, every step of the way, the ranking member and representatives from his side of the aisle. Likewise, I was tremendously assisted in this by the chairman of the subcommittee dealing with this subject. That is, the Infrastructure Subcommittee of the Environment and Public Works Committee, Senator WARNER of Virginia. It so happened that the ranking member of the full committee is also the ranking member on that Infrastructure Subcommittee. So that Senator BAUCUS was, in fact, wearing two hats.

Mr. President, I think the result is not everything all our way. No; it isn't. But that is what happens when you get into negotiations.

One of the things I am very glad about is that some of the language that was in the House bill was not accepted. In other words, it was dropped. Of course, there are some things that we had that were likewise dropped. But some of the provisions—for example, the so-called "mid-cost correction"—which would reopen this whole subject in 3 years we felt was not constructive. To go through all of this another 3 years from now would not be something we would countenance.

Mr. President, I am glad to yield to the distinguished ranking member and have him address his remarks to what we have been undertaking.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, I want to first compliment the chairman of our committee, Senator CHAFEE, who has done, I believe, an extraordinary job. I wish Members of the Senate who were not in the conference committee could have watched the proceedings. They would have seen the chairman set a very civil, gracious, and respectful tone. That was the tone of the conference. Sometimes conferences get pretty acrimonious. This one was not at all.

Just a brief summary of the bill, Mr. President, on where we are.

This is truly a historic bill. That is a term that many Members of Congress use somewhat loosely around here. But this one really is. And I think even compared to the last ISTEA bill, this is historic. Let me tell you why.

For the first time, all the dollars that we as citizens pay in fuel taxes when we put gasoline in our cars, or diesel fuel in our pickups, will go into the highway trust fund. And all the dollars that come out of that trust fund will go back in the form of highway allocation, or mass transit allocation. We are not changing the distribution between mass transit or highways. But, again, all the dollars that come into the trust fund paid for by gasoline taxes will come out of the trust fund through the State's allocation for their various highway programs, or, in the case of the mass transit account, to the mass transit account. That is a major change from the current practice. The current practice, for those of us who fill the gas tank and put dollars into the highway trust fund through our gasoline taxes and are not sure that those dollars are going to come back in the form of highway allocations, sometimes those dollars at the will of the Congress and the President are used for other purposes. That will no longer be the case. Dollars in, dollars out.

We also wrote into this legislation a guarantee called a "firewall" to make sure that happens. It is not totally 100 percent guaranteed, but for all intents and purposes, it might as well be.

After that huge increase, we have a lot more highway dollars coming out, not only because of the guarantee I mentioned but also because just recently Congress enacted legislation to ensure that the 4.3 cents-per-gallon gasoline tax previously used for deficit reduction is now going into the highway trust fund, which means 4.3 cents more than previously was the case. The rule of thumb basically is that 1 penny of gasoline tax—about $1.6 billion, or $7 billion—goes into the highway trust fund. This is a big increase. On average, States will receive about a 43-percent increase in highway funds for each of the next 6 years compared with what they have received in the past 3 years. It is again for those reasons.

I might also say that the attempt of the conferees, which I think was met, was for regional balance. This process started in the Senate about a year ago. Senator WARNER from Virginia, myself, Senator CHAFEE, and Senator MOYNIHAN, also for all intents and purposes, introduced separate bills representing different parts of the country, each part having generally a different point of view. Senator WARNER was essentially concerned proportionally more about the donor States; that is, those States which historically have been receiving from the trust fund considerably fewer dollars than they have been putting in.

Then there are the Western States, and small States which have unique circumstances because of low population density, and sometimes wide spaces, which also have a certain point of view.

Then, third, there are the Northeast States by and large—I grant you these are very rough estimates and a very rough explanation. But the Northeast States, which are more densely populated historically, receive quite a bit of highway funds as well as mass transit funds.

We try to give balance in this bill, first by ensuring that the donor States, those that would put so much into the highway trust fund but receiving a lot less, are guaranteed essentially 90 cents on the dollar—90.05 cents. There are some adjustments. That is basically it.

In addition, small States receive what small States believe would be a fair share. It is true that the Northeastern States don't get the same, on average, percent increase. But that is, to be honest about it, because those States in the previous ISTEA bill got quite a large chunk of money compared with other portions of the country.

So this is a guarantee to even things out.

For those who are concerned about the environmental provisions, let me say that this bill is environmentally sound.

There is the congestion mitigation account, which has more dollars in it than the previous ISTEA bill.

So the dollars are there for cities which do not meet the Clean Air Act standards—additional dollars—to undertake the various expenditures to reduce air pollution in their cities. That is there.

The enhancement provision is still fully funded. Those who are concerned about bike paths and trails are also going to be, I think, happy with the provisions in this bill.

We also rejected in the final hours some provisions which I think would have been very harmful to the environment.

There has been some talk about the PCB problem in New York. That was rejected. It is not in here.

I can list other attempts. I know some of the environmental conservation committees are worried about what was attempted to be put in this bill and the conferees rejected.

I might also just outline and remind us that each of us, as a Senator, is worried about fighting for our respective States. That is our job, that is what we ran for office for, and that is what we hired out to do—to represent our States the best we possibly can.

As you know, Mr. President, most Senators are not wallflowers. Most Senators are good advocates for their States. They are fierce advocates for their States, which obviously means that it is hard to get 100 points of view all accommodated, particularly when each State thinks it has a unique point of view that makes it a little bit different from other States. Add to that the further complication that there is another body; there is a House of Representatives. We in the Senate pass what we think is the best legislation for our States. The highway bill that passed the Senate passed by a very large margin. Senators liked the bill. It was good for our respective States and was a good compromise for all our States. But House Members have a very different view on the highway program compared to Senators. It is, very simply, because we Senators represent entire States; House Members don't represent entire States, except for a very few. There are about five or six very-low-populated States, like my State of Montana, which has only one Member of Congress. But most Members of Congress, who tend to be from populous States, such as New York, California, and Florida, for example, are really much more interested in their districts; what is the highway bill going to do for their districts, rather than for their States? Of course they care about their States. They care deeply about their States. But I dare say they probably care a little bit more about their district. After all, they run for reelection every 2 years. They want to show, legitimately and properly, to their constituents, the people who voted for them—or perhaps didn't vote for them—that they are doing the best job they possibly can for their district, which means the formulas, as the allocations, somewhat clash.

Senators are worried about Senate distribution. Senators are worried about State distribution. House Members are worried a little bit about State distribution, but quite a bit about how much their districts get. Hence, we have this phenomenon called demonstration projects. It is difficult to meld these two competing points of view together.

I mention all of this because as we in the Senate are here, now, voting on this conference report which is about to be before us—as we look at it, we might find it is not exactly what we would have preferred. It is not exactly the bill that passed the Senate. But when Members of the Senate look closely at what is in this conference report, I think they will find it is very close to the provisions that passed the Senate and should not be distressed. Certainly, it is important to point out that every State but for one, which is a very, very special case, will receive a significant increase in dollars per year allocated to the State. The average increase, and I must underline the word average, is about a 43-percent increase for all the States. That is not a small number. It is a large number. It means, for example, that it is increased from 28——

The PRESIDING OFFICER (Mr. ENZI). The time of the Senator has expired.

Mr. BAUCUS. I ask unanimous consent to speak for 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. So it, the current program, is roughly $18 billion, the current ISTEA which expired. This bill is $26 billion, roughly; hence, roughly a 43-percent increase. And a State, on average, will receive that 43-percent increase. So, while there are little "i's" that are not dotted properly according to some Senators, or "t's" that are not crossed properly according to some, I submit this is a good bill. It is good for the country. It repairs a lot of needed repairs. There are a lot of roads in our country that need repair and curves that need to be straightened out—in addition to our very good environmental programs in this bill. I just hope the Senate, when we see the conference report from the House, acts on it very quickly because then we will have finished our business, people home will be proud of what we have done, and we can get on to other business when we come back after recess.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the distinguished senior Senator from Wyoming.

Mr. THOMAS. Mr. President, I would like to speak on this highway bill. Seeing there is no one else here, I will not limit time. But I want to, first of all, congratulate the chairman of the committee and the Senator from Montana, the ranking member, at having done what I think is an excellent job with a most difficult issue, an issue where you take a vast amount of money that comes in from gas taxes and seek to put it into a formula that is fair to all the States, and yet adheres to the purpose of the thing, which is an interstate highway program that runs from coast to coast, that runs from Mexico to Canada, and that does all the things that an interstate program is supposed to do. So there does need to be some adjustment, in terms of the dollars, with respect to the various States.

It is most difficult. I am here to support the bill. I think it is well done. Also, to remind Members that this committee has been working in this area for more than a year. This bill was brought to the Senate more than 2 months ago and passed, I think almost unanimously, and this proposition that comes before us today is very similar to what was passed here in the Senate.

One of the difficult parts, procedurally, of course, is that something quite different was passed originally in the House. In order to get this done, there has to be some conference. There has to be some communication. There has to be some allocation of differences between the House and Senate, and they were extreme, those differences, particularly in the area of the so-called demonstration projects, all above the formula line.

So it has been a very long process and one that has been tedious, one that has been difficult. I sympathize, I think, with the chairman of the Appropriations Committee in his feeling of not having been as involved as he would have liked to be. I suspect that is probably true of all of us. This is a large bill. It will be out here soon. We are saying, my gosh, we are being asked to vote in an hour or two on a bill of that kind? But the fact is, the real issues have been known for some time. The real issues have been talked about. The real issues have been in the daily reports. The real issues have been done by our staffs. So it is not a surprise.

Of course we don't know all the details, and unfortunately I have to say: How many of these bills that are 18 inches high has everybody read on the other issues? But the principles are there. And the principle is to try to spend about the amount of money that comes in on gas tax for highways; that is fairly reasonable—or for transportation. The idea of guaranteeing that each State will have 90.5 percent of what they paid in, that is pretty basic. We know that.

We have some things in there that I think are very important to all of us. We have increased the money that goes to national parks. All of us have national parks. And certainly if we don't have them in our State, we all use national parks and enjoy national parks. They have no other source for funding, and that is good. For Federal lands, of course, to the Presiding Officer and I, representing a State that is 50 percent Federal ownership—and some others are substantially higher—Federal land money is very important.

So these are the principal things that are there. These are the things that we know about. I think we have to remember that the deadline for reauthorization has passed. It passed last January. We had a temporary bill that went into place until the first of May. This is something that makes it impossible, if we do not have a bill, for States to go ahead and plan. And that is particularly true for those of us who live in the northern part of the country where we have a relatively short construction time, and States need to know what kind of money they will have to deal with. So I think it is vital that we get into this bill, that we find out the basic points that we need to be informed on, and that we move forward and, frankly, do this before we go on this recess.

I guess, as a practical matter, we can go on the recess and we will not know a great deal. The issues will still be about the same when we come back. The issue is not so much a matter of understanding as it is a matter of not everyone is going to be perfectly happy. In Massachusetts, for example, they had a huge allocation before, for a special project, so their formula this year looks a little strange because they don't have that huge project in.

So there is an effort to make it that way. So I hope we move forward. We have really been through this business of talking about whether we are going to spend the gas tax on highways or not. We went through that. We voted on that. We are ready to move forward. This is a very complicated program. I believe it is a good one. I believe the committee has done very well, and I urge my friends in the Senate to move forward and complete this discussion today.

I yield the floor. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I have been a member of the conference committee on the ISTEA bill, and I want to express my appreciation to all those who played a leadership role in writing this legislation.

North Dakota is profoundly dependent on Federal support to maintain a strong road system in our State. As all of my colleagues know, we have a big area and we have a sparse population. If we are going to have a national road system, we have to have a national program.

I can tell my colleagues, it would be pretty grim going across North Dakota without the Federal Highway Program. Instead, we really have an outstanding network of roads across our State, although they are in deteriorating condition. You cannot drive around my State without noticing that the condition of our highway network is deteriorating, and deteriorating markedly. That is why it was so critically important that there be additional resources for the road and bridge program in the country and why I am so pleased at the result of the conference committee.

We have seen a very significant increase in funding. On average, States will receive a 44-percent increase. I am pleased my State will do somewhat better than that, but it is very much needed. Our State will receive $171.5 million a year. Under the previous program, we have been getting $111 million a year. So that is a substantial increase. It is very much needed in order to catch up with the maintenance conditions that currently exist in the State.

I will say, Mr. President, that there is a part of this funding mechanism that does concern me, and that relates to the question of the funding. I am concerned about that part of the funding that comes out of the veterans' program. There is a group of us who opposed that funding mechanism in the Budget Committee and who opposed that funding mechanism on the floor of the Senate when we had an amendment to try to change it. I assure veterans in my State that we will take further steps to try to redress the wrong that is done with respect to that funding source in the highway legislation.

With that one exception, I think it is very important to thank those who have been the leaders on this matter. The Senate bill was far superior to the House bill, and we should thank Senator CHAFEE and Senator BAUCUS for their very strong leadership in allowing us to have a bill that is much closer to the Senate bill than to the House bill.

I thank our colleagues who were members of the conference committee, and I especially thank Senator CHAFEE and Senator BAUCUS. I thank the Chair and yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, I add my congratulations and my thanks to Senator CHAFEE and Senator BAUCUS especially. My colleague, Senator CONRAD, has described how important this piece of legislation is. I know both the chairman and ranking member worked very hard for a long, long while to make sure that the result was a result that is fair to all parts of this country.

A lot of people don't think much about road issues. Not many people think about roads when they are driving on a good road. They don't think about roads much until they hit a bad road. They don't think about bridges until they read a story or see a bridge that is in disrepair or has fallen down and caused a loss of life.

The investment in this country's infrastructure—roads and bridges—is critically important. In a State like North Dakota, that is 10 times the size of Massachusetts in landmass, yet with only 640,000 people living in the State, it is very difficult for us to maintain a broad network of roads and infrastructure without the kind of investment that will be made possible in this legislation.

The Senator from North Dakota, Senator CONRAD, mentioned the increase in funding that will exist with this legislation—from $111 million a year to about $170 million a year, just in excess of a 50-percent-per-year increase. That comes from the gas taxes that people pay when they drive up to the gas pumps and fill their car. That gas tax is used to invest in this country and invest in its infrastructure—roads and bridges. That is what makes possible this kind of legislation.

This is a wonderful step forward. I know some debated the size and debated the formula, but the fact is, this is the kind of investment that makes you feel this is a better country because of it. If you go to other countries—I won't mention them—if you go to a half-dozen or dozen other countries and drive on their roads, you immediately understand that they have trouble financing their infrastructure. Their roads are in disrepair, full of potholes, some barely built, some not graveled.

All you have to do is look at a country's infrastructure to see what kind of country it is. Is it a country which devotes the resources to roads and bridges and the things that make transportation possible and the transportation of grain and commodities and items of commerce back and forth possible? The answer is yes. One of the important things about this bill is, we decided long ago that transportation should be national in scope. If you are going to haul fresh fish or frozen shrimp from the State of Washington to the State of Maine, you are going to need roads across the center of the country, even if it is not very populated. Yes, you might drive through Wyoming and North Dakota. There aren't many people there. It is a lot less crowded than New York and California. But the roads to get from here to there are just as important as a mile of road in New York City. That is what the need of a national highway program is all about.

When Dwight D. Eisenhower decided to build an interstate highway system, he didn't say, let's spend all that money just where people live; he said, we are going to build an interstate highway system and we are going to build it to connect the entire country, and we are even going to make that investment in sparsely populated States because that is what allows people to move around this country.

That is the long way of saying this is a good bill and advances the interests of our country.

Let me make one final, quick point. I have worked 5 years on a small piece of legislation that probably will not mean much to some, but it is in this piece of legislation we will consider this afternoon. In five States, it is perfectly legal in America to put one hand on the driver's wheel of a car and another on a fifth of whiskey. Drink and drive and you are perfectly legal. You just can't be drunk. No problem drinking while you drive. In 22 States, if the driver can't drink, it is fine for the people in the back seat or the person in the front seat next to the driver to drink while you drive.

For 5 years, I have tried to get that changed. Some say I have no right to tell some State that they have to have a prohibition on open containers in their State. Maybe they think I have no business doing that. I have a right to say to anybody anywhere in this country who drives into an intersection in any city, any State, that they ought to have some reasonable expectation they are meeting a car in which the driver isn't drinking or in which there isn't alcohol being consumed in the car. We have a right to aspire to that in this country as a sense of national purpose.

Drunk driving is a major problem in this country. Every 30 minutes, another family receives a call. My family received the call. A loved one was killed in a drunk-driving accident. Every 30 minutes, every hour, every day. This is not some strange and mysterious illness for which we do not have a cure. We know what causes it, and we know what cures it.

This piece of legislation today includes a provision that States will enact a prohibition on open containers, and it has a sanction if they do not. The sanction is not quite as strong as I proposed, but, nonetheless, it is still a sanction.

This advances some things that I have felt strongly about and worked on for 5 years. The Senate voted on this provision. It was somewhat controversial, but it passed the Senate, and I am very pleased that, in the conference with the House, we were able to keep this provision. I also know that because this provision exists and because this Congress took this step, lives will be saved. I commend those who worked with me to fight for that piece of legislation.

Finally, let me say thanks again to all of those who worked so hard. A lot of folks worked around the clock a couple days on this. Their names probably will not be called on the Senate floor, but thanks to them for their commitment.

Mr. President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, we are only going to have an hour when the bill comes over, if that. I know many of my colleagues are eager to start the Memorial Day recess. I thought I might do a good turn for some people who have tickets to go ahead and speak now on the highway bill rather than waiting for my assigned time, which has been previously reserved under a unanimous consent request, to speak on the bill. So as a matter of courtesy to my colleagues, I wanted to go ahead and speak now.

Mr. President, we have before us a highway bill that will have a profound impact on our country. I am very proud of this bill. I am proud to have played a small role in making this bill happen.

I started 2 years ago in an effort to convert our tax system on gasoline into what I would call honesty in taxation. We had a situation where for almost a decade Americans were being told that when they bought gasoline and paid taxes, that that money was going to build roads.

And yet last year, roughly 25 cents out of every dollar of gasoline taxes ended up going to general government to fund everything, except highways.

And yet, when Americans went to the filling station and stood there pumping gas in their car or truck, they could read right on the gasoline pump the bad news, that a third of the price of a gallon of gasoline was taxes, and the good news, that at least the taxes went to build roads. The only problem, as is often true with government, the bad news was true; the good news was not true.

I was able to get an amendment on the Finance Committee bill cutting taxes last year that shifted all revenues from gasoline taxes into the highway trust fund. Senator BYRD and I started a crusade at that moment to guarantee that the money collected in gasoline taxes that went into the trust fund was actually spent on highways. That crusade has reached a successful conclusion with the adoption of this bill. Under this bill, every penny collected in gasoline taxes over the next 6 years will be obligated to be spent on highways and on mass transit in this country.

The net result is a dramatic increase in resources to build new roads, to maintain the roads we have, and it is literally true that thousands of lives will be saved as a result of the adoption of this bill and the increased resources. It is true that millions of hours that people would have spent snarled in traffic will be saved so that they can spend more time at work earning a living, so they can spend more time with their families doing the things that parents want to do, spending time with their families and enjoying the fruits of their labor.

A second achievement of this bill is that we have taken a long step—big step—toward eliminating inequity in the distribution of funds. We have a National Highway System. And I would not have it any other way. But part of the problem with the National Highway System is that when you are building certain sections of interstates or you are building big projects, it produces a situation where some States are donor States, that is sending more money to Washington than they are getting back, and other States are beneficiary States, getting more money spent in their State during that time period than they received back.

My State in recent years has been a donor State. When we were building the big east-west interstate highway systems, we were briefly a beneficiary State. But under the last highway bill, which lasted for 6 years, Texas averaged getting back only 77 cents out of every dollar we sent to Washington in taxes.

One of my goals—and a goal that was championed in this bill by Senator WARNER—has been a goal of trying to guarantee that no State in the Union will ever get back less than 90 cents out of every dollar they send to Washington to be spent on highways, no matter what national project is being undertaken. We actually did slightly better than that in this bill. But that was our objective. I think it is a major improvement in highway construction, and I think it is fairer to our States than the old system.

I am, obviously, proud of a provision of this bill which provides money for border infrastructure and for international trade corridors. We have entered into an international trade agreement with Canada and Mexico. It has literally filled up my State with trucks hauling goods and services back and forth. The good news is that it is creating jobs on both sides of the border. It has brought great prosperity to my State. The bad news is it has literally pounded our roads and highways into dust in many parts of the State. It has made I-35 in my State a parking lot for hundreds of miles. And we are looking at a doubling of the truck traffic over the next 7 years.

So one of my major priorities in the bill was to begin to provide funding to develop international trade corridors and border infrastructure. We provide $700 million in this bill for that purpose. I really see it as the beginning of something bigger.

If you look at a map of America and you look at our Interstate Highway System, and you stand back from that map, the plain truth is that we, with just a few exceptions, we have an east-west interstate highway system. And what we need to do over the next 50 years is to build a north-south interstate highway system to go with it. NAFTA will require that we do that. And I think this $700 million will be a major step in that direction.

There are many other provisions of the bill that I could talk about that I am pleased with—greater flexibility for mass transit in my State, other provisions that are of a parochial interest. But I will talk about basically the big picture on the bill. The big picture on the bill, in trying to sum it up, is every penny collected in gasoline taxes in the next 6 years will be spent for transportation infrastructure—by dramatically reducing discrimination against donor States, at least within the level you can achieve it, and have a National Highway System. The combination of those two factors—honesty in taxation and dramatically reducing the inequity in the distribution of funds—will mean that Texas will get 61 percent more money under this highway bill than we did under the previous highway bill. Our total level will be $11.3 billion.

That money is desperately needed in my State, as I am sure the money from the bill is needed in every State in the Union, to build the highways we need, to maintain the roads we have, to rebuild bridges that are structurally unsound. And obviously this is a very important day for me.

I want to especially thank Steve McMillin, who has been my staffer working on these issues. It is literally true that his involvement and dedication and the hours he has worked, the quickness of his wit, has really been the difference between many of these provisions being in the bill and those provisions not finding their way into the bill. I have been constantly amazed at how well he knows the details of these issues.

I would also like to say that I appreciate the assistance and the work of two staffers who work for Senator BYRD—Jim English and Peter Rogoff. I do not think we have any staffers who knew more about the substance of this issue or did more than they did.

Often people who serve in the Senate get great credit for work we do. And often much of that work is done by our staffs. I wanted to be sure to single out these two staffers for Senator BYRD, and Steve McMillin on my staff who has rendered great service to my State and to the country.

Let me also say it has been one of the great privileges that I have had in public life in working with Senator BYRD on this issue.

When we joined forces here I felt it was like having a team of good, solid, strong mules attached to a wagon that has been stuck in the mud for a very long time, stuck in the mud as funds were taken out of the gasoline tax and spent on general government, really cheating the taxpayer and deceiving the taxpayer in terms of where money was going.

We have worked together for over a year, literally had dozens and dozens of meetings with our staffs, together with outside groups. We have worked together to build a nationwide coalition. We have undertaken, I believe, the only true bipartisan effort in this Congress. We have been successful.

Senator BYRD obviously was a critical part of that. It has been a great privilege for me to have been partners with him on this issue and to have an opportunity, at least in this way, to link my name with the premier legislator of our generation.

Mr. President, I want to congratulate BUD SHUSTER on this bill. This bill, I am sure, in many ways is the culmination of his successful career in the House. I am sure he hopes to have many other successes. But for the chairman of the Transportation Committee in the House to have put together a bill which achieves one of his lifelong objectives as a legislator, to assure that funds that are collected in gasoline taxes end up being spent for the purpose they are collected, this has to be, at least to this point, the seminal achievement of his career.

I want to thank Senator CHAFEE for his leadership and his help in this bill. I want to thank Senator DOMENICI for working to see that we guaranteed money for highways, but that we didn't start a new entitlement program in the country.

Finally, I want to thank Senator LOTT for his leadership in pushing this effort forward. I do think this is an important bill and will certainly go down as one of the most important things we have done in this Congress, one of the most important things we have done in many Congresses.

Mr. DOMENICI. Will the Senator yield?

Mr. GRAMM. I am happy to yield to the Senator.

Mr. DOMENICI. Mr. President, I just wanted to say where you thank me, for whatever you did, I want to add to that statement to the best of our ability we have not sacrificed the other appropriated accounts to the increases in the highway bill. We have found offsets and other things. They could suffer at some time in the future, but what we put before the Senate when we approved this with the offsets already in there, even with the new programs for veterans that are in here, $600 million, we will not take the extra money out of the NIH and other accounts of government.

I told you I wanted to do that and you did not object on the floor, but this is the first time we could actually do it in the bill. We could think about it on the budget resolution, but we could do it on the bill.

Mr. GRAMM. My point, and I will yield the floor on this point, our objective was to guarantee that we spent money on highways, but we didn't want to start a new entitlement program. I think when you try to do something that has not been done before, it is often very difficult. But I think we can take pride in the fact that we do have all of the offsets in the bill. We are not going to bust the budget. We didn't start a new entitlement.

Mr. STEVENS. You said that for the third time. What is it, if it is not an entitlement program?

Mr. GRAMM. What it is is an earmarking of funds to be appropriated for the purpose that the tax was collected. The Appropriations Committee must still act for the money to be spent, but we have a guarantee that the money cannot be spent on anything else.

Mr. STEVENS. If the Senator will yield further, there are lots of programs where the taxes are collected for a particular purpose.

Take the airports and airways funds, for instance. There is a whole series of them. Those funds come from the appropriations process and they are appropriated.

You have created an entitlement in this bill, the most massive entitlement other than the Medicare trust fund entitlement, that I know. There is no discretion for anyone to change that except by an act of Congress, a subsequent act of Congress. There is no individual allocation of those moneys to meet needs.

The President will submit a budget in January. It will lay out what the highway department believes will be the return as estimated to have been brought into the Treasury from the year before and it will be spent. It will be spent according to this bill. There will be no review of what has happened in the year before, and we in the appropriations process would go over the budget request through the year and in September send a bill to the President to spend the money as we believe—that Congress believed, not the Appropriations Committee, but Congress believed—it should be spent.

That will not occur because this money will be spent according to the budget received from the Federal Highway Administration every year. That will be done by the Federal Highway Administration under their understanding of this law for 5 years. It will not be changed except by an act of Congress.

To this Senator, that is the most stringent entitlement that we have on the Federal laws in this country, that we have ever had.

Mr. GRAMM. Let me say this. We had a long, running battle over this issue. We had a long, running battle over this issue. Senator BYRD and I put before the Senate the proposition that the money collected in gasoline taxes ought to be spent. We thought it was wrong to have it diverted to other uses. We had a choice. The Senate voted overwhelmingly for it. We had two ways we could go. As the Senator knows, the House wanted to do an entitlement to take it completely out of the appropriations process and out of the budget. We rejected that.

We tried to find a compromise that would solve both objectives. One, not to take it out of the budget process, not to take it off budget, not to take it out of the appropriations process. But on the other hand, to be faithful to the commitment we made that the gasoline tax would be spent.

I think, given the commitment the Senate made overwhelmingly on the amendment that I offered with Senator BYRD, we did as well as we could do in meeting everyone's concern. I am proud of what we have done. I think it is a good compromise.

I conclude by again saying what a great privilege it was for me on this bill and my small involvement to work with Senator BYRD.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. STEVENS. Mr. President, I appreciate what the Senator from Texas has said. This Senator supported the concept that moneys which come in through gasoline tax should be spent for the purposes the taxes were collected. We have not had an argument over that.

Where we have the argument is over whether there should be a bill passed every 5 years that sets absolute corridors for the spending of money, with no discretion on the part of appropriators or the Congress itself to change—6 years, I beg your pardon. That is even worse.

The real problem we have with it is flexibility. I still haven't seen the bill. I have come to tell the Senate that I have visited with the chairman of the Budget Committee, for whom I do share with the Senator from Texas our admiration of the Senator from New Mexico as the chairman of the Budget Committee. Based upon his understanding of the bill, there is not a great problem, at least in the first 2 years of 1999 and the year 2000 with regard to the nondiscretionary funds that are within the jurisdiction of the Appropriations Committee being reduced because of the expenditure of more moneys to highways that are currently estimated.

Now, that is our understanding. We haven't seen the language yet. To my knowledge, no one in the Senate yet has read that language. Under the circumstances that we have, I have come to this conclusion after having the meeting with our committee members and listening to the staffs of the Budget Committee and the Appropriations Committee with regard to the impact of this bill on the appropriations process.

I will not insist upon the delay of this bill. However, I believe it may set a new unfortunate course with regard to the flexibility and expenditure of taxpayers' money and the ability to use the money for the purposes that have the most need at the time the bill is passed annually. This is going to lock us in for 5 years. Again, I am saying to the Senate, with I hope at least the understanding of my great friend from West Virginia, this Senator, who is chairman of the appropriations bill, intends to look at this bill, examine it very closely, and if it does constrict us so that we do not have the flexibility we should have, we will bring before the Senate this year an amendment to this bill and we will have it out.

We are not arguing over whether the highway tax money should be spent for highways; we are arguing how it should be allocated and when the determination should be made as to what the priorities are for the use of that money. This bill will set it for 6 years now. If it went through the appropriations process, we would determine that annually.

I see my great friend here, Senator DASCHLE, who just went through that horrible flood up in his area. We have disasters in this country. We have earthquakes and floods, and we have enormous tornadoes. We have to have discretion to allocate funds in a way that meets the best needs of our people as a whole.

I do not think that the bill that is going to come before the Senate can be followed without an enormous spillover into the areas of other nondefense discretionary funds, which must be allocated by the Appropriations Committee annually. What I mean is, I think the effect of this bill will be that we will have to constrain other nondefense discretionary spending in order to accommodate the extraordinary demand here that if the revenues from the gas tax money exceed the caps, exceed the estimates, it is going to be spent anyway. And we have a 4-percent leeway, what I call a "fudge factor." But if they go up to 10 percent, we are going to have to absorb 6 percent of that from other nondefense discretionary accounts. That is going to affect every single State in the Union adversely. It is going to affect the operations of this Government adversely.

I can't tell the Senate it will happen now. I can only tell the Senate that, as I understand the way the bill has been written, it could happen. And if it does, I do think that would be a disaster. Again, to a certain extent, I sense a feeling here, particularly from my friend from Texas, that the Appropriations Committee has not provided funds for highways. We have exceeded the amount that came in from the gas tax in the period of the last 5 years. We have spent more money through the appropriations process for highways than would be spent under this bill for highways, if we had had the allocation of funds that the Budget Committee has generously brought back into this process and made available for this entitlement.

This turf battle that I sense is not coming from our committee. All we are saying is that there is not flexibility here. If the authorizing committee wants to pass a law saying you are going to allocate this money, then pass a law saying you are going to allocate it every year. But don't sit around and tell people you have done a good job for the country when you have allocated for 6 years, based upon an estimate that the two organizations that really are most concerned—OMB and CBO—disagree, as you know. They have about a $10 billion difference in the estimates of expenditures. We are taking the high one, of course; we are going to follow the high one. If we were wearing our budget-cutter hats, we would take the low one. But here we are spenders, so we are taking the high one.

The problem is that one section of this bill says—and I have not seen this yet—if the money doesn't come in, we have to make it up. I was just told by one of the staff that that probably is not true. He used the words "flexible guarantees." I am going to be anxious to read how we write a bill that is flexible every year based upon the variations of one anticipated and estimated revenue, as opposed to estimated actual revenues, when either one is any more than an estimate. I have to adjust the budget and meet a total cap level under the budget agreement and be subject to a point of order if we are not right.

I say to my friends who have been involved in this, I wish you luck. Don't feel surprised if this Senator is back out on this floor this year with amendments to this bill to do it right.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. I will not be long.

Mr. KYL. Will the Senator yield?

Mr. DOMENICI. Mr. President, I ask that the Senator from Arizona be permitted 1 minute.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent that I may be recognized after the Senator from New Mexico. The Senators speaking now are more directly involved in the action going on here. Therefore, they will explain to the rest of us what is occurring. I wanted to ensure that they had an opportunity to speak. I would like the opportunity to speak after the Senator from New Mexico.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me first say that I think everybody knows that I have the highest regard for the distinguished Senator from Alaska, the chairman of the Appropriations Committee. There should be no doubt in this body of my very, very high respect and honor for the Senator. Let me repeat. Everybody knows I have the highest honor and respect for Senator BYRD, also. He has known that for a long time. I have to say that Senator GRAMM started off to do something and he didn't mince any words. He said what he was going to do. Joining together with Senator BYRD, he has done that.

Now, frankly, I believe I can say to my good friend, the chairman of the Appropriations Committee, that this is not what I would have done with reference to trying to minimize the way this fund looks. Does it look more like a real appropriations bill, or does it look somewhat like a mandatory program? I guess I would have to say, for all the accolades of trying to keep it from being an entitlement, it probably is a bit more on the mandatory side than it is on the appropriations side. But at least it does get appropriated every year. There is a firewall, much like the trust fund established for crime by the same distinguished two Senators. If you look in that appropriation bill where we set aside some of the savings that would be forthcoming from a reduction in Federal employees, as I recall, you will find it every year listed as an entrusted amount. If you don't spend it in that bill—Senator JUDD GREGG's bill now—you can't spend it for anything. So it is there every year.

On the other hand, there is some concern that if you put a 5- or 6-year program on track and it is not subject to appropriations review, which I submit—be it the most in-depth or not—is the only annual review we have around here. Others are done willy-nilly and some don't get reviewed for 10 years, and some do often. The truth is that you can't get away without appropriations review every year, because you have to appropriate every year. This is going to have to be appropriated every year. So that part is still there. But essentially, in the quest to see that every penny of the 4.3 is spent, there is a recognition and a very strong position by the House that the resources, the taxes that are estimated could be up or down from the obligational authority we attribute to them, because if we assume we are using them all and then the tax comes in higher, we haven't used them all. If we assume they come in lower, then we are spending taxes that didn't come in.

Essentially, what the Senator from Alaska, chairman of the Appropriations Committee, is concerned about is—and I think Senator BYRD and Senator GRAMM, who was an appropriator for part of his life in the Senate, would be concerned—if, in fact, you were obligated to spend an amount that represented an increase, because the reality was that the tax was higher and by doing that you had to cut other appropriation committees, which would make that excess a mandatory demand on you—well, I told my friend that I didn't read the language when it was last drafted. I haven't seen it yet. In fact, for that eventuality, if it is higher than expected and you have to spend it, it holds the appropriators harmless. We don't need to talk about what that means. If you want to say what that does to the caps, you say that. I say to the Senator from Texas; but for the time being, I am saying it holds them harmless. I would not have spent the extra amount based on estimates. I think we are accurate and I would have used them like we have done in the past.

Having said that, obviously, a lot of Senators are not going to be pleased with the allocations and other things. I didn't have anything to do with that. It is not my assignment. I felt somewhat uncomfortable. I don't have authorizing authority or appropriation authority. Nonetheless, it fell on me to try to make this a fair bill.

When it comes to the appropriations process, I am going to put in the report right now the offsets that are in this bill. It is not bill language, but we insisted early on that we offset the increased expenditures from the appropriated accounts, so that by spending more money, we wouldn't be cutting the appropriated amounts which we have set in place by operation of law for a number of years. So we used the word "offsets," and we found some.

Maybe there will be a further debate on the offsets. I am prepared to debate them. I don't like to be responsible for all of the offsets. Some are found by us. I am more than willing to say I think they are fair. We have committed ourselves to increasing the expenditures for highways and mass transit and not to diminish the amount of money available for the remainder of domestic expenditures under the overall agreement that we made with reference to the budget. That is the best that we can do.

That does not mean there will not be added pressure for the appropriators because of this. It does mean if you wanted more flexibility in the highway programs, you won't have that much. But I surmise that before we are finished there will be some flexibility, because there are needs.

I also want everybody to know, when we have departed significantly from the obligational authority for highways and mass transit and increased it dramatically in the appropriations bill, for the most part it was when we had an emergency. All that money went to freeways that went to highways. It didn't come out of the regular trust fund, nor would it come out of these dollars that are in this bill. You would have an emergency just like you had in the past.

I send that little summary to the desk and ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ISTEA CONFERENCE RESOLUTION

[1998–2003 outlays in billions]

Category	WODI	Add-ons	Total
Highways	$139.2	+14.5	$153.7
Mass transit	27.7	+3.0	30.7
Total	166.9	+17.5	184.4

	Add-ons	Net of offsets
Offsets required for add-ons	+17.500	
Potential Offsets to Add-Ons:		
Veterans tobacco (OMB Scoring)	−16.969	0.531
Veterans add-backs (Montgomery GI)	+1.602	2.133
Veterans net savings	−15.367	2.133
Student loan extension 3 month	+0.090	2.223
Reduce Social Services block grant	−2.423	0.200
Net total offsets	−17.700	(1)

[1] Not applicable.

Mr. DOMENICI. Mr. President, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE.) The Senator from Arizona.

Mr. KYL. Thank you, Mr. President.

First of all, let me say that I think it is a good thing that we are finally beginning to spend gas tax money on the purpose for which the tax was collected in the first place; namely, our highway and transit systems in this country. But I don't think it is a good thing that there are winners and losers in the process depending upon who you are.

Mr. President, I have a hard time justifying this legislation to my constituents in Arizona who continue to ask me why it is that the fastest growing State in the country that sends $1 to Washington in gas tax continues to get less than $1 back. As a matter of fact, because we are a Western State, there is also supposed to be some consideration given to the fact that the wide open spaces require more highways, as is the case with many of the other Western States. But it is not to be. Instead, historically Arizona has gotten 86 cents on the dollar. And, under the original Senate bill, we were supposedly guaranteed that Arizona would receive the generous sum of 91.5 cents on the dollar. It now turns out that it will be 90.5 cents on the dollar.

Mr. President, I am not here asking that Arizona receive something extra, unlike a lot of the people who are still negotiating in the cloakroom here. I am not asking for money for special projects. But I am asking why it is that the donor States—the States that send more than they receive—can't eventually hope to get some equity in this program. What we are doing here is locking in for 6 years a continued unfair program for the 18 or so States that contribute more than they receive.

Mr. President, this reminds me a little bit of the "Animal Farm" story of George Orwell of 1946. It turns out that all the animals in the barnyard were equal, except that some were more equal than others. That is the way it is with the States of the Union here.

As I said, you have a fast-growing Western State like Arizona, the fastest in the country, that receives, or would receive under this legislation, 90.5 cents for every dollar sent to Washington.

How will some of the other States make out? The majority leader pointed out that Senator STEVENS would probably be pretty happy with what Alaska got under the bill. Instead, I would be happy if I got $5-plus for every dollar that I sent, which is what Alaska will receive. I would be happy if I were in Connecticut and I got $1.52 for every dollar I sent; or Delaware, $1.54. These are very small States, by the way. Montana, a large State—we are supposed to get a little extra consideration for the size—gets $2-plus back; my fellow Western States of New Mexico and Nevada each get more than $1 back—$1.14 and $1.18, respectively. The Senator from West Virginia, his State receives $1.41 back. Another small State, Vermont, $1.76; South Dakota, $2; Pennsylvania, $1.20.

It turns out that who you are matters more in this process of deciding how this money that everybody in the country pays— that matters more than equity.

Once we have an opportunity to review the bill—there has been one copy available, and everybody has had to try to sort through that one copy—I think there are going to be a lot of criticisms of how this money was allocated. There will also be a lot of questions asked, many of which have been raised here already.

How about the offsets? This is all supposed to come out equally, so that we are not spending more than we are taking in. As the Senator from New Mexico pointed out, we are now going to use the more generous OMB figures than the CBO figures which we have always insisted on using in the past because we think they are more accurate. That would permit us, in effect, to exceed the budget caps.

There is a significant question of the appropriators' authority, which Senator STEVENS raised. There are questions about the earmarks. As far as I can tell from the information I have, they don't add up. When the bill left the Senate, the formulas for the individual State projects called earmarks were supposed to be included within the State's formula allocation. But apparently that is not true under this bill, at least to the extent of $200 million; I don't know beyond that.

Mr. President, probably the most distressing thing about this is that most of the Senators who are going to vote on this will not know what is in the bill, and, therefore, they may have a bit of a hard time explaining to their constituents later on when problems are raised why they were in such a hurry to vote on this.

We lose nothing by waiting until we have an opportunity to review this. There is authority for States to continue to spend and charge it against this allocation. That has expired. We can extend that for another 10 days, until we get back.

But this bill is over $200 billion, one of the largest spending bills that this Senate, this Congress, will have ever authorized, and yet we don't know most of what is in the bill.

As I said, what I do know I don't like, because it appears that once again a few States are being discriminated against in order that other States, which are represented heavily on the committees that make the decisions, will get more than their fair share.

Mr. President, I regret to have to be this critical, but I think it has to be said very plainly.

When I have an opportunity to find out a little bit more about it, as the staff is now being made available to us—they have been very busy working all through the night, as I understand it, trying to get this finally negotiated—as they are made available to us, we will be able to understand some additional information about this. I intend to then return and comment some more.

But I did want to make the point right now that I think this is not a good process. We are hurrying too much. We are spending too much. We aren't going to be able to offset this, probably, under the estimates that have been provided. There are too many questions. And the numbers don't add up. To the extent that the States that are making contributions in excess of the amount that they receive back and are hoping to receive some ultimate relief, it appears that we are locked in for a 5- or 6-year period and that is not to be and, therefore, that our citizens will continue to be discriminated against.

Mr. President, for all of those reasons I am going to be very disappointed to have to change the vote I cast when I supported this bill earlier because I thought we were making progress in changing the formula. I wanted to assist our leadership in moving toward the concept that the gas tax dollars will at least be spent on highway and transit needs, that I will reluctantly have to vote no on this and just hope in the future, in the interests of States that are donor States here, that we can get a more equitable distribution of these funds.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, first of all, I acknowledge the Senator from New Mexico who spoke just a few moments ago. Senator DOMENICI has been very helpful throughout this whole process. I appreciate the comments he has just made. I appreciate the way he worked with the authorizers in trying to develop this formula and to establish the policy for the future and to deal with the offsets. He has just been tremendously helpful, including working with the Appropriations Committee this afternoon. I thank him for his work.

A lot of other people here put in effort on this. Senator BOND, Senator GRAMM, Senator WARNER, Senator CHAFEE, Senator BYRD, and Senator KERRY have been involved in this. There is a long list of Members on both sides of the aisle who have been involved in this and there has been a lot of give and take. And some of us were giving, even last night, on some projects for which we were very hopeful.

But I want to remind my colleagues, when you might say, "We could do better," this is the largest infrastructure transportation bill in history. The formula is more fair than it has ever been before. My State got 84 cents on a dollar in the past; it is going to be in the 90s, like every other State this year. Most States will be getting more than they got over the past 5 or 6 years.

So I think we need to get started. There are States in this country, in the Midwest and the Northeast, they need to know that they have this money and how much so they can get started with projects now. The season is going to get away from them. So I hope every Senator will keep that in mind and allow us to get this to completion.

SCHEDULE

Mr. LOTT. I would like to say to all Senators, with regard to the week we are coming back. I have been discussing this with Senator DASCHLE. When we complete this infrastructure transportation bill, ISTEA II, and dispose of that, that will be the last vote or action of this week, other than doing some Executive Calendar matters we are trying to clear. The next vote will not occur until Tuesday when we come back. That would be June 2. But when we return on Monday, June 1, we will continue to debate the tobacco bill, and the pending issue is the Durbin amendment. Of course, there are other amendments that are pending. We will be talking back and forth over the next week as to exactly how the process will go forward.

On that Tuesday, the 2nd, the Senate will conduct a cloture vote on the motion to proceed to the nuclear waste bill, which I will put in place in the next few minutes, as well as amendment votes relative to the tobacco legislation.

I do want to emphasize, the nuclear waste issue we intend to double track. That is one where we can take an action and then come off of that and go, then, to other legislation, the tobacco legislation. And it will take a period of days to get through the process we have to go on, on nuclear waste. But that is not intended to take the place of either the tobacco bill or the Department of Defense authorization bill. It will be double tracking as we go forward.

So I expect the Senate will be considering the tobacco bill and the nuclear waste bill during the first week in June. If problems arise with regard to either one of those, the other issue that we have already done some work on, and we want to go back to at the first opportunity, would be the Department of Defense authorization bill. We need to get that completed so we can then go to the appropriations side of the defense bill. I know that first week back will be a busy one because we have a lot of important work to do. We will be in session on Monday, but we will not have recorded votes on that Monday.

Senator DASCHLE, did you want to comment or ask a question on that?

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I appreciate the information the majority leader has just shared. I think that is certainly in keeping with the understanding that he and I have had in our private discussions now for some time. My hope is that we can come back and complete our work on the tobacco bill. I believe that is certainly within our reach.

I understand, because of the plethora of other bills that are on the calendar, we have to begin consideration of other issues. We have some amendments and bills that we want to raise at some point as well. But I think this schedule accommodates the demands that we are going to have on our schedule for the balance of the month of June, and I am hopeful that we can see the same level of cooperation on both sides of the aisle with that schedule that we have had over the course of the last 2 or 3 weeks.

I certainly have no objections to proceeding as the majority leader has suggested, certainly with the expectation that we will complete our work on the tobacco bill early when we come back.

The PRESIDING OFFICER. The majority leader.

NUCLEAR WASTE POLICY ACT—MOTION TO PROCEED

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now turn to consideration of Calendar No. 312, the Nuclear Waste Policy Act.

Mr. DASCHLE. Mr. President, I object.

The PRESIDING OFFICER. Objection heard.

CLOTURE MOTION

Mr. LOTT. In light of the objection, I now move to proceed to Calendar No. 312 and send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

> CLOTURE MOTION
>
> We the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 312, H.R. 1270, the Nuclear Waste Policy Act:
>
> Trent Lott, Frank H. Murkowski, Chuck Hagel, Slade Gorton, Pat Roberts, Olympia J. Snowe, Jon Kyl, Tim Hutchinson, Rod Grams, Spencer Abraham, Pete Domenici, Bill Roth, Don Nickles, Thad Cochran, Michael B. Enzi, Charles Grassley.

Mr. LOTT. I now withdraw the motion.

The PRESIDING OFFICER. The motion to proceed is withdrawn.

Mr. LOTT. For the information of all Senators, the cloture vote will occur on Tuesday, June 20, at a time to be determined by the majority leader after consultation with the minority leader.

I ask unanimous consent the live quorum call under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO FILE REPORTED ITEMS

Mr. LOTT. Mr. President, I ask unanimous consent that on Wednesday, May 27, the committees have from the hours 11 a.m. to 2 p.m., in order to file legislative or executive reported items.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—S. 981

Mr. LOTT. Mr. President, I ask unanimous consent that the report to accompany S. 981, the Regulatory Improvement Act of 1998, be star printed, with changes that are at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING PRESIDENT CHANDRIKA BANDARANAIKE KUMARATUNGA AND THE PEOPLE OF SRI LANKA ON 50 YEARS OF INDEPENDENCE

Mr. LOTT. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 372, S. Res. 172.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The resolution (S. Res. 172) congratulating President Chandrika Bandaranaike Kumaratunga and the people of the Democratic Socialist Republic of Sri Lanka on the celebration of 50 years of independence.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 172) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 172

Whereas February 4, 1998, is the occasion of the 50th anniversary of the independence of the Democratic Socialist Republic of Sri Lanka from Britain;

Whereas the present constitution of the Democratic Socialist Republic of Sri Lanka has been in existence since August 16, 1978, and guarantees universal suffrage; and

Whereas the people of the Democratic Socialist Republic of Sri Lanka and the United States share many values, including a common belief in democratic principles, a commitment to international cooperation, and promotion of enhanced trade and cultural ties: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates President Chandrika Bandaranaike Kumaratunga and the people of the Democratic Socialist Republic of Sri Lanka on the celebration of 50 years of independence;

(2) expresses best wishes to the Government and people of the Democratic Socialist Republic of Sri Lanka as they celebrate their national day of independence on February 4, 1998; and

(3) looks forward to continued cooperation and friendship with the Government and people of the Democratic Socialist Republic of Sri Lanka in the years ahead.

SEC. 2. TRANSMITTAL OF RESOLUTION.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to the Government of the Democratic Socialist Republic of Sri Lanka.

RESOLUTION REGARDING ISRAELI MEMBERSHIP IN A UNITED NATIONS REGIONAL GROUP

Mr. LOTT. I ask unanimous consent the Senate proceed to the consideration of Calendar No. 373, S. Res. 188.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 188) expressing the sense of the Senate regarding Israeli membership in a United Nations regional group.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent the resolution and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 188) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 188

Whereas, of the 185 member states of the United Nations, only the State of Israel is ineligible to sit on the Security Council, the Economic and Social Council, or any other United Nations committee;

Whereas the State of Israel was created in response to a 1947 General Assembly resolution and joined the United Nations in 1949;

Whereas the members of the United Nations have organized themselves according to regional groups since 1946;

Whereas eligibility for election to the rotating seats of the Security Council, or other United Nations councils, commissions, or committees, is only available to countries belonging to a regional group;

Whereas Israel has remained a member of the United Nations despite being subjected to deliberate attacks which aimed to place the legitimacy of the State of Israel in question;

Whereas this anachronistic Cold War isolation of Israel at the United Nations continues;

Whereas barring a member of the United Nations from entering a regional group is inimical to the principles under which the United Nations was founded, namely, "to develop friendly relations among nations based on respect for the principle of equal rights . . ."; and

Whereas Israel is a vibrant democracy, which shares the values, goals, and interests of the "Western European and Others Group", a regional group which includes Australia, Canada, New Zealand, and the United States: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) it should be the policy of the United States to support the State of Israel's efforts to enter an appropriate United Nations regional group;

(2) the President should instruct the Permanent Representative of the United States to the United Nations to carry out this policy;

(3) the United States should—

(A) insist that any efforts to reform the United Nations, including the Security Council, also resolve this anomaly; and

(B) ensure that the principle of sovereign equality be upheld without exception; and

(4) the Secretary of State should submit a report to Congress on the steps taken by the United States, the Secretary General of the United Nations, and others to help secure Israel's membership in an appropriate United Nations regional group.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to P. L. 103–227, appoints the following individuals to the National Skill Standards Board:

Upon the recommendation of the Democratic Leader: Tim C. Flynn, of South Dakota, Representative of Business; Jerald A. Tunheim, of South Dakota, Representative of Human Resource Professionals.

APPOINTMENT BY THE MAJORITY LEADER AND MINORITY LEADER

The PRESIDING OFFICER. The Chair announces, on behalf of the two leaders, pursuant to provisions of S. Res. 98, agreed to July 25, 1997, the appointment of the Senator from Nebraska (Mr. KERREY) to the Global Climate Change Observer Group, vice the Senator from New Mexico (Mr. BINGAMAN).

UNANIMOUS-CONSENT REQUEST—CONFERENCE REPORT TO ACCOMPANY H.R. 2400

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now proceed to the ISTEA conference report notwithstanding the receipt of the papers and the reading be considered dispensed with.

Mr. KERRY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts reserves the right to object.

Mr. KERRY. Mr. President, as I have discussed with the distinguished majority leader, I do not want to slow up the proceedings. I never have. I am trying to simply resolve a couple of last-minute details. So I am constrained to object, at least for a few moments, until Senator CHAFEE can finish doing what he is doing and we have a chance to confer. I assure my colleagues, this should not be a long-term process, and I hope we can resolve it very, very quickly, but I do object at this moment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I understand, as one of the managers of the bill, we can speak at some length here. But is there desire that someone wish to have a minute or two?

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I was going to use about 2 minutes to thank the distinguished chairman of our subcommittee, the Senator from Virginia, and say kind things about him. But if he wishes——

Mr. WARNER. Mr. President, I yield the floor instantly.

Mr. BOND. Mr. President, I rise to say a very quick word or two about the TEA-21 , I believe, Transportation Efficiency Act of the year 2000 and to express my deep appreciation for the leadership that Chairman CHAFEE, Chairman WARNER and Senator BAUCUS have provided. This, as has been said, is one of the very largest bills that we have acted upon. It has an impact on each of our States and will have for the next 6 years.

It has been a very difficult fight to raise the dollars necessary and to allocate them fairly. I express the deepest appreciation to all three of my colleagues I mentioned.

I want to say what tremendous work has been done by the staff on the majority side, Jimmie Powell, Ann Loomis, Dan Corbett; on the minority side, Tom Sliter and Kathy Ruffalo.

On my own staff, Tracy Henke has worked literally hundreds of hours and has had very little sleep, as all of the staff on Environment and Public Works. They have done an outstanding job.

When we started this process, I said there were five essential goals: Increase the funding for highways. We need a bigger pie. We need, for the State of Missouri, to get a fair share. We must upgrade and repair deteriorating bridges. We need to put the trust back into the highway trust fund so that people who pay gas taxes into the trust fund will know that those gas taxes are coming back to build better roads, bridges, highways and transportation system. Finally, there should be flexibility so the States and localities can get the most for their money.

I am delighted they have approved all those principles. I note for the record what I have noted in committees, in conferences, in individual discussions. I have grave and deep problems with and do not agree with the use of the funds from a newly and administratively created veterans' smoking program to offset the expenditures of the highway fund. I believe the highway fund should be spent for highways; veterans' funds should be spent for veterans. I have fought those battles; I have lost those battles because the President has insisted on using that as an offset. I intend to come back and work with colleagues, such as Chairman SPECTER of the Veterans' Committee, Senator MCCAIN, Senator SMITH and others to put a good veterans health care measure into the next vehicle, and I believe that is probably going to be the tobacco bill.

We are going to see that our veterans are cared for. I realize that offsets are needed. I do not think we should have taken this one. But for our State, we are going to receive tremendous benefits in Missouri. This is nearly a 53-percent increase in the annual funding for the State of Missouri where our roads, highways and bridges are not just a matter of convenience, they are a matter of life and death. Safety depends upon adequate roads.

For the first time, we are going to see our share of the funds moving up from the low 80 cents per $1 sent in to almost 92 cents. We will see a structure to ensure the gas taxes will be used for highways and transportation. The flexibility is expanded and for good measure.

I thank the leaders for agreeing to my wetlands banking amendment which will enable us to ensure improved protection for wetlands in accommodating the highway construction.

Last year, I worked with people on both sides to put through the Bond extension which kept the highway funding flowing until May 1 of this year. We have not had contract authority, obligation authority for the last month. I believe the President, through his Secretary of Transportation, expressed great appreciation for this measure, and I hope that we can pass it today and get it signed by the President so we can go back to rebuilding the roads, bridges and highways that are vitally important for our country.

I thank the leader and thank the leadership of the committee.

UNANIMOUS-CONSENT REQUEST—CONFERENCE REPORT TO ACCOMPANY H.R. 2400

Mr. LOTT. Mr. President, I renew my unanimous consent request that the Senate proceed to the ISTEA conference report, notwithstanding the receipt of the papers, and that the reading be considered dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. I object at this point.

Mr. LOTT. I thought this was going to be resolved.

Mr. KERRY. We are just in conversation now, Mr. President. If we can just have time so we can complete the conversation.

Mr. LOTT. Mr. President, I intend to renew this request about every 2 minutes for the remainder of the day, and as soon as we get this consent, I suggest we go to a recorded vote, because there are major problems being caused by this delay and they are only going to grow. In that Senators want to express their interest, concern, appreciation or hatred, they will be able to do so at great length.

I hope we can get something done here so we can move to this unanimous consent request and then move to a vote. Senator DASCHLE is in concert with me on this. It is the right thing for us to do for each other and for our country.

I will withhold momentarily, but I am going to renew this request in just a few minutes.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

ISTEA

Mr. WARNER. I thank the Presiding Officer.

Mr. President, while both leaders are present on the floor, as one who has been involved for a year and a half in preparing the legislation which now, hopefully, will be voted upon by the Senate, I thank my distinguished colleague, the majority leader, and my colleague, the distinguished minority leader. I just think of how many times during the course of this conference we have made calls to them to seek their guidance that both are entrusted to give as a consequence of their very important positions.

I also have virtually over the last 7 days and nights worked at the side of my distinguished chairman, Senator CHAFEE, and the distinguished ranking member, the Senator from Montana, Mr. BAUCUS, as we prepared and then I think very fairly, forcefully and successfully advocated the Senate's position before the House of Representatives.

The House was very ably represented by Chairman SHUSTER, ranking member Congressman OBERSTAR, Congressman PETRI, Congressman RAHALL—the four from the House versus the three from the Senate.

It was a long conference. Not until late last night did we put in place the final decision for the foundation on which I believe this bill rests, and that is equity among the States. Fifteen months ago, as chairman of the subcommittee in the Environment Committee entrusted with this important legislation, we embarked on the hearing process for this legislation. We held hearings in seven different States because it was essential to go out and get the views of the people: The citizens, the supervisors, the State legislatures and, indeed, the representatives of their legislatures and the Governors themselves. Senator BAUCUS and I actually went to a joint hearing of the States of Montana and Idaho. Senator CHAFEE held hearings in other parts of America. So we didn't just sit in Washington, we went to where the problems are and to learn firsthand.

Senator BAUCUS has been an absolute brick, as we say throughout my part of the world, as my partner, together with Senator CHAFEE, not only in the final hours, but throughout the 15-month process to bring this bill to fruition.

The dollar value represents the largest increase in the history of America. Many people played a vital role in that, notably the senior Senator from West Virginia, the senior Senator from Texas, Senator DOMENICI and, indeed, Senator STEVENS was very helpful, because this is a very complex series of votes and then adjustments to the various accounting principles and budget principles which we adhered to in the Senate.

So many persons are deserving of a great deal of credit for providing this important conference report which will shortly be voted on by this body.

The staff is extraordinary. In my 19 years in the Senate, I do not know of another instance in which I have seen more dedicated service. By my side here in the Chamber is Ann Loomis, who was the counsel for the subcommittee, who 15 months ago worked and traveled, as did I and others, to gain the very important information from across the United States to incorporate into this bill. Kathy Ruffalo of Montana was Senator BAUCUS' principal assistant on the committee. She also worked with us throughout this bill, as did Ellen Stein of my staff. Jimmie Powell, of course, is the staff director. Dan Corbett, Tom Sliter—and all too often we forget the many others who are back in the offices of the Senators, who represent those Senators on the committee in the long hearings and the workup of this legislation, and, most particularly, the support staff who are on the Environment and Public Works Committee—all contributed to making this, I think, the most significant bill in the history of the United States of America addressing transportation needs.

How often has Senator GRAMM or Senator BYRD pointed out that we are in a one-world market. To the extent that we in the United States can have an efficient and safe transportation system is to the extent we can compete with nations far beyond our shores.

Our system was aging, continues to age; and this bill makes the necessary corrections. And through the leadership of Senator BYRD and Senator GRAMM, we got the additional funds to make it the most meaningful transportation bill in America's history.

Equity was the theme, the very theme that united all of us. While we incorporated many of the principles of ISTEA, the bill passed in 1991—and it was important to do so—there were corrections that, I can say, as softly, I suppose, as it can be expressed, were very definitely needed to correct what we felt were inequities in ISTEA.

Mr. President, I see the distinguished leader. I will be happy to yield.

UNANIMOUS-CONSENT REQUEST—CONFERENCE REPORT TO ACCOMPANY H.R. 2400

Mr. LOTT. I renew my request that the Senate now proceed to the ISTEA conference report notwithstanding the receipt of the papers, and the reading be considered as dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Reserving the right to object, I am very hopeful I will not have to object in a couple minutes. And just a couple of matters have to be resolved. I think we can do it quickly.

Mr. LOTT. Is there objection?

The PRESIDING OFFICER. There is objection.

Mr. LOTT. Thank you. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I would like to continue.

ISTEA

Mr. WARNER. Equity for the donor States. "Donor States" is a category created by ISTEA I. We never actually heard that term prior to ISTEA I. But generally speaking, what it represented was as a consequence of ISTEA I, a group of States, about 18 to 20 in number. Some were right on the borderline. Those States, when their citizens or visitors in those States went to the gas pump and paid this very significant Federal gas tax, those 19 States got back a very small amount in comparison to other States whose return, as a consequence of ISTEA, was far higher.

My State got 79 cents on what we called the apportion dollar that comes back from the highway trust fund; other States had equally. Several had less than my State. And that was basically an unfairness to the citizens of that State, that those moneys that they expended in a Federal tax, and which was represented as to be for the purpose of highways, did not come back in what I believe was a fair formula.

So the foundation in this bill was to change that inequity such that that class of donor States received no less than 90.5 percent.

Mr. REID. Would my friend yield for a unanimous consent request?

Mr. WARNER. Yes.

Mr. REID. I appreciate it very much. I am sorry to interrupt.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Drew Willison, a congressional fellow in my office, be allowed privileges of the floor during the debate on this conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ISTEA

Mr. COVERDELL. Will the Senator yield?

Mr. WARNER. Yes.

Mr. COVERDELL. With regard to this question of donor States, the two States that were the most—if that is a standard, legitimate standard—the two States that received the weakest return were South Carolina and Georgia.

It is my understanding that the provision we are now talking about has a floor of 90——

Mr. WARNER. Ninety and a half.

Mr. COVERDELL. And a half.

Mr. WARNER. That is correct.

Mr. LOTT. Would the Senator allow me to renew this unanimous consent request?

Mr. WARNER. Yes.

Mr. LOTT. I thank the Senators who are on their feet. I think this will allow everybody to continue in a moment.

TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY—CONFERENCE REPORT

Mr. LOTT. I ask unanimous consent again, Mr. President, the Senate proceed to the ISTEA conference report notwithstanding the receipt of the papers and the reading being considered dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I would suggest perhaps we could make the unanimous consent request subject to the circumstances that are now being discussed with the Senator from Oregon and the Senator from Massachusetts, that assuming that those two matters could be worked out, that no additional unanimous consent requests would be in order.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the ISTEA conference report, notwithstanding the receipt of the papers, and it be in order for me to ask for the yeas and nays on the adoption of the conference report, and, further——

Mr. WYDEN addressed the Chair.

Mr. LOTT. Let me complete my request. And, further, I ask unanimous consent that if the House passes the identical text, the vote be considered as having occurred on the conference report. I further ask unanimous consent that this agreement be null and void only by the Senator from Oregon, Senator WYDEN, within the next 5 minutes.

Mr. HARKIN. I object.

Mr. WYDEN. Mr. President, in response to the majority leader's request for unanimous consent to proceed to the conference report on ISTEA without having all of the conference report papers in hand, I must withhold my consent until I have had the opportunity to review the sections of the report relating to important funding and project matters for Oregon. It is not my intent to delay final action on this major piece of legislation; however, I want to be assured that commitments that have been made are reflected in fact in the conference documents.

Mr. LOTT. I renew the same request with the exception of Senator WYDEN and the Senator from Iowa.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The report will be stated.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2400), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of May 22, 1998.)

Mr. WARNER. Mr. President, I now ask for the yeas and nays on the bill.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. I thank the Chair.

Mr. President, the Senator from Georgia was posing a question to the Senator from Virginia.

Mr. COVERDELL. In essence, I was asking if the conference report—the floor was 90, so that although South Carolina was getting 71 cents back and Georgia 74, we could expect, if this were to pass, 90.5 cents?

Mr. WARNER. Mr. President, the Senator from Georgia is correct. And I must say that it was only because of the efforts of the Senator from Georgia, the Senator from South Carolina, and all in the donee-donor dispute—the donor States bonded together. I thank the Senator for his help, because without it we could not have achieved this result.

Mr. COVERDELL. One more comment. There are still donor States, so there is in this agreement a recognition of special circumstances, distances, rural areas, or other infrastructures. There is still a subsidy that occurs, some of it legitimate.

Mr. WARNER. Mr. President, the Senator is correct. There are certain programs, like the Federal Lands Program, certain environmental programs, to which all the States contribute. The Senator is correct.

But the major achievement is the floor, which is a floor that puts us in range with almost all the other States of significant size. For instance, the smaller States, there are 13 small States. That was the second building block that the Senator from Virginia put together to formulate this bill months ago. It seems so long ago now. The distinguished Senator from Montana was a key player in that, Senator GRAHAM of Florida, and we put this together.

Indeed, I would like to acknowledge the participation by the Governors of these various States, the donor States, and the small States, and their various highway representatives.

So that was the nucleus, the engine that began to take this bill down.

Mr. COVERDELL. I won't interrupt the Senator's speech, but I take this moment to commend the Senator from Virginia. This has been a very vexing issue, and I thank the Senator.

Mr. WARNER. I thank the Senator for his very active participation. I feel a certain sense of achievement that this Senator from Georgia can go back now and say to his constituents at long last equity prevails in the distribution of our highway trust fund.

Mr. COVERDELL. I thank the Senator.

Mr. WARNER. Did the Senator have a question?

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Virginia has the floor.

Mr. WARNER. I yield for a parliamentary inquiry.

Mr. HARKIN. Parliamentary inquiry. I wonder if we could get 5 more minutes.

Mrs. MURRAY. I object.

Mr. LOTT. Reserving the right to object, you are just extending for 5 more minutes?

Mr. HARKIN. Yes.

Mr. LOTT. I have no objection.

Mr. WARNER. I thank the Chair. The Senator from Virginia is one of the managers of the bill and very much wants to accommodate other Senators.

I understand the distinguished ranking member of our committee is about to have a colloquy with the Senator from Oregon, so I yield for that purpose and then thereafter would like to regain the floor for my speech.

Mr. WYDEN. Thank you, Mr. President. I thank the Senator from Virginia for his graciousness.

Mr. President, I would like to enter into a colloquy with the ranking member regarding the Intelligence Transportation System Program.

Would the Senator from Montana agree the policy in the program intended to encourage private sector investment should be implemented in a manner that does not interfere with ongoing technology, deployment, and system implementation in States that have already made a substantial investment in its tests and deployment?

Mr. BAUCUS. Mr. President, I say to my very good friend, the Senator from Oregon, I strongly agree with the Senator. In States that have already made a substantial investment in intelligence transportation tests and deployment projects, nothing in this bill before us, the new TEA-21, the old ISTEA II bill, will interfere with ongoing deployment and system implementation in these States.

Mr. WYDEN. I thank the Senator from Montana. It is particularly important to encourage transportation innovation.

I thank the Senator. I yield the floor.

Mr. WARNER. Mr. President, referring to the bill, we have not discussed today the important strides made in safety of the traveling public. Nearly 440,000 persons a year, regrettably, lose their lives on highways and many more suffer incredible injuries. The bill includes four new and significant provisions which hold great promise to save lives.

First, there is a new incentive program to give States funding based on each State's improvement in seat belt use. I want to particularly acknowledge the important contribution of public interest groups speaking on behalf of safety. Those groups indicated that this will greatly reduce highway deaths and injuries.

Second, the conference report contains a new incentive grant program to reduce drunk driving by rewarding States who have passed .08 blood alcohol content law.

Third, the conference report includes a new program to require States to adopt minimum penalties for repeat drunk driving offenders.

I am privileged to say that was a conclusion that this Senator made after close consultation with many safety groups, and, indeed, acknowledgment should be to the other groups—restaurant groups and others who came in to see us on this issue. Statistics on drunk driving confirm that repeat drunk drivers represent one of the most significant parts of our tragedy on the highways today, as a consequence of alcohol.

Fourth, another Senate provision requiring States to enact laws against open alcohol containers is included. Senator DORGAN was particularly interested in that, and he deserves much credit for bringing that to the Senate's attention.

These four provisions, I believe, begin a new day in our efforts to improve the safety of our Nation's highways. The conference report contains a new title, championed by Senator CHAFEE, the distinguished chairman, and Senator GRAHAM of Florida, to implement innovative financing techniques to leverage private dollars for transportation projects.

The bill also recognizes the significant needs of our border States who have experienced significant transportation growth since the passage of NAFTA.

There is a new $700 million grant program to meet the needs of our border States and those trade corridor States carrying significant traffic to those areas.

Lastly, there is a provision in the conference report to provide $900 million to replace the aging Woodrow Wilson Bridge. I wish to express my appreciation to my colleagues from Maryland and my colleague from Virginia, Mr. ROBB, and, indeed, strong assistance from the House. Chairman SHUSTER was very supportive, as was Mr. Oberstar. While they did not put it in the House bill, they recognized I would have it in the Senate bill, and at a figure considerably above the request by the President.

The President took a personal interest in this bridge and summoned a number of us to the White House, to a very important conference presided over by the Director of OMB and his senior staff. There was a general consensus at this conference that the $900 million was as much as we could achieve under this particular piece of legislation, recognizing that these dollars were in competition with the other 48 States and Maryland and Virginia and, of course, the District of Columbia.

Therefore, another piece of legislation will have to be carefully drafted by the White House, in consultation with the Governors of Maryland and Virginia and the representatives of the District of Columbia, to allocate the next financing package which could be as high as this one between the several States, notably Maryland and Virginia, and the District. I think they should bear a portion of it, and a further significant contribution, I presume the majority, coming from the Federal Government and how that would be financed. There were a number of schemes which I think were quite innovative and discussed, but I will leave it up to those drafters of the legislation to work out those details.

I will be pleased, and, once again, together with our colleagues, to work towards passage of this legislation in a timely manner.

Mr. President, I conclude my remarks on this bill, again, commending our distinguished chairman, Mr. CHAFEE, and the ranking member, Mr. BAUCUS—the three of us were the principal negotiators for the conference—and, again, paying great respect to my staff, and most particularly to this loyal one seated next to me, Ann Loomis.

I yield the floor.

Mr. DODD. Mr. President, I rise today to express my views on the ISTEA conference report. I commend the work of the Conference Committee on the job it has done. This is landmark legislation. It represents the most substantial transportation legislation ever considered by the Congress. The bill provides much needed funds for both the construction and repair of our nation's roads, bridges and rails. This legislation will provide the additional resources for our states to meet their compelling transportation needs.

I am particularly pleased that the bill preserves the concept of intermodalism. After completing the nation's interstate highway system several years ago, we decided in the ISTEA bill adopted in 1991 that transportation was not just about highway construction. We committed ourselves to investing funds in other modes of transportation, such as light rail, bus and ferries. If our nation is to move people and goods safely and efficiently in the 21st century, we must diversify our transportation system. This legislation continues on that course.

We have also preserved our commitment to mass transit, which is extremely important in densely-populated states like Connecticut. I was particularly pleased to join Senators D'AMATO and SARBANES in a successful effort to increase funding for mass transit by $2.4 billion dollars during deliberations between the House and the Senate conferees. I want to commend my two colleagues for their vigilance in this effort.

This legislation also furthers environmentally-sound principles such as congestion mitigation, air quality improvement and alternative fuel technologies. I believe that energy-efficient and environmentally-friendly means of transportation are not only possible, but essential if our nation is going to remain strong, competitive and environmentally healthy into the next century. In this regard, I am particularly pleased that the conference report retains the Senate-passed level of funding for the development and deployment of maglev high speed rail. This is an extraordinary technology that can move people and goods on a fixed guideway at speeds of up to 300 mph. I believe that this mode of transportation can be to the 21st century what airplanes were to the 20th century, and trains were to the 19th—namely, a dramatic step forward in safe, efficient and reliable transportation. I applaud Senator MOYNIHAN for his stalwart efforts to support maglev technology.

In summary, Mr. President, this is good and important legislation. It will improve transportation safety, reduce congestion, diminish pollution, increase efficiency and create jobs for the people of America. For these reasons, the conference report has my support. That is not to say, however, that this is a perfect piece of legislation. I have a number of concerns, as I know that my colleagues do, that I hope will be addressed as we go forward.

I am disappointed that the conference report did not include the Senate provision that would penalize states if they failed to change the legal definition of intoxication to .08 nationally. Although I am pleased that the conference report contains incentives for states to move in this direction.

I am also concerned that the bill offsets some of its spending with a reduction in expenditures for veterans in need of treatment for smoking-related illnesses. For years the United States military effectively encouraged active duty forces to smoke by providing them with free cigarettes. Therefore, it is only fair that the federal government bear its fair share of responsibility for treating veterans with illnesses contracted as a result of addiction to those cigarettes. I intend to work with my colleagues, including Minority Leader DASCHLE and Senators LIEBERMAN and ROCKEFELLER, to insure that as Congress continues consideration of tobacco legislation, we provide for the needs of our veterans.

I am also concerned about the reduction in the Social Services Block Grant. This block grant is important to children and families of modest means throughout the country. We must not compromise on our commitment to provide better health care, child care and nutritional assistance to these needy Americans. As a member of the Labor Committee, I intend to work with members of the appropriations committees to made sure that we find the resources to provide for these families.

Mr. WYDEN. Mr. President, for our nation's economy, transportation is literally where the rubber hits the road. There are few things more important to my home State of Oregon or to the country's economy than how well we build and maintain our transportation system. Transportation is one of the basic ingredients in any economic growth recipe. It is one of the key things that businesses will look at as they consider where to locate.

Both houses of Congress recognized this in passing bills to rev up transportation spending over current levels. Providing more money transportation money clearly helps keep us on the road to competitiveness and economic prosperity.

But the transportation debate involves more than just economics, as important as that is, it's also about our quality of life. I've always believed that you can't have major league quality of life with minor league transportation systems. In the modern world, a transportation bill is about so much more than just how you get from point A to point B.

Congress recognized this when we passed the original ISTEA legislation. For the first time, there was Federal recognition that decisions about where and how to build transportation projects can have tremendous impacts on our communities, our environment and our citizens' quality of life. Through ISTEA, we began to consider the true costs of our transportation spending as part of the process of planning transportation projects. And, for the first time, Federal funds were made available to mitigate the impacts of these projects throught the CMAQ and the Transportation Enhancements Programs.

ISTEA recognizes that properly planned and constructed transportation systems are both economically efficient and environmentally sound.

Badly designed or badly built systems waste taxpayer money and contribute to traffic congestion that snarls our highways. This causes both additional stresses for commuters and additional exhaust emissions that degrade the quality of our air.

Both the Senate and the House bills continue many of these landmark initiatives of the original ISTEA legislation. These were clearly good first steps, but if we're going to improve both our transportation system and our quality of life, we need to do more than spin our wheels.

Today, the Congress has recognized that the Federal government's role in funding transportation project also has ripple effects on patterns of development in our local communities. When it comes to transportation, if you build it, they will come and build around it.

Uncontrolled development not only hurts our citizens where they live and breathe, it also hits them in their wallets. Several studies have come out that show the costs of sprawling growth are significantly higher than more compact, managed growth patterns. These studies show that taxpayers can save billions of dollars in public facility capital construction and operation and maintenance costs by opting for growth management.

Because of the major impacts Federally funded transportation projects can have, there is an appropriate role for the Federal government in ensuring these projects and the development they spawn are both economically and environmentally sound.

That role should not be to embroil the Federal government in land use decisions that have historically been State and local issues. We don't want Federal zoning.

Instead, the proper role for the Federal government is create incentives to encourage and build on the State and local efforts to address transportation and growth that are already underway. I am very pleased to report that the ISTEA conference report includes a program I proposed to help local communities grow in environmentally sustainable ways by creating incentives for local growth management.

I greatly appreciate Chairman CHAFEE, Chairman WARNER and Senator BAUCUS working with me to include this program in the bill. Chairman CHAFEE and the other managers of the legislation also deserve enormous credit for how they have built on and reinforced the goals of the original ISTEA law. Thanks to their efforts the bill now before the Senate will enable our national environmental policies to merge more smoothly with our transportation policies.

The new Transportation and Community and System Preservation Program provides $25 million per year investigate and address the relationships between transportation projects, communities and the environment. The Program consists of three parts:

(1) a comprehensive research program;

(2) a planning assistance program to provide funding to States and local governments that want to begin integrating their transportation planning with community preservation, environmental protection and land use policies; and

(3) an implementation assistance program to provide funding to States and local governments that have developed state-of-the-art approaches to integrate their transportation plans and programs with their community preservation, environmental and land use planning programs.

The research program will create a database on the experiences of communities in uniting transportation, community preservation, environmental and land use goals and decision making processes. This research will also identify benchmarks for measuring the performance of communities' experiences. This information will be a valuable resource to help communities throughout the nation meet their future transportation needs with lower environmental impacts, improved transportation efficiency, lower infrastructure construction and maintenance costs, and in a way that is more responsive to the views of their citizens.

The planning assistance provided by this program will mean additional financial resources to States and communities that wish to explore ways to integrate their transportation programs with community preservation, environmental and land use planning programs. Participants in this planning assistance program would be able to develop their own local approaches to meet their needs. And, as their programs develop, they could become eligible in the future for funding to help implement their locally developed solutions.

Finally, for States and communities which already have established community preservation or land use programs, the program provides additional financial resources to enable them to carry out transportation projects that also meet community preservation, environmental and land use goals. In providing this assistance, the Secretary of Transportation is directed to give priority consideration to applicants that have instituted policies such as directing funds to high growth areas, urban growth boundaries to guide metropolitan expansion, and "green corridors" programs.

My home State of Oregon leads the nation in developing innovative approaches to manage our growth and to tie transportation policies in to growth management. Our statewide land conservation and development program requires each municipality to establish an urban growth boundary to define both the areas where growth and development should occur and those areas that should be protected from development. This system keeps agricultural and forest lands in productive use and preserves "green corridors" for hiking, biking and other recreational uses that are located in or close to urban areas. Our transportation planning and construction efforts reinforce these policies by not only avoiding developing in environmentally sensitive areas but also by helping make the areas where we want development to occur more accessible.

Oregon recognizes that it's not enough to tell people where they can't build. For our system to work, we have to make it easier to develop the areas where we want growth to occur. And we don't just give lip service to this principle. We actually put our money where our mouth is to make sure the development we want occurs.

The State of Oregon and METRO, the Portland area's regional government, are currently using $3 million of our Surface Transportation Program (STP) funds to develop housing and commercial properties around light rail stations. Our folks have even figured out how to use $3.7 million CMAQ air quality funds to help pay for sidewalks, light rail tracks and landscaping in these developments.

These policies make the State of Oregon, METRO, the City of Portland, and other localities in our State ideal candidates to apply for implementation grants under the Transportation and Community and System Preservation Program.

Mr. KERREY. Mr. President, I rise today to discuss the Conference Report to the Intermodal Surface Transportation Efficiency Act of 1998 (ISTEA). During this period of tremendous economic growth, I believe investing in the nation's transportation infrastructure should be one of our highest priorities. I am pleased to offer my support to the passage of this legislation.

Mr. President, despite my support for the improvements in the transportational infrastructure that will occur as a result of this bill, I have strong concerns about one of the funding sources contained in this legislation. I do not believe that we should take money from veterans disability programs to be spent building roads. At a time in which the veterans hospitals in my state are experiencing budgetary shortfalls, I am troubled about transferring funds away from the Veterans Administration (VA). We in the United States have a long-standing commitment to providing benefits and healthcare to those who have served our country in the Armed Forces. In my opinion we should be working to strengthen that commitment, not weaken it through budgetary slight of hand.

The issue of providing compensation to veterans for tobacco-related illnesses is one which the Congress must take closer look at in the coming months. During consideration of the FY99 Budget Resolution, I voted in favor of an amendment that requires the Veterans Administration, Office of Management and Budget (OMB), and the General Accounting Office (GAO) to jointly study the VA General Counsel's determination regarding compensation for tobacco-related illnesses. I fully expect Congress will conduct a detailed examination of the results of this study and will engage in full debate before any change in permanent law is enacted. Regardless of the ultimate outcome of that debate, any savings as a result of a change in VA compensation policy should be redirected into VA health care and benefits programs, not into transportation infrastructure.

Mr. President, despite my concern about this funding provision, I will vote in favor of this Conference Report because I believe today's investment in roads and transit systems lays the groundwork for economic growth for decades to come. The Senate's passage of this legislation will improve the safety of our roads, create jobs, spur economic activity and give more Americans a shot at the American Dream. I strongly urge my colleagues to join me in support of this legislation.

Mr. SMITH of New Hampshire. Mr. President, I join the majority of my colleagues today in expressing strong support for the conference report on H.R. 2400, the Intermodal Surface Transportation Efficiency Act reauthorization. As a member of the conference committee, I know the amount of time and effort that was put into developing this final agreement. I believe a fair compromise was reached among the wide variety of interests and between the House and Senate.

This legislation represents a change from past transportation legislation and a shift toward an integrated, intermodal transportation system to promote efficiency and economic growth. Some of its major provisions include: assurance that gas tax dollars are used for transportation purposes, greater planning authority for state and local government, increased funding for highway safety, and funding for environmental protection activities.

A reauthorized ISTEA should continue to recognize regional differences but at the same time, recognize that our transportation system is a national system. Certainly, every state want to get its "fair share," and we will need to balance each state's needs with the needs of the Nation.

From New Hampshire's perspective, it is important to ensure that small states continue to receive adequate funding for their infrastructure needs. New Hampshire strongly supports certain programs, such as the Bridge Rehabilitation, Scenic Byway and Recreational Trail programs, that other states may not need as greatly. The strength of this legislation is that it recognizes these varying needs and provides states with the flexibility to direct funding as they see appropriate.

There are many challenges before us as we operate in a balanced budget environment—something for which I have fought long and hard. Our needs will always outweigh our resources. But we also have to recognize how critical our transportation system is to our economy and social well-being. While it is difficult to balance these frequently competing goals, I believe this bill strikes the right balance in providing an adequate amount of resources within the context of the balanced budget agreement.

In conclusion, I believe this is a good bill and deserves Senate approval. The quality of our Nation's transportation system is depending on it. Thank you, Mr. President, and I yield the floor.

Ms. MIKULSKI. Mr. President, I rise in support of the conference report accompanying the re-authorization of the Intermodal Surface Transportation Efficiency Act. While I support this legislation, I am disappointed that veterans programs were used to pay for a portion of this bill. Nonetheless, this bill contains significant increases in funding for Maryland's highway and transit programs. I am proud to have worked with my colleague Senator SARBANES to make sure Maryland got its fair share of funds for its transportation needs.

With billions in needed maintenance and construction in the State of Maryland, this legislation will make our highways safer and expand transit options for our citizens. It will help to ease the flow of traffic on our major highways and byways and begin the long awaited re-construction of the Woodrow Wilson Bridge.

This bill provides $900 million for a new Wilson Bridge, $500 million more than the Administration proposed last year. Although this does not represent the total cost of a new bridge, it is a first step toward replacement of the bridge. Let me make it clear, I do not consider this funding to be the end. I consider this to be the beginning. In future years, I will continue the effort to secure additional funding to complete the re-building of Wilson Bridge, a critical link on the I–95 system and the only federally owned bridge in the system.

Under this bill, Maryland will receive more money for its highway program than it gets now. Maryland can expect approximately $400 million per year for its highway program—almost $90 million more than it gets now. This is almost a 30 percent increase in funding that will help improve the conditions of our highway system—which is one of the most congested in the nation. The Washington area has the second longest commute time in the nation. The funds authorized in this bill should help provide some much needed relief.

The bill not only provides more funds for Maryland's overall highway program, it specifically targets funds for high priority projects around the State. The bill provides $26 million to upgrade Route 113 in Worcester County, one of the most dangerous highways in the State of Maryland. Every time I visit the Eastern Shore, I am always reminded about the need to upgrade this highway. Too many Marylanders have lost their lives on this stretch of roadway. This legislation will fund the first and most critical phase of this project to make the road safer for those who use it.

Another major project that has desperately needed funds has been the I–70/I–270 interchange in Frederick. It is one of the only interchanges on the interstate system that does not meet interstate standards. It has been a safety hazard for years. The lack of an adequate interchange in the area has forced trucks off the interstate and into surrounding areas. This legislation will provide funding to complete the first phase of reconstruction and relieve the local community of this burden, while improving the safety of this section of highway.

For the first time, almost $10 million will be earmarked for Route 32 in Anne Arundel County in the vicinity of the

National Security Agency. This highway is one of the most heavily traveled highways in the State and needs to expand capacity to accommodate the growth in the surrounding area.

This legislation will also increase funding for the Appalachian Highway System. Maryland can expect to receive approximately $6 million per year for the next six years under this bill—that is enough to rebuild U.S. 220 in Allegany County. This is the number one highway priority for Western Maryland and a serious safety problem. This is $4 million per year more than Maryland receives now. Thanks to this legislation, Maryland will have the funds to upgrade this highway.

Mr. President, not only does Maryland receive more highway dollars, we receive more transit dollars. Maryland will receive almost twice as much federal funds for its transit programs. The MARC system will receive an additional $185 million and the Baltimore Light Rail System will receive $125 million to double-track the system. This will continue to expand transit opportunities for Marylanders and help relieve congestion on our highways.

Mr. President, I do have one major reservation to this conference report. I believe it is just plain wrong that our veterans are being asked to sacrifice their compensation for our transportation needs. I made my feelings very clear when I voted in favor of an amendment to the Budget Resolution earlier this year that called on the Congress to protect veterans benefits. As the Ranking Member of the Veterans Affairs Appropriations Subcommittee, I will look for ways to ensure that these funds are replenished. Our vets, our heroes, deserve better and I will fight to correct this deep injustice.

Despite my anger over the veterans offset, I will support this legislation because it is so important to improving the safety of Maryland's highways, byways and transit systems. Improving public safety and creating jobs are two of my highest priorities and this bill addresses both.

Mr. ALLARD. Why does ISTEA allow the Administrator of the Environmental Protection Agency to provide for earlier state implementation of the Commission's recommendations?

Mr. BAUCUS. The bill clarifies that it does not affect EPA's authority to provide for state implementation of the agreements and recommendations set forth in the June 1996 Grand Canyon Visibility Transport Commission Report on a schedule consistent with the Commission's Report. This was a critical issue for the conferees. The conferees recognize that the Commission's Report was the product of several years of debate and analysis, and reflects broad consensus on control strategies and measures that should proceed with implementation. The conferees added specific language so as not to preclude the Administrator from providing for earlier state implementation of the Commission's agreements and recommendations, consistent with the implementation schedules in the Commission's Report.

Mr. REED. Mr. President, I rise to briefly discuss my support for the ISTEA conference report which I believe appropriately and rationally expands and improves our nation's transportation programs.

Mr. President, this legislation is good news for Rhode Island, a state that unfortunately has some of the most significant infrastructure needs in our nation according to experts. Yet, many people might overlook the fact that this conference report also provides essential investments in our nation's mass transit programs. Indeed, I am pleased that the Banking Committee's transit title of the conference report contains $35 million for new capital transit programs in Rhode Island as well as $5.79 million for the purchase of urgently needed new buses by the Rhode Island Public Transit Authority. I want to personally thank Chairman D'AMATO and Senator SARBANES, particularly, for their assistance in addressing my state's transit priorities and their hard work in producing a very balanced transit program that will serve our country well.

While there is much that is good in this bill, I am troubled by some of the budgetary offsets used to permit a higher level of transportation investment. Like many of my colleagues, I remain concerned that in order to accommodate essential infrastructure funding within the confines of strict budget caps, this legislation would endorse a plan to deny payments for veterans with service connected smoking-related illnesses. Indeed, earlier this year, I voted against this proposal, and I plan to work with like minded colleagues in the months ahead to see if we can reverse it. In addition, I am saddened that the ISTEA bill no longer contains a tougher national standard for driving under the influence of alcohol. All too often we hear of another senseless death due to drunk driving. A tougher standard for blood alcohol content or BAC would have been an excellent deterrent in the fight against drunk driving tragedies, and I regret that the Senate's strong support for this standard did not prevail in negotiations with the House of Representatives.

Mr. President, like many pieces of legislation, this bill is not perfect. However, repairing my state's roads and bridges; ensuring that thousands of mass transit riders in Rhode Island continue to receive service; and improving safety on our roads; are worthwhile goals that I hope all my colleagues support.

Mr. HOLLINGS. Mr. President, I rise in support of Senate consideration of the Intermodal Surface Transportation Efficiency Act bill, the so-called ISTEA bill.

This bill sets priorities and funds for surface transportation projects and programs for the next six years. It is the product of many months of negotiations between the House and the Senate and between Members on both sides of the aisle. We have managed to come together on this bill by compromise and a willingness to listen to all points of view for the good of the nation and the States.

As ranking Democrat on the Commerce Committee, I can tell you that the provisions in the Commerce Committee title of the bill were the product of intense negotiations for many weeks. But the way to judge our efforts is the result and I am proud of what has been achieved.

We have provisions to strengthen the safety of motor vehicle air bags and to allow States to design programs to raise the percentage of their citizens who use seat belts. In addition, we have given the Secretary of Transportation the flexibility to design additional commercial motor vehicle safety programs. We have authorized a program to provide funds for the development of rail and intermodal projects. These programs will allow us to expand the nation's infrastructure. Most importantly, the bill contains funds to replace our crumbling bridges and roads. Together these programs will provide our citizens with safer bridges and roads and additional infrastructure will allow our citizens to compete in the world market.

Commerce Committee provisions also address the needs of recreational boaters and anglers. The bill extends the Aquatic Resources Trust Fund and recovers a greater portion of the federal fuel taxes paid by boaters and anglers. In addition, Commerce Committee provisions ensure that funds are available to make boating safer, more accessible, and environmentally cleaner for the 76 million Americans—more than one-fourth of the nations's population—who go boating each year. Finally, the bill extends programs to restore and protect sportfish resources and strengthens efforts to introduce segments of the American public . . . especially our youth . . . to the healthy fun of fishing and boating.

I take this opportunity to thank the staff of the Commerce Committee for their efforts on behalf of this bill, and indeed, on behalf of all of us.

Mr. President, I urge passage of this important piece of legislation.

Mr. DURBIN. Mr. President, today the Senate will vote on the conference report to the Intermodal Surface Transportaton Efficiency Act (ISTEA). I wanted to take this opportunity to discuss the benefits of this legislation for my home state of Illinois.

This conference report is truly historic. It makes the largest investment to date in our nation's aging infrastructure, $216 billion over the next six years. In short, this conference report increases the State of Illinois' total ISTEA dollars and provides greater flexibility. It goes a long way toward improving the conditions of Illinois' roads and bridges, properly funding mass transit in Chicago and downstate, alleviating congestion, and addressing highway safety and the environment.

The bill provides $175 billion over six years for highways, highway safety, and other surface transportation programs. Illinois has the third largest Interstate system in the country; however, its roads and bridges are rated as the second worst in the nation. The State can expect to receive about $5.3 billion over six years from the highway formula. That's nearly a 30 percent increase or $1.2 billion more than the ISTEA of 1991.

Major reconstruction and rehabilitation projects like Downtown Chicago's Wacker Drive and the Stevenson Expressway (I–55) will be able to move forward thanks, in large part, to this legislation. The conference report designates $25 million each for both of these priority projects. In addition, both the Stevenson Expressway and Wacker Drive projects will be able to compete for federal funds through certain discretionary programs.

The conference report also includes funding for over 100 high priority projects from throughout the State worth more than $375 million.

Mass transit funding is vitally important to the Chicago metropolitan area as well as to many downstate communities. It helps alleviate congestion and provides access for thousands of Illinoisans everyday. The conference report includes $41 billion over six years for mass transit. Illinois can expect to receive about $2.5 billion over six years, a 67 percent increase or $1 billion more than the 1991 ISTEA.

The conference report authorizes the Chicago Transit Authority to expand the capacity of the Ravenswood Brown Line and fully funds the rebuilding of the Douglas Branch of the Blue Line. It also will help METRA expand Northeastern Illinois' commuter rail system by double-tracking and extending service into rapidly growing areas. The Metro Link light rail system in St. Clair County will have the ability to complete an extension from East St. Louis through Belleville Area College to MidAmerica Airport under the conference report. The transit provisions will also help transit authorities throughout the State purchase and upgrade buses and bus facilities.

The conference report also includes $150 million per year for the Jobs Access and Reverse Commute Grants program. This program will assist communities in filling the gaps in transit service that prevent welfare recipients from finding and keeping the jobs they need to remain self-sufficient.

Congress also has made a commitment to high-speed passenger rail, a safe, cost-effective means of transportation, in this conference report. With increased funding, it is my hope that the Midwest can develop an effective transportation system.

This legislation also preserves and expands some important environmental and enhancement programs, including the Congestion Mitigation and Air Quality (CMAQ) program. CMAQ's goal is to help states meet their air quality conformity requirements as prescribed by the Clean Air Act. The conference report increases funding for CMAQ by 18 percent. Illinois can expect more than $1 billion over six years under the program. The report also fully funds transportation enhancement activities, such as bicycle pedestrian facilities and historic preservation.

Illinois is one of 15 states that has been responsible enough to pass a .08 legal blood-alcohol concentration level for drivers. The State has had .08 BAC since July of 1997 and we are already beginning to see positive results. Unfortunately, the conference committee did not include language that would have sanctioned states that refused to pass .08 BAC legislaton. Instead, Illinois and other states who have passed .08 will receive as much as $6 million per year in highway safety incentives.

I am pleased that the conference report extends the current excise tax exemption for an important Illinois product—corn-based, renewable ethanol fuel—through 2007. Farmers and the ethanol industry must have the ability to plan for the future. Extending the incentive gives them the tools necessary to expand their operations and this important industry while improving the environment and decreasing our dependence on foreign oil.

Mr. President, I know this conference report is not a perfect document. Illinois' highway formula should be higher. I will work with the Administration to ensure that Illinois competes for and receives a fair share of discretionary transportation funds available as a result of this conference report. With the passage of this legislation, Congress has upheld its obligation to reauthorize and improve our nation's important transportation programs. I am pleased to support this measure.

Mr. SPECTER. I would like to engage the Chairman of the Banking Committee, Senator D'AMATO in a colloquy regarding a Pennsylvania mass transit project. It is my understanding that the project under the transit new start program entitled "Philadelphia-Pittsburgh High Speed Rail" is intended to be for initial planning, design and engineering costs for a high speed magnetic levitation public transportation system in Pennsylvania. Having ridden such a system in Germany in January of this year, I believe a system of this nature will revolutionize the steel industry and could provide an excellent means of mass transit in the 21st Century.

Mr. D'AMATO. I concur with my colleague's understanding that the line item he described is intended to make available Federal Transit Administration funds for initial costs of a high speed maglev system in Pennsylvania. It is my understanding that these funds will be applied for by an existing transit system or state agency in accordance with traditional requirements for FTA grants.

Mr. FEINGOLD. Mr. President, Congress finally completed its work on a six-year bill to reauthorize the Intermodal Surface Transportation Efficiency Act today. This bill has been a long time coming. I'm pleased that Wisconsin will now have a chance to address our state's vital transportation needs for the next year and plan its priorities for the next six years. This bill moves Wisconsin a long way toward achieving fairness in Federal transportation spending, and I cannot overlook this dramatic step forward.

While the bill is not perfect and includes a number of items I would not support individually, it goes a long way toward ending Wisconsin's decades-long legacy as a donor state. Historically, Wisconsin's taxpayers have received about 78 cents for every dollar we have paid into the Highway Trust Fund. As a result, we have lost more than $625 million since 1956. Under this bill, Wisconsin will receive approximately 99 cents for every dollar it contributes to the Highway Trust Fund, beginning next year. I applaud the efforts of Wisconsin's delegation in achieving a greater measure of fairness for Wisconsin's taxpayers. On this travel weekend that many believe will be the biggest in history, the people of Wisconsin should be happy to see that their tax dollars will be used to improve Wisconsin's roads and rails.

Finally, I urge the President to use his line-item veto authority to strike the pork-barrel spending projects inserted into the House reauthorization bill and included in this conference report. We should allow states and localities to decide on how best to address transportation needs. The Senate decided to use more than $2 billion on block grants to states instead of earmarks for particular projects. I am certain that Wisconsin, and other donor states, could have reached even greater equity had the House followed the Senate's lead.

Mr. LAUTENBERG. Mr. President, I would first like to thank the managers of Conference Report. Both Senators CHAFEE and BAUCUS have worked day and night trying to produce a fair and balanced Conference Report. They have done their best to try to accommodate my views. We did not always agree on every issue, but they both tried to work with me and engage in a constructive dialogue when we differed.

I would also like to thank the distinguished Chairman of the Subcommittee, Senator WARNER. He put in a substantial effort to try to create a consensus that would satisfy the need for this critical legislation.

And I would like to thank Senators D'AMATO and SARBANES for their diligence and hard work on the mass transit title. Because of their commitment, this bill represents a balanced transportation bill.

Mr. President, I offer some comments to indicate my specific views on how this good bill will help my State of New Jersey. As a member of the Environment and Public Works Committee, I have been working on the ISTEA reauthorization bill this entire Congress. I have been fighting for increased investment in our nation's infrastructure, a balanced transportation system and critical safety programs.

Overall, on balance, this is a good bill—good for the country and good for New Jersey. It includes $173 billion for highways and $41 billion for mass transit nationally over six years. As the Ranking Democrat on the Budget Committee, I worked hard to increase mass transit funding by almost a third compared to the 1991 ISTEA bill. Overall, this translates to over $4 billion to New Jersey for highways and over $2 billion for mass transit over the six year life of this bill. As a result, New Jersey will receive an increase of over $1 billion in transportation funding as compared to the 1991 ISTEA bill.

Mr. President, the ISTEA bill, like any bill that provides funding to the States, became a battle between regions. Western Senators argued that their needs were greatest because of the sheer miles of highways in their states. Southern Senators suggested that they had population growth and they needed increases. The so-called donor states were pushing a "minimum allocation" that would revise the formula that prevailed over the past six years.

Mr. President, obviously, I pushed hard for increased investment in my region and my state. The Northeast states face tremendous infrastructure needs over the next six years. Since we are the oldest region in the country with the highest density and greatest volume of traffic, our infrastructure needs are great. This problem is compounded by harsh weather conditions, intense congestion and air quality.

Mr. President, I didn't get everything I wanted for New Jersey. However, this bill does provide substantial increases in funding for New Jersey for highways and mass transit. It also includes funding for over 40 highway and mass transit projects for my state. I fought to keep all of the my colleagues in the House of Representatives' projects in the final bill. The Senate bill originally did not include any special projects, but I am pleased that a few of them were included in the Conference Report at my request. The first project is an emergency heliport on Cooper Hospital in Camden, New Jersey, which will speed up rapid emergency service for hospital patients in the region. I am also pleased with funding to construct a roadway network using the former Bergen Arches rail corridor going from east to west in Hudson County, New Jersey. The Bergen Arches project will provide congestion relief and will allow the demand for development of the Hudson County waterfront—the so-called "Gold Coast"—to move at its rapid pace.

Mr. President, anyone who is familiar with my work in the Senate knows that I don't relent when it comes to standing up for my constituents and my state. I feel my responsibilities to the people who sent me here as a sacred obligation and I would never agree to anything that is detrimental to our needs.

Mr. President, this legislation is all about compromise. And this Conference Report is not perfect for my state, but, in the end, the substantial increases in highway and mass transit funding will reduce congestion, increase productivity, clean the air, and improve the quality of life so I will support this legislation.

I yield the floor.

Mr. LEVIN. Mr. President, I must note to my colleagues that the procedure that has been used here on the floor today for consideration of this conference report is outrageous.

Despite the process followed here, I intend to vote for this bill, based on the representations about Michigan's share of highway funds made in the incomplete charts provided by the Conference Committee. I ask unanimous consent that those charts be placed in the RECORD following my statement. The best judgement I can exercise at this point is to support the apparent increases provided to my state. According to these charts, Michigan will receive an annual average of $825 million per year from the Highway Trust Fund, an increase of $310 million over the ISTEA I average. Our percentage return on the dollars distributed will rise from approximately 84% to 90.5% and is guaranteed to go no lower. And, our share of the total funds going to the states will increase from approximately 2.87% to 3.16%, close to the Senate bill's mark.

If the factual matter in those charts proves to be inaccurate, I, and I am sure my donor state colleagues, will seek corrective action.

Michigan and the nation are making some significant progress with the passage of this bill. We are now going to spend all or nearly all our gas tax dollars on transportation, rather than leaving them in the Highway Trust Fund. That means we are going to start addressing the serious backlog of infrastructure projects that are vital to our economy and quality of life.

I understand the report contains a minimum guarantee provision similar to that in the Senate bill, though the "guarantee" has been reduced to a 90.5% return on dollars distributed rather than the 91% the donor states were promised. Still, this is some incremental progress for my state, but Michigan will continue to be a substantial donor state and continue sending money to the donee states. We will continue pressing at the next opportunity for more equity, particularly on transit when that title is reauthorized in two years. But, for the moment, we can declare a minor victory.

While I appreciate the conferees', particularly Senator WARNER's, attention to the donor states' needs, I am concerned by one particular provision. Apparently, the report includes an item that could drastically reduce the minimum guarantee funds to states if revenues increase by more than 25% over a 1998 baseline. This provision has no place in this bill, particularly since the total amount authorized and distributed by this bill is projected to rise by approximately 25% over the next six years, assuming current CBO projections. Its inclusion undermines the "guarantee" and the promise that the Senate conferees made to the donor states, since we could be disproportionately hurt. I intend to examine this provision closely and will work with the other donor states to change this provision if it proves harmful to us.

I am pleased that the conferees have included a number of important provisions in the report, including a provision similar to one I authored in the Senate's bill enhancing local transportation officials participation in the preparation of the states' transportation improvement program. Also, the international trade corridor number 18, which includes I–69 and I–94, is designated as high priority. Ambassador Bridge access projects are made eligible for Federal funding. The State of Michigan will receive $10 million in FY99 and $13.5 million in FY2000 for buses and bus facilities in a block grant for distribution around the State. Numerous other important projects are identified all over the State, from an Intelligent Transportation System technology project in Lansing, to Monroe Rail Consolidation, to the South Beltline in Grand Rapids, to renovation and rehabilitation of the Detroit Waterfront, to upgrading 3 Mile Road in Grand Traverse County, to upgrading H–58 in Pictured Rocks National Lakeshore., etc.

This is not a perfect bill. But, it is another step on the long, long road toward equity. When I started in the Senate, we were getting somewhere around $.75 cents on our gas tax dollar. The

1991 ISTEA bill brought us up to approximately $.80 per dollar, and the conference report before us should get us to about $.83. Some day, Michigan taxpayers will get back 100% of the gas taxes they pay into the Highway Trust Fund in the form of better roads and bridges and well-maintained infrastructure. But, only if we keep fighting.

I ask unanimous consent to have the charts printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1998–2003 AVERAGE CONFERENCE AGREEMENT

[Dollars in thousands]

State	1992–97 No Fed Lnds	Conference	Change	Change (percent)
Alabama	$330,263	$530,516	$200,254	60.6
Alaska	211,782	311,860	100,078	47.3
Arizona	255,665	407,814	152,149	59.5
Arkansas	262,738	345,860	83,122	31.6
California	1,653,208	2,406,992	753,784	45.6
Colorado	200,562	305,526	104,965	52.3
Connecticut	352,409	397,475	45,066	12.8
Delaware	72,136	115,793	43,656	60.5
Dist. of Col.	92,099	103,543	11,445	12.4
Florida	768,360	1,208,600	440,240	57.3
Georgia	541,389	918,804	377,416	69.7
Hawaii	126,276	135,502	9,225	7.3
Idaho	124,765	202,009	77,244	61.9
Illinois	682,070	885,171	203,101	29.8
Indiana	405,583	617,387	211,804	52.2
Iowa	220,296	314,609	94,313	42.8
Kansas	208,439	306,678	98,239	47.1
Kentucky	283,524	454,508	170,983	60.3
Louisiana	264,022	416,163	152,141	57.6
Maine	117,516	137,753	20,237	17.2
Maryland	306,872	394,884	88,012	28.7
Massachusetts	829,663	487,827	– 341,836	– 41.2
Michigan	512,012	825,390	313,378	61.2
Minnesota	280,096	392,423	112,328	40.1
Mississippi	202,321	318,954	116,633	57.6
Missouri	404,352	618,094	213,742	52.9
Montana	161,357	259,879	98,523	61.1
Nebraska	142,245	203,318	61,072	42.9
Nevada	117,280	189,707	72,428	61.8
New Hampshire	88,260	135,135	46,875	53.1
New Jersey	518,499	675,702	157,203	30.3
New Mexico	178,066	258,702	80,635	45.3
New York	997,644	1,351,299	353,655	35.4
North Carolina	478,837	740,665	261,828	54.7
North Dakota	116,031	171,517	55,486	47.8
Ohio	654,795	896,635	241,839	36.9
Oklahoma	259,338	403,573	144,236	55.6
Oregon	212,782	318,875	106,093	49.9
Pennsylvania	889,759	1,305,731	415,972	46.8
Rhode Island	105,925	155,943	50,018	47.2
South Carolina	232,252	416,425	184,173	79.3
South Dakota	119,210	187,116	67,906	57.0
Tennessee	365,555	592,731	227,176	62.1
Texas	1,174,785	1,887,940	713,155	60.7
Utah	129,854	204,967	75,113	57.8
Vermont	79,354	119,693	40,339	50.8
Virginia	414,572	670,755	256,183	61.8
Washington	341,068	467,856	126,789	37.2
West Virginia	209,742	296,261	86,519	41.3
Wisconsin	351,960	521,277	169,317	48.1
Wyoming	114,900	181,934	67,034	58.3
Apportioned	18, 162,486	26,173,771	8,011,286	44.1

CONFERENCE AGREEMENT 1998–2003 AVERAGE

(Dollars in thousands)

State	IM/NHS	STP	Bridge	CMAQ	ADHS	Rec Trails	Metro planning	High priority projects	Minimum Guarantee	Grand total
Alabama	193,305	131,151	68,092	7,720	40,691	875	20,080	32,429	54,172	530,516
Alaska	100,630	59,687	23,069	14,558	....	557	937	12,004	100,419	311,860
Arizona	191,283	109,866	9,923	21,938	....	786	3,003	11,392	59,632	407,814
Arkansas	139,412	93,043	41,869	7,828	....	822	937	20,964	40,986	345,860
California	868,672	595,027	287,607	286,908	....	2,890	28,793	153,738	183,358	2,406,992
Colorado	139,193	85,562	29,747	16,111	....	772	2,688	11,333	20,120	305,528
Connecticut	103,869	71,079	68,300	52,588	....	549	2,779	23,281	75,032	307,475
Delaware	49,537	31,989	9,462	7,803	....	580	917	1,505	14,079	11,794
Dist. of Col.	42,152	27,219	20,375	6,640	....	435	937	7,303	483	103,543
Florida	475,719	323,906	84,881	39,689	....	1,603	11,507	50,121	221,174	1,208,800
Georgia	365,725	242,869	67,878	28,982	16,262	1,137	3,687	44,618	147,645	918,804
Hawaii	48,343	31,217	24,243	78,616	....	492	937	8,916	13,739	135,502
Idaho	92,018	44,392	10,745	8,861	....	704	937	7,460	36,893	202,009
Illinois	338,679	215,077	125,655	82,271	....	1,112	9,586	65,036	47,7454	885,171
Indiana	263,848	165,802	48,191	16,398	....	800	3,044	33,'67	86,138	617,387
Iowa	134,786	82,661	55,629	7,009	....	675	1,086	17,751	15,035	314,809
Kansas	125,928	90,878	851,818	6,892	744	1,152	28,575	18,576	10,693	306,678
Kentucky	178,599	107,979	43,214	10,814	37,328	752	1,444	23,503	50,877	454,508
Louisiana	149,949	99,265	85,303	7,542	....	981	2,519	31,048	398,555	416,163
Maine	51,481	32,650	24,652	7,545	....	716	937	8,639	13,473	137,753
Maryland	145,061	94,797	47,040	41,899	6,363	578	4,049	23,149	31,447	394,884
Massachusetts	134,571	....	98,623	48,525	....	1,466	6,572	54,354	92,668	825,390
Michigan	297,325	225,858	98,623	48,525	....	1,466	6,572	54,345	92,668	825,390
Minnesota	165,774	116,267	30,524	16,792	....	1,183	2,681	31,066	28,136	392,423
Mississippi	124,401	85,645	51,049	7,384	4,563	762	937	17,828	26,384	318,954
Missouri	234,608	153,494	116,148	19,531	....	926	3,146	42,664	47,576	618,094
Montana	130,719	47,227	20,729	8,764	....	619	937	3,378	47,457	259,879
Nebraska	94,889	55,922	32,731	6,778	....	548	937	6,982	4,530	203,318
Nevada	87,742	45,315	10,220	8,428	....	568	1,000	5,928	30,476	189,707
New Hampshire	49,298	31,834	18,715	7,765	....	597	937	11,-31	14,958	136,135
New Jersey	185 163	127,709	186,451	81,462	....	911	7,496	50,721	35,789	675,702
New Mexico	133,720	57,446	11,108	7,969	....	767	937	13,310	33,444	258,702

CONFERENCE AGREEMENT 1998–2003 AVERAGE—Continued

(Dollars in thousands)

State	IM/NHS	STP	Bridge	CMAQ	ADHS	Rec Trails	Metro planning	High priority projects	Minimum Guarantee	Grand total
New York	344,690	248,343	363,260	147,345	8,770	1,187	15,960	100,490	121,256	1,251,299
North Carolina	263,436	184,568	105,315	15,545	23,958	1,007	2,841	40,008	103,988	740,665
North Dakota	96,450	38,754	8,961	7,380		520	937	3,555	14,951	171,517
Ohio	345,443	216,389	125,594	56,658	18,349	1,145	7,527	56,789	68,740	896,635
Oklahoma	162,956	116,331	60,520	7,366		720	1,531	20,775	33,374	403,573
Oregon	132,439	80,005	46,655	10,295		762	1,606	25,211	21,903	318,875
Pennsylvania	335,854	216,673	365,828	90,210	99,496	1,211	8,149	102,863	86,446	1,205,731
Rhode Island	53,801	34,742	26,377	9,902		490	937	4,121	25,568	155,943
South Carolina	164,303	116,212	43,752	8,266	1,996	765	1,613	17,432	62,088	416,425
South Dakota	92,598	43,756	12,707	7,574		529	937	10,382	18,633	187,116
Tennessee	227,838	139,481	69,917	14,466	45,620	831	2,508	37,519	54,552	592,731
Texas	770,056	518,203	155,804	79,376		1,893	12,858	84,066	265,684	1,887,940
Utah	100,086	49,936	13,716	8,302		678	1,492	13,278	17,480	204,967
Vermont	47,356	30,580	18,115	7,459		559	937	3,676	11,011	119,693
Virginia	256,791	171,557	84,025	31,696	9,589	1,170	4,330	351074	76,522	670,755
Washington	172,083	115,039	87,530	24,836		909	3,635	32,864	30,960	467,856
West Virginia	71,859	47,396	67,752	7,089	56,580	576	937	31,030	12,943	296,261
Wisconsin	213,290	144,587	34,428	20,638		1,096	2,787	28,376	76,075	521,277
Wyoming	112,230	30,436	9,003	7,424		597	937	5,001	16,306	181,934
Apportioned	9,799,958	6,321,791	3,652,595	1,515.150	369.563	44,348	187,367	1,166,667	2,758,000	28,173,771

1998–2003 AVERAGE CONFERENCE AGREEMENT (REVISED)

[Dollars in thousands]

State	1992–97				1992–97		1992–97	
	No Fed Lnds	Conference	Change	Change (percent)	No Fed Lnds (share percent)	Conference (share percent)	No Fed Lnds (HTF Ratio)	Conference (HTF Ratio)
Alabama	$330,263	$530,516	$200,254	60.6	1.8184	2.0269	0.824	0.918
Alaska	211,782	311,860	100,078	47.3	1.1660	1.1915	5.026	5.136
Arizona	255,665	407,814	152,149	59.5	1.4077	1.5581	0.818	0.905
Arkansas	262,738	345,860	83,122	31.6	1.4466	1.3214	1.005	0.918
California	1,653,208	2,406,992	753,784	45.6	9.1023	9.1962	0.896	0.905
Colorado	220,562	305,526	104,965	52.3	1.1043	1.1673	0.869	0.918
Connecticut	352,409	397,475	45,066	12.8	1.9403	1.5186	1.948	1.525
Delaware	72,136	115,793	43,656	60.5	0.3972	0.4424	1.385	1.542
Dist. of Col.	92,099	103,543	11,445	12.4	0.5071	0.3956	4.034	3.147
Florida	768,360	1,208,600	440,240	57.3	4.2305	4.6176	0.829	0.905
Georgia	541,389	918,804	377,416	69.7	2.9808	3.5104	0.768	0.905
Hawaii	126,276	135,502	9.225	7.3	0.6953	0.5177	2.700	2.011
Idaho	124,765	202,009	77,244	61.9	0.6869	0.7718	1.257	1.412
Illinois	682,070	885,171	203,101	29.8	3.7554	3.3819	1.026	0.924
Indiana	405,583	617,387	211,804	52.2	2.2331	2.3588	0.857	0.905
Iowa	220,296	314,609	94,313	42.8	1.2129	1.2020	1.053	1.043
Kansas	208,439	306,678	98,239	47.1	1.1476	1.1717	0.998	1.019
Kentucky	283,524	454,508	170,983	60.3	1.5610	1.7365	0.814	0.905
Louisiana	264,022	416,163	152,141	57.6	1.4537	1.5900	0.828	0.906
Maine	117,516	137,753	20,237	17.2	0.6470	0.5263	1.243	1.011
Maryland	306,872	394,884	88,012	28.7	1.6896	1.5087	1.014	0.905
Massachusetts	829,663	487,827	−341,836	−41.2	4.5680	1.8638	2.485	1.014
Michigan	512,012	825,390	313,378	61.2	2.8191	3.1535	0.809	0.905
Minnesota	280,096	392,423	112,328	40.1	1.5422	1.4993	1.087	1.057
Mississippi	202,321	318,954	116,633	57.6	1.1139	1.2186	0.844	0.923
Missouri	404,352	618,094	213,742	52.9	2.2263	2.3615	0.866	0.918
Montana	161,357	259,879	98,523	61.1	0.8884	0.9929	1.864	2.083
Nebraska	142,245	203,318	61,072	42.9	0.7832	0.7768	0.975	0.967
Nevada	117,280	189,707	72,428	61.8	0.6457	0.7248	1.013	1.138
New Hampshire	88,260	135,135	46,875	53.1	0.4859	0.5163	1.196	1.271
New Jersey	518,499	675,702	157,203	30.3	2.8548	2.5816	1.037	0.938
New Mexico	178,066	258,702	80,635	45.3	0.9804	0.9884	1.135	1.144
New York	997,644	1,351,299	353,655	35.4	5.4929	5.1628	1.266	1.189
North Carolina	478,837	740,665	261,828	54.7	2.6364	2.8298	0.843	0.905
North Dakota	116,031	171,517	55,486	47.8	0.6388	0.6553	1.785	1.831
Ohio	654,795	896,635	241,839	36.9	3.6052	3.4257	0.952	0.905
Oklahoma	259,338	403,573	144,236	55.6	1.4279	1.5419	0.851	0.918
Oregon	212,782	318,875	106,093	49.9	1.1715	1.2183	0.889	0.925
Pennsylvania	889,759	1,305,731	415,972	46.8	4.8989	4.9887	1.184	1.206
Rhode Island	105,925	155,943	50,018	47.2	0.5832	0.5958	2.131	2.177
South Carolina	232,252	416,425	184,173	79.3	1.2787	1.5910	0.727	0.905
South Dakota	119,210	187,116	67,906	57.0	0.6564	0.7149	1.846	2.010
Tennessee	365,555	592,731	227,176	62.1	2.0127	2.2646	0.804	0.905
Texas	1,174,785	1,887,940	713,155	60.7	6.4682	7.2131	0.812	0.905
Utah	129,854	204,967	75,113	57.8	0.7150	0.7831	0.839	0.919
Vermont	79,354	119,693	40,339	50.8	0.4369	0.4573	1.684	1.763
Virginia	414,572	670,755	256,183	61.8	2.2826	2.5627	0.806	0.905
Washington	341,068	467,856	126,789	37.2	1.8779	1.7875	0.962	0.915
West Virginia	209,742	296,261	86,519	41.3	1.1548	1.1319	1.440	1.411
Wisconsin	351,960	521,277	169,317	48.1	1.9378	1.9916	0.966	0.993
Wyoming	114,900	181,934	67,034	58.3	0.6326	0.6951	1.366	1.501
Apportioned	18,162,486	26,173,771	8,011,286	44.1	100.0000	100.0000	1.000	1.000

URBAN CORE COLLOQUY

Mr. LAUTENBERG. Mr. President, I rise to engage in a colloquy with the distinguished Chairman and the Ranking Member of the Banking Committee. Mr. President, the ISTEA conference report includes language that reauthorizes a very important mass transit project in my state. The New Jersey Urban Core project provides critical links in a rail system that is the backbone of the transportation system of the Northeast and the nation. The Urban Core project links all of New Jersey's rail lines and builds new ones where necessary, to establish one comprehensive and coordinated rail transportation system within the state.

Mr. President, the Conference Report makes a number of changes to the authorization of this important project. The report adds new projects as elements of the Urban Core and makes a number of critical changes. The conference report is silent on the future of full funding agreements. Do the Chairman and Ranking Member of the Banking Committee, who authored the Mass Transit title to the next surface transportation authorization bill, agree that it is important that the Secretary and the State of New Jersey enter into full funding grant agreements sometime in the next six years, for those elements of the Urban Core that can be demonstrated to be under construction by September 30, 2003? Is it your intention to urge the Secretary to work with the State of New Jersey over the next two years to sign full funding grant agreements?

Mr. D'AMATO. Mr. President, I agree with the distinguished Senator from New Jersey that the Urban Core is an important mass transit project that serves millions of people every day and demonstrates every day the importance of mass transit to our national transportation system. I also believe that the Secretary should work with the State of New Jersey during the next few years to provide assistance to those elements of the Urban Core that will move ahead in the next six years.

Mr. SARBANES. Mr. President, I concur with the Chairman of the Banking Committee's statement.

Mr. LAUTENBERG. I thank the distinguished Chairman and Ranking Member of the Banking Committee for their support for the New Jersey Urban Core, and for their support for mass transit nationwide. They are true champions of investing in a sound and balanced transportation system.

Mr. HATCH. Mr. President, I am pleased to support final passage of the conference report on the reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA). I commend my colleagues who have worked so hard on this bill, Senator CHAFEE, Senator WARNER and Senator BAUCUS, Senator DOMENICI and Senator D'AMATO.

This has been an incredibly difficult process. Whenever you have to divide resources among competing interests there is going to be friction. The conferees on this legislation have done an admirable job in balancing these competing interests in the name of our shared national interest in safe, efficient highways.

This highway and transit reauthorization is important for the country and for my state of Utah. Utah needs this bill and I am happy that we can deliver it to them. Like a lot of states, Utah has a number of crucial infrastructure improvements needed in our highway and transit systems. Unlike other states, however, Utah must complete a number of these projects in time for the 2002 winter Olympic Games.

This bill makes clear that the federal government has a responsibility to assist my state of Utah make the transportation improvements needed to successfully host the 2002 Games. By including language which gives the Secretary of Transportation the authority to give priority consideration for Olympic host cities, the Congress has acknowledged that these really are America's Games.

I also applaud the members of the Environment and Public Works Committee for crafting a formula which recognizes the fact that there has been a population shift to the west and that a federal highway funding formula must accommodate the rapid growth in western states.

There are a number of important projects authorized in this legislation. I am pleased that we were able to bring a number of earmarked demonstration projects up to an appropriate level. Utah is growing quickly both in population and vehicle miles traveled. These projects, all part of the state's transportation improvement plan, will make a real difference in a number of rural counties.

Finally, I wish to commend all the members of the Utah delegation. We are a small delegation, but we are a strong delegation and when we work together, as we have all done relative to this legislation, we are an effective delegation.

I thank the Chair and yield the floor.

Mr. GORTON. Mr. President, we are now asked to vote on a bill authorizing the expenditure of more than $200 billion. No member of the Senate other than a handful of conferees has seen a copy of the bill; no one knows anything about its major policy implication.

The Senate bill allowed each state's money to be spent as each state determined. This bill included hundreds of Congressionally designated projects in both the highway and mass transit accounts. Although the earmarked Washington state projects were all appropriate in the highway category, the mass transit title did not treat my state fairly. The Regional Transit Authority, perhaps the most cost-effective project in the nation, was less fairly treated than projects abandoned by the communities for which they are authorized.

Even more importantly, the general highway fund distribution formula discriminates unfairly against Washington state. It returns to us a lower percentage of our motor vehicle fuel taxes than does present law, the original Senate bill, or the House bill. Our conferees in the Senate did not represent us well.

The bill is full of pork and unfair. I will vote against it.

Mr. WELLSTONE. Mr. President, I am here on the floor today to explain my concerns about the conference report on the Intermodal Surface Transportation Efficiency Act (ISTEA).

I want to first say that I was pleased to be able to vote for the Senate bill in March. This bill will continue the important work that was begun under the first ISTEA. It represents a comprehensive package to address all transportation needs. It continues the fundamental goal of the original ISTEA, which is to afford state and local governments greater flexibility in allocating transportation dollars.

I believe that investing in our transportation infrastructure is essential if we are to remain economically competitive. Today, our highways and transit systems need continued support in order to meet our commercial and personal transportation requirements.

I also want to thank all the people in Minnesota who have educated me along the way on transportation issues. In addition to the "traditional highway advocates"—the city, county and state officials, engineers and contractors—I have been working closely with community organizers, architects, preservationists, bicyclers and community activists. Though some may have questions about this or that provision, all of these people support ISTEA.

ISTEA will guarantee that a federal investment will be made in maintaining and expanding Minnesota's highways, transit and other transportation related programs. I am pleased that several transit projects have been proposed in Minnesota, including the Twin Cities Transitway. Improving existing transit and building new transit will be crucial as we see our population in the state continue to grow. It is clear that, as our region continues to grow, we will need alternatives to the traditional car and driver commuting.

Transportation is critical to our daily lives. We cannot separate how people and goods are transported from the many other parts of their social and economic lives. It is important to work together to ensure that we have a fully integrated, safe and environmentally sound intermodal transportation system in the State of Minnesota and the country. ISTEA does this through the MPO, ATP and STIP process. The planning provisions of the bill put the major decision-making back at the local level where it belongs. In addition, the conference report contains language that allows for appropriate meaningful public participation in the MPO process. While the MPO process has worked well, this new language will make the process that much more responsive to the communities that are most affected by their decisions.

Unfortunately despite these facts, I cannot vote for this conference report for a number of reasons. First, the conferees have reportedly selected major offsets that I strongly oppose. While we do not have all the details, I believe the bill assumes $15.5 billion in savings from denial of compensation claims by veterans with smoking-related illnesses. The veterans health cuts are especially troubling. I believe it is an outrage that funding that could have gone to meet the many pressing needs of this country's veterans, will instead be used as an offset for spending in this bill.

For years, veterans have been told that cuts to the Veterans Administration (VA)—and particularly cuts to veterans health care—were necessary to reduce the deficit and balance the budget. Last year's balanced budget agreement flatlined the VA budget over six years. It provided virtually no allowance for medical inflation, which in years past has come to roughly $500 million per year.

But Congress can no longer pretend that its failure to provide for veterans' programs is a lack of resources. First of all, the budget is now balanced. Indeed, this year we have a projected surplus of somewhere in the range of $50 billion. Second, in this case Congress is taking resources away from veterans themselves. If Congress insists on denying benefits to veterans who were hooked on smoking during their military service, there is no excuse for transferring those savings outside the VA.

I can think of a lot of areas in the veterans budget where we could have put those savings to good use. For example, I have a bill to provide compensation for veterans who were exposed to radiation during their military service. I've been told these atomic vets cannot be compensated because offsets would have to come from elsewhere in the VA budget. Yet this ISTEA bill seizes upon an enormous offset from that very VA budget and dedicates those funds to transportation.

We could certainly provide more resources for veterans health care, which is facing a severe funding crisis. Without additional funding the VA health care system will "hit the wall," VA Undersecretary for Health Dr. Kenneth Kizer has testified.

This particular offset makes a mockery of the Senate's professed concern for veterans and for deficit reduction. I have real doubts about the various estimates of savings from denial of smoking-related claims. I know others do as well. Nobody knows how much VA will save by denying these benefits to veterans. But the conferees have apparently opted for the highest possible number.

This offset makes very clear what some of us have long suspected. The reason veterans programs have been cut in recent years is not deficit reduction. It's not for the purpose of balancing the budget. It's not because full funding would require a tax increase.

It's none of those things. It's because this Republican Congress places a lower priority on veterans than on other areas of the budget. We cannot get around that fact. Congress would rather use these savings elsewhere.

Whether we like it or not, the legislation we pass in this body makes it very clear what our priorities are. I, for one, think we need to reorder those priorities. I think we need to put more emphasis on the needs of working families. And in this case, I think we need to put a lot more emphasis on veterans who have faithfully served their country.

I will also vote no on this bill, as much as I believe in its goals, because of the way it attempts a resolution on an historic land use dispute in my State regarding the management of the Boundary Waters Canoe Area Wilderness, without adequate Congressional consideration or debate. Congressmen BRUCE VENTO and JAMES OBERSTAR this week reached a last-minute, independent agreement on a proposal to change future management of the BWCAW. The proposed agreement would re-open two portages in the BWCAW to motorized transport in return for closing two small, pristine wilderness lakes to future motorized use.

I regret that this agreement was reached in this way, at the last minute in the House-Senate conference committee, without having been debated by either the House of Senate. As I have said elsewhere, I would have preferred an open, fair, public Congressional debate on my legislation, patterned after Minnesota mediation proposals, and the major alternatives offered by my colleagues. I remain convinced that my compromise plan was a viable one which carefully balanced the interests of all parties. I do not think that last-minute private deals like this one are an appropriate way to conduct policy, especially on a major issue which has so divided our stated. Such deals do nothing to improve Minnesotans' confidence in the fairness of the legislative process.

Mr. President, I want to reiterate my support for the overall objectives of this legislation. I believe investing in our transportation infrastructure is essential if we are to remain economically competitive. Today, our highways and transit systems need continued support in order to meet our commercial and personal transportation requirements.

It is therefore with deep regret that I will be voting against this conference report. I believe that we could have done much better and produced a bill that continued federal support for transportation and transit infrastructure without the problems that this bill has created.

Mrs. BOXER. Mr. President, I rise today to give my warmest thanks to the leadership on the Environment and Public Works Committee, on which I proudly serve, for the hard work and dedication that led us to present the Conference Report on the Transportation Equity Act for the 21st Century, also known as ISTEA II.

I ask if the distinguished chairman of the Committee, Senator CHAFEE of Rhode Island, would respond to a question.

Mr. CHAFEE. I will be happy to respond to a question from the Senator from California.

Mrs. BOXER. I thank the Senator. This conference report has provided important funding to preserve a bridge in California. This bridge is not just any bridge. It is the bridge that is a symbol for my state and it is a national treasure. The Golden Gate Bridge is truly a jewel in California. It frames California as our Pacific Gateway. I believe many Americans would agree it is one of our nation's most magnificent architectural treasures.

But, Mr. President, it is also highly vulnerable to earthquakes. We need to protect it. We have a 1.2 billion program in the Bay Area to protect our bridges from earthquakes. This seismic retrofit and new construction is being paid for entirely by state revenues and by tolls paid by our motorists. The Golden Gate, however, is not a state bridge. It is not a Federal bridge. It is owned by the Golden Gate Bridge and Highway Transportation District which collects the tolls and operates a local mass transit service. Consequently, the bridge, this treasure, needs additional funds in order to pay for a $217 million program to protect the bridge from earthquakes.

I am so pleased that Senator CHAFEE and my colleagues on the conference committee heeded our pleas for help on this project and provided $51.75 million for the retrofit program. That amount includes $25 million from the Bridge Discretionary program.

I ask the chairman if it is his understanding that the Golden Gate Bridge is eligible for additional funding from the discretionary bridge program.

Mr. CHAFEE. Yes, the Senator from California is correct, the Golden Gate Bridge is eligible for additional discretionary funding from this program. I wished that the conference could have done more to earmark funding, but the earmark provided was not intended to limit any additional discretionary grants for the bridge.

Mrs. BOXER. I thank the Senator.

Mr. CHAFEE. As the Senate considers the conference report for the Transportation Efficiency Act for the 21st Century, I want to take a moment to discuss the Disadvantaged Business Enterprise (DBE) program that is part of this bill.

The DBE program was designed to ensure that all Americans have the opportunity to compete for the many billions of dollars in contracts that will flow from this legislation. The program, which has been in place since 1982, has proven both necessary to and effective in our efforts to remedy discrimination in transportation procurement markets. By reauthorizing the DBE program again this year, Congress has signaled its belief that the evidence remains clear: we need this program if we are to remove the continuing barriers confronted by minority- and women-owned businesses.

Let me take a moment to share with my colleagues additional information that has come to light since the two chambers last considered the DBE program. A disparity study conducted for the Colorado Department of Transportation (CDOT) and released in April found that there was a disproportionately small number of women- and minority-owned contractors participating in Colorado's transportation construction industry. The study showed that African-Americans received none of the state-funded highway construction contracts over $500,000. Hispanic firms received less than one-half of one percent (.26%), and women-owned businesses were awarded less than one-quarter of one percent (.18%). The vast majority of contracts—more than 99 percent—went to firms owned by white men. The authors found that a significant disparity existed between what minority contractors actually received and what they might be expected to receive in the absence of discrimination.

The Colorado study also demonstrated that the DBE program has worked in leveling the playing field for women- and minority-owned firms. It notes that "only when a DBE program has been in effect, has there been any significant dollar amounts utilized with [minority-/women-owned] firms."

The fact of the matter is that discrimination continues to plague minority- and women-owned firms in America. Congress has a strong and compelling interest in remedying this situation; and in the DBE program, we have had and will continue to have an effective tool.

Mr. BAUCUS. Mr. President, I agree with my colleague from Rhode Island that the Disadvantaged Business Enterprise program has been an effective part of the highway program. It's given construction companies owned by women and minorities a seat at the table.

I also believe that the program is constitutional. Under the Supreme Court's Adarand decision, affirmative action programs like the DBE program must pass two tests. The first is that the program serve a compelling interest. The lower court decision in the Adarand case held that there is such a compelling interest. The Senate debate reinforced this point. There was discussion of discrimination in the construction industry, and of statistics showing the underutilization of women- and minority-owned businesses in that industry, such as evidence of dramatic decreases in DBE participation in those areas in which DBE programs have been curtailed or suspended.

There also was discussion of the second test, whether the program is narrowly tailored. As I explained in my statements during debate on the McConnell amendment, I believe that the program is narrowly tailored, both under the current regulations and the new regulations, which emphasize flexible goals tied to the capacity of firms in the local market, the use of race-neutral measures, and the appropriate use of waivers for good faith efforts.

As I said during the Senate debate, the DBE program is fair. It is necessary. And it works. I am pleased that, in rejecting amendments that would have undermined the DBE program, the Senate has reaffirmed its commitment to equal opportunity.

Mr. CHAFEE. I want to associate myself with the remarks by my friend and colleague from Montana regarding the constitutionality of the program. This is an important matter, and I appreciate his comments. I hope our colleagues will find all of this information of interest.

Mrs. HUTCHISON. Mr. Chairman, I understand the amount authorized under this section for the DART North-Central Light Rail Extension shall be no less than $188 million.

Mr. D'AMATO. Yes, in addition, I understand the federal share of the Full Funding Grant Agreement executed by the Department of Transportation for this project shall be $33 million.

Mrs. HUTCHISON. That is correct, and I thank the Chairman for his support in this matter.

Mr. LIEBERMAN. Mr. President, I rise this afternoon to express my appreciation to Senators on both sides of the aisle, in particular my colleagues on the Environment and Public Works Committee, for all their work in crafting the new six-year transportation bill that is before us. A great deal of the credit must go to Senator CHAFEE and his staff, especially Jimmie Powell, for their tireless efforts in crafting a compromise bill that resolves a good number of contentious issues.

Mr. President, this highway bill reaffirms many of the revolutionary principles established by ISTEA in 1991. Like ISTEA, it provides broad and substantial support for all modes of surface transportation, including transit. It funds important maintenance, safety, and air quality needs as well as the construction of new infrastructure. As the product of difficult House-Senate negotiations, this compromise bill does not include every policy that I would have liked. Yet the bill represents a sound and reasonable basis for strong transportation policy over the next six years, and I support it.

Finally, let me clarify one provision in the bill. A provision I drafted provides funding for the development of a rail trail in Winsted and Winchester, Connecticut. This provision should be read to include the development of the trail in Torrington, Connecticut, as part of this project. The trail will provide residents with access to trails in Barkhamsted and Canton, Connecticut.

Mr. SPECTER. Mr. President, while I am very pleased with the allocations for Pennsylvania, I am voting against the ISTEA conference report because the offsets hit the veterans' accounts so hard.

I compliment House of Representatives Chairman BUD SHUSTER and Senate Chairman JOHN CHAFEE on their extraordinary diligence and accomplishments as lead negotiators on this mammoth bill. I work closely with them in Pennsylvania's infrastructure's needs and I thank them for the accommodations on Pennsylvania's roads, bridges and mass transit systems.

In seeking total offsets of $17.7 billion, the veterans' accounts have been hit for $15.367 billion and 86.8% of the total offsets. As the Chairman of the Veterans' Affairs Committee and a chief advocate for veterans' interests, I believe this is excessively disproportion.

There is an additional $25 billion in the highway trust fund. I am advised that $25 billion will yield approximately $6 billion in interest over the next six years. Those funds could have been used for the offset or at least part of the offset; or other funds could have been found for a part of the offset.

Accordingly, I register this protest vote.

My concern for this veterans' offset is consistent with my position during consideration of the FY '99 Budget Resolution when I opposed this large offset in the veterans' accounts. I shall work to try to recoup these offsets from the veterans' accounts as we move forward in the appropriations process.

Mr. BAUCUS. In July of 1997, the Environmental Protection Agency promulgated final rules that set new National Ambient Air Quality standards for fine particle air pollution, known as PM2.5. The standards require three years of monitoring data to be collected before determining whether an area is meeting the standards.

It is my understanding that under the Clean Air Act, Governors are required to submit designations for attainment, nonattainment and unclassifiable areas within their states within 120 days but no later than 1 year following promulgation of a new or revised standard. The EPA is then required to promulgate designations within two years of the issuance of such final standards.

For the July 1997 PM2.5 standard, this schedule poses a problem. Monitors are not yet in place and three years of monitoring data will not be available to permit Governors and the EPA to determine whether an area is or is not in attainment. Therefore, the Clean Air Act would require EPA to take the meaningless step of designating areas as unclassifiable in July of 1999 on the basis that three years of PM2.5 monitoring data are unavailable.

Mr. INHOFE. That's correct. But the Senate included an amendment in this bill that addresses this problem. Under this amendment, for the July 1997 PM2.5 standards, EPA would no longer be required to designate areas regarding their PM2.5 attainment status in July of 1999.

Instead of the designation schedule currently in the Clean Air Act, this amendment would establish the following requirements for PM2.5 designations: Section 4102 would extend the time for Governors to submit designations for the July 1997 PM2.5 standard until one year after receipt of three years of monitoring data.

Rather than the two year period normally provided by the Clean Air Act, under section 4102(d) of this amendment, EPA would not be required to promulgate nonattainment, attainment and unclassifiable designations for PM2.5 areas until one year after the Governors are required to submit the designations or until Dec. 31, 2005, whichever date is earlier.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the conference agreement on ISTEA now before the Senate, which will appropriately be entitled "The Transportation Equity Act for the 21st Century", is a magnificent accomplishment for those of us who have labored many long months to achieve the enactment of this truly monumental highway bill. Today is the day that we have all been hoping for lo these many months. Today is the day Congress will send to the President a 6-year ISTEA reauthorization act that truly keeps faith with the American traveling public. In adopting this conference report, the Senate will make two profoundly important statements to the American traveling public. First, we are telling the American public that we are finally prepared to guarantee that the revenues collected at the gas pump will indeed be spent for the purpose for which they are collected; namely, the maintenance, upkeep, safety, and expansion of our national highway and transit systems. Second, we are telling the traveling public that we are determined to reverse the Federal Government's chronic underinvestment in our national highway needs.

We are about to send to the President a highway bill calling for a full $216 billion in transportation investments over the six years, 1998 through 2003. Of that amount, $173 billion is provided in contract authority for our national highway system.

Senators will recall that the Omnibus Budget Reconciliation Act of 1993 assessed a new 4.3 cents gas tax, solely for the purpose of deficit reduction. That was the first time since the Highway Trust Fund had been established in 1956, that a permanent gas tax was put on the books for a purpose other than for transportation investments. In May of 1996, our former colleague, Senator Dole of Kansas, rekindled the debate on the appropriate use of the 4.3 cents-per-gallon gas tax. At that time, I signaled to my colleagues my intent to offer an amendment to transfer this 4.3 cents gas tax from the general fund to its rightful place in the Highway Trust Fund so that it could be used to help meet our ever-growing unmet needs in the area of highway construction and maintenance, as well as to rebuild the thousands of unsafe and overburdened bridges throughout the nation. In my view, the Federal Government has, for too long, held its head in the sand while our Federal investment in our nation's infrastructure declined, both as a percentage of our gross domestic product. As such, I was poised to offer my amendment to transfer the 4.3 cents tax into the Highway Trust Fund throughout the summer of 1996. At the behest of both the majority and minority leaders, I deferred offering my amendment on two separate tax bills. Unfortunately, another opportunity to offer my amendment did not arise during the 104th Congress.

During debate on the budget resolution last year, Senator GRAMM offered a Sense-of-the-Senate amendment supporting the transfer of the 4.3 cents-per-gallon gas tax from deficit reduction to the Highway Trust Fund, and the spending of that revenue on our highway construction needs. Senator GRAMM was joined by 81 of our colleagues in support of this amendment. Later that year, when the Finance Committee marked up the Taxpayer Relief Act of 1997, it was Senator GRAMM, who is a member of that committee, who successfully included a provision transferring the 4.3 cents to the Highway Trust Fund. That provision became law with the enactment of the Taxpayer Relief Act in August of 1997.

Transferring this new revenue to the Highway Trust Fund was crucial, because it gave Congress the opportunity to authorize and commit dramatically increased resources on our National Highway System. Unfortunately, however, even with this new revenue coming into the Highway Trust Fund, the Environment and Public Works Committee reported a highway bill on October 1, 1997, that failed to authorize even one penny of this new revenue to be spent on our Nation's highways and bridges. Indeed, under the funding levels reported by the Environment and Public Works Committee for the highway program, the unspent balance in the Highway Trust Fund (including both the highway and transit accounts), was expected to grow from $22.9 billion at the beginning of 1998 to more than $55 billion at the end of 2003, the end of the ISTEA II authorization period. I found these figures to be grossly unacceptable. Senator GRAMM and I did not successfully champion the transfer of the 4.3 cents into the Highway Trust Fund so that the revenue would sit in that Trust Fund, unspent. There was no question that these funds were sorely needed on our Nation's highways. I have taken to the Floor numerous times over the years to remind my colleagues of the hundreds of thousands of miles of highways in the nation that are rated in poor or fair condition, and the thousands of bridges across our nation that are rated as deficient or functionally obsolete.

Following the Environment and Public Works Committee's action, I held several discussions on the subject with members of the committee, including Chairman CHAFEE, and the ranking member, Senator BAUCUS. As a consequence of these discussions, I prepared an amendment to the highway bill to authorize the spending of the full amount of revenues going into the highway account of the Highway Trust Fund. Given the continuing deterioration of our Nation's highways in all 50 states, and the growing volume of concern on the part of the Nation's Governors and State legislators regarding the Federal Government's underinvestment in our infrastructure, I felt that it was essential that the Senate have an opportunity to vote on whether or not we meant what we said when we placed these additional highway tax revenues into the Highway Trust Fund.

I was pleased to have as the very first cosponsor of the amendment I had prepared my very good friend and colleague, Senator GRAMM. Shortly thereafter, our efforts were given a great boost when we were joined by Senator BAUCUS, the ranking member of the Surface Transportation Subcommittee, and Senator WARNER, the subcommittee's chairman. Senators GRAMM, BAUCUS, WARNER, and I diligently sought to obtain cosponsors for our amendment. In total, we were able to secure an additional 50 cosponsors, making a total of 54 cosponsors for the Byrd-Gramm-Baucus-Warner amendment.

Our amendment authorized additional contract authority for highways over the period Fiscal Years 1999 through 2003, totaling $30.971 billion. At the time we introduced our amendment, that amount was the Congressional Budget Office's estimate of the revenue from the 3.45 cents portion of the 4.3 cents gas tax that would be deposited into the highway account of the Highway Trust Fund over that five-year period. In January of this year, the Congressional Budget Office re-estimated that five-year figure to a level of $27.41 billion, or a reduction of $3.561 billion from their earlier forecast.

During Senate debate on the highway reauthorization bill, Mr. President, it appeared that a true battle was brewing. The Senate was divided into two camps—the camp of those that had joined with Senators BYRD, GRAMM, BAUCUS, and WARNER in support of authorizing the spending of the additional revenue to the Highway Trust Fund, and the opposition, led by Senators DOMENICI and CHAFEE, who opposed this approach. This division was causing a delay in Senate consideration of the ISTEA bill, a delay that made all Senators uncomfortable, since we faced the May 1 deadline beyond which most states could not obligate any federal aid highway funds absent a new authorization bill. The fact is, that the May 1 cutoff of highway obligation authority is still in effect and is a major reason why it is so critical that Congress get this legislation to the President's desk before the Memorial Day Recess. Ultimately, in an attempt to break the Senate deadlock on the highway bill, the majority leader, Mr. LOTT, asked that all parties join him in his office for negotiations on this issue. And so, Senator GRAMM, Senator BAUCUS, Senator WARNER, Senator CHAFEE, Senator DOMENICI, Senator D'AMATO, and I did join with the majority leader to discuss the situation. After several days of back and forth discussions, under the very adept moderating style of the majority leader, I was pleased that an agreement emerged that resulted in an amendment to the then-pending highway bill totaling $25.920 billion in additional highway spending. That amount represented 94 percent of CBO's most recent estimate of the revenue to the highway account, stemming from the 4.3 cents gas tax.

On a matter that was of critical importance to me, the negotiated amendment included $1.89 billion for the Appalachian Development Highway System. Coupled with the $300 million already in the committee bill for this system, total funding over the 6-year ISTEA bill, for the Appalachian Regional Highway System equaled $2.19 billion, the full amount requested by the administration in their ISTEA proposal. Back in December—or January, rather, of 1997, I had met with the President with the goal of convincing him of the importance of completing the Appalachian Highway System. The completion of these highways were promised to the people of Appalachia more than 32 years ago. But as we enter the new millennia, we find that our Interstate Highway System is almost 100 percent complete while the Appalachian Highway System remains less than 78 percent complete. In my home State of West Virginia, we lag behind the average for the region. Our segments of the Appalachian Highway System are only 73 percent complete. I was pleased that, following our meeting, the President saw fit to include $2.19 billion for the Appalachian Highway System in his ISTEA reauthorization proposal. While this amount would not serve to complete the Federal contribution toward the system, it represented a substantial boost to the system and sent a signal to the entire Appalachian region that we are serious about completing these corridors. So the proposal also provided for the Appalachian States to be able to draw down contract authority from the trust fund in order to complete their Appalachian corridors.

The $26 billion included in our amendment not only allowed for a boost to the Appalachian Highway System, it provided for substantial increases in highway funding for all 50 States and many other national highway initiatives. Perhaps, most importantly, it closed the substantial funding gap that existed in the total amount of funding in the Senate highway bill and the highway bill under consideration in the House of Representatives. It paved the way for a less contentious and more amicable conference. Put simply, by bringing the additional $26 billion to the table, our amendment better enabled the conferees to include many critical initiatives in the conference agreement—initiatives that might otherwise have been left out of our Federal Aid Highway program for the next 6 years.

This conference agreement includes an historic increase in the overall level of investment in our Nation's highways, a 44 percent increase over the levels authorized in the original ISTEA legislation for the years 1992 through 1997. The agreement includes a total of $2.25 billion for the Appalachian Highway System. Within that amount, West Virginia can expect to receive roughly $345 million to aid in the completion of Corridor H from Wardensville to Elkins and Corridor D in the Parkersburg area. The bill also includes specific earmarks for several high priority projects throughout the State. These include: $50 million for West Virginia Route 10 from Logan to Man and $22.69 million for the continued construction of the Coalfields Expressway in Southern West Virginia.

Mr. President, I commend the conferees for their diligent efforts in reaching this historic agreement. I especially commend chairman CHAFEE and chairman WARNER, as well as Senator BAUCUS, who have spent untold hours in negotiations with the House conferees in an effort to reach a fair and balanced conference agreement. I also commend chairman SHUSTER for his splendid efforts on the House side in chairing this very difficult conference and for bringing it to a successful conclusion in such an expeditious manner. Further, I want to especially commend my own Congressman, Representative NICK RAHALL of the Third District of West Virginia in which my voting residence is attained. He served as one of the leaders of the House conferees and has been a stalwart ally in the effort to guarantee the American people that their gas taxes will be spent on our Federal highways. His wisdom and his experience have made West Virginia and the Nation proud.

I also compliment the many members of staff—for example Jim English and Peter Rogoff—who have worked diligently over these many, many months, as a matter of fact, in helping to bring this historic bill to fruition. I must thank, again, both leaders, Mr. DASCHLE and Mr. LOTT, for their support of the legislation. I thank all Senators who have participated one way or another in the working out of this agreement. And, again, I compliment and thank Mr. SHUSTER and the Members on the House side.

It was a difficult bill. It was a difficult battle and a difficult conference.

I close by thanking once more, Senator GRAMM of Texas for his splendid leadership, for his unfailing courage, for his high dedication to the passage of this bill, and also for his determination to do everything possible to see to it that the moneys the American people spent on the gas tax when they fill their fuel tanks go into the highway trust fund and are spent on highways. I thank him for joining with me in seeing to it that the amendment which would provide for the expenditure of those trust fund moneys on highways and bridges was implemented. This was the goal that we sought. We thought it was right. We thought that it was being honest with the American people.

I don't think I could have had a better supporter and compatriot and colleague in this effort than Senator GRAMM. He is, indeed, a very able Senator, and has one of the brightest minds I have seen in my 40 years in this Senate. I salute him and express my gratitude for his steadfast support and his encouragement that he gave to me and to others of us who worked together in this matter.

This conference agreement represents a remarkable accomplishment, long sought by the American people and those of us who are fortunate enough to represent them. I commend all those whose efforts have brought us to this historic day.

I yield the floor.

Mr. BREAUX. Mr. President, I want to commend the distinguished Senator from West Virginia not only for his comments, but also for his untiring work on this very important legislation. He is to be commended. I thank all of our colleagues for their work and their contribution on the highway bill. But I assure everyone in this country that were it not for the senior Senator from West Virginia, this bill would not have been passed in this body this afternoon and be part of one of the most massive improvements of our transportation system in this country. He is to be commended. I know there are so many people that are not here today that want to say thank you to the very distinguished Senator for his contribution in this regard.

Mr. BYRD. Mr. President, I thank my friend from Louisiana. I thank him for his kind words, and I thank him for his support all along the way which greatly helped us in bringing this legislation to its fruition. I thank him again.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. McCAIN) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. McCAIN) would vote "nay."

Mr. BREAUX. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Kentucky (Mr. FORD), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "aye."

The result was announced—yeas 88, nays 5, as follows:

[Rollcall Vote No. 147 Leg.]

YEAS—88

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Frist
Glenn
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kempthorne
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NAYS—5

Gorton
Kyl
Roth
Specter
Wellstone

NOT VOTING—7

Bumpers
Ford
Inouye
Kennedy
McCain
Murkowski
Torricelli

The conference report was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the submission introduction of S. Res. 36 are located in today's RECORD under "Statements on Senate Concurrent and Joint Resolutions.")

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Louisiana.

Mr. BREAUX. I thank the Chair.

(The remarks of Mr. BREAUX pertaining to the introduction of S. 2121 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

ISTEA

Mr. DASCHLE. Mr. President, I rise for a moment to congratulate all of those Senators who have had so much to do with the success that we have just demonstrated with the passage of the Interstate Transportation Efficiency Act, the so-called ISTEA II bill. Senator BAUCUS, Senator CHAFEE, Senator WARNER, Senator BYRD, and Senator GRAMM deserve our accolades and our commendation for a job extraordinarily well done.

This represents the single biggest investment in our infrastructure in our Nation's history. It represents an effort to recognize the importance of infrastructure and the array of challenges that we face in an information age, as well as at the turn of this century and the entrance into a new millennium.

It also recognizes the importance of regional balance—the West, the South, the Northeast, the Midwest—all with our disparate challenges and problems that we face with infrastructure, all with the needs, all with the recognition that our States are vastly different as those needs are reflected in public policy. This not only represents the greatest investment, in my view, it represents as well the best regional balance that we have been able to demonstrate.

Finally, I think it recognizes the importance of something the distinguished Senator from Louisiana and the Senator from West Virginia have said on the floor many times: We must recognize the critical nature of the trust fund itself and restore the practice that this country had at one point and was religious in adhering to, and that is that we use the funds that are designated for particular trust funds as they should be used. When this legislation is fully implemented, that is exactly what will happen; the trust fund will be used as it must be used.

Today, we spend approximately $32 billion from the trust fund on an annual basis, but only $21 billion goes to highways and infrastructure needs; $11 billion, roughly, goes to needs that are not highway designated, that are not related to infrastructure. Mr. President, the time has come for us to make a change in that practice, and this legislation does it.

There has been a great deal of concern expressed on both sides of the aisle about the veterans' offset. Frankly, I am very disappointed and discouraged about the fact that we are using a veterans' fund for purposes of offset, but this is not the last word. I must say, if we were using the trust fund for which it was designed, we wouldn't need the veterans' fund because the highway fund is more than adequate to cover our needs for infrastructure in this country.

We will revisit the veterans smoking issue, and, in my view, we will revisit it in a successful way. We must recognize there is a dependency created in large measure because of past practices in the Armed Forces that we must address. Whether it is in the smoking bill, whether it is in some other legislation in the future, we will not ignore the fact that veterans need the same consideration as every other smoker in this country; in fact, in some cases you could clearly say more.

There are two issues to be resolved: One is the offset; the second is the policy. I believe in the longer term we will deal with both successfully. But that should not in any way dissuade us from taking great satisfaction today with this accomplishment, for the tremendous job that was done in bringing us to this point; that, in fact, at long last—a month overdue—at long last we did what the Nation was waiting for us to do: Pass a meaningful infrastructure bill that represents the needs, challenges, and demands that must be put on this Nation as we enter a new era.

I yield the floor.

VETERANS

Mr. BREAUX. Let me make a brief comment. I want to associate my comments and feeling with the earlier remarks of the distinguished Democratic leader, Senator DASCHLE, with regard to his comments about this bill and the use of funds in the highway legislation that could be used for veterans disability benefits associated with smoking.

I was very, very pleased to hear Senator DASCHLE point out very clearly that this issue will be revisited. It needs to be revisited. It is unfortunate, I think, that moneys that were going to be available for veterans who have suffered disabilities from smoking problems will be used for part of this legislation that we just recently passed. But I think it is very clear there is a strong feeling among most all members of the Commerce Committee that this is an issue that needs to be revisited. We need to find the funds to make sure that these types of health disabilities are taken care of and that if it is a veterans disability associated with their service that they be treated as such. I support that. I will be here to do anything that I can to try and correct this problem.

As we deal with the tobacco legislation on the floor, it would seem to me this would be, perhaps, a good way of addressing this particular issue as a health-related smoking issue. I hope we could find a way within the tobacco legislation to address this.

I stand committed to work with Senator DASCHLE on finding a way to correct this problem. I am quite confident that we will be able to do so, and certainly I am committed to do that.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii.

ASIAN PACIFIC AMERICAN HERITAGE MONTH

Mr. AKAKA. Mr. President, before we break for the Memorial Day recess, I would like to remark on the celebration of Asian Pacific American Heritage Month and to honor the contributions Asian Pacific Americans have made to our country.

Mr. President, the scope of the celebration has expanded every year since 1992, when President Bush signed Public Law 102-450 designating May of every year as "Asian Pacific American Heritage Month." In Washington, D.C., and in cities all around the nation, schools, community organizations, cultural groups, and government agencies are commemorating the occasion with film festivals, conferences, cultural shows, museum exhibits, political forums, and a multitude of other activities.

Americans of Asian and Pacific Islander descent number 10 million and that figure continues to rise. Asian Pacific Americans represent a broad range of ethnic groups. Their histories are as diverse as the lands of their origin. The earliest immigrants—Chinese, Japanese, Asian Indians, Koreans, and Filipinos—and the most recent refugees—Vietnamese, Laotians, and Cambodians—all experienced similar, yet unique journeys as they crossed the Pacific to venture to a new land of opportunity. Opportunities, however, were not as plentiful as they would have hoped. From the Chinese Exclusion Laws, which restricted immigration on a racial basis, to Executive Order 9066, which resulted in the internment of more than 110,000 Japanese Americans and their immigrant relatives, life in America, at times, proved to be a nightmare rather than the promised American Dream. But despite seemingly insurmountable obstacles, these early intrepid immigrants toiled and sacrificed in order to make this country their own and to preserve the American dream for their American children. They helped build our railroads, labored on our farms, worked endless factory hours, and formed the backbone of many small businesses.

Today, even more so than in the past, Asian Pacific Americans contribute to every sector of our society. They are in corporate board rooms, scientific laboratories, universities, Congress, statehouses, the judiciary, government agencies, the performing arts, and sports. They are architects like I.M. Pei, scientists like AIDS researcher David Ho, statesmen like Senator DAN INOUYE, writers like journalist Iris Chang, musicians like conductor Zubin Mehta, filmmakers like Chris Tashima, sports heroes like Tiger Woods, and warriors like General Eric Shinseki. Unfortunately, the scope and ubiquity of Asian Pacific accomplishments are often overshadowed by insensitive acts directed against members of the community.

For example, during last year's investigation of campaign finance abuses, the distinction between foreign donors and Asian American donors was frequently blurred by members of both political parties and the media. While investigations focused on contributions made to the Democratic National Committee by foreign donors, legitimate American donors were unduly interrogated and harassed simply because their surnames happened to sound "foreign."

For their part, the media, including major newspapers, networks, and magazines, often confused "Asian" with "Asian American" in their stories and headlines on the donor controversy, though they never seemed to confuse "European" with Americans of European extraction. The media's inability to distinguish between foreigners and citizens contributed to the stereotypical impression that there is a nefarious "connection" between all Asians and Asian Americans.

This bias was in more recent evidence just after Michelle Kwan and Tara Lipinski honored America by winning the silver and gold Olympic figure skating medals, respectively. Immediately after the event, the internet website of NBC's cable affiliate, MSNBC, contained the headline, "American Beats Out Kwan for Women's Figure Skating Title." As we all know, both Lipinski and Kwan are Americans. But the difference between the two champions, in the eyes of MSNBC's editors, was their skin color, making one "more" American than the other.

Mr. President, instances like these remind us that Asian Pacific Americans, whatever their achievements, whatever their contributions to the nation, are still perceived as foreigners, whether fifth or first generation. These unfortunate incidents are reminders that as a nation we still have a long journey ahead of us on the road to tolerance and mutual understanding.

But I would be remiss if I did not also point out that there have also been a number of developments that have helped advance the Asian Pacific community's quest to become fully accepted members of American society. I would like to take this opportunity to highlight two notable events which occurred during this month's celebration of Asian Pacific American Heritage Month, events that I hope reflect a growing understanding of, and appreciation for, Asian Pacific Americans by fellow Americans.

First, last Saturday, a ceremony celebrating the designation of Angel Island as a National Historic Landmark was held in San Francisco. Located in San Francisco Bay, Angel Island Immigration Station served as an immigration processing station for many West Coast immigrants between 1910 and 1940. Most of the immigrants entering through Angel Island were Chinese, but a sizable portion of the immigrants came from Japan, the Philippines, and Europe as well. However, the Chinese experience was vastly different from that of other immigrants, regardless of which port of entry they entered through. Subject to a series of Chinese exclusion laws beginning in 1882, Chinese immigrants could only enter the United States under the "exempt class." Instead of a welcoming atmosphere, these Chinese were subjected to days, weeks, months, and even years of hostile interrogation before being admitted to the U.S. or being deported back to China. They languished in prison-like conditions at Angel Island until decisions were handed down. In contrast, processing at Ellis Island took an immigrant, on average, three to five hours. Angel Island Immigration Station closed in 1940 after processing over 175,000 Chinese immigrants.

In 1970, a state park ranger discovered scores of poems beautifully carved into the wooden walls of the detention barracks, evidently composed by its onetime Chinese and Japanese residents. In one poem, a prospective Chinese immigrant wrote:

Every one says traveling to North America is a pleasure.
I suffered misery on the ship and sadness in the wooden building.
After several interrogations, still I am not done.
I sigh because my compatriots are being forcibly detained.

Another wrote

Originally, I had intended to come to America
last year.
Lack of money delayed me until early autumn.
It was on the day that the Weaver Maiden met
the Cowherd.
That I took passage on the President Lincoln.
I ate wind and tasted waves for more than
twenty days.
Fortunately, I arrived safety on the American
continent.
I thought I could land in a few days.
How was I to know I would become a prisoner
suffering in the wooden building?
The barbarians abuse is really difficult to take.
When my family's circumstances stir my emotions, a double stream of tears flow.
I only wish I can land in San Francisco soon,
Thus sparing me this additional sorrow here.

These poignant works reveal the hardships these immigrants endured; but, more importantly, they also revealed hopes and desires that are universal to the American story. This story is worth preserving, whether it is the experience of the Irish of Boston, the Italians of New York City, the African Americans of Savannah, the Mexicans of El Paso, or the Cambodians of Long Beach.

I would like to congratulate the Angel Island Immigration Station Foundation, the Chinese Historical Society of America, the California Department of Parks and Recreation, and the many other community organizations and individuals who worked tirelessly to procure National Historic Landmark status for Angel Island. It is my hope the new designation will help preserve a significant experience in the lives of Asian Pacific immigrants, and that it will also resonate with the universal immigration experience of all Americans.

The second promising development that occurred this month was the announcement by Hasbro Toys, the company, which manufactures "G.I. Joe," that it will be creating a Japanese American G.I. Joe, as part of its G.I. Joe Classics Collection. The action figure will honor the Japanese Americans who fought valiantly for our country during World War II.

My colleagues will recall that as members of the famed 100th Infantry Battalion/442nd Regimental Combat Team, Japanese American soldiers suffered unparalleled casualties in the French and Italian campaigns. Many veterans today still recall the heroism of this fighting unit, which during one famous engagement sustained 800 casualties to save the lives of some 200 members of a Texas battalion who were facing certain annihilation by German troops. The 442nd emerged as one of the most decorated units in our nation's military history, among its more famous members is Senator DANIEL INOUYE, whose heroism earned him the Distinguished Service Cross.

Aside from their military prowess, what was even more remarkable about these brave men was the fact that they were fighting for a country which was, in essence, holding their families hostage in internment camps. One of the darkest chapters of our nation's history was the forced evacuation of over 110,000 Japanese Americans into internment camps.

And so I am very pleased that a toy company, which markets to our most important community, our children, has dispensed with typical marketing values to honor America's home-grown Asian Pacific American heroes. For ultimately, only change in our cultural values will have transformational effect on race and ethnic relations as we approach the next millennium.

Mr. President, I am Native Hawaiian and I am Chinese, but above all I am American. I have embraced all of my identities and hope that others can learn to embrace and cherish our inherent diversity. It is my sincere hope that as we celebrate Asian Pacific American Heritage Month, each and every citizen will reflect on our nation's multiple heritages and appreciate the relationship between our racial and ethnic diversity and the unity that binds us together as Americans.

I yield the floor.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming, Mr. ENZI, is recognized.

THE SENATE'S ACCOMPLISHMENTS

THE HIGHWAY BILL

Mr. ENZI. Mr. President, I appreciate the honor of closing up today and sending everyone on their way back to their homes with the joyous news that there is highway money. I go back to Wyoming almost every weekend and travel 1,200 miles across Wyoming's vast open spaces, and we will appreciate that highway money. It truly has been a landmark achievement. I want to congratulate the senior Senator from Wyoming, Senator THOMAS, for his outstanding efforts on that bill. He did some early drafting and formulas that have helped tremendously in this. I have also appreciated his guidance since I have been here. Now we are heading back to our respective States.

THE TOBACCO LEGISLATION

The other thing that we have done this week is spend some time debating the tobacco settlement, debating how we can get teens to quit smoking, debating how we can solve the problems of tobacco. I hope that all Senators go back to their States and talk about this landmark piece of legislation that is before us—landmark in that it will be the largest tax increase in my memory, a tax increase that will be placed on a separate segment of the people.

I am going to stop right here and mention that I have not taken any money from the tobacco companies. When I was campaigning, I desperately needed some funds, but I didn't feel that it was right to do that. My comments are not based on that. It is concern out of what we debated this last week, the constitutionality of whether we have the right to solve this problem in this body for every person in the Nation, whether we can set that kind of a precedent. I am sure that if people have been watching, they have been a little confused about the amount of time it has taken to debate it. I want to assure them that it will take considerably more time to debate this issue. This would probably be more appropriate in six bills, coming from six different committees. It was tried that way, and it was determined that it needed to be in one bill. Each of those bills would require as much debate as we had this week.

We are going from a premise that these companies need to be punished. Lately, documents have shown that they have withheld information from their consumers—the people using the product—that shows that nicotine is definitely addictive, that it does affect their health, that it is going to hurt them. Consequently, there is a desire across this Nation to punish those companies. But as several of my constituents who smoke have said, "Let's see, they abused my body for years, and now you want to punish them by taxing me?" And we do this in the name of reducing teen smoking. We all want to reduce teen smoking. We hope they realize that 3,000 kids a day start smoking and they are going to kill themselves, and 1,000 of them for sure in that day will be killed sooner. And we say raising the price of cigarettes will do that.

I have been traveling Wyoming. I have been asking people about the price and how that would affect them. I have been going to schools when I am out there and asking about that price. And the general consensus is, yes, for a little while it will make a difference. But they refer me to other kinds of drug use that is expensive, more expensive, and increasingly expensive, and that use is going up.

I saw a college report from the George Washington University which was looking at the fact that they have increased the requirements on smoking on campus, and yet the number of kids smoking has gone up. At a university, they are supposed to be more intellectual perhaps. I know they believe they are. But they are still smoking more. So they are not thinking through the problem. But they asked them why. Part of it is rebelliousness. Part of it is because their parents did it. There are a number of reasons. None of the answers suggested included that the price would make a difference.

Kids today are paying outlandish amounts for a pair of tennis shoes. I sold shoes for 28 years. Would you believe they are paying 50 bucks for a pair of tennis shoes? I said that just to see if you were paying attention. Do you know that there are tennis shoes out there for 150 bucks and the kids are buying them? It is the kids that have the money to buy them. There are more kids working today, making money, and they are not using that money to help support their family. It is money that they get to spend. They are spending it on things like $150 tennis shoes.

So an increase in the price of a pack of cigarettes will bother them for a little while but not as a long problem.

Who winds up with the money in this bill? We have heard some comments here that in the highway bill there may have been some money taken from veterans. That was money never passed by Congress, never budgeted by Congress, never funded by Congress, and wasn't even in the President's budget this year to have that money. I don't know why it isn't in this smoking bill. Everything else is. Everything else is—even things that are not remotely related to smoking. If you ever had an idea for a project, this is a bill you can put it in. We will just kick the price of cigarettes up just a little bit. That will solve everything. It started out at $368.5 billion, went to $516 billion, and perhaps now is at $800 billion. We could match the regular U.S. budget in the trillions with this, eventually. We can just add in some other programs.

We are talking about compensating farmers. That will be the big debate when we get back. And the farmers ought to be involved in this debate. But we are talking about perhaps $20,000 an acre. And they get to keep the land? We are talking about vending machine owners. The machines run $1,500 to $2,500, maybe $3,500. We are talking about compensating them $13,000 per machine? That is where their current value of future lost revenue is—the amount of money they could have made off that machine, as though it was our fault that they bought the machine, as though it was our fault that smoking was bad for people.

Those are debates we will have when we get back, and those debates will take awhile.

The FDA is being given explicit authority in this. They need to probably have some explicit authority. But their budget already under our budget is increased significantly. Now, under this bill, we increase it 10 times more, $34 million to $340 million, a huge increase. We are expecting those people to gear up and utilize that money. It looks like we are forming an additional bureaucracy. I also want you to watch the dollars.

In Wyoming, for years we have been talking about increasing the price of the tax on cigarettes by 15 cents. When I was in the State legislature in Wyoming, we talked about that. We usually talked about putting that money to health needs. Even talking about putting it to the health needs, it raised approximately $8 million a year. I have to focus on the difference here between billion and million. In the States, a million is a lot of money. Out here, a billion is not much. But that 15 cents a pack raises $8 million. We are told that $1.10 a pack will raise $6 million. It doesn't sound like very good math. It sounds like the usual Washington program where it comes back here, we keep a bunch of it, and we send a little bit back. If that is the case, the State would do it better. It would have more money for the States.

I am going to mention two final concerns that I have on this. When we passed the budget bill, we talked about the need to help Medicare with money that came from the tobacco. That is what we were going to do with all of the money from the tobacco settlement—put it into Medicare, shore that up. It is in bad financial shape. That would give us some more time to work on it. There is very little provision in this bill for doing anything for Medicare. We should take care of Medicare. That would be a medical use for the money. That would be money that nonsmokers have been paying in to pay for smokers' problems that increase the cost of Medicare.

The final need that we have to have in the bill is a provision where we don't spend the money until we have the money. It disturbs me a lot that we are talking about putting an industry out of business but relying on ever-increasing revenues from this business going out of business. Somehow the basic counting instincts here just do not balance. We really have to be sure that the money gets collected before it gets spent if we are going to decrease the revenues.

So there are a lot of concerns there. I hope my colleagues will go home to their States and discuss with the people there the complexities of this bill. I don't know that there has been that complex a bill before. We are not going to probably break it down into six separate bills. So there will be a long debate on it when we get back. Share your ideas. Share your concerns. And we will get with that when we come back.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, May 21, 1998, the federal debt stood at $5,503,780,049,716.42 (Five trillion, five hundred three billion, seven hundred eighty million, forty-nine thousand, seven hundred sixteen dollars and forty-two cents).

One year ago, May 21, 1997, the federal debt stood at $5,348,058,000,000 (Five trillion, three hundred forty-eight billion, fifty-eight million).

Five years ago, May 21, 1993, the federal debt stood at $4,287,850,000,000 (Four trillion, two hundred eighty-seven billion, eight hundred fifty million).

Twenty-five years ago, May 21, 1973, the federal debt stood at $453,228,000,000 (Four hundred fifty-three billion, two hundred twenty-eight million) which reflects a debt increase of more than $5 trillion—$5,050,552,049,716.42 (Five trillion, fifty billion, five hundred fifty-two million, forty-nine thousand, seven hundred sixteen dollars and forty-two cents) during the past 25 years.

FIFTIETH ANNIVERSARY OF RED CROSS BLOOD COLLECTING

Mr. THURMOND. Mr. President, as the United States fought World War II, Americans mobilized in support of the war effort like they never had before. Everyone was trying to find a way to help our troops battle the Axis and keep the world free and safe. Whether it was children flattening and saving tin cans that were used for scrap metal, or people growing fruits and vegetables in "Victory Gardens", everyone tried to find a way to make their own contribution to winning the war and supporting our men and women in uniform.

It was at this time that the American Red Cross took on the responsibility of collecting blood that would ultimately be used to help save the lives of Soldiers, Sailors, Marines, and Army Air Corpsmen wounded in action. The efforts of the Red Cross were truly a success as they helped to reduce the death rate among the wounded by fifty percent.

For the past fifty years, the American Red Cross has been responsible for administering the Nation's blood supplies and they have done a commendable job in ensuring that the United States has a ready and ample reserve of blood for those who need it. Just a few days ago, on April 30th, American Red Cross President Elizabeth Dole helped to celebrate the fiftieth anniversary of that organization's Biomedical Services. Her remarks nicely illustrate the contributions and accomplishments of the Red Cross in administering the Nation's blood supply. I think that my colleagues and the public would be interested to read what Mrs. Dole had to say and I ask unanimous consent that her remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF ELIZABETH DOLE

Thank you, Paul, for that kind introduction and ladies and gentlemen, thank you so much. And special thanks to Donna Shalala, Secretary of Health and Human Services, and David Kessler, Dean of the Yale Medical School and former Commissioner of the Food and Drug Administration We are delighted you could be with us today as we mark the 50th anniversary of the most important of our national reserves: America's reserve of life, the American blood supply. Thank you, Donna and David, for your continued leadership, and for your steadfast dedication to the safety and quality of American health.

Aren't we thrilled to have Garth Brooks here. Garth, you have a magical hold on the spirit of our people. What a joy it is that you would share that bond with us. We are enormously grateful.

What a day! We are also so very pleased to be joined by the Oak Ridge Boys! Boys, your music puts the party in the birthday, and we thank you.

Also, many thanks to the other wonderful celebrities with us today—Lynda Carter, Kennedy, and William Moses. We sincerely appreciate your generosity in joining us to celebrate our 50th birthday of Biomedical Services. And, welcome to Councilwoman Charlene Drew Jarvis, the daughter of Dr. Charles Drew, renowned plasma pioneer for the American Red Cross and leading authority on transfusion. The Charles Drew Institute honors his memory. Thank you, Charlene, for your support over the years.

As we observe this 50th anniversary, of American Red Cross Blood services, it's a time to take satisfaction in our past and pride in where we've been. The Red Cross started collecting blood during World War II in order to save soldiers' lives, and our efforts were credited with reducing the death rate among these soldiers to half that of their World War I counterparts. When peace came, we created America's first nationwide, volunteer blood collection and distribution system, assuring all our citizens access to one of the great medical advances of this century.

But health events in the last two decades rocked us to our very foundations. The age of blood-borne diseases such as AIDS and new forms of hepatitis swooped down on us with a vengeance. We knew we could no longer operate at the Red Cross as we had done for so many years. Which is why this year, our 50th anniversary, is a year to look forward, rather than back. Today I take great joy in announcing an historic achievement:

As the year closes, the American Red Cross will celebrate the completion of our nearly seven-year, $287 million dollar transformation of our blood operations. This long-awaited milestone is the reason I stand here with so much confidence—and hope—for the future. The accomplishment of Transformation is a great, triumphant victory in our common endeavor to expand what is possible in health care.

And I'm also pleased to announce today that, following this speech, I am leaving on a nation-wide tour of blood drives and celebrity events to focus attention on the safety revolution in America's blood supply. Many of our citizens are still frightened of transfusions, and they should not be! Many millions still mistrust those red bags of life, and they must not! We have achieved a new American miracle in blood, and I will take that message across America. We will celebrate and we will educate but first, let me ruminate.

When I came to the Red Cross in February 1991, the legal and financial vulnerabilities of our blood operations threatened the very viability of the Red Cross. The country was pretty worried about the safety of America's blood supply back then. And as the person newly responsible for half of it, so was I. Some of our Board members wanted us to get out of blood banking altogether, believing our duty to safeguard the rest of our historic organization demanded that we abandon this mission field. Between Congressional hearings, media exposés and enormous regulatory pressure, there were days when I wanted to get out, too.

Still, the question haunted us: if we left blood banking, who would fill our shoes? The Red Cross is not a public agency, but what we do—especially in blood—is a public trust. We weren't going to let America down. Not on our watch.

The blood supply was as safe as the current blood systems and contemporary scientists knew how to make it. But in the age of AIDS and other blood borne infectious diseases, wasn't there more we could do? We had to "think outside the box" with respect to existing science, blood supply management, and safety approaches.

We dreamed, in 1991, of where we wanted to go. But we did more than that. We mustered our courage and embraced Transformation as our ticket to ride. It was the most ambitious project the Red Cross had ever undertaken: the total redesign of how we collect, process, test, and deliver nearly half of America's blood supply. I dare say it is the most profound change any non-profit organization has made in recent memory!

At the time, it felt the way I imagine a Shuttle astronaut must feel on her first space walk letting go of the ship, taking her first step into the unknown. It felt as if our whole organization had let go. . .let go of the security of status-quo standards, let go of the financial certainty underpinning our entire operation, let go of what we knew, in search of what we hoped to find—but knowing that each step was backed up by a truly exceptional scientific team entirely committed to forging new frontiers. I feel so fortunate that Jim Ross with Brian McDonough and each member of his outstanding team answered my call to complete this challenge.

In 1993, the Food and Drug Administration imposed a consent decree on our blood services operations. But as David will tell you, we were already more than two years into Transformation. The consent decree was basically a codification or ratification of our far-reaching plan, with timelines and milestones for measuring our progress. And today, as we conclude Transformation, we also are wrapping up our last requirements under the decree.

With the completion of Transformation this year, we will have forced ourselves from the mind set of always doing things the way we had done them before. We already have left behind our days in the comfort of industry averages to become the undisputed leader in blood banking. Once we were weighed down with 53 non-standardized blood centers running 28 computer systems in a patchwork quilt of regions, each with its own operating procedures and business practices. Today we have one set of operational procedures, one set of business practices, and one state of the art computer system—which gives us the best national donor deferral system and the largest blood information data base in the world for transfusion medicine research.

We determined that today's demands were best met in high-volume, state-of-the-art, centralized labs, so we replaced our 53 testing facilities with 8 state of the art, high-tech laboratories that today are the leading centers of their kind in the world. This enables us to quickly incorporate medical technology as it evolves.

Perhaps most importantly, today we no longer fear finding our own faults. We actively seek them out, report them and then fix them, ourselves. We hired a leader in quality assurance who created an independent program, providing more than 200 experts to audit and consult with all of our fixed sites. We actively monitor for more than 150 possible deviations in manufacturing. And our folks, can and on occasion have shut down a process immediately, when they have found a serious deviation from standard operating procedure.

In short, we have a new, centralized management structure, a new information system, and the best quality assurance program in existence. We have consolidated and modernized testing and have strictly standardized procedures and training across our system. As a matter of fact, we now run the highly acclaimed Charles Drew Biomedical Institute—and provide leadership to the entire blood banking community.

We have moved to a position of leadership in an industry which has achieved phenomenal success in the face of frightening odds: In 1991, an American's risk of HIV transmission from a blood transfusion was one in 220,000. Today, it is nearly one in 700,000—more than a three-fold reduction in risk. I'd say that is worth cheering about, wouldn't you?

Today, I can say what I could not seven years ago: the Red Cross is in the blood business to stay. We are sure of our mission and we know how to fulfill it. No longer an organization constrained by yesterday's technology, we operate today with the gleaming precision and efficiency of what is still, for most in the world, only tomorrow's possibilities. We offer Cadillac quality coupled with Volvo security. Don't get me wrong: every car on the lot meets the government standard for safety. But like Cadillac and Volvo, we have set standards of our own.

Unlike car companies, however, we don't do what we do for a profit. The pins on our lapels and the patches on our sleeves remind us daily that we are in this business to fulfill a national trust, to live up to our moral commitment to do the best we can to ensure the well-being of the American people. We are also reaching out to the rest of the world, sharing the lessons we have learned from Transformation to help improve the safety and reliability of the world's blood supply.

Of course, modernization and improvement is a process that must never end. As David Kearns, the former chairman of Xerox, once said, "In the race for quality, there is no finish line." This could never be more true than in the blood banking business. We're determined to remain not only the industry leader in quality and safety, but to place ourselves in the forefront of new product development.

At our world-class Holland Laboratory, Red Cross physicians and scientists are evaluating and monitoring possible threats to the blood supply and working on many other new, cutting-edge technologies—some of which we will share with you today.

But all this technology wouldn't be worth a thing without the Red Crossers who make it work for America. They are the reason and the inspiration for our service. We have 1.3 million volunteers, 32,000 paid staff, and 4.3 million blood donors—that's 20,000 donors every day—I'd like to stop just a minute to give those quiet heroes a loud round of applause.

Yes, after 50 years in Blood Services—and spending the last seven years transforming them, the American Red Cross has much to celebrate. In addition to enhancing blood safety, our investment has given us the knowledge and confidence to shape our own future.

Before Transformation, the Red Cross and other blood banks around the country waited for signals from the FDA that change was required. Today, the Red Cross is a leader of change. While Transformation the program is nearly complete, Transformation the process will be never ending.

There is a story I love about Supreme Court Justice Oliver Wendell Holmes. When Justice Holmes was in his 90s, he took a trip on the Pennsylvania Railroad. As he saw the conductor coming down the aisle, he began patting his pockets, looking for his ticket. The conductor, recognizing the famous jurist, said, "Don't worry, Mr. Justice. I'm sure you'll find your ticket when you leave the train, and certainly the Pennsylvania Railroad will trust you to mail it back later."

Justice Holmes looked up at the conductor with some irritation and said, "My dear man, the problem is not, where is my ticket. The problem is, where am I going?"

Ladies and gentlemen, the American Red Cross knows where it's going! As we have led the nation in blood transformation, so we will set a new credo of business for businesses of the heart. But more than that, we are dedicated to saving and improving every life we can. We at the Red Cross want to be the model for non-profits in the next century. The status quo is no longer our milieu. Well into the new millennium, the Red Cross will seek out the cutting edge; we will be the people who question the range of possibilities—in blood banking as well as in every other aspect of our mission.

But we know we cannot accomplish all of our dreams by ourselves. We need the time and money, the brainpower and the lifeblood of Americans like you. Together, we will continue to imagine the unimaginable and attain the unattainable. Together, we will be privileged to touch, and in so doing transform, the millions of individual lives we are dedicated to serve.

On behalf of our entire Red Cross family, thank you for all you've done, and for all you continue to do. And on this special day, thanks for coming to our party.

THE 80TH ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF GEORGIA

Mr. KENNEDY. Mr. President, I join my colleagues in congratulating the people of the Republic of Georgia on the 80th anniversary of their independence.

Eighty years ago on May 26, 1918, following the collapse of the Russian Empire, the people of Georgia gained their independence and established their own government. Tragically, Georgia's independence was short-lived. In March 1921, the Soviet Army reoccupied Georgia, beginning decades of further occupation, domination and repression.

Despite this persecution by the Soviet leadership, the spirit of the Georgian people could not be defeated. Throughout almost seventy years of Soviet rule, the people of Georgia never lost sight of their goal to be free from outside domination and influence.

Finally, in 1991, following the fall of the Berlin Wall and the collapse of the Soviet Union, the people of Georgia were again able to realize their dream of independence, and their nation now enjoys a bright future. The election of President Eduard Shevardnadze and the election of a Parliament committed to legal reform in 1995 have encouraged economic growth and reforms in human rights.

Today, as we celebrate this 80th anniversary of Georgia's independence, we also honor and commend the Georgian people for their courage and commitment in achieving their dream of a nation free again at last and committed to the principles of democracy.

AWARD OF DOD's DISTINGUISHED PUBLIC SERVICE AWARD

Mr. THURMOND. Mr. President, I rise today to say a few words about our former colleague and Majority Leader, Senator Robert Dole.

There are few people who have given more to this Nation than Bob Dole. He has dedicated his life to public service. He was a young Army officer during World War II, helping to liberate Europe, where as we all know, he suffered his lifelong wounds. He served in the Kansas State House, in the United States House of Representatives, and ultimately in the United States Senate, as Majority Leader, where he left his greatest mark. Even though he no longer holds elected office, Bob still finds ways to contribute to the public good through a variety of efforts, not the least of which is his work on the World War II Memorial. He is truly a man who has distinguished himself through his selflessness, who has rendered the Nation a great service, and is worthy of the respect and admiration of all Americans.

A few weeks ago, another one of our former colleagues, Secretary of Defense William Cohen, made certain that Senator Dole knew the high regard in which he is held by the men and women of our armed services by holding a full dress parade in his honor and bestowing upon him the Department of Defense's Distinguished Public Service Award. This was an especially impressive ceremony that weaved together pageantry, heritage, and patriotism in a stirring tribute to both Senator Dole and his service to the United States. I was particularly moved by the remarks of my two friends and want to share them with my colleagues in the Senate, and with the Nation through the CONGRESSIONAL RECORD. I am certain that all who read these speeches will agree with me that they provide both insight into a modest and private man and a fitting tribute to a true American hero.

I ask unanimous consent that copies of Secretary Cohen's and Senator Dole's remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATOR BOB DOLE—REMARKS PREPARED FOR DELIVERY, FORT MYER, VIRGINIA, APRIL 29, 1998

If given the choice between receiving an award from a Secretary of Defense or appointing a Secretary of Defense, I would have picked the latter.

Seriously, I am humbled and honored by this award, and it means all the more to me because it was presented by a man I have long been privileged to call my friend. Thank you, Mr. Secretary, for this ceremony, for this award, and for reminding us that when it comes to our national defense, we should not define ourselves as Democrats or Republicans, but rather, simply as Americans.

I am also pleased to be joined today by the president of the American Red Cross. Throughout this century, wherever you have found American service men and women—whether on the battlefield, on the base, or in the hospital—you knew that close by you would also find the American Red Cross.

And on behalf of all the past and present members of the Armed Forces here, I thank Elizabeth for the difference the Red Cross has made in our lives. And while I may not be proof of the old saying that here in America, any boy can grow up to be President, I take heart in the fact that I am proof that any boy can grow up and be married to the President . . . of the American Red Cross, that is.

During my life I have been privileged to be called by many titles—including congressman, Senator, and majority leader. But the two titles of which I am most proud have nothing to do with elective office. The first is "Kansan." And the second is "veteran."

I have often wondered why the Army assigned a kid from the plains of Kansas to serve in the 10th Mountain Division, but I've never wondered about the courage and heroism of those who served with me, and those who have defended our country in the half century that has followed. And I can't help but recall today the words of General George Marshall, who was asked soon after America's entrance into World War II, whether we had a secret weapon that would ensure victory.

Marshall said, "Yes, our secret weapon is the best darned kids in the world."

Marshall was right. America ensured the survival of freedom in World War II precisely because we had the best darned kids in the world—kids who were willing to fight and die for their country and for the cause of freedom.

What was true in World War II, has continued to be true in the decades that have followed, as more of those best darned kids have fought and died in places with names like Inchon, Porkchop Hill, the Persian Gulf, and countless other locations around the globe.

I traveled to Bosnia just this past weekend, and can report to you, Mr. Secretary, that our Armed Services can still boast the best darned kids in the world.

Throughout my years in the Battlefields of Capitol Hill, I always tried to remember and stand up for those who were serving or who had served. And I always tried to remember that the only way to ensure that future generations or those kids would not be buried on foreign land was to continue to provide for a strong defense and American leadership whenever and wherever it was needed.

And any success I achieved in this regard was achieved because so many others stood with me. And although this old soldier has retired from elective office, I don't intend to fade away. Rather, I will continue to stand up and speak out on matters of importance to the United States, and I will always regard this day and this award not as recognition for any achievements of the past, but as a reminder of our responsibilities to future generations of Americans.

And so, Mr. Secretary, Lieutenant Robert J. Dole is reporting for duty today, ready for a mission that must be shared by all Americans; a mission perhaps best defined by the author Herman Wouk, who said:

"(Our duty is to) reassure (our men and women in uniform) that their hard, long training is needed, that love of country is noble, that self-sacrifice is rewarding and that to be ready to fight for freedom fills one with a sense of worth like nothing else . . . for if America is still the great beacon in dense gloom, the promise to hundreds of millions of the oppressed that liberty exists, that it is the shining future, that they can throw off their tyrants, and learn freedom and cease learning war, then we still need heroes to stand guard in the night."

Thank you, Mr. Secretary for this day, and thanks to all those heroes here today and the countless thousands who serve with you who make the world a safer place by standing guard in the night.

Remarks of Secretary of Defense William S. Cohen—Presentation of Distinguished Public Service Award to Bob Dole, Conmy Hall, Fort Myer, Virginia, April 29, 1998

General Ralston, thank you for your gracious words. Senator Dole, Elizabeth and Robin Dole; Members of Congress: Senator Thurmond, Specter, Campbell, Smith and Reed and Congressmen Ryun and Houghton: Deputy Secretary Hamre and Julie Hamre; Service secretaries, service chiefs and spouses; Distinguished guests, especially Jack Kemp, Warren Rudman, Paul Laxalt, Colin Powell, Ambassador Ellsworth. Welcome all, and thank you for joining Janet and me and the entire Department of Defense in paying tribute to a dear friend and a true American hero—Bob Dole.

Justice Oliver Wendell Holmes, Jr., who served his country both as a soldier and a public servant, once spoke to his fellow veterans in words that reflect the soldier and public servant we honor today. Holmes said: "As I look into your eyes, I feel that a great trial in your youth made you different. It made you a citizen of the world and not of a little town. Best of all, it made you believe in something else besides doing the best for yourself. You learned a lesson early which has given a different feeling to life, which put a kind of fire into your heart."

Today we express our gratitude to Bob Dole, a man from the little town of Russell, Kansas for whom the lessons of life came early. With the Dustbowl came the lesson of hard work. With the Depression came the lesson of hardship. With World War II came the lesson of service and sacrifice in a way most of us will never know.

Throughout his distinguished career, we have called Bob Dole by many titles—Congressman Dole, Senator Dole, Chairman Dole and Candidate Dole. Our ceremony today honors all those roles, but also honors a time when he was known as Second Lieutenant Robert Dole, who led the Second Battalion of the 85th Infantry Mountain Regiment of the U.S. Army's 10th Mountain Division.

As the war in Europe was winding down, a spring offensive was scheduled for April 12, 1945 to bring about the surrender of German forces in Italy. On the same day, as it happens, President Roosevelt died. But it was not the President's death but a heavy fog that delayed the offensive until April 14 at oh-six-hundred. After the intensive assault against fortified German positions by heavy bombers, fighter-bombers and artillery, the 10th Mountain Division began to move across a ravine to a clearing to take for the Allies what was known as Hill 913.

But even after the shelling and bombing, there was significant German resistance. The snipers were dug in. The 10th Mountain Division would take more casualties on April 14, 1945 than all the other Allied forces in Italy. Second Lieutenant Robert Dole was hit and gravely wounded by a mortar blast and waited in a shell hole for nine hours until the medics could reach him.

The war in Europe ended just a few weeks later on May 8, 1945. Second Lieutenant Dole came back to a Topeka hospital and eventually back to Russell. When he went to Europe, he weighed a muscular 200 pounds and was a football, basketball and track star at the State University of Kansas. When he came home after the war, he was on a stretcher and weighed 120 pounds. At one point, his temperature reached 108.7 degrees.

Faced with this terrible situation and the unanimously gloomy opinion of his doctors, many people, even most people, would have become disheartened and simply given up. But Bob Dole persevered, through more than three years of arduous recovery and through a lifetime of difficulty and hardship which he handled with his customary humor and grace. No one ever worked harder, complained less or laughed more than Bob Dole. And no one ever loved his country more or had a better appreciation of the honor and sacrifice of military service.

From the terrible trauma of his injuries, Bob Dole fought back and won elective office as county attorney, US Congressman, US Senator and Senate Majority Leader. He has been his party's nominee for Vice President and President. He even makes a pretty good VISA commercial! (Although his credit is not very good in that financial mega center—Russell.)

Also, no hero does it alone, and Janet and I also want to pay tribute to a lady of grace, charm and accomplishment who is Bob's partner, friend and wife—Elizabeth Dole. Elizabeth, thank you for your service to America.

I had the privilege of serving with Bob Dole in the legislative trenches of the U.S. Senate for 18 years. And I can tell you he remained a warrior eager to take on a new battle every day. He is and always will be an American Hero of the highest order.

Thanks to people like Bob Dole who have worked for a strong national defense, we are privileged to live in largely peaceful times where the sons of Bangor, Maine or Russell, Kansas are not being sent to fight and die on distant battlefields. The privilege of these peaceful times is made possible by the sacrifice of many thousands who have given their bodies and their lives in the cause of liberty.

We do not pause often enough to give tribute to the silent white gravestones which dot the hills of Arlington National Cemetery or give thanks to the heroes who are still among us. Today, as Secretary of Defense, it makes me extremely proud for our Department and our nation to pay tribute to a modest man of immodest talent—a person who has defined heroism and courage for millions of Americans.

The great American writer John Steinbeck once wrote that the best measure of one's time on this earth is the contribution each of us makes to the world around us. "There is," Steinbeck wrote, "no other story. A man, after he has brushed off the dust and chips of his life, will have left only the hard clean questions: Was it good or was it evil? Have I done well—or ill?"

For Second Lieutenant Bob Dole—Army Serial #17179287—Steinbeck's question is not a hard one. He has done well—he has served his nation with the highest distinction—he has remained a man with fire in his heart. And it is my highest privilege to award our highest civilian honor, the Department of Defense Medal for Distinguished Public Service, to Bob Dole.

OREGON SCHOOL SHOOTINGS

Ms. MOSELEY-BRAUN. Mr. President, I would like to take a brief moment to express my condolences to the families of the students killed and wounded during the tragic shooting yesterday at the Thurston High School in Springfield, Oregon.

The thoughts and prayers of all Americans today are with the families of Springfield. It is yet another community where lives have been shattered forever by children with easy access to firearms.

This attack was the fourth killing in a high school in the last six months by a youth under the age of 16. Mr. President, this killing must stop.

Last year, approximately 50% of all serious violent crimes were committed by teens against teens. Our nation's overall firearm-related death rate among children was nearly 12 times higher than among children in the other 25 industrialized countries combined.

This is an outrage. Mr. President, these horrific crimes amply demonstrate that we have a responsibility to oppose the proliferation of violence and to stand fast against any effort to make firearms more freely available. Does anyone still believe that it is possible to raise children in a society where guns are so easily obtained? We cannot continue to protect our children in such a world.

We must come together as a society and recommit ourselves to keeping firearms out of the hands of children and to guaranteeing that only those people who know how to use guns responsibly have access to them. We must expand programs to train gunowners in the proper use and storage of their weapons.

Responsible gunowners have nothing to fear from reasonable gun laws. We must have reasonable gun laws that will prevent tragedies like the one that happened yesterday in that small community in Oregon from ever happening again. The second amendment was never intended as a subterfuge for domestic carnage. Our living constitution can respond to changes in our society which jeopardize our freedom from fear and random violence by children. I think it is appropriate for us to have that debate, given the importance to our children, to their safety, to our liberty and freedom and safety in our communities.

JUDGE JOE ANDERSON'S REDEDICATION OF THE EDGEFIELD COUNTY COURTHOUSE

Mr. THURMOND. Mr. President, the very foundation of our Nation lies in the rule of law, and there is perhaps no symbol more closely associated with the process of justice than the courthouse. Not only is the courthouse where justice is dispensed, but it is a reminder to all citizens that the judiciary is the third branch of our system of government.

Recently, the Edgefield County Courthouse was rededicated, and Judge Joe Anderson, of the South Carolina District Court, was the keynote speaker at the ceremony. His remarks were very well received by the crowd and helped to make the event a great success. Though I was unable to attend this event, I heard from a number of friends who did that Judge Anderson's remarks were truly excellent. After requesting a copy of his speech, I came to the very same conclusion and thought that my peers in the Senate would enjoy reading them as much as I did.

Mr. President, I ask unanimous consent that a copy of this speech be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Judge Keesley, Members of the County Council, other distinguished guests, and friends:

What a joy, what an honor, to have the privilege of being a part of this ceremony. I appreciate the opportunity you have given me to come home, and to show my appreciation, I promise not to afflict you with many words.

As one who spends all of my working hours in a courthouse building, I am honored to say a few brief words in rededication of this historic structure and what it has come to symbolize for our community.

Winston Churchill once said that the best measure of the quality of a society is the quality of its justice." America is distinguished from other countries by the quality of its law and how it is used by its people to expand liberty and opportunity. Our law represents our national dreams, our system of justice towards one another.

The assumptions that we make every day, the security we take for granted, the social compact that allows us to live together peacefully . . . these are the result of law. In rededicating this building we rededicate ourselves to the rule of law.

Courthouse buildings, of course, represent a symbol of permanence and the place where our laws are administered. It is here that our citizens are summoned to become actively involved in the public administration of justice—a privilege that citizens of most other countries do not enjoy. It is here that the cogs and gears of liberty function on a daily basis.

I have always thought that the rather nondescript term we use to describe these buildings—"courthouse"—does not adequately convey the importance of the work that goes on inside. The French use a more inspirational name: "Palace of Justice."

Regardless of the name by which it is called, no one can deny the role that our courthouse, our "Palace of Justice" has played in the development of our county. We are all indebted to Chairman Monroe Kneece and the members of our county council Betty Buter, Sam Speight, Daniel Bishop and Norman Dorn and County Administrator Wayne Adams for their foresight in recognizing the renovations and improvements that were needed. Their vision and hard work have brought this historic structure up to standards that will allow it to serve in the next millennium and beyond, while at the same time preserving all the charm and history that makes this building special for all of us. This ceremony is, in part, a tribute to their stewardship of one of the real crown jewels of our county. On occasions such as this, we ask God's blessing on their endeavors.

Today is one of those moments when we can pause, take a look at where we've been, where we are, and where we might be headed.

Bettis Rainsford has chronicled for you the history of the Edgefield County Courthouse. There may not be many other courthouses in America, certainly not in South Carolina, with a pedigree to match that of this building. I am certain that there is no courthouse anywhere with so many portraits of notable leaders—statesmen, generals, lawyers and judges. I distinctly remember my first visit to this courthouse with my father. The portraits on the walls left a lasting impression on me. I particularly remember my father singling out Senator Strom Thurmond, pictured on these walls when he was a young Circuit Judge, as well as his father, John William Thurmond, one of the most able lawyers our state has ever produced.

But what does all this history mean to us as we are about to embark on a new century? As South Carolinians and, especially as Edgefieldians, we have a rich heritage. We are each of us the sum total of generations of growing, yearning, of planning and failing, of building and destroying and building again.

This is an exciting time for Edgefield County. Our area is growing, our young people have a place to come back to, our schools are moving ahead, industry is recognizing the virtues of small town life and good work ethic that goes with it. Edgefield County is on the move.

This building is a monument to the hands, hearts and minds of our forebearers. Not just the dignitaries on these walls—not just the statesmen, the generals, the lawyers and the judges—but also the public servants behind the scenes, like Miss Martha Rich, the merchants, the ministers, the school teachers, the sharecroppers, the industrialists, the artists and the artisans who have gone before us to help make this corner of God's earth a special place in our hearts.

Thank you again for inviting me.

OPERATION GRADUATION WEEKEND

Mr. ASHCROFT. Mr. President, Operation Graduation is a six-state campaign devoted to the safety of high school seniors on graduation night. The campaign is designed to fund alcohol-free/drug-free graduation parties that are safe, memorable, and fun.

In an effort to encourage high schools to hold alcohol-free/drug-free graduation parties, local cable systems in the Midwest are donating money to corresponding area high schools. This project also provides high schools with information kits containing an Operation Graduation How-to-Guide, pamphlets, and brochures on the dangers of drunk driving, and other resources for promoting Operation Graduation.

Together, local cable system employees in Missouri are fighting to stop needless deaths on our roads and highways that result from reckless behavior on graduation night.

I would like to commend all the people working to make the weekend of May 29, 1998, "Operation Graduation Weekend."

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, yesterday, XAVIER BECERRA, JOSÉ E. SERRANO and the Congressional Hispanic Caucus called upon the Republican leadership to vote upon the Latino nominees to judgeships who have languished in the Senate far too long. I welcome the views of the Congressional Hispanic Caucus to the debate and I ask unanimous consent that a copy of their letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit No. 1.)

Mr. LEAHY. I have spoken often, too often, about the crisis in the Second Circuit and our need for the Senate to move forward to confirm the nominees pending on the Senate calendar to that important court.

Judge Sonia Sotomayor is a qualified nominee who was confirmed to the United States District Court for the Southern District of New York in 1992 after being nominated by President Bush. She attended Princeton University and Yale Law School. She worked for over four years in the New York District Attorney's Office as an Assistant District Attorney and was in private practice with Pavia & Harcourt in New York. She is strongly supported by Senator MOYNIHAN and Senator D'AMATO. She is a source of pride to Puerto Rican and other Hispanic supporters and to women. When confirmed she will be only the second woman and second judge of Puerto Rican descent to serve on the Second Circuit.

By a vote of 16 to 2, the Judiciary Committee reported the nomination of Judge Sonia Sotomayor to the Senate. That was on March 5, 1998, over two months ago. No action has been taken or scheduled on that nomination and no explanation for the delay has been forthcoming. This is the oldest judicial nomination pending on the Senate Executive Calendar. In spite of an April 8 letter to the Senate Republican Leader signed by all six Senators from the three States forming the Second Circuit urging prompt action, this nomination continues to be stalled by anonymous objections. Our bipartisan letter to the Majority Leader asked that he call up for prompt consideration by the Senate of the nomination of Judge Sonia Sotomayor. That was over one month ago. I request unanimous consent that a copy of that letter be included in the record at the conclusion of my remarks.

Nor is Judge Sotomayor the only woman or minority judicial nominee who has been needlessly delayed. Indeed, if one considers those nominees who have taken the longest to confirm this year, we find a disturbing pattern.

Hilda Tagle, the only Hispanic woman the Senate has confirmed this year, took 32 months to be confirmed as a District Court Judge for the Southern District of Texas—that was over two and one-half years. As I have noted, Judge Sotomayor's nomination to the Second Circuit is the longest pending on the Senate calendar, another qualified Hispanic woman nominee. Judge Richard Paez, currently a District Court Judge and a nominee to the Ninth Circuit, was first nominated in January 1996. Twenty-eight months latter, Judge Paez's nomination remains pending on the Senate calendar. Nor have we seen any progress with respect to the nomination of Jorge Rangel to the Fifth Circuit or Anabelle Rodriguez to the District Court for Puerto Rico, although her nomination was received in January 1996 almost 28 months ago.

For that matter, we have seen the President's nomination of the Judge James A. Beaty, Jr., the first African-American to the Fourth Circuit stalled for 29 months, since December 1995.

We have seen the attack on Judge Frederica Massiah-Jackson, who would have been the first African-American woman to serve on the Eastern District of Pennsylvania, but who was forced to withdraw. We have seen the nomination of Clarence Sundram held up since September 1995, almost 32 months.

With the delays in the Senate consideration of Margaret Morrow and Margaret McKeown earlier this year, we had the opportunity to consider why it is that the Senate takes so much longer to consider and confirm so many woman nominees. That question has yet to be answered adequately.

Margaret Morrow was targeted by some and debate on her nomination was delayed for more than a year. She was first nominated in May 1996 and was not voted on for 21 months. When we finally got a vote, she was confirmed by a vote of more than two to one. Margaret Morrow was the first and only woman to serve as the President of the California State Bar. The ABA gave her its highest rating. She had strong bipartisan support. She was held up for a judicial emergency vacancy for many months without cause of justification.

Nor was Margaret Morrow an isolated case. Consider the nomination of Judge Ann Aiken to the District Court in Oregon. That nomination was received in November 1995 but not considered by the Senate until January 1998, 26 months later. She, too, was confirmed by a vote of more than two to one.

Then we had the case of Margaret McKeown who was nominated to a vacancy on the Ninth Circuit in March 1996 but not considered until two years later in March 1998. When she received a Senate vote, she was confirmed by a vote of 80 to 11.

We still have Susan Oki Mollway pending before the Senate without a vote although she was first nominated back in December 1995 for the vacancy on the District Court in Hawaii—that was more than 29 months ago and still she is without a vote.

In his annual report on the judiciary last year, the Chief Justice of the United States Supreme Court observed: "Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote. The Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed in 1994." He went on to note: "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down."

For some unexplained reason, judicial nominees who are women or racial or ethnic minorities seem to take the longest. Of the 10 judicial nominees whose nominations have been pending the longest before the Senate, eight are women and racial or ethnic minority candidates. A ninth has been delayed in large measure because of opposition to his mother, who already serves as a judge. The tenth is one who blew the lid off the $1.4 milllion right-wing campaign to "kill" Clinton judicial nominees.

Pending on the Senate calendar, having been passed over again and again, are Judge Sonia Sotomayor, Judge Richard Paez and Susan Oki Mollway. Ronnie White has now finally been reported, as well. Held up in Committee after two hearings is Clarence Sundram. Still without a hearing are Anabelle Rodriquez, Judge James A. Beaty, Jr., and Jorge C. Rangel. What all these nominees have in common is that they are either women or members of racial or ethnic minorities. That is a shame.

Exhibit No. 1

Congress of the United States,
House of Representatives,
Washington, DC, May 21, 1998.

Hon. Trent Lott,
Senate Majority Leader, Russell Office Building, Washington, DC.
Hon. Orrin G. Hatch,
Chairman, Senate Judiciary Committee, Russell Office Building, Washington, DC.
Hon. Fred Thompson,
Chairman, Senate Government Affairs Committee, Dirksen Office Building, Washington, DC.

Dear Mr. Leader and Mr. Chairman: As Members of the Congressional Hispanic Caucus (CHC), we are writing to express our grave concern with the lack of progress and consideration of judicial nominees before the Senate. In particular, we are profoundly distressed that several of those nominees are highly qualified individuals of Latino descent. While this Congress has seen a slowdown in the confirmation process it is notable that Latino judicial nominees have been subjected to inexplicable delays.

Of the Federal judges confirmed in the 105th Congress (1997 and 1998), only 2 have been Latinos. At present, there are a number of Latinos with strong judicial and academic qualifications pending Senate judicial confirmation. Yet, several Latino judicial nominees have languished unjustifiably in the Senate for over two years and only two of the candidates have been reported out of committee.

The delay in the confirmation process results in significantly higher caseloads for existing Federal judges, and a system that guarantees frustration for those who utilize it. Already, and Second Circuit has been declared a "judicial emergency"—the circuit has seats that have been vacant for more than 18 months. Overburdened judges and a slowdown of court proceedings undermine faith in our judicial system and our democracy as a whole.

Inaction by the Senate is contributing to the underrepresentation of Latinos on the Federal bench. Latinos make up less than 5% of all Federal judges. We urge your prompt and favorable action in confirming judicial candidates.

Sincerely,
Xavier Becerra.
José E. Serrano.

TRIBUTE TO MS. ROSELLA SCHNAKENBERG

Mr. ASHCROFT. Mr. President, I rise today to recognize Ms. Rosella Schnakenberg, a woman who has served her friends and fellow Missourians for more than 50 years. Although this service has transcended occupational boundaries, the most prominent way Ms. Schnakenberg, a lifelong resident of the Cole Camp community, has benefitted her fellow citizens has been to hold a pivotal role at the First Community Bank in Ionia, Missouri.

During her time as an employee of First Community Bank, Ms. Schnakenberg has helped customers open accounts, fill out and process loan applications, save for the future, balance checkbooks, and cash pay checks. In addition to this long list of responsibilities, what is remarkable about this versatile employee is that she performs her duties with enthusiasm and concern. That attitude has helped propel Ms. Schnakenberg from a teller who earned $75 a month to a Vice President and Facility Manager, overseeing day-to-day operations of the bank. During her lengthy tenure, she has observed the bank change and grow from an establishment that applied for deposits by hand and lacked indoor plumbing to an institution that functions and flourishes in the modern world.

First Community Bank has not only prospered economically, under Ms. Schnakenberg's leadership, it has also benefitted from her research and recording of the bank's colorful history. That history includes a Depression-era incident when one of the bank managers had cashiers band a high-value bill on both sides of the $1 bill stacks.

Mrs. Schnakenberg has also touched the lives of the people around her through the unselfish distribution of her time, such as serving in community activities, visiting friends in nursing homes, and playing the organ at St. John's Lutheran Church services.

To honor Ms. Schnakenberg, First Community Bank hosted a reception in her honor on Sunday, March 22, 1998, in Ionia, Missouri. It is an honor for me to recognize such a fine Missourian and to serve her in the U.S. Senate.

THE SCHOOL TRAGEDY IN SPRINGFIELD, OREGON

Mr. HATCH. Mr. President, we were all shocked and saddened by the tragic shooting incident at the Thurston High School in Springfield, Oregon. I listened with sympathy this morning to my colleagues from Oregon, and share their sentiments. My heart goes out to the victims of this horrendous crime, and my prayers are with the injured, and with the families of all the victims in the Springfield community. I know that every parent or grandparent who sends a child to school shares the grief of the Springfield families.

This kind of tragedy has become far too common. It was only two months ago that we were shocked by the violence and horror of the schoolyard shooting in Jonesboro, Arkansas. Every day, it seems, we are assailed by new stories of senseless crimes committed by juveniles who should be too young to be capable of such acts.

Our juvenile crime problem has taken a new and sinister direction. I can imagine few acts more heinous than some of the crimes recently committed by juveniles around the country. We seem now to be in a new era, in which juveniles are committing sophisticated adult crimes. This disturbing trend demonstrates the need to reform the juvenile justice system that is failing the victims of juvenile crime, failing too many of our young people, and ultimately, failing society.

The Senate has before it comprehensive youth violence legislation. S. 10, the Hatch-Sessions Violent and Repeat Juvenile Offender Act, reported out of the Judiciary Committee last year on bipartisan vote. The goal of S. 10 is to reform and redirect the role played by the federal government in addressing juvenile crime in our Nation.

Responding to the testimony and advice of many state and local officials, S. 10 reauthorizes and streamlines the Juvenile Justice and Delinquency Prevention Act (JJDPA), which provides assistance to the states in fighting juvenile crime. S. 10 also creates a $500 million per year incentive block grant program for the states. These block grants can be used for a multitude of purposes, such as incarceration, graduated sanctions, serious and habitual offender programs, juvenile criminal record sharing, drug testing and treatment of juvenile arrestees, and numerous prevention programs.

In the face of tragedies such as the Springfield and Jonesboro murders, it is tempting to look for easy answers. I do not believe that we should succumb to this temptation. We are faced, I believe, with a problem which cannot be solved solely by the enactment of new criminal prohibitions. It is at its core a moral problem. Somehow, in this case and too many others like it, we have failed as a society to pass along to the next generation the moral compass that differentiates right from wrong. This cannot be legislated. It will not be restored by the enactment of a new law or the implementation of a new program. But it can be achieved by communities working together to teach accountability by example and by early intervention when the signs clearly point to violent and antisocial behavior, as seems to be the case in some of these tragedies.

S. 10 provides the framework to address the modest federal role in this effort. We should not let politics overwhelm this issue. I believe that this legislation must move forward. This will require us to work together. It will also require leadership from the Administration. In the ten months since this legislation was ordered reported from the Judiciary Committee, we have heard no productive comment from the Administration on the bill. The President must show leadership on this, and support S. 10. Otherwise, I am afraid that another year will pass without our having taken action on this critically important issue.

I also ask my colleagues to join me in this effort, and to join me in extending the sympathy of the Senate to the families and victims, to the community of Springfield, and the State of Oregon.

THE WORK OF THE SENATE

Mr. LEAHY. Mr. President, this week we conclude another work period by disappointing the American people. We recess, again, without concluding the people's business and passing a strong tobacco bill. Tobacco legislation is now added to the litany of important matters the Congress has left unfinished.

Last month, the Congress adjourned without even completing the federal budget and this month we recess, again, without concluding even that basic action.

Most Americans think of April 15 as the day that they file their tax returns and pay their taxes, and most Americans dutifully collect their financial records and go through the sometimes arduous task of preparing their tax returns. I hope that next year and in the years ahead that task will be made a little easier by legislation I have sponsored to require the IRS to post information and forms on the Internet, along with regulations and rulings.

Well, April 15 was also the legal deadline for Congress to have passed a budget resolution. While the Senate did some preliminary work on a flawed proposal earlier this year, Congress is recessing, again, without completing this fundamental task—another duty ignored, another legal requirement violated.

I hope that as Congress returns from its Memorial Day break it will complete work on a balanced budget to serve the American people without additional delay. It should be balanced in two senses: It should be a balanced series of proposals to meet the health, education, environmental and law enforcement needs of the country. And it will also, for the first time in almost three decades, be a balanced budget that will not rely on deficit financing.

I recall all too well last year when we were told that we could never achieve a balanced budget without a constitutional amendment. I recall the stacks of deficit-laden federal budgets proposed by Republican and Democratic Presidents since President JOHNSON and being told that the only answer to annual budget deficits was to pass an ill-conceived constitutional amendment whose terms and effects could not be explained. I defended the Constitution then and this year President Clinton sent us the first balanced budget in almost 30 years.

With the cooperation of the Republican leadership in the Congress we can enact the first balanced budget since 1969, and we will have done it without inserting a fiscal straightjacket into the text of the United States Constitution. They said it could not be done, but it can and will as a result of the sound fiscal policies of this Administration which have lead not only to balance but to the prospect of budget surplus. In 1993, a Democratic Congress put us on the right road to fiscal responsibility when we took the hard votes and passed the President's plan. Congress should culminate that extraordinary 5-year effort without further delay.

Completing action on the budget is the first step toward Congress taking action on the annual appropriations bills that are so important to the government programs that protect the environment and assist State and local governments with education and law enforcement. Republican Congressional leadership is well-known for shutting down the government by not completing work on these basic measures in a timely way.

Those contracting with the government, working in partnership with government services and those dependent on government services deserve better. Americans deserve piece of mind and the assurances that their government is working. Congress needs to complete its appropriations so that the agencies and service providers can plan programs, pay staff and work with the American public in an effective manner.

It is high time for the congressional leadership to do its job and for the Congress to get on about the business of governing.

Congress should not be taking breaks without having completed the work of the people. Such callous disregard for the needs of the American people has become too much the rule as year after year under Republican leadership Congress recesses without having completed its work on emergency supplementals, budgets, and appropriations bills.

The Senate has also failed to take action to end the judicial emergency in the United States Court of Appeals for the Second Circuit. On March 25, the five continuing vacancies on the 13-member court caused Chief Judge Ralph Winter to certify a Circuit emergency, to begin canceling hearings and to take the unprecedented step of having 3-judge panels convened that include only one Second Circuit judge.

I have been urging favorable Senate action on the nomination of Judge Sonia Sotomayor to the Second Circuit to fill a longstanding vacancy. That nomination remains stalled on the Senate calendar. Before the last recess I introduced legislation calling upon the Senate to address this kind of judicial emergency before it takes another extended recess. The Senate has pending before it four outstanding nominees to the Second Circuit whose confirmations would end this crisis.

Unfortunately Republican Senate leadership has not taken the judicial vacancies crisis seriously and has failed to take the concerted action needed to end it. They continue to perpetuate vacancies in almost one in 10 federal judgeships.

With 11 nominees on the Senate calendar and 32 pending in Committee, we could be making a difference if we would take our responsibilities to the federal courts seriously and devote the time necessary to consider these nominations and confirm them. Instead, we are having hearings at a rate of one a month, barely keeping up with attrition and hardly making a dent in the vacancies crisis that the Chief Justice of the United States has called the most serious problem confronting the judiciary.

We began this legislative year prepared finally to make progress on issues like campaign finance reform, tobacco legislation and juvenile crime legislation. Republican leadership has lead to inaction on all three.

On the issue of campaign finance reform, Democrats and some notable Republicans have been prepared to attack the soft money that so pervades the current system. Rather than close the loopholes and correct the system, the Republican leadership has chosen to close the debate and perpetuate the status quo.

On tobacco legislation, we have an important opportunity to make real progress. Now that the courts have moved to disclose the secret documents from the industry's efforts to hide the nature of nicotine addiction and their marketing efforts to children, now that the tobacco companies' lobbying stranglehold on Congress has been loosened, and now that we have demonstrated that the majority of the Senate agrees with Senator GREGG and me that we need not grant special legal protections to tobacco companies in order to enact legislation that can make a difference, it is time for the Senate to move forward. We should be passing strong tobacco legislation.

Since the first week of the year I have been urging attention to the matter of juvenile crime. When the Judiciary Committee reported a misguided bill last year, I noted the improvements that had been made in the Committee's consideration and the aspects that needed to change for us to develop a legislative consensus that could help State and local law enforcement in the battle against juvenile crime.

We have heard for months this would be a priority this Congress. Instead of reaching across the aisle and working to develop a consensus, some have limited themselves to Republican-only Dear Colleague letters and seeking to pick off a few Democratic allies. Juvenile crime should not be a Republican or Democratic issue. There are things we can do to assist State and local law enforcement without partisanship and by consensus.

Afterschool programs and crime prevention programs should be central to those efforts. I hope that the Senate Republican leadership will join in a truly bipartisan effort.

We still face the same problems and challenges with which we began the year. We need to make progress on encryption policy and we need to promote personal privacy in the electronic age.

Given the lack of attention to congressional responsibilities and the real problems of working families in the first half of this session, I fear what the remainder of this year may hold.

I expect the Republican leadership will find time for some carefully choreographed media efforts and will make time for more personal attacks against the President and the First Lady. In an election year, I will not be surprised if they look to rewrite the Constitution of the United States through a series of popular-sounding amendments.

I hope that the Republican majority will find the time to make progress on the legislative agenda that can make a difference in the lives of American people and lead to economic opportunity in the coming century.

INDEPENDENT COUNSELS AREN'T ABOVE THE LAW, EITHER

Mr. LEVIN. Mr. President, about one year from now, in June 1999, the independent counsel law is due to expire unless Congress acts to renew it. In the Senate, the Governmental Affairs Committee, of which I am a member, is responsible for examining whether the independent counsel law ought to be reauthorized. I rise today because, as I've begun to look at the reauthorization issues, one stands out as central to the law, central to the question of reauthorization, and central to the issue of whether the independent counsel law is a tool of fairness or a weapon of politics.

In a recent Law Day speech, independent counsel Kenneth Starr proclaimed that, "No one is above the law." He is correct. No one is above the law—certainly not the President, who was the focus of Starr's remarks, but equally so, not an independent counsel.

The question I want to discuss today is whether independent counsels are themselves complying with the law, in particular a provision at 28 U.S.C. 594(f)(1), which states that independent counsels "shall" comply with the "written or other established policies of the Department of Justice."

This is a straightforward provision. The law says "shall," not "may," not "should." It makes compliance with established Justice Department policies mandatory, not discretionary, for every independent counsel. The only exception to this rule is where compliance with Departmental policies would be "inconsistent with the purposes of the statute" such as, for example, compliance with a policy requiring the permission of the Attorney General to take a specific act. Barring this exception, the law's clear general rule is that independent counsels must comply with established Justice Department policies.

This provision in the law is an important one. It is a key constraint to ensure that persons who are subject to independent counsel investigations receive the same treatment as ordinary citizens—no better and no worse. It is a key safeguard against an overly zealous prosecutor.

The Senate felt so strongly about this requirement that, during the law's 1994 reauthorization, the Senate approved an amendment by Senator Bob Dole emphasizing that failure to follow Justice Department policies constitutes "cause" for removing an independent counsel from office. The final conference report on the law, while omitting the Senate provision as accurate but too limiting, said, "refusal to follow important Department guidelines . . .—like many other circumstances—do provide potential grounds for removing an independent counsel from office."

Independent counsel compliance with Justice Department policies was important to the Supreme Court. In the key decision upholding the independent counsel law, Morrison v. Olson, the Supreme Court referred to the requirement as one of the keys to the law's constitutionality. The Court did so when determining whether the independent counsel law, "taken as a whole, violates the principle of separation of powers by unduly interfering with the role of the Executive Branch," in particular the Constitutional requirement that the President, as head of the executive branch, ensure that the laws be faithfully executed. The Supreme Court stated:

> It is undeniable that the Act reduces the amount of control or supervision that the Attorney General and, through him, the President exercises over the investigation and prosecution of a certain class of alleged criminal activity. . . . Nonetheless, the Act does give the Attorney General several means of supervising or controlling the prosecutorial powers that may be wielded by an independent counsel. Most importantly, the Attorney General retains the power to remove the counsel for 'good cause,' a power that we have already concluded provides the Executive with substantial ability to ensure that the laws are 'faithfully executed' by an independent counsel. No independent counsel may be appointed without a specific request by the Attorney General, and the Attorney General's decision not to request appointment if he finds 'no reasonable grounds to believe that further investigation is warranted' is committed to his unreviewable discretion. . . . In addition, the jurisdiction of the independent counsel is defined with reference to the facts submitted by the Attorney General, and once a counsel is appointed, the Act requires that the counsel abide by Justice Department policy unless it is not 'possible' to do so.

The Court then went on to say, in language directly relevant to this issue: "Notwithstanding the fact that the counsel is to some degree 'independent' and free from executive supervision to a greater extent than other federal prosecutors, in our view these features of the Act give the Executive Branch sufficient control over the independent counsel to ensure the President is able to perform his constitutionally assigned duties."

The Supreme Court thus highlighted four "features" of the independent counsel law which enable the Attorney General to meet the constitutional requirement that the President, as head of the executive branch, ensure the faithful execution of the law. The four features identified by the Court are the Attorney General's sole authority to request appointment of an independent counsel, her authority to remove an independent counsel from office for good cause, her authority to define the scope of an independent counsel's investigation, and the requirement that independent counsels must abide by Justice Department policy.

Mandatory compliance with Justice Department policies is important not only for the law to be constitutional, but also because that compliance is one of the few practical constraints on the conduct of an independent counsel. The Supreme Court has held that the special court which appoints independent counsels "has no power to supervise or control the activities of the counsel" it has appointed. Congress, legally empowered to oversee independent counsels, has shown little interest under the current Republican leadership in monitoring independent counsels investigating the Clinton Administration.

The law does empower the Attorney General to remove an independent counsel from office for good cause, but that draconian penalty is not a practical one and has never been used. For example, if Attorney General Reno were to fire independent counsel Starr for enforcing subpoenas served on Secret Service personnel, the Republican Congress as well as the news media would have her head. The power to terminate an independent counsel, while an essential element in the law's architecture for purposes of constitutionality, is simply not, except for unusual circumstances, a practical means for limiting an independent counsel's individual prosecutorial decisions.

That means a key remaining constraint on independent counsels is the legal requirement that they comply with established Justice Department policies.

Yet questions have increasingly arisen about whether sitting independent counsels are acting in ways that an ordinary federal prosecutor would, or whether they are taking actions outside the established practices of the Department of Justice.

A prime example is an independent counsel subpoena so troubling that the Supreme Court has agreed to review it on an expedited basis next month. This subpoena was served by independent counsel Starr on a private attorney who, in 1993, met with Vincent Foster nine days before his suicide to discuss representing him during inquiries into the White House travel office. The Starr subpoena demands the notes taken by the attorney during that meeting, on the ground that the attorney-client relationship dissolved upon Mr. Foster's death.

The U.S. Attorney Manual states that the Justice Department, "as a matter of policy will respect bona fide attorney-client relationships, wherever possible, consistent with its law enforcement responsibilities and duties." But instead of respecting the bona fide attorney-client relationship between Mr. Foster and his attorney, Starr asserted a legal position that the Justice Department—in over one hundred years of criminal prosecution—has never taken. As Starr admits in a Supreme Court filing, the Foster case "is the first federal decision addressing the question . . . of whether attorney-client privilege fully survives the client's death."

A federal trial judge asked to enforce the Starr subpoena struck it down for violating attorney-client confidentiality, but an appeals court, in a 2–1 decision over a strong dissent, reversed. The dissenting judge wrote that the Starr subpoena is contrary to the law in all 50 states, the Supreme Court's advisory committee, and model codes of evidence. He characterized the Starr subpoena as striking "a fundamental blow to the attorney-client privilege." An independent counsel stretching that far is assuming the authority of the Justice Department to set legal policy for the United States.

Required compliance with Departmental policies not only helps ensure that persons who are subjects of independent counsel investigations receive the same treatment as ordinary citizens, but also guards against an independent counsel's misuse of the authority to represent the United States. Developing federal legal policy is the province of the Justice Department, which is institutionally motivated and equipped to consider competing public policies, constitutional values, and the long-term health of the American legal system. It is not the province of an independent counsel who has a narrow mandate and operates without accountability for legal positions that may reverberate throughout the federal criminal justice system.

Yet in the Foster matter, we have an independent counsel arguing a dramatically new position, that the attorney-client privilege disappears at death, without the Justice Department's ever determining whether that is a suitable position for the United States to take.

And the prosecutorial stretch illustrated by the issuance of the Foster subpoena is not the only instance in which an independent counsel appears to have stretched his authority. Just last week, over the strenuous objection of the Justice Department and for the first time in the nation's history, Starr asked a federal court to force Secret Service personnel to disclose how they operate and what they have observed of the President in the course of protecting him. No federal prosecutor has ever before asked a court to compel such testimony from a Secret Service agent, according to the Justice Department.

But Starr is undeterred by the opposition of both the Justice Department and Secret Service. Discounting arguments regarding the safety of the presidency and effective operation of Secret Service personnel, Starr has assumed the role of policymaker. In so doing, he has issued subpoenas which are not only unprecedented, but also, judging from the opposition of the Justice Department, in violation of Justice Department policy and in violation of Mr. Starr's obligation to comply with Justice Department policy.

There's more. The Department of Justice has carefully constructed policies determining when government attorneys may contact possible targets of prosecution without the knowledge and consent of their attorney. These policies are intended to protect every citizen's right to legal counsel in the criminal justice arena. In a Departmental regulation, 28 CFR 77.8, the Justice Department explicitly prohibits federal prosecutors from offering an immunity deal to a target without the consent of the target's legal counsel. Yet independent counsel Starr's staff reportedly confronted Monica Lewinsky, in the first contact they had with her, at a shopping mall outside the presence of her counsel for the express purpose of offering her an immunity deal. Indeed, it has been alleged that the independent counsel's office made the immunity deal contingent upon her NOT contacting her counsel. The press has reported that the judge supervising independent counsel Starr's grand jury proceedings issued a sealed opinion expressing concern about the actions of the independent counsel in this matter and indicating she may refer the matter to the Justice Department's Office of Professional Responsibility which is authorized to examine alleged violations of the rules prohibiting contact with a represented person.

There's more. Independent counsel Starr issued subpoenas to force two bookstores to disclose all purchases by Monica Lewinsky over a 2 year period. The bookstores, supported by the publishing and bookselling communities, the American Library Association and others, moved to quash the subpoenas. Ruling that the subpoenas implicate the First Amendment, the presiding judge required Starr to provide additional justification for the subpoenas. The American Booksellers Foundation for Free Expression has stated that "in the long experience" of their members, these subpoenas are "unprecedented" in their breadth and "threaten free speech by making people afraid that the government will find out what they are reading."

Then there are the subpoenas Starr has issued to news organizations to obtain nonpublic information from their news gathering efforts. Long-standing Justice Department regulations caution federal prosecutors against such subpoenas in order to safeguard freedom of the press. The regulations require trying elsewhere for the information, negotiating requests for information first, and, in a final provision that a court has found falls within the exception to the compliance requirement, obtaining the Attorney General's permission prior to issuing a subpoena. Despite the established policy discouraging media subpoenas, independent counsel Starr and independent counsel Donald Smaltz have issued subpoenas to news organizations on several occasions. When ABC News objected to one such subpoena, Starr stated in a court pleading that the Justice regulations "do not govern an Independent Counsel, who, by statutory design, operates for the most part outside the Department of Justice."

Then there are the subpoenas Starr issued calling a White House aide before the grand jury to question him about his communications with the media and calling another White House aide before the grand jury to question him about his communications with his local Democratic party. In both cases, Starr created the appearance of using the grand jury to silence or intimidate critics of his office—surely not an established practice of the Justice Department.

Then there is the subpoena to Monica Lewinsky's mother despite a stated policy in the U.S. Attorneys' Manual that, "the Department will ordinarily avoid seeking to compel the testimony of a witness who is a close family relative of . . . the person upon whose conduct grand jury scrutiny is focusing."

The list goes on.

The key question, here, is whether the actions taken by Starr were in compliance with established Justice Department policies or whether they were actions that no ordinary federal prosecutor would take. The test, by the way, is not whether a judge would uphold the action in a court of law—prosecutorial conduct not in accordance with Justice policies may still be legal. The proper test is not whether the prosecutor's action is legal, but whether it is the type of action that the Justice Department has determined represents what federal prosecutors ought to be doing.

A federal prosecutor may be legally able to subpoena a target's mother, but should he? A federal prosecutor may be legally able to subpoena a Secret Service agent, but should he? A federal prosecutor may be legally able to offer immunity to a target without telling her attorney, but should he? A federal prosecutor may be legally able to subpoena the media's nonpublic information, but should he? Justice Department policy says, in most cases, he should not. Such policies raise serious questions as to whether independent counsel Starr is meeting his legal obligation to comply with Justice Department policies.

Starr is not, by the way, the only independent counsel to raise these concerns. Independent counsel Smaltz, appointed to determine whether then-Agriculture Secretary Mike Espy violated criminal laws, is another example. One key issue in this area involves the role that courts play in enforcing independent counsel compliance with Justice Department policies, as mandated by statute. To date, several courts have held that criminal defendants lack standing to enforce such compliance and have declined to examine the substance of their claims. One judge handling a prosecution by independent counsel Smaltz went further, all but reading the requirement to comply with Justice Department policies out of the law.

The case involved Ronald Blackley, one time chief of staff to Secretary Espy. Independent counsel Smaltz charged Blackley, among other crimes, with making false statements on a financial disclosure form. Blackley moved for dismissal, in part by citing section 9–85A.304 of the U.S. Attorneys' Manual which he said prohibited:

> prosecuting alleged violations of financial disclosure requirements under 18 U.S.C. 1001 "unless a nondisclosure conceals significant wrongdoing." . . . [T]here is no allegation of any underlying wrongdoing. . . . We have found no case where an individual filer has been criminally prosecuted in a situation similar to this one.

In a published decision, *United States* v. *Blackley*, 986 F. Supp. 607 (1997), the judge held the following:

> It undeniable that Congress's addition of section 594(f) to the Independent Counsel statute in 1982 created somewhat of a paradox between that provision's purpose and the rationale underlying the overall Independent Counsel framework. On the one hand, through section 594(f)(1), Congress is ensuring that there are not two different standards of justice depending on the prosecutor; that "treatment of officials is equal to that given to ordinary citizens under similar circumstances." . . . To prevent against public officials being subject to potentially capricious prosecutorial conduct, an Independent Counsel needs to be tethered to some quantifiable standard, and the Department of Justice policy guidelines provide arguably the most complete, detailed and time-tested standards available. Furthermore . . . adherence to the executive branch's established prosecutorial guidelines helps to guard against constitutional separation-of-powers challenges to the Independent Counsel statute. . . . On the other hand, if an Independent Counsel is supposed to operate

> as nothing more than the identical twin of the Department of Justice, with no permissible variance in prosecutorial discretion, then the need for the Independent Counsel structure becomes highly questionable. . . . For the Independent Counsel to play a meaningful role, he or she is necessarily expected to act in a manner different from, and sometimes at odds with, the Department of Justice. . . . Therefore, the Independent Counsel may prosecute this case, even if said prosecution is contrary to the general prosecutorial policies of DOJ. . . . Potential criminal ethical violations that may be too small to concern the Department of Justice are nonetheless properly within the purview of the Independent Counsel because the Independent Counsel is, in a sense, charged with the responsibility of ensuring that public officials have maintained the highest standards of ethical conduct.

The court then upheld the indictment of Blackley, ruling that it was irrelevant whether or not the charge in question complied with Justice Department policy.

Contrary to the court's ruling, however, Congress has never charged independent counsels with ethics enforcement. Independent counsels are federal prosecutors required to act in accordance with established Justice Department policies. The Blackley decision misreads both the law and the legislative history, not only by expanding the mission of independent counsels beyond criminal law into ethics enforcement, but also in essentially reading out of the statute the requirement that independent counsels comply with Justice Department policies.

The Blackley decision is now on appeal. It brings legal focus to the issue of independent counsel compliance with established Justice Department policies—its importance to the law and the question of how to enforce it.

The Supreme Court stated the following in a 1935 case about prosecutorial misconduct, *Berger* v. *United States*, 295 U.S. 78:

> The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. . . . He may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

This language applies with equal force to an independent counsel, and mandatory compliance with established Justice Department policies is a means to that end.

As the chief law enforcement officer of the United States, the Attorney General is responsible for ensuring that "no one is above the law." The law requires independent counsel compliance with established Justice Department policies. Where there is evidence that independent counsels are not complying with Justice Department policies, the Attorney General has a legal obligation to determine if that is so and, if so, to take whatever action is appropriate to obtain independent counsel compliance. In light of court rulings that persons who are the victims of independent counsel noncompliance lack standing to contest the independent counsel's actions in this area, no one other than the Attorney General has the responsibility and the capability to enforce independent counsel compliance with the law.

If the Attorney General does not act, we need to understand why. If the reason is that the Attorney General feels she has insufficient statutory authority to obtain independent counsel compliance with Justice Department policies, we need to clarify the statute. If the reason is not the wording of the law, but politics that makes it impossible for the Attorney General to insist on compliance, we need to design new enforcement mechanisms which are more politically feasible. Stronger enforcement mechanisms could include, for example, amending the law to require an independent counsel to obtain from the Attorney General a certification of compliance with Justice Department policies before seeking court enforcement of a subpoena or filing an appeal of a question of law, or adding a provision giving affected persons legal standing in court to force independent counsel compliance with Justice Department policies.

The requirement for compliance with Justice Department policies is central to the law's constitutionality and fairness. The Attorney General and the Attorney General alone can enforce it. Since an independent counsel is not above the law, the Attorney General must enforce Section 594(f), which is the law of the land and essential to the independent counsel law's constitutionality and purpose.

ISRAELI MEMBERSHIP IN A UNITED NATIONS REGIONAL GROUP

Mr. MOYNIHAN. Mr. President, today a unanimous Senate will state in clear and simple terms that we will no longer abide by the discrimination faced by Israel at the United Nations. I speak of the fact that Israel is excluded from a United Nations regional group. Israel is the only one of the 185 member states of the United Nations barred from membership in a regional group. The United Nations member states have organized themselves by regional groups since before Israel joined the United Nations in 1949. Membership in a United Nations regional group confers eligibility to sit on the Security Council, the Economic and Social Council, as well as other United Nations councils, commissions, and committees.

For the first time, the Senate provides notice of its intention to work to end this Cold War anachronism. One sorry throwback to an era when the institutionalized isolation of Israel was a given in international affairs—the ugly "gentlemen's agreement" that excludes Israel and only Israel from membership in any United Nations Regional Group. Israel, and only Israel, can never sit on the United Nations Security Council. Israel, and only Israel, can never serve on the United Nations Economic and Social Council, where her expertise is so sorely missed. Israel, and only Israel, is less than a full member of the very international organization which bravely voted on November 29, 1947 to create it.

Today we call for Israel's admission to a United Nations Regional Group. This must be a goal of our government's foreign policy and a priority of reform efforts at the United Nations. That such legislation is necessary is a reminder that, despite the unparalleled success of the Zionist movement in its first hundred years, the state created half a century ago, as the fruit of this ideal, still requires support from its friends to overcome this institutional prejudice.

It is a fitting tribute to this vision that our country will take its rightful place in the forefront of the effort to allow Israel to participate fully in international affairs and to be counted as a legitimate member among the nations of the world. I am joined in this effort by 54 cosponsors. I thank my colleagues for their support and in particular the distinguished senior Senator from Indiana, Senator LUGAR, for his leadership.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting two treaties and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT TO CONGRESS ON THE WHEREABOUTS OF THE U.S. CITIZENS WHO HAVE BEEN MISSING FROM CYPRUS SINCE 1974—MESSAGE FROM THE PRESIDENT—PM 133

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

In accordance with Public Law 103–372, I hereby submit the enclosed "Report to Congress on the Investigation of the Whereabouts of the U.S. Citizens Who Have Been Missing from Cyprus Since 1974." The report was prepared by retired Ambassador Robert S. Dillon, with significant contribution by former State Department Associate Director of Security Edward L. Lee, II. Their intensive investigation centered on Cyprus, but it followed up leads in the United States, Turkey, Greece, Switzerland, and the United Kingdom.

The investigation led to the recovery of partial remains that were identified through DNA testing (done at the Armed Forces Institute of Pathology DNA Identification Laboratory) and other evidence as being those of one of the missing Americans, Andreas Kassapis. The report concludes that Mr. Kassapis was killed shortly after his capture in August 1974. The report also concludes that, although their remains could not be recovered, the other four missing U.S. citizens in all likelihood did not survive the events in Cyprus in July and August 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 22, 1998.*

MESSAGES FROM THE HOUSE

At 1:12 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3616. An act to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 98. Concurrent resolution providing for a conditional adjournment or recess of the Senate and the House of Representatives.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times, and placed on the calendar:

H.R. 3616. An act to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5025. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled, "The Health Insurance Purchasing Cooperative Act"; to the Committee on Labor and Human Resources.

EC–5026. A communication from the Acting Assistant Secretary for Employment and Training, Department of Labor, transmitting, pursuant to law, the report of an administrative directive regarding prevailing wage policy for researchers received on May 20, 1998; to the Committee on Labor and Human Resources.

EC–5027. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling; Petitions for Nutrient Content and Health Claims, General Provisions" (Docket 98N–0274) received on May 20, 1998; to the Committee on Labor and Human Resources.

EC–5028. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Revocation of Lather Brushes Regulation" (Docket 97P–0418) received on May 20, 1998; to the Committee on Labor and Human Resources.

EC–5029. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, the report under the Freedom of Information Act for the period January 1, 1997 through September 30, 1997; to the Committee on the Judiciary.

EC–5030. A communication from the Acting General Counsel of the Department of Defense, transmitting, the draft of two items of proposed legislation that provide specific exemptions under the Freedom of Information Act in order to address management concerns of the Department of Defense; to the Committee on the Judiciary.

EC–5031. A communication from the Director of the National Legislative Commission of the American Legion, transmitting, pursuant to law, a report of statements describing the financial condition of the American Legion as of December 31, 1997; to the Committee on the Judiciary.

EC–5032. A communication from the Executive Director of the Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of additions to the Procurement List received on May 18, 1998; to the Committee on Governmental Affairs.

EC–5033. A communication from the Chairman of the Postal Rate Commission, transmitting, a report regarding the Postal Rate Commission's recommended decision on the Omnibus Rate Case R97–1; to the Committee on Governmental Affairs.

EC–5034. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed license for the export of major defense equipment to Chile (DTC–40–98); to the Committee on Foreign Relations.

EC–5035. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notification that the danger pay allowance for Cambodia has been eliminated; to the Committee on Foreign Relations.

EC–5036. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed license for the export of defense services to Saudi Arabia (DTC–31–98); to the Committee on Foreign Relations.

EC–5037. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed license for the export of defense services to Kuwait (DTC–56–98); to the Committee on Foreign Relations.

EC–5038. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed transfer of major defense equipment to Australia (RSAT–3–98); to the Committee on Foreign Relations.

EC–5039. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed license for the export of major defense equipment to Japan (DTC–53–98); to the Committee on Foreign Relations.

EC–5040. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed license for the export of defense equipment to Japan (DTC–51–98); to the Committee on Foreign Relations.

EC–5041. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed manufacturing license agreement with Japan (DTC–57–98); to the Committee on Foreign Relations.

EC–5042. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts of international agreements other than treaties and background statements; to the Committee on Foreign Relations.

EC–5043. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Distribution of Stock and Securities of a Controlled Corporation" (Notice 98–27) received on May 18, 1998; to the Committee on Finance.

EC–5044. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Administrative, Procedural, and Miscellaneous Service-Initiated Accounting Method Changes" (Notice 98–31) received on May 20, 1998; to the Committee on Finance.

EC–5045. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Electronic Funds Transfer—Temporary Waiver of Failure to Deposit Penalty for Certain Taxpayers" (Notice 98–30) received on May 20, 1998; to the Committee on Finance.

EC–5046. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property" (Notice 98–28) received on May 20, 1998; to the Committee on Finance.

EC–5047. A communication from the Chief of the Regulations Unit, Internal Revenue

Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to foreign insurance companies (Procedure 98–31) received on May 20, 1998; to the Committee on Finance.

EC–5048. A communication from the General Counsel of the Department of the Treasury, transmitting, a draft of legislation regarding the proposed Treasury International Affairs Technical Assistance Program; to the Committee on Finance.

EC–5049. A communication from the Chief of Staff of the Office of the Commissioner, Social Security Administration, transmitting, pursuant to law, the report of a rule regarding the application of holdings of the United States Courts of Appeals received on May 20, 1998; to the Committee on Finance.

EC–5050. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report of the Treasury Forfeiture Fund for fiscal year 1997; to the Committee on Finance.

EC–5051. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Year 2000 Readiness of Computer Systems at Nuclear Power Plants" (Letter 98–01) received on May 18, 1998; to the Committee on Environment and Public Works.

EC–5052. A communication from the Service Federal Register Liaison Officer, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of an emergency rule to establish an additional manatee sanctuary in Kings Bay, Crystal River, FL (RIN1018–AE47) received on May 20, 1998; to the Committee on Environment and Public Works.

EC–5053. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Access Authorization Fee Schedule for Licensee Personnel" (RIN3150–AF90) received on May 18, 1998; to the Committee on Environment and Public Works.

EC–5054. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Physical Protection for Spent Nuclear Fuel and High-Level Radioactive Waste" (RIN3150–AF32) received on May 18, 1998; to the Committee on Environment and Public Works.

EC–5055. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule regarding a complete revision of the agency's Enforcement Policy (NUREG–1600, Rev. 1) received on May 18, 1998; to the Committee on Environment and Public Works.

EC–5056. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of three rules regarding OMB approval numbers, Michigan Implementation Plans, and Illinois Implementation Plans (FRL6013–2, FRL6003–6, FRL6012–7) received on May 18, 1998; to the Committee on Environment and Public Works.

EC–5057. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of four rules regarding new CI marine engines, Bacillus thuringiensis plant pesticide, HEDP antimicrobial pesticide, and OMB approval numbers (FRL6014–4, FRL5790–3, FRL5790–1, FRL6013–2) received on May 18, 1998; to the Committee on Environment and Public Works.

EC–5058. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Energy Conservation Program for Consumer Products: Test Procedure for Water Heaters" (RIN1904–AA52) received on May 18, 1998; to the Committee on Energy and Natural Resources.

EC–5059. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, a report regarding safety modifications and proposed corrective actions applicable to the Pueblo Dam, Fryingpan-Arkansas Project; to the Committee on Energy and Natural Resources.

EC–5060. A communication from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Burmese Sanctions Regulations" received on May 18, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5061. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the annual report for 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–5062. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Manufactured Home Construction and Safety Standards: Metal Roofing; Interpretative Bulletin I–2–98" received on May 18, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5063. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Section 8 Voucher and Certificate Programs: Restrictions on Leasing to Relatives" received on May 20,1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5064. A communication from the Acting Deputy Secretary of Housing and Urban Development, transmitting, three reports on the HUD 2020 Management Reform Plan; to the Committee on Banking, Housing, and Urban Affairs.

EC–5065. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of five rules: "Suspension of Community Eligibility" (Docket FEMA–7686), "Communities Eligible for Sale of Flood Insurance" (Docket FEMA–7687), "Changes in Flood Elevation Determinations" (2 rules), "Final Flood Elevation Determination" received on May 20, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5066. A communication from the Acting Assistant Secretary for Force Management Policy, Department of Defense, transmitting, pursuant to law, the annual DoD Education Activity Accountability Report and Accountability Profiles of the DoD Dependents Schools; to the Committee on Armed Services.

EC–5067. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report entitled "Report to Congress on the Use of the DoD Laboratory Revitalization Demonstration Program"; to the Committee on Armed Services.

EC–5068. A communication from the Acting General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "The Pilot Program for Micro-Purchases"; to the Committee on Armed Services.

EC–5069. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to authorize the transfer of naval vessels to certain foreign countries; to the Committee on Armed Services.

EC–5070. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mediterranean Fruit Fly; Addition to Quarantined Area" (Docket 97–056–12) received on May 18, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5071. A communication from the Director of Procurement and Property Management, Office of the Assistant Secretary for Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Agriculture Acquisition Regulation; Preference for Selected Biobased Products" (RIN0599–AA00) received on May 18, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5072. A communication from the Deputy Executive Director, U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Chicago Board of Trade Futures Contracts in Corn and Soybeans; Order to Designate Contract Markets and Amending Order of November 7, 1997, as Applied to Such Contracts" received on May 18, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5073. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–344 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC–5074. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–343 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC–5075. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–342 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC–5076. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–341 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC–5077. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–340 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC–5078. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–338 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC–5079. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–337 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC–5080. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–336 adopted by the Council on

April 7, 1998; to the Committee on Governmental Affairs.

EC-5081. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12-335 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC-5082. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12-334 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC-5083. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12-333 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC-5084. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12-332 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC-5085. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12-330 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC-5086. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12-329 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC-5087. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12-328 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC-5088. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding marine events in the vicinity of Annapolis Harbor, Maryland (RIN2115-AE46 1998-0015) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5089. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; New Rochelle Harbor, New York" (RIN2115-AE47 1998-0016) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5090. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; San Juan Harbor, San Juan, Puerto Rico" (RIN2115-AA97 1998-0019) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5091. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; FLEET WEEK Air/Sea Demonstrations, Hudson River, New York" (RIN2115-AA97 1998-0020) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5092. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Metric Conversion—Tires" (RIN2127-AH07) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5093. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Metric Conversion—Phase II" (RIN2127-AG55) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5094. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Eastland Municipal, TX" (RIN2120-AA66 1998-0209) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5095. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Gallup, NM" (RIN2120-AA66 1998-0208) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5096. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Barltlesville, OK" (RIN2120-AA66 1998-0207) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5097. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Cleveland, OK" (RIN2120-AA66 1998-0206) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5098. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Pawnee, OK" (RIN2120-AA66 1998-0205) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5099. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Wagoner, OK" (RIN2120-AA66 1998-0204) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5100. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Coalgate, OK" (RIN2120-AA66 1998-0203) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5101. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Bristow, OK" (RIN2120-AA66 1998-0202) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5102. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Claremore, OK" (RIN2120-AA66 1998-0201) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5103. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Shawnee, OK" (RIN2120-AA66 1998-0200) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5104. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Muskogee, OK" (RIN2120-AA66 1998-0199) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5105. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Poteau, OK" (RIN2120-AA66 1998-0198) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5106. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Fryer, OK" (RIN2120-AA66 1998-0197) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5107. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Stillwater, OK" (RIN2120-AA66 1998-0196) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5108. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Tahlequah, OK" (RIN2120-AA66 1998-0195) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5109. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Grove, OK" (RIN2120-AA66 1998-0194) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5110. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Henryetta, OK" (RIN2120-AA66 1998-0193) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5111. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; McAlester, OK" (RIN2120-AA66 1998-0191) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5112. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Miami, OK" (RIN2120-AA66 1998-0190) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5113. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Wrightstown, NJ" (Docket 98-AEA-01) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5114. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Downingtown, PA" (Docket 98-AEA-04) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5115. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Martin, SD" (Docket 97-AGL-62) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5116. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Casey, IL" (Docket 98-AGL-10) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5117. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Nauvoo, IL" (Docket 98-AGL-12) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5118. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Lakeview, MI" (Docket 98-AGL-14) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5119. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Milwaukee, WI" (Docket 98-AGL-5) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5120. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Wautoma, WI" (Docket 98-AGL-7) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5121. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Portland, IN" (Docket 98-AGL-8) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5122. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Millersburg, OH" (Docket 98-AGL-9) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5123. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Chicago, IL" (Docket 98-AGL-11) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5124. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Watford City, ND, and Modification of Class E Airspace; Williston, ND" (Docket 98-AGL-15) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5125. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Raytheon Aircraft Company Models B200, B200C, and B200T Airplanes" (Docket 97-CE-72-AD) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5126. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; CFM International CFM56-3, -3B, -3C, -5, -5B and -5C Series Turbofan Engines" (Docket 97-ANE-54-AD) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5127. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; REVO, Incorporated Models Colonial C-2, Lake LA-4, Lake LA-4A, Lake LA-4P, and Lake LA-4-200 Airplanes" (Docket 98-CE-48-AD) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5128. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Lockheed Model L-1011-385 Series Airplanes" (Docket 96-NM-257-AD) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. 1642. A bill to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public (Rept. No. 105-194).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 1250. A bill to authorize appropriations for the National Aeronautics and Space Administration for fiscal years 1998 and 1999, and for other purposes (Rept. No. 105-195).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with amendments and an amendment to the title:

S. 1325. A bill to authorize appropriations for the Technology Administration of the Department of Commerce for fiscal years 1998 and 1999, and for other purposes (Rept. No. 105-196).

EXECUTIVE REPORTS OF COMMITTEE

The following executive report of committee was submitted:

By Mr. SHELBY, from the Select Committee on Intelligence: Joan Avalyn Dempsey, of Virginia, to be Deputy Director of Central Intelligence for Community Management. (New Position)

(The above nomination was reported with the recommendation that she be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ENZI (for himself, Mr. BINGAMAN, Mr. KENNEDY, Mr. JEFFORDS, Mr. HUTCHINSON, Mr. BROWNBACK, Mr. THOMAS, and Mr. NICKLES):

S. 2112. A bill to make the Occupational Safety and Health Act of 1970 applicable to the United States Postal Service in the same manner as any other employer; to the Committee on Labor and Human Resources.

By Mr. ROBB:

S. 2113. A bill to reduce traffic congestion, promote economic development, and improve the quality of life in the metropolitan Washington region; to the Committee on Environment and Public Works.

By Mr. DURBIN (for himself, Ms. COLLINS, Mr. FAIRCLOTH, Mr. AKAKA, Ms. MOSELEY-BRAUN, Mr. HARKIN, Ms. MIKULSKI, Mr. WELLSTONE, Mr. GRAHAM, Mr. JOHNSON, Mr. CLELAND, Ms. LANDRIEU, Mr. REID, Mr. TORRICELLI, Mr. DODD, Mr. KOHL, Mr. WARNER, Mrs. BOXER, and Mrs. MURRAY):

S. 2114. A bill to amend the Violence Against Women Act of 1994, the Family Violence Prevention and Services Act, the Older Americans Act of 1965, and the Public Health Service Act to ensure that older women are protected from institutional, community, and domestic violence and sexual assault and to improve outreach efforts and other services available to older women victimized by such violence, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROCKEFELLER (for himself and Ms. MIKULSKI):

S. 2115. A bill to amend title 38, United States Code, to establish a scholarship program and an education loan debt reduction program to facilitate the employment of primary care and other health care professionals by the Veterans Health Administration, and for other purposes; to the Committee on Veterans Affairs.

By Mr. LUGAR:

S. 2116. A bill to clarify and enhance the authorities of the Chief Information Officer of the Department of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 2117. A bill to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself, Mr. BREAUX, Mr. MURKOWSKI, Mr. COCHRAN, Mr. INOUYE, Mr. DASCHLE, Mr. ROCKEFELLER, Mr. MACK, Mr. LUGAR, Mr. BUMPERS, Mr. FRIST, and Mr. SANTORUM):

S. 2118. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on vaccines to 25 cents per dose; to the Committee on Finance.

By Mr. STEVENS (for himself and Mr. CAMPBELL):

S. 2119. A bill to amend the Amateur Sports Act to strengthen provisions protecting the right of athletes to compete, recognize the Paralympics and growth of disabled sports, improve the U.S. Olympic Committee's ability to resolve certain disputes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER (for himself and Mr. FRIST):

S. 2120. A bill to improve the ability of Federal agencies to license federally-owned inventions; to the Committee on Commerce, Science, and Transportation.

By Mr. BREAUX:

S. 2121. A bill to encourage the development of more cost effective commercial space launch industry in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 2122. A bill to amend the Internal Revenue Code of 1986 to provide that certain liquidating distributions of a regulated investment company or real estate investment trust which are allowable as a deduction shall be included in the gross income of a distributee; to the Committee on Finance.

By Mr. SANTORUM:

S. 2123. A bill to amend the Higher Education Act of 1965 to improve accountability and reform certain programs; to the Committee on Labor and Human Resources.

By Mrs. HUTCHISON (for herself and Mr. INOUYE):

S. 2124. A bill to authorize appropriations for fiscal year 1999 for the Maritime Administration and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. D'AMATO:

S. 2125. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of section 42 housing cooperatives and the shareholders of such cooperatives, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. AKAKA (for himself, Mr. HELMS, Mr. BIDEN, Mr. THOMAS, Mr. INOUYE, Mr. LUGAR, Mrs. BOXER, Mr. COCHRAN, Mrs. MURRAY, Mr. ROTH, Mr. COVERDELL, Mrs. FEINSTEIN, and Mr. DURBIN):

S. Res. 235. A resolution commemorating 100 years of relations between the people of the United States and the people of the Philippines; to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself, Mr. MCCAIN, Mr. HATCH, Mr. DEWINE, Mr. CHAFEE, Mr. LUGAR, Mr. HAGEL, Mr. GRASSLEY, Mr. ABRAHAM, and Mrs. HUTCHISON):

S. Res. 236. A resolution to express the sense of the Senate regarding English plus other languages; to the Committee on Labor and Human Resources.

By Mr. FEINGOLD (for himself, Mr. REED, Mr. LEAHY, Mr. MOYNIHAN, Mr. KOHL, Mr. KENNEDY, Mr. HARKIN, and Mr. WELLSTONE):

S. Res. 237. A resolution expressing the sense of the Senate regarding the situation in Indonesia and East Timor; to the Committee on Foreign Relations.

By Mr. LOTT:

S. Con. Res. 99. A concurrent resolution authorizing the flying of the POW/MIA flag; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. BINGAMAN, Mr. KENNEDY, Mr. JEFFORDS, Mr. HUTCHINSON, Mr. BROWNBACK, Mr. THOMAS, and NICKLES):

S. 2112. A bill to make the Occupational Safety and Health Act of 1970 applicable to the United States Postal Service in the same manner as any other employer; to the Committee on Labor and Human Resources.

POSTAL EMPLOYEES SAFETY ENHANCEMENT ACT

Mr. ENZI. Mr. President, I rise to introduce the Postal Employees Safety Enhancement Act of 1998.

Mr. President, this bipartisan legislation, cosponsored by my colleagues Senators BINGAMAN, KENNEDY, JEFFORDS and HUTCHINSON would fully bring the United States Postal Service under the regulatory umbrella of the Occupational Safety and Health Administration. It has always been my unshakeable belief that the Government must play by its own rules. This important legislation is an incremental step in the effort to ensure that the "law of the land" applies equally to all branches of the Government as well as the private sector—and everything in-between.

Since I became a member of this distinguished body, I've been advocating legislation geared to improve the safety and health of our nation's workplaces. My sincere devotion to this issue, however, goes back much farther than my work here in Washington. For 12 years, I was an accountant for Dunbar Well Service in Gillette, WY, an oil well servicing company with offices throughout Wyoming. Like most businesses in my home state, Dunbar Well Service is a small business. The payroll consisted of 130 employees. As a result, I wore several hats. One of my roles was safety instruction, which required me to travel the state teaching employees about the importance of workplace safety and health. The company's rigorous safety program even had me collecting samples for drug tests—an extremely effective method of deterring workplace injuries and fatalities, by the way.

I saw things with OSHA that I thought needed to be changed. I served in the State legislature. I was told that States can't change that and I understand that. Then I got to come to Washington, and in Washington we can make a difference in the workplace. I went to work on a SAFE Act, one that will provide safety in all businesses. That has been through hearings. It has been through markups in the Labor Committee and is ready to be debated on this floor. I have had hands-on experience in the workplace with safety, and I know that workplace safety and health is everyone's business. And that's the only way it works. It is not a political issue, it is an issue that cannot be divided by a barrier that separates even the public and the private sector. It's everybody's concern, and that is the only way it works.

We must ensure the safety and health of all employees because they are the most important asset of any business. Its success or failure rests with their ability to provide efficient care and service to their customers, whoever they may be. Although all Federal agencies must comply with the 1970 Occupational Safety and Health statute, they are not required to pay penalties issued to them by OSHA. The bill I am introducing today is the first step in the effort to eliminate this barrier.

It is important to point out that this legislation is not intended to single out the Postal Service. My first look at how ineffective Federal agencies are at making workplace safety and health a priority began when I noted that Yellowstone National Park was cited by OSHA last February for 600 violations—92 of them serious. One of those serious violations was the Park's failure to report an employee's death to OSHA. In fact, Yellowstone has posted five employee deaths in the past 3½ years. Although there are these and other serious problems noted in the Park's safety and health record, I later found that it pales in comparison to the United States Postal Service's record.

After looking at the past 5 year totals for all Federal workplace injuries, illnesses, lost work time and fatalities, I was shocked to see the Postal Service at the very top of the list. It was my initial feeling that the armed forces would be the most hazardous occupation in the Federal Government. That notion was proven wrong. Surprisingly, the Postal Service employs relatively the same number of workers as the Department of Defense. Yet it has double the number of total workplace injuries and illnesses and almost double the number of lost work-time cases as the Department of Defense.

What is most troubling about the Postal Service's safety record, however, is its annual workers' compensation payments. From 1992 to 1997, the Postal Service paid an annual average of $505 million in workers' compensation costs—placing them once again at the top of the Federal Government's list. Moreover, the Postal Service's annual contribution to workers' compensation amounts to almost one-third of the Federal program's $1.8 billion price tag. These facts are simply inexcusable and clearly justify the need for legislation. Better yet, this legislation would likely decrease the annual expenditures for workers' compensation because of a reduction in workplace injuries, illnesses, lost time and fatalities.

In 1970, Congress passed the Postal Reorganization Act, eliminating the old Postal Department status as a cabinet office. Twelve years later, the Postal Service became fiscally self-sufficient—depending on market-driven revenues rather than taxpayer dollars.

Of course the Postal Service is big. The Postal Service is 43 percent of the world's mail. It has annual profits that exceed $1.5 billion. If the Postal Service were a private company, it would be the 9th largest business in the United States and 29th in the entire world. It is bigger than Coca-Cola, Xerox, and Kodak combined. It has offices in virtually every community. In fact, some of the communities in my State are communities because they are a post office. So it covers the big and it covers the small.

When I did the SAFE Act I talked to my colleagues on both sides of the aisle. I talked to any group that would talk to me. I talked to businesses, I talked to employers, I talked to employees, I talked to unions, and then drafted a bill. That bill is going through the process.

When I noticed this problem, I went through the same process. I have met with those groups—agencies, unions that are involved in this process—and I have to say, I have gotten some very helpful, constructive suggestions from those groups. Those suggestions appear in the bill.

I have talked to the Postal Service about it. They have reviewed it. They have asked for additional time to review it. The bill is only five pages long. I don't know how long it takes to review that, so I can only assume that they have no problem with the bill either, although I am sure they are not excited to come under the same rules that everyone else plays under.

The point of this legislation is simple. If government makes the rules, Government must play by them. this is the same basic premise adopted by Congress when it passed the Congressional Accountability Act during the 104th Congress. The Postal Service is not above the law and its employees are no less important to its daily operations than the employees of private businesses are to the companies that employ them. When advocating workplace safety and health in this context, I can think of no better place to start than the Postal Service—which calls itself a Federal agency when it is helpful to refer to itself as such. In fact, it's not a Federal agency at all. It's a self-sufficient, quasi-governmental entity. How many Federal agency's employees can collectively bargain under the 1935 National Labor Relations Act? How many Federal agencies don't receive one dime of the taxpayers' money? How many Federal agencies post annual profits exceeding $1.5 billion? The Postal Service exhibits almost every characteristic of a private business. Still, it's reluctant to fully comply with Federal occupational safety and health law. Clearly, that must change.

After carefully examining the perspectives of the Postal Service and the unions representing its employees, I have concluded that the Postal Employees Safety Enhancement Act is necessary legislation. The bill would permit OSHA to fully regulate the Postal Service the same way it does private businesses. In addition, the bill would prevent the Post Office from closing or consolidating rural post offices or services simply because it's required to comply with OSHA. Service to all areas of the Nation, rural or urban, was made a part of the Postal Service's mission by the 1970 Postal Reorganization Act. The quality of the service it provides should not decrease because of efforts to protect and ensure employee safety and health. Along this same premise, the bill would prevent the Postal Rate Commission from raising the price of stamps to help the Postal Service pay for potential OSHA fines. Rather, the Postal Service should offset the potential for OSHA fines by improving workplace conditions which would decrease its annual $500 million expenditure on workers' compensation claims.

This bipartisan bill will make the law of the land mean what it says. Congress would only be applying those standards to the Postal Service that it applied to itself three years ago. The Postal Service has the most alarming occupational safety and health record in the Federal Government. It should therefore be the first to be reined in.

Every schoolchild is familiar with the words on the New York Post Office that became the motto of the Postal Service, "Neither snow, nor rain, nor heat, nor gloom of night stays these couriers from the swift completion of their appointed rounds." Add to that the million and one barriers, complaints, dogs, assaults and other obstacles our postal workers must deal with every day and it is clear that they have more than enough to deal with without having to worry about the conditions of their workplace as well.

I urge my colleagues to support this necessary, common sense legislation to show our support for workplace safety and health everywhere throughout the country, in every business and corporation, in both private and the public sector.

I ask unanimous consent the text of the bill be printed in the RECORD.

There being no objection the bill was ordered printed in the RECORD, as follows:

S. 2112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Postal Employees Safety Enhancement Act".

SEC. 2. APPLICATION OF ACT.

(a) DEFINITION.—Section 3(5) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652(5)) is amended by inserting after "the United States" the following: "(not including the United States Postal Service)".

(b) FEDERAL PROGRAMS.—

(1) OCCUPATIONAL SAFETY AND HEALTH.—Section 19(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668(a)) is amended by inserting after "each Federal Agency" the following: "(not including the United States Postal Service)".

(2) OTHER SAFETY PROGRAMS.—Section 7902(a)(2) of title 5, United States Code, is amended by inserting after "Government of the United States" the following: "(not including the United States Postal Service)".

SEC. 3. CLOSING OR CONSOLIDATION OF OFFICES NOT BASED ON OSHA COMPLIANCE.

Section 404(b)(2) of title 39, United States Code, is amended to read as follows:

"(2) The Postal Service, in making a determination whether or not to close or consolidate a post office—

"(A) shall consider—

"(i) the effect of such closing or consolidation on the community served by such post office;

"(ii) the effect of such closing or consolidation on employees of the Postal Service employed at such office;

"(iii) whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b) of this title, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;

"(iv) the economic savings to the Postal Service resulting from such closing or consolidation; and

"(v) such other factors as the Postal Service determines are necessary; and

"(B) may not consider compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).".

SEC. 4. PROHIBITION ON RESTRICTION OR ELIMINATION OF SERVICES.

(a) IN GENERAL.—Chapter 4 of title 39, United States Code, is amended by adding after section 414 the following:

"§ 415. Prohibition on restriction or elimination of services

"The Postal Service may not restrict, eliminate, or adversely affect any service provided by the Postal Service as a result of the payment of any penalty imposed under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 39, United States Code, is amended by adding at the end the following:

"415. Prohibition on restriction or elimination of services.".

SEC. 5. LIMITATIONS ON RAISE IN RATES.

Section 3622 of title 39, United States Code, is amended by adding at the end the following:

"(c) Compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) shall not be considered by the Commission in determining whether to increase rates and shall not otherwise affect the service of the Postal Service.".

Mr. BINGAMAN. Mr. President, I am pleased to join with my friend and colleague from Wyoming, Senator ENZI, in introducing the Postal Employees Safety Enhancement Act of 1998.

I want to begin by commending the distinguished Senator from Wyoming for bringing this issue before the Senate. As my colleagues know, in the short time he has been in the Senate, Senator ENZI has become one of the leading experts on the Occupational Health and Safety Act of 1970. I have found him to be extremely willing to listen to all sides of what are complex issues, to work in a bipartisan manner and to engage all interested parties in a constructive dialogue on OSHA related issues. I also commend him for recognizing the need which this legislation will address and for working with all interested parties over the past few weeks to draft a bill that will address that need.

Mr. President, the bill we are introducing today is really rather simple. It will make the Occupational Health and Safety Act applicable to the United States Postal Service as it would be to any other private sector employer. The reasons for doing this, and the need to do so, are very obvious to anyone who looks at this issue. A comparison of all of the worker's compensation costs charged to federal employing agencies from July 1, 1993 to July 30, 1994 showed the Postal Service had a significantly higher rate of employment based injury claims than any federal agency. There are numerous reports of safety and health problems that have gone unaddressed by the P.O., some of which have been laid out by Senator ENZI this morning. Unfortunately, unlike every other private sector employee in America, Postal Service workers do not have the benefit, or the protections of the OSHA Act. While the Postal Service has some internal mechanisms for addressing employee injuries most would find these to be inadequate to protect employees and to help the Postal Service provide a safer workplace. This legislation should be welcomed by all who care about worker safety and health and I believe the Postal Service does care.

As my colleagues know, the Postal Service is one of the largest U.S. employers. Over the past several years it has gone through a series of reorganizations and restructuring to improve the quality of the service it provides. I commend the Postal Service for many of these initiatives and appreciate the service it provides to the people of my state. Like Senator ENZI, I do not mean to single out the Postal Service with this legislation. However, because the Postal Service operates in essence like any other private business, I think it is appropriate to expect that it complies with the same safety and health standards as other businesses. Likewise I think Postal workers deserve the same protections afforded all other private sector workers, under the Act.

Mr. President, I hope the Senate will work quickly to adopt this legislation this year. I see no reason why this bill should not pass quickly and overwhelmingly.

Again Mr. President, I commend Senator ENZI for bringing this important worker safety measure before the Senate and look forward to working with him to ensure its swift passage.

Mr. KENNEDY. Mr. President, I am proud to join my colleagues, Senator ENZI, Senator JEFFORDS, and Senator BINGAMAN, in introducing the Postal Employees Safety Enhancement Act. This important legislation will extend coverage of the Occupational Safety and Health Act to employees of the United States Postal Service.

Few issues are more important to working families than health and safety on the job. For the past 28 years, OSHA has performed a critical role—protecting American workers from on-the-job injuries and illnesses.

In carrying out this mission, OSHA has made an extraordinary difference in people's lives. Death rates from on-the-job accidents have dropped by over 60% since 1970—much faster than before the law was enacted. More than 140,000 lives have been saved.

Occupational illnesses and injuries have dropped by one-third since OSHA's enactment—to a record low rate of 7.4 per 100 workers in 1996.

These numbers are still unacceptably high, but they demonstrate that OSHA is a success by any reasonable measure.

Even more lives have been saved in the two places where OSHA has concentrated its efforts. Death rates have fallen by 61% in construction and 67% in manufacturing. Injury rates have dropped by half in construction, and nearly one-third in manufacturing. Clearly, OSHA works best where it works hardest.

Unfortunately, these efforts do not apply to federal agencies. The original OSHA statute required only that federal agencies provide "safe and healthful places and conditions of employment" to their employees. Specific OSHA safety and health rules did not apply.

In 1980, President Carter issued an Executive Order that solved this problem in part. It directed federal agencies to comply with all OSHA safety standards, and it authorized OSHA to inspect workplaces and issue citations for violations.

President Carter's action was an important step, but more needs to be done. When OSHA inspects a federal workplace and finds a safety violation, OSHA can direct the agency to eliminate the hazard. But OSHA has no authority to seek enforcement of its order in court, and it cannot assess a financial penalty on the agency to obtain compliance.

The situation is especially serious in the Postal Service. Postal employees suffer one of the highest injury rates in the federal government. In 1996 alone, 78,761 postal employees were injured on the job—more than nine injuries and illnesses for every hundred workers. This rate is 23% higher than the overall private sector rate, and 40% higher than the overall federal rate. Fourteen postal employees were killed on the job in 1996—one-sixth of the federal total. Workers' compensation charges at the Postal Service are also high—$538 million in 1997.

This legislation will bring down these unacceptably high rates. It permits OSHA to issue citations for safety hazards, and back them up with penalties. This credible enforcement threat will encourage the Postal Service to comply with the law. It will save taxpayer dollars currently spent on worker's compensation costs.

Most important, it will reduce the extraordinarily high rate of injuries among postal employees. Every worker deserves a safe and healthy place to work, and this bill will help achieve that goal for the 860,000 employees of the Postal Service. They deserve it, and I urge my colleagues to provide it.

By Mr. DURBIN (for himself, Ms. COLLINS, Mr. FAIRCLOTH, Mr. AKAKA, Ms. MOSELEY-BRAUN, Mr. HARKIN, Ms. MIKULSKI, Mr. WELLSTONE, Mr. GRAHAM, Mr. JOHNSON, Mr. CLELAND, Ms. LANDRIEU, Mr. REID, Mr. TORRICELLI, Mr. DODD, Mr. KOHL, Mr. WARNER, Mrs. BOXER, and Mrs. MURRAY):

S. 2114. A bill to amend the Violence Against Women Act of 1994, the Family Violence Prevention and Services Act, the Older Americans Act of 1965, and the Public Health Service Act to ensure that older women are protected from institutional, community, and domestic violence and sexual assault and to improve outreach efforts and other services available to older women victimized by such violence, and for other purposes; to the Committee on Labor and Human Resources.

OLDER WOMEN'S PROTECTION FROM VIOLENCE ACT OF 1998

• Mr. DURBIN. Mr. President, today I introduce this legislation with my distinguished colleague from Maine, Senator COLLINS. Unfortunately for some, domestic violence is a life long experience. Those who perpetrate violence against their family members do not desist because the family member grows older. In fact, in some cases, the abuse may become more severe as the victim ages becoming more isolated from the community with their removal from the workforce. Other age-related factors such as increased frailty may increase a victim's vulnerability. It also is true that older victims' ability to report abuse is frequently confounded by their reliance on their abuser for care or housing. Every seven minutes in Illinois, there is an incidence of elder abuse. Several research studies have shown that elder abuse is the most under reported familial crime. It is even more under reported than child abuse with only between one in eight and one in fourteen incidents estimated to be reported. Seniors who experience abuse worry they will be banished to a nursing home if they report abuse. They also must struggle with the ethical dilemma of reporting abuse by their children to the authorities and thus increasing their child's likelihood of going to jail. Shame and fear gag them so that they remain "silent victims."

Domestic violence programs have a moral and ethical responsibility to provide services to individuals of any age who are the victims of domestic abuse. Yet most domestic violence programs see only a few older women a year. That is not to say that the domestic violence service providers actively discriminate against older victims. Analysis of the few studies that do exist of elder domestic abuse indicate that the vast majority do not themselves seek to access existing services. There may be many reasons for this. The images portrayed in the media of the victims of domestic violence generally depict a young woman, with small children. Seniors suffering domestic abuse may not readily identify with these images and, therefore, may not see those services as being for them. Other cultural barriers may also exist. Many older women were raised to believe that family business is a private matter. Problems within families were not to be discussed with anyone, especially strangers or counselors. Only a handful of domestic abuse programs throughout the country are reaching out to older women.

This legislation seeks to improve current federal family violence programs, such as The Violence Against Women Act (VAWA) and Family Violence Prevention Services Act (FVPSA), to make them more sensitive to the needs of the nations seniors. Title I of this bill promotes the inclusion of elder abuse cases in law school clinics and training for law enforcement in the identification and referral of older victims of domestic violence or elder abuse to services. Title II allows FVPSA grant funds to be used for outreach to older individuals. We know that great improvements have taken place since VAWA was first passed. One of the most successful programs is the law enforcement training program, which received $200 million in FY 1998. However, improvement can be made with respect to identifying abuse among all age groups. When the abuser is old, there may be a reticence on the part of law enforcement to deal with this person in the same way that they might deal with a younger person. Who wants to send an "old guy" to jail? However, lack of action jeopardizes the victim further because then the abuser has every reason to believe that there are no consequences for their actions. Another common problem is differentiating between injuries related to abuse and injuries arising from aging, frailty or illness. Too many older women's broken bones have been attributed to disorientation, osteoporosis or other age-related vulnerabilities without any questions being asked to make sure that they are not the result of abuse.

Title III reauthorizes the very important Elder Rights programs contained within the Older Americans Act. These programs provide seed money for state elder abuse programs. Included here is the Long-term-care Ombudsman program that monitors nursing homes and investigates reports of abuse in such institutions.

Most domestic abuse shelters are filled with young families. The staff and volunteers are predominantly younger than 50 years old. The recreation calendar has activities for young women and children. Discussions at support groups can be dominated by younger women talking about their children, child care and custody. Many domestic abuse shelters are not readily accessible to those who are less mobile. For instance, some may not be accessible via the ground floor. Moving from your home into a shelter is always a traumatic event. However, it may be even harder for those who find themselves in surroundings so unfamiliar and so totally oriented to a different age group. In my home state of Illinois, there are only two centers that focus on the shelter needs of seniors. One is the Center for Prevention of Abuse in Peoria, the other is the Swan center in Olney, which has a comprehensive elder protective services program. Title III seeks to address this shortage by encouraging expanded access to domestic violence shelters that cater to the needs of older individuals.

This bill seeks to help foster collaboration between the aging networks and domestic violence coalitions. Throughout the United States, through the Older Americans Act, a variety of programs seek to serve seniors in their communities. Home-delivered meals and other services provide an opportunity for seniors to interact with individuals outside their own homes. Increasing the knowledge of such care providers in how to identify and refer victims of domestic violence would likely provide much-needed relief to many of these individuals. Title III of this bill contains a "Community Initiatives and Outreach" grants program to help coordinate both public and private efforts in elder domestic abuse prevention and treatment. Fostering communication between these two groups has the potential of dramatically increasing the number of individuals that are sensitive to these issues of abuse and, also, to increase the number of individuals who are served by domestic violence programs generally.

Family violence is one of the most common causes of disease and distress seen by physicians. In spite of its existence as a pervasive and debilitating medical and social problem, many advocates in the domestic violence community believe that it receives insufficient attention in the curricula of most schools of medicine or other health professional training institutions. Dr. Jane Jackman, past president of the Illinois State Medical Society noted last year "Doctors are finding that the problem is under-recognized. Elder abuse or maltreatment is growing in significance as a factor in trauma, hospital admissions, rising costs of long term care and, ultimately, deaths." Title III of this bill directs the Assistant Secretary of Aging to collaborate with other Departments of Health and Human Services and the National Institute of Aging to update and improve curricula for both training and retraining of health professionals and others in the area of elder domestic abuse. These curricula would be made available to educational institutions involved in training health professionals. Title IV would amend the Area Health Education Center and Geriatric Education Centers funded through the Health Professionals Education Act to allow them to use funds for training and retraining health professionals in elder domestic abuse.

The last title of the bill, Title V, examines the issue of financial exploitation of seniors. Take the case of Helen (not her real name) reported in the Chicago Tribune last year. Helen was a 66-year-old mother and grandmother from DuPage County. Early in 1997, Helen lost $90,000 and even access to her own kitchen due to the actions of her daughter. Helen describes how she felt like a P.O.W. Helen had agreed to pool resources with her daughter and son-in-law and buy a house where all of them would live; the deal seemed like a win-win proposition. Unbeknownst to Helen, most of the money went to pay off her son-in-law's debts. Soon the young couple asked Helen for thousands more and $300 in monthly rent. Shortly after this, her daughter had construction done on the house which put a new wall between Helen's bedroom and the kitchen, blocking her way to the kitchen and forcing her to prepare her food in the bathroom. Eventually, Helen found herself in a shelter. She now lives in a government subsidized apartment.

The Illinois Department of Aging and other elder abuse service providers will attest to the fact that Helen is not alone in experiencing such financial exploitation. Of the 5,833 reports of elder abuse in Illinois in 1997, nearly half (44.6%) were reports of financial exploitation. Statistics compiled by the Illinois Department on Aging show that the majority of financial abuse victims are female and that most have a functional impairment, such as Alzheimer's disease. For some, financial exploitation may at times be accompanied by physical abuse or the threat of physical abuse or other form of coercion. The states Attorneys General have efforts underway to examine this area and are cooperating in sharing information on how best to deal with such abuse. Financial exploitation is probably more complex and sometimes more difficult to detect than other forms of abuse. Therefore, we are proposing a study by experts in the field to more comprehensively analyze the problem and to make recommendations for future actions.

With the greying of America, the problems of elder domestic abuse in all its many ugly manifestations, is likely to grow. I believe that we need to take a comprehensive look at our existing family violence programs and ensure that these and other programs that serve seniors are sensitive and knowledgeable of elder domestic abuse. I am pleased that Senators AKAKA, MOSELEY-BRAUN, HARKIN, MIKULSKI, WELLSTONE, DODD, KOHL, WARNER, BOXER, GRAHAM, CLELAND, LANDRIEU, REID, TORRICELLI and FAIRCLOTH have all joined Senator COLLINS and myself in introducing this bill, and I hope that many more will join us in this effort to focus attention on the needs of the "forgotten older victims of domestic violence."

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Older Women's Protection From Violence Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—VIOLENCE AGAINST WOMEN ACT OF 1994

Sec. 101. Elder abuse, neglect, and exploitation.

TITLE II—FAMILY VIOLENCE PREVENTION AND SERVICES ACT

Sec. 201. Definitions.
Sec. 202. Domestic abuse services for older individuals.
Sec. 203. State grants.
Sec. 204. Demonstration grants for community initiatives.
Sec. 205. Study regarding health professional training with respect to detection and referral of victims of family violence.

TITLE III—OLDER AMERICANS ACT OF 1965

Sec. 301. Definitions.
Sec. 302. Research about the sexual assault of women who are older individuals.
Sec. 303. State Long-Term Care Ombudsman program.
Sec. 304. Domestic violence shelters and programs for older individuals.
Sec. 305. Authorization of appropriations.
Sec. 306. Community initiatives and outreach.
Sec. 307. Training for health professionals, and other providers of services to older individuals, on screening for elder abuse, neglect, and exploitation.

TITLE IV—PUBLIC HEALTH SERVICE ACT

Sec. 401. Area health education centers.
Sec. 402. Geriatric centers and training.

TITLE V—FINANCIAL EXPLOITATION OF OLDER INDIVIDUALS

Sec. 501. Study and report.

SEC. 2. FINDINGS.

Congress finds that—

(1) of the estimated more than 1,000,000 persons age 65 and over who are victims of abuse each year, at least two-thirds are women;

(2) in almost 9 out of 10 incidents of domestic elder abuse and neglect, the perpetrator is a family member and adult children of the victims are the largest category of perpetrators and spouses are the second largest category of perpetrators;

(3) the number of reports of elder abuse in the United States increased by 150 percent between 1986 and 1996 and is expected to continue growing;

(4) it is estimated that at least 5 percent of the Nation's elderly are victims of moderate to severe abuse and that the rate for all forms of abuse may be as high as 10 percent;

(5) elder abuse is severely underreported, with 1 in 5 cases being reported in 1980 and 1 in 8 cases being reported today;

(6) based on site-specific information from the Indian Health Service, the rate of trauma and violence faced by Indian women could be considered to be epidemic;

(7) elder abuse takes on many forms, including physical abuse, sexual abuse, psychological (emotional) abuse, neglect (intended or unintended), and financial exploitation;

(8) many older persons, particularly women and minorities, fail to report abuse because of shame or as a result of prior unsatisfactory experiences with individual agencies or others who lacked sensitivity to the concerns or needs of older people;

(9) the lack of culturally relevant elder abuse services for Indian women makes access to shelter and other services difficult and often impossible for some Indian women;

(10) many older persons fail to report abuse because they are dependent on their abusers and fear being abandoned or institutionalized;

(11) the lack of access to telephones, law enforcement, and health services in remote areas, including Indian reservations, makes access to relief from elder abuse particularly difficult for some populations;

(12) public and professional awareness and identification of elder abuse is difficult because older persons are not tied into many social networks (such as schools or jobs), and may become isolated in their homes, which can increase the risk of elder abuse;

(13) the Department of Justice does not include age as a category for criminal statistics reporting;

(14)(A) there are relatively few statistics and research studies regarding violence against older women, and even less is known about the incidence of violence against Indian women; and

(B) there is no national data base regarding violence against Indian women; and

(15) older persons would greatly benefit from policies that develop, strengthen, and implement programs for the prevention of abuse, including neglect and exploitation, and provide related assistance for victims.

TITLE I—VIOLENCE AGAINST WOMEN ACT OF 1994

SEC. 101. ELDER ABUSE, NEGLECT, AND EXPLOITATION.

The Violence Against Women Act of 1994 (108 Stat. 1902) is amended by adding at the end the following:

"Subtitle H—Elder Abuse, Neglect, and Exploitation, Including Domestic Violence and Sexual Assault Against Older Individuals

"SEC. 40801. DEFINITIONS.

"In this subtitle:

"(1) IN GENERAL.—The terms 'elder abuse, neglect, and exploitation', 'domestic violence', and 'older individual' have the meanings given the terms in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).

"(2) SEXUAL ASSAULT.—The term 'sexual assault' has the meaning given the term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

"SEC. 40802. LAW SCHOOL CLINICAL PROGRAMS ON ELDER ABUSE, NEGLECT, AND EXPLOITATION.

"The Attorney General shall make grants to law school clinical programs for the purposes of funding the inclusion of cases addressing issues of elder abuse, neglect, and exploitation, including domestic violence, and sexual assault, against older individuals.

"SEC. 40803. TRAINING PROGRAMS FOR LAW ENFORCEMENT OFFICERS.

"The Attorney General shall develop curricula and offer, or provide for the offering of, training programs to assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances of elder abuse, neglect, and exploitation, including domestic violence, and sexual assault, against older individuals.

"SEC. 40804. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.".

TITLE II—FAMILY VIOLENCE PREVENTION AND SERVICES ACT

SEC. 201. DEFINITIONS.

Section 309 of the Family Violence Prevention and Services Act (42 U.S.C. 10408) is amended by adding at the end the following:

"(7) The term 'elder domestic abuse' means domestic violence, as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002), against an older individual, as defined in such section.".

SEC. 202. DOMESTIC ABUSE SERVICES FOR OLDER INDIVIDUALS.

Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) work with domestic violence programs to encourage the development of programs, including outreach, support groups, and counseling, targeted to victims of elder domestic abuse.".

SEC. 203. STATE GRANTS.

Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by inserting "age," after "because of".

SEC. 204. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.

Section 318(b)(2)(F) of the Family Violence Prevention and Services Act (42 U.S.C. 10418(b)(2)(F)) is amended by inserting "and adult protective services entities" before the semicolon.

SEC. 205. STUDY REGARDING HEALTH PROFESSIONAL TRAINING WITH RESPECT TO DETECTION AND REFERRAL OF VICTIMS OF FAMILY VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following:

"SEC. 319. STUDY REGARDING HEALTH PROFESSIONAL TRAINING WITH RESPECT TO DETECTION AND REFERRAL OF VICTIMS OF FAMILY VIOLENCE.

"(a) IN GENERAL.—The Secretary shall request that the Institute of Medicine of the National Academy of Sciences, in collaboration with the Family Violence Prevention Fund, conduct a study of the adequacy of training for health professionals with respect to the detection and referral of victims of family violence.

"(b) PURPOSE OF STUDY.—The study conducted under this section shall—

"(1) determine the number of teaching institutions that incorporate training for health professionals in the area of domestic violence and elder abuse;

"(2) assess whether when such training is available, the training is adequate for both detection and referral of victims of domestic violence and elder abuse; and

"(3) examine whether increased training is needed with respect to detection of domestic violence and elder abuse.

"(c) RECOMMENDATIONS.—The Secretary shall ensure that the Institute of Medicine, in consultation with the Family Violence Prevention Fund and based on the results of the study under this section, develops recommendations for improvements in training for health professionals with respect to detection and referral of victims of family violence, through legislative or nonlegislative means.

"(d) FACTORS FOR CONSIDERATION.—In developing the recommendations described in subsection (c), the Secretary shall ensure that Institute of Medicine—

"(1) examines whether preferences, in federally funded educational programs for medical educational entities that include domestic violence and elder abuse training in the curricula of the entities, are effective in providing an incentive for incorporation of such training in the curricula;

"(2) determines whether there are other legislative means that may be effective in encouraging the training described in paragraph (1), such as grant programs for curriculum development; and

"(3) determines an appropriate level of funding for any such grant program recommended.

"(e) REPORT.—The Secretary shall ensure that, not later than 12 months after the date of enactment of the Older Women's Protection From Violence Act of 1998, a report concerning the study conducted under this section is prepared by the Institute of Medicine and submitted to Congress.".

TITLE III—OLDER AMERICANS ACT OF 1965

SEC. 301. DEFINITIONS.

Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended by adding at the end the following:

"(45) The term 'domestic violence' means an act or threat of violence, not including an act of self defense, committed—

"(A) by a current or former spouse of the victim;

"(B) by a person related by blood or marriage to the victim;

"(C) by a person who is cohabiting with or has cohabited with the victim;

"(D) by a person with whom the victim shares a child in common;

"(E) by a person who is or has been in the social relationship of a romantic or intimate nature with the victim; or

"(F) by a person similarly situated to a spouse of the victim, or by any other person, if the domestic or family violence laws of the jurisdiction of the victim provide for legal protection of the victim from the person.

"(46) The term 'sexual assault' has the meaning given the term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2).".

SEC. 302. RESEARCH ABOUT THE SEXUAL ASSAULT OF WOMEN WHO ARE OLDER INDIVIDUALS.

Section 202(d)(3)(C) of the Older Americans Act of 1965 (42 U.S.C. 3012(d)(3)(C)) is amended—

(1) by striking "and" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; and"; and

(3) by adding at the end the following:

"(iii) in establishing research priorities under clause (i), consider the importance of research about the sexual assault of women who are older individuals.".

SEC. 303. STATE LONG-TERM CARE OMBUDSMAN PROGRAM.

Section 303(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)(1)) is amended by inserting before the period the following: ", except that for grants to carry out section 321(a)(10), there are authorized to be appropriated such sums as may be necessary without fiscal year limitation".

SEC. 304. DOMESTIC VIOLENCE SHELTERS AND PROGRAMS FOR OLDER INDIVIDUALS.

Section 422(b) of the Older Americans Act of 1965 (42 U.S.C. 3035a(b)) is amended—

(1) by striking "and" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting a semicolon; and

(3) by adding at the end the following:

"(13) expand access to domestic violence shelters and programs, including mental health services, for older individuals and encourage the use of senior housing, nursing homes, or other suitable facilities or services when appropriate as emergency short-term shelters or measures for older individuals who are the victims of elder abuse, including domestic violence, and sexual assault, against older individuals; and

"(14) promote research on legal, organizational, or training impediments to providing services to older individuals through shelters and programs, such as impediments to provision of the services in coordination with delivery of health care or senior services.".

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

(a) OMBUDSMAN PROGRAM.—Section 702(a) of the Older Americans Act of 1965 (42 U.S.C. 3058a(a)) is amended to read as follows:

"(a) OMBUDSMAN PROGRAM.—There are authorized to be appropriated to carry out chapter 2 such sums as may be necessary without fiscal year limitation.".

(b) ELDER ABUSE PREVENTION PROGRAM.—Section 702(b) of the Older Americans Act of 1965 (42 U.S.C. 3058a(b)) is amended to read as follows:

"(b) PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.—There are authorized to be appropriated to carry out chapter 3 such sums as may be necessary without fiscal year limitation.".

SEC. 306. COMMUNITY INITIATIVES AND OUTREACH.

Title VII of the Older Americans Act of 1965 (42 U.S.C. 3058 et seq.) is amended—

(1) by redesignating subtitle C as subtitle D;

(2) by redesignating sections 761 through 764 as sections 771 through 774, respectively; and

(3) by inserting after subtitle B the following:

"Subtitle C—Community Initiatives and Outreach

"SEC. 761. COMMUNITY INITIATIVES TO COMBAT ELDER ABUSE, NEGLECT, AND EXPLOITATION.

"(a) IN GENERAL.—The Assistant Secretary shall make grants to nonprofit private organizations or tribal organizations to support projects in local communities, involving diverse sectors of each community, to coordinate activities concerning intervention in and prevention of elder abuse, neglect, and exploitation, including domestic violence, and sexual assault, against older individuals.

"(b) AWARD REQUIREMENT.—In awarding grants under subsection (a) the Assistant Secretary shall take into consideration—

"(1) State and tribal efforts to carry out the activities described in such subsection; and

"(2) encouraging coordination among the State and tribal efforts, State adult protective service activities, and activities of private nonprofit organizations.

"SEC. 762. OUTREACH TO OLDER INDIVIDUALS.

"(a) IN GENERAL.—The Assistant Secretary shall make grants to develop and implement outreach programs directed toward assisting older individuals who are victims of elder abuse, neglect, and exploitation (including domestic violence, and sexual assault, against older individuals), including programs directed toward assisting the individuals in senior housing complexes, nursing homes, board and care facilities, and senior centers.

"(b) AWARD REQUIREMENT.—In awarding grants under subsection (a) the Assistant Secretary shall take into consideration—

"(1) State and tribal efforts to develop and implement outreach programs described in such subsection; and

"(2) encouraging coordination among the State and tribal efforts, State adult protective service activities, and activities of private nonprofit organizations.

"SEC. 763. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle such sums as may be necessary without fiscal year limitation.".

SEC. 307. TRAINING FOR HEALTH PROFESSIONALS, AND OTHER PROVIDERS OF SERVICES TO OLDER INDIVIDUALS, ON SCREENING FOR ELDER ABUSE, NEGLECT, AND EXPLOITATION.

Section 411 of the Older Americans Act of 1965 (42 U.S.C. 3031) is amended by adding at the end the following:

"(f)(1) The Assistant Secretary for Aging shall, in consultation with the Assistant Secretary for Children and Families, the Surgeon General, the Indian Health Service, the Director of the National Institute on Aging, the Family Violence Prevention Fund, the National Center on Elder Abuse, the National Coalition Against Domestic Violence, and other specialists working in the areas of domestic violence against seniors and elder abuse, update and improve curricula and implement continuing education training programs for adult protective service workers, persons carrying out a State Long-Term Care Ombudsman program, health care providers (including home health care providers) and mental health providers (including specialists), social workers, clergy, domestic violence service providers, and other community-based social service providers in settings, including senior centers, adult day care facilities, nursing homes, board and care facilities, senior housing, and the homes of older individuals, to improve the ability of the persons using the curriculum and training programs to recognize and address instances of elder abuse, neglect, and exploitation, including domestic violence, and sexual assault, against older individuals.

"(2) In carrying out paragraph (1), the Assistant Secretary shall develop and implement separate curricula and training programs for medical students, physicians, mental health providers, physician assistants, nurse practitioners, nurses, and social workers.

"(3) In carrying out paragraph (1), the Assistant Secretary shall provide information about the curricula and training programs to entities described in sections 791(c)(2) and 860(f)(2) of the Public Health Service Act (42 U.S.C. 295j(c)(2) and 298b–7(f)(2)) that seek grants or contracts under title VII or VIII of such Act.".

TITLE IV—PUBLIC HEALTH SERVICE ACT

SEC. 401. AREA HEALTH EDUCATION CENTERS.

Subparagraphs (D) and (E) of section 746(d)(2) of the Public Health Service Act (42 U.S.C. 293j(d)(2) are each amended by inserting ", which may include training in domestic violence and elder abuse screening and referral protocols" before the semicolon.

SEC. 402. GERIATRIC CENTERS AND TRAINING.

(a) Geriatric Education Centers.—Section 777(a)(4) of the Public Health Service Act (42 U.S.C. 294o(a)(4)) is amended by inserting ", including training and retraining of faculty to provide instruction regarding identification and treatment of older individuals who are the victims of domestic violence and elder abuse" before the semicolon.

(b) Geriatric Training Regarding Physicians and Dentists.—Section 777(b)(2)(D) of the Public Health Service Act (42 U.S.C. 294o(b)(2)(D)) is amended—

(1) by striking "and exposure" and inserting ", exposure"; and

(2) by inserting ", and screening for elder abuse and domestic abuse," after "of elderly individuals".

TITLE V—FINANCIAL EXPLOITATION OF OLDER INDIVIDUALS

SEC. 501. STUDY AND REPORT.

(a) Definitions.—In this section—

(1) the term "financial exploitation" means any fraud, coercion, or other conduct by a caregiver, family member, or fiduciary that constitutes a violation of any Federal, State, or tribal law, including any legally enforceable professional standard applicable to any profession or occupation;

(2) the term "financial institution" has the meaning given the term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401);

(3) the term "older individual" has the meaning given the term in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002); and

(4) the term "Secretary" means the Secretary of the Treasury.

(b) Study.—The Secretary, in consultation with the Attorney General of the United States, State attorneys general, and tribal and local prosecutors, shall conduct a study of the nature and extent of financial exploitation of older individuals.

(c) Consultation.—In conducting the study under this section, the Secretary shall solicit comments and information from—

(1) senior citizen advocacy groups;

(2) law centers specializing in elder law;

(3) financial institutions;

(4) elder abuse coalitions;

(5) privacy experts;

(6) providers of adult protective services;

(7) Indian tribes, the Director of Indian Health Service of the Department of Health and Human Services, and the Commissioner of Indian Affairs of the Department of the Interior;

(8) State Long-Term Care Ombudsmen described in the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.);

(9) area agencies on aging (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002));

(10) recipients of grants under title VI of the Older Americans Act of 1965 (42 U.S.C. 3057 et seq.); and

(11) other service providers.

(d) Purpose of Study.—In conducting the study under this section, the Secretary shall—

(1) define and describe the scope of the problem of financial exploitation of older individuals;

(2) conduct a survey of financial institutions in order to obtain—

(A) an estimate of the number and type of financial transactions that are considered by those institutions to constitute financial exploitation of older individuals; and

(B) a detailed description of the types and characteristics of risk faced by elderly customers with respect to financial exploitation;

(3) examine whether Federal, State, and tribal laws and regulatory practices are adequate to protect older individuals from financial exploitation; and

(4) examine the extent to which a better public understanding of Federal, State, and tribal laws would help to prevent financial exploitation of older individuals, including an examination regarding whether improved training of officers, employees, and agents of financial institutions concerning their responsibilities under section 1103 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403) would help to combat the problem of financial exploitation of older individuals.

(e) Recommendations.—

(1) In general.—Based on the results of the study under this section, the Secretary, in consultation with the Attorney General and State attorneys general, shall develop recommendations for legislative or other action to prevent the financial exploitation of older individuals.

(2) Factors for consideration.—In developing the recommendations under paragraph (1), the Secretary shall—

(A) balance the needs of older individuals to be free from financial exploitation with their need for financial privacy, and their right against self-incrimination;

(B) consider the most effective and least intrusive legislative solutions to combat the problem of financial exploitation of older individuals;

(C) with respect to the reporting of incidences of financial exploitation of older individuals, consider—

(i) the appropriate Federal, State, or tribal agency to which such incidences should be reported, and the means by which a financial institution would obtain information regarding the manner in which to report such an incidence; and

(ii) whether there should be limitations on the authority of a financial institution to disclose information relating to an older individual who is a customer of the financial institution in order to combat the problem of financial exploitation of older individuals, including limitations on—

(I) the number of times such a disclosure may be made;

(II) the number and type of governmental or tribal agencies to which such a disclosure may be made; and

(III) the duration of the authority of the financial institution to make such a disclosure; and

(D) whether there is a need for adult protective services to combat such exploitation.

(f) Report.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report, which shall include—

(1) the results of the study conducted under this section, including an analysis of the extent of the problem of financial exploitation of older individuals; and

(2) the recommendations developed under subsection (e).●

● Ms. COLLINS. Mr. President, there is no conduct less consistent with the precepts of a civilized society than the physical abuse of those unable to defend themselves. Our recognition of this has led to an aggressive and ongoing campaign against child abuse, and it must lead to an equally strong response to domestic violence directed at older Americans. For that reason, I am honored to rise today to cosponsor the Older Women's Protection from Violence Act, legislation introduced by my distinguished colleague from Illinois, Senator DURBIN, and I commend Senator DURBIN for his leadership in this area.

Mr. President, at a 1995 hearing in Portland, Maine, chaired by my predecessor, Senator Cohen, elder abuse was aptly described as "society's secret shame." Family violence, particularly when directed at the elderly, was a major concern of Senator Cohen, and I welcome the opportunity to continue his efforts to combat this intolerable mistreatment of older Americans.

Mr. President, earlier this month my home state released its crime statistics for 1997. I was cheered by the wonderful news that crime fell by 8.7% from 1996, to the lowest rate in at least 20 years. Hidden behind this positive statistic, however, was one that was very disquieting, namely, that domestic violence increased by 7.8%. Ironically, at the same time as we are becoming less likely to be harmed by strangers, many of our neighbors face an increasing threat from members of their own households.

National data demonstrate that cases of domestic elder abuse, which includes neglect as well as physical abuse, are steadily increasing. From 1986 to 1996, the number of cases went from 117,000 to 293,000, an increase of 150%. Furthermore, there is widespread agreement that this type of abuse is greatly underreported. For example, although the number of reported cases in 1994 was 241,000, the National Center on Elder Abuse estimates that the true number of cases was 818,000.

Mr. President, while these numbers indicate a serious and growing problem, all of the statistics in the world do not describe the problem as eloquently as the words of a single victim. At the Maine hearing, one such victim told what happened to her at the hands of her husband after her children left home.

> [T]hings got really bad. I had two broken wrists, cracked ribs, held down with his knee on my chest with a knife at my throat. I was made to crawl across the floor with a gun resting on my head, ready to fire. I've been choked until I was limp, and then he would drop me on the floor with a kick. I've been spit on, thrown through a window, dragged into the lake as he said he was going to drown me.

Astonishingly, but not atypically, the witness was married to her husband for 44 years.

Compounding the physical abuse suffered by elderly victims of violence is the sense of being trapped. Again, one of the witnesses at the Portland hearing described this far more effectively than I can.

> People ask why I remained under such circumstances. It was fear that kept me there. . . . I had been on an island for eight years. Where would I go? I had no money, no home, no job, and no credit. Although I had left good jobs to follow him from job to job, at age 60 who would hire me? Health insurance was my greatest concern.

With a dependence on the abuser for financial support and physical care, with a long history of emotional ties to that person, with the fear of being held up to ridicule, and with a sense of hopelessness about finding a way out of the predicament, it is hardly surprising that the elderly victim is often reluctant to report domestic assaults.

Domestic violence against older women is a complex problem about which we still lack adequate information. This has led to some erroneous assumptions. For example, it had been thought that assaults against the elderly usually result from caregiver stress, but while this is a factor, its effect now appears to have been overstated. Indeed, according to a recent report, "[a]busers are not identical in their behavior or their assumptions about abusive conduct." As the report points out, this means that a "cookie cutter" approach will not solve the problem.

Further complicating our efforts to deal with domestic violence against older women are the conflicting feelings and desires of many of the victims. It is quite common for the victim to have a familial relationship with the abuser, and thus, far more is likely to be involved in dealing with these situations that in dealing with an assault committed by a stranger. For understandable reasons, the older woman may want to preserve the relationship while ending the abuse. Finding effective ways to accomplish this can be a formidable challenge.

Mr. President, the legislation that Senator DURBIN and I are introducing today recognizes that complex problems defy simple solutions. Thus, the Older Women's Protection from Violence Act does not purport to contain a magic bullet that will eliminate this reprehensible conduct, but rather looks to a multi-faceted approach to address a multi-faceted problem. Similarly, the bill does not offer revolutionary solutions; instead, its message is that the time has come for society to roll up its sleeves and engage in the hard work of protecting those who have contributed so much to our individual and collective well-being.

In keeping with the nature of the problem, the legislation provides for training those who are in a position to identify cases of domestic violence against older women. Consistent with the notion that we cannot stop or correct what we do not discover, the primary recipients of that training would be law enforcement officers and health professionals. In addition, the Attorney General is authorized to make grants to law school clinical programs to include elder abuse cases.

The bill reauthorizes and expands programs that provide services to battered older women. Such services include outreach, support, and counseling. It also enhances their access to domestic violence shelters, something that can mean the difference between life and death in some cases. I should emphasize that the provision of these services will be largely at the local level, with financial assistance from the federal government.

Mr. President, in a prior position, I managed a state agency that has as one of its principal mandates that protection of Maine people, many of them elderly, from fraud and other financial abuses. Thus, I am especially pleased that in addition to addressing violence against older women, this bill seeks to shed light on a problem affecting the elderly that has received even less attention, namely, their financial exploitation by a caregiver or family member.

Two cases discussed at the Maine hearing illustrate my point. In one, an elderly gentleman from southern Maine went without food because his two nephews were stealing his money. Yet, he refused to send them away because they were "family." In the second case, a 75-year old eastern Maine woman returned from the hospital after a severe stroke to find that her daughter and son-in-law had changed the locks on her house. The physical and emotional impact of the experience was so great that she was unable to undertake the legal battle to reclaim her home.

This bill will shed light on this type of abuse by requiring the Secretary of the Treasury to conduct a study of the nature and extent of financial exploitation of older individuals. Our society simply cannot allow our senior citizens who have labored hard to build up a nest egg to have it wrongfully taken from them at the time they need it most.

Mr. President, interest in elder abuse did not begin in our country until the late 1980s, long after we began to focus on child abuse in the 1960s. This may be because these cases are among the least likely to be reported. It may also be because our culture tends to worship youth, perhaps giving our older citizens the sense that we care less about them. In any case, this must change, not only because of demographic trends, but also because it is right.

This bill will contribute to that change by dealing specifically with domestic violence against older women. In addition to providing services to the victims of this conduct, it funds research into various aspects of the problem to enhance our understanding and improve our ability to respond. Our secret shame must not remain a secret.

Mr. President, in 1996 the average age of elder abuse victims was 78. There can be no justification for letting these older Americans, who have reached the point in life where they deserve peace, comfort, and respect, to be the victims of domestic violence or any other form of abuse. This bill is designed to prevent that, and I trust that my colleagues will support us in the effort.●

By Mr. ROCKEFELLER (for himself and Ms. MIKULSKI):

S. 2115. A bill to amend title 38, United States Code, to establish a scholarship program and an education loan debt reduction program to facilitate the employment of primary care and other health care professionals by the Veterans Health Administration, and for other purposes; to the Committee on Veterans' Affairs.

DEPARTMENT OF VETERANS AFFAIRS PRIMARY CARE PROVIDERS INCENTIVE ACT OF 1998

● Mr. ROCKEFELLER. Mr. President, I am pleased today to introduce the following legislation, "The Department of Veterans Affairs Primary Care Providers Incentive Act of 1998." This legislation is intended to revitalize the VA's Health Professionals Education Assistance Program, thereby reducing waste, targeting primary care professions and under-served areas, and making the VA more competitive with private employers for skilled personnel. I am pleased to be joined by my respected colleague from Maryland, Senator MIKULSKI, in this effort. I urge our colleagues to join us in supporting this legislation.

The VA health care system is in the midst of a major reorganization that is simultaneously reducing the current workforce and creating the need for more primary care health professionals. This reorganization has dramatically changed the way the VA delivers health care, by shifting the emphasis to outpatient rather than inpatient care. As part of this process, the Department of Veterans Affairs has set a goal of doubling the number of primary care providers in the VA health care system, and we want to assist them. There are two good ways to hire and keep highly skilled professionals—offer incentives to current employees to get training in new areas of need by providing scholarships, and recruit new primary care providers by offering assistance in paying off student loans. This legislation, which includes both a scholarship program and an education debt reduction program, can help.

The VA needs educational assistance programs such as these to effectively recruit and retain trained primary care health professionals. In the VA hospitals and clinics, some of the most difficult positions to fill are those of nurse practitioners, physical therapists, and occupational therapists. In my home state of West Virginia, for example, at one of the VA hospitals there has been a vacancy for an occupational therapist for over twelve years! Two of the VA hospitals have no physical therapists at all. This is simply unacceptable.

The plain fact is that the VA cannot offer the same starting salaries as those available in private practice. The Education Debt Reduction Program included within the Primary Care Providers Incentive Act gives the VA a financial recruitment tool that will be an enormous help in making the VAMCs more competitive for these much-needed and highly skilled individuals. This program was first designed by Senator MIKULSKI in 1993 in recognition of this very problem. It was needed then, and it is still needed now.

Recruitment is only half the problem in building a new workforce that is geared toward providing primary care. Retention of trained people, especially in the face of low morale due to budget cuts, is equally important. The scholarship program in this legislation is designed to answer this very need. Eligibility is limited to current VA employees, thus enabling VA to build staff morale. The scholarship program provides a means for vulnerable employees to protect themselves against future RIFs by acquiring training in the new areas of need. And, VA gets the workforce they need, composed of motivated and loyal employees.

Professional associations representing primary care health workers, VAMC human resources personnel, and past recipients of VA scholarships are strongly in support of this legislation. Although this is a time of budget reductions in health care, these programs are a worthwhile investment, enhancing morale of the VA health care providers in the short term, while building a workforce that matches VA's needs and improves veterans' health care in the long run.

Mr. President, I ask that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Department of Veterans Affairs Primary Care Providers Incentive Act of 1998”.

SEC. 2. SCHOLARSHIP PROGRAM FOR DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES RECEIVING EDUCATION OR TRAINING IN THE HEALTH PROFESSIONS.

(a) PROGRAM AUTHORITY.—(1) Chapter 76 of title 38, United States Code, is amended by adding at the end the following new subchapter:

“SUBCHAPTER VI—EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM

“§ 7671. Authority for program

“As part of the Educational Assistance Program, the Secretary shall carry out a scholarship program under this subchapter. The program shall be known as the Department of Veterans Affairs Employee Incentive Scholarship Program (hereinafter in this subchapter referred to as the ‘Program’).

“§ 7672. Eligibility; agreement

“(a) ELIGIBILITY.—To be eligible to participate in the Program, an individual—

“(1) must be an eligible Department employee who is accepted for enrollment or enrolled (as described in section 7602 of this title) as a full-time or part-time student in a field of education or training described in subsection (c); and

“(2) must demonstrate financial need, as determined under regulations prescribed by the Secretary.

“(b) ELIGIBLE DEPARTMENT EMPLOYEES.—For purposes of subsection (a), an eligible Department employee is any employee of the Department who, as of the date on which the employee submits an application for participation in the Program, has been continuously employed by the Department for not less than two years.

“(c) QUALIFYING FIELDS OF EDUCATION OR TRAINING.—A scholarship may be awarded under the Program only for education and training in a field leading to appointment or retention in a position under section 7401 of this title.

“(d) PREFERENCE IN AWARD OF SCHOLARSHIPS.—(1) Notwithstanding section 7603(d) of this title and subject to paragraph (2), in selecting participants in the Program, the Secretary shall give preference to the following applicants, in the order specified:

“(A) Applicants who are or will be pursuing a course of education or training in a field relating to the provision of primary care health services, as designated by the Secretary.

“(B) Applicants who are employed at Department health-care facilities located in rural areas or at which there is an inadequate supply of individuals qualified to hold a position under section 7401 of this title, as so designated.

“(2) In the case of a pool of applicants covered by subparagraph (A) or (B) of paragraph (1), the Secretary shall give preference in the award of scholarships to the members of the pool who have the greatest financial need.

“(3) The Secretary shall maintain, and update periodically, a list setting forth—

“(A) the fields of education or training covered by subparagraph (A) of paragraph (1); and

“(B) the facilities covered by subparagraph (B) of that paragraph.

“(e) AGREEMENT.—(1) An agreement between the Secretary and a participant in the Program shall (in addition to the requirements set forth in section 7604 of this title) include the following:

“(A) The Secretary's agreement to provide the participant with a scholarship under the Program for a specified number (from one to three) of school years during which the participant pursues a course of education or training described in subsection (c) that meets the requirements set forth in section 7602(a) of this title.

“(B) The participant's agreement to serve as a full-time employee in the Veterans Health Administration for a period of time (hereinafter in this subchapter referred to as the ‘period of obligated service’) of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Program, but for not less than two years.

“(C) The participant's agreement to serve under subparagraph (B) in a Department facility selected by the Secretary.

“(2) In a case in which an extension is granted under section 7673(c)(2) of this title, the number of years for which a scholarship may be provided under the Program shall be the number of school years provided for as a result of the extension.

“(3) In the case of a participant who is a part-time student—

“(A) the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year; and

“(B) the agreement shall include the participant's agreement to maintain employment, while enrolled in such course of education or training, as a Department employee permanently assigned to a Department health-care facility.

“§ 7673. Scholarship

“(a) SCHOLARSHIP.—A scholarship provided to a participant in the Program for a school year shall consist of payment of the tuition of the participant for that school year and payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year.

“(b) AMOUNTS.—The total amount of the scholarship payable under subsection (a)—

“(1) in the case of a participant in the Program who is a full-time student, may not exceed $10,000 for any one year; and

“(2) in the case of a participant in the Program who is a part-time student, shall be the amount specified in paragraph (1) reduced in accordance with the proportion that the number of credit hours carried by the participant in that school year bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant.

"(c) Limitation on Years of Payment.—(1) Subject to paragraph (2), a participant in the Program may not receive a scholarship under subsection (a) for more than three school years.

"(2) The Secretary may extend the number of school years for which a scholarship may be awarded to a participant in the Program who is a part-time student to a maximum of six school years if the Secretary determines that the extension would be in the best interest of the United States.

"(d) Payment of Educational Expenses by Educational Institutions.—The Secretary may arrange with an educational institution in which a participant in the Program is enrolled for the payment of the educational expenses described in subsection (a). Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

"§ 7674. Status of certain participants

"(a) Status.—A participant in the Program described in subsection (b) shall not, by reason of such participation—

"(1) be considered an employee of the Federal Government; or

"(2) be counted against any personnel ceiling affecting the Veterans Health Administration.

"(b) Covered Participants.—Subsection (a) applies in the case of any participant in the Program who is a student on a full-time basis and is not performing service for the Department.

"§ 7675. Obligated service

"(a) In General.—Each participant in the Program shall provide service as a full-time employee of the Department for the period of obligated service provided in the agreement of the participant entered into under section 7603 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Secretary.

"(b) Determination of Service Commencement Date.—(1) Not later than 60 days before a participant's service commencement date, the Secretary shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.

"(2) As soon as possible after a participant's service commencement date, the Secretary shall—

"(A) in the case of a participant who is not a full-time employee in the Veterans Health Administration, appoint the participant as such an employee; and

"(B) in the case of a participant who is an employee in the Veterans Health Administration but is not serving in a position for which the participant's course of education or training prepared the participant, assign the participant to such a position.

"(3)(A) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant's service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State.

"(B) In the case of a participant receiving a degree from a school of nursing, the participant's service commencement date is the later of—

"(i) the participant's course completion date; or

"(ii) the date upon which the participant becomes licensed as a registered nurse in a State.

"(C) In the case of a participant not covered by subparagraph (A) or (B), the participant's service commencement date is the later of—

"(i) the participant's course completion date; or

"(ii) the date the participant meets any applicable licensure or certification requirements.

"(4) The Secretary shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3).

"(c) Commencement of Obligated Service.—(1) Except as provided in paragraph (2), a participant in the Program shall be considered to have begun serving the participant's period of obligated service—

"(A) on the date, after the participant's course completion date, on which the participant (in accordance with subsection (b)) is appointed as a full-time employee in the Veterans Health Administration; or

"(B) if the participant is a full-time employee in the Veterans Health Administration on such course completion date, on the date thereafter on which the participant is assigned to a position for which the participant's course of training prepared the participant.

"(2) A participant in the Program who on the participant's course completion date is a full-time employee in the Veterans Health Administration serving in a capacity for which the participant's course of training prepared the participant shall be considered to have begun serving the participant's period of obligated service on such course completion date.

"(d) Course Completion Date Defined.—In this section, the term 'course completion date' means the date on which a participant in the Program completes the participant's course of education or training under the Program.

"§ 7676. Breach of agreement: liability

"(a) Liquidated Damages.—A participant in the Program (other than a participant described in subsection (b)) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 7603 of this title shall be liable to the United States for liquidated damages in the amount of $1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

"(b) Liability During Course of Education or Training.—(1) Except as provided in subsection (d), a participant in the Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

"(A) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Secretary).

"(B) The participant is dismissed from such educational institution for disciplinary reasons.

"(C) The participant voluntarily terminates the course of education or training in such educational institution before the completion of such course of education or training.

"(D) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Secretary.

"(E) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by the participant, as a Department employee.

"(2) Liability under this subsection is in lieu of any service obligation arising under a participant's agreement.

"(c) Liability During Period of Obligated Service.—(1) Except as provided in subsection (d), if a participant in the Program breaches the agreement by failing for any reason to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi\ \left(\frac{t-s}{t}\right)$$

"(2) In such formula:

"(A) 'A' is the amount the United States is entitled to recover.

"(B) 'Φ' is the sum of—

"(i) the amounts paid under this subchapter to or on behalf of the participant; and

"(ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

"(C) 't' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 7673(c)(2) of this title.

"(D) 's' is the number of months of such period served by the participant in accordance with section 7673 of this title.

"(d) Limitation on Liability for Reductions-in-Force.—Liability shall not arise under subsection (b)(1)(E) or (c) in the case of a participant otherwise covered by the subsection concerned if the participant fails to maintain employment as a Department employee due to a reduction-in-force.

"(e) Period for Payment of Damages.—Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

"§ 7677. Expiration of program

"The Secretary may not furnish scholarships to individuals who commence participation in the Program after December 31, 2001.".

(2) The table of sections at the beginning of chapter 76 of title 38, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM

"7671. Authority for program.
"7672. Eligibility; agreement.
"7673. Scholarship.
"7674. Status of certain participants.
"7675. Obligated service.
"7676. Breach of agreement: liability.
"7677. Expiration of program.".

(b) REGULATIONS.—The Secretary of Veterans Affairs may treat regulations prescribed subchapter II of chapter 76 of title 38, United States Code, as regulations required under subchapter VI of that chapter, as added by subsection (a), but only to the extent that the regulations prescribed under such subchapter II are not inconsistent with the provisions of such subchapter VI.

SEC. 3. EDUCATION DEBT REDUCTION PROGRAM FOR VETERANS HEALTH ADMINISTRATION HEALTH PROFESSIONALS.

(a) PROGRAM AUTHORITY.—Chapter 76 of title 38, United States Code (as amended by section 2), is further amended by adding after subchapter VI the following new subchapter:

“SUBCHAPTER VII—EDUCATION DEBT REDUCTION PROGRAM

“§ 7681. Authority for program

“(a) IN GENERAL.—(1) As part of the Educational Assistance Program, the Secretary may carry out an education debt reduction program under this subchapter. The program shall be known as the Department of Veterans Affairs Primary Care Workers Education Debt Reduction Program (hereinafter in this subchapter referred to as the ‘Education Debt Reduction Program’).

“(2) The purpose of the Education Debt Reduction Program is to assist personnel serving in health-care positions in the Veterans Health Administration in reducing the amount of debt incurred by such personnel in completing programs of education or training that qualified such personnel for such service.

“(b) RELATIONSHIP TO EDUCATIONAL ASSISTANCE PROGRAM.—Education debt reduction payments under the Education Debt Reduction Program shall be in addition to other assistance available to individuals under the Educational Assistance Program.

“§ 7682. Eligibility

“(a) ELIGIBILITY.—An individual eligible to participate in the Education Debt Reduction Program is any individual who—

“(1) is serving in a position in the Veterans Health Administration under an appointment under section 7402(b) of this title; and

“(2) owes any amount of principal or interest under a loan the proceeds of which were used by or on behalf of the individual to pay costs relating to a course of education or training which led to a degree that qualified the individual for a position referred to in paragraph (1).

“(b) COVERED COSTS.—For purposes of subsection (a)(2), costs relating to a course of education or training include—

“(1) tuition expenses;

“(2) all other reasonable educational expenses, including expenses for fees, books, and laboratory expenses; and

“(3) reasonable living expenses.

“§ 7683. Preference

“(a) PREFERENCE.—Notwithstanding section 7603(d) of this title, in selecting individuals for education debt reduction payments under the Education Debt Reduction Program, the Secretary shall give preference to the following (in the order specified):

“(1) Individuals recently appointed by the Secretary to positions under section 7401 of this title in fields relating to primary care health services, as designated by the Secretary.

“(2) Individuals recently appointed by the Secretary to positions under such section in areas in which the recruitment or retention of an adequate supply of qualified health-care personnel is difficult, as so designated.

“(3) Any other individuals serving in appointments to positions described in paragraphs (1) and (2).

“(b) RECENTLY APPOINTED INDIVIDUALS.—An individual shall be treated as recently appointed to a position for purposes of subsection (a) if the individual was appointed to the position not more than 6 months before the date of treatment for such purposes.

“§ 7684. Education debt reduction

“(a) IN GENERAL.—Education debt reduction payments under the Education Debt Reduction Program shall consist of payments to individuals selected to participate in the program of amounts to reimburse such individuals for payments by such individuals of principal and interest on loans described in section 7682(a)(2) of this title.

“(b) FREQUENCY OF PAYMENT.—(1) The Secretary may make education debt reduction payments to any given participant in the Education Debt Reduction Program on a monthly or annual basis, at the election of the Secretary.

“(2) The Secretary shall make such payments at the end of the period elected by the Secretary under paragraph (1).

“(c) PERFORMANCE REQUIREMENT.—The Secretary may make education debt reduction payments to a participant in the Education Debt Reduction Program for a period only if the Secretary determines that the individual maintained an acceptable level of performance in the position or positions served by the participant during the period.

“(d) MAXIMUM ANNUAL AMOUNT.—(1) Subject to paragraph (2), the total amount of education debt reduction payments made to a participant for a year under the Education Debt Reduction Program shall be—

“(A) $6,000 for the first year of the participant's participation in such Program;

“(B) $8,000 for the second year of the participant's participation in such Program; and

“(C) $10,000 for the third year of the participant's participation in such Program.

“(2) The total amount payable to a participant in such Program for any year may not exceed the amount of the principle and interest on loans referred to in subsection (a) that is paid by the individual during such year.

“§ 7685. Expiration of program

“The Secretary may not make education debt reduction payments to individuals who commence participation in the Education Debt Reduction Program after December 31, 2001.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 76 of title 38, United States Code (as amended by section 2(b)), is further amended by adding at the end the following:

“SUBCHAPTER VII—EDUCATION DEBT REDUCTION PROGRAM

“7681. Authority for program.
“7682. Eligibility.
“7683. Preference.
“7684. Education debt reduction.
“7685. Expiration of program.”.

SEC. 4. REPEAL OF PROHIBITION ON PAYMENT OF TUITION LOANS.

Section 523(b) of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4959; 38 U.S.C. 7601 note) is repealed.

SEC. 5. OUTREACH.

The Secretary of Veterans Affairs shall take appropriate actions to notify employees of the Department of Veterans Affairs of the benefits available under the Department of Veterans Affairs Employee Incentive Scholarship Program under subchapter VI of chapter 76 of title 38, United States Code (as added by section 2), and under the Department of Veterans Affairs Primary Care Workers Education Debt Reduction Program under subchapter VII of that chapter (as added by section 3).

SEC. 6. CONFORMING AMENDMENTS.

Chapter 76 of title 38, United States Code (as amended by this Act), is further amended as follows:

(1) In section 7601(a)—

(A) by striking out “and” at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following:

“(4) the employee incentive scholarship program provided for in subchapter VI of this chapter; and”; and

“(5) the education debt reduction program provided for in subchapter VII of this chapter.”.

(2) In section 7602—

(A) in subsection (a)(1)—

(i) by striking out “subchapter I or II” and inserting in lieu thereof “subchapter II, III, or VI”;

(ii) by striking out “or for which” and inserting in lieu thereof “, for which”; and

(iii) by inserting before the period at the end the following: “, or for which a scholarship may be awarded under subchapter VI of this chapter, as the case may be”; and

(B) in subsection (b), by striking out “subchapter I or II” and inserting in lieu thereof “subchapter II, III, or VI”.

(3) In section 7603—

(A) in subsection (a)—

(i) by striking out “To apply to participate in the Educational Assistance Program,” and inserting in lieu thereof “(1) To apply to participate in the Educational Assistance Program under subsection II, III, V, or VI of this chapter,”; and

(ii) by adding at the end the following:

“(2) To apply to participate in the Educational Assistance Program under subchapter VII of this chapter, an individual shall submit to the Secretary an application for such participation.”; and

(B) in subsection (b)(1), by inserting “(if required)” before the period at the end.

(4) In section 7604, by striking out “subchapter II, III, or V” each place it appears in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof “subchapter II, III, V, or VI”.

(5) In section 7632—

(A) in paragraph (1)—

(i) by striking out “and the Tuition Reimbursement Program” and inserting in lieu thereof “, the Tuition Reimbursement Program, the Employee Incentive Scholarship Program, and the Education Debt Reduction Program”; and

(ii) by inserting “(if any)” after “number of students”;

(B) in paragraph (2), by inserting “(if any)” after “education institutions”; and

(C) in paragraph (4)—

(i) by striking “and per participant” and inserting in lieu thereof “, per participant”; and

(ii) by inserting “, per participant in the Employee Incentive Scholarship Program, and per participant in the Education Debt Reduction Program” before the period at the end.

(6) In section 7636, by striking “or a stipend” and inserting “a stipend, or education debt reduction”.●

• Ms. MIKULSKI. Mr. President, today I am cosponsoring with Senator ROCKEFELLER, the DVA Primary Care Incentive Act of 1998.

Mr. President, I believe that this bill will ultimately benefit our veterans. It will help the Department of Veterans Affairs in its effort to provide the highest quality of care that our veterans deserve.

Mr. President, this bill will create a new Education Debt Reduction program, and an Employee Incentive Scholarship Program. The Debt Reduction Program will aid the VA in its efforts to increase its number of primary care professionals. Preference will be given to those choosing to serve at rural or under-served sites, and to those professionals in hard to fill specialties. The bill provides the Secretary of the VA with the discretion to determine priority needs with respect to profession, and locations with the greatest need. Debt Reduction program recipients will have to serve a term with the VA equivalent to the length of the repayments. A key component of the Debt Reduction Program is that each years repayments won't begin until a person has completed a corresponding year of service to the VA. This requirement is critical to ensuring that our veterans get the service they deserve, and that taxpayers get a return on their tax dollars invested.

Mr. President, I introduced a debt reduction bill in 1992 because I recognized the need to provide the VA with adequate resources to recruit the professionals it needs. And I realized that some who may want to get the training to help our veterans may not have all of the necessary means to do so. I applaud Senator ROCKEFELLER for including an updated debt reduction component to this bill.

The second component of the bill is the Employee Incentive Scholarship Program. This is designed to help meet the VA's need for more primary care professionals and to help retain and retrain some of the VA's current employees. Like the Debt Reduction program, priority would be given to those willing to serve in under-served areas and in hard to fill specialties. Recipients would also have to serve at a VA clinical site for a term equivalent to the scholarship term. The difference is that the Scholarship program would be open only to current VA employees with a minimum of two years of service. We want to ensure that those benefiting from the Scholarship program have demonstrated a commitment to the VA. We also want to provide the opportunity structure for those employees who want to expand their skills and move into new fields.

In 1996, Veterans Health Administration Under Secretary for Health, Dr. Kenneth Kizer, published a work called "Prescription for Change". In it, he noted the VA's goal to increase the number of VA non-physician primary care providers by 200 percent by 1998. While the VA has made progress, it has not met its goal. This bill seeks to provide another tool in the VA's tool belt that will allow it to meet its goal.

Mr. President, I have been an advocate for our nation's veterans for years. I firmly believe that promises made to our nations veterans must be promises kept. Our veterans risked their lives for our freedom and the protection of democracy. I believe that we as a nation are committed to providing the services that our veterans need.

As the VA continues its move to more outpatient primary care, we must make sure that the VA can attract and retain the type of professionals who can give our veterans the medical care and treatment they deserve.

I urge my colleagues' support.•

By Mr. LUGAR:

S. 2116. A bill to clarify and enhance the authorities of the Chief Information Officer of the Department of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

THE USDA INFORMATION TECHNOLOGY REFORM AND YEAR-2000 COMPLIANCE ACT OF 1998

• Mr. LUGAR. Mr. President, today I introduce the USDA Information Technology Reform and Year-2000 Compliance Act of 1998. This legislation aims to centralize all year 2000 computer conversion and other information technology acquisition and management activities within the Officer of the Chief Information Office of the Department of Agriculture. Centralization is the most efficient way to manage the complex and important task of ensuring that all critical computer functions at the department are operational on January 1, 2000. It is also a wiser and more cost effective way to construct an information technology infrastructure to enable USDA's hundreds of computer systems to interoperate, which unfortunately they cannot now do.

The Department of Agriculture is charged with enormous responsibilities and its year 2000 readiness is crucial. It has a diverse portfolio of over 200 federal programs throughout the nation and the world. The department delivers about $80 billion in programs. It is the fourth largest federal agency, with 31 agencies and offices. The department is responsible for the safety of our food supply, nutrition programs that serve the poor, young and old, and the protection of our natural resources. Since forty percent of the non-tax debt owed to the federal government is owed to USDA, the department has a responsibility to ensure the financial soundness of taxpayers' investments.

The dentralized approach to the year 2000 issue at USDA has led to a lack of focus on departmental priorities. In fact, none exist. No planning to assure the continuation of the overall mission of the department has occurred. Each agency has been allowed to determine what services, programs and activities it deems important enough to be operational at the end of the millennium. This decentralized approach has also led to a lack of guidance, oversight and the development of contingency plans. At a hearing before the Committee on Agriculture, Nutrition, and Forestry on May 14th, the General Accounting Office reported that eighty percent of the work remains to be done in the ten component agencies reviewed. Responsibility for keeping the mission-critical information technology functioning should clearly rest with the Chief Information Officer.

In fiscal year 1998 alone, USDA plans to spend approximately $1.2 billion on information technology and related information resources management activities. The General Accounting Office has chronicled USDA's long history of problems in managing its substantial information technology investments. The GAO reports that such ineffective planning and management have resulted in USDA's wasting millions of dollars on computer systems.

Last year, I introduced S. 805, a bill to reform the information technology systems of the Department of Agriculture. It gave the Chief Information Officer control over the planning, development and acquisition of information technology at the department. Introduction of that bill prompted some coordination of information technology among the department's agencies and offices. However, component agencies are still allowed to independently acquire and manage information technology investments solely on the basis of their own parochial interests or needs. This revised legislation is now needed to strengthen that coordination and ensure that centralized information technology management continues in the future.

This legislation further requires that the Chief Information Officer manage the design and implementation of an information technology architecture based on strategic business plans that maximizes the effectiveness and efficiency of USDA's program activities. Included in the bill is authority for the Chief Information Officer to approve expenditures for information resources and for year 2000 compliance purposes, except for minor acquisitions. To accomplish these purposes, the bill requires that each agency transfer not less than five percent of its information technology budget to the Chief Information Officer's control.

The bill makes the Chief Information Officer responsible for ensuring that the information technology architecture facilitates a flexible common computing environment for the field service centers based on integrated program delivery and provides maximum data sharing with USDA customers and other federal and state agencies, which is expected to result in significant reduction in operating costs.

Mr. President, this is a bill whose time has come. Unfortunately, USDA's problems in managing information technology are not unusual among government agencies, according to the General Accounting Office. I commend the attention of my colleagues to this bill designed to address a portion of the information resource management problems of the federal government and ask for their support of it.●

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 2117. A bill to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1998

● Mr. JOHNSON. Mr. President, today I am proud to introduce legislation to authorize a critically important rural water system in South Dakota, the "Perkins County Rural Water System Act of 1998." I am pleased to have my good friend and colleague from South Dakota, Senator DASCHLE, as an original cosponsor of this important legislation, which I had introduced during the 104th Congress as a Member of the House of Representatives. Congressman THUNE of South Dakota is the sponsor of similar legislation in the House during this Congress. This legislation is also strongly supported by the State of South Dakota and local project sponsors, who have demonstrated that support by agreeing to substantial financial contributions from the local level.

Like many parts of South Dakota, Perkins County has insufficient water supplies of reasonable quality available, and the water supplies that are available do not meet the minimum health and safety standards, thereby posing a threat to public health and safety.

In addition to improving the health of residents in the region, I strongly believe that this rural drinking water delivery project will help to stabilize the rural economy as well. Water is a basic commodity and is essential if we are to foster rural development in many parts of rural South Dakota, including the Perkins County area.

The "Perkins County Rural Water System Act of 1998" authorizes the Bureau of Reclamation to construct a Perkins County Rural Water System providing service to approximately 2,500 people, including the communities of Lemmon and Bison, as well as rural residents. The Perkins County Rural Water System is located in northwestern South Dakota along the South Dakota/North Dakota border and it will be an extension of an existing rural water system in North Dakota, the Southwest Pipeline Project. The State of South Dakota has worked closely with the State of North Dakota over the years on the Perkins County connection to the Southwest Pipeline Project. A feasibility study completed in 1994 looked at several alternatives for a dependable water supply, and the connection to the Southwest Pipeline Project is clearly the most feasible for the Perkins County area.

Mr. President, South Dakota is plagued by water of exceedingly poor quality, and the Perkins County rural water project is an effort to help provide clean water—a commodity most of us take for granted—to the people of Perkins County, South Dakota. I am a strong believer in the federal governments role in rural water delivery, and I hope to continue to advance that agenda both in South Dakota and around the country. I urge my colleagues to support this important rural water legislation, and I look forward to working with my colleagues on the Senate Energy and Natural Resources Committee to move forward on enactment as quickly as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Perkins County Rural Water System Act of 1997".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Perkins County Rural Water System located in Perkins County, South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) in 1977, the North Dakota State Legislature authorized and directed the State Water Commission to conduct the Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;

(3) amendments made by the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 101-294) authorized the Southwest Pipeline project as an eligible project for Federal cost share participation;

(4) the Perkins County Rural Water System has continued to be recognized by the State of North Dakota, the Southwest Water Authority, the North Dakota Water Commission, the Department of the Interior, and Congress as a component of the Southwest Pipeline Project; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Perkins County Rural Water System, Inc., members is the waters of the Missouri River as delivered by the Southwest Pipeline Project in North Dakota.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Perkins County Rural Water Supply System, Inc., in Perkins County, South Dakota;

(2) to assist the members of the Perkins County Rural Water Supply System, Inc., in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Perkins County Rural Water System, Inc.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEASIBILITY STUDY.—The term "feasibility study" means the study entitled "Feasibility Study for Rural Water System for Perkins County Rural Water System, Inc.", as amended in March 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term "project construction budget" means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the feasibility study.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term "pumping and incidental operational requirements" means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Perkins County Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

(5) WATER SUPPLY SYSTEM.—The term "water supply system" means the Perkins County Rural Water System, Inc., a nonprofit corporation, established and operated substantially in accordance with the feasibility study.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of—

(1) the planning and construction of the water supply system; and

(2) repairs to existing public water distribution systems to ensure conservation of the resources and to make the systems functional under the new water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, repairs to existing public water distribution systems, and water conservation in Perkins County, South Dakota.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 10.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system;

(2) a final engineering report has been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system; and

(3) the water supply system has developed and implemented a water conservation program.

SEC. 5. WATER CONSERVATION PROGRAM.

(a) Purpose.—The water conservation program under section 4(d)(3) shall be designed to ensure that users of water from the water supply system will use the best practicable technology and management techniques to conserve water use.

(b) Description.—The water conservation program shall include—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) rate structures that do not include declining block rate schedules for municipal households or special water users (as defined in the feasibility study);

(4) public education programs;

(5) coordinated operation and maintenance (including necessary repairs to ensure minimal water losses) by and between the water supply system and any member of the system that is a preexisting water supply facility within the service area of the system; and

(6) coordinated operation between the Southwest Pipeline Project of North Dakota and the Perkins County Rural Water System, Inc., of South Dakota.

(c) Review and Revision.—The program described in subsection (b) shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 7. USE OF PICK-SLOAN POWER.

(a) In General.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) Conditions.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Perkins County Rural Water System, Inc.;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 8. NO LIMITATION ON WATER PROJECTS IN STATES.

This Act does not limit the authorization for water projects in South Dakota and North Dakota under law in effect on or after the date of enactment of this Act.

SEC. 9. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 10. FEDERAL SHARE.

The Federal share under section 4 shall be 75 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 11. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 25 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 12. CONSTRUCTION OVERSIGHT.

(a) Authorization.—The Secretary may provide construction oversight to the water supply system for areas of the water supply system.

(b) Project Oversight Administration.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Perkins County, South Dakota.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $15,000,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.•

By Mr. CHAFEE (for himself, Mr. Breaux, Mr. Murkowski, Mr. Cochran, Mr. Inouye, Mr. Daschle, Mr. Rockefeller, Mr. Mack, Mr. Lugar, Mr. Bumpers, Mr. Frist, and Mr. Santorum):

S. 2118. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on vaccines to 25 per dose; to the Committee on Finance.

LEGISLATION LOWERING THE FEDERAL EXCISE TAX ON VACCINES

• Mr. CHAFEE. Mr. President, today I am introducing legislation reducing the excise tax on vaccines from seventy-five cents to twenty-five cents per dose. I am introducing this bill along with my colleagues on the Finance Committee, Senators Breaux, Mack and Rockefeller as well as Senators Daschle, Murkowski, Cochran, Inouye, Lugar, Bumpers, Frist, and Santorum.

Vaccines are a modern miracle—preventing disease and illness often for a lifetime with just a few doses. Vaccines have virtually eliminated the scourge of smallpox in the world. Polio as a wild virus has been eliminated in the western hemisphere. Measles, mumps, rubella, pertussis, diphtheria, tetanus and hepatitis vaccines have saved thousands of lives. Technology in vaccines is on the brink of preventing other diseases ranging from Lyme disease to widespread rotavirus in the third world.

Unfortunately, there is a small minority of children whose systems cannot handle vaccines and become injured. Recognizing this problem and acknowledging that childhood vaccination is required, Congress in 1986 set up a Vaccine Injury Compensation Trust Fund into which federal excise taxes are paid. This modified no-fault system allows parents of vaccine-injured children to receive compensation for their children if the vaccine is covered by the fund. Childhood vaccines recommended by the federal government for routine use in children are covered (1) once approved by the Advisory Committee on Immunization Practices, (2) added to the Vaccine Injury Compensation Program (VICP), and (3) included on the list of vaccines on which the tax is imposed by Congress.

When the trust fund was established there was no experience with what claims would commit to and what the size of the tax should be. Estimates were made and different tax levels were established for each vaccine.

By 1993, it was apparent that the tax levels were far too high and a surplus was building up in the fund. Today that surplus totals 1.2 billion dollars. The Ways and Means and Finance Committees directed the Administration to study the system and develop a proposal that solves the overfunding problem.

A consensus proposal was drafted and signed on to by all sectors of the public health community—physicians, manufacturers, parent's groups and health departments. That plan called for a new flat tax of 51 cents per antigen (or disease). But even this new rate was far more than was necessary to fund the system. For example, the guardian of the fund, the Advisory Commission on Childhood Vaccines, recommended 25 cents per antigen even when the surplus was half its level today.

Last year, as part of the balanced budget bill, Congress established a single rate tax structure but did so at a level of seventy-five cents per dose. The seventy-five cents per dose amount was chosen to satisfy the revenue neutrality goals of the overall bill. Congress did not solve the overfunding problem and the result was that while some vaccine taxes were reduced dramatically, others were increased. Three new vaccines were added to the program at the seventy-five cents per dose rate.

At the beginning of this year, the Vaccine Injury Compensation Trust Fund had a balance of 1.2 billion dollars. If you assumed that future outlays from the fund would be twice as large as the fund's average over the past eight years, it would take more than 20 years to exhaust the assets in the trust fund, even if no excise tax revenues were collected from this date forward. Stated another way, the interest earned on the trust fund assets is more than enough to pay annual claims and administrative cost. As with many other trust funds within the federal budget, these taxes are being used for other federal spending.

This proposal will also provide significant benefits to the states. When states purchase vaccines they pay the excise tax. Our bill would save the States $52 million annually. For my home state of Rhode Island, that would amount to 353,000 dollars annually. By lowering these taxes we can lower health care costs to vaccine recipients and providers while saving states and the federal government the money they now pay in excise taxes when they buy vaccines.

This proposal is supported by physicians, state health departments, manufacturers and parental groups. Most significantly, the Advisory Commission on Childhood Vaccines (ACCV) which Congress created to make recommendations on changes to the Vaccine Injury Compensation Program, strongly supports this proposal.

I encourage my colleagues to join me as cosponsors of this important health initiative.•

• Mr. BREAUX. Mr. President, today I introduce with my colleague from Rhode Island, Senator CHAFEE, a very important bill for America's children. Our bill, the Vaccinate America's Children Now Act, will cut the excise tax on all vaccines to twenty-five cents per dose. Lowering the price of vaccines against such deadly and crippling diseases as polio and meningitis will not only result in lower health care costs, but also greater immunization rates. As a result, fewer American children will ever have to know the pain and devastation of childhood disease.

Federal excise taxes on vaccines were first enacted in the late 1980s to fund a vaccine injury compensation fund to pay for those rare injuries associated with vaccination. Since enactment, this compensation fund has accumulated a surplus of $1.2 billion and the surplus continues to grow. However, claims against the fund have been falling as a result of safer vaccines. The interest alone on this fund is now enough to pay the anticipated claims and costs each year. Lowering the excise tax rate on vaccines will not endanger the solvency of the vaccine injury compensation trust fund in any way. In fact, the guardian of the trust fund, the Advisory Commission on Childhood Vaccines has unanimously endorsed our proposal.

Lowering the vaccine tax rates will, however, reduce health care costs and make immunization more affordable. Our bill will save states money because states pay these excise taxes when vaccines are purchased for state immunization programs. For example, our bill will save my own State of Louisiana approximately $1 million. Nationwide, reducing the excise tax will save the states almost $53 million. These cost savings are one reason why the Association of States and Territorial Health Officers which represents all of the state health departments also supports our bill.

Vaccines are a modern miracle—preventing disease and illness often for a lifetime with just a few doses. Vaccines have virtually eliminated the scourge of smallpox in the world. Polio as a wild virus has been eliminated in the western hemisphere. Measles, mumps, rubella, pertussis, diphtheria, tetanus and hepatitis vaccines have saved thousands of lives. We must do every thing that we can to ensure that children continue to be immunized. Our bill will make these vaccines more affordable and more available to all of America's children.•

By Mr. STEVENS (for himself and Mr. CAMPBELL):

S. 2119. A bill to amend the Amateur Sports Act to strengthen provisions protecting the right of athletes to compete, recognize the Paralympics and growth of disabled sports, improve the U.S. Olympic Committee's ability to resolve certain disputes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

OLYMPIC AND AMATEUR SPORTS ACT AMENDMENTS OF 1998

Mr. STEVENS. Mr. President, I am pleased to introduce the Olympic and Amateur Sports Act Amendments of 1998, a bill to update the federal charter of the U.S. Olympic Committee and the framework for Olympic and amateur sports in the United States. Senator CAMPBELL joins me as an original cosponsor.

This framework is commonly known as the "Amateur Sports Act," because most of its provisions were added by the Amateur Sports Act of 1978 (P.L. 95-606). The Act gives the U.S. Olympic Committee certain trademark protections to raise money—and does not provide recurring appropriations—so therefore does not come up for routine reauthorization.

The Amateur Sports Act has not been amended since the comprehensive revision of 1978—a revision which provided the foundation for the modern Olympic movement in the United States.

Key components of the 1978 Act included—

(1) measures to expand the authority of the U.S. Olympic Committee to allow it to better serve as the coordinating body for amateur sports;

(2) criteria for the selection of national governing bodies, and mechanisms to allow NGBs to be replaced if they are doing a poor job;

(3) and perhaps most importantly—comprehensive measures to protect the right of athletes to compete.

The 1978 Act was based on recommendations of President Ford's Commission on Olympic Sports, which had worked from 1975 until 1977 to determine how to correct factional disputes between sports organizations which were depriving many athletes of the opportunity to compete.

I served on the Commission, along with Senators Culver and Stone. When the Commission's report was delivered to Congress, Chairman Warren Magnuson asked me to head up the Commerce Committee's review. In addition to numerous working sessions, we spent two full days of Commerce Committee hearings on October 18 and October 19, 1977 discussing the report and the bill implementing it.

Our bill was enacted into law on November 8, 1978. It was a tremendous achievement, which had the consensus support of all entities involved—a rarity even then. It is a resilient statute which, to the credit of all involved, served its purposes for 15 years before showing signs of needing a tune-up.

Based on the review we've just completed, I can say that the Act is still fundamentally sound and that it will serve the United States admirably into the 21st century. However, the significant changes which have occurred in the world of Olympic and amateur sports since 1978 warrant some fine-tuning of the Act.

Some of the developments of the past 20 years include:

(1) that the schedule for the Olympics and Winter Olympics has been alternated so that games are held every two years, instead of every four—significantly increasing the workload of the U.S. Olympic Committee;

(2) that sports have begun to allow professional athletes to compete in some Olympic events;

(3) that even sports still considered "amateur" have athletes with greater

financial opportunities and professional responsibilities than we ever considered in 1978; and

(4) that the Paralympics—the Olympics for disabled amateur athletes—have grown significantly in size and prestige.

These and other changes led me to call for a comprehensive review of the Amateur Sports Act in 1994. The Commerce Committee has held three hearings since then.

At the first and second—on August 11, 1994 and October 18, 1995—witnesses identified where the Amateur Sports Act was showing signs of strain. We postponed our work until after the 1996 Summer Olympics in Atlanta, but on April 21, 1997, held a third hearing at the Olympic Training Center in Colorado Springs to discuss solutions to the problems which had been identified.

By January, 1998, we'd refined the proposals into possible amendments to the Amateur Sports Act, which we discussed at length at an informal working session on January 26, 1998 in the Commerce Committee hearing room.

The bill that Senator CAMPBELL and I introduce today reflects the comments received in January, and excludes proposals for which consensus appeared unachievable.

Some measures in the bill may need further refinement, and if necessary, I will ask for unanimous consent to issue a star print on June 4, 1998. As with the 1978 Act, I believe we will have broad consensus on the bill, and I expect to present the bill to the Commerce Committee for its consideration during June.

I will include a longer summary of the bill for the RECORD, but will briefly explain its primary components:

(1) the bill would change the title of the underlying law to the "Olympic and Amateur Sports Act" to reflect that more than strictly amateurs are involved now, but without lessening the amateur and grass roots focus reflected in the title of the 1978 Act;

(2) the bill would add a number of measures to strengthen the provisions which protect athletes' rights to compete;

(3) it would add measures to improve the ability of the USOC to resolve disputes—particularly close the Olympics, Paralympics, or Pan-American Games—and reduce the legal costs and administrative burdens of the USOC;

(4) it would add measures to fully incorporate the Paralympics into the Amateur Sports Act, and update the existing provisions affecting disabled athletes;

(5) it would improve the notification requirements when an NGB has been put on probation or is being challenged;

(6) it would increase the reporting requirements of the USOC and NGB with respect to sports opportunities for women, minorities, and disabled individuals; and

(7) it would require the USOC to report back to Congress in five years with any additional changes that may be needed to the act.

Mr. President, I am the only Senator from President Ford's Commission still serving—and of the Commerce Committee members involved with the 1978 Act, only myself and Senators HOLLINGS, INOUYE, and FORD remain on the Committee.

It has therefore been very helpful to have Senator CAMPBELL—an Olympian himself in 1964—involved in this process. Senator CAMPBELL and I are hopeful the rest of the Senate and Congress will appreciate the need for the relatively minor improvements we propose today, and will help us enact these changes before the end of this Congress.

I ask unanimous consent that both my summary and the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Olympic and Amateur Sports Act Amendments of 1998".

SEC. 2. OLYMPIC AND AMATEUR SPORTS ACT; AMENDMENT OF ACT.

(a) The Act entitled "An Act to incorporate the United States Olympic Association", approved September 21, 1950 (36 U.S.C. 371 et seq.), as amended, shall be cited hereafter as the "Olympic and Amateur Sports Act".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Olympic and Amateur Sports Act (36 U.S.C. 371 et seq.), as renamed by subsection (a).

SEC. 3. OBJECTS AND PURPOSES.

(a) Section 104(3) (36 U.S.C. 374(3)) is amended by inserting ", the Paralympic Games," after "Olympic Games" in both places it appears.

(b) Section 104(4) (36 U.S.C. 374(4)) is amended by inserting ", the Paralympic Games," after "Olympic Games".

(c) Section 104(13) (36 U.S.C. 374(13)) is amended to read as follows:

"(13) encourage and provide assistance to amateur athletic programs and competition for amateur athletes with disabilities, including, where feasible, the expansion of opportunities for meaningful participation by such amateur athletes in programs of athletic competition for able-bodied amateur athletes; and".

SEC. 4. POWERS OF CORPORATION.

(a) Section 105(a)(2) (36 U.S.C. 375(a)(2)) is amended by inserting before the semicolon, "and as its national Paralympic committee in relations with the International Paralympic Committee".

(b) Section 105(a)(3) (36 U.S.C. 375(a)(3)) is amended by inserting ", the Paralympic Games," after "Olympic Games".

(c) Section 105(a)(4) (36 U.S.C. 375(a)(4)) is amended by inserting ", the Paralympic Games," after "Olympic Games".

(d) Section 105(a)(5) (36 U.S.C. 375(a)(5)) is amended by striking ", Pan-American world championship competition" and inserting in lieu thereof "Paralympic Games, the Pan-American Games, world championship competition".

(e) Section 105(a)(6) (36 U.S.C. 375(a)(6)) is amended by inserting after "sued" a comma and the following, "except that the Corporation may be sued only in federal court for matters pertaining solely to this Act".

SEC. 5. MEMBERSHIP; REPRESENTATION.

(a) Section 106(b)(2) (36 U.S.C. 376(b)(2)) is amended to read as follows:

"(2) amateur athletes who are actively engaged in amateur athletic competition or who have represented the United States in international amateur athletic competition within the proceeding 10 years, including through provisions which—

"(A) establish and maintain an Athletes' Advisory Council composed of, and elected by, such amateur athletes to ensure communication between the Corporation and such amateur athletes; and

"(B) ensure that the membership and voting power held by such amateur athletes is not less than 20 percent of the membership and voting power held in the board of directors of the Corporation and in the committees and entities of the Corporation;".

(b) Section 106(b)(3) (36 U.S.C. 376(b)(3)) is amended by inserting ", the Paralympic Games," after "Olympic Games".

SEC. 6. USE OF OLYMPIC, PARALYMPIC, AND PAN-AMERICAN SYMBOLS.

(a) Section 110(a) (36 U.S.C. 380(a)) is amended—

(1) in paragraph (1) by inserting before the semicolon, ", the symbol of the International Paralympic Committee, consisting of three TaiGeuks, or the symbol of the Pan-American Sports Organization, consisting of a torch surrounded by concentric rings";

(2) in paragraph (3) by inserting ", the International Paralympic Committee, the Pan-American Sports Organization," after "International Olympic Committee"; and

(3) in paragraph (4)—

(A) by inserting "'Paralympic', 'Paralympiad', 'Pan-American', 'America Espirito Sport Fraternite'," before "or any combination"; and

(B) by inserting ", Paralympic, or Pan-American Games" after "any Olympic".

(b) Section 110(b) (36 U.S.C. 380(b)) is amended—

(1) by inserting ", International Paralympic Committee, Pan-American Sports Organization," after "International Olympic Committee"; and

(2) by inserting ", Paralympic," before "or Pan-American team".

(c) Section 110(c) (36 U.S.C. 380(c)) is amended—

(1) by striking "symbol" and inserting "symbols"; and

(2) by inserting ", 'Paralympic', 'Paralympiad', 'Pan-American'," before "or any combination".

SEC. 7. AGENT FOR SERVICE OF PROCESS.—

Section 111 (36 U.S.C. 381) is amended by striking "file in the office" and all that follows through the period, and inserting in lieu thereof "have a designated agent in the State of Colorado to receive service of process for the Corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.".

SEC. 8. REPORTS.

Section 113 (36 U.S.C. 382a) is amended to read as follows:

"SEC. 113. The Corporation shall, on or before the first day of June, 2001 and every fourth year thereafter, transmit simultaneously to the President and to each House of Congress a detailed report of its operations for the preceding four years, including a full and complete statement of its receipts and expenditures and a comprehensive description of the activities and accomplishments of the Corporation during such four year period. The report shall contain data concerning the participation of women, disabled individuals, and racial and ethnic minorities in the amateur athletic activities and administration of the Corporation and national governing bodies, and a description of the steps taken to encourage the participation of women, disabled individuals, and racial minorities in amateur athletic activities. Copies of the report shall be made available by the Corporation to interested persons at a reasonable cost.".

SEC. 9. RESOLUTION OF DISPUTES.

(a) Section 114 (36 U.S.C. 382b) is amended—

(1) by inserting "(a)" before the first sentence;

(2) by inserting "the Paralympic Games," before "Pan-American Games"; and

(3) by inserting at the end the following, "In any lawsuit relating to the resolution of a dispute involving the opportunity of an amateur athlete to participate in the Olympic Games, the Paralympic Games, or the Pan-American Games, a court shall not grant injunctive relief against the Corporation within 30 days before the beginning of such games if the Corporation has stated in writing to such court that its constitution and bylaws cannot provide for the resolution of such dispute prior to the beginning of such games.".

(b) Section 114 (36 U.S.C. 382b), as amended by subsection (a), is amended further by adding at the end the following new subsection:

"(b) Upon nomination by the Athletes' Advisory Council, the Corporation shall hire and provide administrative expenses for an ombudsman for athletes. The ombudsman for athletes shall provide advice at no cost to amateur athletes with respect to, among other issues, the resolution of any dispute involving the opportunity of an amateur athlete to participate in an amateur athletic competition, including the Olympic Games, the Paralympic Games, the Pan-American Games, world championship competition or other protected competition. The Corporation may terminate the employment of an individual serving as ombudsman for athletes, and may reduce the salary or administrative expenses of such individual, only if such termination or reduction is approved by a majority of the voting members of the Athletes' Advisory Council. The ombudsman for athletes shall receive salary and administrative cost increases in increments similar to other employees and offices of the Corporation. The Athletes' Advisory Council shall nominate a replacement to fill any vacancy that occurs in the position of ombudsman for athletes.".

SEC. 10. COMPLETE TEAMS.

Title I (36 U.S.C. 371 et seq.) is amended by inserting after section 114 the following new section:

"SEC. 115. In obtaining representation for the United States in each competition and event of the Olympic Games, Paralympic Games, and Pan-American Games, the Corporation, either directly or by delegation to the appropriate national governing body, may select, but is not obligated to select, athletes who have not met the eligibility standard of at least one of the national governing body, the Corporation, the International Olympic Committee, or the appropriate international sports federation, when the number of athletes who have met the eligibility standard of at least one of such entities is insufficient to fill the roster for an event.".

SEC. 11. RECOGNITION OF AMATEUR SPORTS ORGANIZATIONS.

(a) Section 201(a)(36 U.S.C. 391(a)) is amended—

(1) by inserting ", the Paralympic Games," after "Olympic Games";

(2) by inserting before the period at the end of the second sentence ", except as provided in subsection (e)";

(3) by striking "hold a hearing" and inserting in lieu thereof "hold at least two hearings"; and

(4) by inserting at the end, "In addition, the Corporation shall send written notice, which shall include a copy of the application, at least 30 days prior to the date of the hearing to all amateur sports organizations known to the Corporation in that sport.".

(b) Section 201(b) (36 U.S.C. 391(b)) is amended—

(1) in paragraph (3)—

(A) by striking "commercial rules of the American Arbitration Association" and inserting in lieu thereof "Commercial rules of the American Arbitration Association, as modified by the Corporation with the concurrence of the Athletes' Advisory Council,"; and

(B) by striking "or involving the opportunity of any" and inserting in lieu thereof "or, upon demand of the Corporation or any aggrieved amateur athlete, coach, trainer, manager, administrator or official, to such arbitration in any controversy involving the opportunity of such";

(2) in paragraph (6) by inserting "that comports with basic concepts of fundamental fairness, due process, and a presumption of innocence" after opportunity for a hearing";

(3) in paragraph (8)—

(A) by striking "includes" and inserting in lieu thereof "has established criteria for and maintains";

(B) by inserting "that such criteria and the procedure for selecting such individuals is approved by the Athletes' Advisory Council and the Corporation," after "preceding 10 years,"; and

(C) by striking "membership and" in both places it appears; and

(4) in paragraph (12) by inserting "or to participation in the Olympic Games, the Paralympic Games, or the Pan-American Games" after "amateur status".

(c) Section 201 (36 U.S.C. 391), as amended, is amended further by adding at the end the following new subsection:

"(e) For any sport which is included on the program of the Paralympic Games, the Corporation is authorized to designate, where feasible and when such designation would serve the best interest of the sport, a national governing body recognized under subsection (a) to govern such sport. Where such designation is not feasible or would not serve the best interest of the sport, the Corporation is authorized to recognize as a national governing body another amateur sports organization to govern such sport, except that, notwithstanding the other requirements of this Act, such national governing body—

"(1) shall comply only with those requirements, perform those duties, and have those powers that the Corporation determines are appropriate to meet the objects and purposes of the Act; and

"(2) may, with the approval of the Corporation, govern more than one sport included on the program of the Paralympic Games.".

SEC. 12. DUTIES OF NATIONAL GOVERNING BODIES.

(a) Section 202(a)(3) (36 U.S.C. 392(a)(3) is amended—

(1) by inserting (A)" immediately after "(3)";

(2) by inserting "and" after the semicolon; and

(3) by inserting at the end the following new subparagraph:

"(B) disseminate and distribute to amateur athletes, coaches, trainers, managers, administrators and officials in a timely manner the applicable rules and any changes to such rules of the national governing body, the Corporation, the appropriate international sports federation, the International Olympic Committee, the International Paralympic Committee, and the Pan-American Sports Organization;".

(b) Section 202(a)(7) (36 U.S.C. 392(a)(7)) is amended by striking "handicapped" in each of the three places it appears and inserting in lieu thereof "disabled".

SEC. 13. AUTHORITY OF NATIONAL GOVERNING BODIES.

(a) Section 203(6) (36 U.S.C. 393(6)) is amended by inserting ", the Paralympic Games," after "Olympic Games".

(b) Section 203(7) (36 U.S.C. 393(7)) is amended by inserting ", the Paralympic Games," after "Olympic Games".

SEC. 14. REPLACEMENT OF NATIONAL GOVERNING BODY.

(a) Section 205(a)(3)(C)(i) (36 U.S.C. 395(a)(3)(C)(i)) is amended by inserting "and notify such national governing body of such probation and of the actions needed to comply with such requirements," before "or".

(b) Section 205(b) (36 U.S.C. 395(b)) is amended—

(1) in paragraph (1) by striking "Olympic Games or in both" and inserting in lieu thereof "Olympic Games or the Paralympic Games, or in both";

(2) in paragraph (2)—

(A) by striking "registered" and inserting "certified"; and

(B) by inserting "and with any other organization that has filed an application" after "applicable national governing body"; and

(3) in paragraph (3)—

(A) by inserting "open to the public" after "formal hearing" in the first sentence; and

(B) by inserting after the second sentence, "In addition, the Corporation shall send written notice, which shall include a copy of the application, at least 30 days prior to the date of the hearing to all amateur sports organizations known to the Corporation in that sport.".

SEC. 15. SPECIAL REPORT TO CONGRESS.

Five years from the date of the enactment of this Act, the United States Olympic Committee shall submit a special report to the Congress on the effectiveness of the provisions of this Act, together with any additional proposed changes to the Olympic and Amateur Sports the United States Olympic Committee determines are appropriate.

SHORT SUMMARY OF OLYMPIC AND AMATEUR SPORTS ACT AMENDMENTS OF 1998

TITLE CHANGE

The bill would amend the title of the federal statute which is the charter of the United States Olympic Committee (USOC) and national framework for amateur sports activities so that it would be called the "Olympic and Amateur Sports Act" (section 2(a) of the bill). The title of the bill, itself, is the "Olympic and Amateur Sports Act Amendments of 1998."

The original federal law incorporating the USOC (Public Law 81–805) was enacted in 1950 and is presently known only as the "Act to incorporate the United States Olympic Association." In 1964, not long after the USOC name was changed from "United States Olympic Association" to "United States Olympic Committee," technical and conforming changes were made to the 1950 Act through Public Law 88–407. In 1978, the 1950 Act was substantially expanded and rewritten into its present form through amendments made by the landmark statute, the "Amateur Sports Act of 1978." Because the amendments made by the 1978 Act so greatly changed and expanded the 1950 Act, the 1950 Act, as amended, is now commonly referred to as the "Amateur Sports Act," though its title was never changed.

Section 2(a) of the bill would rename this original 1950 law, as amended by the 1964 and 1978 changes, as the "Olympic and Amateur Sports Act." The addition of the word "Olympic" to the popularly used title "Amateur Sports Act" is meant to take into account the participation of professional and quasi-amateur athletes in some of the sports of the Olympic Games and Pan-American Games, but at the same time continue to reflect the unique role the USOC and national governing bodies have in the national framework of truly amateur sports activities. By giving the entire underlying body of law a new title (replacing the simple descriptive title of the original 1950 Act mentioned above), the amendment would leave in place in federal statute the title of the "Amateur Sports Act of 1978" for historic reference.

PROTECTION OF ATHLETES RIGHTS

Athletes' Advisory Council/Athlete Membership on USOC Board—Section 5(a) of the bill would amend the Act to require the creation of an Athletes' Advisory Council (AAC), which is currently created as part of the USOC constitution and bylaws and not recognized in the Act. Section 5(a) would also amend the Act to require that at least 20 percent of the membership and voting power of the USOC Board of Directors and other USOC committees and entities be comprised of athletes. This, too, is presently only required under the USOC constitution and bylaws.

Ombudsman—Section 9(b) of the bill would require the USOC to hire an ombudsman for athletes to provide free advice to athletes about their rights under the Act and under the constitution and bylaws of the USOC and their NGB, and in particular, their rights in any dispute involving an opportunity to compete. The USOC would hire and pay an individual nominated by the AAC to serve as the ombudsman, and could only fire or reduce the pay or administrative expenses of the ombudsman with the consent of the AAC. This restriction is intended to protect the objectivity and autonomy of the ombudsman. The AAC would be expected to consent to the termination of an ombudsman for conduct which would lead to the termination of other USOC employees. The USOC would be required to hire another ombudsman nominated by the AAC in the event of a vacancy.

Arbitration—Section 11(b)(1) of the bill would amend the Act to clarify that NGB's must agree to arbitration using the Commercial rules of the American Arbitration Association in disputes with athletes, but that these rules may be modified by the Corporation, with the consent of the AAC. In addition, section 11(b) would clarify that NGB's must agree to submit to arbitration at the request of an amateur athlete regardless of whether the USOC has demanded such arbitration. It is anticipated that these amendments would precipitate a review of the arbitration rules used for NGB/athlete arbitrations under the Act, and that the USOC, AAC, and NGB Council would reach agreement with respect to: (1) the relief available under arbitration; (2) the point during a dispute at which an athlete may obtain arbitration; and (3) the standard of review to be used by arbitration panels.

Due Process/Fairness—Section 11(b)(2) of the bill would amend the Act to clarify that the hearing required under the Act before an NGB can declare an athlete ineligible to participate must comport with basic concepts of fairness, due process, and the presumption of innocence.

Athlete Membership on NGB Boards—Section 11(b)(3) of the bill would amend the Act to allow NGBs individually to establish the criteria and selection procedures for "active athletes" in satisfying the existing statutory requirement that 20 percent of NGB governing boards be comprised of amateur athletes. However, the bill would require that both the AAC and USOC approve the criteria and selection process used by an NGB. In addition, the bill would change the Act to require that only 20 percent of the voting power, rather than 20 percent of the voting power and membership, be held by amateur athletes. These amendments are intended to provide flexibility so that the different characteristics of NGB boards and athletes in various sports can be taken into account. The amendments would allow the amateur athlete membership of some NGB boards to dip below 20 percent, but it is expected that this would occur only where the characteristics of the sport or of the governing board make it very difficult to meet a 20 percent membership standard. Under no circumstances would the voting power of amateur athletes on the board of an NGB be allowed to be below 20 percent. It is anticipated that further clarification may be needed as to whether the 20 percent threshold will provide adequate athlete voting power on existing NGBs which become the NGB for a sport on the program of the Paralympic Games.

Distribution of Information—Section 12(a) of the bill would make it a specific duty of NGBs to disseminate and distribute in a timely manner to athletes, coaches and others in the sport the rules—and any changes to the rules—of the NGB, the USOC, the appropriate international sports federation, the International Olympic Committee, the International Paralympic Committee (as appropriate), and the Pan-American Sports Organization.

USOC AUTHORITY

Jurisdiction—Section 4(e) of the bill would amend the Act so that the USOC could be sued only in federal court for issues pertaining solely to the Act. This amendment is not intended to affect the existing law with respect to private actions.

Trademark Protection—Section 6 of the bill would provide the USOC with the same trademark protection for the Paralympic Games, Pan-American Games and symbols and words associated with those games as it presently has for the Olympics. It would also give the USOC the exclusive power to authorize the use of these names and symbols in order to raise funds to carry out the Act.

Service of Process—Section 7 of the bill would require the USOC have a designated agent in the State of Colorado to receive service of process, rather than an agent in every state. Requiring an agent in only one location is consistent with the service requirements of many other patriotic societies which are catalogued in title 36 of the United States Code. As with these other entities, notice to or service on the agent—or mailed to the business address of the agent—would be considered notice to or service on the USOC.

Report to Congress—Section 8 of the bill would require the USOC to submit a formal report to Congress only once every four years (instead of annually under the present Act) to conform more closely with the four-year budget cycle of the USOC and to reduce administrative burdens. The report would, however, be required to include data on the participation of women, disabled individuals and racial and ethnic minorities, including a description of the steps that have been taken to encourage increased participation by these groups of people in amateur sports.

Injunction Immunity—Section 9(a) of the bill would prevent a court from granting injunctive relief against the USOC in a dispute involving the participation of an athlete within 30 days of the beginning of the Olympics, the Paralympics, or the Pan-American Games if the USOC has stated in writing to the court that its constitution and bylaws cannot provide for the resolution of the dispute before the beginning of the games. The provision is intended to give the USOC the ability to decide who will represent the United States in the rare NGB/athlete dispute which may arise too close to Olympics, Paralympics, or Pan-American Games to be resolved prior to the beginning of those games. It would not take away any other type of relief that may be available, or injunctive relief for disputes which may be resolved under the constitution and bylaws prior to the beginning of the Olympics, Paralympics, or Pan-American Games.

Complete Teams—Section 10 of the bill would give the USOC the authority to send an incomplete team for a sport if not enough athletes have met the eligibility standards of at least one of: the USOC, the NGB, the IOC, or the national federation for the sport. The USOC could send a complete team in that circumstance, but would not be required to send a complete team. The bill (in section 11(b)(4)) would specify, however, that NGB's cannot have eligibility criteria for participation in the Olympics, Pan-American Games or Paralympics which are more restrictive than the criteria for the international sports federation for their sport.

Flexibility for Paralympic NGBs—The bill (see summary of the Paralympic provisions below and section 11(c) of the bill) would give the USOC full flexibility to minimize the potential burdens, financial or otherwise, of integrating the Paralympics into the USOC framework.

NATIONAL GOVERNING BODIES

NGB Selection Hearings—Section 11(a)(3) would require that at least two public hearings be held (instead of one) prior to the recognition of a new NGB.

Written Notice of NGB Hearings—Sections 11(a)(4) and 13(b)(3) would require the USOC to send written notice to known amateur sports organizations in the sport at least 30 days prior to an NGB selection hearings (including a hearing on an application to replace an existing NGB) and to include a copy of the application in the notice.

Participation Critera—Section 11(b)(4) of the bill would prohibit NGBs from having eligibility criteria that is more restrictive than its international sports federation for participation in events at the Olympic Games, Paralympic Games, and Pan-American Games. The amendment in part would help provide balance with an amendment (see above) allowing the USOC not to send a complete team under certain circumstances.

NGB Notification—Section 14(a) of the bill would specifically require the USOC to notify an NGB of the actions the NGB must take to correct violations of the Act if the USOC has placed an NGB on probation after a complaint has been filed.

PARALYMPICS

Recognition of Paralympic Games—The bill would make amendments in a number of places in the Act to provide for the recognition of the Paralympic Games. Under the amendments, the USOC would have same duties as with the Olympic Games to, among other things, "either directly or [by delegation to NGB]": select athletes for U.S. teams, represent the United States in relations with the International Paralympic Committee, organize and finance U.S. teams, as well as to provide equitable and fair dispute resolution procedures for disabled athletes. In addition, the USOC would be required: to allow Paralympic sports organizations to join USOC; and to use and protect the trademarks of Paralympics.

Disabled Amateur Athletes—Section 3(c) of the bill would eliminate references in the bill to "handicapped individual" and insert instead the term "amateur athlete with disabilities." The use of the new words would update terminology and, more importantly, make clear that disabled athletes are "amateur athletes" under the Act's existing definition, provided that they meet the eligibility standards of their NGB, as required by the existing definition of "amateur athlete".

Paralympic NGBs—Section 11(c) of the bill would make it the first priority of the USOC to merge sports on the program of the Paralympic Games with existing able-bodied NGBs. Where it is not feasible or in the best interest of a Paralympic sport to put it under an able-bodied NGB, the USOC would be allowed to recognize another amateur sports organization as a new NGB for the Paralympic sport, except that the USOC would be allowed to waive the requirements, duties, and powers of the NGB as necessary to meet the objects and purposes of the Act. In addition, a Paralympic NGB could govern more than one sport on the program of the Paralympic Games with the approval of the USOC. By giving the USOC the authority to waive normal NGB requirements, the bill is intended to allow a smooth transition as Paralympic sports become integrated under the USOC umbrella, and to allow the USOC to prevent any severe financial impacts on existing NGBs. The provisions in the bill are largely consistent with the general direction the USOC has taken already with respect to Paralympics.

World Games for the Deaf—It has been suggested that both the bill and the Committee report which eventually accompanies the bill include language in support of the World Games for Deaf and of deaf athletes. It is anticipated that this issue will be addressed by consensus before the bill becomes enacted.

RESTRICTED COMPETITION

The bill does not amend section 206 of the Act, which addresses the jurisdiction of amateur sports organizations over competitions restricted to certain classes of athletes (such as high school students, college students, etc.). A number of concerns were raised and discussed during the Commerce Committee hearings about section 206, and it has been suggested that the Committee report which eventually accompanies the bill should discuss these concerns.

SPECIAL REPORT TO CONGRESS

Section 15 of the bill would require the USOC to report to Congress after five years on the effectiveness of the new provisions added to the Act by the bill, as well as any additional suggested changes to the Act that the USOC believes are needed. The report would provide an occasion for Congress to review the implementation of the amendments and any modifications proposed by the USOC.

By Mr. ROCKEFELLER (for himself and Mr. FRIST):

S. 2120. A bill to improve the ability of Federal agencies to license federally—owned inventions; to the Committee on Commerce, Science, and Transportation.

TECHNOLOGY TRANSFER COMMERCIALIZATION ACT OF 1998

• Mr. ROCKEFELLER. Mr. President, today with my colleague Senator FRIST, I introduce the Technology Transfer Act of 1998. This bill would make technical changes and clarifications to the legislation which governs the transfer of intellectual property from the federal government to the private sector.

The original Technology Transfer Improvements Act (TTIA), which I was author of in 1995, allowed for easier and quicker access to intellectual property which the government owns and private industry wants. It created a win-win situation. The government gets royalties from these licenses, private industry gets the intellectual property that it needs, and Americans get jobs from the production of inventions based on this intellectual property.

This bill builds on the strong positive response from TTIA. It reduces the requirements for obtaining a non-exclusive license in order to allow as many companies and individuals as possible access to the information. It also addresses private industry's concerns about maintaining confidential information within applications.

However, this does not come at the expense of the government being able to keep control of its property. This bill also clarifies the ability of the licensing agencies to terminate a license if certain criteria are not met. Furthermore, it allows the government to consolidate intellectual property which is developed in cooperation with a private entity so that the package can be relicensed to a third party.

Technology transfer is a vital part of our national economy. It is what allows our industries to remain at the leading edge in their field. This bill clarifies and adjusts current legislation to allow for an even better working relationship between the federal government and private industry. I encourage my colleagues to support this bill and I ask unanimous consent that the text of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology Transfer Commercialization Act of 1998".

SEC. 2. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Section 12(b)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)(1)) is amended by inserting "or, subject to section 209 of title 35, United States Code, may grant a license to an invention which is Federally owned, made before the signing of the agreement, and directly related to the scope of the work under the agreement," after "under the agreement,".

SEC. 3. LICENSING FEDERALLY—OWNED INVENTIONS.

(a) AMENDMENT.—Section 209 of title 35, United States Code, is amended to read as follows:

"§ 209. Licensing federally—owned inventions

"(a) AUTHORITY.—A Federal agency may grant an exclusive or partially exclusive license on a federally-owned invention only if—

"(1) granting the license is a reasonable and necessary incentive to—

"(A) call forth the investment capital and expenditures needed to bring the invention to practical application; or

"(B) otherwise promote the invention's utilization by the public;

"(2) the Federal agency finds that the public will be served by the granting of the license, as indicated by the applicant's intentions, plans, and ability to bring the invention to practical application or otherwise promote the invention's utilization by the public, and that the proposed scope of exclusivity is not greater than reasonably necessary to provide the incentive for bringing the invention to practical utilization, as proposed by the applicant, or otherwise to promote the invention's utilization by the public;

"(3) the applicant makes a commitment to achieve practical utilization of the invention within a reasonable time;

"(4) granting the license will not tend to substantially lessen competition or create or maintain a violation of the Federal antitrust laws; and

"(5) in the case of an invention covered by a foreign patent application or patent, the interests of the Federal Government or United States industry in foreign commerce will be enhanced.

"(b) MANUFACTURE IN UNITED STATES.—A Federal agency shall normally grant any license to use or sell any federally-owned invention in the United States only to a licensee who agrees that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States.

"(c) SMALL BUSINESS.—First preference for the granting of any exclusively or partially exclusive licenses under this section shall be given to small business firms having equal or greater likelihood as other applicants to bring the invention to practical application within a reasonable time.

"(d) TERMS AND CONDITIONS.—Any licenses granted under section 207 shall contain such terms and conditions as the granting agency considers appropriate. Such terms and conditions—

"(1) shall include provisions—

"(A) retaining a nontransferable, irrevocable, paid-up license for the Federal agency to practice the invention or have the invention practiced throughout the world by or on behalf of the Government of the United States;

"(B) requiring periodic reporting on utilization of the invention, and utilization efforts, by the licensee, but only to the extent necessary to enable the Federal agency to determine whether the terms of the license are being complied with; and

"(C) empowering the Federal agency to terminate the license in whole or in part if the agency determines that—

"(i) the licensee is not executing its commitment to achieve practical utilization of the invention, including commitments contained in any plan submitted in support of its request for a license, and the licensee cannot otherwise demonstrate to the satisfaction of the Federal agency that it has taken, or can be expected to take within a reasonable time, effective steps to achieve practical utilization of the invention;

"(ii) the licensee is in breach of an agreement described in subsection (b);

"(iii) termination is necessary to meet requirements for public use specified by Federal regulations issued after the date of the license, and such requirements are not reasonably satisfied by the licensee; or

"(iv) the licensee has been found by a competent authority to have violated the Federal antitrust laws in connection with its performance under the license agreement.

"(e) PUBLIC NOTICE.—No exclusive or partially exclusive license may be granted under the section unless public notice of the intent to grant such license has been provided at least 30 days before the license is granted, and the Federal agency has considered all comments received in response to that public notice.

"(f) DEVELOPMENT PLAN.—A Federal agency may grant a license on a federally-owned invention only if the person requesting the license has supplied to the agency a basic business plan with development or commercialization milestones. Each Federal Agency, in consultation with the Small Business Administration, shall develop consistent standards for exempting small business firms from the requirements of this subsection or nonexclusive licenses.

"(g) NONDISCLOSURE OF CERTAIN INFORMATION.—An application shall include, as an independent subdocument a detailed description of the applicant's plan for development or marketing (or both) of the invention. The subdocument, which is exempt from disclosure under section 552 of title 5, United States Code, shall include only a statement—

"(1) of the time, nature, and amount of anticipated investment of capital and other resources which the applicant believes will be required to bring the invention to practical application;

"(2) as to the applicant's capability and intention to fulfill the plan, including information regarding manufacturing, marketing, financial, and technical resources;

"(3) of the fields of use for which the applicant intends to practice the invention; and

"(4) of the geographic areas—

"(A) in which the applicant intends to manufacture any product embodying the invention;

"(B) where the applicant intends to use or sell the invention; or

"(C) both.".

(b) CONFORMING AMENDMENT.—The item relating to section 209 in the table of sections for chapter 18 of title 35, United States Code, is amended to read as follows:

"209. Licensing federally-owned inventions."

SEC. 4. REVIEW OF COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT PROCEDURES.

(a) REVIEW.—The Director of the Office of Science and Technology Policy, in consultation with the Office of Management and Budget, relevant Federal agencies, national laboratories, and any other person the director considers appropriate, shall review the procedures used by Federal agencies to gather and consider the views of other agencies before final approval or disapproval of—

(1) a joint work statement under section 12(c)(5)(C) or (D) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)(C) or (D));or

(2) in the case of a laboratory described in section 12(d)(2)(A) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)(A)), a cooperative research and development agreement under such section 12, that involves national security, or relates to a project which may have a significant impact on domestic or international competitiveness.

(b) PROCEDURES.—Within 1 year after the date of enactment of this Act, the director of the Office of Science and Technology Policy shall establish and distribute to appropriate Federal agencies—

(1) specific criteria to indicate the necessity for interagency review of an approval or disapproval described in subsection (a); and

(2) procedures for carrying out such interagency review.

Procedures established under this subsection shall be designed to the extent possible to use or modify existing procedures, to minimize burdens on Federal agencies, and to minimize delay in the approval or disapproval of the joint work statement or cooperative research and development agreement under interagency review.

SEC. 5. TECHNICAL AMENDMENTS TO BAYH-DOLE ACT.

Chapter 18 of title 35, United States Code (popularly known as the "Bayh-Dole Act"), is amended—

(1) by amending section 202(e) to read as follows:

"(e) In any case when a Federal employee is a co-inventor of any invention made under a funding agreement with a nonprofit organization or small business firm, the Federal agency employing such coinventor may, for the purpose of consolidating rights in the invention——

"(1) license or assign whatever rights it may acquire in the subject invention to the nonprofit organization or small business firm; or

"(2) acquire any rights in the subject invention from the nonprofit organization or small business firm, but only to the extent the party from whom the rights are acquired voluntarily enters into the transaction."; and

(2) in section 207(a)—

(A) by striking "patent applications, patents, or other forms of protection obtained" and inserting "inventions" in paragraph (2); and

(B) by inserting ", including acquiring rights for the Federal Government in any invention, but only to the extent the party from whom the rights are acquired voluntarily enters into the transaction, to facilitate the licensing of a federally-owned invention" after "or through contract" in paragraph (3).

SEC. 6. TECHNICAL AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.

Section 14(a)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)) is amended——

(1) in subparagraph (A)(i), by inserting ", if the inventor's or coinventor's rights are assigned to the United States" after "inventor or coinventors"; and

(2) in subparagraph (B), by striking "succeeding fiscal year" and inserting "2 succeeding fiscal years".

By Mr. BREAUX:

S. 2121. A bill to encourage the development of more cost effective commercial space launch industry in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SPACE LAUNCH COST REDUCTION ACT OF 1998

Mr. BREAUX. Mr. President, I take this opportunity to rise to introduce a piece of legislation, which I will send to the desk. It is called the Space Launch Cost Reduction Act of 1998.

The commercial space launch industry is an essential part of the U.S. economy and opportunities for U.S. companies are growing as international markets expand. United States trading partners have been able to aggressively lower their commercial space launch prices either through direct cash payments for commercially targeted product development or with indirect benefits derived from nonmarket economy status. Because United States incentives for launch vehicle development have historically focused on civil and military rather than commercial use, and as a result U.S. launch costs have remained relatively high, the U.S. share of the world commercial market has decreased from nearly 100% twenty years ago to approximately 40% in 1998. This is very serious erosion.

The key to regaining United States leadership in the world market is not another massive government program, but rather provision of just enough government support to enable the more cost effective private sector to build lower-cost space launch vehicles. Private sector companies across the United States are already attempting to develop a variety of lower-cost space launch vehicles, but lack of sufficient private financing has proven a major obstacle, an obstacle our trading partners have chosen to remove by providing direct access to government funding. Given the unique strength of private industry in the United States, a more effective alternative to the approach of our trading partners is for the U.S. government to provide limited financial incentives in the form of loan guarantees, which would help qualifying private-sector companies secure otherwise unattainable private financing, while at the same time keeping government involvement at an absolute minimum.

The purpose of the Space Launch Cost Reduction Act of 1998 is, therefore, to ensure availability of otherwise unattainable private sector financing for private sector development of commercial space launch vehicles with launch costs significantly below current levels. As a result, it will be possible to: increase the international competitiveness of the United States space industry, encourage the growth of space-related commerce in the United States and internationally, increase the number of high-value jobs in

United States space-related industries, and reduce United States Government space launch expenditures.

Commercialization of space is an issue of importance not only to our nation as a whole but also to the state of Louisiana. Louisiana is already an active participant in the American space effort. For example, the Michoud Facility in New Orleans has been selected as the fabrication center for the experimental X-33 space vehicle's liquid oxygen tanks. The fuel tanks for the Space Shuttle are also built at Michoud, and Shuttle engines are tested at the Stennis Space Center in neighboring Mississippi. Furthermore, NASA has entered a partnership with the University of Southwestern Louisiana in Lafayette to establish a Regional Application Center for commercial remote sensing technology. Looking toward the future, Louisiana is clearly well positioned to participate actively in the commercialization of space and to benefit from the Space Launch Cost Reduction Act of 1998.

By Mr. ROTH (for himself, and Mr. MOYNIHAN):

S. 2122. A bill to amend the Internal Revenue Code of 1986 to provide that certain liquidating distributions of a regulated investment company or real estate investment trust which are allowable as a deduction shall be included in the gross income of a distributee; to the Committee on Finance.

TAX LEGISLATION

Mr. ROTH. Mr. President, in coordination with the Treasury Department, Senator MOYNIHAN and I are introducing a bill today to eliminate an unwarranted tax benefit which involves the liquidation of a Regulated Investment Company ("RIC") or Real Estate Investment Trust ("REIT"), where at least 80 percent of the liquidating RIC or REIT is owned by a single corporation. Identical legislation is being introduced in the House of Representatives by Congressman ARCHER.

The RIC and REIT rules allow individual shareholders to invest in stock and securities (in the case of RICs) and real estate assets (in the case of REITs) with a single level of tax. The single level of tax is achieved by allowing RICs and REITs to deduct the dividends they pay to their shareholders.

Some corporations, however, have attempted to use the "dividends paid deduction" in combination with a separate rule that allows a corporate parent to receive property from an 80 percent subsidiary without tax when the subsidiary is liquidating. Taxpayers argue that the combination of these two rules permits income deducted by the RIC or REIT and paid to the parent corporation to be entirely tax-free during the period of liquidation of the RIC or REIT (which can extend over a period of years). The legislation is intended to eliminate this abusive application of these rules by requiring that amounts which are deductible dividends to the RIC or REIT are consistently treated as dividends by the corporate parent.

RICs and REITs are important investment vehicles, particularly for small investors. The RIC and REIT rules are designed to encourage investors to pool their resources and achieve the type of investment opportunities, subject to a single level of tax, that would otherwise be available only to a larger investor. This legislation will not affect the intended beneficiaries of the RIC and REIT rules.

Mr. President, I ask unanimous consent that the text of the bill and a technical explanation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Section 332 of the Internal Revenue Code of 1986 (relating to complete liquidations of subsidiaries) is amended by adding at the end the following new subsection:

"(c) DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If a corporation receives a distribution from a regulated investment company or a real estate investment trust which is considered under subsection (b) as being in complete liquidation of such company or trust, then, notwithstanding any other provision of this chapter, such corporation shall recognize and treat as a dividend from such company or trust an amount equal to the deduction for dividends paid allowable to such company or trust by reason of such distribution.".

(b) CONFORMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 332(b) of such Code is amended by striking "subsection (a)" and inserting "this section".

(2) Paragraph (1) of section 334(b) of such Code is amended by striking "section 332(a)" and inserting "section 332".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after May 21, 1998.

TECHNICAL EXPLANATION

The bill provides that any amount which a liquidating RIC or REIT may take as a deduction for dividends paid with respect to an otherwise tax-free distribution to an 80-percent corporate owner is includible in the income of the recipient corporation. The includible amount is treated as a dividend received from the RIC or REIT. The liquidating corporation may designate the amount treated as a dividend as a capital gain dividend or, in the case of a RIC, an exempt interest dividend or a dividend eligible for the 70-percent dividends received deduction, to the extent provided by the RIC or REIT provisions of the Code.

The bill does not otherwise change the tax treatment of the distribution under sections 332 or 337. Thus, for example, the liquidating corporation will not recognize gain (if any) on the liquidating distribution and the recipient corporation will hold the assets at a carryover basis.

The bill is effective for distributions on or after May 22, 1998, regardless of when the plan of liquidation was adopted.

No inference is intended regarding the treatment of such transactions under present law.

By Mr. D'AMATO:

S. 2125. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of section 42 housing cooperatives and the shareholders of such cooperatives, and for other purposes; to the Committee on Finance.

LOW-INCOME HOUSING TAX CREDIT LEGISLATION

• Mr. D'AMATO. Mr. President, today I introduce legislation that will create a new homeownership opportunity with a proven method of building affordable housing. Current low-income housing production in the United States is driven largely by the low-income housing tax credit. The credit supports the development of 94 percent of all federally assisted multi-family affordable housing construction. Under current law, however, only rental housing can be developed with the credit. Everyone would agree that building homeownership is better than simply building homes for people. Homeowners are invested in their communities, take pride in their property, and will do what it takes to preserve the security and appearance of their homes.

The legislation that I propose today will enable housing cooperatives and mutual housing associations to be developed with the credit. With these types of multi-family homeownership, tax credit investors can become nonresident shareholders of the developed property while allowing the residents to own their share of the property as well. From the very start, the residents will have a real ownership stake and control over their homes.

A study undertaken by Abt Associates, Inc., commissioned by the National Cooperative Bank found that this legislation could result in the annual production of 1,600 units of low-income housing within five years of enactment. That means as many as 15,000 renters could be homeowners within five years.

Mr. President, I urge my colleagues to join me in cosponsoring legislation to help bring the American dream of homeownership to many more Americans.

Mr. President, I ask unanimous consent that the complete text of the bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX TREATMENT OF SECTION 42 HOUSING COOPERATIVES AND SHAREHOLDERS OF SUCH COOPERATIVES.

(a) IN GENERAL.—Part III of subchapter T of chapter 1 of the Internal Revenue Code of 1986 (relating to cooperatives and their patrons) is amended by adding at the end the following new section:

"SEC. 1389. SPECIAL RULES FOR SECTION 42 HOUSING COOPERATIVES AND THEIR SHAREHOLDERS.

"(a) ALLOWANCE OF DEDUCTIONS AND CREDITS.—

"(1) NON-PATRON SHAREHOLDERS.—In the case of a section 42 housing cooperative (as defined in subsection (b)(1)), the non-patron shareholders of such cooperative shall be allowed to take into account for purposes of calculating the taxable income of such shareholders the following tax items:

"(A) 100 percent of all low-income housing tax credits to which the section 42 housing cooperative is entitled under section 42.

"(B) 100 percent of all interest allowable as a deduction to the cooperative under section 163 and which is incurred and accrued but unpaid by the cooperative on its indebtedness contracted—

"(i) in the acquisition, construction, alteration, rehabilitation, or maintenance of the houses or apartment buildings, or

"(ii) in the acquisition of the land on which the houses (or apartment buildings) are situated.

"(2) PATRON SHAREHOLDERS.—In the case of a section 42 housing cooperative, the patron shareholders of such cooperative shall be allowed a deduction equal to 100 percent of the amounts paid by the cooperative within the taxable year for the following items, except that in no event may a patron shareholder deduct an amount in excess of such patron shareholder's proportionate share of such specified items:

"(A) Real estate taxes allowable as a deduction to the cooperative under section 164 which are paid or incurred by the cooperative on the houses or apartment buildings and on the land on which such houses (or apartment buildings) are situated.

"(B) The interest allowable as a deduction to the cooperative under section 163 for the taxable year and which is paid by the cooperative during such taxable year on its indebtedness contracted—

"(i) in the acquisition, construction, alteration, rehabilitation, or maintenance of the houses or apartment buildings, or

"(ii) in the acquisition of the land on which the houses (or apartment buildings) are situated.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) SECTION 42 HOUSING COOPERATIVE.—The term 'section 42 housing cooperative' means a corporation—

"(A) having no more than 2 classes of stock outstanding, consisting of—

"(i) shares of stock issued to persons who make an equity contribution to the cooperative but who are not residents in the houses or apartment buildings owned by the cooperative; and

"(ii) shares of stock issued to persons who make an equity contribution to the cooperative and who are residents in the houses or apartment buildings owned by the cooperative;

"(B) in which each of the holders of patron stock is entitled, solely by reason of the patron's ownership of such stock in the cooperative, to occupy for dwelling purposes a house, or an apartment in a building, owned by such cooperative;

"(C) no shareholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the cooperative except on a complete or partial liquidation of the cooperative;

"(D) 80 percent or more of the gross income of which for the taxable year in which the taxes and interest described in subsection (a) are paid or incurred is derived from patron shareholders; and

"(E) which is entitled to claim a low-income housing tax credit under section 42.

"(2) SHAREHOLDER'S PROPORTIONATE SHARE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'proportionate share' means that proportion which the stock of the cooperative housing corporation owned by a particular patron shareholder is of the total outstanding patron stock of the corporation (including any stock held by the corporation).

"(B) SPECIAL RULE WHERE ALLOCATION OF TAXES OR INTEREST REFLECT COST TO CORPORATION OF PATRON SHAREHOLDER'S UNIT.—

"(i) IN GENERAL.—If, for any taxable year—

"(I) each dwelling unit owned or leased by a section 42 housing cooperative is separately allocated a share of such cooperative's real estate taxes described in subsection (a)(2)(A) or a share of such cooperative's interest described in subsection (a)(2)(B), and

"(II) such allocation reasonably reflects the cost to such cooperative of such taxes, or of such interest, attributable to the shareholder's dwelling unit (and such unit's share of the common areas),

then the term 'proportionate share' means the shares determined in accordance with the allocations described in subclause (II).

"(ii) ELECTION BY COOPERATIVE REQUIRED.—Clause (i) shall apply with respect to any section 42 housing cooperative only if such cooperative elects its application. Such an election, once made, may be revoked only with the consent of the Secretary.

"(3) PRIOR APPROVAL OF OCCUPANCY.—

"(A) IN GENERAL.—For purposes of this section, in the following cases there shall not be taken into account the fact that (by agreement with the section 42 housing cooperative) the person or the person's nominee may not occupy the house or apartment without the prior approval of such cooperative:

"(i) In any case in which a person acquires stock of a section 42 housing cooperative by operation of law.

"(ii) In any case in which a person other than an individual acquires stock of a section 42 housing cooperative.

"(iii) In any case in which the original seller acquires any stock of the section 42 housing cooperative from the cooperative not later than 1 year after the date on which the apartments or houses (or leasehold interests therein) are transferred by the original seller to the cooperative.

"(B) ORIGINAL SELLER DEFINED.—For purposes of subparagraph (A)(iii), the term 'original seller' means the person from whom the cooperative has acquired the apartments or houses (or leasehold interest therein).

"(4) APPLICATION OF SECTION TO MUTUAL HOUSING ASSOCIATIONS.—

"(A) IN GENERAL.—In the case of a section 42 housing cooperative which is a mutual housing association, this section shall be applied—

"(i) by substituting 'membership certificates' for 'stock' or 'shares of stock', and

"(ii) by substituting 'membership certificate-holders' for 'shareholders'.

"(B) MUTUAL HOUSING ASSOCIATION.—For purposes of subparagraph (A), the term 'mutual housing association' means a resident-controlled, State-chartered organization described in section 501(c)(3) and exempt from tax under section 501(a).

"(c) TREATMENT AS PROPERTY SUBJECT TO DEPRECIATION.—

"(1) IN GENERAL.—

"(A) BY NON-PATRON SHAREHOLDERS.—Non-patron shares of stock (within the meaning of subsection (b)(1)(A)(i)) shall be treated as property subject to the allowance for depreciation under section 167(a). Such shares of stock shall be treated as residential real property for purposes of determining the appropriate depreciation method under section 168(b), the applicable recovery period under section 168(c), and the applicable convention under section 168(d).

"(B) BY PATRON SHAREHOLDERS.—So much of the shares of stock of a patron shareholder (within the meaning of subsection (b)(1)(A)(ii)) as is allocable, under regulations prescribed by section 216(c), to a proprietary lease or right of tenancy subject to the allowance for depreciation under section 167(a) shall, to the extent such proprietary lease or right of tenancy is used by such patron shareholder in a trade or business or for the production of income, be treated as property subject to the allowance for depreciation under section 167(a).

"(2) DEDUCTION LIMITED TO ADJUSTED BASIS IN STOCK.—

"(A) IN GENERAL.—The amount of any deduction for depreciation allowable under section 167(a) to a non-patron or patron shareholder with respect to any stock for any taxable year by reason of subparagraph (A) or (B) of paragraph (1), respectively, shall not exceed the adjusted basis of such stock as of the close of the taxable year of the shareholder in which such deduction was incurred.

"(B) CARRYFORWARD OF DISALLOWED AMOUNT.—The amount of any deduction which is not allowed by reason of subparagraph (A) shall, subject to the provisions of subparagraph (A), be treated as a deduction allowable under section 167(a) in the succeeding taxable year.

"(3) NO LIMITATION ON DEDUCTION BY SECTION 42 HOUSING COOPERATIVE.—Nothing in this section shall be construed to limit or deny a deduction for depreciation under section 167(a) by a section 42 housing cooperative with respect to property owned by such cooperative and occupied by the patron shareholders thereof.

"(d) DISALLOWANCE OF DEDUCTION FOR CERTAIN PAYMENTS TO THE COOPERATIVE.—No deduction shall be allowed to the holder of non-patron or patron stock in a section 42 housing cooperative for any amount paid or accrued to such cooperative during any taxable year to the extent that such amount is properly allocable to amounts paid or incurred at any time by the cooperative which are chargeable to the cooperative's capital account. The shareholder's adjusted basis in the stock in the cooperative shall be increased by the amount of such disallowance.

"(e) RESTRICTION ON THE RESALE OF PATRON STOCK.—Upon the transfer of patron stock, the consideration received by the holder of such stock shall not exceed the shareholder's adjusted equity in such stock. For purposes of this subsection, the term 'adjusted equity' means the sum of—

"(1) the consideration paid for such stock by the first shareholder, as adjusted by a cost-of-living adjustment and any other acceptable adjustments determined by the Secretary, and

"(2) payments made by such shareholder for improvements to the house or apartment occupied by the shareholder.

"(f) DISTRIBUTIONS BY SECTION 42 HOUSING COOPERATIVE.—Except as provided in regulations under section 216(e), no gain or loss shall be recognized on the distribution by a section 42 housing cooperative of a dwelling unit to a holder of patron stock in such cooperative if such distribution is in exchange for the shareholder's stock in the cooperative and such exchange qualifies for nonrecognition of gain under section 1034(f).".

(b) CONFORMING AMENDMENTS.—

(1) Section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended by adding at the end the following new subsection:

"(o) SECTION 42 HOUSING COOPERATIVES.—In the case of a section 42 housing cooperative (as defined in section 1389(b)(1)), the holders of the non-patron stock (within the meaning of section 1389(b)(1)(A)(i)) shall be entitled to any and all tax credits that would otherwise be available to such cooperative under this section. Any recapture of credit calculated against the section 42 housing cooperative under subsection (j) shall be an increase in the tax under this chapter for the holders of the non-patron stock in proportion to the relative holdings of such stock during the period giving rise to such recapture.".

(2) Section 42(g)(2)(B) of such Code is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by inserting after clause (iv) the following new clause:

"(v) does not include any amounts paid by a tenant in connection with the acquisition or holding of any patron stock (within the meaning of section 1389(b)(1)(A)(ii)).".

(3) Section 42(i) of such Code is amended by adding at the end the following new paragraph:

"(8) IMPACT OF SECTION 42 HOUSING COOPERATIVE'S RIGHT OF FIRST REFUSAL TO ACQUIRE STOCK OF A SECTION 42 HOUSING COOPERATIVE.—

"(A) IN GENERAL.—No Federal income tax benefit shall fail to be allowable to a non-patron or patron shareholder (within the meaning of section 1389(b)(1)) of a section 42 housing cooperative (as defined in section 1389(b)(1)) with respect to any qualified low-income building merely by reason of a right of first refusal or option or both held by the section 42 housing cooperative to purchase non-patron stock of the cooperative after the close of the compliance period for a price which is not less than the minimum purchase price determined under subparagraph (B).

"(B) MINIMUM PURCHASE PRICE.—For purposes of subparagraph (A), the minimum purchase price for the stock of a section 42 housing cooperative is an amount equal to the present value of the remaining depreciation deductions which would be allowable under section 1389(c)(1) to the holder of such stock. For purposes of determining present value, the discount rate provided in subsection (b)(2)(C)(ii) shall be applicable as determined at the time of the exercise of such option or right of first refusal.".

(4) Section 1381(a) of such Code is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) any section 42 housing cooperative (as defined in section 1389(b)(1)).".

(5) The table of sections for part III of subchapter T of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 1389. Special rules for section 42 housing cooperatives and their shareholders.".●

ADDITIONAL COSPONSORS

S. 249

At the request of Mr. D'AMATO, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 249, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.

S. 348

At the request of Mr. MCCONNELL, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 348, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes.

S. 831

At the request of Mr. SHELBY, the names of the Senator from Missouri (Mr. ASHCROFT) and the Senator from North Carolina (Mr. FAIRCLOTH) were added as cosponsors of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 852

At the request of Mr. LOTT, the names of the Senator from Minnesota (Mr. GRAMS) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 912

At the request of Mr. BOND, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 912, a bill to provide for certain military retirees and dependents a special medicare part B enrollment period during which the late enrollment penalty is waived and a special medigap open period during which no under-writing is permitted.

S. 1166

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 1166, a bill to prevent Federal agencies from pursuing policies of unjustifiable nonacquiescence in, and relitigation of, precedents established in the Federal judicial circuits.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1264

At the request of Mr. HARKIN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1264, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement.

S. 1421

At the request of Mr. KENNEDY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1421, a bill to amend the Public Health Service Act to provide additional support for and to expand clinical research programs, and for other purposes.

S. 1480

At the request of Ms. SNOWE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1480, a bill to authorize appropriations for the National Oceanic and Atmospheric Administration to conduct research, monitoring, education and management activities for the eradication and control of harmful algal blooms, including blooms of Pfiesteria piscicida and other aquatic toxins.

S. 1641

At the request of Mr. MOYNIHAN, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 1641, a bill to direct the Secretary of the Interior to study alternatives for establishing a national historic trail to commemorate and interpret the history of women's rights in the United States.

S. 1759

At the request of Mr. HATCH, the names of the Senator from Illinois (Ms. MOSELEY-BRAUN), the Senator from Kansas (Mr. BROWNBACK), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 1759, a bill to grant a Federal charter to the American GI Forum of the United States.

S. 1890

At the request of Mr. DASCHLE, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Ohio (Mr. GLENN) were added as cosponsors of S. 1890, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 1891

At the request of Mr. DASCHLE, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Ohio (Mr. GLENN) were added as cosponsors of S. 1891, a bill to amend the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

S. 1924

At the request of Mr. GRAMM, his name was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1992

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 1992, a bill to amend the Internal Revenue Code of 1986 to provide that the $500,000 exclusion of a gain on the sale of a principal residence shall apply to certain sales by a surviving spouse.

S. 2007

At the request of Mr. COCHRAN, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 2007, a bill to amend the false claims provisions of chapter 37 of title 31, United States Code.

S. 2031

At the request of Mr. GRASSLEY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2031, a bill to combat waste, fraud, and abuse in payments for home health services provided under the medicare program, and to improve the quality of those home health services.

S. 2045

At the request of Mr. FAIRCLOTH, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 2045, a bill to amend title 10, United States Code, to permit certain beneficiaries of the military health care system to enroll in Federal employees health benefits plans, and for other purposes.

S. 2061

At the request of Mr. GRAHAM, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2061, a bill to amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities.

S. 2073

At the request of Mr. HATCH, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 2073, a bill to authorize appropriations for the National Center for Missing and Exploited Children.

S. 2092

At the request of Mr. SMITH, the names of the Senator from New York (Mr. D'AMATO), the Senator from Missouri (Mr. BOND), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 2092, a bill to promote full equality at the United Nations for Israel.

SENATE JOINT RESOLUTION 44

At the request of Mr. KYL, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of Senate Joint Resolution 44, a Joint Resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE CONCURRENT RESOLUTION 35

At the request of Mr. MOYNIHAN, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of Senate Concurrent Resolution 35, a concurrent resolution urging the United States Postal Service to issue a commemorative postage stamp to celebrate the 150th anniversary of the first Women's Rights Convention held in Seneca Falls, New York.

SENATE CONCURRENT RESOLUTION 65

At the request of Ms. SNOWE, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution calling for a United States effort to end restriction on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. ASHCROFT, the names of the Senator from North Carolina (Mr. FAIRCLOTH) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of Senate Concurrent Resolution 88, a concurrent resolution calling on Japan to establish and maintain an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.

SENATE CONCURRENT RESOLUTION 97

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of Senate Concurrent Resolution 97, a concurrent resolution expressing the sense of Congress concerning the human rights and humanitarian situation facing the women and girls of Afghanistan.

SENATE RESOLUTION 176

At the request of Mr. DOMENICI, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Nebraska (Mr. HAGEL), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Senate Resolution 176, a resolution proclaiming the week of October 18 through October 24, 1998, as "National Character Counts Week."

SENATE RESOLUTION 199

At the request of Mr. TORRICELLI, the names of the Senator from South Dakota (Mr. DASCHLE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), the Senator from Nevada (Mr. BRYAN), the Senator from California (Mrs. BOXER), the Senator from Nevada (Mr. REID), the Senator from Montana (Mr. BURNS), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of Senate Resolution 199, a resolution designating the last week of April of each calendar year as "National Youth Fitness Week."

SENATE CONCURRENT RESOLUTION 99—AUTHORIZING THE FLYING OF THE POW/MIA FLAG

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. CON. RES. 99

Resolved by the Senate (the House of Representatives concurring), That, for the purpose of section 1082(b)(1)(B) of the National Defense Authorization Act for Fiscal Year 1998, the display of the POW/MIA flag at the Capitol shall begin at 6:30 p.m. on Sunday, May 24, 1998. As used in this section, the term "POW/MIA flag" has the same meaning as in section 1082 of such Act.

SEC. 2. The Architect of the Capitol may prescribe regulations with respect to the first section of this resolution.

SENATE RESOLUTION 235—COMMEMORATING 100 YEARS OF RELATIONS BETWEEN THE PEOPLE OF THE UNITED STATES AND THE PHILIPPINES

Mr. AKAKA (for himself, Mr. HELMS, Mr. BIDEN, Mr. THOMAS, Mr. INOUYE, Mr. LUGAR, Mrs. BOXER, Mr. COCHRAN, Mrs. MURRAY, Mr. ROTH, Mr. COVERDELL, Mrs. FEINSTEIN, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 235

Whereas 1998 marks 100 years of special ties between the people of the United States and the people of the Philippines and is also the centennial celebration of Philippine independence from Spain which initiated relations with the United States;

Whereas the people of the Philippines have on many occasions demonstrated their strong commitment to democratic principles and practices, the free exchange of views on matters of public concern, and the development of a strong civil society;

Whereas the Philippines has embraced economic reform and free market principles and, despite current challenging circumstances, its economy has registered significant economic growth in recent years benefiting the lives of the people of the Philippines;

Whereas the large Philippine-American community has immeasurably enriched the fabric of American society and culture;

Whereas Filipino soldiers fought shoulder to shoulder with American troops on the battlefields of World War II, Korea, and Vietnam;

Whereas the Philippines is an increasingly important trading partner of the United States as well as the recipient of significant direct American investment;

Whereas the United States relies on the Philippines as a partner and treaty ally in fostering regional stability, enhancing prosperity, and promoting peace and democracy: and

Whereas the 100th anniversary of relations between the people of the United States and the people of the Philippines offers an opportunity for the United States and the Philippines to renew their commitment to international cooperation on issues of mutual interest and concern: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Philippines on the commemoration of its independence from Spain;

(2) looks forward to a broadening and deepening of friendship and cooperation with the Philippines in the years ahead for the mutual benefit of the people of the United States and the people of the Philippines;

(3) supports the efforts of the Philippines to further strengthen democracy, human rights, the rule of law, and the expansion of free market economics both at home and abroad; and

(4) recognizes the close relationship between the nations and the people of the United States and the people of the Philippines and pledges its support to work closely with the Philippines in addressing new challenges as we begin our second century of friendship and cooperation.

Mr. AKAKA. Mr. President, today I am submitting a resolution to commemorate 100 years of relations between the people of the United States and the people of the Philippines. It is especially fitting for Congress to recognize our special relationship with the Philippines because this year is also the centennial of Philippine independence from Spain. Senators HELMS, BIDEN, THOMAS, INOUYE, ROTH, LUGAR, BOXER, COCHRAN, COVERDALE, and MURRAY have joined me in submitting the resolution.

Our country's friendship with the Philippines began in 1898, a year which also marked a growing U.S. interest in the Pacific region. Over the years, the Philippines has modeled its governmental institutions after the United States and has demonstrated a growing commitment to democracy, human rights, and a free market economy.

Until the end of the Cold War, the United States maintained major military facilities in the Philippines, which played a significant role in preserving regional peace and stability. The United States has important strategic, economic, and political interests in Southeast Asia and regional stability remains an overriding U.S. concern. To this end, Filipino soldiers have stood shoulder to shoulder with American troops on the battlefields of World War II, Korea, and Vietnam to protect and advance mutual interest. Today, the Philippines remains an important partner in guarding the peace and maintaining stability in Southeast Asia.

In the twelve years since the peaceful "people power" revolution restored democracy to the Philippines, President Aquino and Ramos established a democratic government and instituted market-based reforms which placed the Philippines—politically and economically—on a strong foundation for the 21st century. Economic growth exceeded 6 percent last year and is forecast to grow at 3 percent in 1998.

In many ways the Philippines has emerged as a model for her Asian neighbors. Political stability and democratic institutions were strengthened by free market and trade reforms. In turn, deregulation, lower tariffs and government debt, financial transparency, and respect for the rule of law provide a healthy economic foundation for the Philippine's future.

It was not long ago that the Philippine economy was far behind the economic tigers of Asia. The Filipino people's love of democracy and political vitality were blamed in large part for this circumstance. Critics cited the absence of so-called "Asian values" in the Philippines, namely a willingness to make democracy secondary to prosperity and order. History has proven these commentators wrong, and today the Filipino model inspires advocates of democracy throughout Asia. Stability relies upon democracy and prudent economic policies.

Last month when President Clinton and President Ramos met at the White House they reaffirmed the friendship between our nations. The leaders promised to continue close cooperation in responding to the Asian financial situation and conducted a frank discussion on bilateral issues, including remediation efforts at the former Subic and Clark bases and benefit parity for Filipino-American veterans.

During this special year in which we observe the centennial of our relationship with the Philippines and the centennial of their independence, we have much to celebrate. First, we recognize the valuable contributions of Filipino-Americans to our nation. Filipino-Americans helped to build and create the modern Hawaiian economy and have contributed greatly to the cultural diversity that is celebrated in my state. My good friend, Governor Ben Cayetano, is the first Filipino-American governor in the United States. In addition, we reflect on our close friendship and cooperation with the Philippines in times of war and peace. And finally, we look forward to continued close ties with a democratic and prosperous Republic of the Philippines, as we work together to champion democracy and economic growth in the dawning Pacific century.

SENATE RESOLUTION 236—TO EXPRESS THE SENSE OF THE SENATE REGARDING ENGLISH PLUS OTHER LANGUAGES

Mr. DOMENICI (for himself, Mr. MCCAIN, Mr. HATCH, Mr. DEWINE, Mr. CHAFEE, Mr. LUGAR, Mr. HAGEL, Mr. GRASSLEY, Mr. ABRAHAM and Mrs. HUTCHISON) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 236

Whereas English is the most widely used language in the areas of finance, trade, technology, diplomacy, and entertainment, and is the living library of the last 100 years of scientific and technological advance;

Whereas there are more speakers of English as a second language in the world than there are native English speakers, and the large number of English language schools around the world demonstrates that English is as close as any language has been to becoming the world's common language;

Whereas English is the common language of the United States, is important to American life and individual success, and 94 percent of United States residents speak English according to the 1990 decennial census;

Whereas immigrants to the United States have powerful incentives to learn English in order to fully participate in American society and the Nation's economy, and 90 percent of all immigrant families become fluent in English within the second generation;

Whereas a common language promotes unity among citizens, and fosters greater communication;

Whereas there is a renaissance in cultural assertiveness around the world, noting that the more interdependent nations become economically, the more interested the nations are in preserving and sharing cultural identity;

Whereas the reality of a global economy is an ever-present international development that is fostered by international trade and the creation of regional trading blocs, such as the European Union, Mercosur, the North American Free Trade Agreement and the Association of Southeast Asian Nations;

Whereas knowledge of English, Spanish, French, Italian, German, Japanese, Chinese, Korean, Vietnamese, African languages, Farsi, sign language, and the many other languages of the world, enhances competitiveness and tremendous growth in world trade;

Whereas the United States is well postured for the global economy and international development with the United States' diverse population and rich heritage of languages from all around the world;

Whereas many American Indian languages are indigenous to the United States, and should be preserved, encouraged, and utilized, as the languages were used during World War II when the Navajo Code Talkers created a code that could not be broken by the Japanese or the Germans;

Whereas Spanish exploration in the New World began in 1512 when Ponce de Leon explored the Florida peninsula, and included the expeditions of Francisco Coronado throughout California to Kansas and across Arizona, New Mexico, Texas, and Oklahoma from 1540 to 1542;

Whereas the Nation will commemorate the 400th anniversary of the first Spanish Settlement of the Southwest (Ohkay Yunge at San Juan Pueblo, New Mexico) with official visits from Spain, parades, fiestas, masses, and other celebrations to emphasize the importance of the first encounters with American Indian cultures and the subsequent importance of encounters with other European cultures;

Whereas Hispanic culture, customs, and the Spanish language are a vital source of familial and individual strength;

Whereas the Bureau of the Census estimates that 1 in 5 Americans will be of Hispanic descent by the year 2030, and the future cultural, political, and economic strengths of this country are clearly dependent upon our Nation's ability to harness the talents and skills of this large and growing segment of the American population;

Whereas it is clearly in the interest of the United States to encourage educational opportunity for and the human potential of all citizens, and to take steps to realize the opportunity and potential;

Whereas a skilled labor force is crucial to the competitiveness of the Nation in today's global economy, foreign language skills are a tremendous resource to the United States, and such foreign language skill enhances American competitiveness in global markets by permitting improved communication and understanding;

Whereas one of the common bonds of Hispanic people is the Spanish language, and promoting the use of Spanish at home and in cultural affairs will benefit not only the growing Hispanic population of the United States but also the economic interests of the entire Nation; and

Whereas knowledge of other languages and other cultures is known to enhance the United States diplomatic efforts by fostering greater communication and understanding between nations, and can promote greater understanding between different ethnic and racial groups within the United States: Now, therefore, be it

Resolved, That the United States Government should pursue policies that—

(1) support and encourage Americans to master the English language plus other languages of the world;

(2) recognize the importance of English as the unifying language of the United States, and the importance of English fluency for individuals who want to succeed in American society;

(3) recognize that command of the English language is a critical component of the success and productivity of our Nation's children, and should be encouraged at every age;

(4) recognize that a skilled labor force is crucial to United States competitiveness in a global economy, and the ability to speak 1 or more languages in addition to English is a significant skill;

(5) recognize that knowledge of Spanish, in particular, is vital for building future cultural and economic bridges to Latin America;

(6) support literacy programs, including programs designed to teach English, as well as those dedicated to helping Americans learn and maintain other languages in addition to English; and

(7) develop our Nation's linguistic resources by encouraging citizens of the United States to learn and maintain Spanish, French, German, Japanese, Chinese, Italian, Korean, Vietnamese, Farsi, African languages, sign language, and the many other languages of the world, in addition to English.

Mr. DOMENICI. Mr. President, today I am proud to be joined by Senators MCCAIN, HATCH, DEWINE, CHAFEE, LUGAR, HAGEL, GRASSLEY, and ABRAHAM in submitting a Senate Resolution entitled "English-Plus." By this, we simply mean to reaffirm the importance of mastering the English language *plus* other languages of the world, such as Spanish, Italian, German, Japanese, Chinese, Vietnamese, and many, many more.

As English becomes the world language of finance, trade, technology, diplomacy, and entertainment, the reality of international markets and international learning require a greater sensitivity to local languages. In our hemisphere, Spanish is clearly a dominant language.

In my home state of New Mexico, 37 percent of the people are Spanish-Americans or Mexican-Americans. These days, the term "Hispanic-Americans" is used to include Americans whose roots are in Spain, Mexico, Puerto Rico, Cuba, Central America, and South America. As *U.S. News* reported in the May 11, 1998, issue, "the label *Hispanic* obscures the enormous diversity among people who come (or whose forebears came) from two dozen countries and whose ancestry ranges from pure Spanish to mixtures of Spanish blood with Native American, African, German, and Italian, to name a few hybrids."

U.S. News also reported in the same issue that "The number of Hispanics is increasing almost four times as fast as the rest of the population, and they are expected to surpass African-Americans as the largest minority group by 2005." In the October 21, 1996, issue, *U.S. News* reported that "Nearly 28 million people—1 American in 10—consider themselves of Hispanic origin." This 1996 estimate was based on 1994 Census data. Current estimates are that there are 29 million Hispanics in America, or 1 in 9 Americans. By 2050 projections are that 1 in every 4 Americans will be Hispanic.

As our world economy barges into the next century, it has become clear the "domestic-only market planning" has been replaced by the era of international trade agreements and the creation of regional trading blocs. In 1996, the total volume of trade with Mexico was estimated at $130 billion. Our trade with the rest of Latin America that same year was $101 billion.

Spanish is clearly a growing cultural and economic force in our hemisphere. It is also the common language of hundreds of millions of people. New Mexico is the only state that requires the use of both English and Spanish on every election ballot.

As the son of an Italian immigrant, I can personally testify to the importance of English Plus. My father did not read or write in English, yet he insisted that I learn English and do my best at some Italian. My parents both spoke Spanish—a skill which they found very useful in establishing a wholesale grocery business in Albuquerque.

Tens of thousands of New Mexico families still speak Spanish at home. Spanish remains a strong tie to their culture, music, history, and folklore. After decades of being taught to learn English first, most New Mexico Hispanic families also know English very well.

It is ironic that recent economic trends of this decade show Latin America as the most promising future market for American goods and services. An article in *The Economist* of April 21, 1998, stresses the value of the Spanish language to America's fastest growing minority group.

"America's Latinos are rapidly becoming one of its most useful resources." *The Economist*, however, also goes on to note that, "The Spanish language, which is their glory, also consigns too many of them to jobs not far removed from indentured slavery."

"Although they often meet discrimination, they have little taste for the politics of quotas or compensation. And although they have always supported 'affirmative action' programmes, they now loathe bilingual education, the programme most specifically devised to give them a leg-up into American life."

"Even poor Latinos retain a sturdy distrust of government preferring to rely on their families. Relatively few Latinos are on welfare; most believe that a man ought to help himself first by his own efforts."

It is no longer accurate to say that we are perched to enter a global economy—rather, we are well into it. With Latin America as the next great market partner of the United States, those Americans who know both English and Spanish will have many new grand opportunities. Mexico's recent hiring and celebration of its one-millionth *maquiladora* worker in international manufacturing plants mostly along our border, the value of knowing two languages to function with the hundreds of Fortune 500 companies now manufacturing in Mexico is unquestioned.

Mr. President, I have long believed that New Mexico and other border states are uniquely poised to create the focal point of North American trade with South America. I agree with *The Economist* observation that "America's Latinos are rapidly becoming one of its most useful resources." I predict that English Plus Spanish will be one of the major marketable skills for the next century.

In conclusion, I would like my colleagues to see the shallowness of thought behind the idea that "English Only" should be the wave of the future. If we want to miss our best potential markets in Mexico, Central America, and South America, then "English Only" should be our intent. If we want to become a more powerful cultural and economic American force in the world—including both North and South America into the meaning of "America"—then we should adopt "English Plus" as approach.

As stated in our resolution, "English Plus" includes many if not all of the languages of the world. No one disputes the importance of English as the leading language of science, technology, the internet, finance, and diplomacy. By acknowledging our heightened abilities through the addition of other languages to our national strengths, the United States will benefit greatly by expanding its cultural life and economic potential through the application of the notion of "English Plus" other languages of the world.

Mr. MCCAIN. Mr. President, I rise today with several of my colleagues from the Hispanic Task Force to submit a Resolution on English-Plus. This resolution is intended to express the importance of the English language in our society, PLUS the importance of knowing, understanding and speaking other languages in addition to English.

As a member of the Hispanic Task Force, I have been working closely with my colleagues, Senators DOMENICI and HATCH, in developing this resolution. Many of our colleagues may be curious to know what we mean when we say "English Plus." "English-Plus" reflects our firm belief that all members of our society need to recognized and understand the importance of being fluent in English, Plus one or more additional languages.

Everyone agrees that all Americans must be fluent in English in order to succeed in today's society. Not only is English the common language of our nation, it is also the most popular and widely used language internationally in the areas of finance, trade, technology, diplomacy and entertainment. This is why it is critical that we continue encouraging all members of our society to be fluent in the English language.

However, I believe it is equally important for each of us to encourage all members of our society to study and develop an understanding of, if not a fluency, in one or more languages in addition to English. Individuals who have the capability to communicate in multiple languages have access to a wealth of opportunities economically, socially, professionally and personally.

Encouraging our citizens to be bilingual or multilingual serves as a tremendous resource to the United States, because it enhances our competitiveness in global markets by enabling communication and cross-cultural understanding while trading and conducting international business. In addition, multilingualism enhances our nation's diplomatic efforts and leadership role on the international front by fostering greater communication and understanding between nations and their people.

Foreign language skills also serve as a powerful tool for promoting greater cross-cultural understanding between the multitude of racial and ethnic groups in our country. One in five Americans will be of Hispanic descent by the year 2030. According to the 1990 Census, Spanish is the second most widely used language in the world. It is my firm belief that developing a greater knowledge of the Spanish language will benefit the economic and cultural interests of our entire country. Being proficient or fluent in languages besides English, combined with an understanding of various cultures, will significantly enhance communication and understanding between the various racial and ethnic groups in our country.

This resolution highlights the importance of implementing policies in our country which support and encourage all Americans to master English, plus one or more other languages of the world. It is critical that we continue supporting policies and programs which stress the importance of English but we should also encourage all Americans to study, learn and familiarize themselves with the languages of many other cultures.

I urge the Senate to adopt this resolution, which sends a clear message to our citizens and the people of the world that Americans are committed to encouraging proficiency in English as well as other international languages.

SENATE RESOLUTION 237—EXPRESSING THE SENSE OF THE SENATE REGARDING THE SITUATION IN INDONESIA AND EAST TIMOR

Mr. FEINGOLD (for himself, Mr. REED, Mr. LEAHY, Mr. MOYNIHAN, Mr. KOHL, Mr. KENNEDY, Mr. HARKIN, and Mr. WELLSTONE) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 237

Whereas recent political turmoil and economic failure in Indonesia have endangered the people of that country and fomented instability in the region;

Whereas President Suharto has properly responded to this crisis by resigning, after 32 years in office, the presidency of Indonesia in accordance with Indonesia's constitutional processes;

Whereas Indonesia is now embarking on a new era that is ripe for political and economic reform;

Whereas in 1975 Indonesia invaded, and since that time has illegally occupied, East Timor claiming the lives of approximately 200,000 East Timorese;

Whereas Indonesia has systematically committed human rights abuses against the people of East Timor through arbitrary arrests, torture, disappearances, extra-judicial executions, and general political repression;

Whereas 8 United Nations General Assembly and 2 United Nations Security Council resolutions have reaffirmed the right of the people of East Timor to self-determination;

Whereas Bishop Carlos Filipe Ximenes Belo and Jose Ramos-Horta, who were awarded the 1996 Nobel Peace Prize for their courageous contribution to the East Timorese struggle, have called for a United Nations-sponsored referendum on self-determination of the East Timorese;

Whereas President Clinton in a letter dated December 27, 1996, expressed interest in the idea of a United Nations-sponsored referendum on self-determination in East Timor;

Whereas the United States cosponsored a 1997 United Nations Human Rights Commission Resolution calling for Indonesia to comply with the directives of existing United Nations resolutions regarding East Timor; and

Whereas present circumstances provide a unique opportunity for a resolution of the East Timor question: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should—

(1) encourage the new political leadership in Indonesia to institute genuine democratic and economic reforms, including the establishment of an independent judiciary, civilian control of the military, and the release of political prisoners;

(2) encourage the new political leadership in Indonesia to promote and protect the human rights and fundamental freedoms of all the people of Indonesia and East Timor; and

(3) work actively, through the United Nations and with United States allies, to carry out the directives of existing United Nations resolutions on East Timor and to support an internationally supervised referendum on self-determination.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

• Mr. FEINGOLD. Mr. President, over the past few days, the world has watched in disbelief as Indonesia has unraveled. Barely two days ago, in response to mounting domestic and international pressure, President Suharto, Indonesia's authoritarian ruler for 32 years, announced his resignation. For the moment, power has been transferred to Suharto's longtime confidant, the former Minister of Research and Technology, Vice President, B.J. Habibie.

Mr. President, it is too soon to tell whether this transition will satisfy the demands of the students and other Indonesians who have been protesting Suharto's rule for the past three months. To be honest, I doubt it. These students want real political reform, and I believe all of Indonesia's people deserve such reform.

I hope Indonesia's new leadership will exercise restraint during this period of transition, and will use the present circumstances to enact policies that appropriately address the needs of all Indonesians.

At the same time, I think these circumstances present a unique opportunity to deal with one of Indonesia's most vexing problems, and one that I have been actively engaged in since before I joined the Senate—the question of the political status of East Timor.

Mr. President, today my colleague from Rhode Island [Mr. REED] and I are submitting a resolution encouraging a solution to the political status of East Timor. This resolution is similar to H. Con. Res. 258, introduced in the House of Representatives by Representative NITA LOWEY and others.

This resolution says simply: the United States should support an internationally supervised self-determination referendum in East Timor.

Indonesia has sustained a brutal military occupation of East Timor for more than 20 years, and thousands of East Timorese have lost their lives as a result. Human rights organizations from around the world, as well as our own State Department, continue to report substantial human rights violations by the Indonesian military—including arbitrary arrest and detention, curbs on freedom of expression and association, and the use of torture and summary killings of civilians.

Immediately after the Indonesian occupation of East Timor in 1975, and again in 1976, the United Nations Security Council called for Indonesia to withdraw from the region and called for the recognition of East Timorese self-determination. From 1976 to 1982, the U.N. General Assembly adopted eight separate resolutions calling for the withdrawal of Indonesian armed forces from the territory. In the past few years, several nations, including the European Union and the Australian Senate, have delivered strong statements condemning the actions of the Indonesian government in East Timor and calling for a process of self-determination.

As you know, Bishop Carlos Ximenes Belo, co-winner with Jose Ramos Horta of the 1996 Nobel Peace Prize, has long called for the self-determination of his people and reiterated his plea for a self-determination referendum immediately after receiving news of his Nobel prize.

Even President Clinton, who has not engaged on this issue in the past, expressed interest in the idea of a United Nations-sponsored self-determination referendum in a December 1996 letter to me.

Mr. President, as we know, although the larger political crisis in Indonesia has been brewing for sometime now, events of recent days have taken on a surreal intensity. Since the early part of this year, there had been relatively peaceful protests taking place largely in Jakarta, the capital. For the most part, these demonstrations were led by students and confined to university campuses. But while the protests were triggered in response to the economic turmoil caused by the larger financial crisis in Asia, they quickly gave voice to political dissent of a sort not seen in Indonesia for decades. As the students slowly realized they had a political voice, they began to speak out more forcefully, and the demonstrations increased—moving out to more cities and spilling off of the campuses.

Now, the situation has become dangerous, fatal for some, as widespread riots and looting have spread across Jakarta and elsewhere. The economy is nearing a standstill and the military is beginning to show signs of stress and fracture. Reports of the dead and injured continue to grow. Hundreds of people have been arrested.

And of course no one really knows what to expect during the unfolding political drama of Indonesia.

This crisis clearly has affected all of Indonesia and will have serious implications for the country's future, but I am particularly concerned about the impact of these recent events on East Timor.

As my colleagues well know, I have been monitoring the situation in East Timor for more than six years. What particularly worries me now, given this larger political crisis, are reports of increasing numbers of troops in some of East Timor's major cities. This is extremely destabilizing, coming on the heels of a dire humanitarian situation on that captive island because of poor access to food.

The resolution Senator REED and I are submitting today is important at this time because it is clear that whatever happens in Jakarta over the next weeks and months will no doubt have profound implications for political and military development in East Timor. The great irony of the latest crisis in Indonesia is that it may actually present us with an opportunity once and for all to help the people of East Timor exercise their right to self-determination. Habibie, or any other leader that succeeds him—through legitimate means or by brutal coup—will have to reevaluate Indonesia's relationship with East Timor. It is my sincere hope that any successor will recognize that Indonesia's brutal occupation of the territory is entirely unsustainable and will look to the natural solution of a self-determination referendum to help determine East Timor's political status.

Mr. President, the East Timorese deserve the support of people of conscience all over the world, and the United States should use its world leadership position on their behalf. The United States should begin immediately to encourage the process of self-determination in both Indonesia and in East Timor.

It is long overdue.●

● Mr. REED. Mr. President, I am proud to join with my colleague from Wisconsin, Senator FEINGOLD, submitting this resolution which addresses the unfolding events in Indonesia.

On Thursday, President Suharto resigned his position after leading Indonesia for thirty-two years. His action was a response to civil unrest and economic turmoil which reached a crescendo in the past few weeks. President Suharto is to be commended for heeding the call of the Indonesian people for change, for avoiding further bloodshed, and for permitting a change of leadership in accordance with the constitutional processes of Indonesia.

Now, it is time for change. The people of Indonesia and the world have called for it. The United States should do everything in its power to encourage and support the new political leadership of Indonesia to implement reforms.

Most importantly, we are on the threshold of the chance to resolve the question of East Timor. In 1975, Indonesia invaded East Timor. For over two decades that land has been wracked by fear, suppression, torture and death. Approximately one third of the population has been killed. The United Nations has called again and again for a just, comprehensive and internationally acceptable solution in East Timor, but to no avail.

Mr. President, we must seize this opportunity. The oppression of East Timor must end. The people of East Timor have a right to self-determination. They, and the people of Indonesia, deserve to live securely in economic, political and physical freedom.

Against overwhelming odds, the people of Indonesia and East Timor have bravely fought for their rights and caused a powerful leader to resign. The United States is obligated to support them and encourage the new leadership of Indonesia to institute genuine democratic and economic reforms, promote and protect the human rights of the citizens, and respect the right of the people of East Timor to self-determination. I join Senator FEINGOLD in urging the Senate to adopt this resolution.●

AMENDMENTS SUBMITTED

IRAN MISSILE PROLIFERATION SANCTIONS ACT OF 1998

LEVIN AMENDMENT NO. 2444

Mr. LEVIN proposed an amendment to the bill (H.R. 2709) to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles; as follows:

On page 2, beginning on line 15, strike out "August 8, 1995—", and insert in lieu thereof "January 22, 1998—".

On page 6, beginning on line 24, strike out "August 8, 1995—", and insert in lieu thereof "January 22, 1998—".

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

INHOFE AMENDMENT NO. 2445

(Ordered to lie on the table.)

Mr. INHOFE submitted an amendment intended to be proposed by him to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 347, below line 23, add the following:

SEC. 2833. ELIMINATION OF WAIVER AUTHORITY REGARDING PROHIBITION AGAINST CERTAIN CONVEYANCES OF PROPERTY AT NAVAL STATION, LONG BEACH, CALIFORNIA.

Section 2826 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105-85; 111 Stat. 2001) is amended by striking out subsection (e).

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing previously announced for June 11, 1998, has been rescheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Wednesday, June 17, 1998, at 2:00 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1253, the Public Land Management Improvement Act of 1997.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Amie Brown or Mark Rey at (202) 224-6170.

AUTHORITY FOR COMMITTEE TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. KYL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Friday, May 22, 1998, to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SPECIAL NEEDS CHILDREN

• Mr. GRASSLEY. Mr. President, on Saturday, April 18, 1998, an article ran in the Rochester Post Bulletin in Rochester, MN that illustrates very well the tremendous child care challenges facing families. This is a story about a child with disabilities and her parents who are having increasing problems finding quality child care. Mr. President, I will ask that this article be printed in the RECORD at the conclusion of my remarks.

Mr. President, at the age of six months, this young child—Christina Barth—developed infantile spasms or epilepsy. Christina is not alone. More than two million Americans have some form of epilepsy. More than one fourth of them are children under the age of 18.

Upon her diagnosis, Christina was treated with many different types of medication. Unfortunately, none of the treatments worked successfully. Then, at the age of three, Christina underwent a partial lobotomy on the right side of her brain. The surgery successfully treated her disease for almost two years. But then, the symptoms developed on the left side of her brain. Since that time, Christina has lived with epilepsy.

Now Christina is 11 years old. She attends a special education class at Gage Elementary School. She functions on the cognitive level of an 18-month-old child. Her family hopes and prays that a cure for epilepsy will be found someday.

Like most other families with special needs children, Christina's parents face daily challenges in caring for their child. Identifying high quality child care is among the most difficult challenges her parents face.

Finding a child care provider—whether it be a commercial day care center or an in-home care giver—is becoming more and more difficult. This point was made by a witness who recently testified before the Finance Committee about the challenges of finding child care for a child with disabilities.

Most child care providers tend not to enroll special needs children because often the child needs one-on-one care. And, the fear of the unknown presents an added risk to an already demanding job.

In Christina's case, a state funded agency has helped her family locate an in-home care giver that cares for Christina while her parents are at work.

But, Mr. President, access is only the first hurdle in finding child care. Quality is equally important. Unfortunately, in Christina's case, her child care providers have not been adequately trained to handle or even recognize when Christina has an epileptic attack.

At one time, Mr. President, the agency that placed the providers with Christina called her parents to warn them of an employee and told them to call the police if she came to their home.

This raises a question Mr. President. Who is watching the watchers?

Mr. President, in the national debate about child care it seems to me that not enough is being said about the challenges facing families with children who have disabilities.

Child care policies must address issues of access and quality as it relates to special needs children. Many of the bills introduced this year do not address special needs issues. In fact, Senate bill 1610 asks for more than 20 billion dollars through fiscal year 2003 to improve the affordability of child care and an additional three billion dollars through fiscal year 2003 for enhancing the quality of child care and early childhood development. However, there are no provisions regarding an increase of availability, affordability, and quality of child care for children with special needs.

It is our duty, Mr. President, to make sure that these special needs children and their parents have the same opportunities as other children and families. Today I urge my colleagues on both sides of the aisle to make sure that children with special needs are not left out or forgotten in any legislation regarding child care that comes before this Congress.

Mr. President, I ask that the article from the Rochester Post Bulletin be printed in the RECORD.

The article follows.

SPECIAL NEEDS CHILD CARE IS "ACCIDENT WAITING TO HAPPEN"

(By Mary Divine)

Julie Sauer's daughter was only 6 months old when she began shaking and quivering uncontrollably. No reason, no explanation.

For the next two years of her life, little Christina Barth experienced almost constant seizures, said Sauer, a lab technician at Mayo Clinic. Finally, when she was 2½, Christina underwent a partial lobotomy at UCLA's Medical Center.

Christina, now 11 and a student at Gage Elementary School, is mentally disabled and has an intractable seizure disorder. She functions at the level of an 18-month old child, Sauer said.

Because of her special needs Christina needs specialized child care, child care that Julie Sauer said isn't available in Rochester.

"Our dilemma is finding child care for her before school, for non-school days and for the upcoming summer vacation," Julie Sauer said.

Sauer and her husband, Bob Sauer, the owner of Rochester Drain-Rite, have been in touch with the School-Age Child Care program. Child Care Resource and Referral, Arc Olmsted County, Hiawatha Homes and a home day care provider. Child Care Resource and Referral found that area day care centers and School-Age Child Care did not have enough staff to provide the one-to-one care Christina requires, Julie Sauer said.

"If only there were a place that was capable of taking care of her, like a day care center," Julie Sauer muses as she strokes her daughter's hair.

UNSATISFACTORY CARE

Since the beginning of the school year, the Sauers have relied on before and after school care provided by a personal care attendant. But the Sauers say the care isn't satisfactory.

"We had five new people in one week." Bob Sauer said "We have people who never even showed up."

The turnover in staff is confusing to Christina, Julie Sauer said. "She doesn't want to get off the bus because she doesn't know them."

If a snow day is called, the Sauers panic.

But they panic on other days as well. Once, they came home to find blood on the carpet and a shower rod in the upstairs bathroom ripped from the wall. Christina was fine, but the personal care attendant on duty that day was never allowed back into their home.

Often, they have Bob Sauer's daughter from a previous marriage watch the personal care attendant who is supposed to be caring for Christina.

"Sometimes I think that it's Christina who should be watching them," he said.

One attendant didn't realize Christina was having a seizure until Sauer's son told her, Sauer said.

"We have strangers coming into the house who just don't have a clue," he said. "There have been people in this house that we have never met. Once, they called and warned us about one of the PCAs. They said, 'If she comes to the door, don't let her in. And if she will not leave, call 911.' It's an accident waiting to happen."

Julie Sauer has written area legislators about the lack of child care for special needs children.

Hiawatha Homes provides respite care, but the children must stay overnight to be reimbursed by the state, she said.

"I want to take care of my daughter for as long as I can," Julie Sauer said. "I am not looking for money to pay for someone to take care of my daughter, only help in finding a place that will be equipped for special needs children in our community."

SHORTAGE OF EMPLOYEES

Tom Davie, director of Community Education, oversees the School-Age Child Care program, which serve some special-needs children.

"Our challenge becomes one of having adequate staffing" he said. "We have taken children who have not required one-to-one care. Many times, because of our numbers, School-Age Child Care is not the best choice for a child with special needs."

Arc Olmsted County used to provide a day care program for children with special needs, but the organization discontinued it, said Buff Hennessey, Arc's executive director.

About 3 percent of the population is identified as having a developmental disability, she said.

"There are home health care agencies that provide PCA services, although a couple are no longer providing services to families with young people," she said. "There are reimbursement problems and then with the way the labor market is. Our industry as a whole has a crisis shortage of employees. There have been efforts to train additional providers, but the numbers have been pretty limited."

Hennessey said some families have given up employment opportunities to have one parent stay home with the special-needs child.

That's not an option for the Sauers, both of whom work full-time, they say.

"We want to raise her as much as we can," Bob Sauer said, "but our options are to put up with this or give her up completely."•

TRIBUTE TO RICHARD C. MARBES

• Mr. KOHL. Mr. President, I rise today to recognize Richard (Dick) Marbes, who is retiring from the full time position of Wisconsin State Adjutant of the Disabled American Veterans (DAV). As Mr. Marbes retires, it seems an appropriate time to acknowledge his distinguished career and extraordinary contributions and service to veterans and the DAV.

During the 1950's, Dick served his country proudly in the Air Force. He is a long time active member of DAV chapter 3 in Green Bay and he has served as Wisconsin State Adjutant for over ten years. In 1993–1994, Dick was elected and served as the National Commander of the DAV where he spearheaded an effort to change some pre-existing policies, helping to reestablish the DAV as one on the strongest and most influential Veterans groups. Dick was recognized as the DAV's National Amputee of the year, and is also a member of the Wisconsin Board of Veterans affairs.

Mr. President, I hope all of my colleagues will join me in offering our congratulations to Dick Marbes and his wife Mary Jane and four children, Pam, Susan, Amy, and Tim. Dick has dedicated his time, talents and energy to serving Veterans and we are indeed indebted to him for his efforts. I am proud to salute Dick for a job well done, and I send him my best wishes for the future. •

FIGHTING BACK AGAINST THE PAPARAZZI

• Mr. HATCH. Mr. President, I am pleased to join with my distinguished colleague, Senator FEINSTEIN, in introducing this legislation to combat the efforts of a few overzealous individuals to improperly intrude upon other's privacy rights. I am cosponsoring this legislation, in large measure, as a tribute to the efforts of Congressman Sonny Bono, who brought this issue to the fore. As we all know, long before he was elected to Congress, Representative Bono achieved celebrity status in the music business and on television. He was thus acutely aware, from an early age, of the costs of fame. A cost that some, such as rising television star Rebecca Schaeffer, had to pay in blood, and others, such as Arnold Schwarzenegger, Steven Spielburg, Jodie Foster, David Letterman, and Elizabeth Taylor, to name but a few, have had to pay with a loss of privacy and an inability to freely mingle in public.

Unfortunately, certain individuals within the generally responsible media corps have forced many of these well-known figures to hide behind a veil of high-priced security systems and bodyguards. I know that some so-called celebrities have openly questioned whether their fame is worth the price of sacrificing their privacy and their ability to live normal lives.

I know, too, that my colleague, Senator FEINSTEIN, was herself once the target of a stalker. So I know that this legislation means a great deal to her on a personal level. As public figures, whether as actors or musicians or yes, even Senators, we must expect a certain amount of media attention. Indeed, most of my colleagues on the Hill relish such attention—particularly in election years! Press coverage—some of it favorable, some of it not so favorable—is all a part of the system. Indeed, it is an important part of our democratic system. So important that the Constitution's framers bestowed upon us the First Amendment protections of free speech and press. And lest we condemn those who have followed recent infamous criminal trials too closely, I would note that the Sixth Amendment guarantees the right to a public trial. The glare of the spotlight is an unavoidable, and in most cases, laudable, feature of a free democratic-republic.

Unfortunately, just as the right to swing one's fist may end at another man's nose, the right to aim one's camera at another person's face may end where that person has a reasonable expectation of privacy. Undoubtedly, the privacy expectations of public figures are considerably different from that of private individuals. That is a reality that all who walk in the glare of the camera come to expect and learn, for the most part, to deal with. But when the media become too intrusive, or cross lines of general decency or responsibility, something must be done.

It is one thing for the media to attend a press conference where I introduce this legislation—it is quite another thing, however, for the media to follow me home and train their cameras on my windows. I know, for example, that Arnold Schwarzenegger and Maria Shriver did not appreciate the attempts of some in the media, shortly after Mr. Schwarzenegger had been released from the hospital after undergoing open heart surgery, to stop their van on the street as they were taking their children to school, in an attempt to get photographs. I don't think any of us here would appreciate it if someone tried to harass our spouses or fathers or mothers as they left the hospital after having had major surgery. Public figure or not, some things simply cross the bounds of responsible journalism or media coverage.

I think the recent death of Princess Diana focused efforts to deal with an overly intrusive media—even if it is unclear whether the media had anything to do with that tragedy. In fact, some people overreacted to that horrible event, pointing fingers at the press before the facts were established. Regardless of the media's role in that accident, the mere fact that people recognized that she had long been harassed by an overly aggressive media, and that it was not such a stretch to believe that the paparazzi could have played a role in her tragic death, demonstrates the seriousness of this problem.

In the wake of Princess Diana's death, Representative Bono and Senator FEINSTEIN began a tireless crusade to see Federal legislation enacted to protect people from the so-called stalkarazzi. We are now witnessing the fruits of their efforts—I only wish that Representative Bono had been here to see this legislation introduced.

I want to say to Senator FEINSTEIN that I commend her for advocating this legislation. Indeed, I am ready to roll up my sleeves and work with her to address this problem. I am committed to moving this legislation through the Judiciary Committee. At the same time, however, we must take care to craft legislation that will be respectful of our First Amendment rights and of any federalism concerns. In fact, I hope the States will view this bill, as it is refined in committee, as a model for adopting similar reforms. And I am confident that we will be able to strike a reasonable balance between the press' First Amendment rights to seek information about public figures and the right of those individuals to their reasonable expectations of privacy. After all, we must take care that the solution to this admitted problem does not trample on important rights. With these concerns in mind, I intend to work with Senator FEINSTEIN to ensure that we have the best legislation possible. We hope to hold hearings to identify the extent of these problems and to determine how best to combat attempts by some overzealous members of the media in their efforts to profit by intruding on others' privacy. I believe that this legislation is an important first step in that process.●

HONORING THE 12TH ANNUAL ENTREPRENEURIAL WOMAN'S CONFERENCE

● Ms. MOSELEY-BRAUN. Mr. President, it is my distinct honor to recognize an organization from my home state of Illinois that has been an invaluable resource for and promoter of women-owned small businesses. I am speaking of the Women's Business Development Center, who will hold their 12th annual Entrepreneurial Woman's Conference on September 9, 1998 in Chicago.

Since 1986, the WBDC, a nationally-recognized nonprofit women's business assistance center, has assisted more than 30,000 women business owners in establishing and expanding small businesses throughout our country. The Women's Business and Finance Program, the Women's Business Enterprise Initiative, the Entrepreneurial Woman's Conference and the Women's Business and Buyers Mart are a few of the many programs and services of the WBDC that support female small business ownership and help to strengthen the entire U.S. economy.

As the first permanent female member of the Senate Finance Committee, I know firsthand of the obstacles faced by women when attempting to establish a foothold in the world of commerce. The WBDC and its two founders, Hedy Ratner and Carol Dougal, have made great progress towards tearing down these obstacles.

Today, women-owned small businesses are an integral part of the current success of the American economy. Currently, there are over 7.7 million women-owned businesses in the United States, generating $2.3 trillion in sales. In Illinois, there are over 250,000 women-owned businesses. These businesses mean more jobs for American workers. In fact, women business owners employ one of every four U.S. company workers. Certainly, some of this success is due in part to the programs and services offered by the WBDC in Illinois and similar programs in Indiana, Ohio, Florida, Massachusetts and Pennsylvania. Despite this success, there is still more to be done. I am confident that with help from organizations such as the WBDC, the number of women entrepreneurs will continue to rise.

The Woman's Entrepreneurial Conference is the centerpiece of the WBDC's activities. The Conference provides women business owners with the opportunity to network, attend informative panel discussions, and pursue business opportunities in an environment that is supportive of the needs of female small business owners. It is my pleasure to welcome the conferees to Chicago, and to congratulate the WBDC for their work and dedication to increasing female ownership in the American marketplace.●

THE 25TH ANNIVERSARY OF CLARK AND SUSAN DURANT

● Mr. ABRAHAM. Mr. President, I rise today to recognize the 25th wedding anniversary of my dear friends Clark and Susan Durant of Grosse Pointe, Michigan.

The Durants have shared a very special marriage over the last twenty-five years and have produced four wonderful children. Their friends and family have witnessed them grow stronger together over the course of the last twenty-five years. Not only do these two individuals have a strong and successful marriage and family, they have contributed tremendously to both their community as well as State of Michigan and have touched the lives of many.

Once again, I would like to congratulate Clark and Susan on this blessed occasion. I wish them continued happiness and success. I send my warmest regards to the entire Durant family.●

RECOGNITION OF U.S. CUSTOMS FOR OPERATION CASABLANCA

● Mrs. FEINSTEIN. Mr. President, I rise today to commend the U.S. Customs Service and the Departments of Treasury and Justice for one of the most important victories they have had in the war on drugs to date.

I would like to thank Attorney General Janet Reno, Secretary of the Treasury Robert Rubin, and Undersecretary of the Treasury for Law Enforcement Ray Kelly for their leadership in this important endeavor and the two hundred U.S. Customs agents, who put their lives at stake, diligently and tirelessly for thirty months, to establish this necessary beachhead in the war on drugs. It is a testament to the dedication and the ability of our law enforcement personnel that they were able to complete this difficult and dangerous operation.

On Monday, May 18, Secretary Rubin and Attorney General Reno announced the arrests of 112 people involved in illegal drug money-laundering in Mexico, which resulted in the seizure of an anticipated $157 million in over 100 accounts in the United States, the Caribbean and Europe. Furthermore, 4 tons of marijuana and 2 tons of cocaine were seized during this 30-month undercover investigation. The indictments include officials from 12 of Mexico's 19 largest banks, who stand accused of knowingly abetting drug traffickers to launder hundreds of millions of dollars.

As a result of this investigation, for the first time ever, Mexican banks have been directly linked to money laundering and have been indicted as institutions due to their complicity in money-laundering, the significant number of employees involved, the large number of illegal transactions, and the institution-wide profiting from these illegal transfers, which brought a 4–5% fee per transfer. Bancomer, Mexico's second largest bank, Banca Serfin, Mexico's third-largest bank, and Confia, also among the top twenty, were the three banks involved.

This investigation, known as "Operation Casablanca", involved two hundred undercover Customs agents, targeting the Cali cocaine and heroine syndicate in Colombia, the Juarez cartel in Mexico, and the involvement of Mexican banks. Two hundred individuals face arrest warrants as the investigations continue, including warrants issued for the Juarez cartel money manager, Victor Alcala Navarro and one of its leaders, Jose Alvarez Tostado.

I would also like to show my support for the Federal Reserve's issuance of "cease and desist" orders suspending the U.S. operations of Banca Serfin, Bancomer, Banamex, Bital of Mexico and Banco Santander of Spain, because of "serious deficiencies in their anti-money laundering programs." These banks must institute new and tougher controls to resume business in the United States.

Despite Mexico's lax enforcement of its own money-laundering statutes, it is good to see that the United States is not afraid to use its own resources to address this serious problem.

I hope that operations like these will continue to bleed the powerful drug cartels. The American and the international drug war has benefited from this peek into the intricacies of drug-related money laundering.

However, Mr. President, I cannot help but see this latest good news in relation to my concerns about Mexico's insufficient counternarcotics cooperation with the United States. The Mexican government was not informed of this 3-year, extensive investigation until the same morning the press was. Why not? It would seem that this would have been a perfect opportunity to engage in a cooperative law enforcement effort.

The Administration's certification of Mexico for its counternarcotics cooperation in March certainly suggests that a major investigation like "Operation Casablanca" would have been a joint effort. However, the reality is that distrust between U.S. and Mexican law enforcement has strained relations and hurt earlier cooperative efforts.

Undersecretary Ray Kelly, who has been nominated to be the chief of the Customs Service, answered this question in an article of The Washington Post on May 19th. The Mexican authorities were not informed, "Because of fear of compromising the operation and placing the lives of U.S. agents in danger."

Since the announcement of the indictments this week, the Mexican government has made statements in support of this operation, and the Mexican Attorney General indicated that his office will investigate these banks as well.

I just hope that this will result in tougher Mexican laws against drug traffickers and money-launderers and progress toward real cooperation to halt the flow of drugs across our borders, rather than the erratic and insufficient cooperation that we have seen until now. Let the Mexican government take this opportunity to prove their commitment to fighting the spread and profit of drugs. Let this be the start of a new concerted and cooperative effort to rid our countries of this menace.•

NATIONAL FOSTER CARE MONTH

• Mr. CRAIG. Mr. President, I rise in observance of the tenth annual National Foster Care Month, May, 1998—a month when the nation commemorates the outstanding contributions that foster parents make every day to the lives of some of our most vulnerable young people.

Children are our nation's greatest hope and responsibility. Every child deserves a loving, permanent family. Unfortunately, nearly half a million American children find themselves without a family to count on, victims of violence, drugs, or neglect. With the help of foster parents, these children can live in an environment that is safe, stable, and full of love. Yet all too often, the compassion and caring of foster parents go unrecognized.

Let me tell you about an Idaho family who have been foster parents for ten years. Arthur and Janet Mayer have fostered more than 140 boys throughout those years. It is impossible for most of us to imagine—much less imitate—the tremendous commitment of time and energy these fine people have made to their foster children. Later this month, they will be recognized in my state with the Lifetime Achievement to Foster Care Award. I am pleased to express my admiration of Arthur and Janet, and my appreciation for their dedicated service to children and families.

National Foster Care Month gives us an opportunity to commend not only the Mayers, but also the more than 100,000 foster parents across the nation who have opened their homes and hearts to young people in need of temporary refuge. Whether they help 140 children or one, these individuals are making a critical contribution that will resonate long into the future. I hope all of my colleagues will join with me in encouraging families in their own states to participate in the foster care program and applauding the important work of our nation's foster parents.•

TRIBUTE TO DR. D.H. McDONALD—45 YEARS AS COMMUNITY PHYSICIAN

• Mr. KOHL. Mr. President, I rise today to recognize the outstanding career of Dr. D.H. McDonald, who is retiring after 45 years of dedicated service to the health of the people of Winneconne, Wisconsin.

As a young boy growing up during the Great Depression, Dr. McDonald always dreamed of one day being able to take care of others. He took great pride in his father's hard work and accomplishments, and cherished the educational opportunities available to him. His desire to help people, hard work ethic and determination to do his best led Dr. McDonald to serve in the medical corps of the U.S. Army Air Force Command as a hospital administrator during World War II.

During his time at Marquette University Medical School, Dr. McDonald took advantage of every opportunity he had, not only to learn about diverse areas of the medical field, but also to volunteer in the community. He worked at St. Mary Hill Psychiatric Hospital in Milwaukee and volunteered in the disadvantaged areas of Chicago where he made home deliveries of babies under the supervision of specialists.

In 1952 Dr. McDonald established the McDonald Clinic. In an effort to accommodate the needs of the patients, Dr. McDonald used his clinic as a 24 hour, seven days a week walk-in clinic.

Mr. President, Dr. McDonald has remained extremely close to the Winneconne community for over 45 years. Throughout the years, he has contributed to many of the events that have taken place within the community and will always be remembered for his commitment to the health and well-being of the people of Winneconne, Wisconsin.

As he retires from the practice of medicine to the community which he has spent most of his life serving, we wish him the best of luck and thank him for his service.•

MEMORIAL DAY 1998

• Mr. SESSIONS. Mr. President, I rise today to say thanks to those who have gone before us. Monday marks the 130th year of our country's official observance of Memorial Day. It is a day America dedicates to remember all those who fell in defense of this country. On Monday, many across the land will bow their heads in silence for a few moments and remember the patriots of our past.

There is no way to measure the impact on the lives of those who have lost someone to war. Certainly on this Memorial Day, many will mourn the youth and joy of loved ones lost. This is a day for the heroes, known and unknown, who died on the field of battle so we might be free. Mr. President, I salute every soldier, airman, marine, coast guardsman, merchantman and sailor who put themselves in harms way and who forfeited their lives so that members of future generations would have the opportunity to stand in this chamber, on a day like today, and speak without fear.

I have never, nor do I ever wish to know, the fear and suffering that many of these brave men and women surely experienced. It has been said and I would agree, that it is best we leave the understanding of their sacrifice in God's hands—only He can truly know the full measure of what was lost and what was gained. Our responsibility is to acknowledge their sacrifice—to remember that it was made and the reasons for which it was made. Monday, Memorial Day, is the day that our country should unite in one spirit to remember those who purchased the freedom we and our loved ones enjoy.

Former President James A. Garfield, at the first national Memorial Day observance, said "we do not know one promise these men made, one pledge they gave, one word they spoke; but we do know they summed up and perfected, by one supreme act, the highest virtues of men and citizens. For love of country, they accepted death, and thus resolved all doubts, and made immortal their patriotism and virtue."

We should all pause with great gratitude on Monday and look to the future with the greatest of expectations for what the 21st Century holds for us, our children, and our children's children. Our fallen patriots gave everything they had to extend freedom beyond the reach of most of our lifetimes. Mr. President, Memorial Day is not only about remembering the men and women who made the Supreme sacrifice while defending the American way. It is about acknowledging and protecting the ideals they died for, so that their sacrifice shall not have been made in vain.

Brave Alabamians have been among those who have fought so valiantly and are among the hundreds of thousands who died in World War I, World War II, Korea, Vietnam, Lebanon, Panama, Grenada, and the Persian Gulf. They deserve our deepest respect and honor. God bless these fallen heroes. And may God continue to bless the United States of America.•

U.S. AGRICULTURE IMPORT RESTRICTIONS

• Mr. GRASSLEY. Mr. President, I am pleased that last night the Senate approved S. Con. Res. 73, which emphasizes the importance of agriculture in our trade discussions with the European Union. This resolution tells the U.S. Trade Representative two things: The elimination of trade restrictions imposed on U.S. agriculture exports should be a top priority in any trade talks with the E.U. And no trade negotiations should occur, at all, if they will undermine our ability to eliminate these trade restrictions in the next round of ag talks at the World Trade Organization in 1999.

Mr. President, on Monday the president announced in London that the United States and European Union will begin negotiating a new bilateral trade agreement. While I generally applaud any initiative to further reduce barriers to trade, I was dismayed to see agriculture included on the agenda in only a very narrow sense. The many outstanding trade barriers the Europeans have erected to our agriculture exports have been left off the bargaining table.

Currently, the trade in agriculture between the U.S. and E.U. is very one-sided. The Europeans keep out our pork. They keep out our beef. They keep out our feed grains that are genetically modified. Their protectionist policies hurt our farmers. And the Europeans desperately want to keep these policies in place at the expense of our farmers.

So it's understandable why the Europeans want to avoid discussions on agriculture. But I'm surprised the Clinton Administration is willing to move forward with this trade agreement and ignore all the problems we have in agriculture. They appear so anxious to move the trade agenda forward, perhaps to account for their inability to gain fast track authority, that I'm afraid the prospect for further liberalization of agriculture trade will be damaged in the process.

In 1999, a new round of agriculture negotiations are to begin at the World Trade Organization. These negotiations will be critical to setting the rules for global ag trade for the next several years. It is a chance to build on what was begun in the Uruguay Round Agreement—which was the first major trade agreement to address agriculture tariffs, subsidies and nontariff trade barriers.

The United States has much to gain in these talks. We have the most productive, efficient agriculture system in the world. Our farmers can compete with the farmers of any other country. So if trade barriers to ag exports are removed, our farmers will export more of their production, their income levels will rise, rural communities will prosper and the trade deficit will be reduced.

The Europeans, on the other hand, fear open competition in agriculture. They continue to impose high barriers to U.S ag products and to heavily subsidize their own farmers. Many Europeans view the next round of talks as a threat to their agriculture industry. They would rather avoid the negotiations.

So we must use all available leverage to gain concessions from the Europeans. But I'm afraid we will surrender some of our leverage in this new bilateral agreement. In other words, if we give away concessions now, we'll have less leverage when we turn to the ag talks in 1999.

And that would give the Europeans, who don't want free trade in agriculture, the upper hand. And reduce the likelihood that agriculture trade barriers will be eliminated in the 1999 talks. That's what this resolution says. Do nothing that will weaken our negotiating position in 1999.

But the resolution also says something else. It says make the elimination of restrictions on agriculture exports a top priority in any discussions with the European Union. To me, this is just common sense.

The United States has a trade surplus in agriculture products. The rest of the world wants to buy the food and fiber our farmers produce. So there is no doubt that our farmers produce safe, wholesome, high-quality products. Yet the European Union does everything it can to keep these products out of their countries. Products sold all over the world are not allowed into the European Union. So doesn't it make sense that the U.S. would seek to negotiate to remove these trade barriers?

But these barriers are not on the agenda for the upcoming trade negotiations. And I think that is wrong. I think it is unfair to our farmers. It tells them that their issues aren't important. We're just going to sweep them under the rug. And go on to negotiate other trade issues.

Well, Mr. President, now the entire Senate is on record. The Senate has stated firmly: Our farmers deserve better. We will not stand by idly and let you ignore the problems of our farmers any longer.

I hope the administration takes notice of our actions here today. And I hope they immediately press the European Union to put agriculture back on the bargaining table.

Again I thank my colleagues for supporting this resolution.•

A TRIBUTE TO ROSS PENDERGRAFT

• Mr. BUMPERS. Mr. President, I rise today to honor the memory of a long time friend, Ross Pendergraft. He was a good and decent man who helped make his community and State a better place. I extend my condolences to his family and friends, but especially his lovely wife Donnie.

Ross passed away Sunday at the age of 72 in Fort Smith, Arkansas, a city he called home and where he was a former executive vice president and chief operating officer of the Donrey Media Group, which owns five fine newspapers in my State and more than fifty nationwide. Donrey owes its great success in a tough business in large part to the efforts of Ross Pendergraft.

I knew Ross long before I entered public life. He was a man of great personal integrity and professional accomplishment. He was a man of wit, humor, and compassion who made a deep impact on the life of his community. He will be terribly missed by those in the newspaper business and by the thousands of people whose lives he touched not only in Fort Smith but throughout Arkansas.

Born in Abbott, Arkansas, Ross was a World War II veteran, and attended Arkansas Tech University at Russellville on the GI Bill, like so many of us did. In 1948 he joined the advertising staff of the Southwest Times-Record newspaper in Fort Smith, and so began his rise through the ranks of the Donrey organization. In 1961 he was named general manager of the Times-Record and by 1990 he oversaw all Donrey newspapers in the continental U.S. and Hawaii. Three times he was named "Man of the Year" by the Arkansas Press Association.

But he also found the time and energy to serve his community. He was the first vice chairman of the Donald W. Reynolds Foundation, a charitable trust. He was a chairman of the Fort Smith United Way, a president of the city's Chamber of Commerce, a former member of the Arkansas Highway Commission, and he served on the Arkansas

Action Committee as well as countless other civic and charitable organizations.

Ross worked tirelessly to get better roads in western Arkansas and to promote economic development in Fort Smith, which is now among the fastest growing regions in the United States.

Though Ross was a man who oversaw more than 50 newspapers and bought newsprint and printers ink by the ton, he was never one to seek the limelight or use his position for personal aggrandizement. So many of his good works took place quietly, behind the scenes, out of the public eye. He was a man who loved his family, loved his community, and loved the newspaper business. And while my State is diminished by his loss, it has been and will continue to be enriched by the work that he did, the causes he served and the example he set.•

TRIBUTE TO B.L. "BUD" FREW

• Mr. BOND. Mr. President, on January 31, 1998, a long time friend and a true hero of the agriculture world retired. I rise today to pay tribute to B.L. "Bud" Frew who presided over MFA, Inc. for twelve years as President and CEO. Bud has been a most-trusted advisor when it comes to policy and issues that impact production agriculture and rural America.

Bud says that one of the most important accomplishments of his tenure was to instill the idea that everyone has the opportunity to make a contribution to MFA. He felt that the honor in farming had reached a low in the 1970's. Bud took it upon himself single handedly to raise the pride of farmers back to the level of old days when a handshake was a handshake and your word was your word. Maybe that is why he received Missouri Farm Bureau's highest award, Agricultural Leaders of Tomorrow's Recognition of Leadership Award, Ag Leader of the Year from Missouri Ag Industries and Man of the Year for Agriculture from Missouri Ruralist magazine.

He is experienced, wise, practical, honest, reflects the collective commonsense views of rural Missourians' and has the courage to fight for a position that may not be fashionable. Additionally, he has the quality that any doer and great leader has. He knows how to pick his battles and he knows how to win those battles he picks. Those closest to him know that Bud has the two things it takes to be a successful businessman: character and integrity.

I am sorry to see him go because he has been a hero for MFA and a critical leader for Missouri agriculture. However, besides all this, Bud is my friend so I am glad that he may have some time for himself and his family. I hope I am on his fishing invitation list. However, I warn him that he will still be called upon by me and my staff when the tough questions arise. On behalf of rural Missouri, I say to Bud, congratulations and thanks.•

IN ANTICIPATION OF THE UNIQUE SOUTH DAKOTA-MANITOBA EXCHANGE CONCERT

• Mr. DASCHLE. Mr. President, I would like to honor the concert band from Tulare High School in Tulare, South Dakota, and the Garden Valley Collegiate school in Winkler, Manitoba, Canada for their participation in a special spring concert to be held in Manitoba on June 2.

This is an exciting opportunity for these band members and students to reach across the North American border, and together, promote the exchange of culture and ideas. The concert promises to be a very celebrated event, which should build bridges between these schools for a long time to come.

I would like to recognize the leadership of Sam Glantzow, band director at the Tulare High School. He has dedicated so much time and effort into seeing this important exchange take place. Also, I would like to thank Paul Moen, band director, and Karl Redekop, principal, from the Garden Valley Collegiate School. By extending an invitation across the border into South Dakota, they have made an important contribution to international dialogue and understanding. I admire these teachers and administrators for providing their students such a creative and unique opportunity.

I wish the students and teachers the best of luck for a beautiful and successful concert.•

THE IMPORTANCE OF SCIENCE AND TECHNOLOGY TO AMERICA'S FUTURE

• Mr. FRIST. Mr. President, as a physician and surgeon, I've had the opportunity to witness everyday the remarkable difference that medical science and technology have made in people's lives.

In just the short space of time that I've been practicing medicine—less than 20 years—I've seen how the products of medical research and development—lasers, mechanical cardiac assist devices, mechanical valves, automatic internal defibrillators—have not only saved but vastly improved the quality of hundreds of thousands of lives every year.

And as a physician, I can envision a future in which science and technology will roll back the current frontiers of medical knowledge, identify the causes, and eliminate most of the effects of the diseases that now plague mankind. It's absolutely astounding to contemplate.

However, as a Senator, I've been afforded a different opportunity. And that's the opportunity to see, and learn, and understand — not just medicine—but America. And, as a Senator, I can envision the difference that science and technology will make in the life of our Nation.

Mr. President, as a country of immigrants we are a people drawn from diverse backgrounds and ideas. And there is no doubt that this unique amalgamation is one source of our remarkable strength and resiliency. But as diverse as our individual heritages are, a common thread runs through all of us. That thread is our common heritage as Americans, and it unites and strengthens us as well.

Our forefathers came to this land to build a new life. Not surprisingly, they in turn created a nation of builders. We build homes. We build communities. We build factories and businesses. But most of all, Mr. President, we build futures—because we also build hope.

As a people, Americans rise to a challenge. And as a nation —to every challenge we've ever faced. At no time was this more apparent than during World War II when we were forced to make drastic sacrifices to survive. The legacy of those choices has driven our economy and our policies ever since, and one of those legacies is the federal investment in science and technology.

Science and technology have shaped our world in ways both grand and small. We've put men into space and looked into the farthest corners of the known universe. We've broken the code of the human genome and begun to dismantle previously incurable disease. We've created a virtual world and a whole new realm called cyberspace. Yet, technology also surrounds us in millions of little ways we no longer even notice: the computers that run our cars; the cellular phones that keep us in touch; the stop lights, the grocery store checkouts, the microwaves that help our lives run smoother and faster.

In my Senate office alone, technology has made a tremendous difference—both in terms of helping me keep in touch with the people of Tennessee, and by helping them access important information.

For example, while in the past Senators kept in touch by phone, letter, and trips to the state, today I regularly schedule video conferences with Tennessee schools—from the elementary to the university level. In March I spoke to the entire student body of George Washington Elementary School in Kingsport. Certain students were selected by their teachers to ask questions, and the rest watched on closed-circuit television. In April, I visited with students from Austin Peay State University in Clarksville. So, it no longer takes a week-end to speak with my constitutents face-to-face. At 11:50 that morning I was voting on the floor of the United States Senate; at noon, I was having a conversation with students in Tennessee.

And thanks to the Internet—another remarkable product of federal research funds—this one funded by DARPA (Defense Advanced Research Projects Agency)—my Senate Website not only allows me to share my voting record, press releases, and speeches with constituents, it allows them to voice their opinions and concerns and ask questions about issues before the Senate.

Our office also uses a digital camera—which allows photographs to be downloaded, printed, and disseminated almost instantly. On a recent trip to Bosnia, for instance, I took pictures of our troops from Tennessee, downloaded them into my laptop, e-mailed them to local newspapers in Tennessee, as well as to my Washington office where they were posted on the Web for all to see. The whole process took only a few minutes.

As we can see, today's world runs on technology, and through its investment in research and development, the federal government has played a significant role in creating it. In fact, more than 56 percent of all basic research is produced with federal funds.

Much of our economy runs on technology as well. Half of all U.S. economic growth is the result of our technical progress. Technology helps provide new goods and services, new jobs and new capital, even whole new industries.

Developments in chemicals technology, for example, have lead to the production of new petrochemicals, agrochemicals, food and pharmaceuticals, and advanced health care materials such as those used in skin grafts.

Information technologies have spawned whole new industry segments in cellular communications, electronic commerce, and global information access.

The space imaging and remote sensing technology that produced the U.S. Global Positioning System, has in turn become a core technology in several industries key to the U.S. economy, including agriculture, aviation, construction, land use, transportation, and mining. And those industries have themselves produced dramatic advancements. In agriculture alone, GPS-enabled precision farming has allowed more limited applications of pesticides and fertilizers, which in turn have resulted in less environmental damage at lower costs with more precise crop yield determinations.

Without a doubt, technology is the principal driving force behind our long-term economic growth and our rising standard of living. In fact, according to the Office of Science and Technology Policy (OSTP), technology is the single most important factor in sustained economic growth. Not only is the performance of U.S. businesses and their contributions to economic growth directly linked to their use of technology, but as cited in a study conducted by the Department of Commerce, manufacturing businesses that used eight or more advanced technologies grew 14.4 percent more than plants that used none—and, production wages were more than 14 percent higher.

For any who might still remain unconvinced that our federal investment in science and technology has not produced phenomenal returns, let me give just two quick examples.

Over the last three decades, the Department of Defense has funded $5 billion in university research in information technology. Those programs alone created one-third to one-half of all major breakthroughs in the computer and communications industries. Today, those businesses account for $500 billion of GDP—a return on our investment of 3,000 percent! In fact, studies of just one university alone—MIT—found that in Massachusetts MIT grads and faculty founded over 600 companies that produced 300,000 jobs and $40 billion in sales. In Silicon Valley, MIT grads founded 225 companies which produced 150,000 jobs and more than $22 billion in sales.

In one industry alone—biotechnology—government's $43 million annual investment has not only produced the human capital of the biotech industry—scientists, engineers, managers—and new knowledge that's led to an understanding of the molecular basis of disease, but also new companies and new wealth. To, again, use MIT as an example, in Massachusetts alone, MIT-related companies have produced 10,000 new jobs, $3 billion in annual revenues, and 100 new biotech patents licensed the U.S. companies that have induced investment of $650 million. Those companies now produce nine of the 10 FDA-approved biotech drugs that stop heart attacks and treat cancer, cystic fibrosis and diabetes, and we've only just begun to tap the potential returns of this rapidly advancing new field.

But universities are not just the fountainhead of innovation. They are the wellsprings that provide the intellectual underpinning of future progress. They train the people who will translate new discoveries into new products and processes and industries.

For example, Jennifer Mills, a physics undergraduate from Portland, Oregon, wrote much of the computer code responsible for the remarkable images sent back to Earth by the Hubble telescope. James McLurkin, an undergrad engineer, created a tiny robot that may well revolutionize certain kinds of surgery—enabling surgeons to operate inside the body without ever touching the patient!

AMERICA'S INVESTMENT IN SCIENCE AND TECHNOLOGY MUST CONTINUE

Clearly, America's investment in science and technology must continue. The two central questions that Congress must ask and answer, however, are: (1) Will science and technology continue to be as great a Congressional priority in the future as it has been in the past; and (2) Will the kind of financial investment necessary to sustain future progress ever be possible in light of our other growing financial commitments?

Mr. President, the history of the last five decades has shown us that there is a federal role in the creation and nurturing of science and technology, and that—even in times of fiscal austerity—that commitment has been relatively consistent.

However, the last three decades have also shown us something else: fiscal reality. The simple truth is there's just not enough money to do everything we'd like to do.

It took some time for us to realize that, and by the time we did, we found ourselves in a fiscal situation that is only now being addressed. And—budget surpluses notwithstanding—discretionary spending is under immense fiscal pressure.

One only has to look back over the last 30 years to confirm the trend. In 1965, mandatory federal spending on entitlements and interest on the debt accounted for 30 percent of the federal budget. Fully 70 percent went toward discretionary programs—research, education, roads, bridges, national parks, and national defense.

Today— just 30 years later— that ratio has been almost completely reversed: 67 percent of the budget is spent on mandatory programs and interest on the debt; leaving only 33 percent for everything else, including research. In fact, total R&D spending today as a percentage of GDP is just .75 percent—as compared to 2.2 percent in the mid-1960s when superpower rivalry and the race to space fueled a national commitment to science and technology. As the BabyBoom generation begins to retire and the discretionary portion of the budget shrinks even further, this situation will only grow worse.

Thus, Mr. President, we have both a long-term problem: addressing the ever-increasing level of mandatory spending; and a near-term challenge: apportioning the ever-dwindling amount of discretionary funding.

The confluence of this increased dependency on technology and decreased fiscal flexibility has created a problem too obvious to ignore: Not all deserving programs can be funded; Not all authorized programs can be fully implemented.

In other words, Mr. President, the luxury of fully funding science and technology programs across the board has long since passed. We must set priorities.

FRIST VISION FOR THE FUTURE: HOW WE ENSURE FEDERAL SUPPORT FOR SCIENCE AND TECHNOLOGY

Mr. President, I commend my colleagues, Senators GRAMM, LIEBERMAN, DOMENICI, and BINGAMAN, for commencing a debate on funding for science and technology that is long overdue. I firmly believe that Congress must reaffirm our national commitment to science and technology, and redouble its efforts to ensure that funding is not only maintained but increased. However, I also believe that funding levels alone are not the answer.

What we really need, Mr. President, is a strategy for the future—a vision that not only provides adequate levels of funding, but ensures that that funding is both responsible and sustainable over the long term.

I believe we do it by establishing and applying a set of first or guiding principles that will enable us to consistently ask the right questions about each competing technology program; focus on that program's effectiveness and appropriateness for federal funding; and most importantly, make the hard choices about which programs deserve to be funded and which do not. Only then can Congress be assured that it has invested wisely and well.

What are these first principles? There are four:

First, federal R&D programs must be good science. They must be focused, not duplicative, and peer-reviewed.

Because there is strength in diversity, they must support both knowledge-driven science—which broadens our base of knowledge and advances the frontiers of science; and mission-driven science requirements—which push the state-of-the-art in specific technology fields.

Second, programs must be fiscally accountable. Especially in today's fiscal environment, wasteful administrative habits can't be tolerated.

Third, they must have measurable results. Programs must achieve their aims. Their effectiveness must be evaluated— not on the basis of individual projects which can have varying rates of success — but on basis of the entire program.

Fourth, they must employ a consistent approach. Federal policy must be applied consistently across the entire spectrum of federal research agencies. High quality, productive research programs must be encouraged regardless of where they are located.

Accompanying the four first principles, are four corollaries:

(1) Flow of Technology. The process of creating technology involves many steps. However, the current federal structure clearly reinforces increasingly artificial distinctions across the spectrum of research and development activities. The result is a set of programs which each support a narrow phase of research and development, but are not coordinated with one another.

Government should maximize its investment by encouraging the progression of a technology from the earliest stages of research up to commercialization, through funding agencies and vehicles appropriate for each stage. This creates a flow of technology, subject to merit at each stage, so that promising technology is not lost in a bureaucratic maze.

(2) Excellence in the American Research Infrastructure. We must foster a close relationship between research and education. Our investment at the university level creates more than simply world class research. It creates world class researchers as well. We must continue this strong to a research infrastructure, and find ways to extend the excellence of our university system to primary and secondary educational institutions.

(3) Commitment to a Broad Range of Research Initiatives. Revolutionary innovation is taking place at the overlap of research disciplines. We must continue to encourage this by providing opportunities for interdisciplinary projects and fostering collaboration across fields of research.

(4) Partnerships among Industry, Universities, and Federal Labs. Each of these has special talents and abilities that complement the other. Our federal dollars are wisely spent by facilitating the creation of partnerships, in effect creating a whole that is greater than the sum of its parts.

These first principles and their four corollaries, Mr. President, provide a framework that will not only guide the creation of new, federally funded research and development programs, but validate existing ones. Taken together, they create a powerful method for elevating the debate by increasing Congress' ability to focus on the important issues; decreasing the likelihood that it will get sidetracked on politically-charged technicalities; and ensuring that federal R&D programs are consistent and effective. They will also help us establish both a consistent set of national goals, and a vision for the future.

LOOKING TO THE FUTURE

However, Mr. President, even if we are to accomplish all that we hope— in terms of setting and fully funding our current science and technology priorities, creating a vision for the future, and developing a strategy for attaining it—our work will still be incomplete if we fail to accomplish one more thing: We must prepare the next generation for the century to come.

We must create a scientifically-literate work force capable of prospering in a world not only driven by a science and technology economy, but dependent upon science and technology excellence.

Yet as evidenced by the results of the latest TIMSS (Third International Math and Science Study) study, America's high school seniors are among the industrial world's least prepared in math and science. And in math and physics, no nation performed more poorly than the United States.

Why? Part of the reason is teacher qualification—28 percent of all high school math teachers, and 55 percent of all physics teachers neither majored nor minored in these subjects.

Part of the reason is unrealistic curricula—which forces teachers to teach a little bit of everything, but nothing in depth.

Part of it has to do with textbook publishers who seem to be more concerned with continually adding new material than with advancing students' skills.

And part of it, no doubt, has to do with the fact that, in many cases, we simply have not fostered in our children the same spirit of wonder that was fostered in us.

Mr. President, it's time to, once again, get America excited about science.

It's time we recovered our heritage, and became again a nation of people who build the future—a future filled with hope and promise.

And it's time we inspired the next generation to continue the process of exploration and innovation that made America possible in the first place, and that will take her into a 21st century future brighter than any point in her past.

Mr. President, as a physician, as a scientist, as a Senator, those are my goals. I hope they are the goals as well of every Member of this body. For whether we, as a nation, use and develop the knowledge we gain to its highest potential for the benefit of ourselves, our Nation, and our fellow man depends, in large measure, on whether we are able to achieve them.

Mr. President, I thank the chair.

MEMORIAL DAY

• Mr. ROCKEFELLER. "A nation reveals itself not only by the men it produces but also by the men it honors, the men it remembers." What better way to pay tribute to America's veterans on this Memorial Day than to quote our former President, John F. Kennedy. He knew then, in 1963, that it was imperative we honor and remember our veterans, as we should know today. We must not forget the sacrifices of the many men and women who gave so much for the sake of this great country, and we must honor them with our gratitude.

I stand before you today to salute these veterans. In my home state of West Virginia, generations of veterans have served in the Armed Forces, and many have lost their lives. This country would not be the world power that it is today had it not been for these men and women who fought so bravely. Let us not just know that this day is Memorial Day, let us take a moment to put names, faces, on these veterans. Husbands, wives, mothers, fathers, and children. Friends to us all; friends who fought for our freedom. Freedom that we share every single day of our lives.

Freedom that makes America as great as it is.

Stand proud when you see the American flag waving high in the air. Sing along to the Star Spangled Banner. Nod your head in respect when you pass by a veterans' cemetery. Behind these symbols of America are the people who have made them so remarkable, the veterans of this country. They deserve our gratitude on this day and everyday.

So many veterans gave their lives for this Nation. We cannot forget what they did for us. The lives that were lost and the lives that were changed forever. It does not matter whether they served in combat or peace time. Each left behind familiar surroundings, undertook risks, and faced the unknown. We should honor them all for their courage. They joined the Armed Forces of this country to defend and protect it, to make it safe for their, and our, loved ones.

We vowed to take care of our veterans when they returned home to us. In many ways, we have, by setting up a benefits program and a health care system, creating two Committees in Congress to oversee these efforts, devoting enormous amounts of resources to their health and well being. But I am forced to say that the recent record of this administration, and of many in Congress, has deteriorated in the area of protecting veterans' benefits. Our commitment to meeting the needs of veterans has been eroded, and we can and must do better. There are still many areas that need improvement. It is not a perfect system. We must strive to better it and not let any of our veterans be shortchanged of the benefits and care they so dearly earned and deserve.

I would like to speak about just a few of the ordeals that our veterans have had to face after their return from service. I do this to acknowledge these problems and to pledge to continue in my fight for solutions.

Gulf War veterans. Even though the war is over, many are struggling with illness, often undiagnosed, but nevertheless debilitating. Seven years have passed since the end of the Gulf War, and DOD and VA still do not know what is wrong with the veterans who fought in this war. We need to be able to answer the questions of "How many veterans are ill?" and "Are our ill veterans getting sicker over time?"

We also need to provide a permanent statutory authority to compensate these veterans. That is why I have introduced legislation, S. 1320, that targets these important issues. It took our government 20 years after the Vietnam War to assess the effects of Agent Orange and 40 years after World War II to concede the problems of radiation-exposed veterans. We must learn from the lessons of the past and act. We cannot allow our Gulf War veterans to keep waiting for the benefits and care that they earned seven years ago.

Or take atomic veterans, who were exposed to ionizing radiation during service. I have serious concerns about the way atomic veterans' claims are being handled and the way regulations to administer those claims are being created. These veterans were intentionally placed in harm's way, sworn to secrecy, and abandoned by their government for many years. It is critical that we search for a better way to address their compensation claims.

I recently cosponsored legislation that would authorize health care for veterans treated with nasopharyngeal radium irradiation, veterans who have so far been excluded from access to VA services. These veterans, primarily Navy submariner and Army Air corps pilots, received nasopharyngeal radium treatments in the 1940's and 1950's to treat and prevent inner ear problems that developed due to the inadequate pressurization of their respective vessels. Unfortunately, the health effects of the treatments that were given to these veterans are unknown. However, when such high levels of exposure are sustained, we must be concerned about long-term health effects, and thus, we have a responsibility to ensure these veterans' access to health care. Simply put, it is the right thing to do.

We owe these veterans. They risked everything for us—their health and sometimes even their lives. We should, at least, give them appropriate research, health care, and compensation. At least.

An important issue concerning veterans at this time is the VA budget for benefits and health care. I would like to share with America where these issues stand.

First, the benefits side of the budget. The administration this year requested a very modest increase of $565 million in funds for benefits payments, just what is needed to cover cost-of-living allowances. VA has also requested $850 million—$63.5 million above the FY 98 level—for the account that funds the administration of nonmedical benefits. Although these amounts appear to be an increase, VA's benefits delivery staff will lose 45 FTE. In a time when it takes VA 157 days to decide a new compensation claim, and years longer in appeals cases, it concerns me greatly that VA is seeking funds that will not allow it even to maintain, at the very least, its current level of staffing.

I am particularly troubled by the proposal by the administration, adopted this very day by the Congress, which cut $10.5 billion from the veterans' benefit account over the next five years. This was done by removing VA's existing authority to pay compensation to veterans who suffer from tobacco-related illnesses, based on the nicotine dependence they developed while in the service. The money saved from cutting this benefit will be put into more highway spending.

Although I support a strong highway bill, I firmly believe that it should not be funded by cuts in veterans benefits, particularly a program cut that totally bypassed the Senate Committee on Veterans' Affairs. That is why I offered an amendment to the Budget Resolution to protect the funding to the veterans account. Unfortunately, my amendment was defeated by a vote of 52–46.

On the health care side, the VA budget request for medical care is $30 million less than last year. The base appropriated funding level of $17.03 billion would be supplemented by approximately $560 million from veterans' copays and collections from insurance companies. When the base funding level is combined with these collections, the VA health care system would have $17.6 billion to spend next year—approximately what it is spending this year. Unfortunately, this flatlined budget makes no allowance for cost-of-living increases for VA employees and other rising costs due to inflation.

The VA health care system is a system in transition. Recent changes in lines of authority, resource allocations, and methods of health care delivery, as well as downsizings and facility integrations, have buffeted the system. While all this reorganization is underway, I am concerned that VA have good systems in place to ensure that high quality health care is the standard practiced at all VA facilities, regardless of where they are located around the country. I will continue my efforts to make sure that VA, as the nation's largest health care provider, upholds the highest standards of quality of care.

What is clear is that we still have a lot of work to do for our veterans. We have come a long way, but there are still many miles to cover.

They promised us they would risk their lives. We promised them we would take care of them. Caring for our veterans is the least we can do.

On this day, ladies and gentlemen, be proud of the men and women—veterans and service members from every branch and action—who have served our nation with courage. And, my colleagues, match your pride with a pledge to maintain the nation's commitment to them.

Veterans have earned our respect and admiration. I am committed to upholding their honor the offering them the thanks they so richly deserve. I ask you, America, to do no less.•

LEHIGH VALLEY HOSPITAL AND HEALTH NETWORK

• Mr. SANTORUM. Mr. President, I rise today to recognize Lehigh Valley Hospital and Health Network, along with the American Nurses Association, who declared May 6–12 National Nurses Week 1998.

The theme of the week, "Nursing: Health Care With a Human Touch," was in commemoration of the ways in which registered nurses strive to provide safe and high quality patient care and find ways to improve our health care system.

The 2.2 million registered nurses in the United States comprise our nation's largest health care profession. The far-reaching duty of the registered nursing profession is to meet the emerging health care needs of the American population, while registered nurses' education focuses on restoring and maintaining the health of the individual.

Registered nurses will continue to be an important component of the U.S. health care system. They play an integral role in the safe, quality care of hospitalized patients, as well as contributing to the growth of home health care services and advancements in life-sustaining technology.

Mr. President, I commend Lehigh Valley Hospital and Health Network and the American Nurse Association for honoring National Nurses Week 1998. I ask my colleagues to join with me in recognizing the registered nurses who care for us all.•

PORT ARTHUR, TEXAS—CENTENNIAL RECOGNITION

• Mrs. HUTCHISON. Mr. President, on May 29th, I will be in Port Arthur, Texas, helping to celebrate the City of Port Arthur's Centennial Day Celebration as well as the tenth anniversary of the Golden Triangle Veterans' Memorial Park. Port Arthur, a city born at the dawn of the 20th century, enters the 21st century confident in its stride as a growing and vibrant community on the Texas' Gulf Coast, not far from my home town of La Marque. Port Arthur, a corner of what some call Texas' Golden Triangle, plays a key role in our national security by contributing to our energy independence through its oil exploration and petroleum refining activities. Nearly every American has benefited from the products that enter the world market from Port Arthur—petrochemicals and oil in particular.

The City of Port Arthur is named for Arthur E. Stillwell, originally of Rochester, New York. In 1895, Mr. Stillwell was searching for a site for the southern terminal of his proposed railroad from Kansas City to the Gulf of Mexico. He chose a site on the north shore of Lake Sabine, where Port Arthur stands today. The railroad to Port Arthur, which eventually became known as the Kansas City Southern Railroad, was completed in 1897. The city of Port Arthur was incorporated on May 30, 1898, one hundred years ago this month.

The next year, the original ship canal to the Gulf was opened. Today, cargo tonnage out of the Port of Port Arthur averages about 23,000,000 tons per year. But it was on January 10, 1901, that the destiny of Port Arthur changed forever when a well dug by Anthony Lucas at Spindletop, only ten miles away from Port Arthur, struck black gold. Nearly a million barrels of crude oil are refined in the area daily, justifying Port Arthur's claim—"We Oil the World."

Today, Port Arthur is the home of three major refineries and the still important terminus of the Kansas City Southern railroad. The town of one thousand people a hundred years ago has grown to almost 60,000, and a diverse economy guarantees Port Arthur's growth into its second century. In addition to its energy industries, Port Arthur has become a year-round fisherman's paradise where thousands of anglers catch more than twenty-five varieties of freshwater and saltwater fish. Other popular local attractions include the Museum of the Gulf Coast, the McFaddin and Texas Point National Wildlife Refuges, the Sabine Pass Battleground State Historical Park, and Sea Rim State Park.

I'd like to talk for a moment about the tenth anniversary of the Golden Triangle Veterans' Memorial Park, which we will also be celebrating next week. This is the only park in the United States that recognizes all veterans, including those that served during times of peace. It was built by members of the community, financed and constructed through donations and over 55,000 volunteer man-hours. The park contains walls of honor for all our nation's past wars. The park's ten-year anniversary celebration is part of a week's worth of activities recognizing the Port Arthur Centennial.

I want to congratulate Jefferson County Judge Carl Griffith, Port Arthur Mayor Robert Morgan, Jr., and the people of Port Arthur on this historic occasion. Together, we look forward to what their community will accomplish in the next 100 years.•

RECOGNIZING PETE LYONS UPON RECEIVING A NEW MEXICO DISTINGUISHED PUBLIC SERVICE AWARD

• Mr. DOMENICI. Mr. President, every year, New Mexico recognizes some of their own citizens who have contributed to their communities in extraordinary ways. Today, along with the citizens of New Mexico, I am grateful for this opportunity to recognize Dr. Pete Lyons for his civic service. As a Legislative Fellow in my office he serves as my science advisor and during his time with me, I have benefitted from his good advice and diligent work.

Service to one's community can be expressed in many different forms. However, it is rare to find someone as dedicated to so many diverse activities as Pete Lyons. He is a 29-year employee of Los Alamos National Laboratory while serving for 16 years on the Los Alamos School Board. Whether it is his scientific work, his initiative to help rural communities, his dedication to education and young people, or his work to improve policy in the international area, Pete shows the same integrity, insight and old-fashioned hard work.

Pete moved to New Mexico 29 years ago to work for the Laboratory as a technical staff member. He went on to serve in a number of management positions. In his career at the Lab he was the first Director of the Industrial Partnership Office where he expanded and created programs to encourage economic diversity in Northern New Mexico. He continued efforts to improve cooperation with the surrounding community through the Lab's office of Regional Economic Development and Technology Commercialization Office. Through a wide range of critical projects involving issues from telecommunications infrastructure, to telemedicine capability to improve rural health care, to technical assistance for water quality his work has been hallmarked by a dedication to the entire community both related and unrelated to the Laboratory. Since the Lab's beginning during World War II, it has been a stark contrast to the economy and cultures of the surrounding region. Through this work, Pete has helped to bridge that gap to begin a new era of cooperation and interaction for the Laboratory and the nearby communities.

In addition, I believe his service that is the most commendable is his active involvement in education. Pete recognizes that our children's future, our nation's future, is dependent upon the quality of our education system. During his sixteen years on the Los Alamos School board, he was instrumental in helping to create University of New Mexico-Los Alamos Branch College. He represented the Laboratory during negotiations with the local school district to form a foundation to provide financial support from the Lab and the Department of Energy to provide financial support for school districts where lab employees lived. During his time in my office, he has worked to bring attention to our nation's need to improve science and technology education so that America will remain competitive well into the next century.

Pete also knows that personal involvement can mean so much to young people. He has spent several years coaching soccer, sponsoring Boy Scouts, and serving as deacon in his church.

In a sense, Pete continues his civic service as a congressional fellow in my office. Over the months, he has proven to me his immense value to New Mexico and the nation. Whether the issue be rural economic development or nuclear non-proliferation, Pete brings thoughtful knowledge and keen insight to the table. He is willing to tackle controversial issues with a open mind and commitment to truthful dialogue.

I hope my colleagues will join me and my fellow New Mexicans to recognize this remarkable American.•

FRANCES C. RICHMOND MIDDLE SCHOOL: BLUE RIBBON SCHOOL

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate the students, teachers, and staff of the Frances C. Richmond Middle School in Hanover, New Hampshire for being recognized by the United States Department of Education as a Blue Ribbon School.

Blue Ribbon status is awarded to schools that have strong leadership; a clear vision and sense of mission that is shared by all connected with the school; high quality teaching; challenging, up-to-date curriculum; policies and practices that ensure a safe environment conducive to learning; solid evidence of family involvement; evidence that the school helps all students achieve to high standards; and a commitment to share best practices with other schools. This honor is vigorously sought by thousands of schools across the nation, and only 166 schools are so recognized.

The Richmond School is part of the Dresden School District, the first interstate district in the United States. The school educates sixth graders from Hanover, New Hampshire, and seventh and eighth graders from both Hanover and Norwich, Vermont.

The curriculum of the Richmond School focuses on the academic, social and developmental transitions which take place at each grade level. Special care is taken as the Hanover sixth graders move from elementary to middle school, as the Norwich seventh graders join them one year later, and as the eighth graders take their place as school leaders and begin planning for high school. The Richmond School takes pride in the fact that students have individual schedules built around their choices for academic and elective courses. A foundation of their program is the fine and practical arts program, which allows students to choose from over 25 elective courses each quarter. Community service is required for all eighth graders to introduce students to the pleasures and responsibilities of contributing to their community.

The school has grown from 286 students to 460 students in the past ten years, and this has presented the school with a number of challenges. A creative and challenging administrative response to the growing student population has been to divide leadership roles among the staff. Rather than simply hiring assistants in the central office, the administration asked teachers and other professionals to take on the role of leadership in budget development, curriculum articulation, school climate and technology planning. These initiatives on the part of the staff have resulted in lively staff debates, enriched staff development opportunities, better communication from grade to grade, and more frequent interaction with parents and community.

As a former teacher and school board chairman, I recognize the challenges involved in providing students a quality education. I commend the teachers and staff for their effort and innovation that have built a top-notch school. I am pleased that they have been recognized for their success, and it is with great pride that I represent them in the United States Senate.•

HOOSIER HERO TRIBUTE TO ROBERT MOHR

• Mr. COATS. Mr. President, I take this opportunity to recognize Robert Mohr of Peru, Indiana, for his outstanding accomplishment this past week.

You see, Mr. President, on May 12, 1998, Mr. Mohr, a conductor for Norfolk Southern railroad, and engineer Rod Lindley were guiding their 96-car freight train through a residential area of Lafayette, Indiana, when they noticed a small child on the train tracks. With only a short distance between the train and the child, these men slowed the train to 10 mph and blasted the horn, but 19-month-old Emily Marshall still remained on the tracks.

Robert Mohr acted immediately and selflessly. Risking his own safety, he climbed onto the front of the train, reached out, and pushed the toddler out of harm's way. Thanks to Robert's quick reaction, Emily Marshall was returned to her family with only a cut on her head and a swollen lip.

Mr. President, I commend Robert Mohr for this brave and selfless act, and that is why I am honoring him as a Hoosier Hero.

I began the Hoosier Hero award in order to single out Hoosier men and women who have made significant contributions to Indiana history or life, while at the same time serving as an inspirational example for the entire nation. I can think of no greater contribution to life than preserving the life of a small child, such as young Emily.

Emily Marshall, an innocent toddler who wandered onto the train tracks, will probably not realize for several years what Robert Mohr did for her. However, through Robert Mohr's courageous act, Emily now has the opportunity to grow healthy and strong. Emily's future is a bright one, full of promise because of the heroic decision Robert made on that spring afternoon.

Thank you, Robert Mohr, for your courage, your bravery, and your selfless act of saving the life of young Emily Marshall. You are an inspiration to all, a true Hoosier Hero.•

NATIONAL MUSICIANS WEEK

• Mr. THOMPSON. Mr. President, it gives us great pleasure to bring to the Senate's attention one of the new premier events in the world of music: Chet Atkins' Musician Days.

Known by many as "Mr. Guitar," Chet Atkins is the most recorded solo instrumentalist in music history. As a studio musician, his work has gilded the records of artists from Elvis Presley to the Everly Brothers to Hank Williams. Chet has been named Musician of the Year nine times by the Country Music Awards and has won thirteen Grammies, more than any other artist in the history of country music.

Now it's no secret that the State of Tennessee has provided the world with more than its share of great music, from the blues of Memphis' Beale Street to the bluegrass of Appalachia to the country sounds of Nashville. But it's also true, even in Tennessee, that we sometimes forget the performers who stand just outside of the spotlight, the musicians who accompany the stars but rarely take center stage. That gave Chet Atkins an idea: organize an event to honor the musicians, or, as Chet puts it, "the people who make the singers sound good!" I now yield to my colleague from Tennessee.•

• Mr. FRIST. And so, an idea was born. Last June, Nashville saw the debut of Chet Atkins' Musician Days, a celebration of the contribution of musicians from around the world in every genre of music. Over four days, a total of 169 acts comprised of 604 artists from seven countries performed at 43 venues throughout the city. From a star-studded concert featuring 90 performers at the historic Ryman Auditorium, former home of the Grand Ole Opry, to a myriad of informal acoustic jam sessions at smaller stages all over the city, it was an event that few will soon forget.

A big part of Musician Days is its focus on the future of music. Throughout the festival, budding musicians are encouraged to bring their instruments for impromptu sessions with the pros. Proceeds from last year's inaugural event went to the Chet Atkins Music Education Fund, to be distributed to organizations that encourage the musical education of our nation's young people.

The success of Chet Atkins' Musician Days in 1997 led to plans for an even bigger event this year. Next month, thousands of music lovers will again descend upon Music City USA for several days of first-rate concerts, musical workshops, and good fellowship. As we anticipate this year's repeat performance, it seems fitting for us to proclaim the week of June 22–28 as "National Musicians Week" in honor of these silent heroes, the players behind the stars, and the critical role they play in the musical legacy we all enjoy.●

RECOGNITION OF MELINDA HUBBARD

● Mr. SMITH of Oregon. Mr. President, I rise today to recognize the outstanding academic achievement of a resident from my home state of Oregon, Ms. Melinda Hubbard. A senior at Country Christian High School, Melinda was recently named as the Oregon State Winner of the Citizens Flag Alliance Essay Contest for her essay entitled "The American Flag Protection Amendment: A Right of the People * * * the Right Thing to Do."

I agree with Melinda that the time has come to protect our nation's flag with a Constitutional Amendment. I am requesting that her essay be printed in the RECORD immediately following my remarks so that every American can have the opportunity to read it.

In addition, I have requested the Sergeant at Arms Office to fly a flag over the Capitol on Flag Day, June 14, 1998, in recognition of her achievement.

The essay follows.

THE AMERICAN FLAG PROTECTION AMENDMENT: THE RIGHT OF THE PEOPLE . . . THE RIGHT THING TO DO

(By Melinda S. Hubbard—A Senior at Country Christian High School)

The American flag. The stars and stripes. Old Glory. The Star-Spangled Banner. All of these are names for the most widely known symbol of our great nation. These are names that have inspired patriotism in many people. But what do they mean to us now?

In years gone by, many people have sacrificed their lives for the principles upon which the United States of America was founded and for which our flag is a symbol. The flag is a symbol of what our nation was as well as what it has become. Because of this symbolism, the flag of the United States of America should be honored and respected. This is why a flag protection amendment is necessary.

The United States of America has long been viewed as the greatest country in the world, not only by its citizens, but by many other nations as well. Part of the reason that it is viewed thusly is due to the fact that its Constitution and form of government have survived for so long. While it is true that America is a relatively young country when compared with European nations, America has known a stability that few other nations have known. Consider France or Italy. In the past two hundred years, France has experienced seven completely different forms of government, and Italy has seen fifty-one forms. The stability of the United States comes from our nation's foundation, which was on the principles and morals of the Christian men who founded our great nation.

In his farewell address on September 19, 1796, George Washington said, "Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable supports . . . 'Tis substantially true, that virtue or morality is a necessary spring of popular government." Before we are able to look at what our nation symbolizes, we must first look to the men who founded it. They were the Puritans. But what were the Puritans looking for? The Puritans were looking for a land of freedom, a land where they could worship their Lord and Savior as they believed He should be worshipped. It was for this reason that they fled England. They wanted a country whose churches could not be dictated to by the nation's leaders. Not only were they looking for a country where they would be allowed to worship, but they were looking for a land where they could speak out against what contradicted their beliefs and where they could have a voice in who was to lead their country. For these reasons, they toiled in a new land, carving their homes from wilderness. Without the discipline, mortality, and virtue of the founders, our nation's government would not have endured for as long as it has.

For more than two hundred years, the United States has been a land of freedom and opportunity, thanks to the diligence of its founders. But with those same freedoms and opportunities comes responsibility, a responsibility to the memories of each and every man, woman, and child that has given a part of their life as a sacrifice for their country. This responsibility is one that, as America grows stronger and more prosperous, few wish to share.

Since the time when everyone held the same beliefs and moral standards, people's convictions and ways they are taught have changed. The citizens of the United States are now being taught to believe many opposing codes of conduct such as "There's no definite right or wrong; there is only what you feel" and "There is accountability to God, your country, and your family." While everyone is most definitely free to believe as they choose, these contrasting philosophies lead to different opinions on how the flag, the symbol of our nation, should be treated.

The freedoms which the founding fathers toiled to establish and for which our flag is a symbol are an important part of our nation's heritage. Without these freedoms, we would be lost and would become just as any other country, a people who are devoid of hope. When a person desecrates the flag of the United States, he is not only scorning our nation, but he is also desecrating the memory of every person who ever served in a war or sacrificed their own life in order to maintain the freedoms of our nation.

We must protect our nation's heritage and foundation. Also, we need to honor the memories of those who have given their lives to save the freedoms of the United States. The flag of the United States, as a symbol of these, should be cherished as dearly as our lives, if not more so. This is why I believe there needs to be a flag protection amendment.

According to Article 5 of the Constitution of the United States, there are four ways to amend the Constitution. The first way is for Congress to propose an amendment, then have the legislatures of three-fourths of the states approve it. Secondly, Congress can propose the amendment, and special conventions in three-fourths of the states can approve the addition. Thirdly, two-thirds of the states' legislatures can request a special national convention to propose an amendment, and three-fourths of the states' legislatures ratify the amendment. Fourthly, two-thirds of the states' legislatures can call for a special national convention to propose an amendment, and special conventions in three fourths of the states ratify the amendments.

While these amendment procedures are not easily accomplished, it is possible with persistence. We need to preserve our heritage and our flag, honoring both. The only way to be sure that the flag will always be a protected symbol of our nation's heritage is for this amendment to be passed.●

TRIBUTE TO LORRAINE W. CROWLEY

● Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Lorraine W. Crowley of Rutland City, Vermont. For the last ten years Lorraine has served as the Elementary Principal for the Rutland City Public School System. It is with bittersweet emotions that I inform the Senate of Lorraine's retirement at the end of the school year.

Lorraine has dedicated her career to education. She graduated from Emmanuel College in Boston in 1962 and received her Masters in Education Psychology from the University of Hawaii in 1968. She served as a Principal for five years at a High School in Hawaii, before returning to New England as the Director of Guidance at the Holliston High School in Massachusetts. Lorraine broadened her horizons further by spending 3 years as an educator at the American School in Madrid and the Ben Franklin International School in Spain. Since 1988 she has served as the Principal for Rutland City School System.

Lorraine has dedicated her life to giving our next generation the tools they need to live prosperous and fulfilling lives. I know the entire Rutland City community will miss Lorraine Crowley. She is leaving a legacy of accomplishment and affection, the memory of which shall stand the test of time.●

TRIBUTE TO JENNIFER DALY

● Mr. SANTORUM. Mr. President, I rise today to congratulate Jennifer Daly for being named the Pennsylvania state winner in The Citizens Flag Alliance Essay Contest.

Jennifer is the recipient of a $1,000 scholarship for her one thousand word essay on the theme, "The American Flag Protection Amendment: A Right of the People . . . the Right Thing to Do." She is among 50 other outstanding young Americans named as state winners and will compete for one of ten college scholarships in a national competition next month.

Mr. President, Jennifer Daly is a great source of pride for the Commonwealth of Pennsylvania. I hope my colleagues will join with me in extending best wishes to her for continued success in the years to come.●

TRIBUTE TO REVEREND ERIC MASON AND FAUSTENIA MORROW

• Mr. BOND. Mr. President, every year Ebony magazine pays tribute to thirty leaders ages thirty and younger who are working for the betterment of their communities. They all represent the caliber of talent that is being groomed to move to the fore front of society and lead the United States of America into the 21st century. This year Metro East Family Church of East St. Louis, Illinois will be honoring the "30 Young Leaders of the Future," featured in the December 1997 issue of Ebony Magazine. It is a great honor to congratulate each of Ebony magazine's selection of young leaders of the future, but especially the two from my home State of Missouri.

Reverend Eric Mason, 25, is the pastor of Administration at the Metro East Family Church. Formerly, he was a case manager at the Nebraska Health and Human Services Department, then an assistant pastor and education director at Mount Moriah Missionary Baptist Church and was appointed by the Governor of Nebraska to the Affirmative Action Commission as chaplain. He served as the Chair of the Omaha Police Department, on the Legal Redress Committee, was a member of Omaha NAACP, and the Interdenominational Ministerial Alliance. Reverend Mason personifies everything positive in the St. Louis community and I am excited to learn of his influential leadership.

Faustenia Morrow, 25, is the development administrator for Team Sweep, a youth-at-risk program run by the City of St. Louis. She also is President of Young Organized Political Action Committee and fundraising chairperson of Metropolis St. Louis, an organization with the goal of attracting and retaining professionals in St. Louis. In addition, Ms. Morrow is assistant campaign advisor for Missouri State Representative Betty Thompson, founding member of the Sisters of High Tea, an organization of professional women and a member of the Professional Organization of Women. Her continuing commitment to the St. Louis community is a positive example for all and I am extremely pleased to have her as a role model for others.

Dedication to one's community has become an increasingly rare quality in our society. However, Ebony's selection of young leaders has shown that the most effective approach to enriching a community is to give back rather than to take. Their unselfish commitment has set a precedence for the generations before and after them to follow and implement. I salute the contributions made by these leaders, and join the Metro East Family Church of East St. Louis in paying tribute to the "30 Young Leaders of the Future." •

THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1997 CONCERNING THE REPEAL OF PUCHA

• Mr. MACK. Mr. President, as the Congress continues to address the important work of reducing government spending, eliminating layers of bureaucratic waste, and increasing efficiency, we should focus on eliminating those regulations and programs which are no longer needed and are outdated. As Republicans, we must strive to enact legislation that embraces less government, less spending and more freedom. S. 621 is a bill that embodies these important principles.

This bill would reduce the unnecessary federal requirements included under the Public Utility Holding Act of 1935. Originally enacted to correct the abusive practices of holding companies during the 1920's and 30's, PUCHA is now an outdated law that is simply no longer needed. It has served its purpose and outlived its usefulness. The Securities and Exchange Commission, which implemented the Act has urged its repeal for several years. The Federal Energy Regulatory Commission, along with many state public utility commissioners, also recognize the inefficiency of PUCHA's obsolete provisions and therefore support its repeal.

It is widely recognized that the redundant and burdensome regulations of PUCHA have resulted in higher cost for consumers. These regulations not only restrict the ability of electric producers to compete in a free market economy, but also restrict these companies from responding to the seasonal nature of electric demand.

Many States have begun to address this issue by moving forward to a fully competitive electric market that allows consumer choice. Due to the cumbersome regulatory structure imposed upon them under the PUCHA system, States will not be able to achieve the full benefits of competition.

S. 621 seeks to correct this while retaining essential consumer protections. Further, this bill allows the utility industry the flexibility to invest, diversify, and respond to current consumer demand. By passing S. 621 we can reduce burdens on utilities and create savings which would then be passed on to ratepayers.

Mr. President, the time to act on S. 621 is now. There is simply no reason why we should delay action on repeal when the passage of this bill clearly preserves the fundamental principles of free enterprise and capitalism on which our great country was founded. I thank the chair, and I yield the floor.•

A TRIBUTE TO ROBERT BOWEN

WINNER OF 1998 VITA WIRELESS SAMARITAN AWARD

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Robert Bowen for receiving the 1998 VITA Wireless Samaritan Award. The award is given by the Cellular Telecommunications Industry to recognize the contributions of individuals who used their cellular phone to heroically help their communities. Robert is a clear example of how matching emergency situations with technology can impact people's lives.

Robert Bowen is a police officer who is the head of the Keene Crime Watch Bike Patrol. Robert was on patrol one day when the local police received a frantic call reporting a missing child. The police, in turn, alerted Robert on his wireless phone. An eight-year-old, who had run away from home, was nowhere to be found and was in need of his daily medication. Robert headed out on the wooded trails to an area he knew was a popular congregation spot for area children. He quickly spotted the boy and doubled back to alert the boy's father. The father and son were reunited, and Robert called the police department on his wireless phone to let them know they could call off their search.

The Keene Crime Watch Bike Patrol, armed with wireless phones, has found lost children, stopped crimes and brush fires and assisted in similar emergency situations for the past two years. I congratulate Robert for his courage and for demonstrating how police forces are utilizing modern technology to protect their communities. I am very honored to have Robert Bowen as a police officer in the Granite State, and it is with great pride that I represent him in the U.S. Senate.•

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM JAN. 1, TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Kay Bailey Hutchison:									
Germany	Mark	1,011.58	564.50					1,011.58	564.50
Total			564.50						564.50

TED STEVENS,
Chairman, Committee on Appropriations, May 7, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Edward M. Kennedy:									
Northern Ireland	Dollar		588.00						588.00
Republic of Ireland	Dollar		172.00						172.00
United States	Dollar				4,458.00				4,458.00
Trina Vargo:									
Northern Ireland	Dollar		588.00						588.00
Republic of Ireland	Dollar		798.00						798.00
United States	Dollar				1,409.00				1,409.00
Senator Pat Roberts:									
New Zealand	Dollar		260.00						260.00
Australia	Dollar		690.00						690.00
Senator Carl Levin:									
Japan	Dollar		173.84						173.84
North Korea	Dollar		436.00						436.00
South Korea	Dollar		116.20						116.20
United States	Dollar				4,188.00				4,188.00
David S. Lyles:									
Japan	Dollar		193.84						193.84
North Korea	Dollar		455.00		10.00		227.72		692.72
South Korea	Dollar		116.20		6.00				122.20
United States	Dollar				4,474.00				4,474.00
Richard W. Fieldhouse:									
Japan	Dollar		211.34		12.50				223.84
North Korea	Dollar		455.00		10.00		220.72		685.72
South Korea	Dollar		136.20		6.00				142.20
United States	Dollar				4,474.00				4,474.00
Senator Carl Levin:									
Bosnia	Dollar		175.67						175.67
Israel	Dollar		91.91						91.91
United States	Dollar						256.00		256.00
Senator John McCain:									
Germany	Dollar		564.50						564.50
Senator Joseph I. Lieberman:									
Germany	Dollar		247.25						247.25
Frederick M. Downey:									
Germany	Dollar		457.58						457.58
Kurt Volker:									
Germany	Dollar		420.00						420.00
Marshall Salter:									
Germany	Dollar		564.50						564.50
Senator Carl Levin:									
Germany	Dollar		237.00						237.00
Oman	Dollar		237.00						237.00
Qatar	Dollar		37.00						37.00
Russia	Dollar		836.50						836.50
Senator John Warner:									
Germany	Dollar		355.25						355.25
Oman	Dollar		384.48						384.48
Qatar	Dollar		24.00						24.00
Russia	Dollar		872.80						872.80
Romie L. Brownlee:									
Germany	Dollar		332.12						332.12
Oman	Dollar		237.00						237.00
Qatar	Dollar		95.00						95.00
Russia	Dollar		608.60						608.60
David S. Lyles:									
Germany	Dollar		326.00						326.00
Oman	Dollar		410.00						410.00
Qatar	Dollar		152.00						152.00
Russia	Dollar		449.50						449.50
John Barnes:									
South Korea	Dollar		912.00						912.00
United States	Dollar				3,360.00				3,360.00
Madelyn R. Creedon:									
Ukraine	Dollar		260.00						260.00
Russia	Dollar		1,040.00						1,040.00
United States	Dollar				4,745.19				4,745.19
Lucia Monica Chavez:									
Ukraine	Dollar		257.14						257.14
Russia	Dollar		1,028.58						1,028.58
Switzerland	Dollar		514.28						514.28
United States	Dollar				4,245.73				4,245.73
Richard DeBobes:									
Bosnia	Dollar		202.26						202.26
Israel	Dollar		141.95						141.95
Israel	Dollar				56.00				56.00
Israel	Dollar						25.00		25.00
United States	Dollar						256.00		256.00
Total			17,861.49		31,454.42		985.44		50,301.35

STROM THURMOND,
Chairman, Committee on Armed Services, May 18, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Senator Connie Mack:									
Ireland	Pound	125.13	172.00		4,233.00				4,405.00
Northern Ireland	Pound	223.80	373.00						373.00
Gary Shiffman:									
Ireland	Pound	125.13	172.00		4,233.00				4,405.00
Northern Ireland	Pound	130.80	218.00						218.00
Total			935.00		8,466.00				9,401.00

ALFONSE D'AMATO, Chairman,
Committee on Banking, Housing, and Urban Affairs, Mar. 31, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE BUDGET, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Phil Gramm:									
Germany	Mark	635.23	354.50					635.23	354.50
Senator Gordon Smith:									
Germany	Mark	416.00	232.13					416.00	232.13
Total			586.63						586.63

PETE V. DOMENICI,
Chairman, Committee on the Budget, Mar. 25, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE BUDGET, FOR TRAVEL FROM JAN. 11 TO JAN. 21, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Pete V. Domenici:									
England	Pound	367.50	618.00					367.50	618.00
Germany	Mark	772.00	426.00					772.00	426.00
Belgium	Franc	17,906	478.00					17,906	478.00
Switzerland	Franc	1,176.30	793.50					1,176.30	793.50
France	Franc	3,109.00	508.00					3,109.00	508.00
Senator Don Nickles:									
England	Pound	431.31	708.00					431.31	708.00
Germany	Mark	934.80	516.00					934.80	516.00
Belgium	Franc	10,639	284.00					10,639	284.00
United States	Dollar				529.21				529.21
Senator Spencer Abraham:									
England	Pound	431.31	708.00					431.31	708.00
Germany	Mark	934.80	516.00					934.80	516.00
Belgium	Franc	21,277	568.00					21,277	568.00
Switzerland	Franc	1,309.70	883.50					1,309.70	883.50
France	Franc	3,659.76	598.00					3,659.76	598.00
G. William Hoagland:									
England	Pound	431.31	708.00					431.31	708.00
Germany	Mark	817.75	451.40					817.75	451.40
Belgium	Franc	18,857	503.40					18,857	503.40
Switzerland	Franc	1,214	818.90					1,214	818.90
France	Franc	3,264	533.40					3,264	533.40
Amy Smith:									
England	Pound	395	648.00					395	648.00
Germany	Mark	826	456.00					826	456.00
Belgium	Franc	19,030	508.00					19,030	508.00
Switzerland	Franc	1,221	823.50					1,221	823.50
France	Franc	3,292.56	538.00					3,292.56	538.00
Bob Stevenson:									
England	Pound	431.31	708.00					431.31	708.00
Germany	Mark	934.80	516.00					934.80	516.00
Belgium	Franc	21,277	568.00					21,277	568.00
Switzerland	Franc	1,218.20	822.00					1,218.20	822.00
France	Franc	3,283.38	536.50					3,283.38	536.50
Delegation Expenses: [1]									
England							6,378.27		6,378.27
Germany							6,020.26		6,020.26
Belgium							7,133.87		7,133.87
Switzerland							5,952.59		5,952.59
France							10,358.64		10,358.64
Total			16,744.10		529.21		35,843.63		53,116.94

[1] Delegation expenses include direct payments and reimbursements to the Department of State and the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and Senate Resolution 179, agreed to May 25, 1977.

PETE V. DOMENICI,
Chairman, Committee on the Budget, May 1, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Thomas Hubbard:									
United States	Dollar				7,445.90				7,445.90
Thailand	Baht	12,600	240.00					12,600	240.00
Vietnam	Dollar		1,743.00		203.00				1,946.00
Total			1,983.00		7,648.90				9,631.90

JOHN McCAIN, Chairman,
Committee on Commerce, Science, and Transportation, Apr. 29, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Grant Aldonas:									
United States	Dollar				1,284.90				1,284.90
Switzerland	Franc	1,918.75	1,341.78					1,918.75	1,341.78
France	Franc	1,537.35	280.54					1,537.35	280.54
Linda Menghetti:									
United States	Dollar				1,284.90				1,284.90
France	Franc	964	175.91					964	175.91
Switzerland	Franc	1,677.74	1,172.10					1,677.74	1,172.10
Jim Jochum:									
United States	Dollar				1,284.90				1,284.90
France	Franc	1,092.03	182.92					1,092.03	182.92
Switzerland	Franc	1,295.13	905.69					1,295.13	905.69
Total			4,058.94		3,854.70				7,913.64

WILLIAM V. ROTH, JR.,
Chairman, Committee on Finance, Mar. 11, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Mark Patterson:									
United States	Dollar				975.02				975.02
Switzerland	Franc	1,447.85	980.73					1,447.85	980.73
Senator John D. Rockefeller IV:									
United States	Dollar				5,876.00				5,876.00
Taiwan	Dollar	49,888	1,527.50					49,888	1,527.50
Japan	Yen	258,488	1,951.00					258,488	1,951.00
China	Yuan	8,501.56	1,028.00					8,501.56	1,028.00
R. Lane Bailey:									
United States	Dollar				7,613.00				7,613.00
Taiwan	Dollar	49,888	1,527.50					49,888	1,527.50
Japan	Yen	258,488	1,951.00					258,488	1,951.00
China	Yuan	8,501.56	1,028.00					8,501.56	1,028.00
Teri Giles:									
United States	Dollar				3,170.00				3,170.00
Taiwan	Dollar	42,213	1,292.50					42,213	1,292.50
Japan	Yen	222,032	1,662.00					222,032	1,662.00
China	Yuan	8,501.56	1,028.00					8,501.56	1,028.00
Deborah Lamb:									
United States	Dollar				1,257.64				1,257.64
France	Franc	4,191.92	687.26					4,191.92	687.26
Switzerland	Franc	1,447.23	980.31					1,447.23	980.31
David Podoff:									
United States	Dollar				1,257.64				1,257.64
France	Franc	4,595.32	753.33					4,595.32	753.33
Switzerland	Franc	1,345.71	911.54					1,345.71	911.54
Total			17,308.67		20,149.30				37,457.97

WILLIAM V. ROTH, JR.,
Chairman, Committee on Finance, Apr. 22, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Chuck Hagel:									
England	Pound	431.31	708.00					431.31	708.00
Germany	Mark	934.80	516.00					934.80	516.00
Belgium	Franc	21,277	568.00					21,277	568.00
Switzerland	Franc	1,309.70	883.50					1,309.70	883.50
France	Franc	3,659.76	598.00					3,659.76	598.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Kerry:									
Vietnam	Dollar		2,200.00						2,200.00
Thailand	Baht	12,720	240.00					12,720	240.00
United States	Dollar				6,259.00				6,259.00
Thomas Bunton:									
Russian Federation	Dollar		1,035.78						1,035.78
United States	Dollar				4,313.11				4,313.11
Roger Noriega:									
Cuba	Dollar		1,150.00						1,150.00
United States	Dollar				969.00				969.00
Danielle Pletka:									
Syria	Dollar		801.00						801.00
Lebanon	Dollar		438.00						438.00
Cyprus	Dollar		125.00						125.00
United States	Dollar				6,829.99				6,829.99
Munro Richardson:									
Congo	Dollar		1,750.00		468.00				2,218.00
United States	Dollar				5,256.00				5,256.00
Nancy Stetson:									
Vietnam	Dollar		1,892.00						1,892.00
Burma	Dollar		392.00		196.00				588.00
Thailand	Dollar		130.00						130.00
United States	Dollar				6,515.10				6,515.10
Michael Westphal:									
Congo	Dollar		1,750.00		468.00				2,218.00
United States	Dollar				5,256.00				5,256.00
Marc Thiessen:									
Cuba	Dollar		1,650.00						1,650.00
United States	Dollar				969.00				969.00
Linda Rotblatt:									
Congo	Dollar		1,750.00		468.00				2,218.00
United States	Dollar				5,256.00				5,256.00
Total			18,577.28		43,223.20				61,800.48

JESSE HELMS,
Chairman, Committee on Foreign Relations, Apr. 28, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Kerry:									
Switzerland	Dollar		350.00						350.00
Helen Kanovsky:									
Switzerland	Dollar		607.63						607.63
Senator Orrin Hatch:									
Switzerland	Dollar		350.00						350.00
Paul Matulic:									
Switzerland	Dollar		800.00						800.00
Louis Dupart:									
Haiti	Dollar		167.50						167.50
Dominican Republic	Dollar		155.00						155.00
Total			2,430.13						2,430.13

ORRIN HATCH,
Chairman, Committee on the Judiciary, Apr. 22, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Tom Harkin:									
United States	Dollar				5,066.44				5,066.44
Thailand	Baht					4,094	77.31	4,094	77.31
Bangladesh	Taka	7,013	154.31	2,407.49	52.97	4,774.07	105.04	14,194.56	312.32
India	Rupee	13,943.27	356.00					13,943.27	356.00
Nepal	Rupee	3,050	50.00	1,799.50	29.50			4,849.50	79.50
Pakistan	Rupee	7,172	163.00			296.12	6.73	7,468.12	169.73
Rosemary Gutierrez:									
United States	Dollar				5,066.44				5,066.44
Thailand	Baht					3,964.60	75.60	3,964.60	75.60
Bangladesh	Taka	4,135.95	91.00	2,407.94	52.98	4,773.61	105.03	11,317.50	249.01
India	Rupee	13,943.27	356.00					13,943.27	356.00
Nepal	Rupee	1,525	250.00	1,799.50	29.50			3,324.50	279.50
Pakistan	Rupee	7,172	163.00			296.12	6.72	7,468.12	169.72
Total			1,583.31		10,297.83		376.43		12,257.57

JIM JEFFORDS,
Chairman, Committee on Labor and Human Resources, Apr. 28, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON VETERANS' AFFAIRS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Mary Agocs:									
Israel	Dollar		2,348.00		1,677.00				4,025.00
C. James Moore:									
Kuwait	Dollar		322.62						322.62
Saudi Arabia	Dollar		1,163.37						1,163.37
Egypt	Dollar		894.97						894.97
Israel	Dollar		1,486.74						1,486.74
Total			6,215.70		1,677.00				7,892.70

ARLEN SPECTER,
Chairman, Committee on Veterans' Affairs, Apr. 17, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON VETERANS' AFFAIRS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Arlen Specter:									
United States	Dollar				4,378.70				4,378.70
Netherlands	Dollar		224.00						224.00
United Kingdom	Dollar		176.98						176.98
Israel	Dollar		355.00						355.00
Syria	Dollar		190.00						190.00
Jordan	Dollar		85.50						85.50
Eritrea	Dollar		78.00						78.00
Yemen	Dollar		14.00						14.00
Ethiopia	Dollar		15.00						15.00
Saudi Arabia	Dollar		50.00						50.00
Egypt	Dollar		119.00						119.00
Germany	Dollar		142.00						142.00
David J. Urban:									
United States	Dollar				4,192.70				4,192.70
Netherlands	Dollar		224.00						224.00
Israel	Dollar		631.00						631.00
Jordan	Dollar		320.00						320.00
Syria	Dollar		252.00						252.00
Germany	Dollar		205.00						205.00
Italy	Dollar		166.00						166.00
Ethiopia	Dollar		131.00						131.00
Egypt	Dollar		175.00						175.00
Eritrea	Dollar		131.00						131.00
Jonathan L. Ullyot:									
United States	Dollar				4,192.70				4,192.70
Netherlands	Dollar		187.71						187.71
Israel	Dollar		383.72						383.72
Syria	Dollar		252.00						252.00
Jordan	Dollar		211.99						211.99
Eritrea	Dollar		260.00						260.00
Ethiopia	Dollar		376.76						376.76
Egypt	Dollar		217.06						217.06
Italy	Dollar		210.07						210.07
Germany	Dollar		185.53						185.53
Total			5,969.32		12,764.10				18,733.42

ARLEN SPECTER,
Chairman, Committee on Veterans' Affairs, Mar. 9, 1998.

ADDENDUM.—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mike DeWine			382.75						382.75
James Stinebower			750.00						750.00
Laurel Pressler			385.70						385.70
Gina Marie Hatheway			750.00						750.00
Total			2,268.45						2,268.45

RICHARD SHELBY,
Chairman, Select Committee on Intelligence, Apr. 22, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bob Graham			1,428.00				15,587.21		17,015.21
Alfred Cumming			1,478.27						1,478.27

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Bob Fillipone			1,501.47						1,501.47
Taylor W. Lawrence			1,195.00		5,212.00				6,407.00
Christopher Williams			1,054.00		4,269.00				5,323.00
Laurel Pressler			249.50						249.50
Gina Marie Hatheway			322.50						322.50
William Duhnke			233.50						233.50
Linda Taylor			500.00		7,713.60				8,213.60
Arthur Grant			500.00		8,544.00				9,044.00
Senator Jon Kyl			202.00						202.00
Total			8,664.24		25,738.60		15,587.21		49,990.05

RICHARD SHELBY,
Chairman, Select Committee on Intelligence, Apr. 22, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Rep. Benjamin Cardin:									
Greece	Dollar		264.00						264.00
Cyprus	Dollar		146.00						146.00
Turkey	Dollar		567.00						567.00
Austria	Dollar		176.00						176.00
John Finerty:									
United States	Dollar				5,010.24				5,010.24
Russia	Dollar		990.00						990.00
Janice Helwig:									
United States	Dollar				4,928.93				4,928.93
Austria	Dollar		8,565.00						8,565.00
Rep. Steny Hoyer:									
Greece	Dollar		264.00						264.00
Cyprus	Dollar		146.00						146.00
Turkey	Dollar		567.00						567.00
Austria	Dollar		176.00						176.00
United States	Dollar				4,605.93				4,605.93
Austria	Dollar		322.00						322.00
Marlene Kaufmann:									
Greece	Dollar		264.00						264.00
Cyprus	Dollar		146.00						146.00
Turkey	Dollar		567.00						567.00
Austria	Dollar		176.00						176.00
United States	Dollar				4,395.62				4,395.62
Austria	Dollar		322.00						322.00
Karen Lord:									
United States	Dollar				4,996.71				4,996.71
Russia	Dollar		1,750.00						1,750.00
Austria	Dollar		176.00		723.00				899.00
United States	Dollar				4,795.66				4,795.66
Cyprus	Dollar		690.00						690.00
Rep. Edward Markey:									
Greece	Dollar		264.00						264.00
Cyprus	Dollar		146.00						146.00
Turkey	Dollar		567.00						567.00
Austria	Dollar		176.00						176.00
Ronald McNamara:									
Greece	Dollar		245.10						245.10
Cyprus	Dollar		128.00						128.00
Turkey	Dollar		544.27						544.27
Austria	Dollar		162.26						162.26
Edward Wayne Merry:									
Greece	Dollar		264.00						264.00
Cyprus	Dollar		146.00						146.00
Turkey	Dollar		567.00						567.00
Austria	Dollar		176.00						176.00
Michael Ochs:									
United States	Dollar				4,968.38				4,968.38
Azerbaijan	Dollar		1,480.00						1,480.00
Armenia	Dollar		924.00						924.00
Georgia	Dollar		2,193.00						2,193.00
Turkey	Dollar		416.00						416.00
Rep. John Porter:									
Greece	Dollar		264.00						264.00
Cyprus	Dollar		146.00						146.00
Turkey	Dollar		567.00						567.00
Austria	Dollar		176.00						176.00
Erika Schlager:									
United States	Dollar				4,315.17				4,315.17
Czech Republic	Dollar		696.00						696.00
The Netherlands	Dollar		427.00						427.00
Rep. Louise Slaughter:									
Greece	Dollar		264.00						264.00
Cyprus	Dollar		146.00						146.00
Turkey	Dollar		567.00						567.00
Austria	Dollar		176.00						176.00
Rep. Christopher Smith:									
United States	Dollar				5,085.00				5,085.00
Russia	Dollar		1,150.00						1,150.00
Dorothy Douglas Taft:									
Greece	Dollar		167.00						167.00
Cyprus	Dollar		65.80						65.80
Turkey	Dollar		404.00						404.00
Austria	Dollar		139.06						139.06

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1998—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Rep. Frank Wolf:									
United States	Dollar				3,161.30				3,161.30
Russia	Dollar		864.00						864.00
Total			30,891.49		46,985.94				77,877.43

ALFONSE D'AMATO,
Commission on Security and Cooperation in Europe, Mar. 31, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY AND DEMOCRATIC LEADERS FROM JULY 5 TO JULY 9, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator William V. Roth, Jr.:									
Czech Republic	Dollar		564.00						564.00
Spain	Peseta	85,312.80	578.00					85,312.80	578.00
Senator Joseph R. Biden, Jr.:									
Spain	Peseta	42,656.40	289.00					42,656.40	289.00
United States	Dollar				1,536.00				1,536.00
Senator Barbara Mikulski:									
Czech Republic	Dollar		177.00						177.00
Spain	Peseta	109,426.21	741.37					109,426.21	741.37
Senator Gordon Smith:									
Czech Republic	Dollar		156.00						156.00
Spain	Peseta	66,567.60	451.00					66,567.60	451.00
Mr. Ian Brzezinski:									
Czech Republic	Dollar		282.00						282.00
Spain	Peseta	85,312.80	578.00					85,312.80	578.00
Dr. Michael Haltzel:									
Spain	Peseta	85,312.80	578.00					85,312.80	578.00
Virginia Flynn:									
Czech Republic	Dollar		282.00						282.00
Madrid	Peseta	85,312.80	578.00					85,312.80	578.00
Julia Hart:									
Czech Republic	Dollar		282.00						282.00
Madrid	Peseta	85,312.80	578.00					85,312.80	578.00
Delegation Expenses:[1]									
Czech Republic							2263.52		2263.52
Spain							1,640.00		1,640.00
Total			6,114.37		1,536.00		13,903.52		11,553.89

[1] Delegation expenses include direct payments and reimbursements to the Department of State and the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and Senate Resolution 179, agreed to May 25, 1977.

TRENT LOTT, Majority Leader,
TOM DASCHLE, Democratic Leader,
Apr. 8, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY AND DEMOCRATIC LEADERS FROM NOV. 30 TO DEC. 11, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John H. Chafee:									
Japan	Yen	137,592	1,127.66					137,592	1,127.66
United States	Dollar				4,171.00				4,171.00
Senator John Kerry:									
Japan	Yen	83,191	647.00					83,191	647.00
United States	Dollar				11,095.00				11,095.00
Senator Joseph Lieberman:									
Japan	Yen	138.850	1,093.00					138.850	1,093.00
United States	Dollar				4,899.00				4,899.00
Senator Chuck Hagel:									
Japan	Yen	227,820	1,794.00					227,820	1,794.00
United States	Dollar				5,396.00				5,396.00
Senator Mike Enzi:									
Japan	Yen	35,941	283.00					35,941	283.00
United States	Dollar				5,377.00				5,377.00
Kent Bonham:									
Japan	Yen	379,700	2,990.00					379,700	2,990.00
United States	Dollar				5,396.00				5,396.00
Kate English:									
Japan	Yen	379,700	2,990.00					379,700	2,990.00
United States	Dollar				1,006.00				1,006.00
Richard D'Amato:									
Japan	Yen	417,670	3,289.00					417,670	3,289.00
United States	Dollar				5,077.39				5,077.39
Debbie Fiddelke:									
Japan	Yen	379,700	2,990.00					379,700	2,990.00
United States	Dollar				4,275.00				4,275.00
Julia Hart:									
Japan	Yen	341,730	2,691.00					341,730	2,691.00
United States	Dollar				5,396.00				5,396.00
Nao Matsukata:									
Japan	Yen	341,730	2,691.00					341,730	2,691.00
United States	Dollar				4,497.00				4,497.00
Delegation Expenses:[1]									
Japan							21,412.25		21,412.25

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY AND DEMOCRATIC LEADERS FROM NOV. 30 TO DEC. 11, 1997—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			22,585.66		56,585.39		21,412.25		100,583.30

[1] Delegation expenses include direct payments and reimbursements to the Department of State and the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and Senate Resolution 179, agreed to May 25, 1977.

TRENT LOTT, Majority Leader,
TOM DASCHLE, Democratic Leader,
Apr. 8, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE DEMOCRATIC LEADER FROM JAN. 1 TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Daniel Patrick Moynihan:									
India	Rupee	56,105	1,424.00					56,105	1,424.00
Switzerland	Franc	1,759.76	1,192.00				1,371.75	1,759.76	2,563.75
United States	Dollar				7,864.30				7,864.30
Senator Jack Reed:									
Bosnia-Herzegovina	Dollar		185.31						185.31
Israel	Dollar		106.13				256.00		362.13
United States	Dollar				4,081.00				4,081.00
Elizabeth L. King:									
Bosnia-Herzegovina	Dollar		198.87						198.87
Israel	Dollar		617.58				256.00		873.58
United States	Dollar				3,882.00				3,882.00
Total			3,723.89		15,827.30		1,883.75		21,434.94

TOM DASCHLE,
Democratic Leader, Apr. 21, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY MAJORITY LEADER FROM JAN. 1, TO MAR. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Randy Scheunemann:									
Germany	Mark	1,011.58	564.50					1,011.58	564.50
Julia Hart:									
England	Pound	431.31	708.00					431.31	708.00
Germany	Mark	934.80	516.00					934.80	516.00
Belgium	Franc	21,277	568.00					21,277	568.00
Switzerland	Franc	1,309.70	883.50					1,309.70	883.50
France	Franc	3,659.76	598.00					3,659.76	598.00
Total			3,838.00						3,838.00

TRENT LOTT,
Majority Leader, Apr. 21, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY MAJORITY LEADER FROM JAN. 5 TO JAN. 11, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Trent Lott:									
Panama	Dollar		366.00						366.00
Honduras	Dollar		225.00						225.00
Guatemala	Quetzal	920.82	149.00					920.82	149.00
Mexico	New Peso	2,149.15	265.00					2,149.15	265.00
Senator Frank Murkowski:									
Panama	Dollar		366.00						366.00
Honduras	Dollar		225.00						225.00
Guatemala	Quetzal	920.82	149.00					920.82	149.00
Mexico	New Peso	2,149.15	265.00					2,149.15	265.00
Senator John Breaux:									
Panama	Dollar		366.00						366.00
Honduras	Dollar		225.00						225.00
Guatemala	Quetzal	920.82	149.00					920.82	149.00
Mexico	New Peso	2,149.15	265.00					2,149.15	265.00
United States	Dollar				1,027.00				1,027.00
Senator Mike DeWine:									
Panama	Dollar		282.20						282.00
Honduras	Dollar		212.00						212.00
Guatemala	Quetzal	920.82	149.00					920.82	149.00
Mexico	New Peso	1,914.28	236.04					1,914.28	236.04
Senator Pat Roberts:									
Panama	Dollar		366.00						366.00
Honduras	Dollar		225.00						225.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY MAJORITY LEADER FROM JAN. 5 TO JAN. 11, 1998—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Guatemala	Quetzal	920.82	149.00					920.82	149.00
Mexico	New Peso	2,149.15	265.00					2,149.15	265.00
Gary Sisco:									
Panama	Dollar		328.00						328.00
Honduras	Dollar		225.00						225.00
Guatemala	Quetzal	920.82	149.00					920.82	149.00
Mexico	New Peso	2,149.15	265.00					2,149.15	265.00
Steve Benza:									
Panama	Dollar		366.00						366.00
Honduras	Dollar		225.00						225.00
Guatemala	Quetzal	920.82	149.00					920.82	149.00
Mexico	New Peso	2,149.15	265.00					2,149.15	265.00
Susan Irby:									
Panama	Dollar		366.00						366.00
Honduras	Dollar		225.00						225.00
Guatemala	Quetzal	920.82	149.00					920.82	149.00
Mexico	New Peso	2,149.15	265.00					2,149.15	265.00
Julie Morrison:									
Panama	Dollar		366.00						366.00
Honduras	Dollar		225.00						225.00
Guatemala	Quetzal	920.82	149.00					920.82	149.00
Mexico	New Peso	2,149.15	265.00					2,149.15	265.00
Randy Scheunemann:									
Panama	Dollar		366.00						366.00
Honduras	Dollar		225.00						225.00
Guatemala	Quetzal	920.82	149.00					920.82	149.00
Mexico	New Peso	2,149.15	265.00					2,149.15	265.00
Sally Walsh:									
Panama	Dollar		366.00						366.00
Honduras	Dollar		225.00						225.00
Guatemala	Quetzal	920.82	149.00					920.82	149.00
Mexico	New Peso	2,149.15	265.00					2,149.15	265.00
Robert Wilkie:									
Panama	Dollar		366.00						366.00
Honduras	Dollar		225.00						225.00
United States	Dollar				339.30				339.30
Delegation expenses: [1]									
Panama							5,648.14		5,648.14
Nicaragua							2,351.31		2,351.31
Honduras							4,114.22		4,114.22
Guatemala							5,940.30		5,940.30
Mexico							3,708.83		3,708.83
Total			11,482.24		1,366.30		21,762.80		34,611.34

[1] Delegation expenses include direct payments and reimbursements to the Department of State and the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and Senate Resolution 179, agreed to May 25, 1977.

TRENT LOTT,
Majority Leader, Mar. 5, 1998.

EXECUTIVE SESSION

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 603, 610, 615, 626 through 633, 635 through 641; all nominations on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy; and the nomination of Joan Dempsey reported by the Intelligence Committee today.

I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, and any statements relating to the nominations appear at this point in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

NATIONAL SCIENCE FOUNDATION

Rita R. Colwell, of Maryland, to be Director of the National Science Foundation for a term of six years.

DEPARTMENT OF COMMERCE

Patrick A. Mulloy, of Virginia, to be an Assistant Secretary of Commerce.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Robert F. Raggio, 7255

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Donald L. Peterson, 2830

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Daniel James III, 8248

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Lee P. Rodgers, 4461

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Archie J. Berberian II, 4968

IN THE ARMY

The following National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Roger C. Schultz, 5293

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Daniel C. Balough, 0228
Brig. Gen. Roger L. Brautigan, 1521
Brig. Gen. Thomas A. Wessels, 5197

To be brigadier general

Col. Bruce A. Adams, 4063
Col. Michael B. Barrett, 8071
Col. Lowell C. Detamore, Jr., 9811
Col. Kenneth D. Herbst, 3103
Col. Kenneth L. Penttila, 0067

IN THE MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Frederick McCorkle, 7324

The following named officer for appointment as Assistant Commandant of the Marine Corps and for appointment to the grade indicated under title 10, U.S.C., section 5044:

To be general

Lt. Gen. Terrence R. Dake, 6646

IN THE NAVY

The following named officers for appointment in the Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (lh) Martin E. Janczak, 9028
Rear Adm. (lh) Pierce J. Johnson, 1625
Rear Adm. (lh) Lary L. Poe, 6491
Rear Adm. (lh) Michael R. Scott, 2697

The following named officer for appointment in the Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (lh) Robert F. Birtcil, 3384

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Michael W. Shelton, 2431

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Vice Adm. Charles S. Abbot, 8270

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Jeffrey A. Cook, 2672

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

George P. Nanos, Jr., 1992

IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Phillip M. Armstrong, and ending *Rex A. Williams, which nominations were received by the Senate and appeared in the Congressional Record of April 21, 1998

Army nomination of Gary W. Krahn, which was received by the Senate and appeared in the Congressional Record of April 21, 1998

Army nominations beginning Eugene N Acosta, and ending Curtis L Yeager, which nominations were received by the Senate and appeared in the Congressional Record of April 29, 1998

Marine Corps nominations beginning Richard D. Coulter, and ending Karim Shihata, which nominations were received by the Senate and appeared in the Congressional Record of April 21, 1998

Marine Corps nomination of Gary F. Baumann, which was received by the Senate and appeared in the Congressional Record of April 29, 1998

Marine Corps nominations beginning Michael L. Andrews, and ending Robert C. Wittenberg, which nominations were received by the Senate and appeared in the Congressional Record of April 29, 1998

Marine Corps nominations beginning James N. Adams, and ending Thomas J Zohlen, which nominations were received by the Senate and appeared in the Congressional Record of April 29, 1998

Marine Corps nominations beginning Louis P Abraham, and ending Mark G Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record of April 29, 1998

Marine Corps nominations beginning Ruben Bernal, and ending James Werdann, which nominations were received by the Senate and appeared in the Congressional Record of April 29, 1998

Navy nominations beginning Michale D. Cobb, and ending Raymond B. Roll, which nominations were received by the Senate and appeared in the Congressional Record of April 21, 1998

Navy nomination of Daniel D. Thompson, which was received by the Senate and appeared in the Congressional Record of April 21, 1998

CENTRAL INTELLIGENCE AGENCY

Joan Avalyn Dempsey, of Virginia, to be Deputy Director of Central Intelligence for Community Management. (New Position)

STATEMENT ON THE NOMINATION OF PATRICK A. MULLOY

Mr. DASCHLE. Mr. President, I would like to express my strong support for the nomination of Patrick A. Mulloy to the position of Assistant Secretary of Commerce for Market Access and Compliance in the International Trade Administration (ITA). I believe his many years of experience in dealing with international trade policy issues and his unswerving commitment to public service equip him well for this challenge.

For over a dozen years, Mr. Mulloy has had major responsibility for the development of all legislation dealing with international trade and finance in the Senate Banking Committee. His expertise spans export administration, export promotion, exchange rates, foreign investment, international banking, and the Foreign Corrupt Practices Act. He played a lead role in developing the Export Enhancement Act of 1993 and has demonstrated an ability to work with lawmakers on both sides of the aisle. For many years, he also has served as the Banking Committee's advisor to U.S. negotiating teams at the GATT and WTO and contributed to the successes achieved during these negotiations.

Patrick Mulloy's diverse career experience, spanning the State Department, Justice Department and the Senate Banking Committee, have given him an unusual depth of perspective on international economic policy issues. I am confident that, as Assistant Secretary of Commerce, he will work diligently to help ensure that U.S. businesses are given every opportunity to compete freely and fairly in the global marketplace of the 21st century. I urge my colleagues to support his nomination.

Mr. SARBANES. Mr. President, I rise today to express my strong support for the nomination of Patrick Mulloy to be Assistant Secretary of Commerce for Market Access and Compliance.

I have known Pat since he came to work for the Senate Banking Committee in 1983 as a Congressional Fellow from the Justice Department. Pat made such a strong impression during his fellowship that the then ranking Democrat on the Banking Committee, Senator Proxmire, hired him to be Minority General Counsel, a position which he held from 1984 to 1986. After the Senate changed hands in 1987, Pat became General Counsel for the majority and served in that capacity until 1989. When Senator Proxmire retired in 1989, Pat became Senior Counsel and International Affairs Advisor to the new chairman, Senator Riegle. Since 1992 he has served as Chief International Counsel for the Democratic members of the Committee. Since 1995, when I became ranking Democrat on the Banking Committee, Pat has worked directly for me.

The first point I want to make about Pat is that he is a career public servant. He holds a B.A., Magna Cum Laude, from Kings College Pennsylvania, an M.A. in International Politics from Notre Dame where he was a University Fellow, a J.D. degree with Honors from George Washington Law School, and an LL.M. from Harvard Law School. He began his professional career as a Foreign Service Officer in the State Department, where he served from 1965 to 1973. From 1973 to 1977 he served as a Trial Attorney in the Land and Resources Division of the Justice Department, and from 1979 to 1982 he served as Senior Attorney in the Antitrust Division of the Justice Department. It was from that position that Pat came to work for the Senate Banking Committee.

During his tenure on the Banking Committee, Pat has played a lead role in every major international finance and trade issue the Committee has dealt with. These include enactment of the International Lending Supervision Act; amendments to the Foreign Corrupt Practices Act; reauthorization of the Export-Import Bank, the Export Administration Act, and the trade promotion programs of the Commerce Department; and the exchange rate, third world debt, and foreign investment provisions of the Omnibus Trade and Competitiveness Act of 1988. He helped draft the Export Enhancement Act of 1992 which established the Trade Promotion Coordinating Committee. He was intimately involved as a Congressional Advisor in the negotiation of the recently concluded agreement on trade in financial services in the World Trade Organization.

I can think of no one better prepared or suited to serve in the position of Assistant Secretary of Commerce for Market Access and Compliance. Pat brings a deep background and expertise in international trade and finance. He has served in the executive branch and the Congress, and in both capacities has worked closely with private sector business and labor groups affected by trade policies. He also brings a passionate personal commitment to opening foreign markets to U.S. exports and expanding job opportunities for American workers.

Pat is a person of the highest intelligence, integrity, and commitment to public service. He has been an enormously effective member of the staff of the Senate Banking Committee, and I have come to rely with great confidence on his judgment and expertise. The fact that Senator D'Amato, the Chairman of the Senate Banking Committee, as well as myself introduced Pat at his confirmation hearing before the Senate Finance Committee suggests the deep professional and personal regard in which he is held by members of the Senate Banking Committee on both sides of the aisle. Pat has my unreserved support for confirmation to this important position.

Mr. ROBB. Mr. President, I would like to take this opportunity to speak briefly on behalf of a fellow Virginian, Patrick Mulloy, who is the Administration's nominee for Assistant Secretary for Market Access and Compliance at the U.S. Department of Commerce.

In this position, Mr. Mulloy will play a critical role in shaping our nation's future. International trade continues to become increasingly important to our own economic development and it is vital that we strive to improve access to overseas markets for American businesses. The Assistant Secretary for Market Access and Compliance will also play a primary role in strengthening the overall international trade and investment position of the United States.

Mr. Mulloy has worked for many years in the public sector. He served as a foreign service officer at the Department of State and as an attorney at the Justice Department's Antitrust Division before coming to Capitol Hill in 1983. During his time on Capitol Hill, Mr. Mulloy has worked on most of the international trade and finance issues within the jurisdiction of the Committee on Banking, Housing and Urban Affairs, such as third world debt, international economic coordination and exchanges, trade promotion, export controls and international banking.

I'm confident that Pat Mulloy will serve with distinction as Assistant Secretary for Market Access and Compliance. As a long-time Counsel for the Senate Banking Committee, he has already contributed a great deal to much of the legislation that has guided our trade policies. I know that the Banking Committee staff will miss Pat Mulloy, but I'm pleased the nation will continue to benefit from his excellent service at the Department of Commerce.

I urge my Colleagues to approve his nomination.

Mr. BRYAN. Mr. President, the Senate has just confirmed the nomination of Patrick A. Mulloy for Assistant Secretary of Commerce for market access and compliance. I strongly support his nomination and believe the country will be well served by his appointment.

When I first came to the Senate, I was given a seat on the Senate Banking Committee where Pat was a senior staff member. Pat's knowledge of the rules and procedures of the Senate was invaluable to me. Many a Senator has drawn upon Pat's expertise and institutional memory, and he is widely respected on both sides of the aisle.

Pat is recognized as one of the Senate's leading experts in international trade and finance matters. He has spent countless hours working on international trade agreements that are helping open up foreign markets to the U.S. financial services industry. Few people have fought as hard for our interests as has Pat. The Senate will sorely miss him.

The Commerce Department will benefit from Pat's enthusiasm, intelligence and personal warmth. The country is fortunate to have some with Pat's commitment to public service. I wish him the best of luck in his new endeavor and look forward to continuing to work with him on important issues facing the country.

Ms. MOSELEY-BRAUN. Mr. President, I rise today to urge my colleagues to support the nomination of Pat Mulloy for the position of Assistant Secretary for Market Access and Compliance at the Department of Commerce. He will be a real asset to the Department of Commerce.

Pat Mulloy has been a key member of the Banking Committee staff for about thirteen years, and he has played a major role in all of the international economic and trade legislation acted on by the Committee over that period. I and my staff have worked closely with Mr. Mulloy on issues such as the Export Enhancement Act of 1993, which, among other things, reauthorized Eximbank's charter. He has the respect of all of the Members of the Banking Committee, both Democratic and Republican.

Pat Mulloy not only has extensive legislative expertise with international economic and trade issues, he also has considerable economic and international experience in the executive branch of the federal government. Before coming to the Banking Committee, Mr. Mulloy was an attorney with the Antitrust Division of the Justice Department, and a foreign service officer at the State Department.

Mr. Mulloy has the background and the kind of good judgement that is so needed. The Commerce Department will benefit from his real commitment to principle, and dedication to public service.

In closing, Mr. President I would like to relate a story Mr. Mulloy told the Finance Committee during his nomination hearing. Mr. Mulloy stated that when he went off to grade school each morning, his mother would put the sign of the cross on his head and say "Goodbye, good luck, and God Bless You, and grow up to be President." While his new position will not take him to the White House, I am sure his mother would join us in saying goodbye, good luck, and God Bless You. We wish you well. I encourage all of my colleagues to support Pat Mulloy's nomination.

STATEMENT ON THE NOMINATION OF JOAN A. DEMPSEY

Mr. SHELBY. Mr. President, I rise today to commend to my colleagues the nomination of Joan A. Dempsey, the former Deputy Assistant Secretary of Defense for Intelligence and Security, and most recently the Director of Central Intelligence's Chief of Staff. Ms. Dempsey is the first nominee for the newly created position of Deputy Director of Central Intelligence for Community Management.

Although Ms. Dempsey was nominated by the President just before the Senate adjourned last November, the Vice Chairman and I have waited to consider the nomination until outstanding issues regarding other positions created by the Intelligence Authorization Act for Fiscal Year 1997 were resolved.

We have reached an accommodation with the Director of Central Intelligence on these other positions, and we expect the President to put forward a nominee for the position of Assistant Director of Central Intelligence (ADCI) for Administration, soon. We have also agreed to allow the DCI to fill the positions of ADCI for Collection and ADCI for Analysis and Production without exercising the Senate's right for advice and consent, for up to one year, while we assess the new management structure.

Ms. Dempsey appeared before the Committee in an open hearing on May 21, 1998. It is apparent that Ms. Dempsey is a well qualified career intelligence professional. The Committee is confident that she is entirely capable of doing a fine job as the Deputy DCI for Community Management.

The Intelligence Community is facing a time of revolutionary change that is driven by the explosion of information technology. These rapid changes in technology must be assessed, evaluated and quickly integrated into all phases of the intelligence cycle. The Community must also have the flexibility to quickly focus on new and sometimes non-traditional targets. This requirement for flexibility was most recently underscored by the failure to anticipate the nuclear tests conducted by India. These events caught the Intelligence Community by surprise despite plenty of strategic warning that Indian leaders planned to revise their nation's nuclear policy. I do not agree with those who say that "we weren't surprised" by the tests because, in hindsight, they logically followed from what was being said publicly.

This was a huge intelligence failure. As Zbigniew Brzezinski said in a recent editorial: "India's nuclear weapons tests . . . signal a truly consequential intelligence scandal." He went on to say: ". . . it is the task of the intelligence community to detect, in a timely fashion, major foreign initiatives or programs that bear either on American security or affect American foreign policy interests." More pointed than my own recent criticisms, Mr. Brzezinski concluded that "the failure . . . in the case of India suggests significant and truly disturbing incompetence both on the level of collection and analysis within the intelligence community." Mr. President, we can debate the nature of the failure, but it was a failure nonetheless.

Did the Community fail because of the way collection priorities were assessed and assigned? Was there too much reliance on certain types of intelligence collection and information? Is the "Intelligence Community" acting cohesively as a community, or is it resisting truly effective integration because of concerns over bureaucratic turf? Who brokers potential disputes over such turf and who has the authority to arbitrate agreements that are honored? These are all very important questions and the Intelligence Committee is seeking answers.

In my view, the issues facing the Intelligence Community today are not solely a function of the level of resources that are available, even though this is a significant part of the problem. The Intelligence Community is still in many ways reacting to a changing world and not yet anticipating it. The Intelligence Community often displays the symptoms of an entrenched and calcified bureaucracy. This, Mr. President, must change.

In the final analysis, our Intelligence agencies are accountable to the American people for two basic things: (1) to alert them to external threats; and (2) to spend their tax dollars efficiently and effectively. A great deal of the responsibility for these matters will rest on this nominee's shoulders. The Committee believes that she possesses the knowledge and leadership qualities that this new position will demand. We look to Ms. Dempsey to assist the DCI in ensuring that the Intelligence Community attains these goals and lives up to the highest standards of accountability as they work toward them.

Mr. President, the Committee has reported the nomination of Joan A. Dempsey to be Deputy Director of Central Intelligence and we recommend that the nomination be confirmed. I urge my colleagues to support the recommendation of the Committee and vote in favor of Ms. Dempsey's nomination. I yield the floor.

Mr. KERREY. Mr. President, I stand today to join Chairman SHELBY in presenting the nomination of Ms. Joan Dempsey to be Deputy Director of Central Intelligence for Community Management.

The President has chosen well. In my view, there is no one in the country more qualified to be Deputy DCI for Community Management than Joan Dempsey. I recall when Congress created these new confirmable positions there was concern voiced in some quarters that they would be filled by political people rather than by professionals. Ms. Dempsey proves the concern groundless. In fact, she is the consummate intelligence professional. She has managed a major national intelligence budget. She has brought together the strands of different intelligence disciplines to produce finished intelligence to support our military. She has overseen all the national intelligence agencies which are also combat support agencies of the Defense Department. She knows this business.

Community management means allocating resources and work among the different agencies in the optimistically-titled "intelligence community," and then combining the product of different agencies and disciplines into a piece of intelligence that helps keep the country safe. The Director of Central Intelligence has the responsibility to perform this function for national intelligence, and he has a staff to help him do it. Congress has believed for several years that he needed the clout of several Presidentially-appointed, Senatorially-confirmed officials to help him execute this management responsibility, and today we consider the nominee for the first and most senior of these positions.

Success in this position will require the full range of management traits, but professional knowledge will probably be the most necessary: knowing the strengths and limitations of each agency in the community, knowing the technologies to improve analysis, production, and dissemination, knowing the needs of the many and varied customers for intelligence, from the President right down to the combat pilots getting briefed for a mission. You don't get this kind of knowledge out of a book. You get it from years of experience and the constant challenges of the real world of intelligence. Ms. Dempsey has that experience and has met those challenges.

Intelligence is an essential element of our national power. Intelligence has always had the task of warning our policymakers and our military so they can deter war. Intelligence is also a force multiplier for our military, particularly now that intelligence rides and guides America's smart weapons. Really complete intelligence coverage provides a sense of American omniscience in the minds of our adversaries, and this sense alone can have a deterrent effect. We are sometimes well short of omniscience, as in the recent case of India's nuclear tests. But knowledge superiority should be our constant goal, and the position for which Ms. Dempsey has been nominated has a central role in achieving it.

Technology has changed, the threats have changed, but the requirement for the best intelligence is as acute as ever. I am certain Ms. Dempsey will help us achieve that goal.

STATEMENT ON THE NOMINATION OF FRED HOCHBERG

Mr. KERRY. I strongly support the nomination of Fred Hochberg to become Deputy Administrator of the Small Business Administration (SBA). The Deputy Administrator oversees the day to day operations of the important financial business education and procurement assistance programs of the SBA to ensure that they are run efficiently and effectively. With more than 20 years of business experience, Fred Hochberg is perfectly suited to step right in and assist the SBA to refine its management structure to insure the SBA is an effective financial institution in the next century, capable of and dedicated to offering genuine help to entrepreneurs and small businesses that are the engine of our free enterprise economy.

Fred Hochberg has lived the American dream and will bring that experience to the Small Business Administration. His parents immigrated from Europe at the beginning of this century. In 1951, Lillian Vernon, Fred's mother, started the Lillian Vernon Company with $2,000 she received from her wedding. With Lillian's hard work and persistence the small business grew over the years. Fred Hochberg joined the business after receiving a Masters in Business Administration degree from Columbia University and has served as President and Chief Operating Officer. Under Fred Hochberg's tenure as President and with his mother's help, the Lillian Vernon Company built a sophisticated international mail order company that today serves more than five million customers.

Fred Hochberg has mastered the challenges of developing a small business into an international corporation. He managed the complex transition of a family-run business into a publicly held corporation. Today, the Lillian Vernon Company has 1,400 employees and has annual sales of $250 million. No one better knows the problems facing small business today than someone who has been involved in a family-owned business for the past 20 years.

When Fred Hochberg appeared before the Senate Small Business Committee earlier this month for his confirmation hearing, he told the Committee "I understand what American entrepreneurs put into their enterprises: the seven-day weeks, the hard work and sweat equity—because that's where I come from. I intend to bring these values to my work at the SBA." Now he will bring the talent, experience and hard work to lead the SBA and its wide array of programs into the 21st century.

I congratulate the President for this nomination. I thank Chairman BOND and Majority Leader LOTT for agreeing to bring this nomination before the Senate. And I look forward to Fred Hochberg's arrival at the Small Business Administration where I believe he will make a very considerable contribution to the small businesses of our nation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NOS. 105-47 AND 105-48

Mr. ENZI. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed in the following treaties transmitted to the Senate on May 22, 1998, by the President of the United States:

No. 1, the Treaty with Czech Republic on Mutual Legal Assistance in Criminal Matters, Treaty Document No. 105-47;

No. 2, the Inter-American Convention on Sea Turtles, Treaty Document Number 105-48.

I further ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations, and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the United States of America and the Czech Republic on Mutual Legal Assistance in Criminal Matters, signed at Washington on February 4, 1998. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including terrorism, other violent crimes, drug trafficking, money laundering, and other "white-collar" crime. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: locating or identifying persons or items; serving documents; taking testimony or statements of persons; transferring persons in custody for testimony or other purposes; providing documents, records, and articles of evidence; executing requests for searches and seizures; immobilizing assets; assisting in proceedings related to forfeiture of assets, restitution, and criminal fines; and providing any other assistance consistent with the laws of the Requested State.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 22, 1998.*

To The Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Inter-American Convention for the Protection and Conservation of Sea Turtles, with Annexes, done at Caracas December 1, 1996, (the "Convention"), which was signed by the United States, subject to ratification, on December 13, 1996. I also transmit, for the information of the Senate, the report of the Secretary of State with respect to the Convention.

All species of sea turtles found in the Western Hemisphere are threatened or endangered, some critically so. Because sea turtles migrate extensively, effective protection and conservation of these species requires cooperation among States within the sea turtles' migratory range. Although the international community has banned trade in sea turtles and sea turtle products pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention I am transmitting is the first multilateral agreement that actually sets standards to protect and conserve sea turtles and their habitats.

In section 609 of Public Law 101-162, the Congress called for the negotiation of multilateral agreements for the protection and conservation of sea turtles. In close cooperation with Mexico, the United States led a 3-year effort to negotiate the Convention with other Latin American and Caribbean nations. Once ratified and implemented, the Convention will enhance the conservation of this hemisphere's sea turtles and harmonize standards for their protection.

I recommend that the Senate give early and favorable consideration to the Convention and give its advice and consent to its ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 22, 1998.*

AUTHORIZING THE FLYING OF THE POW/MIA FLAG

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 99 submitted earlier today by Senator LOTT.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 99) authorizing the flying of the MIA/POW flag.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ENZI. I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution was agreed to.

The concurrent resolution (S. Con. Res. 99) reads as follows:

S. CON. RES. 99

Resolved by the Senate (the House of Representatives concurring), That, for the purpose of section 1082(b)(1)(B) of the National Defense Authorization Act for Fiscal Year 1998, the display of the POW/MIA flag at the Capitol shall begin at 6:30 p.m. on Sunday, May 24, 1998. As used in this section, the term "POW/MIA flag" has the same meaning as in section 1082 of such Act.

SEC. 2. The architect of the Capitol may prescribe regulations with respect to the first section of this resolution.

ORDERS FOR MONDAY, JUNE 1, 1998

Mr. ENZI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of S. Con. Res. 98.

I further ask that when the Senate reconvenes on Monday, June 1st, immediately following the prayer the routine requests through the morning hour be granted, and the Senate then begin a period of morning business until 2 p.m. with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I further ask that following morning business the Senate resume consideration of the Durbin amendment No. 2438 pending to the tobacco legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ENZI. Mr. President, for the information of all Senators, on Monday, June 1, the Senate will be in a period of morning business until 2 p.m. Following morning business, the Senate will resume consideration of the tobacco legislation, with several amendments still pending. It is hoped that debate on those amendments can be disposed of in a timely fashion, so that other remaining amendments can be offered and debated. However, no votes will occur during Monday's session of the Senate. Any votes ordered with respect to amendments, and the cloture vote on the motion to proceed to the nuclear waste bill, will be postponed to occur on Tuesday, June 2, at a time to be determined by the majority leader but not before 6 p.m.

For the remainder of the week of June 1, the Senate may consider nuclear waste legislation.

Mr. President, I will suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

ADJOURNMENT UNTIL MONDAY, JUNE 1, 1998

Mr. CHAFEE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the provisions of S. Con. Res. 98.

There being no objection, the Senate, at 5:27 p.m., adjourned until Monday, June 1, 1998, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate May 22, 1998:

NUCLEAR REGULATORY COMMISSION

GRETA JOY DICUS, OF ARKANSAS, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE TERM OF FIVE YEARS EXPIRING JUNE 30, 2003. (REAPPOINTMENT)

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

HUGH Q. PARMER, OF TEXAS, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE M. DOUGLAS STAFFORD, RESIGNED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JOAN SPECTER, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2002, VICE PATRICIA ANN BROWN, TERM EXPIRED.

DEPARTMENT OF COMMERCE

AWILDA R. MARQUEZ, OF MARYLAND, TO BE ASSISTANT SECRETARY OF COMMERCE, AND DIRECTOR GENERAL OF THE UNITED STATES AND FOREIGN COMMERCIAL SERVICE, VICE LAURI FITZ-PEGADO.

DEPARTMENT OF DEFENSE

LOUIS CALDERA, OF CALIFORNIA, TO BE SECRETARY OF THE ARMY, VICE TOGO DENNIS WEST, JR.

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

GARY J. DUNN, 6274
PATRICK M. HERMANSON, 6059
WALTER RIVERA, 7507
MICHAEL C. SULLIVAN, 4993

IN THE MARINE CORPS

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

LONNY R. HADDOX, 4084

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

STEVEN P. MARTINSON, 8837
BRENT A. SMITH, 6909

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5582:

To be lieutenant

JASON T. BALTIMORE, 6305
CHRISTINA M. BENACCI, 3862
FRANK G. BOWMAN, 7056
TERRENCE W. COSTELLO, 6484
SEAN P. HENSELER, 3337
ANGELA S. HOLDER, 7059
TIMOTHY P. JENNINGS, 4941
ADRIAN J. MARENGO-ROWE, 3848
ANTHONY J. MAZZEO, 8138
RYAN MCBRAYER, 5637
TALLEY E. MC INTRYE, 5416
CHRISTOPHER T. MULLIGAN, 5168
ANDREW J. OSORNO, 1381
MEREDITH L. ROBINSON, 1104
DANIEL P. SHANAHAN, 6967

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

DAVID L. GROCHMAL, 5503

To be commander

LOREN D. HARTER, 7316

To be lieutenant commander

JAMES C. EISENZIMMER, 4234
JOEL D. NEWMAN, 8563

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12204:

To be captain

RONALD W. HARGRAVES, 1418
BRUCE S. LAVIN, 5081
JANICE L. WALLI, 6020

THE FOLLOWING NAMED OFFICER FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

STEPHEN E. PALMER, 1031

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

GARY L. MURDOCK, 0394

To be lieutenant commander

VICTOR M. OTT, 4946
BRIAN G. WILSON, 1126

THE JUDICIARY

GERALD BRUCE LEE, OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA VICE JAMES C. CACHERIS, RETIRED.

PATRICIA A. SEITZ, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE STANLEY MARCUS, ELEVATED.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate May 22, 1998:

DEPARTMENT OF EDUCATION

CYRIL KENT MC GUIRE, OF NEW JERSEY, TO BE ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT, DEPARTMENT OF EDUCATION.

NATIONAL SCIENCE FOUNDATION

RITA R. COLWELL, OF MARYLAND, TO BE DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION FOR A TERM OF SIX YEARS.

DEPARTMENT OF COMMERCE

PATRICK A. MULLOY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

CENTRAL INTELLIGENCE AGENCY

JOAN AVALYN DEMPSEY, OF VIRGINIA, TO BE DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT F. RAGGIO, 7255.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DONALD L. PETERSON, 2830.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. DANIEL JAMES, III, 8248.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. LEE P. RODGERS, 4461.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. ARCHIE J. BERBERIAN, II, 4968.

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. ROGER C. SCHULTZ, 5293.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. DANIEL C. BALOUGH, 0228.
BRIG. GEN. ROGER L. BRAUTIGAN, 1521.
BRIG. GEN. THOMAS A. WESSELS, 5197.

To be brigadier general

COL. BRUCE A. ADAMS, 4063.
COL. MICHAEL B. BARRETT, 8071.
COL. LOWELL C. DETAMORE, JR., 9811.
COL. KENNETH D. HERBST, 3103.
COL. KENNETH L. PENTTILA, 0067.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. FREDERICK MC CORKLE, 7324.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS ASSISTANT COMMANDANT OF THE MARINE CORPS AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5044:

To be general

LT. GEN. TERRENCE R. DAKE, 6646.

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) MARTIN E. JANCZAK, 9028.
REAR ADM. (LH) PIERCE J. JOHNSON, 1625.
REAR ADM. (LH) LARY L. POE, 6491.
REAR ADM. (LH) MICHAEL R. SCOTT, 2697.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) ROBERT F. BIRTCIL, 3384.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) MICHAEL W. SHELTON, 2431.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be admiral

VICE ADM. CHARLES S. ABBOT, 8270.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) JEFFREY A. COOK, 2672.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

GEORGE P. NANOS, JR., 1992.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING PHILLIP M. ARMSTRONG, AND ENDING * REX A. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 21, 1998.

IN THE ARMY

ARMY NOMINATION OF GARY W. KRAHN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 21, 1998.

ARMY NOMINATIONS BEGINNING EUGENE N. ACOSTA, AND ENDING CURTIS L. YEAGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 29, 1998.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING RICHARD D. COULTER, AND ENDING KARIM SHIHATA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 21, 1998.

MARINE CORPS NOMINATION OF GARY F. BAUMANN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 29, 1998.

MARINE CORPS NOMINATIONS BEGINNING MICHAEL L. ANDREWS, AND ENDING ROBERT C. WITTENBERG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 29, 1998.

MARINE CORPS NOMINATIONS BEGINNING JAMES N. ADAMS, AND ENDING THOMAS J. ZOHLEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 29, 1998.

MARINE CORPS NOMINATIONS BEGINNING LOUIS P. ABRAHAM, AND ENDING MARK G. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 29, 1998.

MARINE CORPS NOMINATIONS BEGINNING RUBEN BERNAL, AND ENDING JAMES WERDANN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 29, 1998.

IN THE NAVY

NAVY NOMINATIONS BEGINNING MICHAEL D. COBB, AND ENDING RAYMOND B. ROLL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 21, 1998.

NAVY NOMINATION OF DANIEL D. THOMPSON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 21, 1998.

HOUSE OF REPRESENTATIVES—*Friday, May 22, 1998*

The House met at 9 a.m.

Dr. Carl Holladay, Candler School of Theology, Emory University, Atlanta, Georgia, offered the following prayer:

Let us pray. Gracious God, we confess You as the one who inspired our beginnings as a people in quest of freedom and who sustained these hopes in times of threat and despair. In deep gratitude today, we remember this Nation's brave men and women, who died for the cause of freedom.

Bless this House as it deliberates today. Give those gathered here a special measure of Your wisdom. Let them do their work driven by a desire to serve the common good. Let them hear the plaintive cries of those longing to be heard. Let them know the hopes of those who live with noble dreams unfulfilled. Let them remember the prayers of those who long to be free.

We pray for peace and justice, knowing how the demands of justice compete with cries for mercy, yet willing to make ourselves instruments of Your peace in this world. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Pennsylvania (Mr. MASCARA) come forward and lead the House in the Pledge of Allegiance.

Mr. MASCARA led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

> H. Con. Res. 171. Concurrent resolution declaring the city of Roanoke, Virginia, to be the official site of the National Emergency Medical Services Memorial Services.

The message also announced that the Senate passed a concurrent resolution of the following title, in which concurrence of the House is requested:

> S. Con. Res. 73. Concurrent resolution expressing the sense of Congress that the European Union is unfairly restricting the importation of United States agriculture products and the elimination of such restrictions should be a top priority in trade negotiations with the European Union.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO EXTEND REMARKS IN CONGRESSIONAL RECORD TODAY

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that for today all Members be permitted to extend their remarks and to include extraneous materials in that section of the RECORD entitled Extensions of Remarks.

The SPEAKER. Is there objection to the request of the gentleman from Nevada?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize Members for eight 1-minute speeches on each side.

WORKING U.S. CITIZENS SUFFER FROM DEMORALIZING AND CRUSHING TAX BURDEN

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, incredible as it may sound, for the first 132 working days of this year, every penny earned by the hard-working men and women of Nevada did not go to pay for their kids' education, did not go to pay for their home mortgage, did not go to pay their medical insurance or expenses. Instead, it all went to this expanding government bureaucracy.

Fully one-third of the year's effort of these hard-working Americans has been spent just to pick up the tab for the bloated government bureaucracy. Decades of unchecked growth and deficit spending by the liberal tax and spenders has left the hard-working men and women of this country with this demoralizing and crushing tax burden.

The vast majority of Americans do not object to paying their fair share of taxes, but they do object to the suffocating level of taxation that exists under this administration.

Arthur Godfrey put it best when he said, "I'm proud to be paying taxes in the United States. The only thing is, I could be just as proud for half the money."

Mr. Speaker, I urge all of my colleagues to support the Republican proposal to eliminate the marriage tax penalty. Let us allow hard-working families to keep more, not less, of their money.

RECOGNITION OF AFRICAN LIBERATION DAY

(Ms. CHRISTIAN-GREEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise today to join my fellow Virgin Islanders in recognition of African Liberation Day, which will be celebrated on Monday, May 25, a day created in 1963 as a rallying point for freedom and to mark the progress of the liberation struggles in Africa.

For my constituents and I, this year's celebration is especially significant because it occurs as we celebrate the 150th anniversary of emancipation from slavery.

For Africans on the continent and in the Diaspora, this year has special significance as we await the enactment of the African trade bill and look forward to the passage of a similar proposal for the Caribbean.

It is my hope that as we come together, not only in the Virgin Islands but around the world, to reaffirm our oneness, we can move closer to our full economic liberation with the creation of a new and unique trade area which will link all of Africa's children, those on the continent as well as those in the United States and the Caribbean.

REQUESTING THE PRESIDENT TO PLEASE EXPLAIN TRANSFER OF TECHNOLOGY TO COMMUNIST CHINA

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, I would like the President to explain to the American people why authority for approving technology transfers to Communist China was transferred from the State Department to the Commerce Department in this administration.

I would like to know why national security concerns would be overruled by commercial considerations, thus endangering the security of all Americans.

The idea that it is official U.S. policy to improve Communist China's rockets

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

defies explanation. Instead of developing a missile defense system of our own, this administrations is helping to develop Communist China's strategic nuclear missile program, a program with missiles even now aimed at the United States.

This policy is madness, utter madness, and I am still awaiting an explanation from this administration why they determined that assisting Communist China in the development of its "Long March" missile is in the national interest of the United States.

Refusing to build a national missile defense because perfecting China's missiles is a higher priority is not only nutty and bizarre, it clearly puts our country at increased risk.

SUPPORT H. CON. RES. 203 TO FUND VETERANS OF FOREIGN WARS STAMP

(Mr. MASCARA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MASCARA. Mr. Speaker, I rise to urge my colleagues to support my resolution, H.Con.Res. 203, the resolution requesting the United States Postal Service to issue a commemorative stamp honoring the 100th anniversary of the founding of the Veterans of Foreign Wars of the United States. It honors those men and women who fought, bled and died in every war in which the United States has engaged during this century.

The U.S. Postal Service is issuing many stamps to celebrate this century. Some of these are very worthy events and deserve to be recognized. However, the VFW should be given as much consideration as cartoon characters, Elvis Presley and Marilyn Monroe.

As we leave this century, I believe the Citizens Stamp Advisory Committee should do the right thing; issue a stamp honoring the 100th anniversary of one of the Nation's oldest veterans organizations.

At the present time, I have over 125 cosponsors, a bipartisan effort. I ask other Members to join me in do sponsoring H.Con.Res. 203 to honor the Veterans of Foreign Wars with the issuance of a 100th anniversary commemorative stamp.

TRIBUTE TO ROSCOE ALLEN, JR., OF OCILLA, GEORGIA

(Mr. CHAMBLISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAMBLISS. Mr. Speaker, I rise today to honor one of my constituents, Roscoe Allen, Jr., of Ocilla, Georgia. Mr. Allen has been selected by the Small Business Administration as Small Businessperson of the Year for the State of Georgia, and he will represent Georgia in the selection process for the National Small Businessperson of the Year.

In just 2 years, Mr. Allen has made his mark in the competitive snack food industry. He broke into the peanut processing business by putting in long hours, traveling many miles and practicing his straightforward sales pitch to his wife and long-time friend. His company, known as the Roscoe Allen Company, is the first southern, African-American-owned peanuts and mixed nuts processor. His products are sold in grocery stores all across the southeast as well as in Texas.

Mr. Speaker, I commend Mr. Allen's commitment to providing quality products and outstanding service at an economical price and for achieving success in a competitive market in such a short period of time. I congratulate Mr. Allen and wish him all the best at the Small Businessperson award ceremony and commend him for being an outstanding example of a small businessman and to let him know that all of Georgia is very proud of him.

PARENTS, WITH GOD'S HELP, RAISE OUR CHILDREN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, another tragedy in our schools: more expert analysis.

One group said America should heed the advice of the First Lady when she said it takes a community to raise a child. I do not mean to be disrespectful, but I disagree.

Communities do not raise a child; PTAs do not raise a child; schools do not raise a child; day care centers and summer camps do not raise a child. My colleagues, the awesome responsibility of raising a child is still the parents. Parents raise our children.

Maybe if America got back to basics and placed more emphasis on parents instead of communities, our kids would be much better off. If the community wants to help, they might allow God back into our schools. Parents, with the help of God, will be much more effective raising our kids.

RELIGIOUS LIBERTY IN BELGIUM

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise today to express concern over an increase in religious intolerance in the country of Belgium.

In 1997, the Belgian parliament published a Sect Report which branded Evangelical Christians, Pentecostals, Amish, Charismatics, and other Evangelical mission groups as potentially dangerous sects. In addition, the Belgian parliamentary report also targeted Catholic Charismatics.

Former King of Belgium, Baldwyn I, who was known to be close to the Charismatic movement inside the Catholic church, was even attacked on the front page of a daily newspaper.

The Belgian Sect Report was followed by legislation on April 30 this year which established a Sect Observatory.

Mr. Speaker, its highly disturbing that a government which abides by the Helsinki Accords, as well as the European Convention on Human Rights, should violate these agreements by establishing a government network to monitor the religious activity of law-abiding citizens.

Mr. Speaker, the fundamental right of religious liberty must be protected for all people, including those in Western Europe.

□ 0915

BESTEA CONFERENCE REPORT

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, today later on the floor of the House of Representatives, the BESTEA conference report will be up. And Members on both sides are to be commended for the work they have done on this piece of legislation. But there has been a rumbling on the floor during this last week that somehow Members are being told that they are voting against their veterans in order to get bridges and highways. And that is not the intentions of Members on either side of the House.

To make that clear, I have drafted the full Veterans Benefit Act of 1998. I would like Members to think about cosponsoring this bill. It is not the intentions of Republicans or Democrats to give short shrift to those World War II veterans who fought their way across Europe, who fought their way across the Pacific, or those veterans from Korea who feel they are forgotten or those from Vietnam, Grenada, Panama or Desert Storm.

We stand up for our veterans, and we want to fully fund their benefits. So I ask the Members today to cosponsor the full Veterans Benefit Act of 1998 as we pass this BESTEA bill and send the veterans a message. The U.S. Congress is with them. We think they have earned these benefits. We think they deserve them.

NATIONAL RIGHT TO WORK ACT

(Mr. SNOWBARGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SNOWBARGER. Mr. Speaker, I rise today to voice my wholehearted support for H.R. 59, the National Right to Work Act, and to implore my colleagues to give their support as well.

H.R. 59 simply eliminates those provisions of the National Labor Relations Act and the Railway Labor Act that empower unions bosses to steal the hard-earned money of American workers.

Over 60 years ago, Congress gave union officials the so-called right to force workers to pay union dues whether they want to or not. Union officials have wielded this power far too long. It is time to reintroduce freedom into the American workplace, the freedom to choose whether or not to pay union dues, freedom from compulsory unionism.

H.R. 59 corrects a terrible injustice. The coercion of America's workers to pay union dues is immoral and against the basic values of our country and even of the founders of the labor unions themselves.

Support restoration of freedom for the American worker. Support the repeal of the power to force people to pay dues to a union against their will. Support H.R. 59.

PROPOSITION 226 BALLOT INITIATIVE

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute).

Mr. FAZIO of California. Mr. Speaker, I would like to offer another view on the message from the gentleman who just appeared in the well.

Several weeks ago, Congress overwhelmingly rejected a bid by right-wing foundations and corporate interests that would have tilted the political balance in America. By an overwhelming bipartisan vote, the House defeated a bill that included language similar to the Proposition 226 ballot initiative in California.

Funded by extreme out-of-state interest groups and large corporate donors, this California initiative is part of a national campaign by ultraconservative groups. Their goal: to weaken the role of working men and women who oppose their right-wing views on issues such as the Patient Protection Act, or HMO reform, increasing the minimum wage, and reforming social security.

This attempt to dilute the political power of union members, sometimes called "paycheck protection" but more aptly named "paycheck deception", failed in Congress; and it should fail in California as well.

Despite the rhetoric we heard on the floor last night, big business already outspends labor by an 11–1 margin. Proposition 226 would likely give big business even greater political advantage. Fellow Californians, vote no on Prop 226 on June 2.

U.S. NATIONAL SECURITY HARMED

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, according to press accounts, the Pentagon issued a classified report in May of 1997 about the Loral-led review commission's unauthorized release to China of its report on Communist China's latest rocket crash.

The report concluded that the United States national security has been harmed. Let me repeat that. The report concluded that the United States national security has been harmed. The White House claims otherwise but offers no explanation, nothing at all.

In February of this year, despite intense opposition from his own Justice Department, President Clinton gave permission to Loral to transfer highly sensitive missile information, particularly with respect to encryption, to the Communist Chinese government. Reportedly, the Chinese could use this information to perfect their missile and rocket programs. This was allowed despite an ongoing criminal investigation of Loral for earlier transfers of missile technology to Communist China.

This leaves many unanswered questions such as, how deeply was U.S. national security harmed? Did the campaign contributions to Loral and the Chinese government affect the decision? And why does the President insist that this decision was in the best interest of the American people?

AGRICULTURAL RESEARCH BILL

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, I come and take this 1 minute today to alert my colleagues in the House of Representatives of a rule that we are about to take under consideration concerning the agricultural research bill that is unprecedented.

The Speaker of the House of Representatives, the gentleman from Georgia (Mr. GINGRICH), and his leadership, the gentleman from Texas (Mr. ARMEY), and the gentleman from Texas (Mr. DELAY) are about to do some tremendous damage to production agriculture all over this Nation. Because of the same manner in which they wrote the farm bill in his office, they are now writing a rule that is going, as I said, to do lasting damage to production agriculture.

For the first time in my legislative life, we have the nutrition community and the production agriculture committee agree on additional funding for crop insurance and other agricultural needs and restoring of some food needs and doing it in a budget-responsible way. The rule that we are about to consider undoes it all.

I want to alert my colleagues in the House, immediately after the 1-minutes, I will urge a motion to adjourn until we can discuss this. And, hopefully, the leadership will go back upstairs and rewrite the rule in a fair way to let the conference report be considered by the full House.

CAMPAIGN CONTRIBUTIONS FROM COMMUNIST CHINA TO DNC

(Mr. PAPPAS asked and was given permission to address the House for 1 minute.)

Mr. PAPPAS. Mr. Speaker, I would like to ask a few questions that we will never ever hear asked by most of the folks on the other side of the aisle. I would like the American people to think about these questions and then ask themselves why, why are these questions not even being asked by the liberals in Congress?

Why did Communist China apparently contribute nearly $3 million to the Democratic National Committee during the 1996 election campaign?

Were there any changes in U.S. foreign policy?

What were the results of all this foreign money into the Democrat Party?

Now, consider the last question very carefully. The problem, of course, is that one cannot know whether a change in U.S. foreign policy was made because of these campaign contributions or because a change was made for legitimate policy reasons based on our national interest. These are the concerns that we all should have.

One last question we will never ever hear from the other side. Who in the White House knew about these contributions to the DNC? Maybe the other side does not want to know who knew.

AGRICULTURAL RESEARCH BILL

(Mr. DOOLEY of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Speaker, I rise to make sure all my colleagues fully understand that we are soon to be considering a rule on the agricultural research bill, and I think everyone should understand exactly what is about to happen.

Through the Committee on Agriculture, we were able to fashion an ag research, a crop insurance bill, as well as a food stamp reform bill that had broad bipartisan support. It was a bill that went to conference. It was signed by all the Republican and Democrat conferees. It was a bill that passed the Senate by a vote of 92–8.

Last night, the Committee on Rules has reported a bill that is basically going to unravel this carefully crafted conference report. Anyone who chooses to vote for this rule has to understand what they are doing. They are taking a slap at every farmer in this country, farmers who are struggling to maintain their viability, because this rule will gut the crop insurance fix which is so vital.

They will also be having a slap in the face to our universities who are performing the agricultural research, which is so important to our international competitiveness of the agriculture sector. And they are also slapping in the face all the legal immigrants who have the opportunity to get vital food stamps.

Vote no on this rule.

AGRICULTURAL RESEARCH BILL

(Mr. BECERRA asked and was given permission to address the House for 1 minute.)

Mr. BECERRA. Mr. Speaker, S. 1150 will come up, the rule will come up in just a few moments. I would like to echo the remarks of my friends and colleagues, the gentleman from Texas (Mr. STENHOLM) and the gentleman from California (Mr. DOOLEY).

We had a very delicately balanced package that addressed the needs of our farmers in America and addressed the needs of those in America who are hungry. It was a very difficult compromise to make because there is such a need out there in these various communities. Yet, we were able to strike that accord, bipartisan accord, rural and urban American accord.

On the Senate side, 92 votes came out in support of this bill. In conference, it was a unanimously supported conference report. All of a sudden, now we have a rule on this bill here in the House that would destroy that delicate compromise, the balance that was achieved.

Unfortunately, what it does is it guts the funding for the crop insurance aspect of this, for the agricultural research aspect of this, and for the dollars necessary to try to help those who are in need of food. We cannot let this happen.

I would urge a no vote on the rule.

MOTION TO ADJOURN

Mr. STENHOLM. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. CALVERT). The question is on the motion to adjourn offered by the gentleman from Texas (Mr. STENHOLM).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. STENHOLM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 59, nays 304, not voting 70, as follows:

[Roll No. 187]

YEAS—59

Abercrombie
Allen
Becerra
Berman
Berry
Bishop
Bonior
Boucher
Boyd
Brown (CA)
Brown (OH)
Castle
Clay
Clayton
Condit
Coyne
Cramer
DeGette
Delahunt
DeLauro
Dooley
Edwards
Farr
Fattah
Fazio
Ford
Gejdenson
Gephardt
Hall (OH)
Hastings (FL)
Kennelly
Kingston
Lewis (GA)
Manton
Martinez
McGovern
McIntyre
Millender-McDonald
Mink
Obey
Olver
Ortiz
Pallone
Payne
Pickett
Pomeroy
Roybal-Allard
Sabo
Sawyer
Scott
Sisisky
Slaughter
Stenholm
Tanner
Tauscher
Thurman
Waters
Watt (NC)
Whitfield

NAYS—304

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bereuter
Bilbray
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Borski
Boswell
Brady (TX)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Chabot
Chambliss
Chenoweth
Christensen
Clyburn
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Granger
Greenwood
Gutierrez
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Mascara
Matsui
McCarthy (NY)
McCollum
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Miller (FL)
Minge
Moakley
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Packard
Pappas
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Poshard
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Redmond
Regula
Riley
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Rush
Ryun
Salmon
Sánchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spratt
Stabenow
Stearns
Stokes
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Tierney
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Wexler
White
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—70

Ackerman
Bateman
Bilirakis
Bono
Brady (PA)
Callahan
Clement
Conyers
Cubin
Davis (IL)
DeFazio
DeLay
Deutsch
Dickey
Dixon
Fawell
Filner
Foley
Furse
Gonzalez
Graham
Green
Gutknecht
Harman
Hefner
Herger
Hinchey
Hunter
Inglis
Jefferson
Johnson, Sam
Kaptur
Manzullo
Markey
McCarthy (MO)
McCrery
McDade
McDermott
Meeks (NY)
Miller (CA)
Mollohan
Morella
Nadler
Owens
Oxley
Parker
Pascrell
Pelosi
Porter
Quinn
Rangel
Reyes
Riggs
Rogan
Sanders
Serrano
Sessions
Skaggs
Souder
Spence
Stark
Strickland
Taylor (NC)
Torres
Towns
Waxman
Weller
Weygand
Wicker
Young (AK)

□ 0957

Messrs. RILEY, CUNNINGHAM, THOMPSON, KLECZKA and RODRIGUEZ, Ms. KILPATRICK, Ms. JACKSON-LEE of Texas and Ms. WOOLSEY changed their vote from "yea" to "nay."

Mr. HASTINGS of Florida changed his vote from "nay" to "yea."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. MCCARTHY of Missouri. Mr. Speaker, on rollcall No. 187, I was unavoidably detained. Had I been present, I would have voted "no."

AMENDMENT TO RULE ON S. 1150, AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998 CONFERENCE REPORT

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, there is some concern over understanding the rule that we are about to take up. I just want to put the House on notice that at the end of my remarks, or during the debate on the rule, that I will be putting back into the bill an unfunded mandate that was removed. I personally oppose unfunded mandates and I will argue against it, but the House will have an opportunity to vote on it.

So at some point I would be offering a manager's amendment, that at the appropriate time I would offer an amendment to the rule ensuring that the offset for crop insurance and for food stamps for legal aliens is going to be in the bill. There would be a vote on whether or not to take that out.

DISPOSING OF CONFERENCE REPORT ON S. 1150, AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 446 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 446

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 1150) to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes. All points of order against the conference report (except those arising under clause 3 of rule XXVIII and predicated on provisions in subtitle A of title V) and against its consideration (except those arising under section 425 of the Congressional Budget Act of 1974) are waived. If a point of order against the conference report for failure to comply with clause 3 of rule XXVIII is sustained, the conference report shall be considered as rejected and the pending question shall be, without intervention of any point of order, whether the House shall recede from its amendment and agree to an amendment to the Senate bill consisting of the text of the conference report, modified by striking subtitle A of title V. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

The SPEAKER pro tempore (Mr. CALVERT). The gentleman from New York (Mr. SOLOMON) is recognized for one hour.

□ 1000

Mr. SOLOMON. Mr. Speaker, for the purposes of the of debate only, I yield 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I might consume. All time yielded is for purposes of debate only.

This rule waives all points of order against the conference report, except for two. First, the rule will allow points of order for violations of the Unfunded Mandate Reform Act. The Congressional Budget Office has already determined that the conference report contains unfunded mandates to the tune of hundreds of millions of dollars; in my own State of New York, in this letter from Governor George Pataki, several hundred million dollars alone which will have to be passed on to local property taxpayers in the State of New York.

Now, before consideration of the conference report, any Member may make a point of order that it contains an unfunded mandate, and at some point in a few minutes I will move to put back in the unfunded mandate that was inadvertently removed from the bill, even though I oppose it and I will raise a point of order to strike out the unfunded mandate that we have just put back in. However, that would require a 20 minute debate and a vote, so that everybody understands they will have that opportunity to vote on whether to proceed with an unfunded mandate. That will be the pay-for for crop insurance and food stamps for legal aliens and other categories.

The second point of order against the conference report permitted by this rule is for the violation of scope of conference rule. This rule prohibits the conferees from adding material in the conference which was not considered in either the House or the Senate, and here we are talking about an $800 million expenditure for food stamps for legal aliens, for refugees, for a group of Indians, for a group of people coming out of Laos and Cambodia, and a number of other people. In this case, the conference report contains several provisions which are beyond the scope of the conference.

Under the rule, the point of order is specifically allowed against the part of the conference report, again, which provides $800 million for food stamps for certain noncitizens, in subtitle A of Title V.

Mr. Speaker, the conference report is available on both sides of the aisle, and if my colleagues want to know what they are voting on as far as the food stamps are concerned, they need to look up subtitle A of Title V, and it is a very brief description of who is qualified in this bill.

If this point of order is sustained by the Chair, technically the conference report falls, and the rule then provides that the pending question will be whether to agree to an amendment consisting of everything that was in the conference report except the money for food stamps for certain noncitizens.

Mr. Speaker, this conference report contains numerous violations of House rules, and these are major issues that were put into this bill after it left both the House and the Senate. There are multiple points of order which would be available to the Members of the House if this agreement were to be brought up under the privileged status which conference reports theoretically enjoy in the House.

Now, Mr. Speaker, this conference report was filed on April 27 and it has languished on this calendar since. It was presented to the Committee on Rules yesterday, and the managers on the part of the House requested a rule waiving all points of order against the conference report and against its consideration.

Among the many points of order which could be made against this conference report are as follows:

Clause 3 of rule 28, prohibiting matters which extend beyond the scope of the conference.

Clause 4 of rule 28, prohibiting nongermane Senate material, an example of which is section 226(f), the redistribution of funds under the matching funds requirement for research and extension activities at 1890 institutions.

Clause 2 of rule 20, so we can see how complicated this is, which prohibits consideration of Senate amendments which would violate clause 2 of Rule XXI, which in turn prohibits appropriations on an authorizing measure, which includes many, many, many, many, many provisions. So we are breaking the rules of our House by going ahead today with this.

Now, some of these are: Section 252, which is the Fund for Rural America; Title IV, miscellaneous fees; various nutrition programs in the bill; and the National Organic Certification Fees, and it goes on and on and on. I am just trying to point out to my colleagues, all of these things were added to this bill after it left both houses, so none of us have any idea of what is in this bill, including me.

Section 303 of the Congressional Budget Act, which prohibits consideration of legislation creating new budgetary authority in a fiscal year before passage of the budget resolution. That is in here. This new budget authority is largely contained in the food stamps title.

The conference report also contains legislative provisions in the jurisdiction of other House committees, including the Committee on Resources and the Committee on Appropriations, and the Committee on Appropriations should be very concerned about what is happening here, because the Members that serve on standing committees always raise a ruckus when the Committee on Appropriations tries to legislate in their appropriation bill, taking away the jurisdiction in the standing committees. This is just the opposite.

Here we have one authorizing committee taking away the jurisdiction of the appropriations committees.

Finally, the unfunded mandates that I described earlier. Mr. Speaker, from among this panoply of options, the Committee on Rules chose two particularly egregious violations of House rules and we crafted the rule accordingly, trying to follow the Rules of the House.

The rule therefore, and this is what we ought to listen to because it gets complicated, the rule, therefore allows Members to make an unfunded mandate point of order, which if I am allowed to put it back in by unanimous consent, I will make myself, because I unalterably oppose unfunded mandates on State and local governments under any circumstances. And then we would have a dedicated period of debate on my motion to raise the point of order against the unfunded mandate. We would have a period of debate, 20 minutes, and a vote on whether to consider the conference report with that unfunded mandate in it.

That is fair. Everybody gets a clean shot. If we want to go ahead with it, we vote "yes". If we want to kill the bill then, we vote "no". That is normal, regular rules of order.

The rule then allows any Member to make a point of order under the scope rule, clause 3 of rule 28, against subtitle A, title V of the conference report, which I have just outlined to my colleagues, which contains both the unfunded mandate and the provision expanding food stamps to legal aliens.

This rule gives the House the opportunity to take out of the conference report the food stamp provisions, which many of us object to, which never should have been in the conference report in the first place. Again, they were not in the House bill, they were not in the Senate bill. And the unfunded mandate saddles States and local governments, every one of our States, it saddles the States and local governments, local governments which raise their revenues to pay for these unfunded mandates out of property taxes. In other words, if we leave this mandate in, we are mandating an increase on property taxes on every one of our constituents throughout America that own a home.

The bill, when it passed the House, was designed primarily to help the Committee on Agriculture and it should have stayed that way, and if it did, we would be sailing through here with about a 15 minute debate on the rule and a 10 minute debate on the bill and it would have been settled. That is the way it was when it left the House and the Senate and that is the way it should be today.

When it came back from conference it was loaded up with these mandatory programs which rolled back the landmark welfare reform package this Congress passed in 1996, and that is exactly what we are doing here today. If we vote "yes" on this bill with the food stamps in there and these other provisions, saddling unfunded mandates on local governments and States, then we are just refuting everything that we did two years ago that was overwhelmingly accepted by the American people. Eighty-four percent of the American people think we did the right thing back then, and they are going to think we are doing the wrong thing here today.

This rule gives the House a way to preserve the parts of the bill dealing with agriculture, while still taking out some of the most egregious add-ons.

Now, that is what is before us today. Mr. Speaker, again, at the appropriate time, as soon as the parliamentarians have had time to review my unanimous consent request, I will offer an amendment to the rule to ensure that the offsets for crop insurance and food stamps for legal aliens are back in the bill.

Mr. Speaker, in the case of the offset for both of these programs, crop insurance and food stamps for legal aliens, it is the unfunded mandate that we are talking about. That provision is a reduction in administrative costs which passes Federal costs off to the States, and therefore a vote for the amendment is a vote to send crop insurance and agriculture research to the Senate without food stamps for legal aliens, and we are assured that that will pass the Senate today and be sent on to the President.

So I hope that is clear to my colleagues. If it is not, I would be glad to entertain any questions as we proceed in this friendly debate.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the Chairman of the Committee on Rules, the gentleman from New York (Mr. SOLOMON) for yielding me the time.

As my colleague has described, this is a rule for consideration of the conference report on Senate 1150, which is the Agriculture Research Extension and Education Act of 1998. It waives all points of order except the rules pertaining to unfunded mandates and the scope of the conference. I am strongly opposed to the rule and I ask for its defeat.

Behind all of the parliamentary language in this rule, this measure eliminates food stamps for 250,000 children, elderly people, disabled people, and people who came to this country to flee political or religious persecution who are legal immigrants. Yes, legal immigrants who are in this country with the approval of our government.

This is a shameful and malicious rule. The conference report includes provisions that improve agriculture research, fund and reform the Federal crop insurance program, and extend rural development assistance. It also restores food stamps to about one-fourth of the refugees and legal immigrants who were made ineligible under the 1996 welfare bill.

The bill's provision on food stamps for legal immigrants do not undermine or conflict with welfare reform. The provisions are modeled on last year's Balanced Budget Act which restored eligibility for SSI and Medicaid to limited categories of needy legal immigrants.

□ 1015

We are talking about restoring food stamps to only the most vulnerable groups of legal immigrants. This includes children the elderly and the disabled. None of these groups are able-bodied, working-age people who would normally be expected to support themselves. Furthermore, eligibility is limited to those special categories of people who entered the country prior to the August 22nd, 1996, enactment of the welfare reform bill.

We are talking about only 250,000 of the neediest legal immigrants. This bill has enormous support in Congress and throughout the Nation. The Senate passed a conference report by an overwhelming vote of 92 to 8. It is supported by numerous agricultural, commodity, nutrition, immigrant, and religious operations.

Testifying before the Committee on Rules last evening, the chairman of the Committee on Agriculture, the gentleman from Oregon (Mr. BOB SMITH), asked for a rule to protect the food stamp provision. He called the conference report a carefully crafted balance of interests. The ranking minority member of the Committee on Agriculture, the gentleman from Texas (Mr. CHARLIE STENHOLM), also asked for a rule supporting the food stamp provision. He called it a very good bill.

Members of the Committee on Rules of both parties spoke out in favor of extending food stamp eligibility to children, the disabled, and the elderly who are legal immigrants. The gentleman from Massachusetts (Mr. MOAKLEY) offered an amendment to the rule which would have saved the food stamp provision. That motion failed on a narrow 5 to 6 vote.

Yes, there is enormous support for this bill, except for six members of the Committee on Rules, who do not want to see legal immigrants get food stamps if they are children, disabled, or elderly. The cost of this is fully offset, and it represents no net increase in spending. This bill does not affect any future immigrants to the U.S.

There is no excuse for this nastiness. The measure even takes away food stamps from some needy legal refugees who came to the U.S. to escape political or religious persecution. These are the neediest of needy immigrants. They have no sponsors. They have no support here. Why on earth do we want to take away their food stamps?

The House must defeat this mean-spirited, hurtful rule. Before casting their votes, I hope Members understand that a vote for this rule, a vote to strip food stamps from children, the disabled, and the elderly who are legal immigrants, is a vote against citizens, groups that support disabled rights, religious groups, and advocates for the poor. It is a vote against farmers who will not be happy that this critical, time-sensitive legislation is delayed by the politics of malice.

If this rule passes, there is not a chance that the legislation will survive without the food stamp provision. The Senate, which overwhelmingly supported this bill, will not pass it. The administration, which strongly supports it, will veto it; and the American people, who are generous people, will not stand for it.

If this measure passes, we will have to change the inscription on the Statue of Liberty: Give me your tired, your poor, except for your disabled, too old, or too young. The Statue of Liberty must be weeping. I urge Members in the strongest possible terms, vote down this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. I yield myself such time as I may consume.

Mr. Speaker, let me say to my good friend, who I have great respect for, he says the Senate will not pass it. The Majority Leader, TRENT LOTT, has assured us that if this bill contains what it did originally in the House and Senate that he will pass that bill today.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. DICK ARMEY), the Majority Leader of the House.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I appreciate the fact that under different times and circumstances passions run hot. People get upset, feel the tension of this work. It is important work.

But I have to say, Mr. Speaker, I have heard a little rhetoric this morning that is a little hotter than is necessary and, frankly, quite inaccurate and unfair. "Mean-spirited" I think is a little harsh.

The agriculture community came to us, and they said they needed crop insurance. We agreed, and we want the agriculture community to get crop insurance through this Congress and through the White House, through the farmers of America. We are working hard on that.

They also want additional funding for agricultural research. We are perfectly excited about moving that forward for the agriculture community, so we passed through this House a bill that would provide for agricultural research and crop insurance. A similar bill was passed through the Senate, and then House and Senate went to conference. In that conference, several things were added to the bill that had not been in either the House bill or the Senate bill.

If we are going to talk about what is outside the regular order, what is outside the rules of the House, let us begin with adding things to a conference that is outside the scope of the conference. That, of course, was a startling event.

When they closed their conference and brought back a conference report with these things that were outside the scope of their conference, it is perfectly in order within the rules of the House for a Member to have a point of order against the conference report.

Why did the members of the Committee on Agriculture and the House and Senate, who had so convincingly made their case that crop insurance is important, get it done as quickly as possible, agriculture research is important, get it done as quickly as possible, why did they add so many things to that focused legislation that had come from both bodies that were outside the scope of their conference?

Mr. FAZIO of California. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from California.

Mr. FAZIO of California. Mr. Speaker, it is my understanding that crop insurance was not part of the legislation when it passed these individual Houses and was added simply on the same basis that the food stamp provision was. There is some inconsistency.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for that.

Let me say, in the interests of inconsistency, when the agriculture community and the agriculture committees came to the leadership of both bodies and said, this is urgent, we want to do so, they did so with our blessings.

Mr. FAZIO of California. Mr. Speaker, if the gentleman will continue to yield, they did not do so on the issue of food stamps. So let us just put it on the basis of where we stand.

Mr. ARMEY. The gentleman has had his time. I will make my point.

That being the case, I am sure the gentleman from California (Mr. FAZIO) might want to exercise his prerogative under the rules of the House with respect to his point of order.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would like to make the point, just so Members will know, when we are talking about these food stamps, there is a timeliness date of November 1. When we are talking about crop insurance, it is the end of June. That is why the crop insurance was added, because there is a time deadline. That is why it must be added on now. We can still deal with the food stamp issue any time during June, July, and August.

Mr. ARMEY. The point I would like to make, Mr. Speaker, is that both the leadership in the House and Senate did everything we could to work with the members of the agriculture community and the members of the agriculture committees to move forward crop insurance. That was the focus.

The fact of the matter is this Congress has taken great pride in the accomplishments we have made to relieve the States of unfunded mandates, and we have taken great pride in the welfare reform we have done. Everybody has understood, and for some period of time now we have been unable to solve the riddle of how to bring this legislation related to crop insurance to the floor because it was burdened with provisions that would be objected to by the majority of the people in the majority conference.

Now we have found a rule that makes it possible. Let me make no mistake about it. If Members vote for this rule and they pass this conference report, they can get crop insurance through the House on its road to the farmers of America. We can get research through the House on its road to the agricultural research centers of America. We can have them paid for.

If Members want to go back to their districts and say, I stopped the process, I scuttled the plane at takeoff, I defeated the rule because it was more important for me to have things, provisions of this bill that are outside of the scope of its intent, that relate to the extension of the time under which people who are legal aliens can get food stamps in America, because that was more important to me than you and your crop insurance in Iowa and North and South Dakota and Kansas, go ahead and make that vote.

But what I will not do is have Members say that they had to make this vote to deny them their crop insurance because the leadership did not treat us fairly. It is Members' choice. It is their vote. They should make it and accept their responsibility and accept their accountability for it.

If Members want a scapegoat in the matter, they are not going to find one here. I will be very happy to go back to the people of Texas and explain why it is that the gentleman from Texas (Mr. DICK ARMEY) was able to vote to get them their crop insurance and other Members of the Texas delegation were not able to make that vote.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, that was a fascinating statement that my colleague, the gentleman from Texas, just made.

The position that I am for today is supported by the State of Texas. The State of Texas has already done that which the gentleman opposes today, because they believe it to be right for those who have been affected by the food stamp provisions. They support our version of this rule.

It should not surprise anyone, though, because this is the same majority leader that was responsible for passing the farm bill in the Speaker's office and promising that we were going to have unlimited access to world markets, and then will not even bring up IMF funding or fast track funding.

This is another backdoor attempt by the leadership of this House to gut agriculture in rural America, and let there be no mistake about it. We will not even have an opportunity to discuss the intricacies of the research and the crop insurance bill, because once this rule passes, with the mechanisms and the maneuvers that are going on in this rule, which the chairman of the Committee on Rules has already acknowledged a mistake was made last night and is going to attempt to correct it in just a moment, there are other mistakes in this rule today that can be corrected by going back up and letting the House work its will on a bill that the Senate has passed 92 to 8.

Yes, there are things in this bill that are outside the scope: crop insurance, food stamps. That is true. Why was it done? Because we have serious funding problems for rural America in the budget. The budget that I voted for has tight restraints.

We are looking for ways to help production agriculture, and we put together a coalition of consumer groups and production agriculture that said, here is some money that we can reprogram for purposes of feeding people, providing crop insurance, and providing funding for research.

This rule will destroy it. Let there be no mistake about it. If Members pass this rule, they are kidding themselves, if the Senate that voted 92 to 8, that it is going to go back and change its mind. Because the Speaker of the House and the Majority Leader of the House have said they have a better idea. They have already been through that for months. It is not going to happen.

The blame for having crop insurance problems is going to rest on the leadership of the House. If Members wish to have another political issue, and we have so many I cannot count them now, it is interesting, I am wondering if the Majority Leader's rhetoric is going to be the same on the ISTEA bill when it comes up later today as it is today. It is interesting how we are picking and choosing. I am frustrated with the picking and choosings that constantly and consistently say to rural America, you do not count. You do not count.

So, I say to the majority leader, I welcome this debate with the gentleman back in Texas. He is dead wrong, and anyone that follows his leadership is going to find that out.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, here we go again. It is what really disheartens me as a Member of this body. The gentleman from Texas (Mr. STENHOLM) has just stood up and said, we have so many issues now that we can play politics with. That is sickening.

He also went on to say that if Members vote for this, they are knocking out agriculture research and crop insurance. I have the amendment. As a matter of fact, I think I will offer it right now.

AMENDMENT OFFERED BY MR. SOLOMON TO HOUSE RESOLUTION 446

Mr. SOLOMON. Mr. Speaker, I offer an amendment placed at the desk which I have discussed with the minority, and I ask unanimous consent that it be accepted.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment Offered by Mr. SOLOMON to House Resolution 446:

Page 2, line 17, strike "subtitle A of title V" and insert "sections 503 through 509 and by striking section 510(b)".

☐ 1030

The SPEAKER pro tempore (Mr. CALVERT). Is there objection to the request of the gentleman from New York?

Mr. OBEY. Reserving the right to object, I would like to ask the gentleman a question. Let me explain why I am asking the question, to be perfectly fair.

What I am confused about is as follows: The gentleman indicated a minute ago that there were a number of things wrong with this conference report. I agree with him. I have made known my concern about the fact that this conference report contains new mandatory spending. I think that ought to be discretionary.

But I also recognize that there has been a compromise struck between the traditional agricultural interests and the nutrition program supporters and so each side has had to swallow some things they do not like. While the chairman indicated his concern about the entitlement that is created under this bill, he, in fact, has not allowed any point of order to be lodged against that, as I understand it. The rule that is brought to the House at this point only allows a point of order to be lodged against the food stamp provisions and the crop insurance.

I am sorry. I am wrong on that.

Let me ask the gentleman this: Is it the intent of the Republican leadership by what they are doing here today to take that $818 million, which is supposed to be used to reinstate food stamps for the neediest immigrants in this country, and instead move that over in order to pay for the ISTEA package that is coming up here later today? Is that the game that is going on?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from New York.

Mr. SOLOMON. Absolutely not. It is the intention of the Committee on Rules and not the Republican leadership that we add back in the point of order that can be allowed against an unfunded mandate amounting to close to $2 billion that would pay for everything that is in this bill, including crop insurance, including food stamps and anything else.

If we are allowed to do that because of the inadvertent error that was made between the parliamentarians and the crafters last night, then it means that I, JERRY SOLOMON, would, at the appropriate time, be able to stand and raise a point of order against the unfunded mandate that you and I are concerned about.

If it is then voted down, let me explain, if that is then voted down, we would continue to consider the bill, at which time any Member, the gentleman from Wisconsin or the gentleman from Texas could then raise a point of order against the scope of the $800 million dealing with food stamps. That would probably be sustained by the Chair.

Then, under the rule, the House would automatically, the Chair would move to vote on whether to send this measure to the Senate minus the food stamps. That is what would occur.

Mr. OBEY. Mr. Speaker, continuing my reservation of objection, my question remains. Is it not true that if one of those scenarios occurs, that, in fact, that money will be on the table to be used later today for ISTEA? BESTEA?

Mr. SOLOMON. Mr. Speaker, if the gentleman will continue to yield, this would have nothing to do with that. I do not know what else the gentleman is driving at. What we are doing has no implication on the ISTEA bill coming up. That is an entirely different matter, and the monies involved have nothing to do with that. My good friend, as an appropriator, ought to be very concerned with what is happening in that ISTEA conference in what it does to his appropriations.

Mr. OBEY. Mr. Speaker, I have been standing on the floor for 3 days objecting to that conference report.

Mrs. CLAYTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentlewoman from North Carolina.

Mrs. CLAYTON. Mr. Speaker, I would like to ask the chairman of the Committee on Rules if what he is proposing would take away the vulnerability of legal immigrants from receiving food stamps? Does he propose to allow a procedure that allows any individual to raise a point of order that would in essence deny the food stamps going to legal immigrants?

Mr. SOLOMON. Mr. Speaker, if the gentleman will continue to yield, under regular rules of the House, if a conference report were to be brought to this floor that would have a scope violation, which is the food stamp issue, then any Member would automatically be allowed to raise a point of order, strike that out, and then it would kill the conference report.

We did not want to do that, so we made a special provision so that if a Member were to rise and raise a point of order and it were sustained by the Chair, then it would not kill, in effect, it would not kill the conference report. It would leave the bill then as an amendment standing and ready to go to the Senate without the food stamp provision in it. I have deliberately written it that way because I did not want to kill the conference report because then we could not deal with it in a timely manner for the crop insurance issue.

Mrs. CLAYTON. Would that also be true with the crop insurance then? The gentleman is just making this special provision for a point of order for food stamps?

Mr. SOLOMON. Yes.

Mrs. CLAYTON. He is not making that point of order for the crop insurance?

Mr. SOLOMON. No.

Mrs. CLAYTON. That is out of scope, too.

Mr. Speaker, if the gentleman will continue to yield, I just want the House to understand the difference between what we are doing with poor immigrants and what we are doing—by the way, I am for crop insurance.

Mr. SOLOMON. I know the gentlewoman is.

Mrs. CLAYTON. This bill is a well-crafted, balanced bill, and it is much needed in rural areas. But I cannot find the rationale for leaving out of scope the legal immigrants.

Mr. SOLOMON. Mr. Speaker, may I give the rationale? It is a sincere one, because I represent an agricultural district, just as the gentlewoman does.

But there is a timeliness involved with the crop insurance. In other words, it expires at the end of June and, therefore, we have very few legislative days left to work between the House and the Senate.

Mr. OBEY. Mr. Speaker, reclaiming my time under my reservation of objection, I certainly want to say that in addition to my suspicion about ISTEA, I think what is going on here is that there is an effort being made to once again set up a needless political confrontation under which a poison pill is inserted in this agreement. That will necessitate the White House vetoing this bill, and then that side of the aisle can claim that it is the White House that has shut down the crop insurance program.

That is what I believe is going on. I think it is incredibly outrageous.

Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Ohio (Mr. HALL).

Mr. HALL of Ohio. Mr. Speaker, I want to thank the gentleman from Wisconsin (Mr. OBEY), and I just want to be clear, what has happened here.

What happened is, last night we passed this rule, about 11:30. This amendment that the chairman of the Committee on Rules has talked about said, I want to make it perfectly clear what his amendment will do that he will offer, it will take away the eligibility of food stamps for legal immigrants. It exposes whole sections, because what it does with sections 501 and 502, these are the provisions that pay for crop insurance programs; the sections that the rule allows to be taken out, the sections that the rule allows to be taken out of the bill are the provisions which will allow legal immigrants to receive food stamps.

This amendment takes away eligibility of food stamps, because what it does is it exposes the food stamp sections to the scope. And what will happen is somebody from the gentleman's side will raise a point of order. The point of order will be, will rule against the point of order. The section will be taken out. So effectively what he is doing is, he is not portraying exactly what his amendment is doing.

This will take legal immigrants out of the bill. I want everybody to understand that. I have the amendment right here. I can read it. This takes legal immigrants on food stamps completely out of the bill. Everybody should understand that.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would ask all of my colleagues to pick up the conference report and look at title V. We are doing exactly what the gentleman from Oregon (Mr. SMITH) and the aggies have asked us to do. We are adding back in section 501 and 502, which is a reduction in funding of employment and training programs, a reduction in payments for administrative costs. That is the pay-for. The gentleman asked me to put that back into the bill. That is exactly what this amendment here does.

For the gentleman from Ohio to say that this is striking out the food stamps is absolutely wrong. This amendment, and the gentleman from Wisconsin (Mr. OBEY) and the gentleman from Texas (Mr. STENHOLM) and anybody else will tell the gentleman that we are putting back in the pay-for, as we were asked to do. That is all the amendment does.

Mr. HALL of Ohio. Mr. Speaker, if the gentleman will continue to yield, I would just like to say what it does is that it exposes the sections on food stamps to——

Mr. SOLOMON. Mr. Speaker, on this amendment, I do not.

Mr. HALL of Ohio. In the rule, you do.

Mr. OBEY. Mr. Speaker, reclaiming my time under my reservation of objection, I yield to the gentleman from Texas (Mr. STENHOLM), distinguished ranking member of the Committee on Agriculture.

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding to me.

I want to make one correction. I believe the chairman of the Committee on Rules misspoke but not intentionally. What the House Committee on Agriculture, the gentleman from Oregon (Mr. SMITH) and I, have asked you to do is to report a rule to allow the conference report, as reported unanimously from the House and Senate, that passed by 92 to 8, to be allowed to be voted on today. That is what we asked for, not what you stated we asked for.

Mr. OBEY. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. I just want to say something to the gentleman from New York (Mr. SOLOMON) in terms of effective date.

Right now there are hundreds of thousands of legal immigrants who are ineligible for food stamps. What is being proposed is that their eligibility begin November 1, but there is a time sequence, a time impact for these people. They now are ineligible and, in many cases, hungry.

This has nothing to do with welfare reform, Mr. Speaker. AFDC was reformed. We added SSI and food stamps as additional portions. We have restored now most of the money for legal immigrants in terms of SSI. This now suggests that we add $800 million of the $27 billion that was cut, and we are cutting food stamps by $2 billion and restoring $800 million. There is a net cut in food stamps.

Essentially, what the gentleman's amendment would do would be to shelter crop insurance from any objection, but leave food stamps for one person to object to and raise it in front of here for a majority vote, when the Senate has overwhelmingly said that food stamps should be put in. You are delaying crop insurance and everything else. You are delaying; you are the ones who are doing it.

When the gentleman from Texas (Mr. ARMEY) gets up here and talks about crop insurance, et cetera, and talks about other things, that is a smoke screen, if I might say so.

I want to just make it entirely clear what the gentleman is doing here. The Senate has already voted.

I want to make one last point: Do not say that the food stamp issue is a surprise. We debated that issue when this bill came through here, and we were told by some on the gentleman's side that it would be raised in conference. Go back and look at the debate.

You are going to come forth here on a bill I am going to vote for on ISTEA, asking to put in numerous provisions that were not discussed in the Senate or the House on the floor. You are going to ask a waiver. But when it comes to hungry people, you do not want to respond. It is disgraceful.

Mr. OBEY. Mr. Speaker, continuing my reservation of objection, I would simply say that what the Solomon amendment does is simply to restore the pay-for. It still leaves food stamps open to being vulnerable to a single point of order objection by a single Member, and it is gone. That is why I say that this process is designed to create another needless political confrontation.

We ought to be here trying to deal with the problems of workers, the problems of farmers, the problems of food stamp recipients, the problems of agriculture research. Instead, another needless political argument is being fashioned, and I think it is incredibly unfortunate.

I yield to the gentleman from North Dakota (Mr. POMEROY).

☐ 1045

Mr. POMEROY. Speaking to the crop insurance and ag research portions of this bill, Mr. Speaker, the one way we pass this today and ensure its enactment is to pass the conference report, the one adopted by the Senate by 92 votes.

The Committee on Rules follows that up. The Chairman's amendment does not cure it. This body has to pass this bill today. And for the majority not to bring the conference report, as unanimously adopted by conference committee and passed in the Senate to this body, is a slap in the face to rural America and every Member representing rural America.

Mr. SOLOMON. Mr. Speaker, does the gentleman intend to object?

Mr. OBEY. Mr. Speaker, reserving the right to object.

Mr. SOLOMON. No, Mr. Speaker, we have to go to regular order at some point.

Mr. OBEY. Mr. Speaker, if the gentleman wants me to object, I will object.

Mr. SOLOMON. I am not asking the gentleman to. I am just saying we do have a time limitation. The gentleman knows that. We cannot continue under reservations beyond regular rules of order.

Mr. OBEY. The gentleman created this situation. I do not think he should object to people who are stuck with it.

Mr. Speaker, reserving the right to object, I simply wanted to say that I find it quaint, indeed, that there are objections being made to the fact that this conference report creates a small amount of additional mandatory spending for agriculture when they intend to ram through this place $220 billion in new mandatory spending on the highway bill, and we will not be able to in any way prevent that from becoming mandatory spending. I think that is absurd.

Mr. Speaker, I object to the gentleman's unanimous-consent request.

The SPEAKER pro tempore (Mr. CALVERT). Objection is heard.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Solomon:

Page 2, line 17, strike "subtitle A of title V" and insert "sections 503 through 509 and by striking section 510(b)".

The SPEAKER pro tempore. The amendment will be considered pending and will be voted upon.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, 1 year ago today, just before going out on Memorial Day recess, we failed to pass the disaster bill. My colleagues forced me to go back to the people of Grand Forks, North Dakota, and tell them that Congress politically was unable to respond to a situation that desperately needed responding to.

Here we are again doing exactly the same thing. We have a disaster in rural America. We have got farmers in a world of hurt in the area I represent and all over the country, and we are about to go out on Memorial Day recess without having passed this vital bill, this vital bill that makes a commitment for ag research, so desperately needed in the future, and a commitment to crop insurance, which is so desperately needed to help farmers stay in the business of farming.

Do we just want to come right out and end family farming? Why do we not just have a vote to end family farming? We could just as well for the way this body is dealing with this situation. Have we learned absolutely nothing from the disastrous debacle that so disgraced this body 1 year ago?

We need to pass this bill today. And the only way we do it is by passing the conference report. I urge rejection of the amendment.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman for yielding me time, and I rise in support of the rule, as amended, whether we either accept it by unanimous consent or vote to accept it.

I want to take the blame for being the skunk in this garden party, because it was me, yesterday, that said I would come to the floor and object to the unanimous consent to bring the conference report up immediately. I told that to the Republican leadership. I was prepared to do that.

So the Republican leadership yesterday afternoon was prepared to bring the conference report, bring it to the floor, or at least get unanimous consent to bring it to the floor last evening or this morning, and I was prepared to object to that.

Under the normal rules of the House, any Member can stand up and object to any item in a conference report that is outside the scope as reported by the House and the Senate. Under normal procedure. Not under a special procedure. And I was prepared to do that.

In attempting to address the legitimate concerns of agricultural research and crop insurance, we tried to craft an approach that we could waive the normal rules of the House, except on certain provisions: one dealing with food stamps, one dealing with unfunded mandates. And, in doing that, inadvertently, certain things were taken out that should not have been taken out. So the chairman of the Committee on Rules is attempting to amend the original rule.

All I and I think many Members on this side of the aisle want is an up-and-down vote on these expansions. If we win, we win. If we lose, we lose.

My good friend from Abilene, Texas, pointed out that the State of Texas has decided to extend some benefits to certain aliens that were eliminated in the Welfare Reform Act. Texas and every other State has the right to do that under existing law.

I would also point out that the welfare rolls are down 30 percent nationwide, and I am not aware that there are huge numbers of people that have suffered as a consequence of that. There may be individuals that have, and we can address those as needed.

The gentleman from New York (Mr. WALSH) has a bill, he told me this morning, that would reestablish some of these benefits. It should be brought to the floor. It should be voted on on its own merits. But we should not cast stones on people that want to go through regular order, trying to insist that conference reports come back within the scope and be voted on within the scope.

So, again, to conclude, I am the skunk of the garden party that yesterday afternoon said I would object to the unanimous consent request to bring the ag research bill up as it came out of the conference, not the chairman of the Committee on Rules, not the majority leader, not the Speaker. So if there is a skunk in this debate, it is the gentleman from Texas (JOE BARTON), of the Sixth District.

Mr. HALL of Ohio. Mr. Speaker, I yield 1¼ minutes to the gentleman from Iowa (Mr. BOSWELL).

Mr. BOSWELL. Mr. Speaker, I would just state quickly, I follow how things go here, and I find it very interesting at times. But I know this for a fact: That we have people trying to plant and get ready to go to field, and they are counting on this crop insurance thing to come through.

I agree with the gentleman from North Dakota (Mr. POMEROY) that we have got to pass this bill today. We must do it. I am convinced, as I have listened to this discussion, that this rule will kill the report, and we cannot afford to do that. Time is of the essence.

Another thing that has come to my attention. Some of my colleagues, as well as I, served in the Vietnam conflict. And I remember very well the acquaintances I had in working with the Montagnards, the Hao Laotians and others. They fought at our side and they were valiant, and I think perhaps because of some of their willingness to put their lives on the line, I can be here today.

Some of them have come to this country, and they are legal aliens, and I cannot imagine that we would not want to provide assistance to them. I hope that my colleagues will defeat this rule, and we can get on with the business.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Ms. STABENOW).

Ms. STABENOW. Mr. Speaker, I rise today as a member of the Committee on Agriculture to indicate that this is a critical day and a critical vote for production agriculture and consumers across this country.

If we do not defeat this rule, if we do not proceed to an immediate vote on something that passed overwhelmingly in the Senate, unanimously by conference committee, we will lose an opportunity to provide food safety in our country through increased food safety research; to provide a crisis management team that will be able to go out when there is a food safety crisis and be able to protect our consumers across the country. We will lose the opportunity to provide critical agricultural research.

My State farmers have lost $56 million last year on wheat scab and vomitoxin. I know that in South Dakota and Minnesota and important other parts of the country, critical, critical dollars have been lost as a result of these kinds of diseases. Without this bill, we will see farmers continue to lose hundreds of millions of dollars.

A vote against the rule is a vote for agriculture.

Mr. SOLOMON. Mr. Speaker, can you give us the time allocation on both sides?

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) has 9½ minutes remaining, and the gentleman from Ohio (Mr. HALL) has 18 minutes remaining.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Speaker, I think everyone has to fully understand what are the consequences of this rule. To vote for this rule is to be turning our backs on American farmers, to be turning our backs on our agricultural research institutions which are performing a service that is benefitting consumers and benefiting our economy.

There is no secret about the fact that we have almost every major agricultural organization in this country asking Members, Republicans and Democrats, to oppose this rule: the National Cotton Council, the National Association of Wheat Growers, the American Farm Bureau Federation, the National Cattlemen's Association, the National Pork Producers Council.

Every major agricultural organization is saying to vote "no" on this rule because they know that it will jeopardize crop insurance and it will jeopardize ag research.

The contentions of the gentleman from New York (Mr. SOLOMON) that Senator LOTT can ensure that they can pass this bill with his amendment in it is absolutely false. Senator GRAHAM offered an amendment that did something that was even less onerous in terms of its provisions on food stamps, and it failed 77 to 23.

This bill dies if this rule goes through.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, this rule is, indeed, unfortunate, because agricultural research provided for in the committee bill is much needed, for a variety of reasons.

I cannot conceive that we would think feeding legal immigrants is any less important than any other part. I come from the rural areas, and I know there is a deadline and crop insurance is much needed. But people needing food is basic, too. And I just cannot conceive that we would even want to be part of a bill that would place the vulnerability of some 800,000 legal immigrants at risk, and that we could not craft a balanced approach.

In fact, the Senate and the House crafted a very balanced approach. If we are about rural America, if we are about agriculture, if we are about research, we will vote against this rule. We can make this rule right and we can move on and have a fine, acceptable bill for production, for research and for crop insurance, as well as something for legal immigrants.

Defeat this rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman for yielding me this time, and I urge my colleagues to not ignore the importance of restoring food stamps to U.S. legal residents.

Many in our Republican leadership will work to restore these benefits. I know that their commitment is true, it is valid, and this will work out, and I thank them for this. But, right now, it is important to stress to our side how vital this issue is.

These are U.S. permanent residents who came to this country legally. They are law-abiding, taxpaying residents of the United States who have sacrificed their health and their lives in order to promote our ideals of democracy and liberty, the ideals of this great Nation, and who aspire to dream and live the American dream.

It is ironic that when the tax man comes, there is no distinction made between a U.S. citizen and a U.S. resident. Both are obligated to pay their taxes. It is ironic that when Uncle Sam calls for military troops to go to war, no distinction is made between a U.S. citizen and a U.S. legal resident. Both must report to Selective Service.

The Senate has wisely voted to restore food stamps to legal U.S. permanent residents who are elderly, who are disabled. Let us help those 250,000 legal residents.

□ 1100

And what of those families who have young children and need to put food on the table? I know that my colleague the gentleman from Florida (Mr. DIAZ-BALART) has helped in the Committee on Rules to try to right this wrong.

I ask my colleagues, who is going to give 75-year-old legal residents, many of whom live in our districts, a job so that they can sustain themselves? They are willing to work, but their age and their health prevents them from doing so.

There is a lot that we could do, Mr. Speaker. This is a generous country. We have helped those in need. We must ensure that our own, our legal residents, U.S. permanent residents who came to this great Nation in search of the American dream, are not deserted by the Congress.

The Senate has already sent a loud message on this issue. We should give assistance to those legal residents who have paid their dues. They are needy. They need our food stamps. It is unfair to deny this aid to them.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON. Mr. Speaker, I rise today because, as a Member of this body, we start off on each legislative day with a prayer; we pledge allegiance to the flag, declaring liberty and justice for all people. And to borrow a passage of scripture, I would simply say to all of my colleagues on both sides of the aisle "come and let us reason together."

I believe that all of my colleagues in this body certainly have a good heart. Whether it has been bypassed or put in a pump or whatever, the heart still works. And I would trust that we would amass sufficient votes to oppose the rule, inasmuch as it injures 250,000 legal immigrants.

The legal immigrants, as we have heard several times today, are elderly people, disabled people. And those of my colleagues who are readers of the Bible, please know that there are at least 35 references to poor people. Hungry people are mentioned in the Bible as well. And it is distressing that these provisions are here. I would encourage my colleagues to defeat the rule.

Mr. Speaker, I rise today in strong opposition to this rule. The bi-partisan effort achieved in the agricultural research conference report to restore food stamp benefits to 250 thousand legal immigrants is to be applauded. These legal immigrants are the elderly and disabled immigrants who were legally in the United States and were eligible to receive food stamps before the Welfare Reform Act of 1996, as well as the children under age 18 who were in the United States at this same time.

I would like to remind my colleagues that this restoration of food stamp benefits was fully offset by lowering the cap on the amount of money the Federal Government will reimburse the States for food stamp administrative costs.

It is distressing that these provisions were overwhelmingly supported by the other body and that a House-Senate conference committee approved these provisions unanimously and yet this rule singles out food stamps and promises to eradicate this bipartisan compromise.

If this rule is not defeated—the effect will be that 250 thousand deserving children, elderly and disabled in our Nation will be denied the food stamp benefits they desperately need.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Let me just say to the previous speaker that I certainly respect her views. I am one who was raised by a grandmother. And I have read the Bible three times and am very proud of it.

Mr. Speaker, I yield 2 minutes to my very good friend, the gentleman from Syracuse, New York (Mr. WALSH).

Mr. WALSH. Mr. Speaker, I thank my good friend and colleague from New York (Mr. SOLOMON) for giving me the opportunity to use his time to speak against his rule. That is the kind of a gentleman he is. And I hesitate to disagree with him on most occasions, but on this one I strongly disagree.

This rule is wrong. This conference report was carefully crafted to allow for ag research to be brought forward, to include crop insurance which is sorely needed, especially at this time of year, planting season, and also to deal with the issue of food stamps for legal immigrants.

I strongly supported welfare reform. And I, like most of the rest of my colleagues, have gone around the country and bragged about what a success it has been. And it has been a success. But, my colleagues, as relates to legal aliens, people over 75 years of age, people under 18 years of age, and those who have become disabled since they came to this country, we need to show that we care. We need to show that this country has a big heart. We need to show that this country is wealthy enough to help take care of them, get them through a difficult time.

Welfare reform has worked, but there are certain aspects of it, including food stamps, that went too far. This was not a provision early on in welfare reform. The President has asked us to include $2.5 billion more for food stamps. This conference report includes about one-third of that request. It is not nearly what the President requested. It is a carefully crafted compromise, not unlike the ISTEA bill that we will be voting on later today.

So in conclusion, my colleagues, I would urge a defeat of the amendment, a defeat of the rule, and ask the Committee on Rules to go back, review this rule, and give us an opportunity to vote up or down on the conference report so that we can help to take care of people who need help and to get this agricultural research bill passed in a timely basis.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, as my colleagues just said, this rule breaks that delicate compromise that was reached that withdrew savings in food stamp programs, allowed us to provide more monies for agricultural research, more monies for crop insurance, and more monies to provide food for very hungry elderly, disabled, and children who are legal immigrants, legal immigrants.

If we send this out, and I hope we do not, I hope we defeat this rule, the Senate will still be able to put holds by any single member of the Senate on this bill; the Senate will be able to amend this bill further; and even if it should pass out of the Senate and come back here and still pass, the President has already said he would veto this bill if it did not include the three components of this compromise.

Why we would want to stall this bill I do not understand, except to say that what it does is, it kills entire components of the bill because there will not be money left over at the end of the day to do all we want to do on transportation funding, all we want to do for Social Security and still come back. Defeat the rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Mrs. MEEK) of Florida.

Mrs. MEEK of Florida. Mr. Speaker, I have worked very hard since I have been here to try to be sure that legal immigrants receive justice and fairness in this Congress. Here we go again, turning around some of the good things we have already done.

In order to strike from the conference report, I am asking my colleagues to please kill this rule so that it will never come before this floor in this manner again. They want to now go back and cut out 250,000 legal immigrants in terms of getting aid.

In my county, Dade County, 40,000 legal immigrants lost their food stamps because of the mistakes we made before in the 1996 welfare law. The conference report with restore this. Why not do the right thing?

We have said many things, that they want to describe how they came to all of these conclusions. The procedure is not important. It is the end result that is important. Everything that my colleagues have done, everything that the gentleman from New York (Mr. SOLOMON) has talked about leads to one thing, the destruction of food stamps for legal immigrants. It is very simple.

So all we need to do is to kill this rule. It is a simple thing. It does not take too many explanations to see that they have changed what the conference intended. Let us kill this conference report.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. GEPHARDT) the minority leader.

Mr. GEPHARDT. Mr. Speaker, I yield to the gentleman from Texas (Mr. STENHOLM) for the purpose of asking a question.

Mr. STENHOLM. Mr. Speaker, it was stated earlier that if this rule passes in the form in which we are discussing it and the bill is sent over to the Senate, that this agricultural research bill, with the crop insurance and the other provisions, would pass very soon in the Senate.

Is that a fair statement? Is that the understanding of the gentleman, that that is what the Senate would do?

Mr. GEPHARDT. Mr. Speaker, reclaiming my time, if the gentleman would yield, after speaking with Members in the other body just in the last few minutes, it is my understanding that there are Democratic Members prepared to take action, which they can take under the rules of the other body, to stop this bill without the food stamp legislation being in it from becoming law today or at any time in the future.

Mr. STENHOLM. Mr. Speaker, if the gentleman will continue to yield, let no one be deceived. If this rule passes as it was designed, this bill is going to be dead. It will not pass, and we are going to get into a "he blamed," "he did," and what have you, just like we did 2½ years ago and shut down the Government. This is not the way for us to proceed.

I thank the gentleman for clarifying that.

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds to say that in my 20 years in this body, I have never heard of any President threatening to veto anything because it did not contain extraneous matter. That to me is shocking.

It is also shocking to me to find out that our good friend the gentleman from Missouri (Mr. GEPHARDT) would speak with Members in the other body, Democrat Members, that would kill crop insurance that has to be enacted in a timely manner by the end of June. I am shocked.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Might I inquire, Mr. Speaker, how much time is remaining on my side?

The SPEAKER pro tempore (Mr. CALVERT). The gentleman from Ohio (Mr. HALL) has 10 minutes remaining. The gentleman from New York (Mr. SOLOMON) has 7 minutes remaining.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, I thank the gentleman from Ohio for yielding me the time.

The conference committee report is a good report. It is a good deal. The compromises have been made. And frankly, as a member of the Committee on Agriculture, the reason we got to the compromises is because the food stamp program allowed for savings. That is where the money comes from.

I want to applaud the gentleman from Texas (Mr. SMITH) and the gentleman from Texas (Mr. COMBEST) for the work they have done. We have had a great bill. We all agree on it. There is no objection to it. Unanimous support in the Senate. And it comes over here and now we are going to try to screw it all up with a lousy rule.

We have got to defeat the rule and support the conference committee report unamended.

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds to say, the gentleman said this is all paid for, this is great. And how are we paying for it? We brave Members of Congress, we brave Members of Congress are going to pay for it by making the State pay for it and making their local taxpayers pay for it in real property taxes. Are we not brave?

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, yes, I rise in strong opposition to this rule because I really do not think it is the job of the Committee on Rules to thwart the will of the committees of this House, both the Committee on Agriculture and the Committee on Appropriations. Because this rule, in fact, destroys the delicate balance that has been struck between key provisions in this bill.

For example, as Dean Kleckner, president of the American Farm Bureau Federation, says, the bill is very carefully crafted, balancing the needs of four communities: our research committee, those farmers that need crop insurance, food stamps for over 250,000 legal, and I underline legal, immigrants, and of course rural development.

One of the other reasons to vote "no" on the rule is it actually is a budget buster because, in effect, the offsets that are included in the provisions that are struck leave us with $1.2 billion in additional deficit because of what has happened in the way the rule is crafted.

So I urge my colleagues to vote "no". This is bad policy. It is bad procedure. And it undermines key agricultural interests across this nation.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I say to the gentleman from Texas (Mr. STENHOLM), I come from the consumer community and I want to stand with him and the farmers of Texas.

This is a bad, bad, bad, bad result. In my home State of Texas, 124,000 legal immigrants lost food stamps. Thirteen thousand of these who lost food stamps are children. The State itself is only able to recoup some 15,000.

This is an effort to bash and to juxtapose those of us who are consumers, who have supported our farmers on crop insurance and research and matching our efforts together with the starving children of America. That is right, legal immigrant parents who have citizen children. Are we here to deny them the opportunity?

This deal was already made. We know where our bread is buttered. It is buttered with cooperation and collaboration. The Senate knows by voting 92–8. Bust this rule, because this rule wants to bash farmers and bash consumers. We are going to stand up for those who have made a good rule, and the rule is to support the starving children. How about my colleagues?

Mr. Speaker, thank you for the opportunity to speak on this crucial issue. I strongly oppose the rule striking reauthorizing food stamps for legal immigrants in the United States.

The rule that has been recommended would set up a ridiculous procedure which gives Republican opponents two extraordinary procedural mechanisms to kill the bill. Under this absurd procedure, the House will not even be allowed to debate the bipartisan conference report, even though the conference report has already been filed and has already been approved by an overwhelming bipartisan majority in the Senate. I vote to reauthorize food stamps for those who need them.

We must restore food stamps to our 900,000 legal immigrants including farm workers. Food stamp recipients are refugees, the elderly, disabled Vietnam veterans and children who are facing food and nutritional deficiencies in larger and larger numbers.

This year, approximately 600,000 U.S. citizen children with immigrant parents will have less food on their tables because of these cuts. Since food stamp access has been cut, a widening hunger crisis has emerged that private charities and State and local governments have not been able to handle.

There simply have not been enough resources to feed all the hungry. Catholic Charities USA, Second Harvest and the U.S. Conference of Mayors have all reported major increases in request for emergency food assistance while food pantries are going empty and are turning people away.

In my home State of Texas, 124,000 legal immigrants lost food stamps. 13,090 of these who lost food stamps are children! The State itself is only able to cover approximately 15,000 people under a State program for elderly and disabled during this biennium.

The elimination of food stamp benefits for adults without children is calculated to create a mass of people who are desperate to take any job, no matter how poor the wages and conditions.

It will serve to intimidate all lower paid workers, a valuable and crucial section of the American work force.

President Clinton singled out these welfare provisions as particularly unfair, and has since asked for $2 billion to restore benefits to about 730,000 immigrants.

Striking this rule would deny almost a million people, old and young, and those contributing as a valuable force to our nation's economy. I vote not to strike the rule and to reauthorize food stamps.

☐ 1115

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. HEFNER).

Mr. HEFNER. Mr. Speaker, let us get right to the crux of this thing. This has nothing to do with crop insurance. It has to do with politics, and it may be good politics, because you can make food stamps for aliens seem so vicious and so ugly. I would imagine the press releases are already out for those that are speaking against this, that the press releases will go out: So and so voted to kill crop insurance so you can get food stamps for aliens. It will not say "legal aliens"; it will just say "aliens," and it will make it sound so ugly and so vicious.

This is about politics. This is not about a conference report. The Committee on Rules is the Speaker's committee. It is now, it has always been, and they do what the Speaker asks them to do.

This is about politics. It has nothing, nothing, nothing to do with all the good things that are in this bill. It is strictly politics. The press releases are already written and ready to go out.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Speaker, I would just like to clarify one point in the amendment that is being offered by the gentleman from New York (Mr. SOLOMON) where he is saying he is addressing the issue of the unfunded mandate.

But what is somewhat ironic and I think somewhat hypocritical is that, where he is contending that this is an unfunded mandate, his amendment is actually putting that money back in the bill. If we really are concerned about that issue, then we should not have the money in that bill at all.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I am doing it because it was inadvertently left out, and I am trying to be fair to all sides on both philosophies. The gentleman knows that.

Mr. DOOLEY of California. Mr. Speaker, the issue is, the gentleman is willing to have an unfunded mandate for some provisions and not others?

Mr. SOLOMON. That is correct.

Mr. DOOLEY of California. So I think the case is really clear, that the gentleman from New York (Mr. SOLOMON) has made a determination that it is all right to have an unfunded mandate for some provisions but not for others.

It is clear why we have such a broad coalition which is opposing this bill. Every major U.S. agriculture organization is opposing it. Every group that is concerned about food and nutrition is opposing this rule. Every Member of this Congress should oppose this rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise to oppose this rule. Funding provided through this authorization is used by State research centers to protect and to approve the use of crops.

This rule jeopardizes some of the most important research that is done in this country. In my congressional district, scientists at the Connecticut Agriculture Experiment Station have used U.S. Department of Agriculture grants to fund research on ticks that causes Lyme disease and yew trees that produce taxol in order to fight breast and ovarian cancer.

I am dismayed that some in this body will try to stop a carefully crafted compromise bill. As one of my colleagues said earlier, this is a political bill. It is going to stop funding that is available to legal immigrants in this country, food and nutrition programs.

It is shameful. I urge my colleagues to vote against this rule.

The SPEAKER pro tempore (Mr. CALVERT). The gentleman from New York (Mr. SOLOMON) has 6½ minutes remaining. The gentleman from Ohio (Mr. HALL) has 4 minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank the chairman of the Committee on Rules for yielding to me.

Mr. Speaker, I do rise in support of this rule. The rule allows for a point of order to be raised on the provisions of the conference report that would expand by $818 million government benefits for noncitizens. These provisions were wholly outside the scope of either the House or Senate bills that were committed to the conference.

The provision allowing the point of order is, first of all, about protecting the integrity of the process. The bill the House sent to conference did not contain the $818 million in food stamps for immigrants. The bill the Senate sent to the conference did not contain a provision for the $818 million in food stamps. But the conference report we are being asked to adopt today does contain such a provision, a provision inserted, without deliberation, by the Members of this body.

The issue is not about immigrants. If the issue were about immigrants, we would be talking about the sponsors of these immigrants and the fact that they signed an affidavit and that they promised to take care of these individuals if they were not financially able to take care of themselves.

To my knowledge, Mr. Speaker, not one time concerning the millions of noncitizens receiving government benefits today have we asked the sponsor to be responsible for that commitment, and we should not ask a single taxpayer to foot the bill until we have looked to the sponsors first.

The issue, then, is not about immigrants. It is about priorities. The conference came up with $818 million, almost $1 billion, that could be reallocated to other programs. Apparently they decided that they had maximized funding of programs for the American farmer. Apparently they decided that food programs for women, children, and infants, the WIC program, did not need any additional funding this year. Apparently, they decided that food programs for impoverished elderly citizens were sufficiently funded to meet the needs for all the individuals at risk.

I say "apparently" because neither my constituents nor those of the vast majority of the Members of the House were granted the opportunity guaranteed under the rules of the House to be heard on these priorities.

Today, the issue is one of concern to my constituents, but tomorrow the issue may well be of concern to the constituents of other individuals when they see a conference report add additional programs. The rule before this body preserves the integrity of those rules and the process, the opportunity for all Americans to be heard on matters of public policy.

Mr. Speaker, under this rule, the farm provisions will be able to move forward, and we will also preserve the integrity of the system, and I urge my colleagues to support it.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Texas (Mr. STENHOLM), the ranking minority member on the Committee on Agriculture.

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding to me, and I want to use this time to fully explain the issue that we are talking about.

Mr. Speaker, if this rule passes, the crop insurance program is going to be thrown into turmoil, because it cannot and will not pass in the form in which the House leadership has suggested that it should pass. It will not.

So let it be clear, if the rule should pass, the blame lies with the House of Representatives on what happens afterward.

And that is not just CHARLIE STENHOLM speaking. I have a list of 76 organizations that have come to the same conclusion, and I will read just a few: the National Association of State Universities and Land Grant Colleges, the National Cotton Council, the American Sheep Industry, Southwest Peanut Growers, National Farmers Union, American Farm Bureau Association, National Cattlemen's Beef Association, American Bankers Association, Independent Bankers Association, Catholic Charities U.S.A., Council of Jewish Federation, Lutheran Social Services in America, and I can go on and on.

We are playing politics with the lifeblood of individual citizens of this country, farmers and ranchers, and also those who depend upon the production of those farmers and ranchers.

This is a philosophical battle that we have been going through now for several years. This is a perfect way to demonstrate who feels how. I respect those who feel so strongly that they would take this issue that has already been rejected 92 to 8 and force the issue again and try to place the blame on somebody else. I respect them trying that, but I sure do not understand why they would choose that political motive to go.

Mr. Speaker, I rise in strong opposition to this rule. It is unprecedented. The parliamentarians of the House cannot think or find another method of this type on a conference report that has ever been tried. That ought to tell us something.

The fact that the chairman of the Committee on Rules, he and I go back a long way, and I have a lot of respect for him, but the fact that he would come on the floor and speak against something and then offer the amendment should tell the Members of this body something.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I think it shows that the chairman of the Committee on Rules is the fairest Committee on Rules chairman you have ever had around here.

Mr. STENHOLM. Sometimes that is right.

Mr. SOLOMON. He has the biggest heart.

Mr. STENHOLM. Sometimes that is right, and sometimes that is wrong, but I appreciate the sense of humor in which the gentleman yields. But the colleagues should be looking at this right now and understand that we are playing games, and this is serious. This is serious.

The reason, and I wanted to close with this, this bill, and it is a good bill, is paid for; to the extent changes are being made in this, these costs are fully offset by reductions in food stamp spending and in crop insurance programs.

In fact, this bill, if it passes, will create a surplus of $101 million over the life of the bill. So I ask my colleagues, please reject this rule, and let us send the Committee on Rules back to do that work.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will be very brief. This is probably the worst rule, certainly the most cruel and harsh rule that I can remember being part of since I have been on the Committee on Rules. It is anti-poor, it is anti-hunger, it is anti-legal immigrant, it is anti to the most vulnerable of our society. Almost any group in this country that I respect, that most Members in this room respect, are against what the Committee on Rules is trying to do today.

I urge a very strong "no" vote on this rule and hope that it is defeated in a very bipartisan way. Please vote no on this rule.

Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, the gentleman wants to know why I am going to offer an amendment to put back an unfunded mandate that I just adamantly oppose, and the reason is fairness. It was inadvertently taken out in the Committee on Rules because of an understanding with the parliamentarians, and we are going to put it back in.

Mr. Speaker, I yield briefly to the gentleman from Oregon (Mr. SMITH), the chairman of the Committee on Agriculture, for a short colloquy.

Mr. SMITH of Oregon. Mr. Speaker, I thank the gentleman, and I would like to enter into a colloquy with the chairman regarding procedure.

It is my understanding that the issue before the body is an amendment to the rule which would reinstate the offsets for both crop insurance and for research.

Mr. SOLOMON. The gentleman is absolutely correct. It would reinstate the pay-fors for both crop insurance, for agriculture research and for food stamps, 100 percent.

Mr. SMITH of Oregon. One further point, Mr. Speaker: There will be two votes, one on the amendment of the rule and one on the rule which is being debated and has been debated here all morning long. So we have two issues here before us?

Mr. SOLOMON. That is correct.

Mr. SMITH of Oregon. I thank the gentleman.

Mr. SOLOMON. The gentleman is right.

Mr. Speaker, let me just say this, this unfunded mandate is going to add $3.6 billion over the next several years that is going to have to be paid for by our States and by our local governments. We all know that local governments pay for this expense out of real estate taxes.

In the Hudson Valley that I represent, we have people that live on incomes of $4,000 and $5,000 a year, people on fixed incomes. Their taxes on their property to try to maintain and live in that home that they have lived in all their lives is sometimes $2,000. You are going to add another $500 to the cost of those people living on that? That just is not right. That is why I oppose the unfunded mandate.

Let me tell my colleagues the other reasons. On the food stamps itself, I do not like to stand up here and say we do not want to give food stamps to needy people. But I am going to tell my colleagues something, two points. I was born on August 14th, 1930, right in the middle of the Depression. My dad walked out on me and my mom, and we never saw him again. That was in 1930. It was hard to stay alive. But do you know who helped us? Our relatives. Do you know who those relatives were? They came over from Scotland. But we brought over the young ones first so they can come over here and begin to make a living so that they could be responsible for the older Scottish relatives of ours. They came over, and then we took care of them.

□ 1130

When you are talking about these legal aliens in this country, somebody signed for them when they came over here. Somebody is responsible for them. But we say no, willy-nilly, they do not have to take care of them; the taxpayer will take care of them. That means that those of us who worked all our lives and were responsible, that have taken care of our own relatives, we have to pay for those that did not. That is what this argument is all about. You ought to think about that when you are voting on this entire issue today.

Mr. POSHARD. Mr. Speaker, I rise today in opposition to the rule for consideration of the conference report on S. 1150, which permits a point of order to be raised against a critical provision of the bill. As filed, the conference report will allow the restoration of food stamp benefits to about 250,000 legal immigrants who lost their eligibility as a result of the 1996 welfare reform bill. Sadly, although the cost of this provision is more than offset, some of my colleagues are attempting to strike it from the bill, jeopardizing the health and well-being of thousands of needy families.

This is an excellent, carefully crafted bill, and it is unfortunate that its quick passage is being threatened by those who do not believe that food stamps should be restored to some of the most vulnerable children, elderly and disabled persons in our society. The conference report is supported by a strong coalition of groups representing farmers, ranchers, crop insurers, researchers, immigrants and religious and community activists. It provides new funding, sets forth important reforms to our crop insurance and agriculture research programs, and helps provide the tools to ensure that the United States will remain at the forefront of agricultural productivity and competitiveness into the 21st century. I know how important this bill is to the agriculture community in my congressional district and throughout rural America, and I am dismayed that certain members of this body would stand in its way in order to indulge in an unnecessary and mean-spirited, partisan confrontation.

I urge my colleagues to preserve the delicate balance represented by this conference report. If passed as written, it will meet the urgent needs of the crop insurance industry, America's agricultural research institutions, rural communities seeking development assistance, and the most vulnerable legal immigrants. A vote for this rule will send a clear message to rural Americans and to needy immigrants that their needs are of secondary importance to partisan politics. That would be a tragedy, and it can be avoided by casting a no vote.

Mr. VENTO. Mr. Speaker, today I rise in opposition to the Rule on S. 1150 which would jeopardize food stamp restoration, crop insurance and agriculture research and rural development.

In April 1998, the Agriculture Conference Committee agreed to allocate $816 million (over 5 years) of the funding for the Agricultural Research, Extension and Education Reform Act of 1997. Under the agreement, food stamp benefits would be restored to the elderly and disabled immigrants who were legally in the United States and eligible to receive food stamps before the welfare law was signed in August 1996. It would also restore benefits to children under the age of 18 who were in the country at the time and to certain Hmong refugees. The funding is expected to affect the benefits of about 250,000 legal immigrants in 1999.

Last night, the Rules Committee reported this rule to eliminate the food stamp provisions of the conference report. By eliminating the bill's funding and its restoration of food stamps to legal immigrants would create numerous problems. Striking the food stamp provision would jeopardize the entire bill and kill all the provisions in the bill including agriculture research, crop insurance and rural development. Also, eliminating this provision would strip the bill's programs of their funding and would leave $1.2 billion in spending in the conference report.

I strongly support the restoration of benefits to legal immigrants. The budget agreement and this proposal would restore fairness back into the treatment of legal immigrants and makes the Federal Government responsible for its commitment to support communities that have become the home for a significant number of noncitizens. Many of these residents are taxpayers who deserve to be protected by the same safety net as others enjoy.

I oppose this rule which would not only jeopardize food stamps for legal immigrants, but crop insurance and funding agriculture research as well.

The savings in this measure nearly $2 billion is derived from state administrative costs for the management of the food stamp program, the implication that this measure is not the right vehicle for restoration of food stamps for legal immigrants is ironic in that other measures are added without any relationship to the food stamp program however desirable they may be. Certainly food stamp restoration is appropriate and needed—vote against this unfair rule.

Mr. BISHOP. Mr. Speaker, I rise in strong opposition to this rule.

The carefully crafted compromise reached between research, crop insurance and nutrition groups would have used food stamp administrative savings to fund the dire needs of each of these groups, all of which I represent.

The shame is that if this rule passes, and the House proceeds to destroy the balance that has been reached, the Senate will not accept these changes, as evidenced by its passing of the Conference by 92–8.

As pointed out by my good friends from California, Mr. DOOLEY, and from Texas, Mr. STENHOLM, all the major commodity groups like the National Cotton Council, the National Wheat Growers Association, and the American Farm Bureau Federation recognize the importance of the delicate balance that was reached, and oppose the chicanery which occurred last night in the Rules Committee.

To do through a rule what could not be done in the conference report, is just plain wrong.

Moreover, Food Stamp administrative funding that was used in S. 1150 was a windfall to the states—it was funding they were never counting on getting.

Although the Unfunded Mandates Act technically applies to this provision, it was never intended to allow the states to have free access to the federal Treasury, and those who served in state legislatures, as I did in Georgia, know what a true unfunded mandate is. This is not an unfunded mandate.

Even with the cost allocation provisions in S. 1150, CBO projects that states will receive more federal funding for Food Stamp administrative costs than they would have received prior to Welfare Reform.

The Agriculture Committee has worked in a bipartisan fashion to redirect its priorities—using Food Stamp money to pay for pressing needs in agriculture like research and crop insurance.

If the bill is killed, vital funds will be lost for agricultural research on pressing livestock and food safety issues. This rule kills the bill, and I therefore urge the House to defeat the rule.

Mr. QUINN. Mr. Speaker, I would like to take this opportunity to express my opposition to the Rule to S. 1150, the Agricultural Research, Extension, and Education Reauthorization Conference Report. Due to family reasons, I was unavoidably detained and therefore unable to cast my vote against this Rule.

I supported the base text of S. 1150 which represents a delicate bipartisan compromise by restoring food stamps funding to legal immigrants, and promoting agricultural research, crop insurance, and rural development. The rule would strike out the food stamp provisions, effectively killing crop insurance and agricultural research as well as food stamps.

Legal immigrants cut off of food stamps are among the poorest and most vulnerable. Over 900,000 legal immigrants, including 150,000 children, have lost food stamp benefits. Another 600,000 citizen children live in households where immigrant adults have lost benefits, thereby reducing the amount of food available to the entire household.

The restorations with regard to food stamps in S. 1150 target the most vulnerable immigrants: elderly and disabled persons; children; refugees who often come to this country with nothing but the clothes on their backs; and Hmong veterans, who fought courageously alongside U.S. military forces in Vietnam.

Private charities are overwhelmed trying to meet increased need for food across the country. The U.S. Conference of Mayors' recent survey found that 75 percent of cities report increased requests from legal immigrants for food assistance. Food banks cite increases of 40 to 70 percent in requests for emergency food assistance. Catholic Charities, the nation's largest private human service organization, reports significant increases in requests for emergency food assistance, severe food shortages in their food banks and pantries, and an inability to meet all food need.

Mr. DAVIS of Illinois. Mr. Speaker, I rise in support of the Agriculture Research Bill and against the rule. We need to maintain food stamp provisions in the bill.

I rise in support of the Agriculture research bill because it restores benefits for some of the nation's most vulnerable populations—low-income legal immigrants—many of whom are elderly, children or disabled.

Legal permanent residents are hard working people who earn their money in the U.S., they pay taxes in the U.S. and contribute to the U.S. economy by buying products in the U.S. Like U.S. citizens, legal permanent residents are stakeholders in America who care about the status of our country and should be afforded equal rights in this country.

Given the important contributions that immigrants make to our nation, it is only fair to accord them help when they fall into need. Legal immigrants have to contribute greatly to this country, pay taxes and even register for the draft.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the amendment and the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. CALVERT). The question is on the amendment offered by the gentleman from New York (Mr. SOLOMON).

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

PARLIAMENTARY INQUIRY

Mr. SMITH of Oregon. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SMITH of Oregon. Mr. Speaker, I understand this is a vote on the rule, as amended, is that correct?

The SPEAKER pro tempore. The gentleman from Oregon is correct.

The vote was taken by electronic device, and there were—yeas 120, nays 289, answered "present" 1, not voting 23, as follows:

[Roll No. 188]

YEAS—120

Archer
Armey
Ballenger
Barr
Bartlett
Barton
Bass
Bilirakis
Bliley
Blunt
Boehner
Bono
Brady (TX)
Burr
Buyer
Camp
Canady
Cannon
Chabot
Coble
Coburn
Collins
Cox
Crane
Cubin
Cunningham
Deal
DeLay
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Fawell
Fowler
Frelinghuysen
Gallegly
Gekas
Gibbons
Goode
Goodlatte
Goodling
Goss
Graham
Greenwood
Hastert
Hastings (WA)
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Inglis
Istook
Jenkins
Jones
Kingston
Klug
Knollenberg
Kolbe
Largent
Lewis (KY)
Linder
Manzullo
McCollum
McCrery
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Myrick
Neumann
Norwood
Packard
Paul
Paxon
Petri
Pickering
Pitts
Pombo
Portman
Radanovich
Rogers
Rohrabacher
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shuster
Smith (TX)
Snowbarger
Solomon
Spence
Stearns
Sununu
Tauzin
Thomas
Tiahrt
Traficant
Wamp
White
Whitfield
Young (FL)

NAYS—289

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Bachus
Baesler
Baker
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray

Bishop
Blagojevich
Blumenauer
Boehlert
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Callahan
Calvert
Campbell
Capps
Cardin
Carson
Castle
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Combest
Condit
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeGette
Delahunt
DeLauro
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fossella
Fox
Frank (MA)
Franks (NJ)
Frost
Ganske
Gejdenson
Gephardt
Gilchrest
Gillmor
Gilman
Gordon
Granger
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastings (FL)
Hayworth
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Hutchinson
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pappas
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Redmond
Regula
Riley
Rivers
Rodriguez
Roemer
Rogan
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Ryun
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Shimkus
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Smith, Linda
Snyder
Souder
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stump
Stupak
Talent
Tanner
Tauscher
Taylor (MS)
Thompson
Thornberry
Thune
Thurman
Tierney
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

ANSWERED "PRESENT"—1

Smith (OR)

NOT VOTING—23

Bateman
Conyers
DeFazio
Deutsch
Foley
Furse
Gonzalez
Green
Harman
Johnson, Sam
King (NY)
Meeks (NY)
Miller (CA)
Parker
Quinn
Reyes
Riggs
Skaggs
Stark
Taylor (NC)
Torres
Towns
Wicker

☐ 1154

Messrs. HYDE, BUNNING, STUMP, BACHUS, WELDON of Florida, RYUN and BEREUTER, and Mrs. LINDA SMITH of Washington changed their vote from "yea" to "nay."

Messrs. METCALF, PITTS, ENSIGN and McCOLLUM, and Mrs. BONO and Mrs. FOWLER changed their vote from "nay" to "yea."

So the resolution was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1200

(Mrs. ROUKEMA asked and was given permission to speak out of order for 2 minutes.)

FAREWELL AND APPRECIATION TO MARY E. "MEG" GOETZ, LONGTIME VALUED EMPLOYEE OF HOUSE OF REPRESENTATIVES

Mrs. ROUKEMA. Mr. Speaker, I want our colleagues to know that this is a very special moment for the House of Representatives. I rise to recognize the dedicated service, a long time of service, I might add, of our Reading Clerk, Mary E. Goetz, known to all of us as Meg.

Meg formerly was a constituent of mine in Glen Rock, New Jersey, but I really got to know her here on the floor of the House for her wonderful, dedicated work. Meg, as she is known, is retiring from the House after a few years of service. We will talk about that later, because I think she really looks much too young to have served here for that long.

But I would like to say that there are two Meg Goetzes that this House knows. The first is the Meg Goetz who is the serious, responsible, dedicated professional who keeps the work of the House going on time and in order. Indeed, in that capacity, she has become literally a folk hero to millions and millions of C-Span viewers. I hear that frequently about Meg.

The second Meg Goetz is the Meg that we know off camera, that her friends and her colleagues and the other professionals and staff know off camera. That Meg Goetz is bright and affable and, yes, dedicated, but has a wonderful sense of humor. I do not know that we will be able to enjoy that today, but there are others here who can repeat some of those stories about Meg's sense of humor.

I would like to tell you that I was really stunned yesterday when I learned, because it was only yesterday that I learned of her decision to retire from this position. I think, like me and probably all of the Members, we thought she was far too young to consider any such retirement. I have to say, as incredible as it may seem, because I know it is incredible to me, Meg Goetz has served 20 years in this Chamber.

I guess she has decided that there must be a life outside of this Chamber. I cannot imagine how she could have decided that. After all, 20 years of daily contact with us, Members of the House, Members of Congress, and all those all night sessions, I cannot imagine why she is looking for another life. But I do think, Meg, you deserve a break. But that is not what is happening here. You know you will be missed, and C-Span viewers will be missing their hero, their folk hero. Members of this House will desperately miss, along with her co-workers, her dedication, professionalism, and her wit.

I have to say that I know she is going on to other very worthwhile endeavors, and we are proud of her for all she has done and all she will do. Meg, I have to put in the name of Glen Rock, New Jersey, our common constituency. Glen Rock is proud of you. As we say in New Jersey, we are all perfect together. Meg, you are perfect together, and we hope to see you back here soon. Thank you so much for all you have done.

Mr. HOYER. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I think the gentlewoman consumed about 10 seconds on her presentation, and I will try to be equally brief.

Mr. Speaker, I am very proud and pleased to rise to join my colleague, the gentlewoman from New Jersey, and am rightfully proud of the heritage of Meg Goetz. The viewers on C-Span see the debate, sometimes acrimonious and confrontational, sometimes lacking in civility. Most times they do not see the staff who make it possible to have debates and to keep this institution going.

Too few of us perhaps take the time to realize the contributions that are made by, for the public, probably nameless, and certainly for Meg not faceless, but for some faceless employees, who, day-to-day, week-to-week, month-to-month, year-to-year, through their dedication and commitment make it possible for us to function effectively as the people's House.

Some have been here for many years more than most Members. Meg Goetz is one of those people. She has been here now for over two decades, and as the gentlewoman from New Jersey has said, she has brought to her job a great ability, but as well, a great demeanor. Her character and commitment to this democratic institution have added to its stature, and never, ever detracted from it. Few of us that serve in this body can say that we always did the same.

I want to rise, not on behalf of the Democrats or on behalf of the Democratic leadership, but on behalf, Meg, of all who have served in this body during your tenure. As I am sure my colleague, the gentlewoman from New York (Ms. SLAUGHTER), will observe, and I do not want to steal her thunder, but I think it is so appropriate to recognize, Mr. Speaker, that Meg Goetz is the first woman who has served as a Reading Clerk of this House, appointed by Tip O'Neill.

In doing so, she had, I am sure, a special cognizance of her responsibility to her gender in that capacity. Every woman in America can be proud of their representative, their first representative as our Reading Clerk.

Meg, I know that I speak for all who have served in this body during your tenure, who have enjoyed not only the competency with which you performed your task of informing the House from time to time what the business before the House was, of informing us of the amendments, of the messages from the Senate or from the President; yes, you have performed your duties in a very professional way, but in a very personal way for each of us you have been our friend, our adviser and counselor from time to time when you knew much more about what was going on than we did. And we would ask, Meg, what are we doing? And you always knew.

It is, Meg, sad that you are leaving, but as the gentlewoman from New Jersey has observed, you leave very young with much ahead of you, and I know that you will carry with you the experiences in this House to whatever endeavors you now pursue, and that you will be enriched by those experiences, as you have enriched this institution, this people's House, this center of democracy, not just for America but for the world. It is, Meg, because of people like yourself that this body has functioned so well. Notwithstanding its weaknesses, its foibles, its personal failures from time to time, it is people like yourself who have given it strength, given it judgment, given it balance.

So I am pleased, Meg, to rise with all those with whom you have served to thank you, to thank you for your dedication, and for your service, and for your friendship, and to wish you the very best in everything that you do in the years to come. Godspeed.

Mr. Speaker, I rise today to pay a special tribute to someone who has been part of this institution longer than myself and many of my colleagues.

Although she is not a Member of Congress, her face and name is known to everyone in this chamber, (and to those thousands of adoring fans on C-SPAN).

Mary E. "Meg" Goetz, the House Reading Clerk, is leaving us after 20 years of service to the House of Representatives.

Meg is a 1978 political science/economics graduate from Chestnut Hill College in Philadelphia, PA.

She began her career with the United States House of Representatives in 1978 as a legislative information specialist.

In 1981 she became the Assistant Journal Clerk, helping to compile and publish this important publication.

In 1983 she became the House Reading Clerk.

Often seen and often heard, Meg is an active part of the backbone which helps make the institution of Congress function.

From her perch on the dias, she has had a ringside seat on the history of America.

I know that my colleagues join me in wishing Meg the best of luck in her future endeavors.

Ms. SLAUGHTER. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentlewoman from New York.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentlewoman for yielding. I feel, as I am sure everyone else in the House felt, that I had a very special relationship with Meg. When I first came here 12 years ago, I learned that one of the things that freshmen do is have the great honor of presiding over Special Orders. I took to that, it was a wonderful thing for me to be doing, and made so much easier because of Meg.

I always relished being able to do it early in the week, because Meg Goetz and Paul Hayes and I share a special passion that we have never discussed with anybody on the floor of the House. That is that we are totally devoted to the Sunday New York Times crossword puzzle. So even though the issue of the special order was sometimes grim, sometimes not, we always had a fallback position where we could say, "Did you get 22 across?"

Meg has been, as everyone said before me, a pillar of strength in this House, and the millions of people in this country who understand how this democracy works and the way she has always conducted herself, with extraordinary decorum and with extraordinarily good judgment, know that a lot of good things about this House are because of the dedication and work that Meg Goetz brought to it.

I envy the people that Meg is going to leave us to work for. They are getting a woman of great character and professionalism and ability, and I look forward to working with her in her new capacity.

But I do want her to know that coming here as a freshman, as everyone else can say, I am sure, as equally well as I, to have the friendship of Meg Goetz to help us over the intricacies and the tough problems, never, never losing patience, always explaining over and over again, if need be, but always there to help us to do the right thing, she was bringing, obviously, to her job the professionalism that she felt, working for the House of Representatives, the United States Congress deserved.

Meg, we shall miss you, and thank you for all of your friendship to me, and thank you on behalf of all of the others here, because I know how much you have meant to each and every one of us. God bless.

Mrs. MORELLA. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Speaker, I just wanted to add my thanks, also, and appreciation for all that Meg has done for all of us. She has been a real pillar of perseverance, of patience, when she has been there to witness our deliberations. She has been a rock of stability, and yet always in her quiet, very professional way, has been there to help us in any way that we needed.

So I have always looked to Meg, as other colleagues have, as all my colleagues have, as somebody who is part of the institution and who has made it so very great.

My best wishes to you as you go forward and have a great adventure; and as Shakespeare would say, those about her from her shall learn the perfect ways of honor. Thank you, cheerio, and come back and see us.

Mrs. ROUKEMA. Meg, May I conclude by saying, God bless and Godspeed.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore (Mr. CALVERT). The Chair lays before the House a privileged Senate concurrent resolution (S. Con. Res. 98) providing for a conditional adjournment or recess of the Senate and the House of Representatives.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 98

Resolved by the Senate (the House of Representatives concurring), that when the Senate recesses or adjourns at the close of business on Thursday, May 21, 1998, Friday, May 22, 1998 Saturday May 23, 1998, or Sunday May 24, 1998, pursuant to motion made by the Majority Leader or his designee in accordance with this concurrent resolution, it stand recessed or adjourned until noon on "Monday, June 1, 1998, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first, and that when the House adjourns on the legislative day of Friday, May 22, 1998, or Saturday May 23, 1998 pursuant to a motion made by the Majority Leader or this designee in accordance with his concurrent resolution, it stand adjourned until 2:00 p.m. on Wednesday, June 3, 1998, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senlate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

□ 1215

The SPEAKER pro tempore (Mr. CALVERT). Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 442 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2183.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole on the State of the Union for the consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, with Mrs. EMERSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California (Mr. THOMAS) and the gentleman from Connecticut (Mr. Gejdenson), each will control 1 hour.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Madam Chairman, I yield myself 8 minutes.

Madam Chairman, as we observed under the rule that was passed, we are beginning a process which is one of the more open processes in the history of the House of Representatives. In the area of campaign reform, we have an underlying bill, and we have 10 substitutes that will be made in order.

In addition to that, there will be amendments that would be perfecting amendments that will be made in order to those substitutes. It begins to sound as though it could be a very confusing and difficult process.

What Members need to know is that we have already shrunk the potential amendments from almost 600 to closer to 300. Now, 300 is still a rather ominous sounding number and, as we begin to prepare and structure those amendments, I think we will find that they will shrink even more.

But to try to assist Members, "You do not know the players without a program," as they say in sports, The Congressional Research Service is in the final hours of preparing a document which I think will prove invaluable to Members. It will provide, for example, a quick glance, in terms of a checkoff procedure, indicating which general areas each particular substitute involves itself. For example, does it deal with spending or benefits limits, political action committees? What does it do with individuals, parties, candidates, in-State contributions limits or not, independent expenditures, et cetera?

After it does the checkoff, so that you can do a quick analysis, it will go into more detailed tables taking those checks and turning them into statements as to what that particular bill does vis-a-vis the other bills. Then, finally, in the back as a constant resource it provides a summary of the amendments in chronological order so that Members can read in greater detail what each particular substitute would do.

What I want to do for just a couple of minutes at the beginning is to back away from any particular measures that we are looking at and get Members to focus on the fact that we have been here before. That is, in 1971, the Congress passed the Federal Election Campaign Act. It has had subsequent amendments, but the basic bill was subjected to a court review in 1976 called Buckley v. Valeo. Once again, rather than going into particular details, take a step back and focus on the basics that the court dealt with.

One of the basics that the court dealt with in Buckley v. Valeo that I think we should take into recognition as we examine the alternatives in front of us is that the court examined the various provisions of that legislation and said some were constitutional and some were unconstitutional.

For example, on the contribution limit area, they thought it was appropriate to have limits because corruption or the appearance of corruption was closely tied or at least the appearance was closely tied to money that was given to candidates. However, on the other end, the expenditure of those funds did not have that close tie to corruption or the appearance of corruption so the court struck the limits that had been placed in the legislation on expenditures. So the court went through and examined particular areas using its criteria and said, this is constitutional or this is not constitutional.

Now, the key to the court being able to do that was a severability clause in the legislation. What we wound up with was a crazy quilt that did not fit any kind of a structured pattern for orderly campaign reform. I would urge my colleagues, one of the things that they should do in examining the proposed alternatives is to take a look and see whether or not it has a severability clause.

We ought not go down the same road that we have been down. We should not have a comprehensive piece of legislation in which the court can examine it and say, this is constitutional but this is not. That is lined up with the crazy quilt pattern that does not make sense. We have lived with that procedure for the last 25 years.

I will provide for Members and remind them, as we go through this process, which of the basic substitutes have a severability clause and which do not. From my perspective, those substitutes that do not have a severability clause are preferable. Why? Because if the Congress votes for a comprehensive reform and the court says a portion of it is unconstitutional, it allows the Congress to revisit the area and put together an overall comprehensive, coordinated plan. If one of the substitutes has a severability clause, we are right back into the crazy quilt, court-dictated this and that, when it does not fit.

The Shays-Meehan bill has a severability clause. The Farr proposal has a severability clause. The Tierney alternative has a severability clause. One of the major substitutes that does not have a severability clause is the Hutchinson Freshman bill.

The second provision that I think we have to examine is the criteria the court used to rule various provisions unconstitutional. It was primarily first amendment fundamental freedoms.

Six years ago, 10 years ago the primary threat to the American Republic were political action committees. If we did not do away with political action committees, the Republic was to be threatened. It is interesting how few of the major substitutes talk about doing away with political action committees.

The court said, people have a fundamental first amendment right to assembly.

Today we are talking about something called "soft money." The question is whether or not the court will continue to maintain its position as to whether or not people have a fundamental first amendment right to spend their own money as they see fit.

So when Members look at these various substitutes, look at, in the general sense, whether or not they contain provisions that in all likelihood will be struck down by the court under the argument of fundamental first amendment freedoms and if the same substitute has a severability clause, which means inevitably the court will strike a portion and other portions will remain. That is what we have been under through the last 25 years.

Please, do not subject us to that. Look at the substance. Does it clearly appear in the history of the court's decisionmaking around the first amendment to be a fundamental violation, notwithstanding your desire to do it? Then does it have a severability clause.

These two tests, I think, will guide this House into making the best possible decision. If we want reform and we move reform, will that reform stick?

Madam Chairman, I reserve the balance of my time.

Mr. GEJDENSON. Madam Chairman, I yield myself 6 minutes.

Madam Chairman, we are here today and we are frankly surprised, some of my Democratic colleagues, because many of my Democratic colleagues said to me over and over again that this present leadership was shameless, that you could not shame them into doing the right thing. And here we are. We were wrong. At least we are having a debate.

It took us a number of attempts, the election of some Members in the middle of the session and many other events that finally brought the signatures of virtually every Democrat and a handful of Republicans onto a petition to bring the bills to the floor directly that finally got the Republican leadership, with editorial after editorial condemning them, to at least give us a chance to debate.

People say sometimes life imitates theater. Let us hope that this show, this attempt to appear to engage the campaign finance reform process, could lead to reality, because if we can pass a bill from this Chamber and send it back to the Senate, it may just put the pressure on the Senate to be able to break that filibuster.

We do have fundamental differences, our two parties. If you asked the Speaker of the House, the gentleman from Georgia (Mr. GINGRICH) about poor people, he would say, we are spending too much money on them. If he talks about education, he says, there is too much money being spent on it.

But, lo and behold, when it comes to campaigns, the Speaker of the House says, "One of the great myths of modern politics is that campaigns are too expensive. The political process is in fact underfunded. It is not overfunded."

I think he or one of his colleagues later said that all this money rushing into campaigns from every possible direction was a sign of political vigor. Well, let us see what the results are. Let us take a look at what has happened to American participation as the expenditures have exploded.

When we were spending the least, we had the highest percentage of votes. In the 1960s, we were getting as high as 63 percent of the American people participating in the political process. As we spend billions today, we are under 50 percent participation in this political process. It is just simply wrong to argue that increased funding has somehow invigorated this political process.

There is a difference between the two parties. I think the Republican history on this issue has been consistent with their fundamental beliefs. They have tried at every opportunity to rig this system so wealthy, powerful people in this country get additional advantage.

If you hear their debates, I followed two down the hall the other day where one said, Can we have real reform and increase the amount people can give? That sure helps the average citizen, being able to contribute more money. Fifty thousand is not enough. What do you want to raise it to?

I think the problem with the political system is these large dollars intimidate the average citizen and send them a message that they do not count in the political process and that is why they are not showing up at the polls.

What is the question here? The question is, what is reform? Sometimes I think we should, like the French, have language police, although not striking words from other countries, prevent people from misusing or at least abusing the English language.

The other side would tell us that reform is increasing the amount of money that really rich people can give. If there is anybody in this Chamber who believes that the rich, the wealthy and the powerful do not have enough access to this institution, they have been on some other planet recently.

Our job here is to make sure that average citizens feel like this democracy is theirs. I would hope we can do better than even the bills before us, but the legislative process is about choices. McCain-Feingold in this House, under the leadership of the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Connecticut (Mr. SHAYS) is the only bill that really sends that message, the only one that will put pressure on the Senate. It is not the bill I would choose in perfection, but that is the easy game politically.

You can walk in here and pick everything but the prayer and say, well, I liked it, but you know there is always something better out there. Let us try to do something better, but let us do this first.

Let me tell you where we are today. The Republicans' proposals send this great Nation in the wrong direction. We have taken a country based on the principles in the Magna Carta that gave power to the nobility against the king. When our Founding Fathers founded this country, they gave power to white men who own property, not to women; blacks had to own twice as much property to be able to vote. Now we just want to make it the wealthy.

I love this institution. I do not like to see charges of corruption against it. I could read a list for an hour here about illegal contributions to the Republicans. The Republicans have spent all their time damning the President for the last campaign.

Let us stop the rhetoric. Let us do something about it. Vote for the proposal that will go to the Senate that already has a majority of the Senate votes behind it, and our vote here can push for those several votes we need to break the Senate filibuster. Let us pass McCain-Feingold here in the House. Let us pass that bill and begin the process of rebuilding confidence in the American political system.

□ 1230

Mr. THOMAS. Madam Chairman, I yield 2 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Madam Chairman, I want to thank the gentleman for yielding me this time.

Last evening we began one of the most important debates of this session. We often gather in this Chamber to promote democracy and free elections around the world, yet our own constituents are very concerned about how democracy works in this country, and I share their concerns.

My work on the Committee on Government Reform and Oversight has further convinced me of the need for campaign finance reform. While many of the abuses we are investigating are illegal, many are legal because of the soft money loophole. We must enact reform to prevent such abuses in the future.

Attorney General Janet Reno's responses to my questions during a hearing on December 9, 1997, confirmed that the soft money loophole has weakened the campaign finance laws that prohibit contributions from business corporations and labor unions, prohibit contributions made by foreign nationals in connection with an election to any political office and that require disclosure.

At that hearing, the Attorney General expressed her desire to work with the Congress to reform campaign finance laws. It is past time to make that happen.

Campaign finance abuse is a bipartisan problem that requires a bipartisan solution. For reformers, getting to this point has been a victory in and of itself. We would not be here without the drive of the bipartisan group of pro-reform Members, the pleas of our constituents and the discharge petition.

But our work has just begun. Until we pass real reform to eliminate the scourge of unregulated soft money and the influence of special interests, our constituents will continue to believe that money has more influence on the electoral and legislative process than their own votes and views.

When I say we must pass real reform I am referring to the Shays-Meehan bill. I feel that the many substitutes before us will allow some Members to hide behind phony reforms. The Shays-Meehan bill is our best opportunity.

During the debate, we are going to hear many arguments for and against many bills, but to support true reform, I encourage all of us to stand up and be counted in support of Shays-Meehan.

Ms. KILPATRICK. Madam Chairman, I yield 2½ minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Madam Chairman, I thank the gentlewoman for yielding me this time, and I rise to some degree to lament and to another degree to urge us to come to grips with this issue.

I rise to lament this procedure which I think does not do what ultimately we must do. And what ultimately we must do is to restore the confidence of the American public in their system of electing public officials, whether at the Federal level, at the State level or at the local level.

Like some of my colleagues, I have been involved in politics for a long time, having first been elected to the Maryland State Senate in 1966. During that period of time that I served the State Senate 12 years, I voted on a number of campaign finance reforms. I was not here in Congress in 1974 when we adopted the far-reaching campaign finance reform regime and which, as the gentleman from California said, essentially exists today.

I want to congratulate the gentleman from Arkansas, the gentleman from Massachusetts (Mr. MEEHAN), the gentleman from California (Mr. FARR), and the ranking member of our committee, the gentleman from Connecticut (Mr. GEJDENSON), for the untiring and long-term work that they have undertaken on behalf of campaign finance reform.

I also want to congratulate the gentleman from Kentucky (Mr. BAESLER) for his leadership on this issue. It was his focus, his discharge petition, and the disciplined approach that he took that, frankly, got us to this place.

I will make a much more detailed, expansive discussion of campaign finance reform and my views of the specifics of those reforms when we return. It is, however, my hope that we will not add to the cynicism of our citizens by the course of this debate. Because if we do so, we will have served them poorly.

If what we do is a political game, if what we do is beat our chests and say, on the one hand, the first amendment demands that we do not intrude in trying to make our elections more honest, more fair, more open, we will have not served the public well, nor will we have served our democracy well. If, on the other hand, what we do is play a political game where amendments fly across the field of battle and ultimately we pass no reform, we will have undermined the confidence of the public.

My colleagues on both sides of the aisle, let us be real, let us do our duty, and let us restore the confidence of the American public in their democracy.

Mr. THOMAS. Madam Chairman, I yield 4 minutes to the gentleman from California (Mr. DOOLITTLE), someone who has had a refreshing approach to campaign reform. And anyone who is concerned about foreign contributions, they know all we really need to do is enforce current law.

Mr. DOOLITTLE. Madam Chairman, make no mistake about it, at the heart of this debate on campaign reform is our right as American citizens to freely engage in political speech, a right which is guaranteed to us under the first amendment of the Constitution.

Throughout the course of this debate the big government campaign reformers will be trying to tell us that unconstitutional government regulations are needed because they believe money is evil and that it is corrupting our political system. These people look at America as a seething cauldron of unseemly interests who debase the political process.

Many colleagues, on the other hand, take the approach that James Madison did. James Madison, the author of the first amendment, understood that America would be a cauldron of special interests, but special interests, in Madison's view, would be people who would be guaranteed a right to have some influence. Madison anticipated, expected and deemed it necessary that in a republic people must have influence.

The campaign finance regulators would like us to believe political giving is inherently corrupt. But, in fact, participating in the political process is not merely desirable, it is guaranteed by the Constitution. The Supreme Court has made it abundantly clear that the Constitution allows political parties or any group of Americans to spend unlimited amounts on political speech.

What the Court has said is that the constitutional right to free speech is moot unless we have the right to amplify our voice above the din, particularly in a country of 270 million people.

The Court correctly declared, in the landmark Buckley decision of 1976, that political spending is speech. Listen closely to the Court's words in Buckley:

> The first amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive or unwise. In a free society ordained by the Constitution it is not the government, but the people, individually as citizens and candidates and collectively as associations and political committees, who must retain control over the quantity and range of debate on public issues in a political campaign.

This decision means that the first amendment does not allow the government through some statute we pass here to be put in charge of regulating either the quality or the quantity of political speech.

The Supreme Court made it clear that the government does not have the authority to decide between worthy and unworthy speech. The first amendment does not allow Congress the latitude to categorize certain kinds of speech as offensive and other kinds as laudable. That issue, Madam Chairman, is at the core of this debate.

Another Founding Father, Thomas Jefferson, understood that in a free society the people should be empowered to make decisions without interference from the State.

Madam Chairman, I believe we do need to change our flawed campaign finance laws. The problems we endure today are due primarily to government regulation of campaign financing. True campaign reform should honor the first amendment by expanding participation in our republic and by enhancing political discourse. Unfortunately, most of the measures we will be debating advocate greater government regulation which will continue to worsen the current problem.

Ms. KILPATRICK. Madam Chairman, I yield myself 2 minutes.

Madam Chairman, as a member of the committee, Madam Chairman, who heard much of the testimony on the campaign finance reform legislation we are discussing today, I am very happy that we have finally come to this point where we can have some debate and open the process so that everyone who feels very strongly about this topic can have their opportunity to speak.

Real campaign finance reform has to speak to the needs of the American citizens. What we have heard from some of our speakers already, and what we know from the tallies that have come in from across America, is that American citizens are not voting. And they are not voting for a number of reasons, one of which I contend is they feel their vote does not count; that there is too much money in the system, and that their $20, $30, $50 donations will not be accepted in a way where their votes can be heard.

So I am happy today that we are discussing campaign finance reform and that real campaign finance reform has three elements: It bans soft money, it requires full disclosure from those who give money, and cleans up third-party expenditures so that special interest groups do not control the political process.

I hope as we continue this debate today that we will keep that in mind. American citizens want to participate in their government. It is our responsibility to see that we make it possible that they do that. Banning soft money, requiring full disclosure and cleaning up third-party interests that control and dominate our politics will make Americans feel that this government is theirs again.

The House Oversight Committee has heard testimony from over 40 members of Congress, and listened to over 20 hours of earnest, bipartisan testimony on an issue that affects all of us: campaign finance reform. While we might disagree over the shape, form, or function that much-needed campaign finance reform must take, we all agree that this effort should not be done in such a manner as to be unfair, unjust, or unwise. Along with a majority of my colleagues, we rejected earlier, bogus attempts that brought up this most worthy debate under the most unworthy of circumstances. While I am glad to say that we are having debate on campaign finance reform, it is still a skewed debate. We will not have any votes on campaign finance reform before the end of May, as the Speaker promised. We will debate eleven separate bills, all with amendments. This is onerous, burdensome and illogical, and is a significant and severe disservice to the American people.

As a Member of the House Oversight Committee, I specifically did not co-sponsor any campaign finance reform bill, with the exception of the bill that would establish a commission to decide what shape and form campaign finance reform should take. During this debate, it is vital that we remember one important aspect: we are considering campaign finance reform, not campaign reform. This debate should not denigrate into a discussion of non-germane or ballot integrity issues. We dealt with many of these issues during the discussion of Congresswoman LORETTA SÁNCHEZ's election earlier this year.

Real campaign finance reform does three things: it bans soft money; it requires full disclosure of contributors, and it cleans up expenditures from special interest groups. We need to restore the faith of the American people in our system of government. We need to ensure the accountability of those who participate in and contribute to candidates. We need campaign finance reform. Real campaign finance reform limits the amount of money in elections. Real campaign finance reform reduces the role of special interests in campaigns. Real campaign finance reform restores the faith of the American people in our system of government.

Real campaign finance reform does not limit the rights of workers to participate in our political process. Real campaign finance reform does not limit the hard-won voting rights of minorities. Real campaign finance reform does not make it more difficult for citizens to register to vote, find out who is funding a campaign or cut fiscal support for the Federal Elections Commission.

Before I was elected to this august body, I served as a Michigan State Representative. As such, I fought, and still fight, for the right of everyday citizens, the disenfranchised, and the powerless to participate in our process of government. By limiting the ability of people, through fostering mistrust in our system of government, people will not vote. We hinder, not help, the Constitution that we have all sworn to defend and protect.

Madam Chairman, I reserve the balance of my time.

Mr. THOMAS. Madam Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. LEACH), the chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Madam Chairman, campaign reform is the most pressing democratic issue facing the Nation. In politics as in sports, how the game is played matters. A government of the people, by the people, and for the people cannot be a government where influence is disproportionately wrought by those with large campaign war chests.

Lord Acton once wrote that power corrupts and absolute power tends to corrupt absolutely. A fitting corollary to the Acton dictum is the precept that even more bedeviling than aspiring to power is fear of losing it.

The current system is an incumbent-based political monopoly that rewards those who accommodate rather than stand up to interest groups. Campaign reform is about empowering citizens rather than influence peddlers. It is the equivalent of applying the antitrust laws to the political parties. It should be advanced.

In this regard, there are a number of thoughtful approaches that will be brought to the floor in this debate. My preference is for the Shays-Meehan bill, but I acknowledge that it has flaws, the biggest of which is it does not go far enough. I would have preferred it to be accompanied by spending limits and greater restraints on political action committees, the so-called PACs.

Nevertheless, I think Shays-Meehan is probably the most that can be achieved this year, and I am hopeful it, or something near it, will be the final product.

Ms. KILPATRICK. Madam Chairman, I yield 4 minutes to the gentleman from Kentucky (Mr. BAESLER).

Mr. BAESLER. Madam Chairman, I am pleased that the Blue Dog discharge petition had something to do with us getting to this point, and I am pleased we are now beginning to discuss campaign finance reform.

I think the debate boils down to a couple of things: Will we ban soft money? And will we make sure that everybody in America, and in all elections, know where all money involved in campaigns comes from?

□ 1245

I believe the soft money sets the agenda for Congress, and I think that is wrong. I believe when people participate in the election process by independent expenditures and other expenditures, it is important that everybody in the country involved knows where that money comes from. There is no justification for people participating in the election process with money and nobody knows who the source is or what they represent.

I am not the first Kentuckian to speak on this. In fact, the person who held my seat 150 years ago, Henry Clay, said, "Government is a trust, and the officers of the government are trustees."

By contrast, some of my Kentucky colleagues and other nonreformers believe they are trustees of the soft money system. They are using the tactics that we have seen all along: delay, distract, distort, and do little.

As a Kentuckian, I feel obliged to answer these distortions. First, the Kentucky anti-reformers claim a soft money ban violates the First Amendment and is unconstitutional. I urge them to reread Buckley v. Valeo, where the Supreme Court said, ". . . limiting corruption provides a constitutionally sufficient justification for contribution limits. The integrity of democracy is undermined to the extent that contributions are quid pro quos . . ."

They should also reread the Colorado decision, where the court said, "Congress might decide to change the contribution limits to parties if it concludes the potential for evasion of contribution limits was a serious matter." And I think we all know it is a serious matter.

The First Amendment protects speech. It does not protect corruption.

Next, the Kentucky anti-reformers say we do not need new laws, we just need to enforce the ones we have. But that ignores the fact there are no laws to enforce on illegal soft money here to our parties. Soft money fund-raising by Democrats and by Republicans is legal. And soft money contributions, including the soft money contributions made by Loral Space Communications and others throughout the past several months, are legal. There are no laws on the books to enforce this.

The Kentucky anti-reformers will say that the Supreme Court says that money is speech, that that is their direct quote. I defy any anti-reformer to show me in Buckley v. Valeo where it says money is speech. They will not be able to because the Supreme Court never made that exact quote.

Next, the Kentucky anti-reformers will try to change the subject with non sequiturs like, "Americans spend more on junk food than they do on campaigns." That is ridiculous and totally irrelevant.

The point is that the President of any party, whoever might be President, the chairmen of the finance committees of both parties of the Senate and the House, congressional campaign committees and all ask for much money. And the question is, are there political favors given in return? If there are, it is wrong.

I do not think it is any coincidence that after we pass the telecommunications bill, hundreds of thousands of dollars are given to both parties by telecommunications folks. I do not think it is any coincidence that after we deregulate cable, hundreds of thousands of dollars are given to both parties by cable interests.

One Kentucky anti-reformer even said recently that soft money is not evil, to which I said, what about the tobacco-manufactured tax credit that slipped into the budget last year, the hue and cry that came, and we had to take it out? What did actually kill the drunk driving amendment?

We have to do something. To do nothing is irresponsible.

Mr. THOMAS. Madam Chairman, I yield 8 minutes to the gentleman from Arkansas (Mr. HUTCHINSON) who is one of the principal sponsors, along with a number of other freshmen, including the gentleman from Maine (Mr. ALLEN) of the underlying legislation upon which we will be conducting our examination of campaign reform.

Mr. HUTCHINSON. Madam Chairman, I want to thank the gentleman from California (Mr. THOMAS) for yielding me the time and for his outstanding leadership on this issue and also for his personal guidance to me as I have gone through this process.

Madam Chairman, campaign finance reform can be a complex and confusing issue. But the public always has a way of making common sense out of nonsense in Washington. To the public, this issue boils down to the meaning of democracy. To them, democracy is being changed in Washington from the people rule to big money governs.

Last night, and even earlier today, we heard from the gentleman from California that the First Amendment has something to do with this; and certainly it does. But the public can see through the misinformation campaign about the Constitution and the First Amendment.

Just a few moments ago the gentleman from California (Mr. DOOLITTLE) referred to the Buckley v. Valeo decision that provides that political spending is free speech. But that same decision says, by the United States Supreme Court, that contribution limits are in accordance with the First Amendment and do not violate the First Amendment.

By claiming to argue for free speech, the opponents of reform are cynically attempting to make sure that big money not only talks but it screams. The opponents pretend to use free speech to protect the millions of dollars in soft money that have become literally an addiction in Washington, and they wanted to give the multinational corporations a voice in our democracy that so dominates the political system that the individual voter is reduced to a lonely cry in the wilderness. What about their free speech?

Despite the smoke and mirrors, Madam Chairman, the debate today is a clear one. Are we in Congress going to represent individual Americans, or are we going to represent big money? Are we going to empower individuals and return politics to the people, or are we going to create more cynicism?

I believe that we should fight for the individual, and that is why I support the freshman bill. I believe the freshman bill empowers individuals so that their voices can be heard in Washington even above the din of special interests. And most importantly, the freshman bill protects the Constitution and free speech but it gives a greater voice to the individuals in our political process and it does this in three ways.

First of all, the freshman bill restrains the uncontrolled excesses of big-money interests and labor unions by banning soft money, the millions of dollars that flow from these groups into our national parties. As we can see from this chart, the 1996 election cycle, $138 million, $123 million in soft money going to our national parties, such a dramatic increase from what it was previously. And it will only go up.

Secondly, the bill strengthens individuals' voices by increasing the amount that individuals and PACs can give and by indexing contribution limits to inflation. Ours is the only bill that does that among all of them, that empowers the individuals in that way.

Thirdly, it provides information to the public by giving individuals and the media information about who is spending money and who is trying to influence the campaigns.

Madam Chairman, the freshman bill has been criticized by extremists on both sides of this debate. On the one hand, there are those who claim that this bill goes too far and should not ban soft money. On the other hand, there are those who claim this bill does not go far enough and is not real reform.

I am not sure we could have asked for a better compliment. The opposition from both extremes suggests that the freshman task force has succeeded in producing a balanced and fair bill that does not tip the scales in favor of one faction or another or one party or another.

When the freshman task force got together 13 months ago at the beginning of this Congress, we laid out a few goals that we tried to stick with. First of all, we tried to remove the extremes, the poison pills from the bill so that we do not scuttle it. We wanted to have a rose garden strategy that legislation could actually get and be signed by the President.

After five months we came up with a proposal and we have stuck with it. Despite the pressure of special interest groups to change this bipartisan product, we have stuck with it. It has not been tinkered with by different factions that would destroy the balance in the bill. And it is growing.

As my colleagues can see, the campaign finance bill is the best, experts agree, because it does not violate the Constitution and it represents substantial reform. And that is what we need. We have 78 cosponsors from both sides of the aisle. It is truly bipartisan in nature, and it is growing.

Teddy Roosevelt, one of the great reform presidents in America, said that he would rather work with individuals who take two steps forward today rather than theorize about taking 200 steps forward in the indeterminate future. And he had a distinguished record of achieving reform. He had the right idea. And we have had more than 20 years of chest beating about campaign finance reform that has led nowhere, no real reform. We need a bill that can pass.

Besides having a strategy that the bill would pass, we also had a Supreme Court strategy. It is not good enough to get a bill passed by this House and signed by the President, it has got to survive constitutional scrutiny.

We set out with the express purpose of drafting a bill that would protect the First Amendment while empowering individuals. We consulted legal scholars and experts and other Members of Congress, and the result is a bill that will survive that scrutiny. It is constitutional. It is substantive. It is real reform. The freshman bill meets the concerns of constitutional scholars by avoiding the traps of other reform bills.

There are some groups out there, the third groups, that say that our bill does something harmful to keep third parties from getting their message out. We should be concerned about that. But let me tell my colleagues what our bill does and, more importantly, let me tell my colleagues what it does not.

Our bill does not restrict the amount of money that can be spent by third parties. It does not restrict the source of the money or require disclosure of individual donors. Is that not important? That sticks with the Constitution, and that is the freshman bill. It does not restrict the tradition of anonymous pamphleteering. It does federalize state elections. In short, it does not trample upon the Constitution.

The freshman bill is simple, and in this town, being simple and straightforward confuses a lot of people. But let me explain this bill bans soft money, it requires disclosure and information to the people, and it empowers individuals. That is simple but it is significant and it is substantial.

Finally, let my say to all my colleagues in Congress, the scripture says the sons of Samuel who governed Israel did not walk in their father's ways. But instead, they turned aside after money and in doing so perverted justice. And because they perverted justice in the name of money, the people of Israel looked for new leaders.

And clearly the American people perceive that justice and democracy in America is being perverted in the name of big money. If we do not change that system in this body, then the people will look for new leaders. Let us not fail the American people. Let us take advantage of this opportunity and pass the freshman bill, the bipartisan campaign integrity act.

Ms. KILPATRICK. Madam Chairman, I yield 12 minutes to the gentleman from Massachusetts (Mr. MEEHAN) who has one of the most popular bills and certainly a bipartisan bill.

Mr. MEEHAN. Madam Chairman, late last night the House embarked on what will prove to be a historic debate on campaign finance reform.

Over the next few weeks, we will have the opportunity to truly strengthen our democracy and respond to the 72 percent of Americans who say that there is too much money in American politics. Most importantly, this debate will clearly identify those Members who support real bipartisan reform by a vote for the Shays/Meehan bill from those who are tied to the status quo.

It is a fact that undisclosed money is overwhelming our current election system. The most effective way to solve the problem is to ban soft money, the huge sums given by corporations, interest groups and labor unions. These unregulated contributions are at the heart of nearly every single investigation that the majority party has focused on this year.

The other problem with our current system is the proliferation of campaign ads masquerading as issue ads in congressional races all across the country. According to a report published by the Annenberg Public Policy Center and the Pew Charitable Trust, more than two dozen organizations engaged in campaign advertising during the 1995–1996 election cycle, but because they called their campaign ads issue advocacy, they did not play by our campaign rules. As a result, nearly $150 million worth of these ads, a third of what all candidates nationwide spent themselves, went undisclosed. Nobody knew where the money came from.

The Shays/Meehan bill addresses both of these issues. Some of my colleagues have suggested that in order to pass campaign finance reform, that the gentleman from Connecticut (Mr. SHAYS) and I should modify our original legislation to garner additional support. However, it is important to remember that this legislation is already a product of compromise.

□ 1300

Unlike our original bill, H.R. 3526 does not have voluntary spending limits, nor does it include incentives to abide by such limits like low-cost TV time or free mailings. Moreover, it does not include any change in PAC limits.

At the same time, the bill does include new provisions to deal with the recent abuses of our campaign system, including a clarification of the law forbidding fund-raising on government property and a strengthened foreign money ban.

Our legislation has six primary components: first is a ban, a complete ban on soft money; second, a clarification of what constitutes campaign advertisement; third, increased disclosure and enforcement; fourth, a ban on all fund-raising on government property; fifth, a personal wealth option; sixth, codification of the Beck decision.

In short, the Shays-Meehan bill will end the soft money system, and address the growing problem of sham issue ads in Federal elections. It will increase disclosure of political contributions and expenditures, because, frankly, the public has a right to know.

Finally, our measure will give the Federal Election Commission the teeth it needs to enforce existing law.

In closing, I would like to take a moment to address the First Amendment implications of this legislation. In the coming weeks, I look forward to engaging in a constructive debate over the nature of the First Amendment doctrine in Federal election laws. Such a debate is important.

But there are some Members who raise this issue in good faith, but I want to warn the American people that there are Members who are falsely raising constitutional concerns, because they oppose reform and support the status quo.

The bottom line is clear, next month the Congress will have a historic opportunity to make a real difference in the way this institution is perceived by the people who have elected us. We will have a chance to take a step away from the well-heeled special interest and take a step towards restoring the one voice/one vote principle upon which this country was founded. I urge all of my colleagues to take a stand for reform and support the Shays-Meehan bill.

Let me address a couple of other issues, Madam Chairman, if I may. It has been raised that somehow this bill lacks the constitutional basis because there is spending limits. It does not include spending limits. There is some who say that we cannot outlaw PAC spending. It does not outlaw PAC spending. Shays-Meehan does not ban bundling. There is no free air time in this legislation. I think it is important as we discuss the facts to keep that in mind.

Madam Chairman, I yield 1½ minutes to the gentleman from Wisconsin (Mr. BARRETT), my colleague who has been fighting for reform since he arrived in this institution.

The CHAIRMAN. Without objection, the gentleman from Massachusetts (Mr. MEEHAN) will control the time.

There was no objection.

Mr. BARRETT of Wisconsin. Madam Chairman, I am proud to be a cosponsor of the Shays-Meehan bill, because I think it addresses one of the most important issues we face as a Nation and an issue that is important for the future of this Nation.

Each year, the Pew Research Center does an analysis and a survey of young people in our country, and it asks young people 18, 19 years old what they are interested in for their future. It talked about their job aspirations, their education aspirations, their dreams.

Each year, it has a question asking how interested they are in our political process and in government. Each year, we have seen different results. But this year, we have the lowest interest among 18 and 19-year-old people in this country in government, in politics, and in public policy than we have had in the last 30 years.

There is a reason for that. The reason for that is that young people, in particular, feel disconnected from the system. They feel that this is a pay-as-you-go system. Unless they have money to get involved in this political process, they cannot be part of it.

For a democracy, that is the worst possible thing that can happen. We have to have young people who believe in the system. If the young people in this country feel that the only people who can get involved in government are people who have a lot of money, that is bad for democracy. That is bad for this country.

This bill, although not perfect, tries to take a serious attempt at correcting some of the problems. It tries to get rid of the soft money. It tries to make sure that the issue advocacy ads that are so prevalent have at least some responsibility.

There has been a lot of talk in this Chamber the last couple of days about foreign influence, about money coming into this country. But one of the things that we have not heard is that this bill actually deals with that problem, because we cannot have foreign influence coming and buying issue advocacy ads under this bill. But under the current law, we can.

I think, if we are concerned about the integrity of the system, we have to ensure that we do not allow any type of foreign influence to come in and buy issue advocacy ads.

So I think that this bill is even more important today than it was 3 weeks ago. What we should be doing is we should be moving forward with this bill, not only for the people who vote now, but for the young people in this country.

Mr. MEEHAN. Madam Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Massachusetts (Mr. MEEHAN) has 4½ minutes remaining.

Mr. MEEHAN. Madam Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. WAMP), my colleague who has been our partner in this effort to find bipartisan, bicameral campaign finance reform.

Mr. WAMP. Madam Chairman, I thank the gentleman for yielding to me.

Madam Chairman, we have heard it said, the love of money is the root of evil. I will tell my colleagues what Tennesseans say to me when I go back home: and that is, the political parties seem to be addicted to money, both political parties. Too many mailings. Some constituents tell me they have five or six pieces of mail in a single day in their mailbox. They cannot even find the legitimate mail in all the solicitations. It is out of control. Too much money. Not that we can restrict it or that we should restrict it, but that they are too driven by the love of money, and money is power.

Unlimited, unregulated soft money must be contained. I particularly find egregious the influences of tobacco, alcohol, and gambling. Tobacco soft money, $30 million over the last several years to the political parties, including $100,000 this month in a single payment to one of the political parties.

Alcohol, $26 million over the last several years to the political parties. We know what that money is for.

Gambling is the new kid on the block, but they are catching up quick. It is a growing industry. They are going to try to buy influence in the United States Congress.

I do not want my children's future to be dictated on the influences of alcohol, tobacco, and gambling soft money which is unregulated and unlimited to the political parties.

This open debate is good. I commend our leadership for bringing it up, for even extending the debate so that we can use this House to debate this issue. We are going to have two options, all the way from the proposal of the gentleman from California (Mr. DOOLITTLE) to go back to the way things were before Watergate, and, frankly, there is an intellectual argument that needs to be made about how much better things were before this system came into being, or we can try to fix this system, which I think is practical.

We have got some good options, the freshman bill, Shays-Meehan. But we can fix this system, and I appreciate the debate.

Mr. MEEHAN. Madam Chairman, may I inquire how much time is remaining?

The CHAIRMAN. The gentleman from Massachusetts (Mr. MEEHAN) has 2½ minutes remaining.

Mr. MEEHAN. Madam Chairman, I yield 1½ minutes to the gentlewoman from California (Mrs. CAPPS), a new Member of this institution who took the House seat of her husband, who signed onto the Shays-Meehan bill as the first bill that she signed onto.

Mrs. CAPPS. Madam Chairman, I commend my colleagues in the freshman class, especially the gentleman from Maine (Mr. ALLEN) and the gentleman from Arkansas (Mr. HUTCHINSON), for their hard work on their bill.

My husband, Walter Capps, cosponsored this bill. Without the freshman effort, I do not believe we would be here today.

But I am fresh off the campaign trail, and I have seen how our elections today are being manipulated by outside groups who flood the airwaves with unregulated air ads that are clearly aimed at defeating or electing Federal candidates.

These ads feature a candidate's face, name, and record. They air just before the election. Who are we fooling? They are just like other campaign ads and should be funded with fully disclosed, limited contributions from legitimate sources.

These single issues are all across the political spectrum. They affect everyone in the contested race, Democrat and Republican.

I stand in strong support of the bipartisan Shays-Meehan bill because it contains the cornerstone of serious campaign reform. The bill will ensure that these phony issue ads are brought under the same restrictions as any other campaign ads.

Let us plug the giant issue advocacy loophole. Let us pay attention to our constituents who are frustrated and disillusioned by the onslaught of ads in our campaigns which are funded by outside interest groups, undisclosed, unlimited.

Pass real reform. Support the Shays-Meehan bill. It is in the interest of all of us, of everyone.

Mr. MEEHAN. Madam Chairman, I yield the balance of my time to the gentleman from Connecticut (Mr. SHAYS), who has been fighting for campaign finance reform over the last few years and has been a real leader in this institution in fighting for campaign finance reform.

Mr. THOMAS. Madam Chairman, how much time does the gentleman from Massachusetts (Mr. MEEHAN) have remaining?

The CHAIRMAN. The gentleman from Massachusetts (Mr. MEEHAN) has 1 minute remaining.

Mr. THOMAS. Madam Chairman, I yield an additional 2 minutes to the gentleman from Connecticut (Mr. SHAYS).

The CHAIRMAN. The gentleman from Connecticut (Mr. SHAYS) is recognized for 3 minutes.

Mr. SHAYS. Madam Chairman, as I was listening to this debate and looking out and hearing the gentleman from Iowa (Mr. LEACH) speak about campaign finance reform, I think of how hard a leader he has been over so many years.

This is not a new issue. We have been debating it for a long time. I think of the gentleman from California (Mr. THOMAS) and what a leader he has been on campaign finance reform. So we have been fighting for reform on this side of the aisle.

I turn and think of all the people on the Democrat side of the aisle as well who have been fighting for campaign finance reform.

Together, we passed congressional accountability. We have gotten Congress under all the laws that we impose on the rest of the Nation. We did that together. Together we passed gift ban legislation, Republicans and Democrats. Together we passed lobby disclosure legislation. But we have left one act not taken care of, and that is dealing with campaign finance reform.

Fortunately, we have freshmen from both sides of the aisle who have worked hard to draft legislation that they feel will deal with this issue. I believe that they have made an important step, and I believe that they are truly for reform. I am hopeful, that at the end of the day, we can all come together.

I would argue to everyone in this Chamber that the legislation we need to pass is the Shays-Meehan bill. I believe that we need to pass this legislation because it deals with the important elements that none of the other proposals do.

We need to ban soft money; and with all due respect to other bills, we need to ban it on the State level as it relates to Federal elections. We need to recognize and have the courage to confront the sham issue ads by corporations, by labor unions, by other interest groups, and call them what they are, campaign ads.

Campaign ads come under the campaign laws. It would mean, and I say this particularly to my side of the aisle, that labor money cannot be used in sham issue ads, not the dues. We deal with it whether it is Republican money or Democrat money. I think we also need to codify Beck to let workers know that they have a right to not have their money used for campaign ads.

The bill also strengthens the Federal Election Commission. We have stronger enforcement, and we have stronger disclosure. We also make it very clear that foreign money cannot be used in campaigns, because, right now, soft money is not viewed as campaign money, and so it is legal. You can even make calls from the White House, because it is soft money. It is not campaign money.

My biggest complaint with my side of the aisle is they are willing to investigate corruption and not reform the system. With all due respect, on the other side of the aisle, they are willing to reform, but not expose wrongdoing, I think, when it needs to be.

We need to do both. We need to investigate wrongdoing and hold people accountable. We also need to reform the system.

I am so grateful to be part of this Congress today and in the weeks to come because we are debating an issue we feel strongly about on a bipartisan basis.

☐ 1315

Ms. KILPATRICK. Madam Chairman, I yield 10 minutes to the gentleman from Maine (Mr. ALLEN), one of the sponsors of the freshman bipartisan bill.

Mr. ALLEN. I thank the gentlewoman for yielding me this time.

Madam Chairman, last February, freshmen Democrats and freshmen Republicans agreed to create a task force on campaign finance reform. We were all veterans of targeted races in 1996. We saw firsthand the explosion of soft money in issue advocacy. We know that if soft money can be used for TV ads, and it can, the existing law on contribution limits has become a sham.

The gentleman from Arkansas (Mr. HUTCHINSON) and I cochaired that task force of six Democrats and six Republicans. H.R. 2183, the base bill for this debate, is the product of our freshman task force. It is substantial reform, it is bipartisan reform, and it ought to be passed.

Madam Chairman, I am now going to yield to members of the task force and members of the Democratic class officers.

Madam Chairman, I yield to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Madam Chairman, the current Congress can be broken into two groups: Those who think there is too much money in politics, and those who think there is not enough. I am of the former belief.

During the 1996 election cycle, candidates running for Federal office spent over $1.6 billion to get elected. Whether we want to admit it or not, the fact is that our campaign finance system is jeopardizing our credibility. We should not fool ourselves into believing that the problem is only the illegal activities that occur during the campaigns.

Soft money is unregulated and is not subject to any of the contribution limits. Democrats and Republicans combined to raise more than $260 million in soft money, a 206 percent increase, in 1992. If this trend is allowed to continue, we can expect the soft money figure to reach almost $1 billion in the year 2000. It is the abuse of soft money that has so badly tainted our system. It is soft money abuses that are the source of the investigations of the 1996 campaign.

Mr. ALLEN. Madam Chairman, reclaiming my time, I yield to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Madam Chairman, it is time for Congress to get its head out of the sand. Just how out of touch is this place? Will we look real campaign finance reform right in the eye and blink? I hope not, because the American people have lost trust in the system. They firmly believe that elections are bought and sold.

We all know that soft, unregulated money plays an enormous role in this disillusionment of the problem. This campaign financial loophole allows virtually unlimited contributions from wealthy special interests, and almost every dollar garnered from this is raised at the Federal level.

Madam Chairman, let us be clear: Soft money can lead to the threat of corruption, the appearance of corruption, or real corruption. Let us ban it.

Mr. ALLEN. Madam Chairman, reclaiming my time, I yield to the gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Madam Chairman, from the most recent records of the FEC in the last few months, a $200,000 donation from an individual impacting on the work of the Capitol; a $250,000 donation from a construction company; a $100,000 donation from a union; a total of $650,000 in donations from a bank; and I could go on and on, $100,000 from an individual; $450,000 in donations from a tobacco company.

Madam Chairman, Lady Freedom is about to be covered up. As the debate was continuing last night, I was impressed with how much we were playing "gotcha" and how much we were playing politics. Let us go home on this recess, and come back prepared to deal with this problem. Before Lady Freedom gets completely covered up, let us recover our democracy.

Mr. ALLEN. Madam Chairman, reclaiming my time, I yield to the gentleman from Rhode Island (Mr. WEYGAND).

Mr. WEYGAND. Madam Chairman, the centerpiece of the freshman bill is a very strong ban on soft money. It prohibits national officeholders, candidates, their agents, from raising, directing and coordinating soft money. The freshman bipartisan Democratic-Republican bill incorporated the ideas of campaign finance experts; Thomas Mann of the Brookings Institute, Norm Ornstein of the American Enterprise Institute, Herb Alexander of the Citizens Research Foundation, we took their ideas and put it into the bill. This was not a partisan ship, this was an idea of experts.

But what does all this do? What is the real issue before us with soft money?

Soft money really restricts the average American from running for office. It puts tens of thousands, even millions of dollars, into campaigns, and forms great obstacles for the average American from running from office. Jefferson and Madison wanted this to be the House of the people, not the House of the elite and the special interests. Soft money does that.

Let us renew those Founding Fathers' ideas. Let us renew the House of the people. Let us ban soft money. That is what the freshman bill does. I urge my colleagues to support it.

Mr. ALLEN. Madam Chairman, reclaiming my time, I yield to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Madam Chairman, I rise today also in support of the freshman bipartisan campaign finance reform bill. One of the issues that we address in our bill, as well as is addressed in the Meehan-Shays bill, is the third party ads that are typically run by groups outside of Congressional districts. Our bill provides if you are going to attempt to influence the outcome of an election, you have to associate yourself with that ad.

We have had groups here in Washington D.C. that have told us if you force us to put our names on our ads, we will not run them. They further said the courts have ruled they have a right to run anonymous political advertising.

This is crazy. What is at stake here is not a right like that; it is the right of the voters not to be deceived, but to be informed. One of the purposes of this provision is to stop the type of misleading and inflammatory ads that people will refuse to run when their names have to go on the ad.

We have carefully written this freshman bill in a way that is constitutional. It preserves the rights of groups to speak. But if you are going to stand up and say something about a candidate and attempt to influence the outcome of an election, you are going to put your name on the ad. That is going to assure that the rights that are really at stake here are protected, and that is the rights of the voters to make informed judgments and to understand who is trying to influence the outcome of the elections that determine their elected representatives.

Mr. ALLEN. Madam Chairman, reclaiming my time, I yield to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Madam Chairman, I am a proud member of the freshman bipartisan task force on finance reform. If we are truly interested in passing finance reform that is going to pass and withstand constitutional challenges, the freshman bill is the bill to support.

But the opponents of reform would have us believe that large money contributions are essential to freedom, liberty and free speech in this country. I do not know any rational person who believes the ability of a wealthy individual or organization to contribute hundreds of thousands of dollars, just as my friend the gentleman from Arkansas (Mr. SNYDER) so aptly demonstrated, is essential to freedom and liberty in this country. But that is exactly what is going on right now, and it is perfectly legal.

The freshman bill prohibits soft money contributions, and it will limit the corruption and the appearance of corruption resulting from those large contributions.

We can prohibit the soft money contributions under current constitutional case law. So our soft money ban withstands any constitutional challenge, and, yes, it does uphold liberty and free speech in this country.

I urge my colleagues, if they are interested in true finance reform that upholds the tenets of our Constitution in this country, to support the freshman bill.

Mr. ALLEN. Madam Chairman, reclaiming my time, these freshmen Members of Congress have helped bring real campaign finance reform to the floor. H.R. 2183 should now be debated and passed in this Congress. But we are going to hear some objections. We are going to hear the phrase "big money." I ask you to remember it. We are going to hear the phrase "free speech." Because when some Members of Congress argue that campaign reform stifles free speech, they are really saying that it shuts down big money, and they like big money. They want to keep big money.

The Supreme Court has said preventing the appearance and reality of corruption justifies limits on contributions to candidates and parties. To be sure, the First Amendment is a factor. But a soft money ban is constitutional. Issue advocacy can be regulated.

Do not be fooled by those who use the rhetoric of free speech to keep campaigns fueled with big money from corporations, unions and wealthy individuals. Support the freshman bill.

Mr. THOMAS. Madam Chairman, it is a pleasure now to yield 3 minutes to the gentleman from New York (Mr. PAXON), a retiring Member of Congress, but someone who certainly is not himself retiring.

Mr. PAXON. Madam Chairman, for years the two-party system has served this Nation well and has helped to make America the strongest democracy in the history of the world.

Today we have really seen on this floor the beginning of a direct assault on the two-party system in the guise of so-called reform. I warn my colleagues, as you well know, because someone walks to the well of the House and says something is reform does not make it so.

As a matter of fact, I believe that if these measures pass, we can predict three things: First, the diminishing of our two-party system; secondly, a diminishing of the ability of candidates to be responsible for the messages in their campaigns to the electorate; and, third, because so-called reform will actually move dollars from the Federal system that we have today of disclosure, those dollars will end up in issue advocacy campaigns, and that will mean no disclosure of where the dollars come from, no disclosure of where the dollars are going to or being spent, and, undoubtedly, more of what we are seeing today, negative and attack commercials that are not controlled by anyone.

Now, there is much talk though on this floor about controlling one thing, and that is these very issue advocacy campaigns. But that is a fantasy. The courts will not allow it, and that is clear.

What this talk is is a Trojan horse, good talk about controlling issue advocacy and all those negative campaigns, and, once the courts strip it away, we are only left with controls on the two-party system and controls on the candidates who are, therefore, not responsible to the electorate because of the kind of messages that will come out in those issue advocacy campaigns.

Therefore, the bottom line is simply this: The real question when it comes to campaign abuses is not about more laws. There are laws galore on the books. What we need is the real choice before us today: Will we enforce the laws that are on the books, or will we irreparably harm the two-party system and the ability of candidates to be responsible to the electorate and control their messages?

As this debate goes on in the coming weeks and months, I cannot help but come back to the adage that my dear grandmother gave me time and time and time again, and that is simply this: Be careful what you wish for; it might come true.

Mr. THOMAS. Madam Chairman, it is my pleasure to yield 2 minutes to the gentleman from Washington (Mr. WHITE), one of the authors of a major substitute that we will be looking at later in the process.

Mr. WHITE. Madam Chairman, we are embarking today on a long process to debate campaign finance reform. It is an open process, and that is a good thing. But it is also a process that, if we judge from the past, is likely to end in failure, in partisanship and in embarrassment to this House. Because the fact is if we look at what we have done in the past, we are likely to spend our time fighting with each other, arguing over our pet projects, and, ultimately, not getting anything done.

The fact is, we do not agree on the details, and what most of this campaign finance debate will turn out to be is one party trying to stick it to the other party and trying to see if they can do that in one way or another. The fact is, it is very likely that we will end up at the end of the day in a situation where no bill has the votes that is necessary to pass.

I would submit to you, Madam Chairman, if there is a lesson to be learned from the history we have seen, it is we cannot do this job ourselves. The last people in the world who should be making decisions on campaign finance reform are the people whose individual personal self-interest depends on campaign finance.

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That is all of us in this House.

So I would submit to my colleagues that there is really only one way to get a neutral, good government campaign finance reform bill, and that is to appoint a group of neutral experts to come back to us with a proposal after debating for a period of time. That is the Commission bill.

It is one of the first bills we will be debating, and I would implore my colleagues to give it careful consideration. We will have plenty of time to debate the merits of it, to explain what the Commission is all about. But I would say to my colleagues, go ahead and have the fights, go ahead and try to stick it to the other party, go ahead and try to win on your terms, but do not forget to vote for the Commission bill, which is the one chance we really have for real, fair and neutral campaign finance reform.

Mr. THOMAS. Madam Chairman, I yield 2 minutes to the gentleman from Kentucky (Mr. WHITFIELD), a Member who has been involved in this for some time.

Mr. WHITFIELD. Madam Chairman, the Buckley decision was obviously the most important campaign finance decision made by the Supreme Court. Justice Thurgood Marshall in that opinion wrote, "One of the points on which all members of the Court agree is that money is essential for effective communication."

Now, in Federal campaigns we have two kinds of money. We have soft money, which is money spent by any organization, any individual, or a political party to talk about issues.

Now, in my campaign in 1996, the labor union spent $866,000 against me in TV ads, and it said, paid for by the AFL–CIO. That is soft money. I did not like it, but I think they have the right to run them. The Supreme Court have repeatedly ruled they have that right.

Hard money is money spent by candidates for Federal office. It is used specifically to elect or defeat a candidate and is, therefore, regulated by the Federal Government.

Now, the Shays-Meehan bill, not only does it place a cap on the amount that a person can spend of their own money, but it also prohibits any organization, any individuals and political parties of any political philosophy from spending money to educate people about issues within 60 days of the election. So in Federal elections, where does that leave us? Those that spend hard money, the candidates, and then, of course, members of the news media will be able to express their views. They will be the only ones.

But individuals around the country, organizations around the country will not be able to spend any money. And I, for one, do not like to see the last 60 days of an election having the news media being the only ones that can talk about the candidates, because they are not regulated by anyone. So they will exercise their free speech, but the American people will not exercise their free speech.

Mr. THOMAS. Madam Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. BRADY), a member of the freshman bipartisan group.

Mr. BRADY of Texas. Madam Chairman, new campaign laws will not help if we do not first enforce the ones we have, and Congress must enforce and must ensure the free expression of speech, and that is why I am proud to be an original cosponsor of the freshman reform bill.

Each year, we seem to drift farther and farther away from the original intent of Congress as a citizen legislature, electing people from all walks of life and stations of life. A citizen Congress is disappearing in great part due to horribly expensive campaigns whose costs are out of control and getting worse.

Today, it takes about $1 million. The average cost of winning a competitive seat in Congress is $1 million. That means a lot of good people in our community will never raise their hands to run for Congress because they do not have $1 million and they do not know how they would find it, and those costs are doubling every 4 years. For a Nation founded on representative government, that is alarming.

Madam Chairman, I love being part of a Republican Congress that is known for challenging business as usual in Washington. Now is the time and we are the ones who take on the difficult past of bringing some common sense to these campaigns. It will not be easy. Nothing important ever is. But it will be worth it to make sure that, someday, our children do not wake up in the future to find that our Congress is reserved for only the wealthy few.

When it comes to doing the right thing in America, money is not everything. Integrity is more important than a fat wallet. Character still counts. If we believe in the citizen Congress, we know that we have to make sure the doors are open to families and working Americans who are only rich in principle and wealthy in common sense.

The freshman bill is common sense. It is constitutional, it preserves free speech, it protects States' rights, and it avoids the extremes without giving advantage to either party.

As a Republican, I confess that the bills that give my party an advantage are awfully tempting. As a Republican and an American, I know that the principle of a citizen Congress is a higher principle. That is what America's founders envisioned, that is what generations of Americans have given their lives for, that is our challenge to preserve.

Ms. KILPATRICK. Madam Chairman, I yield 3 minutes to the gentleman from California (Mr. FARR), who has spent a lot of time on this issue and one of the sponsors of one of the bills we will be further debating.

Mr. FARR of California. Madam Chairman, I thank the gentlewoman for yielding me this time.

I am pleased that we finally have a chance to debate on 11 measures, separate measures to discuss campaign reform, and I join this debate to fight for reform, real reform. Reform that stops the money chase, reform that restores the integrity to the election process, that allows candidates to discuss the issues, not sling mud.

I support the Shays-Meehan bill, but I also have a bill to be discussed in this debate, one that is more comprehensive than Shays-Meehan and actually is the basis from which Shays-Meehan originally developed.

But as good as Shays-Meehan is, it could be better. If the problem with campaign finance today is too much money in the system, then let us cap it. No one talks about spending limits anymore. But my bill has spending limits; none of the others do.

If we want to reduce money in the system, do not let it be spent. I cap it out at $600,000, which is the average cost of a campaign in the United States in the last election.

No one talks about PAC contributions anymore, but I do. My bill reduces individual PAC contributions and caps them in the aggregate. Shays-Meehan does not. If we want to reduce special interest money in the system, reduce the flow of money, cap it. My bill and my amendment has PAC limits.

No one talks about wealthy candidates anymore, buying a seat in Congress, but I do. My bill limits how much personal money a candidate can spend on his or her campaign. Shays-Meehan and other bills do not.

What about bundling reform? What about access to broadcast time? Have we forgotten that there is more to campaign finance reform than only soft money?

We need reform. It needs to be bold. It needs to be comprehensive. Getting rid of soft money is a good start, but in itself is not enough. Getting tough on express advocacy is a good start, but in itself is not enough. Getting serious about disclosure is a good start, but it is not enough. Shays-Meehan is a good start, but it is not enough.

I will offer an amendment using the text of my bill, H.R. 600, that does that, and more. If we are going to go through the trouble of passing campaign finance reform, let us pass comprehensive reform. Let us show America we are serious about cleaning up the system. If we are truly determined to do something about campaigns that are financed in this country, we must attack it from all angles, not just one. Incremental reform is reform delayed, and reform delayed is not reform at all.

Mr. THOMAS. Madam Chairman, I yield myself 1 minute.

Madam Chairman, someone earlier made the statement that they saw an educational ad and it did not play by "our rules."

The gentleman from California (Mr. FARR), is obviously sincere in offering his package, and we will look at it in more detail later, and he is proud to say that it has spending limits in the bill.

If my colleagues will recall my opening comments about the concern that we have to have in passing legislation in which the Supreme Court has already rendered an opinion, my colleagues will recall that in Buckley v. Valeo the Court sustained contribution limits that were in the 1971 law, but it held unconstitutional the expenditure limits, and yet we still continue to try to go down that path.

The gentleman from California said that, in terms of millionaires spending their own money, we ought to tell them that they should not be able to do it. I remind my colleagues that the Court has said that that is supposed to be a fundamental first amendment right.

I will also remind my colleagues that the Farr bill has a severability clause. That means that if the Court rules one portion of it unconstitutional, the rest of it will stand. In other words, if he believes he has crafted a careful, comprehensive plan and the Court throws out a portion of it, what we wind up having is the same situation we are in today.

What the Congress wanted, if, in fact, that is what Congress wants, will be done only in piecemeal, hit-and-miss fashion. As we look at these various proposals, look to see whether they have severability. Look to see if they address what we should be doing under constitutional amendments in a statutory form when we are running directly into the face of the Supreme Court saying certain aspects of people involved in expressing their own positions politically have a guarantee under the first amendment.

Madam Chairman, I yield 3 minutes to the gentleman from Colorado (Mr. MCINNIS).

Mr. MCINNIS. Madam Chairman, I am sure that all of us are familiar from watching the movie Gunsmoke or some of the other westerns, or if we have ever studied western history, we have heard of something called snake oil. That is just about what is to be sold on this House floor, and it is called snake oil.

How does one sell snake soil? First of all, one goes out there and convinces the people, goes into town ahead of time and convinces everybody that they are deathly ill, that the consequences of not buying the snake oil will be devastating to the community as a whole.

That is exactly what they are trying to do on this floor. Then, after they have convinced them about these horrible consequences, you ride into town on a white horse and say, I have the snake oil. I have the cure. The solutions are heavenly. Everybody in the community will live happily ever after.

Well, what are we doing here on this so-called campaign finance reform? What does it mean? Well, of course, that is all in the eyes of the beholder, but let me go over a few buzzwords we have heard this morning.

Just a couple of minutes ago, I heard the good gentleman, a good friend of mine, the gentleman from Arkansas, quoting the scriptures on campaign finance reform. Then we hear the word "reform;" now we hear the words "real reform;" then we hear about restoring public confidence. They are all buzzwords. Convince them there is an illness out there. Exaggerate the abuse that goes on out there. Talk about corruption. Describe the institution of Congress and what a horrible institution it is.

The previous speaker from California talks about buying a seat in the U.S. Congress: Make it corrupt. Make it sick. We have to be able to sell this snake oil.

Use the words, "special interest." Of course, we have to use the words "special interest," as if everybody in here does not have a special interest. Mine happens to be water, mine happens to be kids, abused children, mine happens to be the military, a strong defense. I do not deny having a special interest, and none of my colleagues should either.

Use the words "soft money" over and over again. If we are going to convince them of this disease, we better use the word "soft," "soft," "soft" like it is the word "cancer," "cancer," "cancer."

Talk about the horrors of the two-party system, how horrible, what bad shape this country is in because we have the Republican Party and the Democratic Party. Never once look back in history to see that history proves it is the most successful political system in the history of the world. No, no, no, we do not want to look at facts. Do not look at the bottom line, talk about how this empowers individuals. Then, after we have done all this, sell the snake oil.

That is about what is going to happen, folks. The average person out there is going to get sold some snake oil because, unfortunately, they are going to believe a lot of what we say. I hope the people listening to me today do something that they should do when the snake oil salesman rolls into town and that is, look at the bottom line. Do not buy it on what you hear, do not buy it on what you see, buy it on what you know to be true.

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Mr. KILDEE. Madam Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Madam Chairman, I thank the gentleman for yielding me the time.

First of all, I want to thank all of my colleagues on both sides of the aisle who signed the discharge petition that has brought campaign finance to the floor, particularly the Blue Dogs, who initiated the petition drive in support of campaign finance reform.

It has been a long time since the Speaker shook on it, and a great deal has happened since then. We have held hearing after hearing on alleged campaign finance abuses, but we have taken no concrete action to repair the problem.

We have spent hundreds of taxpayers' dollars and hours of valuable time on hearings that have yielded nothing. So if we spend hours and days on this floor debating reform, as long as we end up with a strong law instead of the usual shell game, where we vote on a bill knowing that it will not be enacted into law, I do hope that the ultimate outcome will be passage of Shays-Meehan. It is bipartisan, it bans soft money, it mandates disclosure, it levels the playing field between challengers and incumbents, and it regulates independent third-party spending.

We need to hold elections, not auctions, to select our leaders. I hope we move forward as quickly as possible with reform, and that we all get behind Shays-Meehan.

Mr. THOMAS. Madam Chairman, I yield myself 1 minute.

Madam Chairman, I would announce that the Congressional Research Service document that I had mentioned at the beginning of the debate is now being made available.

For anyone who is going to be leaving for the break from the floor, we have them available. Obviously, they will be available in greater numbers as we move through the process, and Members can have them in their offices. But if Members want one now, they are beginning to arrive.

Madam Chairman, it is my pleasure to yield 3 minutes to the gentleman from California (Mr. CAMPBELL), an author of a major substitute who will be addressing us at length later.

Mr. CAMPBELL. Madam Chairman, I thank the chairman, my good friend and colleague, the gentleman from California, for yielding me the time. I want to commence by complimenting him. There is no more sincere friend of campaign finance reform than the gentleman from California (Mr. BILL THOMAS), and I applaud his work.

Madam Chairman, I would like to use the minutes I have to speak about the first amendment, about "Can't vote, can't contribute," and about paycheck protection.

On the first amendment, I have heard on the floor already expressed review that the first amendment will not tolerate any campaign finance reform. This is simply not true. First of all, the Constitution gives to the Congress and the States the obligation to control the time, places, and manner of elections.

Second, the Supreme Court of the United States has on at least 14 occasions decided what kind of speech can be restricted. We cannot advertise a dangerous product, we cannot announce prices and fix them with somebody else, we cannot speak if the speech would pose an imminent risk of great danger. All of these, one might say, are restrictions on speech under the first amendment, and yet they have been permitted by the Supreme Court. Why is this? Because they preserve the fundamentals of the First Amendment.

The same is true with campaign finance reform. The Supreme Court dealt with this most extensively in Buckley versus Valeo, and in subsequent opinions as well. What that case said was, if the purpose and the effect of the reform is to control the system from the abuses so that truly free speech, in honest, legitimate debate can come forward, then the reform is permissible. That, I think, fairly characterizes almost all of the alternatives we will be debating.

The alternative on which I have spent my time is called "Can't vote, can't contribute." It is exceptionally simple. If you cannot vote for me, you should not be contributing to me.

What my bill say is, a labor union cannot vote for me, so they cannot contribute; a company cannot vote for me, so they cannot contribute; citizens from the State of Missouri cannot vote for me, so they cannot contribute. (I represent the State of California).

I am saying, let us restrict the ability to give to the very people to whom you owe the highest responsibility, your constituents. That approach, it seems to me, would solve a huge amount of the problem. No PACs, no labor unions, no companies, just the people whom you represent, can contribute. "Can't vote, can't contribute."

I have to be a little bit more careful and say that, under Supreme Court law, we have to allow some small amount of giving by others, and so I have a small amount that can come from other sources, no more than $100.

Lastly, my bill will have an expanded protection for those people who give their money to some entity, and that entity goes and uses it politically. We have heard how labor unions do this, but I think companies do it, too. What I propose is if you give your money to a company and the company decides to spend it politically, that company ought to get your approval up front. Then they can only spend as much money as has been approved by their shareholders. And similarly, if you are a member of a labor union, that union should not spend your money without getting your approval up front for the amount they wish to spend.

"Can't vote, can't contribute" is simple, and it is fair. Most importantly, though, it is consistent with the first amendment. I thank the leadership of the Republican Party for allowing this debate to take place.

Ms. KILPATRICK. Madam Chairman, I yield 2½ minutes to my colleague, the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Madam Chairman, I think this debate has been illuminating. The basic issue is really quite clear: Are we basically satisfied with the status quo, or are we not?

Yesterday the gentleman from Georgia (Mr. LINDER) said, in opening the discussion on the rule, I do not believe that major changes are necessary to the existing campaign finance laws. Instead, he urged some kind of assurance that the current laws we have on the books are going to be honored.

All I can say to him and the gentleman from Colorado, who tried to minimize the present problems, is money is swamping democratic politics in America. I have been involved in the political process for a long time. I am proud of the two-party system. It is the two-party system that is being eroded by money.

The issue advocacy issue is not a Trojan horse for soft money. The point is, if we do not address not only soft money but so-called issue advocacy ads that are really campaign ads, we have not closed the circle and ended the loopholes.

I think the gentleman from California (Mr. CAMPBELL) is absolutely correct about the first amendment. I hope people will not use it as an excuse to do nothing. I want to read just a couple of lines from Buckley which indicates that the first amendment has to be looked at in the context of the political realities of 1976, in the case of Buckley, and 1998 today.

It says, "The increasing importance of the communications media and sophisticated mass-mailing and polling operations to effective campaigning make the raising of large sums of money an ever more essential ingredient of an effective candidacy. To the extent that large contributions are given to secure political quid pro quos from current and potential officeholders, the integrity of our system of representative democracy is undermined. . . ."

Then they go on to say, "Of almost equal concern as the danger of actual quid pro quo arrangements is the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions."

What Shays-Meehan gets at is not only these huge financial contributions, but their unknown source and issue advocacy ads. If Members like the present system and they think the public does, go ahead and vote for essentially sham proposals. If Members want basic change, vote for Shays-Meehan.

Mr. THOMAS. Madam Chairman, it is my pleasure to yield 3 minutes to a freshman, the gentlewoman from Kentucky (Mrs. NORTHUP), someone who has just recently been on the front lines.

Mrs. NORTHUP. Madam Chairman, I thank the gentleman for yielding me the time.

In my government class in my junior year of high school, my teacher taught my class about civic duty. We studied the Constitution, and I learned then that that document represents a contract between the U.S. government and us, its citizens; and that as citizens, we are guaranteed certain inalienable rights. Those rights include our freedom of speech.

Today we have before us a number of proposals, all addressing the issue of campaign reform. The self-proclaimed reformers will talk about the problems of public cynicism, corruption in politics, and abuse of the system. Their proposed solutions will suggest everything from limiting when certain groups did disseminate their message to capping campaign spending and using tax dollars to fund campaigns.

The problem is that at the heart of each of these proposals is a muzzle on first amendment rights, the right to freedom of speech. Members may ask, what does campaign financing have to do with free speech? The answer is, absolutely everything.

In the landmark Buckley versus Valeo case, the Supreme Court ruled that being able to raise and spend money is necessary for speech. Restricting the amount of money a person or group can spend in campaigns reduces their ability to express themselves.

In today's society, every means of communicating ideas requires spending money. In fact, most campaign spending is used for the purpose of communicating with voters. Running an advertisement on television or the radio costs money. The ink and paper used in a mail piece costs money. An ad in a newspaper costs money.

While standing on a street corner screaming at the top of your lungs may be an exercise in free speech, it does little to disseminate your message. In order to share your views with others, whether you are a candidate running for office or a group of individuals concerned about the environment, you must have the funds and be able to buy air time or newspaper space to voice your opinion effectively.

While the authors of these reform proposals might say their ideas do not hamper free speech, most proposals do infringe on the first amendment, the right to free speech.

We must remember that election activity is a healthy sign of a vibrant democracy. Just as we encourage citizens to vote, we should encourage them to be involved in campaigns. The discussions that swirl around campaigns are part of engaging our citizens in campaigns and the issues that confront them.

Limiting our ability to discuss those issues violates our inalienable rights. Oppose limiting free speech. Oppose the Shays-Meehan and Hutchison bill.

Ms. KILPATRICK. Madam Chairman, I yield 1 minute and 15 seconds to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Madam Chairman, I rise in strong support of the Shays-Meehan proposal as the first important step towards reform, the first important step. I have listened to these arguments about free speech. Well, if money is now equated with free speech, then lack of money is equated with lack of free speech. It makes sense to me. Let the American people be the judge.

What we really do need is a constitutional amendment that will overturn Buckley versus Valeo. It is outdated. Think about this. In 1994 the average Member sitting here had to spend nearly $1 million when they were in competitive House races to hold onto their seats for a job that pays one-tenth as much. If they ran for the other body, the S-E-N-A-T-E, then they had to spend close to $4.5 million for a job that pays about $130,000 to $136,000 a year. Let the American people be the judge.

In 1994, no House challenger won spending less than $100,000 in this Chamber for a job that pays $136,000. In 1996, the number of congressional candidates financing their campaigns with $100,000 or more of their own money was over 109 candidates.

The American people are voting at all time lows. They know that the money changers are in the temple here. I would say to the people of New Hampshire and Iowa, they have enormous power to change this system. They should not let a single presidential candidate through their States until they are willing to agree to limits.

Mr. THOMAS. Madam Chairman, it is my pleasure to yield 2½ minutes to the gentleman from Missouri (Mr. HULSHOF), another one of those members of the freshman class.

Mr. HULSHOF. I thank the gentleman for yielding me the time, Madam Chairman.

Madam Chairman, I rise today in support of the freshman bill, the Bipartisan Campaign Integrity Act of 1997.

With great respect for the gentlewoman from Kentucky who just spoke recently, and another freshman Member, I am one of those self-proclaimed reformers. There has been a lot of discussion about the Shays-Meehan bill. One part that I happen to agree with the gentlewoman from Kentucky is that even with the motive, the good motive that I think is underlying the bill, I think it is unconstitutional.

□ 1400

I think that it is an unconstitutional infringement upon the right of free speech. The freshman bill, I think, cuts a swath down the middle. As newly elected Members of Congress just off the 1996 campaign trail, our class is bringing a fresh look at reforming the way that Federal elections are financed in this country. Increasingly the American people are losing faith. They are losing confidence in the current system of campaign financing which reflects upon those of us who come here.

The freshman bill is truly a bipartisan bill. It was crafted to meet the needs of reform without unfairly impacting one side over the other. With all due respect, last night we had a very passionate debate on the rule and the majority whip, right where I am standing, talked very passionately about the First Amendment. But with all due respect, there is no constitutional protection to soft money. There is nothing in the Constitution that says this unregulated, nondisclosed, big money in politics somehow enjoys the protections of the First Amendment of the United States Constitution. The freshman bill bans soft money.

The other area that I think that our bill is actually an improvement over other measures that will be fully debated after we get back from our recess is on the issue of issue advocacy. Where this bill is an improvement over the Shays-Meehan bill is simply we are asking for disclosure. It is interesting that when you have a broadcast commercial either on the radio or television, the FCC requires that the advertisement's sponsor must be disclosed. Should we not at least require some disclosure from the FEC when you are engaging in broadcast? We are not asking for disclosure of who has contributed to these particular third party groups. We simply are asking for full disclosure. That is why I think that this freshman bill is the best measure. I urge its support.

Madam Chairman, I thank the gentleman for yielding me the time.

Ms. KILPATRICK. Madam Chairman, I yield 1 minute to the gentleman from Illinois (Mr. POSHARD).

Mr. POSHARD. Madam Chairman, I speak to a lot of college students around the State of Illinois. Every time I stand in front of those students, they look me straight in the eye and they say to me, Congressman, we do not trust any of you guys anymore. You are all in it for yourselves. You are all in it for the special interests. No one is in it for us any longer.

When I inquire of those students as to why they do not trust their government, why they see their government as the enemy rather than their friend, they always look me straight in the eye and they say, Congressman, just follow the money, just follow the money. You will know why we do not trust you.

They are not wrong. Those students know that money in our government today leads to access, and access leads to influence, and influence leads to policymaking that is not always in the best interest of all of our people. Trust is the glue that holds our democratic system together. Without trust, it begins to unravel for all of us. If there is anything important in America, it is that every citizen ought to enjoy equal access to every door of representation in this government. That is our responsibility in this Chamber, to make that happen.

Madam Chairman, I am very pleased to have the opportunity to rise today and add my comments on an issue of deep concern to myself and many of my colleagues. At long last, this House is engaging in a meaningful debate on one of the most significant, controversial and urgent issues facing our nation—the reform of our nation's campaign finance laws.

The overhaul of our campaign finance system is a goal I have supported for many years. I strongly believe that we must reduce the overwhelming influence of money and return our campaign system to its roots of citizen legislators who challenged each other on the issues and their vision of the future. During my service in the Illinois Legislature and in this body, I have witnessed first-hand the effect that special interest money can have on honest debate and the integrity of the legislative branch of government.

In the absence of meaningful progress on this issue on the national level, I have sought to reform the financing of my own campaigns by refusing all PAC donations and relying instead on small contributions from individuals. Although I have often hoped that in this way, a few of my colleagues and I were setting an example for others to follow, it is not at all difficult to understand why only a handful have done so. It is indeed a daunting task to run a campaign without the easy donations that flow from special interests. But I would rather rise to the challenge and struggle to overcome this obstacle freely and honestly than continue to work within a system that has become irreversibly corrupted by the Influence of money.

There are those who will argue that the reforms we are seeking will place undue restrictions on the ability of interest groups to publicize their views. While I understand this concern, and I certainly do not support measures that infringe on First Amendment rights, I feel that the damage that money has inflicted on our political system can no longer be ignored. I am convinced that if reforms are enacted, sufficient opportunity will remain for groups and individuals to continue to make the opinions known in a meaningful and effective way.

The bill which has been brought to the floor today does not encompass my vision of campaign finance reform. However, I am grateful that the leadership has provided for consideration of many substitutes to this legislation, and I am hopeful that as this debate continues, my colleagues and the American people will join me in calling for a solution to this urgent problem. I believe that the Shays-Meehan bill represents the best vehicle for reform, and I will vote for its passage as a substitute to H.R. 2183. But regardless of the outcome of the votes we will cast as this process continues, the discussion itself marks a milestone in the House, and I strongly urge all members to take advantage of this historic opportunity to return politics to the American people, so that they can take pride in their government and in the role they play in the democratic process.

Ms. KILPATRICK. Madam Chairman, I yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Madam Chairman, Americans want fundamental change or a complete overhaul of the campaign finance system. They want meaningful limits on the out-of-control money in politics, and they want it now. We need to end the abuses of the electoral process, ban soft money, rein in the exploitation of issue ads and bring elections back home to the American people.

During this debate the Republican leadership will try to change the topic and, yes, to sell snake oil. It will try to turn attention away from all the good ideas that are out there to truly reform our elections and, instead, will try to focus debate on proposals specifically devised to bury elections deeper in the pockets of big money and of their special interests, to silence the voices of working men and women, and to kill reform.

Do not be fooled by the Republican leadership's all smoke and mirrors routine. Americans are tired of the games. We have the votes in this House to pass real reform. It is the Republican leadership that would thwart the will of this House and thwart the will of the American public.

Vote for Shays-Meehan, vote for a victory for the American people. Give their voices back to democracy.

Mr. THOMAS. Madam Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. BLUNT), another member of the freshman class.

Mr. BLUNT. Madam Chairman, today we have really started what can be a great debate in this House. We are often frustrated by how long the Senate takes to talk about the ideas that they talk about. We are also often frustrated by the fact that we do not have the time to chase important ideas to an important conclusion.

The law of unintended consequences seems to particularly appeal every time we try to change our campaign finance laws. In fact, many of the things we will talk about in this debate will be why the reforms after Watergate have not worked. Many of the things we will talk about is why we cannot enforce the laws we have.

If there is a smoke and mirrors problem, like I just heard that term used, in our law today, the smoke and mirrors problem is why we cannot enforce the laws we have and how we turn that into a debate about why we need more laws. But we do have time for this debate. This is a debate that goes to the core of our process. It goes to the core of what the next generation of folks who run important public office are likely to deal with. We can take the time. We have the time. We are going to talk about important things.

I just heard a moment ago the need to rewrite the First Amendment. I am not opposed to revisiting the Constitution. In fact, I was for revisiting the Constitution recently when we talked about the need to have a balanced budget amendment in the Constitution. But many of my colleagues who now want to rewrite the First Amendment said, it is way too dangerous to talk about an amendment, a new amendment that would protect the way we spend taxpayers money, but we are going to have a debate on whether it is too dangerous or not to talk about the way we protect the speech of voters and citizens.

These are big issues. This is a debate that deserves the attention it is going to have. I am grateful that we have an opportunity in this debate that we seldom have on this side of the Capitol to have a full and free exchange of ideas. I am pleased to see it start here today.

Ms. KILPATRICK. Madam Chairman, may I inquire as to the remaining time on both sides?

The CHAIRMAN. The gentlewoman from Michigan (Ms. KILPATRICK) has 13¾ minutes remaining, and the gentleman from California (Mr. THOMAS) has 11 minutes remaining.

Ms. KILPATRICK. Madam Chairman, I yield 1 minute to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Madam Chairman, I thank the gentlewoman for yielding me the time.

The most often asked question of me at home, especially with the young people that I represent in California's very distinguished 14th congressional district, is the following: What got you interested in politics, and why do you want to be in it? What do you want to get done?

I was attracted to public service at a very early age when I was in high school. We did not vote then. You had to be 21 years old to vote. And I became involved in the presidential campaign of John Fitzgerald Kennedy When he won, I honestly felt that I had put him over the top with the work that I had done. It was a time when public service was celebrated. Today in 1998, 38 years later, I am sorry that we cannot report the same thing. Why? Because people do not believe that this place is on the level.

And they are right. Why? Because money influences everything that takes place here.

We must step up to the bar and encourage the American people that they can indeed have confidence in this institution and their representatives by reforming a broken congressional finance campaign system. Vote for the Meehan-Shays bill. It is the real one. We should pass it, and we should be judged as to whether we have voted for it or not.

Mr. THOMAS. Madam Chairman, I yield 2 minutes to the gentleman from Washington (Mr. METCALF), a member of the freshman class.

Mr. METCALF. Madam Chairman, I would like to thank the gentleman from California (Mr. THOMAS) for yielding me the time and congratulate the Speaker and the leadership for keeping their commitment and allowing this debate today.

Madam Chairman, I am one of the Members totally committed to a full debate on this issue. I would even have signed the discharge petition to force a full and open debate. I am gravely concerned about the present campaign system because the American people have lost faith in the way Congress is elected. It has to be changed. By reforming our campaign finance system, we are moving forward on a new course that will empower people's faith in the political process. I have looked forward to this debate and I sincerely hope that we will enact real and honest campaign finance reform.

Ms. KILPATRICK. Madam Chairman, I yield 1 minute to the gentleman from Texas (Mr. TURNER), the Lone Star State.

Mr. TURNER. Madam Chairman, I thank my fellow freshmen, Democrats and Republicans, who are fighting for campaign finance reform. I also thank my fellow blue dog Democrats who worked to bring this issue to the floor by pushing the discharge petition calling for a fair and open debate.

Why are we fighting so hard? Because we believe that big money has a corrupting influence upon politics. We want votes, not dollars, to count in these halls. We want the strength of one's argument, not the size of one's pocketbook, to determine public policy. And we want to ensure that this government is not for sale to the highest bidder.

The American people deserve to know that this Congress investigates every allegation of campaign finance abuse, not to secure partisan advantage but to restore public trust and confidence in government.

While we investigate allegations surrounding Johnny Chung and possible corporate influence on decisions to grant licenses to sell technology to China, let us not forget that at the end of the day it is about big money in the political process.

Ms. KILPATRICK. Madam Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Madam Chairman, I want to take a moment to thank the gentleman from Connecticut [Mr. SHAYS] and the gentleman from Massachusetts [Mr. MEEHAN] for including a variant of my "stand by your ad" proposal in their campaign finance reform substitute.

A little over a year ago, I introduced stand by your ad, based on a good North Carolina idea from Lt. Governor Dennis Wicker, to make a real change in campaign advertising.

Stand by your ad is a bipartisan proposal sponsored by the gentleman from California [Mr. HORN] and myself and 13 others. Our bill would require simply that candidates appear in their television ads and say that they sponsored the ads. It would require the same for radio advertisements. The disclaimer for print advertising would also be enhanced.

Our proposal will not dictate the content of ads. But it will make candidates think twice before running a distorted or a mud-slinging advertisement, for they will have to take responsibility for what they put on the air and the voters will be more likely to hold them accountable.

We must change our electoral system in a real and positive way. I believe the Shays-Meehan bill offers us the best opportunity we are likely to have to do that. I am grateful that the sponsors have included "stand by your ad" in their substitute, to strengthen the required disclaimer and thereby to improve the tone and content of campaign advertising.

This year we have a real opportunity to change the rules. We need to work across party lines to reform how we conduct campaigns. I urge my colleagues to join us and the other cosponsors of the Shays-Meehan bill in supporting real campaign reform by voting for the Shays-Meehan substitute, including "stand by your ad."

Mr. THOMAS. Madam Chairman, I yield 4 minutes to the gentleman from Florida (Mr. MICA), a member of the Committee on House Oversight.

□ 1415

Mr. MICA. Madam Chairman, I thank the chairman of our Committee on House Oversight for yielding me this time and also for his distinguished leadership on this issue.

My colleagues, we have ourselves in a real pickle here. I have served on the Committee on House Oversight, and we have had to tangle with this dilemma in committee. The chairman has tried to act and Members have tried to act in a very responsible and responsive manner to the will of the House.

We sat for days and days in meeting after meeting. We heard at least 40 Members of the House with their various proposals as to how to revise our campaign laws. I sat through much of that testimony. And that is part of the problem.

No one is trying to deep six campaign reform, as we have heard some accounts in the media or some of my colleagues on the other side or this side say. I think people want meaningful campaign reform. And our committee tangled with this, and we brought out measures, and we gave the House an opportunity to vote on it. But now this House is going to suffer the same fate that our committee suffered.

I am not here to speak for or against one measure or the other, but I tell my colleagues that the reason we have 500 amendments and dozens of bills and proposals and differences of opinion is, in fact, we have 435 Members.

My colleague from California (Mr. HORN) summed it up so well when he said, we have 435 experts on this issue. And that is our problem.

But let me tell my colleagues what the American people want, and my colleagues have heard at this podium here all the condemnations. Actually, that is the side that controlled the White House, this House and the other body for several years and had complete power to change all the laws that they, in fact, passed and eliminate these abuses, but they did not.

So here we are in an open discussion, and we are going to have to sort through this, and we have a great difference of opinion on it because we are all experts.

We have all been abused by the system. I hate soft money. I was abused by it. I would love to ban it. The only problem is this little thing that gets in the way, the Constitution, which I carry around. And if my colleagues can find a way around the Constitution, then go at it.

But I want to tell my colleagues what the American people are upset about, and I am offended by some of the debate here today. The American people are disgusted because the laws on the books have been abused and misused. We have heard that we are going to investigate to the end, but we do not investigate to the end.

I sit also on the Committee on Government Reform and Oversight, where we have heard a parade of witnesses that go on and on about campaign abuses of existing laws. It is illegal for foreign governments to contribute. It is illegal for foreign citizens to contribute. It is illegal under the laws.

And I stacked one day in the hearing all the laws that had been violated, the statutes of the United States of America. Illegal conduit payments. That is illegal. And I heard it is illegal for conduit payments.

And then I heard the testimony and the tape of the President of the United States saying, we found a way to take amounts of money in 20s, 50s and hundred thousands, go get it, play it, to subvert the presidential election process that we put in place with some public money to avoid these abuses.

So, yes, the laws are on the books; but, yes, they have been violated. And people want, 74 percent of the American people, when polled, said their number one priority is enforcing the laws that are on the books.

So we face today this dilemma: Those who say we want to clean up and enact new laws; those who want to affront the Constitution. We will have to make the choice.

Ms. KILPATRICK. Madam Chairman, I yield 1 minute to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Madam Chairman, if American citizens are concerned that Congress continues to represent the interests of the wealthy and the powerful at the expense of the middle-class and working families, then the American people must get involved in the fight for real campaign finance reform.

Our Republican friends want to investigate the role that campaign contributions might have played on President Clinton's China policy. Well, we should investigate that issue fully and fairly, but we should also investigate the role that campaign contributions play in our tobacco policy, our health care policy, our tax policy, our banking policy, and many other policies that we deal with.

Big money interests are pouring hundreds of millions of dollars into the political process, and the wealthiest ¼ of 1 percent provide over 80 percent of campaign contributions. More and more millionaires are running for office while the middle class and working families are voting less and less and participating in lower numbers.

Let us have the guts to pass real campaign finance reform, and let us do it now.

Ms. KILPATRICK. Madam Chairman, I yield 1 minute to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Madam Chairman, I took this picture off the wall of my office. I purchased it several years ago from a high school art competition in my district. It was produced by Jeff Vogelsberg, a student at that time in a high school in my district.

As my colleagues can see, or maybe they cannot see, it is a picture of a car made out of money that has lassoed and is taking away the Capitol of the United States.

We have a saying in our language, "out of the mouths of babes," which really speaks to the sort of pure and perfect insight of children, the ability to get to the nub of the issue. And, in fact, Madam Chairman, this is how our children see us. And it is, of course, these children who will grow up and write the history books of the future.

And what do my colleagues think they will have to say about us? How will we be portrayed? Will this Congress be portrayed as supporters of a system with integrity and honor, or one of money that is so powerful it can pull the Capitol of the United States from its very foundation?

Support Shays-Meehan.

Ms. KILPATRICK. Madam Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, I thank the gentlewoman for yielding me this time, and I want to say that, yes, we are beginning this debate on campaign finance reform, but we dare not close our eyes. We may not ever end it, and we may not get a chance to vote on real campaign finance reform, and that is the Meehan-Shays legislation.

I hope I can go home and tell the children in my district that they are the ones that control and direct our efforts up here in the United States Congress and not the special interests. But, my colleagues, I have some special insight. Because as we are going through the bankruptcy revisions, we now see the impact of special interests who want us to eliminate provisions that would allow hard-working Americans, who have come upon hard times, who have had catastrophic illnesses, to be able to go into bankruptcy court fairly and honestly and save themselves and their homes and their children's homes.

We need to realize that real campaign finance reform is to get rid of the special interests. And real campaign finance reform is to vote for the Meehan-Shays, and not for the nongermane amendments, 500 of them, maybe, that will come up when we come back so we never get a chance to vote for Meehan-Shays.

I hope that does not happen. Vote for Meehan-Shays for real campaign finance reform for our children.

Ms. KILPATRICK. Madam Chairman, I yield 1 minute to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Madam Chairman, I thank the gentlewoman for yielding me this time, and I rise in strong support of campaign finance reform.

I will vote for both the Shays-Meehan bill and the bipartisan freshman bill, because I think that those bills go a long, long way in helping to clear up the problems that we have, although I think we still have a long way to go.

The Buckley-Valeo decision by the Supreme Court, in my opinion, was one of the worst decisions that was ever put forth in the Supreme Court, equating free speech and money, saying that money, money and more money can be spent on campaigns. We have a situation where only millionaires can afford to run for office in this country. And that is the real threat to our democracy, when the average person can no longer run for office because it costs so much to run for office and the special interests so dominate it with money, money, and more money.

Public financing, in my opinion, is the way to go, because that would even the playing field and level the playing field. It is obvious we are not going to get that, so we need to have some kind of restrictions on the obscene amounts of money it takes to run for office in this country.

Are we saying that only wealthy people should serve in the United States Congress? We have more and more millionaires here. There is nothing wrong with millionaires, I wish I was one of them, but I do not think they are the only people that ought to serve in the U.S. Congress.

We need campaign finance reform, and we need it now. It is a threat to our democracy to do nothing. Let us move on this. Pass Shays-Meehan and the freshman bill.

Mr. THOMAS. Madam Chairman, I yield 2½ minutes to the gentleman from Michigan (Mr. UPTON), who has been involved extensively in the area of campaign finance reform.

Mr. UPTON. Madam Chairman, not too long ago I spent some time with one of the most distinguished journalists in this country, David Broeder. He made a very good point that the most popular thing that Americans watch and enjoy is probably NFL football or college football.

They do not focus on the missed pass patterns, the overthrown passes, the blocks that go awry. They look at the TDs, a Desmond Howard running back, a punt return, a Charles Woodson making a great defensive play in the end zone, a Brian Griese getting that touchdown pass in the Rose Bowl.

Sadly, our political system, indeed, focuses on the bad, the opposite, the negatives. So-and-so is against the elderly. They are a big spender. They are for higher taxes. They are for pornography, even kiddie porn. That is what we have come down to with these negatives.

And, sadly, those negatives are led not by the candidates. The candidates are not responsible for that kind of junk, but, instead, the independent interest groups that have taken over the system.

They have discovered a gigantic loophole. They have discovered that they can pour unlimited amounts of money into a campaign, hundreds of thousands, maybe even a million dollars. It is not reported, it is not disclosed, and, in fact, they have no direct responsibility.

Well, that buying of this House has got to end. It is time to return this House to the people's House.

I can remember not too long Speaker Foley did not really allow an open rule on campaign finance reform. A gentleman here by the name of Mike Synar, myself, and the gentleman from Louisiana (Mr. BOB LIVINGSTON) worked together on a bipartisan campaign plan, and it was a good one, and we were turned down by the Committee on Rules on a vote by just a handful of votes, 220 to 213.

I applaud our bill leadership, and I applaud the gentleman from California (Mr. BILL THOMAS) for working to construct the bipartisan vote that we had last night that is an open rule so that Members from every stripe in this Chamber can debate the issues for perhaps a couple of weeks based on the amendments that were filed, and we can sort this thing out and we can end some of these abuses and return this House to the people's House.

Madam Chairman, we need reform. The country wants reform. We want reform. Together, we can do it. Let us look at these issues. Let us look at all of the amendments and the substitutes. And, at the end of the day, let us not fall short and reject what comes out. Let us pass something and get it back to the Senate.

Ms. KILPATRICK. Madam Chairman, I yield 1 minute to the gentleman from Washington State (Mr. ADAM SMITH), someone who has been waiting a long time this afternoon.

Mr. ADAM SMITH of Washington. Madam Chairman, I rise in strong support of the Shays-Meehan bill.

Let me first say that I think it is good that people are interested enough in the process to contribute money to a candidate and get involved. The key is to have a reasonable contribution limit so that some people do not have so much more influence than other people that those other people are discouraged from participating. Unfortunately, that is the system we have right now.

Shays-Meehan does a very good job of fixing that problem by banning soft money, limiting issue advocacy, and beefing up the enforcement mechanisms the FEC has to enforce the existing laws. I think placing reasonable limits on contributions makes sense, and Shays-Meehan maintains those limits.

I do want to caution folks about going too far down the road about how corrupt we are if we receive campaign money. I do not believe that to be the case. However, we do need to keep a ceiling on contributions so that certain individuals do not have undue influence. I think a limit of $1,000 per individual, $5,000 per PAC makes sense.

The problem is that between soft money and third-party expenditures, those limits have been rendered meaningless. Shays-Meehan takes a first step towards fixing that problem, and I urge my colleagues to support that bill.

□ 1430

Ms. KILPATRICK. Madam Chairman, I yield 1 minute to the gentlewoman from Michigan (Ms. STABENOW).

Ms. STABENOW. Madame Chairman, I rise today in strong support of the efforts to create real campaign finance reform. At the end of the day, it will not be what we said, what fingers we pointed at each other; it will be whether or not we actually got anything done. That is what people will judge us on.

I want to commend my colleagues in the freshman class who have worked so hard on both sides of the aisle to bring this issue forward and to put a bill in front of us that makes sense. Also, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) who have worked so hard to put together a bipartisan bill.

We have two opportunities in front of us, either of which moves us in the right direction. And I would encourage us not to get bogged down in finger pointing, not to get bogged down in 11 substitutes, over 500 amendments, but to instead, when we have the opportunity to come back in another week to vote on whether or not we want less money in the system or more, that we vote for less; whether we want more accountability, whether we want folks to be able to make up names and run ads without any accountability for us or for our constituents to know who they are, or whether we want fairness, whether we want accountability.

Let us vote for accountability. Let us vote for real campaign finance reform now.

Ms. KILPATRICK. Madam Chairman, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Madam Chairman, I thank the gentlewoman from Michigan for yielding me the time.

Literally, money talks; and when it speaks, it drowns out all other political discourse. Money has distorted, corrupted, and perverted our political system. It is time to get back to the basics of democracy. We are past the time for halfway and halfhearted patches on the system.

Belief that disclosure alone will remedy the problem is like belief in the tooth fairy. Solving the problem by just regulating soft money is about as likely to happen as expecting pigs to fly. I believe that the basic principles of campaign reform are these:

Take seriously some of the money out of the equation. Provide some public financing for all Federal campaigns. Set a limit on Federal candidates' use of private money. Provide voters with enough information, unfiltered, to make serious decisions. Create an independent agency that will report on the activities of all paid lobbyists, who and when they lobby.

It is only when we take the money out that democracy will come in.

The CHAIRMAN. The gentlewoman from Michigan (Ms. KILPATRICK) has 3¾ minutes remaining.

Ms. KILPATRICK. Madam Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Madam Chairman, let me first say to my colleagues on the left and the right who seem so deeply concerned about the constitutional ramifications of a campaign finance package, I would remind them that next week when we return from our Memorial Day recess that one of our colleagues the gentleman from Oklahoma

(Mr. ISTOOK) will bring a piece of legislation to the floor that seeks to rewrite the First Amendment in certainly more egregious ways than perhaps this campaign finance legislation will.

But I say to my colleagues on both sides of the aisle, what is it that we are afraid of when it relates to campaign finance reform? What is it that we are afraid of when we talk about taking less money? What is it that we are afraid of when we talk about less money in this entire political system?

This is the same body that had the courage to say to welfare recipients throughout this Nation, and I voted with them, we are going to place a 2-year time limit on them. We are going to limit the amount of funds. This is the same Congress that said to those in the Dakotas, when the floods ravaged those areas, we are going to make them wait for disaster aid relief.

What is it about campaign finance reform that irks and irritates so many in this Congress? I would hope that we can find the courage to reach down deep inside to find the courage that is needed to not only reform these laws and restore the integrity to this system but to do what is right for the future of this Nation and the next generation of Congresspeople that will occupy our seats.

Ms. KILPATRICK. Madam Chairman, I yield 1 minute to the gentleman from New York (Mr. SCHUMER).

Mr. SCHUMER. Madam Chairman, I thank the gentlewoman for yielding me the time.

Let me say this debate will test this House as it has not been tested in a decade. Admittedly, this is not the number one political issue on the minds of the public. Probably no one will lose their reelection because of it. But clearly, if we care about this Congress and care about this democracy, this is the issue that is driving the Government further and further and further from the people. Reform it we must. Those who love this democracy, those who believe in what the Founding Fathers said, should be on the side of this issue.

And second, I have heard more crocodile tears shed over the First Amendment from the very same people who spend a career bashing the National Endowment for the Arts and everything else that I am just amazed. Methinks that there is too much protest here.

I do not think the issue is the First Amendment. No amendment is absolute. I do not think that these newfound converts to the First Amendment fear that that amendment will be infringed. They try to infringe on it every week on the floor of this House. I think they are afraid of reform, they are afraid of government coming clean.

The CHAIRMAN. The gentlewoman from Michigan (Ms. KILPATRICK) has 1¾ minutes remaining.

Mr. THOMAS. Madam Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Madam Chairman, if we like our legal system, after this debate on campaign finance reform, where we have 10 substitutes and over 300 amendments, we are going to love our campaign finance.

What we need to do is enforce the campaign finance laws that are on the books and work together to simplify so that the American people are being well-served. Now, a lot of people will say, well, this is a case of being able to have free speech. I think so. But simplicity is the path to strengthening our system and allowing Americans to finally trust their elected Federal officials.

We can gain a lot of credibility with the American people by actually investigating and enforcing the current laws. No one on this side of the aisle is talking about enforcing the current law, especially as it concerns fund-raising in churches, in Buddhist temples, campaign or other financial solicitation from executive office buildings, foreign contributions and other illegalities that occurred during the 1996 campaign cycle.

I believe we need to preserve the freedom of any individual or group to speak out on issues. Some of the proposals being offered clearly violate the First Amendment guarantee of free speech. Therefore, some of these proposals are clearly unconstitutional.

Let us pass sensible campaign finance reform that enjoys the widespread support of all the American people.

Ms. KILPATRICK. Madam Chairman, I yield 1¾ minutes to the gentleman from Connecticut (Mr. GEJDENSON).

Mr. GEJDENSON. Madam Chairman, the debate here is how to instill confidence in the voters of this country and their elected officials. There is no place on earth where the connection between the elected and the electors is closer. But as the amounts of money rushing into campaigns through every possible back door and front door continue to grow, the American people's respect for this Government continues to diminish.

There is an advantage on the Republican side. I think their constituents are often less bothered by $100,000 contributions. We tend to represent blue collar people that are astounded by those numbers.

The Democratic record is clear. In 1971, we started the FEC and overrode President Nixon's objections. In 1974, we passed campaign finance reform. Yes, the court gutted it. But remember, the Supreme Court for 50 years said separate and equal are okay, until 1954 in Brown v. Board of Education when they reversed themselves.

In 1991, the House, under Democratic leadership, passed the campaign finance reform; and in 1992 we put it on George Bush's desk to see him veto it. When President Clinton got elected, we got legislation through both houses and it was filibustered to death in the Senate. Had that gotten past the Senate filibuster, this President would have signed it.

Let us pass MCCAIN/FEINGOLD in this form in the House, get it to the Senate, and get those couple more votes we need to break the filibuster. We have more than a majority for reform in the Senate, and this President will sign the beginning of real campaign finance reform with the leadership of the men and women in this House of Representatives.

Mr. THOMAS. Madam Chairman, I yield myself the remaining 2 minutes.

We have heard the general debate on campaign reform; and true to form, it is an attempt to move the discussion to class warfare and righteous indignation. I would like to bring some of the fundamentals in focus, if I might.

We have heard a piece of legislation referred to on our side of the aisle as Shays/Meehan. We have heard that same legislation referred to on the other side of the aisle as Meehan/Shays. I think that pretty well sums up how significant the substance is. These people are so desperate in terms of the need to package this in a way that, their reform, that they actually reverse the name of the legislation.

In that CRS booklet that I provided my colleagues, I do apologize to my colleagues on the other side of the aisle, it is listed as Shays. He is the principal author. It is Shays/Meehan. But we will hear them repeatedly say Meehan/Shays. So much for substance. This is all about style on their part. We are concerned about the First Amendment, and we guarantee it will be protected.

For those of my colleagues who do not have the CRS copy, I am pleased to announce that by the end of business today, for those on the web, the cite is www.house.gov/cho. That is www.house.gov/cho for the Internet copy of the Congressional Research Service's factual analysis of the various substitutes that will be in front of us.

Madam Chairman, I look forward to a substantive debate over the specifics of these issues, especially in regard to the constitutionality of the measures that we will be looking at.

Mr. FORD. Madam Chairman, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Tennessee.

Mr. FORD. Madam Chairman, I have the greatest respect for the gentleman from California (Mr. THOMAS). But what difference does it make if it is called Meehan/Shays or Shays/Meehan?

Mr. THOMAS. Madam Chairman, reclaiming my time, if it does not make any difference, why not call it by its proper name, Shays/Meehan?

Mr. FORD. Madam Chairman, if the gentleman would further yield, vote for Shays/Meehan then.

Mr. SANDERS. Madam Chairman, Some may think the discussion of campaign finance reform is esoteric—not related to the real day to day problems and concerns of ordinary people. Wrong. If we are concerned to know why this country has the most unfair distribution of wealth in the industrialized world, and why the richest person in this country owns more wealth than the bottom 40 percent of our population-then you are talking about campaign finance reform, and the role that big money plays in the political process.

If you want to know why last year Congress gave huge tax breaks for the rich and large Corporations, and then proceeded to cut Medicare by 115 billion dollars—then you are talking about campaign reform, and the role that big money plays in the political process.

If you want to know why this country spends more money per capita on health care than any other industrialized country, and why 40 million Americans have no health insurance at the same time as insurance companies and pharmaceutical companies make huge profits—then you are talking about campaign finance reform and the role that big money plays in the political process.

And on and on it goes. The rich get richer, the middle class shrinks and we have the highest rate of childhood poverty in the industrialized world-and big money plays a major role in determining the agenda of both political parties.

Madam Chairman, the current campaign finance system is obscene and the situation is becoming worse and worse everyday.

Our republican friends have recently made allegations against President Clinton regarding the influence that campaign contributions might have had on the Presidents policy towards China and Chinese missiles. This is a very serious allegation that should be fully and fairly investigated, but so should the role that campaign contributions play in our tobacco policy, in our health care policy, in our banking policy, in our environmental policy, and in many other areas.

Since 1991 the pharmaceutical industry has given more than 18 million dollars in political contributions and today we have the highest cost of prescription drugs in the world. The oil gas and chemical industries have provided over 24 million dollars in campaign contributions, and they get away with murder in terms of environmental destruction.

Some in this body say that the problem is with labor unions and the big money that labor spends. In the 1995–1996 election cycle corporations and groups and individuals representing business interests out spent labor 12 to 1. In fact, the wealthiest one quarter of one percent provides 80 percent of the campaign contributions and it is incomprehensible that some want to relax restrictions and enable the rich to contribute even more.

Mr. Speaker, this congress must end the obscenity of the current system which allows big money to buy and sell politicians like we were just another commodity.

This congress can learn a lot from my own state of Vermont which has passed serious campaign finance reform which severely limits the power of big money over the political process. Ultimately, what this congress must do is eliminate soft money completely; limit the total amount of money that can be spent in a campaign by a candidate, and move us in the direction of matching public funding with small individual contributions.

The day must come when once more in this country democracy means one person one vote, and not the current obscenity in which multinational corporations and individuals control the process.

Mr. DELAY. Madam Chairman, a diverse coalition of citizens groups ranging from the American Civil Liberties Union (ACLU) to the National Right to Life (NRLC) have demonstrated that the Shays/Meehan and the Hutchinson campaign reform bills are nothing short of attacks on freedom of speech.

I hope my colleagues will take some time to read the following analysis distributed by National Right to Life Committee. The NRLC correctly points out that these two bills contain patently unconstitutional government regulations that should not be supported by the House of Representatives.

THE SHAYS-MEEHAN BILL'S YEAR-ROUND RESTRICTIONS ON FIRST AMENDMENT RIGHTS

The most recent version of the Shays-Meehan bill (H.R. 3526) is taken from the September 29, 1997 version of the Senate McCain-Feingold bill. This bill contains multiple provisions that blatantly violate the Supreme Court's long-established First Amendment rulings. In Buckley v. Valeo (1976) and later cases, the Court has emphatically held that the government may not regulate commentary on politicians except for "express advocacy," a term that the Court has said must be confined to communications that use explicit words to expressly urge a vote for or against an identified candidate.

As the Court stated in Buckley, "So long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate [i.e., "express advocacy"], they are free to spend as much as they want to promote the candidate and his views." Such constitutionally protected commentary on politicians' positions is referred to by the legal term of art issue advocacy. This memo summarizes multiple provisions of the Shays-Meehan bill that infringe on such constitutionally protected speech.[1]

YEAR-ROUND RESTRICTIONS ON CONSTITUTIONALLY PROTECTED SPEECH

1. The bill would redefine illegal corporate campaign activity so broadly that, at any time of any year, a non-PAC incorporated organization would risk being the target of a complaint to the Federal Election Commission (FEC), alleging illegal corporate campaign expenditures, and subsequent costly investigation and litigation, any time it issues a print, broadcast, or other type of communication to the public that mentions the name of a Member of Congress (or other candidate) with any sort of explicit or implicit viewpoint regarding the rightness or wrongness of that politician's position. This is because any such commentary could be viewed by some politician or regulator as constituting "unmistakable and unambiguous support for or opposition to" a candidate, which the bill would redefine as "express advocacy." (Section 201) For example, if NRLC distributed a brochure that contained a description of partial-birth abortion, followed by the simple statement, "On May 20, 1997, Senator Russ Feingold voted against banning the brutal partial-birth abortion procedure," NRLC would risk being subjected to investigation and prosecution for engaging in speech that expressed "unmistakable . . . opposition" to Senator Feingold.

2. Moreover, if a non-PAC organization is deemed to have established "coordination" with a lawmaker or other "candidate" (even by sharing a vendor—see #4 below), it would be banned (at any time of any year) from issuing any communication to the public that names that "candidate" and "is for the purpose of influencing a Federal election." This is an extremely vague and sweeping restriction that applies, as the bill says, "regardless of whether the communication is express advocacy." (See Section 201, definition of "expenditure.")

3. In addition, under Section 205, at any time of any year, a non-PAC incorporated citizen group, if it has established "coordination" (see #4 below), is prohibited from issuing any communication to the public that is "of value" to a candidate, "regardless of whether the value being provided is a communication that is express advocacy." Such a communication is prohibited, as an illegal campaign "contribution," even if the communication contains the name of no candidate. This could apply, for example, to an ad in a newspaper that mentions the name of no politician, but that calls for a ban on partial-birth abortions, if a politician complains that the ad was "of value" to a political opponent who opposes partial-birth abortion.

DEFINITION OF "COORDINATION" PLACES UNCONSTITUTIONAL RESTRICTIONS ON LOBBYING ACTIVITIES AND ISSUE ADVOCACY

4. The restrictions described in items #2 and #3 above apply to any group that is deemed to have established "coordination" with a candidate. The bill (Section 205) vastly expands the current definition of "coordination," in 10 separate clauses, so that an organization that communicates with members of Congress regarding public policy matters would be at constant risk of falling over these "coordination" tripwires. For example:

Many public policy organizations gather information on the positions of members of Congress on certain issues through use of a written questionnaire, and then disseminate that information in communications to the pubic. But the submission and return of such a questionnaire, with intent to publicize the information obtained, would fall under one of Section 205's multiple definitions of "coordination"—that is, a communication based on a "general or particular understanding with a candidate"—and therefore would be an illegal corporate campaign expenditure.

Another provision, declaring that an organization is "coordinated" if it has engaged in "policymaking discussions" with a "candidate's campaign," could apply to routine attempts by public policy groups to persuade lawmakers of the merits of the organization's positions (i.e., lobbying).

Another provision would define "coordination" as the mere sharing of a single professional vendor (a printer, artist, or pollster, for example), during a two-year period, with a congressional candidate.

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[1] For a fuller analysis of this bill, see NRLC's memo, "An Analysis of the Speech-Restriction Provisions of the Shays-Meehan Bill (H.R. 3526)." For an examination of statements by advocates of the bill, and their implications, see "Do American Voters Need Speech Nannies?" by NRLC Legislative Director Douglas Johnson (Sept. 30, 1997), available at www.nrlc.org/dimwit.html.

THE FIRST AMENDMENT DOES NOT ALLOW LAWMAKERS TO PROHIBIT NON-PAC GROUPS FROM MENTIONING THEIR NAMES

5. In addition to the restrictions described above, within 60 days of a congressional primary election (which occur as early as March 1) or a general election, Section 201 places an absolute ban on any non-PAC group broadcasting a communication that even mentions the name of a "candidate," which includes all incumbent members of Congress. This provision does not only require "disclosure" of funding sources for such communications. Rather, it bans the naming of politicians in broadcast communications to the public, unless they are conducted under the entire panoply of restrictions that apply to PACs—in other words, only federal PACs are permitted to sponsor such "politician-mentioning" communications. This ban would apply even to ads alerting citizens to upcoming votes in Congress. [For further discussion of the implications of allowing only PACs to sponsor politician-mentioning communications, see the NRLC memorandum, "An Analysis of the Speech-Restrictive Provisions of the Shays-Meehan Bill (HR 3526)."]

THE FIRST AMENDMENT DOES NOT PERMIT LAWMAKERS TO DICTATE "SPEECH SPECIFICATIONS" FOR DISCUSSION OF THEIR VOTING RECORDS

6. Sponsors of the bill make much of a so-called "exception" (in Section 201) for printed material about voting records and positions. But legal analysis of the so-called "exception" reveals that it actually underscores the sweeping restrictions implicit in the underlying definitions. The "exception" would not allow, but rather effectively defines as illegal corporate campaign expenditures and thereby bans (to non-PACs), at any time of any year, any printed materials (such as typical "scorecards" and voter guides) that fail to conform to a series of "speech specifications."

For example, to qualify for the "exception" a publication must be confined "solely" to information regarding votes or positions, and must be presented "in an educational manner"—in other words, interpretation or commentary would be verboten. Even if these requirements are met, the "exception" explicitly excludes publications that discuss the position on only one "candidate"—for example, a newspaper ad that urges letters and calls to a single local congressman about an upcoming vote in Congress. But under the First Amendment, Congress has no authority whatever to impose such restrictions on the right of citizen groups to disseminate and comment on lawmakers' voting records or upcoming votes.

"SOFT MONEY" BAN UNCONSTITUTIONALLY NULLIFIES THE RIGHT OF POLITICAL PARTIES TO ENGAGE IN UNRATIONED ISSUE ADVOCACY

7. The bill (Section 101) completely prohibits organs of the national political parties from receiving so-called "soft money"—a term that really refers to all funds that are not rationed and controlled by the Federal Election Campaign Act (FECA). This is unconstitutional. Under rulings of the U.S. Supreme Court, the First Amendment protects the right of political parties to sponsor communications that discuss issues, or the positions of officeholders or officeseekers on those issues ("issue advocacy"), without being subjected to the rationing laws that the FECA applies to communications that contain explicit endorsements of candidates ("express advocacy"). The bill would effectively nullify political parties' First Amendment right to engage in issue advocacy, by requiring that all party ads be conducted under the restrictions that currently apply only to express advocacy communications (since the parties would be prohibited from raising any money that did not conform to those restrictions). If "reform" advocates successfully obliterate the distinction between issue advocacy and express advocacy with respect to political parties, they will then redouble their attacks on issue advocacy by citizen groups such as NRLC. Those who support free speech about political figures should oppose all restrictions on issue advocacy, whether engaged in by political parties, citizen groups, or others.

THE HUTCHINSON "FRESHMAN" BILL (HR 2183) VIOLATES THE FIRST AMENDMENT RIGHTS OF CITIZEN GROUPS, POLITICAL PARTIES, AND MEMBERS OF CONGRESS

When the House of Representatives soon revisits the issue of "campaign finance reform," the "base bill" will be HR 2183, sponsored by Rep. Asa Hutchinson (R-Ark.), sometimes referred to as the "freshman" bill. NRLC strongly opposes the Hutchinson bill. This memo summarizes the most objectionable elements of the bill.

UNCONSTITUTIONAL REGULATION OF CITIZEN GROUPS' COMMUNICATIONS TO THE PUBLIC

HR 2183 attempts to assert congressional authority to monitor and regulate citizen groups' broadcast communications to the public, in any month of any year, merely on grounds that a communication mentions a member of Congress or other federal politician. The bill would require that sponsoring organizations report such communications to Congress. This proposed requirement violates both the general constitutional immunity of issue advocacy from governmental regulation, enforced in numerous court decisions, and the specific holdings of the Supreme Court in the 1995 case of McIntyre v. Ohio Elections Commission, a 7–2 affirmation of the First Amendment right to engage in anonymous issue advocacy.

The Hutchinson requirement would apply whenever a group spends in a year (1) $25,000 on communications "relating to" (mentioning) a single politician, or (2) $100,000 on all "politician-mentioning" communications nationally. Once a group has spent an aggregate total of $100,000 on broadcast communications that name politicians—even if they pertain solely to upcoming votes on legislation—then EVERY such expenditure must be reported to Congress, even a $100 radio ad.

UNCONSTITUTIONAL BAN ON "SOFT MONEY"

The bill completely prohibits organs of the national political parties from receiving so-called "soft money"—a term that really refers to all funds that are not rationed and controlled by the Federal Election Campaign Act (FECA). This is unconstitutional. Under rulings of the U.S. Supreme Court, the First Amendment protects the right of political parties to sponsor communications that discuss issues, or the positions of officeholders or officeseekers on those issues (called "issue advocacy"), without being subjected to the rationing laws that FECA applies to communications that contain explicit endorsements of candidates (called "express advocacy"). The bill would effectively nullify political parties' First Amendment right to engage in issue advocacy, by requiring that all party ads be conducted under the restrictions that currently apply to express advocacy communications (since the parties would be prohibited from raising any money that did not conform to those restrictions).

If "reform" advocates successfully obliterate the distinction between issue advocacy and express advocacy with respect to political parties, they will then redouble their attacks on issue advocacy by citizen groups such as NRLC. Those who support free speech about political figures should oppose all restrictions on issue advocacy, whether engaged in by political parties, citizen groups, or others.

UNCONSTITUTIONAL BAN ON ENDORSEMENTS BY MEMBERS OF CONGRESS

The bill would make it unlawful for any Member of Congress to endorse the fundraising or membership-recruitment efforts of a citizen group, such as NRLC, which at any time of any year engages in "any communication which refers to a clearly identified candidate for election for Federal office," which includes all incumbents except those who have announced their retirement.

In other words, an organization becomes "tainted" if it issues any communication, at any time of the year, that so much as mentions the name of a member of Congress. For example, if an organization sponsors a single newspaper ad or sends out a single newsletter saying that a lawmaker will be voting or has already voted on a certain bill, this restriction would be triggered. Such a mettlesome organization would no longer be eligible to receive the endorsement of any member of Congress. Communications that mention the names of lawmakers are a pervasive ingredient in NRLC's overall pro-life advocacy, throughout the year, so the bill effectively prohibits lawmakers from endorsing NRLC's fundraising efforts, as Congressman Henry Hyde and others have done in the past.

The concept underlying this provision—that there is something "corrupting" about Members of Congress endorsing the work of issue-oriented organizations with which they agree—is very offensive. This provision in effect applies an unconstitutional penalty to NRLC for exercising its First Amendment right to engage in commentary on a federal politician, and also violates NRLC's constitutional right of association. Moreover, this proposed endorsement ban is an unconstitutional infringement on the rights of association and freedom of speech of each and every Member of Congress.

The CHAIRMAN. All time for general debate has expired.

Mr. THOMAS. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PEASE) having assumed the chair, Mrs. EMERSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 2400, TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Mr. SHUSTER submitted the following conference report and statement on the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes:

CONFERENCE REPORT (H. REPT. 105–550)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2400), to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Transportation Equity Act for the 21st Century".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

Sec. 1101. Authorization of appropriations.
Sec. 1102. Obligation ceiling.
Sec. 1103. Apportionments.
Sec. 1104. Minimum guarantee.
Sec. 1105. Revenue aligned budget authority.
Sec. 1106. Federal-aid systems.
Sec. 1107. Interstate maintenance program.
Sec. 1108. Surface transportation program.
Sec. 1109. Highway bridge program.
Sec. 1110. Congestion mitigation and air quality improvement program.
Sec. 1111. Federal share.
Sec. 1112. Recreational trails program.
Sec. 1113. Emergency relief.
Sec. 1114. Highway use tax evasion projects.
Sec. 1115. Federal lands highways program.
Sec. 1116. Woodrow Wilson Memorial Bridge.
Sec. 1117. Appalachian development highway system.
Sec. 1118. National corridor planning and development program.
Sec. 1119. Coordinated border infrastructure and safety program.

Subtitle B—General Provisions

Sec. 1201. Definitions.
Sec. 1202. Bicycle transportation and pedestrian walkways.
Sec. 1203. Metropolitan planning.
Sec. 1204. Statewide planning.
Sec. 1205. Contracting for engineering and design services.
Sec. 1206. Access of motorcycles.
Sec. 1207. Construction of ferry boats and ferry terminal facilities.
Sec. 1208. Training.
Sec. 1209. Use of HOV lanes by inherently low-emission vehicles.
Sec. 1210. Advanced travel forecasting procedures program.
Sec. 1211. Amendments to prior surface transportation laws.
Sec. 1212. Miscellaneous.
Sec. 1213. Studies and reports.
Sec. 1214. Federal activities.
Sec. 1215. Designated transportation enhancement activities.
Sec. 1216. Innovative surface transportation financing methods.
Sec. 1217. Eligibility.
Sec. 1218. Magnetic levitation transportation technology deployment program.
Sec. 1219. National scenic byways program.
Sec. 1220. Elimination of regional office responsibilities.
Sec. 1221. Transportation and community and system preservation pilot program.
Sec. 1222. Additions to Appalachian region.

Subtitle C—Program Streamlining and Flexibility

Sec. 1301. Real property acquisition and corridor preservation.
Sec. 1302. Payments to States for construction.
Sec. 1303. Proceeds from the sale or lease of real property.
Sec. 1304. Engineering cost reimbursement.
Sec. 1305. Project approval and oversight.
Sec. 1306. Standards.
Sec. 1307. Design-build contracting.
Sec. 1309. Major investment study integration.
Sec. 1309. Environmental streamlining.
Sec. 1310. Uniform transferability of Federal-aid highway funds.

Subtitle D—Safety

Sec. 1401. Hazard elimination program.
Sec. 1402. Roadside safety technologies.
Sec. 1403. Safety incentive grants for use of seat belts.

Subtitle E—Finance

Sec. 1501. Short title.
Sec. 1502. Findings.
Sec. 1503. Establishment of program.
Sec. 1504. Duties of the Secretary.

Subtitle F—High Priority Projects

Sec. 1601. High priority projects program.
Sec. 1602. Project authorizations.
Sec. 1603. Special rule.

TITLE II—HIGHWAY SAFETY

Sec. 2001. Highway safety programs.
Sec. 2002. Highway safety research and development.
Sec. 2003. Occupant protection.
Sec. 2004. Alcohol-impaired driving countermeasures.
Sec. 2005. State highway safety data improvements.
Sec. 2006. National Driver Register.
Sec. 2007. Safety studies.
Sec. 2008. Effectiveness of laws establishing maximum blood alcohol concentrations.
Sec. 2009. Authorizations of appropriations.

TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

Sec. 3001. Short title.
Sec. 3002. Amendments to title 49, United States Code.
Sec. 3003. Definitions.
Sec. 3004. Metropolitan planning.
Sec. 3005. Transportation improvement program.
Sec. 3006. Transportation management areas.
Sec. 3007. Urbanized area formula grants.
Sec. 3008. Clean fuels formula grant program.
Sec. 3009. Capital investment grants and loans.
Sec. 3010. Dollar value of mobility improvements.
Sec. 3011. Local share.
Sec. 3012. Inteligent transportation systems applications.
Sec. 3013. Formula grants and loans for special needs of elderly individuals and individuals with disabilities.
Sec. 3014. Formula program for other than urbanized areas.
Sec. 3015. Research, development, demonstration, and training projects.
Sec. 3016. National planning and research programs.
Sec. 3017. National transit institute.
Sec. 3018. Bus testing facilities.
Sec. 3019. Bicycle facilities.
Sec. 3020. General provisions on assistance.
Sec. 3021. Pilot program for intercity rail infrastructure investment from mass transit account of highway trust fund.
Sec. 3022. Contract requirements.
Sec. 3023. Special procurements.
Sec. 3024. Project management oversight and review.
Sec. 3025. Administrative procedures.
Sec. 3026. Reports and audits.
Sec. 3027. Apportionment of appropriations for formula grants.
Sec. 3028. Apportionment of appropriations for fixed guideway modernization.
Sec. 3029. Authorizations.
Sec. 3030. Projects for new fixed guideway systems and extensions in existing systems.
Sec. 3031. Projects for bus and bus-related facilities.
Sec. 3032. Contracting out study.
Sec. 3033. Urbanized area formula study.
Sec. 3034. Coordinated transportation services.
Sec. 3035. Final assembly of buses.
Sec. 3036. Clean fuel vehicles.
Sec. 3037. Job access and reverse commute grants.
Sec. 3038. Rural transportation accessibility incentive program.
Sec. 3039. Study of transit needs in national parks and related public lands.
Sec. 3040. Obligation ceiling.
Sec. 3041. Adjustment for the Surface Transportation Extension Act of 1997.

TITLE IV—MOTOR CARRIER SAFETY

Sec. 4001. Amendments to title 49, United States Code.
Sec. 4002. Statement of purposes.
Sec. 4003. State grants.
Sec. 4004. Information systems.
Sec. 4005. Automobile transporter defined.
Sec. 4006. Inspections and reports.
Sec. 4007. Waivers, exemptions, and pilot programs.
Sec. 4008. Safety regulation.
Sec. 4009. Safety fitness.
Sec. 4010. Repeal of certain obsolete miscellaneous authorities.
Sec. 4011. Commercial vehicle operators.
Sec. 4012. Exemption from certain regulations for utility service commercial motor vehicle drivers.
Sec. 4013. Participation in international registration plan and international fuel tax agreement.
Sec. 4014. Safety performance history of new drivers; limitation on liability.
Sec. 4015. Penalties.
Sec. 4016. Authority over charter bus transportation.
Sec. 4017. Telephone hotline for reporting safety violations.
Sec. 4018. Insulin treated diabetes mellitus.
Sec. 4019. Performance-based CDL testing.
Sec. 4020. Post-accident alcohol testing.
Sec. 4021. Driver fatigue.
Sec. 4022. Improved flow of driver history pilot program.
Sec. 4023. Employee protections.
Sec. 4024. Improved interstate school bus safety.
Sec. 4025. Truck trailer conspicuity.
Sec. 4026. DOT implementation plan.
Sec. 4027. Study of adequacy of parking facilities.
Sec. 4028. Qualifications of foreign motor carriers.
Sec. 4029. Federal motor carrier safety inspectors.
Sec. 4030. School transportation safety.
Sec. 4031. Designation of New Mexico commercial zone.
Sec. 4032. Effects of MCSAP grant reductions.

TITLE V—TRANSPORTATION RESEARCH

Subtitle A—Funding

Sec. 5001. Authorization of appropriations.
Sec. 5002. Obligation ceiling.
Sec. 5003. Notice.

Subtitle B—Research and Technology

Sec. 5101. Research and technology program.
Sec. 5102. Surface transportation research.
Sec. 5103. Technology deployment.

Sec. 5104. Training and education.
Sec. 5105. State planning and research.
Sec. 5106. International highway transportation outreach program.
Sec. 5107. Surface transportation-environment cooperative research program.
Sec. 5108. Surface transportation research strategic planning.
Sec. 5109. Bureau of Transportation Statistics.
Sec. 5110. University transportation research.
Sec. 5111. Advanced vehicle technologies program.
Sec. 5112. Study of future strategic highway research program.
Sec. 5113. Commercial remote sensing products and spatial information technologies.
Sec. 5114. Sense of Congress on the year 2000 problem.
Sec. 5115. International trade traffic.
Sec. 5116. University grants.
Sec. 5117. Transportation technology innovation and demonstration program.
Sec. 5118. Drexel University Intelligent Infrastructure Institute.
Sec. 5119. Conforming amendments.

Subtitle C—Intelligent Transportation Systems

Sec. 5201. Short title.
Sec. 5202. Findings.
Sec. 5203. Goals and purposes.
Sec. 5204. General authorities and requirements.
Sec. 5205. National ITS program plan.
Sec. 5206. National architecture and standards.
Sec. 5207. Research and development.
Sec. 5208. Intelligent transportation system integration program.
Sec. 5209. Commercial vehicle intelligent transportation system infrastructure deployment.
Sec. 5210. Use of funds.
Sec. 5211. Definitions.
Sec. 5212. Project funding.
Sec. 5213. Repeal.

TITLE VI—OZONE AND PARTICULATE MATTER STANDARDS

Sec. 6101. Findings and purpose.
Sec. 6102. Particulate matter monitoring program.
Sec. 6103. Ozone designation requirements.
Sec. 6104. Additional provisions.

TITLE VII—MISCELLANEOUS

Subtitle A—Automobile Safety and Information

Sec. 7101. Short title.
Sec. 7102. Authorizations of appropriations.
Sec. 7103. Improving air bag safety.
Sec. 7104. Restrictions on lobbying activities.
Sec. 7105. Odometers.
Sec. 7106. Miscellaneous amendments.
Sec. 7107. Importation of motor vehicle for show or display.

Subtitle B—Railroads

Sec. 7201. High-speed rail.
Sec. 7202. Light density rail line pilot projects.
Sec. 7203. Railroad rehabilitation and improvement financing.
Sec. 7204. Alaska Railroad.

Subtitle C—Comprehensive One-Call Notification

Sec. 7301. Findings.
Sec. 7302. One-call notification programs.

Subtitle D—Sportfishing and Boating Safety

Sec. 7401. Short title; amendment of 1950 Act.
Sec. 7402. Outreach and communications programs.
Sec. 7403. Clean Vessel Act funding.
Sec. 7404. Boating infrastructure.
Sec. 7405. Boat safety funds.

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

Subtitle A—Transportation Discretionary Spending Guarantee

Sec. 8101. Discretionary spending categories.
Sec. 8102. Conforming the Paygo Scorecard with this Act.
Sec. 8103. Level of obligation limitations.

Subtitle B—Veterans' Benefits

Sec. 8201. Short title.
Sec. 8202. Prohibition on establishment of service-connection for disabilities relating to use of tobacco products.
Sec. 8203. Twenty percent increase in rates of basic educational assistance under Montgomery GI Bill.
Sec. 8204. Increase in assistance amount for specially adapted housing.
Sec. 8205. Increase in amount of assistance for automobile and adaptive equipment for certain disabled veterans.
Sec. 8206. Increase in aid and attendance rates for veterans eligible for pension.
Sec. 8207. Eligibility of certain remarried surviving spouses for reinstatement of dependency and indemnity compensation upon termination of that remarriage.
Sec. 8208. Extension of prior revision to offset rule for department of defense special separation benefit program.
Sec. 8209. Sense of Congress concerning recovery from tobacco companies of costs of treatment of veterans for tobacco-related illnesses.

Subtitle C—Temporary Student Loan Provision.

Sec. 8301. Temporary student loan provision.

Subtitle D—Block Grants for Social Services

Sec. 8401. Block grants for social services.

TITLE IX—AMENDMENTS OF INTERNAL REVENUE CODE OF 1986

Sec. 9001. Short title; amendment of 1986 Code.
Sec. 9002. Extension of highway-related taxes and trust fund.
Sec. 9003. Extension and modification of tax benefits for alcohol fuels.
Sec. 9004. Modifications to Highway Trust Fund.
Sec. 9005. Provisions relating to Aquatic Resources Trust Fund.
Sec. 9006. Repeal of 1.25 cent tax rate on rail diesel fuel.
Sec. 9007. Additional qualified expenses available to non-Amtrak States.
Sec. 9008. Delay in effective date of new requirement for approved diesel or kerosene terminals.
Sec. 9009. Simplified fuel tax refund procedures.
Sec. 9010. Election to receive taxable cash compensation in lieu of nontaxable qualified transportation fringe benefits.
Sec. 9011. Repeal of National Recreational Trails Trust Fund.
Sec. 9012. Identification of limited tax benefits subject to line item veto.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) INTERSTATE SYSTEM.—The term "Interstate System" has the meaning such term has under section 101 of title 23, United States Code.

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code, $3,427,341,000 for fiscal year 1998, $3,957,103,000 for fiscal year 1999, $3,994,524,000 for fiscal year 2000, $4,073,322,000 for fiscal year 2001, $4,139,630,000 for fiscal year 2002, and $4,217,635,000 for fiscal year 2003.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of such title $4,112,480,000 for fiscal year 1998, $4,748,523,000 for fiscal year 1999, $4,793,429,000 for fiscal year 2000, $4,887,986,000 for fiscal year 2001, $4,967,556,000 for fiscal year 2002, and $5,061,162,000 for fiscal year 2003.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of such title $2,941,454,000 for fiscal year 1998, $3,395,354,000 for fiscal year 1999, $3,427,472,000 for fiscal year 2000, $3,495,104,000 for fiscal year 2001, $3,552,016,000 for fiscal year 2002, and $3,618,966,000 for fiscal year 2003.

(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of such title $4,797,620,000 for fiscal year 1998, $5,539,944,000 for fiscal year 1999, $5,592,333,000 for fiscal year 2000, $5,702,651,000 for fiscal year 2001, $5,795,482,000 for fiscal year 2002, and $5,904,689,000 for fiscal year 2003.

(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of such title $1,192,619,000 for fiscal year 1998, $1,345,415,000 for fiscal year 1999, $1,358,138,000 for fiscal year 2000, $1,384,930,000 for fiscal year 2001, $1,407,474,000 for fiscal year 2002, and $1,433,996,000 for fiscal year 2003.

(6) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) $450,000,000 for each of fiscal years 1999 through 2003.

(7) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of such title $30,000,000 for fiscal year 1998, $40,000,000 for fiscal year 1999, and $50,000,000 for each of fiscal years 2000 through 2003.

(8) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of such title $225,000,000 for fiscal year 1998 and $275,000,000 for each of fiscal years 1999 through 2003.

(B) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of such title $196,000,000 for fiscal year 1998 and $246,000,000 for each of fiscal years 1999 through 2003.

(C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of such title $115,000,000 for fiscal year 1998 and $165,000,000 for each of fiscal years 1999 through 2003.

(D) REFUGE ROADS.—For refuge roads under section 204 of such title $20,000,000 for each of fiscal years 1999 through 2003.

(9) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—For the national corridor planning and development and coordinated border infrastructure programs under sections 1118 and 1119 of this Act $140,000,000 for each of fiscal years 1999 through 2003.

(10) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005) $30,000,000 for each of fiscal year 1998 and $38,000,000 for each of fiscal years 1999 through 2003.

(11) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of title 23, United States Code, $23,500,000 for each of fiscal years 1998 and 1999, $24,500,000 for each of fiscal years 2000 and 2001, and $25,500,000 for fiscal year 2002, and $26,500,000 for fiscal year 2003.

(12) VALUE PRICING PILOT PROGRAM.—For the value pricing pilot program under section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) $7,000,000 for fiscal year 1999, and $11,000,000 for each of fiscal years 2000 through 2003.

(13) HIGH PRIORITY PROJECTS PROGRAM.—For the high priority projects program under section 117 of title 23, United States Code, $1,025,695,000 for fiscal year 1998, $1,398,675,000 for fiscal year 1999, $1,678,410,000 for fiscal year 2000, $1,678,410,000 for fiscal year 2001, $1,771,655,000 for fiscal year 2002, and $1,771,655,000 for fiscal year 2003.

(14) HIGHWAY USE TAX EVASION PROJECTS.—For highway use tax evasion projects under section 143 of such title $5,000,000 for each of fiscal years 1998 through 2003.

(15) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of Puerto Rico highway program under section 1214(r) of this Act $110,000,000 for fiscal years 1998 through 2003.

(b) DISADVANTAGED BUSINESS ENTERPRISES.—

(1) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(2) DEFINITIONS.—In this subsection, the following definitions apply:

(A) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $16,600,000, as adjusted by the Secretary for inflation.

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in paragraph (1) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(5) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with paragraph (1) because a Federal court issues a final order in which the court finds that the requirement of paragraph (1), or the program established under paragraph (1), is unconstitutional.

(6) REVIEW BY COMPTROLLER GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a review of, and publish and report to Congress findings and conclusions on, the impact throughout the United States of administering the requirement of paragraph (1), including an analysis of—

(A) in the case of small business concerns certified in each State under paragraph (4) as owned and controlled by socially and economically disadvantaged individuals—

(i) the number of the small business concerns; and

(ii) the participation rates of the small business concerns in prime contracts and subcontracts funded under titles I, III, and V of this Act;

(B) in the case of small business concerns described in subparagraph (A) that receive prime contracts and subcontracts funded under titles I, III, and V of this Act—

(i) the number of the small business concerns;

(ii) the annual gross receipts of the small business concerns; and

(iii) the net worth of socially and economically disadvantaged individuals that own and control the small business concerns;

(C) in the case of small business concerns described in subparagraph (A) that do not receive prime contracts and subcontracts funded under titles I, III, and V of this Act—

(i) the annual gross receipts of the small business concerns; and

(ii) the net worth of socially and economically disadvantaged individuals that own and control the small business concerns;

(D) in the case of business concerns that receive prime contracts and subcontracts funded under titles I, III, and V of this Act, other than small business concerns described in subparagraph (B)—

(i) the annual gross receipts of the business concerns; and

(ii) the net worth of individuals that own and control the business concerns;

(E) the rate of graduation from any programs carried out to comply with the requirement of paragraph (1) for small business concerns owned and controlled by socially and economically disadvantaged individuals;

(F) the overall cost of administering the requirement of paragraph (1), including administrative costs, certification costs, additional construction costs, and litigation costs;

(G) any discrimination on the basis of race, color, national origin, or sex against small business concerns owned and controlled by socially and economically disadvantaged individuals;

(H)(i) any other factors limiting the ability of small business concerns owned and controlled by socially and economically disadvantaged individuals to compete for prime contracts and subcontracts funded under titles I, III, and V of this Act; and

(ii) the extent to which any of those factors are caused, in whole or in part, by discrimination based on race, color, national origin, or sex;

(I) any discrimination, on the basis of race, color, national origin, or sex, against construction companies owned and controlled by socially and economically disadvantaged individuals in public and private transportation contracting and the financial, credit, insurance, and bond markets;

(J) the impact on small business concerns owned and controlled by socially and economically disadvantaged individuals of—

(i) the issuance of a final order described in paragraph (5) by a Federal court that suspends a program established under paragraph (1); or

(ii) the repeal or suspension of State or local disadvantaged business enterprise programs; and

(K) the impact of the requirement of paragraph (1), and any program carried out to comply with paragraph (1), on competition and the creation of jobs, including the creation of jobs for socially and economically disadvantaged individuals.

SEC. 1102. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law but subject to subsections (g) and (h), the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

(1) $21,500,000,000 for fiscal year 1998;
(2) $25,431,000,000 for fiscal year 1999;
(3) $26,155,000,000 for fiscal year 2000;
(4) $26,651,000,000 for fiscal year 2001;
(5) $27,235,000,000 for fiscal year 2002; and
(6) $27,681,000,000 for fiscal year 2003.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations—

(1) under section 125 of title 23, United States Code;

(2) under section 147 of the Surface Transportation Assistance Act of 1978;

(3) under section 9 of the Federal-Aid Highway Act of 1981;

(4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982;

(5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987;

(6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991;

(7) under section 157 of title 23, United States Code, as in effect on the day before the date of enactment of this Act; and

(8) under section 105 of title 23, United States Code but, for each of fiscal years 1998 through 2007, only in an amount equal to $639,000,000 per fiscal year.

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 1998 through 2003, the Secretary shall—

(1) not distribute obligation authority provided by subsection (a) for such fiscal year for amounts authorized for administrative expenses and programs funded from the administrative takedown authorized by section 104(a) of title 23, United States Code, and amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

(2) not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation authority provided by subsection (a) for such fiscal year less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) for section 117 of title 23, United States Code (relating to high priority projects program), section 201 of the Appalachian Regional

Development Act of 1965, the Woodrow Wilson Memorial Bridge Authority Act of 1995, and $2,000,000,000 for such fiscal year under section 105 of such title (relating to minimum guarantee) so that amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, $2,000,000,000) for such fiscal year;

(5) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(6) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highway and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall after August 1 of each of fiscal years 1998 through 2003 revise a distribution of the obligation authority made available under subsection (c) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code, under section 160 of title 23, United States Code (as in effect on the day before the date of enactment of this Act), and under section 1015 of the Intermodal Surface Transportation Act of 1991 (105 Stat. 1943–1945).

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations imposed by subsection (a) shall apply to transportation research programs carried out under chapter 3 of title 23, United States Code, and under title VI of this Act.

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Not later than 30 days after the date of the distribution of obligation authority under subsection (c) for each of fiscal years 1998 through 2003, the Secretary shall distribute to the States any funds (1) that are authorized to be appropriated for such fiscal year for Federal-aid highway programs (other than the program under section 160 of title 23, United States Code) and for carrying out subchapter I of chapter 311 of title 49, United States Code, and chapter 4 of title 23, United States Code, and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (c)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(g) SPECIAL RULE.—Obligation authority distributed for a fiscal year under subsection (c)(4) for a section set forth in subsection (c)(4) shall remain available until used for obligation of funds for such section and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) INCREASE IN OBLIGATION LIMIT.—Limitations on obligations imposed by subsection (a) for a fiscal year shall be increased by an amount equal to the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(B)(ii)(I)(cc)) for such fiscal year. Any such increase shall be distributed in accordance with this section.

(i) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) $320,000,000 for fiscal year 1998;
(2) $350,000,000 for fiscal year 1999;
(3) $370,000,000 for fiscal year 2000;
(4) $390,000,000 for fiscal year 2001;
(5) $410,000,000 for fiscal year 2002; and
(6) $430,000,000 for fiscal year 2003.

SEC. 1103. APPORTIONMENTS.

(a) ADMINISTRATIVE EXPENSES.—Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Whenever an apportionment is made of the sums made available for expenditure on each of the surface transportation program under section 133, the bridge program under section 144, the congestion mitigation and air quality improvement program under section 149, the Interstate and National Highway System program under section 103, the minimum guarantee program under section 105, the Federal lands highway program under section 204, or the Appalachian development highway system program under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.), the Secretary shall deduct a sum, in an amount not to exceed 1½ percent of all sums so made available, as the Secretary determines necessary—

"(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

"(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

"(2) CONSIDERATION OF UNOBLIGATED BALANCES.—In making the determination described in paragraph (1), the Secretary shall take into account the unobligated balance of any sums deducted under this subsection in prior fiscal years.

"(3) AVAILABILITY.—The sum deducted under paragraph (1) shall remain available until expended.".

(b) APPORTIONMENTS.—Section 104(b) of such title is amended to read as follows:

"(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) and the set-aside authorized by subsection (f), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the Interstate and National Highway System program, the congestion mitigation and air quality improvement program, and the surface transportation program for that fiscal year, among the several States in the following manner:

"(1) NATIONAL HIGHWAY SYSTEM COMPONENT.—

"(A) IN GENERAL.—For the National Highway System (excluding funds apportioned under paragraph (4)), $36,400,000 for each fiscal year to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands, $18,800,000 for each of fiscal years 1999 through 2003 for the Alaska Highway, and the remainder apportioned as follows:

"(i) 25 percent in the ratio that—

"(I) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

"(II) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

"(ii) 35 percent in the ratio that—

"(I) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in each State; bears to

"(II) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

"(iii) 30 percent in the ratio that—

"(I) the total diesel fuel used on highways in each State; bears to

"(II) the total diesel fuel used on highways in all States.

"(iv) 10 percent in the ratio that—

"(I) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

"(II) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A) and paragraph (4), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under subparagraph (A) and paragraph (4).

"(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

"(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

"(ii) the total of all weighted nonattainment and maintenance area populations in all States.

"(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

"(i) 0.8 if—

"(I) at the time of the apportionment, the area is a maintenance area; or

"(II) at the time of the apportionment, the area is classified as a submarginal ozone nonattainment area under the Clean Air Act (42 U.S.C. 7401 et seq.);

"(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

"(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under such subpart;

"(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under such subpart;

"(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under such subpart;

"(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under such subpart; or

"(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide.

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—

"(i) CARBON MONOXIDE NONATTAINMENT AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was also classified under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.2.

"(ii) CARBON MONOXIDE MAINTENANCE AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was at one time also classified under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide but has been redesignated as a maintenance area, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.1.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

"(3) SURFACE TRANSPORTATION PROGRAM.—

"(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

"(i) 25 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 40 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 35 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(4) INTERSTATE MAINTENANCE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System—

"(A) 33⅓ percent in the ratio that—

"(i) the total lane miles on Interstate System routes open to traffic in each State; bears to

"(ii) the total of all such lane miles in all States;

"(B) 33⅓ percent in the ratio that—

"(i) the total vehicle miles traveled on lanes on Interstate System routes designated under—

"(I) section 103;

"(II) section 139(a) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(III) section 139(c) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century);

in each State; bears to

"(ii) the total of all such vehicle miles traveled in all States; and

"(C) 33⅓ percent in the ratio that—

"(i) the total of each State's annual contributions to the Highway Trust Fund (other than the Mass Transit Account) attributable to commercial vehicles; bears to

"(ii) the total of such annual contributions by all States.

(c) OPERATION LIFESAVER AND HIGH SPEED RAIL CORRIDORS.—Section 104(d) of such title is amended—

(1) in paragraph (1) by striking "The" and all that follows through "$300,000 for each" and inserting "Before making an apportionment under subsection (b)(3) of this section for a fiscal year, the Secretary shall set aside $500,000 for such"; and

(2) by striking paragraphs (2) and (3) and inserting the following:

"(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

"(A) IN GENERAL.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,250,000 of the funds made available for the surface transportation program for the fiscal year for elimination of hazards of railway-highway crossings.

"(B) ELIGIBLE CORRIDORS.—Subject to subparagraph (E), funds made available under subparagraph (A) shall be expended for projects in—

"(i) 5 railway corridors selected by the Secretary in accordance with this subsection (as in effect on the day before the date of enactment of this clause);

"(ii) 3 railway corridors selected by the Secretary in accordance with subparagraphs (C) and (D);

"(iii) a Gulf Coast high speed railway corridor (as designated by the Secretary);

"(iv) a Keystone high speed railway corridor from Philadelphia to Harrisburg, Pennsylvania; and

"(v) an Empire State railway corridor from New York City to Albany to Buffalo, New York.

"(C) REQUIRED INCLUSION OF HIGH SPEED RAIL LINES.—A corridor selected by the Secretary under subparagraph (B) shall include rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future.

"(D) CONSIDERATIONS IN CORRIDOR SELECTION.—In selecting corridors under subparagraph (B), the Secretary shall consider—

"(i) projected rail ridership volume in each corridor;

"(ii) the percentage of each corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line;

"(iii) projected benefits to nonriders such as congestion relief on other modes of transportation serving each corridor (including congestion in heavily traveled air passenger corridors);

"(iv) the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities; and

"(v) the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in each corridor.

"(E) CERTAIN IMPROVEMENTS.—Not less than $250,000 of such set-aside shall be available per fiscal year for eligible improvements to the Minneapolis/St. Paul-Chicago segment of the Midwest High Speed Rail Corridor.

"(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for each of fiscal years 1999 through 2003 to carry out this subsection.".

(d) CERTIFICATION OF APPORTIONMENTS.—Section 104(e) of such title is amended—

(1) by inserting "CERTIFICATION OF APPORTIONMENTS.—" after "(e)";

(2) by inserting "(1) IN GENERAL.—" before "On October 1";

(3) by striking the first parenthetical phrase;

(4) by striking "and research" the first place it appears;

(5) by striking the second sentence;

(6) by adding at the end the following:

"(2) NOTICE TO STATES.—If the Secretary has not made an apportionment under section 104, 144, or 157 by the 21st day of a fiscal year beginning after September 30, 1998, the Secretary shall transmit, by such 21st day, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a written statement of the reason for not making such apportionment in a timely manner."; and

(7) by indenting paragraph (1) (as designated by paragraph (2) of this subsection) and aligning such paragraph (1) with paragraph (2) of such section (as added by paragraph (6) of this subsection).

(e) METROPOLITAN PLANNING SET-ASIDE.—Section 104(f) of such title is amended—

(1) in paragraph (1) by striking "Interstate construction and Interstate substitute programs" and inserting "recreational trails program"; and

(2) in paragraph (3) by striking "120(j) of this title" and inserting "120(b)".

(f) RECREATIONAL TRAILS PROGRAM.—Section 104(h) of such title is amended to read as follows:

"(h) RECREATIONAL TRAILS PROGRAM.—

"(1) ADMINISTRATIVE COSTS.—Whenever an apportionment is made of the sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct an amount, not to exceed 1½ percent of the sums authorized, to cover the cost to the Secretary for administration of and research and technical assistance under the recreational trails program and for administration of the National Recreational Trails Advisory Committee. The Secretary may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks.

"(2) APPORTIONMENT TO THE STATES.—After making the deduction authorized by paragraph (1) of this subsection, the Secretary shall apportion the remainder of the sums authorized to be appropriated for expenditure on the recreational trails program for each fiscal year, among the States in the following manner:

"(A) 50 percent of that amount shall be apportioned equally among eligible States.

"(B) 50 percent of that amount shall be apportioned among eligible States in amounts proportionate to the degree of non-highway recreational fuel use in each of those States during the preceding year.

"(3) ELIGIBLE STATE DEFINED.—In this section, the term 'eligible State' means a State that meets the requirements of section 206(c).".

(g) AUDITS OF HIGHWAY TRUST FUND.—Section 104 of such title is amended by striking subsection (i) and inserting the following:

"(i) AUDITS OF HIGHWAY TRUST FUND.—From administrative funds deducted under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.".

(h) REPORT ON OBLIGATIONS.—Section 104 of such title is amended by striking subsection (j) and inserting the following:

"(j) REPORT TO CONGRESS.—The Secretary shall submit to Congress a report for each fiscal year on—

"(1) the amount obligated, by each State, for Federal-aid highways and highway safety construction programs during the preceding fiscal year;

"(2) the balance, as of the last day of the preceding fiscal year, of the unobligated apportionment of each State by fiscal year under this section and sections 105 and 144;

"(3) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for the fiscal year; and

"(4) the rates of obligation of funds apportioned or set aside under this section and sections 105, 133, and 144, according to—

"(A) program;

"(B) funding category or subcategory;

"(C) type of improvement;

"(D) State; and

"(E) sub-State geographic area, including urbanized and rural areas, on the basis of the population of each such area.".

(i) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—Section 104 of such title is amended by inserting after subsection (j) the following:

"(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

"(1) TRANSFER OF HIGHWAY FUNDS.—Funds made available under this title and transferred for transit projects of a type described in section 133(b)(2) shall be administered by the Secretary in accordance with chapter 53 of title 49, except that the provisions of this title relating to the non-Federal share shall apply to the transferred funds.

"(2) TRANSFER OF TRANSIT FUNDS.—Funds made available under chapter 53 of title 49 and transferred for highway projects shall be administered by the Secretary in accordance with this title, except that the provisions of such chapter relating to the non-Federal share shall apply to the transferred funds.

"(3) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority provided for projects described in paragraphs (1) and (2) shall be transferred in the same manner and amount as the funds for the projects are transferred.".

(j) EFFECT OF CERTAIN DELAY IN DEPOSITS INTO HIGHWAY TRUST FUND.—Section 104 of such title is amended by adding at the end the following:

"(l) EFFECT OF CERTAIN DELAY IN DEPOSITS INTO HIGHWAY TRUST FUND.—Notwithstanding any other provision of law, deposits into the Highway Trust Fund resulting from the application of section 901(e) of the Taxpayer Relief Act of 1997 (111 Stat. 872) shall not be taken into account in determining the apportionments and allocations that any State shall be entitled to receive under the Transportation Equity Act for the 21st Century and this title.".

(k) TECHNICAL AMENDMENTS.—Section 104(f) of such title is amended—

(1) by striking "(f)(1) On" and inserting the following:

"(f) METROPOLITAN PLANNING.—

"(1) SET-ASIDE.—On";

(2) in paragraph (1) by striking ", except that" and all that follows through "programs";

(3) by striking "(2) These" and inserting the following:

"(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—These";

(4) by striking "(3) The" and inserting the following:

"(3) USE OF FUNDS.—The";

(5) by striking "(4) The" and inserting the following:

"(4) DISTRIBUTION OF FUNDS WITHIN STATES.—The"; and

(6) by aligning the remainder of the text of each of paragraphs (1) through (4) with paragraph (5).

(l) CONFORMING AMENDMENTS.—

(1) Section 146(a) of such title is amended in the first sentence by striking ", 104(b)(2), and 104(b)(6)" and inserting "and 104(b)(3)".

(2) Section 158 of such title is amended—

(A) in subsection (a)—

(i) by striking paragraph (1);

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(iii) in paragraph (1) (as so redesignated)—

(I) by striking "AFTER THE FIRST YEAR" and inserting "IN GENERAL"; and

(II) by striking "104(b)(2), 104(b)(5), and 104(b)(6)" and inserting "104(b)(3), and 104(b)(4)"; and

(iv) in paragraph (2) (as redesignated by clause (ii)) by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraph (1)"; and

(B) by striking subsection (b) and inserting the following:

"(b) EFFECT OF WITHHOLDING OF FUNDS.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to that State.".

(3)(A) Section 115(b)(1) of such title is amended by striking "104(b)(5)" and inserting "104(b)(4)".

(B) Section 137(f)(1) of such title is amended by striking "section 104(b)(5)(B) of this title" and inserting "section 104(b)(4)".

(C) Section 141(c) of such title is amended by striking "section 104(b)(5) of this title" each place it appears and inserting "section 104(b)(4)".

(D) Section 142(c) of such title is amended by striking "(other than section 104(b)(5)(A))".

(E) Section 159 of such title is amended—

(i) by striking "(5) of" each place it appears and inserting "(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of"; and

(ii) in subsection (b)—

(I) in paragraphs (1)(A)(i) and (3)(A) by striking "section 104(b)(5)(A)" each place it appears and inserting "section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)";

(II) in paragraph (1)(A)(ii) by striking "section 104(b)(5)(B)" and inserting "section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)";

(III) in paragraph (3)(B) by striking "(5)(B)" and inserting "(5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)"; and

(IV) in paragraphs (3) and (4) by striking "section 104(b)(5)" each place it appears and inserting "section 104(b)(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)".

(F) Section 161(a) of such title is amended by striking "paragraphs (1), (3), and (5)(B) of section 104(b)" each place it appears and inserting "paragraphs (1), (3), and (4) of section 104(b)".

(4) Section 142(b) of such title is amended by striking "paragraph (5) of subsection (b) of section 104 of this title" and inserting "section 104(b)(4)".

(m) ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 1997.—

(1) IN GENERAL.—Notwithstanding any other provision of law and subject to section 2(c) of the Surface Transportation Extension Act of 1997, the Secretary shall ensure that the total apportionments for a State (other than Massachusetts) for fiscal year 1998 made under the Transportation Equity Act for the 21st Century (including amendments made by such Act) shall be reduced by the amount apportioned to such State (other than Massachusetts) under section 1003(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991.

(2) REPAYMENT OF TRANSFERRED FUNDS.—The Secretary shall ensure that any apportionments made to a State for fiscal year 1998 and adjusted under paragraph (1) shall first be used to restore in accordance with section 3(c) of the Surface Transportation Extension Act of 1997 any funds that a State transferred under section 3 of such Act.

(3) INSUFFICIENT FUNDS FOR REPAYMENT.—If a State has insufficient funds apportioned in fiscal year 1998 under the Transportation Equity Act for the 21st Century (including amendments made by such Act) to make the adjustment required by paragraph (1), then the Secretary shall make an adjustment to any funds apportioned to such State in fiscal year 1999.

(4) ALLOCATED PROGRAMS.—Notwithstanding any other provision of law, amounts made available for fiscal year 1998 by the Transportation Equity Act for the 21st Century (including amendments made by such Act) for a program that is continued by both of sections 4, 5, 6, and 7 of the Surface Transportation Extension Act of 1997 (including amendments made by such sections) and the Transportation Equity Act for the 21st Century (including amendments made by such Act) shall be reduced by the amount made available by such sections 4, 5, 6, and 7 for such programs.

(5) TREATMENT OF STEA OBLIGATION AUTHORITY.—The amount of obligation authority made available under section 2(e) of the Surface Transportation Extension Act of 1997 shall be considered to be an amount of obligation authority made available for fiscal year 1998 under section 1102(a) of this Act.

(n) STATE DEFINED.—For the purposes of apportioning funds under sections 104, 105, 144, and 206, the term "State" means any of the 50 States and the District of Columbia.

SEC. 1104. MINIMUM GUARANTEE.

(a) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

"§ 105. Minimum guarantee

"(a) GENERAL RULE.—For each of fiscal years 1998 through 2003, the Secretary shall allocate among the States amounts sufficient to ensure that each State's percentage of the total apportionments for such fiscal year of Interstate maintenance, national highway system, bridge, congestion mitigation and air quality improvement, surface transportation, metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs shall equal the percentage listed for each State in subsection (b).

"(b) STATE PERCENTAGES.—The percentage for each State referred to in subsection (a) shall be determined in accordance with the following table:

"States:	**Percentage**
Alabama	2.0269

"States:	**Percentage**
Alaska	1.1915
Arizona	1.5581
Arkansas	1.3214
California	9.1962
Colorado	1.1673
Connecticut	1.5186
Delaware	0.4424
District of Columbia	0.3956
Florida	4.6176
Georgia	3.5104
Hawaii	0.5177
Idaho	0.7718
Illinois	3.3819
Indiana	2.3588
Iowa	1.2020
Kansas	1.1717
Kentucky	1.7365
Louisiana	1.5900
Maine	0.5263
Maryland	1.5087
Massachusetts	1.8638
Michigan	3.1535
Minnesota	1.4993
Mississippi	1.2186
Missouri	2.3615
Montana	0.9929
Nebraska	0.7768
Nevada	0.7248
New Hampshire	0.5163
New Jersey	2.5816
New Mexico	0.9884
New York	5.1628
North Carolina	2.8298
North Dakota	0.6553
Ohio	3.4257
Oklahoma	1.5419
Oregon	1.2183
Pennsylvania	4.9887
Rhode Island	0.5958
South Carolina	1.5910
South Dakota	0.7149
Tennessee	2.2646
Texas	7.2131
Utah	0.7831
Vermont	0.4573
Virginia	2.5627
Washington	1.7875
West Virginia	1.1319
Wisconsin	1.9916
Wyoming	0.6951

"(c) TREATMENT OF FUNDS.—

"(1) PROGRAMMATIC DISTRIBUTION.—The Secretary shall apportion 50 percent of the amounts made available under this section that exceed $2,800,000,000 so that the amount apportioned to each State under this paragraph for each program referred to in subsection (a) (other than metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs) is equal to the amount determined by multiplying the amount to be apportioned under this paragraph by the ratio that—

"(A) the amount of funds apportioned to each State for each program referred to in subsection (a) for a fiscal year; bears to

"(B) the total amount of funds apportioned to all States for such program for such fiscal year.

"(2) REMAINING DISTRIBUTION.—The Secretary shall apportion the remainder of funds made available under this section to the States in accordance with section 104(b)(3); except that requirements of paragraphs (1), (2), and (3) of section 133(d) shall not apply to amounts apportioned pursuant to this paragraph.

"(d) AUTHORIZATION.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this section for each of fiscal years 1998 through 2003.

"(e) SPECIAL RULE.—If in any of fiscal years 1999 through 2003, the amount authorized under subsection (d) is more than 30 percent higher than the amount authorized under subsection (d) in fiscal year 1998, the Secretary shall use the apportionment factors under sections 104 and 144 as in effect on the date of enactment of this section.

"(f) GUARANTEE OF 90.5 RETURN.—

"(1) IN GENERAL.—Before making any apportionment under this title for each of fiscal years 1999 through 2003, the Secretary, subject to paragraph (2), shall adjust the percentages in the table in subsection (b) to reflect the estimated percentage of estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data is available, to ensure that no State's return from such Trust Fund is less than 90.5 percent.

"(2) ELIGIBILITY THRESHOLD FOR INITIAL ADJUSTMENT.—The Secretary may make an adjustment under paragraph (1) for a State for a fiscal year only if the State's return from the Highway Trust Fund (other than the Mass Transit Account) for the preceding fiscal year was equal to or less than 90.5 percent.

"(3) CONFORMING ADJUSTMENTS.—After making any adjustments under paragraph (1) for a fiscal year, the Secretary shall adjust the remaining percentages in the table set forth in subsection (b) to ensure that the total of the percentages in the table do not exceed 100 percent for such fiscal year.

"(4) LIMITATION ON ADJUSTMENTS.—After making any adjustments under paragraph (3) for a fiscal year, the Secretary shall determine whether or not any State's return from the Highway Trust Fund (other than the Mass Transit Account) is less than 90.5 percent as a result of such adjustments and shall adjust the percentages in the table for such fiscal year accordingly. Adjustments of the percentages in the table under this paragraph may not result in the total of such percentages exceeding 100 percent.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 105 and inserting the following:

"105. Minimum guarantee.".

SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by striking section 110 and inserting the following:

"§ 110. Revenue aligned budget authority

"(a) DETERMINATION OF AMOUNT.—On October 15 of fiscal year 1999, and each fiscal year thereafter, the Secretary shall allocate an amount of funds equal to the amount determined pursuant to section 251(b)(1)(B)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(B)(I)(cc)).

"(b) GENERAL DISTRIBUTION.—The Secretary shall—

"(1) determine the ratio that—

"(A) the sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for each of the for Federal-aid highway and highway safety construction programs (other than the minimum guarantee program) for which funds are allocated from such Trust Fund by the Secretary under this title and the Transportation Equity Act for the 21st Century for a fiscal year, bears to

"(B) the total of all sums authorized to be appropriated from such Trust Fund for such programs for such fiscal year;

"(2) multiply the ratio determined under paragraph (1) by the total amount of funds to be allocated under subsection (a) for such fiscal year;

"(3) allocate the amount determined under paragraph (2) among such programs in the ratio that—

"(A) the sums authorized to be appropriated from such Trust Fund for each of such programs for such fiscal year, bears to

"(B) the sums authorized to be appropriated from such Trust Fund for all such programs for such fiscal year; and

"(4) allocate the remainder of the funds to be allocated under subsection (a) for such fiscal year to the States in the ratio that—

"(A) the total of all funds authorized to be appropriated from such Trust Fund for Federal-aid highway and highway safety construction programs that are apportioned to each State for such fiscal year but for this section, bears to

"(B) the total of all funds authorized to be appropriated from such Trust Fund for such programs that are apportioned to all States for such fiscal year but for this section.

"(c) STATE PROGRAMMATIC DISTRIBUTION.—Of the funds to be apportioned to each State under subsection (b)(4) for a fiscal year, the Secretary shall ensure that such funds are apportioned for the Interstate maintenance program, the National Highway System program, the bridge program, the surface transportation program, and the congestion mitigation air quality improvement program in the same ratio that each State is apportioned funds for such programs for such fiscal year but for this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this section for fiscal years beginning after September 30, 1998.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 110 and inserting the following:

"110. Revenue aligned budget authority.".

SEC. 1106. FEDERAL-AID SYSTEMS.

(a) ADMINISTRATION OF NATIONAL HIGHWAY SYSTEM AND INTERSTATE MAINTENANCE PROGRAM.—The Secretary shall administer the National Highway System program and the Interstate Maintenance program as a combined program for purposes of allowing States maximum flexibility. References in this Act and title 23, United States Code, shall not be affected by such consolidation.

(b) FEDERAL-AID SYSTEMS.—Section 103 of title 23, United States Code, is amended to read as follows:

"§ 103. Federal-aid systems

"(a) IN GENERAL.—For the purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

"(b) NATIONAL HIGHWAY SYSTEM.—

"(1) DESCRIPTION.—The National Highway System consists of the highway routes and connections to transportation facilities depicted on the map submitted by the Secretary to Congress with the report entitled 'Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals' and dated May 24, 1996. The system shall—

"(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

"(B) meet national defense requirements; and

"(C) serve interstate and interregional travel.

"(2) COMPONENTS.—The National Highway System described in paragraph (1) consists of the following:

"(A) The Interstate System described in subsection (c).

"(B) Other urban and rural principal arterial routes.

"(C) Other connector highways (including toll facilities) that provide motor vehicle access between arterial routes on the National Highway

System and a major intermodal transportation facility.

"(D) A strategic highway network consisting of a network of highways that are important to the United States strategic defense policy and that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime. The highways may be highways on or off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

"(E) Major strategic highway network connectors consisting of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network. The highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

"(3) MAXIMUM MILEAGE.—The mileage of highways on the National Highway System shall not exceed 178,250 miles.

"(4) MODIFICATIONS TO NHS.—

"(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State or that is proposed by a State and revised by the Secretary if the Secretary determines that the modification—

"(i) meets the criteria established for the National Highway System under this title; and

"(ii) enhances the national transportation characteristics of the National Highway System.

"(B) COOPERATION.—

"(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

"(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134.

"(5) CONGRESSIONAL HIGH PRIORITY CORRIDORS.—Upon the completion of feasibility studies, the Secretary shall add to the National Highway System any congressional high priority corridor or any segment of such a corridor established by section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031 et seq.) that was not identified on the National Highway System described in paragraph (1).

"(6) ELIGIBLE PROJECTS FOR NHS.—Subject to approval by the Secretary, funds apportioned to a State under section 104(b)(1) for the National Highway System may be obligated for any of the following:

"(A) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the National Highway System.

"(B) Operational improvements for segments of the National Highway System.

"(C) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System, and construction of a transit project eligible for assistance under chapter 53 of title 49, if—

"(i) the highway or transit project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the National Highway System;

"(ii) the construction or improvements will improve the level of service on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

"(iii) the construction or improvements are more cost-effective than an improvement to the fully access-controlled highway described in clause (i).

"(D) Highway safety improvements for segments of the National Highway System.

"(E) Transportation planning in accordance with sections 134 and 135.

"(F) Highway research and planning in accordance with chapter 5.

"(G) Highway-related technology transfer activities.

"(H) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

"(I) Fringe and corridor parking facilities.

"(J) Carpool and vanpool projects.

"(K) Bicycle transportation and pedestrian walkways in accordance with section 217.

"(L) Development, establishment, and implementation of management systems under section 303.

"(M) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetland mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetland mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetland, and development of statewide and regional natural habitat and wetland conservation and mitigation plans, including any such banks, efforts, and plans authorized under the Water Resources Development Act of 1990 (Public Law 101–640) (including crediting provisions). Contributions to the mitigation efforts described in the preceding sentence may take place concurrent with or in advance of project construction; except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes. With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).

"(N) Publicly-owned intracity or intercity bus terminals.

"(O) Infrastructure-based intelligent transportation systems capital improvements.

"(P) In the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, any project eligible for assistance under section 133, any airport, and any seaport.

"(c) INTERSTATE SYSTEM.—

"(1) DESCRIPTION.—

"(A) IN GENERAL.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico) consists of highways designed, located, and selected in accordance with this paragraph.

"(B) DESIGN.—

"(i) IN GENERAL.—Except as provided in clause (ii), highways on the Interstate System shall be designed in accordance with the standards of section 109(b).

"(ii) EXCEPTION.—Highways on the Interstate System in Alaska and Puerto Rico shall be designed in accordance with such geometric and construction standards as are adequate for current and probable future traffic demands and the needs of the locality of the highway.

"(C) LOCATION.—Highways on the Interstate System shall be located so as—

"(i) to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers;

"(ii) to serve the national defense; and

"(iii) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

"(D) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation departments of the State in which the route is located and the adjoining States, in cooperation with local and regional officials, and subject to the approval of the Secretary.

"(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

"(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner consistent with the policies and procedures established under this subsection.

"(4) INTERSTATE SYSTEM DESIGNATIONS.—

"(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

"(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

"(i) IN GENERAL.—If the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A) if the highway met all standards of a highway on the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

"(ii) WRITTEN AGREEMENT OF STATES.—A designation under clause (i) shall be made only upon the written agreement of the State or States described in such clause that the highway will be constructed to meet all standards of a highway on the Interstate System by the date that is 12 years after the date of the agreement.

"(iii) REMOVAL OF DESIGNATION.—

"(I) IN GENERAL.—If the State or States described in clause (i) have not substantially completed the construction of a highway designated under this subparagraph within the time provided for in the agreement between the Secretary and the State or States under clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

"(II) EFFECT OF REMOVAL.—Removal of the designation of a highway under subclause (I) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.

"(iv) PROHIBITION ON REFERRAL AS INTERSTATE SYSTEM POUTE.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as the highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a route on the Interstate System.

"(C) FINANCIAL RESPONSIBILITY.—Except as provided in this title, the designation of a highway under this paragraph shall create no additional Federal financial responsibility with respect to the highway.

"(d) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—

"(1) INTERSTATE CONSTRUCTION FUNDS NOT IN SURPLUS.—

"(A) IN GENERAL.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century), if the amount does not exceed the Federal share of the costs of construction of segments of the Interstate System in the State included in the most recent Interstate System cost estimate.

"(B) EFFECT OF TRANSFER.—Upon transfer of an amount under subparagraph (A), the construction on which the amount is based, as included in the most recent Interstate System cost estimate, shall not be eligible for funding under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) or 118(c).

"(2) SURPLUS INTERSTATE CONSTRUCTION FUNDS.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of surplus funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century), if the State has fully financed all work eligible under the most recent Interstate System cost estimate.

"(3) APPLICABILITY OF CERTAIN LAWS.—Funds transferred under this subsection shall be subject to the laws (including regulations, policies, and procedures) relating to the apportionment to which the funds are transferred.".

(b) UNOBLIGATED BALANCES OF INTERSTATE SUBSTITUTE FUNDS.—Unobligated balances of funds apportioned to a State under section 103(e)(4)(H) of title 23, United States Code (as in effect on the day before the date of enactment of this Act), shall be available for obligation by the State under the law (including regulations, policies, and procedures) relating to the obligation and expenditure of the funds in effect on that date.

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 115(a) of title 23, United States Code, is amended—

(i) in the subsection heading by striking "SUBSTITUTE,"; and

(ii) in paragraph (1)(A)(i) by striking "103(e)(4)(H),";

(B) Section 118 of such title is amended—

(i) by striking subsection (d); and

(ii) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(C) Section 129(b) of such title is amended in the first sentence by striking "which has been" and all that follows through "and has not" and inserting "which is a public road and has not".

(2)(A) Section 139 of such title, and the item relating to such section in the analysis for chapter 1 of such title, are repealed.

(B) Section 127(f) of such title is amended by striking "section 139(a)" and inserting "section 103(c)(4)(A)".

(C) Section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 597) is amended by striking subparagraph (B) and inserting the following:

"(B) TREATMENT OF SEGMENTS.—Subject to subparagraph (C), segments designated as parts of the Interstate System under this paragraph shall be treated in the same manner as segments designated under section 103(c)(4)(A) of title 23, United States Code.".

(d) INTERMODAL FREIGHT CONNECTORS STUDY.—

(1) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(A) review the condition of and improvements made, since the designation of the National Highway System, to connectors on the National Highway System that serve seaports, airports, and other intermodal freight transportation facilities; and

(B) report to Congress on the results of such review.

(2) REVIEW.—In preparing the report, the Secretary shall review the connectors and identify projects carried out on those connectors that were intended to provide and improve service to an intermodal facility referred to in paragraph (1) and to facilitate the efficient movement of freight, including movements of freight between modes.

(3) IDENTIFICATION OF IMPEDIMENTS.—If the Secretary determines on the basis of the review that there are impediments to improving the connectors serving intermodal facilities referred to in paragraph (1), the Secretary shall identify such impediments and make any appropriate recommendations as part of the Secretary's report to Congress under this subsection.

SEC. 1107. INTERSTATE MAINTENANCE PROGRAM.

(a) IN GENERAL.—Section 119 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) PROJECTS.—The Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing—

"(A) routes on the Interstate System designated under section 103(c)(1) and, in Alaska and Puerto Rico, under section 103(c)(4)(A);

"(B) routes on the Interstate System designated before the date of enactment of the Transportation Equity Act for the 21st Century under subsections (a) and (b) of section 139 (as in effect on the day before the date of enactment of such Act); and

"(C) any segments that become part of the Interstate System under section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991.

"(2) TOLL ROADS.—The Secretary may approve a project pursuant to this subsection on a toll road only if such road is subject to a Secretarial agreement provided for in section 129 or continued in effect by section 1012(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1939) and not voided by the Secretary under section 120(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 159).

"(3) FUNDING.—Sums authorized to be appropriated to carry out this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(4).";

(2) by striking subsections (b), (c), and (e); and

(3) by redesignating subsections (d), (f), and (g) as subsections (b), (c), and (d), respectively.

(b) SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.—Section 118(c) of such title is amended to read as follows:

"(c) SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.—

"(1) IN GENERAL.—Before any apportionment is made under section 104(b)(4), the Secretary shall set aside $50,000,000 in fiscal year 1998 and $100,000,000 in each of fiscal years 1999 through 2003 for obligation by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing any route or portion thereof on the Interstate System (other than any highway designated as a part of the Interstate System under section 139 (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) and any toll road on the Interstate System not subject to an agreement under section 119(e) (as in effect on December 17, 1991).

"(2) SELECTION CRITERIA.—The amounts set aside under paragraph (1) shall be made available by the Secretary to any State applying for such funds if the Secretary determines that—

"(A) the State has obligated or demonstrates that it will obligate in the fiscal year all of its apportionments under section 104(b)(4) other than an amount that, by itself, is insufficient to pay the Federal share of the cost of a project for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System that has been submitted by the State to the Secretary for approval; and

"(B) the applicant is willing and able to—

"(i) obligate the funds within 1 year of the date the funds are made available;

"(ii) apply the funds to a ready-to-commence project; and

"(iii) in the case of construction work, begin work within 90 days after obligation.

"(3) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—In selecting projects to fund under paragraph (1), the Secretary shall give priority consideration to any project the cost of which exceeds $10,000,000 on any high volume route in an urban area or a high truck-volume route in a rural area.

"(4) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Sums made available pursuant to this subsection shall remain available until expended.".

(c) INTERSTATE NEEDS.—

(1) STUDY.—The Secretary shall conduct, in cooperation with States and affected metropolitan planning organizations, a study to determine—

(A) the expected condition of the Interstate System over the next 10 years and the needs of States and metropolitan planning organizations to reconstruct and improve the Interstate System;

(B) the resources necessary to maintain and improve the Interstate System; and

(C) the means to ensure that the Nation's surface transportation program can—

(i) address the needs identified in subparagraph (A); and

(ii) allow for States to address any extraordinary needs.

(2) REPORT.—Not later than January 1, 2000, the Secretary shall transmit to Congress a report on the results of the study.

SEC. 1108. SURFACE TRANSPORTATION PROGRAM.

(a) ELIGIBILITY OF PROJECTS.—Section 133(b) of title 23, United States Code, is amended—

(1) in paragraph (1) by inserting after "magnesium acetate" the following: ", sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions";

(2) in paragraph (2) by striking "and publicly owned intracity or intercity bus terminals and facilities" and inserting ", including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus";

(3) in paragraph (3)—

(A) by striking "and bicycle" and inserting "bicycle"; and

(B) by inserting before the period at the end the following: ", and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)";

(4) in paragraph (4) by inserting "infrastructure" after "safety";

(5) in paragraph (9) by striking "section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act" and inserting "section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))";

(6) in paragraph (11)—

(A) in the first sentence—

(i) by inserting "natural habitat and" after "participation in" each place it appears;

(ii) by striking "enhance and create" and inserting "enhance, and create natural habitats and"; and

(iii) by inserting "natural habitat and" before "wetlands conservation"; and

(B) by adding at the end the following: "With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations)."; and

(7) by adding at the end the following:

"(13) Infrastructure-based intelligent transportation systems capital improvements.

"(14) Environmental restoration and pollution abatement projects (including the retrofit or construction of storm water treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities, which projects shall be carried out when the transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration; except that the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.".

(b) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 133 of such title is amended—

(1) in subsection (d)(3)(D) by striking "any State" and all that follows through the period at the end and inserting "Hawaii and Alaska"; and

(2) in subsection (e)—

(A) in paragraph (3)(B)(i) by striking "if the Secretary" and all that follows through "activities"; and

(B) in paragraph (5) by adding at the end the following:

"(C) COST SHARING.—

"(i) REQUIRED AGGREGATE NON-FEDERAL SHARE.—The average annual non-Federal share of the total cost of all projects to carry out transportation enhancement activities in a State for a fiscal year shall be not less than the non-Federal share authorized for the State under section 120(b).

"(ii) INNOVATIVE FINANCING.—Subject to clause (i), notwithstanding section 120—

"(I) funds from other Federal agencies and the value of other contributions (as determined by the Secretary) may be credited toward the non-Federal share of the costs of a project to carry out a transportation enhancement activity;

"(II) the non-Federal share for such a project may be calculated on a project, multiple-project, or program basis; and

"(III) the Federal share of the cost of an individual project to which subclause (I) or (II) applies may be up to 100 percent.".

(c) PROGRAM APPROVAL.—Section 133(e) of such title is amended by striking paragraph (2) and inserting the following:

"(2) PROGRAM APPROVAL.—

"(A) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

"(i) certifies that the State will meet all the requirements of this section; and

"(ii) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

"(B) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—Each State shall request from the Secretary such adjustments to the amount of obligations referred to in subparagraph (A)(ii) as the State determines to be necessary.

"(C) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under subparagraph (A) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title.".

(d) PAYMENTS.—Section 133(e)(3)(A) of such title is amended by striking the second sentence.

(e) SURFACE TRANSPORTATION PROGRAM OBLIGATIONS IN URBAN AREAS.—Section 133 of such title is amended to read as follows:

"(f) OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(3) shall make available during the period of fiscal years 1998 through 2000 and the period of fiscal years 2001 through 2003 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

"(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during the period; and

"(B) the ratio that—

"(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

"(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

"(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).".

(f) DIVISION OF STP FUNDS FOR AREAS OF LESS THAN 5,000 POPULATION.—

(1) SPECIAL RULE.—Notwithstanding section 133(c) of title 23, United States Code, and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated under section 133(d)(3)(B) of such title for each of fiscal years 1998 through 2003 may be obligated on roads functionally classified as minor collectors.

(2) SUSPENSION.—The Secretary may suspend the application of paragraph (1) if the Secretary determines that paragraph (1) is being used excessively.

(g) ENCOURAGEMENT OF USE OF YOUTH CONSERVATION OR SERVICE CORPS.—The Secretary shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform appropriate transportation enhancement activities under chapter 1 of title 23, United States Code.

SEC. 1109. HIGHWAY BRIDGE PROGRAM.

(a) APPORTIONMENT FORMULA.—Section 144(e) of title 23, United States Code, is amended in the fourth sentence by inserting before the period at the end the following: ", and, if a State transfers funds apportioned to the State under this section in a fiscal year beginning after September 30, 1997, to any other apportionment of funds to such State under this title, the total cost of deficient bridges in such State and in all States to be determined for the succeeding fiscal year shall be reduced by the amount of such transferred funds".

(b) DISCRETIONARY BRIDGE SET-ASIDE.—Section 144(g)(1) of such title is amended—

(1) by inserting "(A) FISCAL YEARS 1992 THROUGH 1997.—" before "Of the amounts";

(2) by adding at the end the following:

"(B) FISCAL YEAR 1998.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for fiscal year 1998, all but $25,000,000 shall be apportioned as provided in subsection (e) of this section. Such $25,000,000 shall be available only for projects for the seismic retrofit of a bridge described in subsection (l).

"(C) FISCAL YEARS 1999 THROUGH 2003.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of fiscal years 1999 through 2003, all but $100,000,000 shall be apportioned as provided in subsection (e). Such $100,000,000 shall be available at the discretion of the Secretary; except that not to exceed $25,000,000 shall be available only for projects for the seismic retrofit of bridges, including projects in the New Madrid fault region."; and

(3) by indenting subparagraph (A) (as designated by paragraph (1) of this subsection) and aligning such subparagraph (A) with subparagraphs (B) and (C) of such section (as added by paragraph (2) of this subsection).

(c) OFF-SYSTEM BRIDGE SET-ASIDE.—Section 144(g)(3) of such title is amended—

(1) by striking ", 1988" and all that follows through "1997," and inserting "through 2003"; and

(2) by striking "system" each place it appears and inserting "highway".

(d) ELIGIBILITY.—Section 144 of title 23, United States Code, is amended—

(1) in subsection (d) by inserting after "magnesium acetate" the following: ", sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or installing scour countermeasures";

(2) in subsection (d) by inserting after "such acetate" each place it appears the following: "or sodium acetate/formate or such anti-icing or de-icing composition or installation of such countermeasures"; and

(3) in subsection (g)(3) by inserting after "magnesium acetate" the following: ", sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions or install scour countermeasures".

(e) CONFORMING AMENDMENT.—Section 144(n) of such title is amended by striking "system" and inserting "highway".

SEC. 1110. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 149(a) of title 23, United States Code, is amended by inserting after "establish" the following: "and implement".

(b) CURRENTLY ELIGIBLE PROJECTS.—Section 149(b) of such title is amended—

(1) by striking "that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994" and inserting the following: "that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under such section 107(d) after December 31, 1997,";

(2) in paragraph (1)(A) by striking "clauses (xii) and"; and inserting "clause";

(3) in paragraph (1)(A)(ii) by striking "an area" and all that follows through the semicolon and inserting "a maintenance area;";

(4) by striking "or" at the end of paragraph (3);

(5) by striking "standard." at the end of paragraph (4) and inserting "standard; or"; and

(6) by inserting after paragraph (4) the following:

"(5) if the program or project improves traffic flow, including projects to improve signalization, construct high occupancy vehicle lanes,

improve intersections, and implement intelligent transportation system strategies and such other projects that are eligible for assistance under this section on the day before the date of enactment of this paragraph.".

(c) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149 of such title is amended by striking subsection (c) and inserting the following:

"(c) STATES RECEIVING MINIMUM APPORTIONMENT.—

"(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(2) for any project eligible under the surface transportation program under section 133.

"(2) STATES WITH A NONATTAINMENT AREA.—If a State has a nonattainment area or maintenance area and receives funds under section 104(b)(2)(D) above the amount of funds that the State would have received based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2), the State may use that portion of the funds not based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2) for any project in the State eligible under section 133.".

(d) PUBLIC-PRIVATE PARTNERSHIPS.—

(1) IN GENERAL.—Section 149 of such title is amended by adding at the end the following:

"(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out under this section.

"(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

"(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

"(B) cost sharing of any project expense;

"(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

"(D) any other form of participation approved by the Secretary.

"(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(2) to an entity described in paragraph (1).

"(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

"(A) may include the costs of vehicle refueling infrastructure, including infrastructure that would support the development, production, and use of emerging technologies that reduce emissions of air pollutants from motor vehicles, and other capital investments associated with the project;

"(B) shall include only the incremental cost of an alternative fueled vehicle, as compared to a conventionally fueled vehicle, that would otherwise be borne by a private party; and

"(C) shall apply other governmental financial purchase contributions in the calculation of net incremental cost.

"(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.".

(2) DETERMINATION BY THE SECRETARY.—For the purposes of section 149(c) of title 23, United States Code, the Secretary shall determine in accordance with the procedures specified in section 149(b) of such title whether water-phased hydrocarbon fuel emulsion technologies that consist of a hydrocarbon base and water in an amount not less than 20 percent by volume that reduce emissions of hydrocarbon, particulate matter, carbon monoxide, or nitrogen oxide from motor vehicles.

(e) STUDY OF CMAQ PROGRAM.—

(1) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall enter into arrangements with the National Academy of Sciences to complete, by not later than January 1, 2001, a study of the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code. The study shall, at a minimum—

(A) evaluate the air quality impacts of emissions from motor vehicles;

(B) evaluate the negative effects of traffic congestion, including the economic effects of time lost due to congestion;

(C) determine the amount of funds obligated under the program and make a comprehensive analysis of the types of projects funded under the program;

(D) evaluate the emissions reductions attributable to projects of various types that have been funded under the program;

(E) assess the effectiveness, including the quantitative and non-quantitative benefits, of projects funded under the program and include, in the assessment, an estimate of the cost per ton of pollution reduction;

(F) assess the cost effectiveness of projects funded under the program with respect to congestion mitigation;

(G) compare—

(i) the costs of achieving the air pollutant emissions reductions achieved under the program; to

(ii) the costs that would be incurred if similar reductions were achieved by other measures, including pollution controls on stationary sources;

(H) include recommendations on improvements, including other types of projects, that will increase the overall effectiveness of the program;

(I) include recommendations on expanding the scope of the program to address traffic-related pollutants that, as of the date of the study, are not addressed by the program.

(2) REPORT.—Not later than January 1, 2000, the National Academy of Sciences shall transmit to the Secretary, the Committee on Transportation and Infrastructure and the Committee on Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report on the results of the study with recommendations for modifications to the congestion mitigation and air quality improvement program in light of the results of the study.

(3) FUNDING.—Before making the apportionment of funds under section 104(b)(2) of title 23, United States Code, for each of fiscal years 1999 and 2000, the Secretary shall deduct from the amount to be apportioned under such section for such fiscal year, and make available, $500,000 for such fiscal year to carry out this subsection.

SEC. 1111. FEDERAL SHARE.

(a) STATE-DETERMINED LOWER FEDERAL SHARE.—Section 120 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "Except" and inserting the following:

"(1) IN GENERAL.—Except";

(B) by adding at the end the following:

"(2) STATE-DETERMINED LOWER FEDERAL SHARE.—In the case of any project subject to paragraph (1), a State may determine a lower Federal share than the Federal share determined under such paragraph."; and

(C) by aligning the remainder of the text of paragraph (1) (as designated by subparagraph (A) of this paragraph) with paragraph (2) of such subsection (as added by subparagraph (B) of this paragraph); and

(2) in subsection (b) by adding at the end the following: "In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection.".

(b) INCREASED FEDERAL SHARE FOR CERTAIN SAFETY PROJECTS.—The first sentence of section 120(c) of such title is amended by inserting "or transit vehicles" after "emergency vehicles".

(c) CREDIT FOR NON-FEDERAL SHARE.—Section 120 of such title is amended by adding at the end the following:

"(j) CREDIT FOR NON-FEDERAL SHARE.—

"(1) ELIGIBILITY.—A State may use as a credit toward the non-Federal share requirement for any funds made available to carry out this title (other than the emergency relief program authorized by section 125) or chapter 53 of title 49 toll revenues that are generated and used by public, quasi-public, and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce. Such public, quasi-public, or private agencies shall have built, improved, or maintained such facilities without Federal funds.

"(2) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—The credit for any non-Federal share provided under this subsection shall not reduce nor replace State funds required to match Federal funds for any program under this title.

"(B) CONDITION ON RECEIPT OF CREDIT.—To receive a credit under paragraph (1) for a fiscal year, a State shall enter into such agreement as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures in such fiscal year at or above the average level of such expenditures for the preceding 3 fiscal years; except that if, for any 1 of the preceding 3 fiscal years, the non-Federal transportation capital expenditures of the State were at a level that was greater than 130 percent of the average level of such expenditures for the other 2 of the preceding 3 fiscal years, the agreement shall ensure that the State will maintain its non-Federal transportation capital expenditures in the fiscal year of the credit at or above the average level of such expenditures for the other 2 fiscal years.

"(C) TRANSPORTATION CAPITAL EXPENDITURES DEFINED.—In subparagraph (B), the term 'non-Federal transportation capital expenditures' includes any payments made by the State for issuance of transportation-related bonds.

"(3) TREATMENT.—

"(A) LIMITATION ON LIABILITY.—Use of a credit for a non-Federal share under this subsection that is received from a public, quasi-public, or private agency—

"(i) shall not expose the agency to additional liability, additional regulation, or additional administrative oversight; and

"(ii) shall not subject the agency to any additional Federal design standards or laws (including regulations) as a result of providing the non-Federal share other than those to which the agency is already subject.

"(B) CHARTERED MULTISTATE AGENCIES.—When a credit that is received from a chartered multistate agency is applied to a non-Federal share under this subsection, such credit shall be applied equally to all charter States.".

(d) CONFORMING AMENDMENTS.—Section 130(a) of such title is amended—

(1) in the first sentence by striking "Except as provided in subsection (d) of section 120 of this title" and inserting "Subject to section 120"; and

(2) in the second sentence by striking "except as provided in subsection (d) of section 120 of this title" and inserting "subject to section 120".

SEC. 1112. RECREATIONAL TRAILS PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by inserting after section 205 the following:

"§206. Recreational trails program

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) MOTORIZED RECREATION.—The term 'motorized recreation' means off-road recreation using any motor-powered vehicle, except for a motorized wheelchair.

"(2) RECREATIONAL TRAIL.—The term 'recreational trail' means a thoroughfare or track across land or snow, used for recreational purposes such as—

"(A) pedestrian activities, including wheelchair use;

"(B) skating or skateboarding;

"(C) equestrian activities, including carriage driving;

"(D) nonmotorized snow trail activities, including skiing;

"(E) bicycling or use of other human-powered vehicles;

"(F) aquatic or water activities; and

"(G) motorized vehicular activities, including all-terrain vehicle riding, motorcycling, snowmobiling, use of off-road light trucks, or use of other off-road motorized vehicles.

"(b) PROGRAM.—In accordance with this section, the Secretary, in consultation with the Secretary of the Interior and the Secretary of Agriculture, shall carry out a program to provide and maintain recreational trails.

"(c) STATE RESPONSIBILITIES.—To be eligible for apportionments under this section—

"(1) the Governor of the State shall designate the State agency or agencies that will be responsible for administering apportionments made to the State under this section; and

"(2) the State shall establish a State recreational trail advisory committee that represents both motorized and nonmotorized recreational trail users, which shall meet not less often than once per fiscal year.

"(d) USE OF APPORTIONED FUNDS.—

"(1) IN GENERAL.—Funds apportioned to a State to carry out this section shall be obligated for recreational trails and related projects that—

"(A) have been planned and developed under the laws, policies, and administrative procedures of the State; and

"(B) are identified in, or further a specific goal of, a recreational trail plan, or a statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.), that is in effect.

"(2) PERMISSIBLE USES.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

"(A) maintenance and restoration of existing recreational trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

"(C) purchase and lease of recreational trail construction and maintenance equipment;

"(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal lands, construction of the trails shall be—

"(i) permissible under other law;

"(ii) necessary and required by a statewide comprehensive outdoor recreation plan that is required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.) and that is in effect;

"(iii) approved by the administering agency of the State designated under subsection (c)(1); and

"(iv) approved by each Federal agency having jurisdiction over the affected lands under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

"(F) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section; and

"(G) operation of educational programs to promote safety and environmental protection as those objectives relate to the use of recreational trails, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year.

"(3) USE OF APPORTIONMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), and (D), of the apportionments made to a State for a fiscal year to carry out this section—

"(i) 40 percent shall be used for recreational trail or related projects that facilitate diverse recreational trail use within a recreational trail corridor, trailside, or trailhead, regardless of whether the project is for diverse motorized use, for diverse nonmotorized use, or to accommodate both motorized and nonmotorized recreational trail use;

"(ii) 30 percent shall be used for uses relating to motorized recreation; and

"(iii) 30 percent shall be used for uses relating to nonmotorized recreation.

"(B) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres shall be exempt from the requirements of clauses (ii) and (iii) of subparagraph (A).

"(C) WAIVER AUTHORITY.—A State recreational trail advisory committee established under subsection (c)(2), may waive, in whole or in part, the requirements of clauses (ii) and (iii) of subparagraph (A) if the State recreational trail advisory committee determines and notifies the Secretary that the State does not have sufficient projects to meet the requirements of clauses (ii) and (iii) of subparagraph (A).

"(D) STATE ADMINISTRATIVE COSTS.—State administrative costs eligible for funding under paragraph (2)(F) shall be exempt from the requirements of subparagraph (A).

"(4) GRANTS.—

"(A) IN GENERAL.—A State may use funds apportioned to the State to carry out this section to make grants to private organizations, municipal, county, State, and Federal government entities, and other government entities as approved by the State after considering guidance from the State recreational trail advisory committee established under subsection (c)(2), for uses consistent with this section.

"(B) COMPLIANCE.—A State that makes grants under subparagraph (A) shall establish measures to verify that recipients of the grants comply with the conditions of the program for the use of grant funds.

"(e) ENVIRONMENTAL BENEFIT OR MITIGATION.—To the extent practicable and consistent with the other requirements of this section, a State should give consideration to project proposals that provide for the redesign, reconstruction, nonroutine maintenance, or relocation of recreational trails to benefit the natural environment or to mitigate and minimize the impact to the natural environment.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—Subject to the other provisions of this subsection, the Federal share of the cost of a project under this section shall not exceed 80 percent.

"(2) FEDERAL AGENCY PROJECT SPONSOR.—Notwithstanding any other provision of law, a Federal agency that sponsors a project under this section may contribute additional Federal funds toward the cost of a project, except that—

"(A) the share attributable to the Secretary of Transportation may not exceed 80 percent of the cost of a project under this section; and

"(B) the share attributable to the Secretary and the Federal agency may not exceed 95 percent of the cost of a project under this section.

"(3) USE OF FUNDS FROM FEDERAL PROGRAMS TO PROVIDE NON-FEDERAL SHARE.—Notwithstanding any other provision of law, the non-Federal share of the cost of the project may include amounts made available by the Federal Government under any Federal program that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section.

"(4) PROGRAMMATIC NON-FEDERAL SHARE.—A State may allow adjustments to the non-Federal share of an individual project for a fiscal year under this section if the Federal share of the cost of all projects carried out by the State under the program (excluding projects funded under paragraph (2) or (3)) using funds apportioned to the State for the fiscal year does not exceed 80 percent.

"(5) STATE ADMINISTRATIVE COSTS.—The Federal share of the administrative costs of a State under this subsection shall be determined in accordance with section 120(b).

"(g) USES NOT PERMITTED.—A State may not obligate funds apportioned to carry out this section for—

"(1) condemnation of any kind of interest in property;

"(2) construction of any recreational trail on National Forest System land for any motorized use unless—

"(A) the land has been designated for uses other than wilderness by an approved forest land and resource management plan or has been released to uses other than wilderness by an Act of Congress; and

"(B) the construction is otherwise consistent with the management direction in the approved forest land and resource management plan;

"(3) construction of any recreational trail on Bureau of Land Management land for any motorized use unless the land—

"(A) has been designated for uses other than wilderness by an approved Bureau of Land Management resource management plan or has been released to uses other than wilderness by an Act of Congress; and

"(B) the construction is otherwise consistent with the management direction in the approved management plan; or

"(4) upgrading, expanding, or otherwise facilitating motorized use or access to recreational trails predominantly used by nonmotorized recreational trail users and on which, as of May 1, 1991, motorized use was prohibited or had not occurred.

"(h) PROJECT ADMINISTRATION.—

"(1) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, SERVICES, OR NEW RIGHT-OF-WAY.—

"(A) IN GENERAL.—Nothing in this title or other law shall prevent a project sponsor from offering to donate funds, materials, services, or a new right-of-way for the purposes of a project

eligible for assistance under this section. Any funds, or the fair market value of any materials, services, or new right-of-way, may be donated by any project sponsor and shall be credited to the non-Federal share in accordance with subsection (f).

"(B) FEDERAL PROJECT SPONSORS.—Any funds or the fair market value of any materials or services may be provided by a Federal project sponsor and shall be credited to the Federal agency's share in accordance with subsection (f).

"(2) RECREATIONAL PURPOSE.—A project funded under this section is intended to enhance recreational opportunity and is not subject to section 138 of this title or section 303 of title 49.

"(3) CONTINUING RECREATIONAL USE.—At the option of each State, funds apportioned to the State to carry out this section may be treated as Land and Water Conservation Fund apportionments for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8(f)(3)).

"(4) COOPERATION BY PRIVATE PERSONS.—

"(A) WRITTEN ASSURANCES.—As a condition of making available apportionments for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the land will cooperate with the State and participate as necessary in the activities to be conducted.

"(B) PUBLIC ACCESS.—Any use of the apportionments to a State to carry out this section on privately owned land must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by the apportionments.

"(i) CONTRACT AUTHORITY.—Funds authorized to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 206 and inserting the following:

"206. Recreational trails program.".

(c) REPEAL OF OBSOLETE PROVISION.—Section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) is repealed.

(d) TERMINATION OF ADVISORY COMMITTEE.—Section 1303 of such Act (16 U.S.C. 1262) is amended by adding at the end the following:

"(j) TERMINATION.—The advisory committee established by this section shall terminate on September 30, 2000.".

(e) ENCOURAGEMENT OF USE OF YOUTH CONSERVATION OR SERVICE CORPS.—The Secretary shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform construction and maintenance of recreational trails under section 206 of title 23, United States Code.

SEC. 1113. EMERGENCY RELIEF.

(a) FEDERAL SHARE.—Section 120(e) of title 23, United States Code, is amended in the first sentence by striking "highway system" and inserting "highway".

(b) ELIGIBILITY AND FUNDING.—Section 125 of such title is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively;

(2) by striking subsection (a) and inserting the following:

"(a) GENERAL ELIGIBILITY.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any part of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

"(1) natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

"(2) catastrophic failure from any external cause.

"(b) RESTRICTION ON ELIGIBILITY.—In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges that have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.

"(c) FUNDING.—Subject to the following limitations, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis:

"(1) Not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out the provisions of this section; except that, if in any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated in such fiscal year, the unobligated balance of such amount shall remain available until expended and shall be in addition to amounts otherwise available to carry out this section each year.

"(2) Pending such appropriation or replenishment, the Secretary may obligate from any funds heretofore or hereafter appropriated for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized. Funds obligated under this paragraph shall be reimbursed from such appropriation or replenishment.";

(3) in subsection (d) (as so redesignated)—

(A) in the first sentence by striking "reconstruction of highways" and all that follows through "in accordance" and inserting "reconstruction of highways on Federal-aid highways in accordance";

(B) by striking "subsection (c)" both places it appears and inserting "subsection (e)";

(C) in the second sentence by striking "authorized" and all that follows through the period and inserting "authorized on Federal-aid highways."; and

(D) in the last sentence by striking "Disaster Relief and Emergency Assistance Act (Public Law 93–288)" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)"; and

(4) in subsection (e) (as so redesignated) by striking "on any of the Federal-aid highway systems" and inserting "Federal-aid highways".

(c) SAN MATEO COUNTY, CALIFORNIA.—Notwithstanding any other provision of law, a project to repair or reconstruct any portion of a Federal-aid primary route in San Mateo County, California, that—

(1) was destroyed as a result of a combination of storms in the winter of 1982–1983 and a mountain slide; and

(2) until its destruction, served as the only reasonable access route between 2 cities and as the designated emergency evacuation route of 1 of the cities;

shall be eligible for assistance under section 125(a) of title 23, United States Code, if the project complies with the local coastal plan.

(d) TECHNICAL AMENDMENTS.—Section 120(e) of such title is amended—

(1) by striking "(c)" and inserting "(b)"; and

(2) by striking "90" and inserting "180".

SEC. 1114. HIGHWAY USE TAX EVASION PROJECTS.

(a) IN GENERAL.—Section 143 of title 23, United States Code, is amended to read as follows:

"§ 143. Highway use tax evasion projects

"(a) STATE DEFINED.—In this section, the term 'State' means the 50 States and the District of Columbia.

"(b) PROJECTS.—

"(1) IN GENERAL.—The Secretary shall carry out highway use tax evasion projects in accordance with this subsection.

"(2) ALLOCATION OF FUNDS.—Funds made available to carry out this section may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary.

"(3) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—The Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this subsection.

"(4) LIMITATION ON USE OF FUNDS.—Funds made available to carry out this section shall be used only—

"(A) to expand efforts to enhance motor fuel tax enforcement;

"(B) to fund additional Internal Revenue Service staff, but only to carry out functions described in this paragraph;

"(C) to supplement motor fuel tax examinations and criminal investigations;

"(D) to develop automated data processing tools to monitor motor fuel production and sales;

"(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

"(F) to reimburse State expenses that supplement existing fuel tax compliance efforts; and

"(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes.

"(5) MAINTENANCE OF EFFORT.—The Secretary may not make an allocation to a State under this subsection for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

"(6) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 100 percent.

"(7) PERIOD OF AVAILABILITY.—Funds authorized to carry out this section shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(8) USE OF SURFACE TRANSPORTATION PROGRAM FUNDING.—In addition to funds made available to carry out this section, a State may expend up to ¼ of 1 percent of the funds apportioned to the State for a fiscal year under section 104(b)(3) on initiatives to halt the evasion of payment of motor fuel taxes.

"(c) EXCISE FUEL REPORTING SYSTEM.—

"(1) IN GENERAL.—Not later than April 1, 1998, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development and maintenance by the Internal Revenue Service of an excise fuel reporting system (in this subsection referred to as the 'system').

"(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

"(A) the Internal Revenue Service shall develop and maintain the system through contracts;

"(B) the system shall be under the control of the Internal Revenue Service; and

"(C) the system shall be made available for use by appropriate State and Federal revenue,

tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

"(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 1998 through 2003, the Secretary shall make available sufficient funds to the Internal Revenue Service to establish and operate an automated fuel reporting system.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of such title is amended by striking the item relating to section 143 and inserting the following:

"143. Highway use tax evasion projects.".

(2) Section 1040 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is repealed.

(3) Section 8002 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 2203) is amended—

(A) in the first sentence of subsection (g) by striking "section 1040 of this Act" and inserting "section 143 of title 23, United States Code,"; and

(B) by striking subsection (h).

SEC. 1115. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

"(j) USE OF FEDERAL LAND MANAGEMENT AGENCY FUNDS.—Notwithstanding any other provision of law, the funds appropriated to any Federal land management agency may be used to pay the non-Federal share of the cost of any Federal-aid highway project the Federal share of which is funded under section 104.

"(k) USE OF FEDERAL LANDS HIGHWAYS PROGRAM FUNDS.—Notwithstanding any other provision of law, the funds authorized to be appropriated to carry out the Federal lands highways program under section 204 may be used to pay the non-Federal share of the cost of any project that is funded under section 104 and that provides access to or within Federal or Indian lands.".

(b) ALLOCATIONS.—Section 202(d) of such title is amended—

(1) by inserting "INDIAN RESERVATION ROADS.—" after "(d)";

(2) by inserting "(1) FOR FISCAL YEARS ENDING BEFORE OCTOBER 1, 1999.—" before "On October";

(3) by inserting after "each fiscal year" the following: "ending before October 1, 1999";

(4) by adding at the end the following:

"(2) FISCAL YEAR 2000 AND THEREAFTER.—

"(A) IN GENERAL.—All funds authorized to be appropriated for Indian reservation roads shall be allocated among Indian tribes for fiscal year 2000 and each subsequent fiscal year in accordance with a formula established by the Secretary of the Interior under a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5.

"(B) REGULATIONS.—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall issue regulations governing the Indian reservation roads program, and establishing the funding formula for fiscal year 2000 and each subsequent fiscal year under this paragraph, in accordance with a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5. The regulations shall be issued in final form not later than April 1, 1999, and shall take effect not later than October 1, 1999.

"(C) NEGOTIATED RULEMAKING COMMITTEE.—In establishing a negotiated rulemaking committee to carry out subparagraph (B), the Secretary of the Interior shall—

"(i) apply the procedures under subchapter III of chapter 5 of title 5 in a manner that reflects the unique government-to-government relationship between the Indian tribes and the United States; and

"(ii) ensure that the membership of the committee includes only representatives of the Federal Government and of geographically diverse small, medium, and large Indian tribes.

"(D) BASIS FOR FUNDING FORMULA.—The funding formula established for fiscal year 2000 and each subsequent fiscal year under this paragraph shall be based on factors that reflect—

"(i) the relative needs of the Indian tribes, and reservation or tribal communities, for transportation assistance; and

"(ii) the relative administrative capacities of, and challenges faced by, various Indian tribes, including the cost of road construction in each Bureau of Indian Affairs area, geographic isolation and difficulty in maintaining all-weather access to employment, commerce, health, safety, and educational resources.

"(3) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available under this title for Indian reservation roads and for highway bridges located on Indian reservation roads to pay for the costs of programs, services, functions, and activities, or portions thereof, that are specifically or functionally related to the cost of planning, research, engineering, and construction of any highway, road, bridge, parkway, or transit facility that provides access to or is located within the reservation or community of an Indian tribe shall be made available, upon request of the Indian tribal government, to the Indian tribal government for contracts and agreements for such planning, research, engineering, and construction in accordance with the Indian Self-Determination and Education Assistance Act.

"(B) EXCLUSION OF AGENCY PARTICIPATION.—Funds for programs, functions, services, or activities, or portions thereof, including supportive administrative functions that are otherwise contractible to which subparagraph (A) apply, shall be paid in accordance with subparagraph (A) without regard to the organizational level at which the Department of Interior that has previously carried out such programs, functions, services, or activities.

"(4) RESERVATION OF FUNDS.—

"(A) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall establish a nationwide priority program for improving deficient Indian reservation road bridges.

"(B) RESERVATION.—Of the amounts authorized to be appropriated for Indian reservation roads for each fiscal year, the Secretary, in cooperation with the Secretary of the Interior, shall reserve not less than $13,000,000 for projects to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures for deficient Indian reservation road bridges, including multiple-pipe culverts.

"(C) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in subparagraph (A) must—

"(i) have an opening of 20 feet or more;

"(ii) be on an Indian reservation road;

"(iii) be unsafe because of structural deficiencies, physical deterioration, or functional obsolescence; and

"(iv) be recorded in the national bridge inventory administered by the Secretary under subsection (b).

"(D) APPROVAL REQUIREMENT.—Funds to carry out Indian reservation road bridge projects under this subsection shall be made available only on approval of plans, specifications, and estimates by the Secretary."; and

(5) by indenting paragraph (1) (as designated by paragraph (2) of this paragraph) and aligning paragraph (1) with paragraphs (2), (3), and (4) (as added by paragraph (4) of this paragraph).

(c) AVAILABILITY OF FUNDS.—Section 203 of such title is amended by adding at the end the following: "Notwithstanding any other provision of law, the authorization by the Secretary of engineering and related work for a Federal lands highways program project, or the approval by the Secretary of plans, specifications, and estimates for construction of a Federal lands highways program project, shall be deemed to constitute a contractual obligation of the Federal Government to pay the Federal share of the cost of the project.".

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of such title is amended—

(1) by striking subsection (a) and inserting the following:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Recognizing the need for all Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal lands highways program that shall apply to public lands highways, park roads and parkways, and Indian reservation roads and bridges.

"(2) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, by rule, transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

"(3) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

"(4) INCLUSION IN OTHER PLANS.—All regionally significant Federal lands highways program projects—

"(A) shall be developed in cooperation with States and metropolitan planning organizations; and

"(B) shall be included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

"(5) INCLUSION IN STATE PROGRAMS.—The approved Federal lands highways program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

"(6) DEVELOPMENT OF SYSTEMS.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, develop by rule safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.";

(2) in subsection (b) by striking the first 3 sentences and inserting the following: "Funds available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay for the cost of transportation planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within public lands, national parks, and Indian reservations. In connection with activities under the preceding sentence, the Secretary and the Secretary of the appropriate Federal land management agency may enter into construction contracts and other appropriate contracts with a State or civil subdivision of a State or Indian tribe.";

(3) in the first sentence of subsection (e) by striking "Secretary of the Interior" and inserting "Secretary of the appropriate Federal land management agency";

(4) in subsection (h) by adding at the end the following:

"(8) A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.";

(5) by striking subsection (i) and inserting the following:

"(i) TRANSFERS OF COSTS TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—

"(1) ADMINISTRATIVE COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay necessary administrative costs of the agency in connection with public lands highways.

"(2) TRANSPORTATION PLANNING COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay the cost to the agency to conduct necessary transportation planning for Federal lands, if funding for the planning is not otherwise provided under this section."; and

(6) in subsection (j) by striking the second sentence and inserting the following: "The Indian tribal government, in cooperation with the Secretary of the Interior, and as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with subsection (a).".

(e) REFUGE ROADS.—

(1) AUTHORIZATIONS.—Section 201 of such title is amended in the first sentence by inserting "refuge roads," before "public lands highways,".

(2) ALLOCATIONS.—Section 202 of such title is amended by adding at the end the following:

"(e) REFUGE ROADS.—On October 1 of each fiscal year, the Secretary shall allocate the sums made available for that fiscal year for refuge roads according to the relative needs of the various refuges in the National Wildlife Refuge System, and taking into consideration—

"(1) the comprehensive conservation plan for each refuge;

"(2) the need for access as identified through land use planning; and

"(3) the impact of land use planning on existing transportation facilities.".

(3) AVAILABILITY OF FUNDS.—Section 203 of such title is amended in the first and fourth sentences—

(A) by striking "for," and inserting "for"; and

(B) by inserting "refuge roads," after "parkways," each place it appears.

(4) USE OF FUNDING.—Section 204 of such title is amended by adding at the end the following:

"(k) REFUGE ROADS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for refuge roads shall be used by the Secretary and the Secretary of the Interior only to pay the cost of—

"(A) maintenance and improvements of refuge roads;

"(B) maintenance and improvements of eligible projects described in paragraphs (2), (5), (6) of subsection (h) that are located in or adjacent to wildlife refuges; and

"(C) administrative costs associated with such maintenance and improvements.

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the Interior, as appropriate, may enter into contracts with a State or civil subdivision of a State or Indian tribe as is determined advisable.

"(3) COMPLIANCE WITH OTHER LAW.—Funds made available for refuge roads shall be used only for projects that are in compliance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).".

SEC. 1116. WOODROW WILSON MEMORIAL BRIDGE.

(a) DEFINITIONS.—Section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 628) is amended—

(1) in paragraph (3) by striking ", including approaches thereto"; and

(2) in paragraph (5) by striking "to be determined under section 407. Such" and all that follows through the period at the end and inserting the following: "as described in the record of decision executed by the Secretary in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The term includes ongoing short-term rehabilitation and repairs to the Bridge.".

(b) OWNERSHIP OF BRIDGE.—

(1) CONVEYANCE BY THE SECRETARY.—Section 407(a)(1) of such Act (109 Stat. 630) is amended by inserting "or any Capital Region jurisdiction" after "Authority" each place it appears.

(2) AGREEMENT.—Section 407 of such Act (109 Stat. 630) is amended by striking subsection (c) and inserting the following:

"(c) AGREEMENT.—

"(1) IN GENERAL.—The agreement referred to in subsection (a) is an agreement concerning the Project that is executed by the Secretary and the Authority or any Capital Region jurisdiction that accepts ownership of the new bridge.

"(2) TERMS OF THE AGREEMENT.—The agreement shall—

"(A) identify whether the Authority or a Capital Region jurisdiction will accept ownership of the new bridge;

"(B) contain a financial plan satisfactory to the Secretary, which shall be prepared before the execution of the agreement, that specifies—

"(i) the total cost of the Project, including any cost-saving measures;

"(ii) a schedule for implementation of the Project, including whether any expedited design and construction techniques will be used; and

"(iii) the sources of funding that will be used to cover any costs of the Project not funded from funds made available under section 412;

"(C) require that—

"(i) the Project include not more than 12 traffic lanes, including 8 general purpose lanes, 2 merging/diverging lanes, and 2 high occupancy vehicle, express bus, or rail transit lanes;

"(ii) the design, construction, and operation of the Project reflect the requirements of clause (i);

"(iii) all provisions described in the environmental impact statement for the Project or the record of decision for the Project (including in the attachments to the statement and record) for mitigation of environmental and other impacts of the Project be implemented; and

"(iv) the Authority and the Capital Region jurisdictions develop a process to integrate affected local governments, on an ongoing basis, in the process of carrying out the engineering, design, and construction phases of the project, including planning for implementing the provisions described in clause (iii); and

"(D) contain such other terms and conditions as the Secretary determines to be appropriate.".

(c) FEDERAL CONTRIBUTION.—Such Act (109 Stat. 627) is amended by adding at the end the following:

"SEC. 412. FEDERAL CONTRIBUTION.

"(a) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $25,000,000 for fiscal year 1998, $75,000,000 for fiscal year 1999, $150,000,000 for fiscal year 2000, $200,000,000 for fiscal year 2001, $225,000,000 for fiscal year 2002, and $225,000,000 for fiscal year 2003 to pay the costs of planning, preliminary engineering and design, final engineering, acquisition of rights-of-way, and construction of the Project; except that the costs associated with the Bridge shall be given priority over other eligible costs, other than design costs, of the Project.

"(2) CONTRACT AUTHORITY.—Funds authorized by this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that—

"(A) the funds shall remain available until expended;

"(B) the Federal share of the cost of the Bridge component of the Project shall not exceed 100 percent; and

"(C) the Federal share of the cost of any other component of the Project shall not exceed 80 percent.

"(b) USE OF APPORTIONED FUNDS.—Nothing in this title limits the authority of any Capital Region jurisdiction to use funds apportioned to the jurisdiction under paragraphs (1) and (3) of section 104(b) of title 23, United States Code, in accordance with the requirements for such funds, to pay any costs of the Project.

"(c) AVAILABILITY OF APPORTIONED FUNDS.—None of the funds made available under this section shall be available for construction before the execution of the agreement described in section 407(c), except that the Secretary may fund the maintenance and rehabilitation of the Bridge, the design of the Project, and right-of-way acquisition, including early acquisition of construction staging areas.".

(d) CONFORMING AMENDMENT.—Section 405(b)(1) of such Act (109 Stat. 629) is amended by striking "the Signatories as to the Federal share of the cost of the Project and the terms and conditions related to the timing of the transfer of the Bridge to".

SEC. 1117. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) APPORTIONMENT.—The Secretary shall apportion funds made available by section 102 of this Act for fiscal years 1998 through 2003 among the States based on the latest available cost to complete estimate for the Appalachian development highway system under section 201 of the Appalachian Regional Development Act of 1965 prepared by the Appalachian Regional Commission. Such funds shall be available to construct highways and access roads under section 201 of the Appalachian Regional Development Act of 1965.

(b) APPLICABILITY OF TITLE 23.—Funds authorized by section 102 of this Act for the Appalachian development highway system shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with such section 201 and such funds shall remain available until expended.

(c) FEDERAL SHARE FOR PRE-FINANCED PROJECTS.—Section 201(h)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking "70" and inserting "80".

(d) CORRIDOR O.—There is hereby designated as an addition to Corridor O in Pennsylvania on the Appalachian development highway system a segment from Port Matilda to Interstate Route 80 along United States Route 322, and the segment of Corridor O from the Pennsylvania State line to the improved segment in Bedford, Pennsylvania, shall be subtracted from Corridor O. Such designated addition shall not affect estimates of the cost to complete such system and such subtracted segment may be included on a map of such system for purposes of continuity only.

SEC. 1118. NATIONAL CORRIDOR PLANNING AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and implement a program to make allocations to States and metropolitan planning organizations for coordinated planning, design, and construction of corridors of national significance, economic growth, and international or interregional trade. A State or metropolitan planning organization may apply to the Secretary for allocations under this section.

(b) ELIGIBILITY OF CORRIDORS.—The Secretary may make allocations under this section with respect to—

(1) high priority corridors identified in section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991; and

(2) any other significant regional or multistate highway corridor not described in whole or in part in paragraph (1) selected by the Secretary after consideration of—

(A) the extent to which the annual volume of commercial vehicle traffic at the border stations or ports of entry of each State—

(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103–182); and

(ii) is projected to increase in the future;

(B) the extent to which commercial vehicle traffic in each State—

(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103–182); and

(ii) is projected to increase in the future;

(C) the extent to which international truck-borne commodities move through each State;

(D) the reduction in commercial and other travel time through a major international gateway or affected port of entry expected as a result of the proposed project including the level of traffic delays at at-grade highway crossings of major rail lines in trade corridors;

(E) the extent of leveraging of Federal funds provided under this subsection, including—

(i) use of innovative financing;

(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

(iii) combination with other sources of Federal, State, local, or private funding including State, local, and private matching funds;

(F) the value of the cargo carried by commercial vehicle traffic, to the extent that the value of the cargo and congestion impose economic costs on the Nation's economy; and

(G) encourage or facilitate major multistate or regional mobility and economic growth and development in areas underserved by existing highway infrastructure.

(c) PURPOSES.—Allocations may be made under this section for 1 or more of the following purposes:

(1) Feasibility studies.

(2) Comprehensive corridor planning and design activities.

(3) Location and routing studies.

(4) Multistate and intrastate coordination for corridors described in subsection (b).

(5) After review by the Secretary of a development and management plan for the corridor or a usable component thereof under subsection (b)—

(A) environmental review; and

(B) construction.

(d) CORRIDOR DEVELOPMENT AND MANAGEMENT PLAN.—A State or metropolitan planning organization receiving an allocation under this section shall develop, and submit to the Secretary for review, a development and management plan for the corridor or a usable component thereof with respect to which the allocation is being made. Such plan shall include, at a minimum, the following elements:

(1) A complete and comprehensive analysis of corridor costs and benefits.

(2) A coordinated corridor development plan and schedule, including a timetable for completion of all planning and development activities, environmental reviews and permits, and construction of all segments.

(3) A finance plan, including any innovative financing methods and, if the corridor is a multistate corridor, a State-by-State breakdown of corridor finances.

(4) The results of any environmental reviews and mitigation plans.

(5) The identification of any impediments to the development and construction of the corridor, including any environmental, social, political and economic objections.

In the case of a multistate corridor, the Secretary shall encourage all States having jurisdiction over any portion of such corridor to participate in the development of such plan.

(e) APPLICABILITY OF TITLE 23.—Funds made available by section 1101 of this Act to carry out this section and section 1119 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(f) COORDINATION OF PLANNING.—Planning with respect to a corridor under this section shall be coordinated with transportation planning being carried out by the States and metropolitan planning organizations along the corridor and, to the extent appropriate, with transportation planning being carried out by Federal land management agencies, by tribal governments, or by government agencies in Mexico or Canada.

(g) STATE DEFINED.—In this section, the term "State" has the meaning such term has under section 101 of title 23, United States Code.

SEC. 1119. COORDINATED BORDER INFRASTRUCTURE PROGRAM.

(a) GENERAL AUTHORITY.—The Secretary shall establish and implement a coordinated border infrastructure program under which the Secretary may make allocations to border States and metropolitan planning organizations for areas within the boundaries of 1 or more border States for projects to improve the safe movement of people and goods at or across the border between the United States and Canada and the border between the United States and Mexico.

(b) ELIGIBLE USES.—Allocations to States and metropolitan planning organizations under this section may only be used in a border region for—

(1) improvements to existing transportation and supporting infrastructure that facilitate cross-border vehicle and cargo movements;

(2) construction of highways and related safety and safety enforcement facilities that will facilitate vehicle and cargo movements related to international trade;

(3) operational improvements, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross border vehicle and cargo movement;

(4) modifications to regulatory procedures to expedite cross border vehicle and cargo movements;

(5) international coordination of planning, programming, and border operation with Canada and Mexico relating to expediting cross border vehicle and cargo movements; and

(6) activities of Federal inspection agencies.

(c) SELECTION CRITERIA.—The Secretary shall make allocations under this section on the basis of—

(1) expected reduction in commercial and other motor vehicle travel time through an international border crossing as a result of the project;

(2) improvements in vehicle and highway safety and cargo security related to motor vehicles crossing a border with Canada or Mexico;

(3) strategies to increase the use of existing, underutilized border crossing facilities and approaches;

(4) leveraging of Federal funds provided under this section, including use of innovative financing, combination of such funds with funding provided under other sections of this Act, and combination with other sources of Federal, State, local, or private funding;

(5) degree of multinational involvement in the project and demonstrated coordination with other Federal agencies responsible for the inspection of vehicles, cargo, and persons crossing international borders and their counterpart agencies in Canada and Mexico;

(6) improvements in vehicle and highway safety and cargo security in and through the gateway or affected port of entry concerned;

(7) the degree of demonstrated coordination with Federal inspection agencies;

(8) the extent to which the innovative and problem solving techniques of the proposed project would be applicable to other border stations or ports of entry;

(9) demonstrated local commitment to implement and sustain continuing comprehensive border or affected port of entry planning processes and improvement programs; and

(10) such other factors as the Secretary determines are appropriate to promote border transportation efficiency and safety.

(d) CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE FOR LAW ENFORCEMENT PURPOSES.—At the request of the Administrator of General Services, in consultation with the Attorney General, the Secretary may transfer, during the period of fiscal years 1998 through 2001, not more than $10,000,000 of the amounts made available by section 1101 to carry out this section and section 1118 to the Administrator of General Services for the construction of transportation infrastructure necessary for law enforcement in border States.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) BORDER REGION.—The term "border region" means the portion of a border State in the vicinity of an international border with Canada or Mexico.

(2) BORDER STATE.—The term "border State" means any State that has a boundary in common with Canada or Mexico.

Subtitle B—General Provisions

SEC. 1201. DEFINITIONS.

Section 101(a) of title 23, United States Code, is amended to read as follows:

"(a) DEFINITIONS.—In this title, the following definitions apply:

"(1) APPORTIONMENT.—The term 'apportionment' includes unexpended apportionments made under prior authorization laws.

"(2) CARPOOL PROJECT.—The term 'carpool project' means any project to encourage the use of carpools and vanpools, including provision of carpooling opportunities to the elderly and individuals with disabilities, systems for locating potential riders and informing them of carpool opportunities, acquiring vehicles for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use for preferential parking for carpools.

"(3) CONSTRUCTION.—The term 'construction' means the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a highway, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program. Such term includes—

"(A) locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with

specifications of the National Oceanic and Atmospheric Administration of the Department of Commerce);

"(B) resurfacing, restoration, and rehabilitation;

"(C) acquisition of rights-of-way;

"(D) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

"(E) elimination of hazards of railway grade crossings;

"(F) elimination of roadside obstacles;

"(G) improvements that directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas; and

"(H) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.

"(4) COUNTY.—The term 'county' includes corresponding units of government under any other name in States that do not have county organizations and, in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

"(5) FEDERAL-AID HIGHWAY.—The term 'Federal-aid highway' means a highway eligible for assistance under this chapter other than a highway classified as a local road or rural minor collector.

"(6) FEDERAL-AID SYSTEM.—The term 'Federal-aid system' means any of the Federal-aid highway systems described in section 103.

"(7) FEDERAL LANDS HIGHWAY.—The term 'Federal lands highway' means a forest highway, public lands highway, park road, parkway, refuge road, and Indian reservation road that is a public road.

"(8) FOREST DEVELOPMENT ROADS AND TRAILS.—The term 'forest development roads and trails' means forest roads and trails under the jurisdiction of the Forest Service.

"(9) FOREST HIGHWAY.—The term 'forest highway' means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

"(10) FOREST ROAD OR TRAIL.—The term 'forest road or trail' means a road or trail wholly or partly within, or adjacent to, and serving the National Forest System that is necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.

"(11) HIGHWAY.—The term 'highway' includes—

"(A) a road, street, and parkway;

"(B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protective structure, in connection with a highway; and

"(C) a portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State transportation department, including such facilities as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel.

"(12) INDIAN RESERVATION ROAD.—The term 'Indian reservation road' means a public road that is located within or provides access to an Indian reservation or Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

"(13) INTERSTATE SYSTEM.—The term 'Interstate System' means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

"(14) MAINTENANCE.—The term 'maintenance' means the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for safe and efficient utilization of the highway.

"(15) MAINTENANCE AREA.—The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

"(16) NATIONAL HIGHWAY SYSTEM.—The term 'National Highway System' means the Federal-aid highway system described in section 103(b).

"(17) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term 'operating costs for traffic monitoring, management, and control' includes labor costs, administrative costs, costs of utilities and rent, and other costs associated with the continuous operation of traffic control, such as integrated traffic control systems, incident management programs, and traffic control centers.

"(18) OPERATIONAL IMPROVEMENT.—The term 'operational improvement'—

"(A) means (i) a capital improvement for installation of traffic surveillance and control equipment, computerized signal systems, motorist information systems, integrated traffic control systems, incident management programs, and transportation demand management facilities, strategies, and programs, and (ii) such other capital improvements to public roads as the Secretary may designate, by regulation; and

"(B) does not include resurfacing, restoring, or rehabilitating improvements, construction of additional lanes, interchanges, and grade separations, and construction of a new facility on a new location.

"(19) PARK ROAD.—The term 'park road' means a public road, including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles, that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

"(20) PARKWAY.—The term 'parkway', as used in chapter 2 of this title, means a parkway authorized by Act of Congress on lands to which title is vested in the United States.

"(21) PROJECT.—The term 'project' means an undertaking to construct a particular portion of a highway, or if the context so implies, the particular portion of a highway so constructed or any other undertaking eligible for assistance under this title.

"(22) PROJECT AGREEMENT.—The term 'project agreement' means the formal instrument to be executed by the State transportation department and the Secretary as required by section 106.

"(23) PUBLIC AUTHORITY.—The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

"(24) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term 'public lands development roads and trails' means those roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and utilization of public lands and resources under the control of the Secretary of the Interior.

"(25) PUBLIC LANDS HIGHWAY.—The term 'public lands highway' means a forest road under the jurisdiction of and maintained by a public authority and open to public travel or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel.

"(26) PUBLIC LANDS HIGHWAYS.—The term 'public lands highways' means those main highways through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, which are on the Federal-aid systems.

"(27) PUBLIC ROAD.—The term 'public road' means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

"(28) REFUGE ROAD.—The term 'refuge road' means a public road that provides access to or within a unit of the National Wildlife Refuge System and for which title and maintenance responsibility is vested in the United States Government.

"(29) RURAL AREAS.—The term 'rural areas' means all areas of a State not included in urban areas.

"(30) SAFETY IMPROVEMENT PROJECT.—The term 'safety improvement project' means a project that corrects or improves high hazard locations, eliminates roadside obstacles, improves highway signing and pavement marking, installs priority control systems for emergency vehicles at signalized intersections, installs or replaces emergency motorist aid call boxes, or installs traffic control or warning devices at locations with high accident potential.

"(31) SECRETARY.—The term 'Secretary' means Secretary of Transportation.

"(32) STATE.—The term 'State' means any of the 50 States, the District of Columbia, or Puerto Rico.

"(33) STATE FUNDS.—The term 'State funds' includes funds raised under the authority of the State or any political or other subdivision thereof, and made available for expenditure under the direct control of the State transportation department.

"(34) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction.

"(35) TRANSPORTATION ENHANCEMENT ACTIVITIES.—The term 'transportation enhancement activities' means, with respect to any project or the area to be served by the project, any of the following activities if such activity relates to surface transportation: provision of facilities for pedestrians and bicycles, provision of safety and educational activities for pedestrians and bicyclists, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs (including the provision of tourist and welcome center facilities), landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals), preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails), control and removal of outdoor advertising, archaeological planning and research, environmental mitigation to address water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity, and establishment of transportation museums.

"(36) URBAN AREA.—The term 'urban area' means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or urban place as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation

with each other, subject to approval by the Secretary. Such boundaries shall encompass, at a minimum, the entire urban place designated by the Bureau of the Census, except in the case of cities in the State of Maine and in the State of New Hampshire.

"(37) URBANIZED AREA.—The term 'urbanized area' means an area with a population of 50,000 or more designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of the Census.".

SEC. 1202. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

(a) IN GENERAL.—Section 217 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "pedestrian walkways and" after "construction of"; and

(B) by striking "(other than the Interstate System)";

(2) in subsection (e) by striking ", other than a highway access to which is fully controlled,";

(3) by striking subsection (g) and inserting the following:

"(g) PLANNING AND DESIGN.—

"(1) IN GENERAL.—Bicyclists and pedestrians shall be given due consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively. Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

"(2) SAFETY CONSIDERATIONS.—Transportation plans and projects shall provide due consideration for safety and contiguous routes for bicyclists and pedestrians. Safety considerations shall include the installation, where appropriate, and maintenance of audible traffic signals and audible signs at street crossings.";

(4) in subsection (h) by striking "No motorized vehicles shall" and inserting "Motorized vehicles may not";

(5) in subsection (h)(3)—

(A) by striking "when State and local regulations permit,"; and

(B) by striking "and" at the end;

(6) in subsection (h)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following:

"(4) when State or local regulations permit, electric bicycles; and"; and

(7) by striking subsection (j) and inserting the following:

"(j) DEFINITIONS.—In this section, the following definitions apply:

"(1) BICYCLE TRANSPORTATION FACILITY.—The term 'bicycle transportation facility' means a new or improved lane, path, or shoulder for use by bicyclists and a traffic control device, shelter, or parking facility for bicycles.

"(2) ELECTRIC BICYCLE.—The term 'electric bicycle' means any bicycle or tricycle with a low-powered electric motor weighing under 100 pounds, with a top motor-powered speed not in excess of 20 miles per hour.

"(3) PEDESTRIAN.—The term 'pedestrian' means any person traveling by foot and any mobility impaired person using a wheelchair.

"(4) WHEELCHAIR.—The term 'wheelchair' means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or motorized.".

(b) DESIGN GUIDANCE.—

(1) IN GENERAL.—In implementing section 217(g) of title 23, United States Code, the Secretary, in cooperation with the American Association of State Highway and Transportation Officials, the Institute of Transportation Engineers, and other interested organizations, shall develop guidance on the various approaches to accommodating bicycles and pedestrian travel.

(2) ISSUES TO BE ADDRESSED.—The guidance shall address issues such as the level and nature of the demand, volume, and speed of motor vehicle traffic, safety, terrain, cost, and sight distance.

(3) RECOMMENDATIONS.—The guidance shall include recommendations on amending and updating the policies of the American Association of State Highway and Transportation Officials relating to highway and street design standards to accommodate bicyclists and pedestrians.

(4) TIME PERIOD FOR DEVELOPMENT.—The guidance shall be developed within 18 months after the date of enactment of this Act.

(c) PROTECTION OF NONMOTORIZED TRANSPORTATION TRAFFIC.—Section 109(n) of such title is amended to read as follows:

"(n) PROTECTION OF NONMOTORIZED TRANSPORTATION TRAFFIC.—The Secretary shall not approve any project or take any regulatory action under this title that will result in the severance of an existing major route or have significant adverse impact on the safety for nonmotorized transportation traffic and light motorcycles, unless such project or regulatory action provides for a reasonable alternate route or such a route exists.".

(d) RAILWAY-HIGHWAY CROSSINGS.—Section 130 of such title is amended by adding at the end the following:

"(j) BICYCLE SAFETY.—In carrying out projects under this section, a State shall take into account bicycle safety.".

(e) NATIONAL BICYCLE SAFETY EDUCATION CURRICULUM.—

(1) DEVELOPMENT.—The Secretary is authorized to develop a national bicycle safety education curriculum that may include courses relating to on-road training.

(2) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall transmit to Congress a copy of the curriculum.

(3) FUNDING.—From amounts made available under section 210, the Secretary may use not to exceed $500,000 for fiscal year 1999 to carry out this subsection.

SEC. 1203. METROPOLITAN PLANNING.

(a) GENERAL REQUIREMENTS.—Section 134(a) of title 23, United States Code, is amended to read as follows:

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objective stated in paragraph (1), metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transit operators, shall develop transportation plans and programs for urbanized areas of the State.

"(3) CONTENTS.—The plans and programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

"(4) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.".

(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—Section 134(b) of such title is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) STRUCTURE.—Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization as of June 1, 1991); and

"(C) appropriate State officials.".

(2) CONTINUING DESIGNATION.—Section 134(b)(4) of such title is amended to read as follows:

"(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).".

(3) REDESIGNATION.—Section 134(b)(5)(A) of such title is amended—

(A) by striking "among" and inserting "between"; and

(B) by striking "which together" and inserting "that together".

(4) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—Section 134(b)(6) of such title is amended to read as follows:

"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.".

(c) METROPOLITAN PLANNING AREA BOUNDARIES.—Section 134(c) of such title is amended—

(1) in the subsection heading by inserting "PLANNING" before "AREA";

(2) in the first sentence—

(A) by striking "For the purposes" and inserting the following:

"(1) IN GENERAL.—For the purposes"; and

(B) by inserting "planning" before "area";

(3) by striking the second sentence and all that follows and inserting the following:

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

“(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

“(3) Existing metropolitan planning areas in nonattainment.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (b)(5).

“(4) New metropolitan planning areas in nonattainment.—In the case of an urbanized area designated after the date of enactment of this paragraph as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

“(A) shall be established in the manner described in subsection (b)(1);

“(B) shall encompass the areas described in paragraph (2)(A);

“(C) may encompass the areas described in paragraph (2)(B); and

“(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.”; and

(4) by aligning paragraph (1) (as designated by paragraph (2)(A) of this subsection) with paragraphs (2) through (4) (as inserted by paragraph (3) of this subsection).

(d) Coordination in Multistate Areas.—Section 134(d) of such title is amended to read as follows:

“(d) Coordination in Multistate Areas.—

“(1) In general.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) Interstate compacts.—The consent of Congress is granted to any 2 or more States—

“(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

“(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

“(3) Lake Tahoe region.—

“(A) Definition.—In this paragraph, the term ‘Lake Tahoe region’ has the meaning given the term ‘region’ in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

“(B) Transportation planning process.—The Secretary shall—

“(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

“(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section, section 135, and chapter 53 of title 49.

“(C) Interstate compact.—

“(i) In general.—Subject to clause (ii), notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

“(ii) Involvement of federal land management agencies.—

“(I) Representation.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

“(II) Funding.—In addition to funds made available to the metropolitan planning organization under other provisions of this title and under chapter 53 of title 49, not more than 1 percent of the funds allocated under section 202 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

“(D) Activities.—Highway projects included in transportation plans developed under this paragraph—

“(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

“(ii) may, in accordance with chapter 2, be funded using funds allocated under section 202.

“(4) Recipients of other assistance.—The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the design and delivery of transportation services within the metropolitan planning area that are provided—

“(A) by recipients of assistance under chapter 53 of title 49; and

“(B) by governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services.”.

(e) Coordination of MPOs.—Section 134(e) of such title is amended—

(1) in the subsection heading by striking “MPO’s” and inserting “MPOs”;

(2) by striking “If” and inserting the following:

“(1) Nonattainment areas.—If”;

(3) by adding at the end the following:

“(2) Project located in multiple MPOs.—If a project is located within the boundaries of more than 1 metropolitan planning organization, the metropolitan planning organizations shall coordinate plans regarding the project.”; and

(4) by aligning paragraph (1) (as designated by paragraph (2) of this subsection) with paragraph (2) (as added by paragraph (3) of this subsection).

(f) Scope of Planning Process.—Section 134(f) of such title is amended to read as follows:

“(f) Scope of Planning Process.—

“(1) In general.—The metropolitan transportation planning process for a metropolitan area under this section shall provide for consideration of projects and strategies that will—

“(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

“(C) increase the accessibility and mobility options available to people and for freight;

“(D) protect and enhance the environment, promote energy conservation, and improve quality of life;

“(E) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

“(F) promote efficient system management and operation; and

“(G) emphasize the preservation of the existing transportation system.

“(2) Failure to consider factors.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.”.

(g) Long-Range Transportation Plan.—Section 134(g) of such title is amended—

(1) in paragraph (2) by striking “, at a minimum” and inserting “contain, at a minimum, the following”;

(2) in paragraph (2)(A) by striking “Identify” and inserting “An identification of”; and

(3) by striking paragraph (2)(B) and inserting the following:

“(B) A financial plan that demonstrates how the adopted long-range transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the metropolitan planning organization and State shall cooperatively develop estimates of funds that will be available to support plan implementation.”;

(4) in paragraph (4)—

(A) by inserting after “employees,” the following: “freight shippers, providers of freight transportation services,”; and

(B) by inserting after “private providers of transportation,” the following: “representatives of users of public transit,”;

(5) by adding at the end the following:

“(6) Selection of projects from illustrative list.—Notwithstanding paragraph (2)(B), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B).”;

(6) in the subsection heading by striking “Long Range Plan” and inserting “Long-Range Transportation Plan”;

(7) in the headings for paragraphs (2) and (5) by striking “long range plan” and inserting “long-range transportation plan”; and

(8) by striking “long range plan” each place it appears and inserting “long-range transportation plan”.

(h) Metropolitan Transportation Improvement Program.—Section 134(h) of such title is amended to read as follows:

“(h) Metropolitan Transportation Improvement Program.—

“(1) Development.—

“(A) In general.—In cooperation with the State and any affected public transit operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area for which the organization is designated.

“(B) Opportunity for comment.—In developing the program, the metropolitan planning organization, in cooperation with the State and any affected public transit operator, shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(C) FUNDING ESTIMATES.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(D) UPDATING AND APPROVAL.—The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) CONTENTS.—The transportation improvement program shall include—

"(A) a priority list of proposed federally supported projects and strategies to be carried out within each 3-year period after the initial adoption of the transportation improvement program; and

"(B) a financial plan that—

"(i) demonstrates how the transportation improvement program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

"(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available.

"(3) INCLUDED PROJECTS.—

"(A) PROJECTS UNDER THIS CHAPTER AND CHAPTER 53 OF TITLE 49.—A transportation improvement program developed under this subsection for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under this chapter and chapter 53 of title 49.

"(B) PROJECTS UNDER CHAPTER 2.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(4) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall, in cooperation with the State and any affected public transit operator, provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(5) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the transportation improvement program development required under paragraph (1), the selection of federally funded projects for implementation in metropolitan areas shall be carried out, from the approved transportation improvement program—

"(i) by—

"(I) in the case of projects under this chapter, the State; and

"(II) in the case of projects under chapter 53 of title 49, the designated transit funding recipients; and

"(ii) in cooperation with the metropolitan planning organization.

"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

"(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

"(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

"(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved transportation improvement program.

"(7) PUBLICATION.—

"(A) PUBLICATION OF TRANSPORTATION IMPROVEMENT PROGRAMS.—A transportation improvement program involving Government participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

"(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the transportation improvement program.".

(i) TRANSPORTATION MANAGEMENT AREAS.—

(1) REQUIRED DESIGNATIONS.—Section 134(i)(1) of such title is amended to read as follows:

"(1) DESIGNATION.—

"(A) REQUIRED DESIGNATIONS.—The Secretary shall designate as a transportation management area each urbanized area with a population of over 200,000 individuals.

"(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.".

(2) SELECTION OF PROJECTS.—Section 134(i)(4) of such title is amended to read as follows:

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a transportation management area under this title (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 of title 49 shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.".

(3) CERTIFICATION.—Section 134(i)(5) of such title is amended to read as follows:

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process in each transportation management area is being carried out in accordance with applicable provisions of Federal law; and

"(ii) subject to subparagraph (B), certify, not less often than once every 3 years, that the requirements of this paragraph are met with respect to the transportation management area.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

"(ii) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor.

"(C) EFFECT OF FAILURE TO CERTIFY.—

"(i) WITHHOLDING OF FUNDS.—If a metropolitan planning process is not certified, the Secretary may withhold up to 20 percent of the apportioned funds attributable to the transportation management area under this title and chapter 53 of title 49.

"(ii) RESTORATION OF WITHHELD FUNDS.—The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.

"(iii) FEASIBILITY OF PRIVATE ENTERPRISE PARTICIPATION.—The Secretary shall not withhold certification under this paragraph based on the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 5306(a) of title 49.

"(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.".

(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—Section 134(j) of such title is amended to read as follows:

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated long-range transportation plan and transportation improvement program for the metropolitan area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or programs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).".

(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—Section 134(l) of such title is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(1) IN GENERAL.—Notwithstanding"; and

(2) by adding at the end the following:

"(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).".

(l) FUNDING.—Section 134(n) of such title is amended to read as follows:

"(n) FUNDING.—

"(1) IN GENERAL.—Funds set aside under section 104(f) of this title to carry out sections 5303 through 5305 of title 49 shall be available to carry out this section.

"(2) UNUSED FUNDS.—Any funds that are not used to carry out this section may be made available by the metropolitan planning organization to the State to fund activities under section 135.".

(m) CONTINUATION OF CURRENT REVIEW PRACTICE.—Section 134 of such title is amended by adding at the end the following:

"(o) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

(n) TECHNICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 134 and inserting the following:

"134. Metropolitan planning.".

SEC. 1204. STATEWIDE PLANNING.

(a) GENERAL REQUIREMENTS.—Section 135(a) of title 23, United States Code, is amended to read as follows:

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 134 of this title and sections 5303 through 5305 of title 49, each State shall develop transportation plans and programs for all areas of the State.

"(3) CONTENTS.—The plans and programs for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

"(4) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.".

(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—Section 135(b) of such title is amended by inserting after "of this title" the following: "and sections 5303 through 5305 of title 49".

(c) SCOPE OF PLANNING PROCESS.—Section 135(c) of such title is amended to read as follows:

"(c) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—Each State shall carry out a transportation planning process that provides for consideration of projects and strategies that will—

"(A) support the economic vitality of the United States, the States, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

"(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

"(C) increase the accessibility and mobility options available to people and for freight;

"(D) protect and enhance the environment, promote energy conservation, and improve quality of life;

"(E) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

"(F) promote efficient system management and operation; and

"(G) emphasize the preservation of the existing transportation system.

"(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.".

(d) ADDITIONAL REQUIREMENTS.—Section 135(d) of such title is amended to read as follows:

"(d) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall, at a minimum, consider—

"(1) with respect to nonmetropolitan areas, the concerns of local elected officials representing units of general purpose local government;

"(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordination of transportation plans, programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas.".

(e) LONG-RANGE TRANSPORTATION PLAN.—Section 135(e) of such title is amended to read as follows:

"(e) LONG-RANGE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—Each State shall develop a long-range transportation plan, with a minimum 20-year forecast period, for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the long-range transportation plan shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5303 of title 49.

"(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area, the long-range transportation plan shall be developed in consultation with affected local officials with responsibility for transportation.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the long-range transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the long-range transportation plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, representatives of users of public transit, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

"(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(4) FINANCIAL PLAN.—The long-range transportation plan may include a financial plan that demonstrates how the adopted long-range transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (4), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (4).".

(f) STATE TRANSPORTATION IMPROVEMENT PROGRAM.—Section 135(f) of such title is amended to read as follows:

"(f) STATE TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—Each State shall develop a transportation improvement program for all areas of the State.

"(B) CONSULTATION WITH GOVERNMENTS.—

"(i) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5303 of title 49.

"(ii) NONMETROPOLITAN AREAS.—

"(I) IN GENERAL.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected local officials with responsibility for transportation.

"(II) REVIEW.—Not later than 1 year after the date of enactment of this subclause, the State shall submit to the Secretary the details of the consultative planning process developed by the State for nonmetropolitan areas under subclause (I). The Secretary shall not review or approve such process.

"(iii) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(C) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(2) INCLUDED PROJECTS.—

"(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) CHAPTER 2 PROJECTS.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be—

"(i) consistent with the long-range transportation plan developed under this section for the State;

"(ii) identical to the project as described in an approved metropolitan transportation improvement program; and

"(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under such Act.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(E) FINANCIAL PLAN.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(F) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

"(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (E), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (E).

"(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (E) for inclusion in an approved transportation improvement program.

"(G) PRIORITIES.—The program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this title.

"(3) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

"(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) shall be selected, from the approved statewide transportation improvement program, by the State in cooperation with the affected local officials.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out in areas described in subparagraph (A) on the National Highway System and projects carried out in such areas under the bridge program or the Interstate maintenance program shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected local officials.

"(4) BIENNIAL REVIEW AND APPROVAL.—A transportation improvement program developed under this subsection shall be reviewed and, on a finding that the planning process through which the program was developed is consistent with this section, section 134, and sections 5303 through 5305 of title 49, approved not less frequently than biennially by the Secretary.

"(5) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved statewide transportation improvement program in place of another project in the program.".

(g) FUNDING.—Section 134(g) of such title is amended by striking "section 307(c)(1)" and inserting "section 505(a)".

(h) CONTINUATION OF CURRENT REVIEW PRACTICE.—Section 135 of such title is amended by adding at the end the following:

"(i) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

(i) PARTICIPATION OF LOCAL ELECTED OFFICIALS.—

(1) STUDY.—The Secretary shall conduct a study on the effectiveness of the participation of local elected officials in transportation planning and programming. In conducting the study, the Secretary shall consider the degree of cooperation between each State, local officials in rural areas in the State, and regional planning and development organizations in the State.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study with any recommendations the Secretary determines appropriate as a result of the study.

SEC. 1205. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

(a) CONTRACTING PROCEDURES.—Section 112(b)(2) of title 23, United States Code, is amended in clauses (i) and (ii) of subparagraph (B) by striking ", except to" each place it appears and all that follows through the period at the end and inserting a period.

(b) SELECTION PROCESS.—Section 112 of title 23, United States Code, is amended by adding at the end the following:

"(g) SELECTION PROCESS.—A State may procure, under a single contract, the services of a consultant to prepare any environmental impact assessments or analyses required for a project, including environmental impact statements, as well as subsequent engineering and design work on the project if the State conducts a review that assesses the objectivity of the environmental assessment, environmental analysis, or environmental impact statement prior to its submission to the Secretary.".

SEC. 1206. ACCESS OF MOTORCYCLES.

Section 102 of title 23, United States Code, is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

"(b) ACCESS OF MOTORCYCLES.—No State or political subdivision of a State may enact or enforce a law that applies only to motorcycles and the principal purpose of which is to restrict the access of motorcycles to any highway or portion of a highway for which Federal-aid highway funds have been utilized for planning, design, construction, or maintenance. Nothing in this subsection shall affect the authority of a State or political subdivision of a State to regulate motorcycles for safety.".

SEC. 1207. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) FERRY OPERATING AND LEASING AMENDMENTS.—Section 129(c)(3) of title 23, United States Code, is amended by striking "owned." and inserting "owned or operated or majority publicly owned if the Secretary determines with respect to a majority publicly owned ferry or ferry terminal facility that such ferry boat or ferry terminal facility provides substantial public benefits."; and

(b) REAUTHORIZATION.—Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005) is amended—

(1) in the second sentence of subsection (c) by striking "Such sums" and inserting "Sums made available to carry out this section";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (c) the following:

"(d) SET-ASIDE FOR PROJECTS ON NHS.—

"(1) IN GENERAL.—$20,000,000 of the amount made available to carry out this section for each of fiscal years 1999 through 2003 shall be obligated for the construction or refurbishment of ferry boats and ferry terminal facilities and approaches to such facilities within marine highway systems that are part of the National Highway System.

"(2) ALASKA.—$10,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Alaska.".

"(3) NEW JERSEY.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of New Jersey.".

"(4) WASHINGTON.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Washington.".

(c) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of ferry transportation in the United States and its possessions—

(A) to identify existing ferry operations, including—

(i) the locations and routes served; and

(ii) the source and amount, if any, of funds derived from Federal, State, or local government sources supporting ferry construction or operations;

(B) to identify potential domestic ferry routes in the United States and its possessions and to develop information on those routes; and

(C) to identify the potential for use of high-speed ferry services and alternative-fueled ferry services.

(2) REPORT.—The Secretary shall submit a report on the results of the study to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 1208. TRAINING.

(a) TRAINING POSITIONS FOR WELFARE RECIPIENTS.—Section 140(a) of title 23, United States Code, is amended by inserting after the third sentence the following: "In implementing such programs, a State may reserve training positions for persons who receive welfare assistance from such State; except that the implementation of any such program shall not cause current employees to be displaced or current positions to be supplanted or preclude workers that are participating in an apprenticeship, skill improvement, or other upgrading program registered with the Department of Labor or the appropriate State agency from being referred to, or hired on, projects funded under this title without regard to the length of time of their participation in such program.".

(b) HIGHWAY TRAINING.—Section 140(b) of such title is amended—

(1) in the first sentence—

(A) by inserting "and technology" after "construction"; and

(B) by inserting after "programs" the following: ", and to develop and fund summer transportation institutes"; and

(2) in the second sentence by striking "104(b)" and inserting "104(b)(3)".

(c) SUPPORTIVE SERVICES.—Section 140(c) of such title is amended by striking "104(a)" and inserting "104(b)(3)".

SEC. 1209. USE OF HOV LANES BY INHERENTLY LOW-EMISSION VEHICLES.

Section 102(a) of title 23, United States Code, is amended—

(1) by striking "A State" and inserting the following:

"(1) IN GENERAL.—A State";

(2) by adding at the end the following:

"(2) EXCEPTION FOR INHERENTLY LOW-EMISSION VEHICLES.—Notwithstanding paragraph (1), before September 30, 2003, a State may permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicle is certified as an Inherently Low-Emission Vehicle pursuant to title 40, Code of Federal Regulations, and is labeled in accordance with, section 88.312–93(c) of such title. Such permission may be revoked by the State should the State determine it necessary."; and

(3) by aligning the remainder of paragraph (1) (as designated by paragraph (1) of this subsection) with paragraph (2) (as added by paragraph (2) of this subsection).

SEC. 1210. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish an advanced travel forecasting procedures program—

(1) to provide for completion of the advanced transportation model developed under the Transportation Analysis Simulation System (referred to in this section as "TRANSIMS"); and

(2) to provide support for early deployment of the advanced transportation modeling computer software and graphics package developed under TRANSIMS and the program established under this section to States, local governments, and metropolitan planning organizations with responsibility for travel modeling.

(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available under this section to—

(1) provide funding for completion of core development of the advanced transportation model;

(2) develop user-friendly advanced transportation modeling computer software and graphics packages;

(3) provide training and technical assistance with respect to the implementation and application of the advanced transportation model to States, local governments, and metropolitan planning organizations with responsibility for travel modeling; and

(4) allocate funds to not more than 12 entities described in paragraph (3), representing a diversity of populations and geographic regions, for a pilot program to enable transportation management areas designated under section 134(i) of title 23, United States Code, to convert from the use of travel forecasting procedures in use by the areas as of the date of enactment of this Act to the use of the advanced transportation model.

(c) FUNDING.—

(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for fiscal year 1998, $3,000,00C for fiscal year 1999, $6,500,000 for fiscal year 2000, $5,000,000 for fiscal year 2001, $4,000,000 for fiscal year 2002, and $2,500,000 for fiscal year 2003.

(2) ALLOCATION OF FUNDS.—

(A) FISCAL YEARS 1998 AND 1999.—For each of fiscal years 1998 and 1999, 100 percent of the funds made available under paragraph (1) shall be allocated to activities in described in paragraphs (1), (2), and (3) of subsection (b).

(B) FISCAL YEARS 2000 THROUGH 2003.—For each of fiscal years 2000 through 2003, not more than 50 percent of the funds made available under paragraph (1) may be allocated to activities described in subsection (b)(4).

(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of—

(A) any activity described in paragraph (1), (2), or (3) of subsection (b) shall not exceed 100 percent; and

(B) any activity described in subsection (b)(4) shall not exceed 80 percent.

SEC. 1211. AMENDMENTS TO PRIOR SURFACE TRANSPORTATION LAWS.

(a) PENNSYLVANIA STATION REDEVELOPMENT CORPORATION BOARD OF DIRECTORS.—Section 1069(gg) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 593 et seq.) is amended by adding at the end the following:

"(3) PENNSYLVANIA STATION REDEVELOPMENT CORPORATION BOARD OF DIRECTORS.—In furtherance of the redevelopment of the James A. Farley Post Office in New York, New York, into an intermodal transportation facility and commercial center, the Secretary, the Administrator of the Federal Railroad Administration, or their designees are authorized to serve as ex officio members of the Board of Directors of the Pennsylvania Station Redevelopment Corporation.".

(b) UNION STATION REDEVELOPMENT CORPORATION BOARD OF DIRECTORS.—Subtitle B of title I of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 811 et seq.) is amended by adding at the end the following:

"SEC. 120. UNION STATION REDEVELOPMENT CORPORATION.

"To further the rehabilitation, redevelopment and operation of the Union Station complex, the Secretary of Transportation, the Administrator of the Federal Railroad Administration, or their designees are authorized to serve as ex officio members of the Board of Directors of the Union Station Redevelopment Corporation.

(c) SAFETY BELT USE LAW REQUIREMENTS.—Section 355 of the National Highway System Designation Act of 1995 (109 Stat. 624) is amended—

*(1) in the section heading by striking "**and MAINE**";*

(2) in subsection (a)—

(A) by striking "States of New Hampshire and Maine shall each" and inserting "State of New Hampshire shall"; and

(B) in paragraph (1) by striking "and 1996" and inserting "through 2000"; and

(3) by striking "or Maine" each place it appears.

(d) METRIC CONVERSION AT STATE OPTION.—Section 205(c)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 109 note; 109 Stat. 577) is amended by striking "Before September 30, 2000, the" and inserting "The".

(e) RIGHT-OF-WAY REVOLVING FUND.—

(1) TERMINATION.—Section 108 of title 23, United States Code, is amended—

(A) by striking subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(2) TRANSITION PROVISION.—

(A) IN GENERAL.—Funds advanced to a State by the Secretary from the right-of-way revolving fund established by section 108(c) of title 23, United States Code, prior to the date of enactment of this Act shall remain available to the State for use on the projects for which the funds were advanced for a period of 20 years from the date on which the funds were advanced.

(B) CREDIT TO HIGHWAY TRUST FUND.—With respect to a project for which funds have been advanced from the right-of-way revolving fund, upon the termination of the 20-year period referred to in subparagraph (A), when actual construction is commenced, or upon approval by the Secretary of the plans, specifications, and estimates for the actual construction of the project on the right-of-way, whichever occurs first—

(i) the Highway Trust Fund (other than the Mass Transit Account) shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120 of title 23, United States Code, out of any Federal-aid highway funds apportioned to the State in which the project is located and available for obligation for projects of the type funded; and

(ii) the State shall reimburse the Secretary in an amount equal to the non-Federal share of the funds advanced for deposit in, and credit to, the Highway Trust Fund (other than the Mass Transit Account).

(g) PILOT TOLL COLLECTION PROGRAM.—Section 129 of title 23, United States Code, is amended by striking subsection (d).

(h) CONGRESSIONAL BRIDGE COMMISSIONS.—Public Law 87–441 (76 Stat. 59) is repealed.

(i) ISTEA HIGH PRIORITY CORRIDORS.—

(1) IN GENERAL.—Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032–2033) is amended—

(A) by striking paragraph (5)(B)(iii)(I)(ff) and inserting the following:

"(ff) South Carolina State line to the Myrtle Beach Conway region to Georgetown, South Carolina, including a connection to Andrews following the route 41 corridor and to Camden following the U.S. Route 521 corridor; and";

(B) by striking paragraph (5)(B)(iii)(II)(hh) and inserting the following:

"(hh) South Carolina State line to the Myrtle Beach Conway region to Georgetown, South Carolina.";

(C) in paragraph (9) by inserting after "New York" the following: ", including United States Route 322 between United States Route 220 and I–80";

(D) in paragraph (18)—

(i) by striking "(18) Corridor from Indianapolis," and inserting the following:

"(18) Corridor from Sarnia, Ontario, Canada, through Port Huron, Michigan, southwesterly along Interstate Route 69 through Indianapolis,"; and

(ii) by striking "and to include" and inserting the following: "as follows:

"(A) In Michigan, the corridor shall be from Sarnia, Ontario, Canada, southwesterly along Interstate Route 94 to the Ambassador Bridge interchange in Detroit, Michigan.

"(B) In Michigan and Illinois, the corridor shall be from Windsor, Ontario, Canada, through Detroit, Michigan, westerly along Interstate Route 94 to Chicago, Illinois.

"(C) In Tennessee, Mississippi, Arkansas, and Louisiana, the Corridor shall—

"(i) follow the alignment generally identified in the Corridor 18 Special Issues Study Final Report; and

"(ii) include a connection between the Corridor in the vicinity of Monticello, Arkansas, to Pine Bluff, Arkansas.

"(D) In the Lower Rio Grande Valley, the Corridor shall—

"(i) include United States Route 77 from the Rio Grande River to Interstate Route 37 at Corpus Christi, Texas, and then to Victoria, Texas, via United States Route 77;

"(ii) include United States Route 281 from the Rio Grande River to Interstate Route 37 and then to Victoria, Texas, via United States Route 59; and

"(iii) include";

(E) in paragraph (21) by striking "United States Route 17 in the vicinity of Salamanca, New York" and inserting "Interstate Route 80";

(F) by inserting ", including I–29 between Kansas City and the Canadian border" before the period at the end of paragraph (23); and

(G) by inserting after paragraph (29) the following:

"(30) Interstate Route 5 in the States of California, Oregon, and Washington, including

California State Route 905 between Interstate Route 5 and the Otay Mesa Port of Entry.

"(31) The Mon-Fayette Expressway and Southern Beltway in Pennsylvania and West Virginia.

"(32) The Wisconsin Development Corridor from the Iowa, Illinois, and Wisconsin border near Dubuque, Iowa, to the Upper Mississippi River Basin near Eau Claire, Wisconsin, as follows:

"(A) United States Route 151 from the Iowa border to Fond du Lac via Madison, Wisconsin, then United States Route 41 from Fond du Lac to Marinette via Oshkosh, Appleton, and Green Bay, Wisconsin.

"(B) State Route 29 from Green Bay to I–94 via Wausau, Chippewa Falls, and Eau Claire, Wisconsin.

"(C) United States Route 10 from Appleton to Marshfield, Wisconsin.

"(33) The Capital Gateway Corridor following United States Route 50 from the proposed intermodal transportation center connected to I–395 in Washington, D.C., to the intersection of United States Route 50 with Kenilworth Avenue and the Baltimore-Washington Parkway in Maryland.

"(34) The Alameda Corridor East and Southwest Passage, California. The Alameda Corridor East is generally described as 52.8 miles from east Los Angeles (terminus of Alameda Corridor) through the San Gabriel Valley terminating at Colton Junction in San Bernardino. The Southwest Passage shall follow I–10 from San Bernardino to the Arizona State line and I–8 from San Diego to the Arizona State line.

"(35) Everett-Tacoma FAST Corridor.

"(36) New York and Pennsylvania State Route 17 from Harriman, New York, to its intersection with I–90 in Pennsylvania.

"(37) United States Route 90 from I–49 in Lafayette, Louisiana, to I–10 in New Orleans.

"(38) The Ports-to-Plains Corridor from the Mexican Border via I–27 to Denver, Colorado.

"(39) United States Route 63 from Marked Tree, Arkansas, to I–55.

"(40) The Greensboro Corridor from Danville, Virginia, to Greensboro, North Carolina, along United States Route 29.

"(41) The Falls-to-Falls Corridor—United States Route 53 from International Falls on the Minnesota/Canada border to Chippewa Falls, Wisconsin.

"(42) The portion of Corridor V of the Appalachian development highway system from Interstate Route 55 near Batesville, Mississippi, to the intersection with Corridor X of the Appalachian development highway system near Fulton, Mississippi, and the portion of Corridor X of the Appalachian development highway system from near Fulton, Mississippi, to the intersection with Interstate Route 65 near Birmingham, Alabama.

"(43) The United States Route 95 Corridor from the Canadian border at Eastport, Idaho, to the Oregon State border.".

(2) PROVISIONS APPLICABLE TO CORRIDORS.—Section 1105(e)(5)(A) of such Act is amended—

(A) by inserting after "referred to" the first place it appears the following: "in subsection (c)(1),";

(B) by striking "and" the second place it appears; and

(C) by inserting after "(c)(20)" the following: ", in subsection (c)(36), in subsection (c)(37), in subsection (c)(40), and in subsection (c)(42)".

(3) ROUTES.—Section 1105(e)(5) of such Act is further amended—

(A) in subparagraph (A) by inserting "(except with respect to Georgetown County)" before "(iii)";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following:

"(B) ROUTES.—

"(i) DESIGNATION.—The routes referred to in subsections (c)(18) and (c)(20) shall be designated as Interstate Route I–69. A State having jurisdiction over any segment of routes referred to in subsections (c)(18) and (c)(20) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route I–69, including segments of United States Route 59 in the State of Texas. The segment identified in subsection (c)(18)(B)(i) shall be designated as Interstate Route I–69 East, and the segment identified in subsection (c)(18)(B)(ii) shall be designated as Interstate Route I–69 Central. The State of Texas shall erect signs identifying such routes as segments of future Interstate Route I–69.

"(ii) RULEMAKING TO DETERMINE FUTURE INTERSTATE SIGN ERECTION CRITERIA.—The Secretary shall conduct a rulemaking to determine the appropriate criteria for the erection of signs for future routes on the Interstate System identified in subparagraph (A). Such rulemaking shall be undertaken in consultation with States and local officials and shall be completed not later than December 31, 1998.";

(D) by striking the last sentence of subparagraph (A) and inserting it as the first sentence of subparagraph (B)(i) (as inserted by subparagraph (C) of this paragraph); and

(E) in subparagraph (D) (as redesignated by subparagraph (B) of this paragraph), by striking "(C)" and inserting "(D)".

(j) WINTER HOME HEATING OIL DELIVERY.—Section 346 of the National Highway System Designation Act of 1995 (109 Stat. 615–616) is amended—

(1) in subsection (a) by striking "season in the 6-month period beginning on November 1, 1996" and inserting "seasons in the 18-month period beginning on November 1, 1998"; and

(2) by adding at the end the following:

"(g) STUDY.—Not later than 1 year after the completion of the pilot program, the Secretary shall submit to Congress a report on the results of the program, including an assessment of any impact on public safety.".

(k) FUTURE CORRIDOR SEGMENT.—

(1) STUDY.—The Secretary shall conduct a study to determine the feasibility of providing an Interstate quality road for a route that runs in south/west direction generally along United States Route 61 and crosses the Mississippi River in the vicinity of Memphis, Tennessee, to Highway 79 and generally follows Highway 79 to Pine Bluff, Arkansas.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $500,000 for fiscal year 1999 to carry out the study.

(3) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

(l) BATON ROUGE, LOUISIANA.—

(1) REDUCTION IN SCOPE OF PROJECT.—Section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181–198) is amended in paragraph (47)(B)—

(A) by inserting "and" after the semicolon at the end of clause (i);

(B) by striking "; and" at the end of clause (ii) and inserting a period; and

(C) by striking clause (iii).

(2) APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, the project described in section 149(a)(47)(B) of such Act shall be subject to any limitation on obligations for Federal-aid highway and highway safety construction programs.

(m) AMENDMENTS TO SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982.—Section 146 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2130), relating to lane restrictions, is repealed.

(n) SUBSTITUTE PROJECT.—Section 1045 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1994) is amended in subsection (a)—

(1) by striking "(a) APPROVAL OF PROJECT.—Notwithstanding" and inserting the following:

"(a) APPROVAL OF PROJECT.—

"(1) Notwithstanding"; and

(2) by adding at the end the following new paragraph:

"(2) Notwithstanding paragraph (1) and subsection (c) of this section, upon the request of the Governor of the State of Wisconsin, submitted by October 1, 2000, the Secretary shall approve 1 or more substitute projects in lieu of the substitute project approved by the Secretary under paragraph (1) and subsection (c) of this section.".

SEC. 1212. MISCELLANEOUS.

(a) STATE TRANSPORTATION DEPARTMENT.—

(1) IN GENERAL.—Section 302 of title 23, United States Code, is amended—

(A) in subsection (a) by striking the second sentence; and

(B) by striking subsection (b) and inserting the following:

"(b) EFFECT OF COMPLIANCE.—Compliance with subsection (a) shall have no effect on the eligibility of costs.".

(2) CHANGE IN TERM DEFINED.—

(A) IN GENERAL.—Title 23, United States Code, is amended—

(i) by striking "State highway department" each place it appears and inserting "State transportation department"; and

(ii) by striking "State highway departments" each place it appears and inserting "State transportation departments".

(B) CONFORMING AMENDMENTS.—

(i) The analysis for chapter 3 of title 23, United States Code, is amended in the item relating to section 302 by striking "highway" and inserting "transportation".

*(ii) Section 302 of title 23, United States Code, is amended in the section heading by striking "****highway****" and inserting "****transportation****".*

(iii) Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the second sentence by striking "State highway department" and inserting "State transportation department".

(iv) Section 138(c) of the Surface Transportation Assistance Act of 1978 (40 U.S.C. App. (note to section 201 of the Appalachian Regional Development Act of 1965); 92 Stat. 2710) is amended in the first sentence—

(I) by striking "Federal-aid primary system" and inserting "National Highway System"; and

(II) by striking "State highway department" and inserting "State transportation department".

(b) INFRASTRUCTURE AWARENESS PROGRAM.—

(1) IN GENERAL.—The Secretary is authorized to fund the production, in cooperation with a not-for-profit national public television station and the National Academy of Engineering, of a documentary about infrastructure that shall demonstrate how public works and infrastructure projects stimulate job growth and the economy and contribute to the general welfare of the Nation.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of the cost of production of the documentary shall be 60 percent. The non-Federal share shall be provided from private sources and shall include amounts expended by such sources for the production before the date of enactment of this Act.

(B) CALCULATION.—The calculation of the Federal and non-Federal shares under this

paragraph shall be made over the term for which sums are authorized to be appropriated under paragraph (3).

(3) FUNDING.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $888,000 for fiscal year 1998, and $1,000,000 for each of fiscal years 1999 and 2000. Such funds shall remain available until expended.

(4) APPLICABILITY OF TITLE 23.—Funds authorized by this paragraph shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this subsection and the availability of funds authorized by this subsection shall be determined in accordance with this subsection.

(c) MASS TRANSPORTATION BUSES.—Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note) is amended by striking "the date on which" and all that follows through "1995" and inserting "October 1, 2003".

(d) VEHICLE WEIGHT LIMITATIONS.

(1) IN GENERAL.—Section 127(a) of title 23, United States Code, is amended—

(A) by inserting before the next to the last sentence the following: "With respect to the State of Colorado, vehicles designed to carry 2 or more precast concrete panels shall be considered a nondivisible load."; and

(B) by adding at the end the following: "The State of Louisiana may allow, by special permit, the operation of vehicles with a gross vehicle weight of up to 100,000 pounds for the hauling of sugarcane during the harvest season, not to exceed 100 days annually. With respect to Interstate Route 95 in the State of New Hampshire, State laws (including regulations) concerning vehicle weight limitations that were in effect on January 1, 1987, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection. With respect to that portion of the Maine Turnpike designated Interstate Route 95 and 495, and that portion of Interstate Route 95 from the southern terminus of the Maine Turnpike to the New Hampshire State line, laws (including regulations) of the State of Maine concerning vehicle weight limitations that were in effect on October 1, 1995, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection.".

(2) STUDIES.—

(A) COLORADO.—

(i) IN GENERAL.—In consultation with the Secretary, the State of Colorado shall conduct a study analyzing the economic, safety, and infrastructure impacts of the exemption provided by the amendment made by paragraph (1)(A), including the impact of not having such an exemption. In preparing the study, the State shall provide adequate opportunity for public comment.

(ii) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $200,000 for fiscal year 1999 to carry out the study.

(B) LOUISIANA.—

(i) IN GENERAL.—In consultation with the Secretary, the State of Louisiana shall conduct a study analyzing the economic, safety, and infrastructure impacts of the exemption provided by the amendment made by paragraph (1)(B), including the impact of not having such an exemption. In preparing the study, the State shall provide adequate opportunity for public comment.

(ii) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $200,000 for fiscal year 1999 to carry out the study.

(C) MAINE.—

(i) IN GENERAL.—In consultation with the Secretary, the State of Maine shall conduct a study analyzing the economic, safety, and infrastructure impacts of the exemption provided by the amendment made by paragraph (1)(B), including the impact of not having such an exemption. In preparing the study, the State shall provide adequate opportunity for public comment.

(ii) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $200,000 for fiscal year 1999 to carry out the study.

(D) NEW HAMPSHIRE.—

(i) IN GENERAL.—In consultation with the Secretary, the State of New Hampshire shall conduct a study analyzing the economic, safety, and infrastructure impacts of the exemption provided by the amendment made by paragraph (1)(B), including the impact of not having such an exemption. In preparing the study, the State shall provide adequate opportunity for public comment.

(ii) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $200,000 for fiscal year 1999 to carry out the study.

(E) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized by this paragraph shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.

(k) DRIVER TRAINING AND SAFETY CENTER.—

(1) IN GENERAL.—The Secretary shall make grants to establish a driver training and safety center at Connellsville, Pennsylvania.

(2) PURPOSE.—The purpose of the facility shall be to train and enhance the driving skills of motor vehicle and emergency vehicle operators.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $2,500,000 for each of fiscal years 1999 through 2001;

(4) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the funds shall remain available until expended.

(l) OHIO RIVER WELCOME CENTER.—

(1) IN GENERAL.—The Secretary shall make grants to establish a welcome center in Point Pleasant, West Virginia.

(2) ACCESS.—The center shall be accessible by motor vehicle, bicycle, pedestrian walkway, and river transportation.

(3) FACILITIES.—The center shall include a comfort station, picnic and sitting plaza, a small amphitheater, a deep river port, a marina, and a walking trail.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $412,900 for fiscal year 1999, $1,362,500 for fiscal year 2000, and $699,500 for fiscal year 2001.

(5) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of activities carried out using the funds shall be 50 percent and the funds shall remain available until expended.

(m) PROJECT FLEXIBILITY FOR MINNESOTA.—Notwithstanding any other provision of law, funds allocated for a project in the State of Minnesota under section 117 of title 23, United States Code, may be obligated for any other project in the State for which funds are so allocated; except that the total amount of funds authorized for any project for which funds are so allocated shall not be reduced.

(n) BALTIMORE WASHINGTON PARKWAY.—Notwithstanding any other provision of law, the Federal share of the cost of a project for which funds are allocated under section 117 of title 23, United States Code, for renovation and construction of the Baltimore Washington Parkway in Prince Georges County, Maryland, shall be 100 percent.

(o) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to a national, not-for-profit organization engaged in promoting bicycle and pedestrian safety—

(A) to operate a national bicycle and pedestrian clearinghouse;

(B) to develop information and educational programs; and

(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $500,000 for each of fiscal years 1998 through 2003.

(E) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

(p) HEAVY EQUIPMENT OPERATOR TRAINING FACILITY.—

(1) ESTABLISHMENT.—The Secretary shall establish a heavy equipment operator training facility in Hibbing, Minnesota. The purpose of the facility shall be to develop an appropriate curriculum for training, and to train operators and future operators of heavy equipment in the safe use of such equipment.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $500,000 for each of fiscal years 1998 and 1999 to carry out this subsection.

(3) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of establishment of the facility under this subsection shall be 80 percent and such funds shall remain available until expended.

(q) MOTOR CARRIER OPERATOR VEHICLE AND TRAINING FACILITY.—

(1) ESTABLISHMENT.—The Secretary shall make grants to the State of Pennsylvania to establish and operate an advanced tractor trailer safety and operator training facility in Chambersburg, Pennsylvania. The purpose of the facility shall be to develop and coordinate an advance curriculum for the training of operators and future operators of tractor trailers. The facility shall conduct training on the test track at Letterkenny Army Depot and the unused segment of the Pennsylvania Turnpike located in Bedford County, Pennsylvania. The facility shall be operated by a not-for-profit entity and, when Federal assistance is no longer being provided with respect to the facility, shall be privately operated.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $500,000 for each of fiscal years 1998 through 2003 to carry out this subsection.

(3) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be

available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended and the Federal share of the cost of establishment and operation of the facility under this subsection shall be 80 percent.

(r) High Priority Las Vegas Intermodal Center.—

(1) In general.—The Secretary shall provide $2,000,000 for fiscal year 1999 and $2,500,000 for fiscal year 2000 for the High Priority Las Vegas Intermodal Center in Las Vegas, Nevada.

(2) Applicability of title 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(s) Seismic Design.—

(1) In general.—The Secretary shall provide—

(A) $8,000,000 for fiscal year 1999 for seismic design and engineering of the Mississippi/Arkansas Great River Bridge;

(B) $8,000,000 for fiscal year 1999 to the State of Missouri for seismic design and deployment; and

(C) $7,000,000 for fiscal year 1999 to the State of Arkansas for seismic design and deployment.

(2) Applicability of title 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(t) Biloxi Harbor, Mississippi.—The portion of the project for navigation, Biloxi Harbor, Mississippi, authorized by the River and Harbor Act of 1960 (74 Stat. 481), for the Bernard Bayou Channel beginning near the Air Force Oil Terminal at approximately navigation mile 2.6 and extending downstream to the North-South ½ of Section 30, Township 7 South, Range 10 West, Harrison County, Mississippi, just west of Kremer Boat Yards, is not authorized after the date of enactment of this Act.

(u) Clarification.—Notwithstanding any other provision of law, the State of Pennsylvania is authorized to proceed with engineering, final design, and construction of Corridor O of the Appalachian development highway system between Bald Eagle and Interstate Route 80. All records of decision relating to Corridor O issued prior to the date of enactment of this Act shall remain in effect.

(v) Limitation on Statutory Construction.—Nothing in this Act shall be construed to prevent the operation of motorized vehicles to transport boats across the portages between the Moose Lake Chain and Basswood Lake, Minnesota, and between Vermilion Lake and Trout Lake, Minnesota.

(w) Miscellaneous Projects.—

(1) Replacement of roslyn viaduct.—

(A) Project.—The Secretary is authorized to carry out a project for replacement of a segment of the Roslyn elevated highway (NY25A) on Long Island, New York.

(B) Authorization.—There is authorized to be appropriated to carry out this paragraph $51,000,000 for fiscal years beginning after September 30, 1998. Such sums shall remain available until expended.

(2) Design and engineering for miller highway.—

(A) Project.—The Secretary is authorized to carry out a project for design and engineering of the Miller Highway on the west side of Manhattan, New York.

(B) Authorization.—There is authorized to be appropriated to carry out this paragraph $15,000,000 for fiscal years beginning after September 30, 1998. Such sums shall remain available until expended.

(3) Williamsville toll barrier.—

(A) Project.—The Secretary is authorized to carry out a project to relocate a toll barrier complex to relieve traffic congestion in the Buffalo, New York, area.

(B) Authorization.—There is authorized to be appropriated to carry out this paragraph $20,000,000 for fiscal years beginning after September 30, 1998. Such sums shall remain available until expended.

(x) St. Georges, Delaware.—The Secretary of the Army shall transfer all right, title, and interest of the United States in the highway bridge on United States Route 13 in the vicinity of St. Georges, Delaware, to the State of Delaware if the transfer is necessary to facilitate retransfer to a private entity for the purpose of demonstrating the effectiveness and efficiency of the use of large-scale composites technology for bridge rehabilitation. In evaluating the level of service for all Federal crossings over the Chesapeake and Delaware Canal in Delaware, the total vehicle trips per day on this transferred bridge shall be attributed to the remaining Federal crossing at St. Georges, Delaware (the SR1 Bridge). If the transfer is completed within 180 days after the date of enactment of this Act, the Secretary shall provide $10,000,000 to the State for the State to use in rehabilitating the bridge.

(y) Mount Paran Interchange Project for Interstate Route 75.—Notwithstanding any other provision of law, none of the funds made available under this Act or title 23, United States Code, shall be used to carry out a project to construct or improve the Mount Paran interchange on Interstate Route 75 in Georgia unless the Atlanta Regional Commission approves the project after the date of enactment of this Act.

(z) Nittany Parkway.—The Secretary shall designate 31 miles of Pennsylvania State Route 26 between Huntingdon, Pennsylvania, and State College, Pennsylvania, as the Nittany Parkway.

SEC. 1213. STUDIES AND REPORTS.

(a) Highway Economic Requirement System.—

(1) Methodology.—

(A) Evaluation.—The Comptroller General of the United States shall conduct an evaluation of the methodology used by the Department of Transportation to determine highway needs using the highway economic requirement system (in this subsection referred to as the "model").

(B) Required element.—The evaluation shall include an assessment of the extent to which the model estimates an optimal level of highway infrastructure investment, including an assessment as to when the model may be overestimating or underestimating investment requirements.

(C) Report to congress.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the evaluation.

(2) State investment plans.—

(A) Study.—In consultation with State transportation departments and other appropriate State and local officials, the Comptroller General of the United States shall conduct a study on the extent to which the model can be used to provide States with useful information for developing State transportation investment plans and State infrastructure investment projections.

(B) Required elements.—The study shall—

(i) identify any additional data that may need to be collected beyond the data submitted, before the date of enactment of this Act, to the Federal Highway Administration through the highway performance monitoring system; and

(ii) identify what additional work, if any, would be required of the Federal Highway Administration and the States to make the model useful at the State level.

(C) Report to congress.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

(b) International Roughness Index.—

(1) Study.—The Comptroller General of the United States shall conduct a study on the international roughness index that is used as an indicator of pavement quality on the Federal-aid highway system.

(2) Required elements.—The study shall specify the extent of usage of the index and the extent to which the international roughness index measurement is reliable across different manufacturers and types of pavement.

(3) Report to congress.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

(c) Use of Uniformed Police Officers on Federal-Aid Highway Construction Projects.—

(1) Study.—In consultation with the States, State transportation departments, and law enforcement organizations, the Secretary shall conduct a study on the extent and effectiveness of use by States of uniformed police officers on Federal-aid highway construction projects.

(2) Report.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study, including any legislative and administrative recommendations of the Secretary.

(d) Southwest Border Transportation Infrastructure.—

(1) Assessment.—The Secretary shall conduct a comprehensive assessment of the state of the transportation infrastructure on the southwest border between the United States and Mexico (in this subsection referred to as the "border").

(2) Consultation.—In carrying out the assessment, the Secretary shall consult with—

(A) the Secretary of State;

(B) the Attorney General;

(C) the Secretary of the Treasury;

(D) the Commandant of the Coast Guard;

(E) the Administrator of General Services;

(F) the American Commissioner on the International Boundary Commission, United States and Mexico;

(G) State agencies responsible for transportation and law enforcement in border States; and

(H) municipal governments and transportation authorities in sister cities in the border area.

(3) Requirements.—In carrying out the assessment, the Secretary shall—

(A) assess the flow of commercial and private traffic through designated ports of entry on the border;

(B) assess the adequacy of transportation infrastructure in the border area, including highways, bridges, railway lines, and border inspection facilities;

(C) assess the adequacy of law enforcement and narcotics abatement activities in the border area, as the activities relate to commercial and private traffic and infrastructure;

(D) assess future demands on transportation infrastructure in the border area; and

(E) make recommendations to facilitate legitimate cross-border traffic in the border area, while maintaining the integrity of the border.

(4) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the assessment conducted under this subsection, including any related legislative and administrative recommendations.

(e) Study of Procurement Practices and Project Delivery.—

(1) Study.—The Comptroller General shall conduct a study to assess the impact that a utility company's failure to relocate its facilities in a timely manner has on the delivery and cost of

Federal-aid highway and bridge projects. The study shall also assess the following:

(A) Methods States use to mitigate such delays, including the use of the courts to compel cooperation.

(B) The prevalence and use of incentives to utility companies for early completion of utility relocations on Federal-aid transportation project sites and, conversely, penalties assessed on utility companies for utility relocation delays on such projects.

(C) The extent to which States have used available technologies, such as subsurface utility engineering, early in the design of Federal-aid highway and bridge projects so as to eliminate or reduce the need for or delays due to utility relocations.

(D) Whether individual States compensate transportation contractors for business costs incurred by the contractors when Federal-aid highway and bridge projects under contract to them are delayed by utility-company-caused delays in utility relocations and any methods used by States in making any such compensation.

(2) Report.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study with any recommendations the Comptroller General determines appropriate as a result of the study.

(f) Specialized Hauling Vehicles.—

(1) Study.—The Secretary shall conduct a study to examine the impact of the truck weight standards on specialized hauling vehicles. The study shall include, at a minimum, an analysis of the economic, safety, and infrastructure impacts of the standards.

(2) Report.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study with any recommendations the Secretary determines appropriate as a result of the study.

(g) Study of State Practices on Specific Service Signing.—

(1) Study.—The Secretary shall conduct a study to determine the practices in the States for specific service food signs described in sections 2G–5.7 and 2G–5.8 of the Manual on Uniform Traffic Control Devices for Streets and Highways. The study shall examine, at a minimum—

(A) the practices of all States for determining businesses eligible for inclusion on such signs;

(B) whether States allow businesses to be removed from such signs and the circumstances for such removal;

(C) the practices of all States for erecting and maintaining such signs, including the time required for erecting such signs; and

(D) whether States contract out the erection and maintenance of such signs.

(2) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study, including any recommendations and, if appropriate modifications to the Manual.

(h) Vehicle Weight Enforcement.—

(1) Study.—The Secretary shall conduct a study of State laws (including regulations) relating to penalties for violation of State commercial motor vehicle weight laws.

(2) Purpose.—The purpose of the study shall be to determine the effectiveness of State penalties as a deterrent to illegally overweight trucking operations. The study shall evaluate fine structures, innovative roadside enforcement techniques, and a State's ability to penalize shippers and carriers as well as drivers and shall examine the effectiveness of administrative and judicial procedures utilized to enforce vehicle weight laws.

(3) Report.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study with any legislative recommendations of the Secretary.

(i) Commercial Motor Vehicle Study.—

(1) In general.—The Secretary shall request the Transportation Research Board of the National Academy of Sciences to conduct a study regarding the regulation of weights, lengths, and widths of commercial motor vehicles operating on Federal-aid highways to which Federal regulations apply on the date of enactment of this Act. In conducting the study, the Board shall review law, regulations, studies (including Transportation Research Board Special Report 225), and practices and develop recommendations regarding any revisions to law and regulations that the Board determines appropriate.

(2) Factors to consider and evaluate.—In developing recommendations under paragraph (1), the Board shall consider and evaluate the impact of the recommendations described in paragraph (1) on the economy, the environment, safety, and service to communities.

(3) Consultation.—In carrying out the study, the Board shall consult with the Department of Transportation, States, the motor carrier industry, freight shippers, highway safety groups, air quality and natural resource management groups, commercial motor vehicle driver representatives, and other appropriate entities.

(4) Report.—Not later than 2 years after the date of enactment of this Act, the Board shall transmit to Congress and the Secretary a report on the results of the study conducted under this subsection.

(5) Recommendations.—Not later than 180 days after the date of receipt of the report under paragraph (4), the Secretary may transmit to Congress a report containing comments or recommendations of the Secretary regarding the Board's report.

(6) Funding.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $250,000 for each of fiscal years 1999 and 2000 to carry out this subsection.

(7) Applicability of title 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the study under this subsection shall be 100 percent and such funds shall remain available until expended.

(j) Traffic Analysis.—

(1) In general.—The Secretary shall enter into an agreement with the State of Oklahoma to carry out a traffic analysis to determine the feasibility of a trade processing center. in McClain County, Oklahoma.

(2) Authorization.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,000,000 for fiscal year 1999.

(3) Applicability of title 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(k) Study of Interstate High Speed Ground Transportation.—

(1) Study.—The Secretary shall conduct a study to assess the feasibility of providing high speed rail passenger service from Atlanta,Georgia, to Charleston, South Carolina. The study shall also assess the potential impact of rail service on the tourism industry.

(2) Report.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and to the Committee on Environment and Public Works of the Senate a report on the results of the study, together with any recommendations the Secretary determines appropriate as a result of the study.

SEC. 1214. FEDERAL ACTIVITIES.

(a) Access to John F. Kennedy Center for the Performing Arts.—

(1) Study.—The Secretary, in cooperation with the District of Columbia, the John F. Kennedy Center for the Performing Arts, and the Department of the Interior and in consultation with other interested persons, shall conduct a study of methods to improve pedestrian and vehicular access to the John F. Kennedy Center for the Performing Arts.

(2) Report.—Not later than September 30, 1999, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing the results of the study with an assessment of the impacts (including environmental, aesthetic, economic, and historical impacts) associated with the implementation of each of the methods examined under the study.

(3) Authorization of appropriations.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $500,000 for fiscal year 1998.

(4) Applicability of title 23, United States Code.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities conducted using such funds shall be 100 percent and such funds shall remain available until expended.

(b) Smithsonian Institution Transportation Program.—

(1) In general.—The Secretary shall allocate amounts made available by this subsection for obligation at the discretion of the Secretary of the Smithsonian Institution, in consultation with the Secretary, to carry out projects and activities described in paragraph (2).

(2) Eligible uses.—Amounts allocated under paragraph (1) may be obligated only—

(A) for transportation-related exhibitions, exhibits, and educational outreach programs;

(B) to enhance the care and protection of the Nation's collection of transportation-related artifacts;

(C) to acquire historically significant transportation-related artifacts; and

(D) to support research programs within the Smithsonian Institution that document the history and evolution of transportation, in cooperation with other museums in the United States.

(3) Authorization of appropriations.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $1,000,000 for each of fiscal years 1998 through 2003 to carry out this subsection.

(4) Applicability of title 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity under this subsection shall be 100 percent and such funds shall remain available until expended.

(c) New River Visitor Center.—

(1) In general.—The Secretary shall allocate to the Secretary of the Interior amounts made available by this subsection for the planning, design, and construction of a visitor center, and such other related facilities as may be necessary, to facilitate visitor understanding and enjoyment of the scenic, historic, cultural, and recreational resources of the New River Gorge National River in the State of West Virginia.

The center and related facilities shall be located at a site for which title is held by the United States in the vicinity of the I–64 Sandstone intersection.

(2) Authorization of appropriations.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,300,000 for fiscal year 1998, $1,200,000 for fiscal year 1999, and $9,900,000 for fiscal year 2000.

(3) Applicability of title 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.

(d) Additional Authorization of Contract Authority for States With Indian Reservations.—

(1) Availability to states.—Not later than October 1 of each fiscal year, funds made available under paragraph (5) for the fiscal year shall be made available by the Secretary, in equal amounts, to each State that has within the boundaries of the State all or part of an Indian reservation having a land area of 10,000,000 acres or more.

(2) Availability to eligible counties.—

(A) In general.—Each fiscal year, each county that is located in a State to which funds are made available under paragraph (1), and that has in the county a public road described in subparagraph (B), shall be eligible to apply to the State for all or a portion of the funds made available to the State under this subsection to be used by the county to maintain such roads.

(B) Roads.—A public road referred to in subparagraph (A) is a public road that—

(i) is within, adjacent to, or provides access to an Indian reservation described in paragraph (1);

(ii) is used by a school bus to transport children to or from a school or Headstart program carried out under the Head Start Act (42 U.S.C. 9831 et seq.); and

(iii) is maintained by the county in which the public road is located.

(C) Allocation among eligible counties.—

(i) In general.—Except as provided in clause (ii), each State that receives funds under paragraph (1) shall provide directly to each county that applies for funds the amount that the county requests in the application.

(ii) Allocation among eligible counties.—If the total amount of funds applied for under this subsection by eligible counties in a State exceeds the amount of funds available to the State, the State shall equitably allocate the funds among the eligible counties that apply for funds.

(3) Supplementary funding.—For each fiscal year, the Secretary shall ensure that funding made available under this subsection supplements (and does not supplant)—

(A) any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations; and

(B) any funding provided by a State to a county for road maintenance programs in the county.

(4) Use of unallocated funds.—Any portion of the funds made available to a State under this subsection that is not made available to counties within 1 year after the funds are made available to the State shall be apportioned among the States in accordance with section 104(b) of title 23, United States Code.

(5) Funding.—

(A) In general.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,500,000 for each of fiscal years 1998 through 2003.

(B) Contract authority.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(e) National Defense Highways Outside the United States.—

(1) Reconstruction projects.—If the Secretary determines, after consultation with the Secretary of Defense, that a highway, or a portion of a highway, located outside the United States is important to the national defense, the Secretary may carry out a project for reconstruction of the highway or portion of highway.

(2) Funding.—

(A) In general.—For each of fiscal years 1998 through 2002, the Secretary may set aside not to exceed $18,800,000 from amounts to be apportioned under section 104(b)(4) of title 23, United States Code, to carry out this section.

(B) Availability.—Funds made available under subparagraph (1) shall remain available until expended.

(f) Sachuest Point National Wildlife Refuge.—

(1) In general.—The Secretary shall provide $200,000 for fiscal year 1999 to the United State Fish and Wildlife Service to resurface the entrance road to Sachuest Point National Wildlife Refuge.

(2) Funding.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $200,000 for fiscal year 1999.

(3) Contract authority.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(g) Runway Removal at Ninigret National Wildlife Refuge.—

(1) In general.—The Secretary shall provide $300,000 for fiscal year 1999 to the United States Fish and Wildlife Service to remove asphalt runways at Ninigret National Wildlife Refuge and $500,000,000 shall be available to the State of Rhode Island for Improvements to the T.F. Green Intermodal Facility in Rhode Island for each of fiscal years 1999 through 2003.

(2) Funding.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,300,000 for fiscal year 1999 and $5,000,000 for each of fiscal years 2000 through 2003.

(3) Contract authority.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(h) Middletown Visitor Center.—

(1) In general.—The Secretary shall provide $500,000 for fiscal year 1999 to the United States Fish and Wildlife Service for the Middletown visitor center at Sachuest Point National Wildlife Refuge.

(2) Funding.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $500,000 for fiscal year 1999.

(3) Contract authority.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(i) Entrance Paving at Ninigret National Wildlife Refuge.—

(1) In general.—The Secretary shall provide $750,000 for fiscal year 1999 to the United States Fish and Wildlife Service to pave the entrance road to the Ninigret National Wildlife Refuge.

(2) Funding.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $750,000 for fiscal year 1999.

(3) Contract authority.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(j) Education Center.—

(1) In general.—The Secretary shall provide $1,000,000 for each of fiscal years 1999 through 2003 to the United States Fish and Wildlife Service for the education visitor center at the Rhode Island National Wildlife Refuge complex.

(2) Funding.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,000,000 for each of fiscal years 1999 through 2003.

(3) Contract authority.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(k) Richmond National Battlefield Park.—

(1) In general.—The Secretary shall provide $1,000,000 for fiscal year 1999 to the National Park Service to revitalize the Tredegar Iron Works to serve as a visitor center for Richmond National Battlefield Park.

(2) Funding.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,000,000 for fiscal year 1999.

(3) Contract authority.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(l) Access to Corps of Engineers.—

(1) In general.—The Secretary shall provide $800,000 for each of fiscal years 1999 through 2003 to the Corps of Engineers to be made available to the State of Missouri for resurfacing and maintenance of city and county roads that provide access to Corps of Engineers reservoirs.

(2) Funding.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $800,000 for each of fiscal years 1999 2003.

(3) Contract authority.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(m) Civil War Battlefield Plan.—

(1) In general.—The Secretary shall provide $250,000 for each of fiscal years 1999 and 2000 to the Department of the Interior to be made available to the Shenandoah Valley Battlefield National Historic District Commission for developing a plan for the interpretation and protection of 10 Civil War battlefields in the Shenandoah Valley.

(2) Funding.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $250,000 for each of fiscal years 1999 and 2000.

(3) Contract authority.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(n) DOT Headquarters Facility.—Before taking any action that leads to Government ownership of the Department of Transportation headquarters facility, through construction or purchase, the Administrator of General Services shall first seek approval of the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(o) Fort Peck, Montana.—

(1) Fort peck, montana, visitors center.—The Secretary shall provide funds for the environmental review, planning, design, and construction of a historical and cultural visitors center and museum at Fort Peck, Montana.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $3,000,000 for each of fiscal years 1999 and 2000.

(3) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.

(p) BRIDGES ON NATCHEZ TRACE PARKWAY, MISSISSIPPI.—

(1) IN GENERAL.—The Secretary shall allocate to the State of Mississippi amounts available by this subsection to be used for replacement and widening of the box bridges on the Natchez Trace Parkway at Old Canton Road and at Rice Road in Madison County, Mississippi.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for fiscal year 1999.

(3) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

(q) LOLO PASS VISITOR CENTER.—

(1) GRANTS.—The Secretary shall make grants for the Lolo Pass Visitor Center in the State of Idaho.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $2,943,000 for fiscal year 1999.

(3) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

(r) PUERTO RICO HIGHWAY PROGRAM.—

(1) IN GENERAL.—The Secretary shall allocate funds authorized by section 1101(a)(15) for each of fiscal years 1998 through 2003 to the Commonwealth of Puerto Rico to carry out a highway program in such Commonwealth.

(2) APPLICABILITY OF TITLE 23.—Amounts made available by section 1101(a)(15) of this Act shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code. Such amounts shall be subject to any limitation on obligations for Federal-aid highway and highway safety construction programs.

SEC. 1215. DESIGNATED TRANSPORTATION ENHANCEMENT ACTIVITIES.

(a) GETTYSBURG, PENNSYLVANIA.—

(1) RESTORATION OF TRAIN STATION.—The Secretary shall allocate amounts made available by this subsection for the restoration of the Gettysburg, Pennsylvania, train station.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $400,000 for each of fiscal years 1998 and 1999 to carry out this subsection.

(3) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of restoration of the train station under this subsection shall be 80 percent and such funds shall remain available until expended.

(b) CENTER.—

(1) ESTABLISHMENT.—The Secretary shall allocate funds made available to carry out this subsection to establish a center for national scenic byways in Duluth, Minnesota, to provide technical communications and network support for nationally designated scenic byway routes in accordance with paragraph (2).

(2) COMMUNICATIONS SYSTEMS.—The center for national scenic byways shall develop and implement communications systems for the support of the national scenic byways program. Such communications systems shall provide local officials and planning groups associated with designated National Scenic Byways or All-American Roads with proactive, technical, and customized assistance through the latest technology that allows scenic byway officials to develop and sustain their National Scenic Byways or All-American Roads.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,500,000 for each of fiscal years 1998 through 2003.

(4) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this subsection shall be 100 percent and such funds shall remain available until expended.

(c) COAL HERITAGE TRAIL.—

(1) IN GENERAL.—The Secretary shall make grants to the State of West Virginia for the Coal Heritage Scenic Byway for the purposes set forth in section 204(h) of title 23, United States Code.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $2,000,000 for each of fiscal years 1999 through 2001.

(3) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

(d) TRAFFIC CALMING MEASURES.—

(1) IN GENERAL.—The Secretary shall provide $5,000,000 for fiscal year 1999 and $2,000,000 for each of fiscal years 2000 through 2003 to implement traffic calming measures in Fauquier and Loudoun Counties, Virginia.

(2) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(e) PEDESTRIAN BRIDGE.—

(1) IN GENERAL.—The Secretary shall provide $1,000,000 for fiscal year 1999 for a pedestrian bridge over United States Route 29 at Emmet Street in Charlottesville, Virginia.

(2) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(f) INTERPRETIVE CENTER.—

(1) IN GENERAL.—The Secretary shall provide $600,000 for fiscal year 1999 for construction of the Virginia Blue Ridge Parkway interpretive center located on the Roanoke River Gorge in Virginia.

(2) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(g) CHAIN OF ROCKS BRIDGE.—

(1) IN GENERAL.—The Secretary shall provide $2,000,000 for fiscal year 1999 for the renovation and preservation of the Missouri Route 66 Chain of Rocks Bridge.

(2) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(h) NOISE BARRIERS, DEKALB COUNTY, GEORGIA.—Notwithstanding any other provision of law, the Secretary shall approve the construction of Type II noise barriers beginning on the west side of Interstate Route 285 extending from Northlake Parkway to Henderson Mill Road in Dekalb County, Georgia, from funds apportioned under sections 104(b)(1) and 104(b)(3) of title 23, United States Code.

SEC. 1216. INNOVATIVE SURFACE TRANSPORTATION FINANCING METHODS.

(a) VALUE PRICING PILOT PROGRAM.—

(1) IN GENERAL.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(A) in the subsection heading by striking "CONGESTION" and inserting "VALUE";

(B) in paragraph (1)—

(i) by striking "congestion" each place it appears and inserting "value"; and

(ii) by striking "projects" each place it appears and inserting "programs"; and

(C) in paragraph (5)—

(i) by striking "projects" and inserting "programs"; and

(ii) by striking "traffic, volume" and inserting "traffic volume".

(2) INCREASED NUMBER OF PROJECTS.—Section 1012(b)(1) of such Act is amended in the second sentence by striking "5" and inserting "15".

(3) ELIGIBILITY OF PREIMPLEMENTATION COSTS.— Section 1012(b)(2) of such Act is amended in the second sentence—

(A) by inserting after "Secretary shall fund" the following: "all preimplementation costs and project design, and"; and

(B) by inserting after "Secretary may not fund" the following: "the preimplementation or implementation costs of".

(4) TOLLING.—Section 1012(b)(4) of such Act is amended by striking "a pilot program under this section, but not on more than 3 of such programs" and inserting "any value pricing pilot program under this subsection".

(5) HOV PASSENGER REQUIREMENTS.—Section 1012(b) of such Act is amended by striking paragraph (6) and inserting the following:

"(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section 146(c) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.".

(6) FINANCIAL EFFECTS ON LOW-INCOME DRIVERS.—Section 1012(b) of such Act is amended by adding at the end the following:

"(7) FINANCIAL EFFECTS ON LOW-INCOME DRIVERS.—Any value pricing pilot program under this subsection shall include, if appropriate, an analysis of the potential effects of the pilot program on low income drivers and may include mitigation measures to deal with any potential adverse financial effects on low-income drivers.".

(7) FUNDING.—Section 1012(b) of such Act (as amended by paragraph (6)) is amended by adding at the end the following:

"(8) FUNDING.—

"(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $8,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(C) Use of unallocated funds.—If the total amount of funds made available from the Highway Trust Fund under this subsection for fiscal year 1998 and fiscal years thereafter but not allocated exceeds $8,000,000 as of September 30 of any year, the excess amount—

"(i) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

"(ii) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of such title; and

"(iii) shall be available for any purpose eligible for funding under section 133 of such title.

"(D) Contract authority.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.".

(b) Interstate System Reconstruction and Rehabilitation Pilot Program.—

(1) Establishment.—The Secretary shall establish and implement an Interstate System reconstruction and rehabilitation pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of reconstructing and rehabilitating Interstate highway corridors that could not otherwise be adequately maintained or functionally improved without the collection of tolls.

(2) Limitation on number of facilities.—The Secretary may permit the collection of tolls under this subsection on 3 facilities on the Interstate System. Each of such facilities shall be located in a different State.

(3) Eligibility.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains, at a minimum, the following:

(A) An identification of the facility on the Interstate System proposed to be a toll facility, including the age, condition, and intensity of use of the facility.

(B) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization established under section 134 of title 23, United States Code, for the area has been consulted concerning the placement and amount of tolls on the facility.

(C) An analysis demonstrating that the facility could not be maintained or improved to meet current or future needs from the State's apportionments and allocations made available by this Act (including amendments made by this Act) and from revenues for highways from any other source without toll revenues.

(D) A facility management plan that includes—

(i) a plan for implementing the imposition of tolls on the facility;

(ii) a schedule and finance plan for the reconstruction or rehabilitation of the facility using toll revenues;

(iii) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;

(iv) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and

(v) such other information as the Secretary may require.

(4) Selection criteria.—The Secretary may approve the application of a State under paragraph (3) only if the Secretary determines that—

(A) the State is unable to reconstruct or rehabilitate the proposed toll facility using existing apportionments;

(B) the facility has a sufficient intensity of use, age, or condition to warrant the collection of tolls;

(C) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

(D) the State plan for reconstruction or rehabilitation of the facility using toll revenues is reasonable; and

(E) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.

(5) Limitations on use of revenues; audits.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—

(A) all toll revenues received from operation of the toll facility will be used only for—

(i) debt service;

(ii) reasonable return on investment of any private person financing the project; and

(iii) any costs necessary for the improvement of and the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and

(B) regular audits will be conducted to ensure compliance with subparagraph (A) and the results of such audits will be transmitted to the Secretary.

(6) Limitation on use of interstate maintenance funds.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

(7) Program term.—The Secretary shall conduct the pilot program under this subsection for a term to be determined by the Secretary, but not less than 10 years.

(8) Interstate system defined.—In this subsection, the term "Interstate System" has the meaning such term has under section 101 of title 23, United States Code.

SEC. 1217. ELIGIBILITY.

(a) San Mateo County, California.—Notwithstanding any other provision of law, a project to repair or reconstruct any portion of a Federal-aid primary route in San Mateo County, California, that—

(1) was destroyed as a result of a combination of storms in the winter of 1982–1983 and a mountain slide; and

(2) until its destruction, served as the only reasonable access route between 2 cities and as the designated emergency evacuation route of 1 of the cities;

shall be eligible for assistance under section 125(a) of title 23, United States Code, if the project complies with the local coastal plan.

(b) Ambassador Bridge Access, Detroit, Michigan.—

(1) In general.—Notwithstanding section 129 of title 23, United States Code, or any other provision of law, improvements to access roads and construction of access roads, approaches, and related facilities (such as signs, lights, and signals) necessary to connect the Ambassador Bridge in Detroit, Michigan, to the Interstate System shall be eligible for funds apportioned under paragraphs (1) and (3) of section 104(b) of such title.

(2) Use of funds.—Funds described in paragraph (1) shall not be used for any improvement to, or construction of, the bridge itself.

(c) Cuyahoga River Bridge, Ohio.—Notwithstanding any other provision of law, a project to construct a new bridge over the Cuyahoga River in Cleveland, Ohio, shall be eligible for funds apportioned under section 104(b)(3) of such title.

(d) Connecticut.—In fiscal year 1998, the State of Connecticut may transfer any funds remaining available for obligation under section 104(b)(4) of title 23, United States Code, as in effect on the day before the date of the enactment of this Act, for construction of the Interstate System to any other program eligible for assistance under chapter 1 of such title. Before making any distribution of the obligation limitation under section 1102(c)(6) of this Act, the Secretary shall make available to the State of Connecticut sufficient obligation authority under section 1102(c) of this Act to obligate funds available for transfer under this subsection.

(e) International Bridge, Sault Ste. Marie, Michigan.—The International Bridge Authority, or its successor organization, shall be permitted to continue collecting tolls for maintenance of, operation of, capital improvements to, and future expansions to the International Bridge, Sault Ste. Marie, Michigan, and its approaches, plaza areas, and associated structures.

(f) Information Services.—A food business that would otherwise be eligible to display a mainline business logo on a specific service food sign described in section 2G–5.7(4) of part IIG of the 1988 edition of the Manual on Uniform Traffic Control Devices for Streets and Highways under the requirements specified in that section, but for the fact that the business is open 6 days a week, cannot be prohibited from inclusion on such a food sign.

(g) Continuance of Commercial Operations at Certain Service Plazas in the State of Maryland.—

(1) Waiver.—Notwithstanding section 111 of title 23, United States Code, and the agreements described in paragraph (2), at the request of the Maryland Transportation Authority, the Secretary shall allow the continuance of commercial operations at the service plazas on the John F. Kennedy Memorial Highway on Interstate Route 95.

(2) Agreements.—The agreements referred to in paragraph (1) are agreements between the Department of Transportation of the State of Maryland and the Federal Highway Administration concerning the highway described in paragraph (1).

(h) Welcome Center Pilot Project.—

(1) In general.—The Secretary shall permit the State of Georgia to conduct a pilot project to acquire, construct, operate, and maintain a demonstration safety rest area and information center along Interstate Route 75 in Cobb County, Georgia, in accordance with paragraph (2).

(2) Information center and system.—The center may provide goods and information that is of interest to the traveling public, including commercial advertising and media displays, if such advertising and displays are—

(A) exhibited solely within any facility constructed in the rest area; and

(B) not legible from the main traveled way.

(3) Report to congress.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the pilot project.

(i) Southern California.—Notwithstanding section 120(l)(1) of title 23, United States Code—

(1) private entity expenditures to construct the SR–91 toll road located in Orange County, California, from SR–55 to the Riverside County line may be credited toward the State matching share for any Federal-aid project beginning construction after the SR–91 toll road was opened to traffic; and

(2) private expenditures for the future SR–125 toll road in San Diego County, California, from SR–905 to San Miguel Road may be credited

against the State match share for Federal-aid highway projects beginning after SR–125 is opened to traffic.

(j) TOLLS ON PENNSYLVANIA TURNPIKE.—Notwithstanding any other provision of law, no tolls shall be collected during the 6-year period beginning on the date of enactment of this Act on the Pennsylvania Turnpike for travel either entering Bedford and exiting Breezewood, Pennsylvania, or entering Breezewood and exiting Bedford.

(k) VICKSBURG AND JACKSON, MISSISSIPPI.—Notwithstanding any other provision of this Act, funds authorized by this Act (including amendments made by this Act) for transportation projects in the State of Mississippi may be used for the purpose of constructing, reconstructing, or rehabilitating rail lines in the vicinity of Vicksburg and Jackson, Mississippi.

SEC. 1218. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 321 the following:

“§ 322. Magnetic levitation transportation technology deployment program

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) ELIGIBLE PROJECT COSTS.—The term ‘eligible project costs’—

“(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

“(B) includes the costs of preconstruction planning activities.

“(2) FULL PROJECT COSTS.—The term ‘full project costs’ means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

“(3) MAGLEV.—The term ‘MAGLEV’ means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour or under 50 miles per hour.

“(4) PARTNERSHIP POTENTIAL.—The term ‘partnership potential’ has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1978).

“(b) FINANCIAL ASSISTANCE.—

“(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of full project costs of eligible projects selected under this section. Financial assistance made available under this section and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code.

“(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1) shall be not more than ⅔.

“(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

“(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.

“(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

“(1) involve a segment or segments of a high-speed or low-speed ground transportation corridor that exhibit partnership potential;

“(2) require an amount of Federal funds for project financing that will not exceed the sum of—

“(A) the amounts made available under subsection (h)(1)(A); and

“(B) the amounts made available by States under subsection (h)(4);

“(3) result in an operating transportation facility that provides a revenue producing service;

“(4) be undertaken through a public and private partnership, with at least ⅓ of full project costs paid using non-Federal funds;

“(5) satisfy applicable statewide and metropolitan planning requirements;

“(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

“(7) to the extent that non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

“(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

“(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

“(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

“(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

“(3) States, regions, and localities financially contribute to the project;

“(4) implementation of the project will create new jobs in traditional and emerging industries;

“(5) the project will augment MAGLEV networks identified as having partnership potential;

“(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

“(7) financial assistance would foster the timely implementation of a project; and

“(8) life-cycle costs in design and engineering are considered and enhanced.

“(f) PROJECT SELECTION.—

“(1) PRECONSTRUCTION PLANNING ACTIVITIES.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 or more eligible projects to receive financial assistance for preconstruction planning activities, including—

“(A) preparation of such feasibility studies, major investment studies, and environmental impact statements and assessments as are required under State law;

“(B) pricing of the final design, engineering, and construction activities proposed to be assisted under paragraph (2); and

“(C) such other activities as are necessary to provide the Secretary with sufficient information to evaluate whether a project should receive financial assistance for final design, engineering, and construction activities under paragraph (2).

“(2) FINAL DESIGN, ENGINEERING, AND CONSTRUCTION ACTIVITIES.—After completion of preconstruction planning activities for all projects assisted under paragraph (1), the Secretary shall select 1 of the projects to receive financial assistance for final design, engineering, and construction activities.

“(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

“(h) FUNDING.—

“(1) IN GENERAL.—

“(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

“(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for fiscal year 1999, $20,000,000 for fiscal year 2000, and $25,000,000 for fiscal year 2001.

“(ii) CONTRACT AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

“(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

“(II) the availability of the funds shall be determined in accordance with paragraph (2).

“(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

“(i) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $200,000,000 for each of fiscal years 2000 and 2001, $250,000,000 for fiscal year 2002, and $300,000,000 for fiscal year 2003.

“(ii) AVAILABILITY.—Notwithstanding section 118(a), funds made available under clause (i) shall not be available in advance of an annual appropriation.

“(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

“(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

“(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title and the Transportation Equity Act for the 21st Century, including loans, loan guarantees, and lines of credit.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 321 the following:

“322. Magnetic levitation transportation technology deployment program.”.

SEC. 1219. NATIONAL SCENIC BYWAYS PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code is amended by adding at the end the following:

“§ 162. National scenic byways program

“(a) DESIGNATION OF ROADS.—

“(1) IN GENERAL.—The Secretary shall carry out a national scenic byways program that recognizes roads having outstanding scenic, historic, cultural, natural, recreational, and archaeological qualities by designating the roads as National Scenic Byways or All-American Roads.

“(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic

byways program in accordance with criteria developed by the Secretary.

"(3) NOMINATION.—To be considered for the designation, a road must be nominated by a State or a Federal land management agency and must first be designated as a State scenic byway or, in the case of a road on Federal land, as a Federal land management agency byway.

"(b) GRANTS AND TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States to—

"(A) implement projects on highways designated as National Scenic Byways or All-American Roads, or as State scenic byways; and

"(B) plan, design, and develop a State scenic byway program.

"(2) PRIORITIES.—In making grants, the Secretary shall give priority to—

"(A) each eligible project that is associated with a highway that has been designated as a National Scenic Byway or All-American Road and that is consistent with the corridor management plan for the byway;

"(B) each eligible project along a State-designated scenic byway that is consistent with the corridor management plan for the byway, or is intended to foster the development of such a plan, and is carried out to make the byway eligible for designation as a National Scenic Byway or All-American Road; and

"(C) each eligible project that is associated with the development of a State scenic byway program.

"(c) ELIGIBLE PROJECTS.—The following are projects that are eligible for Federal assistance under this section:

"(1) An activity related to the planning, design, or development of a State scenic byway program.

"(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

"(3) Safety improvements to a State scenic byway, National Scenic Byway, or All-American Road to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, National Scenic Byway, or All-American Road.

"(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, passing lane, overlook, or interpretive facility.

"(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

"(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

"(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

"(8) Development and implementation of a scenic byway marketing program.

"(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

"(e) SAVINGS CLAUSE.—The Secretary shall not withhold any grant or impose any requirement on a State as a condition of providing a grant or technical assistance for any scenic byway unless the requirement is consistent with the authority provided in this chapter.

"(f) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byway project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following:

"162. National scenic byways program.".

SEC. 1220. ELIMINATION OF REGIONAL OFFICE RESPONSIBILITIES.

(a) IN GENERAL.—

(1) ELIMINATION.—The Secretary shall eliminate any programmatic decisionmaking responsibility of the regional offices of the Federal Highway Administration for the Federal-aid highway program as part of the Administration's efforts to restructure its field organization.

(2) ACTIVITIES.—In carrying out paragraph (1), the Secretary shall eliminate regional offices, create technical resource centers, and, to the maximum extent practicable, delegate authority to State offices of the Federal Highway Administration.

(b) PREFERENCE.—In locating the technical resource centers, the Secretary shall give preference to cities that house, on the date of enactment of this Act, the Federal Highway Administration regional offices and are in locations that minimize the travel distance between the technical resource centers and the Federal Highway Administration division offices that will be served by the new technical resource centers.

(c) REPORT TO CONGRESS.—The Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a detailed implementation plan to carry out this section not later than September 30, 1998, and thereafter provide periodic progress reports on carrying out this section to such Committees.

(d) IMPLEMENTATION.—The Secretary shall begin implementation of the plan transmitted under subsection (c) not later than December 31, 1998.

SEC. 1221. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.

(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a comprehensive initiative to investigate and address the relationships between transportation and community and system preservation and identify private sector-based initiatives.

(b) RESEARCH.—

(1) IN GENERAL.—In cooperation with appropriate Federal agencies, State, regional, and local governments, and other entities eligible for assistance under subsection (d), the Secretary shall carry out a comprehensive research program to investigate the relationships between transportation, community preservation, and the environment and the role of the private sector in shaping such relationships.

(2) REQUIRED ELEMENTS.—The program shall provide for monitoring and analysis of projects carried out with funds made available to carry out subsections (c) and (d).

(c) PLANNING.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to plan, develop, and implement strategies to integrate transportation and community and system preservation plans and practices.

(2) PURPOSES.—The purposes of the allocations shall be—

(A) to improve the efficiency of the transportation system;

(B) to reduce the impacts of transportation on the environment;

(C) to reduce the need for costly future investments in public infrastructure;

(D) to provide efficient access to jobs, services, and centers of trade; and

(E) to examine development patterns and identify strategies to encourage private sector development patterns which achieve the goals identified in subparagraphs (A) through (D).

(3) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) propose projects for funding that address the purposes described in paragraph (2); and

(B) demonstrate a commitment of non-Federal resources to the proposed projects.

(4) ADDITIONAL CRITERIA.—In addition, the Secretary shall give consideration to applicants that demonstrate a commitment to public and private involvement, including involvement of nontraditional partners in the project team.

(d) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) have instituted preservation or development plans and programs that—

(i) meet the requirements of title 23 and chapter 53 of title 49, United States Code; and

(ii)(I) are coordinated with State and local adopted preservation or development plans;

(II) are intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or

(III) are intended to promote innovative private sector strategies.

(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

(i) spending policies that direct funds to high-growth areas;

(ii) urban growth boundaries to guide metropolitan expansion;

(iii) "green corridors" programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

(iv) other similar programs or policies as determined by the Secretary;

(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;

(D) examine ways to encourage private sector investments that address the purposes of this section; and

(E) propose projects for funding that address the purposes described in subsection (c)(2).

(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

(4) USE OF ALLOCATED FUNDS.—

(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for—

(i) any project eligible for funding under title 23 or chapter 53 of title 49, United States Code; or

(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate,

including corridor preservation activities that are necessary to implement—

(I) transit-oriented development plans;

(II) traffic calming measures; or

(III) other coordinated transportation and community and system preservation practices.

(e) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $20,000,000 for fiscal year 1999 and $25,000,000 for each of fiscal years 2000 through 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 1222. ADDITIONS TO APPALACHIAN REGION.

(a) IN GENERAL.—Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the undesignated paragraph relating to Alabama—

(A) by inserting "Hale," after "Franklin,"; and

(B) by inserting "Macon," after "Limestone,";

(2) in the undesignated paragraph relating to Georgia—

(A) by inserting "Elbert," after "Douglas,"; and

(B) by inserting "Hart," after "Haralson,";

(3) in the undesignated paragraph relating to Mississippi by striking "and Winston" and inserting "Winston, and Yalobusha"; and

(4) in the undesignated paragraph relating to Virginia—

(A) by inserting "Montgomery," after "Lee,"; and

(B) by inserting "Rockbridge," after "Pulaski,".

(b) TECHNICAL AMENDMENT.—Section 405 of such Act is amended by striking "section 201" and inserting "sections 201 and 403". This amendment ensures that section 403 is still in effect.

SEC. 1223. TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES.

(a) PURPOSE.—The purpose of this section is to authorize the provision of assistance for, and support of, State and local efforts concerning surface transportation issues necessary to obtain the national recognition and economic benefits of participation in the International Olympic movement, the International Paralympic movement, and the Special Olympics International movement by hosting international quadrennial Olympic and Paralympic events, and Special Olympics International events, in the United States.

(b) PRIORITY FOR TRANSPORTATION PROJECTS RELATING TO OLYMPIC, PARALYMPIC, AND SPECIAL OLYMPIC EVENTS.—Notwithstanding any other provision of law, from funds available to carry out sections 118(c) and 144(g)(1) of title 23, United States Code, the Secretary may give priority to funding for a transportation project relating to an international quadrennial Olympic or Paralympic event, or a Special Olympics International event, if—

(1) the project meets the extraordinary needs associated with an international quadrennial Olympic or Paralympic event or a Special Olympics International event; and

(2) the project is otherwise eligible for assistance under sections 118(c) and 144(g)(1) of such title.

(c) TRANSPORTATION PLANNING ACTIVITIES.—The Secretary may participate in—

(1) planning activities of States and metropolitan planning organizations and transportation projects relating to an international quadrennial Olympic or Paralympic event, or a Special Olympics International event, under sections 134 and 135 of title 23, United States Code; and

(2) developing intermodal transportation plans necessary for the projects in coordination with State and local transportation agencies.

(d) FUNDING.—Notwithstanding section 5001(a), from funds made available under such section, the Secretary may provide assistance for the development of an Olympic, a Paralympic, and a Special Olympic transportation management plan in cooperation with an Olympic Organizing Committee responsible for hosting, and State and local communities affected by, an international quadrennial Olympic or Paralympic event or a Special Olympics International event.

(e) TRANSPORTATION PROJECTS RELATING TO OLYMPIC, PARALYMPIC, AND SPECIAL OLYMPIC EVENTS.—

(1) IN GENERAL.—The Secretary may provide assistance, including planning, capital, and operating assistance, to States and local governments in carrying out transportation projects relating to an international quadrennial Olympic or Paralympic event or a Special Olympics International event.

(2) FEDERAL SHARE.—The Federal share of the cost of a project assisted under this subsection shall not exceed 80 percent.

(f) ELIGIBLE GOVERNMENTS.—A State or local government shall be eligible to receive assistance under this section only if the government is hosting a venue that is part of an international quadrennial Olympics that is officially selected by the International Olympic Committee.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section such sums as are necessary for each of fiscal years 1998 through 2003.

Subtitle C—Program Streamlining and Flexibility

SEC. 1301. REAL PROPERTY ACQUISITION AND CORRIDOR PRESERVATION.

(a) ADVANCE ACQUISITION OF REAL PROPERTY.—Section 108 of title 23, United States Code, is amended by striking the section heading and subsection (a) and inserting the following:

"§ 108. Advance acquisition of real property

"(a) IN GENERAL.—

"(1) AVAILABILITY OF FUNDS.—For the purpose of facilitating the timely and economical acquisition of real property for a transportation improvement eligible for funding under this title, the Secretary, upon the request of a State, may make available, for the acquisition of real property, such funds apportioned to the State as may be expended on the transportation improvement, under such rules and regulations as the Secretary may issue.

"(2) CONSTRUCTION.—The agreement between the Secretary and the State for the reimbursement of the cost of the real property shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.".

(b) CREDIT FOR ACQUIRED LANDS.—Section 323(b) of such title is amended—

(1) in the subsection heading, by striking "DONATED" and inserting "ACQUIRED";

(2) by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the State share of the cost of a project with respect to which Federal assistance is provided from the Highway Trust Fund (other than the Mass Transit Account) may be credited in an amount equal to the fair market value of any land that—

"(A) is lawfully obtained by the State or a unit of local government in the State;

"(B) is incorporated into the project;

"(C) is not land described in section 138; and

"(D) the Secretary determines will not influence the environmental assessment of the project, including—

"(i) the decision as to the need to construct the project;

"(ii) the consideration of alternatives; and

"(iii) the selection of a specific location.

"(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of land incorporated into a project and credited under paragraph (1) shall be established in the manner determined by the Secretary, except that—

"(A) the fair market value shall not include any increase or decrease in the value of donated property caused by the project; and

"(B) the fair market value of donated land shall be established as of the earlier of—

"(i) the date on which the donation becomes effective; or

"(ii) the date on which equitable title to the land vests in the State.";

(3) in paragraph (3) by striking "agency of a Federal, State, or local government" and inserting "agency of the Federal Government"; and

(4) in paragraph (4) by striking "to which the donation is applied".

(c) CREDITING OF CONTRIBUTIONS BY UNITS OF LOCAL GOVERNMENT TOWARD THE STATE SHARE.—Section 323 of such title is amended by adding at the end the following:

"(e) CREDITING OF CONTRIBUTIONS BY UNITS OF LOCAL GOVERNMENT TOWARD THE STATE SHARE.—A contribution by a unit of local government of real property, funds, or material in connection with a project eligible for assistance under this title shall be credited against the State share of the project at the fair market value of the real property, funds, or material.".

(d) CONFORMING AMENDMENTS.—

(1) Section 323 of such title is amended by striking the section heading and inserting the following:

"§ 323. Donations and credits".

(2) The analysis for chapter 1 of such title is amended by striking the item relating to section 108 and inserting the following:

"108. Advance acquisition of real property.".

(3) The analysis for chapter 3 of such title is amended by striking the item relating to section 323 and inserting the following:

"323. Donations and credits.".

SEC. 1302. PAYMENTS TO STATES FOR CONSTRUCTION.

Section 121 of title 23, United States Code, is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) IN GENERAL.—The Secretary, from time to time as the work progresses, may make payments to a State for costs of construction incurred by the State on a project. Such payments may also be made for the value of the materials—

"(1) that have been stockpiled in the vicinity of the construction in conformity to plans and specifications for the projects; and

"(2) that are not in the vicinity of the construction if the Secretary determines that because of required fabrication at an off-site location the material cannot be stockpiled in such vicinity.

"(b) PROJECT AGREEMENT.—No payment shall be made under this chapter except for a project covered by a project agreement. After completion of the project in accordance with the project agreement, a State shall be entitled to payment out of the appropriate sums apportioned or allocated to the State of the unpaid balance of the Federal share payable for such project.";

(2) by striking subsections (c) and (d); and

(3) by redesignating subsection (e) as subsection (c).

SEC. 1303. PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.

(a) In General.—Section 156 of title 23, United States Code, is amended to read as follows:

"§ 156. Proceeds from the sale or lease of real property

"(a) Minimum Charge.—Subject to section 142(f), a State shall charge, at a minimum, fair market value for the sale, use, lease, or lease renewal (other than for utility use and occupancy or for a transportation project eligible for assistance under this title) of real property acquired with Federal assistance made available from the Highway Trust Fund (other than the Mass Transit Account).

"(b) Exceptions.—The Secretary may grant an exception to the requirement of subsection (a) for a social, environmental, or economic purpose.

"(c) Use of Federal Share of Income.—The Federal share of net income from the revenues obtained by a State under subsection (a) shall be used by the State for projects eligible under this title.".

(b) Conforming Amendment.—The analysis for chapter 1 of such title is amended by striking the item relating to section 156 and inserting the following:

"156. Proceeds from the sale or lease of real property.".

SEC. 1304. ENGINEERING COST REIMBURSEMENT.

Section 102(b) of title 23, United States Code, is amended in the first sentence by inserting after "10 years" the following: "(or such longer period as the State requests and the Secretary determines to be reasonable)".

SEC. 1305. PROJECT APPROVAL AND OVERSIGHT.

(a) In General.—Section 106 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 106. Project approval and oversight"*;*

(2) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(3) by striking subsections (a) through (d) and inserting the following:

"(a) In General.—

"(1) Submission of plans, specifications, and estimates.—Except as otherwise provided in this section, each State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require.

"(2) Project agreement.—The Secretary shall act on the plans, specifications, and estimates as soon as practicable after the date of their submission and shall enter into a formal project agreement with the State transportation department formalizing the conditions of the project approval.

"(3) Contractual obligation.—The execution of the project agreement shall be deemed a contractual obligation of the Federal Government for the payment of the Federal share of the cost of the project.

"(4) Guidance.—In taking action under this subsection, the Secretary shall be guided by section 109.

"(b) Project Agreement.—

"(1) Provision of state funds.—The project agreement shall make provision for State funds required to pay the State's non-Federal share of the cost of construction of the project and to pay for maintenance of the project after completion of construction.

"(2) Representations of state.—If a part of the project is to be constructed at the expense of, or in cooperation with, political subdivisions of the State, the Secretary may rely on representations made by the State transportation department with respect to the arrangements or agreements made by the State transportation department and appropriate local officials for ensuring that the non-Federal contribution will be provided under paragraph (1).

"(c) Assumption by States of Responsibilities of the Secretary.—

"(1) Non-interstate NHS projects.—For projects under this title that are on the National Highway System but not on the Interstate System, the State may assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspections of projects unless the State or the Secretary determines that such assumption is not appropriate.

"(2) Non-NHS projects.—For projects under this title that are not on the National Highway System, the State shall assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspection of projects, unless the State determines that such assumption is not appropriate.

"(3) Agreement.—The Secretary and the State shall enter into an agreement relating to the extent to which the State assumes the responsibilities of the Secretary under this subsection.

"(4) Limitation on authority of Secretary.—The Secretary may not assume any greater responsibility than the Secretary is permitted under this title on September 30, 1997, except upon agreement by the Secretary and the State.

"(d) Responsibilities of the Secretary.—Nothing in this section, section 133, or section 149 shall affect or discharge any responsibility or obligation of the Secretary under—

"(1) section 113 or 114; or

"(2) any Federal law other than this title (including section 5333 of title 49).

"(e) Value Engineering Analysis.—For such projects as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid highway shall be accompanied by a value engineering analysis or other cost reduction analysis.".

(b) Financial Plan.—Section 106 of such title (as amended by subsection (a)(2)), is amended by adding at the end the following:

"(h) Financial Plan.—A recipient of Federal financial assistance for a project under this title with an estimated total cost of $1,000,000,000 or more shall submit to the Secretary an annual financial plan for the project. The plan shall be based on detailed annual estimates of the cost to complete the remaining elements of the project and on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.".

(c) Life Cycle Cost Analysis.—Section 106 of such title (as amended by subsection (a)(2)), is amended by striking subsection (f) and inserting the following:

"(f) Life-Cycle Cost Analysis.—

"(1) Use of life-cycle cost analysis.—The Secretary shall develop recommendations for the States to conduct life-cycle cost analyses. The recommendations shall be based on the principles contained in section 2 of Executive Order No. 12893 and shall be developed in consultation with the American Association of State Highway and Transportation Officials. The Secretary shall not require a State to conduct a life-cycle cost analysis for any project as a result of the recommendations required under this subsection.

"(2) Life-cycle cost analysis defined.—In this subsection, the term 'life-cycle cost analysis' means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, user costs, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.".

(d) Conforming Amendment.—The analysis for chapter 1 of such title is amended by striking the item relating to section 106 and inserting the following:

"106. Project approval and oversight.".

SEC. 1306. STANDARDS.

(a) Elimination of Guidelines and Annual Certification Requirements.—Section 109 of title 23, United States Code, is amended—

(1) by striking subsection (m); and

(2) by redesignating subsections (n) through (q) as subsections (m) through (p), respectively.

(b) Safety standards.—Section 109 of such title (as amended by subsection (a)), is amended by adding at the end the following:

"(q) Phase Construction.—Safety considerations for a project under this title may be met by phase construction consistent with the operative safety management system established in accordance with section 303 or in accordance with a statewide transportation improvement program approved by the Secretary.".

SEC. 1307. DESIGN-BUILD CONTRACTING.

(a) Authority.—Section 112(b) of title 23, United States Code, is amended—

(1) in the first sentence of paragraph (1) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(2) in paragraph (2)(A) by striking "Each" and inserting "Subject to paragraph (3), each"; and

(3) by adding at the end the following:

"(3) Design-build contracting.—

"(A) In general.—A State transportation department or local transportation agency may award a design-build contract for a qualified project described in subparagraph (C) using any procurement process permitted by applicable State and local law.

"(B) Limitation on final design.—Final design under a design-build contract referred to in subparagraph (A) shall not commence before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(C) Qualified projects.—A qualified project referred to in subparagraph (A) is a project under this chapter for which—

"(i) the Secretary has approved the use of design-build contracting described in subparagraph (A) under criteria specified in regulations issued by the Secretary; and

"(ii) the total costs are estimated to exceed—

"(I) in the case of a project that involves installation of an intelligent transportation system, $5,000,000; and

"(II) in the case of any other project, $50,000,000.

"(D) Design-build contract defined.—In this paragraph, the term 'design-build contract' means an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the Secretary.".

(b) Inapplicability of Standardized Contract Clause Requirement.—Section 112(e)(2) of such title is amended—

(1) by striking "Paragraph" and inserting the following:

"(A) State law.—Paragraph";

(2) by adding at the end the following:

"(B) Design-build contracts.—Paragraph (1) shall not apply to any design-build contract approved under subsection (b)(3)."; and

(3) by aligning the remainder of the text of subparagraph (A) (as designated by paragraph (1) of this subsection) with subparagraph (B) of such section (as added by paragraph (2) of this subsection).

(c) Regulations.—

(1) In general.—Not later than the effective date specified in subsection (e), after consultation with the American Association of State Highway and Transportation Officials and representatives from affected industries, the Secretary shall issue regulations to carry out the amendments made by this section.

(2) Contents.—The regulations shall—

(A) identify the criteria to be used by the Secretary in approving the use by a State transportation department or local transportation agency of design-build contracting; and

(B) establish the procedures to be followed by a State transportation department or local transportation agency for obtaining the Secretary's approval of the use of design-build contracting by the department or agency.

(d) Effect on Experimental Program.—Nothing in this section or the amendments made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning design-build contracting that is being carried out by the Secretary as of the date of enactment of this Act.

(e) Effective Date for Amendments.—

(1) In general.—The amendments made by this section take effect 3 years after the date of enactment of this Act.

(2) Transition provision.—

(A) In general.—During the period before issuance of the regulations under subsection (c), the Secretary may approve, in accordance with an experimental program described in subsection (d), design-build contracts to be awarded using any process permitted by applicable State and local law; except that final design under any such contract shall not commence before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(B) Previously awarded contracts.—The Secretary may approve design-build contracts awarded before the date of enactment of this Act.

(C) Design-build contract defined.—In this paragraph, the term "design-build contract" means an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the Secretary.

(f) Report to Congress.—

(1) In general.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the effectiveness of design-build contracting procedures.

(2) Contents.—The report shall contain—

(A) an assessment of the effect of design-build contracting on project quality, project cost, and timeliness of project delivery;

(B) recommendations on the appropriate level of design for design-build procurements;

(C) an assessment of the impact of design-build contracting on small businesses;

(D) assessment of the subjectivity used in design-build contracting; and

(E) such recommendations concerning design-build contracting procedures as the Secretary determines to be appropriate.

SEC. 1308. MAJOR INVESTMENT STUDY INTEGRATION.

The Secretary shall eliminate the major investment study set forth in section 450.318 of title 23, Code of Federal Regulations, as a separate requirement, and promulgate regulations to integrate such requirement, as appropriate, as part of the analyses required to be undertaken pursuant to the planning provisions of title 23, United States Code, and chapter 53 of title 49, United States Code, and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for Federal-aid highway and transit projects. The scope of the applicability of such regulations shall be no broader than the scope of such section.

SEC. 1309. ENVIRONMENTAL STREAMLINING.

(a) Coordinated Environmental Review Process.—

(1) Development and implementation.—The Secretary shall develop and implement a coordinated environmental review process for highway construction projects that require—

(A) the preparation of an environmental impact statement or environmental assessment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), except that the Secretary may decide not to apply this section to the preparation of an environmental assessment under such Act; or

(B) the conduct of any other environmental review, analysis, opinion, or issuance of an environmental permit, license, or approval by operation of Federal law.

(2) Memorandum of understanding.—

(A) In general.—The coordinated environmental review process for each project shall ensure that, whenever practicable (as specified in this section), all environmental reviews, analyses, opinions, and any permits, licenses, or approvals that must be issued or made by any Federal agency for the project concerned shall be conducted concurrently and completed within a cooperatively determined time period. Such process for a project or class of project may be incorporated into a memorandum of understanding between the Department of Transportation and Federal agencies (and, where appropriate, State agencies).

(B) Establishment of time periods.—In establishing the time period referred to in subparagraph (A), and any time periods for review within such period, the Department and all such agencies shall take into account their respective resources and statutory commitments.

(b) Elements of Coordinated Environmental Review Process.—For each project, the coordinated environmental review process established under this section shall provide, at a minimum, for the following elements:

(1) Federal agency identification.—The Secretary shall, at the earliest possible time, identify all potential Federal agencies that—

(A) have jurisdiction by law over environmental-related issues that may be affected by the project and the analysis of which would be part of any environmental document required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(B) may be required by Federal law to independently—

(i) conduct an environmental-related review or analysis; or

(ii) determine whether to issue a permit, license, or approval or render an opinion on the environmental impact of the project.

(2) Time limitations and concurrent review.—The Secretary and the head of each Federal agency identified under paragraph (1)—

(A)(i) shall jointly develop and establish time periods for review for—

(I) all Federal agency comments with respect to any environmental review documents required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the project; and

(II) all other independent Federal agency environmental analyses, reviews, opinions, and decisions on any permits, licenses, and approvals that must be issued or made for the project;

whereby each such Federal agency's review shall be undertaken and completed within such established time periods for review; or

(ii) may enter into an agreement to establish such time periods for review with respect to a class of project; and

(B) shall ensure, in establishing such time periods for review, that the conduct of any such analysis, review, opinion, and decision is undertaken concurrently with all other environmental reviews for the project, including the reviews required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); except that such review may not be concurrent if the affected Federal agency can demonstrate that such concurrent review would result in a significant adverse impact to the environment or substantively alter the operation of Federal law or would not be possible without information developed as part of the environmental review process.

(3) Factors to be considered.—Time periods for review established under this section shall be consistent with the time periods established by the Council on Environmental Quality under sections 1501.8 and 1506.10 of title 40, Code of Federal Regulations.

(4) Extensions.—The Secretary shall extend any time periods for review under this section if, upon good cause shown, the Secretary and any Federal agency concerned determine that additional time for analysis and review is needed as a result of new information that has been discovered that could not reasonably have been anticipated when the Federal agency's time periods for review were established. Any memorandum of understanding shall be modified to incorporate any mutually agreed-upon extensions.

(c) Dispute Resolution.—When the Secretary determines that a Federal agency which is subject to a time period for its environmental review or analysis under this section has failed to complete such review, analysis, opinion, or decision on issuing any permit, license, or approval within the established time period or within any agreed-upon extension to such time period, the Secretary may, after notice and consultation with such agency, close the record on the matter before the Secretary. If the Secretary finds, after timely compliance with this section, that an environmental issue related to the project that an affected Federal agency has jurisdiction over by operation of Federal law has not been resolved, the Secretary and the head of the Federal agency shall resolve the matter not later than 30 days after the date of the finding by the Secretary.

(d) Participation of State Agencies.—For any project eligible for assistance under chapter 1 of title 23, United States Code, a State, by operation of State law, may require that all State agencies that have jurisdiction by State or Federal law over environmental-related issues that may be affected by the project, or that are required to issue any environmental-related reviews, analyses, opinions, or determinations on issuing any permits, licenses, or approvals for the project, be subject to the coordinated environmental review process established under this section unless the Secretary determines that a State's participation would not be in the public interest. For a State to require State agencies to participate in the review process, all affected agencies of the State shall be subject to the review process.

(e) Assistance to Affected Federal Agencies.—

(1) In general.—The Secretary may approve a request by a State to provide funds made available under chapter 1 of title 23, United States Code, to the State for the project subject to the coordinated environmental review process established under this section to affected Federal agencies to provide the resources necessary to meet any time limits established under this section.

(2) Amounts.—Such requests under paragraph (1) shall be approved only—

(A) for the additional amounts that the Secretary determines are necessary for the affected Federal agencies to meet the time limits for environmental review; and

(B) if such time limits are less than the customary time necessary for such review.

(f) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

(1) JUDICIAL REVIEW.—Nothing in this section shall affect the reviewability of any final Federal agency action in a district court of the United States or in the court of any State.

(2) SAVINGS CLAUSE.—Nothing in this section shall affect the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

(g) FEDERAL AGENCY DEFINED.—In this section, the term "Federal agency" means any Federal agency or any State agency carrying out affected responsibilities required by operation of Federal law.

SEC. 1310. UNIFORM TRANSFERABILITY OF FEDERAL-AID HIGHWAY FUNDS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 109 the following:

"§ 110. Uniform transferability of Federal-aid highway funds

"(a) GENERAL RULE.—Notwithstanding any other provision of law but subject to subsections (b) and (c), if at least 50 percent of a State's apportionment under section 104 or 144 for a fiscal year or at least 50 percent of the funds set-aside under section 133(d) from the State's apportionment section 104(b)(3) may not be transferred to any other apportionment of the State under section 104 or 144 for such fiscal year, then the State may transfer not to exceed 50 percent of such apportionment or set aside to any other apportionment of such State under section 104 or 144 for such fiscal year.

"(b) APPLICATION TO CERTAIN SET-ASIDES.—No funds may be transferred under this section that are subject to the last sentence of section 133(d)(1) or to section 104(f) or to section 133(d)(3). The maximum amount that a State may transfer under this section of the State's set-aside under section 133(d)(1) or 133(d)(2) for a fiscal year may not exceed 25 percent of (1) the amount of such set-aside, less (2) the amount of the State's set-aside under such section for fiscal year 1997.

"(c) APPLICATION TO CERTAIN CMAQ FUNDS.—The maximum amount that a State may transfer under this section of the State's apportionment under section 104(b)(2) for a fiscal year may not exceed 50 percent of (1) the amount of such apportionment, less (2) the amount that the State's apportionment under section 104(b)(2) for such fiscal year would have been had the program been funded at $1,350,000,000. Any such funds apportioned under section 104(b)(2) and transferred under this section may only be obligated in geographic areas eligible for the obligation of funds apportioned under section 104(b)(2).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 109 the following:

"110. Uniform transferability of Federal-aid highway funds.".

Subtitle D—Safety

SEC. 1401. HAZARD ELIMINATION PROGRAM.

Section 152 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a) Each" and inserting the following:

"(a) IN GENERAL.—

"(1) PROGRAM.—Each";

(B) by inserting ", bicyclists," after "motorists";

(C) by adding at the end the following:

"(2) HAZARDS.—In carrying out paragraph (1), a State may, at its discretion—

"(A) identify, through a survey, hazards to motorists, bicyclists, pedestrians, and users of highway facilities; and

"(B) develop and implement projects and programs to address the hazards."; and

(D) by aligning the remainder of the text of paragraph (1) (as designated by subparagraph (A) of this paragraph) with paragraph (2) of such subsection (as added by subparagraph (C) of this paragraph);

(2) in subsection (b) by striking "highway safety improvement project" and inserting "safety improvement project, including a project described in subsection (a)";

(3) in subsection (c) by striking "on any public road (other than a highway on the Interstate System)." and inserting the following: "on—

"(1) any public road;

"(2) any public surface transportation facility or any publicly owned bicycle or pedestrian pathway or trail; or

"(3) any traffic calming measure.";

(4) in subsection (e)—

(A) by striking "apportioned to" in the first sentence and all that follows through "shall be" in the second sentence; and

(B) by striking "section 104(b)(1)" and inserting "section 104(b)"; and

(5) in subsections (f) and (g) by striking "highway safety improvement projects" each place it appears and inserting "safety improvement projects".

SEC. 1402. ROADSIDE SAFETY TECHNOLOGIES.

(a) CRASH CUSHIONS.—

(1) GUIDANCE.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue guidance regarding the benefits and safety performance of redirective and nonredirective crash cushions in different road applications, taking into consideration roadway conditions, operating speed limits, the location of the crash cushion in the right-of-way, and any other relevant factors. The guidance shall include recommendations on the most appropriate circumstances for utilization of redirective and nonredirective crash cushions.

(2) USE OF GUIDANCE.—States shall use the guidance issued under this subsection in evaluating the safety and cost-effectiveness of utilizing different crash cushion designs and determining whether directive or nonredirective crash cushions or other safety appurtenances should be installed at specific highway locations.

(b) TRAFFIC FLOW AND SAFETY APPLICATIONS OF ROAD BARRIERS.—

(1) STUDY.—The Secretary shall conduct a study on the technologies and methods to enhance safety, streamline construction, and improve capacity by providing positive separation at all times between traffic, equipment, and workers on highway construction projects. The study shall also address how such technologies can be used to improve capacity and safety at those specific highway, bridge, and other appropriate locations where reversible lane, contraflow, and high occupancy vehicle lane operations are implemented during peak traffic periods.

(2) USES TO CONSIDER.—In conducting the study, the Secretary shall consider, at a minimum, uses of positive separation technologies related to—

(A) separating workers from traffic flow when work is in progress;

(B) providing additional safe work space by utilizing adjacent and available traffic lanes during off-peak hours;

(C) rapid deployment to allow for daily or periodic restoration of lanes for use by traffic during peak hours as needed;

(D) mitigating congestion caused by construction by—

(i) opening all adjacent and available lanes to traffic during peak traffic hours; or

(ii) using reversible lanes to optimize capacity of the highway by adjusting to directional traffic flow; and

(E) permanent use of positive separation technologies to create contraflow or reversible lanes to increase the capacity of congested highways, bridges, and tunnels.

(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study. The report shall include findings and recommendations for the use of the technologies referred to in paragraph (2) to provide positive separation on appropriate projects.

SEC. 1403. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by striking section 157 and inserting the following:

"§ 157. Safety incentive grants for use of seat belts

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line.

"(2) MULTIPURPOSE PASSENGER MOTOR VEHICLE.—The term 'multipurpose passenger motor vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed on a truck chassis or is constructed with special features for occasional off-road operation.

"(3) NATIONAL AVERAGE SEAT BELT USE RATE.—The term 'national average seat belt use rate' means, in the case of each of calendar years 1996 through 2001, the national average seat belt use rate for that year, as determined by the Secretary.

"(4) PASSENGER CAR.—The term 'passenger car' means a motor vehicle with motive power (except a multipurpose passenger motor vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

"(5) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

"(6) SAVINGS TO THE FEDERAL GOVERNMENT.—The term 'savings to the Federal Government' means the amount of Federal budget savings relating to Federal medical costs (including savings under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.)), as determined by the Secretary.

"(7) SEAT BELT.—The term 'seat belt' means—

"(A) with respect to an open-body passenger motor vehicle, including a convertible, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to any other passenger motor vehicle, an occupant restraint system consisting of integrated lap and shoulder belts.

"(8) STATE SEAT BELT USE RATE.—The term 'State seat belt use rate' means the rate of use of seat belts in passenger motor vehicles in a State, as measured and submitted to the Secretary—

"(A) for each of calendar years 1996 and 1997, by the State, as weighted by the Secretary to ensure national consistency in methods of measurement (as determined by the Secretary); and

"(B) for each of calendar years 1998 through 2001, by the State in a manner consistent with the criteria established by the Secretary under subsection (e).

"(b) DETERMINATIONS BY THE SECRETARY.—Not later than September 1, 1998, and September 1 of each calendar year thereafter through September 1, 2002, the Secretary shall determine—

"(1)(A) which States had, for each of the previous calendar years (in-this subsection referred *to as the 'previous calendar year') and the year preceding the previous calendar year, a State seat belt use rate greater than the national average seat belt use rate for that year; and*

"(B) in the case of each State described in subparagraph (A), the amount that is equal to the savings to the Federal Government due to the amount by which the State seat belt use rate for the previous calendar year exceeds the national average seat belt use rate for that year; and

"(2) in the case of each State that is not a State described in paragraph (1)(A)—

"(A) the base seat belt use rate of the State, which shall be equal to the highest State seat belt use rate for the State for any calendar year during the period of 1996 through the calendar year preceding the previous calendar year; and

"(B) the amount that is equal to the savings to the Federal Government due to any increase in the State seat belt use rate for the previous calendar year over the base seat belt use rate determined under subparagraph (A).

"(c) ALLOCATIONS.—

"(1) STATES WITH GREATER THAN THE NATIONAL AVERAGE SEAT BELT USE RATE.—Not later than October 1, 1998, and each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(1)(A) an amount equal to the amount determined for the State under subsection (b)(1)(B).

"(2) OTHER STATES.—Not later than October 1, 1998, and each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(2) an amount equal to the amount determined for the State under subsection (b)(2)(B).

"(d) USE OF AMOUNTS.—For each fiscal year, each State that is allocated an amount under this section shall use the amount for projects eligible for assistance under this title.

"(e) CRITERIA.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish criteria for the measurement of State seat belt use rates by States to ensure that the measurements are accurate and representative.

"(f) INNOVATIVE SEAT BELT PROJECT ALLOCATIONS.—

"(1) IN GENERAL.—The Secretary shall use amounts made available under subsection (g)(3) to make allocations to States to carry out innovative projects to promote increased seat belt use rates.

"(2) DETERMINATION OF ELIGIBILITY.—To be eligible to receive an allocation under this subsection for a fiscal year, a State shall—

"(A) develop a plan for innovative projects described in paragraph (1); and

"(B) submit the plan to the Secretary not later than March 1 of the fiscal year.

"(3) PLAN SELECTION.—

"(A) CRITERIA.—Not later than December 1, 1998, the Secretary shall establish criteria for the selection of State plans for allocations under this subsection.

"(B) SELECTION.—The Secretary shall select State plans for allocations under this subsection in accordance with the criteria established under subparagraph (A).

"(C) STATES.—In carrying out this paragraph, the Secretary shall ensure, to the maximum extent practicable, demographic and geographic diversity and a diversity of seat belt use rates among the States selected for allocations.

"(4) ALLOCATION.—Not later than October 1, 1999, and each October 1 thereafter through October 1, 2002, the Secretary shall allocate funds to the States whose plans were selected under paragraph (3).

"(5) AMOUNT OF ALLOCATIONS.—Subject to the availability of unallocated amounts under subsection (g)(3), the amount of each allocation to a State under this subsection shall be not less than $100,000 for each fiscal year that is covered by a State plan.

"(6) USE OF ALLOCATIONS.—An allocation to a State under this subsection shall be used to carry out the innovative seat belt projects described in the State plan for which the allocation is awarded.

"(7) FEDERAL SHARE.—The Federal share of the cost of an innovative seat belt project under this section shall be 100 percent.

"(8) PERIOD OF AVAILABILITY.—Amounts allocated to a State under this subsection shall remain available for obligation in the State for a period of 3 years after the last day of the fiscal year for which the amounts are allocated.

"(g) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $82,000,000 for fiscal year 1999, $92,000,000 for fiscal year 2000, $102,000,000 for fiscal year 2001, $112,000,000 for fiscal year 2002, and $112,000,000 for fiscal year 2003.

"(2) PROPORTIONATE ADJUSTMENT.—If the total amounts to be allocated under subsection (c) for any fiscal year would exceed the amounts authorized for the fiscal year under paragraph (1), the allocation to each State under subsection (c) shall be reduced proportionately.

"(3) USE OF UNALLOCATED FUNDS.—

"(A) FISCAL YEAR 1999.—To the extent that the amounts made available for fiscal year 1999 under paragraph (1) exceed the total amounts to be allocated under subsection (c) for fiscal year 1999, the excess amounts—

"(i) shall be apportioned in accordance with section 104(b)(3);

"(ii) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d); and

"(iii) shall be available for any purpose eligible for funding under section 133.

"(B) FISCAL YEARS 2000 THROUGH 2003.—To the extent that the amounts made available for any of fiscal years 2000 through 2003 under paragraph (1) exceed the total amounts to be allocated under subsection (c) for the fiscal year, the excess amounts shall be used to make allocations under subsection (f).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 157 and inserting the following:

"157. Safety incentive grants for use of seat belts.".

(c) SAVINGS CLAUSE.—The amendment made by subsection (a) shall not affect any funds apportioned or allocated before the date of enactment of this Act.

SEC. 1404. SAFETY INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 163. Safety incentives to prevent operation of motor vehicles by intoxicated persons

"(a) GENERAL AUTHORITY.—The Secretary shall make a grant, in accordance with this section, to any State that has enacted and is enforcing a law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State shall be deemed to have committed a per se offense of driving while intoxicated (or an equivalent per se offense).

"(b) GRANTS.—For each fiscal year, funds authorized to carry out this section shall be apportioned to each State that has enacted and is enforcing a law meeting the requirements of subsection (a) in an amount determined by multiplying—

"(1) the amount authorized to carry out this section for the fiscal year; by

"(2) the ratio that the amount of funds apportioned to each such State under section 402 for such fiscal year bears to the total amount of funds apportioned to all such States under section 402 for such fiscal year.

"(c) USE OF GRANTS.—A State may obligate funds apportioned under subsection (b) for any project eligible for assistance under this title.

"(d) FEDERAL SHARE.—The Federal share of the cost of a project funded under this section shall be 100 percent.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $55,000,000 for fiscal year 1998, $65,000,000 for fiscal year 1999, $80,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, $100,000,000 for fiscal year 2002, and $110,000,000 for fiscal year 2003.

"(2) AVAILABILITY OF FUNDS.—Notwithstanding section 118(b)(2), the funds authorized by this subsection shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"Sec. 163. Safety incentives to prevent operation of motor vehicles by intoxicated persons.".

Subtitle E—Finance

CHAPTER 1—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

SEC. 1501. SHORT TITLE.

This chapter may be cited as the "Transportation Infrastructure Finance and Innovation Act of 1998".

SEC. 1502. FINDINGS.

Congress finds that—

(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act;

(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.

SEC. 1503. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"SUBCHAPTER II—INFRASTRUCTURE FINANCE

"§ 181. Definitions

"In this subchapter, the following definitions apply:

"(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

''(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

''(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

''(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

''(2) FEDERAL CREDIT INSTRUMENT.—The term 'Federal credit instrument' means a secured loan, loan guarantee, or line of credit authorized to be made available under this subchapter with respect to a project.

''(3) INVESTMENT-GRADE RATING.—The term 'investment-grade rating' means a rating category of BBB minus, Baa3, or higher assigned by a rating agency to project obligations offered into the capital markets.

''(4) LENDER.—The term 'lender' means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

''(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

''(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

''(5) LINE OF CREDIT.—The term 'line of credit' means an agreement entered into by the Secretary with an obligor under section 184 to provide a direct loan at a future date upon the occurrence of certain events.

''(6) LOAN GUARANTEE.—The term 'loan guarantee' means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

''(7) LOCAL SERVICER.—The term 'local servicer' means—

''(A) a State infrastructure bank established under this title; or

''(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

''(8) OBLIGOR.—The term 'obligor' means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

''(9) PROJECT.—The term 'project' means—

''(A) any surface transportation project eligible for Federal assistance under this title or chapter 53 of title 49;

''(B) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible.

''(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems; and

''(D) a project for publicly owned intermodal surface freight transfer facilities, other than seaports and airports, if the facilities are located on or adjacent to National Highway System routes or connections to the National Highway System.

''(10) PROJECT OBLIGATION.—The term 'project obligation' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

''(11) RATING AGENCY.—The term 'rating agency' means a bond rating agency identified by the Securities and Exchange Commission as a Nationally Recognized Statistical Rating Organization.

''(12) SECURED LOAN.—The term 'secured loan' means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 183.

''(13) STATE.—The term 'State' has the meaning given the term in section 101.

''(14) SUBSIDY AMOUNT.—The term 'subsidy amount' means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

''(15) SUBSTANTIAL COMPLETION.—The term 'substantial completion' means the opening of a project to vehicular or passenger traffic.

“§ 182. Determination of eligibility and project selection

''(a) ELIGIBILITY.—To be eligible to receive financial assistance under this subchapter, a project shall meet the following criteria:

''(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project—

''(A) shall be included in the State transportation plan required under section 135; and

''(B) at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter, shall be included in the approved State transportation improvement program required under section 134.

''(2) APPLICATION.—A State, a local servicer identified under section 185(a), or the entity undertaking the project shall submit a project application to the Secretary.

''(3) ELIGIBLE PROJECT COSTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this subchapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

''(i) $100,000,000; or

''(ii) 50 percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

''(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project principally involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $30,000,000.

''(4) DEDICATED REVENUE SOURCES.—Project financing shall be repayable, in whole or in part, from tolls, user fees, or other dedicated revenue sources.

''(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

''(b) SELECTION AMONG ELIGIBLE PROJECTS.—

''(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (a).

''(2) SELECTION CRITERIA.—

''(A) IN GENERAL.—The selection criteria shall include the following:

''(i) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

''(ii) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment.

''(iii) The extent to which assistance under this subchapter would foster innovative public-private partnerships and attract private debt or equity investment.

''(iv) The likelihood that assistance under this subchapter would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

''(v) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

''(vi) The amount of budget authority required to fund the Federal credit instrument made available under this subchapter.

''(vii) The extent to which the project helps maintain or protect the environment.

''(viii) The extent to which assistance under this chapter would reduce the contribution of Federal grant assistance to the project.

''(B) PRELIMINARY RATING OPINION LETTER.—For purposes of subparagraph (A)(ii), the Secretary shall require each project applicant to provide a preliminary rating opinion letter from at least 1 rating agency indicating that the project's senior obligations have the potential to achieve an investment-grade rating.

''(c) FEDERAL REQUIREMENTS.—In addition to the requirements of this title for highway projects, chapter 53 of title 49 for transit projects, and section 5333(a) of title 49 for rail projects, the following provisions of law shall apply to funds made available under this subchapter and projects assisted with the funds:

''(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

''(2) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

“§ 183. Secured loans

''(a) IN GENERAL.—

''(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

''(A) to finance eligible project costs; or

''(B) to refinance interim construction financing of eligible project costs;

of any project selected under section 182.

''(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

''(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 182(b)(2)(B), shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account such letter.

''(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a secured loan under this section shall be contingent on the project's senior obligations receiving an investment-grade rating, except that—

''(A) the Secretary may fund an amount of the secured loan not to exceed the capital reserve subsidy amount determined under paragraph (3) prior to the obligations receiving an investment-grade rating; and

"(B) the Secretary may fund the remaining portion of the secured loan only after the obligations have received an investment-grade rating by at least 1 rating agency.

"(b) TERMS AND LIMITATIONS.—

"(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

"(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed 33 percent of the reasonably anticipated eligible project costs.

"(3) PAYMENT.—The secured loan—

"(A) shall—

"(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources; and

"(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

"(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

"(4) INTEREST RATE.—The interest rate on the secured loan shall be not less than the yield on marketable United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

"(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 35 years after the date of substantial completion of the project.

"(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

"(7) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making a secured loan under this section.

"(8) NON-FEDERAL SHARE.—The proceeds of a secured loan under this subchapter may be used for any non-Federal share of project costs required under this title or chapter 53 of title 49, if the loan is repayable from non-Federal funds.

"(c) REPAYMENT.—

"(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

"(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

"(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

"(4) DEFERRED PAYMENTS.—

"(A) AUTHORIZATION.—If, at any time during the 10 years after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

"(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

"(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

"(ii) be scheduled to be amortized over the remaining term of the loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1).

"(C) CRITERIA.—

"(i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

"(ii) REPAYMENT STANDARDS.—The criteria established under clause (i) shall include standards for reasonable assurance of repayment.

"(5) PREPAYMENT.—

"(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

"(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

"(d) SALE OF SECURED LOANS.—

"(1) IN GENERAL.—Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

"(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the written consent of the obligor.

"(e) LOAN GUARANTEES.—

"(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

"(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

"§ 184. Lines of credit

"(a) IN GENERAL.—

"(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 182.

"(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

"(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 182(b)(2)(B), shall determine an appropriate capital reserve subsidy amount for each line of credit, taking into account such letter.

"(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a line of credit under this section shall be contingent on the project's senior obligations receiving an investment-grade rating from at least 1 rating agency.

"(b) TERMS AND LIMITATIONS.—

"(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

"(2) MAXIMUM AMOUNTS.—

"(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

"(B) 1-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.

"(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest, any debt service reserve fund, and any other available reserve) are insufficient to pay the costs specified in subsection (a)(2).

"(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year marketable United States Treasury securities as of the date on which the line of credit is obligated.

"(5) SECURITY.—The line of credit—

"(A) shall—

"(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources; and

"(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

"(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

"(6) PERIOD OF AVAILABILITY.—The line of credit shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

"(7) RIGHTS OF THIRD PARTY CREDITORS.—

"(A) AGAINST FEDERAL GOVERNMENT.—A third party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

"(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

"(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

"(9) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of providing a line of credit under this section.

"(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A project that receives a line of credit under this section also shall not receive a secured loan or loan guarantee under section 183 of an amount that, combined with the amount of the line of credit, exceeds 33 percent of eligible project costs.

"(c) REPAYMENT.—

"(1) TERMS AND CONDITIONS.—The Secretary shall establish repayment terms and conditions for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

"(2) TIMING.—All scheduled repayments of principal or interest on a direct loan under this section shall commence not later than 5 years after the end of the period of availability specified in subsection (b)(6) and be fully repaid, with interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

"(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

"§ 185. Project servicing

"(a) REQUIREMENT.—The State in which a project that receives financial assistance under this subchapter is located may identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this subchapter.

"(b) AGENCY; FEES.—If a State identifies a local servicer under subsection (a), the local servicer—

"(1) shall act as the agent for the Secretary; and

"(2) may receive a servicing fee, subject to approval by the Secretary.

"(c) LIABILITY.—A local servicer identified under subsection (a) shall not be liable for the obligations of the obligor to the Secretary or any lender.

"(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

"§ 186. State and local permits

"The provision of financial assistance under this subchapter with respect to a project shall not—

"(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

"(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

"(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

"§ 187. Regulations

"The Secretary may issue such regulations as the Secretary determines appropriate to carry out this subchapter.

"§ 188. Funding

"(a) FUNDING.—

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter—

"(A) $80,000,000 for fiscal year 1999;

"(B) $90,000,000 for fiscal year 2000;

"(C) $110,000,000 for fiscal year 2001;

"(D) $120,000,000 for fiscal year 2002; and

"(E) $130,000,000 for fiscal year 2003.

"(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this subchapter, not more than $2,000,000 for each of fiscal years 1998 through 2003.

"(3) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

"(b) CONTRACT AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this subchapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

"(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.

"(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 1998 through 2003, principal amounts of Federal credit instruments made available under this subchapter shall be limited to the amounts specified in the following table:

"Fiscal year:	**Maximum amount of credit:**
1998	$1,200,000,000
1999	$1,200,000,000
2000	$1,800,000,000
2001	$1,800,000,000
2002	$2,300,000,000
2003	$2,300,000,000.

"§ 189. Report to Congress

"Not later than 4 years after the date of enactment of this subchapter, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this subchapter, including a recommendation as to whether the objectives of this subchapter are best served—

"(1) by continuing the program under the authority of the Secretary;

"(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

"(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this subchapter without Federal participation.".

(b) CONFORMING AMENDMENTS.—Chapter 1 of title 23, United States Code, is amended—

(1) in the analysis—

(A) by inserting before "Sec." the following:

"SUBCHAPTER I—GENERAL PROVISIONS";

and

(B) by adding at the end the following:

"SUBCHAPTER II—INFRASTRUCTURE FINANCE

"181. Definitions.
"182. Determination of eligibility and project selection.
"183. Secured loans.
"184. Lines of credit.
"185. Project servicing.
"186. State and local permits.
"187. Regulations.
"188. Funding.
"189. Report to Congress.";

and

(2) by inserting before section 101 the following:

"SUBCHAPTER I—GENERAL PROVISIONS".

SEC. 1504. DUTIES OF THE SECRETARY.

Section 301 of title 49, United States Code, is amended—

(1) in paragraph (7) by striking "and" at the end;

(2) in paragraph (8) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.".

CHAPTER 2—STATE INFRASTRUCTURE BANK PILOT PROGRAM

SEC. 1511. STATE INFRASTRUCTURE BANK PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) OTHER ASSISTANCE.—The term "other assistance" includes any use of funds in an infrastructure bank—

(A) to provide credit enhancements;

(B) to serve as a capital reserve for bond or debt instrument financing;

(C) to subsidize interest rates;

(D) to ensure the issuance of letters of credit and credit instruments;

(E) to finance purchase and lease agreements with respect to transit projects;

(F) to provide bond or debt financing instrument security; and

(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which the assistance is being provided.

(2) STATE.—The term "State" has the meaning given the term under section 401 of title 23, United States Code.

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—

(A) PURPOSE OF AGREEMENTS.—Subject to this section, the Secretary may enter into cooperative agreements with the States of California, Florida, Missouri, and Rhode Island for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

(B) CONTENTS OF AGREEMENTS.—Each cooperative agreement shall specify procedures and guidelines for establishing, operating, and providing assistance from the infrastructure bank.

(2) INTERSTATE COMPACTS.—If 2 or more States enter into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, Congress grants consent to those States to enter into an interstate compact establishing the bank in accordance with this section.

(c) FUNDING.—

(1) CONTRIBUTION.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (h)(1), a State that enters into a cooperative agreement under this section to contribute to the infrastructure bank established by the State not to exceed—

(A)(i) the total amount of funds apportioned to the State under each of paragraphs (1), (3), and (4) of section 104(b) and section 144 of title 23, United States Code, excluding funds set aside under paragraphs (1) and (2) of section 133(d) of such title; and

(ii) the total amount of funds allocated to the State under section 105 of such title;

(B) the total amount of funds made available to the State or other Federal transit grant recipient for capital projects (as defined in section 5302 of title 49, United States Code) under sections 5307, 5309, and 5311 of such title; and

(C) the total amount of funds made available to the State under subtitle V of title 49, United States Code.

(2) CAPITALIZATION GRANT.—For the purposes of this section, Federal funds contributed to the infrastructure bank under this subsection shall constitute a capitalization grant for the infrastructure bank.

(3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under section 104(b)(3) of title 23, United States Code, and attributed to urbanized areas of a State with a population of over 200,000 individuals under section 133(d)(2) of such title may be used to provide assistance from an infrastructure bank under this section with respect to a project only if the metropolitan planning organization designated for the area concurs, in writing, with the provision of the assistance.

(d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—

(1) IN GENERAL.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section.

(2) SUBORDINATION OF LOANS.—The amount of any loan or other assistance provided for the project may be subordinated to any other debt financing for the project.

(3) INITIAL ASSISTANCE.—Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section shall not be made in the form of a grant.

(e) QUALIFYING PROJECTS.—

(1) IN GENERAL.—Subject to paragraph (2), funds in an infrastructure bank established under this section may be used only to provide assistance with respect to projects eligible for assistance under title 23, United States Code, for capital projects (as defined in section 5302 of title 49, United States Code), or for any other project related to surface transportation that the Secretary determines to be appropriate.

(2) INTERSTATE FUNDS.—Funds contributed to an infrastructure bank from funds apportioned to a State under section 104(b)(4) of title 23, United States Code, may be used only to provide assistance with respect to projects eligible for assistance under such paragraph.

(3) RAIL PROGRAM FUNDS.—Funds contributed to an infrastructure bank from funds made available to a State under subtitle V of title 49 United States Code, shall be used in a manner consistent with any project description specified under the law making the funds available to the State.

(f) INFRASTRUCTURE BANK REQUIREMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), in order to establish an infrastructure bank under this section, each State establishing such a bank shall—

(A) contribute, at a minimum, to the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank under subsection (c), except that if the State has a higher Federal share payable under section 120(b) of title 23, United States Code, the State shall be required to contribute only an amount commensurate with the higher Federal share;

(B) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances and its ability to pay claims under credit enhancement programs of the bank;

(C) ensure that investment income generated by funds contributed to the bank will be—

(i) credited to the bank;

(ii) available for use in providing loans and other assistance to projects eligible for assistance from the bank; and

(iii) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

(D) ensure that any loan from the bank will bear interest at or below market rates, as determined by the State, to make the project that is the subject of the loan feasible;

(E) ensure that repayment of the loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

(F) ensure that the term for repaying any loan will not exceed the lesser of—

(i) 35 years after the date of the first payment on the loan under subparagraph (E); or

(ii) the useful life of the investment; and

(G) require the bank to make a biennial report to the Secretary and to make such other reports as the Secretary may require in guidelines.

(2) WAIVERS BY THE SECRETARY.—The Secretary may waive a requirement of any of subparagraphs (C) through (G) of paragraph (1) with respect to an infrastructure bank if the Secretary determines that the waiver is consistent with the objectives of this section.

(g) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited toward the non-Federal share of the cost of any project.

(h) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

(1) ensure that Federal disbursements shall be at an annual rate of not more than 20 percent of the amount designated by the State for State infrastructure bank capitalization under subsection (c)(1), except that the Secretary may disburse funds to a State in an amount needed to finance a specific project; and

(2) revise cooperative agreements entered into with States under section 350 of the National Highway System Designation Act of 1995 (Public Law 104–59) to comply with this section.

(i) APPLICABILITY OF FEDERAL LAW.—

(1) IN GENERAL.—The requirements of titles 23 and 49, United States Code, that would otherwise apply to funds made available under such title and projects assisted with those funds shall apply to—

(A) funds made available under such title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under subsection (f); and

(B) projects assisted by the bank through the use of the funds;

except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of title 23 and section 5333 of title 49), is not consistent with the objectives of this section.

(2) REPAYMENTS.—The requirements of titles 23 and 49, United States Code, shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.

(j) UNITED STATES NOT OBLIGATED.—

(1) IN GENERAL.—The contribution of Federal funds to an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party. No third party shall have any right against the United States for payment solely by virtue of the contribution.

(2) STATEMENT.—Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

(k) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

(l) PROGRAM ADMINISTRATION.—

(1) IN GENERAL.—A State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

(2) NON-FEDERAL FUNDS.—The limitation described in paragraph (1) shall not apply to non-Federal funds.

Subtitle F—High Priority Projects

SEC. 1601. HIGH PRIORITY PROJECTS PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by striking section 117 and inserting the following:

"§117. High priority projects program

"(a) AUTHORIZATION OF HIGH PRIORITY PROJECTS.—The Secretary is authorized to carry out high priority projects with funds made available to carry out the high priority projects program under this section. Of amounts made available to carry out this section, the Secretary, subject to subsection (b), shall make available to carry out each project described in section 1602 of the Transportation Equity Act for the 21st Century the amount listed for such project in such section. Any amounts made available to carry out such program that are not allocated for projects described in such section shall be available to the Secretary, subject to subsection (b), to carry out such other high priority projects as the Secretary determines appropriate.

"(b) ALLOCATION PERCENTAGES.—For each project to be carried out with funds made available to carry out the high priority projects program under this section—

"(1) 11 percent of such amount shall be available for obligation beginning in fiscal year 1998;

"(2) 15 percent of such amount shall be available for obligation beginning in fiscal year 1999;

"(3) 18 percent of such amount shall be available for obligation beginning in fiscal year 2000;

"(4) 18 percent of such amount shall be available for obligation beginning in fiscal year 2001;

"(5) 19 percent of such amount shall be available for obligation beginning in fiscal year 2002; and

"(6) 19 percent of such amount shall be available for obligation beginning in fiscal year 2003.

"(c) FEDERAL SHARE.—The Federal share payable on account of any project carried out with funds made available to carry out this section shall be 80 percent of the total cost thereof.

"(d) DELEGATION TO STATES.—Subject to the provisions of this title, the Secretary shall delegate responsibility for carrying out a project or projects, with funds made available to carry out this section, to the State in which such project or projects are located upon request of such State.

"(e) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for a project under this section—

"(1) has obligated all funds allocated under this section and section 1602 of the Transportation Equity Act for the 21st Century for such project; and

"(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section and section 1602 of the Transportation Equity Act for the 21st Century.

"(f) PERIOD OF AVAILABILITY.—Funds made available to carry out this section shall remain available until expended.

"(g) AVAILABILITY OF OBLIGATION LIMITATION.—Obligation authority attributable to funds made available to carry out this section shall only be available for the purposes of this section and shall remain available until obligated pursuant to section 1102(g) of the Transportation Equity Act for the 21st Century.

"(h) TREATMENT.—Funds allocated to a State in accordance with this section shall be treated as amounts in addition to the amounts a State is apportioned under sections 104, 105, and 144 for programmatic purposes.".

(b) PURPOSE OF PROJECTS.—Section 145 of such title is amended—

(1) by inserting "(a) PROTECTION OF STATE SOVEREIGNTY.—" before "The authorization"; and

(2) by adding at the end the following:

"(b) PURPOSE OF PROJECTS.—The projects described in section 1602 of the Transportation Equity Act for the 21st Century, sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027 et seq.), and section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181 et seq.) are intended to establish eligibility for Federal-aid highway funds made available for such projects by section section 1101(a)(13) of the Transportation Equity Act for the 21st Century, 117 of title 23, United States Code, sections 1103 through 1108 of Intermodal Surface Transportation Efficiency Act of 1991, and subsections (b), (c), and (d) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, respectively, and are not intended to define the scope or limits of Federal action in a manner inconsistent with subsection (a).".

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 117 and inserting the following:

"117. High priority projects program.".

SEC. 1602. PROJECT AUTHORIZATIONS.

Subject to section 117 of title 23, United States Code, the amount listed for each high priority project in the following table shall be available (from amounts made available by section 1101(a)(13) of the Transportation Equity Act for the 21st Century) for fiscal years 1998 through 2003 to carry out each such project:

No.	*State*	*Project description*	*[Dollars in Millions]*
1.	*Georgia*	*I-75 advanced transportation management system in Cobb County*	*1.275*
2.	*Ohio*	*Relocate Washington Street/SR 149 within Bellaire city limits in Belmont County*	*2*
3.	*Virginia*	*Commuter and freight rail congestion and mitigation project over Quantico Creek*	*7.5*
4.	*Michigan*	*Construct bike path between Mount Clemens and New Baltimore*	*3.75*
5.	*California*	*Extend I-10 HOV lanes, Los Angeles*	*2.205*
6.	*Utah*	*Reconstruct US-89 and interchange at 200 North in Kaysville*	*5.25*
7.	*Ohio*	*Upgrade North Road between US 422 and East Market St., Trumbull Co*	*1.2*
8.	*Tennessee*	*Alternative transportation systems, Rutherford*	*5.1*
9.	*New York*	*Improve Long Ridge Road from Pound Ridge Road to Connecticut State line*	*1.4*
10.	*New York*	*I-87 Noise Abatement Program*	*7.5*
11.	*California*	*Upgrade access road to Mare Island*	*0.75*
12.	*Texas*	*Reconstruct FM 364 between Humble Road and I-10, Beaumont*	*3.6*
13.	*Washington*	*Construct pedestrian access and safety on Deception Pass Bridge, Deception Pass State Park, Washington*	*1*
14.	*Ohio*	*Conduct feasibility study for inclusion of US-22 as part of the Interstate System*	*0.1*
15.	*New York*	*Improve Route 9 in Dutchess County*	*1.14*
16.	*California*	*Reconstruct State Route 81 (Sierra Ave.) and I-10 Interchange in Fontana*	*7.5*
17.	*New York*	*Reconstruct Springfield Blvd. between the Long Island Rail main line south to Rockaway Blvd., Queens County*	*3*
18.	*Tennessee*	*Reconstruction of US-414 In Henderson County*	*3.75*
19.	*New Jersey*	*Upgrade Market St./Essex St. and Rochelle Ave./Main St. to facilitate access to Routes 17 and 80, Bergen Co*	*3.75*
20.	*Pennsylvania*	*US-209 Marshall's Creek Traffic Relief project in Monroe County*	*7.5*
21.	*Louisiana*	*Replace ferry in Plaquemines Parish*	*1.6125*
22.	*Arkansas*	*Construct access routes between interstate highway, industrial park and Slackwater Harbor, Little Rock*	*0.75*
23.	*Georgia*	*Reconstruct SR-26/US-60 from Bull River to Lazaretto Creek*	*2.6625*
24.	*California*	*Improve SR-91/Green River Road interchange*	*4.875*
25.	*Ohio*	*Construct new bridge over Muskingum River and highway approaches, Washington County*	*1.5*
26.	*Virginia*	*Widen Route 123 from Prince William County line to State Route 645 in Fairfax County, Virginia*	*7.5*
27.	*California*	*Improve the interchange at Cabo and Nason Street in Moreno Valley*	*4.5*
28.	*Nevada*	*Canamex Corridor Innovative Urban Renovation project in Henderson*	*5.25*
29.	*California*	*Construct bikeways, Santa Maria*	*0.384*
30.	*Louisiana*	*Expand Harding Road from Scenic Highway to the Mississippi River and construct an information center*	*2.7*
31.	*Florida*	*West Palm Beach Traffic Calming Project on US-1 and Flagur Drive*	*11.25*
32.	*Oregon*	*Construct bike path paralleling 42nd Street to link with existing bike path, Springfield*	*0.6*
33.	*Illinois*	*Construct elevated walkway between Centre Station and arena*	*0.9*
34.	*Pennsylvania*	*Construct Ardmore Streetscape project*	*0.45*
35.	*California*	*Construct San Diego and Arizona Eastern Intermodal Yard, San Ysidro*	*10*
36.	*New Jersey*	*Replace Clove Road bridge over tributary of Mill Brook and Clove Brook in Sussex County*	*0.75*
37.	*Oregon*	*Design and engineering for Newberg-Dundee Bypass*	*0.375*
38.	*Ohio*	*Upgrade US Rt. 33 between vicinity of Haydenville to Floodwood (Nelsonville Bypass)*	*3.75*
39.	*Connecticut*	*Revise interchange ramp on to Route 72 northbound from I-84 East in Plainville, Connecticut*	*2.8125*
40.	*Alaska*	*Construct Spruce Creek Bridge in Soldotna*	*0.2625*
41.	*New York*	*Undertake studies, planning, engineering, design and construction of a tunnel alternative to reconstruction of existing elevated expressway (Gowanus tunnel project)*	*18*
42.	*Virginia*	*Reconstruct SR 168 (Battlefield Blvd.) in Chesapeake*	*6*
43.	*Pennsylvania*	*Upgrade PA 228 (Crows Run Corridor)*	*5.4*
44.	*New York*	*Upgrade and improve Saratoga to Albany intermodal transportation corridor*	*12.2*
45.	*Pennsylvania*	*Widen Montgomery Alley and improve pedestrian and parking facilites in the vicinity of the Falling Spring, Chambersburg*	*2*
46.	*Nebraska*	*Corridor study for Plattsmouth Bridge area to US-75 and Horning Road*	*0.2625*
47.	*Pennsylvania*	*Construct SR 3019 over Great Trough Creek in Huntingdon County*	*0.375*
48.	*Pennsylvania*	*Improve PA 56 from I-99 to Somerset County Line in Bedford County*	*0.75*
49.	*Connecticut*	*Replace Windham Road bridge, Windham*	*1.5*
50.	*Tennessee*	*Upgrade Briley Parkway between I-40 and Opreyland*	*4.2*
51.	*Pennsylvania*	*Renovate Harrisburg Transportation Center in Dauphin County*	*1.875*
52.	*Oregon*	*Construct phase I: highway 99 to Biddle Road of the highway 62 corridor solutions project*	*15.625*
53.	*Washington*	*Construct traffic signals on US-2 at Olds Owens Road and 5th Street in Sultan, Washington*	*0.257*
54.	*New York*	*Upgrade Route 17 between Five Mile Point and Occanum, Broome Co*	*12.6*
55.	*Texas*	*Improve US 82, East-West Freeway between Memphis Avenue and University Avenue*	*12.3*
56.	*Tennessee*	*Construct Stones River Greenway, Davidson*	*8.2*
57.	*Minnesota*	*Conduct study of potential for diversion of traffic from the I-35 corridor to commuter rail, Chisago County north of Forest Lake along I-35 corridor to Rush City*	*0.375*
58.	*Minnesota*	*Upgrade 10th Street South, St. Cloud*	*1.125*
59.	*Tennessee*	*Improve State Road 95 from Westover Drive to SR-62 in Roane and Anderson Counties*	*3.675*
60.	*California*	*Construct Ontario International Airport ground access program*	*10.5*
61.	*Iowa*	*Construct four-lane expressway between Des Moines and Marshalltown*	*7.5*
62.	*Texas*	*Upgrade FM225, Nacogdoches*	*3*
63.	*Ohio*	*Upgrade US Rt. 35 between vicinity of Chillicothe to Village of Richmond Dale*	*3.75*
64.	*Indiana*	*Upgrade 93rd Avenue in Merrillville*	*4.425*
65.	*California*	*Improve streets and construct bicycle path, Westlake Village*	*0.236*
66.	*Pennsylvania*	*Upgrade I-95 between Lehigh Ave. and Columbia Ave. and improvements to Girard Ave./I-95 interchange, Philadelphia*	*21.45*
67.	*Michigan*	*Construct I-96/Beck Wixom Road interchange*	*1.95*
68.	*Pennsylvania*	*Construct I-95/Route 332 interchange*	*1.5*
69.	*California*	*Improve streets and construct bicycle path, Calabasas*	*0.75*
70.	*New York*	*Construct Hutton Bridge Project*	*1*
71.	*Ohio*	*Restore Main and First Streets to two-way traffic, Miamisburg*	*0.3375*
72.	*Virginia*	*Widen I-64 Bland Boulevard interchange*	*25.8375*
73.	*Washington*	*Widen Cook Road in Skagit County, Washington*	*3.1*
74.	*New York*	*Construct interchange and connector road using ITS testbed capabilities at I-90 Exit 8*	*8.775*
75.	*New York*	*Construct Edgewater Road Dedicated Truck Route*	*9*
76.	*Illinois*	*Upgrade Illinois 336 between Illinois 61 to south of Loraine*	*3.825*
77.	*Michigan*	*Reconstruct Bagley Street and improve Genschaw Road, Alpena*	*0.45*
78.	*California*	*Construct Third Street South Bay Basin Bridge, San Francisco*	*9.375*
79.	*New Mexico*	*Improve I-25 at Raton Pass*	*9*
80.	*Pennsylvania*	*Construct Mon-Fayette Expressway between Union Town and Brownsville*	*20*
81.	*Michigan*	*Upgrade Hill Road corridor between I-75 to Dort Highway, Genesee Co*	*2.25*
82.	*Georgia*	*Improve GA-316 in Gwinnett County*	*30.675*
83.	*North Carolina*	*Construct segment of new freeway, including right-of-way acquisition, between East of US 401 to I-95, and bridge over Cape Fear River*	*12*
84.	*Florida*	*Construct US-98/Thomas Drive interchange*	*8.25*
85.	*Illinois*	*Construct I-64/North Greenmount Rd. interchange, St. Clair Co*	*3.6*
86.	*South Carolina*	*Three River Greenway Project to and from Gervals Street in Columbia*	*3.75*
87.	*New York*	*Upgrade Chenango County Route 32 in Norwich*	*1.6*
88.	*Maine*	*Construct I-95/Stillwater Avenue interchange*	*1.5*
89.	*Massachusetts*	*Construct I-495/Route 2 interchange east of existing interchange to provide access to commuter rail station, Littleton*	*3.15*
90.	*Connecticut*	*Construct Seaview Avenue Corridor project*	*2.5*
91.	*Texas*	*Construct transportation improvements as part of redevelopment of Kelly AFB, San Antonio*	*3.75*
92.	*Texas*	*Conduct pipeline express study through Texas Transportation Institute (A&M University)*	*1.125*
93.	*Illinois*	*Undertake improvements to Campus Transportation System, Chicago*	*1.5*
94.	*Pennsylvania*	*Improve walking and biking trails between Easton and Lehigh Gorge State Park within the Delaware and Lehigh Canal National Heritage Corridor*	*2.1*
95.	*Michigan*	*Upgrade and make improvements to the Walton Corridor project including segments of Walton Blvd., Baldwin and Joslyn Roads, and Telegraph Road*	*10.5*

No.	State	Project description	[Dollars in Millions]
96.	North Carolina	Construct Charlotte Western Outer Loop freeway, Mecklenburg Co	12
97.	Tennessee	Reconstruct US 79 between Milan and McKenzie	3
98.	Virginia	Undertake access improvements for Freemason Harbor Development Initiative, Norfolk	1.5
99.	Pennsylvania	Upgrade US Rt. 119 between Homer City and Blairsville	3.05
100.	Minnesota	Construct pedestrian bridge over TH 169 in Elk River	0.53025
101.	Georgia	Construct Athens to Atlanta Transportation Corridor	6
102.	Alabama	Initiate construction on controlled access highway between the Eastern edge of Madison County and Mississippi State line	3
103.	Texas	Construct improvments along US 69 including frontage roads, Jefferson Co	5.76
104.	New York	Rehabilitate Broadway Bridge, New York City	1.5
105.	Ohio	Reconstruct Morgan County 37 in Morgan County	0.4
106.	California	Improve Mission Boulevard in San Bernardino, California	0.5
107.	Indiana	Widen 116th Street in Carmel	1.125
108.	Illinois	Undertake traffic mitigation and circulation enhancements, 57th and Lake Shore Drive	2
109.	Georgia	Construct Rome to Memphis Highway in Floyd and Bartow Counties	0.584
110.	Ohio	Construct highway-rail grade separations on Snow Road in Brook Park	4.75
111.	Kentucky	Construct highway-rail grade separations along the City Lead in Paducah	0.825
112.	Illinois	Resurface S. Chicago Ave. From 71st to 95th Streets, Chicago	0.795
113.	Minnesota	Upgrade TH 13 between TH 77 and I-494	1.5
114.	Kentucky	Redevelop and improve ground access to Louisville Waterfront District in Louisville, Kentucky	2.84
115.	South Dakota	Construct US-16 Hell Canyon Bridge and approaches in Custer County	0.441
116.	Georgia	Resurface Davis Drive, Green Street, and North Houston Road in Warner Robins	0.3
117.	Pennsylvania	Construct highway-transit transfer facility in Lemoyne	1.5
118.	Georgia	Upgrade I-75 between the Crisp/Dooly Co. line to the Florida State line	8.25
119.	New Jersey	Conduct Route 46 Corridor Improvement Project with the amount provided, $8,625,000 for the Route 46/Riverview Drive Interchange reconstruction project, $12,675,000 for the Route 46/Van Houton Avenue reconstruction project, and $3,075,000 for the Route 46/Union Blvd. interchange reconstruction project	24.375
120.	Mississippi	Construct segment 2 of the Jackson University Parkway in Jackson	0.6875
121.	New Jersey	Improve grade separations on the Garden State Parkway in Cape May County, New Jersey	10.5
122.	Pennsylvania	Construct access to site of former Philadelphia Naval Shipyard and Base, Philadelphia	1.5
123.	Idaho	Reconstruct US-95 from Bellgrove to Mica	9
124.	Illinois	Improve access to 93rd Street Station, Chicago	2.25
125.	Illinois	Rehabilitate WPA Streets in Chicago	4.7
126.	Minnesota	Construct grade crossing improvments, Morrison County	1.35
127.	Kentucky	Extend Hurstbourne Parkway from Bardstown Road to Fern Valley Road	4.56
128.	Texas	Upgrade SH 130 in Caldwell and Williamson Counties	0.75
129.	Massachusetts	Construct bikeway between Blackstone and Worcester	6
130.	New York	Rehabilitate roads, Village of Great Neck	0.12
131.	Virginia	Widen I-81 in Roanoke and Botetourt Counties and in Rockbridge, Augusta and Rockingham Counties	4
132.	Illinois	Construct an interchange at I-90 and Illinois Route 173 in Rockford	5.625
133.	Illinois	Engineering for Peoria to Chicago expressway	5
134.	Pennsylvania	Construct access improvements between exits 56 and 57 off I-81 in Lackawanna	1.275
135.	California	Reconstruct Tennessee Valley Bridge, Marin Co	0.75
136.	Michigan	Improvements to Card Road between 21 mile road and 23 mile road in Macomb Co	0.975
137.	Illinois	Construct Veterans Parkway from Eastland Drive to Commerce Parkway in Bloomington	7.88
138.	New York	Conduct safety study and improve I-90 in Downtown Buffalo	0.4
139.	Minnesota	Upgrade CSAH 1 from CSAH 61 to 0.8 miles north	0.36
140.	Pennsylvania	Construct access road and parking facilities, Valley Forge National Historic Park, Valley Forge	3
141.	Illinois	Construct Orchard Road Bridge over the Fox River	5.25
142.	Missouri	Construct US-412 corridor from Kennett to Hayti, Missouri	6
143.	Michigan	Upgrade M-84 connector between Tittabawasee Rd. and M-13, Bay and Saginaw Counties	13.135
144.	Louisiana	Increase capacity of Lake Pontchartrain Causeway	1
145.	Tennessee	Improve the Elizabethon Connector from US-312 to US-19 East	6.3375
146.	Texas	Construct Austin to San Antonio Corridor	5.625
147.	Pennsylvania	Make safety improvements on PA Rt. 61 (Dusselfink Safety Project) between Rt. 183 in Cressona and SR 0215 in Mount Carbon	7
148.	Tennessee	Improve State Route 92 from I-40 to South of Jefferson City	3.4125
149.	Illinois	Planning, engineering and first phase construction of beltway connector, Decatur	2
150.	Indiana	Safety improvements to McKinley and Riverside Avenues in Muncie	6.825
151.	Georgia	Widen Georgia Route 6/US-278 in Polk County	5.666
152.	Arkansas	Widen 28th Street and related improvements in Van Buren, Arkansas	0.75
153.	Tennessee	Reconstruct Old Walland Highway bridge over Little River in Townsend	1.26
154.	Missouri	Construct Highway 36 Hannibal Bridge and approaches in Marion County	2.4
155.	Minnesota	Construct Cass County Public Trails Corridors	0.18
156.	Alabama	Construct Eastern Black Warrior River Bridge	13
157.	Michigan	Construct Monroe Rail Consolidation Project, Monroe	4.5
158.	Illinois	Rehabilitate 95th Street between 54th Place and 50th Avenue, Oak Lawn	0.6
159.	New York	Construct Hamilton Street interchange in Erwin, New York	12.375
160.	New York	Improve 6th and Columbia Street project in Elmira	0.525
161.	California	Enhance Fort Bragg and Willitis passenger stations	0.275
162.	New York	Capital improvements for the car float operations in Brooklyn, New York, for the New York City Economic Development Corp	14
163.	New Jersey	Construct New Jersey Exit 13A Flyover (extension of Kapowski Rd. to Trumbull St.)	2
164.	Pennsylvania	Relocate U.S. 22 around the Borough of Holidaysburg, PA, or other projects in the counties of Bedford, Blair, Centre, Franklin, Mifflin, Fulton and Clearfield, and Huntingdon as selected by the State of Pennsylvania	25
165.	Wyoming	Construct Jackson-Teton Pathway in Teton County	1.5
166.	Michigan	Construct improvements to 23 Mile Road between Mound Road and M-53, Macomb County	2.25
167.	Michigan	Early preliminary engineering/preliminary engineering to U.S. 131 B.R./ Industrial Connector, Kalamazoo, Michigan	1.5
168.	Illinois	Construct improvements to segment of Town Creek Road, Jackson Co	0.975
169.	Vermont	Replace Missisquoi Bay Bridge	12
170.	Massachusetts	Upgrade Sacramento Street underpass, Somerville	0.1875
171.	Oregon	Study and design I-5/Beltline Road interchange reconstruction	3
172.	Massachusetts	Construct accessibility improvments to Charles Street T Station, Boston	3
173.	California	Widen and improve I-5/State Route 126 interchange in Valencia	10.425
174.	Arkansas	Widen Highway 65/82 from Pine Bluff to the Mississippi State line	5.375
175.	Ohio	Rehabilitate Martin Luther King, Jr. Bridge, Toledo	1.5
176.	California	Upgrade I-880, Alameda	7.5
177.	Illinois	Right-of-way acquisition for segment of Alton Bypass between Illinois 143 to Illinois 140 near Alton	3
178.	Georgia	Conduct study of a multimodal transportation corridor along GA-400	17.25
179.	Illinois	Reconstruct Dixie Highway, Harvey	0.3705
180.	Tennessee	Construct State Route 131 from Gill Road to Bishop Road	1.8
181.	Washington	Construct Port of Kalama River Bridge	0.675
182.	Virginia	Upgrade Virginia Route 10, Surrey Co	0.75
183.	Iowa	Reconstruct US Highway 218 between 7th and 20th Streets inlcuding center turn lane from Hubenthal Place to Carbide Lane, Keokuk	2.5
184.	Oregon	Repair bridge over Rogue River, Gold Beach	10
185.	New Jersey	Construct pedestrian bridge in Washington Township	2.25
186.	Ohio	Construct Chesapeake Bypass, Lawrence Co	3.75
187.	California	Rehabilitate historic train depot in San Bernadino	2.625
188.	Michigan	Construct improvements to Linden Rd. between Maple Ave. and Pierson Rd., Genessee Co	0.9
189.	Alabama	Construct Crepe Myrtle Trail near Mobile, Alabama	1.2
190.	New York	Reconstruct Route 23/Route 205 intersection in Oneonta	0.85
191.	Rhode Island	Reconstruct interchanges on Rt. 116 between Rt. 146 and Ashton Viaduct, Lincoln	0.33375
192.	Michigan	Construct route improvements along Washington Ave. between Janes Ave. to Johnson St. and East Genesee Ave. between Saginaw River and Janes Ave., Saginaw	2.7
193.	California	Realign and improve California Route 79 in Riverside County	4.5
194.	Michigan	Construct Tawas Beach Road/US 23 interchange improvements, East Tawas	1.65
195.	Illinois	Rehabilitate Timber Bridge over Little Muddy River and approach roadway, Perry Co	0.105
196.	Texas	Construct East Loop, Brownsville	0.75
197.	Mississippi	Upgrade Cowan-Lorraine Rd. between I-10 and U.S. 90, Harrison Co	8.5
198.	California	Construct Alameda Corridor East project	9.5625
199.	Washington	Construct I-5 interchanges in Lewis County	4.9875

No.	State	Project description	[Dollars in Millions]
200.	Minnesota	Undertake improvements to Hennepin County Bikeway	3.9
201.	Illinois	Construct Alton Bypass from IL-40 to Fosterburg Road	1.875
202.	Louisiana	Construct Houma-Thibodaux to I-10 connector from Gramercy to Houma	2.325
203.	Illinois	Study for new bridge over Mississippi River with terminus points in St. Clair County and St. Louis, MO	1.05
204.	New York	Rehabilitate Queens Blvd./Sunnyside Yard Bridge, New York City	6
205.	North Carolina	Construct segment of I-74 between Maxton Bypass and NC 710, Robeson Co	1.5
206.	Alabama	Conduct engineering, acquire right-of-way and construct the Birmingham Northern Beltline in Jefferson County	17
207.	South Dakota	Replace Meridan Bridge	3.25
208.	Ohio	Upgrade Route 82, Strongsville	5.25
209.	Mississippi	Construct I-20 /Norrell Road interchange, Hinds County	3.75
210.	Wisconsin	Reconstruct U.S. Highway 151, Waupun to Fond du Lac	19.5
211.	Michigan	Improve Kent County Airport road access in Grand Rapids, Michigan by extending 36th Street, improving 48th Street and constructing the I-96/Whitneyville interchange	11.28
212.	Pennsylvania	Replace Dellville Bridge in Wheatfield	0.75
213.	California	Upgrade Ft. Irwin Road from I-15 to Fort Irwin	1.125
214.	New York	Reconstruct 127th Street viaduct, New York City	1.5
215.	Arkansas	Upgrade US Rt. 67, Newport to Missouri State line	1.5
216.	Louisiana	Extend Howard Avenue to Union Passenger Terminal, New Orleans	6
217.	Colorado	Complete the Powers Boulevard north extension in Colorado Springs	9
218.	Pennsylvania	Widen US-30 from US-222 to PA-340 and from PA-283 to PA-741	9
219.	Pennsylvania	Upgrade Route 219 between Meyersdale and Somerset	2.4
220.	Mississippi	Widen MS-15 from Laurel to Louiseville	7.5
221.	California	Construct bike paths, Thousand Oaks	0.625
222.	Texas	Investigate strategies to reduce congestion and facilitate access at the international border crossing in Roma	0.375
223.	Wisconsin	Upgrade Marshfield Blvd., Marshfield	3.75
224.	Wisconsin	Construct Abbotsford Bypass	4.5
225.	New York	Reconstruct Route 25/Route 27 intersection in St. Lawrence County	0.75
226.	California	Upgrade access to Sylmar/San Fernando Metrolink Station and Westfield Village, Los Angeles	0.375
227.	Tennessee	Construct park and ride intermodal centers for Nashville/Middle Tennessee Commuter Rail	8
228.	Illinois	Upgrade St. Marie Township Road, Jasper County	0.036
229.	Illinois	Resurface 95th St. between Western Ave. and Stony Island Blvd., Chicago	2.34
230.	New York	Construct new exit 46A on I-90 at Route 170 in North Chili	6
231.	Indiana	Upgrade 4 warning devices on north/south rail line from Terre Haute to Evansville	0.3
232.	California	Improve SR-70 from Marysville Bypass to Oroville Freeway	6.25
233.	Dist. of Col.	Implement Geographical Information System, Washington, D.C	7.5
234.	California	Construct connector between I-5 and SR 113 and reconstruct I-5 interchange with Road 102, Woodland	11.5
235.	Pennsylvania	Reconstruct State Route 2001 in Pike County	6.75
236.	California	Upgrade I-680 Corridor, Alameda Co	7.5
237.	Louisiana	Reconstruct I-10 and Ryan Street access ramps and frontage street improvements, Lake Charles	6
238.	Arkansas	Construct access route to Northwest Arkansas Regional Airport in Highfill, Arkansas	12
239.	Pennsylvania	Reconstruct structures and adjacent roadway, Etna and Aspenwall (design and right-of-way acquisition phases), Allegheny Co	2
240.	Alaska	Construct capital improvements to intermodal freight and passenger facilities servicing the Alaska Marine Highway and other related transportation modes in Seward provided that the state public authority which owns the current intermodal facilities carries out this project with the entire amount of funds provided	4.5
241.	Illinois	Construct improvements to Pleasant Hill Road, Carbondale	1.425
242.	Florida	Deploy magnetic lane marking system on I-4	0.375
243.	Texas	Extend Texas State Highway 154 between US 80W and State Highway 43S	4.675
244.	Minnesota	Upgrade CSAH 16 between TH 53 and CSAH 4	4.05
245.	Pennsylvania	Upgrade US Rt. 22, Chickory Mountain section	4.85
246.	Arkansas	Improve Arkansas State Highway 12 from US-71 at Rainbow Curve to Northwest Arkansas Regional Airport	0.375
247.	Massachusetts	Implement Cape and Islands Rural Roads Initiative, Cape Cod	0.375
248.	Massachusetts	Reconstruct roadways, Somerville	2.25
249.	Washington	Construct Washington Pass visitor facilities on North Cascades Highway	0.9
250.	Indiana	Construct Hazel Dell Parkway from 96th Street to 146th Street in Carmel	4.125
251.	Georgia	Upgrade Lithonia Industrial Boulevard, DeKalb Co	0.375
252.	Wisconsin	Upgrade STH 29 between IH 94 and Chippewa Falls	4.5
253.	Kansas	Construct Diamond interchange at Antioch and I-435	7.56
254.	California	Reconstruct I-215 and construct HOV lanes between 2nd Street and 9th Street, San Bernardino	2.0625
255.	Iowa	Relocate US 61 to bypass Fort Madison	2.25
256.	Illinois	Construct Richton Road, Crete	1.5
257.	Ohio	Upgrade US-30 from SR-235 in Hancock County to the Ontario bypass in Richland County	11.25
258.	Florida	Construct access road to St. Johns Ave. Industrial Park	0.75
259.	Pennsylvania	Design, engineer, ROW acquisition and construct the Luzerne County Community College Road between S.R. 2002 and S.R. 3004 one-mile west of Center Street through S.R. 2008 in the vicinity of Prospect Street and the Luzerne County Community College, including a new interchange on S.R. 0029	10.5
260.	Louisiana	Construct State Highway 3241/State Highway 1088/I-12 interchange in St. Tammany Parish, Louisiana	8.5
261.	Illinois	Improve access to Rantoul Aviation Center in Rantoul	1.6
262.	Virginia	Improve Harrisonburg East Side roadways in Harrisonburg	0.5
263.	California	Upgrade Highway 99 between State Highway 70 and Lincoln Rd., Sutter Co	7.3
264.	Indiana	Extend East 56th Street in Lawrence	4.875
265.	New York	Construct the Mineola intermodal facility and Hicksville intermodal facility in Nassau county	10.5
266.	Texas	Upgrade IH-30 between Dallas and Ft. Worth	21.75
267.	Massachusetts	Construct improvements to North Main Street in Worcester	1.8
268.	Arkansas	Study and construct a multi-modal facility Russellville, Arkansas	0.75
269.	New York	Judd Road Connector in New Hartford and Whitestown, New York	30.3
270.	Oregon	Upgrade I-5, Salem	3
271.	California	Upgrade call boxes throughout Santa Barbara County	1.125
272.	Wisconsin	Upgrade US Rt. 10 between Waupaca to US Rt. 41	6
273.	Iowa	Reconstruct I-235 and improve the interchange for access to the MLKing Parkway	5.175
274.	Pennsylvania	Construct Steel Heritage Trail between Glenwood Bridge to Clairton via McKeesport	0.3
275.	Idaho	Construct critical interchanges and grade-crossings on US-20 between Idaho Falls and Chester	7.5
276.	Utah	Construct Cache Valley Highway in Logan	5.25
277.	Massachusetts	Upgrade Rt. 3 between Rt. 128/I-95 to Massachusetts and New Hampshire State Line	6.15
278.	Indiana	Construct Hoosier Heartland from Lafayette to Ft. Wayne	18.75
279.	New York	Conduct traffic calming study on National Scenic Byway Route 5 in Hamburg	0.3
280.	California	Construct I-5 rail grade crossings between I-605 and State Route 91, Los Angeles and Orange Counties	15.09
281.	Massachusetts	Undertake improvements to South Station Intermodal Station	2.25
282.	Massachusetts	Reconstruct Bates Bridge over Merrimack River	3
283.	Illinois	Upgrade Wood Street between Little Calumet River to 171st St., Dixmore, Harvey, Markham, Hazel Crest	0.7425
284.	Pennsylvania	Construct safety and capacity improvements to Rt. 309 and Old Packhouse Road including widening of Old Packhouse Road between KidsPeace National Hospital to Rt. 309	6.15
285.	Illinois	Reconstruct Mt. Erie Blacktop in Mt. Erie	3.385
286.	Michigan	Repair 48th Avenue, Menominee	0.2025
287.	Texas	Reconstruct intermodal connectors on Highway 78 and Highway 544 in Wylie	5.5
288.	Georgia	Conduct a study of transportation alternatives in Northwest Georgia between Atlanta and Chattanooga	3.75
289.	Louisiana	Reconstruct Jefferson Lakefront bikepath in Jefferson Parish, Louisiana	1
290.	New York	Construct Midtown West Intermodal Ferry Terminal, New York City	3.5
291.	Maine	Construct I-295 connector, Portland	3.375
292.	Colorado	Construct I-25 truck lane from Lincoln Avenue to Castle Pines Parkway in Douglas County	2.25
293.	New Jersey	Widen Route 1 from Pierson Avenue to Inman Avenue in Middlesex County	5.25
294.	New York	Construct intermodal transportation hub in Patchogue	1.875
295.	New York	Improve Route 281 in Cortland	6.75
296.	California	Construct State Route 76 in Northern San Diego	7.5
297.	Illinois	Congestion mitigation for Illinois Route 31 and Illinois Route 62 intersection in Algonquin	9
298.	Pennsylvania	Improve South Central Business Park in Fulton County	0.75
299.	California	Willits Bypass, Highway 101 in Mendocino County, California	0.65
300.	Texas	Upgrade FM 1764 between FM 646 to State Highway 6	2.25
301.	Ohio	Construct Intermodal Industrial Park in Wellsville	3.04

No.	State	Project description	[Dollars in Millions]
302.	Texas	Construct US Expressway 77/83 interchange, Harlingen	5.625
303.	Georgia	Construct Harry S. Truman Parkway	2.6625
304.	Maryland	Upgrade I-95/I-495 interchange at Ritchie Marlboro Rd., Prince Georges	3.6
305.	New York	Construct CR-82 from Montauk Highway to Sunrise Highway in Suffolk County	0.435
306.	Pennsylvania	PA 26 over Piney Creek 2-bridges in Bedford County	0.6
307.	Illinois	Intersection improvements at 79th and Stoney Island Blvd., Chicago	1.305
308.	New York	Construct CR-85 from Foster Avenue to CR97 in Suffolk County	0.675
309.	New York	Construct Phase II of the City of Mount Vernon's New Haven Railroad Redevelopment project	2
310.	Alabama	Construct improvements to 41st Street between 1st Ave. South and Airport Highway, Birmingham	0.75
311.	Alaska	Improve roads in Kotzebue	1.7625
312.	Pennsylvania	Conduct preliminary engineering on the relocation of exits 4 and 5 on I-83 in York County	1.5
313.	North Carolina	Construct I-540 from east of NC Rt. 50 to east of US Rt. 1 in Wake Co	9.75
314.	Alabama	Construct enhancements along 12th Street between State Highway 11 and Baptist Princeton Hospital, Birmingham	0.6
315.	Pennsylvania	Conduct highway research, Drexel University	1
316.	Illinois	Improve IL-113 in Kankakee	5.55
317.	Texas	Upgrade JFK Causeway, Corpus Christi	2.25
318.	Pennsylvania	Construct Philadelphia Intermodal Gateway Project at 30th St. Station	6
319.	Wisconsin	Construct STH-26/US-41 Interchange in Oshkosh	2.25
320.	California	Improve and widen Forest Hill Road in Placer County	2.7
321.	Florida	ITS improvements on US-19 in Pasco County	1.5
322.	Nebraska	Conduct corridor study from Wayne to Vermillion-Newcastle bridge	0.4125
323.	Oregon	Construct right-of-way improvements to provide improved pedestrian access to MAX light rail, Gresham	1
324.	Virginia	Repair historic wooden bridges along portion of Virginia Creeper Trail maintained by Town of Abingdon	0.75
325.	Oregon	Reconstruct Lovejoy ramp, Portland	5
326.	Washington	Widen SR-99 between 148th Street and King County Line in Lynnwood	2.7
327.	Minnesota	Construct Trunk Highway 169 Causeway, Itasca Co	6.075
328.	Louisiana	Conduct a feasibility and design study of Louisiana Highway 30 between Louisiana Highway 44 and I-10	1.5
329.	Indiana	Reconstruct US Rt. 231 between junction of State Road 66 to Dubois Co. line	0.6
330.	Massachusetts	Construct Greenfield-Montague Bikeways, Franklin Co	0.675
331.	California	Improve highway access to Humboldt Bay and Harbor Port	0.275
332.	Virginia	Construct road improvement, trailhead development and related facilities for Haysi to Breaks Interstate Bicycle and Pedestrian Trail between Haysi and Garden Hole area of Breaks Interstate Park	0.25
333.	Pennsylvania	Replace Grant Street Bridge, New Castle	1.8
334.	North Dakota	Upgrade U.S. Route 52 between Donnybrook and US Route 2	1.8
335.	Florida	Construct Wonderwood Connector from Mayport to Arlington, Duval County, Florida	27.725
336.	California	Construct pedestrian boardwalk between terminus of Pismo Promenade at Pismo Creek and Grande Avenue in Gover Beach	0.375
337.	Pennsylvania	Construct PA-283 North Union Street ramps in Dauhpin County	1.8375
338.	New Jersey	Upgrade Garden State Parkway Exit 142	22.5
339.	Minnesota	Extend County State Highway 61 extension into Two Harbors	0.6
340.	Minnesota	Reconstruct and replace I-494 Wakota Bridge from South St. Paul to Newport, and approaches	9.75
341.	Texas	Reconstruct and widen I-35 between North of Georgetown at Loop 418 to US Rt. 190	6
342.	Georgia	Undertake major arterial enhancements in DeKalb Co. with the amount provided as follows: $5,250,000 for Candler Rd., $5,625,000 for Memorial Drive and $675,000 for Bufford Highway	11.55
343.	Illinois	Consolidate rail tracks and eliminate grade crossings as part of Gateway Intermodal Terminal access project	1.125
344.	Ohio	Replace I-280 bridge over Maumee River, Toledo area	18
345.	Pennsylvania	Eliminate 16 at-grade rail crossings through Erie	8
346.	Arkansas	Construct Geyer Springs RR grade separation, Little Rock	0.75
347.	Wisconsin	Construct Chippewa Falls Bypass	4.5
348.	Kentucky	Correct rock hazard on US 127 in Russell County	0.02625
349.	Kentucky	Widen US-27 from Norwood to Eubank	22.5
350.	Virginia	Conduct Williamsburg 2007 transportation study	0.325
351.	Virginia	Construct I-95/State Route 627 interchange in Stafford County	3.8375
352.	Tennessee	Construct Foothills Parkway from Walland to Weans Valley	8.625
353.	Oregon	Upgrade Murray Blvd. inlcuding overpass bridge, Millikan to Terman	3.75
354.	California	Construct San Francisco Regional Intermodal Terminal	9.375
355.	New Hampshire	Construct the Broad Street Parkway in Nashua	12.511
356.	New Hampshire	Construct Conway bypass from Madison to Bartlett	5.325
357.	California	Seismic retrofit of Golden Gate Bridge	0.75
358.	Pennsylvania	Realign Route 501 in Lebanon County	1.2
359.	Maryland	Upgrade US 29 interchange with Randolph Road, Montgomery Co	9
360.	Utah	Construct I-15 interchange at Atkinville	6
361.	Illinois	Resurface Cicero Ave. between 127th St. and 143rd St., Chicago	0.4575
362.	Pennsylvania	Improve Lewistown Narrows US 322 in Mifflin and Juniata County	40
363.	Florida	Enhance access to Gateway Marketplace through improvements to access roads, Jacksonville	0.9
364.	Indiana	Upgrade 14 warning devices on east/west rail line from Gary to Auburn	1.05
365.	Tennessee	Construct I-40/SR 155 interchange, Davidson	4.2
366.	Tennessee	Construct Crosstown Greenway/Bikeway, Springfield	3.2
367.	Maine	Studies and planning for reconstruction of East-West Highway	3
368.	Florida	Construct Port of Palm Beach road access improvements, Palm Beach County, Florida	15.75
369.	New Jersey	Reconstruct Essex Street Bridge, Bergen Co	1.875
370.	Missouri	Relocate and reconstruct Route 21 between Schenk Rd. to Town of DeSoto	30
371.	New York	Improve Route 31 from Baldwinsville to County Route 57	8.8125
372.	Virginia	Upgrade Rt. 600 to facilitate access between I-81 and Mount Rogers National Recreation Area	5
373.	California	Construct I-380 connector between Sneath Lane and San Bruno Ave., San Bruno	2.1
374.	Florida	Construct South Connector Road and Airport Road interchange in Jacksonville, Florida	6.75
375.	Pennsylvania	Resurface current 219 bypass at Bradford	4.875
376.	Kentucky	Construct Route 259-101 from Brownsville to I-65	0.75
377.	California	Construct interchanges for I-10 in Coachella Valley, Riverside County	2.25
378.	New Mexico	Improve 84/285 between Espanola and Hernandez	4.5
379.	Pennsylvania	Upgrade 2 sections of US-6 in Tioga County	1.125
380.	Wisconsin	Improve Janesville transportation	3
381.	Arkansas	Construct Baseline Road RR grade separation, Little Rock	3.75
382.	Virginia	Replace Shore Drive Bridge over Petty Lake, Norfolk	3
383.	Arizona	Replace US-93 Hoover Dam Bridge	10
384.	Michigan	Operational improvements on M-24 from I-75 to the northern Oakland Co. border	0.5
385.	Illinois	Reconstruct US-30, Will County	6.75
386.	Minnesota	Construct Trunk Highway 610/10 from Trunk Highway 169 in Brooklyn Park to I-94 in Maple Grove	12
387.	Illinois	Extend and reconstruct roadways through industrial corridor in Alton	4.2675
388.	Pennsylvania	Rehabilitate Jefferson Heights Bridge, Penn Hills	1.275
389.	Ohio	Construct Eastern US Rt. 23 bypass of Portsmouth	3.75
390.	Washington	Construct State Route 7 - Elbe rest area and interpretive facility in Pierce County, WA	0.45
391.	Michigan	Undertake capital improvements to facilitate traffic between Lansing and Detroit	7.5
392.	New Mexico	Reconstruct US-84/US-285 from Santa Fe to Espanola	13.5
393.	Connecticut	Reconstruct Post Office/Town Farm Road in Enfield, Connecticut	1.125
394.	Connecticut	Improve pedestrian and bicycle connections between Union Station and downtown New London	3.39
395.	Pennsylvania	Construct access to Tioga Marine Terminal, Ports of Philadelphia and Camden	1.2
396.	Virginia	Downtown Staunton Streetscape Plan - Phase I in Staunton	0.5
397.	Illinois	Construct Marion Street multi-modal project in Village of Oak Park	1.5
398.	California	Improve and construct I-80 reliever route project; Walters Road and Walters Road Extension Segments	2.35
399.	Texas	Upgrade State Highway 24 from Commerce to State Highway 19 north of Cooper	3.75
400.	Maryland	Construct pedestrian and bicycle path between Druid Hill Park and Penn Station, Baltimore	1.35
401.	California	Upgrade SR 92/El Camino interchange, San Mateo	2.775
402.	Illinois	Improve Sugar Grove US30	1.875
403.	Illinois	Construct Sullivan Road Bridge over the Fox River	7.5
404.	Massachusetts	Construct Packets Landing Enhancement and Restoration Project, Town of Yarmouth	0.75
405.	Michigan	Upgrade I-94 between M-39 and I-96	6
406.	Pennsylvania	Upgrade PA Route 21, Fayette and Greene Counties	5
407.	Indiana	Construct Gary Marina access road (Buffington Harbor)	7.5

No.	State	Project description	[Dollars in Millions]
408.	Massachusetts	Replace deck of Chain Bridge over Merrimack River	0.759
409.	New Mexico	Improve US-70 southwest of Portales	9
410.	California	Construct grade separation project at Redondo Junction, located in the North end of an Intermodal corridor of economic significance, as defined by California Streets and Highways Code, Division 3, Chapter 4.7 (commencing with the Section 2190), Los Angeles	6.65
411.	Arkansas	Widen West Phoenix Avenue and related improvements in Fort Smith, Arkansas	6
412.	Minnesota	Upgrade Cross-Range Expressway between Coleraine to CSAH 7	4.5
413.	California	Upgrade CA Rt. 2 Southern Freeway terminus and transportation efficiency improvements to Glendale Boulevard in Los Angeles	12
414.	Massachusetts	Environmental studies, preliminary engineering and design of North-South Connector in Pittsfield to improve access to I-90	1.5
415.	Pennsylvania	Construct streetscape project in the Borough of Ambler, Montgomery County, PA	0.072
416.	Pennsylvania	Construct improvements to the Park Road extension connecting U.S. 222 and U.S. 422, Spring Township	2
417.	New York	FJ&G Rail/Trail Project in Fulton County	0.525
418.	New Jersey	Upgrade Baldwin Ave. intersection to facilitate access to waterfront and ferry, Weehawken	2
419.	Kansas	Widen US-54 from Liberal, Kansas southwest to Oklahoma	6
420.	Washington	Improve Hillsboro Street/Highway 395 intersection in Pasco	2.6625
421.	Texas	Construct ramp connection between Hammet St. to Highway 54 ramp to provide access to I-10 in El Paso	11
422.	Ohio	Relocate State Route 60 from Zanesville to Dresden, Muskingum County	1.5
423.	Alabama	Construct the Montgomery Outer Loop from US-80 to I-85 via I-65	10.2375
424.	Oklahoma	Reconstruct US-99/SH377 from Prague to Stroud in Lincoln County	4.7
425.	Louisiana	Extend Louisiana Highway 42 between US-61 and I-10 in Ascension Parish	6
426.	Louisiana	Conduct feasibility study, design and construction of connector between Louisiana Highway 16 to I-12 in Livingston Parish	3.75
427.	California	Construct capital improvements along I-680 corridor	2.25
428.	Texas	Relocation of Indiana Avenue between 19th street to North Loop 289 and Quaker Avenue intersection	7.2
429.	Massachusetts	Renovate Union Station Intermodal Transportation Center in Worcester	6.5
430.	Texas	Construct Manchester grade separations in Houston	12
431.	Texas	Construct Titus County West Loop, Mount Pleasant	1.875
432.	New York	Construct County Road 50 in the vicinity of Windsor Avenue	1.36
433.	California	Construct parking lot, pedestrian bridge and related improvements to improve intermodal transportation in Yorba Linda	1
434.	North Carolina	Widen North Carolina Route 24 from Swansboro to US-70 in Onslow and Carteret Counties	2.25
435.	Minnesota	Construct Mankato South Route in Mankato	5.25
436.	Kentucky and Indiana.	Ohio River Major Investment Study Project, Kentucky and Indiana	40
437.	California	Implement traffic management improvements, Grover Beach	0.375
438.	Louisiana	Extend I-49 from I-220 to Arkansas State line	3.3
439.	Indiana	Construct East 79th from Sunnyside Road to Oaklandon Road in Lawrence	3
440.	Alabama	Construct Decatur Southern Bypass	2
441.	California	Construct tunnel with approaches as part of Devils Slide project in San Mateo Co	6
442.	Ohio	Improve State Route 800 in Monroe County	0.5
443.	Kentucky	Reconstruct KY-210 from Hodgenville to Morning Star Road, Larue County	6
444.	New York	Construct Route 17-Lowman Crossover in Ashland	3.6
445.	Illinois	Improve roads in the Peoria Park District	0.81
446.	Massachusetts	Reconstruct North Street, Fitchburg	0.75
447.	Massachusetts	Reconstruct Huntington Ave. in Boston	3
448.	California	Undertake safety enhancements along Monterey County Railroad highway grade, Monerey Co	2.1
449.	Michigan	Construct Bridge Street bridge project in Southfield	3.15
450.	Texas	Construct Concord Road Widening project, Beaumont	7.375
451.	Oregon	Restore the Historic Columbia River Highway including construction of a pedestrian and bicycle path under I-84 at Tanner Creek and restoration of the Tanner Creek and Moffett Creek bridges	2
452.	Ohio	Upgrade I-77/US-250/SR-39 interchange in Tuscarawas County	1
453.	California	Construct Palisades Bluff Stabilization project, Santa Monica	6
454.	New York	Improve the Route 31/I-81 Bridge in Watertown	1.85475
455.	Washington	Improve I-5/196th Street, Southwest Freeway interchange in Lynnwood, Washington	4.05
456.	Louisiana	Construct the Southern extension of I-49 from Lafayette to the Westbank Expressway	4.125
457.	Kansas	Construct Phase II improvements to US-59 from US-56 to Ottawa	9
458.	Tennessee	Construct US-27 from State Road 61 to Morgan County line	4.125
459.	Maryland	Undertake transportation infrastructure improvements within Baltimore Empowerment Zone	10.975
460.	Kentucky	Construct Kentucky 31E from Bardstowns to Salt River	0.75
461.	Georgia	Construct multi-modal passenger terminal, Atlanta	12
462.	Kentucky	Construct connection between Natcher Bridge and KY-60 east of Owensboro	2.25
463.	Minnesota	Reconstruct CSAH 48 extension, Brainerd/Baxter	0.24
464.	Kentucky	Complete I-65 upgrade from Elizabethtown to Tennessee State line	3.75
465.	California	Construct the South Central Los Angeles Exposition Park Intermodal Urban Access Project in Los Angeles	19.5
466.	Pennsylvania	Construct US-30 at PA-772 and PA-41	4.5
467.	Ohio	Upgrade 1 warning device on the rail line from Marion to Ridgeway	0.075
468.	Kentucky	Construct necessary connections for the Taylor Southgate Bridge in Newport and the Clay Wade Bailey Bridge in Covington	7.125
469.	Maine	Replace Singing Bridge across Taunton Bay	0.75
470.	California	Upgrade Price Canyon Road including construction of bikeway between San Luis Obispo and Pismo Beach	0.825
471.	Illinois	Extend South 74th Street, Belleville	0.375
472.	New Hampshire	Reconstruct US-3 Carroll town line 2.1 miles north	1.786
473.	Minnesota	Upgrade 77th St. between I-35W and 24th Ave. to four lanes in Richfield	17.1
474.	New Jersey	Relocate and complete construction of new multi-modal facility, Weehawken	12
475.	New Jersey	Construct Route 4/17 interchange in Paramus	6.375
476.	Louisiana	Expand Perkins Road in Baton Rouge	6.15
477.	New Jersey	Revitalize Route 130 from Cinnaminson to Willingboro	3
478.	Arkansas	Construct Highway 371 from Magnolia to Prescott	2.375
479.	Mississippi	Upgrade Alva-Stage Rd., Montgomery Co	1.125
480.	California	Construct pedestrian promenade, Pismo Beach	0.15
481.	California	Construct railroad at-grade crossings, San Leandro	0.375
482.	Ohio	Construct highway-rail grade separations on Heisley Road between Hendricks Road and Jackson Street in Mentor	6.205
483.	Illinois	Design and construct US-67 corridor from Jacksonville to Beardstown	10
484.	California	Construct VC Campus Parkway Loop System in Merced	11
485.	Texas	Construct highway-rail-marine intermodal project, Corpus Christi	8.25
486.	Pennsylvania	Construct US-322 Conchester Highway between US-1 and PA-452	18.75
487.	Pennsylvania	Construct Rt. 819/Rt. 119 interchange between Mt. Pleasant and Scottdale	6.9
488.	Illinois	Upgrade Western Ave., Park Forest	0.0945
489.	Oregon	Relocate and rebuild intersection of Highway 101 and Highway 105, Clatsop Co	1.2
490.	Ohio	Upgrade Western Reserve Road, Mahoning Co	2.4
491.	California	Construct Nogales Street at Railroad Street grade separation in Los Angeles County, California	6.5
492.	Nebraska	Construct South Beltway in Lincoln	4.125
493.	Michigan	Acquire right-of-way and construct M-6 Grand Rapids South Beltline in Grand Rapids, Michigan	18.72
494.	New York	Replace Route 92 Limestone Creek Bridge in Manlius	3
495.	Pennsylvania	Extend Martin Luther King, Jr. East Busway to link with Mon-Fayette Expressway	4.5
496.	New York	Construct Furrows Road from Patchogue/Holbrook Road to Waverly Avenue in Islip	1.2
497.	New Jersey	Construct East Windsor Bear Brook pathway system	0.27
498.	Texas	Widen State Highway 6 from FM521 to Brazoria County line and construct railroad overpass	9.15
499.	California	Construct I-10/Pepper Ave. Interchange	6.6
500.	New York	Construct access road and entranceway improvements to airport in Niagara Falls	2.25
501.	Minnesota	Replace Sauk Rapids Bridge over Mississippi River, Stearns and Benton Counties	7.725
502.	North Carolina	Upgrade I-85, Mecklenburg and Cabarrus Counties	19.5
503.	Oklahoma	Reconstruct County Road 237 from Indiahoma to Wichita Mountains Wildlife Refuge	0.1875
504.	Illinois	Construct Towanda-Barnes Road in Mclean County	5.82
505.	Pennsylvania	Widen and signalize Sumneytown Pike and Forty Foot Road in Montgomery County, Pennsylvania	3.87
506.	Rhode Island	Construct Rhode Island Greenways and Bikeways projects with the amount provided, $4,275,000 for the Washington Secondary Bikepath, and $1,575,000 for the South County Bikepath Phase 2	5.85
507.	Mississippi	Widen US-61 from Louisiana State line to Adams County	0.6875
508.	Georgia	Conduct a study of a mutimodal transportation corridor from Lawrenceville to Marietta	1.8
509.	Missouri	Construct Jefferson Ave. viaduct over Mill Creek Valley in St. Louis	8.25
510.	New York	Conduct extended needs study for the Tappan Zee Bridge	3
511.	Pennsylvania	Improve Park Avenue/PA 36 in Blair County	0.45

No.	State	Project description	[Dollars in Millions]
512.	Texas	Construct the George H.W. Bush Presidential Corridor from Bryan to east to I-45	7.5
513.	New Mexico	Improve Uptown in Bernalillo County	1.025
514.	Arkansas	Upgrade U.S. 65 in Faulkner and Van Buren Counties	3
515.	South Carolina	Construct high priority surface transportation projects eligible for Federal-aid highway funds	5.5
516.	Mississippi	Construct Lincoln Road extension, Lamar Co	1.125
517.	Alaska	Construct Pt. Mackenzie Intermodal Facility	6.75
518.	Florida	Purchase and install I-275 traffic management system in Pinellas County, Florida	0.75
519.	Illinois	Construct US Route 67 bypass project around Roseville	8.775
520.	Massachusetts	Upgrade I-495 interchange 17 and related improvements including along Route 140	10.86
521.	Mississippi	Construct segment 2 and 3 of the Bryam-Clinton Corridor in Hinds County	0.6875
522.	New Jersey	Rehabilitate East Ridgewood Avenue over Route 17 in Bergan County	2.7
523.	Michigan	Construct interchange at US-10/Bay City Road in Midland	3
524.	North Carolina	Construct US Route 17, Elizabeth City Bypass	3.375
525.	Virginia	Smart Road connecting Blacksburg, VA, to I-81	1.025
526.	Oregon	Construct passing lanes on Highway 58 between Kitson Ridge Road and Mile Post 47, Lane Co	4.5
527.	Kansas	Construct grade separations on US36 and US77 in Marysville, Kansas	3.15
528.	Virginia	Upgrade Route 501 in the counties of Bedford, Halifax, and Campbell	0.75
529.	Pennsylvania	Construct Robinson Town Centre intermodal facility	2.025
530.	Nevada	Construct the US-395 Carson City Bypass	3.75
531.	Indiana	Feasibility study of State Road 37 improvements in Noblesville, Elwood and Marion	0.45
532.	Pennsylvania	Construct Newton Hamilton SR 3021 over Juniata River in Mifflin County	1.5
533.	Pennsylvania	Reconstruct PA-309 in Eastern Montgomery with $4,000,000 for noise abatement	15.588
534.	Alabama	Upgrade Opoto-Madrid Blvd., Birmingham	1.05
535.	Virginia	Conduct feasibility study for the construction I-66 from Lynchburg to the West Virginia border	0.5
536.	California	Rehabilitate pavement throughout Santa Barbara Co	1.125
537.	Illinois	Design and construct I-72/MacArthur Boulevard interchange in Springfield	4.12525
538.	Illinois	Improve Constitution Avenue in Peoria	2.6625
539.	Michigan	Upgrade East Jordon Road, Boyne City	0.3
540.	Georgia	Construct noise barriers along GA-400	1.5
541.	Florida	Construct North East Dade Bike Path in North Miami Beach, Florida	1.2
542.	Connecticut	Realign and extend Hart Street in New Britain	3
543.	Oregon	Construct roundabout at intersection of Highway 101 and Highway 202, Clatsop Co	0.3
544.	New York	Replace Route 28 bridge over NY State Thruway, Ulster Co	2.4
545.	California	Extend State Route 7 in Imperial County	6
546.	Texas	Construct FM2234 (McHard Road) from SH-35 to Beltway 8 at Monroe Boulevard	4.8
547.	Dist. of Col.	Enhance recreational facilities along Rock Creek Parkway	0.04775
548.	California	Construct SR-78/Rancho Del Oro interchange in Oceanside	3.75
549.	Michigan	Upgrade M.L. King Drive, Genesee Co	1
550.	California	Reconstruct Grand Avenue between Elm Street and Halcyon Road, Arroyo Grande	0.375
551.	Pennsylvania	Improve PA-41 between Delaware State line and PA-926	5
552.	California	Construct Los Angeles County Gateway Cities NHS Access	6.6
553.	Michigan	Upgrade H-58 within Pictured Rocks National Lakeshore	4.2
554.	Dist. of Col.	Rehabilitate Theodore Roosevelt Memorial Bridge	7.5
555.	Ohio	Undertake improvements to open Federal Street to traffic, Youngstown	2.08
556.	Pennsylvania	Improve PA 16 including intersection with Antrim Church Road	1
557.	Ohio	Construct State Route 209 from Cambridge and Byesville to the Guernsey County Industrial Park	2.2
558.	California	Construct Port of Oakland intermodal terminal	6
559.	New York	Construct Wellwood Avenue from Freemont Street to Montauk Highway in Lindenhurst	1.2
560.	Louisiana	Construct Louisiana Highway 1 from the Gulf of Mexico to US-90	0.5625
561.	Mississippi	Refurbish Satartia Bridge, Yazoo City	0.375
562.	North Carolina	Construct bridge over Chockoyotte Creek in Haliax Co	1.35
563.	Pennsylvania	Widen PA-413 in Bucks County	5.625
564.	North Carolina	Construct US-13 from the Wilson the US-264 Bypass to Goldsboro in Wayne and Wilson Counties	2.625
565.	Pennsylvania	Construct Erie Eastside Connector	16.2
566.	California	Construct Prunedale Bypass segment of U.S. 101, Monterey Co	1.65
567.	New York	Construct access road from Lake Avenue to Milestrip Road in Blasdell	0.24
568.	California	Construct State Route 905 between I-805 and the Otay Mesa Border Crossing, San Diego Co	16
569.	Mississippi	Build an interchange at I–55 with connectors to Madison and Ridgeland	2.25
570.	Minnesota	Trunk Highway 53 DWP railroad bridge replacement, St. Louis Co	3.6
571.	Texas	Construct US 77/83 Expressway extension, Brownsville	2.25
572.	New York	Upgrade and relocate Utica-Rome Expressway in Oneida County, New York	14
573.	Pennsylvania	West Philadelphia congestion mitigation initiative	0.369
574.	Utah	Construct Phase II of the University Avenue Interchange in Provo	7.5
575.	California	Upgrade Osgood Road between Washington Blvd. and South Grimmer Blvd., Freemont	1.5
576.	Missouri	Bull Shoals Lake Ferry in Taney County, Missouri	0.52275
577.	Alaska	Construct capital improvements to the Alaska Marine Highway and related facilities in Ketchikan	2.25
578.	Maine	Improve Route 23	0.375
579.	Tennessee	Construct U.S. 45 bypass, Madison Co	1.5
580.	New York	Construct pedestrian access bridge from Utica Union Station	0.25
581.	Michigan	Upgrade Groveland Mine Road, Dickinson	0.375
582.	New York	Reconstruct Route 9 in Plattsburgh	2.5155
583.	Mississippi	Upgrade Goose Pond Subdivision Roads, Tallahatchie Co	0.15
584.	Michigan	Construct US-131 Cadillac Bypass project	2.25
585.	Pennsylvania	Construct Lawrenceville Industrial Access Road	7.5
586.	Massachusetts	Construct Housatonic-Hoosic bicycle network	3
587.	Connecticut	Construct the US Rt. 7 bypass project, Brookfield to New Milford town line	3.75
588.	New Jersey	Construct road from the Military Ocean Terminal to the Port Jersey Pier, Bayonne	2.5
589.	Oregon	Repair Coos Bay rail bridge, Port of Coos Bay	5.5
590.	Minnesota	Complete construction of Forest Highway 11, Lake Co	3.75
591.	Pennsylvania	Construct rail mitigation and improvement projects from Philadelphia to New Jersey Line	10
592.	Louisiana	Upgrade Lapalco Blvd. between Barataria Blvd. and US Hwy. 90, Jefferson Parish	6
593.	Pennsylvania	Widen PA-228 from Criders Corners to State Route 3015	0.9
594.	Pennsylvania	Improve PA-23 Corridor from US-30 Bypass between Lancaster County line and Morgantown	2.5
595.	Pennsylvania	Widen SR-247 and SR-2008 between 84 and Lackawanna Valley Industrial Highway for the Moosic Mountain Business Park	8.175
596.	Massachusetts	Construct Nowottuck-Manhan Bike Trail connections, Easthampton, Amherst, Holyoke, Williamsburg and Northampton	3
597.	Texas	Reconstruct bridges across the channel for the Port of Corpus Christi	4
598.	Minnesota	Construct TH 1 east of Northome including bicycle/pedestrian trail	0.18
599.	Alabama	Construct US-231/I-10 Freeway Connector from the Alabama border to Dothan	1.0125
600.	New York	Construct CR-3 at Southern State Parkway overpass between Long Island Expressway and Colonial Springs	1.12
601.	Massachusetts	Construct improvements along Route 18 to provide for access to waterfront and downtown areas, New Bedford	12
602.	Pennsylvania	Construct road connector and bridge over Allegheny River to link New Kensington with Allegheny Valley Expressway	3.75
603.	Michigan	Replace Chalk Hills Bridge over Menominee River	0.3
604.	Utah	Improve 5600 West Highway from 2100 South to 4100 South in West Valley City	3.75
605.	Pennsylvania	Construct Lackawanna River Heritage Trail in Lackawanna	0.375
606.	South Carolina	Widen and relocate SC-6 in Lexington County	6
607.	New York	Construct sound barriers on both sides of Grand Central Parkway between 172nd Street to Chevy Chase Road	1.455
608.	Connecticut	Improve Route 7 utility and landscaping in New Milford	5.4
609.	New York	Conduct North Road Corridor study in Oswego County	1.125
610.	Arkansas	Upgrade US Route 412, Harrison to Mountain Home, Arkansas	2.6625
611.	New York	Construct full access controlled expressway along NY Route 17 at Parkville, Sullivan Co	4.5
612.	Florida	Construct Englewood Interstate connector from River Road to I-75 in Sarasota and Charlotte Counties	5.5
613.	Minnesota	Reconstruct St. Louis CSAH 9 (Wallace Avenue) in Duluth from Fourth Street to Woodland Avenue	0.45
614.	New Jersey	Design, construct, and expand industrial Roads connecting Carteret with Woodbridge, and Route 35 with Perth Amboy for increased truck traffic which will ease delays and traffic at Turnpike Exit 12 and Route 35 underpass east	3
615.	Virginia	Construct the Kemper Street Station connector road in Lynchburg	1.5
616.	Iowa	Improve IA-60 Corridor from LeMar to MN State line	6.6
617.	Michigan	Operation improvements on M-15 from I-75 north to the Genesee County line	0.5
618.	Virginia	Upgrade Danville Bypass in Pittsylvania	3

No.	State	Project description	[Dollars in Millions]
619.	Nebraska	Corridor study for Louisville South bypass from State Highway 66 to State Highway 50	0.075
620.	Arkansas	Study and construct Van Buren intermodal port facility in Van Buren, Arkansas	0.225
621.	Alabama	Extend I-759 in Etowah County	13.5
622.	North Carolina	Widen US-421 from North Carolina Route 194 to two miles East of US-221	3.55
623.	New York	Reconstruct Ridge Road Bridge in Orange County	0.16
624.	South Carolina	Construct North Charleston Regional Intermodal Center	3
625.	Florida	Upgrade U.S. 319 between Four Points and Oak Ridge Road, Tallahasee	3.75
626.	Ohio	Complete safety/bicycle path in Madison Township	0.03
627.	Arkansas	Conduct design study and acquire right of way on US-71 in the vicinity of Fort Chaffee, Fort Smith	3.75
628.	Mississippi	Construct East Metro Corridor in Rankin County, Mississippi	2.625
629.	Wyoming	Reconstruct Cheyenne Area Norris Viaduct	3.5
630.	New York	Design and construct Outer Harbor Bridge in Buffalo	6.06
631.	Pennsylvania	St. Thomas Signals Hade and Jack Rds US 30 in Franklin County	0.15
632.	Texas	Upgrade State Highway 35 Yoakum District in Matagorda and Buazovia Counties	6.91
633.	Minnesota	Construct highway construction between Highway 494 and Carver Co. Rd. 147	3
634.	Utah	Widen 106th South from I-15 to Bangerter Highway in South Jordan	4.5
635.	Florida	Construct pedestrian overpass from the Florida National Scenic Trail over I-4	1.875
636.	Illinois	Extend Rogers Street to mitigate congestion, Waterloo	1.425
637.	New York	Reconstruct and widen Route 78 from I-90 to Route 15	4
638.	Ohio	Improve Alum Creek Drive from I-270 to Frebis Avenue in Franklin County	4
639.	Louisiana	Upgrade and widen I-10 between Williams Boulevard and Tulane Avenue in Jefferson and Orleans Parishes	8
640.	Michigan	Improve I-94 in Kalamazoo County	3.75
641.	Pennsylvania	Improve PA-8 between Cherry Tree and Rynd Farm	4.8
642.	Washington	Construct passenger ferry facility to serve Southworth, Seattle	3.75
643.	Pennsylvania	Realign West 38th Street from Shunpike Road to Myrtle Street in Erie County	5.4
644.	Ohio	Replace Jacobs Road Bridge, Mahoning Co	2
645.	Massachusetts	Upgrade Lowell Street between Woburn Street and Route 38, Town of Wilmington	1.08
646.	Oklahoma	Improve Battiest-Pickens Road between Battiest and Pickens in McCurtain County	1.6
647.	Indiana	Improve State Road 31 in Columbus	0.375
648.	Oregon	Construct bike path along Willamette River, Corvallis	0.8
649.	New York	Reconstruct Flushing Avenue between Humboldt Street and Cypress Avenue	3.75
650.	Missouri	Construct bike/pedestrian path between Delmar Metrolink Station and University City loop business district in St. Louis	0.6
651.	Wisconsin	Construct U.S. Highway 151 Fond du Lac Bypass	22.5
652.	Illinois	Upgrade U.S. 45 between Eldorado and Harrisburg	10.2
653.	Pennsylvania	Improve US 22/Canoe Creek Blair County	1.5
654.	California	Reconstruct and widen Mission Road, Alhambra	2.4375
655.	West Virginia	Construct safety improvements on Route 82 (Fayette Station Road), Fayette County	1
656.	Ohio	Widen and reconstruct State Route 82 from Lorain/Cuyahoga County line to I.R. 77	7
657.	Michigan	Facilitate access between I-75 and Soo Locks through road reconstruction, bikepath construction and related improvements, Sault Ste. Marie	0.375
658.	Kentucky	Construct Savage-Cedar Knob Bridge at Koger Creek	0.2625
659.	New York	Construct intermodal facility in New Rochelle, Westchester Co	6.438
660.	Virgin Islands	Upgrade West-East corridor through Charlotte Amalie	6
661.	Ohio	Upgrade SR 800 rest stop in Monroe County	0.04
662.	Michigan	Improve the I-73 corridor in Jackson and Lenawee Counties	3.9375
663.	Nevada	Widen I-50 between Fallon and Fernley	3
664.	California	Improve and modify the Port of Hueneme Intermodal Corridor - Phase II in Ventura County	16.8
665.	Louisiana	Construct and equip Transportation Technology and Emergency Preparedness Center in Baton Rouge, Louisiana	5.4
666.	Michigan	Rehabilitate Lincoln St., Negaunee	0.1275
667.	Missouri	Construction US-67/Route 60 interchange in Popular Bluff, Missouri	6
668.	New York	Upgrade Riverside Drive between 97th St. and Tiemann, New York City	1.5
669.	New York	Capital improvements for the Red Hook Barge in NY/NJ for the Port Authority of NY/NJ	3
670.	Maryland	Upgrade US-113 north of US-50 to MD-589 in Worcester County, Maryland	18
671.	Rhode Island	Implement transportation alternative relating to Court Street Bridge, Woonsocket	0.15
672.	Pennsylvania	Construct Frazier Township interchange on SR-28 in Alleghany	2.25
673.	California	Rehabilitate Artesia Blvd	3
674.	Illinois	Undertake access improvements to U.S. Rt. 41, Chicago	2.8125
675.	Colorado	Construct Wadsworth Boulevard improvement project in Arvada	0.25
676.	Indiana	Construct I-70/Six Points interchange in Marion and Hendricks County	14.9625
677.	Alabama	Construct repairs to viaducts connecting downtown and midtown areas, Birmingham	0.45
678.	Illinois	Construct VFW Road/Veteran's Drive from Townline Road to Broadway Road in Pekin, Illinois	3.69675
679.	Pennsylvania	Design, engineer, ROW acquisition and construct the Wilkes-Barre/Scranton International Airport Access Road between Route 315 and Commerce Blvd	1.5
680.	Dist. of Col.	Construct bicycle and pedestrian walkway (Metropolitan Branch Trail), Union Station to Silver Spring	8.5
681.	New Jersey	Construct interchange improvements and flyover ramps at I-80W to Route 23N in Passaic Co	8.5
682.	Washington	Undertake SR 166 slide repair	4.875
683.	Connecticut	Reconstruct Broad Street in New Britain	2.4
684.	Massachusetts	Reconstruct Route 126 and replace bridge spanning Route 9, Town of Framingham	3.525
685.	New Mexico	Extend Unser Boulevard in Albuquerque	0.65
686.	Massachusetts	Implement Phase II of unified signage system, Essex Co	0.29325
687.	New Hampshire	Construct Manchester Airport access road in Manchester	8.025
688.	Pennsylvania	Improve US 22/PA 866 Intersection in Blair County	1.5
689.	California	Improve Rancho Sante Fe Road in Carlsbad	2.25
690.	New York	Renovate State Route 9 in Phillipstown	3.84
691.	Florida	Construct Greater Orlando Aviation Authority Consolidated Surface Access in Orlando	1.00575
692.	Missouri	Upgrade Route 169 between Smithville and north of I-435, Clay Co	5
693.	Virginia	Rennovate Greater Richmond Transit transportation facility, Richmond	3.75
694.	Texas	Conduct feasability study on upgrading SH 16 in South Texas	0.1875
695.	Florida	Construct interchange at 21st Street to provide access to Talleyrand Marine Terminal	9.475
696.	Pennsylvania	Gettysburg comprehensive road improvement study	3
697.	South Dakota	Construct Eastern Dakota expressways, to include construction of four lane highways for South Dakota Highway 37 between Huron and Mitchell; U.S. Highway 83 between Pierre and I-90; and U.S. Highway 12 between Aberdeen and I-29	34.804
698.	West Virginia	Construct Shawnee Parkway between junction with the I-73/74 Corridor and I-77	3.75
699.	Texas	Construct State Highway 121 from I-30 to US-67 in Cleburne	25
700.	Ohio	Improve and construct SR-44/Jackson Street Interchange in Painesville	2
701.	California	Construct four-lane highway facility (Hollister Bypass), San Benito Co	2.25
702.	Florida	Construct I-4 reversible safety lane in Orlando	10.5
703.	Ohio	Relocate Harrison/Belmont US 250	2
704.	Illinois	Widen 143rd Street in Orland Park	4
705.	Tennessee	Implement middle Tennessee alternative transportation system along the Stones River in Murfreesboro	9.5
706.	Florida	Construct County Road 470 Interchange with Florida Turnpike	6
707.	California	Implement safety and congestion mitigation improvements along Pacific Coast Highway, Malibu	0.65
708.	Dist. of Col.	Conduct studies and related activities pertaining to proposed intermodal transportation Center, D.C	0.75
709.	New Jersey	Construct Route 31 Fleming Bypass in Hunterdon County, New Jersey	11.55
710.	Massachusetts	Construct TeleCom Boulevard with access via Commercial Street and Corporation Way to the west of Malden River and with access via Santilli Highway to the east of the river in Everett, Medord and Malden	5.25
711.	Pennsylvania	Improve access to Raystown in Huntingdon County	1.125
712.	Illinois	Study upgrading Illinois 13/127 between Murphysboro and Pinckneyville	1.575
713.	Michigan	Widen Arch St., Negaunee	0.06
714.	Georgia	Widen US-84 South from US-82 to the Ware County Line in Waycross and Ware Counties	2.4
715.	Michigan	Improve drainage on 6th Street in Menominee	0.1125
716.	Massachusetts	Replace Brightman Street bridge in Fall River	7.23
717.	Kentucky	Construct Newton Pike Extension between West Main St. to South Limestone in Lexington	6
718.	South Carolina	Construct pedestrian walkway and safety improvements along SC 277, Richland Co	0.8
719.	Illinois	Conduct Midwest Regional intermodal facility feasibility study in Rochelle	0.3
720.	Pennsylvania	Reconfigure I-81 Exit 2 Ramp in Franklin County	0.525
721.	Virginia	Planning and design for Coalfields Expressway, Buchanan, Dickenson and Wise Counties	1
722.	Virginia	Construct the Lynchburg/Madison Heights bypass in Lynchburg	1.5

No.	State	Project description	[Dollars in Millions]
723.	Massachusetts	Construct Cambridge Roadways Improvement project, Cambridge	2.25
724.	Connecticut	Construct I-95 interchange, New Haven	19.5
725.	Pennsylvania	Conduct study and construct Ft. Washington transportation improvements, Upper Dublin, PA	0.45
726.	Michigan	Reconstruct I-75/M-57 interchange	10.5
727.	Minnesota	Construct railroad crossing connecting University of MN with City of Crookston	0.15
728.	Massachusetts	Construct bicyle and pedestrian facility (The Riverwalk), Peabody	1.08
729.	Pennsylvania	Upgrade PA 61 between PA 895 and SR 2014, Schuylkill Co	5
730.	Tennessee	Construct SR22 Bypass, Obion Co	7.5
731.	California	Improve streets and highways, and/or construct sound walls, Thousand Oaks	1.25
732.	New York	Complete engineering, design, environment reviews and other preliminary work for the Miller Highway relocation project in New York	6
733.	Michigan	Construct M-5 Haggerty Connector	2.4
734.	Pennsylvania	Improve Sidling Hill Curve and Truck Escape in Fulton County	0.375
735.	Texas	Construct circumferential freeway loop around Texarkana	7.425
736.	Massachusetts	Reconstruct Route 2/Jackson Road interchange, Lancaster	2.7
737.	Washington	Improve Clinton Ferry Terminal	3.5
738.	California	Upgrade Bristol St., Santa Ana	5.25
739.	Pennsylvania	Construct US-30 Bypass from Exton Bypass to PA-10	3
740.	Maine	Rehabilitate Piscataqua River bridges, Kittery	3.9375
741.	California	Construct extension of State Route 180 between Rt. 99 and the Hughes/West Diagonal	6
742.	California	Construct Ocean Boulevard and Terminal Island Freeway interchange in Long Beach, California	15
743.	Nevada	Extend I-580 in Washie and Douglas Counties	3.75
744.	Massachusetts	Preliminary design of Route 2 connector to downtown Fitchburg	1.5
745.	Illinois	Improve and construct grade separation on Cockrell Lane in Springfield	1.8
746.	Virginia	Aquire land and construct segment of Daniel Boone Heritage Trail (Kane Gap section), Jefferson National Forest	0.5
747.	Virginia	Construct Route 288 in the Richmond Metropolitan Area	18.75
748.	New York	Construct congestion mitigation project for Brookhaven	3.75
749.	Ohio	Construct Licking-Thornwood Connector in Licking County	1.5
750.	Louisiana	Construct Florida Expressway in St. Bernard and Orleans Parishes	0.15
751.	Georgia	Construct North River Causeway and Bridge, St. Mary's County	2.175
752.	Missouri	Upgrade Eastern Jackson County, Jackson Co	4.5
753.	Texas	Conduct MIS for Multimodal Downtown Improvement Project, San Antonio	0.75
754.	Kansas	Construct road and rail grade separations in Wichita	26.25
755.	Florida	Construct Cross Seminole Trail connection in Seminole County	1.125
756.	Oregon	Upgrade I-5/Highway 217 interchange, Portland	5.25
757.	Ohio	Construct St. Clairsville Bike Path in Belmont County	0.5
758.	South Carolina	Widen North Main Street, Columbia	9
759.	Hawaii	Upgrade Puuloa Road between Kamehameha Highway and Salt Lake Blvd	6.75
760.	Alabama	Construct new I-10 bridge over the Mobile River in Mobile, Alabama	10.78125
761.	Alaska	Construct Coffman Cove ferryboat	2.25
762.	Ohio	Upgrade US-30 from Wooster to Riceland	22.5
763.	Missouri	Replace bridge on Route 92, Platte Co	1
764.	Maryland	Reconstruct segment of Baltimore Beltway between U.S. 1 and I-70	6.75
765.	Minnesota	Construct Gunflint Realignment project, Grand Marais	0.6
766.	Colorado	Construct alternative truck route in Montrose	4.2
767.	Pennsylvania	Improve I-95/PA-413 Interchange in Bucks County	5.625
768.	Hawaii	Construct improvements to H-1 between the Waiawa interchange and the Halawa interchange	15
769.	California	Construct new I-95 interchange with Highway 99W, Tehama Co	2.2
770.	Florida	Widen US-17/92 in Volusia County	1.35
771.	South Carolina	Construct I-77/SC #S-20-30 interchange, Fairfield Co	5.25
772.	Illinois	Construct access road to Melvin Price Locks and Dam Visitors Center, Madison Co	1.125
773.	Washington	Reconstruct I-5 interchange, City of Lacy	1.125
774.	Maryland	Construct improvements a I-270/MD-187 interchange	5.5
775.	Alabama	Construct Finley Ave. Extension East project	2.925
776.	Connecticut	Construct Greenmanville Ave. streetscape extension, including feasibility study, in towns of Groton, Stonington and Mystic	6.3
777.	Alabama	Construct Anniston Eastern Bypass from I-20 to Fort McClellan in Calhoun County	40.14
778.	Louisiana	Construct Causeway Boulevard/Earhart Expressway interchange in Jefferson, Parish, Louisiana	4
779.	California	Create recreational trails in Santa Monica Mountains National Recreation Area	6
780.	Georgia	Widen and reconstruct Corder Road from Pineview Drive to the Russell Parkway	2.55
781.	Massachusetts	Construct Hyannis Intermodal Transportation Center, Hyannis	2.4
782.	Oregon	Construct South Rivergate rail overcrossing in Portland	11
783.	Arkansas	Improve Arkansas State Highway 59 from Rena Road to Old Uniontown Road in Van Buren	1.875
784.	Rhode Island	Reconstruct Pawtucket Ave. and Wilcott St., Pawtucket	1.125
785.	New Hampshire	Improve the Bridge Street bridge in Plymouth	1.036
786.	Louisiana	Install computer signal synchronization system in Baton Rouge	4.875
787.	Pennsylvania	Improve Oxford Valley Road/US-1 interchange in Bucks County	1.5
788.	Pennsylvania	Construct US-6 Tunkhannock Bypass in Wyoming County	1.8
789.	Florida	Construct US17/92 and SR-436 interchange in Orange/Osceola/Seminole County region	2.0625
790.	North Carolina	Upgrade US 13/NC11 (including Bethel bypass) in Pitt and Edgecombe Counties	3.375
791.	Massachusetts	Conduct planning and engineering for connector route between I-95 and industrial/business park, Attleboro	0.8
792.	Virginia	Construct I-73 from Roanoke to the North Carolina border	6
793.	California	Upgrade Route 4 West in Contra Costa Co	7.5
794.	Florida	Construct I-4/John Young Parkway interchange project in Orlando	10.24425
795.	Pennsylvania	Construct US-202 Section 600 Phase I Early Action project in Upper Gwynedd and Lower Gwynedd	4.5
796.	Alabama	Construct Historic Whistler Bike Trail in Prichard, Alabama	0.5025
797.	Missouri	Upgrade Route 6 between I-29 and Route AC, St. Joseph	5
798.	Iowa	Conduct study of Port of Des Moines, Des Moines	0.075
799.	California	Improve State Route 57 interchange at Lambert Road in Brea	0.985
800.	Pennsylvania	Improve ramp junctions at intersection of S.R. 114 and Interstate 83, Fairview Township	3
801.	Mississippi	Upgrade Land Fill Road, Panola Co	0.75
802.	California	Construct bike path between Sepulveda Basin Recreation Area and Warner Center/Canoga Park, Los Angeles	1.873
803.	Wisconsin	Upgrade U.S. 51 Tomahark Bypass	3.75
804.	North Carolina	Construct segment of Raleigh Outer Loop, Wake Co	2.025
805.	Michigan	Conduct feasibility study on widening US-12 to three lanes between US-127 and Michigan Highway 50	0.1875
806.	California	Widen US-101 from Windsor to Arata Interchange	1.1
807.	Oregon	Upgrade access road and related facilities to Port of Port Orford	1.5
808.	Pennsylvania	Allegheny Trail from Pittsburgh, Pennsylvania to Cumberland, Maryland	6
809.	Texas	Improve I-35 West from Spur 280 to I-820 in Fort Worth	3
810.	Michigan	Reconstruct Co.Rd. 612 and Co.Rd. 491, Montmorency Co	0.6825
811.	California	Improve Folsom Boulevard - Highway 50 in the city of Folsom	4.275
812.	Illinois	Improve Illinois Route 29 in Sangamon and Christian Counties	1.725
813.	Tennessee	Upgrade SR 386 between US 31 to the Gallatin Bypass, Sumner Co	1.06
814.	Washington	Improve primary truck access route on East Marine View Drive, FAST corridor in Washington	4.9
815.	Minnesota	Construct grade separated interchange at south junction of TH 371/Brainerd bypass	0.75
816.	California	Upgrade Greenville Rd. and construct railroad underpass, Livermore	5.1
817.	Washington	Construct State Route 305 corridor improvements in Poulsbo, Washington	3.15
818.	Tennessee	Widen US-321 from Kinzel Springs to Wean Valley Road	6.825
819.	Iowa	Construct the Julien Dubuque Bridge over the Mississippi River at Dubuque	21
820.	Michigan	Conduct preliminary engineering, acquire right-of-way and construct I-75/North Down River Road interchange	1.125
821.	Virginia	Conduct historic restoration of Roanoke Passenger Station in Roanoke	0.5
822.	New York	Undertake Linden Place reconstruction project, Queens	5.25
823.	Illinois	Reconstruct interchange at I-294, 127th St. and Cicero Ave. with new ramps to the Tri-State Tollway, Alsip	23.495
824.	Louisiana	Improve US-165 from Alexandria to Monroe	30
825.	Pennsylvania	Construct Western Interloop from PA-26 to State Route 3014	2.7
826.	Alaska	Improve Dalton Highway	3.75
827.	Pennsylvania	Relocate US-219 Ridgeway, Pennsylvania, truck bypass connector along Osterhout Street	3:75
828.	Mississippi	Widen State Route 24 from Liberty to I-55	0.6875
829.	California	Widen I-15 in San Bernardino County, California	18
830.	Virginia	Complete North Section of Fairfax County Parkway in Fairfax County, Virginia	7.5

No.	State	Project description	[Dollars in Millions]
831.	New York	Rehabilitate segment of Henry Hudson Parkway between Washington Bridge and Dyckman St., New York City	1.5
832.	Iowa	Relocate IA-192 and Avenue G viaduct in Council Bluffs	4.5
833.	Pennsylvania	Improve T-344 Bridge over Mahantango Creek in Snyder County	0.525
834.	California	Construct Phase 3 of Alameda Street project, Los Angeles	2.5
835.	Texas	Construct Texas State Highway 49 between FM 1735 to Titus/Morris Co. line	4.8
836.	Virginia	Construct access road and related facilities for Fisher Peak Mountain Music Interpretive Center on Blue Ridge Parkway	2.7
837.	Michigan	Construct grade separation on Sheldon Road, Plymouth	5.25
838.	Michigan	Upgrade Three Mile Road, Grand Traverse	0.75
839.	Ohio	Relocate SR-30 for final design of south alternative in Carroll County, Ohio	1
840.	Tennessee	Improve State Road 60 from Waterville to US-64 in Bradley County	1.2
841.	Washington	Construct 192nd Street from SR-14 to SE 15th	3.75
842.	Wisconsin	Reconstruct U.S. Highway 10, Waupaca County	9
843.	Minnesota	Upgrade Highway 73 from 4.5 miles north of Floodwood to 22.5 miles north of Floodwood	2.775
844.	New York	Reconstruct Mamaroneck Ave., White Plains, Harrison and Mamaroneck	4.375
845.	Pennsylvania	Reconfigure Pennsylvania Turnpike/Route 13 interchange	0.375
846.	Pennsylvania	Widen and improve Route 449 in Potter County	0.75
847.	Puerto Rico	Upgrade PR 3 between Rio Grande and Fajardo	6
848.	Illinois	Constuct Peoria City River Center parking facility in Peoria	3
849.	New Jersey	Consrtuct Route 29/129 bicycle, pedestrian and landscape improvement plan	4.125
850.	Tennessee	Upgrade Briley Parkway between McGavock Pike and I-65	4.2
851.	Connecticut	Widen Route 4 in Torrington	2.1
852.	California	Widen 5th Street and replace 5th Street bridge in Highland, California	0.75
853.	Wisconsin	Construct U.S. Highway 10, Freemont to Appleton	3
854.	Missouri	Upgrade US-71 interchange in Carthage, Missouri	0.75
855.	New York	Construct Fordham University regional transportation facility	1.75
856.	Missouri	Upgrade US-63 in Howell County, Missouri	6
857.	Alabama	Construct East Foley corridor project from Baldwin County Highway 20 to State Highway 59 in Alabama	5.25
858.	New York	Reconstruct Washington County covered bridge project	1.7
859.	California	Upgrade Route 4 East in Contra Costa Co	8.5
860.	Pennsylvania	Complete Broad Street ramps at Route 611 bypass in Bucks County	1.6725
861.	Missouri	Construct Strother Rd./I-470 interchange, Jackson Co	3
862.	Massachusetts	Upgrade Rt. 9/Calvin Coolidge Bridge, Hadley	9.375
863.	Ohio	Rail mitigation and improvement projects from Vermillion to Conneaut	9
864.	Massachusetts	Construct I-95/I-93 interchange, Boston	3.75
865.	West Virginia	Construct Riverside Expressway, Fairmont	27
866.	Ohio	Construct greenway enhancements in Madison	2.3
867.	Tennessee	Reconstruct US-27 in Morgan County	2.25
868.	West Virginia	Upgrade US Rt. 35 between I-64 and South Buffalo Bridge	31
869.	California	Construct I-5/Avenida Vista Hermosa interchange in San Clemente	2.25
870.	Missouri	Upgrade Route 36 between Hamilton and Chillicothe	20
871.	Illinois	Replace Lebanon Ave. Bridge and approaches, Belleville	0.75
872.	Kentucky	Construct US-127: $5,250,000 for the Albany Bypass from KY696 to Clinton County High School and $3,161,250 for the segment between KY696 and the Tennessee State Line	8.41125
873.	Tennessee	Improve US-64 in Hardeman and McNariy Counties	3.75
874.	Connecticut	Replace bridges over Harbor Brook, Meriden	4.9125
875.	Colorado	Reconstruct I-225/Iliff Avenue interchange in Aurora	3.625
876.	Connecticut	Reconstruct I-84 between vicinity of Route 69 in Waterbury and Marion Avenue in Southington	4.5
877.	New York	Improve Cross Westchester Expressway	0.75
878.	Oregon	Design and engineering for intermodal transportation center, Astoria	0.225
879.	Hawaii	Construct Kapaa Bypass	8.25
880.	Pennsylvania	Construct enhancements and related measures, including purchase of vans for reverse commutes, to intermodal facility located at intersection of 52nd and Lancaster Ave., Philadelphia	3
881.	Washington	Construct Edmonds Crossing Multi-modal transportation project in Edmonds, Washington	4.5
882.	Ohio	Construct Chagrin River/Gulley Brook corridor scenic greenway along I-90 in Lake County	1.045
883.	California	Construct interchange between I-15 and Main Street in Hesperia, California	7.5
884.	Texas	Reconstruct State Highway 87 between Sabine Pass and Bolivar Penninsula, McFadden Beach	0.9705
885.	California	Widen State Route 29 between Route 281 and Route 175	0.275
886.	New York	Construct Hudson River scenic overlook from Route 9 to Waterfront in Poughkeepsie	0.336
887.	Indiana	Expand 126th Street in Carmel	0.75
888.	Florida	Widen Gunn Highway between Erlich Road and South Mobley Road in Hillsborough County	1.5
889.	Pennsylvania	Relocate PA-113 at Creamery Village in Skippack	2.7
890.	Michigan	Upgrade Van Dyke Road between M-59 and Utica City limits	2.775
891.	New Jersey	Replace the Ocean City-Longport bridge in Cape May County, New Jersey	19.5
892.	New York	Construct County Road 93 between NYS 27 and NYS 454	0.515
893.	Mississippi	Upgrade Brister Rd. between Tutwiler and Coahoma County line, Tallahatchie Co	0.3825
894.	California	Conduct highway 65 improvement and mitigation project	4.275
895.	Michigan	Construct road drainage improvements, Suttons Bay Village	0.18
896.	Pennsylvania	Construct 25.5 miles of the Perkiomen Trail	0.486
897.	Illinois	Upgrade Bishop Ford Expressway/142nd St. interchange	1.125
898.	Maine	Implement rural ITS	0.1875
899.	Mississippi	Widen US-84 from I-55 at Brookhaven to US-49 at Collins	0.6875
900.	Washington	Widen Columbia Center Boulevard in Kennewick	1.2075
901.	Indiana	Repair signal wires, grade-crossing warning devices and other safety protections along South Shore Railroad between Gary and Michigan City	0.275
902.	Florida	Replace St. Johns River Bridge in Volusia and Seminole Counties	10.5
903.	Louisiana	Construct East-West Corridor project in Southwest Louisiana	0.75
904.	New York	Improve and reconstruct Commerce Street in York Town	0.28
905.	Washington	Widen SR-522 in Snohomish County: $3,650,000 for phase 1 from SR-9 to Lake Road; $1,550,000 to construct segment from Paradise Lake Road to Snohomish River Bridge	5.2
906.	New Jersey	Design and construct pedestrian access facility from Joseph G. Minish Waterfront Park over Route 21 to the New Jersey Performing Arts Center and the contiguous light rail station in Newark	1
907.	Kentucky	Construct a segment of the I-66 corridor from Somerset to I-75	11.25
908.	Michigan	Construct arterial connector between US41/M28 and Co. Rd. 480, Marquette	0.375
909.	Wisconsin	Upgrade State Highway 29 between Green Bay and Wausau	9
910.	Georgia	Construct surface transportation facilities along Atlanta-Griffin-Macon corridor	29.25
911.	Oregon	Repair Port of Hood River Bridge Lift Span project	1.125
912.	Pennsylvania	Construct noise abatement barriers along US-581 from I-83 2.) miles west in Cumberland County	0.36
913.	Texas	Widen Highway 287 from Creek Bend Drive to Waxahacie bypass	5.125
914.	Oregon	Design and engineering for Tualatin-Sherwood Bypass	0.375
915.	Texas	Implement "Hike and Bike" trail program, Houston	6
916.	New Hampshire	Widen I-93 from Salem north	9.36
917.	Tennessee	Construct State Route 30 from Athens to Etowah in McMinn County	7.74
918.	California	Undertake median improvements along E. 14th St., San Leandro	0.75
919.	New Jersey	Construct Toms River bridge project connecting Dover and South Toms River Borough	2.25
920.	New York	Improve ferry infrastructure in Greenport	0.75
921.	Puerto Rico	Upgrade PR 30 between PR 203 in Gurabo to PR 31 in Juncos	6
922.	Pennsylvania	Improve access and interchange from I-95 to the international terminal at Philadelphia International Airport	3
923.	New Hampshire	Construct Orford Bridge	2.836
924.	Massachusetts	Construct roadway improvements on Crosby Drive and Middlesex Turnpike, Beford, Burlington and Billerica	5.78775
925.	Illinois	Reconstruct Midlothian Turnpike, Robbins	0.216
926.	California	Plan, design and construct interchange between I-15 and Sante Fe Road in Barstow, California	3
927.	Pennsylvania	Reconstruct and widen US Rt. 222 to four-lane expressway between Lancaster/Berks County line and Grings Mill Rd. and construction of Warren Street extension in Reading	19
928.	Maryland	Upgrade roads within Leakin Park Intermodal Corridor, Baltimore	2.4
929.	Washington	Widen SR522 from SR-9 to Paradise Lake Road	3.6
930.	New York	Construct NYS Route 27 at intersection of North Monroe Avenue	4.215
931.	Michigan	Construct Detroit Metropolitan/Wayne County South Access Road	15
932.	Illinois	Reconstruct U.S. 6, Harvey	1.245

No.	State	Project description	[Dollars in Millions]
933.	New York	Redesign Grand Concourse to enhance traffic flow and related enhancements between E. 161st St. and Fordham Rd., New York City	9.75
934.	Ohio	Construct Black River intermodal transportation center	3.45
935.	Connecticut	Rehabilitate Route 202 bridge in New Milford, Connecticut	2.025
936.	Pennsylvania	Construct park and ride facilities in Lower Bucks County	1.125
937.	Pennsylvania	Widen US-11/15 between Mt. Patrick and McKees Half Falls in Perry County	3.75
938.	Illinois	Undertake Industrial Transportation Improvement Program in Chicago	3.2625
939.	California	Improve streets and construct bicycle paths, Agoura Hills	0.65
940.	California	Implement City of Compton traffic signal systems improvements	3.75
941.	Texas	Construct relief route around Alice	0.1875
942.	California	Reconstruct Harbor Blvd./SR22 Interchange, City of Garden Grove	1.5
943.	North Carolina	Upgrade US 158 (including bypasses of Norlina, Macon and Littleton) in Halifax and Warren Counties	2.25
944.	Utah	Construct 7800 South from 1300 West to Bangerter Highway in West Jordan	5.85
945.	Utah	Widen and improve 123rd/126th South from Jordan River to Bangerter Highway in Riverton	4.5
946.	Kentucky	Construct US-127 Jamestown Bypass	4.35
947.	Minnesota	Upgrade Cass County Road 105 and Crow Wing County Road 125, East Gull Lake	0.72
948.	Arkansas	Construct Highway 82 from Hamburg to Montrose	5.375
949.	Louisiana	Construct Port of South Louisiana Connector in Saint John the Baptist Parish	0.525
950.	Oregon	Rehabilitate Broadway Bridge in Portland	7.5
951.	Louisiana	Construct Metairie Rail Improvements and Relocation project in Jefferson and Orleans Parishes, Louisiana	6
952.	Washington	Construct Port of Longview Industrial Rail Corridor and Fibre Way Overpass in Longview	1.875
953.	New York	Study transportation improvements for segments of Hutchinson River Parkway and New England Thruway through the Northeast Bronx	1
954.	West Virginia	Construct I-73/74 Corridor, including connectors with WV Rt. 44 and Co. Rt. 13 (Gilbert Creek), Mingo County	9.05
955.	Washington	Improve I-90/Sunset Way interchange in Issaquah, WA	14.85
956.	Indiana	Construct Marina Access Road in East Chicago	1
957.	Alabama	Construct bridge over Tennessee River connecting Muscle Shoals and Florence	10
958.	Illinois	Resurface 63rd Street from Western Avenue to Wallace, Chicago	0.5625
959.	North Carolina	Upgrade Highway 55 between US 64 and State Route 1121, Wake and Durham Counties	17.25
960.	Indiana	Upgrade Ridge Road between Griffith and Highland	3.3
961.	Missouri	Construct Hermann Bridge on Highway 19 in Montgomery and Gasconade Counties	1.1
962.	New Jersey	Replace Groveville-Allentown Road bridge in Hanilton	2.4
963.	Missouri	Upgrade US-60 in Carter County, Missouri	20.25
964.	Georgia	Construct the Fall Line Freeway from Bibb to Richmond Counties	17.25
965.	Pennsylvania	Construct American Parkway Bridge project in Allentown	3
966.	Georgia	Upgrade U.S. Rt. 19 between Albany and Thomaston	3.75
967.	Georgia	Construct noise barriers on the westside of I-185 between Macon Road and Airport Thruway and on I-75 between Mt. Zion Road and Old Dixie Highway in the Atlanta area	0.75
968.	Oregon	Construct I-205/Sunnyside/Sunnybrook interchange and related extrension road, Clackamas Co	17.2
969.	Minnesota	Widen Trunk Highway 14/52 from 75th Street, NW to Trunk Highway 63 in Rochester	9.75
970.	Minnesota	Upgrade CSAH 61 between TH324 and Snake River	0.9
971.	Utah	Construct underpass at 100th South in Sandy	3.51
972.	California	Improve roadway to provide access to Hansen Dam Recreation Area in Los Angeles	0.75
973.	New York	Construct Erie Canal Preserve I-90 rest stop in Port Byron	2.25
974.	Massachusetts	Construct bike path between Rt. 16 (Everett) to Lynn Oceanside	1.275
975.	Tennessee	Construct Kingsport Highway in Washington County	1.5
976.	Mississippi	Widen State Route 6 from Pontotoc to US-45 at Tupelo in Mississippi	11.25
977.	Tennessee	Construct pedestrian and bicycle pathway to connect with the Mississippi River Trail, and restore adjacent historic cobblestones on riverfront, Memphis	2.25
978.	California	Construct improvements to Harry Bridges Blvd., Los Angeles	6.5
979.	Nebraska	Construct NE-35 alternative and modified route expressway in Norfolkand Wayne	3.375
980.	Michigan	Upgrade Davison Rd. between Belsay and Irish Roads, Genessee Co	3.2
981.	West Virginia	Relocate segment of Route 33 (Scott Miller Bypass), Roane Co	4
982.	California	Rehabilitate B Street between Foothill Blvd. and Kelly St., Hayward	0.525
983.	Pennsylvania	Construct exit ramp on I-180 at State Route 2049 in Lycoming County	7.875
984.	California	Improve streets and related bicycle lane in Oak Park, Ventura Co	0.466
985.	Ohio	Upgrade 11 warning devices on the rail north/south line from Toledo to Deshler	0.825
986.	Alabama	Expand US-278 in Cullman County	5.4
987.	California	Improve the Avenue H overpass in Lancaster, California	4.575
988.	New York	Construct US-219 from Route 39 to Route 17	20
989.	Texas	Widen State Highway 35 from SH288 in Angleton to FM521 and dedicate $630,000 to the acquisition of right-of-way in Brazoria County	5.175
990.	Alaska	Extend Kenai Spur Highway-North Road in Kenai Peninsula Borough	6
991.	Washington	Construct Interstate 405/NE 8th Street interchange project in Bellevue, WA	17.625
992.	Tennessee	Implement ITS technologies, Nashville	2.8
993.	Texas	Construct Galveston Island Causeway Expansion project, Galveston	0.5475
994.	Michigan	Improve I-69 in Branch, Eaton and Calhoun Counties	1.875
995.	California	Improve streets in Canoga Park and Reseda areas, Los Angeles	1
996.	Illinois	Undertake improvements to 127th Street, Cicero Avenue and Route 83 to improve safety and facilitate traffic flow, Crestwood	2
997.	Ohio	Construct new traffic signal and intersection upgrade for Village of Hebron in Licking County	0.06
998.	California	Upgrade US-101 from Eureka to Arcata	0.65
999.	Pennsylvania	Construct bicycle and pedestrian facility between Washington's Landing and Millvale Borough, Allegheny Co	0.4
1000.	New York	Construct Maybrook Corridor bikeway in Dutchess County	1.404
1001.	California	Construct I-10/Barton Road West/Anderson Street connection	3.75
1002.	Mississippi	Construct Jackson International Airport Parkway and connectors from High Street to the Jackson International Airport in Jackson, Mississippi	7.5
1003.	New Jersey	Upgrade I-78 interchange and West Peddie St. ramps, Newark	3.725
1004.	California	Implement enhanced traffic access between I-10, area hospitals and southern portion of Loma Linda	1.5
1005.	Ohio	Construct SR 711 connector four-lane limited access highway in Mahoning Co	25
1006.	Iowa	Extend NW 86th Street from NW 70th Street to Beaver Drive in Polk County	5.25
1007.	California	Construct State Route 56 North connectors at I-5 and North and South connectors at I-15 in San Diego	3
1008.	Arkansas	Construct the Ashdown Bypass/Overpass in Ashdown	3.875
1009.	Colorado	Reconstruct and upgrade I-70/I-25 Interchange, Denver	9
1010.	Louisiana	Construct Zachary Taylor Parkway project	1
1011.	Michigan	Upgrade Rochester Road between I-75 and Torpsey St	9.225
1012.	Louisiana	Construct I-10/Louisiana Ave. interchange	6
1013.	New York	Construct County Route 21, Peeksill Hollow Road renovation project	7.577
1014.	Georgia	Undertake Perimeter Central Parkway Overpass project and Ashford Dunwoody interchange improvements at I-285, DeKalb Co	0.075
1015.	Minnesota	Upgrade Highway 53 between Virginia and Cook	1.5
1016.	New York	Initiate study and subsequent development and engineering of an international trade corridor in St. Lawrence County	1.5
1017.	California	Construct Alameda Corridor East, San Gabriel Valley	2.205
1018.	Arkansas	Upgrade Highway 63, Marked Tree to Lake David	10
1019.	Louisiana	Congestion mitigation and safety improvements to the Central thruway in Baton Rouge	2.25
1020.	Maryland	Reconstruct Baltimore Washington Parkway at Route 197, Prince Georges Co	11.25
1021.	Ohio	Construct Wilmington Bypass, Wilmington	3.75
1022.	Texas	Construct Houston Street Viaduck project in Dallas	5.125
1023.	West Virginia	Construct I-73/74 Corridor, including interchange with US- 460, Mercer County	15
1024.	Massachusetts	Reconstruct Pleasant Street-River Terrace, Holyoke	1.2
1025.	Ohio	Improve and widen SR-45 from North of the I-90 interchange to North Bend Road in Ashtabula County, Ohio	6.17
1026.	Rhode Island	Install directional signs in Newport and surrounding communities	0.225
1027.	Minnesota	Construct Highway 210 trail/underpass, Brainerd/Baxter	0.48
1028.	Florida	A-1-A Beautification project in Daytona, Florida	3.3
1029.	Ohio	Widen Licking-SR-79-06.65 (PID 8314) in Licking County	9
1030.	Texas	Relocate railroad tracks to eliminate road crossings, and provide for the rehabilitation of secondary roads providing access to various parts of the Port and the construction of new connecting roads to access new infrastructure safely and efficiently, Brownsville	4.5
1031.	Oklahoma	Reconstruct US-70 from Broken Bow to Arkansas State line in McCurtain County	3.93
1032.	Tennessee	Improve County Road 374 in Montgomery County	3.75
1033.	Virginia	Enhance Maple Avenue streetscape in Vienna, Virginia	2.025
1034.	Connecticut	Widen Route 10 from vicinity of Lazy Lane to River Street in Southington, Connecticut	3.48
1035.	Florida	Widen US-192 between County Route 532 and I-95 in Brevard and Osceola Counties	18.75

No.	State	Project description	[Dollars in Millions]
1036.	Louisiana	Construct Leeville Bridge on LA-1	1.125
1037.	Illinois	Construct I-57 interchange, Coles Co	8.15
1038.	Massachusetts	Upgrade Route 2 between Philipston and Greenfield	3
1039.	New Jersey	Construct and/or reconstruct intermodal transportation and maintenance facility in Union City in order to replace the NJ Transit depot	2
1040.	Illinois	Construct Technology Avenue between US Rt. 45 East to Willenborg St., Effingham	2.735
1041.	New Jersey	Replace Maple Grange Road bridge over Pochuck Creek in Sussex County	1.35
1042.	New York	Construct CR-96 from Great South Bay to Montauk Highway in Suffolk County	0.275
1043.	Virginia	Construct connector road from the proposed U.S. 58 Stuart bypass to Route 8 South beginning at the intersection of Johnson Street in Stuart to Route 652	5.25
1044.	Pennsylvania	Replace bridge over Shermans Creek in Carroll	0.75
1045.	Connecticut	Construct bicycle and pedestrian walkway, Town of East Hartford	0.9
1046.	Ohio	Construct grade separations at Front Street and Bagley Road, Berea	14.25
1047.	Alabama	Upgrade SR 5 in Perry Co	1.275
1048.	Connecticut	Implement Trinity College Area road improvements, Hartford	5.1075
1049.	Louisiana	Construct North/South Road/I-10-US-61 connection in the Kenner, Louisiana	5
1050.	New Jersey	Design and construction Belford Ferry Terminal in Belford, New Jersey	3.45
1051.	Michigan	Construct safety enhancements at rail crossings, Linden, Fenton, Swartz Creek and Gaines	0.75
1052.	California	Extend 7th St. between F St. and North 7th St., Sacramento	1.5
1053.	Massachusetts	Upgrade Spring St. between Bank and Latham Streets, Williamstown	1.5
1054.	California	Complete Citraeado Parkway project in San Diego County	2.25
1055.	Indiana	Conduct railroad relocation study in Muncie	0.045
1056.	Connecticut	Improve Route 4 intersection in Harwinton, Connecticut	1.35
1057.	Missouri	Widen US-63 in Randolph and Boone Counties, Missouri	31.5
1058.	New York	Construct city of Glen Cove waterfront improvements	3.75
1059.	Illinois	Reconstruct Greenbriar Rd. with construction of new turn lanes in vicinity of John A. Logan College in Carterville	1.05
1060.	Tennessee	Construct bridge and approaches on State Route 33 over the Tennessee River (Henley Street Bridge)	9.9
1061.	Ohio	Construct SR-315 Ohio State University Ramp project in Franklin County	3.5
1062.	Nevada	Improve at-grade railroad crossings in Reno	1.875
1063.	Pennsylvania	Construct Williamsport-Lycoming County Airport Access road from I-180 to the airport	5.25
1064.	Minnesota	Construct bicycle and pedestrian facility (Mesabi Trail), St. Louis County	2.25
1065.	Florida	Widen State Road 44 in Volusia County	1.6875
1066.	Missouri	Upgrade Mo. Rt. 150, Jackson Co	4.5
1067.	Nebraska	Construct bridge in Newcastle	3
1068.	Pennsylvania	Construct PA 36 Convention Center Connector in Blair County	0.75
1069.	Illinois	Rehabilitate Western Springs Arterial Roadway, Cook Co	0.825
1070.	California	Rehabilitate Highway 1 in Guadalupe	0.375
1071.	Utah	Widen 7200 South in Midvale	0.99
1072.	Iowa	Construct I-29 airport interchange overpass in Sioux City	4.65
1073.	Florida	Restore and rehabilitate Miami Beach Bridge and waterfront in Miami Beach, Florida	1.35
1074.	Washington	Improve Huntington Avenue South in Castle Rock	0.5625
1075.	Minnesota	Implement Trunk Highway 8 Corridor projects, Chisago Co	12.475
1076.	Michigan	Relocate US-31 from River Road to Naomi Road in Berrian County	13.5
1077.	South Carolina	Construct I-95/I-26 interchange, Orangeburg Co	8.5
1078.	Texas	Upgrade State Highway 35 Houston District Brazoria County	6.92
1079.	Maryland	Improve Halfway Boulevard east and west of Exit 5, I-81 in Washington County	3
1080.	California	Upgrade D Street between Grand and Second Streets, Hayward	0.9
1081.	New Jersey	Undertake improvements associated with the South Amboy Regional Intermodal Center	12
1082.	New York	Replace Kennedy-class ferries, Staten Island	30
1083.	Texas	Expand Winters Freeway (US83/84) in Abilene between Southwest Drive and US 277	8.4
1084.	Maine	Replacement and renovation of Carlton Bridge, Bath/Woolwich	6
1085.	New York	Rahabilitate Jay Covered Bridge in Essex County	0.75
1086.	Minnesota	Construct Elk River bypass from 171st Avenue at Highway 10 to intersection of County Roads 12 and 13 at Highway 169	2.4
1087.	Pennsylvania	Construct Route 72 overpass at Conrail in Lebanon	6.6075
1088.	Indiana	Upgrade Route 31 and other roads, St. Joseph and Elkhart Counties	4.5
1089.	California	Install call boxes along Highway 166 between intersection with Highway 101 and junction with Highway 33	0.216
1090.	New Hampshire	Construct Chestersfield Bridge	2.536
1091.	Oregon	Construct bike path between Terry Street and Greenhill Road, Eugene	1.17
1092.	Dist. of Col.	Conduct MIS of light rail corridors, D.C	0.75
1093.	Arkansas	Enhance area in the vicinity of Dickson Street in Fayetteville	1.125
1094.	Pennsylvania	Extend North Delaware Ave. between Lewis St. and Orthodox St., Philadelphia	4.2
1095.	Indiana	Reconstruct Wheeling Avenue in Muncie	1.2
1096.	Ohio	Construct interchange at I-480 in Independence, Ohio	3.5
1097.	Pennsylvania	Relocate PA 18 between 9th Ave. and 32nd St., Beaver Falls	1.05
1098.	Alabama	Construct Eastern Shore Trail project in Fairhope, Alabama	1.01625
1099.	Maine	Studies and planning for extension of I-95	2.125
1100.	Alabama	Replace bridge over Tombigbee River, Naheola	2.25
1101.	Illinois	Reconstruct Cossitt Ave. in LaGrange	1.485
1102.	New York	Improve Broadway in North Castle in Westchester County	1.26
1103.	New York	Construct access improvements to Port of Rochester Harbor, Rochester	12
1104.	Illinois	Reconstruct Broad Street between Maple St. to Sixth St., Evansville	0.2625
1105.	California	Widen SR-71 from Riverside County to SR-91	13
1106.	Alabama	Construct improvements to 19th Street between I-59 and Tuxedo Junction, Birmingham	0.675
1107.	Pennsylvania	Improve safety on PA-41 from US-30 to PA-926	6
1108.	Texas	Construct 6th and 7th Street overpass over railroad yard, Brownsville	0.375
1109.	California	Upgrade intersection of Folsom Blvd. and Power Inn Rd., Sacramento	7.5
1110.	Illinois	Replace Gaumer Bridge near Alvin	0.9
1111.	Minnesota	Upgrade TH6 between Talmoon and Highway 1	0.9
1112.	Michigan	Extend Trowbridge Road from Harrison Rd. to Red Cedar Rd	1.875
1113.	New York	Reconstruct Flushing Avenue between Wycoff Avenue and Gates Street	2.25
1114.	California	Construct I-580 interchange, Livermore	9.9
1115.	Illinois	Upgrade South Lake Shore Driver between 47th and Hayes, Chicago	5.85
1116.	Pennsylvania	Improve PA 26 in Huntingdon County	0.75
1117.	Virgin Islands	Construct bypass around Christiansted	6
1118.	New Mexico	Complete the Paseo del Norte East Corridor in Bernalillo County	3.325
1119.	California	Upgrade Industrial Parkway Southwest between Whipple Rd. and improved segment of the parkway, Hayward	0.45
1120.	Kansas	Widen US-81 from Minneapolis, Kansas to Nebraska	20.85
1121.	New York	Construct sound barriers on Grand Central Parkway between 244th Street and Douglaston Parkway	0.375
1122.	New York	Construct Bike Paths along the Bronx River in Bronx Park	0.25
1123.	Pennsylvania	Conduct preliminary engineering and design for the US-219 bypass of Bradford	0.75
1124.	Utah	Widen and improve 123rd/126th South from 700 East to Jordan River in Draper	6.3
1125.	California	Construct Olympic Training Center Access road, Chula Vista	5
1126.	Florida	Pedestrian safety initiative on US-19 in Pinellas County	5.1
1127.	Texas	Construct US Highway 59 railroad crossing overpass in Texarkana	2.625
1128.	Illinois	Widen and improve US-34 intechange in Aurora	6
1129.	Connecticut	Construct Hartford Riverwalk South, Hartford	2.64
1130.	New York	Rehabilitate transportation facilities in CO-OP City	1
1131.	Florida	Widen and realign Eller Drive in Port Everglades, Florida	4.2
1132.	Mississippi	Construct I-20 interchange at Pirate Cove	0.75
1133.	Mississippi	Widen US-98 from Pike County to Foxworth	0.6875
1134.	Pennsylvania	Improve Route 219 in Clearfield County	0.75
1135.	Michigan	Replace Barton Rd./M-14 interchange, Ann Arbor	0.75
1136.	Nebraska	Construct the Antelope Valley Overpass in Lincoln	5.625
1137.	New York	Reconstruct Niagara St., Quay St., and 8th St. including realignment of Qual St. and 8th Ave. in Niagara Falls	2.625
1138.	California	Upgrade and synchronize traffic lights in the Alameda Corridor East in Los Angeles County	17.25
1139.	Illinois	Widen US-20 in Freeport	3.825
1140.	Kentucky	Reconstruct Liberty and Todd Roads, Lexington	6
1141.	New Jersey	Upgrade Montvale/Chestnut Ridge Road and Grand Avenue intersection at Garden State Parkway in Bergan County	0.375

No.	State	Project description	[Dollars in Millions]
1142.	California	Widen SR-23 between Moorpark and Thousand Oaks	10.5
1143.	Utah	Extend Main Street from 5600 South to Vine Street in Murray	10.35
1144.	Pennsylvania	Construct access road to Hastings Industrial Park, Cambria Co	3.05
1145.	New Jersey	Improve Old York Road/Rising Run Road intersection in Burlington	4.98
1146.	Michigan	Construct deceleration lane in front of 4427 Wilder Road, Bay City	0.015
1147.	Pennsylvania	Construct I-81 noise abatement program in Dauphin County	0.48
1148.	Washington	Construct Peace Arch Crossing of Entry (PACE) lane in Blaine	4.9
1149.	New York	Traffic Mitigation Project on William Street and Losson Road in Cheektowaga	3
1150.	Arkansas	Construct North Belt Freeway	5.25
1151.	Ohio	Improve and widen SR-91 from SR-43 south to county line/city line in Solon	4.25
1152.	Texas	Upgrade US Rt. 59 between US 281 to I-37	12
1153.	Michigan	Construct M-24 Corridor from I-69 to southern Lapeer County	2
1154.	Tennessee	Construct greenway and bicycle path corridor, City of White House	3.2
1155.	Massachusetts	Rehabilitate Union Station in Springfield	12
1156.	Pennsylvania	Install citywide signalization (SAMI) project in Lebanon	0.75
1157.	Washington	Widen SR-543 from I-5 to International Boundary, Washington	10.2
1158.	Hawaii	Replace Sand Island bridge	0.75
1159.	West Virginia	Upgrade Route 10 between Logan and Man	50
1160.	Florida	Expand Palm Valley Bridge in St. Johns County	3.1
1161.	Michigan	Improve US-31 from Holland to Grand Haven	2.25
1162.	Florida	Upgrade U.S. 319 between I-10 and the Florida/Georgia State line	3.75
1163.	Colorado	Improve SH-74/JC-73 interchange, City of Evergreen in Jefferson County, Colorado	4.188
1164.	Pennsylvania	Improve Route 94 Corridor through Hanover to Maryland State Line	6
1165.	California	Undertake San Pedro Bridge project at SR 1, Pacifica	1.125
1166.	Michigan	Upgrade Tittabawasee Road between Mackinaw Road and Midland Road, Saginaw Co	3
1167.	Illinois	Improve IL-159 in Edwardsville	3.20625
1168.	Virginia	Improve East Eldon Street in Herndon	0.375
1169.	Texas	Construct Cleveland Bypass	10.125
1170.	Utah	Widen SR-36 from I-80 to Mills Junction	2.25
1171.	New Jersey	Eliminate Berlin Circle and signalize intersection in Camden	6
1172.	Arkansas	Upgrade US Rt. 412, Fulton County line to Missouri State line	7.5
1173.	California	Upgrade Del Almo Boulevard at I-405	5
1174.	Pennsylvania	Improve access to McKeesport-Duquesne Bridge	2.15
1175.	North Carolina	Construct US-64/264 in Dare County	0.75
1176.	California	Construct Gene Autry Way/I-5 Access project, Anaheim	6.75
1177.	Arizona	Construct Veterans' Memorial overpass in Pima Co	11.25
1178.	Virginia	Conduct preliminary engineering on I-73 between Roanoke and Virginia/North Carolina State line	3
1179.	Mississippi	Upgrade roads, Washington Co	3.3075
1180.	Tennessee	State Highway 109 upgrade planning and engineering, Sumner Co	1.84
1181.	Florida	Construct John Young Parkway/I-4 interchange	6
1182.	Illinois	Rehabilitate and upgrade 87th Street Station to improve intermodal access	1.7715
1183.	Ohio	Upgrade SR 124 between Five Points and Ravenswood Bridge, Meigs Co	3.75
1184.	Colorado	Construct Broadway Viaduct, Denver	3
1185.	New York	Construct Bay Shore Road SR-231 to SR-27 in Suffolk County	7.53
1186.	North Dakota	Construct Jamestown bypass	3.6
1187.	Ohio	Upgrade State Route 18 between I-71 and I-77	1.55
1188.	California	Construct Overland Drive overcrossing in Temecula	3.75
1189.	Ohio	Upgrade U.S. Route 422 through Girard	4.72
1190.	Mississippi	Widen MS-45 from Brooksville to US-82 in Mississippi	3.375
1191.	California	Extend Highway 41 in Madera County	5.5
1192.	Missouri	Construction and upgrade of US-71/I-49 in Newton and McDonald County, Missouri	24.97725
1193.	North Carolina	Upgrade US-158 in Warren and Halifax Counties	2.25
1194.	Illinois	Reconstruct I-74 through Peoria	2
1195.	Minnesota	Construct Shepard Road/Upper Landing interceptor, St. Paul	2.25
1196.	Texas	Construct segment 1of a bypass to I-35 known as SH-130. The State of Texas shall consult with all appropriate local officials, representatives of the affected local communities, and provide for public comment prior to determining a final alignment for the project	13.5
1197.	Washington	Redevelop Port of Anacortes waterfront	0.05
1198.	California	Construct I-15 Galinas interchange in Riverside County	6.375
1199.	New Jersey	Replace Kinnaman Avenue bridge over Pohatcong Creek in Warren county	1.2
1200.	Michigan	Upgrade (all weather) on US 2, US 41, and M 35	1.275
1201.	Maine	Upgrade Route 11	3
1202.	Rhode Island	Reconstruct Harris Ave., Woonsocket	1.5
1203.	Oregon	Construct bike path between Main Street/Highway 99 in Cottage Grove to Row River Trail, Cottage Grove	0.23
1204.	Maine	Improve Route 26	1.125
1205.	New York	Rehabilitate Third Avenue Bridge over Harlem River, New York City	1.5
1206.	New Hampshire	Construct the Keene bypass	4.899
1207.	New Jersey	Construct grade separation of Route 35 and Tinton falls and extend Shrewsbury Avenue in Monmouth	3.75
1208.	California	Reconstruct La Loma Bridge in Pasadena	2.25
1209.	Indiana	Remove and replace Walnut Street in Muncie	1.605
1210.	Arkansas	Construct US-270 East-West Arterial in Hot Springs	6.875
1211.	Oklahoma	Reconstruct and widen I-40 Crosstown Bridge and Realignment in downtown Oklahoma City, including demolition of the existing bridge, vehicle approach roads, interchanges, intersections, signalization and supporting structures between I-35 and I-44	72.7875
1212.	Texas	Widen Meacham Boulevard from I-35W to FM-146 and extend Meacham Boulevard from west of FM-156 to North Main Street	2
1213.	Minnesota	Upgrade CSAH 116 north of CSAH 88 in Ely	1.2
1214.	Mississippi	Upgrade West County Line Road, City of Jackson	8.25
1215.	California	Construct Imperial Highway grade separation and sound walls at Esperanza Road/Orangethorpe Avenue in Yorba Linda, California	12.515
1216.	Nevada	Widen I-15 from California State line to Las Vegas	1.875
1217.	Connecticut	Improve and realign Route 8 in Winchester	1.515
1218.	Oklahoma	Reconstruct US-70 in Marshall and Bryan Counties	0.11
1219.	Pennsylvania	Construct California University of Pennsylvania intermodal facility	1
1220.	Arkansas	Construct turning lanes at US-71/AR-8 intersection in Mena	0.1875
1221.	Michigan	Construct intermodal freight terminal in Wayne Co	18
1222.	Pennsylvania	Improve PA 17 from PA 274 to PA 850 in Perry County	0.75
1223.	Indiana	Install traffic signalization system in Muncie	0.675
1224.	Illinois	Upgrade US 40 in Martinsville	0.094
1225.	Indiana	Construct SR-9 bypass in Greenfield	2.3625
1226.	Kentucky	Conduct feasibility study for Northern Kentucky High Priority Corridor (I-74)	0.375
1227.	Hawaii	Construct interchange at junction of proposed North-South road and H-1	1.5
1228.	Florida	Construct improvements to JFK Boulevard, Eatonville	0.75
1229.	Mississippi	Construct access improvments to various roads, Humphreys Co	0.75
1230.	South Dakota	Construct Heartland Expressway Phase I	6.505
1231.	Illinois	Construct Raney Street Overpass in Effingham	4.4
1232.	Texas	Road improvements along historic mission trails in San Antonio	1.875
1233.	New York	Construct Elmira Arterial from Miller to Cedar	2.25
1234.	Ohio	Construct a new interchange at County Road 80 and I-77 in Dover with $100,000 to preserve or reconstruct the Tourism Information Center	7.1
1235.	California	Construct Airport Blvd. interchange in Salinas	6
1236.	Massachusetts	Construct South Weymouth Naval Air Station Connectivity Improvements	14.225
1237.	Illinois	Construct new entrance to Midway Airport Terminal	6.5
1238.	West Virginia	Preliminary engineering, design and construction of the Orgas to Chelayn Road, Boone Co	2
1239.	New Jersey	Construct US-22/Chimney Rock Road interchange in Somerset County	17.25
1240.	Kansas	Reconstruct K-7 from Lone Elm Road to Harrison	2.79
1241.	Pennsylvania	Install traffic signal upgrade in Clearfield Borough in Clearfield County	0.375
1242.	Missouri	Construct Grand Ave. viaduct over Mill Creek Valley in St. Louis	1.65
1243.	Pennsylvania	Construct improvements to North Shore Roadway and access in the city of Pittsburgh	11
1244.	West Virginia	Construct improvements on WV 9 including turning lane and signalization, Berkely Co	0.2
1245.	New York	Conduct Trans-Hudson Freight Improvement MIS, New York City	3
1246.	West Virginia	Upgrade Route 2 in Cabell Co., including the relocation of Route 2 to provide for a connection to I-64 (Merrick Creek Connector)	10

No.	State	Project description	[Dollars in Millions]
1247.	New Hampshire	Construct Hindsale Bridge	2.536
1248.	Washington	Reconstruct I-82/SR-24 intersection and add lanes on SR- 24 to Keys Road	6.48
1249.	Iowa	Construct controlled access four-lane highway between Des Moines and Burlington	9.525
1250.	Pennsylvania	Construct bicycle and pedestrian facility between Boston Bridge and McKee Point Park, Allegheny Co	0.125
1251.	Ohio	Upgrade and widen US-24 from I-469 to I-475	17.25
1252.	Texas	Upgrade FM517 between Owens and FM 3346, Galveston	2.892
1253.	Idaho	Construct US-95: Sandcreek Alternate Route in Sandpoint	13.5
1254.	New Jersey	Replace Calhoun Street Bridge in Trenton	0.975
1255.	California	Construct Cabot-Camino Capistrano Bridge project in Southern Orange County	1.5
1256.	Pennsylvania	Construct PA 16 Truck climbing lane in Franklin County	1.5
1257.	New York	Construct Eastern Long Island Scenic Byway in Suffolk County	11.25
1258.	Texas	Construct Loop 197, Galveston	3.2175
1259.	Illinois	Construct Western Springs Pedestrian and Tunnel project, Cook Co	0.925
1260.	Georgia	Construct the Savannah River Parkway in Bullock, Jenkins, Screven and Effinghaus Counties	7.5
1261.	Mississippi	Construct connector between US-90 and I-10 in Biloxi	6.375
1262.	American Samoa	Construct drainage system improvements associated with highway construction on Tutilla Island, American Samoa	3.75
1263.	Maryland	Implement city-wide signal control system replacements and improvements in Baltimore	13.275
1264.	West Virginia	Construct I-81 interchange, Martinsburg	5.05
1265.	Alabama	Replace pedestrian bridges at Village Creek and Valley Creek, Birmingham	0.075
1266.	Virginia	Improve Route 123 from Route 1 to Fairfax County line in Prince William County, Virginia	11.25
1267.	New Mexico	Improve US-70 from I-25 to Organ in New Mexico	18.75
1268.	Pennsylvania	Undertake transportation enhancement activities within the Lehigh Landing Area of the Delaware and Lehigh Canal National Heritage Corridor	5.25
1269.	New York	Implement Melrose Commons geographic information system	0.75
1270.	Alabama	Construct repairs to Pratt Highway Bridge, Birmingham	0.45
1271.	Texas	Construct Spur 10 from SH-36 to US-59	3
1272.	Nebraska	Replace US-81 bridge between Yankton, South Dakota and Cedar County, Nebaska	1.125
1273.	California	Construct Centennial Transportation Corridor	15.75
1274.	Minnesota	Construct Phalen Blvd. between I-35E and I-94	9.75
1275.	California	Reconstruct Palos Verdes Drive, Palos Verdes Estates	0.3375
1276.	Pennsylvania	Facilitate coordination of transportation systems at intersection of 46th and Market, and enhance access and related measures to area facilities including purchase of vans for reverse commutes, Philadelphia	3
1277.	Indiana	Improve Southwest Highway from Bloomington to Evansville	27
1278.	Pennsylvania	Construct an access road in Bedford Springs, Pennsylvania, along Old U.S. 220 to the Springs Project and to construct other facilities to facilitate movement of traffic within the site and construction of a parking facility to be associated therewith or other projects in the counties of Bedford, Blair, Fulton, Franklin, Mifflin, Fulton and Clearfield, and Huntingdon, as selected by the State of Pennsylvania	28.18
1279.	Washington	Undertake FAST Corridor improvements with the amounts provided as follows: $12,000,000 to construct the North Duwamish Intermodal Project, $3,375,000 for the Port of Tacoma Road project, $2,250,000 for the SW Third St./BSNF project in Auburn, $1,500,000 for the S.277th St./BNSF project in Auburn/Kent, $1,500,000 for the S.277th St./UP project in Auburn Kent, $1,500,000 for the S.180th St. E/BSNF project in Tukwila, $750,000 for the 8th St. E/BSNF project in Pierce Co., and $1,125,000 for the Shaw Rd. extension Puyallup	24
1280.	Ohio	Construct interchange at SR 11 and King Graves Rd. in Trumball Co	5.56
1281.	Michigan	Apply ITS technologies relating to traffic control, Lansing	2.775
1282.	California	Stabilize US-101 at Wilson Creek	0.65
1283.	Michigan	Construct interchange at Eastman Avenue/US-10 in Midland	8.25
1284.	Arkansas	Enhance area around the Paris Courthouse in the vicinity of Arkansas Scenic Highway 22 and Arkansas Scenic Highway 309, Paris Arkansas	0.3
1285.	Mississippi	Upgrade Hampton Lake Road, Tallahatchie Co	0.66
1286.	Illinois	Undertake improvements to Campus Transportation System	0.75
1287.	Virginia	Construct access road, walking trail and related facilities for the Nicholsville Center, Scott Co	0.225
1288.	Pennsylvania	Improve intersection of U.S., S.R. 3066, and West Allegheny Road, North Fayette Township	3.5
1289.	Arkansas	Construct Highway 425 from Pine Bluff to the Louisiana State line	5.375
1290.	Pennsylvania	Construct Independence Gateway Transportation Center project, Philadelphia	5.5
1291.	Minnesota	Upgrade Perpich Memorial from CR-535 to CSAH 111	2.1
1292.	Texas	Construct US Rt. 67 Corridor through San Angelo	5.25
1293.	Pennsylvania	Construct improvements to roadway and parking facility in the vicinity of St. Francis College, Cambria County	2
1294.	Missouri	Construct extension of bike path between Soulard market area and Riverfront bike trail in St. Louis	0.6
1295.	New York	Construct intermodal facility in Yonkers, Westchester Co	8.687
1296.	Maryland	Construct intersection improvements to facilitate access to NSA facility, Anne Arundel Co	2.25
1297.	Massachusetts	Undertake vehicular and pedestrian movement improvements within Central Business District of Foxborough	1.56
1298.	Kentucky	Construct KY-70 from Cave City to Mammoth Cave	1.5
1299.	Virginia	Construct Main Street Station in Richmond	6
1300.	New Hampshire	Improve 3 Pisquataqua River Bridges on the New Hampshire-Maine border	1.65
1301.	Pennsylvania	Construct Abbey Trails in Abington Township	0.45
1302.	Hawaii	Upgrade Kaumualii Highway	8.25
1303.	North Carolina	Upgrade and improve US-19 from Maggie Valley to Cherokee	15
1304.	Maine	Replace Ridlonville Bridge across Androscoggin River	1.125
1305.	Mississippi	Upgrade and widen US-49 in Rankin, Simpson, and Covington Counties	0.6875
1306.	Texas	Upgrade SH 30, Huntsville	1.875
1307.	California	Reconstruct the I-710/Firestone Blvd. interchange	12
1308.	Pennsylvania	Widen US 30 from Walker Rd to Fayetteville in Franklin County	1.5
1309.	Virginia	Construct Southeastern Parkway and Greenbelt in Virginia Beach	3
1310.	Illinois	Replace State Route 47 Bridge in Morris	14.25
1311.	Texas	Upgrade Highway 271 between Paris and Pattonville	1.5
1312.	Minnesota	Improve roads, Edge of Wilderness, Grand Rapids to Effie	4.5
1313.	Arizona	Reconstruct I-19, East Side Frontage Road, Ruby Road to Rio Rico Drive, Nogales	7.5
1314.	North Carolina	Construct I-85 Greensboro Bypass in Greensboro, North Carolina	22.125
1315.	New York	Improve access to I-84/Dutchess intermodal facility in Dutchess County	2.21
1316.	Illinois	Construct I-88 interchange at Peace Road in Dekalb	1.5
1317.	North Dakota	Upgrade US Rt. 52, Kenmare to Donnybrook	2.1
1318.	South Carolina	Construct improvements to I-95/SC 38 interchange	6.75
1319.	Arkansas	Construct Highway 15 from Connector Road to Railroad Overpass in Pine Bluff	0.875
1320.	New York	Reconstruct 79th Street Traffic Circle, New York City	7
1321.	California	Extend State Route 52 in San Diego	2.25
1322.	California	Construct Sacramento Intermodal Station	3
1323.	Illinois	Construct Central Ave.-Narragansett Ave. connector, Chicago	3.7
1324.	Pennsylvania	Construct Walnut Street pedestrian bridge in Dauphin County	0.75
1325.	Indiana	Conduct rail-highway feasibility project study in Muncie	0.075
1326.	Georgia	Upgrade US Rt. 27	7.5
1327.	Michigan	Improve Hoban Road and Grand Avenue, City of Mackinac Island	0.84
1328.	Washington	Construct Cross Base Corridor, Fort Lewis-McChord AFB	0.375
1329.	Illinois	Construct bicycle/pedestrian trail parallel to light rail transit system in St. Clair Co	5.5
1330.	Pennsylvania	Improve Bedford County Business Park Rd in Bedford County	1.5
1331.	Louisiana	Construct Port of St. Bernard Intermodal facility	1.575
1332.	New York	Construct bridge deck over the Metro North right-of-way along Park Ave. between E. 188th and 189th Streets	0.75
1333.	Ohio	Conduct feasibility study for the construction of Muskingum County South 93-22-40 connector	0.5
1334.	South Carolina	Upgrade US Highway 301 within Bamberg	3.2
1335.	Virginia	Construct road improvements, trailhead and related facilities for Birch Knob Trail on Cumberland Mountain	0.25
1336.	Kansas	Widen US-169 in Miami County	12.15
1337.	Texas	Construct extension of Bay Area Blvd	0.75
1338.	New Jersey	Construct highway connector between Interstate Route 1&9 (Tonelle Ave.) and the New Jersey Turnpike at Secaucus Intermodal Transfer Rail Station and the Trans Hudson Corridor at the Bergen Arches arterial roadway	5.5
1339.	California	Modify HOV lanes, Marin Co	5.25
1340.	California	Widen US-101 from Petaluma Bridge to Novato	8.75
1341.	Arkansas	Construct US 63 interchange with Washington Ave. and Highway 63B	1.5
1342.	Louisiana	Kerner's Ferry Bridge Replacement project	0.75
1343.	Pennsylvania	Reconstruct I-95/Street Road interchange in Bucks County	1.3275

No.	State	Project description	[Dollars in Millions]
1344.	New York	Upgrade Frederick Douglas Circle, New York City	9
1345.	Pennsylvania	Improve PA 453 from Water Street to Tyrone in Huntingdon County	0.75
1346.	Oregon	Acquire and rennovate facility to serve as multimodal transportation center, Eugene	2
1347.	Alabama	Construct improvements to Ensley Avenue between 20th St. and Warrior Rd., Birmingham	0.75
1348.	Alaska	Extend West Douglas Road	2.475
1349.	Pennsylvania	Construction of noise barriers along State Route 28, Aspinwall	0.8
1350.	Mississippi	Replace Greenville River Bridge in Washington County	1.0
1351.	Illinois	Reconstruct Claire Blvd., Robbins	0.2475
1352.	New Jersey	Reconstruct South Pembrton Road from Route 206 to Hanover Street	6
1353.	Kentucky	Reconstruct US-231: $5,625,000 for the segment between Dry Ridge Road and US-231 and US-31; $3,000,000 for the segment between Allen-Warren County line and Dry Ridge Road	8.625
1354.	Indiana	Undertake safety and mobility improvements involving street and street crossings and Conrail line, Elkhart	1.5
1355.	New York	Construct sound barriers on east side of Clearview Expressway between 15th Road and Willets Point Blvd	0.3
1356.	Tennessee	Construct Franklin Road interchange and bypass	2
1357.	New Jersey	Construct, reconstruct and integrate multi-transportation modes -- international airport and seaport, rail, national highway system and brownfields -- to establish an international intermodal transportation center and corridor between and within the cities of Bayonne, Elizabeth and Newark, New Jersey	2
1358.	Louisiana	Construct I-49 interchange at Caddo Port Road in Shreveport	4.2
1359.	Oklahoma	Conduct study of Highway 3 in McCurtain, Pushmataha and Atoka Counties	0.16
1360.	North Carolina	Construct US-117, the Elizabeth City Bypass in Pasquotank County	2.625
1361.	North Carolina	Upgrade US 13 (including Ahoskie bypass) in Bertie and Hertford Counties	0.75
1362.	California	Extend Route 46 expressway in San Luis Obispo Co	6
1363.	Illinois	Construct improvements to New Era Road, Carbondale	2.625
1364.	New York	Construct congestion mitigation project for Riverhead	1.875
1365.	California	Upgrade Riverside Avenue/I-10 interchange, Rialto	0.69375
1366.	California	Construct I-10 Tippecanoe/Anderson interchange project in Loma Linda and San Bernardino County, California	1.5
1367.	Colorado	Construct C-470/I-70 ramps in Jefferson Co	4.187
1368.	Washington	Conduct feasibility study of State Route 35 Hood River bridge in White Salmon	0.75
1369.	Tennessee	Construct Landport regional transportation hub, Nashville	8
1370.	Pennsylvania	Upgrade roadway in the Princeton/Cottman I-95 interchange and related improvements, Philadelphia	15.15
1371.	Washington	Construct Sequim/Dungeness Valley trail project	0.75
1372.	Maryland	Construct phase 1A of the I-70/I-270/US-340 interchange in Frederick County	11.25
1373.	American Samoa	Upgrade village roads on Tutuila/Manua Island, American Samoa	8.25
1374.	Virginia	Improve Lee Highway Corridor in Fairfax, Virginia	1.35
1375.	Michigan	Preliminary engineering and right-of-way acquisition for "Intertown South" route of US 31 bypass, Emmet County	1.125
1376.	Missouri	Construction of airport ground transportation terminal for the Springfield/Branson Airport intermodal facility in Springfield, Missouri	3.75
1377.	Ohio	Upgrade SR 7 (Eastern Ave.) to improve traffic flow into Gallipolis, Gallia Co	1.5
1378.	Michigan	Construct US-27 between St. Johns and Ithaca	6.375
1379.	Washington	Construct SR 167 Corridor, Tacoma	1.125
1380.	Washington	Widen US-395 in the vicinity of mile post 170 north of Spokane	5.5
1381.	Iowa	Construct overpass to eliminate railroad crossing in Burlington	3.475
1382.	Missouri	Improve safety and traffic flow on Rt. 13 through Clinton	6
1383.	Florida	Construct Alden Road Improvement Project in Orange County	0.525
1384.	Dist. of Col.	Implement traffic signalization, freeway management and motor vehicle information systems, Washington, D.C	6
1385.	Wisconsin	Construct freeway conversion project on Highway 41 between Kaukauna and Brown County Highway F	16
1386.	Illinois	Construct crossings over Fox River in Kane County	9.375
1387.	Mississippi	Construct US-84 from Eddiceton to Auburn Road	0.6875
1388.	Illinois	Construct US-67 in Madison and Jersey Counties	5.1
1389.	South Carolina	Construct Calhoun/Clarendon Causeway	6.5
1390.	Florida	Construct safety improvements and beautification along U.S. 92, Daytona Beach	2.25
1391.	Pennsylvania	Realign PA29 in the Borough of Collegeville, Montgomery County, Pennsylvania	0.495
1392.	Pennsylvania	Construct Towamencin Township multimodal center	2.61
1393.	Maryland	Construct improvements to Route 50 interchange with Columbia Pike, Prince Georges Co	2.4
1394.	Illinois	Construct bypass of historic stone bridge, Maeystown	0.615
1395.	Pennsylvania	Construct Johnstown-Cambria County Airport Relocation Road	0.75
1396.	Pennsylvania	Reconstruct the I-81 Davis Street interchange in Lackawanna	6
1397.	Connecticut	Realign Route 4 intersection in Farmington	2.1
1398.	Pennsylvania	Construct Wexford I-79/SR 910 Interchange, Allegheny Co	0.825
1399.	Pennsylvania	Extend Martin Luther King Busway, Alleghany Co	1.65
1400.	Massachusetts	Construct Arlington to Boston Bike Path	0.75
1401.	New Jersey	Construct Collingswood Circle eliminator, Camen	6
1402.	Ohio	Construct grade separations at Fitch Road in Olmsted Falls	3.75
1403.	Wisconsin	Construct Eau Claire Bypass project	6
1404.	Minnesota	Reconstruct SE Main Ave. and related improvements, completing 34th Street Corridor project, Moorhead	3
1405.	New York	Construct Olana Visitor Center in Olana	1
1406.	Massachusetts	Improve safety and traffic operations on Main and Green Streets, Mellrose	1.95
1407.	New York	Reconstruct Jackson Avenue in New Windsor, Orange County	1.963
1408.	New York	Construct congestion mitigation project for Smithtown	0.75
1409.	New York	Reconstruct County Route 24 in Franklin County	1.85475
1410.	North Carolina	Construct US-311(I-74) from NC-68 to US-29A-70A	22.875
1411.	California	Design and initiation of long term improvements along Highway 199 in Del Norte County, California	0.275
1412.	Alabama	Complete I-59 interchange in Dekalb County	3.6
1413.	New York	Improve Hiawatha Boulevard and Harrison Street corridors in Syracuse	1.6875
1414.	New Jersey	Construct Route 17 bridge over the Susquehanna and Western Rail line in Rochelle Park	1.125
1415.	Illinois	Undertake streetscaping between Damden and Halsted	0.8625
1416.	Illinois	Construct transportation improvements to Industrial Viaduct, Chicago	1.125
1417.	Ohio	Construct access and related improvements to Downtown Riverfront Area, Dayton	3.675
1418.	Oregon	Purchase and install emitters and receiving equipment to facilitate movement of emergency and transit vehicles at key arterial intersections, Portland	4.5
1419.	Tennessee	Reconstruct road and causeway in Shiloh Military Park in Hardin County	11.25
1420.	Arkansas	Conduct planning for highway 278 and rail for the Warren/Monticello Arkansas Intermodal Complex	0.875
1421.	Oregon	Construct regional multimodal transportation center in Albany	10
1422.	Texas	Construct two-lane parallel bridge, State Highway 146, FM 517 to vicinity of Dickinson Bayou	3.6375
1423.	Connecticut	Relocate and realign Route 72 in Bristol	4.0575
1424.	Massachusetts	Construct Minuteman Commuter Bikeway-Charles River Bikeway connector, Cambridge and Watertown	0.5625
1425.	Michigan	Replace Chevrolet Ave. bridge in Genesee Co	1.8
1426.	Virginia	Construct trailhead and related facilities and restore old Whitetop Train Station at terminus of Virginia Creeper Trail adjacent to Mount Rogers National Recreation Area	0.3
1427.	New York	Construct Mineola and Hicksville Intermodal Centers in Nassau Co	12
1428.	Indiana	Lafayette Railroad relocation project in Lafayette, Indiana	22.05
1429.	Michigan	Construct Jackson Road project (demonstrating performance of paper and plastic reinforced concrete), Scio Township	3.45
1430.	Wyoming	Widen and improve Cody - Yellowstone Highway from the entrance to Yellowstone National Park to Cody	5
1431.	Texas	Widen State Highway 6 from from Senior Road to FM521	9.075
1432.	Massachusetts	Design, engineer and right-of-way aquisition of the Great River Bridge, Westfield	1.5
1433.	Washington	Design and implement report and environmental study of the I-5 corridor in Everett, Washington	1
1434.	North Carolina	Make improvements to I-95/SR-1162 interchange in Johnston Co	2.4
1435.	New York	Reconstruct Stoneleigh Avenue in Putnam County	2.89
1436.	Pennsylvania	Construct transportation improvements around the interchange of Interstate 81 and S.R. 0944, Hampden Township	2
1437.	Wisconsin	Upgrade Highway 151 between Platteville and Dubuque	6
1438.	New York	Improve Bedford-Banksville Road from Millbrook to Connecticut State line	1.44
1439.	California	Construct interchange between I-15 and SR-18 in Victorville/Apple Valley, California	6
1440.	Connecticut	Construct overlook and access to Niantic Bay	2.31
1441.	Arizona	Design, engineering and ROW acquisition for Area Service Highway, Yuma	0.75
1442.	Connecticut	Reconstruct cross road over I-95, Waterford	1.5
1443.	Illinois	Upgrade industrial park road in Village of Sauget	3.375
1444.	California	Construct I-680 HOV lanes between Marina Vista toll plaza to North Main Street, Martinez to Walnut Creek	5.25
1445.	Iowa	Improve US 65/IA 5 interchange, Warren Co	5
1446.	Pennsylvania	Replace Masontown bridge, Fayette and Greene Counties	5

No.	State	Project description	[Dollars in Millions]
1447.	Indiana	Extend SR 149 between SR 130 to US Rt. 30, Valparaiso	3
1448.	Pennsylvania	Construct PA-309 Sumneytown Pike Connector	3.96
1449.	California	Improve Route 99/Route 120 interchange in Manteca County	6
1450.	Alaska	Construct a bridge joining the Island of Gravina to the Community of Ketchikan on Revilla Island	15
1451.	Nebraska	Conduct corridor study of NE-35 alternative and modified route in Norfolk, Wayne and Dakota City	0.75
1452.	Michigan	Upgrade Lalie St., Frenchtown Rd., and Penshee Rd., Ironwood	0.27
1453.	California	Conduct planning, preliminary engineering and design for Etiwanda Ave./I-10 interchange, San Bernardino Co	1.5
1454.	California	Construct Arbor Vitae Street improvements, Inglewood	2.625
1455.	Minnesota	Restore MN Transportation facility, Jackson Street Roundhouse, St. Paul	0.75
1456.	Rhode Island	Upgrade pedestrian traffic facilities, Bristol	0.075
1457.	California	Install SiliconValley Smart Corridor project along the I-880 corridor	2.145
1458.	South Carolina	Construct I-26/US-1 connector in Columbia	9
1459.	New York	Construct Poughkeepsie Intermodal Facility in Poughkeepsie	3.75
1460.	Oregon	Restore transportation connection between Wauna, Astoria and Port of Astoria	0.525
1461.	New York	Conduct feasibility study of new International bridges on the NY/Canada border	0.375
1462.	Tennessee	Extend Pellissippi Parkway from State Route 33 to State Route 321 in Blount County	8.85
1463.	Ohio	Upgrade 2 warning devices on the rail north/south line from Columbus to Toledo	0.15
1464.	California	Upgrade South Higuera Street, San Luis Obispo	0.675
1465.	Alabama	Upgrade County Road 39 between Highway 84 and Silver Creek Park, Clarke Co	0.75
1466.	North Carolina	Relocate US 1from north of Lakeview to SR 1180, Moore and Lee Counties	5.475
1467.	Texas	Construct extension of West Austin Street (FM 2609) between Old Tyler Road and Loop 224, Nacogdoches	1.35
1468.	Michigan	Reconstruct I-94 between Michigan Route 14 and US-23	9
1469.	Connecticut	Reconstruct I-84, Hartford	7.1025
1470.	Ohio	Undertake improvements to Valley Street, Dayton	0.675
1471.	New Jersey	Upgrade Urban University Heights Connector, Newark	7.275
1472.	Ohio	Widen to 5 lanes existing SR 43/Sunset Boulevard in Steubenville, Jefferson County	0.6
1473.	New York	Improve and reconstruct Stony Street in York Town	0.35
1474.	Ohio	Construct grade separation at Dille Road in Euclid	3.75
1475.	Washington	Safety improvements to State Route 14 in Columbia River Gorge National Scenic Area	3.15
1476.	Indiana	Upgrade County roads in LaPorte County	6
1477.	California	Implement ITS technologies in Employment Center area of City of El Segundo	2.6625
1478.	Minnesota	Construct pedestrian overpass on Highway 169, Mille Lacs Reservation	0.45
1479.	Texas	Complete State Highway 35 in Aransas County	5.42
1480.	Washington	Construct overcrossing at 38th Street in Everett, WA., and construct the Riverside Industrial Access Road as identified in the FAST Corridor plan	5.893
1481.	Illinois	Construct improvements to McKinley Bridge over Mississippi River with terminus points in Venice, Illinois, and St. Louis, Missouri	3.9
1482.	Connecticut	Upgrade bridge over Naugatuck River, Ansonia	0.3375
1483.	Louisiana	Widen Lapalco Boulevard from Barataria Boulevard to Destrehan Avenue in Jefferson Parish, Louisiana	3
1484.	California	Construct Tulare County roads in Tulare County	6.75
1485.	Washington	Extend Mill Plain Boulevard in Vancouver	3
1486.	Missouri	Construct an intermodal center at Missouri Botanical Garden	0.9
1487.	Ohio	Reimburse costs associated with multimodal transportation improvements, Dayton	2.0625
1488.	West Virginia	Upgrade US 340 between West Virginia/Virginia State line and the Charles Town Bypass	2
1489.	Ohio	Add lanes and improve intersections on Route 20 in Lake County, Ohio	2
1490.	Pennsylvania	Rehabilitate Kenmawr Bridge, Swissvale	0.45
1491.	Rhode Island	Construct Blackstone River Bikeway	2.59125
1492.	Alaska	Construct Gravina Island Bridge in Ketchikan	5.443
1493.	Alaska	Construct N.W. Alaska Road/Rail access	2.5
1494.	Alaska	Construct North Denali access route	1.5
1495.	Alaska	Construct capital improvements to marine transportation facilities for Prince of Wales Island	0.75
1496.	Alaska	Improve marine dry dock and facilities in Ketchikan	0.75
1497.	Alaska	Construct New Access Route to Ship Creek Access in Anchorage	11.943
1498.	Alabama	Construct bridge over Tennessee River connecting Muscle Shoals and Florence	1
1499.	Alabama	Engineering, right-of-way acquisition and construction of Huntsville Southern Bypass	1
1500.	Alabama	Construction of Eastern Black Warrior River Bridge	7.75
1501.	Alabama	Construct East Foley Corridor Project from Baldwin County Highway 20 to State Highway 59 in Alabama	1
1502.	Alabama	Engineering, right-of-way, acquisition and construction of Birmingham Northern Beltline in Jefferson County	8.917
1503.	Alabama	Extend I-759 in Etowah County	1.167
1504.	Alabama	Construct Decatur Southern Bypass	1
1505.	Alabama	Construct Anniston Eastern Bypass from I-20 to Fort McClellan in Calhoun County	2
1506.	Alabama	Construct Montgomery outer loop from US 80 to I-85 via I-65	11.8
1507.	Alabama	Develop U.S. 231/I-10 Freeway Connector from Alabama border to Dothan	2
1508.	Alabama	Replace bridge over Tombigbee River, Naheola	3
1509.	Arkansas	Development of Little Rock Port Authority	2
1510.	Arkansas	Development of Little Rock River Rail Project	2
1511.	Arkansas	Improvements to I-30 From Benton to Geyer Springs Exit in Little Rock	2
1512.	Arkansas	Upgrade 2 bypasses (Washington Ave. Interchange and Highway 63B Interchange) on U.S. 63 in Jonesboro	5
1513.	Arkansas	Construct bypass at Ashdown	1.25
1514.	Arkansas	Devlopment of U.S. 71 from Fort Chaffee to Texarkana	7
1515.	Arkansas	Development of Interchange at Intersection of I-40 and Airport Road in West Memphis	6
1516.	Arkansas	Improve U.S. Highway 412 From Harrison to Mountain Home	3.8875
1517.	Arkansas	Complete Courthouse Improvement Enhancements Project in Paris	0.1
1518.	Arkansas	Further study and development of Russellville Intermodal Complex in Russellville	0.25
1519.	Arkansas	Construct turning lanes at the Intersection of U.S. Highway 71 and Arkansas State Highway 8 in Mena	0.0625
1520.	Arkansas	Transportation Enhancements in the Vicinity of Dickson St., Fayetteville	0.375
1521.	Arkansas	Improve Arkansas State Highway 12 From U.S. 71 at Rainbow Curve to the Northwest Arkansas Regional Airport	0.125
1522.	Arkansas	Construct intermodal connector access road to the Northwest Ark. Regional Airport	4
1523.	Arkansas	Continue development of West Phoenix Ave, Ft. Smith	2
1524.	Arkansas	Improvements to 28th Street, Van Buren	0.25
1525.	Arkansas	Conduct feasibility studies for Van Buren Intermodal Port	0.075
1526.	Arkansas	Upgrade Arkansas State Highway 59 from Rena Road to Old Uniontown Road in Van Buren	0.65
1527.	Arkansas	Construct improvements to U.S. Highway 71 to I-40 through Fort Chaffee and Fort Smith	1.25
1528.	California	Construct I-80 reliever route system, Solano Cty	12.1
1529.	California	Replace Maxwell Bridge, Napa Cty	8.7
1530.	California	Construct March Inland Port ground access project, Riverside Cty	7.2
1531.	California	Construct Sta Monica Transit Pkwy	17
1532.	California	Construct state Rte 905 between I-805 and Otay Mesa border crossing	38.5
1533.	California	Construct hwy grade separation/other improvements for "Gateway for America" project in San Gabriel Valley	100
1534.	Colorado	State Priority Projects	23.401
1535.	Connecticut	Reconstruction of railroad electrical catenary serving commuter lines between New Haven and Stanford	23.433
1536.	Connecticut	Pedestrian/disabled access improvements at Mark Twain House Historic Site	0.5
1537.	Connecticut	Reconstruct and expand access road and related riverwalk improvements at/adjacent to Riverside Park, Hartford	2
1538.	Connecticut	Develop Winsted and Winchester rail trail, linkage to existing trails in neighboring towns	1.5
1539.	Connecticut	Develop Quinipiac River linear trail in Wallingford and Meriden	1.5
1540.	Connecticut	Extend Farmington Canal Rail Trail in Hamden and New Haven	1.5
1541.	Florida	State Priority Projects	92.096
1542.	Georgia	Upgrade Lithonia Industrial Blvd, DeKalb Cty	0.35
1543.	Georgia	Widen US 84 South from US 82 to Ware Cte in Waycross and Ware Ctes	1.6
1544.	Georgia	Construct Rome to Memphis hwy in Floyd and Bartow Ctes	2
1545.	Georgia	Construct Athens to Atlanta transportation corridor	8
1546.	Georgia	Conduct a study of Interstate multimodal transportation corridor from Atlanta to Chattanooga	2.5
1547.	Georgia	Conduct study of multimodal transportation corridor along GA 400	25
1548.	Georgia	Construct Savannah River Pkwy in Bulloch, Jenkins Screven, and Effingham Counties	5
1549.	Georgia	Conduct study of interstate multimodal transportation corridor from Atlanta to Chattanooga	5
1550.	Georgia	Undertake major arterial enhancement in DeKalb Cty: Candler Rd, Memorial Dr, and Buford Hwy	6.66
1551.	Georgia	Construct Harry S. Truman Pkwy	3.55
1552.	Georgia	Construct multimodal passenger terminal, Atlanta	8.1
1553.	Georgia	Construct Rome to Memphis hwy in Floyd and Bartow Ctes	4.112

No.	*State*	*Project description*	*[Dollars in Millions]*
1554.	*Georgia*	*Construct Fall Line Freeway from Bibb to Richmond Ctes*	*9.5*
1555.	*Georgia*	*Construct Fall Line Freeway from Bibb to Richmond Ctes*	*23*
1556.	*Iowa*	*Design, right-of-way and construction of a bridge over railroad tracks on airport access road in Sioux City*	*1.5*
1557.	*Iowa*	*Construction of a 4-lane expressway between DesMoines and Marshalltown*	*2.75*
1558.	*Iowa*	*Design, right-of-way and construction of the Avenue G viaduct and related roadway in Council Bluffs*	*7*
1559.	*Iowa*	*Design and construction of native roadside vegetation enhancement center at U.N.I. in Cedar Falls*	*0.76*
1560.	*Iowa*	*Construct the D116 Dubuque Bridge over the MI River at Dubuque*	*7*
1561.	*Iowa*	*Design, right-of-way and construction of segments of Martin Luther King Jr. Parkway in DesMoines from Center ST. to Fleur Dr*	*12*
1562.	*Idaho*	*Reconstruct 184/I-84 interchange (mileposts 0.0--0.6)*	*19*
1563.	*Idaho*	*Rehabilitate US 20 Ashton/Ashton Hill Bridge and Intersection Project (mileposts 363.3--363.5)*	*3.75*
1564.	*Idaho*	*Construct Cheyenne Street Railroad Overpass, Pocatello*	*5.5*
1565.	*Idaho*	*Stage 1, US 93 Twin Falls Alternate Rte from junction of US 93/Hwy 30 north (mileposts 45--48)*	*13*
1566.	*Idaho*	*Safety improvements on US 95 from Genesee to Moscow (mileposts 331--345)*	*16*
1567.	*Idaho*	*Safety improvements/bridge replacement on US-95 at Mann's Creek Curves (mileposts 91.2--94.8)*	*7*
1568.	*Idaho*	*Alignment/bridge replacement State Hwy 55 between Smith's Ferry and Round Valley (mileposts 94.9--101.0)*	*18*
1569.	*Illinois*	*Improve Campus Transportation System, Chicago*	*2*
1570.	*Illinois*	*Construct US 67 in Madison and Jersey Ctes*	*6.798*
1571.	*Illinois*	*Construct confluence bikeway in Madison Cty*	*1*
1572.	*Illinois*	*Extend Veterans Mem Drive and construct overpass at I-57 in Mt Vernon*	*3*
1573.	*Illinois*	*Construct 34 from Burlington IA to Monmouth IL*	*5*
1574.	*Illinois*	*Reconstruct Wacker Dr in Chicago*	*25*
1575.	*Illinois*	*Reconstruct Stevenson Expwy, Chicago*	*25*
1576.	*Indiana*	*State Priority Projects*	*47.046*
1577.	*Kansas*	*State Priority Projects*	*23.488*
1578.	*Kentucky*	*Widen US 27 from Norwood to Eubank*	*5.83*
1579.	*Kentucky*	*Reconstruct KY210 from Hodgenville to Morning Star Rd in LaRue Cty*	*2*
1580.	*Kentucky*	*Conduct feasibility study for No. KY high-priority corridor (I-74)*	*0.125*
1581.	*Kentucky*	*Construct necessary connections for the Taylor Southgate Bridge in Newport and the Clay Wade Bridge in Covington*	*2.3*
1582.	*Kentucky*	*Construction on US 127: Albany Bypass to KY90, Albany Bypass from KY696 to Clinton Cty H.S., and from KY696 to TN state line*	*2.81*
1583.	*Kentucky*	*Construct highway rail grade separations along the City Lead in Paducah*	*0.25*
1584.	*Kentucky*	*Reconstruction of the Louisville Trolley Barn*	*1.5*
1585.	*Kentucky*	*Completion of the Ownsboro Corridor and related State Highway projects*	*15.817*
1586.	*Kentucky*	*Extend Hurstbourne Pkwy from Bardstown Rd to Fern Valley Rd*	*4*
1587.	*Louisiana*	*Causeway Project*	*0.5*
1588.	*Louisiana*	*I-10 Connector, Port of South Louisiana*	*0.28*
1589.	*Louisiana*	*Florida Expressway Construction, St. Bernard/Orleans Parishes*	*0.05*
1590.	*Louisiana*	*Kerner Bridge, Jefferson Parish*	*0.25*
1591.	*Louisiana*	*Construction, LA 1*	*2.3*
1592.	*Louisiana*	*Leeville Bridge, LA 1*	*2*
1593.	*Louisiana*	*Louisiana segment, Gulf Coast high speed rail*	*1*
1594.	*Louisiana*	*Perkins Road, Baton Rouge*	*1.5*
1595.	*Louisiana*	*East West Corridor/El Camino Real, LA 6 to US 84, Central-Northwest LA*	*1*
1596.	*Louisiana*	*Nelson Access Road to Port of Lake Charles*	*4.5*
1597.	*Louisiana*	*Tchopitoulas Corridor, New Orleans*	*4.5*
1598.	*Louisiana*	*Rte 3132 to Caddo-Bossier Port, Shreveport*	*4.5*
1599.	*Louisiana*	*Kansas Lane, Monroe*	*4.5*
1600.	*Louisiana*	*New Orleans CBD to New Orleans Int'l Airport, commuter rail*	*5*
1601.	*Massachusetts*	*State Priority Projects*	*37.365*
1602.	*Maryland*	*Improve hwy signage for C&O Canal NHP in Frederick, Washington, and Allegany Cties*	*0.091*
1603.	*Maryland*	*Construct pedestrian bicycle bridge across Susquehanna River between Havre de Grace and Perryville*	*1.25*
1604.	*Maryland*	*Upgrade US 113 north of US 50 to Jarvis Rd in Worcester Cty*	*7*
1605.	*Maryland*	*Upgrade MD 32 in the vicinity of NSA Anne Arundel Cty*	*6.75*
1606.	*Maryland*	*Construct Phase 1-A of the I-70/I-270/US 340 interchange in Frederick Cty*	*15*
1607.	*Maine*	*Upgrade Rte 11*	*0.15*
1608.	*Maine*	*Construct I-95/Stillwater Avenue interchange*	*0.15*
1609.	*Maine*	*Reconstruction of the Mack Point Cargo Port*	*1.45*
1610.	*Maine*	*Improve Rte 23*	*0.125*
1611.	*Maine*	*Improve Rte 26*	*0.375*
1612.	*Maine*	*Replace Ridlonville Bridge, Rumford*	*0.875*
1613.	*Maine*	*Studies, planning for extension of I-95*	*2*
1614.	*Maine*	*Construct I-295 connector, Portland*	*1*
1615.	*Maine*	*Replace Singing Bridge across Taunton Bay*	*1.375*
1616.	*Maine*	*Construct new bridge over Kennebec River (Carlton Bridge replacement)*	*2*
1617.	*Maine*	*Studies, planning, reconstruction of East-West Hwy*	*1*
1618.	*Michigan*	*State Priority Projects*	*25.447*
1619.	*Michigan*	*State Priority Projects*	*31.438*
1620.	*Michigan*	*Reconstruct and rehabilitate, including rail and interstate access improvements for the Detroit Waterfront Dock, Detroit*	*6*
1621.	*Minnesota*	*Reconstruct S.E. Main Ave./I-94 Interchange, Moorhead*	*1*
1622.	*Minnesota*	*Construct T.H. 212 Construction between I-494 and Carver County Road 147*	*1*
1623.	*Minnesota*	*Construct T.H. 610/10 from T.H. 169 in Brooklyn Park to I-94 in Maple Grove*	*2*
1624.	*Minnesota*	*Construct Mankato South Route in Mankato*	*1*
1625.	*Minnesota*	*Reconstruct SE Main Avenue/I-94 Interchange, Moorhead*	*2*
1626.	*Minnesota*	*Replace Sauk Rapids Bridge Over Mississippi River, Stearns and Benton Counties*	*1*
1627.	*Minnesota*	*Replace Sauk Rapids Bridge over Mississippi River, Stearns and Benton Cties*	*1*
1628.	*Minnesota*	*Construct Shepard Rd./Upper Landing Interceptor, St. Paul*	*1*
1629.	*Minnesota*	*Construct Mankato South Route, Mankato*	*1*
1630.	*Minnesota*	*Reconstruct and Replace I-494 Wakota Bridge from South St. Paul to Newport and approaches*	*3.529*
1631.	*Minnesota*	*Reconstruct/replace I-494 Wakota Bridge from South St. Paul to Newport, and approaches*	*1*
1632.	*Minnesota*	*Construct Phalen Blvd. between I-35 and I-94*	*2.5*
1633.	*Minnesota*	*Construct T.H. 610/10 from T.H. 169 in Brooklyn Park to I-94 in Maple Grove*	*9.029*
1634.	*Minnesota*	*Design and Construct Access to I-35W at Lake St., Minneapolis*	*2*
1635.	*Missouri*	*Develop bike/pedestrian paths for Town of Kansas and Riverfront Park in Kansas City*	*0.341*
1636.	*Missouri*	*Construct Cuivre River Bridge at Lincoln County*	*3*
1637.	*Missouri*	*Construct Rte 13 MO River Bridge at Lexington*	*3*
1638.	*Missouri*	*Construct Hwy 47 MO River Bridge at Washington*	*3*
1639.	*Missouri*	*Construct Rte 5 Bridge at the Lake of the Ozarks*	*3*
1640.	*Missouri*	*Upgrade Interstate 70 in the State of MO*	*10*
1641.	*Missouri*	*Construct Chouteau Bridge at Kansas City*	*6*
1642.	*Missouri*	*Construct Mississippi River Bridge at Hannibal*	*6*
1643.	*Missouri*	*Construct Bill Emerson Memorial Bridge*	*8*
1644.	*Missouri*	*Construct Missouri River Bridge at Hermann*	*5*
1645.	*Mississippi*	*Replace functionally obsolete drawbridge with new crossing, High Rise Bridge, at Pascagoula*	*38*
1646.	*Montana*	*Conduct environmental review, planning, design, and construction of the Beartooth Highway in Wyoming and Montana*	*19.905*
1647.	*North Carolina*	*Construct Raleigh Outer Loop (segment D) between NC 50 and SR 2000*	*8.44*
1648.	*North Carolina*	*Construct additional lanes on I-77 between I-85 and NC 73*	*48*
1649.	*North Dakota*	*State Priority Projects*	*13.138*
1650.	*Nebraska*	*Improve Nebraska Highways 8 and 15 in Fairbury*	*3*
1651.	*Nebraska*	*Construct Riverfront Trails and Bridges Along Missouri River from Dodge Park through Omaha to Bellevue*	*4.786*
1652.	*New Hampshire*	*Widen I-93 from Salem to Manchester*	*1.175*
1653.	*New Hampshire*	*Construct Manchester Airport Access Road, Manchester*	*1*
1654.	*New Hampshire*	*Conway bypass/Rte 16 mitigation, Conway*	*0.5*
1655.	*New Hampshire*	*Improve Bridge Street bridge, Plymouth*	*1*
1656.	*New Hampshire*	*Advance completion of Rte 101 project from Raymond to Hampton*	*2*
1657.	*New Hampshire*	*Rehabilitate/reconstruct Bath-Haverhill Bridge, Bath and Haverhill*	*0.65*
1658.	*New Hampshire*	*Construct Manchester Access Rd, Manchester*	*3.175*
1659.	*New Hampshire*	*Construct Orford Bridge, Orford*	*0.85*
1660.	*New Jersey*	*Construct bicycle trails and riverside improvements, West Deptford*	*0.7*
1661.	*New Jersey*	*Construct Del. River tram to link destinations on both sides of Del. River*	*8*

No.	State	Project description	[Dollars in Millions]
1662.	New Jersey	Construct new ramp between NJ 42 and south section of I-295	14
1663.	New Jersey	Construct roadway network through the Bergen Arches railroad right-of-way, Hudson Cty	26.5
1664.	New Jersey	Relocate/construct Cooper Hospital Med Ctr helipad, Camden	1.5
1665.	Nevada	Canamex Corridor Innovative Urban Renovation Project in Henderson	1.531
1666.	Nevada	Widen US 50 between Fallon and Fernley	1
1667.	Nevada	I-580/U.S. 395 Freeway Extension to Carson City	5
1668.	Nevada	Reconstruction of I-15 Interchange at Sahara Ave. and Rancho Rd. in North Las Vegas	5
1669.	Nevada	Widening of Craig Rd. in North Las Vegas	2
1670.	Nevada	Widen I-15 in San Bernardino County, CA	6
1671.	New York	Reconstruct Springfield Blvd between the LIRR Main Line South to Rockaway Blvd in Queens County	1
1672.	New York	Replace Kennedy-class ferries in Staten Island	2
1673.	New York	Construct Fordham Univ Regional Transportation Facility, Bronx	4
1674.	New York	Construct Hamilton St interchange between Rte 17 and Rte 15 in Erwin	4.4
1675.	New York	Construct intermodal project at Castle Clinton and Battery Pk, NYC	6
1676.	New York	Relocate toll barrier in Williamsville	6.1
1677.	New York	Construct Rte 219 from Springville to Salamanica (Rte 13 to Rte 17)	20
1678.	New York	Design/construct upgraded interchange between I-84 and I-87 nr Stuart Int.'l Airport, Newburg	20
1679.	New York	Renovate/reconstruct James A Farley Post Office, NYC, as new Amtrak Sta	40
1680.	New York	Renovate Hellgate Bridge, NYC	15
1681.	Ohio	Upgrade intersection of US 20 and SR 420, Woodville	5
1682.	Ohio	Improve intersection at SR 327 and US 32, Wellston	3
1683.	Ohio	Upgrade US 20 in Painesville, Perry, and Madison	3
1684.	Ohio	Upgrade US 30 and Hill-Diley Road, Lancaster	4
1685.	Ohio	Upgrade Caves Road, Geauga County	2
1686.	Ohio	Upgrade SR 2 between Oregon and Camp Perry	5
1687.	Ohio	Construct intermodal transit center in Cinncinnati	8
1688.	Ohio	High priority highway and bridge projects	34.325
1689.	Ohio	Upgrade intersection of US35 and Fairfield Road	4
1690.	Oklahoma	Reconstruct/widen I-40 Crosstown Bridge and Realignment, Oklahoma City	30.912
1691.	Oregon	Relocate Highway 126 through Redmond	4
1692.	Oregon	Widen U.S. 30 from two lanes to four lanes in Pendleton	7.8
1693.	Oregon	Restore funding for Broadway Bridge Project	2.5
1694.	Oregon	Restore funding for I-5/217 Kruse Way Project	1.75
1695.	Oregon	Restore funding for Astoria Hazard Recovery Railroad Slide	0.175
1696.	Oregon	Restore funding for South Rivergate Overcrossing Project	2
1697.	Oregon	Restore funding for Medford Highway 62/99 Project	4
1698.	Oregon	Restore funding for I-205 Sunnybrooke Interchange Project	1.8
1699.	Pennsylvania	Reconstruction of I-79 from Pa 285 to US 6, Crawford County	1
1700.	Pennsylvania	Relocation of US 15 from US 522 to PA 147 in Snyder, Union, and Northumberland Counties	1
1701.	Pennsylvania	Reconstruct I-81/Davis Street Interchange, Lackawanna County	1
1702.	Pennsylvania	Construct American Parkway Bridge project, Allentown	1
1703.	Pennsylvania	Construct Williams-Lycoming Cty Airport access road from I-80 to the Airport	1
1704.	Pennsylvania	Rehabilitate Streets Run Road for emergency access	0.5
1705.	Pennsylvania	Construct pedestrian bridge, Vine Street Expressway between 15th and 16th Streets	1
1706.	Pennsylvaria	North Shore roadway and pedestrian improvements, Pittsburgh	2.505
1707.	Pennsylvania	Widening and reconstruction of US 30, Lancaster County	2.5
1708.	Pennsylvania	Construction of Erie Bayside Connector, Erie County	2
1709.	Pennsylvania	Construct Independence Gateway Transportation Ctr project, Philadelphia	1
1710.	Pennsylvania	Road construction in and around former Bethlehem Steel plant site	3
1711.	Pennsylvania	Roadway and pedestrian improvements for North Shore Central Business District Corridor Transportation Project, Pittsburgh	2.5
1712.	Pennsylvania	Construction at Williamsport Airport, Lycoming County	2
1713.	Pennsylvania	Construct US 322 Conchester Hwy between US 1 and SR 452	3
1714.	Pennsylvania	Construct I-95 access ramps at and around Philadelphia Int'l Airport	5
1715.	Pennsylvania	Reconstruct SR 309 in Eastern Montgomery County	2
1716.	Pennsylvania	Lancaster County airport runway extension	1
1717.	Pennsylvania	Construct safety and capacity improvements to Rte 309 and Old Packhouse Road, including widening of Old Packhouse Road between KidsPeace National Hospital and Rte 309, Lehigh County	1
1718.	Pennsylvania	Construct grade separated interchange on Old Rte 60 at Pgh. Airport, Allegheny County	1
1719.	Pennsylvania	Improvements to SR 412 from I-78 to Bethlehem Steel site and road improvements for rail intermodal facility, Bethlehem	2
1720.	Pennsylvania	Construct new interchange at Settler's Cabin, Allegheny County	1
1721.	Pennsylvania	Improve access and interchange from I-95 to int'l terminal at Philadelphia Int'l Airport	5
1722.	Pennsylvania	Relocate Rte 15 at Selinsgrove and Shamokin Dam, Snyder County	1
1723.	Pennsylvania	Construct access to site of former Philadelphia Naval Shipyard and Base	2
1724.	Pennsylvania	Reconstruct I-80, Mercer and Venango Counties	1
1725.	Pennsylvania	Construct Erie Eastside Connector	3
1726.	Pennsylvania	Reconstruct main line I-179	1
1727.	Pennsylvania	Upgrade US 219 between Meyersdale and Somerset	5
1728.	Pennsylvania	Relocate Rte 222 in/around Trexlertown, Lehigh County	3
1729.	Pennsylvania	Widen Broad Street and related improvements, Hazelton	2
1730.	Pennsylvania	Construct Cranberry Connector, I-79/Rte 19/PA Turnpike, Butler County	2
1731.	Pennsylvania	Construct Warren Street Extension, Reading	3
1732.	Pennsylvania	Construct new lane on Rte 15, Tioga County	5
1733.	Pennsylvania	Construct Mon Fayette Expressway between WV and Fairchance	5
1734.	Pennsylvania	Reconstruct Ft. Pitt Bridge and Tunnel, Pittsburgh	19
1735.	Pennsylvania	Construct new interchange at I-95 and PA Turnpike and related improvements	5
1736.	Rhode Island	Construct Blackstone River bikeway	8.843
1737.	Rhode Island	Construct Woonasquatucket bikeway	3.1
1738.	South Carolina	Replace Cooper River Bridges, Charleston	19.311
1739.	South Dakota	Construct Eastern Dakota Expressway between Aberdeen at I-29	12.832
1740.	South Dakota	Preserve Skyline Drive Scenic Ridgetop in Rapid City	0.5
1741.	South Dakota	Construct new interchange and access road on Interstate 90 at Box Elder	1
1742.	Tennessee	Reconstruction of Old Walland Hwy Bridge over Little River, Townsend	0.42
1743.	Tennessee	Construct pedestrian & bicycle pathway to connect with Miss. River Trail & restore historic cobblestones on the Riverfront, Memphis	0.7
1744.	Tennessee	High priority highway and bridge projects	44.048
1745.	Utah	Construct Phase 2 of the Univ Ave Interchange, Provo	1.5
1746.	Utah	Engineer/reconstruct at Brown's Park Rd, Daggett Cty	0.85
1747.	Utah	Construct Cache Valley Hwy in Logan	1
1748.	Utah	Gateway Redevelopment Area road reconstruction, Salt Lake City	1
1749.	Utah	Widen/improve 123rd/126th South from 700 East to Jordan River, Draper	0.5
1750.	Utah	Construct Cache Valley Hwy in Logan	2
1751.	Utah	Widen/improve 123rd/126th South from Jordan River to Bangerter Hwy in Riverton	0.5
1752.	Utah	Construct underpass at 100 South, in Sandy	1
1753.	Utah	Extend Main St from 5600 South to Vine St, Murray	2
1754.	Utah	Construct Phase 2 of the Univ Ave Interchange, Provo	1
1755.	Utah	Widen 7200 West, Midvale	0.35
1756.	Utah	Construct I-15 interchange at Atkinville	2
1757.	Utah	Improve 5600 West Hwy from 2100 South to 4100 South in West Valley City	1
1758.	Virginia	Construct Southeastern Pkwy and Greenbelt, Virginia Beach	4
1759.	Virginia	Construct Route 288, Richmond	2
1760.	Virginia	Planning/design for Coalfields Expwy, Buchanan, Dickinson, and Wise Ctes	5
1761.	Virginia	Complete no. section of Fairfax Cty Pkwy, Fairfax County	2
1762.	Virginia	Reconstruct SR 168 (Battlefield Blvd), Chesapeake	3
1763.	Virginia	Phase 1 Downtown Staunton Streetscape Plan	0.2
1764.	Virginia	Commuter/freight rail congestion/mitigation project over Quantico Creek	2
1765.	Virginia	Conduct preliminary engineering on I-73 between Roanoke and VA/NC state line	1
1766.	Virginia	Construct I-95/State Rte 627 interchange, Stafford Cty	1
1767.	Virginia	Improve Lee Hwy Corridor in Fairfax	1
1768.	Virginia	Construct Third Bridge/Tunnel Crossing of Hampton Rd	3

No.	State	Project description	[Dollars in Millions]
1769.	Virginia	Widen I-64 Bland Blvd interchange	3
1770.	Virginia	Construct "Smart Road" in Blacksburg	5
1771.	Virginia	Reconstruct I-66/Rte 29 interchange, Gainesville	15
1772.	Vermont	Upgrade and Improve Publicly-Owned Vermont Rail Infrastructure from Bennington to Burlington	9.168
1773.	Washington	Hood River Bridge SR 35	0.192
1774.	Washington	Port of Kalama River Bridge	0.169
1775.	Washington	Huntington Avenue South Castle Rock	0.138
1776.	Washington	Port of Longview Industrial Rail Corridor	0.477
1777.	Washington	I-5 interchange, Lewis Cty	1.27
1778.	Washington	Safety Improvements to SR 14 Columbia Gorge	0.775
1779.	Washington	Construct 192nd Street from SR 14 to SE 15th, Vancouver	0.962
1780.	Washington	Widen US 395 north of Spokane	1.9
1781.	Washington	Columbia Center Blvd, Kennewick	0.309
1782.	Washington	Construct Washington Pass Visitors Center	0.231
1783.	Washington	Improve Hillsboro Street/Hwy 395 intersection, Pasco	0.682
1784.	Washington	Reconstruct I-82/Keys Road Intersection, Yakima	1.663
1785.	Washington	Construct Sequim/Dungeness Valley Trail Project	0.192
1786.	Washington	Widen SR 99 between 148th Street and King County Line, Lynnwood	0.577
1787.	Washington	Improve I-5/196th Street Interchange, Lynnwood	0.866
1788.	Washington	Construct SR 305 corridor improvement, Poulsboro	0.673
1789.	Washington	Edmonds Crossing multi-modal transportation project	0.962
1790.	Washington	Construct Cross Base Corridor Ft. Lewis/McChord AFB	0.115
1791.	Washington	Reconstruct I-5 Interchange, City of Lacey	0.288
1792.	Washington	Construct SR 167 Corridor	0.288
1793.	Washington	Southworth Seattle Ferry	0.962
1794.	Washington	Undertake SR 166 Slide Repair	1.25
1795.	Washington	Construct SR 7 Elbe rest area and interpretive facility	0.15
1796.	Washington	Extend Mill Plain Blvd, Vancouver	1
1797.	Washington	Construct I-405/NE 8th Street Interchange, Bellevue	5.875
1798.	Washington	Improve I-90/Sunset Way Interchange, Issaquah	4.95
1799.	Washington	Clinton Ferry Terminal	1.2
1800.	Washington	8th Street East Pierce County	0.25
1801.	Washington	Shaw Road Puyallup extension	0.375
1802.	Washington	180th, Tukwila	0.5
1803.	Washington	South 277th, Auburn (UP)	0.5
1804.	Washington	South 277th, Auburn (BNSF)	0.5
1805.	Washington	Construct Southwest Third Street	0.75
1806.	Washington	Construct Port of Tacoma Road	1.125
1807.	Washington	Construct North Duwamish Intermodal Project	4
1808.	West Virginia	Construct Coalfields Expressway	22.69
1809.	Wyoming	State Priority Projects	13.934
1810.	New Mexico	Construct Rio Rancho Highway	20
1811.	Massachusetts	Reconsruct Huntington Avenue	1
1812.	Texas	Relocate railroad Bryan/College Station at Texas A&M or any other high priority project in Texas	10
1813.	Texas	High priority highway and bridge projects	133.863
1814.	Arizona	High priority highway and bridge projects	31.076
1815.	Delaware	High priority highway and bridge projects	8.868
1816.	Hawaii	High priority highway and bridge projects	10.379
1817.	Wisconsin	High priority highway and bridge projects	39.926
1818.	Arkansas	High priority highway and bridge projects	15
1819.	Maine	High priority highway and bridge projects	10
1820.	Texas	Relocate railroad line in Bryan and College Station, Texas A&M University	15
1821.	Virginia	High priority highway and bridge projects	5
1822.	New Hampshire	High priority highway and bridge projects	5
1823.	Idaho	High priority highway and bridge projects	5
1824.	Arkansas	Conduct Seismic Design and Deployment Projects	5
1825.	Missouri	High priority highway and bridge projects	10
1826.	Wyoming	High priority highway and bridge projects	5
1827.	Rhode Island	Construct pedestrian and Bicycle Facilities	5
1828.	Oklahoma	High priority highway and bridge projects	5
1829.	Colorado	High priority highway and bridge projects	5
1830.	Alabama	Develop Huntsville Southern Bypass	1
1831.	Alabama	Replace bridge over Tombigbee River, Naheola	1
1832.	Alabama	Construct Anniston Eastern Bypass	1
1833.	Alabama	Construct East Foley Corridor Project from Baldwin County Highway 20 to State Highway 59 in Alabama	0.75
1834.	Alabama	Construct Decatur Southern Bypass	1
1835.	Alabama	Construct Montgomery Outer Loop from US 80 to I-85 via I-65	1
1836.	Alabama	Develop Birmingham Northern Beltline	1.45
1837.	Alabama	Construct bridge over Tennessee River connecting Muscle Shoals and Florence	1
1838.	Alabama	Create National University Transportation Center at the University of Alabama	1.8
1839.	Alabama	University at Alabama at Birmingham-Trauma Care Center	2.25
1840.	Alabama	Conduct advance vehicle transportation research program at the University of Alabama Tuscaloosa	2
1841.	Alabama	Conduct asphalt research program at Auburn University	0.5
1842.	Alabama	Conduct Global Climate Reserach Program at the University of Alabama at Huntsville	0.25
1843.	California	Conduct Golden Gate Seismic Retrofit Project	26
1844.	Oregon	Prepare and preserve high priority highways	30
1845.	South Dakota	Construct Eastern Dakota Expressway from Aberdeen to I-29	23.768
1846.	Massachusetts	High priority highway and bridges	25
1847.	Pennsylvania	Reconstruct and improve I-95 in Delaware, Philadelphia and Bucks Counties, Pennsylvania	50
1848.	Pennsylvania	Reconstruct and improve US-22 in Westmoreland and Indiana Counties, Pennsylvania	50
1849.	South Carolina	Replace Cooper River Bridges, Charleston	20
1850.	Alaska	Construct Bradfield Canal Road	1

SEC. 1603. SPECIAL RULE.

For purposes of calculating the minimum guarantee apportionment under section 105 of title 23, United States Code, the Secretary shall not include projects numbered 1818 through 1849 in section 1602.

TITLE II—HIGHWAY SAFETY

SEC. 2001. HIGHWAY SAFETY PROGRAMS.

(a) UNIFORM GUIDELINES.—Section 402(a) of title 23, United States Code, is amended—

(1) in the fourth sentence by striking "(4) to" and inserting "(4) to prevent accidents and";

(2) in the eighth sentence by striking "include information obtained by the Secretary under section 4007 of the Intermodal Surface Transportation Efficiency Act of 1991 and"; and

(3) in the twelfth sentence by inserting "enforcement of light transmission standards of window glazing for passenger motor vehicles and light trucks as necessary to improve highway safety," before "and emergency services".

(b) ADMINISTRATION OF STATE PROGRAMS.—Section 402(b) of such title is amended—

(1) by striking "(b)(1)" and all that follows through paragraph (2) and inserting the following:

"(b) ADMINISTRATION OF STATE PROGRAMS.—";

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (1), (2), and (3), respectively;

(3) in paragraph (1)(C) (as so redesignated) by striking "paragraph (5)" and inserting "paragraph (3)"; and

(4) in paragraph (2) (as so redesignated) by striking "paragraph (3)(C)" and inserting "paragraph (1)(C)".

(c) APPORTIONMENT OF FUNDS.—The sixth sentence of section 402(c) of such title is amended by inserting "the apportionment to the Secretary of the Interior shall not be less than three-fourths of 1 percent of the total apportionment and" after "except that".

(d) APPLICATION IN INDIAN COUNTRY.—Section 402(i) of such title is amended to read as follows:

"(i) APPLICATION IN INDIAN COUNTRY.—

"(1) USE OF TERMS.—For the purpose of application of this section in Indian country, the terms 'State' and 'Governor of a State' include

the Secretary of the Interior and the term 'political subdivision of a State' includes an Indian tribe.

"(2) EXPENDITURES FOR LOCAL HIGHWAY PROGRAMS.—Notwithstanding subsection (b)(1)(C), 95 percent of the funds apportioned to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions.

"(3) ACCESS FOR INDIVIDUALS WITH DISABILITIES.—The requirements of subsection (b)(1)(D) shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

"(4) INDIAN COUNTRY DEFINED.—In this subsection, the term 'Indian country' means—

"(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;

"(B) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.".

(e) RULEMAKING PROCEEDING.—Section 402(j) of such title is amended to read as follows:

"(j) RULEMAKING PROCEEDING.—The Secretary may periodically conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries, and deaths. Any such rulemaking shall take into account the major role of the States in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs.".

(f) HIGHWAY SAFETY EDUCATION AND INFORMATION.—

(1) IN GENERAL.—For fiscal years 1999 and 2000, the Secretary shall allow any State to use funds apportioned to the State under section 402 of title 23, United States Code, to purchase television and radio time for highway safety public service messages.

(2) REPORTS BY STATES.—Any State that uses funds described in paragraph (1) for purchasing television and radio time for hightway safety public service messages shall submit to the Secretary a report describing, and assessing the effectiveness of, the messages.

(3) STUDY.—Based on information contained in the reports submitted under paragraph (2), the Secretary shall prepare and transmit to Congress a report on the effectiveness of purchasing television and radio time for highway safety public service messages using funds described in paragraph (1).

SEC. 2002. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.

(a) AUTHORITY OF THE SECRETARY.—Section 403(a)(2)(A) of title 23, United States Code, is amended by inserting ", including training in work zone safety management" after "personnel".

(b) DRUGS AND DRIVER BEHAVIOR.—

(1) IN GENERAL.—Section 403(b) of such title is amended by adding at the end the following:

"(3) Measures that may deter drugged driving.

"(4) Programs to train law enforcement officers on motor vehicle pursuits conducted by the officers.".

(2) REPORTS OF FEDERAL POLICIES AND PROCEDURES.—Not later than 180 days after the date of enactment of this Act, the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of the Treasury, the Chief of Capitol Police, and the Administrator of General Services shall each transmit to Congress a report containing—

(A) the policy of the department or agency headed by that individual concerning motor vehicle pursuits by law enforcement officers of that department or agency; and

(B) a description of the procedures that the department or agency uses to train law enforcement officers in the implementation of the policy referred to in subparagraph (A).

SEC. 2003. OCCUPANT PROTECTION.

(a) OCCUPANT PROTECTION INCENTIVE GRANTS.—

(1) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by inserting after section 404 the following:

"§405. Occupant protection incentive grants

"(a) GENERAL AUTHORITY.—

"(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants under this section to States that adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. Such grants may be used by recipient States only to implement and enforce, as appropriate, such programs.

"(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for programs described in paragraph (1) at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the Transportation Equity Act for the 21st Century.

"(3) MAXIMUM PERIOD OF ELIGIBILITY.—No State may receive grants under this section in more than 6 fiscal years beginning after September 30, 1997.

"(4) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

"(A) in each of the first and second fiscal years in which the State receives a grant under this section, 75 percent;

"(B) in each of the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

"(C) in each of the fifth and sixth fiscal years in which the State receives a grant under this section, 25 percent.

"(b) GRANT ELIGIBILITY.—A State shall become eligible for a grant under this section by adopting or demonstrating to the satisfaction of the Secretary at least 4 of the following:

"(1) SAFETY BELT USE LAW.—The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in the front seat of the vehicle (and, beginning in fiscal year 2001, in any seat in the vehicle) does not have a safety belt properly secured about the individual's body.

"(2) PRIMARY SAFETY BELT USE LAW.—The State provides for primary enforcement of the safety belt use law of the State.

"(3) MINIMUM FINE OR PENALTY POINTS.—The State imposes a minimum fine or provides for the imposition of penalty points against the driver's license of an individual—

"(A) for a violation of the safety belt use law of the State; and

"(B) for a violation of the child passenger protection law of the State.

"(4) SPECIAL TRAFFIC ENFORCEMENT PROGRAM.—The State has implemented a statewide special traffic enforcement program for occupant protection that emphasizes publicity for the program.

"(5) CHILD PASSENGER PROTECTION EDUCATION PROGRAM.—The State has implemented a statewide comprehensive child passenger protection education program that includes education programs about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraint systems.

"(6) CHILD PASSENGER PROTECTION LAW.—The State has in effect a law that requires minors who are riding in a passenger motor vehicle to be properly secured in a child safety seat or other appropriate restraint system.

"(c) GRANT AMOUNTS.—The amount of a grant for which a State qualifies under this section for a fiscal year shall equal up to 25 percent of the amount apportioned to the State for fiscal year 1997 under section 402.

"(d) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

"(e) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.

"(f) DEFINITIONS.—In this section, the following definitions apply:

"(1) CHILD SAFETY SEAT.—The term 'child safety seat' means any device (except safety belts) designed for use in a motor vehicle to restrain, seat, or position a child who weighs 50 pounds or less.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

"(3) MULTIPURPOSE PASSENGER VEHICLE.—The term 'multipurpose passenger vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

"(4) PASSENGER CAR.—The term 'passenger car' means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

"(5) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

"(6) SAFETY BELT.—The term 'safety belt' means—

"(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap ana shoulder belts.".

(2) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 404 the following:

"405. Occupant protection incentive grants.".

(b) CHILD PASSENGER PROTECTION EDUCATION GRANTS.—

(1) IN GENERAL.—The Secretary may make a grant to a State that submits an application, in such form and manner as the Secretary may prescribe, that is approved by the Secretary to carry out the activities specified in paragraph (2) through—

(A) the child passenger protection program of the State; and

(B) at the option of the State, a grant program established by the State to carry out 1 or more of the activities specified in paragraph (2) by a *political subdivision of the State or an appropriate private entity.*

(2) USE OF FUNDS.—Funds provided to a State as a grant under this subsection shall be used to implement child passenger protection programs that—

(A) are designed to prevent deaths and injuries to children;

(B) educate the public concerning—

(i) all aspects of the proper installation of child restraints using standard seatbelt hardware, supplemental hardware, and modification devices (if needed), including special installation techniques;

(ii) appropriate child restraint design, selection, and placement; and

(iii) harness threading and harness adjustment on child restraints; and

(C) train and retrain child passenger safety professionals, police officers, fire and emergency medical personnel, and other educators concerning all aspects of child restraint use.

(3) GRANT AWARDS.—The Secretary may make a grant under this subsection without regard to whether a State is eligible to receive, or has received, a grant under section 405 of title 23, United States Code (as inserted by subsection (a) of this section).

(4) FEDERAL SHARE.—The Federal share of the cost of a program carried out using funds made available from a grant under this subsection may not exceed 80 percent.

(5) REPORT.—Each State that receives a grant under this subsection shall transmit to the Secretary a report for the period covered by the grant that, at a minimum, describes the program activities carried out with the funds made available under the grant.

(6) REPORT TO CONGRESS.—Not later than June 1, 2002, the Secretary shall transmit to Congress a report on the implementation of this subsection that includes a description of the programs carried out and materials developed and distributed by the States that receive grants under this subsection.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $7,500,000 for each of fiscal years 2000 and 2001.

SEC. 2004. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.

(a) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

“§410. Alcohol-impaired driving countermeasures

“(a) GENERAL AUTHORITY.—

“(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving while under the influence of alcohol. Such grants may only be used by recipient States to implement and enforce such programs.

“(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the Transportation Equity Act for the 21st Century.

“(3) MAXIMUM PERIOD OF ELIGIBILITY.—No State may receive grants under this section in more than 6 fiscal years beginning after September 30, 1997.

“(4) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

“(A) in each of the first and second fiscal years in which the State receives a grant under this section, 75 percent;

“(B) in each of the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

“(C) in each of the fifth and sixth fiscal years in which the State receives a grant under this section, 25 percent.

“(b) BASIC GRANT ELIGIBILITY.—

“(1) BASIC GRANT A.—A State shall become eligible for a grant under this paragraph by adopting or demonstrating to the satisfaction of the Secretary at least 5 of the following:

“(A) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol that requires that—

“(i) in the case of an individual who, in any 5-year period beginning after the date of enactment of the Transportation Equity Act for the 21st Century, is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—

“(I) shall suspend the driver's license of such individual for a period of not less than 90 days if such individual is a first offender in such 5-year period; and

“(II) shall suspend the driver's license of such individual for a period of not less than 1 year, or revoke such license, if such individual is a repeat offender in such 5-year period; and

“(ii) the suspension and revocation referred to under clause (i) shall take effect not later than 30 days after the day on which the individual refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the procedures of the State.

“(B) UNDERAGE DRINKING PROGRAM.—An effective system, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages and for preventing persons from making alcoholic beverages available to individuals under age 21. Such system may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 or older and the issuance of drivers' licenses that are tamper resistant.

“(C) ENFORCEMENT PROGRAM.—Either—

“(i) a statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while under the influence of alcohol; or

“(ii) a statewide special traffic enforcement program for impaired driving that emphasizes publicity for the program.

“(D) GRADUATED LICENSING SYSTEM.—A 3-stage graduated licensing system for young drivers that includes nighttime driving restrictions during the first 2 stages, requires all vehicle occupants to be properly restrained, and makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater.

“(E) DRIVERS WITH HIGH BAC.—Programs to target individuals with high blood alcohol concentrations who operate a motor vehicle. Such programs may include implementation of a system of graduated penalties and assessment of individuals convicted of driving under the influence of alcohol.

“(F) YOUNG ADULT DRINKING PROGRAMS.—Programs to reduce driving while under the influence of alcohol by individuals age 21 through 34. Such programs may include awareness campaigns; traffic safety partnerships with employers, colleges, and the hospitality industry; assessments of first time offenders; and incorporation of treatment into judicial sentencing.

“(G) TESTING FOR BAC.—An effective system for increasing the rate of testing of the blood alcohol concentrations of motor vehicle drivers involved in fatal accidents and, in fiscal year 2001 and each fiscal year thereafter, a rate of such testing that is equal to or greater than the national average.

“(2) BASIC GRANT B.—A State shall become eligible for a grant under this paragraph by adopting or demonstrating to the satisfaction of the Secretary each of the following:

“(A) FATAL IMPAIRED DRIVER PERCENTAGE REDUCTION.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available.

“(B) FATAL IMPAIRED DRIVER PERCENTAGE COMPARISON.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has been lower than the average percentage for all States in each of the calendar years referred to in subparagraph (A).

“(3) BASIC GRANT AMOUNT.—The amount of a basic grant made to a State for a fiscal year under this subsection shall equal up to 25 percent of the amount apportioned to the State for fiscal year 1997 under section 402.

“(c) SUPPLEMENTAL GRANTS.—

“(1) IN GENERAL.—Upon receiving an application from a State, the Secretary may make supplemental grants to the State for meeting 1 or more of the following criteria:

“(A) VIDEO EQUIPMENT FOR DETECTION OF DRUNK DRIVERS.—The State provides for a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol and in prosecuting those persons, and to train personnel in the use of that equipment.

“(B) SELF-SUSTAINING DRUNK DRIVING PREVENTION PROGRAM.—The State provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

“(C) REDUCING DRIVING WITH A SUSPENDED LICENSE.—The State enacts and enforces a law to reduce driving with a suspended license. Such law, as determined by the Secretary, may require a 'zebra' stripe that is clearly visible on the license plate of any motor vehicle owned and operated by a driver with a suspended license.

“(D) USE OF PASSIVE ALCOHOL SENSORS.—The State provides for a program to acquire passive alcohol sensors to be used by police officers in detecting persons who operate motor vehicles while under the influence of alcohol, and to train police officers in the use of that equipment.

“(E) EFFECTIVE DWI TRACKING SYSTEM.—The State demonstrates an effective driving while intoxicated (DWI) tracking system. Such a system, as determined by the Secretary, may include data covering arrests, case prosecutions, court dispositions and sanctions, and provide for the linkage of such data and traffic records systems to appropriate jurisdictions and offices within the State.

“(F) OTHER PROGRAMS.—The State provides for other innovative programs to reduce traffic safety problems resulting from individuals driving while under the influence of alcohol or controlled substances, including programs that seek

to achieve such a reduction through legal, judicial, enforcement, educational, technological, or other approaches.

"(2) ELIGIBILITY.—A State shall be eligible to receive a grant under this subsection in a fiscal year only if the State is eligible to receive a grant under subsection (b) in such fiscal year.

"(3) FUNDING.—Of the amounts made available to carry out this section in a fiscal year, not to exceed 10 percent shall be available for making grants under this subsection.

"(d) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

"(e) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.

"(f) DEFINITIONS.—In this section, the following definitions apply:

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning given such term in section 158(c).

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning given such term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term in section 405.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1998.

SEC. 2005. STATE HIGHWAY SAFETY DATA IMPROVEMENTS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is further amended by adding at the end the following:

"§411. State highway safety data improvements

"(a) GENERAL AUTHORITY.—

"(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs—

"(A) to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

"(B) to evaluate the effectiveness of efforts to make such improvements;

"(C) to link these State data systems, including traffic records, with other data systems within the State, such as systems that contain medical and economic data; and

"(D) to improve the compatibility of the data system of the State with national data systems and data systems of other States and to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

Such grants may be used by recipient States only to implement such programs.

"(2) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements necessary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances. In order to become eligible for a grant under this section, a State shall demonstrate how the multiyear highway safety data and traffic records plan of the State described in subsection (b)(1) will be incorporated into data systems of the State.

"(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the Transportation Equity Act for the 21st Century.

"(4) MAXIMUM PERIOD OF ELIGIBILITY.—No State may receive grants under this section in more than 6 fiscal years beginning after September 30, 1997.

"(5) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

"(A) in the first and second fiscal years in which the State receives a grant under this section, 75 percent;

"(B) in the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

"(C) in the fifth and sixth fiscal years in which the State receives a grant under this section, 25 percent.

"(b) FIRST-YEAR GRANTS.—

"(1) ELIGIBILITY.—A State shall become eligible for a first-year grant under this subsection in a fiscal year if the State either—

"(A) demonstrates, to the satisfaction of the Secretary, that the State has—

"(i) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership, including the administrators, collectors, and users of such data (including the public health, injury control, and motor carrier communities);

"(ii) completed, within the preceding 5 years, a highway safety data and traffic records assessment or an audit of the highway safety data and traffic records system of the State; and

"(iii) initiated the development of a multiyear highway safety data and traffic records strategic plan that—

"(I) identifies and prioritizes the highway safety data and traffic records needs and goals of the State;

"(II) identifies performance-based measures by which progress toward those goals will be determined; and

"(III) will be submitted to the highway safety data and traffic records coordinating committee of the State for approval; or

"(B) provides, to the satisfaction of the Secretary—

"(i) a certification that the State has met the requirements of clauses (i) and (ii) of subparagraph (A);

"(ii) a multiyear highway safety data and traffic records strategic plan that—

"(I) meets the requirements of subparagraph (A)(iii); and

"(II) specifies how the incentive funds of the State for the fiscal year will be used to address needs and goals identified in the plan; and

"(iii) a certification that the highway safety data and traffic records coordinating committee of the State continues to operate and supports the multiyear plan described in clause (ii).

"(2) GRANT AMOUNTS.—The amount of a first-year grant made to a State for a fiscal year under this subsection shall equal—

"(A) if the State is eligible for the grant under paragraph (1)(A), $125,000; and

"(B) if the State is eligible for the grant under paragraph (1)(B), an amount determined by multiplying—

"(i) the amount appropriated to carry out this section for such fiscal year; by

"(ii) the ratio that the funds apportioned to the State under section 402 for fiscal year 1997 bears to the funds apportioned to all States under section 402 for fiscal year 1997;

except that no State eligible for a grant under paragraph (1)(B) shall receive less than $250,000.

"(3) STATES NOT MEETING CRITERIA.—The Secretary may award a grant of up to $25,000 for 1 year to any State that does not meet the criteria established in paragraph (1). The grant may only be used to conduct activities needed to enable the State to qualify for a first-year grant in the next fiscal year.

"(c) SUCCEEDING YEAR GRANTS.—

"(1) ELIGIBILITY.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

"(A) submits or updates a multiyear highway safety data and traffic records strategic plan that meets the requirements of subsection (b)(1);

"(B) certifies that the highway safety data and traffic records coordinating committee of the State continues to operate and supports the multiyear plan; and

"(C) reports annually on the progress of the State in implementing the multiyear plan.

"(2) GRANT AMOUNTS.—The amount of a succeeding year grant made to the State for a fiscal year under this paragraph shall equal the amount determined by multiplying—

"(A) the amount appropriated to carry out this section for such fiscal year; by

"(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 1997 bears to the funds apportioned to all States under section 402 for fiscal year 1997;

except that no State eligible for a grant under this paragraph shall receive less than $225,000.

"(c) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

"(d) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"411. State highway safety data improvements.".

SEC. 2006. NATIONAL DRIVER REGISTER.

(a) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—Section 30302 of title 49, United States Code, is amended by adding at the end the following:

"(e) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—

"(1) AGREEMENT.—The Secretary may enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the National Driver Register's computer timeshare and user assistance functions. If the Secretary decides to enter into such an agreement, the Secretary shall ensure that the management of these functions is compatible with this chapter and the regulations issued to implement this chapter.

"(2) REQUIRED DEMONSTRATION.—Any transfer of the National Driver Register's computer timeshare and user assistance functions to an organization that represents the interests of the States shall begin only after a determination is made by the Secretary that all States are participating in the National Driver Register's 'Problem Driver Pointer System' (the system used by the Register to effect the exchange of motor vehicle driving records) and that the system is functioning properly.

"(3) TRANSITION PERIOD.—Any agreement entered into under this subsection shall include a provision for a transition period sufficient to allow the States to make the budgetary and legislative changes the States may need to pay fees charged by the organization representing their interests for their use of the National Driver Register's computer timeshare and user assistance functions. During this transition period, the Secretary shall continue to fund these transferred functions.

"(4) FEES.—The total of the fees charged by the organization representing the interests of the States in any fiscal year for the use of the National Driver Register's computer timeshare and user assistance functions shall not exceed the total cost to the organization of performing these functions in such fiscal year.

"(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to diminish, limit, or otherwise affect the authority of the Secretary to carry out this chapter.".

(b) ACCESS TO REGISTER INFORMATION.—

(1) CONFORMING AMENDMENTS.—Section 30305(b) of title 49, United States Code, is amended—

(A) in paragraph (2) by inserting before the period at the end the following: ", unless the information is about a revocation or suspension still in effect on the date of the request";

(B) in paragraph (8), as redesignated by section 207(b) of the Coast Guard Authorization Act of 1996 (Public Law 104–324, 110 Stat. 3908)—

(i) by striking "paragraph (2)" and inserting "subsection (a) of this section"; and

(ii) by moving the text of such paragraph 2 ems to the left; and

(C) by redesignating paragraph (8), as redesignated by section 502(b)(1) of the Federal Aviation Reauthorization Act of 1996 (Public Law 104–264, 110 Stat. 3262), as paragraph (9).

(2) FEDERAL AGENCY ACCESS PROVISION.—Section 30305(b) of title 49, United States Code, is further amended—

(A) by redesignating paragraph (6) as paragraph (10) and inserting such paragraph after paragraph (9);

(B) by inserting after paragraph (5) the following:

"(6) The head of a Federal department or agency that issues motor vehicle operator's licenses may request the chief driver licensing official of a State to obtain information under subsection (a) of this section about an individual applicant for a motor vehicle operator's license from such department or agency. The department or agency may receive the information, provided it transmits to the Secretary a report regarding any individual who is denied a motor vehicle operator's license by that department or agency for cause; whose motor vehicle operator's license is revoked, suspended, or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle-related offenses or comparable offenses listed in section 30304(a)(3) and over whom the department or agency has licensing authority. The report shall contain the information specified in section 30304(b)."; and

(C) by adding at the end the following:

"(11) The head of a Federal department or agency authorized to receive information regarding an individual from the Register under this section may request and receive such information from the Secretary.".

(c) EVALUATION AND ASSESSMENT OF ALTERNATIVES.—

(1) EVALUATION.—The Secretary shall evaluate the implementation of chapter 303 of title 49, United States Code, and the programs under sections 31106 and 31309 of such title and identify alternatives to improve the ability of the States to exchange information about unsafe drivers and to identify drivers with multiple licenses.

(2) TECHNOLOGY ASSESSMENT.—The Secretary, in conjunction with the American Association of Motor Vehicle Administrators, shall conduct an assessment of available electronic technologies to improve access to and exchange of motor vehicle driving records. The assessment may consider alternative unique motor vehicle driver identifiers that would facilitate accurate matching of drivers and their records.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the evaluation and technology assessment, together with any recommendations for appropriate administrative and legislative actions.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (2) $250,000 in the aggregate for fiscal years beginning after September 30, 1998.

SEC. 2007. SAFETY STUDIES.

(a) BLOWOUT RESISTANT TIRES STUDY.—The Secretary shall conduct a study on the benefit to public safety of the use of blowout resistant tires on commercial motor vehicles and the potential to decrease the incidence of accidents and fatalities from accidents occurring as a result of blown out tires.

(b) SCHOOL BUS OCCUPANT SAFETY STUDY.—The Secretary shall conduct a study to assess occupant safety in school buses. The study shall examine available information about occupant safety and analyze options for improving occupant safety.

(c) REPORTS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of each study conducted under this section.

(d) LIMITATION ON FUNDING.—The Secretary may not expend more than $200,000, from funds made available by section 403 of title 23, United States Code, for conducting each study under this section.

SEC. 2008. EFFECTIVENESS OF LAWS ESTABLISHING MAXIMUM BLOOD ALCOHOL CONCENTRATIONS.

(a) STUDY.—The Comptroller General shall conduct a study to evaluate the effectiveness of State laws that—

(1) deem any individual with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle to be driving while intoxicated; and

(2) deem any individual under the age of 21 with a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle to be driving while intoxicated;

in reducing the number and severity of alcohol-involved crashes.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of the study conducted under this section.

SEC. 2009. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code, $149,700,000 for fiscal year 1998, $150,000,000 for fiscal year 1999, $152,800,000 for fiscal year 2000, $155,000,000 for fiscal year 2001, $160,000,000 for fiscal year 2002, and $165,000,000 for fiscal year 2003.

(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 of title 23, United States Code, $72,000,000 for each of fiscal years 1998 through 2003.

(3) OCCUPANT PROTECTION INCENTIVE GRANTS.—For carrying out section 405 of title 23, United States Code, $10,000,000 for each of fiscal years 1999 and 2000, $13,000,000 for fiscal year 2001, $15,000,000 for fiscal year 2002, and $20,000,000 for fiscal year 2003.

(4) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—For carrying out section 410 of title 23, United States Code, $34,500,000 for fiscal year 1998, $35,000,000 for fiscal year 1999, $36,000,000 for each of fiscal years 2000 and 2001, $38,000,000 for fiscal year 2002, and $40,000,000 for fiscal year 2003.

(5) STATE HIGHWAY SAFETY DATA GRANTS.—For carrying out section 411 of title 23, United States Code, $5,000,000 for fiscal year 1999, $8,000,000 for fiscal year 2000, $9,000,000 for fiscal year 2001, and $10,000,000 for fiscal year 2002.

(6) NATIONAL DRIVER REGISTER.—For carrying out chapter 303 of title 49, United States Code, by the National Highway Traffic Safety Administration, $2,000,000 for each of fiscal years 1998 through 2003.

(b) ALLOCATIONS.—

(1) DRUGS AND DRIVER BEHAVIOR.—Out of amounts appropriated pursuant to subsection (a)(2) for fiscal years 1998 through 2003, the Secretary may use—

(A) not to exceed $2,000,000 per fiscal year to carry out paragraphs (1) through (3) of section 403(b) of title 23, United States Code; and

(B) not to exceed $1,000,000 per fiscal year to carry out paragraph (4) of such section.

(2) PUBLIC EDUCATION EFFORT.—Out of amounts appropriated pursuant to subsection (a)(2) for fiscal years 1998 through 2003, the Secretary shall obligate at least $500,000 per fiscal year to educate the motoring public on how to share the road safely with commercial motor vehicles.

(c) APPLICABILITY OF TITLE 23.—Amounts made available under subsection (a)(2) for each of fiscal years 1999 through 2003 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(d) TRANSFERS.—In each fiscal year, the Secretary may transfer any amounts remaining available under paragraph (3), (4), or (5) of subsection (a) to the amounts made available under any other of such paragraphs in order to ensure, to the maximum extent possible, that each State receives the maximum incentive funding for which the State is eligible under sections 405, 410, and 411 of title 23, United States Code.

TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

SEC. 3001. SHORT TITLE.

This title may be cited as the "Federal Transit Act of 1998".

SEC. 3002. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3003. DEFINITIONS.

Section 5302 is amended to read as follows:

"§5302. Definitions

"(a) IN GENERAL.—In this chapter, the following definitions apply:

"(1) CAPITAL PROJECT.—The term 'capital project' means a project for—

"(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in mass transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

"(B) rehabilitating a bus;

"(C) remanufacturing a bus;

"(D) overhauling rail rolling stock;

"(E) preventive maintenance;

"(F) leasing equipment or a facility for use in mass transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

"(G) a mass transportation improvement that enhances economic development or incorporates private investment, including commercial and residential development, pedestrian and bicycle access to a mass transportation facility, and the renovation and improvement of historic transportation facilities, because the improvement enhances the effectiveness of a mass transportation project and is related physically or functionally to that mass transportation project, or establishes new or enhanced coordination between mass transportation and other transportation, and provides a fair share of revenue for mass transportation that will be used for mass transportation—

"(i) including property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, safety and security equipment and facilities (including lighting, surveillance and related intelligent transportation system applications), facilities that incorporate community services such as daycare and health care, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall, except that a person making an agreement to occupy space in a facility under this subparagraph shall pay a reasonable share of the costs of the facility through rental payments and other means; and

"(ii) excluding construction of a commercial revenue-producing facility or a part of a public facility not related to mass transportation;

"(H) the introduction of new technology, through innovative and improved products, into mass transportation; or

"(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient's annual formula apportionment under sections 5307 and 5311.

"(2) CHIEF EXECUTIVE OFFICER OF A STATE.—The term 'chief executive officer of a State' includes the designee of the chief executive officer.

"(3) EMERGENCY REGULATION.—The term 'emergency regulation' means a regulation—

"(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(b); and

"(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

"(i) would injure seriously an important public interest;

"(ii) would frustrate substantially legislative policy and intent; or

"(iii) would damage seriously a person or class without serving an important public interest.

"(4) FIXED GUIDEWAY.—The term 'fixed guideway' means a mass transportation facility—

"(A) using and occupying a separate right-of-way or rail for the exclusive use of mass transportation and other high occupancy vehicles; or

"(B) using a fixed catenary system and a right-of-way usable by other forms of transportation.

"(5) HANDICAPPED INDIVIDUAL.—The term 'handicapped individual' means an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use effectively, without special facilities, planning, or design, mass transportation service or a mass transportation facility.

"(6) LOCAL GOVERNMENTAL AUTHORITY.—The term 'local governmental authority' includes—

"(A) a political subdivision of a State;

"(B) an authority of at least 1 State or political subdivision of a State;

"(C) an Indian tribe; and

"(D) a public corporation, board, or commission established under the laws of a State.

"(7) MASS TRANSPORTATION.—The term 'mass transportation' means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, or sightseeing transportation.

"(8) NET PROJECT COST.—The term 'net project cost' means the part of a project that reasonably cannot be financed from revenues.

"(9) NEW BUS MODEL.—The term 'new bus model' means a bus model (including a model using alternative fuel)—

"(A) that has not been used in mass transportation in the United States before the date of production of the model; or

"(B) used in mass transportation in the United States, but being produced with a major change in configuration or components.

"(10) PUBLIC TRANSPORTATION.—The term 'public transportation' means mass transportation.

"(11) REGULATION.—The term 'regulation' means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

"(12) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(13) STATE.—The term 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

"(14) TRANSIT.—The term 'transit' means mass transportation.

"(15) TRANSIT ENHANCEMENT.—The term 'transit enhancement' means, with respect to any project or an area to be served by a project, projects that are designed to enhance mass transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

"(A) historic preservation, rehabilitation, and operation of historic mass transportation buildings, structures, and facilities (including historic bus and railroad facilities);

"(B) bus shelters;

"(C) landscaping and other scenic beautification, including tables, benches, trash receptacles, and street lights;

"(D) public art;

"(E) pedestrian access and walkways;

"(F) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on mass transportation vehicles;

"(G) transit connections to parks within the recipient's transit service area;

"(H) signage; and

"(I) enhanced access for persons with disabilities to mass transportation.

"(16) URBAN AREA.—The term 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local mass transportation system to serve individuals in the locality.

"(17) URBANIZED AREA.—The term 'urbanized area' means an area—

"(A) encompassing at least an urbanized area within a State that the Secretary of Commerce designates; and

"(B) designated as an urbanized area within boundaries fixed by State and local officials and approved by the Secretary.

"(b) AUTHORITY TO MODIFY 'HANDICAPPED INDIVIDUAL'.—The Secretary may by regulation modify the definition of the term 'handicapped individual' in subsection (a)(5) as it applies to section 5307(d)(1)(D).".

SEC. 3004. METROPOLITAN PLANNING.

(a) GENERAL REQUIREMENTS; SCOPE OF PLANNING PROCESS.—Section 5303 is amended by striking subsections (a) and (b) and inserting the following:

"(a) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To carry out section 5301(a), metropolitan planning organizations designated under subsection (c), in cooperation with the States and mass transportation operators, shall develop transportation plans and programs for urbanized areas of the State.

"(2) CONTENTS.—The plans and programs developed under paragraph (1) for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) PROCESS.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan area under this section shall provide for consideration of projects and strategies that will—

"(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

"(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

"(C) increase the accessibility and mobility options available to people and for freight;

"(D) protect and enhance the environment, promote energy conservation, and improve quality of life;

"(E) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

"(F) promote efficient system management and operation; and

"(G) emphasize the preservation of the existing transportation system.

"(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.".

(b) DESIGNATING METROPOLITAN PLANNING ORGANIZATIONS.—Section 5303(c) is amended—

(1) in paragraph (1)(A)—

(A) by striking "representing" and inserting "that together represent"; and

(B) by striking "as defined by the Secretary of Commerce)" and inserting "or cities, as defined by the Bureau of the Census)";

(2) in paragraph (2)—

(A) by striking "In a metropolitan area" and all that follows through "shall include" and inserting "Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area when designated or redesignated under this subsection shall consist of"; and

(B) by striking "officials of authorities" and inserting "officials of public agencies";

(3) in paragraph (3) by striking "in an urbanized area" and all that follows through "of the urbanized area" and inserting "within an existing metropolitan planning area only if the chief executive officer of the State and the existing metropolitan organization determine that the size and complexity of the existing metropolitan planning area"; and

(4) in paragraph (5)—

(A) in subparagraph (A)—

(i) by striking "representing" and inserting "that together represent"; and

(ii) by striking "as defined by the Secretary of Commerce)" and inserting "or cities, as defined by the Bureau of the Census)";

(B) in subparagraph (B) by striking "as defined by the Secretary of Commerce)" and inserting "or cities, as defined by the Bureau of the Census)"; and

(C) by adding at the end the following:

"(D) Designations of metropolitan planning organizations, whether made under this section or under any other provision of law, shall remain in effect until redesignation under this paragraph.".

(c) METROPOLITAN AREA BOUNDARIES.—Section 5303(d) is amended—

(1) in the subsection heading by inserting "PLANNING" before "AREA";

(2) in the first sentence—

(A) by striking "To carry out" and inserting the following:

"(1) IN GENERAL.—To carry out"; and

(B) by inserting "planning" before "area";

(3) by striking the second sentence and all that follows and inserting the following:

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

"(3) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the chief executive officer of the State and any affected metropolitan planning organizations, in the manner described in subsection (c)(5).

"(4) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of this paragraph as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan planning area—

"(A) shall be established in the manner described in subsection (c)(1);

"(B) shall encompass the areas described in paragraph (2)(A);

"(C) may encompass the areas described in paragraph (2)(B); and

"(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide."; and

(4) by aligning paragraph (1) (as designated by paragraph (2)(A) of this subsection) with paragraphs (2) through (4) (as inserted by paragraph (3) of this subsection).

(d) COORDINATION.—Section 5303(e) is amended—

(1) in paragraph (2)—

(A) by inserting "or compact" after "agreement" the first place it appears"; and

(B) by striking "making the agreement effective" and inserting "making the agreements and compacts effective"; and

(2) by adding at the end the following:

"(4) The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the design and delivery of transportation services within the metropolitan planning area that are provided—

"(A) by recipients of assistance under this chapter; and

"(B) by governmental agencies and non-profit organizations (including representatives of the agencies and organizations) that receive Governmental assistance from a source other than the Department of Transportation to provide non-emergency transportation services.".

(e) DEVELOPING LONG-RANGE TRANSPORTATION PLANS.—Section 5303(f) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A) by striking "United States and regional transportation functions" and inserting "national, regional, and metropolitan transportation functions";

(B) in subparagraph (B) by striking clause (iii) and inserting the following:

"(iii) recommends any additional financing strategies for needed projects and programs;"; and

(C) by striking subparagraph (C) and inserting the following:

"(C) identify transportation strategies necessary—

"(i) to ensure preservation, including requirements for management, operation, modernization, and rehabilitation, of the existing and future transportation system; and

"(ii) to use existing transportation facilities most efficiently to relieve congestion, to efficiently serve the mobility needs of people and goods, and to enhance access within the metropolitan planning area; and";

(2) in paragraph (2) by striking "as they are related to a 20-year forecast period" and inserting "and any State or local goals developed within the cooperative metropolitan planning process as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process";

(3) in paragraph (4)—

(A) by inserting after "employees," the following: "freight shippers, providers of freight transportation services,"; and

(B) by inserting after "private providers of transportation," the following: "representatives of users of public transit,";

(4) in paragraph (5)(A) by inserting "published or otherwise" before "made readily available";

(5) in the subsection heading by striking "LONG-RANGE PLANS" and inserting "LONG-RANGE TRANSPORTATION PLANS"; and

(6) by striking "long-range plans" each place it appears and inserting "long-range transportation plans".

SEC. 3005. TRANSPORTATION IMPROVEMENT PROGRAM.

(a) DEVELOPMENT AND UPDATE.—The second sentence of section 5304(a) is amended—

(1) by striking "the organization" and inserting "the metropolitan planning organization, in cooperation with the chief executive officer of the State and any affected mass transportation operator,";

(2) by inserting after "employees," the following: "other affected employee representatives, freight shippers, providers of freight transportation services,"; and

(3) by inserting after "private providers of transportation," the following: "representatives of users of public transit,".

(b) CONTENTS.—Section 5304(b)(2) is amended by striking subparagraph (C) and inserting the following:

"(C) identifies innovative financing techniques to finance projects, programs, and strategies, which may include, for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available.".

(c) PROJECT SELECTION.—Section 5304(c) is amended—

(1) by striking paragraph (1) and inserting the following: "(1) Except as otherwise provided in section 5305(d)(1) and in addition to the transportation improvement program development required under subsection (b), the selection of federally funded projects for implementation in metropolitan areas shall be carried out, from the approved transportation improvement program—

"(A) by—

"(i) in the case of projects under title 23, the State; and

"(ii) in the case of projects under this chapter, the designated transit funding recipients; and

"(B) in cooperation with the metropolitan planning organization."; and

(2) by adding at the end the following:

"(3) Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

"(4) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding subsection (b)(2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subsection (b)(2)(C).

"(5) PUBLICATION.—(A) A transportation improvement program involving Government participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

"(B) An annual listing of projects for which Government funds have been obligated in the preceding year shall be published or otherwise made available by the metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the transportation improvement program.

"(6) Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program. All other projects funded under chapter 2 of title 23 shall be grouped in 1 line item or identified individually in the transportation improvement program.".

SEC. 3006. TRANSPORTATION MANAGEMENT AREAS.

(a) DESIGNATION.—Section 5305(a) is amended by striking paragraph (2) and inserting the following:

"(2) any other area, if requested by the chief executive officer and the metropolitan planning organization designated for the area.".

(b) TRANSPORTATION PLANS AND PROGRAMS.—Section 5305(b) is amended by inserting "affected" before "mass transportation operators".

(c) CONGESTION MANAGEMENT SYSTEM.—Section 5305(c) is amended by striking "The Secretary" and all that follows through the final period.

(d) PROJECT SELECTION.—Section 5305(d)(1)(A) is amended by inserting "and any affected mass transportation operator" after "the State".

(e) CERTIFICATION.—Section 5305(e) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2)(A) If a metropolitan planning process is not certified, the Secretary may withhold not more than 20 percent of the apportioned funds attributable to the transportation management area under this chapter and title 23.

"(B) Any apportionments withheld under subparagraph (A) shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary."; and

(2) by adding at the end the following:

"(4) In making certification determinations under this subsection, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.".

(f) CONTINUATION OF CURRENT REVIEW PRACTICE.—Section 5305 is amended by adding at the end the following:

"(h) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 3007. URBANIZED AREA FORMULA GRANTS.

(a) SECTION HEADING.—

(1) AMENDMENT TO SECTION 5307.—Section 5307 is amended by striking the section heading and inserting the following:

"§5307. Urbanized area formula grants".

(2) CONFORMING AMENDMENT.—The item relating to section 5307 in the table of sections for chapter 53 is amended to read as follows:

"5307. Urbanized area formula grants.".

(b) DEFINITIONS.—Section 5307(a) is amended—

(1) by striking "In this section—" and inserting "In this section, the following definitions apply:";

(2) by inserting "ASSOCIATED CAPITAL MAINTENANCE ITEMS.—The term" after "(1)"; and

(3) by inserting "DESIGNATED RECIPIENT.—The term" after "(2)".

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) in paragraph (1)—

(A) by striking ", improvement, and operating costs" and inserting "and improvement costs"; and

(B) by adding at the end the following: "The Secretary may also make grants under this section to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of less than 200,000.";

(2) in paragraph (2)(A)—

(A) by inserting ", in writing," after "approved"; and

(B) by striking "and" at the end;

(3) in paragraph (2)(B) by striking the period at the end and inserting "; and";

(4) in paragraph (2) by adding at the end the following:

"(C) the metropolitan planning organization in approving the use under subparagraph (A) determines that the local transit needs are being addressed.";

(5) by striking paragraphs (3) and (5); and

(6) by redesignating paragraph (4) as paragraph (3).

(d) ADVANCE CONSTRUCTION.—Section 5307(g)(3) is amended by striking "the amount by which" and all that follows through the period at the end and inserting "the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.".

(e) COORDINATION OF REVIEWS.—Section 5307(i)(2) is amended by adding at the end the following: "To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.".

(f) TRANSIT ENHANCEMENT ACTIVITIES.—Section 5307(k) is amended to read as follows:

"(k) TRANSIT ENHANCEMENT ACTIVITIES.—

"(1) IN GENERAL.—One percent of the funds apportioned to urbanized areas with a population of at least 200,000 under section 5336 for a fiscal year shall be made available for transit enhancement activities in accordance with section 5302(a)(15).

"(2) PERIOD OF AVAILABILITY.—Funds apportioned under paragraph (1) shall be available for obligation for 3 years following the fiscal year in which the funds are apportioned. Funds that are not obligated at the end of such period shall be reapportioned under the urbanized area formula program of section 5336.

"(3) REPORT.—A recipient of funds apportioned under paragraph (1) shall submit, as part of the recipient's annual certification to the Secretary, a report listing the projects carried out during the fiscal year with those funds.".

(g) CONFORMING AMENDMENTS.—Section 5307(n)(2) is amended by inserting "5319," after "5318,".

SEC. 3008. CLEAN FUELS FORMULA GRANT PROGRAM.

(a) IN GENERAL.—Section 5308 is amended to read as follows:

"§5308. Clean fuels formula grant program

"(a) DEFINITIONS.—In this section—

"(1) the term 'clean fuel vehicle' means a vehicle that—

"(A) is powered by—

"(i) compressed natural gas;

"(ii) liquefied natural gas;

"(iii) biodiesel fuels;

"(iv) batteries;

"(v) alcohol-based fuels;

"(vi) hybrid electric;

"(vii) fuel cell;

"(viii) clean diesel, to the extent allowed under this section; or

"(ix) other low or zero emissions technology; and

"(B) the Administrator of the Environmental Protection Agency has certified sufficiently reduces harmful emissions;

"(2) the term 'designated recipient' has the same meaning as in section 5307(a)(2); and

"(3) the term 'eligible project'—

"(A) means a project for—

"(i) purchasing or leasing clean fuel buses, including buses that employ a lightweight composite primary structure;

"(ii) constructing or leasing clean fuel buses or electrical recharging facilities and related equipment;

"(iii) improving existing mass transportation facilities to accommodate clean fuel buses;

"(iv) repowering pre-1993 engines with clean fuel technology that meets the current urban bus emission standards; or

"(v) retrofitting or rebuilding pre-1993 engines if before half life to rebuild; and

"(B) in the discretion of the Secretary, may include projects relating to clean fuel, biodiesel, hybrid electric, or zero emissions technology vehicles that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.

"(b) AUTHORITY.—The Secretary shall make grants in accordance with this section to designated recipients to finance eligible projects.

"(c) APPLICATION.—

"(1) IN GENERAL.—Not later than January 1 of each year, any designated recipient seeking to apply for a grant under this section for an eligible project shall submit an application to the Secretary, in such form and in accordance with such requirements as the Secretary shall establish by regulation.

"(2) CERTIFICATION REQUIRED.—An application submitted under paragraph (1) shall contain a certification by the applicant that the grantee will operate vehicles purchased with a grant under this section only with clean fuels.

"(d) APPORTIONMENT OF FUNDS.—

"(1) FORMULA.—Not later than February 1 of each year, the Secretary shall apportion amounts made available to carry out this section to designated recipients submitting applications under subsection (c), of which—

"(A) two-thirds shall be apportioned to designated recipients with eligible projects in urban areas with a population of at least 1,000,000, of which—

"(i) 50 percent shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

"(I) the number of vehicles in the bus fleet of the eligible project of the designated recipient, weighted by severity of nonattainment for the area in which the eligible project is located, as provided in paragraph (2); and

"(II) the total number of vehicles in the bus fleets of all eligible projects in areas with a population of at least 1,000,000 funded under this section, weighted by severity of nonattainment for all areas in which those eligible projects are located, as provided in paragraph (2); and

"(ii) 50 percent shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

"(I) the number of bus passenger miles (as that term is defined in section 5336(c)) of the eligible project of the designated recipient, weighted by severity of nonattainment of the area in which the eligible project is located, as provided in paragraph (2); and

"(II) the total number of bus passenger miles of all eligible projects in areas with a population of at least 1,000,000 funded under this section, weighted by severity of nonattainment of all areas in which those eligible projects are located, as provided in paragraph (2); and

"(B) one-third shall be apportioned to designated recipients with eligible projects in urban areas with a population of less than 1,000,000, of which—

"(i) 50 percent shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

"(I) the number of vehicles in the bus fleet of the eligible project of the designated recipient, weighted by severity of nonattainment for the area in which the eligible project is located, as provided in paragraph (2); and

"(II) the total number of vehicles in the bus fleets of all eligible projects in areas with a population of less than 1,000,000 funded under this section, weighted by severity of nonattainment for all areas in which those eligible projects are located, as provided in paragraph (2); and

"(ii) 50 percent shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

"(I) the number of bus passenger miles (as that term is defined in section 5336(c)) of the eligible project of the designated recipient, weighted by severity of nonattainment of the area in which the eligible project is located, as provided in paragraph (2); and

"(II) the total number of bus passenger miles of all eligible projects in areas with a population of less than 1,000,000 funded under this section, weighted by severity of nonattainment of all areas in which those eligible projects are located, as provided in paragraph (2).

"(2) WEIGHTING OF SEVERITY OF NONATTAINMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), subject to subparagraph (B) of this paragraph, the number of clean fuel vehicles in the fleet, or the number of passenger miles, shall be multiplied by a factor of—

"(i) 1.0 if, at the time of the apportionment, the area is a maintenance area (as that term is defined in section 101 of title 23) for ozone or carbon monoxide;

"(ii) 1.1 if, at the time of the apportionment, the area is classified as—

"(I) a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

"(II) a marginal carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.);

"(iii) 1.2 if, at the time of the apportionment, the area is classified as—

"(I) a moderate ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

"(II) a moderate carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.);

"(iv) 1.3 if, at the time of the apportionment, the area is classified as—

"(I) a serious ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

"(II) a serious carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.);

"(v) 1.4 if, at the time of the apportionment, the area is classified as—

"(I) a severe ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

"(II) a severe carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.); or

"(vi) 1.5 if, at the time of the apportionment, the area is classified as—

"(I) an extreme ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

"(II) an extreme carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.).

"(B) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being classified as a nonattainment or maintenance area (as that term is defined in section 101 of title 23) for ozone under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.), the area was also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area for carbon monoxide, the weighted nonattainment or maintenance area fleet and passenger miles for the eligible project, as calculated under subparagraph (A), shall be further multiplied by a factor of 1.2.

"(3) MAXIMUM GRANT AMOUNT.—

"(A) IN GENERAL.—The amount of a grant made to a designated recipient under this section shall not exceed the lesser of—

"(i) for an eligible project in an area—

"(I) with a population of less than 1,000,000, $15,000,000; and

"(II) with a population of at least 1,000,000, $25,000,000; or

"(ii) 80 percent of the total cost of the eligible project.

"(B) REAPPORTIONMENT.—Any amounts that would otherwise be apportioned to a designated recipient under this subsection that exceed the amount described in subparagraph (A) shall be reapportioned among other designated recipients in accordance with paragraph (1).

"(e) ADDITIONAL REQUIREMENTS.—

"(1) LIMITATION ON USES.—Not less than 5 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section shall be available for any eligible projects for which an application is received from a designated recipient, for—

"(A) the purchase or construction of hybrid electric or battery-powered buses; or

"(B) facilities specifically designed to service those buses.

"(2) CLEAN DIESEL BUSES.—Not more than $50,000,000 of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund clean diesel buses.

"(3) BUS RETROFITTING AND REPLACEMENT.—Not more than 5 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund retrofitting or replacement of the engines of buses that do not meet the clean air standards of the Environmental Protection Agency, as in effect on the date on which the application for such retrofitting or replacement is submitted under subsection (c)(1).

"(f) AVAILABILITY OF FUNDS.—Any amount made available or appropriated under this section—

"(1) shall remain available to a project for 1 year after the fiscal year for which the amount is made available or appropriated; and

"(2) that remains unobligated at the end of the period described in paragraph (1), shall be added to the amount made available in the following fiscal year.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5308 and inserting the following:

"5308. Clean fuels formula grant program.".

SEC. 3009. CAPITAL INVESTMENT GRANTS AND LOANS.

(a) SECTION HEADING.—Section 5309 is amended in the section heading by striking "**Discretionary**" and inserting "**Capital investment**".

(b) CONFORMING AMENDMENT.—The item relating to section 5309 in the table of sections for chapter 53 is amended by striking "Discretionary" and inserting "Capital investment".

(c) GENERAL AUTHORITY.—Section 5309(a)(1) is amended—

(1) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(2) by striking subparagraph (E) and inserting the following:

"(E) capital projects to modernize existing fixed guideway systems;

"(F) capital projects to replace, rehabilitate, and purchases buses and related equipment and to construct bus-related facilities;".

(d) CONSIDERATION OF DECREASED COMMUTER RAIL TRANSPORTATION.—Section 5309(c) is amended to read as follows:

"(c) [Reserved.]".

(e) CRITERIA FOR GRANTS AND LOANS FOR FIXED GUIDEWAY SYSTEMS.—Section 5309(e) is amended to read as follows:

"(e) CRITERIA FOR GRANTS AND LOANS FOR FIXED GUIDEWAY SYSTEMS.—

"(1) IN GENERAL.—The Secretary may approve a grant or loan under this section for a capital project for a new fixed guideway system or extension of an existing fixed guideway system only if the Secretary determines that the proposed project is—

"(A) based on the results of an alternatives analysis and preliminary engineering;

"(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

"(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

"(2) ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (1)(A), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

"(3) PROJECT JUSTIFICATION.—In evaluating a project under paragraph (1)(B), the Secretary shall—

"(A) consider the direct and indirect costs of relevant alternatives;

"(B) consider factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigation costs necessary to carry out each alternative analyzed, and recognize reductions in local infrastructure costs achieved through compact land use development;

"(C) identify and consider mass transportation supportive existing land use policies and future patterns, and the cost of urban sprawl;

"(D) consider the degree to which the project increases the mobility of the mass transportation dependent population or promotes economic development;

"(E) consider population density and current transit ridership in the corridor;

"(F) consider the technical capability of the grant recipient to construct the project;

"(G) adjust the project justification to reflect differences in local land, construction, and operating costs; and

"(H) consider other factors that the Secretary determines appropriate to carry out this chapter.

"(4) LOCAL FINANCIAL COMMITMENT.—

"(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (1)(C), the Secretary shall require that—

"(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

"(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to operate the overall proposed mass transportation system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing mass transportation services to operate the proposed project.

"(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing under subparagraph (A), the Secretary shall consider—

"(i) existing grant commitments;

"(ii) the degree to which financing sources are dedicated to the purposes proposed;

"(iii) any debt obligation that exists or is proposed by the recipient for the proposed project or other mass transportation purpose; and

"(iv) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

"(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Transit Act of 1998, the Secretary shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of alternatives analysis, project justification, and the degree of local financial commitment, as required under this subsection.

"(6) PROJECT EVALUATION AND RATING.—A proposed project may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements of this section and there is a reasonable likelihood *that the project will continue to meet such requirements. In making such findings, the Secretary shall evaluate and rate the project as 'highly recommended', 'recommended', or not 'recommended', based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each criteria established under the regulations issued under paragraph (5).*

"(7) FULL FUNDING GRANT AGREEMENT.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction.

"(8) LIMITATIONS ON APPLICABILITY.—

"(A) PROJECTS WITH A SECTION 5309 FEDERAL SHARE OF LESS THAN $25,000,000.—A project for a new fixed guideway system or extension of an existing fixed guideway system is not subject to the requirements of this subsection, and the simultaneous evaluation of similar projects in at least 2 corridors in a metropolitan area may not be limited, if the assistance provided under this section with respect to the project is less than $25,000,000.

"(B) PROJECTS IN NONATTAINMENT AREAS.—The simultaneous evaluation of projects in at least 2 corridors in a metropolitan area may not be limited and the Secretary shall make decisions under this subsection with expedited procedures that will promote carrying out an approved State Implementation Plan in a timely way if a project is—

"(i) located in a nonattainment area;

"(ii) a transportation control measure (as defined by the Clean Air Act (42 U.S.C. 7401 et seq.)); and

"(iii) required to carry out the State Implementation Plan.

"(C) PROJECTS FINANCED WITH HIGHWAY FUNDS.—This subsection does not apply to a part of a project financed completely with amounts made available from the Highway Trust Fund (other than the Mass Transit Account).

"(D) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—This subsection does not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Transit Act of 1998.".

(f) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—Section 5309(g) is amended—

(1) in the subsection heading by striking "FINANCING" and inserting "FUNDING";

(2) by striking "full financing" each place it appears and inserting "full funding";

(3) in paragraph (1)(B)—

(A) by striking "30 days" and inserting "60 days";

(B) by inserting before the first comma "or entering into a full funding grant agreement"; and

(C) by striking "issuance of the letter." and inserting "letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project."; and

(4) in paragraph (4), by striking "50 percent" and all that follows through "obligated)" and inserting "an amount equivalent to the total authorizations under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems for fiscal years 2002 and 2003".

(g) ALLOCATING AMOUNTS.—Section 5309(m) is amended to read as follows:

"(m) ALLOCATING AMOUNTS.—

"(1) IN GENERAL.—Of the amounts made available by or appropriated under section 5338 for grants and loans under this section for each of fiscal years 1998 through 2003—

"(A) 40 percent shall be available for fixed guideway modernization;

"(B) 40 percent shall be available for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems; and

"(C) 20 percent shall be available to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities.

"(2) LIMITATION ON AMOUNTS AVAILABLE FOR ACTIVITIES OTHER THAN FINAL DESIGN AND CONSTRUCTION.—Not more than 8 percent of the amounts made available in each fiscal year by paragraph (1)(B) shall be available for activities other than final design and construction.

"(3) BUS AND BUS FACILITY GRANTS.—

"(A) CONSIDERATION.—In making grants under paragraph (1)(C), the Secretary shall consider the age of buses, bus fleets, related equipment, and bus-related facilities.

"(B) FUNDING FOR BUS TESTING FACILITY.—Of the amounts made available under paragraph (1)(C), $3,000,000 shall be available in each of fiscal years 1998 through 2003 to carry out section 5318.

"(4) FUNDING FOR CLEAN FUELS.—Of the amounts made available under paragraph (1)(C), $50,000,000 shall be available in each of fiscal years 1999 through 2003 to carry out section 5308.

"(5) FUNDING FOR FERRY BOAT SYSTEMS.—

"(A) Of the amounts made available under paragraph (1)(B), $10,400,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.

"(B) Of the amounts appropriated under section 5338(h)(5), $3,600,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.".

(h) CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 5309(f) is amended to read as follows:

"(f) [Reserved.]".

(2) CROSS REFERENCE.—Section 5328(a)(2), by striking "5309(e) (1)–(6) of this title" and inserting "5309(e)".

(3) REFERENCES TO FULL FUNDING GRANT AGREEMENTS.—Chapter 53 is amended—

(A) in section 5320—

(i) by striking "full financing" each place it appears and inserting "full funding"; and

(ii) in subsection (e) in the subsection heading, by striking "FINANCING" and inserting "FUNDING"; and

(B) in section 5328(a)(4) by striking "full financing" each place it appears and inserting "full funding".

(i) REPORTS.—Section 5309 is amended by adding at the end the following:

"(o) REPORTS.—

"(1) FUNDING LEVELS AND ALLOCATIONS OF FUNDS FOR FIXED GUIDEWAY SYSTEMS.—

"(A) ANNUAL REPORT.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that includes a proposal on the allocation of amounts to be made available to finance grants and loans for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems among applicants for those amounts.

"(B) RECOMMENDATIONS ON FUNDING.—The annual report under this paragraph shall include evaluations and ratings, as required under subsection (e), for each project that is authorized or has received funds under this section since the date of enactment of the Federal Transit Act of 1998 or October 1 of the preceding fiscal year, whichever date is earlier. The report shall also include recommendations of projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years and for the next 10 fiscal years based on information currently available to the Secretary.

"(2) SUPPLEMENTAL REPORT ON NEW STARTS.—The Secretary shall submit a report to Congress on the 31st day of August of each year that describes the Secretary's evaluation and rating of each project that has completed alternatives analysis or preliminary engineering since the date of the last report. The report shall include all relevant information that supports the evaluation and rating of each project, including a summary of each project's financial plan.

"(3) ANNUAL GAO REVIEW.—The General Accounting Office shall—

"(A) conduct an annual review of—

"(i) the processes and procedures for evaluating and rating projects and recommending projects; and

"(ii) the Secretary's implementation of such processes and procedures; and

"(B) shall report to Congress on the results of such review by April 30 of each year.".

(j) PROJECT DEFINED.—Section 5309 is amended by adding at the end the following:

"(p) PROJECT DEFINED.—In this section, the term 'project' means, with respect to a new fixed guideway system or extension to an existing fixed guideway system, a minimum operable segment of the project.".

SEC. 3010. DOLLAR VALUE OF MOBILITY IMPROVEMENTS.

(a) IN GENERAL.—The Secretary shall not consider the dollar value of mobility improvements, as specified in the report required under section 5309(o) (as added by this Act), in evaluating projects under section 5309 of title 49, United States Code, in developing regulations, or in carrying out any other duty of the Secretary.

(b) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the dollar value of mobility improvements and the relationship of mobility improvements to the overall transportation justification of a new fixed guideway system or extension to an existing system.

(2) REPORT.—Not later than January 1, 2000, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study under paragraph (1), including an analysis of the factors relevant to determining the dollar value of mobility improvements.

SEC. 3011. LOCAL SHARE.

(a) IN GENERAL.—Notwithstanding any other provision of law, for fiscal years 1999 through 2003, a recipient of assistance under section 5307 or 5309 of title 49, United States Code, may use, as part of the local matching funds for a capital project (as defined in section 5302(a) of title 49, United States Code), the proceeds from the issuance of revenue bonds.

(b) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost (as defined in section 5302(a)

of title 49, United States Code) only if the aggregate amount of financial support for mass transportation in the urbanized area from the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State Transportation Improvement Program under section 135 of title 23, United States Code, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

(c) REPORT.—

(1) IN GENERAL.—Not later than January 1, 2003, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the recipients described in subsection (a) that have used, as part of the local matching funds for a capital project, the proceeds from the issuance of revenue bonds, during the period described in subsection (a).

(2) CONTENTS OF REPORT.—The report required by this subsection shall include—

(A) information on each project undertaken, the amount of the revenue bonds issued, and the status of repayment of the bonds; and

(B) any recommendations of the Secretary regarding the application of this section.

SEC. 3012. INTELLIGENT TRANSPORTATION SYSTEMS APPLICATIONS.

(a) FIXED GUIDEWAY TECHNOLOGY.—The Secretary shall make grants for the study, design, and demonstration of fixed guideway technology. Of the amounts made available by or appropriated under section 5338(d) of title 49, United States Code, the Secretary shall make funds available for the following projects in not less than the amounts specified for the fiscal year:

(1) North Orange-South Seminole County, FL $750,000 for fiscal year 1999.

(2) Galveston, TX fixed guideway activities $750,000 for fiscal year 1999.

(3) Washoe County, NV Transit Technology, $1,250,000 for each of fiscal years 1999 and 2000.

(b) BUS TECHNOLOGY.—The Secretary shall make grants for the study, design, and demonstration of bus technology. Of the amounts made available by or appropriated under section 5338(d) of title 49, United States Code, the Secretary shall make funds available for the following projects in not less than the amounts specified for the fiscal year:

(1) MBTA, MA Advanced Electric Transit Buses and Related Infrastructure, $1,500,000 for each of fiscal years 1999 and 2000.

(2) Palm Springs, CA Fuel Cell Buses, $1,000,000 for each of fiscal years 1999 and 2000.

(3) Gloucester, MA Intermodal Technology Center, $1,500,000 for each of fiscal years 1999 and 2000.

(c) ADVANCED PROPULSION CONTROL SYSTEM.—

(1) IN GENERAL.—Of the amounts made available by or appropriated under section 5338(d) of title 49, United States Code, $2,000,000 for fiscal year 1999, $3,000,000 for fiscal year 2000, and $3,000,000 for fiscal year 2002 shall be available to the Southeastern Pennsylvania Transit Authority (in this subsection referred to as "SEPTA"), to be used only for the completion of the program to develop and deploy a new Advanced Propulsion Control System begun under the Request for Technical Proposals for Project S-2814-2.

(2) ACTION REQUIRED BY SEPTA.—This subsection shall take effect only if SEPTA issues a request for cost proposals to the 4 selectees from the full and open competition under SEPTA's Request for Technical Proposals for Project S-2814-2 not later than 60 days after the date of enactment of this Act.

SEC. 3013. FORMULA GRANTS AND LOANS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.

*(a) SECTION HEADING.—Section 5310 is amended in the section heading by striking "**Grants**" and inserting "**Formula grants**".*

(b) CONFORMING AMENDMENT.—The item relating to section 5310 in the table of sections for chapter 53 is amended by inserting "formula" before "grants".

SEC. 3014. FORMULA PROGRAM FOR OTHER THAN URBANIZED AREAS.

(a) IN GENERAL.—Section 5311 is amended—

*(1) in the section heading, by striking "**Financial assistance**" and inserting "**Formula grants**"; and*

(2) in subsection (f)(1) by striking "10 percent of the amount made available in the fiscal year ending September 30, 1993, and".

(b) CONFORMING AMENDMENT.—The item relating to section 5311 in the table of sections for chapter 53 is amended by striking "Financial assistance" and inserting "Formula grant".

SEC. 3015. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND TRAINING PROJECTS.

(a) IN GENERAL.—Section 5312 is amended by adding at the end the following:

"(d) JOINT PARTNERSHIP PROGRAM FOR DEPLOYMENT OF INNOVATION.—

"(1) DEFINITION OF CONSORTIUM.—In this subsection, the term 'consortium'—

"(A) means 1 or more public or private organizations located in the United States that provide mass transportation service to the public and 1 or more businesses, including small- and medium-sized businesses, incorporated in a State, offering goods or services or willing to offer goods and services to mass transportation operators; and

"(B) may include, as additional members, public or private research organizations located in the United States, or State or local governmental authorities.

"(2) GENERAL AUTHORITY.—The Secretary may, under terms and conditions that the Secretary prescribes, enter into grants, contracts, cooperative agreements, and other agreements with consortia selected in accordance with paragraph (4), to promote the early deployment of innovation in mass transportation services, management, operational practices, or technology that has broad applicability. This paragraph shall be carried out in consultation with the transit industry by competitively selected consortia that will share costs, risks, and rewards of early deployment of innovation.

"(3) CONSORTIUM CONTRIBUTION.—A consortium assisted under this subsection shall provide not less than 50 percent of the costs of any joint partnership project. Any business, organization, person, or governmental body may contribute funds to a joint partnership project.

"(4) NOTICE REQUIREMENT.—The Secretary shall periodically give public notice of the technical areas for which joint partnerships are solicited, required qualifications of consortia desiring to participate, the method of selection and evaluation criteria to be used in selecting participating consortia and projects, and the process by which innovation projects described in paragraph (1) will be awarded.

"(5) USE OF REVENUES.—The Secretary shall accept, to the maximum extent practicable, a portion of the revenues resulting from sales of an innovation project funded under this section. Such revenues shall be accounted for separately within the Mass Transit Account of the Highway Trust Fund and shall be available to the Secretary for activities under this subsection. Annual revenues that are less than $1,000,000 shall be available for obligation without further appropriation and shall not be subject to any obligation limitation.

"(e) INTERNATIONAL MASS TRANSPORTATION PROGRAM.—

"(1) ACTIVITIES.—The Secretary is authorized to engage in activities to inform the United States domestic mass transportation community about technological innovations available in the international marketplace and activities that may afford domestic businesses the opportunity to become globally competitive in the export of mass transportation products and services. Such activities may include—

"(A) development, monitoring, assessment, and dissemination domestically of information about worldwide mass transportation market opportunities;

"(B) cooperation with foreign public sector entities in research, development, demonstration, training, and other forms of technology transfer and exchange of experts and information;

"(C) advocacy, in international mass transportation markets, of firms, products, and services available from the United States;

"(D) informing the international market about the technical quality of mass transportation products and services through participation in seminars, expositions, and similar activities; and

"(E) offering those Federal Transit Administration technical services which cannot be readily obtained from the United States private sector to foreign public authorities planning or undertaking mass transportation projects if the cost of these services will be recovered under the terms of each project.

"(2) COOPERATION.—The Secretary may carry out activities under this subsection in cooperation with other Federal agencies, State or local agencies, public and private nonprofit institutions, government laboratories, foreign governments, or any other organization the Secretary determines is appropriate.

"(3) FUNDING.—The funds available to carry out this subsection shall include revenues paid to the Secretary by any cooperating organization or person. Such revenues shall be accounted for separately within the Mass Transit Account of the Highway Trust Fund and shall be available to the Secretary to carry out activities under this subsection, including promotional materials, travel, reception, and representation expenses necessary to carry out such activities. Annual revenues that are less than $1,000,000 shall be available for obligation without further appropriation and shall not be subject to any obligation limitation. Not later than January 1 of each fiscal year, the Secretary shall publish a report on the activities under this paragraph funded from the account.".

(b) FUEL CELL BUS AND BUS FACILITIES PROGRAM.—Of the funds made available for each fiscal year to carry out section 5309(m)(1)(C) of title 49, United States Code, $4,850,000 shall be available to carry out the fuel cell powered transit bus program and the intermodal transportation fuel cell bus maintenance facility.

(c) ADVANCED TECHNOLOGY PILOT PROJECT.—

(1) IN GENERAL.—The Secretary shall make grants for the development of low speed magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act for each of fiscal years 1998 through 2003, $5,000,000 per fiscal year shall be available to carry out this subsection.

(3) FEDERAL SHARE.—The Federal share payable on account of activities carried out using a grant made under this subsection shall be 80 percent of the cost of such activities.

SEC. 3016. NATIONAL PLANNING AND RESEARCH PROGRAMS.

Section 5314(a)(2) is amended by striking "$2,000,000" and inserting "$3,000,000".

SEC. 3017. NATIONAL TRANSIT INSTITUTE.

(a) IN GENERAL.—Section 5315(a) is amended—

(1) in paragraph (5) by inserting "and architectural design" before the semicolon at the end;

(2) in paragraph (7) by striking "carrying out" and inserting "delivering";

(3) in paragraph (11) by inserting ", construction management, insurance, and risk management" before the semicolon at the end;

(4) in paragraph (13) by striking "and" at the end;

(5) in paragraph (14) by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following:

"(15) innovative finance; and

"(16) workplace safety.".

(b) CONFORMING AMENDMENT.—The item relating to section 5315 in the table of sections for chapter 53 is amended by striking "mass transportation" and inserting "transit".

SEC. 3018. BUS TESTING FACILITIES.

(a) OPERATION AND MAINTENANCE.—Section 5318(b) is amended—

(1) by striking "make a contract with" and inserting "enter into a contract or cooperative agreement with, or make a grant to,";

(2) by inserting "or organization" after "person";

(3) by inserting ", cooperative agreement, or grant" after "The contract"; and

(4) by inserting "mass transportation" after "and other".

(b) AVAILABILITY OF AMOUNTS.—Section 5318(d) is amended by striking "make a contract with" and inserting "enter into a contract or cooperative agreement with, or make a grant to,".

SEC. 3019. BICYCLE FACILITIES.

Section 5319 is amended by striking "under this section is for 90 percent of the cost of the project" and inserting "made eligible by this section is for 90 percent of the cost of the project, except that, if the grant or any portion of the grant is made with funds required to be expended under section 5307(k) and the project involves providing bicycle access to mass transportation, that grant or portion of that grant shall be at a Federal share of 95 percent".

SEC. 3020. GENERAL PROVISIONS ON ASSISTANCE.

(a) TECHNICAL AMENDMENT.—Section 5323(d) is amended by striking "BUYING AND OPERATING BUSES.—" and inserting "CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—".

(b) BUY AMERICA.—Section 5323(j)(7) is amended to read as follows:

"(7) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.".

(c) GOVERNMENT'S SHARE.—Section 5323(i) is amended to read as follows:

"(i) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment (including clean fuel or alternative fuel vehicle-related equipment) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment attributable to compliance with those Acts.".

(d) HHS AND PUBLIC TRANSIT SERVICE.—Section 5323 is amended—

(1) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively; and

(2) by inserting after subsection (j) the following:

"(k) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—To the extent feasible, governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services—

"(1) shall participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

"(2) shall be included in the planning for those services.".

(e) SUBMISSION OF CERTIFICATIONS.—Section 5323 is amended by adding at the end the following:

"(n) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(e)(2).".

(f) GRANT REQUIREMENTS.—Section 5323 is amended by adding at the end the following:

"(o) GRANT REQUIREMENTS.—The grant requirements under sections 5307 and 5309 apply to any project under this chapter that receives any assistance or other financing under the Transportation Infrastructure Finance and Innovation Act of 1998.".

SEC. 3021. PILOT PROGRAM FOR INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND.

(a) IN GENERAL.—The Secretary shall establish a pilot program to determine the benefits of using funds from the Mass Transit Account of the Highway Trust Fund for intercity passenger rail. Any assistance provided to the State of Oklahoma under sections 5307 and 5311 of title 49, United States Code, during fiscal years 1998 through 2003 may be used for capital improvements to, and operating assistance for, intercity passenger rail service.

(b) REPORT.—

(1) IN GENERAL.—Not later than October 1, 2002, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the pilot program established under this section.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) an evaluation of the effect of the pilot program on alternative forms of transportation within the State of Oklahoma;

(B) an evaluation of the effect of the program on operators of mass transportation and their passengers;

(C) a calculation of the amount of Federal assistance provided under this section transferred for the provision of intercity passenger rail service; and

(D) an estimate of the benefits to intercity passenger rail service, including the number of passengers served, the number of route miles covered, and the number of localities served by intercity passenger rail service.

SEC. 3022. CONTRACT REQUIREMENTS.

(a) EFFICIENT PROCUREMENT.—Section 5325 is amended—

(1) by striking subsections (b) and (c);

(2) by redesignating subsection (d) as subsection (b); and

(3) by adding at the end the following:

"(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder when the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.".

SEC. 3023. SPECIAL PROCUREMENTS.

(a) TURNKEY SYSTEM PROJECTS.—Section 5326(a) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) TURNKEY SYSTEM PROJECT DEFINED.—In this subsection, the term 'turnkey system project' means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a mass transportation system or an operable segment thereof that meets specific performance criteria. Such project may also include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.";

(2) in paragraph (2)—

(A) by inserting "SELECTION OF TURNKEY PROJECTS.—" after "(2)"; and

(B) by inserting "or an operable segment of a mass transportation system" after "transportation system";

(3) in paragraph (3) by inserting "DEMONSTRATIONS.—" after "(3)"; and

(4) by aligning paragraphs (2) and (3) with paragraph (1) of such section, as amended by paragraph (1) of this section.

(b) TECHNICAL AMENDMENT.—Section 5326 is amended by striking subsection (c) and inserting the following:

"(c) ACQUIRING ROLLING STOCK.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

"(1) based on—

"(A) initial capital costs; or

"(B) performance, standardization, life cycle costs, and other factors; or

"(2) with a party selected through a competitive procurement process.

"(d) PROCURING ASSOCIATED CAPITAL MAINTENANCE ITEMS.—A recipient of assistance under section 5307 procuring an associated capital maintenance item under section 5307(b) may enter into a contract directly with the original manufacturer or supplier of the item to be replaced, without receiving prior approval of the Secretary, if the recipient first certifies in writing to the Secretary that—

"(1) the manufacturer or supplier is the only source for the item; and

"(2) the price of the item is no more than the price that similar customers pay for the item.".

(c) CONFORMING AMENDMENT.—Section 5334(b)(4) is amended by striking "5323(a)(2), (c) and (e), 5324(c), and 5325 of this title" and inserting "5323(a)(2), 5323(c), 5323(e), 5324(c), 5325(a), 5325(b), 5326(c), and 5326(d)".

SEC. 3024. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) LIMITATION ON USE OF AVAILABLE AMOUNTS.—Section 5327(c)(2) is amended—

(1) by striking "make contracts" and inserting "enter into contracts"; and

(2) by inserting before the period at the end of the first sentence the following: "and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section".

(b) FINANCIAL PLAN.—Section 5327 is amended by adding at the end the following:

"(f) FINANCIAL PLAN.—A recipient of financial assistance for a project under this chapter with an estimated total cost of $1,000,000,000 or more shall submit to the Secretary an annual financial plan for the project. The plan shall be based on detailed annual estimates of the cost to complete the remaining elements of the project and on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.".

SEC. 3025. ADMINISTRATIVE PROCEDURES.

(a) TRAINING AND CONFERENCE COSTS.—Section 5334(a) is amended—

(1) in paragraph (8) by striking "and" at the end;

(2) in paragraph (9) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(10) collect fees to cover the costs of training or conferences, including costs of promotional materials, sponsored by the Federal Transit Administration to promote mass transportation and credit amounts collected to the appropriation concerned.".

(b) TECHNICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading for section 5334 is amended by inserting "**provisions**" after "**Administrative**".

(2) TABLE OF SECTIONS.—The item relating to section 5334 in the table of sections for chapter 53 is amended by inserting "provisions" after "Administrative".

(c) PROCEEDS FROM SALE OF TRANSIT ASSETS.—Section 5334(g) is amended by adding at the end the following:

"(4) PROCEEDS FROM THE SALE OF TRANSIT ASSETS.—

"(A) IN GENERAL.—When real property, equipment, or supplies acquired with assistance under this chapter are no longer needed for mass transportation purposes as determined under the applicable assistance agreement, the Secretary may authorize the sale, transfer, or lease of the assets under conditions determined by the Secretary and subject to the requirements of this subsection.

"(B) USE.—The net income from asset sales, uses, or leases (including lease renewals) under this subsection shall be used by the recipient to reduce the gross project cost of other capital projects carried out under this chapter.

"(C) RELATIONSHIP TO OTHER AUTHORITY.—The authority of the Secretary under this subsection is in addition to existing authorities controlling allocation or use of recipient income otherwise permissible in law or regulation in effect prior to the date of enactment of this paragraph.".

SEC. 3026. REPORTS AND AUDITS.

(a) NATIONAL TRANSIT DATABASE.—Section 5335(a) is amended—

(1) by striking "REPORTING SYSTEM AND UNIFORM SYSTEM OF ACCOUNTS AND RECORDS" and inserting "NATIONAL TRANSIT DATABASE"; and

(2) in paragraph (1)—

(A) by striking "by uniform categories," and inserting "using uniform categories"; and

(B) by striking "and a uniform system of accounts and records" and inserting "and using a uniform system of accounts".

(b) REPORTS.—Section 5335 is amended—

(1) by striking subsections (b) and (c); and

(2) by redesignating subsection (d) as subsection (b).

SEC. 3027. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS.

(a) IN GENERAL.—Section 5336 is amended in the section heading by striking "**block grants**" and inserting "**formula grants**".

(b) REPEAL.—Section 5336(d) is amended to read as follows:

"(d) [Reserved.]".

(c) CONTINUATION OF OPERATING ASSISTANCE TO CERTAIN LARGER URBANIZED AREAS.—

(1) PROVISION OF ASSISTANCE.—Notwithstanding any other provision of law, during the period described in paragraph (2), the Secretary may continue to provide assistance under section 5307 of title 49, United States Code, to finance the operating costs of equipment and facilities for use in mass transportation in any urbanized area (as that term is defined in section 5302 of title 49, United States Code) with a population of at least 200,000, if the Secretary determines that—

(A) the number of the total bus revenue vehicle-miles operated in or directly serving the area is less than 600,000; and

(B) the number of buses operated in or directly serving the area does not exceed 15.

(2) PERIOD DESCRIBED.—For purposes of paragraph (1), the period described in this paragraph is the period beginning on the date of enactment of this Act and ending on the earlier of—

(A) 3 years after the date of enactment of this Act; and

(B) the date on which the Secretary determines that—

(i) the number of the total bus revenue vehicle-miles operated in or directly serving the area is greater than or equal to 600,000; and

(ii) the number of buses operated in or directly serving the area exceeds 15.

SEC. 3028. APPORTIONMENT OF APPROPRIATIONS FOR FIXED GUIDEWAY MODERNIZATION.

(a) DISTRIBUTION.—Section 5337(a) is amended to read as follows:

"(a) DISTRIBUTION.—The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for each of fiscal years 1998 through 2003 as follows:

"(1) The first $497,700,000 shall be apportioned in the following urbanized areas as follows:

"(A) Baltimore, $8,372,000.

"(B) Boston, $38,948,000.

"(C) Chicago/Northwestern Indiana, $78,169,000.

"(D) Cleveland, $9,509,500.

"(E) New Orleans, $1,730,588.

"(F) New York, $176,034,461.

"(G) Northeastern New Jersey, $50,604,653.

"(H) Philadelphia/Southern New Jersey, $58,924,764.

"(I) Pittsburgh, $13,662,463.

"(J) San Francisco, $33,989,571.

"(K) Southwestern Connecticut, $27,755,000.

"(2) The next $70,000,000 shall be apportioned as follows:

"(A) 50 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A).

"(B) 50 percent in other urbanized areas eligible for assistance under section 5336(b)(2)(A) to which amounts were apportioned under this section for fiscal year 1997, as provided in section 5336(b)(2)(A) and subsection (e) of this section.

"(3) The next $5,700,000 shall be apportioned in the following urbanized areas as follows:

"(A) Pittsburgh, 61.76 percent.

"(B) Cleveland, 10.73 percent.

"(C) New Orleans, 5.79 percent.

"(D) 21.72 percent in urbanized areas to which paragraph (2)(B)(ii) applies, as provided in section 5336(b)(2)(A) and subsection (e) of this section.

"(4) The next $186,600,000 shall be apportioned in each urbanized area to which paragraph (1) applies and in each urbanized area to which paragraph (2)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e) of this section.

"(5) The next $70,000,000 shall be apportioned as follows:

"(A) 65 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A) and subsection (e) of this section.

"(B) 35 percent to other urbanized areas eligible for assistance under section 5336(b)(2)(A) if the areas contain fixed guideway systems placed in revenue service at least 7 years before the fiscal year in which amounts are made available and in any urbanized area if, before the first day of the fiscal year, the area satisfies the Secretary that the area has modernization needs that cannot adequately be met with amounts received under section 5336(b)(2)(A), as provided in section 5336(b)(2)(A) and subsection (e) of this section.

"(6) The next $50,000,000 shall be apportioned as follows:

"(A) 60 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A) and subsection (e) of this section.

"(B) 40 percent to urbanized areas to which paragraph (5)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e) of this section.

"(7) Remaining amounts shall be apportioned as follows:

"(A) 50 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A) and subsection (e) of this section.

"(B) 50 percent to urbanized areas to which paragraph (5)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e) of this section.".

(b) ROUTE SEGMENTS TO BE INCLUDED IN APPORTIONMENT FORMULAS.—Section 5337 is amended by adding at the end the following:

"(e) ROUTE SEGMENTS TO BE INCLUDED IN APPORTIONMENT FORMULAS.—

"(1) 1997 STANDARD.—Amounts apportioned under paragraphs (2)(B), (3), and (4) of subsection (a) shall have attributable to each urbanized area only the number of fixed guideway revenue miles of service and number of fixed guideway route miles for segments of fixed guideway systems used to determine apportionments for fiscal year 1997.

"(2) OTHER STANDARDS.—Amounts apportioned under paragraphs (5) through (7) of subsection (a) shall have attributable to each urbanized area only the number of fixed guideway revenue miles of service and number of fixed guideway route-miles for segments of fixed guideway systems placed in revenue service at least 7 years before the fiscal year in which amounts are made available.".

SEC. 3029. AUTHORIZATIONS.

(a) IN GENERAL.—Section 5338 is amended to read as follows:

"§5338. Authorizations

"(a) FORMULA GRANTS.—

"(1) FISCAL YEAR 1998.—

"(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5310, and 5311, $2,260,000,000 for fiscal year 1998.

"(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5307, 5310, and 5311, $240,000,000 for fiscal year 1998.

"(C) ALLOCATION OF FUNDS.—Of the aggregate of amounts made available by and appropriated under this paragraph for a fiscal year—

"(i) $4,849,950 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

"(ii) $62,219,389 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(iii) $134,077,934 shall be available to provide financial assistance for other than urbanized areas under section 5311; and

"(iv) $2,298,852,727 shall be available to provide financial assistance for urbanized areas under section 5307.

"(2) FISCAL YEARS 1999 THROUGH 2003.—

"(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5310, and 5311—

"(i) $2,280,000,000 for fiscal year 1999;

"(ii) $2,478,400,000 for fiscal year 2000;

"(iii) $2,676,000,000 for fiscal year 2001;

"(iv) $2,873,600,000 for fiscal year 2002; and

"(v) $3,071,200,000 for fiscal year 2003.

"(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5307, 5308, 5310, and 5311—

"(i) $570,000,000 for fiscal year 1999;

"(ii) $619,600,000 for fiscal year 2000;

"(iii) $669,000,000 for fiscal year 2001;

"(iv) $718,400,000 for fiscal year 2002; and

"(v) $767,800,000 for fiscal year 2003.

"(C) ALLOCATION OF FUNDS.—Of the aggregate of amounts made available by and appropriated under this paragraph for a fiscal year—

"(i) $4,849,950 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

"(ii) $50,000,000 shall be available to carry out section 5308; and

"(iii) of the remaining amount—

"(I) 2.4 percent shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(II) 6.37 percent shall be available to provide financial assistance for other than urbanized areas under section 5311; and

"(III) 91.23 percent shall be available to provide financial assistance for urbanized areas under section 5307.

"(b) CAPITAL PROGRAM GRANTS AND LOANS.—

"(1) FISCAL YEAR 1998.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309, $2,000,000,000 for fiscal year 1998.

"(2) FISCAL YEARS 1999 THROUGH 2003.—

"(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309—

"(i) $1,805,600,000 for fiscal year 1999;

"(ii) $1,960,800,000 for fiscal year 2000;

"(iii) $2,116,800,000 for fiscal year 2001;

"(iv) $2,272,800,000 for fiscal year 2002; and

"(v) $2,428,800,000 for fiscal year 2003.

"(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out section 5309—

"(i) $451,400,000 for fiscal year 1999;

"(ii) $490,200,000 for fiscal year 2000;

"(iii) $529,200,000 for fiscal year 2001;

"(iv) $568,200,000 for fiscal year 2002; and

"(v) $607,200,000 for fiscal year 2003.

"(c) PLANNING.—

"(1) FISCAL YEAR 1998.—There are authorized to be appropriated to carry out sections 5303, 5304, 5305, and 5313(b), $47,750,000 for fiscal year 1998.

"(2) FISCAL YEARS 1999 THROUGH 2003.—

"(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5303, 5304, 5305, and 5313(b)—

"(i) $43,200,000 for fiscal year 1999;

"(ii) $46,400,000 for fiscal year 2000;

"(iii) $51,200,000 for fiscal year 2001;

"(iv) $52,800,000 for fiscal year 2002; and

"(v) $57,600,000 for fiscal year 2003.

"(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5303, 5304, 5305, and 5313(b)—

"(i) $10,800,000 for fiscal year 1999;

"(ii) $11,600,000 for fiscal year 2000;

"(iii) $12,800,000 for fiscal year 2001;

"(iv) $13,200,000 for fiscal year 2002; and

"(v) $14,400,000 for fiscal year 2003.

"(C) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated under this paragraph for a fiscal year—

"(i) 82.72 percent shall be available for metropolitan planning under sections 5303, 5304, and 5305; and

"(ii) 17.28 percent shall be available for State planning under section 5313(b).

"(d) RESEARCH.—

"(1) FISCAL YEAR 1998.—There are authorized to be appropriated to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, $44,250,000 for fiscal year 1998.

"(2) FISCAL YEARS 1999 THROUGH 2003.—

"(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322—

"(i) $36,000,000 for fiscal year 1999;

"(ii) $37,600,000 for fiscal year 2000;

"(iii) $37,600,000 for fiscal year 2001;

"(iv) $39,200,000 for fiscal year 2002; and

"(v) $39,200,000 for fiscal year 2003.

"(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322—

"(i) $9,000,000 for fiscal year 1999;

"(ii) $9,400,000 for fiscal year 2000;

"(iii) $9,400,000 for fiscal year 2001;

"(iv) $9,800,000 for fiscal year 2002; and

"(v) $9,800,000 for fiscal year 2003.

"(C) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated under this paragraph for a fiscal year—

"(i) not less than $5,250,000 shall be available for providing rural transportation assistance under section 5311(b)(2);

"(ii) not less than $8,250,000 shall be available for carrying out transit cooperative research programs under section 5313(a);

"(iii) not less than $4,000,000 shall be available to carry out programs under the National Transit Institute under section 5315; and

"(iv) the remainder shall be available for carrying out national planning and research programs under sections 5311(b)(2), 5312, 5313(a), 5314, and 5322.

"(e) UNIVERSITY TRANSPORTATION RESEARCH.—

"(1) FISCAL YEAR 1998.—There are authorized to be appropriated to carry out section 5317(b) $6,000,000 for fiscal year 1998.

"(2) FISCAL YEARS 1999 THROUGH 2003.—

"(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5317(b), $4,800,000 for each of fiscal years 1999 through 2003.

"(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out section 5317(b), $1,200,000 for each of fiscal years 1999 through 2003.

"(f) ADMINISTRATION.—

"(1) FISCAL YEAR 1998.—There are authorized to be appropriated to carry out section 5334, $45,738,000 for fiscal year 1998.

"(2) FISCAL YEARS 1999 THROUGH 2003.—

"(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

"(i) $43,200,000 for fiscal year 1999;

"(ii) $48,900,000 for fiscal year 2000;

"(iii) $51,200,000 for fiscal year 2001;

"(iv) $53,600,000 for fiscal year 2002; and

"(v) $58,400,000 for fiscal year 2003.

"(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out section 5334—

"(i) $10,800,000 for fiscal year 1999;

"(ii) $12,000,000 for fiscal year 2000;

"(iii) $12,800,000 for fiscal year 2001;

"(iv) $13,400,000 for fiscal year 2002; and

"(v) $14,600,000 for fiscal year 2003.

"(g) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(1) GRANTS FINANCED FROM THE HIGHWAY TRUST FUND.—A grant or contract approved by the Secretary, that is financed with amounts made available under subsection (a)(1)(A), (a)(2)(A), (b)(1), (b)(2)(A), (c)(2)(A), (d)(2)(A), (e)(2)(A), or (f)(2)(A) is a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

"(2) GRANTS FINANCED FROM GENERAL FUNDS.—A grant or contract, approved by the Secretary, that is financed with amounts made available under subsection (a)(1)(B), (a)(2)(B), (b)(2)(B), (c)(2)(B), (d)(2)(B), (e)(2)(B), (f)(2)(B), or (h) is a contractual obligation of the Government to pay the Government's share of the cost of the project only to the extent that amounts are provided in advance in an appropriations Act.

"(h) ADDITIONAL AMOUNTS.—In addition to amounts made available by or appropriated under subsections (a) through (f), there are authorized to be appropriated—

"(1) to carry out sections 5303, 5304, 5305, and 5313(b)—

"(A) for fiscal year 1999, $32,000,000;

"(B) for fiscal year 2000, $33,000,000;

"(C) for fiscal year 2001, $34,000,000;

"(D) for fiscal year 2002, $35,000,000; and

"(E) for fiscal year 2003, $36,000,000;

"(2) to carry out section 5307, $150,000,000 for each of fiscal years 1999 through 2003;

"(3) to carry out section 5308, $100,000,000 for each of fiscal years 1999 through 2003;

"(4) to carry out section 5309(m)(1)(A), $100,000,000 for each of fiscal years 1999 through 2003;

"(5) to carry out section 5309(m)(1)(B)—

"(A) for fiscal year 1999, $600,000,000;

"(B) for fiscal year 2000, $610,000,000;

"(C) for fiscal year 2001, $620,000,000;

"(D) for fiscal year 2002, $630,000,000; and

"(E) for fiscal year 2003, $630,000,000;

"(6) to carry out section 5309(m)(1)(C), $100,000,000 for each of fiscal years 1999 through 2003;

"(7) to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322—

"(A) for fiscal year 1999, $31,000,000;

"(B) for fiscal year 2000, $31,000,000;

"(C) for fiscal year 2001, $33,000,000;

"(D) for fiscal year 2002, $33,000,000; and

"(E) for fiscal year 2003, $34,000,000; and

"(8) to carry out section 5334—

"(A) for fiscal year 1999, $13,000,000;

"(B) for fiscal year 2000, $14,000,000;

"(C) for fiscal year 2001, $16,000,000;

"(D) for fiscal year 2002, $17,000,000; and

"(E) for fiscal year 2003, $18,000,000.

"(i) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (a) through (e), and paragraphs (1) through (7) of subsection (h), shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—Chapter 53 is amended as follows:

(1) In sections 5303(h)(1), 5303(h)(2)(A), and 5303(h)(3)(A), by striking "section 5338(g)(1)" each place it appears and inserting "subsection (c) or (h)(1) of section 5338".

(2) In section 5303(h)(1) by striking "–5306" and inserting "and 5305".

(3) In section 5303(h)(4) by striking "section 5338(g)" and inserting "subsection (c) or (h)(1) of section 5338".

(4) In section 5313(a)(1) by striking "Fifty percent of the amounts made available under section 5338(g)(3)" and inserting "The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(d)".

(5) In section 5313(b)(1) by striking "Fifty percent of the amounts made available under section 5338(g)(3)" and inserting "The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(c)".

(6) In section 5314(a)(1) by striking "section 5338(g)(4)" and inserting "subsections (d) and (h)(7) of section 5338".

(7) In section 5317(e)(5)(C) by striking "5338(e)(2)" and inserting "5338(e)".

(8) In section 5318(d) by striking "5338(j)(5)" and inserting "5309(m)(1)(C)".

(9) In section 5333(b) by striking "5338(j)(5)" each place it appears and inserting "5338(b)".

(10) In section 5336(a) by striking "5338(f)" and inserting "5338(a)".

(11) In section 5336(e)(1) by striking "section 5338(f)" and inserting "subsections (a) and (h)(2) of section 5338".

(12) In section 5337(e)(1) by striking "section 5338(f)" and inserting "subsections (b) and (h)(4) of section 5338".

SEC. 3030. PROJECTS FOR NEW FIXED GUIDEWAY SYSTEMS AND EXTENSIONS TO EXISTING SYSTEMS.

(a) FINAL DESIGN AND CONSTRUCTION.—The following projects are authorized for final design and construction for fiscal years 1998 through 2003 under section 5309(m)(1)(B) of title 49, United States Code:

(1) Atlanta—Athens Commuter Rail.

(2) Atlanta—Griffin Commuter Rail.

(3) Atlanta—North Line Extension.

(4) Austin—NW/North Central/SE—Airport LRT.

(5) Baltimore—Central LRT Extension to Glen Burnie.

(6) Boston—Massport Airport Intermodal Transit Connector.

(7) Boston—North Shore Corridor and Blue Line Extension to Beverly.

(8) Charlotte—South Corridor Transitway.

(9) Chicago—Navy Pier-McCormick Place Busway.

(10) Chicago—North Central Upgrade Commuter Rail.

(11) Chicago—Ravenswood Line Extension.

(12) Chicago—Southwest Extension.

(13) Chicago—West Line Expansion.

(14) Cleveland—Akron-Canton Commuter Rail.

(15) Cleveland—Berea Metroline Extension.

(16) Cleveland—Blue Line Extension.

(17) Cleveland—Euclid Corridor Extension.

(18) Cleveland—I-90 Corridor to Ashtabula County.

(19) Cleveland—Waterfront Line Extension.

(20) Dallas—North Central Extension.

(21) Dallas—Ft. Worth RAILTRAN (Phase II).

(22) Denver—East Corridor (Airport).

(23) Denver—Southeast LRT (I-25 between 6th & Lincoln).

(24) Denver—Southwest LRT.

(25) Denver—West Corridor LRT.

(26) East St. Louis-St. Clair County—Mid-America Airport Corridor.

(27) Ft. Lauderdale-West Palm Beach-Miami Tri-County Commuter Rail.

(28) Galveston—Trolley Extension.

(29) Hartford—Griffin Line.

(30) Hollis—Ketchikan Ferry.

(31) Houston—Regional Bus Plan—Phase I.

(32) Kansas City—I-35 Commuter Rail.

(33) Kansas City—Southtown Corridor.

(34) Kenosha-Racine—Milwaukee Rail Extension.

(35) Las Vegas Corridor.

(36) Little Rock—River Rail.

(37) Los Angeles—Metrolink San Bernadino Line.

(38) Los Angeles—MOS-3.

(39) Los Angeles—Metrolink (Union Station-Fullerton).

(40) Louisville—Jefferson County Corridor.

(41) MARC—Commuter Rail Improvements.

(42) Maryland Light Rail Double Track.

(43) Memphis—Medical Center Extension.

(44) Miami—East-West Multimodal Corridor.

(45) Miami—North 27th Avenue Corridor.

(46) Miami—South Busway Extension.

(47) Milwaukee—East-West Corridor.

(48) Monterey County Commuter Rail.

(49) Nashua, NH—Lowell, MA Commuter Rail.

(50) Nashville—Commuter Rail.

(51) New Orleans—Canal Streetcar.

(52) New York—8th Avenue Subway Connector.

(53) New York—Brooklyn—Staten Island Ferry.

(54) New York—Long Island Railroad East Side Access.

(55) New York—Staten Island Ferry—Whitehall Intermodal Terminal.

(56) New York Susquehanna and Western Commuter Rail.

(57) New Jersey Urban Core.

(58) Norfolk—Virginia Beach Corridor.

(59) Orange County—Fullerton—Irvine Corridor.

(60) Orlando—I-4 Central Florida Light Rail System.

(61) Philadelphia—Schuylkill Valley Metro.

(62) Phoenix—Fixed Guideway.

(63) Colorado—Roaring Fork Valley Rail.

(64) Pittsburgh Airborne Shuttle System.

(65) Pittsburgh—MLK Busway Extension.

(66) Portland—South-North Corridor.

(67) Portland—Westside-Hillsboro Corridor.

(68) Raleigh-Durham—Regional Transit Plan.

(69) Sacramento—Folsom Extension.

(70) Sacramento—Placer County Corridor.

(71) Sacramento—South Corridor.

(72) Salt Lake City—Light Rail (Airport to University of Utah).

(73) Salt Lake City—Ogden-Provo Commuter Rail.

(74) Salt Lake City—South LRT.

(75) San Diego—Mid-Coast LRT Corridor.

(76) San Diego—Mission Valley East Corridor.

(77) San Diego—Oceanside—Escondido Corridor.

(78) San Francisco—BART to San Francisco International Airport Extension.

(79) San Francisco—Bayshore Corridor.

(80) San Jose—Tasman Corridor Light Rail.

(81) San Juan—Tren Urbano.

(82) San Juan—Tren Urbano Extension to Minellas.

(83) Santa Cruz—Fixed Guideway.

(84) Seattle—Southworth High Speed Ferry.

(85) Seattle—Sound Move Corridor.

(86) South Boston—Piers Transitway.

(87) St. Louis—Cross County Corridor.

(88) Stockton—Altamont Commuter Rail.

(89) Tampa Bay—Regional Rail.

(90) Twin Cities—Northstar Corridor (Downtown Minneapolis-Anoka County-St. Cloud).

(91) Twin Cities—Transitways Corridors.

(92) Washington—Richmond Rail Corridor Improvements.

(93) Washington, D.C.—Dulles Corridor Extension.

(94) Washington, D.C.—Largo Extension.

(95) West Trenton Line (West Trenton-Newark).

(96) Westlake—Commuter Rail Link.

(97) Pittsburgh North Shore-Central Business District Corridor.

(98) Pittsburgh—Stage II Light Rail.

(99) Boston—North-South Rail Link.

(100) Spokane—South Valley Corridor Light Rail.

(101) Miami—Palmetto Metrorail.

(102) Morgantown—Personal Rapid Transit.

(103) Santa Monica—Busway.

(104) Northwest New Jersey—Northeast Rail Corridor.

(105) Southeastern North Carolina Corridor.

(106) Chicago—Douglas Branch.

(107) San Joaquin—Regional Transit Corridor.

(108) Albuquerque—High Capacity Corridor.

(b) ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—The following projects are authorized for alternatives analysis and preliminary engineering for fiscal years 1998 through 2003 under section 5309(m)(1)(B) of title 49, United States Code:

(1) Atlanta—Georgia 400 Multimodal Corridor.

(2) Atlanta—MARTA Extension (S. DeKalb-Lindbergh).

(3) Atlanta—MARTA I-285 Transit Corridor.

(4) Atlanta—MARTA Marietta-Lawrenceville Corridor.

(5) Atlanta—MARTA South DeKalb Comprehensive Transit Program.

(6) Baltimore—Metropolitan Rail Corridor.

(7) Baltimore—People Mover.

(8) Bergen County Cross—County Light Rail.

(9) Birmingham Transit Corridor.

(10) Boston—Urban Ring.

(11) Charleston—Monobeam.

(12) Chicago—Comiskey Park Station.

(13) Chicago—Inner Circumferential Commuter Rail.

(14) Cumberland/Dauphin County Corridor 1 Commuter Rail.

(15) Dallas—DART LRT Extensions.

(16) Dallas—Las Colinas Corridor.

(17) Dayton—Regional Riverfront Corridor.

(18) El Paso—International Fixed Guideway (El Paso-Juarez).

(19) Fremont—South Bay Corridor.

(20) Houston—Advanced Transit Program.

(21) Jacksonville—Fixed Guideway Corridor.

(22) Knoxville—Electric Transit.

(23) Lorain—Cleveland Commuter Rail.

(24) Los Angeles—MOS-4 East Side Extension (II).

(25) Los Angeles—MOS-4 San Fernando Valley East-West.

(26) Los Angeles—LOSSAN (Del Mar-San Diego).

(27) Maine High Speed Ferry Service.

(28) Maryland Route 5 Corridor.

(29) Memphis—Regional Rail Plan.

(30) Miami—Kendall Corridor.

(31) Miami—Northeast Corridor.

(32) New Jersey Trans-Hudson Midtown Corridor.

(33) New Orleans—Airport—CBD Commuter Rail.

(34) New Orleans—Desire Streetcar.

(35) New York—Astoria—East Elmhurst Extension.

(36) New York—Broadway—Lafayette & Bleecker St Transfer.

(37) New York—Brooklyn—Manhattan Access.

(38) New York—Lower Manhattan Access.

(39) New York—Manhattan East Side Link.

(40) New York—Midtown West Intermodal Terminal.

(41) New York—Nassau Hub.

(42) New York—North Shore Railroad.

(43) New York—Queens West Light Rail Link.

(44) New York—St. George's Ferry Intermodal Terminal.

(45) Newburgh—LRT System.

(46) North Front Range Corridor.

(47) Northeast Indianapolis Corridor.

(48) Oakland Airport—BART Connector.

(49) Providence—Pawtucket Corridor.

(50) Philadelphia—Broad Street Line Extension.

(51) Philadelphia—Cross County Metro.

(52) Philadelphia—Lower Marion Township.

(53) Pinellas County—Mobility Initiative Project.

(54) Redlands—San Bernardino Transportation Corridor.

(55) Riverside—Perris rail passenger service.

(56) Salt Lake City—Draper Light Rail Extension.

(57) Salt Lake City—West Jordan Light Rail Extension.

(58) San Francisco—CalTrain Extension to Hollister.

(59) Scranton—Laurel Line Intermodal Corridor.

(60) SEATAC—Personal Rapid Transit.

(61) Toledo—CBD to Zoo.

(62) Union Township Station (Raritan Valley Line).

(63) Washington County Corridor (Hastings-St. Paul).

(64) Washington, D.C.—Georgetown-Ft. Lincoln.

(65) Williamsburg—Newport News-Hampton LRT.

(66) Cincinnati/N. Kentucky—Northeast Corridor.

(67) Northeast Ohio—commuter rail.

(68) California—North Bay Commuter Rail.

(c) PROJECT AUTHORIZATIONS.—

(1) IN GENERAL.—Of the total amount made available by or authorized under section 5338(b) of title 49, United States Code, to carry out section 5309(m)(1)(B) for fiscal years 1998 through 2003:

(A) $3,000,000,000 shall be available for the following projects:

(i) Birmingham Transit Corridor, $87,500,000.

(ii) San Diego–Mission Valley East Corridor, $325,000,000.

(iii) Denver–Southeast LRT (I-25 between 6th and Lincoln), $10,000,000.

(iv) Colorado–Roaring Fork Valley Rail, $40,000,000.

(v) Hartford–Griffin Line, $33,000,000.

(vi) Bridgeport–Intermodal Corridor, $34,000,000.

(vii) New London–Waterfront Access, $15,000,000.

(viii) Old Saybrook–Hartford Rail Extension, $5,000,000.

(ix) Stamford–Fixed Guideway Connector, $18,000,000.

(x) Orlando–I-4 Central Florida Light Rail System, $100,000,000.

(xi) Miami–Palmetto Metrorail, $8,000,000.

(xii) Tampa Bay–Regional Rail, $2,000,000.

(xiii) Fort Lauderdale–West Palm Beach–Miami Tri-County Commuter Rail, $20,000,000.

(xiv) Miami–East-West Multimodal Corridor, $20,000,000.

(xv) Chicago–CTA Douglas Branch, $315,000,000.

(xvi) Indianapolis Region Commuter Rail, $10,000,000.

(xvii) Sioux City–Light Rail, $10,000,000.

(xviii) MARC–Commuter Rail Improvements, $185,000,000.

(xix) Baltimore–Light Rail Double Track, $120,000,000.

(xx) Boston–North Shore Corridor and Blue Line Extension to Beverly, $50,000,000.

(xxi) Twin Cities–Transitways Corridors, $120,000,000.

(xxii) Twin Cities–Northstar Corridor (Downtown Minneapolis–Anoka County–St. Cloud), $6,000,000.

(xxiii) I-35 Commuter Rail, $30,000,000.

(xxiv) Las Vegas Corridor, $155,000,000.

(xxv) New Jersey–Bergen County Cross County Light Rail, $5,000,000.

(xxvi) New Jersey–Trans Hudson Midtown Corridor, $5,000,000.

(xxvii) Santa Fe–Eldorado Rail Link, $10,000,000.

(xxviii) Albuquerque Alvarado Intermodal Center, $5,000,000.

(xxix) Albuquerque Light Rail, $90,000,000.

(xxx) New York–Long Island Railroad East Side Access, $353,000,000.

(xxxi) New York–Second Avenue Subway, $5,000,000.

(xxxii) New York–Whitehall Ferry Terminal, $40,000,000.

(xxxiii) New York–St. George's Ferry Intermodal Terminal, $20,000,000.

(xxxiv) New York–Nassau Hub, $10,000,000.

(xxxv) New Jersey–New York Midtown West Ferry Terminal, $16,300,000.

(xxxvi) Cincinnati/Northern Kentucky Corridor, $65,000,000.

(xxxvii) Portland South–North Corridor, $25,000,000.

(xxxviii) Philadelphia–Schuylkill Valley Metro, $75,000,000.

(xxxix) Allegheny County Stage II Light Rail, $100,200,000.

(xl) Philadelphia–Pittsburgh High Speed Rail, $10,000,000.

(xli) Cumberland/Dauphin County Corridor 1 Commuter Rail, $20,000,000.

(xlii) Pittsburgh North Shore–Central Business District, $20,000,000.

(xliii) Providence–Boston Commuter, $10,000,000.

(xliv) Rhode Island Integrated Intermodal Transportation, $25,000,000.

(xlv) Dallas–North Central Extension, $188,000,000.

(xlvi) Dallas–Southeast Corridor, $20,000,000.

(xlvii) Dallas–Northwest Corridor, $12,000,000.

(xlviii) Washington, D.C., Dulles Corridor Extension, $86,000,000.

(xlix) Seattle–Tacoma Commuter Rail, $40,000,000.

(l) San Joaquin Regional Intermodal Corridor, $14,000,000.

(li) Railtran Corridor Light Rail, $12,000,000.

(B) The remainder shall be available for projects listed in subsections (a) and (b).

(2) ADDITIONAL FUNDS.—

(A) IN GENERAL.—The total amount authorized in section 5338(h)(5) of title 49, United States Code, for fiscal years 1999 through 2003 shall be available for projects listed in subsections (a) and (b).

(B) PRIORITY FOR SALT LAKE CITY OLYMPICS.—

(i) IN GENERAL.—Of the amount authorized to be appropriated under section 5338(h)(5), $640,000,000 is authorized to be appropriated for the Salt Lake City Winter Olympic Games for the following projects:

(I) North/South Light Rail.

(II) Airport to University of Utah Light Rail.

(III) Intermodal Facilities.

(IV) Park and Ride Lots.

(V) Bus Acquisition.

(ii) GOVERNMENT SHARE.—The Government share of the costs of projects assisted under this subparagraph shall not exceed 80 percent. For purposes of determining the nongovernmental share for projects authorized under this subparagraph, highway, aviation, and transit projects shall be considered to be a program of projects.

(iii) USE OF FUNDS.—Funds provided under this subparagraph shall be available for planning and capital assistance.

(3) HIGH PRIORITY PROJECT.—The Long Island Rail Road East Side Access project shall be given priority consideration by the Secretary for funds made available under paragraph (1)(B). In addition, that project is authorized for construction with funds available under section 5338(h)(5) of title 49, United States Code.

(d) EFFECT OF AUTHORIZATION.—

(1) IN GENERAL.—

(A) SUBSECTION (a) PROJECTS.—Projects authorized by subsection (a) for final design and construction are also authorized for alternatives analysis and preliminary engineering.

(B) SUBSECTION (B) PROJECTS.—Effective October 1, 2000, projects authorized by subsection (b) for alternatives analysis and preliminary engineering are also authorized for final design and construction.

(2) FIXED GUIDEWAY AUTHORIZATION.—The project authorized by subsection (a)(3) includes an additional 28 rapid rail cars and project scope changes from amounts authorized by the Intermodal Surface Transportation Efficiency Act of 1991.

(3) INTERMODAL CENTER AUTHORIZATIONS.—Notwithstanding any other provision of law, each of the following projects are eligible for funding under section 5309(m)(1)(C) of title 49, United States Code:

(A) Huntington, West Virginia Intermodal Facility project.

(B) Huntsville Intermodal Center project.

(e) NEW JERSEY URBAN CORE PROJECT.—

(1) ALLOCATIONS.—Section 3031(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122) is amended by adding at the end the following:

"(3) ALLOCATIONS.—

"(A) RAIL CONNECTION BETWEEN PENN STATION NEWARK AND BROAD STREET STATION, NEWARK.—Of the amounts made available for the New Jersey Urban Core Project under section 5309(m)(1)(B) of title 49, United States Code, for fiscal years 1998 through 2003, the Secretary shall set aside 10 percent, but not more than $5,000,000, per fiscal year for preliminary engineering, design, and construction of the rail connection between Penn Station, Newark and Broad Street Station, Newark.

"(B) NEWARK—NEWARK INTERNATIONAL AIRPORT—ELIZABETH TRANSIT LINK.—Of the amounts made available for the New Jersey Urban Core Project under section 5309(m)(1)(B) of title 49, United States Code, for fiscal years 1998 through 2003, the Secretary, after making the set aside under subparagraph (A), shall set aside 10 percent, but not more than $5,000,000, per fiscal year for preliminary engineering, design, and construction of the Newark—Newark International Airport—Elizabeth Transit Link, including construction of the auxiliary New Jersey Transit station, described in subsection (d).

"(C) LIGHT RAIL CONNECTION AND ALIGNMENT WITHIN AND SERVING THE CITY OF ELIZABETH.—Of amounts made available for the New Jersey Urban Core Project under section 5309(m)(1)(B) of title 49, United States Code, for fiscal years 1998 through 2003, the Secretary, after making the set-aside under subparagraphs (A) and (B), shall set aside 10 percent but not more than $5,000,000 per fiscal year for preliminary engineering, design, and construction of the light rail connection and alignment within and serving the city of Elizabeth as described in subsection (d).".

(2) CONFORMING AMENDMENT.—Section 3031(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122) is amended—

(A) by striking "section 3(i) of the Federal Transit Act (relating to criteria for new starts)" and inserting "section 5309(e) of title 49, United States Code,"; and

(B) by striking "; except" and all that follows through "such element".

(3) ELEMENTS OF NEW JERSEY URBAN CORE PROJECT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122) is amended—

(A) by inserting after "Secaucus Transfer" the following: "(including relocation and construction of the Bergen County and Pascack Valley Rail Lines and the relocation of the Main/Bergen Connection with construction of a rail station and associated components to and at the contiguous New Jersey Meadowlands Sports Complex)";

(B) by striking ", Newark-Newark International Airport-Elizabeth Transit Link" and inserting "(including a connection from the Vince Lombardi Station to Saddlebrook and Edgewater), restoration of commuter rail service along the Northern Branch Line of the West Shore Line, Newark-Newark International Airport-Elizabeth Transit Link (including construction of an auxiliary New Jersey Light Rail Transit station directly connected to and integrated with the Amtrak Northeast Corridor Station at Newark International Airport, providing access from the Newark-Newark International Airport-Elizabeth Light Rail Transit Link to the Newark International Airport)"; and

(C) by inserting after "New York Penn Station Concourse," the following: "the restoration of commuter rail service in Lakewood to Freehold to Matawan or Jamesburg, New Jersey, as described in section 3035(p) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2131), a light rail extension of the Newark-Newark International Airport-Elizabeth Light Rail Transit Link from Elizabeth, New Jersey, to the towns of Cranford, Westfield, Fanwood, and Plainfield in Union County, New Jersey, and any appropriate light rail connections and alignments within the city of Elizabeth to be determined by the city of Elizabeth and the New Jersey Department of Transportation (and which shall include connecting midtown Elizabeth to Route 1 Park and Ride, the Elizabeth Car House Museum, Division Street, Singer Place, Ferry Terminal, Jersey Gardens Mall, Elizabeth Port to Lot D at Newark Airport) and any appropriate fixed guideway system in Passaic County,".

(f) LOS ANGELES MOS–3 PROJECT.—

(1) IN GENERAL.—For purposes of this section, the Los Angeles MOS–3 project referenced in subsection (a)(38) may include any fixed guideway project or projects selected by the Los Angeles County Metropolitan Transportation Authority for development in the transportation corridors to be served by the 3 extensions of MOS–3 of the Los Angeles County Metro Rail project, as described in section 3034(i) of the Intermodal Surface Transportation Efficiency Act of 1991.

(2) ALTERNATIVES.—In considering fixed guideway alternatives and selecting any revised preferred alternative in the East Side or Mid City corridors of MOS–3, the Los Angeles County Metropolitan Transportation Authority shall—

(A) fully evaluate the potential impact of the alternatives on the integrity of the neighborhoods in the corridor involved;

(B) address the capacity of the alternatives to serve transit dependent riders;

(C) identify and address any disproportionately high and adverse effects on minority and low income populations, in accordance with the Executive Order on Federal Actions to Address Environmental Justice (EO 12898; February 11, 1994); and

(D) otherwise comply with all applicable Federal and State planning and environmental requirements.

(g) BALTIMORE-WASHINGTON TRANSPORTATION IMPROVEMENTS PROGRAM.—Section 3035(nn) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2134) is amended—

(1) in paragraph (1)—

(A) by inserting ", and alternatives for double tracking and related improvements" after "Penn Station extensions";

(B) by inserting "shall provide for double tracking and related improvements and" after "under this paragraph"; and

(C) by inserting after the first sentence the following: "Funds for projects under this paragraph shall be provided at an 80 percent Government share. In applying the local share evaluation criteria in section 5309, of title 49, United States Code, the Secretary shall compare the aggregate expenditure of State and local funds, including Federal highway funds provided by the State of Maryland, for all phases of the Central Corridor Light Rail project."; and

(2) in paragraph (2)—

(A) in the first sentence, by inserting ", including capacity and efficiency improvements through construction of a Penn-Camden Connection, MARC maintenance and storage facilities, and other capacity related improvements, and the Silver Spring Intermodal Center" before the period; and

(B) in the second sentence, by inserting "provide for construction of the Penn-Camden Connection, MARC maintenance and storage facilities, and other capacity related improvements, and the Silver Spring Intermodal Center, and shall" after "shall".

SEC. 3031. PROJECTS FOR BUS AND BUS-RELATED FACILITIES.

(a) GUARANTEED FUNDING.—Of the amounts made available to carry out section 5309(m)(1)(C) of title 49, United States Code, for each of fiscal years 1999 and 2000, the Secretary shall make funds available for the following projects in not less than the amounts specified for the fiscal year:

Project	*FY 1999 (in millions)*	*FY 2000 (in millions)*
1. Albuquerque, NM buses	1.250	1.250
2. Alexandria, VA bus maintenance facility	1.000	1.000
3. Alexandria, VA King Street Station access	1.100	0.000
4. Altoona, PA Metro Transit Authority buses and transit system improvements	0.842	0.842
5. Altoona, PA Metro Transit Authority Logan Valley Mall Suburban Transfer Center	0.080	0.000
6. Altoona, PA Metro Transit Authority Transit Center improvements	0.424	0.000
7. Arkansas Highway and Transit Department buses	0.200	2.000
8. Armstrong County-Mid County, PA bus facilities and buses	0.150	0.150
9. Atlanta, GA MARTA buses	9.000	13.500
10. Austin, TX buses	1.250	1.250
11. Babylon, NY Intermodal Center	1.250	1.250
12. Birmingham-Jefferson County, AL buses	1.250	1.250
13. Boulder/Denver, CO RTD buses	0.625	0.625
14. Bradford County, Endless Mountain Transportation Authority buses	1.000	0.000
15. Brookhaven Town, NY elderly and disabled buses and vans	0.225	0.000
16. Brooklyn-Staten Island, NY Mobility Enhancement buses	0.800	0.000
17. Broward County, FL buses	1.000	0.000
18. Buffalo, NY Auditorium Intermodal Center	2.000	2.000
19. Buffalo, NY Crossroads Intermodal Station	1.000	0.000
20. Cambria County, PA bus facilities and buses	0.575	0.575
21. Centre Area, PA Transportation Authority buses	1.250	1.250
22. Chambersburg, PA Transit Authority buses	0.300	0.000
23. Chambersburg, PA Transit Authority Intermodal Center	1.000	0.000
24. Chester County, PA Paoli Transportation Center	1.000	1.000
25. Altoona, PA Pedestrian Crossover	.800	0.000
26. Cleveland, OH Triskett Garage bus maintenance facility	0.625	0.625
27. Crawford Area, PA Transportation buses	0.500	0.000
28. Culver City, CA CityBus buses	1.250	1.250
29. Davis, CA Unitrans transit maintenance facility	0.625	0.625
30. Dayton, OH Multimodal Transportation Center	0.625	0.625
31. Daytona, FL Intermodal Center	2.500	2.500
32. Duluth, MN Transit Authority community circulation vehicles	1.000	1.000
33. Duluth, MN Transit Authority intelligent transportation systems	0.500	0.500
34. Duluth, MN Transit Authority Transit Hub	0.500	0.500
35. Dutchess County, NY Loop System buses	0.521	0.521
36. East Hampton, NY elderly and disabled buses and vans	0.100	0.000
37. Erie, PA Metropolitan Transit Authority buses	1.000	1.000
38. Everett, WA Multimodal Transportation Center	1.950	1.950
39. Fayette County, PA Intermodal Facilities and buses	1.270	1.270
40. Fayetteville, AR University of Arkansas Transit System buses	0.500	0.500
41. Fort Dodge, IA Intermodal Facility (Phase II)	0.885	0.885
42. Gary, IN Transit Consortium buses	1.250	1.250
43. Grant County, WA buses and vans	0.600	0.000
44. Greensboro, NC Multimodal Center	3.340	3.339
45. Greensboro, NC Transit Authority buses	1.500	1.500
46. Greensboro, NC Transit Authority small buses and vans	0.321	0.000
47. Hartford, CT Transportation Access Project	0.800	0.000
48. Healdsburg, CA Intermodal Facility	1.000	1.000
49. Honolulu, HI bus facility and buses	2.250	2.250
50. Hot Springs, AR Transportation Depot and Plaza	0.560	0.560
51. Humboldt, CA Intermodal Facility	1.000	0.000
52. Huntington, WV Intermodal Facility	8.000	12.000
53. Illinois statewide buses and bus-related equipment	6.800	8.200
54. Indianapolis, IN buses	5.000	5.000
55. Iowa/Illinois Transit Consortium bus safety and security	1.000	1.000
56. Ithaca, NY TCAT bus technology improvements	1.250	1.250
57. Lackawanna County, PA Transit System buses	0.600	0.600
58. Lakeland, FL Citrus Connection transit vehicles and related equipment	1.250	1.250
59. Lane County, OR Bus Rapid Transit	4.400	4.400
60. Lansing, MI CATA bus technology improvements	0.600	0.000
61. Little Rock, AR Central Arkansas Transit buses	0.300	0.300
62. Livermore, CA automatic vehicle locator	1.000	1.000
63. Long Island, NY CNG transit vehicles and facilities	1.250	1.250
64. Los Angeles County, CA Foothill Transit buses	1.625	1.250
65. New York, NY West 72nd St. Intermodal Station	1.750	1.750
66. Los Angeles, CA San Fernando Valley smart shuttle buses	0.300	0.000
67. Los Angeles, CA Union Station Gateway Intermodal Transit Center	1.250	1.250
68. Maryland statewide bus facilities and buses	7.000	11.500
69. Rensslear, NY Rensslear Intermodal Bus Facility	1.000	6.000
70. Mercer County, PA buses	0.750	0.000
71. Miami Beach, FL Electric Shuttle Service	0.750	0.750
72. Miami-Dade, FL buses	2.250	2.250
73. Michigan statewide buses	10.000	13.500
74. Milwaukee County, WI buses	4.000	6.000
75. Mineola/Hicksville, NY LIRR Intermodal Centers	1.250	1.250
76. Modesto, CA bus maintenance facility	0.625	0.625
77. Monroe County, PA Transportation Authority buses	1.000	0.000
78. Monterey, CA Monterey-Salinas buses	0.625	0.625
79. Morongo Basin, CA Transit Authority bus facility	0.650	0.000
80. New Haven, CT bus facility	2.250	2.250
81. New Jersey Transit jitney shuttle buses	1.750	1.750
82. Newark, NJ Morris & Essex Station access and buses	1.250	1.250
83. Northstar Corridor, MN Intermodal Facilities and buses	6.000	10.000
84. Norwich, CT buses	2.250	2.250
85. Ogden, UT Intermodal Center	0.800	0.800
86. Oklahoma statewide bus facilities and buses	5.000	5.000
87. Orlando, FL Downtown Intermodal Facility	2.500	2.500
88. Providence, RI buses and bus maintenance facility	2.250	3.294
89. Perris, CA bus maintenance facility	1.250	1.250
90. Philadelphia, PA Frankford Transportation Center	5.000	5.000
91. Philadelphia, PA Intermodal 30th Street Station	1.250	1.250
92. Portland, OR Tri-Met buses	1.750	1.750
93. Pritchard, AL bus transfer facility	0.500	0.000
94. Reading, PA BARTA Intermodal Transportation Facility	1.750	1.750
95. Red Rose, PA Transit Bus Terminal	1.000	0.000
96. Richmond, VA GRTC bus maintenance facility	1.250	1.250
97. Riverhead, NY elderly and disabled buses and vans	0.125	0.000
98. Robinson, PA Towne Center Intermodal Facility	1.500	1.500
99. Rome, NY Intermodal Center	0.400	0.000
100. Sacramento, CA CNG buses	1.250	1.250
101. San Francisco, CA Islais Creek Maintenance Facility	1.250	1.250

Project	FY 1999 (in millions)	FY 2000 (in millions)
102. San Juan, Puerto Rico Intermodal access	0.600	0.600
103. Santa Clarita, CA facilities and buses	1.250	1.250
104. Santa Cruz, CA bus facility	0.625	0.625
105. Santa Rosa/Cotati, CA Intermodal Transportation Facilities	0.750	0.750
106. Seattle, WA Intermodal Transportation Terminal	1.250	1.250
107. Shelter Island, NY elderly and disabled buses and vans	0.100	0.000
108. Smithtown, NY elderly and disabled buses and vans	0.125	0.000
109. Somerset County, PA bus facilities and buses	0.175	0.175
110. South Amboy, NJ Regional Intermodal Transportation Initiative	1.250	1.250
111. South Bend, IN Urban Intermodal Transportation Facility	1.250	1.250
112. South Carolina statewide Virtual Transit Enterprise	1.220	1.220
113. South Dakota statewide bus facilities and buses	1.500	1.500
114. Southampton, NY elderly and disabled buses and vans	0.125	0.000
115. Southold, NY elderly and disabled buses and vans	0.100	0.000
116. Springfield, MA Union Station	1.250	1.250
117. St. Louis, MO Bi-state Intermodal Center	1.250	1.250
118. Denver, CO Stapleton Intermodal Center	1.250	1.250
119. Suffolk County, NY elderly and disabled buses and vans	0.100	0.000
120. Texas statewide small urban and rural buses	4.000	4.500
121. Towamencin Township, PA Intermodal Bus Transportation Center	1.500	1.500
122. Tuscaloosa, AL Intermodal Center	1.000	0.000
123. Ukiah, CA Transportation Center	0.500	0.000
124. Utah Transit Authority, UT Intermodal Facilities	1.500	1.500
125. Utah Transit Authority/Park City Transit, UT buses	6.500	6.500
126. Utica, NY Union Station	2.100	2.100
127. Utica and Rome, NY bus facilities and buses	0.500	0.000
128. Washington County, PA Intermodal Facilities	0.630	0.630
129. Washington, D.C. Intermodal Transportation Center	2.500	2.500
130. Washoe County, NV transit improvements	2.250	2.250
131. Waterbury, CT bus facility	2.250	2.250
132. West Virginia statewide Intermodal Facility and buses	5.000	5.000
133. Westchester County, NY Bee-Line transit system fareboxes	0.979	0.979
134. Westchester County, NY Bee-Line transit system shuttle buses	1.000	1.000
135. Westchester County, NY DOT articulated buses	1.250	1.250
136. Westmoreland County, PA Intermodal Facility	0.200	0.200
137. Wilkes-Barre, PA Intermodal Facility	1.250	1.250
138. Williamsport, PA Bus Facility	1.200	1.200
139. Windsor, CA Intermodal Facility	0.750	0.750
140. Wisconsin statewide bus facilities and buses	8.000	12.000
141. Woodland Hills, CA Warner Center Transportation Hub	0.325	0.625
142. Worcester, MA Union Station Intermodal Transportation Center	2.500	2.500
143. Lynchburg, VA buses	0.200	0.000
144. Harrisonburg, VA buses	0.200	0.000
145. Roanoke, VA buses	0.200	0.000
146. Allegheny County, PA buses	0.000	1.500
147. Mount Vernon, WA Multimodal Center	1.750	1.750
148. New Bedford/Fall River, MA Mobile Access to health care	0.250	0.000
149. Philadelphia, PA Regional Transportation System for Elderly and Disabled	0.750	0.000
150. Clark County, NV Regional Transportation Commission	1.250	1.250

(b) GENERAL FUND AUTHORIZATION.—Of the amounts authorized to be appropriated to carry out section 5309(m)(1)(C) of title 49, United States Code, for each of fiscal years 1999 and 2000, there are authorized to be appropriated for the following projects:

Project	FY 1999 (in millions)	FY 2000 (in millions)
1. Everett, WA Multimodal Transportation Center	1.000	1.000
2. Rennslear, NY Rennslear Intermodal Bus Facility	4.000	0.000
3. Rochester, NY Rochester Central Bus Facility	12.500	12.500
4. Long Beach, NY Long Beach Central Bus Facility	0.750	0.750
5. Broome County, NY Buses and Related Equipment	2.700	2.700
6. Long Island, NY CNG Transit Vehicles and Facilities	3.050	3.050

SEC. 3032. CONTRACTING OUT STUDY.

(a) STUDY.—Not later than 3 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the Transportation Research Board of the National Academy of Sciences to conduct a study of the effect of contracting out mass transportation operation administrative functions on cost, availability and level of service, efficiency, safety, quality of services provided to transit-dependent populations, and employer-employee relations.

(b) TERMS OF AGREEMENT.—The agreement entered into in subsection (a) shall provide that—

(1) the Transportation Research Board, in conducting the study, consider the number of grant recipients that have contracted out services, the size of the population served by such grant recipients, the basis for decisions regarding contracting out, and the extent to which contracting out was affected by the integration and coordination of resources of transit agencies and other Federal agencies and programs; and

(2) the panel conducting the study shall include representatives of transit agencies, employees of transit agencies, private contractors, academic and policy analysts, and other interested persons.

(c) REPORT.—Not later than 24 months after the date of entry into the agreement under subsection (a), the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the results of the study.

(d) FUNDING.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out this section $250,000 for fiscal year 1998.

(e) CONTRACTUAL OBLIGATION.—Entry into an agreement to carry out this section that is financed with amounts made available under subsection (c) is a contractual obligation of the United States to pay the Government's share of the cost of the study.

SEC. 3033. URBANIZED AREA FORMULA STUDY.

(a) STUDY.—The Secretary shall conduct a study to determine whether the formula for apportioning funds to urbanized areas under section 5336 of title 49, United States Code, accurately reflects the transit needs of the urbanized areas and, if not, whether any changes should be made either to the formula or through some other mechanism to reflect the fact that some urbanized areas with a population between 50,000 and 200,000 have transit systems that carry more passengers per mile or hour than the average of those transit systems in urbanized areas with a population over 200,000.

(b) REPORT.—Not later than December 31, 1999, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study conducted under this section, together with any proposed changes to the method for apportioning funds to urbanized areas with a population over 50,000.

SEC. 3034. COORDINATED TRANSPORTATION SERVICES.

(a) STUDY.—The Comptroller General shall conduct a study of Federal departments and agencies (other than the Department of Transportation) that receive Federal financial assistance for non-emergency transportation services.

(b) CONTENTS.—In conducting the study, the Comptroller General shall—

(1) identify each Federal department and agency (other than the Department of Transportation) that has received Federal financial assistance for non-emergency transportation services in any of the 3 fiscal years preceding the date of enactment of this Act;

(2) identify the amount of such assistance received by each Federal department and agency in such fiscal years; and

(3) identify the projects and activities funded using such financial assistance.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the results of the study and any recommendations for enhanced coordination between the Department of Transportation and other Federal departments and agencies that provide funding for non-emergency transportation.

SEC. 3035. FINAL ASSEMBLY OF BUSES.

(a) IN GENERAL.—All buses manufactured on or after September 1, 1999, that are purchased with Federal funds by recipients of assistance from the Federal Transit Administration shall conform with the Federal Transit Administration Guidance on Buy America Requirements, dated March 18, 1997.

(b) RULE OF CONSTRUCTION.—For purposes of this section, a bus shall be considered to be manufactured on or after September 1, 1999, if the manufacturing process for that bus is not completed on or before August 31, 1999.

SEC. 3036. CLEAN FUEL VEHICLES.

(a) STUDY.—The Comptroller General shall conduct a study of the various low and zero emission fuel technologies for transit vehicles, including compressed natural gas, liquefied natural gas, biodiesel fuel, battery, alcohol based fuel, hybrid electric, fuel cell, and clean diesel to determine—

(1) the status of the development and use of such technologies;

(2) the environmental benefits of such technologies under the Clean Air Act; and

(3) the cost of such technologies and any associated equipment.

(b) REPORT.—Not later than January 1, 2000, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a report on the results of the study, together with recommendations for incentives to encourage the use of low and zero emission fuel technology for transit vehicles.

SEC. 3037. JOB ACCESS AND REVERSE COMMUTE GRANTS.

(a) FINDINGS.—Congress finds that—

(1) two-thirds of all new jobs are in the suburbs, whereas three-quarters of welfare recipients live in rural areas or central cities;

(2) even in metropolitan areas with excellent public transit systems, less than half of the jobs are accessible by transit;

(3) in 1991, the median price of a new car was equivalent to 25 weeks of salary for the average worker, and considerably more for the low-income worker;

(4) not less than 9,000,000 households and 10,000,000 Americans of driving age, most of whom are low-income-workers, do not own cars;

(5) 94 percent of welfare recipients do not own cars;

(6) nearly 40 percent of workers with annual incomes below $10,000 do not commute by car;

(7) many of the 2,000,000 Americans who will have their Temporary Assistance to Needy Families grants (under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) terminated by the year 2002 will be unable to get to jobs they could otherwise hold;

(8) increasing the transit options for low-income workers, especially those who are receiving or who have recently received welfare benefits, will increase the likelihood of those workers getting and keeping jobs; and

(9) many residents of cities and rural areas would like to take advantage of mass transit to gain access to suburban employment opportunities.

(b) DEFINITIONS.—In this section, the following definitions shall apply:

(1) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term "eligible low-income individual" means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

(2) ELIGIBLE PROJECT AND RELATED TERMS.—

(A) IN GENERAL.—The term "eligible project" means an access to jobs project or a reverse commute project.

(B) ACCESS TO JOBS PROJECT.—The term "access to jobs project" means a project relating to the development of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment. The Secretary may make access to jobs grants for—

(i) capital projects and to finance operating costs of equipment, facilities, and associated capital maintenance items related to providing access to jobs under this section;

(ii) promoting the use of transit by workers with nontraditional work schedules;

(iii) promoting the use by appropriate agencies of transit vouchers for welfare recipients and eligible low-income individuals under specific terms and conditions developed by the Secretary; and

(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986.

(C) REVERSE COMMUTE PROJECT.—The term "reverse commute project" means a project related to the development of transportation services designed to transport residents of urban areas, urbanized areas, and areas other than urbanized areas to suburban employment opportunities, including any project to—

(i) subsidize the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urban areas, urbanized areas, and areas other than urbanized areas, to suburban workplaces;

(ii) subsidize the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace; or

(iii) otherwise facilitate the provision of mass transportation services to suburban employment opportunities.

(3) EXISTING TRANSPORTATION SERVICE PROVIDERS.—The term "existing transportation service providers" means mass transportation operators and governmental agencies and nonprofit organizations that receive assistance from Federal, State, or local sources for nonemergency transportation services.

(4) QUALIFIED ENTITY.—The term "qualified entity" means—

(A) with respect to any proposed eligible project in an urbanized area with a population of at least 200,000, the applicant or applicants selected by the appropriate metropolitan planning organization that meets the requirements of this section, including the planning and coordination requirements in subsection (i), from among local governmental authorities and agencies and nonprofit organizations; and

(B) with respect to any proposed eligible project in an urbanized area with a population of at least 200,000, or an area other than an urbanized area, the applicant or applicants selected by the chief executive officer of the State in which the area is located that meets the requirements of this section, including the planning and coordination requirements in subsection (i), from among local governmental authorities and nonprofit organizations.

(5) WELFARE RECIPIENT.—The term "welfare recipient" means an individual who receives or received aid or assistance under a State program funded under part A of title IV of the Social Security Act (whether in effect before or after the effective date of the amendments made by title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2110)) at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

(c) GENERAL AUTHORITY.—

(1) IN GENERAL.—The Secretary may make access to jobs grants and reverse commute grants under this section to assist qualified entities in financing eligible projects.

(2) COORDINATION.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

(d) APPLICATIONS.—Each qualified entity seeking to receive a grant under this section for an eligible project shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.

(e) PROHIBITION.—Grants awarded under this section may not be used for planning or coordination activities.

(f) FACTORS FOR CONSIDERATION.—In awarding grants under this section to applicants under subsection (d), the Secretary shall consider—

(1) the percentage of the population in the area to be served by the applicant that are welfare recipients;

(2) in the case of an applicant seeking assistance to finance an access to jobs project, the need for additional services in the area to be served by the applicant (including bicycling) to transport welfare recipients and eligible low-income individuals to and from specified jobs, training, and other employment support services, and the extent to which the proposed services will address those needs;

(3) the extent to which the applicant demonstrates—

(A) coordination with, and the financial commitment of, existing transportation service providers; and

(B) coordination with the State agency that administers the State program funded under part A of title IV of the Social Security Act;

(4) the extent to which the applicant demonstrates maximum utilization of existing transportation service providers and expands transit networks or hours of service, or both;

(5) the extent to which the applicant demonstrates an innovative approach that is responsive to identified service needs;

(6) the extent to which the applicant—

(A) in the case of an applicant seeking assistance to finance an access to jobs project, presents a regional transportation plan for addressing the transportation needs of welfare recipients and eligible low-income individuals; and

(B) identifies long-term financing strategies to support the services under this section;

(7) the extent to which the applicant demonstrates that the community to be served has been consulted in the planning process; and

(8) in the case of an applicant seeking assistance to finance a reverse commute project, the need for additional services identified in a regional transportation plan to transport individuals to suburban employment opportunities, and the extent to which the proposed services will address those needs.

(g) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

(h) COST SHARING.—

(1) MAXIMUM AMOUNT.—The amount of a grant under this section may not exceed 50 percent of the total project cost.

(2) NONGOVERNMENTAL SHARE.—

(A) IN GENERAL.—The portion of the total cost of an eligible project that is not funded under this section—

(i) shall be provided in cash from sources other than revenues from providing mass transportation, but may include amounts received under a service agreement; and

(ii) may be derived from amounts appropriated to or made available to a department or agency of the Federal Government (other than the Department of Transportation) that are eligible to be expended for transportation.

(B) INAPPLICABILITY.—For purposes of subparagraph (A)(ii), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(ii) of the Social Security Act shall not apply to Federal or State funds to be used for transportation services.

(i) PLANNING REQUIREMENTS.—

(1) IN GENERAL.—The requirements of sections 5303 through 5306 of title 49, United States Code, apply to any grant made under this section.

(2) COORDINATION.—Each application for a grant under this section shall reflect coordination with and the approval of affected transit grant recipients. The eligible access to jobs projects financed under this section shall be part of a coordinated public transit-human services transportation planning process.

(j) GRANT REQUIREMENTS.—A grant under this section shall be subject to—

(1) all of the terms and conditions to which a grant made under section 5307 of title 49, United States Code, is subject; and

(2) such other terms and conditions as are determined by the Secretary.

(k) PROGRAM EVALUATION.—

(1) COMPTROLLER GENERAL.—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, the Comptroller General of the United States shall—

(A) conduct a study to evaluate the grant program authorized under this section; and

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of each study under subparagraph (A).

(2) DEPARTMENT OF TRANSPORTATION.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(A) conduct a study to evaluate the access to jobs grant program authorized under this section; and

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).

(l) AUTHORIZATION AND ALLOCATION.—

(1) IN GENERAL.—

(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out this section—

(i) $40,000,000 for fiscal year 1999;

(ii) $60,000,000 for fiscal year 2000;

(iii) $80,000,000 for fiscal year 2001;

(iv) $100,000,000 for fiscal year 2002; and

(v) $120,000,000 for fiscal year 2003.

(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out this section—

(i) $10,000,000 for fiscal year 1999;

(ii) $15,000,000 for fiscal year 2000;

(iii) $20,000,000 for fiscal year 2001;

(iv) $25,000,000 for fiscal year 2002; and

(v) $30,000,000 for fiscal year 2003.

(C) ADDITIONAL AMOUNTS FROM THE GENERAL FUND.—In addition to amounts made available under subparagraphs (A) and (B), there are authorized to be appropriated to carry out this section—

(i) $100,000,000 for fiscal year 1999;

(ii) $75,000,000 for fiscal year 2000;

(iii) $50,000,000 for fiscal year 2001; and

(iv) $25,000,000 for fiscal year 2002.

(2) SET-ASIDE FOR REVERSE COMMUTE PROJECTS.—Of amounts made available by or appropriated under subparagraphs (A) and (B) of paragraph (1) to carry out this section in each fiscal year, not more than $10,000,000 shall be used for grants for reverse commute projects.

(3) ALLOCATION.—The amounts made available by or appropriated under paragraph (1) to carry out this section in each fiscal year shall be allocated as follows:

(A) 60 percent shall be allocated for eligible projects in urbanized areas with populations of at least 200,000.

(B) 20 percent shall be allocated for eligible projects in urbanized areas with populations of at least 200,000.

(C) 20 percent shall be allocated for eligible projects in areas other than urbanized areas.

SEC. 3038. RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) INTERCITY, FIXED-ROUTE OVER-THE-ROAD BUS SERVICE.—The term "intercity, fixed-route over-the-road bus service" means regularly scheduled bus service for the general public, using an over-the-road bus, that—

(A) operates with limited stops over fixed routes connecting 2 or more urban areas not in close proximity;

(B) has the capacity for transporting baggage carried by passengers; and

(C) makes meaningful connections with scheduled intercity bus service to more distant points.

(2) OTHER OVER-THE-ROAD BUS SERVICE.—The term "other over-the-road bus service" means any other transportation using over-the-road buses including local fixed-route service, commuter service, and charter or tour service (including tour or excursion service that includes features in addition to bus transportation such as meals, lodging, admission to points of interest or special attractions or the services of a tour guide).

(3) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(b) GENERAL AUTHORITY.—The Secretary shall make grants under this section to operators of over-the-road buses to finance the incremental capital and training costs of complying with the Department of Transportation's final rule regarding accessibility of over-the-road buses required by section 306(a)(2)(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12186(a)(2)(B)).

(c) GRANT CRITERIA.—In selecting applicants for grants under this section, the Secretary shall consider—

(1) the identified need for over-the-road bus accessibility for persons with disabilities in the areas served by the applicant;

(2) the extent to which the applicant demonstrates innovative strategies and financial commitment to providing access to over-the-road buses to persons with disabilities;

(3) the extent to which the over-the-road bus operator acquires equipment required by the final rule prior to any required timeframe in the final rule;

(4) the extent to which financing the costs of complying with the Department of Transportation's final rule regarding accessibility of over-the-road buses presents a financial hardship for the applicant; and

(5) the impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of the requirements on service to rural areas and for low-income individuals.

(d) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

(e) FEDERAL SHARE OF COSTS.—The Federal share of costs under this section shall be provided from funds made available to carry out this section. The Federal share of the costs for a project shall not exceed 50 percent of the project cost.

(f) GRANT REQUIREMENTS.—A grant under this section shall be subject to all of the terms and conditions applicable to subrecipients who provide intercity bus transportation under section 5311(f) of title 49, United States Code, and such other terms and conditions as the Secretary may prescribe.

(g) FUNDING.—

(1) INTERCITY, FIXED-ROUTE OVER-THE-ROAD BUS SERVICE.—Of amounts made available by or appropriated under section 5338(a)(2) of title 49, United States Code, (before allocation under section 5338(a)(2)(C) of that title) the following amounts shall be available for operators of intercity, fixed-route over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses:

(A) $2,000,000 for fiscal year 1999.

(B) $2,000,000 for fiscal year 2000.

(C) $3,000,000 for fiscal year 2001.

(D) $5,250,000 for fiscal year 2002.

(E) $5,250,000 for fiscal year 2003.

(2) OTHER OVER-THE-ROAD BUS SERVICE.—Of amounts made available by or appropriated under section 5338(a)(2) of title 49, United States Code, (before allocation under section 5338(a)(2)(C) of that title) $6,800,000 shall be available for each of fiscal years 2000 through 2003 for operators of other over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses.

SEC. 3039. STUDY OF TRANSIT NEEDS IN NATIONAL PARKS AND RELATED PUBLIC LANDS.

(a) PURPOSES.—The purposes of this section are to encourage and promote the development of transportation systems for the betterment of the national parks and other units of the National Park System, national wildlife refuges, recreational areas, and other public lands in order to conserve natural, historical, and cultural resources and prevent adverse impact, relieve congestion, minimize transportation fuel consumption, reduce pollution (including noise and visual pollution), and enhance visitor mobility and accessibility and the visitor experience.

(b) STUDY.—

(1) IN GENERAL.—The Secretary, in coordination with the Secretary of the Interior, shall undertake a comprehensive study of alternative transportation needs in national parks and related public lands managed by Federal land management agencies in order to carry out the purposes described in subsection (a). The study shall be submitted to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than January 1, 2000.

(2) STUDY ELEMENTS.—The study required by paragraph (1) shall—

(A) identify transportation strategies that improve the management of the national parks and related public lands;

(B) identify national parks and related public lands with existing and potential problems of adverse impact, high congestion, and pollution, or which can benefit from alternative transportation modes;

(C) assess the feasibility of alternative transportation modes; and

(D) identify and estimate the costs of alternative transportation modes for each of the national parks and related public lands referred to in paragraph (1).

SEC. 3040. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (f) of section 5338 of title 49, United States Code, and subparagraphs (A) and (B) of section 3037(l)(1) of this Act, shall not exceed—

(1) $5,315,000,000 in fiscal year 1999;

(2) $5,798,000,000 in fiscal year 2000;

(3) $6,271,000,000 in fiscal year 2001;

(4) $6,746,000,000 in fiscal year 2002; and

(5) $7,226,000,000 in fiscal year 2003.

SEC. 3041. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 1997.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall ensure that the total apportionments and allocations made to a designated grant recipient under section 5338 of title 49, United States Code, for fiscal year 1998 shall be reduced by the amount apportioned to such designated recipient pursuant to section 8 of the Surface Transportation Extension Act of 1997 (111 Stat. 2559).

(b) FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned to each urbanized area for fixed guideway modernization for fiscal year 1998 to reflect the method for apportioning funds in section 5337(a) of title 49, United States Code.

TITLE IV—MOTOR CARRIER SAFETY

SEC. 4001. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 4002. STATEMENT OF PURPOSES.

(a) IN GENERAL.—Chapter 311 is amended by inserting before section 31101 the following:

"§ 31100. Purpose

"The purpose of this subchapter is to ensure that the Secretary, States, and other political jurisdictions work in partnership to establish programs to improve motor carrier, commercial *motor vehicle, and driver safety to support a safe and efficient transportation system by—*

"(1) focusing resources on strategic safety investments to promote safe for-hire and private transportation, including transportation of passengers and hazardous materials, to identify high-risk carriers and drivers, and to invest in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes;

"(2) increasing administrative flexibility and developing and enforcing effective, compatible, and cost-beneficial motor carrier, commercial motor vehicle, and driver safety regulations and practices, including improving enforcement of State and local traffic safety laws and regulations;

"(3) assessing and improving statewide program performance by setting program outcome goals, improving problem identification and countermeasures planning, designing appropriate performance standards, measures, and benchmarks, improving performance information and analysis systems, and monitoring program effectiveness;

"(4) ensuring that drivers of commercial motor vehicles and enforcement personnel obtain adequate training in safe operational practices and regulatory requirements; and

"(5) advancing promising technologies and encouraging adoption of safe operational practices.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by inserting before the item relating to section 31101 the following:

"31100. Purpose.".

SEC. 4003. STATE GRANTS.

(a) DEFINITIONS.—Section 31101 is amended—

(1) in paragraph (1)(A)—

(A) by inserting "or gross vehicle weight" after "rating"; and

(B) by striking "10,000 pounds" and inserting "10,001 pounds, whichever is greater"; and

(2) in paragraph (1)(C) by inserting "and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103" after "title".

(b) PERFORMANCE-BASED GRANTS AND HAZARDOUS MATERIALS TRANSPORTATION SAFETY.—Section 31102 is amended—

(1) in subsection (a)—

(A) by inserting "improving motor carrier safety and" after "programs for"; and

(B) by inserting ", hazardous materials transportation safety," after "commercial motor vehicle safety"; and

(2) in the first sentence of paragraph (b)(1)—

(A) by striking "adopt and assume responsibility for enforcing" and inserting "assume responsibility for improving motor carrier safety and to adopt and enforce"; and

(B) by inserting ", hazardous materials transportation safety," after "commercial motor vehicle safety".

(c) CONTENTS OF STATE PLANS.—Section 31102(b)(1) is amended—

(1) in subparagraph (J) by inserting "(1)" after "(c)";

(2) by striking subparagraphs (K), (L), and (M) and inserting the following:

"(K) ensures that the State agency will coordinate the plan, data collection, and information systems with State highway safety programs under title 23;

"(L) ensures participation in SAFETYNET and other information systems by all appropriate jurisdictions receiving funding under this section;

"(M) ensures that information is exchanged among the States in a timely manner;";

(3) in subparagraph (O)—

(A) by inserting after "activities" the following: "in support of national priorities and performance goals, including";

(B) by striking "to remove" in clause (i) and inserting "activities aimed at removing";

(C) by striking "to provide" in clause (ii) and inserting "activities aimed at providing";

(D) by inserting "and" after the semicolon at the end of clause (ii); and

(E) by striking clauses (iii) and (iv) and inserting the following:

"(iii) interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out those interdiction activities;";

(4) by striking subparagraph (P) and inserting the following:

"(P) provides that the State will establish a program to ensure the proper and timely correction of commercial motor vehicle safety violations noted during an inspection carried out with funds authorized under section 31104;";

(5) in subparagraph (Q)—

(A) by striking "31140 and 31146" and inserting "31138 and 31139"; and

(B) by striking the period at the end and inserting a semicolon;

(6) by redesignating subparagraphs (A) through (Q) as subparagraphs (B) through (R), respectively;

(7) by inserting before subparagraph (B) (as redesignated by paragraph (6) of this subsection) the following:

"(A) implements performance-based activities by fiscal year 2000;"; and

(8) by adding at the end the following:

"(S) ensures consistent, effective, and reasonable sanctions; and

"(T) ensures that roadside inspections will be conducted at a location that is adequate to protect the safety of drivers and enforcement personnel.".

(d) FEDERAL SHARE.—Section 31103 is amended—

(1) by inserting "(a) COMMERCIAL MOTOR VEHICLE SAFETY PROGRAMS AND ENFORCEMENT.—" before "The Secretary of Transportation";

(2) by inserting "improve commercial motor vehicle safety and" before "enforce"; and

(3) by adding at the end the following:

"(b) OTHER ACTIVITIES.—The Secretary may reimburse State agencies, local governments, or other persons up to 100 percent for public education activities authorized by section 31104(f)(2).".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 31104(a) is amended to read as follows:

"(a) IN GENERAL.—The following amounts are made available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to incur obligations to carry out section 31102:

"(1) Not more than $79,000,000 for fiscal year 1998.

"(2) Not more than $90,000,000 for fiscal year 1999.

"(3) Not more than $95,000,000 for fiscal year 2000.

"(4) Not more than $100,000,000 for fiscal year 2001.

"(5) Not more than $105,000,000 for fiscal year 2002.

"(6) Not more than $110,000,000 for fiscal year 2003.".

(f) CONFORMING AMENDMENT.—Section 31104(b) is amended by striking "(1)" and by striking paragraph (2).

(g) ALLOCATION CRITERIA AND ELIGIBILITY.—Section 31104 is further amended—

(1) by striking subsections (f) and (g) and inserting the following:

"(f) ALLOCATION CRITERIA AND ELIGIBILITY.—

"(1) IN GENERAL.—On October 1 of each fiscal year or as soon after that date as practicable and after making the deduction under subsection (e), the Secretary shall allocate amounts made available to carry out section 31102 for such fiscal year among the States with plans approved under section 31102. Such allocation shall be made under such criteria as the Secretary prescribes by regulation.

"(2) HIGH-PRIORITY AND BORDER ACTIVITIES.—

"(A) HIGH-PRIORITY ACTIVITIES AND PROJECTS.—The Secretary may designate up to 5 percent of amounts available for allocation under paragraph (1) for States, local governments, and other persons for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that are national in scope, increase public awareness and education, or demonstrate new technologies. The amounts designated under this subparagraph shall be allocated by the Secretary to State agencies, local governments, and other persons that use and train qualified officers and employees in coordination with State motor vehicle safety agencies.

"(B) BORDER COMMERCIAL MOTOR VEHICLE SAFETY AND ENFORCEMENT PROGRAMS.—The Secretary may designate up to 5 percent of amounts available for allocation under paragraph (1) for States, local governments, and other persons for carrying out border commercial motor vehicle safety programs and enforcement activities and projects. The amounts designated under this subparagraph shall be allocated by the Secretary to State agencies, local governments, and other persons that use and train qualified officers and employees in coordination with State motor vehicle safety agencies.";

(2) by redesignating subsection (h) as subsection (g);

(3) by striking subsection (i); and

(4) by redesignating subsection (j) as subsection (h).

(h) SAVINGS CLAUSE.—Amendments made by this section shall not affect any funds made available before the date of enactment of this Act.

SEC. 4004. INFORMATION SYSTEMS.

(a) IN GENERAL.—Section 31106 is amended to read as follows:

"§31106. Information systems

"(a) INFORMATION SYSTEMS AND DATA ANALYSIS.—

"(1) IN GENERAL.—Subject to the provisions of this section, the Secretary shall establish and operate motor carrier, commercial motor vehicle, and driver information systems and data analysis programs to support safety regulatory and enforcement activities required under this title.

"(2) NETWORK COORDINATION.—In cooperation with the States, the information systems under this section shall be coordinated into a network providing accurate identification of motor carriers and drivers, commercial motor vehicle registration and license tracking, and motor carrier, commercial motor vehicle, and driver safety performance data.

"(3) DATA ANALYSIS CAPACITY AND PROGRAMS.—The Secretary shall develop and maintain under this section data analysis capacity and programs that provide the means to—

"(A) identify and collect necessary motor carrier, commercial motor vehicle, and driver data;

"(B) evaluate the safety fitness of motor carriers and drivers;

"(C) develop strategies to mitigate safety problems and to use data analysis to address and measure the effectiveness of such strategies and related programs;

"(D) determine the cost-effectiveness of Federal and State safety compliance and enforcement programs and other countermeasures; and

"(E) adapt, improve, and incorporate other information and information systems as the Secretary determines appropriate.

"(4) STANDARDS.—To implement this section, the Secretary shall prescribe technical and operational standards to ensure—

"(A) uniform, timely, and accurate information collection and reporting by the States and other entities as determined appropriate by the Secretary;

"(B) uniform Federal, State, and local policies and procedures necessary to operate the information system; and

"(C) the reliability and availability of the information to the Secretary and States.

"(b) Performance and Registration Information Program.—

"(1) Information clearinghouse.—The Secretary shall include, as part of the motor carrier information system authorized by this section, a program to establish and maintain a clearinghouse and repository of information related to State registration and licensing of commercial motor vehicles, the registrants of such vehicles, and the motor carriers operating such vehicles. The clearinghouse and repository may include information on the safety fitness of each of the motor carriers and registrants and other information the Secretary considers appropriate, including information on motor carrier, commercial motor vehicle, and driver safety performance.

"(2) Design.—The program shall link Federal motor carrier safety information systems with State driver and commercial vehicle registration and licensing systems and shall be designed to enable a State to—

"(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

"(B) decide, in cooperation with the Secretary, whether and what types of sanctions or operating limitations to impose on the motor carrier or registrant to ensure safety.

"(3) Conditions for participation.—The Secretary shall require States, as a condition of participation in the program, to—

"(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4); and

"(B) possess or seek authority to impose commercial motor vehicle registration sanctions on the basis of a Federal safety fitness determination.

"(4) Funding.—The Secretary may make available up to 50 percent of the amounts available to carry out this section by section 31107 in each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003 to carry out this subsection. The Secretary is encouraged to direct no less than 80 percent of amounts made available to carry out this subsection to States that have not previously received financial assistance to develop or implement the information systems authorized by this section.

"(c) Commercial Motor Vehicle Driver Safety Program.—In coordination with the information system under section 31309, the Secretary is authorized to establish a program to improve commercial motor vehicle driver safety. The objectives of the program shall include—

"(1) enhancing the exchange of driver licensing information among the States, the Federal Government, and foreign countries;

"(2) providing information to the judicial system on commercial motor vehicle drivers;

"(3) evaluating any aspect of driver performance that the Secretary determines appropriate; and

"(4) developing appropriate strategies and countermeasures to improve driver safety.

"(d) Cooperative Agreements, Grants, and Contracts.—The Secretary may carry out this section either independently or in cooperation with other Federal departments, agencies, and instrumentalities, or by making grants to, and entering into contracts and cooperative agreements with, States, local governments, associations, institutions, corporations, and other persons.

"(e) Information Availability and Privacy Protection Policy.—The Secretary shall develop a policy on making information available from the information systems authorized by this section and section 31309. The policy shall be consistent with existing Federal information laws, including regulations, and shall provide for review and correction of such information in a timely manner.".

(b) Contract Authority Funding.—Section 31107 is amended to read as follows:

"§31107. Contract authority funding for information systems

"(a) Funding.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out sections 31106 and 31309 of this title—

"(1) $6,000,000 for fiscal year 1998;

"(2) $10,000,000 for each of fiscal years 1999 and 2000; and

"(3) $12,000,000 for each of fiscal years 2001 through 2002.

"(4) $15,000,000 for fiscal year 2003.

The amounts made available under this subsection shall remain available until expended.

"(b) Contract Authority.—Approval by the Secretary of a grant with funds made available under this section imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.".

(c) Subchapter Heading.—The heading for subchapter I of chapter 311 is amended by inserting after "GRANTS" the following: "AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS".

(d) Conforming Amendments.—The analysis for chapter 311 is amended—

(1) by striking

"SUBCHAPTER I—STATE GRANTS"

and inserting

"SUBCHAPTER I—STATE GRANTS AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS";

and

(2) by striking the items relating to sections 31106 and 31107 and inserting the following:

"31106. Information systems.
"31107. Contract authority funding for information systems.".

SEC. 4005. AUTOMOBILE TRANSPORTER DEFINED.

Section 31111(a) is amended—

(1) by striking "section—" and inserting "section, the following definitions apply:";

(2) by inserting after "(1)" the following: "Maxi-cube vehicle.—The term";

(3) by inserting after "(2)" the following: "Truck tractor.—The term";

(4) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(5) by inserting before paragraph (2), as so redesignated, the following:

"(1) Automobile transporter.—The term 'automobile transporter' means any vehicle combination designed and used specifically for the transport of assembled highway vehicles, including truck camper units.".

SEC. 4006. INSPECTIONS AND REPORTS.

(a) General Powers of the Secretary.—Section 31133(a)(1) is amended by inserting "and make contracts for" after "conduct".

(b) Reports and Records.—Section 504(c) is amended by inserting "(and, in the case of a motor carrier, a contractor)" after "employee".

SEC. 4007. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.

(a) In General.—Section 31315 is amended to read as follows:

"§31315. Waivers, exemptions, and pilot programs

"(a) Waivers.—The Secretary may grant a waiver that relieves a person from compliance in whole or in part with a regulation issued under this chapter or section 31136 if the Secretary determines that it is in the public interest to grant the waiver and that the waiver is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver—

"(1) for a period not in excess of 3 months;

"(2) limited in scope and circumstances;

"(3) for nonemergency and unique events; and

"(4) subject to such conditions as the Secretary may impose.

"(b) Exemptions.—

"(1) In general.—Upon receipt of a request pursuant to paragraph (3), the Secretary of Transportation may grant to a person or class of persons an exemption from a regulation prescribed under this chapter or section 31136 if the Secretary finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. An exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application to the Secretary.

"(2) Authority to revoke exemption.—The Secretary shall immediately revoke an exemption if—

"(A) the person fails to comply with the terms and conditions of such exemption;

"(B) the exemption has resulted in a lower level of safety than was maintained before the exemption was granted; or

"(C) continuation of the exemption would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

"(3) Requests for exemption.—Not later than 180 days after the date of enactment of this section and after notice and an opportunity for public comment, the Secretary shall specify by regulation the procedures by which a person may request an exemption. Such regulations shall, at a minimum, require the person to provide the following information for each exemption request:

"(A) The provisions from which the person requests exemption.

"(B) The time period during which the requested exemption would apply.

"(C) An analysis of the safety impacts the requested exemption may cause.

"(D) The specific countermeasures the person would undertake to ensure an equivalent or greater level of safety than would be achieved absent the requested exemption.

"(4) Notice and comment.—

"(A) Upon receipt of a request.—Upon receipt of an exemption request, the Secretary shall publish in the Federal Register a notice explaining the request that has been filed and shall give the public an opportunity to inspect the safety analysis and any other relevant information known to the Secretary and to comment on the request. This subparagraph does not require the release of information protected by law from public disclosure.

"(B) Upon granting a request.—Upon granting a request for exemption, the Secretary shall publish in the Federal Register the name of the person granted the exemption, the provisions from which the person will be exempt, the effective period, and all terms and conditions of the exemption.

"(C) After denying a request.—After denying a request for exemption, the Secretary shall publish in the Federal Register the name of the person denied the exemption and the reasons for such denial. The Secretary may meet the requirement of this subparagraph by periodically publishing in the Federal Register the names of

persons denied exemptions and the reasons for such denials.

"(5) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall grant or deny an exemption request after a thorough review of its safety implications, but in no case later than 180 days after the filing date of such request.

"(6) TERMS AND CONDITIONS.—The Secretary shall establish terms and conditions for each exemption to ensure that it will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The Secretary shall monitor the implementation of the exemption to ensure compliance with its terms and conditions.

"(7) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.—Before granting a request for exemption, the Secretary shall notify State safety compliance and enforcement personnel, including roadside inspectors, and the public that a person will be operating pursuant to an exemption and any terms and conditions that will apply to the exemption.

"(c) PILOT PROGRAMS.—

"(1) IN GENERAL.—The Secretary may conduct pilot programs to evaluate alternatives to regulations relating to, or innovative approaches to, motor carrier, commercial motor vehicle, and driver safety. Such pilot programs may include exemptions from a regulation prescribed under this chapter or section 31136 if the pilot program contains, at a minimum, the elements described in paragraph (2). The Secretary shall publish in the Federal Register a detailed description of each pilot program, including the exemptions to be considered, and provide notice and an opportunity for public comment before the effective date of the program.

"(2) PROGRAM ELEMENTS.—In proposing a pilot program and before granting exemptions for purposes of a pilot program, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the regulations prescribed under this chapter or section 31136. The Secretary shall include, at a minimum, the following elements in each pilot program plan:

"(A) A scheduled life of each pilot program of not more than 3 years.

"(B) A specific data collection and safety analysis plan that identifies a method for comparison.

"(C) A reasonable number of participants necessary to yield statistically valid findings.

"(D) An oversight plan to ensure that participants comply with the terms and conditions of participation.

"(E) Adequate countermeasures to protect the health and safety of study participants and the general public.

"(F) A plan to inform State partners and the public about the pilot program and to identify approved participants to safety compliance and enforcement personnel and to the public.

"(3) AUTHORITY TO REVOKE PARTICIPATION.—The Secretary shall immediately revoke participation in a pilot program of a motor carrier, commercial motor vehicle, or driver for failure to comply with the terms and conditions of the pilot program or if continued participation would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

"(4) AUTHORITY TO TERMINATE PROGRAM.—The Secretary shall immediately terminate a pilot program if its continuation would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

"(5) REPORT TO CONGRESS.—At the conclusion of each pilot program, the Secretary shall report to Congress the findings, conclusions, and recommendations of the program, including suggested amendments to laws and regulations that would enhance motor carrier, commercial motor vehicle, and driver safety and improve compliance with national safety standards.

"(d) PREEMPTION OF STATE RULES.—During the time period that a waiver, exemption, or pilot program is in effect under this chapter or section 31136, no State shall enforce any law or regulation that conflicts with or is inconsistent with the waiver, exemption, or pilot program with respect to a person operating under the waiver or exemption or participating in the pilot program.".

(b) CHAPTER ANALYSIS AMENDMENT.—The analysis for chapter 313 is amended by striking the item relating to section 31315 and inserting the following:

"31315. Waivers, exemptions, and pilot programs.".

(c) CONFORMING AMENDMENT.—Section 31136(e) of such title is amended to read as follows:

"(e) EXEMPTIONS.—The Secretary may grant in accordance with section 31315 waivers and exemptions from, or conduct pilot programs with respect to, any regulations prescribed under this section.".

(d) PROTECTION OF EXISTING EXEMPTIONS.—The amendments made by this section shall not apply to or otherwise affect a waiver, exemption, or pilot program in effect on the day before the date of enactment of this Act under chapter 313 or section 31136(e) of title 49, United States Code.

SEC. 4008. SAFETY REGULATION.

(a) COMMERCIAL MOTOR VEHICLE DEFINED.—Section 31132(1) is amended—

(1) in subparagraph (A)—

(A) by inserting "or gross vehicle weight" after "rating"; and

(B) by inserting ", whichever is greater" after "pounds"; and

(2) in subparagraph (B) by striking "passengers" and all that follows through the semicolon at the end and inserting "more than 8 passengers (including the driver) for compensation;".

(b) APPLICATION OF REGULATIONS TO CERTAIN COMMERCIAL MOTOR VEHICLES.—Effective on the last day of the 1-year period beginning on the date of enactment of this Act, regulations prescribed under section 31136 of title 49, United States Code, shall apply to operators of commercial motor vehicles described in section 31132(1)(B) of such title (as amended by subsection (a)) to the extent that those regulations did not apply to those operators on the day before such effective date, except to the extent that the Secretary determines, through a rulemaking proceeding, that it is appropriate to exempt such operators of commercial motor vehicles from the application of those regulations.

(c) REPEAL OF REVIEW PANEL.—Section 31134, and the item relating to such section in the analysis for chapter 311, are repealed.

(d) REPEAL OF SUBMISSION TO REVIEW PANEL.—Section 31140, and the item relating to such section in the analysis for chapter 311, are repealed.

(e) REVIEW PROCEDURE.—Section 31141 is amended—

(1) by striking subsections (b) and (c) and inserting the following:

"(b) SUBMISSION OF REGULATION.—A State receiving funds made available under section 31104 that enacts a State law or issues a regulation on commercial motor vehicle safety shall submit a copy of the law or regulation to the Secretary immediately after the enactment or issuance.

"(c) REVIEW AND DECISIONS BY SECRETARY.—

"(1) REVIEW.—The Secretary shall review State laws and regulations on commercial motor vehicle safety. The Secretary shall decide whether the State law or regulation—

"(A) has the same effect as a regulation prescribed by the Secretary under section 31136;

"(B) is less stringent than such regulation; or

"(C) is additional to or more stringent than such regulation.

"(2) REGULATIONS WITH SAME EFFECT.—If the Secretary decides a State law or regulation has the same effect as a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced.

"(3) LESS STRINGENT REGULATIONS.—If the Secretary decides a State law or regulation is less stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may not be enforced.

"(4) ADDITIONAL OR MORE STRINGENT REGULATIONS.—If the Secretary decides a State law or regulation is additional to or more stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced unless the Secretary also decides that—

"(A) the State law or regulation has no safety benefit;

"(B) the State law or regulation is incompatible with the regulation prescribed by the Secretary; or

"(C) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce.

"(5) CONSIDERATION OF EFFECT ON INTERSTATE COMMERCE.—In deciding under paragraph (4) whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the effect on interstate commerce of implementation of that law or regulation with the implementation of all similar laws and regulations of other States.";

(2) by striking subsection (e); and

(3) by redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively.

(f) INSPECTION OF SAFETY EQUIPMENT.—Section 31142(a) is amended by striking "part 393 of title 49, Code of Federal Regulations" and inserting "the regulations issued under section 31136".

(g) PROTECTION OF STATES PARTICIPATING IN STATE GROUPS.—Section 31142(c)(1)(C) is amended to read as follows:

"(C) prevent a State from participating in the activities of a voluntary group of States enforcing a program for inspection of commercial motor vehicles; or".

SEC. 4009. SAFETY FITNESS.

(a) IN GENERAL.—Section 31144 is amended to read as follows:

"§31144. Safety fitness of owners and operators

"(a) IN GENERAL.—The Secretary shall—

"(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles;

"(2) periodically update such safety fitness determinations;

"(3) make such final safety fitness determinations readily available to the public; and

"(4) prescribe by regulation penalties for violations of this section consistent with section 521.

"(b) PROCEDURE.—The Secretary shall maintain by regulation a procedure for determining the safety fitness of an owner or operator. The procedure shall include, at a minimum, the following elements:

"(1) Specific initial and continuing requirements with which an owner or operator must comply to demonstrate safety fitness.

"(2) A methodology the Secretary will use to determine whether an owner or operator is fit.

"(3) Specific time frames within which the Secretary will determine whether an owner or operator is fit.

"(c) PROHIBITED TRANSPORTATION.—

"(1) IN GENERAL.—Except as provided in sections 521(b)(5)(A) and 5113 and this subsection, an owner or operator who the Secretary determines is not fit may not operate commercial motor vehicles in interstate commerce beginning on the 61st day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

"(2) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—With regard to owners or operators of commercial motor vehicles designed or used to transport passengers, an owner or operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

"(3) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—With regard to owners or operators of commercial motor vehicles designed or used to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under chapter 51, an owner or operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

"(4) SECRETARY'S DISCRETION.—Except for owners or operators described in paragraphs (2) and (3), the Secretary may allow an owner or operator who is not fit to continue operating for an additional 60 days after the 61st day after the date of the Secretary's fitness determination, if the Secretary determines that such owner or operator is making a good faith effort to become fit.

"(d) REVIEW OF FITNESS DETERMINATIONS.—

"(1) IN GENERAL.—Not later than 45 days after an unfit owner or operator requests a review, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

"(2) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—Not later than 30 days after an unfit owner or operator of commercial motor vehicles designed or used to transport passengers requests a review, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

"(3) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—Not later than 30 days after an unfit owner or operator of commercial motor vehicles designed or used to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under chapter 51, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

"(e) PROHIBITED GOVERNMENT USE.—A department, agency, or instrumentality of the United States Government may not use to provide any transportation service an owner or operator who the Secretary has determined is not fit until the Secretary determines such owner or operator is fit.".

(b) CONFORMING AMENDMENT.—Section 5113 is amended by striking subsections (a), (b), (c), and (d) and inserting the following:

"See section 31144.".

SEC. 4010. REPEAL OF CERTAIN OBSOLETE MISCELLANEOUS AUTHORITIES.

Subchapter IV of chapter 311 (including sections 31161 and 31162), and the items relating to such subchapter and sections in the analysis for chapter 311, are repealed.

SEC. 4011. COMMERCIAL VEHICLE OPERATORS.

(a) COMMERCIAL MOTOR VEHICLE DEFINED.—Section 31301(4) is amended—

(1) in subparagraph (A)—

(A) by inserting "or gross vehicle weight" after "rating" the first 2 places it appears; and

(B) by inserting ", whichever is greater," after "pounds" the first place it appears; and

(2) in subparagraph (C)(ii)—

(A) by inserting "is" before "transporting" each place it appears; and

(B) by inserting "is" before "not otherwise".

(b) PROHIBITION ON CMV OPERATION WITHOUT CDL.—

(1) IN GENERAL.—Section 31302 of such title is amended to read as follows:

"§31302. Commercial driver's license requirement

"No individual shall operate a commercial motor vehicle without a valid commercial driver's license issued in accordance with section 31308. An individual operating a commercial motor vehicle may have only one driver's license at any time.".

(2) CONFORMING AMENDMENT.—The item relating to section 31302 in the analysis for chapter 313 is amended to read as follows:

"31302. Commercial driver's license requirement.".

(c) UNIQUE IDENTIFIERS IN CDLS.—

(1) IN GENERAL.—Section 31308(2) is amended by inserting before the semicolon "and each license issued after January 1, 2001, include unique identifiers (which may include biometric identifiers) to minimize fraud and duplication".

(2) DEADLINE FOR ISSUANCE OF REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue regulations to carry out the amendment made by paragraph (1).

(d) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.—Section 31309 of such title is amended—

(1) in subsection (a) by striking "make an agreement under subsection (b) of this section for the operation of, or establish under subsection (c) of this section," and inserting "maintain";

(2) by inserting after the first sentence of subsection (a) the following: "The system shall be coordinated with activities carried out under section 31106.";

(3) by striking subsections (b) and (c);

(4) by striking subsection (d)(2) and inserting the following:

"(2) The information system under this section must accommodate any unique identifiers required to minimize fraud or duplication of a commercial driver's license under section 31308(2).";

(5) by striking subsection (e) and inserting the following:

"(e) AVAILABILITY OF INFORMATION.—Information in the information system shall be made available and subject to review and correction in accordance with the policy developed under section 31106(e).";

(6) in subsection (f) by striking "If the Secretary establishes an information system under this section, the" and inserting "The";

(7) by striking "shall" in the first sentence of subsection (f) and inserting "may"; and

(8) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(e) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311(a) is amended—

(1) in paragraph (15) by striking "section 31310(b)–(e) of this title" and inserting "subsections (b)–(e), (g)(1)(A), and (g)(2) of section 31310";

(2) by striking paragraph (17); and

(3) by redesignating paragraph (18) as paragraph (17).

(f) REPEAL OF OBSOLETE GRANT PROGRAMS.—Sections 31312 and 31313, and the items relating to such sections in the analysis for chapter 313, are repealed.

(g) UPDATING AMENDMENTS.—Section 31314 is amended—

(1) by striking "(2), (5), and (6)" each place it appears in subsections (a) and (b) and inserting "(3), and (5)";

(2) in subsection (c) by striking "(1) Amounts" and all that follows through "(2) Amounts" and inserting "Amounts";

(3) by striking subsection (d); and

(4) by redesignating subsection (e) as subsection (d).

SEC. 4012. EXEMPTION FROM CERTAIN REGULATIONS FOR UTILITY SERVICE COMMERCIAL MOTOR VEHICLE DRIVERS.

(a) IN GENERAL.—Section 31502 is amended by adding at the end the following:

"(e) EXCEPTION.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, regulations issued under this section or section 31136 regarding—

"(A) maximum driving and on-duty times applicable to operators of commercial motor vehicles,

"(B) physical testing, reporting, or recordkeeping, and

"(C) the installation of automatic recording devices associated with establishing the maximum driving and on-duty times referred to in subparagraph (A),

shall not apply to any driver of a utility service vehicle during an emergency period of not more than 30 days declared by an elected State or local government official under paragraph (2) in the area covered by the declaration.

"(2) DECLARATION OF EMERGENCY.—An elected State or local government official or elected officials of more than one State or local government jointly may issue an emergency declaration for purposes of paragraph (1) after notice to the Regional Director of the Federal Highway Administration with jurisdiction over the area covered by the declaration.

"(3) INCIDENT REPORT.—Within 30 days after the end of the declared emergency period the official who issued the emergency declaration shall file with the Regional Director a report of each safety-related incident or accident that occurred during the emergency period involving—

"(A) a utility service vehicle driver to which the declaration applied; or

"(B) a utility service vehicle of the driver to which the declaration applied.

"(4) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) DRIVER OF A UTILITY SERVICE VEHICLE.—The term 'driver of a utility service vehicle' means any driver who is considered to be a driver of a utility service vehicle for purposes of section 345(a)(4) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613).

"(B) UTILITY SERVICE VEHICLE.—The term 'utility service vehicle' has the meaning that term has under section 345(e)(6) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat 614–615).".

(b) CONTINUED APPLICATION OF SAFETY AND MAINTENANCE REQUIREMENTS.—

(1) IN GENERAL.—The amendment made by subsection (a) may not be construed—

(A) to exempt any utility service vehicle from compliance with any applicable provision of law relating to vehicle mechanical safety, maintenance requirements, or inspections; or

(B) to exempt any driver of a utility service vehicle from any applicable provision of law (including any regulation) established for the issuance, maintenance, or periodic renewal of a commercial driver's license for that driver.

(2) DEFINITIONS.—In this subsection, the following definitions apply:

(A) COMMERCIAL DRIVER'S LICENSE.—The term "commercial driver's license" has the meaning that term has under section 31301 of title 49, United States Code.

(B) DRIVER OF A UTILITY SERVICE VEHICLE.—The term "driver of a utility service vehicle" has the meaning that term has under section 31502(e)(2) of such title.

(C) REGULATION.—The term "regulation" has the meaning that term has under section 31132 of such title.

(D) UTILITY SERVICE VEHICLE.—The term "utility service vehicle" has the meaning that term has under section 345(e)(6) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 614–615).

SEC. 4013. PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

Sections 31702, 31703, and 31708, and the items relating to such sections in the analysis for chapter 317, are repealed.

SEC. 4014. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS; LIMITATION ON LIABILITY.

(a) IN GENERAL.—

(1) IN GENERAL.—Chapter 5 is amended by adding at the end the following:

"§ 508. Safety performance history of new drivers; limitation on liability

"(a) LIMITATION ON LIABILITY.—No action or proceeding for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records in accordance with regulations issued by the Secretary may be brought against—

"(1) a motor carrier requesting the safety performance records of an individual under consideration for employment as a commercial motor vehicle driver as required by and in accordance with regulations issued by the Secretary;

"(2) a person who has complied with such a request; or

"(3) the agents or insurers of a person described in paragraph (1) or (2).

"(b) RESTRICTIONS ON APPLICABILITY.—

"(1) MOTOR CARRIER REQUESTING.—Subsection (a) does not apply to a motor carrier requesting safety performance records unless—

"(A) the motor carrier and any agents of the motor carrier have complied with the regulations issued by the Secretary in using the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records;

"(B) the motor carrier and any agents and insurers of the motor carrier have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly involved in deciding whether to hire that individual; and

"(C) the motor carrier has used those records only to assess the safety performance of the individual who is the subject of those records in deciding whether to hire that individual.

"(2) PERSON COMPLYING WITH REQUESTS.—Subsection (a) does not apply to a person complying with a request for safety performance records unless—

"(A) the complying person and any agents of the complying person have taken all precautions reasonably necessary to ensure the accuracy of the records and have complied with the regulations issued by the Secretary in furnishing the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records; and

"(B) the complying person and any agents and insurers of the complying person have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly involved in forwarding the records.

"(3) PERSONS KNOWINGLY FURNISHING FALSE INFORMATION.—Subsection (a) does not apply to persons who knowingly furnish false information.

"(c) PREEMPTION OF STATE AND LOCAL LAW.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary to carry out this section. Notwithstanding any provision of law, written authorization shall not be required to obtain information on the motor vehicle driving record of an individual under consideration for employment with a motor carrier.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 5 is amended by inserting after the item relating to section 507 the following:

"508. Safety performance history of new drivers; limitation on liability.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 31, 1999.

(c) SAFETY PERFORMANCE HISTORY OF NEW DRIVERS.—

(1) MATTERS TO BE INCLUDED.—As part of the rulemaking that the Secretary is conducting under section 114 of the Hazardous Materials Transportation Authorization Act of 1994 (108 Stat. 1677–1678) to amend section 391.23 of title 49, Code of Federal Regulations (or successor regulations thereto), the Secretary shall amend such section 391.23 (in addition to the matters set forth in such section 114) to provide protection for driver privacy and to establish procedures for review, correction, and rebuttal of the safety performance records of a commercial motor vehicle driver.

(2) COMPLETION.—The rulemaking and the amendments referred to in paragraph (1) shall be completed by January 31, 1999.

SEC. 4015. PENALTIES.

(a) NOTIFICATION OF VIOLATIONS AND ENFORCEMENT PROCEDURES.—Section 521(b)(1) is amended—

(1) in the third sentence of subparagraph (A) by striking "fix a reasonable time for abatement of the violation,"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) NONAPPLICABILITY TO REPORTING AND RECORDKEEPING VIOLATIONS.—Subparagraph (A) shall not apply to reporting and recordkeeping violations.".

(b) CIVIL PENALTIES.—Section 521(b)(2) is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act that is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed under this section against an employee for a violation in an amount exceeding $2,500.";

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(3) by inserting after subparagraph (A) the following:

"(B) RECORDKEEPING AND REPORTING VIOLATIONS.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

"(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $500 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $5,000; or

"(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.".

(c) CONFORMING AMENDMENTS.—Section 522 is amended by striking "(a)" and by striking subsection (b).

SEC. 4016. AUTHORITY OVER CHARTER BUS TRANSPORTATION.

Section 14501(a) is amended to read as follows:

"(a) MOTOR CARRIERS OF PASSENGERS.—

"(1) LIMITATION ON STATE LAW.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to

"(A) scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by a motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route;

"(B) the implementation of any change in the rates for such transportation or for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required; or

"(C) the authority to provide intrastate or interstate charter bus transportation.

This paragraph shall not apply to intrastate commuter bus operations.

"(2) MATTERS NOT COVERED.—Paragraph (1) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle, or the authority of a State to regulate carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization.".

SEC. 4017. TELEPHONE HOTLINE FOR REPORTING SAFETY VIOLATIONS.

(a) IN GENERAL.—For a period of not less than 2 years beginning on or before the 90th day following the date of enactment of this Act, the Secretary shall establish, maintain, and promote the use of a nationwide toll-free telephone system to be used by drivers of commercial motor vehicles and others to report potential violations of Federal motor carrier safety regulations.

(b) Monitoring.—The Secretary shall monitor reports received by the telephone system and may consider nonfrivolous information provided by such reports in setting priorities for motor carrier safety audits and other enforcement activities.

(c) Protection of Persons Reporting Violations.—

(1) Prohibition.—A person reporting a potential violation to the telephone system while acting in good faith may not be discharged, disciplined, or discriminated against regarding pay, terms, or privileges of employment because of the reporting of such violation.

(2) Applicability of section 31105 of title 49.—For purposes of section 31105 of title 49, United States Code, a violation or alleged violation of paragraph (1) shall be treated as a violation of section 31105(a) of such title.

(d) Funding.—From amounts set aside under section 104(a) of title 23, United States Code, the Secretary may use not more than $250,000 for each of fiscal years 1999 through 2003 to carry out this section.

SEC. 4018. INSULIN TREATED DIABETES MELLITUS.

(a) Determination.—Not later than 18 months after the date of enactment of this Act, the Secretary shall determine whether a practicable and cost-effective screening, operating, and monitoring protocol could likely be developed for insulin treated diabetes mellitus individuals who want to operate commercial motor vehicles in interstate commerce that would ensure a level of safety equal to or greater than that achieved with the current prohibition on individuals with insulin treated diabetes mellitus driving such vehicles.

(b) Compilation and Evaluation.—Prior to making the determination in subsection (a), the Secretary shall compile and evaluate research and other information on the effects of insulin treated diabetes mellitus on driving performance. In preparing the compilation and evaluation, the Secretary shall, at a minimum—

(1) consult with States that have developed and are implementing a screening process to identify individuals with insulin treated diabetes mellitus who may obtain waivers to drive commercial motor vehicles in intrastate commerce;

(2) evaluate the Department's policy and actions to permit certain insulin treated diabetes mellitus individuals who meet selection criteria and who successfully comply with the approved monitoring protocol to operate in other modes of transportation;

(3) assess the possible legal consequences of permitting insulin treated diabetes mellitus individuals to drive commercial motor vehicles in interstate commerce;

(4) analyze available data on the safety performance of diabetic drivers of motor vehicles;

(5) assess the relevance of intrastate driving and experiences of other modes of transportation to interstate commercial motor vehicle operations; and

(6) consult with interested groups knowledgeable about diabetes and related issues.

(c) Report to Congress.—If the Secretary determines that no protocol described in subsection (a) could likely be developed, the Secretary shall report to Congress the basis for such determination.

(d) Initiation of Rulemaking.—If the Secretary determines that a protocol described in subsection (a) could likely be developed, the Secretary shall report to Congress a description of the elements of such protocol and shall promptly initiate a rulemaking proceeding to implement such protocol.

SEC. 4019. PERFORMANCE-BASED CDL TESTING.

(a) Review.—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a review of the procedures established and implemented by States under section 31305 of title 49, United States Code, to determine if the current system for testing is an accurate measure and reflection of an individual's knowledge and skills as an operator of a commercial motor vehicle and to identify methods to improve testing and licensing standards, including identifying the benefits and costs of a graduated licensing system.

(b) Regulations.—The Secretary may issue regulations under section 31305 of title 49, United States Code, reflecting the results of the review.

SEC. 4020. POST-ACCIDENT ALCOHOL TESTING.

(a) Study.—The Secretary shall conduct a study of the feasibility of utilizing law enforcement officers for conducting post-accident alcohol testing of commercial motor vehicle operators under section 31306 of title 49, United States Code, as a method of obtaining more timely information. The study shall also assess the impact of the current post-accident alcohol testing requirements on motor carrier employers, including any burden that employers may encounter in meeting the testing requirements of such section 31306.

(b) Report.—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the study, together with such recommendations as the Secretary determines appropriate.

SEC. 4021. DRIVER FATIGUE.

(a) Technologies To Reduce Fatigue of Commercial Motor Vehicle Operators.—

(1) Development of technologies.—As part of the activities of the Secretary relating to the fatigue of commercial motor vehicle operators, the Secretary shall encourage the research, development, and demonstration of technologies that may aid in reducing such fatigue.

(2) Matters to be taken into account.—In carrying out paragraph (1), the Secretary shall take into account—

(A) the degree to which the technology will be cost efficient;

(B) the degree to which the technology can be effectively used in diverse climatic regions of the Nation; and

(C) the degree to which the application of the technology will further emissions reductions, energy conservation, and other transportation goals.

(3) Funding.—The Secretary may use amounts made available under section 5001(a)(2) of this Act.

(b) Nonsedating Medications.—The Secretary shall review available information on the effects of medications (including antihistamines) on driver fatigue, awareness, and performance and shall consider encouraging, if appropriate, the use of nonsedating medications (including nonsedating antihistamines) as a means of reducing the adverse effects of the use of other medications by drivers.

SEC. 4022. IMPROVED FLOW OF DRIVER HISTORY PILOT PROGRAM.

(a) Pilot Program.—

(1) In general.—The Secretary shall carry out a pilot program in cooperation with 1 or more States to improve upon the timely exchange of pertinent driver performance and safety records data to motor carriers.

(2) Purpose.—The purpose of the program shall be to—

(A) determine to what extent driver performance records data, including relevant fines, penalties, and failures to appear for a hearing or trial, should be included as part of any information systems under the Department of Transportation's oversight;

(B) assess the feasibility, costs, safety impact, pricing impact, and benefits of record exchanges; and

(C) assess methods for the efficient exchange of driver safety data available from existing State information systems and sources.

(3) Completion date.—The pilot program shall end on the last day of the 18-month period beginning on the date of initiation of the pilot program.

(b) Rulemaking.—After completion of the pilot program, the Secretary shall initiate, if appropriate, a rulemaking to revise the information system under section 31309 of title 49, United States Code, to take into account the results of the pilot program.

SEC. 4023. EMPLOYEE PROTECTIONS.

Not later than 2 years after the date of enactment of this Act, the Secretary, in conjunction with the Secretary of Labor, shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the effectiveness of existing statutory employee protections provided for under section 31105 of title 49, United States Code. The report shall include recommendations to address any statutory changes necessary to strengthen the enforcement of such employee protection provisions.

SEC. 4024. IMPROVED INTERSTATE SCHOOL BUS SAFETY.

Not later than 6 months after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to determine whether or not relevant commercial motor carrier safety regulations issued under section 31136 of title 49, United States Code, should apply to all interstate school transportation operations by local educational agencies (as defined in section 14101 of the Elementary and Secondary Education Act of 1965).

SEC. 4025. TRUCK TRAILER CONSPICUITY.

(a) Issuance of Final Rule.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a final rule regarding the conspicuity of trailers manufactured before December 1, 1993.

(b) Considerations.—In conducting the rulemaking under subsection (a), the Secretary shall consider, at a minimum, the following:

(1) The cost-effectiveness of any requirement to retrofit trailers manufactured before December 1, 1993.

(2) The extent to which motor carriers have voluntarily taken steps to increase equipment visibility.

(3) Regulatory flexibility to accommodate differing trailer designs and configurations, such as tank trucks.

SEC. 4026. DOT IMPLEMENTATION PLAN.

(a) Assessment.—Not later than 18 months after the date of enactment of this section, the Secretary shall assess the scope of the problem of shippers, freight forwarders, brokers, cosignees, or other persons (other than rail carriers, motor carriers, motor carriers of migrant workers, or motor private carriers) encouraging violations of chapter 5 of title 49, United States Code, or a regulation or order issued by the Secretary under such chapter.

(b) Submission of Implementation Plan.—After completion of the assessment under subsection (a), the Secretary may submit to the Congress a plan for implementing authority (if subsequently provided by law) to investigate and bring civil actions to enforce chapter 5 of title 49, United States Code, or regulations or orders issued by the Secretary under such chapter with respect to persons described in subsection (a).

(c) Contents of Implementation Plan.—In developing the implementation plan under subsection (b), the Secretary shall consider, as appropriate—

(1) in what circumstances the Secretary would exercise the new authority;

(2) how the Secretary would determine that shippers, freight forwarders, brokers, consignees, or other persons committed violations described in subsection (a), including what types of evidence would be conclusive;

(3) what procedures would be necessary during investigations to ensure the confidentiality of shipper contract terms prior to the Secretary's findings of violations;

(4) what impact the exercise of the new authority would have on the Secretary's resources, including whether additional investigative or legal resources would be necessary and whether the staff would need specialized education or training to exercise properly such authority;

(5) to what extent the Secretary would conduct educational activities for persons who would be subject to the new authority; and

(6) any other information that would assist the Congress in determining whether to provide the Secretary the new authority.

SEC. 4027. STUDY OF ADEQUACY OF PARKING FACILITIES.

(a) STUDY.—The Secretary shall conduct a study to determine the location and quantity of parking facilities at commercial truck stops and travel plazas and public rest areas that could be used by motor carriers to comply with Federal hours of service rules. The study shall include an inventory of current facilities serving the National Highway System, analyze where shortages exist or are projected to exist, and propose a plan to reduce the shortages. The study may be carried out in cooperation with research entities representing motor carriers, the travel plaza industry, and commercial motor vehicle drivers.

(b) REPORT.—Not later than the 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study with any recommendations the Secretary determines appropriate as a result of the study.

(c) FUNDING.—From amounts set aside under section 104(a) of title 23, United States Code, for each of fiscal years 1999, 2000, and 2001, the Secretary may use not to exceed $500,000 per fiscal year to carry out this section.

SEC. 4028. QUALIFICATIONS OF FOREIGN MOTOR CARRIERS.

(a) REVIEW.—Not later than 90 days after the date of enactment of this Act, the Secretary shall review—

(1) the qualifications of any foreign motor carrier, the application for which has not been processed due to the moratorium on the granting of authority to foreign carriers to operate in the United States, to operate as a motor carrier in the United States; and

(2) the carrier's likely ability to comply with applicable laws and regulations of the United States.

(b) USE OF REVIEW.—The review conducted under subsection (a) shall not constitute a finding by the Secretary under section 13902 of title 49, United States Code, that a motor carrier is willing and able to comply with requirements of such section. The results of the review may be used by the Secretary as the Secretary determines appropriate.

(c) REPORT.—Not later than 120 days after the date of enactment this Act, the Secretary shall submit a report on the results of the review to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include—

(1) any findings made by the Secretary under subsection (a);

(2) information on which carriers have applied to the Department of Transportation under that section; and

(3) a description of the process utilized to respond to such applications and to review the safety fitness of those carriers.

SEC. 4029. FEDERAL MOTOR CARRIER SAFETY INSPECTORS.

The Department of Transportation shall maintain at least the number of Federal motor carrier safety inspectors for international border commercial vehicle inspections as in effect on September 30, 1997, or provide for alternative resources and mechanisms to ensure at least an equivalent level of commercial motor vehicle safety inspections. Such funds as are necessary to carry out this section shall be made available within the limitation on general operating expenses of the Department of Transportation.

SEC. 4030. SCHOOL TRANSPORTATION SAFETY.

(a) STUDY.—Not later than 3 months after the date of enactment of this Act, the Secretary shall offer to enter into an agreement with the Transportation Research Board of the National Academy of Sciences to conduct, subject to the availability of appropriations, a study of the safety issues attendant to the transportation of school children to and from school and school-related activities by various transportation modes.

(b) TERMS OF AGREEMENT.—The agreement under subsection (a) shall provide that—

(1) the Transportation Research Board, in conducting the study, shall consider—

(A) in consultation with the National Transportation Safety Board, the Bureau of Transportation Statistics, and other relevant entities, available crash injury data;

(B) vehicle design and driver training requirements, routing, and operational factors that affect safety; and

(C) other factors that the Secretary considers to be appropriate;

(2) if the data referred to in paragraph (1)(A) is unavailable or insufficient, the Transportation Research Board shall recommend a new data collection regimen and implementation guidelines; and

(3) a panel shall conduct the study and shall include—

(A) representatives of—

(i) highway safety organizations;

(ii) school transportation;

(iii) mass transportation operators;

(iv) employee organizations; and

(v) bicycling organizations;

(B) academic and policy analysts; and

(C) other interested parties.

(c) REPORT.—Not later than 12 months after the Secretary enters into an agreement under subsection (a), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains the results of the study.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Department of Transportation to carry out this section $200,000 for fiscal year 2000 and $200,000 for fiscal year 2001. Such sums shall remain available until expended.

SEC. 4031. DESIGNATION OF NEW MEXICO COMMERCIAL ZONE.

(a) GENERAL RULE.—Notwithstanding the provisions of section 13902(c)(4)(A) of title 49, United States Code, the New Mexico Commercial Zone shall be a commercial zone for purposes of transportation of property only under section 13506(b) of such title.

(b) CONSULTATION.—In carrying out this section, the Secretary shall consult with other Federal agencies that have responsibilities over traffic between the United States and Mexico.

(c) SUBMISSION OF PLAN.—Not later than 3 months after the date of enactment of this Act, the State of New Mexico shall submit to the Secretary a plan describing how the State will monitor commercial motor vehicle traffic and enforce safety regulations.

(d) SAVINGS PROVISION.—Nothing in this section shall affect any action commenced or pending before the Secretary or Surface Transportation Board before the date of enactment of this Act.

(e) NEW MEXICO COMMERCIAL ZONE DEFINED.—In this section, the term "New Mexico Commercial Zone" means the area that is comprised of Dona Ana County and Luna County in New Mexico.

(f) DESIGNATION.—The designation and operation of the New Mexico commercial zone shall become effective upon the date of enactment of this Act.

SEC. 4032. EFFECTS OF MCSAP GRANT REDUCTIONS.

(a) STUDY.—The Secretary shall conduct a study on the effects of reductions of grants under section 31102 of title 49, United States Code, due to nonconformity of State intrastate motor carrier, commercial motor vehicle, and driver requirements with Federal interstate requirements. In conducting the study, the Secretary shall consider, at a minimum—

(1) national uniformity and the purposes of the motor carrier safety assistance program;

(2) State motor carrier, commercial motor vehicle, and driver safety oversight and enforcement capabilities; and

(3) the safety impacts, costs, and benefits of full participation in the program.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study.

(c) ADJUSTMENT OF STATE ALLOCATIONS.—The Secretary is authorized to adjust State allocations under section 31103 of title 49, United States Code, to reflect the results of the study.

TITLE V—TRANSPORTATION RESEARCH

Subtitle A—Funding

SEC. 5001. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) SURFACE TRANSPORTATION RESEARCH.—For carrying out sections 502, 506, 507, and 508 of title 23, United States Code, and section 5112 of this Act $96,000,000 for fiscal year 1998, $97,000,000 for fiscal year 1999, $97,000,000 for fiscal year 2000, $98,000,000 for fiscal year 2001, $101,000,000 for fiscal year 2002, and $103,000,000 for fiscal year 2003.

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—To carry out section 503 of title 23, United States Code, $35,000,000 for fiscal year 1998, $35,000,000 for fiscal year 1999, $40,000,000 for fiscal year 2000, $45,000,000 for fiscal year 2001, $45,000,000 for fiscal year 2002, and $50,000,000 for fiscal year 2003.

(3) TRAINING AND EDUCATION.—For carrying out section 504 of title 23, United States Code, $14,000,000 for fiscal year 1998, $15,000,000 for fiscal year 1999, $16,000,000 for fiscal year 2000, $18,000,000 for fiscal year 2001, $19,000,000 for fiscal year 2002, and $20,000,000 for fiscal year 2003.

(4) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, $31,000,000 for each of fiscal years 1998 through 2003.

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—For carrying out sections 5204, 5205, 5206, and 5207 of this Act $95,000,000 for fiscal year 1998, $95,000,000 for fiscal year 1999, $98,200,000 for fiscal year 2000, $100,000,000 for fiscal year 2001, $105,000,000 for fiscal year 2002, $110,000,000 for fiscal year 2003.

(6) ITS DEPLOYMENT.—For carrying out sections 5208 and 5209 of this Act $101,000,000 for fiscal year 1998, $105,000,000 for fiscal year 1999, $113,000,000 for fiscal year 2000, $118,000,000 for fiscal year 2001, $120,000,000 for fiscal year 2002, and $122,000,000 for fiscal year 2003.

(7) UNIVERSITY TRANSPORTATION RESEARCH.—For carrying out section 5505 of title 49, United States Code, $31,150,000 for fiscal year 1998, $31,150,000 for fiscal year 1999, $32,750,000 for fiscal year 2000, $32,750,000 for fiscal year 2001, $32,000,000 for fiscal year 2002, and $32,000,000 for fiscal year 2003.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using such funds shall be 80 percent (unless otherwise expressly provided by this subtitle or otherwise determined by the Secretary with respect to a project of activity) and such funds shall remain available until expended.

(c) ALLOCATIONS.—

(1) SURFACE TRANSPORTATION RESEARCH.—Of the amounts made available under subsection (a)(1)—

(A) $10,000,000 for each of fiscal years 1998 through 2003 shall be available to carry out section 502(e) of title 23, United States Code (relating to long-term pavement performance);

(B) not to exceed $2,000,000 for each of fiscal years 1998 through 2003 shall be available to carry out section 502(f) of such title (relating to seismic research), of which not to exceed $2,500,000 may be used to upgrade earthquake simulation facilities as required to carry out the program;

(C) $500,000 for each of fiscal years 1998 through 2003 shall be available to carry out section 506 of such title (relating to international outreach); and

(D) $5,000,000 for each of fiscal years 1998 through 2003 to carry out research on improved methods of using concrete pavement in the construction, reconstruction, and repair of Federal-aid highways.

(2) TECHNOLOGY DEPLOYMENT.—Of the amounts made available under subsection (a)(2)—

(A) $1,000,000 for each of fiscal years 1998 through 2003 shall be available to carry out section 503(b)(3)(A)(i) of title 23, United States Code (relating to research development technology transfer activities); and

(B) $10,000,000 for fiscal year 1998, $15,000,000 for fiscal year 1999, $17,000,000 for fiscal year 2000, and $20,000,000 for each of fiscal years 2001 through 2003 shall be available to carry out section 503(b)(3)(A)(ii) of such title (relating to repair, rehabilitation, and construction).

(3) TRAINING AND EDUCATION.—Of the amounts made available under subsection (a)(3)—

(A) $5,000,000 for fiscal year 1998, $6,000,000 for fiscal year 1999, $6,000,000 for fiscal year 2000, $7,000,000 for fiscal year 2001, $7,000,000 for fiscal year 2002, and $8,000,000 for fiscal year 2003 shall be available to carry out section 504(a) of title 23, United States Code (relating to the National Highway Institute);

(B) $7,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $8,000,000 for fiscal year 2000, $9,000,000 for fiscal year 2001, $10,000,000 for fiscal year 2002, and $10,000,000 for fiscal year 2003 shall be available to carry out section 504(b) of such title (relating to local technical assistance); and

(C) $2,000,000 for each of fiscal years 1998 through 2003 shall be available to carry out section 504(c)(2) of such title (relating to the Eisenhower Transportation Fellowship Program).

(4) ITS DEPLOYMENT.—Of the amounts made available under subsection (a)(6)—

(A) $74,000,000 for fiscal year 1998, $75,000,000 for fiscal year 1999, $80,000,000 for fiscal year 2000, $83,000,000 for fiscal year 2001, $85,000,000 for fiscal year 2002, and $85,000,000 for fiscal year 2003 shall be available to carry out section 5208 of this Act (relating to Intelligent Transportation Systems integration); and

(B) $25,500,000 for fiscal year 1998, $27,200,000 for fiscal year 1999, $30,200,000 for fiscal year 2000, $32,200,000 for fiscal year 2001, $33,500,000 for fiscal year 2002, and $35,500,000 for fiscal year 2003 shall be available to carry out section 5209 of this Act (relating to commercial vehicle infrastructure).

(d) TRANSFERS OF FUNDS.—The Secretary may transfer not to exceed 10 percent of the amounts allocated in a fiscal year under a subparagraph in each of paragraphs (1) through (4) of subsection (c) to the amounts allocated under any other subparagraph in the paragraph.

SEC. 5002. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by section 5001(a) of this Act shall not exceed $403,150,000 for fiscal year 1998, $409,150,000 for fiscal year 1999, $427,950,000 for fiscal year 2000, $442,750,000 for fiscal year 2001, $453,000,000 for fiscal year 2002, and $468,000,000 for fiscal year 2003.

SEC. 5003. NOTICE.

(a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this title or the amendments made by this title are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department of Transportation for which funds are authorized by this title or the amendments made by this title, the Secretary shall provide notice of such reorganization to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

Subtitle B—Research and Technology

SEC. 5101. RESEARCH AND TECHNOLOGY PROGRAM.

Title 23, United States Code, is amended—

(1) in the table of chapters by adding at the end the following:

"5. Research and Technology .... 501"; and

(2) by adding at the end the following:

"CHAPTER 5—RESEARCH AND TECHNOLOGY

"Sec.
"501. Definitions.
"502. Surface transportation research.
"503. Technology deployment program.
"504. Training and education.
"505. State planning and research.
"506. International highway transportation outreach program.
"507. Surface transportation-environment cooperative research program.
"508. Surface transportation research strategic planning.

"§501. Definitions

"In this chapter, the following definitions apply:

"(1) FEDERAL LABORATORY.—The term 'Federal laboratory' includes a Government-owned, Government-operated laboratory and a Government-owned, contractor-operated laboratory.

"(2) SAFETY.—The term 'safety' includes highway and traffic safety systems, research, and development relating to vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.".

SEC. 5102. SURFACE TRANSPORTATION RESEARCH.

Chapter 5 of title 23, United States Code (as added by section 5101 of this title), is amended by adding at the end the following:

"§502. Surface transportation research

"(a) GENERAL AUTHORITY.—

"(1) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out research, development, and technology transfer activities with respect to—

"(A) motor carrier transportation;

"(B) all phases of transportation planning and development (including construction, operation, modernization, development, design, maintenance, safety, financing, and traffic conditions); and

"(C) the effect of State laws on the activities described in subparagraphs (A) and (B).

"(2) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process.

"(3) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

"(A) independently;

"(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

"(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any Federal laboratory, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

"(4) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the surface transportation research and technology development strategic plan developed under section 508.

"(5) FUNDS.—

"(A) SPECIAL ACCOUNT.—In addition to other funds made available to carry out this section, the Secretary shall use such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose.

"(B) USE OF FUNDS.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

"(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

"(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State; and

"(B) Federal laboratories.

"(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

"(3) FEDERAL SHARE.—

"(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative *research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.*

"(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

"(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

"(c) CONTENTS OF RESEARCH PROGRAM.—The Secretary shall include in surface transportation research, technology development, and technology transfer programs carried out under this title coordinated activities in the following areas:

"(1) Development, use, and dissemination of indicators, including appropriate computer programs for collecting and analyzing data on the status of infrastructure facilities, to measure the performance of the surface transportation systems of the United States, including productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect system performance.

"(2) Methods, materials, and testing to improve the durability of surface transportation infrastructure facilities and extend the life of bridge structures, including—

"(A) new and innovative technologies to reduce corrosion;

"(B) tests simulating seismic activity, vibration, and weather; and

"(C) the use of innovative recycled materials.

"(3) Technologies and practices that reduce costs and minimize disruptions associated with the construction, rehabilitation, and maintenance of surface transportation systems, including responses to natural disasters.

"(4) Development of nondestructive evaluation equipment for use with existing infrastructure facilities and with next-generation infrastructure facilities that use advanced materials.

"(5) Dynamic simulation models of surface transportation systems for—

"(A) predicting capacity, safety, and infrastructure durability problems;

"(B) evaluating planned research projects; and

"(C) testing the strengths and weaknesses of proposed revisions to surface transportation operations programs.

"(6) Economic highway geometrics, structures, and desirable weight and size standards for vehicles using the public highways and the feasibility of uniformity in State regulations with respect to such standards.

"(7) Telecommuting and the linkages between transportation, information technology, and community development and the impact of technological change and economic restructuring on travel demand.

"(8) Expansion of knowledge of implementing life cycle cost analysis, including—

"(A) establishing the appropriate analysis period and discount rates;

"(B) learning how to value and properly consider use costs;

"(C) determining tradeoffs between reconstruction and rehabilitation; and

"(D) establishing methodologies for balancing higher initial costs of new technologies and improved or advanced materials against lower maintenance costs.

"(9) Standardized estimates, to be developed in conjunction with the National Institute of Standards and Technology and other appropriate organizations, of useful life under various conditions for advanced materials of use in surface transportation.

"(10) Evaluation of traffic calming measures that promote community preservation, transportation mode choice, and safety.

"(11) Development and implementation of safety-enhancing equipment, including unobtrusive eyetracking technology.

"(d) ADVANCED RESEARCH.—

"(1) IN GENERAL.—The Secretary shall establish an advanced research program, consistent with the surface transportation research and technology development strategic plan developed under section 508, that addresses longer-term, higher-risk research that shows potential benefits for improving the durability, efficiency, environmental impact, productivity, and safety (including bicycle and pedestrian safety) of highway and intermodal transportation systems. In carrying out the program, the Secretary shall strive to develop partnerships with the public and private sectors.

"(2) RESEARCH AREAS.—In carrying out the program, the Secretary may make grants and enter into cooperative agreements and contracts in such areas as the Secretary determines appropriate, including the following:

"(A) Characterization of materials used in highway infrastructure, including analytical techniques, microstructure modeling, and the deterioration processes.

"(B) Diagnostics for evaluation of the condition of bridge and pavement structures to enable the assessment of risks of failure, including from seismic activity, vibration, and weather.

"(C) Design and construction details for composite structures.

"(D) Safety technology-based problems in the areas of pedestrian and bicycle safety, roadside hazards, and composite materials for roadside safety hardware.

"(E) Environmental research, including particulate matter source apportionment and model development.

"(F) Data acquisition techniques for system condition and performance monitoring.

"(G) Human factors, including prediction of the response of travelers to new technologies.

"(e) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall complete the long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section) and continued by the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914 et seq.) through the midpoint of a planned 20-year life of the long-term pavement performance program.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

"(B) analyze the data obtained in carrying out subparagraph (A); and

"(C) prepare products to fulfill program objectives and meet future pavement technology needs.

"(f) SEISMIC RESEARCH PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a program to study the vulnerability of the Federal-aid highway system and other surface transportation systems to seismic activity and to develop and implement cost-effective methods to reduce such vulnerability.

"(2) COOPERATION WITH NATIONAL CENTER FOR EARTHQUAKE ENGINEERING RESEARCH.—The Secretary shall conduct the program in cooperation with the National Center for Earthquake Engineering Research at the University of Buffalo.

"(3) COOPERATION WITH AGENCIES PARTICIPATING IN NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM.—The Secretary shall conduct the program in consultation and cooperation with Federal departments and agencies participating in the National Earthquake Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) and shall take such actions as may be necessary to ensure that the program is consistent with—

"(A) planning and coordination activities of the Director of the Federal Emergency Management Agency under section 5(b)(1) of such Act (42 U.S.C. 7704(b)(1)); and

"(B) the plan developed by the Director of the Federal Emergency Management Agency under section 8(b) of such Act (42 U.S.C. 7705b(b)).

"(g) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

"(1) IN GENERAL.—Not later than January 31, 1999, and January 31 of every second year thereafter, the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on—

"(A) estimates of the future highway and bridge needs of the United States; and

"(B) the backlog of current highway and bridge needs.

"(2) COMPARISON WITH PRIOR REPORTS.—Each report under paragraph (1) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the 3 biannual reports published prior to the date of enactment of the Transportation Equity Act for the 21st Century.".

SEC. 5103. TECHNOLOGY DEPLOYMENT.

Chapter 5 of title 23, United States Code (as added by section 5101 of this title), is amended by adding at the end the following:

"§503. Technology deployment

"(a) TECHNOLOGY DEPLOYMENT INITIATIVES AND PARTNERSHIPS PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment initiatives and partnerships program.

"(2) PURPOSE.—The purpose of the program shall be to significantly accelerate the adoption of innovative technologies by the surface transportation community.

"(3) DEPLOYMENT GOALS.—

"(A) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish not more than 5 deployment goals to carry out paragraph (1).

"(B) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, and sustainability.

"(C) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

"(4) INTEGRATION WITH OTHER PROGRAMS.—The Secretary shall integrate activities carried

out under this subsection with the efforts of the Secretary to disseminate the results of research sponsored by the Secretary and to facilitate technology transfer.

"(5) LEVERAGING OF FEDERAL RESOURCES.—In selecting projects to be carried out under this subsection, the Secretary shall give preference to projects that leverage Federal funds with other significant public or private resources.

"(6) CONTINUATION OF SHRP PARTNERSHIPS.—Under the program, the Secretary shall continue the partnerships established through the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section).

"(7) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology, including—

"(A) the testing and evaluation of products of the strategic highway research program;

"(B) the further development and implementation of technology in areas such as the Superpave system and the use of lithium salts and other alternatives to prevent and mitigate alkali silica reactivity;

"(C) the provision of support for long-term pavement performance product implementation and technology access; and

"(D) other activities to achieve the goals established under paragraph (3).

"(8) REPORTS.—Not later than 18 months after the date of enactment of this section, and biennially thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress and results of activities carried out under this section.

"(9) ALLOCATION.—To the extent appropriate to achieve the goals established under paragraph (3), the Secretary may further allocate funds made available to carry out this section to States for their use.

"(b) INNOVATIVE BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish and carry out a program to demonstrate the application of innovative material technology in the construction of bridges and other structures.

"(2) GOALS.—The goals of the program shall include—

"(A) the development of new, cost-effective innovative material highway bridge applications;

"(B) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

"(C) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

"(D) the development of engineering design criteria for innovative products and materials for use in highway bridges and structures;

"(E) the development of cost-effective and innovative techniques to separate vehicle and pedestrian traffic from railroad traffic;

"(F) the development of highway bridges and structures that will withstand natural disasters, including alternative processes for the seismic retrofit of bridges; and

"(G) the development of new nondestructive bridge evaluation technologies and techniques.

"(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

"(i) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials; and

"(ii) States to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of bridges or structures that demonstrate the application of innovative materials.

"(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve the applications based on whether the project that is the subject of the grant meets the goals of the program described in paragraph (2).

"(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

"(5) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.".

SEC. 5104. TRAINING AND EDUCATION.

Chapter 5 of title 23, United States Code (as added by section 5101 of this title), is amended by adding at the end the following:

"§504. Training and education

"(a) NATIONAL HIGHWAY INSTITUTE.—

"(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a National Highway Institute (in this subsection referred to as the 'Institute'). The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

"(2) DUTIES OF THE INSTITUTE.—In cooperation with State transportation departments, United States industry, and any national or international entity, the Institute shall develop and administer education and training programs of instruction for—

"(A) Federal Highway Administration, State, and local transportation agency employees;

"(B) regional, State, and metropolitan planning organizations;

"(C) State and local police, public safety, and motor vehicle employees; and

"(D) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

"(3) COURSES.—The Institute may develop and administer courses in modern developments, techniques, methods, regulations, management, and procedures relating to surface transportation, environmental mitigation and compliance, acquisition of rights-of-way, relocation assistance, engineering, safety, construction, maintenance and operations, contract administration, motor carrier safety activities, inspection, and highway finance.

"(4) SET-ASIDE; FEDERAL SHARE.—Not to exceed ½ of 1 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

"(5) FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

"(i) by the Secretary at no cost to the States and local governments if the Secretary determines that provision at no cost is in the public interest; or

"(ii) by the State through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

"(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training received by them unless the Secretary determines that a lower cost is of critical importance to the public interest.

"(6) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

"(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

"(B) carry out its authority independently or in cooperation with any other branch of the Federal Government or any State agency, authority, association, institution, for-profit or nonprofit corporation, other national or international entity, or other person.

"(7) COLLECTION OF FEES.—

"(A) GENERAL RULE.—In accordance with this subsection, the Institute may assess and collect fees solely to defray the costs of the Institute in developing or administering education and training programs under this subsection.

"(B) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner that may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount that does not exceed the aggregate amount of the costs referred to in subparagraph (A) for the fiscal year.

"(C) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

"(ii) persons and entities to whom education or training is provided under this subsection.

"(D) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

"(E) USE.—All fees collected under this subsection shall be used to defray costs associated with the development or administration of education and training programs authorized under this subsection.

"(8) RELATION TO FEES.—The funds made available to carry out this subsection may be combined with or held separate from the fees collected under paragraph (7).

"(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—

"(A) highway and transportation agencies in urbanized areas with populations of between 50,000 and 1,000,000 individuals;

"(B) highway and transportation agencies in rural areas; and

"(C) contractors that do work for the agencies.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services to—

"(A) assist rural, local transportation agencies and tribal governments, and the consultants

and construction personnel working for the agencies and governments, to—

"(i) develop and expand their expertise in road and transportation areas (including pavement, bridge, concrete structures, safety management systems, and traffic safety countermeasures);

"(ii) improve roads and bridges;

"(iii) enhance—

"(I) programs for the movement of passengers and freight; and

"(II) intergovernmental transportation planning and project selection; and

"(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

"(B) develop technical assistance for tourism and recreational travel;

"(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems;

"(D) operate, in cooperation with State transportation departments and universities—

"(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas with populations of between 50,000 and 1,000,000 individuals; and

"(ii) local technical assistance program centers designated to provide transportation technical assistance to Indian tribal governments; and

"(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

"(c) RESEARCH FELLOWSHIPS.—

"(1) GENERAL AUTHORITY.—The Secretary, acting either independently or in cooperation with other Federal departments, agencies, and instrumentalities, may make grants for research fellowships for any purpose for which research is authorized by this chapter.

"(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program for the purpose of attracting qualified students to the field of transportation. The program shall be known as the 'Dwight David Eisenhower Transportation Fellowship Program'.".

SEC. 5105. STATE PLANNING AND RESEARCH.

Chapter 5 of title 23, United States Code (as added by section 5101 of this title), is amended by adding at the end the following:

"§505. State planning and research

"(a) GENERAL RULE.—Two percent of the sums apportioned to a State for fiscal year 1998 and each fiscal year thereafter under section 104 (other than sections 104(f) and 104(h)) and under section 144 shall be available for expenditure by the State, in consultation with the Secretary, only for the following purposes:

"(1) Engineering and economic surveys and investigations.

"(2) The planning of future highway programs and local public transportation systems and the planning of the financing of such programs and systems, including metropolitan and statewide planning under sections 134 and 135.

"(3) Development and implementation of management systems under section 303.

"(4) Studies of the economy, safety, and convenience of surface transportation systems and the desirable regulation and equitable taxation of such systems.

"(5) Research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems.

"(6) Study, research, and training on the engineering standards and construction materials for transportation systems described in paragraph (5), including the evaluation and accreditation of inspection and testing and the regulation and taxation of their use.

"(b) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), not less than 25 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be expended by the State for research, development, and technology transfer activities described in subsection (a), relating to highway, public transportation, and intermodal transportation systems.

"(2) WAIVERS.—The Secretary may waive the application of paragraph (1) with respect to a State for a fiscal year if the State certifies to the Secretary for the fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the funds described in paragraph (1) and the Secretary accepts such certification.

"(3) NONAPPLICABILITY OF ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

"(c) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds subject to subsection (a) shall be 80 percent unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

"(d) ADMINISTRATION OF SUMS.—Funds subject to subsection (a) shall be combined and administered by the Secretary as a single fund and shall be available for obligation for the same period as funds apportioned under section 104(b)(1).".

SEC. 5106. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

Chapter 5 of title 23, United States Code (as added by section 5101 of this title), is amended by adding at the end the following:

"§506. International highway transportation outreach program

"(a) ESTABLISHMENT.—The Secretary may establish an international highway transportation outreach program—

"(1) to inform the United States highway community of technological innovations in foreign countries that could significantly improve highway transportation in the United States;

"(2) to promote United States highway transportation expertise, goods, and services in foreign countries; and

"(3) to increase transfers of United States highway transportation technology to foreign countries.

"(b) ACTIVITIES.—Activities carried out under the program may include—

"(1) development, monitoring, assessment, and dissemination in the United States of information about highway transportation innovations in foreign countries that could significantly improve highway transportation in the United States;

"(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

"(3) informing foreign countries about the technical quality of United States highway transportation goods and services through participation in trade shows, seminars, expositions, and other such activities;

"(4) offering technical services of the Federal Highway Administration that cannot be readily obtained from United States private sector firms to be incorporated into the proposals of United States private sector firms undertaking highway transportation projects outside the United States if the costs of such services will be recovered under the terms of the project;

"(5) conducting studies to assess the need for or feasibility of highway transportation improvements in countries that are not members of the Organization for Economic Cooperation and Development, as of December 18, 1991, and in Greece and Turkey; and

"(6) gathering and disseminating information on foreign transportation markets and industries.

"(c) COOPERATION.—The Secretary may carry out this section in cooperation with any appropriate Federal agency, State or local agency, authority, association, institution, corporation (profit or nonprofit), foreign government, multinational institution, or other organization or person.

"(d) FUNDS.—

"(1) CONTRIBUTIONS.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person into a special account of the Treasury established for this purpose.

"(2) ELIGIBLE USES OF FUNDS.—The funds deposited into the account and other funds available to carry out this section shall be available to cover the cost of any activity eligible under this section, including the cost of promotional materials, travel, reception and representation expenses, and salaries and benefits.

"(3) REIMBURSEMENTS FOR SALARIES AND BENEFITS.—Reimbursements for salaries and benefits of Department of Transportation employees providing services under this section shall be credited to the account.

"(e) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out section 505 for any activity authorized under subsection (a).".

SEC. 5107. SURFACE TRANSPORTATION-ENVIRONMENT COOPERATIVE RESEARCH PROGRAM.

Chapter 5 of title 23, United States Code (as added by section 5101 of this title), is amended by adding at the end the following:

"§507. Surface transportation-environment cooperative research program

"(a) IN GENERAL.—The Secretary shall establish and carry out a surface transportation-environment cooperative research program.

"(b) CONTENTS.—The program to be carried out under this section shall include research designed—

"(1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments, including metropolitan planning organizations, in designing implementation plans to meet Federal, State, and local environmental requirements;

"(2) to improve understanding of the factors that contribute to the demand for transportation, including transportation system design, demographic change, land use planning, and communications and other information technologies;

"(3) to develop indicators of economic, social, and environmental performance of transportation systems to facilitate analysis of potential alternatives;

"(4) to study the relationship between highway density and ecosystem integrity, including the impacts of highway density on habitat integrity and overall ecosystem health, and develop a rapid assessment methodology for use by transportation and regulatory agencies in determining the relationship between highway density and ecosystem integrity; and

"(5) to meet additional priorities as determined by the advisory board established under subsection (c), including recommendations of the National Research Council in the report entitled 'Environmental Research Needs in Transportation'.

"(c) ADVISORY BOARD.—

"(1) ESTABLISHMENT.—In consultation with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the heads of other appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend environmental and energy conservation research, technology, and technology transfer activities related to surface transportation.

"(2) MEMBERSHIP.—The advisory board shall include—

"(A) representatives of State transportation and environmental agencies;

"(B) transportation and environmental scientists and engineers; and

"(C) representatives of metropolitan planning organizations, transit operating agencies, and environmental organizations.

"(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary determines appropriate.".

SEC. 5108. SURFACE TRANSPORTATION RESEARCH STRATEGIC PLANNING.

Chapter 5 of title 23, United States Code (as added by section 5101 of this title), is amended by adding at the end the following:

"§508. Surface transportation research strategic planning

"(a) IN GENERAL.—The Secretary shall—

"(1) establish a strategic planning process, consistent with section 306 of title 5 for the Department of Transportation to determine national transportation research and technology development priorities related to surface transportation;

"(2) coordinate Federal surface transportation research and technology development activities;

"(3) measure the results of those activities and how they impact the performance of the surface transportation systems of the United States; and

"(4) ensure that planning and reporting activities carried out under this section are coordinated with all other surface transportation planning and reporting requirements.

"(b) IMPLEMENTATION.—The Secretary shall—

"(1) provide for the integrated planning, coordination, and consultation among the operating administrations of the Department of Transportation, all other Federal agencies with responsibility for surface transportation research and technology development, State and local governments, institutions of higher education, industry, and other private and public sector organizations engaged in surface transportation-related research and development activities;

"(2) ensure that the surface transportation research and technology development programs of the Department do not duplicate other Federal, State, or private sector research and development programs; and

"(3) provide for independent validation of the scientific and technical assumptions underlying the surface transportation research and technology development programs of the Department.

"(c) SURFACE TRANSPORTATION RESEARCH AND TECHNOLOGY DEVELOPMENT STRATEGIC PLAN.—

"(1) DEVELOPMENT.—The Secretary shall develop an integrated surface transportation research and technology development strategic plan.

"(2) CONTENTS.—The plan shall include—

"(A) an identification of the general goals and objectives of the Department of Transportation for surface transportation research and development;

"(B) a description of the roles of the Department and other Federal agencies in achieving the goals identified under subparagraph (A), in order to avoid unnecessary duplication of effort;

"(C) a description of the overall strategy of the Department, and the role of each of the operating administrations of the Department, in carrying out the plan over the next 5 years, including a description of procedures for coordination of the efforts of the Secretary with the efforts of the operating administrations of the Department and other Federal agencies;

"(D) an assessment of how State and local research and technology development activities are contributing to the achievement of the goals identified under subparagraph (A);

"(E) details of the surface transportation research and technology development programs of the Department, including performance goals, resources needed to achieve those goals, and performance indicators as described in section 1115(a) of title 31, United States Code, for the next 5 years for each area of research and technology development;

"(F) significant comments on the plan obtained from outside sources; and

"(G) responses to significant comments obtained from the National Research Council and other advisory bodies, and a description of any corrective actions taken pursuant to such comments.

"(3) NATIONAL RESEARCH COUNCIL REVIEW.—The Secretary shall enter into an agreement for the review by the National Research Council of the details of each—

"(A) strategic plan or revision required under section 306 of title 5;

"(B) performance plan required under section 1115 of title 31; and

"(C) program performance report required under section 1116,

with respect to surface transportation research and technology development.

"(4) PERFORMANCE PLANS AND REPORTS.—In reports submitted under sections 1115 and 1116 of title 31, the Secretary shall include—

"(A) a summary of the results for the previous fiscal year of surface transportation research and technology development programs to which the Department of Transportation contributes, along with—

"(i) an analysis of the relationship between those results and the goals identified under paragraph (2)(A); and

"(ii) a description of the methodology used for assessing the results; and

"(B) a description of significant surface transportation research and technology development initiatives, if any, undertaken during the previous fiscal year that were not in the plan developed under paragraph (1), and any significant changes in the plan from the previous year's plan.

"(d) MERIT REVIEW AND PERFORMANCE MEASUREMENT.—Not later than 1 year after the date of enactment of this section, the Secretary shall transmit to Congress a report describing competitive merit review procedures for use in selecting grantees and contractors in the programs covered by the plan developed under subsection (c) and performance measurement procedures for evaluating the programs.

"(e) PROCUREMENT PROCEDURES.—The Secretary shall—

"(1) develop model procurement procedures that encourage the use of advanced technologies; and

"(2) develop model transactions for carrying out and coordinating Federal and State surface transportation research and technology development activities.

"(f) CONSISTENCY WITH GOVERNMENT PERFORMANCE AND RESULTS ACT OF 1993.—The plans and reports developed under this section shall be consistent with and incorporated as part of the plans developed under section 306 of title 5 and sections 1115 and 1116 of title 31.".

SEC. 5109. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Section 111 of title 49, United States Code, is amended—

(1) in subsection (b)(4) by striking the second sentence;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (J) by striking "and" at the end;

(ii) in subparagraph (K) by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(L) transportation-related variables that influence global competitiveness.";

(B) in paragraph (2)—

(i) in the first sentence by striking "national transportation system" and inserting "transportation systems of the United States";

(ii) by striking subparagraph (A) and inserting the following:

"(A) be coordinated with efforts to measure outputs and outcomes of the Department of Transportation and the transportation systems of the United States under the Government Performance and Results Act of 1993 (107 Stat. 285 et seq.) and the amendments made by such Act;"; and

(iii) in subparagraph (C) by inserting ", made relevant to the States and metropolitan planning organizations," after "accuracy";

(C) in paragraph (3) by adding at the end the following: "The Bureau shall review and report to the Secretary of Transportation on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993, and the amendments made by such Act, and shall carry out such other reviews of the sources and reliability of other data collected by the heads of the operating administrations of the Department as shall be requested by the Secretary."; and

(D) by adding at the end the following:

"(7) SUPPORTING TRANSPORTATION DECISIONMAKING.—Ensuring that the statistics compiled under paragraph (1) are relevant for transportation decisionmaking by the Federal Government, State and local governments, transportation-related associations, private businesses, and consumers.";

(3) by redesignating subsections (d), (e), and (f) as subsections (h), (i), and (j), respectively;

(4) by striking subsection (g);

(5) by inserting after subsection (c) the following:

"(d) INTERMODAL TRANSPORTATION DATA BASE.—

"(1) IN GENERAL.—In consultation with the Associate Deputy Secretary, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation data base for all modes of transportation.

"(2) USE.—The data base shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

"(3) CONTENTS.—The data base shall include—

"(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation and intermodal combinations, and by relevant classification;

"(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all *modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;*

"(C) information on the location and connectivity of transportation facilities and services; and

"(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

"(e) NATIONAL TRANSPORTATION LIBRARY.—

"(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.

"(2) ACCESS.—The Director shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Director to make statistics readily accessible under subsection (c)(5).

"(3) COORDINATION.—The Director shall work with other transportation libraries and other transportation information providers, both public and private, to achieve the goal specified in paragraph (2).

"(f) NATIONAL TRANSPORTATION ATLAS DATA BASE.—

"(1) IN GENERAL.—The Director shall develop and maintain geospatial data bases that depict—

"(A) transportation networks;

"(B) flows of people, goods, vehicles, and craft over the networks; and

"(C) social, economic, and environmental conditions that affect or are affected by the networks.

"(2) INTERMODAL NETWORK ANALYSIS.—The data bases shall be able to support intermodal network analysis.

"(g) RESEARCH AND DEVELOPMENT GRANTS.—

"(1) IN GENERAL.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

"(A) investigation of the subjects specified in subsection (c)(1) and research and development of new methods of data collection, management, integration, dissemination, interpretation, and analysis;

"(B) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (e); and

"(C) development and improvement of methods for sharing geographic data, in support of the national transportation atlas data base under subsection (f) and the National Spatial Data Infrastructure developed under Executive Order No. 12906.

"(2) LIMITATION.—Not more than $500,000 of the amounts made available to carry out this section in a fiscal year may be used to carry out this subsection.";

(6) by striking subsection (i) (as redesignated by paragraph (3) of this subsection) and inserting the following:

"(i) PROHIBITION ON CERTAIN DISCLOSURES.—

"(1) IN GENERAL.—An officer or employee of the Bureau may not—

"(A) make any disclosure in which the data provided by an individual or organization under subsection (c)(2) can be identified;

"(B) use the information provided under subsection (c)(2) for a nonstatistical purpose; or

"(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c)(2).

"(2) PROHIBITION ON REQUESTS FOR CERTAIN DATA.—

"(A) GOVERNMENT AGENCIES.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c)(2) with the Bureau or retained by an individual respondent.

"(B) COURTS.—Any copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

"(i) shall be immune from legal process; and

"(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

"(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably inferred by direct or indirect means.

"(3) DATA COLLECTED FOR NONSTATISTICAL PURPOSES.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.";

(7) in subsection (j) (as redesignated by paragraph (3) of this subsection) by striking "On or before January 1, 1994, and annually thereafter, the" and inserting "The"; and

(8) by adding at the end the following:

"(k) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, United States Code, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.".

(b) CONFORMING AMENDMENTS.—Section 5503 of title 49, United States Code, is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

SEC. 5110. UNIVERSITY TRANSPORTATION RESEARCH.

(a) IN GENERAL.—Subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"§5505. University transportation research

"(a) REGIONAL CENTERS.—The Secretary of Transportation shall make grants to nonprofit institutions of higher learning to establish and operate 1 university transportation center in each of the 10 United States Government regions that comprise the Standard Federal Regional Boundary System.

"(b) OTHER CENTERS.—The Secretary shall make grants to nonprofit institutions of higher learning to establish and operate university transportation centers, in addition to the centers receiving grants under subsection (a), to address transportation management and research and development matters, with special attention to increasing the number of highly skilled individuals entering the field of transportation.

"(c) SELECTION OF GRANT RECIPIENTS.—

"(1) APPLICATIONS.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

"(2) SELECTION CRITERIA.—Except as otherwise provided by this section, the Secretary shall select each recipient of a grant under this section through a competitive process on the basis of the following:

"(A) For regional centers, the location of the center within the Federal region to be served.

"(B) The demonstrated research and extension resources available to the recipient to carry out this section.

"(C) The capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems.

"(D) The recipient's establishment of a surface transportation program encompassing several modes of transportation.

"(E) The recipient's demonstrated commitment of at least $200,000 in regularly budgeted institutional amounts each year to support ongoing transportation research and education programs.

"(F) The recipient's demonstrated ability to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program.

"(G) The strategic plan the recipient proposes to carry out under the grant.

"(d) OBJECTIVES.—Each university transportation center receiving a grant under this section shall conduct the following programs and activities:

"(1) Basic and applied research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in transportation.

"(2) An education program that includes multidisciplinary course work and participation in research.

"(3) An ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented, utilized, or otherwise applied.

"(e) MAINTENANCE OF EFFORT.—In order to be eligible to receive a grant under this section, a recipient shall enter into an agreement with the Secretary to ensure that the recipient will maintain total expenditures from all other sources to establish and operate a university transportation center and related research activities at a level at least equal to the average level of such expenditures in its 2 fiscal years prior to award of a grant under this section.

"(f) FEDERAL SHARE.—The Federal share of the costs of activities carried out using a grant made under this section is 50 percent of costs. The non-Federal share may include funds provided to a recipient under section 503, 504(b), or 505 of title 23, United States Code.

"(g) PROGRAM COORDINATION.—

"(1) COORDINATION.—The Secretary shall coordinate the research, education, training, and technology transfer activities that grant recipients carry out under this section, disseminate the results of the research, and establish and operate a clearinghouse.

"(2) ANNUAL REVIEW AND EVALUATION.—At least annually and consistent with the plan developed under section 5506, the Secretary shall review and evaluate programs the grant recipients carry out.

"(3) FUNDING LIMITATION.—The Secretary may use not more than 1 percent of amounts made available from Government sources to carry out this subsection.

"(h) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this program shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which such funds are authorized.

"(i) NUMBER AND AMOUNT OF GRANTS.—

"(1) FISCAL YEARS 1998 AND 1999.—For each of fiscal years 1998 and 1999, the Secretary shall make the following grants under this section:

"(A) GROUP A.—The Secretary shall make a grant in the amount of $1,000,000 to each of the institutions in group A.

"(B) GROUP B.—The Secretary shall make a grant in the amount of $300,000 to each of the institutions in group B.

"(C) GROUP C.—The Secretary shall make a grant in the amount of $750,000 to each of the institutions in group C.

"(D) GROUP D.—The Secretary shall make a grant in the amount of $2,000,000 to each of the institutions in group D.

"(2) FISCAL YEARS 2000 AND 2001.—For each of fiscal years 2000 and 2001, the Secretary shall make the following grants under this section:

"(A) GROUP A.—The Secretary shall make a grant in the amount of $1,000,000 to each of the institutions in group A.

"(B) GROUP B.—The Secretary shall make a grant in the amount of $500,000 to 8 of the institutions in group B.

"(C) GROUP C.—The Secretary shall make a grant in the amount of $750,000 to each of the institutions in group C.

"(D) GROUP D.—The Secretary shall make a grant in the amount of $2,000,000 to each of the institutions in group D.

"(3) FISCAL YEARS 2002 AND 2003.—For each of fiscal years 2002 and 2003, the Secretary shall make the following grants under this section:

"(A) GROUP A.—The Secretary shall make a grant in the amount of $1,000,000 to each of the institutions in group A.

"(B) GROUPS B AND C.—The Secretary shall make a grant in the amount of $1,000,000 to 10 of the institutions in groups B and C that received grants under this section in fiscal years 2000 and 2001.

"(C) GROUP D.—The Secretary shall make a grant in the amount of $2,000,000 to each of the institutions in group D.

"(j) IDENTIFICATION OF GROUPS.—For the purpose of making grants this section, the following groups are identified:

"(1) GROUP A.—Group A shall consist of the 10 regional centers selected under subsection (a).

"(2) GROUP B.—Group B shall consist of the following:

"(A) The University of Denver and Mississippi State University.

"(B) The University of Central Florida.

"(C) University of Southern California and California State University at Long Beach.

"(D) Rutgers University.

"(E) University of Missouri at Rolla.

"(F) South Carolina State University.

"(G) Joseph P. Kennedy Science and Technology Center, Assumption College, Massachusetts.

"(H) Purdue University.

"(3) GROUP C.—Group C shall consist of the following:

"(A) University of Arkansas.

"(B) New Jersey Institute of Technology.

"(C) University of Idaho.

"(D) The University of Alabama.

"(E) Morgan State University.

"(F) North Carolina State University.

"(G) San Jose State University.

"(H) University of South Florida.

"(I) North Carolina A. and T. State University.

"(4) GROUP D.—Group D shall consist of the following:

"(A) University of Minnesota.

"(B) Marshall University, West Virginia, on behalf of a consortium of West Virginia colleges and universities.

"(C) George Mason University, along with the University of Virginia and Virginia Tech University.

"(D) Western Transportation Institute.

"(E) Rhode Island Transportation Research Center.

"(F) Northwestern University.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 49, United States Code, is amended by inserting after the item relating to section 5504 the following:

"5505. University transportation research.".

(c) REPEALS.—Section 5316 and 5317 of title 49, United States Code, and the items relating to such sections in the analysis for chapter 53 of such title, are repealed.

SEC. 5111. ADVANCED VEHICLE TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 55 of subtitle I of title 49, United States Code (as amended by section 5110 of this Act), is amended by adding at the end the following:

"§5506. Advanced vehicle technologies program

"(a) PURPOSES.—The Secretary of Transportation, in coordination with other government agencies and private consortia, shall encourage and promote the research, development, and deployment of transportation technologies that will use technological advances in multimodal vehicles, vehicle components, environmental technologies, and related infrastructure to remove impediments to an efficient, safe, and cost-effective national transportation system.

"(b) DEFINITION OF ELIGIBLE CONSORTIUM.—In this section, the term 'eligible consortium' means a consortium that receives funding under the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1876), and that comprises 2 or more of the following entities:

"(1) Businesses incorporated in the United States.

"(2) Public or private educational or research organizations located in the United States.

"(3) Entities of State or local governments in the United States.

"(4) Federal laboratories.

"(c) PROGRAM.—The Secretary shall enter into contracts, cooperative agreements, and other transactions as authorized by section 2371 of title 10 with, and make grants to, eligible consortia to promote the development and deployment of innovation in transportation technology services, management, and operational practices.

"(d) ELIGIBILITY CRITERIA.—To be eligible to receive assistance under this section, an eligible consortium shall—

"(1) for a period of not less than the 3 years preceding the date of a contract, cooperative agreement, or other transaction, be organized on a statewide or multistate basis for the purpose of designing, developing, and deploying transportation technologies that address identified technological impediments in the transportation field;

"(2) facilitate the participation in the consortium of small- and medium-sized businesses, utilities, public laboratories and universities, and other relevant entities;

"(3) be actively engaged in transportation technology projects that address compliance in nonattainment areas under the Clean Air Act (42 U.S.C. 7401 et seq.);

"(4) be designed to use Federal and State funding to attract private capital in the form of grants or investments to carry out this section; and

"(5) ensure that at least 50 percent of the funding for the consortium project will be provided by non-Federal sources.

"(e) PROPOSALS.—The Secretary shall prescribe such terms and conditions as the Secretary determines to be appropriate for the content and structure of proposals submitted for assistance under this section.

"(f) REPORTING REQUIREMENTS.—At least once each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the projects undertaken by the eligible consortia and the progress made in advancing the purposes of this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1999 through 2003, to remain available until expended.

"(2) AVAILABILITY.—Notwithstanding section 118(a), funds made available under paragraph (1) shall not be available in advance of an annual appropriation.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 49, United States Code, is amended by inserting after the item relating to section 5505 the following:

"5506. Advanced vehicle technologies program.".

SEC. 5112. STUDY OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.

(a) STUDY.—Not later than 120 days after the date of enactment of this Act, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, the Transportation Research Board of the National Academy of Sciences (in this section referred to as the "Board") to conduct a study to determine the goals, purposes, research agenda and projects, administrative structure, and fiscal needs for a new strategic highway research program to replace the program established under section 307(d) (as in effect on the day before the date of enactment of this Act), or a similar effort.

(b) CONSULTATION.—In conducting the study, the Board shall consult with the American Association of State Highway and Transportation Officials and such other entities as the Board determines appropriate to the conduct of the study.

(c) REPORT.—Not later than 5 years after making a grant or entering into a cooperative agreement or contract under subsection (a), the Board shall submit a final report on the results of the study to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 5113. COMMERCIAL REMOTE SENSING PRODUCTS AND SPATIAL INFORMATION TECHNOLOGIES.

(a) IN GENERAL.—The Secretary shall establish and carry out a program to validate commercial remote sensing products and spatial information technologies for application to national transportation infrastructure development and construction.

(b) PROGRAM STAGES.—

(1) FIRST STAGE.—Not later than 18 months after the date of enactment of this Act, the Secretary shall establish a national policy for the use of commercial remote sensing products and spatial information technologies in national transportation infrastructure development and construction.

(2) SECOND STAGE.—After establishment of the national policy under paragraph (1), the Secretary shall develop new applications of commercial remote sensing products and spatial information technologies for the implementation of the national policy.

(c) COOPERATION.—The Secretary shall carry out this section in cooperation with the Commercial Remote Sensing Program of the National Aeronautics and Space Administration and a consortium of university research centers.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1999 through 2004.

SEC. 5114. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 fast approaching, it is the sense of Congress that the Secretary should—

(1) give high priority to correcting all 2-digit date-related problems in computer systems of the Department of Transportation to ensure that the systems continue to operate effectively in the year 2000 and thereafter;

(2) assess immediately the extent of the risk to the operations of the Department of Transportation posed by the problems referred to in paragraph (1), and plan and budget for achieving year 2000 compliance for all mission-critical systems of the Department; and

(3) develop contingency plans for those systems that the Secretary of Transportation is unable to correct in time.

SEC. 5115. INTERNATIONAL TRADE TRAFFIC.

(a) STUDY.—The Director shall carry out a study—

(1) to measure the ton-miles and value-miles of international trade traffic carried by highway for each State;

(2) to evaluate the accuracy and reliability of such measures for use in the formula for highway apportionments;

(3) to evaluate the accuracy and reliability of the use of diesel fuel data as a measure of international trade traffic by State; and

(4) to identify needed improvements in long-term data collection programs to provide accurate and reliable measures of international traffic for use in the formula for highway apportionments.

(b) BASIS FOR EVALUATIONS.—The study shall evaluate the accuracy and reliability of measures for use as formula factors based on statistical quality standards developed by the Bureau in consultation with the Committee on National Statistics of the National Academy of Sciences.

(c) REPORT.—Not later than 3 years after the date of enactment of this Act, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study carried out under paragraph (1), including recommendations for changes in law necessary to implement the identified needs for improvements in long-term data collection programs.

SEC. 5116. UNIVERSITY GRANTS.

(a) SEISMIC RESEARCH, UNIVERSITY OF CALIFORNIA AT SAN DIEGO.—

(1) GRANTS.—The Secretary shall make grants to the University of California at San Diego to upgrade earthquake simulation facilities at the University.

(2) FUNDING.—Of the amounts made available under section 5001(a)(1) of this Act, $1,000,000 for each of fiscal years 1999 through 2002 shall be available to carry out this subsection.

(b) GLOBAL CLIMATE RESEARCH, UNIVERSITY OF ALABAMA AT HUNTSVILLE.—

(1) GRANTS.—The Secretary shall make grants to the University of Alabama at Huntsville for global climate research.

(2) FUNDING.—Of the amounts made available under section 5001(a)(1) of this Act, $200,000 for each of fiscal years 1999 through 2003 shall be available to carry out this subsection.

(c) ASPHALT RESEARCH, AUBURN UNIVERSITY.—

(1) GRANTS.—The Secretary shall make grants to Auburn University for asphalt research.

(2) FUNDING.—Of the amounts made available under section 5001(a)(1) of this Act, $250,000 for each of fiscal years 1999 and 2000 shall be available to carry out this subsection.

(d) ADVANCED VEHICLE RESEARCH, UNIVERSITY OF ALABAMA AT TUSCALOOSA.—

(1) GRANTS.—The Secretary shall make grants to the University of Alabama at Tuscaloosa for advanced vehicle research, including the study of fuel cell and electric vehicle technology.

(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act, $400,000 for each of fiscal years 1999 through 2003 shall be available to carry out this subsection.

(e) GEOTHERMAL HEAT PUMP SMART BRIDGE PROGRAM, OKLAHOMA STATE UNIVERSITY.—

(1) GRANTS.—The Secretary shall make grants to Oklahoma State University for the purposes of research, development, and field testing of the Geothermal Heat Pump Smart Bridge Program.

(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act, $1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, and $500,000 for fiscal year 2001 shall be available to carry out this subsection.

(f) INTELLIGENT STIFFENER FOR BRIDGE STRESS REDUCTION, UNIVERSITY OF OKLAHOMA.—

(1) GRANTS.—The Secretary shall make grants to the University of Oklahoma, College of Engineering, Center for Structural Control, for the purposes of research, development, and field testing of the Intelligent Stiffener for Bridge Stress Reduction.

(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act, $1,000,000 for fiscal year 1999, $1,000,000 for fiscal year 2000, $1,000,000 for fiscal year 2001, and $500,000 for fiscal year 2002 shall be available to carry out this subsection.

(g) STUDY OF ADVANCED TRAUMA CARE, UNIVERSITY OF ALABAMA AT BIRMINGHAM.—

(1) GRANTS.—The Secretary shall make grants to the University of Alabama at Birmingham for the study of advanced trauma care.

(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act, $750,000 for each of fiscal years 1999 through 2003 shall be available to carry out this subsection.

(h) CENTER FOR TRANSPORTATION INJURY RESEARCH.—

(1) GRANTS.—The Secretary shall make grants to establish and maintain a center for transportation injury research at the Calspan University of Buffalo Research Center affiliated with the State University of New York at Buffalo.

(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act, $2,000,000 for each of fiscal years 1998 through 2003 shall be available to carry out this subsection.

(i) HEAD AND SPINAL CORD INJURY RESEARCH.—

(1) GRANTS.—The Secretary shall make grants to the Neuroscience Center for Excellence at Louisiana State University and the Virginia Transportation Research Institute at George Washington University for research and technology development for preventing and minimizing head and spinal cord injuries relating to automobile accidents.

(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act, $500,000 for each of fiscal years 1999 through 2003 shall be available to carry out this subsection.

SEC. 5117. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a transportation technology innovation and demonstration program in accordance with the requirements of this section.

(b) CONTENTS OF PROGRAM.—

(1) MOTOR VEHICLE SAFETY WARNING SYSTEM.—

(A) IN GENERAL.—The Secretary shall expand and continue the study authorized by section 358(c) of the National Highway System Designation Act of 1995 (23 U.S.C. 401 note; 109 Stat. 625) relating to the development of a motor vehicle safety warning system and shall conduct tests of such system.

(B) GRANTS.—In carrying out this paragraph, the Secretary may make grants to State and local governments.

(C) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2000 by section 5001(a)(2) of this Act, $700,000 per fiscal year shall be available to carry out this paragraph.

(2) MOTOR CARRIER ADVANCED SENSOR CONTROL SYSTEM.—

(A) IN GENERAL.—The Secretary shall conduct research on the deployment of a system of advanced sensors and signal processors in trucks and tractor trailers to determine axle and wheel alignment, monitor collision alarm, check tire pressure and tire balance conditions, measure and detect load distribution in the vehicle, and monitor and adjust automatic braking systems.

(B) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(2) of this Act, $700,000 per fiscal year shall be available to carry out this paragraph.

(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—

(A) IN GENERAL.—The Secretary shall carry out a program to advance the deployment of an operational intelligent transportation infrastructure system for the measurement of various transportation system activities to aid in the transportation planning and analysis while making a significant contribution to the ITS program under this title. This program shall be initiated in the 2 largest metropolitan areas in the State of Pennsylvania. The program may locate its database at the facility authorized under paragraph (6).

(B) DESCRIPTION.—The program under this section shall meet the following objectives:

(i) Build an infrastructure of the measurement of various transportation system metrics to aid in planning, analysis, and maintenance of the Department of Transportation, including the buildout, maintenance, and operation of greater than 40 metropolitan area systems with a cost not to exceed $2,000,000 per metropolitan area. For the purposes of this demonstration initiative, a metropolitan area is defined as any area that has a population exceeding 300,000 and that meets several of the criteria established by the Secretary in conjunction with the intelligent vehicle highway systems corridors program.

(ii) Provide private technology commercialization initiatives to generate revenues which will be shared with local Department of Transportations.

(iii) Collect data primarily through wireless transmission along with some shared wide area networks.

(iv) Aggregate data into reports for multipoint data distribution techniques.

(v) Utilize an advanced information system designed and monitored by an entity with experience with the Department of Transportation in the design and monitoring of high reliability, mission critical voice and data systems.

(C) ELIGIBILITY.—In addition to the amounts made available under subparagraph (D), the program authorized under this paragraph shall be eligible for funding under sections 5207 and 5208 of this Act.

(D) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(2) of this Act, $1,700,000 per fiscal year shall be available to carry out this paragraph.

(E) FEDERAL SHARE.—The Federal share of the cost of a program carried out under this paragraph shall be 80 percent of the cost of such program.

(4) CORROSION CONTROL AND PREVENTION.—

(A) IN GENERAL.—The Secretary shall make a grant to conduct a study on the costs and benefits of corrosion control and prevention. The study shall be conducted in conjunction with an interdisciplinary team of experts from the fields of metallurgy, chemistry, economics, and others, as appropriate. Not later than September 30, 2001, the Secretary shall submit to Congress a report on the study results, together with any recommendations.

(B) FUNDING.—Of the amounts made available for each of fiscal years 1999 and 2000 by section 5001(a)(1) of this Act, $500,000 per fiscal year shall be available to carry out this paragraph.

(5) FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS.—

(A) IN GENERAL.—The Secretary shall continue to carry out section 6016 of the Intermodal Surface Transportation Efficiency Act of 1991. Additional areas of the program under such section shall be asphalt-water interaction studies

and asphalt-aggregate thin film behavior studies.

(B) Funding.—Of the amounts made available for each of fiscal years 1999 through 2003 by section 5001(a)(1) of this Act, $3,000,000 per fiscal year shall be available to carry out this paragraph.

(6) Advanced Traffic Monitoring and Response Center.—

(A) In general.—The Secretary shall make grants to the Pennsylvania Transportation Institute, in conjunction with the Pennsylvania Turnpike Commission, to establish an advanced traffic monitoring and emergency response center at Letterkenny Army Depot in Chambersburg, Pennsylvania. The center shall help develop and coordinate traffic monitoring and ITS systems on portions of the Pennsylvania Turnpike system and I–81, coordinate emergency response with State and local governments in the Central Pennsylvania Region and conduct research on emergency response and prototype trauma response.

(B) Funding.—

(i) Eligibility under section 5208.—The center established under this paragraph shall be eligible for funding under section 5208 of this Act.

(ii) Allocation.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(2) of this Act, $1,667,000 per fiscal year shall be available to carry out this paragraph.

(7) Transportation economic and land use system.—

(A) In general.—The Secretary shall continue development and deployment through the New Jersey Institute of Technology to metropolitan planning organizations of the Transportation Economic and Land Use System.

(B) Funding.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(2) of this Act, $1,000,000 per fiscal year shall be available to carry out this paragraph.

(8) Recycled materials resource center.—

(A) Establishment.—The Secretary shall establish at the University of New Hampshire a research program to be known as the "Recycled Materials Resource Center" (referred to in this paragraph as the "Center").

(B) Activities.—

(i) In general.—The Center shall—

(I) systematically test, evaluate, develop appropriate guidelines for, and demonstrate environmentally acceptable and occupationally safe technologies and techniques for the increased use of traditional and nontraditional recycled and secondary materials in transportation infrastructure construction and maintenance;

(II) make information available to State transportation departments, the Federal Highway Administration, the construction industry, and other interested parties to assist in evaluating proposals to use traditional and nontraditional recycled and secondary materials in transportation infrastructure construction;

(III) encourage the increased use of traditional and nontraditional recycled and secondary materials by using sound science to analyze thoroughly all potential long-term considerations that affect the physical and environmental performance of the materials; and

(IV) work cooperatively with Federal and State officials to reduce the institutional barriers that limit widespread use of traditional and nontraditional recycled and secondary materials and to ensure that such increased use is consistent with the sustained environmental and physical integrity of the infrastructure in which the materials are used.

(ii) Sites and projects under actual field conditions.—In carrying out clause (i)(III), the Secretary may authorize the Center to—

(I) use test sites and demonstration projects under actual field conditions to develop appropriate performance data; and

(II) develop appropriate tests and guidelines to ensure correct use of recycled and secondary materials in transportation infrastructure construction.

(C) Review and evaluation.—

(i) In general.—Not less often than every 2 years, the Secretary shall review and evaluate the program carried out by the Center.

(ii) Notification of deficiencies.—In carrying out clause (i), if the Secretary determines that the Center is deficient in carrying out subparagraph (B), the Secretary shall notify the Center of each deficiency and recommend specific measures to address the deficiency.

(iii) Disqualification.—If, after the end of the 180-day period that begins on the date of notification to the Center under clause (ii), the Secretary determines that the Center has not corrected each deficiency identified under clause (ii), the Secretary may, after notifying the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination, disqualify the Center from further participation under this section.

(D) Funding.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(1) of this Act, $1,500,000 per fiscal year shall be available to carry out this paragraph.

SEC. 5118. DREXEL UNIVERSITY INTELLIGENT INFRASTRUCTURE INSTITUTE.

(a) In General.—The Secretary, in cooperation with the State of Pennsylvania, shall establish the Intelligent Infrastructure Institute at Drexel University, Pennsylvania. The Institute shall conduct research, training, technology transfer, construction, maintenance, and other activities to advance infrastructure research.

(b) Funding.—The amounts made available by the item numbered 315 in the table contained in section 1602 of this Act shall be available to carry out this section.

(c) Authorization.—There is authorized to be appropriated $10,000,000 to carry out subsection (a).

(d) Facility.—Funds made available to carry out this section may be used to construct a building to house the Institute.

SEC. 5119. CONFORMING AMENDMENTS.

(a) Section 204(b) of title 23, United States Code, is amended in the last sentence by striking "326" and inserting "504(b)".

(b) Sections 307, 321, 325, and 326 of title 23, United States Code, are repealed.

(c) The analysis for chapter 3 of title 23, United States Code, is amended by striking the items relating to sections 307, 321, 325, and 326.

(d) Section 115(a)(1)(A)(i) of title 23, United States Code, is amended by striking "or 307" and inserting "or 505".

(e) Section 151(d) of title 23, United States Code, is amended by striking "section 307(a)," and inserting "section 502,".

(f) Section 106 of Public Law 89–564 (23 U.S.C. 403 note; 80 Stat. 735) is amended in the third sentence by striking "sections 307 and 403 of title 23, United States Code," and inserting "section 403 and chapter 5 of title 23, United States Code,".

Subtitle C—Intelligent Transportation Systems

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the "Intelligent Transportation Systems Act of 1998".

SEC. 5202. FINDINGS.

Congress finds that—

(1) investments authorized by the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914 et seq.) have demonstrated that intelligent transportation systems can mitigate surface transportation problems in a cost-effective manner; and

(2) continued investment in architecture and standards development, research, and systems integration is needed to accelerate the rate at which intelligent transportation systems are incorporated into the national surface transportation network, thereby improving transportation safety and efficiency and reducing costs and negative impacts on communities and the environment.

SEC. 5203. GOALS AND PURPOSES.

(a) Goals.—The goals of the intelligent transportation system program include—

(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services, and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

(2) achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles, with particular emphasis on decreasing the number and severity of collisions;

(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial vehicles, passenger vehicles, and motorcycles, and including individuals with disabilities; and

(5) improvement of the Nation's ability to respond to emergencies and natural disasters and enhancement of national defense mobility.

(b) Purposes.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

(4) promote the innovative use of private resources;

(5) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

(6) complete deployment of Commercial Vehicle Information Systems and Networks in a majority of States by September 30, 2003.

SEC. 5204. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) Scope.—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and advance nationwide deployment of such systems as a component of the surface transportation systems of the United States.

(b) Policy.—Intelligent transportation system operational tests and deployment projects funded pursuant to this subtitle shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

(c) Cooperation With Governmental, Private, and Educational Entities.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the United States private sector, the Federal laboratories, and colleges and universities, including historically black colleges and universities and other minority institutions of higher education.

(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary, as appropriate, shall consult with the Secretary of Commerce, the Secretary of the Treasury, the Administrator of the Environmental Protection Agency, the Director of the National Science Foundation, and the heads of other Federal departments and agencies.

(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation system management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

(g) INFORMATION CLEARINGHOUSE.—

(1) IN GENERAL.—The Secretary shall—

(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subtitle; and

(B) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) DELEGATION OF AUTHORITY.—

(A) IN GENERAL.—The Secretary may delegate the responsibility of the Secretary under this subsection, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation.

(B) FEDERAL ASSISTANCE.—If the Secretary delegates the responsibility, the entity to which the responsibility is delegated shall be eligible for Federal assistance under this section.

(h) ADVISORY COMMITTEES.—

(1) IN GENERAL.—In carrying out this subtitle, the Secretary may use 1 or more advisory committees.

(2) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee so used shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(i) PROCUREMENT METHODS.—

(1) TECHNICAL ASSISTANCE.—The Secretary shall develop appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of procurement for intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including innovative and nontraditional methods such as the Information Technology Omnibus Procurement.

(2) INTELLIGENT TRANSPORTATION SYSTEM SOFTWARE.—To the maximum extent practicable, contracting officials shall use as a critical evaluation criterion the Software Engineering Institute's Capability Maturity Model, or another similar recognized standard risk assessment methodology, to reduce the cost, schedule, and performance risks associated with the development, management, and integration of intelligent transportation system software.

(j) EVALUATIONS.—

(1) GUIDELINES AND REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the evaluation of operational tests and deployment projects carried out under this subtitle.

(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.

(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the size and scope of each test or project that ensure adequate evaluation of the results of the test or project.

(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44.

SEC. 5205. NATIONAL ITS PROGRAM PLAN.

(a) IN GENERAL.—

(1) UPDATES.—The Secretary shall maintain and update, as necessary, the National ITS Program Plan developed by the Department of Transportation and the Intelligent Transportation Society of America.

(2) SCOPE.—The National ITS Program Plan shall—

(A) specify the goals, objectives, and milestones for the research and deployment of intelligent transportation systems in the context of major metropolitan areas, smaller metropolitan and rural areas, and commercial vehicle operations;

(B) specify how specific programs and projects will achieve the goals, objectives, and milestones referred to in subparagraph (A), including consideration of the 5- and 10-year timeframes for the goals and objectives;

(C) identify activities that provide for the dynamic development of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation system technologies, including actions taken to establish critical standards; and

(D) establish a cooperative process with State and local governments for determining desired surface transportation system performance levels and developing plans for incorporation of specific intelligent transportation system capabilities into surface transportation systems.

(b) REPORTING.—The plan described in subsection (a) shall be transmitted and updated as part of the Surface Transportation Research and Development Strategic Plan developed under section 508 of title 23, United States Code.

SEC. 5206. NATIONAL ARCHITECTURE AND STANDARDS.

(a) IN GENERAL.—

(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary may use the services of such standards development organizations as the Secretary determines to be appropriate.

(b) REPORT ON CRITICAL STANDARDS.—Not later than June 1, 1999, the Secretary shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives identifying which standards are critical to ensuring national interoperability or critical to the development of other standards and specifying the status of the development of each standard identified.

(c) PROVISIONAL STANDARDS.—

(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard after consultation with affected parties, and using, to the extent practicable, the work product of appropriate standards development organizations.

(2) CRITICAL STANDARDS.—If a standard identified as critical in the report under subsection (b) is not adopted and published by the appropriate standards development organization by January 1, 2001, the Secretary shall establish a provisional standard after consultation with affected parties, and using, to the extent practicable, the work product of appropriate standards development organizations.

(3) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) or (2) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

(d) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL STANDARD.—

(1) IN GENERAL.—The Secretary may waive the requirement under subsection (c)(2) to establish a provisional standard if the Secretary determines that additional time would be productive or that establishment of a provisional standard would be counterproductive to achieving the timely achievement of the objectives identified in subsection (a).

(2) NOTICE.—The Secretary shall publish in the Federal Register a notice describing each standard for which a waiver of the provisional standard requirement has been granted, the reasons for and effects of granting the waiver, and an estimate as to when the standard is expected to be adopted through a process consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783).

(3) WITHDRAWAL OF WAIVER.—At any time the Secretary may withdraw a waiver granted under paragraph (1). Upon such withdrawal, the Secretary shall publish in the Federal Register a notice describing each standard for which a waiver has been withdrawn and the reasons for withdrawing the waiver.

(e) CONFORMITY WITH NATIONAL ARCHITECTURE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

(2) SECRETARY'S DISCRETION.—The Secretary may authorize exceptions to paragraph (1) for—

(A) projects designed to achieve specific research objectives outlined in the National ITS Program Plan under section 5205 or the Surface Transportation Research and Development Strategic Plan developed under section 508 of title 23, United States Code; or

(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this subtitle, if the Secretary determines that the upgrade or expansion—

(i) would not adversely affect the goals or purposes of this subtitle;

(ii) is carried out before the end of the useful life of such system; and

(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in

existence on the date of enactment of this subtitle.

(f) SPECTRUM.—The Federal Communications Commission shall consider, in consultation with the Secretary, spectrum needs for the operation of intelligent transportation systems, including spectrum for the dedicated short-range vehicle-to-wayside wireless standard. Not later than January 1, 2000, the Federal Communications Commission shall have completed a rulemaking considering the allocation of spectrum for intelligent transportation systems.

SEC. 5207. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subtitle.

(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

(1) address traffic management, incident management, transit management, toll collection, traveler information, or highway operations systems;

(2) focus on crash-avoidance and integration of in-vehicle crash protection technologies with other on-board safety systems, including the interaction of air bags and safety belts;

(3) incorporate human factors research, including the science of the driving process;

(4) facilitate the integration of intelligent infrastructure, vehicle, and control technologies, including magnetic guidance control systems or other materials or magnetics research; or

(5) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates.

(c) OPERATIONAL TESTS.—Operational tests conducted under this section shall be designed for the collection of data to permit objective evaluation of the results of the tests, derivation of cost-benefit information that is useful to others contemplating deployment of similar systems, and development and implementation of standards.

(d) FEDERAL SHARE.—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80 percent.

SEC. 5208. INTELLIGENT TRANSPORTATION SYSTEM INTEGRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct a comprehensive program to accelerate the integration and interoperability of intelligent transportation systems in metropolitan and rural areas. Under the program, the Secretary shall select for funding, through competitive solicitation, projects that will serve as models to improve transportation efficiency, promote safety (including safe freight movement), increase traffic flow (including the flow of intermodal travel at ports of entry), reduce emissions of air pollutants, improve traveler information, enhance alternative transportation modes, build on existing intelligent transportation system projects, or promote tourism.

(b) SELECTION OF PROJECTS.—Under the program, the Secretary shall give priority to funding projects that—

(1) contribute to national deployment goals and objectives outlined in the National ITS Program Plan under section 5205;

(2) demonstrate a strong commitment to cooperation among agencies, jurisdictions, and the private sector, as evidenced by signed memoranda of understanding that clearly define the responsibilities and relations of all parties to a partnership arrangement, including institutional relationships and financial agreements needed to support deployment;

(3) encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships, including arrangements that generate revenue to offset public investment costs;

(4) demonstrate commitment to a comprehensive plan of fully integrated intelligent transportation system deployment in accordance with the national architecture and standards and protocols established under section 5206;

(5) are part of approved plans and programs developed under applicable statewide and metropolitan transportation planning processes and applicable State air quality implementation plans, as appropriate, at the time at which Federal funds are sought;

(6) minimize the relative percentage and amount of Federal contributions under this section to total project costs;

(7) ensure continued, long-term operations and maintenance without continued reliance on Federal funding under this subtitle, as evidenced by documented evidence of fiscal capacity and commitment from anticipated public and private sources;

(8) demonstrate technical capacity for effective operations and maintenance or commitment to acquiring necessary skills;

(9) mitigate any adverse impacts on bicycle and pedestrian transportation and safety; or

(10) in the case of a rural area, meet other safety, mobility, geographic and regional diversity, or economic development criteria as determined by the Secretary.

(c) FISCAL YEAR LIMITATIONS.—Of the amounts made available to carry out this section for a fiscal year—

(1) not more that $15,000,000 may be used for projects in a single metropolitan area;

(2) not more than $2,000,000 may be used for projects in a single rural area; and

(3) not more than $35,000,000 may be used for projects in a State.

(d) FUNDING LIMITATIONS.—

(1) PROJECTS IN METROPOLITAN AREAS.—Funding under this section for intelligent transportation infrastructure projects in metropolitan areas shall be used primarily for activities necessary to integrate intelligent transportation infrastructure elements that are either deployed or to be deployed with other sources of funds.

(2) OTHER PROJECTS.—For projects outside metropolitan areas, funding provided under this subtitle may also be used for installation of intelligent transportation infrastructure elements.

(e) FUNDING FOR RURAL AREAS.—The Secretary shall allocate not less than 10 percent of funds authorized by section 5001(c)(4)(A) in rural areas for intelligent transportation infrastructure deployment activities funded under this section to carry out intelligent transportation infrastructure deployment activities in rural areas.

(f) FEDERAL SHARE.—

(1) FUNDS MADE AVAILABLE UNDER THIS SECTION.—The Federal share of the cost of a project payable from funds made available under this section shall not exceed 50 percent.

(2) FUNDS MADE AVAILABLE FROM ALL FEDERAL SOURCES.—The total Federal share of the cost of a project payable from all eligible sources (including this section) shall not exceed 80 percent.

(g) CORRIDOR DEVELOPMENT AND COORDINATION.—

(1) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements intended to promote regional cooperation, planning, and shared project implementation for intelligent transportation system projects.

(2) GREAT LAKES ITS IMPLEMENTATION.—

(A) IN GENERAL.—The Secretary shall make grants under this subsection to the State of Wisconsin to continue ITS activities in the corridor serving the Greater Milwaukee, Wisconsin, Chicago, Illinois, and Gary, Indiana, areas initiated under the Intermodal Surface Transportation Efficiency Act of 1991 and other areas of the State.

(B) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 under section 5001(c)(4)(A) of this Act, $2,000,000 per fiscal year shall be available to carry out this paragraph.

(3) NORTHEAST ITS IMPLEMENTATION.—

(A) IN GENERAL.—The Secretary shall make grants under this subsection to the States to continue ITS activities in the Interstate Route I–95 corridor in the northeastern United States initiated under the Intermodal Surface Transportation Efficiency Act of 1991.

(B) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 under section 5001(c)(4)(A) of this Act, $5,000,000 per fiscal year shall be available to carry out this paragraph.

SEC. 5209. COMMERCIAL VEHICLE INTELLIGENT TRANSPORTATION SYSTEM INFRASTRUCTURE DEPLOYMENT.

(a) IN GENERAL.—The Secretary shall carry out a comprehensive program to deploy intelligent transportation systems that—

(1) improve the safety and productivity of commercial vehicles and drivers; and

(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications to commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

(c) PRIORITY AREAS.—In carrying out the program, the Secretary shall give priority to projects that—

(1) encourage multistate cooperation and corridor development;

(2)(A) improve the safety of commercial vehicle operations; and

(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and generally increase the effectiveness of enforcement efforts;

(3)(A) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information; and

(B) promote communication of the information among the States; or

(4) enhance the safe passage of commercial vehicles across the United States and across international borders.

(d) LEVERAGING OF FEDERAL FUNDS.—Federal funds used to carry out the program shall, to the maximum extent practicable—

(1) be leveraged with non-Federal funds; and

(2) be used for activities not carried out through the use of private funds.

(e) FEDERAL SHARE.—The Federal share of the cost of the project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of the project payable from all eligible sources shall not exceed 80 percent.

SEC. 5210. USE OF FUNDS.

(a) OUTREACH AND PUBLIC RELATIONS LIMITATION.—

(1) IN GENERAL.—For each fiscal year, not more than $5,000,000 of the funds made available to carry out this subtitle shall be used for intelligent transportation system outreach, public relations, displays, scholarships, tours, and brochures.

(2) APPLICABILITY.—Paragraph (1) shall not apply to intelligent transportation system training or the publication or distribution of research

findings, technical guidance, or similar documents.

(b) INFRASTRUCTURE DEVELOPMENT.—Funds made available to carry out this subtitle for operational tests and deployment projects—

(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

(2) to the maximum extent practicable, shall not be used for the construction of physical highway and transit infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

(c) LIFE CYCLE COST ANALYSIS AND FINANCING AND OPERATIONS PLAN.—The Secretary shall require an applicant for funds made available under sections 5208 and 5209 to submit to the Secretary—

(1) an analysis of the life-cycle costs of operation and maintenance of intelligent transportation system elements, if the total initial capital costs of the elements exceed $3,000,000; and

(2) a multiyear financing and operations plan that describes how the project will be cost-effectively operated and maintained.

SEC. 5211. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term "Commercial Vehicle Information Systems and Networks" means the information systems and communications networks that support commercial vehicle operations.

(2) COMMERCIAL VEHICLE OPERATIONS.—The term "commercial vehicle operations"—

(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

(3) CORRIDOR.—The term "corridor" means any major transportation route that includes parallel limited access highways, major arterials, or transit lines.

(4) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term "intelligent transportation infrastructure" means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

(5) INTELLIGENT TRANSPORTATION SYSTEM.—The term "intelligent transportation system" means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

(6) NATIONAL ARCHITECTURE.—The term "national architecture" means the common framework for interoperability adopted by the Secretary that defines—

(A) the functions associated with intelligent transportation system user services;

(B) the physical entities or subsystems within which the functions reside;

(C) the data interfaces and information flows between physical subsystems; and

(D) the communications requirements associated with the information flows.

(7) STANDARD.—The term "standard" means a document that—

(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

(B) may support the national architecture and promote—

(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

(8) STATE.—The term "State" has the meaning given the term under section 101 of title 23, United States Code.

SEC. 5212. PROJECT FUNDING.

(a) USE OF HAZARDOUS MATERIALS MONITORING SYSTEMS.—

(1) IN GENERAL.—The Secretary shall conduct research on improved methods of deploying and integrating existing ITS projects to include hazardous materials monitoring systems across various modes of transportation.

(2) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(6) of this Act, $1,500,000 per fiscal year shall be available to carry out this paragraph.

(b) OUTREACH AND TECHNOLOGY TRANSFER ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall continue to support the Urban Consortium's ITS outreach and technology transfer activities.

(2) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(5) of this Act, $500,000 per fiscal year shall be available to carry out this paragraph.

(c) TRANSLINK.—

(1) IN GENERAL.—The Secretary shall make grants to the Texas Transportation Institute to continue the Translink Research program.

(2) FUNDING.—Of the amounts allocated for each of fiscal years 1999 through 2001 by section 5001(a)(6) of this Act, $1,300,000 per fiscal year shall be available to carry out this paragraph.

SEC. 5213. REPEAL.

The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title VI (23 U.S.C. 307 note; 105 Stat. 2189).

TITLE VI—OZONE AND PARTICULATE MATTER STANDARDS

SEC. 6101. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) there is a lack of air quality monitoring data for fine particle levels, measured as $PM_{2.5}$, in the United States and the States should receive full funding for the monitoring efforts;

(2) such data would provide a basis for designating areas as attainment or nonattainment for any $PM_{2.5}$ national ambient air quality standards pursuant to the standards promulgated in July 1997;

(3) the President of the United States directed the Administrator of the Environmental Protection Agency (referred to in this title as the "Administrator") in a memorandum dated July 16, 1997, to complete the next periodic review of the particulate matter national ambient air quality standards by July 2002 in order to determine "whether to revise or maintain the standards";

(4) the Administrator has stated that 3 years of air quality monitoring data for fine particle levels, measured as $PM_{2.5}$ and performed in accordance with any applicable Federal reference methods, is appropriate for designating areas as attainment or nonattainment pursuant to the July 1997 promulgated standards; and

(5) the Administrator has acknowledged that in drawing boundaries for attainment and nonattainment areas for the July 1997 ozone national air quality standards, Governors would benefit from considering implementation guidance from EPA on drawing area boundaries.

(b) The purposes of this title are—

(1) to ensure that 3 years of air quality monitoring data regarding fine particle levels are gathered for use in the determination of area attainment or nonattainment designations respecting any $PM_{2.5}$ national ambient air quality standards;

(2) to ensure that the Governors have adequate time to consider implementation guidance from EPA on drawing area boundaries prior to submitting area designations respecting the July 1997 ozone national ambient air quality standards;

(3) to ensure that the schedule for implementation of the July 1997 revisions of the ambient air quality standards for particulate matter and the schedule for the Environmental Protection Agency's visibility regulations related to regional haze are consistent with the timetable for implementation of such particulate matter standards as set forth in the President's Implementation Memorandum dated July 16, 1997.

SEC. 6102. PARTICULATE MATTER MONITORING PROGRAM.

(a) Through grants under section 103 of the Clean Air Act the Administrator of the Environmental Protection Agency shall use appropriated funds no later than fiscal year 2000 to fund 100 percent of the cost of the establishment, purchase, operation and maintenance of a $PM_{2.5}$ monitoring network necessary to implement the national ambient air quality standards for $PM_{2.5}$ under section 109 of the Clean Air Act. This implementation shall not result in a diversion or reprogramming of funds from other Federal, State or local Clean Air Act activities. Any funds previously diverted or reprogrammed from section 105 Clean Air Act grants for $PM_{2.5}$ monitors must be restored to State or local air programs in fiscal year 1999.

(b) EPA and the States, consistent with their respective authorities under the Clean Air Act, shall ensure that the national network (designated in subsection (a)) which consists of the $PM_{2.5}$ monitors necessary to implement the national ambient air quality standards is established by December 31, 1999.

(c)(1) The Governors shall be required to submit designations referred to in section 107(d)(1) of the Clean Air Act for each area following promulgation of the July 1997 $PM_{2.5}$ national ambient air quality standard within 1 year after receipt of 3 years of air quality monitoring data performed in accordance with any applicable Federal reference methods for the relevant areas. Only data from the monitoring network designated in subsection (a) and other Federal reference method $PM_{2.5}$ monitors shall be considered for such designations. Nothing in the previous sentence shall be construed as affecting the Governor's authority to designate an area initially as nonattainment, and the Administrator's authority to promulgate the designation of an area as nonattainment, under section 107(d)(1) of the Clean Air Act, based on its contribution to ambient air quality in a nearby nonattainment area.

(2) For any area designated as nonattainment for the July 1997 $PM_{2.5}$ national ambient air quality standard in accordance with the schedule set forth in this section, notwithstanding the time limit prescribed in paragraph (2) of section 169B(e) of the Clean Air Act, the Administrator shall require State implementation plan revisions referred to in such paragraph (2) to be submitted at the same time as State implementation plan revisions referred to in section 172 of the Clean Air Act implementing the revised national ambient air quality standard for fine particulate matter are required to be submitted. For any area designated as attainment or unclassifiable for such standard, the Administrator shall require the State implementation plan revisions referred to in such paragraph (2) to be submitted 1 year after the area has been so designated. The preceding provisions of this paragraph shall not preclude the implementation of the agreements and recommendations set forth in the Grand Canyon Visibility Transport Commission Report dated June 1996.

(d) The Administrator shall promulgate the designations referred to in section 107(d)(1) of *the Clean Air Act for each area following promulgation of the July 1997 $PM_{2.5}$ national ambient air quality standard by the earlier of 1 year after the initial designations required under subsection (c)(1) are required to be submitted or December 31, 2005.*

(e) The Administrator shall conduct a field study of the ability of the $PM_{2.5}$ Federal Reference Method to differentiate those particles that are larger than 2.5 micrograms in diameter. This study shall be completed and provided to the Committee on Commerce of the House of Representatives and the Committee on Environment and Public Works of the United States Senate no later than 2 years from the date of enactment of this Act.

SEC. 6103. OZONE DESIGNATION REQUIREMENTS.

(a) The Governors shall be required to submit the designations referred to in section 107(d)(1) of the Clean Air Act within 2 years following the promulgation of the July 1997 ozone national ambient air quality standards.

(b) The Administrator shall promulgate final designations no later than 1 year after the designations required under subsection (a) are required to be submitted.

SEC. 6104. ADDITIONAL PROVISIONS.

Nothing in sections 6101 through 6103 shall be construed by the Administrator of Environmental Protection Agency or any court, State, or person to affect any pending litigation or to be a ratification of the ozone or $PM_{2.5}$ standards.

TITLE VII—MISCELLANEOUS

Subtitle A—Automobile Safety and Information

SEC 7101. SHORT TITLE.

This subtitle may be cited as the "National Highway Traffic Safety Administration Reauthorization Act of 1998".

SEC. 7102. AUTHORIZATIONS OF APPROPRIATIONS.

(a) MOTOR VEHICLE SAFETY ACTIVITIES.—Section 30104 of title 49, United States Code, is amended to read as follows:

"§ 30104. Authorization of appropriations

"There is authorized to be appropriated to the Secretary $81,200,000 for the National Highway Traffic Safety Administration to carry out this part in each fiscal year beginning in fiscal year 1999 and ending in fiscal year 2001.".

(b) MOTOR VEHICLE INFORMATION ACTIVITIES.—Section 32102 of title 49, United States Code, is amended to read as follows:

"§ 32102. Authorization of appropriations

"There is authorized to be appropriated to the Secretary $6,200,000 for the National Highway Traffic Safety Administration to carry out this part in each fiscal year beginning in fiscal year 1999 and ending in fiscal year 2001.".

SEC. 7103. IMPROVING AIR BAG SAFETY.

(a) RULEMAKING TO IMPROVE AIR BAGS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than September 1, 1998, the Secretary of Transportation shall issue a notice of proposed rulemaking to improve occupant protection for occupants of different sizes, belted and unbelted, under Federal Motor Vehicle Safety Standard No. 208, while minimizing the risk to infants, children, and other occupants from injuries and deaths caused by air bags, by means that include advanced air bags.

(2) FINAL RULE.—Notwithstanding any other provision of law, the Secretary shall complete the rulemaking required by this subsection by issuing, not later than September 1, 1999, a final rule with any provision the Secretary deems appropriate, consistent with paragraph (1) and the requirements of section 30111, title 49, United States Code. If the Secretary determines that the final rule cannot be completed by that date to meet the purposes of paragraph (1), the Secretary may extend the date for issuing the final rule to not later than March 1, 2000.

(3) EFFECTIVE DATE.—The final rule issued under this subsection shall become effective in phases as rapidly as practicable, beginning not earlier than September 1, 2002, and no sooner than 30 months after the date of the issuance of the final rule, but not later than September 1, 2003. The final rule shall become fully effective for all vehicles identified in section 30127(b), title 49, United States Code, that are manufactured on and after September 1, 2005. Should the phase-in of the final rule required by this paragraph commence on September 1, 2003, then in that event, and only in that event, the Secretary is authorized to make the final rule fully effective on September 1, 2006, for all vehicles that are manufactured on and after that date.

(4) COORDINATION OF EFFECTIVE DATES.—The requirements of S13 of Standard No. 208 shall remain in effect unless and until changed by the rule required by this subsection.

(5) CREDIT FOR EARLY COMPLIANCE.—To encourage early compliance, the Secretary is directed to include in the notice of proposed rulemaking required by paragraph (1) means by which manufacturers may earn credits for future compliance. Credits, on a one-vehicle for one-vehicle basis, may be earned for vehicles certified as being in full compliance under section 30115 of title 49, United States Code, with the rule required by paragraph (2) which are either—

(A) so certified in advance of the phase-in period; or

(B) in excess of the percentage requirements during the phase-in period.

(b) ADVISORY COMMITTEES.—Any government advisory committee, task force, or other entity involving air bags shall include representatives of consumer and safety organizations, insurers, manufacturers, and suppliers.

SEC. 7104. RESTRICTIONS ON LOBBYING ACTIVITIES.

(a) AMENDMENT.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

"§ 30105. Restriction on lobbying activities

"(a) IN GENERAL.—No funds appropriated to the Secretary shall be available for any activity specifically designed to urge a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body.

"(b) APPEARANCE AS WITNESS NOT BARRED.—Subsection (a) does not prohibit officers or employees of the United States from testifying before any State or local legislative body in response to the invitation of any member of that legislative body or a State executive office.".

(b) CLERICAL AMENDMENT.—The table of contents in subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

"30105. Restriction on lobbying activities.".

SEC. 7105. ODOMETERS.

(a) TRANSFERS OF NEW MOTOR VEHICLES.—Section 32705(a) of title 49, United States Code, is amended by adding at the end the following:

"(4)(A) This subsection shall apply to all transfers of motor vehicles (unless otherwise exempted by the Secretary by regulation), except in the case of transfers of new motor vehicles from a vehicle manufacturer jointly to a dealer and a person engaged in the business of renting or leasing vehicles for a period of 30 days or less.

"(B) For purposes of subparagraph (A), the term 'new motor vehicle' means any motor vehicle driven with no more than the limited use necessary in moving, transporting, or road testing such vehicle prior to delivery from the vehicle manufacturer to a dealer, but in no event shall the odometer reading of such vehicle exceed 300 miles.".

(b) EXEMPTED VEHICLES.—Section 32705(a) of title 49, United States Code, as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(5) The Secretary may exempt such classes or categories of vehicles as the Secretary deems appropriate from these requirements. Until such time as the Secretary amends or modifies the regulations set forth in 49 CFR 580.6, such regulations shall have full force and effect.".

SEC. 7106. MISCELLANEOUS AMENDMENTS.

(a) REMEDIES FOR DEFECTS AND NONCOMPLIANCE.—Section 30120(i)(1) of title 49, United States Code, is amended by inserting "(including retailers of motor vehicle equipment)" after "dealer" the first time it appears.

(b) TIRES.—Section 30123 of title 49, United States Code, is amended by striking subsections (a), (b), and (c) and by redesignating subsections (d), (e), and (f), as subsections (a), (b), and (c), respectively.

(c) AUTOMATIC OCCUPANT CRASH PROTECTION AND SEAT BELT USE.—Section 30127(g)(1) of title 49, United States Code, is amended by striking "every 6 months" and inserting "annually".

(d) MISCELLANEOUS.—

(1) DEFINITIONS.—

(A) COUNTRY OF ORIGIN.—Section 32304(a)(3)(B) of title 49, United States Code, is amended by inserting before the period the following: ", plus the assembly and labor costs incurred for the final assembly of such engines and transmissions".

(B) FINAL ASSEMBLY PLACE.—Section 32304(a)(5) of title 49, United States Code, is amended by adding at the end the following: "Such term does not include facilities for engine and transmission fabrication and assembly and the facilities for fabrication of motor vehicle equipment component parts which are produced at the same final assembly place using forming processes such as stamping, machining, or molding processes.".

(C) OUTSIDE SUPPLIER CONTENT REPORTING.—Section 32304(a)(9)(A) of title 49, United States Code, is amended to read as follows:

"(A) for an outside supplier—

"(i) the full purchase price of passenger motor vehicle equipment whose purchase price contains at least 70 percent value added in the United States and Canada; or

"(ii) that portion of the purchase price of passenger motor vehicle equipment containing less than 70 percent value added in the United States and Canada that is attributable to the percent value added in the United States and Canada when such percent is expressed to the nearest 5 percent; and".

(2) COUNTRY OF ASSEMBLY.—Section 32304(d) of title 49, United States Code, is amended by adding at the end the following; "A manufacturer may add to the label required under subsection (b) a line stating the country in which vehicle assembly was completed.".

(3) VEHICLE CONTENT PERCENTAGE BY ASSEMBLY PLANT.—Section 32304 of title 49, United States Code, is amended by redesignating subsections (c) through (f) as subsections (f) through (i), respectively, and by adding after subsection (b) the following:

"(c) VEHICLE CONTENT PERCENTAGE BY ASSEMBLY PLANT.—A manufacturer may display separately on the label required by subsection (b) the domestic content of a vehicle based on the assembly plant. Such display shall occur after the matter required to be in the label by subsection (b)(1)(A).".

(4) SUPPLIERS FAILING TO REPORT.—Section 32304 of title 49, United States Code, is amended by adding after subsection (c), as added by paragraph (3), the following:

"(d) VALUE ADDED DETERMINATION.—If a manufacturer or allied supplier requests information in a timely manner from one or more of

its outside suppliers concerning the United States/Canadian content of particular equipment, but does not receive that information despite a good faith effort to obtain it, the manufacturer or allied supplier may make its own good faith value added determinations, subject to the following:

''(1) The manufacturer or allied supplier shall make the same value added determinations as would be made by the outside supplier, that is, whether 70 percent or more of the value of equipment is added in the United States and/or Canada.

''(2) The manufacturer or allied supplier shall consider the amount of value added and the location in which the value was added for all of the stages that the outside supplier would be required to consider.

''(3) The manufacturer or allied supplier may determine that the value added in the United States and/or Canada is 70 percent or more only if it has a good faith basis to make that determination.

''(4) A manufacturer and its allied suppliers may, on a combined basis, make value added determinations for no more than 10 percent, by value, of a carline's total parts content from outside suppliers.

''(5) Value added determinations made by a manufacturer or allied supplier under this paragraph shall have the same effect as if they were made by the outside supplier.

''(6) This provision does not affect the obligation of outside suppliers to provide the requested information.''.

(5) ACCOUNTING FOR THE VALUE OF SMALL PARTS.—Section 32304 of title 49, United States Code, is amended by adding after subsection (d), as added by paragraph (4), the following:

''(e) SMALL PARTS.—The country of origin of nuts, bolts, clips, screws, pins, braces, gasoline, oil, blackout, phosphate rinse, windshield washer fluid, fasteners, tire assembly fluid, rivets, adhesives, and grommets, of any system, subassembly, or component installed in a vehicle shall be considered to be the country in which such parts were included in the final assembly of such vehicle.''.

(e) STUDY.—The National Highway Traffic Safety Administration shall conduct a study of the benefits to motor vehicle drivers of a regulation to require the installation in a motor vehicle of an interior device to release the trunk lid. Not later than 18 months after the date of the enactment of this Act, the Administration shall submit a report on the results of the study to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 7107. IMPORTATION OF MOTOR VEHICLE FOR SHOW OR DISPLAY.

(a) IMPORTATION OF NONCOMPLYING MOTOR VEHICLES.—Section 30114 of title 49, United States Code, is amended by striking ''or competitive racing events'' and inserting ''competitive racing events, show, or display''.

(b) TRANSITION RULE.—A person who is the owner of a motor vehicle located in the United States on the date of enactment of this Act may seek an exemption under section 30114 of title 49, United States Code, as amended by subsection (a) of this section, for a period of 6 months after the date regulations of the Secretary of Transportation promulgated in response to such amendment take effect.

Subtitle B—Railroads

SEC. 7201. HIGH-SPEED RAIL.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 26104 of title 49, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (h); and

(2) by inserting after subsection (c) the following new subsections:

''(d) FISCAL YEAR 1998.—(1) There are authorized to be appropriated to the Secretary $10,000,000 for fiscal year 1998, for carrying out section 26101 (including payment of administrative expenses related thereto).

''(2) There are authorized to be appropriated to the Secretary $25,000,000 for fiscal year 1998, for carrying out section 26102 (including payment of administrative expenses related thereto).

''(e) FISCAL YEAR 1999.—(1) There are authorized to be appropriated to the Secretary $10,000,000 for fiscal year 1999, for carrying out section 26101 (including payment of administrative expenses related thereto).

''(2) There are authorized to be appropriated to the Secretary $25,000,000 for fiscal year 1999, for carrying out section 26102 (including payment of administrative expenses related thereto).

''(f) FISCAL YEAR 2000.—(1) There are authorized to be appropriated to the Secretary $10,000,000 for fiscal year 2000, for carrying out section 26101 (including payment of administrative expenses related thereto).

''(2) There are authorized to be appropriated to the Secretary $25,000,000 for fiscal year 2000, for carrying out section 26102 (including payment of administrative expenses related thereto).

''(g) FISCAL YEAR 2001.—(1) There are authorized to be appropriated to the Secretary $10,000,000 for fiscal year 2001, for carrying out section 26101 (including payment of administrative expenses related thereto).

''(2) There are authorized to be appropriated to the Secretary $25,000,000 for fiscal year 2001, for carrying out section 26102 (including payment of administrative expenses related thereto).''.

(b) DEFINITION.—Section 26105(2) of title 49, United States Code, is amended to read as follows:

''(2) the term 'high-speed rail' means all forms of nonhighway ground transportation that run on rails or electromagnetic guideways providing transportation service which is—

''(A) reasonably expected to reach sustained speeds of more than 125 miles per hour; and

''(B) made available to members of the general public as passengers,

but does not include rapid transit operations within an urban area that are not connected to the general rail system of transportation;''.

SEC. 7202. LIGHT DENSITY RAIL LINE PILOT PROJECTS.

(a) AMENDMENT.—Part B of subtitle V of title 49, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 223—LIGHT DENSITY RAIL LINE PILOT PROJECTS

''Sec.

''22301. Light density rail line pilot projects.

''§22301. Light density rail line pilot projects

''(a) GRANTS.—The Secretary of Transportation may make grants to States that have State rail plans described in section 22102 (1) and (2), to fund pilot projects that demonstrate the relationship of light density railroad services to the statutory responsibilities of the Secretary, including those under title 23.

''(b) LIMITATIONS.—Grants under this section may be made only for pilot projects for making capital improvements to, and rehabilitating, publicly and privately owned rail line structures, and may not be used for providing operating assistance.

''(c) PRIVATE OWNER CONTRIBUTIONS.—Grants made under this section for projects on privately owned rail line structures shall include contributions by the owner of the rail line structures, based on the benefit to those structures, as determined by the Secretary.

''(d) STUDY.—The Secretary shall conduct a study of the pilot projects carried out with grant assistance under this section to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system. Not later than March 31, 2003, the Secretary shall report to Congress any recommendations the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $17,500,000 for each of the fiscal years 1998, 1999, 2000, 2001, 2002, and 2003. Such funds shall remain available until expended.''.

(b) TABLE OF CHAPTERS.—The table of chapters of subtitle V of title 49, United States Code, is amended by inserting after the item relating to chapter 221 the following new item:

''223. LIGHT DENSITY RAIL LINE PILOT PROJECTS .... 22301''.

SEC. 7203. RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.

(a) AMENDMENTS.—Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended—

(1) by striking sections 501 through 504 and inserting the following new sections:

''SEC. 501. DEFINITIONS.

''For purposes of this title:

''(1)(A) The term 'cost' means the estimated long-term cost to the Government of a direct loan or loan guarantee or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

''(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

''(i) Loan disbursements.

''(ii) Repayments of principal.

''(iii) Payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries.

Calculation of the cost of a direct loan shall include the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

''(C) The cost of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

''(i) Payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments.

''(ii) Payments to the Government, including origination and other fees, penalties, and recoveries.

Calculation of the cost of a loan guarantee shall include the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

''(D) The cost of a modification is the difference between the current estimate of the net present value of the remaining cash flows under the terms of a direct loan or loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.

''(E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

''(F) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

‘‘(2) The term ‘current’ has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

‘‘(3) The term ‘direct loan’ means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims.

‘‘(4) The term ‘direct loan obligation’ means a binding agreement by the Secretary to make a direct loan when specified conditions are fulfilled by the borrower.

‘‘(5) The term ‘intermodal’ means of or relating to the connection between rail service and other modes of transportation, including all parts of facilities at which such connection is made.

‘‘(6) The term ‘loan guarantee’ means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

‘‘(7) The term ‘loan guarantee commitment’ means a binding agreement by the Secretary to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

‘‘(8) The term ‘modification’ means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

‘‘SEC. 502. DIRECT LOANS AND LOAN GUARANTEES.

‘‘(a) General Authority.—The Secretary may provide direct loans and loan guarantees to State and local governments, government sponsored authorities and corporations, railroads, and joint ventures that include at least 1 railroad.

‘‘(b) Eligible Purposes.—

‘‘(1) In general.—Direct loans and loan guarantees under this section shall be used to—

‘‘(A) acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, bridges, yards, buildings, and shops;

‘‘(B) refinance outstanding debt incurred for the purposes described in subparagraph (A); or

‘‘(C) develop or establish new intermodal or railroad facilities.

‘‘(2) Operating expenses not eligible.—Direct loans and loan guarantees under this section shall not be used for railroad operating expenses.

‘‘(c) Priority Projects.—In granting applications for direct loans or guaranteed loans under this section, the Secretary shall give priority to projects that—

‘‘(1) enhance public safety;

‘‘(2) enhance the environment;

‘‘(3) promote economic development;

‘‘(4) enable United States companies to be more competitive in international markets;

‘‘(5) are endorsed by the plans prepared under section 135 of title 23, United States Code, by the State or States in which they are located; or

‘‘(6) preserve or enhance rail or intermodal service to small communities or rural areas.

‘‘(d) Extent of Authority.—The aggregate unpaid principal amounts of obligations under direct loans and loan guarantees made under this section shall not exceed $3,500,000,000 at any one time. Of this amount, not less than $1,000,000,000 shall be available solely for projects primarily benefiting freight railroads other than Class I carriers.

‘‘(e) Rates of Interest.—

‘‘(1) Direct loans.—The Secretary shall require interest to be paid on a direct loan made under this section at a rate not less than that necessary to recover the cost of making the loan.

‘‘(2) Loan guarantees.—The Secretary shall not make a loan guarantee under this section if the interest rate for the loan exceeds that which the Secretary determines to be reasonable, taking into consideration the prevailing interest rates and customary fees incurred under similar obligations in the private capital market.

‘‘(f) Infrastructure Partners.—

‘‘(1) Authority of Secretary.—In lieu of or in combination with appropriations of budget authority to cover the costs of direct loans and loan guarantees as required under section 504(b)(1) of the Federal Credit Reform Act of 1990, the Secretary may accept on behalf of an applicant for assistance under this section a commitment from a non-Federal source to fund in whole or in part credit risk premiums with respect to the loan that is the subject of the application. In no event shall the aggregate of appropriations of budget authority and credit risk premiums described in this paragraph with respect to a direct loan or loan guarantee be less than the cost of that direct loan or loan guarantee.

‘‘(2) Credit risk premium amount.—The Secretary shall determine the amount required for credit risk premiums under this subsection on the basis of—

‘‘(A) the circumstances of the applicant, including the amount of collateral offered;

‘‘(B) the proposed schedule of loan disbursements;

‘‘(C) historical data on the repayment history of similar borrowers;

‘‘(D) consultation with the Congressional Budget Office; and

‘‘(E) any other factors the Secretary considers relevant.

‘‘(3) Payment of premiums.—Credit risk premiums under this subsection shall be paid to the Secretary before the disbursement of loan amounts.

‘‘(4) Cohorts of loans.—In order to maintain sufficient balances of credit risk premiums to adequately protect the Federal Government from risk of default, while minimizing the length of time the Government retains possession of those balances, the Secretary shall establish cohorts of loans. When all obligations attached to a cohort of loans have been satisfied, credit risk premiums paid for the cohort, and interest accrued thereon, which were not used to mitigate losses shall be returned to the original source on a pro rata basis.

‘‘(g) Prerequisites for Assistance.—The Secretary shall not make a direct loan or loan guarantee under this section unless the Secretary has made a finding in writing that—

‘‘(1) repayment of the obligation is required to be made within a term of not more than 25 years from the date of its execution;

‘‘(2) the direct loan or loan guarantee is justified by the present and probable future demand for rail services or intermodal facilities;

‘‘(3) the applicant has given reasonable assurances that the facilities or equipment to be acquired, rehabilitated, improved, developed, or established with the proceeds of the obligation will be economically and efficiently utilized;

‘‘(4) the obligation can reasonably be repaid, using an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government; and

‘‘(5) the purposes of the direct loan or loan guarantee are consistent with subsection (b).

‘‘(h) Conditions of Assistance.—The Secretary shall, before granting assistance under this section, require the applicant to agree to such terms and conditions as are sufficient, in the judgment of the Secretary, to ensure that, as long as any principal or interest is due and payable on such obligation, the applicant, and any railroad or railroad partner for whose benefit the assistance is intended—

‘‘(1) will not use any funds or assets from railroad or intermodal operations for purposes not related to such operations, if such use would impair the ability of the applicant, railroad, or railroad partner to provide rail or intermodal services in an efficient and economic manner, or would adversely affect the ability of the applicant, railroad, or railroad partner to perform any obligation entered into by the applicant under this section;

‘‘(2) will, consistent with its capital resources, maintain its capital program, equipment, facilities, and operations on a continuing basis; and

‘‘(3) will not make any discretionary dividend payments that unreasonably conflict with the purposes stated in subsection (b).

‘‘SEC. 503. ADMINISTRATION OF DIRECT LOANS AND LOAN GUARANTEES.

‘‘(a) Applications.—The Secretary shall prescribe the form and contents required of applications for assistance under section 502, to enable the Secretary to determine the eligibility of the applicant's proposal, and shall establish terms and conditions for direct loans and loan guarantees made under that section.

‘‘(c) Assignment of Loan Guarantees.—The holder of a loan guarantee made under section 502 may assign the loan guarantee in whole or in part, subject to such requirements as the Secretary may prescribe.

‘‘(d) Modifications.—The Secretary may approve the modification of any term or condition of a direct loan, loan guarantee, direct loan obligation, or loan guarantee commitment, including the rate of interest, time of payment of interest or principal, or security requirements, if the Secretary finds in writing that—

‘‘(1) the modification is equitable and is in the overall best interests of the United States; and

‘‘(2) consent has been obtained from the applicant and, in the case of a loan guarantee or loan guarantee commitment, the holder of the obligation.

‘‘(e) Compliance.—The Secretary shall assure compliance, by an applicant, any other party to the loan, and any railroad or railroad partner for whose benefit assistance is intended, with the provisions of this title, regulations issued hereunder, and the terms and conditions of the direct loan or loan guarantee, including through regular periodic inspections.

‘‘(f) Commercial Validity.—For purposes of claims by any party other than the Secretary, a loan guarantee or loan guarantee commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this title, and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder thereof, including the original lender or any other holder, as of the date when the Secretary granted the application therefor, except as to fraud or material misrepresentation by such holder.

‘‘(g) Default.—The Secretary shall prescribe regulations setting forth procedures in the event of default on a loan made or guaranteed under section 502. The Secretary shall ensure that

each loan guarantee made under that section contains terms and conditions that provide that—

"(1) if a payment of principal or interest under the loan is in default for more than 30 days, the Secretary shall pay to the holder of the obligation, or the holder's agent, the amount of unpaid guaranteed interest;

"(2) if the default has continued for more than 90 days, the Secretary shall pay to the holder of the obligation, or the holder's agent, 90 percent of the unpaid guaranteed principal;

"(3) after final resolution of the default, through liquidation or otherwise, the Secretary shall pay to the holder of the obligation, or the holder's agent, any remaining amounts guaranteed but which were not recovered through the default's resolution;

"(4) the Secretary shall not be required to make any payment under paragraphs (1) through (3) if the Secretary finds, before the expiration of the periods described in such paragraphs, that the default has been remedied; and

"(5) the holder of the obligation shall not receive payment or be entitled to retain payment in a total amount which, together with all other recoveries (including any recovery based upon a security interest in equipment or facilities) exceeds the actual loss of such holder.

"(h) RIGHTS OF THE SECRETARY.—

"(1) SUBROGATION.—If the Secretary makes payment to a holder, or a holder's agent, under subsection (g) in connection with a loan guarantee made under section 502, the Secretary shall be subrogated to all of the rights of the holder with respect to the obligor under the loan.

"(2) DISPOSITION OF PROPERTY.—The Secretary may complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, rent, sell, or otherwise dispose of any property or other interests obtained pursuant to this section. The Secretary shall not be subject to any Federal or State regulatory requirements when carrying out this paragraph.

"(i) ACTION AGAINST OBLIGOR.—The Secretary may bring a civil action in an appropriate Federal court in the name of the United States in the event of a default on a direct loan made under section 502, or in the name of the United States or of the holder of the obligation in the event of a default on a loan guaranteed under section 502. The holder of a guarantee shall make available to the Secretary all records and evidence necessary to prosecute the civil action. The Secretary may accept property in full or partial satisfaction of any sums owed as a result of a default. If the Secretary receives, through the sale or other disposition of such property, an amount greater than the aggregate of—

"(1) the amount paid to the holder of a guarantee under subsection (g) of this section; and

"(2) any other cost to the United States of remedying the default,

the Secretary shall pay such excess to the obligor.

"(j) BREACH OF CONDITIONS.—The Attorney General shall commence a civil action in an appropriate Federal court to enjoin any activity which the Secretary finds is in violation of this title, regulations issued hereunder, or any conditions which were duly agreed to, and to secure any other appropriate relief.

"(k) ATTACHMENT.—No attachment or execution may be issued against the Secretary, or any property in the control of the Secretary, prior to the entry of final judgment to such effect in any State, Federal, or other court.

"(l) INVESTIGATION CHARGE.—The Secretary may charge and collect from each applicant a reasonable charge for appraisal of the value of the equipment or facilities for which the direct loan or loan guarantee is sought, and for making necessary determinations and findings. Such charge shall not aggregate more than one-half of 1 percent of the principal amount of the obligation.";

(2) by striking sections 505 through 515 (other than 511(c)), 517, and 518;

(3) in section 511(c) by striking "this section" and inserting "section 502";

(4) by moving subsection (c) of section 511 (as amended by paragraph (3) of this section) from section 511 to section 503 (as inserted by paragraph (1) of this section), inserting it after subsection (a), and redesignating it as subsection (b); and

(5) by redesignating section 516 as section 504.

(b) TECHNICAL AND CONFORMING PROVISIONS.—

(1) TABLE OF CONTENTS.—The table of contents of title V of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by striking the items relating to sections 502 through 518 and inserting the following:

"Sec. 502. Direct loans and loan guarantees.
"Sec. 503. Administration of direct loans and loan guarantees.
"Sec. 504. Employee protection.".

(2) SAVINGS PROVISION.—A transaction entered into under the authority of title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) before the date of enactment of this Act shall be administered until completion under its terms as if this Act were not enacted.

(3) REPEAL.—Section 211(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(i)) is repealed.

SEC. 7204. ALASKA RAILROAD.

(a) GRANTS.—The Secretary may make grants to the Alaska Railroad for capital rehabilitation of and improvements to its passenger services.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,250,000 for each of fiscal years 1998 through 2003.

Subtitle C—Comprehensive One-Call Notification

SEC. 7301. FINDINGS.

Congress finds that—

(1) unintentional damage to underground facilities during excavation is a significant cause of disruptions in telecommunications, water supply, electric power, and other vital public services, such as hospital and air traffic control operations, and is a leading cause of natural gas and hazardous liquid pipeline accidents;

(2) excavation that is performed without prior notification to an underground facility operator or with inaccurate or untimely marking of such a facility prior to excavation can cause damage that results in fatalities, serious injuries, harm to the environment and disruption of vital services to the public; and

(3) protection of the public and the environment from the consequences of underground facility damage caused by excavations will be enhanced by a coordinated national effort to improve one-call notification programs in each State and the effectiveness and efficiency of one-call notification systems that operate under such programs.

SEC. 7302. ONE-CALL NOTIFICATION PROGRAMS.

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding at the end thereof the following:

"CHAPTER 61—ONE-CALL NOTIFICATION PROGRAMS

"Sec.
"6101. Purposes.
"6102. Definitions.
"6103. Minimum standards for State one-call notification programs.
"6104. Compliance with minimum standards.
"6105. Review of one-call system best practices.
"6106. Grants to States.
"6107. Authorization of appropriations.
"6108. Relationship to State laws.

"§ 6101. Purposes

"The purposes of this chapter are—

"(1) to enhance public safety;

"(2) to protect the environment;

"(3) to minimize risks to excavators; and

"(4) to prevent disruption of vital public services,

by reducing the incidence of damage to underground facilities during excavation through the voluntary adoption and efficient implementation by all States of State one-call notification programs that meet the minimum standards set forth under section 6103.

"§ 6102. Definitions

"In this chapter, the following definitions apply:

"(1) ONE-CALL NOTIFICATION SYSTEM.—The term "one-call notification system" means a system operated by an organization that has as 1 of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities in order to prevent damage to underground facilities in the course of such excavation.

"(2) STATE ONE-CALL NOTIFICATION PROGRAM.—The term "State one-call notification program" means the State statutes, regulations, orders, judicial decisions, and other elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.

"(3) STATE.—The term 'State' means a State, the District of Columbia, and Puerto Rico.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"§ 6103. Minimum standards for State one-call notification programs

"(a) MINIMUM STANDARDS.—In order to qualify for a grant under section 6106, a State one-call notification program shall, at a minimum, provide for—

"(1) appropriate participation by all underground facility operators;

"(2) appropriate participation by all excavators; and

"(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

"(b) APPROPRIATE PARTICIPATION.—In determining the appropriate extent of participation required for types of underground facilities or excavators under subsection (a), a State shall assess, rank, and take into consideration the risks to the public safety, the environment, excavators, and vital public services associated with—

"(1) damage to types of underground facilities; and

"(2) activities of types of excavators.

"(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for—

"(1) consideration of the ranking of risks under subsection (b) in the enforcement of its provisions;

"(2) a reasonable relationship between the benefits of one-call notification and the cost of implementing and complying with the requirements of the State one-call notification program; and

"(3) voluntary participation where the State determines that a type of underground facility or an activity of a type of excavator poses a de minimis risk to public safety or the environment.

"(d) PENALTIES.—To the extent the State determines appropriate and necessary to achieve the purposes of this chapter, a State one-call notification program shall, at a minimum, provide for—

"(1) administrative or civil penalties commensurate with the seriousness of a violation by an excavator or facility owner of a State one-call notification program;

"(2) increased penalties for parties that repeatedly damage underground facilities because they fail to use one-call notification systems or for parties that repeatedly fail to provide timely and accurate marking after the required call has been made to a one-call notification system;

"(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, or could result in, damage that is promptly reported by the violator;

"(4) equitable relief; and

"(5) citation of violations.

"§6104. Compliance with minimum standards

"(a) REQUIREMENT.—In order to qualify for a grant under section 6106, each State shall submit to the Secretary a grant application under subsection (b). The State shall submit the application not later than 2 years after the date of enactment of this chapter.

"(b) APPLICATION.—

"(1) Upon application by a State, the Secretary shall review that State's one-call notification program, including the provisions for the implementation of the program and the record of compliance and enforcement under the program.

"(2) Based on the review under paragraph (1), the Secretary shall determine whether the State's one-call notification program meets the minimum standards for such a program set forth in section 6103 in order to qualify for a grant under section 6106.

"(3) In order to expedite compliance under this section, the Secretary may consult with the State as to whether an existing State one-call notification program, a specific modification thereof, or a proposed State program would result in a positive determination under paragraph (2).

"(4) The Secretary shall prescribe the form and manner of filing an application under this section that shall provide sufficient information about a State's one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include the nature and reasons for exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

"(5) The application of a State under paragraph (1) and the record of actions of the Secretary under this section shall be available to the public.

"(c) ALTERNATIVE PROGRAM.—A State is eligible to receive a grant under section 6106 if the State maintains an alternative one-call notification program that provides protection for public safety, excavators, and the environment that is equivalent to, or greater than, protection provided under a program that meets the minimum standards set forth in section 6103.

"(d) REPORT.—Within 3 years after the date of the enactment of this chapter, the Secretary shall begin to include the following information in reports submitted under section 60124 of this title—

"(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

"(2) an analysis by the Secretary of the overall effectiveness of each State's one-call notification program and the one-call notification systems operating under such program in achieving the purposes of this chapter;

"(3) the impact of each State's decisions on the extent of required participation in one-call notification systems on prevention of damage to underground facilities; and

"(4) areas where improvements are needed in one-call notification systems in operation in each State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the purposes of this chapter have been substantially achieved, no further report under this section shall be required.

"§6105. Review of one-call system best practices

"(a) STUDY OF EXISTING ONE-CALL SYSTEMS.—Except as provided in subsection (d), the Secretary, in consultation with other appropriate Federal agencies, State agencies, one-call notification system operators, underground facility operators, excavators, and other interested parties, shall undertake a study of damage prevention practices associated with existing one-call notification systems.

"(b) PURPOSE OF STUDY OF DAMAGE PREVENTION PRACTICES.—The purpose of the study is to gather information in order to determine which existing one-call notification systems practices appear to be the most effective in protecting the public, excavators, and the environment and in preventing disruptions to public services and damage to underground facilities. As part of the study, the Secretary shall consider, at a minimum—

"(1) the methods used by one-call notification systems and others to encourage participation by excavators and owners of underground facilities;

"(2) the methods by which one-call notification systems promote awareness of their programs, including use of public service announcements and educational materials and programs;

"(3) the methods by which one-call notification systems receive and distribute information from excavators and underground facility owners;

"(4) the use of any performance and service standards to verify the effectiveness of a one-call notification system;

"(5) the effectiveness and accuracy of mapping used by one-call notification systems;

"(6) the relationship between one-call notification systems and preventing damage to underground facilities;

"(7) how one-call notification systems address the need for rapid response to situations where the need to excavate is urgent;

"(8) the extent to which accidents occur due to errors in marking of underground facilities, untimely marking or errors in the excavation process after a one-call notification system has been notified of an excavation;

"(9) the extent to which personnel engaged in marking underground facilities may be endangered;

"(10) the characteristics of damage prevention programs the Secretary believes could be relevant to the effectiveness of State one-call notification programs; and

"(11) the effectiveness of penalties and enforcement activities under State one-call notification programs in obtaining compliance with program requirements.

"(c) REPORT.—Within 1 year after the date of the enactment of this chapter, the Secretary shall publish a report identifying those practices of one-call notification systems that are the most and least successful in—

"(1) preventing damage to underground facilities; and

"(2) providing effective and efficient service to excavators and underground facility operators.

The Secretary shall encourage each State and operator of one-call notification programs to adopt and implement those practices identified in the report that the State determines are the most appropriate.

"(d) SECRETARIAL DISCRETION.—Prior to undertaking the study described in subsection (a), the Secretary shall determine whether timely information described in subsection (b) is readily available. If the Secretary determines that such information is readily available, the Secretary is not required to carry out the study.

"§6106. Grants to States

"(a) IN GENERAL.—The Secretary may make a grant of financial assistance to a State that qualifies under section 6104(b) to assist in improving—

"(1) the overall quality and effectiveness of one-call notification systems in the State;

"(2) communications systems linking one-call notification systems;

"(3) location capabilities, including training personnel and developing and using location technology;

"(4) record retention and recording capabilities for one-call notification systems;

"(5) public information and education;

"(6) participation in one-call notification systems; or

"(7) compliance and enforcement under the State one-call notification program.

"(b) STATE ACTION TAKEN INTO ACCOUNT.—In making grants under this section, the Secretary shall take into consideration the commitment of each State to improving its State one-call notification program, including legislative and regulatory actions taken by the State after the date of enactment of this chapter.

"(c) FUNDING FOR ONE-CALL NOTIFICATION SYSTEMS.—A State may provide funds received under this section directly to any one-call notification system in such State that substantially adopts the best practices identified under section 6105.

"§6107. Authorization of appropriations

"(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary to provide grants to States under section 6106 $1,000,000 for fiscal year 2000 and $5,000,000 for fiscal year 2001. Such funds shall remain available until expended, .

"(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out sections 6103, 6104, and 6105 for fiscal years 1999, 2000, and 2001.

"(c) GENERAL REVENUE FUNDING.—Any sums appropriated under this section shall be derived from general revenues and may not be derived from amounts collected under section 60301 of this title.

"§6108. Relationship to State laws

"Nothing in this chapter preempts State law or shall impose a new requirement on any State or mandate revisions to a one-call system.".

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle III of such title is amended by adding at the end thereof the following:

"61. ONE-CALL NOTIFICATION PROGRAMS .... 6101".

Subtitle D—Sportfishing and Boating Safety

SEC. 7401. SHORT TITLE; AMENDMENT OF 1950 ACT.

(a) SHORT TITLE.—This subtitle may be cited as the "Sportfishing and Boating Safety Act of 1998".

(b) AMENDMENT OF 1950 ACT.—Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of the 1950 Act, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," approved August 9, 1950 (16 U.S.C. 777 et seq.).

SEC. 7402. OUTREACH AND COMMUNICATIONS PROGRAMS.

(a) DEFINITIONS.—Section 2 of the 1950 Act (16 U.S.C. 777a) is amended—

(1) by indenting the left margin of so much of the text as precedes "(a)" by 2 ems;

(2) by inserting "For purposes of this Act—" after the section heading;

(3) by striking "For the purpose of this Act the" in the first paragraph and inserting "(1) the";

(4) by indenting the left margin of so much of the text as follows "include—" by 4 ems;

(5) by striking "(a)", "(b)", "(c)", and "(d)" and inserting "(A)", "(B)", "(C)", and "(D)", respectively;

(6) by striking "department." and inserting "department;"; and

(7) by adding at the end the following:

"(2) the term 'outreach and communications program' means a program to improve communications with anglers, boaters, and the general public regarding angling and boating opportunities, to reduce barriers to participation in these activities, to advance adoption of sound fishing and boating practices, to promote conservation and the responsible use of the Nation's aquatic resources, and to further safety in fishing and boating; and

"(3) the term 'aquatic resource education program' means a program designed to enhance the public's understanding of aquatic resources and sportfishing, and to promote the development of responsible attitudes and ethics toward the aquatic environment.".

(b) FUNDING FOR OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4 of the 1950 Act (16 U.S.C. 777c) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

"(c) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Of the balance of each such annual appropriation remaining after making the distribution under subsections (a) and (b), respectively, an amount equal to—

"(1) $5,000,000 for fiscal year 1999;
"(2) $6,000,000 for fiscal year 2000;
"(3) $7,000,000 for fiscal year 2001;
"(4) $8,000,000 for fiscal year 2002; and
"(5) $10,000,000 for fiscal year 2003;

shall be used for the National Outreach and Communications Program under section 8(d). Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary of the Interior for that program may be expended by the Secretary under subsection (e).";

(3) in subsection (d), as redesignated, by inserting ", for an outreach and communications program" after "Act";

(4) in subsection (d), as redesignated, by striking "subsections (a) and (b)," and inserting "subsections (a), (b), and (c),";

(5) by adding at the end of subsection (d), as redesignated, the following: "Of the sum available to the Secretary of the Interior under this subsection for any fiscal year, up to $2,500,000 may be used for the National Outreach and Communications Program under section 8(d) in addition to the amount available for that program under subsection (c). No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this Act. The Secretary shall publish a detailed accounting of the projects, programs, and activities funded under this subsection annually in the Federal Register."; and

(6) in subsection (e), as redesignated, by striking "subsections (a), (b), and (c)," and inserting "subsections (a), (b), (c), and (d),".

(c) INCREASE IN STATE ALLOCATION.—Section 8 of the 1950 Act (16 U.S.C. 777g) is amended—

(1) by striking "12 ½ percentum" each place it appears in subsection (b) and inserting "15 percent";

(2) by striking "10 percentum" in subsection (c) and inserting "15 percent";

(3) by inserting "and communications" in subsection (c) after "outreach"; and

(4) by redesignating subsection (d) as subsection (f); and by inserting after subsection (c) the following:

"(d) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—

"(1) IMPLEMENTATION.—Within 1 year after the date of enactment of the Sportfishing and Boating Safety Act of 1998, the Secretary of the Interior shall develop and implement, in cooperation and consultation with the Sport Fishing and Boating Partnership Council, a national plan for outreach and communications.

"(2) CONTENT.—The plan shall provide—

"(A) guidance, including guidance on the development of an administrative process and funding priorities, for outreach and communications programs; and

"(B) for the establishment of a national program.

"(3) SECRETARY MAY MATCH OR FUND PROGRAMS.—Under the plan, the Secretary may obligate amounts available under subsection (c) or (d) of section 4 of this Act—

"(A) to make grants to any State or private entity to pay all or any portion of the cost of carrying out any outreach and communications program under the plan; or

"(B) to fund contracts with States or private entities to carry out such a program.

"(4) REVIEW.—The plan shall be reviewed periodically, but not less frequently than once every 3 years.

"(e) STATE OUTREACH AND COMMUNICATIONS PROGRAM.—Within 12 months after the completion of the national plan under subsection (d)(1), a State shall develop a plan for an outreach and communications program and submit it to the Secretary. In developing the plan, a State shall—

"(1) review the national plan developed under subsection (d);

"(2) consult with anglers, boaters, the sportfishing and boating industries, and the general public; and

"(3) establish priorities for the State outreach and communications program proposed for implementation.".

SEC. 7403. CLEAN VESSEL ACT FUNDING.

Section 4(b) of the 1950 Act (16 U.S.C. 777c(b)) is amended to read as follows:

"(b) USE OF BALANCE AFTER DISTRIBUTION.—

"(1) FISCAL YEAR 1998.—In fiscal year 1998, an amount equal to $20,000,000 of the balance remaining after the distribution under subsection (a) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

"(2) FISCAL YEAR 1999.—For fiscal year 1999, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $74,000,000, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

"(A) $10,000,000 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

"(B) The balance remaining after the application of subparagraph (A) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(3) FISCAL YEARS 2000–2003.—For each of fiscal years 2000 through 2003, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $82,000,000, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

"(A) $10,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

"(B) $8,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 6404(d) of the Sportfishing and Boating Safety Act of 1998.

"(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred for each such fiscal year to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(4) TRANSFER OF CERTAIN FUNDS.—Amounts available under subparagraph (A) of paragraph (2) and subparagraphs (A) and (B) of paragraph (3) that are unobligated by the Secretary of the Interior after 3 fiscal years shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.".

SEC. 7404. BOATING INFRASTRUCTURE.

(a) PURPOSE.—The purpose of this section is to provide funds to States for the development and maintenance of facilities for transient nontrailerable recreational vessels.

(b) SURVEY.—Section 8 of the 1950 Act (16 U.S.C. 777g), as amended by section 6402, is amended by adding at the end thereof the following:

"(g) SURVEYS.—

"(1) NATIONAL FRAMEWORK.—Within 6 months after the date of enactment of the Sportfishing and Boating Safety Act of 1998, the Secretary, in consultation with the States, shall adopt a national framework for a public boat access needs assessment which may be used by States to conduct surveys to determine the adequacy, number, location, and quality of facilities providing access to recreational waters for all sizes of recreational boats.

"(2) STATE SURVEYS.—Within 18 months after such date of enactment, each State that agrees to conduct a public boat access needs survey following the recommended national framework shall report its findings to the Secretary for use in the development of a comprehensive national assessment of recreational boat access needs and facilities.

"(3) EXCEPTION.—Paragraph (2) does not apply to a State if, within 18 months after such date of enactment, the Secretary certifies that the State has developed and is implementing a plan that ensures there are and will be public boat access adequate to meet the needs of recreational boaters on its waters.

"(4) FUNDING.—A State that conducts a public boat access needs survey under paragraph (2) may fund the costs of conducting that assessment out of amounts allocated to it as funding dedicated to motorboat access to recreational waters under subsection (b)(1) of this section.".

(c) PLAN.—Within 6 months after submitting a survey to the Secretary under section 8(g) of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," approved August 9, 1950 (16 U.S.C.

777g(g)), as added by subsection (b) of this section, a State may develop and submit to the Secretary a plan for the construction, renovation, and maintenance of facilities for transient nontrailerable recreational vessels, and access to those facilities, to meet the needs of nontrailerable recreational vessels operating on navigable waters in the State.

(d) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior shall obligate amounts made available under section 4(b)(3)(B) of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," approved August 9, 1950, as amended by this Act, to make grants to any State to pay not more than 75 percent of the cost to a State of constructing, renovating, or maintaining facilities for transient nontrailerable recreational vessels.

(2) PRIORITIES.—In awarding grants under paragraph (1), the Secretary shall give priority to projects that—

(A) consist of the construction, renovation, or maintenance of facilities for transient nontrailerable recreational vessels in accordance with a plan submitted by a State under subsection (c);

(B) provide for public/private partnership efforts to develop, maintain, and operate facilities for transient nontrailerable recreational vessels; and

(C) propose innovative ways to increase the availability of facilities for transient nontrailerable recreational vessels.

(e) DEFINITIONS.—For purposes of this section, the term—

(1) "nontrailerable recreational vessel" means a recreational vessel 26 feet in length or longer—

(A) operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure;

(2) "facilities for transient nontrailerable recreational vessels" includes mooring buoys, daydocks, navigational aids, seasonal slips, safe harbors, or similar structures located on navigable waters, that are available to the general public (as determined by the Secretary of the Interior) and designed for temporary use by nontrailerable recreational vessels; and

(3) "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 7405. BOAT SAFETY FUNDS.

(a) AVAILABILITY OF ALLOCATIONS.—Section 13104(a) of title 46, United States Code, is amended—

(1) in paragraph (1), by striking "3 years" and inserting "2 years"; and

(2) in paragraph (2), by striking "3-year" and inserting "2-year".

(b) EXPENDITURES.—Section 13106 of title 46, United States Code, is amended—

(1) by striking the first sentence of subsection (a)(1) and inserting the following: "Subject to paragraph (2) and subsection (c), the Secretary shall expend in each fiscal year for State recreational boating safety programs, under contracts with States under this chapter, an amount equal to the sum of (A) the amount appropriated from the Boat Safety Account for that fiscal year and (B) the amount transferred to the Secretary under section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)).";

(2) in subsection (a)(2), by striking "appropriated" and inserting "available"; and

(3) by striking subsection (c) and inserting the following:

"(c) Of the amount transferred for each fiscal year to the Secretary of Transportation under paragraphs (2) and (3) of section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)), $5,000,000 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which $2,000,000 shall be available to the Secretary only to ensure compliance with chapter 43 of this title. No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this section. Amounts made available by this subsection shall remain available until expended. The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.".

(c) CONFORMING AMENDMENTS.—

(1) The heading for section 13106 of title 46, United States Code, is amended to read as follows:

"§ 13106. Authorization of appropriations".

(2) The chapter analysis for chapter 131 of title 46, United States Code, is amended by striking the item relating to section 13106 and inserting the following:

"13106. Authorization of appropriations.".

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

Subtitle A—Transportation Discretionary Spending Guarantee

SEC. 8101. DISCRETIONARY SPENDING CATEGORIES.

(a) ESTABLISHMENT OF SEPARATE CATEGORIES.—Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) FY1999.—In paragraph (3), strike "and" at the end of subparagraph (B) and after subparagraph (C) add the following new subparagraphs:

"(D) for the highway category: $21,885,000,000 in outlays; and

"(E) for the mass transit category: $4,401,000,000 in outlays.

(2) FY2000.—In paragraph (4), strike "and" at the end of subparagraph (A) and at the end add the following new subparagraphs:

"(C) for the highway category: $24,436,000,000 in outlays; and

"(D) for the mass transit category: $4,761,000,000 in outlays;".

(3) FY2001.—In paragraph (5), strike the comma and insert "—" after "2001", insert "(A)" before "for" and indent the new subparagraph and move it 2 ems to the right, strike "and" at the end of such subparagraph, and at the end add the following new subparagraphs:

"(B) for the highway category: $26,204,000,000 in outlays; and

"(C) for the mass transit category: $5,190,000,000 in outlays;".

(4) FY2002.—In paragraph (6), strike the comma and insert "—" after "2002", insert "(A)" before "for", indent the new subparagraph and move it 2 ems to the right, and add at the end the following new subparagraphs:

"(B) for the highway category: $26,977,000,000 in outlays; and

"(C) for the mass transit category: $5,709,000,000 in outlays; and".

(5) FY2003.—After paragraph (6), add the following new paragraph:

"(7) with respect to fiscal year 2003—

"(A) for the highway category: $27,728,000,000 in outlays; and

"(B) for the mass transit category: $6,256,000,000 in outlays;".

(b) OFFSETTING ADJUSTMENT IN DISCRETIONARY SPENDING LIMITS.—

(1) ADJUSTMENT OF NONDEFENSE CATEGORY FOR FY1999.—The discretionary spending limit set forth in section 251(c)(3)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985, as adjusted in conformance with section 251(b) of that Act, is reduced by $859,000,000 in new budget authority and $25,173,000,000 in outlays.

(2) ADJUSTMENT OF DISCRETIONARY CATEGORY FOR FY2000.—The discretionary spending limit set forth in section 251(c)(4)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as adjusted in conformance with section 251(b) of that Act, is reduced by $859,000,000 in new budget authority and $26,045,000,000 in outlays.

(3) ADJUSTMENT OF DISCRETIONARY SPENDING LIMIT FOR FY2001.—The discretionary spending limit set forth in section 251(c)(5)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as adjusted in conformance with section 251(b) of that Act, is reduced by $859,000,000 in new budget authority and $26,329,000,000 in outlays.

(4) ADJUSTMENT OF DISCRETIONARY SPENDING LIMIT FOR FY2002.—The discretionary spending limit set forth in section 251(c)(6)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as adjusted in conformance with section 251(b) of that Act, is reduced by $859,000,000 in new budget authority and $26,675,000,000 in outlays.

(c) DEFINITIONS OF HIGHWAY CATEGORY AND MASS TRANSIT CATEGORY.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "(A)" after "(4)" and by adding at the end the following new subparagraphs:

"(B) The term 'highway category' refers to the following budget accounts or portions thereof that are subject to the obligation limitations on contract authority set forth in the Transportation Equity Act for the 21st Century:

"(i) 69–8083–0–7–401 (Federal-Aid Highways).

"(ii) 69–8020–0–7–401 (Highway Traffic Safety Grants).

"(iii) 69–8048–0–7–401 (National Motor Carrier Safety Program).

"(iv) 69–8016–0–7–401 (Operations and Research NHTSA).

"(C) The term 'mass transit category' refers to the following budget accounts or portions thereof that are subject to the obligation limitations on contract authority provided in the Transportation Equity Act for the 21st Century and for which appropriations are provided pursuant to authorizations contained in that Act (except that appropriations provided pursuant to section 5338(h) of title 49, United States Code, as amended by this section, shall not be included in this category):

"(i) 69–8191–0–7–401 (Mass Transit Capital Fund).

"(ii) 69–8350–0–7–401 (Trust Fund Share of Expenses).

"(iii) 69–1129–0–1–401 (Formula Grants).

"(iv) 69–1120–0–1–401 (Administrative expenses).

"(v) 69–1136–0–1–401 (University Transportation Centers).

"(vi) 69–1137–0–1–401 (Transit Planning and Research).

"(D) SPECIAL RULE.—(i) Any outlays in excess of the discretionary spending limit set forth in section 251(c) for the highway or mass transit category, as adjusted, for the budget year shall be considered nondefense category outlays or discretionary category outlays.

"(ii) If the obligation limitations for accounts in the highway or mass transit category provided in an appropriation Act for a fiscal year exceed the obligation limitations set forth in section 8103 of the Transportation Equity Act for the 21st Century for that year, as adjusted, the estimated outlays flowing for each outyear from such excess obligations calculated pursuant to clause (iii) shall be attributed to the discretionary category in that outyear.

"(iii) For purposes of clause (ii), outlays from excess obligations shall be determined using the average of the spendout rates for that category in the baseline.".

(d) ADJUSTMENT TO HIGHWAY AND MASS TRANSIT CATEGORIES.—Section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) striking "When" and inserting:

"(A) CONCEPTS AND DEFINITIONS.—When"; and

(2) adding at the end the following:

"(B) ADJUSTMENT TO ALIGN HIGHWAY SPENDING WITH REVENUES.—(i) When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include adjustments to the highway category for the budget year and each outyear as provided in clause (ii)(I)(cc).

"(ii)(I)(aa) OMB shall take the actual level of highway receipts for the year before the current year and subtract the sum of the estimated level of highway receipts in subclause (II) plus any amount previously calculated under item (bb) for that year.

"(bb) OMB shall take the current estimate of highway receipts for the budget year and subtract the estimated level of receipts for that year.

"(cc) OMB shall take the sum of the amounts calculated under items (aa) and (bb), add that sum to the amount of obligations set forth in section 8103 of the Transportation Equity Act for the 21st Century for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After making the calculation under the preceding sentence, OMB shall adjust the amount of obligations set forth in that section for the budget year by adding the sum of the amounts calculated under items (aa) and (bb).

"(II) The estimated level of highway receipts for the purposes of this clause are—

"(aa) for fiscal year 1998, $22,164,000,000;

"(bb) for fiscal year 1999, $32,619,000,000;

"(cc) for fiscal year 2000, $28,066,000,000;

"(dd) for fiscal year 2001, $28,506,000,000;

"(ee) for fiscal year 2002, $28,972,000,000; and

"(ff) for fiscal year 2003, $29,471,000,000.

"(III) In this clause, the term 'highway receipts' means the governmental receipts credited to the highway account of the Highway Trust Fund.

"(C)(i) In addition to the adjustment required by subparagraph (B), when the President submits the budget under section 1105 of title 31, United States Code, for fiscal years 2000, 2001, 2002, or 2003, OMB shall calculate and the budget shall include for the budget year and each outyear an adjustment to the limits on outlays for the highway category and the mass transit category equal to—

"(I) the outlays for the applicable category calculated assuming obligation levels consistent with the estimates prepared pursuant to subparagraph (D), as adjusted, using current technical assumptions; minus

"(II) the outlays for the applicable category set forth in the subparagraph (D) estimates, as adjusted.

"(ii) The adjustment made pursuant to clause (i) in the fiscal years 2002 and 2003 budget submissions of the President under section 1105(a) of title 31, United States Code, shall not exceed 4 percent plus cumulative carryovers. In this clause, the term 'cumulative carryovers' means the total of each amount by which outlays for the highway and mass transit category for any fiscal year are less than the outlay limit for that category, as adjusted, for that year less any amount of carryover used in the previous year.

"(D)(i) When OMB and CBO submit their final sequester report for fiscal year 1999, that report shall include an estimate of the outlays for each of the categories that would result in fiscal years 2000 through 2003 from obligations at the levels specified in section 8103 of the Transportation Equity Act for the 21st Century using current assumptions.

"(ii) When the President submits the budget under section 1105 of title 31, United States Code, for fiscal years 2000, 2001, 2002, or 2003, OMB shall adjust the estimates made in clause (i) by the adjustments by subparagraphs (B) and (C).

"(E) OMB shall consult with the Committees on the Budget and include a report on adjustments under subparagraphs (B) and (C) in the preview report.".

(e) ENFORCEMENT OF GUARANTEE.—Rule XXI of the Rules of the House of Representatives is amended by adding at the end the following new clause:

"9. It shall not be in order to consider any bill or joint resolution, or any amendment thereto or conference report thereon, that would cause obligation limitations to be below the level for any fiscal year set forth in section 8103 of the Transportation Equity Act for the 21st Century, as adjusted, for the highway category or the mass transit category, as applicable.".

SEC. 8102. CONFORMING THE PAYGO SCORECARD WITH THIS ACT.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall not make any estimates under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 of changes in direct spending outlays and receipts for any fiscal year resulting from this title.

SEC. 8103. LEVEL OF OBLIGATION LIMITATIONS.

(a) HIGHWAY CATEGORY.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the highway category is—

(1) for fiscal year 1999, $25,883,000,000;

(2) for fiscal year 2000, $26,629,000,000;

(3) for fiscal year 2001, $27,158,000,000;

(4) for fiscal year 2002, $27,767,000,000; and

(5) for fiscal year 2003, $28,233,000,000.

(b) MASS TRANSIT CATEGORY.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the mass transit category is—

(1) for fiscal year 1999, $5,365,000,000;

(2) for fiscal year 2000, $5,797,000,000;

(3) for fiscal year 2001, $6,271,000,000;

(4) for fiscal year 2002, $6,747,000,000; and

(5) for fiscal year 2003, $7,226,000,000.

For purposes of this subsection, the term "obligation limitations" means the sum of budget authority and obligation limitations.

Subtitle B—Veterans' Benefits

SEC. 8201. SHORT TITLE.

This subtitle may be cited as the "Veterans Benefits Act of 1998".

SEC. 8202. PROHIBITION ON ESTABLISHMENT OF SERVICE-CONNECTION FOR DISABILITIES RELATING TO USE OF TOBACCO PRODUCTS.

(a) WARTIME DISABILITY COMPENSATION.—Section 1110 of title 38, United States Code, is amended by striking out "or abuse of alcohol or drugs" and inserting in lieu thereof ", abuse of alcohol or drugs, or use of tobacco products".

(b) PEACETIME DISABILITY COMPENSATION.—Section 1131 of such title is amended by striking out "or abuse of alcohol or drugs" and inserting in lieu thereof ", abuse of alcohol or drugs, or use of tobacco products".

(c) APPLICABILITY.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to any claims for compensation received by the Secretary of Veterans Affairs before, on, or after the date of enactment of this Act.

(2) The amendments made by this section shall not apply in the case of any such claims adjudicated by the Secretary before such date of enactment for which a service-connection was established for a disability on the basis of the use of tobacco products.

SEC. 8203. TWENTY PERCENT INCREASE IN RATES OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.

(a) ACTIVE DUTY EDUCATIONAL ASSISTANCE.—

(1) INCREASE IN RATES.—Section 3015 of title 38, United States Code, is amended—

(A) in subsection (a)(1), by striking out "$400" and inserting in lieu thereof "$528 (as increased from time to time under subsection (g))"; and

(B) in subsection (b)(1), by striking out "$325" and inserting in lieu thereof "$429 (as increased from time to time under subsection (g))".

(2) CPI ADJUSTMENT.—Subsection (g) of such section is amended by striking out "beginning on or after October 1, 1994" and all that follows through "such rates" and inserting in lieu thereof ", the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the rates payable under subsections (a)(1) and (b)(1)".

(3) TECHNICAL AMENDMENTS.—Such section is further amended—

(A) in subsection (a), by striking out "subsections (b), (c), (d), (e), (f), and (g) of" in the matter preceding paragraph (1); and

(B) in subsection (b)—

(i) by striking out "Except as provided in subsections (c), (d), (e), (f), and (g), in" and inserting in lieu thereof "In"; and

(ii) by inserting "(except as provided in the succeeding subsections of this section)" after "under this chapter shall".

(4) EFFECTIVE DATES.—The amendments made by this subsection shall take effect on October 1, 1998, and shall apply with respect to educational assistance allowances paid for months after September 1998. However, no adjustment in rates of educational assistance shall be made under subsection (g) of section 3015 of title 38, United States Code, as amended by paragraph (2), for fiscal year 1999.

(b) SELECTED RESERVE EDUCATIONAL ASSISTANCE.—

(1) INCREASE IN RATES.—Paragraph (1) of section 16131(b) of title 10, United States Code, is amended—

(A) in subparagraph (A), by striking out "$190" and inserting in lieu thereof "$251 (as increased from time to time under paragraph (2))";

(B) in subparagraph (B), by striking out "$143" and inserting in lieu thereof "$188 (as increased from time to time under paragraph (2))"; and

(C) in subparagraph (C), by striking out "$95" and inserting in lieu thereof "$125 (as increased from time to time under paragraph (2))".

(2) CPI ADJUSTMENT.—Paragraph (2) of such section is amended by striking out "beginning on or after October 1, 1994" and all that follows through "such rates" and inserting in lieu thereof ", the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the rates payable under subparagraphs (A), (B), and (C) of paragraph (1)".

(3) TECHNICAL AMENDMENT.—Paragraph (1) of such section is further amended by striking out "in paragraph (2) and".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 1998, and shall apply with respect to educational assistance allowances paid for months after September 1998. However, no adjustment in rates of educational assistance shall be made

under paragraph (2) of section 16131(b) of title 10, United States Code, as amended by paragraph (2), for fiscal year 1999.

SEC. 8204. INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING.

(a) In General.—Section 2102 of title 38, United States Code, is amended—

(1) in the matter preceding paragraph (1) of subsection (a), by striking out "$38,000" and inserting in lieu thereof "$43,000"; and

(2) in subsection (b)(2), by striking out "$6,500" and inserting in lieu thereof "$8,250".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to limitations under section 2102 of such title on assistance furnished to a veteran under section 2101 of such title on or after October 1, 1998.

SEC. 8205. INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS.

(a) In General.—Section 3902(a) of title 38, United States Code, is amended by striking out "$5,500" and inserting in lieu thereof "$8,000".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to assistance furnished under section 3902 of such title on or after October 1, 1998.

SEC. 8206. INCREASE IN AID AND ATTENDANCE RATES FOR VETERANS ELIGIBLE FOR PENSION.

Effective October 1, 1998, the maximum annual rates of pension in effect as of September 30, 1998, under the following provisions of chapter 15 of title 38, United States Code, are increased by $600:

(1) Subsections (d)(1), (d)(2), (f)(2), and (f)(4) of section 1521.

(2) Section 1536(d)(2).

SEC. 8207. ELIGIBILITY OF CERTAIN REMARRIED SURVIVING SPOUSES FOR REINSTATEMENT OF DEPENDENCY AND INDEMNITY COMPENSATION UPON TERMINATION OF THAT REMARRIAGE.

(a) Restoration of Prior Eligibility.—Section 1311 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) The remarriage of the surviving spouse of a veteran shall not bar the furnishing of dependency and indemnity compensation to such person as the surviving spouse of the veteran if the remarriage is terminated by death, divorce, or annulment unless the Secretary determines that the divorce or annulment was secured through fraud or collusion.

"(2) If the surviving spouse of a veteran ceases living with another person and holding himself or herself out openly to the public as that person's spouse, the bar to granting that person dependency and indemnity compensation as the surviving spouse of the veteran shall not apply.

"(3) The first month of eligibility for payment of dependency and indemnity compensation to a surviving spouse by reason of this subsection shall be the later of the month after—

"(A) the month of the termination of such remarriage, in the case of a surviving spouse described in paragraph (1); or

"(B) the month of the cessation described in paragraph (2), in the case of a surviving spouse described in that paragraph.".

(b) Effective Date.—No payment may be made by reason of section 1311(e) of title 38, United States Code, as added by subsection (a), for any month before October 1998.

SEC. 8208. EXTENSION OF PRIOR REVISION TO OFFSET RULE FOR DEPARTMENT OF DEFENSE SPECIAL SEPARATION BENEFIT PROGRAM.

The amendment made by section 653 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2583) to subsection (h)(2) of section 1174 of title 10, United States Code, shall apply to any payment of separation pay under the special separation benefits program under section 1174a of that title that was made during the period beginning on December 5, 1991, and ending on September 30, 1996.

SEC. 8209. SENSE OF CONGRESS CONCERNING RECOVERY FROM TOBACCO COMPANIES OF COSTS OF TREATMENT OF VETERANS FOR TOBACCO-RELATED ILLNESSES.

It is the sense of the Congress—

(1) that the Attorney General or the Secretary of Veterans Affairs, as appropriate, should take all steps necessary to recover from tobacco companies amounts corresponding to the costs which would be incurred by the Department of Veterans Affairs for treatment of tobacco-related illnesses of veterans, if such treatment were authorized by law; and

(2) that the Congress should authorize by law the treatment of tobacco-related illnesses of veterans upon the recovery of such amounts.

Subtitle C—Temporary Student Loan Provision.

SEC. 8301. TEMPORARY STUDENT LOAN PROVISION.

(a) FFEL Interest Rates.—

(1) Amendment.—Section 427A of the Higher Education Act of 1965 (20 U.S.C. 1077a) is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) Interest Rates for New Loans Between July 1, 1998 and October 1, 1998.—

"(1) In general.—Notwithstanding subsection (h), but subject to paragraph (2), with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(B) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

"(2) In school and grace period Rules.—Notwithstanding subsection (h), with respect to any loan under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest for interest which accrues—

"(A) prior to the beginning of the repayment period of the loan; or

"(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall be determined under paragraph (1) by substituting '1.7 percent' for '2.3 percent'.

"(3) PLUS loans.—Notwithstanding subsection (h), with respect to any loan under section 428B for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the lesser of—

"(A)(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.1 percent; or

"(B) 9.0 percent.

"(4) Consultation.—The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.".

(2) Conforming amendment.—Section 428B(d)(4) (20 U.S.C. 1078–2(d)(4)) is amended by striking "section 427A(c)" and inserting "section 427A for loans made under this section".

(b) Special Allowances.—

(1) Amendment.—Section 438(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)) is amended by adding at the end the following new subparagraph:

"(G) Loans disbursed between July 1, 1998, and October 1, 1998.—

"(i) In general.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, shall be computed—

"(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;

"(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

"(III) by adding 2.8 percent to the resultant percent; and

"(IV) by dividing the resultant percent by 4.

"(ii) In school and grace period.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, and for which the applicable rate of interest is described in section 427A(j)(2), clause (i)(III) of this subparagraph shall be applied by substituting '2.2 percent' for '2.8 percent'.

"(iii) PLUS loans.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, and for which the applicable rate of interest is described in section 427A(j)(3), clause (i)(III) of this subparagraph shall be applied by substituting '3.1 percent' for '2.8 percent', subject to clause (v) of this subparagraph.

"(iv) Consolidation loans.—This subparagraph shall not apply in the case of any consolidation loan.

"(v) Limitation on special allowances for PLUS loans.—In the case of PLUS loans made under section 428B and disbursed on or after July 1, 1998, and before October 1, 1998, for which the interest rate is determined under 427A(j)(3), a special allowance shall not be paid for such loan for such unless the rate determined under subparagraph (A) of such section (without regard to subparagraph (B) of such section) exceeds 9.0 percent.".

(2) Conforming amendments.—Section 438(b)(2) of such Act is further amended—

(A) in subparagraph (A), by striking "(E), and (F)" and inserting "(E), (F), and (G)";

(B) in subparagraph (B)(iv), by striking "(E), or (F)" and inserting "(E), (F), or (G)"; and

(C) in subparagraph (C)(ii), by striking "In the case" and inserting "Subject to subparagraph (G), in the case".

(c) Direct Loan Interest Rates.—Section 455(b) (20 U.S.C. 1087e(b)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) Temporary interest rate provision.—

"(A) Rates for FDSL and FDUSL.—Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on

June 30, be determined on the preceding June 1 and be equal to—

"(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

"(B) IN SCHOOL AND GRACE PERIOD RULES.—Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest for interest which accrues—

"(i) prior to the beginning of the repayment period of the loan; or

"(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall be determined under subparagraph (A) by substituting '1.7 percent' for '2.3 percent'.

"(C) PLUS LOANS.—Notwithstanding the preceding paragraphs of this subsection, with respect to Federal Direct PLUS Loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall be determined under subparagraph (A)—

"(i) by substituting '3.1 percent' for '2.3 percent'; and

"(ii) by substituting '9.0 percent' for '8.25 percent'.".

Subtitle D—Block Grants for Social Services

SEC. 8401. BLOCK GRANTS FOR SOCIAL SERVICES.

(a) REDUCTION OF GRANTS.—Section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) is amended by striking paragraphs (7) and (8) and inserting the following:

"(7) $2,380,000,000 for the fiscal year 1997;

"(8) $2,380,000,000 for the fiscal year 1998;

"(9) $2,380,000,000 for the fiscal year 1999;

"(10) $2,380,000,000 for the fiscal year 2000; and

"(11) $1,700,000,000 for the fiscal year 2001 and each fiscal year thereafter.".

(b) LIMITATION ON AMOUNT OF TANF FUNDS TRANSFERABLE.—Section 404(d)(2) of the Social Security Act (42 U.S.C. 604(d)(2)) is amended to read as follows:

"(2) LIMITATION ON AMOUNT TRANSFERABLE TO TITLE XX PROGRAMS.—

"(A) IN GENERAL.—A State may use not more than the applicable percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out State programs pursuant to title XX.

"(B) APPLICABLE PERCENT.—For purposes of subparagraph (A), the applicable percent is 4.25 percent in the case of fiscal year 2001 and each succeeding fiscal year.".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 1998.

TITLE IX—AMENDMENTS OF INTERNAL REVENUE CODE OF 1986

SEC. 901. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Surface Transportation Revenue Act of 1998".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 902. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking "1999" each place it appears and inserting "2005":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels), as amended by section 907(a)(1) of the Taxpayer Relief Act of 1997.

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels), as amended by section 907(b) of the Taxpayer Relief Act of 1997.

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) OTHER PROVISIONS.—

(A) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(i) by striking "1999" each place it appears and inserting "2005", and

(ii) by striking "2000" each place it appears and inserting "2006".

(B) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Section 6156(e)(2) (relating to installment payments of highway use tax on use of highway motor vehicles) is amended by striking "1999" and inserting "2005".

(b) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking "1999" and inserting "2005":

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(c) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsection (b), and paragraphs (2) and (3) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "1999" each place it appears and inserting "2005", and

(B) by striking "2000" each place it appears and inserting "2006".

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (4)(A)(i) and (5)(A) of section 9503(c) are each amended by striking "1998" and inserting "2005".

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(i) by striking "1997" and inserting "2003", and

(ii) by striking "1998" each place it appears and inserting "2004".

(3) CONFORMING AMENDMENT.—The heading for paragraph (3) of section 9503(c) is amended to read as follows:

"(3) FLOOR STOCKS REFUNDS.—".

(d) EXTENSION AND EXPANSION OF EXPENDITURES FROM TRUST FUND.—

(1) HIGHWAY ACCOUNT.—

(A) EXTENSION OF EXPENDITURE AUTHORITY.—Paragraph (1) of section 9503(c) is amended by striking "1998" and inserting "2003".

(B) EXPANSION OF PURPOSES.—Paragraph (1) of section 9503(c) is amended—

(i) by striking "or" at the end of subparagraph (C), and

(ii) by striking "1991." in subparagraph (D) and all that follows through the end of paragraph (1) and inserting "1991, or

"(E) authorized to be paid out of the Highway Trust Fund under the Transportation Equity Act for the 21st Century.

In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of enactment of the Transportation Equity Act for the 21st Century.".

(2) MASS TRANSIT ACCOUNT.—

(A) EXTENSION OF EXPENDITURE AUTHORITY.—Paragraph (3) of section 9503(e) is amended by striking "1998" and inserting "2003".

(B) EXPANSION OF PURPOSES.—Paragraph (3) of section 9503(e) is amended—

(i) by striking "or" at the end of subparagraph (A),

(ii) by adding "or" at the end of subparagraph (B), and

(iii) by striking all that follows subparagraph (B) and inserting:

"(C) the Transportation Equity Act for the 21st Century,

as such section and Acts are in effect on the date of enactment of the Transportation Equity Act for the 21st Century.".

(e) TECHNICAL CORRECTION RELATING TO TRANSFERS TO MASS TRANSIT ACCOUNT.—

(1) IN GENERAL.—Section 9503(e)(2) is amended by striking the last sentence and inserting the following: "For purposes of the preceding sentence, the term 'mass transit portion' means, for any fuel with respect to which tax was imposed under section 4041 or 4081 and otherwise deposited into the Highway Trust Fund, the amount determined at the rate of—

"(A) except as otherwise provided in this sentence, 2.86 cents per gallon,

"(B) 1.43 cents per gallon in the case of any partially exempt methanol or ethanol fuel (as defined in section 4041(m)) none of the alcohol in which consists of ethanol,

"(C) 1.86 cents per gallon in the case of liquefied natural gas,

"(D) 2.13 cents per gallon in the case of liquefied petroleum gas, and

"(E) 9.71 cents per MCF (determined at standard temperature and pressure) in the case of compressed natural gas.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendment made by section 901(b) of the Taxpayer Relief Act of 1997.

(f) CLERICAL AMENDMENTS.—

(1) Paragraph (1) of section 9503(b) is amended by striking subparagraph (C), by striking "and tread rubber" in subparagraph (D), and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(2) Clause (i) of section 9503(c)(2)(A) is amended by adding "and" at the end of subclause (II), by striking subclause (III), and by redesignating subclause (IV) as subclause (III).

(3) Clause (ii) of section 9503(c)(2)(A) is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "fuel".

SEC. 903. EXTENSION AND MODIFICATION OF TAX BENEFITS FOR ALCOHOL FUELS.

(a) EXTENSION OF TAX BENEFITS.—

(1) EXTENSION.—The following provisions are each amended by striking "2000" each place it appears and inserting "2007":

(A) Section 4041(b)(2)(C) (relating to termination of reduction in tax for qualified methanol and ethanol fuel).

(B) Section 4041(k)(3) (relating to termination of rates relating to fuels containing alcohol).

(C) Section 4081(c)(8) (relating to termination of special rate for taxable fuels mixed with alcohol).

(D) Section 4091(c)(5) (relating to termination of reduced rate of tax for aviation fuel in alcohol mixture, etc.).

(2) EXTENSION OF REFUND AUTHORITY.—Paragraph (4) of section 6427(f) (relating to refund for gasoline, diesel fuel, and aviation fuel used

to produce certain alcohol fuels), as amended by the Taxpayer Relief Act of 1997, is amended by striking "1999" and inserting "2007".

(3) CREDIT FOR ALCOHOL USED AS A FUEL.—Paragraph (1) of section 40(e) (relating to termination of credit for alcohol used as a fuel) is amended—

(A) by striking "December 31, 2000" in subparagraph (A) and inserting "December 31, 2007", and

(B) by striking "January 1, 2001" and inserting "January 1, 2008".

(4) TARIFF SCHEDULE.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking "10/1/2000" each place it appears and inserting "10/1/2007".

(b) MODIFICATION.—

(1) IN GENERAL.—Subsection (h) of section 40 (relating to alcohol used as fuel) is amended to read as follows:

"(h) REDUCED CREDIT FOR ETHANOL BLENDERS.—

"(1) IN GENERAL.—In the case of any alcohol mixture credit or alcohol credit with respect to any sale or use of alcohol which is ethanol during calendar years 2001 through 2007—

"(A) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting 'the blender amount' for '60 cents',

"(B) subsection (b)(3) shall be applied by substituting 'the low-proof blender amount' for '45 cents' and 'the blender amount' for '60 cents', and

"(C) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting 'the blender amount' for '60 cents' and 'the low-proof blender amount' for '45 cents'.

"(2) AMOUNTS.—For purposes of paragraph (1), the blender amount and the low-proof blender amount shall be determined in accordance with the following table:

In the case of any sale or use during calendar year:	**The blender amount is:**	**The low-proof blender amount is:**
2001 or 2002	53 cents	39.26 cents
2003 or 2004	52 cents	38.52 cents
2005, 2006, or 2007	51 cents	37.78 cents.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(b)(2) is amended—

(i) in subparagraph (A)(i), by striking "5.4 cents" and inserting "the applicable blender rate", and

(ii) by redesignating subparagraph (C), as amended by subsection (a)(1)(A), as subparagraph (D) and by inserting after subparagraph (B) the following:

"(C) APPLICABLE BLENDER RATE.—For purposes of subparagraph (A)(i), the applicable blender rate is—

"(i) except as provided in clause (ii), 5.4 cents, and

"(ii) for sales or uses during calendar years 2001 through 2007, 1/10 of the blender amount applicable under section 40(h)(2) for the calendar year in which the sale or use occurs.".

(B) Subparagraph (A) of section 4081(c)(4) is amended to read as follows:

"(A) GENERAL RULES.—

"(i) MIXTURES CONTAINING ETHANOL.—Except as provided in clause (ii), in the case of a qualified alcohol mixture which contains gasoline, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

"(I) in the case of 10 percent gasohol, the applicable blender rate (as defined in section 4041(b)(2)(C)) per gallon,

"(II) in the case of 7.7 percent gasohol, the number of cents per gallon equal to 77 percent of such applicable blender rate, and

"(III) in the case of 5.7 percent gasohol, the number of cents per gallon equal to 57 percent of such applicable blender rate.

"(ii) MIXTURES NOT CONTAINING ETHANOL.—In the case of a qualified alcohol mixture which contains gasoline and none of the alcohol in which consists of ethanol, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

"(I) in the case of 10 percent gasohol, 6 cents per gallon,

"(II) in the case of 7.7 percent gasohol, 4.62 cents per gallon, and

"(III) in the case of 5.7 percent gasohol, 3.42 cents per gallon.".

(C) Section 4081(c)(5) is amended by striking "5.4 cents" and inserting "the applicable blender rate (as defined in section 4041(b)(2)(C))".

(D) Section 4091(c)(1) is amended by striking "13.4 cents" each place it appears and inserting "the applicable blender amount" and by adding at the end the following: "For purposes of this paragraph, the term 'applicable blender amount' means 13.3 cents in the case of any sale or use during 2001 or 2002, 13.2 cents in the case of any sale or use during 2003 or 2004, 13.1 cents in the case of any sale or use during 2005, 2006, or 2007, and 13.4 cents in the case of any sale or use during 2008 or thereafter.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2001.

SEC. 904. MODIFICATIONS TO HIGHWAY TRUST FUND.

(a) DETERMINATION OF TRUST FUND BALANCES AFTER SEPTEMBER 30, 1998.—

(1) IN GENERAL.—Section 9503 (relating to Highway Trust Fund) is amended by adding at the end the following new subsection:

"(f) DETERMINATION OF TRUST FUND BALANCES AFTER SEPTEMBER 30, 1998.—For purposes of determining the balances of the Highway Trust Fund and the Mass Transit Account after September 30, 1998—

"(1) the opening balance of the Highway Trust Fund (other than the Mass Transit Account) on October 1, 1998, shall be $8,000,000,000, and

"(2) no interest accruing after September 30, 1998, on any obligation held by such Fund shall be credited to such Fund.

The Secretary shall cancel obligations held by the Highway Trust Fund to reflect the reduction in the balance under this subsection.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 1998.

(b) REPEAL OF LIMITATION ON EXPENDITURES ADDED BY TAXPAYER RELIEF ACT OF 1997.—

(1) IN GENERAL.—Subsection (c) of section 9503 (relating to expenditures from Highway Trust Fund) is amended by striking paragraph (7).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 901 of the Taxpayer Relief Act of 1997.

(c) LIMITATION ON EXPENDITURE AUTHORITY.—Subsection (b) of section 9503 (relating to transfers to Highway Trust Fund) is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON TRANSFERS TO HIGHWAY TRUST FUND.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no amount may be appropriated to the Highway Trust Fund on and after the date of any expenditure from the Highway Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

"(i) any provision of law which is not contained or referenced in this title or in a revenue Act, and

"(ii) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

"(B) EXCEPTION FOR PRIOR OBLIGATIONS.—Subparagraph (A) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2003, in accordance with the provisions of this section.".

(d) MODIFICATION OF MASS TRANSIT ACCOUNT RULES ON ADJUSTMENTS OF APPORTIONMENTS.—Paragraph (4) of section 9503(e) is amended to read as follows:

"(4) LIMITATION.—Rules similar to the rules of subsection (d) shall apply to the Mass Transit Account.".

SEC. 905. PROVISIONS RELATING TO AQUATIC RESOURCES TRUST FUND.

(a) INCREASED TRANSFERS.—

(1) Subparagraph (D) of section 9503(b)(4), as amended by section 911, is amended by striking "exceeds 11.5 cents per gallon," and inserting "exceeds—

"(i) 11.5 cents per gallon with respect to taxes imposed before October 1, 2001,

"(ii) 13 cents per gallon with respect to taxes imposed after September 30, 2001, and before October 1, 2003, and

"(iii) 13.5 cents per gallon with respect to taxes imposed after September 30, 2003, and before October 1, 2005,".

(2) Clause (ii) of section 9503(c)(4)(A) is amended by adding at the end the following new flush sentence:

"In making the determination under subclause (II) for any fiscal year, the Secretary shall not take into account any amount appropriated from the Boat Safety Account in any preceding fiscal year but not distributed."

(b) EXPANSION OF EXPENDITURE AUTHORITY FROM BOAT SAFETY ACCOUNT.—Section 9504(b)(2) (relating to expenditures from Sport Fish Restoration Account) is amended—

(1) in subparagraph (A) by striking "October 1, 1988), and" and inserting "the date of the enactment of the Transportation Equity Act for the 21st Century),",

(2) in subparagraph (B) by striking "November 29, 1990" and inserting "the date of the enactment of the Transportation Equity Act for the 21st Century", and

(3) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) to carry out the purposes of section 7404(d) of the Transportation Equity Act for the 21st Century (as in effect on the date of the enactment of such Act), and".

(c) EXTENSION AND EXPANSION OF EXPENDITURE AUTHORITY FROM BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(1) by striking "1998" and inserting "2003", and

(2) by striking "October 1, 1988" and inserting "the date of enactment of the Transportation Equity Act for the 21st Century".

(d) LIMITATION ON EXPENDITURE AUTHORITY.—Section 9504 (relating to Aquatic Resources Trust Fund) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

"(d) LIMITATION ON TRANSFERS TO AQUATIC RESOURCES TRUST FUND.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no amount may be appropriated or paid to any Account in the Aquatic Resources Trust Fund on and after the date of any expenditure from any such Account which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

"(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2003, in accordance with the provisions of this section.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 906. REPEAL OF 1.25 CENT TAX RATE ON RAIL DIESEL FUEL.

(a) IN GENERAL.—Section 4041(a)(1)(C)(ii) (relating to rate of tax on trains) is amended—

(1) in subclause (II), by striking "October 1, 1999" and inserting "November 1, 1998", and

(2) in subclause (III), by striking "September 30, 1999" and inserting "October 31, 1998".

(b) CONFORMING AMENDMENTS.—

(1) Section 6421(f)(3)(B) is amended—

(A) in clause (ii), by striking "October 1, 1999" and inserting "November 1, 1998", and

(B) in clause (iii), by striking "September 30, 1999" and inserting "October 31, 1998".

(2) Section 6427(l)(3)(B) is amended—

(A) in clause (ii), by striking "October 1, 1999" and inserting "November 1, 1998", and

(B) in clause (iii), by striking "September 30, 1999" and inserting "October 31, 1998".

SEC. 907. ADDITIONAL QUALIFIED EXPENSES AVAILABLE TO NONAMTRAK STATES.

(a) IN GENERAL.—Section 977(e)(1)(B) of the Taxpayer Relief Act of 1997 (defining qualified expenses) is amended—

(1) by striking "and" at the end of clause (iii), and

(2) by striking clause (iv) and inserting the following:

"(iv) capital expenditures related to State-owned rail operations in the State,

"(v) any project that is eligible to receive funding under section 5309, 5310, or 5311 of title 49, United States Code,

"(vi) any project that is eligible to receive funding under section 103, 130, 133, 144, 149, or 152 of title 23, United States Code,

"(vii) the upgrading and maintenance of intercity primary and rural air service facilities, and the purchase of intercity air service between primary and rural airports and regional hubs,

"(viii) the provision of passenger ferryboat service within the State,

"(ix) the provision of harbor improvements within the State, and

"(x) the payment of interest and principal on obligations incurred for such acquisition, upgrading, maintenance, purchase, expenditures, provision, and projects."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 977 of the Taxpayer Relief Act of 1997.

SEC. 908. DELAY IN EFFECTIVE DATE OF NEW REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.

Subsection (f) of section 1032 of the Taxpayer Relief Act of 1997 is amended to read as follows:

"(f) EFFECTIVE DATES.—

"(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on July 1, 1998.

"(2) The amendment made by subsection (d) shall take effect on July 1, 2000.".

SEC. 909. SIMPLIFIED FUEL TAX REFUND PROCEDURES.

(a) IN GENERAL.—Subparagraph (A) of section 6427(i)(2) is amended to read as follows:

"(A) IN GENERAL.—If, at the close of any quarter of the taxable year of any person, at least $750 is payable in the aggregate under subsections (a), (b), (d), (h), (l), and (q) of this section and section 6421 to such person with respect to fuel used during—

"(i) such quarter, or

"(ii) any prior quarter (for which no other claim has been filed) during such taxable year, a claim may be filed under this section with respect to such fuel.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (i) of section 6427 is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(2) Paragraph (2) of section 6427(k) is amended to read as follows:

"(2) EXCEPTION.—Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), or (4) of subsection (i).".

(3) Paragraph (2) of section 6421(d) is amended to read as follows:

"(2) EXCEPTION.—

"For payments per quarter based on aggregate amounts payable under this section and section 6427, see section 6427(i)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998.

SEC. 910. ELECTION TO RECEIVE TAXABLE CASH COMPENSATION IN LIEU OF NONTAXABLE QUALIFIED TRANSPORTATION FRINGE BENEFITS.

(a) NO CONSTRUCTIVE RECEIPT.—

(1) IN GENERAL.—Paragraph (4) of section 132(f) (relating to qualified transportation fringe) is amended to read as follows:

"(4) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of an employee solely because the employee may choose between any qualified transportation fringe and compensation which would otherwise be includible in gross income of such employee.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1997.

(b) INFLATION ADJUSTMENT ONLY AFTER 1999.—

(1) IN GENERAL.—Paragraph (6) of section 132(f) (relating to qualified transportation fringe) is amended to read as follows:

"(6) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1999, the dollar amounts contained in subparagraphs (A) and (B) of paragraph (2) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1998' for 'calendar year 1992'.

"(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $5, such increase shall be rounded to the next lowest multiple of $5.".

(2) CONFORMING AMENDMENTS.—Section 132(f)(2) is amended—

(A) by striking "$60" in subparagraph (A) and inserting "$65", and

(B) by striking "$155" in subparagraph (B) and inserting "$175".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1998.

(c) INCREASE IN MAXIMUM EXCLUSION FOR EMPLOYER-PROVIDED TRANSIT PASSES.—

(1) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking "$65" and inserting "$100".

(2) NEW BASE PERIOD FOR INFLATION ADJUSTMENT.—Subparagraph (A) of section 132(f)(6) is amended by adding at the end the following flush sentence:

"In the case of any taxable year beginning in a calendar year after 2002, clause (ii) shall be applied by substituting 'calendar year 2001' for 'calendar year 1998' for purposes of adjusting the dollar amount contained in paragraph (2)(A).".

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2001.

SEC. 911. REPEAL OF NATIONAL RECREATIONAL TRAILS TRUST FUND.

(a) IN GENERAL.—Section 9511 (relating to National Recreational Trails Trust Fund) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 9503(c) is amended by striking paragraph (6).

(2) Subparagraph (D) of section 9503(b)(4) is amended to read as follows:

"(D) in the case of gasoline and special motor fuels used as described in paragraph (4)(D) or (5)(B) of subsection (c), section 4041 or 4081 with respect to so much of the rate of tax as exceeds 11.5 cents per gallon,".

(3) The table of sections for subchapter A of chapter 98 is amended by striking the item relating to section 9511.

SEC. 912. IDENTIFICATION OF LIMITED TAX BENEFITS SUBJECT TO LINE ITEM VETO.

For purposes of part C of title X of the Congressional Budget and Impoundment Control Act of 1974 (relating to line item veto), the Joint Committee on Taxation has determined that this title does not contain any limited tax benefit (as defined in such part).

And the Senate agree to the same.

Pursuant to the order of the House on April 1, 1998, the Speaker appointed the following conferees for consideration of the House bill (except title XI) and the Senate amendment (except title VI), and modifications committed to conference:

BUD SHUSTER,
THOMAS E. PETRI,
SHERWOOD L. BOEHLERT,
JAY KIM,
STEPHEN HORN,
TILLIE K. FOWLER,
RICHARD H. BAKER,
ROBERT W. NEY,
JACK METCALF,
JAMES L. OBERSTAR,
NICK RAHALL,
ROBERT A. BORSKI,
ROBERT E. WISE, Jr.,
JIM CLYBURN,
BOB FILNER,

As additional conferees from the Committee on Commerce, for consideration of provisions in the House bill and Senate amendment relating to the Congestion Mitigation and Air Quality Improvement Program; and sections 124, 125, 303, and 502 of the House bill; and sections 1407, 1601, 1602, 2103, 3106, 3301–3302, 4101–4104, and 5004 of the Senate amendment and modifications committed for conference:

TOM BLILEY,
MICHAEL BILIRAKIS,
JOHN D. DINGELL,
Provided that Mr. Tauzin is appointed in lieu of Mr. Bilirakis for consideration of sections 1407, 2103, and 3106 of the Senate amendment.
BILLY TAUZIN,

As additional conferees from the Committee on Ways and Means, for consideration of title XXI of the House bill and title VI of the Senate amendment, and modifications committed to conference:

JIM NUSSLE,
KENNY C. HULSHOF,

As additional conferees from the Committee on Ways and Means, for consideration of title XXI of the House bill and title VI of the Senate amendment, and modifications committed to conference:

Charles B. Rangel,
Managers on the Part of the House.

From the Committee on Environment and Public Works:

John W. Chafee,
John Warner,
Bob Smith,
Dirk Kempthorne,
Jim Inhofe,
Craig Thomas,
Christopher S. Bond,
Tim Hutchinson,
Wayne Allard,
Max Baucus,
Daniel Patrick Moynihan,
Harry Reid,
Bob Graham,
Joseph Lieberman,
Barbara Boxer,

From the Committee on Finance:

William V. Roth, Jr.,
Chuck Grassley,
Orrin Hatch,
John Breaux,
Kent Conrad,

From the Committee on Banking, Housing, and Urban Affairs:

Alfonse D'Amato,
Phil Gramm,
Paul Sarbanes,
Chris Dodd,

From the Committee on Commerce, Science, and Transportation:

Ernest Hollings,

From the Committee on the Budget:

Pete Domenici,
Don Nickles,
Patty Murray,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—FEDERAL-AID HIGHWAYS

SHORT TITLE, TABLE OF CONTENTS

House bill

The title of the House bill is the "Building Efficient Surface Transportation And Equity Act of 1998," "BESTEA." Section 1 of the House bill also includes a table of contents.

Senate amendment

The title of the Senate amendment is the "Intermodal Surface Transportation Efficiency Act of 1998," of "ISTEA II." Section 1 of the Senate amendment also includes a table of contents for the bill.

Conference substitute

The Conference adopts a substitute provision. The title of the bill is "Transportation Equity Act for the 21st Century" or "TEA 21."

DEFINITIONS

House bill

The House bill includes definitions for two terms in the free-standing provisions. The term "Interstate System" has the meaning given the term by section 101 of title 23 of the United States Code. The term "Secretary" is the Secretary of Transportation.

Senate amendment

For the purpose of the free-standing provisions, the Senate amendment defines the term "Secretary" as the Secretary of Transportation.

Conference substitute

The conference adopts the House provision.

SAVINGS CLAUSE

House bill

The House bill provides that amendments made by this Act shall not affect any apportionment or allocations of any funds that occurred before the date of enactment of this Act unless the bill specifically directs that the allocation or apportionment be modified.

Senate amendment

The Senate amendment contains no provision similar to the House savings clause.

Conference substitute

The Conference does not include the House provision.

AMENDMENTS TO TITLE 23

House bill

Section 101 of the House bill directs that each amendment in the bill, or repeal of a section or other provision of law, is an amendment to title 23 of the United States Code unless the bill states otherwise.

Senate amendment

The Senate amendment contains no provision comparable to the Hose provision.

Conference substitute

The conference report adopts the House provision.

SHORT TITLE FOR TITLE I

House bill

The House bill contains no comparable provision.

Senate amendment

The Senate amendment includes a short title for the first title of the bill covering highway programs. This title may be cited as the "Surface Transportation Act of 1998".

Conference substitute

The conference report does not include the Senate provision.

DIVISION OR SEGMENTATION OF PROJECTS

House bill

The House bill authorizes a State carrying out a project with Federal funds to divide or segment the project provided that the division or segmentation complies with the requirements of the National Environmental Policy Act of 1969.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference adopts the House provision. This provision clarifies that by listing high priority projects in subsection 127(c) of this Act and similar projects in previous legislation, Congress is establishing the limits of the projects for purposes of eligibility for associated Federal-aid highway funding. The listing or identification of a project is not intended to define the scope of the project for purposes of complying with all Federal requirements, including those of the National Environmental Policy Act (NEPA). As the associated Federal-aid highway funding for these projects typically is not sufficient to finance the Federal share of all improvements within the project limits, Congress recognizes that a State needs the flexibility to advance logical segments of the overall project. Any segment of a project must still have to connect logical termini, have independent utility, and not restrict consideration of alternatives for other reasonably foreseeable transportation improvements. This provision does not waive safety or contracting requirements for the underlying segment.

In the case of the South Lawrence Trafficway in Kansas, the State may advance the segment between U.S. 59 and Kansas Route 10 as a non-Federally funded project without triggering NEPA.

TECHNICAL AMENDMENT METROPOLITAN PLANNING SET ASIDE

House bill

Section 104(e) amends the metropolitan planning set aside provision of section 104(f) of title 23, United States Code by deleting the references to outdated funding programs and providing that the set aside shall not be deducted from funds for the Recreational Trails Program.

Senate amendment

Section 1112(b)(1) makes minor technical amendments to the metropolitan planning set aside provision in section 104(f) of title 23, United States Code.

Conference substitute

The Conference adopts the House provision.

AUDITS OF THE HIGHWAY TRUST FUND

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1102(e) amends section 104(i) of title 23, United States Code to authorize the Secretary to use administrative funds to reimburse the Office of Inspector General of the Department of Transportation for annual audits of financial statements in accordance with section 3521 of title 31, United States Code.

Conference substitute

The Conference adopts the Senate provision.

NOTICE TO THE STATES

House bill

Section 104(d) makes technical corrections to section 104 of title 23, United States Code. It also directs the Secretary to transmit to Congress within 21 days a written statement setting forth the reason for not making an apportionment in a timely manner. This section has been included in response to the withholding of apportionments in fiscal year 1997. The apportionments were held up for several months due to an error in crediting receipts into the Highway Trust Fund. Ultimately, a correction was made resulting in the redistribution of nearly $1 billion in federal-aid highway funds. The withholding was done administratively. This amendment would require a written explanation of any withholding in the future.

Senate amendment

Section 1102(f)(1) makes technical corrections to section 104 of title 23, United States Code.

Conference substitute

The Conference adopts the House provision.

TECHNICAL AMENDMENTS

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1102(f)(1) and (2) make technical corrections to section 104 of title 23, United States Code.

Conference substitute

The Conference adopts the Senate provision.

REPEAL OF SECTION 150

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1102(g)(2) repeals section 150 of title 23, United States Code. Section 150 provided for the allocation of funds based on an outdated concept of urban systems.

Conference substitute

The Conference adopts the Senate provision.

SURFACE TRANSPORTATION OBLIGATIONS IN URBAN AREAS

House bill

Subsection 108(g) extends the current provision in subsection 133(f) requiring the proportional obligation of surface transportation program funds made available for urban areas over the period from 1998 through 2003.

Senate amendment

Section 1104 continues current procedure in subsection 133(f) of title 23, United States Code regarding the sub-allocation of surface transportation program ("STP") funds to urbanized areas. The purpose of this requirement is to ensure that the obligation rate of the STP funds for urbanized areas within a State is consistent with the larger obligation rate for all Federal-aid highway apportionments within the State. This section amends current law to require States to comply with obligation rates over two equal three-year periods, as opposed to the existing requirement of complying over a single six-year period.

Conference substitute

The Conference adopts the Senate provision.

EMERGENCY RELIEF

House bill

Section 117(a)(1) makes several technical corrections to the Federal share payable section under the Emergency Relief Program.

Senate amendment

Section 1105 restates the eligibility for highway and bridge projects and the funding requirements for the emergency relief ("ER") program. ER funds can be used only for emergency repairs done to restore essential highway traffic, to minimize the extent of damage resulting from a natural disaster or catastrophic failure, or to protect the remaining facility. The Secretary is also authorized to borrow amounts necessary from any program under title 23 for emergency relief work. Any additional funds used shall be reimbursed with future ER appropriations. The purpose of allowing the Secretary to borrow funds from title 23 programs is to provide a "cushion" to allow project work to continue if all ER program funds are used. This section also amends current law, which limits the availability of ER funds to two years, to make them available until expended.

Conference substitute

The Conference adopts the Senate provision.

ACCESS TO KENNEDY CENTER

House bill

Section 117(e) requires the Secretary, in cooperation with the District of Columbia, the John F. Kennedy Center for the Performing Arts, and the Department of the Interior, and in consultation with other interested persons, to conduct a study of methods to improve pedestrian and vehicular access to the John F. Kennedy Center for the Performing Arts. The bill authorizes $500,000 to be taken out of the Highway Trust fund for the study.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference adopts the House provision.

SMITHSONIAN TRANSPORTATION PROGRAM

House bill

Section 117(f) provides assistance to the Smithsonian Institute for transportation-related activities, including exhibitions and educational outreach programs, the acquisition of transportation-related artifacts, and transportation-related research programs. The bill authorizes $5 million annually for this assistance.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitution

The Conference adopts the House provision with a reduction in the annual authorization to $1 million.

RECREATIONAL TRAILS

House bill

Section 114 codifies the Recreational Trails Program authorized in ISTEA as Section 205 of Title 23. The program distributes to States a portion of gas tax revenues attributable to non-highway use for trail projects. The Secretary is required to administer this program for the purpose of providing and maintaining recreational trails. The Federal share for the program is 50 percent of cost. Certain other Federal programs can be used as matching funds. Eligible costs include educational programs, the development, construction and rehabilitation of trails, and the acquisition of easements. The existing ISTEA provision relating to recreational trails is repealed. The Secretary is to encourage the use of youth conservation or service corps in completing appropriate trails projects.

The 30 percent figures under the Assured Access to Funds requirement and the 40 percent figure under the Diversified Trail Use requirement are minimum requirements that could be exceeded. States should not treat their projects as if they were meeting three mutually exclusive categories. There can be overlap between the Diversified Trail use requirement and the Assured Access requirements. There should be diversified motorized use projects, diversified non-motorized use projects, and projects that benefit both motorized and non-motorized use simultaneously.

Senate amendment

Section 1107 continues the existing Recreational Trails Program. Under this provision, the Recreational Trails Program is to be funded through contract authority from the Highway Trust Fund. The annual contract authority is as follows: $17,000,000 for fiscal year 1998; $20,000,000 for fiscal year 1999; $22,000,000 for fiscal year 2000; $23,000,000 for fiscal year 2001; $24,000,000 for fiscal year 2002; and $25,000,000 for fiscal year 2003. The provision of current law relating to the National Recreational Trails funding is repealed.

The Federal share payable for projects under the Recreational Trails Program is increased from 50 percent to 80 percent. In addition to the Department of Transportation, other Federal agencies may contribute additional funds for a Recreational Trails project. However, the Department of Transportation share for any individual project may not exceed 80 percent; the combined share of all Federal agencies may not exceed 95 percent. The Federal share for this program is consistent with the Federal share available for other Federal-aid projects.

This section retains the current requirement regarding the States' use of annual apportionments: at least 30 percent of Federal funds must be used to facilitate non-motorized recreation; another 30 percent of the funds must be used for motorized recreational purposes. A State must use the remaining amount of funds for diverse recreational purposes, including both motorized and nonmotorized recreational trail use. Experience with implementing Recreational Trail projects in the past has shown that project sponsors for nonmotorized trail projects were significantly disadvantaged in meeting the higher non-Federal matching requirements.

To the extent practicable and consistent with other requirements, States are to give consideration to projects that benefit the natural environment or mitigate and minimize impacts to the environment.

The amount that the Secretary may deduct to pay the costs for administration of the program is reduced from three percent to one percent.

Conference substitute

The Conference substitute adopts the Senate language with several modifications. The substitute clarifies that a State may use funds appropriated under this section for construction of new trails only if the construction is permissible under some other law or is otherwise required by a statewide comprehensive outdoor recreational plan in effect required by the Land and Water Conservation Found Act. It places a cap on the amount that a state can expend on educational programs to promote safety and environmental protection at 5% of annual apportionments.

The substitute provision also modifies existing law to exclude all small states with a total land area of less than 3,500,000 acres from the requirement to expend annual apportionments for trails and trails related projects in a ratio of 40% diverse use, 30% motorized use and 30% nonmotorized use. The substitute further provides that a State trail advisory committee may waive the trails diversity requirement if the State notifies the Secretary that the State does not have sufficient projects to meet the diversity requirements.

It adds a new section which allows States to make grants under section 104(h) to private organizations, municipal, county, state and Federal governmental entities after considering guidance from the recreational advisory committee for uses consistent with this section.

TERMINATION OF RECREATIONAL TRAILS ADVISORY COMMITTEE

House bill

Subsection 114(d) terminates the Recreational Trail Advisory Committee by the end of fiscal year 2000.

Senate amendment

Section 1208(c) terminates the National Recreational Trails Advisory Committee as soon as is practicable. The Advisory Committee was established in ISTEA and tasked to (1) review the allocation and utilization of moneys under the Recreational Trails program; (2) establish review criteria for trailside and trail-head facilities; and (3) recommend changes in Federal policy to advance the purposes of the program. The Advisory Committee has completed these tasks and is no longer necessary. This provision does not affect the State advisory committees that are responsible for implementing the Recreational Trails Program.

Conference substitute

The Conference adopts the House provision.

ENCOURAGEMENT OF YOUTH CONSERVATION CORPS

House bill

Subsection 114(c) encourages the use of qualified youth conservation or service corps to construct and maintain recreational trail projects.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference adopts the House provision.

VALUE PRICING PILOT PROGRAM

House bill

Section 119 establishes a variable pricing pilot program. The Secretary may enter into cooperative agreements with up to 15 States to conduct and monitor the pilot projects. The Federal share for a pilot program is 80 percent of the total cost of the program, although the Federal share for any portion of a project may be up to 100 percent. The provision authorizes full Federal participation in the start-up, development, and pre-implementation costs associated with a pilot program for up to three years.

Single occupancy vehicles that are part of a pilot program may operate in high occupancy vehicle (HOV) lanes.

Pilot programs must include an analysis of how the program affects low income drivers.

Senate amendment

Section 1108 renames the congestion pricing pilot program as the value pricing pilot program and codifies the program in title 23, United States Code.

A number of States and local governments have used funds provided under ISTEA to complete feasibility studies and implementation of value pricing projects. This section provides funding and additional flexibility to allow States to continue to implement these projects. In addition, it expands the program, increasing the number of pilot programs eligible for funding from five to 15, and lifting the restriction that only three projects can be conducted on the Interstate System. Funds available under this section may be used for all pre-implementation and design costs to give States more flexibility to study options for different types of value pricing projects.

This section also includes an exemption from the HOV requirement of Section 102(b) of title 23 to permit single occupancy vehicles to operate in HOV lanes if the vehicles are part of a value pricing program.

It is expected that each value pricing project will include a thorough evaluation of the project's effects, including its impacts on congestion, air quality, transit use, and other social and economic effects.

Conference substitute

The Conference adopts the Senate provision with two modifications. First, it prohibits federal funding of pre-implementation, development and startup costs after three years as provided in the House bill. Second, it requires each pilot program to include, where appropriate, an analysis of the impact of the program on low income drivers.

HIGHWAY USE TAX EVASION PROJECTS

House bill

Section 122 amends section 1040 to specify that all funds provided for this program are contract authority. It requires funding provided under this section to be used to create an automated fuel reporting system to improve the tracking of motor fuels subject to Federal and state excuse taxes.

Senate amendment

Section 1109 eliminates two obsolete tax evasion study requirements in current law. It eliminates the annual report on motor fuel tax enforcement activities and the report on the feasibility and desirability of using dye and markers to aid in motor fuel tax enforcement activities.

This section codifies and expands the successful tax evasion program in section 1040 of ISTEA. It provides $5 million in contract authority for each of fiscal years 1998 through 2003 to continue joint FHWA-IRS-State motor fuel tax compliance projects across the Nation, as established in section 1040 of ISTEA. All costs of tax evasion projects are to be paid by the Federal Government.

This section also authorizes an additional $8 million for the Secretary to complete the development of an excise fuel reporting system, as well as $2 million annually for the operation and maintenance of the system. This system will provide essential information regarding data on import and refinery production of motor fuel to compare with terminal fuel receipts and fuel deliveries. This new program, along with the continuing program, is necessary to help ensure that the successful, coordinated regional and national approach to combat fuel tax fraud can continue and improve.

The Conference adopts the Senate provision with one modification. The substitute expressly provides the excise fuel reporting system with contract authority.

BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS

House bill

Section 137 amends section 217 of title 23 to make a number of clarifying changes and to require that bicyclists and pedestrians be included in the planning process and to allow electric bicycles on trails when State or local regulations permit. The provision clarifies the requirements under section 109(n) of title 23 related to the impact on non-motorized transportation of a Federal-aid highway project. It also requires that bicycle safety be taken into account when States undertake rail-highway crossing projects under section 130 of the title 23. Such safety devices shall include installation and maintenance of audible traffic signal and audible signs.

Senate amendment

Section 1110 builds on ISTEA by expanding the amount of funds available to be used to encourage bicycling and walking as alternative modes of transportation. This provision amends section 217 of title 23, United States Code, to include the construction of pedestrian walkways as an eligible use of a State's National Highway System (NHS) apportionments under the same criteria by which bicycle transportation facilities currently are eligible. This section eliminates the restriction on the use of NHS funds for the construction of bicycle transportation facilities on land adjacent to the Interstate System and amends current law to allow the safe accommodation of bicycles on highway bridges located on fully access-controlled highways, if the bridge is being replaced or rehabilitated with Federal funds. The Department is encouraged to work with the States to ensure that bicycling and pedestrian interests are represented in State and MPO decisionmaking.

The planning provisions in sections 134 and 135 of title 23 are amended to provide that bicyclists and pedestrians shall be given consideration in the comprehensive Statewide and metropolitan planning processes, and that the inclusion of bicycle and pedestrian facilities shall be considered, where appropriate and permitted, in conjunction with all new construction and reconstruction of transportation facilities.

Conference substitute

The Conference adopts the House provision with modifications. The substitute clarifies that safety devices such as installation of audible traffic signals and audible signs shall be considered where appropriate. It also retains current law section 217(i) which clarifies that eligible bicycle projects must be principally for transportation, rather than recreation, purposes.

HIGHWAY AND STREET DESIGN STANDARDS

House bill

Subsection 137(d) requires a study of highway and street design standards to accommodate bicycles.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference does not include a study requirement.

DESIGN GUIDANCE

House bill

Subsection 137(f) requires the Department of Transportation, in cooperation with the American Association of State Highway and Transportation Officials (AASHTO), the Institute of Transportation Engineers, and other interested organizations, to issue within one year design guidance to accommodate bicycle and pedestrian travel.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference adopts the House provision with two modifications. First, the substitute clarifies that the guidance must include recommendations to amend and update AASHTO policies relating to highway and street design standards. Second, it extends the deadline for the issuance of the guidance to 18 months.

DISADVANTAGED BUSINESS ENTERPRISES

House bill

Subsection 102(b) continues the Disadvantaged Business Enterprise provisions. It also allows an entity or person that is prevented under Federal court order from complying with the DBE provision to continue to be eligible to receive Federal funds. The Comptroller General is required to conduct a study of the DBE program within three years of enacted of this act. Recent court decisions have established new standards for review of the constitutionality of programs such as the DBE provisions enacted in prior surface transportation acts and that the courts are now determining whether the DBE programs comply with those standards. The Department of Transportation is reviewing the DBE program in light of recent court rulings and has proposed new regulations to ensure that the program withstands constitutional muster. Section 102(b) of the reported bill makes no changes to these provisions preferring to let the courts resolve these issues. However, the Committee will continue to monitor DOT's administration of this program and gage the impact of court decisions on these provisions.

This provision is intended to ensure that grant recipients under this Act will continue to be eligible to continue to receive federal funds even if a federal court has entered a final order finding the DBE program to be unconstitutional.

The possibility of legal challenges that may affect a limited number of States or transit agencies. This provision is intended to ensure that any affected recipients will not be unfairly penalized for complying with a final order of a Federal court finding the DBE program to be unconstitutional.

Senate amendment

Section 1111 continues the provisions in current law regarding the disadvantaged businesses enterprise (DBE) program. The DBE program, which originated in the Surface Transportation Assistance Act of 1982, requires that 10 percent of the funds provided under title I of this Act be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals, except to the extent that the Secretary of Transportation determines otherwise.

In 1995, the Supreme Court decided Adarand v Pena, which heightened the standard of judicial review applicable to Federal affirmative action programs. The case involved a Caucasian subcontractor who submitted a low bid on a Federal lands highway construction contract, but lost to a company that was certified as "disadvantaged." Adarand filed suit, alleging that he was denied the equal protection guaranteed by the Fifth amendment. The Court agreed in a 5-4 decision that Federal race classifications, such as the DBE program, must be subject to strict scrutiny. In other words, the program must: (1) serve a compelling government interest, and (2) be narrowly tailored to address that compelling interest, which in this case is fighting discrimination.

It is important to note that the Supreme Court did not strike down the DBE program or any other Federal affirmative action program. That means that if the program in question meets the new test outlined by the Court, it is Constitutional and may continue to exist. In the case of the DBE program, the Department of Transportation has determined that the Constitutional concerns can be addressed through changes in the Department's regulations. To that end, the Department has proposed a number of regulations intended to address the "narrow tailoring" requirements of "strict scrutiny" by (1) giving priority to race-neutral measures in meeting program goals, and (2) limiting the potential adverse effects of the program on other parties.

Conference substitute

The Conference adopts the Senate provision.

FEDERAL SHARE PAYABLE

House bill

Section 134(c) technically changes to the Federal share on certain projects from a strict percentage to a limitation. This will allow for an increased non-Federal share at a State's option. It does not allow the Secretary to impose a lower match.

Senate amendment

Section 1112(a) amends section 120 of title 23, United States Code, to allow a State, if it chooses, to reduce the Federal share of a Federal-aid highway project. This change will give States the flexibility to carry out more projects than would be possible with a straight 20 percent non-Federal share. Nothing in this section is intended to require a State to lower the Federal share payable on any project funded under this title.

Conference substitute

The Conference adopts the Senate provision.

Increased Federal Share for Transit Vehicles

House bill

Subsection 120(a) amends section 120 of title 23 to provide that the Federal share of priority control systems for transit vehicles may be up to 100 percent.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference adopts the House provision.

Credit for Non-Federal Share

House bill

Subsection 120(b) allows States to apply toll revenues used for specified capital improvements to their non-Federal share requirement for title 23 projects and for chapter 53 of title 49. To receive this credit, a State must maintain its average non-Federal transportation capital expenditure for the preceding three fiscal years.

Senate amendment

Section 1112(a)(2) codifies a provision established in ISTEA which allows States to apply toll revenues used for specified capital improvements to their non-Federal share requirement for title 23 projects. To receive this credit, a State must meet a maintenance of effort test, and therefore, must maintain its average non-Federal transportation capital expenditure for the preceding three fiscal years. The provision allows a State to drop a "high year" from the three year maintenance of effort test, if that year is at least 30 percent greater than the average for the two other preceding years.

Conference substitute

The Conference adopts the House provisions with modifications. The substitute language includes the exception clause for the maintenance of effort test provided for in the Senate language. In addition, the substitute language clarifies that payments on transportation-related bonds are considered a "transportation expenditure".

Toll Road Credits

House bill

Subsection 133(e) clarifies that private entity expenditures for construction of specific toll roads in Southern California may be credited to the State's non-Federal share.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference adopts the House provision with modifications. The substitute amends section 120 of title 23 and provides that private entity expenditures used to construct toll roads open to traffic may be used toward the matching share in all States.

Interstate Reconstruction Pilot Program

House bill

Subsection 120(c) creates an Interstate System Reconstruction and Rehabilitation Pilot Program. This program allows up to three facilities to be tolled, provided the toll revenues are used to improve that facility. Any State wishing to participate in the pilot program must enter into an agreement with the Secretary to ensure that no toll revenues are diverted to another facility or purpose. The provision specifies eligibility and selection criteria.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The conference adopted the House provision to allow a State to toll segments of the Interstate system. The provision allows up to three states to participate provided that revenues generated from the tolls will be used to reconstruct, improve or maintain the facility. The conferees understand that certain segments of the Interstate require substantial maintenance and rehabilitation funding above available resources, such as Interstate 80 in Pennsylvania.

Technical Amendment—Federal Share Payable

House bill

Paragraph 104(e)(2) provides a technical conforming amendment to section 120.

Senate amendment

Paragraph 1112(b)(1) provides a technical amendment to 23 U.S.C. 120 concerning the Federal share payable for title 23 projects to conform subsections 120(a) and (b) to subsection 120(i), which allows the State to determine a lower Federal share.

Conference substitute

The Conference adopts the House provision.

Technical Amendment—Federal Share Payable

House bill

The House bill contains no comparable provision.

Senate amendment

Paragraph 1112(b)(2) provides a technical amendment to 23 U.S.C. 120 to conform this subsection to 23 U.S.C. 121, relating to payments made to States for the cost of construction.

Conference substitute

The Conference adopts the Senate provision.

Study: Highway Economic Requirement

House bill

The House bill contains no comparable provision.

Senate amendment

Subsection 1113(a) requires the General Accounting Office (GAO) to report to Congress on the Department's methodology for determining highway needs using the Highway Economic Requirement System (HERS), a computer program developed to use economic criteria and engineering criteria in estimating highway investment requirements. The GAO is required to provide Congress with an assessment of the extent to which the model is useful in estimating an optimal level of highway infrastructure investment three years after this Act is enacted.

Conference substitute

The Conference adopts the Senate provision.

Study: International Roughness Index

House bill

The House bill contains no comparable provision.

Senate amendment

Subsection 1113(b) requires the Comptroller General to submit a report to the Congress on the International Roughness Index (IRI), an index that is being used to measure the pavement quality of the Federal-aid highway system. The IRI is a data input used in the HERS model. Concerns have been raised as to the reliability of the IRI measurement across different manufacturers and types of pavements and this study shall indicate the extent to which the IRI measurement is reliable.

Conference substitute

The Conference adopts the Senate provision.

Report: Rates of Obligation

House bill

The House bill contains no comparable provision.

Senate amendment

Subsection 1113(c) requires the Secretary to report annually on the rates of obligation of funds apportioned under Federal-aid highway programs. The report shall include information regarding funding category or subcategory, type of improvement, and substrate geographic area.

Conference substitute

The Conference adopts the Senate provision with a modification to clarify that the report shall include all final apportioned programs.

109 Study: Procurement Practices

House bill

Subsection 139(b) requires the GAO to evaluate procurement practices and project delivery. The study shall access the impact a utility company's failure to relocate in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects.

Senate amendment

Subsection 1113(d) requires the General Accounting Office (GAO) to conduct a study on Federal-aid highway procurement practices and project delivery. The study shall access the impact that a utility company's failure to relocate in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects.

Conference substitute

The Conference adopts the House provision.

Definitions

House bill

Section 143 organizes the definitions for title 23 alphabetically.

Senate amendment

Section 1114 provides definitions for the terms "Federal-aid highway funds" and "Federal-aid highway program." These phrases are used throughout title 23, but are not defined in current law. The addition of these clarifying definitions is not intended to change the implementation of any section under current law. The section reorganizes the Definitions for title 23 alphabetically.

Conference substitute

Unresolved.

Definitions: Enhancements

House bill

Section 143 amends the definition of a transportation enhancement activity. It specifies that a transportation enhancement activity must have a direct link to surface transportation. It also expands the definition to allow the removal of graffiti and litter among the list of eligible activities, as well as environmental mitigation to reduce vehicle-caused wildlife mortality while maintaining habitat connectivity. In addition, it adds construction of tourist and welcome centers as an eligible activity.

Senate amendment

Subsection 1223(d) amends subsection 101(a) by providing that tourist and welcome center facilities associated with scenic or historic highway programs are eligible for funding under the enhancement program.

Conference substitute

The Conference adopts the House provision with modifications. The substitute requires that transportation enhancement activities have a relationship, rather than a direct link, to surface transportation. It does not include graffiti and litter removal as eligible activities. It retains the Senate provision regarding eligibility of tourist and welcome centers. In order to be eligible under the enhancement program, the tourist or welcome center (whether a new facility or existing facility) does not have to be on a designated scenic or historic byway, but there must be a clear link to scenic or historical sites. It adds transportation-related museums as an eligible activity.

Definitions: Operational Improvement

House bill

Subsection 143 of the House bill provides technical amendments to, but does not change the definition of operational improvement from current law.

Senate amendment

This section revises the definition of "operational improvement" in section 101(a) of title 23, United States Code, to include the installation, operation, or maintenance of certain Intelligent Transportation Systems infrastructure projects. The installation, operation or maintenance of communications systems, roadway weather information and prediction systems, and other improvements designated by the Secretary that enhance roadway safety during adverse weather are also incorporated into the revised definition.

Conference substitute

The Conference adopts the House provision.

Hazard Elimination

House bill

Subsection 143 of the House bill provides technical amendment to, but does not change this definition from current law.

Senate amendment

Subparagraph 1404(b)(1)(A) amends the definition of "highway safety improvement project" by deleting the reference to "highway".

Conference substitute

The Conference adopts the House provision with a modification. The reference to "highway" is deleted. In carrying out this provision, States should minimize any negative impact on safety and access for bicyclists and pedestrians in accordance with Section 217 of title 23, U.S.C.

Project Approval and Oversight

House bill

Section 143 amends section 101 of title 23 by providing a definition for "project agreement." It is defined as the formal instrument required under the project agreement provision in title 23.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference adopts the House provision with a modification. It provides a conforming amendment to recognize that section 110 regarding project agreements is repealed and the portion of the provision relating to project agreements is moved to section 106.

Cooperative Federal Lands Program

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1115 establishes a new section 207 in chapter 2 of title 23, United States Code, which provides a funding source for public roads or bridges owned by States or their political subdivisions that cross, are adjacent to, or provide access to, Federal lands and Indian reservations (including reservoirs owned by the Army Corps of Engineers). The purpose of this program is to supplement the efforts of the Federal government in developing and maintaining roads or bridges that serve federally owned land and Indian reservations (including reservoirs owned by the Army Corps of Engineers).

The Cooperative Federal Lands Transportation Program ensures that funding will be provided for projects in States where greater than 4.5 percent of the land within the state borders is held in trust or owned by the Federal government. Funds are provided directly to these States for projects that provide access to Federal lands and Indian reservations. This section provides $74 million in contract authority per year from the Highway Trust Fund.

Conference substitute

The Conference does not adopt the Senate provision, but transfers the $74 million in contract authority to the Federal Lands Highway Program.

Bridge Set Aside for New Jersey

House bill

The House bill contains no comparable provision.

Senate amendment

The Secretary is required to set-aside $20 million each fiscal year from the I-4R program and allocate it to any State that: (1) receives less in the bridge apportionment factors used in the Interstate and National Highway System program and the Surface Transportation Program compared with the funds a State received under the bridge program in 1997; and (2) was apportioned at least $125 million in 1997. These funds shall be available for highway bridge projects.

States that have transferred more than 10 percent of the funds apportioned under the bridge program in 1995 through 1997 to other Federal-aid transportation projects are not eligible for an allocation from this program.

Conference substitute

The Conference does not adopt the Senate provision.

Bridge Set Aside Missouri

House bill

The House bill contains no comparable provision.

Senate amendment

The Secretary is required to set-aside $15 million each fiscal year from the I-4R program and allocate it to any State whose bridges have an average life of at least 46 years as of the date of enactment of this Act.

States that have transferred more than 10 percent of the funds apportioned under the bridge program in 1995 through 1997 to other Federal-aid transportation projects are not eligible for an allocation from this program.

Conference substitute

The Conference does not adopt the Senate provision.

Bridge Set Aside Arkansas

House bill

The House bill contains no comparable provision.

Senate amendment

The Secretary is required to allocate $10 million to States that meet specific per capita personal income and Federal-aid Highway apportionment criteria from the I-4R program.

Conference substitute

The Conference does not adopt the Senate provision.

National Highway System Components

House bill

Subsection 106(c) modifies the National Highway System to include intermodal connectors on the map submitted to Congress by the Secretary on May 24, 1996.

Senate amendment

Section 1121 establishes the National Highway System (NHS) as those routes and transportation facilities depicted on maps submitted by the Secretary with the report "Pulling Together: The National Highway System and its Connections to Major Terminals."

Conference substitute

The Conference adopts the Senate provision with minor technical clarifications.

Study: Intermodal Freight Connectors

House bill

Subsection 106(h) directs the Secretary to report to Congress not later than 24 months after the date of enactment of this Act on the condition of and the improvements made to connectors on the National Highway System that serve intermodal freight transportation facilities.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference adopts the House provision with modifications to clarify that the purpose of the report is to identify impediments to improving intermodal connectors including impediments related to the planning process, availability of funding, and other issues identified by the Secretary.

National Highway System Sign Competition

House bill

Subsection 106(h) directs the Secretary to conduct a national competition among children under the age of 14 to design a logo sign for the National Highway System.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference does not adopt the House provision.

Safety Belt Extension, NH

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1124 modifies section 355 of the National Highway System Designation Act of 1995 to permit New Hampshire to meet the safety belt use law required under section 153 of title 49, United States Code, through a performance requirement. Through the end of fiscal year 2000, New Hampshire is deemed to have met the safety belt use requirements of section 153 upon certification by the Secretary that the State has achieved: (1) a safety belt use rate in each of fiscal years 1997 through 2000 of not less than 50 percent; and (2) a safety belt use rate in each succeeding fiscal year thereafter of not less than the national average safety belt use rate.

Conference substitute

The Conference adopts the Senate provision with a minor technical amendment.

Study: Uniformed Police Officers

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1126 requires the Secretary of Transportation to conduct a study on the extent and effectiveness of the use by various States of uniformed police officers on Federal-aid highway construction projects. Some States use police officers extensively on their highway construction projects, while other States are virtually no police officers for work zone traffic control. Work zone safety has been a high priority issue for the Federal Highway Administration (FHWA), traffic engineering professionals, and highway agencies. This section requires the Department of Transportation to submit a report to Congress on the results of the study not later than 2 years after the effective date of this section.

Conference substitute

The Conference adopts the Senate provision with a modification to require that the study be conducted in consultation with law enforcement organizations.

Contracting for Engineering and Design Services

House bill

Section 140 amends section 112 of title 23 clarifies that quality based selection process requirements for design and engineering services and other contracting procedures will apply unless a State has in the past adopted alternative procedures to increase competition. Requirements must be met for any phase of a project funded in whole or in part with Federal funds.

Senate amendment

This provision amends section 112(b)(2) of title 23 of the United States Code to promote competition and provide the greatest value for Federal aid system projects. It clarifies that the time period for states to have legislatively enacted alternative requirements to Qualifications Based Selection (QBS) Procedures for obtaining engineering and design services has ended. Additionally, it requires that the Federal Acquisition Regulations (FAR) be used for consistent and equitable contract administration, accounting, and audits while providing for the use of FAR QBS simplified acquisition procedures for contracts under $100,000. Finally, clarification is provided that requires the Secretary to establish a certification procedure to ensure that any legislation enacted by a State since November 28, 1995 to exercise its option complies with the time frames and substantive criteria contained in Section 307 of PL 104-59.

Conference substitute

The Conference adopts a substitute provision.

Ambassador Bridge, Michigan

House Bill

Subsection 133(a) makes the facilities necessary to connect the Ambassador Bridge in Detroit, Michigan to the Interstate System eligible to receive funds apportioned under the National Highway System and the Surface Transportation program.

Senate amendment

Section 1129 provides eligibility for the Ambassador Bridge in Detroit, Michigan under the surface transportation program and the National Highway System program.

Conference substitute

The Conference adopts the Senate provision.

Cuyahoga River Bridge

House bill

Subsection 113(b) makes the Cuyahoga River in Ohio eligible to receive funds apportioned under the congestion mitigation and air quality improvement program.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference adopts the House bill with a modification. The bridge is eligible to receive funds from the surface transportation program.

National Defense Highway

House bill

Section 131 authorizes an amount not to exceed $16 million per year for fiscal years 1998 through 2003 from the Interstate Maintenance component for the reconstruction of a highway or portion of highway outside of the United States that is important to national defense.

Senate amendment

Section 1131 authorizes an amount not to exceed $16 million per year for fiscal years 1998 through 2003 from the Interstate Maintenance component for the reconstruction of a highway or portion of highway outside of the United States that is important to national defense.

Conference substitute

The Conference adopts the provision.

High Risk Road Safety Improvement Program

Senate bill

The Senate bill contains no comparable provision.

House bill

Section 110 creates a new program within the Federal-aid highway program to fund construction and operational projects that improve the safety of high risk roads. States are to allocate funds under this program to those projects that have the highest benefit. Up to fifty percent of funds under this program can be transferred to other Federal-aid highway programs.

Conference substitute

The Conference does not adopt the House provision.

Road Safety Awareness and Improvement Program

House bill

Subsection 110(c) authorizes a roadway safety awareness and improvement program funded from the high risk road safety program. The activities of the program should be carried out cooperatively between the Department of Transportation, States, and other safety organizations.

Senate amendment

The Senate bill contains no comparable provision.

Conference Substitute

The Conference does not adopt the House provision.

High Cost Interstate Program

Senate bill

The Senate bill contains no comparable provision.

House bill

Section 113 establishes a new program to fund major reconstruction or improvement projects on the Interstate system. In order to be eligible, a project must cost over $200 million or cost more than 50% of a State's Federal-aid highway apportionments; it must be ready to go to construction; the State must agree to not transfer funds apportioned under the Interstate Maintenance Program; and the funds must be obligated within one year. Two thirds of the funds are allocated to the States in the ratio that each State's cost of eligible projects bear to the total national cost of eligible projects. For the years 1998 through 2003, however, those funds are to be distributed based on the Interstate Maintenance Program formula. The remainder of the funds are allocated on a discretionary basis. If funds cannot be used in any given fiscal year, the extra funds are apportioned to all States as Interstate Maintenance funds. Projects must be included within the planning process. The Secretary of Transportation is required to report on the expected future need to reconstruct the Interstate System and to recommend methods for apportioning the funds.

Conference Substitute

The Conference does not adopt the House provision.

Infrastructure Awareness Program

Senate bill

The Senate bill contains no comparable provision.

House bill

Section 132(a) authorizes the Secretary to fund the production of a documentary about infrastructure to promote infrastructure awareness. A total of $1 million in contract authority is authorized for each of the fiscal years 1998 through 2000 from the Highway Trust Fund, other than the Mass Transit Account.

Conference substitute

The Conference adopts the House provision with modifications. The substitute states that a total of 40 percent of the total project of $4.8 million will be provided from the Highway Trust Fund and the remaining 60 percent is required to be provided by the private sector. Credit is given for funds received to date. The substitute provides a total of $1 million for each of the fiscal years 1998 and 1999, and $.88 million in 2000 from the Highway Trust Fund, other than the Mass Transit Account.

New York Avenue Authority, DC

Senate bill

The Senate bill contains no comparable provision.

House bill

Section 142 establishes a New York Avenue Authority to develop an improvement plan for the New York Avenue Corridor in the District of Columbia. The authority is eligible to receive funding under the National Corridor Planning and Development program.

Conference substitute

The Conference does not adopt the House provision.

Administrative Takedown

Senate bill

Section 1201 reduces that administrative subsection 104(a) of title 23, United States Code, which requires the Secretary to deduct funds from certain Federal-aid highway apportionments from the current 3¾ percent to an amount not to exceed 1½ percent administer the Federal-aid highway program. The reduction reflects that this Act provides non-administrative items, such as research and intelligent transportation system activities that were formerly funded from the takedown with separate funding elsewhere. This modification in the administrative takedown will provide a clear distinction between the Department's administrative expenses and its research activities and other expenses.

House bill

Subsection 104(a) allows the Secretary to deduct from sums authorized to be apportioned for expenditures on the Federal-aid highway program for Administrative expenses a sum not to exceed 1 percent of all sums so apportioned for the Federal-aid highway program.

Conference substitute

The Conference adopts the Senate bill.

Real Property Acquisition

Senate bill

Section 1201 amends sections 108 and 323 of title 23, United States Code, to expand the flexibility provided to State and local governments to compete for land resources. It provides for the advanced acquisition of real property not only for highway projects, but for all transportation improvements under title 23. This section removes restrictive language and outdated programs, revises language, and adds opportunities for State and local governments to utilize early property acquisition when necessary, while retaining maximum flexibility to leverage the use of Federal funds.

The provision provides an alternative means of leveraging Federal funds apportioned to each State by providing a credit based on the value of publicly-owned lands incorporated within a federally-funded project. This provision is consistent with the credits already permitted for donated real property and services. The provisions added by this section expand the choices available to State and local governments in fashioning financial strategies to best serve their transportation objectives.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision with a modification to clarify that costs of services are not eligible as a credit for non-federal share.

Payments to States for Construction

Senate bill

Section 1204 amends section 121 of title 23, United States Code to remove a restriction that applies the Federal/non-Federal matching share requirement to each payment a State receives. The revised section 121 makes the requirement applicable to total project costs rather than to individual voucher payments. The increased flexibility provided by these changes will result in a simplified program that is easier for State departments of transportation to administer. The changes recognize that the important restriction is that the total project meets the Federal share requirement. The changes also make the Federal-aid highway program more compatible with other Federal programs, particularly the Federal mass transportation program, where projects are often administered jointly by FHWA and Federal Transit Administration.

House bill

Subsection 134(d) amends title 23 to remove a restriction which applies the Federal/non-Federal matching rate to each payment that a State receives. This amendment will make the Federal-aid highway more like other Federal programs, including the Transit program, hence giving the States greater flexibility in managing their funds.

Conference substitute

The Conference adopts the House provision with a modification. This provision is retained as separate section as in the Senate bill.

Proceeds from the Sale or Lease of Real Property

Senate bill

Current section 156 of title 23, United States Code, requires States to charge fair market value for the use of airspace acquired in connection with a federally funded project. Section 1205 expands the requirement in section 156 to apply to the net income generated by a State's lease, sale, or other use of all real property acquired with Federal financial assistance. The revised section applies the same standard to all real property interests acquired with Federal-aid highway funds. As in current law, the Secretary may grant exceptions for social, environmental, or economic purposes.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision with the inclusion of clarifying report language. The purpose of this exception retained in this provision is to give the States (with the Secretary's approval) the flexibility to charge less than fair market value for lands bought with Highway Trust Fund dollars if the lands, once sold or leased, would be used for some purpose of public benefit that would outweigh the general desire to receive fair market value for the property, such as if the lands would be used as parkland or as a recreation area.

Metric Conversion at the State Option

Senate bill

Section 1206 amends section 205 of the National Highway System Designation Act of 1995 which states that the Secretary shall not require States to use or plan to use the metric system before September 30, 2000. This provision allows States to choose when and if to implement the metric system with respect to designing, advertising, or preparing plans, specifications, timetables, or other documents, for a Federal-aid highway project. This section does not require any State to modify its current use of the metric system for Federal-aid highway projects.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

Report on Obligations

Senate bill

Section 1207 amends section 104 of title 23, United States Code, to require the Secretary to submit to Congress an annual, rather than monthly, report on States' obligations for Federal-aid highways, highway safety construction programs, and unobligated balances.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

Termination of Right-of-Way Revolving Fund

Senate bill

Subsection 1208(a) terminates the right-of-way revolving fund. The right-of-way revolving fund is revised in section 108(c) of title 23, to provide an expiration and closeout period for obligations already authorized from the fund. This program was terminated as a revolving loan fund because of the new rules required of all credit programs in the Credit Reform Act of 1990. Credits based on conversion or reimbursements are to be applied to the Highway Trust Fund rather than to the revolving fund. Twenty-three States currently have active right-of-way revolving fund projects. This section provides for a 20-year close out period from the date that right-of-way funds were advanced to give these States sufficient time to complete these unfinished projects.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

Termination of Pilot Toll Collection Program

Senate bill

Subsection 1208(b) terminates a tolling pilot program that has accomplished its intended purpose. Pilot toll agreements that were executed under subsection 129(k) of title 23 are still valid.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

Termination of the Bridge Commission

Senate bill

1208(d) repeals the 1962 Bridge Commission Act. Public Law 87-441 relates to bridge commissions and authorities created by Act of Congress. It provides for Federal approval of such commissions' memberships and requires annual audits. A commission ceases to exist by transferring ownership of the bridge to the States. Initially, five bridge commissions were subject to the act. Today, only one commission remains, the White County Bridge Commission, which operates the New Harmony Bridge across the Wabash River between Indiana and Illinois. While under this act, the FHWA has the authority to appoint commissioners and review the commission's financial operations, these actions could be administered more effectively and efficiently at the State or local level. This provision removes this unnecessary Federal oversight of the White County Bridge Commission.

House bill

Subsection 134(h) repeals a requirement that the Federal government oversee certain bridge commissions created by Congress in Public Law 87–441. Such duties would be assumed by State and local governments.

Conference substitute

The Conference finds the provisions in both the House and Senate bills to be substantially equivalent.

Transfer of Highway Transit Funds

Senate bill

Section 122 adds a new subsection to section 104 of title 23, United States Code, to provide for the program-wide, rather than project-by-project, transfer and administration of transit funds made available for highway projects and highway funds made available for transit projects. This revision will streamline the administration of highway and transit funds by State departments of transportation.

This provision also requires the Secretary to administer funds made available under title 23 or chapter 53 of title 49 and transferred to Amtrak in accordance with Subtitle V of title 49. Funds made available under title 23 or chapter 53 of title 49 and transferred to other eligible passenger rail projects and activities shall be administered as the Secretary determines appropriate. The non-Federal share provisions in title 23 or chapter 53 of title 49 will continue to apply to the transferred funds.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provisions with a modification. Amtrak transferability is not adopted.

Project Approval and Oversight

Senate bill

Section 1222 amends section 106 of title 23, United States Code, which addresses Federal and State responsibilities for surface transportation projects. This section permits the Secretary to discharge to the States with their approval the Secretary's responsibilities under title 23 for the design, plans, specifications, estimates, contract awards, and inspection of projects on the National Highway System (NHS). Under current law, States voluntarily oversee such activities for projects carried out with Surface Transportation Program (STP) funds, but not for NHS projects.

House bill

Subsection 501(a) consolidates and codifies the current practices used by the Secretary to approve and oversee Federal-aid highway projects and further streamlines that process. This section requires that for projects on the NHS (including the Interstate system), the Secretary and each State will enter into an agreement as to the appropriate level of Federal oversight. The Secretary may not assume a greater degree of responsibility than under current law. For all non-NHS projects, the States will assume all of the Secretary's current responsibilities for design, plans, specifications, estimates, the awarding of contracts, and the inspection of projects. For projects on the NHS but not on the Interstate system, then a State shall assume all of the Secretary's current responsibilities for design, plans, specifications, estimates, the awarding of contracts, and the inspection of projects unless the State or the Secretary determines that such assumption is not appropriate.

Conference substitute

The Conference adopts a substitute provision. The substitute requires that the State shall assume the Secretary's responsibilities under this title for design, plans, specifications, estimates, contract awards and inspection of projects unless the State determines otherwise. In addition, the State may assume responsibility for projects on the NHS but not on the Interstate system unless the State or Secretary determines otherwise.

In any case where States must meet surface quality regulations set forth by the Federal Highway Administration, they may look for leadership to a private Midwestern engineering institute which has served as a State certifying contractor for the past eleven years. The FHWA may work with this institution in carrying out this National certification program and use the existing expertise in the area.

Financial Plan

Senate bill

Section 1222(f) requires the Secretary to prepare a financial plan for any projects with an estimated total cost of $1 billion or more.

House bill

Section 504 requires the preparation of a financial plan for any highway or transit project costing over $1 billion and that is proposed to be funded with Federal funds.

Conference substitute

The Conference adopts the Senate provisions with a modification. The provision is codified in title 23 and title 49.

Standards

Senate bill

Subsection 1222(b) eliminates the requirement that the Secretary of Transportation issue Interstate maintenance guidelines and adds that safety considerations of a project may be met by phase construction.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provisions with a modification. The substitute language clarifies that the safety considerations are to be consistent with an operative safety management system or a statewide transportation improvement program approved by the Secretary.

Repeal of Sections 100 and 117

Senate bill

Section 1222(c) repeals sections 110 and 117.

House bill

Section 501 repeals sections 110 and 117.

Conference substitute

The Conference finds provisions in both the House and Senate bills to be substantially equivalent.

Surface Transportation Innovative Financing

Senate bill

Subsection 1223(a) codifies the Department of Transportation's current administrative policy regarding innovative mechanisms applicable to transportation enhancement projects. It gives States additional flexibility by allowing them to calculate non-Federal share for enhancement projects in several ways: on a project, multiple project, or program basis. A State's average annual non-Federal share of transportation enhancement projects must be at least 20 percent; however, because of the new provision, it is feasible for a single project to have a 100 percent Federal share.

In addition, this section also reduces the current quarterly, project-by-project State certification and notification requirements to annual, program-wide approval of each State's project agreement. The current requirement that payments made by the Secretary to the States under section 133 could not exceed the Federal share of costs incurred as of the date the State requested payments is eliminated.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

Surface Transportation Program Encouragement of Youth Conservation Corps

Senate bill

The Senate bill contains no comparable provision.

House bill

Subsection 108(h) encourages the use of youth corps to perform transportation enhancement projects.

Conference substitute

The Conference adopts the House provision.

Surface Transportation Program Approval

Senate bill

Subsection 1223(b) amends section 133 of title 23 to reduce the current quarterly, project-by-project State certification and notification requirements to annual, program-wide approval of each State's project agreement.

House bill

Subsection 108(f) changes the program approval process for the Surface Transportation Program from a quarterly to an annual basis.

Conference substitute

The Conference finds both the House and Senate provisions substantially equivalent.

Payments

Senate bill

Subsection 1223(c) eliminates the current requirement that payments made by the Secretary to the States under section 133 of title 23, U.S.C. not exceed the Federal share of costs incurred as of the date the State requested payment. This simply reflects the Department of Transportation's current administrative policy regarding innovative financing mechanisms applicable to transportation enhancement projects. Innovative financing techniques will give States additional flexibility by allowing them to calculate the non-Federal share for enhancements projects on either a project, multiple project, or program basis. A State's average annual non-Federal share of transportation enhancement projects must be at least 20 percent. A single project, however, may have a 100 percent Federal share, but each State's annual enhancements programs must comply with the 20 percent non-Federal match requirement.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

Design Build Contracting

Senate bill

Section 1224 provides authority, after two years of enactment of this Act, for State transportation departments to use the design-build approach for construction of eligible title 23 project segments. Design-build is an innovative method of highway contracting that is not allowed under current law. It differs from traditional contracting in that it combines, rather than separates, responsibility for the design and construction phases of a highway project. This section allows States to use their State design-build contracting procedures in statute or procedures authorized under section 303M of the Federal Property and Administrative Services Act of 1949.

The benefits of the design-build approach include greater accountability for quality and costs, less time spent coordinating designer and builder activities, firmer knowledge of project costs, and a reduced burden in administering contracts. Design-build is particularly advantageous for accelerating project delivery. For example, a study of 11 design-build projects in Florida found that this innovative contracting method produced significant improvements in project performance as compared to non-design-build projects. The average design-build construction time was 21.1 percent shorter than the average for non-design-build projects. In addition, actual design-build procurement times were 54 percent less than the normal design procurement time allocated for projects using traditional contracting methods. The design-build projects also produced a 4.7 percent reduction in after-bid changes to the contract.

Despite the potential advantages of design-build, it may not be an appropriate method for carrying out every highway project. Therefore, this section provides minimum cost requirements for potential design-build projects. To qualify for the award of a design-build contract, the cost of each usable segment of a highway project must be at least $50,000,000. In the case of an Intelligent Transportation Systems project, the total cost of the project must exceed $10,000,000.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision with modifications. It allows States to use any design-build selection procedures determined appropriate by the Secretary and requires the Secretary to submit a report to Congress within 5 years after enactment of this Act. This report will analyze the effectiveness of design-build contracting procedures.

Use of Consultants (Selection Process)

Senate bill

Section 1225(c) allows a State to procure consultant services under a single contract for preparation of both the environmental analysis and subsequent engineering and design services if the State has conducted an independent multi-disciplined review of the objectivity of the analysis.

House bill

Section 104(b) allows a State to procure consultant services under one contract for the preparation of any environmental analysis as well for subsequent engineering and design services if the State has conducted a review of the objectivity of the analysis.

Conference substitute

The Conference adopts the House provision.

Eligibility of Ferry Boats

Senate bill

Section 1232 clarifies that the construction of ferry boats and ferry terminal facilities are eligible uses of National Highway System (NHS), Surface Transportation Program (STP), and Congestion Mitigation and Air Quality Improvement program (CMAQ) funds. This simply clarifies how the program is currently administered and does not amend or weaken any of the underlying eligibility requirements of the NHS, STP, or CMAQ programs.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference does not adopt the Senate provision.

Eligibility of Projects on the National Highway System

Senate bill

Section 1234 amends section 103 of title 23, United States Code, to include publicly owned intracity or intercity passenger rail capital projects, including Amtrak, as an eligible activity for National Highway System (NHS) program funds under the same criteria that apply currently to transit and non-NHS highway projects. NHS funding eligibility is amended also to include natural habitat enhancement and encourage the use of approved private-sector mitigation banks for wetlands lost through highway construction. Preference is given, to the extent practicable, to banks if they are in accordance with federal guidelines on mitigation banking and are within the service of the impacted wetland.

This section also adds the following new items to the list of projects eligible for NHS funding: (1) publicly owned intracity or intercity passenger rail or bus terminals, including those owned by Amtrak; (2) publicly owned intermodal surface freight transfer facilities, other than seaports and airports located at, or adjacent to, the NHS or connections to the NHS; (3) infrastructure-based Intelligent Transportation Systems capital improvements; and (4) publicly owned components of magnetic levitation (MAGLEV) systems.

This section also adds to the list of eligible NHS projects a paragraph applicable only to projects on the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, permitting these territories to use their NHS apportionments for any STP-eligible project, any airport, and any seaport.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision with a modification. The substitute does not include eligibility for intracity and intercity passenger rail under this program.

Minor Collectors

Senate bill

The Senate bill contains no comparable provision.

House bill

Subsection 108(e) allows up to 15 percent of surface transportation program funds apportioned for areas of less than 5,000 in population to be used on minor collectors.

Conference substitute

The Conference adopts the House provision with modifications.

Design Flexibility

Senate bill

Section 1236 clarifies section 109 of title 23 regarding the Secretary's responsibilities regarding planned future traffic needs and the Secretary's responsibilities in reviewing State plans for proposed highway projects. This modification eliminates the requirement that the Secretary ensure that a State plan for a highway project must accompany future traffic demands. The revised section only requires that the Secretary ensure that future traffic needs were considered.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference does not adopt the Senate provision.

State Infrastructure Banks

Senate bill

Section 1301 codifies the State Infrastructure Bank (SIB) Pilot Program authorized in the NHS Designation Act of 1995. This section includes modifications to increase the flexibility of the SIB program. The current 10-State limit on the number of participants in the SIB program is eliminated, thus enabling any State to establish a State Infrastructure Bank. The percentage limitation regarding funds a State can transfer to use State infrastructure banks is eliminated. The 10-state limit unnecessarily restricted States from pursuing this financial mechanism and the percentage limitation unnecessarily limits States' use of this mechanism. The need to maintain separate highway and transit accounts also imposed an accounting burden on States that was inconsistent with financial flexibility desired in a financing entity such as a State Infrastructure Bank.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts a substitute provision. The conference adopts a four State pilot program. The participating States are Missouri, California, Florida, and Rhode Island.

Transportation Infrastructure Finance and Innovation Act

Senate bill

Subtitle C, Chapter 2 establishes a Federal credit assistance program for major surface transportation projects under the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA).

House bill

The House bill contains no comparable provision.

Conference agreement

The conference adopts the Senate provision, with certain modifications. The TIFIA program is designed to assist major surface transportation projects with their own revenue streams, which can attract substantial private capital with a limited Federal investment. This program offers the sponsors of large transportation projects a new tool to leverage limited Federal resources, stimulate additional investment in our Nation's infrastructure, and encourage greater private sector participation in meeting our transportation needs.

Eligible projects for TIFIA assistance include any projects eligible under title 23 (highway and transit capital projects) as well as international bridges and tunnels, inter-city passenger bus and rail facilities and vehicles (including Amtrak and magnetic levitation systems), and publicly-owned intermodal freight facilities. Examples of the types of projects which may benefit from this program are the Woodrow Wilson Bridge, the Farley/Pennsylvania Station project in New York City and the State of Florida's proposed high-speed rail project between Miami, Orlando and Tampa. Project sponsors may be governmental units, private entities, or public-private partnerships. The Conferees wish to reiterate language concerning the Florida high-speed rail project in the Senate committee report section on TIFIA. This project represents an effort by the State of Florida to bring a new technology to the United States by using an innovative public-private partnership that does not rely on Federal grant support. The State of Florida's request for a Federal loan equal to ⅓ of project costs should receive favorable consideration from the Department of Transportation, provided it meets program criteria.

To be eligible for credit assistance, a project must meet certain threshold criteria. It must cost at least $100 million or 50 percent of a State's annual apportionment of Federal-aid funds, whichever is less. (For intelligent transportation system projects, the minimum cost is $30 million, due to the substantial capacity enhancements attainable with but a limited investment.) The project also must have the potential to be self-supporting from user charges or other non-Federal dedicated funding sources, be on a State's transportation plan and, at the time of funding, be on a fiscally-constrained State transportation improvement program. An application for credit assistance may be submitted by a State or local government or other entity. The Secretary will select among potential candidates based on various criteria, including the project's regional or national significance, its potential economic benefits, its credit-worthiness, the degree of private sector participation, and other factors.

Forms of assistance that can be provided under this program consist of direct loans, loan guarantees, and lines of credit. In all cases the Federal role will be that of a minority investor, with Federal participation limited to not more than 33 percent of total project costs. The Secretary is authorized to enter into agreements with project sponsors containing terms and conditions designed to assist the projects in leveraging additional funds, while ensuring that the program operates in a fiscally-prudent manner. The State in which a project is located may identify a State or local government entity to assist the Secretary in servicing the Federal credit instrument.

The Secretary may provide credit assistance to demonstrate to the capital markets the viability of making transportation infrastructure investments where returns depend on residual project cash flows after servicing senior municipal revenue bonds or other capital markets debt. An objective of the program is to help the financial markets develop the capability ultimately to supplant the role of the Federal government in helping finance the costs of large projects of national significance. That is why loan guarantees are limited to major institutional lenders, such as defined benefit pension funds, which may be potential providers in the future of supplemental and subordinate capital for projects. The Conference would like the Secretary to encourage Federal borrowers to prepay their direct loans or guaranteed loans as soon as practicable from excess revenues or the proceeds of municipal or other capital market debt obligations. The Secretary also may sell off direct loans to third parties or into the capital markets, if such transactions can be arranged upon favorable terms.

The Conference recognizes that the Congress enacted the Deficit Reduction Act of 1984 provision prohibiting the combination of Federal guarantees with tax-exempt debt, because of concerns that such a double-subsidy could result in the creation of a "AAA" rated security superior to U.S. Treasury obligations. Accordingly, any project loan backed by a loan guarantee as provided in TIFIA must be issued on a taxable basis.

The Conference wants to ensure that projects receiving TIFIA assistance are financially-sound. Each project, at the time of its application for assistance, is required to furnish a preliminary rating opinion letter from one of the bond rating agencies identified by the Securities and Exchange Commission as a "Nationally Recognized Statistical Rating Organization," indicating that the project's senior debt obligations have the potential to achieve an investment-grade bond rating. The Secretary shall consult with the Office of Management and Budget, each rating agency providing such an opinion letter, and any other financial experts the Secretary deems necessary, in order to determine the credit instrument's appropriate subsidy cost (capital reserve) pursuant to the Federal Credit Reform Act of 1990. Until such time as a formal investment-grade rating is assigned, the Secretary shall not extend credit in an amount exceeding the estimated subsidy cost. The Conference believes that analytical techniques that are widely-accepted by the capital markets, such as those used by the rating agencies to evaluate the financial stability of municipal bond insurance companies, should be drawn upon to estimate the appropriate subsidy cost.

TIFIA expressly requires that projects adhere to Title VI of the Civil Rights Act, the National Environmental Policy Act, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act. the Conference also recognizes that highway and transit capital projects assisted under TIFIA will retain adequate protections for labor in terms of prevailing wages, as required under title 23 provisions.

The bill provides $530 million of contract authority, funded from the Highway Trust Fund, to fund the budgetary or subsidy costs of the Federal credit instruments between fiscal years 1999–2003: $80 million in fiscal year 1999; $90 million in fiscal year 2000; $110 million in fiscal year 2001; $120 million in fiscal year 2002; and $130 million in fiscal year 2003. (As with other Federal credit programs, the non-budgetary or financing costs of the Federal credit instruments will be funded from the General Fund.). The bill caps the nominal amount of credit instruments supported by this contract authority at $1.2 billion for each of fiscal years 1998 and 1999; $1.8 billion for fiscal years 2000 and 2001; and $2.0 billion for fiscal years 2002 and 2003.

The Conferees are aware that present Federal income tax law prohibits the use of direct or indirect Federal guarantees in combination with tax-exempt debt (section 149(b) of the Internal Revenue Code of 1986. The TIFIA provisions of the conference agreement do not override or otherwise modify this provision of the Code.

The Conference finds that developing, implementing, and evaluating financial assistance programs such as TIFIA is a crucial mission of the Department of Transportation. To ensure the financial and programmatic success of TIFIA, the conference strongly encourages the Secretary to establish an organizational structure within the Department in which financial assistance activities and programs can be closely coordinated and monitored.

In order to evaluate the effectiveness of this program, the Secretary is required to submit a report to Congress within four years of the date of enactment of this bill. The report should summarize the program's financial performance to date, and recommend whether the objectives of the program would be best met by continuing the program under the authority of the Secretary, establishing a Government corporation of Government-sponsored enterprise to administer the program, or by relying upon the capital markets to fund projects of regional and national significance without Federal participation.

Operation Lifesaver

Senate bill

Section 1401 continues funding for the Operation Lifesaver program and requires a total of $500,000 for each of fiscal years 1998 through 2003 to be set-aside by the Secretary from surface transportation program funds. The funds shall be used for public education programs designed to reduce the number of accidents, deaths and injuries at highway-rail intersections and within railroad rights-of-way.

House bill

Section 104(c) extends authority for funding for Operation Lifesaver.

Conference substitute

The Conference finds both the House and Senate provision to be substantially equivalent.

Railway-Highway Crossings

Senate bill

Section 1403 amends section 130 of title 23 United States Code, and expands the eligibility of railway-highway funds to include trespassing countermeasures in the vicinity of the crossing, safety education, enforcement of traffic laws and publicly sponsored projects at privately owned railway-highway crossings. States are required to report to the Department on completed crossing projects funded under this subsection for inclusion in the DOT/American Association of Railroads National Grade Crossing Inventory.

This section eliminates the requirement that half the funds authorized under section 130 be available for installation of protective devices at railway-highway crossings. These activities, however, remain eligible for funding under this section.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference does not adopt the Senate provision.

Hazard Elimination Program

Senate bill

Section 1404 expands the eligibility of the current hazard elimination program to include a full range of safety improvements for bicyclists and pedestrians, including multimodal and community safety programs, and spot improvement programs for rapid-response of low costs hazards, such as potholes, roadway and trail debris, and unsafe drainage gates is eligible for funding under this program. This section also makes traffic calming measures eligible for hazard elimination funds. The prohibition on States using hazard elimination funds to correct hazards on routes on the Interstate system is eliminated. This section also revises the reference to "highway safety improvement project" in subsection 152(b) to read "safety improvement project" to reflect the multimodal focus of the hazard elimination program.

House bill

Section 138 requires that hazards to bicyclists are included in the hazardous locations inventory.

Conference substitute

The Conference adopts the Senate provision with modifications. It clarifies that to be eligible under this section, a project must be related to a public surface transportation facility. The Conference substitute does not allow public transportation vehicles to be eligible for these funds, nor does it allow the Secretary to determine additional appropriate projects. In carrying out this section, States should minimize any negative impact on safety and access for bicyclists and pedestrians in accordance with section 217.

Specialized Hauling

Senate bill

The Senate bill contains no comparable provisions.

House bill

Subsection 134(j) requires a study of the impact of truck weight standards on specialized hauling vehicles.

Conference substitute

The Conference adopts the House provision with a modification to require the study include, but not be limited to, an analysis of the economic, safety, and infrastructure impacts of truck weight standards.

Access for Motorcycles

Senate bill

The Senate bill contains no comparable provision.

House bill

Section 135 specifies that State or local governments may not restrict access of motorcycles to any highway facility for which Federal-aid funds were used.

Conference substitute

The Conference adopts the House provision with modifications to clarify that this provision only applies to Federally-assisted highways open to traffic and will not override or affect the applicability of any local jurisdiction's safety laws.

232 Metropolitan Planning

Senate bill

Section 1601 retains the current structure and most of the metropolitan planning provisions found in section 134 of title 23. It retains the current project selection process set forth in ISTEA.

This section makes the following substantive changes to current law. First, this section streamlines the 16 metropolitan planning factors found in current law into seven issues to be considered in the planning process. Second, it gives States flexibility to move projects within a 3-year Transportation Improvement Program without FHWA approval if the Governor and metropolitan planning organization agree. Third, it eliminates the requirement that transportation improvement programs identify the source of funds for individual projects by Federal funding category. Fourth, this section adds freight shippers to the list of stakeholders to be given opportunities to comment on plans and transportation improvement programs (TIPs). Finally, it provides that, for urbanized areas designated after the enactment of this Act, metropolitan area boundaries shall cover at least the urbanized area and the area expected to become urbanized within the 20-year forecast period and shall require the agreement of the Governor and MPO. Such boundaries are not required to include the entire ozone or carbon monoxide nonattainment areas, as identified under the Clean Air Act.

House bill

Section 124 amends section 134 of title 23 by setting seven general goals and objectives that may be considered in the planning process. They include: supporting economic vitality; increasing safety and security; increasing accessibility and mobility; protecting the environment; integrating the transportation system; promoting efficiency; and preserving existing facilities. These replace the existing list of nineteen planning factors. The language also includes fostering economic growth and development to the list of reasons that is in the national interest.

The section makes a number of technical changes to section 134(g) regarding long range plans. It also allows metropolitan planning organizations to include projects that would be funded if additional resources were available. The inclusion of such projects is for illustrative purposes only. The bill requires that a TIP be updated at least every three years. It also allows the metropolitan planning organizations to include projects that they would advance if additional resources were available.

Conference substitute

The Conference substitute adopts a combination of both the Senate and House provisions. The substitute retains the basic current metropolitan planning structure and processes. As included in both bills, the 16 planning factors are streamlined to seven general factors to be considered in the planning process. In considering the relationship between transportation and quality of life, metropolitan planning organizations are encouraged to consider the interaction between transportation decisions and local land use decisions appropriate to each area. The language clarifies that the failure to consider any specific factor in formulating plans, projects, programs, strategies and certification of planning processes is not reviewable in court. The Conference substitute also adopts the House provision including economic growth and development as a general requirement in metropolitan planning.

As included in both bills, freight shippers and providers of freight transportation services are included on the list of persons to be given opportunities to comment on metropolitan long-range plans and programs (TIPs) along with the addition of representatives of users of public transit. The Conference substitute also adopts the House provision allowing MPOs to include an illustrative list of projects that would be included on the TIP if additional resources were available. The illustrative list does not affect the fiscal constraint requirement of the TIP.

The Conference substitute clarifies that the expansion or designation of existing or new metropolitan planning organization boundaries due to the imposition of any new air quality standards will not automatically occur and such boundaries will be determined by agreement of the governor and the affected local governments.

Statewide Planning

Senate bill

Section 1602 retains the current structure and most of the statewide planning provisions found in section 135 of title 23. It retains the current project selection process set forth in ISTEA. This section makes the following substantive changes to current law. First, it streamlines the 20 statewide planning factors found in current law into seven broader issues to be considered in the planning process. Second, it gives States flexibility to move projects within a 3-year Transportation Improvement Program (TIP) without FHWA approval or action if the Governor and metropolitan planning organization agree. Third, it eliminates the requirement that transportation improvement programs must identify the source of funds for individual projects by Federal funding category. Finally, this section adds freight shippers to the list of stakeholders to be given opportunities to comment on plans and statewide transportation improvement programs (STIPs).

House bill

Section 125 amends section 135 of title 23 by setting the scope of the planning process. States, to the extent they determine appropriate, may consider goals and objectives in the planning process, including supporting economic vitality, increasing safety and security, increasing accessibility and mobility, protecting the environment, integrating the transportation system, promoting efficiency, and preserving existing facilities. These considerations replace the existing planning factors.

Freight shippers and freight providers are added to the list of groups that shall be allowed a reasonable opportunity to comment on the proposed long-range plan and on the proposed State transportation improvement plan. It requires that in rural areas, the transportation program be developed by the State in cooperation with local elected officials. It also allows the State to include projects that it would fund if additional resources were available. Projects undertaken pursuant to the high risk road safety program are added to the list of projects that must be selected by the State in consultation with affected local officials.

This section also includes a provision to study the effectiveness of local planning.

Conference substitute

The Conference substitute adopts a combination of both the Senate and House provisions. The substitute retains the basic statewide planning structure and processes. As included in both bills the 20 planning factors are streamlined to seven general factors to be considered in the state planning process. The language clarifies that the failure to consider any specific factor in formulating plans, projects, programs, strategies and certification of planning processes is not reviewable in court.

As included in both bills, freight shippers and providers of freight transportation services are included on the list of persons to be given opportunities to comment on statewide long-range plans and programs (TIPs), along with the addition of representatives of users of public transit. The Conference substitute also adopts the House provision allowing States to include an illustrative list of projects that would be included in the TIP if additional resources were available. The illustrative list does not affect the fiscal constraint requirements of the TIP.

The Conference substitute adopts the Senate provision, allowing States flexibility to move projects within a three-year transportation improvement program without separate approval or action by the Federal Highway Administration if the MPO concurs. The substitute also includes a provision requiring States to consult with local officials with responsibility for transportation when formulating plans and programs.

Technical Correction Federal Aid/National Highway System

Senate bill

Subsection 1701(a) amends section 103 of title 23, United States Code, to reflect that the National Highway System (NHS) has been designated by Congress. It consolidates several sections of title 23 regarding Interstate system designations and the process for adding segments to the Interstate. This section addresses interstate construction funds and unobligated balances of Interstate substitute funds, as these programs no longer exist.

The NHS consists of an interconnected system of principal arterial routes that serve major population center sand intermodal transportation facilities. Its components include the Interstate System and other urban and rural principal aerials and highways (including toll facilities) that provide motor vehicle access between major population centers, border crossings, intermodal transportation facilities, and routes important to defense within the United States. The mileage of the NHS is limited to 178,250 miles. This mileage is equal to the base amount of 155,000 miles, established in current law, plus the 15 percent increase permitted under current law. The Secretary may make modifications to the NHS routes proposed by a State if the Secretary determines that the modification meets the same criteria established under current law. Modification proposals must be coordinated among the State, local and regional officials.

An Interstate System route is to be selected by joint action of the State transportation agencies of the State in which the route is located and the adjoining States in cooperation with local and regional officials, and subject to the approval of the Secretary. The mileage of the Interstate System is limited to 43,000, an increase from the 41,000 mile limit under current law.

House bill

Subsection 106(a) strikes existing provision for the interim eligibility and approval of the National Highway System.

Conference substitute

The Conference adopts the Senate provision.

Corridor 10 Modification for West Virginia

Senate bill

The Senate bill contains no comparable provision.

House bill

Subsection 106(J) designates certain portions of Route 10 in West Virginia as part of the National Highway System.

Conference substitute

The Conference does not adopt the House provision.

Nondiscrimination

Senate bill

Section 1703 amends section 324 of title 23, U.S.C. by moving the provision on discrimination on the basis of sex to section 140 as subsection (d). Under current law, both of these sections address discrimination.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

State Transportation Department

Senate bill

Section 1704 makes technical corrections to section 302 of title 23, United States Code. It changes the term "state highway department" to "state transportation department" to emphasize and reflect the intermodal focus of these departments. It eliminates the requirement for a secondary road unit as there is no longer a secondary system and secondary plans have been eliminated. It also establishes that compliance with section 302, as revised by this section shall have no effect on the eligibility of costs. This subsection eliminates 302(b) regarding the construction of projects on the secondary system.

House bill

Section 134(g) amends title 23 to clarify that section 302 does not limit reimbursement of eligible indirect costs to State and local governments. This will make the Federal-aid Highway program consistent with other Federal programs, reducing an administrative burden caused by requiring States to develop separate accounting systems.

Conference substitute

The Conference adopts the Senate provision.

Signing Survey

Senate bill

The Senate bill contains no comparable provision.

House bill

Subsection 133(h) requires the Secretary to conduct a study to determine the practices in the States for specific service food signs.

Conference substitute

The Conference adopts the House provision with modifications. The substitute provides language to clarify that recommendations for modifications to the Manual on Uniform Traffic Control Devices for Streets and Highways that result from this study should be made only if appropriate.

Amendments to Title 23 (De-icing)

Senate bill

Section 1806 make anti-icing and de-icing compositions that are agriculturally derived, environmentally acceptable, and minimally corrosive eligible for use on bridges under the surface transportation program and on Interstate and National Highway System bridges.

House bill

Subsections 107(d) and 108(b) makes certain anti-icing and de-icing compositions used on bridges eligible under the bridge program and under the surface transportation program.

Conference substitute

The Conference adopts the House provision with modifications. The substitute deletes the reference to agriculturally-derived compositions, but environmentally acceptable compositions in general are acceptable. In addition, it ensures, that all bridges are able to use these anti-icing and de-icing components.

Penn Station Board, NY

Senate bill

Section 1810 allows the Secretary of Transportation, the Federal Railroad Administrator and their designees to serve as ex-officio members of the Board of Directors of the

Pennsylvania Station Redevelopment Corporation.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

Union Station Board, DC

Senate bill

This provision allows the Secretary of Transportation, the Federal Railroad Administrator and their designees to serve as ex-officio members of the Board of Directors of the Union Station Redevelopment Corporation.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

Study Southwest Border Infrastructure

Senate bill

Section 1813 requires the Secretary to conduct a comprehensive assessment of the state of transportation infrastructure on the southwest border between the United States and Mexico. The Secretary is required to submit the report to Congress one year after the date of enactment of this Act.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision with a modification to ensure that the assessment of the adequacy of law enforcement and narcotics abatement activities include their relationship to infrastructure in the border area.

Report on Utilization Potential

Senate bill

Section 1817 requires the Secretary to conduct a study of ferry transportation in the United States, including the territories, to identify existing ferry operations and develop information on the ferry routes. The Secretary is to submit the report to Congress within one year of enactment of this Act.

House bill

Section 121(b) requires the Secretary to conduct a study of ferry transportation in the United States, including the territories, to identify existing ferry operations and to identify potential domestic ferry routes. The provision requires the report to be submitted to Congress.

Conference substitute

The Conference adopts the House provision with modifications. The substitute adds language to ensure the report includes identification of funding sources for ferry construction, and the potential for high speed and alternative-fueled ferry services. It also states that the report be submitted to the Committee on the Environment and Public Works of the United States Senate, rather than the Commerce, Science and Transportation Committee.

Life Cycle Cost Analysis

Senate bill

The Senate bill contains no comparable provision.

House bill

Section 139(a) requires life cycle costs analysis on every project under title 23 and requires the analysis to conform with the Executive Order on Infrastructure Investment.

Conference substitute

The Conference adopts the House provision with modifications. Subsection (a) eliminates the mandate that States conduct life-cycle costing procedures on each usable project segment of $5 million or more on the National Highway System. The Secretary of Transportation shall develop a set of procedures to be issued as recommendations to the States for conducting analyses of the life-cycle costs for projects on the National Highway System. In making a recommendation, the Secretary shall consult with AASHTO and include the principles identified in Executive Order 12893.

Life-cycle cost analysis is a process to reduce costs and improve quality and performance. In order to achieve these goals, the Secretary's recommendations shall suggest a uniform analysis period and uniform discount rates as established in OMB Circular A-94 for all Federal-aid National Highway System projects. The recommendation shall incorporate factors such as a documented, vigorous maintenance schedule user costs, and the life of the project. The States are encouraged to use the recommendations to the maximum extent possible on National Highway System projects.

Roadside Safety Technologies

Senate bill

Section 3107 requires the Secretary to issue guidance regarding the benefits and safety performance of redirective and nonredirective crash cushions. States are to use this guidance in evaluating the safety and cost-effectiveness of using different crash cushion designs or other safety appurtenances.

Houser bill

Subsection 126(a) requires the issuance of guidance to the States on the proper uses of various types of crash cushions. The States shall use such guidance to evaluate the use of such devices.

Conference substitute

The Conference adopts the House provision with a modification to extend the report deadline to 18 months after enactment, rather than one year.

Traffic Flow and Roadside Safety Applications of Road Barriers

Senate bill

The Senate bill contains no comparable provision.

House bill

Subsection 126(b) requires the Secretary to conduct a study on the use of moveable barrier technologies. The provision requires the Secretary to submit a report to Congress no later than one year after enactment of this Act, and to provide the report to States for their use on appropriate projects on Federal-aid Highways.

Conference substitute

The Conference adopts the House provisions with modifications. The substitute provides language clarifying the States can use the results of the study at their discretion. In addition, the deadline for the report is extended to 18 months rather than 1 year after date of enactment.

Study: Vehicle Weight Enforcement

Senate bill

The Senate bill contains no comparable provision.

House bill

Section 412 directs the Secretary to conduct a study on the effectiveness and deterrent value of State laws and regulations pertaining to penalties for violations of commercial motor vehicle weight laws. The Secretary shall issue a report to Congress not later than two years after enactment.

Conference substitute

The Conference adopts the House provision.

Worker Safety

Workers engaged in repair, demolition, and maintenance of existing highways, highway structures, and other construction projects frequently are exposed to hazardous materials including lead and asbestos. It is well established that even though safeguards to protect workers are supposed to be placed, frequently they are not adequately followed.

In 1992, NIOSH conducted a study of contamination of workers' homes with hazardous chemicals and substances transported from the workplace, the study found that such incidents have resulted in a wide range of health effects and death among workers' families exposed to toxic substances and infectious agents.

Seven Federal statutes provide Federal agencies with some mechanisms for responding to or preventing workers' home contamination. Twenty rules or standards in the Code of Federal Regulations, including regulations promulgated by the Environmental Protection Agency and OSHA, address workers' home contamination or have elements that serve to protect worker's families.

Contamination of workers' homes by hazardous substances transported from the workplace must be minimized. To accomplish this, it is essential that all workers are equipped with suitable protective, reusable clothing, and that such clothing is either disposed of properly or laundered in certified laundry facilities that assure that contamination found in the clothing do not result in exposure in the home, exposure to workers handling the clothing, or become environmental pollutants.

Adequate safeguards and facilities exist and the Federal government through enforcement of current Federal regulations should make a greater effort to assure that these safeguards are followed. It is economically beneficial, safe for workers and their families, and environmentally sound to required recyclable or reusable work clothes when engaged in workplace activities involved exposure to hazardous substances. Only licensed laundry facilities, in compliance with Federal standards, should be utilized for the laundering of such clothing.

Uniform Transferability

House bill

Section 505 creates a new uniform transferability of Federal-aid highway funds in section 110 in title 23. The provision applies to any highway program or set-aside within a program which does not allow at least 50 percent of the apportioned or set-aside funds to be transferred to another category. The provision allows any State to transfer up to 50 percent of any funds apportioned to it, as well as any funds within that apportionment that have special requirements or constitute a set aside, to any other category of funds.

The section also sets rules for the transferability of certain funds set-aside within the Surface Transportation Program. For funds set-aside for the hazard mitigation and rail-highway grade crossing programs, a State may not transfer a mandatory minimum level. For funds set-aside for transportation enhancements, up to 50 percent of the funds above the level received by a State in Fiscal Year 1996 are available to be transferred. For funds apportioned for the Congestion Mitigation and Air Quality program, States may transfer up to 50 percent of the increase over its Fiscal Year 1997 apportionment.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference does not adopt the House provision.

Midcourse Correction

House bill

Section 508 directs the Secretary to withhold certain funds for fiscal 2001 until August 1, 2001 unless Congress enacts a law making midcourse corrections to the highway and transit programs. At a minimum, the midcourse correction must include a funding distribution for the high cost interstate program, approve a system of performance bonuses, approve an Appalachian development highway system program, and approve projects within the transit capital program.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference does not adopt the House provision.

Flexibility of Safety Programs

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1233 gives additional flexibility to safety set-aside requirements. This provision requires each State to set aside 2 percent of its Surface Transportation Program (STP) apportionment for railway-highway crossings; 2 percent of its STP funds for hazard elimination activities; and 6 percent of its STP funds for railway-highway crossings or hazard elimination activities.

Additional discretion is given to each State to transfer up to 100 percent of its 6 percent STP safety set-aside funds to its section 402 safety program or to its Motor Carrier Safety program allocation. The requirement that half the funds authorized and expended under section 130 be available for installation of protective devices at railway-highway crossings is eliminated. The revised section, however, retains this use as an eligible activity.

Conference substitute

The Conference adopts the Senate provision with a modification. The substitute does not allow transfers to the section 402 safety program or the motor carrier safety program.

Railway Crossing Hazard Elimination

House bill

Section 104(c) extends the High Speed Rail Corridors grade crossing program. Funding for the High Speed Rail Corridors grade crossing program is increased to $5.25 million per year. In addition, the subsection specifically designates the Minneapolis/St. Paul, Minnesota, to Chicago, Illinois, segment as a part of the Midwest High Speed Rail Corridor (also known as the Chicago Hub). The Minnesota, Wisconsin, and Illinois Departments of Transportation have completed preliminary feasibility studies on the Minneapolis/St. Paul-Chicago segment and the Federal Railroad Administration has provided funding for the segment under the Next Generation High Speed Rail Corridor program.

Senate amendment

Section 1402 authorizes $5 million to be set-aside from Surface Transportation Program funds in each of fiscal years 1998 to 2003 to be allocated by the Secretary to address railway-highway crossing hazards in five existing high speed rail passenger corridors and the authority to select three additional corridors. The Secretary is to consider ridership volume, maximum speeds, benefits to nonriders such as congestion relief, State and local financial support and the cooperation of the owner of the right-of-way.

The previously selected rail corridors under the program: (1) San Diego to Sacramento, CA; (2) Detroit, MI to Milwaukee, WI; (3) Miami to Tampa, FL; (4) Washington, D.C. to Charlotte, NC; (5) Vancouver, B.C. to Eugene, OR. The New York City-Albany-Buffalo high speed Empire Corridor as an example of a project that meets the intent of this section because of its current travel at high rates of speed and its level of ridership.

Conference substitute

The Conference adopts the Senate provision with modifications. The substitute includes funding for site specific corridors that were included in both the Senate and House bills. It also makes improvements to the Minneapolis/St. Paul-Chicago segment of the Midwest High Speed Rail Corridor.

Gulf Coast Corridor

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1402 requires the Secretary to expend funds under the railway-highway crossing hazard elimination in high speed rail corridors program for a Gulf Coast high speed railway corridor.

Conference substitute

The Conference adopts the Senate provision.

ENVIRONMENTAL STREAMLINING

House bill

Section 502 establishes a coordinated environmental review process for highway construction projects so that whenever practicable, all environmental reviews, analyses, opinions and any permits, licenses, or approvals that must be issued by a Federal agency are conducted concurrently and within cooperatively established time periods. The time periods must be consistent with those established by the Council on Environmental Quality (CEQ) in implementing NEPA. Agreed upon time periods may be extended by the Secretary, if, upon good cause shown, the Secretary and the Federal agency determine that an extension is necessary as a result of new information that could not reasonably have been anticipated when the time periods for review were established; In the event that an agency fails to complete its review or analysis within an agreed upon time period, the Secretary may close the record.

The House bill further directs the Secretary, in consultation with CEQ, to establish a State environmental review delegation pilot demonstration program to allow a limited number of States to assume responsibility for implementing NEPA for highway projects. The pilot program is authorized for three years.

Senate amendment

Section 1225 requires the Secretary to develop an integrated decisionmaking process for surface transportation projects. Using the environmental review process under the National Environmental Policy Act (NEPA), the section establishes a mechanism to coordinate the permitting process for surface transportation projects, encouraging consolidation of Federal, State, local and Tribal decisionmaking to the maximum extent practicable, and early consideration of environmental impacts. The section further encourages the use of collaborative, problem solving and consensus building approaches to implement the integrated process.

Conference substitute

The Conference adopts the House language with the following three modifications. First, the provisions establishing a pilot program to delegate responsibility for compliance with the requirements of NEPA to up to eight States is deleted. Second, the language directing agencies to provide due consideration to the determination of the Secretary with respect to the purpose and need of a highway project is deleted. Third, the conference substitute clarifies that the authority of the Secretary to close the record in the event that another agency fails to meet an agreed-upon deadline for completing its environmental review of a proposed project is limited to the record with respect to the matter before the Secretary.

Both the House and Senate bills seek to address the same concerns; the delays, unnecessary duplication of effort, and added costs often associated with the current process for reviewing and approving surface transportation projects. The U.S. Department of Transportation has, through its administrative initiatives, attempted to address some of these problems. Legislation is appropriate, however, to further improve the integration and coordination of decisions relating to highway projects. Better and earlier coordination among the agencies involved in the decisionmaking process for highway projects should help reduce conflicts and their associated delays and costs.

The fundamental goals of the environmental streamlining provisions are to establish an integrated review and permitting process that identifies key decision points and potential conflicts as early as possible; integrates the NEPA process as early as possible; encourages full and early participation by all relevant agencies that must review a highway construction project or issue a permit, license, approval or opinion relating to the project; and establishes coordinated time schedules for agencies to act on a project.

To accomplish these goals, the Conference substitute adopts the House provision encouraging the Secretary to enter into memoranda of agreement (MOAs) with the agencies responsible for reviewing the environmental documents prepared under NEPA or for conducting other environmental reviews, analyses, opinions or issuing any licenses, permits or approvals relating to a project. It is expected that Federal, State and other agencies involved in reviewing and approving a project, or components of a project, will use the MOA process to establish cooperatively determined time periods to complete their work and, more generally, to describe how, and the extent to which, the various permitting requirements and environmental reviews relating to the project will be integrated. MOAs may include a variety of interagency agreements. In order to avoid subsequent conflicts and delays on a project, agencies are encouraged to solicit early public input in the development of an MOA.

The Conference substitute retains the House provisions regarding the joint development of time periods for each agency involved in the review and approval of a project to complete its review. The language further provides that any environmental reviews, including those required under NEPA, conducted with respect to a project shall generally be done concurrently unless conducting a concurrent review would result in a significant adverse effect on the environment, would substantively alter Federal law, or would not be possible without information developed during the review process. This last exception is intended to ensure that agencies are not put in the position of having to complete environmental reviews before they have sufficient information to conduct a meaningful review.

The provisions relating to the Secretary's authority to close the record have been modified to clarify the extent of the Secretary's authority to issue a record of decision for a project in the event that another agency fails to meet the agreed upon deadline for completing its review of any environmental documents required for the project under NEPA. The Secretary's authority to close the record authority does not extend to reviews, analyses, opinions or decisions conducted by another agency on any permit, license or approval issued by that agency. For example, if a project requires the Corps of Engineers to issue a permit under section 404 of the Clean Water Act, the Secretary may not restrict the Corps' review with respect to its decision to issue the 404 permit, even if the Corps fails to meet a deadline set forth in a MOA with the Secretary. Therefore, the conference substitute includes language affirming that the Secretary's authority to close the record is limited to the record on the matter pending before the Secretary. This still allows the Secretary to issue a record of decision on a highway project, even if other agencies have not completed their review of the environmental documents required under NEPA for the project.

The conference substitute allows the additional costs associated with Federal agencies complying with this streamlined process to be considered eligible projects expenses under the Federal-aid highway program. Such costs may only be for the additional amount the Secretary determines are necessary to Federal agencies to meet the time periods for environmental review where such time periods are less than the customary time for such review.

For purposes of this section, the term Federal agency includes any Federal agency or State agency carrying out affected responsibilities by operation of Federal law.

These provisions makes a number of significant procedural changes and improvements to the process for reviewing and approving highway projects. It is expected that the Secretary will publish regulations, after public notice and comments, to implement these new procedures.

APPLICABILITY OF NEPA

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1602(h) of the Senate bill reaffirms that the requirements of the National Environmental Policy Act (NEPA) do not apply to State plans and programs developed pursuant to sections 134 or 135 of title 23, United States Code.

Conference substitute

The Conference substitute adopts the Senate language. This provision is consistent with current law and practice. To date, State transportation plans and programs developed under sections 134 or 135 of title 23, United States Code, and decisions by the Secretary regarding those plans or programs, have not been considered to be Federal actions for purposes of NEPA. Nothing in this provision, however, is intended to prohibit a State from applying NEPA early in the decisionmaking making process for surface transportation projects, including at the planning stage, if it so chooses. Individual projects included in plans or programs continue to be subject to NEPA.

Repeat Offenders

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1405 establishes a new program to address the growing problem of repeat, hardcore drunk drivers with high alcohol concentrations. The section requires States to enact and enforce penalties for drunk drivers who have an alcohol concentration of .15 or greater, and who have been convicted of a second or subsequent drunk driving offense within 5 years. Minimum penalties shall include a license suspension of not less than 1 year, an assessment of the individual's abuse of alcohol and recommended treatment regimes as appropriate, and either an assignment of 30 days community service or 5 days of imprisonment.

States failing to enact or enforce the described minimum penalties for repeat drunk drivers with high alcohol concentrations by fiscal year 2000, will have 1½ percent of their INHS and STP funds transferred to fund alcohol-impaired driving programs. For fiscal year 2002 and 2003, States that have failed to enact or enforce a repeat intoxicated driver law will be required to transfer 3 percent of their NHS and STP funds for alcohol-impaired driving programs.

Conference substitute

The Conference adopts the Senate provisions with modifications. Instead of withholding funds, the substitute language the States in noncompliance to transfer funds to safety programs.

Seat Belt Incentive Grant

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1406 establishes a new program to encourage States to promote and increase seat belt usage in passenger motor vehicles. This new program provides incentive grants to States that either obtain a State seat belt use rate above the national average, or increase the State seat belt usage. The Secretary shall determine annually: 1) those States that achieved a usage rate higher than the national average, and the amount of Federal government budget savings from Federal medical insurance programs associated with the higher seat belt usage rate; or 2) those States that realized an increase in the seat belt rate compared with the State's base rate, and the resulting Federal government budget savings from Federal medical insurance-programs.

Under this section, the Secretary is required to allocate to each State in fiscal years 1999 through 2003 the amount of Federal medical savings that resulted from either increases in seat belt usage over the national average or increases over the State's base rate. This section provides $60 million for fiscal year 1998; $70 million for fiscal year 1999; $80 million for fiscal year 2000; $90 million for fiscal year 2001; and $100 million for each of fiscal years 2000 and 2003.

Conference substitute

The Conference adopts the Senate provision.

Scenic Byways Center, Duluth, Minnesota

House bill

Section 118(c) authorizes $1.5 million for each fiscal years 1998 through 2003 to establish a center for national scenic byways in Duluth, Minnesota. This center would provide technical communications and network support for nationally designated byway routes.

Senate amendment

The Senate contains no comparable provision.

Conference substitute

The Senate adopts the House provision. It is the Conferees intent that the Center for the National Scenic Byways be staffed by the regional planning agency located in Northeastern Minnesota. The regional planning agency located in Northeastern Minnesota has experience in transportation planning, tourism planning, resource planning, economic development and community planning. The regional planning agency has demonstrated its ability to manage scenic byway projects, develop a technical information network and provide national leadership in supporting the National Scenic Byway Program.

Wetland Restoration Pilot Program

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1503 authorizes the Secretary to establish a national wetland restoration pilot program. This discretionary pilot program shall fund restoration projects to offset the degradation of wetlands resulting from highway construction projects carried out before December 27, 1977. The Secretary is required to submit a report on the results of the program every three years. This provision provides contract authority in the amount of $12 million for fiscal year 1998; $13 million for fiscal year 1999; $14 million for fiscal year 2000; $17 million for fiscal year 2001; $20 million for fiscal year 2002; and $24 million for fiscal year 2003 to carry out this program.

This section is devoted to historic losses of wetlands only. Funds provided in this program are not intended to reward State departments of transportation for knowingly degrading wetlands through highway construction. Therefore, the funds provided in this section are not to be used to mitigate wetlands losses from current and future highway projects or from projects carried out after December 1977.

Conference substitute

The Conference adopts the Senate provision.

TITLE II—HIGHWAY SAFETY

AMENDMENTS TO TITLE 23

House bill

This section provides that, except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provisions of law, the reference shall be considered to be made to a section or other provision of title 23, United States Code.

Senate amendment

Section 3002 provides that, unless otherwise provided, statements of amendment or repeal in this title refer to sections or provisions of title 23, United States Code.

Conference substitute

No provision is included.

SEC. 2001. HIGHWAY SAFETY PROGRAMS

House bill

Sec. 202. Highway Safety Programs.

Subsection (a) amends the highway safety program to include uniform guidelines that prevent accidents. This subsection also makes a technical and conforming amendment to the highway safety program.

Subsection (b) makes several technical and conforming amendments to section 402(b).

Subsection (c) amends section 402(c) to increase the minimum annual apportionment to Indians (through the Secretary of the Interior) from one-half of one percent to three-fourths of one percent of the total apportionment under the section.

Subsection (d) amends section 402(i) to allow section 402 grants to be made to Indian tribes in Indian Country. This subsection also defines Indian Country.

Subsection (e) amends section 402(j) to delete rulemaking requirements and instead directs the States to consider highly effective programs that reduce crashes, injuries, and deaths that have been identified by the Secretary when the States develop their highway safety programs.

Senate amendment

Sec. 3101 continues the existing State and community highway safety program, established under Section 402 of title 23, United States Code, and amends the program as follows:

Subsection (a), "Uniform Guidelines," and Subsection (b), "Administrative Requirements," make several technical and conforming amendments to Sections 402 (a) and (b).

Subsection (c), "Apportionment of Funds," makes one technical correction to Section 402(c) and one substantive amendment. To increase the effective delivery of the Section 402 program to the more than 500 Federally recognized Indian tribes, an amendment is provided to raise the minimum annual apportionment to the Indians (through the Secretary of the Interior) from one-half of one percent to three-fourths of one percent of the total apportionment under the section.

Subsection (d), "Application in Indian Country," amends Section 402 to allow Section 402 grants to be made to Indian tribes in "Indian Country."

Subsection (e), "Rulemaking Process," amends Section 402(j), which requires the periodic identification, by rulemaking, of highway safety programs that are most effective in reducing traffic crashes, injuries, and deaths. Instead of requiring the States to direct the resources of the national program to the fixed areas identified by this rulemaking process, the amendment directs the States to consider these highly effective programs when developing their highway safety programs.

Section 3105 would amend Section 402(a) of title 23, U.S. Code, to insert "post-accident procedures, including the enforcement of light transmission standards of glazing for passenger motor vehicles and light trucks as necessary to improve highway safety."

Conference substitute

The conference agreement includes comparable provisions of the House bill and Senate amendment. In addition, subsection 202(f) of the House bill allowing States to use section 402 funds to purchase television and radio time for public service announcements is revised to include a requirement that States which use funds for such purposes submit a report to the Secretary on the effectiveness of the messages.

Section 3105 of the Senate amendment regarding enforcement of window glazing standards is included in subsection (a)(3).

SEC. 2002. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

House bill

Sec. 203. Highway Safety Research and Development.

This section amends section 403(a) relating to highway safety research and development to provide additional authority to the Secretary to engage in research focusing on training in work zone safety management.

Senate amendment

Section 3104(a)(1) amends Section 403(b)(1) of title 23, U.S. Code, to add a provision on programs to train law enforcement officers on motor vehicle pursuits conducted by police. Section 3104(a)(2), allows the Secretary to use, out of the amounts appropriated to carry out section 403 of title 23, U.S. Code, such amounts as may be necessary to carry out the motor vehicle pursuit training program of section 403(b)(1)(D) of title 23, U.S. Code, but not in excess of $1,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

Section 3104(b) directs that, not later than 180 days after the date of enactment of this Act, the Attorney General of the United States, the Secretaries of Agriculture, Interior, Treasury, the Chief of Capitol Police, and the General Services Administrator shall transmit a report to Congress on their policy concerning motor vehicle pursuits, and a description of their procedures for such training.

Subsection (h), "Drugged Driver Research and Demonstration Program," amends Section 403 (Highway Safety Research and Development) of title 23, U.S. Code, to direct the Secretary to do research on (1) the relationship between the consumption and use of drugs and their effect on highway safety and drivers; and (2) driver behavior research; and measures that may deter drugged driving. Section 3103(1)(E), noted below, authorizes $2 million for each of fiscal years 1999–2003 to carry out the drugged driving research and demonstration programs under subsection (h).

Conference substitute

The Senate recedes to the House provision amending section 403(a) of title 23 regarding work zone safety management.

The House recedes with modifications to subsection 3101(h) and section 3104 of the Senate amendment to amend section 403(b) regarding drugged driving and programs to train law enforcement officers on motor vehicle pursuits conducted by law enforcement officers. Not more than $2 million per fiscal year from section 403 funds shall be available for drugged driving activities and not more than $1 million per fiscal year from section 403 funds shall be available for motor vehicle pursuit activities.

SEC. 2003. OCCUPANT PROTECTION INCENTIVE GRANTS

House bill

Sec. 204. Occupant Protection Incentive Grants.

This section establishes a new occupant protection incentive grant program under section 405 of title 23, United States Code. The Secretary is authorized to make grants to States that adopt and implement effective laws and programs aimed at increasing safety belt and child safety seat use.

New subsection 405(a) sets forth the general authority to make grants to states; requires maintenance of effort by States receiving such grants; sets forth a six-year maximum period of maximum eligibility and a federal share of 75 percent in the first two years a state receives a grant, 50 percent in the third and fourth years, and 25 percent in the fifth and sixth years.

New subsection 405(b) sets forth criteria for Grant A. A state must meet at least five (and beginning in fiscal year 2001, six) of the following: (1) a law that makes it unlawful throughout the State the operation of a passenger motor vehicle whenever a person (other than a child who is secured in a child restrain system) in the front seat of a vehicle (and beginning in fiscal year 2000, in any seat in the vehicle) does not have a safety belt properly secured about the person's body; (2) a provision in its safety belt use law that provides for its primary enforcement; (3) the State imposes a minimum fine or penalty points against an individual's driver's license for a violation of the State's safety belt use law; (4) a law requiring children up to four years of age to be properly secured in a child safety seat in all appropriate seating positions in all passenger motor vehicles; (5) a Statewide special traffic enforcement program that includes emphasis on publicity for the program; (6) a Statewide comprehensive child occupant protection education program; and (7) a law that a child up to 10 years of age (and beginning in 2003 a child up to 16 years of age) is properly restrained.

New subsection 405(c) sets forth criteria for Grant B: A State must: (1) demonstrate a Statewide safety belt use rate in both front outboard seating positions in all vehicle types of 80 percent or higher in each of the years a grant is received; and (2) follow safety belt use survey methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

New subsection 405(d) provides that States that meet the criteria for grants A or B would receive, for each grant, up to 30 percent of its fiscal year 1997 apportionment under section 402, of title 23, United States Code.

New subsection 405(e) defines the terms "child safety seat," "motor vehicle," "multipurpose passenger vehicle," "passenger vehicle," and "safety belt."

New subsection 405(f) provides that administrative expenses are limited to 5 percent of program funds.

New subsection 405(g) provides that funding for the program is provided with contract authority and the non-Federal share may be provided through credits for State and local expenditures. The Secretary also has the authority to increase the Federal share for certain Indian tribe programs. The Secretary of Interior is authorized to receive funds made available for Indian tribe programs.

Senate amendment

Section 3103(g) amends title 23, U.S. Code, to establish a new occupant protection incentive program under Section 410 of title 23 ("Safety belts and occupant protection programs"), to encourage States to increase their level of effort and implement effective laws and programs aimed at increasing safety belt and child safety seat use. The new Section 410 contains two subsections—subsection (a) and subsection (b).

Under Section 410(a), a State may establish its eligibility for one or both of two basic occupant protection grants—A and B—by adopting or demonstrating certain criteria.

as appropriate, to the satisfaction of the Secretary.

To establish eligibility for the first basic grant A under paragraph (1), a State must adopt or demonstrate at least 4 of the 6 following: (1) a law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever a person in the front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly secured about the person's body; (2) a provision in its safety belt use law that provides for its primary enforcement; (3) a law requiring minors who are riding in a passenger motor vehicle to be properly secured in a child safety seat or other appropriate restraint system; and, an effective public awareness program that advocates placing passengers under the age of 13 in the back seat of a motor vehicle equipped with a passenger-side air bag whenever possible; (4) demonstrates implementation of a statewide comprehensive child occupant protection education program that includes education about proper seating positions for children in air bag-equipped motor vehicles and instruction on how to reduce the improper use of child restraint systems, and submits to the Secretary an evaluation or report on the effectiveness of the programs at least 3 years after receipt of the grant; (5) a minimum fine of at least $25 for violations of its safety belt use law and a minimum fine of at least $25 for violations of its child passenger protection law; and (6) a statewide occupant protection Special Tariff Enforcement Program (STEP) that includes emphasis on publicity for the program.

To establish eligibility for the second basic grant B under paragraph (2), a State must: (1) demonstrate a statewide safety belt use rate in both front outboard seating positions in all passenger motor vehicles of 80 percent or higher in each of the first three years a grant is received, and of 85 percent or higher in each of the fourth, fifth, and sixth years a grant is received; and (2) follow safety belt use survey methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

States that meet the criteria for a basic grant under paragraph (1) or (2) would receive, for each grant, up to 20 percent (up to 40 percent if they qualify for both) of their fiscal year 1997 apportionment under Section 402 of Title 23, United States Code.

States that meet the criteria for one or both of the two basic grants also would be eligible to receive supplemental grants for one or more of the following: (1) requiring the imposition of penalty points against a driver's license for violations of child passenger protection requirements; (2) having no nonmedical exemptions in effect in their safety belt and child passenger protection laws; (3) having in effect a law that requires safety belt use by all rear-seat passengers in all passenger motor vehicles with a rear seat. For each supplemental grant criterion that is met, a State would receive an amount up to 5 percent of its Section 402 apportionment for fiscal year 1997. Definitions are provided for "child safety seat," "motor vehicle," "multipurpose passenger vehicle," "passenger car," "passenger motor vehicle," and "safety belt."

Under Section 410(b), subject to the availability of appropriations, the Secretary may make a grant to a State that demonstrates the implementation of a Child Occupant Protection Education Program, described in subsection (a)(1)(D), that submits an application, in the form and manner as the Secretary may prescribe, that is approved by the Secretary to carry out activities specified in subparagraph (B) through: (1) the child occupant protection program of the State, described in subsection (a)(1)(D); and (2) at the option of the State, a grant program established by the State to provide for carrying out of 1 or more of the activities specified in subparagraph (B) by a political subdivision of the State or an appropriate private entity.

Funds provided to a State under a grant under this subsection shall be used to implement child restraint programs specified under subparagraph (B), which specifically include programs that: (1) are designed to prevent deaths and injuries to children under the age of 9; and (2) educate the public concerning all aspects of the proper installation of child restraints using standard seatbelt hardware, supplemental hardware, and modification devices (if needed), including special installation techniques; and appropriate child restraint design, selection and placement; and harness threading and harness adjustment; and train and retrain child passenger safety professionals, police officers, fire and emergency medical personnel, and other educators concerning all aspects of child restraint use.

The Secretary may make a grant under this subsection without regard to whether a covered State, described in subsection without regard to whether a covered State, described in subsection (a)(1)(D), is eligible to receive, or has received, a grant under subsection (a).

The appropriate official of each State that receives a grant under this subsection shall prepare, and submit to the Secretary, an annual report for the period covered by the grant. This report shall contain such information as the Secretary may require; and at a minimum, describe the program activities undertaken with the grant funds. Also, not later than 1 year after the date of the enactment of this provision, and annually thereafter, the Secretary shall prepare, and submit to Congress, a report on the implementation of this subsection that includes a description of the programs undertaken and materials developed and distributed by the States that receive grants under this subsection.

Separate authorizations are provided to carry out subsection (b) of $75,500,000 for each of fiscal years 1999 and 2000.

Conference substitute

The conference agreement includes provisions from the House bill and the Senate amendment. A State is eligible to receive a grant if it meets 4 of the following criteria: (1) a law that makes it unlawful to operate a vehicle whenever an individual in the front seat (and beginning in the year 2001, any seat) of a vehicle does not have a seat belt properly secured; (2) the State provides enforcement of its safety belt use laws; (3) the State imposes minimum fines or provides for penalty points for violations of its safety belt use laws or child passenger protection laws; (4) the State has implemented a statewide enforcement program; (5) the State has implemented a statewide comprehensive child passenger protection education program; and (6) the State has in effect a law that requires minors to be properly secured in a child seat or other appropriate restraint system. It is noted that States have differing laws regarding the age of "minors" and the provision should be implemented in a flexible manner to reflect these differences.

A qualifying State may receive a grant amount of up to 25 percent of amounts it received in fiscal year 1997 under section 402.

The conference agreement does not include the performance-based incentive grants since a $500 million performance based incentive grant is established in Title I.

The House recedes with modifications to subsection 2003(b) of the Senate amendment authorizing a two-year, $15 million general fund program to provide grants to states for child passenger protection education programs. The Senate provision is amended to require a 20 percent non-Federal match for any grant funds received by a State and annual reporting requirements are revised to require a report to the Secretary by any State receiving a grant and a report from the Secretary to Congress to be submitted not later than June 1, 2002.

SEC. 2004. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.

House bill

Sec. 205. Alcohol-Impaired Driving Countermeasures.

This section amends the current section 410 to establish a new comprehensive drunk and impaired driving countermeasures incentive program to encourage States to increase their level of effort and implement effective programs aimed at deterring the drunk driver.

New subsection 410(a) sets forth the general authority for the Secretary to make grants.

New subsection 410(b) requires maintenance of effort by States receiving a grant.

New subsection 410(c) sets forth a six-year maximum period of eligibility and a federal share of 75 percent in the first two years a State receives a grant, 50 percent in the third and fourth years, and 25 percent in the fifth and sixth years.

New subsection 410(d)(1) establishes criteria for basic grant A. A State must adopt or demonstrate at least 5 of the following: (1) a State law that provides that an individual with a blood alcohol concentration (BAC) of 0.08 percent or greater while operating a motor vehicle is deemed to be driving while intoxicated; (2) an administrative driver's license suspension or revocation system for drunk drivers; (3) an effective system for preventing drivers under age 21 from obtaining alcoholic beverages and preventing persons from making alcoholic beverages available to individuals under age 21; (4) a Statewide program for stopping vehicles on a nondiscriminatory basis or a Statewide impaired driving special traffic enforcement program that includes emphasis on publicity for the program; (5) effective sanctions for repeat offenders convicted of driving while under the influence of alcohol; (6) programs to target individuals with high BAC while operating a motor vehicle; (7) programs to reduce driving while under the influence of alcohol by individuals age 21 through 34; and (8) an effective system for increasing the rate of BAC testing in fatal accidents and by the year 2000 achieves a rate of testing equal to or greater than the national average.

New subsection 410(d)(2) establishes criteria for basic grant B. A State must adopt or demonstrate to the satisfaction of the Secretary that (1) its percentage of fatally injured drivers with 0.10 percent or greater BAC has decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available; and (2) that percentage has been lower than the average percentage for all States in each of such calendar years.

New subsection 410(e) provides that States that meet the criteria for a basic grant would receive, for each grant, up to 30 percent of its fiscal year 1997 apportionment under section 402.

New subsection 410(e) authorizes the Secretary to make discretionary grants to States carrying out innovative programs to reduce traffic safety problems resulting from individuals driving while under the influence of alcohol or controlled substances. A State is eligible to receive a discretionary grant only if the State is eligible to receive a basic grant A or B under this section. The amounts made available to carry out the discretionary grants may not exceed 12 percent of the total funds available for section 410.

New subsection 410(f) provides that administrative expenses for carrying out this section may not exceed 5 percent of the funds authorized to be appropriated for this section.

New subsection 410(g) provides that funding made available under this section would be contract authority. The Secretary is authorized to credit certain amounts of state and local expenditures toward the non-Federal share of the project under this section. The Federal share of the cost of the program for Indian tribes may be increased. Amounts made available for the Indian tribe program will be administered through the Secretary of the Interior.

New subsection 410(h) defines the terms "alcoholic beverage," "controlled substances," "motor vehicle," and "open alcoholic beverage container."

Senate amendment

Subsection 3101(f) amends Section 402 to establish a comprehensive drunk and impaired driving incentive program to encourage States to increase their level of effort and implement effective programs aimed at deterring the drunk driver. The new program is similar in structure to that of the existing Section 410 drunk driving prevention incentive program, established under Section 410 of Title 23, United States Code, and would replace the Section 410 program.

A State may establish its eligibility for one or more of three basic alcohol impaired-driving countermeasure grants—A, B, and C—by adopting or demonstrating certain criteria, as appropriate, to the satisfaction of the Secretary.

To establish eligibility for the first basic grant A under paragraph (1), a State must adopt or demonstrate at least 7 of 9 of the following: (1) a law that provides for a per se law setting .08 BAC level as intoxicated; (2) an administrative driver's license suspension or revocation system for drunk drivers; (3) an effective underage drinking program for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages; (4)(A) a statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis to determine whether the operators are driving while under the influence of alcohol, or (B) a statewide impaired driving Special Traffic Enforcement Program (STEP) that includes emphasis on publicity for the program; (5) effective sanctions for repeat offenders convicted of driving while intoxicated or driving under the influence of alcohol; (6) a three-tiered graduated licensing system for young drivers that includes nighttime driving restriction, requiring that all vehicle occupants to be properly restrained, and providing that all drivers under age 21 are subject to zero tolerance at .02 percent BAC or greater while operating a motor vehicle; (7) programs targeting persons with high blood alcohol concentrations (BAC) who operate a motor vehicle; (8) young adult programs to reduce driving while under the influence of alcohol by persons age 21 through 34; and (9) an effective system for increasing the rate of testing for blood alcohol concentration of motor vehicle operators at fault in fatal crashes.

To establish eligibility for the second basic grant B under paragraph (2), a State must adopt either an administrative driver's license suspension or revocation system for drunk drivers, or a law that provides for a per se law setting .08 BAC level as intoxicated.

To establish eligibility for the third basic grant C under paragraph (3), a State must demonstrate that its percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration has both: (1) decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available; and (2) been lower than the average percentage for all States in each of such calendar years.

States that meet the criteria for a basic grant under paragraphs (1), (2) or (3) would receive, for each grant, up to 15 percent (up to 30 percent if they qualify for two, and up to 45 percent if they qualify for all three) of their fiscal year 1997 apportionment under Section 402 of Title 23, United States Code.

States that meet the criteria for any one or more of the three basic grants also would be eligible to receive supplemental grants for one or more of the following: (1) making it unlawful to possess open containers of alcohol in the passenger area of motor vehicles (excepting charter buses) while on the road; (2) adopting a mandatory BAC testing program for drivers in crashes involving fatalities or serious injuries; (3) videotaping of drunk drivers by police; (4) adopting and enforcing a "zero tolerance" law providing that any person under age 21 with a BAC of .02 or greater when driving a motor vehicle shall be deemed driving while intoxicated or driving under the influence of alcohol, and further providing for a minimum suspension of the person's driver's license of not less than 30 days; (5) requiring a self-sustaining impaired driving program; (6) enacting and enforcing a law to reduce incidents of driving with suspended licenses; (7) demonstrating an effective tracking system for alcohol-impaired drivers; (8) requiring an assessment of persons convicted of abuse of controlled substances, and the assignment of treatment for all DWI and DUI offenders; (9) implementing a program to acquire passive alcohol sensors to be used by police in detecting drunk drivers; and (10) enacting and enforcing a law that provides for effective penalties or other consequences for the sale or provision of alcoholic beverages to a person under 21. For each supplemental grant criterion that is met, a State would receive, in no more than two fiscal years, an amount up to 5 percent of its Section 402 apportionment for fiscal year 1997. Definitions are provided for "alcoholic beverage," "controlled substances," "motor vehicle," and "open alcoholic beverage container."

Conference substitute

The conference agreement includes provisions of both the House bill and Senate amendment. A State is eligible to receive a grant under section 410 if it meets five of the following criteria: (A) an administrative license suspension or revocation system for drunk drivers; (B) an effective underage drinking program; (C) a statewide program for stopping vehicles on a non-discriminatory, lawful basis or a Statewide impaired driving special traffic enforcement program that includes emphasis on publicity for the program; (D) graduated licensing systems; (E) programs to target drivers with high BACs; (F) programs to reduce driving under the influence by young adults age 21 through 34; and (G) an effective system for increasing the rate of BAC testing and, by the year 2001, a rate of testing that is equal to or greater than the national average.

The conference agreement does not include a .08 BAC criteria since a $500 million .08 incentive program is included in Title I.

A qualifying State may receive a grant of up to 25 percent of amounts it received in fiscal year 1997 under section 402.

The conference agreement also authorizes the Secretary to make supplemental grants. The provision includes several of the Senate items and includes a new broad criteria. The Secretary should use the supplemental grants to assist States in developing innovative programs. The Secretary may determine the amount of each supplemental grant and is not required to provide the same amount for each grant.

The conference agreement provides that the amendments to section 410 of title 23, United States Code, take effect on October 1, 1998 so that funding provided for the remainder of fiscal year 1998 are subject to the current section 410 program requirements.

SEC. 2005. HIGHWAY SAFETY DATA IMPROVEMENTS

House bill

Sec. 206. This section amends section 406 to create a new State highway safety data improvement incentive grant program to encourage States to take effective actions to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the data they need to identify the priorities for national, State and local highway and traffic safety programs, to evaluate the effectiveness of such efforts, to link these data, including traffic records, together and with other data systems within the State, such as medical and economic data, and to improve the compatibility of State systems with national and other States' data systems.

The Secretary, in consultation with States and other appropriate parties, is directed to develop model data elements for States' systems. It should be noted that subsection (b) regarding model data elements and that States' plans should demonstrate how the model data elements will be incorporated is not to be interpreted as requiring States to immediately adopt uniform data. The Committee realizes that uniform data systems and reporting may necessitate such changes as modifying computer systems and redesigning police reports. This is a long term goal and the provision directs the State to identify steps it will take to move toward the goal.

The States that receive a grant in any fiscal year must enter into an agreement with the Secretary to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures in its two fiscal years prior to the date of enactment of this section.

The maximum period of eligibility for a State to receive a grant would be six years, beginning after September 30, 1997. States that meet the criteria for receipt of a grant would receive grants that would be funded through a declining federal share.

A State would be eligible for a first-year grant in a fiscal year if it demonstrates that it has (1) established a highway safety data and traffic records coordinating committee with a multi-disciplinary membership; (2) completed a highway safety data and traffic records assessment or audit of its highway safety data and traffic records system; and (3) initiated the development of a strategic plan that identifies and prioritizes the

State's highway safety data and traffic records needs and goals, and performance-based measures by which progress toward those goals will be determined.

A State also would be eligible for a first-year grant in a fiscal year if it provides (1) certification that it has met the requirements of (1) and (2) listed above; and (2) a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentives funds will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined; and (3) certification that the highway safety data and traffic records coordinating committee continues to operate and support the multi-year plan.

A State that meets certain criteria for a first-year grant would receive up to $125,000, based on available appropriations. A State that meets the additional criteria for a first-year grant would receive an amount equal to a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402, except that no State would receive less than $225,000.

A State would be eligible for a grant in any fiscal year succeeding the first fiscal year in which they receive a State highway safety improvement grant if the State (1) submits or updates a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined; (2) certifies that its highway safety data and traffic records coordinating committee continues to support the multi-year plan; and (3) reports annually on its progress in implementing the multi-year plan.

A State that meets the criteria for a succeeding-year grant in any fiscal year would receive an amount equal to a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of title 23, except that no State shall receive less than $225,000 based on available appropriations.

Administrative expenses for carrying out this section may not exceed 5 percent of the funds authorized to be appropriated. The funding for grants provided under this section is provided with contract authority and the non-Federal share may be provided through credits for State and local expenditures. The Secretary also has the authority to increase the Federal share for certain Indian tribes. The Secretary of the Interior is authorized to receive funds made available for Indian tribe programs.

Senate amendment

Sec. 3101(f). The Senate bill contains a similar provision with two differences. It includes a provision authorizing the Secretary to award States that do not meet the first-year eligibility criteria up to $25,000 to assist their efforts to qualify in the next fiscal year. The Senate bill does not include a provision on model data elements.

Conference substitute

The Conference merges the House and Senate provisions by retaining the House model data elements and the Senate $25,000 grants for States that do not meet the eligibility criteria. The Conference emphasizes that while the Secretary should assist States trying to meet the eligibility criteria, the $25,000 grants are available to each State only once. If the State fails to qualify for a regular grant the next year, it would not be eligible for an additional $25,000.

The Conference also replaces the word "causation" with "circumstances" in recognition that determining accident causation precisely is difficult, even when adequate data are available. Collection of data on crash circumstances, however, will contribute to our ability to understand crash causation and identify potentially effective countermeasures.

SEC. 2006. NATIONAL DRIVER REGISTER

House bill

Sec. 207. Subsection (a) amends section 30302 ("National Driver Register") by adding a new subsection (e). Under subsection (e), the Secretary would be authorized to enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the National Driver Register's (NDR) computer timeshare and user assistance functions. The Secretary is required to demonstrate that any transfer of these functions will begin only after the Secretary makes a determination that all States are participating in the NDR's "Problem Driver Pointer System" and that the system is functioning properly. Any agreement entered into to transfer these functions shall include a provision for a transition period to allow the States time to make any budgetary and legislative changes needed in order to pay fees for using these functions. The fees charged by the organization representing the interests of the States in any fiscal year for the use of these functions shall not exceed the organization's total cost for performing these functions in that fiscal year.

Subsection (b)(1) amends Section 30305(b) to make technical conforming amendments.

Subsection (b)(2) amends section 30305(b) to add two substantive provisions. The first would eliminate a deficiency in the NDR by extending participation to federal departments or agencies that both issue motor vehicle operator's licenses and transmit reports on individuals to the NDR over whom the department or agency has such licensing authority. The reports on these individuals transmitted by the federal department or agency must contain the identifying information specified in subsection 30304(b).

Subsection (b) also would allow federal agencies authorized to receive NDR information to request and receive the information directly from the NDR, instead of through a State. The statute currently requires these agencies to submit all NDR inquiries through a State.

Subsection (c) directs the Secretary to evaluate the implementation of the NDR and motor carrier and commercial driver license information systems and identify alternatives to improve the ability of States to exchange information about unsafe drivers. The subsection further directs the Secretary to conduct an assessment, with the American Association of Motor Vehicle Administrators, of available technologies to improve access to and exchange of such information. The assessment may consider alternatives to facilitate matching drivers and their records.

Senate amendment

Sec. 3102. the Senate bill contains a nearly identical provision, but does not include the assessment and evaluation of alternatives to improve the exchange of driver information.

Conference substitute

The Conference adopts the House provision.

SEC. 2007. SAFETY STUDIES

House bill

Sec. 208. Subsection (a) authorizes the Secretary to conduct a study on the benefit to public safety of blowout-resistant tires on commercial motor vehicles.

Subsection (b) authorizes the Secretary to conduct a study to assess occupant safety in school buses.

Subsection (c) requires the Secretary to report the results of each study to Congress not later than two years after the date of enactment.

Subsection (d) authorizes the Secretary to expend no more than $200,000 to conduct each study.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference adopts the House provision with a modification that the funds for these studies shall come from funds authorized for highway safety research and development.

SEC. 2008. EFFECTIVENESS OF LAWS ESTABLISHING MAXIMUM BLOOD ALCOHOL CONCENTRATIONS

House bill

Sec. 209. Subsection (a) directs the Comptroller General to conduct a study to evaluate the effectiveness of State .08 and .02 BAC laws in reducing the number and severity of alcohol-related crashes.

Subsection (b) requires the Comptroller General to report to the Congress within two years the results of the BAC study.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference adopts the House provision with a modification to the Senate committee receiving the report.

SEC. 2009. AUTHORIZATIONS OF APPROPRIATIONS

House bill

Sec. 210. This section provides authorizations for the section 402 program; the section 403 programs; the occupant protection, alcohol-impaired driving, and highway safety data incentive grants; and the NDR.

For the NHTSA section 402 safety program, in fiscal year 1998, $128.2 million is provided; for fiscal year 1999, $150.7 million is provided; for each of fiscal years 2000 through 2003, $195.7 million is provided.

For the FHWA section 402 safety program, in fiscal year 1998, $12 million is provided; for fiscal year 1999, $20 million is provided; for each of fiscal years 2000 through 2003, $25 million is provided.

For NHTSA section 403 research and development, $55 million is authorized for each of fiscal years 1998 through 2003.

For NHTSA section 403 research and development, $20 million is authorized for each of fiscal years 1998 through 2003.

For occupant protection incentive grants, in fiscal year 1998, $9 million is provided; in each of fiscal years 1999 through 2003, $20 million is provided.

For alcohol-impaired driving countermeasures incentive grants, in fiscal year 1998, $35 million is provided; in each of fiscal years 1999 through 2003; $45 million is provided.

For state highway safety data incentive grants, in fiscal year 1998, $2.5 million is provided; in each of fiscal years 1999 through 2003, $12 million is provided.

For the National Driver Register, $2.3 million is provided for each of fiscal years 1999 through 2003.

The Secretary may transfer unallocated incentive grant amounts among the various grant programs to ensure that each State receives the maximum funding to which it is entitled.

Senate amendment

Sec. 3103. The section authorizes funds for the section 402 program; the alcohol-impaired driving countermeasures incentive grants; the occupant protection incentive grants; the State highway safety data and traffic records improvements incentive grants; highway safety research; public education; and the NDR.

For the section 402 safety program, in fiscal year 1998, $117.9 million is provided; for fiscal year 1999, $123.5 million is provided; for fiscal year 2000, $126.9 million is provided; for fiscal year 2001, $130.4 million is provided; for fiscal year 2002, $133.8 million is provided; for fiscal year 2003, $141.8 million is provided.

For alcohol-impaired driving countermeasures incentive grants, in fiscal year 1998, $30.6 million is provided; for fiscal year 1999, $28.5 million is provided; for fiscal year 2000, $29.3 million is provided; for fiscal year 2001, $30.1 million is provided; for fiscal year 2002, $38.7 million is provided; for fiscal year 2003, $39.8 million is provided.

For occupant protection program incentive grants, in fiscal year 1998, $13.9 million is provided; for fiscal year 1999, $14.6 million is provided; for fiscal year 2000, $15.0 million is provided; for fiscal year 2001, $15.4 million is provided; for fiscal year 2002, $17.6 million is provided; for fiscal year 2003, $17.7 million is provided.

For state highway safety data improvements incentive grants, in fiscal year 1998, $8.4 million is provided; for fiscal year 1999, $8.8 million is provided; for fiscal year 2000, $9.0 million is provided; for fiscal year 2001, $9.2 million is provided.

For drugged driving research and demonstration programs, $2.0 million is provided for each fiscal year, 1999 through 2003.

For highway safety research, $60.1 million is provided for each fiscal year, 1998 through 2002; and $61.7 million is provided for fiscal year 2003.

For programs to educate the motoring public on how to share the road safety with commercial motor vehicles, $500,000 is provided for each fiscal year 1998 through 2003.

For the National Driver Register, in fiscal year 1998, $1.6 million is provided; for fiscal year 1999, $1.7 million is provided; for fiscal year 2000, $1.7 million is provided; for fiscal year 2001, $1.8 million is provided; for fiscal year 2002, $1.8 million is provided; and for fiscal year 2003, $1.9 million is provided.

The Secretary may transfer unallocated incentive grant amounts among the various grant programs to ensure that each State receives the maximum funding to which it is entitled.

Conference substitute

The section authorizes funds for the section 402 program; highway safety research and development; the occupant protection incentive grants; the alcohol-impaired driving countermeasures incentive grants; the State highway safety data and traffic records improvements incentive grants; the NDR; and public education.

For the NHTSA and FHWA section 402 safety program, a total of $932.5 million is provided for fiscal years 1998 through 2003.

For NHTSA and FHWA highway safety research, $72 million is provided for each fiscal year, 1998 through 2003.

For occupant protection incentive grants, a total of $68 million is provided for each fiscal years 1999 through 2003.

For alcohol-impaired driving countermeasures incentive grants, a total of $219.5 million is provided for fiscal years 1998 through 2003.

For state highway safety data improvements incentive grants, a total of $32 million for fiscal years 1999 through 2002 is provided.

For the National Driver Register, a total of $12 million is provided for fiscal years 1998 through 2003.

For research related to the effects of drugs and driver behavior and measures to deter drugged driving $2 million per fiscal year is available.

For programs to train law enforcement officers on motor vehicle pursuits $1 million per fiscal year is available.

For programs to educate the motoring public on how to share the road safely with commercial motor vehicles, $500,000 is provided for each fiscal year 1998 through 2003. Because many motorists are unaware of the limitations of large commercial vehicles and the driving practices that could help improve their safety, the Committee believes it is essential to support a national public education program on sharing the road safely. Recognizing that such a national program has been undertaken by the Federal Highway Administration, the Committee believes the greatest safety benefit and efficiency would be achieved by FHWA continuing and improving its current "share the road" public education campaign. The Committee expects that the National Highway Traffic Safety Administration will transfer $500,000 each year from Section 403 funds as designated under this section to the Federal Highway Administration for this purpose.

The Secretary may transfer unallocated incentive grant amounts among the various grant programs to ensure that each State receives the maximum funding to which it is entitled.

TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

SEC. 3001. SHORT TITLE

House provision

No provision in House bill.

Senate amendment

This title to be cited as the Federal Transit Act of 1997.

Conference report

The title to be cited as the Federal Transit Act of 1998.

SEC. 3002. AMENDMENTS TO TITLE 49

House provision

Section 301 provides that, unless stated otherwise, all references in this title to a section or other provision of law are to title 49 of the United States Code.

Senate amendment

No provision included.

Conference report

Adopts House proposal.

SEC. 3003. DEFINITIONS

House provision

Section 302 amends section 5302 of title 49 to expand the definition of "capital project" to include transit-related intelligent transportation systems, preventive maintenance, leasing of equipment or facilities for use in mass transportation under certain circumstances, and certain mass transportation improvements that enhance economic development or incorporate private investment. It also defines preventive maintenance, public transportation, transit, and transit enhancement.

Senate amendment

Section 5003 expands and clarifies the definition of capital project under section 5302(a)(1) to add preventive maintenance and intelligent transportation systems. It also brings together existing capital provisions on leasing of transit equipment and facilities, the deployment of new technology, and joint development activities into the broadened capital definition. Joint development is expanded to include safety elements and community services as eligible activities.

Making preventive maintenance an eligible capital expense gives transit operators greater flexibility and helps to ensure that the federal investment is properly maintained. Preventive maintenance does not include routine or servicing activities or repairing damage caused by an accident.

This section also enables small urbanized areas, which are defined as having a population between 50,000 and 200,000, to use any funding distributed under the urbanized area formula program for either operating or capital expenses. This enhanced flexibility mirrors that which is currently provided to rural areas (populations under 50,000).

Conference report

Adopts Senate provision for preventive maintenance, deployment of new technology, and joint development. Adopts House provision for transit-related intelligent transportation systems and leasing.

SEC. 3004. METROPOLITAN PLANNING

House provision

Section 303 amends section 5303(b) of title 49 to repeal the current planning factors and replace them with goals and objectives of the metropolitan planning process. The metropolitan planning organization shall cooperatively determine with the State and mass transit operators how the goals and objectives considered are translated into metropolitan goals and objectives and factored into decision making.

This section allows the metropolitan planning organization to include, for illustrative purposes, additional projects that would be included in the long range transportation plan if reasonable additional resources were available. It also amends section 5303(f) to add freight shippers and providers of freight transportation services to the list of persons metropolitan planning organizations are required to give an opportunity to comment on the long range transportation plan.

Senate amendment

Section 5004 amends the current metropolitan planning provisions in sections 5303, 5304, and 5305 and adds a new section 5305a on Statewide Planning. This new section largely parallels the statewide planning provisions in the highway laws, and is included as a separate provision in the transit laws.

This section retains the requirement that MPOs follow the ISTEA planning process outlined in the law. It replaces the 16 individual planning factors in current law with a broader list of seven national goals and factors for the MPOs to consider, and retains consideration of land use. This section clarifies that consideration of these seven factors applies to the planning process as a whole, not separately to each project under review.

This section adds language directing the MPOs to cooperate with the state and transit operators, through a public process, to establish goals and propose programs relating to these factors. It adds freight shippers to the list of those who can comment on plans and transportation improvement programs. These same changes are included in the Statewide Planning provisions.

This section retains the requirement that the transportation plans be fiscally constrained. It requires MPOs to identify the funding source for projects that are proposed for the regional transportation plan.

There is new language directing MPOs to bring together the wide range of transportation services being provided within the region, many of which are funded either directly or indirectly by federal programs other than the Department of Transportation (DOT). The intent of the Committee is to encourage the participation of these non-DOT funded transportation services, either through individual or representative organizations, in coordinating regional transportation services. An analogous provision is included in the Statewide Planning provisions. The Committee recognizes elsewhere in the bill the importance of coordinating these transportation services. Indeed, the Department of Health and Human Services (HHS) and DOT have a long-standing Coordinating Council which is evaluating the departments' current coordination strategies. The objectives of this coordination include: joint identification of human service client transportation needs and the appropriate mix of transportation services to meet those needs; the expanded use of public transit services to deliver human services program transportation; and cost-sharing arrangements for HHS program clients transported by ADA paratransit systems based on a uniform accounting system.

This section adds new language for publication of information in the 3-year transportation improvement program and the annual selection of projects.

Conference report

Adopts Senate proposal on metropolitan planning and includes the representatives of the users of public transit among those to be consulted in the planning process and for enhanced publication of information on project selection. The Senate proposal for a separate statewide planning provision in the transit laws is not adopted.

SEC. 3005. TRANSPORTATION IMPROVEMENT PROGRAM

House provision

This section amends section 5304 of title 49 to require that the transportation improvement program (TIP) be updated at least once every three years. It also provides that the TIP may include, for illustrative purposes, projects that would be included in the plan if reasonable additional resources were available.

Senate amendment

This section of the legislation requires that any metropolitan planning organization that is classified as a transportation management area and is redesignated after the enactment of this Act, shall include representatives of the users of public transit.

Conference report

Adopts Senate provision to include representatives of the users of public transit to be consulted in the planning process, and adopts House provision for illustrative list.

SEC. 3006. TRANSPORTATION MANAGEMENT AREAS

House provision

This section amends section 5305 to add projects under the high risk road safety program to the list of projects selected by the State in consultation with the metropolitan planning organization. This section also makes a technical amendment to section 5305.

Senate amendment

Section 5004 makes technical changes to section 5305 and permits the Secretary to make conditional certifications of metropolitan planning organizations.

Conference report

Provisions substantially the same.

SEC. 3007. URBANIZED AREA FORMULA GRANTS

House provision

Section 306 amends section 5307 of title 49 to change the name of the sections and to make a conforming amendment to the table of sections. It makes technical amendments to section 5307(a) of title 49, and amends section 5307(b)(1) to provide that the Secretary may make grants to finance the operating cost of equipment and facilities only to urbanized areas with populations of less than 200,000. It repeals sections 5307(b)(3) and 5307(b)(5). It also provides that of the funds apportioned each fiscal year to urbanized areas with populations of 200,000 or more under section 5336, at least two percent shall only be for transit enhancement activities.

Senate amendment

Section 5003 provides flexibility for small urbanized areas to use their formula funds for either capital or operating assistance.

Conference report

Adopts House provision.

SEC. 3008. CLEAN FUELS FORMULA GRANT PROGRAM

House provision

No provision in House bill.

Senate amendment

Section 5007 creates a new Clean Fuels formula grant program, with an annual funding authorization of $200 million. This program will assist transit systems in purchasing low emissions buses and related equipment, constructing alternative fuel fueling facilities, modifying existing garage facilities to accommodate clean fuel vehicles and assisting in the utilization of biodiesel fuel.

Annual grants to any one recipient are capped at $25 million for recipients in urbanized areas over one million population and $15 million for recipients in urbanized areas under one million population. Eligible technologies include compressed natural gas (CNG), liquified natural gas (LNG), biodiesel fuel, battery, alcohol-based fuel, hybrid electric, fuel cell or other zero emissions technology.

Conference report

Adopts Senate provision.

SEC. 3009. CAPITAL INVESTMENT GRANTS AND LOANS

House provision

Section 308 makes technical changes to section 5309.

The section reforms the New Starts evaluation process and requires the Secretary to make fiscally constrained recommendations to Congress. Not more than eight percent of the funds made available in each fiscal year for new fixed guideway systems and extensions to existing systems are available for activities other than final design and construction.

This section also clarifies that the Secretary shall consider the age of buses, bus fleets, and related equipment and facilities in making grants for buses and related facilities. This section also provides funding for the bus testing facility for each of fiscal years 1998 through 2003. This section requires that a certain percentage of the funds made available for bus and bus-related facilities be available to carry out the bus technology pilot program and for non-urbanized areas. This section establishes a pilot program for the testing and deployment of new bus technology.

Senate amendment

Section 5008 amends section 5309(e)(3)(B) to add the benefits of transit-oriented land use as one of the factors to be considered by the Secretary in reviewing New Starts projects. There is a growing awareness and agreement that mass transit investment produces economic benefits, partly through reduced local infrastructure costs. This change is intended to reflect the importance of these considerations in evaluating New Starts.

This section similarly amends section 5309(m) to limit the amount of New Starts funding that can be used for purposes other than final design and construction to 8 percent of amounts made available for this program.

Conference report

Provisions substantially the same.

Houston Regional Bus Plan, Westpark Corridor.—The conferees note that under existing law, Houston Metro may apply for, and FTA may approve, the transfer of sums previously appropriated under Metro's Full Funding Grant Agreement from the development of the Westpark Corridor HOV facility to any other section 5309 project, with no effect on any other provisions of the Full Funding Grant Agreement. Accordingly the conferees encourage the Administrator, upon a receipt of such a transfer request (if so requested by Houston Metro), to work with Houston Metro officials to consider approval of such request.

SEC. 3010. DOLLAR VALUE OF MOBILITY IMPROVEMENTS

House provision

Section 309 directs the Secretary to study the dollar value of mobility improvements and report to Congress on the results.

Senate amendment

No provision in Senate amendment.

Conference report

Adopts House provision.

SEC. 3011. LOCAL SHARE

House provision

No provision in House bill.

Senate amendment

Section 5006 provides that the proceeds from the issuance of revenue bonds can be used as a local match.

Conference report

Adopts Senate provision with modification. If the Secretary finds that the operation of this provision benefits the transit operators, he shall recommend to Congress that a permanent change in the Federal Transit laws be made no later than the reauthorization of this Act to make the proceeds from the issuance of revenue bonds eligible for local share under section 5307 and 5309 of title 49. All Federal grant requirements apply, including the requirement that the recipient has the financial capacity to carry out the project.

SEC. 3012. INTELLIGENT TRANSPORTATION SYSTEMS APPLICATION

House provision

Section 312 makes research grants for fixed guideway technology.

Senate amendment

No provision in Senate amendment.

Conference report

Adopts House provision.

SEC. 3013. FORMULA GRANTS AND LOANS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES

House provision

Section 310 makes changes.

Senate amendment

No provision in Senate amendment.

Conference report

Adopts House provision.

SEC. 3014. FORMULA PROGRAM FOR OTHER THAN URBANIZED AREAS

House provision

Section 311 makes technical changes.

Senate provision

No provision in Senate amendment.

Conference report

Adopts House provision.

SEC. 3015. RESEARCH, DEVELOPMENT, DEMONSTRATIONS, AND TRAINING PROJECTS

House provision

Section 312 makes technical changes. It establishes a program for Joint Partnerships for Deployment of Innovation and International Mass Transportation activities. This section also establishes a mass transportation technology development and deployment program. It also provides funding for the fuel cell transit bus program and maintenance facility, and establishes an Advanced Technology Pilot Project for the development of low-speed magnetic levitation technology for public transportation.

Senate amendment

Section 5011 establishes a Joint Partnership Program for Deployment of Innovation to implement major research activities.

Conference report

Senate recedes to fuel cell bus, low speed mag lev proposals, and International Mass Transportation Program. Conferees adopt Joint Partnership for Deployment of Innovation.

SEC. 3016. NATIONAL PLANNING AND RESEARCH PROGRAMS

House provision

Section 313 provides additional funding for activities to help transit providers comply with the Americans With Disabilities Act.

Senate provision

No provision in Senate amendment.

Conference report

Adopts House provision.

SEC. 3017. NATIONAL TRANSIT INSTITUTE

House provision

Section 314 changes the name of the Institute and expands the list of subjects that may be taught at the National Transit Institute.

Senate amendment

Senate amendment amends section 5315(a) to add workplace safety to the list of subjects that may be taught at the National Transit Institute.

Conference report

Adopts House and Senate provisions.

SEC. 3018. BUS TESTING FACILITIES

House provision

Section 317 clarifies that the Secretary may enter into either a contract or cooperative agreement to operate and maintain the bus testing facility.

Senate amendment

No provision in Senate amendment.

Conference report

Adopts House provision.

SEC. 3019. BICYCLE FACILITIES

House provision

Section 318 increases the federal share for bicycle projects that are related to transit enhancement activities.

Senate amendment

No provision in Senate amendment.

Conference report

Adopts House provision.

SEC. 3020. GENERAL PROVISIONS ON ASSISTANCE

House provision

Section 319 clarifies that the incremental cost of vehicle-related equipment necessary for complying with or maintaining compliance with the Clean Air Act is reimbursable at a federal share of 90 percent.

It also provides that the Secretary may allow a manufacturer or supplier to correct an inadvertent or clerical error in a Buy America Act certification after bid opening. This section encourages coordination in the design and delivery of transportation services among governmental agencies and nonprofit organizations that provide such services. It consolidates certifications required by FTA.

Senate amendment

Section 5016 requires coordination in providing transportation services among governmental agencies and nonprofit organizations that receive federal government funds.

Conference report

Coordinated transportation provisions substantially the same. Adopts House provision on consolidated certification and on inadvertent error with modification.

SEC. 3021. PILOT PROGRAM FOR INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND

House provision

No provision.

Senate amendment

Section 5021 permits non-Amtrak states to use their formula funds for inter-city rail.

Conference report

Adopt Senate provision with modification to establish a pilot program to support Amtrak activities in Oklahoma.

SEC. 3022. CONTRACT REQUIREMENTS

House provision

Section 320 makes technical amendments relating to contracts.

Senate amendment

No provision in Senate.

Conference report

Adopts House provision.

SEC. 3023. SPECIAL PROCUREMENTS

House provision

Section 321 makes changes to the definition of a turnkey system project.

Senate amendment

No provision in Senate amendment.

Conference report

Adopts House provision.

SEC. 3024. PROJECT MANAGEMENT OVERSIGHT AND REVIEW

House provision

Section 322 clarifies that the Secretary may provide technical assistance to correct deficiencies identified as part of project management oversight.

Senate amendment

No provision in Senate amendment.

Conference report

Adopts House provision.

SEC. 3025. ADMINISTRATIVE PROCEDURES

House provision

Section 324 authorizes the Senate to collect fees to cover the costs of training and conferences sponsored by the Federal Transit Administration, and makes technical changes to this section.

Senate amendment

Section 5017 allows grantees to sell assets, including land, that are acquired with federal funds and to keep the proceeds for use in mass transportation.

Conference report

Adopts Senate provision.

SEC. 3026. REPORTS AND AUDITS

House provision

Section 325 repeals certain reports that are no longer necessary.

Senate amendment

No provision in Senate amendment.

Conference report

Adopts House provision.

SEC. 3027. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS

House provision

Section 326 gives urbanized areas with populations under 200,000 flexibility to use their apportionments for either capital or operating expenses and caps the total annual amount at $400 million both operating assistance and preventive maintenance.

Senate amendment

Section 5019 directs the Secretary, in distributing operating assistance to large urban areas, to consider the impact of any operating assistance reduction on smaller transit authorities operating within the area. This section retains operating assistance for areas over 200,000 in population.

Conference report

Conferees eliminate the cap on preventive maintenance and operating assistance, and eliminates operating assistance for areas over 200,000.

SEC. 3028. APPORTIONMENT OF APPROPRIATIONS FOR FIXED GUIDEWAY MODERNIZATION

House provision

Section 327 amends the fixed guideway modernization formula.

Senate amendment

Section 5019 amends the fixed guideway modernization formula.

Conference report

Senate amendment modified on the floor. Conferees adopt compromise formula allocation.

SEC. 3029. AUTHORIZATIONS

House provision

Section 328 provides authorizations for the transit programs.

Senate amendment

Section 5002 provides authorizations for the transit programs.

Conference report

Adopts House provision.

It is the intent of the Conferees that authorizations for Budget Authority in 49 USC 5338(h), as amended by this section shall be scored against current discretionary spending limits and not the Mass transit category established by Title VIII of this Act.

SEC. 3030. PROJECTS FOR NEW FIXED GUIDEWAY SYSTEMS AND EXTENSIONS TO EXISTING SYSTEMS

House provision

Section 332 authorizes New Starts projects.

Senate amendment

No provision in Senate amendment.

Conference report

Senate adopts House provision.

New Orleans Canal Street—The Federal Transit Administration shall establish and credit as local share a value of the "neutral ground" (median strip), which will be utilized by the project as the right of way, an amount equal to 50% of the appraised average value of the adjacent property.

Dulles Corridor—The Dulles Corridor project is for the preliminary engineering, design and construction of the locally preferred alternative along the Dulles Corridor in the Washington D.C. metropolitan area and may include construction of a bus rapid transit system and preliminary engineering and design of other fixed guideway systems to serve the needs of the corridor.

Westlake Commuter Rail—The project authorized in this section includes 8 rail cars.

SEC. 3031. PROJECTS FOR BUS AND BUS-RELATED FACILITIES

House provision

Section 333 authorizes bus and bus-facilities projects.

Senate amendment

No provision in Senate amendment.

Conference report

Senate adopts House provision.

SEC. 3032. CONTRACTING OUT STUDY

House report

Section 335 directs the Secretary to enter into an agreement with the Transportation Research Board of the National Academy of Sciences to conduct a study of the effect of privatization or contracting out mass transportation services.

Senate amendment

No provision in Senate amendment.

Conference report

Adopts House provision. Funding for the study is $200,000. The additional $50,000 is available for administrative expenses associated with the study.

SEC. 3033. URBANIZED AREA FORMULA STUDY

House provision

Section 337 directs the Secretary to conduct a study on whether the current formula for apportioning funds to urbanized areas reflects the transit needs of the urbanized areas.

Senate amendment

Section 5020 directs the Secretary to conduct a study on the current urbanized area formula to determine whether changes in apportioning formula funds are needed for small urban areas with populations under 200,000.

Conference report

Adopts both House and Senate provisions.

SEC. 3034. COORDINATED TRANSPORTATION SERVICES

House provision

Section 338 directs the Comptroller General to conduct a study of Federal departments and agencies other than the Department of Transportation that receive federal financial assistance for non-emergency transportation services.

Senate amendment

No provision in Senate amendment.

Conference agreement

Adopts House provision.

SEC. 3035. FINAL ASSEMBLY OF BUSES

House provision

Section 339 directs the Comptroller General to review the Federal Transit Administration's monitoring of pre-award and post-delivery audits for compliance with the requirements of final assembly of buses under section 5323(j).

Senate amendment

No provision in Senate amendment.

Conference agreement

House recedes. Provision adopted that requires compliance with final assembly requirements by a date certain.

SEC. 3036. CLEAN FUEL VEHICLES

House provision

Section 340 directs the Comptroller General to study the various low and zero emission fuel technologies for transit vehicles.

Senate provision

No provision in Senate amendment.

Conference report

Adopt House provision.

SEC. 3037. JOB ACCESS AND REVERSE COMMUTE GRANTS

House provision

Section 330 establishes an Access to Jobs pilot program to fund the transportation of welfare recipients to and from jobs and job-related activities.

Senate amendment

Section 5014 establishes an Access to Jobs and Reverse Commute program to assist welfare recipients and other low-income individuals get to and from jobs.

Sixty percent of funds appropriated under this program must be awarded to projects in large urbanized areas, 20 percent to projects in small urbanized areas, and 20 percent to projects in non-urbanized areas, 20 percent to projects in small urbanized areas, and 20 percent to projects in non-urbanized areas. Grants require a 50 percent local match. Other federal funds, notably those provided through programs at the Department of Health and Human Services, may be used to meet the matching requirements.

Under this section, private transportation providers are eligible to submit proposals with states, local governments, and non-profit organizations for grants under this section. In addition, under this section, a private transportation provider shall also be considered an existing transportation service provider when the requirements of the section are met.

Conference report

Adopts Senate provision with modification. The conferees anticipate that this grant program will encourage recipients to implement long-term and self-sustaining plans to address the transportation needs of welfare recipients and eligible low-income individuals who live in areas devoid of job opportunities.

SEC. 3038. RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM

House provision

No provision in House bill.

Senate amendment

No provision in Senate amendment.

Conference report

Adopts provision making available funds to finance the incremental cost of complying with the Department of Transportation's final rule regarding accessibility of over-the-road buses.

SEC. 3039. STUDY OF TRANSIT NEEDS IN NATIONAL PARKS AND RELATED PUBLIC LANDS

House provision

No provision in House bill.

Senate amendment

No provision in Senate amendment.

Conference report

Adopts provision directing the Secretary of Transportation, in consultation with the Secretary of the Interior, to study transit needs in national parks.

SEC. 3040. OBLIGATION LIMITATIONS

House provision

Section 329 sets obligation limitations for the transit programs.

Senate amendment

No provision in Senate amendment.

SEC. 3041. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT

House provision

Section 331 directs the Secretary to reduce 1998 apportionments and allocations to account for the six months of funding already apportioned and allocated pursuant to the Surface Transportation Extension Act.

Senate amendment

No provision in Senate amendment.

Conference report

Adopts House provision.

TITLE IV—MOTOR CARRIER SAFETY

SEC. 4001. AMENDMENTS TO TITLE 49, UNITED STATES CODE

House bill

Section 401 provides that, except as otherwise specifically provided, an amendment or repeal of a section or provision of law in this title shall be a reference to a section or other provision of title 49, United States Code.

Senate amendment

The Senate amendment includes an equivalent provision (Sec. 3002).

Conference substitute

The conference adopts the House provision.

SEC. 4002. STATEMENT OF PURPOSES

House bill

Section 402 (a) provides for national objectives for the motor carrier safety grant program, including promoting safety, developing and enforcing effective and cost-beneficial safety regulations, assessing and measuring performance, ensuring adequate training of drivers and enforcement personnel, and advancing new technologies and safe operational practices.

Senate amendment

Section 3401 proposes to establish a statement of descriptive purposes of the Motor Carrier Safety Act. These purposes are to: improve commercial motor vehicle and driver safety; facilitate the ability to focus resources on strategic safety investments; increase administrative flexibility; strengthen enforcement activities; invest in activities related to areas of the greatest crash reduction; identify high risk carriers and drivers; and, improve information and analysis systems.

Conference substitute

The conference adopts the "statement of purposes" approach as outlined in the Senate provision and incorporates descriptive provisions from both bills.

SEC. 4003. STATE GRANTS

House bill

Subsection (a) of Sec. 402 amends section 31101 to revise the definition of "commercial motor vehicle" to include vehicles with a gross vehicle weight of at least 10,001 pounds (in addition to the gross vehicle weight rating).

Subsection (b) amends section 31102 to include reference to the "improvement" of motor carrier safety and includes references to hazardous materials transportation safety as a part of the state grant programs.

Subsection (c) amends section 31102(b)(1) of make technical changes in the state plans required as a condition of receiving federal motor carrier safety grants. Requirements that the state plan implement performance-based activities by fiscal year 2003, that States establish programs to ensure proper and timely correction of safety violations, and that States ensure roadside inspections are done at a safe distance from the roadway are added.

Subsection (d) amends section 31102 to include a reference to improving commercial vehicle safety, in addition to enforing regulations, as activities eligible for reimbursement.

Subsection (e) amends section 31104(a) to provide annual authorization for federal motor carrier safety grants. In fiscal year 1998, $78 million is provided; in fiscal year 1999, $110 million is provided; and in each of fiscal years 2000 through 2003, $130 million is provided.

Subsection (f) amends section 31104(b) to delete an outdated provision.

Subsection (g) amends section 31104(f) to provide that the Secretary shall allocate amounts to States with approved state plans and shall determine criteria for allocation. The Secretary may designate up to 5 percent of funds made available under the state grant program for reimbursement of State and local government high priority activities which improve commercial vehicle safety. Section 31104(g) is deleted to provide greater flexibility to states in activities to be funded with federal safety grants. Other technical and conforming changes are made.

Subsection (h) makes a conforming amendment to the table of sections for chapter 311.

Senate amendment

Sections 3402–3404 of the Senate bill contain similar provisions. Section 3402 provides that states implement by 2000 performance-based motor carrier safety components in the motor carrier safety assistance program (MCSAP) plans they submit to the Department of Transportation (DOT). The section further requires DOT to ensure that: State motor carrier safety programs are consistent, effective, and contain reasonable sanctions; data collection and information systems are coordinated with State highway safety programs; and, the participation in SAFETYNET by all jurisdictions receiving motor carrier safety assistance grant funds.

Section 3403 allows motor carrier safety assistance grants to be used to enforce rules aimed at improving hazardous materials transportation safety.

Section 3404(a) amends section 31104(a) to provide annual authorizations for federal motor carrier safety grants. The funding levels authorized are: $80 million for fiscal year 1998; $100 million for fiscal year 1999; $97 million for fiscal year 2000; $94 million for fiscal year 2001; and, $90.5 million in fiscal years 2002 and 2003.

Section 3404(c) amends section 31104(f) to provide that the Secretary shall allocate amounts to States with approved state plans and shall determine the criteria for allocation. The Secretary may designate up to 5 percent of funds made available under the state grant program for reimbursement of State and local government high priority activities which improve commercial vehicle safety. Section 31104(g) is deleted to provide greater flexibility to states in activities to be funded with federal safety grants. Other technical and conforming changes are made.

Conference substitute

The conference adopts the House approach, with modifications. The conference includes the Senate provision for states to implement performance-based MCSAP plans by 2000. The conference accepts the House bill's concept that States ensure roadside inspections are performed at a safe distance from the roadway, but substitutes the word "location" for clarification. The conference authorizes the following funding levels for the program: $79 million for fiscal year 1998; $90 million for fiscal year 1999; $95 million for fiscal year 2000; $100 million for fiscal year 2001; $105 million for fiscal year 2002; and, $110 million for fiscal year 2003. The conference agreement modifies the High Priority and Border discretionary programs by allowing the Secretary to designate up to 5 percent of MCSAP funds for States, local governments, and other persons for carrying out activities and programs that improve commercial motor vehicle safety and compliance with safety regulations. A similar designation is permitted for States, local governments, and other persons to carry out border commercial motor vehicle safety programs and enforcement activities and projects.

SEC. 4004. INFORMATION SYSTEMS

House bill

Subsection (a) of Section 403 replaces the current section 31106 to provide greater authority and flexibility to the Secretary in establishing and operating motor carrier, commercial motor vehicle, and driver information systems and data analysis programs to support safety activities. The Secretary shall work in coordination with the States in developing and maintaining systems which identify and collect data; evaluate the safety fitness of carriers, vehicles, and drivers; develop strategies to mitigate safety problems and measure effectiveness; determine cost-effectiveness of Federal and State safety programs; and adapt, improve and incorporate other information and systems as determined appropriate. The Secretary may prescribe technical and operational standards. The Secretary is directed to include as part of the information systems authorized, a clearinghouse and repository of information related to State registration and licensing of commercial motor vehicles and the motor carriers operating the vehicles. The Secretary is authorized to establish a program to improve commercial motor vehicle driving safety to enhance the exchange of driver licensing information, provide information to the judicial system on drivers, and develop strategies and countermeasures to improve driver safety. This section includes provisions relating to cooperative agreements, grants and contracts and sets forth the availability of information collected in the systems to States, local officials, and the public.

The current section 31107, an outdated provision, is deleted and replaced with authorizations for the information systems under section 31106. In fiscal year 1998, $7 million is provided; in fiscal year 1999, $15 million is provided; and in each of fiscal years 2000 through 2003, $20 million is provided. Other technical and conforming amendments to title 49 are made.

Senate amendment

Section 3405 substitutes the existing Commercial Motor Vehicle information system with a new information system. The section requires the new information network to be capable of identifying motor carriers and drivers, tracking commercial motor vehicle registration and commercial motor vehicle driver licensing, and providing motor carrier and driver safety performance data. The section requires the system to have the capability to utilize the information in order to develop strategies to address safety problems and to measure the effectiveness of those strategies. The section further requires the Secretary to prescribe technical and operation standards to ensure the uniform, timely and accurate information collection and reporting by the States.

This section also authorizes the Secretary to establish a commercial motor vehicle safety program that enhances the exchange of driver licensing information, provides information to the judicial system on the program, and evaluates appropriate driver performance and safety aspects. The section permits the Secretary to enter into agreements with other Federal agencies and other parties to carry out the new information and commercial motor vehicle safety program.

Conference substitute

The conference merges the House and Senate language on the information systems and data analysis program elements. The conference requires the Secretary to prescribe technical and operational standards to ensure uniform, timely, and accurate information collection and reporting by the States and other entities. The conference authorizes assistance to help States develop or implement the information systems established under the section. The conference authorizes the following funding levels for the information systems and data analysis program: $6 million for fiscal year 1998; $10 million for each of fiscal years 1999 and 2000; $12 million for each of fiscal years 2001 and 2002; and, $15 million for fiscal year 2003. The conference further authorizes the Secretary to allocate up to 50 percent of the authorized funding to establish the information clearinghouse directed under this section, and encourages the Secretary to focus its resources on assisting those states that have not previously received such assistance to develop or implement information systems.

The conference is providing separate funding for information systems and analysis because they are critical to the successful adoption of performance-based regulations and oversight. The Secretary should ensure that the data in these systems is accurate and timely. In addition, the conference expects the Secretary to develop systems that are linked, providing complete information rapidly to inspectors and safety officers.

Finally, while the conference recognizes the benefits such information systems can provide, the conference also recognizes the need for safeguards to protect individuals and companies' privacy. Therefore, the Secretary should carefully develop the information availability policy called for in the new subsection (e).

SEC. 4005. AUTOMOBILE TRANSPORTER DEFINED

House bill

Section 404 amends section 31111(a) to define "automobile transporter" as any vehicle combination designed and used specifically for the transport of assembled highway vehicles.

Senate amendment

The Senate amendment includes a similar provision. Section 3410 defines automobile transporter to mean any vehicle combination designed and used specifically for the transport of assembled highway vehicles, including truck camper units.

Conference substitute

The conference adopts the Senate provision. The conference notes that the phrase "truck camper units" is defined in the ANSI A119.2/NFPA 501C standard on recreational vehicles as "a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck" (1996 edition).

SEC. 4006. INSPECTIONS AND REPORTS

House bill

Subsection (a) amends section 31133(a)(1) to allow the Secretary to make contracts for inspections and investigations.

Subsection (b) amends section 504 to allow a contractor, designated by the Secretary, to make inspections of equipment of a carrier and make inspections of records of carriers.

Senate amendment

Section 3411 of the Senate amendment provides for an identical provision.

Conference substitute

The conference adopts the provision.

SEC. 4007. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS

House bill

Section 406 establishes a new process for granting regulatory exemptions, coupled with a process for the Secretary to carry out pilot programs. Subsection (a) replaces the current waiver authority in section 31315 with a new provision relating to authority and standards for exemptions (to replace waiver authority provided in section 31136(e) and 31315) and pilot programs.

New subsection 31315(a) provides that the Secretary may grant to a person or class of persons a temporary exemption from regulations issued under chapter 313 or section 31136 if the Secretary finds such exemption would likely achieve a level of safety equal to or greater than the level that would be achieved absent such exemption. Exemptions shall be for a 2-year period and may be renewed. An exemption may be revoked if the terms and conditions are not met or if the exemption is not consistent with safety goals. The Secretary shall specify by regulation the procedures for requesting exemptions, but certain minimum requirements are set forth. Requests for exemptions shall be published in the Federal Register and the public shall be given an opportunity to comment. Any exemptions granted shall be published in the Federal Register, along with terms and conditions of the exemption and effective period. Any exemptions denied shall be published in the Federal Register, with the reasons for denial. The Secretary shall act on each exemption request within 180 days or shall publish in the Federal Register why the decision will be delayed and an estimate of when the decision will be made. Terms and conditions of an exemption may be specified and appropriate state compliance and enforcement personnel shall be notified of an exemption provided.

New subsection 31315(b) provides authority to the Secretary to conduct pilot programs to evaluate innovative approaches to motor carrier, vehicle, and driver safety. Pilots may include exemptions from regulations. Proposed pilot programs shall be published in the Federal Register and the public shall be given an opportunity to comment. Certain minimum program elements for pilot programs are specified. The Secretary may revoke participation in or terminate a pilot program. A report shall be issued to Congress at the conclusion of each pilot program.

New subsection 31315(c) provides that, during the time period an exemption or pilot program is in effect, no State shall enforce a law or regulation that conflicts with or is inconsistent with an exemption or pilot program with respect to a person exercising the exemption or participating in the pilot program.

Subsections (b) and (c) make conforming amendments.

Senate amendment

Section 3421 authorizes the Secretary to initiate programs to examine innovative approaches or alternatives to certain commercial motor carrier safety regulations. This section provides the Secretary broader discretion to grant waivers and exemptions from motor carrier and driver safety regulations which are necessary to develop performance based regulations and evaluate the effectiveness of existing regulations.

This section recognizes that revising the waiver provisions in Section 31136 of Subchapter III, Safety Regulations and Section 31315 of Chapter 313, Commercial Motor Vehicle Operators is necessary because of the strict interpretation given to section 31136(e) by the D.C. Circuit Court of Appeals in AHAS v. FHWA, 28 F.3d 1288 (1994), limiting the ability of the Secretary to issue waivers and exemptions. The Court found that the statutory language required the Secretary to determine, before issuing any waiver, that no diminution in safety would result, i.e., that it be determined beforehand there would be absolutely no increase in crashes as a result of the waivers. To deal with the decision, this section substitutes the term "equivalent" to describe a reasonable expectation that safety will not be compromised. In the absence of greater discretion to deal with waivers and exemptions and a new standard by which to judge them, the Congress would continue to be the only source to provide regulatory exemptions.

The National Highway System Designation Act of 1995 (NHS) required the establishment of criteria and a program to grant and monitor exemptions from a broad range of safety regulations for commercial vehicles over 10,000 pounds but less than 26,000 pounds. This approach is a model for the exemption pilot program established by this section. The new waiver and exemption provision requires the Secretary to issue regulations that will outline a process for issuing waivers, procedures for conducting pilot projects or demonstration programs to evaluate the safety performance of a regulation or part of a regulation, and conditions under which exemptions from motor carrier safety regulations will be considered.

This section distinguishes between the terms "waiver" and "exemption," primarily by scope and duration. It provides the Secretary the authority to: issue a waiver for a relatively short term, for a specific purpose to a particular person or group of persons, under conditions defined in the waivers (e.g., circus vehicles under escort from railhead to exhibition site for the duration of the appearance); issue an exemption for up to two years, with a renewable two-year feature, limited to a class of persons, vehicles or circumstances (e.g., relief from certain requirements for well-defined operations with low risk histories and alternative management controls); and perform pilot projects or demonstration projects, using either a waiver or exemption or combination, to examine whether alternatives to regulatory requirements, particularly record keeping, are as effective in producing safety benefits.

This section permits the Secretary to grant a waiver without advance public notice, but a record would have to be maintained. An exemption may be granted after notice and opportunity for comment and either a safety demonstration project or safety analysis was performed. The Secretary could initiate pilot projects or demonstration programs to examine whether a new requirement should become a regulation, whether performance under existing regulations is effective in producing the desired safety result, and whether alternative methods can produce the same safety benefit with less regulatory burden. Before any pilot project or demonstration program is undertaken, notice and opportunity for comment must be given to the public. It is expected the Secretary would issue regulations to provide that safety would be the primary consideration in deciding whether any waiver or exemption should be issued, or any pilot program initiated.

Conference substitute

The conference adopts a compromise provision, which includes basic provisions of both the House and Senate bills.

Subsection (a) authorizes the Secretary to grant regulatory waivers if such action would be in the public interest and a level of safety is expected to be achieved that is equivalent to or greater than the level of safety obtained under regulatory compliance. A waiver would not be permitted to be granted beyond a 3 month period, must be limited in scope and circumstances for special, non-emergency situations, and could include conditions as deemed appropriate by the Secretary. The conference expects the Secretary would issue guidelines to provide for a reasonable process under which waivers may be requested and considered.

Subsection (b) authorizes the Secretary to grant regulatory exemptions and Subsection (c) authorizes the Secretary to conduct pilot programs to evaluate innovative approaches and alternatives to regulations.

The conference acknowledges that many motor carrier groups have sought statutory exemptions during the development of this legislation and such requests should be considered by the Secretary after evaluating their merits under this provision. The conferees believe the pilots authorized under this section should include a reasonable number of participants to enable the Secretary to assess the safety impact of the pilots' results.

The conference expects the Secretary to use this authority judiciously. Pilot programs should be carefully designed and implemented to both protect the participants and the public, while yielding useful information to support future rulemaking proceedings and improve the efficiency of oversight activities.

SEC. 4008. SAFETY REGULATION

House bill

Subsection (a) of Section 407 amends section 31132(1)(A) to include in the definition of commercial motor vehicle those vehicles with a gross vehicle weight of at least 10,001 pounds (in addition to those vehicles which have such a rating). Section 31132(1)(B) is amended to refer to vehicles designed to carry 8 passengers, including the driver.

Subsection (b) deletes section 31134 relating to the Commercial Motor Vehicle Safety Regulatory Review Panel which has completed it responsibilities.

Subsection (c) deletes section 31140 relating to the Commercial Motor Vehicle Safety Regulatory Review Panel and its review of State laws and regulations.

Subsection (d) amends section 31141 to delete references to the Commercial Motor Vehicle Safety Regulatory Review Panel and makes conforming and technical changes to the review of State laws and regulations by the Secretary.

Subsections (e) and (f) make technical amendments to section 31142.

Senate amendment

The Senate amendment includes similar provisions. Section 3411(f) amends the definition of commercial motor vehicle in Section 31132(1) of title 49, U.S.C., to include vehicles with a gross vehicle weight of at least 10,001 pounds (in addition to the gross vehicle weight rating).

Section 3411(a) repeals the current review panel process that reviews state laws for compatibility with Federal commercial motor vehicle safety regulations. Section 3411(b) repeals the panel procedures and replaces them with a review process to be administered by the Secretary.

Conference substitute

The conference follows the House approach.

SEC. 4009. SAFETY FITNESS

House bill

Subsection (a) of Section 419 of the House bill amends section 31144 to revise procedures and provisions relating to safety fitness determinations of owners and operators. The Secretary is directed to determine whether owners and operators are fit to safely operate commercial motor vehicles, periodically update determinations, make the determinations available to the public, and prescribe by regulation penalties for violations. The Secretary is to maintain by regulation a process to determine fitness.

An owner or operator who the Secretary determines is not fit may not operate commercial motor vehicles in interstate commerce beginning on the 61st day after the date of such fitness determination and until the Secretary determines the owner or operator is fit.

In the case of those transporting passengers or hazardous materials, an owner or operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date of such fitness determination and until the Secretary determines the owner or operator is fit.

With the exception of those transporting passengers or hazardous materials, the Secretary may allow an owner or operator to continue to operate beyond the 61st day if the owner or operator is making a good faith effort to become fit.

The Secretary must review the determination that an owner or operator is unfit not later than 45 days after the unfit owner or operator requests a review, and within 30 days in the case of owners or operators transporting passengers or hazardous materials.

A department, agency, or instrumentality of the U.S. Government may not use to provide any transportation service an owner or operator determined unfit by the Secretary, until the Secretary determines such owner or operator is fit.

Subsection (b) makes a conforming amendment to section 5113 of title 49.

Senate amendment

Section 3411(d) directs the Secretary to maintain in regulation a procedure for determining the safety fitness of owners and operators of commercial motor vehicles. The section requires the procedures to include the requirements that owners and operators of commercial motor vehicles must meet to demonstrate safety fitness; a means used to decide whether the owners, operators, or other persons meet safety fitness requirements; and deadlines for action by the Secretary in making fitness determinations. Subsection (d) prohibits a motor carrier that fails to meet the safety fitness requirements established by the Secretary from operating in interstate commerce. The subsection permits the Secretary to extend the time limit granted for a motor carrier to come into compliance after a determination that the motor carrier fails to meet safety fitness requirements.

Conference substitute

The conference follows the House approach. The conference requires the Secretary to periodically update safety fitness determinations of owners and operators and to make such final safety fitness determinations readily available to the public. The publication of final safety fitness determinations does not preclude the ability of the Secretary to review the safety fitness of owners and operators. However, the conference would not expect preliminary data analysis or preliminary safety fitness information to be publicly available.

SECTION 4010. REPEAL OF CERTAIN OBSOLETE MISCELLANEOUS AUTHORITIES

House bill

Section 409 repeals subchapter IV (sections 31161 and 31162) which are unnecessary and burdensome provisions.

Senate amendment

The Senate bill includes an equivalent provision (Sec. 3411(c)(2)).

Conference substitute

The conference adopts the provision.

SECTION 4011. COMMERCIAL VEHICLE OPERATORS

House bill

Subsection (a) of Section 410 amends the definition of commercial motor vehicle in section 31301 to include vehicles with a gross vehicle weight of at least 26,001 pounds (in addition to gross vehicle weight rating).

Subsection (b) amends section 31302 to clarify that an individual may operate commercial motor vehicle only if the individual has a valid commercial driver's license (CDL) and that an operator may have only one driver's license at any time.

Subsection (c) amends section 31308(2) to require that CDLs must include unique identifiers to minimize fraud and duplication.

Subsection (d) amends section 31309 to clarify that the commercial drivers license information system is maintained by the Secretary and shall be maintained in coordination with activities carried out under section 31106. Certain other clarifying and technical amendments are made.

Subsection (e) repeals obsolete state grant programs regarding testing and licensing of commercial vehicle drivers.

Senate amendment

The provisions are similar. Section 3212(f)(1) amends the definition of commercial motor vehicle in each place it appears in section 31301 to include vehicles with a gross vehicle weight of at least 26,001 pounds (in addition to gross vehicle weight rating).

Section 3212(f)(2) inserts the word "is" at two places section 31301 subparagraph (C).

Section 3416(b) amends the definition with respect to motor carriers of passengers and section 3416(c) provides that regulations would apply to such carriers 12 months after the date of enactment, unless the Secretary determines it would be appropriate to exempt them.

Conference substitute

The conference adopts the House approach.

SEC. 4012. UTILITY SERVICE COMMERCIAL MOTOR VEHICLE DRIVERS

House bill

The House bill contains no comparable provision.

Senate amendment

Section 3424 provides a process for an emergency exemption to allow utility drivers to serve customers during times of emergencies declared by elected State or local officials and provides for monitoring of any safety impacts associated with such exemptions.

Conference substitute

The conference adopts the Senate provision.

SEC. 4013. PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT

House bill

Section 413 of the House bill repeals obsolete sections of chapter 317 (sections 31702, 31703, and 31708) relating to a working group and grants to encourage participation in the International Fuel Tax Agreement and International Registration Plan.

Senate amendment

Section 3414 of the Senate bill is identical to the House provision.

Conference substitute

The conference adopts the provision.

SEC. 4014. SAFETY PERFORMANCE HISTORY OF DRIVERS; LIMITATION ON LIABILITY

House bill

No comparable provision.

Senate amendment

Section 3412(g) of the Senate bill amends Chapter 5 of Title 49, United States Code. The provision bars an action for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records of an individual under consideration for employment as a commercial motor vehicle driver against a person who has complied with such a request or his agents or insurers. The bar does not apply to a motor carrier requesting the records unless the motor carrier, the person complying with the request and their agents have taken all precautions reasonably necessary to ensure the accuracy of the records and to protect the records from disclosure to any person, except for their insurers, not directly involved in forwarding the records or deciding whether to hire that individual, and complied fully with all the regulations issued by the Secretary of Transportation in using and furnishing the records.

The bar also does not apply to a person complying with a request unless the motor carrier requesting the records, the complying person, and their agents have taken all reasonably necessary precautions to ensure the accuracy of the records and to protect the records from disclosure to any person, except for their insurers, not directly involved in forwarding the records or deciding whether to hire that individual.

State and local law is preempted to the extent that it prohibits, penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary.

Conference substitute

The conference adopts the Senate provision with modification. The conference agreement adds a requirement that as a part of the rulemaking the Secretary is conducting under section 114 of the Hazardous

Materials Transportation Authorization Act of 1994 (108 Stat. 1677–1678) to amend Section 391.23 of title 49, Code of Federal Regulations, that the Secretary provide protection for driver privacy and establish procedures for review, correction, and rebuttal of the safety performance records of a driver. The conference further directs the Secretary to complete the rulemaking by January 31, 1999. The liability waiver will become effective on the same date.

SEC. 4015. PENALTIES

House bill

No comparable provision.

Senate amendment

Section 3412 of the Senate bill amends section 521 of Title 49, United States Code. This section excepts from the penalties provision of section 521(b)(1) "reporting and record keeping violations". This section also strikes "fix a reasonable time for abatement of the violation" from subparagraph (A).

Section 521(b)(2) is amended by deleting "reckless disregard" and "gross negligence" from the liability standard for the penalty section.

A new subsection (B) is added entitled "Recordkeeping and Reporting Violations" which specifies penalties for such violations.

Conference substitute

The conference adopts the Senate provision.

SEC. 4016. AUTHORITY OVER CHARTER BUS TRANSPORTATION

House bill

No comparable provision.

Senate amendment

Section 3417 of the Senate bill amends Section 14501(a) of Title 49, United States Code. The provision strikes the authority of the states to regulate intrastate and interstate charter bus transportation.

Conference substitute

The conference adopts the Senate provision with modification. A clarifying provision is included to ensure that states may continue to regulate safety with respect to motor vehicles and to impose highway route controls or limitations based on the size or weight of the motor vehicle or with regard to minimum amounts of financial responsibility relating to insurance requirements. The conference also notes that the provision does not limit a State's ability to regulate taxicab service or limousine livery service.

SEC. 4017. TELEPHONE HOTLINE FOR REPORTING SAFETY VIOLATIONS

House bill

Subsection (a) of Section 414 directs the Secretary to establish, for a period of at least 2 years, a nationwide, toll-free telephone system to be used by drivers of commercial motor vehicles and others to report potential violations of Federal motor carrier safety regulations and other laws and regulations relating to safety.

Subsection (b) provides that information received shall be used in setting priorities for safety audits and other enforcement activities.

Subsection (c) provides that a person reporting a potential violation shall be provided the protections of section 31105.

Subsection (d) provides that up to $300,000 from administrative expenses may be used per fiscal year to carry out this section.

Senate amendment

No comparable provision.

Conference substitute

The conference adopts the House provision with minor modifications and authorizes the Secretary to spend no more than $250,000 of funding available for general operating expenses in any fiscal year to carry out this directive.

SEC. 4018. INSULIN TREATED DIABETES MELLITUS STUDY

House bill

Subsection (a) of Section 415 directs the Secretary of Transportation to determine within 18 months whether a safe, practicable and cost-effective screening, operating, and monitoring protocol could likely be developed for insulin treated diabetes mellitus individuals who want to operate commercial motor vehicles in interstate commerce that would ensure a level of safety equal or greater than that achieved with the current prohibition on such drivers.

Subsection (b) directs the Secretary to compile and evaluate research and other information, to consult with States who have developed and are implementing a screening process, to evaluate the Department's policy and actions to permit individuals with insulin treated diabetes mellitus to operate in other modes of transportation, and to consult with certain groups.

Subsection (c) directs that, if it is determined that a protocol can be developed, the Secretary shall report to Congress the basis for such determination.

Subsection (d) directs that, if it is determined that a protocol can be developed, the Secretary shall report to Congress on the elements to be included in such a protocol and promptly initiate a rulemaking implementing the protocol.

Senate amendment

No comparable provision.

Conference substitute

The conference adopts the House provision with the addition of a requirement that the Secretary of Transportation also assess any legal consequences of permitting insulin treated diabetes mellitus individuals to drive commercial motor vehicles in interstate commerce. The standard in subsection (a) is intended to ensure that insulin treated diabetes mellitus individuals be held to a level of safety comparable to that required of other qualified commercial drivers and not to a higher standard.

SEC. 4019. PERFORMANCE-BASED CDL TESTING

House bill

Subsection (a) of Section 416 directs the Secretary of Transportation to review the procedures established and implemented by States for testing operators of commercial motor vehicles to determine if the system accurately reflects an individual's knowledge and skills as a commercial motor vehicle operator and to identify methods to improve testing and licensing standards, including the benefits and costs of a graduated licensing system.

Subsection (b) provides that, not later than one year following such review, the Secretary shall issue regulations under section 31305 of title 49, relating to CDLs which reflect the results of the review.

Senate amendment

Section 3412 amends Section 31305(a) by giving the Secretary of Transportation the authority to establish performance-based testing and licensing standards that more accurately measure and reflect an individual's knowledge and skills as an operator.

Conference substitute

The conference adopts the House provision.

SEC. 4020. POST-ACCIDENT ALCOHOL TESTING

House bill

Section 417 requires the Secretary to conduct a study of the feasibility of utilizing emergency responders and law enforcement officers for conducting post-accident alcohol testing of commercial motor vehicle operators under section 31306 of title 49, United States Code.

Senate amendment

No comparable provision.

Conference substitute

The conference adopts the House provision with modification. The modifications require the study to address the feasibility of utilizing law enforcement officers for conducting post-accident alcohol testing, as well as the ability of motor carrier employers to meet the current post-accident alcohol testing requirements imposed under section 31306. The reference in the House provision to "emergency responders" is deleted from the study requirements.

SEC. 4021. DRIVER FATIGUE

House bill

Subsection (a) of Section 418 directs the Secretary, as part of ongoing activities relating to fatigue of commercial motor vehicle operators, to encourage the development of technologies that may aid in reducing fatigue. Subsection (a)(2) sets forth factors to be considered, including the degree to which the technology will be cost efficient, can be used in various climates, and will reduce emissions, conserve energy, and further other transportation goals. Subsection (a)(3) provides that funds made available under subparagraphs (F) through (I) of section 127(a)(3) of the bill may be used to carry out this section.

Subsection (b) directs the Secretary to review potential safety benefits of the use of non-sedating antihistamines by operators of commercial vehicles and to consider encouraging the use of such antihistamines.

Senate amendment

No comparable provision.

Conference substitute

The conference adopts the House provision with minor modifications.

SEC. 4022. IMPROVED FLOW OF DRIVER HISTORY PILOT PROGRAM

House bill

No comparable provision.

Senate amendment

Section 3406 requires the Secretary of Transportation to carry out a pilot program in cooperation with 1 or more States to improve upon the timely exchange of pertinent driver performance and safety records data to motor carriers. The program shall: (1) determine to what extent driver performance records data, including relevant fines, penalties and failure to appear for a hearing or trial, should be included as part of any information systems; (2) assess the feasibility, costs, safety impact, pricing impact, and benefits of record exchanges; and (3) assess methods for the efficient exchange of driver safety data available from existing State information systems and sources.

Conference substitute

The conference adopts the Senate provision with the proviso that at the end of the pilot program the Secretary shall begin, if appropriate, a rulemaking to revise the information system under section 31309 of Title 49, United States Code.

SEC. 4023. EMPLOYEE PROTECTIONS

House bill

No comparable provision.

Senate amendment

Section 3411(g) requires the Secretary of Transportation, in conjunction with the Secretary of Labor to study the effectiveness of existing statutory employee protections provided for under section 31105 of title 49, United States Code.

Conference substitute

The conference adopts the Senate provision.

SEC. 4024. IMPROVED INTERSTATE SCHOOL BUS SAFETY

House bill

Subsection (a) of Section 408 amends section 31136 to provide that federal safety regulations apply to interstate school bus operations by local educational agencies.

Subsection (b) directs the Secretary to submit a report within two years describing the status of compliance and activities of the Secretary or States to enforce the requirements.

Senate amendment

No comparable provision.

Conference substitute

The conference adopts an alternative provision to instruct the Secretary to begin a rulemaking to determine whether or not relevant commercial motor carrier safety regulations issued under section 31136 should apply to all interstate school transportation operations.

SEC. 4025. TRUCK TRAILER CONSPICUITY

House bill

Section 421 requires the Secretary of Transportation to issue, not more than one year after enactment of this Act, a final rule regarding the Conspicuity of trailers manufactured before December 1, 1993. In so doing, the Secretary is required to consider, at a minimum, the following: (1) the cost-effectiveness of any requirement to retrofit trailers manufactured before December 1, 1993; (2) the extent to which motor carriers have voluntarily taken steps to increase equipment visibility; regulatory flexibility to accommodate differing trailer designs and configurations, such as tank trucks.

Senate amendment

No comparable provision.

Conference substitute

The conference adopts the House provision. The conference however stresses that this provision does not require the Secretary to order a retrofit of any trailers manufactured before December 1, 1993.

SEC. 4026. DOT IMPLEMENTATION PLAN

House bill

Section 422 requires the Secretary of Transportation to develop and submit to Congress a plan for implementing authority (if subsequently provided by law) to: (1) investigate and bring civil actions to enforce Chapter 5 of Title 49, United States Code when violated by shippers, freight forwarders, brokers, consignees, or persons (other than rail carriers, motor carriers, motor carriers of migrant workers, or motor private carriers); (2) assess civil or criminal penalties against a person who knowingly aids, abets, counsels, commands, induces, or procures a violation of a regulation or order under chapter 311 or section 31502. The development of the plan requires the Secretary to consider: in what circumstances the Secretary would exercise the new authority; how the Secretary would determine that shippers, freight forwarders, brokers, consignees, or other persons committed violations; what procedures would be necessary during investigation to ensure the confidentiality of shipper contract terms; the impact of the new authority on the Secretary's resources.

Senate amendment

No comparable provision.

Conference substitute

The conference report directs the Secretary to assess the scope of the problem of shippers, freight forwarders, brokers, consignees, or other persons encouraging violations of chapter 5 of title 49 and after the assessment the Secretary may submit to Congress a plan for implementing authority (if subsequently provided by law) to investigate and bring civil actions to enforce chapter 5 of title 49, United States Code. The report to Congress will contain the elements required of it in the House bill as well as a request of what, if any, educational activities the Secretary would conduct for persons who would be subject to the new authority.

SEC. 4027. STUDY OF ADEQUACY OF PARKING FACILITIES

House bill

Section 123 requires the Secretary of Transportation to conduct a study to determine the location and quantity of parking facilities at commercial truck stops and travel plazas and public rest areas that could be used by motor carriers to comply with Federal hours of service rules. The study must be reported to Congress within 36 months. The study shall include an inventory of current facilities serving the National Highway System, analyze where shortages exist or are projected to exist, and propose a plan to reduce the shortage. The study is funded under Section 104(a) of Title 23, United States Code, for $500,000 per fiscal year for fiscal years 1998, 1999 and 2000.

Senate amendment

Section 3415 is similar to the House bill with the exception of the funding provision.

Conference substitute

The conference adopts the House provision. The Secretary would be permitted to allocate no more than $500,000 for each of the fiscal years 1999, 2000, 2001.

SEC. 4028. QUALIFICATIONS OF FOREIGN MOTOR CARRIERS

House bill

No comparable provision.

Senate amendment

Section 3419 of the Senate bill requires the Secretary of Transportation, within 90 days after enactment of the Act, to review the qualifications of foreign carriers whose applications for authority to operate in the United States have not been processed due to the moratorium on the granting of authority to foreign carriers to operate in the United States.

Conference substitute

The conference adopts the Senate provision with the proviso that the review does not constitute a finding by the Secretary under section 13902 of title 49, United States Code, that a motor carrier is willing and able to comply with requirements of such section.

SEC. 4029. FEDERAL MOTOR CARRIER SAFETY INSPECTORS

House bill

No comparable provision.

Senate amendment

Section 3418 of the Senate bill requires the Secretary of Transportation to maintain the level of Federal motor carrier safety inspectors for international border commercial vehicle inspections as in effect on September 30, 1997, or provide for alternative resources and mechanisms to ensure an equivalent level of commercial motor vehicle safety inspections.

Conference substitute

The conference adopts the Senate provision with minor modifications.

SEC. 4030. SCHOOL TRANSPORTATION SAFETY

House bill

Section 336 of the House bill requires the Secretary of Transportation to begin not later than 3 months after the date of the enactment of the Act a study of the safety issues attendant to transportation of school and school-related activities by various transportation modes.

Senate amendment

Section 3425 of the Senate bill requires the Secretary to agree with the Transportation Research Board on a study of the issues attendant to the transportation of school children to and from school and school-related activities by various transportation modes. The TRB shall consider available crash injury data, and vehicle design and driver training in conducting the study and the panel conducting the study shall include representatives of highway safety organizations, school transportation, mass transportation and bicycling organizations.

Conference substitute

The conference adopts the Senate provision with the proviso that a report to the Congress on the results of the study is to be transmitted not later than 12 months after the Secretary enters into an agreement with the Transportation Research Board.

SEC. 4031. DESIGNATION OF NEW MEXICO COMMERCIAL ZONE

House bill

No comparable provision.

Senate amendment

Section 3703 of the Senate bill establishes a commercial zone in New Mexico comprised of Dona Ana and Luna Counties.

Conference substitute

The conference adopts the Senate provision with the proviso that the Secretary of Transportation shall consult with other Federal agencies that have responsibilities over traffic between the United States and Mexico. The State of New Mexico is required to submit within three months of the date of enactment a plan to the Secretary describing how the state will monitor commercial motor vehicle traffic and enforce safety regulations. The conference is particularly concerned that motor carriers within the zone comply with hours-of-service and drug and alcohol testing requirements and that unauthorized carriers do not operate beyond the commercial zone limits.

SEC. 4032. EFFECTS OF MCSAP GRANT REDUCTIONS ON STATES

House bill

No comparable provision.

Senate amendment

Section 3423 of the Senate bill allows States which did not receive its full Motor Carrier Safety Assistance Program during fiscal years 1996 and 1997 to enter into cooperative agreements with the Secretary of Transportation to evaluate the safety impact, costs, and benefits of allowing such states to continue to participate fully in the Motor Carrier Safety Assistance Program, then the Secretary shall allocate to those States full amount of funds for fiscal years 1998, 1999, 2000, 2001, 2002 and 2003.

Conference substitute

The conference report requires the Secretary to study the effects of reductions in MCSAP grants due to nonconformity of

State intrastate laws and regulations with Federal interstate requirements. The study is to consider (1) national uniformity and the purposes of the MCSAP program; (2) State motor carrier, commercial motor vehicle, and driver safety oversight and enforcement capabilities; and (3) the safety impact, costs and benefits of a State's full participation in the program. A report to Congress is to be submitted not later than 2 years after the date of enactment of this Act.

Interim Border Safety Improvement Program

House bill

Section 411 establishes an interim border safety improvement program to improve commercial motor vehicle safety in the vicinity of the borders between the U.S. and Canada and the U.S. and Mexico. The Secretary may expend funds and provide grants to States, local governments, organizations and others for the employment and training of personnel to enforce safety regulations at the border, for the development of data bases and communications systems, and for education and outreach initiatives. The Federal share shall be 80 percent for the first two years that a State receives a grant, 50 percent for the third and fourth years, and 25 percent for the fifth and sixth years. Subsection (g) provides annual authorizations for the program.

Of the funds made available for the coordinated border infrastructure and safety program under section 116 of the bill, $20 million in fiscal year 1998 and $15 million in each of fiscal years 1999 through 2003 shall be available for this program.

Senate amendment

No comparable provision.

Conference substitute

The conference does not include a provision. The conference addresses border safety matters under Section 4003 and authorizes the Secretary to dedicate up to five percent of funding made available to carry out the Motor Carrier Safety Assistance Program for States, local governments, and other persons to carry out border commercial motor vehicle safety programs and enforcement activities and projects.

Hazardous Materials Transportation Regulation and Farm Service Vehicles

House bill

Sec. 420. Subsection (a) amends section 5117(d)(2) of title 49 regarding the transportation of hazardous materials to add a new subparagraph (C) which provides that States are not prohibited from providing an exception from requirements relating to placarding, shipping papers, and emergency telephone numbers for the private motor carriage in intrastate transportation of an agricultural production material. A State must certify that the exception is in the public interest, the need for the exception, and that the State shall monitor the exception and take such measures necessary to ensure that safety is not compromised.

Subsection (b) defines the term "agricultural production material."

Senate amendment

Section 3208 of the Senate bill as part of the reauthorization of the Hazardous Materials Transportation Act authorizes the Secretary to carry out pilot programs to examine innovative approaches or alternatives to regulations for private intrastate motor carriage of agricultural production materials. The Secretary is prohibited from carrying out a pilot program if it would pose an undue risk to public health and safety. Furthermore, the Secretary shall require that the pilot project contain safety measures designed to achieve a level of safety equivalent to or greater than the level that would otherwise be achieved. The Secretary is directed to terminate participation immediately of any carrier that fails to comply with the terms and conditions of the pilot or to terminate the entire pilot if the Secretary determines it has resulted in a lower level of safety.

Conference substitute

The conference does not include a provision.

Motor Carrier and Driver Safety Research

House bill

The House bill contains no comparable provision.

Senate amendment

Section 3407 of the Senate bill provides not less than $10 million per year for programs designed to advance motor vehicle and driver safety. The provision requires grants of more than $250,000 to be awarded based on a competitive selection. The Secretary shall submit annual reports to Congress on the activities conducted under this section.

Conference substitute

The conference does not include a provision. The Secretary is authorized to conduct motor carrier research in the programs established or amended in Title V of this Act.

Commercial Motor Vehicle Safety Advisory Committee

House bill

The House bill contains no comparable provision.

Senate amendment

Section 3420 of the Senate bill authorizes the Secretary to establish an advisory committee to provide advice and recommendations on regulatory issues.

Conference substitute

The conference does not include a provision.

Commercial Motor Vehicle Safety Studies

House bill

The House bill contains no comparable provision.

Senate amendment

Section 3422 of the Senate bill directs the Secretary to conduct a study of the impact on safety and infrastructure of tandem axle commercial motor vehicle operations in States that permit the operation of such vehicles in excess of Interstate weight limits. Further, the Secretary should enter into cooperative agreements with such States to collect weigh-in-motion data necessary for the study. The Secretary shall report to Congress within 2 years on the results of the studies and may not withhold highway construction funds from States for violations of grandfathered tandem axle weight limits.

Conference substitute

The conference does not include a provision.

Hazardous Materials Transportation Act Reauthorization

House bill

The House bill contains no comparable provision.

Senate amendment

Subtitle B reauthorizes the Hazardous Materials Transportation Act, as requested by the Administration. The Subtitle makes several changes in the hazardous materials transportation program as administrated by the DOT Research and Special Programs Administration.

Conference substitute

The conference does not include a provision.

TITLE V—TRANSPORTATION RESEARCH

SUBTITLE C—INTELLIGENCE TRANSPORTATION SYSTEMS

Senate amendment

Section 2101 designates the name of Subtitle B of chapter 5 as the "Intelligent Transportation Systems Act of 1997" (ITS Act).

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision with a notification revising the date in the title. The substitute language designates the name of Subtitle B as the "Intelligent Transportation Systems Act of 1998."

Findings

Senate amendment

Sec. 2102 lists Congress' findings with respect to the ITS program.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision with modifications. The substitute consolidates the findings in the Senate bill into two findings retaining the reference to investments in intelligence transportation systems made under the Intermodal Surface Transportation Efficiency Act of 1991 (105 State. 1914 et seq.) and the principle that continued investment is needed in this areas to realize fully the benefits of intelligence transportation systems technology.

Goals and Purposes

Senate amendment

Section 521, 23 U.S.C., as proposed, sets forth the purposes of the ITS Act of 1997, which are—(1) to provide for accelerated deployment of proven technologies and concepts and increased Federal commitment to improving surface transportation safety, and (2) to expedite deployment and integration of basic ITS services for consumers of passenger and freight transportation across the nation.

House bill

Subsection 652(b) establishes the goals of the ITS program including enhanced efficiency of the transportation system; enhanced safety; enhancement of the environment; a program that includes all users; improved accessibility; the development of a technology base, improved ability to respond to national emergencies; and the promotion of data sharing.

Conference substitute

The Conference adopts a goals and purposes provision incorporating key concepts from both the House goals provision and Senate purposes provision. The substitute language identifies as goals of the ITS program the following objectives most of which were included in both bills: enhancement of surface transportation efficiency and facilitation of intermodalism and international trade; improvement of national transportation safety; protection and enhancement of the natural environment; accommodation of the needs of all surface transportation systems users; improved responsiveness to emergencies and natural disasters. The substitute language also identifies ITS program purposes representing objectives with a more short-term focus than the goals. The list of purposes, as follows: is drawn primarily from the purposes section in the Senate bill: to expedite deployment and integration of ITS; to ensure local transportation officials have adequate knowledge of ITS technologies for transportation planning and ITS operations and maintenance purposes; to improve regional cooperation; and to promote the use of private resources.

General Authorities and Requirements

Scope

Senate amendment

The Senate bill contains no comparable provision

House bill

Subsection 652(a) directs the Secretary to conduct a research, development, and deployment program for ITS.

Conference substitute

The Conference adopts the House provision.

Policy

Senate amendment

Subsection 530(b), 23 U.S.C., as proposed, prohibits the Secretary from funding any ITS operational test or deployment that competes with a similar privately funded project.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision with modifications. The substitute moves this provision from the Funding Limitations section in the Senate bill to the General Authorities and Requirements section in the substitute. The Senate provision is also revised to state that as a general policy federally-funded projects shall not displace public-private partnerships or private sector investment.

Cooperation with Governmental, Private, and Educational Entities

Senate amendment

Paragraph 523(b)(2), 23 U.S.C., as proposed, directs the Secretary in carrying out the intelligent transportation system program to maximize the involvement of the private section, college and universities, Federal laboratories, and State and local governments.

House bill

Paragraph 653(a)(1) directs the Secretary to carry out the intelligent transportation system program in cooperation with State and local governments, the private sector, colleges and universities, including historically black colleges an universities and other majority institutions of higher education.

Conference substitute

The Conference adopts the House provision with a modification. The Federal laboratories are added to the list of entities the Secretary is directed to consult with carrying out this program.

Consultation with Federal Officials

Senate amendment

Paragraph 523(b)(1), 23 U.S.C., as proposed, requires the Secretary to consult with heads of other interested Federal departments and agencies.

House bill

Paragraph 653(2) directs the Secretary to consult with the Secretary of Commerce, the Secretary of the Treasury, the Administrator of the Environmental Protection Agency, the Director of the National Science Foundation, and the heads of other Federal departments and agencies.

Conference substitute

The Conference adopts the House provision.

Technical Assistance, Training, and Information

Senate amendment

Subsection 524(a), U.S.C., as proposed, directs the Secretary to carry out a comprehensive program of intelligent transportation system research, development, operational testing, technical assistance and training, and other related activities.

House bill

Subsection 655(a) allows the Secretary to provide technical assistance, training, and information to State and local governments for intelligent transportation system projects.

Conference substitute

The Conference adopts the House provision.

Transportation Planning

Senate amendment

The Senate bill contains no comparable provision.

House bill

Subsection 655(b) allows the Secretary to use funds to better integrate intelligent transportation systems into State and metropolitan planning.

Conference substitute

Information Clearinghouse

Senate amendment

Subsection 524(d), 23 U.S.C., as proposed, requires the Secretary to maintain a repository for technical and safety data collected through federally funded intelligent transportation system projects. The Secretary may delegate this responsibility to an entity outside of the Department of Transportation.

House bill

Subsection 653(d) requires the Secretary to establish and maintain a repository for technical and safety data collected through federally funded intelligent transportation system projects. The Secretary may delegate this responsibility to an entity outside of the Department of Transportation.

Conference substitute

The Conference finds provisions in both the House and Senate bills to be substantively equivalent.

Advisory Committees

Senate amendment

Section 532, 23 U.S.C., as proposed, requires the Secretary to use one or more advisory committees, and specifies that any advisory committee so used shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

House bill

Subsection 653(e) allows the Secretary to use advisory committees when carrying out the intelligent transportation systems program. This subsection also specifies that the Federal Advisory Committee Act applies and that any advisory committees on intelligent transportation systems shall be funded through specific provisions in Appropriations Acts and from funds allocated for research, development, and implementation of the intelligent transportation systems program.

Conference substitute

The Conference adopts the House provision with a modification: the direction regarding funding for advisory committees is dropped.

Procurement Methods

Senate amendment

Subsection 523(c), 23 U.S.C., as proposed, directs the Secretary to develop technical assistance and guidance to assist State and local agencies in selecting appropriate methods of procurement for intelligent transportation system projects, including innovative and nontraditional methods.

House bill

Subsection 653(h) directs the Secretary to develop technical assistance and guidance to assist State and local agencies in selecting appropriate methods of procurement for intelligent transportation system projects, including innovative and nontraditional methods. This subsection also directs contracting officials to use a standard risk assessment methodology to reduce the cost, schedule, and performance risks associated with the development and use of intelligent transportation systems software.

Conference substitute

The Conference adopts the House provision with a modification: Information Technology Omnibus Procurement is listed as a type of innovative or nontraditional procurement method addressed by this subsection.

Evaluations

Senate amendment

Subsection 524(c), 23 U.S.C., as proposed, directs the Secretary to establish guidelines and requirements for the evaluation of intelligent transportation systems operational tests and deployment projects. These guidelines and requirements are to ensure objectivity and independent of the evaluator. This subsection also limits the percentage of test or project funds which may be spent on evaluations and specifies different percentages for projects and tests of different sizes. This subsection also specifies that the Paperwork Reduction Act, chapter 35 of title 44, U.S.C., shall not apply to any survey, questionnaire, or interview conducted in connection with the evaluation of any test or project carried out under this program.

House bill

Subsection 653(d) directs the Secretary to issue guidelines and requirements for the evaluation of intelligent transportation systems operational tests. These guidelines and requirements are to ensure objectivity and independence of the evaluator. Operational tests need to be designed for the collection of data and the preparation of reports to permit objective evaluation of the success of the tests and the derivation of cost-benefit information and life-cycle costs that will be useful to others contemplating the purchase of similar systems.

Conference substitute

The Conference adopts the Senate provision with modifications. The Secretary is directed to issue, rather than establish, the guidelines and requirements and the funding limitation provisions are replaced with a requirement that the guidelines and requirements issued under this subsection also establish appropriate evaluation funding levels. The exemption from the Paperwork Reduction Act is retained.

National ITS Program Plan

Senate amendment

Paragraph 524(b)(5), 23 U.S.C., as proposed, requires the Secretary to submit a 6-year plan to Congress within 1 year of enactment and annually thereafter. This plan is to specify program goals, objectives, and milestones and progress made in meeting them.

House bill

Section 654 requires the Secretary to maintain and update a National ITS Program Plan developed by the Department and the Intelligent Transportation Society of America. This section specifies the scope and required components of the plan including program goals, objectives, and milestones and how specific programs and projects relate to those goals over 5-, 10-, and 20-year time frames. The plan is also to provide for the development of standards to promote interoperability and establish a process for incorporating intelligent transportation systems technologies into more broad-based surface transportation systems. Reporting to Congress under this section may be consolidated with the integrated Surface Transportation Research and Development Strategic Plan.

Conference substitute

The Conference adopts the House provision with several modifications. The goals, objectives and milestones cadre to be established for both research and deployment of intelligent transportation systems and consideration of a 20-year time frame for these goals is not required. The plan is to identify activities relevant to the development of standards, including actions that will lead to the establishment of critical standards. The substitute requires that principal findings made in carrying out the plan be transmitted and updated as part of the Integrated Surface Transportation Research and Development Strategic Plan.

National Architecture and Standards

Senate amendment

Section 529, 23 U.S.C., as proposed, requires the Secretary to develop, implement, and maintain a national architecture to guide nationwide deployment of intelligent transportation systems and to set standards and protocols to promote the widespread use of these technologies and to ensure interoperability. The Secretary is authorized to use standards-setting organizations in carrying out this section. The section requires the Secretary to identify critical standards needed to ensure interoperability on a nationwide basis. If one of these critical standards is not adopted by January 1, 2001, the Secretary is required to establish a provisional standard, but a provisional standard would only remain in effect until the appropriate standards-setting organization adopted and published a standard concerning the same subject matter. In addition, the Secretary may waive this requirement as long as a report on the reasons for the waiver and impacts of a delay in setting a particular standard is submitted to Congress. For each standard subject to a waiver, the Secretary is required to submit a progress report to Congress every six months. This section also prohibits the use of funds made available from the Highway Trust Fund on intelligent transportation system technology if the technology does not comply with each relevant provisional and completed standard, but exception is made for intelligent transportation systems deployments already in place. Finally, this section directs the Secretary of Commerce and the Federal Communications Commission to allocate spectrum for the near-term establishment of a dedicated short-range vehicle-to-wayside wireless standard and any other spectrum critically needed for the intelligent transportation systems program.

House bill

Subsection 653(b) requires the Secretary to develop, implement, and maintain a national architecture to guide nationwide deployment of intelligent transportation systems and to set standards and protocols to promote the widespread use of these technologies and to ensure interoperability. The Secretary is authorized to use standards-setting organizations in carrying out this subsection. This subsection directs the Secretary of Transportation, in consultation with the Secretary of Commerce, the Secretary of Defense, and the Federal Communications Commission, to take all necessary steps to secure spectrum for the near-term establishment of a dedicated short-range vehicle to wayside wireless standard.

Conference substitute

The Conference adopts the Senate provision with modifications. In establishing the national architecture along with the standards and protocols, the Secretary is to comply with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 11 Stat. 783). This provision requires all Federal agencies and departments to use technical standards that are developed or adopted by voluntary consensus standards bodies, unless to do so would be inconsistent with applicable law or otherwise impractical. It is clarified that the report identifying critical standards and their stage of development is to be submitted to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives. The Secretary is authorized to establish provisional standards if such action is necessary to ensure progress in achieving the purposes identified in this section for establishing a national architecture and standards and the Secretary is required to adopt a provisional standard if a standard identified as critical is not set by January 1, 2001. But, the Secretary may waive this requirement upon finding that additional time would be productively used or establishment of a provisional standard would be counterproductive. Provisional standards are to be published and will remain in effect until applicable standards to replace them are set by the appropriate standards development organization. Waivers of the provisional standard requirement and withdrawals of such waivers are also to be published. The requirement that intelligent transportation systems projects funded from the Highway Trust Fund must conform to the national architecture and applicable standards is retained. The exceptions for operations and maintenance of intelligent transportation systems projects already in existence is retained as is the exception, at the discretion of the Secretary, for the upgrade or expansion of such projects. Another exception for projects designed to achieve specific research objectives, at the discretion of the Secretary, is added. The Federal Communications Commission is directed to consider, in consultation with the Secretary of Transportation, the spectrum needs of intelligent transportation systems and is required to complete a rulemaking considering the allocation of spectrum for intelligent transportation systems by January 1, 2000.

Research and Development

Senate amendment

Section 524, 23 U.S.C., as proposed, requires the Secretary to undertake comprehensive research, development, testing, and technical assistance to carry out the purposes of the intelligent transportation systems programs. This research and development is to advance development of an integrated intelligent vehicle program and an integrated intelligent infrastructure program to advance roadway safety and efficiency systems, mobility and the quality of the environment. This section requires activities to be consistent with the national architecture and priorities include crash avoidance and the integration of air bag technology with other on-board safety systems. The federal share for these projects is 80 percent, but the Secretary apply a federal share of 100 percent to high-risk projects. Subsection (f) includes limitations on the amounts of funding that may be used for research activities that improve crash avoidance and the integration of airbags and other on-board safety systems, advance development of an automated highway system, and activities that improve traffic management.

House bill

Subsection 655(c) authorizes the Secretary to fund research and operational tests regarding intelligent transportation systems technology. Subsection 655(d) allows the Secretary to use funds to conduct research and demonstrations of integrated vehicle and roadway safety systems, including infrastructure-based, in-vehicle, and integrated collision avoidance systems. The section includes research on advanced traffic management technologies, including the use of fiber optic cables and video, to monitor and control traffic flow and volume; research on magnetics and advanced materials; fundamental research on the science of the driving process and other human factors to complement the applied research efforts of the industry in this area; and research on the impact of cold weather climates on ITS in areas such as traction enhancement while on ice and snow, braking, and visibility enhancement both of intersections and sign.

Conference substitute

The Conference adopts a blend incorporating aspects of both the House and Senate provisions. This section requires the Secretary to carry out a comprehensive program of intelligent transportation systems research, development, and operation tests and demonstrations of intelligent vehicles and infrastructure systems. The list of priorities includes traffic management, incident management, crash-avoidance and integration of in-vehicle crash protection technologies, human factors research, integration of intelligent vehicles and infrastructure, and research on the impact of the environment on intelligent transportation systems. Operational tests are to be designed for the collection of data allowing for objective evaluation of the test results. The Federal share of operational tests and demonstrations is not to exceed 80 percent.

Intelligent Transportation System Integration Program

Senate amendment

Section 525, 23 U.S.C., as proposed, directs the Secretary to conduct a comprehensive program to accelerate the integration and interoperability of intelligent transportation systems in metropolitan areas by funding deployment projects that illustrate the benefits of intelligent transportation systems technologies. This section includes a list of priorities the Secretary is to consider in selecting projects. The Secretary is required to encourage private sector involvement through public-private partnerships and other innovative financial arrangements. In addition, funding recipients are required to submit multi-year financing and operations plans describing how the project can be cost-effectively operated and maintained.

Section 526, 23 U.S.C., directs the Secretary to conduct a comprehensive program to accelerate the integration and inteoperability of intelligent transportation systems in rural areas by funding deployment projects that illustrate the benefits of intelligent transportation systems technologies. This section includes a list of priorities the Secretary is to consider in selecting projects. The Secretary is required to encourage private sector involvement through public-private partnerships and other innovative financial arrangements. In addition, funding recipients are required to submit multi-year financing and operations plans describing how the project can be cost-effectively operated and maintained.

House bill

Section 656 establishes the intelligent transportation system deployment program and describes its purposes, with the primary purpose being to integrate existing intelligent transportation systems components to ensure they work as systems. This section also sets goals for the deployment program including acceleration of standard-setting processes, and lists the specific requirements a project must meet to be eligible for funding. This section also requires that at least 25 percent of funds made available to carry out this section be used for commercial vehicle intelligent transportation systems projects and that not less than 10 percent be used for projects outside of metropolitan areas. In addition, this section sets limits on how much funding can be spent on certain types of projects.

Conference substitute

The Conference adopts the Senate provision with modifications. The substitute consolidates sections 525 and 526, 23 U.S.C., as proposed, from the Senate bill and directs the Secretary to conduct a comprehensive program to accelerate the integration and interoperability of intelligent transportation systems in metropolitan and rural areas by funding deployment projects that illustrate the benefits of intelligent transportation systems technologies. The substitute also includes a list of priorities, based on both the House and Senate bills, that the Secretary is to consider in selecting projects, including any contribution to national program plan goals, demonstration of a cooperation among different agencies, jurisdictions, and the private sector, encouragement of private sector involvement, inclusion in approved state or metropolitan plans, and assurance of continued, long-term operations and maintenance without continued reliance on Federal funding. The substitute requires that funds for projects in metropolitan areas be used primarily for integration purposes, whereas in rural areas, funds may be used for installation of intelligent transportation systems infrastructure. In addition, the substitute includes the House provision requiring that not less than 10 percent be used for projects in rural areas. The Federal share of projects payable from funds made available under this section is set at 50 percent, but the total Federal share payable from all eligible sources (including this section) may not exceed 80 percent.

Commercial Vehicle Intelligent Transportation System Infrastructure Deployment

Senate amendment

Section 527, 23 U.S.C., as proposed, establishes a program to deploy intelligent transportation systems that improve the safety and productivity of commercial motor vehicles and drivers and that reduce administrative costs associated with commercial vehicle operations. This section focuses on improving the safety of commercial vehicles operations by funding activities that, for example, assist in the identification of unsafe carriers, vehicles, and drivers and that advance on-board driver and vehicle-safety monitoring systems. Other priorities include improving the electronic processing of registration, licensing, inspection, tax and crash data, the exchange of this information among the States, and the effectiveness and efficiency of enforcement efforts.

House bill

Section 656 establishes the intelligent transportation system deployment program and describes its purposes, with the primary purpose being to integrate existing intelligent transportation systems components to ensure they work as systems. This section also sets goals for the deployment program including acceleration of standard-setting processes, and lists the specific requirements a project must meet to be eligible for funding. This section also requires that at least 25 percent of funds made available to carry out this section be used for commercial vehicle intelligent transportation systems projects and that not less than 10 percent be used for projects outside of metropolitan areas. In addition, this section sets limits on how much funding can be spent on certain types of projects.

Conference substitute

The Conference adopts the Senate provision with modifications. The substitute establishes a deployment program to promote intelligent transportation systems that improve the safety and productivity of commercial vehicles and drivers and that reduce administrative costs. The program's purpose is to advance the technological capability and deployment of intelligent transportation systems applications to commercial vehicle operations, including commercial vehicle information systems and networks (CVISN). This section also includes a list of priorities the Secretary is to consider in selecting projects, including the extent to which a project encourages multistate cooperation, improves safety, increases regulatory efficiency, advances electronic processing of data, and promotes the exchange of information among States. In addition, the substitute directs that Federal funds should be used for activities that are not being carried out with private funds. The Federal share of projects payable from funds made available under this section is set at 50 percent, but the total Federal share payable from all eligible sources (including this section) may not exceed 80 percent.

Authorizations and Limitations

Outreach and Public Relations

Senate amendment

Subsection 530(d), 23 U.S.C., as proposed, limits the amount of funding available for outreach, public relations, training, mainstreaming, shareholder relations, or related activities.

House bill

The House bill contains no comparable provision.

Conference substitute

The conference report adopts the Senate provision with modifications. The limitation on funds is reduced to $5,000,000 per year, and this limitation applies specifically only to outreach, public relations, displays, scholarships, tours, and brochures and the substitute provision specifies that this limitation does not apply to intelligent transportation systems training, the publication or distribution of research finding, technical guidance, or similar documents.

Infrastructure Development

Senate amendment

Subsection 530(c), 23 U.S.C., as proposed, prohibits the use of intelligent transportation system funds for the construction of highway or transit infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the Senate provision.

Life Cycle Cost Analysis and Financing and Operations Plan

Senate amendment

Subsections 525(d) and 526(d), 23 U.S.C., as proposed, recipients funding for projects under the intelligent transportation systems integration program and the integration program for rural areas are required to submit multi-year financing and operations plans describing how each project can be cost-effectively operated and maintained.

House bill

Subsection 653(g) requires life-cycle cost analyses of intelligent transportation systems projects costing over $3 million.

Conference substitute

The Conference adopts a provision combining the House and Senate provisions. The substitute requires applicants for funds under the intelligent transportation systems integration program and the commercial vehicle intelligent transportation system infrastructure deployment programs to submit life-cycle cost analyses of intelligent transportation systems projects costing over $3 million and, for every project, multiyear financing and operations plans describing how the project will be cost-effectively operated and maintained.

Definitions

Senate amendment

Section 522, 23 U.S.C., as proposed, defines the following terms for purposes of this subchapter: commercial vehicle information systems and networks, commercial vehicle operations, completed standard, corridor, intelligent transportation system, national architecture, provisional standard, and standard.

House bill

Section 651 defines the following terms for purposes of this subtitle: intelligent transportation systems (ITS), intelligent transportation infrastructure, Secretary, and State.

Conference substitute

The Conference adopts both the Senate and House provisions with following modifications. Definitions for the terms "completed standard" and "provisional standards" in the Senate bill are not adopted and the definition for the term "Secretary" in the House bill is not adopted. The definition for the term "intelligent transportation system" is substantively equivalent in both bills and is adopted.

Repeal

Senate amendment

Section 2104 repeals the intelligent transportation systems programs that were established under the Intermodal Surface Transportation Efficiency Act (ISTEA) as they are superseded by the new programs in this [subtitle/subchapter]

House bill

Subsection 658 repeals the intelligent transportation systems programs that were established under the Intermodal Surface Transportation Efficiency Act (ISTEA) as they are superseded by the new programs in this [subtitle/subchapter].

Conference substitute

The Conference finds the provisions in both the House and Senate to be substantively equivalent.

PROJECT FUNDING

House bill

Sec. 632(b)(5) requires the Secretary to carry out a transportation technology innovation and demonstration program concerning the use of hazardous materials monitoring systems. The Secretary is required to conduct research on applying methods of deploying and integrating ITS or hazardous materials monitoring systems across various modes of transportation. The provision makes available for each of the fiscal years 1998 through 2003 $1.5 million per fiscal year.

Senate amendment

No comparable provision.

Conference substitute

The Conference adopts the House provision.

In conducting the research provided for in Section 5212(a), the Secretary should award funds to develop and deploy a fully integrated and unique Hazardous Materials Incident Management System designed to facilitate emergency response to hazardous materials incidents and safer, more efficient movement of hazardous materials across various modes of transportation.

Specifically, the funds authorized in this section are intended for further development and use of the Cargo Mate cargo identification and monitoring system, which provides for interoperability with existing fleet communications and management systems, realtime vehicle container, pallet cargo identification, location and monitoring. The integrated and consolidated Hazardous Materials Incident Management System should then be incorporated into current and future Traffic Management Centers to support safe movement of hazardous materials throughout the intermodal process.

In developing this system, consideration should be given to additional technologies, including advanced information processing technologies, which support emergency response, law enforcement, and regulatory resources.

House bill

TITLE VI—OZONE AND PARTICULATE MATTER STANDARDS

No provisions comparable.

Sec. 4101 to 4104 of the Senate Amendment

The Conferees note that in March 1998, the National Research Council's Committee on Research Priorities for Airborne Particulate Matter issued the first in a series of reports on research priorities relevant to settling particulate matter standards. This report addresses a number of issues, including whether the monitoring network necessary to implement the new National Ambient Air Quality Standard fine particulate (PM2.5) is designed to

(1) support relevant health effects, exposure, and atmospheric-modeling research efforts;

(2) use the appropriate number of continuous (hourly) monitors to determine the time of day and exposure of people who are commuting, working, or exercising outdoors; and

(3) use sufficient chemical characterization of particulate matter to enable testing of more specific indicators than PM2.5 mass alone.

The Conferees urge the Administrator to consider the recommendations contained in the Committee's March 1998 report. The Conferees further urge the Administrator to ensure, as appropriate, that the plans for the national monitoring network necessary to implement the National Ambient Air Quality Standard for PM2.5 is peer-reviewed by the Clean Air Scientific Advisory Committee at an early date while the opportunity still exists for such review to influence the monitoring network design and operations.

The Conferees are aware that certain nonattainment areas in Western Pennsylvania have experienced difficulty in meeting the one-hour, 0.12 part per million standard for ozone because of pollution which did not originate in the nonattainment area. The Conferees urge EPA to continue its efforts to avoid "bumping up" nonattainment areas in Pennsylvania to a higher nonattainment status or ozone.

The Conferees recognize that the Regional Haze regulation has not been finalized and the Administrator of the Environmental Protection Agency (EPA) is still considering the views of various stakeholders. The Conferees agree with EPA's public statements that the schedule for the State Implementation Plan due pursuant to section 169B(e)(2) of the Clean Airport Act should be harmonized with the Schedule for State Implementation Plan submissions required for PM2.5. ambient air quality standard promulgated in July, 1997.

Conference substitute

Adopts the Senate provision.

TITLE VII—MISCELLANEOUS

Subtitle A—Automobile Safety and Information

Automatic Crash Protection Unbelted Testing Standard

House bill

The House bill contains no similar provision.

Senate amendment

Section 1407 of the Senate amendment ensures that the current testing standard for air bags is designed to ensure the optimal protection and safety for all occupants, including infants, children, and other occupants.

Conference report

The conference report does not include the provision.

Improving Air Bag Safety

House bill

The House bill contains no similar provision.

Senate amendment

Section 3106 of the Senate bill directs the Secretary of Transportation to undertake rulemaking to improve the protection afforded vehicle occupants by Motor Vehicle Safety Standard No. 208. The purpose of the rulemaking would be to improve the efficiency and protection accorded by occupant protection devices while attempting to minimize any potential risk associated with air bags to infants, children, and other occupants. During the development of a rule to improve the safety of air bags, the barrier test using unbelted 50th percentile adult male dummies would be suspended. The Secretary would be required to begin the rulemaking by June 1, 1998, and to issue a final rule by June 1, 1999, with a one-year extension permitted upon the Secretary's advising Congress of the need for an extension. The rule would require such tests as the Secretary determines to be reasonable, practicable, and appropriate, including tests using dummies of different sizes.

The requirements of the new standard would become effective in phases, beginning between September 1, 2001 and September 1, 2002, and concluding not later than September 1, 2005, with discretion given the Secretary for a one-year extension. Any extension would require a joint resolution of Congress. The Secretary would be required to report to Congress within six months of enactment on the development of technology to improve the protection given by air bags and to reduce the risks from air bags, including information on the performance characteristics of advanced air bags, their estimated cost, their estimated benefits, and the time within which they could be installed in production vehicles.

Conference report

The conferees agree to include a new subtitle addressing automobile safety and information issues. In addition to addressing the Senate bill's provisions regarding air bags, the subtitle also includes many of the provisions contained in H.R. 2691, the National Highway Traffic Safety Administration Reauthorization Act of 1998, which passed the House on April 21, 1998, by voice vote.

Section 7101 establishes the short title for the subtitle, the "National Highway Traffic Safety Administration Reauthorization Act of 1998."

Section 7102 authorizes funds for those NHTSA's automobile safety and information programs. For Fiscal Years 1999 through 2001, the legislation authorizes $81.2 million each year for motor vehicle safety activities, and $6.2 million for motor vehicle information activities. These amounts are equivalent to the Administration's budget request.

Section 7103 contains provisions intended to improve air bag safety. Subsection (a) directs the Secretary to issue a notice of proposed rulemaking by September 1, 1998 to improve occupant protection for occupants of different sizes, belted and unbelted, under Federal Motor Vehicle Safety Standard (FMVSS) No. 208 while minimizing the risk to infants, children, and other occupants from any risks associated with air bags, by means that include advanced air bags. The Secretary is required to issue a final rule no later than September 1, 1999, unless the Secretary determines that the final rule cannot be completed by that date, in which case the Secretary must promulgate the final rule no later than March 1, 2000. The final rule must be consistent with both the requirements of this section and 49 U.S.C. §30111, which specifies the requirements for motor vehicle safety standards. The Conferees note that air bags do not substitute for lap and shoulder belts and all occupants should always wear lap and shoulder belts regardless of whether there is an inflatable restraint in the vehicle.

The Secretary is directed to make the final rule effective in phases as rapidly as practicable beginning not earlier than September

1, 2002 or at least 30 months after the date on which the Secretary promulgates the final rule, but in any case, not later than September 1, 2003. The rule is to be fully effective for all passenger motor vehicles, multipurpose passenger vehicles, and other vehicles identified in 49 U.S.C. §30127(b) manufactured on or after September 1, 2005. If the Secretary issues the final rule on September 1, 2003, the date for full compliance may be extended to September 1, 2006. The availability of the current sled test certification option available under FMVSS 208 (S13) remains in effect unless and until phased out according to the schedule in the final rule. The Secretary is also directed to include in the notice of proposed rulemaking means by which manufacturers may earn credits for early compliance with the final standard issued by the Secretary.

Subsection (b) provides that any government advisory committee, task force, or other entity include representatives of consumer and safety organizations, insurers, manufacturers, and suppliers.

Section 7104 prohibits the use of funds appropriated to NHTSA for the purpose of urging a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislature. Subsection (b) clarifies that officers or employees of the United States are not prohibited from testifying before any state or local legislature in response to the invitation of a member of such body or a State executive office. The provision is not intended to prohibit the Agency from informing State or local legislators about the prudence of a particular policy choice, but rather is intended to limit the Agency's ability to lobby a particular piece of legislation before a State or local legislature. Thus, under this provision, NHTSA could continue to testify before any State or local legislative body and inform State and local officials about the merits of a particular course of action. A NHTSA official could even appear before a committee of a State legislature to testify that NHTSA believes that enactment of primary enforcement seat belt laws results in fewer highway fatalities. NHTSA could, in fact, testify that it favors general efforts to enact primary enforcement seat belt laws and opposes general efforts to repeal such laws. However, a NHTSA official could not, through the use of government resources, ask an individual State or local legislator, or any group of State or local legislators, to vote or act on a particular pending measure.

Subsection 7105(a) is intended to eliminate the need for two odometer disclosures in certain transactions involving rental car companies, dealers, and automobile manufacturers by exempting the transfer of new motor vehicles from a manufacturer jointly to a dealer and a rental car company. Subsection (b) responds to several recent Federal District Court decisions holding the NHTSA does not have authority to exempt vehicles from the odometer disclosure requirements, even when the purchasers of such vehicles rely on service records rather than odometers to indicate wear and tear, such as in the care of heavy trucks. This subsection specifically grants NHTSA such authority.

Section 7106 makes several miscellaneous changes to title 49, United States Code, with respect to NHTSA's authorizing statutes. These changes in subsections (a) through (c) were requested by the Administration. Subsection (a) closes a loophole which allows auto parts stores and retailers to continue to sell defective equipment even though motor vehicle dealers would be prohibited from selling the same item. This provision includes retailers of motor vehicle equipment in the prohibition on selling defective items of equipment.

Subsection (b) amends 49 U.S.C. 30123 ("Tires"), to repeal subsections (a) ("Labeling Requirement"), (b) ("Contents of Label"), and (c) ("Additional Information"). Under section 30123(a), the Secretary must require manufacturers of pneumatic tires to "permanently and conspicuously" label their tires with specified information under section 30123(b) about the construction of the tires and the identity of the manufacturer. Section 30123(c) gives the Secretary discretionary authority to require that additional safety information be disclosed to a purchaser when a tire is sold.

Subsection (c) amends 49 U.S.C. 30127(g) to increase the reporting interval on the effectiveness of occupant restraint systems from every six months to annually. The Administration expressed concern that the six-month interval was too short a time frame in which to provide meaningful data to Congress.

Subsection (d) amends the American Automobile Labeling Act (49 U.S.C. §30204) to make certain changes in the labeling requirement and the domestic content calculations. Subparagraph (1)(A) provides that the labor value of engine and transmission production is also included in the engine and transmission origin determination and subparagraph (1)(B) codifies certain regulations which permit labor costs of parts manufactured at the same location as final vehicle assembly to be included in the vehicle's overall content calculation, provided it does not occur during vehicle assembly. Subparagraph (1)(C) institutes a tiered system for accounting for the domestic content of parts manufactured by outside suppliers. Under this subparagraph, supplies would report content to the nearest five percent. For instance, 38 percent would be reported to the manufacturer as 40 percent, rather than zero as under current law.

Paragraph (2) permits vehicle manufacturers to voluntarily add a line to the label stating the country in which vehicle final assembly took place. Paragraph (3) permits manufacturers, on a voluntary basis, to separately display the domestic content of a particular vehicle, based on its assembly plant. This information must be reported in addition to the carline average percentage. Paragraph (4) codifies existing regulations permitting manufacturers to estimate, based upon best available information, the content of no more than 10 percent of the vehicle's parts, when suppliers fail to report such information. Paragraph (5) permits manufacturers to default the value of certain small parts, such as nuts, bolts, clips, screws, and pins, to the country of manufacture.

Subsection (e) directs NHTSA to conduct a study of the benefits to motor vehicle drivers of a regulation to require the installation of a device in the trunk compartment to release the trunk lid.

Section 7107 reinstates NHTSA's authority to exempt certain motor vehicles imported for the purpose of show or display from certain applicable motor vehicle safety standards. Such authority was unintentionally deleted when title 49, United States Code was recodified in 1988.

SUBTITLE B

SEC. 7201. HIGH SPEED RAIL

House bill

Subsection (a) of Section 901 authorizes $10 million in each of fiscal years 1998 through 2001 for high speed rail corridor planning activities and $25 million in each of fiscal years 1998 through 2001 for high speed rail research and development under the Swift Rail Development Act of 1994. Subsection (b) defines high speed rail to include maglev systems.

Senate amendment

No comparable provision

Conference substitute

Adopts the House provision. The conferees also reaffirm the intention of the Swift Rail Development Act, that planning for improvements to rail infrastructure that would provide incremental speed increases toward achieving speeds of 125 mph or more are fully eligible for federal assistance under the conditions specified in the Act. Efforts to plan for near-term improvements that would achieve substantial speed increases, although not necessarily to a true high speed level of 125 mph, fall in this category.

SEC. 7202. LIGHT DENSITY RAIL LINE PILOT PROJECTS

House bill

Section 902 authorizes $25 million for each of fiscal years 1998 through 2003 for grants to states to fund pilot projects for making capital improvements to publicly and privately owned rail line structures on light-density rail lines. The purpose of the pilot projects is to demonstrate the relationship of light density railroad service to the statutory responsibilities of the Secretary of Transportation, including those under Title 23.

Senate amendment

Sec. 3701 is identical to the House provision, except funding is authorized at $10 million for each of fiscal years 1998 through 2003, instead of $25 million.

Conference substitute

Retains the authorization structure of both the House and Senate provisions, but provides for funding at a level of $17.5 million per fiscal year.

SEC. 7203. RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

House bill

Section 906(a) modifies the existing railroad infrastructure loan program contained in Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) to bring the program in line with the Credit Reform Act of 1990. Projects eligible for loan assistance under the program would include acquisition, improvement or rehabilitation of intermodal or rail equipment and facilities, refinancing of debt incurred for the aforementioned purposes, and development or establishment of new intermodal or railroad facilities. Operating expenses would not be eligible for loan assistance. Subsection (a) also limits the aggregate unpaid principal amounts of obligations under direct loans and loan guarantees to $5 billion at any one time. One billion dollars of this five billion is to be reserved solely for projects primarily benefiting freight railroads other than Class I carriers. In addition, subsection (a) allows the Secretary of Transportation to accept credit risk premiums from non-Federal sources to support loans and loan guarantees made under this section.

Subsection (b) makes technical and conforming changes and includes a savings provision requiring that transactions entered into under Title V of the Regulatory Reform Act of 1976 before the date of enactment of BESTEA shall be administered until completion under its terms prior to the amendments made by BESTEA.

Senate amendment

No comparable provision.

Conference substitute

Adopts the structure of the House provision, but with revisions to the statement of priorities in section 7202(c), technical changes to conform to the 1997 amendments to the Credit Reform Act, and with the total authorization for face amounts of loans in subsection (d) limited to no more than $3.5 billion.

SEC. 7204. ALASKA RAILROAD

House bill

Section 904(a) provides that the Secretary may make grants to the Alaska Railroad for capital rehabilitation and improvement to its passenger service.

Subsection (b) authorizes $5,250,000 to be appropriated for such purposes for each of fiscal years 1998 through 2003.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

MIAMI-ORLANDO-TAMPA CORRIDOR PROJECT

House bill

Section 903 authorizes a general fund grant of $200 million to be made available to the Florida Department of Transportation to reimburse the Florida Overland Express (FOX) project in the Miami-Orlando-Tampa corridor for capital costs of that project.

The state of Florida is planning a high-speed rail system in the Miami-Orlando-Tampa corridor that calls for a 320-mile system that would operate on dedicated tracks with no rail/highway crossings. Operating speeds would be over 185 miles per hour.

Senate amendment

No comparable provision.

Conference substitute

No provision.

RAILWAY HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL

House bill

Section 905 authorizes $5,250,000 for each of fiscal years 1998 through 2003 to carry out section 104(d)(2) of title 23.

Senate amendment

Sec. 1402 authorizes $15,000,000 for each of fiscal years 1998 through 2003 for hazard elimination in high-speed rail corridors.

Conference substitute

No provision. Funding for grade crossing assistance is addressed in the non-rail titles of the legislation.

House bill

No provision.

Senate amendment

Section 3506 amends section 20901(a) of Title 49 to require railroads to file periodic reports with the Secretary on all accidents and incidents resulting in injury or death of an individual, or damage to equipment. Eliminates current requirement that reports be notarized and allows the Administrator to require reports less frequently than monthly.

Conference substitute

No provision. The conferees contemplate addressing these issues in the pending reauthorization of the rail safety programs of the Federal Railroad Administration.

House bill

No provision.

Senate amendment

Included at the Administration's request, sections 3501 through 3504 impose penalties for willful sabotage of or interference with railroad equipment, infrastructure or personnel. Also imposes penalties on anyone who knowingly possesses or causes to be present any firearm or other dangerous weapon on board a passenger train.

Conference substitute

No provision.

Subtitle C—Comprehensive One-call Notification

House bill

No provision.

Senate amendment

Section 3301 contains several findings that unintentional damage to underground facilities during excavation is a significant cause of disruptions; that excavation performed without prior notification or with inaccurate marking causes damage that can result in fatalities; and, that protection of the public and the environment from the consequences of underground facility damage will be enhanced by a coordinated national effort to improve one-call notification programs.

Section 3302 establishes a new chapter, which would be chapter 61, in Subtitle III of title 49, United States Code. The purposes of chapter 61, as set forth in 6101, are to enhance public safety; protect the environment; minimize risks to excavators; and prevent disruption of vital public services by improving one-call notification programs.

The new section 6102 defines a one-call notification system as a system operated by an organization that has as one of its purposes the receipt of notification from excavators of their intent to excavate in a specified area and the notification of underground facility operators so that they can locate and mark their lines in the area scheduled for excavation. The definition includes statutes, regulations, orders, and other elements of law and policy in effect that establish one-call notification system operation requirements within a State.

The new section 6103 also outlines minimum components that one-call notification programs should cover, including the appropriate participation by all underground facility operators, all excavators, and flexible and effective enforcement mechanisms governing participation in, and use of, one-call notification systems. In making a determination on the appropriate extent of participation required by underground facilities or excavators, the section requires a State to assess, and take into consideration, the risks to public safety, excavators, the environment, and vital services posed by underground facility damage and the actions of excavators.

The new section 6103 would further provide that a state could allow voluntary participation in one-call notification systems when it determines that certain types of underground facilities or excavation activities pose a de minimis risk to public safety or the environment. The section requires one-call notification programs to include administrative or civil penalties commensurate with the seriousness of a violation, increased penalties for parties that repeatedly damage underground facilities because they neglect to use one-call notification systems or fail to provide timely and accurate marking of underground facilities. The section allows states to reduce or waive penalties when underground facility damage is promptly reported.

The new section 6104 establishes a two-year program whereby states could apply for grants upon a showing that the state's one-call notification program meets the minimum standards outlined in the bill. The section further provides that a state providing for greater protection than the minimum standards criteria established in the legislation would also be eligible to receive grants. The new section 6104 would also require the Secretary to include, three years after the enactment of this legislation, additional information on one-call notification programs in the biennial report on gas and hazardous liquids.

The new section 6105 requires the Secretary of Transportation to initiate a study of the best practices employed by one-call notification systems in operation in the States. If a study is undertaken, the Secretary is required to report on the best practices identified and encourage their adoption in the States. The Secretary is authorized to suspend with the report if the Secretary determines that the information is already readily accessible.

The new section 6106 would authorize the Secretary to make grants to improve one-call notification systems, and should take into account the commitment of each state in improving its program, in awarding grants. The provision also authorizes a state to convey its funds directly to any one-call notification system that adopts the best practices established under 6105. The new section neither opens nor closes the door to having one or more one-call system. Most states have a single one-call system, but several have more than one, this determination will remain a state's choice.

The new section 6107 would authorize up to $1,000,000 and $5,000,000 in fiscal years 2000 and 2001 out of general revenue funds.

Section 3302 also made conforming changes to the table of chapters for subtitle III, and certain conforming changes to the existing one-call notification systems language of 49 United States Code 60114.

Conference substitute

The Conference adopts the Senate provisions with modifications. The Conference stresses that untimely marking of underground facilities, as well as the findings contained in the Senate provision, also cause underground facility damage.

The Conference also clarifies that compliance with the minimum standards outlined in sections 6103 and 6104 would only be required when applying for a grant under the new section 6106. The Conference also modifies the Senate language to require the Secretary to encourage states to adopt the most successful practices of one-call notification systems as determined the most appropriate by each state. The Conference also modifies language in the newly added section 6108 to clarify that nothing in the new chapter 61 preempts any existing state law, or would require a state to modify or revise existing one-call notification systems. The Conference also retains 49 U.S.C. 60114.

Subtitle D—Sportfishing and Boating Safety

House bill

Title VIII of H.R. 2400, contains amendments related to the Coast Guard's Recreational Boating Safety Program. Section 801 of H.R. 2400 provides that title VIII of H.R. 2400 may be cited as the "Recreational Boating Safety Improvement Act of 1998."

Section 802 of H.R. 2400 contains amendments to chapter 131 of title 46, United States Code, regarding the recreational boating safety state grant program administered by the Coast Guard. Section 802(a) of this title amends section 13106(a) of title 46, United States Code, to allow the Secretary of Transportation to expend each fiscal year the total amount transferred to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)) for State recreational boating safety programs. Under amendments contained in section 1104(a)(2) of H.R. 2400, the amount transferred to the Boat Safety Account is equivalent to one-half of the total amount received as motorboat fuel taxes during the preceding fiscal year. Section 802(a) of this bill also amends section 13106(c) of title 46 to establish two additional boating safety purposes for which funds are made available to the Secretary from amounts transferred to the Boat Safety Account. These additional purposes are: (1) up to two percent is available to the Secretary for compliance with chapter 43 of title 46, relating to safety standards for recreational vessels and associated equipment; and (2) up to three percent is available to the Secretary to establish, operate, and maintain aids to navigation that promote recreational boating safety.

Section 802(b) amends section 13103(c) of title 46 to require the Secretary of Transportation to conduct and report to Congress the findings of a comprehensive survey of recreational boating in the United States, by not later than December 1 of 1999, and of every fifth year thereafter. To conduct this survey, the Secretary may not use over 50 percent of the amounts allocated for national boating safety activities of national nonprofit public service organizations under this subsection for the fiscal year in which the survey is conducted.

Subsection (c) of section 802 of this title amends section 13106 of title 46 by adding a requirement for the Secretary of Transportation to make available in each fiscal year five percent of the amount appropriated for State boating safety programs that is in excess of $35 million for public access facilities for transient nontrailerable recreational vessels.

Section 802(d) of this title establishes an effective date for this section of October 1, 1998.

Senate amendment

Subtitle F of S. 1173 contains amendments to the Sport Fish Restoration Program administered by the Secretary of Interior (Secretary) through the Fish and Wildlife Service, and the Recreational Boating Safety Program administered by the Secretary of Transportation through the Coast Guard.

Section 3601 states that amendments in the Act that are expressed in terms of an amendment to or a repeal of provisions of the "1950 Act" shall be considered to be made to provisions of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," approved on August 9, 1950 (16 U.S.C. 777 et seq.).

Section 3602 establishes a new boating and fishing outreach and communications initiative. Subsection (a) of this section amends section 2 of the 1950 Act (16 U.S.C. 777a) to make technical changes and to establish definitions for the terms "outreach and communications program" and "aquatic resource education program". Subsection (b) amends section 4 of the 1950 Act (16 U.S.C. 777c) to provide funding for a National Outreach and Communications Program beginning in fiscal year (FY) 1999 through FY 2003. Funding for this program is allocated from the Sport Fish Restoration Account of the Aquatic Resources Trust Fund. In FY 1999 the program receives $5 million, with the amount increasing to $10 million in FY 2003. Subsection (b) also authorizes the Secretary to use for this program up to $2.5 million annually from the funds available for administration. In addition, this subsection prohibits the Secretary from using funds available for administration to replace funding traditionally provided through general appropriations. Furthermore, the Secretary is required to publish annually in the Federal Register a detailed accounting of the projects and programs that receive administrative funds.

Section 3602(c) amends section 8 of the 1950 Act (16 U.S.C. 777g) to change the percentage of State funding required to be used to enhance boating access from 12.5 percent to 15 percent and to change the percentage of State funding allowed to be used for aquatic resource education and outreach and communications from 10 percent to 15 percent. This subsection also adds new provisions to section 8 that: (1) require the Secretary, in cooperation with the Sport Fishing and Boating Partnership Council, to develop and implement a national plan for outreach and communications within one year of enactment of the bill; (2) require that the plan provide for the establishment of a national outreach and communications program; (3) authorize the Secretary to provide funding to make grants to the States or private entities for the cost of carrying out outreach or communications programs under the plan; and (4) require the States to develop plans for outreach and communications programs within one year of the completion of the national plan.

Section 3603 makes changes to the Clean Vessel Act of 1992 (P.L. 102-587, title V, subtitle F). Specifically, this section amends section 4(b) of the 1950 Act (16 U.S.C. 777c(b)) to provide annually in FY 1999 through FY 2003 funding totaling $84 million, reduced by 82 percent of the amount appropriated for boat safety from the Boat Safety Account. These funds are allocated as follows: (1) $10 million for vessel pumpout facilities under section 5604 of the Clean Vessel Act (33 U.S.C. 1322 note); (2) $10 million for a new boating infrastructure program established under section 3604 of this subtitle; and (3) the remainder for State recreational boating safety programs under section 13106 of title 46, U.S. Code. This section ensures that States receive between $59 million and $72 million annually for State boating safety programs.

Section 3604 establishes a program to improve boating infrastructure. Subsection (a) states that the purpose of this section is to provide funds to the States for the development and maintenance of public facilities for transient nontrailerable recreational vessels. Subsection (b) amends section 8 of the 1950 Act (16 U.S.C. 777g) to require the Secretary, in consultation with the States, to develop a national framework that can be used by the States to conduct surveys to determine their boat access needs. Each State agreeing to conduct a public boat access needs survey would be required to report its findings to the Secretary within 18 months for use in the development of a comprehensive national assessment of recreational boat access needs and facilities.

Section 3604(c) allows a State, within 6 months of submitting a public boat access needs survey to the Secretary, to submit to the Secretary plans for the construction, renovation, and maintenance of public facilities for transient nontrailerable recreational vessels. Subsection (d) directs the Secretary to make grants to the States for constructing, renovating, or maintaining public facilities for transient nontrailerable recreational vessels, and establishes priorities for such grants, including projects proposed in accordance with a State plan under subsection (c). Grants made to State under this subsection may not exceed 75 percent of the cost incurred by the State for these projects. Subsection (e) defines the terms "nontrailerable recreational vessel" and "public facilities for transient nontrailerable recreational vessels."

Section 3605 makes changes to the Recreational Boating Safety Program administered by the U.S. Coast Guard. Subsection (a) of this section amends section 13104(a) of title 46, U.S. Code, to reduce the amount of time that States have to obligate funds received under the Recreational Boating Safety Program from 3 years to 2 years. Subsection (b) amends section 13106 of title 46, U.S. Code, to specify that an amount equal to the sum of (1) appropriations from the Boat Safety Account and (2) transfers to the Secretary of Transportation under the Clean Vessel Act (as amended by section 3603 of this bill) will be available annually for the Recreational Boating Safety Program. Of this amount, $5 million is provided to the Coast Guard annually for expenses related to the coordination and administration of the program. Subsection (c) makes conforming amendments to section 13106 of title 46, U.S. Code.

Conference substitute

The conference substitute adopts the Senate amendment, with technical and other changes described as follows:

Section 7401 of the conference substitute provides that subtitle D of title VI of this Act may be cited as the "Sportfishing and Boating Safety Act of 1998."

Section 7403 eliminates the requirement that the Secretary use $10 million in FY 1999 for qualified boating infrastructure projects under section 7404(d) of the conference substitute, and makes these funds available in FY 1999 for the Sport Fish Restoration Program. This section also reduces the amount available for these projects in FY 2000 through 2003 from $10 million annually to $8 million, and makes the $2 million differential available for the Sport Fish Restoration Program.

Section 7404 of the conference substitute clarifies that grants for facilities for transient nontrailerable recreational vessels under this section may be available for either publicly or privately owned facilities provided that the facilities are available to the general public, as determined by the Secretary. The conferees intend that, in making this determination, the Secretary should develop guidelines which, among other things, establish reasonable costs to ensure that such facilities are available to the general public.

Section 7405(b) of the conference substitute provides that, of the $5 million available annually for Coast Guard administration, $2 million will be used by the Secretary of Transportation annually to ensure compliance with chapter 43 of title 46, U.S. Code. This funding will enable the Coast Guard to improve boating safety by more vigorously enforcing existing provisions designed to prevent boating defects.

REVENUE TITLE

I. HIGHWAY-RELATED TAXES AND TRUST FUND

A. EXTENSION AND MODIFICATION OF HIGHWAY-RELATED TAXES

1. Highway-related taxes and exemptions

Present Law

Tax rates

Highway Trust Fund excise taxes are imposed on gasoline, diesel fuel, kerosene, special motor fuels, on heavy truck and tire sales, and on the use of heavy trucks. The Highway Trust Fund tax rates are scheduled to expire after September 30, 1999, except for 4.3 cents per gallon of the motor fuels excise tax (which is permanent).

The current Highway Trust Fund excise tax rates are as follows:

Item	Tax rate[1]
Motor fuels:	
Gasoline	18.3
Diesel and kerosene	24.3
Special motor fuels generally	18.3[2]
Compressed natural gas ("CNG").	4.3[3]
Retail sales of heavy highway vehicles.	12% of retail price
Heavy truck tires	Graduated tax on tires weighing more than 40 lbs.
Annual highway vehicle use	Graduated tax on vehicles of 55,000 lbs. or more

[1] Motor fuel tax rates include the permanent 4.3 cents-per-gallon fuels tax; the rates do not include the 0.1-cent-per-gallon tax on motor fuels for the Leaking Underground Storage Tank Trust Fund.

[2] The rate is 13.6 cents per gallon for propane, 11.9 cents per gallon for liquified natural gas ("LNG"), and 11.3 cents per gallon for methanol fuel from natural gas, each based on the relative energy equivalence of the fuel to gasoline.

[3] The statutory rate is 48.54 cents per thousand cubic feet ("MCF").

Motor fuels exemptions

Present law provides exemptions (including partial exemptions for specified uses of taxable fuels or for specified fuels) for governments or for certain uses not involving use of the highway system (such as farming).

LNG, propane, CNG, and methanol derived from natural gas are subject to reduced tax rates based on the energy equivalence of these fuels to gasoline.

Ethanol and methanol derived from renewable sources (e.g., biomass) are eligible for income tax benefits (the "alcohol fuels credit") equal to 54 cents per gallon for ethanol and 60 cents per gallon for methanol. The alcohol fuels credit is scheduled to expire after December 31, 2000, or earlier if the Highway Trust Fund taxes actually expire before that time. In addition, small ethanol producers are eligible for a separate 10-cents-per-gallon tax credit. The 54-cents-per-gallon ethanol and 60-cents-per-gallon renewable-source methanol tax credits may be claimed through reduced excise taxes paid on gasoline and special motor fuels as well as through income tax credits. The authority to claim the ethanol and renewable-source methanol tax benefits through excise tax reductions is scheduled to expire after September 30, 2000, or earlier if the Highway Trust Fund taxes actually expire before then.

House bill

Tax rates

The House bill extends the Highway Trust Fund excise taxes, other than the heavy truck tire tax, through September 30, 2005. The tire tax is extended through September 30, 2000, and then is repealed.

Motor fuels tax exemptions and alcohol fuels credits

The House bill extends the current motor fuels tax exemptions generally for the period concurrent with the extension period for the taxes, except that the present-law expirations for the ethanol and renewable-source methanol exemptions (and income tax credits) are retained.

Effective date

Date of enactment.

Senate amendment

Tax rates

The Senate amendment extends all Highway Trust Fund excise taxes through September 30, 2005.

Motor fuel exemptions and alcohol fuels credits

The Senate amendment is the same as the House bill with respect to the extension of the general motor fuels tax exemptions. The Senate amendment extends the ethanol and renewable-source methanol tax provisions through September 30, 2007 (excise tax reduction) and December 31, 2007 (income tax credit), respectively. Further, the Senate amendment reduces the ethanol benefit from 54 cents per gallon to 53 cents per gallon for 2001–2002, 52 cents per gallon for 2003–2004, and 51 cents per gallon for 2005–2007.

Effective date

Date of enactment.

Conference agreement

Tax rates

The conference agreement follows the Senate amendment.

Motor fuel exemptions and alcohol fuels credits

The conference agreement follows the Senate amendment.

Effective date

Date of enactment.

2. Motor fuels tax refund procedure

Present law

Gasoline and diesel fuel excise tax refunds are administered separately, subject to separate quarterly minimum filing thresholds. For gasoline, the minimum refund claim is $1,000 in the calendar quarter to which the claim relates. Certain diesel fuel claims are subject to this same standard; certain other diesel and aviation fuel claims may be filed in any of the first three calendar quarters in which the aggregate year-to-date refund equals $750. Fourth quarter refunds must be claimed as income tax credits regardless of amount.

House bill

The House bill combines refund procedures for all taxable motor fuels, allowing aggregation of quarterly amounts and filing of refund claims once a single $750 minimum amount is reached (determined on a year-to-year basis rather than an individual quarter basis). Fourth quarter refund claims are allowed under the same rules as applicable to the first three quarters.

Effective date

Claims filed after September 30, 1998.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. Requirement that motor fuels terminals offer dyed fuel

Present law

Diesel fuel and kerosene (after June 30, 1998) are taxed on removal from a registered terminal facility unless the fuel is destined for a nontaxable use and is indelibly dyed. After June 30, 1998, terminals must offer dyed fuel as a condition of being allowed to store untaxed fuel.

House bill

The House bill delays the effective date of the requirement that terminals offer dyed fuel for two years, to July 1, 2000.

Effective date

Date of enactment.

Senate amendment

The Senate amendment is the same as in the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. HIGHWAY TRUST FUND PROVISIONS

Present law

Transfers of revenues to Highway Trust Fund

Gross receipts from current highway excise taxes are dedicated to the Highway Trust Fund for taxes imposed through September 30, 1999, and received in the Treasury before July 1, 2000, under provisions of section 9503 of the Internal Revenue Code (the "Code').

Interest on Highway Trust Fund balances; unspent balances

The Highway Trust Fund earns interest on cash balances each year from investments in Treasury securities (sec. 9602). Cash balances remain in the Highway Trust Fund until expended.

Highway Trust Fund expenditure authority

The Code authorizes expenditures (subject to appropriations Acts) from the Highway Trust Fund through September 30, 1998, for purposes provided in authorizing legislation, as in effect on the date of enactment of Public Law 105-130. No Highway Trust Fund monies may be spent for a purpose not approved as of the last updating of the Code reference to the most recent authorizing legislation changes.

The Highway Trust Fund is divided into two Accounts: a Highway Account and a Mass Transit Account, each of which is the funding source for specific transportation programs. The Highway Account receives revenues from all non-fuel highway-related excise taxes plus revenues from all but 2.85 cents per gallon[4] of the highway motor fuels excise taxes. The Mass Transit Account currently receives the 2.85 cents per gallon from the highway motor fuels excise taxes.[5]

Highway Trust Fund anti-deficit provisions

Highway Trust Fund spending is limited by two anti-deficit provisions, which are internal to each of the Accounts. The first limits the unfunded Highway Account authorizations at the end of any fiscal year to amounts not exceeding the unobligated balance plus revenues projected to be collected for that Account by the dedicated excise taxes during the following two fiscal years. The second provision similarly limits unfunded Mass Transit Account authorizations to the dedicated excise tax revenues projected to be collected during the next fiscal year. If either of these provisions is violated, spending for programs funded by the respective Accounts is to be reduced proportionately, similar to a Budget Act sequester.

1997 transfer of 4.3-cents-per-gallon tax revenues not for direct spending

The Taxpayer Relief Act of 1997 (the "1997 Act") transferred revenues from the additional 4.3-cents-per-gallon highway fuels taxes to the Highway Trust Fund, effective on October 1, 1997. The 1997 Act provided that those revenues could not be used to increase direct spending under the 1991 authorizing legislation.

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[4] A technical correction (to 2.86 cents per gallon) is included in this revenue title (H.R. 2400), and also in Title VI of H.R. 2676 as passed by the House and the Senate.

[5] Ibid.

House bill

Transfers of revenues to Highway Trust Fund

The House bill transfers the gross receipts from current highway excise taxes (as modified by the House bill repeal of the heavy truck tire excise tax on October 1, 2000) through September 30, 2005. Consistent with present law, pre-October 1, 2005 amounts received after September 30, 1999 with respect to highway excise tax liabilities will continue to be transferred to the Highway Trust Fund through June 30, 2006.

Interest on Highway Trust Fund balances; unspent balances

Under the House bill, the Highway Trust Fund earns no further interest on its cash balances after September 30, 1998.

The House bill cancels certain "excess" Highway Trust Fund's Highway Account balance (the amount in excess of $8 billion) on October 1, 1998.

Highway Trust Fund expenditure authority

The House bill extends the Highway Trust Fund expenditure authority through September 30, 2003, and updates the expenditure purposes for the Highway and Mass Transit Accounts to the purposes as included in the current House bill authorizing legislation (H.R. 2400).

Provisions are incorporated into the Highway Trust Fund specifying that expenditures from the Highway Trust Fund may occur only as provided in the Internal Revenue Code. The House bill clarifies that the expenditure authority expiration date does not preclude disbursements to liquidate contracts which are validly entered into before the expiration date. Expenditures for contracts entered into or for amounts otherwise obligated after an expiration date (or for other non-contract authority purposes under non-Code provisions) are not to be permitted, notwithstanding the subsequently enacted authorization or appropriations legislation. If any such subsequent legislation authorizes such expenditures, or such expenditures occur by administrative action in the contravention of the Code restrictions, excise tax revenues otherwise to be deposited in the Highway Trust Fund are to be retained in the General Fund beginning on the date of such unauthorized action.

Highway Trust Fund anti-deficit provisions

The House bill conforms the one-year anti-deficit rule in the Mass Transit Account to the two-year rule in the Highway Account.

Highway Trust Fund technical corrections

The House bill includes two technical corrections to the 1997 Act relating to the Highway Trust Fund excise tax revenues:

(1) Excise tax revenues attributable to LNG, CNG, propane, and methanol from natural gas are divided between the Highway and Mass Transit Accounts in the same proportions as gasoline tax revenues are divided between those two accounts; and

(2) The amount of highway motor fuels tax revenues transferred to the Mass Transit Account is corrected to 2.86 cents per gallon (rather than 2.85 cents per gallon as erroneously provided in the 1997 Act).

1997 transfer of 4.3-cents-per-gallon tax revenues

The House bill deletes a provision of the 1997 Act providing that the transfer of the additional 4.3 cents per gallon in fuels tax revenues to the Highway Trust Fund and a one-time adjustment to fuels tax deposit requirements do not affect direct spending under the 1991 authorizing legislation as "deadwood.'

Effective date

Date of enactment.

Senate amendment

Transfers of revenues to Highway Trust Fund

The Senate amendment is the same as the House bill, except that the Senate amendment (as noted above) does not repeal the tire tax.

Interest on Highway Trust Fund balances; unspent balances

No provision.

Highway Trust Fund expenditure authority

The Senate amendment is the same as the House bill with respect to extending the Highway Trust fund expenditure authority through September 30, 2003. The Senate amendment updates the expenditure purposes for the Highway and Mass Transit Accounts to the purposes as included in the current Senate authorizing legislation (H.R. 2400 as amended by the Senate).

The Senate amendment also is the same as the House bill with respect to specifying that expenditures from the Highway Trust Fund may occur only as provided in the Internal Revenue Code, and the clarification relating to liquidations of contract authority.

Highway Trust Fund anti-deficit provisions

The Senate amendment is the same as the House bill.

Highway Trust Fund technical corrections

The Senate amendment is the same as the House bill.

1997 transfer of 4.3 cents-per-gallon tax revenues

The Senate amendment is the same as the House bill.

Effective date

Date of enactment.

Conference agreement

Transfers of revenues to Highway Trust Fund

The conference agreement follows the Senate amendment.

Interest on Highway Trust Fund balances; unspent balances

The conference agreement follows the House bill, with a modification deleting the cancellation of a portion of the Mass Transit Account balance.

Highway Trust Fund expenditure authority

The conference agreement follows the House bill and the Senate amendment by updating the Highway Trust Fund expenditure purposes to include the purposes in the current authorizing legislation (H.R. 2400) as enacted and as in effect on the date of enactment.

Highway Trust Fund anti-deficit provisions

The conference agreement follows the House bill and the Senate amendment.

Highway Trust Fund technical corrections

The conference agreement follows the House bill and the Senate amendment.

1997 transfer of 4.3-cents-per-gallon tax revenues

The conference agreement follows the House bill and the Senate amendment.

Effective date

Date of enactment.

II. OTHER TRUST FUND PROVISIONS

A. AQUATIC RESOURCES TRUST FUND

Present law

Revenue transfers

Gasoline and special motor fuels used in motorboats and gasoline used in small engines are subject to excise tax in the same manner and at the same rates as gasoline and special motor fuels used in highway vehicles. Of the tax revenues from motorboat and small-engine use, 6.8 cents per gallon is retained in the General Fund; 11.5 cents per gallon is transferred to the Aquatic Resources Trust Fund ("Aquatic Fund").

Under present law, transfers of the motorboat fuels tax revenues go to the Boat Safety Account of the Aquatic Fund (up to $70 million per fiscal year).[6] Of amounts in excess of $70 million, $1 million per fiscal year goes to the Land and Water Conservation Fund ("Land and Water Fund"), and the balance goes to the Sport Fish Restoration Account of the Aquatic Fund. The authority to transfer revenues to the Aquatic Fund and Land and Water Fund is scheduled to expire after September 30, 1998.

Revenues from the 11.5-cents-per-gallon tax rate on gasoline used in small engines is deposited in a Wetlands sub-account in the Aquatic Fund for use in wetlands conservation efforts.

Expenditure authority

Expenditures from the Boat Safety Account and the Land and Water Fund are subject to appropriation Acts. The Sport Fish Restoration Account has a permanent appropriation, and all monies transferred to that Account are automatically appropriated in the fiscal year following the fiscal year of receipt.

Under present law, expenditures are authorized from the Boat Safety Account as follows:

(1) One-half of the amount allocated to the Account are for State boating safety programs; and

(2) One-half of the amount allocated to the Account are for operating expenses of the Coast Guard to defray the costs of services provided for recreational boating safety.

House bill

Revenue transfers

The House bill extends the transfer of 11.5 cents per gallon of motorboat fuels tax revenues to the Boat Safety Account of the Aquatic Fund and of small-engine gasoline tax revenues to the Wetlands sub-account of the Aquatic Fund through September 30, 2003. In addition, the 6.8-cents-per-gallon portion of the tax on motorboat fuels and small-engine gasoline that currently is retained in the General Fund is transferred to the Aquatic Fund. This provision is phased-in, with the transfer to the Aquatic Fund of 3.4 cents per gallon for the period October 1, 1999 through September 30, 2000, and at 6.8 cents per gallon for the period October 1, 2000 through September 30, 2003.

Transfers of motorboat fuels tax revenues to the Boat Safety Account are changed to equal one-half of such revenues each fiscal year, with a limit on the balance in that Account equal to no more than one-half of the prior year's motorboat fuels tax revenues.

Effective date.

October 1, 1998 for the transfer of the 11.5 cents-per-gallon rate to the Aquatic Fund, October 1, 1999 for the transfer of the 3.4-cents-per-gallon rate, and October 1, 2000 for the transfer of the 6.8-cents-per-gallon rate.

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[6] The unobligated balance in the Boat Safety Account is limited to $70 million.

Expenditure authority

Expenditure authority for the Boat Safety Account of the Aquatic Fund is extended through September 30, 2003. The expenditure purposes of the Aquatic Fund are conformed to those in effect in the House bill as of the date of enactment of H.R. 2400.

Provisions identical to those described above under the House bill for the Highway Trust Fund are incorporated into the Aquatic Fund clarifying that expenditures from the Aquatic Fund may occur only as provided in the Code.

Effective date.

October 1, 1998.

Senate amendment

Revenue transfers

The Senate amendment extends the transfers of 11.5 cents per gallon of motorboat fuels tax revenues to the Boat Safety Account of the Aquatic Fund and of small-engine gasoline tax revenues to the Wetlands sub-account of the Aquatic Fund through September 30, 2003.

Effective date.

October 1, 1998.

Expenditure authority

The Senate amendment is the same as the House bill with respect to the extension of the expenditure authority for the Boat Safety Account through September 30, 2003. The expenditure purposes of the Aquatic Fund are conformed to those in effect in the Senate amendment as of the date of enactment.

The Senate amendment clarifying that expenditures from the Aquatic Fund may occur only as provided in the Code is the same as the House bill provision.

Effective date.

October 1, 1998.

Conference agreement

Revenue transfers

The conference agreement follows the House bill and the Senate amendment with respect to extension of transfers of 11.5 cents per gallon of motorboat fuels tax revenues to the Boat Safety Account and Wetlands sub-Account of the Aquatic Fund through September 30, 2003.

The conference agreement follows the House bill in transferring additional motorboat fuels tax and small-engine gasoline revenues to the Aquatic Fund. The conference agreement provides that an additional 1.5 cents per gallon of taxes imposed during fiscal years 2002 and 2003, and an additional 2 cents per gallon thereafter, will be transferred to the Aquatic Fund.

Effective date.

October 1, 1998.

Expenditure authority

The conference agreement follows the House bill and the Senate amendment with respect to the extension of the expenditure authority for the Boat Safety Account through September 30, 2003. The expenditure purposes of the Aquatic Fund (including those of the Sport Fish Restoration Account) are conformed to those purposes in effect in the authorizing provisions of the bill as of the date of enactment.

The conference agreement follows the House bill and the Senate amendment with respect to the clarification that expenditures from the Aquatic Fund may occur only as provided in the Code.

Effective date.

October 1, 1998.

B. NATIONAL RECREATIONAL TRAILS TRUST FUND

Present law

The National Recreational Trails Trust fund ("Trails Fund") was established in the Intermodal Surface Transportation Efficiency Act of 1991 ("1991 Act"). Revenues from 11.5 cents per gallon of motor fuels taxes from fuel used in nonhighway recreational vehicles[7] are authorized to be transferred from the Highway Trust Fund to the Trails Fund through September 30, 1998. Transfers to the Trails Fund are contingent on appropriations occurring from the Trails Fund. To date, no such appropriations have been enacted; thus, no actual transfers of revenues have been made to the Trails Fund.

Expenditures are authorized from the Trails Fund, subject to appropriations,[8] for allocations to States for use on trails and trail-related projects as set forth in the 1991 Act. Authorized expenditure uses include (1) acquisition of new trails and access areas, (2) maintenance and restoration of existing trails, (3) State environmental protection education programs, and (4) related program administrative costs.

House bill

The House bill repeals the Trails Fund, and the transfers of nonhighway recreational fuels taxes to the Trails Fund.

Effective date.

October 1, 1998.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment. (Under authorizing provisions of the bill, Highway Trust Fund expenditures are authorized for similar purposes to those of the Trails Fund.)

III. ADDITIONAL REVENUE PROVISIONS

A. RAIL FUELS EXCISE TAX

Present law

Diesel fuel and gasoline used in trains are subject to a 5.65-cents-per-gallon excise tax. Of this amount, 0.1 cent per gallon is dedicated to the Leaking Underground Storage Tank Trust Fund; this rate is scheduled to expire after March 31, 2005. The remaining 5.55 cents per gallon is a General Fund tax, with 4.3 cents per gallon being permanently imposed and 1.25 cents per gallon being imposed through September 30, 1999.

House bill

The 4.3-cents-per-gallon General Fund excise tax imposed on fuel used in trains is repealed.

Effective date.

October 1, 2000.

Senate amendment

The Senate amendment repeals the 1.25-cents-per-gallon tax on fuel used in trains.

Effective date.

March 1, 1999.

Conference agreement

The conference agreement follows the Senate amendment, except for the effective date.

Effective date.

November 1, 1998.

B. INCOME TAX PROVISIONS

1. Tax-exempt financing of certain highway projects

Present law

Present law exempts interest on State or local government bonds from the regular income tax if the proceeds of the bonds are used to finance governmental activities of those entities and the bonds are repaid with governmental revenues. Interest on bonds issued by States or local governments acting as conduits to provide financing for private persons is taxable unless a specific exception is provided in the Code. No such exception is provided for bonds issued to provide conduit financing for privately constructed and/or privately operated toll roads and similar highway infrastructure projects.

House bill

No provision.

Senate amendment

The Senate amendment authorizes the construction of up to 15 highway infrastructure projects, such as toll roads involving private business participation. These projects are to be eligible for tax-exempt private activity bond financing. Bonds for these projects generally are to be subject to all Code provisions governing issuance of tax-exempt private activity bonds except the annual State volume limits (sec. 146). No proceeds of these bonds may be used to finance the acquisition of land. In lieu of the State volume limits, the aggregate amount of bonds that can be issued under this pilot project is $15 billion (as allocated by the Department of Transportation in consultation with the Department of the Treasury).

Conference agreement

The conference agreement does not include the Senate amendment.

2. Tax treatment of parking and transit benefits

Present law

Under present law, qualified transportation fringe benefits provided by an employer are excluded from an employee's gross income. Qualified transportation fringe benefits include parking, transit passes, and vanpool benefits. In addition, in the case of employer-provided parking, no amount is includible in income of an employee merely because the employer offers the employee a choice between cash and employer-provided parking. Transit passes and vanpool benefits are only excludable if provided in addition to, and not in lieu of, any compensation otherwise payable to an employee. Under present law, up to $175 per month (for 1998) of employer-provided parking and up to $65 per month (for 1998) of employer-provided transit and vanpool benefits are excludable from gross income. These dollar amounts are indexed for inflation.

House bill

No provision.

Senate amendment

The Senate amendment permits employers to offer employees the option of electing cash compensation in lieu of any qualified transportation benefit, or a combination of any of such benefits. As under present law, qualified transportation benefits include employer-provided transit passes, parking, and vanpooling. Thus, under the Senate amendment, no amount is includible in gross income or wages merely because the employee is offered the choice of cash and one or more qualified transportation benefits. The amount of cash offered is includible in income and wages only to the extent the employee elects cash.

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[7] Nonhighway recreational fuels taxes are taxes imposed on (1) fuel used in vehicles and equipment on recreational trails or back country terrain, or (2) fuel used in camp stoves and other outdoor recreational equipment. Such revenues do not include small-engine gasoline tax revenues, which are transferred to the Aquatic Fund.

[8] If appropriations were enacted from the Trails Fund, there is an obligational ceiling of $30 million per fiscal year under the 1991 Act.

In addition, the Senate amendment increases the exclusion for transit passes and vanpooling to $100 per month. The $100 amount is indexed as under present law.

Further, the Senate amendment provides that there is no indexing of any qualified transportation benefit in 1999.

Effective date.

The provision permitting a cash option for any transportation benefit is effective for taxable years beginning after December 31, 1997; the increase in the exclusion for transit passes and vanpooling to $100 per month is effective for taxable years beginning after December 31, 2001; and indexing on the $100 amount for transit passes and vanpooling is effective for taxable years beginning after December 31, 2002.

Conference agreement

The conference agreement follows the Senate amendment. Thus, as under the Senate amendment, no amount is includible in gross income or wages merely because the employee is offered the choice of cash in lieu of one or more qualified transportation benefits, or a combination of such benefits. In addition, no amount is includible in income or wages merely because the employee is offered a choice among qualified transportation benefits.

Effective date.

The conference agreement follows the Senate amendment.

3. Purposes for which Amtrak NOL monies may be used in non-Amtrak States

Present law

The 1997 Act provides elective procedures that allow Amtrak to consider the tax attributes of its predecessors in the use of its net operating losses. The election is conditioned on Amtrak agreeing to make payments equal to one percent of the amount it receives as a result of the election to each of the non-Amtrak States. The non-Amtrak states are required to spend these monies to finance qualified expenses. Qualified expenses include the capital costs connected with the provision of intercity passenger rail and bus service, the purchase of intercity rail service from Amtrak, and the payment of interest and principle on obligations incurred for a qualified purpose. Any amounts not spent for qualified purposes by 2010 must be returned to the Treasury.

House bill

No provision.

Senate amendment

The Senate amendment expands the list of qualified expenses to include: (1) capital expenditures related to State-owned rail operations in the State; (2) projects eligible to receive funding under section 5309, 5310, or 5311 of Title 49; (3) projects that are eligible to receive funding under section 130 or 152 of Title 23; (4) upgrading and maintenance of intercity primary and rural air service facilities, including the purchase of air service between primary and rural airports and regional hubs; and (5) the provision of passenger ferryboat service within the State.

Effective date.

The provision is effective as if included in the Taxpayer Relief Act of 1997 (effective on August 5, 1997).

Conference agreement

The conference agreement follows the Senate amendment with further additions to the list of qualified expenses. Additional qualified purposes added by the conference agreement include harbor improvements and certain highway improvements that are eligible to receive funding under section 103, 133, 144, and 149 of Title 23.

Effective date.

The conference agreement follows the Senate amendment.

4. Tax treatment of certain Federal environmental grants

Present law

Certain Federal grants are excluded from income with taxpayers receiving no basis in assets financed with the grant monies. Other Federal grant programs result in income exclusion when the grant is received, but taxpayers receive basis in the grant-financed property.

House bill

No provision.

Senate amendment

The Senate amendment provides that, to the extent provided under present law, grants under the authorizing provisions of the Senate amendment relating to a Congestion Mitigation and Air Quality ("CMAQ") Program are not includible in taxable income when received, and that no credit or other deduction is allowed to taxpayers with respect to the property (or other expenditures) financed directly or indirectly with the CMAQ funds. The basis of such property is to be reduced by the portion of the cost of the property that is attributable to the CMAQ payment.

Conference agreement

The conference agreement does not include the Senate amendment.

LIMITED TAX BENEFITS IN THE REVENUE TITLE SUBJECT TO THE LINE ITEM VETO ACT

Present Law

The Line Item Veto Act amended the Congressional Budget and Impoundment Act of 1974 to grant the President the limited authority to cancel specific dollar amounts of discretionary budget authority, certain new direct spending, and limited tax benefits. The Line Item Veto Act provides that the Joint Committee on Taxation is required to examine any revenue or reconciliation bill or joint resolution that amends the Internal Revenue Code of 1986 prior to its filing by a conference committee in order to determine whether or not the bill or joint resolution contains any "limited tax benefits," and to provide a statement to the conference committee that either (1) identifies each limited tax benefit contained in the bill or resolution, or (2) states that the bill or resolution contains no limited tax benefits. The conferees determine whether or not to include the Joint Committee on Taxation statement in the conference report. If the conference report includes the information from the Joint Committee on Taxation identifying provisions that are limited tax benefits, then the President may cancel one or more of those, but only those, provisions that have been identified. If such a conference report contains a statement from the Joint Committee on Taxation that none of the provisions in the conference report are limited tax benefits, then the President has no authority to cancel any of the specific tax provisions, because there are no tax provisions that are eligible for cancellation under the Line Item Veto Act.

Conference Statement

The Joint Committee on Taxation has determined that the revenue title to H.R. 2400 contains no provision involving limited tax benefits within the meaning of the Line Item Veto Act.

Pursuant to the order of the House on April 1, 1998, the Speaker appointed the following conferees for consideration of the House bill (except title XI) and the Senate amendment (except title VI), and modifications committed to conference:

Bud Shuster,
Thomas E. Petri,
Sherwood L. Boehlert,
Jay Kim,
Stephen Horn,
Tillie K. Fowler,
Richard H. Baker,
Robert W. Ney,
Jack Metcalf,
James L. Oberstar,
Nick Rahall,
Robert A. Borski,
Robert E. Wise, Jr.,
Jim Clyburn,
Bob Filner,

As additional conferees from the Committee on Commerce, for consideration of provisions in the House bill and Senate amendment relating to the Congestion Mitigation and Air Quality Improvement Program; and sections 124, 125, 303, and 502 of the House bill; and sections 1407, 1601, 1602, 2103, 3106, 3301–3302, 4101–4104, and 5004 of the Senate amendment and modifications committed for conference:

Tom Bliley,
Michael Bilirakis,
John D. Dingell,
Provided that Mr. Tauzin is appointed in lieu of Mr. Bilirakis for consideration of sections 1407, 2103, and 3106 of the Senate amendment.
Billy Tauzin,

As additional conferees from the Committee on Ways and Means, for consideration of title XXI of the House bill and title VI of the Senate amendment, and modifications committed to conference:

Jim Nussle,
Kenny C. Hulshof,

As additional conferees from the Committee on Ways and Means, for consideration of title XXI of the House bill and title VI of the Senate amendment, and modifications committed to conference:

Charles B. Rangel,
Managers on the Part of the House.

From the Committee on Environment and Public Works:

John H. Chafee,
John Warner,
Bob Smith,
Dirk Kempthorne,
Jim Inhofe,
Craig Thomas,
Christopher S. Bond,
Tim Hutchinson,
Wayne Allard,
Max Baucus,
Daniel Patrick Moynihan,
Harry Reid,
Bob Graham,
Joseph Lieberman,
Barbara Boxer,

From the Committee on Finance:

William V. Roth, Jr.,
Chuck Grassley,
Orrin Hatch,
John Breaux,
Kent Conrad,

From the Committee on Banking, Housing, and Urban Affairs:

ALFONSE D'AMATO,
PHIL GRAMM,
PAUL SARBANES,
CHRIS DODD,

From the Committee on Commerce, Science, and Transportation:

ERNEST HOLLINGS,

From the Committee on the Budget:

PETE DOMENICI,
DON NICKLES,
PATTY MURRAY,
Managers on the Part of the Senate.

☐ 1445

APPOINTMENT OF CONFEREES ON H.R. 2676, INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1997

Mrs. JOHNSON of Connecticut. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. COYNE

Mr. COYNE. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. COYNE moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1997, be instructed to insist upon the provisions contained in the House bill and thereby not further delay needed restructuring of the Internal Revenue Service.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. COYNE) will be recognized for 30 minutes, and the gentlewoman from Connecticut (Mrs. JOHNSON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. COYNE).

Mr. COYNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion before us would instruct the House conferees to insist on the provisions of the House bill on restructuring the Internal Revenue Service and thereby expedite IRS reform. Not to do so would only further delay much-needed IRS reform.

The IRS is faced with extraordinary challenges in dealing with its computer modernization effort and year 2000 conversion. Further delay in enacting this legislation may make it difficult or impossible for the IRS to meet those challenges.

The House bill is the result of extensive review and hearings by the Committee on Ways and Means. It was crafted on a bipartisan basis with the help of experts from throughout the country. It also reflects the recommendations of the National Commission on the Restructuring of the IRS.

As ranking member of the Subcommittee on Oversight, I should note that the bill is good tax policy as well. The House bill is fully funded and will make significant improvements in IRS management and electronic tax return filing.

The House bill also significantly strengthens taxpayer rights. The IRS restructuring, as outlined in the House bill, deserves congressional approval without delay. I urge adoption of the motion to instruct.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. COYNE) for the spirit in which he offers his motion to instruct the conferees, to which I do not object.

As the gentleman knows, it is reasonable to expect the conferees to go into conference with the other body and to fight for the House position. Indeed, I agree with him that the House bill is a thoughtful and effective piece of legislation. I am very proud of the House bill, and I know our conferees will work hard on its behalf.

But, as the gentleman knows, the Senate is likely to consider, also, some of its ideas of importance; and there are, indeed, a few things in the Senate bill that I think we all will find in the best interest of the taxpayers. But I certainly appreciate the spirit in which the motion is offered, and I support it.

I also would like to point out that the bill was introduced on October 21, 1997, and reported by the Committee on Ways and Means only 10 days later on October 31st. It passed the House the following week on November 5th. So this House has dealt with thoroughness and appropriate speed with the need to reform the Internal Revenue Service.

I am very pleased that there is no longer any disagreement about the need for this kind of systemic, comprehensive reform. It is long overdue. We need to finish this work as quickly as we can, because, through it, we give the American people relief from irresponsible enforcement policies and harsh penalty laws.

We need to launch the new forceful partnership between government and the private sector that this bill embodies because that new partnership alone can create an effective, customer-service-oriented IRS capable of serving this Nation and its people in the future.

Mr. Speaker, I reserve the balance of my time.

Mr. COYNE. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank the gentleman from Pennsylvania (Mr. COYNE) for yielding me this time and thank him for the work that he has done on the IRS Restructuring Act.

Mr. Speaker, I rise to support the motion to instruct the conferees. It has now been more than 6 months since this body passed the IRS Restructuring Act by a large bipartisan vote of 426 to 4. It is the first comprehensive provision in the IRS in more than a half a century.

I was proud to work with my colleague, the gentleman from Ohio (Mr. PORTMAN), as well as the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from Texas (Mr. ARCHER) and the gentleman from New York (Mr. RANGEL) and the gentleman from Pennsylvania (Mr. COYNE) on this very important legislation.

The version passed by the other body differs slightly from the version that was passed by this House. I find it somewhat amazing that it took the other body 6 months in order to consider this and bring it back with the type of changes that they made.

But the important thing for us to do in conference is to move quickly. We need to pass comprehensive reform before we get to the next tax filing season and we lose the advantage of this legislation.

I want to compliment Secretary Rubin and Commissioner Rossotti for the work that they have done reforming the IRS. Mr. Rubin is the first Secretary of the Treasury who spent his personal time looking at the IRS and helping us in restructuring it.

I also congratulate our new Commissioner, Mr. Rossotti, for his cooperation with Congress in implementing many changes to the system. But the legislation before us sets up an important oversight board to oversee the functions of the IRS. We need to have those individuals appointed and operating as soon as possible. That is why it is important that our conferees act quickly.

The House version of the bill will protect the public, will start the process of reforming our Internal Revenue Code by first reforming the Internal Revenue Service. It makes it a much more taxpayer friendly organization.

I see my colleague, the gentleman from Ohio (Mr. PORTMAN), is now on the floor, who cochaired the national commission on which this is a product of. We really do owe that commission and its leadership our thanks for bringing forward a product that we hope now will become reality.

Mr. Speaker, I sincerely hope that we will be able to get this legislation signed quickly so that the benefits of this law can be enjoyed by all of our citizens, and then we, in this body, can start debating the issues of substantive tax reform.

All of us want to get involved in that debate, but first we must reform the tax collecting agency itself. This legislation will do it. We should move it as expeditiously as possible.

Mr. COYNE. Mr. Speaker, I reserve the balance of my time.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. PORTMAN), who was the cochairman of the commission that spent 1 long year studying in great detail the problems within the IRS and laid the blueprint for the reform that then we considered in our subcommittee and full committee and now is about to go to conference.

Mr. PORTMAN. Mr. Speaker, it was a long year and actually more than a year. In the end, the commission spent about a year and a half studying the various problems at the IRS; in some senses, turning the table and sort of auditing the IRS, and came back to Congress with a list of recommendations which were then, with the help of the gentleman from Maryland (Mr. CARDIN), implemented in the form of legislation.

That legislation was introduced in October, I believe. The House passed the legislation in November. The Senate, in turn, passed its legislation which is building on the House bill a few weeks ago.

I, as you know, believed that we could have done all of this last year. So, certainly, I am not for delay, and I want to commend the authors of the motion to instruct with regard to their focus on the interests of moving this forward quickly and not having further delay.

However, I will say, in all fairness, I think the Senate did improve the legislation in a few respects, and I hope that, while I will support this motion, that it is in the context of giving the conferees some flexibility to be able to accept certain Senate provisions that are an improvement.

I would mention, as an example, the Inspector General provisions. I think those are an improvement. It is something the commission, which did spend a year and a half studying the IRS but did not, frankly, get into that issue at any depth and did not make a recommendation on, and the Senate then picked up and I think improved.

So the Inspector General Service at the Treasury Department will be able to play a more effective and forceful role at the IRS, which is desperately needed.

I will also mention that the Senate added some taxpayer rights provisions which I think are quite helpful, particularly the expansion of innocent spouse relief that the gentlewoman from Connecticut (Mrs. JOHNSON) has worked hard over here in the House on as well.

I do think there are some things in the Senate bill which are going to make the IRS work even better. But it does build on the structure of the House bill; and certainly the House, having passed its legislation with such an overwhelming margin, will want to support the general direction that the House legislation took, which I think the Senate bill does.

It really is the House bill, and it is something this House I think can be very proud of because it was done on a bipartisan bases and it was done with the interests of the American taxpayer in mind. In the end, I am convinced it will lead to a new IRS.

Let me just mention three aspects of the legislation. I think they probably have already been mentioned earlier. I apologize I was not here for all of the debate.

One is in the area of taxpayer rights. There are 28 new taxpayer rights in the House bill. The Senate, as I say, adds a few other taxpayer rights that are very important, taxpayer rights in being able to suspend interest and penalties if there has not been adequate notice given to the taxpayer.

But when you add up all these taxpayer rights, what they will result in is, indeed, a new way of thinking at the IRS.

Shifting the burden of proof at the tax court level is a great example of that. Now the IRS, when they are in a dispute with a taxpayer, will be thinking about litigation strategy, whether in fact they can, as the IRS, bear that new burden of proof we are putting on them just as in the case of criminal law in this country. I think it will change the way they deal with taxpayers. It will help taxpayers who will end up with the right result for many taxpayers who, right now, are forced to settle with the IRS because the taxpayer carries that burden of proof.

I would say that that set of taxpayer rights provisions, when taken together as a whole, will definitely make a difference in terms of the attitudes and really the culture of the IRS.

The second one I will mention, I know my friend from Maryland I think was talking about it a moment ago, and this is the oversight board. This oversight board, perhaps, has been described inaccurately by both sides at times, but the thought is very simple.

You need to have at the IRS a group that has the experience in the problems that the IRS currently faces, which is information technology, taxpayer service, running a large service organization. You need to have continuity. This is why we have these 5-year staggered terms on this board, so that they will actually be able not only to talk about important reforms but implement them over time, because it will take time.

Finally, accountability. Without this kind of a board that brings in this private sector expertise I talked about and that has that kind of continuity, in other words, the follow-through to make sure these changes get made so that we do indeed create a new IRS, you are not going to have accountability. So this is a very important aspect of the change.

The final one I will mention which has not gotten much play but is very important in this legislation is changing the personnel flexibilities at the IRS to make it easier, frankly, to fire bad apples at the IRS and easier to promote people who, indeed, are doing a competent job or professional job and respecting taxpayer rights.

Taxpayer service will be a new measurement at the IRS. Rather than measuring whether taxpayer service representatives at the IRS and whether people in the compliance side are collecting more money from taxpayers, we will be measuring what kind of service employees at the IRS provide to taxpayers.

That, again, is a change in direction at the IRS. It will lead, along with these other changes, and there are 50 some odd changes to the IRS in this legislation, to a new IRS and indeed a new culture at the IRS and, in the end, will benefit our taxpayers greatly.

I would also like to, again, make the point that we have made throughout this process, that we need to do more here on Capitol Hill, both in terms of simplifying the tax code, and there is for prospective legislation a provision in this legislation which does that. It puts forth a complexity analysis. We think the House version is stronger on that. It has teeth in it. It has a point of order. It will enable us actually to enforce it.

Finally, we feel very strongly we need to consolidate the oversight on Capitol Hill. Part of the problem, of course, is that the Treasury Department is the IRS, but part of the problem resides right here in Congress. The Senate chose to delete that provision in the legislation. I think the House conferees, I hope this is a unanimous view, will fight hard to get the House position accepted, which would be, in fact, to consolidate oversight so that we are speaking more with one voice from Capitol Hill to the IRS and be able to improve oversight in communication between lawmakers here on Capitol Hill who are elected to represent taxpayers and the Internal Revenue Service.

Mr. Speaker, I would just say in conclusion that I will be voting for this motion to instruct with the understanding that it is not going to tie our hands in terms of accepting some provisions in the Senate that perhaps were not looked at as carefully as they might have been when the House completed its legislative task. I want to commend the authors of it and hope that we can, indeed, move forward as rapidly as possible to finally give the taxpayers what is long overdue, which is, indeed, a new IRS.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for those who are watching the proceedings of this House, I hope they are not missing the bipartisan enthusiasm for real, comprehensive, significant and serious reform of one of the most important agencies of the United States Government, the Internal Revenue Service.

This is the product of 2 years of very hard work. It is a thoughtful product. It is a powerful product. Indeed, it is going to make an enormous difference to the opportunity employees of the IRS have as well as to the taxpayers that they serve.

So I am proud to support the motion and join my colleagues on both sides of the aisle in urging prompt action by the conference so this bill can be on the President's desk in the very near future.

Mr. Speaker, I yield back the balance of my time.

☐ 1500

Mr. COYNE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PEASE). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Pennsylvania (Mr. COYNE).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COYNE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 388, nays 1, not voting 44, as follows:

[Roll No. 189]

YEAS—388

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Buyer
Callahan
Calvert
Camp
Campbell
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Redmond
Regula
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—1

Canady

NOT VOTING—44

Archer
Bateman
Blunt
Burr
Burton
Conyers
DeFazio
Deutsch
Dicks
Fawell
Foley
Furse
Gephardt
Gonzalez
Green
Harman
Hefley
Hoekstra
Hutchinson
Hyde
Johnson, Sam
King (NY)
Kingston
Lofgren
McCrery
McDade
Meeks (NY)
Miller (CA)
Mollohan
Morella
Parker
Quinn
Rangel
Reyes
Riggs
Sanford
Skaggs
Smith (OR)
Stenholm
Taylor (NC)
Torres
Towns
Wamp
Wicker

☐ 1521

Mr. ENGLISH of Pennsylvania changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. PEASE). Without objection, the Chair appoints the following conferees:

Mr. ARCHER, Mrs. JOHNSON of Connecticut, and Messrs. PORTMAN, RANGEL, and COYNE.

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2709. An act to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, and to implement the obligations of the United States under the Chemical Weapons Convention.

The message also announced that pursuant to Public Law 103-227, the Chair, on behalf of the President pro tempore, appoints the following individuals to the National Skill Standards Board—

Tim C. Flynn, of South Dakota, Representative of Business; and

Jerald A. Tunheim, of South Dakota, Representative of Human Resource Professionals.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

ANNOUNCEMENT OF RULES COMMITTEE MEETING AND LEGISLATIVE SCHEDULE

Mr. SOLOMON. Mr. Speaker, the Committee on Transportation and Infrastructure has filed the conference report on BESTEA. The Committee on Rules will be meeting at 3:35 on that. Of course, all of my colleagues know what is in this 1,000 page bill, so it should not take too long.

I would ask the Members of the Committee on Rules to please come upstairs right now, because we have another bill to act on. We will then act on BESTEA at 3:35. We will try to be back here on the floor within 15 or 20 minutes; and, hopefully, since we all know what is in the bill, we will only take a little while to debate it. We should be out of here by no later than 5 o'clock and possibly sooner, if everybody will control themselves.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces its intention to proceed to Special Orders without prejudice to the resumption of further legislative business.

EPIDEMIC OF CHILD VIOLENCE NEEDS IMMEDIATE ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise for a rather solemn occasion, one that pries at the very heartstrings of most Americans. Might I offer my sympathy to the citizens and schoolchildren and the entire State of Oregon for another tragedy of a child with a gun?

I believe it is important for this body to acknowledge that we have an epidemic. We have a situation where, if it goes unaddressed, more and more children will find a level of frustration to act out their frustration through violence, more and more lives will be lost, less attention to the issue will be given, and we will not have a solution. Our children cannot be frightened in their schools. We cannot see a greater loss of life.

As someone who passed the first parent responsibility ordinance in the City of Houston and later became State law, I do believe parents should be held responsible for children holding guns and, ultimately, winding up with a serious and tragic incident. But my main challenge, Mr. Speaker, is that this House must act, and it must act now. We have to save our children and the lives of all others. Guns in children's hands must not happen in this country.

My sympathy to those who have lost their life and to the child who acted out from frustration and heartache.

POTENTIAL DANGER FOR U.S. AS A RESULT OF TRANSFER OF TECHNOLOGY

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute.)

Mr. CUNNINGHAM. Mr. Speaker, many Members have wondered why the technology that was loosed to Communist China is dangerous to the United States. There is a lot of talk in the newspapers about different facets, but let me be specific.

In planning the war potential in different areas in all Southeast Asian countries, we looked at the ranges of different missiles. The booster that China had trouble with had problems, and we gave it the command and control guidance which allows it to target the MIRVing, which allows multiple warheads on different targets, but, even more important, the satellite technology at the Navy fighter weapon school. We can read the label on a missile stashed on an SU-27 to tell what kind of missile it is, what kind of intell.

So they not only increased the range, the targeting, they increased the ability to target U.S. cities specifically. That is why this is a problem and potential problem not only for the United States but other allied countries as well.

□ 1530

We need to look into this, Mr. Speaker. It is serious, and it is a problem.

LET THE HOUSE ENACT SOME TYPE OF CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore (Mr. PEASE). Under a previous order of the House, the gentleman from North Carolina (Mr. HEFNER) is recognized for 5 minutes.

Mr. HEFNER. Mr. Speaker, we have heard a lot of debate in the last couple of hours about campaign finance. I do not come here to try to influence anyone about any particular proposal. However, the gentleman from Connecticut (Mr. SHAYS) has been someone who has labored in this vineyard for many, many years. He has taken a lot of ridicule for his proposals on campaign finance. I think that this House owes a great deal to his efforts that he has had in the past.

The late Sam Ervin, who was the Senator for a lot of years from North Carolina, when talking about campaign financing, talking about how much it costs to run, he said, spending a half a million dollars or $1 million running for a job, at that particular time, that paid $44,000 was kind of like putting a $100 saddle on a $40 mule. It just did not make a lot of sense.

Someone in the debate earlier said that the average citizen cannot afford to run for Congress. Actually, the average citizen cannot even afford to run for county commissioner, because it has gotten to where campaigning is so expensive the average person cannot get involved in the political process.

There are some folks here who do not think we need to do anything on campaign financing, some who think we need to put a lot more money in campaigns. The gentleman from Texas (Mr. DELAY) did a marvelous job last night, he should get an academy award, for his opposition to any kind of campaign finance reform.

Let me just remind the Members of a couple of things. If we go back to the old days when it was only the companies, a lot of these towns would get together and they would pick their candidate and they would fund him. He would be the man that was going to win in a State House seat or a congressional seat. That way, the average guy never got to run for political office.

When I first ran for political office, I spent $44,000. I thought that that was a tremendous amount of money, and it was. We wasted a lot of that. Now it is not uncommon to spend $1 million to get a congressional seat that pays $135,000. It does not make a lot of sense, does it?

If Members think that money does not make a difference in both parties, the Democrats and Republicans, they have their sources. And I will be a little partisan on this. We heard in our newspapers and in Roll Call, in the magazines, that the business community was served notice, and the Republicans said, you have been giving too much money to the Democrats. If you are going to have any access to this Congress, you are going to have to come up with more money for Members that are running on the Republican ticket. That is soft money and hard money.

Mr. Speaker, what someone has referred to as third-party, and everybody has had it, in my district we had at the churches all these flyers that were put under the windshield wipers of the cars: If you want to vote for somebody who wants to kill babies, vote for Bill Hefner and Mike Dukakis. I do not think that was real fair, but we did know who put them under there, or what have you.

Television commercials, they do not have to tell us who is paying for these television commercials. This money comes in and it makes a tremendous hardship on people who are trying to go out and raise hard money from constituents. I challenge anybody in this

House in a regular district. I doubt if they can raise, from the constituents in hard money, in small denominations, even $200,000. So the big money plays a part in campaigns, make no mistake about that. It may not buy a direct commitment, but it buys access to this process.

I do not know what is going to pass on campaign finance reform. I am going to be leaving here after this year. Thank God I do not have to raise any more money. But if something is not done to get a handle on campaign financing and the money that influences it, it is going to get to where even the middle-income folks cannot afford to run for office.

It will only be the people that have the contacts, the people that are millionaires, that will be able to run for Congress, either that or they will be able to go out and get a pretty charismatic candidate that could never make $100,000 in the private sector and fix him up for television, get a smooth consultant, and he will get elected. But it will still be the money trail that puts people in this House. Let us put together some kind of campaign finance reform.

TRIBUTE TO AMERICA'S VETERANS AND TO DR. CARL GORMAN ON MEMORIAL DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. HAYWORTH) is recognized for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, I would ask that all of us pause to remember the reason why we are preparing to take a break from our activities here in Washington, the reason why the highways will be filled with vacationers in just a couple of hours. The reason why has more to do with the history of this country than any type of chronological observance on the calendar, for we approach Memorial Day.

Mr. Speaker, I have a special wish for this coming Memorial Day, that those who are wrapped up in the ball games at the beach and the fun and the activities that surround this time of year, that those who pause not even a New York nanosecond to remember the significance and the history of this holiday, I would ask that perhaps they would pause to remember and reflect on what we approach.

In so doing, Mr. Speaker, I would remember one for whom this Memorial Day will carry a special significance, because he no longer walks among us. He passed away in February of this year. His name is Dr. Carl Gorman, one of my constituents from the Sixth Congressional District of Arizona.

Dr. Gorman has a very interesting story, because Dr. Gorman, born in 1907 in Chinle, Arizona, in the sovereign Navajo Nation, overcame many obstacles to have a chance to serve this Nation in the military.

First and foremost, we should note that the Navajo Tribal Council in fact set the pace for this Chamber, for it was the Navajo Tribal Council in 1940, over a year before the Japanese attacked Pearl Harbor, the Navajo Tribal Council passed a resolution asking the United States to enter World War II on the side of the Allies.

Then following that attack, December 7, 1941, Carl Gorman, who was older than what would fit the profile, got a little creative about his age, said he was a younger man, drove all night to the Navajo capital of Window Rock to enlist, and he and 28 others formed an elite unit, a unit so elite that its activities were not declassified until 1968.

Mr. Speaker, they were known as the Navajo Code Talkers. Dr. Gorman and his Navajo brethren went into the South Pacific using terms from their unique language, and so befuddled and confused the enemy that the code, the Navajo language, was never interpreted. That code was never broken, and it reigns as one of the great successes of World War II.

The Marine Corps high command, in looking back at the activities of Dr. Gorman and his comrades, considered the Navajo Code Talkers heroes. They determined that the Code Talkers saved hundreds if not thousands of American lives because of the success in the South Pacific. Indeed, Mr. Speaker, were it not for the actions of Carl Gorman and the Navajo Code Talkers, our Marine Corps high command believes that perhaps the battle of Iwo Jima would have had a far different outcome.

Like for so many who returned from World War II, life went on for Carl Gorman following that war. He went to art school in Los Angeles. He taught Navajo art at the University of California at Davis. He went on to work again in his home State down in Douglas, Arizona.

But always and forever on this Memorial Day and those that follow, we should remember all our veterans, yes, those who fell on the field of battle, but those who continued to contribute to their Nation, like Dr. Carl Gorman. We honor his memory and those of all veterans this Memorial Day.

CONGRESS CAN ENACT LEGISLATION TO PREVENT ACCESS TO WEAPONS FOR CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, yesterday for the seventh time in the 2 years that I have been in Congress we have been witness to what can only be described as a massacre on one of America's schoolyards, for the seventh time in less than 2 years.

This experience struck a little close to home because it was in my State of Oregon. I am finding already the connections with family and friends of people who knew people who were victims of this event.

But in a sense, I hope all of us in this country who look at those anguished faces, the terror-stricken young people, the sense of what was happening in what should be a sanctuary for our youth, causes us in Congress to reflect on what we are prepared to do to try and make a difference.

Last fall we were unable to secure the right for Members of this assembly to vote on a simple piece of legislation in the juvenile crime bill that would have provided for child access protection against access to guns. This is not something that is some sort of bizarre, hard-edged gun control proposal. These efforts have already been successful in 15 American States, starting with the State of Florida, to make it clear to gun owners at the point of purchase that they have a responsibility to keep that deadly weapon from the hands of children. It requires the person who sells the gun to make available at point of purchase a lockbox or a trigger lock.

We reflect on what happened almost exactly 2 months ago today in Jonesboro, Arkansas, where there was another massacre in a schoolyard. Those two young men who are allegedly the people who inflicted that attack tried first to get the guns from one of the parents' homes. They even tried using a blowtorch, but because it was in a lockbox, they could not get access to it. Their next stop was at the home of someone who had the guns readily available to them, and the rest was history. Five people were dead.

There is no reason that we in this Chamber have to sit back and assume that there is nothing we can do to make America safer for our children. Is it going to take an example like this in the home district of some member of leadership that has denied the House the right, and then be accountable to people they know personally because of a massacre?

□ 1545

If it makes a difference stopping one of these multiple tragedies, it will be worth it. Survey research indicates that over 80 percent of the American public support this legislation. I have been involved with a voluntary program with my sheriff in Multnomah County, Portland, Oregon, Dan Nolle, who has been so enthusiastic supporting lockbox initiatives that he has decreed that every deputy who takes a loaded gun home at night has a lockbox.

There are things that we can do to make sure that this is not something that is replicated across America. I would hope that the leadership of this

Chamber would look into their heart and soul and relinquish for a moment and allow the Members of the House to vote on noncontroversial, meaningful proposals that will reduce the carnage of gun violence in this country. Our young people deserve it.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore (Mr. EVERETT). Under a previous order of the House, the gentleman from Kentucky (Mr. WHITFIELD) is recognized for 5 minutes.

Mr. WHITFIELD. Mr. Speaker, as a result of the 1996 presidential elections, the Nation's news media and many other people began to focus upon the way campaigns are financed in America. This focus was generated because of the Clinton/Gore campaign violating provisions that said, you cannot receive funds from foreign sources.

The Democratic Party is not the only one guilty of violating campaign finance laws, whether deliberately or not deliberately, because they are very complex.

I would like to suggest to my colleagues that when people talk about campaign finance, they focus on two things. First of all, they talk about special interests as if it was something horrible. Yet what special interest means is that any citizen belonging to any group in America, whether it be a nurse, a labor union member, a doctor, a tobacco farmer, a teacher, whatever, has a right to speak on issues that affect them and to join together with others to speak on issues that affect them.

Those are what you refer to as special interests. That is all that they are. All of us have some special interest. So I do not see that there is anything particularly negative about having a special interest.

The second thing that people talk about in a very negative way is this term "soft money." Now, what is soft money? Soft money is money spent by any organization in America, any individual in America, any political party in America, regardless of their philosophy, to take time on television or in the newspapers or on the radio to educate the American people about issues that affect them. And they pay for that with their money. And when they run these ads, they are required to put at the bottom of the television the group that paid for it. But we all talk about soft money, and those who are advocating the Shays-Meehan bill and others are talking about, we have got to get rid of soft money.

Now, what is hard money? Hard money is money that candidates themselves and their committees spend to expressly ask that you defeat or elect a particular candidate. And hard money is regulated by the Federal Government, and it has been for some time. But reformers, when they talk about reform, it is interesting to note that they never want to talk very much about the hard money. That is the money they spend. They want to talk about the soft money. That is the money that can be spent by any person in America. And the Supreme Court has repeatedly said that it is a constitutionally protected right.

So in the Shays-Meehan bill, for example, they talk about any time within 60 days of an election, they broaden the definition of express advocacy to include any ad run 60 days prior to the election and they would stop those ads from being run, if it is paid for by soft money. It would be stopped.

And when you do that, this is what you end up guaranteeing will happen. Sixty days before an election, there will be two groups talking about candidates running for office, the candidates themselves will be running their ads and then the only other group speaking will be the news media through editorials. And it is not surprising that the news media editorialize all the time about we need campaign finance reform, because the way these bills are designed to eliminate soft money, the American people's money, the interest groups, the labor unions, the pro-choice, the environmentalists, the management groups, whatever, eliminating them spending their money, then you get down to a point that the news media is the only entity that will be editorializing on which candidate should be supported.

I hope that as we continue this discussion that we will think deeply about these terms and what they really mean.

APPLAUDS "OPERATION CASABLANCA"—DRUG MONEY LAUNDERING CASE—CALLS FOR INVESTIGATION INTO CITICORP/CITIBANK'S ROLE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, it is about time. The big money laundering bust successfully executed by the United States Customs Department is the kind of work that our government ought to be doing. Clearly we know that 70 percent of the cocaine and over half the heroin is imported by the multinational drug cartels, like the Colombian Cali cartel and the Mexican Juarez cartel. Finally, the money operations of these international syndicates have been successfully targeted.

If we are to get drugs off the streets of our communities, South Central Los Angeles, East Los Angeles and other cities, we must capture, indict and convict the white collar criminals that run the drug trade's money laundering operations and not spend all of our time and resources going after the small time street level criminal.

Without the ability to spend the profits of drug trafficking, the drug trade would come to a screeching halt. It is money laundering that keeps the drug trade going. But we must go further. We must also target the American banks who cooperate with foreign banks to launder drug money. Today I wrote to Attorney General Janet Reno to inquire about Citicorp/Citibank's involvement in the latest money laundering raid. Citicorp/Citibank is currently under investigation into its involvement with the drug money laundering activities of Raul Salinas, the former senior Mexican official and brother of former President Carlos Salinas. Citibank controls one of the three banks that was indicted just the other day in the money laundering case. Confia is one of three Mexican banks indicted in Operation Casablanca for systematic involvement in drug money laundering for the Juarez and Cali cartels.

According to the Attorney General and Customs officials, they have been involved in massive money laundering for years. Confia's previous parent group, Abaco Grupo Financiero, was recently implicated in a major bank fraud case in which Abaco's chairman was sent to prison for defrauding investors of $170 million. During the same period, Citibank worked to acquire Confia in order to expand its position in the Mexican market.

In August of 1997, Citibank signed a letter of intent to acquire Confia; this is the bank that is known to be trafficking and laundering money. They paid $45 million over the market value to secure control of Confia. Why? On May 11, 1998, Citibank took control over Mexican bank Confia and a week later guess what happened? Confia was indicted in this big drug raid. This is the bank that just was acquired by Citicorp and Citicorp acquired the bank at the same time that it was under investigation by the Justice Department for money laundering.

I am interested in determining whether Operation Casablanca raises new questions about Citicorp/Citibank's banking practices. Today we learned that, in addition to that, $4.2 million was seized in this operation from an account in Bankers Trust in New York as part of further arrests and indictments.

We do not know where this is going, and we do not know where it is going to stop, but there certainly are a lot of unanswered questions. I am pleased that this enforcement action appears to have been a success. However, we should not allow the indictment of the banks to stop at the border. They could not be successful without the cooperation of some of our American banks. We cannot allow our American banks off the hook.

To that end, I am calling on Attorney General Janet Reno to look into the role of Citicorp/Citibank, Bankers Trust of New York and any other U.S. bank that is involved in this and related money laundering cases.

Let me just say that this is a big discussion going on in this House. The Republicans have taken it up as a political issue in an election year. They would like to point their fingers at the Democrats and say, oh, you have not done enough. Let me warn the Republicans and the Democrats, this issue is not to be played with. This cannct be a short-term Band-Aid type look at these problems. Some of us have invested priority time in trying to get to the bottom of drugs in this country. Illegal drugs are destroying America. It is our greatest risk.

I am saying to this entire Congress, we have got to be serious about the business of getting to the bottom of it. It is about time we look at big boys in high places and white collar criminals who are involved in money laundering.

I submit for the RECORD the letter to Janet Reno that requires her to look further into this matter.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 21, 1998.

Hon. JANET RENO,
U.S. Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: As a senior member of the House Banking and Financial Services Committee, I read the reports of the U.S. Customs Service break-up of a major drug money-laundering operation with great interest. I congratulate all those involved in targeting the top levels of the Juarez and Cali cartels and their bankers and banks. I am encouraged to learn that the Attorney General's office and the Department of Treasury is starting to put more resources into targeting drug money laundering. Cutting the drug lords off from their profits is key to ending this deadly trade.

However, a careful review of the situation raises additional, unanswered questions regarding the role of U.S. banks in this investigation.

It is common knowledge that Citicorp/Citibank is under investigation, regarding its involvement with Raul Salinas' money laundering activities. We now learn that Citicorp's banking unit, Citibank, recently assumed management control over Confia—one of the three indicted banks in Operation Casablanca.

In addition to the current indictment, which came after three years of undercover investigations, Confia's parent group, Abaco Grupo Financiero S.A., recently was implicated in a major fraud case in which Abaco's chairman was imprisoned last November for defrauding investors of $170 million dollars. While Confia was engaged in systematic drug money laundering for the Juarez and Cali cartels, Citibank signed a letter of intent to acquire Confia in August of 1997. Citibank took over control of Confia on May 11.

These facts raise some serious questions about the relationship of U.S. based financial institutions to those implicated in this major money laundering case.

1. Did the acquisition of Confia by Citibank help facilitate money laundering by Confia?
2. Given what we know of the rampant money laundering activities by Confia, what was the responsibility of Citibank to exercise due diligence in the acquisition of Confia and did Citibank meet its burden?
3. Is the current investigation of the potential involvement of Citicorp/Citibank in Raul Salinas' drug money laundering activities close to concluding?
4. Are there any other U.S. financial institutions under investigation for money laundering activities?

As Members of the House Banking Committee consider the implications of Operation Casablanca with regards to the integrity of our financial system, I would greatly appreciate a prompt response to these questions.

Sincerely,

MAXINE WATERS,
Member of Congress.

THE SPACE PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, I rise today to speak out on Space Day, which is actually celebrated May 21, it was yesterday, a day set aside to celebrate the anniversary of John F. Kennedy's bold challenge to land a man on the moon. The space program, as we all know, has matured tremendously. We now have the space shuttle program, which has been a tremendous success, being able to go up and return with a crew and do all kinds of very sophisticated things while on orbit, such as repair the Hubble telescope, and soon it will be launching the elements of the space station.

We have all heard about the tremendous scientific breakthroughs that have been the fruit of our space program. I know I, as a physician, saw that on a daily basis when I was practicing medicine prior to being elected to the House. Some of the technology from the space program is used on a daily basis, such as the imaging technology with MRI scanning and CAT scanning, as well as a lot of the materials science used in cardiac catheterization and prosthetic hips. But today I rise to talk about what I think may prove to be ultimately in the end one of the greatest breakthroughs that has benefited people here on Earth from our space program, and to talk about that I need to talk about a product made by a company in my district. It is called Quick Boost, and I have a can of that in my hand right here.

You put this stuff in your air conditioning unit in your car and it will cause your air conditioning unit to run about 10 to 20 percent more efficiently. Now, what is really interesting is they have a version of this that they will be releasing on the market very soon that will go in your home air conditioning unit that will cause your home air conditioning unit to run 10 to 20 percent more efficiently.

Why am I talking about this product? This product is a spin-off of the space program. Yes, it was NASA who had the need to develop more efficient air conditioning units on spacecraft that caused the technology to be developed that has gone ultimately into this product. And this product has the potential to cause the consumption of electricity to decline in the United States. It has the potential to allow us to save billions of dollars on electricity costs as well as reduce our demands for foreign oil, and probably what is more important is that families all across America, particularly those living in the South that run air conditioning units all year round, may be able to save up to as much as $20 a month, $2250 a year, which is more than equal to their tax portion of what is going to fund our space program.

☐ 1600

Our space program is having a profound effect on our culture, on our society, and there is probably no better example than this product called Quick Boost made by a company in my district, Mainstream Engineering.

So for those people in this House of Representatives who frequently get up and claim that we should not be spending this money on our space program and that we should be applying it to education or health care or better roads and bridges, all of which are very worthwhile things, I challenge them to stop and think and look at all of the benefits that have accrued to us here on earth from our space program: whether it is the medical technology, whether it is through the better prediction of weather, or, yes, right down to something like this, a product that is going to decrease our reliance on foreign oil, that is going to decrease the consumption of electricity.

It will actually be good for the environment, because we will be burning less fossil fuels; and, indeed, it will help families all across this country to save a little bit of money each year, money that they can better use for their children's education, money that they can better use for braces for the kids or new tires for the car.

So the space program is more than just sending rockets up to space, it is more than just motivating our kids in science and technology, it is more than just exploring the new frontiers. It is about helping us here on earth. It is about learning ways to do things better.

I would encourage all my colleagues who have opposed funding for the space program to look at this breakthrough, to look at this technology and the billions and billions and billions of dollars of savings that it will cause our Nation in the years ahead and to rethink their position on the space program.

I encourage all of my colleagues to vote to increase NASA's budget, because these are the kinds of breakthroughs that not only will help the

United States, they as well have the ability to help all of mankind and all people throughout the world.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–552) on the resolution (H. Res. 449) waiving points of order against the conference report to accompany the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI WITH RESPECT TO SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. McINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 445 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 445

Resolved, That the requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported from that committee on the legislative day of May 22, 1998, providing for consideration or disposition of the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, an amendment thereto, a conference report thereon, or an amendment reported in disagreement from a conference thereon.

The SPEAKER pro tempore (Mr. EVERETT). The gentleman from Colorado (Mr. McINNIS) is recognized for 1 hour.

Mr. McINNIS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 445 is a simple resolution. The proposed rule merely waives the requirement of clause 4(b) of Rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House for resolutions reported from the committee on May 22, 1998, under certain circumstances.

This narrow, short-term, waiver only applies to special rules providing for the consideration or disposition of H.R. 2400, BESTEA, which will authorize funds for the Federal-aid highways, highway safety programs, transit programs and for other purposes, amendments thereto, a conference report thereon, or an amendment reported in disagreement from a conference for H.R. 2400.

Mr. Speaker, House resolution 445 was reported by the Committee on Rules with voice vote. The Committee recognizes the need for an expedited procedure to bring this important bill forward as soon as possible.

Mr. Speaker, approval of the conference report to H.R. 2400 will provide desperately needed funds to help rebuild America's roads and bridges. This legislation provides the resources to meet America's infrastructure needs. Simply put, this bill is going to build America, reduce congestion, save lives. I urge my colleagues to support House Resolution 445.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from Colorado (Mr. McINNIS), my good friend, for yielding me the customary half hour, and I yield myself such time as I may consume.

Mr. Speaker, this rule waiving the two-thirds requirement for same day consideration of the transportation conference report is really a terrible way to legislate.

This conference report has only been available to Members for a very short period of time, and I would be willing to bet that most Members have not seen this legislation, and that very few, if any, have had a chance to read the whole conference report, unless they are actually a member of the conference committee.

Mr. Speaker, this bill is a major piece of legislation which impacts every single Congressional District in this country, but few in the House have had an opportunity to look at the final product. We are spending billions upon billions of dollars, and we should know what we are voting on.

However, having said that, I will not oppose the rule because I realize that this conference report needs to be considered by the House before we leave for the Memorial Day break. We need to get highway construction monies back in the pipeline in time for the summer construction period.

I can only add that I hope the leadership will exercise more caution in the future when a bill of this magnitude comes before the House so that it will give Members sufficient time to read and fully comprehend the contents before voting on such comprehensive, far-reaching, expensive legislation.

Mr. Speaker, although this is not a good way to legislate, this transportation bill is far too important to let it fall by the wayside at this late hour, so I will reluctantly support this two-thirds rule.

Mr. Speaker, I yield back the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

Mr. McINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 449 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 449

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. McINNIS) is recognized for 1 hour.

Mr. McINNIS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purpose of debate only.

House Resolution 449 is a straightforward resolution. The proposed rule merely waives all points of order against the conference report and against its consideration. This resolution was reported out of the Committee on Rules by a voice vote.

Mr. Speaker, the approval of House Resolution 449 will allow us to move forward with the consideration of the conference report to H.R. 2400, the new highway bill entitled the Transportation and Equity Act for the 21st Century.

Mr. Speaker, this is legislation that will provide desperately needed funds to help rebuild America's roads and bridges. This bill provides the resources to meet America's infrastructure needs.

Furthermore, the legislation improves safety on America's highways. For example, the conference report significantly strengthens drunk driving protections, including an increase in funding to help States enact and enforce programs to combat drunk driving. States can strengthen the .08 blood alcohol concentration legal limits, license revocation for repeat offenders, young offenders aged 21-34, and other targeted efforts.

Mr. Speaker, I urge my colleagues to support House Resolution 449 and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I once again thank the gentleman from Colorado (Mr. McINNIS) for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, I would like to at this time congratulate my colleagues, the gentleman from Pennsylvania (Mr. BUD SHUSTER) and the ranking member, the gentleman from Minnesota (Mr. JIM OBERSTAR), for their very hard work on this bill.

Despite the months and months of clamoring, despite the vastly different transportation needs of the 50 States, the gentleman from Pennsylvania and the gentleman from Minnesota have managed to come up with a bill that satisfies the vast majority of Members and, for that, they deserve our thanks.

I am sure that most Members would change a thing or two in this bill if they could, but, all things being considered, it is about the best we are going to get, and I urge all my colleagues to support it.

As far as I am concerned, this conference report is coming not a moment too soon. The Intermodal Surface Transportation Efficiency Act of 1997 expired in September of 1997. It is critical that we do not leave the States with enormous half-finished transportation projects on their hands.

Mr. Speaker, a lot of people take America's infrastructure for granted. They get in their car and drive to work or school without even thinking about it. But those roads they drive and those bridges they cross do not last forever, especially in the northeast, and we need to do our best to make sure they stay as safe and as accessible as possible.

So anyone who does not understand the need for transportation funding needs to remember that this is how we get our products to the market, this is how we get our Reebok sneakers to the malls, our Gillette blades to the malls, and our computer chips to the docks to be sent overseas.

A good transportation system creates jobs, keeps America safe and advances our country's economy. The conference report we are considering today is a 6-year bill that retains the basic structure from ISTEA, including its good environmental programs and its commitment to safety.

It also encourages equal opportunities by keeping the disadvantaged business enterprise program for women and minority-owned construction firms.

I am happy to say, Mr. Speaker, that this bill applies Federal labor standards and employee protections like the Davis-Bacon Act for people working on the highway and transit projects that are contained in this bill.

In my opinion, Mr. Speaker, the safety programs in this bill are well worth it. Every year some 40,000 people die in motor-vehicle-related deaths in this country. And if this bill improves highway safety enough to lower that number by just one, it is well worth it.

Once again, Mr. Speaker, I thank the chairman of the committee, the gentleman from Pennsylvania (Mr. SHUSTER), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for their outstanding work on this bill; and I urge my colleagues to support the rule.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. OBEY), the ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I take this time on the rule to simply announce to the House that I intend to oppose the conference report and, if I have the opportunity, I intend to offer a motion to recommit.

I do so for the following reasons: Number one, this bill is a budget buster. It is a veritable pork bonanza. It now contains not the 1,500 special projects which we were told about yesterday. I am told that it now contains about 1,800 special projects. That is 80 percent more projects in 1 year than was provided by the Congress in the previous 42 years of the history of the Highway Act combined.

There are projects in here that have been scrutinized by no one other than the Member who requested them. There are a number of projects that have nothing whatsoever to do with transportation. There is funding for museums, the Corporation for Public Broadcasting, grants to medical schools, direct subsidy payments to private corporations, money paid to trade schools, renovations for historic buildings. A lot of that may be worthy, but it has no business in a highway bill.

□ 1615

I would say that I do not know how many Members know it, but this bill actually authorizes a $120 million project for a highway in a foreign country, $120 million for a highway in Canada, paid for by U.S. taxpayers.

The worst thing about this bill in my view is that it is financed out of the hides of veterans' health care and now, as of early this morning, out of child care for our kids, Meals on Wheels for our seniors, foster care, and adoption services for orphans, because the bill provides for a $2 billion cut in the title XX block grant. So we are again pummeling the most defenseless people in this society in order to provide more concrete.

I am a strong supporter of highway construction, but I do not want to build roads on the backs of kids who need child care and poor seniors who have difficulty getting their wheelchair to the sidewalk and are not going to be getting congregate meals and will not have the luxury of using the public highways. It just seems to me that this is an irresponsible bill, a spectacularly irresponsible bill.

I would close by reading two paragraphs from two letters from veterans' organizations. One from the Disabled American Veterans reads: "We strongly urge a no vote on the previous question for consideration of any such recommittal motion. Defeat of the previous question will allow the veterans' recommittal motion to be offered and give veterans the straight up or down vote on this proposal to cut compensation, which simple fairness dictates they be given."

Paralyzed Veterans of America says as follows: "It has been purported that veterans do now agree to the offsets due to the inclusion of certain other increases in benefits."

This is patently untrue. Paralyzed Veterans Association, and I am sure other veterans' organizations, have never supported the increase of one benefit at the expense of another. The conferees should reconsider their actions in using veterans' funds as offsets to pay for transportation highway projects that far exceed the levels established in last year's Balanced Budget Amendment.

That is why, Mr. Speaker, if I have the opportunity, I will plan to offer a motion to recommit this conference report and ask the conferees to take out the cut in veterans' funding. If someone attempts to preempt my motion with a sweetheart motion that denies the House an up or down vote on the veterans' issue, I will ask for a rollcall on the previous question. Veterans' groups have indicated in writing that they strongly support the motion that I will offer.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I respect those who have worked hard to develop America's highway infrastructure. I believe that is an important function of the Federal Government.

But for anyone who has come to this Congress on the platform of fiscal responsibility, I would like to suggest there is something very wrong with our voting in just a few minutes to spend $200 billion of our taxpayers' money, when frankly I cannot get a copy of the bill to even look at before we vote on it.

Whether one thinks this could be a great bill or one thinks it is a horrible bill, the fact is that we are about to spend $200 billion and most Members have not even had a chance to look at the bill. It is fiscally irresponsible.

Whether you are Republican or a Democrat or an Independent, the fact is that this does not make sense for us to so cavalierly spend that much money of taxpayers' dollars without being given a fair opportunity to review the details of this bill.

A few minutes ago, I was told by staff that we could get a copy of this bill sometime tomorrow, of course, after we have voted on it. And I guess it would be nice if they vote for this to get a copy tomorrow so they can tell their constituents what is in it.

So my objection to this rule, Mr. Speaker, is not any specific content in the bill. Because, frankly, most of us do not have a chance, I cannot find a copy of the bill, at least on this side of the aisle. Perhaps the majority party has a copy of the bill. But we also have a constitutional responsibility to review legislation before we vote on it even though we are on the minority side of the aisle.

So I object and I hope other Members of this House from both parties who have gone back home year after year after year and said, we have got to spend your taxpayer dollars wisely, we have got to be careful in how we spend it, we ought to show fiscal responsibility, I hope those Members will think twice before spending $200 billion without even looking at a copy of the bill.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time.

Mr. McINNIS. Mr. Speaker, before I yield to the honorable gentleman from Pennsylvania (Mr. SHUSTER) I should point out that I am overly impressed with the comments of the gentleman from Texas (Mr. EDWARDS) about worrying about the taxpayer.

Also, the gentleman from Wisconsin (Mr. OBEY) impresses me. I am glad that both of these individuals have come forth on behalf of the taxpayer. Because, in 1997, under the National Taxpayers Union, both of them were rated with F's as big spenders. But, apparently, in the last couple hours we had have had a conversion. I am pleased to see it. I am impressed. I am excited about it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I simply rise to announce that the Senate has just passed this conference report by a vote of 88-5 and also to announce that at 2:30 this afternoon, the President of the United States announced that he will be pleased to sign this law.

The President said that first it must keep our budget balanced, it must preserve the budget surplus until we have saved Social Security, and then it must not undermine our national priorities, including education, health care, child care, and the environment.

The bill being considered by the Congress this afternoon meets those principles. I am quoting the President of the United States, and he says: "I will be pleased to sign this bill into law."

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

I would like to congratulate the chairman. He has done a heck of a job. He ought to be very pleased with those numbers that have just come out of the United States Senate and the announcement from the White House. Congratulations.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. PEASE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 359, nays 29, not voting 45, as follows:

[Roll No. 190]

YEAS—359

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Bonilla
Bonior
Bono
Borski
Boswell
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Granger
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Redmond
Regula
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stearns
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Velàzquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—29

Barrett (NE)
Barrett (WI)
Becerra
Bentsen
Boehner
Boyd
Chabot
Christensen
Coburn
Doggett
Edwards
Hall (TX)
Hastings (FL)
Hobson
Kennedy (RI)
Largent
Lewis (GA)
Maloney (NY)
Minge
Obey
Sabo
Shadegg
Shaw
Shays
Souder
Thurman
Tierney
Wexler
Yates

NOT VOTING—45

Archer
Bateman
Boucher
Burr
Burton
Conyers
DeFazio
DeGette
Deutsch
Fawell
Foley
Furse
Gephardt
Gonzalez
Graham
Green
Harman
Hefley
Hoekstra
Hyde
Johnson, Sam
King (NY)
Kingston
Lofgren
McCrery
McDade
Meehan
Meeks (NY)
Miller (CA)
Mollohan
Parker
Quinn
Rangel
Reyes
Riggs
Sanford

Skaggs
Smith (OR)
Stenholm
Taylor (NC)
Torres
Towns
Wamp
Waxman
Wicker

□ 1641

Mr. JACKSON of Illinois changed his vote from "nay" to "yea."

So the resolution was agreed to.

The results of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3433, TICKET TO WORK AND SELF-SUFFICIENCY ACT OF 1998

Mr. McInnis, from the Committee on Rules, submitted a privileged report (Rept. No. 105–553) on the resolution (H. Res. 450) providing for consideration of the bill (H.R. 3433) to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work and to extend Medicare coverage for such beneficiaries, and to amend the Internal Revenue Code of 1986 to provide a tax credit for impairment-related work expenses, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 2400, TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Mr. SHUSTER. Mr. Speaker, pursuant to the House Resolution 449, I call up the conference report to accompany the bill (H.R. 2400), to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 449, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. Shuster) and the gentleman from Minnesota (Mr. Oberstar) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. Shuster).

□ 1645

Mr. OBEY. Mr. Speaker, under the assumption that the gentleman from Minnesota (Mr. Oberstar) is in favor of the conference report, I rise in opposition to the conference report and pursuant to rule XXXVIII, I request one-third of the time.

The SPEAKER pro tempore (Mr. Hastings of Washington). Is the gentleman from Minnesota opposed to the bill?

Mr. OBERSTAR. No, Mr. Speaker.

The SPEAKER pro tempore. Under the rule, the gentleman from Wisconsin (Mr. Obey) will control one-third of the time, the gentleman from Minnesota (Mr. Oberstar) will control one-third of the time, and the gentleman from Pennsylvania (Mr. Shuster) will control one-third of the time.

The Chair recognizes the gentleman from Pennsylvania (Mr. Shuster).

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Henry Clay, the great compromiser, once said the good thing about compromise is that for everything you give up, you get something in return. And, indeed, that is where we are today.

We bring back from our conference with the Senate a compromise. Now, if I could waive a magic wand, there are several things in this bill I would do differently. So we do bring a compromise to the floor, but it is a good compromise. It is more than a good compromise, Mr. Speaker. It is an historic piece of legislation. It is an historic piece of legislation because we put the trust back in the transportation trust funds.

This is an historic piece of legislation, Mr. Speaker, because now the American people will know that trust is being put back in the transportation trust fund. The revenue they pay, the gas tax which they pay into the transportation trust fund, will be available to be spent on transportation purposes. Indeed, while I and many others in this Chamber would have preferred to take the trust funds off budget, the compromise we reached is a good one, it is a solid one, it is a guarantee, an ironclad guarantee, that sets aside firewalls on the revenue coming into the transportation trust fund so that that money is available to be spent.

So when the average American drives up to the gas pump and pays his 18.3-cent Federal tax, that money is free to be spent. It is a guarantee, it is an ironclad guarantee. This is an historic matter in and of itself, and that is one of the major reasons why this legislation is so important to America.

What it means, if we do spend the revenue going into the trust fund, and not a penny more, only the revenue going into the trust fund, means that this bill over six years can guarantee $200,500,000,000 spending, because that is the revenue projected to go into the trust fund.

Should there be more revenue going into the trust fund, that money will be available to be spent. Should there be less revenue going into the trust fund, then we will have to reduce the expenditures. It is fair, it is equitable, and it is keeping faith with the American people.

This legislation is going to save, the experts tell me, approximately 4,000 lives a year, not only because of the safety provisions we have in it, but because about 30 percent of our 42,000 highway fatalities each year are caused as a result of bad roads. As we improve the roads, we save lives.

Another very significant feature to this legislation is that the donor States will now get 90.5 percent minimum allocation guaranteed on the formulas. This is better than the guarantee in either the Senate or the House bill.

Also, we have streamlining provisions in here which make it more easy for the States to proceed giving the various groups their opportunity to express themselves, but to get highways and transit systems built more expeditiously so we can gain the increased productivity, convenience and safety that goes with it.

Mr. Speaker, I am very pleased to emphasize that just a few minutes ago the Senate passed this conference report by a vote of 88 to 5, and this afternoon the President of the United States said, "I will be pleased to sign it into law."

So we bring to Members now T–21, the Transportation Equity Act for the 21st Century, and urge its passage.

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Speaker, I rise in support of the conference report.

I rise today in strong support of the conference report on H.R. 2400, the TEA–21 Act, which addresses a number of important environmental and safety issues that were committed to the attention of the Committee on Commerce.

As requested by the States, the conference report provides certainty regarding EPA's schedule for implementing the new ozone and PM air standards. The conference report also ensures that EPA will keep its promise to harmonize the schedule of its regional haze program and its promise to pay for PM monitors. To ensure that EPA uses the best science possible, the conference report directs the EPA Administrator to consider recommendations made by the National Academy of Sciences.

These provisions enjoyed wide support from the States and others, and I ask unanimous consent to include in the record three letters of support.

The conference report also includes many of the provisions contained in H.R. 2691, the National Highway Traffic Safety Administration Reauthorization Act of 1998, which passed the House unanimously last month. In addition to reauthorizing NHTSA, it addresses the important issue of air bag safety and improves the protection of drivers, passengers, and children who are involved in motor vehicle crashes. These provisions will ultimately save lives.

The conference report also addresses the issue of NHTSA lobbying. We agreed on a bipartisan basis to prohibit NHTSA from lobbying State and local officials, just as they are prohibited from lobbying Members of Congress.

In closing, I would like to recognize the extraordinary effort that it took to bring this legislation to the floor today. Chairman BILIRAKIS, Chairman, TAUZIN, and Ranking Member DINGELL all worked very hard and on a bipartisan basis. I would also like to thank Chairman SHUSTER and Chairman PETRI, as well as Ranking Members OBERSTAR and RAHALL, for the high level of cooperation we received from the Transportation Committee.

Mr. Speaker, I strongly urge the adoption of the conference report.

Mr. SHUSTER. Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the bill that we are pleased to bring to the House today is strong on mobility, strong on safety, strong on economic development. It sustains the economic expansion that our country is experiencing. It gives us thrust to continue the international competitiveness of the nation's economy. It is a balanced bill. It is strong on transportation, including all modes of transportation, transit, alternative transportation. It protects the environment, enhances safety, ensures fair treatment for construction and transit workers, for pedestrians, for bicyclists, for disadvantaged contractors, for people trying to end their dependence on welfare through the welfare to work provisions. Most importantly, it restores trust, the trust of the American people, to the Highway Trust Fund. It, with the guarantee provision we have included in this legislation, assures that we achieve in principle the goal we have sought in practice for so long, to take the trust fund off budget, but within the budget.

This is no small accomplishment. We have been working since 1968, for 30 years, to bring the Highway Trust Fund back to the position where the revenues in are the revenues spent out and invested in the Nation's transportation needs.

For the leadership that brought us to this point, I salute the gentleman from Pennsylvania (Chairman SHUSTER). I like the name of the bill that passed the House, BESTEA, the Bud E. Shuster Transportation for All Eternity Act. And I salute my chairman for the leadership he has given us for the strong role that he played in the conference, and bringing back to this body an extraordinarily proud piece of legislation.

We have much to be proud of with this legislation. All of the points that I mentioned a moment ago can be expanded upon, but I think we can sum it up best with what the President said just moments ago. "Let me say, this bill does show that fiscal responsibility and investing in our future go hand-in-hand toward preparing our people and our country for the next century. I want to thank Secretary Slater, Larry Stein, especially the Members of the economic team, for the hard work they did starting from a very difficult position to reduce the spending in this bill. If the Congress does in fact pass the bill as expected, I will be pleased to sign it into law."

We would have liked a higher spending level. We would have liked many other provisions in this bill as we passed it in the House. But we bring back to you something that every Member of this body can take home to his or her district and stand up and be proud of and tell the American people we have done good as we approach the 21st Century, that that bridge to the 21st Century will not be a chimerical bridge, but it will be a bridge built on steel girders and concrete and asphalt and will take America into the 21st Century.

Mr. OBEY. Mr. Chairman, I yield myself 4 minutes.

Mr. Speaker, I have a great deal of respect for the chairman of the committee, the gentleman from Pennsylvania (Mr. SHUSTER). He is, without question, I think one of the most effective chairs in this House, and he certainly knows how to run a railroad.

I also have considerable respect for the gentleman from Wisconsin (Mr. PETRI), the subcommittee chair for surface transportation. As far as the gentleman from Minnesota (Mr. OBERSTAR) is concerned, my friend from the wrong side of the bridge in Minnesota, he and I vote against each other about, I think we voted against each other more in the past week on this issue than we have in all of the time we have been here. I have great respect and affection for him. But I stand here today because I believe it is important to recognize that there are certain principles which are being grossly violated by this bill that should not be violated.

Mr. Speaker, the gentleman from Minnesota just said that there is something in this bill that every Member can take back home to their districts. That is certainly, certainly true. There are some 1,800 projects in this bill. To put that into perspective, in the entire history of the highway program, we have only had 1,022 projects for Members. In this bill, in one year, there will be 1,800. That is the most spectacular example of excess that I can recall.

There is even in this bill a $120 million authorization for a highway in Canada. Now, I know a lot of citizens in a lot of States who would prefer that those dollars be spent in their own States. I did not know that Canada had become attached as another State, but evidently, despite that, we are going to spend money there any way.

The main reason to oppose this bill is that it is simply a budget buster. As I understand it, it is $32 billion over the CBO baseline over 6 years, and as a consequence of that, to find ways to pay for that excess, the committee has taken, we are told, about $15 billion out of the hides of veterans' health care perhaps. They have also taken out $2 billion out of the title XX block grant. That is the program which pays for child care, for child protective services, for foster care, for home base services for the elderly, for services for at risk youth, for Meals on Wheels for the home bound. $2 billion coming out of that over three years. And then the bill says that for every year thereafter, there will be a continued reduction in that program.

I do not believe that home bound senior citizens expect us to build highways by running over their needs, and I do not believe that veterans think we should do so either.

I have two letters which I read earlier and I will read again a portion of them. The Paralyzed Veterans Association of America says as follows: "It has been purported that veterans have now agreed to the offsets due to the inclusion of certain increases in other benefits. This is patently untrue. The conferees should reconsider their actions in using veterans funds as offsets to pay for transportation and highway projects that far exceed the levels established in last year's budget agreement."

□ 1700

The Disabled American Veterans urge a "no" vote on the previous question on this bill because of their objections to the veterans' cuts.

It just seems to me, Mr. Speaker, that while highways certainly deserve to be a top priority, they do not deserve to be the only priority, and we should not be funding concrete in another country. Certainly, we should not be paying for 1,800 special congressional projects by taking it out of the hides of veterans' health care and title 20 block grant, which is needed by our most needy and defenseless citizens.

So that is why I will be offering, if I have the opportunity at the end of the bill, I will be offering a motion to recommit to at least eliminate the cuts for veterans that are used to finance a portion of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Wisconsin (Mr. PETRI), the distinguished chairman of the subcommittee.

Mr. PETRI. Mr. Speaker, I salute the Chairman's leadership in this matter.

Mr. Speaker, the true social safety net of this country is not made up of speeches delivered in this hall or even legislation passed in this hall. The true social safety net of this country is the productive capacity of the American people and the American economy. Passage of this legislation will enhance that productivity that will improve, thereby, the social safety net and the well-being of all Americans.

I would join my colleagues in supporting this legislation that is backed by the National Conference of State Legislatures, the National Governors Association, the National League of Cities, the U.S. Conference of Mayors, the U.S. Chamber of Commerce, the AFL-CIO, the American Public Transit Association and the Representatives of America's Motorists, the AAA, the Senate of the United States by an 88-to-5 vote, and the President of the United States, who suggested the offsets that some of my colleagues deplore. But it has his support. It should from my colleagues. It is a good bill.

Mr. OBERSTAR. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I rise in strong support of this measure.

This bill provides the vital funds necessary to rebuild Michigan's crumbling roads, bridges, and interstates, and I congratulate and thank Chairman SHUSTER and Ranking Member OBERSTAR for their work.

This legislation also includes provisions within the sole jurisdiction of the Committee on Commerce. They address important public health and safety matters, and do so in a manner that is fully bipartisan. I want to commend and thank Chairman BLILEY, Mr. TAUZIN, and Mr. BILIRAKIS for their efforts on these issues.

H.R. 2400 contains provisions reauthorizing the activities of the National Highway Traffic Safety Administration. The legislation contains the funding level requested by the Administration, and does two other important things.

One, it establishes a rulemaking for the next generation of motor vehicle occupant protection systems. This is designed to address the tragic problems we've seen with the current generation of airbags.

Second, the legislation corrects some flaws and anomalies in the formula used for calculating the domestic parts content of motor vehicles. This provision will give consumers more accurate information about the origin of their vehicles.

H.R. 2400 contains one other provision of special note. It will give States and communities certainty regarding the implementation of the new national ambient air quality standards for ozone and particulate matter.

These legislative provisions do not change Administration policy, nor do they address fundamental questions regarding these standards and their impact. They simply ensure that the Administration's schedule for these standards is met and that the necessary monitoring data will be gathered expeditiously without imposing any financial burden on the States.

In addition, we included language in the Statement of Managers to ensure that Administrator Browner carefully considers the recent recommendations of the National Research Council regarding the national fine particle monitoring network which will be developed and deployed over the next two years.

This group of independent scientists urged EPA to ensure that the plans for this monitoring program are thoroughly peer-reviewed at an early date, while such a review can still inform the monitoring-network design and operation. The Statement of Managers endorses this reasonable and prudent step and I fully expect EPA to take the necessary steps to ensure that all aspects of the development of this monitoring network are in fact subject to peer review.

Beside making several minor technical changes, the Conferees made only one significant change to the original Inhofe Amendment as passed by the Senate. And that was to address an issue raised but not resolved by the Senate provision. Section 4102 not only calls for the establishment of a national network of fine particle monitors, it provides that areas will not be designated as nonattainment until States have the opportunity to review three years of data from these monitors. This guarantee was established by the President and adopted by EPA last summer. State submissions of programs to control fine particles are also delayed since they are triggered by the nonattainment designation process.

However, EPA's proposed regional haze program could short-circuit this timing by requiring States to make decisions regarding the control of fine particles before the necessary technical information from the monitoring network is available. Why? Well, as Administrator Browner has testified: "Like the new ambient air quality standards for fine particulates, the proposed rule for regional haze would similarly require the control of fine particulates." So since the two programs control the same pollutant and rest on the same technical information, even EPA has recognized that the two programs must be harmonized. To again quote Administrator Browner, "it is our intention to manage the two together" and "not to have regional haze go first, but to actually combine them." These comments have been echoed by the Administrator and other EPA officials in other forums and in the Agency's official writings.

However, there is a statutory glitch in EPA's efforts to harmonize the two programs. A provision in the Clean Air Act's visibility section requires State plans within one year after the visibility regulations are final. To address this statutory deadline, the Conferees added language to guarantee that the State submissions on regional haze will coincide with the State's fine particle submissions. As such, the provision implements EPA's stated policy regarding the timing issue.

(I would add that the provision is not intended to endorse or ratify EPA's proposed regional haze program and the Conferees took no position on the legality or prudence of any portion of the proposed regulations.)

Mr. Speaker, the Inhofe Amendment as modified by the Conferees represents a modest initial step to deal with the many issues raised by EPA's new air quality standards. I must promise with regret that this will not be the last time we will be before the House with legislation on this topic. Until that date, I urge members to support this first step.

Mr. OBERSTAR. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia (Mr. RAHALL), the ranking Democrat on the Subcommittee on Surface Transportation, who has spent such an enormous amount of time on this bill, and I congratulate him on his work.

Mr. RAHALL. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in support of this conference report on this most historic piece of legislation.

For too long, this Nation has allowed its basic surface transportation system to deteriorate. For too long, we have witnessed unsafe road conditions contributing to the fatality and injury rate of the American public. And for too long, we have experienced our competitive posture in world commerce be adversely affected by an increasingly inefficient surface transportation network.

Today, we are making an historic move that this shall be no more.

This conference agreement to authorize Federal highway, highway safety, motor carrier and transit programs is the largest and most comprehensive surface transportation bill to be considered in the history of our Nation, and I am very proud of this legislation.

I am proud of our chairman, the gentleman from Pennsylvania (Mr. Shuster), and our ranking member, the gentleman from Minnesota (Mr. OBERSTAR). I am proud of our subcommittee chairman, the gentleman from Wisconsin (Mr. PETRI). I am very proud of the staff that has worked virtually around the clock for the last 2 or 3 weeks to get this historic legislation to the floor of the House, and they deserve the highest words of praise as well.

Indeed, in dollar terms, this legislation will provide over $200 billion during the course of a 6-year period for highway and transit facilities.

However, there is much more than just dollars in this legislation. It transcends considerations of the concrete, the asphalt, the steel and stone. Indeed, what we are doing in this legislation is improving our standard of living for our children in generations to come. It entails a type of legacy that we wish to leave future generations of Americans. It is an investment in America's infrastructure finally and foremost, rather than throwing money overseas.

So I approve of this legislation wholeheartedly.

We address safety. We address the environment. We address flexibility. We truly have an intermodal piece of legislation here, and I commend it to my colleagues for passage.

Safety. We are all concerned about the safety of our children and our families. This bill contains an impressive array of weapons to combat unsafe road conditions, and importantly, unsafe drivers. Road rage is on the rise in the country. Tempers flare as drivers are gridlocked in traffic snarls.

This bill will bring to bear a better financed Congestion Mitigation and Air Quality program that contains the keys to unlock that gridlock and sooth those flaring tempers.

With this bill, we are also escalating the war against drunk driving, including through a $500 million arsenal of incentives to the States to lower blood alcohol content standards.

The environment. Transportation is about much more than roads, bridges and highways. It is also about alternative means of moving people from place to place. The Transportation Enhancements Programs will experience a significant increase in funding for an expanded list of eligible projects that will serve to make the transportation experience more enjoyable for many Americans.

Innovation. Americans are innovative by nature, and this bill rewards that attitude in terms of both technology and financing.

Under it, intelligent transportation systems, maglev and other new transportation initiatives will be further advanced, and indeed, taken past the demonstration stage and placed into every day use.

Further, this legislation further promotes innovative financing approaches to transportation problems through a wide range of tools.

And finally, a promise. A promise that will now be fulfilled to the people of the Appalachian Region more than 30 years ago.

For the first time, the Appalachian Highway System will be fully incorporated into the Nation's highway program and financed by trust fund revenues.

This will provide a secure and dedicated source of funding for the unfinished segments of the Appalachian Development Highway System, opening impoverished areas greater accessibility and subsequent economic development.

In this regard, the inclusion of this program in this legislation is due to the efforts of West Virginia's senior Senator, ROBERT C. BYRD. And it will stand as his lasting legacy.

In conclusion, to the American motorist, know this. The taxes we pay every time we gas-up our vehicles will no longer be used for non-transportation purposes.

This bill contains an iron-clad, rock-ribbed, copper-riveted guarantee that fuel tax revenues will be spent on highway and transit improvements. We have built a fire wall around these revenues from which there will be no diversion.

My colleagues, I would be remiss if I did not express our appreciation of the chairman of the Committee on Transportation and Infrastructure, BUD SHUSTER, and for our ranking Member, JIM OBERSTAR, for their tireless efforts on behalf of securing fairness, equity and justice in the federal highway and transit programs as exemplified by this conference agreement.

These two gentlemen, along with Subcommittee Chairman TOM PETRI and myself, worked to uphold the principles espoused in the House bill during our meetings with the other body.

I must also commend the Secretary of Transportation. During the course of our deliberations over this legislation, Rodney Slater did not sit idly in his office. He rolled up his sleeves and got down to work with us to seek resolution of many, many difficult issues and decisions that were addressed.

I urge approval by the House of this conference report.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me this time.

At this time, I yield to my colleague, the gentleman from Arizona (Mr. STUMP), chairman of the Committee on Veterans' Affairs.

Mr. STUMP. Mr. Speaker, I rise in opposition to the conference report.

When this measure was before the House last month, it included a provision which stated that savings from veterans' programs should not be used to offset any costs associated with the bill.

The House also passed a second provision which I supported, instructing House negotiators not to use funds from changes in veterans' programs to pay for these projects.

The conference report ignores those provisions for the most part.

Mr. Speaker, over the past dozen years, the VA Committee has reported legislation changing veterans' programs and saving the American taxpayer over $12 billion.

In addition, Congress has reversed veterans' spending created by courts in the Davenport and Gardner cases, leading to an additional billion dollars or more in savings.

When the Administration suggested that we repeal the windfall created by the VA General Counsel decision that requires the VA to compensate veterans with tobacco-related illnesses, the Administration projected that the repeal would save $17 billion over five years.

The Administration also suggested that we spend only $1.5 billion of that savings to enhance neglected programs serving veterans.

Unfortunately, the conferees have handed the Administration a victory by using all but $1.6 billion of the $17 billion in savings for purposes other than veterans' programs.

It's not right that less than 10 percent of those savings is being put back into the budget for veterans.

While this $1.6 billion will be used to improve some of our highest priority veterans' programs, we should do better.

It's not right Mr. Speaker—vote against the conference report that takes too much from veterans' programs.

Mr. Speaker, for the information of my colleagues, I am including the following information on the issue of VA disability compensation for tobacco-related disabilities.

I also include an explanation of the proposed increase in benefits for veterans going to school under the Montgomery GI Bill and other benefit enhancements.

Background and Discussion

LEGISLATIVE HISTORY OF PROVISION REPEALING VA TOBACCO COMPENSATION AUTHORITY

In January 1993, the General Counsel of the Department of Veterans Affairs, Mr. James A. Endicott, Jr., signed a memorandum addressed to the Chairman of the Board of Veterans' Appeals (BVA) which had as its subject "Entitlement to Benefits Based upon Tobacco Use While in Service." This memorandum was Office of General Counsel Precedent Opinion 2-93. Under applicable Department regulation (38 C.F.R. 14.507(b)), a "precedent opinion" is one that "necessitates regulatory change, interprets a statute or regulation as a matter of first impression, clarifies or modifies a prior opinion, or is otherwise of significance beyond the matter at issue." A precedent opinion is:

"Binding on Department officials and employees in subsequent matters involving a legal issue decided in the precedent opinion, unless there has been a material change in a controlling statute or regulation or the opinion has been overruled or modified by a subsequent precedent opinion or judicial decision."

The precedent opinion arose in the context of an appeal to the Board of Veterans' Appeals by the surviving spouse of a veteran who died of adenocarcinoma of the lung and who had smoked a pack and a half of cigarettes per day for over forty years. In the opinion, the General Counsel held that the BVA could determine whether nicotine dependence may be considered a disease or injury for disability compensation purposes. It also held that "direct service connection of disability or death may be established if the evidence establishes that injury or disease resulted from tobacco use in line of duty in the active military, naval, or air service" and that "tobacco use does not constitute drug abuse within the meaning of statutes" prohibiting VA from considering drug or alcohol abuse as occurring in line of duty.

A subsequent decision by the BVA determined that the veteran's tobacco use while in service was an "event or exposure" that resulted some years after service in disease that produced disability and death. Accordingly, the claim of the surviving spouse was allowed.

The Compensation and Pension Service of the Veterans Benefits Administration (VBA) advised VBA field adjudicative units in a March 4, 1993 conference call to defer action on claims involving the use of tobacco products during active service. This moratorium on action lasted for four years until a January 28, 1997 directive was issued giving field adjudicative units instructions on how to process tobacco-related claims. In May of 1997, VA General Counsel Mary Lou Keener issued another precedent opinion addressing the circumstances in which VA could determine that tobacco-related disability or death that was secondary to in-service tobacco use was service connected for VA benefit purposes. That opinion held that if: 1) nicotine dependence could be considered a disease for purposes of laws governing veterans' benefits; 2) the veteran acquired a dependence on nicotine in service; and 3) that dependence was the proximate cause of disability or death, then service connection could be established on a secondary basis.

In May of 1997, Secretary of Veterans Affairs Jesse Brown transmitted a legislative proposal on behalf of the Administration to terminate the VA's authority to compensate or otherwise award benefits to a veteran for diseases or deaths attributable in whole or in part to the use of tobacco products by a veteran during military service. According to Secretary Brown's letter:

"This amendment is consistent with the 1990 budget reconciliation act, in which Congress prohibited compensation for disabilities which are the result of veterans' abuse of alcohol and drugs. This was fiscally responsible action which enhanced the integrity of our compensation programs, and our proposal regarding tobacco use is offered in that same spirit. In addition, claims based upon tobacco-related disorders present medical and legal issues which could impede ongoing efforts to speed claim processing by placing significant additional demands on the adjudicative system. This provision would not preclude establishment of service connection for disability or death from a disease or injury which became manifest or was aggravated during active service or became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of title 38, United States Code. This amendment would apply to claims filed after the date of its enactment."

The House Committee on Veterans' Affairs Subcommittee on Benefits held a hearing on May 14, 1997 on the VA's proposal. Testimony was received from veterans organizations and the Department. The Subcommittee made no recommendation on the proposed legislation.

In a letter dated September 19, 1997, (copy attached) VA Secretary-Designate Hershel W. Gober urged the Congress to take action on the VA's legislative proposal regarding tobacco-related benefits. In this same letter, Secretary-Designate Gober highlighted a new cost estimate of the impact of processing and paying tobacco-related claims. According to the Secretary-Designate, if VA could process all claims immediately, the cost of compensating veterans would be $4.4 billion in fiscal year 1998 and $23.8 billion over five years. It was estimated that VA could receive 540,000 tobacco-related claims, and that this would increase the VA's backlog of pending claims to over 1.5 million in fiscal year 1998, and that average processing time would increase from 113 days to 312 days.

A letter dated March 17, 1998 (copy attached) from VA Acting Secretary Togo West reaffirmed the Administration's position on compensation benefits for tobacco-related disabilities. It also noted that according to the President's budget submission "enactment of VA's proposal would result in FY '99 savings of $741 million and five-year savings of $16.9 billion."

In response to a question about the intent of the Administration's proposal, Acting General Counsel Robert E. Coy clarified the intent of the legislative language with regard to veterans with diseases that could be attributable to tobacco use or some other cause. Mr. Coy stated in his March 19, 1998 letter (copy attached) that:

"The Administration's proposal would in no way affect veterans' ability to establish service connection on the basis of any legal presumptions authorizing VA benefits. The Administration has proposed only that disabilities or deaths may not be considered service connected "on the basis that" the underlying diseases are "attributable in whole or in part to the use of tobacco products by the veterans during service." The effect of enactment of this proposal would be that if the *only* manner in which a disability or death could be considered service connected is "on the basis that" it is due to either the veteran's tobacco use or nicotine dependence in service, that avenue for establishing service connection would be foreclosed."

On March 30, 1998, Acting Secretary West transmitted a revised draft of its proposed legislation to the Congress (copy attached). Acting Secretary (now Secretary) West noted that:

"Like the consumption of alcohol, the use of tobacco products is not a requirement of military service. Most veterans, like most Americans, do not use tobacco products. It is inappropriate to compensate those veterans who do use tobacco, and their survivors, under a program developed for veterans who became disabled in service to our nation.

"In the debate which has ensued since our proposal of last May, we have heard no persuasive argument for why it should fall upon the government to compensate veterans for, or treat on a service-connected basis, disabilities first arising postservice whose only connections (sic) to service are the veterans' own tobacco use. *We do not believe the American people consider these to be the government's responsibility.* (emphasis added)."

In the VA Committee's report to the Committee on the Budget on the budget proposed for veterans' programs for fiscal year 1999, the Committee expressed the following view on the Administration's proposal:

"The Committee concurs with former Secretary Brown's concerns about the integrity of the compensation system. The Committee also believes that paying compensation to veterans for tobacco-related illnesses goes beyond the government's responsibility. There is a significant philosophical difference between service-connected compensation and other disability programs such as Social Security or the VA pension program which make no distinctions based on when a disability or illness occurs or is first diagnosed. Service-connected compensation, on the other hand, is based on the presumption that a person would not have the illness or disability save for some event or circumstance beyond the person's control. A policy of paying compensation for tobacco-related illnesses absolves the veteran of personal responsibility for his or her choices about tobacco use. In the past, Congress has determined that the individual, not the federal government, is responsible for illnesses which are related to the use of alcohol or drugs. Thus, a policy of paying benefits for illnesses related to the use of tobacco would be inconsistent with these prior determinations.

"The Committee is also very concerned that the projected annual caseload of 540,000 tobacco-related claims would overload the adjudication system and lengthen the already-too-long processing time for all types of claims. VA estimated in 1997 that processing time for an original compensation claim would increase from 113 days to 312 days.

"To reflect the nation's commitment to its veterans, the Committee will recommend legislation that will use all of the savings from enacting a limitation on compensation for tobacco-related illnesses to improve a wide range of programs. These are programs affecting our most disabled veterans, surviving dependents, separating service members, unemployed and under-employed veterans, and those seeking an education or a home."

Section 8203. Twenty percent increase in rates of basic educational assistance under Montgomery GI Bill. This provision would increase the current Montgomery GI Bill basic rate from $440 per month to $528 per month (chapter 30) beginning October 1, 1998, and the basic rate for the Selected Reserve Educational Assistance (chapter 1606). This is a 20 percent increase and follows the Administration's proposal.

Section 8204. Increase in assistance amount for specially adapted housing. This section increases the adaptive housing grants for severely disabled veterans from $38,000 to $43,000. The VA offers a one-time Specially Adapted Housing grant to certain severely disabled veterans so that they may purchase a home specially adapted to their needs or make modifications to current residences. The last increase was 10 years ago.

Section 8205. Increase in amount of assistance for automobile and adaptive equipment for certain disabled veterans. This increases the auto allowance for severely disabled veterans from $5,500 to $8,000 to account for the rising cost of automobiles. The VA provides a one-time payment toward the purchase of an automobile or other conveyance to certain veterans with a service-connected loss of one or both hands or feet or permanent loss of use, or permanent impairment of vision in both eyes. This would be the first increase since 1988.

Section 8206. Increase in aid and attendance rates for veterans eligible for pension. This section increases the monthly pension benefit by $50 for severely disabled veterans in need of the full time aid and attendance of another person. This increase is intended to assist the increasing number of low-income veterans who will need alternatives to nursing home care over the next 15 years.

Section 8207. Eligibility of certain remarried surviving spouses for reinstatement of Dependency and Indemnity Compensation upon termination of that remarriage. This provision will allow all surviving spouses of veterans who die from a service-connected disability to resume their Dependency and Indemnity Compensation if their subsequent remarriage ends. This repeals an OBRA 1990 provision.

Section 8208. Extension of prior revision to offset rule for Department of Defense Special Separation Benefit program. The 1997 DOD Authorization Act prohibited VA compensation offsets on the gross amount of special separation bonuses (SSB) for those separating after September 30, 1996. This section would make that provision in the 1997 DOD Authorization Act retroactive to 1991. If a bonus recipient subsequently qualifies for VA disability compensation, current law requires VA to offset the entire amount of SSB, including amounts withheld as income tax.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, September 19, 1997.
Hon. BOB STUMP,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: It is because of my deep concern about the impact that tobacco-related compensation could have on the integrity of the entire compensation system, coupled with the fiscal impact, that I am writing you to encourage your action on the VA legislative proposal regarding tobacco-related service connection. I am also concerned that this sizable influx of claims into our system will so significantly increase our backlog that veterans with non-tobacco related conditions will experience intolerable delays in the processing of their claims. These concerns are made eminently clear in our official estimate of the potential impact of compensating veterans for tobacco-related conditions which is transmitted with this letter.

This is an extremely complex estimate—one which has been taken us considerable time to develop. Contributing to its complexity is the number of assumptions that had to be made about veterans' health and mortality, veterans' smoking behavior, and most significantly, the rate at which veterans' tobacco-related compensation claims may be anticipated. I believe that the assistance provided us by Jeffrey Harris, MD, Ph.D., a nationally. known expert in the area of costs associated with tobacco-related diseases, was critical to informing our decisions. Dr. Harris' report is included as part of this package.

Although some of the many assumptions in our calculations could produce differing results, any reasonable calculation would know just how big an issue tobacco-related compensation is for VA, and for the Nation.

I want to highlight some significant points about the estimated cost and workload impact of tobacco-related compensation. If we could process all claims immediately, we believe that compensating veterans and survivors could cost an estimated $4.4 billion in Fiscal Year 1998 and $23.8 billion over the next five years. These estimates do not include the cost of benefits to survivors of already deceased veterans.

Realistically, we estimate that while we may receive over 540,000 tobacco-related claims, we will not be able to process them upon receipt. The backlog of all VA disability claims will increase from current 465,000 to over 1.5 million in Fiscal Year 1998, and increase steadily to over 2 million in Fiscal Year 2000. At the same time, the processing time of original claims will deteriorate from the current 113 days to 312 days.

Because of the backlog, the actual tobacco benefits paid will likely be $40 million in the first year and $1.9 billion over the next five years unless there is a significant reallocation of resources that would permit dramatic changes in the Veterans Benefits Administration's information technology and infrastructure, and allow for massive hiring and training of new VA employees.

I appreciate your patience in waiting for this estimate. We are also examining the impact of tobacco-related compensation on the VA health care system. Clearly, the service connection of substantial numbers of veterans for tobacco-related conditions that in most cases have intense and costly medical treatment associated with them has the potential for large numbers of newly eligible, high priority veterans to seek health care from VA.

I hope you will agree with me that the enormity of the impact on the claims backlog and on timeless of processing as well the fiscal impact, punctuate the critical need for prompt enactment of that legislation. I will be happy to personally discuss this with you, and VA staff are available to provide further explanation to Committee staff as desired.

I think that these estimates clearly explain why we should all be concerned about the implications of tobacco-related compensation. I look forward to the Committee's prompt action on the proposed legislation to remedy this situation.

Please let me know if we can provide additional information.

Sincerely,

HERSHEL W. GOBER,
Secretary-Designate.

DEPARTMENT OF VETERANS AFFAIRS,
Washington, DC, March 17, 1998.

Hon. BOB STUMP,
Chairman, Committee on Veterans' Affairs,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you and your colleagues on the House Veterans' Affairs Committee make final preparations to submit your Fiscal Year 1999 budgetary views and estimates to the House Budget Committee, I am taking this opportunity to highlight and reaffirm the Administration's position on compensation benefits for tobacco-related disabilities.

VA has proposed legislation to preclude service-connected benefit eligibility based upon diseases which first arise after service (and after any post-service presumptive period) if their only connection to service is the veterans' own use of tobacco products. VA's proposal would not preclude service connection for tobacco-related diseases actually manifesting themselves in service or within presumptive periods in law, and would apply only to claims filed after the date of enactment.

The Department's position is based upon several considerations. First, the responsibility to compensate veterans for diseases whose connection to service is the veterans' own tobacco use—in some cases only briefly—while in service, should not rest with the Government. Second, we believe that providing benefits in these cases exceeds the American public's sense of the Government's obligations to veterans, and so threatens to undermine support for VA programs. Third, if projections regarding the magnitude of future tobacco-related claims—perhaps as many as 540,000 in a year—prove anywhere near correct, without our legislation VA's claims system could be so overwhelmed as to seriously impair its ability to process claims of any kind in a timely manner.

As reflected in the President's FY '99 budget submission, enactment of VA's proposal would result in FY '99 savings of $741 million and five-year savings of $16.9 billion. We appreciate your consideration of our views on this critical issue.

Sincerely,

TOGO D. WEST, Jr., *Acting Secretary.*

DEPARTMENT OF VETERANS AFFAIRS, OFFICE OF THE GENERAL COUNSEL
Washington DC, March 1, 1998.

CARL COMMENATOR, ESQ.,
Chief Counsel and Staff Director, Committee on Veterans' Affairs, Washington, DC.

DEAR MR. COMMENATOR. You have requested that we provide, as a technical service, an explanation as to how the Administration's proposal to restrict service connection for certain tobacco-related disabilities and deaths would, if enacted, affect claimants' ability to establish service connection under certain presumptions in law and regulation. Specifically, you referenced a number of conditions presumed to be service connected if suffered by certain veterans exposed to ionizing radiation or herbicides I service.

The short answer is that the Administration's proposal would in no way affect veterans' ability to establish service connection on the basis on any legal presumptions authorizing VA benefits. The Administration has proposed only that disabilities or deaths may not be considered service connected "on the basis that" the underlying diseases are "attributable in whole or in part to the use of tobacco products by the veteran during service". The effect of enactment of this proposal would be that if the only manner in which a disability or death could be considered service connected is "on the basis that" it is due to either the veteran's tobacco use or nicotine dependence in service, that avenue for establishing service connection would be foreclosed.

The new §1103(b) of title 38, United States Code, as proposed in the Administration's bill, would specifically provide that this change in law would in no way preclude establishing service connection on the basis of the presumptions authorized under §§1112 and 1116 of title 38:

> Nothing in subsection (a) shall be construed as precluding the establishment of service connection for disability or death from a disease or injury which . . . . became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of this title.

In other words, if a disability or death could be presumed service connected on the basis of the various provisions of sections 1112 and 1116, which of course include presumptions for certain radiation-exposed and herbicide-exposed veterans, the proposed limitation on establishing service connection "on the basis of" tobacco use in service would have no preclusive effect at all.

For example, as authorized by §1112(c), specified cancers may be presumed service connected if suffered by certain radiation-exposed veterans. If a veteran could qualify for service connection under such a presumption, as the Administration's tobacco legislation plainly states, that service connection and resulting benefit eligibility would be unaffected by enactment of the legislation. The same is true for all other presumptions in law, including the herbicide presumptions for respiratory cancers and other illnesses authorized by §1116 of title 38.

The result of enactment of our legislation would be to simply restore the manner and method by which VA adjudicated claims prior to issuance of the two General Counsel opinion on tobacco use and service connection.

I hope the foregoing is fully responsive to your request.

Sincerely yours,

ROBERT E. COY, *Acting General Counsel.*

DEPARTMENT OF VETERANS AFFAIRS,
Washington, DC, March 30, 1998.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Enclosed is a draft bill, the "Veterans Tobacco Amendments of 1998", which I ask be referred to the appropriate committee for prompt consideration and enactment. It would relieve the Government of an unjustified liability for certain postservice health effects of veterans' tobacco use in service.

On May 9, 1997, VA submitted to Congress a draft bill whose provisions included a proposal bar to establishing service connection for disabilities or deaths if their only relationship to service were the veterans' inservice nicotine dependence or use of tobacco products. The enclosed draft is substantively identical to section 105 of the bill VA offered last year, introduced in the Senate as S. 987.

Our Nation has an enduring obligation to those who, because of serving in defense of our freedoms, become disabled or die. We at VA are privileged to be the ones who deliver on that obligation. However, Congress has recognized the appropriateness of boundaries to the compensation program. This bill is consistent with the 1990 budget reconciliation act, in which Congress prohibited payment of disability benefits for illnesses based solely on use of alcohol or drugs during military service. Like the consumption of alcohol, the use of tobacco products is not a requirement of military service. Most veterans, like most Americans, do not use tobacco products. It is inappropriate to compensate those veterans who do use tobacco, and their survivors, under a program developed for veterans who became disabled in service to our nation.

In the debate which has ensued since our proposal of last May, we have heard no persuasive argument for why it should fall upon the government to compensate veterans for, or treat on a service-connected basis, disabilities first arising postservice whose only connections to service are the veterans' own tobacco use. We do not believe the American people consider these to be the government's responsibility. However, our proposal would not preclude service connection for tobacco-related disabilities or deaths from diseases which actually manifest themselves during service or within any applicable presumptive period, and to this extent our bill is less preclusive than the alcohol- and drug-abuse proscription. Our proposal also is limited in its reach to claims filed with VA after its enactment. Thus, veterans and survivors currently receiving these benefits and veterans and survivors filing claims prior to enactment would not be affected by the change.

We are privileged to serve as stewards for veterans programs, which deservedly enjoy broad public support. With that stewardship, however, comes a responsibility to recommend appropriate changes when we sense they may become imperiled by something which could undermine public support for them. The estimated influx of tobacco-related claims—perhaps as many as 540,000 in the next year—threatens to overwhelm our adjudication system and result in unconscionable delays for all VA claimants. Because of the enormous implications it could have in terms of both costs and impact on claims processing, the current requirement that VA consider these smoking-related disabilities and deaths to be service connected carries the potential for just such programmatic harm.

This legislation would affect direct spending; therefore, it is subject to the pay-as-you-go (paygo) requirement of the Omnibus Budget Reconciliation Act (OBRA) of 1990. As reflected in the President's Budget for FY 1999, enactment of this proposal would result in paygo savings of $741 million during FY 1999 and $16.9 billion over the period FYs 1999–2003.

The Office of Management and Budget advises that there is no objection to the submission of this draft bill to the Congress, and that its enactment would be in accord with the Administration's program.

Sincerely yours,
TOGO D. WEST, JR., *Acting Secretary.*

A Bill to amend title 38, United States Code, to provide that service connection for certain disabilities or deaths may not be established solely on the basis of inservice tobacco use or nicotine dependence.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Veterans Tobacco Amendments of 1998".

SECTION 2. PROHIBITION AGAINST VETERANS BENEFIT ELIGIBILITY BASED SOLELY UPON TOBACCO USE IN SERVICE.

(a) SERVICE CONNECTION.—Subchapter 1 of chapter 11 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1103. Special provisions relating to claims based upon effects of tobacco products.

"(a) Notwithstanding any other provision of law, a veteran's disability or death shall not be considered to have resulted from personal injury suffered or disease contracted in line of duty in the active military, naval or air service for purposes of this title on the basis that it resulted from injury or disease attributable in whole or in part to the use of tobacco products by the veteran during the veteran's service.

"(b) Nothing in subsection (a) shall be construed as precluding the establishment of service connection for disability or death from a disease or injury which is otherwise shown to have been incurred or aggravated in active military, naval or air service or which became manifest to the requisite degree of disability during any applicable presumption period specified in section 1112 or 1116 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 38, United State Code, is amended by adding the following new item after the item relating to section 1102:

"1103. Special provisions relating to claims based upon effects of tobacco products.".

SECTION 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to claims received by the Secretary after the date of enactment of this Act.

Mr. SHUSTER. Mr.Speaker, I yield 3 minutes to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I believe that the Chairman of the Veterans' Affairs Committee has indicated that he is not supporting this piece of legislation. I heard my colleague say that this is a social safety net. Well, what we need to know that just got paved over are low-income, disabled veterans who had a funding in this bill. It was only $500 million, but it was a chance to create a permanent program for low-income, disabled veterans to get what we said they deserve.

Mr. Speaker, the reason I wanted to enter into a colloquy is that if they are not allowed to use the tobacco money, is it not true that there are a number of excess acres and VA sites around the country, my understanding is, on Wilshire Boulevard in Beverly Hills? How ironic that this land is not being used for the veterans, but they want to preserve it for a greenbelt, and yet we are taking veterans' money to pave over areas for highways.

Would the Chairman look at the excess acreage in veterans' holdings to try to provide money for long-term care for veterans?

Mr. STUMP. Mr. Speaker, if the gentleman will yield, first, the gentleman is absolutely correct. We do have that property, and I make a proposition that we will look into it. We are being shortchanged in this bill. We are getting back less than 10 percent of this for veterans' savings, and that is simply not fair to the veterans of this country.

Mr. THOMAS. Mr. Speaker, reclaiming my time, frankly, as a Member of this side of the aisle, to say that the President said we should take this money away from veterans certainly is no reason to do so as far as I am concerned.

Mr. SHUSTER. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. NUSSLE), representing the conferees on behalf of the Committee on Ways and Means.

Mr. NUSSLE. Mr. Speaker, I want to thank the chairman for yielding me this time and for his leadership on this bill.

As the lead House conferee on the revenue title of H.R. 2400, I want to begin by thanking the Speaker for the honor of leading the House of Representatives as the conferee on the House tax title. In particular, I would also like to thank the chairman of the Committee on Ways and Means for his assistance and leadership and guidance during this conference, as well as staff members Jim Clark, Norah Mosely and Ben Hartley of the Joint Committee on Taxation and Rich Meade on my staff.

The provisions of this title I think are important, first of all, because it continues the Highway Trust Fund, the mass transit account, for an additional 6 years through the fiscal year 2005. As many of my colleagues know as well, I, along with the gentleman from Missouri (Mr. HULSHOF) and many others, worked to include in the conference report a continuation of the Federal Government's commitment to a clean-burning, renewable fuel, such as ethanol, until the year 2007.

This conference report also simplifies the matter in which gasoline and diesel fuel tax refunds are administered. This is welcome news to registered fuel terminals and those who seek a simplified refund procedure for motor fuel excise taxes.

Railroads currently face an onerous fuels tax which was imposed in the name of deficit reduction a number of years ago. This conference report begins to roll back those taxes by 1.25 cents per gallon starting in November of 1998.

More than half of the taxes sport fishermen and other users of motor boat fuels pay are not used for aquatic resources, but instead was dedicated for "budget deficit reduction." This conference report takes a big step towards dedicating those revenues for aquatic resources restoration and development.

Mr. Speaker, the gentleman from South Dakota (Mr. THUNE) worked very hard to include a provision in the conference report to allow Amtrak more flexibility to use their funds in States where Amtrak does not operate. This provision will allow States such as South Dakota to enhance their rail service in their States.

Finally, Mr. Speaker, the conference report expands the tax-favored treatment to employer-provided transit passes and van pooling. More specifically, the conference agreement would allow employers to offer their workers the option of electing cash compensation in lieu of any qualified transportation benefit. In addition, the inclusion for transit passes and van pooling benefits is increased by $100 per month beginning in 2002.

I want to again thank the chairman of the Committee on Transportation and Infrastructure for his leadership. I want to thank my fellow conferees.

Mr. OBERSTAR. Mr. Speaker, I yield myself 1 minute.

I yield to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, I thank the ranking member.

It is my understanding that the Department of Transportation has entered in Full Funding Grant Agreements with 15 transit agencies nationwide. FFGAs are commitments by the

Federal Government to provide funding for a project according to a schedule established by the agreement.

In my region, the San Francisco Bay Area Rapid Transit District worked for more than 10 years to put together the financing package necessary to gain a full funding grant agreement. Our region has committed significant State and local resources for the BART-to-San-Francisco Airport and Santa Clara County Tasman projects, both of which have FFGAs.

Is it correct that the intent of this conference report is to meet the full funding grant agreements that have been signed by the DOT?

Mr. OBERSTAR. Mr. Speaker, reclaiming my time, as explained in the report accompanying H.R. 2400, the Committee on Transportation and Infrastructure "emphasizes the importance of fulfilling the Federal commitment to projects under full funding grant agreements at page 201 of report 105–467."

Mrs. TAUSCHER. Mr. Speaker, I thank the gentleman.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Virginia.

Mr. DAVIS of Virginia. Mr. Speaker, as we know, language was included in the House bill, H.R. 2400, which would have directed the Commonwealth of Virginia Transportation Board to resolve funding issues relating to rights-of-way acquisition and engineering overruns associated with segments of the Fairfax County Parkway.

Mr. Speaker, is it the intent of the legislation that this provision be applicable?

Mr. SHUSTER. Mr. Speaker, reclaiming my time, I concur with the gentleman's comments. I am aware of the situation. I would hope that this problem would be rectified before any other legislative action is necessary.

Mr. DAVIS of Florida. Mr. Speaker, I thank the gentleman, and I thank him for his leadership on this matter.

Mr. SHUSTER. Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. LIPINSKI), a distinguished member of our committee.

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman for yielding to me, and I would like to enter into a colloquy with both the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Pennsylvania (Mr. SHUSTER).

This pertains to Wacker Drive, which is a two-level road structure that runs through central downtown Chicago. It is a major arterial road for business operating in downtown Chicago. Without Federal funding, lower Wacker Drive will have to be closed in 3 or 4 years.

I would also like to talk about the Stevenson Expressway. It is an interstate that runs through the 3rd Congressional District in Illinois. It is in dire need of reconstruction. Without adequate Federal funding, the reconstruction effort will take 4 years. With adequate Federal funding, it will only take 2 years, saving 2 years of congestion and traffic headaches.

The State of Illinois and the City of Chicago would like to begin construction of these projects using its own funds, applying $175 million to the Stevenson Expressway and $400 million to the Wacker Drive project.

It is my understanding that, under section 115 of title 23, the United States Secretary of Transportation has the authority to allow a State or city to begin a project with non-Federal funds and then be reimbursed by the Highway Trust Fund discretionary funds.

Would the ranking member of the committee and the chairman support application of the State of Illinois and the City of Chicago to proceed in this manner?

Mr. OBERSTAR. Mr. Speaker, reclaiming my time, not only would I support the application and urge the Secretary to approve this proposal to fund these two worthwhile projects, I have already discussed this matter with the Secretary. We have his attention, and we will work very closely and vigorously with the gentleman.

Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. SHUSTER), the chairman of our committee.

□ 1715

Mr. SHUSTER. Mr. Speaker, I would emphasize that under the formula in this legislation Illinois gets $203 million a year more than it was getting under ISTEA, and there are very substantial additional State funds also available.

Mr. LIPINSKI. Mr. Speaker, I thank the chairman of the full committee, and I also want to thank the ranking member of the full committee.

Mr. OBERSTAR. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia (Mr. WISE), a member of the committee and one of our conferees.

Mr. WISE. Mr. Speaker, there has been a lot said about veterans. The veterans are definitely on all of our minds today.

Let me just say that the membership should be aware that working with the gentleman from Ohio (Mr. NEY), working with others, we were able to include in this bill a sense of Congress resolution that the Attorney General should have commenced a civil action to seek to recover from the tobacco companies those amounts corresponding to the costs which would be incurred by the Department of Veterans Affairs for the treatment of tobacco-related illnesses of veterans if such payments were authorized by law, and also that the Congress could authorize those payments then to be given to those veterans who have been affected.

This is only a first step, but it is an important step, because it puts the Congress on record requesting the Department of Veterans Affairs and the Attorney General to enter into this litigation on behalf of our veterans and our taxpayers.

Upon the return of Congress after Memorial Day, a number of us will be introducing a free-standing bill to accomplish this as well, as well as working with many of the others of the Members to make sure that we are able to secure some level of benefits for those veterans that have had tobacco-related illnesses from their military service.

Mr. SHUSTER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I would congratulate the chairman and the ranking member of both the full committee and the subcommittees for a job well done. This bill is definitely not just an expenditure, it is an investment in the future of this country. I view it as that.

I do, however, take exception with one small portion of the bill that I am greatly concerned about. That is cutting into title XX, which is clearly under the jurisdiction of the Committee on Ways and Means. There are $3 billion that are taken out of that program.

Also, the flexibility has been reduced in order to get a budgetary advantage. That is going to require some damage control, and I would tell my colleagues, where the Governors and State legislatures all over this country are going to be very delighted and very happy with what we are going to pass today, but they are going to be coming back and to be very upset with title XX, which is a very important program to all the people across this country.

Mr. OBERSTAR. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. NADLER), a member of the committee.

Mr. NADLER. Mr. Speaker, this bill, which has many good features, unfortunately is going through this House in great haste. Very few people have had the opportunity to read it, since I do not even know how many copies are in print.

One of the problems with that, one of the problems with the fact that the bill was not printed until an hour or two ago is that people can slip things into this bill with other people not knowing about them.

There is in my district a project, a huge boondoggle which wants to waste a few hundred million dollars. We have had language in every appropriations bill in this House for the last 5 years saying no funds herein appropriated should be spent on this boondoggle. The Porkbusters Coalition, headed by the gentleman from Wisconsin (Mr. NEUMANN) and the gentleman from Minnesota (Mr. MINGE) have said this is the worst project. NBC TV featured it on Fleecing of America, but it is a project Donald Trump wants because it will put money in his pocket. It puts more money in his pocket. It will spend $300 million to move a highway we just finished rehabbing for $90 million, solely for the purpose of getting it out of the way of sightlines of Mr. Trump's new buildings.

We oppose this. Suddenly there is money in this bill for this project. It appeared in it last night. We just found out about it. It was put there by a Congresswoman whose district comes nowhere closer than 75 miles, and no one knew this. No one can comment on it.

The chairman tells me the mayor supports it. That is not my information, but who can check it in this time? This is the wrong way to proceed. I hope that this money is not completely wasted.

Mr. OBERSTAR. Mr. Speaker, I yield myself 1 minute, and I yield to the gentleman from Indiana (Mr. VISCLOSKY).

Mr. VISCLOSKY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to engage the gentleman from Minnesota in a colloquy. I would say to the gentleman from Minnesota (Mr. OBERSTAR), is it the intent of the conferees that the authorization for section 332(a)(96), the Westlake Corridor Commuter Rail Link, include authorization for the acquisition of eight commuter rail cars for the South Shore Railroad?

Mr. OBERSTAR. Mr. Speaker, I would tell the gentleman, it is, indeed, and the statement of managers confirms that intention in that language.

Mr. VISCLOSKY. I thank the gentleman.

Mr. OBERSTAR. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, the conference report before us today marks a major achievement in providing the developments that are needed in our Nation's transportation infrastructure.

I want to congratulate the chairman and the ranking minority member on the committee, and in New York and in communities across the United States our highways, bridges, transit systems will be far better off because of this bill. That is the good news.

The bad news is that this bill does not go nearly far enough in making the streets safer from the horrible tragedy of drunk driving, a crime that claims more than 16,000 Americans, and injures countless more every year.

First, let me say that I am very pleased that this bill contains provisions to encourage States to crack down on repeat drunk drivers. Too often, convicted drunk drivers find their way right back behind the wheel of a car to commit their crime again. I introduced repeat offender legislation last year after the tragic death of my constituent, Burton Greene, and I am pleased that Congress is finally taking action in this area.

As many of my colleagues know, however, I had also hoped that the conference report would contain the Senate-passed provision to ensure that the United States, like other industrialized nations, adopt a national uniform DWI standard of .08 blood alcohol content.

Regrettably, this Chamber was silenced by the Republican leadership from voting on that lifesaving measure last month. Even though the .08 provision enjoys strong bipartisan support in the Senate, the Republican leadership did bow to pressure from the powerful liquor lobby and bottled the bill up in the Committee on Rules, and killed it in the conference.

This outcome was an outrage, but not a surprise. Mothers Against Drunk Driving have big hearts but small wallets. On this bill, it came down to a battle between big hearts and deep pockets, and the deep pockets won. The liquor lobby pays a lot for the privilege of writing our Nation's drunken driving laws, and today, unfortunately, they got what they paid for.

So here we are today with a compromise of a targeted incentive program to encourage states to adopt the .08 standard. While the measure is better than current law, history tells us that incentives alone will not be enough to match the power of the alcohol industry in state houses across the country.

On behalf of the mad Moms and mad Dads of Mothers Against Drunk Driving, Advocates for Highway and Auto Safety, and all the medical and law enforcement experts who lobbied on behalf of .08, I want to make clear that this is not the end. This is not the last time Congress will consider the .08 issue. We will be back, and we will continue to fight to make .08 the law of the land. We will continue to insist that our Nation's drunk driving laws are written by medical and safety experts—not the liquor lobby.

Mr. OBERSTAR. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I just want to observe that the bill that we bring back from conference is a very strong bill on the blood alcohol level .08 issue. There are very strong real dollar incentives for States to adjust their laws to the .08 level.

This reflects a longstanding position in this body of providing incentives rather than penalties. I can only speak from experience myself with the National Driver Register, that where I started out with legislation that was mandatory 15 years ago to require States to participate in the National Driver Register, I adjusted that to make it a voluntary participation. Today every State in the Nation is a participant in the National Driver Register, and over 300,000 bad drivers with multiple records are being caught and kept off the roads.

We can, through incentives, produce good results, even better results than through punishment or penalties. This bill is strong on incentives. It is a good bill, it is good on safety. We ought to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, it has been said that this bill has a sense of the Congress resolution that if there is a tobacco settlement, that funds from that settlement should be used to restore benefits for veterans which are being cut in this bill.

To me, that is like promising to bring somebody back to life after you have shot them. It just seems to me that that language is clearly a fig leaf. It is about as useful as the previous sense of Congress resolution which was in the original highway bill when it left the House. That sense of Congress language said that the conferees should not cut veterans, and yet they did. So I think we can see that a new sense of Congress resolution in this proposal is not worth the paper it is printed on.

Let me also say that I think we ought to understand that we are about to go home on Memorial Day and rub shoulders with veterans' groups all over the country, and tell them, yes, sirree, boys, we really appreciate what you done for us, and yet, we are about to stick them with a $16 billion reduction in veterans' health care.

We are also about to say to seniors who need home-based services for the elderly, we are about to say to families who need help to deal with foster children, we are about to say to women who need child care, we are about to say to them, we are going to cut you by one-third in the social service block grant.

I have a letter which I received from 49 Members of this House just 2 weeks ago asking us to maintain the full level of funding for the same title XX services which this committee cuts by $2 billion. I want to see how many Members are going to vote for this bill today, and then go home and tell their veterans that they are for veterans' health care, and go home and tell their seniors that they are for home health care, and go home and tell women of this country who need child care help that we are going to cut that block grant by 20 percent. I just do not think we ought to do it.

I would point out there are 1,800 special projects in this bill. That is 80 percent more than we have provided in the history, in the 42-year-history, of this highway bill, and we are even providing $120 million to build a shiny new road through Canada.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, that was the question I was going to ask. I remember around here when we had the Lawrence Welk restoration that caused a lot of people a lot of heartburn. Why are we building, for my own information, why are we building a highway in Canada? Are we going to take Canada in, or what is the story?

Mr. OBEY. Mr. Speaker, I know the gentleman from Minnesota (Mr. PETERSON) was thinking of attaching part of Minnesota to Canada, but I did not know it was going to be accompanied by $120 million for a highway for our Canadian friends. You will have to ask somebody who favors it.

Mr. HEFNER. Could I ask some of the proponents of the highway bill, which I tend to support, but I do not like explaining a Lawrence Welk type boondoggle, if that is what it is, what is the rationale for it?

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. It is my understanding this is a defense highway which connects Alaska, as a result of a treaty which exists with Canada. So it is a treaty provision. That is the reason for it.

Mr. OBEY. I would simply say, Mr. Speaker, that I think the national defense of the United States needs a new highway in Canada about as much as each of us needs a case of pneumonia.

I would suggest that I do not think our taxpayers are going to be very impressed by that explanation. Let me simply, in closing, read one paragraph from the American Legion. It says, "Members who support rescinding future veterans' benefits to pay for roads and other projects should be ashamed of their actions. It is unfortunate that Congress is willing to redirect veterans' monies to pay for highways and mass transit. This is truly disturbing, since CBO estimates there will be a $636 billion surplus. On the eve of the Memorial Day weekend," the American Legion says, "remember that a government which cuts veterans' benefits relinquishes the right to ask its citizens to serve in the Armed Forces to protect the country. This is especially true when their government shares responsibility for their service-connected disabilities, their illnesses, in the first place."

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I agree with that and that is why, Mr. Speaker, if I have the opportunity, I will be offering a motion to recommit which would eliminate the cuts in veterans benefits that are proposed in this conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself 1 minute.

It is all well and good to complain about policy and about mistakes or projects that one disagrees with, but we ought to do so on the basis of fact. It is just simply fact that in order to get to one part of Alaska from another part of Alaska you have to go through Canada. It is just that simple. I have been there. I know it.

Furthermore, this is not without precedent. In order to relieve flooding in North Dakota and Minnesota, many years ago the Congress approved flood control works in Canada in order to relieve pressure in the United States on North Dakota and Minnesota and the Red River Valley. So there are many other things that my good friend from Wisconsin could justify he may be opposed to, but I do think we ought to express the facts.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, would the gentleman tell me how many Canadian citizens use that highway every year versus how many U.S. citizens use the highway?

Mr. OBERSTAR. It is for the benefit of Alaskans and other travelers from the lower 48 States who come to Alaska for tourism.

Mr. Speaker, I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

We have already made the arguments for this historic piece of legislation. I am particularly pleased not only that it was passed in the Senate just some minutes ago, 88 to 5, but also that the President of the United States has stated this afternoon, and I quote, that he will be "pleased" to sign this legislation.

I want to recognize the tremendous cooperation we have received from the administration. Secretary Slater; OMB, about to become the director there Jack Lu, Michael Deitch; Larry Stein at the White House, Chuck Brain at the White House have really provided tremendous cooperation, and we would not be able to be here today but for their help.

This has been a bipartisan effort. I particularly want to recognize Jack Schenendorf, our chief of staff. He deserves the Congressional Medal of Honor for the kind of skill and management expertise and capability that he has provided throughout, as well as the staff, which literally have been without sleep for the last few days: Roger Nober, Debbie Gebhardt, Chris Bertram, Adam Tsao, Susan Lent, Darrell Wilson, Linda Scott, John Glaser, Mike Strachn, Bill Hughes, Charlie Ziegler, Trisha Law, Mary Beth Will, Jimmy Miller, Kathy Guilfoy, Denise Beshaw and, indeed, I must emphasize the tremendous cooperation and support we received from the Democratic staff as well.

In fact, I hesitate to call it the Republican staff and the Democratic staff, because we have worked together as one on a bipartisan basis for the good of the country. Certainly the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from West Virginia (Mr. RAHALL), the gentleman from Wisconsin (Mr. PETRI), members on both sides of the aisle on our committee have worked very hard and have brought this bill to the floor. Indeed, we recall that it passed through the House 337 to 80.

And particularly for some who are concerned about the guarantee, let me point out that, really, the guarantee is less than we wanted to accomplish in the House. We wanted to take the trust funds off budget, but we had an overwhelming vote to do that. Seventy-five percent of the Republicans voted in favor of doing that. So this is historic legislation, puts the trust back in the trust fund. I urge its adoption.

Mr. QUINN. Mr. Speaker, although I am unable to cast my vote today for this legislation due to prior family commitments, I am pleased to voice my support for H.R. 2400 the Transportation Equity Act for the 21st century, or TEA 21.

I would like to thank all of the conferees for their leadership in making this bi-partisan legislation a reality. This is truly an historic day for the United States of America. TEA 21 is a magnificent work which addresses many transportation related concerns.

For example, this bill contains the most comprehensive anti-drinking and driving measures ever put into legislation. The people in my district will see the results of the significant steps this Congress will be taking to combat drinking and driving. This bill reauthorizes the discretionary bridge program. This program will give our states the tools to replace or repair our crumbling bridges. The bill authorizes funds for the Rails to Trails program, access to jobs, school bus safety, and many other important programs. And of course the legislation takes care of specific district priorities.

I have worked with community leaders of the 30th district of New York over the past 2 years to find out what they needed to better the quality of life in our community. I submitted that list, along with over 400 of my house colleagues, to the committee for their consideration. Fortunately, for my district the Committee saw fit to authorize some of the things I requested.

In the last six years, there have been two severe accidents on the same road in Buffalo, New York. Both of these accidents resulted in the loss of several lives. H.R. 2400 provides us with an opportunity to fix that stretch of road by creating a shoulder for disabled vehicles. This bill allows me to receive funding for that priority. Can anyone in this Chamber tell the families of the victims of these horrific accidents that this is pork? That it is an unnecessary project? Can anyone in this Chamber tell the New York State Thruway Authority, who has asked for funds to correct this problem that it is unworthy?

In closing, this is a good bill. It covers a variety of needs in the sphere of transportation. It will rebuild our crumbling roads and bridges and in turn make our nation's highways safer. This is my third term, this is my first opportunity to authorize our nation's transportation policy. I only wish, for the sake of the families who have suffered losses on my district's highways over the past 6 years, that it could only have come sooner.

Vote to rebuild our nation's roads and bridges. Vote for the safety of our highways. Vote Yes for the TEA 21 Conference Report.

Mr. STARK. Mr. Speaker, H.R. 2400, the "Building Efficient Surface Transportation and Equity Act (BESTEA)" bill is a highly needed piece of legislation. Every member of Congress wants to be able to go back to his or her district over the Memorial recess and give their constituents new roads and improved public transportation. I would be as proud as the next member to go back to California's 13th District and give them millions of dollars for road repairs and improvements—if it was not a deceptive form of Congressional pork and budget busting.

This legislation authorizes approximately $216 billion in federal highway and transit assistance over a six-year period. This bill is too large and too complex to agree to when the whole process went awry. When Congress agrees to "Save Social Security First" but votes to spend a bloated highway bill—filled with various pork barrel projects—then Congress is deceiving the American people.

The proposed funding in the BESTEA bill will deny states block grant funds for social services. Three billion dollars has been taken from programs that would have otherwise gone to services for children without health insurance, the disabled and the impoverished.

The BESTEA legislation unjustly denies $15.5 billion in benefits to veterans for disabilities relating to tobacco use in the military—a service-connected disability—to fund highway construction projects. I will not tell veterans that we would take away an earned benefit—that we would deny them of a healthy and productive lifestyle—to pay for potholes.

Like every member of Congress, I realize the importance of safe roads and bridges and its impact on public health and safety. But unlike most members, I will not sacrifice children and welfare recipients to pave America's streets. I will not vote for H.R. 2400.

Ms. VELÁZQUEZ. Mr. Speaker, first and foremost, I want to thank the Transportation and Infrastructure Committee, particularly Chairman SHUSTER, Chairman PETRI, Ranking Member OBERSTAR, and Ranking Member RAHALL, for their monumental work in completing this historic transportation legislation. Throughout the process both they and their hard working staff were responsive to our inquiries and carefully considered our transportation project proposals.

Two of the projects authorized in H.R. 2400, Building Efficient Surface Transportation and Equity Act, involve major repairs and reconstruction of Flushing Avenue. This roadway spans through various communities in Brooklyn and is known as a linking gateway to economic development. By funding these projects, we will improve and preserve a roadway that not only links people, industry and commerce across Brooklyn, but across New York City.

The infrastructure improvements are long overdue for these communities. The work involved includes: removal of old trolley tracks (some parts of the Avenue are cobblestone); setting of new concrete bases (some parts of the Avenue have never had road bases); new street surfacing; and curbs and sidewalks rebuilding that is necessary from the road reconstruction work, particularly for the commercial residents. This project is part of the effort to bring economic development and opportunity to the area.

Under the $3.75 million project, two segments of Flushing Avenue in Williamsburg and Bushwick would be reconstructed and resurfaced in one of the authorized projects for the people of the 12th District. One segment runs between Humboldt Street and Cypress Avenue and is lined by businesses, public housing units, and other residential buildings. Another segment falls between Porter Street and Cypress Avenue and is lined by commercial establishments and residential buildings.

Another Flushing Avenue segment to be reconstructed and resurfaced with $2.25 million is equally important for the economic development and quality of life of Bushwick and the adjoining Ridgewood community. The segment falls between Wycoff Avenue and Gates Avenue and is lined by businesses, many mom-and-pop shops, supermarkets, a hospital, a post office, and 2–6 family-size homes.

Mr. Speaker, I also rise today on behalf of myself and my distinguished colleague from New York, Congressman TOWNS. Today is a very important day for the residents, small businesses, neighborhoods, and public facilities of our respective congressional districts. We have worked tirelessly for years with the communities in Brooklyn surrounding the Gowanus Expressway to find the best answer to the congestion and crumbling condition of this major highway, which is a key component in the New York area's transportation network.

The people living and businesses operating every day in these areas have patiently asked that a full study of alternatives to the planned reconstruction of the Gowanus Expressway be performed. For the economic viability of the area and the environmental health of the families living near this planned reconstruction, it is crucial that the impact on the surrounding communities be adequately assessed.

The Building Efficient Surface Transportation and Equity Act finally responds to the pleas of these New York neighborhoods. H.R. 2400 authorizes $18 million dollars for New York State to conduct a Major Investment Study (MIS) of the Gowanus Expressway Corridor. None of these funds may be used to supplement or finance any part of the currently proposed rehabilitation and reconstruction of the highway. The intent of the funding is to provide for an MIS to determine the short and long term social, economic and environmental benefits and costs of different alternatives to rebuilding the current elevated highway—including a tunnel.

The MIS will include Phase I to IV civil engineering and design documents so as to accurately determine the initial and long term fiscal, environmental, social and economic costs of replacing the current elevated structure of the Gowanus with a tunnel. This analysis will include a complete engineering study, including hydro-geologic study and the cost of tunnel connectivity with bridges and tunnels adjacent to the corridor.

Using the methodology devised in the "West Brooklyn Traffic Calming Study" CMAQ proposal, the MIS will devise mitigation measures to reduce current and future traffic diversions from the Gowanus Expressway in adjacent neighborhoods. Additionally, the MIS will include an assessment of service improvements to all subway lines needed to produce an increase in ridership and reduction in motor vehicle traffic in the Gowanus corridor before, during and after the reconstruction of the highway. Upon completion of the MIS and tunnel alternative study, any remaining authorized funds should be held for the future planning and design phase of the Gowanus project.

The Gowanus MIS Project is part of a sound national and regional transportation policy. With this proposal, the Gowanus neighborhoods are one step closer to a real solution to this long-standing local transportation dilemma. This project is not only about transportation—it is also about the economic development and empowerment future of our communities.

In sum, these transportation projects represent a new era for Brooklyn. No longer should we approach the economic support of these communities with a narrow scope. All components—good schools, safe neighborhoods, reliable public services, clean air and water, and safe roads—must come together for a serious revitalization and urban development strategy.

Ms. DELAURO. Mr. Speaker, I would like to join in congratulating my colleagues, particularly Chairman SHUSTER and Congressman OBERSTAR, for their hard work in bringing BESTEA to the floor. This legislation is critical to the upkeep and development of our Nation's transportation system.

I am particularly pleased that innovative financing for highway and mass transit projects has been included in this legislation, which I worked for in the House. Innovative financing will help fill annual transportation funding shortfalls by using limited federal dollars to attract private capital for the construction of federal highways and worthy transit projects. For every $100 million invested by the government, we can attract $1 billion in private capital.

BESTEA is also good for Connecticut. It creates true "equity" for the state of Connecticut. In addition, as part of Connecticut's overall funding, this legislation contains funding that will enable the City of New Haven to begin work on I–95 at Long Wharf. This project will enhance the safety of this section of I–95 between New York and Boston, improve access to high speed rail, and recomment New Haven to its harbor front.

I urge my colleagues to pass BESTEA. It's good for our Nation's transportation system. It's good for workers. And it's good for commerce.

Mrs. ROUKEMA. Mr. Speaker, I rise in opposition to this Conference Report. This Conference Report is a far cry from the bill this House passed in April.

I voted for the House passed bill on the assurance that the formula for reallocating the money from the Federal Gasoline Tax would be fair and equitable to all and take into consideration the unique concerns of states like New Jersey.

But the Conference Report has New Jersey losing federal dollars. For every $1 paid in Federal Gasoline Tax by a citizen of New Jersey, the State of New Jersey will receive only .93 cents back from the Federal Government.

This is unacceptable. New Jersey ranks near the bottom in the nation in the ratio of federal money returned from federal taxes paid by our citizens. This Conference Report adds insult to injury.

I voted for the House passed bill in April to settle the tough budget issues in Conference, to create a bill that is responsible to states like New Jersey, to ensure that veteran and other vital programs were not sacrificed and to move the process along. I am sad to say that the Conference Report failed to resolve any of these keys issues.

NEW JERSEY

My state of New Jersey is the economic crossroads of the northeastern United States. If it moves by truck, train, or ship chances are it moves through New Jersey.

New Jersey is unique in many ways to other states. Our infrastructure is older, has more wear than other states and intensely urban. Our highways are traveled by more and more people through the northeast crossroads. New Jersey is also the most densely populated state in the nation.

The previous ISTEA had New Jersey's unique needs in mind. From 1992 through 1997, New Jersey received $1.03 back on every dollar paid.

The loss of 10 cents on the dollar is unacceptable. This is not a good deal for New Jersey. New Jersey can no longer be a siphon for money for other states.

The House passed bill took this into consideration. But this Conference Report reduces New Jersey's funding below the level that is acceptable. My "no" vote is to register my disagreement with the Conference.

VETERANS

In the bill that passed in April, this House strongly stated that No Veterans benefit or service would be reduced or eliminated to pay for any part of the bill.

On May 20, 1998, this House voted 422 to 0 to instruct Conferees not to allow any Veterans benefit or service would be reduced or eliminated to pay for any part of the bill.

On two occasions, this House stood up for our nation's veterans. But now, the Conference Report eliminates the benefit for veterans with tobacco related illnesses to pay for the bill.

And now we find that the Conference has decided to use a higher estimate of costs of the benefit for veterans with tobacco related illnesses by the OMB that puts the cost at $17 billion. (The CBO says it is around $10 billion if that much.)

Of that $17 billion of those so-called savings $15 billion will go to pay for this bill. The extra $2 billion was promised to be directed toward disability and education programs.

Does that mean $2 billion this year, next year, over six years? How much for disabilities? How much for education? There are too many questions and not enough answers.

As my friends from the South say, "This dog don't hunt." Now regardless of how you feel about paying for veterans with tobacco related illnesses, I have my questions on the merits, but the fact is: The House stated on two occasions, almost unanimously, that this bill would not cut veterans programs but in the end it does by billions of dollars to pay for other government programs. I personally would like to see all the savings from paying for veterans with tobacco related illnesses to be directed back into the VA to pay for a veterans health program that they were promised.

So here we are, just a couple of days before Memorial Day, ready to vote to sacrifice those who have already sacrificed for all of us. Is this really the vote we want to make before Memorial Day? Is this really the vote we want to make after this House said not on the same question twice before?

SOCIAL SERVICE BLOCK GRANTS

The Conference Report takes $2.4 billion from Social Service Block Grants and directs it to transportation spending. These important grants are vital to New Jersey in providing for Child Care, Meals on Wheels, aid victims of domestic violence, aid to the disabled citizens, and emergency food to the homeless. I might add that New Jersey has one of the highest number of homeless veterans in the nation. Social Service Block Grants are a key element in providing assistance to the most vulnerable parts of our community. This is another unacceptable part of this Conference Report.

For the reasons I have described, I can not support this Conference Report and I urge a "no" vote.

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise today in strong support of the conference report on H.R. 2400, the Building Efficient Surface Transportation and Equity Act, (BESTEA). A historic piece of legislation which will impact positively on just about every Congressional District.

I want to thank the Chairman and Ranking Democrat of the Transportation and Infrastructure Committee, Mr. SHUSTER and Mr. OBERSTAR for their commitment and leadership in fashioning the BESTEA Conference Report in time for it to be considered before the Congress embarks on the Memorial Day District Work Period. This isn't a perfect bill but is the best compromise that could have been gotten under the circumstances.

Had I had the opportunity to write this Conference Report, Mr. Speaker, I would have written it differently. I am inexorably opposed to the fact that, as I understand it, this Conference Report uses funding from certain Veterans disability payments for smoking related ailments to help pay for the bill. I am ashamed that this had to occur and pledge to work with my colleagues in the House to do all we can to restore this cut.

But my support for this Conference Report is based, in no small measure, on the fact that for my constituents in the Virgin Islands, this Conference Report and the funds that it will provide, will mean that we will be able to go forward with many of the important road projects which are so critically important to our economy.

In conclusion Mr. Speaker, I want to also thank Mr. RAHALL for his work on this Conference Report and his assistance in making sure that the U.S. offshore areas were treated equitably in this bill. I urge my colleagues to support passage of this bill.

Ms. FURSE. Mr. Speaker, I rise in support of the conference report on H.R. 2400 which is before the House. First, I want to give credit to the dean of the Oregon delegation, PETER DEFAZIO, for his good work attending the needs of Oregon and the entire Pacific Northwest. He has been a source or guidance and support since I was elected in 1992, and I will miss working with him in Congress. My colleague from across the Willamette River, Mr. BLUMENAUER, has also worked hard on behalf of our region and deserves credit for his efforts on this bill.

This bill invests in our nation's future because it makes our intermodal transportation needs a propriety for the next six years. I am lucky to represent a beautiful part of the country that is a national model for incorporating effective land-use planning in our long-term transportation plans. Oregon's future, a vision with less traffic and vibrant commerce, depends in no small part on regional and state land use decisions, as well as federal support. In my district and across the state, decisions emphasize corridor and zoning planning and are predicated on an integrated transportation system. Ultimately, transit and road networks work hand-in-hand to continue what we believe is an unparalleled quality of life. We are fortunate in Oregon, and this conference report helps us continue our innovations at the state level.

I am pleased that the bill today authorizes completion of the Westside Light Rail project, one of my top priorities in Congress for the last six years. The Westside Light Rail project needs an appropriation of $36.6 million to be completed on time this year, and this legislation authorizes those funds. I am also pleased that this bill includes $3.5 million to obtain standard fixed-route buses for services increases associated with the opening of the Westside Light Rail project in September. In addition, BESTEA includes authorization of the South-North Light Rail project, a key part of our region's 2040 long-term transportation plan.

While this bill includes our region's important light rail and transit priorities, it also includes a number of other projects that are so important to the future of my district. It includes planning funding for the Tualatin-Sherwood Bypass and the Newberg-Dundee Bypass. I have worked to gain federal support for the Newberg-Dundee Bypass for four years, and am pleased that it will finally receive some funding under this bill. I hope the state and the entire region will follow suit and finally realize how important the Newberg-Dundee Bypass is to Yamhill County's future.

This legislation also includes nearly $3 million to help Astoria, including funding to prepare for the Lewis and Clark Bicentennial. It will allow for improvements at two intersections along Highway 101 which have chronic safety problems, as well as provide seed money for a future intermodal transportation center. This bill also includes funding to reopen the Astoria Railroad Line, a vital transportation connection to the Port of Astoria. It is my hope that these funds will help create jobs in Astoria and prepare for the upcoming Lewis and Clark celebration.

I am also pleased that this bill includes funding for two highway projects in Washington County, one of the fastest growing regions in the entire Pacific Northwest. It includes funding to upgrade the I–5/Highway 217 Kruseway Interchange which is a constant source of traffic headaches for motorists in our region, as well as funding to improve commuter access and widen the Murray Road Overpass. These projects will greatly enhance access and safety in two critical commercial centers in my district.

Finally, the BESTEA conference report includes two important legislative provisions that I have been working on over the last year. As Co-Chair of the Diabetes Caucus, I worked with my colleague, Mr. NETHERCUTT, to overturn a 28-year-old Federal Highway Administration prohibition on people with insulin-dependent diabetes operating commercial vehicles in interstate commerce. This legislation takes steps to reverse this discriminatory regulation. In addition, this conference report includes technical language I authored in the Commerce Committee to reinstate an exemption from the National Highway and Traffic Safety Administration's vehicle importation regulations for vehicles imported for show or display. I am pleased that these provisions are included in the final conference report.

I thank Chairman SHUSTER and Ranking Member OBERSTAR for their hard work on this legislation. Once again, I want to express gratitude on behalf of all my constituents to Oregon's members of the Committee, Mr. DEFAZIO and Mr. BLUMENAUER, as well as their staff members Kathie Eastman and Elizabeth Humphrey. I urge my colleagues to support passage of the conference report.

Ms. NORTON. Mr. Speaker, I rise today to discuss the historic transportation bill being reported out of conference today. This bill will provide badly needed assistance to communities across the country struggling to maintain and repair the transportation infrastructure which is the lifeblood of our nation's social and commercial activities.

I commend the conferees for including the Disadvantaged Business Enterprise program in this bill. This affirmative action program for contractors in the transportation industry will ensure that all Americans have an opportunity to participate in the construction and other activities envisioned by this legislation. The Disadvantaged Business Enterprise Program, also known as the DBE program, is fair, constitutional and, most importantly, it works. It is a tribute to the Congress that it is included in the bill before us.

Despite ample evidence that the DBE program is necessary and effective, there are still some who apparently wish to ignore the need for this program. Along with the House Transportation and Infrastructure Committee report accompanying this bill, nine members of this body filed additional views in which they criticized the DBE program and expressed their view that it is not needed. The fact is, however, that I, and the majority of my colleagues, disagree with this assessment. If we did not, the DBE program would not be included in this bill.

The authors of the House committee's additional views made several serious factual misstatements. The most serious misstatement is that there is no evidence of discrimination in the transportation construction industry before the Committee on Transportation and Infrastructure. This could not be more false. The fact is that there is a raft of evidence of discrimination in the transportation construction industry—and many related industries. Moreover, much of this evidence has been formally presented to Congress. In order to set the record straight, I want to make sure that my colleagues are aware of at least some of the volumes of evidence of the persistence of discrimination. It is beyond the scope of a brief floor statement to detail all of the evidence that exists with respect to discrimination, but I must mention at least some of the most important and probative evidence.

Evidence of Discrimination Presented to Congress:

In the Additional Views section of the House committee report entitled "Additional Challenges", the authors contend that based upon existing case law, the DBE program raises significant constitutional questions for the following reasons:

(1) No evidence was presented to the Committee that actual discrimination has occurred within the transportation construction industry;

(2) No evidence has been presented that race neutral remedies were attempted and found deficient;

(3) No evidence was presented justifying the program on a nationwide basis;

(4) No statistical evaluations have been presented justifying the program in any given market; and

(5) No evidence has been presented justifying the fact that the program does not include a procedure for individualized inquiries into whether a particular DBE has suffered from past discrimination.

The first four claims are similar to claims made by Adarand Constructors before the district court after the Adarand case was remanded from the Supreme Court. The court rejected these contentions when it stated that Congress had a compelling government interest in adopting the statutory provisions that support the DBE program. Consistent with current precedent, the court agreed that Congress had a unique role as a national legislature which permitted it to address nationwide problems with nationwide legislation. The court also found that Congress had considered the use of race-neutral measures before adopting the statutory provisions supporting the DBE program. The fifth claim ignores the provisions in the current DBE regulation that permit challenges by a third party to the certification of a DBE as disadvantaged. Furthermore DOT's proposed rules revise the current regulation to include an even more rigorous certification of disadvantage.

In the Adarand remand, the district court reviewed an extensive record of hearings, reports, testimony and statistics that had been presented to Congress in the twenty years since Congress first amended the Small Business Act in 1978 in order to provide that small businesses owned by socially and economically disadvantaged individuals have the "maximum practicable opportunity" to participate in federal contracts and subcontracts. That record included material from the time period when Congress first enacted a 10% goal for disadvantaged business enterprises in the Surface Transportation Assistance Act in 1982, through the continuation of the DBE program in 1987 in the Surface Transportation and Uniform Relocation Assistance Act (STURAA) and its renewal in 1991 in the Intermodal Surface Transportation Efficiency Act (ISTEA). The court noted that on numerous occasions Congress had received testimony and evidence, as well as annual reports from the Small Business Administration, regarding the discriminatory barriers faced by minority businesses and the continuing need for remedial efforts to address such discrimination. The court concluded that this record met the constitutional standard by providing a "strong basis in evidence" from which Congress could conclude that significant discriminatory barriers faced minority businesses.

The Department of Justice highlighted the extensive number of hearings held by Congress on the subject of racial discrimination and minority businesses when it published in the Federal Register, "The Compelling Interest for Affirmative Action in Federal Procurement: A Preliminary Survey" as an appendix to Proposed Reforms to Affirmative Action in Federal Procurement (DOJ Appendix). 61 Fed. Reg. 26042 (May 23, 1996). At that time, Justice identified at least 29 hearings on this subject between 1980 and 1995. Congress has continued to hold hearings on this issue and an update of this list shows an additional eleven Congressional hearings through the end of 1997 on the same issue.

Some of the testimony that has been offered most recently is very relevant to the DBE program. While there have been a great many statements on the subject, I will quote only one here. On April 30, 1996, Assistant Attorney General for Civil Rights, Deval L. Patrick, testified before the Committee on Education and Labor about the ongoing need for affirmative action. In his testimony he discussed many types of discrimination but his comments about discrimination against minority and women entrepreneurs is especially important in this context. Mr. Patrick stated:

> Congress has repeatedly reviewed and supported the SBA's program, as well as those of some other agencies, such as the Department of Transportation, to aid small and disadvantaged businesses. In doing so, Congress recognized the need to help such firms combat the effects discrimination has had on their ability to develop in our economy. A few facts demonstrates Congress' wisdom.
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> While minorities make up over 20 percent of the population, minority-owned businesses are only 9 percent of all U.S. businesses (U.S. Commission on Minority Business Development, Final Report 2–6 (1992)). The minority-owned firms that do exist have, on average, gross receipts that are only about one-third those of nonminority firms (id. at 4). Similar inequities apply to women-owned businesses. Women own nearly 20 percent of all businesses with employees and a third of all small businesses but received less than 3 percent of federal procurement contract dollars in 1994 (Expanding Business Opportunities for Women, The 1995 Report of the Interagency Committee on Women's Business Enterprise, at 3, 11, January 1996; see also 1992 Survey

of Women-Owned Businesses. U.S. Department of Commerce, Bureau of the Census (1996)).

Discrimination in the critical ability to secure necessary capital persists; white business owners in the construction industry receive over 50 times as many loan dollars per dollar of equity capital as African American owners with identical borrowing characteristics (Grown & Bates, Commercial Bank Lending Practices and the Development of Black Owned Construction Companies Journal of Urban Affairs, Vol. 14, No. 1, 34 (1992)). Recent studies have shown that limited access to capital has had a similarly negative effect on firms owned by women, and that due to that lessened access to capital more women than men finance businesses out of their own resources (Expanding Business Opportunities for Women at 8).

Discrimination occurs in both private and public contracting. Disparity studies completed by state and local governments after the Croson decision routinely found that minority-owned businesses are locked out of public contracting markets. After the Croson decision, many states suspended affirmative action business programs, with a devastating effect on minority business. In Richmond, in the absence of affirmative action, minority participation in construction dropped from 40 percent of all contracts to less than 3 percent (U.S. Commission on Minority Business Development, Final Report at 99 (1992)). Similar falloffs occurred in Philadelphia (97% decline), Tampa (99% decline for African American-owned businesses and 50% for Hispanics), and San Jose (minority participation fell from 6 percent to 1 percent in prime construction contracts) (ibid).

In private industry, discrimination is even more pronounced. Both minority and women-owned firms report that they are routinely unable to secure subcontracts on private work where there are no affirmative action requirements, and that white owned prime contractors even reject minority or women-owned firms that offer the lowest bid.

Beyond the record of various Congressional hearings, there is further evidence supporting Congress' determination to continue to use the DBE program. In 1992, the Final Report of the U.S. Commission on Minority Business Development concluded that the severe under representation of minorities in business was caused by discrimination and benign neglect. The Small Business Administration's State of Small Business report in 1994 stated that in 1992, minorities owned 9% of all business, but only received 4.1% of federal contracting dollars. The 1992 Economic Census: Survey of Minority-owned Business Enterprises published in 1996 by the Department of Commerce revealed a similar ratio of minority owned construction firms to receipts for such firms. In 1994, the House Committee on Government Operations found that minority-owned firms face particular difficulties in the construction industry which is dominated by "old buddy" networks and family firms and tends to exclude minority firms. H.R. Rep. No. 870, 103d Cong., 2d Sess. (1994).

The DOJ Appendix described in some detail the discriminatory barriers to minority contracting opportunities, evidence of which is found in studies and reports issued by congressional committees, executive branch commissions, academic researchers and state and local governments. Such evidence demonstrates that discrimination works to preclude minorities from obtaining the capital needed to form and develop a business because of discrimination by trade unions and employers as well as lenders and that minority firms are denied full and fair contracting opportunities because of discrimination by private sector customers, prime contractors, business networks, suppliers and bonding companies. As described in the DOJ appendix, much of this evidence has been presented to Congress and has been the subject of Congressional hearings, particularly in the area of discrimination by lenders and surety bonding companies.

Additional Evidence:

The fact of the matter is that there is a great deal of additional evidence that is available to Congress in less formal forms. Every day each of us receives evidence of national needs from our constituents and from studies and articles we discover in our efforts to represent those who elected us. Some of this evidence is not presented formally in hearings or Congressional reports—but it is evidence all the same and it informs the work we do. I do not have time here to outline all of the evidence of discrimination in transportation construction that has come to my attention, but I would like to mention a few of the more recent studies and writings. Perhaps the most important source of information comes to us from the numerous disparity studies that have been completed in communities across this Nation. Over one hundred and fifty of these studies have been completed and many have dealt with transportation construction contracting. I will describe just a few of these studies and their conclusions here.

A study of the historical record of minority and women-owned business enterprises in public and private contracting in New Jersey submitted to NJ Transit and the Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts by the Afro-American Studies Program of the University of Maryland at College Park in August of 1992 states: "Despite extraordinary efforts to promote equal opportunity in employment and other areas of social and economic life in New Jersey, significant inequalities remain. One persistent area of inequality is business ownership. Many minority group members and women lack access to key channels for entry into business ownership. Some of these blocked paths are the direct result of specific policies by the state in the past to favor white-owned firms or the indirect result of inaction on the part of the state to prevent discrimination that ultimately has resulted in an underutilization of the potential business talents of women and minority citizens of New Jersey. The record of these actions and inactions . . . strongly supports the (re-) introduction of race- and gender-specific remedies to fulfill the state's own constitutional mandate to promote equality of opportunity to all its citizens." (NJ Transit, University of Maryland at College Park study at 32.)

A study of the Executive Office of Transportation and Construction for the Commonwealth of Massachusetts performed by D.J. Miller and Associates (DJMA) in March of 1994 states that "there is ample evidence of discrimination against African Americans, Latinos, other minority groups, and women." In addition, the report's executive summary states that "[t]he information revealed in the disparity study leads DJMA to conclude that a sufficient inference of discrimination can be made from this factual predicate to warrant the implementation of a race-conscious procurement program." (DJ Miller study at ES11.)

A study of the Fort Worth, Texas Transportation Authority by Browne, Bortz and Coddintgton (BBC) issued in November of 1993 concludes that "[t]he combined quantitative and qualitative evidence of discrimination against minority and woman-owned firms forms a sufficient factual predicate for remedial action by the Fort Worth Transportation Authority. Race and gender-neutral remedies should be considered, but the study team concludes that they alone will not be sufficient to fully remedy the effects of past and present discrimination. Therefore, a basis exists for the Transportation Authority to consider narrowly-tailored race and gender-based remedies." (BBC, Fort Worth Transportation Authority study, at ES11.)

Of course, disparity studies are only one source of data about discrimination. One recent report also deserves special mention because it deals exclusively with affirmative action in public contracting and because a summary of this report was sent to every member of Congress. in late 1996, the Urban Institute released Do Minority Owned Businesses get a Fair Share of Government Contracts? The Answer to the question posed by the study was a resounding "no." The report was based upon the evidence contained in 58 disparity studies commissioned by various state and local governments and demonstrated wide statistical disparities between the share of contract dollars actually received by minority- and women-owned firms and the share those firms should have received. These disparities are very important evidence. In the Croson decision the Supreme Court made clear that "gross statistical disparities" will be considered "prima facie proof of a pattern or practice of discrimination" in contracting.

The report found that minority firms received only 57 cents for every dollar they would be expected to receive based upon their availability. While this statistic is shocking, it should be no surprise to those of us in Congress who for years have been hearing evidence of the discrimination against women and minority entrepreneurs. For specific facial groups the disparities were even greater: African-American-owned firms received only 49 cents on the dollar, Latino-owned firms received 44 cents on the dollar, Asian-American owned firms received 39 cents on the dollar and Native American-owned firms received 18 cents on the dollar. In addition the report found that women-owned firms received only 29 cents of every dollar they would be expected to receive based upon their availability.

The report also provided information about the disparities in construction contracting, work which quite often includes transportation construction contracting. In the construction arena minorities received only 61 cents for every dollar they should have received given their availability. Women received only 48 cents on the dollar. The statistics were even more disheartening for certain minority groups. For instance, African American owned firms received only 56 cents for every dollar they would be expected to receive based on their availability—Asian owned firms received only 60 cents on the dollar.

What we must all remember is that these statistics—disturbing as they are—represent a world in which there are the kinds of affirmative action programs that some would have us end. Without affirmative efforts like the DBE program, the situation would be far worse. For example, the Urban Institute report found that the disparities between minority- and women-owned firms and other firms were more pronounced in areas in which no affirmative action contracting program was in place. When only areas and years in which affirmative action is not in place are considered, the percentage of awards to women falls from 29 percent of what would be expected in 24 percent. For African Americans the percentages dropped from 49 percent to 22 percent, for Latinos the percentage dropped from 44 percent to 26 percent, for Asians from 39 percent to 13 percent, and for native Americans from 18 percent to 4 percent. These figures clearly show that affirmative action programs are not only effective, but they are also still desperately needed.

Statistical evidence—the primary focus of the Urban Institute report—must be considered in combination with other social science evidence and anecdotal evidence provided by those involved in the contracting process. In addition to documenting statistical disparities, the Urban Institute report reviewed the social science literature and the disparity studies to determine the challenges confronted by disadvantaged firms.

The study notes that the social science literature reveals several areas in which minorities may confront barriers in their efforts to form businesses. Firsts the study notes that minorities tend to have lower incomes, less wealth, and limited access to financial markets. A second area of disadvantage involves minorities' limited access to business networks and the relative lack of family members who are self-employed or run a business. Minorities may also be disadvantaged by lower levels of educational attainment and less experience in business relative to their white counterparts. The report also notes that minority firms may face limited access to wealthier white customers due to discrimination by white customers and residential segregation.

Finally, the study points out that the individual disparity studies contain a huge number of anecdotes about discrimination. According to the study, barriers early in the contracting process may include: failure of the government to break down large contracts into smaller components which could increase the participation of smaller minority-owned firms; restricting affirmative action solely to subcontracting and thus limiting the opportunity of minority firms to work as prime contractors; abuse of good faith waivers; and inadequate prosecution of "front" firms. Barriers during the bid solicitation stage include: use of closed or private requests for bids; failure to advertise bids in minority media; failure to notify minority firms of bidding opportunities; provision of incomplete bid specification information to minority firms; and untimely notification of minority firms of bidding opportunities. Barriers during the evaluation of bids include: discrimination in pricing by suppliers; "bid shopping;" and renegotiating specific projects in order to manipulate the process in favor a majority firms. Finally, the report notes that there is anecdotal evidence of barriers during the actual execution of contracts including: exclusion of minority firms by prime contractors after contracts have been awarded; slow payment of amounts owed to minority firms; and project sabotage.

The bottom line is this: there is a vast amount of evidence of discrimination against minority and women owned firms in America. This evidence exists in both the transportation construction arena, and in markets (such as finance and bonding) which are directly related to the construction industry. All of this evidence provides this Congress with a compelling interest to address discrimination through the enactment of the Disadvantaged Business Program.

Other Errors in the Additional Views

Finally, I cannot complete this statement without noting the misleading pattern of factual misstatements and omissions in the Additional Views in the House committee report filed by my distinguished colleagues. The section of the views entitled "History of the DBE Program" obscures the fact that the Department of Transportation has proposed extensive changes to its own program regulations to improve and strengthen the DBE program. Some of the regulations referred in this section are not DOT's regulations, but instead regulations issued by the Small Business Administration. Moreover, the Additional Views represents these SBA regulations as final and they are not. The SBA regulations issued in August of 1997 are proposed regulations which have not yet been finalized. The Department of Transportation's proposed regulations were issued in May of 1997.

The section of the Additional Views entitled "Effect of the Adarand Court Decisions" states that the courts have made it clear that federal affirmative action programs "must be restructured to provide targeted remedies to only those who have been the victims of specific discrimination." This assertion is incorrect. Seven of the nine Justices recognized "the unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country" [emphasis added] and reaffirmed the government's authority to address this problem. The majority opinion in Adarand is consistent with the longstanding understanding of affirmative action programs that, when members of a group have been discriminated against on the basis of their race, then members of that group may benefit from affirmative action measures even if they themselves have not made specific showings of injury due to discrimination. The assertion made in the Additional Views, that individual members of racial groups may benefit from affirmative action only if they prove that they themselves have suffered discrimination, was simply not the position of the Court.

In order to be correct, the section entitled "Challenge to the Subcontracting Compensation Clause" should note that the subcontracting compensation clause provision was not implemented to comply with the DBE program as asserted in the second sentence of this paragraph, instead it was developed to comply with the contracting requirements of the Small Business Act. Moreover, the argument made before the Tenth Circuit was not that the program should be evaluated under "lenient" scrutiny, but under the "intermediate scrutiny" standard which had been upheld by the Supreme Court prior to its decision in Adarand.

In the section entitled "Application of the Strict Scrutiny Standard" the Additional Views state: "[c]ase law stipulates that the only compelling governmental interest for race preference if the remedying of past discrimination." This statement is flatly incorrect. First of all, the Court has clearly held that the government has a compelling interest in addressing not only past discrimination, but also present discrimination. Second, there are also suggestions in the case law that diversity may constitute a compelling government interest for the use of race-based affirmative action measures in certain contexts such as higher education.

In this same section, my nine distinguished colleagues repeat the completely untrue assertion that the Sultan of Brunei would qualify for the DBE program. The presumptions of social and economic disadvantage under the DBE program are rebuttable, not absolute. The Department of Transportation maintains a system under which any person, whether or not they are directly involved in the DBE program may challenge the certification of a firm as a DBE. The existing rule has a specific procedure to accomplish this. Moreover, the proposed rule would institute a mechanism to make challenges easier to bring and would allow recipients to hold an application in abeyance while deciding a challenge. If the Sultan of Brunei—or anyone with substantial wealth—were ever erroneously certified as a DBE, the Department would take steps to decertify that firm. The Department has taken such steps in the past, and will undoubtable do so in the future. Opponents of this program are simply wrong when they state that the Sultan of Brunei qualifies for the DBE program. He does not. Moreover, the proposed regulations issued by the Department of Transportation would impose even tighter restrictions on the economic status of DBE owners by imposing a personal net worth test.

A similar—but even more misleading—point is made in the section entitled "Additional Concerns Regarding the Presumption of Economic Disadvantage." Here, the Additional Views quotes the Department's proposed regulations in a grossly inaccurate way. Quoting two sentences as if they appear consecutively in the rule, the section complains that the Department is not doing anything to economically target the benefits of the program. In truth, the section is worse than misleading—it intentionally omits the intervening sentence which clearly changes the focus and meaning of the paragraph:

"However, in order to have relevant information to enable them to make determinations about whether there should be inquiry into the disadvantage of applicants, the applicants would have to submit a signed certification that they are socially and economically disadvantaged and a brief summary statement of their personal net worth, which the recipient would have to keep confidential." (Federal Register Vol. 62, No. 104, May 30, 1997, page 29565.)

The import of this sentence, which the authors of the Additional Views apparently wanted to obscure, is that the Department is taking action to ensure that recipients have the information necessary to be certain that only those who are truly economically disadvantaged benefit from the DBE program.

The section entitled "Houston Metro" is also misleading. The Department of Transportation has worked hard to collaborate with Houston Metro to find a workable solution to the problem caused there by the court case brought by the Houston Contractors Association. In fact, in a recent hearing a distinguished member of the Republican leadership who represents Houston, commended the Administrator of the Federal Transit Administration, Gordon J. Linton, for the "cooperation" and "creative" efforts made by the Department in responding to the Houston situation. It is important to understand that despite having twice filed motions to intervene, the Department of Transportation is not a party to the case involving Houston Metro. Despite this, the Department has assisted Houston Metro in developing a race-neutral program to replace its DBE program during the pendency of the injunction. In addition, the Department recently extended the exemption it has provided to Houston Metro until October 31, 1998 in order to ensure that funds continue to flow and projects are not unnecessarily disrupted while Houston appeals the district court's decision.

Finally, the paragraph entitled "Monterey Mechanical" does not belong in a Committee report expressing views on a federal affirmative action program. The Monterey Mechanical case does not address the DBE program—in fact it does not address any federal program. It is not a case based upon the Supreme Court's holding in Adarand, but instead deals with the Court's opinion in Croson and the recent enactment of Proposition 209 which is relevant only to California. Similarly, in the section entitled "Additional Challenges" the vast majority of the cases referred to do not deal with the Department of Transportation's DBE program. In fact, most of the cases listed appear to deal with state and local program, not federal programs.

I thank my colleagues for their attention to those important issues. The fact of the matter is this: affirmative action and equal opportunity are far too important to be left to the mercy of political rhetoric masquerading as legislative history. The existence of discrimination in the transportation construction industry in this nation is clear—and the legislative record should be clear as well.

Mr. VENTO. Mr. Speaker, I rise in support of H.R. 2400, the BESTEA Conference Report. This legislation represents an important step in revitalizing our national infrastructure.

H.R. 2400 contains a number of provisions that are of special concern to my constituents. I am pleased that adequate funding was included for these proposals, of particular interest are the Phalen Corridor Initiative and the Shepard Road Upper Landing Interceptor Project.

The Phalen Corridor Initiative is a congressionally designated project in BESTEA. This Initiative is an innovative infrastructure project. The Initiative is an excellent example of what BESTEA is all about, a multipurpose intermodal system that will help revitalize the east side of St. Paul and carry the Minnesota urban transportation network into the 21st century.

The Phalen Corridor Initiative presents an opportunity to position the Twin Cities area and the State of Minnesota at the forefront of innovative transportation development efforts. The Initiative has already been recognized as "a model for urban renewal." The Phalen Corridor Initiative also emphasizes the role of infrastructure plays on the overall health of our national economy, environment and community development. The 4,000 jobs will likely result which are expected to achieve a $7 million annual reduction in public assistance expenses putting people to work. This Phalen Initiative is built within the framework of a dramatically changing industrial and railway core and will revitalize bootstrapping a new vibrant economic development and importantly reinforcing existing manufacturing business and job housing, and the recreation amenities which are a vital part of such interfaces.

The Shepard Road Upper Landing Interceptor Project initiative is a multimodal transportation interceptor project. Included within this project is a multimodal facility to accommodate public and private transit service, pedestrian pathways between the Mississippi River and downtown St. Paul, a bicycle hub for commuters and recreational riders, a ride sharing hub and a bus staging and dispatching area for busses serving visitors to the immediately adjacent St. Paul Civic Center, Science Museum of Minnesota and downtown St. Paul cultural attractions.

The Shepard Road Upper Landing Interceptor Project site is a gateway site critical to the redevelopment of the five mile segment of Mississippi riverfront which is the focus of a multi-year redevelopment strategy.

Mr. Speaker, H.R. 2400 also contains an important compromise on a national wilderness area in Minnesota, the Boundary Waters Canoe Area Wilderness (BWCAW). The BWCAW, the most popular wilderness in our entire wilderness system, has regrettably been the target of controversy and attacks over the past four years. Legislation has been introduced to increase the number of motorboats allowed in the wilderness; to remotorize three portages; to keep open the portion of Sea Gull Lake now scheduled to be closure next year and to turn over to a locally dominated board the management of this national treasure.

In light of the anti-environmental record of the Republican Majority Congress over the past four years, these proposals in my mind's eye represent a very real threat to the BWCAW. While some of the more egregious proposals have been dropped, the House and Senate were poised to act on legislation that would reopen three portages and maintain over 2,100 motorboats on 3,000 plus acres of Sea Gull Lake. Passage on such legislation was highly probable and would have delivered a devastating blow to the BWCAW resource.

Against this backdrop, I fortunately reached a good-faith agreement with Congressman Oberstar on the BWCAW. We have differed on this issue and the policy path and the loan for over two decades. My primary concern is protecting the BWCA wilderness to the maximum extend possible. This compromise accomplishes such goal. Under the agreement, Four Mile Portage will not be motorized and effective January 1, 1999, most of Sea Gull Lake, and all of Alder, and Canoe Lakes will be closed to motorboats. That represents over 3,000 acres of lake surface permanently closed to over 2,100 motorboats and an agreement which defuses the motor portage issue which unresolved promised continued polarization and attacks that would in the final analysis seriously damage the BWCAW resource.

As the Forest Service implements this agreement, they should look to the Resources Committee positive actions this year on H.R. 1739. During the consideration of this measure, amendments were adopted to insure that only those portages that were motorized in 1992 can be motorized under this compromise; that limits motorized portages solely to trucks and trailers and not to other commercial operations and importantly to prevent federal subsidies from private portage services. The Forest Service should most certainly look to these provisions in determining Congressional intent.

Mr. Speaker, the BWCAW has been the subject of extensive debate and numerous hearings in Minnesota and Washington, D.C. over the past four years, including Subcommittee and Committee deliberations. While I would have preferred a different process, the BWCAW process is far more open than the homogenized budget, tax, authorization and spending measures that are so commonplace over the past four years. I support this provision of H.R. 2400.

Mr. Speaker, I would have preferred that this BWCAW issue not be addressed in this forum, but the policy has been the product of open debate and extensive hearings the past four years and a flash point for much longer—the criticism of the process belies the merit of this compromise which reduces the number of motor boats in wilderness and keeps on track the nearly 3,000 acres of Sea Gull Lake, over 2,000 motor boat permits a year out of wilderness—at the same time permitting 2 portages to be motorized the equivalent of 274 days of motor use between lakes which are all permitted to have motor boat use and the number of permits will not go up regards this circumstance and change furthermore they are almost all being used today some at over 100% utilization.

The measure before the House H.R. 2400 represents a positive use of the gas tax revenue.

A major problem arises because the 1993 budget anticipated that the increase of 4.3 cents was for deficit reduction. The Congress determined later to transfer the money to the highway trust fund that means that over a five or six year period that we will experience an overall budget short fall. This deficit and the outlay budget issue is further complicated by the fact that over economic projections haven't been updated.

I certainly hope that the dire predictions being espoused by some today do not come to pass and believe that we can avert some of this problem. No doubt that some of the earmarked projects in this measure will raise questions and should, but all each of us can do is point to the screening procedure and the hearings that most were subject to through the House committee.

Importantly this will provide significant funds for our state regarding highways and transit, this will provide an unprecedented amount of funds for these purposes and flexibility to the states and local communities to make the decisions as to the expenditure priorities of such funds raised by the national government. Also provided are continued commitment of funds for enhancement programs and mitigation programs, the goal is to help innovative expenditure of transportation including bike path trail purchases and other amenities that have become a very important program in our communities and the mitigation funding which reduces congestion, erects sound barriers, limit adverse impacts on our air quality. These programs attempt to address the full impact of motor vehicle traffic upon our environment and rectify and limit the adverse health consequences.

In any legislative matter this comprehensive we are faced with many policies that deserve more attention, indeed there are budget, authorization, tax and direct mandated spending provisions which cut across many topics which are not recognized as solely surface transportation. We could all find the basis to severely criticize this procedure and vote against such a measure but the good in this measure certainly outweighs the shortcomings within it.

I'm voting for this in good faith and with the needs of my state and people in mind. We will be here the next four months and with the mandate of the people some may well return for another term. This isn't a perfect bill but its a good measure and I believe moves forward about as well as we can in the current political environment.

Support H.R. 2400 today and let us keep working for better policy in the future.

Mr. THUNE. Mr. Speaker, I rise today in support of the conference report to H.R. 2400, the Building Efficient Surface Transportation Equity Act (BESTEA) of 1998.

This Act takes us yet one step closer to an important goal: Putting trust back into the Highway Trust Fund. For too many years, the taxes American motorists pay at the pump have been siphoned off from their intended uses to be used for other federal programs. Worthy though those programs may be, the fact is, hard working Americans have been deceived about how the money they pay at the pump is being used. Fortunately, this bill contains a guarantee that motor fuels taxes be used to fund roads, bridges, and mass transits.

Because Congress is honoring this commitment, we have been able to dedicate more funding to important transportation priorities. Those priorities include safety and development programs in addition to general allocation to the States. On the subject of State allocations, I think my colleagues in the House would agree that the conferees deserve praise for balancing the disparate needs and desires of the 50 states.

As always is the case with highway funding bills, regionalism plays a larger role than partisanship with forming coalitions. In this case, I would say we have struck an agreeable, if not a perfect compromise that will allow each of our States to continue to maintain and build our surface transportation networks.

Certainly this is the case for States like South Dakota. As you are aware, Mr. Speaker, and Chairman SHUSTER is aware, I was less than satisfied with the funding formula contained in H.R. 2400. Along with several of my colleagues from Western States, I attempted to amend H.R. 2400 in order to recognize the unique needs of sparsely populated States. That amendment, unfortunately, was not accepted by the Transportation and Infrastructure Committee and the funding formula was not amended to our satisfaction. However, I believe it clearly defined our concerns and shed light on our expectations that there be more funding made available to States like South Dakota that have miles of highways but lack the population base to adequately fund those roads. As a result, we have a bill before us now that recognizes the need for a national transportation system and a national system of highways.

It is true that each State and the citizens of each State bear a great deal of the responsibility in meeting their own transportation needs. If each State were solely responsible for funding its transportation, we would be ignoring an irrefutable fact: In order for goods and services to move from Boston and Seattle, they must pass through States like South Dakota. Consequently, people on the Coasts, on the National borders, and in urban centers, use these roads and have an interest in seeing that they are safe for travel. Though it does not provide the funding I would prefer, the bill before us does provide a level of funding that will help ensure middle America allows all areas of the Nation to be connected.

This accomplishment is the result of the hard work of my colleagues who were appointed to the conference committee to negotiate the differences between the House and Senate. Rep. Don Young of Alaska, one of the conferees, certainly understood my concerns. As an At-Large Representative, I was pleased to see that he was named to the conference to work for the interests of sparsely populated but geographically large states like ours.

This bill also is the result of many hours of hard work and dedication of those behind the scenes, including the staff of the Committee on Transportation and Infrastructure. This bill also is the product of the hard work of the men and women at the South Dakota Department of Transportation (SDDOT), who under the direction of Governor William Janklow, Secretary Ronald Wheeler, and Assistant Secretary Jim Jensen, provided invaluable information. And without any question, I and my staff owe much to Richard Howard, SDDOT Director of Intergovernmental Relations. Their hard work helped to ensure the members of this body understood the importance of maintaining a fair formula for South Dakota. They also helped develop important provisions of this bill. I would also like to recognize the hard work put into this legislation by my Legislative Director, Jafar Karim. He put in many long hours on behalf of the people of South Dakota.

One provision of particular importance will help South Dakota meet transit, rural air service, and rail safety needs. The provision will give South Dakota and other States not served by Amtrak the flexibility to use funds made available under the Taxpayer Relief Act of 1997 for the State's highest transportation priorities. I would like to thank Ways and Means Chairman BILL ARCHER, and the conferees for the revenue title of this bill, Rep. KENNY HULSHOF and Rep. JIM NUSSLE, for their support of this provision.

I also want to commend the gentleman from Missouri and the gentleman from Iowa for preserving and protecting the ethanol tax incentives through the year 2007. Though South Dakota and other corn producing States may best understand the benefits of these provisions, the entire Nation benefits from ethanol being a part of our fuel options.

Chairman SHUSTER and Chairman PETRI also deserve thanks for their support of priority projects I submitted on behalf of the State of South Dakota. Through this process, South Dakotans will have a new opportunity to build four lane highways to some of the State's trade centers, such as Aberdeen, Huron, Mitchell, Pierre, and Rapid City. As I have previously stated for the RECORD, these four lanes are the combined vision of former Senator Francis Case and the late Governor George S. Mickelson. These two South Dakota leaders saw the value of connecting our major population centers to Interstate 90 and Interstate 29 via four-lane highways. I am proud to carry forward that vision.

I also am pleased that the conference granted my request that the bill recognize the Heartland Expressway from Rapid City, South Dakota, to Scottsbluff, Nebraska, and Interstate 29 from Kansas City to the Canadian border, which would include the portion of the highway that runs through South Dakota, as High Priority Trade Corridors. Together these corridors provide important transportation links for the west and east ends of South Dakota. I am hopeful that each will be able to secure a portion of the funds to be made available for High Priority Trade Corridors under this bill.

These projects, and the programs this bill funds, will help South Dakota and the Nation provide the transportation infrastructure necessary to remain competitive into the next century. Clearly, this bill is a slam dunk for the State of South Dakota. Through this act, we will provide for important infrastructure; restore integrity to an important part of the federal budget process; and ensure an equitable national transportation network.

Mr. ARCHER. Mr. Speaker, I stand in reluctant opposition to the conference report on H.R. 2400, the "Building Efficient Surface Transportation and Equity Act of 1998."

I am reluctant because the conference report preserves the goals of the House bill to strengthen and enhance our country's transportation needs into the next century. However, the conference report contains a fatal flaw in the revenue title. Its inclusion was preordained before the conference committee was convened. Regrettably, longstanding traditions of the House were ignored to secure an outcome which I adamantly oppose and which forced my decision not to serve on the conference committee.

The objectionable provision relates to a 20-year-old subsidy for ethanol which the conference report extends through year 2007. The extension was included despite overwhelming opposition by the Ways and Means Committee and, I believe, by a majority of the House of Representatives. A study by the General Accounting Office concluded that ethanol has had no discernible effect on environmental quality and America's energy security. Furthermore, half of the benefits from this inappropriate subsidy flows to a single company. Editorials in papers from all parts of the country, including the corn-growing Mid-West, have registered opposition to the extension of this outdated and reckless subsidy. Copies of some of these editorials are included below.

The bill as approved by the House would have allowed the ethanol credit to sunset in 2000 as provided under current law and instead provide meaningful tax relief and benefits to highway users, barges and railroads, as well as to millions of boaters and fishermen who enjoy our lakes, rivers and shores. Unfortunately, most of this House relief has now been siphoned off by the seven year extension of the subsidy contained in the conference report.

We now have before us an agreement which turns a deaf ear to those who want to eliminate inappropriate subsidies and reduce the size of government. In conclusion, the process has been wronged. Worse, the taxpayer has been wronged. I have no choice but to oppose the conference report.

WRONG WAY ON ETHANOL

House Ways and Means Committee Chairman Bill Archer has declined to serve as a conferee on the highway bill and says he'll vote against it, not for reasons having to do with highways but because party leaders have stacked the conference committee in favor of subsidizing ethanol. The chairman opposes the 20-year-old ethanol subsidy as ineffectual and a giveaway to the corn producers from whose crop the gasoline extender is made, as well as to the Archer Daniels Midland Corp., the principal manufacturer.

He is right on the merits, but this is one where the merits don't count. The Ways and Means Committee voted 22 to 11 to let the subsidy lapse when it is supposed to expire in two years. But the Senate voted to extend it. The Democrats, in the form of the Clinton administration and House Minority Leader Dick Gephardt, both support extension, and so, it turns out, does House Speaker Newt Gingrich. The speaker said he'd be pleased to name Mr. Archer a conferee, as custom dictates, but only if he is flanked by two other Ways and Means members prepared to out vote him on the issue. Rather than serve as a cipher, Mr. Archer withdrew.

The subsidy was enacted as part of the patchy national response to the energy crisis in the 1970s. The manufacturers receive income tax credits; the gasoline tax is also lower on gasohol—gasoline mixed with ethanol—than on the conventional product. The idea was to reduce both U.S. dependence on foreign oil and air pollution from the burning of fossil fuels. But the General Accounting Office concluded last year that at best ethanol has made only a marginal contribution to the achievement of either goal. Mostly, the subsidy helps prop up corn prices by adding a little to demand. The higher corn price may mean slightly higher beef and chicken prices than otherwise, since the corn is used for feed. ADM, which happens over the years to have been a major source of campaign contributions to members of both parties, likewise prospers.

It's not clear that gasoline extended by ethanol could be produced at a competitive price without the subsidy. Mr. Archer is willing to face that, and "at a time when we should eliminate inappropriate subsidies," thinks his colleagues should be, too.

[From Rapid City Journal]

ETHANOL TAX BREAK OUTDATED

The ethanol industry is mature enough to outlast its tax subsidy.

Since the Arab oil embargo of the 1970s and its resulting energy crisis in the United States, the demand for self-sufficiency in energy production inspired several taxpayer-assisted ventures.

The most well-known is the production of ethanol from fermented corn, an alcohol that is blended with gasoline. Since 1978, when ethanol production was less than 50 million gallons, the industry has grown to produce about 1.5 billion gallons in 1997. Along the way, a tax credit that costs Americans a little more than $800 million a year has been the principal assist for an industry that can't support itself without the subsidy.

Supporters of the subsidy say it's needed in order to convince investors that major capital allocations to ethanol producing plants are a reasonably safe bet, thereby employing workers in corn belt regions and giving corn producers an extra market for their product. The benefits to the rest of the country, says the American Coalition for Ethanol, are both strategic, in that foreign demand for oil is reduced, and environmental, in that cleaner air is the result of adding ethanol to gasoline.

It sounds great, but we disagree. Subsidies to ethanol have long since outlived their original intent, which was to help a fledgling industry that held some promise for energy self-sufficiency get off the ground. Annual production of 1.5 billion gallons, which consumes between 5 percent to 10 percent of the country's corn crop, suggests the industry has matured and should be able to make it on its own.

Ethanol backers retort that the petroleum industry gets subsidies, therefore so should they. On reviewing a list of petroleum industry tax breaks provided to us by ethanol spokesmen, tax experts we consulted tell us that the bulk of the so-called petroleum subsidies—principally tax credits for conducting business overseas and accelerated depreciation allowances—are available to every multi-national business, as well as every company that owns machinery and equipment. If the ethanol industry went multi-national, it, too, would get the same tax treatment.

The ethanol industry also lumps in military costs in the Persian Gulf as federal spending on oil, claiming the military cost adds as much as 20 cents a gallon to the final price of gasoline. We think the argument is specious. Even if ethanol production in this country were to double, as its backers hope, it would hardly make a dent in America's demand for cheap foreign oil. Besides, maintaining order in the Gulf is not tied exclusively to protecting the flow of oil.

As to environmental claims, researchers in recent years have been calling ethanol's benefits into question. A 1993 report by the University of Colorado in Chemical and Engineering News reported that EPA-mandated use of ethanol along Colorado's Front Range had a statistically insignificant impact on air quality. And the National Academy of Science's Douglas Lawson, lead author of a comprehensive study on oxygenated fuels, told Forbes Magazine a year ago that EPA policies mandating ethanol "may not be cost-effective or may be ineffective." Other studies are equally dubious about ethanol's purported environmental benefits.

We're also leery of the additional costs that will be borne by livestock producers, who could pay more for corn if ethanol production reached hope-for levels.

In a free-market world, we have no argument with ethanol, per se, but we believe that if it is indeed a product of such many-sided benefits, private sector resources will eagerly pursue a chance to get in on it.

American taxpayers have already given it as much of a boost as they should.

Mr. POSHARD. Mr. Speaker, I rise today in support of the conference report on reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA). When I voted for passage of H.R. 2400, the Building Efficient Surface Transportation and Equity Act (BESTEA) on April 1 of this year, I did so because it was a good bill for Illinois. Although that is not entirely true of the conference report, I will vote in favor of it because it contains some important provisions and will allow us to complete many desperately-needed projects.

Prior to passage of the original ISTEA bill, Illinois received only 93 cents for every gas tax dollar it sent to the federal treasury. As a member of the Transportation and Infrastructure Committee then and now, I worked hard to bring equity to this relationship, and this effort was successful. ISTEA returned $1.03 to Illinois for each tax dollar. H.R. 2400, the Building Efficient Surface Transportation and Equity Act (BESTEA), of which I am a cosponsor, pledged to provide the Land of Lincoln over a billion dollars annually over the next six years and maintain this return. However, the conference report is a significant setback from this progress. It returns my state to donor status, at 92 cents for every dollar in gas taxes, and reduces Illinois' annual return significantly.

Nonetheless, the conference report earmarks funding for several transportation projects in the 19th Congressional District which will greatly benefit my constituents. We must have the funds to follow through with these contracts or risk losing an entire construction season. In addition, I am pleased that the state of Illinois has been guaranteed hundreds of millions of dollars in discretionary funding for critical projects, including construction on the Stevenson Expressway and Wacker Drive in Chicago. These funds will be crucial in improving conditions in the Chicago area. The bill also provides for increased transit funding, establishes an access-to-jobs initiative which will assist those making the transition from welfare to work, and gives Illinois 29% more funding that under the original 1991 ISTEA legislation.

The conference report extends the federal tax credit for ethanol until the year 2007, which I have fiercely advocated for over the years. This is sound policy that will help American agriculture and the environment, benefit consumers, and reduce our dependence on foreign oil. Unfortunately, the final version of this legislation does not contain House-passed provisions relating to the intrastate transportation of agricultural products, such as fertilizers, pesticides, and fuels. For two years, I have fought with Representatives EWING, BARCIA, and BUYER, and other supporters to allow states to maintain their current exceptions to federal regulations that would overburden our family farmers with costly compliance fees. Another opportunity to address this reality is not likely before the end of this Congress, and I wish the outcome had been different. I am pleased that a portion of the offset moneys will be used for veterans' education and disability programs, and I will continue to work on behalf of America's veterans in every way I can.

No, this conference report is not perfect, but I nonetheless urge my colleagues to vote in favor of it. I have strongly supported this process since its inception, and truly believe the ISTEA framework has been successful. There are far too many critical projects and programs that must be funded immediately, and we can ill afford to allow this reauthorization process to continue any longer. I am proud of my work as a member of the Transportation and Infrastructure Committee in helping to craft this next incarnation of ISTEA, and I look forward to its passage.

Mr. FROST. Mr. Speaker, Title III of the Conference Report to accompany H.R. 2400 contains project authorizations in section (c)(1) making $3,000,000,000 available for fiscal years 1998 through 2003 for a variety of projects. Included in this section is authorization for the Dallas North Central Light Rail Transit Extension in the amount of $188 million. I am taking this opportunity to thank the conferees for making these funds available, but I would also like to take this opportunity to reiterate the position of the Dallas Area Rapid Transit regarding the full federal share of this project.

DART originally requested $333 million as the federal share for fulfillment of the Full Funding Grant Agreement that has been under negotiation between DART and the Federal Transit Administration. During these negotiations, FTA indicated its commitment to proceed with the implementation of the project by the issuance of a Letter Of No Prejudice. It is important to note that it is DART's understanding that the $188 million authorized in the conference report to accompany H.R. 2400 is a floor and not a ceiling and that the full $333 million will be made available for the federal share to ensure the completion of this project which has been the subject of the negotiations between DART and FTA.

Mr. BOEHLERT. Mr. Speaker, I rise today in strong support of Tea-21—a legislative package I refer to as "Green Tea." This is the most significant piece of environmental legislation passed in the 105th Congress. "Green Tea" provides billions of dollars to improve the quality of our nation's air through the Congestion Mitigation Air Quality (CMAQ) program. As we work to improve air quality CMAQ will prove to be one of our most valuable tools.

"Green Tea" dramatically increases our commitment to transit programs which are critical to improving our environment and relieving the commuter congestion that chokes our urban centers. This legislation secures $41 billion for transit over the next six years.

"Green Tea" continues the enormously successful Transportation Enhancement program. This program has built bike paths and preserved historic transportation structures across the country.

"Green Tea" promotes the use of electric and natural gas vehicles—an important step toward reducing green house gases.

In crafting "Green Tea" Chairman SHUSTER worked closely with the environmental community to produce a bill that will improve America's infrastructure and our environment.

Mr. BURTON of Indiana. Mr. Speaker, due to circumstances beyond my control, I am unable to cast my vote for the Building Efficient Surface Transportation and Equity Act (H.R. 2400) Conference Report. If I were able to vote on the conference report, I would vote in the affirmative. This legislation is vital to restoring integrity to the Highway Trust Fund, and funding equity to the several States.

While the issue of transportation infrastructure may not seem glamorous, it takes on a compelling National interest when economic growth is restricted, and our valuable time is wasted by crushing traffic jams, potholed and dangerous roads, and a crumbling National transportation infrastructure. The Conference Report on H.R. 2400 is landmark legislation that affirms the Federal government's commitment to a strong, modern, and safe transportation infrastructure.

This legislation restores the integrity of the Highway Trust Fund; it has the support of business and labor, contractors and environmentalists, safety groups, and State and local governments alike; it addresses many of the concerns of Hoosiers by returning a greater portion of the money collected by motor vehicle excise taxes to Indiana for much-needed infrastructure investment. Equally as important, BESTEA gives States and localities the ability to decide how and where transportation dollars should be spent.

Again, Mr. Speaker, if I were able to vote on the conference report, I would vote in the affirmative. It is crucial that the Congress restore integrity to the Highway Trust Fund and ensure funding equity to the several States.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. OBEY. I most certainly am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. OBEY moves to recommit the Conference Report on the bill, H.R. 2400, to the Committee of Conference with instructions to the managers on the part of the House to strike those provisions of the Conference Report that prohibit or reduce service-connected disability compensation to veterans relating to use of tobacco products.

The SPEAKER pro tempore. The motion is not debatable.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the conference report.

The vote was taken by electronic device, and there were—yeas 190, nays 195, not voting 49, as follows:

[Roll No. 191]

YEAS—190

Aderholt
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Becerra
Bentsen
Berman
Bilbray
Bilirakis
Bishop
Bonilla
Boswell
Boyd
Brady (TX)
Brown (OH)
Bunning
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Coburn
Condit
Costello
Crane
Crapo
Cunningham
Davis (FL)
Deal
DeGette
Delahunt
Dicks
Doggett
Dooley
Edwards
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Fox
Gejdenson
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Gutierrez
Hall (TX)
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Hill
Hilleary
Hinchey
Hobson
Hoyer
Hulshof
Inglis
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kind (WI)
Kleczka
LaFalce
Lampson
Lantos
Largent
Leach
Lewis (GA)
Lewis (KY)
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
McCarthy (MO)
McCollum
McDermott
McGovern
McHale
McIntosh
McIntyre
McNulty
Metcalf
Miller (FL)
Minge
Moakley
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Norwood
Obey
Olver
Pappas
Pastor
Pelosi
Peterson (MN)
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Regula
Rivers
Rodriguez
Rogan
Roukema
Roybal-Allard
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sawyer
Scarborough
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shays
Sherman
Sisisky
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Smith, Linda
Souder
Spratt
Stabenow
Stark
Stearns
Strickland
Stump
Stupak
Talent
Tanner
Taylor (MS)
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Tierney
Turner
Watkins
Watts (OK)
Waxman
Weldon (PA)

Weygand
Whitfield
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—195

Abercrombie
Ackerman
Allen
Andrews
Armey
Bachus
Baldacci
Barcia
Bass
Bereuter
Berry
Blagojevich
Bliley
Blumenauer
Boehlert
Boehner
Bonior
Bono
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Bryant
Buyer
Calvert
Camp
Clay
Clement
Clyburn
Coble
Collins
Combest
Cook
Cooksey
Cox
Coyne
Cramer
Cubin
Cummings
Danner
Davis (IL)
Davis (VA)
DeLauro
DeLay
Diaz-Balart
Dickey
Dingell
Dixon
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Everett
Ewing
Farr
Fattah
Filner
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gilchrest
Gingrich
Goodling
Granger
Greenwood
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastert
Herger
Hilliard
Hinojosa
Holden
Hooley
Horn
Hostettler
Houghton
Hunter
Hutchinson
Istook
Jackson (IL)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Kanjorski
Kilpatrick
Kim
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Latham
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Linder
Lipinski
Livingston
LoBiondo
Manzullo
Markey
Mascara
Matsui
McCarthy (NY)
McHugh
McInnis
McKeon
McKinney
Meek (FL)
Menendez
Mica
Millender-McDonald
Mink
Moran (KS)
Murtha
Nadler
Ney
Northup
Nussle
Oberstar
Ortiz
Owens
Oxley
Packard
Pallone
Pascrell
Paul
Paxon
Payne
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Radanovich
Rahall
Ramstad
Redmond
Riley
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Rush
Ryun
Saxton
Schaefer, Dan
Serrano
Shaw
Shimkus
Shuster
Skeen
Skelton
Smith (TX)
Snowbarger
Snyder
Solomon
Spence
Stokes
Sununu
Tauscher
Tauzin
Thune
Traficant
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Weldon (FL)
Weller
White
Wise

NOT VOTING—49

Archer
Bateman
Blunt
Boucher
Burr
Burton
Callahan
Conyers
DeFazio
Deutsch
Fawell
Fazio
Foley
Furse
Gephardt
Gonzalez
Graham
Green
Harman
Hefley
Hoekstra
Hyde
Johnson, Sam
King (NY)
Kingston
Lofgren
McCrery
McDade
Meehan
Meeks (NY)
Miller (CA)
Mollohan
Neal
Parker
Quinn
Rangel
Reyes
Riggs
Royce
Sanford
Skaggs
Smith (OR)
Stenholm
Taylor (NC)
Torres
Towns
Wamp
Wexler
Wicker

□ 1757

Mr. PETERSON of Pennsylvania changed his vote from "yea" to "nay."

Messrs. ADAM SMITH of Washington, STRICKLAND, BRADY of Texas, JEFFERSON, WEYGAND, YOUNG of Alaska, Mrs. KELLY, and Messrs. ENGEL, SMITH of Michigan, McGOVERN, MANTON, MARTINEZ, WYNN, INGLIS of South Carolina and Mrs. CLAYTON changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. QUINN. Mr. Speaker, due to family obligations I was unavoidably detained from several roll call votes today. Had I been present, I would have voted no on roll call votes 187, and 188. I would have voted yes on roll call vote 189, 190 and 191.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 297, noes 86, not voting 50, as follows:

[Roll No. 192]

AYES—297

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Bass
Becerra
Bereuter
Berry
Blagojevich
Bliley
Blumenauer
Boehlert
Bonior
Bono
Borski
Boswell
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Buyer
Calvert
Camp
Cannon
Capps
Carson
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Engel
English
Ensign
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Granger
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastert
Hefner
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hutchinson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Mink
Moakley
Moran (KS)
Murtha
Nadler
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Poshard
Pryce (OH)
Radanovich
Rahall
Ramstad
Redmond
Regula
Riley
Rivers
Rodriguez
Roemer
Rogan
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Ryun
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schumer
Scott
Serrano
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snowbarger
Snyder
Solomon
Spratt
Stabenow
Stearns
Stokes
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Thomas
Thompson
Thune
Tiahrt
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wise
Woolsey
Wynn
Young (AK)

NOES—86

Ballenger
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bentsen
Berman
Bilbray
Bilirakis
Bishop
Boehner
Bonilla
Boyd
Brown (OH)
Campbell
Canady
Cardin
Castle
Chabot
Chenoweth
Christensen
Coburn
Cox
Crane
Deal
Dicks
Edwards
Emerson
Eshoo
Frelinghuysen
Gilman
Goss
Hall (TX)
Hastings (FL)
Hastings (WA)
Hayworth
Herger
Hobson
Hoyer
Hunter
Inglis
Jones
Kasich
Kennedy (RI)
Kolbe
Largent
Lewis (GA)
Maloney (NY)
McCollum
McNulty
Miller (FL)
Minge
Moran (VA)
Morella
Myrick
Nethercutt
Obey
Paul
Porter
Portman
Price (NC)
Rohrabacher
Roukema
Sabo
Salmon
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shays
Smith, Adam
Smith, Linda
Souder
Spence
Stark
Strickland
Stump
Taylor (MS)
Thornberry
Thurman
Tierney
Waxman
White
Wolf
Yates
Young (FL)

NOT VOTING—50

Archer
Bateman
Blunt
Boucher
Burr
Burton
Callahan
Conyers
DeFazio
Deutsch
Dixon
Fawell
Fazio
Foley
Furse
Gonzalez
Graham
Green
Harman
Hefley
Hoekstra
Hyde
Johnson, Sam
King (NY)
Kingston
Lofgren
McCrery
McDade
Meehan
Meeks (NY)

Miller (CA)
Mollohan
Neal
Parker
Quinn
Rangel
Reyes
Riggs
Rogers
Royce
Sanford
Skaggs
Smith (OR)
Stenholm
Taylor (NC)
Torres
Towns
Wamp
Wexler
Wicker

☐ 1807

The Clerk announced the following pairs:

On this vote:

Mr. Green for, with Mr. Sam Johnson of Texas against.

Mr. Wicker for, with Mr. Parker against.

Mr. Wamp for, with Mr. Sanford against.

Mr. McDade for, with Mr. Kingston against.

Mr. Burton for, with Mr. Archer against.

Mr. Quinn for, with Mr. Burr of North Carolina against.

Mr. TIERNEY changed his vote from "aye" to "no."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GRAHAM. Mr. Speaker, I would like to state that had I been present during the vote on the conference report for H.R. 2400, Building Efficient Surface Transportation and Equity Act, I would have voted "no" on the conference report.

PERSONAL EXPLANATION

Mr. SCARBOROUGH. Madam Speaker, on rollcall No. 192, I was reported as voting "aye." That was the transportation bill.

I recall voting "no" and would ask that the RECORD reflect that I opposed rollcall vote 192, the transportation bill, as I did from the beginning of the process.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate passed a concurrent resolution of the following title, in which concurrence of the House is requested:

S. Con. Res. 99. Concurrent resolution authorizing the flying of the POW/MIA flag.

CORRECTING ENROLLMENT OF H.R. 2400, TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Mr. SHUSTER. Mr. Speaker, I offer a concurrent resolution (H.Con.Res. 282) correcting the enrollment of H.R. 2400, and I ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. PEASE). The Clerk will report the concurrent resolution.

The Clerk read as follows:

H. CON. RES. 282

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill H.R. 2400 the Clerk of the House of Representatives shall make the following corrections:

(1) In the table contained in section 1602 of the bill—

(A) strike item 166, relating to Macomb County, Michigan, and insert the following:

No.	State	Project description	[Dollars in Millions]
166.	Michigan	Improvements to Tenth Street (Port Huron)	1.8;

(B) after item 1850 insert the following:

No.	State	Project description	[Dollars in Millions]
1851.	Michigan	Bridge-to-Bay bike path, St. Clair County	0.450;

(C) in item 755, relating to Cross Seminole Trail, Florida, strike "1.25" and insert "1.5";

(D) in item 902, relating to St. Johns River Bridge, Florida, strike "10.5" and insert "14.0";

(E) by striking item 242, relating to magnetic lane marking for I-4, Florida, and item 1065, relating to US 1792 in Volusia County, Florida;

(F) in item 702, relating to I-4 in Orlando, Florida, by striking "10.5" and insert "10.0";

(G) in item 770, relating to US-17/92 in Volusia County, Florida, striking "1.35" and insert "1.0";

(H) in item 789, relating to construction of interchange, Orange County, Florida, strike "2.0625" and insert "1.0";

(I) in item 635, relating to Florida National Scenic Trail, strike "1.875" and insert "2.15"; and

(J) in item 1383, relating to improvements to Alden Road, Florida, strike "0.525" and insert "0.35"; and

(2) in section 1212 by striking subsection (v) and inserting the following:

" (v) BOUNDARY WATERS CANOE AREA.—Effective January 1, 1999, section 4 of the Act of October 21, 1978 (Public Law 95–495) is amended—

" (1) by striking subsection (g) and inserting the following:

'(g) Nothing in this Act shall be construed to prevent the operation of motorized vehicles to transport boats across the portages between the Moose Lake Chain and Basswood Lake, Minnesota, and between Vermilion Lake and Trout Lake, Minnesota.'; and

" (2) in subsection (c)(2) by striking '; Alder, Cook County; Canoe, Cook County' "

On page 1A-71 line 22, insert after system "$10,000,000 of such amounts shall be available to the State of Alabama for fiscal year 1999 and 2000".

On page 1B–129, line 10, insert:

"(g)(1) The Secretary shall provide $10 million for construction of highway 323 between Alzado and the vicinity of Ekalaka, Montana.

"(2) Funds made available shall be available for obligation in the same manner as if funds had been appropriated under Chapter 1 of Title 23.

"(h)(1) The Secretary shall provide $1.125 million for construction of Third Street North, CSAH 81, Waite Park.

"(2) Funds made available shall be available for delegation in the same manner as if funds had been appropriated under Chapter 1 of Title 23.".

Mr. SHUSTER (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. SHUSTER) is recognized for 1 hour.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is simply to correct some mistakes that were in the bill, inadvertent mistakes in the bill.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I concur with the statement of the gentleman from Pennsylvania (Mr. SHUSTER) that this does correct inadvertent omissions that were made and errors in the tabulation of the bill and support the unanimous consent.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report to accompany the bill, H.R. 2400.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R.1385, EMPLOYMENT, TRAINING, AND LITERACY ENHANCEMENT ACT OF 1997

Mr. MCKEON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1385) to consolidate, coordinate and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none and, without objection, appoints the following conferees: For consideration of the House bill and Senate amendment and modifications committed to conference Messrs. GOODLING, MCKEON, RIGGS, GRAHAM, BOB SCHAFFER of Colorado, CLAY, MARTINEZ, and KILDEE.

There was no objection.

DESIGNATION OF HONORABLE FRANK R. WOLF TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JUNE 3, 1998

The Speaker pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 22, 1998.

I hereby designate the Honorable FRANK R. WOLF to act as Speaker pro tempore to sign enrolled bills and joint resolutions through June 3, 1998.

NEWT GINGRICH,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to.

There was no objection.

DISPLAYING POW/MIA FLAG AT THE CAPITOL

Mr. PETRI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 99) to display the POW/MIA flag at the Capitol Sunday, May 24, 1998, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. The Clerk will report the Senate concurrent resolution.

The Clerk read as follows:

S. CON. RES. 99

Resolved by the Senate (the House of Representatives concurring), That, for the purpose of section 1082(b)(1)(B) of the National Defense Authorization Act for Fiscal Year 1998, the display of the POW/MIA flag at the Capitol shall begin at 6:30 p.m. on Sunday, May 24, 1998. As used in this section, the term "POW/MIA flag" has the same meaning as in section 1082 of such Act.

SEC. 2. The Architect of the Capitol may prescribe regulations with respect to the first section of this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER TO ENTERTAIN MOTIONS TO SUSPEND THE RULES ON WEDNESDAY, JUNE 3, 1998

Mr. PETRI. Mr. Speaker, I ask unanimous consent that on Wednesday, June 3, 1998, the Speaker be authorized to entertain motions to suspend the rules and pass the following:

H.R. 2604—Religious Liberty and Charitable Donation Protection Act of 1997;

H.R. 3504—John F. Kennedy Center for the Performing Arts Authorization Act;

H.R. 3808—Designating the Carl D. Pursell U.S. Post Office;

H.R. 3630—Designating the Steven Schiff Post Office;

H.R. 2798—Designating the Nancy B. Jefferson Post Office;

H.R. 2799—Designating the Reverend Milton R. Brunson Post Office Building.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMISSION FOR COMMITTEE ON BUDGET TO HAVE UNTIL MIDNIGHT WEDNESDAY, MAY 27, 1998, TO FILE REPORT ON A CONCURRENT RESOLUTION ON THE BUDGET

Mr. PETRI. Mr. Speaker, I ask unanimous consent that the Committee on the Budget have until midnight Wednesday, June 27, 1998, to file a privileged report on a concurrent resolution on the budget.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. DOOLEY of California asked and was given permission to address the House for 1 minute.)

Mr. DOOLEY of California. Mr. Speaker, I take this time in order to inquire about the schedule for the week we return.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I am pleased to announce we have concluded legislative business for the week. Next week, the House will not be in session due to the Memorial Day district work period.

The House will next meet on Wednesday, June 3, at 2:00 p.m. for legislative business. We will consider a number of bills under suspension of the rules, a list of which will be distributed to Members' offices.

On Wednesday, we also hope to consider H.R. 3433, the Ticket to Work and Self-Sufficiency Act of 1998, under a rule.

Members should note that we do not expect any recorded votes before 5:00 p.m. on Wednesday, June 3.

The House will meet at 10:00 a.m. on Thursday, June 4, and 9:00 a.m. on Friday, June 5, to take up the following legislation:

H.J.Res. 78—A resolution proposing an amendment to the Constitution of the United States restoring religious freedom; and a concurrent resolution on the budget for fiscal year 1999.

Next week, the House will also continue consideration of H.R. 2183, the Bipartisan Campaign Integrity Act of 1997.

Mr. Speaker, we hope to conclude legislative business for the week by 2:00 p.m. on Friday, June 5.

I thank the gentleman from California (Mr. DOOLEY) for yielding me the time.

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Mr. DOOLEY of California. Mr. Speaker, if I can further inquire, I know there is a lot of interest on both sides of the aisle for when we would, once again, revisit the agricultural research bill. I was interested if the gentleman has any plans on when that might come before the House.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for asking. Of course we are all concerned about getting this matter resolved as soon as possible on behalf of the concerns we had among our American farmers. We are working on that, and I can say that it is my hope that we may be able to do it possibly in the week we return, the week of June 3.

REPORT ON INVESTIGATION OF WHEREABOUTS OF U.S. CITIZENS WHO HAVE BEEN MISSING FROM CYPRUS SINCE 1974—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. PEASE) laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

In accordance with Public Law 103-372, I hereby submit the enclosed "Report to Congress on the Investigation of the Whereabouts of the U.S. Citizens Who Have Been Missing from Cyprus Since 1974." The report was prepared by retired Ambassador Robert S. Dillon, with significant contribution by former State Department Associate Director of Security Edward L. Lee, II. Their intensive investigation centered on Cyprus, but it followed up leads in the United States, Turkey, Greece, Switzerland, and the United Kingdom.

The investigation led to the recovery of partial remains that were identified through DNA testing (done at the Armed Forces Institute of Pathology DNA Identification Laboratory) and other evidence as being those of one of the missing Americans, Andreas Kassapis. The report concludes that Mr. Kassapis was killed shortly after his capture in August 1974. The report also concludes that, although their remains could not be recovered, the other four missing U.S. citizens in all likelihood did not survive the events in Cyprus in July and August 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 22, 1998.*

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JUNE 3, 1998

Mrs. KELLY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, June 3, 1998.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

AUTHORIZING THE SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS AUTHORIZED BY LAW OR BY THE HOUSE NOTWITHSTANDING ADJOURNMENT

Mrs. KELLY. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, June 3, 1998, the Speaker, majority leader, and minority leader be authorized to accept resignations and make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the gentlewoman from New York?

There was no objection.

RESPONSE OF LORAL CORPORATION TO ALLEGATIONS

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I am holding in my hand a copy of the Loral Corporation's 2-page statement in response to allegations that Loral gave sensitive information to Communist China. This statement is stunning in its claim of innocence.

While the statement may be factually accurate, what is stunning and misleading is what is left out, what Loral does not say, and most of all the questions which remain unanswered. I urge every Member of this body, Democrats and Republicans alike, to read this statement by Loral and ask themselves if they are satisfied with its replies. Ask themselves the following questions:

Is Loral arguing that its review of the China rocket failures did not help the Communist Chinese government perfect its Long March missile?

Does Loral explain why it released its report to the Chinese before seeking approval from the State Department?

Does Loral fail to mention that high-technology transfers were under criminal investigation at the Justice Department for previous technology transfers to Communist China at the time of President Clinton's February 19, 1998, waiver?

Loral must come forward and provide more answers than these.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE SITUATION IN KOSOVO

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. KELLY) is recognized for 5 minutes.

Mrs. KELLY. Mr. Speaker, this afternoon I received the following message from Jason Miko with Mercy Corps International on the situation in Kosovo.

A Mother Theresa Society convoy of food aid was stopped and the aid was confiscated by the Yugoslav police forces on a road between Prishtina and Schtime. The four-truck convoy, three 10-ton trucks, one 5-ton truck, and one Range Rover, belonging to Mercy Corps, an international relief agency, and driven by Mercy Corps staff, was held by the police.

The convoy was destined for the Mother Theresa Society warehouse in Schtime when it was stopped at a police check point, police, called the financial/marketing police, which is another branch within the government, who came from a nearby town. The convoy was then impounded. The police told them to come back next Tuesday and took their documents, which were in order, without giving them a receipt for the food aid or the documents.

Mr. Speaker, that food aid is probably lost forever, and, meanwhile, the ethnic Albanian population in Kosovo continues to suffer from the oppression of Serbian President Milosevic. The incidents I have described are but the latest example of that oppression.

Earlier this week, there were new reports of rapidly escalating acts of violence and murder perpetuated by Serbian military and police forces in Kosovo against innocent, defenseless civilians, including women and children.

These actions represent a serious setback to achieving a lasting peace in Kosovo, as well as a major obstacle to any negotiations on easing the sanctions against the Federal Republic of Yugoslavia.

I understand that there are two sides to the dispute in Kosovo, but cultural or historic differences should not be an excuse for bombing defenseless villages and schools and killing innocent people who want nothing more than to live and raise their families in peace and security, while having a say in their government.

Mr. Speaker, Milosevic must stop his military campaign against the ethnic Albanians in Kosovo. He must negotiate a lasting and peaceful solution that recognizes the rights of all Kosovans.

TECHNOLOGY TRANSFERS JEOPARDIZE NATIONAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise to spend the last few moments before we break for the Memorial Day work period to discuss an issue that has been in the national news this week and that has occupied the minds of most of our colleagues in this body and the other body; and that is the issue of proliferation.

We have seen a lot of discussion in the national media about the most recent transfer of technology from American corporations, most specifically the Loral Corporation, the Hughes Corporation, to China that may, in fact, jeopardize our national security and pose threats to us.

The issue of proliferation, Mr. Speaker, is not a new one. In fact, a week and a half ago, on May 13, I did a 40-minute special order on this floor where I documented in the public record 37 specific cases over the past 6 years of proliferation by Russia and China to Iran, Iraq, to India and Pakistan.

At that time, I said to our colleagues, Mr. Speaker, that we must take more aggressive action in imposing sanctions and enforcing requirements provided in our arms control agreements.

This week, Mr. Speaker, we have seen some of the results of that lack of inaction in enforcing those arms control agreements. In fact, we have seen the escalation of the conflict and the rhetoric and saber rattling between India and Pakistan.

Much of that technology, Mr. Speaker, that both of those Nations now have came from both Russia and China. We should have and could have stopped that proliferation. Iran and Iraq are both now developing medium range missiles. Iran will have one within 12 to 18 months. Again that technology came from Russia.

Again, our action should have been able to stop it. The Congress is talking about proliferation. And the White House, through spokesman Mike McCurry, has basically said it is a knee-jerk reaction, that the Congress is now voting as we did yesterday on the defense authorization bill to limit the transfer of technology to China.

I would remind the White House, Mr. Speaker, that it was back in November of last year that this Congress voted overwhelmingly with almost 400 votes to force the administration to impose sanctions on Russia because of transfers to Iran.

Mr. Speaker, this is a serious issue, but I want to leave our colleagues with two important points. First of all, let us make sure that when we impanel this special task force, the select committee, after we return from the break, that we do not politicize it.

The issue is national security. We must focus in a very deliberate way on what damage has been caused by the most recent transfer of technology by the Loral Corporation to China. We must not allow this special select committee to be politicized by either side of the aisle.

Secondarily, Mr. Speaker, we must remember that, while we must investigate whether or not the Chinese government deliberately try to acquire this technology and circumvent our laws, we must not rush to judgment, because trade with China is critical and important.

My concern is that we not overreact, overreacting then causing further isolation in our relationships with China.

Mr. Speaker, we saw a situation like this occur just a few short years ago when the President initially refused to grant a waiver for a visa for Taiwan President Li Teng-hui to come speak at his alma mater at Cornell. The day after that rejection by the administration, the Congress overwhelmingly voted in both bodies to overturn the President and allow President Li Teng-hui to come here, as I think he should have been able to do.

The problem is that we sent mixed signals to China. China read that as a deliberate slap in their face. That then partially led to the escalation of what could have been a very serious conflict as we sent our carrier battle groups up on the straits of Taiwan.

We do not need another confrontation with China. We must get to the bottom of what happened in the Loral technology transfer. We must have Members on both sides of the aisle who are serious sit down behind closed doors and assess whether or not our security has been jeopardized.

When we are done, if, in fact, it has been jeopardized, we must then determine why the administration took the actions they took. We must then take steps to deal with the results of what we have found. Until that happens, we must reserve our rhetoric; we must make sure that we base our decisions on fact.

I would encourage our colleagues to think carefully about this over the break because, when we return in June, this will be the major issue that will be the focus of this body and the Nation through the rest of this summer.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GREEN (at the request of Mr. GEPHARDT) for today, on account of family business.

Mr. REYES (at the request of Mr. GEPHARDT) for today, on account of official business.

Mr. DEFAZIO (at the request of Mr. GEPHARDT) for today, on account of official business in the district.

Mr. BURR of North Carolina (at the request of Mr. ARMEY) for today after 2 p.m., on account of illness in the family.

Mr. QUINN (at the request of Mr. ARMEY) for today, on account of family reasons.

Mr. RIGGS (at the request of Mr. ARMEY) for today after 9:15 a.m., on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Member (at her own request) to revise and extend her remarks and include extraneous material:

Ms. JACKSON-LEE of Texas for 5 minutes today.

The following Member (at his own request) to revise and extend his remarks and include extraneous material:

Mr. HEFNER for 5 minutes today.

The following Member (at his own request) to revise and extend his remarks and include extraneous material:

Mr. HAYWORTH.

The following Member (at his own request) to revise and extend his remarks and include extraneous material:

Mr. BLUMENAUER.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. WHITFIELD, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

Mr. WELDON of Florida, for 5 minutes, today.

(The following Members (at the request of Mr. DOOLEY of California) to revise and extend their remarks and include extraneous material:)

Mr. EDWARDS, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. BERRY, for 5 minutes, today.

(The following Members (at the request of Mrs. KELLY) to revise and extend their remarks and include extraneous material:)

Mrs. LINDA SMITH of Washington, for 5 minutes, today.

Mrs. KELLY, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 73. Concurrent resolution expressing the sense of Congress that the European Union is unfairly restricting the importation of United States agriculture products and the elimination of such restrictions should be a top priority in trade negotiations with the European Union;

To the Committee on Ways and Means.

ADJOURNMENT

Mr. WELDON of Pennsylvania. Mr. Speaker, pursuant to Senate Concurrent Resolution 98, 105th Congress, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of Senate Concurrent Resolution 98 of the 105th Congress, the House stands adjourned until 2 p.m. on Wednesday, June 3, 1998.

Thereupon (at 6 o'clock and 27 minutes p.m.), pursuant to Senate Concurrent Resolution 106, the House adjourned until Wednesday, June 3, 1998, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9270. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to the Republic of China, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

9271. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Phoenix, Arizona Ozone Nonattainment Area, 15 Percent Rate of Progress Plan and 1990 Base Year Emission Inventory [AZ–005–ROP FRL–6101–9] received May 20, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9272. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; State of Florida [FL–071–9810a; FRL–6015–4] received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9273. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Nevada; Nevada Division of Environmental Protection; Washoe County District Health Department [FRL–6014–5] received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9274. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule—Food Labeling; Nutrient Content Claims-General Provisions [Docket No. 98N–0283] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9275. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Revocation of Lather Brushes Regulation [Docket No. 97P–0418] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9276. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Labeling; Petitions for Nutrient Content and Health Claims, General Provisions [Docket No. 98N–0274] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9277. A letter from the Deputy Secretary, Securities And Exchange Commission, transmitting the Commission's final rule—Amendments to Rules on Shareholder Proposals [Release No. 34–40018; IC–23200; File No. S7–25–97] (RIN: 3235–AH20) received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9278. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Turkey for defense articles and services (Transmittal No. 98–33), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9279. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Australia (Transmittal No. RSAT-3–98), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

9280. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan (Transmittal No. DTC 51–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9281. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan (Transmittal No. DTC 57–98), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

9282. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan (Transmittal No. DTC 53–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9283. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Germany and Kuwait (Transmittal No. DTC 56–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9284. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Saudi Arabia (Transmittal No. DTC 31–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9285. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report of political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

9286. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report of political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

9287. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9288. A letter from the Administrator, General Service Administration, transmitting a report of activities under the Freedom of Information Act from January 1, 1997 to September 30, 1997, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

9289. A letter from the Acting Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Redesignation of 30 CFR Part 250—Oil And Gas And Sulphur Operations In The Outer Continental Shelf (RIN: 1010–AC45) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9290. A letter from the Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—National Estuarine Research Reserve System Regulations [Docket No. 980427108–8108–01] (RIN: 0694–AL16) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee onResources.

9291. A letter from the Director, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Endangered and Threatened Wildlife and Plants; Withdrawal of Proposed Rule to List a Distinct Population Segment of Atlantic Salmon (Salmo Salar) As Threatened (RIN: 1018–AD12) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9292. A letter from the Deputy Assistant Administrator For Fisheries, National Oceanic and Atmospheric Adminstration, transmitting the Administration's final rule—Magnuson-Stevens Fishery Conservation and Management Act Provisions; Observer Health and Safety [Docket No. 970829214–8090–02; I.D. 082097B] (RIN: 0648–AJ76) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9293. A letter from the Executive Director of Government Affairs, Non Commissioned Officers Association, transmitting the annual report of the Non Commissioned Officers Association of the United States of America, pursuant to Public Law 100—281, section 13 (100 Stat. 75); to the Committee on the Judiciary.

9294. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's "Major" final rule—Tax forms and instructions [Revenue Procedure 98–36] received May 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GEKAS: Committee on the Judiciary. H.R. 872. A bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes; with an amendment (Rept. 105–549 Pt. 1). Ordered to be printed.

Mr. SHUSTER: Committee of Conference. Conference report on H.R. 2400. A bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes (Rept. 105–550). Ordered to be printed.

Mr. COBLE: Committee on the Judiciary. H.R. 2281. A bill to amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty; with an amendment (Rept. 105–551 Pt. 1). Ordered to be printed.

Mr. McINNIS: Committee on Rules. House Resolution 449. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes (Rept. 105–552). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolution 450. Resolution providing for consideration of the bill (H.R. 3433) to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work and to extend Medicare coverage for such beneficiaries, and to amend the Internal Revenue Code of 1986 to provide a tax credit for impairment-related work expenses (Rept. 105–553). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 3035. A bill to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies; with an amendment (Rept. 105–554 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on House Oversight discharged from further consideration of H.R. 1704.

Pursuant to clause 5 of rule X the Committee on Resources discharged from further consideration of H.R. 3035.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. COBLE: Committee on the Judiciary. H.R. 2281. A bill to amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty; with an amendment; referred to the Committees on Commerce, and Ways and Means for a period ending not later than June 19, 1998, for consideration of such provisions of the bill and amendment as fall within the jurisdictions of those committees pursuant to clause 1(e) and (s), rule X, respectively.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 872. Referral to the Committee on Commerce extended for a period ending not later than July 14, 1998.

H.R. 1704. Referral to the Committee on Government Reform and Oversight extended for a period ending not later than June 4, 1998.

H.R. 3035. Referral to the Committee on Agriculture extended for a period ending not later than June 3, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HERGER (for himself, Mr. McCrery, Ms. Dunn of Washington, Mr. Christensen, Mr. Sam Johnson, Mr. Hulshof, Mrs. Myrick, Mr. Bartlett of Maryland, Mr. Lewis of Kentucky, Mr. Whitfield, Mr. Barr of Georgia, Mr. Dickey, Mr. McIntosh, Mr. Doolittle, Mr. Hostettler, Mr. Jones, Mr. Weldon of Florida, Mr. Pitts, Mr. Sununu, Mr. Campbell, Mrs. Roukema, Mr. Gibbons, Mr. Hansen, Mr. Largent, and Mr. Salmon):

H.R. 3945. A bill to amend the Internal Revenue Code of 1986 to provide an inflation adjustment of the unified credit against the estate and gift taxes; to the Committee on Ways and Means.

By Mr. LANTOS (for himself, Mr. Abercrombie, Mr. Ackerman, Mr. Andrews, Mr. Blumenauer, Mr. Bonior, Mr. Borski, Mr. Brown of California, Mr. Campbell, Mr. Delahunt, Mr. Evans, Mr. Farr of California, Mr. Frank of Massachusetts, Ms. Furse, Mr. Gejdenson, Mr. Hyde, Mr. Kleczka, Mr. Kucinich, Mr. Lewis of Georgia, Mrs. Lowey, Mr. Manton, Mr. Markey, Mr. Miller of California, Mrs. Mink of Hawaii, Mr. Moran of Virginia, Mr. Nadler, Mr. Oberstar, Ms. Pelosi, Ms. Rivers, Mr. Schumer, Mr. Shays, Mr. Tierney, Mr. Towns, Mr. Waxman, Ms. Woolsey, Mrs. McCarthy of New York, and Mr. Smith of New Jersey):

H.R. 3946. A bill to establish, wherever feasible, guidelines, recommendations, and regulations that promote the regulatory acceptance of new and revised toxicological tests that protect human and animal health and the environment while reducing, refining, or replacing animal tests and ensuring human safety and product effectiveness; to the Committee on Commerce.

By Mr. ARCHER:

H.R. 3947. A bill to amend the Internal Revenue Code of 1986 to provide that certain liquidating distributions of a regulated investment company or a real estate investment trust which are allowable as a deduction shall be included in the gross income of the distributee; to the Committee on Ways and Means.

By Mr. KLINK (for himself, Mr. Murtha, Mr. Fattah, Mr. Kanjorski, Mr. Doyle, Mr. Etheridge, Mrs. Emerson, Mr. Hall of Ohio, Mr. Traficant, Mr. Mascara, Mr. Holden, Mrs. Thurman, Mr. Gejdenson, Ms. Stabenow, Mr. Stupak, Mr. Rush, Mr. McDermott, Mr. Smith of New Jersey, Mr. Strickland, Mr. Fox of Pennsylvania, Mr. Rodriguez, Mr. English of Pennsylvania, Mr. Brady of Pennsylvania, Mr. Manton, Mr. Kennedy of Massachusetts, Mr. Hinchey, Mrs. McCarthy of New York, Mr. Green, Mr. Nadler, and Mr. Goode):

H.R. 3948. A bill to maintain health care coverage for veterans by the Department of Veterans Affairs for tobacco related illnesses, and to provide for additional authorization of appropriations for the Department; to the Committee on Veterans' Affairs.

By Mr. BARR of Georgia (for himself, Mr. Boucher, Mr. Graham, Mr. Barcia of Michigan, and Mr. Strickland):

H.R. 3949. A bill to ban the imposition of a fee for performing background checks in connection with the transfer of a firearm, and to ensure that background check information is not retained for longer than necessary; to the Committee on the Judiciary.

By Mr. BILBRAY:

H.R. 3950. A bill to designate a portion of the Otay Mountain region of California as wilderness; to the Committee on Resources.

By Mr. ACKERMAN:

H.R. 3951. A bill to amend title 18, United States Code, to prohibit ticket scalping; to the Committee on the Judiciary.

By Mr. ACKERMAN (for himself, Mr. Forbes, Mr. Manton, Mrs. Maloney of New York, Mr. Meeks of New York, Mrs. Lowey, Mr. King of New York, Mrs. McCarthy of New York, Mr. Lazio of New York, Ms. Velázquez, and Mr. Schumer):

H.R. 3952. A bill to require the Administrator of the Federal Aviation Administration to address the aircraft noise problems of Queens and Long Island, New York; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS:

H.R. 3953. A bill to amend the Internal Revenue Code of 1986 to provide an inflation adjustment of the dollar limitation on the exclusion of gain on the sale of a principal residence; to the Committee on Ways and Means.

By Mr. BARR of Georgia (for himself, Mr. Hayworth, Mr. Mollohan, Mr. Stenholm, Mr. Herger, Mr. Boucher, Mr. Hastings of Washington, Mr. Sessions, Mr. Barton of Texas, Mr. Bunning of Kentucky, Mr. Norwood, Mr. Cunningham, Mr. Stump, Mr. Brady of Texas, Mr. Crapo, Mr. Cannon, Mr. Nethercutt, Mr. Goode, Mr. Wise, Mr. Barcia of Michigan, Mr. Watts of Oklahoma, Mr. Ehrlich, Mr. Crane, Mr. Ney, Mr. Young of Alaska, and Mr. Bartlett of Maryland):

H.R. 3954. A bill to clarify the standard required for the importation of sporting arms into the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. BOSWELL:

H.R. 3955. A bill to amend title 46, United States Code, to protect seamen against economic reprisal; to the Committee on Transportation and Infrastructure.

By Mr. DAVIS of Virginia (for himself, Mr. Moran of Virginia, and Mrs. Morella):

H.R. 3956. A bill to amend title 5, United States Code, to provide for more equitable policies relating to overtime pay for Federal employees; to the Committee on Government Reform and Oversight.

By Mr. DAVIS of Virginia (for himself, Mr. Moran of Virginia, and Mr. Wolf):

H.R. 3957. A bill to rename Wolf Trap Farm Park for the Performing Arts as "Wolf Trap National Park for the Performing Arts"; to the Committee on Resources.

By Mr. EHRLICH (for himself, Mr. Cunningham, Mr. Weldon of Pennsylvania, and Mr. Inglis of South Carolina):

H.R. 3958. A bill to amend the Fair Labor Standards Act of 1938 to provide an overtime compensation exemption for paramedics, emergency medical technicians, and rescue and ambulance personnel trained to provide emergency medical services and provide transport of persons receiving those services who are also trained in fire suppression services; to the Committee on Education and the Workforce.

By Mr. ENGLISH of Pennsylvania:

H.R. 3959. A bill to suspend temporarily the duty on ferroniobium; to the Committee on Ways and Means.

By Mr. ENSIGN (for himself and Mr. Gibbons):

H.R. 3960. A bill to amend the Internal Revenue Code of 1986 to provide that the special motor fuels excise tax on water-phased hydrocarbon fuel emulsions shall be based on their Btu content relative to gasoline; to the Committee on Ways and Means.

By Mr. GEKAS:

H.R. 3961. A bill to establish the Administrative Law Judge Conference of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. HEFLEY:

H.R. 3962. A bill to provide for the ratification of payments made under preexisting onshore and offshore royalty-in-kind programs; to the Committee on Resources.

By Mr. HILL:

H.R. 3963. A bill to establish terms and conditions under which the Secretary of the Interior shall convey leaseholds in certain properties around Canyon Ferry Reservoir, Montana; to the Committee on Resources.

By Ms. HOOLEY of Oregon:

H.R. 3964. A bill to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes; to the Committee on Resources.

By Mrs. KENNELLY of Connecticut:

H.R. 3965. A bill to amend the Internal Revenue Code of 1986 to repeal the provision added by the Taxpayer Relief Act of 1997 that imposes tax increases on certain families by reason of the inflation adjustments in the regular income tax rate brackets, the standard deduction, and the personal exemption; to the Committee on Ways and Means.

By Mr. LAHOOD (for himself, Mr. Sandlin, Mr. Istook, Ms. Danner, Mr. Blunt, Mr. Coburn, Mr. Barrett of Nebraska, Mr. Hastings of Washington, and Mr. Ehlers):

H.R. 3966. A bill to amend title 23, United States Code, to provide for collection and payment of State taxes imposed on motor fuel sold on Indian lands; to the Committee on Transportation and Infrastructure.

By Mr. LATHAM:

H.R. 3967. A bill to suspend until January 1, 2002, the duty on Sodium Bentazon; to the Committee on Ways and Means.

By Mr. LEACH (for himself, Mr. LaFalce, Mrs. Roukema, Mr. Vento, Mr. Baker, Mr. Lazio of New York, Mr. Bachus, and Mr. Castle):

H.R. 3968. A bill to require within 90 days an assessment of, and a national strategy for addressing, the Year 2000 computer problem to ensure that critical public and private services to the American public are not disrupted, and for other purposes; to the Committee on Science, and in addition to the

Committees on Government Reform and Oversight, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCCOLLUM:

H.R. 3969. A bill to clarify that retirement income from pension plans of the government of the Commonwealth of Puerto Rico shall be exempt from nonresident taxation in the same manner as State pension plans; to the Committee on the Judiciary.

By Mr. MCKEON (for himself and Mr. STUMP):

H.R. 3970. A bill to amend title 10, United States Code, to provide that persons who have been convicted of a capital crime may not be awarded the Purple Heart; to the Committee on National Security.

By Mr. MORAN of Virginia:

H.R. 3971. A bill to reduce traffic congestion, promote economic development, and improve the quality of life in the metropolitan Washington region; to the Committee on Transportation and Infrastructure.

By Mr. PICKETT:

H.R. 3972. A bill to amend the Outer Continental Shelf Lands Act to prohibit the Secretary of the Interior from charging State and local government agencies for certain uses of the sand, gravel, and shell resources of the outer Continental Shelf; to the Committee on Resources.

By Mr. RIGGS (for himself and Mr. HERGER):

H.R. 3973. A bill to reauthorize and amend the Trinity River Basin Fish and Wildlife Management Act of 1984; to the Committee on Resources.

By Ms. RIVERS:

H.R. 3974. A bill to waive interest and penalties on failures to properly complete schedule D of Form 1040 for 1997; to the Committee on Ways and Means.

By Mr. SHAW:

H.R. 3975. A bill to provide for access by State and local authorities to information of the Department of Justice for the purpose of conducting criminal background checks on port employees and prospective employees; to the Committee on the Judiciary.

By Mr. TAUZIN (for himself, Mr. BARTON of Texas, Mr. BILBRAY, Mr. COOKSEY, Mr. DOOLITTLE, Mr. JOHN, Mr. MCCRERY, Mr. NORWOOD, Mr. PARKER, Mr. WICKER, and Mr. YOUNG of Alaska):

H.R. 3976. A bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1998, and for other purposes; to the Committee on Commerce.

By Mr. STEARNS (for himself, Mr. SANDERS, Mr. ROHRABACHER, Mr. KENNEDY of Rhode Island, Ms. ROS-LEHTINEN, Mr. OLVER, Ms. MCKINNEY, Mr. KUCINICH, Mr. STRICKLAND, Mr. STARK, Ms. WOOLSEY, Mr. EVANS, Mrs. LOWEY, and Mr. SMITH of New Jersey):

H. Con. Res. 281. Concurrent resolution expressing the sense of Congress that Indonesia completes a transition to a democratically elected, non-military government; to the Committee on International Relations.

By Mr. SHUSTER:

H. Con. Res. 282. Concurrent resolution to correct the enrollment of H.R. 2400; considered and agreed to.

By Mr. BERMAN (for himself, Mr. PORTER, Mrs. MALONEY of New York, Mr. PAYNE, Mr. ABERCROMBIE, Mr. LANTOS, Mr. ROHRABACHER, Mrs. LOWEY, Mr. GILMAN, Mr. WOLF, Mr. COX of California, Mr. SMITH of New Jersey, Ms. LOFGREN, Mr. KENNEDY of Massachusetts, and Ms. PELOSI):

H. Con. Res. 283. Concurrent resolution expressing the sense of the Congress concerning the December 1997 report on Tibet of the International Commission of Jurists and on United States policy on Tibet; to the Committee on International Relations.

By Mr. HAYWORTH:

H. Res. 448. A resolution expressing the sense of the House of Representatives that the President should postpone his visit to the People's Republic of China planned for June 1998 until all questions related to the export of sensitive satellite technology to the People's Republic of China have been thoroughly and satisfactorily answered; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

323. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution 443 memorializing the President of the United States and the Congress of the United States to enact H.R. 953, the Ovarian Cancer Research and Information Amendments of 1997; to the Committee on House Oversight.

324. Also, a memorial of the House of Representatives of the State of New Hampshire, relative to House Joint Resolution 21 memorializing the United States Congress to take such actions as are necessary to return to the states the power to regulate campaign financing in connection with elections for the United States Senate and House of Representatives and to take immediate action to adequately regulate "soft money" donations to political committees of political parties; to the Committee on House Oversight.

325. Also, a memorial of the Legislature of the State of Alaska, relative to HJR 39 memorializing the United States Congress to enact legislation prohibiting the President of the United States from further extending or establishing national monuments without the express authorization of the Congress; to the Committee on Resources.

326. Also, a memorial of the Senate of the State of Iowa, relative to Senate Concurrent Resolution No. 115 memorializing the United States Congress to support U.S. House of Representatives Concurrent Resolution 52 that calls for the Congress of the United States to recognize the concern of many in the railroad industry that the spousal annuity under the current system is inadequate and often leaves the survivor with less than the amount of income needed to meet ordinary and necessary living expenses; to the Committee on Transportation and Infrastructure.

327. Also, a memorial of the Legislature of the State of Alaska, relative to CSSJR 15 memorializing the Congress to reauthorize the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) as soon as possible; to the Committee on Transportation and Infrastructure.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII,

Mr. ROGAN introduced A bill (H.R. 3977) for the relief of Sergey Y. Chernyavskiy; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 66: Ms. MILLENDER-MCDONALD.

H.R. 198: Mr. BOB SCHAFFER.

H.R. 225: Mr. ENGEL.

H.R. 306: Mr. VISCLOSKY.

H.R. 339: Mr. KLINK.

H.R. 371: Mr. THOMPSON.

H.R. 465: Mr. PRICE of North Carolina.

H.R. 498: Mrs. CAPPS.

H.R. 586: Mr. BOYD and Ms. MILLENDER-MCDONALD.

H.R. 678: Mr. ISTOOK, Mr. BISHOP, Mr. CUMMINGS, Mr. EDWARDS, Mr. FATTAH, Mr. FILNER, Mr. JEFFERSON, Ms. MCKINNEY, Ms. Millender-McDonald, Mr. MORAN of Virginia, Mr. NADLER, Mr. NEAL of Massachusetts, Mr. ORTIZ, Mr. POSHARD, Mr. RANGEL, Mr. RUSH, Mr. TANNER, Mr. TIERNEY, Ms. VELÁZQUEZ, Ms. WATERS, Mr. ROGERS, Mr. LEWIS of Kentucky, and Ms. SLAUGHTER.

H.R. 859: Mr. CAMP.

H.R. 899: Mr. TOWNS.

H.R. 979: Mr. BLAGOJEVICH, Mrs. KELLY, Mr. RODRIGUEZ, Mr. SERRANO, Mr. SNOWBARGER, and Mr. JACKSON.

H.R. 1061: Mr. SPRATT, Mr. MALONEY of Connecticut, and Mr. PRICE of North Carolina.

H.R. 1069: Mr. SERRANO.

H.R. 1126: Mr. HASTINGS of Florida, Mr. EHRLICH, and Mr. CAMP.

H.R. 1176: Ms. RIVERS.

H.R. 1203: Mr. ROYCE.

H.R. 1232: Mrs. BONO.

H.R. 1352: Mr. SANDERS and Mr. SERRANO.

H.R. 1362: Mr. BOUCHER.

H.R. 1378: Mr. BURTON of Indiana.

H.R. 1382: Mr. SKELTON, Mr. PASTOR, Mr. WEXLER, Mr. TIERNEY, and Mr. BERMAN.

H.R. 1505: Mr. BARRETT of Wisconsin.

H.R. 1525: Mr. BROWN of California.

H.R. 1531: Mr. FARR of California.

H.R. 1656: Mr. GEJDENSON.

H.R. 1689: Mr. MCINTYRE, Mr. BALLENGER, and Mrs. ROUKEMA.

H.R. 1706: Mr. TOWNS.

H.R. 1726: Mr. TOWNS.

H.R. 1748: Mr. MCDERMOTT.

H.R. 1813: Mr. BATEMAN, Mr. KUCINICH, Ms. RIVERS, Mr. ROMERO-BARCELO, Mr. RUSH, and Ms. MCCARTHY of Missouri.

H.R. 1842: Mr. HUNTER.

H.R. 1891: Mr. BISHOP.

H.R. 1995: Mr. BALDACCI, Mr. BRADY of Pennsylvania, Mr. BORSKI, Mr. KLINK, Mr. KANJORSKI, Mr. JEFFERSON, Mr. SAWYER, Mr. SANDLIN, Mr. SPRATT, Mr. POSHARD, Mr. DOYLE, Ms. JACKSON-LEE, Mr. EDWARDS, Mr. PAYNE, Mr. BISHOP, Ms. MCKINNEY, Mr. ENGEL, Mr. CLEMENT, Mr. FROST, Mr. SABO, and Mr. Levin.

H.R. 2009: Mr. YATES.

H.R. 2173: Mr. GILMAN.

H.R. 2273: Mr. KLECZKA, Mr. BRYANT, and Mr. BURR of North Carolina.

H.R. 2275: Mr. BLAGOJEVICH and Mr. JACKSON.

H.R. 2452: Mr. TOWNS.

H.R. 2454: Mr. SERRANO.

H.R. 2457: Mr. SERRANO.

H.R. 2499: Mr. LAHOOD, Mr. POSHARD, Mr. DIXON, Mr. KLINK, and Mr. SERRANO.

H.R. 2541: Mr. COLLINS.

H.R. 2549: Mr. STRICKLAND.

H.R. 2553: Mr. SERRANO.

H.R. 2669: Mr. GRAHAM, Mr. INGLIS of South Carolina, Mr. BILBRAY, Mr. EWING, Mr. SOUDER, Mr. WICKER, Mr. PICKERING, Mr. COBURN, Mr. THUNE, Mr. SESSIONS, Mr. WHITE, Mrs. MYRICK, Mr. HOEKSTRA, Mr. SCARBOROUGH, Mr. SHADEGG, and Mr. CHABOT.

H.R. 2704: Ms. SLAUGHTER.

H.R. 2721: Mr. NORWOOD.

H.R. 2733: Mr. LEWIS of Georgia, Mr. VENTO, Mr. SUNUNU, Mr. BARTLETT of Maryland, Mr. STRICKLAND, and Mr. COOKSEY.

H.R. 2758: Mr. WICKER, Mr. COOKSEY, Mr. HUTCHINSON, Mr. LEACH, Mr. PACKARD, Mr. HUNTER, Mr. BONILLA, Mr. SMITH of Texas, Mr. OWENS, Mr. KUCINICH, Mr. CONYERS, Mr. WEYGAND, Mr. METCALF, and Mr. NADLER.

H.R. 2819: Ms. ESHOO and Mr. PAPPAS.

H.R. 2884: Mr. MANZULLO.

H.R. 2885: Mr. WOLF, Mr. ROHRABACHER, Mr. LIPINSKI, Mr. CALVERT, and Mr. ENGLISH of Pennsylvania.

H.R. 2912: Mr. GRAHAM.

H.R. 2987: Mr. FROST.

H.R. 2990: Mr. RODRIGUEZ, Mr. BASS, and Mrs. KELLY.

H.R. 2991: Mr. LARGENT and Mr. SAWYER.

H.R. 3001: Mr. NETHERCUTT.

H.R. 3032: Mr. FRANK of Massachusetts.

H.R. 3043: Ms. WOOLSEY and Mr. DEFAZIO.

H.R. 3050: Mr. MARKEY.

H.R. 3062: Mr. STRICKLAND.

H.R. 3068: Mr. BROWN of California.

H.R. 3131: Mr. DOOLEY of California.

H.R. 3148: Mr. MORAN of Kansas.

H.R. 3156: Mr. DAVIS of Virginia, Mr. HULSHOF, Mr. KIM, Mr. PAXON, Ms. LEE, Mr. MOAKLEY, Mr. SAXTON, Mrs. CUBIN, Mr. BRADY of Texas, Mr. PETRI, Mr. WELLER, Mr. STEARNS, Mr. DEAL of Georgia, Mr. DUNCAN, Mr. SPENCE, Mr. GILLMOR, Mr. BILIRAKIS, Mrs. CHENOWETH, Mr. NETHERCUTT, Mr. FOSSELLA, and Mrs. BONO.

H.R. 3177: Mr. WICKER and Mr. SOUDER.

H.R. 3181: Mr. THOMPSON.

H.R. 3206: Mr. MANZULLO.

H.R. 3249: Mr. PACKARD and Ms. GRANGER.

H.R. 3251: Mrs. THURMAN and Mr. PALLONE.

H.R. 3279: Mr. VENTO.

H.R. 3290: Mrs. FOWLER, Mr. CASTLE, Mr. FORBES, Mr. LEACH, Mr. MCKEON, Mr. BOEHLERT, Mr. SISISKY, and Mr. RODRIGUEZ.

H.R. 3300: Mr. TORRES.

H.R. 3314: Mr. ROMERO-BARCELO.

H.R. 3340: Mr. CRAMER.

H.R. 3396: Mr. CUMMINGS and Mr. FAWELL.

H.R. 3400: Mr. KUCINICH and Ms. CARSON.

H.R. 3435: Mr. MASCARA and Mrs. EMERSON.

H.R. 3462: Mr. HILLIARD.

H.R. 3465: Mr. CRAMER.

H.R. 3499: Mr. JACKSON.

H.R. 3503: Mr. UPTON and Mrs. JOHNSON of Connecticut.

H.R. 3523: Mr. ANDREWS and Ms. STABENOW.

H.R. 3524: Mr. OLVER.

H.R. 3526: Mr. DOOLEY of California, Mr. CARDIN, Mr. PASCRELL, Ms. PELOSI, and Mr. SAWYER.

H.R. 3531: Mr. ALLEN.

H.R. 3540: Mr. GUTIERREZ, Mr. BROWN of Ohio, Mr. SABO, and Mr. TORRES.

H.R. 3541: Mr. BEREUTER, Mr. MCINTYRE, and Mr. LAMPSON.

H.R. 3561: Ms. MCCARTHY of Missouri.

H.R. 3568: Ms. KAPTUR, Mr. POSHARD, Mr. PASCRELL, and Ms. RIVERS.

H.R. 3570: Mrs. EMERSON.

H.R. 3572: Mr. DICKEY.

H.R. 3599: Mrs. THURMAN.

H.R. 3601: Mr. BATEMAN and Mr. BURTON of Indiana.

H.R. 3605: Mr. OBEY.

H.R. 3624: Mr. VENTO.

H.R. 3636: Mr. BARRETT of Nebraska, Mr. LEWIS of Georgia, Mr. KILDEE, Mr. GREEN, Mr. WYNN, and Mr. VENTO.

H.R. 3651: Mr. SERRANO.

H.R. 3654: Mr. BLUNT.

H.R. 3659: Mr. LATHAM and Mr. THOMPSON.

H.R. 3666: Mr. BONIOR.

H.R. 3667: Mr. COOKSEY, Mr. NUSSLE, Mr. HEFLEY, Mr. BOB SCHAFFER, Mr. MCCOLLUM, Mr. HERGER, and Ms. SÁNCHEZ.

H.R. 3684: Mr. TRAFICANT.

H.R. 3690: Mr. SPRATT.

H.R. 3716: Mr. SERRANO, Mr. BALDACCI, and Mr. FILNER.

H.R. 3720: Mr. SAM JOHNSON.

H.R. 3733: Mr. BLUNT and Mr. MCGOVERN.

H.R. 3743: Ms. NORTON.

H.R. 3767: Mr. EHRLICH and Mr. MATSUI.

H.R. 3780: Mrs. JOHNSON of Connecticut and Mr. LIVINGSTON.

H.R. 3789: Mr. INGLIS of South Carolina.

H.R. 3798: Mrs. THURMAN.

H.R. 3831: Mr. PASCRELL, Mr. ENGLISH of Pennsylvania, and Mr. FROST.

H.R. 3837: Mr. SHAYS, Mr. DOOLEY of California, Mr. HILLIARD, Mr. MATSUI, Mr. HINCHEY, Mr. SCHUMER, Mr. SANDLIN and Mr. GEJDENSON.

H.R. 3855: Mr. BARRETT of Wisconsin.

H.R. 3861: Mr. JONES.

H.R. 3870: Mr. KANJORSKI, Mr. RILEY, Mr. THOMPSON, Mr. JENKINS, Mr. SANDLIN, Mr. FROST, Mr. DELAHUNT and Mr. BURR of North Carolina.

H.R. 3875: Ms. PELOSI and Ms. LOFGREN.

H.R. 3879: Mr. CRAPO and Mr. BOB SCHAFFER.

H.R. 3880: Mr. PAYNE, Mr. BALDACCI, Mr. FRANK of Massachusetts, Mr. STARK, Mr. FARR of California, Mr. HINCHEY, Ms. FURSE, Mr. FROST, Mr. PETERSON of Minnesota, Ms. LOFGREN, and Mr. HILLIARD.

H.R. 3888: Mr. KLUG, Mr. ROGAN, Mr. OXLEY, Mr. BILIRAKIS, Mr. UPTON, Mr. LAZIO of New York, Mr. STEARNS, Mr. BILBRAY, Mr. NORWOOD, Mr. LARGENT, Mr. WATTS of Oklahoma, Mr. CRAPO, Mr. DAN SCHAEFER of Colorado, Mr. HASTERT, Mr. PAXON, Mr. KNOLLENBERG, Mrs. CUBIN, Mr. HANSEN, Mr. DEAL of Georgia, Mr. CHAMBLISS, and Mr. FOSSELLA.

H.R. 3895: Mr. BARRETT of Wisconsin, Ms. LOFGREN, Ms. CARSON, Mr. MEEHAN, Mr. MANTON, Mr. UNDERWOOD, Mr. GUTIERREZ, Ms. DELAURO, and Mr. SCHUMER.

H.R. 3902: Mr. LAMPSON.

H. Con. Res. 47: Mr. ENGLISH of Pennsylvania.

H. Con. Res. 125: Mr. LOBIONDO, Ms. WOOLSEY, Mrs. TAUSCHER, and Mr. FRANKS of New Jersey.

H. Con. Res. 181: Mr. FRANKS of New Jersey, Mr. SHAYS, Mr. GOODLING, Mr. LAMPSON, and Mr. WATTS of Oklahoma.

H. Con. Res. 203: Mr. HOLDEN, Mr. PASCRELL, Mr. FATTAH, Mr. MOLLOHAN, Mr. COBURN, Mr. LARGENT, Ms. MCCARTHY of Missouri, Mr. LUTHER, Mr. BORSKI, Mr. RAHALL, Mr. KENNEDY of Rhode Island, Mr. PITTS, Mr. EHRLICH, Ms. STABENOW, Mr. GREEN, Mr. REYES, Mr. BENTSEN, Ms. JACKSON-LEE of Texas, Mr. SCARBOROUGH, Mr. POMEROY, Mr. WISE, Mr. FOX of Pennsylvania, Ms. DELAURO, Ms. RIVERS, Mr. BONIOR, Mr. VISCLOSKY, Ms. ESHOO, and Ms. WOOLSEY.

H. Con. Res. 210: Mr. FRELINGHUYSEN.

H. Con. Res. 219: Mr. LAMPSON.

H. Con. Res. 268: Mr. KENNEDY of Rhode Island and Mr. SHERMAN.

H. Con. Res. 277: Mr. HUTCHINSON, Mrs. EMERSON, and Mr. WOLF.

H. Res. 16: Mr. CALVERT.

H. Res. 37: Ms. PELOSI, Ms. WATERS, Mr. SCARBOROUGH, Mr. CLAY, Mr. GEPHARDT, Mr. SPRATT, Mr. WHITE, Ms. DELAURO, Mr. GANSKE, Ms. LEE, Mr. JOHNSON of Wisconsin, Mr. KUCINICH, Mr. GREENWOOD, Mr. CASTLE, Mr. CAMP, and Mrs. KENNELLY of Connecticut.

H. Res. 312: Mr. FROST.

H. Res. 399: Mr. SHADEGG and Mr. SHAYS.

H. Res. 406: Mr. DOOLEY of California, Mr. THOMAS, and Mr. EWING.

H. Res. 444: Mrs. THURMAN and Mr. ADAM SMITH of Washington.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the clerk's desk and referred as follows:

65. The SPEAKER presented a petition of the Legislature of Rockland County, New City, New York, relative to Resolution No. 148 of 1998 petitioning the Congress of the United States to oppose the the proposed Medicare Beneficiary Freedom to Contract Act; jointly to the Committees on Ways and Means and Commerce.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petition:

Petition 1 by Mr. YATES on House Resolution 141: Joe Skeen, Tom Lantos, Thomas M. Barrett, Bruce F. Vento, Brad Sherman, Collin C. Peterson, Louis Stokes, Marcy Kaptur, Eddie Bernice Johnson, Carrie P. Meek, Lloyd Doggett, Bart Gordon, Zoe Lofgren, Solomon P. Ortiz, John Elias Baldacci, Karen McCarthy, Nick J. Rahall, II, and Dennis J. Kucinich.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

OFFERED BY: MR. LATOURETTE

(To the Amendment Offered By: Mr. Hutchinson)

AMENDMENT NO. 27: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—SENSE OF CONGRESS REGARDING BUCKLEY DECISION

SEC. 401. SENSE OF CONGRESS REGARDING BUCKLEY DECISION.

(a) FINDINGS.—Congress finds as follows:

(1) Congress should seek to ensure that all citizens, regardless of wealth, have an equal voice in elections and an equal opportunity to run for public office.

(2) Congress should seek to further the principle of "one person, one vote" and to preserve the integrity of the democratic system.

(3) Congress should seek to limit corruption with respect to elections and the appearance of such corruption.

(4) The unlimited use of money to influence elections is incompatible with the principles of free speech and equal protection established under the first and fourteenth amendments of the Constitution.

(b) SENSE OF CONGRESS.—It is the sense of Congress that in order for Congress to enact effective campaign finance reforms, the 1976 Supreme Court ruling in Buckley v. Valeo that limitations on expenditures in political campaigns are unconstitutional should be overturned.

H.R. 2183

OFFERED BY: MRS. MALONEY OF NEW YORK

(To the Amendments Offered By: Mr. White, Mr. Shays, Mr. Bass, Mr. Farr, Mr. Snowbarger, Mr. Obey, Mr. Campbell, Mr. Tierney, Mr. Schaffer, Mr. Doolittle, and Mr. Hutchinson)

AMENDMENT NO. 28: Add at the end the following new title:

TITLE —PERMANENT AUTHORIZATION OF FEC

SEC. 01. PERMANENT AUTHORIZATION OF FEDERAL ELECTION COMMISSION.

Section 314 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended—

(1) by striking "and $9,400,000" and inserting "$9,400,000"; and

(2) by striking the period at the end and inserting the following: ", $36,504,000 for the fiscal year ending September 30, 1999, and such sums as may be necessary for the fiscal year ending September 30, 2000, and each succeeding fiscal year.".

H.R. 2183

OFFERED BY: MRS. MALONEY OF NEW YORK

(To the Amendments Offered By: Mr. White, Mr. Shays, Mr. Bass, Mr. Farr, Mr. Snowbarger, Mr. Obey, Mr. Campbell, Mr. Tierney, Mr. Schaffer, Mr. Doolittle, and Mr. Hutchinson)

AMENDMENT NO. 29: Add at the end the following new title:

TITLE POLITICAL CONTRIBUTIONS ON FEDERAL PROPERTY

SEC. 01. POLITICAL CONTRIBUTIONS ON FEDERAL PROPERTY.

(a) AMENDMENT.—Section 607 of title 18, United States Code, is amended to read as follows:

"§ 607. Political contributions on Federal property

"(a) Whoever, on Federal property—

(1) knowingly receives or solicits a political contribution, including solicitation by telephone or electronic means; or

(2) sponsors an event which is a direct or indirect reward for a past, present, or future political contribution,

shall be fined under this title or imprisoned not more than 3 years, or both.

"(b) A person shall have an affirmative defense, which must be proven by a preponderance of the evidence, to the prohibition in this section against knowingly receiving a political contribution if the person, within 10 days after receiving such political contribution—

"(1) with respect to a political contribution from an identifiable contributor—

"(A) returns the political contribution to the contributor;

"(B) informs the contributor that receipt of the political contribution on Federal property is prohibited by this section; and

"(C) reports the return of the political contribution to the Federal Election Commission; or

"(2) with respect to a political contribution from a contributor who is not identifiable, pays the amount of the political contribution to the Secretary of the Treasury for deposit in the general fund of the Treasury, and reports such payment to the Federal Election Commission.

"(c) In this section—

"(1) the term 'Federal property' means—

"(A) any real property owned or controlled by the Federal Government, including the chambers of the House of Representatives and the Senate and any congressional office; and

"(B) any vehicle, vessel, or aircraft owned or controlled by the Federal Government;

"(2) the term 'political contribution' means any donation of money, property, or services to or for the benefit of a political organization as defined in section 527(e)(1) of the Internal Revenue Code of 1986.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 29 of title 18, United States Code, is amended by amending the item relating to section 607 to read as follows:

"607. Political contributions on Federal property.".

SEC. 02. NOTICE TO FEDERAL OFFICE HOLDERS.

(a) CURRENT FEDERAL OFFICE HOLDERS.—Within 100 days after the date of the enactment of this Act, the Clerk of the House of Representatives shall transmit a copy of section 607 of title 18, United States Code, to each individual who holds Federal office on the date of the enactment of this Act.

(b) NEW FEDERAL OFFICE HOLDERS.—The Clerk of the House of Representatives shall, on the date on which an individual assumes Federal office after the date of the enactment of this Act, transmit a copy of section 607 of title 18, United States Code, to such individual.

(c) FEDERAL OFFICE DEFINED.—In this section, the term "Federal office" has the meaning given such term in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)).

H.R. 2183

OFFERED BY: MRS. MALONEY OF NEW YORK

(To the Amendments Offered By: Mr. White, Mr. Shays, Mr. Bass, Mr. Farr, Mr. Snowbarger, Mr. Obey, Mr. Campbell, Mr. Tierney, Mr. Schaffer, Mr. Doolittle, and Mr. Hutchinson)

AMENDMENT NO. 30: Add at the end the following new title:

TITLE POLITICAL CONTRIBUTIONS ON FEDERAL PROPERTY

SEC. 01. POLITICAL CONTRIBUTIONS ON FEDERAL PROPERTY.

(a) AMENDMENT.—Section 607 of title 18, United States Code, is amended to read as follows:

"§ 607. Political contributions on Federal property

"(a) Whoever, on Federal property—

(1) knowingly receives or solicits a political contribution, including solicitation by telephone or electronic means; or

(2) sponsors an event which is a direct or indirect reward for a past, present, or future political contribution,

shall be fined under this title or imprisoned not more than 3 years, or both.

"(b) A person shall have an affirmative defense, which must be proven by a preponderance of the evidence, to the prohibition in this section against knowingly receiving a political contribution if the person, within 10 days after receiving such political contribution—

"(1) with respect to a political contribution from an identifiable contributor—

"(A) returns the political contribution to the contributor;

"(B) informs the contributor that receipt of the political contribution on Federal property is prohibited by this section; and

"(C) reports the return of the political contribution to the Federal Election Commission; or

"(2) with respect to a political contribution from a contributor who is not identifiable, pays the amount of the political contribution to the Secretary of the Treasury for deposit in the general fund of the Treasury, and reports such payment to the Federal Election Commission.

"(c) The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, if such contributions have not been solicited in any manner which directs the contributor to mail or deliver a contribution to Federal property, and if such contributions are transferred within seven days of receipt to a political committee within the meaning of section 302(e) of the Federal Election Campaign Act of 1971.

"(d) In this section—

"(1) the term 'Federal property' means—

"(A) any real property owned or controlled by the Federal Government, including the chambers of the House of Representatives and the Senate and any congressional office; and

"(B) any vehicle, vessel, or aircraft owned or controlled by the Federal Government;

"(2) the term 'political contribution' means any donation of money, property, or services to or for the benefit of a political organization as defined in section 527(e)(1) of the Internal Revenue Code of 1986.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 29 of title 18, United States Code, is amended by amending the item relating to section 607 to read as follows:

"607. Political contributions on Federal property.".

SEC. 02. NOTICE TO FEDERAL OFFICE HOLDERS.

(a) CURRENT FEDERAL OFFICE HOLDERS.—Within 100 days after the date of the enactment of this Act, the Clerk of the House of Representatives shall transmit a copy of section 607 of title 18, United States Code, to each individual who holds Federal office on the date of the enactment of this Act.

(b) NEW FEDERAL OFFICE HOLDERS.—The Clerk of the House of Representatives shall, on the date on which an individual assumes Federal office after the date of the enactment of this Act, transmit a copy of section 607 of title 18, United States Code, to such individual.

(c) FEDERAL OFFICE DEFINED.—In this section, the term "Federal office" has the meaning given such term in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)).

H.R. 2183

OFFERED BY: MRS. MALONEY OF NEW YORK

(To the Amendments Offered By: Mr. White, Mr. Shays, Mr. Bass, Mr. Farr, Mr. Snowbarger, Mr. Obey, Mr. Campbell, Mr. Tierney, Mr. Schaffer, Mr. Doolittle, and Mr. Hutchinson)

AMENDMENT NO. 31: Add at the end the following new title:

TITLE —DISCLOSURE OF INFORMATION ON PHONE BANKS AND POLLS

SEC. 01. DISCLOSURE REQUIREMENT FOR PHONE BANK COMMUNICATIONS.

Section 318(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d(a)) is amended, in the matter before paragraph (1), by inserting after "broadcasting station" the following: "phone bank,".

SEC. 02. DISCLOSURE AND REPORTS RELATING TO POLLING BY TELEPHONE OR ELECTRONIC DEVICE.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"DISCLOSURE AND REPORTS RELATING TO POLLING BY TELEPHONE OR ELECTRONIC DEVICE

"SEC. 323. (a) IDENTITY OF SPONSOR.—Any person who conducts a Federal election poll by telephone or electronic device shall disclose to each respondent the identity of the person paying the expenses of the poll. The disclosure shall be made at the end of the interview involved.

"(b) REPORT TO COMMISSION.—In the case of any Federal election poll by telephone or electronic device in which more than 1,200 households are surveyed—

"(1) if the results are not to be made public, the person who conducts the poll shall report to the Commission the total cost of the poll and all sources of funds for the poll; and

"(2) the person who conducts the poll shall report to the Commission the total number of households contacted, and include with such report a copy of the poll questions.

"(c) DEFINITION.—As used in this section, the term 'Federal election poll' means a survey in which the respondent is asked to state a preference in a future election for Federal office.".

H.R. 2183

OFFERED BY: MRS. MALONEY OF NEW YORK

(To the Amendments Offered By: Mr. Shays, Mr. Bass, Mr. Farr, Mr. Snowbarger, Mr. Obey, Mr. Campbell, Mr. Tierney, Mr. Schaffer, Mr. Doolittle, and Mr. Hutchinson)

AMENDMENT NO. 32: Add at the end the following new title:

TITLE —INDEPENDENT COMMISSION ON CAMPAIGN FINANCE REFORM

SEC. 01. ESTABLISHMENT AND PURPOSE OF COMMISSION.

There is established a commission to be known as the "Independent Commission on Campaign Finance Reform" (referred to in this title as the "Commission"). The purposes of the Commission are to study the laws relating to the financing of political activity and to report and recommend legislation to reform those laws.

SEC. 402. MEMBERSHIP OF COMMISSION.

(a) COMPOSITION.—The Commission shall be composed of 12 members appointed within 15 days after the date of the enactment of this Act by the President from among individuals who are not incumbent Members of Congress and who are specially qualified to serve on the Commission by reason of education, training, or experience.

(b) APPOINTMENT.—

(1) IN GENERAL.—Members shall be appointed as follows:

(A) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the Speaker of the House of Representatives.

(B) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the majority leader of the Senate.

(C) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the minority leader of the House of Representatives.

(D) 3 members (one of whom shall be a political independent) shall be appointed from among a list of nominees submitted by the minority leader of the Senate.

(2) FAILURE TO SUBMIT LIST OF NOMINEES.—If an official described in any of the subparagraphs of paragraph (1) fails to submit a list of nominees to the President during the 15-day period which begins on the date of the enactment of this Act—

(A) such subparagraph shall no longer apply; and

(B) the President shall appoint 3 members (one of whom shall be a political independent) who meet the requirements described in subsection (a) and such other criteria as the President may apply.

(3) POLITICAL INDEPENDENT DEFINED.—In this subsection, the term "political independent" means an individual who at no time after January 1992—

(A) has held elective office as a member of the Democratic or Republican party;

(B) has received any wages or salary from the Democratic or Republican party or from a Democratic or Republican party office-holder or candidate; or

(C) has provided substantial volunteer services or made any substantial contribution to the Democratic or Republican party or to a Democratic or Republican party office-holder or candidate.

(c) CHAIRMAN.—At the time of the appointment, the President shall designate one member of the Commission as Chairman of the Commission.

(d) TERMS.—The members of the Commission shall serve for the life of the Commission.

(e) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(f) POLITICAL AFFILIATION.—Not more than 4 members of the Commission may be of the same political party.

SEC. 403. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this title, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. In carrying out the preceding sentence, the Commission shall ensure that a substantial number of its meetings are open meetings, with significant opportunities for testimony from members of the general public.

(b) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings. The approval of at least 9 members of the Commission is required when approving all or a portion of the recommended legislation. Any member of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this section.

SEC. 404. ADMINISTRATIVE PROVISIONS.

(a) PAY AND TRAVEL EXPENSES OF MEMBERS.—(1) Each member of the Commission shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(2) Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(b) STAFF DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a staff director, who shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) STAFF OF COMMISSION; SERVICES.—

(1) IN GENERAL.—With the approval of the Commission, the staff director of the Commission may appoint and fix the pay of additional personnel. The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the maximum annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code.

(2) EXPERTS AND CONSULTANTS.—The Commission may procure by contract the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

SEC. 405. REPORT AND RECOMMENDED LEGISLATION.

(a) REPORT.—Not later than the expiration of the 180-day period which begins on the date on which the second session of the One Hundred Fifth Congress adjourns sine die, the Commission shall submit to the President, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate a report of the activities of the Commission.

(b) RECOMMENDATIONS; DRAFT OF LEGISLATION.—The report under subsection (a) shall include any recommendations for changes in the laws (including regulations) governing the financing of political activity (taking into account the provisions of this Act and the amendments made by this Act), including any changes in the rules of the Senate or the House of Representatives, to which 9 or more members of the Commission may agree, together with drafts of—

(1) any legislation (including technical and conforming provisions) recommended by the Commission to implement such recommendations; and

(2) any proposed amendment to the Constitution recommended by the Commission as necessary to implement such recommendations, except that if the Commission includes such a proposed amendment in its report, it shall also include recommendations (and drafts) for legislation which may be implemented prior to the adoption of such proposed amendment.

(c) GOALS OF RECOMMENDATIONS AND LEGISLATION.—In making recommendations and preparing drafts of legislation under this section, the Commission shall consider the following to be its primary goals:

(1) Encouraging fair and open Federal elections which provide voters with meaningful information about candidates and issues.

(2) Eliminating the disproportionate influence of special interest financing of Federal elections.

(3) Creating a more equitable electoral system for challengers and incumbents.

SEC. 406. EXPEDITED CONGRESSIONAL CONSIDERATION OF LEGISLATION.

(a) IN GENERAL.—If any legislation is introduced the substance of which implements a recommendation of the Commission submitted under section 05(b) (including a joint resolution proposing an amendment to the Constitution), subject to subsection (b), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of the legislation in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(b) SPECIAL RULES.—For purposes of applying subsection (a) with respect to such provisions, the following rules shall apply:

(1) Any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to the Committee on House Oversight of the House of Representatives and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on Rules and Administration of the Senate.

(2) Any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the recommendation involved is submitted under section 05(b).

(3) Notwithstanding subsection (d)(2) of section 2908 of such Act—

(A) debate on the legislation in the House of Representatives, and on all debatable motions and appeals in connection with the legislation, shall be limited to not more than 10 hours, divided equally between those favoring and those opposing the legislation;

(B) debate on the legislation in the Senate, and on all debatable motions and appeals in connection with the legislation, shall be limited to not more than 10 hours, divided equally between those favoring and those opposing the legislation; and

(C) debate in the Senate on any single debatable motion and appeal in connection with the legislation shall be limited to not more than 1 hour, divided equally between the mover and the manager of the bill (except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee), and the majority and minority leader may each allot additional time from time under such leader's control to any Senator during the consideration of any debatable motion or appeal.

SEC. 407. TERMINATION.

The Commission shall cease to exist 90 days after the date of the submission of its report under section 05.

SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as are necessary to carry out its duties under this title.

H.R. 2183

OFFERED BY: MR. SHADEGG

(To the Amendment Offered By: Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 33: Insert after title III the following new title (and redesignate the succeeding provisions and conform the table of contents accordingly):

TITLE IV—EXPEDITED REVIEW OF ALLEGATIONS OF CAMPAIGN LAW VIOLATIONS

SEC. 401. EXPEDITED COURT REVIEW OF CERTAIN ALLEGED VIOLATIONS OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) IN GENERAL.—Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) Notwithstanding any other provision of this section, if a candidate (or the candidate's authorized committee) believes that a violation described in paragraph (2) has been committed with respect to an election during the 90-day period preceding the date of the election, the candidate or committee may institute a civil action on behalf of the Commission for relief (including injunctive relief) against the alleged violator in the same manner and under the same terms and conditions as an action instituted by the Commission under subsection (a)(6), except that the court involved shall issue a decision regarding the action as soon as practicable after the action is instituted and (to the greatest extent possible) issue the decision prior to the date of the election involved.

"(2) A violation described in this paragraph is a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 relating to—

"(A) whether a contribution is in excess of an applicable limit or is otherwise prohibited under this Act; or

"(B) whether an expenditure is an independent expenditure under section 301(17).".

(b) CONFORMING AMENDMENT.—Section 309(a)(5)(C) of such Act (2 U.S.C. 437g(a)(5)(C)) is amended by striking "subsection (d)" and inserting "subsection (e)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections occurring after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. SHADEGG

(To the Amendment Offered By: Mr. Bass)

AMENDMENT NO. 34: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. EXPEDITED COURT REVIEW OF CERTAIN ALLEGED VIOLATIONS OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) IN GENERAL.—Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) Notwithstanding any other provision of this section, if a candidate (or the candidate's authorized committee) believes that a violation described in paragraph (2) has been committed with respect to an election during the 90-day period preceding the date of the election, the candidate or committee may institute a civil action on behalf of the Commission for relief (including injunctive relief) against the alleged violator in the same manner and under the same terms and conditions as an action instituted by the Commission under subsection (a)(6), except that the court involved shall issue a decision regarding the action as soon as practicable after the action is instituted and to the greatest extent possible issue the decision prior to the date of the election involved.

"(2) A violation described in this paragraph is a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 relating to—

"(A) whether a contribution is in excess of an applicable limit or is otherwise prohibited under this Act; or

"(B) whether an expenditure is an independent expenditure under section 301(17).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections occurring after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. SHADEGG

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 35: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. EXPEDITED COURT REVIEW OF CERTAIN ALLEGED VIOLATIONS OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) IN GENERAL.—Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) Notwithstanding any other provision of this section, if a candidate (or the candidate's authorized committee) believes that a violation described in paragraph (2) has been committed with respect to an election during the 90-day period preceding the date of the election, the candidate or committee may institute a civil action on behalf of the Commission for relief (including injunctive relief) against the alleged violator in the same manner and under the same terms and conditions as an action instituted by the Commission under subsection (a)(6), except that the court involved shall issue a decision regarding the action as soon as practicable after the action is instituted and to the greatest extent possible issue the decision prior to the date of the election involved.

"(2) A violation described in this paragraph is a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 relating to—

"(A) whether a contribution is in excess of an applicable limit or is otherwise prohibited under this Act; or

"(B) whether an expenditure is an independent expenditure under section 301(17).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections occurring after the date of the enactment of this Act.

EXTENSIONS OF REMARKS

FOREIGN CAMPAIGN CONTRIBUTIONS: AN UGLY TALE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. BEREUTER. Mr. Speaker, this Member is greatly disturbed by recent revelations that substantial sums of Chinese money found its way into the coffers of the Democratic National Committee. It is clear that campaign operative Johnny Chung collected hundreds of thousands of dollars from individuals and organizations with direct links to the top echelons of the People's Liberation Army.

Such activity confirms our worst fears, and is a threat to this nation's collective soul. This Member urges his colleagues to rise above politics and address this problem in the serious manner that the situation demands.

Mr. Speaker, this Member would insert into the record an editorial from the Omaha World-Herald of May 16, 1998, entitled "Johnny Chung's Shocking Tale Puts Focus Back on Donations." This entire body should reflect on the sober lesson expressed in this editorial.

[Omaha World-Herald]

JOHNNY CHUNG'S SHOCKING TALE PUTS FOCUS BACK ON DONATIONS

The get-it-any-way-you-can ethic of Democratic National Committee fund raising for the Clinton-Gore re-election campaign has come into more focus. Johnny Chung has reportedly told federal investigators that he channeled money from the government of communist China to the DNC.

This should be a shock to America. It would be if the Clintonites had not apparently been successful in convincing the people that they should be interested more in the Dow Jones Average and federally subsidized day care than in old stories about unproven scandals.

Chung pleaded guilty in March to campaign-related bank and tax fraud and is cooperating with investigators. Most of the $100,000 he provided the DNC in the summer of 1996 came from the Chinese military, Chung said.

His contact was Liu Chao-ying. She was a lieutenant colonel and a vice president in charge of international trading for China Aerospace International Holdings Ltd. Liu's father was China's top military commander and a Communist Party leader. American companies were prohibited from doing business with China Aerospace in 1991 and 1993 because the company had illegally sold missiles to Pakistan.

The Justice Department reportedly has documents to verify the relationship described by Chung, who arranged for Liu to be photographed with President Clinton when she was in the United States. Chung was able to get Liu and another Chinese national into an exclusive Clinton fund-raiser in July 1996 after sending the DNC a check for $45,000. That same month, Chung set up a California corporation for Liu and himself. This allegedly was a vehicle through which donations could flow from China to the DNC.

Liu's aerospace company benefited from U.S. policies in 1996 that allowed American civilian communication satellites to be launched by Chinese rockets—despite China's sale of missiles to Iran and nuclear equipment to Pakistan that year and its perennial threats against Taiwan. The Chinese military also benefited in that it buys missiles from companies like China Aerospace and relies on the health of the industry.

Chung's attorney and officials of the Clinton administration and the DNC deny that Chung-related donations had any effect on U.S. policy toward China. But even if there was no policy quid pro quo, federal law bans campaign contributions from foreign sources.

DNC and White House spokesmen say that there was no way to know the origins of Chung's donations and that suspicious donations were returned. Yes, they were returned—after exposure in the press and intense public pressure.

And what of the documented concerns of White House staffers that Chung was a "hustler" bringing disreputable characters into the inner circle of the presidency? Why was he allowed into the White House 49 times? Why were he and his guests allowed to attend exclusive fund raisers?

Disclosures of the activities of Chung make the efforts of House Democrats to shut down the House portion of the investigation even more alarming. If the House investigation collapses, as it appears about to, the public is left with the Justice Department to investigate the matter. The Justice Department is headed by Attorney General Janet Reno, whose refusal to recommend an independent counsel to investigate these matters has become a national disgrace.

A SPECIAL TRIBUTE TO JOHN P. SACKSTEDER ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT, NEW YORK

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to a truly outstanding young man from Ohio's Fifth Congressional District, John P. Sacksteder. John recently accepted his offer of appointment to attend the United States Military Academy at West Point, New York.

John, who is from Fostoria, Ohio, will soon be graduating from St. Wendelyn High School, and beginning one of the most educational, rewarding, and challenging experiences of his life: his four-year commitment at West Point.

While attending St. Wendelyn High School in Fostoria, John distinguished himself as an outstanding student and a very fine student-athlete. In the classroom, John has attained a 3.88 grade point average, placing him among the tops of his class. John and his family can certainly be proud of his academic achievements.

In addition to his excellent scholastic record, John has proven himself to be a talented student-athlete. He was the Captain of the Varsity Football and Varsity Basketball Teams, and earned varsity letters in Track and Field. John has been very active in the National Honor Society, Concert Band, Student Council, Mock Trial, and Drama Club. John was also a delegate to Buckeye Boys' State, and participates in the Big Brother program.

Mr. Speaker, each year, I have the opportunity to nominate young men and women from my district to America's military academies. I am pleased that John has accepted his appointment, and will be joining the West Point Class of 2002. He is a gifted student and a fine young man. I would urge my colleagues to stand and join me in paying special tribute to John Sacksteder, and in wishing him well at West Point and in the future.

CONGRATULATIONS TO MT. CARMEL HIGH SCHOOL, NATIONAL OCEAN SCIENCES BOWL FINALISTS

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. CUNNINGHAM. Mr. Speaker, I rise today to pay tribute to students and teachers of Mt. Carmel High School, in San Diego, California, who recently came to Washington as national finalists in the first annual National Ocean Sciences Bowl.

The National Ocean Sciences Bowl is an academic competition among teams of high school students designed to increase their awareness and understanding of the oceans and ocean sciences. It provides an opportunity for U.S. oceanographic research laboratories, like the Scripps institution of Oceanography in San Diego, to develop strong connections with their local primary and secondary schools. And it creates a unique national education event in honor of the International Year of the ocean, which is this year, 1998.

I am particularly proud of the team from my congressional district, at Mr. Carmel High School. This past spring, they won well-contested Southern California Regional Ocean Sciences Bowl. The regional competition drew the cooperation of the Birch Aquarium, the San Diego County Office of Education, the San Diego Science Alliance, the San Diego Science Educators Association and the Scripps Institution of Oceanography, all of which I want to recognize for their support.

Let the permanent RECORD of the Congress of the United States show that the teachers

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and students of Mt. Carmel High School have distinguished themselves in the field of oceanographic studies as national finalists in the National Ocean Sciences Bowl. In tribute to their hard work, I insert into the RECORD a summary of the Mt. Carmel team provided by the Consortium for Oceanographic Research and Education, whose President, Adm. James D. Watkins, USN (Ret.), has provided extraordinary leadership in this and many other fields.

MOUNT CARMEL HIGH SCHOOL, SAN DIEGO, CALIFORNIA—SOUTHERN CALIFORNIA REGIONAL OCEAN SCIENCES BOWL

Team Coach: Harold W. Dorr teaches Introduction to Oceanography and Zoology. He also teaches college courses at Palomar College in San Marcos. Mr. Dorr has a BS in biological sciences from San Diego State University and a MS in marine science from the University of San Diego. Prior to teaching he enjoyed 5 years working as a biological technician (fisheries) for the National Marine Fisheries Service and 5 additional years working various diving activities including teaching SCUBA, working as a diver at an oceanarium, and collecting marine biological data on various research projects. Mr. Dorr shares his life with his lovely and patient wife and never gets his fill of sharing the ocean, mountains and deserts with his three children.

Team Members: Senior Julie Fero enjoys swimming on both the school swim team and PQ Aquatics. She is also involved in dance at school. She hopes to attend Humbolt State University and pursue a degree in marine biology, and eventually a graduate degree in oceanography. Senior Shawn Nesbitt enjoys motorcycle riding, fishing and diving. His favorite school subjects are oceanography, and a course called work experience. His extracurricular activities include participating in the Oceanography Club activities and playing hockey for his school. Shawn is also an Aquarist intern at the Birch Aquarium at Scripps. He would like to thank you for taking the time to read his biography and say hello to all his family in the audience. Senior Nathan Niemi moved from Minnesota to San Diego when he was seven and promptly fell in love with the beach. Physics is his favorite subject. He aspires to drive his parents bankrupt. He works as a waiter which allots him money to spend but no time to spend it. Body boarding and ice hockey are his first loves. Nathan's career goal is to do something that makes him happy. Senior Shadi Ghandchi is the youngest child in his family. About 3½ years ago he moved to the US with his mother and sisters in search of a good education. Not speaking English made the first year difficult but the second year was better. Since sophomore year he has been an avid member of the Key Club, Math Club, California Scholarship Federation (CSF), and the Ecology Club. In his Junior year he became the President of the International Ski Club, and the Secretary of the Computer Club. Shadi's Senior year saw him awarded membership to the National Honor Society. He currently is the secretary of the Math Club. His favorite subject is science, especially biology, chemistry and physics. He hopes to become a Biological Engineer. Senior Keith Gretlein has marched in the award winning Mt. Carmel Band for four years and is currently in the nationally renowned Wind Ensemble. He has held a steady job for four years in the field of child development. His future education will be carried out through many prestigious schools and will probably focus on oceanography. Keith would like to thank his parents, teammates and coach, Mr. Dorr.

PERSONAL EXPLANATION

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. LIVINGSTON. Mr. Speaker, yesterday, I was unavoidably detained for rollcall vote 156 through 161. Had I been present, I would have voted "no" on rollcall Nos. 156, 157, 158 and 159. I also would have voted "yea" on rollcall Nos. 160 and 161.

HONORING THE VOLUNTEERS OF THE CITY OF SAN BERNARDINO, CA

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. BROWN of California. Mr. Speaker, I rise today to honor the volunteers of the City of San Bernardino Retired and Senior Volunteer Program (RSVP), who are celebrating more than twenty-three years of service to San Bernardino. This celebration also coincides with "Older Americans Month." The RSVP is a grant program funded through the Corporation for National and Community Service and the City of San Bernardino. RSVP provides my congressional district with volunteers over the age of fifty-five who are diverse in experience, interest, economic and educational backgrounds.

In our community, RSVP volunteers work assisting the frail and elderly, mentoring youth, assisting the homeless, and caring for developmentally disabled children and adults, as well as tutoring children and renovating homes. The program matches problems to be solved with people willing to help, and has a national membership participation of 450,000.

Programs such as RSVP provide an opportunity for people to give of their time and energy in a way that benefits the community by providing services to those in most need. I am proud to have an RSVP program in San Bernardino and, once again, I thank the volunteers for all of the time and hard work they commit to making our city a better place.

IN HONOR OF HOWARD METZENBAUM

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. KUCINICH. Mr. Speaker, I rise to honor Howard Metzenbaum, former Senator from the State of Ohio. Serving nineteen years in the United States Senate, he represented his constituents with passion and guile, demonstrating both a fierce dedication to justice and a keen understanding of legislative procedure. It is these qualities that will be commemorated with the renaming of the U.S. Courthouse in Cleveland, Ohio as the Howard Metzenbaum U.S. Courthouse.

Howard Metzenbaum's long career of public service began with his election to the Ohio House of Representatives in 1943. After serving two terms in the House and two terms in the State Senate, he sat on the Judicial Council of Ohio and the Ohio Bureau of Code Revision. In 1976, Howard Metzenbaum was elected to the U.S. Senate. Ohio voters would later return Senator Metzenbaum to Washington for two more terms.

During his nineteen year career, Senator Metzenbaum would establish himself as an outspoken leader for the principles and causes in which he strongly believed. The Washington Post called him "an uncompromising, indefatigable and often irascible champion of liberal causes." Initially gaining notoriety for his skillful use of the filibuster in blocking legislation, Senator Metzenbaum became in later years an important coalition-builder and legislator. He authored or co-authored countless amendments and bills, including the Plant Closing Notification Act, the Nutrition and Food Labeling Act, the Brady Bill, the Alzheimer's Act, and the Civil Rights Act of 1991. Senator ROBERT BYRD of West Virginia once said of the Senator, "I have often felt that if we did not have a Howard Metzenbaum in the Senate we ought to make one."

My fellow colleagues, I can think of no more fitting a symbol of Howard Metzenbaum's legacy than his serving as namesake to the U.S. Courthouse. May the Senator's high standard of justice, fairness, and dignity for all men and women serve as an unyielding challenge to all those who enter the Howard M. Metzenbaum U.S. Courthouse.

IN HONOR OF ANTHONY GRAZIOSO'S FOUR DECADES OF PUBLIC SERVICE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to a distinguished gentleman, Mr. Anthony Grazioso, who with more than twenty-five years of dedicated public service is retiring. He will be honored at Don Pepe's Restaurant in Newark, New Jersey on May 21, 1998.

Mr. Grazioso has served as the Director of Public Affairs for the New Jersey Transit Corporation for nearly 16 years, with the Transport of New Jersey for 10 years, and as a Community Relations Representative for The Port Authority of New York/New Jersey for six years. In 1964 he accepted a temporary position as Special Assistant to former Congressman Robert A. Roe, then Commissioner of the New Jersey Department of Conservation and Economic Development. Mr. Grazioso also served as Deputy Director and Public Relations Assistant for the Jersey City Department of Public Works.

Mr. Grazioso graduated from Saint Peter's College in 1956 where he majored in Economics and minored in English Journalism. He has pursued studies in public relations, communications, urban affairs, community relations, public administration, political science, decision making, management effectiveness/organization, and finance/budget at the New School, New York University, the American Management Association, and the Public Relations Society of America.

Community involvement has been a consistent theme in Mr. Grazioso's life. Since 1956, he has been involved in volunteer work serving on the boards of civic, community, cultural, and church organizations in Hudson County. His accomplishments in the community and at work have been praised but he has also made time for his family.

It is an honor to have such an outstanding and dedicated individual in my home state of New Jersey. I am certain my colleagues will join me in recognition of this well deserved honor.

A SPECIAL TRIBUTE TO ABIGAIL C. CHUDZINSKI ON HER APPOINTMENT TO ATTEND THE U.S. NAVAL ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to an outstanding young lady from Ohio's Fifth Congressional District, Abigail C. Chudzinski. Abby has recently accepted her appointment to attend the United States Naval Academy in Annapolis, Maryland.

Abby, who is from Fremont, Ohio, will be graduating from St. Joseph Central Catholic High School, and will be preparing for one of the most challenging, rewarding, and educational opportunities of her life: her four-year commitment to the United States Naval Academy.

During her high school career at St. Joseph Central Catholic, Abby has distinguished herself as an exceptional student and a gifted student-athlete. She is currently carrying a 4.35 grade point average, which places her second in a class of eight-six students. She is a member of the National Honor Society, and is listed in the Who's Who Among American High School Students. Abby and her family can certainly be proud of her outstanding scholastic efforts.

Abby has also proven herself as a truly talented and gifted student-athlete. She was the Captain of the Varsity Track and Field Team, and has won numerous league, district, and regional awards in the sport. In addition, Abby has been active in the Key Club, Student Council, and is the President of the St. Joseph High School Band. And, last summer, she participated in the United States Air Force Academy Summer Scientific Seminar.

Mr. Speaker, each year, I have the opportunity to nominate young men and women for appointment to the nation's military academies. I am pleased that Abby has accepted her appointment, and will be joining the incoming Naval Academy Class of 2002. I am sure she will do very well. Mr. Speaker, I would urge my colleagues to join me in paying tribute to Abigail Chudzinski, and in wishing her well in her future endeavors.

VMI MAKES THE RIGHT MOVES

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. BEREUTER. Mr. Speaker, this Member highly commends this May 19, 1998, Omaha World-Herald editorial on the Virginia Military Institute to his colleagues. The Virginia Military Institute is to be complimented for the successful integration of female cadets into an institution that had been a traditional male bastion until the rending of a 1996 U.S. Supreme Court ruling. The Virginia Military Institute has been successful because of its sincere effort to promote co-educational programs that would foster the positive acceptance and inclusion of women into the institution, and for these reasons are again to be commended.

VMI MAKES THE RIGHT MOVES

Virginia Military Institute, like The Citadel, had a long and proud tradition of educating men and providing military training and discipline. Both Virginia state colleges fought against federal rules requiring them to admit women if they wanted to continue getting public funding.

Both schools fought the order in court. The U.S. Supreme Court decided against VMI in 1996, as it had against The Citadel in 1995. The ruling was not popular. VMI alumni considered buying the college and making it into a private institution rather than go coed.

But when the ruling was issued and officials studied the situation, they decided to take the honorable path. They not only admitted women to the institute; they accommodated them.

The women who went to the college last fall were held to the same physical and mental standards as male students. They were yelled at, given push-ups and forced marches, shorn of their hair and sent through obstacle courses, all the while carrying a full college course load.

No quarter given. That is as it should be. Standards are standards.

But VMI was not grudging in its acceptance of co-education. It actively recruited qualified women, winding up with 30 in a class with 430 men. It held seminars on avoiding sexual harassment—required seminars for cadets, faculty and staff.

It hired a female assistant commandant and a female admissions officer. It asked the nation's military academies, which went coed 22 years ago, for advice. It brought in female upperclassmen from military programs in Vermont and Texas to act as big sisters for female freshmen.

Seven of the women who enrolled in September quit before finishing. But none cited sexual harassment or unfairness as a reason for leaving. Considering that 74 male freshmen left, too, the difference was not striking.

VMI deserves credit, not only for doing the right thing, but also for doing it the right way.

TRIBUTE TO ST. MARK'S WOMEN'S VARSITY ICE HOCKEY TEAM

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. McGOVERN. Mr. Speaker, it is my honor to report to the House on a remarkable achievement—namely, the 1997–98 championship season of the St. Mark's Women's Varsity Ice Hockey Team. The St. Mark's Lions are based in Southborough, Massachusetts.

Each of these players are talented young student-athletes who trained hard, practiced hard and played hard throughout their amazing year. I know their families and friends are as proud of the Lions as I am. On behalf of the citizens of Central Massachusetts, I congratulate the St. Mark's Lions for a job very well done.

The team members are:

ST. MARK'S GIRLS HOCKEY TEAM 1997–87

No.	Position	Year	Name	Hometown
3	D	1998	Hilary Zwerdling	Shrewsbury, MA
4	F	2000	Gretchen Anderson	Wellesley, MA
5	F	1998	Emily Harris	Greenwich, CT
6	D	2000	Kristen Larsen	Dover, MA
10	F	2001	Amy McNaught	Gorham, ME
11	D	1998	Marcia Ingraham	Georgetown, MA
12	F	1999	Catherine Larsen	Dover, MA
13	D	2000	Emily Amorello	Worcester, MA
15	F	1999	Sarah Fairchild	Pawtucket, RI
16	F	1998	Hailey Sullivan	Carlisle, MA
18	D	2000	Kristina Tois	Grafton, MA
20	F	1998	Melissa Yokell	Atkinson, NH
21	F	1998	Maura Crowell	Mansfield, MA
29	G	1999	Melissa Glaser	Rockford, IL

Coaches: Wendy Cofran, Dana Pullman.
Captains: Maura Crowell '98, Hilary Zwerdling '09.
Manager: Heather Bates '00.

A recent article in the St. Mark's School newspaper brings to life their championship season and the wonderful team of young women who enjoyed this terrific experience:

[From the St. Marker, May 13, 1998]

GIRLS' ICE HOCKEY WINS THE NEW ENGLANDS!

(By Assistant Editor Allison Loretnzen '99)

On Sunday March 8, another amazing group of St. Mark's women hockey players captured the title New England Champions. Just four months after the Varsity Field Hockey team beat Cushing for the Class B NEPSAC title, the Varsity Ice Hockey team has the pleasure of crushing Middlesex in a 3–0 victory to earn the Division 2 Championship.

At the beginning of the season, the team, with a new coaching staff, was focused on regaining respect from the other ISL teams and hadn't thought ahead too much to the possibility of such a successful post-season. In past years, the St. Mark's team, with players such as Wendy Hall, Laurie Belliveau, and Erin Magee, was feared by their league opponents, as they were league champions in '92, '93 (co-champs), and '94 (co-champs). Maura Crowell made the team in the '94–'95 season as a third former and played with some of the women who developed this tradition of excellence. Experiencing the thrill of playing for such an awesome team, Crowell looked forward to her next three years as a varsity player; but with the arrival of two new coaches in her fourth form year, she, along with new-comers Hilary Zwerdling, Marcia Ingraham, Melissa

Yokell and Emily Harris, suffered through two disappointing seasons. After two seasons well under .500, another change was called for in the coaching staff.

Under the direction of head coach Wendy Cofran and her assistant, Dana Pullman, this year's team trained harder than in the past two years and collected many more wins for their efforts. Capturing their Holiday Tournament gave them confidence and hope for more victories later in the season. These victories did come, including a nail-biting, overtime 3–2 win over St. Paul's down in New York City. As the regular season was drawing to a close St. Mark's rolled by Portsmouth Abbey, Brooks, and BB&N. After handling Groton 6–2, the team clinched a place in the New England Tournament.

With an undefeated record in their division, the team, seeded first, was matched up against fourth seed Greenwich Country Day and had a week of practice to prepare for the semifinal game on March 7 at Cushing Academy. As St. Markers put away their squash racquets, basketballs, and ice skates and dusted off their lacrosse sticks, baseball gloves, and tennis racquets, the Women's Varsity Ice Hockey Team, led by two year co-captains Maura Crowell and Hilary Zwerdling, laced up their skates for a final week, perfecting power plays and strengthening slap shots. After leading the school in a unique cheer, they departed for the western Mass mecca of ice hockey, Cushing Academy. Greenwich, no match for the women of St. Mark's, skated off the Cushing rink 2–0 losers, leaving the Lions to face Middlesex on Sunday for the New England Championship.

St. Mark's came to the game having played Middlesex once during the regular season, beating the Zebra's 2–1, and they knew that it would be an exciting game. From the face off, St. Mark's controlled the puck and frustrated Middlesex with their solid defense, held together by their spectacular goalie Melissa Glaser, who simply would not let the puck into her net. Every attempt made by the Zebras was foiled by Glaser and her defense, which consisted of only three players—Zwerdling, Ingraham, and Kirsten Larsen—who had to play double shifts for the entire game. At the other end of the rink, St. Mark's offense kept up a relentless attack on the Middlesex's goalie. In the first period, the Lions scored twice: first on a tip-in by Gretchen Anderson from a Crowell slap shot, and again on a break away by Amy McNaught. St. Mark's skated off the ice after the period up 2–0, knowing that if they continued their offensive pressure and held back Middlesex they could win the game and the New England Championship. Another Anderson goal assisted by Crowell, during a Middlesex power play, along with many sensational saves by Glaser and her dependable defense, gave the Lions a 3–0 lead at the end of the second period. As Middlesex skated onto the ice before the third period, they were preparing for another fifteen minutes of offensive frustration. As the clock rolled down to 11.6 seconds and Glaser caught a flying Middlesex slap shot, the St. Mark's team seemed to spectators to win the New England's as easily as Glaser snatched that puck into her glove.

Winning the Division 2 New England Prep School Ice Hockey Championship culminates a season that brought back the respect St. Mark's women's ice hockey held in the early nineties. With eight experienced players and two aggressive coaches returning for the '98–'99 season, expect the team to reunite next year as a might force in the ISL and all of New England.

CONGRATULATIONS TO PRESIDENT LEE ON THE REPUBLIC OF CHINA

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Ms. BROWN of Florida. Mr. Speaker, much has been written and said about the economic growth and political advances made by the Republic of China during the last few years. Taiwan's achievements are respected throughout the world. Much of the credit is due to Taiwan's political leadership.

Taiwan is led by Cornell-educated Dr. Lee Teng-hui, who was elected Taiwan's ninth president and inaugurated on May 20, 1996. His running mate was Dr. Lien Chan. Other government leaders include Foreign Minister Jason Hu and Representative Stephen Chen. While Vice President Lien Chan has worked to maintain stability and respect for the law at home, Minister Hu wisely exerts Taiwan's presence abroad, having recently visited Africa and a number of southeast Asian countries seeking new friends for his country. In the meantime, Representative Stephen Chen has assiduously briefed us on the Hill of all the recent happenings in Taiwan. Representative Chen is a tireless diplomat.

Together, Taiwan's leaders have continued to bring their people economic progress and an improved political climate. The Republic of China is a young dynamic nation and a model for the developing world. On the occasion of President Lee's second anniversary in office, I wish to extend my congratulations to President Lee and his people.

COMPETITION IN THE VIDEO SERVICES INDUSTRY

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. OXLEY. Mr. Speaker, I would like to bring a study on competition in video services by the Hudson Institute to the attention of my colleagues.

Price inflation in cable television service is causing some policy makers to suggest renewing rate regulation—that is, re-re-regulating cable prices. While it is the case that there have been notable price increases by some cable systems, to recommend extending price controls is to ignore the realities of the marketplace and the lessons of the past.

It is important to note that these cost increases are authorized under the 1992 Cable Act, which I opposed. Indeed, it is my view that passage of the Cable Act did little to keep down prices, that it resulted in reduced capital investment and a stagnation of services offered by the industry, and that the regulations themselves proved to be a costly and inefficient expense.

The rate regulation imposed by the Cable Act increased the cost of capital to cable systems and prevented many from upgrading their systems. One of the major goals of the 1996 Telecommunications Act was to promote competition and investment in the delivery of video services to the home. Under the Telecommunications Act, rates for cable services beyond the basic tier are to be deregulated three years after enactment. The Act also removed the statutory ban on telephone companies offering video services within their regions.

While competition to incumbent cable operators may not be growing as quickly as anticipated, it is significant nonetheless. The regional telephone company Ameritech is building cable systems throughout the Midwest to compete alongside existing cable operators. Upwards of ten percent of households in the market have Direct Broadcast Satellite service, and wireless cable service is expanding as well. Technological improvements in the area of satellite broadcasting alone promise more choices for video consumers.

Equally as important, the cable industry has been investing to provide competition in new areas, such as Internet access, local telephony, and Personal Communications Services. Cable firms also are leaders in the use of fiber optic and digital compression technology, and have been upgrading their systems to provide customers with a greater range of programming choices.

Having made the case for competition and against price controls, I must add that I am not satisfied with the current state of competition in video services. I believe that it is entirely appropriate for Congress to reexamine program access rules, copyright laws, and other potential barriers to free and open competition. As Vice-Chairman of the Subcommittee on Telecommunications, Trade and Consumer Protection, I am committed to see full-blown competition and choice in video programming.

Mr. Speaker, I again commend the following executive summary of the Hudson Institute study to the attention of all Members.

EXECUTIVE SUMMARY

In late 1997 and early 1998, concerns have been raised among regulators, members of Congress, and consumer groups regarding cable television rates. This study analyzes the rationale for new efforts by the FCC to limit rates or impose other regulations on the cable television industry in response to such concerns. It examines the historical record of cable regulation, takes a new look at the state of competition for multichannel video programming, reviews the important capital investment in new digital services by the industry, and assesses the possible impact of new price controls on competition in the wider telecommunications market, including Internet access, telephony, and video programming.

The study finds that, despite current market share of around 85.6 percent (falling to around 75 percent by 2002); dynamic services offered by Direct Broadcast Satellite (DBS), broadcast television, and other multichannel video delivery systems provide substantial and growing competition for cable television. More than 65 percent of households can receive six or more broadcast channels with a suitable antenna. For many households, DBS offers greater levels of service at prices comparable to or lower than, cable's. DBS appears to provide a good substitute for cable even after accounting for up-front equipment costs. Competing cable systems (overbuilds and Satellite Master Antenna (TV) have become cost-effective and are growing rapidly, especially in the Midwest and Northeast.

The study also finds that past cable regulation, especially rate controls, provided little or no benefit to consumers, and in fact harmed consumers by inducing lower quality of service. On the other hand, periods of less regulation, such as the years between 1984 and 1990, stimulated production of greater quality and wider choice of programming for consumers, produced steady increases in demand for cable, and produced net consumer welfare gains of $3 billion to $6.5 billion per year.

Finally, the evidence shows that the cable industry is in the midst of investing up to $28 billion to improve its infrastructure, including over $1 billion per year to convert to interactive digital services. The entry of cable firms into new businesses such as telephony, Internet, and digital video is improving consumer choice and reducing prices for these services, especially to residential customers; spurring a competitive response from the telephone industry to upgrade its data transmission capabilities; and giving a boost to the introduction of digital television and to competition in the Internet business. An imposition of rate controls similar to those of 1993 and 1994 would undermine the financial basis for the cable industry to enter these new businesses in the near term, and hence weaken competition in the wider telecommunications market place.

A SPECIAL TRIBUTE TO THAD D. CHRISTOFER ON HIS APPOINTMENT TO ATTEND THE U.S. NAVAL ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to a truly outstanding young man from Ohio's Fifth Congressional District, Thad D. Christofer. Thad has recently accepted his offer of appointment to attend the United States Naval Academy in Annapolis, Maryland.

Thad, who is from Republic, Ohio, will soon be completing his high school years, and will be preparing to begin what figures to be one of the most challenging and educational opportunities of his life: his four-year commitment at the Naval Academy.

During his high school years, Thad has proven himself to be an exceptional student. In the classroom, Thad's achievements are certainly something of which he and his family can be proud. Currently, he is carrying a perfect 4.0 grade point average. In addition, Thad has extended his scholastic efforts by attending classes at Tiffin University and Heidelberg College.

In addition, Thad is a National Merit Scholar Semifinalist, and is listed in the Who's Who Among American High School Students. Thad has been active in the VFW Voice of Democracy Competition, and has served as President of the Seneca County Chapter of the Distributive Education Clubs of America (DECA). And, for the first time in fifty-three years, Thad represented Seneca County as a member of the state DECA Board, serving as its Parliamentarian.

Mr. Speaker, each year, I am privileged to nominate several outstanding young men and women from my district to the nation's military academy. Thad Christofer is certainly a fine student and a fine young man. I am sure he will do very well at the Naval Academy and in all of his future endeavors. Mr. Speaker, I would urge my colleagues to stand and join me in paying tribute to Thad D. Christofer, and in wishing him well at the United States Naval Academy.

REMARKS ON JOHN C. "THUNDER" THORNTON

HON. ZACH WAMP

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. WAMP. Mr. Speaker, I rise to bring to the House's attention a wonderful and heartwarming story about a distinguished citizen of the 3rd District of Tennessee. It is a story of service above and beyond the call of duty, courage and of a man who knows how to say thanks with grace and style. That man is John C. "Thunder" Thornton, who has built a highly successful business career in Chattanooga and who owns the Crescent H. Guest Ranch in Jackson Hole, Wyoming. Describing what happened, Thornton says, "If you don't believe in Guardian Angels, I've got a story for you."

It begins on Friday, March 27, a day that started out as a happy family outing to San Antonio, Texas to see the final four basketball tournament but that nearly ended in sudden, tragic death. As "Thunder" Thornton tells it, he and his daughter, Dori, 17, and son Johnny, 14, were met at the San Antonio Airport by Cesar Hernandez, who was to drive them in his cab for a tour of the city. They'd planned to visit Trinity University there and to see all the sights in that beautiful old city.

Without warning, Thornton began to feel a numbness in his arm and shortness of breath followed by pain and a feverish feeling "Thunder" Thornton realized that he might be having a heart attack. He asked Hernandez to get him to the hospital as quickly as possible. Then he passed out. He awoke to find himself in the car at the curbside outside the hospital. Hernandez got him into a wheel chair and into the hospital where he received first-class treatment from Cardiologist Dr. Rusty Felton. Even as the treatment began he could hear Hernandez comforting his son and daughter.

Some cab drivers—and many people—would have thought they had done enough by doing only what their job called for in this situation. They'd just call an ambulance and head off to make more fares. But Hernandez went far above what duty required him to do. He rushed Thunder Thornton to the hospital. Then he stayed with Thornton's children while they faced fear and danger, far from home and with neither of their parents in a position to help them. He displayed one of the best traits we like to think we share as Americans, a natural instinct to help others who were in harm's way—even at some personal cost. Unfortunately, we do not see as much of this behavior as we would like in America today. But it was definitely there when it counted that Friday in San Antonio. And Thornton believes that Mr. Hernandez saved his life.

But, Mr. Speaker, this is also a story of gratitude and having the good grace to express it. Many folks would have simply sent Mr. Hernandez a note of thanks. But for Thunder Thornton, that would never have been enough. He arranged a two-part gift. The first was a one-week vacation to Thornton's Crescent H Guest Ranch in Jackson Hole. And the second was a brand new White Cadillac DeVille, which Thornton presented to Hernandez in a video-taped family "thank you card" that was played at a luncheon in San Antonio. Thunder Thornton's action shows that it is important to celebrate those "Guardian Angels" our society needs so badly. It also goes a long way toward telling us the kind of man John Thornton is.

Mr. Speaker, the 3rd District of Tennessee is fortunate to count him among its citizens.

TRIBUTE TO LT. COL. DARRYL B. KREITMAN

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. STENHOLM. Mr. Speaker, I rise today to pay tribute to Lieutenant Colonel Darryl B. Kreitman as he retires with 20 years of distinguished service in the U.S. Air Force.

Lieutenant Colonel Kreitman is retiring from his position as Deputy Chief of the Air Force's Legislative Weapons Systems Liaison Division. In this capacity he is responsible for liaison between the Air Force and Congress on annual authorizations of $30 billion for all Air Force weapons systems, munitions and related technologies. His expertise in this arena and his knowledge of Air Force policy and direction is unparalleled.

In 1978, after receiving his commission as a Second Lieutenant from OTS, he entered Undergraduate Navigator Training at Mather Air Force Base, CA. He then flew as a B–52 navigator and instructor navigator at Griffiss Air Force Base, New York.

Following a one year Pentagon assignment, Darryl began a remarkable tour of duty in the B–1 at Dyess Air Force Base, Texas. From 1986 through 1994, he showed exemplary performance through a range of duties beginning as a B–1 Instructor Offensive Systems Officer and culminating as Commander of the 7th Transportation Squadron. His professionalism was highlighted when he served as Chief of Transportation while deployed to Saudi Arabia. It was during his 8 year tour at Dyess that his wife Judy gave birth to their beautiful little Texas girl—Robbin.

Darryl's expertise was recognized when he returned to the Pentagon in 1994; he was selected to manage the B–1 program for the Air Force's Acquisition community. He then went on to become the B–1 Branch Chief and the Bomber Division Chief.

Mr. Speaker, I join with my colleagues who have directly benefited from the outstanding support Lieutenant Colonel Kreitman has provided the Congress and the executive branch, in both his capacities in legislative liaison and as a premier aviator in the Air Force, in congratulating him for a job extremely well done and in wishing his family the very best in the future. Colonel Kreitman is a professional among professionals and has brought great credit upon himself and the United States Air Force.

TEEN PREGNANCY PREVENTION MONTH

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Ms. HARMAN. Mr. Speaker, I rise today to address a subject of utmost importance: teen pregnancy prevention.

Mr. Speaker, today the United States retains the unfortunate distinction of having the highest rate of teen pregnancy among industrialized western nations. Over the past decade we have made some progress in bringing down the number of pregnancies among teens. But too many kids are still having kids, and suffering social and economic repercussions throughout their lives because of it. We can and must do better.

We must do better because unintended teen pregnancies mean more difficult lives, and fewer opportunities, for teen parents and their children. We know that teen mothers are less likely to graduate from high school, and more likely to depend on welfare. And their children start life at a distinct disadvantage—on average smaller at birth, they are more likely to be hospitalized, more likely to perform poorly in school, and more likely to suffer abuse and neglect.

And the cycle is likely to be repeated. Over 20 percent of children of teen mothers will in turn have children at a young age. Mr. Speaker, our society suffers when our children start life with such odds against them.

We must also do better because an ounce of prevention is indeed worth a pound of cure—prevention works. Studies show that the federal government spends more than $39 billion in assistance to families begun by teen parents and only $131 million to prevent teen pregnancy. When we work with our kids to prepare them to avoid pregnancy, through good parental communication and involvement in their lives, education, and family planning programs, the numbers are clear: unintended births decline.

What a better way, Mr. Speaker, to reduce abortion in this country than to prevent unintended pregnancies? I hope today we can all renew our efforts to support and fund teen pregnancy prevention programs.

SALUTE TO LARRY CARPENTER

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. GALLEGLY. Mr. Speaker, I would like to pay tribute to an outstanding public servant on his retirement, Ventura County Sheriff Larry Carpenter. Sheriff Carpenter protected the people of Ventura County, California, for almost 30 years, serving the community as a defender of the law and an educator of safety. I am proud to say Larry has been my friend for many, many years.

As a committed and highly ethical officer of the law, Larry quickly climbed the ladder of rank and responsibility within the department. Joining the Ventura County Sheriff's Department in 1969 he has served in many capacities, from public speaking, to personnel and training, to narcotics, to managing court services and custody. In 1974, Larry was promoted to senior deputy sheriff and later that same year, promoted again, making him a sergeant. In 1984, Larry was appointed undersheriff and managed the operations of the entire department as second in command. Larry's long law enforcement culminated in 1993 when he became sheriff.

Those who have worked with, and for, Larry have described him as a loyal person with the finest ethical standards. His interpersonal and organizational skills made him a good manager, but Larry's stellar professional attributes were not his only strong points—they simply served as a vehicle for his creative and ambitious ideas which he implemented for the good of his community.

Larry developed the Sheriff department's "hostage negotiation team" and was an active proponent of opening the Todd Road Jail, which boasts an innovative inmate management philosophy. He led the fight to continue the use of military surplus helicopters, saving millions of local tax dollars annually, and implemented a platoon response plan for tactical emergencies. In addition, he opened "storefront" operations to deliver sheriff's services into the neighborhoods. These are merely a few of Sheriff Carpenter's achievements which have made real differences in the lives of Ventura County's citizens.

You cannot put a price on safety, or thank someone enough for putting their life on the line to protect others. We can never really repay the heroism and bravery which protects us each day, which often goes unnoticed. But we can say thank you: Thank you Sheriff Larry Carpenter for your years of service protecting our families and for making our community a safer and better place to live. I ask my colleagues to join me in wishing my friend Larry a long and happy retirement.

TRIBUTE TO RONALD SNYDER

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. COSTELLO. Mr. Speaker, I rise today to recognize a great teacher, Mr. Ronald Snyder, on his retirement from St. John's Lutheran School in Red Bud, Illinois.

Over the last 43 years, Mr. Snyder has shared his many talents with the community. Mr. Snyder joined the St. John's staff in 1955 and has taught both the seventh and eighth grade classes. In his early years he also served the school as Principal, Choir Director and Youth Director.

For over a decade, Mr. Snyder has been taking the eighth graders, who he teaches all subjects to, on a trip to the Nation's Capital. Mr. Snyder has helped the students experience this once in a lifetime trip through many hours of hard work and fundraising efforts.

Mr. Snyder was raised in Columbus, Indiana. From there he went to teacher training school at Concordia Lutheran College in River Forest, Illinois where he majored in Elementary Education. Right out of college he was called to teach at St. John's Lutheran School. Over the years, he has taught 786 students and has served with sixty-two other teachers. As the eighth grade teacher for the majority of his dedicated service to St. Johns he has influenced many young lives. Mr. Snyder who lives in Red Bud, Illinois with his wife Eunice, will retire at the end of this school year.

I ask my colleagues to join me in congratulating Mr. Ronald Snyder on his retirement after many devoted years of service to the children of St. Johns and the entire community.

INTRODUCTION OF THE ASSISTING ACQUISITION OF RUSSIAN MATERIAL ACT

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. STRICKLAND. Mr. Speaker, today, I am introducing legislation, the Assisting Acquisition of Russian Material (AARM) Act, along with my colleague ED WHITFIELD of Kentucky, which would provide the Department of Energy with "standby" authority to purchase Russian uranium under the U.S.-Russian-HEU Agreement signed in 1993. The Russian Federation and the United States entered into this agreement to ensure that highly enriched uranium (HEU) from dismantled nuclear warheads would be used for peaceful purposes only. In January 1994, President Clinton announced that the U.S. and Russia signed a contract to purchase $12 billion of highly enriched uranium over a 20-year period. The U.S. purchase of 500 metric tons of this material is clearly a crucial national security initiative. This foreign policy measure provides an important incentive to the Russian Federation to continue dismantling its nuclear weapons and ultimately helps to safeguard the U.S. and the rest of the world from the threat of a nuclear incident.

I strongly support this foreign policy objective which serves our national security interests and those interests of the entire world. However, under this U.S.-Russian Agreement, the United States Enrichment Corporation (USEC) will serve as the Executive Agent responsible for acquiring the downblended Russian uranium which it will then sell as commercial nuclear reactor fuel. The status of USEC as the Executive Agent under this agreement troubles me because, at this time, the government is privatizing the industry responsible for implementing the U.S.-Russian HEU Agreement. A private USEC acting as the Executive Agent will face conflicting obligations to maximize profits and to fulfill its requirements under both the U.S.-Russian Agreement and the statutory purposes guiding the privatization process of the corporation.

Under the laws governing privatization of USEC, Congress specifically outlined eight statutory criteria, including a requirement that privatization lead to "continued operation" of the gaseous diffusion plants in Portsmouth, Ohio and Paducah, Kentucky. However, if USEC is forced to purchase significant quantities of Russian uranium under the HEU Agreement, the corporation may be forced to reduce work at the plants or to close one entirely. Clearly, the role of USEC as the Executive Agent under the Agreement could lead the newly privatized corporation to choose between the national security purpose of importing higher priced Russian material and its own desire to maximize profits. Furthermore, the public objective of purchasing specific quantities of Russian uranium directly conflicts with and adversely affects the statutory criteria calling for continued operation of the gaseous diffusion plants.

In order to help resolve these potential conflicts and ensure that U.S. foreign and domestic policy objectives are met, the AARM Act states that the Department of Energy will have the authority to purchase, hold and resell the downblended HEU imported from Russia under the U.S.-Russian Agreement. This legislation helps to preserve the livelihoods of those in the communities surrounding the gaseous diffusion plants while ensuring that the U.S. continues to purchase Russian uranium to reduce the threat posed to the world by dismantled nuclear warheads. The bill represents a common-sense solution, ensuring that the government maintains responsibility over our national security interests and that the private sector can function without being saddled with unnecessary burdens.

TRIBUTE TO PRESIDENT LEE

HON. JOE SCARBOROUGH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. SCARBOROUGH. Mr. Speaker, Taiwan, known as the Republic of China, marked its president's second anniversary in office on May 20, 1998. President Lee Teng-hui, a Taiwan-born statesman, should be commended for his leadership and vision for his country.

President Lee's leadership lies in his ability to rally his 21 million compatriots into believing that the course Taiwan has chosen to take, economic and political, is right for them. President Lee has convinced them that their future lies in free trade and private enterprise as well as in full democracy. With the help of his compatriots, President Lee will lead the Republic of China to ever greater economic prosperity at home and international recognition abroad.

On the occasion of President Lee's second anniversary in office, I wish President Lee godspeed and good fortune.

NORTHERN IRELAND PEACE TREATY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. MURTHA. Mr. Speaker, I would like to share with my Colleagues the following excerpts from an interview with the new President of Ireland, Mary McAleese. In her poignant description of President Clinton's visit to Northern Ireland in 1995 and his consummate diplomacy in that extremely delicate political environment, she notes how grateful the people of Ireland are to the President for his commitment and effort toward bringing about a peace treaty in Northern Ireland. I felt it should be brought to your attention. The interview, with reporter Niall O'Dowd, appeared in the May/June 1998 edition of Irish America Magazine.

Irish America: You met President Clinton during his visit to Northern Ireland in 1995. What were your impressions of him then and now?

On the day that he came to Northern Ireland, I don't think there is any doubt that the Unionists, for instance, were very skeptical. And you know as well as I do the minefield that is Northern Ireland. If you use the word Derry instead of Londonderry, or Londonderry instead of Derry, everyone is exercised. The opportunities to make a mess are total. For a president to come, and speak off the cuff as he did was amazing. He spoke flawlessly. He did not put one single foot wrong. He didn't get one inflection wrong, he didn't get one name wrong. I was absolutely mesmerized by his sheer intellect—the man is incredibly clever.

I don't know a politician on this planet who has the intellect, the depth, the charismatic skills of this man. He is extraordinary.

What he did that day was a miracle, because there was a lot of Unionist skepticism about him, a lot of determination that no matter how good this party got, they weren't going to enjoy it. And yet they did. Over the twenty-four hour period, he effectively seduced them. He won them over.

He and his wife worked a miracle that day. I just want people to know how very grateful we are for this president who is so committed. He has been a large part of the scaffolding that is holding up this kind of precarious edifice of peace.* * *

We are very grateful to the ongoing American commitment to Ireland in all its aspects because we are on the way to achieving phenomenal success. As a small island off the west of Europe, it is desperately important to us that we have friendships that open a window onto an entirely different world to ours. It helps us to blossom and grow. I want to be able to celebrate, and thank people for that and develop a sense of the global Irish family.

CONGRATULATIONS ON THE 32ND ANNIVERSARY OF GUYANA'S INDEPENDENCE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. PAYNE. Mr. Speaker, I would like to ask my colleagues here in the U.S. House of Representatives to join me in congratulating the New Jersey Arya Samaj Mandir, Inc. as they celebrate a very special occasion—the 32nd Anniversary of the Independence of the Republic of Guyana. In honor of this event, a commemorative flag-raising ceremony will take place on Tuesday, May 26, 1998 in the Council Chambers at Jersey City Hall.

In 1621 the Dutch started to colonize Guyana and in 1640 the first slaves arrived from Africa. In 1763 about 100 years before the American Emancipation, the slaves in Guyana revolted in the ill fated effort known as the Berbice Slave Rebellion. In 1781 the British captured the colony but were ousted within the year. From 1782 until the return of the British in 1812 the colony was administered by French and Dutch Administrations.

In 1835 laborers were brought in from Portugal and 1838 marked the beginning of indentured servitude with the arrival of laborers from India. The Chinese came in 1853. In 1953 elections were held for the first time under the system of universal adult suffrage. The People's Progressive (PPP) won this election but was removed after 133 days from office by the British.

The PPP was reelected in 1957 and again in 1961. During these two terms under the system of internal self rule, the colony of the then British Guiana experienced significant social and economic growth in spite of political disturbances especially in the early 60's. In 1964, an unpopular government was brought to power through external influences. It remained in power until 1992 through constant rigging of national elections. In 1966, Guyana became an independent nation and in 1970 it obtained republican status.

On October 5th, 1992 the first free and fair elections were held since 1964. This election supervised by a team of international observers led by former U.S. President Carter brought the PPP-Civic government under the Presidency of Dr. Cheddi Jagan to office. Over 50 percent of Guyana's population consist of East Indians, whose ancestors came to Guyana from India. Therefore, Mr. Speaker, I would also like to applaud the New Jersey Arya Samaj Mandir, Inc. for their support of Hindu culture and serving the educational, cultural, and religious needs of the Hindu immigrant population that lives in New Jersey.

IRS REGULATIONS HARM ELECTRIC COMPETITION

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I rise today to express my concern with new

IRS regulations that undermine competition in the evolving electricity market. The regulations, which became effective in February of this year, greatly expand the role of government-owned utilities as provider in the electricity marketplace. These regulations harm competition and reduce federal, state and local tax revenues.

In response to these new regulations, I am introducing legislation today to help remedy this situation. I am joined in this effort by my colleagues, Rep. WILLIAM JEFFERSON and Rep. PHIL CRANE, both distinguished Members of the House Ways and Means Committee.

This legislation would stipulate that government-owned utilities that choose to sell beyond their service territory will be denied the use of tax-exempt debt and their general income tax exemption to support their electricity sales. In an era of evolving competition, there is no place for such government subsidies which not only harm the federal treasury but displace state and local tax revenues as well.

To deal with the dilemma that has arisen with respect to this issue, I want to clarify what my legislation will do as well as what it will not do. First, the legislation deals only with government-owned utilities that are selling excess electric generation outside of their service area. To put that in context, there are approximately 2,200 utilities in this nation that are owned by state or local governments. My bill will impact less than 30 of these government-owned utilities, those with excess generation capacity who chose to sell to persons other than their historic customers.

My legislation will help level the playing field between government-owned electric utilities and all other electricity suppliers in the new competitive marketplace. The legislation, however, will not affect the vast majority of government-owned utilities. As I mentioned earlier, less than 30 large, aggressive utilities that want to sell electric generation outside of their service territory will be affected.

My bill will not affect federally-owned utilities such as the Bonneville Power Administration nor rural electric cooperatives. Most importantly, it will not affect the vast majority of bonds issued by local municipalities which serve legitimate governmental purposes (such as police, fire, hospitals and other services) which benefit persons who reside in the service territory.

If a government-owned utility wants to compete in the open electricity marketplace, then they must give up their use of tax-exempt bonds and give up their income tax exemptions on sales outside of their historic service territory. Mr. Speaker, let me note that my bill will in no way affect the ability of a municipality to annex new service territory and engage in growth consistent with state rules and regulations. And finally, let me state that my bill will in no way affect existing tax-exempt bonds or current bond holders.

SALUTE TO BLUE RIBBON SCHOOLS

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. PACKARD. Mr. Speaker, this week the Department of Education announced the selection of 16 secondary schools to be presented the prestigious Blue Ribbon Schools Award. I am thrilled that two of these schools, Dana Hills High School and Santa Margarita Catholic High School, are in my district, and I would like to take this opportunity to applaud both of these schools for this achievement.

Blue Ribbon Schools are judged on the basis of being especially effective in meeting local, state, and national goals. These schools display the qualities of excellence that are necessary to prepare our children for the challenges of the next century.

Dana Hills and Santa Margarita have both reached a level of excellence and fully deserve the recognition they are receiving with the Blue Ribbon Award. Teachers, parents, volunteers and of course the students themselves must be congratulated for their efforts. Through exceptional academics, athletics, and after-school programs, Dana Hills and Santa Margarita have set themselves apart from other schools.

Mr. Speaker, I am pleased to stand here today to recognize these excellent academic institutions and I extend my congratulations to Dana Hills High School and Santa Margarita Catholic School.

TRIBUTE TO DR. LOUIE BAROZZI

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Ms. LOFGREN. Mr. Speaker, I am honored to make a special tribute to Dr. Louie Barozzi in honor of his retirement as the Director of International Programs and Student Services at San Jose State University.

He has brought a wealth of knowledge, sensitivity, charm, and service to the university and community in the 30 years he served at San Jose State—the only place he has ever worked, in fact.

Louie started at the university in 1968 as an Advisor at Large. On his way to becoming Director of International Programs and Student Services he served as Counselor in Counseling Services and Chair of the Academic Senate.

There are not enough adjectives to describe Louie Barozzi. Some of the most apt include kind, thoughtful, insightful, caring, sensitive, hard-working, conscientious, flexible, eternally optismistic, generous, wise, humorous, witty, sympathetic, and friendly.

Louie is always willing to lend a helping hand and make time for those in need. He has been a mentor to many, serving as a surrogate father to students and a wonderful father to his own children. His wonderful sense of humor has helped carry others through difficult situations, and his ability to convey wisdom without being imposing has served him and students well over the years.

Louie is a wonderful asset to San Jose State and our entire community, and I am proud to extend to him my most heartfelt good wishes in honor of his retirement.

ANDRE NICHOLSON, DISTRICT OF COLUMBIA WINNER, 1997–98 VFW VOICE OF DEMOCRACY SCHOLARSHIP COMPETITION

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Ms. NORTON Mr. Speaker, the Veterans of Foreign Wars of the United States and its Ladies Auxiliary sponsor the Voice of Democracy audio-essay scholarship competition. The program is now in its 51st year and required high school student entrants to write and record a three to five minute essay and an announced patriotic theme. "My Voice in our Democracy" was this year's theme, and more than 100,000 students participated in the program nationwide.

Mr. Speaker, I am extremely proud to report to this body that Andre R. Nicholson, a senior at Ballou Senior High School has been named a National winner in the 1998 Voice of Democracy Program and recipient of the $1,000 Department of Nevada and its ladies Auxiliary Scholarship Award. Andre is the son of Robin and Jane Nicholson and he plans a career in marketing. Andre participated in the program as a project of his government class. I am pleased to acknowledge his teacher Paul Charles and his principal Kenneth Jones, Ph.D.

Mr. Speaker, I submit for the reflection of the Members Andre Nicholson's award winning essay.

MY VOICE IN OUR DEMOCRACY

1997–98 VFW VOICE OF DEMOCRACY SCHOLARSHIP COMPETITION

(By District of Columbia Winner, Andre Nicholson)

Good afternoon Honorable Judges and members of the Veterans of Foreign Wars (VFW).

As a young man in high school, it is an honor and pleasure for me to participate in the VFW Voice of Democracy Scholarship Program. I hope that not only my voice in our Democracy will be heard but other voices young and old, as we enter the twenty-first century.

In Abraham Lincoln's Gettysburg address he states "that this government of the people, by the people and for the people shall not perish from the earth."

The basic premise of democracy cries out that each individual's worth and dignity must be recognized and respected by all of society at all times; regardless of race, religion, or station in life.

Dr. King once said he had a dream, and that dream was that one day this nation would live out the true meaning of its creed, we hold these truths to be self evident that all men are created equal.

The concepts of democracy go on to insist all men should be equal before the law and by way of opportunity; that the majority should rule restrained by minority rights. It also states that we must compromise to find a satisfactory solution and that the freedom of one individual should not infringe upon others.

This has been an experiment in government, and like all experiments it's been a trial and error process, good times and bad times, sunshine and rain.

However, if we the people of the United States are to form a more perfect union; we must be willing go grow along spiritual lines. On the back of one of our most prize possession (the dollar bill) is the statement "In God We Trust". If we would try more diligently to seek and do God's will, we as human beings would exhibit more God-like characteristics such as honesty, consideration, tolerance, forgiveness, faith, patience and concerns for others.

By doing this I think the democratic process would run smoother and we would form a more perfect union.

Will my voice be heard in our Democracy? Yes, I believe that my voice, as well as other young adults will be heard. In order to have a unified democracy to improve our country, it is vital that the voices of the young and the old go together in order to make this a better world.

Too many individuals, such as George Washington, Thomas Jefferson and James Madison, put in countless hours of work in order for us to have a good constitution in a democratic society. We must continue and push hard. I know we can make it work.

I'd like to thank you very much for giving me the opportunity to participate in the VFW Scholarship Program and may God Bless you.

SPACE DAY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. BROWN of California. Mr. Speaker, I would like to briefly note that today, May 21st, is "Space Day". It is a day intended to celebrate humanity's accomplishments in space. It is also a day for using space exploration as a teaching aid for imparting the importance of science and mathematics education.

First established in 1997, Space Day draws on the efforts of some 34 organizations and individuals in both the private and public sectors. It features activities in schools and communities both across America and around the world, as well as events on the Worldwide Web.

As someone who has long believed in the importance of our space program and the benefits that it can deliver to all of our citizens, I want to offer my best wishes for a successful Space Day '98.

CONGRATULATIONS TO PROFESSOR DAN GOLDRICH

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. DEFAZIO. Mr. Speaker, we all had many teachers during our years of education. Some of them were more important than others in assisting our understanding of the world and our place in it. For me, Dan Goldrich was one of the very few who stood head and shoulders above the rest. He helped me develop my ability to think critically and defy conventional wisdom when necessary. He is credentialed as a Professor of Political Science but he taught me much more. Often as I take to the Floor of the House of Representatives to debate issues of human rights, labor rights, international trade, the environment or U.S. foreign policy, Dan's lessons echo in my mind. Dan's teaching didn't end with my graduation from graduate school. He has continued to counsel and assist me during my political career. He has also constantly challenged me and many other former students by the example he sets as a tireless activist and humanitarian. Congratulations on your formal retirement to emeritus status! I fully expect that freedom from the demands of full time teaching will give Dan even more time and energy to inspire a whole new generation of activists who understand the struggle for sustainability, democracy and equity!

TRIBUTE TO MONTIE MONTANA

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. McKEON. Mr. Speaker, today I wish to pay homage to a gentleman whose storied career in the entertainment field lasted more than 60 years. Anyone familiar with westerns and the people who made westerns a cornerstone of motion pictures would recognize the name Montie Montana. Quite simply, Montie was the best "trick roper" in the business. For me, he was also a friend and someone who people in my district honored and admired.

Montie was born Owen Harlan Mickel on June 21, 1910, to Edgar Owen Mickel and Mary Edna Harlan Mickel. He spent much of his childhood around Wolf Point, Montana, which seemed to always have a special place in Montie's heart. Montie saw his first rodeo in Wolf Point at the age of 6, his first exposure to the talents that would eventually make him famous.

By the mid-1920's Montie was eagerly honing his rope skills, even surviving a serious injury that he sustained while training a horse. Montie's family spend much of the late 1920's and early 1930's touring and performing at rodeos throughout the west. At the age of 21, Montie had become a regular at Hoot Gibson's ranch in Saugus, California, and his roping skills were encouraged by the legendary star Tom Mix.

A few years later Montie married Louise Archer and starred in his first movie, Circle of Death, doing his own stunts. He remained a fixture in movies, television, and shows during the next three decades, and was at his peak during Hollywood's Golden Age in the 1940's and 1950's. Western pictures were at their zenith as well, and Montie knew everyone who today represent a "Who's Who" of classic westerns: John Wayne, Gene Autry, Tom Mix, Roy Rogers, and John Ford to name a few.

Most of the stars and stunt performers who worked in westerns in this era lived in the San Fernando or the Santa Clarita Valley. Montie was no exception, living on 20 acres in the town of Northridge (and serving as honorary Mayor), which is in my district. As a child who grew up in the San Fernando Valley, one of my highlights was seeing Montie, who regularly made appearances at Southern California schools. I recall to this day seeing him when I was a student at Plainview Avenue Elementary School. It is estimated that Montie performed before 8,000,000 kids, often accompanied by his horse Rex.

Montie was also a fixture at the annual Tournament of Roses Parade. It is estimated that he appeared at the parade more often than anyone else. He also rode in the 1949 Inaugural Parade and "roped" President Eisenhower in the 1953 parade. In addition, he was a part of some of the finest movies of this era: *Cheyenne Autumn, The Man Who Shot Liberty Valence, A Star Is Born,* and *The Will Rogers Story.* The latter of these also featured Montie's daughter Linda.

After living in Northridge for thirty years, Montie moved to Agua Dulce, adjacent to the Vasquez Rocks which were featured as a backdrop in numerous westerns. He continued to be an active part of the community and I often saw him in and around the Santa Clarita Valley. He also was enshrined in the Rodeo Hall of Fame in Oklahoma and the Walk of Western Stars in Newhall, California, ultimate recognitions for one of the greatest cowboys. Although Montie would later move again, I always considered him a part of our community, and was deeply saddened when I learned last night that he had passed away.

I fell blessed to have known Montie and will miss him. Thank you, Montie, for many cherished memories. God Bless You.

THANK YOU, MRS. WRIGHT

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. BARCIA. Mr. Speaker, no one doubts the importance of teachers in our lives. Ubly Community Schools has been blessed with an outstanding teacher, Bonnetta Wright, for the past thirty seven years. She is being honored with a retirement event, and the best honor I can think of for her is the memory of one of her students. Lori Shemka, a remarkable young lady who is today an attorney near Detroit, and has served here as the Congressional Page assigned to former Speaker of the House Tom Foley, provided me with the following description of her kindergarten teacher, Bonnetta Wright:

> "Before preschool, young five's, and Barney, there was Mrs. Wright. The lady with the perpetual smile and heartfelt chuckle had her kindergartners practicing their letters and numbers with fat red pencils. It was not long before her lessons plans and soothing voice had captivated the students and effectively dried their tears from the traumas of the dreaded First Day. They colored with wide, chunky Crayolas that came in the eight-pack box. The entire school knew when

Mrs. Wright's class was walking down the hall because the youngsters would have their rips puckered in silence and would march in single file with their hands on their hips. Some later concluded that this was not a military exercise but an example of walking with purpose. Not many children know where they were going, but Mrs. Wright's always did.

"Mrs. Wright taught her students to "use inside voices" since the classroom was not a barnyard. Hand washing came before snack time. She subtly chastised the few who dared to cut in line with the reminder. "Only billy goats butt into a line . . . are you a billy goat?" The student would mumble a remorseful "no" and Mrs. Wright would chuckle and say, "Well, I would hope not!" Her lessons instilled the importance of detail: one finger space between words, two finger spaces between sentences. Practicality was her hallmark.

"As Mrs. Wright was dedicated to her profession, her students knew that they were expected to participate in the day's lessons, regardless of how they tried to hide their eyes. Parents also knew that Mrs. Wright expected them to be involved. To this day, few are in short supply of safety pins because Mrs. Wright was always pinning notes into the students' shirts.

"Each day, Mrs. Wright would select a class leader who would start the class with the pledge of allegiance, savor in the thrill of leaving class to take the attendance slip to the office, and would lead the class march to recess, gym and music. Being the leader certainly fed hungry egos but the duty also reminded the student that with responsibility came accountability. For that one day, the eyes of the class were on that student. The consequences of abusing Mrs. Wright's trust was unthinkable! The inherent guilt of disappointing Mrs. Wright was far greater than any possible discipline.

"During her career, Mrs. Wright has commanded a classroom of order and mutual respect. In return, she has been endeared by parents and a community who were assured that their children were instilled with the best fundamentals any program could offer and she is genuinely loved and admired by the students to whom she has dedicated her career. Mrs. Wright never led them wrong."

Mr. Speaker, what a wonderful tribute to a wonderful lady. I urge you and all of our colleagues to join me in saying—Thank you, Mrs. Wright.

IN MEMORY OF REBECCA JO PATTON

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. BRADY of Texas. Mr. Speaker, I rarely submit remarks to be entered into the CONGRESSIONAL RECORD, but I commend to the nation the following editorial published April 29, 1998 in the Kingwood, Texas Observer. The writer is Cynthia Calvert, who is managing editor of the newspaper, a community leader, a dedicated mother of two and, I am proud to say, a friend.

Given the current tone of debate over capital punishment—in which too often the killer is glorified while the victim and their loved ones are forgotten—this editorial is a poignant reminder of the true, lasting loss when violent crime touches our lives.

[From the Kingwood Observer, Apr. 29, 1998]

ONE MOTHER'S GOOD-BYE

(By Cynthia Calvert)

Last Friday evening, the state of Texas executed another murderer.

Lesley Lee Gosch, 42, was put to death at 6:38 p.m.

At that exact moment, I was watching, with my two children the pink, yellow, golden sunset on the Intercoastal Canal near my family's beach home on the Bolivar Peninsula.

Lesley Lee Gosch had twice asked for clemency, that is being spared, set free—for his crimes. He had two, at least. He committed the murder of a young San Antonio housewife while trying to gather money to avoid a trial for making and selling illegal gun silencers.

Most of us in Kingwood don't need too many gun silencers. Perhaps only really really bad people need to muffle the noise of a gunshot.

Gosch was an Eagle Scout. Yes, all those meetings and badges and camping trips and oaths—well, they just dissolved into an evil nothingness.

Gosch was name in Thursday's and Friday's headlines, albeit second pagers, for a day or two. Now he is dead, along with Karla Faye Tucker and three others so far this year (37 in 1997).

Gosch is notable to me because I knew his victim—Rebecca Jo Patton. Becky was only 42 (ironically the age of Gosch when executed and nearly my age as I write this) when Gosch shot her six times in the head and left her in the hallway of her San Antonio home for her daughters to find. Those girls were 15 and 11. I am 41 and my children are 13 and 9. Just stop for a moment and imagine the desolation and grief you would feel if someone was senselessly taken from you like Becky was from her family. Gosch and a friend delivered flowers as a ruse to Becky and then, at gunpoint, forced her to call her bank-president husband and demand a huge ransom. The pair were then going to use the cash to fly to Belize, spending the rest of their days in the sun-drenched Caribbean.

A nice life if you can get it.

Instead, Gosch got 13 years in Huntsville, two media-frenzied pleas for mercy and then death. His buddy got 45 years and is schedule to be released in June. My friend got murdered. Her husband, for a while, got suspicious looks and doubts. Her daughters got pain and tears, and graduations and boyfriends, and weddings with no mother. Texans got the bill.

But our victims you see, get very little by law. In Texas, victims do not have the right to attend the trial of the accused. You cannot go, without the judge's permission, to the trial of the person who murders your mother.

I was a young mom who joined First Presbyterian Church of San Antonio in 1984. I signed up for everything that had childcare. I joined, one Sunday September morning, the "Uncomfortables" class. The class for those who have deep, unanswered questions about Christianity and religion but who still believe. To my great surprise, she was there.

Becky Patton—the very life of the 2,000-member downtown church. The one who was in every circle, on every youth list, who taught the little kids at Bible School, who performed countless, anonymous unselfish acts, who sustained the church.

She was uncomfortable?

She had question, even doubts? I was thoughtful and then glad.

If God let Becky have questions, then questions weren't so bad.

Then I wasn't so bad.

We both went to Thursday morning Bible study, led by Senior Minister Louis Zbinden. I studied, and hard, especially considering I had an 11-month-old to mother. I researched those three typed pages of questions each week. I studied. I learned.

One Wednesday, two desperate men bought flowers and rang Becky's doorbell. They connived their way in. They put a gun to her head and made her call her husband for money. Something went wrong—many later speculated she saw Gosch's deformed little finger and could identify him. She begged for her life. They shot her six times, in the head. The time between her call for money and the police bursting in her front door was less than an hour.

An angel was taken that day.

The next day was Thursday, the weekly Bible study. Devastation and grief swallowed the sanctuary where several hundred women sat in stunned numbness. The normally unflappable Louis could not choke back his tears.

Gosch went on to live for nearly 13 more years. Becky's daughter's grew up—I had a second child. He asked for and received stays of his execution. His last request was based on the Texas Open Meetings Act. Incredibly callous and disrespectful and contemptuous. Just like his behavior 13 years earlier in that San Antonio home.

Prison just doesn't change them.

The true crime is the delay in this punishment and we are the ones responsible for it. We sit at home and do not call or even write our legislators to demand swift punishments. It is those intervals between the crime and the punishment that is wrong. Time to think, time to beg, time to live. Years and years of hard, hard moments for the families. The mother of any child will tell you that punishment must quickly follow misbehavior or the lesson is lost. Criminals today have no quick consequences. Gosch had 13 years!

The only ones to really serve life sentences are the families.

Louis would often say that the most common words in heaven must surely be "Oh".

Because that is what is said when finally we have perfect understanding. "Oh!," we'll say.

Good-bye Becky. While I'm still uncomfortable, I know you aren't.

AMBROSINO HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. KANJORSKI. Mr. Speaker, I rise today to congratulate Mr. Carmen Ambrosino on his 25 outstanding years as Director of Wyoming Valley Drug and Alcohol Services.

A certified Addictions Counselor and Certified Preventions Specialist in Pennsylvania, Mr. Ambrosino founded the first Pennsylvania chapter of the National Association of Alcoholism and Drug Abuse Counselors and sat on that organization's national board for two years. He has developed college and graduate courses on dependency for area universities.

Carmen Ambrosino is nationally recognized in the field of drug and alcohol patient counseling and prevention education services.

From being recognized in 1979 as an Outstanding Young Pennsylvanian to being recognized recently by the Four Chaplains of Philadelphia, Mr. Ambrosino's work has been acclaimed throughout his career. He has authored six nationally-released publications for young people and served as a consultant on a drug education film. In 1996, he was nominated by the Governor of Pennsylvania for the Prevention Professional of the Year Award. In 1997, he was a delegate to the Presidential Summit on volunteerism in Philadelphia.

Mr. Speaker, these are but a few accomplishments in Carmen Ambrosino's long career. Carmen Ambrosino saw the problem of drug and alcohol abuse in Northeastern Pennsylvania and undertook the challenge. He has served his community with dedication and commitment. He and his organization have touched the lives of countless thousands of school children through education and prevention. He is the uncontested leader in his field in Northeastern Pennsylvania.

I am extremely pleased to have had the opportunity to bring just a few of his many accomplishments to the attention of my colleagues. I send my sincere best wishes as the community gathers on May 29 to pay tribute to the outstanding career of this fine community leader.

IN TRIBUTE TO TORREY PINES HIGH SCHOOL: A NATIONAL BLUE RIBBON SCHOOL

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. CUNNINGHAM. Mr. Speaker, I am pleased to announce that Torrey Pines High School, located in my 51st Congressional District, part of the San Dieguito Union School District, is named a National Blue Ribbon School.

My congratulations go to Principal Marie Grey, and Superintendent William Berrier, and to the many parents, students, teachers and community leaders that make Torrey Pines High School the national leader that it is.

So that every American may learn about what has made Torrey Pines High School such a success, I am honored to insert into the permanent RECORD of the Congress of the United States the attached essay describing its work and its history. In addition, I encourage Members and citizens to visit Torrey Pines High School on the Internet, at http://www.sduhsd.k12.ca.us/sites/tp/welcome.html.

TORREY PINES HIGH SCHOOL

Torrey Pines High School is one of three high schools in the San Dieguito Union High School District. The 2,230 students in grades nine through twelve represent the communities of Del Mar, Solana Beach, Rancho Santa Fe, Fairbanks Ranch and Carmel Valley, all in Northern San Diego County. The campus is a modern facility constructed in 1974. Phase II construction, completed in 1986, added 23 classrooms, a theater, auditorium, stadium and a state-of-the-art library/media center. The campus is used seven days a week, day and night, by adult education classes, ROP, athletic teams and community groups.

Our commitment to student learning has resulted in recognition at the state and national levels. Torrey Pines High School is a twice-honored Nationally Distinguished School (1987 and 1993), three-time California Distinguished School (1986, 1993 and 1996) and chosen by Redbook Magazine as the "Best High School in California" in 1993 and recognized for "Overall Excellence" in 1995. 97% of our graduates attend college and our test scores are consistently among the highest in the state. In 1996 our students had the highest SAT scores in San Diego County. Torrey Pines athletic teams, likewise, have a tradition of achievement, winning 66 CIF Championships, with 44 since 1990.

To maximize in-depth student learning and facilitate project-oriented instruction, we use a rotating two-hour block schedule. Several noteworthy programs help us address the needs of our diverse population. The Peer-Tutoring Center and Math Assistance Program log over 1,000 hours of tutoring each year. The Center offers tutoring after school and evenings in all subject areas. The Advancement Via Individual Determination Program (AVID) fosters the academic success of under-represented minorities. Project Astral provides Latino language minority students with the opportunity to attain academic excellence and high self-esteem through English and Spanish language literature instruction and theatrical productions. Student Assistance Services (SAS) is a comprehensive program that offers a variety of activities focusing on preparing students to be "ready to learn" and providing the necessary services and networks to meet this goal, including student support groups, the Human Relations Council, parent education forums, Peer Assistance Listeners (PALS), Choices and Challenges, staff inservices and community referrals. The program trains students to offer unconditional positive regard for their peers and provide emotional support for those who are referred to the program.

Our commitment to excellence in the classroom is complemented by the breadth and dept of our program of extracurricular activities. Approximately 45% of our students participate on 21 athletic teams. Student government strives to involve all students, with approximately 200 students contending for 37 positions in annual student elections. Student-initiated activities range from lunchtime concerts by student musicians to homecoming float-building. Clubs like Earth Impact, the International Club, Aztlan, Youth Outreach, VICA, Horticulture Club, the Investors Club and Students Against Drunk Driving insure that the TPHS activity smorgasbord offers something nutritional and appealing for every appetite. Extracurricular activities include the Science Olympiad, lunch-time activities, Academic League and student publications. Our student newspaper is distributed free to all students. The Falconer (newspaper), Free Flight (yearbook), First Flight (the TPHS literary magazine) and Free Flight Video have all received numerous state and national awards for excellence.

The 155-member TPHS staff includes 65 percent of teachers with more than 10 years of teaching experience and 60 percent with Master's degree. The staff is a cohesive community built on a commitment to high educational standards, creative problem solving, support services for all students and a shared concern for the individual. Professional development activities have included course work at Oxford, Stanford, U.C. Berkeley, Princeton and other universities; travel/study abroad; Woodrow Wilson scholarships and mentor teacher projects. Teachers are currently involved with the Teacher-Led Professional Development Project, California School Leadership Academy (CSLA), the National Science Foundation, California Literature and Mathematics Projects and other professional growth activities and professional associations. Intradepartmental review and team planning are supplemented by workshops, classes, lectures, support groups, sabbatical leaves, summer institutes, inservices and staff development programs.

TPHS parents play a vital role in the TPHS community. Each fall, five parents are elected to the School Site Council, which meets monthly with the principal and oversees the School Improvement Plan. Parents also serve as TPHS representatives to the District Site Council, District Budget Committee, Site and District GATE committees, District Curriculum Review Committee, Legislative Analysis Network and the Bilingual Advisory Committee. School-to-home communication is accomplished through a monthly newsletter and numerous parent meetings held at the school. Back-to-School Night, sponsored by the Parent Association, is held annually in October and fills the school to capacity, giving parents the opportunity to visit all classrooms. An estimated 600 parents attend annual College Nights and eight Parent Information Forums are sponsored each year by the SAS team and reach approximately 100 parents. Four to six district information evenings are held annually for parents of bilingual students, attended by an average of 175 persons and 3 to 4 meetings per year are held for parents of students in Special Education.

The Torrey Pines High School Foundation was founded in 1993 to raise funds through donations and special events for the benefit of all students. Foundation funds support programs and improvements which are not adequately funded by district allocations. These programs and improvements provide for growth, broadened experiences and a well-rounded education for every student. The Torrey Pines Foundation raises approximately $500,000 each year to supplement district and state school funding. The following campus organizations are included in the Foundation: Academic Team Boosters, Art Club Boosters, Athletic Boosters, Dance Team Parents, Friends of the Library, Grad Night, Parent Association, Student Assistance Services, Technology Boosters and Theater Boosters. The 25 member Parent Board, with representation from all geographic areas, meets monthly at the school and is involved in significant support of the school program. Each year the Parent Association provides more than $10,000 in teacher mini-grants to support classroom activities. More than 200 parents volunteer on our campus serving regular weekly assignments or helping with special projects. A committee of 30 parents oversees the annual Grad Night celebration, with $30,000 raised annually. Friends of the TPHS Library has an average annual membership of 150 and draws upon local talent to provide such innovative programs as "Authors Evenings" to the community. The Technology Boosters, formed in 1994, is a group of twenty parents and community members who are actively participating in our site technology committee, collaborating closely with staff to set and implement school-wide technology goals. Dollars for Scholars, a national organization, awards approximately $40,000 in scholarships annually to approximately fifty graduating seniors.

Community partnerships have enriched our school community. Participation in community organizations such as San Dieguito for Drug-Free Youth and Prevention Connection has provided us with resources for the war against substance abuse. "Explorations" is a career awareness program which brings professionals and business leaders from our community to speak to students about their careers. Teachers participate in the Teacher Job Shadow Program through a partnership with Mira Costa College and California State University, San Marcos. Through our School-to-Career Program, we have established an Internship Program which places approximately 200 students each year into semester-long internships in community businesses.

Torrey Pines High School refuses to rest on its past accomplishments and is characterized by a spirit of continual school improvement. To this end, the Strategic Planning Leadership Team is in the process of developing a site strategic plan which will involve our entire learning community in the development of a shared vision for the school and a set of specific action plans which are aligned to the District Strategic Plan.

IN MEMORY OF COLONEL DAVID MICHAEL MOAK

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. BAKER. Mr. Speaker, I rise today to pay tribute to a great Louisianian and a great American, who died on March 28th, 1998: Colonel David Michael Moak, United States Army. He will be missed, not only by his wife of 21 years, Julia, his son Aaron and his daughter Shelane but by all who worked with him as he defended our freedom and by a greatful nation.

It is fitting that we remember the sacrifice and dedication of Colonel Moak as we near Memorial Day, the day Americans pay tribute to all the brave men and women who died in the service of America.

Colonel Moak was a true American hero who put country first.

Colonel Michael Moak, U.S.A., 47, who was born and raised in Baton Rouge, Louisiana died on March 29, 1998 at the Walter Reed Army Hospital. Col. Moak was assigned to the Office of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence where he was responsible for enhancing the Department of Defense's intelligence capabilities to support combating terrorism and force protection. In 1973, he received a Bachelor of Arts degree in Government from Southeastern Louisiana University where he was also commissioned as a 2nd Lieutenant, Infantry, in the Regular Army.

Upon commissioning, Col. Moak attended and completed the U.S. Army Infantry Officer Basic Course at Fort Benning, Georgia. After graduation, he was assigned to the 101st Airborne Division, where he served as a Rifle Platoon Leader, Scout Platoon Leader, Rifle Company Executive Officer, Battalion S3 Air, and Rifle Commander. Col. Moak's subsequent assignments include Commander, Army ROTC Detachment, Louisiana College, Operations Officer, 202d Military Intelligence Battalion (HUMINT), Commander, 641st Military Intelligence Company (HUMINT), Operations Officer, Executive Officer, and interim Battalion Commander, 18th Military Intelligence Battalion (HUMINT), Brigade S3 Operations, 66th Military Intelligence Brigade, Deputy Chief of Staff for Intelligence, Army Special Operations Forces, Europe, Executive Officer, 201st Military Intelligence Battalion (Tactical, I Corps), Battalion Commander, 14th Military Intelligence Battalion (Tactical Exploitation), and Systems/Force Integrator, Deputy Chief of Staff for Operations, Headquarters, Department of the Army.

Col. Moak's military training included, in addition to the Infantry Officers Advanced Course, Airborne School, Ranger School, Air Assault School, Jungle Warfare School, Rappel Master, German Airborne School, Nuclear, Biological, and Chemical Course, Counter Intelligence Special Agent Course, HUMINT training, Terrorism Counteraction Course, Command and General Staff Course, and the National War College.

Col. Moak's civilian education, in addition to a Bachelors of Arts in Government, included a Masters of Arts in Human Resource management from Pepperdine University and a Masters of Science in National Security Strategy from the National Defense University. Col. Moak did extensive study in the counterterrorist field and published one book commercially entitled, "Surviving Hostage Situations". He also developed an individual self study manual for the Army entitled, "Terrorism Counteraction".

Col. Moak was responsible for the oversight and enhancement of Department of Defense intelligence programs and capabilities to support combating terrorism and force protection for the Secretary of Defense. He oversaw and assured effective intelligence support to force protection operations for U.S. forces deployed in Bosnia. He coordinated efforts with DoD agencies, Unified Commands, and the Services. He also worked closely with FBI, CIA, and other federal agencies to assure appropriate intergency coordination, Col. Moak routinely developed and provided information to Congress on intelligence support to combating terrorism and other transnational threats. He monitored DoD agencies and commands' combating terrorism and force protection budgets to assure sufficient funding was available to meet emerging requirements.

Col. Moak's awards include the Army Meritorious Service Medal (6th award), the Army Commendation Medal, Army Achievement Medal, Army Service Medal, Army Overseas Medal, National Defense Medal, Expert Infantryman Badge, Airborne Badge, Air Assault Badge, Ranger Tab, and German Airborne Badge. He received the 1997 Department of Defense award for the Most Innovative Initiative in Combating Terrorism due to his relentless efforts identifying and resolving systemic issues impacting on the Department's intelligence capabilities.

Our nation is fortunate to have been represented by a man of character like Col. Moak. He served his hometown as he did his country and will long be remembered for what he gave both. The people of Baton Rouge and Louisiana could have asked for nothing more.

PROJECT FOR PRIDE IN LIVING

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. SABO. Mr. Speaker, today I rise in recognition of Project for Pride in Living (PPL), a nonprofit development organization in my home district that has been recently recognized by the Fannie Mae Foundation for its very successful, multi-faceted approach in the fight against poverty.

Project for Pride in Living was originally established in Minneapolis in 1972 to buy and rehabilitate rundown, inner-city houses. It has grown considerably over the years to address poverty issues on a variety of fronts. PPL now provides affordable rental and ownership housing opportunities, job training through direct employment, employment education and placement, youth development, neighborhood security, and support services.

PPL has been a strong and effective agent for economic stabilization and community building in neighborhoods throughout the Twin Cities, but especially in the Phillips neighborhood. It has built or renovated more than 900 single-family and multifamily units. PPL's Self-Sufficiency Program and employment and training initiatives have helped several thousand people. In 1996 alone, 509 families participated in the Self-Sufficiency Program, by obtaining help to find jobs, to stabilize their finances and housing situations, and to make positive changes in behavior, attitudes, and school performance.

On May 19, 1998, the Fannie Mae Foundation presented a Maxwell Sustained Excellence Award to Project for Pride in Living. This award is given to community-based nonprofit organizations demonstrating the best examples of sustained creation and management of communities and neighborhoods. PPL was one of ten award winners this year, selected from a pool of 160 applicants from across the United States. All ten awardees have a history of building and sustaining communities, with housing being the lead component of their efforts.

As a Maxwell Sustained Excellence Award winner, PPL will receive a three-year grant of $150,000 to further organizational development, and a three-year, $250,000 Community and Neighborhood Development Fund (CNDF) loan. PPL will invest the grant in activities to increase its capacity to develop and manage housing, including upgrading technology, establishing an internal pre-development fund, and enhancing staff development and training. The CNDF loan will provide construction financing for the production of 24 single-family homes.

I salute Project for Pride in Living for receiving Fannie Mae's distinguished Sustained Excellence Award. It is a remarkable honor for a truly deserving organization.

PERSONAL EXPLANATION

HON. DEBBIE STABENOW

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Ms. STABENOW. Mr. Speaker, on Roll Call vote #165, had I been present I would have voted no.

Mr. Speaker, on Roll Call vote #166, had I been present I would have voted no.

Mr. Speaker, on Roll Call vote #167, had I been present I would have voted yes.

Mr. Speaker, on Roll Call vote #168, had I been present I would have voted yes.

Mr. Speaker, on Roll Call vote #169, had I been present I would have voted yes.

Mr. Speaker, on Roll Call vote #170, had I been present I would have voted no.

Mr. Speaker, on Roll Call vote #171, had I been present I would have voted yes.

Mr. Speaker, on Roll Call vote #172, had I been present I would have voted yes.

Mr. Speaker, on Roll Call vote #173, had I been present I would have voted yes.

Mr. Speaker, on Roll Call vote #174, had I been present I would have voted yes.

SPACE DAY CELEBRATION

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mrs. MORELLA. Mr. Speaker, today I rise in recognition of Space Day, a global celebration of the extraordinary achievements, benefits, and opportunities presented by the exploration and use of space. It was this week twenty-seven years ago that President Kennedy issued his challenge to land a man on the Moon.

Recently, HBO ran a twelve part series, "From the Earth to the Moon." This is the story of humankind's commitment and dedication to meet that challenge and its triumphant success. The words "one small step for man, one giant leap for mankind," first spoken by Neil Armstrong from the Sea of Tranquility in July 1969, will be remembered for generations by people everywhere as the nations of the world begin to work together for peace in space.

Our space technology evolved from rockets of destruction in World War II to vehicles carrying satellites into space. With these satellites, we can now speak to someone on the other side of the world as clearly as we can our neighbor. Meteorologists can predict the weather with precision.

We began with Alan Shepherd, the first American to leave the protective atmosphere of the Earth, and John Glenn orbiting the Earth in his Friendship 7 spacecraft. We watched with baited breath as Neil Armstrong and Buzz Aldrin piloted the Eagle Lunar Module to the surface of the Moon. Now the Space Shuttle carries astronauts and cosmonauts to the Space Station Mir where they conduct experiments that lead to advances in biomedicine and physics.

The next generation will soon see further trips to the other planets in our solar system. The next space shuttle will make it easier than ever before to carry people and payloads into space. We may soon unlock the mysteries of life on Mars and Europa, and water on the Moon.

As the nations of the world begin to build the International Space Station, they are driven by the legacy of the Mercury, Apollo, and Shuttle missions, and look confidently to the stars to see our destiny.

A TRIBUTE TO EMILY MATHEM

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. THOMPSON. Mr. Speaker, I rise today to honor Ms. Emily Mathem, a 13-year-old at the Vicksburg Junior High School in Vicksburg, Mississippi.

Emily recently received a Prudential Spirit Community Award in recognition of her outstanding community service. Emily worked for more than a year with city administration officials, local community leaders, and classmates to restore an abandoned and neglected neighborhood park which had become a hangout for drug dealers. While the work is not yet completed, she has pledged to continue her efforts until the day children can play safely in the park.

Emily Mathem is a shining example of leadership, goodwill, and courage. I wish her luck and hope that many more young people in Mississippi and this nation are inspired by her work.

HISTORIC SHILOH BAPTIST CHURCH REBULIDS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Ms. NORTON. Mr. Speaker, I rise to pay tribute to the Shiloh Baptist Church following a week of special services commemorating the completion of a new sanctuary.

Mr. Speaker, the Shiloh Baptist Church of Washington, DC had its humble beginnings in Fredericksburg, Va. In 1854, the white congregation of the Baptist Church decided to relocate. The white membership offered the building to its black members for $500.00. The offer was accepted and the black members renamed the church Shiloh. By 1861, Shiloh had 750 members, most of whom were slaves and the balance of the membership was free blacks. In that same year, with the onset of the Civil War, Union troops entered Fredericksburg and occupied Shiloh using it as a hospital. This disrupted church life and the growth of this branch of Zion. In 1862, the Potomac branch of the Union Army offered safe passage to any blacks, free or slave to Washington, DC. In June of that year, hundreds took advantage of the offer and traveled to the Capital City. Approximately 400 members from Shiloh Church were among the group.

Soon after arriving in Washington, several members of the group from Fredericksburg began to meet in a little shanty on L Street between 16th and 17th Streets. They met under the direction of McCleary Perkins, a white Union soldier. They learned to read and write and held regular prayer and fellowship meetings. On September 23, 1863, the Shiloh Baptist Church of Washington, DC was formally recognized by a Recognition Council and on September 27, 1863, the Reverend William J. Walker was ordained as pastor.

Under Reverend Walker's leadership, Shiloh's membership grew to over 800, two buildings on L Street, NW were purchased and the members constructed a two-story brick building, also on L Street, that was completed in 1883. Reverend William J. Walker died on August.

In 1891, following some controversy and a split in membership which led to the formation of the Walker Memorial Baptist Church, Shiloh called its second pastor, the Reverend J. Anderson Taylor. Under his administration the church was enlarged, a new organ was installed, the choir was vested, the music ministry expanded and missions at home and abroad were established. In 1906, Reverend Taylor gave up the pastorate. About 200 members left Shiloh, formed the Trinity Baptist Church and called Reverend Taylor as pastor. Reverend J. Anderson Taylor died on October 6, 1916.

Reverend J. Milton Waldron was called in 1906 and set out to develop an instructional church that would care for the needs of the total person. By 1924, Shiloh had outgrown its two-story edifice and a new home was found at the corner of 9th and P Streets, NW. There were a series of fires during which Reverend Waldron's health began to fail and he resigned. Reverend Milton J. Waldron died November 20, 1913.

Shiloh searched for a leader who could help reduce its debt and provide leadership through the Great Depression. In September 1930, Reverend Earl L. Harrison became the fourth pastor and served for forty-one years. During his forty-one years as pastor, the debt was retired, properties were acquired, the circle system was established, young ministers were mentored and the music ministry continued to develop. Reverend Earl L. Harrison died on November 14, 1971.

In 1972, Shiloh called its fifth pastor, the Reverend Henry C. Gregory III a fourth generation preacher. Reverend Gregory had served as the assistant pastor under Reverend Harrison between 1961 and 1963. During his administration, Reverend Gregory increased the sacred components of the worship service and instituted a plan to develop the leadership within the church. He is best remembered for building the Family Life Center. The Center provides Christian development, spiritual education and recreation opportunities for church families and the community-at-large. Reverend Henry C. Gregory died on April 29, 1990 after 17 years as pastor.

In July 1991 Shiloh called the Reverend Wallace Charles Smith, its sixth pastor in 128 years. During the annual Henry Booker Organ Recital in November 1991, the church erupted in smoke and flames. Everyone was evacuated safely, however, the building suffered extensive damage and could not be used. Services were held in the gymnasium of the Henry

C. Gregory, III Family Life Center. Under Reverend Smith's leadership Shiloh was rebuilt on the corner of 9th and P Streets, NW.

Mr. Speaker, Shiloh Baptist Church is a beacon of light and hope in the Shaw Community and on March 15, 1998 marched into its newly built church from which its tradition of spiritual, civic and social activism continues.

Mr. Speaker, I ask this body to join me in celebrating the rich history and perseverance of the historic Shiloh Baptist Church of Washington, DC.

PERSONAL EXPLANATION

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. EWING. Mr. Speaker, I have just returned from Geneva, Switzerland, where I was leading the delegation from the Agriculture Committee representing the Congress at the World Trade Organization's Ministerial Conference. Unfortunately, my attendance required my absence during a number of votes on May 19 and 20th.

Had I been present, I would have voted: No on rollcall 156; No on rollcall 157; No on rollcall 158; No on rollcall 159; Yes on roll call 160, Yes on rollcall 161; Yes on rollcall 162; Yes on rollcall 163; Yes on rollcall 164; Yes on rollcall 165; Yes on rollcall 166; Yes on rollcall 167; Yes on rollcall 168; Yes on rollcall 169; Yes on rollcall 170; No on rollcall 171; Yes on rollcall 172; and Yes on rollcall 173.

THE HARMON/LOWEY AMENDMENT TO THE DEFENSE AUTHORIZATION BILL

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Ms. DUNN. Mr. Speaker, yesterday, this chamber voted on an amendment, offered by Reps. JANE HARMAN and NITA LOWEY, to the Defense Authorization bill which would have repealed a provision of law that prohibits women from using their personal funds to obtain abortions in U.S. military hospitals overseas.

Mr. Speaker, I have a long-standing record of supporting such amendments to overturn the present prohibition on privately-funded abortions on U.S. bases in foreign countries. I believe that U.S. servicewomen abroad should be given the same options as women who live in the United States.

As such, I would like the record to reflect that I had intended to vote "yes" on the Harman/Lowey amendment.

SPACE DAY: A GLOBAL CELEBRATION AND EXTENSION OF THE R&D TAX CREDIT

HON. DEBBIE STABENOW

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Ms. STABENOW. Mr. Speaker, today we celebrate Space Day, which is a day for people of all nations and ages to look back with pride on our extraordinary achievements in space exploration; and a day to look forward with hope and anticipation to the benefits and opportunities that lay ahead. It is a day to inspire future generations of scientists, engineers, computer programmers and astronauts to fulfill the vision of our early space pioneers.

Space Day is supported by international leaders within the education, space, communications, corporate and scientific communities as well as a network of enthusiastic Space Day partners. Together they have designed a package of interactive and multi-disciplinary activities for teachers to use with their students; and they have launched an official web site that provides resources for teachers, parents, students and other space enthusiasts. I encourage all of my colleagues and our constituents to visit www.spaceday.com and to celebrate Space Day by registering as an official "Friend of Space Day."

In my district alone, Mr. Speaker, over 2,000 children and their parents have expressed their interest in math, science, engineering and space exploration by attending events that I have sponsored called "Great Space Adventures." I applaud their curiosity and their sense of adventure; and I am very happy to join with them in celebrating Space Day today.

Mr. Speaker, on this day, I also want to urge my colleagues to enact legislation that will extend the research and development tax credit because it is set to expire in only a few weeks. The R&D tax credit enjoys strong, bipartisan support and it is supported by all of America's leading science and technology industries, including aerospace, automotive, biotechnology, and telecommunications. The R&D tax credit is specifically designed to encourage our companies to invest in thousands of high-paying, high skilled jobs that support U.S. based research and development. Availability of these jobs has the dual benefit of fueling our nation's scientific and technological leadership and enticing our youth to pursue careers in math, science, engineering and education.

Mr. Speaker, I urge my colleagues to support Space Day by permanently extending the R&D tax credit.

IN RECOGNITION OF NATIONAL ALLERGY MONTH: FUTURE IMPACTS OF THE FOOD QUALITY PROTECTION ACT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. TOWNS. Mr. Speaker, I rise today to express growing concern that the U.S. Environmental Protection Agency's implementation of the Food Quality Protection Act may sharply reduce the number of pest control products used to eradicate cockroaches and other indoor pests.

Principally, I am concerned that the loss of cockroach control products will exacerbate the already growing problem of asthma and allergies in inner cities, particularly among children. Sadly, no city has been harder hit by the asthma epidemic than New York. In fact, at least 10 percent of New York city school children suffer from asthma. However, the increasing asthma rate is not just a New York problem, but a national one. According to the U.S. Centers for Disease Control, the number of asthmatics has doubled over the last 20 years and more than one third of all asthmatics are children, making it the most common chronic disorder among that sub-population.

The National Institutes of Health cites cockroaches as an important cause of asthma in allergic children. According to a landmark study published in the New England Journal of Medicine last spring, cockroach allergens are largely to blame for increased asthma rates among urban children, and children who are allergic to cockroaches are three times as likely to be hospitalized as other asthmatics. Some of the children participating in the study were from the Bronx and East Harlem.

Thankfully, there are steps we can take to address the skyrocketing asthma rate and to lessen the impact of allergies. One way is more effective control of cockroaches. An editorial accompanying the study recommends the "regular use of insecticides" as one of the more effective means of controlling cockroaches. Since cockroaches regularly become resistant to pesticides, a wide array of pest control products is needed to effectively control infestations.

Although heartened by Vice-President GORE's recent directive that E.P.A. ensure regulatory actions mandated by F.Q.P.A. are based on sound science and reasonable transition rules for agriculture, I urge E.P.A. not to forget the pest control needs of urban populations.

I am concerned that F.Q.P.A. implementation may impact the availability of several pesticides critical for cockroach extermination.

Mr. Speaker, May is Allergy Awareness Month. We should seize upon this window of opportunity to give this important issue the attention it deserves. I hope my colleagues representing other urban areas will join me in urging E.P.A. to keep inner-city residents, especially children, in mind when implementing F.Q.P.A.

FINANCIAL SERVICES COMPETITION ACT OF 1997

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mrs. KELLY. Mr. Speaker, with regard to my earlier colloquy with the Chairman on functional regulation which appears on page H3140 of the May 13, 1998 edition of the

CONGRESSIONAL RECORD I would briefly like to quote from the report language from both the House Banking Committee and House Commerce Committee that further illustrates the intent of functional regulation of H.R. 10:

> "An important aspect of this new framework is that it would incorporate functional regulation with the Federal Reserve serving as an umbrella regulator to oversee the new financial holding company structure. Securities affiliates would be required to comply with all applicable Federal Securities law . . . The Act would also provide that insurance affiliates be subject to applicable State insurance regulation and supervision."
>
> "Title I . . . expressly limits the authority of the Board of Governors of the Federal Reserve System (Federal Reserve Board) over the affiliates of financial services holding companies. These limitations are designed to facilitate functional regulation of the operative components of a financial services holding company. Specifically, the preeminent authority of the Securities and Exchange Commission (SEC or Commission) and the State insurance regulators over securities firms and the business of insurance, respectively, is preserved."
>
> "*Section 113. Authority of state insurance regulator and Securities and Exchange Commission.* This section limits the Federal Reserve Board's ability to require that an insurance company or registered broker or dealer provide funds to an affiliated bank if the State insurance authority or the SEC determines in writing that such action would have a materially adverse effect on the financial condition of the insurance company or the broker dealer. The Committee determined that this provision was necessary to make clear that the source of strength doctrine does not extend to securities and insurance affiliates of banks. The section allows the Federal Reserve Board to require the bank holding company to divest the bank within 180 days of receiving such notice from the State insurance authority or the SEC.
>
> "Title III pertains to the regulation of insurance activities, particularly those of national banks, and sets forth appropriate standards for judicial review of regulatory insurance disputes . . . Subtitle A specifically provides for the functional regulation of insurance. The Committee's purpose in the first part of Subtitle A is to reaffirm the McCarran-Ferguson Act and require State licensing for insurance activities."

I would like to thank the Chairman and his staff for their assistance and agreement with this language as for the intent of functional regulation in H.R. 10.

HONORING GREGORY DON HUNSUCKER

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. CONDIT. Mr. Speaker, I rise today to recognize my longtime friend, Mr. Gregory Don Hunsucker, who is being presented with the coveted Labor Leader of the Year by the Merced-Mariposa Central Labor Council. Don is being awarded this prestigious honor on Saturday, June 13, 1998.

In 1971, Don was hired by the Retail Clerks International Association as a Special Representative and Organizer. He came to the United Food and Commercial Workers Union, Local 1288 in 1973 as a Business Representative. One year later, he was promoted to Administrative Assistant to the President. In 1976, Don was elected Secretary-Treasurer of the local union and became president and chief executive officer of the union in 1978.

His leadership has long been appreciated by organized labor. Under his guidance, Local 1288 has become the official representative of more than 9,500 United Food and Commercial Workers in the counties of Merced, Madera, Fresno, Mariposa, Kings and Tulare. In addition to his duties at the Local Union, he is President of the Valley Clerks Joint Council of the UFCW, Vice President of the California Federal of Labor, AFL–CIO; President of the Fresno-Madera-Tulare-Kings Counties Central Labor Council, AFL–CIO; Vice President of the Southwestern States Council of United Food and Commercial Workers; Special Representative of the United Food and Commercial Workers International Union; Trustee of the Northern Fund; Chairman of the Northern California United Food and Commercial Workers Caucus and Vice President of Fresno Area Coalition of Organized Labor.

Don Hunsucker's leadership extends throughout Central California, touching the charitable spirit of all who live here. He is a member of the Countryside Free Will Baptist Church in Visalia; he has served as Executive Board Member of the United Way, the Easter Seal Society, Fresno City Civil Service Board, Bid Compliance Committee of the City of Fresno, Blue Ribbon Task Force on Council of Ethics and Operations, and a member of the California State University of Fresno Boosters Club.

Don and his wife of 30 years, Linda Mae (Balakian), live in Fresno. They have two children, Michelle Lou Ann, 25, and Jerry Gregory Don, 21. Don has been a strong advocate for working men and women over the years. He is a man of integrity who gives unselfishly to those around him. He has set an example for others to follow. I consider it an honor to call him my friend and ask my colleagues in the House of Representatives to join me in honoring Don Hunsucker.

INTRODUCTION OF LEGISLATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. GILMAN. Mr. Speaker, today, I would like to introduce two bills—one to authorize the Mongaup Visitor's Center, and the other to extend the Upper Delaware Citizen's Advisory Counsel.

Mr. Speaker, as you may know, in 1978, along with out good friend and colleague JOE MCDADE, I introduced Federal legislation establishing the Upper Delaware Scenic and Recreational River as a component of the National Wild and Scenic Rivers System.

The property proposed as the location of the Upper Delaware Scenic and Recreational River's primary visitor facility—the Mongaup Visitor Center—is owned by the State of New York's Department of Environmental Conservation. The property was acquired by the State in 1986 as part of a much larger purchase of a 10,000-acre tract intended to provide habitat for a population of wintering bald eagles. New York State legislation authorizing Federal development of the property as a visitor center by means of a long-term lease was passed in 1993. A legislative support data package was prepared in 1994 for Federal legislation authorizing development of the site, to appropriate funds for development and to increase the Upper Delaware's operational base to provide for year-round operation.

The site for the Mongaup Visitor Center contains abundant natural and cultural resources and this proposal will identify and develop strategies to protect the Mongaup area's natural resources, including: wintering bald eagles; upland forest; hemlock and laurel gorges and steep slopes; riverine and flood plain forest, and a mile of river front with natural sand beaches. The possible presence of prehistoric elements will also be evaluated.

The visitor center will benefit the community in many respects. It will serve as an educational asset, a local museum, a class room, and meeting place. Bordered by the Delaware River, the Mongaup River and New York State highway route 97 in the town of Deerpark in Orange County, NY—it is the only center of its kind within an hour's drive from New York City. Both the proposed visitor center, Mongaup site and the Upper Delaware Valley have enormous unrealized potential to provide both the local and visiting public with an exceptional experience.

I am also introducing a bill that will extend the Upper Delaware Citizens Advisory Council for another 10 years. The Upper Delaware CAC provides an excellent forum for citizens of the Upper Delaware to have an opportunity to impact and interact with the National Park Service and Department of the Interior.

Accordingly, I urge my colleagues to help pass these two measures which will benefit the State of New York on economic, environmental and educational levels.

TRIBUTE TO MAJ. GEN. MAX BARATZ ON THE OCCASION OF HIS RETIREMENT

HON. STEPHEN E. BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. BUYER. Mr. Speaker, today I rise to pay tribute to a distinguished and dedicated military officer who has served this nation with great honor and distinction. Major General Max Baratz, the Chief, Army Reserve, will retire on May 24, 1998 after more than four decades of dedicated and exemplary service in the United States Army and the Army Reserve. Today, I'm proud to take a few minutes to highlight the extraordinary career of Major General Baratz.

His career began in 1956 as an infantry officer. After serving as a platoon leader in the 1st Infantry Division, he carried his love of country and commitment to duty to the United States Army Reserve. As a drilling reservist, he became an engineer officer and served in a variety of staff and leadership positions to include the command of a company in an Engineer Training Group and service as an Engineering Battalion Commander.

In November 1976, as a full colonel, Major General Baratz was selected to be the 416th Engineer Command's Chief of Staff. Mr. Speaker, I need not remind you or my distinguished colleagues that only a handful of Army Reservists ever attain or surpass this prestigious rank, and even fewer achieve the rank of major general. But Major General Baratz was no ordinary Army Reservist, and he is no ordinary citizen-soldier.

In 1979 Major General Baratz was selected as a Brigadier General in the Army Reserve.

In November 1983, after 11 years of service in the 416th Engineer Command, the Army selected him as commander. President Reagan was well aware of the asset he had in Max Baratz, and nominated him for his second star—a nomination, I might add, that the other body prudently and expeditiously confirmed. During his tenure of more than three years as the commander of the 416th, he also found the time to serve on the Army Reserve Forces Policy Committee, first as an alternate member in the 5th Army Area, and then as the principal member from the 4th Army Area. In the closing days of his command, he was selected to be co-chairman of the Army Reserve Forces Policy Committee, a position he held until December 1990.

In 1991, during Operation Desert Shield, Major General Baratz was called to active duty to serve as the Deputy Commanding General for Reserve Affairs for the same United States Forces Command. He personally oversaw the mobilization of almost 85,000 Army Reservists in support of Operations Desert Shield and Desert Storm. Major General Baratz was personally responsible for one-third of the entire Defense Department's reserve component mobilization to support the Gulf War, and was a major factor in the success of our national efforts in the region. I am thoroughly convinced that, without Major General Baratz personally in charge, our efforts would have been far more difficult and problematic. Those soldiers were the lifeline for the ground forces, and the successful completion of their mission is a testament to the great abilities of this military leader.

Shortly after the Gulf War, Major General Baratz was again called to active duty to be Deputy Commanding General of the United States Army Reserve Command. In this capacity, he was personally responsible for the training and readiness of almost all Army Reserve units in the continental United States. In 1994 he was selected to be the Chief, Army Reserve.

Mr. Speaker, I believe that most people do not know the full scope and awesome responsibilities that come with this position. As the Chief, he oversees Army Reserve policy development and interaction with the Department of the Army and Department of Defense staffs. He is also the Commanding General of the United States Army Reserve Command, as well as the Deputy Commanding General for Reserve Affairs for the United States Forces Command. In short, he is the focal point for virtually all Army reserve component issues.

It should come as no surprise that Major General Baratz was as dedicated and professional in this assignment as he was in all his others. He oversaw a dramatic, and at times, painful reorganization of the Army Reserve that was accomplished, first and foremost, with the needs of the Army and the nation in the forefront of his mind. While its size was being reduced by over one-third, its utility was increasing dramatically. Under his direction, Army Reserve units were the first into and the last out of Haiti. Also, over 70 percent of the Army's reserve component mobilization in support of Operation Restore Democracy came from the Army Reserve. Furthermore, Major General Baratz' efforts were accentuated during the successfull deployment of over 15,000 Army Reservists to Bosnia, a figure representing 74 percent of the Army's reserve component mobilization. In fact, more Army Reservists have been mobilized in support of peace keeping efforts in Bosnia than were mobilized during the Vietnam conflict. Under Major General Baratz, the United States Army Reserve is better trained and more relevant to the nation than, perhaps, at any time in its distinguished history.

Mr. Speaker, I believe that we all should say a prayer of thanks for Max Baratz and his desire to serve his country for over four decades and under nine different presidents. The United States Army is an institution that prides itself on leadership by example. The example Max Baratz has set ensures that we will always have dedicated men and women ready to take up the cause of our great nation wherever and whenever required. Mr. Speaker, it is an honor for me to present the distinguished credentials of Major General Max Baratz before the Congress today. However, something tells me that we, as a nation, have not heard the last from him. This tireless patriot may be retiring, but rather than a "farewell," he leaves saying, "until we meet again."

DRUG FREE BORDERS ACT OF 1998

SPEECH OF

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. CRANE. Mr. Speaker, I rise in strong support of H.R. 3809, the Drug Free Borders Act of 1998.

I am pleased that the House is taking up this important legislation which was reported by the Committee on Ways and Means on Thursday, May 14, by a bipartisan vote 29–0. I believe that H.R. 3809 will lead to a stronger and a more effective Customs Service better able to interdict illegal narcotics while still facilitating passengers and cargo through major land and sea ports.

H.R. 3809 would increase the authorization for the U.S. Customs Service drug enforcement efforts by an additional $232 million over the President's request for fiscal year 1999. Within two years, H.R. 3809 would add 1,745 additional Customs inspectors, canine enforcement officers, special agents, intelligence analysts, and internal affairs agents to our Southern border with Mexico, our Northern border with Canada, southeast Florida seaports, and major metropolitan locations. It will target areas where significant drug smuggling, drug transportation and distribution networks, and money laundering operations exist.

I am proud to help rebuild our nation's defense against drug smugglers that prey upon our children. In H.R. 3809, we have the ability to give Customs the tools it needs to meet this national goal. We must work to stop illicit drug use by strengthening the ability of the Customs Service to stop the flow of heroin, cocaine and other drugs into our country. Stopping drugs from entering the country and preventing drugs from getting into the hands our children must be a high priority of this Congress as well as the Customs Service.

H.R. 3809 would also correct significant problems with the overtime and night time pay of Customs Officers and would devote any savings to additional drug enforcement. The Committee on Ways and Means Subcommittee on Trade, which I am privileged to Chair, held hearings on March 11, 1997, May 15, 1997, and again most recently on April 30, 1998. These hearings, at which the General Accounting Office, Department of the Treasury's Office of the Inspector General, as well as the National Treasury Employees Union testified, shed light upon some disturbing practices resulting from previous Congressional legislation and arbitral rulings. They found that in certain circumstances Customs pays its officers overtime, which is two times their regular rate of pay, when those officers are not even working. In some instances, Customs officers are also paid night pay for hours worked at noon or one in the afternoon.

H.R. 3809 would not only resolve these problems but would use any overtime and night pay savings to pay for additional overtime for those officers already working to interdict cocaine, heroin and other drugs illegally entering the United States. This bill would also give Customs more flexibility in the operation of the fiscal year cap on overtime pay and at the same time allow Customs officers the opportunity to earn even more overtime.

H.R. 3809 seeks to ensure that the Customs Service is not prevented from performing its legitimate drug interdiction efforts or that the integrity of the Customs Service is diminished. Customs must have every tool in its arsenal to ensure the integrity of its Customs officers. Specifically, granting the Secretary of the Treasury the authority to rotate up to 5 percent of Customs officers to new permanent duty locations each year starting in fiscal year 2000, will help guarantee the integrity of Customs officers and is similar to the authority Customs currently has for its special agents. This provision would become effective after the conclusion of the current contract between Customs and its union to ensure that it does not abrogate the terms of that contract, as some have argued it would.

H.R. 3809 also addresses another serious weakness in the ability of Customs to interdict illegal narcotics. That weakness is Customs' current inability to implement certain measures while labor negotiations drag on, as they have for nearly four years in one case. The bill would allow the Commissioner of Customs to immediately implement any proposed changes without waiting 90 days for the parties to bargain. This would mean that Customs could respond in time to the dangerous changing tactics of drug smugglers. Contrary to statements made by the bill's opponents, this bill would *not* interfere with the union's bargaining rights or with other rights of the union, such as redress before the Federal Service Impasse panel. This bill gives Customs the flexibility to get to the battlefield on time and win the war on drugs.

I urge my colleagues to support H.R. 3809 and stop drugs from destroying the lives of our children and grand children.

BROWN TREE SNAKES THREATEN HAWAII

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. ABERCROMBIE. Mr. Speaker, I would like to bring an article in the June/July 1998 National Wildlife Federation magazine to the attention of Congress.

The article, entitled "A State Without Snakes Keeps a Wary Eye Out for an Alien Invader," describes the threat that Hawaii faces from the brown tree snake. As explained by the article's author, the brown tree snake has already devastated the ecology of Guam, and it is one of the most frightening alien species threatening Hawaii today. If it manages to become established in Hawaii, the snake could decimate Hawaii's entire bird population, as it has already done on Guam. It is also known to attack babies, eat pets, and cause frequent electricity outages by climbing power lines.

Numerous programs in both the public and private sectors have been organized to contain and control the brown tree snake population. They deserve our support. Hawaii has unique and endangered plant and animal species, many of which would be threatened if the snake succeeded in establishing itself in the Hawaiian Islands. It is possible, but unlikely, that this event may have already occurred. Because there are no natural predators, one pregnant snake could establish this species on the islands.

As we move toward consideration of appropriations in the weeks ahead, I look forward to sufficient funds being approved by the House for brown tree snake research and eradication.

[From National Wildlife, June/July 1998]

(By Anne Rillero)

A State Without Snakes Keeps a Wary Eye Out for an Alien Invader

Fred Kraus lifts a piece of corrugated metal, inspecting the ground beneath it. "You have to think like a snake," he says, while considering places where a reptile might hide. In the middle of a Honolulu suburb, this wooded ravine offers unlimited possibilities: waist-high grass, tangled brush, rodent burrows, illegally dumped trash, even clumps of houseplants growing wild.

As the alien species coordinator for Hawaii's Department of Land and Natural Resources, Kraus is investigating a report of a snake seen by a boy playing in these woods. The brown-colored snake climbed a tree until it was level with the eyes of the boy, who turned and ran.

Throughout much of the United States, such a snake sighting would attract little attention. But in Hawaii—except for the harmless, earthwormlike Brahminy blind snake, which was introduced to the state from Asia—there are no terrestrial snakes. So any sighting suggests frightening possibilities. Given the Aloha State's subtropical climate and lack of predators, some of the world's most venomous snakes could easily become established there.

Kraus is particularly concerned about the threat of an infestation by *Boiga irregularis*, the brown tree snake. The cause of a devastating ecological catastrophe on the island of Guam, it is considered one of the most frightening alien species threatening Hawaii today.

Biologists believe the first brown tree snakes arrived in Guam after World War II as stowaways on cargo ships from one of their homelands: northern Australia, Indonesia, New Guinea or the Solomon Islands. Free of the natural controls of their native habitat and finding abundant prey for every stage of their lives, the snakes multiplied at an astonishing rate. Some areas of Guam are now infested with as many as 12,000 brown tree snakes per square mile and bird life of any kind is rare on the Pacific island.

An extraordinary climber, the snake devours eggs, hatchlings and adult birds. It has decimated 9 of Guam's 12 native forest birds, pushing 3 species into extinction. Another imperiled creature, the Marianas fruit bat, is also close to extinction because of snake predation.

"The brown tree snake is capable of adapting to many tropical areas," says Thomas Fritts, a biologist with the U.S. Geological Survey who has been studying the species since 1984. Sightings of the reptiles have been reported in Okinawa, Wake Island, the Marshall Islands, Tinian, Rota, Diego Garcia, Texas and Spain. Biologists believe that most or all of these snakes originated on Guam.

Known for its bulging eyes and large head, an adult brown tree snake averages four to seven feet in length. It is a voracious nocturnal hunter that kills by constricting its prey with a mild venom injected with its back teeth. On Guam, it has snatched chickens and pets from yards and has even attacked babies asleep in cribs. Guam's public health records indicate that 74 toddlers were treated for snake bites between 1989 and 1995.

To date, the reptile has not caused any human fatalities. But it has caused other problems for people. According to authorities at Guam's electric companies, the climbing snakes frequently short out power lines, causing an average of one electric outage every three days.

Because the brown tree snake is light sensitive, it coils into concealed hiding places by day. When it selects an airplane wheel well or outgoing cargo as its hiding place, the reptile can hitchhike to new habitats.

Since 1981, seven brown tree snakes have been found in Hawaii. All were captured or dead upon discovery, but some other reported snake sightings have not been resolved and authorities worry whether they can effectively stop the reptile from slithering in the state.

As home to 41 percent of all endangered birds in the nation, Hawaii has a lot to lose. The state imposes fines as high as $25,000 for importing or owning snakes of any type—a penalty that has not stopped people from smuggling in pythons and other snakes for pets. But the brown tree snake threat is different.

"Never in history has a snake done as much ecological damage as this snake," says Mike Pitzler, a biologist with the U.S. Department of Agriculture in Guam. Pitzler leads a team of federal, state, military and private individuals struggling to keep snakes from leaving Guam aboard outgoing flights and ships. The team maintains 1,400 snake traps in airports and other targeted sites around the island. It also relies on 14 Jack Russell terriers, which work in shifts around the clock, sniffing aircraft and cargo for snakes before departure.

Pitzler's staff captures 3,000 to 5,000 snakes per year, but he acknowledges his program's limitations. "Our canine teams are not 100 percent effective all the time," he says. "There are also cargo items that are difficult to inspect."

On the Hawaiian island of Oahu, meanwhile, five beagles put their noses to work sniffing out snakes on arriving commercial and military flights from Guam. For most flights, one of the dogs and an inspector are waiting at the gate to examine the aircraft. The pair then hurries to a nearby warehouse to inspect cargo from the flight. But because of a shortage of funds for the program, not all military flights are inspected and that worries state authorities.

"Is there an acceptable risk? The answer for Hawaii is no," says Mike Wilson, chairperson of Hawaii's Department of Land and Natural Resources. "Every brown tree snake that we don't stop now will turn into tens of thousands of snakes over the next 10 or 20 years." The species has a clutch size of 4 to 12 young and females may produce more than one clutch per year.

Newly hatched snakes immediately begin to forage for food. On Guam, small skinks are readily available prey for the young snakes. An introduced alien initially thought to be harmless, one skink species is largely responsible for the population explosion of brown tree snakes on the island by allowing greater numbers of the snakes to survive into adulthood. "The relationship between skinks and the brown tree snake's population is an example of what happens when you introduce nonnative plants and animals to a place," says Kraus. "You can get a synergistic effect, things that you never expected."

If one of the reptiles should slither off into Hawaii's landscape, Kraus usually oversees efforts to find the reptile. "In some habitats in Hawaii," he notes, "you could be standing right next to a snake and not know it." To search for the snake that chased off the boy in the suburban Honolulu ravine, Kraus brought in eight volunteers. The reptile was never found, though he concluded that it was not a brown tree snake because it was sighted during daylight.

While Kraus continues his exhaustive searches, other experts are pursuing new methods to eradicate the reptile. But so far no such method has been found. "We continue looking for solutions," says Thomas Fritts. "We're not ready to give up."

SUPPORT A BILL TO PROTECT KIDS AGAINST TOBACCO USE WHILE PRESERVING THE ADULT RIGHT TO CHOOSE

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. BISHOP. Mr. Speaker, I have introduced the Tobacco Use by Minors Deterrence Act, which, if enacted, would actually address and stop access by children to tobacco.

It is a model law tying health funds for States to their efforts to keep tobacco away from our kids.

It outlaws the sale to or possession by kids of tobacco products.

It requires parental notification of violations by kids.

It provides civil fines and loss of driver's license for kids who are caught.

It requires a license to sell tobacco products similar to those for sale of alcohol.

It provides loss of license to sell by retail outlets for repeated infractions.

It requires training of employees, posting of notices, and lock-out devices for vending machines.

In short, it provides for a shared responsibility by kids, families, law enforcement, and retailers to protect the health, safety, and welfare of our kids against tobacco use while protecting the right of informed adults to make a choice.

Mr. Speaker, I urge my colleagues to consider supporting this bill before even thinking about enacting a huge regressive tax on our constituents.

My bill protects our kids against tobacco, but at the same time it keeps a legal business viable, which is crucial to my Congressional District, and allows adults to make their own choice.

FINANCIAL SERVICES COMPETITION ACT OF 1997

SPEECH OF

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes:

Mrs. ROUKEMA. Mr. Chairman, I rise today to express my strong support for H.R. 10, the Financial Services Act of 1998. This bill will modernize our Depression era banking and securities laws to permit U.S. companies to provide new products and services to their customers. The bill will permit banks, securities firms and insurance companies to freely affiliate, something which is not permitted today due to the Glass-Steagall Act, the Bank Holding Company Act and other provisions of federal and state law.

One of the most important provisions in H.R. 10 is the "commercial basket" provision. This provision will permit financial holding companies to derive a modest amount of their aggregate annual gross revenue from commercial activities. It is important because it will permit securities firms and insurance companies which want to acquire banks to retain some of their commercial investment activities. In addition, the commercial basket will grant U.S. financial services companies some of the same investment flexibility which their foreign rivals currently enjoy. I was the sponsor of the 15% commercial basket amendment which was adopted by the Banking Committee on June 17, 1997 by a 35–19 vote. While the Commerce Committee chose to cut back on the commercial basket provision, they nonetheless approved a bill which included a commercial basket for financial holding companies.

Mr. Chairman, under the version of H.R. 10 we are considering today, financial holding companies would be permitted to make investments in commercial entities and derive a modest amount of their annual gross revenue from commercial activities. I would like to stress that only the holding company, and not its subsidiary banks or savings associations, would be permitted to make commercial investments. There are two commercial baskets in the bill—a general 5% basket for new financial holding companies which don't have any commercial activities and a 15% "grandfather" basket for those entities with commercial activities which become financial holding companies. I, along with Mr. VENTO, BAKER, LAFALCE and MCCOLLUM, will be offering an amendment later today which would provide parity for all market participants. Our amendment would permit all market participants to have a commercial basket of 10% of annual gross revenues. A financial holding company could apply to the Federal Reserve Board for authority to receive up to an additional 5% revenue from commercial activities in excess of the 10% cap. Mr. LEACH will be offering an amendment which will eliminate the commercial basket and provide a 10 year sunset for the grandfathered commercial activities.

Regardless of the outcome on the amendments on the commercial basket, I would like to clarify two aspects of how the commercial basket is supposed to be calculated. The commercial basket test focuses on the "activity" as opposed to the "entity". The reason for this approach is that companies can engage in both financial and commercial activities. Therefore, a financial holding company shall only count the revenue it receives from nonfinancial activities—regardless of whether the commercial activity is engaged in directly by the holding company or indirectly through a subsidiary or is the pro rata commercial activity share of revenue received by the holding company from an investment. The result will be that only those revenues related to nonfinancial activities that are held pursuant to the commercial basket provisions will be counted towards the commercial basket revenue limit.

The other aspect I would like to clarify is the treatment of revenue received from the sale, exchange or disposition of a nonfinancial investment or activity. Non-routine revenues—such as one time gains—are not to be included in the commercial basket revenue test, while revenue from ongoing operations would be counted.

Take for example the following situation. In December of 1997 a financial holding company sells a subsidiary for $25 million. The subsidiary, which is engaged in nonfinancial activities, produced $1 million in aggregate gross annual revenues for the financial holding company in 1997. The sale revenue of $25 million will not be counted towards the commercial basket revenue test, while the $1 million in revenues from ongoing operations would be counted. The reason for excluding sale revenue is that it would have the effect of overstating a financial holding company's involvement in nonfinancial activities on an ongoing basis, which is the focus of the commercial basket revenue limit. The $1 million in revenues from the routine, ongoing operations of the subsidiary would be included, however. Accordingly, to the extent a financial holding company realizes revenues from a non-routine sale, exchange or other disposition of assets, or stock, or other interest in companies which engage in nonfinancial activities, the sales revenues will be disregarded for purposes of determining compliance with the commercial basket revenue test.

BESTEA PROJECTS IN THE 24TH DISTRICT OF CALIFORNIA

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to discuss for the record the projects located in my district which I anticipate will be included in the impending Conference Report on H.R. 2400, the Building Efficient Surface Transportation and Equity Act, or BESTEA as we commonly refer to it in the House. The House-passed bill contains several worthy projects which I requested the Transportation and Infrastructure Committee include in the legislation and which will benefit the residents of the 24th Congressional District of California. I urge the Conferees to include as many of these projects as possible in the Conference Report, to even increase the spending for some of them, and to make certain changes in the project descriptions which I have furnished to members of the Conference Committee. I thank Chairmen SHUSTER and PETRI, Mr. OBERSTAR and Mr. RAHALL for their important work on this legislation so critical to our nation's infrastructure needs.

I put these explanations in the CONGRESSIONAL RECORD today so that all members of Congress are aware of these details before they vote on the Conference Report on H.R. 2400. I am confident that these explanations will be satisfactory to the Congress and that no Member will seek to delay, amend, recommit or defeat the Conference Report because they disagree with the intended expenditures described below.

I will identify these projects with the numbers as they appear in the House-passed version of H.R. 2400, as the Conference Report is not yet available.

In general, for high priority projects which the House Committee agreed to primarily at my request—Numbers 29, 38, 100, 110, 254, 279, 338, 366, 374, 471, 528, 593, 697, 706 in Section 127 and Numbers 67 and 145 in Section 333 the following rules apply: If the project is located within an unincorporated area of Los Angeles County or Ventura County, then the relevant county transportation agency should be considered the lead agency, unless otherwise identified below. If the project is located within an incorporated city of these counties, then the city agency which deals with transportation should be considered the lead agency. Many of these projects are deliberately described in the statute in a manner which gives the lead agency considerable discretion.

Project 29 provides funds to the City of Thousand Oaks for those of the following uses considered of highest priority by the City: general street improvements, repairs and resurfacing; construction of sound walls along SR23 in accordance with the priorities of the City's sound wall prioritization list; or contributions by the City to be used along with other available State or Federal funds to widen SR23, but only if funds otherwise available for that purpose are insufficient.

Projects 100, 338, 593, and 697 will provide for street improvements, repairs and resurfacing, and/or for the construction or improvement of bicycle paths, in Oak Park, CA, Westlake Village, CA, Calabasas, CA and Agoura Hills, CA, respectively. The individual projects will be selected by the applicable lead agency.

For Project 110 the lead agency is the City of Los Angeles. These funds are to be used in conjunction with the ongoing efforts to improve the business climates of the Canoga Park and Reseda communities of the City of Los Angeles.

For project 254 the lead agency is the Los Angeles City Department of Transportation. This project consists of the construction of a bikepath mostly along the Los Angeles County Metropolitan Transit Authority's right-of-way, commonly known as the Burbank-Chandler right-of-way. The bike path will connect the Sepulveda Basin Recreation Area with Pierce Community College.

For Project 366 the lead agency is the National Park Service (NPS). Funds are to be used for the creation of recreational trails (including the acquisition of parcels necessary for the right-of-way of each trail, and the physical construction of the trails themselves) in the Santa Monica Mountains National Recreation Area according to priorities established by the NPS, with the highest priority being the Backbone Trail. Funds to acquire the right-of-way for the Backbone Trail are included in a list presented by the Administration to the Appropriations Committees for the anticipated expenditure of $699 million appropriated in FY98 for high priority land acquisitions, etc. by the NPS and other federal agencies. In the extremely unlikely and unfortunate event that the funds ultimately provided from FY98 appropriations for purchasing the right-of-way of the Backbone Trail are insufficient, funds provided by Project 366 would be used for that purpose. In the expected circumstance that funds sufficient to purchase the right-of-way of the Backbone Trail are made available from funds appropriated for FY98 in the Interior Appropriation Bill, then $200,000 of the funds provided in Project 366 are available for the physical construction of the Backbone Trail on such right-of-way. In any event, after all necessary funding is secured for the completion of the Backbone Trail, the remaining funds provided for Project 366 are to be used for the creation of other recreational trails in the Santa Monica Mountains National Recreation Area selected by the NPS. Such trails could include the Upper Mulholland Trail, the Fering Trail, the Nicholas Flats-Charmlee Connector Trail, and the Stone Ridge Trail.

It is my hope that in addition to Project 366, additional funds for recreational trails in the Santa Monica Mountains will be included in the Conference Report, perhaps in a separate section detailing priority projects primarily authored by Senators. The cost of completing the important and worthy Recreational Trail projects (including right-of-way acquisitions) mentioned in the preceding paragraph exceeds $20 million. Accordingly, any and all funds provided from FY98 appropriations, and from the funds provided in H.R. 2400 for Project 366, and any funds provided in other provisions of H.R. 2400 for the creation of Recreational Trails in the Santa Monica Mountains, are not surplus or duplicative. Rather, all such moneys will be used by the NPS to create as many Recreational Trails in the Santa Monica Mountains National Recreation Area as funding from all sources will allow. The NPS is quite qualified to determine how the various other Recreational Trail Projects should be prioritized behind the #1 priority—the Backbone Trail. Finally it should be noted that most or all of the other trails the NPS would like to create in the Santa Monica Mountains National Recreation Area branch-off of, or connect with, the Backbone Trail.

For Project 528 the lead agency is the City of Malibu. Of the amount allocated for this project, $50,000 is to be used to construct a low frequency traffic alert radio station to serve those traveling in the Malibu area, particularly on the Pacific Coast Highway. The remaining funds are made available to plan, engineer and implement safety improvements, especially median barriers, on the Pacific Coast Highway in Malibu.

I also want to take this opportunity to urge the Conference Committee to fully fund the projects in other parts of Ventura County, particularly Project 1048 to widen SR23.

HONORING ARTHUR JOHNSON

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. BALDACCI. Mr. Speaker, I am deeply disappointed that legislative business in Washington prevents me from attending today's Maine Council on Economic Education Spring Symposium, and from having the opportunity to personally offer my appreciation for Arthur Johnson.

As a student at the University of Maine, I was privileged to get to know Professor Arthur Johnson, and his wife Emily. They were simply wonderful people, and I enjoyed spending time with them whenever possible.

I was fortunate to take a class with Professor Johnson on the History of Economics. It was an outstanding course, and I learned much. We all know the adage that those who do not learn from the past are doomed to repeat it. I assure you, in Professor Johnson's class, I learned.

Since being elected to Congress, I have put the lessons I learned in Arthur's classroom to good use. I am pleased to report that the Federal budget is now balanced, and in fact, we are anticipating a sizable surplus this year. I give Arthur Johnson a great deal of credit for that accomplishment?

Arthur has served Maine and the nation in so many ways. He was a legendary professor; was an outstanding President of the University, and had the foresight to found the Maine Council on Economic Education and numerous other organizations that are contributing to the vibrant future of our state and nation.

Arthur Johnson is a man of integrity, intellect, and respect. I am proud to count him among my friends, and to offer my thanks to him for his many contributions both to my life, and to the lives of all Mainers.

MANDATES INFORMATION ACT OF 1998

SPEECH OF

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3534) to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes:

Mr. GOODLING. Mr. Chairman, for far too long the interests of America's consumers, workers, and small business owners have been lost in the shuffle of impassioned pleas for more federal laws and regulations. Because of this, Congress has not shied away from imposing expensive federal mandates on the private sector while neglecting the economic repercussions. As a result, this practice only perpetuates the distance between those inside the beltway and those on Main Street.

I supported the Unfunded Mandates Act of 1995 because it has helped to build bridges of understanding between our layers of governments by ending federal mandates on state and local governments. It is now time to apply that same logic to the private sector.

I fully support the Mandates Information Act because it aims to extend the same accountability, currently afforded to state and local governments, to the private sector. The Mandates Information Act will force Congress to take a good look at how the legislation we consider will impact those whom it affects most. No longer should Congress to able to pass on mandates whose financial implications aren't fully considered. If the citizens in the private sector must be held accountable for complying with Federal law, Congress should be held accountable to the people affected by those laws.

INTRODUCTION OF THE DEATH TAX INFLATION ADJUSTMENT ACT

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. HERGER. Mr. Speaker, today I rise to announce the introduction of "The Death Tax Inflation Adjustment Act," legislation which would provide an annual cost-of-living adjustment for the unified credit—a major estate tax reduction tool—beginning in 2007.

Despite a tax system that discourages savings, many American families work hard to set aside a portion of their earnings because they hope to be able to leave something to their children. Not only are these lifelong savings subject to the death tax, however, but the value of the unified credit—a major death tax reduction tool—had, until recently, been seriously eroded by inflation.

As a result of the historic "Taxpayer Relief Act of 1997," the unified credit will now be increased from an effective exemption of $600,000 in 1998 to an effective exemption of $1,000,000 in 2006. Regrettably, while both the House—and Senate-passed versions of that landmark tax reduction package indexed this $1,000,000 exemption annually for inflation, this provision was dropped from the final conference report and was not enacted into law.

My Speaker, the legislation I am introducing today would simply provide for an annual cost-of living adjustment to the unified credit beginning in 2007. While many of us in Congress would like to eliminate the death tax entirely, I hope we can all at least agree that the value of this important benefit should never again be eaten away by inflation. The time to act is now. I would urge all of my colleagues to cosponsor "The Death Tax Inflation Adjustment Act."

LAWRENCE CENTRAL HIGH SCHOOL IS CENTRAL STATES WINNER IN WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION NATIONAL FINALS 1998

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. BURTON of Indiana. Mr. Speaker, Lawrence Central High School of Indianapolis competed in the 1998 National Finals of "We the People . . . The Citizen and the Constitution" contest in Washington, DC after winning the Indiana competition.

Lawrence Central students competed with more than 1,250 students representing 49 states and was the Central States winner. Their teacher was Drew Horvath and the list of students is as follows: Kari Amos, Robert Baker, Kari Buis, Julie Burton, Sheila Cardinal, Haley Carney, Mark Davis, Justin Gray, Amber Gross, Shawn Haislip, Kristen Halligan, Seth Higgins, Megan Iott, Les Jahnke, Kelly Khoury, Ted Kieffer, Justin Lane, Jolene McClusky, Joyce McCoy, Courtney Mills, Aaron Moberly, Galan Moore, Jon Owens, Chris Recktenwall, Eric Reissner, Kelly Richardson, Lisa Schubert, Tara Sheets, Jennifer Staresnick, and Shane White.

Congratulations to Mr. Horvath, who has sent previous Indiana winners to this competition, and to all of these outstanding students.

TRIBUTE TO HUGH AND MARY HIGLEY

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. STUPAK. Mr. Speaker, it gives me great honor today to call the nation's attention to a married couple, Hugh and Mary Higley, who live in my home town of Menominee, Michigan, and whose commitment to family and to community has earned them love, respect, admiration, and now, special recognition by their city.

Hugh, the eldest of the five children of Harvey and Alice Clifford Higley, was born in Detroit on March 18, 1918. In 1920 the Higley family moved to Menominee's twin city, Marinette, Wisconsin, where Hugh's father joined a local company new to the refrigeration business, the American Sulfur Company, known later by the more familiar name Ansul.

Mary, the second of the three children of Dr. William and Edith Jackman Jones, was born in Clifton, Arizona, on January 7, 1920. Two years later the Jones family moved to Menominee, where Mary's father opened an "ear, eyes, nose and throat" practice.

Hugh played basketball and golf at Marinette High School and in his senior year was editor of the school annual. He attended the University of Wisconsin, graduating with bachelor's degree in chemical engineering. He joined Ansul as a salesman. Mary graduated from Menominee High School in 1938 and attended the University of Arizona.

Hugh and Mary were married on June 21, 1941. World War II saw Hugh in service to his country, first as a civilian working for the Army's Ordinance Department in Milwaukee, and later as a Navy lieutenant in Florida and California, finally working in China Lake, a small desert community associated with aviation ordinance testing.

After the war Hugh and Mary returned to Menominee, where Hugh resumed his Ansul career. Here they would raise three sons, David, Hugh Jr. and William. Here Hugh would rise from salesman in Ansul's Chemical Division to Director of Corporate Customer Relations, Corporate Secretary, Vice President and General Manager of the Fire Equipment Division, and then to President of Ansul International. He retired from Ansul in January 1969.

In October 1969 Hugh and Mary purchased Interstate Welding Sales Corporation, which at the time had 17 employees, two locations and sales of less than $1 million. Hugh was eventually joined by his three sons in this new venture and new career, but continued to manage the day-to-day activities of the company through March 1988. Interstate now has facilities in eight northeastern Wisconsin and Upper Michigan cities, more than 200 employees and sales of nearly $50 million.

Through all these endeavors the couple always found time to give to their community. Let me list, Mr. Speaker, some of Hugh's areas of service: the Menominee Public School Board, the Menominee County Board of Commissioners and the board of the local DAR Boys & Girls Club. He was president of both the Menominee and Marinette chambers of commerce and he was an Elder, Trustee and Deacon of the First Presbyterian Church of Menominee. Among his other activities, Hugh was active with the Republican party, and was on the local harbor commission, the industrial park commission, the hospital board and the board of the First National Bank of Marinette.

Mary, while raising three boys, has served as an Elder, Deacon and president of the Women's Association of the First Presbyterian Church. Among other volunteer efforts, she was president of the local hospital auxiliary, a director of the local DAR youth club, and a member of the city's Cemetery Board.

A man like Hugh Higley with a wife like Mary could have been a success anywhere in the world. Even after Hugh's retirement from Ansul, he could have seized a business opportunity wherever he found one, but he chose to remain in the area and make his new venture, Interstate/Valweld, one of the region's great success stories.

Like their father, his sons Dave, Hugh and Bill could have taken their business acumen and their technical acumen and established themselves successfully anywhere, but those special traits they learned from their parents—the importance of family and the value of forging lasting ties to their hometown—have drawn them back.

Thus the town is blessed with another generation of Higley's, who are creating their own legacies of service to the community. There are no greater gifts a family give to its home town than wisdom, foresight, and quality business practices in its professional endeavors, and a lifetime of dedication and volunteerism to pubic service in its private efforts.

This is the heritage of this remarkable couple, Hugh and Mary Higley.

Mr. Speaker, the local community will seek to recognize these priceless gifts. May 29, 1998, has been proclaimed Mary and Hugh Higley Day in the city of Menominee. I invite my colleagues to join me, adding our voices in humble thanks for a lifetime of service.

GOOD LUCK, TIME SHARERS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. PAYNE. Mr. Speaker, earlier this year I had the distinct honor and pleasure of informing our colleagues of a magnificent task of some young people in my district. These young people were honored for performing the highest number of acts of kindness in the nation. Today, I would like to inform my fellow Member of Congress of the acts of twelve young people from East Orange, NJ. These fourth and fifth graders, the Community Problem Solving Team of the Quest Program of the John Howard, Jr. Unique School of Excellence, became aware of the fact that there are many people in the city who do not have enough resources to get adequate food and often go hungry. They decided to pool their resources and use their skills to supplement existing hunger agencies in the area.

They spent over 500 hours in volunteering their time to local soup kitchens and to SHARE of New Jersey, an agency which provides food to needy families at reduced costs. They also raised over $1,000 through candy sales, school dances, and bake sales. They used the proceeds to purchase almost 50 cases of non-perishable foods for local food panties as well as perishable foods for weekly soup kitchens.

Mr. Speaker, this project received first place in New Jersey in the junior division of the Community Problem Solving Component of the International Future Problem Solving Program. As such, the John Howard School Community Problem Solving Team, known as TIME SHARERS (Team Is Making Efforts to Stop Hunger All Round East Orange Really Soon), will represent New Jersey at the International Competition in Ann Arbor, Michigan, June 12–15, 1998. I would like to take this opportunity to wish them good lunch but more importantly, I want to thank each of them—Camia Bell, Brittani Carter, Daveena Colwell, Lynn Duck, Jawaan Finch, Lemar Gale, Myrtha Glaude, Barry Ishmael, Aniyah Jones, Savannah Segovia, Sophia Stewart and Jasmine Woodyard, and their coach and Quest teacher, Ms. Christine McAdams, for caring and being part of the solution to a big problem. They are all a good example of what everyone should be doing to make life for our fellow man, woman and child.

IN RECOGNITION OF CRYSTAL ANZALDI, INSPECTOR JOSE BERRI-TORRES AND AGENTS CÉSAR NIEVES AND ISMAEL CINTRÓN

HON. CARLOS A. ROMERO-BARCELÓ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. ROMERO-BARCELÓ. Mr. Speaker, on Wednesday morning, May 20, I had the honor of participating in the 1998 Congressional Breakfast organized by the National Center for Missing and Exploited Children to celebrate the winners of the Third Annual National Missing Children's Awards. I had been looking forward to this day and the opportunity to salute the three outstanding Interpol investigators from Puerto Rico whose diligent investigatory work led to the rescue of missing child, Crystal Anzaldi.

Crystal Anzaldi, her parents, Mr. and Mrs. Jeffrey Anzaldi, and her two sisters, traveled to Washington from Oregon, where they now live, to commemorate this important event. Crystal was just 14 months when she was abducted from her home in San Diego, California, in December of 1990. Crystal's parents searched for her for seven long years, until an amazing chain of events and clever investigative work, led to her being identified and recovered in San Juan, Puerto Rico.

Investigating a complaint alleging child abuse, Inspector Berríos of Interpol Puerto Rico discovered that Crystal's birth certificate was fraudulent. He researched her case thoroughly and carefully; contacting the National Center for Missing and Exploited Children's Web-site. He assigned Interpol Agents Ismael Cintrón and César Nieves to search the Center's database of photographs of missing and abducted children. The Agents were shocked when they recognized the unique smile of a 14-month old baby. It was Crystal, who was then eight years old. She was reunited with her biological family shortly thereafter.

By initiating the chain of events that led to Crystal's recovery—all three agents deserve to be commended for ending a long and painful search. Their intuition, optimism, determination and meticulous investigative work were critical towards the success in reuniting this family.

I also want to recognize the outstanding service to our society being performed by the National Center for Missing and Exploited Children and the many organizations, such as grassroots activists, police departments, and others throughout the nation whose commitment makes such a difference in the lives and well-being of all children. Adelante and Godspeed in your work on behalf of children and families in the Nation.

A BILL TO RESTORE EQUITY TO THE COLLECTION AND PAYMENT OF MOTOR FUEL TAXES ON NATIVE AMERICAN LANDS

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. LaHOOD. Mr. Speaker, today, I am introducing a bill that will help restore integrity and equity to the process of the collection and payment of motor fuel taxes on Native American lands. I am pleased to be able to introduce this bill with the support of 8 bipartisan cosponsors: Representative SANDLIN (D–TX), Representative ISTOOK (R–OK), Representative DANNER (D–MO), Representative BLUNT (R–MO), Representative COBURN (R–OK), Representative BILL BARRETT (R–NE), Representative DOC HASTINGS (R–WA), and Representative EHLER (R–MI).

Taxes placed on the sale of motor fuels directly supports the efforts of state and federal governments in building and repairing our nation's roads and bridges. In order for our states to play their role in our transportation system, they need to be sure that they are collecting *all* of their motor fuel taxes. Unfortunately, that is not currently the case. Currently, some Native American tribes do not always collect and remit gas tax receipts to the appropriate government. This practice has cost the states a significant amount of revenue that could have been used to improve roads and bridges. Lost revenue estimates for some states are in the millions. It is estimated that Oklahoma, alone, lost roughly $13 million in motor fuel tax receipts for FY '96. Many other states are also adversely affected, for example: Washington State, Oregon, Idaho, New Mexico, Kansas, Michigan, and New York.

The bill that I am introducing seeks to address this problem. It will prohibit the Secretary of Transportation from allocating funds for public lands highways on Indian lands and reservations unless either (a) the Indian tribe has entered into a written agreement with the state in which the highway is located that provides procedures for the payment and collection of motor fuel taxes that are sold to a non-Native American by a retail establishment that is located on such land, or (b) the Indian tribe refuses to enter into a written agreement and/but the allocation of funds is essential to the construction or maintenance of a highway or road that is a critical component of the National Highway System.

The primary aim of this plan is to ensure that non-Native Americans pay and are assessed the gas tax. This plan is not intended to infringe on tribal sovereignty, rather, it is meant to encourage the tribes to work cooperatively with the states in order to formulate a mutually-agreeable compact on the subject of motor fuel taxation. In addition, this bill does not address the issues of gambling or cigarette taxes—it focuses only on the collection and remission of motor fuel taxes.

This bill will yield numerous benefits. First, it would help ensure that states have adequate funds for road maintenance and construction. Second, it would end an inherent unfairness posed by the sale of tax-free fuel on Native American lands. And, third, it would preserve jobs and keep businesses open. Many purchasers of motor fuel, both gasoline and diesel, are likely to travel to Indian lands, because they know they can avoid paying state motor fuel taxes. And, the motive to do this can be great for many drivers. In fact, in some states, the tax on gasoline can be as high as 34 cent per gallon and 28 cents per gallon for diesel.

The sale of tax-free fuel poses serious concerns for retailers who must pay the tax and who are located within a reasonable distance of the Indian reservation, because the Native American retail establishments, by selling gas at a lower price (i.e., without the tax) have the potential to put countless numbers of establishments out of business. For example, avoiding the tax on diesel fuel for a typical truck with a 250 gallon tank could mean a savings of $70—a sufficiently large amount to justify a trucker traveling to Native American lands to refuel his or her truck. At the very least, a trucker could plan or time his, or her, routes to ensure that they purchase tax-free fuel on Native American lands.

I urge Members to consider the impacts caused by the non-collection and remission of motor fuel taxes on Native American lands and to cosponsor this legislation.

IN HONOR OF CHARLES SCHODOWSKI AND JOHN RINALDI

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor Charles "Big Chuck" Schodowski and "Li'l" John Rinaldi as they celebrate the twentieth anniversary of their television program, "The Big Chuck and Li'l John Show."

First launched in 1978, "The Big Chuck and Li'l John Show" has served as the vehicle to Cleveland's most beloved practitioners of broad comedy, providing late night laughs to generation after generation of Clevelanders. That the show continues to thrive in a competitive late night television landscape dominated by syndicated programming attests to the popularity of Big Chuck and Little John's crazy antics.

Charles Schodowski initially entered into Cleveland television as an engineer at WJW Channel 8 in 1960. By 1963, he was a writer and occasional, if nervous, actor on a popular show hosted by the legendary Ernie "Ghoulardi" Anderson. Big Chuck's problems with stage fright were apparently short lived, however. When Anderson left for Hollywood in 1966, the show's producers tabbed Big Chuck to co-host the show with popular Weatherman Bob Wells, who was known as "Hoolihan the Weatherman." "The Hoolihan and Big Chuck Show," which featured a movie interspersed with short skits performed before a live studio audience, enjoyed a successful run until Wells' retirement in 1977.

Making his debut as "Bridget the Midget," John Rinaldi became a regular contributor on "Hoolihan and Big Chuck." Li'l John then joined Big Chuck as a co-host of "The Big Chuck and Li'l John Show" in 1978. Today, "The Big Chuck and Li'l John Show," the recipient of numerous Local Emmy nominations, is one of the longest running shows in the country.

My fellow colleagues, join me in congratulating Big Chuck and Li'l John for twenty wild years of ridiculous blond wigs, coconut creme pies, and that distinctive laugh track that is instantly recognized throughout the city of Cleveland. Let us all hope that those laughs keep on coming for twenty years more.

MINNESOTA SMALL BUSINESS LEADERS RECOGNIZED

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. VENTO. Mr. Speaker, small business reflects the quintessential element of American creativity, innovation, and free enterprise within our nation's economy. America's 23 million small businesses employ over 50 percent of the private workforce and are the principal source of new jobs. Small businesses generate more than half of the nation's gross domestic product. We will recognize the contributions of our nation's small businesses during the week of May 31 to June 6 through ceremonies in Washington, D.C.

Prior to that national event, ceremonies will occur in our districts throughout the country. On Friday, May 29, I will be privileged to join with others gathered to honor Minnesota's leaders in the small business community, several of whom are constituents and friends.

Sue McCloskey has been named the 1998 Minnesota Small Business Person of the Year. This award, determined by the U.S. Small Business Administration, is based on sales growth, employer expansion, financial strength and response to adversity.

Sue, a personal friend of mine, is the president and founder of Office Plan, a remanufacturer of office furniture. Starting her business in 1991 with three partners and one employee, Sue currently employs 33 personnel and has an annual revenue of $4.5 million.

Office Plan buys outdated cubicles and work stations from businesses located throughout the country and refurbishes them on a made-to-order basis. Environmental sensitivity is a hallmark of Office Plan. Work fabric is recycled or sent out to be made into industrial rags, and recycled products and environmentally sensitive materials are used in production whenever possible.

Recently, Office Plan faced a major catastrophe. All of the firms computers were stolen and important business information such as clients, billing and orders had to be reconstructed. With Sue's determined leadership, this was accomplished with minimal disruption. Our states and community take great pride in Sue McCloskey's success and are pleased with this well deserved recognition.

Northland Organic Foods Corporation, under the leadership of Peter Shortridge, has been recognized as the Small Business Exporter of the Year. Northland specializes in exporting organic food including grain, soybeans, buck wheat and whole grains. Focusing on research, marketing initiatives, educational programs and customer service, Northland has opened new markets for U.S. businesses.

A positive benchmark for hallmark of the Northland Corporation has been its outreach to its customers. All staff members speak the language of the customers they work with and are knowledgeable about the respective cultures and business practices of the specific country to which they export.

Charles Jones, a Minnesota resident, employed with the U.S. Department of Veterans Affairs has been named the National Veterans Small Business Advocate. This award is presented to individuals who advance small business opportunities for military veterans.

Charles Jones is a vocational rehabilitation specialist. In that position, he helps disabled veterans to get the training and counseling needed to return to the world of work. Recognizing the potential for self-employment, Charles has worked with the Minnesota Small Business Development Centers to help disabled veterans to start a number of enterprises including: a gunsmith service, trucking, a restaurant and free-lance art. He obviously has worked very successfully to match a wide variety of business ventures to the interest of the vets.

Mr. Speaker, these are the recipients of this year's SBA awards. Thanks to their stewardship and dedication, the spirit of entrepreneurship is alive and flourishing in Minnesota. My congratulations to the award recipients and to all small businesses in the state of Minnesota.

HONORING JIMMY STURR AND HIS ORCHESTRA, NINE TIME GRAMMY AWARD WINNERS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, I take this opportunity today to honor Jimmy Sturr and His Orchestra, a musical group whose name in synonymous with polka music in America.

As a Member of Congress with a large Polish American constituency in Western and Central Massachusetts, I have learned firsthand from the people who I represent of this group's popularity and intergenerational appeal, and I am pleased to share their accomplishments with the House of Representatives today.

The rise in popularity of polka music in America is due in large part to the contributions of Jimmy Sturr and His Orchestra. Sturr's style of polka music embraces musicianship. This Americanized genre of polka music, which features the trumpet, saxophones and clarinets, is their trademark and is enjoyed by generations around the globe.

Having just recorded their 99th album, the excellence of their recordings has earned the group 9 Grammy Awards and 13 consecutive Grammy Nominations. The Broadcast Music Inc. (BMI) has awarded Jimmy Sturr its most valued award, the "Commendation of Excellence"—the only one ever awarded in the polka field. Voted the "Number One Polka Band in the Country" for the past ten years, their recordings have earned both "Album of the Year" and "Song of the Year" status in the polka music industry.

With his many successes, Jimmy Sturr still lives in the house where he grew up, and his office is located across the street from the high school he attended in the upstate village of Florida, New York which has a population of 1,800.

America is a melting pot that celebrates the richness of the cultures within its borders. Jimmy Sturr and His Orchestra bring this richness into our modern lives. As we dawn on the 21st Century, I take this unique opportunity to honor Jimmy Sturr and His Orchestra for their accomplishments. I look forward to learning of their many more accomplishments in the future.

SECOND ANNIVERSARY OF THE 1996 TELECOMMUNICATIONS ACT

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. BONIOR. Mr. Speaker, February 8, 1998 marked the second anniversary of the passage of the Telecommunications Act of 1996. Though the Act was signed with great fanfare, the promised competition and lower rates for consumers have been slow to materialize.

Delays through court appeals and what have become insurmountable regulatory hurdles for the Regional Bell Operating Companies (RBOCs) have cost millions of dollars and valuable time in giving customers more options through competition. With the passage of the Telecommunications Act, came the assurance of lower rates and greater choices through competition. Where is the competition? Where are the lower rates? Why aren't they here?

By significantly reforming regulations over the industry, the new law promised that competition would drive rates down, produce better services, higher quality and consumers would be given more options. Well after two years, it is about time that all the hard work put into passing the Act start to pay off. Constituents don't know what the fourteen point checklist entails. They don't know what a Sec. 271 application is or what forbearance means. Why should they? But, what they do know is that their rates aren't coming down. Their choices haven't changed. Now that has to change.

Mr. Speaker, it is time for the FCC and DOJ to remove the stumbling blocks to true competition. It is time to allow the Act to do what Congress intended for it to do, tear down the barriers to competition. Allow the industries to compete in each others' market. Allow consumers to have a say in who will provide their services. The time has come to focus on encouraging new services in new markets, rather than trying to protect the status quo.

IN HONOR OF THE REVEREND SYLVESTER THADDEUS GILLESPIE

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. DIXON. Mr. Speaker, I rise today to recognize the life and contributions of the Reverend Sylvester Thaddeus Gillespie as the Grace United Methodist Church prepares to honor his service to the congregation on July 13, 1998. So often we reserve our strongest accolades and expressions of love for persons after they have passed away. I would like to break with that tradition in honoring a great preacher of the Gospel, the shepherd of the flock that is Grace United Methodist Church.

Reverend Gillespie, born in Starkville, Mississippi, received his B.A. from Rust College in Holly Springs, Mississippi and his M.Div. from Gammon Theological Seminary in Atlanta, Georgia. He also attended the Command and General Staff College of the U.S. Army in Fort Leavenworth, Kansas. From 1975 to 1995 Reverend Gillespie served as a U.S. Army chaplain, retiring at the rank of Lieutenant Colonel. He was married to Barbara Bonney Gillespie, who passed away in 1994. Together they had two sons, Devokan and Damian.

In addition to serving as Army Chaplain, Reverend Gillespie has ministered to a number of congregations. These include Mt. Zion Methodist Church in Clearwater, Florida; John Wesley United Methodist Church in Fayetteville, North Carolina; and the Wesley United Methodist Church in Los Angeles, California. In June 1991, he was appointed by Bishop Roy I. Sano to pastor Grace United Methodist Church.

Not only in Reverend Gillespie loved by his congregation at Grace Island, he is admired and respected by many others. He is often requested as a guest speaker by churches in the Western North Carolina Conference of the United Methodist Church and for the Bishop Roy C. Nichols Preaching Series on Spiritual Renewal in Oakland, California. Just last year he received the Distinguished Leadership Citation for the development of a unique preaching/teaching ministry and church growth program from the Ebony Prophets of the California-Pacific Annual Conference of the United Methodist Church.

More than Reverend Gillespie's accomplishments as a minister, he is a compassionate man who always finds time to comfort and assist those in need. He makes monthly visits to serve communion to shut-ins, lifts the spirits and prays with the hospital-bound, even spends time with members of his past congregations.

Mr. Speaker, I ask my colleagues to join me in extending our appreciation for Reverend Gillespie's great works.

TRIBUTE TO FRANK SINATRA

HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mrs. BONO. Mr. Speaker, I rise today in order to commemorate one of the great Americans of our century, Mr. Francis "Frank" Albert Sinatra. At the same time I rise to express the sadness that has befallen Palm Springs, the Nation and around the world. He was the son of immigrant parents, an entertainer, a humanitarian, a husband and a father, as well as a long-time resident of California and the city of Palm Springs. We mourn because we have lost someone who embodied so many of the traits that we admire—talent, triumph over adversity, friendship and caring.

"Ole' Blue Eyes" was the best at his craft, and we shall always remember him for this. He overcame his Depression-era roots in Hoboken, New Jersey to set the standard of excellence in many fields. His professional accomplishments are numerous and of legendary proportion. He starred in more than sixty films and recorded countless albums. His extraordinary talents were acknowledged in many ways. He won the Academy Award for his role in the 1953 film classic, "From Here to Eternity." He won nine Grammy awards for his musical accomplishments. Certainly the most important reward for any performer is the love and respect he gets back from the audience. By the measure, Frank may have been the most successful entertainer in history. It was said that he had more than 2,000 fan clubs across the country.

People should also remember that he was devoted to numerous humanitarian and charitable causes, often without seeking the credit or publicity that he deserved. He lent his name as well as giving millions of dollars for a variety of very worthy causes including Desert Hospital, Catholic Charities and a Palm Springs celebrity golf tournament to help the victims of child abuse. In addition, one of the leading medical institutions of its kind is the Barbara Sinatra Children's Center which I am proud to say is located in and serves the Palm Springs and Desert Resort communities.

I was not a Member of Congress last year when this distinguished body voted to award him the Congressional Gold Medal. Nevertheless, I can attest that this was a fitting honor for a man of his high caliber. Now, as a Member, I wish to take this opportunity to send my deepest condolences to his wife Barbara, all of the children, and the entire Sinatra family at this most difficult time. Worldwide, the fans of one of the greatest entertainers of our time will carry memories of Frank with us always.

NAT BINGHAM, PACIFIC COAST VOYAGER

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Ms. PELOSI. Mr. Speaker, recently, I received the news that Nat Bingham, Habitat Director for the Pacific Coast Federation of Fishermen's Associations, had died in his Fort Bragg home. The loss of his life is a great loss for the many friends who knew and worked with Nat to protect threatened and endangered fisheries along our Pacific Coast. Nat's enthusiasm for his life's work was inspiring to all of us.

Nat was a most unusual human being. He was a fisherman who believed in sustainable fishing. Protecting fisheries from depletion were goals that led Nat to develop a program to restore winter run chinook salmon at a time when there was little awareness of what their loss in the wild might mean. Many times, I've heard Nat use the phrase: "This is a biological insurance program."

Nat was a bridge across troubled waters. He confronted forceful opposition in his work and he always responded with grace, goodwill and solid science to support his positions. His ability to bring harmony out of discord was well known. Anyone who is aware of the Pacific Coast salmon decline also realizes that there are no simple solutions to the complex problems facing a number of salmon species in our region. Nat always had a way of emphasizing the positive and seeking solutions that would nurture and sustain the resource he devoted his life to protecting.

We will always remember Nat—the sight of his tall figure entering the office—completely relaxed and always with a smile, and his indefatigable nature and lasting commitment to protecting Pacific Coast fisheries. My condolences to Nat's family—his son, Eli, and his daughter, Jalena—and to Nat's many good friends—Zeke Grader, Norman deVall, members of the Fleet—and scores of others who knew, respected and loved Nat Bingham.

In the tradition of his family, Nat was an explorer; his great grandfather, Hiram Bingham, discovered Machu Picchu. We were fortunate to have been on the same journey with this special man. Our best memorial to Nat will be realized in following through with his initiatives to encourage sustainable fishing and to restore Pacific Coast fisheries. It is up to us now to continue Nat's voyage and to bring success to his efforts.

A SPECIAL TRIBUTE TO KEVIN F. BURNS ON HIS OFFER TO ATTEND THE U.S. AIR FORCE ACADEMY IN COLORADO SPRINGS, CO

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to a truly outstanding young man from Ohio's Fifth Congressional District, Kevin F. Burns. Kevin was recently offered an appointment to attend the United States Air Force Academy in Colorado Springs, Colorado.

Very soon, Kevin, who is from Sandusky, Ohio will be graduating from St. Mary's Central Catholic High School, and preparing for one of the most challenging, educational, and rewarding experiences of his life: his four-year commitment at the Air Force Academy.

During his high school career at St. Mary's Central Catholic, Kevin excelled very well both academically and athletically. Through Kevin's dedicated efforts in the classroom, he attained a 3.3 grade point average. Kevin in a National Merit Scholar and has been placed in Who's Who Among American High School Students.

Kevin is also a very fine student-athlete. While at St. Mary's Kevin performed well on the fields of competition as a member of the Varsity Football Team and the Varsity Wrestling Team. Kevin has also made a strong commitment to community service with his participation in the St. Mary's Key Club.

Mr. Speaker, each year, I have the opportunity to nominate young men and women from my district to America's military academies. I am pleased that Kevin was among those offered appointments to join the United States Air Force Academy's Class of 2002. He is a gifted student and a fine young man. I would urge my colleagues to stand and join me in paying special tribute to Kevin Burns, and in wishing him well in the future.

INTRODUCTION OF THE DRUG-FREE PORTS ACT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. SHAW. Mr. Speaker, today I am introducing legislation entitled the "Drug-Free Ports Act." This bill allows local and state governments the ability to access Department of Justice information for the purpose of doing criminal background checks on port employees or applicants. I am introducing this bill at the formal request of the Broward County (Florida) Commission.

I am introducing this bill because of the high incidence of collusion between drug traffickers and port employees. These "internal conspiracies" are becoming a major avenue for bringing illegal drugs into the United States. To lessen the chance of future internal conspiracies, my bill would allow the local governing body the option to require port employees or applicants have clean records. The subject of this bill was discussed at length at a House National Security, International Affairs and Criminal Justice subcommittee hearing last July which I attended as an ex-officio member.

"Internal conspirators" are clever in the ways they help smugglers. They have been known to "innocently" swing a container in front of a surveillance camera in order to allow another container filled with drugs to pass through undetected. They also have been known to tip off smugglers regarding the routines of Customs officials to maximize the chance of success in bringing in contraband.

According to James Milford, a former head of the DEA in Miami, "Longshoremen are a source of frustration for us, particularly in South Florida. One of the things that concerns us is the ability of longshoremen to be utilized successfully in pulling cocaine shipments out of cargo and moving it out of the port with impunity."

In response to reports about internal conspiracies at Florida ports in the press, I requested that the Customs Service do a random sample of the arrest records of longshoremen at the Port of Miami and Port Everglades. The results were disturbing. Of a random sample of 50 Port of Miami longshoremen, 36 had arrest records. Of these 36 persons, they had a total of 213 arrests, including 68 drug arrests.

In a random sample of 38 Port Everglades longshoremen, 19 persons had arrest records. Of these 19 persons, they had a total of 73 arrests, including 14 drug arrests.

Consider the arrest records from the following three subjects:

Subject No. 1 from Port of Miami—arrested for robbery, assault and battery, carrying a concealed firearm, possession of a firearm by a convicted felon, aggravated assault, possession of heroin with intent to distribute, possession of cocaine with intent to sell, possession of heroin with intent to sell, grand theft, petty theft, uttering a forged instrument, forgery of a U.S. Treasury check, possession of cocaine, simple battery, aggravated battery, petty theft.

Subject No. 2 from Port of Miami—arrested for immigration violation, cocaine possession, marijuana possession, aggravated assault, battery, loitering and prowling, narcotic equipment possession, aggravated assault, possession of a firearm in the commission of a felony, resisting arrest, obstructing justice, aggravated battery, burglary, and cocaine possession within 1,000 feet of a school.

Subject No. 3 from Port Everglades—arrested for armed robbery, assault with intent to commit murder, breaking and entering, disorderly conduct, shoplifting, burglary, dealing in stolen property, possession of cocaine, sale of cocaine, domestic violence.

Mr. Speaker, since 1953, the Waterfront Commission of New York Harbor has been conducting criminal background checks on certain port employees, and their system has worked well. Considering the torrent of drugs and other contraband that moves in and out of our ports, I do not consider it unreasonable for a local government to require clean records for the people who work on the docks. For that reason, I urge my colleagues to support this needed legislation.

COLUMBIA UNIVERSITY SCHOOL OF SOCIAL WORK CENTENNIAL

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mrs. LOWEY. Mr. Speaker, I hereby offer congratulations to the Columbia University School of Social Work, the oldest social work training program in the nation, on the occasion of its Centennial. From its beginnings as a summer program organized by the Charity Organization Society of New York, the School of Social Work has had a long and distinguished history of pioneering research, informed advocacy and exceptional professional training.

Social workers have played key roles in every major social reform movement that has taken place in our nation—from settlement houses to labor reform, to the New Deal, to civil rights and voter registration. Many of the laws we take for granted today—Social Security, child labor restrictions, the minimum wage, the 40-hour work week, Medicare—came about because social workers saw injustice and helped to inspire the country to take action.

Throughout the 20th century, Columbia's faculty, students and alumni have worked tirelessly to address both the causes and symptoms of our most pressing social problems. National movements, such as the White House Conference on Children and the National Urban League, have emerged from projects undertaken by the School's faculty and administration in cooperation with professional and community organizations. The entire nation has benefited from the work of people like Eveline Burns (Social Security); Mitchell I. Ginsberg (Head Start); Richard Cloward (welfare rights and voter registration); Alfred Kahn and Sheila B. Kamerman (cross-national studies of social services) and David Fanshel (children in foster care).

As Columbia University School of Social Work, and the social work profession as a whole move into their second centuries, they will be challenged to respond to ongoing social changes and new social problems. Now more than ever, we will need well-trained and dedicated social workers to work with troubled children and families, organize communities for change, conduct cutting edge research, administer social programs, and alleviate society's most intractable problems.

It is with appreciation and admiration that I extend my best wishes to the Columbia University School of Social Work on its Centennial and look forward to its future achievements.

TRIBUTE TO SENATOR TERRY SANFORD

SPEECH OF

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1998

Mr. FROST. Mr. Speaker, it was with great regret that I learned of the death of my friend, Terry Sanford. During his illustrious career, Terry Sanford served as Governor of the State of North Carolina, a U.S. Senator, and President of Duke University.

I was lucky to know Terry personally, and to be able to call him a friend. In 1989, Terry Sanford and I traveled together to Budapest as part of the Interparliamentary Union. There, we worked to bring the tools of democracy to the newly formed parliaments in Eastern Europe.

When Terry Sanford became Governor in 1961, he faced a difficult time of racial unrest in this country. Governor Sanford proudly stood up to those who called for turning back the clock on race relations, and instead blazed a new trail for his state, and this country, in his commitment to equal rights for all.

As Duke President, he created the University we know today as a world leader in medicine, the arts, political science and the humanities. During his 16 year tenure, he took what was once a small southern University, and transformed it into one of the Nation's top ten schools. And still, his public service wasn't done, because in 1986, he served with distinction as a U.S. Senator.

His tenure as a Senator was a continuation of all that he had worked for during his entire career, fighting for public education and the improvement of his Nation.

It was an honor and a privilege for me to know Terry Sanford. Clearly, Terry's hard work and dedication to public service have improved the lives of all Americans, and he will be sorely missed.

LIMITING JURISDICTION OF FEDERAL COURTS WITH RESPECT TO PRISON RELEASE ORDERS

SPEECH OF

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

Mr. STUPAK. Mr. Speaker, I rise today to oppose H.R. 3718, a bill to limit the authority of federal judges to remedy inhumane prison conditions.

Under this bill, no individual convicted of a felony could be released from prison—or not admitted to a prison—by a federal court solely on the basis of prison conditions. In many instances, this bill would keep women prisoners who are sexually abused in the inhumane prison condition or keep mentally ill patients who are physically abused in an inhumane prison situation. It also means that the court would be prohibited from remedying Constitutional violations in prisons, including prisons so overcrowded that they violate the Eighth Amendment ban on "cruel and unusual punishment."

Another flawed aspect of this bill is the provision which terminates all ongoing consent decrees in prison condition cases, even those which do not involve prisoner release orders. A consent decree is a voluntary contract between two parties to end the active phase of litigation. This bill does not close the case—it simply prevents the states from negotiating a resolution of the case. In many of these cases, however, the state or local government wants to remain under the consent decree rather than expend resources litigating over conditions that are clearly unconstitutional. This bill forces states to litigate cases they don't want to litigate, and is an incredible breach of states' rights.

One of the decrees that would be terminated under this bill is one in my home state of Michigan. A consent decree was entered in Michigan to protect mentally ill prisoners who were routinely confined in isolation without mental health care. Several inmates committed suicide and engaged in self-mutilation, including two prisoners who cut off their penises. This legislation would end the Michigan decree, and force the state to enter into costly litigation in order to address a problem that has been solved by the consent decree.

Congress has no business dictating to states how they should resolve litigation involving state institutions. If a state has decided that a consent decree best meets the state's needs, Congress should stay out of it.

Mr. Speaker, this bill overreaches the bounds of the Constitution and violates the basic tenets of states' rights. It also makes it difficult for the court to remedy inhumane prison conditions, and I urge my colleagues to vote to defeat this misguided provision.

A BILL TO ELIMINATE AN UNWARRANTED TAX BENEFIT

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. ARCHER. Mr. Speaker, today, in coordination with the Treasury Department, I am introducing H.R. 3947, a bill to eliminate an unwarranted tax benefit which involves the liquidation of a Regulated Investment Company ("RIC") or Real Estate Investment Trust ("REIT"), where at least 80 percent of the liquidating RIC or REIT is owned by a single corporation. Identical legislation is being introduced in the Senate by Senator ROTH and Senator MOYNIHAN.

The RIC and REIT rules allow individual shareholders to invest in stock and securities (in the case of RICs) and real estate assets (in the case of REITs) with a single level of tax. The single level of tax is achieved by allowing RICs and REITs to deduct the dividends they pay to their shareholders.

Some corporations, however, have attempted to use the "dividends paid deduction" in combination with a separate rule that allows a corporate parent to receive property from an 80 percent subsidiary without tax when the subsidiary is liquidating. Taxpayers argue that the combination of these two rules permits income deducted by the RIC or REIT and paid to the parent corporation to be entirely tax-free during the period of liquidation of the RIC or REIT (which can extend over a period of years). The legislation is intended to eliminate this abusive application of these rules by requiring that amounts which are deductible dividends to the RIC or REIT are consistently treated as dividends by the corporate parent.

RICs and REITs are important investment vehicles, particularly for small investors. The RIC and REIT rules are designed to encourage investors to pool their resources and achieve the type of investment opportunities, subject to a single level of tax, that would otherwise be available only to a larger investor. This legislation will not affect the intended beneficiaries of the RIC and REIT rules.

The legislation applies to distributions on or after today. A technical explanation of the legislation is provided below.

The bill provides that any amount which a liquidating RIC or REIT may take as a deduction for dividends paid with respect to an otherwise tax-free distribution to an 80-percent corporate owner is includible in the income of the recipient corporation. The includible amount is treated as a dividend received from the RIC or REIT. The liquidating corporation may designate the amount treated as a dividend as a capital gain dividend or, in the case of a RIC, an exempt interest dividend or a dividend eligible for the 70-percent dividends received deduction, to the extent provided by the RIC or REIT provisions of the Code.

The bill does not otherwise change the tax treatment of the distribution under sections 332 or 337. Thus, for example, the liquidating corporation will not recognize gain (if any) on the liquidating distribution and the recipient corporation will hold the assets at a carryover basis.

The bill is effective for distributions on or after May 22, 1998, regardless of when the plan of liquidation was adopted.

No inference is intended regarding the treatment of such transactions under present law.

TRIBUTE TO MIDWOOD HIGH SCHOOL AT BROOKLYN COLLEGE

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. OWENS. Mr. Speaker, I rise today to pay tribute to the students, parents, and faculty of Midwood High School at Brooklyn College. On May 22, 1998, the United States Department of Education selected the school as one of 166 winners of the Blue Ribbon Award. These outstanding individuals have not been celebrated as sports heroes and entertainment celebrities; but a tradition of academic excellence has been established at Midwood High School. These students, parents and educators have tirelessly dedicated themselves to achieving academic excellence that is necessary to prepare our young people for the challenges of the next century.

Midwood High School at Brooklyn College, a secondary school of 4,000 students in Brooklyn, New York, is located in a middle class, urban environment. It is a model school of academic excellence within an integrated instructional setting. The student population consists of 43% African American students, 10% Latino students, 17% Asian students, and 30% students of other nationalities. Students wishing to attend Midwood High School may apply to one of three programs: the Medical Science Institute, the Humanities Program, and the Collegiate Program.

Mr. Speaker, I feel some degree of personal pride in this achievement. For the last five years I have been a guest of the annual Midwood Student Congress. At their Congress students debate issues and take votes. A bill to greatly increase taxes on tobacco won a narrow victory this year. This activity is just one more example of the comprehensive excellence of the program at Midwood.

During the 1986–87 school year, Midwood High School was named a School of Excellence by the United States Department of Education, In 1994, the school was also selected by Redbook Magazine as one of America's fifty outstanding high schools. Of the 1997 graduating class:

Ninety-eight percent of the students went to college.

Over seventy percent of the students earned Regents endorsed diplomas.

The school's SAT mean scores were significantly above the national mean.

The school was rated as one of the top fifty high schools in America by the College Board Advanced Placement Program.

Students were awarded $28 million in college scholarships.

For the fourth year in a row, Midwood ranked among the ten top schools in the nation in the Westinghouse Research Competition.

Sixty-four students were ranked Advanced Placement scholars by the College Board.

Two Midwood seniors were selected as National Merit finalists.

Ten Midwood students received commended status in the 1997 Achievement Program.

The National Council of Teachers of English presented a writing achievement award to a Midwood senior—the tenth year in a row that this prestigious award was presented to Midwood High School.

In the New York Academy of Science 1997 Science and Technology Expo, eight Midwood students received awards.

Ten students received awards in a science competition sponsored by the Rockefeller Foundation.

University students at Midwood High School are enriched in various ways by the academic and physical resources of Brooklyn College:

They are encouraged to enroll in courses at the college campus, if qualified.

They have the opportunity to use the college library.

They participate in appropriate college cultural and career programs.

They conduct research under the tutelage of college professors.

They take Midwood High School laboratory classes on the college campus.

They hear distinguished scholars from the college who visit Midwood as guest lecturers.

We must create an atmosphere where our students are inspired and given incentives to strive for excellence. I salute Midwood High School for their outstanding academic performance. Each student, teacher and parent is part of a process of creating an environment in America where education is exalted, where academics and intellectual activities are raised to a new level.

Midwood High School students are provided with a great Opportunity-To-Learn and they use it well. We salute Principal Lewis Frohlich and all of the teachers and students of Midwood High School.

IN HONOR OF WARWICK H. JENKINS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. FROST. Mr. Speaker, I rise today to honor Mr. Warwick H. Jenkins of Waxahachie, Texas, in celebration of his 50th anniversary as a licensed and practicing attorney.

Mr. Jenkins grew up in Waco, Texas, and attended college at Baylor University. When America entered World War II, he enlisted in the United States Army, left Baylor, and served his country in the European theater. Mr. Jenkins participated in the landing at Normandy, the Battle of the Bulge, and the crossing of the Rhine. He returned to Baylor after the war, and attended law school there on the G.I. Bill. Mr. Jenkins graduated from law school in 1948, and moved 64 miles north of Waco to Waxahachie in order to begin his practice. Mr. Jenkins is the founder and president of Jenkins & Jenkins, P.C.

Mr. Jenkins has also found time in his busy work schedule to become an active member of his community. He teaches Sunday school at the First Baptist Church, served as City Attorney for Waxahachie, and is a past president of the Chamber of Commerce and the Lions Club. He has also been active on all political levels, having served as Democratic County Chair and as a member of the State Democratic Executive Committee.

Mr. Jenkins is the father of four children, Jim, John, Laura, and Clay, and eight grandchildren.

My fellow colleagues, please join me and his family in recognizing Mr. Warwick H. Jenkins, an outstanding attorney and active member of his community.

100TH ANNIVERSARY OF EMMANUEL BAPTIST CHURCH, TOLEDO, OH

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Ms. KAPTUR. Mr. Speaker, I rise today to acknowledge the many contributions that Emmanuel Baptist Church has made to my district during the past 100 years of existence. Founded as the Oakwood Baptist Church in 1898 and merged with Heston Street Baptist Church in 1911, the congregation moved to its current location, on Laskey Road, in 1961. The Church established a school in 1967 and grew, grade by grade, until a new high school building was built in 1978. This school can now be proud of an enrollment over 400.

The Church ministers to community members of all ages; from a weekly club, AWANA, for preschool through sixth grade, to a part-time visitation pastor, Rev. Charles Vermilyea, who calls on those hospitalized or with special needs. Other ministries include Ladies Alone for widows, Shepherds Ministry for those mentally handicapped, and Campus Bible Fellowship for students at the University of Toledo. Their charity does not stop there, as 20% of the weekly offerings go to missionary endeavors.

The activities of the Church also extend far beyond the boundaries of my district. In fact, this Anniversary celebration began with plans to build a new auditorium for a mission church in Crato, Brazil. Dozens of parishioners traveled to Brazil to assist in the building of the auditorium.

The Emmanuel Baptist Church has been a meaningful part of our community for over 100 years, and we hope for just as many years to come. Let us offer prayer and honor to the members of Emmanuel Baptist Church just as they have offered prayer and honor to the members of our community for a century.

TRIBUTE TO MELVIN JACOBSON

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. STUPAK. Mr. Speaker, I'd like to take a moment to reflect on the meaning of volunteerism and community service as personified by an individual in my congressional district.

We've all met such people in our personal and professional lives, people who have made the act of giving of themselves almost second nature. We soon recognize them in our communities, even if we may not always know them personally, because we see them on one day cooking pancakes at a benefit breakfast, and perhaps on the next evening we may see them serving as an auxiliary traffic police officer at an event like a parade.

Gogebic County in the Upper Peninsula of Michigan is blessed with such a volunteer and community servant. Mr. V. Melvin Jacobson for half a century has dedicated himself to the 4–H program and the youth of the county. It was in fact 1948 when Melvin became president of the Gogebic County 4–H Council. From this leadership position, he would help the local 4–H launch a variety of valuable programs.

First, he played a major role in the establishment of the Gogebic Extension Camp at Little Girl's Point, which opened in 1950. He served as a leader in the establishment and operation of the 4–H Ski Hill on the George Mussatti farm in Bessemer. The ski hill opened in 1951 and was open every weekend through the early 1980's.

Melvin helped promote and organize many "Annual 4–H Winter Sports Days," and in his

18 years on the Gogebic County Fair Board he actively promoted many county fair activities, including coordinating the 4–H Parade.

Maybe most importantly in his 4–H work, Melvin has served as a positive and encouraging friend to the children involved with the Gogebic County 4–H program. I have it on good faith from a member of my own staff, a 4–Her from northern Michigan, that "Melly," as he was known, never failed to offer a warm, welcoming smile, a constant and an eagerly expected treat for those youth attending 4–H Camp or exhibiting their projects at the Gogebic County Fair.

Mr. Speaker, we know the face of this giving volunteer was bound to show up in other venues, as is the case with true volunteers, so it should be no surprise to learn Melvin also served as a Gogebic County Commissioner for 22 years. For the same amount of time he served on the Western U.P. Planning and Development Regional Commission and with the Gogebic-Ontonagon Community Action Agency.

Melvin was a member of the Gogebic County Airport Board for six years, a member of the UPCAP Executive Committee for 11 years, and he served on the Western U.P. District Health Board for 18 years. He was a liaison to the Michigan Townships Association for eight years. Melvin was active in dairy farm professional associations, and in other professionally-related efforts he was a part of the Agricultural Stabilization and Conservation Service for 30 years.

Repeated terms on the local Lutheran Church board and service as a Little League Counselor round out the valuable contributions made to the area families and the community.

It's no wonder that Mr. Jacobson was nominated for Governor George Romney Lifetime Achievement Community Service Award. Michigan's former governor served as an inspiration for volunteerism in the state before he became a national inspiration for last year's gathering in Philadelphia.

On May 30, 1998, V. Melvin Jacobson will be honored by friends and family at a 4–H Appreciation Banquet. I ask all my colleagues to join me in celebrating this lifetime of service to all the people of the western Upper Peninsula of Michigan, and to offer thanks on behalf of all those, children and adults, whose lives were enriched by this service.

MY VOICE IN OUR DEMOCRACY

HON. JOHN E. SUNUNU

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. SUNUNU. Mr. Speaker, I rise today to pay special tribute to Ashley Allyn, 16, of New Durham, New Hampshire. As a national winner of 1997–98 Veterans of Foreign Wars and Ladies Auxiliary "Voice of Democracy" broadcast script writing contest, Ashley concisely captures the importance of America's most basic freedoms in her well-written entry.

I hereby submit Ashley's work for publication in the CONGRESSIONAL RECORD and congratulate her for her thoughtful piece entitled "My Voice in our Democracy." Her words serve as a thoughtful reminder to all Americans that in a Democracy each voice does matter

[1997–1998 VFW Voice of Democracy Scholarship Competition]

MY VOICE IN OUR DEMOCRACY

(By Ashley Allyn)

"The doctor will see you now." That's something you might expect to hear if you've lost your voice. That is "voice"—defined in the dictionary as "sound made through the mouth, especially by human beings, as in talking, singing, etc."

But there is another sort of voice we need to be concerned about. Consulting the dictionary again, we find quite "the right to express one's wish, choice, opinion, or to make it prevail; as in, having a 'voice' in our government." We have all seen enough newspaper and television accounts of the tragic consequences in countries where the people have lost their voice.

My voice in our democracy started before I could even actually speak. Ours is a country with civil rights for all—no matter how young. I was protected by laws from the very beginning of my life. As I grew older, I was able to function within our democracy on a smaller scale—within my family, my peer group, and my school.

When I turn 18, my voice will grow louder, because I will be able to vote. But what about now? Under our Constitution, my rights as a citizen are protected. One of the most satisfying things about living in a democracy is knowing that I do have a voice. I have the right to free speech, the right to publish my feelings, the right to write my Congressmen, and the right to organize a group. Even children in elementary school have made their voices heard by launching a campaign addressing a concern. Anyone can make their voice heard by the leaders of this country—they must have to speak up. I can do it, too. With supporters behind any cause I choose, my voice will be heard in Washington.

Ha, you think. Congressmen don't listen. They're corrupt, they're not even real to me. Think again. Given an unusual chance most people could only dream about, I was able to meet our nation's senators, to work with them face to face, and get to know their personal quirks and mannerisms. I realized that they are just people like you and me. They're everyday people—but they're people who had the drive, the initiative, and the concern for their country to try to fix its problems. After that opportunity, I saw how important and valuable anyone's voice is and I realized that I wanted my voice to be heard.

Oh, I won't necessarily change the world at this stage of the game, but the knowledge that, in the very near future, that could be a real possibility is something that will direct my educational goals and my extracurricular activities.

As a high school student, there are many opportunities for me to voice my opinion. I can debate issues in class, I can attend government related activities such as Model Congress and Youth in Government, and I can campaign for political candidates. By showing my support for a candidate, whether it be at the town or national level, I am telling my neighbors, my community, and my country that I care about what laws are passed and which programs are funded. I can petition my school board if I feel a change needs to be made in my school. I can write my state senator about a problem that I feel needs to be addressed in my state. There are countless ways a teenager can tell the rest of the world that they notice, observe, and strive to change their own little corner. And as my corner grows, so do the changes I can make. And as my voice grows, so do the others behind it.

My voice will continue to be heard, at different levels, as my school years and community involvement continues. But in a democracy, it is reassuring to know that it will never be along. Others may be making different points, and even opposing points, but they will all be heard. And that, of course, is our fundamental strength—that here in America we will always have a chorus of voices.

TRIBUTE TO MATTHEW KENNEDY

HON. JOHN E. PETERSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. PETERSON of Pennsylvania. Mr. Speaker, I rise today to acknowledge the accomplishments of Matthew Kennedy who won a scholarship in the Veterans of Foreign Wars of the United States and its Ladies Auxiliary Voice of Democracy broadcast script writing contest. Matthew is the son of Glenn and Shirley Kennedy who are serving as missionaries in Taichung, Taiwan and was sponsored by VFW Post 727. As the Pacific Areas winner, he is the recipient of a $1,500 Silver Spring Memorial Post 2562 Scholarship Award. Competing with over 93,000 students, sixteen year old Matthew won one of the 54 national scholarships with his speech "My Voice in Our Democracy." I would like to insert his speech into the CONGRESSIONAL RECORD.

My voice in our democracy is as powerful as a sweeping tide, as far-reaching as thought, and as valuable as the wisdom of Solomon. Its power is recognized and protected by our Constitution, its potent influence is proven by our nation's history and by current events; its value makes it my duty to steward it carefully.

Did the Founding Fathers believe the voice of a single citizen holds power? Absolutely. They established the freedoms of religion, speech, press, assembly, and petition. They wove into our democracy the great principles of popular sovereignty, limited government, representative government, and majority rule balanced by minority rights. They enshrined the fundamental worth of each individual's voice and the equality of all voices. To the minds of the Founding Fathers, even these freedoms and rights were not enough; they established the Ninth Amendment which recognized other unenumerated rights of the people. Is my voice really so powerful as to be precious? The Framers of our nation apparently thought so; they protected it as the essential flame of democracy.

Try telling Robert E. Joiner one vote cannot make a difference. Less than twenty years ago he ran for the office of Southern District Highway Commissioner in Mississippi and won—by less than one ten-thousandth percent of the votes. Had his opponent garnered just six more votes, Joiner would have lost the election.

Just last April, Eugene Shoemaker won the seat of Orfordville, Illinois, village trustee by drawing from a hat. He and his opponent each earned one hundred popular votes. Had just one more villager voted, the election would have been decided by the people.

> As it was, the outcome was left completely to the fingers of chance.
>
> The vote of each American counts toward the election of local, state, and national leaders. Its effectiveness is directly proportionate to the frequency of its use. My voice, and the voice of every American, does not, however, die in the ballot box.
>
> Boycotts, like those instigated by the legendary Rosa Parks bus incident in Montgomery, Alabama, and citizens organizations, like those founded by the consumer advocate Ralph Nader, wield profound influence.
>
> Demonstrations spotlight the views in the sight of the public. On generating social reform, President Woodrow Wilson proclaimed this, "In order to clean house the one thing we need is a good broom. Initiatives and referendums are good brooms."
>
> My voice, and the voice of every American, is carried on the wings of peaceable assembly and petition; it influences those around me and even trumpets itself through my everyday actions.
>
> The worth of my voice, because of its power and effectiveness, is incalculable. To not exercise it is a foolish waste. Because our democracy provides many practical vehicles for my voice, and because our country's future truly depends on it, it is my duty to articulate it. Otherwise, I scorn the pragmatic provisions of our democracy; I become a parasite living off the nation's privileges without positive contribution to the nation; I toss aside my right to cry for change in society. Or as Edmund Burke put it, "The only thing necessary for the triumph of evil is for good men to do nothing." But when I vote, petition, write, speak, or act for the benefit of the nation I am, to the utmost, fulfilling my patriotic duty.
>
> To the cynic, my voice may be merely the frail peeping of one person among two-hundred-sixty million, but to Robert E. Joiner, Eugene Shoemaker, Rosa Parks, Ralph Nader, and to me it is the soaring shout of freedom. My voice is the very essence of our democracy. Multiplied several million times, my voice is the throbbing heart of America.

OUR LADY OF LOURDES ACADEMY IN MIAMI, FL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to pay tribute to an outstanding group of girls from Our Lady of Lourdes Academy who won second place at this year's national We the People competition.

These dedicated, remarkable girls spent countless of hours studying diligently to win the local and state tournament. Proudly representing the state of Florida this year in our national competition, these devoted 17 girls made evident their pride in our country's heritage and demonstrated their vast knowledge of U.S. history and of current events.

Great statesman Edward Everett mentioned that "Education is a better safeguard of liberty than a standing army." Mr. Speaker, education is indeed, a safeguard of liberty. Through education we are made free. These 17 girls have embodied the definition of liberty as they have edified on what our wondrous democratic nation has to offer. These students have learned to cherish the rights found in our constitution—the rights our founding fathers died for and for this I commend them today.

For winning second place this year, for the long nights and weekends spent in intense study and for the honor which they so greatly deserve, I ask my Congressional colleagues to join me today in congratulating the teacher Rosalee Heffernan and these high caliber students: Nina Bassil, Claudia Capriles, Alejandra Chamorro, Ana Del Cerro, Claudia Ferrer, Jennifer Garcia, Mariah Gidel, Miriann Guazzini, Annie Heffernan, Lauren Knickerbocker, Genevieve Koch, Monica Leal, Sabrina Munnings, Maria Ortega, Kristina Perez, Talia Romero, and Melissa Zurini.

A HISTORIC VOTE FOR PEACE

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Ms. McCARTHY of Missouri. Mr. Speaker, today the people throughout Ireland will make a historic vote for peace and progress. I would like to commend all of the leaders who have worked assiduously to reach this agreement to establish a political framework to reunite the people of Ireland.

For lasting peace to take hold in Northern Ireland, economic stability and growth must be achieved. The Republic of Ireland is often referred to as the "Celtic Tiger" because of the strides that its citizens have made in building their economy and in attracting foreign investment capital. The same pattern of growth and development as occurred in the Republic now needs to take hold in the North of Ireland.

Secretary of Commerce Richard Daley will lead a trade mission this June to promote economic development and private investment by U.S. firms. I support this initiative because long term stability is directly linked to economic prosperity. History has shown that the key to resolving longstanding tension is through economic expansion.

Mr. Speaker, today the people of Ireland are making a choice on whether they wish to move forward or return to the violence and the bloodshed of the past. This vote is an important step in the journey toward peace and trust. I commend the U.S. and foreign leaders who will make peace a reality by their work to encourage investment and growth in Northern Ireland.

JENNIFER'S LAW ACT OF 1997

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. LANTOS. Mr. Speaker, I rise today to recognize the brave efforts and profound hope of my constituents JoAnn and Carl Rock in the search of their missing son, Robert, and to urge support for the Jennifer's Law Act of 1997. H.R. 2850, which was introduced by my distinguished colleagues, Congressman JAY JOHNSON, Congressman NICK LAMPSON, and myself.

I urge my colleagues to help all parents who may be seeking to locate a missing daughter or son. Jennifer's Law is necessary to bring relief to families that face endless nights of not knowing where a loved one may be and what has happened to them. This legislation is a simple way of closing a terrible loophole with painful and needless consequences.

Mr. Speaker, Jennifer's Law will bring peace and relief to thousands of American families whose sons and daughters have disappeared and remain missing. Each year, thousands of unidentified bodies are buried in the United States. While law enforcement officials are required to report unidentified bodies, they are not required to use the already established national repository for information that may have criminal investigation importance, the National Crime Information Center (NCIC) of the Federal Bureau of Investigations.

In New York City alone, Mr. Speaker, over 4,000 unidentified persons are buried each year in mass graves in Potter's Field without NCIC references. The circumstances of this oversight are stark and real; thousands of unidentified bodies may be identified and long-awaited closure brought to their families across the United States through the usage of the NCIC.

Many of these unidentified persons who are found dead or murdered were only children when they disappeared from their families. Those children may be alive or dead anywhere in this country. Federal legislation must be enacted swiftly in order to address the nature of this terrible situation.

Mr. Speaker, in my home state of California, for instance, law enforcement officials are required to report unidentified bodies to the NCIC, but that is not enough for parents like Carl and JoAnn Rock because their son could be alive or dead in another state, even as far away as New York City's Potter's Field. Their tragic story demonstrates the need for comprehensive action, not a piece-meal solution.

Last fall, JoAnn Rock and other families who have also lost their children came to ask the help of their Representatives as part of a group called Finding Our Children Under Stress (FOCUS). Mr. Speaker, I do not believe that they made their trip in vain.

Mr. Speaker, I urge my colleagues to support Jennifer's Law. It costs nothing but it gives in return the priceless gift of human compassion. This bill is a clear, obvious way to remedy a confusing and terrifying situation.

Mr. Speaker, I want to share with my colleagues the experience of the Rock family in their own words. It is my hope that this story will inspire each of you to act upon their behalf and the behalf of thousands of families still searching for their missing loved ones.

> I cannot begin to put into words my feelings, profound sadness and sense of loss as a result of the disappearance of our son, Robert. Bob was our son, our daughter Kristin's brother, a grandson, nephew, cousin and friend. All the people who know and love Rob have had their lives changed forever. Almost three years have passed with not a single piece of information about Rob's whereabouts. As a Magna Cum Laude graduate of NYU he had wonderful plans and a promising future. Stricken with schizophrenia in 1995,

his life literally fell apart. A bout of hospitalizations, medications and depression left him and his family confused and anguished.

On May 3, 1995 Rob left his home to get lunch downtown. He has never been seen or heard from since. We live in a suspended state, fearing the worst, dealing with false leads and dashed hopes, facing each day asking "where is our son?"

When we reported to the Millbrae Police Department that Rob was missing, they were wonderful. Without hesitation they entered him into the NCIC (National Crime Information Center) system. Chief Parker has seen that the investigation goes on with special thanks to Officers Michael Grogin and Robb Lowe. "3 Children" of San Bruno, CA and Child Quest Int'l of San Jose were two agencies that reached out to help with a missing adult. There is no doubt that because of Rob's disappearance our level of awareness of the horrifying number of children and adults who are missing each year has changed dramatically. A child is reported missing every 40 seconds in this country. We don't even have statistics on missing adults.

Rob was 26 and an at-risk adult because of being afflicted with schizophrenia. He is so bright and talented but this disease has robbed him of his ability to deal rationally with the world. He feels himself to be responsible for every "evil" thing that happens on earth. Can you imagine having to face each day knowing you caused the Oklahoma bombing, the earthquake in Osaka, the war in Bosnia.

In his delusional state, Rob thinks his family is dead. We are very much alive and want to find our son. We found support and assistance immediately from other families of missing loved ones, and endless support from caring friends. Wanting to reach out to others I became involved as a founding member of a group called F.O.C.U.S. (Finding Our Children Under Stress). One of the first activities of our group came about when a horrifying bit of information surfaced related to one's search for a loved one. In this country we have a central repository of information available to law enforcement for listing missing and unidentified persons, the NCIC. Law enforcement must immediately list a missing child under the age of 18 into this system. Our population can easily move from state to state so this is so logical. However, states are not required to list adults nor are they required to report unidentified persons (alive or deceased) found in their jurisdiction, into this system. If our son died without any identification on him, has he been buried in a Potter's Field somewhere in this country, his identity forever lost? Mourning may never end, investigations may continue to go on, families grieve over cases that could be solved. As a result, under the encouragement of Congressman Lanto's office we have proposed federal legislation to rectify this, Jennifer's Law, HR 2850. In content simply—require states to report unidentified persons found in their jurisdiction into the NCIC in a prompt manner. Jennifer's Law would not only ease the suffering of families wanting to hear about missing loved ones, but could help solve other crimes as well. HR 2850 will ensure that no child or adult is buried as Jane or John Doe. It will assure that they keep their identities even into their deaths.

MANDATES INFORMATION ACT OF 1998

SPEECH OF

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3534) to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

Mr. STUPAK. Mr. Speaker, I rise today to oppose H.R. 3534, the Mandates Information Act of 1998. This misguided legislation would create a road block for many environmental, worker health and safety, and consumer-protection legislation the House may consider in the future.

H.R. 3534 allows a point of order against any bill or amendment if its direct costs to the private sector—either by way of regulatory costs or taxes—exceed $100 million.

The current unfunded mandates law—which I support and voted for in 1995—establishes a point of order against any bill that imposes net costs of more than $50 million to state or local governments. This law is designed to prevent Washington from passing on the cost of new laws and regulations to the states and local governments.

The Mandates Information Act, however, is more broad and would restrict more legislation. Under this bill, for example, any legislation that increases taxes on gasoline, airports or tobacco—which would be used for highway funding, airport construction, or reducing teen smoking—would be subject to a point of order. This bill would jeopardize the hard-fought BESTEA highway program, which includes $356 million more for my home state, and could stop the tobacco bill, which is being crafted with the intention of curbing teen smoking, from being considered when it reaches the floor.

Another problem with this legislation is that the implementation of the point of order provision is uneven and arbitrary. For example, if Congress decides to increase the tax on tobacco products in order to create new programs and incentives to stop children from smoking, the bill would be subject to a point of order. But, if Congress passes a tobacco tax, and decides to use the increased revenues to pay for a tax break for special interests, there would be no point of order. In both of these examples a mandate was imposed on the private sector, but in only one case is the point of order imposed.

I also find this bill unnecessary. The Unfunded Mandates Reform Act already requires the Congressional Budget Office to report the private sector costs of legislation to Congress. Additionally, an executive order exists which requires federal agencies to consider private sector costs when drafting and implementing regulations. Congress and the Administration is already addressing the need to consider mandates on the private sector.

Mr. Speaker, I support the objective of this legislation, which is to assure that Congress fully considers the mandates imposed on the private sector, but I disagree with the method this bill takes to achieve that goal. That bill creates an unnecessary obstacle for considering legislation and is implemented in an arbitrary way. I hope we can continue to work to assure that the cost of legislation on the private sector is considered, but urge my colleagues to reject this misguided bill.

TRIBUTE TO VICE ADMIRAL GEORGE R. STERNER

HON. NORMAN SISISKY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. SISISKY. Mr. Speaker, I rise today to recognize and honor Vice Admiral George R. Sterner, United States Navy, as he retires upon completing 36 years of faithful service to our Nation.

During his distinguished career, Vice Admiral Sterner played a significant role in reshaping the way America develops, acquires, modernizes and maintains its ships, ordnance and systems so that our Sailors and Marines at the tip of the spear have the best in the world at an affordable price.

Vice Admiral Sterner's career began in 1962 upon his commissioning as an Ensign in the United States Navy. During the years that followed, he served aboard four submarines, U.S.S. *Tullibee* (SSN 597), U.S.S. *Kamehamena* (SSBN 642), U.S.S. *Archerfish* (SSN 678), and U.S.S. *Henry L. Stimson* (SSBN 655), and commanded two others, the attack submarine U.S.S. *Sturgeon* (SSN 637) and the ballistic missile submarine U.S.S. *Florida* (SSBN 728).

Among his shore assignments was duty on the staff of the Commander in Chief, United States Atlantic Fleet; as branch head for submarine tactical weapons on the staff of the Chief of Naval Operations; Program Manager for Mark 48 Advance Capability Torpedo; and Program Executive Officer for Submarine Combat and Weapons Systems. He also served at Naval Sea Systems Command, first as Assistant Deputy Commander for Combat Systems Engineering and Technology and then as Vice Commander.

On April 25, 1994, Vice Admiral Sterner took charge of Naval Sea Systems Command, the largest of five Navy Systems Commands.

As Commander of Naval Sea Systems Command, his remarkable leadership refocused and re-energized the organization, which, due to downsizing and restructuring, was experiencing a transformation of a magnitude and impact that had not been experienced since World War II. Carefully executing a budget of about $14 billion annually and managing more than 180 acquisition programs, he has been an outstanding steward of taxpayer dollars, yet has also ensured we have the technically-superb, world-class ships, ordnance and systems needed to protect our national interests.

As testament to his dynamic leadership, the National Performance Review chose to honor him and his command with 27 Hammer Awards for contributions to create a government that works better and costs less.

Closer to home, Vice Admiral Sterner has been a good friend to the men and women of Virginia who make their livelihood at the Norfolk Naval Shipyard. Thanks in part to his insightful planning, the Shipyard will retain its important military-industrial capabilities and continue to provide jobs for decades to come.

Vice Admiral George Sterner's innovation and vision positioned Naval Sea Systems Command for the 21st century and beyond. He is an individual of uncommon character, and his superb leadership and service will be sincerely missed. Mr. Speaker, I am proud to be able to recognize him today and thank him for his honorable service in the United States Navy, and wish him "fair winds and following seas" as he brings to a close his distinguished career.

IN HONOR OF THE PENNSYLVANIA FREE ENTERPRISE WEEK

HON. JOHN E. PETERSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. PETERSON of Pennsylvania. Mr. Speaker, I rise today to join the citizens of Pennsylvania to pay special tribute to the Foundation for Free Enterprise Education which this year is celebrating the 20th Anniversary of Pennsylvania Free Enterprise Week.

Pennsylvania Free Enterprise Week is a seven-day economic education program providing Pennsylvania high school students and teachers at all levels, a practical, in-depth course on the American system of private enterprise and the operations of a free market. Over 1,100 students and teachers will join together with more than 200 Pennsylvania businessmen and businesswomen in order to experience and explore the challenge of healthy competition through a business management simulation, to hear top leaders in Pennsylvania business and government speak on the issues facing American business and industry, and, to participate in a series of specially formulated projects designed to acquaint them with the inner workings of a modern-day business.

Pennsylvania Free Enterprise Week is celebrating its more than 12,000 graduates representing more than 900 high schools in every county of this Commonwealth who have returned to their schools and communities with a vastly improved understanding of the world of business.

Pennsylvania Free Enterprise Week is now recognized as the largest, most successful economic education program of its kind in the world. Pennsylvania Free Enterprise Week has now attained both national and international acclamation by its receipt of the 1987 National Award for Excellence in Economic Education from the Freedom's Foundation in Valley Forge, by being instrumental in starting similar programs in twenty-seven other states as well as in the country of New Zealand, by hosting students from the countries of Puerto Rico, Mexico and Russia and by serving as hosts in 1994 to a contingent of business people from Australia, seeking to pattern a program after Pennsylvania's.

I applaud Pennsylvania Free Enterprise Week which continues to fulfill its mission of providing the highest quality economic education to the youth and educators of Pennsylvania, thereby insuring a brighter future for the Commonwealth.

TRIBUTE TO THE HON. S. SUE SHEAR

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to pay tribute to the Honorable S. Sue Shear, a Representative from the 83rd Legislative District. She is currently serving her 13th term in the Missouri House of Representatives. Her district takes in all or part of six communities: Clayton, Ladue, Olivette, Creve Coeur, Overland and University City.

Representative Shear has spent the last 26 years fighting for the rights of women, bettering conditions for Missouri's children, older adults, the disabled, health care in general and working to improve the conditions in Missouri's prisons. She sponsored numerous measures reflecting her commitment to the environment, working people, and consumers. She was the original author of the award winning "Parents as Teachers" program, first established in Missouri and now a national model. One of the battles not won was for the Equal Rights Amendment of which she was the original sponsor and for which she became the symbol for women across the state. Susie has also become an icon; treated with respect and affection by fellow legislators, especially women colleagues who have dubbed her "the mother of us all." The Missouri house honored her at the close of its current session with a renewed commitment to women's equality in her honor.

Susie was born March 17, 1918. Now the senior woman in the House of Representatives, Susie recently celebrated her 80th birthday. She married the late Harry D. Shear and they had three children: M. Katherine, a psychiatrist; Kenneth R., a lawyer; and Kerry R., an art historian. Ken wrote a letter to her on her 75th birthday in which he said: "Going to Jeff City with you last month brought home to me just what an accomplishment you have made, without a college degree, without a law degree, to have forged yourself a role as one of the leaders of state government. The way I see it, you created a situation in which you had the role of being a leading spokeswoman for feminist and liberal causes, before you quite knew how to fill the role. And then you grew into it. A neat trick."

Perhaps Susie's greatest legacy is her clear commitment to stand firm in her beliefs. For this and many of her attributes, Women in Public Life at the University of Missouri-St. Louis will aptly bear her name. She has inspired, nurtured, and taught many women the skills they need to make their way in the world.

I am very fortunate to have served with her for 18 years in the Missouri General Assembly. I unabashedly called her "Mom." She was the mother I needed as I made my way as a young woman through the trials and tribulations of public service. In her Darwinian function, she gave birth to me in the political arena, set standards she expected me to meet, and shoved me out of the nest to become a member of Congress.

Susie is retiring this year after serving 26 years in the Missouri House. Her children and grandchildren are to be commended for their generosity in sharing her with the broader community, our state and nation. The world is a better place for her life of public service. Thank you, Mom, for teaching me the joy of giving back to society.

TEEN PREGNANCY PREVENTION MONTH

HON. DONNA M. CHRISTIAN-GREEN

OF VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise to join my colleagues to take advantage of the fact that this is Teen Pregnancy Prevention Month to speak about this important and far reaching problem in my community and many others across this nation, and to thank my colleagues Ms. CLAYTON and Mrs. MORELLA for their leadership in calling this evening's special order.

According to statistical data provided by the Virgin Islands Department of Health, Bureau of Vital Statistics and other sources, the incidence of sexual activity among the adolescent and young adult populations in the Territory is very high. Within a five year period from 1992–1996 there were 11,810 live births recorded in the Virgin Islands. Of those births, 25.7% were born to white non-Hispanic mothers ages 13–24 years of age; 44.3% to black, non-Hispanic mothers and 50.3% to Hispanic mothers in the same age group.

Additionally, information provided by the national campaign to prevent teen pregnancy showed that birth rates for Virgin Islands teenagers ages 15–19 in 1995, though down from 1991 figures of 77.9%, were still at a very high 63%. But there is another distressing message underlying these statistics which cannot be overlooked; that is that our teens are having unprotected sex.

As these numbers indicate the incidence of teenage pregnancy is declining, albeit slowly, and my community, as well as all other communities need to view this issue not only as a problem of young people having children before they are mature enough to accept and carry out the responsibilities of parenting, but as but a symptom of larger, much deeper issues of the poor and unhealthy socio-economic environment which creates and fosters this and other problems in minority youth.

The best teen pregnancy prevention program would be to pass much of the Democratic agenda. Let's rebuild and construct new schools, hire and train more teachers, and improve our public educational system.

Let's create more opportunities for a college education, jobs, business and home ownership. Let's fully fund our health care proposals.

I have developed and worked in programs and clinics which serve pregnant teens.

Too often we miss the opportunity to prevent second pregnancies, but a comprehensive program, which provides all of the supportive services, and which includes counseling, esteem building, and coordination with the schools the young parents attend is very effective.

We also have to effectively and firmly deal with the older men who prey on our young women and are most often the fathers of the children they bear.

Most of all, parents cannot abandon their children once they have made this first mistake. That has proven to be the most important factor in how well we prevent the next pregnancy and whether the young woman returns to school and continues to pursue an education and career.

But it is the best interests of all—mother, child and community—that we help our children to delay pregnancy and the duties of parenthood, so that they themselves can continue to grow and develop and deal effectively with the many difficult issues of adolescence. This is necessary to provide healthy and productive adults. Furthermore, the children of adolescents are generally being raised by persons who are children themselves, without the benefit of the extended families of years past. They just don't have the parenting skills or the tolerance with maturity, and the children they raise demonstrate these deficiencies.

Therefore, what we need to do is to fix our neighborhoods, provide a good public educational system, to make sure that there are comprehensive health facilities which are accessible to the entire family, and to open up opportunities for self-fulfillment other than parenthood. For many of our youngsters, there is nothing else, and that is our fault, not theirs.

PROBLEMS WITH THE FREEDOM FROM GOVERNMENT COMPETITION ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. VENTO. Mr. Speaker, I rise today in opposition to H.R. 716. Simply put, this legislation states the Government's role and service function is for sale. The current draft, which was the subject of a joint House-Senate hearing on May 24, would replace the Office of Management and Budget (OMB) Circular A–76 Cost Comparison study. This detailed review process is the current system for competing and comparing commercial services between federal employees and contractor employees. The revised H.R. 716 turns out less objective and more ideological. Furthermore, this new policy provides a bias toward contracting out and would place the Government's role and service function up for bid over a 5 year period.

Currently, the federal government contracts out $110 billion annually. Under the policy of H.R. 716, the absence of sound Cost Comparison studies would allow private contractors to receive work without competing against federal workers. This simply results in a loss of federal employee jobs and questionable cost savings for taxpayers. What kind of message does Congress relay to a hard working federal workforce in our Districts and across the nation after their outstanding participation in the Vice President's reinventing government program? We should provide adequate resources and tools necessary to our valued federal employees.

H.R. 716 has three flaws:

(1) This legislation would replace the OMB Circular A–76 Cost Comparison study in favor of a pro-contractor system. Currently, federal employees regularly lose the competitions conducted under the OMB Circular A–76. Only a few years ago, federal employees lost approximately 70% of all contracts. Thanks to the continuing efforts of federal employees to reinvent themselves, they now win one-half of the public-private competitions. This dramatic change in fortunes for the contractors has inspired this recent legislative effort to do away with the OMB Circular A–76.

(2) This legislation would make public-private competitions subject to work which is inherently governmental. H.R. 716 would allow contractors to protest agencies' decisions to keep work in-house. In addition, this bill would allow contractors to challenge agency awards in federal claims court. As might be expected, federal employees would be forbidden from both challenging agencies' decisions about what is inherently governmental and would be bullied by the threat of costly and protracted litigation into contracting out as much work as possible. Decisions about awards and what is inherently governmental should continue to be made by department officials who are most familiar with the services actually provided.

(3) This legislation would mandate public-private competitions under a pro-contractor successor to the Cost Comparison study regardless of how well federal employees are actually performing their jobs.

After 12 years of Reagan-Bush political appointees, who largely disdained the public sector and racked up the largest service contracting out bills in the nation's history, it is difficult to argue that the reason more work has not been contracted out is to protect federal employees. Federal employees consistently and efficiently deliver the needs of service department customers at the prices taxpayers can afford. If federal employees are performing satisfactorily, then there is no need to impose public-private competitions.

Finally, the savings generated from this disruptive system of competitions would be short-lived and could very well disappear soon thereafter. Work contracted out is unlikely to ever be brought back in house because of the expense of recapitalizing in house capability and reassembling and retraining the necessary staff.

Moreover, this legislation fails to address several very serious problems:

Arbitrary personnel ceilings are already forcing work to be contracted out. Federal agencies do not have enough employees, so they simply contract out the work without any public-private cost comparisons. The size of the federal workforce has been dramatically reduced. Ironically, the American people have not been told federal employees are being replaced with contractor employees, often at greater expense.

Champions of contracting out say that private sector firms generate savings for taxpayers by devising more efficient ways of delivering services. However, some contracting out is done to devise better ways of delivering services and reducing their incentive to provide substandard wages and benefits. Today, the economy is booming and the Congressional Budget Office (CBO) projects a budget surplus between $48 and $68 billion. However, income distribution grows worse and worse. How can the federal government justify replacing workers and middle class Americans with poorly paid, contingent workers?

Mr. Speaker, H.R. 716 is a pro-contractor bill that simply states the Government is for sale. Therefore, I urge my Colleagues to oppose this radical measure.

AIDS AWARENESS DAY IN SANTA BARBARA COUNTY

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mrs. CAPPS. Mr. Speaker, I rise to recognize June 5th, 1998 as "AIDS Awareness Day" in Santa Barbara County. I particularly want to honor the over three thousand bicycle riders participating in the 1998 "AIDS Ride" from San Francisco to Los Angeles.

This outstanding effort runs directly through my district. In the city of Santa Barbara, the ride attracts thousands of well-wishers, bringing much-needed awareness to this deadly disease. It is the result of thousands of hours of work, and the desire of thousands of individuals to improve treatment and find a cure for AIDS.

It is currently estimated that by the year 2000, 26.6 million people in the world could be living with the AIDS virus. We must do all we possibly can to encourage steps that both educate people about the disease, and help those who have been affected with it. Recognizing June 15th, 1998 as "AIDS Awareness Day" in Santa Barbara County is a way we can help recognize all the brave people involved in this noble effort.

RESOLUTION EXPRESSING THE SENSE OF THE CONGRESS ON TIBET

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. BERMAN. Mr. Speaker, I rise to introduce with Mr. PORTER, Ms. MALONEY, Mr. PAYNE, Mr. ABERCROMBIE, Mr. LANTOS, Mr. ROHRABACHER, Mrs. LOWEY, Mr. GILMAN, Mr. WOLF, Mr. COX, Mr. SMITH, Ms. LOFGREN, Mr. KENNEDY (MA), and Ms. PELOSI, a House Concurrent Resolution expressing the sense of the Congress concerning the December 1997 report on Tibet of the International Commission of Jurists and on United States policy on Tibet.

This resolution reflects our serious concern for the plight of the Tibetan people and our strong support for the Dalai Lama's efforts to enter into serious discussions with the Chinese leadership on the future of Tibet.

The resolution cites a recent and comprehensive report by the International Committee of Jurists entitled "Tibet: Human Rights and the Rule of Law." It is the fourth report on Tibet by this distinguished body since 1959 and their first since 1964. The December 1997 report was inspired by the situation in Tibet that by all credible accounts, including the Department of State, remains unsettled and in many ways has grown more desperate.

I understand that Tibet, and more specifically the dialogue between the Dalai Lama and the Chinese leadership, is to be an important issue during the upcoming visit of President Clinton to Beijing. I hope that progress on Tibet will be made at the summit and this resolution is an effort to encourage that progress. Secretary Albright presented a strong case for progress on the dialogue in the summit preparatory meetings she held in Beijing earlier this month.

This resolution is a sign of support by the Congress for the Administration's efforts to encourage a dialogue between the Dalai Lama and Chinese leaders and a signal to Beijing that a positive response from President Jiang to the Administration's proposal would be welcomed by the Congress. It is appropriate that the Congress which has been in the forefront of support for the Tibetan people should go on the record in support of the Administration's summit agenda in regard to Tibet. Positive action by the Chinese would go far to demonstrate to the Congress that a policy of engagement with China is productive and important.

Finally, I would like to draw the House's attention to the continuing detention of Gendun Choekyi Nyima. Three years ago this month, the Dalai Lama announced the recognition of this young boy, then only six, as the Panchen Lama of Tibet. Within days, this child disappeared from his home. It was not until a year later that the Chinese Ambassador to Geneva admitted to a meeting of the United Nations Committee on the Rights of the Child that Gendun Choekyi Nyima was under the "protection" of the Chinese government. Repeated requests from governments and private humanitarian organizations to meet with the boy have been denied. No one knows where he is nor the conditions under which he lives. It is unconscionable that in today's world a young child, now nine years old, has apparently become a pawn in Beijing's political efforts to control Tibet.

I urge my colleagues to join me in introducing this resolution which calls for the release of Gendun Choekyi Nyima, the 11th Panchen Lama of Tibet, and for a dialogue between the Dalai Lama and Chinese authorities.

100TH ANNIVERSARY OF THE BROOKS SCHOOL

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. MARKEY. Mr. Speaker, I rise today to recognize The Brooks School in Medford, Massachusetts in the celebration of its 100th Anniversary. During its century-long presence in the Medford community, The Brooks School has set innovative standards in excellence and diversity in public education through its programs of intellectual, physical, and social development of children.

On May 30, 1998, The Brooks School will be holding a public celebration to honor its rich history of instruction and service to the young people of Medford. The undying commitment of The Brooks School to excellence in diverse public education should serve as an inspiration to us all.

I congratulate the students, alumni, and faculty of The Brooks School for perpetuating effective education in the Medford community, and I wish them continued success in the future.

TRIBUTE TO OUR VETERANS

HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. ADERHOLT. Mr. Speaker, I am proud of the many Veterans who live in north Alabama, and of the many men and women who are currently serving in the armed forces.

I am honored to be a guest Saturday of The Gadsden-Etowah Patriots Association, who are currently raising funds for a new outdoor museum. This museum will be a valuable addition, a way of celebrating the American way of life and the blessings of being part of a community. It is also a means of teaching young people that the freedom we enjoy has come at a price.

I commend the President of the association, Andy Chaffin, and the members whose teamwork is making this memorial a reality.

Memorial Day brings to mind the opportunity to lay flowers at monuments and at graves. It is also, however, an opportunity to thank veterans who are still with us, such as General Clarence Rhea, Congressional Medal of Honor winner Olan Mize, and State of Alabama Veterans Association Representative Rick Vaughn.

Although the date and location of the first Memorial Day is disputed, I am just grateful each year for the opportunity to pause and reflect on the gift of freedom bestowed upon us by our veterans.

INTRODUCTION OF THE HUMAN SERVICES AMENDMENTS OF 1998

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. MARTINEZ. Mr. Speaker, on May 14, I introduced the Human Services Amendments of 1998. This legislation will reauthorize and strengthen the Head Start, Low-Income Home Energy Assistance (LIHEAP) and Community Service Block Grant (CSBG) programs. When Congress last reauthorized these programs in 1994 it was the product of true bipartisan negotiations. I strongly believe that this bill is one which can capture the same bipartisan spirit.

The last reauthorization cycle produced major successful structural changes in these programs, eliminating the current need for an expansive rewrite of each statute. Presently these programs are working well and do not need significant modification. Instead of implementing wholesale change, this legislation builds upon the positive changes made in 1994 allowing the good work presently being done to continue.

Title I of the bill amends the Head Start Program. This legislation will refine Head Start's focus in two major areas—improving the transition of children from Head Start programs to school by strengthening the coordination between Head Start programs and schools and increasing the financial resources available and access to Early Head Start programs. The bill would increase the setaside for Early Head Start to 10%, with the stipulation that funds not be taken from current Head Start programs. The legislation would also allow expansion grants to be used by existing Head Start grantees to expand service to the Early Head Start population. Significant research has shown the importance of brain development in young children and an increased focus on intervening in a young child's life during the most sensitive of years is vitally important.

In improving the transition of children from Head Start programs to school, the bill would also require Head Start programs to coordinate services with the educational services of the local education agency projected to serve the children enrolled in their programs. The legislation would also require that the Secretary, in considering the expansion of Head Start programs, to consider the extent to which Head Start programs will coordinate services with local education agencies. Both of these provisions will ensure that the educational experiences and cognitive development gained by children in Head Start programs are not lost when they progress through school.

In addition, the bill improves the access of children with disabilities to quality programs and ensures that Head start programs maximize their enrollment and resources and increase flexibility to deal with the transition of families from welfare to work by allowing the Secretary to permit up to 25% of enrollees in a Head Start program to be from families with incomes above the poverty line.

Title II of the bill amends LIHEAP. This legislation will maintain LIHEAP's focus on serving low-income individuals with the highest proportion of energy expenses. In addition, this bill reinforces that weatherization and energy-related home repair should be directed to low-income households, particularly those households with the lowest incomes and the highest proportion of household income for home energy. With this increased targeted emphasis on the poorest of our poor, the weatherization portion of LIHEAP will truly help those most in need.

Title III of the bill amends CSBG. Similar to the other two programs, a significant rewrite is not necessary, but the legislation does make several changes designed to improve the program. The bill raises the authorization level of the program by over $100 million to $650 million in FY 1999 and such sums in FYs 2000–

2002. This will ensure that the significant increases in appropriations which this program has received in the last few years can be repeated. Also, the bill would give preference to private, non-profit organizations should an existing entity running a local program authorized under the statute terminate. In addition, this legislation would provide that CSBG carryover funds are reprogrammed at the local level. For each of the last three years similar language has been attached to the Labor-HHS Appropriations bill requiring this provision. Lastly, the measure would allow local community action agencies to offer services to improve literacy in the community. This would be a new activity for local community action agencies to address the illiteracy—one of the most pressing problems and indicators of poverty in our nation today.

In closing, Mr. Speaker, I would like to stress that I believe this legislation is the beginning of another historic bipartisan effort to reauthorize and strengthen these programs. I urge all members of Congress to join me is supporting this legislation and to support the bill which will be the eventual product of our joint bipartisan discussions.

RACIAL INTOLERANCE IN THE CZECH REPUBLIC

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to express my profound alarm at the further deterioration of the situation for minorities in the Czech Republic. Since the Velvet Revolution, that country has witnessed violent and sometimes deadly attacks against minorities—a pattern of violence which is not being addressed by the Czech Government.

Let me describe the most recent examples of this unchecked wave of brutality. On May 7, an Algerian in a Prague subway station was stabbed by skinheads; the next day, two Indians were also attacked by skinheads in a subway station in Prague. On the night of May 16–17, a Rom was beaten by skinheads and left on a road, where he was subsequently hit and killed by a truck. And last week, local officials in two different Czech cities—Pilsen and Usti nad Labem—announced plans to build ghettos. In Usti nad Labem, authorities stated outright that they plan to build a 15-foot-high wall around Roma apartment buildings. Pilsen officials described their walled-off area as a place for putting "undesirables," using terminology reminiscent of that used by the Nazis. Former Czech Minister of Interior Jan Ruml has described these plans as "inadmissible in a democratic society."

Unfortunately, these were not isolated events. Last November, Sudanese student Hassan Elamin Aldelradi was killed by a skinhead in Prague. In January, a Romani woman was seriously injured in Krnov when her home was fire bombed. In February, another Romani woman, Helena Bihariova was attacked, beaten, forced into the Elbe River and drowned. In early March, two Romani men in Decin were assaulted by a man with a pistol; a Congolese doctor was subsequently beaten in the town of Prostejov. In late March, skinheads in Trutnov attacked a Jewish couple. Each and every one of these has been widely described as a racially motivated attack.

Apparently, skinheads are not convinced they will be held accountable for their acts and the Czech Government has failed to persuade Roma that authorities will do all in their power to protect them. Roma have increasingly shown their unwillingness to simply stand aside while their family members are attacked or murdered, one by one. A number of recent attacks against Roma have been followed by revenge attacks by Roma. The rule of law appears to be degenerating into the rule of the mob. Official statements like that made March 17, by the current Minister of Interior, Cyril Svoboda, exacerbate the charged atmosphere. Mr. Svoboda minimized the significance of racially motivated violence, claimed it is not destabilizing and then blamed non-governmental organizations for distorting the Czech Republic's image through their reporting on this problem.

The most recent revenge attack by Roma occurred in the town of Novy Bor two weeks ago, when two Roma attacked Miroslav Sladek, a member of parliament campaigning for re-election. Sladek is the notorious head of the Czech "Republican Party" who has called for making one's ethnic identity as a Rom a criminal act.

A fair amount of media attention has been given to the fact that the two Roma arrested in that case were immediately pardoned by President Havel. Understandably, President Havel's decision has been controversial. What I think is most interesting is his reasoning: according to the President's spokesperson, the President did not believe that the local police could conduct an impartial investigation into the matter. She noted, in particular, that the police have given an account of events which match that of Mr. Sladek's, but which is contradicted by other eyewitnesses. She also observed that human rights groups have reported a consistent failure of the police in that area to investigate and prosecute successfully racially motivated attacks against Roma.

On May 14, the Czech Chamber of Deputies weighed in on this serious matter and expressed concern about the attack on Sladek. They even called for the Ministry of Interior to investigate the attack further to determine if it was a planned attack. Certainly, violence should not have been used against Sladek. As repugnant and disgusting as Sladek's views might be, he is entitled to them. What I do not understand is why the Czech Chamber of Deputies—which has remained silent when Roma have been attacked and even murdered—has chosen to express its concern in this manner. The bulk of the Czech cabinet has remained conspicuously silent regarding the most recent racially motivated skinhead attacks; certainly, the Prime Minister appears to have said nothing. Instead, Monika Horakova, a Romani representative on the recently created Inter-Ministerial Commission for Romani Affairs, has been dispatched to dissuade Roma from taking matters into their own hands. In the end, however, Ms. Horakova is unlikely to be successful unless she has the full backing of the full cabinet.

Mr. Speaker, the Czech Government should not wait until after the June elections to react to racially motivated violence. With time, more innocent life could be lost. Every member of the Cabinet should condemn in decisive terms the acts of these repugnant skinheads; the Ministry of Interior, in particular, should unequivocally signal its commitment to ensure that the perpetrators of these acts are caught, prosecuted and convicted. And the discriminatory Czech citizenship law, which continues to telegraph the message that Roma are not wanted in that country, must be amended.

TEENAGE PREGNANCY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mrs. MORELLA. Mr. Speaker, what have we done to childhood? We live in a world where every year, 1 million teens become pregnant, 3 million teens contract STDs, and HIV/AIDS is spreading most rapidly among adolescents.

What will it take to convince teenagers—the "it-will-never-happen-to-me crowd"—that they can become pregnant and infected with STDs, including HIV infection?

What will it take to convince community leaders, religious leaders, local and national leaders, pop culture stars, and parents that education and prevention strategies are critical?

I am proud to join my colleague, EVA CLAYTON, with whom I have organized this special order, and other members of the Women's Caucus to shed light on the problem of teen pregnancy during National Teen Pregnancy Prevention Month. Although we have been fighting this problem for a long time and the problem seems insurmountable, I am energized and encouraged by recent trends and the efforts of so many outstanding organizations to combat teen pregnancy.

I am proud to be a member of the Congressional Advisory Panel to the National Campaign. The leadership of the National Campaign to Prevent Teen Pregnancy and so many other groups have moved our Nation's consciousness about teen pregnancy to a higher level, and we are seeing results. The teenage birth rate has declined steadily since 1991 when the rate was 6.2 percent, an overall decline of 12 percent.

Although it is encouraging that the teen birth rate is declining, we must celebrate cautiously. Out-of-wedlock births are increasing, and over 1 million teens become pregnant every year.

Seventy-Five percent of teen births are out of wedlock today. In 1960: 15 percent of teen births were out of wedlock. Today, teen mothers make up the largest group of all first births to unmarried women (48 percent). About 44 percent of all girls become pregnant at least once before age 20—more than one million girls per year—most of whom are unmarried and totally unprepared to take on the responsibilities of parenthood. One-third of these pregnancies end in abortion, and only 2 percent of teens who give birth choose to put their babies up for adoption.

We know the consequences of teen pregnancy. Teen parents are much more likely to be trapped in a cycle of poverty. The opportunities lost to teens who become pregnant are enormous, and costs associated with teenage pregnancy drain limited federal, state, local and family resources.

I want to highlight an important point about teen pregnancy: It is not enough to say we want to solve the problem of teen pregnancy; we must know how to fix it. We cannot solve the problem without sufficient information on what works in teen pregnancy prevention, and what works in different areas of the country. I commend my colleagues Nita Lowey and Mike Castle for their legislation, H.R. 1736, the Teenage Pregnancy Reduction Act of 1997, which will ensure that we have better information and provide for in-depth evaluation of teen pregnancy prevention programs.

Today's message is a call to action. Although we don't have all the answers to solve the problem; it's clear that we simply cannot wait.

As Members of Congress, we must do more. If figuring out what works, we must look at why teenage girls become pregnant.

What is it about our society that makes teenage girls think that to be loved, they must have a child of their own? Surely we can do better. Educational opportunities build self-esteem, as do girls' sports and community activities. Improving our education system, increasing access to girls' sports, building our communities, increasing job opportunities and giving young girls something to look forward to will all reduce teen pregnancy, and those are all areas where our decisions make a difference.

We also have jurisdiction over federal programs that deal with teenage pregnancy: the Title X Family Planning Program, grants from the Centers for Disease Control for community projects, and the Adolescent and Family Life Act which provides a small grant that goes toward care and parenting for adolescent mothers and abstinence only education. These programs help, but they are clearly not enough.

Although federal attention and involvement is important, we must become local leaders on this issue. Teen pregnancy is a national problem, but its solutions are local. We must go into our districts to see what works and encourage community involvement.

There is not magic bullet. I have worked with Congresswoman EVA CLAYTON on this issue, and I can tell you that what works in her district in North Carolina is not what works in Montgomery County, Maryland.

I have met with Elayne Bennett, founder of the Best Friends program, and several of her students. I must be honest; I was very skeptical of abstinence-only prevention efforts. Her results in my district, however, have been amazing. The Best Friends program is not a quick fix. It works because mentors make a long-term investment in junior high and high school girls, taking them on outings, teaching them new skills, and going to weekly classes with them. It won't work for everyone, but it is one of many approaches making a dent in this critical problem.

Maryland's teen pregnancy rate ranks 13th nationally. There are 118 pregnancies annually per 1,000 women aged 15–19 in Maryland; 43% result in live births and 29% result in abortions. The State of Maryland is making progress in reducing the number of pregnant teenagers through the Governor's Council on Adolescent Pregnancy. As part of their ongoing media campaign, they have developed a new series of ads focusing on parent-child communication as a means to prevent teen pregnancy, and they are holding a contest for teens to create teen pregnancy prevention slogans.

I will continue to encourage my colleagues in Congress to make reducing teen pregnancy a priority by going back to their districts and encouraging community leaders, religious leaders, parents, business, the media, and local leaders to figure out what works. This is only the beginning of a dialogue between the Congress, the media, policy experts, state and local governments, and educators. It's time that we figure out what works in order to make a difference.

NATIONAL MARITIME DAY 1998

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. EVANS. Mr. Speaker, on this special day, National Maritime Day, it is fitting that we recognize and honor those men and women who have served our country by transporting our Nation's cargoes in times of peace and prosperity and in times of war and grave danger. The service of merchant mariners to our Nation includes the heroic effort put forth during World War II by the thousands of young men who volunteered for service in the United States Merchant Marine. Many of these merchant mariners were recruited specifically to staff ships under the control and direction of the United States government to assist the World War II effort. These seamen were subject to government control, their vessels were controlled by the government under the authority of the War Shipping Administration and, like branches of military service, they traveled under sealed orders and were subject to the Code of Military Justice.

Some volunteers joined the Merchant Marines because minor physical problems, such as poor eyesight, made them ineligible for service in the Army, Navy, or Marine Corps. Others were encouraged by military recruiters to volunteer for service in the Merchant Marines because the recruiter recognized that the special skills offered by the volunteer could best be put to use for our country by service in the Merchant Marines. Most importantly, all were motivated by their deep love of country and personal sense of patriotism to contribute to the war effort.

In order to staff our growing merchant fleet during World War II, the U.S. Marine Commission established training camps around the country under the direct supervision of the Coast Guard. After completing basic training, which included both small arms and cannon proficiency, seamen became active members of the U.S. Merchant Marine. These seamen, often at great personal risk, helped deliver troops and war supplies needed for every Allied invasion site from Guadalcanal to Omaha Beach.

More than 6,500 merchant mariners who served our country during World War II gave the ultimate sacrifice of their lives, including 37 who died as prisoners of war, and almost 5,000 World War II Merchant Mariners remain officially missing and are presumed dead. In addition, 733 U.S. Merchant ships were destroyed. Even after the surrender of Japan, members of our Merchant Marine fleet were in mortal danger as they continued to support the war effort by entering mined harbors to transport our troops safely home. After the war ended, they carried food and medicine to millions of the world's starving people.

In spite of the illustrious service of the World War II merchant mariners, then-Secretary of the Air Force, Edward Aldridge, inexplicably made the decision in 1988 to define the dates for World War II service differently for merchant mariners than for those who served in the other American forces. The effect of this decision was to deny veteran status to those merchant mariners who served between the dates of August 15, 1945 and December 31, 1946, the official end of World War II. H.R. 1126, the Merchant Mariner Fairness Act, which has wide bipartisan support from over one-half of the Members of the House, will correct this erroneous administrative decision by making the service eligibility period for World War II merchant mariners identical to that established for others.

It is important to remember that during the time period addressed by this bill, August 15, 1945 through December 31, 1946, 12 U.S. Flag Merchant Vessels were lost or damaged as a result of striking mines, and some of the merchant mariners serving on these vessels were killed or injured. Fully understanding the tremendous risks they faced, merchant mariners, nonetheless, willingly went into mined harbors so that they could bring our American troops home to their families and friends. I believe these courageous merchant mariners, who were subject to the risk and dangers of war between V-J Day and the official end of the war, have been wrongfully denied veteran status. They faced the very real hazards of war-time hostile actions and should not be denied the status of veteran for purposes of laws administered by the Department of Veterans Affairs because their sea-going contributions began after August 15, 1945. H.R. 1126 will correct this injustice.

It has been more than a half century since the end of World War II. How much longer must these aging merchant mariners, who are forgotten patriots of World War II, wait for their service to our Nation to be properly and fully honored and acknowledged? H.R. 1126 will finally provide appropriate recognition: veteran status for a few thousand World War II American merchant mariners. While this status will enable them to be eligible for veterans' benefits, it is likely that the only benefit most will receive is proper recognition of their contribution to the war effort and the right to a veteran's funeral. The merchant mariners who would be granted veteran status by this bill are aging. They will not qualify for educational benefits. As Medicare beneficiaries, most already have longstanding relationship with their medical providers and are unlikely to seek VA health care. Nonetheless, the merchant mariners of World War II will receive the long-overdue thanks from the Nation they served faithfully and courageously.

I encourage those Members who have not already cosponsored the Merchant Mariners Fairness Act to celebrate National Maritime Day by joining Members on both sides of the aisle as a cosponsor of this important legislation.

TRIBUTE TO DR. ARTHUR J. NAPARSTEK

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Ms. KAPTUR. Mr. Speaker, I rise today to recognize the outstanding career of a distinguished scholar and civic activist, Dr. Arthur J. Naparstek. On Saturday, May 30, 1998, Dr. Naparstek will be joined by his family and friends to celebrate his 60th birthday. It gives me great pleasure to wish my dear friend, Arthur, a very happy birthday.

Dr. Arthur J. Naparstek is a nationally recognized authority and leading theorist on community change and community organization. Since 1962 he has been extremely dedicated to improving the lives of those less fortunate by teaching others how to develop neighborhood strategies and coalitions to build stronger communities.

Since 1983, Dr. Naparstek has been the Coyle Professor of Social Work at the School for Applied Social Sciences at Case Western Reserve University in Cleveland where he served as Dean for nearly a decade. As Director of the Cleveland Foundation Commission on Poverty from 1990 to 1993, Dr. Naparstek initiated the drafting of the commission's report which served as the basis for HUD's $2.6 billion Urban Revitalization Demonstration Act (HOPE VI). In July 1994, in recognition of his service to combat inner city poverty, President Clinton appointed Dr. Naparstek to the Board of Trustees of the Corporation for National Service. Throughout his career, he has been an innovator, a reformer, a new idea creator. His pathbreaking research and testimony before Congress helped lead to passage of significant national legislation including: The Home Mortgage Disclosure Act, The Community Revitalization Act, and the National Neighborhood Commission. His writings are prolific and span a wide range of subject areas: Rethinking Poverty Through a Community-Building Approach Initiative; Neighborhood Networks for Humane Mental Health Care; and Community Building: New Strategies for Community Development.

Arthur's unmatched commitment to community service is an example of a true American patriot as he remains extremely active in both the public and private sector. He has directed the Cleveland Foundation Commission on Poverty, worked with the National Center for Urban Ethnic Affairs, the Rockefeller Foundation, the U.S. Conference of Mayors, the White House Conference on Neighborhoods and many other civic organizations. Dr. Naparstek is also the author of numerous reports, articles, and books that address the importance of community building and development.

Dr. Arthur Naparstek earned his doctorate from Brandeis University and his Master's Degree from New York University. He received his undergraduate degree from Illinois Wesleyan University. Dr. Naparstek is married to Belleruth, and they are the proud parents of Aaron, Keila, and Abram.

Americans all across this country should tip their hats to Dr. Naparstek, a lifelong prophet empowering people in our urban corridors to overcome poverty and hopelessness.

Mr. Speaker, it is with great pleasure that I rise today to wish Dr. Arthur Naparstek—a rare and gifted talent—a very happy birthday. Mazel tov.

HONORING JAMES LINCOLN OF TECUMSEH

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. SMITH of Michigan. Mr. Speaker, I rise to pay special tribute to one of my constituents who was recently honored by the Tecumseh Area Chamber of Commerce in Tecumseh, Michigan.

James Lincoln is a local newspaper owner who for 40 years has published the Tecumseh Herald, one of our leading area papers. In addition to that, Mr. Lincoln has forged an impressive record of public service and civic involvement. For his longstanding contributions to the Tecumseh area, his peers have rightly honored him as the winner of the annual Musgrove Evans Award, named after Tecumseh's founding father.

It is gratifying that the Tecumseh Chamber of Commerce has dedicated time and commitment to recognizing those people who make such valuable contributions to our community. And even more inspiring are the many good works performed by area leaders such as James Lincoln.

As the Chamber knows, a healthy economic climate is not the sole characteristic that makes a community worthwhile. While we can do much to create a climate that brings jobs, builds roads, lowers taxes, and eliminates deficits, the most important deficit we as a nation and a community must continually confront is a deficit of values and character.

For this reason, Mr. Speaker, I enjoy taking the opportunity to tell my colleagues about those people who demonstrate the true meaning of community service in my district in Michigan. So many people talk about the need to get involved and pitch in when they see a problem, but James Lincoln is one person who takes action.

Mr. Lincoln is not only a fine publisher, but he has used his paper to reach out and make a difference in the community. He has turned his paper into a community watchdog, a civic leader, and a valuable, respected voice for Tecumseh area residents. He has contributed greatly to organizations such as the Rotary Club, the Tecumseh Chamber and his local church.

Mr. Speaker, on behalf of my constituents, I extend my congratulations and appreciation to James C. Lincoln.

IN HONOR OF ST. IRENE CHRYSOVALANTOU

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mrs. MALONEY of New York. Mr. Speaker, I rise to recognize a historic event that started to heal a schism that began 27 years ago and divided the Greek Orthodox Church in America from the Orthodox Church elsewhere in the world.

The dispute related to a 13-day discrepancy between the Gregorian calendar and the old Julian calendar to which Orthodox traditionalists adhere. The reconciliation, approved by the Synod in Constantinople on April 7, was simple. Neither group would have to give up its calendar but the Old Calendrists of churches such as St. Irene Chrysovalantou would be accepted under the Ecumenical Patriarchate of Constantinople.

St. Irene Chrysovalantou was named a patriarchal monastery as a result of this agreement. Its Old Calendrist clergy were re-ordained last month. The sacraments that they had celebrated, as well as the countless weddings and baptisms, were deemed retroactively proper.

Archbishop Spyridon, who endorsed the plan, led a moving ceremony celebrating the event on May 3, 1998. He was joined by the founders of St. Irene, His Excellency Metropolitan Pasisios of Tyana, Abbot of the Monastery and Bishop Vikentios of Apameia. Amid the airs of a brass band, the ringing of church bells, sonorous Byzantine incantations, and the jubilant salutes of a thousand faithful, the community turned out in strength to rejoice over this historic reconciliation.

To further commemorate the reconciliation, on May 23, 1998, His All Holiness Bartholomew I, Archbishop of Constantinople, New Rome and Ecumenical Patriarch, will visit the Sacred and Patriarchal Monastery of St. Irene Chrysovalantou.

Since this is the first time that His All Holiness will visit Astoria, his visit is eagerly anticipated. This historic event will be celebrated by thousands of faithful who will come to welcome him and to attend the Patriarchal Great Vespers.

Mr. Speaker, these events in Astoria mark the beginning of a healing process that I hope will reunite a people long divided. This reconciliation should give hope to others living amid conflict.

INTRODUCTION OF LEGISLATION TO REPEAL THE FAMILY INFLATION TAX

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mrs. KENNELLY of Connecticut. Mr. Speaker, I will introduce legislation today to repeal the family inflation tax. The $500 per child credit enacted in last year's Taxpayer Relief Act will provide vital tax relief to millions of

American families. Its execution, however, has been flawed from the beginning.

We were able to defeat the initial proposals to require families with incomes of less than $50,000 to reduce their $500 per child credits by 50 percent of their day care credit, to cap the dependent care credit, and to deny the credit to families who receive the Earned Income Tax Credit. We tried but were unable to allow the credit against the individual Alternative Minimum Tax. As a result millions of families will be thrown into the individual Alternative Minimum Tax simply for claiming the child credit. I subsequently introduced H.R. 2524 to remedy this. However, this flaw beats them all.

Did you know that some families, after receiving the initial benefit, will actually have their taxes increase in the future because of complicated efforts to reduce the benefits of the $500 child credit. Yes, that is correct. Over time, a number of families will see future tax increases even if their income does not change!

This happens because of the interaction of three provisions, the partially refundable family credit, the reduction of the partially refundable family credit by minimum tax liability, and the inflation adjustments to the regular tax. For some families paying the minimum tax, the inflation adjustments cause tax increases by increasing minimum tax liability and thereby reducing partially refundable credits.

So each year, the inflation adjustment of the standard deduction and personal exemptions—a provision that results in tax savings for the majority of taxpayers, actually results in a tax increase for these families. We must not allow this to happen. That is why today I am introducing legislation to correct this.

On a related note, there is a tremendous amount of bipartisan support for fixing the marriage penalty. One of the most popular proposals would increase the standard deduction for married couples, a proposal that would actually make this problem worse. I have been talking about the need to fix the marriage penalty for years. We should fix it but we should also include this fix so we don't increase taxes on families in the name of eliminating a penalty.

Please join me in repealing the Family Inflation Tax.

TRIBUTE TO MR. PHILIP C. MUSGRAVE, UPON HIS RETIREMENT AS PRINCIPAL FROM STROM THURMOND HIGH SCHOOL

HON. LINDSEY O. GRAHAM

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. GRAHAM. Mr. Speaker, I rise today to recognize the remarkable achievements of Philip C. Musgrave. Mr. Musgrave has had a splendid career in education and discipline which has spanned more than three decades. Sadly, we say goodbye to this gentleman, but are grateful for the legacy that remains.

The youth of Edgefield County owe a debt of gratitude to Mr. Musgrave for his firm, but fair style of discipline. When love was absent at home, there was Mr. Musgrave. When the role model was no where to be found, there was Mr. Musgrave. When they needed someone simply to talk to, there was Mr. Musgrave.

As a coach, a teacher and a principal, he has influenced thousands of young men and women. A recognized leader in Edgefield County, he has honed his leadership skills over the years and developed a sense of strong values vital to his many roles. From my contact with him as an educator and a mayor, he has impressed me with those characteristics revered by many; including honor, humility and personal integrity. I have found Mr. Musgrave to be a dedicated man of outstanding character, concerned with the needs of others and with the willingness and ability to lead.

INTRODUCTION OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1998

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. TAUZIN. Mr. Speaker, I am pleased to introduce a bill today to help America's energy consumers by repealing an outdated law that is keeping the best of the new technologies and innovative services from reaching our marketplace. I am pleased to be joined by Reps. BARTON, et al. in introducing this important legislation. Our bill, which is similar to legislation already pending in the Senate, would repeal a New Deal Law, the Public Utility Holding Act of 1935 (PUHCA).

Our legislation is a bipartisan initiative. The current Democratic and previous Republican Administrations have called for repeal of PUHCA. This legislation would implement the recommendations of the Securities and Exchange Commission (SEC) made in 1995 following an extensive study by the SEC of the effects of this outdated law on today's energy markets.

It is a law that has outlived its usefulness. It imposes unnecessary costs on consumers and directly undermines the intent of recently enacted federal and state policies designed to bring more competition to America's energy market.

PUHCA was enacted in 1935 to address abuses arising out of pyramided corporate structures at a time when electric utility regulation was just starting at both federal and state level. PUHCA's primary purpose was to dismantle more than 100 complex utility holding company structures that, in many cases, took advantage of weak federal and state regulations to pursue inappropriate business practices. The result of this dismantling is that the number of utility holding companies registered under PUHCA had been reduced to the current 14. These 14 electric and gas utility holding companies are required by PUHCA to operate under arbitrary investment caps that preclude them from investing in areas of need. Other utility companies are exempt from PUHCA's caps, but must operate primarily within one state in order to maintain their exemptions. Our Nation's gas and electric utility companies, therefore, must operate principally within certain geographic "boxes." This stifles innovation, hinders competition, and undermines development of regional electricity markets. This inhibits the very competition that Congress has sought to foster in the Energy Policy Act of 1992.

America's natural gas and electric power industries, confronted by lower growth rates, environmental mandates and the need to emphasize conservation, are trying to become more than just suppliers of electricity and natural gas. To succeed in this new economic environment, they must become a provider of energy information and services. PUHCA, however, stands in the way of the efforts by our nation's utility industry to serve consumers in a more efficient manner.

The counterproductive restrictions that PUHCA places on these companies are based on historical assumptions that are no longer valid. The factors that existed when PUHCA was enacted in 1935 no longer exist today. Federal and state laws at that time were inadequate to protect consumers and investors 60 years ago. Today, Federal and State regulations have become much more comprehensive and sensitive to market conditions. PUHCA, however remains an economic drag on America's energy industry.

The ability of State commissions to regular holding company systems and, together with the development of regulation under the Federal Power Act of 1935 and the Natural Gas Act of 1938, have eliminated the regulatory "gaps" that existed in 1935 with respect to wholesale transactions in interstate commerce. The expanded ability of State commissions and the FERC to regulate inter-affiliate transactions has rendered the 1935 Act unnecessary.

Simply put, America no longer can afford the Public Utility Holding Company Act of 1935. Using conservative estimates, the cost of this law runs into the billions of dollars. Restrictions on the ability of companies registered under PUHCA to diversify range from $2 billion to $4.5 billion in present value terms. PUHCA's utility integration restrictions impose social costs between $1 billion and $8 billion. In addition, the administrative costs of complying with the 1935 Acts requirements are substantial.

Our legislation would reform regulation of utility holding companies by repealing the duplicative SEC-related provisions of the Public Utility Holding Company Act of 1935, while assuring that the SEC retains all of its non-PUHCA jurisdiction of securities and securities markets in order to protect investors. Our bill would put gas and electric power companies on an equal competitive footing, allowing them to take advantage of market opportunities that benefit investors and utility companies.

Our legislation will remove those limitations on registered companies' corporate structures, financing and investments to which they alone have been subject. At the same time, however, under our legislation, registered companies will continue to be subject to all government regulation intended to protect investors to which other industry participants are subject. SEC authority under the 1935 Act, the Trust Indenture Act and State Blue laws will all remain in place. Our bill will assure FERC access to those books, records, accounts, and other documents of holding companies, their affiliates and subsidiaries, that are relevant to costs incurred by a public utility company and are necessary for the protection of consumers with respect to rates.

Our bill also gives the right to inspect books and records that "have been identified in reasonable detail in a proceeding before the State commission, are relevant to costs incurred by such public utility company and are necessary for the effective discharge of the State commission's responsibility with respect to such proceeding."

In the new environment confronting the utility industry, PUHCA has become nothing more than a bottleneck that constrains the ability of our Nation's natural gas and electric power industries to serve consumers. PUHCA is an anachronism that burdens utility systems with costs and restrictions that impair their competitiveness and prevent them from adapting to the new and more competitive environment. PUHCA is no longer a solution because the problems of the 1930's have been replaced by effective State and Federal legislation and by the realities of today's marketplace. It is time for Congress to act on the recommendations of the SEC and enact our legislation.

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

SPEECH OF

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes:

Mr. CRANE. Mr. Chairman, I rise in reluctant opposition to H.R. 2431, the Freedom from Religious Persecution Act. As a Christian, I am always deeply concerned when reports surface about individuals and groups anywhere in the world being persecuted for their faith.

However, like so many situations that face us in the international arena where we seek to change the behavior of other governments, legislation can often do more harm than good, both for the people we seek to help and for U.S. national interests.

With respect to H.R. 2431, there is no evidence that the automatic sanctions triggered by the bill would do anything but incite further persecution in the divided and troubled countries that it is designed to condemn. Although the sanctions in the bill have been watered down during the many months this legislation was stalled in the International Relations Committee, the premise and structure of H.R. 2431 remain fundamentally flawed.

The bill creates a mid-level bureaucracy within the State Department, the "Office of Religious Persecution Monitoring," which would have extraordinary powers to publicly condemn and sanction a wide range of countries important to U.S. national security interests. The "Office Director" would be charged with identifying countries that engage in or tolerate religious persecution. Countries named as violators would be subject to an arbitrary, "one size fits all" list of trade sanctions including denial of U.S. foreign assistance, denial of visas, and prohibitions on U.S. exports and U.S. support for multilateral development bank assistance.

The danger is that sanctions are automatic, can be waived by the President only in very narrow, extraordinary circumstances, and are limited to one year. Contrary to statements made by the bill's proponents, H.R. 2431 contains no authority for the President to waive sanctions if he determines that they would result in the loss of American jobs or otherwise have an adverse impact on U.S. economic interests. Under the bill, sanctions would be imposed on many governments that are important to U.S. trade, security and foreign policy interests. These countries include Egypt, Saudi Arabia, Indonesia and Morocco.

The supporters of H.R. 2431 say that this bill will force foreign governments to improve their treatment of religious minorities and help alleviate egregious human rights abuses. Yet they fail to offer any evidence that this bill would be effective in achieving its intended result.

In truth, the call for passing H.R. 2431 is not coming from persecuted religious minorities throughout the world. Indeed, many prominent religious leaders from countries this bill is designed to target recently traveled to Washington to warn us that the bill would only further divide them from the societies in which they live and struggle to worship freely. These leaders, such as the Rev. Canon Clement Janda, General Secretary of the All Africa Council of Churches and a native Sudanese Anglican priest, and The Rev. Dr. Joseph Pattiasina, General Secretary of the Communion of Churches in Indonesia, told me in the strongest possible terms that H.R. 2431 would exacerbate tensions between Christians and Muslims in their respective countries.

Christians and clergy working in China, Saudi Arabia and Egypt say that the bill would make their plight worse, not better. For example, the United Church of Christ, which has supported missionary work for decades in many Middle Eastern countries, writes: "By using U.S. power to accuse all Muslim countries of religious persecution . . . radical Muslims will be strengthened in their efforts to associate Christianity with the West." Religious minorities and missionaries who have dedicated their lives to Christian education abroad fear that their work will be undermined because their host governments will blame them for the imposition of sanctions under this bill.

Rev. Billy Graham's son, Nelson Graham, who heads a large, successful Christian missionary program in China, wrote to urge Congress to reconsider this legislation because of the potential harm it could do to both American missionaries and to indigenous religious organizations in China, as well as in other targeted countries. He believes these groups were given no opportunity to participate in the development of H.R. 2431.

The National Council of Churches, which represents 34 Protestant denominations (including the Methodists, Lutherans and Presbyterians) with an aggregate membership of 53 million Americans, also strongly opposes this legislation because it does not take into account the concerns of a broad spectrum of religious leaders who are "on the ground" fighting religious persecution overseas.

Mr. Chairman, unilateral trade sanctions are dangerous because they appeal to an emotional need in all of us to condemn reprehensible behavior in the strongest possible terms. Yet history has shown that unilateral trade sanctions rarely, if ever, succeed in changing rogue behavior.

In my view, the United States has been the most successful in advancing our values of religious freedom and democracy by remaining active in countries where these principles are not well-established. A policy of engagement fosters expanded opportunities to spread the Christian message through direct contacts that would be denied to us if we pursue a policy of isolating countries through punative economic sanctions.

Because there is strong evidence that the sanctions proposed in this bill would do more harm than good to religious minorities and American missionaries working abroad, I am opposed to H.R. 2431.

HONORING BILLIE CARR ON HER 70TH BIRTHDAY

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. BENTSEN. Mr. Speaker, I rise to honor Billie Carr of Houston for her abiding commitment to making our democracy work for all Americans as she celebrates her 70th birthday on June 1, 1998. Known fondly as "Boss" and "The Godmother" Billie Carr is a political legend. She has been active in local, state, and national politics since 1952, influencing our nation's leaders at all levels and inspiring countless others to become involved in public service.

A native Houstonian, Billie Carr started her political involvement in 1952, working for candidates like Ralph Yarborough and Adlai Stevenson. She has been involved in every political campaign since, helping to elect candidates for every office from precinct chair to president.

Billie was elected in 1954 to the Harris County Democratic Executive Committee from her precinct, a position she has held ever since. She served on the State Democratic Executive Committee from 1964 to 1966 and remains an ex-officio member.

In 1956, Billie started working with Mrs. R.D. "Frankie" Randolph and has offered a unique approach to organizing at the grassroots level ever since. As a thankful student and gracious mentor, Billie perpetuates that experience by presenting Frankie Awards to noted Democratic organizers every year.

In 1972, Billie was elected to serve on the Democratic National Committee, and she was elected to her fifth term in 1992. The Southern Region of the Democratic National Committee elected Billie to represent them on the Executive Committee of the DNC in 1988. She was reelected in 1993, and continues to serve in that capacity today. She served on the National Resolutions Committee from 1984 to 1988, the National Platform Committee from 1983 to 1984, and the National Fairness Committee from 1984 to 1986.

In all that she has done, Billie Carr has been a leader, organizer, and innovator. Known for her liberal politics, Billie is a charter member and organizer of the Harris County Democrats and the Texas Democrats.

Billie Carr's activism and leadership have won her many well-deserved awards. She received the National New Democratic Committee's prestigious Eleanor Roosevelt Award in 1986. In 1987, she received the Harris County Democrats Lifetime Achievement Award. The Texas Democratic Women presented her with their certificate in 1992, and the National Federation of Democratic Women gave her their Star Award in 1993.

While many have benefited from the two books Billie has published, along with numerous articles and classes, there is no better way to learn about political campaigns than to work with her, as many have been so fortunate to do over the years. In addition to her many successful campaigns and the subsequent successes in public office of those she helped to elect, perhaps Billie Carr's most important legacy is the many campaign workers and volunteers who have been inspired by her to continue in public service.

Mr. Speaker, I am pleased to join Billie Carr's family and friends and all those she has inspired in honoring her on the occasion of her 70th birthday and commending her on a lifetime of achievement. May the coming years bring good health, happiness, and time to enjoy her three sons, their families, and her grandchildren, as well as further political successes.

TRIBUTE TO ANTHONY FIORELLO

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention Anthony Fiorello of Wayne, New Jersey who is being honored this evening by the Borough of West Paterson for his service as Municipal Court Judge.

Tony was born on May 11, 1940. A resident of Passaic County, he graduated from Passaic Valley High School in 1958 whereupon he entered Seton Hall University as an undergraduate student in Political Science. Tony graduated in 1962 with a B.A. in Political Science and in the top 10 percent of his class with a 3.3 G.P.A.

At Seton Hall, Tony was involved in many campus activities including President of the TKE fraternity, varsity-lettered athlete in fencing (selected to E.C.A.C. Championship tournament, Deputy Brigade Commander—ROTC Brigade, and Distinguished Military Student. He also received the University Cross and Crescent Award for Outstanding Achievement in Academic, Moral, and Extracurricular Accomplishments.

In 1962 Tony entered Seton Hall's School of Law where he was selected as a Centennial Scholar. He was a Charter Member and Secretary of the PAD, a professional legal fraternity and co-authored a study on election laws in states comprising the Third Circuit. During this time, he also served a clerkship for the City Attorney, City of Paterson.

In February 1966, Tony was called to active service during the Vietnam War and was commissioned as a First Lieutenant. He was promoted to Captain in 1967 and served as Assistant Inspector General, U.S.A.T.C., Fort Knox, Kentucky where he later served as a member of the U.S.A.T.C. General Staff. Tony was decorated with the U.S. Army Commendation Medal and the National Defense Medal.

Tony has a wealth of legal experience, with a career spanning 32 years. A trial attorney, he has served many local municipalities as their attorney including the Borough of Wanaque—where he still serves, the Township of Wayne, the Boroughs of Totowa and Haledon, and the Cities of Passaic and Garfield (Board of Education). Tony also served as the Municipal Court Judge for the Borough of West Paterson, from 1995 to 1998. Additionally, he has been appointed by the New Jersey Superior Court as guardian for incompetents and minors, and as a fiscal agent for corporations involved in litigation.

An active member of the community, Tony has given much of his time to many local civic and religious organizations. He is a member of the Wayne Elks, President of the Wayne Jaycees, and a member and coach at the Wayne P.A.L. Tony is also Director for many groups including Citizens Against Drug Abuse and the Greater Wayne Chamber of Commerce, and is Chairperson of the North Jersey Country Club. He is President of the Holy Cross Home School Association as well as the Paterson Diocesan Federation of Home School Associations. Tony has also served as a presenter for the New Jersey Catholic Conference in dialogue with federal and state legislators on issues of importance to New Jersey Bishops.

Tony was married on February 20, 1965 to the former Isabell Gallagher. They have three children—Jackilyn Fiorello Carpinteri, age 31, Kathleen Fiorello, age 29, and Brian Fiorello age 26.

Mr. Speaker, I ask that you join me, our colleagues, Tony's family and friends, and the Borough of West Paterson in recognizing the many outstanding and invaluable contributions Anthony Fiorello has made throughout the years to our community.

CLARIFYING FEDERAL FUNDS FOR MOORHEAD, MINNESOTA

HON. COLLIN C. PETERSON

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. PETERSON of Minnesota. Mr. Speaker, the purpose of this statement is to demonstrate the clear legislative intent for federal funding to "Reconstruct SE Main Avenue and Related Improvements, completing 34th St. Corridor Project, Moorhead, Minnesota" contained in H.R. 2400, The Building Efficient Surface Transportation and Equity Act of 1998 or "BESTEA." The intent of this federal allocation is based upon an agreement reached between the City of Moorhead Township.

To clarify the legislative intent of the current federal allocation to the City of Moorhead, Minnesota under H.R. 2400 as understood and agreed to by both the City of Moorhead, and Moorhead Township, the following description applies:

First, no railroad relocation can take place under this project regardless of the source of funding for that relocation unless the Moorhead Township agrees with the City of Moorhead on all aspects of the railroad relocation.

Second, $250,000 of this funding will be used to study the interchange and rail relocation alternatives and will be conducted jointly and with a coequal status between the City of Moorhead and Moorhead Township:

These funds shall be made available for a local commission called The Commission to Study Alternatives of Rail Relocation in the Moorhead Region. This commission shall consist of three members representing the Township of Moorhead and three members representing the City of Moorhead. The commission shall also consist of a seventh member agreed to by both the City of Moorhead and Moorhead Township. No funds for rail relocation can be made available until agreement is reached by this commission for alternative sites or plans.

Intended funding for this project shall be used only for those phases of the 34th Street Corridor Project as outlined in the attached information.

PERSONAL EXPLANATION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. GOODLING. Mr. Speaker, I unfortunately was unable to be present on May 19, 20, and 21 for the following recorded votes. Had I been present, I would have voted No on Rollcall Vote 156, No on Rollcall Vote 157, No on Rollcall Vote 158, No on Rollcall Vote 159, No on Rollcall Vote 160, Yes on Rollcall Vote 161, Yes on Rollcall Vote 162, Yes on Rollcall Vote 163, Yes on Rollcall Vote 164, Yes on Rollcall Vote 165, Yes on Rollcall Vote 166, and Yes on Rollcall Vote 183.

VIOLATIONS OF THE UNITED STATES-JAPAN INSURANCE AGREEMENT

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. BISHOP. Mr. Speaker, I would like to express my concerns regarding current violations of the United States-Japan Insurance Agreement. Effective enforcement of existing trade agreements must be a fundamental objective of U.S. trade policy. I am sad to report, however, that blatant violations of the United States-Japan Insurance Agreement are now taking place with barely a word of protest from the United States Government.

The United States-Japan Insurance Agreement is one of the United States' primary market access agreements with Japan. It is supposed to promote liberalization of the Japanese insurance market by maintaining existing safeguards in the third sector, where United States companies have traditionally had success, until the primary first and second sectors have been liberalized by the Japanese Government. Currently, however, this arrangement is under direct attack by Yasuda Fire and Marine Co., Ltd., Japan's second largest non-life insurance company—who has used its affiliate and de facto subsidiary INA Himawari Life Insurance Co., Ltd. to prematurely ramp up its presence in the third sector.

If we allow Yasuda to continue expanding its third sector presence before the life and non-life sectors are substantially deregulated, the Agreement will lose its primary incentive for compliance by Japanese firms (i.e., the promise of access to the third sector). Although it failed to comply with the Agreement's critical third sector provisions, Japan appears ready to start the clock running on the two and one-half year lead up to opening the third sector to large Japanese companies on July 1 of this year. The Government of Japan must not be allowed to take this action until measures are taken to remedy the violations. The future of United States companies in the Japanese market is at stake. The Administration should take immediate action to ensure full and effective enforcement of this agreement.

The current violations also pose a substantial threat to U.S. foreign and trade policy. If the United States is unable to take forceful action in the face of clear violations of the United States-Japan Insurance Agreement, the Administration will be signaling Japan, as well as other countries that would negotiate with us in the future, that the United States is unwilling or unable to enforce commitments made to it.

IT'S OFFICIAL, THE SAFE ACT, (H.R. 695) JEOPARDIZES ISRAEL'S SECURITY!

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. SOLOMON. Mr. Speaker, the Israeli Ministry of Defense has just issued a statement regarding encryption which states that the decontrol of encryption exports, as allowed by the SAFE Act, (H.R. 695) would threaten Israel's national security. Listen carefully to their exact statement: "Israel considers the regulation and control of encryption products and technology to be vital to its national security, the combating of terrorism and effective law enforcement. Engagement of any kind in encryption technology in Israel is controlled by the Government of Israel. Israeli government policy will continue to protect sensitive and essential interests by enforcing strict national security policy in this regard. It is Israel's view that all countries should do their utmost to prevent the acquisition of strong encryption technology and products by terrorist and criminal entities."

And yet, as we all know, H.R. 695 allows for the immediate export of unrestricted encryption technology and allows for the acquisition of strong encryption technology by international terrorists. When questioned about the effects of H.R. 695 (The SAFE Act) Major General David Ivry, Advisor to Israel's Minister of Defense said that "we would encourage all of our friends in the United States to oppose the bill." Any friend of Israel in the United States Congress who are cosponsoring H.R. 695 should ask for a briefing by the NSA and then remove their names from the bill.

All Americans who care about Israel's security should find out where their Member of Congress stands on this most important issue. The proponents of this bill maintain that Israel's enemies will eventually possess encryption technology. Even if this is true, it fails to explain why we should rush to place this technology in the hands of our enemies.

The Department of Defense, the National Security Council, the National Security Agency and now the Israel Ministry of Defense believe that America and Israel need time to develop countermeasures to address the various threats posed these new technologies and H.R. 695 does not give us this time. The truth is that now that we have the official Israel position on encryption no real friend of Israel should remain a cosponsor of H.R. 695.

ESTABLISH THE ADMINISTRATIVE LAW JUDGE CONFERENCE OF THE UNITED STATES

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. GEKAS. Mr. Speaker, today I introduced an important bill, "The Administrative Law Judge Conference of the United States Act", that reforms the administrative judiciary of the United States by establishing an administrative office for the 1400 Federal administrative law judges. The ALJ Conference is modeled upon the Judicial Conference of the United States which provides similar administrative functions for Federal Article III judges.

Currently, there is no uniform administrative office for Federal administrative law judges which promotes the improvement of the administrative law process. The ALJ Conference of the United States would enhance the independence of decisionmaking and the quality of adjudications in the administrative due process hearing. The American public will benefit by the establishment of uniform standards for professional conduct of administrative law judges that will be government wide in applicability with a government wide complaint resolution process for claimants. Public accountability of the administrative judiciary will be additionally insured by the establishment of a complaint resolutions board which has a public member and agency administrative law judges.

Since the Administrative Procedure Act (A.P.A.) was enacted over 50 years ago, there has never been any system for independent review of agency compliance with the A.P.A. and no process for reporting to the Congress on these important public safeguards for fundamental due process and the fair hearing process before administrative agencies. The ALJ Conference of the United States will provide for regular reports to the Congress on agency compliance with the A.P.A. This process will greatly assist the Congress in its oversight of agency compliance with the A.P.A. and will enhance the ability of the Congress to assess the status of individual rights in adjudications before Federal agencies. This reform permits the Congress to maintain oversight on constitutional safeguards such as the right to an impartial and independent decisionmaker, notice and opportunity to appear at a prompt hearing, and the receipt of a timely hearing decision. These protections are to be accorded to every citizen prior to the loss of important rights, property or benefits.

The ALJ Conference of the United States will assume all duties currently performed by the Office of Administrative Law Judges at the Office of Personnel Management (OPM). The budget currently used to operate this office at OPM will be transferred to the ALJ Conference. Agencies will continue to select ALJs but the selection process and ALJ register will be managed by the ALJ Conference. The Administrative Judiciary of the United States is the only merit selected judiciary and the ALJ Conference will maintain the high standards we have come to associate with the Federal ALJ Corps.

Establishment of the ALJ Conference of the United States would significantly increase public trust and confidence in the integrity and independence of decisionmaking by administrative law judges throughout the Federal Government. The current Administration advanced the concept of an ALJ administrative office or conference during negotiations over legislation to place all administrative law judges in a government wide unified corps. Therefore, this effort should be a bipartisan activity of the Congress in the interest of good government, and to that end I invite my fellow colleagues on both sides of the aisle to join me in sponsoring this bill and in making the ALJ Conference a reality this year.

RECOGNIZING JULIAN "BUD" BATLAN ON HIS RETIREMENT AS POST COMMANDER

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. PAPPAS. Mr. Speaker, this weekend, I will be attending the Jewish War Veteran's Manalapan-Marlboro Post 972 installation ceremony for their 1998–1999 post officers. At this brunch, the post will also be honoring the retiring Post Commander, Julian "Bud'Batlan.

Bud is a direct descendant of the first known member of the Jewish faith to settle on the eastern shore of North America, whose extended family has served in our nation's armed services for the past 344 years.

In 1941, Bud volunteered for the Army and went on to earn the Silver Star, Bronze Star and Purple Heart with Oak Leaf Cluster in World War II. After returning from the war, Bud was the founder and organizer of the very Jewish War Veterans Post that will be honoring him.

It is very fitting that this weekend, in which our nation celebrates Memorial Day and the service of those who have served, that we recognize the service of Bud Baltan for his service to our nation and his Post. I offer my congratulations and best wishes to Bud and the new officers of Post 972.

DEATH TAX REPEAL

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES
Friday, May 22, 1998

Mr. NETHERCUTT. Mr. Speaker, the death tax is one of the most egregious forms of taxation. Frank A. Blethen, publisher of The Seattle Times, gave a compelling speech on May 14, 1998, on this subject at the Family & Independent Owners Conference in Washington, D.C. I rise today to bring the attention of all Members to Mr. Blethen's remarks, a summary of which follow. After hearing his comments, I urge all Members to support repeal of the death tax.

If repeal of a specific tax would actually decrease the federal budget deficit, wouldn't you think such repeal would be a non-partisan Congressional and White House priority? If repeal that tax would result in saving our country's family-owned businesses, including most minority and female owned businesses, wouldn't you think that such repeal would be the highest priority of every state's Congressional delegation, and every local community's Chamber of Commerce? If Congress had an easy way to create jobs, stimulate the economy and to be the champion of families, wouldn't you think they would jump at the chance? And, if in addition to job growth, the repeal of this tax stimulated other actions that our nation covets like long-term business investment, philanthropy, and saving money, wouldn't you think Congress would jump at the opportunity?

Repeal would turn one of our country's most harmful public policies into a powerful positive public policy overnight. So why isn't Congress jumping at the opportunity? Simply put, too few people understand, or appreciate, the negative economic impact of the Federal Estate Tax. And too few people understand the substantial economic and public benefit, which would come from repeal. Most people, including many family businesses still misperceive the tax as a "benefit for wealthy people" rather than the small and business public policy issue, which it is. Once one examines the facts, it is easy to see that this tax is very poor public policy because it destroys jobs, minority-owned and small businesses.

Once politicians understand the devastating negative impact of the death tax on today's economy and on America's families, their perceptions will change. Smart politicians in both parties will position themselves as champions of families, family businesses and minority businesses. They will stimulate jobs and investment in our local communities while reducing the federal deficit.

We need to create a new, accurate perception, that the death tax is, in fact, a very serious broad-based family and middle class issue as well as an economic and jobs issue. We need to educate people that this tax destroys family businesses, minority owned businesses, jobs, investment, and doesn't even contribute to the federal budget. We need to eliminate the perception that the death tax is a rich person's issue. Everyone has many opportunities to combine education with a grass roots effort.

Death tax repeal will not negatively impact Federal budget revenue. The estate tax generates only 1% of the Federal budget (approx. $16 billion). 65% of that so-called contribution is spent on compliance and enforcement. Consequently, less than ⅓ of 1% of the Federal budget revenue comes from this tax (approx. $5 billion).

Repeal would dramatically help the economy and would reduce the Federal budget deficit. According to several studies at least 145,000 new jobs would be created in the first year of repeal, personal income would rise $8 billion annually, family businesses would stay in business, job preservation would be enhanced, and long-term investment would be enhanced. Plant and infrastructure investment would be enhanced and the trend in most industries towards consolidation would be reversed. Philanthropic giving would go up, minority-owned business would be preserved, female-owned business would be preserved, business innovation, and creativity would be stimulated, and savings would increase.

Primarily because of the death tax 70% of family business don't survive the first generation, 87% don't survive the second generation, less than 5% survive the third generation, and this misguided tax is the primary reason for the inability of minority owned businesses to perpetuate themselves.

The burden of this public policy now falls on the middle class. When workers are laid-off and family businesses fail, the negative trend towards a two-tier society is accelerated—encouraging corporate takeovers and the consolidation of industries. This leads to workplaces characterized by layoffs, job reduction and disinvestment.

The death tax started early in the 20th century targeted at a few super rich families. Most people still believe this is a "soak the rich" law and that repeal would only benefit the rich. Most Americans are appalled that the death tax rate is 55% and that everything it applies to has already been taxed at least once.

What can you do? Educate yourself. Contact and lobby your Congress person and Senator. Identify and work with key Congressional staffers. Lobby the Senate Finance Committee and the House Ways & Means Committee. work with your local chamber and the U.S. Chamber, as well as any other business association you have a relationship with. Inform other industry groups. Contact and educate other family business owners. Use and promote the use of the free print ads we have developed at the Seattle Times. Use and promote the death tax web site (deathtax.com)

[The Seattle Times was found in 1896 by Alden J. Blethen. The newspaper is currently owned and operated by 4th and 5th generation family members. Six members of the Blethen family are employed full-time, three of whom are long-term members of senior management; another family member is actively involved in governance; and four more are employed during the summer. The Seattle Times is the largest evening newspaper left in the country. It is one of a handful of locally owned, family-owned metropolitan newspapers left in America. The Times and Blethen family are committed to perpetuating local, family ownership in spite of the overwhelming pressures to sell to large, public, foreign owned newspaper chains and despite personal and corporate resources that are drained away from the business and the community to deal with the estate tax. Individual family members have foregone significant personal wealth to continue family, local ownership. Fourth generation deeply involved with estate planning since 1975.]

SOME PROBLEMS WITH CONFERENCE REPORT ON H.R. 2400

HON. RICHARD A. GEPHARDT

OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Friday, May 22, 1998

Mr. GEPHARDT. Mr. Speaker, today, the House of Representatives passed landmark legislation to improve our Nation's highways and transit systems. This legislation is an absolutely vital investment in our infrastructure. In my District, Highway 21—the deadliest road in Missouri and possibly the deadliest road in America—stands to see improvements that will save the lives of children and adults who drive on it daily.

But, there's a problem with this legislation. I am outraged that some of these very needed investments in our transportation system are funded on the backs of veterans—just before the day we honor the memories of those who have fallen for our country. It is also regrettable that additional funding was provided at the expense of our kids, who will lose vital child care at a time when we should be increasing our investment in children. The majority of my Democratic colleagues object to these cuts.

It is wrong that we have been forced to choose between safe roads and veterans health care, child welfare and other vital investments. The Administration proposed other ways to fund this bill, but Republican leaders refused to consider them.

I voted for the Democratic instruction to the negotiators of this agreement that we not use veterans health care as an offset for highway spending. The Republican leaders ignored this motion. Our veterans deserve better treatment than this.

I will support this legislation because of Highway 21 and the memory of those who have lost their lives on this road—dubbed Blood Alley. Action on a multi-year highway bill has already been delayed for months, and further delays could have serious adverse consequences on vital road and transit repairs across the country. But I believe we could have done much better than we have done today—and that we have simply created new problems that will have to be addressed in the future.

PRESIDENT CLINTON'S REMARKS AT THE SIGNING OF THE NATO ENLARGEMENT RATIFICATION DOCUMENTS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. LANTOS. Mr. Speaker, yesterday, President Clinton signed the documents completing United States ratification of the accession protocols for Poland, Hungary and the Czech Republic to become full-members of the NATO alliance. This is a historic occasion, Mr. Speaker, and one that places the United States firmly on the side of fostering democracy, security in Central Europe, and the creation of viable civil societies.

Mr. Speaker, I want to pay tribute to President Clinton for playing a critical role in negotiating the agreements and winning the support of our other NATO allies for the admission of these three new countries to the alliance. His strong leadership at the Madrid Summit less than one year ago was crucial for this great victory.

I also want to acknowledge, Mr. Speaker, the leadership of Secretary of State Madeleine K. Albright, who was responsible for carefully shepherding through the process of negotiating the admission of these three countries to NATO. She has also personally taken the lead in convincing the American people of the vital interest that the United States has in the admission of these countries.

Mr. Speaker, I ask that the remarks of President Clinton yesterday at the White House ceremony marking United Ratification of the accession protocols for Poland, Hungary, and the Czech Repbulic.

REMARKS BY THE PRESIDENT ON RATIFICATION OF NATO ENLARGEMENT

The PRESIDENT. Thank you very much. I suppose I should begin with an apology for having to dash off and pick up the paper, but I would hate to lose this document after all the effort we put into getting to this point. (Laughter.)

Mr. Vice President, thank you for your leadership on this issue. Senator Roth, Senator Biden, Secretary Albright, Secretary Cohen, General Ralston, Mr. Berger, to the ambassadors of Poland, Hungary, the Czech Republic, and the other members of the diplomatic corps who are here, to Senators Levin and Lieberman and Lugar, Mikulski, and Smith, I thank all of you so much.

Let me say notwithstanding my good friend Senator Biden's overly generous remarks, we are here today because of the efforts of a lot of people who supported this effort: members of Congress and former members of Congress, present and former national security officials, present and former military leaders, representatives of our veterans, business unions, religious groups, ethnic communities. I especially thank Senators Lott and Daschle, Senators Helms and Biden, and you, Senator Roth, the chairman of our NATO observer group.

You behaved in the great tradition of Truman and Marshall and Vandenberg, uniting our country across party for common values, common interests, and a common future.

It's really amazing, isn't it, that Bill Roth and Joe Biden come from Delaware. I want you to know there is no truth to the rumor that I agreed to move the NATO headquarters to Wilmington in return for this vote. (Laughter.) However, it does say a lot for those small states that these two remarkable men have made such an indispensable contribution to this effort. I thank the other senators who are here for their passionate commitments.

I'd also like to mention one other person, my advisor on NATO enlargement who managed the ratification process for the White House, Jeremy Rosner. Thank you, Jeremy. You did a great job, too, and we thank you. (Applause.)

I see so many people here that—and I don't want to get into calling names, but I thank Mr. Brzezinski, Ambassador Kirkpatrick, General Joulwan and so many others who are here who have been a part of America's effort over the last 50 years to make sure that after World War II freedom triumphs.

We learned at great cost in this century that if we wanted America to be secure at home we had to stand up for our interests, our ideals, and four friends around the world. Because of the alliances we've built and the work that our people have been able to do here, we near the end of this great century at a remarkable pinnacle of peace, with prosperity and declining social problems at home, and for the very first time ever a majority of the world's people living under governments of their own choosing.

Since World War II, no alliance for freedom has been more important or enduring than NATO. And as we look ahead to the next 50 years, we have to imagine what the world will be like and what it is we expect to do and, in particular in this case, what about NATO. Today we welcome Hungary, Poland, the Czech Republic, finally erasing the boundary line the Cold War artificially imposed on the continent of Europe, strengthening an alliance that now, clearly, is better preserved to keep the peace and preserve our security into the 21st century.

For the 16 of us already in NATO, enlarging our alliance will create three new allies ready to contribute troops and technology and ingenuity to protecting our territory, defending our security and pursuing our vital interest. The 60 million people who live in Hungary, Poland, and the Czech Republic, they now know that what they build in peace they will be able to keep in security. And America now knows that we have new allies to help us meet the new security challenges of the 21st century—something that our partnership in Bosnia so clearly demonstrates.

I would say also to the nations who have joined with us in the Partnership for Peace, and others who have considered doing so, and those who hope still someday to become NATO members, we are in the process of adapting this organization to the security challenges of the 21st century, and those who are with us in the Partnership for Peace, those who have been part of our endeavors in Bosnia, we appreciate you as well. We respect your aspirations for security; we share your devotion to your freedom; and we hope this is a day which you can celebrate as well.

We come to this day, thanks to many acts of courage—courage that toppled the Berlin Wall, ended the Cold War; the sacrifices by those who raised freedom's banner in Budapest in 1956, in Prague in 1968, in Gdansk in 1980; people like Lech Walesa, Vaclav Havel, Arpad Gonez, so many others. The selfless investment of blood and treasure the American people made in freedom in the 20th century is also something we ought to stop and remember here today. There are so many people whose families gave so much in two world wars and the Cold War who should feel a personal sense of satisfaction and triumph because of this day. And I hope they do.

As we look ahead to the 21st century, again I say, we have to see what we're doing in NATO in the larger context of preparing for a different era. Our goal is to help to build a Europe that is undivided, free, democratic, at peace, and secure; a Europe in which Russia, Ukraine, and other states of the former Soviet Union join with us to make common cause; a dynamic new Europe with partnership for commerce and cooperation.

Therefore, we have supported the expansion of NATO and the Partnership for Peace. We have also supported all efforts at European integration and the expansion of European institutions to welcome new democracies. And we will continue to do so.

We want to imagine a future in which our children will be much less likely to cross the Atlantic to fight and die in a war, but much more likely to find partners in security, in cultural and commercial and educational endeavors. The expansion of NATO and the Partnership for Peace make the positive outcome much more probable.

This is a day for celebration, but also a day for looking ahead. Our work to adapt all our institutions to the challenges of the new century is far from done. On Monday I had the opportunity to go to Geneva to lay out a seven-point plan for the changes I believe the world trading system must embrace in order to fully and faithfully serve free people in the 21st century.

And just very briefly before I close, let me mention the things that I believe we still have to do with NATO. We have to build closer ties with the Partnership for Peace members. We have to reinforce the practical cooperation between NATO and Russia, and NATO and Ukraine. We have to see through our efforts to secure a lasting peace in the Balkans, and we cannot walk away until the job is done. (Applause.) We must achieve deeper reductions in our nuclear forces and lower the limits on conventional arms across the European continent.

Yes, we have more work to do, but for today, we remind the people of Europe that in the efforts that lie ahead, they can continue to count on the United States. And we remind the world that tomorrow, as yesterday, America will defend its values, protect its interests, and stand by its friends. So that years from now another generation may gather in this place and bask in the warm glow of liberty's light, because in our time we fulfilled America's eternal mission: to deepen the meaning of freedom, to widen the circle of opportunity, to strengthen the bonds of our union among ourselves and with others who believe in the primary importance of liberty and human dignity.

Thank you and God bless you all.

IN HONOR OF STAND FOR CHILDREN

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. FROST. Mr. Speaker, I rise today to recognize June 1, 1998, as Stand for Children

Day. On this day, Americans of all backgrounds will come together in their communities to take a Stand for Children, and to renew their community's commitment to improving the quality of our children's lives.

On Stand for Children Day, families, citizens, members of religious congregations, schools, community based organizations, businesses, and political and cultural groups will join together as a national community to recognize and address our children's unmet needs.

Caring for our children must be our families', communities', and Nation's first priority. This commitment must begin at the local level, and be carried to Washington by the Members of this body.

My fellow colleagues, please join me in recognizing June 1, 1998, as Stand for Children Day.

IN PRAISE OF THE SANTA BARBARA BOTANICAL GARDENS

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mrs. CAPPS. Mr. Speaker, I rise to honor the Santa Barbara Botanical Garden. In particular I would like to praise the work of six extraordinary third grade teachers from my district: Ms. Kelly McCarthy, Ms. Kathy Hines-Knight, Mrs. Christine Benedict, Ms. Connie Warner, Mr. Mark Stucky, and Ms. Janice Ulloa-Brown.

The Santa Barbara Botanical Garden seeks to promote scientific literacy and appreciation of the natural world through living displays, classes, interpretive materials, and discovery-based activities. Also, the Santa Barbara Botanical Garden provides relevant materials and educational programs, as well as exploration-based outdoor educational experiences, in order to augment the science curriculum of local teachers.

Kelly McCarthy, Kathy Hines-Knight, Christine Benedict, Connie Warner, Mark Stucky, and Janice Ulloa-Brown, third grade teachers at Cleveland School in Santa Barbara, epitomize the dedicated, intellectually curious elementary school teacher and make science enjoyable for all students, with considerable attention given to helping children with different learning styles and languages of origin grasp the concepts and develop enthusiasm for science through hands-on learning experiences.

The Santa Barbara Botanical Garden has named these third grade teachers to the Association of Science and Technologies Center's Honor Roll of Teachers for 1998.

I commend these teachers for their exemplary role in teaching the plant sciences and successfully providing an atmosphere which fosters a love of learning and an appreciation of nature in their students.

PEACE AND ECONOMIC DEVELOPMENT IN NORTHERN IRELAND

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. KENNEDY of Rhode Island. Mr. Speaker, today marks a truly significant milestone in the long and difficult quest for peace, reconciliation and the economic reconstruction of Northern Ireland.

On this day, men and women throughout the island of Ireland, both in the North and the Republic, will be given the opportunity for the first time in history to vote on a plan designed to end sectarian strife, armed aggression and political turmoil, and move the island of Ireland into a new peaceful and prosperous era for all people there. I know they will seize that opportunity.

Recently, I visited the Republic of Ireland and the North with a group of my constituents, including business, labor and community leaders, state legislators and my good friend Paul S. Quinn, a native Rhode Islander and prominent Washington attorney. I came away greatly encouraged by that visit, but persuaded that while we, in the United States with President Clinton's dynamic leadership, have done much to move the peace process ahead, much remains to be done, particularly in economic terms if the peace process is to succeed. I am therefore pleased to introduce into the RECORD at this time an excellent article by Mr. Quinn from today's Journal of Commerce that lays out a blueprint showing how that economic progress can be achieved. I urge all of my colleagues and friends of Ireland everywhere to read this carefully and to continue to commit themselves to the cause of peace, reconciliation, and economic reconstruction of the island of Ireland, during the critical months and years ahead.

REBUILDING IRELAND'S ECONOMY

(By Paul S. Quinn)

The people of Northern Ireland and the republic of Ireland face a historic choice today when they vote on the peace agreement worked out among the various factions involved in the struggle in the North.

A yes vote is the key to the next steps in the region, but it is only a beginning. Economic growth and stability, shared by Catholic and Protestant alike, is essential to the continued progress of peace in Northern Ireland and the border areas with the republic.

In the 15 years I have traveled there, the North has changed from a place fraught with distrust and violence to one where peace is beginning to take root.

In my recent travels there, I have been struck by two things. The first is the tremendous appreciation that people have for the commitment that President Clinton and his foreign policy team, the U.S. Congress and, of course, former Maine Sen. George Mitchell have made to the search for peace.

But just as striking as their gratitude is their fervent desire to have us remain engaged in the region. They believe, rightly, that in order for the North to truly become a new place, the United States, both our government and our private sector, will have to be part of making that happen.

Since 1986, the United States has put its money where its mouth is in the effort to turn Northern Ireland's economy around. We have done this primarily through our support for the International Fund for Ireland, which has been a tremendous success. Indeed, it is a story that has never really been told. The fund has helped to increase dramatically investment in the region, and more than 28,000 jobs have been created.

There also has been substantial support from the private sector in this country, primarily through the American Ireland Fund, in the areas of direct economic help and sponsorship of educational and training projects.

Unfortunately, more is required to cement the great achievement of the peace agreement. Additional economic commitment is necessary, and much if not most of that has to come from the private sector.

The business community and the governments directly and indirectly involved with the peace process must pick up the challenge made by President Clinton and British Prime Minister Tony Blair, reiterated on May 18 to the people of Northern Ireland: There will be increased investment if the peace process continues, and all on the island of Ireland will benefit.

There are some specific steps that can be taken to help achieve this goal of creating jobs and economic opportunity.

There must be continued support for the International Fund for Ireland by our government, as well as the European Union, Canada, Australia, New Zealand and perhaps other concerned governments. The peace agreement does not mean the fund can close up shop.

Hard questions need to be asked sooner rather than later on how to best make use of the $500 million stimulus package the British government has put together for the North. Clearly, the British government will have its own ideas. But the private sector and others familiar with the region should offer their good offices to help ensure that this money is well spent and does not get lost in the bureaucracy.

Commerce Secretary William Daley is going to the region in early June with an impressive group of U.S. business executives. This visit is very timely and important, and an assessment by Mr. Daley and his team can provide a blueprint for the kind of private investment that is both needed and achievable during the critical days ahead.

There should be an economic conference in the region soon. The 1996 White House conference in Washington on Ireland laid a foundation for what could be done to help Northern Ireland. Using the results of that conference as a starting point, a regionally based conference could help move ideas to action. A comprehensive plan needs to be developed and implemented without delay.

For its part, the U.S. government may want to see if there is more it can do to help strengthen the economy of the region by spurring private-sector involvement.

It is clear that, regardless of the nature and extent of government assistance provided to Northern Ireland, at the end of the day it is the ability to attract and retain private investment that will matter most.

Men and women of goodwill have worked very hard to get the various factions in Northern Ireland to the point where peace is possible. This effort should now be matched by the efforts of the private sector.

IN HONOR OF NATIONAL MISSING CHILDREN'S DAY

HON. JAY W. JOHNSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. JOHNSON of Wisconsin. Mr. Speaker, I rise today to honor National Missing Children's Day on Monday, May 25, to remember the girls and boys for whom we search, and to pay my respect to the mothers and fathers across Northeast Wisconsin—parents like Phyllis Makowski of Marinette, Wisconsin—and across the country who know the suffering that comes with a missing child.

Before I was elected to Congress, I reported the news every night to the people of Northeast Wisconsin. We reported on every story imaginable, but it was the stories of families who were searching for loved ones that I will never forget. Whether it was 12-year-old Cora Jones from Appleton, or Lauri Depies of Menasha, the emotions were heart-wrenching and the events were tragic. I had the opportunity many times to speak with the mothers and fathers as they searched for their missing children—I will always remember the trauma and the despair they were subjected to.

That is why Jay Breyer and Kim Maas from "Youth Educated in Safety,"or "Y.E.S.," came to visit with me in Washington to tell me about a loophole in the law that was hindering the search for missing children, they had my immediate attention. Because I know the pain dealt to the families and the entire community, when a child is missing and there are no answers, only questions.

That meeting led to the introduction of new legislation by the gentleman from Texas (Mr. LAMPSON), the gentleman from California (Mr. LANTOS), and myself. We call the bill, "Jennifer's Law,"named in honor of Jennifer Wilmer, who has been missing since 1993, and whose mother, Susan, has fought so hard to help other families in this terrible situation. "Jennifer's Law"is aimed at helping the families of missing persons bring closure to their search, and giving the police more information to solve crimes.

Right now, we have a national crime information center (NCIC) database of missing persons. We also have a separate list of unidentified persons. But, tragically, these lists cannot be adequately cross-referenced.

We believe there are thousands of unidentified persons found every year, deceased or living (perhaps with amnesia), who are not reported in a way that will help us close cases where people are missing.

It is reported that New York City alone buries as many as 3,000 unclaimed bodies every year. But these aren't just bodies. They are real lives.

But imagine that for every body found is a family hoping for clues . . . searching . . . waiting for an answer. Also imagine that for every unclaimed, unidentified body may be clues about a criminal who may never be caught.

Our bill, "Jennifer's Law,"would enhance the reporting of information about unidentified persons. It would require states to report to the missing persons file any information on unidentified persons they find in their jurisdiction. The legislation also requires the FBI to modernize the missing persons file and the unidentified persons file to make these lists compatible for cross-referencing.

By improving the ability of the FBI to cross-reference the national missing persons file with an enhanced unidentified persons file, many families will find the closure they need as they search for missing children, husbands, wives, and other family members. Also, we expect that better information about these unidentified bodies—dental records, fingerprints, and x-rays—would bring many clues to help track down predators and criminals.

A logical and complete cross-referencing of the missing persons file and the unidentified persons file simply does not exist right now. But it will.

Families who are searching for loved ones deserve our best effort and the right answers. We should use every resource at our disposal to help these families and track down criminals. On National Missing Children's Day, I want to encourage my colleagues to lend their support to this worthy legislation for families of missing children who need our help.

IN HONOR OF NATIONAL MISSING CHILDREN DAY

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. LAMPSON. Mr. Speaker, May 25th is National Missing Children's Day. As Chairman of the Congressional Missing and Exploited Children's Caucus, I'd like to speak for a moment about HR 2850, "The Jennifer's Law Act of 1997," which would help ensure that parents are able to bring closure to their search for missing children. I introduced this bill in November with my colleagues, Congressman JAY JOHNSON and Congressman TOM LANTOS.

Under current law, states are required to report information on missing children to the FBI so that data can be entered into the National Crime Information Center's (NCIC) Missing Person File. However, states are not required to report information to the NCIC's Unidentified Person File when they recover an unidentified body. Unfortunately, a logical and complete cross-referencing of the Missing Person File and the Unidentified Person File simply does not exist.***STRPGFIT***

Every week, unidentified deceased children are found, yet their families may never know and may never stop their difficult search. The families are denied the sense of closure to their tragic loss, at least knowing that their child was no longer missing. In late December, the body of GiGi Arnett Harris was found in a morgue, where it had lain unidentified for two years. Stories like that of Ms. Harris would not occur if Jennifer's Law is enacted.

Jennifer's Law would correct this problem by requiring that states report to the NCIC information on unidentified persons that they find in their jurisdiction. It would also require that the FBI modernize the Missing Persons File and the Unidentified Persons File to make the lists compatible for cross-referencing.

Its time to bring comfort to families of missing children in their suffering. I urge all of my colleagues to join me in cosponsoring this very important legislation.

IN HONOR OF NATIONAL MISSING CHILDREN'S DAY

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. KLECZKA. Mr. Speaker, I would like to take this opportunity to speak out in favor of an extremely worthwhile and important piece of legislation—H.R. 2850, the Jennifer's Law Act.***STRPGFIT***

This bill would require states to report missing children information to the National Crime Information Center so that it can be entered into a missing person database. Missing person files are already sent to the FBI and, as we all know, two heads, or two agencies in this case, are better than one when it comes to finding missing and abducted kids.

In my congressional district alone, 68 missing children have been reported since 1994. Typically, these children are illegally abducted by a family member or a stranger, run away from home, or became lost. Thankfully, the vast majority of the children in my area were found, according to the National Center for Missing and Exploited Children. However, 5 children are still missing, and that is 5 kids too many.

Congress needs to do everything possible to find these five youngsters, as well as thousands of others from around the country. I urge my colleagues to support Jennifer's Law Act to enhance federal and state authorities access to data that may reunite families with their missing children.

STARK RELEASES MEMO FROM MEDICARE ACTUARIES, SHOWS WE CAN SAVE MEDICARE WITHOUT RADICAL SURGERY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. STARK. Mr. Speaker, in response to a number of questions I submitted last fall, I have received the following memo from the Office of the Chief Actuary of the Medicare agency.***STRPGFIT***

I asked what effect various options for spending restraints or increased revenues would have on the long-term outlook for the Medicare Trust Fund. The Actuary's memo makes it clear that we can solve Medicare's long-term problems without radical change.

A lot of politicians and editorial writers cry that the sky is falling because of the coming retirement of the Baby Boom generation. The Actuaries show that with a variety of reasonable changes, Medicare will be there for our children and grandchildren.

The memo shows that with reasonable controls on hospitals and doctor inflation and very small tax changes, we can easily solve Medicare's financial problems between now and 2022, and solve more than half the 1998—2072 problem. For example, a three year freeze on hospital payment inflation would cut the short-term problem in half and the 75 year budget shortfall by one-quarter. A freeze is doable, because the Medicare Payment Advisory Committee (MedPAC) reports that at current rates, in 2003 hospital Medicare payment profits are likely to be about 15%—far more than we should be paying.

As another alternative, if we donated half the tobacco settlement to the Medicare Trust Fund and saved the next decade's budget surpluses for Medicare, we would keep the Hospital Trust Fund solvent way past 2020.

We don't need tax increases. If we just save the pending surpluses for Medicare, instead of dribbling them away, we can solve Medicare's problems over the next twenty years.

A proposal to hold Hospital Trust Fund spending to the growth in the Medicare population plus the per capita growth in Gross Domestic Product, would solve half the long-term financial problems of the Trust Fund. Holding health inflation to this level will be tough, unless private sector health inflation is held to similar levels—but we should try. The fat and waste in the health care system is extraordinary, and we should make this our goal.

The Office of Actuary estimates also show that the Stark-Moynihan Medicare Early Access bill (H.R. 3470, 3471) allowing people to buy into Medicare as early as age 55 would be revenue neutral over the next 25 years and then actually improve the Trust Fund because of the bill's anti-fraud provisions.

People who want to abolish Medicare and privatize all government programs are trying to scare Americans into believing Medicare can't be saved. Take a look at these budget estimates: these are reasonable changes that we can and should make. With additional savings we should even be able to improve the existing program to provide a pharmaceutical benefit.

MEMORANDUM,
May 15, 1998.

From: Sol Mussey, Director, Medicare and Medicaid Cost Estimates Group, Office of the Actuary, HCFA

Subject: Estimated Long-Range Financial Impact of Selected HI Proposals

The attached table provides estimates for several proposals designed to help reduce the Hospital Insurance (HI) program's long-range actuarial deficit. The attached table provides the 25-year, 50-year, and 75-year impacts on the actuarial balance, together with the resulting balances themselves.

The attached is based on the 1998 Trustees Report, intermediate assumptions, and consequently include the effects of the Balanced Budget Act of 1997. Each line of the table represents the actuarial balances under current law modified for that particular proposed only. No request was made at this time for any combination of proposals. In practice, the financial impact of a legislative package made up of several of these proposals would not necessarily equal the sum of the individual impacts, due to potential interactions among provisions.

The estimates shown for the age 62 buy-in proposal are based on the proposal in the President's 1999 Budget. Since the proposal in the short run is to be financed by other savings proposals in the budget, we included the effects of these other proposals. Hence, the 25-year effect on the actuarial balance is zero. However, the buy-in proposal becomes self-financing after about 20 years and the savings from the other proposals in the budget are assumed to continue. Therefore, there is some positive effect on the actuarial balance for the 50- and 75-year projection periods. The center of excellence proposal is also included in the President's 1999 Budget.

As is always the case with long-range financial estimates, the impacts shown for the attached proposals are subject to considerable uncertainty. Actual future effects could differ substantially from these estimates.

SOL MUSSEY, ASA,
Director, Medicare and Medicaid Cost Estimates Group.

ESTIMATED LONG-RANGE FINANCIAL IMPACTS OF SELECTED HI PROPOSALS

(Expressed as a percent of HI taxable payroll)

	Change in actuarial balance[1]			Actuarial balance of HI trust fund		
	25-yr period (1998–2022)	50-yr period (1998–2047)	75-yr period (1998–2072)	25-yr period (1998–2022)	50-yr period (1998–2047)	75-yr period (1998–2072)
Current law	....	....	....	−0.73	−1.61	−2.10
Proposal:						
Hold HI growth to increase in enrollment +GOP/capita	0.31	0.77	1.06	−0.42	−0.84	−1.04
Reinstitute and expand Center of Excellence programs eff. 1/1/00[2]	0.00	0.00	0.00	−0.73	−1.61	−2.10
Hospital PPS freeze 2000–2002	0.35	0.48	0.55	−0.38	−1.13	−1.55
Buy-in at 62	0.00	0.01	0.01	−0.73	−1.60	−2.09
Increase HI tax rate to 3.2% from 2.9%	0.25	0.28	0.28	−0.48	−1.33	−1.82
Donate half tobacco settlement to HI fund[3]	0.10	0.10	0.10	−0.63	−1.51	−2.00

[1] Positive figures represent an improvement in the actuarial balance, reflecting either a reduction in expenditures or an increase in revenues. [2] Included in the President's 1999 Budget. [3] We used 10-year estimates provided by the Joint Committee on Taxation and extrapolated them in the long-range.

Note: Estimates are based on the intermediate set of assumptions from the 1998 Trustees Report. Office of the Actuary, Health Care Financing Administration, 15-May-98.

CONGRATULATIONS TO SENIOR AIRMAN ANDRE L. WALKER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. SKELTON. Mr. Speaker, it is an honor for me to bring to the attention of the House of Representatives and the American public the distinguished honor of a fellow Missourian. Senior Airman Andre L. Walker, of St. Louis, was recently chosen as the Air National Guard Airman of the Year.

Senior Airman Andre L. Walker is a Satcom/Wideband Communications Specialist assigned to the 239th Combat Communications Squadron as a TRC–170 tactical communications terminal crew member, Missouri Air National Guard Base, Lambert Field, St. Louis, Missouri. He is 31 years old and was born in St. Louis, Missouri. He attended McCluer Senior High School and was a member of the school football team and the Future Business Leaders of America (FBLA).

After graduation from high school, Airman Walker was locally employed while attending S. Louis Community College's Florissant Valley and Forest Park campuses. He graduated with honors from Forest Park Community College with an Associate of Arts degree in Business Administration. He then went on to continue his education at the University of Missouri, St. Louis campus.

In July 1995 Airman Walker enlisted in the Missouri Air National Guard, and was sent to Basic Military Training in September of the same year. He was selected as flight leader (Dorm Chief) and his flight had the overall highest score in intrasquadron competition. After completing BMT, Airman Walker attended Satcom/Wideband Specialist Training at Keesler AFB, Mississippi, where he was a student leader and member of the drill team in his squadron.

After graduating from technical school, he volunteered to assist a Civil Engineering squadron install fiber optics lines on Spangdahlem Air Base, Spangdahlem, Germany. Airman Walker was recognized as an outstanding performer for his efforts during the project. In August 1996 Airman Walker volunteered to serve in Riyadh, Saudi Arabia, in support of Operation Southern Watch. He received an Air Force Commendation Medal for his performance there.

Airman Walker returned home in January 1997 and assisted the 131st Fighter Wing in its' Mobility Warehouse Reorganization Project in which he and his team completed the task in eighty percent of its estimated time. His team received recognition for its Superior Performance. He subsequently served as an augmentee for the 107th Air Control Squadron during their Operational Readiness Exercise, and afterward he returned to the Middle East for a second tour. Upon his return home in June 1997 he assisted his squadron in preparing for their upcoming Operational Readiness Exercise until August 1997. After the August Operational Readiness Exercise, he was recognized as a Superior Performer by his squadron for his efforts during the Operational Readiness Exercise. Airman Walker subsequently returned to Phoenix, Arizona, in September to assist the 107th Air Control Squadron in their Operational Readiness Inspection. While there, he and two others discovered and extinguished a brush fire on the Fort Huachuca Army Base, preventing potential injury to military personnel and equipment. Airman Walker was again recommended for the

Air Force Commendation medal for his efforts there, confirmation of his decoration is pending.

His military awards include the Air Force Commendation Medal, National Defense Service Medal, Joint Forces Expeditionary Medal, and Air Force Overseas Short Ribbon.

Mr. Speaker, I am certain that the Members of the House will join me in congratulating Andre L. Walker as the Air National Guard's Airman of the Year.

FLOOR STATEMENT ON THE INTRODUCTION OF THE METROPOLITAN WASHINGTON REGIONAL TRANSPORTATION ACT

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. MORAN of Virginia. Mr. Speaker, today I am introducing the "Metropolitan Washington Regional Transportation Act" with my colleague, Senator CHUCK ROBB, to address the traffic congestion problems within the metropolitan Washington D.C. region. We now have the second longest average commuting time in the nation.

According to the Greater Washington Board of Trade, this increased commuting time and congestion costs each man, woman, and child in the region more than $800 per year in lost time, wasted fuel, and environmental damage. Long commutes and traffic congestion have also become quality of life issues to area residents, robbing many families of the one commodity Washingtonians never seem to have enough of—time. Some drivers facing a longer commute have even become a safety hazard as they race recklessly to cut a precious few minutes form their daily commute. Last year's tragedies on I–95 and the George Washington Parkway are still fresh on everyone's mind. For those who lack cars, the distance between employment opportunities and affordable housing has grown more and more difficult to traverse. Our economic prosperity and quality of life hinge on improving our congestion problem.

Unfortunately, as we look to the future the traffic situation only grows worse. Even with increase in federal funds Virginia will receive under legislation reauthorizing federal surface transportation programs, this region will still fall seriously short of meeting the growing demand for transportation improvements. For the period of 1990 through 2020, this region can expect both a 43 percent increase in population and 43 percent increase in employment. This growth and increased dependency on the automobile is expected to increase by 79 percent the number of vehicle miles traveled in the region by 2020.

The Board of Trade estimates that transportation spending is expected to fall short of the region's transportation needs by more than $500 million annually. Any solution to current and future congestion demands strategic investment in both our road and mass transit system. It demands better land use and planning decisions and better interjurisdictional cooperation. And it also demands that this region come together and raise additional revenue to finance priority transportation projects that will provide immediate congestion relief.

It may not be a popular idea, but we have to do more, and we have to do it ourselves. Federal and state taxes levied on our citizens will always take a "haircut" on before spending any of the balance back in this region. It seems to me, that the only way to ensure that we get 100 percent of funds we need is to raise more ourselves and spend them locally. It is also a process that ensures that the money gets spent where we determine it is needed most. I think the key to public support is identifying a list of priority projects that could be completed on a fast track providing the public with the assurances that their additional tax dollars will buy specific congestion relief. A large number of urban communities have already established a dedicated funding source for their transit systems.

In the past, leaders from this region have shared a vision and worked successfully together to address important transportation needs, through such institutions as the Metropolitan Washington Airports Authority, the Washington Metropolitan Area Transit Authority, and the National Capital Region Transportation Planning Board at the Metropolitan Washington Council of Governments. We need a similar vision to carry us forward another 30 years.

The Metropolitan Washington Regional Transportation Act will help us craft this vision. The legislation we are introducing has five key elements: (1) It provides a new option to help the metropolitan Washington region more effectively address its transportation needs; (2) it empowers the National Capital Region Transportation Planning Board to consult with the metropolitan Washington region jurisdictions and the public to achieve consensus on a list of critical transportation projects and a funding mechanism that are needed to address the growing congestion crisis in the region but cannot be funded within the current and forecasted federal, state and local funding levels for such projects; (3) it establishes a Corporation with the power to accept revenue and issue debt to provide short-term funding for projects that have been agreed to by the region; (4) it grants consent to the metropolitan Washington region jurisdictions to enter into an interstate compact or agreement that would help meet the region's long-term transportation needs; and (5) it provides $60 million in matching federal grants as an incentive to encourage the creation of the federal corporation.

This legislation provides a framework under which a regional transportation needs could be addressed. It requires consultation with state and local officials at every level and in an effort to win state support, the legislation preciously guards state control of both the corporation and the authority through veto power. It does not raise anyone's taxes, but it does provide a mechanism or a "vessel" through which the local jurisdictions could coordinate and commit future revenues to finance the construction of specific transportation projects that otherwise will not get built or built anytime soon.

The "Metropolitan Washington Regional Transportation Act" gives us a choice and helps start a debate on how we should take control and improve our future transportation system and improve our quality of life. Our failure to act and meet our transportation needs will have a much higher cost. The Board of Trade places the cumulative regional economic losses from the failure to meet our transportation needs in the year 2020 at between $70.2 billion to $182 billion.

That economic loss includes: a 350 percent or $345 million increase in shipping costs; $1.3 billion to $2.6 billion in higher warehousing and inventory costs; $1,365 per household per year higher consumer costs; and more than $1,000 per household per year in higher personal travel costs.

Mr. Speaker, this region has a choice. I am optimistic that when given the facts and the various options our citizens and elected officials will take control of our emerging transportation crisis and make the right choice.

I am including with my statement a copy of a letter supporting this legislation that was received from the county chairs and mayors of all eight Northern Virginia jurisdictions. This letter reflects a commitment local leaders have made to let this debate go forward and make some tough decisions. I applaud their leadership.

I would also like to express my appreciation to Fairfax City Mayor John Mason and the Metropolitan Washington Council of Government for generating critical local support and throughtful counsel on crafting this proposal.

Hon. CHARLES C. ROBB,
U.S. Senate, Washington, DC.
Hon. JAMES P. MORAN,
U.S. House of Representatives, Washington, DC.

DEAR SENATOR ROBB AND MR. MORAN: We, the mayors and chairs of the Northern Virginia cities and counties, appreciate and support legislation you are preparing to introduce that is designed to help meet this region's critical transportation needs through improved coordination, cooperation and additional funding. We believe the approach outlined in the *Metropolitan Washington Regional Transportation Act* will provide a mechanism to address the serious shortfall in funding for transportation infrastructure needs in the metropolitan Washington region.

The Washington region is unique. We are the only metropolitan area in which multiple states and a Federal district are engaged in addressing transportation issues. As noted in your discussion draft for the proposed Act, it is in the Nation's interest that the region have a transportation system that is supportive of the Federal interest in having an efficient and effective regional transportation system, as well as our role in being an international tourist attraction (some 20,000,000 visitors today; anticipated to be 40,000,000 in 20 years).

Your proposed legislation touches on the two key elements that are needed to stimulate additional funding in the Washington region—a "mechanism" that can receive and distribute funds as well as upfront funding from the Congress that will "prime the pump." We are clear that the proposed "mechanism" does not have independent taxing authority.

We, the elected leaders of Northern Virginia's cities and counties, appreciate your efforts on the region's behalf. We encourage and strongly support your initiative.

With warm personal regards,

Yours sincerely,

Mayor, City of Alexandria, Mayor, City of Fairfax, Mayor, City of Falls

Church, Mayor, City of Manassas, Chairman, Arlington County Board, Chairman, Fairfax County Board of Supervisors, Chairman, Loudoun County Board of Supervisors, Chairman, Prince William Board of County Supervisors.

U.S. SHOULD INVESTIGATE GEN. PINOCHET'S ROLE IN U.S. ASSASSINATION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. MILLER of California. Mr. Speaker, I commend to my colleagues the attached op-ed printed in the Los Angeles Times on May 17, 1998, concerning U.S.-Chile relations.

One of the worst acts of state sponsored terrorism took place right here in Washington, D.C. on September 21, 1976. A bomb was placed under the car of Orlando Letelier, a Chilean exile and former Chilean chancellor under the democratically elected government of Slavador Allende. While driving to work that morning, the bomb was detonated as the car wound around Sheridan Circle, killing Letelier and his American assistant, Ronnie Karpen Moffitt and seriously wounding her husband, Michael Moffitt.

With the help of the FBI, several people were brought to trial for the crime, but it was always believed that Gen. Augusto Pinochet, who seized power in Chile in a bloody coup in 1973 and is—incredulously—now a sitting member of the Chilean Senate, had directed the assassination. There was not enough evidence at the time, however, to directly link him to the crime.

More evidence has come to light since then, and other nations have launched investigations of state-sponsored killings directed by the Chilean secret police. Argentina, Spain and Italy for example are investigating past crimes, and Spain in particular is looking into whether Pinochet was directly involved in the Letelier assassination and other killings.

Spain has asked the United States for cooperation in this investigation, and regrettably that assistance has not always been forthcoming. Along with my colleague Mr. CONYERS of Michigan, I have written the Administration urging their complete and total cooperation with the Spanish investigation.

As the following article points out, there is mounting evidence that Pinochet was directly involved in the killing of Orlando Letelier and Ronnie Karpan Moffitt.

I urge the Administration to strongly consider reopening its own investigation of those murders as well as fully cooperate with the Spanish investigation.

Neither Congress nor the Administration should forego the opportunity to send a strong and clear message that we will not tolerate terrorism on our soil. And our developing relationship with the new government of Chile should not shield Pinochet from responsibility if it is proven that he was responsible for the assassination of innocent civilians.

IS A TERRORIST HIDING IN CHILE'S SENATE?

(By Scott Armstrong and Saul Landau)

When Bill Clinton addressed the Chilean legislature last month, he did not see the face of Augusto Pinochet. Nor did he mention the name of the recently retired army commander and former president-dictator of Chile. But the unresolved issue of Pinochet's involvement in the worst act of international terrorism in Washington in the past 50 years still hangs over U.S.-Chilean relations.

Pinochet figures in problems Chile has with Spain, Italy and Argentina. In each of these countries, official investigations are underway that could link Pinochet directly to overseas assassinations and unsuccessful plots to silence his critics during his 17-year military reign.

An Argentine judge is investigating Pinochet on charges brought by the daughter of Gen. Carlos Prats, a former Chilean chief of staff, and his wife. The two were living as exiles in Buenos Aires in September 1974, when a car bomb blew them nine stories high. Argentine authorities arrested a former officer of DINA, the Chilean secret police, who has implicated other senior Chilean secret-police officials.

An Italian court is probing Pinochet's responsibility in the September 1975 shooting in Rome, of an exiled Chilean Christian Democrat legislator, Bernardo Leighton, and his wife. A gunman put bullets in the backs of their heads, but both survived. One month later, Pinochet met an Italian fascist leader in Madrid, who was subsequently charged with the shooting.

One piece of evidence caught the attention of the Italian magistrate: A Sept. 16, 1975, memo to Pinochet from Col. Manuel Contreras, chief of DINA, Chile's intelligence and secret-police agency. In it, Contreras requests for DINA an additional $600,000 for "reasons that I consider indispensable," one of which is "the neutralization of the [Chilean] government junta's principle adversaries abroad, especially in Mexico, Argentina, Costa Rica, the U.S.A. and Italy." These countries were all hosts to DINA assassination attempts or to aborted DINA assassination plots.

Spanish judges have studied this document, too. In July 1996, the Union of Progressive Spanish prosecutors and lawyers, representing the families of victims of Pinochet's reign of terror, accused Pinochet of international terrorism, genocide and crimes against humanity. In 1978, Pinochet granted an amnesty for himself and his military subordinates who, according to the 1997 official Chilean government record, killed more than 3,190 people and tortured thousands more. Later, Pinochet arranged to retire from the military as a "senator for life," a status that, when combined with the amnesty, amounted to impunity from prosecution in Chile. Recently, a Chilean judge accepted the complaint of Gladys Marin, a Chilean communist, who has accused Pinochet of kidnapping her husband and other leaders, torturing them and making them "disappear." But few hold out hope of an investigation, a prosecution and conviction in Chile.

Spanish Judge Garcia Castellon certified Spanish jurisdiction in a similar case. More than a dozen Spanish citizens, including priests, fell victim to the excesses of Chile's military dictatorship. The judge also cast his investigative net for evidence to Washington, where DINA had struck on Sept. 21, 1976.

On that day, Orlando Letelier, former Chilean chancellor under President Salvador Allende, and Ronni Karpen Moffitt, a U.S. citizen and colleague of his at the Institute for Policy Studies, were killed by a bomb planted under the seat of their car. FBI agents tracked the murders back to DINA's Contreras. A 1978 Washington grand jury indicted him and eight other named conspirators and several unindicted co-conspirators. Two former U.S. prosecutors and two of the FBI agents who worked the Letelier-Moffitt case have declared they believe Pinochet was responsible for the murders.

The U.S. government also learned some details about Chile's overseas terrorism from Michael Townley, a U.S. citizen working for the Chilean secret police, who confessed to organizing the Letelier assassination. In 1980, Townley told a U.S. court that he had received orders from Contreras to assassinate Letelier. Townley flew to the United States under a false name, recruited a gang of anti-Castro Cubans to help him do the job, then made the bomb and detonator and placed the explosives under Letelier's car seat. Two Cuban exiles, who later pleaded guilty, detonated the bomb.

After plea-bargaining for a reduced sentence and testifying against his fellow conspirators, Townley gradually disclosed to the FBI other information about DINA. After the September 1973 Pinochet-led coup that overthrew the Allende government, Townley had ingratiated himself to DINA by demonstrating his electronic expertise. He also showed an aptitude for more exotic tasks and, by 1974, he had received an assignment to kill abroad.

Townley, according to bureau agents, began to think of himself as DINA's jackal, referring to the 1960s French killer who almost assassinated President Charles DeGaulle. FBI Special Agent Robert Scherrer slowly developed a father-confessor relationship with Townley, who told him how he and other elite Chilean agents organized the killing of Gen. Prats. The FBI learned of "Operation Condor," an agreement among six Latin American secret-police agencies to spy on their enemies abroad and even eliminate them. In the Prats case, for example, Townley recruited Argentine agents to detonate the bomb he had built.

Scherrer also extracted from Townley details about the Leighton hit in Rome, in which an Italian fascist leader pulled the trigger and a Cuban exile group in Miami took the public credit. In 1997, the Italian court condemned (in absentia) Contreras and Townley for attempted murder of the Leightons in Rome.

Townley's stores have been reinforced by other evidence to the point that the Letelier case may be reopened. All nine conspirators listed in the 1978 indictment have been tried. The unindicted co-conspirators could include Pinochet himself. Yet, prosecutors lacked direct evidence that would warrant an indictment of the former Chilean president.

Then, last December 23, Contreras, now serving a seven-year sentence in Chile for his role in the Letelier-Moffitt murders, declared that he was following Pinochet's orders in every action that he undertook. Since his statement was offered as part of an effort to get his sentence reduced, it's self-serving. But it appears to corroborate the conclusions of the U.S. officials involved in the case.

Pinochet has escaped prosecution in Chile because of the amnesty he granted himself and his cronies. But there is one exception: U.S. pressure could compel his prosecution in the Letelier-Moffitt case in Chile. But there is little likelihood justice will be done there unless it is pursued here in the United States.

Although he failed to confront Pinochet while visiting Chile, Clinton still can ask

Atty. Gen. Janet Reno to reopen the Letelier-Moffitt investigation into Pinochet's role as its alleged author. Such a request would signal a formal end of official impunity under which Pinochet has hidden for more than two decades. It would send a message to state terrorists everywhere.

THE INDONESIA CRISIS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 22, 1998

Mr. PAUL. Mr. Speaker, the Soviet system, along with the Berlin Wall, came crashing down in 1989, the same year the new, never-to-end, era came to a screeching halt in Japan. The Japanese economic miracle of the 1970's and the 1980's, with its "guaranteed" safeguards, turned out to be a lot more vulnerable than any investor wanted to believe. Today the Nikkei (Tokyo) stock average is still down 57% from 1989, and the Japanese banking system remains vulnerable to its debt burden, a weakening domestic economy and a growing East Asian crisis spreading like a wild fire. That which started in 1989 in Japan—and possibly was hinted at even in the 1987 stocke market "crash" here—is now sweeping the Asian markets. The possibility of what is happening in Asia spreading next to Europe, and then to America, should not be summarily dismissed.

ECONOMIC FALLACY

Belief that an artificial boom, brought about by Central Bank credit creation, can last forever is equivalent to finding the philosopher's stone. Wealth cannot be created out of thin air. New money and credit, although it can on the short-term give an illusion of wealth creation, is destructive of wealth on the long run. This is what we are witnessing in Indonesia—the long run—and it's a much more destructive scenario than the currently collapsing financial system in Japan. All monetary inflation, something nearly all countries of the world are now participating in, must by their very nature lead to an economic slump.

The crisis in Indonesia is the predictable consequence of decades of monetary inflation. Timing, severity, and duration of a correction, is unpredictable. These depend on political perceptions, realities, subsequent economic policies, and the citizen's subjective reaction to the ongoing events. The issue of trust in the future and concerns for personal liberties greatly influence the outcome. Even a false trust, or an ill-founded sense of security from an authoritarian leader, can alter the immediate consequences of the economic corrections, but it cannot prevent the inevitable contraction of wealth as is occurring slowly in the more peaceful Japan and rapidly and violently in Indonesia.

The illusion of prosperity created by inflation, and artificially high currency values, encourage over-expansion, excessive borrowing and delusions that prosperity will last forever. This attitude was certainly present in Indonesia prior to the onset of the economic crisis in mid 1997. Even military spending by the Indonesian government was enjoying hefty increases during the 1990's. All that has quickly ended as the country now struggles for survival.

But what we cannot lose sight of is that the Indonesia economic bubble was caused by a flawed monetary policy which led to all the other problems. Monetary inflation is the mother of all "crony capitalism."

CHARACTERISTICS OF THE CORRECTION

One important characteristic of an economic correction, after a period of inflation (credit expansion), is its unpredictable nature because subjective reactions of all individuals concerned influence both political and economic events. Therefore, it's virtually impossible to predict when and how the bubble will burst. Its duration likewise is not scientifically ascertainable.

A correction can be either deflationary or inflationary or have characteristics of both. Today, in Indonesia, the financial instruments and real estate are deflating in price, while consumer prices are escalating at the most rapid rate in 30 years due to the depreciation of the rupiah. Indonesia is in the early stages of an inflationary depression—a not unheard of result of sustained Central Bank inflationary policy. Many believe price inflation only occurs with rapid growth. This is not so.

Blame is misplace. Rarely is the Central Bank and irredeemable paper money blamed—unless a currency value goes toward zero. In Indonesia the most vulnerable scapegoat has been the Chinese businessmen who are now in threat of their lives and fleeing the country.

A much more justifiable "scapegoat" is the International Monetary Fund (IMF) and the American influence on the stringent reforms demanded in order to receive the $43 billion IMF-led bailout. IMF policy only aggravates and prolongs the agony while helping the special interest rich at the expense of the poor. The IMF involvement should not be a distraction from the fundamental cause of the financial problem, monetary inflation, even if it did allow three decades of sustained growth.

"Crony capitalism" was not the cause of Indonesia's trouble. Inflationism and political corruption allow crony capitalism to exist. It would be better to call it economic interventionism for the benefit of special interests—a mild form of fascism—than to abuse the free market term of capitalism.

Any serious economic crisis eventually generates political turmoil, especially if political dissent has been held in check by force for any significant period of time. There should be no surprise to see the discontent, with blood in the streets of Jakarta, soon spread and build. Political events serve to aggravate and magnify the logical but subjectively-sensitive declining currency values and the faltering economy. The snowballing effect makes the political crisis much more serious than the economic crisis since it distracts from the sound reforms that could restore economic growth. These circumstances, instead of leading to more freedom, invite marshal law for the purpose of restoring stability and the dangers that go with marshal law.

Errors in economic thinking prompt demands from the masses for more government programs to take care of the rapidly growing number of poor. Demands for more socialism and price controls result whether it's in education, medical care, unemployment benefits or whatever—all programs that Indonesia cannot afford even if they tried to appease the rioting populous.

SOLUTIONS ATTEMPTED

The IMF's $43 billion bailout promise has done nothing to quell the panic in the streets of Jakarta. If anything, conditions have worsened. The Indonesians deeply resent the austere conditions demanded by the IMF. Since the United States is the biggest contributor to the IMF and the world financial and military cop, resentment toward the United States is equal to that of the IMF. The Indonesian people know they won't be helped by the bailout. They already see their jobs disappearing and prices soaring. The political and economic future, just a few months ago looking rosy, is now bleak beyond all description. Indonesians know what the American taxpayers know: the IMF bailout helps the rich lenders who for decades made millions but now want their losses covered by weak victims. Is there any wonder resentment and rage prevail in Indonesia?

The United States has just sent a military delegation to study and obviously advise the Indonesian Government regarding the law and order crisis now in process. Our officials say that we're there to watch that the Indonesian military does not abuse the rights of Indonesian citizens. Even if true, and well motivated, where did this authority come from for us to run to the scene of the crime—on the other side of the world—and pretend we have all the answers? Putting aside the question of whether there is proper authority or not, the Indonesian people perceive even a few U.S. military advisors as a further threat to them. The IMF is seen as an extension of the United States and is expected to more likely side with the Indonesian military than with the demonstrators. No government, even the questionable ones, likes to see any dissolution of governmental power. It might encourage others unhappy with their own government. And it is not as if the U.S. Government is innocent and benign, considering our recent history at Kent State, Waco, and Ruby Ridge and the hundreds of no-knock entries made in error, causing loss of life, multiple injuries and destruction of property. Let us make sure our own government acts responsibly in all matters of law and order here at home before we pretend we can save the world—a responsibility not achievable even if motivated with the best of intentions.

Effort to prop up an ailing economy after the financial bubble has been popped, prolongs the agony and increases the severity of the correction. Japan's bubble burst in 1989, and there is not yet any sign of the cleansing of the system of bad debt and mal-investment which is necessary before sound growth will resume. And Indonesia is embarking on the same predictable course. Restoration of free markets, including the establishment of a sound monetary policy, has not yet been considered. The people of Indonesia and the rest of the world should prepare for the worst as this crisis spreads. For Congress, the most important thing is to forget the notion that further taxing American workers to finance a bail-out will work. It won't work—it is the worst policy of all for us to pursue.

The Indonesian Government had one idea worth considering under these very difficult circumstances. They wanted to replace their central bank with a currency board. It's not as good as gold standard, but it would have been a wise choice under current conditions. But the United States and the IMF insisted that in order to qualify for IMF funding this idea had to be rejected outright and the new central bank for Indonesia had to be patterned after the Federal Reserve with, I'm sure, ties to it for directions from Federal Reserve Board Governor Alan Greenspan and company. A currency board would allow a close linkage of the rupiah to the dollar, with its value controlled by market forces, and would have prevented domestic Indonesia monetary inflation—the principle cause of the economic bubble now collapsed. The shortcoming of a currency board tied to the U.S. dollar is that the Indonesian currency and economy would be dependent on dollar stability which is far from guaranteed.

REFUSAL

In the approximately eight months since the crisis hit Indonesia, there has been no serious look at the underlying cause: monetary inflation brought about by a central bank. Nor has any serious thought gone into the internationalization of credit as United States exports of billions of dollars, and thus our own inflation, to most nations of the world which hold these dollars in reserve and use them to further inflate their own currencies. Our huge negative trade balance and foreign debt is not considered by conventional wisdom to be relevant to the Asian currency problems, yet undoubtedly it is. True reform to deal with the growing worldwide crisis can only be accomplished by us first recognizing the underlying economic errors that caused the current crisis.

The philosophy of the free market holds a lot of answers—yet the difference between free market capitalism and interventionist political cronyism has not been considered by any of the world banking and political leaders currently addressing the exploding East Asian crisis.

Concern for personal liberty is not a subject associated with the crisis and is an ongoing casualty of past and current policy. A greater concern for individual liberty will be required if a positive outcome is to be expected from the fall-out of the Indonesian crisis. Let's hope we can get our priorities straight. Congress has an obligation not to worsen the crisis by capitulating to more bail-outs and to remain vigilant enough to keep the administration from accomplishing a similar bail-out through Executive orders outside the law.

MESSAGE

What should the message be to the Congress and the American people regarding this sudden and major change in the economic climate in Indonesia? First and foremost is that since we operate with a fiat currency, as do almost all the countries of the world. We are not immune from a sudden and serious economic adjustment—at any time. Dollar strength and our ability to spend dollars overseas, without penalty, will not last forever. Confidence in the U.S. economy, and the dollar, will one day be challenged. The severity of the repercussion is not predictable but it could be enormous. Our obligation, as Members of Congress, is to protect the value of the dollar, not to destroy it deliberately, in an attempt to prop up investors, foreign governments or foreign currencies. That policy will only lead to a greater crisis for all Americans.

As the Asian crisis spreads, I would expect Europe to feel the crunch next. Unemployment is already at or approaching 12% in Germany and France. The events can be made worse and accelerated by outside events like a Middle Eastern crisis or a war between India and Pakistan both now rattling their nuclear sabers. Eventually though, our system of "crony capitalism" and fiat money system will come under attack. Our system of favoring industries is different than the family-oriented favoritism of Suharto, but none-the-less is built on a system of corporate welfare that prompts constant lobbying of Congress and the Administration for each corporation's special interests. We have little room to talk as we preach austerity, balanced budgets and sound money to the current victims. Our day will come when we will humble ourselves before world opinion as our house of cards comes crashing down.

We will all know we are on the right track when the people and our leaders are talking of restoring liberty to all equally, and establishing a sound money system that prevents the Federal Reserve from manufacturing money and credit out of thin air for the benefit of politicians, corporations and bankers who directly profit.

SENATE—*Monday, June 1, 1998*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, give us a deeper awareness of the power of prayer. You have told us in the Bible that there are blessings You grant only when we care enough to pray for each other. Our attitudes are changed when we do pray for one another. We listen better and conflicts are resolved. We discover answers to problems together because prayer has made it easier to work out solutions. Working together becomes more pleasant and more productive.

Knowing this, we make a specific commitment to pray for the people with whom we disagree politically. As we pledge that we are one Nation under You, help us to exemplify for our Nation what it means to be one here in the Senate family, with unity in our diversity, held together with the bonds of loyalty to You and to our Nation.

Today, we experience the power of intercessory prayer for very specific needs. We ask You to comfort and encourage the survivors of the tornado that leveled the town of Spencer, South Dakota.

Also, we ask You for the continued healing and health of Senator ARLEN SPECTER. Be with him now as he is in surgery.

And we join with Members of both parties in thanking You for the life and leadership of Senator Barry Goldwater who served here in the Senate for 30 years. Bless his wife and family in this time of grief. In the Name of our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you very much, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will be in a period of morning business until 2 p.m. Following morning business, the Senate will resume consideration of S. 1415, the tobacco legislation, with several amendments pending. As was announced prior to the recess, there will be no rollcall votes during today's session. And also as a reminder to Members, a cloture motion was filed with respect to the motion to proceed to the nuclear waste bill. That vote, and any votes ordered during today's session or during the morning session of the Senate tomorrow, will be postponed to occur Tuesday, June 2, at 6 p.m.

For the remainder of the week, the Senate will continue consideration of the tobacco legislation, the nuclear waste bill, and possibly the Department of Defense authorization bill. I know the distinguished chairman of the Armed Services Committee is anxious for us to return to the DOD authorization bill. It is my intent to do that at the earliest possible opportunity and that work be completed on the authorization bill so that we can go to the military construction appropriations bill and the DOD appropriations bill.

We also may have some executive and legislative calendar items that will be cleared for action. I believe we have at least one more judicial nomination, perhaps others, that we will be able to move on today. We are hopeful there will be some conference reports available this week. Specifically, the Coverdell A+ education bill conference report could be ready this week. Work will continue on the IRS conference report, but it looks like that may not be available until next week.

Finally, I announce that with respect to the passing of our former colleague, Senator Barry Goldwater, the Senate will not be in session on Wednesday in honor of this distinguished Member of the U.S. Senate. Members will be attending funeral services on that day in Arizona.

I thank my colleagues for their attention and their cooperation as we go through the balance of this week.

I yield the floor, Mr. President.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. ROBERTS). Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 2 p.m., with Senators permitted to speak for up to 5 minutes each.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from South Carolina is recognized.

TRIBUTE TO SENATOR BARRY GOLDWATER

Mr. THURMOND. Mr. President, I rise to speak a word or two about Senator Barry Goldwater. Senator Goldwater was a man of integrity, ability, and dedication. When he announced he was going to run for President, I changed parties that year because I wanted to support this particular man on account of the high principles for which he stood. I did support him. Whether he had a chance to be elected or not, I wanted to have a part in supporting a man who stood for values, who stood for America, and who stood for the good things of life.

Senator Goldwater served here for about 30 years. I enjoyed serving with him. On account of that opportunity to serve with him—I knew a good man when I saw one—that is the reason that I supported him for President. He carried my State, and he carried about five or six other States. I was sorry he was not elected. He would have made a great President of the United States.

I extend my deepest sympathy to his family in this time of grieving.

Thank you, Mr. President.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Arizona is recognized.

Mr. KYL. Thank you, Mr. President.

I appreciate those remarks of the Senator from South Carolina who, of course, served with Senator Goldwater probably longer than anybody else in this body.

Senator Goldwater first came to the Senate in 1952 and completed his service in the U.S. Senate in 1987. And, of course, we recall the time-out when he ran for President of the United States. But the first thing about his service to this country, obviously, for us to note is his service as a U.S. Senator, serving right here on this floor.

Mr. President, I would like to talk about Senator Goldwater for just a few minutes this morning but focus on a couple of other aspects of his life.

It is clear that for many of us, particularly my generation, he was an inspiration for us to become involved in politics and to approach it from what he called a "commonsense conservative point of view."

I remember in 1960 meeting him when I was a student at the University of Arizona in Tucson, AZ. He cared a lot about young people and was always willing to come to the university and talk to us.

I had read the "Conscience of a Conservative" and was greatly impressed with its commonsense approach to politics at the time. Everywhere I have gone over the years—and when I have been with Senator Goldwater—I have been impressed with the fact that people from all over the country would come up to him and say, "Senator

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Goldwater, you're the reason I got involved in politics. Yours was the first campaign that I ever got involved in" or "It was your election that was the first time I voted."

He inspired Americans all over the country to become more involved in politics and, as I said, to approach politics from his commonsense conservative point of view.

For the United States as a whole, I think our history will reflect the fact that Senator Goldwater was one of the three people who really began the modern conservative movement in this country. I think he was the first, along with Bill Buckley, providing a lot of the intellectual stimulus for the conservative movement through his publication, the National Review. And, of course, Senator Goldwater paved the way later for Ronald Reagan to become elected by the American people and to serve two terms with the tremendous conservative mandate of the American people.

I think it is generally acknowledged that without Senator Goldwater's activity here in the U.S. Senate, and also in his activities as a Presidential candidate in 1964, that the ascendancy of the Ronald Reagan candidacy and his election by the American people would not have occurred.

So as a result, I think those of us here in the Senate reflect not only on his service here in the Senate as chairman of the Armed Services Committee, his service and very strong support for a strong national defense for the United States, but also for being part of the beginning of the conservative movement in this country. I find it interesting that today most people call themselves conservatives in the same way that Barry Goldwater did all the way back in 1958, 1960, when he first came here.

Let me talk just a little bit about Senator Goldwater in a different sense, not in the sense of a Senator in this body, not in the sense of a creator of the modern conservative movement in this country, but rather as the individual, because in Arizona a lot of people know Barry Goldwater a little bit differently, a lot of people whom no one else knows. They are not the big important people of the world, they are people who grew up with Senator Goldwater. They are Navajo Indians whom he got to know when he helped to run his family's trading post on the Navajo Indian reservation. They are people all over the State with whom he visited when he traveled the State, hiked it, and photographed it. There are veterans he visited with, people in the military all over the country, but particularly in Arizona, with whom he was very closely associated. These are the people Barry Goldwater would reminisce with me about when I went to his home and visited with him, long after his Government service came to an end.

In fact, when I went to his house to visit with him, I expected him to talk about Senate business and get advice from him about what we should be doing here. He didn't want to talk about that. He wanted to reminisce about people he had known way back when—the people who really mattered to him most. They weren't kings, they weren't presidents, and they weren't Senators; they were regular folks from whom he took a great deal of learning.

If you read "Conscience of a Conservative" again, and even if you review the speech that he gave when he accepted the party's nomination in 1964 to run for President, you will see throughout a strong reference to the economic sense of people and the nature of people. He talked, in "Conscience of a Conservative," about the inherent nature of people, and he criticized some of his liberal friends for wanting to remake people in their image, basically, through Government action. His point was, look, people are the way God made them, for better or for worse; we should recognize that human nature and formulate Government policies to help permit people to live as they would as human beings, without trying to have Government make them into a particular type of person or to direct their activities in a particular way. That is why he became known as the great friend of freedom.

He was a person who did not believe Government should tell people what to do or even shouldn't tell people a great deal, because it would prevent them from helping to learn themselves. He understood human nature. How did he come to that understanding? Part of it is because he really liked people and he liked to be with people. He learned from them what it was that was the essence of the character of man.

I think a lot of that began, as I said, when he was living on the Navajo Indian reservation, tending to his family's trading post. The photographs he has taken, particularly in his early life, frequently are commented upon as remarkable for capturing something very special, some inner quality of the people he photographed. A lot of the people he photographed were on the Navajo Indian reservation and the Hopi Indian reservation. I have one of his photographs hanging in my office of a young Navajo girl. There is something very, very special about that. Every one of the photographs that he took of the people, you almost feel that you know that person, that it is a very special person. There is sort of an inner quality that comes out in his photographs.

How did he do that? He didn't have the greatest camera equipment at the time, although he has always been a fine photographer. He was somehow able to capture the essence of people through his photography. I think part of it is because he got to know the people and he would talk to them and ask them very nicely if they would mind being photographed. He was able, therefore, to capture that essence of humanity that I think most of us miss. We are all too busy, too busy with the big important things in life.

Barry Goldwater focused a lot on the little things in life, which is another reason he was such a great photographer of Arizona landscape. He found beauty in places that many of us would have passed over because we were in a hurry. Now we reflect on those photographs and think, how could anyone have captured that the way he did? Some of which, incidentally, Mr. President, are very valuable because they show, for example, trips down the Grand Canyon in areas that are now dammed up and we will never see them the way he saw them and the way the photographs captured them.

My point here is that in recent years when I visited with Senator Goldwater, I learned a lot more from him about people than I did about political philosophy and what we should be doing with these great momentous decisions here that we debate on the Senate floor. In this respect, Senator Goldwater was a lot like my own father, who also had the privilege of serving in the U.S. Congress, representing the State of Iowa. He, too, is a great photographer. And he, too, sees that something special in people and in places that he has been able to photograph. He, too, thinks a great deal about individual people and what they meant. And he, too, likes to reminisce about people in his earlier years.

I suppose that happens to all of us when we get a little bit older, but part of it is because not only do we remember those people, but we reflect, now, upon an entire life and we understand what is important and what isn't. We understand that part of what is really important about life is the people we got to know and what we have learned from them. I learned a great deal from my father, just as I have from Senator Goldwater, about human nature. I think that knowledge is better for us as public servants than any other schooling we could get or any other studying we could do.

In reflecting on Senator Goldwater's life after he passed away on Friday, it just occurred to me that the things I want to share about him are these reflections about the individuals he knew and what he learned from them, something that probably will not be greatly commented upon by others who will reflect upon his service here in the Senate, his strong support for national defense, his creation of the modern conservative movement—as I said, his leading of that movement through much of the period of the 1960s. All of that was very, very important. That is why he will go down in the history books as a great American leader, as a great American patriot.

But as I said, he was also, to me, a teacher. One of the reasons for his greatness was the fact that he understood the importance of the little things in life, the little things that create beauty, the little things that make us all what we are. I think if more people understood that human nature as Senator Goldwater did, because he experienced it so much in his early life, that all of us in this body and in the other body would be much better representatives of the people for whom we work, because we would better understand their desires, their hopes, their needs, and perhaps would better be able to reflect those hopes, needs, and desires in the kind of policy that we help to set here in Washington, DC.

A final point in closing, Mr. President. Senator Goldwater, of course, was very blunt and outspoken. I think a little bit of that would go a long way these days, too—to say what we really think, irrespective of the political consequences. Now, some have said he could afford to do that because in 1964 he was running a race that he couldn't win and so he had the luxury, in effect, of just saying what was on his mind. If you know Barry Goldwater, he didn't just limit it to the 1964 campaign; he said what was on his mind, regardless of the circumstances, when he was beginning in politics and all the way through to the day he died.

All of us, I think, could benefit by trying to be a little bit more candid in how we express ourselves. He and Ronald Reagan, I think, found the same thing. When you do that, it is surprising how appreciative people are and how politically popular, sometimes, you can be by simply saying what is on your mind. People understand when you are politicking versus when you are talking from the heart. It is not hard for people to see through what most of us say. That is why a lot of politicians do not have very good reputations. I think if more of us reflected on the way Barry Goldwater did it, we would find it is not only a more candid approach but it also can have very good benefits for people to see that all of us are willing to express ourselves in a very candid and a very open way.

So he has taught us a great deal. I think as people put the parts of his life together, it all fits together in a mosaic that created a unique individual. We will find additional lessons to take from his long and very productive life. I am looking forward, Mr. President, to visiting with other Members of this body to learn of their experiences with Senator Goldwater, because of course I didn't have the opportunity to serve with him.

In the time that he was here, Senator Goldwater, I think, represented Arizona in a way that permitted those of us in Arizona to refer to him as Mr. Arizona, a person who reflected really a great deal about our own State. Mr. President, it is from that standpoint that I approach, not with a great deal of sadness, but rather with some degree of celebration, the fact that he was able to serve in this body so long, to represent the State of Arizona for so long, to be really reflective of our State, and he will go down in the history books not as a great national and international figure, but probably as the most important and famous Arizonan, at least in my lifetime, and someone who I think all of us in Arizona were proud to have as a representative of our State.

I am looking forward to joining many of my colleagues Wednesday in Phoenix at his funeral which, as his wife told me, will be more of a celebration of his life and of all of the things that he did, both for his State and for this country. I am sure we will hear a lot of stories and do a lot of laughing about Barry—and a lot of crying about the fact that he is gone. But the fact of the matter is that we have an opportunity to reflect on an individual who we have loved very much, and we want to make the most of that opportunity.

Mr. President, I wanted to come here this morning to give a few reflections, not in the usual vein of his political accomplishments and what he did as a Senator, but more what I saw in him, especially in his later years, as an individual who just wanted to be remembered as an honest man.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I gather that my colleague, Senator KYL, has taken some time to speak about Senator Goldwater.

The PRESIDING OFFICER. The Senator is correct.

Mr. WELLSTONE. I only heard about his remarks. Let me thank my colleague from Arizona for coming to the floor to speak. I am sure we will hear from Senator MCCAIN as well, if we haven't already.

As a Senator, I suppose, on the other side of the ideological continuum—if that is, in fact, even relevant; sometimes I don't think it is. I don't think politics has that much to do with left to right to center; I think it has more to do with trying to do well for people, and we have all reached different conclusions about how to do that. But it is about public service. I just want to say to the Goldwater family that I think Barry Goldwater really set a standard, especially when it comes to personal integrity and intellectual integrity and political integrity. And I think people in our country really yearn for that. His outspokenness, and especially his courage, and especially in recent years his willingness to speak out, even after no longer being in office, to continue to serve our country I think really is inspiring for all of us.

I wish to add my words to the really fine words of the Senator from Arizona.

(The remarks of Mr. WELLSTONE pertaining to the submission of S. Res. 238 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. WELLSTONE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KYL). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 15 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. DORGAN. Mr. President, as we near the summer of this legislative session and discuss the agenda remaining for this Congress, I want to raise, as my colleagues and I have for many, many days in this Chamber, one of the pieces of legislation we want considered in the Senate during this session of the Senate. That legislation is the Patients' Bill of Rights.

About 160 million Americans are now enrolled in managed care organizations. HMOs—health maintenance organizations, one of the main types of managed care—can save money and they can improve care. But by the same token, managed health care organizations can cause real serious problems for many Americans. I want to describe just a few of them and describe why we believe a Patients' Bill of Rights should be enacted by this Congress.

To describe part of the problem with managed care organizations, let me tell the story of a woman who had just suffered a brain injury. As she was lying in an ambulance being hauled to a hospital, with her brain swelling, she advised the ambulance drivers that she wanted to be taken to the hospital that was farther away, rather than the nearest hospital.

She survived and was asked later why she issued directions to be taken to the hospital farther away. She said she had learned a lot about the hospital that was nearest to the ambulance at that point, and it was a hospital that by reputation had made health care a function of its profit and loss statement. She did not feel comfortable presenting herself to an emergency room where her care was going to be a function of someone else's profit and loss.

And that is something that concerns a lot of the American people these days, especially as health care moves more towards for-profit health care, more towards managed care. Let me give you another example.

This example, whose name is Wendy Connelly, a wife and mother from Sherwood, OR, is yet another reason why we need a Patients' Bill of Rights.

In 1994, Wendy Connelly experienced symptoms of what she feared was a heart attack, including heaviness in her chest and a heart that began beating wildly, at a rate approaching 150 beats per minute. She thought she was having a heart attack, so Wendy sought treatment at the local hospital emergency room, as one would likely do in that situation. Fortunately for Wendy, the doctors on call treated her for what was not a heart attack, but rather, a previously undiagnosed thyroid imbalance. When she first began to fear the worst, Wendy had contacted her HMO's on-call physician for advice. Obviously, he was unable to make an over-the-phone diagnosis for her, and he told her to seek emergency room care if her symptoms did not subside. And so she did. But when the bill came due, the HMO denied payment of Wendy Connelly's claim. They said that her case was not deemed emergency care. The HMO was basing its decision on the final diagnosis, not the heart-attack like symptoms that sent her to the emergency room.

Wendy Connelly, to her credit, felt that the HMO was wrong in its denial, and so, for more than a year, she sent letters explaining what had happened. Even her doctors and the hospital that treated her urged the HMO to cover that claim. Finally, the HMO conceded and she was no longer liable for the costs that she incurred more than a year before. But she decided that she would help others in this situation who were being unfairly denied coverage, so she filed a complaint against the HMO with the Oregon Department of Insurance. It was found by the Department of Insurance that what had happened to Wendy Connelly was a routine practice for this insurer. If a person went to the emergency room but found that the final diagnosis is not something that would require emergency care, despite what the presenting symptoms were, then the claim was denied.

Here is what Wendy said:

> I went to an emergency room (because) I thought I was having a heart attack. . . . I felt that if I went somewhere else or delayed longer, I would (have been) putting my life in jeopardy.

But all across the country now we discover these cases, time after time after time, of the managed care organizations deciding that they won't cover someone showing up in an emergency room. Or, in fact, some of them have clauses in their contracts with their doctors that say if a doctor's patient shows up in the emergency room, it comes out of the doctor's compensation for the managed care organization. You talk about a terrible incentive; you talk about a conflict of interest; that is it.

We have proposed a Patients' Bill of Rights, proposed by Democrats and Republicans, in the Congress. Let me go through, just for a moment, what some of these rights would be.

Patients in this country ought to have an opportunity to know all of the medical options available to treat their illness or disease—all of the medical options, not just the cheapest. A number of managed care organizations have gag rules in their contracts with their doctors. They will only allow their doctors to tell patients what they want the patients to know. If there are other treatments available, perhaps better treatments, treatments that are more appropriate but perhaps more expensive, then they have no obligation to tell the patient that there are other treatment options. Many patients worry, and some investigations confirm, that often the patients learn not all of the treatments available but only those which are the cheapest.

You have a right to choose the doctor you want for the care you need, including specialty care. One person from my home state of North Dakota whose employer recently switched to a closed network health plan has a chronic heart condition. But his new health plan has refused to allow him to see the cardiologist who has been caring for him for this heart condition for a decade. This employee has no option to choose a health plan that will allow him to continue seeing his cardiologist, even though he says he is willing to pay for that right. So under the Patients' Bill of Rights, patients will have the right to choose the doctor they want for the care they need.

You have the right to emergency room care whenever and wherever you need it. In fact, a Missouri managed care organization plan sent all of its customers a letter saying a trip to the emergency room with a broken leg, or a baby running a high fever, should not generally be assumed to be covered. The letter read like this:

> An emergency room visit for medical treatment is not automatically covered under your benefit plan.

An Arkansas woman suffered a broken neck in a car wreck and was rushed to the hospital. Her managed care company refused to pay for her emergency room care—this is a patient with a broken neck from a car accident—because she failed to get prior authorization. Managed care organizations think that the first thing to do when you break your neck in a car accident is to seek prior authorization to get to an emergency room? So, another of the patients' rights is the right to emergency room care whenever and wherever you need it.

You also have the right to a fair and speedy process for resolving disputes with your health care plan. You have the right to considerate, respectful care without discrimination. You have the right to keep your medical records confidential.

Why is it important that these rights be made available to patients? Because too many managed care organizations are denying those basic rights to American citizens and to those who are sick right now. We have a proposal that has been dealt with by the Senate, dealing with mastectomies. Why should the Senate be talking about the length of hospital stays available for a woman who has a mastectomy? Because managed care organizations are taking these women into hospitals for mastectomies, radical mastectomies, and 8, 10, 12 hours later, with tubes coming from their bodies, sending them home. And the same is true with drive-through baby deliveries. That is why Congress addressed that particular problem in 1996.

Is this body part by body part legislation the best way to address these issues? No, not for Congress to be dealing with these specific procedures. But why are we even confronted with this? Because health care all too often—regrettably, for those who are sick, for those who are in need of health care—has become more a function of dollars and cents, more a function of someone's profit and loss, than someone else's critically needed health care. That is why we want a Patients' Bill of Rights passed by this Congress.

Some say this will cost a lot of money. No it will not. The ultimate cost for the American people is to deny treatment, to deny coverage, and deny opportunity for those who are sick to get the treatment they need. If you want to mushroom the health care bill in this country, then keep doing what we are doing and say to the American people: If you break your neck, we won't pay for emergency services for you because your first stop should be some accountant's desk to get prior authorization. Your first stop, before the doctor's office or the hospital room, is to appeal to some accountant in an insurance office 500 miles away to ask what kind of health care delivery that managed care plan will give you, your child, your parents, or your family. That doesn't make any sense.

Doctors all across my State and across this country support the Patients' Bill of Rights, because they understand medicine ought to be practiced in the doctor's office and in the hospital room, not in some insurance company's office by some junior accountant who is 500 or 1,000 miles away from the problem the patient is suffering.

Mr. President, I hope very much that in the coming weeks this Congress will include on its agenda a Patients' Bill of Rights so that all Americans will understand their rights and all managed care organizations will understand their obligations to people in this country when they need health care.

FARM CRISIS

Mr. DORGAN. Mr. President, as I finish my time I want to turn to a separate matter for a moment to discuss some meetings that I held in North Dakota during this past week. While the U.S. Senate was not in session, I held a number of farm neighbor meetings around North Dakota to talk about the farm crisis that exists in our part of the country. It is not something you read much about, but it exists and it is serious.

We have seen all kinds of natural disasters and they break your heart. We have seen tornadoes, earthquakes and floods. We have had floods in North Dakota, our neighboring State of South Dakota had devastating tornadoes over the weekend. They are all tough to deal with.

But there is another kind of crisis and disaster that occurs that does not come from a single event that climaxes in massive, visible immediate destruction. I am talking about a farm crisis that is devastating farm families in States like North Dakota. Chronic grain disease, such as scab that results in vomitoxin, chronically low farm prices, a wet cycle, diminished production, and a range of other things have combined to put literally thousands and thousands of family farmers in harm's way. By harm's way, I mean these farmers are not going to get financing to put in another year's crop. They are going to see their lifelong dream of operating their family farm gone, ripped apart and torn to shreds.

At one of the farm neighbor meetings I had, there were three generations of farmers sitting there—a granddad, a dad and a son. The son was about 20 years old, kind of a husky young man. The granddad started that farm many, many decades ago, and the father took over that farm. Now the son is getting ready to graduate from college and would like to come back and farm as well. But the son said he wasn't sure he was going to be able to do that. In fact, the dad wasn't sure he was going to be able to hold on to the farm even if his son did want to farm it. Three generations of farmers and their hope for the future is gone.

At one of the farm meetings we had, the sky clouded up with big black storm clouds to the west. A storm was imminent, when one of the farmers stood up and explained what a lot of people probably do not understand.

He said, "You know, I've lost money 4 years in a row. I run a small grains farm. I put my kids through college. This is what I love to do. It is what I know to do," and he said, "yet, the grain prices are far below my cost of production. We have had crop disease and every problem you virtually can conceive of, and I don't know how long I can keep farming."

He said, "See that cloud bank out west. Those storm clouds that will be here in an hour or so, that's pressure. That's pressure for us, and people don't understand that. That might ruin what little crop that has started to come. That might wash out seeds that haven't yet sprouted. That is pressure."

You don't think much about that until you sit on those farmsteads and visit with the farmers who are trying to make a living under very difficult circumstances.

Farmers are the only business men and women in this country who have the following kinds of problems of risk: One, when they plant a seed after they plow the soil in spring, they have no idea whether the crop is going to grow, whether it be wheat, barley, flax, or corn. If it grows, maybe a month later the grasshoppers come. Maybe it is insects, maybe it is hail, maybe crop disease or maybe a dozen other things conspire to destroy that crop.

But maybe the crop doesn't get destroyed and the farmer harvests the crop and takes it to the grain elevator. Then maybe, as is the circumstance today, that farmer gets $2 a bushel less than it cost him to produce the wheat. Then the farmer wonders, "I took all these risks and end up losing all my money, all my equity, and then I am told by my banker that the U.S. Congress changed the farm program and reduced price supports so I can't cashflow anymore. Because Congress changed the farm programs, I no longer have the loans available to me to put in the spring crop." And they rightfully wonder what is happening to our country.

We must, as a country, do something if we want to save family farmers. This country has an obligation to stand up in international trade and farm policy. We need to say that a network of family farms in our country's future matters to this nation.

We can do better in a range of areas. We need a better crop insurance program, a better price support program, and better trade policies that prevent other countries from unfair trade practices against us. We can do all these things.

This Congress, in my judgment, has a responsibility now to respond to the growing farm crisis. I hope my colleagues who come from farm States will understand that this is not some parochial issue. It is not some parochial concern that is of no consequence to anyone else.

It is of consequence to everyone in this country whether or not our family farmers have an opportunity to survive and succeed. I think it is interesting, Mr. President, that the price of wheat has gone from $5.50 a bushel to $3.50 a bushel, nearly $2 below the cost of production for a bushel of wheat. And yet, at the same time, the folks in town go to the grocery store and they discover the price of bread has increased a bit. The price of wheat has dropped like an anvil, and the price of bread keeps going up. The price of wheat drops, the price of cereal keeps going up. What it says is that family farmers are down there at the bottom of the economic totem pole. Yet, they are the ones who produce. They plow the ground in the spring, they harvest it in the fall, they take all the risks in between and, in all the circumstances, they are the ones who lose the money. At the same time the big millers have record profits and the big grocer manufacturers have record profits. You can take a look at the big grain trading companies—record profits.

Everybody profits, except those who have to put on work clothes to plant the field and harvest the crop. It is everybody who doesn't have to work in that kind of a situation who makes a record profit, while the farm families are going out of business.

In my home State, they have had to call auctioneers out of retirement to handle the number of auction sales for family farms going out of business this year. There is something wrong when we say as a country, "Gee, our economic policy is working quite well," and then we see all these family farmers going out of business.

One part of this is trade, and I might just finish today by mentioning trade. In almost every circumstance, this country has refused to stand with its producers on trade, and that is especially true with farm producers. It has refused to do what it should have done on United States-Canada grain trade in which this country is flooded with subsidized Canadian grain. It refuses to do what it should do with respect to China, Japan, and Europe.

Just last week, we finally began confronting unfair trade, when the Secretary of Agriculture took action against the European Union for sending a ship that docked in California loaded with barley. That barley was deeply subsidized, to the tune of over $1 a bushel. Secretary Glickman, to his credit, took the first action. It was a step, it was a baby step, but, nevertheless, a step in the right direction. In taking it Secretary Glickman is saying to the European Union: "You can't do that to this country. You can't do that to our farmers. You can't take money directly out of our farmers' pockets. In this case of unfair trade, you can't do that with impunity. This country will not allow you to do that."

Mr. President, I am going to speak later this week about farm policy and some of the related issues that we have to deal with—crop insurance, trade, price supports, investment in research for crop disease, and a whole range of other things.

I say to my colleagues, this is critically important. There is, indeed, a farm crisis and we have a responsibility to respond to it in a thoughtful and important way.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1415, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg/Leahy amendment No. 2433 (to amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to amendment No. 2420), in the nature of a substitute.

Gramm motion to recommit the bill to the Committee on Finance with instructions to report back forthwith, with amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty.

Daschle (for Durbin) amendment No. 2437 (to amendment No. 2436), relating to reductions in underaged tobacco usage.

Daschle (for Durbin) amendment No. 2438 (to amendment No. 2437), of a perfecting nature.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise this afternoon to express some of my concerns dealing with the tobacco tax increase legislation that we are close to considering, including how we deal with this country's tobacco farmers.

I believe we should do what we can to assist tobacco farmers and their communities' transition for a supposed decrease in demand for tobacco products that will result from this bill's passage.

However, I would like to share this cartoon by Mr. Ed Fischer which illustrates a very important point: Do we value tobacco farming and tobacco-dependent communities more than other producers and their communities? "Guess which farmers in trouble will get a huge government bailout?" I have serious doubts this legislation will actually reduce tobacco growth and consumption in this country as much as proponents claim. As such, I question whether the type of support we are willing to rush in and throw at tobacco producers and tobacco-dependent communities is warranted.

My understanding is, under both proposals, there is no requirement that tobacco farmers actually stop producing tobacco; they will just have to assume all the risk, like other farmers under the freedom to farm bill which was signed into law in April of 1996. The freedom to farm bill contained transition payments, but those payments pale in comparison to what we are talking about here. All crops combined under the transition to Freedom to Farm—corn, wheat, soybeans, et cetera—amounted to less than $1,500 per acre over 7 years. This bill would amount to about $18,000 per acre over 3 years. Yes, it is a phase-out of the tobacco program, but let us be fair to the farmers, but also let us be fair to the taxpayers.

Mr. President, I am very sympathetic to the plight of tobacco farmers, their families and their communities, who suffer as a direct result of Federal policy. The tobacco farmers are certainly not alone in facing unfavorable—even crushing—circumstances at the hands of the Congress.

The point I now propose is that we cannot hope to maintain any semblance of consistency if we favor one agriculture product over all others. Let us not get caught up in the hype of this tobacco legislation today to forge a plan that will cost taxpayers more than necessary. Let us be fair, but let us be reasonable. How can we explain why we favor one product over another?

My colleagues and I from the Upper Midwest have been fighting a constant battle against Federal dairy policy for years.

And again just look at this cartoon: "Guess which farmers in trouble will get a huge government bailout * * *"

The dairy producers of the Upper Midwest have long been disadvantaged by having to bear the burden of unjustifiable dairy policy which does not reflect the realities of modern dairy economics. This current Federal policy—specifically, Class I milk price differentials—is widely recognized as antiquated, unjustifiable, and patently unfair.

In fact, USDA's current Federal marketing order system was deemed "arbitrary and capricious" by a Federal district court judge late last year. The case brought against USDA has been in the courts for 7 years, and the judge's ruling was no less than the fourth such proceeding in the history of the case.

The courts have ruled four separate times the Federal dairy program is arbitrary and capricious. Bottom line, it is unfair. And what has been the response of the USDA? Not to accept the decision but to appeal. The Government should not be in the business of picking winners and losers in agriculture, but it is doing so in this case.

I hate to be arguing the dairy issue during the debate on a tobacco bill today, but I believe it supports my argument that: if we are to go about bailouts in a reasonable manner, we should address the Upper Midwest dairy farmers as well. Would anyone in this Senate vote to pay our dairy farmers $18,000 an acre? I doubt it.

Dairy farmers have endured inequities for decades. We in Minnesota in fact are losing an average of three dairy farms every single day. The irony is that milk is a health product. It is a product we encourage our children to consume. How can we possibly suggest that Minnesota's dairy industry does not deserve equal protection from this Congress?

Mr. President, I would also like to express my opposition to S. 1415 in its entirety.

I have listened to a number of my colleagues come to the floor and claim many things and cite many statistics. One of those statistics was that 75 percent of regular smokers could not quit if they wanted to. While I will not take issue with this figure, I do have a problem with the fact that proponents of this bill are so willing to take advantage of these smokers' inability to quit.

Let us forget about the figures and rhetoric for a moment and ask the more important question: Why are we persecuting these people because of their addiction?

If someone is addicted to alcohol, are we going to increase taxes on them? If someone is addicted to drugs, are we going to increase taxes on them? Of course not, because we give them all sorts of Government benefits amounting to thousands of dollars a year.

So if you are addicted to one type of drug, the Government is going to give you thousands of dollars a year in assistance, but if you are addicted to another type of drug—in this case nicotine—we are going to tax you more money every year.

Congress wants to tax you, in fact, at a rate of about $1,400 a year. And it simply does not make sense. It does not make sense for us to be discussing this legislation as if it were a tobacco settlement.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, what is the parliamentary status at this point with respect to the bill?

The PRESIDING OFFICER. Currently, we are on the consideration of S. 1415, and there is a motion to recommit pending with amendments pending thereto.

Mr. KERRY. That is the pending business?

The PRESIDING OFFICER. As well as amendments pending to the underlying measure.

Mr. KERRY. Mr. President, at this point in time I believe I have the floor; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. Mr. President, I ask my colleague from Minnesota how long it would be his intention to speak, if he did wish to continue to speak?

Mr. GRAMS. It would be for only about another 5 to 7 minutes—less than 10 minutes.

Mr. KERRY. Mr. President, I ask unanimous consent that the Senator from Minnesota be recognized to complete his comments without my losing the right to the floor at that point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. I thank the Chair.

Mr. GRAMS. I thank the Senator for allowing me to finish this statement.

Just to finish, Mr. President, we are talking about the tobacco bill and addiction. And I just say, let us forget about the figures and rhetoric for a moment that is surrounding this bill and ask the more important question: Why are we persecuting these people because of an addiction?

Now again, if someone is addicted to alcohol, are we going to increase taxes on them? If someone is addicted to drugs, are we going to go out and increases taxes on them? Of course not, because we give them all sorts of Government benefits amounting to thousands of dollars a year if they are addicted to alcohol or other illegal drugs. But if you are addicted to nicotine, Congress wants to tax you as much as $1,400 a year. And I believe it simply does not make sense.

It also does not make sense for us to be discussing this legislation as if it were a tobacco settlement. This is not a tobacco settlement. It is a tax increase to pay for increased Government spending programs. Supporters of this tax increase assert that if you vote against this bill, you are for big tobacco—if you vote against this bill, you are for big tobacco—if you vote for it, you are compassionate and you are taking a stand for the health of our children. But this isn't really about our children, is it? It is about lining Washington's coffers with more taxpayer dollars.

Let us talk about the statistic that 3,000 kids start smoking every day. That statistic has been thrown around the floor of the Senate and the White House with complete disregard for the facts. In his editorial, entitled "Child's Ploy," Jacob Sullum points out—and I quote—

> This estimate comes from an article published in the Journal of the American Medical Association in January of 1989. Based on data from a National Health Interview Survey, the authors estimated that one million "young persons" became regular smokers each year during the 1980s [again, that one million "young persons" became regular smokers each year during the 1980s], which amounts to about three thousand a day.

That figure refers to 20-year-olds. And since the study did not include data for anyone younger than that, somehow these now "young persons" have metamorphosed into kids. At least one commentator on CNBC referred to them as "babies."

It started out as people 20 years old, "young persons," and somehow it got transformed into "kids." And even one commentator referred to them as "babies." I think this demonstrates how far the crusaders are willing to go to punish and tax adult smokers in order to fund Washington's wish list for more Government spending.

There was another point Mr. Sullum made which I think deserves to be voiced on the floor. He wrote:

> While it may be true that the young are especially attracted to smoking, it is probably also true that people who are especially attracted to smoking tend to start young.

Mr. President, I agree, we should be doing more to reduce and discourage our children from smoking. I do not believe the legislation before us is truly about reducing teen smoking or recovering the Government's cost of providing health care to smokers. It is about money.

When I ran for the Senate 4 years ago, I made a very simple promise during my campaign. I said I would never vote to increase taxes. The bill before us does just that—increases taxes on those who use tobacco products, who largely are the ones who can least afford a $1,400-a-year tax increase. The lion's share of the hundreds of billions of dollars collected under this bill will come from families and individuals who earn $30,000 a year or less. That is simply wrong.

During debate on this bill, there have been some who have questioned the sincerity of our concern for the well-being of America's working people. They go on and on to say, if we are so concerned about their well-being, we should vote for an increase in the minimum wage later this year. I guess that will be great for the teenagers who, by the way, hold most of the minimum wage jobs in America, because they then will be able to afford the cigarettes on which we are just about to hike the taxes.

It has been said by proponents that everyone and anyone who votes against this legislation has been bought off by big tobacco and we don't care about our children. Of course, nothing could be further from the truth. Frankly, I resent that type of accusation.

During the Budget Committee's consideration of the budget resolution, I voted for what I thought was the most appropriate use of any tobacco settlement funds—dedicate them to Medicare. After all, isn't that where most of the smoking-related illness costs are?

There was another important provision from the budget resolution as well. We increased funding for youth smoking cessation programs. The budget assumed $825 million would be spent on trying to prevent teens from smoking and helping those who are trying to quit. The States are increasing their efforts in this regard as well. This is a positive approach and addresses the underlying problems that we face.

It should be noted that our budget this year more than doubled the amount of money spent on preventing teen smoking than President Clinton had even requested in his budget, and he assumed at that time that there would be a tobacco tax. So we included twice as much in our budget, not assuming that.

This legislation before the Senate today is not about protecting kids from tobacco. It is not about punishing big tobacco. It is not about health care either. This is just one more way for Washington to take and spend more of the taxpayers' money.

Mr. President, if and when this legislation is fully phased in, Federal and State Governments will be profiting more by the sale of tobacco products than the manufacturer. Again, Mr. President, if this bill is phased in, State and Federal Governments will be profiting more by the sale of tobacco products than the manufacturer. Something is horribly wrong when tax rates reach that proportion.

Mr. President, in 1997, a man in Kentucky pleaded guilty to one of the largest cigarette smuggling cases in our Nation's history. Over the period of just 1 year, this individual made nearly $30 million—$30 million transporting contraband cigarettes.

I learned of this story from the National Association of Police Organizations, which sent me a letter also opposing S. 1415, again, because of the threat of increased black market activity, which is clearly already occurring. Those of us with border States know how prevalent and easy smuggling already is. Will we just shut down our borders, or will we search every person crossing them?

Other law enforcement organizations have weighed in, sharing basically the same concerns about a potential black market: The Fraternal Order of Police, the Federal Law Enforcement Officers Association, the International Union of the Police Associations, and the International Association of Chiefs of Police. All of these organizations, whose primary duty is to enforce the law of our Nation, recognize this legislation will be the catalyst for a huge black market in cigarettes. As a result, teen smoking will probably increase, not decrease.

Supporters of this legislation claim we need to increase taxes to get a shock value from it. I want to remind my colleagues of what four very bright teenagers had to say at a House Commerce Committee hearing on youth smoking when asked if price were really a factor in whether teens buy cigarettes. One of the teens said if money were a huge issue, then kids wouldn't be buying marijuana as much.

I believe this teen has it right and also brings up another important issue. When asked what they believed to be the most pressing problem for our Nation's high schools, all agreed that alcohol and marijuana were much more serious. If the same commitment this administration and this Congress have shown to fighting tobacco had been applied to the drug problem, I think we would be hearing a very different answer. Under this legislation, we will fund massive new Government programs for tobacco but we will remain silent about the drug problem in our Nation. I question whether this is the wisest course for us to take.

In closing, I cannot in good conscience support the Washington money grab, masquerading here as the National Tobacco Policy and Youth Smoking Act. If we were being honest with the American people, the bill would be entitled "the National Tobacco Tax and Spend Act." It is not about public health or protecting our kids or cutting big tobacco down to size; it is all about taxes, taxes, taxes. This Senator is not going to be bullied into raising taxes on America's hardworking men and women.

I yield the floor.

Mr. KERRY. Mr. President, I ask unanimous consent, for the duration of the afternoon until the Senate either goes out of legislative session or adjourns, that we would be confined to debate only and to no parliamentary procedures with respect to the tobacco bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I do want to make a few comments. I know my colleague from Texas wants to speak, and in keeping with the unanimous consent agreement that we have, I will not talk as long as I had intended to. I do want to try to make a few comments, if I may.

First of all, I will make a couple of comments about where we find ourselves now as we return to the tobacco legislation. Just prior to the Memorial Day recess, the Senate had dealt with two of the most difficult issues with respect to tobacco of perhaps the four or five issues that people assume are the difficult hurdles we need to get over. Those two, obviously, were: The question of price—whether it would be a price of $1.10 or $1.50; and the second issue of the liability, as it was called, the question of the cap or amount of payments that would be made in any 1 year.

The third of those difficult issues is now pending, the so-called look-back provisions, in the amendment by Senator DURBIN and Senator DEWINE, which seek to strengthen the ability to get individual companies to be able to take part in, to have an incentive to be part of, the process of trying to reduce teenage smoking.

Obviously, the LEAF program hangs out there as a very critical issue. There are a couple of others, depending on what shape the debate takes over the course of the next days. Then there will be, no doubt, a few individual amendments here and there, but I don't think they present the Senate with the kind of larger issues that we need to face, that have been presented in the context of those amendments I have just talked about. It is possible, with a considerable amount of effort over the course of the week, to dispose of the most difficult issues regarding this legislation, if there is a good-faith effort to try to move forward.

I will make a couple of comments about a few of the points that have been made both as we closed debate a week ago and also in the early hours of the debate, the comments that have been made today.

First of all, with respect to smuggling, the smuggling that has taken place so far with respect to American cigarettes has been a one-way smuggling out of the United States. Our brands, which are popular internationally and known to be among the best cigarettes, are those that have been smuggled into Europe, where the prices are higher than those that were smuggled temporarily, for a brief period of time, across the border into Canada. We currently don't foresee that kind of problem, according to most people within the law enforcement community who have been asked about it in a series of hearings where the Treasury Department, Customs, and others were also inquired of with respect to the difficulties regarding smuggling.

I underscore the testimony of Deputy Treasury Secretary Larry Summers, before the Senate Judiciary Committee on April 30, where he said: "The Treasury Department believes that the creation of a sound regulatory system, one that will close the distribution chain for tobacco products, will ensure that the diversion and smuggling of tobacco can be effectively controlled and will not defeat the purposes of comprehensive tobacco legislation." And most people would agree with that because most people who smoke want to smoke the brands they are accustomed to and that they like and are known to be the best. So depending on whether you are smoking Newport, or Marlboro, or whatever among the most popular brands, those brands are going to be manufactured here, not elsewhere. They are going to be marked in a way and designated in such a way as to be exceedingly difficult to replicate or bring in. The bulk makes them difficult to replicate and bring in. It is far more profitable to continue to smoke even, as people do, heroin, cocaine and other illegal substances.

Most people in the law enforcement community who are tracking these kinds of things do not believe that raising our cost of a pack of cigarettes to the level of almost an equivalency to Europe will, in fact, increase smuggling. It will reduce smuggling because there will be less incentive for our cigarettes to be smuggled to these other countries since our prices will be commensurate with theirs.

There is another reason why that smuggling would be difficult. This is not a fee which is paid, or an assessment which is paid exclusively at the retail establishment so that you have a huge differential between the price of a carton of cigarettes at the manufacturing location, and then it rises very significantly at the retailer so that there is a huge grab in between. The assessment is a manufacturing assessment; it is a fee that is placed by the manufacturer. It is not unlike a value-added concept so that it is passed on, and as a consequence of that, there is no differential that creates an incentive between manufacturer and retailer. The result of that is you have a tracking system in place where the incentive is obviously for the manufacturer to recoup what the manufacturer already has paid out-of-pocket, and that recoupment comes by having a very strict system in place for the tracking.

So as the Treasury Department said, you need to have all entities in the distribution chain for tobacco products—the manufacturers, the wholesalers, the exporters, the importers, the distributors and the retailers, holding a license or permit. That is precisely what will be existing. The licensing will be done at the State level. Licensing can be revoked or suspended for any kind of specific violations, and those conducting business without it obviously would be subject to the same kind of penalties.

Secondly, there would be a marking, branding and identification of these packages for domestic distribution and for export so that it is very difficult to divert. And the sales structure from the manufacturer to a specifically identifiable person for whom they are accountable also makes it exceedingly difficult for this kind of diversion to take place.

But I think the more important thing is to focus on the most critical issue here. We have heard a lot of talk about the cost of this bill. A number of opponents of the bill—people who seem to be out here prepared to allow the tobacco companies to continue to do what they are doing because they offer no alternative for what they are doing—are arguing that there is a regressive cost here to Americans, that this is somehow too costly. And suddenly, the same people who have proposed tax cut after tax cut after tax cut for the wealthiest Americans, at the expense, most often, of those who pay the most regressive taxes, are becoming the champions of the poor. I wonder if these crocodile tears that we are hearing for those people who smoke in the country—which I remind everybody is a voluntary act; no one is taxed who doesn't decide to go smoke. Nobody has to pay something who isn't actually smoking. Given the number of addicts that we have in the country and the amount that those addictions cost every American, the real regression here is the regression that falls onto the average American who is paying the health care costs of people who are addicted, the health care costs of people who get diseases for which they are either not covered or can't pay.

There are countless, countless costs associated with smoking. None of my colleagues on the other side want to come and talk about that. They don't want to talk about the billions of dollars that Americans are assessed because of the cost of a substance being sold that is addictive and is a killer substance. That is the bottom line here. Everybody says, oh, yes, we have to stop our teenagers from smoking. Yes, we have to have preventive programs. But then there is no talk about how you put them in place; there is no talk about what preventive programs are going to be put in place, or how are you going to fund them. No discussion whatsoever. It is just a generic, flat opposition to this particular piece of legislation which seeks to do something real about the problems of smoking.

The fact is that 98.5 million American households, families of smokers, and most importantly, nonsmokers, pay about $1,320 a year to cover the damage that smoking does to our society. Every single working family in America, including those who live on the minimum wage, and those struggling to send their kids to college, or to pay for parochial school, or just to make ends meet, are paying for America's deadly smoking habit today.

The reality is that the overall smoking cost to our society is about $130 billion a year, and that cost measures the medical costs of smoking—the cost of smoking during pregnancy, the cost of lost output from early death, and even the lost work days, lost productivity that we get as a consequence of this. This taxes every single American, and the question is whether we are going to reduce taxes on Americans by finally stepping up to tackle the problem of smoking.

A lot of people argue this is about family economics. They come to the floor and suggest that family economics dictate that in fairness we not somehow tax a person at the minimum wage who is going out and smoking. Well, they are right; it is about family economics. The problem is they are not on the side of families, because those of us who are fighting to pass this legislation are looking for a way to provide some kind of relief to working families by passing this legislation.

The fact is that if you are not willing to put in place a tough regimen for reducing teenage smoking, you are in fact augmenting the burden that American families are already paying. The fact is there is a $60 billion-a-year cost in medical costs alone related to smoking. Over 40 percent of those costs—fully $25 billion—are covered by Medicare and Medicaid. Medicare and Medicaid are paying for $25 billion a year of the cost. That is a tax. That is a tax on Americans of $25 billion a year that is paid by all Americans, even those who don't choose to smoke, even those who hate smoking, even those who make every effort possible to avoid secondary smoke in public places. They wind up paying the tax on the medical costs for those who choose to smoke, or those who are addicted and have little choice as a consequence of a habit they picked up as teenagers.

The important thing to remember here is this: For all those adults who are smoking today, 86 percent of them got hooked on smoking when they were teenagers. All of the analyses show if you can make it through your teenage years without getting hooked on the habit, without smoking, the likelihood of your having the development of character and a sort of health consciousness that would then keep you from smoking is significant. Most of these people who start smoking in their teenage years start at the ages of 13 and 14 years old. In fact, a very significant proportion are hooked by the time they are 14.

Now, we know to a certainty that price affects the availability of any commodity to anyone. Clearly, for young kids the amount of cash which they have in their pockets is going to be spent according to the cost and what particular benefit they deem they are getting for that cost. If you raise the price, it is clear there will be less availability.

But that is not all we are doing, Mr. President. This legislation doesn't just raise the price and say, OK, we have done the job, let's go home. This legislation sets up a whole set of efforts to reach out to young people, to increase the awareness regarding addiction, to increase prevention programs, to increase our research efforts within the NIH and the medical community in order to understand addiction better. It increases our capacity to learn whether we can reduce addiction among adults in significant ways.

There are a host of other benefits that come with this legislation that are critical. But equally as critical is what the Senator from Illinois is trying to do, Senator DURBIN, in the so-called look-back amendment. It doesn't do you a lot of good to simply pass a piece of legislation that somehow leaves the tobacco companies out there in a way that they are not going to be part of the solution of trying to reduce the access of kids to smoking. If the tobacco companies have a strong incentive to be part of that process, then we have a much better chance of reducing smoking and meeting our goals.

So the look-back provisions are a way of giving the tobacco companies a grace period in order to be able to make the adjustments in their advertising and their distribution process in order to help in the education of young people and, through that process, significantly reduce the desire of young people to smoke, because it somehow makes them look older and makes them look cool as a response to peer pressure and a whole lot of other reasons that young people do choose to smoke.

I might add that we have come to understand very well what those reasons are. Over the course of the last years, while the struggle has been going on between the tobacco industry and people who want kids to be able to lead healthier lives, during the course of that time there have been many, many, many analyses, many surveys, many focus groups, many discussions, many polls, all of which have indicated the degree to which young people smoke as a consequence of either peer pressure or a desire to kind of fit the role model that they may have seen in a movie, or somehow to be older, to look older, at a time in life when some of those choices are important.

We were at a tobacco forum in Boston, MA, about a month or two ago with Vice President GORE. We had testimony there from an adult who today has great difficulty breathing, who today is confined to a wheelchair, who testified personally to how the lung problems she has today and the diseases that she is now suffering from came directly from smoking, which came directly from her desire to look older. As she said to those kids who were assembled at this forum, "Boy, I sure succeeded in my goal. I look a lot older now."

Those kinds of testimonials are the most important kinds of ways in which we can, hopefully, reach our young before they fall prey to this addiction.

What we need to remember as we think about the "cost" of this bill is that the cost of this bill is minimal compared to the cost to society of people whose lives are literally ruined as a consequence of the cancers, or liver disease, or heart disease, emphysema, that some members of their family suffer. There are kids in this country whose parents are unable to send them to college, or to buy them books, because of their $13,700-a-year habit to buy cigarettes. That is what you are talking about.

So if you want to talk about the real costs to America, the real costs to America are not contained in the first ever comprehensive effort to try to do something about our narcotic killer substance that is being sold across the counter to anyone who wants to buy it. The real costs to our society are costs as a consequence of that happening without the Senate of the United States or the Congress being willing to take action to respond to it. Again and again this week, Mr. President, I hope we are going to be reminded about those costs to the United States.

We have people who have been addicted to cigarettes in this country since they were kids. And, literally, there are cases where I have heard people say that they had to tell their kids that they couldn't do X, Y, or Z for their children because of their addiction. The cost of smoking in that regard is enormous.

Consider the cost of smoking while pregnant. The truth is that a pregnant woman who smokes daily and suffers complications will spend $8,000 more than a nonsmoker in trying to deliver a healthy baby. That is a cost you do not hear our colleagues on the other side of the aisle talking about. That is a cost that the tobacco companies don't offer up as one they ought to be responsible for. That is a cost to society and a long-term cost to the future of that child. Smoking while pregnant doubles the risk of having a low-birthweight baby. And that, as we all know, significantly complicates the postnatal period, raising the costs by thousands upon thousands of dollars in hospitals.

If that doesn't communicate how serious the problem is, look at the impact. Forty-eight thousand low-birthrate births are caused by smoking each year—48,000 children who may suffer medical problems their whole lives because of smoking that took place during pregnancy. These are 48,000 kids whose lives will be affected for the rest of their lives. I am not sure how you measure that financially.

So as our colleagues come to the floor lamenting the fact that we are asking that people who buy these as a matter of course, on their own decision, on a voluntary basis, would have to pay a little more for their substance that costs all of us a lot more, that is not too much to ask. It is certainly, when you balance it more appropriately, not to protect the tobacco companies; it is to protect the rest of America against those costs. That is the choice that I think most Americans see exist in this legislation.

The reality that has been lost in some of the debate about the costs of this legislation is the reason that the Senate is now presented with this vital legislation. It is my hope that over the course of the next days we will be able to move forward on it.

A quick word about the look-back provision, and then I will yield to my colleague.

The look-back provision is a provision that seeks to try to create a sensible balance in how you invite the cigarette companies to really act more responsibly. Unfortunately, there is a long, long track record of the cigarette companies acting irresponsibly. That is a smoking record in the final analysis. Everybody remembers the times that cigarette executives came up here and raised their hands and swore to tell the truth and nothing but the truth. The truth is, they did not tell the truth, and now all of America knows that.

Now, as a result of some courageous attorneys general around the United States taking suit against the cigarette companies, we have received documents that show the degree of the deception, the degree to which there was literally a predatory attack on the young people of our country. That is the choice the U.S. Senate faces here—whether we are going to just talk about protecting our kids from that kind of predatory attack, or whether we are going to actually do something about it. It is a choice that will be very clear to the American people who are going to watch what the Senate of the United States does here.

But the question is, How do we get the cigarette companies to take actions that do not try to subvert what we do here? How do we guarantee or at least provide the best structure that we can to invite them to become part of a solution? The way to do that, Mr. President, in my judgment, is to strengthen the look-back provision so that there will be a stronger incentive on the individual companies to participate. Currently, there is a $4 billion cap industry-wide that suggests that a company that decided, "Well, we are going to just ride the wave of the industry, we will not take part that much, and if we don't happen to meet the goal, then this is not going to cost us as much because the rest of the industry is going to pick up the cost," there is a sense, even though there is a penalty of $1,000 per child per percentage point, that they don't meet the goal, which we feel may not be a sufficient goal.

So the Durbin-DeWine amendment seeks to shift the remainder of that so that there is less of a cap, less of a requirement on the industry-wide payment and more of an individualized, company-specific payment in order to provide a stronger incentive for that company to become part of the solution here.

I think above all the American people have reached a point where they understand that they want these cigarette companies to act responsibly. They want them to be part of the process of helping to protect their kids from exposure to this narcotic substance.

On that basis, Mr. President, that is where we find ourselves today. We will debate through the afternoon. And at some point tomorrow there will be some resolution—I guess late tomorrow—with respect to the parliamentary status that we are in.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Texas.

Mr. GRAMM. Madam President, I wish we could pass a resolution or a bill that would stop every child from starting to smoke and that would stop every adult from smoking.

I begin with a little personal experience. I have been alive for 55 years. I have spent much of that time trying to get my mother, who is now 85, to quit smoking, and I have had no success, nor do I believe that by raising the price of cigarettes we will achieve that result, either.

But the point I want to make, to begin with, is that if we could have a resolution that would, in fact, keep people from starting to smoke and stopping people from smoking, I can't imagine that anybody would vote against that resolution. Also, contrary to the rhetoric of much of this debate, I don't find any love anywhere for tobacco companies. I think if there is a problem in the debate, it is that we create the impression we are punishing tobacco companies with this bill, when this bill has, in fact, extraordinary provisions to guarantee that tobacco companies will not be punished. We talk about tax increases as if the tobacco companies were paying those tax increases, but in reality not only do they not pay them, but we have written into the bill provisions that make it illegal for them to not pass the tax through to the consumer and therefore the tobacco company is held harmless for the general increase in taxes on cigarettes.

The cold reality is that we have before us a bill that raises taxes by $700 billion—one of the largest tax increases in history. This tax is not randomly distributed among the population. Those who make less than $15,000 a year will pay 34 percent of these taxes, those who make less than $22,000 a year will pay 47 percent of these taxes, and those who make less than $30,000 a year will pay 59.1 percent of these taxes. The cigarette companies will pay none of these taxes.

Over the recess, I examined carefully data about cigarette smoking in my State. What I would like to do is talk a little bit about this data and the tax and describe what I am trying to do with an amendment that is now pending but that has other amendments piled on top of it in such a way as to prevent me from getting a vote on it. I want to talk about why that amendment is important. I want to say a little bit about the substitute that Senator DOMENICI and I will offer with Senator COVERDELL and others, and then I want to talk about how we have lost control of this legislation.

I have spent the last 8 days back in Texas and I have listened to people all over my State and have thought about what we could do to fix this bill so that we could actually move ahead. I want to share those thoughts with my colleagues, not so much thinking that anybody might be swayed by those thoughts but at least to perhaps encourage others to think that, well, maybe other people are thinking about this problem the way I am and maybe we ought to try to get together and work out some of these things.

In my State, 23.7 percent of the adults smoke. That is 3,130,723 Texans. If I could snap my fingers or do anything other than using police powers, I would like to induce these people to stop smoking. But the first thing I have to be aware of is the fact that these are the victims. The whole logic of this tobacco bill is that the tobacco companies have conspired to get young people to smoke. To use the language of our colleague, the chief proponent of the bill, they have gotten people addicted to smoking, and so that is what I mean when I say that there are 3,130,723 Texans who smoke, who are the victims. These are the people who the tobacco companies, through advertising and through encouraging some of them when they were young to smoke, have gotten addicted or at least attached to the product to the extent that they continue to buy the product.

Now, here is one of the things that concerns me greatly about this bill. We all agree that the smokers are the victims. We all agree that the tobacco companies are the villains. And yet we have a bill that holds tobacco companies harmless, that requires by law that they pass the tax through, doesn't allow them to pay a penny of it in terms of the initial tax that is imposed. And yet if, in fact, as most people who are knowledgeable about the marketing of this product say, this bill will have the effect of raising the price of a pack of cigarettes by $2.78 a pack, it will mean that the annual cost of buying one pack of cigarettes a day for the people in my State who smoke will rise by $3,176,744,628 which means nothing, but let me give you a number that does mean something.

For every person in my State who is addicted to cigarettes, who has been victimized by a process that we are trying to fix in this bill, the people who are the sole purpose of this bill, we are imposing a tax on them of $1,015 a year in the process of helping them. As my 85-year-old mother said the other day, "Why aren't you taxing the tobacco companies instead of taxing me? If I am the victim, why am I paying?"

Well, the point I want to make sure my colleagues understand is that while we may love pounding our chest and vilifying the tobacco companies, with good reason, we have before us a bill that is punitive not to the tobacco companies but to the people who are their victims. And the level of punishment is a level that is virtually without precedent as far as I am aware. In fact——

Mr. KERRY. Madam President, will the Senator yield so I can answer the question?

Mr. GRAMM. No. I let the Senator go on for some time. I would like to do the same. When we get through, I have to go back to the Medicare Commission meeting, but I will yield for a moment at that point.

So one of the concerns I have had in trying to see what we might do to fix this problem is that we are looking at the potential of 3,130,000 people in my State, if they smoke one pack of cigarettes a day, having a tax increase of $1,015 each year.

Now, I thought, looking at the figures that were put out by the Joint Committee on Taxation, that there must be something wrong with these figures, but when you look at that $1,015 Federal tax for a Texan or an American who smokes one pack of cigarettes a day, it makes the number believable that the Joint Tax Committee put out, and that number was, for Americans who make less than $10,000 a year—some smoke, some don't smoke—but for all Americans who make less than $10,000 a year, this bill will drive up their Federal taxes by 41.2 percent.

So one thing that has worried me from the very beginning, and one thing that I do not find to be trivial, is that we are talking about a massive, $700 billion tax increase that is being imposed not on the companies that have inspired teens and others to smoke but it is being imposed on the very people who are the victims, and in my State it has the potential of imposing a $1,015 new Federal tax on a blue-collar worker making less than $30,000 a year who is addicted to smoking. And if you have a blue-collar couple who may have two jobs, a lady who works in a restaurant, and a man who drives a semi, and they both smoke a pack of cigarettes a day, you are talking about imposing a $2,030 increase in Federal taxes on them.

It may be that this increase in taxes would induce some of them not to smoke. Over and over our colleagues who support this massive tax increase have said this is not about money, that they don't want the money, they want to get people not to smoke. So before we left on the recess—having listened to this debate and having heard over and over and over again that this was not about money, that they just wanted to drive up the price of cigarettes, that they weren't trying to decimate blue-collar workers financially, that they just wanted to get them not to smoke—I sent an amendment to the desk. My amendment said: If the purpose of this is to get people not to smoke by driving up the price of cigarettes, let's raise the price of cigarettes, but let's take that money and instead of giving it to the Government to spend, let's give at least some of it back to blue-collar workers by changing the Tax Code. And the proposal that I made was let's eliminate the so-called marriage penalty where two workers, both of whom work outside the home, fall in love, get married, and end up paying $1,400 more in taxes being married than if they stayed single.

I focused it on moderate-income Americans. The idea being, raise the price of cigarettes to discourage smoking, but because we are not raising the price of cigarettes to impoverish blue-collar workers, why not raise the price of cigarettes to discourage smoking, but return the money through new tax cuts to the same people? So you raise the price of smoking but so that people who are really addicted and who either can't or don't quit smoking—that we simply don't pound them into the ground economically.

I was somewhat taken aback that when I offered this amendment, it shut down the Senate, and that we clearly have Members of the Senate who do not want to vote on giving some of this money back to blue-collar workers. I am somewhat at a loss to explain that. If the tax is not about money, why wouldn't we want to give some of it back in tax cuts to the very blue-collar workers who have been victimized by the tobacco companies?

Also, I would have to say for those who want to talk about the health care cost of smoking, when Senator DOMENICI and I, in the budget, dedicated the money to Medicare, many of the same people who were for this bill opposed that amendment.

The point I am making is, first of all, I am going to get a vote on my amendment. I had to write my amendment as a motion to recommit with instructions. Some people have gotten confused in the media and believe that somehow my amendment delays the bill or kills the bill. It does not. My amendment simply directs that the bill notionally be taken back to committee and be brought back immediately with this tax cut attached to it. If it were adopted, it wouldn't delay the Senate for a second, nor would it pull the bill down.

I believe if this issue is about smoking instead of about money that the Senate will adopt my amendment, and hopefully another amendment which would give blue-collar workers the same tax treatment General Motors has in buying health insurance. But we will get an opportunity to vote on those issues.

Let me also say that in traveling around my State for 8 days and meeting with editorial boards, holding public meetings, and on several occasions raising the tobacco issue, I received not a question about the tobacco bill. We are debating this issue as if this is the all-consuming issue on the planet, and yet all over the State, in meeting after meeting, in editorial boards where I raised the issue, I don't recall a single question anyone asked me about it. In fact, we have had two polls come out since we have been considering this bill. One, published in USA Today asked people, "Do you believe higher cigarette taxes will reduce teen smoking?" Seventy percent say "no;" 29.9 percent say "yes." When you ask parents what they are most concerned about with their teenagers, 39 percent say using illegal drugs—something that has doubled since 1992, something that this bill doesn't deal with, something the substitute that Senators DOMENICI and COVERDELL and I will offer does deal with, with the toughest antismoking, antidrug program that will be considered in the Senate during this debate—16 percent say joining a gang, 9 percent say drinking alcohol, 7 percent say having sex, 7 percent say driving recklessly, and 3 percent say smoking or chewing tobacco.

I would like to explain what I believe has gone wrong on this bill and why it is going to be so hard for us to fix it. I have given this a lot of prayerful thought. Let me just share with you the results of this thought.

First of all, why are we dealing with this issue to begin with? Why is this issue on the floor of the Senate? We had settlements between tobacco companies and States. Why are we considering it? I will tell you why we are considering it. It is completely lost in this debate, but we are considering it because the attorneys general came to us and said, in essence, this whole thing has gotten out of control and the only way we can enforce these settlements is for the Federal Government to step in and impose some reason and responsibility on the process. In fact, presumably, the attorneys general recognized something—some people may be offended by the analogy but it is a good analogy—that a parasite can live only if the host animal does not die. What the attorneys general recognized was that the way this whole thing was going, the tobacco companies were all going broke and they weren't going to collect this money. They weren't going to be able to pay for Medicaid with it. As a result, they would have won a big victory in court, but it would not mean anything to their States, to their constituencies.

So they came to Congress and said look, this thing has gotten completely out of control. It is unlikely that the kind of money, in essence, that we are talking about can never be paid. What we want Congress to do is step in and set levels that will make it possible for us to actually collect these settlements.

What has happened in the process? Sadly, the settlements started out at roughly half the cost of the bill that is before us. Quite far from the objective of the attorneys general in asking us to get involved in this issue to begin with, we have roughly doubled the cost of the bill and every concern that drove this issue to the Congress has now been multiplied by a factor of two. How did it happen? How did the cost of this bill get so high? This is what I think is the most revealing part of this whole process. I could go through 100 examples, but I am only going to go through a couple.

One of the things that happened when the bill got to Congress was that, as normally happens in these situations, everybody wanted some of the money. So we start dozens of new agencies. We have programs for community action. Nobody knows what they are. We set up international programs. We have programs to buy out vending machine owners. We have programs to subsidize tobacco farmers.

But we don't just have programs, we have spending programs that are completely out of any realm of reason and responsibility. A perfect example of it is the tobacco program. It was perfectly reasonable that those who represent tobacco States, when we were getting ready to collect a lot of money from the tobacco companies, would want some of it. You would think in going about trying to get some of it that we would have ended up with a figure that would be somewhat similar to the transition payments we paid in the legislation we call freedom to farm.

Under the Freedom to Farm bill we, in essence, provide transition payments to wheat producers, corn producers, grain sorghum producers, barley producers, oat producers, upland cotton producers and rice producers within a 7-year period. You might have thought that what we would have done was set up a program for tobacco similar to those other programs. Such a proposal might not have been an unreasonable addition to this bill. But reason has nothing to do with this bill, because since we could, in essence, act as if the tobacco companies were paying these costs when, in fact, the consumer was paying the cost, the sky was the limit in terms of the amount of money spent.

Let me tell you what we have done in tobacco. We have two proposals now before us. We are going to be asked to choose between one of the two on the floor of the Senate. The Ford proposal costs $28.5 billion. The Lugar proposal costs $18 billion. The Ford proposal will pay tobacco producers $21,351.35 per acre. It will also continue the tobacco program. Nobody will have to stop growing tobacco. No one will have to give up their land, but we will give them a payment of $21,351.35 an acre.

The Lugar bill will make a similar payment while ending the tobacco program at $22,297 an acre.

Who knows what a billion dollars is, but let me put it in English. That is almost 20 times the amount we pay every other commodity combined to end their program. We have before us a bill that will pay tobacco brokers 20 times more than we paid, on a per-acre basis, wheat growers, corn growers, grain sorghum growers, barley growers, oat growers, upland cotton growers and rice growers combined—nearly 20 times as much per acre as we paid all those programs combined.

Let me explain a little bit about the program. In 1938, we set up this program. It was aimed to do one thing and that was to raise the income level of tobacco farmers. We set out a quota system where you can't grow tobacco unless you have a quota. What happened almost immediately is people with quotas in many cases quit growing tobacco and they rented their quota to other people so that now 63 percent of the people who own the quotas don't even grow tobacco. What we are going to do under these two proposals is pay them roughly $20,000 an acre, and allow them to continue to grow tobacco and keep the acreage.

Madam President, 1997 is the last figure I have, but in 1997, you could have bought the quota to grow an acre of tobacco for $3,564. I ask the following question, and it can't be answered: If I could go out today and buy a quota to produce an acre of tobacco for $3,564, why in the world would the Government want to pay me six times that amount in this tobacco bill, six times the amount that I just paid yesterday for the quota? They are going to pay me six times that amount of money, and I can go right on producing tobacco. How could such a provision possibly get into a bill about which Members of the Senate would not blush? How can we let a person go out today and buy a quota to produce an acre of tobacco and sell it to the Government next month for six times what they paid for it and still grow tobacco and not give up the land? Whoever heard of paying people $20,000 an acre because we are going to pass a tobacco bill, but they can go right on growing tobacco, or six times what you can buy the right to grow it for? How did it happen?

It happened because of the feeding frenzy of spending money that was coming from tobacco consumers, basically blue-collar workers—59.1 percent of them earning below $30,000 a year. By making it look like the tobacco companies were paying the bill, we could, in essence, pay people $20,000 an acre who are growing tobacco and let them keep on growing. There is no logic to that happening, except that this has become a giant piggy bank, or as a candidate for comptroller in my State has said about the tobacco settlement in Texas, "We won the lottery." This is the kind of consumption people do when they win the lottery.

We have had an extensive debate on this subject, but those who have studied the settlement in Texas have concluded that lawyers in Texas will make about $100,000 an hour under that bill —$100,000 an hour. Why would we have a bill that allows that to happen? Can you imagine if we were appropriating the money to hire lawyers to do work for the Government, allowing a situation where attorneys' fees could range between $88,000 and $100,000 an hour? Can anybody imagine that happening? How did it happen in this bill? How could it have happened?

What happened is the attorneys general came to us and said, "Look, we have these settlements that have gotten out of control, and people aren't going to be able to collect money because the judgments cumulatively are going to be so big that they are going to drive the tobacco companies out of business, and we're not going to be able to collect our money. Congress needs to do something about it."

So what did Congress do about it? Congress doubled the amount of money that we are taking and, in the process, set off a spending spree the likes of which we have not seen since Lyndon Johnson became President. There has been no period of time in American history since the first year of Lyndon Johnson's Presidency where we will have an explosion of new programs and new discretionary spending.

Many of these programs have absolutely nothing to do with smoking, and the list goes on and on from child care to international programs to you name it.

How did asbestos settlement get into this bill? How did we end up with billions of dollars going to asbestos settlements in this bill? Where did that come from? How did that happen?

My guess is that there was this lottery that we won, and so somebody said, "Well, look, you have all this money, why don't we give some of it to people who have asbestos-induced health problems." And they then said, "Well, many people were around asbestos in World War II. Since most people in World War II smoked, they were around asbestos, why don't we take money out of this and give it to them?"

Here is my point. How do we get back to something that would be reasonable and, quite frankly, try to figure out how we might put together something that would actually achieve what we want?

I wanted to share with my colleagues why I despair, why it is going to be very difficult to fix this bill. Let us say we decided we were going to go back to the tobacco farmers issue, and we said, "OK, now look, we want to be generous. We'll pay tobacco farmers the cumulative amount that we paid every other farmer per acre combined." And that would be $1,496 per acre. We will give them that amount of money because they might be affected by this tobacco bill. We do not know they will be because we do not know for certain what else will happen, whether demand will go down or not. Other things being the same, it should.

So you might say, "Well, look, why don't we offer them the amount we pay every other crop combined?" Well, how can our colleagues from tobacco States—when they have been debating giving people $20,000 an acre or $21,000 an acre—how can they go back and say, "We're actually only going to get one-twentieth of that amount"?

They can't go back, because once you let the feeding frenzy start, and once you get expectations built up—anyone who went to tobacco farmers a year ago and said, "I, as your Senator, have arranged for you to get the amount of money equal to the per-acre payment of all the other seven major crops combined," you would have gotten a standing ovation. But today, when we are talking about paying 20 times that amount, you would get stoned. So we are not going to be able to break that impasse as long as people believe this bloated bill is at all possible.

How are you going to go back to people who have suffered from asbestos poisoning and say, "We're not going to give you anything"? The bill never had anything to do with them, but nevertheless, now there is a big constituency there.

We contemplated in the bill that we would set some limits on attorneys' fees. We are going to have a vote on $1,000 an hour. That is not a minuscule amount. But even if we could be successful on that—and I am not sure we could—you have expectations so high that I do not know how you ultimately put this together.

Let me tell you what I think the final solution would look like if you could get there. You have to throw all of these add-on spending programs overboard. They never should have been here to begin with. This is an obscene feeding frenzy. All of these X, Y, Z bureaucracies, all of these community action programs, all of these international smoking alliances, all of these payments for other purposes—all that has to go.

Secondly, if we are going to raise prices, and we are not going to beat blue-collar workers into pulp economically, some of the money that comes in has to be given back to them in other taxes where we discourage them from smoking but we do not impoverish the people who are addicted to cigarettes and either will not be able to quit or at least will take an extended time to quit.

Senator DOMENICI and I fund in our bill, through Medicaid, Medicare, and through tax deductibility, smoking cessation programs. Those are the kinds of things it seems to me that we ought to be focusing on here. But a bill is going to have to be back within the range that we could ever hope to collect.

Secondly, we are going to have to be aware of the fact—and I heard my colleague talking about black markets, but, you know, the Canadians raised the price of cigarettes by about the price increase we are talking about. They have highly educated people. They have law enforcement. But what happened is, after their experiment had failed, the Health Minister, Diane Marleau, said the following: "The government decision to cut taxes would actually reduce consumption among youngsters because it will end the smuggling trade and force children to rely on regular stores for cigarettes where they are forbidden to buy them until they are 19."

Maybe we are so much smarter than the Canadians that we will be able to prevent black market activity. Smuggling among the Canadian provinces is still a problem. The British have 50 percent of their market for cigarettes now in the black market.

We have been independent of Britain for over 200 years and maybe we now are so smart that we can solve the problem. But I would just like to point out to my colleagues that maybe we are that smart but that our friends and our kin folks—if you go back a few generations in places like Britain and Spain and Italy, Eastern Europe—they are all plagued with the massive black marketing of cigarettes.

So if there is a solution to this problem, it seems to me that the solution lies in the following: That, No. 1, we have to throw all this feeding frenzy overboard. We have to cut back the reimbursement for tobacco farmers and to lawyers to reasonable levels; we have to throw out all of this extraneous material where we are spending hundreds of billions of dollars on programs that have nothing to do with smoking; we have to raise the price of tobacco and give the money basically to two things—smokers' cessation programs and attendant health-related matters, such as the health provisions that Senator DOMENICI and I have proposed where Medicaid and Medicare will be able to fund smokers' cessation programs and where taxpayers can get a tax credit if they participate in the programs designed to try to help people break their addiction.

Mr. KERRY. Will my colleague yield?

Mr. GRAMM. But beyond those modest programs, we have to give the money back if our purpose is not to impoverish people but in turn to get them to quit smoking.

It is not clear to me how we are going to get everybody—from lawyers to tobacco farmers to asbestos beneficiaries to whoever these thousands, hundreds of thousands of people who hope to man these agencies for massive community action, for these world organizations, and all the people who hope that this could be the winning of the lottery for everything from child care to you name it—how do we get everybody to back off those things so that we might really have a bill here to do something about reducing teen smoking?

We often, it seems to me, overstate our ability to really make people do things or get them to do things. But I simply despair at figuring out how we are going to get a bill that is focused on smoking, that discourages smoking but at the same time does not impoverish blue-collar workers, and that does not set off a massive wave of hundreds of billions of dollars of new spending. If we could do that, and combine it with an effort to do something about illegal drug use, along with illegal cigarette use by children, then I think we would have served the public well. But I am not sure how we do it.

There is a lot of dead weight in this bill that has to be gotten out. I hope that as we go through the debate that reason and responsibility will prevail on everything from the tobacco farmers to the lawyers' fees to asbestos, to all of these X, Y, Z bureaucracies.

But today, in my State, the people that have any awareness of this issue basically have concluded two things: that, No. 1, we are probably not going to get children not to smoke by raising this tax and that, No. 2, the tax is about revenue to fund a whole bunch of new Government programs, that the tax is not about getting people not to smoke.

If we are going to convince people—I have always found that telling the truth does not always convince people, but it is easier when you tell them the truth. And if this is really not about money, then let us not create all these spending programs that are not directly related to smokers' cessation, let us take the money, the tax, and give it back to the workers by cutting their taxes, let us throw all this subsidiary stuff overboard and write a real bill. If we don't do that, I don't see how in the end we will convince people that raising taxes by $700 billion and creating literally dozens and dozens of new programs that have virtually nothing to do with smoking—I don't see how we convince people that we are doing anything other than the old-fashioned tax and spend.

But we have found a new wrinkle, and the new wrinkle is to find an industry that deserves vilification, vilify them, then tax their victims, and then tax and spend. If that is not our objective, then we are going to have to change this bill dramatically to actually achieve the goals we sought.

I have covered a lot of things here. I thought about this a lot over the recess, trying to figure out how we could get from where we are to having a real bill. I have concluded that it is going to be hard, very difficult, because when you have convinced all these special interest groups that we are going to give them $700 billion, and you start taking the money back—because, in reality, we can't impose a tax that big—people are going to be disappointed and you are going to have problems.

Now, the Senator from Massachusetts wanted me to yield. I know it has been a long time; that is part of the problem with our procedure. I am happy to yield for a minute. Then I have to go back over to the Medicare Commission.

Mr. KERRY. I thank the Senator from Texas. I just had a couple of questions, one that came up momentarily, that I wanted to understand.

The Senator suggested three ways we could solve the whole problem, and they were: "Throwing the feeding frenzy overboard;" throwing out the "extraneous programs;" and, third, to raise the price of tobacco.

I just wanted to ask the Senator, first of all, how he intends to raise the price of tobacco.

Mr. GRAMM. What I was saying was, if we believe that by raising the price of tobacco we can discourage consumption—and, being a person who used to be an economist, I believe that demand curves are downward sloping—and other things being the same, that we could produce some results there.

What I am saying is that I think we might put together a bill that raises the price of tobacco products either with a hidden excise tax or one out front. But where I disagree is, since almost 60 percent of the people paying the tax make less than $30,000 a year, rather than using this as a piggy bank to fund massive new programs, I think we need to raise the price of tobacco as part of a coordinated effort, and I would like to include an antidrug effort with it, but I would like to give most of the money we raise back to low-income people so that we don't end up punishing the victims, which is what I see happening.

Mr. KERRY. Let me come back to the Senator again. I understand where he wants to put the money, but he didn't answer my question. I ask him again to answer the question. How does he propose to raise the price of tobacco?

Mr. GRAMM. I just said it may well be that in some compromise I can support the method in your bill. It is not so much the tax that I object to; it is what we are doing with the money and what the tax is doing to moderate-income people.

If we take your revenue figure and we throw out all these spending programs and we give the bulk of the money back to moderate-income people, for example, by repealing the marriage penalty for moderate-income Americans, make health insurance tax deductible for moderate-income Americans and make that subject to the earned-income tax credit, so that we are raising the price of tobacco but we are not brutalizing moderate-income people, blue-collar people, economically, it may be that you can get more people to support that.

Mr. KERRY. Madam President, I ask the Senator further, having acknowledged, then, that to raise the price of tobacco you basically wind up essentially where we are in this legislation, or somewhere near it, because any time you raise the price of tobacco—and, being an economist, the Senator from Texas, I know, will agree—there is no way a tobacco company is simply going to absorb that price, they are going to pass it on. Ultimately, whatever raising of the price of tobacco takes place will be passed on to the tobacco consumer in one form or another. I know the Senator would agree with that.

Mr. GRAMM. If I could reclaim my time, I don't necessarily agree with that.

First of all, we could impose a windfall profits tax on tobacco companies. We could make tobacco companies pay part of the tax. But the important thing is that—I would like to just try speaking like an economist for just a minute—I am perfectly willing to raise the relative price of cigarettes; that is not what I object to. What I object to is that 3½ million people in my State, 60 percent of them making less than $30,000 a year, those who are really addicted, who are really the victims, are going to pay $1,015 a year in new Federal taxes. So if they are making $30,000 a year, you are taking a 30th of their income in this new tax.

All I am saying is, raise the tax to get them not to smoke, but take the money and cut other taxes they pay so you don't impoverish them. That is what I am saying.

Mr. KERRY. I hear the Senator from Texas, but if that were true, then he would come to the floor with an amendment that would somehow give the rebate to the actual smoker. By coming to the floor with a marriage penalty tax that costs some $52 billion, he is actually going to take all these people out there, whatever income level they may be at, who happen to pay this, into the upper-income levels. They will wind up getting the benefit for the marriage penalty, and you aren't solving the problem that he is here on the floor complaining about.

Mr. GRAMM. Reclaiming my time—and then I will yield the floor—my amendment is targeted to moderate-income families. No family making more than $50,000 would get a penny of benefits out of it. My amendment would eliminate the marriage penalty where moderate-income Americans who fall in love and get married wouldn't pay the Government $1,400 a year for the privilege. My wife is worth $1,400 a year, but I think she ought to get the money, and not the Government.

I am not apologizing for that proposal. I want to get a vote on it at some point. I would like to follow it with another one that would say moderate-income people get the same tax treatment when buying health insurance as General Motors does by being able to deduct the cost of their health insurance premiums from their taxable income.

What I am saying is, I could support a bill that gave the money back through these kinds of tax cuts and kept just enough money to fund our smoking cessation and whatever we did on drug prevention for teenagers. I could support a bill like that. But what I can't support is a $700 billion tax increase that pays tobacco farmers $21,000 an acre and allows them to go on growing tobacco; that gives money to people for problems that have nothing to do with smoking and that creates all kinds of new agencies.

I hear my colleague say over and over again, "This is not about taxes. This is not about money. We don't want the money." But all I know is, I have an amendment that is pending that gives some of the money back to working families, the very people who smoke in the highest proportions, and yet I can't get a vote on it because my colleagues have covered it up with other amendments.

Now we will get a vote at some point, so I think really what I was trying to do today, for those who are for this bill and want to see something passed—and I will conclude on this—I was simply trying to point out how we might find a middle ground here. I don't object to making tobacco products more expensive. But I do object to impoverishing 3.5 million Texans. I do object to taking money we are taking from people, 60 percent of whom make less than $30,000 a year. I do object to taking that money and spending it on programs that make people millionaires many times over, that pay people $88,000 to $100,000 an hour for legal services, that pay tobacco farmers $21,000 a acre and they can keep right on growing tobacco and that create all of these Government programs and nobody knows what they do. Nobody knows what this big community action program does, other than put a lot of political activists on the payroll.

So if the goal is to stop people from smoking, and we can do it by raising tobacco prices, I would like us to be sure we don't start a big black market and have it so that some hood is running around saying to our children, "Do you want to buy a cigarette, or some dope?" or whatever. I don't want that to happen. Within those constraints, I could support higher prices for tobacco if you gave the money back to blue-collar workers in tax cuts and if you didn't spend it on all these other programs.

But in the end, I am fearful that we will not reach a general consensus, because I am afraid that along the way, with the best intentions, this bill has become a tax and spend bill. I don't know how we get away from it. I don't know how we now go to all of these groups that hope to get tens of billions of dollars from this bill and say, well, you know, it was in that original bill, but we could not get that bill passed, and we have had to throw it in the trash can where it belongs, and we have to start over, and now we are not going to have a big community action program, we are not going to have a big international program, we are not going to pay money to people who have asbestos poisoning, we are not going to pay for child care; we are going to focus on smoking, raising the relative price of tobacco, and then we are going to give the money back to the blue-collar workers who are going to bear the burden, because we are not taxing tobacco companies, we are taxing blue-collar workers who smoke.

That is what I hope we can do, but I am not optimistic that we are going to, because this thing has taken on a life of its own as the largest taxing and spending bill of my political career.

I am afraid that the only alternative we are going to have is to defeat this bill. Hopefully, if it is defeated, we can come back and try to do it right, and maybe at some point we can do that in the first place. But having spent the recess thinking about it, I wanted to simply come over and outline what I, as one Member, saw as a potential compromise—raise the price, keep a little of the money for smoking cessation, and spend some of the money on drug enforcement. As long as we are trying to keep the children from smoking, we should try to get them away from drugs. We can give the rest back in tax cuts, so nobody can say you are taxing and spending, you are just raising the price of tobacco. Maybe we can make that happen, but I don't see any motion in that direction.

I yield the floor.

Mr. KERRY. Madam President, I know the Senator from Texas needs to leave the floor. Not all my comments will be directed to him, but I ask him this. He asked a question at the outset of his comments. The question he asked was, sort of: I don't know why we are raising all this money; why is there a raising of the tax? Now he has come to a point where he has agreed he is willing to raise the tax. But there is one very simple, straightforward reason. It is not in order to raise the money. The money is raised because it is a consequence of taking an action that is deemed imperative by most people who have been involved in trying to get kids to reduce smoking. I simply say this to my friend from Texas. Let me read him a quote:

> It is clear that price has a pronounced effect on the smoking prevalence of teenagers and that the goals of reducing youth smoking and balancing the budget would both be served by increasing the Federal excise tax on cigarettes.

That is a Philip Morris document from 1981.

Mr. GRAMM. Will the Senator yield for one question, since I yielded to him four times?

Mr. KERRY. I will in a minute. A key finding is that:

> Younger adult males are highly sensitive to price. This suggests that the steep rise in prices expected in the coming months could threaten the long-term vitality of the industry by drying up the supply of new, younger adult smokers entering the market.

That is from an R.J. Reynolds document. The smoking industry—the tobacco sellers—are saying don't raise the price because it will reduce the young kids that we can get addicted to cigarettes. That is the reason we are here raising the price. The Senator can say he doesn't want to vote to stop young kids from smoking.

Mr. GRAMM. Now wait a minute. Will the Senator yield?

Mr. KERRY. I will yield for a question in a moment. I want to point out something else to the Senator. He spent a lot of time out here saying, "I am willing to support a drug program and to support an opportunity for kids to be able to be part of smoker cessation programs." Well, that is precisely what this money goes to do, Madam President; that is precisely what it does. It goes to public health, it goes to research into addiction, it goes to State money, and the Senator ought to love this. We are giving the money back to the States and saying, "You can do what you want with this amount of money in the following areas." And every single one of those areas is to prevent kids from smoking. There are safe and drug-free schools. There is a drug plan. There is a safe school plan. There is child care, child welfare, and children's health maternal block grants. There is the professional training of teachers to be able to help kids to understand why they should not smoke. Every single one of those is a cessation program; it is a drug program. It is precisely what the Senator from Texas is saying.

So the Senator from Texas can come here filled with all of the traditions of rhetoric and say this is "tax and spend," et cetera, but the fundamental purpose is to raise the price, just as the tobacco companies feared and said, "We know it will cut down on teenage smoking," and to take the money that comes from raising the price and put it into cessation programs, put it into programs for safe and drug-free schools.

That is the program. That is what is on the floor of the Senate. It is done in a responsible way that does not tie up the States in a host of Washington bureaucracy and Washington mandates. It allows the States to choose to do what they think works best.

Let me just share with my colleague a final thing, and then I will yield for a question. Here is a report that says that the California and Massachusetts programs, both large-scale community-based components, have been effective in reducing tobacco use. For example, 3 years after Massachusetts began its public education and tobacco control campaign, an independent evaluation found that tobacco consumption in Massachusetts declined at a rate three times that of the rate for the rest of the Nation. So we are talking about programs that work, that are demonstrable.

Experts—far more expert than the Senator from Texas or I —have all suggested that you have to raise the price of a pack of cigarettes and you have to put these programs in place. In fact, Dr. Koop and Dr. Kessler suggested that we raise the price $2. The Senate voted that it was unwilling to even raise the price $1.50. So we are stuck at $1.10. It seems to me what we are offering is precisely the kind of reasonableness the Senator articulated.

I will agree with the Senator that there is a fight here over the issue of the farmers and how that ought to be approached. The Senate, I am confident, in the next week has a chance to work its will intelligently and try to find a common ground there. But I think our colleagues on the other side of the aisle should stop coming here and condemning the bill as a whole. I suggest that we are really talking the same language fundamentally. Unless we are out here trying to find some way to stop it—I am against the marriage penalty. I would like to vote to eliminate the marriage penalty. Most of my colleagues on this side want to eliminate the marriage penalty. Nobody feels, at this point in time, that the marriage penalty is sensible public policy. It is bad tax policy, bad social policy, bad moral policy. But the question is, Is this the place to do it? Is the formulation of the Senator from Texas the formulation that is going to fairly distribute the income that you take from raising money on cigarettes, which you ought to be putting into the cessation and drug programs the Senator has talked about?

So the fight here ought to be understood for what it is. If we are really going to try to get rid of the marriage penalty, there are a host of opportunities in the budgeting process to do that fairly. This is not the place to do it. I will vote to get rid of the marriage penalty in the right manner and in the right place. But I think the Senator may indeed have some other motive here than passing the tobacco bill, because this is not the place to take $52 billion of $60 billion and say we are still going to have meaningful cessation programs and meaningful research and meaningful efforts to reduce teenage smoking.

I yield for the question without yielding my right to the floor.

Mr. GRAMM. A point of information. My amendment, as it is now drafted and pending before the Senate, would take about half the money and give it back. So in terms of the numbers, those are the circumstances.

Here is where we differ. I would agree that we can have an impact on smoking by raising prices. But what I don't agree on is that we ought to take $700 billion, basically from Americans who make $30,000 or less, and set out on a massive spending spree. So I am saying if you want to raise the price of cigarettes, why don't you support an effort to give at least half of the money back to the people from the same income group, rather than setting out programs to pay tobacco farmers $21,000 an acre or plaintiff attorneys $100,000 an hour, or starting massive new programs that have virtually nothing to do with smoking. I think that is where we differ. I think until we come to an agreement there that we are not going to have a resolution.

Mr. KERRY. Madam President, again I will reclaim my right, and I will answer the Senator. He keeps coming back with this notion that what we are spending the money on again has nothing to do with the purpose of stopping kids from smoking, even after I have just particularly cited two States that are engaged in those very efforts. When you look at the legislation and read it, here is what they go to. They go to State and community-based prevention efforts. They go to counteradvertising, which is specifically targeted to stop kids from smoking. They go to cessation programs, specifically targeted to stop kids from smoking, and they go to research on youth smoking.

That is it. That is all. The Senator from Texas comes and says——

Mr. GRAMM. What about the tobacco farmers?

Mr. KERRY. The tobacco farmers are a component of the Federal expenditure.

But, Madam President, let me answer the Senator. The fact is that because a lot of tobacco farmers are going to be injured here, just as we have helped fishermen in New England, just as we have helped people in the Midwest in the wheat or other crops such as soybeans, just as we have helped people who have been impacted negatively by a decision beyond their control, the Government is coming in and saying what you have been doing for your livelihood for years we have discovered merits our taking action that is going to impact your livelihood. Maybe the Senator from Texas thinks it is OK to abandon a lot of farmers and let them go down the drain. I don't think that is the American way. I think most of us in the U.S. Senate believe if the Government is going to make some kind of decision that actively impacts people's lives as significantly as this could conceivably, then we have an obligation to try to help those people transition into a new livelihood, or into a place of safety and economic security. To do less than that would, indeed, be irresponsible.

If the Senator thinks that is a big spending program or some kind of bad giveaway, then let him vote that way. I think the majority of people in the U.S. Senate are going to vote for some kind of a responsible measure to assist the farmers. I think that is an appropriate thing to do for an appropriate period of time. The question is how much, and what is the appropriate period of time?

So there is a difference of opinion here. But let us not forget that for years the tobacco industry has been fighting this legislation. For years the tobacco industry fought anything anywhere. It took the attorneys general of this country from 44 States to be willing to go to court to put us in the position to be able to even contemplate some kind of comprehensive settlement. That is where we are, finally—contemplating it—because we have learned that even the tobacco companies 20 years ago or 18 years ago understood that raising the price of cigarettes would impact their sales. They were unwilling to do that. So they would fight it. They have fought every step of the way.

It is time for the U.S. Senate to come together to have the votes, cast the votes that are important, come to closure on this, and decide we are going to pass a bill. Let the majority will of the Senate work its way and move forward.

I will just add not just the tobacco companies are those who believe we should be raising this price. We ought to stop debating this issue of price. We really ought to stop debating it. The issue here is not whether or not we ought to be doing that, because there is no evidence to the contrary. The economist Senator from Texas has accepted the notion. "I am willing to accept the price," he says. So the fight is over what we are going to do with it. That is a fight worth having.

I believe when we have that fight the Senate will resolve that it is important to keep our focus on what this bill is doing. If we are raising the price, we are doing it for one principal reason, because that will reduce kids from smoking. That is the purpose of this bill. We shouldn't be diverting that purpose to relieve the marriage penalty, worthy as that is, at least to the tune of almost half of the revenue that comes in. We ought to be guaranteeing that that revenue is adequately spent on the cessation programs, the counseling programs, the teaching development programs necessary to help teachers be able to teach the peer group and other kinds of things necessary to lead kids to make wise decisions.

We need to be able to guarantee that there is counteradvertising. We need to be able to guarantee that there is research into addiction in order to help us understand better how we are going to end this terrible scourge for a whole bunch of adults who are stuck smoking—40 to 50 million Americans who are addicted and who are going to go out and buy no matter what. We ought to be trying to help them, too.

The choice for the Senate is whether we are going to take this revenue that reduces smoking and help these folks to be able to make the choices that are a matter of good health and good public policy. That is what this debate is about.

I know there are other colleagues here who wish to speak. I yield the floor at this time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I thank my friend and colleague from Massachusetts for initiating these responses to our colleague and friend from Texas giving the strong emphasis in terms of the real make-up of this legislation, because he, like I, believes the single purpose of this legislation should be to halt the young people in this country from starting smoking, and then also to do it by the best means that are available to us from a public health point of view; that as a result of a good deal of practical study, we know there are some measures that are effective and will work. We have seen the inclusion of those measures in the legislation. Some, I believe, should be strengthened. But the Senate has made a judgment on this. That was in the earlier debate about the increase in price to bring it up to the recommendations which have been made by our friends and colleagues in the public health community that universally, based upon their experience, believe that we should raise the price to $1.50 a pack and to do that in a more dramatic way than was included in the legislation that is before us; then also to have the effective programs in counteradvertising and the cessation programs; and strengthen the Food and Drug Administration with the help and assistance to programming in schools and local communities and many programs which have been touched on this afternoon included in the legislation.

One of the ways that we have is a very important opportunity to also strengthen the general thrust of this legislation and make it more relevant to the reduction of teenage smoking is to provide the disincentives to the major tobacco companies for advertising and targeting the children in this country.

I am always interested in listening to my friend and colleague from Texas crying crocodile tears for working families. We will have an opportunity to address those needs of working families as we have in the past in terms of their income, in terms of their health care, in terms of their safety on the job, and in a variety of terms for families with numbers of children, which he has always unfortunately voted in opposition to.

But nonetheless part of the whole tragedy that we as a nation have experienced has been the viciousness of the tobacco industry in targeting the children of working families and of the neediest families in this country and those have been primarily the children of the minorities and working families in this country.

All we have to do is look again at what has happened in the past years and see what the results of that targeting of more than $5 billion a year have been on the teenagers in this country. We find out the actual explosion in the use of tobacco by those who are black and non-Hispanic was some 80 percent over the period of the last 6 years, 34 percent by Hispanic, 28 percent by white and non-Hispanic, a general rise of some 32 percent. And that has been primarily the children of working families.

To suggest out on the floor of the Senate that somehow the primary concern of these workers is going to be the cost of the pack of cigarettes over the interest of having their children stop smoking I think is a real failure to understand what is happening out among working families in this country. To think that they are more concerned about the increase in the cost than they are about making sure that their children are not going to get cancer in the community or that they are going to be free from these absolutely devastating health impacts which, by starting smoking at an early age or any age, are going to occur I think really fails to consider what is happening out among working families in this country and also what this legislation is attempting to do.

I want to speak just briefly this afternoon on the Durbin-DeWine provision because I do think it has a very important impact in terms of discouraging the major tobacco companies from the targeting of children. Once again, we are primarily concerned with the targeting of children—the significant and dramatic increase in costs which discourage children, the preventive programs that are included in this legislation devised to discourage children, and to help and assist those children who develop the addiction to free themselves from that addiction, resources available to help communities to free themselves from this targeting of children. And now this very important and significant amendment that is before the Senate, which it will hopefully adopt, that reflects a bipartisan approach, I think is one of the major kinds of improvements and strengthening amendments that can be achieved.

Now, Madam President, the amendment which is before the Senate will assess increased sums for noncompliance with the youth reduction smoking targets. In addition, the emphasis will be shifted from the industry-wide assessments to the company-by-company assessments in order to more effectively deter the individual tobacco companies from marketing their products to children.

For years, big tobacco has appealed to children through its advertising and promotional campaigns. Before tobacco advertising was banned from television in 1970, cigarette advertising included cartoon characters Fred Flintstone and Barney Rubble promoting Winston cigarettes from their Bedrock neighborhood.

So the tobacco companies have been targeting kids as young as 12, because they know once the children are hooked on cigarettes, they become customers for life. Prior to the introduction of the Joe Camel advertising campaign, fewer than one-half of 1 percent of youth smokers chose Camel. After a few years of intensive Joe Camel advertising, the Camel share of the youth market rose to 33 percent.

The tobacco company pricing decisions also have a dramatic impact on the level of youth smoking. When Philip Morris made a decision to dramatically cut the prices of Marlboro Friday and other companies followed its lead, the industry precipitated a substantial increase in youth smoking. The historical record is irrefutable. The tobacco industry, through its marketing and pricing decisions, has an enormous impact on the level of youth smoking.

Madam President, we see in this chart exactly what happened with Marlboro Friday. This chart, as we have seen in the course of the debate, is so compelling, so convincing, so overwhelming in its conclusion that as the price of cigarettes goes up, teenage smoking has gone down. The dramatic increase in the price in the 1980s we demonstrated last week to show the sharp decline in youth smoking. And then we presented what we call Marlboro Friday, where we showed the significant reduction in the real price and then the dramatic spike up in the consumption of youth smoking that we have seen over the period of time.

The fact is that as they have maintained their price, this number of young people going up to 32, 33 percent a year is reflected with the dramatic increase in advertising. Take price and advertising, and you can tell the story in terms of teenage smoking. And so we know advertising is a key element in this whole debate as well. Price is a key element in this debate.

The Senate has gone on record now that it is holding at the $1.10 price. I still believe that a significant increase in price would have a much more dramatic effect. The public health community believes that as well. The Senate has made that decision on price. But we have now the opportunity to make a decision on another feature of youth smoking, and that is on the degree of advertising that the tobacco industry is going to involve itself in in order to continue to hook children in this country. And that is what this amendment is really all about. It is going to say to the tobacco industry: All right, we are passing this legislation. If you are going to continue to rifle-shot children, if you are going to continue to rifle-shot the children of working families, of minorities, and they are going to exceed a certain standard, you are going to end up paying an additional penalty for that. If you are going to make the effort, that you have stated that you will make, to try not to target children in this country, then you will not have the additional penalty.

That is really what this amendment is all about. What the amendment from Senator DURBIN and Senator DEWINE does is to make sure there is going to be compliance. I think all of us understand that a right around here is not very effective unless you are going to have an enforcement mechanism for that right.

What we are basically saying is, if the tobacco industry is going to live up to its commitment and not target children, all fine and well; but if they are not, they are going to find a penalty. It is as simple as that. If they are going to stand by their word, they have nothing to fear from this amendment.

Given what we have heard from our good friend from Texas, it is going to be interesting to see how he will vote on this amendment. I wish he had had an opportunity to address it a bit this afternoon and indicated support, because I think it would help to establish a good deal of credibility to the other aspects of his argument.

So, Madam President, as we have seen, in fact, 90 percent of current adult smokers began to smoke before they reached the age of 18. If young men and women reach that age without beginning to smoke, it is very unlikely they will ever take up the habit in later years. And so the industry has conducted its advertising accordingly. For at least a generation, big tobacco has targeted children with billions of dollars in advertising and promotional giveaways that promise popularity, maturity, and success for those who begin this deadly habit.

In fact, the Centers for Disease Control and Prevention have found that the average 14-year-old is exposed to $20 billion in tobacco advertising—$20 billion—at the age of 6—beginning at the age of 6. We wonder why children as young as 12 years old, 14 years old, 16 years old—62 percent of those who have started by the time they are 16 years old have been subject to these billions of dollars of advertising, starting at the age of 6.

We are saying now, OK, if you are not going to target the children, you have nothing to worry about. But if you are and your brands are going to be accepted and taken and paid for, even with this increase, you are going to pay a price at the back end. That sounds pretty fair to me. It is just holding them at their word.

It is no coincidence that the three most heavily advertised brands are preferred by 80 percent of children: Marlboro, Camel and Newport—the three most heavily advertised, the three most heavily used. So, once again, we know what is going to happen, I believe, unless we have the Durbin-DeWine amendment.

A study published in the February 8, 1998, Journal of the American Medical Association also reported a correlation between the cigarette advertising and youth smoking. It analyzed tobacco advertising in 34 popular U.S. magazines and found that as youth readership increased, the likelihood of youth-targeted advertising increased as well. So these weekly—daily surveys that are taking place by the tobacco industry to find out what children are reading in magazines are then sent on back to the advertisers of the major tobacco industry. And, sure enough, up they come with that appealing kind of advertising to hook those children into addiction. That is happening.

That is the issue we are attempting to address in this legislation. We deal with it on some of the restrictions, in terms of advertising, that have been constitutionally upheld in the Baltimore decision, some of the protections that are there, provided under the FDA, but there is an opportunity for us to go far beyond that with this legislation, and that is what we are doing.

Two recently disclosed industry documents reveal that big tobacco has a deliberate strategy to market its products to youth. In a 1981 Philip Morris memo entitled "Young Smokers—Prevalence, Implications, and Related Demographic Trends," the author wrote that:

> It is important to know as much as possible about teenage smoking patterns and attitudes. Today's teenager is tomorrow's regular customer, and the overwhelming majority of smokers first begin to smoke while still in their teens. . . .
>
> Because of our high share of the market among the youngest smokers, Philip Morris will suffer more than other companies from the decline in the number of teenage smokers.

There is the cigarette company looking at the teenager, not as a teenager but as part of the profit in the years ahead, over a lifetime—a shorter life, albeit—but over a lifetime of smoking.

A 1976 R.J. Reynolds Tobacco Company memorandum stated that:

> Young people will continue to become smokers at or above the present rates during the projection period. The brands which these beginning smokers accept and use will become the dominant brands in future years. Evidence is now available to indicate that the 14 to 18 year old group is an increasing segment of the smoking population. [RJR-T] must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long-term.

We cannot have it any clearer—that this is the group that is being targeted. We know they have done so. We know that is how they have increased their market. They have indicated they will not do so in the future. We are saying: If you are not going to do so in the future, you have nothing to fear from this amendment. But we are going to recognize what your track record has been over the historic past, and how you have targeted youth, and we are going to say the least you are going to do is to pay an important penalty if you are going to violate your commitment. That is what this Durbin-DeWine amendment will accomplish. It will accomplish that goal much more effectively than the current look-back provisions in the managers' amendment. It will substantially increase the total amount of the surcharges which companies must pay if smoking levels do not decline in accordance with the reduction targets. It also shifts the payment obligations from a predominantly industry-wide system to a predominantly company-specific system. This will dramatically increase the deterrent influence of the look-back on company policy.

In this chart, you see what the relative effect would be with regard to the "real incentives" surcharge in the millions under the current McCain legislation and what would happen with regard to the Durbin-DeWine program. Here we find, with regard to the industry-specific, how much more effective this amendment would be in targeting those who really have abused the system most in the past, and to make sure that is not going to happen, to protect our children in the future.

The current McCain provisions provide for a maximum industry-wide penalty of $4 billion, or about 20 cents a pack. The company-specific portion is extremely small, amounting to only a few pennies per pack. The Durbin-DeWine amendment provides for substantial company-specific penalties which, in the aggregate, could reach $5 billion per year if the companies continue to flout the law and blatantly target children. The amendment also provides for an industry-wide surcharge of up to $2-billion a year.

Through this important amendment we are speaking to the tobacco companies in the only language they understand—money. If they are going to continue to target children, these companies will pay a financial price far in excess of the profits raised from addicting children.

But, if they are willing to cooperate in efforts to prevent teenage smoking, the companies may never have to pay a dollar in look-back surcharges. A strong company-specific look-back, such as the one we are proposing, will give the tobacco companies a powerful financial incentive to use their skill in market manipulation to further rather than undermine the public interest in reducing youth smoking. Each tobacco company must be held accountable for its actions on teenage smoking. The stakes involved are nothing less than the health of the Nation's children. For each percentage point that the tobacco industry misses the target, 55,000 children will begin to smoke. One-third of these children will die prematurely from smoking-induced diseases. We are talking about the difference of hundreds of thousands of children between the two approaches that are before the Senate now—one under the proposed legislation and one under the Durbin-DeWine proposal. This, I believe, is just absolutely an essential amendment that will really strengthen the legislation to carry forward its very sound and important public health provisions to protect America's children.

Finally, I did want to also mention briefly the very substantial provisions, as my friend and colleague, Senator KERRY, pointed out before, with regard to the preventive aspects of this legislation, the very important smoking cessation programs, the prevention programs in school and the prevention programs in communities. We have a number of teenage volunteers in our State, down in New Bedford, MA, and in classrooms around our Commonwealth now, who are going out to various shopping malls to get the owners of the various shopping malls and the various shops to make these shopping malls smoke free. These are young people. These are teenagers who we are asking to participate, to make a difference in their communities, and they are prepared to do so.

Counteradvertising—we have seen, even in a State like our own State of Massachusetts, where the tobacco industry was spending 10 times as much as counteradvertising, still, the counteradvertising, talking about the importance of the health implications and the dangers of smoking, had a very important and significant impact in reducing the incidence of addiction—very, very important.

The medical research into addiction prevention and cure—as someone who sits on the Health Committee, I know the work that is being done, in terms of addiction and substance abuse and also in nicotine. We know—we have been listening—about how we ought to be concerned about the problems of substance abuse as well. We are concerned about the problems of substance abuse.

There are two gateway drugs and smoking is No. 1. The second one is drinking beer. This is a gateway drug. When I listen to our friends who have indicated opposition to this legislation say this isn't the problem that we ought to be dealing with, substance abuse, if you talk to anyone who has seriously worked on the problems of addiction and substance abuse, they will tell you that nicotine is right out there with any of the other kind of addictions that are afflicting the young children in this country, and we can do something about it.

The various medical research into the tobacco-related diseases, and there are many—emphysema and the whole complexities in terms of the lungs—there are many, we have resources to try and deal with those issues as well.

Madam President, I see my friend and colleague from Ohio on the floor. I pay tribute to him for his leadership on this amendment. I commend him for his work in this area. He has been an important leader in protecting the interests of children in our country and society on many different matters. It is just a pleasure to join with him, and I urge the Senate to accept his wisdom and judgment about public policy on this issue.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. I thank the Chair.

Madam President, first, I thank my colleague from Massachusetts for his very kind comments. I think the charts of the Senator from Massachusetts tell a great story, actually a sad story, but it is a very effective story and really illustrates the need for this bill.

I also thank my other colleague from Massachusetts for his kind words about this amendment a few moments ago.

The amendment that Senator DURBIN and I have offered really will make a few, but very necessary, improvements to the so-called look-back provision of the underlying McCain bill. Let me start my remarks this afternoon by talking a little bit about the look-back concept, and then the specific look-back provisions in the McCain bill, because I think an understanding of the broad concept of look-back is essential to understanding what the McCain bill tries to do in this area, and is also essential to understanding what Senator DURBIN and I are trying to do with our amendment.

Conceptually, the purpose of look-back—whether in the original tobacco settlement, the McCain bill, or in the Durbin-DeWine amendment—is to change the incentives for tobacco companies. Until now, tobacco companies have always had an incentive—potential profits—to convince children to use their products. The look-back approach simply flips this incentive—it turns it around by giving tobacco companies incentives to help reduce the number of minors using their products. This incentive structure, through which tobacco companies will work with us rather than against us in our goal to reduce youth tobacco use, is created by imposing assessments on tobacco companies if they do not meet targets reducing youth tobacco use.

It is simple: If the targets are not met, the companies will have to pay. If the targets are not met to reduce teenage smoking—and these are targets that the tobacco companies all said they could do, all made a commitment to do in the settlement they reached with the attorneys general—if those targets are not made and are not met, then the tobacco companies will have to pay.

Before I get into the specifics of the McCain look-back provision and our amendment, I would like to reiterate what I have said several times on the floor of the Senate before, and that is that the Chairman of the Commerce Committee, Senator MCCAIN, has done a great job in bringing this tobacco bill to the Senate floor against some very, very difficult odds. This is a comprehensive bill. Something like this, frankly, has never been tried before, so I commend my colleague from Arizona for his great work.

This bill includes many different parts, each of which is important if we are really going to reduce youth use of tobacco. The look-back provision that our amendment deals with is an important and integral part of this campaign to reduce youth use, but is only one of several things the bill does, all of which are important, to have a real impact on youth smoking. Again, I congratulate Senator MCCAIN, as well as his colleagues on the Commerce Committee, for facing this difficult issue and meeting it head on with a very sound piece of legislation.

I will now turn to a quick overview of the Durbin-DeWine amendment. Madam President, the Durbin-DeWine amendment will make two changes to the look-back provision in the underlying McCain bill.

First, our amendment will shift the emphasis from an industry-wide look-back to a company-specific look-back. Let me make it very clear, both the McCain bill and the Durbin-DeWine amendment blend the company look-back with the industry-wide look-back. Both are blends. The difference is the Durbin-DeWine amendment puts more emphasis on the responsibility of the individual tobacco company. We follow what I consider to be, frankly, a more conservative point of view, and that is accountability, that the tobacco companies should have to live with the consequences of their actions or even their inactions. That is the conservative way to look at it, but more important than that, it is the right way to look at it.

The second provision of the Durbin-DeWine amendment provides for increasing the McCain bill's targets for the reduction of youth tobacco use. Yes, by setting a higher target of reduction, the goal is to have fewer kids smoking. But having said that, let me emphasize that our provision effectively takes us back to what the cigarette companies agreed to over a year ago when the cigarette companies and the attorneys general reached this agreement. Our provision takes us back to what the tobacco companies said they could do in June of last year.

I'll repeat that: We are simply increasing these reduction targets to levels the tobacco industry and companies agreed was achievable just last year in the attorneys general agreement.

Let me discuss in more detail these two specific changes in the look-back provision that we are providing in the Durbin-DeWine amendment. I will first start with the company-specific emphasis and how we would require more accountability from the individual tobacco companies.

The first important change that I mentioned our amendment makes is that it shifts the emphasis from an industry-wide look-back to a company-specific look-back. What does this really mean? Let me explain by using an example and by talking about my early concern of last year's settlement which only contained an industry-wide look-back and had no company-specific piece in it.

Under a pure industry-wide look-back, the industry is measured and judged as a whole on how well it does in reducing youth tobacco use. What this does, in effect, is dilute the incentive for each company to do everything it can to make sure children are not using its products.

Why do I say that? Simply because the effects of whatever that company does—positive or negative—is spread across the entire industry. In a sense, this is a form of socialism. Whatever they do, however well they do it, they only get a portion of the credit, and they only get a portion of the blame. The intent is to share—everybody is in this together. You can have one company that does everything it can to reduce teenage smoking, and you can have another company that completely ignores everything and goes about its business to continue to try to hook kids. It doesn't matter; each one is treated equally under a pure industry system. I think that is wrong.

Let me raise a specific case that I brought up a few weeks ago when I talked about this issue on the floor—a case that involves the Philip Morris company, the maker of Marlboro. This company, Philip Morris, through the use of the Marlboro Man and other marketing campaigns, has been extremely successful in selling cigarettes to our young people.

They know what they are doing. They are very, very good at marketing their product. They did such a good job that by 1993—if you can believe this—60 percent of all teen smokers in this country used Marlboro—60 percent. But in the overall market of all cigarettes sold, the legal market, Marlboro only had 23.5 percent of the market. So 60 percent in illegal sales—60 percent to kids—and only 23.5 percent to legal, adult market. The Marlboro Man and other advertising did a fantastic job, tragically, in hooking young kids.

How would an industry-wide look-back approach affect Philip Morris, the maker of Marlboro? After all, Philip Morris is responsible for a majority of youth smoking, meaning this is the main company the look-back incentives should be aimed at.

Madam President, the industry-wide look-backs in the original settlement and in the McCain bill would allocate the industry-wide assessments to each company based on its adult market share—not its share of the youth market. So if the cigarette industry as a whole misses its reduction targets, under the original settlement reached last year, Philip Morris would only be responsible for 23 percent of the total industry-wide look-back assessment, even though Philip Morris is responsible for 60 percent of all the youth smoking in the country.

So once again, let me ask the question that I have asked previously: What do we think Philip Morris will do under this industry-wide look-back if we had a pure industry-wide look-back provision? Will the look-back succeed in getting Philip Morris to try to reduce the number of children who use its products? I do not think so. For the industry-wide look-back, it is pretty clear to me that the answer is no. Philip Morris will probably not try to reduce youth use of its products at all. Why? Well, it's simple: the incentive is not there. The industry-wide look-back forces other companies to pay for the sins of Philip Morris. Philip Morris is simply smarter to simply ignore the look-back.

So an industry-wide look-back in this case would fail to do what it is supposed to do. In the case of Philip Morris, it would fail to give the proper incentive to the very company with the most responsibility for stopping kids from using its products.

So, Madam President, what can we do to make sure the look-back provision is effective and really gives tobacco companies the right incentives? The answer is simple. We need to hold each company responsible individually for meeting the youth reduction targets, and allow each company to reap the rewards or face the consequences of its own behavior.

Madam President, it is the American way. It is the right way. Let us hold them responsible. Let us hold them accountable. Let us measure their success or their failure.

Right now about 3 million children, it is estimated, smoke Marlboro cigarettes which are made, as I mentioned, by Philip Morris. Instead of focusing a look-back provision on what the industry as a whole does, it is so much more powerful to simply say to Philip Morris—this is what we ought to say to them—"You have 3 million children who use Marlboro cigarettes—3 million in this country. You need to do everything you can to help us reduce that number. That's your responsibility."

That is what the look-back provision should hold them to. That is what the Durbin-DeWine amendment says. By focusing on a company-specific rather than industry-wide look-back, we are simply telling each tobacco company that it is responsible for its own behavior. In this way we create a more powerful incentive for each company to help us achieve the ultimate goal of this legislation. Let us never forget that ultimate goal; that is, to reduce youth smoking in this country.

Let me talk, if I could, Madam President, about the second part of our look-back change that we make in the Durbin-DeWine amendment. Part of our amendment, as I mentioned, was to set higher reduction targets for youth smoking than those set in the McCain bill. What this means is that tobacco companies are given an incentive to try to get even more children to stop smoking.

Using the current level of youth smoking as the baseline, the Durbin-DeWine amendment would aim for a 67-percent reduction in youth smoking in ten years. This compares to the 60-percent goal contained in the McCain bill. But this, I think, is the important thing: in real terms what this means is that 450,000 fewer children will smoke if the companies meet the reduction targets in our amendment. Since we know that one-third of smokers die young as a result of their habit, this means that 150,000 fewer children will die early as a result of smoking.

These are real kids. These are real children that we are talking about, and they are quite possibly real deaths. So let me say it again. If tobacco companies meet their reduction targets in our amendment, it will mean 450,000 fewer youth smokers and 150,000 fewer early deaths due to smoking.

What we need to remember is that the reduction targets in our amendment in real terms are actually equal to the targets from last year's settlement. Our amendment has the same targets to which the industry agreed to last year.

To me, Madam President, this is an easy issue and it is an easy decision. In effect, the industry has already agreed that it is possible to prevent almost half a million more kids from smoking than the underlying bill calls for. Let us pass this amendment which stops these kids from ever becoming smokers at all.

Again, I emphasize our amendment merely takes us back in real terms to what the industry, the tobacco companies and the attorneys general, agreed to last June. The 67 percent in our amendment is really equal to the 60 percent they agreed to last June because of the change in the baseline. The raw numbers are the same.

Madam President, I would like to respond for a moment to some of the criticism that we have heard about this amendment. And let me just comment about a few things.

Some Members have come to the floor and have argued that this might be too punitive. Some have said that the potential assessments under this amendment are just too high.

First, I would like to say that my sincere hope is that we never see any assessments under a look-back, because this would mean we will have met our reduction goals for youth smoking. Once again, since the industry, the tobacco industry, has agreed that these reduction goals are achievable, I think it is likely we will never see any assessment under the look-back, at least that is what our goal is.

But this will only be true if we create a strong incentive for each company to meet the reduction targets. This is what our amendment, the Durbin-DeWine amendment does. The company-specific payments in the Durbin-DeWine amendment are higher than the McCain bill. However, the industry-wide payments are lower. When you add the two types of look-backs, company-wide and industry-wide together, you really will not find a huge difference between our amendment and the McCain bill. We have a different blend. We change the emphasis, but overall there isn't a great deal of difference.

Let us take an example. Let us suppose that each and every company misses the reduction target in a given year by 10 percent. If this happens, the combination of industry-wide and company-specific payments in the McCain bill would add up to a total of $1.8 billion. In the Durbin-DeWine amendment, under those same set of facts, it would add up to $2.4 billion. There is a difference, but the difference is really not huge.

Madam President, the real difference between our amendment and the McCain bill is not the size of payments, but rather the emphasis. The company-specific focus of the Durbin-DeWine amendment places more incentive on each tobacco company individually to change its behavior and to stop children from using its products.

Madam President, others have argued to address another issue that has been raised, that company-specific look-backs are unfair because the company cannot really control whether kids use its products. Well, we know from experience and seeing what these tobacco companies have done in the past that that simply is not true. There are many things that tobacco companies can do to prevent kids from using their cigarettes. There have been many things that the tobacco companies have done to get kids to use their cigarettes. We know there are many things they can do to stop them as well or reduce it. Those who make that argument aren't giving the tobacco companies enough credit. The most basic thing tobacco companies can do is make sure its advertising is not appealing to kids.

Now, some of this is already taken care of and addressed in the McCain bill. We do this by placing marketing restrictions on tobacco companies, such as prohibiting the use of cartoon characters or human images. That is in the bill. But advertising is a subtle thing. The tobacco industry has proven a real expert at dealing with this. There is simply no way Congress can specifically prohibit every type of advertising that might appeal to children. We are not that good. We can't write legislation that specific.

The advantage of a company-specific look-back provision is that each company is given the incentive to think about other ways its advertising may be attracting children and then to stop it. But even beyond the issue of advertising, companies can still have an impact on how many kids use their products. For example, they can initiate their own antismoking advertising campaigns or their own education programs that would build on efforts called for elsewhere in this bill. They could do it if they wanted to do it. Again, the buck stops with them under our provision.

A company could also work with retailers to find ways to be absolutely sure that none of its products were being sold to minors. The relationship between retailers and tobacco companies is a very close one. They have used it over the years to build sales. They can certainly use it in the next few years to reduce illegal sales to minors.

So I think those who say that, gee, the tobacco companies can't be held for liability on this, this is all beyond their control, I think that argument is absolutely absurd.

As we can see, companies have any number of ways or tools to make it harder or less likely for children to use their products. We need to make sure they have a strong incentive to put that great genius to work. The only way to place a strong incentive on each company separately is with a strong company-specific look-back penalty like that contained in the Durbin-DeWine amendment.

The choice before the Senate is simple. We have the opportunity when this amendment comes for a vote, the Durbin-DeWine amendment, to vote on an amendment that will prove the basic purpose of this legislation, and that is to reduce youth smoking by holding individual tobacco companies more accountable for failing to reduce youth smoking, and by restoring the original target set by the tobacco companies themselves and agreed to themselves. The Durbin-DeWine amendment will make a real difference in young lives. I, once again, urge my colleagues to join us on behalf of our young people and support the Durbin-DeWine look-back amendment.

Some of my colleagues and friends have come to the floor, and I have heard legitimate talk about the problem of the illegal use of drugs. That is a major problem. It is a major problem in our country today. It is a major problem with our young people. If we had to tick off two of the major problems we have with our general population, but particularly with our young people, we certainly would include cigarettes and we certainly would include the illegal use of drugs.

As I have listened to some of those debates, and I agree with what they have said and I do not disagree in any way—in fact, I am struck by the similarity between the two issues—cigarettes and drugs. I think as we approach, really for the first time in this Congress, the issue of trying to comprehensively deal with tobacco use, and as we for the first time try to structure a comprehensive program to reduce the number of young people who start smoking cigarettes, who start to use tobacco, that the lessons we have learned as a society over the last few decades in regard to the illegal use of drugs and how we deal with that and how we try to reduce that, I think are very apt. I think we ought to look at that effort in that war.

What have we learned? We have had some success in the war against drugs and we have had an awful lot of failures, as well. We have seen the use go up and we have seen the use go down. There are times in our history where we have driven the use down and at times we have driven the use back up, particularly among our young people. I think we have learned a great deal.

What have we learned that might be applicable to what we are trying to do in regard to cigarettes? A couple of things. One, price. Why do we spend so much time, effort, and money to try to keep drugs from coming into this country? Why do we go to the source countries? Why do we try to help Colombia? Why do we have Coast Guard cutters today off the coast of Haiti to try to interdict drugs? Why are we working in the Bahamas? Why are we working in

Mexico? Why are we doing everything we can to try to stop drugs from coming into this country?

The answer is not only do we want to keep drugs out of the hands of anybody who might buy them in this country, but at the same time we are trying to drive up the price of drugs. We know there is a direct relationship between the cost of drugs on the streets of Cleveland, OH, Los Angeles, Cincinnati and the cost on the drug traffickers to get them there; and we know there is an inverse relationship between the price of those drugs and the use of those drugs. So if it is true with illicit drugs, and I think it is true for just about any product, it certainly is true and the statistics have shown us that it can in many cases be true in regard to tobacco, as well.

Now, I happen to think, and I have argued on this floor, that price alone is not enough, driving up the price of tobacco is in and of itself not enough. We have seen that the studies have been conflicting in regard to the price issue. But I am convinced that price is an important factor.

What else have we learned about a war on drugs in general? We have learned that when we have come forward with very effective antidrug advertising campaigns that are focused in the media, that are focused on radio and television—we know when the genius of Madison Avenue is utilized, we know they can be effective, and they are effective. We know when we focus public attention on the issue that we can make a difference. Advertising does work. Counteradvertising works, as well. Again, another lesson from our war on drugs. We know what works and we know what doesn't.

The same is true with education. We know that when you combine the increase in cost, the price on the street of a drug, you combine that with counteradvertising, you combine that with education sustained year after year after year in school, that it will make a difference. Part of the problem with our anti-education programs that are anti-illicit drugs, we only do them for 1 or 2 years. We might have a 5th or 6th grade DARE program, and then a young person might not get another dose of that until 11th or 12th grade in health class. We know that is a problem. Every study has shown the only way education is effective is starting in kindergarten, preferably before that, and start K through 12, every single year.

This is not rocket science. This is not difficult. It is the same way with tobacco. The lessons we have learned, sometimes the hard way, in regard to how you deal with illicit drugs in this country—sometimes we act like we haven't learned those lessons, but those lessons can be applied in regard to stopping young people from smoking cigarettes.

What we are trying to do in this bill is to take the knowledge that we have and come up with a comprehensive package that will in the long run save tens of thousands of our young children's lives. That is what we are about. So as we debate this bill and we talk about different provisions, whether it is the look-back provision or other provisions, let us keep our eye on the ball. Let us keep our eye on what are the bare facts and what the goal is. The goal is to reduce teenage smoking.

The only way that we can do that is to come up with a comprehensive approach that combines education, antismoking advertising, reduction in advertising aimed at children, good law enforcement, and an increase in price. When you put all of those things together you have a good, good, fighting chance to dramatically reduce teenage smoking in this country, which is what our goal is. That is why I continue to support this legislation and continue to urge my colleagues, no matter what their position is on individual amendments as they come up, to keep our eye on the ball and keep pushing this bill forward. It is essential that we get it passed. We have a great responsibility to get that job done. I hope we will continue to do it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Madam President, I would like to address the question of the National Tobacco Policy and Youth Smoking Reduction Act, S. 1415, this afternoon, which the Senate is resuming consideration of today. This is a very important bill, and I know the occupant of the Chair shares my concerns with this legislation and a concern that it be passed. This seeks to address a serious problem—tobacco use among our young people.

Both conservatives and liberals fault this legislation. Some say it is not strong enough; some say it goes too far. I think it strikes an appropriate balance and merits our support. It is not a perfect bill, but I don't think we should let perfection be the enemy of the good. By striving constantly for what each of us wants in the perfect bill, we won't end up with anything. I am concerned about that.

Madam President, if one counts the Mondays and Fridays as part of each working week, there are only 68 legislative days remaining in this congressional session before we adjourn for the midterm elections in the fall. Sixty-eight days is not very long. Time is of the essence if we are going to enact a comprehensive tobacco bill this year. I certainly believe Congress should enact such legislation. Thus, I am hopeful that, following a vigorous and healthy debate, the Senate will pass the McCain bill and send it along to the House.

Given all the disinformation circulating about this legislation—most of it, I might say, initiated by the tobacco industry—I would like to take a few moments of the Senate's time to review the bidding as to why we are considering national tobacco legislation at this time.

The opponents of S. 1415, the so-called McCain bill, would have us believe that this legislation is a case of tax and spend liberalism gone wild, that this bill is an excessive response to a relatively minor social problem—that of tobacco use among the young people—and that an antitobacco media campaign is all we need, that is an adequate response. Well, for years the tobacco industry sought to discredit studies which linked smoking to cancer and other diseases. Then the industry told us that nicotine was not addictive. Now the industry says it doesn't target kids with any advertising or marketing programs and that this legislation is just another opportunity—the McCain legislation—for Washington to increase taxes on the U.S. public.

Let's look at the facts. There is indisputable consensus within the public health community that tobacco use constitutes the single most preventable cause of death in this country. In other words, of all the possibilities of reducing deaths in our country, including better exercise, reduction in fat consumption, conducting what we might call a healthful life, all of those things put together aren't as effective in improving the health of the United States of America as giving up smoking would be. In other words, it is the single most preventable cause of death. Who says that? Is it I, Senator CHAFEE from Rhode Island? Not at all. It is the Centers for Disease Control.

Here is a chart. This chart says tobacco kills more Americans than alcohol, car accidents, suicides, AIDS, homicides, illegal drugs, and fires combined. In other words, all the effort we go to in this country to lecture people to use seat belts in order to reduce automobile accidents or fatalities and injuries from automobile accidents, and all we do about counseling in connection with suicides, and the money we pour into AIDS prevention and attempted cures, and homicides, and the battle against illegal drugs and fires, and all we do to prevent fires from occurring in households, and the lectures on alcohol—if you put all of those together, tobacco kills more Americans than alcohol, car accidents, suicides, AIDS, homicides, illegal drugs, and fires combined.

So if we are serious about doing something about improving the health of Americans, we should try to make every effort to entice Americans not to take up smoking and, if they are smokers, to cease smoking.

Here are the figures: Tobacco kills 418,000 Americans every year by tobacco-related diseases; alcohol is 105,000; about one-fourth of the deaths result from tobacco and fires, 4,300; illegal drugs, 9,000; and so forth. So you add them all together, and they don't amount to the figures that are causing the deaths resulting from tobacco-related diseases.

Where is the problem? The problem lies in that every day it is estimated in the United States of America 3,000 children and young people start smoking in schoolyards, or wherever it might be, in our country. Every day, 3,000 youngsters take up smoking, and one-third of these will die prematurely as a result of that habit. In other words, if they smoke, the chances are that about 33 percent will die prematurely because of the habit of smoking. Each year, 1 million additional children—3,000 a day times 365 gets you very close to 1 million—1 million additional children become smokers. What we are aiming for in this legislation is to prevent that and reduce the number of children who take up smoking.

There are those who say, "Oh, well, tobacco use is a matter of personal choice." But is this true when you are talking about young people, impressionable children, 14, 15, 16, 17, in their teens? Ninety percent of those who take up smoking do so before the age of 18. In other words, if you can get someone by the age of 18 without having taken up smoking, the chances are excellent that individual will not become a smoker. Ninety percent of smokers have taken it up before the age of 18.

Children obviously don't possess the same level of maturity as adults. They can't be expected to make the most thoughtful decisions on this life-and-death matter of smoking. Sometimes it is the "cool" thing to do, apparently.

But the tobacco industry itself, in its own words—here is the internal document from R.J. Reynolds. "If a man"—or woman—"has never smoked by the age of 18, the odds are three-to-one he never will." If you haven't smoked by 18, the chances are pretty good that you won't smoke ever—"three-to-one." By the age of 24, if you can hold off and not smoke at the age of 24, the odds "are 20-to-one" that that individual will not take up smoking.

That is where we want to concentrate our efforts—on these young people in their early teens—and carry it up through the age of 24 when the chances are very, very good that an individual will not take up smoking. But the key group is 18 or younger.

Is there an epidemic of smoking amongst young people? You bet your life there is. In my home State, where I never thought there was a particular abundance of smoking—it is not like going to China, where everybody seems to be smoking. That doesn't seem to be true in my State. Yet the Centers for Disease Control says that 37 percent of high school children—I am not talking about high school seniors; I am talking about high school children; that would be the 12th, 11th, and 10th, and in some instances the 9th grade—smoke. That is more than 70,000 teen smokers in our State. We have 1 million people in our State, and 70,000 teen smokers, one-third of these high school students, will lose their lives prematurely because of this unhealthy habit.

Here is a graph that shows the increase in the rates of smoking among high school seniors. Now we are talking seniors. It is remarkable. It went along pretty steadily at about 30 percent. Then in 1982 it even dipped down to about 27 percent. Then it shot up starting at about 1991, up until the middle 30s nationally.

What has caused all of this? One of the things, obviously, that has caused it is the action of advertising to these young people, whether it is the Marlboro man, or Joe Camel, or whatever it is. All the advertising from the tobacco companies has been oriented toward inducing the young people to take up smoking. It is the "in thing." They want to make it the "in thing." The tobacco companies clearly do.

One of the ironies of the opposition of the tobacco companies to the McCain bill is the suggestion that this bill was somehow dreamed up by a bunch of Washington bureaucrats. The fact of the matter is that most of the provisions in this bill have their origins in the global settlement the industry entered into with the 40 States' attorneys general last June. In other words, about a year ago the tobacco industry entered into a deal with 40 of the attorneys general from our 50 States. In that, they made a whole series of concessions. It had nothing to do with Washington, DC, or Washington bureaucrats, or tax-and-spend liberals in the U.S. Congress. It was all initiated and agreed to by the tobacco companies and the attorneys general.

Let's tackle some of the things that came up in that agreement.

What about the idea of a per-pack tax on cigarettes to discourage teenagers from smoking? In other words, what is the idea of increasing the tax, or fee, if you will, on each package of cigarettes that is sold in order to discourage teenagers from taking up smoking? Tobacco companies signed on to a 65-cents-per-pack increase during the settlement negotiations. Sixty-five cents they agreed to. That had nothing to do with Washington, DC. That was out in the hinterlands, out in the States, working with the tobacco companies and the attorneys general.

What about financial penalties on the tobacco companies for failure to meet the annual youth smoking reduction target? This is the so-called look-back provision. If there isn't a reduction of *x* percent—this is written out in the contract, in the deal—if those reductions aren't achieved by 40 percent or 50 percent, whatever it might be, by such and such number of years, then the tobacco companies will have to pay an additional penalty. That is the so-called look-back provision at the end. At the end of 5 years of this deal, you look back and see if there has been this percentage reduction in teenage smoking.

Where did that come from? Out of the bureaucrats in Washington? Not at all. The tobacco companies agreed to this during the settlement with the attorneys general.

What about advertising and marketing restrictions? The industry signed off on that.

What about receipts from those new taxes to fund public health programs such as counteradvertising, cessation of smoking efforts, community-based antismoking programs, and all of these things that we are now thinking are wise to reduce smoking in the United States—not just to get people to not take it up in the beginning, to help those who are smoking cease that very dangerous habit? Where did that come from? Did that come from Washington bureaucrats? Not at all. The industry agreed to it in their dealings with the attorneys general.

The fact is, the McCain legislation is based largely on the negotiations which produced the so-called global settlement, comprehensive settlement, last June.

Given the American public's distaste for new taxes, it is not surprising that the tobacco industry has seized upon the $1.10 increase in the price for a pack of cigarettes and has used this as a rallying cry of opposition.

Let's understand this. Who is going to pay this tax? Only people who smoke. If they give up smoking, they won't pay the tax. Anybody who says they don't like the tax, quit smoking and they won't have to pay a nickel of it.

Obviously, smokers are free to go on smoking. But I think we all ought to understand that all of us are paying when there are smokers in our society. Why are they paying? Because one-third of those smokers are going to suffer very severe sickness and illness as a result of their smoking. And the direct health care costs—in other words, whether Medicaid, Medicare, or other forms of assistance to those who smoke, or are suffering from smoking-related illnesses—are paid for by all of us in society. It costs $60 billion a year to care for those individuals. And when you take the lost productivity and the disability payments, it is estimated that smoking-related illnesses are causing American taxpayers over $100 billion a year. Now, even for somebody from Washington, $100 billion is a lot of money. That is what these tobacco-caused illnesses are costing the taxpayers in the United States.

Madam President, I urge Members of this body and the public also to look closely at the facts I have enunciated here and not to be dissuaded from doing the right thing, not to be dissuaded by this blitz from the tobacco industry and the lobbying that is taking place. S. 1415, the McCain bill, is a comprehensive bill, it is a good bill and addresses a very serious problem in our country. The time for action on it is now, and I hope my colleagues will support efforts to pass the legislation.

Madam President, seeing no one else wishing to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HUTCHISON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, May 29, 1998, the federal debt stood at $5,506,355,797,435.19 (Five trillion, five hundred six billion, three hundred fifty-five million, seven hundred ninety-seven thousand, four hundred thirty-five dollars and nineteen cents).

One year ago, May 29, 1997, the federal debt stood at $5,346,270,000,000 (Five trillion, three hundred forty-six billion, two hundred seventy million).

Twenty-five years ago, May 29, 1973, the federal debt stood at $455,297,000,000 (Four hundred fifty-five billion, two hundred ninety-seven million) which reflects a debt increase of more than $5 trillion—$5,051,058,797,435.19 (Five trillion, fifty-one billion, fifty-eight million, seven hundred ninety-seven thousand, four hundred thirty-five dollars and nineteen cents) during the past 25 years.

ELIZABETH GIANETTI—PRESIDENT OF MASSACHUSETTS FRATERNAL ORDER OF POLICE

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to recognize the extraordinary leadership of the President of the Fraternal Order of Police in Massachusetts, Officer Elizabeth Gianetti.

Officer Gianetti has achieved many "firsts" in her outstanding career. She is the first person to hold this position. She was instrumental in its creation in 1993, when the 4,000 law enforcement officers of Massachusetts decided that they needed a statewide organization to represent their concerns. And once the Massachusetts State F.O.P was established, Officer Gianetti was overwhelmingly elected its first president by the local F.O.P. lodges across the state.

She is also the first woman in the 83-year history of the national Fraternal Order of Police to head a state F.O.P. chapter.

Officer Gianetti comes to this position with an impressive record of achievements in law enforcement and service to the community.

She has been a Boston School Police Officer for more than 10 years. In that capacity she has been actively involved in the community, and especially active in working with children through such programs as Boston Medical Center's Children With AIDS Foundation. She has brought her enthusiasm for working with children to her position as state F.O.P. president. This summer, for example, she will coordinate a safety day with the goal of educating children and parents about keeping children safe, including the distribution of bicycle helmets to help prevent accidents and injuries.

Elizabeth Gianetti's initiatives with the state Fraternal Order of Police and her work for the people of Massachusetts are truly remarkable. We are proud of her accomplishments, and I know that all Senators join me in commending her fine record of public service.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on May 26, 1998, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 2400. An Act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

The enrolled bill was previously signed by the President pro tempore (Mr. THURMOND) on May 21, 1998.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate on May 20, 1998, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4897. A communication from the Attorney General, transmitting, pursuant to law, the report of orders and extensions of orders approving electronic surveillance or physical search under the Foreign Intelligence Surveillance Act for calendar year 1997; to the Committee on Judiciary.

EC-4898. A communication from the Assistant Attorney General, Office of Justice Programs, Department of Justice, transmitting, the annual report of the Office of Justice Programs for fiscal year 1997; to the Committee on the Judiciary.

EC-4899. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Refugee Resettlement Program for fiscal year 1996; to the Committee on the Judiciary.

EC-4900. A communication from the Chairman of the Tennessee Valley Authority, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1997; to the Committee on the Judiciary.

EC-4901. A communication from the Secretary of Education, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1997; to the Committee on the Judiciary.

EC-4902. A communication from the Executive Director of Government Affairs, Non Commissioned Officers Association of the United States of America, transmitting, pursuant to law, the annual report of financial statements as of December 31, 1997 and 1996; to the Committee on the Judiciary.

EC-4903. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft of proposed legislation to designate El Camino Real de Tierra Adentro as a National Historic Trail; to the Committee on Energy and Natural Resources.

EC-4904. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Maryland Regulatory Program (Bonding)" received on May 11, 1998; to the Committee on Energy and Natural Resources.

EC-4905. A communication from the Secretary of Energy, transmitting, pursuant to law, notification that the Department of Energy will open the Waste Isolation Pilot Plant for disposal operations; to the Committee on Energy and Natural Resources.

EC-4906. A communication from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting, pursuant to law, notification of proposed refunds of offshore lease revenues authorized under the Outer Continental Shelf Lands Act; to the Committee on Energy and Natural Resources.

EC-4907. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Acquisition Regulation: Limitation on Allowability of Compensation for Certain Contractor Personnel" (RIN1991-AB43) received on May 13, 1998; to the Committee on Energy and Natural Resources.

EC-4908. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of an administrative directive entitled "Nuclear Explosive and Weapon Surety Program" received on May 13, 1998; to the Committee on Energy and Natural Resources.

EC-4909. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of an administrative directive entitled "Radiological Protection for DOE Activities" received on May 13, 1998; to the Committee on Energy and Natural Resources.

EC-4910. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Acquisition Regulation: Acquisition Streamlining" (RIN1991-AB35) received on May 13, 1998; to the Committee on Energy and Natural Resources.

EC-4911. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled "Veterans' Training: Time Limit for Submitting Certifications under the Service Members Occupational Conversion and Training Act" (RIN2900-AI85) received on May 13, 1998; to the Committee on Veterans' Affairs.

EC-4912. A communication from the Acting Secretary of Veterans' Affairs, transmitting, pursuant to law, a report of cases in which the Secretary of Veterans' Affairs granted equitable relief in 1997; to the Committee on Veterans' Affairs.

EC-4913. A communication from the Acting Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation regarding VA health care and medical facilities; to the Committee on Veterans' Affairs.

EC-4914. A communication from the Secretary of Labor, transmitting, pursuant to law, a report describing employment and training programs for veterans during program year 1994 and fiscal year 1995; to the Committee on Veterans' Affairs.

EC-4915. A communication from the Secretary of Labor, transmitting, pursuant to law, a report describing employment and training programs for veterans during program year 1995 and fiscal year 1996; to the Committee on Veterans' Affairs.

EC-4916. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-4917. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-4918. A communication from the President of the Federal Financing Bank, transmitting, pursuant to law, the fiscal year 1997 management report; to the Committee on Governmental Affairs.

EC-4919. A communication from the Chief Financial Officer of the Export-Import Bank, transmitting, pursuant to law, the management report for the fiscal year ended September 30, 1997; to the Committee on Governmental Affairs.

EC-4920. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Reduction In Force and Mandatory Exceptions" (RIN3206-AH64) received on May 13, 1998; to the Committee on Governmental Affairs.

EC-4921. A communication from the Chairman of the Census Monitoring Board, transmitting, a report regarding the year 2000 Census; to the Committee on Governmental Affairs.

EC-4922. A communication from the Executive Director of the Committee For Purchase From People Who are Blind Or Severely Disabled, transmitting, pursuant to law, notice of additions and deletions from the procurement list received on May 7, 1998; to the Committee on Governmental Affairs.

EC-4923. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the semiannual report under the Inspector General Act for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-4924. A communication from the Assistant Secretary for Import Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule concerning Antidumping and Countervailing Duty Proceedings: Procedures for Imposing Sanctions for Violation of a Protective Order (RIN0625-AA43) received on May 4, 1998; to the Committee on Finance.

EC-4925. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, a report seeking confirmation of a list of documents transmitted to Congress; to the Committee on Finance.

EC-4926. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of 3 rules regarding fuel from a nonconventional source, farm real property, and last-in, first out inventories (Notice 98-28, 98-22, 98-26) received on May 13, 1998; to the Committee on Finance.

EC-4927. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on initial estimates of Medicare payment increases; to the Committee on Finance.

EC-4928. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Solvency Standards and Waiver Requirements for Provider-Sponsored Organizations" (RIN0938-AI83) received on May 11, 1998; to the Committee on Finance.

EC-4929. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities" (RIN0938-AI47) received on May 11, 1998; to the Committee on Finance.

EC-4930. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on the nondisclosure of safeguards information for the period January 1, 1998 through March 31, 1998; to the Committee on Environment and Public Works.

EC-4931. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule to list the Preble's Meadow Jumping Mouse as a Threatened Species (RIN1018-AE06) received on May 13, 1998; to the Committee on Environment and Public Works.

EC-4932. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule to list Bigleaf Mahogany under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (RIN1018-AE94) received on May 11, 1998; to the Committee on Environment and Public Works.

EC-4933. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of five rules regarding the Georgia State Implementation Plan, substituted phenol, pesticide tolerances, Oklahoma State hazardous waste management, and hazardous air pollutants (FRL6004-8, FRL5782-5, FRL5781-8, FRL6003-4, FRL6003-7) received on April 27, 1998; to the Committee on Environment and Public Works.

EC-4934. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Georgia" (FRL6003-8) received on May 13, 1998; to the Committee on Environment and Public Works.

EC-4935. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the Phoenix Carbon Monoxide Nonattainment Area (FRL6010-3) received on May 13, 1998; to the Committee on Environment and Public Works.

EC-4936. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of four rules regarding the Maryland Air Quality Implementation Plans, bromoxynil pesticide tolerance, diflubenzuron pesticide tolerance, and tebufenzide pesticide (FRL6012-5, FRL5790-8, FRL5790-5, FRL5748-7) received on May 11, 1998; to the Committee on Environment and Public Works.

EC-4937. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of six rules regarding pesticide tolerance correction, organic hazardous air pollutants, imidacloprid pesticide tolerance, myclobutanil pesticide tolerance, azoxystrobin pesticide tolerance, and land disposal restrictions (FRL5787-6, FRL6011-6, FRL5785-4, FRL5787-7, FRL5787-8, FRL6010-5) received on May 11, 1998; to the Committee on Environment and Public Works.

EC-4938. A communication from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Cuban Assets Control Regulations: Fully-Hosted or Fully-Sponsored Travel and Restrictions on Travel Transactions" received on May 13, 1998; to the Committee on Foreign Relations.

EC-4939. A communication from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Cuban Assets Control Regulations: Family Remittances; Travel Remittances; Carrier Service Providers; Currency Carried by Travelers" received on May 13, 1998; to the Committee on Foreign Relations.

EC-4940. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, a draft of proposed legislation to allow the United States to more effectively provide humanitarian assistance, law enforcement training and excess defense articles to other nations; to the Committee on Foreign Relations.

EC-4941. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed manufacturing license agreement with Turkey (DTC-18-98); to the Committee on Foreign Relations.

EC-4942. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed license for the export of defense articles to Japan (DTC-22-98); to the Committee on Foreign Relations.

EC-4943. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed license for the export of defense articles to Brunei (DTC-4-98); to the Committee on Foreign Relations.

EC-4944. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled "Efforts Made by the United Nations and Other International Organizations in 1997 to Employ Americans"; to the Committee on Foreign Relations.

EC-4945. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed amendment to a manufacturing license agreement with Turkey (DTC-52-98); to the Committee on Foreign Relations.

EC-4946. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed license for the export of major defense equipment to Singapore (DTC-64-98); to the Committee on Foreign Relations.

EC-4947. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed license for the export of defense articles to Greece (DTC-45-98); to the Committee on Foreign Relations.

EC-4948. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed license for the export of major defense equipment to Singapore (DTC-65-98); to the Committee on Foreign Relations.

EC-4949. A communication for the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed manufacturing license agreement with Japan (DTC-55-98); to the Committee on Foreign Relations.

EC-4950. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed technical assistance agreement for the export of defense services to Japan (DTC-67-98); to the Committee on Foreign Relations.

EC-4951. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report entitled "Determination and Certification Under Section 40A of the Arms Export Control Act"; to the Committee on Foreign Relations.

EC-4952. A communication from the Secretary of the Senate, transmitting, pursuant to law, a statement of receipts and expenditures of the Senate, showing in detail the expense under proper appropriations, the aggregate thereof, and exhibiting the exact condition of all public moneys received, paid out, and remaining in his possesssion from October 1, 1997 through March 31, 1998; which was ordered to lie on the table.

EC-4953. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of certification made by the Department of State; to the Committee on Appropriations.

The following communications were laid before the Senate on June 1, 1998, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5129. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations; River Race Augusta, Augusta, GA" (RIN2115-AE46 1998-0014) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5130. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747 and 767 Series Airplanes" (RIN2120-AA64) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5131. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29214) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5132. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29215) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5133. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France Model SA-365N1, AS-365N2, and SA-366G1 Helicopters" (Docket 97-SW-AD) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5134. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model DC-9-10, -20m, -30, -40, and -50 Series Airplanes, and C-9 (military) Airplanes" (Docket 97-NM-40-AD) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5135. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan" (Docket 27744) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5136. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Burkhart Grob Luft-und Raumfahrt Models G115C, G115C2, G115D, and G115D2 Airplanes" (Docket 98-CE-24-AD) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5137. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "airworthiness Directives; Bell Helicopter Textron (Bell) Model 204B, 205A, and 205A-1 Helicopters" (Docket 97-SW-32-AD) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5138. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model C-212 Series Airplanes" (Docket 97-NM-297-AD) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5139. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on Bell and Southwest Florida Aviation helicopters" (Docket 97-SW-35) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5140. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Alexander Schleicher Segelfugzeubau Model ASK 21 Sailplanes" (Docket 97-CE-103-AD) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5141. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Aviation Charter Rules" (Docket OST-97-2356) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5142. A communication from the Acting Deputy Director of the National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Procedures for the Evaluation of Energy-Related Inventions; Removal of Regulations" (Docket 970822201-7202-00) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5143. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding Pacific Coast Groundfish Fishery (Docket 971229312-7312-01) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5144. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule regarding a distinct segment of Atlantic Salmon (Salmo salar) (RIN1018-AD12) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5145. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting, pursuant to law; the report of a rule entitled "Magnuson-Stevens Act Provisions; National Standard Guidelines" (RIN0648-AJ58) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5146. A communication from the Assistant Administrator of the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the Sea Grand Industry Fellows Program (RIN0648-ZA41) received on May 18, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5147. A communication from the Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service, Department of Commerce, transmitting, pursuant to law the report of a rule entitled "National Estuarine Research Reserve System Regulations" (RIN0694-AL16) received on May 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5148. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding measures to ensure the adequacy and safety of fishing vessels that carry observers

(RIN0648–AJ76) received on May 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5149. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the certification of a proposed manufacturing license agreement with Japan (DTC–68–98) received on May 13, 1998; to the Committee on Foreign Relations.

EC–5150. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "Medicare Administrative Improvement Amendments of 1998"; to the Committee on Finance.

EC–5151. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Carrier Regulations; Authority Corrections" (RIN2125–AE41) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5152. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 737–100 and –200 Series Airplanes" (Docket 96–NM–264–AD) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5153. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 727 Series Airplanes" (Docket 96–NM–263–AD) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5154. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Kimball, NE" (Docket 98–ACE–10) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5155. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; AlliedSignal Inc. Model TFE731–40R–200G Turbofan Engines" (Docket 980–ANE–30–AD) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5156. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bombardier Model CL–600–2B16 Series Airplanes" (Docket 98–NM–21–AD) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5157. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes" (Docket 98–CE–40–AD) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5158. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Fokker Model F28 Mark 0070 and Mark 0100 Series Airplanes" (Docket 98–NM–153–AD) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5159. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "IFR Altitudes; Miscellaneous Amendments" (Docket 29221) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5160. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Mason City, IA" (Docket 98–ACE–31) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5161. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule relative to Springfield-Branson Regional Airport; MO (Docket 95–AWA–10) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5162. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Ainsworth, NE" (Docket 98–ACE–16) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5163. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Livingston, MT, and Butte, MT, and Removal of Class E Airspace; Coppertown, MT" (Docket 97–AMM–20) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5164. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Gordon, NE" (Docket 98–ACE–9) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5165. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class D and Class E Airspace; Fort Leonard Wood, MO" (Docket 98–ACE–17) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5166. A communication from the ADM-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Macon, Mississippi)" (Docket 97–188) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5167. A communication from the ADM-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (Shelly and Island Park, Idaho)" (Docket 97–194) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5168. A communication from the ADM-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Table of Allotments, FM Broadcast Stations (McFarland and Coalinga, California)" (Docket 97–204) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5169. A communication from the ADM-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding telephone number portability (Docket 96–116) received on May 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5170. A communication from the Director of the Office of Regulatory Management, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules regarding emission standards in Washoe County, Nevada and the State of Florida's State Implementation Plan (FRL6014–5, FRL6015–4) received on May 22, 1998; to the Committee on Environment and Public Works.

EC–5171. A communication from the Director of the Office of Regulatory Management, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules regarding tolerance processing fees and the Phoenix, Arizona Ozone Nonattainment Area (FRL5775–4, FRL6101–9) received on May 22, 1998; to the Committee on Environment and Public Works.

EC–5172. A communication from the General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation entitled "The United States Mint Performance-Based Organization Act"; to the Committee on Governmental Affairs.

EC–5173. A communication from the Chief of the Regulations Unit, International Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule regarding the magnetic media/electronic filing program for form 1040NR (Rev. Proc. 98–36) received on May 22, 1998; to the Committee on Finance.

EC–5174. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "The Children's Health Outreach and Eligibility Amendments of 1998"; to the Committee on Finance.

EC–5175. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on a rule entitled "Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1998 Rates—Final Rule" (RIN0938–AH55) received on May 22, 1998; to the Committee on Finance.

EC–5176. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving the export of passenger aircraft to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–5177. A communication from the Office of the Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled "Municipal Securities Dealers" (RIN1557–AB62) received on May 22, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5178. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Amendments to Rules On Shareholder Proposals" (RIN3235–AH20) received on May 22, 1998; to the Committee on Banking, Housing, and Urban Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM—441. A resolution adopted by the Board of Directors of the Pacific Service

Federal Credit Union relative to credit unions; to the Committee on Banking, Housing, and Urban Affairs.

POM-442. A concurrent resolution adopted by the Legislature of the State of Oklahoma relative to swine and poultry growers; to the Committee on Agriculture, Nutrition, and Forestry.

POM-443. A resolution adopted by the House of the Legislature of the State of Michigan; to the Committee on Commerce, Science, and Transportation.

“House Resolution No. 143

“Whereas, In an amazingly short time, the Internet has become a key means of communicating in this country. It is already a prominent vehicle for doing business through selling goods and services and providing information leading to commercial transactions. The business value of selling access to the Internet is in itself a multi-billion dollar enterprise. The growth projections for the Internet and for its impact on commerce are very high; and

“Whereas, As with any new aspect of commerce, there are numerous tax implications associated with the Internet. The new technology and capabilities can be used to avoid local taxes. Numerous transactions involve automatic transfers of money for goods and services. Borders and jurisdictions have become far less significant in this new marketplace; and

“Whereas, With the rise of the Internet, state and local policymakers have suggested various ways to tax this activity. Some states have explored telecommunications taxes and taxes on Internet service providers. Industry observers are concerned that implementing a “modem tax” could disrupt the development of a new tool for commerce and economic development; and

“Whereas, With the complexity of issues involved and the constant changes in this new technology as it takes shape, imposing taxes specific to the Internet would likely be harmful. Any possible gains in revenues would be more than offset by long-term changes in the evolution of the Internet. Greed should not drive policy or taxation decisions; now, therefore, be it

“*Resolved by the House of Representatives*, That we memorialize the Congress of the United States to enact legislation to create a moratorium on new national, state, and local taxes on the Internet; and be it further

“*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.”

POM-444. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on the Judiciary.

“Senate Concurrent Resolution No. 278

“Whereas, In a five-to-four decision on April 18, 1990, the United States Supreme Court extended the power of the judicial branch of government beyond any defensible bounds. In *Missouri* v. *Jenkins* (495 U.S.33, 110 S.Ct. 1691 (1990)), the court held that a federal court had the power to order an increase in state and local taxes; and

“Whereas, The unprecedented decision by the court in *Missouri* v. *Jenkins* violated a fundamental tenet of the separation of power. No members of the federal judiciary, who serve for life and are answerable to no one, should have control over the power of the purse; and

“Whereas, Section 8 of Article I of the Constitution of the United States vests with the legislative branch of government alone the extraordinary power to “. . . lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States”; and

“Whereas, The court's actions are an intrusion into a legitimate political debate over state spending priorities and not a response to a constitutional directive. Justice Kennedy observed in his dissent in *Missouri* v. *Jenkins* that “This assertion of judicial power in one of the most sensitive of policy areas, that involving taxation, begins a process that over time could threaten fundamental alteration of the form of government our Constitution embodies”; and

“Whereas, It is a well-established maxim that whosoever controls the purse strings ultimately controls power, the ability of government to function, and the direction it shall go; and

“Whereas, Since 1990, when the Supreme Court declared in *Missouri* v. *Jenkins* that the federal courts have the authority and power to levy and increase taxes, Congress has chosen not to intercede on behalf of the people to protect the democratic process that has been corrupted by the unconstitutional authority and power to tax which the federal courts have exercised; and

“Whereas, The time has come for the people of this great nation and their duly elected representatives in state government to reaffirm, in no uncertain terms, that the authority to tax under the Constitution of the United States is retained by the people who, by their consent alone, do delegate such power to tax explicitly to those duly elected representatives in the legislative branch of government who they choose, such representatives being directly responsible and accountable to those who have elected them; now, therefore be it

“*Resolved by the Senate (the House of Representatives concurring)*, That pursuant to Article V of the United States Constitution, we memorialize the Congress of the United States to pass and submit to the states for ratification an amendment to the constitution of the United States to read substantially as follows:

“Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes; and be it further

“*Resolved*, That this legislative body requests the legislatures of the other states comprising the union to make similar applications to Congress for the purpose of proposing such an amendment to the United States Constitution; and be it further

“*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, each house of the legislatures of the other states comprising the union, and members of the Michigan congressional delegation.”

POM-445. A concurrent resolution adopted by the Legislature of the State of Iowa; to the Committee on Labor and Human Resources.

“Senate Concurrent Resolution No. 115

“Whereas, a Concurrent Resolution has been introduced in the United States House of Representatives to encourage the United States Railroad Retirement Board to modify the guaranteed minimum benefit for widows and widowers to provide adequate annuities; and

“Whereas, for years, many in the railroad industry have argued that annuities paid to widows and widowers under the federal Railroad Retirement Act of 1974 are inadequate; and

“Whereas, during the lifetime of a railroad employee and the employee's spouse, the employee receives a full annuity and so does the spouse; and

“Whereas, however, after the employee's death, only a widow's or widower's annuity is payable, which under current law is no less than that widow or widower received as a spouse in the month before the employee's death; and

“Whereas, the widow's or widower's annuity is often found inadequate and leaves the survivor with less than the amount of income needed to meet ordinary and necessary living expenses; and

“Whereas, no outside contributions from taxpayers are needed, and any changes will be paid for from within the railroad industry itself, including a full share by active employees; now therefore,

Be it resolved by the Senate, the House of Representatives, concurring, That the General Assembly urges the United States Congress to support U.S. House of Representatives Concurrent Resolution 52 that calls for the Congress of the United States to recognize the concern of many in the railroad industry that the spousal annuity under the current system is inadequate and often leaves the survivor with less than the amount of income needed to meet ordinary and necessary living expenses and that a process of dialogue must take place among all parties of the railroad community, including rail labor, management, and retiree organizations, before railroad annuity legislation can be enacted; and

“*Be it further resolved*, That the General Assembly supports adoption of the federal Congressional resolution which urges and exhorts all parties of the railroad community, including rail labor, management, and retiree organizations, to find a suitable way to fund an amendment that would improve the survivor benefits component to the Railroad Retirement Act of 1974; and

“*Be it further resolved*, That copies of this Resolution be sent by the Secretary of the Senate to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, all members of the Iowa Congressional delegation, and the members of the United States Railroad Retirement Board.”

POM-446. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Environment and Public Works.

House Joint Resolution 98-1017

Whereas, a safe and efficient highway system is essential to the nation's international competitiveness, key to domestic productivity, and vital to our quality of life; and

Whereas, Colorado has critical highway investment needs that cannot be addressed with current financial resources as exhibited by the fact that the Federal Highway Administration rates forty-six percent of nine thousand six hundred twenty-five miles of Colorado's most important roads in either poor or mediocre condition and considers twenty-one percent of Colorado's bridges to be deficient; and

Whereas, the current level of federal funding for the nation's highway system is inadequate to meet rehabilitation needs, maintain the safety of the traveling public, begin solving congestion and rural access problems, conduct adequate transportation research, and keep the United States competitive in a global economy; and

Whereas, the federal highway program is financed by dedicated user fees that are collected from motorists to improve the highway system and deposited in the federal highway trust fund; and

Whereas, the federal "Taxpayer Relief Act of 1997" transferred all federal motor fuel taxes into the federal highway trust fund but provided no mechanism to ensure that such funds are spent; and

Whereas, the 1998 congressional budget would constrain federal highway spending well below the level of tax receipts credited to the federal highway trust fund, allowing the trust fund's cash balance to grow from just over twenty-two billion dollars to more than seventy billion dollars by the year 2003; and

Whereas, Colorado and other states will be prohibited from obligating any federal highway funds after April 30, 1998, unless the United States Congress and the President enact new highway legislation by that date; and

Whereas, without federal highway funds, many states will be forced to delay life-saving safety improvements, congestion relief projects, and other road and bridge improvements; now, therefore,

Be it resolved by the House of Representatives of the Sixty-first General Assembly of the State of Colorado, the Senate concurring herein:

That the United States Congress should enact legislation reauthorizing the federal highway program by May 1, 1998.

Be it further resolved, That the reauthorization legislation should fund the federal highway program at the highest level that the revenues in the user-financed federal highway trust fund will support.

Be it further resolved, That copies of this Joint Resolution be sent to the United States House of Representatives, the United States Senate, the President of the United States, and to each member of the Colorado Congressional Delegation.

POM–447. A joint resolution adopted by the Legislature of the State of Wisconsin; to the Committee on Energy and Natural Resources.

1997 SENATE JOINT RESOLUTION 11

Whereas, under the Nuclear Waste Policy Act of 1982 [42 USC 10222(a)(5)], the federal government entered into contracts with electric utilities, including electric utilities in Wisconsin, that provide that following the commencement of operation of a permanent federal repository for the disposal of high-level radioactive waste and spent nuclear fuel, the U.S. Secretary of Energy shall take title to spent nuclear fuel from civilian nuclear power reactors as expeditiously as practicable upon request of the fuel's owner and, beginning no later than January 31, 1998, will dispose of the spent nuclear fuel in return for payment of fees to the nuclear waste fund; and

Whereas, electric utilities owning nuclear power plants in Wisconsin have collected over $240,000,000 to date from Wisconsin ratepayers for the required payment of fees to the nuclear waste fund; and

Whereas, the federal department of energy has repeatedly delayed the projected opening date for the federal nuclear waste repository and is now projecting that the date will be after the year 2010 under the most optimistic assumptions; and

Whereas, delays in the development of the federal repository have necessitated that one Wisconsin utility spend over $10,000,000 for additional, temporary on-site storage of its spent nuclear fuel and the utilities owning the other nuclear power plant in Wisconsin are facing similar prospects, and these costs would not be necessary if the federal government had upheld its commitment to develop in a timely manner, a single government-owned and government-operated permanent nuclear waste repository; now, therefore, be it

Resolved by the senate, the assembly concurring, That the members of the legislature of the state of Wisconsin urge President Clinton and the U.S. Congress to uphold the federal government's commitment to accept and take title to civilian spent nuclear fuel on January 31, 1998, through enactment of appropriate funding resolutions and legislation that authorize and fund the development of a federal centralized, temporary storage facility for spent nuclear fuel that will accept spent nuclear fuel between January 31, 1998, and the beginning of commercial operation of the permanent federal nuclear waste repository; to use funds in the nuclear waste fund to provide adequate funding for the expedient development of the permanent federal nuclear waste repository; and to not increase the fee for the nuclear waste fund; and, be it further

Resolved, That the senate chief clerk shall provide a copy of this joint resolution to the President of the United States, to the president of the U.S. Senate, to the speaker of the U.S. House of Representatives and to each member of the U.S. Congressional delegation from this state.

POM–448. A joint resolution adopted by the Legislature of the State of Wisconsin; to the Committee on Foreign Relations.

1997 SENATE JOINT RESOLUTION 33

Whereas, the Republic of Poland is a free, democratic and independent nation with a long and proud history; and

Whereas, the North Atlantic Treaty Organization (NATO) is dedicated to the preservation of the freedom and security of its member nations; and

Whereas, the Republic of Poland desires to share in both the benefits and obligations of NATO in pursuing the development, growth and promotion of democratic institutions and ensuring free market economic development; and

Whereas, Poland recognizes its responsibilities as a democratic nation and wishes to exercise those responsibilities in concert with members of NATO; and

Whereas, the Republic of Poland desires to become part of NATO's effort to prevent the extremes of nationalism; and

Whereas, the security of the United States is dependent upon the stability of central Europe; now, therefore, be it

Resolved by the senate, the assembly concurring, That the members of the legislature of the state of Wisconsin respectfully urge the United States Senate to support the Republic of Poland's petition for admission to the North Atlantic Treaty Organization; and, be it further

Resolved, That the members of the legislature of the state of Wisconsin respectfully urge the United States Senate to support the establishment of a timetable for the admission of the Republic of Poland to the North Atlantic Treaty Organization; and, be it further

Resolved, That the senate chief clerk shall provide copies of this joint resolution to be forwarded to the president of the United States, the president of the U.S. Senate, this state's senators and the ambassador of the Republic of Poland.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of May 22, 1998, the following reports of committees were submitted on May 27, 1998:

By Mr. HELMS, from the Committee on Foreign Relations, with an amendment in the nature of a substitute.

H.R. 2232: A bill to provide for increased international broadcasting activities to China.

By Mr. HELMS, from the Committee on Foreign Relations, without amendment.

S. 2126: An original bill to amend section 502B of the Foreign Assistance Act of 1961 to require information on foreign government officials responsible for egregious offenses against human rights in the annual reports on the human rights practices of countries receiving United States security assistance.

REPORTS OF COMMITTEES

The following reports of committees were submitted on June 1, 1998:

By Mr. HATCH, from the Committee on the Judiciary: Report to accompany the bill (S. 1360) to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes (Rept. No. 105–197).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment.

S. 1531: A bill to deauthorize certain portions of the project for navigation, Bass Harbor, Maine.

S. 1532: A bill to amend the Water Resources Development Act of 1996 to deauthorize the remainder of the project at East Boothbay, Harbor, Maine.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WELLSTONE (for himself, Mr. DURBIN, and Mr. LEAHY):

S. Res. 238. A resolution expressing the sense of the Senate regarding human rights conditions in China and Tibet; to the Committee on Foreign Relations.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 239. A resolution to authorize testimony and document production and representation of Senate employees in Pointe Properties, Inc., et al. v. Michael J. Bevenour, et al; considered and agreed to.

ADDITIONAL COSPONSORS

S. 507

At the request of Mr. HATCH, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 507, a bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title

35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes.

S. 831

At the request of Mr. SHELBY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 980

At the request of Mr. DURBIN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 980, a bill to require the Secretary of the Army to close the United States Army School of the Americas.

S. 1021

At the request of Mr. HAGEL, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1021, a bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

S. 1081

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1081, a bill to enhance the rights and protections for victims of crime.

S. 1422

At the request of Mr. MCCAIN, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 1422, a bill to amend the Communications Act of 1934 to promote competition in the market for delivery of multichannel video programming and for other purposes.

S. 1645

At the request of Mr. ABRAHAM, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 1645, a bill to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions.

S. 1717

At the request of Mr. KENNEDY, the names of the Senator from Illinois (Ms. MOSELEY-BRAUN) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 1717, a bill to amend the Immigration and Nationality Act to strengthen the naturalization process.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1970

At the request of Mr. ABRAHAM, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1970, a bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

S. 1993

At the request of Ms. COLLINS, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 1993, a bill to amend title XVIII of the Social Security Act to adjust the formula used to determine costs limits for home health agencies under the medicare program, and for other purposes.

S. 2007

At the request of Mr. COCHRAN, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 2007, a bill to amend the false claims provisions of chapter 37 of title 31, United States Code.

S. 2073

At the request of Mr. HATCH, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2073, a bill to authorize appropriations for the National Center for Missing and Exploited Children.

S. 2091

At the request of Mr. GRAMS, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 2091, a bill to amend title XVIII of the Social Security Act to ensure medicare reimbursement for certain ambulance services, and to improve the efficiency of the emergency medical system, and for other purposes.

S. 2095

At the request of Mr. CHAFEE, the names of the Senator from New Hampshire (Mr. GREGG) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 2095, a bill to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. ABRAHAM, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution supporting the religious tolerance toward Muslims.

SENATE RESOLUTION 176

At the request of Mr. DOMENICI, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of Senate Resolution 176, a resolution proclaiming the week of October 18 through October 24, 1998, as "National Character Counts Week."

SENATE RESOLUTION 193

At the request of Mr. REID, the names of the Senator from Illinois (Ms. MOSELEY-BRAUN), the Senator from California (Mrs. FEINSTEIN), and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of Senate Resolution 193, a resolution designating December 13, 1998, as "National Children's Memorial Day."

SENATE RESOLUTION 238—EXPRESSING THE SENSE OF THE SENATE REGARDING HUMAN RIGHTS CONDITIONS IN CHINA AND TIBET

Mr. WELLSTONE (for himself, Mr. DURBIN, and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 238

Whereas President Clinton will be the first United States head of state to visit China since the 1989 crackdown on the pro-democracy movement at Tiananmen Square;

Whereas according to the State Department's China Country Report on Human Rights Practices for 1996, "The Government continues to commit widespread and well documented human rights abuses, in violation of internationally-accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms.";

Whereas the symbolism of the official arrival ceremony which will take place in Tiananmen Square could be interpreted as a message to the Chinese people that will override anything the President might say about human rights and the rule of law;

Whereas specific human rights preconditions should have been set forth before setting the date for the President's visit; and

Whereas the President can still make important human rights points during his visit to Beijing: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) at the upcoming United States-China summit the President should—

(A) secure from China's leaders a pledge to remove by a certain date the names on an official reentry blacklist, which now contains the names of more than fifty Chinese citizens living in the United States who cannot return to China because of their peaceful advocacy of greater rights and freedom; and

(B) visit family members of victims of the 1989 massacre, many of whom still suffer from political harassment, discrimination or persecution; and

(2) in the context of the upcoming United States-China summit, the President should urge the Chinese leaders to—

(A) engage in a meaningful dialogue with the Dalai Lama with the aim of establishing genuine cultural and religious autonomy in Tibet;

(B) revise China's vague, draconian security laws, including the provisions on "endangering state security" added to the criminal code in March 1997;

(C) release unconditionally all imprisoned political, religious, and labor activists detained for their peaceful, nonviolent involvement in public protests;

(D) review the sentences of more than 2,000 convicted so-called "counterrevolutionaries" with a view towards granting full amnesty and releasing those convicted solely for exercising their internationally recognized rights of free speech and association, especially since the crime of "counterrevolution" has itself been abolished;

(E) encourage greater cooperation by the Chinese government with the United Nation's human rights mechanisms and greater transparency in China's legal and detention system;

(F) ease religious repression by abolishing the requirement that all religious sites register with the official Religious Affairs Bureau and implementing the 1994 recommendations of the United Nations Special Rapporteur on Religious Intolerance;

(G) lift government mandated quotas on the number of monks and nuns in monasteries and nunneries, end the government's current "reeducation" campaign, and immediately reinstate all monks and nuns expelled from their monasteries and nunneries for failing to denounce the Dalai Lama;

(H) allow access by credible, independent human rights or humanitarian organizations to the nine-year-old boy recognized by the Dalai Lama in 1995 as the reincarnation of the Panchen Lama; and

(I) allow regular, unmonitored access to Tibet and Xinjiiang province of China by independent human rights monitors.

Mr. WELLSTONE. Mr. President, I am going to introduce a resolution today that I will send to the desk. This will be on behalf of—I will do it after my remarks—myself and Senators DURBIN and LEAHY.

This is a resolution calling upon the President to make human rights a major priority in his June visit to China. Probably later on we will introduce this resolution in the form of a sense-of-the-Senate amendment to the Department of Defense bill.

Mr. President, I rise today to submit a resolution calling upon the President to make human rights a major priority in his June visit to China. Thus far, the Administration has not articulated any concrete goals or objectives for the upcoming summit, other than to demonstrate a friendly relationship between the U.S. and China. Preliminary negotiations with the Chinese leadership on the summit agenda indicate that Beijing is unlikely to make any major policy concessions when it comes to human rights.

I am not opposed—I think I need to say that again—to high-level discussions with the Chinese leadership. In fact, I think they can be very useful. But I am worried about the symbolism of a Presidential visit, and I think it may backfire if the President does not continue to speak out about our strong concerns when it comes to China's human rights record. The summit could be interpreted by many as legitimizing policies of the Chinese regime which, despite some legal reforms, continue to repress religious freedom and political freedom as well as political dissent.

The Chinese have avidly sought a Presidential visit because it signals to all at home and abroad that the U.S. has muffled its opposition to, and endorses cooperation with the Beijing government, the same government that continues to deny its citizens basic human rights and freedoms. By agreeing to a Presidential visit, without significant human rights preconditions—not merely token gestures—I fear that the Administration may be squandering a tremendous source of leverage with the Chinese government.

Since the May 1994 decision to delink trade and human rights, the Administration has not yet developed an effective bilateral or multilateral strategy for promoting meaningful improvements in human rights conditions in China and Tibet. I was deeply disappointed this year that despite a 95 to 5 vote in support here in the Senate, the Administration did not sponsor a resolution on China's human rights record at the U.N. Human Rights Commission in Geneva, which is exactly the place you would bring such a resolution forward. We didn't do so. Mr. Wei, China's best known political dissident, has pointed out that the Chinese people view the commission's work as "barometer" to the human rights commission which met in Geneva by which to judge whether there is any international backing for their democracy movement in their country of China.

Our current policy may send a message to those brave men and women who risk their lives to campaign for democracy and freedom that the United States is not behind them.

By the way, I apply the standard to human rights or violations of human rights in all kinds of countries, be they left or be they right; it makes no difference.

In a speech that Mr. Wei presented at the Commission in Geneva, he recalled, "Last year, when the Commission failed to adopt a resolution on China, my prison guards laughed at me and said: 'Look at your so-called friends. They betrayed you,'" He went on to say, "This is precisely the time when support from our friends is most needed. And this is precisely the time that Western democracies have chosen to withdraw their support."

The Administration claims that China has made progress in the area of human rights. In my view, this is simply not true. The recent steps taken by the Chinese government are merely token, cosmetic gestures—diplomatic bargaining tactics that do not amount to a more open, free society. The overall pattern of human rights violations remains fundamentally unchanged.

While I wholeheartedly welcome China's announcement to sign the International Covenant on Civil and Political Rights, until it is actually signed and ratified, it is not fully binding. Two months after their pledge to sign, the Chinese have still not specified when they will sign or ratify this treaty. Even more importantly, once ratified, the Chinese must implement this treaty, which will require major changes in domestic laws and policies. So, it will be a long process before this covenant translates into concrete change or greater freedom for the Chinese people. A mere non-binding verbal agreement to sign should not be trumpeted as a huge victory and certainly did not warrant dropping the Geneva resolution.

That is what happened. Our Government, the administration, said to me that we are not going to go forward because the Chinese have agreed to sign this international convenant on civil and political rights. Several months have gone by. They haven't signed it. Even if they sign it, there is no evidence that they are necessarily going to implement a nonbinding international agreement, and it should not be a reason for having brought a resolution protesting their violation of human rights before the Geneva commission on civil rights. As my colleague Senator BIDEN said, "I don't agree with Senator WELLSTONE and others." The presiding Chair might not as well, when it comes to linking human rights with trade policy. That is too blunt an instrument. But if there was ever a place to bring this up, it should have been at the human rights gathering; it should have been in Geneva.

I am very happy that both my dear friend Wei Jingsheing and Wang Dan are in good health, safe and out of prison. However, we must be clear. These men were not released. They were forced into exile. Should either of them return to their homeland, they would be thrown into prison upon arrival. The Chinese government maintains a reentry blacklist which contains the names of more than fifty Chinese citizens living in the U.S. Just last month two Chinese American democracy advocates were detained and deported upon their arrival in China. The forced exile of Wei and Wang does not represent systematic change. In early 1995 Wang wrote, "A society still needs idealists—people who are willing to sacrifice themselves to uphold the basic ideals of freedom and democracy."

I have to tell you that I don't know how they do it in these countries. I don't know how they do it. Maybe if it were I, myself, and I lived in a repressive country, I would speak out. Maybe I would have the courage to do it—maybe. But if I thought that my children, or my spouse, my loved ones, could also be rounded up, that they could be imprisoned, that they could be tortured, that they could be murdered—which is too often the case in too many countries; there are at least 70 countries that systematically practice torture in our world today—I don't know whether I could ever speak up. I think I would be afraid to, given what could happen to my loved ones.

It is cruel irony that these brave men's exiles are being used as evidence of China's progress.

Human rights advocates in China and around the world fear that the release of high profile dissidents could be used to justify a reduction in international pressure for systematic change in China, where according to the government's own count, some 2,000 people remain imprisoned for the crime of "counterrevolution," now called "endangering state security." Thousands more—political, labor, and religious dissidents—are serving terms of up to three years of "re-education through labor" without trial. The releases of Wei and Wang are clearly political calculations by the Chinese leadership, who have become adept at trading well-known prisoners in pre-summit diplomatic bargaining. Engaging the Chinese in this game of saving face and trading diplomatic favors sends out a message that we are not serious about human rights.

For years before the world ever saw the televised massacre at Tiananmen Square, peaceful demonstrations in Lhasa have been crushed by the PLA. Once imprisoned Tibetans, particularly monks and nuns, face unimaginable torture at the hands of prison officials. Furthermore, the Chinese government's policy of forced migration of Han Chinese into Tibet has rendered Tibetans a minority in cities such as Lhasa, where they are marginalized and alienated. As the Chinese presence grows stronger, Tibet's unique culture faces the threat of extinction.

The Tibetan people have remained steadfast in their commitment to the path of non-violence. However, some Tibetan exiles are growing impatient, as indicated by one man's recent death through self-immolation. In a desperate attempt to draw the attention of the international community to the worsening situation in Tibet, Thubten Ngodup, a 50-year-old Tibetan exile in Delhi, India, set himself on fire.

In a recent meeting with President Jiang Zemin, Secretary Albright brought up the subject of Tibet and the American desire for a dialogue between Dalai Lama and the Chinese leadership. The Chinese sharply dismissed the Dali Lama and flat out refused to enter into negotiations in order to bring about a peaceful settlement to the Tibetan issue.

The resolution I am submitting outlines concrete steps that would indicate a serious commitment to human rights concerns. In the context of the upcoming summit, we call upon the administration, at the highest level, to urge the Chinese leadership to revise their vague, draconian security laws, including provisions on "endangering state security" added to the criminal code in March 1997; to release unconditionally large numbers of imprisoned political, religious, and labor activists; and to review the sentences of more than 2,000 prisoners sentenced for "counterrevolutionary" activities, a crime that itself has been abolished.

With regards to religious freedom, the Administration should encourage the Chinese leadership to abolish the requirement that all religious sites register with the official Religious Affairs Bureau; to lift government mandated quotas on the number of monks and nuns in monasteries and nunneries; and to immediately reinstate all monks and nuns expelled from their monasteries and nunneries for failing to denounce the Dalai Lama.

This resolution also calls upon the administration to encourage the Chinese leadership to engage in a meaningful dialogue with the Dalai Lama with the aim of establishing genuine cultural and religious autonomy in Tibet.

Another concern is the symbolic significance of the President's official arrival ceremony which will take place in Tiananmen Square. We ask the President to make time in his schedule to meet with family members of at least one of the victims of the 1989 massacre, many of whom still suffer from political harassment, discrimination or persecution. We also ask the President to secure from the Chinese a pledge to get rid of the re-entry blacklist, which contains the names of more than fifty Chinese citizens living in the U.S. who cannot return to China. Allowing pro-democracy activists, journalists or labor organizers to return to China would be a significant gesture by the Chinese authority. Finally, until the Chinese leadership takes serious, concrete action on the concerns outlined above, we would strongly oppose lifting the trade sanctions imposed after the 1989 crackdown on demonstrators at Tiananmen Square.

Some say that we cannot influence what happens in China, that the country is too proud, too large, and that changes take too long. I disagree. For years we have pressured the Chinese on human rights, and to let up now is tantamount to defeat for the cause of human justice. Dissidents who have been freed and come to the United States have thanked advocates for keeping them alive, by keeping the pressure on, and focusing attention on their plight. It is our duty and in the interest to make the extra effort required to promote freedom and democracy in China, and to bring it into compliance with international standards on human rights.

Let me just make one other point. For years, before the world ever saw the televised massacre of Tiananmen Square, Peaceful demonstrations in Tibet have been crushed. Once imprisoned, Tibetans, particularly monks and nuns, face unimaginable torture at the hands of prison officials. Furthermore, the Chinese Government's forced migration of Han Chinese into Tibet has rendered the Tibetans a minority in their own country, and as the Chinese presence grows stronger an stronger, Tibet's unique culture basically faces extinction. So let me just be crystal clear. Whether it is in China or Tibet as well, we ought to be speaking up for human rights.

Jiang Zemin, in a recent meeting with Secretary Albright, made it crystal clear when the subject of Tibet was brought up that the Chinese are not interested in sitting down in any negotiations with the Dalai Lama and are unwilling to bring about any kind of peaceful settlement to the Tibetan issue.

So in this resolution, this is what we call upon the administration to do at the highest level: to urge the Chinese leadership to revise their vague, draconian security laws, including provisions on "endangering state security," added to the Criminal Code in March of 1997; to urge the Chinese to release unconditionally a large number of imprisoned political, religious, and labor activists, and to review the sentences of more than 2,000 prisoners sentenced for "counterrevolutionary activities," a crime that has been abolished.

With regard to religious freedom, the administration should encourage the Chinese leadership to abolish the requirement that all religious sites be registered with the official Religious Affairs Bureau, to lift Government mandated quotas on the number of monks and nuns in monasteries and nunneries, and to immediately reinstate monks and nuns failing to denounce the Dalai Lama.

This resolution also calls upon the administration to encourage the Chinese leadership to engage in meaningful dialog with the Dalai Lama with the aim of establishing genuine cultural and religious and political freedom and autonomy in Tibet.

Another concern is the symbolic significance of the President's official arrival ceremony, which will take place in Tiananmen Square. We ask the President to make time in this schedule to meet with family members of at least one of the victims of the 1989 massacre, many of whom still suffer from political harassment, discrimination, and persecution.

We also ask the President to secure from the Chinese a pledge to get rid of the reentry blacklist which contains the names of more than 50 Chinese citizens living in the United States who cannot return to China. Allowing prodemocracy journalists or labor organizers to return to China would be a significant gesture by the Chinese authority. Finally, until the Chinese leadership takes serious, concrete action on the concerns outlined above, we would strongly oppose lifting the trade sanctions imposed after the 1989 crackdown on demonstrators at Tiananmen Square.

As a U.S. Senator, I cannot forget the courage of those students, cannot forget the murder of those students, and cannot forget their struggle then and their struggle now for democracy in their country. It took us a little time, but that is why I am really pleased that I believe our Government has really come out on the side of the students in Indonesia, and I think we are making a difference.

Mr. President, some say that we cannot influence what happens in China; the country is too proud, too large, and the changes take too long. I disagree. For years, we pressured the Chinese on human rights, and to let up now is tantamount to defeat for the cause of human justice. Dissidents who have been freed and have come to the United States have thanked advocates for keeping them alive by keeping the pressure on, by focusing on their plight. It is our duty and it is in our interests to make the extra effort required to promote freedom and democracy in China and to bring it into compliance with international standards on human rights.

Mr. President, there will be a great deal of activity this week that will be focusing on the President's upcoming visit, and I really hope that when Senator DURBIN and Senator LEAHY and I bring this resolution to the floor as a sense-of-the-Senate amendment, we will get a very strong vote.

I really do believe, whether it is in China or whether it is in Indonesia or whether it is in North Korea or whether it is in a whole lot of countries, the former Burma, you name them, there simply has to be a way that we, as a nation, lead the way. There has to be a way that the United States of America can be there to support people. We cannot do everything. We don't directly intervene in all of these countries. But it saddens me that all too often we just simply turn our gaze away from people who are willing to almost stand alone to challenge repressive governments. We ought to be more on their side. We ought to be speaking out more about human rights. We ought to be speaking out more about the importance of democracy in other countries.

I really believe that the President's visit to China will be a test case. If the President of the United States of America is going to go to Tiananmen Square—I wish he wouldn't. I wish he would not do so, but if he is going to visit, then he needs to visit with the families of those who gave their lives for freedom in that country. He needs to speak out about human rights. He needs to use the leverage of our country and the leadership of the United States of America to make a difference. We just can't say, well, markets, markets, markets; there will be all sorts of markets; we will make all kinds of money; it will be great for the business community.

Great. I come from a State that is an export State. The Presiding Officer comes from a State where agriculture is very important. Agriculture is very important in Minnesota. I am really proud of agriculture. I am proud of the business sector in our State. But these are not mutually exclusive goals. I am not arguing that we are not interested in trade. I am not arguing that we don't look to future markets. But what I am saying is that it just makes me uneasy as an American citizen and it makes me uneasy as a Senator that we focus exclusively on commercial ties, exclusively on markets, exclusively on money to be made, all of which is fine up to the point where we just turn our gaze away from human rights violations, countries that systematically round up and imprison people because they speak out. That is wrong. That is wrong. That is not what our country is about.

Since I have time to speak about human rights today, I will finish this way. All of us, I think, develop our viewpoints based upon our own life experience. I was a teacher for 20 years before having the opportunity to become a Senator, before the people of Minnesota gave me this chance, and I used to ask students to write on the same essay question at the end of every take-home paper, and the question was: Why do you think about what you think about politics? I never graded it. I just wanted them to think about what shaped their viewpoint—why do they care about some things and not others? Why do they consider themselves a liberal or conservative, whatever label you use? Was it their religion? Was it their family, mother or father? Was it some kind of powerful, crystallized experience where maybe—I remember one student wrote an essay and he talked about how his brother was born with disabilities, developmental disabilities, and that just completely changed his life and his family's life. Their whole view about whether or not maybe some people needed help, their whole view about health care policy changed on the basis of what he saw with his brother and his struggle and the struggles of his family.

Well, for me, I don't come to the floor to try to make life difficult for our President. I don't come to the floor to criticize for the sake of criticizing. But my father, who is no longer alive, fled persecution in Russia, and the one thing that he talked about more than anything else was the importance of freedom and how much he loved our country.

Well, I come from a background of an immigrant who fled persecution. I come from a background of an immigrant who fled persecution from Russia whose family was probably murdered by Stalin, who at age 17 left Russia and never saw his family again.

I don't even know why I am talking about this on the floor of the Senate, but I think it applies somehow. At the very end of my dad's life he had Parkinson's disease, and we would spend the night with him. Sheila and I would rotate spending the night with him. Here he lived in the United States of America for 60 years and spoke perfect English, but all of his dreaming was in Russian. But it was not good dreams. It was shouting, it was torment, it was agony. As a son, I just cried. I didn't know what he was saying. I don't know the language. But I knew that this was anguish.

What I always believed, and what I believe as I speak on the floor of the U.S. Senate today, is that this is what happens when you can never go back to your country, when you never can see your family again. Americans, thank God, don't have that experience too often. What does it mean when you can never go back and see your family again? What does it mean when you probably know, because you work for the U.S. Government, and my dad worked for the Voice of America, that your mother and father and sister were probably murdered?

We should support human rights in other countries. We should be supporting human rights in China.

Mr. President, I ask unanimous consent a "Dear Colleague" from myself and Senator DURBIN, and a letter, dated May 29, 1998, that I sent to President Clinton, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, May 29, 1998.

DEAR COLLEAGUE: As you know, President Clinton will be the first U.S. head of state to visit China since the 1989 crackdown on the pro-democracy movement at Tiananmen Square. We intend to introduce a resolution next week urging the President to use the opportunity of the upcoming U.S.-China summit to press for significant, concrete human rights progress in China and Tibet. We are also sending a letter to President Clinton, expressing our concerns. Copies of both are enclosed.

Some specific steps which would indicate a true commitment to greater openness and freedom on the part of the Chinese leadership include the unconditional release of imprisoned political, labor, and religious activists; an end to the formal process of requiring all religious groups to register with the authorities and submit to state control; the initiation of a meaningful dialogue with the Dalai Lama and steps to ease repression in Tibet; and a revision of China's vague, draconian security laws, including the provisions on "endangering state security" added to the criminal code in March 1997.

Given the importance of a Presidential visit to the Chinese leadership, this summit provides an excellent opportunity for President Clinton to act and speak out strongly on behalf of internationally-recognized human rights. Please join us in signing the enclosed letter and cosponsoring the resolution. If you have questions or would like to cosponsor the resolution and sign the letter, please let us know or have your staff contact Debra Ladner at 224-5641.

Sincerely,

PAUL WELLSTONE,
U.S. Senator.
RICHARD DURBIN,
U.S. Senator.

U.S. SENATE,
Washington, DC, May 29, 1998.

President WILLIAM JEFFERSON CLINTON,
The White House, Pennsylvania Avenue, NW., Washington, DC.

DEAR MR. PRESIDENT: During the summit meeting in Washington last October with Chinese President Jiang Zemin, you spoke out clearly to condemn the brutal 1989 crackdown on the pro-democracy movement, declaring that China's leaders were "on the wrong side of history." As you prepare to visit China—the first U.S. chief executive to go to China since 1989—we are writing to urge you to act and speak out just as strongly on behalf of internationally-recognized human rights.

For China to become a fully reliable member of the global trading community, its leadership must demonstrate greater respect for fundamental rights and the rule of law. In the crucial weeks leading to your visit, we hope the Administration will press for significant, concrete human rights progress in China and Tibet. This is a time of enormous opportunity, given the importance of your visit both to the Chinese leadership and to U.S.-Sino relations.

Specifically, we urge you to:

Reconsider your decision to visit Tiananmen Square, as we feel it is inappropriate. However, if you do choose to visit, as reports indicate, visit family members of the victims of the 1989 massacre, many of whom still suffer from political harassment, discrimination or persecution;

Call for the unconditional release and amnesty of political, religious and labor activists, imprisoned solely for non-violent, peaceful protests, including some 150 Beijing residents still imprisoned since the 1989 crackdown;

Press for revisions in China's state security laws to bring them into conformity with international standards, and steps to abolish arbitrary administrative punishments, particularly the use of "re-education through labor;"

Urge steps to protect freedom of association for Chinese workers, including the right to form free trade unions as guaranteed in the International Covenant on Economic, Social and Cultural Rights, which China signed in October 1997;

Promote religious freedom in China by calling for an end to the current process of formally requiring all religious groups to register with the authorities and submit to state control;

Encourage a meaningful dialogue with the Dalai Lama and steps by Chinese officials to ease repression in Tibet, such as the release of imprisoned Buddhist monks, nuns and other Tibetans; an end to the "re-education" campaign by Chinese authorities resulting in the expulsion of thousands of monks and nuns who refuse to denounce the Dalai Lama; and regular access to Tibet by international human rights monitors.

We hope your visit will lead to meaningful progress on these critical human rights issues of such urgent concern to members of Congress and the American people.

Sincerely,

PAUL WELLSTONE,
U.S. Senator.

SENATE RESOLUTION 239—AUTHORIZING TESTIMONY, DOCUMENT PRODUCTION, AND REPRESENTATION OF SENATE EMPLOYEES

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 239

Whereas, in the case of Pointe Properties, Inc., et al. v. Michael J. Bevenour, et al., No. 96-CA-009720, pending in the Superior Court for the District of Columbia, testimony has been requested from Mike Morrill, an employee on the staff of Senator Barbara A. Mikulski;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony or the production of documents relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved That Mike Morrill, and any other employee from whom testimony or document production may be required, are authorized to testify and produce documents in the case of Pointe Properties, Inc., et al. v. Michael J. Bevenour, et al., except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Mike Morrill, and any other employee from whom testimony or document production may be required, in connection with Pointe Properties, Inc., et al. v. Michael J. Bevenour, et al.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet in open session of the Senate on Wednesday, June 3, 1998 beginning at 9:30 a.m. to conduct an oversight hearing on Tribal Justice Programs. Focus on joint Department (DOJ/DOI) Indian Country Law Enforcement Initiative and other related tribal justice issues. The hearing will be held in room G-50 of the Dirksen Senate Office Building. Those wishing additional information should contact the Committee on Indian Affairs at 202/224-2251.

ADDITIONAL STATEMENTS

MEDICAL INNOVATION TAX CREDIT ACT OF 1998

• Mr. ROCKEFELLER. Mr. President, I wish to draw attention to legislation I have cosponsored that will create the Medical Innovation Tax Credit. This bill will facilitate the development of lifesaving medical treatments at medical schools and teaching hospitals. I am pleased to join my colleagues, Senators D'AMATO, FEINSTEIN, BOXER, and HUTCHISON, in this initiative.

In my own State of West Virginia, and throughout this country, academic medical centers are feeling the changes in the health care marketplace. With limited reimbursement under managed care and cuts in Medicare payments, these medical institutions are under increasing financial pressures.

To compound these stressors, academic medical centers also support certain services, such as burn units or trauma centers, which are vital to the community but financially draining to a hospital's budget. West Virginia University's Ruby Memorial Hospital, for example, operates a trauma unit which serves as a lifeline to victims of serious injuries. Our legislation would help these academic medical centers to avoid choosing between research and the day-to-day activities associated with the running of a hospital.

Under the Medical Innovation Tax Credit, pharmaceutical or biotechnology companies would receive a tax credit equal to 20 percent of the funds spent for medical research expenses conducted at eligible sites. This incentive will make them a more attractive site for clinical trials. Given the important role played by academic medical centers, I believe this support is warranted.

Mr. President, our bill will add a freestanding section to the Internal Revenue Code to create this research incentive. It is intended to complement the existing research-targeted tax credits—the Research and Experimental Tax Credit and the Orphan Drug Tax Credit, both of which have been credited with stimulating billions of dollars in research. Initial clinical studies are just the beginning, however. Additional studies are frequently needed to determine combinations for administering drugs and for providing the most appropriate therapies to patients. The Medical Innovation Tax Credit is geared toward promoting this type of research.

Aside from medical schools and teaching hospitals, National Cancer Institute-designated centers will also be eligible sites. Peer-reviewed clinical trials are credited with providing cancer patients the best available care. Our legislation will indirectly promote these opportunities for care.

Department of Veterans Affairs hospitals affiliated with teaching hospitals will also be eligible under the legislation. VA research is not only supported by an appropriation, but by private donations largely from pharmaceutical companies in support of clinical drugs trials. Clinical research conducted in VA medical centers has a significant and lasting impact on the care provided to veterans.

Mr. President, if America is to continue leading in the field of biomedical research, we must do all we can to assure that valuable research programs at medical schools and teaching hospitals do not suffer because of financial pressures and changing market conditions. Research is just too important.

I look forward to discussing this issue and pursuing the goal of this legislation in the coming months with my colleagues on the Finance Committee as we look at a variety of ways to improve and strengthen our valuable research program.●

ISTEA PROMOTES TRIBAL INFRASTRUCTURE, ECONOMIC DEVELOPMENT

● Mr. CAMPBELL. Mr. President, today I am very pleased to note the inclusion in the Inter-modal Surface Transportation Efficiency Act of 1998 (ISTEA) of key provisions to provide increased funding for Indian roads, highways, and bridges; to provide for the allocation of scarce ISTEA dollars for Indian tribes pursuant to a flexible negotiated rule-making procedure; and to ensure that all ISTEA funds will be made available to tribes that choose to enter contracts under the Indian Self-Determination and Education Assistance Act of 1975, P.L. 93–638.

These provisions are critical because they recognize the high level of unfunded infrastructure needs in Indian country, and respect Indian tribal authority and capacity to administer ISTEA dollars in ways that are tailored to unique local conditions and needs. These provisions will assist tribes in attracting and retaining investment and job-creating activities to Indian reservations. There are many reasons why it is imperative that Indian tribes foster vigorous economies. In 1996, Congress enacted a reform of the welfare system that requires able-bodied Americans to be industrious and look first to themselves, not the government, for help and hope. That law is now being implemented across the country.

Most reservation economies are heavily reliant on federal transfer payments. Most Americans have read about the grinding poverty most Indian people face: high unemployment, lack of decent housing, and poor health, alcoholism, diabetes, cancer, and a staggering suicide rate.

The success of the welfare reform law depends on the availability of jobs that can take the place of transfer payments and government assistance. In Indian country, with a national unemployment rate of 52%, job opportunities are scarce. There is a role for the federal government in helping Indian communities make the transition from dependence to self-reliance. Employment training, removing barriers to lending, and increasing Indian entrepreneurship are essential if tribes are to be successful in creating jobs. By far the most important is in fostering relationships with the private sector, which requires a solid physical infrastructure which can support business needs.

In an economy increasingly reliant on global opportunities, tribes must be competitive. There are many investment opportunities, and other things being equal, tribal economies without basic infrastructure are not as attractive as those that can provide the amenities necessary for successful ventures. I am very pleased to have supported these provisions and am committed to building a solid private sector in Indian country, creating job opportunities for Indian people, and lessening dependence on the federal government.

Mr. President, I would like to acknowledge the testimony of the Honorable Bobby Whitefeather, Chairman of the Red Lake Band of Chippewa Indians, and Mr. John Sunchild, Executive Director of the National Tribal Development Association, regarding reservation infrastructure needs and economic development which was submitted to the Committee on Indian Affairs as providing key insights into the infrastructure problem in Indian country.●

TRIBUTE TO GUYANESE INDEPENDENCE

● Mr. LAUTENBERG. Mr. President, I rise to commemorate the May 26, 1997 thirty-second anniversary of the independence of the Republic of Guyana. To the people indigenous to the region, the word "Guyana" means land of many waters. But Guyana is also a land of many peoples—Guyanese count East Indians, Africans, Chinese, Amer-Indians, and Europeans counted among their ancestors. Now there is also a growing community of Guyanese-Americans, many of whom make their home in New Jersey.

My colleagues may be aware that Guyana achieved independence and observed its first free and fair election in 1992, after more than three centuries of British, French, and Dutch colonialism. Guyana's first Constitution bore the influence of British legal traditions, and former President Jimmy Carter supervised the team of international observers to guarantee the fairness of the 1992 elections.

Guyana's three decades of unpopular and repressive rule slowed progress in the nation, but Guyanese are working to overcome these hurdles. I hope that they will succeed. Guyanese-Americans have much to be proud of. Their history is rich, and I hope the future of Guyana will be bright.●

TRIBUTE TO LINDA POTTER AND BILL KIRK

● Mr. BROWNBACK. Mr. President, I rise today to recognize two outstanding educators from Kansas. Linda Potter and Bill Kirk were selected to receive Time Warner's distinguished Crystal Apple Award, which is given to 15 educators selected from around the nation.

Linda and Bill were selected from a pool of more than two million teachers from around the nation on the basis of their exceptional work as educators. It is hard to overestimate the importance of caring and dedicated teachers such as Linda and Bill. Teachers invest their time, talent and knowledge into our nation's students, thereby shaping the minds of our future leaders.

It gives me great pleasure to acknowledge Linda's and Bill's extraordinary work in education. I congratulate Linda and Bill and wish them continued success.●

UNDERSTANDING CONSTITUTIONAL PRINCIPLES

● Mr. SMITH of Oregon. Mr. President, I rise today to congratulate a class of students from Lincoln High School in Portland, Oregon which, as a direct result of months of study and several well-earned victories, won an honorable mention as one of the top ten finalists in the We the People . . . the Citizen and the Constitution national finals, a competition on the U.S. Constitution and Bill of Rights. After working diligently to win competitions in their home state, these outstanding young Oregonians participated in a three day national competition to demonstrate their remarkable understanding of Constitutional principles, and their relevance to contemporary issues.

Administered by the Center for Civic Education, the We the People program has provided curricular materials at elementary, middle, and high school levels for more than 75,000 teachers and 24 million students nationwide. While demonstrating the importance of cooperative and collaborative work, the program teaches students a practical meaning of Democracy and fosters the development of informed, responsible participation in civic life. In addition, this valuable curriculum gives young people the resources necessary to generate their own political interests, beliefs, and values essential to becoming effective participants in a democratic government.

I commend the hard work and accomplishments of this award-winning class of students from Lincoln High School: Alyssa Anne Aaby, Rebecca Mae Allen, Milo Twohy Dochow, Ian James Dunlap, Joshua Josef Hansen, Andrea Marina Hart, Thomas Hugh Hendrickson, Misha Andrew David Isaak, Laura Elizabeth Kanter, Aaron Matthew Lande, Andrew Benjamin Lauck, Dugan Alan Lawrence, Marcus Page Lindbloom, Brenna Rose McMahon, Maren Christine Olson, Galway Peter O'Mahoney, Nicholas Albert Peters, Emma Rachel Pollack-Pelzvner, Jennifer Lewis Rosenbaum, Jay Boss Rubin, Karen Deborah Rutzick, Margaret Suzanne Schouten, Kennon Harris Scott, Andrew Paterson Sheets, Maghan Marie Simmons, Kristin Kiele Sunamoto, and Evan Miles Wiener. These outstanding young people represent the vast potential of the youth in our country, and the promise and opportunity for our nation's future.•

TRIBUTE TO ROBERT R. HOLMES

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Robert R. Holmes who is retiring as the Chief of Police of Rutland, Vermont. Chief Holmes has had a long and distinguished career in law enforcement, and has served his community with dedication and honor.

Chief Holmes began his career, which has spanned four decades, as a rookie patrol officer in Phoenix, Arizona in 1958. He later moved to Littleton, Colorado and within three years had attained the rank of Lieutenant.

Chief Holmes served his country for 3 years in Vietnam as an international police adviser under the Agency for International Development. He returned to police work in Colorado in 1972, and became Chief of the Englewood Police Department in 1975, where he served in that capacity until his initial retirement in 1989.

The same year he decided to accept the position of Rutland City's Chief of Police, and he and his wife relocated to Vermont. Since 1989, Chief Holmes has earned the respect and trust of his fellow law officers, as well as civic leaders and Rutland area citizens. He has provided sound leadership and has worked hard to bring about positive change in the department and the entire community.

In January of 1997, the FBI honored Chief Holmes with the Agency's Community Leadership Award for his outstanding efforts to educate the public about the potential impact of the influx of gangs into Vermont. He is quick to share the credit for these successes with all of the officers involved, and is proud of their many accomplishments.

Chief Holmes has served his country and several communities with distinction throughout his career, and will no doubt continue to make contributions in any endeavor he undertakes. I congratulate him on this special occasion and wish him and his family every future happiness.•

100TH ANNIVERSARY OF THE MUTUAL OF ENUMCLAW INSURANCE COMPANY

• Mr. GORTON. Mr. President, I speak today in recognition of the 100th Anniversary of the Mutual of Enumclaw Insurance Company. On June 12, 1998, Mutual of Enumclaw will celebrate its 100th Anniversary and a century of successful service in the insurance industry. The company originated in 1898 as the Farmers Mutual Insurance Company at a time when the town of Enumclaw, Washington found its economic base primarily in the railroad, dairy, and lumber industries. The company was established to "insure farm and village buildings and personal property against loss by fire and lightening."

This goal remained the focus of the company until 1945, when it expanded to insure non-farm property. Five years later it expanded its area of service to include Oregon and Idaho. In 1963, the company began writing commercial property and casualty insurance and three years later officially changed its name to Mutual of Enumclaw Insurance Company. The company sustained admirable growth throughout the following decades, as reflected by the A+ rating it has consistently received from the A.M. Best Company, a publisher of insurance information and company ratings.

Mutual of Enumclaw employs approximately 500 people and helps to provide a sound economic base for the Enumclaw community. As Mutual of Enumclaw Insurance Company celebrates its first hundred years, it looks to the future and to the challenge of continuing to learn and grow in order to meet the evolving needs of its customers.•

TRIBUTE TO BETTY HOOD

• Mr. BROWNBACK. Mr. President, it is a great honor for me to recognize today a young Kansan who has been nationally recognized for her quick thinking and valor. Betty Hood, of Wichita, Kansas, has been awarded the Young American Medal for Bravery for 1996 from the U.S. Department of Justice, for her heroic efforts to save her younger brothers and sister from their burning apartment.

Then ten-year-old Betty awoke in the early morning of May 17, 1996, to discover that her bed had caught on fire from a lamp that had been left too close to the sheets and blankets. Realizing the danger she and her siblings, who were in the room with her, were in, Betty carried her brother, James and sister, Hallie, to safety. She returned to help her remaining brother Clifford, but was unable to assist him as the fire had spread to the area where he was sleeping.

Betty Hood's award for bravery is well deserved. She did not escape unharmed, as both Betty and her mother were treated for burns, nor will she ever forget her six-year-old brother, Clifford, who perished in the fire.

Today, I join the Department of Justice in recognizing and paying tribute to this extraordinary young American. Betty Hood is a true hero, and I ask my colleagues to join me in saluting this young woman for her bravery and quick thinking that saved her brother and sister.•

SET A GOOD EXAMPLE

• Mr. LUGAR. Mr. President, I rise before you today to commend the first place award winners of the American Set a Good Example Competition.

Each year this contest recognizes three schools who have set themselves apart as leaders in the fight against crime and violence in our nation's schools. In this, the 12th year of the contest sponsored by the Concerned Businessmen's Association of America, Arsenal Technical High School of Indianapolis, Indiana, has been recognized as one of these very special schools.

While we have seen the war against drugs and violence fought on every battlefield from the streets to our homes to the workplace, there is no more important battlefield than our children's schools. In an attempt to emphasize this message, the Concerned Businessman's Association of America (CCBA), began this unique contest in 1985 in order to encourage our nation's teenagers to become involved in the war on drugs and violence.

This year the CBAA deemed the efforts of the students at Arsenal Technical High School, in conjunction with the guidance of teacher Mary Allen, principal Gerald McLeish, and the funding of Dr. Chris Kasle, worthy of this prestigious award.

For their project, Arsenal Technical students selected the precept of "Do Not Murder" taken from the "Way to Happiness" by L. Ron Hubbard. First, the students discussed murders which have affected them, their families and communities. Next, students put themselves in the position of Mayor and formulated ways in which they would solve the problem of violence. Each student wrote essays about their plans.

Arsenal continued this project by planning a "Set A Good Example Week." When a teacher saw a student set a good example or perform an act of kindness, the student received a coupon redeemable for a small pack of candy at lunch.

Students received the pack of candy from a booth promoting a talent show dubbed "Stop the Hate in 98," an event promoting non-violence.

The student-planned talent show included an art and rap contest and generated 100% student involvement.

I extend my congratulations to the students and faculty at Arsenal Technical High School for this outstanding achievement and the excellent example they have set for our nation's youth. I urge each student to build upon the successes of this program and continue to set a good example every day.•

IN HONOR OF BOB DOLE

• Mr. WARNER. Mr. President, it was two years ago, in this chamber, that we recognized Senator Bob Dole for his tremendous contribution to the nation. I and many others stood and paid tribute to this great American for his outstanding career of Public Service, a career that spanned over fifty years. I rise today, to once again pay tribute to this great American.

As I said two years ago, Senator Bob Dole's destiny was and is leadership. From the battlefields of World War II to the floor of the United States Senate, Bob Dole has worked tirelessly for a strong national defense. That hard work was recognized recently in a ceremony held at Fort Meyer, Virginia. The Secretary of Defense, joined by the Vice Chairman of the Joint Chiefs of Staff, presented Senator Dole with the Department of Defense's highest civilian honor, the Medal for Distinguished Public Service.

Senator Bob Dole, a man whom I am humbled to call my friend, is most deserving of the Medal for Distinguished Public Service and I wish to join our former colleague Secretary Cohen, in honoring Senator Dole. Mr. President, I send to the desk, copies of the fine remarks delivered by Secretary Cohen and Senator Dole at the April 29th award ceremony and ask that they be printed in today's RECORD of the body he loved—the United States Senate.

The remarks follow:

REMARKS OF SECRETARY OF DEFENSE WILLIAM S. COHEN—PRESENTATION OF DISTINGUISHED PUBLIC SERVICE AWARD TO BOB DOLE

Welcome all, and thank you for joining Janet and me and the entire Department of Defense in paying tribute to a dear friend and a true American hero—Bob Dole.

Justice Oliver Wendell Holmes, Jr., who served his country both as a soldier and a public servant, once spoke to his fellow veterans in words that reflect the soldier and public servant we honor today. Holmes said: "As I look into your eyes, I feel that a great trial in your youth made you different. It made you a citizen of the world and not of a little town. Best of all, it made you believe in something else besides doing the best for yourself. You learned a lesson early which has given a different feeling to life, which put a kind of fire into your heart."

Today we express our gratitude to Bob Dole, a man from the little town of Russell, Kansas for whom the lessons of life came early. With the Dustbowl came the lesson of hard work. With the Depression came the lesson of hardship. With World War II came the lesson of service and sacrifice in a way most of us will never know.

Throughout his distinguished career, we have called Bob Dole by many titles—Congressman Dole, Senator Dole, Chairman Dole and Candidate Dole. Our ceremony today honors all those roles, but also honors a time when he was known as Second Lieutenant Robert Dole, who led the Second Battalion of the 85th Infantry Mountain Regiment of the U.S. Army's 10th Mountain Division.

As the war in Europe was winding down, a spring offensive was scheduled for April 12, 1945 to bring about the surrender of German forces in Italy. On the same day, as it happens, President Roosevelt died. But it was not the President's death but a heavy fog that delayed the offensive until April 14 at oh-six hundred. After the intensive assault against fortified German positions by heavy bombers, fighter-bombers and artillery, the 10th Mountain Division began to move across a ravine to a clearing to take for the Allies what was known as Hill 913.

But even after the shelling and bombing, there was still significant German resistance. The snipers were dug in. The 10th Mountain Division would take more casualties on April 14, 1945 than all the other Allied forces in Italy. Second Lieutenant Robert Dole was hit and gravely wounded by a mortar blast and waited in a shell hole for nine hours until the medics could reach him.

The war in Europe ended just a few weeks later on May 8, 1945. Second Lieutenant Dole came back to a Topeka hospital and eventually back to Russell. When he went to Europe, he weighed a muscular 200 pounds and was a football, basketball and track star at the State University of Kansas. When he came home after the war, he was on a stretcher and weighed 120 pounds. At one point, his temperature reached 108.7 degrees.

Faced with this terrible situation and the unanimously gloomy opinion of his doctors, many people, even most people, would have become disheartened and simply given up. But Bob Dole persevered, through more than three years of arduous recovery and through a lifetime of difficulty and hardship which he handled with his customary humor and grace. No one ever worked harder, complained less or laughed more than Bob Dole. And no one ever loved his country more or had a better appreciation of the honor and sacrifice of military service.

From the terrible trauma of his injuries, Bob Dole fought back and won elective office as country attorney, US Congressman, US Senator and Senate Majority Leader. He has been his party's nominee for Vice President and President. He even makes a pretty good VISA commercial! (Although his credit is not very good in that financial mega center—Russell.)

Also, no hero does it alone, and Janet and I also want to pay tribute to a lady of grace, charm and accomplishment who is Bob's partner, friend and wife—Elizabeth Dole. Elizabeth, thank you for your service to America.

I had the privilege of serving with Bob Dole in the legislative trenches of the U.S. Senate for 18 years. And I can tell you he remained a warrior eager to take on a new battle every day. He is and always will be an American Hero of the highest order.

Thanks to people like Bob Dole who have worked for a strong national defense, we are privileged to live in largely peaceful times where the sons of Bangor, Maine, or Russell, Kansas are not being sent to fight and die on distant battlefields. The privilege of these peaceful times is made possible by the sacrifice of many thousands who have given their bodies and their lives in the cause of liberty.

We do not pause often enough to give tribute to the silent white gravestones which dot the hills of Arlington National Cemetery or give thanks to the heroes who are still among us. Today, as Secretary of Defense, it makes me extremely proud for our Department and our nation to pay tribute to a modest man of immodest talent—a person who has defined heroism and courage for millions of Americans.

The great American writer John Steinbeck once wrote that the best measure of one's time on this earth is the contribution each of us makes to the world around us. "There is," Steinbeck wrote, "no other story. A man, after he has brushed off the dust and chips of his life, will have left only the hard clean questions: Was it good or was it evil? Have I done well—or ill?"

For Second Lieutenant Bob Dole—Army Serial #17179287—Steinbeck's question is not a hard one. He has done well—he has served his nation with the highest distinction—he has remained a man with fire in his heart. And it is my highest privilege to award our highest civilian honor, the Department of Defense Medal for Distinguished Public Service, to Bob Dole.

SENATOR BOB DOLE—REMARKS PREPARED FOR DELIVERY

If given the choice between receiving an award from a Secretary of Defense or appointing a Secretary of Defense, I would have picked the latter.

Seriously, I am humbled and honored by this award, and it means all the more to me because it was presented by a man I have long been privileged to call my friend. Thank you, Mr. Secretary, for this ceremony, for this award, and for reminding us that when it comes to our national defense, we should not define ourselves as Democrats or Republican, but rather, simply as Americans.

I am also pleased to be joined today by the president of the American Red Cross. Throughout this century, wherever you have found American service men and women—whether on the battlefield, on the base, or in the hospital—you knew that close by you would also find the American Red Cross.

And on behalf of all the past and present members of the Armed Forces here, I thank Elizabeth for the difference the Red Cross has made in our lives. And while I may not be proof of the old saying that here in America, any boy can grow up to be President, I take heart in the fact that I am proof that any boy can grow up and be married to the president * * * of the American Red Cross, that is.

During my life I have been privileged to be called by many titles—including Congressman, Senator, and majority leader. But the two titles of which I am most proud have nothing to do with elective office. The first is "Kansan," and the second is "veteran."

I have often wondered why the Army assigned a kid from the plains of Kansas to serve in the 10th Mountain Division, but I've never wondered about the courage and heroism of those who served with me, and those who have defended our country in the half century that has followed. And I can't help but recall today the words of General George Marshall, who was asked soon after America's entrance into World War II, whether we had a secret weapon that would ensure victory.

Marshall said, "Yes, our secret weapon is the best darned kids in the world."

Marshall was right. America ensured the survival of freedom in World War II precisely because we had the best darned kids in the world—kids who were willing to fight and die for their country and for the cause of freedom.

What was true in World War II, has continued to be true in the decades that have followed, as more of those best darned kids have fought and died in places with names like Inchon, Porkchop Hill, the Persian Gulf, and countless other locations around the globe.

I traveled to Bosnia just this past weekend, and can report to you, Mr. Secretary, that our armed services can still boast the best darned kids in the world.

Throughout my years in the battlefields of Capitol Hill, I always tried to remember and stand up for those who were serving or who had served. And I always tried to remember that the only way to ensure that future generations of those kids would not be buried on foreign land was to continue to provide for a strong defense and American leadership whenever and wherever it was needed.

And any success I achieved in this regard was achieved because so many others stood with me. And although this old soldier has retired from elective office, I don't intend to fade away. Rather, I will continue to stand up and speak out on matters of importance to the United States, and I will always regard this day and this award not as recognition for any achievements of the past, but as a reminder of our responsibilities to future generations of Americans.

And so, Mr. Secretary, Lieutenant Robert J. Dole is reporting for duty today, ready for a mission that must be shared by all Americans; a mission perhaps best defined by the author Herman Wouk, who said:

"(Our duty is to) reassure (our men and women in uniform) that their hard, long training is needed, that love of country is noble, that self-sacrifice is rewarding and that to be ready to fight for freedom fills one with a sense of worth like nothing else * * * for if America is still the great beacon in dense gloom, the promise to hundreds of millions of the oppressed that liberty exists, that it is the shining future, that they can throw off their tyrants, and learn freedom and cease learning war, then we still need heroes to stand guard in the night."

Thank you, Mr. Secretary for this day, and thanks to all those heroes here today and the countless thousands who serve with you who make the world a safer place by standing guard in the night.●

TRIBUTE TO BARRY GOLDWATER

Mr. LOTT. Mr. President, I know I speak for the entire Senate in expressing to the family of Senator Barry Goldwater our sympathy for their loss and for our country's loss as well. On Wednesday, many of us in the Senate will attend his funeral in his beloved Arizona. The Senate Sergeant at Arms is making arrangements for those who wish to join in this last tribute to our former colleague. All Senate offices will be informed about those details soon. In fact, I believe that information has gone out and we do expect a large number of Senators to join in going to the funeral services in Arizona.

The Senate will not be in session on Wednesday in honor of this great Senator and leader from Arizona.

If Barry were here with us today, I think he would tell us in his characteristically blunt manner not to be too solemn about this occasion. After all, he was an extremely fortunate man and he felt that way and said so himself many times. He was blessed with length of days and devotion of family and friends. In fact, as I looked over the details of the services, I noted that he will be carried by his grandsons as pallbearers. I know that would have been really special to him. He loved his work. He loved the people he represented. He spoke his mind. In many ways, he owed nobody, but he loved everybody. He was a winner, not just in the sense of winning elections—with one rather major exception—but in the most important sense of having his ideas vindicated by the course of history.

In his one losing election, the Presidential race of 1964, he was subject to more falsehoods, in my opinion, than any candidate should ever have to bear.

In losing with honor, he did more than encourage others to stand up for their beliefs. I was one of those young people that was fresh out of college and working for my alma mater, the University of Mississippi, and casting my first vote ever in a Presidential election for Barry Goldwater in my hometown of Pascagoula, MS, and watching the election returns that night from Pensacola, FL. I remember how I had been inspired by what he had to say. I think that was the moment I decided I would spend a good portion of my life involved in trying to be a representative of the people in Government.

Along with then-Governor Ronald Reagan, Barry Goldwater energized the grassroots of American politics, fostered the growth of modern conservatism, and thereby transformed the Republican Party and the Nation.

His statement of political faith—a slight book called "The Conscience of a Conservative"—continues to challenge and inspire readers. I have my little paperback version of "The Conscience of a Conservative" that I keep in a small library in my hometown. There are many Members of Congress today who treasure their well-worn copies of that volume, as well they might, for it remains an eloquent manifesto of the cause of liberty.

The conservative movement has had many heroes, but Barry Goldwater remains preeminent, even though he came to disagree with conservatives on some issues. That disagreement has belatedly won him some new admirers, even some liberals who fail to see the difference between his reasoning and theirs.

The difference is that they tend to downplay personal responsibility. Senator Barry Goldwater, on the other hand, demanded it. He expected individuals to live with the consequences of their decisions. It was his sense of responsibility that brought Barry Goldwater into Government and empowered his fight against big Government.

It was personal responsibility that he preached to his fellow Americans. In 1964 many were unwilling to listen. Today, three decades later, his message is heard and echoed from think tanks to pulpits, from classrooms to the Congress.

He gave so much to the country he loved so much. So many years of service in government, so strong a voice for national security against the threat of communism, and so passionate a confidence in the ability of average men and women to do extraordinary things.

But surely his greatest gift was preparing the way for a rebirth of the conservative ideas and values which make freedom possible.

That long ago won him an honored place in the hearts of his fellow believers, and it now ensures for him an honored place in the history of America.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on the Executive Calendar: Number 600.

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

The nomination was considered and confirmed as follows:

THE JUDICIARY

Chester J. Straub, of New York, to be United States Circuit Judge for the Second Circuit.

Mr. LOTT. For the information of all Senators, that was the confirmation of Mr. Chester J. Straub, of New York, to be U.S. Circuit Judge for the Second Circuit.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR NO. 622

Mr. LOTT. Mr. President, I further ask unanimous consent that following the cloture vote scheduled for Tuesday at 6 p.m., regardless of the outcome, the Senate then proceed to executive session for the consideration of Calendar No. 622. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Calendar No. 622 will be considered tomorrow, which would be Rosemary Pooler to be U.S. Circuit Judge for the Second Circuit in New York.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

AUTHORITY FOR DOCUMENT PRODUCTION AND REPRESENTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 239, submitted earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A resolution (S. Res. 239) to authorize testimony and document production and representation of Senate employees in Pointe Properties, Inc., et al. v. Michael J. Bevenour, et al.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, the case of Pointe Properties, Inc., et al. versus Michael J. Bevenour, et al., is a civil case pending in the Superior Court for the District of Columbia.

This defamation action by a land development company and two of its officers and directors arises out of two 1996 letters prepared and distributed by the defendants, members of a citizens group opposed to the development of certain land in Maryland's Anne Arundel County. A few months prior to mailing these letters, some of the defendants met with Mike Morrill of Senator MIKULSKI's staff to discuss plaintiffs' land-development proposal. Counsel for these defendants have asked Mr. Morrill to testify about that meeting, and Senator MIKULSKI would like Mr. Morrill to be authorized to do so.

This resolution would authorize Senator MIKULSKI's staff to testify and produce relevant documents, with representation from the Senate Legal Counsel.

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 239) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 239), with its preamble, reads as follows:

S. RES. 239

A Resolution (S. Res. 239) to authorize testimony and document production and representation of Senate employees in *Pointe Properties, Inc., et al.* v. *Michael J. Bevenour, et al:*

Whereas, in the case of *Pointe Properties, Inc., et al.* v. *Michael J. Bevenour, et al.*, No. 96–CA–009720, pending in the Superior Court for the District of Columbia, testimony has been requested from Mike Morrill, an employee on the staff of Senator Barbara A. Mikulski;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony or the production of documents relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Mike Morrill, and any other employee from whom testimony or document production may be required, are authorized to testify and produce documents in the case of *Pointe Properties, Inc., et al.* v. *Michael J. Bevenour, et al.*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Mike Morrill, and any other employee from whom testimony or document production may be required, in connection with *Pointe Properties, Inc., et al.* v. *Michael J. Bevenour, et al.*

UNANIMOUS-CONSENT AGREEMENT—NUCLEAR WASTE POLICY ACT

Mr. LOTT. Mr. President, I ask unanimous consent that at 4 p.m. on Tuesday, June 2nd, there be 2 hours of debate equally divided between the opponents and proponents of the nuclear waste legislation. I further ask unanimous consent that the vote occur on the motion to invoke cloture on the motion to proceed to that bill at 6 p.m. on Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, JUNE 2, 1998

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Tuesday, June 2d. I further ask that on Tuesday immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 10 a.m. with Senators permitted to speak for up to 5 minutes each with the following exceptions:

Senator HAGEL for 10 minutes; Senator DORGAN for 10 minutes; and Senator AKAKA for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask that following morning business the Senate resume consideration of the Durbin amendment, No. 2438, pending to the tobacco legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask that the Senate stand in recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. For the information of all Senators, the Senate will reconvene at 9:30. There will be 30 minutes of morning business. Following that business, we will return to the consideration of the tobacco legislation with several amendments pending. It is hoped that those amendments can be disposed of in a timely fashion so that the remaining amendments to this important bill may be offered and debated. I do expect at this time that there could be a vote or two on amendments on this bill tomorrow afternoon, although that has not been locked in at this point.

At 4 p.m. we will return to 2 hours of debate equally divided on the nuclear waste bill. Following that, there would be a vote to invoke cloture.

Also, any votes ordered in respect to the tobacco bill will occur in a stacked sequence at that time. That could involve anywhere from one, two, or three votes at the 6 o'clock hour.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under previous order.

There being no objection, the Senate, at 6:23 p.m., adjourned until Tuesday, June 2, 1998, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate June 1, 1998:

THE JUDICIARY

CHESTER J. STRAUB, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 2, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 3

9:30 a.m.
Banking, Housing, and Urban Affairs
Financial Services and Technology Subcommittee
To hold hearings to examine whether financial institutions are properly preparing for the Year 2000 conversion.
SD–628

9:30 a.m.
Indian Affairs
To hold oversight hearings on tribal justice programs, focusing on the Department of Justice's and Department of the Interior's Indian Country Law Enforcement Initiative and other related tribal justice issues.
SD–G50

10:00 a.m.
Armed Services
To hold open and closed hearings on the future threats to the Department of Defense information systems, including the Year 2000 problems and the sale of the frequency spectrum.
SD–106

Banking, Housing, and Urban Affairs
Housing Opportunity and Community Development Subcommittee
To continue oversight hearings on the programs and operations of the Federal Housing Administration (FHA), Department of Housing and Urban Development.
SD–538

Governmental Affairs
To hold hearings on S. 389, to improve congressional deliberation on proposed Federal private sector mandates.
SD–342

2:00 p.m.
Armed Services
To hold hearings on United States forces participating in NATO Operations in Bosnia and progress in achieving benchmarks in the civil implementation of the Dayton Agreement.
SR–222

Foreign Relations
To hold hearings on the nominations of Paul L. Cejas, of Florida, to be Ambassador to Belgium, Eric S. Edelman, of Virginia, to be Ambassador to Finland, Nancy Halliday Ely-Raphel, of the District of Columbia, to be Ambassador to the Republic of Slovenia, Michael Craig Lemmon, of Florida, to be Ambassador to the Republic of Armenia, Rudolf Vilem Perina, of California, to be Ambassador to the Republic of Moldova, and Edward L. Romero, of New Mexico, to be Ambassador to Spain.
SD–419

JUNE 4

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to examine the Federal Communication Commission's oversight of the Cable Services Bureau.
SR–253

Energy and Natural Resources
To hold hearings to examine the Administration's climate change proposal.
SD–366

10:00 a.m.
Budget
To hold hearings by the Inernational Affairs Task Force to examine foreign affairs funding outside the account established by the Budget Committee.
SD–608

Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine commercial work within the Federal Government.
SD–342

Small Business
To hold oversight hearings on the Small Business Innovation Research (SBIR) Program.
SR–428A

Select on Intelligence
To hold closed hearings on intelligence matters.
SH–219

2:00 p.m.
Appropriations
Business meeting, to mark up proposed legislation making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, proposed legislation making appropriations for energy and water development for the fiscal year ending September 30, 1999, and proposed legislation making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999.
SD–106

Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.
SD–366

2:15 p.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine airline alliances.
SR–253

JUNE 5

9:30 a.m.
Joint Economic
To hold hearings to examine the employment-unemployment situation for May.
1334 Longworth Building

JUNE 9

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for the Agency for International Development.
SD–192

JUNE 10

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine livestock issues, including demand, overseas development, pricing, and industry structuring.
SR–332

9:30 a.m.
Indian Affairs
To hold oversight hearings on Bureau of Indian Affairs school construction.
SD–106

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for the Government of the District of Columbia and to examine their financial plan.
SD–192

Joint Economic
To hold hearings to examine the Federal Reserve's monetary policy and economic outlook.
SH–216

JUNE 11

9:30 a.m.
Labor and Human Resources
Employment and Training Subcommittee
To hold hearings to examine child labor issues.
SD–430

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

10:00 a.m.
Energy and Natural Resources
Energy Research and Development, Production and Regulation Subcommittee
To hold oversight hearings on the federal oil valuation regulations of the Minerals Management Service.
SD–366

2:00 p.m.
Energy and Natural Resources
To hold oversight hearings to examine the Recreational Fee Demonstration program.
SD–366

JUNE 12

9:30 a.m.
Special on SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM
To hold hearings to examine how the Year 2000 computer conversion will affect utilities and the national power grid.
SD–192

JUNE 16

10:00 a.m.
Judiciary
To hold hearings to examine mergers and corporate consolidation.
SD–226

10:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of State.
SD–192

JUNE 17

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.
SD–366

JUNE 18

10:00 a.m.
Labor and Human Resources
To hold joint hearings with the House Commerce Committee to examine organ donation allocation.
2123 Rayburn Building

2:00 p.m.
United States Senate Caucus on International Narcotics Control
To hold hearings to examine United States efforts to combat drugs, focusing on international demand reduction programs.
SD–628

JUNE 24

9:30 a.m.
Indian Affairs
To hold hearings on S. 1771, to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and S. 1899, "Chippewa Cree Tribe of the Rocky boy's Reservation Indian Reserved Water Rights Settlement Act of 1998".
SR–485

JUNE 25

9:30 a.m.
Labor and Human Resources
To hold hearings to examine health insurance coverage for older workers.
SD–430

JULY 21

10:00 a.m.
Judiciary
To hold oversight hearings to examine the Department of Justice's implementation of the Violence Against Women Act.
SD–226

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.
345 Cannon Building

CANCELLATIONS

JUNE 11

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.
SD–36